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FIRST SESSION

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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Monday, October 15, 1979*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Eternal Lord, we thank You for Your creative handiwork for You have made all peoples to dwell as one. We confess the divisions among us and our lack of understanding toward one another. Even as we admit that we have made barriers where You have created none, help us to marvel at the glory of Your creation and the power of Your redemption so that we may worship and work in unity and mutual respect. Enable us to experience the joy of reconciliation with those with whom we are at enmity and help us establish trust and common purpose with all people, so that together in resolve and friendship we may better know Your will and serve our neighbors. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2515. An act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1728. An act to designate the U.S. Federal Courthouse Building located at 655 East Durango, San Antonio, Tex., as the "John H. Wood, Jr., Federal Courthouse"; and

S.J. Res. 113. Joint resolution relative to salaries of Members of Congress.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Friday, October 12, 1979, he did on that day sign the following enrolled joint resolution:

H.J. Res. 412. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar.

The Clerk will call the first bill on the Consent Calendar.

SIDNEY L. CHRISTIE FEDERAL BUILDING

The Clerk called the bill (H.R. 1298) to designate the U.S. Post Office and Federal Building in Huntington, W. Va., as the "Sidney L. Christie Federal Building."

There being no objection, the Clerk read the bill, as follows:

H.R. 1298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Federal Building located in Huntington, West Virginia, is hereby designated as the "Sidney L. Christie Federal Building". Any reference in any law, regulation, document, record, map, or other papes of the United States to such building shall be considered to be a reference to the Sidney L. Christie Federal Building.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 1298, a bill to designate the U.S. Post Office and Federal Building in Huntington, W. Va., as the "Sidney L. Christie Federal Building."

Sidney Christie, distinguished son of West Virginia, after a distinguished career as a lawyer, became a judge of the U.S. district court for the northern and southern districts of West Virginia. He served with distinction and honor in his various official positions throughout his long career and this bill pays him a well-deserved tribute.●

● Mr. McCORMACK. Mr. Speaker, I rise in support of H.R. 1298, a bill to designate the U.S. Post Office and Federal Building in Huntington, W. Va., as the Sidney L. Christie Federal Building.

Sidney L. Christie was born on April 17, 1903, at Sinks Grove, W. Va., the son and the youngest child of 13 children born to Lewis F. and Malinda Christie. He was educated in the public schools, graduated from Dunsmore Business College in Staunton, Va., and received his law degree in 1928 from Cumberland University in Lebanon, Tenn.

Judge Christie practiced law at Keystone, W. Va., from September 1928 until December 31, 1960, when he entered his judicial service as judge of the Circuit Court for the Eighth Judicial Circuit of West Virginia, having been elected to that office in November of 1960. Judge Christie resigned from the State bench in 1964 to accept appointment as judge of the U.S. district court for the northern and southern districts of West Virginia, and entered upon his Federal service on June 8, 1964.

Judge Christie was dedicated to the work of the court and the administration of justice. Initially, his official station was in Bluefield, but he also addressed himself to the work of the Huntington division in this district as well as the Fairmont division in the northern district. When it became apparent that the growing caseload at Huntington required the greater part of his time, he moved his residence from Keystone to Huntington, where he and Mrs. Christie resided until his death in 1974.

In view of his long and distinguished career, and of his many years of outstanding service to the people of West Virginia, and to the Nation, it is fitting and proper that the U.S. Post Office and Federal Building in Huntington, W. Va., be named in his honor as the "Sidney L. Christie Federal Building."●

The bill was order to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN H. WOOD, JR., BUILDING

The Clerk called the bill (H.R. 4619) to designate the Federal Building located at 727 East Durango, San Antonio, Tex., as the "John H. Wood, Jr., Building."

There being no objection, the Clerk read the bill, as follows:

H.R. 4619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building located at 727 East Durango, San Antonio, Texas, shall hereinafter be called and designated as the "John H. Wood, Jr., Building". Any reference in law, map, regulation, document, record, or other paper of United States to such building shall be held to be a reference to the John H. Wood, Jr., Building.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

● Mr. McCORMACK. Mr. Speaker, I rise in support of H.R. 4619, a bill designating the Federal building located at 727 East Durango, San Antonio, Tex., as the "John H. Wood, Jr., Building."

Judge Wood was born in Rockport, Tex., on March 31, 1916. He attended the University of San Antonio and St. Mary's University of San Antonio, and received an LL.B. degree from the University of Texas in 1938. Judge Wood was appointed U.S. district judge for the western district of Texas on December 1, 1970, and entered duty January 15, 1971.

In the area of narcotics control, Judge Wood was feared by drug dealers throughout the district for his swift and certain justice. He was honored as the country's most vigorous defender of law and order.

In view of his distinguished career of service to the people of his community, the State of Texas, and the Nation, it is only fitting and proper that the Federal building in San Antonio, Tex., be named in his memory and honor as the "John H. Wood, Jr., Building".●

● Mr. JOHNSON of California. Mr. Speaker, the untimely death by an assassin's bullet of Judge John H. Wood on May 29 last took from the ranks of the judiciary one of its most distinguished and able members. Judge Wood had served with distinction as a member of the Federal court for the western district of Texas.

His record fighting crime, corruption, and in particular narcotics was second to none. He epitomized the best in our Federal judiciary. Designating the Federal building in San Antonio, Tex., as the "John H. Wood, Jr., Building" is indeed a tribute not only to Judge Wood but to all those who have fought for better government and stronger law and order.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1728) to designate the U.S. Federal Courthouse Building located at 655 East Durango, San Antonio, Tex., as the "John H. Wood, Jr., Federal Courthouse", and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There being no objection, the Clerk read the Senate bill, as follows:

S. 1728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, shall hereafter be called and designated as the "John H. Wood, Jr., Federal Courthouse". Any reference in law, map, regulation, document, record, or other paper of the United States to such building shall be held to be reference to the John H. Wood, Jr., Federal Courthouse.

MOTION OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McCORMACK moves to strike out all after the enacting clause of S. 1728 and insert in lieu thereof the provisions of H.R. 4619, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, and was read the third time and passed.

The title was amended so as to read: "A bill to designate the Federal Building located at 737 East Durango, San Antonio, Tex., as the 'John H. Wood, Jr., Building'."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 4619, was laid on the table.

BOB CASEY FEDERAL BUILDING—U.S. COURTHOUSE

The Clerk called the bill (H.R. 4792) to name a certain Federal building in Houston, Tex., the Bob Casey Federal Building—U.S. Courthouse.

There being no objection, the Clerk read the bill as follows:

H.R. 4792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 515 Rusk Avenue, in Houston, Texas, shall hereinafter be known as, and is hereby designated as, the "Bob Casey Federal Building—U.S. Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such a building shall be considered to be a reference to the Bob Casey Federal Building—U.S. Courthouse.

● Mr. JOHNSON of California. Mr. Speaker, it was my great privilege to serve side by side for most of the Congressional career of a great Texan and a great American, Bob Casey. Prior to his service in the Congress, he had served with distinction in various official positions in this native State of Texas. Throughout his service in the U.S. Congress where he served for more than 15 years, Bob Casey fought for his people, his district, his State and his country. He left behind him a distinguished record as a member of the House Appropriations Committee culminating with his service as chairman of the Legislative Subcommittee of the House Appropriations Committee.

Bob Casey's public career is a model for all of us. This bill is a true tribute to a fine American.●

● Mr. McCORMACK. Mr. Speaker, I rise in support of H.R. 4792, a bill to designate the Federal Building located at 515 Rusk Avenue in Houston, Tex., as the Bob Casey Federal Building—U.S. Courthouse.

Congressman Robert (Bob) Casey was born in Joplin, Mo., July 27, 1915. His family moved to Houston, Tex., in 1930 and he graduated from San Jacinto High School He attended the University of Houston and the South Texas School of Law at night and was admitted to the State Bar of Texas in 1940.

Bob Casey began his public career as city attorney of Alvin, Tex., and served as a member of the school board. He went on to become assistant district attorney of Harris County and in 1948 was elected to the Texas House of Representatives where he served in the regular and special sessions of the 51st legislature. Subsequently, in 1950, he was elected county judge of Harris County for a 2-year term and was reelected in 1952 and again in 1954 for a 4-year term. During this time, he nurtured his deep interest in education by serving as a member of the Board of Regents of the South Texas College of Law and the Board of Directors of the Speech and Hearing Center.

The people of Houston elected Bob Casey to the 86th Congress in 1958 where he served the public interest for more than 15 years. In Congress, Bob Casey fought for anticrime legislation; he pursued his concern for education as a member of the House Appropriations Committee and its Labor, Health, Education, and Welfare Subcommittee, becoming one of the most respected members of the House of Representatives. He also worked diligently on the Subcommittee on Agriculture, Environmental and Consumer Protection of the House Appropriations Committee.

With a deep dedication to the law, Bob Casey served as chairman of the Legislative Subcommittee of the House Appropriations Committee, where he brought his expertise to bear on the appropriations for the legislative branch of the Government.

In recognition of his long and faithful public service, it is appropriate and fitting to name the Federal Building located at 515 Rusk Avenue in Houston, Tex., as the Bob Casey Federal Building—U.S. Courthouse.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three bills just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORITY FOR CITIZENS OF NORTHERN MARIANA ISLANDS TO ENLIST IN THE ARMED FORCES OF THE UNITED STATES

The Clerk called the bill (H.R. 4627) to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands.

There being no objection, the Clerk read the bill as follows:

H.R. 4627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any individual—

(1) who is a citizen of the Northern Mariana Islands within the meaning of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (approved on March 24, 1976, by Public Law 94-241); and

(2) who under section 304 of such Covenant is entitled to all privileges and immunities of citizens in the several States of the United States;

is entitled, if otherwise qualified therefor, to enlist in any of the Armed Forces of the United States without regard to the citizenship of such individual.

SEC. 2. This Act shall expire upon the establishment of the Commonwealth of the Northern Mariana Islands.

● Mr. WHITE. Mr. Speaker, the Committee on Armed Services unanimously reported H.R. 4627, a bill that will permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States. The sponsor of this legislation is our distinguished colleague, Mr. WON PAT, from Guam.

Since the passage of Public Law 94-241—the joint resolution approving the covenant establishing the Commonwealth of the Northern Mariana Islands and the plebiscite in the Northern Marianas on June 17, 1975, it is only a matter of time until the citizens of the Northern Mariana Islands become citizens or nationals of the United States. In this interim period, however, an unexpected situation has arisen in that while citizens of the Northern Marianas are not yet actually considered U.S. citizens, the Immigration and Naturalization Service has determined that citizens of the Northern Marianas should be treated generally as American citizens and permitted the privilege of entering, traveling, and residing in the United States without being accorded the status of aliens admitted for permanent residence.

Unfortunately, under the enlistment statutes for the military only those who are citizens or those who are admitted for permanent residence are eligible for enlistment. Because of this anomaly, citizens of the Northern Marianas are no longer permitted to enlist in the Armed Forces today.

H.R. 4627 will simply correct the anomaly and authorize the enlistment of citizens of the Northern Marianas during the interim period before the President proclaims the termination of the trusteeship.

The Departments of Defense and State support the legislation. The committee also received testimony from the elected representative of the Commonwealth of the Northern Marianas to the United States who strongly urged passage of the legislation.

There is no cost to this legislation.

Mr. Speaker, I urge passage of H.R. 4627.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERSONS ELIGIBLE FOR MEDICAL CARE UNDER THE CHAMPUS PROGRAM NOT TO BE DENIED SUCH CARE BECAUSE OF ELIGIBILITY FOR SUCH CARE IN FACILITIES OF THE VETERANS' ADMINISTRATION

The Clerk called the bill (H.R. 5025) to amend title 10, United States Code, to provide that any person eligible for medical care under the civilian health and medical program of the uniformed services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WHITE. Mr. Speaker, I ask unanimous consent to withdraw H.R. 5025 from the Consent Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

UNITED SERVICES ORGANIZATIONS, INC.

The Clerk called the bill (H.R. 600) to incorporate United Service Organizations, Inc.

There being no objection, the Clerk read the bill, as follows:

H.R. 600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons, to wit:

Robert L. Adler, Chicago, Illinois;
Mrs. Arthur Forrest Anderson, Wilton, Connecticut;
Miss Lita Baron, Palm Springs, California;
Alfred D. Bell, Junior, San Francisco, California;
W. Nelson Bump, New York, New York;
Marvin E. Cordoza, San Francisco, California;
J. Robert Carey, Silver Spring, Maryland;
Mrs. Sylvester J. Carter, New York, New York;
Commissioner William Chamberlain, Atlanta, Georgia;
Mrs. Francis T. Christy, Wilton, Connecticut;
Louis J. Cohen, Newark, New Jersey;
Honorable Frederick M. Coleman, Cleveland, Ohio;
Solon Cousins, Wellesley, Massachusetts;
Lieutenant Colonel Peter M. Dawkins, Alexandria, Virginia;
Mrs. Amedco Giordano, Bronx, New York;
Jacob Goodstein, New York, New York;
Mrs. Eric H. Haight, Bedford, New York;
Doctor Maurice M. Hartmann, Washington, District of Columbia;
Herbert D. Harwood, Chestnut Hill, Massachusetts;
Mrs. Bartlett B. Heard, Oakland, California;
Peter A. Hersee, Boston, Massachusetts;
Charlton Heston, Beverly Hills, California;
Mrs. Ethan Allen Hitchcock, New York, New York;
Commissioner Ernest W. Holz, Atlanta, Georgia;
Commissioner Richard E. Holz, San Francisco, California;
Commissioner Paul S. Kaiser, San Francisco, California;
Henry Kohn, New York, New York;
Herbert Millman, New York, New York;
Reverend Robert V. Monticello, Washington, District of Columbia;
Mrs. Arthur Lord Nash, Chappaqua, New York;
Thomas M. Simmons, Boston, Massachusetts;
Joseph H. Singer, Mount Vernon, New York;
Mrs. Robert Six, Beverly Hills, California;
Doctor Elvis J. Stahr, Greenwich, Connecticut;
Lieutenant Commissioner Bramwell Tripp, NewYork, New York;
Doctor Seymour Weisman, New York, New York;

and their successors are hereby created and declared to be a body corporate of the District of Columbia having the name United Service Organizations, Incorporated (hereinafter the "corporation"). The said corporation shall have perpetual existence and the powers, limitations, and restrictions herein contained.

SEC. 2. OBJECTS AND PURPOSES OF THE CORPORATION.—The objects and purposes of the corporation are to provide a voluntary civilian agency through which the people of this Nation may, in peace or war, serve the religious, spiritual, social, welfare, educational, and entertainment needs of the men and women in the Armed Forces within or without the territorial limits of the United States, and in general, to contribute to the maintenance of morale of such men and women; to solicit funds for the maintenance of the organization and the accomplishment of its responsibility; to accept the cooperation of and to provide an organization and a means through which the National Board of Young Men's Christian Associations, National Board of Young Women's Christian Associations, National Catholic Community Service, the Salvation Army, the National Jewish Welfare Board, the Travelers Aid-International Social Service of America, and other civilian agencies experienced in specialized types of related work, which may be needed adequately to meet particular needs of the members of the Armed Forces, may carry on their historic work of serving the spiritual, religious, social, welfare, educational, and entertainment needs of such men and women and be afforded an appropriate means of participation and financial assistance; to coordinate their programs, and to accept the cooperation of individual citizens in accomplishing its purposes. The corporation shall have such other objects and purposes as are consonant with the above.

SEC. 3. CORPORATE POWERS.—The corporation shall have all the powers necessary and proper to accomplish the objects and purposes set forth in section 2. Without limiting the generality of the foregoing, the corporation shall have the following specific powers:

(a) To enact and amend bylaws, rules, and regulations for its internal governance and management, not inconsistent with this Act or other provisions of law.

(b) To establish, regulate, and terminate State, regional, local, and overseas councils, organizations, chapters, or affiliates in such manner and by such rules as it deems appropriate so as to enable it to carry out its powers and accomplish the objects and purposes set forth in section 2.

(c) To solicit and raise funds for the accomplishment of its purposes, and to accept gifts, legacies, devises, and support in furtherance thereof.

(d) To acquire, hold, and dispose of such real and personal property as may be necessary to carry out the corporate purposes; to sell, mortgage, or lease any of its real property if authorized by its board of governors.

(e) To make and enter into contracts.

(f) To borrow money for the purposes of the corporation, issue bonds therefor, and secure the same by mortgage, subject in every case to all applicable provisions of Federal and State law.

(g) To adopt and alter a corporate seal, emblems, and marks.

(h) To choose such officers, representatives, and agents as may be necessary to carry out the corporate purposes.

(i) To establish and maintain offices for the conduct of the affairs of the corporation.

(j) To publish a newspaper, magazine, or other publications.

(k) To sue and be sued in any court.

(l) To do any and all acts and things necessary and proper to accomplish the foregoing specifically enumerated purposes.

SEC. 4. RESTRICTIONS ON CORPORATE POWERS.—(a) The corporation shall be nonpolitical and, as an organization, shall not furnish financial aid or assistance to, or otherwise

promote the candidacy of, any person seeking elective public office. No substantial part of the activities of the corporation shall involve carrying on propaganda, or otherwise attempting to influence legislation.

(b) The corporation shall have no power to issue any shares of capital stock, or to declare or pay any dividends. It shall also have no power to engage in any business activity for pecuniary profit unless the activity is substantially related to the carrying out of its objects and purposes, as set forth in section 2, or the raising of funds for the accomplishment of said purposes.

(c) The property of the corporation is irrevocably dedicated to charitable purposes. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, its remaining assets, if any, shall be distributed in accordance with the determination of its board of governors, in compliance with its bylaws and all Federal and State laws applicable thereto: *Provided, however,* That its property shall not, in any event, inure to the benefit of any private person except a fund, foundation, association, or corporation operated exclusively for charitable purposes.

(d) No part of the income or assets of the corporation shall inure to any member, governor, officer, or employee of the corporation or be distributable to any person during the life of the corporation or upon its dissolution or liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation for services rendered to officers and employees of the corporation and other persons, or to prevent their reimbursement for actual necessary expenses in amounts approved by the corporation's board of governors.

(e) The corporation shall not make loans to its members, officers, governors, or employees.

SEC. 5. GOVERNANCE OF THE CORPORATION.

(a) MEMBERS OF THE CORPORATION.—The persons listed in section 1 are the present members of United Service Organizations, Incorporated, a corporation organized under the Not-for-Profit Corporation Law of the State of New York (hereinafter "the New York Corporation"). Upon the enactment of this charter, and for not more than one year thereafter, the said persons shall be the members of the corporation hereunder. They shall adopt bylaws and perform all other acts necessary to complete the organization of the corporation. Thereunder, the members of the corporation shall consist of nine persons designated by the President of the United States, and such representatives of the organizations listed in section 2 of this Act and of the public at large as shall be specified in the bylaws. The rights, privileges, and designations of the classes of members shall also be as specified in the bylaws.

(b) BOARD OF GOVERNORS.—The Management of the corporation shall be entrusted to a board of governors, which shall be responsible for the general policies and program of the corporation and for the control of its affairs and property. Upon the enactment of this charter and for not more than one year thereafter, the membership of the initial board of governors of the corporation created hereunder shall consist of the present members of the board of governors of the New York corporation. Thereafter, the board of governors shall be elected by the members of the corporation for such terms and in such classes as shall be specified in the bylaws, and shall include the following persons:

(1) Six members appointed by the President of the United States.

(2) The Secretary of Defense, or his designee.

(3) Such representatives of the organizations listed in section 2 of this Act and of the public at large as shall be specified in the bylaws.

(c) OTHER GOVERNING BODIES.—The corporation shall have such other governing bodies and committees as may be provided for in its bylaws.

(d) OFFICERS.—The office of honorary chairman of the corporation shall be tendered to the President of the United States. Upon acceptance of such office, the honorary chairman shall be invited to preside at such meetings of the corporation as he may deem appropriate and convenient. The corporation shall have such other officers as may be designated in its bylaws.

SEC. 6. DISSOLUTION OF THE NEW YORK CORPORATION.—Upon the enactment of this charter, the corporation shall acquire the assets and assume liabilities of the New York corporation. At such time as the liabilities of the New York corporation have been fully discharged, the corporation shall cause the New York corporation to be dissolved.

SEC. 7. USE OF NAMES "UNITED SERVICE ORGANIZATIONS, INCORPORATED" AND "USO".—The corporation, its regional, State, and local councils, organizations, chapters, and affiliates shall have the sole and exclusive right to use the names "United Service Organizations, Incorporated" and "USO" and such distinctive insignia, emblems, and badges as the corporation may lawfully adopt in carrying out its purposes.

SEC. 8. ASSISTANCE BY GOVERNMENT AGENCIES.—The Department of Defense may make its resources available to the USO, to the extent compatible with the primary mission of the Department of Defense and in accordance with guidelines promulgated by the Secretary of Defense, in order to facilitate the accomplishment of the USO mission.

SEC. 9. MISCELLANEOUS PROVISIONS.—(a) The principal office of the corporation shall be located in New York, New York, or in such other place as may be later determined by the board of governors, but the activities of the corporation shall not be confined to that place. The said activities may be conducted throughout the various States, territories, and possessions of the United States, and in foreign countries.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation. Service upon, or notice mailed to the business address of, such agent, shall be deemed notice to or service upon the corporation.

(c) The corporation shall file in the office of the secretary of each State, territory, or possession of the United States in which the corporation or its local, State, or regional councils, organizations, chapters, or affiliates may have activities, the name and post office address of an authorized agent upon whom local process or demands against the corporation may be served.

(d) The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, and of its board of governors, or any committee having any of the authority of the board of governors; and shall keep at its principal office a record giving the names and addresses of its members entitled to vote; and shall permit all books and records of the corporation to be inspected by any member or his agent or his attorney for any purpose at any reasonable time.

(e) The corporation shall make public an annual report concerning its proceedings and activities for the preceding calendar year.

(f) The provisions of sections 1102 and 1103 of title 36 of the United States Code shall apply with respect to the corporation.

(g) Section 1 of Public Law 88-504 (78 Stat. 635; 63 U.S.C. 1101) is amended by adding a new item 50 as follows:

"(50) United Service Organizations.".

(h) The right to alter, amend, or repeal this Act is hereby expressly reserved to the Congress.

With the following committee amendments:

Page 1, strike line 4; page 2, strike lines 1 through 25; and page 3, strike lines 1 through 22, and insert the following:

Col. Paul Akst, USAF Ret., New York, New York.
Robert C. Andrews, Nashville, Tennessee.
Mary Louise Austin, Atlanta, Georgia.
Alden G. Barber, Menlo Park, California.
James E. Barrett, Washington, D.C.
Alfred D. Bell, Jr., Burlingame, California.
Mr. Andrew J. Bennett, Jr., Baton Rouge, Louisiana.
Rocky Bleier, Pittsburgh, Pennsylvania.
Frank J. Brennan, Ft. Washington, Pennsylvania.
N. Brewster Broder, Southfield, Michigan.
Mr. Edward G. Brown, Millbrook, New York.
Mrs. Joseph O. Butcher, Bloomington, Indiana.
Marvin E. Cardoza, San Francisco, California.
Zebedee C. Cheney, Jr., New York, New York.
Louis J. Cohen, Newark, New Jersey.
John B. Coleman, Chicago, Illinois.
Gilbert Colgate, Jr., New York, New York
Robert K. Corn, Papillion, Nebraska.
Kathryn Grant Crosby, Beverly Hills, California.
Edward J. Daly, Oakland, California.
Richard J. Davis, Jr., Arlington, Virginia.
Gen. Michael S. Davidson, USA Ret., Washington, D.C.
Col. Parker Dawkins, USA, Fort Campbell, Kentucky.
John W. Dixon, Dallas, Texas.
Mikki Ehrenfeld, Lincoln, Massachusetts.
E. Stanley Enlund, Chicago, Illinois.
Kimball C. Firestone, Potomac, Maryland
Mrs. Maxine Flournoy, Alice, Texas.
Robert G. Gelb, New York, New York.
RADM Lawrence R. Gels, USN Ret., Jacksonville, Florida.
Jacob Goodstein, New York, New York.
Theodore J. Hagans, Jr., Washington, D.C.
Mrs. Henry E. Harriman, Jr., San Diego, California.
John Halliburton, Kerrville, Texas.
Ronald E. Herington, New Bedford, Massachusetts.
Mrs. Margaret Howard Ismaila, Cleveland, Ohio.
Eugene Jelesnik, Salt Lake City, Utah.
Maj. Gen. Orris E. Kelly, USA, Washington, D.C.
Robert P. Kelsey, Jr., Boston, Massachusetts.
Donald R. Keough, Atlanta, Georgia.
Ralph B. Kohnen, Jr., Cincinnati, Ohio.
James J. Lazarus, Kearny, New Jersey.
Hon. John Davis Lodge, Westport, Connecticut.
Hon. Al G. Loehr, St. Cloud, Minnesota.
Morgan Maxfield, North Kansas City, Missouri.
Mrs. Andrew M. McBurney, New York, New York.
Fred M. McCahey, Winnetka, Illinois.
Brig. Gen. Martin Menter, USAF Ret., Chevy Chase, Maryland.
Ms. Mary Wells Milam, Miami, Florida.
Nick J. Mileti, Gates Mills, Ohio.
Donald L. Miller, New York, New York.
Dr. Ron Miller, Brooklyn, New York.
Fred Much, Houston, Texas.
Dr. Frank L. Myers, Avenel, New Jersey.
CSC Robert A. Nolan, USN Ret., Washington, D.C.
Leo Perlis, Washington, D.C.
Robert B. Pirie, Washington, D.C.
Joseph Robbie, Miami, Florida.
Vincent J. Romeo, Flat Rock, North Carolina.

LTC James H. Ryan, USA Ret., Mt. Rainier, Maryland.
Theodore R. Serrill, Edgewater, Maryland.
Mrs. Charles H. Sethness Jr., Chicago, Illinois.
Joseph H. Singer, Somerville, New Jersey.
Col. C. Haskell Small, USA Ret., Washington, D.C.
Robert A. Staub, New York, New York.
Dorothy C. Stephens, Washington, D.C.
Warren Titus, Boston, Massachusetts.
Martin Tucker, New York, New York.
Mrs. Pearl Scott Tyler, Boston, Massachusetts.
Mrs. Audrey Ullmah, Arlington, Virginia.
Mrs. Paula Unruh, Tulsa, Oklahoma.
Jeff Wald, Beverly Hills, California.
Dr. Seymour S. Weisman, Norwalk, Connecticut.
William G. Whyte, Washington, D.C.
Clifford R. Williams, Milwaukee, Wisconsin.
Julius E. Williams, New York, New York.
Michael Collins, Washington, D.C.

Page 8, line 4: Strike "of the District of Columbia".

Page 14, lines 4 and 5: Strike "Dissolution of the New York Corporation." and insert "State of Incorporation."

Page 14, lines 7, 8, 9, and 10: Strike "At such time as the liabilities of the New York Corporation have been fully discharged, the corporation shall cause the New York corporation to be dissolved." and insert:

The United Service Organizations, Incorporated shall retain and maintain its existing status as a corporation incorporated under the laws of the State of New York, another State, or the District of Columbia.

The committee amendments were agreed to.

● Mr. DANIELSON. Mr. Speaker, the purpose of the bill, H.R. 600, is to incorporate the United Service Organizations, Inc. Under the bill the USO would continue as a voluntary civilian organization which would serve the religious, spiritual, social, welfare, organizational, and entertainment needs of members of the Armed Forces.

The committee amendment would add the additional requirement that there be an annual audit and report to Congress. In addition, the USO would be required to maintain its present State incorporation status.

In a report to the committee dated October 2, 1979, the Department of Defense supported the incorporation of the United Service Organizations, Inc.

During the 94th Congress the bill H.R. 7462 and companion measures were the subject of a subcommittee hearing. At that hearing it was pointed out that the United Service Organizations, Inc., provides for a means for contact between the civilian and military communities wherever the organization serves. The USO is a voluntary, nonprofit, civilian organization with the purpose of serving the religious, spiritual, social, welfare, educational, and entertainment needs of the men and women of the armed services in the United States and overseas.

These are the objects and purposes of the corporation as set forth in section 2 of the present bill, H.R. 600. For more than 30 years, the organization has made this sort of valuable contribution to the morale and welfare of service members throughout the world. This work has been accomplished by the organization through the support of the public at large. The USO is not funded by the Government but is supported financially by funds contributed in the form of voluntary donations through local United Way drives or independent USO campaigns.

The organization is civilian in character and this is reflected in the language of the bill which has been drafted to bar any inference that the organization would be subject to governmental direction or financial support.

The bill in section 9(f) requires reports of annual audits to be filed with the Congress as provided in Public Law 88-504 (78 Stat. 635; 36 U.S.C. 1102, 1103). By an amendment to section 1 of the same law, the United Service Organizations are specifically referred to in the amended statute by name.

In view of the considerations outlined above, it is recommended that the amended bill be considered favorably.●

Mr. MOORHEAD of California. Mr. Speaker, this legislation would give long-overdue, and appropriate, recognition to an organization that has assisted the American military and their families both in wartime and in peacetime. For nearly 40 years the USO—United Service Organizations—has served the spiritual, social, educational, and recreational needs of our armed forces personnel. H.R. 600 would grant a Federal charter of incorporation to this world-renowned organization.

USO receives no congressional appropriations. It is a privately financed, nonprofit, voluntary action agency. It is totally civilian run. Relying primarily on some 40,000 volunteers, the USO operates 62 facilities in the United States and 55 facilities overseas. Included among the USO worldwide services are community involvement programs; assistance to young military families; assistance in finding temporary and permanent housing; minority programing, cultural interchange programs; adult education classes; crisis counseling in a civilian atmosphere; information and assistance for GI's and dependent travelers; and recreation programs. In addition, the USO reaches out to hospitalized veterans in VA medical centers with a variety of programs. The USO is, perhaps, best known for its USO shows program, featuring noted entertainers such as Bob Hope.

Its world headquarters are now located in Washington, D.C., and the USO is incorporated as a nonprofit organization under the laws of the State of New York.

I am pleased and privileged to be the sponsor of this legislation, proposing Federal charter status for USO. When the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee considered this bill on June 26, the vote was 5-0 in favor of the bill. Later, the full Judiciary Committee unanimously endorsed the action of our subcommittee. No opposition has been evidenced.

Granting the USO a Federal charter will not alter its nongovernmental nature. The Federal Government would not be committing any funds. Its tax status would not change. Its structure and operations would continue as before. The enactment of H.R. 600 would symbolize a congressional recognition of the unique services provided to our Nation by this fine organization. It would serve to remind Americans that USO needs and deserves our support in peacetime, as well as wartime. It would be an honorary recognition of services rendered. I urge your support.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING SECTION 12 OF THE CONTRACT DISPUTES ACT OF 1978

The Clerk called the bill (H.R. 3909) to amend section 12 of the Contract Disputes Act of 1978.

There being no objection, the Clerk read the bill as follows:

H.R. 3909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12 of the Contract Disputes Act of 1978 (92 Stat. 2389), is amended to read as follows:

"SEC. 12. Interest on amounts found due contractors on claims shall be paid to the contractor from the date the contracting officer receives the claim pursuant to section 6(a) from the contractor until payment thereof. The interest provided for in this section shall be paid at a rate which the Secretary of the Treasury shall specify as applicable to the period beginning on July 1, 1979, and ending on December 31, 1979, and to each six-month period thereafter. Such rate shall be determined by the Secretary of the Treasury, taking into consideration current private commercial rates of interest for new loans maturing in approximately five years. The Secretary of the Treasury shall publish each such rate in the Federal Register. Interest with respect to a particular claim shall be paid at the rate determined pursuant to this section for the period which includes the date on which interest begins to run.".

SEC. 2. This act shall be effective July 1, 1979.

With the following committee amendment:

Page 2, line 17: Strike "SEC. 2. This Act shall be effective July 1, 1979."

The committee amendment was agreed to.

● Mr. DANIELSON. Mr. Speaker, the bill H.R. 3909, amends section 12 of the Contract Disputes Act of 1978 to strike a reference to the recently disestablished Renegotiation Board in the provision making interest rates established by the Secretary of the Treasury applicable to contract claims. The bill further requires the Secretary of the Treasury to publish each rate in the Federal Register. The new language would require the Secretary of the Treasury to fix interest rates for the period beginning July 1, 1979, and for each 6-month period thereafter and, in fixing such rates, the Secretary of the Treasury would be required to take into consideration the current private commercial rates of interest.

The bill H.R. 3909 was introduced as recommended by the Comptroller General of the United States in a letter to

the chairman of the House Committee on the Judiciary on April 10, 1979.

The Comptroller General recommended that section 12 of the 1978 Contract Disputes Act be amended. Interest on contract claims is authorized by that section which states that interest is to be paid at the rate established by the Secretary of the Treasury pursuant to Public Law 92–41 (85 Stat. 97) for the Renegotiation Board. The 92d Congress law provided that the Secretary of the Treasury was to establish interest rates for the Renegotiation Board. Currently, the Secretary has established the interest rate for the period July 1 through December 31, 1979. The Comptroller General pointed out that since the Renegotiation Board was terminated as of March 31, 1979, it is not clear that the Secretary of the Treasury would be required to continue setting interest rates under Public Law 92–41. For this reason, the Comptroller General recommended that section 12 of the Contract Disputes Act be amended as provided in H.R. 3909. The bill provides for a revised requirement that the Secretary of the Treasury will fix and publish interest rates applicable to contract claims at 6-month intervals in the Federal Register. The Secretary of the Treasury is to take into consideration current private commercial rates of interest for new loans maturing in approximately 5 years. Interest is to be paid at the rate fixed under section 12 for the period which includes the date on which the interest begins to run on a claim.

The amendments in the bill are designed merely to incorporate the existing requirement concerning interest rates in restated language, it closely follows both the concept and the language of section 2(a) of Public Law 92–41, the law relating to the Renegotiation Board. The only new element is the requirement that the Secretary of the Treasury publish the rates in the Federal Register.

The bill, as originally recommended by the Comptroller General and as reported by the subcommittee in May, contained an effective date of July 1, 1979. The Comptroller General has now recommended the change embodied in the committee amendment striking that effective date. As amended, the effective date of the bill would be the date of its approval. The reference in the amendment to the Contract Disputes Act to the 6-month period beginning July 1, 1979, and ending December 31, 1979, would be appropriate since the Secretary of the Treasury has fixed the interest rate and published notice for the current 6-month period in accordance with the authority provided by the previous law.

The bill clarifies the authority of the Secretary of the Treasury to fix interest rates to implement the provisions of the Contract Disputes Act of 1978. As I have indicated above, this is a bill recommended by the Comptroller General to implement the purposes and intent of that act. It is recommended that the amended bill be considered favorably.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERSONS ELIGIBLE FOR MEDICAL CARE UNDER THE CHAMPUS PROGRAM NOT TO BE DENIED SUCH CARE BECAUSE OF ELIGIBILITY FOR SUCH CARE IN FACILITIES OF THE VETERANS' ADMINISTRATION

Mr. WHITE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5025) to amend title 10, United States Code, to provide that any person eligible for medical care under the civilian health and medical program of the uniformed services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There being no objection, the Clerk read the bill, as follows:

H.R. 5025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1086 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding subsection (d) of any other provisions of this chapter, no person eligible for health benefits under this section may be denied benefits under this section with respect to care or treatment for any service-connected disability which is compensable under chapter 11 of title 38 solely on the basis that such person is entitled to care or treatment for such disability in Veterans' Administration facilities.".

SEC. 2. The amendment made by the first section of this Act shall take effect on October 1, 1979.

Mr. WHITE. Mr. Speaker, the Committee on Armed Services has favorably reported H.R. 5025, a bill that will permit retired service personnel to receive care for service-connected disabilities under the civilian health and medical program of the uniformed services (CHAMPUS).

H.R. 5025 is a clean bill reported by the committee which corrects some technical deficiencies in H.R. 1430, the bill as originally introduced.

H.R. 5025 will insure that retired veterans with service-connected disabilities, otherwise eligible for care under the CHAMPUS program, are not denied care or treatment under CHAMPUS solely because such care or treatment would be available at a Veterans' Administration medical facility.

Veterans retired with pay are of course eligible for care under the CHAMPUS program, and presently also are covered by the CHAMPUS program for care related to a service-connected disability. However, the Department of Defense has determined recently that section 1086(d) of title 10, United States Code, prohibits CHAMPUS coverage for CHAMPUS beneficiaries if they are eligible for care under another health program provided by law. Because retired veterans with service-connected disabilities are eligible for care related to their service-connected disability from the Veterans' Administration, these individuals will soon be forced to seek treatment related to their disability from the Veterans' Administration. For all other care, the veteran must then return to his personal physician.

Such a situation makes no sense. H.R. 5025 will clarify the retired veteran's access to all necessary medical care under the CHAMPUS program.

Hearings were held on similar legislation in the 95th Congress, but no action was taken because of the committee's intention to look at the CHAMPUS program in general.

The Committee on Armed Services favorably reported this legislation on September 11, 1979 by a voice vote.

The Department of Defense does not object to the passage of this legislation. The costs are estimated to be approximately $480,000 in the first year.

On behalf of the Armed Services Committee, I urge the Members to support H.R. 5025.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1210

AMENDING TITLE 28 OF THE UNITED STATES CODE TO ALLOW THE U.S. ATTORNEY AND ASSISTANT U.S. ATTORNEYS FOR THE EASTERN DISTRICT OF NEW YORK TO RESIDE WITHIN 20 MILES OF THE DISTRICT

The Clerk called the bill (H.R. 3959) to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorneys for the eastern district of New York to reside within 20 miles of the district.

There being no objection, the Clerk read the bill as follows:

H.R. 3959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 545(a) of title 28, United States Code, is amended by striking out "Columbia and the Southern District of New York" and inserting in lieu thereof "Columbia, the Southern District of New York, and the Eastern District of New York".

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 567) to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorneys for the eastern district of New York to reside within 20 miles of the district.

The SPEAKER. Is there objection to the request of the gentleman from California?

There being no objection, the Clerk read the Senate bill, as follows:

S. 567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 545(a) of title 28, United States Code, is amended by striking out "Columbia and the Southern District of New York" and inserting in lieu thereof "Columbia, the Southern District fo New York, and the Eastern District of New York."

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3959) was laid on the table.

TRIBUTE TO MAJORITY LEADER JIM WRIGHT ON HIS 25 YEARS SERVICE IN CONGRESS

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I had the great privilege last Saturday night of joining over 5,000 persons at a dinner in Fort Worth, Tex., who had gathered to do honor to our distinguished majority leader, the gentleman from Texas, the Honorable JIM WRIGHT, on the occasion of his having served 25 years in the House of Representatives.

Mr. Speaker, evidence of the high regard in which JIM WRIGHT is held by the people of the district he has so brilliantly represented for a quarter of a century was the outpouring of citizens of every background, both Democrats and Republicans, from his home community.

Further testimony to the great respect in which JIM WRIGHT is held by leaders in the executive branch of Government was the presence at the dinner of Secretary of State Cyrus Vance, Secretary of Energy Charles Duncan, Secretary of Labor Ray Marshall, Assistant to the President Sara Weddington, and Assistant to the President for Congressional Relations Frank Moore.

From the leadership of the House of Representatives there were present, in addition to myself, our distinguished colleague, the chief deputy majority whip, the Honorable DAN ROSTENKOWSKI of Illinois, and the distinguished chairman of the Democratic Caucus, the Honorable THOMAS FOLEY of Washington.

Mr. Speaker, the distinguished junior Senator from Texas, the Honorable LLOYD BENTSEN, was one of the speakers at the event which was also attended by nearly all of the Democratic Members of the House of Representatives from the State of Texas.

In addition, our Republican colleague, the gentleman from Ohio, the Honorable WILLIAM H. HARSHA, the distinguished ranking minority member of the Committee on Public Works and Transportation, who served with Mr. WRIGHT on that committee for many years, also paid tribute to the majority leader.

Of course, Mr. Speaker, no one will be surprised when I say the most moving speech made on the occasion was that of the distinguished Speaker of the House, Speaker O'NEILL.

Mr. Speaker, during the course of the program a film was shown illustrating the life and achievements of JIM WRIGHT and one of the highlights of the film was a series of statements by Presidents John F. Kennedy, Lyndon B. Johnson, and Jimmy Carter paying tribute to Mr. WRIGHT.

Our distinguished colleague, the gentleman from Arizona, MORRIS K. UDALL, chairman of the Committee on Interior and Insular Affairs, did his customarily brilliant job as toastmaster on the occasion.

Mr. Speaker, I join, as I am sure my colleagues on both sides of the aisle do, in saluting JIM WRIGHT on his 25 years of service in the House of Representatives and in expressing the confidence that for many more years to come he will serve with great distinction the people of the 12th District of Texas and of the United States.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I would be very pleased to yield to my friend, the distinguished minority leader.

Mr. RHODES. I want to join the distinguished majority whip in extending my congratulations to the distinguished majority leader on the 25 years of great service to his district and to his State and to the Nation in the Congress of the United States.

Mr. BRADEMAS. I thank the distinguished minority leader.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considerd.

The SPEAKER. Is there objection to the gentleman from Indiana?

There was no objection.

CONSIDERATION OF APPROPRIATION BILLS TO PRECEDE DEBATE ON SALT II IN SENATE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I think there is no other Member of this body who is as interested as I am in the Senate taking up SALT II and moving that expeditiously. I also know it is a little dangerous to stand here and give the Senate advice. However, I am hoping we can advise the Members of the other body to please schedule the appropriations bills we have already considered in this body before they proceed to SALT II.

I think we do not want to go through any more fiascoes like we saw last week. If we do not do that fairly shortly, within a month, we will get to reproduce the whole three-ring circus we had here before.

Mr. Speaker, as much as I hate to give the Senate advice, I hope the Members of the Senate will listen and take up the appropriations bills first.

SUPPORT OF FAMILY UNIT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the pressure of competition to come up with a different gimmick to advertise products produced a sad result on CBS–TV on Sunday, October 14. "Flesh and Blood," a story of a boy from a broken home, was perceived by the writers and producers to have more allure in attracting viewers if a sexual relationship could be developed between a son and his mother. This frontal assault on the family unit is claimed to be justified because it deals with reality.

We Americans believe in freedom of speech and expression. It is fundamental in our society. It is absurd to even think about censorship, governmental or otherwise, to screen what Americans may view, no matter that the material may only be trash. However, in searching for a balance between freedom and license, we should not despair for want of a remedy. Citizens who want to support the family unit, decency, and morality can demonstrate their objection to this type of programing by avoiding the purchase of those products which commercially depict human relationships which undermine the family as the basic unit of our society.

The following products were touted to the viewers so as to make the program possible:

Riunite Wine, Carpet Fresh deodorizer, Air Wick deodorizer, Quasar electronics, Ray-O-Vac batteries, K-Tel records, Subaru automobiles, RC Cola, Miller Beer, Tums stomach aid.

Karastan carpets, Dexatrim diet pills, Vidal Sassoon hair products, VO 5 hair spray, Fresh Start soap, Oodles of Noodles, FDS feminine deodorant spray, Unisom sleep tablets, Esoterica skin ointment, English Leather cologne.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRADEMAS). Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceeding were postponed.

Such rollcall votes, if postponed, will be taken on Tuesday, October 16.

GOLD MEDAL FOR RED CROSS

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4259) authorizing the President of the United States to present a gold medal to the American Red Cross.

The Clerk read as follows:

H.R. 4259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President is authorized to present in the name of Congress, an appropriate gold medal to the American Red Cross, in recognition of its unselfish and humanitarian service to the people of the United States. For such purposes, the Secretary of the Treasury shall cause to be struck a gold medal with suitable

emblems, device, and inscriptions to be determined by the Secretary. There are authorized to be appropriated not to exceed $15,000 after October 1, 1980, to carry out the purposes of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal, and the appropriation used for carrying out the provisions of this Act shall be reimbursed out of the proceeds of such sale.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. STANTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4259 authorizes the presentation of a gold medal to the American Red Cross in honor of its unselfish and humanitarian service to the people of the United States. This medal would be presented to the American Red Cross during its contennial celebration culminating on May 21, 1981, with the 100th anniversary of the founding of the American Red Cross.

The American Red Cross has served the people of our land both in times of war and peace. Victims of recent disasters such as Hurricane David and recent tornadoes can give eyewitness testimony to the prompt response of Red Cross volunteers to their plight.

The history of this service goes back to the Civil War when Clara Barton left the safety of a job at the Patent Office to provide voluntary nursing assistance to wounded soldiers. Her example inspired others and she became known to both sides as "the Angel of the Battlefield." Her interest in humanitarian services did not end with the Civil War. She went to Europe to aid unfortunate victims of war and disaster. While there she learned of the Red Cross movement and upon her return to the United States in 1881, she founded the American Red Cross. Since that date, victims of calamity have been comforted and helped by the prompt appearance of the Red Cross.

It is important to note that the Red Cross has done all this without receiving a single dollar from the Federal Government. Virtually everyone who works for the Red Cross is a volunteer and the few who are paid receive low wages and work long hours. Nearly every town in America has a Red Cross chapter. As someone once said, "The Red Cross is this country's only ready militia against acts of God and damn fools."

This bill will not result in any additional cost to the Government. While the gold presentation medal will cost between $12,000–$15,000, that money will be recovered through the sale of bronze duplicates. The duplicates will be priced to recover their cost and the cost of the gold medal. I am certain that interest in the Red Cross centennial will be sufficient to result in ample sales to completely recover the cost of the gold medal.

Mr. Speaker, it is time for the Congress to recognize the services performed by these 1.4 million volunteers. I urge the passage of H.R. 4259 to honor the American Red Cross on its 100th birthday.

Mr. STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, May 21, 1981, is the 100th anniversary of the founding of the American Red Cross. We in the Congress are acting today on a bill that will authorize the President to present a gold medal to the American Red Cross in recognition of 100 years of outstanding humanitarian service to the people of the United States.

The Red Cross has been a federally chartered organization since 1900. Under that charter, its responsibility is to provide services to the members of the armed services as well as relief to disaster victims. Such services date as far back as 1881 when the American Red Cross was first founded by Clara Barton.

Today, the Red Cross is ready to respond to disaster wherever it may strike. In recent flood disasters, we saw rescue teams at work all across the Nation.

Although it is federally chartered, the Red Cross does not receive Federal appropriations for its services. It relies solely on contributions and a work force of 1.4 million volunteers across the country from almost every town in the United States.

Besides disaster relief, the Red Cross instructs millions in first aid classes and water safety and collects roughly 60 percent of this country's blood donations.

The Congress indeed recognizes the extraordinary humanitarian service that the American Red Cross has offered millions of people over the years. Such dedicated service should not be taken for granted.

Mr. Speaker, today, we have chosen, therefore, to honor the American Red Cross with a gold medal. To defray the cost of the gold medal, we are also voting to authorize the sale of bronze duplicates.

I am pleased to support this proposal and I am certain that our colleagues will join in its immediate passage.

□ 1220

Mr. ANNUNZIO. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE), a member of the subcommittee.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to salute the gentleman from Illinois for his leadership in this very important area. He is able to effectuate legislation commending organizations like the Red Cross and John Wayne, I might add, with flair and with facility in the same manner in which the gentleman leads the Columbus Day Parades in Chicago.

Mr. ANNUNZIO. Mr. Speaker, I thank my good friend, the gentleman from Illinois, for those kind words.

Mr. Speaker, I have no further requests for time.

Mr. STANTON. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHARP). The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 4259.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

VETERANS REHABILITATION AND EDUCATION AMENDMENTS OF 1979

Mr. HEFNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5288) to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veteran's educational assistance program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Rehabilitation and Education Amendments of 1979".

TITLE I—REVISION OF VOCATIONAL REHABILITATION PROGRAM

SEC. 101. (a) Chapter 31 of title 38, United States Code, is amended to read as follows:

"Chapter 31—VOCATIONAL REHABILITATION

"Sec.
"1500. Purpose.
"1501. Definitions.
"1502. Basic entitlement.
"1503. Periods of eligibility.
"1504. Scope of services.
"1505. Duration of services.
"1506. Subsistence allowances.
"1507. Counseling.
"1508. Vocational rehabilitation plan.
"1509. Leaves of absence.
"1510. Regulations to promote satisfactory conduct and cooperation.
"1511. Revolving fund loans.
"1512. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans.
"1513. Training outside the United States.
"1514. Unpaid training and work experience.
"1515. Rehabilitation resources.
"1516. Development of employment and on-job training opportunities.
"1517. Employment assistance.
"1518. Staff training and development.
"1519. Rehabilitation research and special projects.
"1520. Veterans' Advisory Committee on Rehabilitation.

"§ 1500. Purpose

"The purpose of the program created by this chapter is to provide all services necessary to enable veterans with service-connected disabilities to attain maximum independence, to become employable, and to obtain and maintain suitable employment.

"§ 1501. Definitions

"For the purposes of this chapter—

"(1) The term 'vocational rehabilitation' means those services which provide assistance needed for the accomplishment of the purposes of this chapter, as set forth in section 1500 of this title. Such services include such diagnostic, medical, social, psychological, economic, and vocational services as are determined by the Administrator to be needed to render a veteran who has an employment handicap because of a service-connected disability employable and employed and to enable the veteran to achieve maximum independence.

"(2) The term 'employment handicap' means a disability the limiting effects of which impair an individual's ability to prepare for, obtain, or retain employment consistent with such individual's abilities, aptitudes, and interests.

"§ 1502. Basic entitlement

"(a) A veteran is entitled to vocational rehabilitation under this chapter if the veteran—

"(1) has a service-connected disability which is compensable under chapter 11 of this title and which was aggravated or incurred in service on or after September 16, 1940;

"(2) was released from active duty under conditions other than dishonorable or is hospitalized in a military hospital pending final discharge; and

"(3) is determined by the Administrator to be in need of vocational rehabilitation because of an employment handicap.

"(b) A previously rehabilitated veteran whose condition has changed to the extent that the veteran requires vocational rehabilitation to enter employment more suitable to the veteran's abilities and aptitudes may receive such additional vocational rehabilitation under this chapter as the Administrator considers appropriate.

"§ 1503. Periods of eligibility

"(a) Unless a longer period of eligibility is authorized pursuant to subsection (b) or (c) of this section, vocational rehabilitation may not be afforded to a veteran after the end of the nine-year period beginning on the date of the veteran's discharge or release.

"(b) If a veteran is prevented from entering, or having entered, from completing, vocational rehabilitation training within the period of eligibility prescribed in subsection (a) of this section because—

"(1) the veteran had not timely attained, retained, or regained medical feasibility for training because of disability;

"(2) the veteran had not timely met the requirement of a discharge or release under conditions other than dishonorable, but the nature of such discharge or release was later changed by appropriate authority; or

"(3) the veteran had not timely established the existence of a compensable service-connected disability,

such training may be afforded the veteran during a period not to exceed four years beyond the period of eligibility otherwise applicable to the veteran.

"(c) A veteran who is found to be in need of vocational rehabilitation to overcome the handicap of blindness, or other serious disability, resulting from a service-connected disability which affords basic eligibility for vocational rehabilitation under section 1502 of this title may be afforded such vocational rehabilitation after the termination date otherwise applicable to the veteran when such action is determined by the Administrator to be necessary for such veteran based upon such veteran's disability and need for vocational rehabilitation, if—

"(1) the veteran had not previously been rehabilitated as the result of training furnished under this chapter, or

"(2) such serious disability (whether blindness or otherwise) has developed from, or as a result of, the worsening of the veteran's service-connected disability since the veteran was declared rehabilitated to the extent that it precludes the veteran performing the duties of the occupation for which the veteran was previously trained under this chapter.

"§ 1504. Scope of services

"Vocational rehabilitation services which may be provided by the Administrator under this chapter to a veteran entitled to such services include the following:

"(1) Evaluation of the potential for rehabilitation of the veteran, including diagnostic and related services to determine whether the veteran's service-connected disability causes a handicap to employment and whether a rehabilitation goal is feasible for the veteran and to provide a basis for planning a suitable vocational rehabilitation program or a program of services to improve the rehabilitation potential of the veteran, as appropriate.

"(2) Educational, vocational, and personal adjustment counseling.

"(3) A vocational rehabilitation plan for the veteran under section 1508 of this chapter.

"(4) Vocational and other training services, including individualized tutorial assistance, personal adjustment and work adjustment training, tuition, fees, books, supplies, licensing fees, and other training materials.

"(5) Treatment for mental and emotional disorders.

"(6) Medical diagnosis, care, treatment, and hospitalization.

"(7) Prosthetic appliances, eyeglasses, and other corrective devices.

"(8) Placement services to effect suitable placement in employment, and postplacement services to ensure satisfactory adjustment in employment.

"(9) Services to the veteran's family as necessary for the rehabilitation of the veteran.

"(10) Special rehabilitation services, including the following services for the blind and deaf:

"(A) Services such as language training, speech and voice correction, training in ambulation, and one-hand typewriting.

"(B) Orientation, adjustment, mobility, and reader services for the blind, and interpreter and other services for the deaf.

"(C) Telecommunications, sensory, and other technological aids and devices.

"(11) A subsistence allowance as authorized by section 1506 of this chapter.

"(12) For the most severely disabled veterans requiring homebound training, self employment, essential equipment, supplies, and minimum stocks of materials determined necessary to begin employment. The Administrator shall, by regulation, establish criteria and cost limitations for the furnishing of such materials.

"(13) Transportation, as authorized in section 111 of this title, plus a special transportation allowance during training, job seeking, and the initial employment stage for veterans who, because of their handicap, have transportation expenses above those incurred by persons not so handicapped.

"(14) Work study allowance, as authorized by section 1685 of this title.

"(15) Loans as authorized by section 1511 of this chapter.

"(16) Other incidental goods and services, including necessary books, supplies, and equipment determined by the Administrator to be necessary to accomplish vocational rehabilitation in the individual case.

"§ 1505. Duration of services

"Unless a longer period of time is prescribed by the Administrator—

"(1) the period of services to evaluate and improve rehabilitation potential of veterans for whom the feasibility of attainment of rehabilitation is indeterminate may not exceed twelve months; and

"(2) the period of vocational rehabilitation training and associated services authorized under this chapter following a finding of feasibility of vocational rehabilitation may not exceed forty-eight months.

"§ 1506. Subsistence allowances

"(a) Each veteran shall be paid a subsistence allowance in accordance with this section during a certified period of (1) evaluation of vocational rehabilitation potential, (2) vocational rehabilitation training, and (3) postvocational rehabilitation training (not to exceed two months).

"(b) Except as otherwise provided in this section, the subsistence allowance paid to a veteran under this chapter shall be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$282	$349	$412	$30
Three quarter-time	212	262	309	23
Half-time	141	175	206	15
Farm cooperative, apprentice, or other on-job training: Full-time	246	297	343	23
Unpaid on-job training or work experience in Federal agency: Full-time	282	349	412	30
Evaluation and improvement of vocational rehabilitation potential: Full-time	282	349	412	30

"(c) If the vocational rehabilitation training consists of training on the job by an employer, such employer shall be required to submit monthly to the Administrator a statement in writing showing any wage, compensation, or other income paid by the employer to the veteran during the month, directly or indirectly. Based upon such written statements, the Administrator is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just.

"(d) The Administrator shall define full-time and part-time status in the case of all eligible veterans undergoing vocational rehabilitation under this chapter.

"(e) If the veteran pursues a program on a residential basis in a specialized rehabilitation facility, the Administrator is authorized to pay to such facility the cost of the veteran's room and board and, in addition, to pay to the veteran that portion of the allowance for dependents payable, as determined by the veteran's dependency status, under

subsection (b) of this section for a full-time institutional program.

"(f) During the two-month period following a determination that a veteran is employable, the veteran shall be paid at the rate provided in subsection (b) of this section for the full-time benefits payable for the type of vocational training pursued.

"(g) A veteran pursuing an unpaid program of vocational rehabilitation training or work experience in a Federal agency under the provisions of section 1514 of this chapter shall be paid the subsistence rate provided in subsection (b) of this section for a full-time institutional program.

"(h) A subsistence allowance under this section may not be paid to a veteran who is incarcerated in a Federal, State, county, or local prison or jail.

"(i) Payment of a subsistence allowance may be made in advance in accordance with the provisions of section 1780(d) of this title.

"§ 1507. Counseling

"Subject to regulations which the Administrator shall prescribe, each eligible veteran shall be provided initial counseling and necessary counseling during any period which the veteran is undergoing vocational rehabilitation evaluation, vocational rehabilitation training, or posttraining assistance. Such counseling may include vocational, educational, rehabilitation, psychological, personal adjustment, and employment counseling. If appropriate, family counseling may be provided.

"§ 1508. Vocational rehabilitation plan

"(a) Each veteran pursuing a program of vocational rehabilitation shall participate in the planning and decision process in formulating a comprehensive, individualized written rehabilitation plan for such veteran. Such plan shall include (1) a statement of long range goals and intermediate objectives for the rehabilitation of such veteran, (2) a statement of the specific services to be provided to such veteran and a time schedule for the providing of such services, (3) a projected date for completion of necessary rehabilitation, and (4) objective criteria for evaluating the veteran's progress under the plan.

"(b) Each rehabilitation plan shall be reviewed at least annually and, if determined necessary, modified to meet the needs of the veteran.

"§ 1509. Leaves of absence

"The Administrator shall prescribe such regulations as the Administrator considers necessary for granting leaves of absence to veterans pursuing vocational rehabilitation training. During authorized leaves of absence, a veteran shall be considered to be pursuing vocational rehabilitation training.

"§ 1510. Regulations to promote satisfactory conduct and cooperation

"The Administrator shall prescribe such rules and regulations as the Administrator considers necessary to promote satisfactory conduct and cooperation on the part of veterans who are receiving services under this chapter. If the veteran fails to maintain satisfactory conduct or cooperation in the rehabilitation process, and the Administrator determines that discontinuance of rehabilitation on that account is necessary, rehabilitation benefits and services will be terminated until such time as it is determined that the basis for the unsatisfactory conduct or lack of cooperation has been removed.

"§ 1511. Revolving fund loans

"The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a) is continued in effect, and may be used by the Administrator, under regulations prescribed by the Administrator, for making advances, not in excess of $400 in any case, to veterans pursuing vocational rehabilitation. Such advances, and advances from such fund made before the effective date of the Veterans' Rehabilitation and Education Amendments of 1979, shall bear no interest and shall be repaid in such installments as may be determined by the Administrator, by proper deductions from future payments of compensation, pension, subsistence allowance, educational assistance allowance, or retirement pay.

"§ 1512. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans

"(a) Vocational rehabilitation may be provided under this chapter to any person who is hospitalized pending final discharge from the active military, naval, or air service, if such person is otherwise eligible. In such cases, no subsistence allowance shall be payable.

"(b) Vocational rehabilitation may be provided under this chapter to veterans who are hospitalized at Veterans' Administration hospitals or domiciliaries or, where feasible, at any other hospital or medical facility.

"§ 1513. Training outside the United States

"Pursuant to such regulations as the Administrator shall prescribe, vocational rehabilitation training under this chapter may be provided outside the United States if it is determined that such training is necessary in the particular case to provide the preparation needed to render the veteran employable in a suitable occupation and as is determined to be in the best interest of the veteran and the Federal Government.

"§ 1514. Unpaid training and work experience

"Notwithstanding any other provision of law, the facilities of any Federal agency may be used to provide unpaid training or work experience as part of all of a veteran's program of vocational rehabilitation when the Administrator determines such training or work experience is necessary to accomplish vocational rehabilitation. While pursuing such training or work experience, an uncompensated veteran shall be deemed an employee of the United States for the purposes of the benefits of chapter 81 of title 5, but not for the purposes of laws administered by the Office of Personnel Management.

"§ 1515. Rehabilitation resources

"(a) For the purpose of providing services under this chapter, the Administrator may—

"(1) use the facilities, staff, and other resources of the Veterans' Administration;

"(2) employ such additional personnel and experts as the Administrator considers necessary; and

"(3) use the facilities and services of any Federal agency, agencies maintained by joint Federal and State contributions, private institutions and establishments, and private individuals.

Use of facilities and services under clause (3) may be procured through contract, agreement, or other cooperative arrangement.

"(b) A program of vocational rehabilitation (including individual courses) to be pursued by the veteran under this chapter shall be subject to the approval of the administrator.

"§ 1516. Development of employment and on-job training opportunities

"(a) The Administrator shall actively promote the development and establishment of on-job training and employment opportunities for veterans with service-connected disabilities through direct Veterans' Administration staff outreach to employers and through Veterans' Administration coordination with Federal, State, and local governmental agencies and appropriate nongovernmental organizations.

"(b) Under regulations the Administrator may prescribe, payments may be made to employers for providing on-job training to veterans in individual instances when the Administrator determines payments to be necessary to obtain the needed on-job training.

"§ 1517. Employment assistance

"(a) A veteran who is determined to be employable shall be furnished assistance in obtaining employment suitable to the veteran's handicap, interests, and aptitudes. Such assistance may include (1) direct placement of the veteran in employment, and (2) utilization of placement services of (A) the Rehabilitation Services Administration of the Department of Health, Education, and Welfare, (B) the State employment service and the Veterans Employment Service of the Department of Labor, (C) the Office of Personnel Management, and (D) any other public or nonprofit organization having placement services available.

"(b) If a veteran has trained for self-employment under this chapter, the Administrator shall cooperate with the Small Business Administration to assist the veteran to secure a loan for the purchase of equipment needed to establish the veteran's own business. The Administrator may provide license fees required by the veteran to operate the business as authorized by section 1504(4) of this chapter and, where deemed appropriate, may provide the initial tools and equipment required as authorized by section 1504(12) of this chapter.

"(c) The Administrator may furnish an eligible veteran who has trained under a State rehabilitation program with the objective of self-employment in a small business enterprise such supplementary equipment and initial stocks and supplies needed by the veteran but not supplied through the State program or other sources.

"§ 1518. Staff training and development

"(a) The Administrator shall provide a program of on-going professional training and development for Veterans' Administration counseling and rehabilitation staffs engaged in providing vocational rehabilitation services under this chapter. The objective of such training shall be to ensure that vocational rehabilitation services for veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the vocational rehabilitation of handicapped persons. For this purpose, the Administrator may employ the services of consultants and may make grants to, and contract with, public or private agencies (including institutions of higher learning) to conduct such training.

"(b) The Administrator shall coordinate with the Commissioner, Rehabilitation Services Administration, Department of Health, Education, and Welfare, in planning and carrying out staff training in areas of joint program concern.

"§ 1519. Rehabilitation research and special projects

"(a) The Administrator shall carry out an ongoing program of activities to advance the knowledge, methods, techniques, and resources available for use in vocational rehabilitation of veterans. For this purpose, the Administrator shall conduct and provide support for the development or conduct, or both the development and conduct, of—

"(1) studies and research concerning the psychological, social, vocational, industrial, and economic aspects of vocational rehabilitation of handicapped veterans, including new methods of rehabilitation; and

"(2) projects which will provide increased resources and potential for accomplishing the vocational rehabilitation of handicapped veterans.

"(b) For the purpose specified in subsection (a) of this section, the Administrator is authorized to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

"(c) The Administrator shall cooperate with the Secretary, Department of Health, Education, and Welfare, regarding vocational

rehabilitation studies, research, and special projects of mutual agency concern.

"§ 1520. Veterans' Advisory Committee on Rehabilitation

"(a) The Administrator shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation. The members of the committee shall be appointed by the Administrator and shall serve for terms to be determined by the Administrator not to exceed three years. The Administrator may designate one of the members of the committee as the chairman of the committee. In addition to the members appointed by the Administrator, the membership of the committee shall include the Commissioner of Education and the Director of the National Institute for Handicapped Research as ex officio members.

"(b) The Administrator shall advise and consult with the committee from time to time with respect to the administration of veterans' rehabilitation programs under this title.

"(c) The committee shall make such reports and recommendations to the Administrator and the Congress as it considers desirable. Among these reports shall be an annual review and report to the Administrator on the vocational, physical, and psychological rehabilitation activities of the Veterans' Administration. The annual report shall include an assessment of the rehabilitation needs of veterans and a review of the plans of the Veterans' Administration to meet such needs.".

(b) The items relating to chapter 31 in the table of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are amended to read as follows:

"31. Vocational Rehabilitation.....1500".

SEC. 102. Section 1795 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "The aggregate";

(2) by striking out clause (4) and inserting in lieu thereof the following:

"(4) chapters 32, 34, 35, and 36 of this title and the former chapter 33;";

(3) by striking out ", but this section" and all that follows and inserting in lieu thereof a period; and

(4) by adding at the end thereof the following new subsection:

"(b) No person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in clauses (1), (2), (3), and (4) of this section in excess of forty-eight months (or the part-time equivalent thereof) unless the Administrator determines that additional months of benefits under chapter 31 of this title are required to accomplish the purposes of vocational rehabilitation as set forth in that chapter.".

SEC. 103. Section 1781 of title 38, United States Code, is amended by inserting ", or subsistence allowance granted under chapter 31 of this title," after "of this title".

TITLE II—GI BILL EDUCATIONAL ASSISTANCE PROGRAM AMENDMENTS

PART A—EDUCATIONAL ASSISTANCE FOR VETERANS

SEC. 201. The second sentence of section 1671 of title 38, United States Code, is amended to read as follows: "The Administrator shall approve such application unless the Administrator finds that (1) such veteran or person is not eligible for or entitled to the educational assistance applied for, (2) the veteran's or person's selected educational institution or training establishment fails to meet any of the requirements of this chapter or chapter 36 of this title, (3) the veteran's or person's enrollment in, or pursuit of, the program of education selected would violate any provision of this chapter or chapter 36 of this title, or (4) the veteran or person is already qualified.".

SEC. 202. (a) Subsection (a) of section 1673 of title 38, United States Code, is amended by adding at the end thereof the following flush sentence:

"The provisions of clause (2) shall not apply to any course offered by an educational institution if the total number of veterans and eligible persons enrolled in the institution during the two-year period does not exceed 35 per centum and the course had met the requirements of this clause for two consecutive reporting periods.".

(b) Subsection (c) of such section is amended by striking out ", if the major portion of the course requires conventional classroom or laboratory attendance".

(c) The first sentence of subsection (d) of such section is amended—

(1) by striking out the comma after "institution" and inserting in lieu thereof "or"; and

(2) by striking out "and/or by grants from any Federal agency".

SEC. 203. Section 1674 of title 38, United States Code, is amended by striking out the second sentence thereof.

SEC. 204. The text of section 1676 of title 38, United States Code, is amended to read as follows:

"(a) An eligible veteran may not enroll in any course at an educational institution which is not located in a State unless such veteran enrolls in an approved course leading to a standard college degree (or the equivalent of a standard college degree) to be pursued at an educational institution of higher learning so recognized by the foreign government's commissioner of education, or the equivalent, and approved by the Administrator.

"(b) The Administrator, in the Administrator's discretion, may deny or discontinue the educational assistance under this chapter of any veteran in a foreign educational institution if the Administrator determines that such enrollment is not in the best interest of the veteran or the Government.".

SEC. 205. (a) Subsection (b) of section 1682 of title 38, United States Code, is amended—

(1) by striking out "or" at the end of clause (1);

(2) by adding "or" at the end of clause (2); and

(3) by inserting after clause (2) the following new clause:

"(3) in the case of a veteran who is incarcerated in a Federal, State, county, or local prison or jail,". (b) Paragraph (1) of subsection (d) of such section is amended to read as follows:

"(1) Notwithstanding the provisions of section 1671 of this title prohibiting the enrollment of an eligible veteran in a program of education in which such veteran has already qualified, an otherwise eligible veteran shall be allowed educational assistance for up to six months (or the equivalent thereof in part-time assistance) for (A) the pursuit of refresher training to permit such veteran to update such veteran's knowledge and skills and to be instructed in the technological advances which have occurred in such veteran's field of employment during and since the period of such veteran's active military service, and (B) the pursuit of continuing education or training required by Federal, State, or local law either to attain professional or vocational relicensure or to retain employment in a particular profession or vocation.".

(2) Paragraph (2) of such subsection is amended by striking out "refresher" and inserting in lieu thereof "education or".

(3) Such section is further amended by adding at the end thereof the following new subsection:

"(f) The educational assistance allowance of an eligible veteran pursuing a course in part by open circuit television, as provided in section 1673 of this chapter, shall be computed in the same manner as for an independent study program as provided in subsection (e) of this section.".

PART B—EDUCATIONAL ASSISTANCE FOR DEPENDENTS AND SURVIVORS OF VETERANS

SEC. 211. The text of section 1721 of title 38, United States Code, is amended to read as follows:

"The Administrator shall finally approve an application if the Administrator finds that—

"(1) section 1720 of this title has been complied with;

"(2) the proposed program of education constitutes a 'program of education' as that term is defined in this chapter;

"(3) the eligible person is not already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the courses of the program of education are offered;

"(4) the eligible person's proposed educational institution or training establishment is in compliance with all the requirements of this chapter and chapter 36 of this title; and

"(5) it does not appear that the enrollment in or pursuit of such person's program of education would violate any provisions of this chapter or chapter 36 of this title.".

SEC. 212. (a) Subsection (a) of section 1723 of title 38, United States Code, is amended by adding at the end thereof the following flush sentence:

"The provisions of clause (2) shall not apply to any course offered by an educational institution if the total number of veterans and eligible persons enrolled in the institution during the two-year period does not exceed 35 per centum, and the course had met the requirements of this clause for two consecutive reporting periods.".

(b) Subsection (c) of such section is amended to read as follows:

"(c) The Administrator shall not approve the enrollment of an eligible person in any course to be pursued by open circuit television (except as herein provided) or by radio. The Administrator may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through the medium of open circuit television.".

(c) Such section is further amended by adding at the end thereof the following new subsection:

"(e)(1) An eligible person may not enroll in any course at an educational institution which is not located in a State or in the Republic of the Philippines, unless such person enrolls in an approved course leading to a standard college degree (or the equivalent of a standard college degree) to be pursued at an educational institution of higher learning so recognized by the foreign government's commissioner of education, or the equivalent, and approved by the Administrator.

"(2) The Administrator, in the Administrator's discretion, may deny or discontinue the educational assistance under this chapter of any eligible person in a foreign educational institution if the Administrator determines that such enrollment is not in the best interest of the eligible person or the Government.".

SEC. 213. Section 1724 of title 38, United States Code, is amended by striking out the second sentence thereof.

SEC. 214. The text of section 1731 of title 38, United States Code, is amended to read as follows:

"(a) The Administrator shall, in accordance with the applicable provisions of this section and of chapter 36 of this title, pay

to each eligible person (or to the parent or guardian of the eligible person where applicable) who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of the eligible person's subsistence, tuition, fees, books, equipment, and other educational costs.

"(b) The educational assistance allowance of an eligible person pursuing a program of education at an educational institution shall be paid as provided in chapter 36 of this title.".

SEC. 215. Section 1732 of title 38, United States Code, is amended—

(1) by inserting the following new paragraph at the end of subsection (c):

"(4) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a course in part by open circuit television, as authorized in section 1723(c) of this title, shall be computed in the same manner as for an independent study program as provided in section 1682(e) of this title."; and

(2) by adding at the end of such section the following new subsection:

"(e) In the case of an eligible person who is incarcerated in a Federal, State, or local prison or jail, the educational assistance allowance shall be at the same rate as prescribed in section 1682(b)(3) of this title for incarcerated veterans.".

PART C—AMENDMENTS RELATING TO ADMINISTRATION OF EDUCATIONAL BENEFITS

SEC. 221. (a) Subsection (a) of section 1780 of title 38, United States Code, is amended—

(1) by inserting "in, and pursuit of, such program" after "enrollment" in the second sentence thereof;

(2) by inserting ", the provisions of such regulations as may be promulgated by the Administrator pursuant to subsection (f) of this section," in clause (1) after "institution"; and

(3) by striking the semicolon at the end of such clause and inserting in lieu thereof ", and if the actual period of time for pursuit of one or more unit subjects is for a period of time shorter than the enrollment period at the educational institution, payment may be only for the actual period of such pursuit;".

(b) Subsection (g) of such section is amended by inserting "and define" after "determine" in the first sentence thereof.

SEC. 222. (a)(1) The hearing of section 1784 of title 38, United States Code is amended to read as follows:

"§ 1784. Reports by veterans, eligible persons and institutions; reporting fee".

(2) Subsection (a) of such section is amended—

(A) by striking out "Educational" and inserting in lieu thereof "Veterans, eligible persons, and educational"; and

(B) inserting "such" after "each".

(3) Subsection (b) of such section is redesignated as subsection (c).

(4) Such section is further amended by inserting atfer subsection (a) the following new subsection:

"(b) Educational institutions shall, without delay, report to the Administrator any fact which the educational institution knows or through the exercise of reasonable diligence should know which indicates the course or educational institution does not, or has not, met any of the requirements of chapters 34, 35, or 36 of this title.".

(b) The item relating to such section in the table of sections at the beginning of chapter 36 of such title is amended to read as follows:

"1784. Reports by veterans, eligible persons and institutions; reporting fee.".

SEC. 223. The text of section 1785 of title 38, United States Code, is amended to read as follows:

"(a) Whenever the Administrator finds that an overpayment has been made to an eligible person or veteran, the amount of such overpaymnt shall constitute a liability of the eligible person or veteran to the United States.

"(b) Whenever the Administrator finds that an overpayment has been made to an eligible person or veteran as the result of (1) the willful or negligent failure of an educational institution to report, as required by this chapter or chapter 34 or 35 of this title and applicable regulations, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the eligible person or veteran, or (2) false certification by an educational institution, the amount of such overpayment shall constitute a liability of the educational institution to the United States.

"(c) Any overpayment referred to in subsection (a) or (b) may be recovered, except as otherwise provided in section 1784(b) of this title, in the same manner as any other debt due the United States.

"(d) Any such overpayment may be waived as to the eligible person or veteran as provided by section 3102 of this title. Waiver of any such overpayment as to the eligible person or veteran shall in no event release the educational institution from liability under subsection (b).

"(e)(1) Any amount collected from the eligible person or veteran shall be reimbursed to the educational institution which is liable pursuant to subsection (b), to the extent that collection was made from the educational institution.

"(2) This section shall not preclude the imposition of any civil or criminal liability under this or any other law.

"(3) Nothing in this section or any other provision of this title shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.".

SEC. 224. (a) Section 1788(a)(4) of title 38, United States Code, is amended—

(1) by inserting "in residence" after "university" the first place it appears;

(2) by inserting "standard" after "on a";

(3) by inserting "per semester" after "fourteen semester hours" tthe first place it appears; and

(4) by striking out "and which the educational institution considers to be quarter or semester hours for other administrative purposes" after "deficiency".

(b) Section 1788 of such title is further amended by adding at the end thereof the following new subsection:

"(c) For the purposes of subsection (a)(4) of this section, the term 'in residence on a standard quarter- or semester-hour basis' means study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit, and a standard class session is defined as one hour (or one fifty-minute period) of academic instruction, two hours of laboratory instruction, or three hours of workshop training.".

(c) Such section is further amended by inserting "(a)(1)" in clauses (1) and (2) of subsection (a) after "1775".

SEC. 225. Section 1631(a)(1) of title 38, United States Code, is amended by adding at the end thereof the following new sentence: "The number of monthly benefit payments to which a participant is entitled is subject to the provisions of section 1795 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of education administered by the Veterans' Administration."

SEC. 226. (a) Section 1780(a)(2) of title 38, United States Code, is amended by striking out the semicolon at the end of such section and inserting in lieu thereof ", intervals between terms which do not exceed fifteen calendar days, and periods when the institution is not in session because of teacher conferences or teacher training sessions (not to exceed five days in any twelve-month period);".

(b) Section 1780(a)(C) of such title is amended by inserting "in excess of fifteen calendar days" after "periods" the third place it appears.

SEC. 227. The text of section 1792 of title 38, United States Code, is amended to read as follows:

"(a) There shall be an advisory committee formed by the Administrator which shall be composed of persons who are eminent in their respective fields of education, labor, and management, and of representatives of institutions and establishments furnishing education to eligible persons or veterans enrolled under chapter 32, 34, or 35 of this title. The committee shall also include veterans representatives of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era. The Commissioner of Education and the Assistant Secretary of Labor for Education and Training shall be ex officio members of the advisory committee.

"(b) The Administrator shall advise and consult with the committee from time to time with respect to the administration of this chapter and chapters 32, 34, and 35 of this title. The committee may make such reports and recommendations as it deems desirable to the Administrator and the Congress.

"(c) The committee shall remain in existence until December 31, 1989.".

TITLE III—REPEAL OF AUTHORITY TO PURSUE PREDISCHARGE EDUCATION TRAINING (PREP) UNDER CHAPTER 32

SEC. 301. Section 1631 of title 38, United States Code, is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) and (d) as ssubsections (b) and (c), respectively.

SEC. 302. (a) Subchapter VI of chapter 34 of title 38 United States Code, is repealed.

(b)(1) Section 1661(c) of such title is amended by striking out "subchapters V and VI" and inserting in lieu thereof "subchapter V".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to subchapter VI and the items relating to sections 1695, 1696, 1697, and 1698.

SEC. 303. (a) Subsection (d) of section 1780 of title 83, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "(other than under subchapter VI of chapter 34)"; and

(B) by striking out "paragraphs 5 (B) and (C) and 6" and inserting in lieu thereof "paragraphs 4 (B) and (C) and 5";

(2) by striking out paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3);

(4) by redesignating paragraph (5) as paragraph (4) and striking out "paragraphs (2) and (3)" in such paragraph and inserting in lieu thereof "paragraph (2)"; and

(5) by redesignating paragraph (6) as paragraph (5) and striking out "paragraph (5)" in such paragraph and inserting in lieu thereof "paragraph (4)".

(b) Subsection (e) of such section is amended by striking out "subsection (d)(2) and (3)" and inserting in lieu thereof "subsection (d)(2)".

(c) Subsection (f) of such section is amended by striking out "(except as provided by subsection (d)(3) of this section)".

(d) Section 1784(c) of such title is amended by striking out "section 1780(d)(5)" and inserting in lieu thereof "section 1730(d)(4)".

(e) Section 1788(a)(6) of such title is amended by striking out "or 1696(a)(2)".

(f) Section 1789(b)(5) of such title is amended by striking out "or VI".

(g) The second sentence of section 1798(c) of such title is amended by striking out ", or PREP".

(h) Section 1798(f)(2) of such title is amended by striking out "section 1780(d)(5)" and inserting in lieu thereof "section 1780(d)(4)".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. (a) The first sentence of section 3301(f) of title 38, United tSates Code, is amended—

(1) by striking out "or" at the end of clause (1); and

(2) by striking out the period at the end of such sentence and inserting in lieu thereof a comma and "or (3) to a consumer reporting agency, as such term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), for the purpose of locating any such member or former member or dependent, (A) if the member or former member or dependent is administratively determined to be indebted to the United States by virtue of participation in any Veterans' Administration benefits program, or (B) when reasonably necessary to conduct any study authorized by section 219 of this title or by any other Federal law pertaining to evaluation of veterans' benefit programs. When the Administrator determines that any person has failed to respond to administrative efforts to collect moneys owed by such person to the United States by virtue of participation in any Veterans' Administration benefits program, the Administrator may disclose such information to a consumer reporting agency. Disclosure of information under the preceding sentence shall be made only for the purpose of obtaining consumer reports in order to assess the ability of any person to repay the debt and to give notice of the outstanding obligation. Disclosure which gives notice of the outstanding obligation shall be made only after thirty days have elapsed after completion of reasonable efforts to notify the person of the Administrator's intention to disclose debt information. When the person disputes the accuracy of the information held by the Administrator or alleges a valid defense to paying the debt, disclosure of information shall not be made by the Administrator until the accuracy of the information can be determined or until the Administrator has reviewed the defense raised by the person. Records disclosed to a consumer reporting agency pursuant to clause (3) of this subsection are not subject to section 552a of title 5, and may not be used for any purpose other than the purposes provided for in this subsection. The Administrator may also disclose such names and addresses for use in connection with proceedings for collection of indebtedness owed to the United States by virtue of participation in any Veterans' Administration benefits program.".

(b) The last sentence of such subsection is amended—

(1) by striking out "the preceding sentence" and inserting in lieu thereof "this subsection"; and

(2) by striking out "such sentence" and inserting in lieu theerof "this subsection".

SEC. 402. (a) Subsections (c) and (g) of section 2024 of title 38, United States Code, are amended by striking out "three consecutive months" and inserting in lieu thereof "twelve consecutive weeks".

(b) Subsection (f) of such section is amended to read as follows:

"(f) For the purposes of subsections (c) and (d) of this section, full-time training or other full-time duty performed by a member of the National Guard under section 316, 502, 503, 504, or 505 of title 32 is considered active duty for training. For the purposes of subsection (d) of this section, inactive duty training performed by that member under section 502 of title 32 or section 206, 301, 309, 402, or 1002 of title 37 is considered inactive duty training.".

SEC. 403. (a) Section 1740 of title 38, United States Code, is amended by inserting "(as defined in section 1701(a)(1)(A) of this chapter)" after "person".

(b) Section 1790(b)(2) of title 38, United States Code, is amended by striking out "therefor" and inserting in lieu thereof "for".

(c) The GI Bill Improvement Act of 1977 (Public Law 95-202) is amended—

(1) by striking out "paragraph (1)" in section 305(b)(3) and inserting in lieu thereof "paragraph (2)"; and

(2) by striking out "honorand" in section 401(a)(1)(B) and inserting in lieu thereof "honorable".

TITLE V—EFFECTIVE DATE

SEC. 501. The amendments made by this Act shall take effect on the first day of the second month beginning after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. HEFNER) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. HEFNER).

GENERAL LEAVE

MR. HEFNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill H.R. 5288.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HEFNER. Mr. Speaker, I am pleased to present to the House, a comprehensive education and training bill developed and recommended by the Subcommittee on Education, Training, and Employment, of which I am privileged to serve as chairman.

H.R. 5288 is the end result of a number of hearings held by the subcommittee in Washington and in the field, to review veterans' education and training programs. These hearings included legislative proposals recommended by the administration to modernize and update the vocational rehabilitation program for service-connected disabled veterans, to improve the administration of veterans' education and training programs, to terminate the predischarge education program (PREP) currently authorized under the contributory education program for persons who have entered the military service since January 1, 1977, and a proposal to help the Veterans' Administration collect a sizable amount of debt, most of which is represented by educational overpayments of approximately $400 million, by permitting the Veterans' Administration to use consumer reporting agencies to encourage such veterans to pay debts owed the U.S. Government.

Witnesses appearing before the subcommittee included representatives of the Veterans' Administration, the General Accounting Office, the Department of Labor, national veterans organizations, representatives of national associations of education institutions, and individuals.

Most of the provisions contained in H.R. 5288 are supported by the administration as reflected in their legislative recommendations. I will not go into great detail, nor take the time to explain every single provision of H.R. 5288. The report accompanying the bill contains a detailed section-by-section analysis of each and every provision of H.R. 5288, so I will limit my remarks to some of the major provisions of the bill. H.R. 5288 carries out the revisions to the vocational rehabilitation program as outlined in a study conducted by the Veterans' Administration on this program mandated by Public Law 95-202. As stated in the bill, the purpose of modernizing the vocational rehabilitation program for service-connected disabled veterans is to insure that the veteran has all necessary assistance, including diagnostic, medical, social, economic, and vocational services as may be deemed necessary to overcome the veteran's vocational handicap caused by the veteran's disability. Most important, the bill provides that the veteran must not only be employable, but also that the veteran shall become employed, or if such is not possible, as may be the case in seriously disabled veterans, at least such veteran shall achieve maximum independence.

Mr. Speaker, the main purpose of the vocational rehabilitation amendments is to assure that we not only rehabilitate and educate the service-connected disabled veteran, but also place the veteran on a job so that he or she can become a permanent employee in the community.

Mr. Speaker, the bill would also provide a cost-of-living increase in the subsistence allowance payable to disabled veterans going to school under the vocational rehabilitation program. This cost-of-living adjustment is the first since October 1, 1977. According to the Congressional Budget Office, the estimated cost of this provision of the bill would be about $17.9 million.

The bill also includes a number of administrative amendments which are intended to improve the administration of education and training programs. Most of these amendments are intended to clarify and strengthen the program. As the Members know, our subcommittee is deeply concerned with abuses of the program and the continuing high level of educational overpayments which have not been recovered by the Veterans' Administration. The current indebtedness exceeds $400 million. H.R. 5288, as reported, would permit the Veterans' Administration to disclose the names and addresses and certain other information to credit rating bureaus to assist the Agency in locating veterans who for various reasons have not paid off their long overdue debts. The General Accounting Office strongly recommended

the enactment of this provision of the bill. According to the Congressional Budget Office, the cost savings to taxpayers will be about $10 million in fiscal year 1980, should this provision be enacted.

The first year net cost of the reported bill will be about $12.5 million. The total cost, if fully implemented by the Veterans' Administration as intended by the committee, would be about $26 million during the next fiscal year; however, there are a number of cost saving provisions in the bill, including the one previously mentioned, bringing the net cost to only $12.5 million.

Mr. Speaker, I want to express my deep appreciation to the distinguished chairman of the full committee the gentleman from Texas, Mr. ROBERTS, and the distinguished ranking minority member of the full committee, the gentleman from Arkansas, Mr. HAMMERSCHMIDT, for their cooperation and assistance in helping shape this legislation. I am also very grateful to the ranking minority member of the subcommittee, Mrs. MARGARET HECKLER of Massachusetts, for her assistance as well. I want to thank every other member of the subcommittee who worked with us in getting this bill before the House. It will provide substantial help to our Nation's service-connected disabled veterans, especially those with severe disabilities. The bill was reported unanimously by the full committee.

Mr. Speaker, this is a good bill and I urge that it be adopted.

UPDATING VOCATIONAL REHABILITATION PROGRAMS

The vocational rehabilitation program for disabled veterans originated with the National Defense Act of 1916. Public Law 78–16, approved March 24, 1943, provided vocational rehabilitation for disabled World War II veterans. Later laws extended benefits to eligible disabled veterans who served after World War II. This program pays a monthly subsistence allowance, now $241 a month for a single veteran in full-time institutional training, plus an allowance for tuition, books, supplies, and equipment.

As of September 30, 1978, more than 821,900 disabled veterans had trained under the vocational rehabilitation program since July 1943, and nearly 100,000 of these were disabled Vietnam era veterans. It is estimated that more than 30,000 veterans will train under this program during fiscal year 1979.

The current vocational rehabilitation program, referred to as the chapter 31 program, title 38, United States Code, is a progressive and responsible program that has generally served disabled veterans well for more than 30 years.

Title I of the bill follows the recommendations made in a study of the provisions for veterans' vocational rehabilitation as mandated by Public Law 95–202, and printed in House committee print No. 167. A hearing was held on the study on April 3, 1979, which was followed by the introduction of H.R. 4117, a bill introduced at the request of the administration to implement the study of this program. On July 31, 1979, hearings were held on H.R. 4117.

The purpose of the vocational rehabilitation program is to provide all services necessary to enable veterans with service-connected disabilities to attain maximum independence, become employable, and obtain and maintain suitable employment. While current law states that the purpose of the program is to restore employability, the effect has been to restrict the application in terms of services which could be made available to the service-disabled veteran and restrict the number of veterans who could be assisted. Under the new purpose, as provided in H.R. 5288, veterans whose disability or disabilities are so severe as to prevent them from attaining employability may, nevertheless, be aided to the extent feasible in attaining maximum independence in today's society. In addition, the benefits to be provided under the new provisions in the bill would not be restricted to the employability level as prescribed in current law. Instead, they would be extended beyond that point to obtaining employment for the veteran and assuring that he or she can maintain that employment. Thus, the Veterans' Administration would be permitted to accomplish the broader goals which would be assigned to it.

Another provision of the bill provides that "vocational rehabilitation" would be a much broader term than that applicable in current law. It would encompass all of the services to be provided the veteran including diagnostic, medical, social, psychological, economic, and vocational services. Veterans would be given the opportunity, where they are severely handicapped and are unable to train to employability, of attaining the level of maximum independence consistent with their capabilities. Assistance would be provided by the Veterans' Administration in obtaining employment for the veteran and in assuring that he or she retained the job as well. While the primary role in job placement would remain with the Department of Labor, the Administrator would be granted explicit authority to assist in this area. Followup procedures to assure that the rehabilitated veteran maintains suitable employment are included.

Vocational rehabilitation benefits would be extended a qualified veteran only if the veteran has an employment handicap. This is defined as a disability the limiting effects of which impair a veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests. The key elements are that the limitations must exist at present, there must be a disability which is service-connected—although this impairment to employment may result in combination with other factors such as prior education, work history, or non-service-connected disabilities—and operate to prevent the veteran from being suitably employed, or once employed from remaining suitably employed.

Further, the bill provides that if a veteran reaches the point of being rehabilitated, the veteran may receive further rehabilitative services, if new conditions warrant. Occupational requirements or conditions may change or a veteran may have an improved or reduced capacity to train or adjust due to a change in physical or mental condition. Even though the veteran has already been trained and found employment, the VA will retrain or assist the veteran to find employment consistent with his or her present capacity and aptitudes. Under existing law such training would not normally be given, because the law only contemplates that the veteran will be trained to employability, at which time further VA responsibility ends.

In the VA's study of chapter 31, "A Study of the Provisions for Veterans' Vocational Rehabilitation," mandated by Public Law 95–202 (House committee print No. 167, 95th Congress, 2d session), an analysis of the services provided under chapter 31 was made in comparison to those offered under the Rehabilitation Act of 1973. The latter is a program available to nonveterans. The analysis revealed that the VA program is more narrowly structured. As a result, some services available under the Rehabilitation Services Act are not permitted under the VA program. This is due in part to the fact that chapter 31 is much less specific concerning the services to be provided, indicating only broad categories of service, such as training, medical care, and treatment. It has been necessary to specify the available services through VA regulations and the problem has been to interpret the legislative intent with respect to the coverage of the phrase "other necessary incidental services"; that is, incidental to training.

Therefore, the intent of the scope of services to be provided is to more clearly indicate the full range of services contemplated and to show that they only need to be necessary for rehabilitation, not training per se. For example, under the current chapter 31 provisions, if a veteran is found not to be feasible for training, no services are provided.

Recently, the cost of daily transportation to and from the place of training is paid by the veteran from the monthly subsistence allowance, even if costs above normal are involved, because of special transportation problems associated with the disability. The bill authorizes the VA to pay transportation costs during training, job seeking, and the initial employment stage for those veterans who, because of their handicap, have transportation expenses above those not so handicapped.

The bill also includes a 17-percent increase in subsistence rates. This reflects the increase in the Consumer Price Index which has occurred since the last rate increase was made by Public Law 95–202, effective October 1, 1977.

Present law provides that during the 2-month period following a determination that the veteran is employable, the veteran shall be paid at the full-time rate for the type of vocational training being pursued. This provision will permit those veterans who are training on less than a full-time basis to be paid the full-time rate during the period following the determination of employability. For the veteran who has been in part-time training and working concurrently, the part-

time subsistence allowance is not likely to be sufficient to allow the veteran to leave the job and devote full time to looking for suitable employment in the objective for which rehabilitation has been provided.

Counseling services are expanded to include person adjustment counseling, and counseling for veterans found infeasible for rehabilitation, which is not presently permitted by the statute. In addition, family counseling, psychological counseling, and employment counseling are also made explicitly available although such aid has been given to a limited extent as a part of vocational counseling under existing law. The general intent is to make clear that the whole veteran must be considered in effecting rehabilitation and not just the veteran's educational or vocational needs.

Under current practice, a vocational rehabilitation plan for the veteran has been limited to the training services to be provided. Under the bill, all of the services necessary for the veteran's rehabilitation will be included, rather than only training.

The veteran will be furnished a vocational rehabilitation plan or program as may be prescribed by the Administrator The veteran has the opportunity for full participation in the planning and decision process. The bill makes explicit the present practice of providing a plan and emphasizes the veteran's need to have a voice in its determination.

Presently a trainee under chapter 31 is eligible for a revolving fund loan of $200. The bill increases the amount of such loans to $400. These loans are made when a veteran sometimes has economic problems in regard to maintenance while in training.

The bill takes note of the need for more on-the-job training opportunities to provide that the VA shall assist in the development of on-job training opportunities for veterans. To that end, the VA may make incentive payments to employers to induce them to create more such opportunities. No such authority presently exists in chapter 31 for undertaking such programs.

A key provision in this bill is new authority for employment assistance by the VA. In keeping with the expanded concept of the role of rehabilitation for the service disabled, it is necessary to give the Administrator an active role in the employment area in conjunction with the Department of Labor.

Vocational rehabilitation is not accomplished until the veteran has become a satisfactory and satisfied employee in a suitable occupation. Given the continuing high rates of unemployment, disabled veterans need all possible help in obtaining suitable jobs. Rehabilitation staff who have worked with the disabled veteran throughout the rehabilitation process are in the best position to serve as his or her advocate with prospective employers and to insure proper selective placement in a suitable job.

The bill also authorizes an advisory committee expressly concerned with the rehabilitation needs of veterans, which has always been a priority interest within the Veterans' Administration. An advisory committee concerning strictly the issue of rehabilitation will insure that the quality of rehabilitation services within the Veterans' Administration is constantly under review.

Title II of the bill proposes a number of amendments to the education and training program administered by the Veterans' Administration. Among these are:

First. To eliminate continued reporting under the so-called 50 percent employment requirement by schools to justify their having met this requirement, provided they have 35 percent or less veteran-dependent enrollment and can show a history of compliance with the employment requirement for the preceding two consecutive reporting periods. This change would be consistent with one of the recommendations made by the Veterans' Administration in its study entitled "Study of Vocational Objective Programs Approved for the Enrollment of Veterans', submitted to the Congress on July 11, 1978, and printed as House committee print No. 147, 95th Congress.

Second. Rescinds the requirement that recipients of BEOG or SEOG benefits shall be considered in computing 85–15 ratios.

Third. Carries out a study mandated by Public Law 95–202 and removes the provision linking satisfactory progress with course completion time. The statutory standard for satisfactory progress contained in section 1674 has proved unworkable. It has imposed significant administrative burdens on schools, led to some anomalous and unjust results for students (requiring exercise of VA discretionary waiver authority), and has been a source of friction between the VA and the collegiate educational community.

This amendment is consistent with the findings, conclusions, and recommendations contained in the study, required by section 305 of Public Law 95–202 entitled "Progress or Abuse—A Choice." This study investigated the need for legislative and administrative actions regarding standards of progress provisions of the GI bill and class session requirements of the Veterans' Administration regulations, and was transmitted to the Congress on December 6, 1978 (House committee print No. 170, 95th Congress).

Fourth. Clarifies the requirements under which foreign training may be pursued. Current law provides that an eligible veteran may pursue a program of education at an educational institution not located in a State only if such institution is an approved institution of higher learning. However, the statutory definition of the term "institution of higher learning" does not embrace schools located in a foreign country.

Fifth. Would limit the amount which would be payable to an incarcerated veteran to the cost of the individual's tuition and fees. The incarcerated veteran would be paid on the same basis as a serviceperson who is pursuing a program of education under the GI bill while still in service and those training on a less than half-time basis. The word incarcerated generally means confinement by competent public authority or under-due legal process. Confinement can be in a prison, or it may take place without the actual application of any physical agencies of restraint such as locks or bars.

In this regard, the American Correctional Association has brought to the attention of the committee instances where veterans are under a work release program of a correctional facility are required to pay board and room as part of the work release program. It is not the intent of the committee that veterans under the jurisdiction of a prison or a correctional facility who are paying a weekly housing and food allowance under a work release program shall have their educational assistance limited to tuition and fees as provided in this section.

Sixth. Permits payment of educational assistance to otherwise eligible veterans for continuing education required by Federal, State or municipal law for relicensure or continued employment.

Seventh. Provides a method of payment of benefits where a veteran is pursuing a program of education in part by open circuit television.

Eighth. Requires educational institutions to report facts of which they have knowledge, or for which they, through the exercise of reasonable diligence, should know, which indicate that the course or the school does not comply with the requirements of the law.

Ninth. Requires of veterans and eligible persons the same duties to report changes in status that are now required of educational institutions.

Tenth. Clarifies the Veterans Administration's full-time measurement standard and the category of courses which such standard is intended to embrace generally referred to as "seat time." It should be emphasized that the VA has not imposed and has stated it has no intention of imposing its determination of what constitutes full-time training on any school. It does, however, have both the right and the responsibility to determine the proper statutory rate of benefits which the Congress intended would be paid a veteran based on the nature and extent of such veteran's pursuit of an approved program of education.

Eleventh. Provides for payment to veterans and eligible persons attending courses not leading to a college degree during periods between terms which do not exceed 15 calendar days and periods when the school is not in session because of teacher conferences or teacher training sessions. The latter would be limited to a maximum of 5 days in any 12-month period.

Twelfth. Makes it clear that the Education and Rehabilitation Advisory Committee to the Administrator is a continuing and permanent committee which will terminate on December 31, 1989, the same date as the termination date for education benefits for veterans under Public Law 89–358, as amended.

Title III of the bill would provide for termination of the predischarge education program (PREP) provided under the chapter 32 contributory education program for servicepersons. The bill would terminate the predischarge education program prior to the enrollment

of any potentially eligible individuals to pursue such courses. The continued need for PREP is no longer apparent. Today the Department of Defense operates viable inservice education programs. These benefits, which range all the way from vocational training through graduate work, are available in the military service. The committee understands that the Department of Defense concurs in the repeal believing that adequate inservice education programs are available and the continuance of PREP would duplicate efforts of these programs and contribute little to the military mission.

Title IV would amend section 3301 of title 38, United States Code, to permit disclosure of names and addresses and other information maintained by the Veterans' Administration to a consumer reporting agency for certain debt collection purposes. This section is almost identical to H.R. 4764. That bill was introduced at the request of the administration, which transmitted a draft of this legislation to the Speaker on July 10, 1979. This section includes a prohibition against using information provided by the VA for a purpose other than that intended by the VA when it made the disclosure. This provision is intended to prevent credit bureaus from utilizing information disclosed for locator purposes, or in order to obtain a credit report, for any other purposes. Disclosure to give notice of an outstanding obligation may be made for any of the legitimate business purposes permitted by the Fair Credit Reporting Act. Any other knowing use of VA information would be subject to the criminal penalties presently found in subsection (f).

The president of Associated Credit Bureaus, Inc., has informed the committee that the credit bureaus represented by this trade association are interested in cooperating with the Veterans Administration in accomplishing the purposes of this legislation, but that they would be unwilling to do so if they had to set up special procedures to accommodate this one Federal agency. He made specific reference to that portion of the bill beginning on page 37, line 19, which states that records disclosed to credit bureaus "may not be used for any purpose other than the purposes provided for in this subsection."

Mr. Speaker, it is the position of the committee that the language of title IV is comprehensive enough to permit credit bureaus to treat VA inquiries and credit data in the same manner as private-sector inquiries and credit data. Accordingly, the committee would like the record to show that first, the primary objective of the legislation is to enable the Veterans' Administration to utilize commercial credit bureaus under the same terms and conditions as private-sector creditors to locate debtors, assess the ability of persons to repay their debts, and to give notice of outstanding obligations pursuant to the provisions of the Fair Credit Reporting Act; and second, nothing in the legislation should be interpreted as requiring credit bureaus to modify or otherwise change their operating and disclosure procedures in order to do business with the Veterans' Administration as long as the credit bureaus are in full compliance with the requirements of the Fair Credit Reporting Act.

A question has also been raised as to whether the Veterans' Administration's disclosure of information to commercial credit bureau would constitute "a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function," 5 U.S.C. 552a(m), requiring that the Privacy Act be applied to the credit bureau's record system. Under these contracts, the Veterans' Administration would provide certain information from its own system of records to private-sector systems operated by commercial credit bureaus in order to aid it in collecting delinquent debts.

Mr. Speaker, it is the position of the committee that such contracts between a credit bureau and the Veterans' Administration, or any other Federal agency for that matter, would not be subject to subsection 552a(m) of the Privacy Act because the contract would not require the credit bureau to operate a system of records on behalf of the agency. Rather, the Veterans' Administration would contract to provide information to and receive information from a private-sector system of records previously established by the contractor for its own purposes. Moreover, our position on this matter is supported by a legal opinion contained in a September 27, 1979, letter from GAO's General Counsel to the Justice Department's Office of Legal Counsel.

Nevertheless, because there is still some uncertainty on the part of the Office of Management and Budget concerning this matter, we have included a clarifying statement in the bill to the effect that records disclosed to commercial credit bureaus pursuant to subsection 3301(f) of title 38, United States Code, are not subject to section 552a of title 5. However, we do not want anyone to infer from this, that subsection 552a (m) is applicable to contracts between other Federal agencies and commercial credit bureaus. All of these provisions are discussed in more detail in the report on the bill. In addition a number of other provisions, some of which are technical in nature, are explained in the section-by-section analysis.

Lastly, the committee agrees with the revised cost estimate of the bill submitted to the committee by the Congressional Budget Office dated September 24, 1979. It is estimated that the net cost of the proposed bill will be $12.5 million in new budget authority for fiscal year 1980. The 5-year cost is estimated at $41.2 million. The required estimate by the Veterans' Administration for the modification of the vocational rehabilitation program, which was accepted by the Congressional Budget Office, includes authorization for the hiring of additional vocational rehabilitation specialists, psychologists, counselors, and others to provide for the expansion of services under this program. Although the overall cost of the reported bill, if fully implemented as intended by the committee, will be $26.3 million in fiscal year 1980, a number of cost savings also included in the bill will require a Federal outlay of only $12.5 million during the next fiscal year. The second concurrent budget resolution, as passed by the House, has earmarked $41.0 million in new entitlement authority for the vocational rehabilitation program.

Again, this is a good bill, and I urge its adoption.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the Veterans Rehabilitation and Education Amendments of 1979—H.R. 5288—now before us. I commend Representative BILL HEFNER of North Carolina, chairman of the Education, Training, and Employment Subcommittee of the House Committee on Veterans' Affairs, and the Gentlelady from Massachusetts, Representative MARGARET HECKLER, the subcommittee's ranking member, for the hard work and conscientious analysis they put into this measure.

The hearings on the bill developed solid evidence that the vocational rehabilitation program of the Veterans' Administration was often a smooth, escorted, trip to nowhere. Veterans with service-connected disabilities were being carefully counseled and guided through educational preparations for a career. Once the educational goal was reached, however, in too many cases the veteran was left on his own. The help he received in actually getting a job usually did not go beyond best wishes.

Section 1500 of this bill, however, declares its purpose to be, "to enable veterans with service-connected disabilities to attain maximum independence, to become employable, and to obtain and maintain suitable employment."

This takes us far beyond the existing program by giving the Veterans' Administration specific authority to accomplish broader goals. I consider it a kind of declaration of independence for disabled veterans. It outlines a destination for that smooth, escorted trip—the goal of maximum independence.

In addition to broadening the scope and purpose of the vocational rehabilitation program, Mr. Speaker, this bill increases by 17 percent the subsistence rate to reflect increases in the Consumer Price Index since October 1, 1977, the date of the last increase.

There are numerous other provisions that, taken together, constitute the first major renovation of the program since its inception in 1943. Most of the changes were recommended by the Veterans' Administration following their study of the vocational rehabilitation program mandated by Public Law 95-202.

Title II of H.R. 5288 clarifies the VA's relationship with institutions of higher learning where veterans attend classes under the GI bill. They, too, were included upon recommendation by the VA.

Title III terminates the predischarge education program. Since the Department of Defense operates its own inservice education programs, this benefit is no longer needed. The Department of Defense agrees with this assessment.

Title IV includes miscellaneous provisions, among them one that permits the VA to reveal to credit bureaus a veteran's indebtedness to the Government

because of defaulted loans or uncollected educational overpayments. The Veterans' Administration has been unable, over the year, to collect most of these just debts. While the great majority of veterans has used GI bill benefits for the purpose intended, a few have simply taken the money and run, knowing there was very little the VA could do about it. This bill gives VA an appropriate method of collection—the threat of bad credit rating. It is an inducement used by every private business in this country.

Mr. Speaker, this is an excellent bill that will enhance existing programs devoted to the education and training of eligible veterans. I support it and recommend it to our colleagues.

VETERANS REHABILITATION AND EDUCATION AMENDMENTS OF 1979—H.R. 5288

Title: To amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veteran's educational assistance program, and for other purposes

SUMMARY OF PROVISIONS TO UPDATE THE VOCATIONAL REHABILITATION PROGRAM

(1) Authorizes all services, including diagnostic, medical, social, psychological, economic, and vocational, to enable veterans with service-connected disabilities to attain maximum independence, become employable, and obtain and maintain suitable employment.

(2) Assures that if a veteran reaches the point of being "rehabilitated," the veteran may receive further rehabilitative services, if new conditions warrant.

(3) Provides authority to effect job placement and to give postplacement services.

(4) Authorizes certain supplies to severely disabled veterans who either trained in the home or who are becoming self-employed.

(5) Includes a 17-percent increase in subsistence rates payable which reflects the increase in the Consumer Price Index for fiscal years 1978-79.

(6) Provides that during the 2-month period a determination that the veteran is employable, the veteran shall be paid at the full-time rate, including veterans who are training on less than a full-time basis.

(7) Increases the amount of revolving fund loans from $200 to $400.

(8) Provides development of on-job training opportunities and incentive payments to employers to induce them to create more such opportunities.

(9) Authorizes the Veterans' Administration to utilize all available job placement resources to carry out its job development activities in a coordinated effort with other concerned departments and agencies.

(10) Establishes a Veterans' Advisory Committee on Rehabilitation.

SUMMARY OF AMENDMENTS TO OTHER VETERANS' ADMINISTRATION EDUCATION AND TRAINING PROGRAMS

(1) Eliminates continued reporting under the so-called 50 percent employment requirement by schools to justify their having met this requirement, provided they have 35 percent or less veteran-dependent enrollment and can show a history of compliance with the employment requirement for the preceding two consecutive reporting periods.

(2) Rescinds the requirement that recipients of BEOG or SEOG benefits shall be considered in the computing of 85-to-15 ratios.

(3) Removes the provision linking satisfactory progress with course completion time.

(4) Allows enrollment only in a foreign school which is recognized to be comparable essentially to a fully recognized degree-granting institution by the appropriate foreign education authority.

(5) Limits the amount of assistance payable to an incarcerated veteran to the cost of the individual's tuition and fees.

(6) Permits payment of educational assistance to otherwise eligible veterans for continuing education required by Federal, State, or municipal law for relicensure or continued employment.

(7) Requires educational institutions to report facts of which they have knowledge, or of which they, through the exercise of reasonable diligence, should know, which indicate that the course or the school does not comply with the law.

(8) Requires of veterans and eligible persons the same duties to report changes in status that are now required of educational institutions.

(9) Clarifies the law to provide that the veteran or eligible person and the educational institution are jointly and severally liable to the VA for overpayments.

(10) Codifies and clarifies the full-time measurement standard, and the category of courses which such standard is intended to embrace to be considered full-time pursuit for entitlement to Veterans' Administration educational benefits.

(11) Includes chapter 32, post-Vietnam era veteran education assistance program, in the overall limitation of 48 months, where the individual is eligible under multiple VA education programs.

(12) Would provide for payment to veterans and eligible persons attending courses not leading to a college degree during periods between terms which do not exceed 15 calendar days and periods when the school is not in session because of teacher conferences or teacher training sessions.

(13) Deletes chapter 31 and adds chapter 32 as part of the responsibilities of the Education and Rehabilitation Advisory Committee to the Administrator and sets a termination date of December 31, 1989 for the advisory committee.

(14) Provides for termination of the predischarge education program (PREP) provided under the chapter 32 contributory education program for servicepersons.

(15) Would permit disclosure of names and addresses and other information maintained by the Veterans' Administration to a consumer reporting agency for certain debt collection purposes.

(16) Provides reemployment rights after initial duty for training of not less than 12 weeks in lieu of present 3 months.

Mr. Speaker, I have no further requests for time, and reserve the balance of my time.

Mr. HEFNER. Mr. Speaker, I yield 1 minute to the gentleman from South Dakota (Mr. DASCHLE), who is a very distinguished and able member of our subcommittee.

Mr. DASCHLE. Mr. Speaker, I want to join in the commendations of our chairman and the subcommittee for handling this bill in a very meritorious manner.

I think that most frequently we overlook the needs that our veterans are having as far as rehabilitation goes, as far as the GI bill goes. This bill deals with the long overdue changes that I think are going to make equitable distributions of benefits to those veterans actually occur; so I think that it is coming at a good time.

Mr. Speaker, aprpoximately 9 million persons served in the Armed Forces during the Vietnam era. Of that number, over 56,000 were killed or died while on active duty, of which 46,616 died in Southeast Asia as a result of action by hostile forces. Over 300,000 received the Purple Heart for wounds received in action of which approximately 30,000 were totally disabled. Today, there are over 500,000 Vietnam era veterans who are receiving compensation from the Veterans' Administration for service-connected injuries or disabilities.

Down through the years, the highest priority has always been accorded the service-connected disabled veteran. Helping to carry out this priority is the vocational rehabilitation program for the service-connected disabled. The present vocational rehabilitation program was approved for World War II veterans on March 24, 1943 (Public Law 78-16). Subsequent wars have extended these benefits to eligible disabled veterans of the Korean conflict and the Vietnam era. Since 1943, over 821,000 disabled veterans have been trained under this program, of which nearly 100,000 have been disabled Vietnam era veterans.

Notwithstanding that the Congress has amended and improved the vocational rehabilitation program over the years, the 95th Congress mandated that the program be studied for the purpose of comparing the assistance being provided veterans as compared to handicapped persons under Rehabilitation Act of 1973 which is a State/Federal program of vocational rehabilitation. The study was delivered to the committee in October of 1978.

In addition, a Presidential message on veterans was sent to the Congress dated October 10, 1978. In this message, the President stated:

> Individuals with service-connected disabilities are especially in need of greater assistance from the Government. That is particularly true for Vietnam-era veterans, who suffered a 300 percent greater loss of lower extremeties than veterans of any other war. Altogether, 512,000 have sustained some kind of disability.
>
> Our vocational rehabilitation programs must reflect our paramount concern for those veterans who have service-connected disabilities. The current VA program is based on a 1943 model and requires major updating. I will submit legislation to the next Congress that will modernize and improve that program.

Title I of the bill before the House contains a majority of the revisions and recommendations the President requested in order to update the vocational rehabilitation program.

Briefly, Mr. Speaker H.R. 5288 assures that an eligible veteran will be authorized all necessary services to become employable and obtain and maintain suitable employment. Presently, for example, the Veterans' Administration has a number of restrictions embodied by the law which make it difficult to provide the assistance deemed necessary to overcome the veterans employment handicap caused by the veteran's service-connected disabilities. Most distressing is the lack of authority and manpower on the part of the Veterans' Administration to place the veteran in a suitable and satis-

factory job in the goal for which the veteran is rehabilitated.

It has been more than 2 years since veterans have received a cost-of-living increase in education and training rates. Budgetary restrictions have made it impossible for a general cost-of-living increase for all veterans education and training programs. However, H.R. 5288 provides a cost-of-living increase of 17 percent in the subsistence allowances for veterans under the vocational rehabilitation program to reflect the increased cost-of-living for fiscal years 1978 and 1979. I only wish that the concurrent budget resolution contemplated a cost-of-living increase for all veterans education programs, but at least there is enough in the budget resolution to take care of the disabled veteran taking training under the vocational rehabilitation program.

Mr. Speaker, the balance of the bill relates to a number of amendments to veterans education and training programs. I would like to comment on one of these provisions which would permit disclosure of names and addresses and other information maintained by the Veterans' Administration to a consumer reporting agency for certain debt collection purposes. The bill would authorize the Veterans' Administration to disclose names and addresses of veterans for debt collection purposes in these instances: First, to locate a debtor, second, to discover the existence and the amount of the debt, and third, to obtain credit reports in order to determine the ability of the debtor to repay the debt or satisfy a judgment. The Veterans' Administration assured our subcommittee that if the Veterans' Administration is given the authority to use consumer reporting agencies for these circumstances, that there will be certain safeguards to provide reasonable protection for the veteran's privacy.

Each debtor, for example, shall be apprised of the Veterans' Administration's new authority if H.R. 5288 is enacted, and will be given every reasonable opportunity to resolve the debt to the Veterans' Administration before that information becomes a part of the veteran's credit record. In other words, the reporting of a debt to a consumer reporting agency by the Veterans' Administration will be done so as a last resort, with opportunity being provided the veteran to verify the accuracy of the Veterans' Administration's determination that there is a debt and to resolve payment of that debt by waiver or compromise if warranted.

The magnitude of unrecovered educational overpayments is staggering. As of June 30, 1979, there were 600,000 debts totaling $186 million that had been written off by the VA as unrecoverable. As of June 30, 1979, the VA was still trying to recover another $400 million. The General Accounting Office did a study for the committee on these unpaid educational overpayments which showed that 83 percent of the 1,200 interviewed were paying their private debts, but ignoring VA laws to pay the debt to the VA. Most of these 83 percent were below $600, therefore the VA is powerless under the present law to collect these debts, since it is a policy of the U.S. attorneys to not sue for a debt under $600. These, Mr. Speaker, are some of the reasons justifying this new authority for the VA which, it is hoped, would encourage veterans to come forward and pay their long-overdue educational overpayments.

Mr. Speaker, I will not discuss in detail the other provisions of the bill. At this time, however, I would like to provide the Members with a brief summary of the provisions of the vocational rehabilitation program and the amendments to other veterans' education and training programs as provided in an information sheet which includes a summary of the amendments proposed in H.R. 5288:

SUMMARY OF PROVISIONS TO UPDATE THE VOCATIONAL REHABILITATION PROGRAM

(1) Authorizes all services, including diagnostic, medical, social, psychological, economic, and vocational, to enable veterans with service-connected disabilities to attain maximum independence, become employable, and obtain and maintain suitable employment.

(2) Assures that if a veteran reaches the point of being "rehabilitated," the veteran may receive further rehabilitative services, if new conditions warrant.

(3) Provides authority to effect job placement and to give postplacement services.

(4) Authorizes certain supplies to severely disabled veterans who either trained in the home or who are becoming self-employed.

(5) Includes a 17-percent increase in subsistence rates payable which reflects the increase in the Consumer Price Index for fiscal years 1978–79.

(6) Provides that during the 2-month period a determination that the veteran is employable, the veteran shall be paid at the full-time rate, including veterans who are training on less than a full-time basis.

(7) Increases the amount of revolving fund loans from $200 to $400.

(8) Provides development of on-job training opportunities and incentive payments to employers to induce them to create more such opportunities.

(9) Authorizes the Veterans' Administration to utilize all available job placement resources to carry out its job development activities in a coordinated effort with other concerned departments and agencies.

(10) Establishes a Veterans' Advisory Committee on Rehabilitation.

SUMMARY OF AMENDMENTS TO OTHER VETERANS' ADMINISTRATION EDUCATION AND TRAINING PROGRAMS

(1) Eliminates continued reporting under the so-called 50 percent employment requirement by schools to justify their having met this requirement, provided they have 35 percent or less veterans-dependent enrollment and can show a history of compliance with the employment requirement for the preceding two consecutive reporting periods.

(2) Rescinds the requirement that recipients of BEOG or SEOG benefits shall be considered in the computing of 85-to-15 ratios.

(3) Removes the provision linking satisfactory progress with course completion time.

(4) Allows enrollment only in a foreign school which is recognized to be comparable essentially to a fully recognized degree-granting institution by the appropriate foreign education authority.

(5) Limits the amount of educational assistance payable to an incarcerated veteran to the cost of the individual's tuition and fees.

(6) Permits payment of educational assistance to otherwise eligible veterans for continuing education required by Federal, State, or municipal law for relicensure or continued employment.

(7) Requires educational institutions to report facts of which they have knowledge, or of which they, though the exercise of reasonable diligence, should know, which indicate that the course or the school does not comply with the law.

(8) Requires of veterans and eligible persons the same duties to report changes in status that are now required of educational institutions.

(9) Clarifies the law to provide that the veteran or eligible person and the educational institution are jointly and severally liable to the VA for overpayments.

(10) Codifies and clarifies the full-time measurement standard, and the category of courses which such standard is intended to embrace to be considered full-time pursuit for entitlement to Veterans' Administration educational benefits.

(11) Includes chapter 32, post-Vietnam era veteran education assistance program, in the overall limitation of 48 months, where the individual is eligible under multiple VA education programs.

(12) Would provide for payment to veterans and eligible persons attending courses not leading to a college degree during periods between terms which do not exceed 15 calendar days and periods when the school is not in session because of teacher conferences or teacher training sessions.

(13) Deletes chapter 31 and adds chapter 32 as part of the responsibilities of the Education and Rehabilitation Advisory Committee to the Administrator and sets a termination date of December 31, 1989 for the advisory committee.

(14) Provides for termination of the predischarge education program (PREP) provided under chapter 32 contributory education program for servicepersons.

(15) Would permit disclosure of names and addresses and other information maintained by the Veterans' Administration to a consumer reporting agency for certain debt collection purposes.

(16) Provides reemployment rights after initial duty for training of not less than 12 weeks in lieu of present 3 months.

The vocational rehabilitation program is intended to help disabled veterans make a successful readjustment to civil life, notwithstanding their vocational handicaps. Approval of H.R. 5288 will be a giant step toward helping these veterans obtain the necessary services and assistance to achieve this goal.

H.R. 5288 is a meritorious bill and I urge its adoption.

Mr. HEFNER. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I would like to commend the chairman of the committee and the members of the Veterans Committee particularly for the efforts that have been made with regard to legislative savings in this legislation. As chairman of the legislative savings task force of the Budget Committee, we have emphasized the efforts by every committee to look into areas where legislative savings can be made. Indeed, in the budget resolution adopted by this House, there is close to $3 billion in legislative savings included.

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In this bill the overall cost of the bill is $26.3 million, but as a result of savings initiatives by the Committee on Veterans' Affairs, we have savings in the

amount of $13.8 million, which leaves a net cost in this bill of $12.5 million. These savings are not only present now but they are going to recoup to this country in the future.

Mr. Speaker, I want to commend the committee for its effort in this area.

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 5288, the Veterans' Rehabilitation and Education Amendments of 1979.

I wish to commend the members of the House Committee on Veterans' Affairs for having decided to rescind once and for all the requirement that recipients of BEOG or SEOG benefits shall be considered in computing the commonly known 85–15 ratio formula. There is no doubt in my mind that the integrity of the program can be maintained without inclusion of BEOG and SEOG students. This is highly commendable and was long overdue.

I am very pleased by the other objectives of this bill. The improvement and modernization of the vocational rehabilitation programs for the veterans of this Nation as well the improvement of the veterans' educational program are important features of this legislation. I am positive that those in need of these programs will develop new hopes to improve themselves and become more adjusted to civilian life.

I fully support this bill and I urge you to vote for it.●

● Mr. MONTGOMERY. Mr. Speaker, I want to commend the very able gentleman from North Carolina, BILL HEFNER, the chairman of our Subcommittee on Education, Training, and Employment for bringing to the House a comprehensive revision of the vocational rehabilitation program for service-connected disabled veterans. This is a good bill and I strongly support it.

As the gentleman from North Carolina has so well described, the bill is designed to provide authority for the Veterans' Administration to seek out jobs for disabled veterans, and to place the service-connected disabled veteran on that job. In addition, the measure provides counseling throughout the employment period to assure that the veteran becomes a productive permanent employee. We expect the Administrator to fully implement this provision of the bill through a very aggressive employer outreach program.

In addition, the bill provides for a cost-of-living increase in the subsistence allowance provided for veterans going to school under the chapter 31 progam. The increase in the rate is about 17 percent although the consumer price index has risen more than 23 percent since the last increase in October 1977.

As the distinguished chairman of the subcommittee has already explained, the bill also provides the Administrator with authority to move more aggressively against those veterans who have for various reasons refused to repay the Federal Government for overpayments made in the education and training programs. According to the General Accounting Office, the outstanding indebtedness now exceeds $400 million. This bill would permit the Administrator to disclose the names and addresses to the major credit rating bureaus throughout the country for debt collection purposes.

It will accomplish two things. First, it will help the agency locate those veterans who no longer have a valid address with the Veterans' Administration. The agency can then attempt to collect the money owed by the veteran once located. If such veteran continues to ignore his or her outstanding debt to the Government, the Veterans' Administration will then disclose to the credit rating bureau that the veteran has refused to pay the debt and this information can be made available to other lenders who may be contacted by the veteran in the future for a line of credit. The Congressional Budget Office has estimated that more than $10 million will be saved in fiscal year 1980 by the enactment of this provision of the bill.

Finally, Mr. Speaker, section 402(b) of the reported bill would carry out the purpose of H.R. 1426 which I introduced earlier this year along with Congresswoman MARJORIE HOLT of Maryland. Members of Reserve components who are ordered to active duty for training are entitled to be reemployed by their private employers following their release from that duty. Full-time training or duty by members of the National Guard under sections 503–505 of title 32, United States Code, is treated like active duty for training for this purpose. It is now possible to perform full-time training or duty under section 502 of title 32, United States Code, as well as under sections 503–505. In order to reflect this, section 502 should be added to the enumeration in section 2024(f) of title 38, United States Code. Therefore, section 402(b) of the reported bill would provide the same reemployment rights following periods of full-time training or duty under section 502 of title 32 as current law provides following duty under sections 503–505 of title 32, United States Code. There would be no additional Federal outlays involved with the enactment of this provision of the bill.

Mr. Speaker, this is a good measure. I again want to compliment the gentleman from North Carolina, the very able chairman of the Subcommittee on Education, Training, and Employment, for his tremendous insight in these education and training programs administered by the Veterans' Administration. It is a very complex area of the law and he has mastered it well. I support the bill and urge that it be adopted by the House.●

● Mr. ROBERTS. Mr. Speaker, the reported bill will benefit thousands of service-connected disabled veterans, many of whom served in Vietnam. I shall not go into great detail concerning the bill in that the distinguished and very able chairman of the Subcommittee on Education, Training, and Employment, Mr. HEFNER of North Carolina, will provide such explanation to the Members of the House.

Basically, it does three things: First, we have totally revised the vocational rehabilitation program to accomplish a goal we have sought for many years. The major problem has been finding suitable jobs for our disabled veterans and assisting them in getting these jobs. This bill will go a long way in accomplishing this goal. The bill will provide the assistance necessary to rehabilitate the disabled veteran; provide him substantial education and training benefits, and provide the Administrator of Veterans' Affairs the authority to actually seek out jobs for the veteran and provide counseling once the veteran obtains employment so that he can become a permanent employee.

Second, the bill provides an increase in the subsistence allowance for veterans going to school under the vocational rehabilitation program. This cost-of-living adjustment will help to offset the rise in inflation that has occurred since the last increase in October 1977.

The bill also strengthens the GI bill program in that it will tighten the program to assure that Federal dollars being spent for education purposes are spent wisely.

Finally, the bill will provide substantial cost savings to the Nation's taxpayers in the future. If enacted, the bill will give the administrator authority to recover some of the bad debts that have occurred in the education and training program over the past several years. The outstanding dollar amount now exceeds $400 million. This bill will give the Administrator authority to work with our Nation's major credit rating bureaus to help locate veterans with outstanding debts to the Government so that these funds can be collected. Once located, if the veteran refuses to pay his debt, he may not be able to obtain credit in the future until the Federal debt is paid. This provision of the bill is expected to save some $10 million in fiscal year 1980. This provision has been strongly endorsed by the General Accounting Office who has done extensive investigative work in this area.

Mr. Speaker, H.R. 5288 is a good bill and I want to commend the distinguished gentleman from North Carolina, (Mr. HEFNER) for the many hours he spent in developing this legislation. This is BILL HEFNER's first year as chairman of the Subcommittee on Education, Training, and Employment and I can tell the Members of the House that no one has done a better job or worked harder than he has in assuming the leadership role given him by his colleagues on the Committee on Veterans' Affairs. This is landmark legislation and I want to commend the gentleman from North Carolina for his vision and for his commitment to our Nation's veterans. He has brought to the House a comprehensive bill in a short period of time. I also commend the gentlelady from Massachusetts, the ranking minority member of the subcommittee, Mrs. HECKLER, for her assistance in working with Mr. HEFNER to develop this bill. Of course, as always, I am grateful to the very able gentleman from Arkansas, the ranking minority member of the full committee, for his cooperation, hard work, and most of all, his leadership.

I strongly support the bill and urge its adoption by the House.●

● Mr. ANDERSON of California. Mr.

Speaker, I want to express my support for H.R. 5288, the Veteran Rehabilitation and Education Amendments of 1979. The purpose of this bill is to improve the vocational rehabilitation program and the program for educational assistance for veterans.

I have stated in the past the importance I attach to veterans' programs. Recent studies have indicated that the vocational rehabilitation program needs major overhaul. The House Veterans' Affairs Committee has, I am pleased to note, approved a majority of the improvements suggested by the Veterans' Administration.

One of these improvements is to increase the subsistence allowance payable under the vocational rehabilitation program. Another is to broaden the stated purpose of the program to include, in addition to restoring employability, the goals of aiding the severely disabled to attain maximum independence and helping the veteran obtain and maintain suitable employment. The bill would provide authority to effect job placement and to give postplacement services and additional counseling and guidance to veterans.

The contributions that veterans have made to our Nation must never be forgotten. I feel that H.R. 5288 is a laudable effort to improve existing programs and to insure that our veterans are appropriately remembered.●

● Mr. BONKER. Mr. Speaker, as reported, the bill H.R. 5288 has a serious flaw that I would like to bring to the attention of this body. In title II of the committee bill is contained one of the most controversial, and least appreciated, provisions relating to the administration of educational benefits under the GI bill. This is the so-called seat-time rule.

Congress has determined that in order for a veteran to receive full educational benefits under the GI bill, he or she must be involved in a course of study of at least 12 semester hours at an accredited institution of higher education. That is fine. The controversy arises from the Veteran's Administration's measurement criteria for a full-time program. In regulations, the VA has determined that a full-time course of study consists of a program at the site of a college or university requiring regularly scheduled weekly classroom instruction at the rate of one standard class session per week throughout the quarter or semester for each hour of credit. The VA goes on to define a standard class session as 1 hour (or 50-minute period) of academic instruction, 2 hours of laboratory instruction, or 3 hours of workshop training.

All of this means that in order for an academic program to be considered full-time for purposes of VA educational benefits it must offer, on campus, a minimum of 12 hours of traditional classroom instruction each week of the semester.

The seat-time regulation, which has been the subject of several court challenges, would be codified by the committee bill.

While I cannot argue with the purported intent of the seat-time rule—to minimize abuse of GI bill assistance—it is simply a bad way to attack this problem.

The seat-time rule measures the quantity of traditional classroom sessions; but it does nothing to measure the quality of education or the amount of time a student in a nontraditional class arrangement actually spends with his or her professor or instructor.

What is considered "non-traditional" or otherwise outside the scope of programs eligible for full benefits? Anything that deviates from the narrow and archaic definition used by the VA for standard class sessions. Seminars and tutorials not regularly scheduled on a weekly basis would not qualify. Senior thesis classes would not qualify. Most of the programs at an institution like Oxford, which employs the tutorial method, would not qualify. Many of the honors programs at some of the Nation's finest universities would not qualify. Many of my colleagues would find that some of the programs of the best schools in their districts would not qualify for full educational benefits under a uniform application of the seat-time rule.

The Senate Veteran's Affairs Committee has carefully addressed the seat-time issue and has come to the conclusion that it does not recognize the needs of modern higher education or the needs of the veterans it seeks to serve. And the Senate committee has approved language that attempts to recognize the need for more flexible oversight of the GI bill. The higher education community is firmly opposed to a narrow application of the seat-time rule and the unnecessary encroachment of the VA into educational policy setting and the determination of what constitutes a legitimate course of study.

I would like to recognize the excellent work of my friend from North Carolina, Chairman HEFNER, and the committee on other provisions of this bill. But I do not believe the seat-time rule is a reasonable or effective means of reducing abuse of GI educational benefits. The rule fails to serve the legitimate expectations of veterans and puts the VA in the field of determining educational policy. This is best left to the educational community and the State approving and accrediting agencies.●

● Mr. BIAGGI. Mr. Speaker, I rise in support of H.R. 5288, the Veterans Rehabilitation and Education Amendments of 1979. This legislation would improve the vocational rehabilitation program and the program for educational assistance for veterans.

As one who has long advocated the need to increase employment opportunities for our Nation's service-connected disabled veterans—particularly those from the Vietnam era—I am very pleased with the broader vocational rehabilitation program goals established by this bill.

Evidence clearly shows that while veterans with service-connected disabilities are being carefully counseled and guided through educational preparations for a career, there is very little assistance being offered once the education goal is complete. This legislation seeks to remedy that situation by authorizing the VA to seek out jobs for the veterans and provide counseling and guidance to insure that he or she can maintain that employment.

Further, the bill provides for a 17-percent cost-of-living increase in the subsistence allowance paid to vocational rehabilitation trainees. This adjustment is essential due to the inflation that has occurred since the last increase in October 1977.

The bill also includes a number of administrative amendments which are intended to strengthen the GI bill educational assistance program. These changes include restricting the educational benefits to a veteran in prison to tuition and fees, and clarifying the standards constituting full-time enrollment with regard to payment of veterans' educational benefits.

Finally, this legislation provides an effective means to reduce Federal spending and increase efficiency. As a result of defaulted loans or uncollected educational overpayments, the outstanding dollar amount in VA debts now exceeds $400 million. This bill permits the VA to utilize a consumer reporting agency for the purpose of debt collection—a practice which is expected to save an estimated $10 million in fiscal year 1980.

Mr. Speaker, this bill is the result of recommendations by the Veterans' Administration and extensive congressional hearings. It is responsible legislation that seeks to significantly benefit our Nation's veterans and increase Government efficiency. I urge my colleagues to join me in supporting the passage of H.R. 5288.●

● Mr. GILMAN. Mr. Speaker, I rise in support of the legislation, H.R. 5288, the Veterans Rehabilitation and Education Amendments and I commend the House Committee on Veterans' Affairs for their diligent efforts on behalf of our Nation's veterans.

Mr. Speaker, I need not stress the importance of recognizing the special needs of veterans and need not overplay the importance of maintaining a quality program for rehabilitation and education. Prior to this legislation, the VA was charged only with the responsibility of restoring a veteran's employability; this bill would encourage the VA to establish more comprehensive and long-range programs which insure that a veteran's employment is obtained and maintained. This indicates a further, deeper commitment to the needs of our veterans on the part of our Government, and signals to veterans a more serious and purposeful effort to alleviate some of the problems that veterans face yearly.

I am disappointed, however, that the committee did not look more closely at the problems that veterans are having with meeting their educational needs. Many veterans, particularly Vietnam-era veterans were not able to take advantage of the educational benefits guaranteed them after their terms of service were expired. I have introduced legislation, H.R. 1370, in several Congresses, and will be reintroducing this bill with 30 cosponsors next week. My legislation proposes to eliminate the time

limitation placed on veterans' educational benefits and would increase to 54 months the allotment of benefits allowed veterans. We have discovered that poor economic conditions, extended readjustment periods and the need for veterans to support a family discouraged many returning veterans from completing their educational courses. These veterans subsequently lost their entitlement and as a result have no recourse.

Mr. Speaker, I urge the House to adopt this legislation and further affirm our Nation's commitment to the sacrifices made by our Nation's veterans.●

Mr. HEFNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. HEFNER) that the House suspend the rules and pass the bill, H.R. 5288, as amended.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

HIGHER EDUCATION ACT AMENDMENTS

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5386) to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States.

The Clerk read as follows:

H.R. 5386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103 of the Higher Education Act of 1965 is amended—

(1) by inserting "(a)(1)" after "SEC. 103"; and

(2) by adding after paragraph (1) of subsection (a) (as so redesignated) the following new paragraph:

"(2) From the sums appropriated pursuant to section 101(a) for fiscal year 1980 which are not reserved under section 106(a) or section 111(a), the Commissioner shall allot to each State an amount equal to the product of—

"(A) the amount of such State's allotment under paragraph (1) for fiscal year 1979; and

"(B) a fraction, the numerator of which is the amount appropriated pursuant to section 101(a) for fiscal year 1980 (less any amount reserved under section 106(a) or section 111(a)) and the denominator of which is the amount appropriated pursuant to section 101(a) for fiscal year 1979 (less any amount reserved under section 106(a) or section 111(a)).".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky (Mr. PERKINS) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset, let me point out that this bill does not increase in any way authorization levels. The bill relates only to the method of distribution of presently authorized funds for title I of the Higher Education Act.

H.R. 5386 was reported from the Committee on Education and Labor unanimously. I know of no objection to the legislation and I urge all of my colleagues to vote for the bill.

I want to compliment BILL FORD, the distinguished chairman of our Subcommittee on Postsecondary Education; JIM JEFFORDS, of Vermont; the principal sponsor of the bill; and also members of the committee on both sides of the aisle for their work on the bill. I particularly want to compliment our colleague, JOHN BUCHANAN, the ranking minority member of the subcommittee, who is managing the bill for the minority today.

As many of my colleagues know, the Committee on Education and Labor has recently completed action on a comprehensive higher education bill. That legislation which has wide support from the higher education community, is the product of extensive work by Chairman FORD and Congressman BUCHANAN over the last year and a half. The chairman of the subcommittee and the gentleman from Alabama have provided outstanding leadership in this area and I want to pay special tribute to them here today.

H.R. 5386 amends title I of the Higher Education Act, which provides support for continuing education, university extension, and community service programs. The fiscal year 1980 appropriations bill provides only $10 million for the program—$4,250,000 less than the fiscal year 1979 level. The appropriations measure also in effect nullifies provisions in the authorizing statute governing the distribution of money.

As it presently stands, the $10 million would be distributed on the basis of adult population only. This will result in a severe loss for many community service and continuing education programs. The loss is so severe in 23 States and 3 territories that there is a serious question as to whether a program could be operated.

H.R. 5386 corrects this problem by requiring a different distribution of the $10 million. Under the bill, any reduction in fiscal year 1980 appropriations for community service and continuing education programs would be borne equally by all States. Nationally there is a 37.5-percent decrease in appropriations. Under the bill each State will receive 37.5 percent less than they received for fiscal year 1979. This will insure that all States—both large and small—will share the loss of appropriations according to an equal percentage drop in funds from fiscal year 1979 to fiscal year 1980.

I urge my colleagues to support the bill.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the distinguished chairman for his gracious remarks. I, too, rise in support of H.R. 5386, a bill to amend title I of the Higher Education Act of 1965. As the chairman of the Education and Labor Committee made clear, this is emergency technical legislation to correct a problem arising from an amendment to the Labor-HEW fiscal year 1980 appropriations conference report.

Last Friday evening both bodies passed the continuing resolution, making provision for programs to continue at the fiscal year 1980 appropriations level through November 20, 1979. The continuing resolution provides for funding of programs as outlined in the fiscal year 1980 Labor-HEW appropriations conference report. H.R. 5386 was necessitated by the inclusion of an amendment in the fiscal year 1980 Labor-HEW appropriations conference report which instructs the Commissioner to distribute title I funds solely on the basis of the adult population in the States. This method of distribution will result in a severe loss of program funds in many States and the termination of title I programs in 23 States and three territories.

H.R. 5386 provides for a more equitable method for distribution of funds by instructing the Commissioner to reduce each State's fiscal year 1979 award by a percent equal to the percentage drop in total program appropriations from fiscal year 1979 to 1980. This would insure that each State shares fairly the reduction in appropriations for title I.

Unlike most education programs, title I of the Higher Education Act is not forward funded. This means that fiscal year 1980 appropriations, fund title I programs for academic year 1979–80. H.R. 5386 truly is emergency legislation because HEW now has authority to distribute fiscal year 1980 title I funds according to the instructions in the Labor-HEW appropriations conference report.

Although the continuing resolution is effective only through November 20, it is the clear intent that the method for distribution of funds under title I as provided for in H.R. 5386 apply to the distribution of all fiscal year 1980 funds—both during the period in which the continuing resolution is in effect and at the time the Labor-HEW fiscal year 1980 appropriations bill becomes law.

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It is my understanding that the Committee on Appropriations agrees that this is the intent of the legislation. It has been discussed with the chairman of the Labor-HEW Appropriations Subcommittee and he also concurs with this interpretation of what this bill does.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I also want to state that I have just talked with the ranking minority member on the Labor-HEW Appropriations Subcommittee, the gentleman from Illinois (Mr. MICHEL), and he agrees that the intent of H.R. 5386 applies to the distribution of funds throughout all of fiscal year 1980, rather than for just the brief period be-

tween the adoption of the continuing resolution and the fiscal year 1980 Labor-HEW appropriations bill. To read the intent of H.R. 5386 in any other way would make no sense at all.

Mr. BUCHANAN. I thank the gentleman for that contribution.

Mr. Speaker, I believe the understanding is clear between the two committees.

No objection to his bill is known, and it is the understanding that if the House passes this legislation the other body is prepared to accept these provisions at the desk.

Mr. Speaker, I urge my colleagues to adopt H.R. 5386.

Mr. Speaker, I yield such time as he may consume to the author of this legislation, the gentleman from Vermont (Mr. JEFFORDS), a very valuable member of the committee.

Mr. JEFFORDS. Mr. Speaker, I would also like to commend the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS), and the chairman of the subcommittee, the gentleman from Michigan (Mr. FORD), for recognizing the urgent need for this legislation, as well as my good friend, the gentleman from Alabama (Mr. BUCHANAN), the ranking minority member on the subcommittee.

Mr. Speaker, it has already been noted—and I will not go into this at length—that this legislation is essential to insure that the continuing education programs in many States will be able to function.

In conversations with the Office of Education, we learned that at least $100,000 would be needed to run a program of any kind in a State.

This legislation will insure that, with the State matching funds, the minimum amount will be reached in some 23 States which otherwise would have their programs extinguished.

I also would like to reemphasize the intent of this legislation because we are in an unusual situation, and I can assure the Members that none of us wanted to impose this little problem in the middle of the continuing resolution last week. Nor do we probably want to impose it in the conference report when that is brought up. We would prefer to correct it by the method of special legislation. The intent has to be clear; otherwise, we are going to have a seesaw back and forth. After passing the continuing resolution, and if the conference report is passed, if this intent is not carried forward we whipsaw back to the old formula. And, obviously, the intent on everyone's part—and I understand that the bill will be accepted at the other party's enrolling desk—is to insure that all funds for fiscal year 1980 will be distributed relative to this bill and not in accordance with the continuing resolution or the conference report.

Mr. BUCHANAN. Mr. Speaker, I yield myself an additional 2 minutes.

Mr. Speaker, as the chairman of the Committee on Education and Labor has made plain, our committee has reported out very comprehensive higher education legislation, which I hope will be before us in the near future. In the interim, we need to take this emergency action today. In connection with the meaning and the intent of that action I would be pleased to yield at this point to the distinguished minority whip and ranking minority member on the Labor-HEW Appropriations Subcommittee.

Mr. MICHEL. I thank the gentleman for yielding.

The gentleman from Alabama described correctly the intent of this legislation, in that it should apply to the distribution of funds under title I of the Higher Education Act during the period for which the continuing resolution is in effect and after the fiscal year 1980 Labor-HEW appropriations bill is enacted into law.

Mr. BUCHANAN. I thank the gentleman for his remarks and his support in clarifying the intent of this legislation. Passage of H.R. 5386 should facilitate the equitable distribution of funds under title I of the Higher Education Act for fiscal year 1980 in its entirety.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I would also like to point out that if any Member is interested in the particular impact of this legislation on their State, the figures are available for any Member to review.

GENERAL LEAVE

Mr. BUCHANAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore (Mr. ROBERTS). Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BUCHANAN. Mr. Speaker, I yield back the balance of my time.

Mr. PERKINS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS) that the House suspend the rules and pass the bill, H.R. 5386.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1979

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5176) to establish an independent personnel system for employees of the General Accounting Office, as amended.

The Clerk read as follows:

H.R. 5176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "General Accounting Office Personnel Act of 1979".

GENERAL PERSONNEL AUTHORITY

SEC. 2. The Comptroller General may appoint, pay, assign, and direct the personnel which the Comptroller General determines necessary to discharge the duties and functions of the General Accounting Office.

ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM

SEC. 3. (a) The Comptroller General shall, not later than the effective date set forth in section 9(a), promulgate regulations establishing a personnel management system which shall apply to the General Accounting Office and which shall meet the requirements of subsections (b) through (h) of this section. Before promulgating regulations (or any amendment thereto) under this section, the Comptroller General shall provide notice and an opportunity for public comment. No reprisal (or threat of reprisal) shall be made against any employee of the General Accounting Office for comments provided with respect to any proposed regulation (or amendment) under this section.

(b) The personnel system shall—

(1) embody the merit system principles of section 2301 of title 5, United States Code;

(2) prohibit the personnel practices described in section 2302 of title 5, United States Code;

(3) prohibit the political activities prohibited under subchapter III of chapter 73 of title 5, United States Code;

(4) assure that all employees of the General Accounting Office are appointed, promoted, and assigned solely on the basis of merit and fitness, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service; and

(5) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

Nothing in this section shall be construed to prohibit or restrict any otherwise lawful effort to achieve equal employment opportunity through affirmative action.

(c) The personnel system shall provide for the pay of the employees of the General Accounting Office to be fixed by the Comptroller General consistent with the principles of section 5301(a) of title 5, United States Code. Under that system—

(1) the Comptroller General shall publish a schedule of pay rates which shall apply to employees of the General Accounting Office and the highest rate under which does not exceed the highest rate of basic pay payable for GS-15 under the General Schedule (except as provided in paragraph (3) of section 5);

(2) the pay of the employees of the General Accounting Office shall be adjusted at the same time and to the same extent as rates of basic pay are adjusted for the General Schedule (except as provided in section 5);

(3) such schedule may provide for rates which do not exceed the maximum rate payable for grade GS-18 of the General Schedule for up to one hundred employees (reduced by the number of employees who are in the GAO Senior Executive Service established under section 5, other than by reason of section 5(a)(4)); and

(4) employees of the General Accounting Office shall be entitled to grade and pay retention, consistent with the principles of subchapter VI of chapter 53 of title 5, United States Code.

(d) The personnel system shall include a system for performance appraisals of employees of the General Accounting Office which meets the requirements of section 4302 of title 5, United States Code. The Comptroller General shall have the same responsibility with respect to the performance appraisal system under this subsection as the Office of Personnel Management has with respect to the performance appraisal systems under section 4302 of such title 5. The Comptroller General shall implement such system as soon as practicable, but not later than October 1, 1981.

(e) The personnel system shall provide for procedures to ensure that each employee of the General Accounting Office has the right, freely and without fear of penalty or reprisal, to form, join, and assist an employee organization, or to refrain from such activity, and shall provide for a labor-management relations program, consistent with chapter 71 of title 5, United States Code.

(f) The personnel system shall provide for the reduction in grade or removal of employees based on unacceptable performance consistent with section 4303 of title 5, United States Code, and the taking of other personnel actions consistent with chapter 75 of title 5, United States Code.

(g)(1) Under the personnel system all personnel actions affecting employees or applicants for employment in the General Accounting Office shall be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition.

(2) The personnel system shall include a minority recruitment program consistent with section 7201 of title 5, United States Code.

(3) Nothing in this Act shall be construed to abolish or diminish for employees or applicants for employment in the General Accounting Office any right or remedy granted them by section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), by sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), by section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), by section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), or by any other law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; except that, with respect to employees and applicants for employment in the General Accounting Office, authorities granted thereunder to the Equal Employment Opportunity Commission, the Merit Systems Protection Board, or any other agency in the executive branch—

(A) involving oversight appeals, shall be exercised by the General Accounting Office Personnel Appeals Board established by section 4 of this Act; and

(B) involving other responsibilities, shall be exercised by the Comptroller General.

(h) The personnel system shall provide procedures for the processing of complaints and grievances which are not otherwise provided for under subsections (e), (f), and (g).

GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD

SEC. 4. (a)(1) There is hereby established within the General Accounting Office a board to be known as the General Accounting Office Personnel Appeals Board (hereinafter in this Act referred to as the "Board"). The Board shall be composed of five members appointed by the Comptroller General in accordance with this subsection.

(2) Each appointment made by the Comptroller General under paragraph (1) shall be made—

(A) from a written list of candidates submitted to the Comptroller General by any organization eligible to make such a submission under paragraph (4); and

(B) after consultation with organizations which represent employees of the General Accounting Office and with the member or members of each standing committee of the Congress having legislative jurisdiction over the personnel management system of the General Accounting Office, who are designated by the Chair of each committee to consult with the Comptroller General.

(3) An individual shall be eligible for appointment as a member of the Board only if such individual—

(A) has a total of three years of full-time or part-time experience in the adjudication or arbitration of personnel matters;

(B) is not a current or former officer or employee of the General Accounting Office;

(C) has the demonstrated ability, background, training, and experience necessary to be especially qualified to serve as a member of the Board; and

(D) demonstrates a capacity and willingness to devote sufficient time to service as a member of the Board in order to enable the Board to dispose of cases under this section in a timely manner.

(4) An organization shall be eligibile to submit a list of candidates to the Comptroller General under paragraph (2)(A) if, in the opinion of the Comptroller General, the membership of the organization is composed primarily of individuals who are experienced in the adjudication or arbitration of personnel matters. The submission of any list under this paragraph shall be made in the form, at the time, and according to the procedures, which the Comptroller General may require.

(b)(1) Except as provided in paragraph (2), members of the Board shall be appointed for terms of three years.

(2) Of the members first appointed to the Board—

(A) two shall be appointed for terms of three years;

(B) two shall be appointed for terms of two years; and

(C) one shall be appointed for a term of one year;

as designated by the Comptroller General at the time of appointment.

(3) Members of the Board shall not be eligible for reappointment.

(4) Any vacancy in the membership of the Board shall be filled in the same manner as the original appointment. Any individual appointed to fill a vacancy shall serve only for the unexpired portion of the term with respect to which such vacancy has occurred, except that, if the unexpired portion is less than one year, the Comptroller General may appoint the individual for a term which is equal to three years plus that unexpired portion.

(5) A member of the Board may continue to serve after the expiration of the term for which the member was appointed until a successor has taken office, except that the member may not so continue to serve for more than six months after the date on which the term for which the member was appointed otherwise would expire under this subsection.

(c)(1) A member of the Board may be removed from membership—

(A) by majority vote of the members of the Board (other than the member who is the subject of the proposed action of removal); and

(B) only for inefficiency, neglect of duty, or malfeasance in office.

(2) Any member of the Board who is the subject of any proposed action of removal under this subsection shall be given notice and opportunity for a hearing before the Board prior to any vote of the members of the Board under paragraph (1)(A). The Board may dispense with the opportunity for a hearing only upon the submission of a written waiver of the hearing to the Chair by the member subject to the proposed action.

(d) Members of the Board, not otherwise employed by the Federal Government, shall be paid for days worked at the daily rate payable for GS-18 of the General Schedule.

(e) The members of the Board shall select, from among the members of the Board, a Chair who shall be the chief executive and administrative officer of the Board.

(f)(1) The Chair shall select and the Comptroller General shall appoint an individual to serve as general counsel of the Board. The general counsel shall be eligible for reappointment and shall serve at the pleasure of the Chair.

(2) The Chair shall fix the rate of pay of the general counsel, except that the rate of pay shall not exceed the maximum rate payable for GS-15 of the General Schedule.

(g) The general counsel of the Board shall—

(1) investigate any allegation concerning prohibited personnel practices referred to in section 3(b)(2) of this Act to the extent necessary to determine whether there are reasonable grounds to believe that any such practice has occurred, exists, or is to be taken by any employee of the General Accounting Office;

(2) investigate any allegation concerning prohibited political activities referred to in section 3(b)(3) of this Act;

(3) investigate matters under the jurisdiction of the Board if so requested by the Board or any member of the Board; and

(4) otherwise assist the Board in carrying out its functions.

(h) The Board may consider, decide, and order corrective or disciplinary action (as appropriate) in cases arising from—

(1) employee appeals concerning any removal, suspension for more than fourteen days, reduction in grade, reduction in pay, or furlough of thirty days or less;

(2) prohibited personnel practices referred to in section 3(b)(2) of this Act;

(3) prohibited political activities referred to in section 3(b)(3) of this Act;

(4) determination of appropriate units of employees for collective bargaining;

(5) elections and certifications of collective bargaining representatives;

(6) any labor practice prohibited under the labor-management system established under section 3(e) of this Act and any other matter appealable to the Board under that system;

(7) actions involving discrimination prohibited under section 3(g) of this Act; and

(8) any other issue relating to the personnel of the General Accounting Office which the Comptroller General, by regulation, determines is most appropriately resolved by the Board.

(i) The Comptroller General shall promptly implement any corrective action ordered by the Board, in cases in which the Comptroller General has the authority to do so.

(j) The Board shall have authority to designate a panel of its members, or an individual member, to take any action which the Board is authorized to take under subsection (h). Any decision made under subsection (h) by a panel or individual member designated under this subsection shall be considered to be a final decision of the Board unless the decision is reopened and reconsidered by the Board under subsection (k).

(k) The Board may, on the motion of any party or on its own motion, reopen and reconsider any decision under subsection (h) within thirty days after the decision is rendered.

(l)(1) Final decisions of the Board (or of any panel or individual member designated under subsection (j)) under subsection (h)(1), (2), (3), (6), and (7) may be appealed to the United States court of appeals for the appropriate circuit. Any appeal under this subsection shall be in accordance with the procedures of chapter 158 of title 28, United States Code. Notwithstanding any other provision of law, any petition for review shall be filed within thirty days after the date the petitioner receives notice of the final decision of the Board.

(2) In any case filed under paragraph (1), the court shall review the record and set

aside any agency action, findings, or conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) obtained without procedures required by law, rule, or regulation having been followed; or

(C) unsupported by substantial evidence.

(m) The Board shall promulgate regulations—

(1) providing for employee appeals, consistent with the principles of chapter 77 of title 5, United States Code; and

(2) establishing its operating procedure.

GAO SENIOR EXECUTIVE SERVICE; MERIT PAY SYSTEM

SEC. 5. (a) (1) The Comptroller General may promulgate regulations establishing a General Accounting Office Senior Executive Service (referred to in this Act as the GAO Senior Executive Service) which—

(A) meets the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

(B) provides that positions in the GAO Senior Executive Service meet requirements which are consistent with those in section 3132(a)(2) of title 5, United States Code;

(C) provides rates of pay for the GAO Senior Executive Service which are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, and which are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

(D) provides a performance appraisal system for the GAO Senior Executive Service that conforms to the provisions of subchapter II of chapter 43 of title 5, United States Code;

(E) permits the Comptroller General to award ranks to members of the GAO Senior Executive Service consistent with the provisions applicable to the Office of Personnel Management and the President under section 4507 of title 5, United States Code;

(F) provides for removal consistent with section 3592 of title 5, United States Code, and removal or suspension consistent with section 7543 of such title 5; and

(G) permits the Comptroller General to pay performance awards to members of the GAO Senior Executive Service consistent with the provisions applicable to the heads of agencies under section 5384 of title 5, United States Code.

(2) Except as otherwise provided in paragraph (1), the Comptroller General may make applicable for the GAO Senior Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service.

(3) Employees in the GAO Senior Executive Service shall not be subject to the provisions of the personnel system established under section 3 (c), (d), (e), and (f).

(4) The GAO Senior Executive Service may include positions referred to in—

(A) section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a);

(B) section 203(1) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b); and

(C) section 204(d) of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154(d)).

(b) The Comptroller General may promulgate regulations establishing a merit pay system for such employees of the General Accounting Office as the Comptroller General considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

NONCOMPETITIVE APPOINTMENTS; TECHNICAL ASSISTANCE

SEC. 6. (a) Notwithstanding any other provision of law, any employee of the General Accounting Office who has completed at least one year of continuous service under a nontemporary appointment under the personnel system established pursuant to section 3 acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

(b) The Director of the Office of Personnel Management shall, on request from the Comptroller General, provide technical and consulting services to the Comptroller General in the establishment of the personnel system for the General Accounting Office.

COORDINATION WITH CERTAIN OTHER PROVISIONS OF LAW

SEC. 7. (a) Except as provided under section 5(a)(4), nothing contained in this Act shall be construed as repealing, amending, or otherwise affecting the provisions of—

(1) sections 302 and 303 of the Budget and Accounting Act, 1921 (31 U.S.C. 42 and 43), or section 203 (a) and (b) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 42a (a) and (b));

(2) section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a);

(3) section 203(1) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b);

(4) section 204(d) of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154(d)); or

(5) section 401 of the General Accounting Office Act of 1974 (31 U.S.C. 52c).

(b) Except as specifically provided in this Act, nothing contained in this Act shall be construed to repeal, amend, or limit the application of any provision of law applicable to employees of the General Accounting Office.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 8. (a) Section 2108(3) of title 5, United States Code, is amended by inserting "or the General Accounting Office" after "the Senior Executive Service".

(b) Subsection 5102(a)(1) of title 5, United States Code, is amended by striking out "or" at the end of paragraph (vii), by inserting "or" at the end of clause (viii), and by adding at the end thereof the following:

"(ix) the General Accounting Office;".

(c) Section 5108(c) of title 5, United States Code, is amended by striking out paragraph (1) and redesignating the following paragraphs accordingly.

(d) Subsection 5342(a)(1) of title 5, United States Code, is amended by striking out "or" at the end of paragraph (H) and by adding at the end thereof the following:

"(J) the General Accounting Office;".

(e)(1) Subchapter III of chapter 73 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 7328. General Accounting Office employees

"The preceding provisions of this subchapter shall not apply to employees of the General Accounting Office."

(2) The chapter analysis for chapter 73 of title 5, United States Code, is amended by adding after the item relating to section 7327 the following new item:

" 7328. General Accounting Office employees."

(f) Section 311 of the Budget and Accounting Act, 1921 (31 U.S.C. 52) is amended—

(1) by striking out subsections (a), (b), and (d) and inserting in lieu thereof the following:

"(a) The Comptroller General shall appoint, fix the pay of, and remove employees of the General Accounting Office under the General Accounting Office Personnel Act of 1979.

"(b) All officers and employees of the General Accounting Office shall perform such duties as may be assigned to them by the Comptroller General."; and

(2) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(g) Section 13 of the Act of May 24, 1946 (31 U.S.C. 46a) is hereby repealed.

(h) Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended by striking out "(other than the General Accounting Office)".

EFFECTIVE DATE

SEC. 9. (a) This Act (other than section 3) shall take effect on—

(1) October 1, 1980, or

(2) if later, the one hundred and twentieth day after the date of the enactment of this Act.

(b) The provisions of section 3 shall take effect on the date of the enactment of this Act, except the personnel system established under that section shall take effect on the effective date prescribed under subsection (a).

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5176 establishes an independent personnel system for the General Accounting Office. The bill, thereby, eliminates a serious conflict of interest which has plague GAO, and that is why GAO supports it.

Currently, GAO audits, oversees, and investigates the operations and financial management of executive branch agencies. In the case of nearly every agency, GAO has the independence and freedom to subject programs to exacting scrutiny. This intense scrutiny is precisely what Congress demands of GAO. In the case of the civil service agencies, however, this independence and freedom is lacking, because GAO is subject to regulation and control by these agencies. In its relations with the civil service agencies, GAO is both the overseer and the overseen, both the policer and the policed, both the investigator and the investigated.

The Subcommittee on Civil Service did not find any instances where this conflict affected the content of a GAO report. Nevertheless, the apparent and potential conflict can and should be eliminated. Reports of the GAO in the field of personnel management should be free from any suspicion that their conclusions were altered under pressure from the Office of Personnel Management or the Merit Systems Protections Board.

Hence, the first thing H.R. 5176 does is to remove the General Accounting Office from the laws, rules, and regulations of the competitive civil service. The bill cuts off the jurisdiction of the Office of Personnel Management, the Merit Systems Protection Board, and the Equal Employment Opportunities Commission over the General Accounting Office.

The Post Office and Civil Service Committee did not feel comfortable with

giving GAO management an absolutely free hand in designing its own personnel system. Therefore, the second thing the bill does is to reimpose the most important employee protection and management control laws to the GAO. The Comptroller General is required by this legislation to promulgate regulations embodying the merit principles, outlawing prohibited personnel practices, providing for merit selection and promotion, assuring preference to veterans, establishing pay and classification standards, creating a performance appraisal system, ensuring the right to organize and bargain collectively, forbidding discrimination, and setting out appeal rights. The Comptroller General is free to establish a Senior Executive Service and a system of merit pay, if the Comptroller General wants to do so. If GAO does establish a Senior Executive Service of a system of merit pay, it must follow certain basic guidelines, parallel to those existing in executive branch agencies.

The committee was very concerned that the rights of GAO employees be safeguarded. To assure that these rights are protected, the bill establishes a GAO Personnel Appeals Board, which will perform the functions that the Merit Systems Protection Board, the Federal Labor Relations Authority, and the Equal Employment Opportunities Commission would otherwise perform. Further, the bill establishes a General Counsel to the Board who performs the duties of the Special Counsel, in investigating and prosecuting allegations of prohibited personnel practices. The General Counsel will also investigate labor and employment discrimination cases.

The bill makes clear that the General Accounting Office is covered by title 7 of the Civil Rights Law of 1964, forbidding employment discrimination. Up until now, GAO's coverage under this law has been unclear.

Today, we are considering H.R. 5176, as reported by the Committee on Post Office and Civil Service, with one amendment. The amendment cures a technical defect in the bill as reported. As I explained a moment ago, the bill is drafted to remove GAO from the provisions covering the competitive civil service and then to reapply the same provisions of substantive law to GAO. Well, we neglected to do this for the provisions of title 5 concerning political activities of Federal employees, known as the Hatch Act. This was just an oversight. So, the amendment removes GAO from Special Counsel enforcement of the Hatch Act and transfers enforcement to the General Counsel established by the bill. No substantive change in the provisions of the Hatch Act are made.

I urge your support for H.R. 5176.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5176, which establishes an independent personnel system for employees of the General Accounting Office.

The bill is a result of a compromise between our committee and the GAO. The GAO supports this bill reported from our committee on a voice vote.

Historically, the GAO has been both independent and nonpartisan and minority support of the bill is premised on the notion that it helps bolster these two principles.

The distinguished chair of the subcommittee Mrs. SCHROEDER, is to be complimented for her efforts in fashioning a bill which adequately protects the employment rights of GAO employees and also provides GAO with the needed authority to establish and administer a personnel system which is truly independent. Since Mrs. SCHROEDER has already explained the provision of the bill in detail, I will not elaborate further except to say that the GAO requested this legislation because of an apparent conflict of interest in the area of Federal personnel management. As Mr. Staats, Comptroller General of the United States, said in his testimony before our committee:

> The GAO is regulated by executive branch administered programs that GAO must review and evaluate objectively.

While the GAO has not had any such problems with the Office of Personnel Management or its predecessor, the Civil Service Commission, the situation has a dangerous potential for adversely affecting, and compromising the integrity of the GAO's work.

Mr. Speaker, I believe this bill insures against an inherent conflict of interest and the appearance of such a conflict of interest, and properly distinguishes the unique roles of the GAO and executive branch agencies. I strongly support its enactment.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I certainly want to commend the gentleman from Iowa (Mr. LEACH), who was very, very conscientious and came to many hearings on this less than all-consuming and exciting topic but a very needed piece of legislation. I want to thank the gentleman and the other Members on the minority side for their help.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. SCHROEDER) that the House suspend the rules and pass the bill, H.R. 5176, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1250

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material, on H.R. 5176, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

AUTHORIZING THE PRESIDENT TO AWARD A MEDAL OF HONOR POSTHUMOUSLY TO WILLIAM JAMES TSAKANIKAS

Mr. WHITE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3407) authorizing the President to award a Medal of Honor posthumously to William James Tsakanikas.

The Clerk read as follows:

H.R. 3407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time limitation contained in section 3744 of title 10, United States Code, with respect to the awarding of certain medals to persons in the Army shall not apply with respect to the awarding of any such medal to individuals who served as members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed by such individuals engaged in combat operations in Lanzerath, Belgium, during the Battle of the Bulge, but the awarding of any such medal is within the sole discretion of the President.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. WHITE) will be recognized for 20 minutes, and the gentlewoman from Maryland (Mrs. HOLT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, the Committee on Armed Services has favorably reported H.R. 3407, with an amendment in the nature of a substitute for the original text and title.

In its original form, H.R. 3407 would have authorized the President to award a Medal of Honor posthumously to Mr. William James Tsakanikas for his actions on December 16, 1944, during the Battle of the Bulge. The committee amendment would alter the text and the title to reflect the committee's judgment that the statuory time limitations for the award of military decorations should be waived with respect to all of the 18 members of the unit involved in the Battle of the Bulge—and not just the late Mr. Tsakanikas for the Medal of Honor only.

Mr. Speaker, the committee has generally tried to refrain from acting on legislative recommendations for military awards because it is the President's responsibility to make such awards and not the Congress. However, there are in existence statutory time limitations on the period within which certain awards must be made that restrict the President's authority to make the awards. In this case, after hearing evidence of the courageous actions of the 18 members of the intelligence and reconnaissance platoon of the 394th Infantry Regiment, 99th Infantry Division, who substantially delayed the progress of a major German attack force during a critical point in the Battle of the Bulge, it appears that special consideration is warranted. Although

the actions of this unit were unquestionably heroic, only one member of the platoon was decorated. The evidence suggests that the unusual circumstances under which the surviving members of the platoon were captured by the enemy and liberated, only to find their division had been deactivated, contributed to the possibility that the normal procedures for determining appropriate military awards may have disadvantaged the members of this unit.

Because of the unique circumstances of the unit's capture and liberation and because it appeared that all members of the platoon acted in a gallant manner, the committee amended the legislation to remove the statutory time limitations on the military awards for the whole unit to permit the President to make awards as he considers appropriate. It may be that upon evaluating the evidence, the Department of the Army—acting for the President—will determine that no awards are appropriate and that is their responsibility. But at this time it appeared to the committee that there was sufficient evidence to warrant waiving the time limitations of the statute.

Mr. Speaker, I would like to reiterate that it is not the committee's judgment that the award of a medal is appropriate at this time because that is not the Congress responsibility. Rather, it was our judgment that the statute might prevent the President from making such an award after reexamination of these unusual facts and we considered some relief appropriate.

Mr. Speaker, the Committee on Armed Services approved this bill, as amended, by a vote of 24 to 6.

I urge the Members of the House to suspend the rules and pass H.R. 3407, in its amended form.

Mrs. HOLT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3407, as amended. I commend the chairman, the gentleman from Texas for moving with a great deal of caution in the area of awards and decorations for military actions from the past.

The statutory authority for awarding military decorations resides with the President and that is appropriate because it is the executive branch which has access to the necessary evidence and the investigative structure to insure that awards are appropriately made. In order to maintain the integrity of these awards for valorous conduct, the statutes do contain limitations on the time within which such awards must be made. In general, these statutes of limitations provide ample opportunity for recognition.

In the case at hand, however, the committee has received evidence that the individuals in the intelligence and reconnaissance platoon of the 394th Infantry Regiment, 99th Infantry Division, became involved in a unique set of circumstances that may have hampered appropriate recognition for their gallantry. H.R. 3407 simply waives the time limitations for military awards to these individuals. The committee has been very careful not to make any judgment as to whether an award should be made to any of these individuals. That responsibility rests with the President.

H.R. 3407, as amended, will simply permit the President to use his authority as the circumstances warrant.

Mr. Speaker, I urge the Members of the House to vote to suspend the rules on H.R. 3407, as amended by the Committee on Armed Services and pass this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. WHITE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, the bill H.R. 3407, before the House today, is the culmination of the efforts of more than 2 dozen Members of this body, to recognize the epic stand of 18 men against overwhelming odds 35 years ago at the Battle of the Bulge. The bill, as I originally introduced it, authorized the President of the United States to award the Medal of Honor posthumously to William James Tsakanikas—known as Will James—for various acts performed at the risk of his life, above and beyond the call of duty, while serving as a private first-class in the U.S. Army in World War II.

The bill being considered today was amended by the House Armed Services Committee and is offered in the nature of a substitute to my bill. It waives the statutory time limitation with respect to Army decorations and awards to permit the award of an appropriate medal to members of the intelligence and reconnaissance platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed by such individuals while engaged in combat operations on December 16, 1944, during the Battle of the Bulge in Lanzerath, Belgium. In effect, all members of Pfc. Tsakaniskas' platoon would become eligible for certain medal awards, but the amendment does not recommend nor make any judgment as to the type of award, or indeed whether any award should be made by the President. Testimony during the hearings before the Military Personnel Subcommittee suggested that circumstances may well have prevented the normal procedures for recognition of these individuals from functioning.

There has been a ground swell of support for the bill in its original form, authorizing the Medal of Honor award to William James Tsakanikas, following the Jack Anderson feature article in Parade magazine of Sunday, March 25, 1979, and the appearance of the article and my original bill, H.R. 3225, in the Monday, March 26, 1979, CONGRESSIONAL RECORD. "Why Private Tsakanikas Should Get the Medal of Honor," told the story of the events that took place 35 years ago in World War II. The massive confusion following this major battle, the capture and imprisonment of the unit members, and a reorganization of the parent division appears to have prevented the normal procedures for recognition of William James Tsakanikas and other members of his unit. Just since the House held hearings on the bill, Tsakanikas' commanding officer has indicated that he will make the formal recommendation for the award.

I urge the House to take affirmative action, by passing H.R. 3407, to insure that there is an opportunity for consideration of the Medal of Honor award to William James Tsakanikas, as well as appropriate awards to other members of the platoon.

In recognizing and applauding the House Armed Services Committee for its role in bringing this legislation to the House floor for a vote, I must also recognize Judge Basil Filardi, of White Plains, N.Y., who inspired my interest in this matter. Judge Filardi felt that William James Tsakanikas—also known as Will James—did not receive proper recognition for acts described by the commanding officer of his platoon as "acts of conspicuous personal bravery." He and Barry Hoffman, editor of the White Plains, N.Y., Reporter Dispatch, have championed the effort to obtain the Congressional Medal of Honor for Will James for many years, both before and since James' death.

Following favorable action by the House, I will again urge the other body to proceed with immediate consideration of the counterpart measure (S. 135) in the Senate. Senators JAVITS, MOYNIHAN, SARBANES, and MATHIAS are sponsors of that measure.

Once again, I urge my colleagues to support this worthy legislation.

● Mr. BARNES. Mr. Speaker, I am pleased to support H.R. 3407, waiving provisions of existing law to permit the awarding of a medal to William James Tsakanikas and other members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for their heroism during the Battle of the Bulge in 1944. The legislation would make it possible for us to further recognize the great service these men provided for the cause of freedom in one of the most crucial hours of World War II. They exemplified to the highest degree the qualities of duty and honor that are the fabric of this nation's character and tradition.●

● Mr. MONTGOMERY. Mr. Speaker, I rise to clarify a matter with respect to H.R. 3407, which I consider quite important.

As originally introduced, H.R. 3407 would have authorized the President to award a Medal of Honor to the late William James Tsakanikas. It is my strong feeling that it is not appropriate for Congress to make a decision on awards to specific individuals for military conduct. The Medal of Honor, this Nation's highest military decoration, is not a matter for consideration in the political process.

Because of concerns such as these, the committee has amended H.R. 3407 in both its title and the text to provide that it will waive the time limitations to permit awards to be made if and only if the President considers such awards appropriate. Since the committee amendment is now being considered, the title of the bill does not reflect the committee amendment until it is adopted by the House. The title is misleading in that it specifies the award of a Medal of Honor to one individual. The committee did not consider such action to be appropriate and amended the bill to remove the statutory limitations on future awards

for all 18 members of this unit for their actions in 1944.

Mr. Speaker, I repeat again that the selection of awards should be done by the Defense Department and reporting of this bill is only to remove dates and does not make recommendations in any way.●

□ 1300

Mr. WHITE. Mr. Speaker, I yield back the balance of my time.

Mrs. HOLT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. WHITE) that the House suspend the rules and pass the bill, H.R. 3407, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to waive the time limitation on the award of certain military decorations to members of the intelligence and reconnaissance platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the bills on the Suspension Calendar.

DEPARTMENT OF JUSTICE AUTHORIZATION ACT, FISCAL YEAR 1980

Mr. DANIELSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3303) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3303, with Mr. WHITE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. DANIELSON) will be recognized for 30 minutes, the gentleman from Illinois (Mr. MCCLORY) will be recognized for 30 minutes, the gentleman from California (Mr. WAXMAN) will be recognized for 15 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 15 minutes.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am making these remarks in the absence of, and on behalf of, our chairman, the gentleman from New Jersey (Mr. RODINO), though I am informed and believe and thereon state he would have made these remarks had he been present.

Mr. Chairman, the bill before the Committee today—H.R. 3303—reflects an important continuing change in the attitude of the Congress.

The Department, as my colleagues may know, was created by act of Congress 109 years ago. And under rule X of the rules of the House, legislative jurisdiction over nearly every activity within the Department reposes in the Judiciary Committee. Yet the Department, before 1 year ago, had never been required to come before the Judiciary Committee, nor indeed before this House, for authorization of its annual appropriations.

Rather, the act of 1870 that created the Department, and the subsequent creation of Department subdivisions and the authorization of certain Department activities have for more than a century been treated in themselves as the requisite authorization of appropriations. But no more.

Three years ago the Congress enacted Public Law 94-503, title II of which explicitly states that beginning with fiscal 1979 no moneys may be appropriated for the Department unless specifically authorized by law. Under the terms of the 1976 statute, without specific prior authorization the Justice Department cannot qualify for the appropriating process. In other words, the Department—like much of the rest of the executive branch—must now abide by the terms of clause 2 of rule XXI.

Early in 1979, the Department of Justice submitted a fiscal 1980 budget request of approximately $2.4 billion. Of that money, more than $546 million is for the Office of Justice Assistance, Research, and Statistics—primarily LEAA. Because the committee considered the LEAA reauthorization legislation separately, it excluded the OJARS budget request from H.R. 3303.

Thus, of the Department's total $2.4 billion submission, H.R. 3303 addresses only about $1.86 billion.

Section 2 of the bill authorizes appropriations in the following amounts:

First. For general administration, $25.9 million;

Second. For the U.S. Parole Commission, $5.5 million;

Third. For general legal activities, $101.1 million;

Fourth. For the Antitrust Division, $46.9 million;

Fifth. For U.S. attorneys, marshals, and trustees, $234.6 million;

Sixth. For support of U.S. prisoners, $25.1 million;

Seventh. For fees and expenses, $27 million;

Eighth. For community relations, $5.4 million;

Ninth. For the FBI, $575.6 million;

Tenth. For the Immigration and Naturalization Service, $320 million;

Eleventh. For the Drug Enforcement Administration, $193.8 million (separately and previously authorized prior to fiscal 1980); and

Twelfth. For the Federal Prison Service, $334 million.

In addition to the moneys specifically authorized by section 2 of the bill, there are authorized to be appropriated $5.7 million to improve the quality of medical services within the prison system and $30,000 to improve the quality of legal services within the system.

An additional $376,000 is authorized to establish an Office of Inspector General within the Immigration Service.

The bill also contains one open-ended authorization "such sums as may be necessary" for fiscal 1980. But those are for nondiscretionary increases in salary, pay, retirement, and other employee benefits authorized by law.

□ 1310

Mr. McCLORY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the legislation before us. I want to commend the Judiciary Committee on its assumption of this new responsibility of undertaking authorizations for the entire Department of Justice.

It concerns me that we are taking this action at a time after the appropriation bill has been enacted into law and at so late a date that a continuing resolution has had to be adopted, which extends the authorization for the expenditure of funds. It was my hope that when we changed our fiscal year from the 1st of July to the 1st of October, we would be through with all the authorization bills before we began to process appropriations legislation, and that we would not find ourselves authorizing the expenditures of funds after the expenditures had already been approved. But, somehow or other, we seem to have gotten bogged down.

I think it is an unfortunate commentary on this body. I hope that we can improve our operation so that we can undertake in a more orderly fashion to authorize first and appropriate second. I think the impasse that we experienced last week is most unfortunate. It is a bad commentary on this body, and we richly deserve the criticism that is heaped on us when we conduct our business in that way.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the distinguished chairman of the full committee, the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I want to thank the distinguished ranking minority member for yielding at this point. The gentleman is making a very important statement. He is calling to the attention of the House of Representatives what is a glaring mistake for us to continue making, and that is, for the House to consider appropriations meas-

ures prior to the time that the authorization proposals come before the House, especially when the authorizing committees have already acted.

Without repeating myself, because I have included it in a portion of my prepared statement, I will only say that the Committee on the Judiciary was ready before May 15, the day that the Budget Act has set as the last day for authorizing legislative committees to present authorizations. Thereafter I addressed myself to the leadership of this House time and again in order to assure that we would be given the opportunity to present our proposal after we had gone to the Rules Committee. I think this is certainly not a way for us to legislate, to consider appropriations before we authorize. The Department of Justice, for a long period, has been able to come to the Congress of the United States for an appropriation without having to go before the proper legislative authorizing committee. The Department for years went straight to the House after it had gone to the Appropriations Committee, without the proper legislative committee considering an authorization.

The House acted wisely a few years ago in assuring that jurisdiction would now repose in the proper legislative committee, the Judiciary Committee in this case. Notwithstanding that fact, we are still going through the authorization procedure after the appropriation has been voted. I think that is the wrong way to legislate, and I would hope that we can correct the error we have been making.

Mr. Chairman, H.R. 3303 is a sound bill and members of the Judiciary Committee with expertise in various of the department's activities are available to respond to issues that may arise today. But what is most significant about this legislation is that it continues the new era in Justice Department/congressional relations.

The Congress enacted the 1976 statute we implement today largely because the Judiciary Committee believed the Congress could not adequately or responsibly discharge its oversight responsibilities without the lever of budgetary authorization. I believe that both the Department and the Congress will, in the long run, benefit greatly from the new, healthier arrangement.

But, Mr. Chairman, there is another issue we need to think about as we debate this bill today. The process of authorization cannot work—it simply cannot work—if the House does not better manage and plan for its own schedule in the future.

A year ago when the process first began, it was unfortunately and inadvertently undermined by the floor schedule. Despite the fact that the Judiciary Committee met its May 15 Budget Act deadline, the appropriations bill was long enacted—passed and signed by the President—before the authorization bill conference report reached the floor during the marathon windup weekend last October. And perhaps even more disturbing, the appropriations bill was basically written by the Senate because rule XXI points of order lay against the justice appropriations in the House.

Now, again this year we have appropriated the Justice Department's budget before considering the bill to authorize it. The Judiciary Committee reported its authorization bill well in advance of the May 15 Budget Act deadline. The Rules Committee reported a rule. And still we follow the illogical scheduling approach that confronts us today.

We have waived the points of order against appropriations, but we have not corrected the basic problem.

Rule XXI is designed to enhance the capability of the Congress to review the performance and to check the priorities of the executive branch. It gives legislative committees the opportunity to establish the policy and spending boundaries for the areas of government within their rule X jurisdiction, and it allows for important guidance to the Committee on Appropriations. But we must, next year, authorize before we appropriate.

Mr. McCLORY. Mr. Chairman, I thank the chairman for his statement. I want to commend the chairman and the other members of the committee on the very responsible way in which they met and considered the entire subject of the Department of Justice authorization. It was not always convenient, but we provided the necessary majorities, the necessary quorums at the meetings in order to expedite consideration. We heard from the Department of Justice representatives, the Director of the FBI, and others who have an interest in the authorization as well as the appropriation legislation. And we acted promptly. We reported this measure on April 23.

Mr. Chairman, the most important changes in the operation of the Department were made with respect to the Immigration and Naturalization Service. Clearly, this service is in need of reform. To this end, the bill authorizes creation of a fully automated nonimmigrant control system. It creates within the service the Office of Inspector General so that there might be independent review of Immigration and Naturalization Service operations and candid reports to the Congress on those areas in need of reform. Finally, the bill authorizes a substantial increase in our border patrol capabilities rather than the substantial reduction asked by the administration.

For the FBI, the bill authorizes the amount requested by the Department. I understand some amendments will be offered to change the allocations and increase the total, all in conformity with the needs of this most capable law enforcement agency.

Section 9 of the bill requires progress evaluations to be undertaken by the Attorney General for all elements of the Department. The provision is stronger than last year, and emphasizes the need that reports be submitted to facilitate the authorization process.

Mr. Chairman, with the inauguration of the authorizing process in the Judiciary Committee last year, new authorizations handled by the Appropriations Committee are now handled by the Judiciary Committee. Thus, without an authorization for the fiscal year 1980, there is some doubt about the Department's authority to carry out certain activities. Some of these relate to the FBI's undercover operations, FBI protection of the President, the payment of informers, and providing criminal record identification. These important activities need to be continued.

Mr. Chairman, I might just say that in the course of the 5-minute rule it may be that an amendment will be offered with respect to the after use of the extensive facilities that have been established at Lake Placid for the benefit of the Olympic competitors. We did authorize a substantial amount of money for the development of this facility first, to house the Olympic competitors so that they would be safe and secure—which is necessary in these times of international terrorism; and, second, to provide that following the Olympic games, this facility will be available to be used by our correctional and prison system. Such amendments might ask us to restudy that or to do something else with regard to this facility and its utilization following the Olympic games. I hope that amendments of that type will be resisted, because it was primarily on the basis of the subsequent use of the Olympic games facilities that we authorized and appropriated funds for the development of this housing compound for the Olympic athletes. For us to reverse ourselves and restudy this matter would only cause confusion and waste.

□ 1320

I might say further that the Olympic facilities are intended to be used for young adult offenders so that they might thereby be separated from repeat and older offenders. It was that objective that prompted us to act favorably on the authorization of that facility.

I hope, Mr. Chairman, that the House will act expeditiously on this important legislation. It is long overdue.

Mr. RODINO. Mr. Chairman, I have no further requests for time and yield back the remainder of my time.

Mr. McCLORY. Mr. Chairman, I have no further requests for time. I would yield back my time unless there were some occasion to utilize time following the time used by the Representatives of the Committee on Interstate and Foreign Commerce. At any rate, I yield back the remainder of my time at this time.

Mr. WAXMAN. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, this year, for the first time, the Committee on Interstate and Foreign Commerce and the Committee of the Judiciary are both reviewing the authorization of appropriations for the administration of the Controlled Substances Act by the Drug Enforcement Administration (DEA). Beginning in 1970 with the enactment of the Controlled Substances Act, the Committee on Interstate and Foreign Commerce has authorized appropriations for the administration of the Controlled Substances Act. However in 1978, pursuant to Public Law 94-503, the Committee on the Judiciary was required to authorize appropriations for all programs within the Department of Justice. The Drug Enforcement Administration is within the Department of Justice; so the Committee on the Judiciary was required to authorize appropriations for the Drug Enforcement Administration beginning

in fiscal year 1980. Those authorizations are included in H.R. 3303.

The Judiciary Committee is properly concerned with the Drug Enforcement Administration because it is an agency of the Department of Justice and carries out criminal law enforcement activities. The Interstate and Foreign Commerce Committee is properly concerned with the Drug Enforcement Administration for several reasons. First, drug abuse is a serious public health problem. Second, to control abusable drugs we must control medically useful and lawfully prescribed drugs, like Valium, as well as illegal drugs like heroin. Third, the scheduling of controlled substance by the DEA is based upon the recommendations of the Secretary of HEW. And fourth, the control of medically useful drugs involves difficult and delicate questions of good medical practice, of proper prescribing and dispensing by health practitioners, and of the medical usefulness of certain drugs

Dr. Carter and I will be offering the text of the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce and now printed in the bill H.R. 3987 as an amendment to H.R. 3303. While the provisions of our bill and section 2, paragraph 11 of H.R. 3393 are similar, both provisions need to be enacted. H.R. 3303 provides authorization of appropriations for 1 fiscal year for the Drug Enforcement Administration—$193,836,000. H.R. 3987 also authorizes appropriations for 1 fiscal year for the Drug Enforcement Administration—$194 million—but it does so by amending the Controlled Substances Act. In addition, H.R. 3987 amends the Controlled Substances Act with two minor changes in the administration of the Act.

By amending the text of H.R. 3987 to H.R. 3303, consideration of this matter by the House can be consolidated; and since the Senate-passed bill, S. 1157, includes provisions similar to H.R. 3987 and section 2, paragraph 11 of H.R. 3303, consideration by any committee of conference will be simplified and expedited.

Mr. Chairman, in enacting the Controlled Substances Act in 1970, Congress found that there were many drugs with a useful and legitimate medical purpose which were necessary to the American people but which also were subject to abuse. Congress also found that the illegal importation, manufacture, distribution, possession, and use of those drugs as well as other substances with no useful medical purpose had substantial and detrimental effect on the health and general welfare of the American people. Congress resolved in 1970 that we must have an effective drug abuse law enforcement and regulatory program. I believe that resolve has not diminished.

While we have had some encouraging results from our efforts to control the use of narcotics, psychotropics, and other abusable substances, we must constantly reassess our efforts and search for better methods to carry out drug abuse activities. Both the Interstate and Foreign Commerce Committee and the Judiciary Committee have proposed a 1-year extension of the authorization of appropriations for the DEA in order to permit our committees to carefully review the current activities of the DEA.

Mr. Chairman, the two committees and their distinguished chairmen, Mr. STAGGERS and Mr. RODINO, have jointly requested approval of the Speaker of a jurisdictional arrangement which allows both committees to exercise their legislative and oversight responsibilities for the Drug Enforcement Administration. I wish to commend the two chairmen and all members of our committees for the high degree of cooperation which they have displayed.

Mr. CARTER. Mr. Chairman, I yield myself so much time as I may consume.

Mr. CARTER. Mr. Chairman, I strong- authorizations for the Drug Enforcement

Mr. Chairman, I strongly support the Administration and the amendments to the Controlled Substances Act approved by the Commerce Committee. The authorization levels in our bill are virtually the same as in the Judiciary Committee bill, while the two other amendments are simply housekeeping amendments needed to improve the effectiveness of the agency. I would hope that my colleagues will support these provisions.

Mr. Chairman, I support the authorizations for DEA because of my strong belief that the best way to combat drug abuse is to cut off the supply of dangerous drugs. However, I do not believe that every individual who mistakenly becomes involved one time in the abuse of dangerous drugs should be put in jail. We must continue to view drug abuse as a serious and continuing public health problem, one in which law enforcement is seen as a preventive health measure. Our focus in the drug abuse field should always be on designing the most appropriate strategy which improves health.

I wish to commend Mr. Peter Bensinger, Administrator of DEA, for his tireless work in trying to stamp out drug traffic.

For this reason, I am particularly pleased that the Interstate and Foreign Commerce Committee and the Judiciary Committee have been able to appropriately work out their respective jurisdictions in regard to drug abuse matters. I certainly believe it important that we maintain the focus on health when dealing drug abuse, while insuring that the law enforcement aspects of DEA's mission are subjected to scrutiny by the committee with expertise in this area.

I want to commend the chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO) and my good friend, the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS) for their good work and cooperation. I believe it is important, Mr. Chairman, that we maintain the focus on health when dealing with drug abuse while insuring that the law enforcement aspects of DEA's mission are subjected to scrutiny by the committee with expertise in this area.

Mr. WAXMAN. Mr. Chairman, I have no further requests for time and yield back the remainder of my time.

Mr. CARTER. Mr. Chairman, I have no further requests for time. Mr. Chairman, I make an inquiry. I ask the distinguished gentleman from California (Mr. WAXMAN) if he has an amendment to offer.

Mr. WAXMAN. If the gentleman will yield, the amendment will be offered tomorrow, even though the rule provided for us to exercise general debate at this time. I would point out to the House that we will be offering that amendment.

Mr. CARTER. I thank the distinguished gentleman.

Mr. Chairman, I yield back the remainder of my time.

● Mr. STAGGERS. Mr. Chairman, the abuse of narcotics and other controlled substances is one of the most intractable public health problems our Nation faces. The importation of illegal narcotics and marihuana has continued despite our best efforts. After successful operations in foreign countries to erradicate the sources of these drugs we find that other sources develop in other foreign countries. Illegal manufacture of dangerous drugs and illegal diversion of licit drugs also has continued despite the efforts of Federal, State, and local authorities. The DEA has done a commendable job in our battle against illegal narcotics and other illegal controlled substances. I believe we must pay constant attention to our drug abuse problems and continue to take whatever steps are necessary to insure that we have an effective drug abuse law enforcement and regulatory program. This legislation will provide the necessary authorizations of appropriations for the DEA to continue this work.

I hope all members will give it their full support.●

□ 1330

Mr. WAXMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore. (Mr. BENNETT) having assumed the chair, Mr. WHITE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3303) ot authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes, had come to no resolution thereon.

PERMISSION FOR SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT THIS WEEK DURING 5-MINUTE RULE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce be permitted to meet during the 5-minute rule this week for hearing purposes only, for hearings that are scheduled and for which the members of the subcommittee have received notice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

EXTENSION OF ALCOHOLISM AND DRUG ABUSE PREVENTION

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3916) to extend for 1 fiscal year the current authorization of appropriations for programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN.)

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideratin of the bill, H.R. 3916, with Mrs. SCHROEDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill will be dispensed with.

Under the rule, the gentleman from California (Mr. WAXMAN) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, it is with pleasure I present H.R. 3916, extension of alcoholism and drug abuse prevention and treatment authorizations to the House of Representatives. This bill would extend through fiscal year 1980, the authorization of appropriations for the programs of assistance administered by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) and the National Institute on Drug Abuse (NIDA).

The bill provides a funding authorization of $221.5 million for NIAAA which includes: $85 million for State formula grants, $102.5 million for community service project grants and contracts, $28 million for alcohol research, and $6 million for support of the national alcohol research centers. The authorization level is identical to that requested in fiscal year 1979.

With respect to NIDA, the bill provides a funding authorization of $206 million which includes: $45 million for State formula grants and $161 million for community service project grants and contracts. The authorization level is $23 million less than requested in fiscal year 1979 and more closely approximates anticipated appropriations.

Madam Chairman, the committee is recommending a limited 1-year authorization because it believes certain institute activities warrant closer scrutiny. The committee is concerned that deficiencies in contracting and program management may exist—particularly with respect to NIDA—which require further review prior to the Congress approving an extended authorization. Furthermore, because the authorization of appropriations for community mental health centers administered by the National Institute on Mental Health is also due to expire in 1980, a 1-year extension will afford the committee the opportunity to simultaneosly consider issues common to all three institutes within the Alcohol, Drug Abuse Mental Health Administration (ADAMHA).

There are numerous areas in which the National Institute on Mental Health, National Institute on Drug Abuse and National Institute on Alcohol Abuse and Alcoholism Interact. The committee believes an assessment is necessary of the extent to which these activities are coordinated at the Federal, State, and local level.

A 1-year authorization will allow the committee the opportunity to thoroughly and deliberately review NIDA and NIAAA programs as well as evaluate the effect of recent leadership changes on their respective activities. It is the committee's intent to consider a multiple year extension for drug and alcohol abuse programs next year.

Madam Chairman, the bill also requires that both institutes pay closer attention to the special needs of women and the elderly—two particularly high risk and underserved populations. In the past, women and the elderly have been sorely neglected by federally sponsored drug and alcohol abuse programs. The committee intends this policy/to stop and that serious initiatives be developed specifically tailored to their special needs.

The committee bill also places special emphasis upon drug abuse prevention. H.R. 3916 requires that 10 percent of funds appropriated under section 410 of the Drug Abuse Office and Treatment Act of 1972 be used to sponsor drug abuse prevention programs. This provision restores a measure of balance to NIDA funding priorities and insures that greater attention is focused on programs to identify and treat the early manifestations of drug abuse.

The prevention set aside is intended as a floor and not a ceiling on prevention spending.

The committee expects that NIDA meet the fiscal year 1980 prevention funding level through increased efficiency in other NIDA sponsored community service projects. It is not the committee's intention that increased prevention funding be obtained by across-the-board reductions in other NIDA activities. The committee would take exception to such action and strongly urges NIDA to carefully look instead at streamlining and eliminating inefficient or underutilized programs.

Madam Chairman, this legislation is cosponsored by a bipartisan majority of the Subcommittee on Health and the Environment and on May 9, 1979, was reported by voice vote to the House by the Committee on Interstate and Foreign Commerce. Similar legislation, S. 440 (alcohol abuse programs) and S. 525 (drug abuse programs) passed the Senate on May 7, 1979.

Madam Chairman, passage of this legislation is critically important. Alcohol and drug abuse continue to be one of this country's greatest public health threats. While the human toll in lives lost and families destroyed is enormous, the economic cost to our society from substance abuse is staggering.

Today an estimated 9.3 to 10 million Americans are problem drinkers and the incidence of alcohol abuse among women and youth is increasing at an alarming rate. The economic cost to our society from alcohol abuse is estimated to exceed $42.75 billion annually with over $12 billion directly attributable to related health care costs.

The impact of drug abuse is no less grave. Despite noticeable reduction in injuries and deaths related to heroin, the committee has witnessed a dramatic upsurge in the number of injuries associated with prescription medicines and illicit drugs like PCP and cocaine.

In many ways, drug abuse is a more serious and complicated problem today than it was a decade ago. Drug abuse is no longer understood solely in terms of illicit drugs like heroin. In fact, in New York City, an area generally regarded as America's "narcotics caldron," recent emergency room data indicates that the tranquilizer valium—not heroin—is the No. 1 drug of abuse.

Drug abuse is clearly a changing phenomenon. It is characterized not only by narcotics addicts on the streets of our cities, but by teenagers combining drugs and alcohol, older Americans unknowingly misusing prescription medicines, and by men and women relying on mind altering chemicals to cope with the stresses of day to day living.

Madam Chairman, the serious social and health injuries associated with the abuse of drugs and alcohol are real. No race, no age group, no economic stratum is immune from their corrosive, dehumanizing effects. The need for Federal leadership in this field continues to be strong.

I urge my colleagues' support for continuation of these necessary public health programs.

Mr. CARTER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, we are all aware that the abuse of alcohol and drugs can lead to serious and debilitating effects to health. Moreover, both of these problems can lead to the breakup of families, loss of employment, and even crime. For these reasons, I believe there is a good case for a strong Federal role in combating these problems, and I am happy to have an opportunity to support an appropriate Federal response to these problems.

The twin problems of alcohol abuse and drug abuse have shown little sign of abating in the shortrun, and therefore it is clear that more effort could be beneficial in this area. However, I believe that our first responsibility is to insure that the resources we are committing now to these programs are used as effectively as possible. I know that in regard to the National Institute on Drug Abuse there have been allegations of inadequate management as highlighted by an investigation conducted last year by the Subcommittee on Oversight and Investigations. I would also note in this regard that both programs were without a director for some period of time. I submit that given the difficult nature of these serious health problems, we need to be concerned about the effectiveness of the leadership and management provided to them. Although I support the goals of the programs, I believe that both deserve close scrutiny to insure that they are doing the job which we expect of them. That is why I believe that this simple extension with minimal substantive amendment is the best course. Moreover, the committee has mandated a detailed report on research activities, the area where problems appear to have occurred, in order to assist us in the oversight to which we are committeed. I would urge my colleagues to support our efforts in this area.

Thank you, Madam Chairman.

Mr. WAXMAN. Madam Chairman, I yield such time as he may consume to a distinguished member of our subcommittee, the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. I thank the chairman of our subcommittee.

I take this time to pose a question to the chairman of our subcommittee. I understand the Senate has passed a bill on this subject which contains a warning label on alcoholic beverages. I would like to ask the subcommittee chairman what is his reaction to such an amendment.

Mr. WAXMAN. Madam Chairman, the Senate has passed such a proposal as part of their reauthorization of Federal alcohol abuse prevention and treatment programs. However, if such a proposal were offered on the House side, it is my opinion it would not be germane to this authorization bill.

Our subcommittee has not held hearings on this subject. I am sure we will all want to look at that issue very carefully. However, if such a proposal were offered at this time in the House, I would consider it nongermane and would make a point of order that it would not be germane to our bill.

Mr. PREYER. I thank the subcommittee chairman.

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Mr. WAXMAN. Madam Chairman, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Madam Chairman, I thank the gentleman for yielding.

I rise to commend the gentleman from California, the gentleman from Kentucky and all members of the committee for bringing forth this very necessary piece of legislation and for especially recognizing the problems of alcoholism among the young men and women and among the elderly and for providing for the uses of having some of the formula grants, particularly those going to some of the States that will be used for programs in these regards.

I particularly commend them for making certain that the persons who are very familiar with the problems of alcoholism in young men and women and the elderly will now be represented on State councils.

Mr. CARTER. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Madam Chairman, I rise in support of H.R. 3916, a bill to extend the authorization for appropriations for two of the institutes of the Public Health Service—the National Institute on Alcohol Abuse and Alcoholism (NIAAA), and the National Institute on Drug Abuse (NIDA).

I wish to congratulate the chairman of the Subcommittee on Health, Mr. WAXMAN, and the ranking minority member, Mr. CARTER, for their comprehensive review of these two institutes. In my service as the ranking minority member of the Select Committee on Narcotics Abuse and Control, I have become very familiar with the work of these Institutes. The select committee has worked very closely with these two Institutes, particularly with NIDA over the past 3 years, and in general, I, and I think my colleagues on the committee are satisfied with much of what the Institute has accomplished to date.

When NIDA was first established in 1972, Congress and the President realized that the drug abuse problem in America was reaching crisis proportions. At that time we hoped that the extensive resources of the Federal Government could help reduce drug abuse rapidly. We now know that there are no short-term solutions and a continued effort on the part of all levels of Government and community organizations is necessary to combat this problem.

The use and abuse of drugs in America has changed significantly since 1972. Drug use no longer is restricted to the poor and the economically disadvantaged. Drug use by young people, women, and the elderly has risen dramatically in the past few years. Moreover, there has been a substantial shift in the types of drugs which are being abused. Through successful efforts by DEA and extensive education of the public concerning its dangers, heroin is no longer the most abused drug. However, use of marihuana, cocaine, PCP, and prescription drugs has skyrocketed, particularly among young people.

I share the committee's dismay and concern with the administration's initial budget request of $4.7 million for prevention activities, which consist of project grants and contracts, for the National Institute on Drug Abuse for the new fiscal year. Last year NIDA obligated $5 million for this purpose and $7.2 million during fiscal year 1978. During May, June, and July of this year the select committee held a series of oversight hearings on the Federal strategy on drug abuse and traffic prevention. It is fair to say that we concluded that prevention programs, particularly those directed at young people are an effective tool in the war on drug abuse. The Committee on Interstate and Foreign Commerce has recognized this and has mandated that 10 percent of the drug abuse project grant appropriations to NIDA be used to develop primary prevention programs. This, approximately $16 million rather than the requested $4.7 million will be directed where I believe it is most needed.

Finally, the committee has voted wisely in seeking an authorization for 1 year only. This will enable the Subcommittee on Health and the Environment and the Select Committee on Narcotics Abuse and Control to continue to monitor the overall thrust of the two Institutes.

● Mr. PEPPER. Madam Chairman, I lend my strong support to H.R. 3916, and congratulate my distinguished colleague from California (Mr. WAXMAN), for his efforts in bringing this measure to the floor. As fellow members of the House Select Committee on Aging, both Mr. WAXMAN and myself are well aware of the increasing percentage of alcohol and drug abuse among America's aged.

In April of this year, our committee held a National Conference on Mental Health and the Elderly. Mrs. Rosalynn Carter delivered the keynote address to the 300 delegates from nearly all 50 States who were in attendance. As Mr. Carter pointed out—the need is compelling. Experts agree that of the 22 million people in this country who are over 65 years of age, 1.6 million of them may be alcoholics. Equally astounding is the fact that one out of every five Americans suffering from alcoholism may be elderly. In spite of these large figures, few older people are being adequately treated. They are either misdiagnosed, considered too old to help, or are simply overlooked.

Similarly, the extent to which older Americans misuse prescription and over-the-counter medication is exceedingly high. Twenty-five percent of all prescribed medication are used by the elderly and consequently the risk of abuse is significant. Older persons have characteristically low tolerance to drugs and thus are subject to overmedication. Clearly, some education is needed to inform the elderly on drug abuse, particularly drug misuse.

H.R. 3916 seeks to bring the problems of the elderly in these matters out in the open so they can be dealt with effectively. Many of the provisions directly deal with problems brought out in the National Conference. By surveying their needs in alcohol and drug abuse, and giving special consideration to contracts and grants establishing programs in these areas, we are taking a major step in combating this problem. I urge all of my colleagues to join me in supporting this important piece of legislation and I commend Chairman WAXMAN and all the members of the Subcommittee on Health and the Environment for their special sensitivity in adding these new provisions to respond to the special problems of the elderly.●

● Mr. CORRADA. Madam Chairman, I rise in support of H.R. 3916, the extension of alcoholism and drug abuse prevention and treatment authorities. In Puerto Rico we have the department of addiction services which is the single state agency responsible for the formulation and implementation of an adequate social response to the problem of use and abuse of alcohol and drugs. This department has been directing all of our treatments, preventive and supportive efforts to accomplish a significant reduction in the casualties of this dual problem.

In Puerto Rico the community has been our best resource to combat these problems. I feel proud of it. We have been encouraging individual participation at all levels and it has been the

department's policy to integrate the family into all treatments, prevention and supportive efforts.

I welcome the extension of this Federal program, which I believe to be of great importance in assisting the States in planning and developing an effective prevention, treatment and rehabilitation program dealing with alcoholism and drug abuse. I also commend the member of the committee in recognizing that the elderly are becoming involved in drug related injuries.

These programs supplement the States as well as Puerto Rico's efforts in dealing with these problems. In the case of Puerto Rico I might say that our accomplishments can be classified as outstanding. More has to be done and more will be done. For this reason the States need the Federal assistance in this endeavor and I urge to support and vote in favor of this bill.●

● Mr. WOLFF. Madam Chairman, I rise in support of the bill. This legislation would extend for 1 fiscal year the authorizations under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972. The drug abuse funds authorized in this bill, $45 million for section 409 State formula grants, and $161 million for section 410 project grants, are desperately needed if we are to seriously continue our efforts to control drug abuse in this country.

Since late 1976, under its mandate from the House, the Select Committee on Narcotics Abuse and Control has been carefully studying the multifaceted problem of drug abuse. As chairman of this committee, I can inform my colleagues that there are two key fronts in our battle against drug abuse both of equal importance. The first consists of our efforts to reduce the supply of drugs entering the United States. The second concerns our ability to provide treatment and rehabilitation to those suffering from drug abuse and, more importantly, our ability to prevent the spread of drug abuse among our people. It is this second front which is addressed by this bill.

The incidence of drug abuse in the United States continues to increase, and the select committee is in complete agreement with the Committee on Interstate and Foreign Commerce when it states that "the upward trend in drug abuse among the young is one of the most serious health problems facing our Nation." The use of marihuana by high school seniors has increased some 20 percent since 1975. The use of cocaine and inhalants has also significantly increased during this brief period of time.

But in many respects the drug problem we face today is unlike the one we faced only a few years ago. Our efforts to reduce both the supply of heroin and the number of our citizens addicted to it have been largely successful. Today, instead of heroin, the abuse of legitimately prescribed drugs is perhaps our greatest problem. The skyrocketing popularity of the animal tranquilizer PCP may be an ominous sign that basement chemists may soon dominate our trafficking patterns. And while there is some element of supply reduction involved in the abuse of these substances, of even more importance is the element of prevention. Our youth must be made aware of the harmfulness of drugs. We must dispel the glamorous myths that promote the use of drugs.

It was with deep concern I noted in the administration's budget request that only $4.7 million was requested for NIDA's prevention activities under section 410, an amount which is roughly equivalent to only 3 percent of the section 410 authorization. This level of prevention funding is totally inadequate in view of the rising incidence of drug abuse. And I hasten to point out that the administration's prevention request for fiscal year 1980 is less than actual obligations in both fiscal years 1978 and 1979.

Under the strong leadership of full committee Chairman STAGGERS and subcommittee Chairman WAXMAN, this inadequacy has been addressed. The bill will require that at least 10 percent of section 410 appropriations will be targeted toward primary prevention activities. Because of this action NIDA can be expected to devote approximately $16 million—instead of less than $5 million—for these purposes.

The bill also recognizes the particular problems which women and the elderly have with respect to drug abuse. By requiring that representatives of these groups be participating members in the State advisory councils, this legislation will help insure that State drug abuse programs adequately address the special needs of both women and the elderly.

In short, this legislation is nothing less than vital to our drug control efforts. I cannot too strongly urge its adoption.●

● Mr. ST GERMAIN. Madam Chairman, I rise in support of H.R. 3916. The Federal program to combat alcohol and drug abuse has been in existence for only 10 years, yet, in spite of some difficulties, during that time projects funded through NIAA and NIDA have met with significant successes. Through the efforts of NIAA, our society has become increasingly aware that rather than being a question of morality, alcoholism is an illness which can be treated and which exists among every group within our society.

Truly, alcoholism is something which touches almost everyone in some way. Who can say that he has not had a friend or family member who has suffered from this disease? Yet too often, rather than being encouraged to seek help, the alcoholic is made to feel ashamed, and attempts to hide his problem, instead of finding the necessary care which will enable him to lead a productive life.

Not only has the Federal Government been attempting to address this problem, but also the private sector has been active in initiating alcohol-treatment programs. In my own district, I have been very impressed with the work of Edgehill Newport, Inc. The Edgehill Newport Alcoholism Treatment Center in Newport, R.I., is a unique proprietary comprehensive rehabilitation and research center for alcoholism and alcohol abuse initiated by leaders of the business community with local citizen support. It has recently laid the cornerstone for a new 160-bed facility and will use an approach which will include family involvement and posttreatment support. Edgehill Newport is directed by Dr. LeClair Bissell, whose professionalism, enthusiam, and concern I am confident will enable Edgehill Newport to fulfill its praiseworthy goals.

In addition to her commitment at Edgehill Newport, Dr. Bissell has offered her expertise to the Federal Government in whatever way she can be of assistance. In view of the success of several private facilities across the Nation, I believe it is important that Federal programs draw on this resource of private expertise in order that tax dollars may be spent productively.

Let me urge that H.R. 3916 be passed today so that the Federal alcohol and drug abuse programs may be continued. But let me also urge that the directors of these programs look carefully at what the private sector has done successfully so that wherever possible the methods which have proved successful for private programs may be adopted for public programs as well.●

● Mr. JOHN L. BURTON. Madam Chairman, I rise in support of H.R. 3916, especially for the special emphasis it places on identifying and aiding the alcohol and drug problems of women.

Last May during the hearings on midlife women before the Subcommittee on Retirement Income and Employment of the Select Committee on Aging, I was saddened to hear testimony concerning the great dependency midlife women have formed on drugs and alcohol. Presently, the National Institute on Drug Abuse estimates that 2 million women are dependent on drugs and 5 million women on alcohol. The statistics are both staggering and frightening. According to statistics of the Drug Abuse Warning Network, women comprise approximately 70 percent of the users of the top two prescribed and manufactured drugs in this country, valium and librium. The National Institute on Drug Abuse estimates that 32 million women, opposed to 19 million men, have used doctor prescribed drugs, while the number of male users displayed no similar increase.

Testimony elicited from the midlife women's hearing show that these midlife women are, perhaps, the most affected by the changing roles of men and women in our society. They want to change their roles in the home and in employment, but many of them lack education or current job experience. The redefinition of men and women in society has left them frustrated and in search of an escape. Too many have turned to drugs and alcohol.

A special knowledge of women's needs is fundamental to the treatment of their addiction and dependency on alcohol and drugs, many of which are legally doctor-prescribed drugs. Through the authorization of special programs for prevention and treatment, H.R. 3916 is a needed step toward eliminating this problem. I strongly urge you to join me in supporting this bill.●

● Mr. STAGGERS. Madam Chairman, the abuse of drugs and alcohol is one of this Nation's most pressing public health problems. By all reports, drug and alcohol abuse is a problem of growing complexity and dimension—it impacts harshly on all levels of our society.

Each year, tens of thousands of deaths and injuries occur as a result of substance abuse. Countless millions of other Americans are indirectly affected due to injuries incurred by family members or other loved ones.

The $427.5 million authorized by H.R. 3916 is critically important to maintaining the many useful community service and research activities of the National Institute on Alcohol Abuse and Alcoholism (NIAAA). Many Americans look to these programs for assistance in dealing with their drug and alcohol abuse problems.

In addition to placing emphasis upon prevention, the committee's bill encourages the institutes to pay particular attention to the unique needs of the elderly, women, and youth. This is an important focus which I believe should be pursued vigorously.

Madam Chairman, in this regard, one special concern of which the committee continues to receive disturbing reports, is the continuing upward trends in drug and alcohol abuse among our Nation's youth. The NIAAA estimates there may be as many as 450,000 teenage alcoholics in this country. Even more shocking, one study has indicated that as many as 19 percent of teenagers can be classified as problem drinkers. Tragically this percentage shows no sign of declining. With compelling evidence suggesting that early drinking habits increase the risk of more serious abuse problems later in life, the drinking patterns of today's youth are problems we dare not neglect.

Madam Chairman, I want to commend the distinguished subcommittee chairman, Mr. WAXMAN, and the ranking minority member, Dr. CARTER, as well as the other members of the Subcommittee on Health and the Environment for their diligence in bringing this important legislation to the floor. H.R. 3916 is vital to the health of our country and I urge my collegues' support.●

Mr. CARTER. Madam Chairman, I yield back the balance of my time.

Mr. WAXMAN. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FASCELL) having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3916) to extend for 1 fiscal year the current authorization of appropriations for programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972, had come to no resolution thereon.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3916, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DEDICATION OF HÉBERT HALL, TULANE UNIVERSITY, NEW ORLEANS, LA., HONORING FORMER CONGRESSMAN HÉBERT

(Mr. DAN DANIEL was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, on Saturday last, it was my opportunity and pleasure to attend a ceremony in New Orleans along with my colleagues LINDY BOGGS and BOB LIVINGSTON. The purpose of the ceremony was to dedicate the Eddy Hébert wing at Tulane University, which will house the Department of History, Arts, and Sciences.

It was good to see our former colleague, Eddy Hébert, looking so well and with his keen and alert mind continuing to assess the affairs of Government and especially those pertaining to the defense of our country.

The dedication address was delivered by Saceur General Bernard Rogers, who expressed the imperative need for strengthening NATO and particularly the nuclear theater asvects of NATO.

I would like at this time to put in the RECORD the address of General Rogers, as follows:

ADDRESS AT DEDICATION OF HÉBERT HALL, TULANE UNIVERSITY, NEW ORLEANS, LA., OCTOBER 13, 1979

Congressman Hébert, President Hackney, Archbishop Hannan, Distinguished Guests, Ladies and Gentlemen.

I am deeply honored to have been asked to speak at this dedication ceremony for Hébert Hall. In all candor, I must confess that it is indeed more comfortable to be here on the dais with F. Edward Hébert than it ever was testifying before his committee and various subcommittees about the Army and its challenges. But the long years he and I spent working together on our nation's defense problems lead me to call Mr. Eddie—as I always call him—not only a friend, but also a comrade-in-arms. And yet, nothing could be more difficult than to pay full and complete tribute to the service of this dedicated public servant and devoted patriot.

Few men in public life merit the accolade of "Titan" which has been justifiably bestowed upon Mr. Eddie. It is a term that in every respect describes the life and career of public service of this man. Truly he has been a giant among men. Intellect, political instinct and skill, intense interest in ensuring that the truth be published, an insistence upon fair play, and an unrelenting desire to ensure that our nation's defenses remained second to none have been the hallmarks of his long and distinguished career since he departed from this University some 55 years ago.

That he is both a skillful debator and an articulate spokesman for national security interests is well known, and I suspect that these personal skills were honed and calibrated during the 20 years he spent as a newspaperman. I think that those years were particularly instructive for Mr. Eddie, for they were the post-World War I years—years that saw the United States retreat from its idealistic intervention in World War I to "make the world safe for democracy" to the comfortable "normalcy" of Main Street America. It was an America which would reject participation in the League of Nations, enjoy the benefits of unprecedented economic gain in the early twenties, witness the Crash of '29, suffer during the Depression of the 1930's and ultimately become involved in a war which would be fought on three continents.

* * * * *

It would be a war that would ultimately be won by a combination of American technological achievements and the ability to mobilize an entire society and its industrial base, but it would be paid for with the lives of the youth of many nations and with valuable national treasures.

Mr. Eddie, observing the changes in these troubled times, decided to run for Congress in 1940—it was to be only a brief sabbatical from the world of newspapers and city desks to gain some broader insights into the rapidly changing world around him. It was a sabbatical that would last until 1976 when he would finally retire as the Chairman of the House Armed Services Committee after serving seven consecutive American Presidents in a world which would see the United States emerge as a world power armed with a technological superiority and nuclear monopoly, hopefully never again to revert to the isolationist stance which followed World War I.

But it was also a world which would see not only the dawn of the nuclear age, but an intense competition that would ultimately spread from the two superpowers to other nations seeking local or regional superiority over traditional rivals. It was a world which would be characterized by the Cold War and East-West competition driven by the long shadow of superior Soviet conventional power which would initially occupy Eastern Europe and leave a divided Germany and the city of Berlin an island of freedom behind the Iron Curtain. It was a world which would witness the Soviet Union evolve from a power that was continental in character and Eurasian in scope to one which was global, making use of proxy forces on numerous occasions to challenge the interests of the United States, which had become the guarantor of Western values. It was a world in which an Alliance, NATO, would secure Western Europe from Soviet domination for thirty years.

It was the first SACEUR, General Eisenhower, who once described this collective effort called NATO as having been organized under the "scent of fear." In 1949 when we signed the North Atlantic Treaty, NATO was essentially characterized by predominant American power with its military-industrial complex unscathed from the ravages of WWII. Ours was a nation which wanted to help friends and former enemies alike, and which would ultimately cause a young American President to say to his own people at the dawn of the sixties that Americans would fight any battle, support any friend, oppose any foe where liberty was challenged throughout this globe.

But much has changed during the 30 year existence of the Alliance. The mood of impending conflict at the demarcation line between East and West has been replaced by the so-called atmosphere of detente. * * * Rebounding European prosperity has reduced America's strategic and economic superiority in the Alliance, and West European partners have begun to carry a proportionately heavier share of the collective burdens of defense, as they must. And at the same time, the fabric of a true European community, which many statesmen sought amidst the rubble of war's end, has been woven ever stronger.

Despite all this change in Europe, we should recognize that some things have not changed.

—Western Europe remains free of Soviet domination. It is a freedom maintained at considerable cost, but a freedom upon which a price tag cannot be placed.

—The longing for freedom in the hearts of many behind the Iron Curtain continues to exist in contrast with their governments' placing the value of the state higher than the freedoms of the individual.

And the Soviet threat remains, manifested in an ongoing military buildup which clearly exceeds any defensive or deterrent requirements. Though some perceive that the shadow of imminent conflict in Europe, which precipitated our NATO Alliance, has receded, the ultimate goal and more subtle dangers of Soviet domination have not. In a world marked by continuing competition between East and West, by impending leadership changes in the East, and by rapid change in the world beyond NATO's boundaries, we cannot be complacent that crisis and confrontation will not again challenge the fundamental security of Europe, and hence the security interests of the US.

In the first instance, this danger derives from the continuing adverse force balances between the Warsaw Pact and the nations of NATO. The risks and opportunities which face us in NATO must be assessed against the backdrop of an unabated growth in Soviet military power—power that has accumulated over the last 15 years as a result of 4–5% real increases in the defense budget each year.

And what has been the overall effect of this sustained growth of military power by the Soviets?

In the conventional area, the traditional Soviet numerical superiority has been supplemented by qualitative technological gains which give the Warsaw Pact weapons systems which are equal to or superior to any now fielded or planned for deployment by NATO forces. And these gains have been achieved with great rapidity.

With regard to theater nuclear forces, whose role is to link credibly the strategic deterrent to the conventional defense of Europe, the West has belatedly begun to understand the implications of the continued growth of Soviet theater nuclear forces, a growth which has transformed former Western superiority into Soviet advantage at all ranges. The Alliance faces a crucial decision in the near future concerning the modernization of its Theater Nuclear Forces if it is to deter the threat from the East, a threat which now contains the SS–20 missile and the BACKFIRE bomber. There is no question in my mind about the military requirement for this modernization. There is an active campaign—witness the Brezhnev speech of a week ago—to try and turn our nations from this modernization. We must proceed with the vital Alliance decision to deploy long range theater nuclear systems, coupled with the parallel arms control approval, if we are to demonstrate the cohesion and solidarity of the Alliance in the face of the threat.

I would hope that our member nations will never permit propaganda and pressures from the East—especially the Soviet Union—from keeping the Alliance from taking whatever actions it deems necessary—to include the deployment of appropriate theater weapons systems—to deter the threat for which the Soviet Union itself is responsible.

Surely the West must not put itself in the position of letting the Soviet Union decide for us the means we should use to deter the growing threat which the Soviet Union herself has created.

Finally, in the strategic area, the Soviets have now overcome their position of marked inferiority in the mid-1960's to achieve a present condition of essential equivalence. This means that the West can no longer rely on American strategic nuclear superiority as the ultimate arbiter in every crisis which directly or potentially involves the Soviet Union.

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It is clear that our Alliance faces an awesome aggregation of military power—power which far exceeds any conceivable Soviet defensive requirements. And we must keep in mind the historical fact that nations, possessing excessive levels of military power and rent by internal pressures, have often been tempted to resort to external diversions in the Third World, or repression in those areas already under their control.

Thus, in the fall of 1979, some 30 years after its inception, NATO once again finds itself drawn into the deepest and most intimate consultations, perhaps again under the "scent of fear." It is derived from the sober recognition that the Soviets have methodically isolated and addressed their force weaknesses and vulnerabilities which previously enabled the West to counterbalance traditional Soviet strengths without matching them. As a result of that concentrated effort no single facet of the Soviet military effort is now susceptible to unilateral Western exploitation.

The challenge we face today is to continue to provide the requisite forces, conventional and nuclear, to implement NATO strategy. We can neither rely on rhetoric nor promised peace offensives and fail to provide an adequate deterrent force in the face of the Soviet threat. As in all aspects of our security policy, we must maintain a judicious balance in our efforts—balance between our hopes for tomorrow and the realities of today.

Thus we must maintain and improve the necessary means of Western defense while continuing to pursue the visionary and desirable goals of arms control. These essential improvements in our deterrent and warfighting capabilities are not in conflict with legitimate aspirations for arms control. For it is only by tending to our essential defensive and deterrent needs that NATO can achieve a security environment in which equitable arms control agreements are possible.

The concerns which I have outlined to you today have perhaps been heightened by my town activities over the past several weeks that have found me in Deauville, France, near the beaches of Normandy, and visiting large NATO field exercises of our 1979 Autumn Forge exercise series. And I think that it is the stark contrast between the realities of the Autumn Forge field exercises, where our nations work together in peace to deter war, and the necessities of the landings at Normandy to defeat aggression 35 years ago that highlights the fundamental challenges we in NATO face today. For it is a challenge to the unreserved commitment of each of our member nations to our collective effort—a challenge to share not only the benefits of our undertaking but also to share the risks and burdens of our security arrangements.

Whether you participated in those landings on Normandy's beaches, or have visited the sites, one cannot help but be impressed—perhaps "depressed" is a better word—by the folly, futility and waste of war as a primary means of resolving man's problems. A generation of European youth has all but forgotten the tragedies of war and Americans are only vaguely aware of the many grim reminders that dot the European countryside—cemeteries of all nationalities, and monuments raised to the courage, bravery and staunchness of the various national forces.

Never again must there be new landing sites to visit, new cemeteries filled with nations' youth, and new monuments to view. But if there are to be no more wars, then the North Atlantic Alliance must be strong and prepared to stand up to the threat of Soviet military power we now face.

If we have learned anything through the flow of history, it is that equivalence and readiness of the forces of an alliance threatened by an adversary's excess accumulation of military power are not provocative but are essential to the preservation of peace with security. Weakness, unpreparedness and equivocation are provocative. Equivalence, force readiness and determination are protective.

Congressman Eddie Hébert understands that kind of language, firmly believing, as he has stated: "Power is the only language that Russia knows and respects." He understands—and has always insisted—that national security must be our number one priority and that national security requires sufficient forces, properly trained and equipped and ready for dispatch to any threatened area. Or as Mr. Eddie has put it:

"The peril of being unprepared to put trained citizens into the field of battle on short notice has been sounded by military men and statesmen from the time of Washington. To send our men untrained into war to meet equally good men, well trained and disciplined, was once described . . . as murder. This perhaps is too strong, but it is certainly a gross disregard for human life."

That statement was made by a young Eddie Hébert of 15 while debating, as a member of the local Jesuit High Debating Team, the affirmative side of the subject: "Resolved: That military instruction in high schools should be a compulsory part of education." Fifty years later, Congressman Hébert stood on the parade fields of that same Jesuit High School and reviewed the first Junior ROTC unit in the nation to be activated. This event typifies the consistency of his beliefs, ideals and principles through the years.

It is particularly significant that we dedicate this Hébert Hall on the eve of the decades of the eighties—a decade during which our deterrent must be met through a sufficiency of ready forces provided by necessary national commitments, commitments of both resources and will. This critical time period allows us little margain for error if our deterrent is to remain credible in a vastly changed world from that which existed at the start of our collective defense effort some 30 years ago.

Mr. Eddie once wrote: "I believe I have played a major role in keeping America safe, and free. I have always sought to leave the world a better place than I found it." This example of dedication to our nation and our shared values of freedom and justice is worthy of emulation. If there are to be no more wars, if we expect to secure our peace and our freedom, then we must have the strength of character and sense of duty to insure that our country remains strong in the face of danger.

We who follow could do no better than to look to Mr. Eddie's career of distinguished service as a beacon to guide our way. His nation and the Free World owe him a debt of deep gratitude for his having devoted a lifetime to guaranteeing our freedoms.

I believe we in the United States can face the future buoyed by the confidence derived from 30 years' success in our endeavor of collective security by NATO to which Mr. Eddie has contributed so much. And, just as we know the tasks which must be fulfilled if such success is to continue, so we know that we can perform those tasks provided we have the collective will within the Alliance to face up to them. Hébert Hall, with its replica of Mr. Eddie's Congressional office, will offer both a reminder of the burdens we must assume and a place for our successors to determine if our confidence was misplaced. I don't believe that it is.

Mr. Eddie, we are proud of you and grateful to you for the many and the great contributions you have made to your city, your State, your nation and to the free world. You are missed in Washington.

Hébert Hall will stand as a vibrant symbol of your many, meaningful accomplishments. All of your many friends around the world rejoice in this honor being paid to you today, an honor shared by your lovely lady, Gladys, who has been at your side for

so many years and by your daughter, Dawn. I am delighted and humbled to have been the one to represent a of those here today.

CONFERENCE ON GASOHOL IN NORTH AND SOUTH AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 5 minutes.

● Mrs. BOGGS. Mr. Speaker, I rise to call attention to a very important meeting scheduled to be held in New Orleans next month. The First InterAmerican Conference on Renewable Sources of Energy will take place November 25 through 29.

The Conference will focus on the reality of alcohol fuels, the incentives that Government should provide for private enterprise, the economic benefits of various crop sources and their byproducts, the creation of an efficient marketing system, and the necessity for rapid implementation of programs to encourage the development and use of alcohol fuels. This forum will be of great interest to the agricultural interests of America, to the Nation's consumer, and to the many countries of the Western Hemisphere that are dependent upon imported petroleum.

The participants and the invitees to the Conference will include people of varied backgrounds and interests: Economists, researchers, representatives of participating countries, officials of State and regional organizations, chemical and industrial engineers, representatives of marketing companies for equipment for sugar mills, factories, distilleries, and processors.

The goal of the First InterAmerican Conference on Renewable Sources of Energy is to draw together all of these interests and to conclude with a consensus for the implementation of the objective of developing viable sources of renewable energy resources in the Western Hemisphere.

Last week the organizers of the Conference issued "A Call to Action for Alcohol Fuel Production." I insert the call for action at this point in the RECORD:

A CALL TO ACTION FOR ALCOHOL FUEL PRODUCTION

The First InterAmerican Conference on Renewable Sources of Energy, to be held in New Orleans, Louisiana (U.S.A.) November 25–29, will bring together policy-makers in government and industry from throughout North and Latin America to formulate a plan of action for alcohol fuels (gasohol) production.

"The latest technologies and most relevant set of economics will be presented as a foundation on which to base a specific alcohol fuels policy", said Louisiana State Representative deLesseps S. Morrison, Chairman of the Conference.

The State of Louisiana is joined as sponsor of the Conference by the Organization of American States (OAS), United Nations Development Program, Cordell Hull Foundation, and the U.S. Agency for International Development (AID).

"This Conference will bring together the very best expertise with prominent government and industry leaders who are in a position to influence policies in their respective states and nations", Morrison added. "They will have an opportunity to exchange knowledge and experiences."

Ranking members of the United States Congress and Senate will discuss "The Political and Economic Realities of Alcohol Fuels" as well as current and future U.S. policies on renewable sources of energy. The challenge of the Conference is to forge a policy of "Energy Interdependence in the Western Hemisphere".

Industry and government officials from Brazil, Central America, India, Austria and the Caribbean will share their expertise and plans for alcohol fuel production. On the smaller scale, the benefits of "Appropriate Rural Technology" as it applies to farmers and farm co-ops in the U.S. and Latin America will be reviewed.

Experts from throughout the world will discuss the "Cost Effectiveness of Alcohol Fuel Production" and "The State of Technology" as it pertains to sugar, starch, and cellulose based fermentation alcohols.

The $385 registration fee includes all luncheons, a banquet, reception, and a Dixieland Jazz-Dinner Cruise on the Mississippi River. For further information concerning the First InterAmerican Conference, contact: Mrs. Marguerite Ricks, Coordinator, 1111 Sixth Street, New Orleans, Louisiana 70115, U.S.A. Phone: (504) 891–3731. Telex: 5021166.●

ENERGY ARTICLE NO. 3: OCEAN ENERGY—A COOPERATIVE CIVIL-NAVY EFFORT IS ESSENTIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● Mr. ALEXANDER. Mr. Speaker, last Thursday, October 11, I was scheduled to be the guest speaker at the Marine Technology Society's annual conference in New Orleans at the Hyatt Regency Hotel. Unfortunately, changes in the congressional schedule prevented my attendance. While I remained in Washington to vote on the Department of Energy authorization, the oil price decontrol issue, and other matters, my special assistant, Stewart Nelson, delivered my speech to the conference attendees. If we are to secure the Nation's energy future, the national strategy must be based on developing a multiple energy source mix. The oceans represent an important element in that strategy. But, the ocean environment is a hostile one and if we are to realize the oceans' energy potential it will be because of a cooperative effort between the Federal agencies, both civil and Navy, industry, and academia. Mr. Speaker, I would like to share with my colleagues the speech that I prepared for the Marine Technology Society:

REMARKS BY THE HONORABLE BILL ALEXANDER

The invitation to be the principal speaker at the annual conference of the Marine Technology Society posed somewhat of a problem for me. First, what could I tell an assemblage of ocean experts about ocean energy. It is, for example, a waste of our respective times for me to try to tell you what you already know—that the oceans and seabed resources have enormous potential for contributing to energy, food and mineral needs. And, secondly, I would offer that a discourse on the technological aspects of ocean energy systems can be dealt with by others in a far more eloquent and knowledgeable fashion.

However, what perhaps struck me most about this particular conference was the very active presence of the Navy in a subject matter which tends to be associated more with the civil sector. I am sure that there are many who would find this a very strange relationship. I, however, find it a most appropriate involvement. But before I expand on this thought, let me try to put the energy issue into some kind of an overall perspective.

One hundred and twenty years ago, Colonel Drake discovered oil in Titusville, Pennsylvania and so began the age of industrialization. Having acquired the power, we have been determined to fully engage in one of the rights set forth in the Bill of Rights—specifically, the "pursuit of happiness." No one could argue that we haven't pursued it with unbounded enthusiasm and zeal. . . . Especially behind the wheel of an automobile.

It has become fashionable in some quarters to point an accusing finger at the U.S. because we represent only 6 percent of the world's population yet consume more than 30 percent of the world's energy. Certainly, this country enjoys an enviable standard of living but this country also produces agricultural surpluses upon which most of the world depends. But therein lies the dilemma. While we possess the technology and productive capability to be the world's foremost trader in the international marketplace, the U.S. is headed next year for a trade deficit of more than $60 billion. How did we get ourselves into this bind? Very simply, we became a nation of oil gluttons hooked on a cheap energy habit. When confronted with the true cost of energy reality, we responded by imposing oil price controls.

We have, in effect, stymied the expansion and development of domestic energy sources by erecting economic disincentives. We put trust in the continuing flow of foreign oil and while the 1973 Arab oil embargo should have been the warning to heed, we, instead, allowed ourselves to be lulled into a false sense of security. This year's Iranian revolution and oil squeeze were needed reminders of just how vulnerable we have become. I believe the message is beginning to get through. A recent nation-wide Harris poll indicates 60 percent of Americans now believe the energy crisis is real. And, speaking on behalf of my constituents in the great inland coastal state of Arkansas, I can tell you that they are tired—

Tired of being vulnerable to the political and economic whims of foreign oil producing and exporting countries;

Tired of bureaucratic institutions that appear capable only of facilitating energy shortages;

Tired of the ever growing outpouring of U.S. dollars to pay for foreign oil—which this year will total 70 billion dollars, an increase of 27 billion dollars over 1978;

Tired of double-digit inflation which is fueled by a widening trade deficit;

Tired of the rhetoric of popular appeal for the reimposing of oil price controls, and

Tired of policy-makers and administrators who look for easy-outs and short-term simple solutions to long-range problems.

I have repeatedly spoken out for a national energy strategy which is based on a multiple energy source mix. This strategy must include accelerated exploration and development of domestic oil and gas resources in mature and frontier areas, especially in the offshore regions. A crucial factor in this regard is enhancing the recovery of oil. For example, it is estimated that as much as 305 billion barrels of previously discovered oil is still unrecovered in this country and up to 20 percent of this oil could be recovered by known enhanced recovery methods—if it were economically feasible.

We can also speak all we want about synthetic fuels, solar, and unconventional energy sources. But, there is no question that for the near-term this country will continue

to remain overwhelmingly dependent on fossil fuels. Nuclear power could play a substantial role in our energy profile but the way it now stands we mobilized and fought World War II in less time than it now takes to get a nuclear plant on-line. And, I would note that the administrative and approval cycle for offshore oil production is not much better. It is the vital need to restore some balance between the energy and environmental forces that dictates the establishment of an Energy Mobilization Board.

There is, however, one energy source that can be brought to bear right now—and that is alcohol fuels derived from biomass, especially agricultural products. As a member of the legislatively-established National Alcohol Fuels Commission, I see two major contributions for alcohol fuels. One, it can be used to extend our gasoline resources, particularly by the use of the gasoline/alcohol blend known popularly as gasohol. And, secondly, the use of on-farm alcohol fuel production can provide some degree of energy self-sufficiency for the farmer. To underscore this second point, I would note that last year the Bureau of Alcohol, Tobacco and Firearms received about 100 license applications for producing alcohol fuel. So far this year, the Bureau has received more than 3,000 applications.

Ocean energy development is not characterized by such a grassroots enthusiasm. The ocean is a high stake environment and the rules are dictated by an inflexible Mother Nature. The question is often raised as to the proper role of the Federal Government in the ocean technology area. Generally speaking, the government should foster the research, engineering, and development which advances the national technology base. The technology edge is an essential factor concerning national security. And, by national security, I mean economic, political, industrial, academic and defense. In terms of marine technology, the federal agency with the longest involvement and greatest vested interest in the oceans is the U.S. Navy.

However, as more and more civil ocean interests began to develop during the 1960 and 70's, the role of the federal civil agencies expanded accordingly. It is important to remember that federal bureaucracies are not unlike industrial competitors. Federal agencies compete against one another for dollars, for programs, and for power. They are not known for willingly yielding their hard won gains to other agencies—in spite of the national good which might result. The Navy's need to understand the ocean environment is fundamental to its ability to operate on, under and over the oceans.

If anything, this need continues to increase as the Navy must now and for the immediate future, do more with fewer fleet assets. Yet, in terms of a consolidated national ocean effort, we see a distinct division drawn between civil and Navy activities. This division of effort continues to be a costly situation. The Navy's $40 billion a year budget enables advanced ocean engineering and technology pursuits, including a mixed bag of independent research at its various laboratories. In fact, the on-going giant kelp ocean energy farm off the west coast—which is of high interest to the national alcohol fuels commission—was originally conceived of and demonstrated by Navy laboratory personnel.

The point of all of this, is that it is foolhardy to think that growing demands for taxpayers dollars will allow the federal civil sector to duplicate the ocean engineering facilities and capabilities existing within the Navy infrastructure. We can no longer afford the "we need one because they have one" syndrome. The National Oceanic and Atmospheric Administration has attempted to assume the mantle of federal leadership in ocean engineering.

I support this civil focus but, lets face it—no matter what we may personally prefer, an agency with an 800 million dollar annual budget can't effectively progress in the high stakes ocean engineering arena. Lacking the equity and capital assets, the best you can do is try to give the appearance of action. Federal agencies, and yes, even the Congress, are quite good at this approach. Very simply, you do study upon study, either in-house or under contract, you set-up commissions and advisory boards and get inundated with reports. This is exactly the situation now developing in ocean engineering.

Studies are starting up by the National Academy of Engineering, National Oceanic and Atmospheric Administration, Department of Commerce; the congressional office of technology assessment, the White House office of Science and Technology policy, and the Presidentially-appointed National Advisory Committee on Oceans and Atmosphere. I am anxious to see whether any of these studies will face the hard fact that new money is not going to be made readily available and that that choices will have to be made and priorities set among federal ocean technology efforts. If you, the ocean community, cannot reason among yourselves and make those tough judgments then you will leave the decision to be made by other less expert.

Only a short while ago, the Secretary of the Navy told the Congress that the Navy was ready to lend its support and strength to the civil ocean effort. It is time to accept that offer. It is also time for the government—both civil and military—together with industry and academia to join together in a true cooperative commitment to strengthen the Nation's national oceans posture.

You here tonight hold the technological keys which can eventually help secure our energy future. It is a challenge the magnitude of which must transcend federal agency, industrial and political self-interest.

It is a challenge which must be boldly faced and which, I believe, we are more than capable of meeting.●

MONETARY-FISCAL TOUGHNESS NOT ENOUGH TO LICK INFLATION; NEED STRUCTURAL CHANGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, following are excerpts from my remarks to a Milwaukee forum Sunday, October 14, 1979:

Our current fiscal and monetary policies are obviously not working. Joint inflation and recession is a disgrace.

The truth of the matter is that fiscal and monetary policies by themselves cannot cure inflation and recession. If you have a booming inflation, tight monetary and fiscal policies can end it: by causing recession. If you have a wrenching recession, tax cuts and easy money can end it: at the cost of renewed inflation.

Over time, stop-go fiscal and monetary policies, like the bloodletting of the barber-surgeons, sap our economic strength, weaken our institutions, and destroy faith in the ability of government to assure a stable business climate. Investment flees overseas, our vital industries age and falter, our competitive position declines. Sensible fiscal policy becomes impossible; a sensible attack on deep-rooted social problems becomes unpassable; inflation and unemployment worsen together.

What this country needs now is a structuralist economic approach—a fundamental commitment to rebuild our economic base, our productive capacity, our cities which house these capacities, and our transportation networks which service them.

On both the unemployment side and the inflation side, structural reform is urgent.

On the unemployment side, discrimination by age, sex, and race, inadequate educational opportunities, jobs located too far from potential workers, make it impossible to get full employment by macroeconomic expansion alone.

On the inflation side, we have an increasingly obsolescent industrial plant. We concentrate on too many low-productivity industries, while leaving high-productivity subpcompact autos, mopeds, consumer electronics, light rail passenger equipment, color television, and so on, to foreign producers. Our railroads and mass transit are a mess. Our method of delivering health care is high-cost and archaic. Our housing industry is threatened by exorbitant land costs and astronomic interest rates. We continue our disastrous drift to more imported oil. Our federal, state, and local governments are overlapping, duplicating and inefficient.

We badly need to clean up our act. What we should be doing, I suggest, is what the Japanese and West Germans have been doing very succesfully for some time: relying not simply on traditional fiscal and monetary policies, but combining them with government-business-labor planning and problem-solving. Applied to our American scene, this cooperative planning would entail teams of American leaders from all walks of life, in each of our leading economic sectors, from steel to transportation to housing, studying and recommending action programs to make jobs and stabilize prices.

In short, we need to focus on rebuilding our economic structure. It makes no sense to invest billions in the reconstruction of industrial wastelands, unless industry will agree to be there when the reconstruction is done. It makes great sense to secure the agreement and cooperation of business beforehand. The result can be dramatic, as demonstrated by the German reconstruction of the Ruhr and the Japanese substitution of up-and-coming electronics for dying textiles.

Once the longer-run structural rehabilitation is started, short-term economic decisions fall into place.

We need a good climate for investment. This means interest rates should go no higher, and government should work with the financial community to find ways to make extensive credit available for new capital investment.

We need a federal government that is fiscally strong. This means that general income tax reductions must wait. It means that the check-writing programs of the federal budget, particularly those that have been growing most rapidly in recent years, must be brought under control.

We need effective, immediate steps to slow inflation. Recessionary fiscal and monetary policies have proved failures at this. Fortunately, things can be done to fight both inflation and recession at the same time. For example, reduce the Social Security payroll tax, and thus reduce inflationary pressure on both wages and prices, compensating for the revenue loss by tapping "windfall profits" tax receipts or, better, by a tax on gasoline. Another example: urge our European allies to fight their inflation by a better policy mix, one that relies less on super-tight monetary policies which merely cause the U.S. to raise its interest rates, with great damage to U.S. capital investment and its inflation-fighting potential.

Such measures would buy time for a longer-term program of structural reform. This will take time. All the more reason for beginning now.●

POWER GRAB IN THE NAME OF ENERGY

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, in yesterday's Washington Post the distinguished political writer David S. Broder comments on the serious threat to the rule of law and to our federal system presented by both the "fast track" bill approved by the Senate and the one approved by the House Commerce Committee.

As Mr. Broder says:

The idea of a president of the United States seriously proposing that four of his appointees—three of them part-timers not even subject to the standard conflict-of-interest statutes—be empowered to substitute their judgment for that of independent federal, state and local regulatory bodies, and even, in certain instances, to block the application of federal or state law, seems far-fetched. . . .

Under the guise of speeding vital energy projects, the federal government is about to accomplish the most significant power grab in recent years. It may or may not accomplish its stated goal of making the United States more energy-independent. But it will certainly damage the federal system and diminish the accountability of those exercising authority in Washington.

Fortunately, the House still has an alternative to these dangerous proposals. The House Interior Committee's "fast track" bill, while not entirely free from problems, avoids the central danger of both the Senate and the House Commerce Committee bills.

Efforts are being made to combine the best features of the Interior and Commerce Committees' bills. However, on the one issue of whether the Energy Mobilization Board or the President should have the power to waive Federal, State, and local law, the Interior bill, which would authorize waivers only of time constraints, is the only way to go. If we ever start down the road of allowing the President or any board appointed by him—whether or not subject to the illusory "one-House veto"—to disregard whatever laws they, in their wisdom, deem in the "national interest," we will be signaling an end, not only to the federal system, but to the rule of law.

Have we forgotten that it was the assertion, that he, as President, had the right to ignore laws when he deemed it in the national interest, that led to Watergate and the impeachment charges against President Nixon? I cannot believe that the House, a short 5 years later, would put its stamp of approval on such a dangerous doctrine.

The full text of Mr. Broder's article follows these remarks:

POWER GRAB IN THE NAME OF ENERGY

(By David S. Broder)

On the face of it, the proposal seems to defy the supposed public resentment of intrusive, big-brother Washington bureaucracy.

The idea of a president of the United States seriously proposing that four of his appointees—three of them part-timers not even subject to the standard conflict-of-interest statutes—be empowered to substitute their judgment for that of independent federal, state and local regulatory bodies, and even, in certain instances, to block the application of federal or state law, seems far-fetched.

That such a proposal would be approved by the U.S. Senate and be moving toward passage in the House of Representatives is even more improbable.

But exactly that has happened, without a rumble of public protest, in the past few weeks. Under the guise of speeding vital energy projects, the federal government is about to accomplish the most significant power grab in recent years. It may or may not accomplish its stated goal of making the United States more energy-independent. But it will certainly damage the federal system and diminish the accountability of those exercising authority in Washington.

As part of his July energy program, President Carter proposed creation of a federal energy mobilization board, with authority to speed the development of high-priority projects, whether they be pipelines, refineries or exotic fuel plants. The measure was designed to deal with a real problem—the delays in federal, state and local licensing and siting decisions, which have, in some instances, held up important plans for years.

The need to slice through the red tape is recognized by everyone. The question is how to do it without creating a new center of arbitrary power in Washington and destroying the responsibility the Constitution gives states and localities for the welfare of their own citizens.

Two options were offered the Senate earlier this month, and the choice the Senate made—to the cheers of the Carter administration—was disturbing.

One bill would have limited the number of energy projects that could be cleared for "fast-track" action and would have restricted them to projects with a significant impact on reducing U.S. energy dependence. The other bill had no such limits.

The Senate chose the blank-check approach.

One bill would have let the new federal agency go to court to enforce a reasonable deadline (usually one year after submission of the plans) for decisionmaking by a state or local agency on the environmental, social and economic consequences of an energy project.

The other would let the presidential board substitute its own judgment for that of the local or state body, if the federal deadline was not met.

The Senate chose the second way—the path of federal preemption.

One bill would have forced the regulators to obey all the existing laws. The second would allow the federal energy expediters to bar the application of any law passed by Congress, state legislatures or city councils, subsequent to the start of work on a particular project.

The Senate chose the second course, embodying the daring constitutional assertion that four presidential appointees can nullify the enforcement of a statute passed by the elected officials of any level of government.

The vote was not close in the Senate. By a margin of 58 to 36, the Senators gave Carter the power he sought, brushing aside vehement objections from such senators as Abraham A. Ribicoff (D-Conn.), Edmund S. Muskie (D-Maine), Gary Hart (D-Colo.), William V. Roth (R-Del.) and Charles H. Percy (R-Ill.).

They also ignored a chorus of protests from the nation's governors, mayors, county executives and state legislators, who see the proposal as a serious threat to their role in the federal system. They have threatened to challenge the legislation in court, if it is finally passed.

It is an understatement to say that it is extremely shortsighted to launch a national energy acceleration program with a bitter battle between Washington and leaders of state and local governments.

But the companion bill being prepared by a House committee is an even more extreme invasion of state and local authority by Washington, and an even more glaring contradiction of the supposed public distaste for expanding bureaucratic power.

The governors and mayors and their Senate allies are trying to say we do not have to sacrifice the federal system to speed up energy production. But most of Washington is ignoring the message. The country will suffer the consequences for years to come.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for an indefinite period, on account of medical reasons.

Mrs. COLLINS of Illinois (at the request of Mr. WRIGHT), for October 15 and 16, on account of medical reasons.

Mr. SENSENBRENNER (at the request of Mr. RHODES), for October 15, 1979, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PREYER) to revise and extend their remarks and include extraneous material:)

Mrs. BOGGS, for 5 minutes, today.
Mr. ALEXANDER, for 10 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. REUSS, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ERLENBORN) and to include extraneous matter.)

Mr. FORSYTHE.
Mr. HAGEDORN.
Mr. COUGHLIN.
Mr. DANNEMEYER.
Mr. GRASSLEY.
Mr. PHILIP M. CRANE.
Mr. YOUNG of Alaska in two instances.
Mr. SPENCE.

(The following Members (at the request of Mr. PREYER) and to include extraneous matter:)

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in 6 instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in 5 instances.

Mrs. SCHROEDER.

ENROLLED JOINT RESOLUTION

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which were thereupon signed by the Speaker:

H.J. Res. 412. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 12, 1979, present to the President, for his approval, bills and a joint resolution of the House of the following title:

H.R. 898. For the relief of Rodney L. Herold and others;

H.R. 929. For the relief of Eun Kyung Cho and Hei Kyung Cho;

H.R. 946. For the relief of Maria Estela Sims;

H.R. 1153. For the relief of Nyoman Rahmawati;

H.R. 1163. For the relief of Gladys Venicia Cruz-Sanchez;

H.R. 1301. To amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes;

H.R. 1486. For the relief of Dang Petersen;

H.R. 1628. For the relief of Susan Katherine Adamski;

H.R. 1753. For the relief of Sergio and Javier Arredondo;

H.R. 2098. For the relief of Antonio Rivera Aristizabal;

H.R. 3142. For the relief of Michael Carl Brown;

H.R. 3146. For the relief of Patrick A. and Wayne L. Thomas;

H.R. 3218. For the relief of Rebecca Sevilla DeJesus;

H.R. 5419. To authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes; and

H.J. Res. 412. Making continuing appropriations for the fiscal year 1980, and for other purposes.

ADJOURNMENT

Mr. PREYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 48 minutes p.m.) the House adjourned until tomorrow, Tuesday, October 16, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2632. A letter from the Acting Comptroller General of the United States, transmitting his review of the deferrals of budget authority reported in the message from the President dated August 27, 1979 (House Document No. 96-176), pursuant to section 1014 (b) of Public Law 93-344 (H. Doc. No. 96-208); to the Committee on Appropriations and ordered to be printed.

2633. A letter from the Chairman, National Labor Relations Board, transmitting a draft of proposed legislation to authorize the use of certified mail for the transmission or service of matter required by certain Federal laws to be transmitted or served by registered mail, and for other purposes; to the Committee on Education and Labor.

2634. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain defense equipment sold commercially to Switzerland (Transmittal No. MC-27-79), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2635. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affairs.

2636. A letter from the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, transmitting the annual report on the Committee's activities for fiscal year 1978, pursuant to section 1(i) of the Act of June 25, 1938, as amended (85 Stat. 77); to the Committee on Government Operations.

2637. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in Phoenix, Ariz., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2638. A letter from the Administrator of General Services, transmitting a prospectus proposing a succeeding lease for space currently occupied in the Fairmont Building, 7735 Old Georgetown Road, Bethesda, Md., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2639. A letter from the Administrator of General Services, transmitting a prospectus proposing the exercise of an option to renew the lease for space currently occupied in the Casimir Pulaski Building, 20 Massachusetts Avenue NW., Washington, D.C., pursuant to section 7(a) of the Public Buildings Act, as amended; to the Committee on Public Works and Transportation.

2640. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the U.S. Post Office and Courthouse, 1300 S. Harrison Street, Fort Wayne, Ind., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRADEMAS (for himself, Mr. BENJAMIN, and Mr. FITHIAN):

H.R. 5590. A bill to authorize the repayment of certain Federal-aid highway funds by the State of Indiana, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. WHITEHURST:

H.R. 5591. A bill to establish a national zoological foundation; to the Committee on Merchant Marine and Fisheries.

By Mr. WINN (for himself and Mr. UDALL):

H.R. 5592. A bill to provide for the establishment of the Tallgrass Prairie National Reserve in the States of Kansas and Oklahoma, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ZABLOCKI (for himself, Mr. BINGHAM, Mr. FOUNTAIN, Mr. LAGOMARSINO, Mr. WOLFF, and Mr. WOLPE):

H. Con. Res. 195. Concurrent resolution approving the proposed Agreement Between the United States and Australia Concerning Peaceful Uses of Nuclear Energy; referred to the Committee of the Whole House on the State of the Union pursuant to section 308 of Public Law 95-242, and ordered to be printed.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. COELHO presented a bill (H.R. 5593) for the relief of Francois Noghli and Nellie Noghli, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. RAHALL and Mr. YOUNG of Florida.

H.R. 990: Mr. CHENEY.

H.R. 1576: Mr. ANDERSON of Illinois, Mrs. BOUQUARD, Mr. BOWEN, Mr. COLLINS of Texas, Mr. GOLDWATER, Mr. LEACH of Iowa, Mr. MINETA, Mr. WEAVER, Mr. WYATT, Mr. LAGOMARSINO, Mr. FOLEY, and Mr. BAILEY.

H.R. 1577: Mrs. BOUQUARD, Mr. BOWEN, Mr. COLLINS of Texas, Mr. DAN DANIEL, Mr. GOLDWATER, Mr. LEACH of Iowa, Mr. WYATT, Mr. LAGOMARSINO, Mr. FOLEY, and Mr. BAILEY.

H.R. 1578: Mr. ANDERSON of Illinois, Mrs. BOUQUARD, Mr. BOWEN, Mr. COLLINS of Texas, Mr. GOLDWATER, Mr. LEACH of Iowa, Mr. WEAVER, Mr. WYATT, Mr. LAGOMARSINO, Mr. FOLEY, and Mr. BAILEY.

H.R. 1681: Mr. PATTERSON.

H.R. 3605: Mr. YOUNG of Alaska.

H.R. 4693: Mr. ROUSSELOT, and Mr. KINDNESS.

H.R. 4861: Mr. FISHER.

H.R. 5080: Mr. BADHAM, Mr. COLLINS of Texas, Mr. KRAMER, Mr. LAGOMARSINO, Mr. ROYER, Mr. SYMMS, and Mr. WHITEHURST.

PETITIONS, ETC.

Under clause 1 of rule XXII,

207. The Speaker: Presented a petition of the City Council, Boston Mass., relative to the proposed transfer of medical services for veterans to the Department of Health, Education, and Welfare, which was referred jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

SENATE—*Monday, October 15, 1979*

(Legislative day of Thursday, October 4, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, Ruler of all men and nations we thank Thee for Thy goodness to this land, conceived in liberty and dedicated to equal opportunity and equal justice under law. Correct what is wrong, confirm what is right, and by Thy spirit lead us from strength to strength. Grant us a profound understanding of our heritage, an abiding faith in Thee, and an unselfish commitment to the propositions of the Founding Fathers.

"America! America! God shed His grace on Thee,
And crown Thy good with brotherhood
From sea to shining sea."

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 15, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. HEFLIN wants about 10 minutes. I, therefore, yield my 10 minutes to him.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

SENATE RESOLUTION 253—SUBMISSION OF A RESOLUTION PROVIDING FOR TELEVISION COVERAGE OF SALT II CONSIDERATION

Mr. HEFLIN submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 253

Resolved, That the Committee on Rules and Administration is authorized and directed to allow and provide for television and radio coverage (including videotapes and radio broadcast recordings) of proceedings in the Senate Chamber during consideration of the Strategic Arms Limitation Treaty. Such coverage shall be allowed and provided for continuously at all times while the Senate is considering the treaty, except for any time when a meeting with closed doors is ordered.

SEC. 2. Under such terms and conditions as the Committee on Rules and Administration may prescribe, to include possible pooling arrangements—

(1) television and radio coverage of proceedings in the Senate Chamber authorized in the first section shall be available to all public and commercial television and radio broadcasting stations and networks; and

(2) videotapes and recordings may be made available to public and commercial television and radio broadcasting stations and networks, to Members of the Senate, and to such other organizations and persons as the committee may authorize.

SEC. 3. The television and radio coverage of proceedings in the Senate Chamber under this resolution shall be carried out in such manner as the Committee on Rules and Administration shall prescribe.

SEC. 4. The Committee on Rules and Administration is further authorized and directed to undertake a study of the feasibility, both from the standpoint of the state of the art of photojournalism, and the necessity to alter Senate rules, practice and procedure, of providing television and radio coverage of all Senate proceedings. The Committee on Rules and Administration shall report to the Senate its findings and recommendations as to the feasibility of such media coverage of the proceedings and its proposed rules and procedures for such coverage not later than October 15, 1980.

RADIO AND TV COVERAGE OF THE SALT II DEBATES

Mr. HEFLIN. Mr. President, today I am submitting a resolution to allow radio and television coverage of the Senate floor debate on the Strategic Arms Limitation treaty.

This treaty, one of the most controversial and important in our history, has sparked unparalleled public and media interest.

The SALT treaty is discussed daily in newsstories, on editorial pages, on radio, and on television. I can tell you from visiting each of Alabama's 67 counties this year that the SALT treaty is discussed in homes, schools, churches, and on every street corner in my home State.

The people of the United States are vitally interested in this treaty. They are interested and concerned with nuclear proliferation, military strength, and world peace.

I have found that the people of America are not only concerned, but knowledgeable about SALT. They have studied the provisions of the treaty and followed the Senate Foreign Relations Committee hearings this summer.

Those Foreign Relations Committee deliberations were broadcast over both radio and television—with great success. I saw little evidence of "showboating" or playing to the cameras that some argue will happen if we allow television coverage of the floor debate.

The public followed the committee hearings and wants to see the floor debate. I firmly believe that the more the people know about the provisions of the SALT treaty, the better. An educated constituency will be a great aid for each of us in deciding how to vote on this important matter.

The precedent for allowing broadcast coverage of floor debate was set when the Panama Canal Treaty debate was broadcast over radio last year during the 95th Congress. Again, there was little evidence of showboating and the radio coverage was met with great favor by the American people.

Following this recent successful experiment in radio broadcast coverage, I believe the next logical step is to allow full radio and television broadcast coverage of the SALT debate.

During my term as chief justice of the Alabama Supreme Court, the court opened the doors of Alabama's State courts to television cameras.

Our allowing TV coverage of both trials and appellate court proceedings generated a movement which has led to broadcast coverage of many trials and hearings in other State courts.

Televising court proceedings can bring into conflict two constitutional guarantees, namely, the first amendment which guarantees the freedom of the press, and the sixth amendment which guarantees the defendant a fair and impartial trial. If photojournalism is allowed in the Senate Chamber, I can foresee no conflict between provisions in our Constitution.

Perhaps a review of the consideration given the issue of radio and photojournalism from a judicial system basis will be helpful to the Senate in considering this issue.

In hearings before the Supreme Court of Alabama, the media made a strong case when it pointed out that photo-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

graphing and broadcasting by television air radio of a church service did not affect the dignity of the service.

It was also pointed out that when sophisticated and advanced technology is employed, participants in the church service are not distracted and the solemnity of the worship service remains unharmed.

Experts testified that the media can now use noiseless long range cameras, overhead lighting, still photography without flashbulbs and other advanced equipment.

The Supreme Court of Alabama approached the issue as to whether, in the majority of the cases, the use of camera, radio and television instruments would interfere with a fair and impartial trial and with the effective administration of justice. It first considered radio. The court had, for some time prior thereto, been recording oral arguments. It concluded that noiseless and effective broadcasting devices could be placed at designated locations which would record the proceedings accurately and clearly for later radio broadcasting without disturbing court proceedings in any way.

It was apparent to the court that, in the vast majority of cases, radio recording devices would not detract from the dignity of the proceedings or cause prejudice to the parties any more than its own recording system.

Next, the court considered photojournalism. There was no doubt in the minds of the justices that problems could arise. They saw the constant popping of flashbulbs, spotlighting of television lights in the eyes of witnesses, lawyers, jurists, and jurors and wires getting tangled in chairs and knocking over water pitchers as serious impediments to the effective administration of justice.

However, if the media used advanced camera technology, employed only overhead lighting and restricted camera movement to designated areas, these problems could be minimized.

The justices also considered that if cameramen and other reporters conducted themselves in the same manner as was expected of spectators, then the resulting harm would be eliminated.

The court further realized that if photographers used silent cameras without flashbulbs and took their pictures from inconspicuous locations, then there would be little danger that the use of such cameras would detract from the dignity of the proceedings.

Adequate overhead lighting can be provided in a manner that it would be almost unnoticeable. Areas of movement for camera personnel can be restricted as well as orderly conduct required. If desired, a dress code can be enforced for camera crew members.

Pooling by television networks has been used effectively by the White House. The number of cameras in the balconies of the Senate Chamber can also be limited. The experience in the House of Representatives can be beneficial to the Senate in formulating rules and guidelines.

Drawing from my experience of participating and observing electronic journalism in courtrooms and relating this to the facilities of the Senate, I foresee no real problems relative to the dignity of proceedings or distractions.

I have mentioned still photography, as well as radio and television in my remarks about the considerations given to this area of media in courtrooms. The issue of still photography may be irrelevant to the issue of televising the SALT debates, but I think that, sooner or later, the issue of comprehensive media journalism will confront the Senate.

The U.S. Supreme Court has established that freedom of the press is not confined to newspaper or printed periodicals, but is a right of wide import and "* * * in its historic connotation comprehends every sort of publication which affords a vehicle of information and opinion." (*Lovell* v. *City of Griffin*, 303 U.S., 444.)

Personally, I am a strong believer in first amendment rights and feel that all forms of reporting journalism should be allowed in the Senate Chamber. However, I realize that there are some who will disagree with my position and I respect their right to do so. I also realize that because of the nature of the SALT debate, there are those colleagues who will be willing to allow full radio and television coverage of the SALT debate only.

Therefore, my urging at this time is limited to the allowance of full radio and television coverage of the SALT debate and for a careful study over a year as to possible regular coverage of the proceedings of the U.S. Senate by electronic journalism.

Mr. President, I send to the desk at this time my resolution providing for television and radio coverage of the proceedings of the Senate during the consideration of the Strategic Arms Limitation Treaty and for other purposes.

The ACTING PRESIDENT pro tempore. The resolution of the Senator from Alabama will be received and appropriately referred.

RECOGNITION OF THE ASSISTANT MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

THE MEANING OF HIGHER INTEREST RATES

Mr. STEVENS. Mr. President, the announcement of the Federal Reserve last week to raise the discount rates and control the flow of bank reserves sent shock waves through the economic community. We have seen interest rates raised to the highest levels that I can recall, and we have not really experienced the full magnitude of the impact of those actions yet. Predictions this morning from money market economists indicate that these rates have not yet peaked.

I noticed yesterday and again today the comments of the business community, particularly banking community economists, who have lauded the actions by Chairman Volcker and the Federal Reserve Board. Their position is that the action continues to be necessary to harness the spiraling effects of inflation.

It would be useful, I think, to try to get these people to shift their attention to what these policies mean to the total economy. Those higher rates, in the end, are paid by individuals, and it is obvious that this new action is squeezing out of the market the so-called high-risk borrower. That is the person who finds not only that the price of money is skyrocketing but that he or she is unable to keep up with inflation in the normal sense by obtaining wage increases.

The rates we are experiencing, as I said, are unprecedented. Since the Federal Reserve's October 6 announcement, the prime rate has risen 1 full percent to 14.5 percent, and I am told it is expected to go to 15 percent soon.

It is obvious that interest rates are already exceeding 15 percent for those people who do not qualify for the prime rate. In the next few days, I shall be discussing the impact of this action upon the young people of this country who are attempting to buy homes. Not only has inflation increased the price of the home and the interest rate being cranked into that transaction, but it means the drying up of the source of funds so that the homes will not be built in the first instance. The resulting slump in the construction industry will mean a tremendous loss in jobs. For those people who find it necessary to buy a home, it is going to mean that they pay for that home several times over because of the effect of the action of the Federal Reserve Board.

I understand the problem. The problem basically is that when inflation exceeds the rate of interest, we are really on the verge of a depression. But I do think the Fed has to take a look at what its policies are doing to the total economy. One of the things I am looking at, Mr. President, is the number of times in history that we have had a two-tier interest rate and whether this should be examined at this time.

Another thing that I think the Congress as a whole should look at is whether, for long-term loans for new homes, there should not be a Federal guaranteed loan program, thereby removing the risk involved in those loans, reducing the interest rate for these new-home purchasers by virtue of that guarantee, and thereby establishing a two-tier system. It is something that I think we need to pursue. I am delighted to hear from Senator JAVITS, our good friend and colleague from New York, that the Joint Economic Committee will conduct hearings on this matter and the total matter of monetary policy and its relationship to fiscal policy in the near future.

It does seem to me however that we may not be able to wait for the outcome of hearings if the interest rate is going to go up to 15 percent in less than a month from now.

Mr. President, I do not believe there

is any call for time on our side. I yield back the remainder of our time.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time remains to the two leaders?

The ACTING PRESIDENT pro tempore. The Senator from Alaska has 4 minutes remaining.

Mr. ROBERT C. BYRD. Did the Senator from Alabama use up all the majority leader's time?

The ACTING PRESIDENT Pro tempore. Yes, he did.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, that Senators may be able to speak therein up to 10 minutes each, and that the period last not more than 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I thank the distinguished majority leader.

SALT II TREATY—EX. Y, 96-1

AMENDMENT NO. 518

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON. Mr. President, deeply ingrained in the SALT debate are two issues which require resolution before the substance of the SALT proposals can be considered in and of themselves.

One of those issues concerns our defense needs and our willingness and ability to finance the requirements to fulfill those needs. That issue has been the subject of continuing debate both in the House and Senate over the past several weeks, as we have considered the budget resolutions and, in the House, the defense procurement bill. The Senate is, I believe, firmly on record in its belief in and support for improvements in our military capabilities.

The next few weeks should begin to show us if and how that Senate position can be translated into tangible policy. I believe there are several areas where our defense efforts need to be upgraded beyond current commitments—readiness in general, NATO conventional weaponry and activities aimed at insuring access through vital sealanes in the decades ahead. At the same time, however, I do not believe we should accelerate defense spending simply for the sake of doing so or as part of some effort to make SALT palatable.

The second issue involves our ability to verify by our own means Soviet compliance with SALT and to monitor Soviet strategic developments which might threaten our security or that of our allies.

Verification is a particularly difficult issue to deal with for several reasons. First of all, verification relies on an assortment of highly technical procedures. Second, its very nature requires that it remain highly secret, not because our Government wishes to deny our citizens access to information but because knowledge of the sources and techniques can frequently lead to their compromise, rendering them useless.

Verification is also a difficult issue because it is sometimes subject to varying interpretations. There are open disagreements over what our systems have told us as well as the meaning of what they have told us. And, there are often disagreements over policies based on what we have learned or inferred from those systems. Furthermore, it has not always been possible to discuss in detail in public the controversies which have arisen.

Moreover, the meaning of various terms of the treaty, including several which will directly affect evaluations of Soviet compliance and verification activities, have been left to be resolved in the Standing Consultative Commission (SCC).

Consequently, I believe questions regarding verification will arise in the future for many of the same reasons they have arisen in the past: Technology will change, situations will change and interpretations of those changes will vary.

This poses a very special problem for the SALT II treaty. The Senate has been asked to approve a 5-year treaty—to approve it based upon what we now know and the technology we now have or anticipate with some degree of confidence.

In view of the seriousness of the issues involved and the likelihood of continuing developments within the verification field, I do not believe the Senate can make one final judgment about verification and let that judgment simply stand for the duration of the treaty.

Instead, if there is to be a treaty, I believe it must be conditioned upon a clear understanding that the Senate will be, first of all, informed on a regular and periodic basis, of our monitoring efforts, including questions brought before the SCC and, second, advised immediately of any significant new developments which indicate either direct Soviet noncompliance with the treaty or Soviet activities inconsistent with the objectives and purposes of the treaty. Such information could be protected as various types of intelligence currently are under the terms of Senate Resolution 400 of the 94th Congress.

Establishment of a formal process for insuring that the Senate receives, and receives on a timely basis, the data necessary for it to make decisions about our monitoring and related needs is, I believe, indispensible to the Senate's fulfilling its responsibilities.

Furthermore, establishment of a formal process should help to reassure those within and without Government that this very serious aspect of any SALT agreement will receive continuous and detailed review. In recent months, we have heard a number of apparently conflicting statements and suggestions about our general monitoring capabilities, about replacements for the Iranian sites which were lost, about potential techniques for the future. As I noted earlier, positions regarding such matters can change, but they cannot always be fully discussed in public. Increased congressional involvement in this process would in part serve as a substitute for those debates which cannot be publicly aired.

It is my intention to work for the establishment of a formal verification reporting procedure explicitly related to any SALT treaty which might eventually emerge.

On behalf of myself and the distinguished chairman of the Senate Intelligence Committee, I am consequently submitting a reservation to the SALT II treaty, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the reservation was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 518

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the following reservations, which are to be made a part of the instrument of ratification:

"(1) Six months after the date of entry into force of the Treaty and every six months thereafter, and at such other times when significant developments relating to verification of compliance with the Treaty warrant, the President shall prepare and transmit to the Senate a report regarding—

"(A) Soviet practices which affect the efforts of the United States of America to verify compliance by the Union of Soviet Socialist Republics with the treaty;

"(B) the status and capabilities of the national technical means employed by the United States of America to verify compliance by the Union of Soviet Socialist Republics with the Treaty; and

"(C) other developments which relate to verification of compliance with the Treaty, including subjects raised in the Standing Consultative Commission.

"(2) A report transmitted pursuant to reservation (1), if classified, shall be held by the Select Committee on Intelligence for the Senate. The provisions of section 8 of Senate Resolution 400, Ninety-fourth Congress, relating to the disclosure of classified information, shall be applicable with respect to any information made available pursuant to this reservation.

"(3) If the President or the United States of America does not transmit a report required by reservation (1), he will carry out the procedures of paragraph (3) of Article XIX of the Treaty necessary to withdraw the United States of America from the Treaty."

Mr. President, I yield back the remainder of my time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF INTERIOR APPROPRIATIONS, 1980

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ARMSTRONG. Mr. President, is the pending business H.R. 4930?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ARMSTRONG. Mr. President, I would like to express my concern about some aspects of this appropriation.

I would invite the attention of my colleagues to provisions which appear in the bill beginning at page 38, and in the report of the committee beginning on page 70.

There is appropriated by this legislation as it comes to us from the Committee on Appropriations the sum of $20 billion, which is being made available by the committee and by the Senate, if we go along with it, in a fund called the energy security reserve.

The bill provides that appropriations in that fund will be used to foster the production of what are termed alternative fuels by the committee. That is what is known to most of us, I think, as synthetic fuels, and the term alternative fuels is believed by the committee to encompass oil shale, fuel produced from coal, from biomass, chemical feedstocks, and so on.

This subject of synthetic fuels, or as the committee terms, alternative fuels, is of utmost interest to me for two reasons.

One, because it is evident our country needs good sources of fuel. We are facing an energy shortage of crisis proportions and the situation has been growing steadily worse for several years. In fact, in the opinion of a great many observers, the gap between domestic production of fuel and domestic consumption and our resulting reliance on the OPEC nations for energy is really the Achilles' heel of America today.

So I am very much interested in stimulating new sources of energy, whether from synthetic sources or from the increase in conventional petroleum, natural gas, coal, and so on.

I am also, as a Senator from Colorado, particularly interested in the issue of synthetic fuel production because it impacts so heavily on my State. As the energy shortage has been more and more widely perceived, people have been glancing at Colorado and, to a lesser extent, perhaps, to surrounding States as the potential source of solving this problem because we have within our State enormous reserves of oil shale and other potential sources of fuel.

So I am one of those who has been urging, and I continue to urge, the development of fuel from synthetic sources, especially from the tremendous reserves of oil shale in my own State. In developing these reserves, it would be my hope that we would proceed with caution, with deliberation, and with the utmost regard for environmental considerations; because, eager as I am to develop synthetic fuel sources, especially from oil shale, I do not think we will do it well or responsibly if it is done in a great rush.

I am also very sensitive to how fragile the environment is in my State.

So I have long advocated a series of incentives for bringing on line new sources of oil shale particularly and other kinds of energy. I favor such measures as the $3 a barrel tax credit for every barrel of oil that is produced from synthetic sources, a measure which has been twice adopted by the Senate and has failed of passage in the House. I hope it will be enacted this year.

There are other incentives which I favor to bring synthetic fuels into widespread production. I think one of the most significant of these may be the elimination of the redtape and the bureaucratic requirements which, according to our friends in the industry and other experts in and out of Government, have been the prime source of many, many problems and which have delayed by years the development of oil from shale and other synthetic sources.

I say all this, Mr. President, because I want it to be perfectly clear that I favor the development of synthetic fuel resources. What I do not favor is a massive new Government program to do so.

I am convinced—and this is subject to the interpretation of every Senator—that, in large measure, the present energy shortage confronting the United States has not been alleviated by but has been caused by the unwise policy of the National Government.

As we look at what has happened in natural gas, it is obvious that price controls, the redtape, and the bureaucratic delays—especially the price controls—have created an artificial economy in natural gas, and the result has been skyrocketing consumption and declining production. That began in the late 1950's and early 1960's with a series of court decisions which affirmed the right of the Federal Government to regulate closely the vast, important fuel resource of natural gas.

About 6 years ago, there began to be a widespread concern that we were running short of fluid petroleum in this country, and almost at once there was a hue and cry to create the same kind of regulatory structure which already existed for natural gas; and, indeed, bit by bit, that is exactly what we have done. We have created a very complex maze of price controls and other regulations that govern virtually every aspect of distribution, consumption, and production of petroleum.

As we look back, it would be well to evaluate the results, because we have had several years of experience with these controls. I think the results are pretty clear.

Production has been declining, and consumption has continued to rise. As a consequence, we are now more dependent than ever on foreign sources of oil, much to our disadvantage. Five or 6 years ago, before all these controls were in place, we were getting about 35 percent of our oil from overseas sources, and today we are getting something like half or a bit more than half. Obviously, we are in a precarious position.

This is the background against which synthetic fuel production proposals should be measured, because we have here a classic choice of the free enterprise approach to developing this important American resource of synthetic fuel or a Government approach.

This is the question we face whenever there is a problem. Whenever there is a need or a problem that is perceived by the public or by Senators, somebody comes forward and says, "What we need is another Government agency with its own budget, with its own appropriation, with its own concerns, with its own standards for evaluation. We will create a regulatory environment and all the things that go with it, and we will solve the problem." We hear it in health care, in consumer protection, in every phase of our life; and I think that in no area of national concern has this clamor been louder than in energy production.

We are told that what we must have is not only a Government program to foster synthetic fuel production but also what we really must have is a crash program.

We are in the midst of what is said to be the moral equivalent of war, and therefore we must have wartime measures; we must create an Energy Mobilization Board. The Senate has passed that unwise proposal and sent it to the House, where I trust it will be modified to correct what seem to me to be serious deficiencies in that proposal.

Now there is a growing clamor to create an Energy Security Corporation, which, as suggested by the President, will be an $88 billion corporation which will get into the production of all kinds of synthetic fuel, through a variety of incentives or Government-owned plants and subsidies.

Mr. President, I think there is real doubt that the way to develop synthetic fuel in this country is to create another huge, costly bureaucracy. I would like to argue at the appropriate time that a far better approach would be to restore to the marketplace the kind of incentives that have been wrung out of the marketplace and which have resulted in the present energy shortage.

I am convinced, not just as a matter of abstract political theory but also as a matter of careful investigation and lengthy discussions with people who are knowledgeable, and after reviewing the testimony before a number of committees of the House and the Senate, that we will have synthetic fuel production if we let the free market and the free enterprise sector do its job.

In my own State, Union Oil Co. is prepared to go ahead and produce oil from shale, and has so testified before the House Ways and Means Committee within the last 2 months. The only thing they say they need to get into action is the $3-a-barrel tax credit, a modest incentive which has been approved twice by this body and for which growing support is evidenced in the other body. Other companies are similarly situated; that is to say, they are ready or nearly ready to go forward, according to the testimony and other information.

Mr. President, within a few days, I will submit for the RECORD a summary of the information which my office has received from about 15 companies which are

knowledgeable of synthetic fuel production and to whom I have turned for advice about what incentives and changes are needed in a Government policy in order to bring synthetic fuels online.

The answer that has come back, time after time, to summarize it, is this: We need a reduction in the regulatory burden. We need a fast track for permitting various Federal regulations and permits that are required to abide by. We need tax incentives, either the $3 a barrel tax credit or an increase in the present front-end tax credit for new plants and equipment. We need—and this is one frequently mentioned—faster depreciation schedules for equipment used in the production of synthetic fuels.

Any of these approaches or all together would constitute, in my opinion, the right kind of approach to bringing synthetic fuel into widespread production in this country.

What I am talking about, and what I favor, are incentives for the private sector. What is represented by the Energy Security Corporation concept is a huge, new Government bureaucracy, with the hope that somehow the Government can do more efficiently or more effectively or faster the job that needs to be done. I think the record is clear that the Government has failed miserably every time it has tinkered with the energy economy of this country.

The example that comes most readily to mind is the Department of Energy. If anybody thinks we should have an Energy Security Corporation, I urge them to take a look at what is going on at the Department of Energy, an agency which many of us feel never should have been created and which, even now, should be abolished.

I would like to make these arguments in detail at the right time. The right time, in my opinion, to take up this case of whether we should have a free market approach to producing synthetic fuel or a Government, bureaucratic approach to producing synthetic fuel, is when the legislation creating the Energy Security Corporation is on the floor, when we have the reports of the committees that have been studying this matter, when we have the members of those committees on the floor, prepared to share with us their expertise. That is the time this issue can be joined properly and fully.

That brings me to the source of my utmost concern about the bill which is pending before the Senate today. This bill, in the section which begins at page 38, seeks to make that decision today, not when we have authorizing legislation before us, not when we have the reports of the committee and the expertise of those who have spent months and years studying this issue, but this bill attempts to prejudge it because, as I pointed out at the outset, what this legislation does is appropriate $20 billion for synthetic fuel purposes.

Mr. President, I think that to short circuit the legislative process in that way is most unwise. Certainly we cannot make a responsible decision whether or not the free market approach, which I favor, or the Government Energy Security Corporation approach is better based on the information that is actually pending. Yet we are asked to spend $20 billion of the taxpayers' money in support of a decision which we really cannot make and which is not properly from a parliamentary standpoint before us today.

There is a final reason, aside from energy policy, why I am greatly distressed that the Appropriations Committee has seen fit to bring this matter before us in this way. It seems to me, aside from the merits of how we should produce synthetic fuel, that it is a very, very poor legislative practice for us to appropriate large sums of money for projects which have not been authorized by law.

Certainly to spend a huge amount of money as we are asked to here, $20 billion, for something about which we have made no policy decision is an extraordinary breach of the regular legislative process. I would not personally favor such a process even if I were for the Energy Security Corporation, which I clearly said I am not.

I think there is an issue here and a substantial one of the integrity of the appropriations process. Certainly at a time when the public feels and many Senators feel that our appropriations are running out of control, or nearly so, is not a time for us to break this kind of new ground with so little justification. On the contrary, it seems to me with a huge budget deficit during fiscal year 1979, with a projected budget deficit upwards of $30 billion for fiscal 1980, with the consequent inflation racking the country, forcing up consumer prices and interest rates and bringing problems to every family and taxpayer in the country, it would seem that this is more than ever before perhaps in the whole history of our country a time for prudence and restraint in the budget and appropriations policy.

This is a time, it seems to me, when Senators would want to behave like trustees of the taxpayers' money, when we would want to exercise not just the same degree of care that we might exercise if we were spending our own money but far more carefully because in truth we are trustees of the funds which have been provided to us by those we have been elected to serve.

Mr. President, I do not think there is one Member of this Senate who would spend $20,000 of his own money with the casualness and with the lack of information that we have for the proposed $20 billion appropriations in this bill.

Mr. President, I do not think there is one Member of this Senate who would spend $2,000 of his own money the way we are being asked to spend it in this legislation.

I think we are literally buying a pig in the poke. We do not know what the corporation is going to be. That policy decision will not be before us for a couple weeks. The Energy Committee has not finished its markup on the bill, and when the Energy Committee brings its bill to the floor it will at least compete and may indeed be replaced by a much different version of energy legislation which has been drafted by the Banking Committee. We just do not know where we are going and yet we are being asked to appropriate $20 billion.

So I am hopeful that a way can be found to remove this provision. Once the policy decision has been made we can always come back and appropriate the money. If there is one thing I have discovered, it is easy to appropriate the money particularly for glamorous, popular projects like this.

I have discussed this matter with some of my colleagues, and I have been given two reasons in support of this section which begins on page 38 of the bill, and I shall share them with my colleagues and comment briefly on two reasons that have been advanced in support of this section.

One is that it does not mean anything, that in fact we are reserving the later decision and so even if the money is left in the bill, even if the $20 billion is left in here, nothing is going to happen until subsequent action takes place.

I think, Mr. President, that may very well be true. But what a sorry charade for policy making if that is true to advance as a reason to write into a bill of this kind, and I am looking at line 5 of page 38, a number "$20 billion" and say but it really does not mean anything because it requires subsequent action.

The other argument which has been advanced to me at least in support of this proposition is, "Look, we have to do something." The Energy Commission is really a crisis. The authorizing committees are not moving decisively. They are not really getting anyplace, in effect. Those are not the words that have been used, but this is what it comes down to. We have got to do something even if it is wrong. We have got to take the initiative. We have got to spend the money.

Mr. President, I do not think that is a responsible approach to this problem. I do not think this is the way that we should make policy in this body. I do not think this is the kind of approach that is consistent with the integrity of the appropriations policy, and it seems to me that this section of the bill should be taken out and then let us make our policy in the regular way and come back with an appropriations bill funded if that is what we decide to do.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Mr. President, I am pleased to yield to my distinguished colleague from New Mexico.

Mr. SCHMITT. Mr. President, the Senator from Colorado has done an excellent job of summarizing the principal issue that will be before us today relative to this so-called Interior appropriations bill, H.R. 4930, and the section entitled "Alternative Fuels Production," which, in the bill, begins on page 38.

It will be the intent of the Senator from New Mexico at the appropriate time to raise a point of order relative to this section. But, first, I think it is appropriate to underscore the importance of the remarks of the Senator from Colorado not only relative to the present status of synfuels activity in this country, but also the appropriateness of this kind of legislation on an appropriations bill.

Most of our colleagues were here a few years ago in the 95th Congress when we created the Department of Energy. I at that time was one of 8 or 10 Senators, I believe, who finally voted against the

creation of such a Department, for a wide variety of reasons. I had previously been associated with NASA's energy programs and in attempts to assist the Energy Research and Development Administration, one of the predecessors of the Department of Energy, in beginning a process of clearcut research and development into major new alternative energy sources, energy conservation techniques, energy efficiency techniques. One of the major areas in which NASA hoped to apply new technologies under its auspices through the program managership of ERDA was the synthetic fuels area.

And it became very clear at that time in 1974–75 and I think has become even clearer since to anyone who has followed the technology, the economics, the resource base, necessary to support a major program of either commercial or public synfuels production, that we just are not ready. We are not ready to make the kind of decisions that are implicit in a measure in an appropriations bill that would appropriate essentially a blank check for policy purposes of $20 billion.

The synfuel production area is an uncertain area. It is uncertain in technology because many would feel there are in the wings new technologies that very quickly would outdate anything we might put into place at this time in a crash program.

It is uncertain because of economics clearly related to the present and potential future technologies, the economics of risk-taking, the economics of regulation, just a general economic picture relative to synfuels and relative to an inflated world price of crude oil.

A few years ago we were dealing with a deflated price of domestic oil and domestic gas which caused us to become extraordinarily inefficient, extraordinarily irresponsible in our use of energy. We have not gotten over that yet but, at the same time, we are paying an unbelievably higher price now for the same fuel, and a price which most of my colleagues in the geological and minerals professions would say is something like 50 percent, maybe more, higher than what we could produce the same materials for domestically if the environment for production, the tax environment, the regulatory environment, the policy environment were such that such production could be undertaken.

So one of the major uncertainties that has to be in the back of any synthetic fuels program, whether it is one initiated in the private sector or one initiated by the Federal Government, is what is the Federal Government going to do about stimulating domestic gas and oil production by standard secondary and tertiary techniques.

If we suddenly begin to do the right things, the synfuel program for a decade or so will be a very difficult program to carry out from an economic point of view. It will be a tremendous burden on the taxpayer and potentially a dismal failure in which many in this body and in the other body and in Government in general will have technological, economic egg on their faces.

Mr. President, maybe more important to this discussion than anything I have mentioned up until now is the issue of what should be the Federal role. The Senator from Colorado raised that point very clearly. We do not know, we just do not know. There certainly is one role that I think everybody can agree upon, everybody in the Appropriations Committee clearly agreed upon when this issue was brought before us, and that is there should be an accelerated, hard well-funded effort in research and development and even potentially in demonstration through appropriate amounts of loan guarantee being made available to the private sector.

But that is a far cry from an accelerated crash program of production. It is a far cry philosophically, it is a far cry in terms of its probability of success.

The materials technologies, the environmental technologies, the conversion technologies, and many other areas in science and technology that need to proceed further than they are today before we can count on a successful alternative fuels or synthetic fuels program are enough to boggle the mind.

It does not mean that this great country is incapable of solving these problems, and solving them fairly quickly. But, nevertheless, the problems do exist, and to think otherwise would be a major policy mistake.

Maybe one of the most serious issues we must face is the issue of what is the resource base that can support a synthetic fuels program. It is not enough just to say there are 4 trillion tons of coal around that we could use or some unbelievable resource base of oil shale that we could use or tremendous crop production capacity which we all know we have. The issue is how much of that resource is available at any given time, given the problems of regulation, of land availability, of land reclamation, of land withdrawal, all of those things that in a systematic way have reduced the true resource base that is available to this country at this time.

I will just end this part of the technical discussion on my part at this time by saying that the U.S. Geological Survey, which, by the way, has not yet been asked to study this problem by the administration, present estimate is that in the next many years, number of years, there are not more than six properties, coal properties, that could be put into production to support a major synthetic fuel effort. Those properties are important because they do provide the basis for some major demonstration programs in the fairly near future as soon as we are ready, but it is not as if we suddenly are going to substitute synthetic fuels in any reasonable time for fuels that we currently import.

Mr. President, that debate is an extremely important debate, and we will have that debate when the Energy Committee, the Banking Committee, or any others come to the floor with their proposals on what is the best way in which the Federal Government can either use its resources or its influence or its persuasion to see that we are moving to create a synthetic fuels capability that will be available at the time this great country needs it. Obviously, one can say we need it now, but one can also as obviously say it just is not going to be available now.

The issue today is not whether we should have an energy security reserve or give to the Department of Energy the responsibility for a synfuel program. The issue today is whether we want to be responsible in our legislative process.

Mr. President, if I may at this point in the RECORD read paragraph 2 of rule XVI, which reads as follows:

2. The Committee on Appropriations shall not report an appropriation bill containing amendments proposing new or general legislation or any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law if such restriction is to take effect or cease to be effective upon the happening of a contingency, and if an appropriation bill is reported to the Senate containing amendments proposing new or general legislation or any such restriction, a point of order may be made against the bill, and if the point is sustained, the bill shall be recommitted to the Committee on Appropriations.

Mr. President, I submit to my colleagues for their consideration this afternoon that the section the Senator from Colorado and the Senator from New Mexico are discussing is clear and unadulterated legislation on an appropriation bill. After the events of last week in which we and our sister body struggled with legislation on a continuing resolution, we should be very, very leery of continuing that process, of giving this body more difficulties and giving Congress more difficulties than we already have in dealing with appropriation bills.

Our distinguished majority leader, as reported in the Washington Post of Sunday, October 14, discussed this issue, and I have to say that I concur with the remarks as they were reported.

Mr. President, I ask unanimous consent that his comments be printed in the RECORD, as reported, at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LEADER BYRD NEARS SALT ENDORSEMENT; SENATE COMMITTEE STARTS VOTING MONDAY

(By Spencer Rich)

Senate Majority Leader Robert C. Byrd (D-W. Va.) appeared on the brink of formally endorsing the strategic arms limitation treaty yesterday as the Senate Foreign Relations Committee prepared to begin voting on it Monday.

Although Byrd insisted at a press conference that he hasn't quite made up his mind whether to endorse the arms treaty with the Soviet Union, which is President Carter's single most important request to Congress this year, Byrd revealed that he had met with "eight to 10 senators" privately Friday to seek some idea of how much defense spending must be beefed up to quell fears of national-security dangers.

Byrd said that if "the McGoverns and the Nunns, the Stennises and the Moynihans" could get together and draw some compromise "fine line" on what to spend and on certain other national security concepts, "then we could put together a two-thirds majority on the SALT treaty."

He said he had asked Majority Whip Alan Cranston (D-Calif.) and Sen. Daniel P. Moynihan (D-N.Y.), who has been sharply critical of the Soviets, to head special units to study both arms reduction and needed increases in defense spending. The Friday meeting, he said, included several Republicans but he declined to name anyone present.

Byrd said he has told the White House flatly that the treaty won't come to the Senate floor for a final vote until and unless it hands over five-year military spending projections, with some details, which he said in many cases firms lobbying for defense contracts already know. He said the President had agreed to supply the projections.

As Byrd appeared to be nearing open endorsement of the treaty, Sen. Charles H. Percy (R-Ill.) announced in Chicago that he will vote for the treaty provided the Senate adopts two "understandings," which he expects. One makes clear the United States can continue transferring defense technology to its allies; the other requires Senate approval before a three-year "protocol," limiting some missile ranges, can be extended further.

The Foreign Relations Committee on Friday killed by a 10 to 5 vote a proposal by Sen. John Glenn (D-Ohio) to delay any consideration of the treaty until it can study the implications of the five-year projections, once they are received from Defense Secretary Harold Brown. Instead, it agreed to start voting Monday. Glenn was joined by Republicans Howard H. Baker (Tenn.), Richard Lugar (Ind.), S. I. Hayakawa (Calif.) and Jesse Helms (N.C.).

Byrd, who said he favors televising the Senate SALT debate provided a time limit can be agreed on, said his own reading of "backup materials" has convinced him that "funding more money" to beef up U.S. arms is a must with or without the treaty in view of Soviet strides. He said that on verification of the SALT agreements, the "bottom line" of the Senate Intelligence Committee's assessment is "that without SALT II our ability to monitor [Soviet arms] is going to be less than that with SALT II—the committee seemed to be pretty much unified on that point."

Byrd also told reporters:

He doesn't particularly like GOP presidential candidate John Connally's concept of using U.S. forces to keep peace in the Mideast and he thinks Carter's Camp David approach is better.

Gasoline lines "will be back, no question they'll be back," so it's good that Congress is moving to pass major energy and synfuels legislation.

Attaching anti-abortion and other substantive legislative provisions to appropriations bills and thereby holding up the U.S. budget is becoming a "legislative abomination . . . a nightmare . . . legislative blackmail" and he hopes to get together with House leaders on some way to control it.

With luck, Congress might be able to complete energy, synfuels, appropriations and windfall-profits legislation, and then complete SALT, by Thanksgiving, but "we may be in till Christmas" though he doesn't really believe it will be that long.

Mr. SCHMITT. I would direct my colleagues' attention to one paragraph from the article in the Washington Post. This is a statement reported to be that, or representative of that, of the distinguished majority leader, the Senator from West Virginia. It reads as follows:

Attaching anti-abortion and other substantive legislative provisions to appropriations bills and thereby holding up the U.S. budget is becoming "legislative abomination . . . a nightmare . . . legislative blackmail" and he hopes to get together with House leaders on some way to control it.

The words "legislative abomination * * * a nightmare * * * legislative blackmail" are in quotation marks. I am sure our distinguished majority leader will comment on whether those quotations were accurate or not at some later time today.

But whether they are accurate or not, Mr. President, it is clear that all of us in this body have come to rue that day on which we began systematically to legislate on various momentous national policy issues through the appropriations process; and it is extremely important that we begin to reverse our tendency in this area.

There are some, as the Senator from Colorado has said, who would minimize the importance of this section in the appropriations bill. However, it is legislation, it is a "mere" $20 billion, and it does represent, if my understanding of the precedents is correct, as an appropriation absent an authorization, effective authorization of this kind of activity, although that is subject to further discussion.

Mr. President, I could continue to talk about why we find ourselves in this position where many feel that the only way to get things going in synthetic fuels is to legislate on an appropriations bill. That is how many have felt with respect to carrying their beliefs with respect to abortion or carrying their beliefs with respect to any number of particular issues that face this Nation at this time. But if we are to throw into the wind the systematic process of authorization and appropriation that has been developed with such extraordinary difficulty and what I consider extraordinary positive results over the history of this great Nation, then we are throwing into the wind far more than just procedural questions that affect this body. We are throwing into the wind the systems and traditions that have enabled this body to function.

The Senator from New Mexico finds that it is almost an unbelievable situation that we should all feel so reluctant about issues such as abortion on an appropriations bill, and yet be willing, on this floor and previously in committee, to do exactly the same thing on another major national policy issue. To the initial credit of the Appropriations Committee, the first time this issue was raised, the committee voted, I believe 12 to 11, to delete from the committee bill a similar provision recommended by the subcommittee. Unfortunately, the next day that decision was reconsidered and reversed. What happened in the intervening 18 or 24 hours is something that this Senator is not fully aware of, but obviously it was effective from the point of view of those who would have us take this policy step in this very inappropriate way.

Mr. President, as we approach that time when the bills from the Energy Committee and the Banking Committee are before us, we can spend a great deal of time, and I hope will spend a great deal of time, discussing in terms that all can understand the merits and demerits of the programs advocated by those two communities, and, maybe more importantly, try again in this body to realize that there has not been an underlying foundation of scientific and technical feasibility or economic feasibility and of just plain old commonsense before we take on these kinds of issues in some slapdash way.

I frankly was surprised, in spite of the background of energy policy in recent years being a dismal failure, largely because it has been precipitous and not thought through, not systematic and interrelated, that we would suddenly find ourselves becoming even more precipitous. I was not aware that that was possible, but obviously it is. And by doing violence to the rules of the Senate, we are capable of acting more precipitously than we have before. So the issue will come before us—an issue of whether this legislation should be attached to an appropriations bill—and it is my hope that the Chair at that time will rule basically that the committee should go back into session and undo what it has done, so that the Senate can quickly work its will on a very important bill, a bill that should be passed quickly, should be available for conference, and should then provide the necessary appropriations before the continuing resolution runs out.

Mr. President, a parliamentary inquiry, if I may.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator will state his inquiry.

Mr. SCHMITT. That inquiry is what the legislative effect of this appropriation of $20 billion in the alternative fuels section or alternative fuels production section is. Is it an appropriation, first of all, that counts against the budget resolution?

The PRESIDING OFFICER. Which budget resolution is the Senator referring to?

Mr. SCHMITT. The third concurrent budget resolution. Excuse me, the second concurrent resolution.

The PRESIDING OFFICER. It is the Chair's understanding that this program was covered under the second concurrent budget resolution.

Mr. SCHMITT. Will the Chair repeat that?

The PRESIDING OFFICER. It is the Chair's understanding that this program was covered under the second concurrent budget resolution.

Mr. SCHMITT. Now a second parliamentary inquiry, Mr. President. Does this section, under the precedents of the Senate, if adopted—under the precedents of Congress, really, if adopted by both Houses and signed into law by the President—sufficiently authorize a synthetic fuels program?

The PRESIDING OFFICER. The Chair does not interpret the legal effect of the language.

Mr. SCHMITT. Let me try to rephrase the question. Are there precedents in the Senate that effectively make this type of an appropriation binding in the absence of a specific authorization?

The PRESIDING OFFICER. The Chair states that requires a legal interpretation that the Chair does not get into.

Mr. SCHMITT. I thank the Chair.

Mr. President, without further discussion I will make a point of order against the bill relative to this section.

Mr. ROBERT C. BYRD. Mr. President, I move to table the point of order.

Mr. SCHMITT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The motion to table is not in order because this is not a point of order that has been submitted to the Senate. The Chair is prepared to rule on the point of order.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. SCHMITT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 7 Leg.]

Armstrong	Domenici	Schmitt
Bentsen	Helms	Stevens
Bradley	Huddleston	Weicker
Byrd, Robert C. McClure		

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The second assistant legislative clerk resumed the call of the roll, and the following Senators answered to their names:

Byrd, Harry F., Jr.	Glenn	Talmadge

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 30 minutes and I ask for the yeas and nays.

SEVERAL SENATORS. Point of order.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient——

Mr. SCHMITT. A parliamentary inquiry.

The PRESIDING OFFICER. Debate is not in order.

Several Senators addressed the Chair.

Mr. SCHMITT. A quorum call is in progress.

The PRESIDING OFFICER. A quorum call is in process.

The Senator will state his parliamentary inquiry.

Mr. SCHMITT. Mr. President, the quorum call is to proceed; is that not correct?

The PRESIDING OFFICER. The absence of a quorum has been established.

Mr. SCHMITT. And a live quorum is in process; is that correct?

The PRESIDING OFFICER. That is correct.

MOTION TO ADJOURN

Mr. ROBERT C. BYRD. But a motion to adjourn is in order because a quorum has not been established.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. ROBERT C. BYRD. So I move to adjourn for 30 minutes and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Michigan (Mr. RIEGLE) are absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. COHEN), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Iowa (Mr. JEPSEN), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber who desire to vote and who have not done so?

The result was announced—yeas 52, nays 22, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—52

Baucus	Ford	Nelson
Bellmon	Glenn	Nunn
Bentsen	Gravel	Pell
Biden	Hart	Pressler
Buren	Heflin	Proxmire
Bradley	Huddleston	Randolph
Bumpers	Jackson	Roth
Burdick	Javits	Sarbanes
Byrd, Harry F., Jr.	Levin	Sasser
	Magnuson	Stennis
Byrd, Robert C.	Matsunaga	Stevens
Cannon	McClure	Stewart
Chiles	McGovern	Stone
Church	Melcher	Talmadge
DeConcini	Metzenbaum	Tsongas
Domenici	Morgan	Young
Durkin	Moynihan	Zorinsky
Eagleton	Muskie	

NAYS—22

Armstrong	Hayakawa	Schmitt
Boschwitz	Helms	Simpson
Chafee	Humphrey	Stafford
Cochran	Kassebaum	Tower
Danforth	Laxalt	Warner
Durenberger	Lugar	Weicker
Garn	Packwood	
Hatch	Percy	

NOT VOTING—26

Baker	Heinz	Pryor
Bayh	Hollings	Ribicoff
Cohen	Inouye	Riegle
Cranston	Jepsen	Schweiker
Culver	Johnston	Stevenson
Dole	Kennedy	Thurmond
Exon	Leahy	Wallop
Goldwater	Long	Williams
Hatfield	Mathias	

So the motion to adjourn for 30 minutes was agreed to.

The PRESIDING OFFICER. A quorum is present.

THIRTY-MINUTE ADJOURNMENT

The motion was agreed to, and at 12:53 p.m., the Senate adjourned until 1:23 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LEVIN).

AFTER ADJOURNMENT

MONDAY, OCTOBER 15, 1979

The Senate met at 1:23 p.m., pursuant to adjournment, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

THE JOURNAL

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to exceed 5 minutes, that Senators may speak therein up to 1 minute each, that no resolutions come over under the rule, and that the call of the calendar under rule 7 be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 300—THE ANTITRUST ENFORCEMENT ACT OF 1979

Mr. HEFLIN. Mr. President, one of the many misconceptions concerning S. 300, the proposed Antitrust Enforcement Act of 1979, is that it will facilitate the enforcement of the antitrust laws and enhance the ability of those wronged by a violation of those laws to recover damages for their injuries. Consequently, those opposed to this legislation have often been depicted as attempting to undermine antitrust enforcement and protect antitrust violators.

Recently, a so-called compromise version of this bill circulated, as I understand it, by our distinguished colleague from Missouri, Senator DANFORTH. The fact that those opposed to S. 300 also opposed this new version, which was in reality no compromise at all, was cited as further evidence of a prodefendant bias on their part.

Mr. President, nothing could be further from the truth. It is precisely because of the adverse effects of these proposals on the ability to enforce the antitrust laws that they have merited vigorous opposition. Indeed, among the leaders of the opposition have been members of the antitrust plaintiffs bar.

Recently, I received a letter from Mr. Harold Kohn, senior partner of Kohn, Savett, Marion & Graf, and one of the leading plaintiffs' antitrust attorneys in this country. Mr. Kohn has been in the forefront of antitrust enforcement on behalf of plaintiffs for 30 years and has frequently testified before committees of both the Senate and House. In the hope that his views may help to set the record straight and correct any misconception that the proposed legislation will somehow be helpful to future antitrust plaintiffs, I ask unanimous consent that his letter to me of September 14 be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

KOHN, SAVETT, MARION & GRAF, P.C.,
Philadelphia, Pa., September 14, 1979.

Hon. HOWELL HEFLIN,
Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR HEFLIN: I have had an opportunity to examine the new Illinois Brick proposal, which I understand is being circulated by Senator Danforth as a "middle ground" position. I would like to address my remarks to this proposal but first make a few qualifying remarks about myself.

I have practiced antitrust law for the last 30 years on behalf primarily of plaintiffs, but from time to time on behalf of defendants also. Over the past 15 or more years, I have offered expert testimony before the United States Senate Committee on the Judiciary, Subcommittee on Antitrust and Monopoly, on numerous occasions, usually taking a favorable, pro-enforcement position with respect to pending legislation. I have also appeared before the House Judiciary and other Committees.

In my testimony before the Senate Committee on March 14, 1979, and at other times, and in testimony before the Commercial Laws Subcommittee of the House Judiciary Committee, I opposed S. 300, the so-called Illinois Brick bill, and its counterpart on the House side.

Briefly stated, my opposition was based upon the fact that the Illinois Brick decision provided certainty in determining damages which permitted administrative and judicial handling of antitrust cases without the attendant confusion and uncertainty which existed prior to that decision. Before Illinois Brick, the defendant was able to pit the first purchaser against subsequent purchasers in such a manner as to impede settlements and make trials practically confused by requiring that the overcharge be traced through each step in the distribution chain to determine damages.

Unfortunately, in the real world, the task of tracing an overcharge involves much more than just an accountant's compilation of debits and credits. It involves many disputable economic judgments as what competitive price the market might bear at that time, what substitute products are available in the distributive channels, what supply-demand factors exist, and so on.

The proposal of Senator Danforth does nothing to remedy the inherent problems which the Supreme Court recognized in its Illinois Brick decision.

The proposal does nothing to improve what all experienced plantiffs' counsel consider a bad bill. Passage of the Danforth proposal will have just as much a deleterious effect on private antitrust enforcement as would enactment of S. 300.

Respectfully,

HAROLD E. KOHN.

REPEAL OF THE CARRYOVER BASIS RULE

Mr. HEFLIN. Mr. President, on September 25 of this year, I made a speech on the floor of the Senate in support of a measure which has been introduced which would repeal the carryover basis rules adopted by Congress in the TAX Reform Act of 1976.

Since that speech, I have received numerous responses from many people, both from my home State and from other States, supporting the rollback in the basis rules.

The groundswell supporting the repeal of the carryover basis rules is not limited to lawyers and accountants. Average citizens from all walks of life are supporting this measure, and, now, it has come to my attention that the Southern Governors Association in its recent meeting in New Orleans, La., has come out in support of repealing these unfair provisions. The Governor of the great State of Alabama, the Honorable Fob James, introduced Resolution No. 15 which was approved by the Southern Governors Conference, and I ask unanimous consent that a copy of the resolution be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

REPEAL OF THE CARRYOVER BASIS RULE

Whereas, the practice of bequeathing possessions of value to one's heirs is a cherished right of Americans; and

Whereas, providing security for one's spouse, children and other relatives is a prime incentive for Americans to invest, thereby creating capital for business and jobs for the public; and

Whereas, the tradition of handing down property from one generation to the next is threatened by the carryover basis rule, a capital gains tax process that will greatly diminish the estates of many Americans; and

Whereas, the complexities of this carryover basis rule will place an additional costly burden on those faced with tracing the history of each asset, piece of property, and family heirloom in an estate subject to capital taxation: Now, therefore, be it

Resolved in the Southern Governors' Association duly convened in New Orleans, Louisiana, that this Association urges all members of the United States Senate and House of Representatives to support and vote for the repeal of the carryover basis rule. Be It Further Resolved that this Association entreats President Jimmy Carter to endorse the will of the Congress of the United States in repealing this confiscatory complex tax rule.

FORTY-FIVE-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 45 minutes.

There being no objection, the Senate, at 1:25 p.m., recessed until 2:10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BUMPERS).

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:30 p.m. today.

There being no objection, the Senate, at 2:10:05, recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BUMPERS).

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4930.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, pursuant to the precedents of the Senate, by authority of the Committee on Appropriations, I hereby withdraw from the bill, H.R. 4930, a committee amendment beginning on page 38, line 2, and ending on page 40, line 18, the alternative fuels production account.

Mr. President, I take this action——

The PRESIDING OFFICER. The committee amendments on those pages are withdrawn and the point of order falls.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I took this action in view of the point of order that has been raised against the entire bill because of this particular appropriation. All the available members of the Appropriations Committee have been polled. A wide majority of those contacted raised no objection to the action thereto. This avoids the necessity of taking the bill back to the committee and will permit the Senate to proceed with the bill as a whole. I continue to hope it will be passed today; and, if not today, then the Senate, of course, will resume consideration of the bill tomorrow.

UP AMENDMENT NO. 642

(Purpose: To add alternative fuels account)

Mr. ROBERT C. BYRD. Now, Mr. President, I offer an amendment to reinstate this account in total.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 642.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 38, line 2, strike all through and including line 18 on page 40, and insert in lieu thereof the following:

ALTERNATIVE FUELS PRODUCTION

For the establishment in the Treasury of the United States of a special fund to be designated the "Energy Security Reserve",

$20,000,000,000, of which $1,500,000,000 shall be derived by transfer from the "Strategic petroleum reserve" account, to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts: *Provided further*, That $1,500,000,000 shall be available immediately to the Secretary of Energy for expenses necessary to carry out the provisions of the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended to remain available until expended, for the purchase or production by way of purchase commitments or price guarantees of alternative fuels: *Provided further*, That the Secretary is authorized to contract for purchases of or commitments to purchase, or to resell alternative fuels to the extent of appropriations provided herein: *Provided further*, That an additional $708,000,000 shall be available immediately to the Secretary of Energy, to remain available until expended, to support preliminary alternative fuels commercialization activities, of which (1) not to exceed $100,000,000 shall be available for direct loans for project development feasibility studies, such individual loans not to exceed $4,000,000: *Provided*, That the Secretary may waive repayment of such loans where studies determine that project proposals have no economic or technical feasibility; (2) not to exceed $100,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000, to support commercial scale development of alternative fuels facilities; (3) not to exceed $500,000,000 shall be available for a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities as authorized by the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq.): *Provided*, That the indebtedness guaranteed or committed to be guaranteed under this appropriation shall not exceed the aggregate of $1,500,000,000; and (4) not to exceed $8,000,000 shall be available for program management.

This Act shall be deemed to satisfy the requirements for congressional approval of sections 7(c) and 19 of said Act with respect to any purchase commitment, price guarantee, or loan guarantee for which funds appropriated hereby are utilized or obligated.

For the purposes of this appropriation the term "alternative fuels" means gaseous, liquid, or solid fuels and chemical feedstocks derived from coal, shale, tar sands, lignite peat, biomass, solid waste, unconventional natural gas and other minerals or organic materials other than crude oil or any derivative thereof.

Within 60 days following enactment of this Act, the Secretary of Energy in his sole discretion shall establish and publish final criteria for loans described in this account.

Mr. ROBERT C. BYRD. Now, Mr. President, the Senate has before it——

Mr. SCHMITT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. Was the amendment in order relative to the action of the Senator from West Virginia relative to the action the Appropriations Committee just took in terms of the lines stricken? Were they not already stricken by the preceding action?

The PRESIDING OFFICER. The effect of this amendment is to strike House language, which will now be in because the committee amendment was withdrawn, and substitute the Senate committee language in lieu of the House language.

Mr. SCHMITT. I thank the Chair.

I thank the majority leader.

Mr. President, the Senator from West Virginia has at least improved his situation considerably and maybe has slightly improved the situation in the Senate. However, we are still faced with this amendment as being out of order with respect to it being legislation on an appropriations bill. The basic situation has not changed since this morning when the Senator from Colorado and the Senator from New Mexico both expressed concern about this method of making policy.

Again, the normal procedure would be for the Senate to have authorized a program related to alternative fuels production. The Senate Appropriations Committee acting on that authorization would have supplied such funds as it deemed necessary, after hearings. The Senate then would have a chance to vote on the entire appropriations bill or on that amendment itself or that provision itself, but knowing full well that the issue of authorization had already been resolved.

Unfortunately, that is not the case before us. The amendment is now put for consideration without the Appropriations Committee having held any significant hearings on this issue, without the Senate Energy and Natural Resources Committee having even reported a bill related to this issue, and without Senate consideration of a bill on this subject reported by the Banking Committee.

So, again, it does not basically change the situation that we faced earlier today, although the parliamentary situation has been somewhat altered.

I would hope that when, at the appropriate time, a point of order is raised against this, the Chair will sustain the point of order, or if germaneness is called for that the Senate will, for all of the above reasons and many others, decide that the amendment is not germane to this appropriations bill.

It is indeed unfortunate that we have to wrangle in this way in respect of parliamentary procedure in order to prevent bad precedents and bad policy from being made.

As I indicated earlier this morning, the issue of synfuels is an extremely complex one, not only related to technology and economics and our resource base, and the timing in which synfuels production, whether private or public, could be available to solve our basic problem of excessive imports, but it is also related to what is the best way to conduct a synfuels program. Is it to rely on the traditional strengths of the private sector buttressed by federally sponsored and federally encouraged research and development, and, potentially, demonstration? Or is it to throw up your hands and say, "Let us have the Federal Government do it"?

As all of us in the Appropriations Committee certainly know, and others who have followed this issue, the $20 billion figure is not an accident. It is a figure related to what the Energy Committee is considering. That is a Government production program related to synfuels. I am not convinced that this is the way we should go, but I certainly do not think that the Energy Committee has yet convinced the Senate. This back door way of getting some kind of a Senate endorsement of a proposal that is yet to be debated I think should be avoided by the Senate and rejected by the Senate.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. SCHMITT. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, this is not a back door approach at all. The distinguished Senator says there have been no hearings on this.

My subcommittee held hearings on this appropriation. I chaired the hearing on that particular day. The Secretary of Energy, Mr. Duncan, appeared before that subcommittee. The Under Secretary, Mr. Deutch, appeared. The fact that some Senators did not attend is a matter that was their own decision. If they had other places to go or other committees to be attending at that time, that was their decision. I find no fault with that. The Senator from New Mexico was not present on that date. But there was a hearing. I was there for at least 2 hours.

So a hearing was held. This is not a back door approach. The House opened the way on this legislation. It is legislation on an appropriations bill, but it is germane. It is germane to the House appropriation. The House opened the door.

The House has already passed authorizing legislation. The House has passed the appropriations bill. It provided language on this subject in the appropriations bill. Consequently, this language is germane to the House language. So this is not a back door way of appropriating funds.

The Senator was proposing to send the entire bill back to the committee on a point of order. How long the committee would wrestle with that bill once it was returned or recommitted, one cannot say. The approach that I have taken here has obviated sending the entire bill back to the committee, thus delaying action on the bill. I have offered the amendment, coming in the front door, not the back door. I offered the amendment that provides exactly the same language that the Senate Appropriations Committee approved when it sent the bill to the floor, when it reported the bill to the calendar.

So there is no back door approach here. And there were hearings conducted, may I say for the information of the distinguished Senator from New Mexico.

Mr. SCHMITT. Mr. President, the 2 hours of hearings relative to a $20 billion program, in which the witness list obviously was not in any way appropriate to the issue, in a situation that the Energy Committee has been wrestling with for many weeks now, where there are proposals ranging from a little over $3 billion to over, I believe, $300 billion in one instance, for this kind of effort, it hardly seems that 2 hours of hearings are sufficient for the Appropriations Committee to make a decision. As a matter of fact, the first decision the Appropriations

Committee made was not to include a measure of this kind.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SCHMITT. The second decision it made was to include it, under the able guidance of the distinguished majority leader, under a reconsideration of the previous day's action.

I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, my reference to the 2 hours of hearings alluded to the 2 hours in which I personally conducted those hearings. The distinguished Senator from Kentucky (Mr. HUDDLESTON) continued the hearings for the rest of the day. I believe Senator YOUNG, the ranking member of the Committee on Appropriations, was there. The distinguished Senator from New Mexico was not there, but the hearings were conducted. There was a hearing on a previous day when the committee heard outside witnesses on this subject.

The Energy Committee, chaired by the distinguished Senator from Washington (Mr. JACKSON), has conducted hearings on this subject, has already completed action on the synfuels section of its bill, and shortly will report the bill. So this does not come to the floor as some frivolous amendments do, without any hearings by any legislative committee, or without any hearings by the Appropriations Committee.

That is one of the complaints that I have had with respect to legislation on an appropriations bill. Legislation is offered to appropriations bills without any hearings on the legislation by the substantive committee. Certainly, the Appropriations Committee is not in a position to hold hearings on some of the subject matter that comes to the floor or is offered on the floor by way of amendments to appropriations bills.

This is different. The legislative committee has conducted hearings, and has completed action on the synfuels sections of the bill. The Appropriations Subcommittee itself held hearings on this matter. So the two are not premature, I say in response to the distinguished Senator from New Mexico.

I thank him again for yielding.

Mr. SCHMITT. Mr. President, I thank the Senator for such comments because, although they are somewhat inconsistent with other expressions of his sentiment that he discussed in his absence——

Mr. ROBERT C. BYRD. Will the Senator yield on that point?

Mr. SCHMITT. I am happy to yield.

Mr. ROBERT C. BYRD. It is the Senator's judgment, not mine, that they are inconsistent. Let us discuss that for just a moment.

The House-passed version of the Interior appropriations bill contained $1.5 billion for synthetic fuels development. So the House opened the door on the appropriations bill. It passed the bill. It contained language with respect to synthetic fuels development. Therefore, the Senate Appropriations Committee action was germane——

Mr. SCHMITT. But did the House——

Mr. ROBERT C. BYRD. To the House bill. And the amendment which I have just offered is germane to the language that was offered in the House bill.

Now, I have the floor by the sufferance of the distinguished Senator from New Mexico. He can take it back any time he wants. He has yielded to me, but I shall not ask him to yield further. I shall seek recognition on my own time.

Mr. SCHMITT. I apologize for attempting to interrupt. It was just that the expression "opened the door," caught this Senator's attention.

Mr. President, $1.5 billion is a significant figure. But if that kind of a crack means that we can drive a $20 billion truck through that door, it fails to impress this Senator that we are doing what is literally germane.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. SCHMITT. I shall yield in a moment.

The thing I am concerned about and that I am sure the distinguished Senator from West Virginia, on other occasions, has been equally concerned about is that we are not following what has normally been considered a legislative process. There have been hearings in this body and committees of this body on many different subjects. But the mere fact that there are hearings in one committee does not justify that we go ahead on very limited review, driving a truck through a $1.5 billion crack in a door opened by the House—if, in fact, that is the expression of germaneness.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SCHMITT. I find it very, very difficult to see that a systematic legislative process, a process which will, hopefully, serve the best interests of this country, particularly in this critical area of energy, is served by the Appropriations Committee's taking this kind of action in the absence of any floor debate relative to the Energy Committee's bill or the Banking Committee's bill, or anybody's bill, on alternative or synthetic fuels.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. SCHMITT. I am happy to yield.

Mr. ROBERT C. BYRD. Between the time that the House opened the "crack," to use the Senator's word, and the present, the President of the United States sent up a budget amendment requesting $20 billion. The House had no opportunity to pass on that, so it was presented to the Senate Committee on Appropriations. That is not out of the ordinary. That happens often. The House acts on an appropriations bill and sends it over to the Senate. The administration sends up new budget amendments. The Senate conducts hearings on them.

I thank the Senator for yielding.

Mr. SCHMITT. But I do not think the Senator from West Virginia would want us to encourage the President to send up budget amendments which do violence to our normal legislative process. The House appropriations, as I understand it, of $1.5 billion, the now infamous "crack," was to a specific agency, as I understand it, a specific authorization in the Defense Production Act.

Here, the Senator has offered an amendment which creates a special trust fund, which does many other things buried in this bill, and certainly buried in the minds of those who proposed it.

So it hardly seems that this is a normal legislative process. It seems to this Senator that it is one to get, again, through a crack in the back door something that they may have some difficulty getting when they come to the floor with it through the front door.

The Energy Committee has done a great deal of excellent work on this issue. People of good will will disagree. The Banking Committee has done a great deal of good work on this issue, and they are also people of good will who disagree.

That battle will come. It will be fought here. At that time, when that is resolved and there is some basis for an appropriation, some basis for the billion-dollar trucks that will go through this, then I would say, "Let's act."

The Senator from New Mexico may be on a variety of issues differing from my distinguished colleagues. But when the Senate has, in fact, spoken, the authorization has been passed, then let us begin the appropriation process in a way that does not do violence to our system.

Mr. HUDDLESTON. Will the Senator yield?

Mr. SCHMITT. I am happy to yield.

Mr. HUDDLESTON. I thank the distinguished Senator from New Mexico.

I think there are some points about this amendment that should be made in response to comments made by the distinguished Senator from New Mexico and the distinguished Senator from Colorado relating to just what the amendment is, what it does, and what it sets out to do.

First of all, there was some mention that the $20 billion is well within the budget authorization ceilings. The Congressional Budget Office indicates that the outlays for this amount will be rather minimal, about $40 million.

Second, I think it ought to be stressed that this amendment is not prejudging the type of mechanism or the type of program that may be developed in order to initiate a synthetic fuels or an alternative fuels program in this country.

The Senator from New Mexico sits on the Appropriations Committee and recognizes that within that amendment being considered today is the requirement that when funds are to be used, through whatever mechanism the authorizing committees set up, they must again come back to the Appropriations Committee for consideration once the authorization bill has passed.

The Senator this morning indicated that maybe we would do better if we emphasized more the development and production of our domestic oil resources. I am for that. I think we ought to expedite these every way possible, increasing further domestic exploration and production of oil. But I know, as he knows, that we are dealing with a finite resource, and no matter how much we can increase our oil supply from domestic sources, that it will run out. We just hasten the day when we have no oil, and it may come sooner than we should hope.

One thing that is apparent now that was not apparent when the House opened this $1.5 billion crack is that the foreign

supply of oil is going to become tighter and tighter.

Just the announcements within the last day and a half indicate that we cannot expect to receive the same level of foreign oil in the future that we are receiving now.

Even if the foreign supply were to continue to flow at its current level, or even be increased, the commitment by the President of the United States that we will not import any more oil than we did in 1977, which is 8.2 million barrels per day, and the increasing domestic demand for oil, brings about the irrefutable fact that within a very short time we will be bumping against those ceilings; and we will, in fact, have within this country a shortage of gasoline, a shortage of heating oil. Cars will be lined around the block again trying to get into the gas stations.

So what are we trying to do here? We are trying to recognize the changing situations that develop. We are trying to accommodate the President of the United States who says he wants to decrease the dependency of this country on foreign sources of energy by developing a synthetic fuels program. He sent the budget amendment over, backed it up with a letter, indicating that this is of a high priority.

We are trying to say to the world and to the American people that the Senate and the Congress of the United States are ready to make a commitment to reduce all our dependency on foreign sources of energy.

We are not giving anybody a blank check. We are not prejudging the manner in which this program should be initiated. We are just saying that we are going to be ready when the authorizing committees complete their work and present us with a plan that may be operated in whatever way they finally decide it. These funds, subject to the approval of the Appropriations Committee, will be available, and we can get on with this job.

I listened to the Senator from New Mexico this morning talk; and I got the impression he felt that somewhere in the future, that on one day, oil is going to run out and the next day we will be able to replace it with synthetic fuels.

The whole point is that in order to be ready to replace oil with synthetic fuels we have got to start now. We are not going to use any great amount of synthetic fuels or alternate sources of energy by 1985, or even 1990 and beyond, if we do not start sometime—and we must start now, in my judgment.

And that is what this amendment is attempting to do.

Mr. SCHMITT. I must interject at this point that if the Senator thought the Senator from New Mexico believes we suddenly turn on one energy source when we turn off another——

Mr. HUDDLESTON. The Senator laid great stress on doing something to increase our domestic oil supply. I agree 100 percent. Whether we triple or quadruple it tomorrow, we would still need, in this country, a synthetic fuel program in place.

Mr. SCHMITT. The Senator is absolutely correct, and both the Senator from Colorado and the Senator from New Mexico are fully supportive of that concept.

But what we have in this amendment, though, and by the discussion of the Senator from Louisiana in the committee of the intent behind this amendment, and supported, as I recall, by the Senator from Kentucky, is a crash program in synthetic fuels production, not the development of an industry that can gradually come into place and replace oil and gas and other fuels as they are depleted.

That is what we repeatedly, in a systematic, interlaced way, indicated that this Congress and the administration have been unable to do: to understand what is necessary to do now and how to phase in those other energy sources as we move into the future.

If we turn our back on the vast resource base of oil and gas that is yet to be produced and yet to be discovered and produced in this country, while we tell our constituents we have done something because we pass the synthetic fuel amendment to an appropriations bill, then this country is not going to make it; it literally is not going to make it.

We have to use every energy source to which we have access.

Mr. HUDDLESTON. What kind of message do we give if we tell them we are not going to do anything, that we are not willing to put on the line $20 billion?

Mr. SCHMITT. The message is to say that we are going to do the right thing, the commonsense thing: We are going to look at our resource base, our technical capability to produce energy.

Mr. HUDDLESTON. I suspect that they feel that we have done enough looking.

Mr. SCHMITT. The Senator from New Mexico has the floor, and I will be happy to yield for a comment.

We have a tremendous resource base in oil and gas. If you spend some time with my former colleagues in the geological profession, and if you look at what is out there yet to be produced, that we know about, and what we do not know about but almost clearly is there waiting to be produced in the fields of oil and gas, that is the way we can get out of this foreign import question quickly.

However, with a synthetic fuels production program, you are not going to get out of this problem quickly. You are going to fool the public into thinking that you have done something, while we turn our backs on the most advanced energy technology the world has ever seen, which any country would like to take into its arms and utilize, and that is the American capability finding, producing, and refining oil and gas.

With research and development, that should accelerate. I think we are doing too little in that area. We even should move, as we discussed in the last Congress, toward limited loan guarantees, so that we can demonstrate certain technologies and the economics of them, so we know where we can be in the 1990's when we need this stuff. We have to do that in a way that is phased and organized, with goals and objectives that are attainable. But if we go forward with this kind of signal to the American people, we are fooling them and fooling ourselves.

It was not this Senator's intention to get into the debate that I hope we will have on the authorization bill.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield.

Mr. HUDDLESTON. I do not think the American people believe that we are going to produce great quantities of synthetic fuel overnight. I believe the greatest danger to the future security of this country right now, frankly, would be a massive increase in local production of oil and gas or a substantial increase in foreign production and availability of imported oil and gas.

I think the President recognized that when he set the import limits; and aside from saving us from sending so many dollars abroad, it does place an imperative upon us to replace that supply of oil.

If we go through a short period of time and a great euphoria because we find some new oil wells and gas wells in this country, and the gasoline lines disappear and nobody is concerned about winter heating oil, and if that lulls us into a false sense of security, and we put on the back burner all the other programs that must come into play—conservation and synthetic fuels are just part of it, but a major part—then I think we will jeopardize the future security of this country.

Mr. SCHMITT. The Senator from New Mexico agrees with that completely and would fight, as he is struggling now, to make sure that this country did not do that. But with the policies of this administration and the policies condoned by this Congress, I do not think there is a danger of a massive new production of oil and gas.

I think the Senator will agree that this is not the time to debate all the merits or demerits of this issue. I believe it is the time to decide whether or not we should be circumventing the normal legislative process with the appropriation, and the legislation relative to that appropriation, of $20 billion on this bill.

The Senator, I believe, was present when the Interior Subcommittee on Appriations marked up the bill in question, and it is my understanding that there was no recorded vote on this issue. Is that correct?

Mr. ROBERT C. BYRD. No what?

Mr. SCHMITT. There was no recorded vote in the subcommittee on the issue of this amendment.

Mr. ROBERT C. BYRD. I seem to recall that there was. There were two recorded votes.

Mr. SCHMITT. In the subcommittee. It was reported to the committee without a great deal of discussion in the subcommittee.

Mr. ROBERT C. BYRD. In the markup by the subcommittee, this amendment was moved, and the question was asked as to whether or not there were any objections. There were no objections, and the item was put in. There were rollcall votes in the full committee—at least one; I believe two.

Mr. SCHMITT. It is this Senator's information that some members of the committee, of which the Senator from New Mexico is not one—and I am not arguing this point as a member of the subcommittee; merely as a member of the full committee.

At any rate, the way the issue was handled in terms of the length of hearings, the way it was handled in terms of the markup in the subcommittee, and the way it was handled in the full committee, where an amendment resembling this one was voted down, I think we really should go back after the authorization and do this job right. That is the complete purpose of the Senator from New Mexico today—to try to do what the majority leader and many others of us feel we must begin to do, and that is to avoid this legislation process on the appropriations bill. Let us settle our policy with authorizations. Let us settle the appropriation issues with appropriations and try to get some systematics into this process.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield.

Mr. ARMSTRONG. Mr. President, at the appropriate time, I would like to make a statement on this matter, too; but at the moment, I have asked the Senator to yield in order to see if we can clarify an aspect of the pending amendment which is not plain to me.

The distinguished manager of the bill observed that, after all, this money would not be spent until further action by the Appropriations Committee. I would like to verify that that is what the manager of the bill said. If so, can he refer me in the bill to the language on which he is relying? I assume it is the language at lines 8 and 9 of page 38, but I am not sure that I really understand how that process works. I wonder whether we can have that clarified before this Senator wishes to comment on it.

Mr. HUDDLESTON. It is exactly as lines 8 and 9 read:

> *Provided*, That these funds shall be available for obligation only to stimulate commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts.

Mr. ARMSTRONG. Do I correctly understand from what the Senator has said that an additional appropriation act would be required in order to extend these funds?

Mr. HUDDLESTON. That is correct, except for one point.

Mr. ARMSTRONG. With the exception of the smaller amount. Is the Senator saying, literally, that the money would be appropriated the second time?

Mr. HUDDLESTON. That is correct.

Mr. ARMSTRONG. Can the Senator explain? This is a process that is unfamiliar to me. Although I am a new Member of this body, I did serve on the Appropriations Committee of the other body for a number of years. It is an unfamiliar process. Why would we want to appropriate money twice in order to spend it once?

Mr. HUDDLESTON. This is an effort to avoid just what the Senator from Colorado was complaining about earlier today. We do not want to prejudge the kind of program or the kind of mechanism through which these funds would be expended.

We want to leave ourselves flexible enough so that once the mechanism is determined, we can come back and provide to whatever instrument is set up, and in whatever way it is set up, such funds from this amount that we feel appropriate for the purposes that have been established.

Mr. ARMSTRONG. It is not my purpose to argue that at this moment. But to be sure I understand, the Senator is saying that if the act is passed as now written and with the amendment now pending, none of the amount above the $1.7 billion, or whatever it was, actually could be obligated or expended.

Mr. HUDDLESTON. That is correct.

Mr. ARMSTRONG. In order to permit that, another appropriation bill would have to be acted on, not only by the committee but also by the Senate and by the House, and would have to be signed into law—that is, a separate statutory enactment.

Mr. HUDDLESTON. That is correct.

Mr. ARMSTRONG. I appreciate the Senator's explanation. I would like to comment on that at the appropriate time.

Mr. SCHMITT. Yes. I appreciate the Senator bringing this point to the Senate.

I also wish to address an inquiry to the Chair at this point as to the precedents with respect to germaneness in that, realizing germaneness can be determined by the vote of this body. Nevertheless, the entry into germaneness, as I understand the Senator from West Virginia, is through the fact that the House of Representatives appropriated $1.5 billion oriented toward the Defense Production Act. But the amendment would strike that and appropriate the $20 billion with respect to an energy security reserve which is another concept which clearly does not have an authorization at this time. With that preamble, my question to the Chair is, Is it in fact germane, recognizing the Senate may determine one way or the other? Is there any precedent for that? I can understand it if it is $20 billion for the Defense Production Act. But it is not. It is $20 billion for an energy security reserve.

Will the Chair address this point?

The PRESIDING OFFICER. The Chair informs the Senate, under rule XVI, the Chair cannot rule on the question of germaneness. Rather the question of germaneness must be submitted to the full Senate.

Mr. SCHMITT. I thank the Chair and will reserve that ruling until later. My question really was: Are there any precedents for germaneness where you have deleted the language that is providing the entry for germaneness? And the Chair may wish to think about that question for a bit.

Frankly, at the appropriate time I am sure we will have the vote on germaneness and will possibly discuss that issue further.

Mr. President, I think that the important thing here is that we recognize, and I think everyone recognizes, that the debate on energy policy and specifically what role synfuels research and development, demonstration, and/or production will make in that energy policy is one that we will spend a great deal of time on this fall. It is an important issue. It is only part of the total energy picture, but it is one which we must understand as a Congress and which I believe the American people must understand, also.

I yield to the Senator from Colorado for a moment.

Mr. ARMSTRONG. Mr. President, I wish to discuss with the Senator from New Mexico and perhaps with also the Chair——

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from New Mexico has the floor.

Mr. ARMSTRONG. Mr. President, did the majority leader seek recognition?

Mr. ROBERT C. BYRD. I was going to seek recognition once the Senator from New Mexico yielded the floor.

Mr. SCHMITT. I have yielded for a question from the Senator from Colorado.

Mr. ARMSTRONG. I thank the Senator for yielding.

Mr. President, the distinguished Senator from New Mexico has raised a very interesting issue about the germaneness of this amendment, and just to be sure that this Senator understands, I presume that if a point of order were to be made against this amendment, it would be the regular order for someone to lay that question before the Senate, and then the Senate itself, as I understand it, would decide the issue of germaneness by a vote of Senators.

Mr. SCHMITT. I believe that is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. ARMSTRONG. However, I am assuming from my reading of rule XVI that only the question of germaneness, or as the rule states, the relevancy would be decided in that manner; that other points of order would be decided in the regular course by the Chair. That is, for example, if someone were to submit an amendment which constituted a private claim, that is, appropriation for a private claim, under the provisions of subparagraph 5 of rule XVI that would not be subject to a vote by Members of the Senate, but if a point of order were made against such an amendment, the Chair would simply dispose of that by ruling whether or not in fact the point of order was valid.

The PRESIDING OFFICER. The Senator is correct.

Mr. ARMSTRONG. In other words, the

thing I want to clarify is even if this amendment is found to be germane as a result of a vote of the Senate, there may well be, in the opinion of the Senator from Colorado, other points of order which lie against the amendment and which cannot be cured by a simple vote on the question of germaneness.

So with that explanation, Mr. President, I am prepared to pursue other points of order or I will be happy to defer to the Senator from New Mexico for whatever plans he has and if in fact we are unable to strike this provision of the bill by raising points of order against it, as I am confident we will, because clearly in more than one respect this pending amendment does violate rule XVI of the Senate rules, but in the event for any reason we do not pursue that matter at the right time I also wish to speak to the merits of the amendment because I think it raises serious policy as well a parliamentary inquiries.

I thank my friend from New Mexico for yielding.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from New Mexico yield the floor? Does he yield for a parliamentary inquiry?

Mr. SCHMITT. I yield for a parliamentary inquiry without losing my right to the floor.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Who has the floor, please?

Mr. SCHMITT. The Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico has it.

Mr. STENNIS. I will compete for the floor when I can, so I will just stay.

Mr. SCHMITT. I appreciate that.

The issue that we are raising now is not so much the merits of the amendment, although we tend to discuss those, also, but the merits of whether an amendment is in fact in order.

Mr. BUMPERS. Mr. President, will the Senator from New Mexico yield for a question?

Mr. SCHMITT. I am happy to yield for a question.

Mr. BUMPERS. I am asking the Senator from New Mexico because he has the floor. The Senator from Colorado raised a question of germaneness. Just for my own edification, what is the germaneness question here? Does it deal with the fact that the House of Representatives appropriated money under the Defense Production Act?

Mr. SCHMITT. If I can try to state the case for germaneness, it is, since there was appropriaion under the act, then the $20 billion amendment would be germane. The Senator from New Mexico has asked the question, Is it germane when you strike the language that the House of Representatives had and when you in fact have legislation that is part of an energy security reserve rather than part of an appropriation under the Defense Production Act? I am sure the Senate is probably going to decide that by rote and not by logic.

Mr. BUMPERS. I am curious what the germane problem was.

The second question I have was, Is there an agreement on this bill and amendments thereto?

Mr. SCHMITT. There is no agreement, as I understand it, on the basic bill. The general point of order is that of course this is legislation on an appropriation bill and therefore should be not in order.

Mr. JOHNSTON. Mr. President, does the Senator from New Mexico yield the floor?

Mr. SCHMITT. I yield to the Senator from Louisiana for a question or comment.

Mr. JOHNSTON. I wanted to get the floor when the Senator is ready. I want to make a short statement.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. SCHMITT. I am happy to yield to the Senator.

Mr. JOHNSTON. Mr. President, I would object to the Senator's holding the floor all afternoon and yielding when not under time agreement. I think some of us wanted to speak as well. I certainly have no objection to the Senator from Colorado speaking, but I think the Senator should say what he has to say and then yield the floor for others to have a chance.

Mr. SCHMITT. Mr. President, the Senator is preparing to offer or has offered a point of order against the amendment and we are just about at that point of pursuing those points of order. I yield to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I appreciate the Senator's yielding.

I now make a point of order against the pending amendment on the grounds that it violates rule XVI, paragraph 4. If I may, I wish to read the Chair the portion of that rule which I believe is violated by this pending amendment:

> nor shall any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law be received if such restriction is to take effect or cease to be effective upon the happening of a contingency;

Mr. President, it may well be that this amendment is not germane. Whether or not it is germane, it is clearly conditioned upon a contingency, and that contingency is future action of the Appropriations Committee and of Congress. I believe we have made that clear in the colloquy between the distinguished manager of the bill and myself that further action is required for the expenditure of funds.

Second, in my inquiry to the Chair a moment ago I tried to clarify, and I believe that we have a clear understanding, that even if the amendment was found to be germane, an issue which, as I understand it, remains to be settled, this would not cure other defects in the amendment. For example, as I inquired of the Chair, if we are to protest an amendment that stated a private claim, even if that was germane, it still would nonetheless violate another provision of rule XVI.

Mr. President, under the circumstances while I do not want to unduly draw out this debate, at the right time, that is to say when the authorizing legislation is before us, I will be very happy to debate the merits of this large appropriation, clearly it seems to me it is in violation of the rules for us to take this amendment, accept this amendment, on an appropriation bill.

So I ask the Chair, therefore, to rule the amendment out of order.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Has the distinguished Senator from Colorado raised a point of order against the amendment on the basis that it is legislation on an appropriation bill?

Mr. ARMSTRONG. No, Mr. President. If I may, I say to the distinguished majority leader that that is the point of order which might well lie against this amendment, but the specific point of order which I raise at this time is stated on page 16 of the rules which has to do with the happening of a contingency.

Mr. ROBERT C. BYRD. Mr. President, I do not think the point of order is on the point at all.

Mr. ARMSTRONG. Mr. President, if I may be heard on that, perhaps the distinguished majority leader was not in the Chamber during the colloquy I had with the manager of the bill, but I think it is very clear from that colloquy that the expenditure of funds is contingent not only upon action by the Senate Appropriations Committee but by the full Senate, the House of Representatives, and the signature of the President. It is this Senator's understanding from what the manager of the bill has stated, that this money could not be expended except if the subsequent appropriation act was enacted, and clearly that is a contingency.

Mr. SCHMITT. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. I believe a point of order is not debatable, and a point of order has been raised.

Mr. STENNIS. Mr. President, point of order, I raise a point of order.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Who has the floor, Mr. President?

The PRESIDING OFFICER. A point of order has been made by the Senator from Colorado and is debatable at the sufferance of the Chair. The Senator from West Virginia had the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor to the Senator from Mississippi or I yield the floor. But I ask where is the contingency?

Mr. SCHMITT. Mr. President, if the Senator will yield, I believe the Senator from Colorado is referring to the fact that funds are contingent on further appropriations acts. That would seem to be a contingency, am I correct?

Mr. ARMSTRONG. The Senator is entirely correct. Specifically in the colloquy with the manager of the bill I was referring to that provision of the amendment

which first appeared in the printed bill on page 38 beginning at line 7. In other words, it is the language that says:

> *Provided*, That these funds shall be available for obligation only to stimulate commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts:

In my discussion with the Senator who was managing the bill, he made it clear that what this meant was that the money could neither be obligated nor expended, and "expended" is the crucial point here, without further action of Congress, that is, by statutory enactment, and under those circumstances, and since that is the contingency, that portion of the amendment certainly runs afoul of paragraph 4 of rule XVI of the Senate.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia still has the floor.

Mr. JOHNSTON. I wonder if the Senator from West Virginia will yield for a question?

Mr. PROXMIRE. Mr. President, regular order.

Mr. JOHNSTON. Mr. President, will the Senator from West Virginia yield the floor?

Mr. ROBERT C. BYRD. Yes, I yield the floor.

Mr. JOHNSTON. It would appear to me, Mr. President, that in rule XVI, it is talking about a contingency on an appropriation. Either this is not an appropriation, and if it is not an appropriation then the contingency language with respect to——

Mr. President, may we have order so that I may have the attention of the Parliamentarian?

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order.

Mr. STENNIS. Let us have real order, Mr. President. We can hardly hear each other. We cannot see the Parliamentarian.

Mr. JOHNSTON. Mr. President, it is the Parliamentarian's attention that I would like.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The assistant legislative clerk proceeded continuing to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. I am just trying to determine whether the Senator wants a live quorum or not.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator cannot reserve the right to object to a request to rescind the order for a quorum call.

Mr. SCHMITT. Mr. President, I object, but I will state——

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. All right.

The call of the roll was resumed.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. We are, at the indulgence of the Chair, debating the issue of the point of order; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, is the Chair ready to rule? I would like to know that.

The PRESIDING OFFICER. The Chair is almost ready to rule. The Chair, however, would like the Senator from Colorado to restate the grounds for the point of order.

Mr. ARMSTRONG. Mr. President, I will be happy to restate the grounds for the point of order which I have raised.

I have cited the provisions of paragraph 4 of rule XVI of the Senate Rules, and have referred the attention of the Chair and of Members to that provision of the pending amendment which originally was part of the authenticated bill, beginning on line 7 of page 38:

> *Provided*, That these funds shall be available for obligation only to stimulate commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts.

The Chair will recall that a few moments ago I discussed with the distinguished manager of the bill the meaning of those words. He made it clear that what that meant, literally, was that the $20 billion appropriated here can neither be obligated nor expended until a subsequent appropriation act is passed by Congress and signed by the President. Clearly, that is a contingency.

With that in mind, I call the attention of the Chair to the following provisions of paragraph 4 of rule XVI:

> nor shall any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law be received if such restriction is to take effect or cease to be effective upon the happening of a contingency.

In summary, Mr. President, we have here language which, at line 5 of the bill on page 38, says we are appropriating $20 billion. A couple of lines later, it says "You cannot spend any of this unless a contingency—subsequent legislation—is passed."

Also, Mr. President, I call the attention of the Chair to the provision of rule XVI, subparagraph 7:

> When a point of order is made against any restriction on the expenditure of funds appropriated in a general appropriation bill on the ground that the restriction violates this rule, the rule shall be construed strictly and, in case of doubt, in favor of the point of order.

Mr. President, it seems to me that this may be a fairly important precedent. I have not had an opportunity to research all the background of it, but I would urge the Chair to err on the side of caution, and therefore to sustain the point of order.

Mr. JOHNSTON. Mr. President, this is surely not a contingent appropriation. As the first sentence states, it establishes a trust fund in the Treasury of the United States to the extent of $20 billion. To be sure, moneys cannot be taken from the trust fund without the happening of later events, as is our usual rule. Most appropriations are subject, for example, to rule-making powers later on, but there is no contingency in the appropriation, which is the establishment of a trust fund.

Furthermore, Mr. President, this matter is clearly germane, and I think it is very clear, and I trust the Parliamentarian will so rule.

Mr. ROBERT C. BYRD. Mr. President, does the point of order being raised by the distinguished Senator from Colorado maintain that this is legislation on an appropriation bill? Is that the point of order?

Mr. ARMSTRONG. Mr. President, if the distinguished majority leader will yield to me, I will say to the majority leader that the question of whether or not this is legislation on an appropriation bill could well be raised, but it is not the issue which the Senator from Colorado has raised. If the Senator asks my opinion, I would say it clearly would be legislation on an appropriation bill, but——

Mr. ROBERT C. BYRD. No, I am not asking the Senator's opinion, but what is the point of order?

Mr. ARMSTRONG. The point of order I have raised is not predicated on its being legislation on an appropriation bill; rather, it is predicated on the provision in subparagraph 4 that it raises a contingency.

Mr. ROBERT C. BYRD. I thank the Senator. In that case, Mr. President, is not the point of order subject to the question of germaneness? If it is, I want to raise that question before the Chair rules finally.

The PRESIDING OFFICER. For various reasons contained in rule XVI, paragraph 4, the only point of order that can be sustained is the point of order that it is legislation on an appropriation bill.

Mr. ROBERT C. BYRD. The point of order that has just been made is not a point of order to the effect that it is legislation on an appropriation bill.

The PRESIDING OFFICER. The Senator from Colorado has stated he is not raising the point of order on that basis, that it is legislation on an appropriation bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I want to be sure, may I say to the distinguished Senator from Mississippi, I do not want the

Chair to rule on a point of order to the effect that the amendment that I have offered constitutes legislation on an appropriations bill, because I want to raise the question of germaneness before the Chair rules.

The PRESIDING OFFICER. The Chair understands.

Mr. ROBERT C. BYRD. Now, is that the point of order?

The PRESIDING OFFICER. The Chair has ascertained from the Senator from Colorado that the basis for his point of order is not that it is legislation on an appropriations bill. Therefore, the point of order is not sustained.

Mr. ROBERT C. BYRD. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, is debate now in order on the merits, the substance of this measure? I just want to take 5 minutes, if I am recognized, on that.

The PRESIDING OFFICER. The Senator having the floor may speak to the merits of the bill.

Mr. STENNIS. I thank the Chair.

I did not take any part in the parliamentary maneuver, and I do not want the rights of anyone to be disturbed.

Mr. SCHMITT. Will the Senator yield?

Mr. STENNIS. I just have two points. I might forget one of them if I yield too much. I will yield, if the Senator insists.

Mr. SCHMITT. I wanted only to say that we will, as soon as the appropriate person has the floor, raise the point of order that it is legislation on an appropriations bill.

Mr. STENNIS. Mr. President, I am very proud of the concern we have shown and expressed about the energy problem that we all know is coming in the years ahead and which will seriously affect our economy, our national security, and all the other major things that go with our National Government. I am proud we have been concerned and have expressed that concern, and three Presidents have expressed it. But I am ashamed of the fact that we have not done anything more about it. Tell me some good reasons for not having done so. We did not know just what to do. We did not know where to start or just how serious this thing was. But it has gradually cleared up.

I was fortunate enough to hold some of the hearings by the Appropriations Committee in those early concerned days and got into some very illuminating truths about what we were faced with. Still we could not go far and we could not go fast because of great uncertainties. But one thing now is as clear as a bell. The figures themselves show that in our great transportation system—on which we live on day by day, people going to and from their jobs, flying through the air, driving automobiles—the liquid fuel that we use for most of this transportation is absolutely essential in some form if we are going to continue our present economy.

The figures I have show that 98 percent of our transportation is rolling on wheels that are turned by petroleum products. In other words, it depends on liquid fuel, and now most of that is oil.

Irrefutable proof has been supplied that we must have a program of some kind that will improve the current situation with regards to the supply of oil. We must become more independent of these supplies of oil from foreign sources who charge us what they please, not what it is worth. They charge what they please. That is helping to destroy our economy.

There is a requirement now for 14 percent interest rates. How can people live with such interest? They cannot live with it. They cannot save money. They cannot pay for a home. Those are just illustrations of what has already happened, largely as a result of our energy problem.

We have to let these foreign oil-producing nations know we are going after this thing seriously, and that we are willing to spend some money on it, though I wish it did not require so much. We have to let them know that we are becoming more independent rather than more dependent. That has been our goal now for several years, to move toward independence from foreign oil. In 1973, something like 31 or 32 percent of our oil came from foreign sources. Now, 6 years later, 49 percent does. They know how to read that and translate it into the price they can ask us for oil.

We are losing time now if we see these facts and do not start to work on something that will bring about an effective substitute for foreign oil in the days to come.

It appears, and we can only say appears because no one knows how it will work out, that this synthetic fuel, if really put into an effective program of research and development, and more of a crash program, can provide part of the solution. Maybe such a program can provide a certain percentage anyway, 10 percent and above—10 percent is a certainty, as I understand it—of fuel to go with the petroleum products we have and stretch those supplies out. It will be a source of supplemental energy. Different kinds of shale seem to be standing and waiting to be used in this process. The people who know say shale is highly effective.

We are blessed with a great abundance of coal. It seems to me that coal is an energy source which will be used more effectively, and soon.

I know there are problems that go with development of synthetic fuels. I hate to run up 20 billion new dollars in expenditures. I have always stood against these appropriations before they were fully authorized, and against authorization language in an appropriations bill. But time will not wait. We must do something.

We are behind on our military legislative program right now. It has been a hard year on the authorization bills.

We ordinarily have the Armed Services authorization procurement bill passed by June. Here it is the 15th day of October. I am throwing rocks at myself, as I am chairman of the Armed Services Committee. We have not gotten that bill here yet. I will not lay the blame somewhere else. It is our own fault, to a degree.

We cannot hold back now and follow the last dot and title. We are going to have to make exceptions to our own rules. The rules provide for making those exceptions. I hope this can be cleared up soon. I hope Senators will make the points of order they think they should make and let us dispose of them, let us get to the merits of this because time is running out.

I appreciate being heard briefly, and at the proper time I hope to get the floor again to see if I cannot help a little in developing these facts. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is the Senator from Louisiana under a time schedule? I will only speak for 3 minutes or so.

Mr. JOHNSTON. Very well. I will wait.

Mr. DOMENICI. Let me say, Mr. President, I commend the Appropriations Committee, the distinguished Senator from Kentucky, the distinguished minority member (Mr. STEVENS), and others on the committee for the action they have taken on this bill in providing a mechanism for an American synthetic fuels program. Let me tell you why, Mr. President.

First of all, the U.S. House of Representatives a few months ago told the American people they were about to create a synthetic fuels program for America. Make no doubt about it. They clearly indicated that this program would, in the long run, produce 2 million barrels of the equivalency of crude oil. Then they provided for $1.5 billion and limited that to use under the Defense Production Act.

Mr. President, there are two things that we all ought to understand: We will not produce 2 million barrels of synthetic fuels equivalent for $1.5 billion. In fact, we will barely get started in guaranteeing one plant for $1.5 billion. Not 2 million but merely 30,000 barrels, if we are lucky.

And then, second, they mandated that all of this is to be done under a law which has not been passed by the Senate. So if we are talking about points of order. the House action saying that this would be administered under H.R. 4930 is no law at all. There is no such law. We have not passed that law.

I commend the Senate for looking at the broad law which permits the Department of Energy, and anything that Congress sets up, to move with the synthetic program. That is what the Senate committee did, and they did it right. They did not fool anyone. They did not say the goal was 2 million barrels a day but we are only going to appropriate and provide budget authority of $1.5 billion. The truth of the matter is somewhere around $1.5 billion in outlays and $20 billion in contingent budget authority, much like we give authority to the Tennessee Valley Authority.

We add $15 billion in the budget authority for them down here because they tell us their plan requires it. They do not tell us, "We are going to waste taxpayers dollars." They are saying, "Let us invest it; we are going to get it back."

It is much the same here. What the committee did was say, "Let us be truthful: we are going to need about $20 billion in budget authority and let us not

fool anyone and put it off budget." So they put it on budget, on appropriations, and clearly indicated that the trust fund, from whence it will come—which is unconditional, the trust fund. The expenditure of the funds will be subject to further appropriations. That is, in fact, a far more realistic approach to trust fund expenditures than we usually have around here and a far more honest system of accounting than we usually have.

There have been Presidents who suggest a synthetic fuel program of this size plus some more and keep it all off budget entirely. We are not down here talking about points of order on that kind of legislation—quite to the contrary—in which a rather flimsy bill sets in motion and some off-budget expenditures occur.

I want to repeat, Mr. President, if we are going to be honest with the American people, we might as well go ahead and state that the House bill will not produce 2 million barrels a day, it will not produce 1½ million, will not produce 1 million. We are lucky if it produces 50,000 barrels. So we in the Senate, by a 14-to-1 vote in the Energy Committee, have already passed out for reporting a bill which will set up this entity which will invest in a contingent way—the United States will back the investments—$20 billion, much as we backed the investment of the Tennessee Valley Authority in its investment in its people's future.

Now, having said that, Mr. President, I hope that the U.S. Senate will have the courage to stand up for the Senate and to stand up for what is truthful in an appropriations bill, which clearly states that we are going to try to get 1½ million barrels in 10 to 12 years, we need $20 billion in budget authority and the amount appropriated by the House for outlays, and not mislead the American people into thinking that the Defense Production Act is all that is needed to make America have a synthetic fuel industry.

That is unadulterated baloney. That will not happen. We are going to have to have far more than just defense permitted to buy the product. Everyone now knows it and they know that a billion and a half dollars in outlays will not do it without a contingnt fund that assures the private sector of America that they really have to get started—not on one plant, not on one technology, but on 8 or 10 demonstration commercial plants in at least three conversions and from 5 to 10 technologies. That is what we need and it will still take 10 years. And every year that we delay, we will wish we had done it.

So, rather than come down here and object because the Appropriations Committee has done what they have to do, knowing that we are going to do what we have to do here in the Senate in 10 days or 2 weeks, I commend them for it and I intend to support it.

Mr. JOHNSTON. Mr. President, I strongly support this amendment. The only thing wrong with it, in my judgment, is that it does not go far enough, because it does put conditions on the obligations of that $20 billion because it makes it not only subject to the authorization but subject to further action of the Senate Committee on Appropriations.

Originally, I opposed that position on the grounds that it frankly did not go far enough, but I think we came to a compromise in the Appropriations Committee.

The importance, Mr. President, of this amendment, the importance of the action of the Committee on Appropriations is to commit this country to $20 billion in budget authority for synfuels. The Committee on Energy and Natural Resources has reported out that title of the bill now. We reported that out last week. The significance of the $20 billion figure is that that is the bare minimum sum to get out the first generation of synfuels plants.

In the Energy Committee, Mr. President, we scaled back the President's program as originally announced rather drastically, scaled it back from that which was originally put forth by the President. The Senate will recall that the President spoke in terms of a 2.5 million barrels a day goal by 1990 and a program that was estimated to be some $88 billion in scope. While we want to move as fast as we can in the Energy Committee, Mr. President, we also recognized that if we put too many plants on line, replications of the same plant, before we have operating experience, before we know the costs, before we know all the environmental problems, we could well be making a vast mistake. For that reason, we came to the two-phase legislation which is incorporated in the bill reported out last week.

The first phase will be one-of-a-kind commercial demonstrations. It will probably be something like 10 plants, in the neighborhood of 50,000 barrels a day. We shall have modified in-situ shale; we shall have a retort of shale; we shall have two or three different kinds of high-Btu gas; we shall have coal liquids. While we do not specify what these technologies are in the bill, it is recognized that it will be something like 8 to 10 which can be financed by the $20 billion.

Mr. President, in the Energy Committee bill, the method of calculating the $20 billion or, to put it differently, the method of calculating what counts against the $20 billion is most important and it is most limiting in terms of expenditure because, in the Energy Committee bill, every dollar guaranteed under a loan guarantee counts against the $20 billion, whether or not that money would ever be expended or whether or not there is a real chance for the Government to lose it. By the same token, any money in price guarantees is counted dollar for dollar against the $20 billion. All kinds of guarantees, all kinds of financial arrangements are counted dollar for dollar against the $20 billion.

The usual way we create these kinds of guarantee funds is to provide for revolving funds or provide for other financial mechanisms whereby the real contingent risk of the Government is reflected in the amount of budget authority appropriations. If we had gone in that direction, then we could have tripled the impact of the $20 billion by downgrading the money in that way, by creating a revolving fund and counting only those dollars which were actually out at one time.

So, in that respect, Mr. President, the $20 billion program is a very modest program. It also reflects the fact that there will be inflated dollars involved: $20 million appropriated today, but perhaps not spent until 1985, at which time, those dollars will be worth considerably less.

Mr. President, there has been great frustration in the Energy Committee, the old Interior Committee, because it has taken us so long to get this far with synfuels. The movement toward synfuels was not born this year with the President's address; it was born decades ago. The distinguished senior Senator from West Virginia (Mr. RANDOLPH) was in the movement perhaps 2 decades ago. The Energy Committee—in fact, the Senate—passed legislation in 1973 or 1974 creating a synfuels movement to put on line this kind of plant.

Mr. President, it has taken us a long time to get where we are. I hope the Senate will not accept some synthetic parliamentary arguments or points of order or other arguments saying, "We are going too fast." Mr. President, we are not going too fast. We are not going incautiously with respect to synfuels. If anything, we are years, perhaps even decades, behind time.

The legislation which we have coming from the Energy Committee is modest, is well thought out, it is cautious, but it is necessary, Mr. President, to test these one-of-a-kind technologies. If we can make the breakthrough with shale oil, we could, perhaps, not solve our problem, but we would have a call on a resource which is more vast in terms of Btu's than all the oil in the Middle East. Those vast resources of coal which, up to this point, cannot be used for liquids, for transportation, can be then tapped and can get us through these intermediate years. Before we get solar, before we get fusion, before we get some of the more exotic forms of energy in the next century, it can get us through these tight years of fossil fuel supplies in this century and the 1990's.

So, Mr. President, it is very important we pass this amendment which will show our commitment to a $20 billion program in synthetic fuels.

We might as well face it. We might as well make this vote the test. I mean, if you are against synfuels, against a program that will start it, then vote against this amendment. If you are not, then vote with us.

I think it is a highly symbolic amendment. Some have said it is entirely symbols. I will not say that, but to the extent it is a symbol, it is a very important symbol, Mr. President. Because if we defeat this amendment, I think it could well mean that the Senate does not want to move on synfuels, that for all of those against, for all the reasons made and all those arguments, they want to reject synfuels.

I do not think we ought to do that, Mr. President. I think we ought to move cautiously, as we are in the Senate bill and the Energy Committee bill, move cautiously, but as quickly as we can to test that technology to find if it will really work.

Mr. PROXMIRE. If the Senator will yield, I cannot understand how the Senator feels that by rejecting this amendment we say we will not go the synfuels route.

The Senator, in the Appropriations Committee itself, was going to take the position that we are taking now to strike out this part of the appropriations bill, and this amendment the Senator from West Virginia is offering now. The Senator thought that was reasonable then.

He is not against synfuels. This Senator is not. No Senator in the Chamber is. The only argument is, how much and what procedure we should follow to determine how big that synfuel commitment ought to be.

Mr. JOHNSTON. To answer that, I say that I covered that in the first part of my talk, my presentation. The reason I so strongly support this amendment at this time, even though I do not think it goes far enough, the Senator will recall my original amendment was to have the $20 billion appropriated as budget authority, not subject to further action of the committee——

Mr. PROXMIRE. And then the Senator withdrew that and supported the position——

Mr. JOHNSTON. If the Senator will let me finish my answer, then we came to this as a compromise based upon assurances of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) and the distinguished Senator from Kentucky (Mr. HUDDLESTON) to the effect that they did not have in mind an annual appropriation project by project, but rather a one-time action of the Appropriations Committee to follow the action of the authorizing committee.

As we all pointed out at that time, this is, to a large extent, a symbolic vote. To a large extent it is a symbolic vote, and, to the extent it is, I think it is a most important symbol, and it has certainly become more so.

I do not know if we left the amendment out, in the first instance, it would have meant the death of synfuels. I will accept that. But it has become a very important symbol epitomizing or symbolizing the commitment of the Senate and the Congress to a synfuels program.

I think it is that simple. If not, I do not know why anybody would oppose it. To that extent, I urge that we go on record——

Mr. PROXMIRE. I will speak later and point out why, although we may favor the program——

Mr. SCHMITT. Mr. President, I believe the Senator from Connecticut wanted to make a comment.

I am about ready to make a point of order against the amendment as legislation, but I yield first to the Senator from Connecticut.

Mr. WEICKER. Mr. President, in addressing the comments of the distinguished Senator from Louisiana, I think he used entirely the right words, that this is a symbolic vote.

Everything we have done out here for the past 5 years has been symbolic. That is the reason why our imports of oil continue to soar. It is the reason why the Arabs stick it to us with any price that comes into mind and why we have to follow that price. It is why the dollar plummets and the balance of payments deficit widens, because everything we do is symbolic.

We do not go ahead and do the simple basic acts that will constitute an energy policy. If it is going to involve the American people in any way, do not do it. Let us blame Schlesinger. Let us blame the President. Let us enact an Energy Mobilization Board because that is something nobody can understand, create a synfuel program everybody feels will not affect them directly.

In every way but the two basic elements that would constitute an effective energy policy, mandatory conservation by all Americans, not just the weakest elements of our society, and decontrol and deregulation to get additional production of energy.

There is just no question about the fact that this is being done in a symbolic way, not to enhance energy in the United States, but to make politics. And believe me, we have already had too much of that. That is why we have no energy. So the administration can say that we have something on the books.

The Senator from West Virginia and the Senator from Louisiana would be the first to rise in their place with this circumventing of the procedures of the Appropriations Committee were it anything else but this particular matter.

This is legislation on an appropriations bill. This is an appropriation without an authorization.

These are the cardinal rules of the Appropriations Committee. But because it is a big issue in United States politics and because this administration, this Congress, has failed to resolve this issue, now we will go ahead and throw the rule book out the window.

So, in a procedural sense, it is wrong. It is dead wrong. In a policy sense, it will not substitute for conservation. It will not substitute for additional production.

Now, last, the Appropriations Committee is supposed to be the epitome of fiscal responsibility and fiscal precision—precision. There is no way that the advocates of this measure can tell us what they will spend $20 billion on. Maybe more. Maybe less.

Do you want to know the precision attached to this whole energy problem? I recall in the first meetings of the Appropriations Committee there was a figure there for the crisis intervention program, $22 million. Nobody knew if it was too much or too little. Then as we came closer to the heating season and the prices continued to escalate, it became very clear it would be on the short side. Senator DURKIN, Senator EAGLETON, and myself proposed an amendment for $500 million. Still the administration had no figure. Months away from the winter heating season, no figure. So the Appropriations Committee accepted $250 million.

Then in a campaign trip to Hartford, Conn., the President announced $1.6 billion, and, within 2 weeks of that, surveys were taken among the various northern tier States and that was found inadequate.

Now, listen, whoa! What kind of fiscal precision is that? And it is no different with this bill here. So we can say we have something in the offing in the way of synthetic fuels, which means the American public will not have to conserve, will not have to pay the dollar prices of the additional production to resolve the problems. They will not have to be involved. Oh yes, they will.

So let us make clear when we talk about the energy policy, some of us have been calling the political tough words for a long time, and we are not saying "No" to synthetic fuels. We are not saying "No" to alternate sources of energy other than the fossil fuels.

What we are saying is that we will not go ahead and ask the taxpayers to pay a price the politicians are not willing to pay.

Twenty billion dollars. I want a detailed explanation from the Senator from West Virginia, from the Senator from Kentucky, as to what they are going to spend it on. What are they going to spend it on? How will it be spent? Is it enough?

Mr. JOHNSTON. Will the Senator yield?

Mr. WEICKER. They are not going to give us a detailed breakdown of how it will be spent. It is symbolic. It is symbolic. Twenty billion dollars.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WEICKER. I will yield in a minute.

One simple act——

Mr. JOHNSTON. I thought the Senator had asked a question.

Mr. WEICKER. One simple act of conservation, opposed here twice before by the Senator from Louisiana, when I had a simple bill of a 6-day week for a pleasure automobile; and twice the Senator from Louisiana, in 1977 and 1979, got up and said, "No, we cannot have that kind of conservation. It puts too much of a burden on the public."

The Senator from Ohio (Mr. METZENBAUM) and I argued here for a bill which set minimum standards for small electric motors. It squeaked through by a vote of 43 to 39—by 4 votes—and it was not anything of a mandatory nature. It was just guidelines, to try to get more efficiency into small electric motors by 1982 or 1983.

Twenty billion dollars—totally violating the proper procedures of the Appropriations Committee and of the Senate; $20 billion, and nobody has any concept of what the program is going to cost, because the program has yet to be evolved. Symbolism.

Maybe we fool ourselves, but the world understands that everything the United States has been doing is symbolism. That is why there is more value in a piece of metal than there is in the greatest Nation in the world and its money. We fool ourselves and nobody else, and this is one further step in that charade.

Mr. SCHMITT. Mr. President, the issue is symbolism. All will have to search their collective minds to find what is symbolic about it.

I believe that, for the Senate, it is a question of whether we, as a deliberative

body, are going to follow the established procedures that generally have worked well for this body and whether, when we deal with the issue of synthetic fuels, we are going to deal with it with hope of success, rather than just hope of spending money.

Mr. President, the Senator from Louisiana, I think, has made very clear in his statement why this is legislation on an appropriations bill. So at this time I raise a point of order——

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold his point of order for the moment?

Mr. SCHMITT. Mr. President, I will yield to the Senator for a comment, without losing my right to the floor.

Mr. ROBERT C. BYRD. The Senator has had the floor several times today and not yielded the floor, and now he gets ready to make a point of order, which is not debatable, and I would like to have the floor in my own right for a moment.

Mr. SCHMITT. I believe that if the point of order should succeed, there will be time to debate the bill.

Mr. ROBERT C. BYRD. That is not the point. I may want to talk before the point of order is made. How many times has the Senator spoken on this?

Mr. SCHMITT. I do not think that is a material question.

Mr. ROBERT C. BYRD. It is, under the rules. The Senator might be surprised to know that he can speak only twice.

Mr. PROXMIRE. How many times has the Senator from West Virginia spoken on this? How about it? How many times has the Senator from West Virginia spoken on this? He is a Senator, and we all have equal rights. He has no more right to speak again and again than the Senator from Wisconsin.

Mr. SCHMITT. Mr. President, I am sorry that the Senator from West Virginia has chosen to make that comment. I would ask for a point of order, this amendment being legislation on an appropriations bill.

Mr. ROBERT C. BYRD. Mr. President, I raise the question of germaneness, and I ask for the yeas and nays.

The PRESIDING OFFICER. Under rule XVI, the Chair submits the question of germaneness to the Senate.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The question is not debatable.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that the Senator from Michigan (Mr. RIEGLE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from South Dakota (Mr. PRESSLER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The PRESIDING OFFICER (Mr. BURDICK). Have all Senators voted?

The result was announced—yeas 56, nays 34, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—56

Baucus	Ford	Nelson
Bellmon	Glenn	Nunn
Bentsen	Gravel	Pell
Biden	Hart	Pryor
Boren	Heflin	Randolph
Bradley	Hollings	Ribicoff
Burdick	Huddleston	Sarbanes
Byrd, Harry F., Jr.	Jackson	Sasser
Byrd, Robert C.	Javits	Stennis
Cannon	Johnston	Stevens
Chiles	Levin	Stevenson
Church	McGovern	Stewart
Danforth	Magnuson	Stone
DeConcini	Matsunaga	Talmadge
Domenici	Melcher	Tsongas
Durkin	Metzenbaum	Warner
Eagleton	Morgan	Williams
Exon	Moynihan	Young
	Muskie	Zorinsky

NAYS—34

Armstrong	Heinz	Percy
Boschwitz	Helms	Proxmire
Bumpers	Humphrey	Roth
Chafee	Jepsen	Schmitt
Cochran	Kassebaum	Schweiker
Cohen	Kennedy	Simpson
Culver	Laxalt	Stafford
Durenberger	Leahy	Tower
Garn	Lugar	Wallop
Hatch	McClure	Weicker
Hatfield	Mathias	
Hayakawa	Packwood	

NOT VOTING—10

Baker	Goldwater	Riegle
Bayh	Inouye	Thurmond
Cranston	Long	
Dole	Pressler	

So the amendment (UP No. 642) was held to be germane.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was held to be germane.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, we should keep in mind what this amendment will do. I ask for a rollcall on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. The amendment will not speed up the development or the construction of synthetic fuel plants.

Disapproval of the amendment for $20 billion is not a rejection of synthetic fuels. Instead, by disapproving this amendment we endorse the authorization process. We give an opportunity for the Committee on Finance, which will determine how much we have available, to act; we give an opportunity to consider what the Banking Committee recommended, which was less than half of this. We give an opportunity for the Budget Committee to determine the effect it has, and to have their input on the floor in the authorization process.

We have not done any of that. We are simply going ahead and appropriating $20 billion without knowing what effect this has, whether it is all needed, whether it ought to be more, whether it ought to be less. We are simply moving ahead with it. The amendment says we should move ahead with consideration of synfuels funding before we know how much we want to spend and how we want to go about spending it.

Those of us who oppose this amendment agree this country faces a serious energy problem, there is no argument about that. What we are trying to accomplish by voting against this amendment is to make sure the authorization process works. We believe that the Senate should not approve appropriations, especially of sums as large as $20 billion, before consideration of the authorization legislation.

The synthetic fuels authorization bill has not yet been acted on by the Senate. The synthetic fuels portion of this bill has been approved by the two committees which share jurisdiction—Banking and Energy—and the two committees have taken markedly different approaches to this problem. The two committees are in disagreement with respect to the level of funding, the degree of Federal interference with this program, the scope and pace of the first demonstration phase, and with respect to certain budgetary assumptions.

Mr. BUMPERS. Mr. President, the Senate is not in order. May we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senator will suspend until we get order.

Mr. PROXMIRE. This amendment takes the Energy Committee figure, and we may decide we want to do that. We may agree with the Energy Committee. We have not had a chance to debate it, to discuss it or explore it. The amendment ignores the lower Banking Committee figure without considering the testimony before our committee or the committee report, without having it debated on the floor. A vote for this amendment tells the other committees that have an interest in this that they do not count, that the authorization process is not going to be followed. The Senate will be debating the energy and banking bills within the next few weeks, but at this point there is no way of predicting which approach will be preferred by the Senate. What we are doing is acting before we debate that, before we discuss it. How can we appropriate funds before we settle these fundamental questions?

It is not even known if $20 billion will be needed. The Energy Committee appears to believe that this level of funding would be needed. The Banking Committee unanimously rejected this level of funding. Under our bill, the requirements for appropriations would not approach this level.

Incidentally, there is nothing in the amendment to provide funding for solar or for conservation. We single out synthetic fuels.

The Banking Committee's lower au-

thorization is partly because of different assumption about the degree of Government involvement in the program, but it is also partly because of the budgetary assumptions made by the Banking Committee's bill. For instance, the Banking Committee's bill leverages loan guarantees at a 1 for 3 ratio. A $1 billion in appropriations could cover $3 billion in loan guarantees. The Banking Committee believes this is a more sensible approach than the Energy Committee's dollar-for-dollar provision. But what implication does this difference have for the appropriation? It means, in theory, if we leave the entire $20 billion in, it could allow more than $50 billion in Federal loan guarantees, if we follow the 1-to-13 ratio the Banking Committee followed. We think that 1-to-3 ratio makes sense in a guarantee. But the Energy Committee adopted a different approach. That is something we certainly ought to settle in the authorization process, because it will certainly affect the need for appropriations.

Everyone agrees that we do not want to make a commitment as large as $50 billion in the first round of testing, and that is one important reason why we should settle the authorization before we approve an appropriation.

The status of the windfall profits tax lends a further note of uncertainty to this situation. The Finance Committee intends to approve a range of synthetic fuels production tax credits. They may be right. We do not yet know what the committee will approve, or what will finally be enacted. The level of tax credits will greatly affect the direct subsidies needed to promote synfuels production. We are completely in the dark on this issue right now.

What are the arguments on the other side? What are the considerations which dictate that we should ignore the arguments against acting at this time? In short, there are many compelling reasons why we should not act now. Under the terms of the committee bill, the $17.8 billion could not be obligated until after approval of the authorizing legislation and another appropriations bill. Deferring consideration of this appropriation will entail no added delay for synfuels.

Last Tuesday, when the Appropriations Committee initially agreed to delete this funding it was agreed by all present that there was no reason why the committee could not expeditiously consider a supplemental appropriation after the authorized limits are set by the Senate.

So we are left with only one reason to vote for this bill: symbolism. Some will argue that this vote is symbolically important because it will show that the Senate is serious about solving our energy problems.

Of course it might be hard to explain how appropriating $17.8 billion that cannot be spent will solve anybody's energy problems but let us set that aside for the moment and consider other factors.

At the Banking Committee's hearing, virtually every witness who appeared—whether opposing or supporting synfuels—agreed that synfuels are going to provide no relief for at least 10 years. It was also agreed that synfuels are going to be very expensive, at least initially.

By contrast, solar and conservation can use existing technologies, at relatively low cost, to begin achieving immediate import reductions. There is no funding in this bill for commercialization of these technologies. What is it going to look like when we vote $20 billion for synfuels—which will provide no help for at least 10 years—and nothing for the near-term solutions? Are people going to say that the Senate is committed to solving our energy problems, or are they going to say that we have turned our backs on the solution? Are we going to look decisive, or are we going to look stupid? A balanced approach to our energy problem would provide for synfuels, alcohol fuels, solar and conservation. This sense of balance is completely missing from this amendment.

Supporters of this appropriation will undoubtedly argue that approval of this appropriation won't tie your hands, because the money cannot be spent without further authorization. But, when the authorization bill comes up for consideration, they are going to argue that you might as well spend $20 billion on synfuels, because you have already provided for it.

What is this all about? Why in the world, with the authorizing bills about to be acted on, do we violate our firm requirements for authorization first, and then appropriation? Why? Because once we have appropriated the $20 billion, we have established that we have, in effect, set aside $20 billion in a trust fund for synthetic fuels.

What purposes does this amendment serve if it does not abort the authorization process? This is strictly Alice in Wonderland, with the queen, in this case the majority leader, crying "Verdict first, appropriation later."

I would hope we would recognize that at least three committees have not acted on this proposal. It has not been considered by the Banking Committee. We should find out what we would have available from the Finance Committee. I would infinitely prefer, and I think most Senators would prefer, to get the advice of the Budget Committee on a $20 billion commitment. We have just acted, unfortunately, on the germaneness issue; but I hope the Senate will recognize that it is consistent for us now to decide that, on the merits, this amendment simply should not pass at the present time. We can act, and act promptly, on the other bills, and then get together and act on energy legislation insofar as synthetic fuels are concerned.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

UP AMENDMENT NO. 643

Mr. TSONGAS. Mr. President, I call up an amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 643:

On page 2, line 7, of the amendment of the Senator from West Virginia Mr. BYRD, strike the word "only" and insert the following: "to stimulate increased energy efficiency and the use of renewable energy sources and"

Mr. TSONGAS. Mr. President, I ask unanimous consent that the names of the Senator from New Hampshire (Mr. DURKIN) and the Senator from Alabama (Mr. STEWART) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, first, I concur in almost everything the Senator from Wisconsin has just said.

Second, I do not think anyone in the Senate ought to believe that we are going to be accused of being opposed to a synthetic fuels development program if we happen to have voted "nay" on the last rollcall.

That was a very difficult vote for many of us to cast. It was certainly difficult for me. I like to follow the lead of the majority leader. He is my friend. He is thoughtful. I know he is as deeply committed to the development of synthetic fuels as I am.

This is not the first time this body ever legislated on an appropriations bill. I have voted against upholding points of order in similar situations in the past, but only when we knew the authorizing committee was not going to function, and only when we knew there was an overriding national interest that would not be met unless we did.

That is not what we just did. What we just did was to again raise people's expectations prematurely. You saw the Gallup poll, not more than 3 years ago, which shows the favorable rating of the U.S. Congress at 13 percent, down from 20 percent. We are now below the President, and he is everybody's favorite whipping boy.

I can tell you that what we just did a moment ago is not likely to increase that rating any time soon. When you go home next weekend, and the people says, "I see you adopted a synthetic fuels program." You say, "Yes, indeed," and they say, "How are you going to spend it?" Your answer is, "We don't know, because the Energy Committee is still working on the Synthetic Fuels bill. That bill will determine what we do with it."

Will the Government guarantee purchases? Will we make loan guarantees? Will we enter into joint ventures? Will the United States have the right to build its own projects where there is no private interest displayed on a technology that we think has potential?

What have we done by that last vote? Nothing. Why have we done this? I must confess that I sat in the Appropriations Committee the other day and I sat on this floor most of the day trying to figure out, why have we chosen to do this? The answer eludes me. It is either too obscure to see, or I just have not been communicating, because, as I understand it, nothing can happen under this appropriation until the authorizing committee authorizes the money and the Appropriations Committee again meets to appropriate the money in accordance with that authorization.

Mr. President, it is symbolism, and it is symbolism at its very worst. So, Mr. President, I must respectfully continue to oppose this sort of legislation. I do not think it accomplishes anything. As I say, it has nothing to do with my feelings about synthetic fuel. I believe in the U.S. Senate as an institution. I try to uphold the rules of the Senate wherever I think it is possible to do so without violating what I think is an overriding national interest.

I thank the Senator from Massachusetts for yielding to me.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. Yes.

Mr. JOHNSTON. What kind of renewable sources is the Senator speaking of?

Mr. TSONGAS. Is the Senator addressing his question to me?

Mr. JOHNSTON. Well, either the Senator from Arkansas or the Senator from Massachusetts.

Mr. TSONGAS. The use of renewables will be the entire list of solarized sources, including gasohol, low-head hydro, the full range of issues we spoke about in both the Banking and the Energy Committees.

Mr. JOHNSTON. Is the Senator aware that the definition of alternative fuels includes biomass, solid waste, and gas from unconventional sources or from organic materials other than crude oil? We already have in the bill renewable sources, that is to say, biomass and gasohol, and, indeed, the Energy Committee action includes $1 billion for biomass and $200 million for gasohol, plus $650 million for loan guarantees for gasohol. The bill already includes that. If you want to reclassify hydroelectric, and would like to have research and further development on solar energy, or one of those things——

Mr. TSONGAS. Geothermal?

Mr. JOHNSTON. Geothermal is not really appropriate, I would say to the Senator, in this legislation, because we already have such calls on the $20 billion in the energy reserve fund that we already have to break orders down. We have a great commitment here to renewable resources.

Mr. TSONGAS. Mr. President, let me try to explain what the amendment does. We have here $20 billion for synthetic fuels. There is not anybody who is looking at this language and looking at the process who believes that synthetic fuels can be brought on line before the year 1990. It would have no significant impact. We are going to go through a decade, at least, of gas lines before synthetic fuels come on line.

The President, in his radio program the other day, said that the number one reliance in this country will be upon conservation, and that synthetic fuels was a "last resort."

Recently there have been a number of studies, the first one being the Harvard Business School study, which said that the best hope of this country was conservation in renewables. The other studies that have come out have shown that that indeed is the case. Yet we continue to pursue an approach that, to my mind, is not balanced.

In the Banking Committee we took the President's plan, which, you will remember, set out $88 billion, which violates every notion of the learning curve ever agreed upon. The Banking Committee bill has synthetic fuels at $3 billion. It has a conservation bank, it has a solar bank, and it has an alcohol fuels component.

In the Energy Committee, in addition to synthetic fuels we are also dealing with conservation, solar, geothermal, gasohol, et cetera.

Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Will Senators please cease their conversations while in the Chamber.

Mr. TSONGAS. Mr. President, I am not a strong supporter of an aggressive synthetic fuels program as outlined at $20 billion, but I voted for it because I felt that is true that there is a need for symbolism in this vote and what is going to happen here on the Senate floor. But I raise the question, why do we need symbolism only for a process that is a decade away? Why are we quite prepared to turn our back on the processes that offer the most immediate hope?

There has been a commitment in the Banking Committee that a synthetic fuels package will include the others. There has been a commitment by the Senator from Louisiana and the Senator from Washington that the Energy Committee legislation will also have the same components of renewables and conservation. What my amendment does very simply is say to you: if you want the symbolism, as I did, let us stretch it to include what most people in the field agree is the only valid approach, and that is a multifaceted, comprehensive plan on energy, not only synthetic fuels but renewables and conservation as well. It is in keeping with what the President professed to be the case in his radio speech. It is in keeping with what every technician looking at the energy issue has concluded. It is in keeping with the Banking Committee. It is in keeping with what the Energy Committee has committed itself to do. The amendment is clear and I ask for the support of my colleagues.

Mr. RANDOLPH. Will the Senator yield?

Mr. TSONGAS. I yield.

Mr. RANDOLPH. Mr. President, I have listened very carefully to the Senator from Massachusetts. I do not take issue with my able colleague's position that other needs exist. Alternatives should be studied. I commend the able Senator. I do wish to ask him at least one question.

The Senator speaks of synthetic fuels as a commitment 10 years from now. Is that correct?

Mr. TSONGAS. In terms of a major impact on our energy resources, that is correct.

Mr. RANDOLPH. How are we going to have that impact 10 years from now, 7 years from now, or 5 years from now, if we do not begin our effort now? How can we move into a synthetic liquid fuels program without a period for construction and technological development. How can it be done? I ask this as a question, not as an adversary of what my colleague is saying, but only to clear this matter for the Senate.

Mr. TONGAS. I think it is a fair question. I would point out to the Senator that not only have I supported in the Banking and the Energy Committee the synthetic component fuels which have been raised, but I did it long before I got to the Senate, when I was in the House of Representatives. I am asking for equal treatment for renewables and conservation. In no way does this denigrate the national commitment to synthetic fuel. What it says is that we are not going to put all our eggs into one basket, but conservation in renewables will be treated with the same respect as other energy fuels. In no way is it meant to undermine the Nation's commitment to synthetics, but it does say there is more than one component to look at.

Mr. DOMENICI. Will the Senator yield?

Mr. RANDOLPH. Mr. President, I wish to continue.

The PRESIDING OFFICER. The Senate is not in order.

Mr. RANDOLPH. I will not interrupt my able colleague, however I do have one or two questions, if he will permit me, but I did not wish to be pushy. May I ask another question?

Mr. TSONGAS. Yes.

Mr. RANDOLPH. In connection with synthetic fuels, let us realize that the various technologies of synthetic fuels production are not only known now but have been known since the 1930's. Let me remind my colleagues that in World War II the Germans were using synthetic fuels. Their motorized units on the land and their Luftwaffe in the sky were powered with synthetic fuels. They had the technology, the Lurgi process, the Fisher-Tropsch process, and other processes.

In 1944 we passed legislation in the Congress to institute a program of pilot synthetic fuels projects. We commenced using these German processes in a modified manner. We operated automobiles on the streets of many cities in the United States of America on synthetic liquid fuels. We operated aircraft. I rode in one of them from Morgantown, W. Va., to Washington, D.C., 175 miles, on synthetic fuel made from coal.

When we speak of synthetic fuels we are also speaking, of course, of oil shales. No one can underestimate the value of oil shales as an integral part of a synthetic fuels program.

If we get into the matter of what is the proper procedure under the rules of the Senate, I believe such a decision is an individual matter for each Senator, for the Senator from Massachusetts or the Senator from West Virginia, or any other Senator, to make that decision for himself.

I do not often speak of the rules of the Senate house. We have rules to establish order in the Senate. We know that.

The rules, however, are not always followed to the letter.

The able Senator from Maine knows that a Senator is not supposed to answer as he is moving about in the Chamber or standing in the well. A senator is supposed to answer yes or no at his desk. We know that. There are always diminutions of the rules, whatever they be. There are those who believe in following the rules, I am one. I will not get into that at the moment except to say that this is an individual matter for us to consider.

When the Senator says we do not need the $20 billion, I say we need the $20 billion. We need to start to use it now. Whether it be a psychological effect in the public, or a positive symbol, the best thing the Senate of the United States can do today, I say to my colleague from New Mexico, Senator DOMENICI—is to act in this matter.

Remember, we acted on synthetic rubber production during World War II. Had it not been for the leadership of the President of the United States, Franklin Roosevelt, and others, some would have said, "No, no, no." But we acted. We built synthetic rubber plants. It took a while to get them, but they came into being, and one of them in West Virginia. West Virginia is not a bad State for a synthetic fuels program to move into now.

I feel it is imperative that we not delay. There is a time for action, and now is the time. This is why I rise, not so much to argue with vehemence about this matter but to speak very earnestly, as one who has been a student of this problem for a long, long time. Since my days in the House of Representatives, when we held the first hearings in 1942 and 1943 on the Synthetic Liquid Fuels Act which was to pass and become law in 1944, I have been active in working on, and studying, synthetic fuels.

We all know, of course, that in South Africa they have the technologies now. They are producing synthetic fuels on a large scale. I sent a member of our committee there 3 or 4 years ago to investigate the processes. I realize I am not the only Member in this body that has studied this question.

I am only saying that we need to act now—within the framework of proper committee structure and jurisdiction.

The American people expect us to act now. We act so often after the fact rather than before the fact. This is the time, if we can, to catch up to the responsibilities which have been with us so long and have not been met.

If I were to talk about the failure of the American people, the administration downtown and the Congress on the Hill, in reference to synthetic liquid fuels, it would be to use the words of the poet who said "The past rises before me like a dream." We needed a fuels and energy policy 20 years ago but we did not get it. There were some who worked for it. I, for one, would say that the past rises before me like a nightmare.

I do not believe that the American people are going to look upon any action here as moving something a little ahead of time, we shall say, in the process of the Senate. The American people are going, I think, to endorse a synthetic fuels program.

It will take money, it will take time. But we need to start now. Even now, it is very late.

I appreciate the courtesy of my colleague.

(Mr. PRYOR assumed the chair).

Mr. TSONGAS. If I may respond, I would say to the Senator that nothing he has said am I in disagreement with. I would also say that of the $20 billion, if we include renewables and conservation, in all likelihood, we would use $1 billion of the $20 billion for renewables and conservation.

I ask the Senator why it makes sense to put $20 billion into synthetic fuels and it does not make sense to take $1 billion of that and put it into renewables and conservation, which is in both the Banking Committee bill and the Energy Committee bill. All the recent studies have said it is the most important. Nineteen to one is not a bad ratio.

We talk about historical analysis. Conservation and renewables were being done long before Christ came on this Earth. It is fine to say what the Germans did before World War II and it is clear they did these things, but ancient man recognized the value of the Sun and the value of conservation and we are just getting back to that. It seems 19 to 1 is a good ratio. If we are going to do it in symbolism, I offer an opportunity to do it in renewables and in conservation.

Mr. DOMENICI. Will the Senator yield?

Mr. TSONGAS. I yield.

Mr. DOMENICI. Mr. President, without commenting on the amendment of the distinguished Senator from Massachusetts and wanting to take advantage of the presence on the floor of the senior Senator from Wisconsin (Mr. PROXMIRE), I want to borrow his words, because he said, in opposition to Senator BYRD's amendment, that we were going to render a verdict before a trial. Let me say that everyone should know that the distinguished Senator from Wisconsin has had ample opportunity for both a verdict and a trial in this matter in 1974, in April, with full hearings on whether or not we should have an American synthetic fuel program. It did not even get to the floor, so he did not have to make that speech to the Senate. He just said, "We do not want to appropriate any money for synthetic fuels, it is a boondoggle."

Now, it is almost 5 years later and we have still not had a verdict and we have not had a trial, said he. I submit if we follow his leadership in synthetic fuels, we will not have a verdict or a trial for another 10 years and we shall still be saying to America, "Well, the free market ought to take care of it."

They sure should. The problem is they cannot and they will not and we sit by and watch our technology get applied in Africa by American engineers, American technicians, not once, but twice. They are in the second generation of turning coal into liquid. And we are here today hearing that we should not have a verdict because we have not had a trial.

I laud the Appropriations Committee of the U.S. Senate for calling it like it is. If you want a synthetic fuel program for America, then put the budget authority in so that we can get started. Do you not put something in there that will hardly get us started and tell the American people we have a synthetic fuels program.

Mr. DURKIN. Will the Senator yield?

Mr. DOMENICI. I shall yield in one moment.

I heard another Senator say, do not mislead Americans that synthetic fuel is around the corner. Let me say it is going to be around the corner, around the block, and 50 miles away until we decide that we are going to do what has to be done.

No one is misleading anyone. Synthetic fuel will not be on board next month or next year. It will be probably 3 to 5 years before we see any. But it takes that long, whether you start today or whether you start 5 years from now, or if we had started in April of 1974, when the good senior Senator from Wisconsin had the same testimony before him, except that the $3 billion plants only cost $1 billion then. And they still could not be built, because they took 3 to 9 years to be built and there was no one to rely on, no financing.

So I urge that we adopt the bold, responsive approach of the Appropriations Committee, which tells it right and lays the program in the proper perspective.

Mr. TSONGAS. Let me say to my friend, I am not clear whether he intends to support my amendment, which is the pending business. I am still not clear.

Mr. DOMENICI. I know the Senator is not, and I indicated that I wanted to speak to another matter while the Senator from Wisconsin is on the floor. I apologize.

Let me say to the Senator that I have not decided yet. I shall listen.

Mr. TSONGAS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. HUDDLESTON. Mr. President, I have spoken considerably today on the amendment that is before us. Now the amendment to that amendment that comes from the distinguished Senator from Massachusetts, I fear, may give the impression that we are neglecting the areas of energy that he has suggested.

We have in this very bill some $743 million for conservation efforts. There is also funding for research and development into virtually all of the areas of energy concern that we have. Solar, windpower, geothermal, conversion to coal are all adequately treated within the legislation.

The problem with accepting the amendment that is offered by the distinguished Senator from Massachusetts is that it is a further dilution of the effort that should be made in this one area of synthetic fuels. The Senator from Massachusetts alluded to the fact, as have others today in opposition to this amendment, that we cannot expect a great deal of help from synthetic fuels production until 1990. Well, I say to Members of the Senate that that seems to me to be a compelling reason to do everything that we possibly can do to expedite that process. It will step up the time when we might receive some benefit from a synthetic fuels program.

We shall only receive it in 1990 if we begin now. It may not be here by 2000 or another thousand years if we do not ever start the process. So while some may see this as a symbolic gesture of expressing the sense of the Senate, it is, in fact, considerably more than that, because it does establish a reserve of $20 billion to be put into use in such manner as described by the authorizing committees. Whatever mechanism is determined, it gives the industry the indication that we are serious about the question of synthetic fuels and helps them make the determination as to what extent they are going to put their resources into this effort. And certainly, it cannot be successful without the support of private industry.

Mr. TSONGAS. Will the Senator yield for a question?

Mr. HUDDLESTON. Back to my objection to the amendment of the Senator from Massachusetts, we should not dilute this reserve. We should not get off into all of the other tangents that we are all concerned with in the whole energy equation. We should keep on course and the best way to do it is to keep the amendment as it is presently constructed.

Mr. TSONGAS. Will the Senator yield for a question?

Mr. JOHNSTON. Will the Senator yield?

Mr. HUDDLESTON. I yield to the Senator from Louisiana and to the Senator from Washington immediately thereafter.

Mr. JOHNSTON. Mr. President, this amendment, the Tsongas amendment, simply does not fit into this legislation, because this amendment setting up the $20 billion creates a trust fund. That trust fund is to be used for the purchase or production by way of purchase commitments or price guarantees of alternative fuels.

If we adopted the amendment, then we would have the stimulation of increased energy efficiency, and the use of renewable energy resources for the purchase or production by way of purchase commitments or price guarantees.

Now, purchase commitments and price guarantees simply have nothing to do and do not fit with energy efficiency or, indeed, with renewable resources.

The question of most renewable resources, particularly solar energy, is already—for the purpose of R. & D.—in the appropriations bill passed by the Energy and Water Resources Subcommittee. That is already in, over three-quarters of a billion dollars.

Mr. TSONGAS. Will the Senator yield at that point?

Mr. JOHNSTON. Is the Senator speaking to this?

Mr. TSONGAS. Yes.

Mr. JOHNSTON. Yes. I yield.

Mr. TSONGAS. The Banking Committee bill has synthetic fuels which will be financed out of this bill, $20 billion. The fact is that despite the money in there for the R. & D. that the solar bank and the conservation bank is a charade, because there is not a penny in this budget for those two components.

In the commitment made to treat conservation and renewables equal to synthetic fuels——

Mr. JOHNSTON. Does the Senator understand what I am saying, that this does not fit with price guarantees and loan guarantees?

Mr. TSONGAS. The point I make is, despite what is said, no one who votes for this or any conservation or renewables should be led to believe there is a penny in this bill for those components, both in the Banking Committee and the Energy Committee. We are, in essence, going ahead with synthetic fuels, and that was it, which is quite different from the commitment made not long ago.

Mr. JOHNSTON. I want to make this point: In the Energy Committee bill we have $1 billion out of $20 billion for biomass. We have $650 million for gasohol loans and an additional $200 million for gasohol grants. That is to come out of this $20 billion expenditure limit.

Mr. President, the $20 billion, as I explained earlier today, is a very limited amount. It is absolutely necessary to have that much money to finance the first phase of synfuels, that first phase being commercial demonstrations, one of a kind. If anything, it is too late.

If we put in conservation, we have bills in the Energy Committee that require $60 billion for conservation. The Kennedy-Durkin bill is a $60 billion bill. Other bills are slightly more modest in cost.

But, Mr. President, if we run conservation into this and then if we put in hydroelectric and geothermal, and all those others, we are left with no money at all with synfuels.

Mr. DURKIN. Will the Senator yield on that point?

Mr. JOHNSTON. For a question, I will yield.

Mr. DURKIN. Is it not a fact, and I would like to point out that I voted with the majority leader, the Senator from Louisiana and the Senator from Kentucky in the Appropriations Committee and on the recent floor action today, but is it not true that this is a symbol—it still has to go back for authorization, and it still has to go back for appropriation?

Mr. JOHNSTON. It is more than that because it creates a trust fund. Money cannot be gotten out of that except by further appropriation and authorization.

Nevertheless, the reserve fund is there and created. It is subject to the language stated. That is, price guarantees and loan guarantees.

Mr. DURKIN. But is it not like a senile relative creating a reserve fund, who is not only senile but berift of funds?

I mean, there are no funds in the reserve fund.

Mr. JOHNSTON. Well, there is $20 billion appropriated in budget authority.

We cannot withdraw that budget authority from the trust fund without two things happening. First, authorizing legislation. Second, a further appropriation from it. Maybe it does not go far enough.

But we are not at odds with the distinguished Senator from Massachusetts (Mr. TSONGAS) or with the Senator from New Hampshire about the need to do something in these other areas. This is just not the place to do it.

I would urge both Senators that in the committee, if they want to have one of these programs and put it as part of this title, I mean, part of this bill, I believe it is S. 1308, that we are meeting tomorrow in markup and that is the place to do it. We will help the Sentaors. We will vote tomorrow on gasohol but not out of this.

Mr. DURKIN. Would the Senator not agree that on hydroelectric, wind, solar, photovoltaic cells, energy efficiency, we are concerned that literally we will be frozen out?

Mr. JOHNSTON. Yes. But, for example, photovoltaic cells, we do not do with a price guarantee or loan guarantee, but with R. & D. We have put in the energy and water appropriation bill about $762 million, if I remember correctly, in energy research and development for solar energy alone.

Mr. DURKIN. Would the Senator not agree the loan guarantees could be applicable to low-head hydro, to a photovoltaic installation, to a wind farm, and so that just because the——

Mr. JOHNSTON. Not to photovoltaic, but with low-head hydro, but it ought to be——

Mr. DURKIN. But we see what happens. I had a discreet program. It was $100 million in loan guarantees for low-head hydro. My good friend from Louisiana led the fight against that. We lost in the Appropriations Committee by one vote.

We had the President in Iowa, he announced——

Mr. JOHNSTON. If the Senator will let me answer the question, then I must yield the floor back, and I will let him get the floor on his own—I opposed that simply because the Senator was putting it on our energy and water resources appropriations bill, I thought, prematurely. As I mentioned, we will come back and consider it later when we have an authorization.

I think it is a good program. A lot of good programs are not included in this, Mr. President. We did not include all the good programs. But the $20 billion we have is essential to do the job in this one program.

I hope the Senate will go along.

Mr. HUDDLESTON. I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, we are really talking about two separate things.

One relates to the amendment offered by my distinguished friend from Massachusetts (Mr. TSONGAS). The other relates to the larger effort that we must make for synthetic fuels.

On the first point, let me observe first that I strongly support the obvious effort that we must make in connection with conservation. It must be, indeed, a condition precedent to doing anything in the area of energy.

In this bill, as has been mentioned by the manager, the distinguished Senator from Kentucky, there is a substantial amount of money for conservation.

I point out, under the able leadership of the chairman of the subcommittee, the distinguished junior Senator from Louisiana, we are programing $1 billion for biomass. We have in there $650 million that we will be reporting out for loans in connection with gasohol and another $200 million in the form of grants.

Mr. President, the most critical thing this country faces is the fact that we are dependent on imports, primarily from the Middle East, for one-half of all of our oil that we consume every day. It is that issue I am concerned about here this afternoon.

I say that because America must make a beginning, and we have not done that in connection with alternative sources of fuel. America must make a beginning. That is the important thing phychologically for the next 10 years.

The producer countries are saying that we are doing nothing about finding alternative sources. That we are doing nothing about conservation.

Mr. President, we are talking about $20 billion with concern. Let me point out what is going on day after day after day. The cost of our imports in 1973 was $7 billion. Next year, it will be more than $70 billion. If we can be complacent in this country, God help us. The Republic is in peril.

I am no alarmist. I have been talking about this, as some other Senators have, for 10 years; but the pressure on our economy is cascading down on us in a massive torrent that can destroy western financial institutions.

Why do you think the prime rate is at 14.5 percent? It is because we have lost all control over production and pricing of oil. We are a helpless giant at this point.

Mr. President, that is the issue before the U.S. Senate. We are concerned about $20 billion, while at the same time our oil bill has gone from $7 billion to $70 billion. We are paying $70 billion a year tribute to those countries which could cut us off tomorrow.

If my colleagues think this is not a serious problem, I say just look at the news ticker. Libya today, Iran today—who it will be tomorrow, I do not know—have oil close to $26 a barrel. We started out in January at $14 a barrel. The current price on premium crude, sweet crude, is about $26 a barrel.

Mr. President, I was told today by reliable sources that shortly after the first of the year, oil will be $30 a barrel. The same oil that in 1973 was being imported for $3 a barrel.

People wonder why financial markets are in chaos, why the banks in many areas of the country are already telling home borrowers no money is available. It all stems basically from the problems we face with respect to this extreme dependence on oil from abroad.

I made the comment back in February—and I must say that I got as adverse mail as anyone could receive—that we could have $1 a gallon gasoline within a year. How wrong I was about that! We had it in 4 months.

I am saying, Mr. President, that the way we are going, at a minimum, gasoline will be $1.50 a gallon, and it could be $2 a gallon, by the end of the year, unless we come to grips with this problem.

How do we do it? The first thing we have to do is to demonstrate some credibility. That means showing that this Nation is prepared to make a commitment, in cooperation with the private sector, to develop alternative sources of energy. That is not going to register, as the committee will be pointing out, until about 10 years from now. Under present plans, we will have 1.5 million barrels a day by 1995—from alternative sources.

Mr. President, my plea is this: Let us send a signal to the producer countries that we are determined to do something, both in terms of conservation and in terms of alternative sources of fuel.

It is not my purpose to outline all the things that I think we need to do, but this is a major step. I must say that the worst signal you could send is to vote down the Byrd amendment for $20 billion, which is not an expenditure—it is an investment.

Mr. RANDOLPH. It will pay a dividend.

Mr. JACKSON. It will be amortized. We are not talking about expenditures. It will be amortized out of the production of synthetic fuels.

If we do not send a clear-cut signal on that one, God help the United States of America. That is the kind of peril we are in. Make no mistake about it. Our allies are in the same boat. We could be in a situation from which we could not extricate ourselves, except to go through more and more of the ruinous inflation from which we already suffer.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. The Energy Committee, which is chaired by the distinguished Senator from Washington, already has marked up the synfuel section of the bill which is soon to be reported to the Senate, has it not?

Mr. JACKSON. The Senator is correct.

The distinguished Senator from Louisiana, I must say, has done a yeoman job, day after day after day, in the committee; and we have gone through that very carefully, I say to the majority leader. Senator JOHNSTON is to be highly commended.

We are moving on the other titles to the bill. As the Senator has mentioned, conservation will be taken up tomorrow. We have gasohol; we have biomass. All those areas are important.

What I am pleading for is this: Let us not bog down synthetic fuels. While I am on that, I say to the majority leader that this body has a great record. In 1975, we passed a synthetic fuels bill by a vote of 82 to 12, or some such figure, but it died in the House. The next year, we passed another bill by a vote of 92 to 1, and it died in the House of Representatives.

We had hearings on the Energy Mobilization Board way back then, in 1975, and we were ready to report it, but we did not have anything to mobilize, because it was killed.

We could have synthetic fuels under production today and a start being made, had we been able to convince the country, but the gas lines ended. I say right here and now that the gas lines are coming back. I predict cutoffs this coming year, and we are going to have higher prices. That is a poor way to have to legislate, but I must say that that is the way we have had to legislate up to now.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I point out to the distinguished Senator from Washington something of which he is very much aware: If we do not approve an appropriation for alternative fuel in this bill, the only matter that will be in conference will be the House version of the legislation, and that version funds only the so-called Moorhead bill. It gives no support to the legislation that is being developed in the committee chaired by the distinguished Senator from Washington.

Mr. JACKSON. The Senator is correct.

Mr. ROBERT C. BYRD. This is legislation that is supported by the President.

So we will have no appropriation for the legislation that is going to be reported by the Energy Committee chaired by the Senator from Washington. This means that we will have to depend upon a supplemental appropriation.

I have heard talk about this $20 billion being symbolic. At some point, if the legislative bill is enacted, there has to be an appropriation to fund the program in that bill. How much time do we have in which to pass an appropriation bill in this session? The House schedule for November and December does not provide any real opportunity for consideration of a second appropriation bill on synfuels. The House leadership, I understand, only intends to hold pro forma sessions in November and December—or at least for most of those months. Passage of a supplemental appropriations bill might be extremely difficult in that time. So then what we would have would be the authorizing legislation on the books and no appropriation to go with it. So it is not symbolic, Mr. President.

I have a letter in my hand that was addressed to me by Mr. Duncan, Secretary of Energy, dated October 11. I will read from that letter:

DEAR SENATOR BYRD: As the Senate considers the Interior and Related Agencies appropriations bill I would like to convey the Administration's views on the synthetic fuels provisions of the bill. The Administration supports the action taken yesterday by the Committee on Appropriations in giving a strong endorsement of a $20 billion first phase of an overall program to help develop commercial scale synthetic fuels projects which, as you know, we propose to be carried out by the synthetic fuels corporation.

I commend the Committee for its action which clearly recognizes the large and long term funding needed for this effort. I urge the Senate to approve the Committee's action. I look forward to continuing to work with you and your Committee on the remainder of the President's energy program.

Sincerely,

C. W. DUNCAN, Jr.

I have a letter addressed to me under the date of October 12, from James T. McIntyre, Jr., Director of OMB, in which he says:

DEAR SENATOR BYRD: As the Senate considers the Interior and Related Agency Appropriations bill, I would like to convey the Administration's views on the synthetic fuels provisions of the bill. The Administration supports the action taken yesterday by the Committee on Appropriations in giving a strong endorsement of a $20 billion first phase of an overall program to help develop commercial scale synthetic fuels projects.

I commend the Committee for its action which clearly reflects the need for the large and long-term funding which this effort requires. I urge the Senate to approve the Committee's action. I also urge that the Senate act expeditiously to establish the Synthetic Fuels Corporation and to enact the Windfall Profits Tax so that the initial phase of the President's energy security program may begin.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

So, Mr. President, this is not just symbolism. It is a commitment. It is a commitment to support with money on the barrel-head the programs that will be authorized soon by the Senate when it takes up the bill that will be reported out of the Energy Committee, chaired by the distinguished Senator from Washington. And it is a commitment in advance that we intend to fund those programs. It is not symbolism. It is a commitment.

And, Mr. President, if this money is knocked out of the bill, what kind of a signal are we going to send to the American people? What kind of a signal are we going to send to our European friends who are looking to the United States and have been looking for a long, long time for leadership in dealing with the energy problem? And if we knock it out, do not forget that Mr. JACKSON's legislation providing the authorization for a synfuels program will not be worth a hill of beans without the dollars to fund it.

If we have to depend upon a second supplemental appropriations bill now that we have reached the 15th day of October, then, I say, the prospects look to be very slim for the funding of that legislation before we adjourn for this session of Congress.

So I urge the Senate to support the committee.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield to my distinguished senior colleague.

Mr. RANDOLPH. The able majority leader is correct. The amendment pending is in the amount of $20 billion. That is the amount being used by the Energy Committee and the Appropriations Committee. Am I not correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. RANDOLPH. We are speaking in terms of that amount. To have charged here, ill-advisedly charged, that this $20 billion is a symbol is incorrect. It is a reality. If we fail to act or we act unfavorably on this we will act unrealistically. The American people do not expect that of its Senate.

Mr. ROBERT C. BYRD. I agree with my senior colleague.

Mr. STENNIS. May I have a word here with the Senator from Washington?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. STENNIS. One minute that is all.

I say to him he has spoken well in his presentation here of the facts and needs and he knows that for one I opposed the idea and generally oppose the idea of appropriation bills carrying money unless it has been authorized, but he is the chairman of the authorizing committee in this field. That is correct, is it not?

Mr. JACKSON. The Senator is correct.

Mr. STENNIS. Does the Senator see any other practical way this calendar 1979 can get this legislation passed unless we resort to this means?

Mr. JACKSON. There is no other way out, Mr. President, and Senator BYRD's amendment fits right in with the authorization bill which will be up very shortly and which will be managed on the floor by the distinguished junior Senator from Louisiana, and we are ready to go. We have completed the markup on synthetic fuels. It is all finished. We are going to have some additional titles. We have conservation, gasohol, and some other items that will be included in that omnibus bill.

Mr. STENNIS. As a matter of fact, for several years during these emergencies and while the Department of Energy was being created and transfers made, the Senator has had to resort to means similar to this for several years in order to get the hard money for the program; is that not correct?

Mr. JACKSON. The Senator is correct.

Mr. STENNIS. So there is nothing new about this as far as this program is concerned or this need is concerned

Mr. JACKSON. Absolutely not. There are all the safeguards in it as Senator Johnston pointed out. We have to meet two conditions here. There has to be an authorization and we have to appropriate the money out of the fund. So those safeguards are there and they are appropriately arranged.

I must say that, as the distinguished majority leader has made the point again that we were referring to, I cannot think of anything more devastating than to send the signal that we are not prepared to invest, Mr. President, not expend, but invest the $20 billion as a down payment in a program which currently in terms of imports is costing this country $70 billion a year on imports.

Mr. STENNIS. And for its kind and its type it will be a highly significant bill and the first one of its kind that we have gotten this far along of this type, is that not correct?

Mr. JACKSON. This will be the first large-scale effort on the part of the Senate. We did pass, I again emphasize, in 1975 and 1976, a program that at that time was about $7 billion, I think, or $8 billion, only to die in the House of Representatives. The Senate has been diligent. The Senate has a good record in this regard, and I hope that that record will not be tarnished by an adverse vote on the Byrd amendment.

Mr. STENNIS. I commend the Senator and the two men on appropriations who helped us. If we do not follow their leadership I do not know where we will land. This will be a zero year in this field.

Mr. TSONGAS. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. Yes.

Mr. TSONGAS. The majority leader said quite well anything not funded today is not worth, quoting, "a hill of beans" in terms of anything the Energy Committee marks up. That is exactly the case. Tomorrow we are going to go through the exercise of a conservation bank and solar bank, and there is no way it is going to get funded. Is that not obvious? Why are we going to meet tomorrow? Why are we going to mark-up two components that have no shot at funding if not included? We are talking about 5 percent of the $20 billion.

I wish to understand, since we were told that the Energy Committee bill would include synthetics, solar, and conservation, why we end up in this situation where only synthetics go through to get funded and the other two components that we worked on in essence, as the majority leader readily pointed out, are not going to be worth a hill of beans?

Mr. JACKSON. May I, Mr. President, just say we have some very good conservation proposals before the Senate in our committee. We have proposals by the distinguished junior Senator from Massachusetts, also by the distinguished senior Senator from Massachusetts and the distinguished Senator from New Jersey, Senator BRADLEY.

We hope we can put all these programs together and make the real beginning in the area of conservation. But there is a strong difference of opinion in connection with what is the most viable conservation program. I think we are going to find we are going to have to follow several tracks.

I am very sympathetic. My point here is, Mr. President, that I want to see the synthetic fuels program started. We have got the minimum down payment of $20 billion. We have been grappling with this for all these years, and we ought to recognize the urgent need.

Mr. BRADLEY. Mr. President, will the Senator yield?

Mr. TSONGAS. If $19 billion is going to the synthetic fuels program, that gets you everything you are asking for. We agree with the Banking Committee on a solar bank. The Energy Committee and

the Banking Committee both agree that that is a shadow, there will not be a penny funded. It seems to me the message we are sending is all $20 billion for synfuels, and not one penny for conservation, and it is a rather sad commentary, given the technical consensus of what is going to help us. The thing that is going to get us out of this dilemma is conservation, and the Senate, in my opinion, will turn its back on both conservation and renewables, and I think that should be done as well.

Mr. JACKSON. Mr. President, I yield first to the Senator from New Hampshire and then to the Senator from New Jersey.

Mr. DURKIN. I thank the Senator, Chairman JACKSON.

I agree with everything the Senator from Washington said. I have supported the Energy Mobilization Board, supported the chairman on synthetic fuels, and I am an original cosponsor of S. 1308, with all the titles, the renewable titles, the solar, the energy efficiency or conservation title, or whatever you want to call it, the wind provisions. I have supported the majority leader in that effort, and intend to vote with him, as I have with the Senator from West Virginia. But we have to send the signal, and I could not agree more with what the Senator from Washington said and the Senator from West Virginia said, except when the Senator from West Virginia said it is unlikely that the House will act on the alternatives title and the conservation title in a supplemental, then we are literally afraid of being frozen out. We are afraid of sending the wrong signal to the people trying to develop hydroelectric, wind, solar, photovoltaic, energy conservation, so I intend to support the Byrd amendment.

But I am also a cosponsor of the Tsongas amendment. Let us send the same message to solar and hydro and get that taken care of. The Senator from Louisiana said he does not agree on all fours with the provisions of the trust fund as to solar and renewables and conservation. But it is not inconsistent. It does not agree on all fours, but it is not inconsistent with the loan and price guarantees on the rest of the section. But I think we have to send a combined message. On synfuels it may be 1990 before we get enough fresh synthetic fuels to run a snowblower or a lawnmower. We can generate by small scale hydroelectric power almost a third of our electricity in New Hampshire in the next 2 or 3 years, thus displacing oil.

Mr. JACKSON. As the Senator knows, right on that point, I am strongly supportive of what the Senator has already done in the small hydroelectric area. As the Senator will recall, we amended the legislation, the existing law, to provide for loans, grants.

Mr. DURKIN. That is right; and fast track.

Mr. JACKSON. And also on the fast track and Energy Mobilization Board, which should accelerate our capability in the hydroelectric area. There is a tremendous potential that needs to be tapped not only in the Northeast, in the Senator's area, but also out in the Pacific Northwest.

I can only say, Mr. President, that the distinguished senior Senator from New Hampshire has been a real leader in this area, and I believe that program is really going to move. I think what we are talking about is how much can we get in this one package here at one time. I am strongly supportive of the conservation efforts of the small hydroelectric dam development program.

These programs, Mr. President, will help to save oil. It is much cheaper to have a barrel of oil than to have to produce it, as we have learned the hard way, and I commend him for the position and the stand he has taken.

Mr. DURKIN. I thank the distinguished chairman. But I hope we can send the same type of signal so that the whole country knows your commitment and my commitment and that of the Senator from Massachusetts, and what we should not do is table the Tsongas amendment.

Mr. JACKSON. Mr. President, I yield to the distinguished Senator from New Jersey.

Mr. BRADLEY. Mr. President, I agree with the chairman's characterization of the threat to our Nation's economic health by our dependence on imported oil.

Mr. President, I also think it is a threat to our national security. As the distinguished chairman knows, the Soviets have moved very directly into the Persian Gulf area and threaten our supply lines. That, in addition to the basic stability of the region, raises major questions. That is why it is puzzling to me that this amendment would divert $1.5 billion from the strategic petroleum reserve account and place it in a synfuels account, take it away from what we need today to what we might need a decade from now.

So it seems to me that when we have no purchases from the strategic petroleum reserve since last November, presently about 94 million barrels in the strategic petroleum reserve which, under the best circumstances, given present imports of about 6.7 million barrels a day represent 13 days supply in the strategic petroleum reserve, it seems to me that this amendment not only says there will be no money for conservation in the coming year because of the parliamentary situation but it also says that should we have a shortfall in the immediate term that we will not be trying to meet it by increasing the strategic petroleum reserve.

I would like to have one of the managers of the bill or the distinguished chairman tell me why we are diverting $1.5 billion from the strategic petroleum reserve to this account for synfuels that we will not use for at least a decade. I pose that question.

Mr. JACKSON. I think the distinguished Senator from New Jersey has posed a question on the matter of the depletion of $1.5 billion, I think, in connection with the strategic petroleum reserve.

Mr. BRADLEY. Why are we diverting $1.5 billion from the strategic petroleum reserve to the Synfuels Corporation?

Mr. HUDDLESTON. Because it cannot be obligated in the year of 1980.

Mr. BRADLEY. But it is true it can be obligated progressively. You are taking it from Peter to pay Paul; you are taking it from a need in the next year or two and diverting it to a need in the next decade.

Mr. STEVENS. Mr. President, will the Senator yield? Who has the floor?

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. BRADLEY. I yield.

Mr. STEVENS. There is still $1.1 billion in the strategic petroleum reserve account even with this transfer. If you will look at page 88 of the report maybe we will understand each other. The plan is set forth as to what will happen to this reserve account.

You see we have a spending program set forth. We are going to obligate a considerable portion of the reserve. The transfer involves $1.5 billion, and there still remains $450 million beyond the estimated fiscal 1980 requirements. We are transferring that budget authority to this new account in order to use the same money without disturbing the budget.

Mr. BRADLEY. It is my understanding that money that is not spent in 1980 would be there to spend in 1981 or 1982 or whenever this country developed a capacity to fill the strategic petroleum reserve.

What we are saying here is we are going to take money from the strategic petroleum reserve and we are going to put it into the Synfuels Corporation that will not produce any oil or give this country any energy security for a decade.

Mr. STEVENS. The Senator is correct to a certain extent.

Mr. BRADLEY. Then why do we not reduce it to $18.5 billion?

Mr. STEVENS. We did. It is $18.5 billion plus $1.5 billion.

Mr. BRADLEY. All right. Why do we take the $1.5 billion from the strategic petroleum reserve? What is magic about the $20 billion figure?

Mr. STEVENS. I would like to expound on that, because originally I, too, was against the proposal. We are going to spend $2.2 billion, and $20 billion is the total commitment of this country to the synthetic fuels program.

When it first came up, I, too, was opposed to it, and then, as it went further on, I became a supporter, and I was one of those who helped turn the decision around to furnish that funding, and put this money in the budget in the manner it is there.

But the money from the strategic petroleum reserve has been transferred to stay within our budget ceiling and the President's budget. Otherwise, we would be adding more money than actually required. We cannot obligate this in 1980; we do not need the budget authority or the outlay in 1980 for the petroleum reserve.

Mr. BRADLEY. But if it was there, we would not have to appropriate and authorize an additional $1.5 billion for the strategic petroleum reserve in the years 1981 or 1982, if it was considered to be in the interest of this country to have an oil supply in the event of a cutoff.

Mr. STEVENS. We could provide additional appropriations next year if required. We can cross that bridge when we come to it.

Mr. BRADLEY. We could tell them in 1981 to put it into energy security from general revenues, is that correct?

Mr. STEVENS. We could tell them in 1981, if we felt like it, to take some money out of the synthetic fuels account and put it into the strategic reserve, if they could spend some more money in that year.

Mr. BRADLEY. Mr. President, I had hoped to be an enthusiastic supporter of this amendment, but since conservation measures and renewable resource measures are foreclosed for this year, due to the parliamentary and budgetary situations, and due to the fact that we are taking money away from the strategic petroleum reserve, which is the most pertinent action we can take to address our energy security, I would hope the Senate would give it some further consideration.

Mr. STEVENS. I would hope the Senator from New Jersey would give it some further consideration. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. BRADLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I would hope the Senator from New Jersey would further consider that we have provided as much money as can be obligated for the strategic petroleum reserve in 1980. There is no question about it; we do not need any further funding. As a matter of fact, we have $450 million more than we feel is required should they tell us they can increase their obligation rate in this fiscal year.

Mr. BRADLEY. Now, since the Senator from Alaska has the floor, will he yield to me?

Mr. STEVENS. I am delighted to do so.

Mr. BRADLEY. The $1.5 billion represents money that was for the strategic petroleum reserve, but we are not spending it?

Mr. STEVENS. It was just earmarked. It has not been spent. It cannot be spent, because their program does not call for that great an outlay within this fiscal year.

Mr. BRADLEY. It is understandable that the strategic petroleum reserve program takes time to gear up, to make sure you can get the oil in, to make sure it will stay; it will take a reasonable period of time. Therefore, the $1.5 billion we did not spend might be spent in years ahead. It seems to me shortsighted to cut it off here to put it into an energy security fund that will not produce any energy for another 10 years.

Mr. STEVENS. There are various ways to build an energy reserve. The Federal Government has royalty oil interests. Should it be necessary, we have the option to take oil rather than money. The time may come when we will want to do that.

Mr. President, when this amendment first came to our committee, I was disturbed about it, because of its size and because of some of the implications in it concerning the Office of Management and Budget's position that the moneys for loan guarantees be funded 100 percent up front.

When we deal with our guaranteed commitments to foreign banks, if we guarantee $10 billion, we only have to put up $1 billion, for a 10 percent reserve. We have not been called upon to meet any of those commitments, as I understand it, but we guarantee that we will meet them; therefore, we have to put something aside in order to meet them if they are called.

The same history prevails in terms of our Government guarantees. There has been a very, very small call on the U.S. Government for its guarantees on loans of this type; whether you look at the Reconstruction Finance Corporation, the Small Business Administration, the Lockheed loan, or whatever it is, the guarantee of the Federal Government has not been called even to the extent of 10 percent. I was disturbed by the 100 percent funding guarantee, and so I opposed it.

When I looked at it later, I realized, coming from a producing State, that we have more at stake in a commitment to the synthetic fuels program than anyone else. I saw a projection, Mr. President, for a 1995 price of oil of $90 a barrel. I already have problems on this floor with being from a State that produces as much oil as we produce at $15 or $18 a barrel. Now we have notice from Indonesia to Japan that their price will be $34 to $38 a barrel. Since I have been in the Senate, it has gone up from $1.35 a barrel, to $18, more than tenfold. When I first looked at that estimate of an increase from $35 a barrel on the spot market to $90 a barrel I was appalled; but then I realized that that is only an increase of three times in that period of time, where it has gone up tenfold since I have been in the Senate.

I think it is time we realized that until we have a stable price factor with domestic production from all sources, we are not going to stop this complete hemorrhage from our whole fiscal system because of this drain to buy foreign oil. I do not care whether the oil is made from coal, tar sands, oil shale, or whether it is produced from my State. Our oil should be priced as reasonably as possible, and we should do whatever we can to get at least some independence from the pricing system of OPEC. I agree 100 percent with the Senator from Washington about that. As the situation is now, it is a total hemorrhage of our fiscal system. This is a situation where I have also been told that OPEC has some $60 billion in short-term U.S. securities. What kind of leverage do we want them to have on our Government in the future? That amount could keep doubling every year, the way things are going.

So I determined we should have a commitment, and that is what this is. My good friend from Colorado said this was a promise, and I told him no, we should have a new concept, and that is a budget commitment.

We are saying, as Members of the Senate, that we are prepared to commit $20 billion to this synthetic fuels program if we can get the authorization legislation through and can get the President's requests for appropriations up here in the normal course of the budget process.

That, to me, is serious. It is a serious thing to have a total commitment to a synthetic fuels program. It means stability sometime in the future as far as the domestic price is concerned.

I would hope that those who are concerned with conservation would remember this, too: The worst thing that could happen to the environmental movement in this country is $90 oil. If you want to see the rush to invade the parks throughout the United States, the rush to invade the wildlife refuges throughout the United States, if you want to see this whole subject that the Senator from Massachusetts, the Senator from New Jersey, and the Senator from Washington, and I are working on in terms of Alaskan lands, then see this thing go up to $90. We will be drilling in your backyard as well as mine and anyone else's to find oil by that time. It will totally ruin the environmental status in this country if the price goes up that high.

It is high time the environmental movement looks at its hole card. Its hole card is based on domestic prices, too. There is room for balance in this country. I think we can have the production we need and protect the environment to the maximum extent possible with planning. That is what this is, a budget commitment to planning, a strategic concept of having available to the maximum extent possible domestic production.

I might say that I am not being totally altruistic, Mr. President; we also have coal. We could use coal alone to convert to oil or gas from Alaska to supply our Nation for 100 years. We have that much coal in Alaska. There would be a terrible environmental price, I might say, to produce it, and I do not believe our State is prepared to face that price now. But rather than face $90 oil and see our whole economy go, I think they might.

What is going to force us to $90 is not synthetic fuels, it is OPEC. When we look at OPEC, they are destroying the whole pricing mechanism in the United States. This is one way we can stop it.

Commit ourselves now to producing energy to the maximum extent possible in an environmentally safe manner wherever we can produce it. One place I am confident we can produce it is in the synthetic fuels program.

Mr. JOHNSTON. Will the Senator yield for a question? I think the Senator from Massachusetts has an amendment to make this acceptable.

Several Senators addressed the Chair.

Mr. STEVENS. Mr. President, before I yield the floor, I want to inquire of the majority leader whether it is possible to get a time agreement on the Tsongas amendment. I understand he wishes to modify it. I certainly do not want to prevent the modification. And then there is the Javits amendment. Without trying to get a time agreement on the amendment itself of the majority leader, I would hope we would get a chance to address some of these issues tonight.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may I respond to the distinguished Senator from Alaska? I would hope we could get a time agreement on the amendment by Mr. JAVITS to the amendment that I have offered. I believe the distinguished Senator from Massachusetts is prepared to modify his amendment at this point in a way that it may be acceptable. I wonder if we could proceed in that manner, perhaps allowing 20 minutes equally divided on the amendment by Mr. TSONGAS, or it might not take that long.

Mr. JOHNSTON. I think that would be acceptable.

Mr. STEVENS. From the point of view of the minority on the committee, and I do not know if others have seen it, it is entirely agreeable to me.

Mr. ROBERT C. BYRD. Will the Senator allow the Senator from Massachusetts to withdraw his previous amendment and offer a new amendment?

Mr. STEVENS. I would be happy to yield for that purpose. I promised to yield to the Senator from Illinois.

Mr. PERCY. The Senator from Illinois would be satisfied to yield to the Senator from Massachusetts for a minute and allow him to speak on the modified amendment.

Mr. STEVENS. Mr. President, I yield the floor to the Senator from Massachusetts.

UP AMENDMENT NO. 644

Mr. TSONGAS. Mr. President, I ask that my original amendment be withdrawn and the modification now at the desk be immediately considered.

The PRESIDING OFFICER. The Senator has that right. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 644.

Mr. TSONGAS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4 of unprinted amendment No. 642 add at the conclusion of the amendment the following:

"For the establishment in the Treasury of the United States of a special fund to be designated the "Solar and Conservation Reserve," $1,000,000,000 to remain available until expended: *Provided*, That these funds shall be available for obligation only: to stimulate solar energy and conservation: *Provided further*, That the withdrawal of said funds shall be subject to the passage of authorizing legislation and only to the extent provided in advance in appropriations Acts."

Mr. TSONGAS. This is simply saying that the components of the energy package to be marked up tomorrow in the Energy Committee will include a solar bank and a conservation component. This provides $1 billion to be provided between the two components. What we pass out will be equally on the same track, if you will, as synthetic fuels. The $20 billion in the majority leader's amendment is not touched. This simply adds the money necessary for those two components I have mentioned.

Mr. DURKIN. Will the Senator yield for a question?

Mr. TSONGAS. I yield.

Mr. DURKIN. Is it the Senator's understanding that the definition of solar is the broad definition of solar as incorporated in the authorizing language as set forth in S. 950?

Mr. TSONGAS. The Senator is correct.

Mr. HUDDLESTON. Will the Senator yield?

Mr. TSONGAS. I yield.

Mr. HUDDLESTON. We have had an opportunity to read the modified amendment, and we are agreeable to accepting the amendment. The ranking minority member has indicated likewise.

Mr. TSONGAS. If the Senator will yield, I might say that I have no further statement to make at this time. I thank the Senator from Illinois for yielding.

Mr. ROBERT C. BYRD. Mr. President, I wonder if we can get an agreement to limit the time on debate on the amendment by Mr. JAVITS to 1 hour to be equally divided between Mr. JAVITS, the author of the amendment, and Mr. HUDDLESTON. This has been cleared with Mr. KENNEDY.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, I just wish to reserve the right, notwithstanding the unanimous-consent request, to modify this amendment, should it be desirable.

Mr. ROBERT C. BYRD. Mr. President, I will include that in my request.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado reserve the right to object?

Mr. ARMSTRONG. Yes; but only for the purpose of determining the nature of the Javits amendment. As I understand, the purpose of the majority leader's request is to limit time to 1 hour.

Mr. JAVITS. This amendment refers to using some of this money for emergency fuel assistance. This is an amendment to Senator BYRD's amendment.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request for a moment.

The PRESIDING OFFICER. The request is withdrawn.

Mr. STEVENS. Is the Senator from Kentucky prepared to accept the Tsongas amendment?

Mr. HUDDLESTON. Yes.

Mr. STEVENS. As I understand the amendment, it is commitment which will be met pending future enactment of authorizations and review by the Appropriations Committee.

Mr. TSONGAS. It is in essence that type of amendment.

Mr. STEVENS. On that basis I have no objection.

Mr. PERCY. Mr. President, reserving the right to object, and I do not intend to object, it is my understanding that the floor manager would like to accept this amendment, in which I certainly concur. I would like to do so providing the Senator from Illinois, who has been waiting to speak, is recognized for 5 minutes immediately following adoption.

Mr. HUDDLESTON. It is my intention to do that if I have control of the floor at that particular time.

I move the amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. DURKIN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. I thank my distinguished colleague.

Mr. President, I think that acceptance of this amendment is further evidence that we really ought to be dealing with authorizations rather than appropriations at this time. That is why the Senator from Illinois voted, on the procedural matter, to strike the $20 billion energy security fund.

The Senator from Illinois supports a carefully planned, phased synthetic fuel program. I think we must have such a program. However, we do not now have that program authorized. Synthetic fuel, as important as it may be, is only one part of this vast, complex energy problem. As far as cost effectiveness is concerned, funds for energy conservation and renewable resources must be our initial focus.

Recognizing this fact, the Alliance To Save Energy, together with Harvard University, is sponsoring an unusual conference at Dumbarton Oaks on Wednesday night, the 17th of October, and all day on Thursday; 150 leaders of American industry and American labor and consumer groups will come together to talk about energy efficiency.

We shall also be releasing a 20th Century Fox film produced for the purpose of showing how industry and cities can use energy more efficiently.

Every single study we have made shows that conservation of energy is the best place to put our money. We can get reductions in oil imports faster that way than any other way.

In synthetic fuels, we are talking about 10 to 12 years before many of these programs come on stream. We do not know what the cost will be. It could be $25, $30, $40, $80 a barrel equivalent. Energy efficiency costs amount to $3, $4, or $5 for each barrel equivalent saved. And with about 40 percent of our energy usage wasted, we have enormous potential for savings through conservation.

In coal, direct use applications merit close attention. We know that it can rank second with respect to end use efficiency. And we know that renewable resources are critically important.

The Senator from Illinois is saying, finally, that as we start on an appropriations bill we should be aware of the fact that we need the authorization bill. That process is essential if we are to think through a program and not jerry-rig the legislation as we are trying to do right now.

Mr. McCLURE. Will my friend from Illinois yield?

Mr. PERCY. I am happy to yield for a question.

Mr. McCLURE. I asked my friend to yield for that purpose, because he is saying exactly what the Senator from Idaho feels. I think the last amendment adopted and the one the Senator from New York is seeking to have adopted illustrate perfectly the very point the Senator is making. What we are asking the Senate to do now is identify all the concerns in the energy field and identify a special fund in Treasury to fund that in the future if, as a matter of fact, Congress ever authorizes and appropriates money for that purpose.

Would not the Senator from Illinois agree that that is the effect of what we are doing here today?

Mr. PERCY. Absolutely.

Mr. McCLURE. I say to my friend that it almost demands that anybody who has any concern about any aspect of the energy situation come in to make certain that their own concerns are expressed in terms of a fund that is not a fund, that has been appropriated but has not been appropriated, that, in effect, becomes a promise. I am suggesting that maybe we shall have to amend the Budget Act to have, along with BA and BO, which are the budget authority and the budget outlays, a new category called BP, budget promises. It does not carry any money, does not carry any authority, but it says what we are going to do about the future.

Mr. PERCY. I thank my distinguished colleague for some very pertinent comments and, I think, summarizing the feelings of a great many of us on the floor, that this process that we have developed, with authorization coming first, works very well. When we try to authorize on appropriations bills, it makes it extraordinarily difficult.

Mr. President, I have concluded my comments on that subject.

UP AMENDMENT NO. 645

(Purpose: To provide emergency fuel assistance funds to be derived from the Strategic petroleum reserve account)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. EXON). The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) for himself and Mr. KENNEDY, Mr. METZENBAUM, Mr. LEAHY, Mr. RIEGLE, Mr. McGOVERN, Mr. WEICKER, and Mr. DURKIN, proposes an unprinted amendment numbered 645.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2 of the Byrd amendment in line 4, strike out "$20,000,000,000" and insert in lieu thereof "$18,650,000,000".

On page 4 of the Byrd amendment after line 18 insert the following new paragraph:

EMERGENCY FUEL ASSISTANCE

For emergency fuel assistance programs administered by the Director of the Community Services Administration under section 222(a) (5) of the Economic Opportunity Act of 1964, $1,350,000,000, to be delivered by transfer from the "Strategic petroleum reserve" account in the Treasury of the United States

Mr. JAVITS. I yield 2 minutes to the Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. Mr. President, I was at the committee hearing when Secretary Duncan of the Department of Energy presented his plan for a $20 billion appropriation. I was skeptical about it at first, but the more I listened to what is recommended by the Appropriations Committee, the more I thought it would advance the energy program. The committee's recommendation in no way hinders the authorizations. I think maybe they will come up with authorizations a little sooner. But I think it does one thing: It insures, or at least gives a little more assurance, that the Appropriations Committee will be considered in these appropriations. I was fearful that the other committees might authorize and appropriate at the same time.

About 40 percent of all our expenditures now are by the authorizing committees—social security, medicaid, education. There are many fine programs that have fallen in that category. The committee that authorizes them sets aside a huge sum of money and the Departments handle them as they see fit. I see nothing in this bill at all that will interfere with the authorizing committees.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. JAVITS. Yes.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the amendment by Mr. JAVITS of 1 hour, to be equally divided between Mr. JAVITS and Mr. HUDDLESTON.

Mr. JAVITS. Mr. President, reserving the right to object, with the proviso that I may modify the amendment.

Mr. ROBERT C. BYRD. Yes, with that proviso.

Mr. MUSKIE. Mr. President, reserving the right to object, I have no desire to prolong the discussion of the Javits amendment. Taken in its context of the pending bill, the Javits amendment creates serious budget complications. I do not know whether I can present them to the Senate in the time that might fairly be allocated to me out of the hour. If possible, I should like 15 or 20 minutes and I may not need it. I may be able to do it in the hour. I do want to discuss it.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that out of the time allotted to Mr. HUDDLESTON, Mr. MUSKIE have not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

I offer this amendment on behalf of myself and the following Senators: KENNEDY, STAFFORD, METZENBAUM, LEAHY, RIEGLE, McGOVERN, WEICKER, and DURKIN.

Now, Mr. President, why have we offered this amendment on an appropriations bill? In introducing the subject, I should like to say to my colleagues who were here and those who are, maybe, listening in their offices, it is the kind of thing that dictates the words, "Let us reason together."

What we are seeking is $1.35 billion, which, when added to what is now in the pipeline—which is $250 million in the continuing resolution—will begin to do what needs to be done for the poor and the needy of this country in respect of emergency fuel assistance.

Mr. President, lots has been going on in respect to this matter in the Congress. The Human Resources Committee has held hearings on a bill introduced by Senator WILLIAMS and a number of cosponsors. There is a bill which I have offered with Senator JACKSON. There are other bills which are pending before the committee.

The sum of it is as follows, there is grave and serious peril, and real distress for old and poor people, which might result in deaths that is a pretty serious thing to say, but it is validated by the testimony. Simply put they cannot afford to buy the fuel, no matter how they skimp and save and try. It has now at least doubled in price and in many areas is going higher.

The time is limited, Mr. President. If we should act today on this matter, right here and now, it will still be January before checks can go out to those who need it the most.

Therefore, Mr. President, instead of trying to legislate on these bills which we have considered and other committees have considered, what I am trying to accomplish is to get money for the established program now, which is a program distributed through the Community Services Agency to Governors of the States and the Department of HEW for the purpose of dealing with the most needy.

Now, why the Governors of the States? The fact is that act's poverty agencies reach only about half of those who could be reached with $1.6 billion, and for the other half we will have to rely on the actions of Governors in their respective States on the rules and regulations which they will provide.

In short, it is an ad hoc program, but we have no other choice. I am deeply sympathetic, I might say, to the problem, of the Budget Committee which Senator MUSKIE will speak to, and of the Appropriations Committee, Mr. President, which is here before us. No one can be more understanding of them than I.

But I do not see what choice we have because any one of these propositions is going to take more weeks, and more weeks means that instead of January they may get the money in February or March, and the ball game is over then. Whoever will have been frozen to death will have been well frozen to death by then.

Again I say that this is no child's play, because that is actually the testimony we have had. We have actually had cases last winter when this happened.

Now, why choose this bill? I will explain why, Mr. President. This bill has $20 billion for synthetic fuels, but of that $20 billion, $1.5 billion comes by diversion from what is called the Strategic Petroleum Reserve. That means the money which we put up with which to buy oil for stockpiling, two-thirds of that money has not been used, but only $1.5 billion is touched here.

So $1.5 billion is now reprogramed in this bill for synthetic fuels. As I argued

here, we are looking 10 years ahead when today there is a crying need, upon which most everybody agrees and which is going to go on unmet, not because we are bad-hearted people, but simply because it gets bogged down in the machinations and activities and delays which are inherent in the fact that it is in this budget resolution and not in that one, and that it is in this appropriation instead of being in some other, and there is no money procedurally available.

So the only way to reach out for any money is to act on this. There is no other way in the approximate future.

Mr. President, the President himself has asked $1.6 billion, and we agree. As an interim measure, it is the only way we can do it. But the President of the United States has so far sought $400 million, and of that $400 million he has only gotten $250 million in the continuing resolution.

Why has he only sought $400 million? Because he wants the $1.2 billion to come out of the excess profits tax.

Mr. President, in the hearing on this matter, there was unfettered hell raised with the administration, and precisely for that reason. How can we ask these people to wait until the excess profits tax passes?

Our very warmhearted Secretary of HEW tried to tell us that it would all be wrapped up within a few weeks. But, unhappily, she was addressing herself to Senators who have been around here a day or two and knew it might not happen in a few weeks or months—I hope it is not a few years, but certainly, not a few weeks or months. Again I say, by that time the ball game will be over.

I tried in discussions with the Budget Committee and with the Appropriations Committee to find some way in which this matter could be accommodated within the purview of their conference and the Budget Committee's conference so that at least it would be in a bill and it would be on its way. But again I say to the Senate that they do not see how they can do it. So I have no alternative but to try.

I think the nature of the cosponsors of this measure, the exhaustive nature of the hearings which have taken place on the issue, the general agreement that this is something we have to do, reminds me of that line in Gilbert and Sullivan, in the "Pirates of Penzance," when all the policemen sing a song, and they say, "We go. We go to catch the pirates." And one lone voice says, "But you don't go." And that is just what is happening here. We go. We go. But here it is, the middle of October and we do not go. Nothing can happen until January if we act tonight, yet there is no assurance whatever that anything is going to happen unless we do.

That is the reason, Mr. President, I have moved, and moved tonight.

Mr. ARMSTRONG. Will the Senator yield for a question?

Mr. JAVITS. Of course.

Mr. ARMSTRONG. I think in light of what the Senator said it is important to clarify the nature of the amendment. The printed amendment No. 514, which I have before me, amends the printed bill.

Do I understand the actual amendment at the desk amends the pending Byrd amendment?

Mr. JAVITS. Yes, it does. It is a little different.

Mr. ARMSTRONG. Does it accomplish the same purpose?

Mr. JAVITS. It accomplishes the same purpose.

Mr. ARMSTRONG. Then I would like to inquire of the Senator if he is aware of the discussions earlier in the day about the effect on outlays of the Byrd amendment, because there was, I think, a very clear understanding that none of the money contained within the Byrd amendment can, in fact, be obligated or expended until there is a subsequent appropriation bill passed; is that the Senator's understanding?

Mr. JAVITS. That is my understanding as to the Byrd amendment, but it is not as to what my amendment does, because it can be spent.

Mr. ARMSTRONG. I see.

Mr. JAVITS. In other words, I am not going at the $20 billion per se. I am going at that $1.5 billion which is transferred from this strategic reserve——

Mr. ARMSTRONG. So that the Senator's amendment is not, in fact, what was characterized earlier as a budget commitment—it is actually an appropriation?

Mr. JAVITS. That is correct.

Mr. ARMSTRONG. I appreciate the explanation.

Mr. JAVITS. Absolutely. And it is the only way, as I said, I lay this before the Senate. I am not trying to be forensic about it. Show me how to get this on the road. This is the only way I have seen. I have not the remotest intent to complicate anybody's life or any committee's negotiations. But this is real necessity.

It is awfully easy to promise us a supplementary appropriation or another continuing resolution. But again, we are talking about some weeks. The next continuing resolution is not due——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. I yield myself 2 minutes.

The Senator is talking about a continuing resolution, Mr. President, which will come around November 20, if we are lucky. The Senator is talking about a supplemental appropriation, for which no bill may be brought in at all, considering the lateness of the season, the fact we are undoubtedly going into SALT, and there are problems connected with energy bills.

Mr. President, I appeal to the Senate to write this amendment into an appropriation bill. Then it will be there, challenging, so we are able to do something with it in time.

If we do not do that, in terms of what we are trying to accomplish—and I think it goes for almost everybody in the Senate—the ball game is over; and we will have the feeling in our consciences that we have not done all we could to deal with this highly urgent situation about which everybody seems to agree.

Mr. President, I reserve the remainder of my time.

Mr. MAGNUSON. It is getting so around here, as I said Friday night, that every bit of legislation that people cannot get done some place else comes to an appropriations committee. Why?

Mr. JAVITS. May I answer that?

Mr. MAGNUSON. The Senator from New York is the ranking minority member of the committee which should handle that.

Mr. JAVITS. I was. I am a senior member. We are dealing with the permanent program in the Human Resources Committee.

Mr. MAGNUSON. I know about the feelings on this program, on the need. There is no use talking to me about feelings. I have the same feelings as the Senator from New York has. I have had them for a longer time than the Senator from New York has had them.

Mr. JAVITS. I agree.

Mr. MAGNUSON. There should be a procedure so that everything does not come to an appropriations committee. The legislative committees, of which the Senator from New York is a prominent member, do not do anything about these things.

Mr. JAVITS. I say to the distinguished chairman that the legislative committee will do an authorization.

Mr. MAGNUSON. Why do they not do it?

Mr. JAVITS. May I finish?

They cannot do it in time to get the appropriation which will save these people.

I have been here for years, as has the chairman, and I have seen dozens of appropriations for money, as much as and more than this, for emergencies, right on appropriations bills, and the chairman has accepted them, because he does have a great heart. I am the first to affirm that. This is that kind of situation.

It cannot wait for this process. That is just what I explained. It cannot wait, because the damage will be done and the ball game will be over. That is the reason why it is on an appropriation.

Mr. MAGNUSON. Why did not the Senator's committee take this up in July or August? The Senator knew it was going to happen.

Mr. JAVITS. May I give the reason for that?

Mr. MAGNUSON. The reason is that the legislative committees do not want to face up to their job.

Mr. JAVITS. That is not so. They certainly do in this case.

The price rise has come very recently, and at the same time, we had a stringency of supply.

I do not want to intrude on Senator HUDDLESTON's time.

Mr. MAGNUSON. I am just making my normal complaint about the lack of timely action in the legislative committees. They just postpone everything; they do not face up to the issue. I do not know why.

I think the time is coming when we will not need any legislative committees—just have the Budget Committee and the Appropriations Committee.

Mr. HUDDLESTON. Mr. President, I certainly am sympathetic to the request by the Senator from New York. He is addressing a real problem that exists, one in which a considerable amount of

interest already has been expressed and about which there is a general feeling that something should be done by the Government.

The problem here, of course, is that this is a substantial program that has not been considered by the Appropriations Committee. The real budgetary impact is not the source of budget authority. It will be the outlays, as has been pointed out, associated with this amendment. They will be extremely high, of course; and in my judgment, they should have their own appropriations

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. HUDDLESTON. I yield myself 3 additional minutes.

The Senator from New York has explained, in his response to the Senator from Washington, the reason why the matter is presented at this particular time.

I hope it will not be necessary to take these funds from the energy security reserve that will be established by the Byrd amendment but, that it will be allowed to stand on its own, permit an add-on of funding, to meet this particular need. We then can go to conference and work out the best possible arrangement to meet the need that has been indicated here.

I was wondering whether the Senator from New York would be willing to modify his amendment to that extent.

Mr. JAVITS. Mr. President, a number of the cosponsors of my amendment are on the floor.

Incidentally, for Senator MAGNUSON's information, I am proceeding on the existing authorization which goes to the Community Service Administration in such sums as may be appropriated. So there is an authorization already.

I would be willing to work out something which would get this figure in this bill so that it could be the subject of negotiation with the other body, within the context of this appropriation and the problems of the Budget Committee.

If the Senator will give me a few minutes, while I yield to some of my cosponsors, I will do it.

I yield to Senator METZENBAUM. Will the Senator take 4 minutes?

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I support the Senator from New York in his effort to move this body in a much-needed direction to take care of those who can least take care of themselves with respect to rising energy prices.

Energy prices in the last 3 months have gone up at the rate of 68 percent over the past year, an absolutely unbelievable figure and one of the reasons why the Senator from New York and others of us who have joined him must use this procedure in order to expedite it, rather than wait for the lengthy procedures that normally would be available to us and probably would not make the money available until next year.

There is no question about the need for legislation of this kind. The lower income households in this country spend four times as much for household energy as the average American household.

It was not too long ago that I conducted some hearings in Toledo, Ohio, where poor people and middle-income people pointed out that they were using their washing machines once every 3 weeks and not turning on their TV sets; and others talked about the fact that between their energy costs and their rent costs it was impossible to have anything left for the cost of food.

There is no more urgent subject that faces the poor of this country than the problem of how they are going to pay their heating bills and their fuel bills for the coming winter.

When we decontrolled the price of heating oil, we were told that market conditions would prevail and that it would not cause prices to rise very rapidly. The fact is that the heating oil prices have about doubled since we decontrolled the price.

The most amazing supporter of this amendment that possibly could be found issued a statement yesterday, without specifically addressing itself to this particular amendment, but certainly addressing itself to the subject, when the American Petroleum Institute today urged the Federal Government to move rapidly to help lower income Americans cope with higher prices this winter, including the higher price of home heating oil.

Charles DiBona, president of API, said:

> We realize that the burden of rising prices of energy and other necessities falls particulary hard upon lower-income households.

He went on to say:

> We therefore strongly urge that special consideration be given by Government to the plight of lower-income Americans in today's difficult economic situation.

We welcome the support of the American Petroleum Institute. No group knows better than they of the problems the people of this country have at the moment by reason of rising energy prices.

This amendment is a must, it is an urgent must, and I am particularly pleased to have the privilege of joining the Senator from New York and the other cosponsors of this measure in either adopting this amendment or working out an arrangement with the distinguished Senator from Kentucky, who is managing the bill on the floor.

Mr. JAVITS. Mr. President, I thank my colleague from Ohio.

I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with my colleagues in urging that the Senate favorably consider this amendment. As the Senator from New York has pointed out, the need has clearly been established. It was established in the Human Resources Committee where we heard from a number of Governors and from consumer groups about what the need is going to be for people this coming winter.

This remains the only vehicle available for Congress to provide emergency aid and assistance to those who will be most impacted by the increased cost of energy.

The Fuel Oil Advisory Committee of the Department of Energy has pointed out the very high percentage of income that is devoted to heating the homes of those of low income, lower middle income, and particularly elderly people.

There will be people in this country in the colder climates who must spend up to 50 percent of their income just to remain warm this winter.

This is an extremely modest program. As described by the Senator from New York, it would take money from the strategic petroleum reserve program, and transfer it to the Community Service Agency which is equipped to see that these resources get out into the areas of greatest need.

It seems to be a very reasoned response to what will be an overwhelming problem for needy people in our country.

I am very hopeful that we can devote this $1.35 billion toward these particular needs. It is still not going to be enough, but it will make the difference between life and death to many people in this Nation.

I join as a cosponsor.

Mr. President, this amendment I am supporting with Senator JAVITS and others is a simple matter of strict necessity. The Interior Committee has correctly established that the reserve program is unfortunately stalled. The administration is reluctant to purchase more oil at this time at spot market prices, and therefore there are substantial unexpended funds in this program. Of that unexpended amount, the committee bill transfers $1.5 billion into an account that totals $20 billion for synthetic fuels.

Mr. President, there should be absolutely no argument whatever that as between the long-term supply option of synfuels, and an immediate crisis for our most needy families, that the low-income assistance this winter must take precedence. My fellow Senators need only call their Governor's office to get a sense of the alarm and frustration that is growing over the impact of soaring prices on our constituents.

Our amendment seeks to reprogram $1.35 billion for the purpose of aiding low-income families this winter. Together with the $250 million we have already approved in the Labor-HEW appropriations bill, a total of $1.6 billion will thus be available as early as is legislatively possible this winter.

CSA has all necessary authority to spend this appropriation in a manner that is consistent with our intention here today.

Mr. President, this would still leave $18.65 billion in the synfuels account; an ample amount for a program whose outlines are not yet settled.

I urge my colleagues to support this amendment.

Mr. JAVITS. Mr. President, I thank the Senator from Massachusetts very much for his help and his support.

I ask unanimous consent that the Senator from Ohio (Mr. GLENN) and the Senator from Rhode Island (Mr. PELL) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield 3 minutes to the Senator from New Hampshire.

Mr. DURKIN. Mr. President, I thank the Senator from New York, and I commend him.

Mr. President, in the time permitted 6 weeks ago I held an Energy Committee hearing in New Hampshire. Approximately 50 witnesses and over 200 people were there—the handicapped, the elderly, and those on fixed incomes. The testimony was unanimous. There was no other way to do it for this year.

We are 6 weeks into the heating season.

If the Senators saw the "Today Show," Concord, N.H., was one of the coldest points in the country this morning.

It is too bad about the parliamentary inquiry. How does one explain a parliamentary situation when people have to choose between heating, eating, and paying the rent? The money has to be there now.

Last year we had the elderly who paid the fuel bill, and then along came the program where they could not use it for their rent and they could not use it for food.

CSA has done a good job. The Governors have the mechanism. In States like my State of New Hampshire, there is not the money there to do it on the State level. We have to use this program.

Oil costs have doubled. A cord of wood is over $100 now and going higher every day.

We have people—and these are real people and they are not statistics—where almost 50 percent of their disposable income has to go to heat their shelter. And they watch their check disappear week after week into their oil barrel or their kerosene barrel. And 13 percent of our homes in New Hampshire heat with kerosene.

So, Mr. President, there may be some discontent that we have done violence to the rules of the Senate or bent the rules of the Senate, but the livelihood of real people, senior citizens, low income, moderate income, handicapped, those on fixed incomes is far more important than any parliamentary situation or any parliamentary rule.

This is the only way that we are going to move before we have people dying and freezing. We will come in here in a warm building some day in February, after the primary in New Hampshire and someone dies because he did not have fuel and did not have food and was caught between both. And then we will pass some program.

This is the only way to avoid the disaster. We do not want to chart the disaster. We want to avoid it.

This is the only situation that we have available to us to move and move with dispatch.

I thank the Senator from New York. As I said, I am very happy to join as a cosponsor.

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from Vermont.

Mr. LEAHY. Mr. President, I shall be very brief.

I really could not add to what has been said by my distinguished colleagues on this matter. But the fact remains, as Senator DURKIN just pointed out, and we have heard the same thing in energy-related hearings, everyone says it is great to know what we are going to do in 1995 or the year 2000, or whatever, to help in the energy problems of this country.

Quite frankly, Mr. President, the poor, the elderly, those on fixed incomes, actually the majority of Vermonters are hoping that they might even live long enough to see that because when it is 20 and 30 degrees below zero in our part of the country, this is very much a matter of life or death.

I think because it is a matter of life or death, we should pass this amendment and we should do it now and not talk about what we do in 1995.

I yield back to the Senator from New York, and I applaud his leadership in this matter. I think it is typical of the leadership the Senator from New York has shown in this body.

UP AMENDMENT NO. 645

(Purpose: To provide emergency fuel assistance funds to be derived from the strategic petroleum reserve account)

Mr. JAVITS. Mr. President, I send a modification to the desk pursuant to my reservation and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) for himself and Mr. KENNEDY, Mr. STAFFORD, Mr. METZENBAUM, Mr. LEAHY, Mr. RIEGLE, Mr. MCGOVERN, Mr. WEICKER, Mr. DURKIN, Mr. GLENN, and Mr. PELL proposes an unprinted amendment numbered 645, as modified:

On page 4 after line 18 insert the following:

EMERGENCY FUEL ASSISTANCE

For emergency fuel assistance programs administered by the Director of the Community Services Administration under section 222 (a) (5) of the Economic Opportunity Act of 1964, $1,350,000,000, to be transferred to the Director of the Community Services Administration.

Mr. JAVITS. Mr. President, I yield myself a minute.

The amendment is self-explanatory. It simply moves directly instead of through the fund of the strategic reserve and puts the matter into conference where the conferees can deal with it, as I have described, and that was all that my cosponsors and I wanted to bring about. I know how Senator MUSKIE feels about it. But I hope it will accommodate also his position as I assume that he will work with the conferees on this bill as he himself is the leader of the conferees on the budget resolution.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, I yield such time as the Senator from Maine might desire.

The PRESIDING OFFICER. The Senator from Maine has 20 minutes on which he will control time.

The Senator from Maine.

Mr. MUSKIE. Mr. President, I heard the question raised of what importance is procedure when such very real human needs are involved, and I have seen so much of that instinctive reaction to problems in the last 2 weeks I am beginning to ask myself, "Are we ever going to honor procedure again?"

Whenever procedure gets in the way the intent is to push it aside, roll it over, in order to achieve an immediate objective.

The Energy Mobilization Board bill last week, my objection to that was that we were giving to that Board powers to brush aside, to roll over, laws that had taken years to put on the statute books to protect values that Congress thought were important, that the country thought were important.

Now here what difference does it make if we add this $1.3 billion to this appropriation bill? Mr. President, we do have a budget process. If we add this amount to this bill this bill will be nearly $1.6 billion in outlays over the budget. I think that is an accurate figure; $1.6 billion, or close to it. That is the first point.

This program does not go to this particular appropriation subcommittee. The money is not allocated after the budget process is adopted to this subcommittee. So, if you give this subcommittee another $1.3 billion by means of this amendment, you are taking it away from some other subcommittee—which one I do not know, but it has to come out of somewhere. Otherwise, there will be a point of order raised with respect to some program, and it might be another program close to your hearts.

When you abandon procedure you have no way of knowing where the pressure is going to come, who is going to be heard. So this has no place on this appropriation bill. This appropriation bill will be over the budget if this amendment is adopted.

With respect to this program, I am the father of the existing program. I bulldozed it through. How? Through the Budget Committee 3 or 4 years ago. I put it in the Community Services Administration, and now I am forced into the position of appearing to be against it.

I say to you that the best protection for programs of this kind is the budget process where priorities are established and then protected by the process.

Now, third, Mr. President, the Budget Committee of the House and the Budget Committee of the Senate are in conference at the present time. We began that conference last week. There are eight open functions that we have not been able to reach any agreement about. We have got the most difficult conference in my experience as chairman of the Budget Committee.

It is conceivable that the House and Senate conferees will not be able to reach agreement. It is conceivable that the budget process may well die or take the first step toward dying around the second concurrent budget resolution.

One of the difficult areas within which we are trying to reach agreement is energy. The Senate in the budget resolution has $22.5 billion unearmarked within the area of the energy supply mission. The House has roughly $14.5 billion in that mission. The House does have $1.6 billion for fuel assistance. The

Senate has about $0.5 billion for fuel assistance. We are trying to work out agreement between the House and Senate positions that are widely separate.

If this amendment is adopted now, and I hope the budget process ends up with the result hoped for by the sponsors of this amendment, the issue will be taken out of conference, depriving the Budget Committee of important leverage in undertaking to accommodate differences with respect to a range of issues in the energy field, as well as other functions, from defense to human services programs which find the House and Senate apart.

I suppose there is nothing wrong in terms of the long-range affairs of mankind if we just bypass the budget process and, having dispatched the Budget Committee into conference with the House to resolve issues like this, we take these issues back and decide them on the Senate floor, which is really what we are trying to do. I do not like any of this procedure with this bill, coming to the floor with a $20 billion synthetic fuels program without an authorizing bill—that is not my idea of the way to handle it. I think that bypasses procedure in a very unfortunate way, but now we are going to do it or we propose to do it, at least with respect to fuel assistance.

Mr. President, I am really not going to belabor the point. My heart is with the program which is the subject of this amendment, and I just cannot see doing it this way.

There is a way of achieving the same result by following procedures. If out of the budget conference the House and Senate conferees agree on a program of $1.6 billion which, I think, is a high probability, there is going to be a way of appropriating the money.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes, I yield to my good friend.

Mr. CHILES. I just want to join in the remarks that the distinguished chairman of the Budget Committee is making.

In addition to sitting on the Budget Committee I chair the Senate Committee on Aging. We held hearings early on, several months ago, really about the problem that was coming up in regard to the tremendous increases in cost and how they were going to relate to older people.

In connection with those hearings we testified before the Human Resources Committee on their need to come up with a measure that would take into consideration the problem we were facing.

I have been a supporter in the Budget Committee, and in the conference that is now going on, for the figure of $1.6 billion we have been trying to negotiate in a coalition really made up of the fact that some of us are supporting that, some were supporting other measures that had to do with that package, and I agree with the Senator that if this amendment is adopted tonight and we put this on this bill, I do not know what that does to what I also agree was a very promising thing that we were going to get $1.6 billion available for this program, that we have the kind of coalition to do that.

I am also concerned that we are putting the money into this Interior bill. I do not think it should go to the Interior Subcommittee. I do not think that really is where this program belongs. I think this program belongs in the HEW Subcommittee on Appropriations, and I think that is where the people, Chairman MAGNUSON and the other people, who have been concerned and worked in this area are going to know something about the program.

I do not know that it goes in as a mark of money in the Interior Subcommittee, and what really will happen to that, given the fact that the general interests of that subcommittee are in areas dealing with new sources, exploration, leasing and into those kind of areas.

I think it would be very unfortunate to sort of jeopardize this item.

It is nice to be able to stand up and write your press releases back home and say, "We got on this area and we really did something about it." But I am convinced if we get it in the budget resolution we will find a way, we will then have agreement between the House and Senate, as to what the number should be.

It is our position in the Senate as to how we are cross-walking that and we are sending it into human resources, HEW, and that is where the money would be allocated, the function to which we are allocating it.

It would go into the proper place to which it should go.

I think if I were worried about whether I was going to be able to get energy assistance or not this year, the course on which we are embarking is much more certain to get there than to just say we now have a vehicle so we are going to put it on this bill, when we do not have the authorizing legislation yet before us, when we do not have the Budget Committee resolution of the problem and the understanding of this problem.

I just hate to see us have to go to a vote on this now because, like the Senator from Maine, I hate to vote against the program now; I hate to see other Members of the Senate vote against it, when we have been supporting it from the outset, when we have held hearings in our committee, the Aging Committee has, when we have gone to the Budget Committee and are now in conference fighting for the very dollars that are in this program, and now have it tacked on a bill that is considerably over its budget right now, and going higher, and this being an outlay and an add-on now is something that puts us in a position which again I think is going to jeopardize the very thing that all of us are trying to do in supporting the energy assistance.

So I feel it is very unfortunate that we are forcing this thing to a vote on this proposition, and I join the Senator from Maine.

Mr. MUSKIE. I thank my good friend. I had promised to yield to the Senator from Wisconsin (Mr. NELSON) and then to the Senator from Arkansas (Mr. PRYOR).

The PRESIDING OFFICER. The Chair advises the Senator from Maine that he has 4 minutes remaining. The Senator from New York has 6 minutes and 35 seconds, and the Senator from Kentucky has 4 minutes.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Is there any time remaining on the bill that the Senator from Kentucky could yield?

The PRESIDING OFFICER. The only time is on the amendment.

Mr. NELSON. I wonder if I——

Mr. MUSKIE. I yield to the Senator from Wisconsin.

Mr. NELSON. I do not think you want to yield me your time. I agree with what the Senator from Maine says about procedure, but I think it is urgent to do something. I better ask my time from——

Mr. JAVITS. I yield the Senator 2 minutes.

Mr. NELSON. Mr. President, I agree with the Senator from Maine about the procedure. The problem that we have is that the Human Resources Committee has other bills. One of them is mine. My staff went to HEW 13 weeks ago, because all of that has been handled out of the Human Resources Committee under the OEO authorization passed in 1974, to try to get them to act on a formula and get moving. They got their formula out about 10 days ago, and it could not pass on this Senate floor under any circumstances.

The Finance Committee has several bills dealing with the subject. One of them is that of the Senator from Connecticut. It is tied in with the windfall profits tax. That legislation might be out on this floor a week from Wednesday or so. But if we do not move on it now, there will be no checks going out to people who need it before February 1.

Mr. MUSKIE. May I ask the Senator, does he think, if we approve this amendment today, the checks are going out tomorrow?

Mr. NELSON. No.

Mr. MUSKIE. I mean, you have to watch not only how fast we can vote today, but how fast the procedure will go from the vote today to checks in somebody's pocket.

What I am arguing for is to follow the regular procedure so that it can move as rapidly as possible, and I bet my horse will get to the wire as quickly as yours will. With all the debate, there does not seem to be any agreement on how to handle it.

Mr. NELSON. I think it ought to be block grants to the States. HEW thinks they ought to put it in FSI checks.

Mr. MUSKIE. There is only one place to put it, under the CSA in existing programs, for this year.

Mr. NELSON. But they do not——

Mr. MUSKIE. They would complain that we have not given them the money early enough in years past. We have been very tardy in getting the money out in acceptable form for use. But now the support is here, the administration is for it now, and they can get moving. But I do not think they can set up a new structure now.

Mr. CHILES. Would the Senator agree that we have even a fail-safe when the continuing resolution comes back November 6?

Mr. MUSKIE. Oh, yes, there is no question about it.

Mr. NELSON. But that will not help for the additional $1.2 billion.

Mr. MUSKIE. Oh, yes, it will.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. PRYOR. If the Senator from Wisconsin requires additional time to ask a question of the Senator from Maine, I yield to him.

Mr. NELSON. No.

Mr. PRYOR. I thank the Senator from Maine for yielding. I would like to state very briefly that I have been listening to this debate very carefully, because I heard a portion of it about 3 weeks ago in the Committee on Aging, which the Senator from Florida chairs, and he has spoken here this afternoon.

My first concern, Mr. President, is, first, that we are going over the budget, and second, that I do not think we have necessarily laid down a concrete solution for a criterion for expending properly this $1.3 billion. We say that we are going to basically give sort of a bloc grant, I guess you would say, to CSA, the Community Services Administration. That sounds fine, but my question is this, and I would like to ask the distinguished Senator from New York, who is distinguished by his compassion for people, we are going to be placed in a very precarious position because of the questions that still have to be raised, and also the balance we are attempting to achieve for these people.

First, I would like to ask, what is the criterion? Is it based on the percentage of the population over 60 or 65? Is it based on the AFDC program? What part do food stamp allocations have to play in the disbursement of this money? Does the temperature have anything to do with it? For example, is Hawaii going to get the same amount of money as the average for the Union? The same, say, as in Senator RIBICOFF's State of Connecticut?

Finally, it has been brought to the attention of the Committee on Aging that this includes as much as a 10-percent administrative cost, which I think will create yet another bureaucratic nightmare if this proposal is passed without us giving it a proper amount of questioning.

Once again, I applaud the efforts and integrity of the Senator from New York to bringing this matter to our attention, but I have these questions about it, and I would appreciate the Senator's responding to those questions.

Mr. JAVITS. Mr. President, I yield myself 1 minute to respond to the Senator's questions.

Section 222(a)(5) of the Equal Opportunity Act gives the money to the Community Services Administration for emergency energy conservation services "to enable low-income individuals and families, including the elderly and the near poor, to participate in energy conservation programs to lessen the impact of the high cost of energy on such individuals and families," and so on.

To carry it out, now in the HEW conference report is $250 million, which is being made available. That is distributed based on climate, the poverty level, and fuel costs, to be set by the CSA and the Governors. Actually, under the administration plan, the CSA is going to distribute $400 million to the Governors, and the balance of it will go to AFDC and SSI recipients.

That is the emergency program. There is nothing new about it; it has been tried for $200 million already. It is just that the pressure this year is growing because of increased fuel costs.

Mr. DOMENICI. Mr. President, will the Senator from Maine yield me 2 minutes?

The PRESIDING OFFICER. The Senator from Maine has 1 minute and 30 seconds remaining.

Mr. MUSKIE. You may have it.

Mr. DOMENICI. Could I have an additional 30 seconds?

Mr. HUDDLESTON. I yield the Senator an additional 30 seconds.

Mr. DOMENICI. Mr. President, I am sure the Senator from Maine and the Senator from Florida do not need the Senator from New Mexico to support their position, that they are wholeheartedly and unequivocally for this program. In fact, the Senator from Maine is much too modest. The most significant portion of this program is his bill. He was the first one to introduce it. He shepherded it personally through the Budget Committee and the committees involved here. He would not stand up on the floor of the Senate and try to defeat a measure that is more needed now than when he started. I think the Senator from Maine would agree with that.

Mr. MUSKIE. I do.

Mr. DOMENICI. It is not getting less, it is getting more. The President has included it in his program in a very dramatic way. The Senator from Florida, who chairs the Committee on Aging, is fully aware that those to whom his committee is dedicated are the most in need. He would not be here on the floor opposing that effort.

The problem is that we want to see to it that we get this program and get it in the best possible, manageable manner in the quickest way.

I think we are convinced that by adopting this amendment we will not do that, but rather that we should postpone it and let it run its normal course. The Senators are both fighting, as I am, to make sure that the program exists and can come alive to help our people. We do not want to solve the problem in a singular way that is apt to cause it to work less than well. We hope the Senator from New York, having made his case, will give us time to make sure we can report back to the Senate that if there is room for between $1.3 billion and $600 million in the budget process, let two committees work their way in the next couple of weeks. That is what we wish. We certainly urge that on the Senator from New York.

I thank the Senator for yielding time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The whole problem in this debate is that time is of the essence, as we lawyers say, and there is no way to short cut this process except if you get it in the mainstream, in a bill which has to be conferenced, so the conferees will work it out. I am confident they will.

Senator MUSKIE is right. He was an original designer of this program. There is no question about it. He is caught in the toils of the budget situation, in the budget conference. The Appropriations Committee is caught in its toils. I am not being unreasonable about it. I have been around here a long time. If we get it in the mainstream, something is going to happen. If we wait around until November 1, the majority leader just argued we may not even get another appropriations bill or another supplemental this year.

So I beg of my colleagues, get it in the mainstream, get it into a conference where it can really count and something can happen. That is all I plead for today. I hope on that ground the Senate will pass this amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. A parliamentary inquiry. How much time remains?

The PRESIDING OFFICER. Three minutes, 49 seconds.

Mr. HUDDLESTON. Mr. President, I do not need that much time. I have already indicated our concern about this particular appropriation being in the Interior bill. We have not had an opportunity to have hearings on it. We prefer it go through the normal process so the Appropriations Committee would have the opportunity to conduct hearings and have a proper bill to go through the committee rather than place it in the Interior bill. I am prepared at this time to vote, Mr. President.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time? Who yields time?

Mr. HUDDLESTON. How much time remains?

The PRESIDING OFFICER. Two minutes, 47 seconds.

Mr. HUDDLESTON. I will set 2 minutes for the quorum call.

The PRESIDING OFFICER. Under the precedent that is not sufficient time for a quorum call. The Senator can yield back his time and then ask for a quorum time.

Mr. HUDDLESTON. I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as modified.

(Putting the question.)

The Chair is in doubt.

Senators in favor of the amendment will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

Mr. DURKIN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Debate is not in order.

Mr. DURKIN. A parliamentary inquiry.

The PRESIDING OFFICER. A division is in progress.

The ayes appear——

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment, as modified.

The yeas and nays have been called for, and the clerk will call the roll.

(Mr. MELCHER assumed the chair.)

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that the Senator from Michigan (Mr. RIEGLE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from South Dakota (Mr. PRESSLER), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 43, nays 47, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—43

Baker	Garn	Metzenbaum
Baucus	Glenn	Moynihan
Biden	Hatch	Nelson
Boschwitz	Hatfield	Packwood
Bradley	Heinz	Pell
Bumpers	Jackson	Ribicoff
Burdick	Javits	Roth
Chafee	Jepsen	Sarbanes
Cohen	Kennedy	Schweiker
Culver	Leahy	Stafford
Danforth	Levin	Tsongas
Durenberger	Lugar	Warner
Durkin	Magnuson	Williams
Eagleton	Mathias	
Ford	McGovern	

NAYS—47

Armstrong	Hayakawa	Proxmire
Bellmon	Heflin	Pryor
Bentsen	Helms	Randolph
Boren	Hollings	Sasser
Byrd, Harry F., Jr.	Huddleston	Schmitt
Byrd, Robert C.	Humphrey	Simpson
Cannon	Johnston	Stennis
Chiles	Kassebaum	Stevens
Church	Lavalt	Stevenson
Cochran	Matsunaga	Stewart
DeConcini	McClure	Stone
Domenici	Melcher	Talmadge
Exon	Morgan	Tower
Gravel	Muskie	Wallop
Hart	Nunn	Weicker
	Percy	Zorinsky

NOT VOTING—10

Bayh	Inouye	Thurmond
Cranston	Long	Young
Dole	Pressler	
Goldwater	Riegle	

So Mr. JAVITS' amendment (UP No. 645), as modified, was rejected.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table?

Mr. ROBERT C. BYRD. Mr. President, I move to table.

The PRESIDING OFFICER. There is a sufficient second——

Mr. JAVITS. Mr. President, the yeas and nays.

The PRESIDING OFFICER. The Senator from West Virginia moved to table.

Mr. METZENBAUM. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DURKIN. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, if the Senator from New Hampshire will allow me, several Senators were told this would be the last vote. I think, to keep faith with them, the vote should go over until tomorrow.

Mr. BAKER. Will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes, without losing my right to the floor.

Mr. BAKER. Mr. President, our cloakroom has notified Senators there would not be any more votes tonight. It would be a severe inconvenience if we took this tonight instead of in the morning.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that my name be added as a cosponsor of UP Amendment No. 642 proposed by my colleague from West Virginia (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 10 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MEMORY OF THE HOLOCAUST AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the last time I stood before this distinguished body I told of the teacher here in our area who was including a unit on the holocaust in his American civilization course. That teacher is not alone in bringing the facts of this gruesome tale to schoolchildren. Teachers across the country are beginning to realize the importance of this event and are seeing to it that the pupils understand what transpired.

I commend these individuals who are making a point of teaching about the holocaust. The details, while horrible, can only add to the understanding of the mass slaughter. I only wish that more educators would see fit to find a place in the curriculum for this historic event.

But why, you may ask, should we want to continually remind ourselves of the details?

The importance of the holocaust as an historic event lies not in the specifics of the crime, but in what we can learn so as to prevent such an event from happening again. It is said that history repeats itself. In this case I certainly hope it does not.

Mr. President, we must keep the memory of the holocaust alive. Only then will the need for treaties to prohibit crimes like these be evident.

Mr. President, the Genocide Convention of 1949 does just that. Ratification of the treaty by the United States will show that our country fully comprehends what transpired in those concentration camps, and that we strongly disapprove.

Mr. President, I am sure that my distinguished colleagues understand genocide. I once again urge them to join with me in support of ratification of the Genocide Convention.

ON SALT II

Mr. PERCY. Mr. President, I shall vote for the SALT II treaty because it is in the national interest of the United States. It is prudent policy to limit nuclear armaments and contain military competition when two nations have the power to obliterate each other and change the nature of the world. My favorable vote is conditioned upon acceptance by the Senate of the substance of the understandings I introduced that seem to be supported by consensus in the Senate Foreign Relations Committee.

I have found no fatal flaws in the SALT II treaty. I have found ambiguity that is unacceptable. But I am fully confident that the U.S. Senate will make certain clarifications that will make it a better treaty.

I am also confident that the U.S. Senate will support increasing our defense effort where necessary. The historic vote in the Senate last month calling for a 3-percent increase in the defense budget this year and a 5-percent increase if deemed necessary in 1981 and 1982 demonstrated our resolve even in a year of severe financial restraint.

We should not have great expectations for this treaty. Trust between the United

States and the Soviet Union is not at hand. Competition will continue unabated. The belated discovery of a Soviet brigade in Cuba, which has been there for at least several years, demonstrates that the SALT process does not rule out Soviet challenges to U.S. interests. Since the Soviets refused to remove those troops, the United States has acted to strengthen our own position in the Caribbean and to put the Soviets and Cubans on notice that we will not countenance any threat to the region.

Such challenges and counterchallenges will continue. The Soviets are our adversaries. If they were our friends, there would be no need for agreements to limit nuclear arms. We can expect the continuation of keen competition within the limits set by the treaty. The United States cannot afford to fall behind.

I support SALT II because it makes positive gains in limiting the nuclear arms race and reducing the risk of nuclear war. The limits are modest but real. They will restrict the Soviet military buildup in ways important to U.S. national security. For example:

By 1981, the Soviets must scrap approximately 250 strategic weapons. They will undoubtedly eliminate from the inventory their oldest missile launchers and old bombers, but this still would result in at least 250 fewer weapons than would otherwise be aimed at the United States. The firepower of each of the nuclear weapons that could be sent our way on even these 250 oldest systems is totaling the equivalent of 17,500 Hiroshima bombs. We are not required to scrap any strategic weapons. We must recall that just the one Hiroshima bomb killed 78,000 people, injured 84,000, and demolished 62,000 buildings. It destroyed the city.

The treaty allows the Soviets to build only one new ICBM. Other missiles that Soviet planners have on the drawing boards must not be significantly different—plus or minus 5 percent—in size or weight from currently deployed ICBM's.

None of the current Soviet ICBM's can be modified to carry more warheads. This means that the Soviet Union cannot load up its heavy ICBM's to carry 30 or more warheads as is technically feasible. If they did this, they would have more than 6,000 additional warheads, each with an explosive force many times that of the bomb dropped on Hiroshima.

The Soviets will not be able to deploy any more blockbuster ICBM launchers. They will be limited to what they now have—308 fixed for heavy missiles.

The Soviets may not camouflage or otherwise try to hide their launchers from our surveillance and other observation techniques.

The Soviets cannot interfere with our satellite verification capabilities without breaking the treaty.

The United States has agreed to similar restraints. But no major strategic program currently planned to maintain the U.S. deterrent will be prohibited by this treaty. The new Trident submarine will not be prohibited. The new Trident I submarine missile will not be prohibited. The Trident II missile on the drawing board will not be prohibited. The air-launched cruise missile needed to maintain our airborne nuclear deterrent will not be prohibited nor will the development of sea-launched and ground-launched cruise missiles. The MX missile, still in development, will not be prohibited.

A future President could, with the support of Congress, reverse current policy and build the B–1 bomber. It is not prohibited in this treaty.

The treaty places important limits on the Soviet buildup while allowing the United States the flexibility to build those weapons systems deemed important to national security. This was an initial criterion I laid out for the SALT II treaty. It has been met to my satisfaction.

Another criterion I laid out in a speech on May 7, 1979, before the Bar Association of the Seventh Federal Circuit in Chicago, concerned verification. I wanted to be sure beyond a reasonable doubt that the United States could detect Soviet cheating that could undermine U.S. national security. Experience has led us to be profoundly wary of the Soviet Union. I would not support a treaty based on trust. I am now convinced that the United States has the resources and the capability to monitor Soviet actions, to detect cheating and, if necessary to abrogate the treaty and take countermeasures. CIA Director Admiral Stansfield Turner and Chairman of the Joint Chiefs of Staff, David C. Jones have both said that they are now satisfied that the treaty is adequately verifiable.

During the months of the SALT hearings, I concentrated a great deal of my questioning and research on the effect of this treaty on our NATO allies. Before the President sent the treaty to the Senate, I had received reports of dissatisfaction from our allies. Allied officials had expressed concern that provisions of the treaty might prevent the United States and NATO from addressing the military imbalance in Europe. I introduced and had accepted by the Senate Foreign Relations Committee leadership two understandings to the treaty that should alleviate these concerns.

One states that restrictions contained in the 3-year protocol attached to the treaty cannot be extended without Senate approval. This is important because the deployment of certain weapons important to Europe—sea-launched and ground-launched cruise missiles—is restricted in the protocol. The second understanding states that traditional patterns of defense cooperation will be continued unrestricted by the treaty. This means that the United States will transfer technology to our NATO allies on the usual basis. These understandings, if adopted by the Senate, will go a long way toward reassuring Europe of the U.S. commitment to NATO.

In my view, one of the key measures of U.S. strength in the world is the vitality and cohesion of U.S. alliances. The defeat of this treaty by the Senate would badly shake our alliances. It would bring into question U.S. leadership in dealing with our common adversary, the Soviet Union. If the treaty's defeat resulted in a resumption of the cold war between the United States and the Soviet Union, Europe would be the lightning rod, the first to feel the strain. I am convinced that the SALT II treaty, with the understandings I previously discussed, is in the best interest of our European allies.

Treaty opponents have been unable to convince me that this treaty contains fatal flaws. Some of their arguments seem sound at first glance, but lose their impact upon closer inspection.

Consider, for example, the argument that the treaty will give the Soviets strategic advantage because they will have the potential capability in the early- to mid-eighties to wipe out in a first attack most of our land-based ICBM's, the Minutemen missiles. The Soviets will have that theoretical capability. But the SALT treaty will not make the Minuteman vulnerable. Improved Soviet missile accuracy as well as increased numbers of Soviet warheads will make the Minuteman vulnerable.

The treaty, in fact, actually improves our position. It allows the United States to build a mobile land-based missile that will be less vulnerable than the Minuteman. Moreover, it limits the numbers of warheads on new Soviet ICBM's so that a mobile system can be more easily designed to survive an attack.

Another fact that should be included in any discussion of Minuteman vulnerability is that only one-quarter of our striking power is on the Minuteman. The rest is on strategic bombers and on virtually invulnerable submarines. This is in contrast to the Soviet Union, where 70 percent of their warheads are on the much more vulnerable land-based missiles.

Some opponents of the treaty also argue that the Soviets are allowed a significant advantage in missile throw-weight. It is true that Soviet missiles are bigger and heavier than U.S. missiles. It is not true that this translates into superiority for the Soviet Union.

In fact, the treaty sets limits on the number of warheads per missile so that bigger, heavier, missiles cannot deliver significantly more warheads than lighter missiles. In reality, accuracy and reliability count much more in striking power than pure throw-weight. Bigger is not always better.

The United States has always had the option of building heavier missiles. But every President and every Congress has rejected this option and no serious defense analyst proposes that we build a missile similar to the heaviest Soviet missile.

Other critics of the treaty argue that it does not sufficiently limit nuclear weapons. Along with a number of my colleagues, such as Senator HELMS and Senator HATFIELD, I am disappointed that the treaty does not more substantially reduce the nuclear armaments of the two superpowers. But we must not overlook the significance of the fact that the Soviet Union and the United States have agreed to any limits at all.

It is important that the arms control process is continuing and beginning to yield some significant, though modest, results. To be realistic, we have to limit the arms buildup before we can actually reduce arms, and we have to reduce arms gradually before we can effectively eliminate some of them. This step-by-step approach can build the confidence necessary to continue the process. We will never get to SALT III if we reject SALT II out of hand.

Let us face it, however. The SALT II treaty is not one great step for mankind. It is only one small step forward. But its defeat could eliminate the prospects for arms control progress for decades to come. It is my best judgment that we should take this step. It is in the best interest of the United States, our allies, and, indeed, the rest of the world.

PARENT LOCATOR

Mr. PERCY. Mr. President, I should like to bring to the attention of my colleagues again a Federal program which has been a great success. This program, called parent locator, was originally designed by Senator RUSSELL LONG and his continued attention to it has in large part been responsible for its outstanding accomplishments. Two articles, written by Christopher P. Cohen, principal regional official of region V of the Department of Health, Education, and Welfare, outline the results of the program, which insures that parents who have abandoned their families pay alimony and/or child support for which they are responsible, in both Illinois and Wisconsin.

Not only did parent locator benefit 1 million families in 1978 alone, but it saved Federal and State governments almost $500 million in welfare costs. In 1978, it also saved families who were above the poverty line $578 million. The billion-dollar plus savings to the Government and families compares to administrative costs of $320 million, an excellent cost-benefit ratio.

I would commend HEW for its aggressive efforts to reduce needless welfare costs. I particularly wish to recognize Senator RUSSELL LONG, who had the foresight to push for this program's creation.

I ask unanimous consent that the articles by Mr. Cohen from the Chicago Sun Times and the Milwaukee Sentinel be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Milwaukee Sentinel, June 26, 1979]

HEW PROGRAM HELPS FIND RUNAWAY PARENTS, COLLECT SUPPORT

It costs you and me more than $6.3 billion in federal tax dollars to support the families of deserting parents. This is because about two-thirds of welfare cases involve families deserted by a parent who has the legal responsibility for financial support. This deplorable situation is perhaps a reflection of the severe problems besetting family life in our country today. Many parents apparently feel no moral or social obligation to provide for the children they bring into the world.

It's a sad situation but—at least in the case of families on welfare—one that you and I as taxpayers don't have to tolerate. The federal government four years ago decided it was imperative to force those parents who lack this sense of responsibility to shoulder it anyway.

Not only was it necessary to ease the financial burden on society as a whole, but the individual families in question could gain stability by becoming economically independent. Family stability is more than ever the bottom line for the child support enforcement program.

Across the U.S., the program helped the states collect more than $1 billion last year by tracing parents who have failed to support their children and by forcing them to face up to their responsibilities. At a cost of $320 million to federal, state and local governments, this government program is one of the few that more than pays for itself—by a three to one dollar return.

One measure of the program's success is that 29 states reported closing of more than 19,000 welfare cases in fiscal 1978 because of child support collections. Of the total 1978 collections, $472 million was on behalf of 478,000 families receiving Aid to Families with Dependent Children (AFDC) or welfare. Another $578 million was collected for about 500,000 families not on welfare.

The Department of Health, Education and Welfare's (HEW) purpose is to reduce welfare costs. However, families not on welfare can use the program by applying to state child support enforcement offices. (In Wisconsin, there is no charge for this service.) Thus, the program offers families a better chance to remain economically independent.

In Wisconsin it cost the Division of Economic Assistance $7.3 million last year to collect $27.6 million from absent parents in approximately 61,285 AFDC cases and 10,511 non-AFDC cases. Wisconsin ranks ninth in the nation in cost effectiveness of the child support enforcement program.

In the three months after the end of the 1978 fiscal year—the last three months of calendar year 1978—an additional $8.3 million in support was collected under court orders from more than 21,000 parents; nearly 17,000 of them had children receiving AFDC. About one-fourth of Wisconsin's AFDC cases are in Milwaukee County. The state's program is now collecting support payments from 30 percent of all absent parents whose children receive AFDC. Nationally, the $1.06 billion collected was more than double the amount collected in 1976, the program's first year of operation.

The federal government pays state and local government 75 percent of their costs for the program plus an extra incentive payment to encourage them to enforce court ordered collections from absent parents in their jurisdictions whose children live elsewhere. In welfare cases, states keep part of the collections to reimburse them for their paid out welfare aid. The states give part of the collections to the federal government, which pays for about half of the welfare aid disbursed by states. Where the family is not on welfare, it gets the entire payment.

HEW Secretary Joseph Califano feels that this program is an important step in reforming the national welfare system while we await congressional action on welfare reform.

Four years ago, when Sen. Russell Long (D-La.) pushed through an amendment creating this nationwide program, a mother who wanted child support from the father of her children had to go to court or to the state welfare agency to seek an order requiring payment. This meant hiring a lawyer which was almost impossible for many mothers on welfare.

The program spearheaded by Long changed the situation with legislation which:

1. Required every state to set up an office to track down the absent parents or lose 5 percent of the federal welfare reimbursement for the year.

2. Required states to aid not only welfare mothers but any parent whose spouse neglected his/her financial responsibility.

3. Set up the US Office of Child Support Enforcement in HEW to help states and counties establish paternity, to find absent parents and to take legal action to collect from them. This office provides technical advise to the states and clears the way for using records on Social Security, federal employment and income tax filings.

The child support enforcement program is, all in all, so successful—in terms not only of money gained and taxpayers' funds saved or recaptured, but of the independence preserved or restored for thousands of families—that HEW aims to increase the amount collected on behalf of AFDC families alone to $1 billion by the end of this fiscal year.

Parents in Milwaukee County who need help in collecting child support from an absent spouse should call the child support office at the Courthouse: 278–5160. Outside Milwaukee County, information is available from local welfare offices.

[From the Chicago Sun-Times, June 26, 1978]

SUCCESS STORIES IN RUNAWAY-FATHERS PROGRAM

It costs you and me more than $6.3 billion a year in federal tax dollars to support the families of deserting parents. This is because two-thirds of all welfare cases involve families abandoned by a parent who is legally responsible for financial support. Perhaps this is a reflection of the severe problems besetting family life in our country. Many parents apparently feel no moral or social obligation to provide for the children they bring into the world.

It's a sad situation, and one that you and I as taxpayers don't have to tolerate. The federal government four years ago decided it was imperative to force parents who lack this sense of responsibility to shoulder it, and a child-support enforcement program was started.

Here are some examples of how it works in Illinois:

After separating from her husband, Mary Smith found her children suffered on two counts: Without financial support from their father, they were forced to become welfare recipients; what's more, they suffered emotionally from his absence. A state welfare department caseworker sought out the father and arranged a family meeting. After a month of negotiations, the family got together again, and the welfare case was closed.

Helen Jones' problems were more complicated. After her divorce she, too, had difficulty collecting child support and began to receive welfare aid. A caseworker got information from Mrs. Jones about her ex-husband's whereabouts and tried to persuade him to make regular support payments. He refused. So she turned the case over to the state's attorney's office. In court Jones stated belligerently that his car payments were more important to him than his child-support payments. The state's attorney obtained a 30-day work release jail sentence for Jones. This permitted an immediate start of regular support and back payments, allowing Mrs. Jones to become independent of welfare.

These are real examples of success stories (using fictitious names) in the federal-state "runaway fathers" program. It helped states collect $818 million last year by tracing parents who have failed to support their children and taking court action against them. At a cost of $258.8 million to federal, state and local governments, this is one government program that more than pays for itself—by a 3-to-1 dollar return. More than $1 billion is expected in total payments this fiscal year, about half for welfare mothers and children. Families not on welfare can also use the program by applying to state child-support enforcement offices for help.

Nationwide, about 600,000 welfare fami-

lies and 400,000 nonwelfare families now receive payments from previously nonsupporting parents. These payments amount to about 10 percent of the nation's total bill for AFDC.

In Illinois last year the Department of Public Aid collected $8 million at a cost of $4.6 million in approximately 8,300 welfare cases and 130 nonwelfare cases. This is almost double the amount collected the year before.

The federal government pays state and local governments 75 percent of their collection costs, plus an incentive payment to encourage them to enforce court orders to collect from parents in their jurisdictions whose children live elsewhere. In welfare cases, states keep part of the collections as reimbursement for welfare aid, and give the rest back to the federal government—which pays about half the states' welfare bills.

If the family is not on welfare, the mother and children get the entire payment, minus a small state service charge.

This program is an important step toward improving the national welfare system while we await congressional action on welfare reform. It requires every state to set up an office for tracking down the absent parents. If the state refuses, it forfeits 5 percent of its federal welfare reimbursement for the year.

To help states and counties find the absent parents, establish paternity and take legal action to collect from them, the Department of Health, Education and Welfare set up an Office of Child Support Enforcement, which has a regional counterpart here in Chicago. The program is such a success—in terms not only of money gained and taxpayers's funds saved or recaptured, but of independence restored for thousands of families—that HEW expects to increase the amount collected to $2 billion by the end of fiscal 1979.

We urge all Chicago area parents who need help in collecting child support from an absent spouse to call us at 793-4450.

CAMP FIRE GIRLS MEMORIAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 377.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—this matter is cleared on our calendar, and we have no objection to its consideration and passage.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The second assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 83) to authorize the Camp Fire Girls of Cundy's Harbor, Maine, to erect a memorial on Maine Avenue in the District of Columbia.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 1, strike "on Maine Avenue";

On page 2, line 10, strike "on Maine Avenue";

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Camp Fire Girls of Cundys Harbor, Maine, is authorized to erect a memorial on public grounds in the District of Columbia, subject to authorization by the Secretary of the Interior as provided in section 2, in commemoration of the State of Maine. This memorial shall be in the form of a statue, and shall be entitled "The Maine Lobsterman".

SEC. 2. (a) The Secretary of the Interior is authorized to select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia, upon which may be erected the memorial authorized in the first section of this resolution. If the site selected is on public grounds belonging to or under the jurisdiction of the District of Columbia, the approval of the Mayor of the District of Columbia shall also be obtained.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the National Commission of Fine Arts and the National Capital Planning Commission.

(c) Other than as to the land authorized for the erection of the memorial in the first section, neither the United States nor the District of Columbia shall be put to any expense in the erection of this memorial.

SEC. 3. The authority conferred pursuant to this resolution shall lapse unless (1) the erection of such memorial is commenced within five years from the date of enactment of this resolution, and (2) prior to its commencement, funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior to insure completion of the memorial.

SEC. 4. The maintenance and care of the memorial erected under the provisions of this resolution shall be the responsibility of the Secretary of the Interior.

● Mr. COHEN. Mr. President, I urge my Senate colleagues to join Senator MUSKIE and me in supporting our legislation authorizing the Interior Department to place a copy of the famous "Maine Lobsterman" statue at a suitable location in Washington.

No one better embodies the unique characteristics of Maine's hardy citizens than do our lobstermen. That was why in 1939, when the State was seeking a centerpiece for its exhibit at the New York World's Fair, sculptor Victor Kahill was commissioned to depict a lobsterman at work.

The Kahill sculpture has become a Maine favorite. Copies are now on display in Augusta, Portland, and Harpswell. Over the years, several efforts have been made to place a copy in Washington, as a symbol of the lobstermen's contribution to Maine and of Maine's contribution to the Nation.

The current drive to bring the lobsterman to Washington is being led by the Camp Fire Girls of Cundy's Harbor. But if the group is to have any hope of success in raising the funds needed for this project, authorizing legislation enabling the Secretary of the Interior to find a suitable site in Washington must be approved by the Congress.

Senator MUSKIE and I hope that this statue can be erected, as the Camp Fire Girls wish, on Maine Avenue along the waterfront. But first we need the support of the Senate for Senate Joint Resolution 83. I urge all my colleagues to approve this resolution.●

● Mr. MUSKIE. Mr. President, Senate Joint Resolution 83, jointly sponsored by Senator COHEN and me, authorizes the Camp Fire Girls of Cundy's Harbor, Maine, to erect a memorial in the District of Columbia.

The memorial the Camp Fire Girls have chosen to erect is a replica of the Victor Kahill sculpture of a lobsterman at work. It is a creation which symbolizes the independent spirit of our Maine citizens and our relationship to the sea. The cities of Augusta, Portland, and Harpswell each have a replica of the statue on exhibit.

There have been previous attempts to place this work in Washington to reflect one aspect of Maine's contribution to our Nation. The present impetus for this project must be credited to the Camp Fire Girls of Cundy's Harbor under the leadership of Ruth Heiser. This legislation is a tribute to their perseverance and their belief that the special character of Maine's seagoing people ought to be recognized in our Nation's capital.

The Camp Fire Girls of Cundy's Harbor, Senator COHEN, and I feel it would be appropriate to have the statue erected on Maine Avenue, particularly near the water.

I urge my colleagues to approve the resolution.●

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A joint resolution to authorize the Camp Fire Girls of Cundy's Harbor, Maine, to erect a memorial in the District of Columbia.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

A MATTER OF RESPONSIBILITY

Mr. D5CONCINI. Mr. President, the associate publisher and general manager of the Arizona Republic, Mr. Darrow Tully, recently delivered an address to the Phoenix Nucleus Club. The speech is both interesting and enlightening, and it addresses the problems and responsibilities associated with the news business. As politicians, each of us is called upon to answer for our actions to the press, and I thought that my colleagues might find Mr. Tully's remarks helpful in shedding light upon the inner workings of the fourth estate.

I ask unanimous consent that the text of the speech be printed in the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

A MATTER OF RESPONSIBILITY

Mr. Chairman, distinguished guests, Nucleus Club members, ladies and gentlemen. I'm happy to be here and hopefully to give you some insight into the newspaper business.

Bob Considine once described politics as an insane asylum run by the inmates. I'm sure some of you feel that could also describe the newspaper business. Ben Franklin once observed "to publish a good newspaper

is not as easy an undertaking as many people imagine it to be." That is what I really want to talk to you about today—publishing a good newspaper.

A newspaper should reflect three basic divisions of news information. For purposes of this discussion, I am speaking of hard news, news analysis and editorial opinion and not including features, vital statistics, entertainment, comics, etc.

In my opinion two phrases have been grossly overused in the journalistic lexicon. One is "adversary relationship" and the other is "advocacy journalism." I don't believe the popular notion that an adversary relationship is healthy or productive in most cases.

A textbook description of the fundamental functions of a newspaper are:

1. To inform its readers objectively about what is happening in their community, country and world.

2. To comment editorially on the news in order to bring these developments into focus.

3. To campaign for desirable change and to strive to eliminate undesirable conditions.

4. To serve the reader as counselor, information bureau, and champion of his rights.

Now let's talk briefly about advocacy journalism. In my opinion that is a pretty description of ugly journalism. Any way you cut it, if advocacy creeps into a story it becomes opinion and, by heaven, that is not newspaper journalism. An even more insidious danger is what is not said in a story as opposed to what is said.

An example might be the lady who brought a crying baby into the doctors office for an examination. Upon completion the doctor asked if the baby was breast or bottle fed. The woman answered breast fed. The doctor then asked her to strip to the waist and proceeded to examine her breasts. He massaged them and squeezed them and finally he exclaimed "no wonder this baby is crying" you don't have any milk. She answered, "I'm not supposed to, I'm his aunt, but I'm sure glad I brought him.

How do people make up their minds in ambiguous situations? Certainly we are in the midst of an information explosion.

Circulation is at an all-time high, and market research studies show us that nearly everyone reads at least one newspaper every day, and many two or more. News magazines have reached new highs in readership. There are more radios than there are homes and automobiles in the United States. We have over 98 percent coverage of this country from television. The big question is: How is the public influenced by what they read and hear?

How people react to news depends upon their own cognitive orientations. Their actions may be misguided or naive. The odds that opinions will be distorted appreciate geometrically the lower the number of news sources.

The development of reliable knowledge is a cumulative process. One of the characteristics of modern mass society is that people face one ambiguous situation after another. They are constantly sensitized to news precisely because they must get their bearings as they go along.

Ours is also a society in which manipulation of outlook through ingenious propagandistic devices is commonplace, where ruses, unsubstantiated testimony, and doctored evidence play decisive parts in local and national life. What makes decisions in such unsettled times so important is that crises are the crucibles out of which many innovations emerge: New modes of action often get their initial direction in attempts to cope with emergencies.

Let's reflect a moment on the trichotomy I alluded to earlier: news, analysis and editorial comment.

Hard news should strive for objectivity. We all know objectivity is an unobtainable goal, but the prejudices of the reporter should be edited out through the various editing procedures.

A general assignment reporter will usually be directed to one particular story by an editor. The editor should outline to the reporter the general parameters expected in the story. He might also ask for a sidebar or enhancement material. Once the story is written it is submitted to the copy desk for editing. We try to catch all errors of fact and in addition edit out blatant subjectivity.

You've heard the old joke—"never let the facts get in the way of a good story."

Obviously inaccuracy and error are to some degree unavoidable but newspapers must diligently and conscientiously strive to minimize them. What is unforgivable is to run a story knowing full well that the facts are uncheckable or totally unreliable.

Analysis is the next part of the news troika. These stories encompass hard news but will probably contain a great deal of interpretation we feel necessary if the reader is to understand the hard news story. This is the why that follows the who, what, when and where. If our readers are to understand the total story we must supply some of the why?

The last part of our tripartite effort is the editorial or comment. Obviously, these comments should be reserved for the opinion pages. It should be perfectly obvious to the reader that an editorial is no more or less than an opinion expressed by what we hope is a well informed writer.

The editorial page and editorials in particular are probably the most misunderstood part of the newspaper. The editorial page and the page adjoining it (or the op-ed page as we call it) are full of diverse opinions. A conservative syndicated columnist should be offset by a liberal. The letters to the editor provide some baalnce for our own editorial opinion.

I'm sure you have also seen guest editorials by prominent local citizens.

Many people wonder how we choose to support a particular political candidate. There is really no mystery there at all.

We have input from all areas which will be helpful in arriving at a decision. If a beat reporter has intimate knowledge about a candidate his opinion is sought. Each candidate is reviewed by a panel consisting of the publisher, associate publisher, editor, managing editor, and several other knowledgable executives. In many cases, the ultimate decision is not unanimous.

Newspapers must attempt to do a better job of explaining their role to the community. They must preempt their critics and define the standards of their profession rather than letting them do it by default.

When people do not understand how newspapers strive for unbiased, accurate and fair reporting of the news they will not trust them. Without trust, credibility erodes, and with that erosion they are left alone, without allies in their defense of the first amendment.

There is nothing in the bill of rights, including the first amendment, that sets newspapers apart as a privileged class. They publish under a political right granted by the people. What the people giveth, the people can take away.

A papers prime function must be to regain the trust and respect of their constituency in order for them to be truly comfortable in supporting newspapers as guardians of the first amendment.

The road back to public confidence is a long one. Journalists may see themselves as working in the public's interest, but the public may not. Journalists rate higher than politicians in surveys of public sentiment, but not by much. Politicians have many of the same problems.

When Congress will whitewash one of its own who steals by demanding kickbacks or padding expense accounts of having members of his family on his staff, the public loses a little more faith. Look at Diggs and Flood and Brook and Talmadge and far too many others.

When the President must resign because of scandal, the public loses a little more faith. When politics transcend patriotism, the public loses a little more faith.

A few weeks ago I invited Reg Murphy, distinguished publisher of "The San Francisco Examiner" to speak at a Phoenix Newspapers, Inc. retreat. Reg referred to a recent independent survey which indicated that over 80 percent of public figures interviewed by the press felt the press was "out to get them." He added that 61 percent of the journalists thought they were doing a first-rate job. That's quite a schism.

There is a growing feeling in the communications industry that the press has become a convenient scapegoat for all the bad things that are happening in the world. We have been blamed either in part or in toto for political assassinations, racial rioting, student disorders and the rising crime rate. We see a curious phenomenon of the medium being blamed for the events which it reports. A general dislike and distrust of the news media is shared by extremists on both the left and the right.

It takes a special kind of integrity to hold to standards of honesty and fairness when pressures are so great, time is so short, and so many shortcuts and unassailable alibis are available to those who want to shade the news in order to promote a personal advantage or nurture a prejudice.

It is axiomatic that when the press properly performs its function it is bound to suffer unpopularity. The bearer of bad tidings reflecting the horrors and depredations of modern society will certainly be greeted with disbelief and wrath.

Years ago, Walter Lippmann wrote that the function of journalism is to present a picture of the world upon which men can act. But if that is the function of journalism, what is the responsibility of the public?

I believe that the public must assume some of the responsibility for determining their collective future. The public must strive to become fully informed. No democratic society can exist without a well-informed electorate.

As for criticism of what we judge worth reporting, and now I am back to all news without regard to the way it is transmitted, a society which cannot stand its own news is about to have survival problems. If I am overoptimistic about the public view of news as contrasted with vociferous critics, the news of these survival problems will be increasingly resented. The function of news must in this situation be to inform the society about these problems, not to solve them. The society must solve them, and it can only solve them if informed about them—which it may present. But I see no upright way of trying to avoid such criticism and attack. On the bright side, if the work we do needs public attention to be justified, apparently we have it. Otherwise we would not be worth criticism.

Well—what is a good newspaper? I have thought a great deal about that question and when I started writing down those characteristics I would attribute to a good newspaper I ended up with a list of about two pages. I then asked myself what are the essential qualities common to any good newspaper and I reduced this list to only two adjectives. A good newspaper is fair and it is accurate. Not very profound but extremely difficult to achieve.

We are a great people, and a nation with a noble tradition. We are a people who evolved a great intellectual and cultural society, coupled with the capitalistic philosophy of economic competition and thrived on its challenge. A system that allows freedom of choice and compassion for our fellow man.

Carl Sandburg wrote, "when a nation goes down or a society perishes, one condition can always be found, they forgot where they came from." If America goes down, it will be far too early. The challenge is whether the communications media can stimulate the public to become personally involved in the process of government.

Only through that involvement can government be directed towards the goals and aspirations of the great masses that make up this magnificent country.

Some will say why doesn't the newspaper do something about that or why doesn't the governor do something or why doesn't the President do something.

My friends, it just doesn't work that way. The late President Theodore Roosevelt said it so well and I quote, "The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood . . . who knows the great enthusiasm, the great devotions, who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and . . . if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat."

Thank you.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED JOINT RESOLUTION SIGNED

Pursuant to order of October 12, 1979, the Secretary of the Senate, on October 13, 1979, received a message from the House of Representatives, reporting that the Speaker had signed the following enrolled joint resolution.

H.J. Res. 412. A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. MATSUNAGA) on October 13, 1979.

REPORT SUBMITTED DURING THE RECESS

Pursuant to order of October 12, 1979, the following report was submitted on October 12, 1979, during the recess of the Senate:

Mr. JACKSON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1030) to authorize the President to create an energy emergency program to conserve energy, and for other purposes (Rept. No. 96-366).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. Res. 254. An original resolution waiving Section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5218. Referred to the Committee on the Budget.

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance (Rept. No. 96-367).

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment, but with an amendment to the preamble:

S. Con. Res. 43. Concurrent resolution honoring the Fourteenth Centennial of Islam.

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 246. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4249.

S. Res. 250. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 595.

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

H.R. 4986. An act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes (together with additional views) (Rept. No. 96-368).

Mr. PROXMIRE. Mr. President, I report from the Banking, Housing and Urban Affairs Committee a bill titled the Depository Institutions Deregulation Act (H.R. 4986).

This landmark legislation will phase-out interest rate controls (regulation Q) over a 10-year period while giving thrift institutions the powers they need to compete in a market for deposits without Government controls.

Government controls of deposit interest rates are counterproductive, regulation Q, enacted as temporary authority in 1966 and extended 11 times, mandates discriminatory and low rates on savings deposits. Because of these low rates individuals are discouraged from saving and encouraged to borrow. This policy of encouraging consumption and discouraging saving is inflationary and wrong at a time when we should encourage savings and capital formation. At the same time, regulation Q particularly hits the small saver the hardest. No wonder the United States has the lowest savings of the western democracies and an unacceptable productivity growth rate. It is clear that regulation Q must be phased out.

This legislation does it in a time frame which will enable thrifts to maintain their viability and commitment to housing. Thrifts are given checking account authority as are credit unions. These accounts, called NOW accounts and share drafts, will also enable consumers to earn interest on their checking accounts. Commercial banks too may offer NOW accounts under the bill.

Along with checking accounts, thrifts will be authorized to offer consumer loans and trust services. Thrifts are therefore given the powers they need to fully serve all of the needs of household depositors and borrowers and to compete in the market. This legislation also preempts State home mortgage lending limits which are responsible for mortgage money drying up in many areas of the country.

Mr. President, this legislation culminates a long effort by the Banking Committee to update our financial institutions. The ranking minority member of the committee (Senator GARN) and the chairman of the Financial Institutions Subcommittee (Senator CRANSTON) are particularly to be commended for their cooperation in bringing this legislation to the Senate. This legislation does the job that needs to be done now and I commend it to my colleagues in the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HART:

S. 1884. A bill to provide that legislation appropriating funds for payment of salaries to Federal employees shall be enacted separately from other legislation; to the Committee on Rules and Administration.

By Mr. DECONCINI:

S. 1885. A bill to amend title 18 of the United States Code to define and limit the exclusionary rule in Federal criminal proceedings; to the Committee on the Judiciary.

By Mr. HART:

S. 1886. A bill for the relief of the Jefferson County Mental Health Center, Inc., and of certain current and former employees thereof; to the Committee on Finance.

By Mr. HATCH:

S. 1887. A bill for the relief of Raymond Arthur Chobaz; Ph. D.; to the Committee on the Judiciary.

S. 1888. A bill for the relief of Peter Brimelow; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART:

S. 1884. A bill to provide that legislation appropriating funds for payment of salaries to Federal employees shall be enacted separately from other legislation; to the Committee on Rules and Administration.

FEDERAL EMPLOYEE PAYCHECK PROTECTION ACT

● Mr. HART. Mr. President, the last 2 weeks have been a disturbing lesson in American Government for many citizens. While Congress debated and delayed the continuing resolution funding the Department of Defense and several large Federal agencies, millions of Federal employees and members of our armed services faced the threat of no pay.

This near-disaster—finally averted by a compromise on the bill—cannot be allowed to occur again. Military and Federal payrolls should not be used as hostages for other, unrelated issues.

Today I am introducing the Federal Employee Paycheck Protection Act to insulate Federal paychecks from the kind of legislative controversies which

have, for 3 years running, left some Government and military employees in the dark as to when their next payday would be. This legislation, similar to that introduced earlier this year by Senator MATHIAS, would separate the appropriation for a Federal agency's operation and programs from the appropriation for its employees' salaries. As a result, congressional disagreement over an agency's operations or policies could delay only the agency's operating budget—not its payroll.

The need for this kind of legislation should be clear to everyone after this week. Had the Congress not agreed on a compromise last week, 1.6 million military personnel and thousands of Federal employees would not have been paid on time. Although Federal workers would have received paychecks for half of the most recent pay period, this is still a severe hardship for middle- and low-income wage earners. Landlords must be paid on time, grocery bills mount up, and money for other necessities becomes scarce.

Delay and disruption also cost the Government money. Last year, when over 145,000 employees of the Department of Health, Education, and Welfare received two half-size paychecks instead of the one they normally receive because of this same problem, it cost the Government an extra $70,000 to run the payroll twice.

Congressional disagreements over some aspect of an agency's operations, which delay or prevent enactment of an agency's operating budget, should not affect noncontroversial salary appropriations. If this bill is enacted promptly, congressional stalemates over appropriations bills will have caused unnecessary hardship for the last time.●

By Mr. DECONCINI:

S. 1885. A bill to amend title 18 of the United States Code to define and limit the exclusionary rule in Federal criminal proceedings; to the Committee on the Judiciary.

EXCLUSIONARY RULE

● Mr. DECONCINI. Mr. President, todav I am introducing a bill to define and limit the exclusionary rule. The exclusionary rule is the judicially created doctrine under which evidence secured in violation of the fourth amendment becomes inadmissible. The rule has stimulated both beneficial and unfortunate changes in the American system of criminal justice.

One of the more troubling attributes of the rule is the uncertainty of its demands. S. 1885 is designed to solve this problem. It would define and limit application of the exclusionary rule in Federal courts. The definition and limitations it would impose are drawn from recent Supreme Court decisions. It would strengthen the rule and the protections afforded by the fourth amendment by eliminating the unreasonable applications of the rule.

Some scholars view the rule as constitutionally required and immune from congressional modification, see Kamisar, "Is the Exclusionary Rule an 'Illogical' or 'Unnatural' Interpretation of the fourth amendment?" 62 Judicature 66 (1978). The history of the Supreme Court's treatment of the rule make such assertions untenable, nor does the fourth amendment itself require such an interpretation. It states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall be issued, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized (U.S. Const. amend. IV).

Unlike the fifth amendment, there is no express language of exclusion. However, concern over abusive law enforcement procedures led the Supreme Court to hold in 1914 that evidence secured by Federal officers in violation of an individual's fourth amendment rights must be excluded from his Federal criminal trial, *Weeks* v. *United States*, 232 U.S. 383 (1914). The Court subsequently made the exclusionary rule applicable to the States through the due process clause of the 14th amendment, *Mapp* v. *Ohio*, 367 U.S. 643 (1961).

Although some of the earlier cases might suggest that the rule is a Fourth Amendment imperative, see, for example, *Elkins* v. *United States*, 364 U.S. 206 (1960), the recent cases make it clear that the rule is a judicial creation subject to modification, see, *United States* v. *Janis*, 428 U.S. 433 (1976); *Stone* v. *Powell*, 428 U.S. 465 (1976); *United States* v. *Ceccolini*, 435 U.S. 268 (1978).

The Court's treatment in Stone against Powell, supra, of the "imperative of judicial integrity" rationale for the rule demonstrates that the rule cannot be considered constitutionally required without reference to the deterrent effect of exclusion in a particular case:

Although our decisions often have alluded to the "imperative of integrity," *e.g., United States* v. *Peltier*, 422 U.S. 531, 536-539 (1975), they demonstrate the limited role of this justification in the determination whether to apply the rule in a particular context. Logically extended this justification would require that courts exclude unconstitutionally seized evidence despite lack of objection by the defendant, or even over his assent. *Cf. Henry* v. *Mississippi*, 379 U.S. 443 (1965). It would also require abandonment of the standing limitations on who may object to the introduction of unconstitutionally seized evidence, *Alderman* v. *United States*, 394 U.S. 165 (1969), and retreat from the proposition that judicial proceedings need not abate when the defendant's person is unconstitutionally seized, *Gerstein* v. *Pugh*, 420 U.S. 103, 119 (1975); *Frisbie* v. *Collins*, 342 U.S. 519 (1952). Similarly, the interest in promoting judicial integrity does not prevent the use of illegally seized evidence in grand jury proceedings, *United States* v. *Calandra*, 414 U.S. 338 (1974). Nor does it require that the trial court exclude such evidence from use for impeachment of a defendant even though its introduction is certain to result in conviction in some cases. *Walter* v. *United States*, 347 U.S. 62 (1954): 428 U.S. at 485.

Instead of viewing the question in absolute constitutional terms, the Court has utilized a balancing test in deciding whether to extend the scope of the rule which the bill would codify in all cases:

Recognizing not only the benefits but the costs, which are often substantial, of the exclusionary rule, we have said that "application of the rule has been restricted to those areas where remedial objectives are thought most efficaciously served." *United States* v. *Calandra*, 414 U.S. 338, 348 (1974). *United States* v. *Ceccolini*, 435 U.S. 268, 274 (1978).

In short, we conclude that exclusion from federal civil proceedings of evidence unlawfully seized by a state criminal enforcement officer has not been shown to have a sufficient likelihood of deterring the conduct of the state police so that it outweighs the societal costs imposed by the exclusion. This court, therefore, is not justified in so extending the exclusionary rule. *United States* v. *Janis*, 428 U.S. 433, 454 (1976).

The Supreme Court, of course, has the authority to modify the exclusionary rule by judicial decision. In order for Congress to similarly change the rule, it must hold comparable authority. It does. The Constitution vests Congress with the power to ordain and establish inferior courts, U.S. Constitution, article III, section 1; to make regulations and establish exceptions with respect to the appellate jurisdiction of the Supreme Court, U.S. Constitution, article III, section 2; and to make all laws necessary and proper for carrying into execution the powers granted the Federal Government by the Constitution, including those granted the courts, U.S. Constitution, article I, section 8. It is generally conceded that Congress has the power to establish rules for the admissibility of evidence in Federal courts, *Usery* v. *Turner Elkhorn Mining Co.*, 428 U.S. 1, 31 (1976); *Tot* v. *United States*, 319 U.S. 463, 467 (1943). Congress has recently exercised this authority by passage of the Federal Rules of Evidence, 88 Stat. 1929 (1975).

Further evidence of the general belief that Congress has the authority to define, modify, and limit the fourth amendment exclusionary rule comes from the bills introduced in the last several Congresses.

These proposals fall into three categories. Some, like S. 1885 would bar exclusion of evidence secured through insubstantial violations of the fourth amendment: H.R. 12868 (95th Cong., Representative HYDE and others); S. 2657 (92d Cong., Senator BENTSEN); H.R. 13682 (92d Cong., Representative Hogan). Others would eliminate the exclusionary rule in favor of a statutory claim of cause of action, S. 3014 (95th Cong., Senator Griffin); H.R. 5628 (94th Cong., Representative Steiger); H.R. 10275 (93d Cong., Representative Steiger). The final group includes features of the first two categories. These bills would both eliminate the exclusionary rule in cases of insubstantial violations and provide for a claim or cause of action as a remedy for violation: S. 881 (93d Cong., Senator BENTSEN); H.R. 17096 (92d Cong., Representative McKAY). Each of these approaches present problems. Providing for a claim or cause of action for fourth amendment violations brings up collateral issues that should be considered separately. Moreover, total abolition of the Rule ignores the powerful deterrent effect that the rule imposes on police activity.

S. 1885 would bar exclusion in Federal criminal cases unless the court found, as a matter of law, that the violation was intentional or substantial. Restriction of the exclusionary rule in

instances of unintentional, or insubstantial good faith violations finds support both in the cases and among legal scholars:

At least in some cases of this sort, where, in contrast to confessions of dubious reliability, the evidence cannot impair any proper defense on the merits, the object of deterrence would be sufficient achieved if the police were denied the fruit of activity intentionally or flagrantly illegal—where there was no reasonable cause." Friendly, *Benchmarks*, 260–61 (1967), noted in *Stone v. Powell*, 428 U.S. 465, 490 (1976); see also, *United States v. Janis*, 428 U.S. 433, 454 n.28 (1976); *United States v. Ceccolini*, 435 U.S. 268, 280 (1978); ALI, *A Model Code of Pre-Arraignment Procedure*, SS 290.2(4)(b).

S. 1885 requires the court to look at all the circumstances of a case to determine whether a violation was substantial. The court is specifically directed to look at five factors, the first of which is the extent to which the violation was reckless.

The extent to which privacy is invaded is also a circumstance that would be considered in determining whether a violation was substantial. This same wording is found in a comparable provision of the ALI, "A Model of Pre-Arraignment Procedure," SS 290.2(4)(c), and is drawn from the Court's opinions in *Davis* v. *Mississippi*, 394 U.S. 721, 727–28 (1969); *Terry* v. *Ohio*, 392 U.S. 1 (1968); and *United States* v. *Dionisio*, 410 U.S. 1 (1973). These cases reflect the view that the fourth amendment, itself, demands less protection where the level of police invasion is less intrusive.

The third circumstance to be considered is whether exclusion would be an effective deterrent. This is the basic test which the Court used in Ceccolini and the cases in which it refused to expand the exclusionary rule's application. A virtually identical provision is contained in the ALI, "A Model Code of Pre-Arraignment Procedure," SS 290.2 (4)(d).

The final specific circumstance which courts might consider under S. 1885 in determining whether a violation was substantial is "whether, but for the violation, the things seized would have been discovered, or the relationship between discovery and violation is attenuated." This provision also reflects the ALI provisions, SS 290.2(4)(e), and a number of Supreme Court decisions. The Court in Ceccolini observed that—

The constitutional question under the Fourth Amendment was phrased in *Wong Sun* v. *United States*, 371 U.S. 471 (1963), as whether "the connection between the lawless conduct of the police and the discovery of the challenged evidence has become so attenuated as to dissipate the taint." 435 U.S. at 273–74.

Also, the fact that evidence would have been available without the violation is a factor to be considered for purposes of exclusion. The Ceccolini Court looked at the facts in light of this specific factor:

While the particular knowledge to which Hennessey testified at trial can be logically traced back to Biro's discovery of the policy slips, both the identity of Hennessey and her relationship with the respondent were well know to those investigating the case. *Id.* at 279.

By thus clearly delineating the dimensions of the exclusionary rule, S. 1885 would both invigorate fourth amendment protections and ease the caseload burdens of the Federal courts.

It is undeniable that given a choice between applying the exclusionary rule in hard cases and interpreting the Fourth Amendment so as to make application of the rule unnecessary, the judicial temptation to apply the fourth amendment narrowly is very alluring, see Geller, "Enforcing the Fourth Amendment: The Exclusionary Rule and Its Alternatives," 1975 "Washington University Law Quarterly," 621, 682–84; *Coolidge* v. *New Hampshire*, 403 U.S. 443, 490–91 (1971) (Harland, J., dissenting):

From the several opinions that have been filed in this case, it is apparent that the law of search and seizure is due for an overhauling.

By removing the application of the exclusionary rule in cases of unintentional or insubstantial fourth amendment violations, S. 1885 would reduce judicial efforts now expended in such cases frequently at the expense of the scope of fourth amendment protections. Yet, importantly, the bill requires the court to first find whether, as a matter of law, a violation had occurred. In novel factual situations the court would make a determination whether the specific facts constituted a violation, and then whether the violation was intentional or substantial. This provision is intended to overcome the objections of those who fear that a limitation on absolute exclusion will freeze fourth amendment adjudication at its present stage of development.

Since the bill preserves the rule for substantial violations, while eliminating application in those cases most likely to produce a narrower interpretation of the fourth amendment, it should enhance the protection of individual privacy.

That the criminal accused has a right not to be convicted on the basis of evidence secured in violation of the Constitution is questionable, see, *United States* v. *Calandra*, 414 U.S. 338 (1974). Still, the bill would deny the Government the benefits of either intentional or substantial wrongdoing.

The heart of S. 1885 is the elimination of the exclusionary rule where it has no deterrent effect. While there is debate as to the efficacy of the rule, its total abolition would not lead to greater compliance with the fourth amendment.

Mr. President, S. 1885 will preserve and strengthen the exclusionary rule in instances of flagrant violation. This will allow the continued development of the Federal law of search and seizure. Police activity will still be subject to judicial review and law enforcement agencies will continue to have the responsibility to educate, train, and supervise their employees, see Oaks, "Studying the Exclusionary Rule in Search and Seizure," 37 University of Chicago Law Review 665, 756 (1970).

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"S. 2505. Definition and limitation of exclusionary rule

"(a) Evidence shall not be excluded from any Federal criminal proceeding solely because that evidence was obtained in violation of the fourth amendment to the Constitution unless the court finds as a matter of law that—

"(1) a violation has occurred, and

"(2) such violation was intentional or substantial.

"(b) In determining whether a violation is substantial for the purposes of this section, the court shall consider all of the circumstances, including—

"(1) the extent to which the violation was reckless;

"(2) the extent to which privacy was invaded;

"(3) the extent to which exclusion will tend to prevent such violations;

"(4) whether, but for the violation, the things seized would have been discovered; or whether the relationship between the things discovered and the violation is attenuated.".

(b) The table of sections of such chapter is amended by adding at the end thereof the following item:

"3505. Definition and limitation of exclusionary rule.".●

By Mr. HART:

S. 1886. A bill for the relief of the Jefferson County Mental Health Center, Inc., and of certain current and former employees thereof; to the Committee on Finance.

JEFFERSON COUNTY MENTAL HEALTH CENTER

● Mr. HART. Mr. President, today I am introducing a bill designed to provide relief to the Jefferson County Mental Health Center in connection with certain social security tax payments.

The Jefferson County Mental Health Center, located in Colorado, is a nonprofit organization which is exempt from employee participation in the social security program. However, employees at the center elected to participate in the program and in 1963 proper forms were filed with the Internal Revenue Service (IRS). Subsequently, FICA taxes were withheld to effect such participation.

In 1975, the Jefferson County Mental Health Center, in response to a survey initiated by the Internal Revenue Service, was unable to find any indication that it had waived its immunity from social security taxes. As a result, the IRS directed the center to refund those taxes for the prior 3 years to any employee who did not elect to have his/her social security coverage continued.

The Jefferson County Mental Health Center then reimbursed a total of $74,128 to 133 employees, and applied to IRS to have the amount of those taxes repaid to it. Shortly thereafter, the IRS discovered that a valid waiver of immunity had, in fact, been filed. Even with this evidence, the center was unable to receive the reimbursed taxes since the IRS does not have the authority to expend funds without a legal obligation or statutory authorization.

Mr. President, the center is seeking relief solely for the employee share of the social security taxes involved and only for the period prior to time the IRS notified the center of its error.

This legislation authorizes the Secretary of the Treasury to determine the amounts withheld and treat those amounts as tax overpayments, reimbursable to the center. The measure also allows the employees the option of repaying their social security over a period of time if they wish to be covered for the period during which FICA taxes were originally withheld.

During the 95th Congress, the Senate passed this legislation as an amendment to an authorization bill. Unfortunately, that authorization bill was not acted on before Congress adjourned. Relief to the Jefferson County Mental Health Center is most certainly appropriate, and I look forward to the Senate Finance Committee and the full Senate acting expeditiously on this necessary measure.●

ADDITIONAL COSPONSORS

S. 101

At the request of Mr. HATCH, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 101, the Religious Freedom in the Workplace Act of 1979.

S. 1327

At the request of Mr. HART, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Colorado (Mr. ARMSTRONG), the Senator from Wyoming (Mr. WALLOP), the Senator from Texas (Mr. TOWER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1327, a bill to amend the Fair Labor Standards Act of 1938 to exempt full-time students serving as resident assistants and resident counselors in private nonprofit institutions of higher education from that act, and for other purposes.

S. 1629

At the request of Mr. JACKSON, the Senator from Pennsylvania (Mr. HEINZ) and the Senator from Georgia (Mr. TALMADGE) were added as cosponsors of S. 1629, the Civil Air Patrol supply bill.

S. 1754

At the request of Mr. MOYNIHAN, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1754, a bill to determine the causes and effects of acid precipitation throughout the United States and to develop and implement solutions to this problem.

S. 1792

At the request of Mr. MCGOVERN, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 1792, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

SENATE JOINT RESOLUTION 98

At the request of Mr. BRADLEY, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of Senate Joint Resolution 98, designating the week of October 8 through October 14, 1979 as "National Diabetes Week."

SENATE RESOLUTION 254—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. CHURCH, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 254

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5218, a bill to authorize special Caribbean hurricane relief assistance for the fiscal year 1980. Such waiver is necessary to allow the authorization of $25,000,000 in additional budget authority for fiscal year 1980 to provide relief and reconstruction assistance to people in the Caribbean who were affected by hurricanes David and Frederic.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline because the hurricanes occurred in August and September of 1979.

SENATE RESOLUTION 255—SUBMISSION OF A RESOLUTION TO DISAPPROVE THE PROPOSED EXEMPTION FROM INCREMENTAL PRICING

Mr. JACKSON submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

S. RES. 255

Resolved, That the Senate does not approve the proposed rule under section 206(d) of the Natural Gas Policy Act of 1978 (relating to incremental pricing of natural gas) a copy of which was transmitted to the Congress on October 11, 1979.

● Mr. JACKSON. Mr. President, title II of the Natural Gas Policy Act of 1978 requires the Federal Energy Regulatory Commission to develop an incremental pricing rule not later than 12 months after enactment. The Commission has discharged its responsibility in a timely fashion and has a final rule in place.

The incremental pricing rule passes on a specified portion of the acquisition costs of natural gas to large industrial boiler fuel users through a surcharge mechanism. The surcharge mechanism will operate to increase the boiler fuel users' natural gas prices until the price equates with the cost of the users' alternate fuel.

The incremental pricing mechanism is a complex one. The Congress recognized that it was giving the Commission a difficult job to do. The Commission was given flexibility under the act to prescribe the mechanics of the surcharge mechanism. It was also required to determine cost of alternate fuel on a regional basis. The act establishes a presumption that No. 2 fuel oil is the alternate fuel; the Commission may determine that No. 6 fuel oil is the appropriate fuel cost to use as the alternate fuel cost.

The Conference Report on the Natural Gas Policy Act urges the Commission—

To take whatever action it deems appropriate or necessary . . . to avoid delays in reducing the substitute fuel level so as to avoid the likelihood of conversions from natural gas by industrial users if those conversions would result in increases in natural gas rates for any residential, small commercial, and other high priority customers.

The Commission has proposed a three-tier set of alternate fuel costs. Some industrial users would switch from natural gas to fuel oil if their natural gas costs reach the cost of high sulfur No. 6 fuel oil; others would switch once their natural gas costs reach the cost of low sulfur No. 6 fuel oil; still others would switch once their natural gas costs reach the cost of No. 2 fuel oil.

They do not propose to implement the three-tier mechanism immediately. Instead, they have decided the most prudent approach would be to start out with a single alternate fuel ceiling, set at the price of high sulfur No. 6 fuel oil. Implementation of the single ceiling price requires an exemption from the requirements of title II of the act. The single ceiling would operate for the initial months of the incremental pricing program, from January 1, 1980, to November 1, 1980.

Implementation of the single price ceiling requires the Congress to concur. Either the Senate or the House of Representatives may veto the proposal by disapproving the proposed exemption.

I am submitting a pro forma resolution of disapproval of the proposed incremental pricing action.

The committee is seeking comments on the resolution of disapproval, and thus on the proposal itself. I ask unanimous consent that a letter explaining the Commission's proposed action be printed in the RECORD.

Questions or comments concerning this matter should be directed to Elizabeth A. Moler, staff counsel, Committee on Energy and Natural Resources, (202) 224-0611.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, D.C., October 9, 1979.

Re rule exempting industrial boiler fuel facilities from incremental pricing above the price of No. 6 fuel oil, issued pursuant to section 206(d) of the Natural Gas Policy Act of 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Title II of the Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) requires that the Federal Energy Regulatory Commission (the Commission) promulgate regulations to channel a specified portion of the acquisition costs of natural gas to large industrial boiler fuel users. The "incremental costs" of natural gas are to be passed through from the supplier to the boiler fuel facility by means of a surcharge pricing mechanism.

Section 204(e) of the NGPA provides that these surcharges may not cause the natural gas rates charged to an incrementally priced industrial facility to exceed the appropriate alternative fuel cost. This section of the statute also provides that the appropriate alternative fuel cost for any facility shall be the price paid for No. 2 fuel oil by industrial users in the region in which the facility is located. However, the statute further provides that the alternative fuel cost ceiling may be reduced to the price of No. 6 fuel oil if the Commission determines that such a reduction is necessary to prevent increases in rates to residential and small commercial users as a result of industrial users switching from natural gas to other fuels because the natural gas price after the surcharge makes other fuels more attractive than gas.

The Commission, last May, proposed an alternative fuel price ceiling rule. Rather than setting a single ceiling at either the No. 2 fuel oil (distillate) or the No. 6 fuel oil (residual) price level, the Commission proposed that three ceilings be set in each region. These ceilings would be the regional

price of (a) No. 2 fuel oil, (b) low sulfur No. 6 and (c) high sulfur No. 6. An industrial user subject to incremental pricing would be permitted to claim as its alternative fuel the lowest-priced fuel oil that the facility had the installed capability and legal authority to burn. The May proposal provided that 39 discrete areas of the country would be regions.

If the three-tier system operates as intended, fuel-switching caused by the price of natural gas exceeding the price of alternative fuels should be minimized. Thus, assumming successful implementation, the three-tier ceiling system should maximize the recovery of incremental gas costs from industrial users while at the same time preserving industrial markets for natural gas.

The three-tier approach does present some problems, however. The first problem is that the system may well result in a significant amount of investment in No. 6 fuel oil burning capability in order to obtain natural gas at a lower ceiling price.

A second problem is that the three-tier approach poses administrative difficulties. We have been working with the Energy Information Administration (EIA) of the Department of Energy (DOE) on a new data collection program to determine the three fuel oil prices for each of the 39 regions on a monthly basis. We are assured an adequate system can be developed, but it is not yet in place. Accordingly, we cannot at this time be fully assured that the three-tier system will work as intended. If it does not, implementation of the program may inadvertently result in fuel-switching. This could unnecessarily, and at some risk to the public welfare, throw demand onto fuel oil midway through the winter heating season. Moreover, if industrial load shifting is substantial, the high priority gas consumers remaining on the system may be required to pay considerably more in order to cover fixed costs previously shared with industrial users.

In light of these considerations, the Commission has determined that the most prudent approach at this time would be to have an interim period of operation with a single-tier ceiling in effect. Specifically, the Commission believes that a single alternative fuel ceiling, set at the price of high sulfur No. 6 fuel oil, should be chosen for the initial months of the program from January 1, 1980 to November 1, 1980.

Having reached this conclusion, the Commission is concerned that the data may not be available to make the specific finding contemplated by section 204(c) of the NGPA that a single No. 6 fuel oil price ceiling is necessary to prevent boiler fuel load attrition of a magnitude that would disadvantage high priority ratepayers.

Therefore, the Commission has decided to adopt as its permanent rule the three-tier approach as proposed and to also seek a temporary exemption to that rule under the separate authority provided in section 206 (d) of the NGPA. Section 206(d) provides that the Commission may establish exemptions to the incremental pricing requirements of Title II if the Congress is provided an opportunity to disapprove any such action. The proposed exemption rule would hold in abeyance the two highest ceilings for the period January 1, 1980, through October 31, 1980, or the first ten months of the program.

Under section 206, the Congress must review the exemption rule transmitted by this letter. This rule is being concurrently submitted to both Houses of Congress for their review. Unless disapproved by either House of Congress within thirty days of continuous session, as provided by section 206(d)(2), the enclosed rule will become effective December 1, 1979.

Attached for your information and aid in reviewing this rule are copies of the final rules which implement the incremental pricing program, Docket Nos. RM79-14 and RM79-21. Also enclosed for your information are three other actions the Commission has taken in connection with the initial implementation of the incremental pricing program. Only the rule in Order No. 51, to exempt industrial boiler fuel facilities from incremental pricing above the price of No. 6 fuel oil, is being transmitted for Congressional review.

Sincerely,

CHARLES B. CURTIS,
Chairman.●

SENATE RESOLUTION 256—SUBMISSION OF A RESOLUTION AUTHORIZING REIMBURSEMENT FOR LEGAL EXPENSES

Mr. ROBERT C. BYRD (for himself and Mr. BAKER) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 256

Resolved, That the Secretary of the Senate is authorized and directed to pay to the Senator from South Carolina (Mr. THURMOND) the sum of $800 in reimbursement for legal expenses, including attorneys' fees, incurred by him in defending the case of Mims vs. Thurmond in the United States District Court for the Southern District of Georgia (No. 79-2638). Such payment shall be made on a voucher signed by the Senator from South Carolina and approved by the Committee on Rules and Administration.

AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96-1

AMENDMENT NO. 518

(Ordered to be printed and to lie on table.)

Mr. HUDDLESTON (for himself and Mr. BAYH) submitted a reservation intended to be proposed by them, jointly, to the resolution of ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms (Ex. Y, 96-1).

(The remarks of Mr. HUDDLESTON when he submitted the amendment appears earlier in today's proceedings.)

DEPARTMENT OF INTERIOR APPROPRIATIONS—H.R. 4930

AMENDMENT NO. 519

(Ordered to be printed and to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to H.R. 4930, an act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

● Mr. PRESSLER. Mr. President, the rural protection and control fund program is the core of rural fire control programs in almost all of the States. In South Dakota, as much as 40 percent of fire prevention and control activities funds are derived from the State's allocation of funds from the Federal program.

Thus, Mr. President, there is a genuine national interest in maintaining a Federal presence in rural fire protection of eligible State and private forest lands. Fire does not respect the boundaries between State or private lands and Federal lands.

This program does not involve a large bureaucracy of Federal personnel out in the field. Instead, the program relies on non-Federal personnel and State and local efforts to apply Federal funds and Federal fire control and prevention research and expertise to the task of safeguarding Federal, State, and private forests. This is an exceptional approach to Federal involvement in the function of Government. All too often, Federal help instigates the creation of a new layer of bureaucracy. The rural fire protection and control program of the Forest Service has effectively carried on fire suppression assistance activities in cooperation with the States for year without creating more Federal bureaucracy.

This program is a matching program in which States put up the same amount as they are allocated from Federal funds.

Smoke management and suppression requirements of the Federal Clean Air Act have significant impact on States. As with so many other Federal programs which have stimulated new regulations and rules, the Clean Air Act does not adequately compensate other units of Government for the increased costs which they must bear as a result of such regulatory creations.

While this program does not immediately relate to clean air regulations, there is no doubt that it represents an easing of that burden on the States. Though the program fires are prevented and fought and, in the process, and to the extent that these federally assisted activities are successful in combatting fire, smoke is diminished as an air pollutant.

If I may be permitted to corrupt an old truism, where there is fire there is smoke. The Federal support in fighting fire helps other governmental units in a small way to bear the burden of Federal clean air standards.

I understand that the Office of Management and Budget rationale for recommending no money at all for this program was that, on a nationwide average basis, the Federal funds represented only 14 percent of all funds spent in the States on rural fire prevention and control activities.

I do not see the logic of that rationale. In fact, it seems to be a flimsy rationalization for destroying a minimal program which facilitates the dissemination of Federal fire prevention and control expertise and research to State and local governments.

My view of American federalism conceives federalism as a partnership between all levels of government, with maximum feasible deference by the higher governmental units to the lower units, which are closer to the changing needs and preferences of the grassroots of this Nation.

In this case the National Government's role in rural fire protection goes all the way back to the Weeks Act of 1911. That law established a Federal role and responsibility in protecting the Nation's watershed lands from devastation by fire.

In 1924, the Clarke-McNeary Act added timberland fire protection assistance as a Federal responsibility.

During the 1970's, Congress has authorized and recognized a further responsibility of the Federal Government to assist in the protection of all non-Federal rural lands and communities. The pertinent laws are the Rural Development Act and the Cooperative Forestry Assistance Act.

The most recent authorizations stipulate authority for the Secretary of Agriculture to protect all non-Federal rural lands and communities from fire.

Why have we witnessed this progression of Federal involvement in rural fire suppression activities on non-Federal lands since 1911?

Because it is in the national interest for the Federal Government to play that role, while relying on the States and communities to provide personnel and to actually implement programs of fire prevention and control.

Thinking out loud about the "unthinkable," in the event of a nuclear war, tremendous fires will rage wherever warheads strike. Our existing, inadequate, civil defense system cannot be expected to deal with such a holocaust as would occur in rural America. Presumably, civil defense would focus its efforts on the evacuation of cities and problems in built-up areas. But where will people flee to, since many warheads would be directed to military installations, many of which are rural locations?

Dealing with the consequences of a nuclear war is thus, a national responsibility. It is no less a function of the National Government than it is of States, and communities, and individuals to help in the recovery efforts which will follow any nuclear armed attack.

This minimal program of rural fire protection and control, together with a tiny appropriation of $3.5 million for the rural communities fire control program, is no more than a symbolic gesture of the 96th Congress recognition of a Federal responsibility. We must not wait for disaster to prepare for disaster. There is a national interest here and the $15 million appropriation will not do enough to provide adequate preparation. I am shocked that the administration's budget requested nothing for either this program or the rural communities fire prevention program.

The national interest in continuing the funding of the rural fire prevention and control program at the fiscal 1979 level of $30.5 million can also be seen in other areas. Is it not in the national interest to protect not only human lives, but also the food and fiber production capabilities of the Nation? It is utterly apparent that, without sufficient Federal backing, States will be forced to withdraw wildlands and producing lands from the fire protection which they are now able to afford. This does not include millions of acres which are not yet under some kind of effective State fire protection program, but which should have that protection.

Safeguarding the food production capacity of this Nation, with an exploding, hungry world population, is in the national interest and the international interest. The diversion of a few of the dollars which could be saved from foreign aid appropriations into this program will help to protect what is this Nation's best possible contribution to the future needs of the world—the conservation, development and protection of our food and fiber producing rural lands.

Mr. President, I urge my distinguished colleagues to support this amendment. It will prove to be a sound investment in the enhancement of the security of rural Americans, as well as the security of all Americans and the peoples of the world. According to the Budget Committee, the bill as reported from the Appropriations Committee is $500 million below the Budget Committee's estimates for Interior allocations in the second budget resolution. Surely, therefore, there is room for this $15.5 million increment for the rural fire protection and control program.

Mr. President, I ask that a table of rural fire protection and control fund allocations be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Rural fire protection and control program: State allocations committee bill

	Fiscal year 1979 allocation	Estimated fiscal year 1980 appropriation
Alabama	$757,000	$371,000
Alaska	520,000	255,000
Arizona	165,000	81,000
Arkansas	676,000	331,000
California	2,043,000	1,001,000
Colorado	744,000	365,000
Connecticut	144,000	71,000
Delaware	71,000	35,000
Florida	919,000	450,000
Georgia	872,000	428,000
Hawaii	163,000	80,000
Idaho	553,000	271,000
Illinois	248,000	122,000
Indiana	160,000	78,000
Iowa	150,000	73,000
Kansas	423,000	207,000
Kentucky	605,000	296,000
Louisiana	765,000	375,000
Maine	632,000	310,000
Maryland	404,000	198,000
Massachusetts	394,000	193,000
Michigan	770,000	377,000
Minnesota	502,000	246,000
Mississippi	781,000	383,000
Missouri	724,000	355,000
Montana	616,000	302,000
Nebraska	405,000	198,000
Nevada	330,000	162,000
New Hampshire	260,000	127,000
New Jersey	504,000	247,000
New Mexico	335,000	164,000
New York	715,000	350,000
North Carolina	829,000	406,000
North Dakota	146,000	72,000
Ohio	394,000	193,000
Oklahoma	380,000	186,000
Oregon	831,000	407,000
Pennsylvania	921,000	451,000
Rhode Island	120,000	59,000
South Carolina	789,000	386,000
South Dakota	537,000	263,000
Tennessee	708,000	347,000
Texas	651,000	318,000
Utah	258,000	126,000
Vermont	88,000	43,000
Virginia	793,000	389,000
Washington	837,000	410,000
West Virginia	424,000	208,000
Wisconsin	762,000	373,000
Wyoming	353,000	173,000

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AMENDMENT NO. 520

(Ordered to be printed.)

Mr. ROBERT C. BYRD (for himself and Mr. RANDOLPH) proposed an amendment to H.R. 4930, supra.

AMENDMENT NO. 521

(Ordered to be printed.)

Mr. JAVITS (for himself, Mr. KENNEDY, Mr. STAFFORD, Mr. METZENBAUM, Mr. LEAHY, Mr. RIEGLE, Mr. MCGOVERN, Mr. WEICKER, and Mr. DURKIN) proposed an amendment to H.R. 4930, supra.

NOTICE OF HEARINGS

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

● Mr. SASSER. Mr. President, I wish to announce that the Subcommittee on Intergovernmental Relations, Committee on Governmental Affairs, will hold a field hearing in Chattanooga, Tenn., on October 27, 1979, to examine the implementation of the Joint Funding Simplification Act of 1974 at the regional level. The hearing will begin at 9 a.m. in the Civic Forum.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the sessions of the Senate on Tuesday, Wednesday, and Thursday, October 16, 17, and 18, and on Friday, October 19, to mark up the windfall profits tax bill.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the subcommittee on energy research and development of the Energy and Natural Resources Committee be authorized to meet during the session of the Senate today to consider S. 1830, relating to the commercialization of ocean thermal energy conversion systems.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE PROPOSED SALT II TREATY AND THE STRATEGIC BALANCE

● Mr. HARRY F. BYRD, JR. Mr. President, in my study of the proposed Strategic Arms Limitation Treaty (SALT II), I have reviewed the work of several analyists with long experience considering matters related to strategic weaponry.

Recently, I found two articles which I believe have unusual merit.

Both articles appeared in the summer issue of the International Security Review of the Center for International Security Studies, which is located in Boston, Virginia.

The first article by Francis P. Hoeber is entitled, "The SALT II Treaty and the Security of the United States."

Mr. Hoeber is president of Hoeber Corp. and, among other posts, has been deputy director of the Strategic Studies Center of the Stanford Research Institute. In addition, he has served as a research associate at the Center for Strategic and International Studies at Georgetown University.

Mr. President. His recent article is, I believe, worthy of careful consideration in the Senate and I ask that it be printed in the RECORD at the conclusion of my remarks.

The second article is by William Schneider, Jr. His article is entitled, "Analysis of the Protocol, Joint Statement of Principles, and the Soviet Backfire Statement."

Mr. Schneider is a staff associate of the House Committee on Appropriations and is also a consultant to the Hudson Institute.

His analysis of the protocol to the proposed SALT II treaty is also well thought through and a valuable contribution to Senate consideration of the treaty and protocol.

Mr. President, I ask that this article also be printed in the RECORD.

The two articles follow:

THE SALT II TREATY AND THE SECURITY OF THE UNITED STATES

(By Francis P. Hoeber)

The proposed Strategic Arms Limitation Treaty (hereinafter designated as the Treaty) is complex and detailed. Before discussing its specific provisions, some comments are in order as to what, if ratified, the Treaty will NOT do.

The Treaty will NOT maintain the U.S.-Soviet balance of strategic offensive arms at parity or equivalence, from ratification until expiration on December 31, 1985. On the contrary, before 1985 the Soviets may be expected to have more throwweight, ICBM warheads and megatonnage, MIRVed ICBMs, hard-target kill capability, and area, or soft-target, kill capability than the United States can have by the end of 1985. Indeed, taking account also of the existing great imbalance in the United States strategic defense (civil defenses, air defenses, and potential ABM defenses), which could not be fully redressed by 1985, the Soviets will have marked strategic superiority by the early 1980's. The effects of this imbalance are already felt in international bargaining and regional events, since, much as the stock market discounts recessions in advance, international diplomacy tends to anticipate the effects of foreseeable changes in power balances.

The Treaty will NOT preserve crisis stability, that is, a condition in which neither side can gain significant advance—destroying more weapons than it uses—by striking preemptively in a crisis. On the contrary, before 1985, the Soviet Union will have MIRVed ICBM warheads sufficiently numerous, powerful, and accurate to improve its relative number of weapons in a first strike by so much that it will surely be able to deter a U.S. retaliatory strike.

The Treaty will NOT improve the prospects for an equitable SALT II agreement. The above facts make it clear that in 1985 the United States will be in a much weaker bargaining position than it is today. Experience under SALT I has made it eminently clear that relative capabilities constrain what can be achieved by agreement. In 1972, U.S. ABM technology was far more advanced than that of the Soviet Union, and a permanent Anti-ballistic Missile Treaty was signed. We are, moreover, in the seventh year of the five-year Interim Agreement on Strategic Offensive Arms signed in 1972. The U.S. relative position has declined during the life of that Agreement, and a permanent follow-up treaty meeting U.S. objectives, including the Jackson Amendment to the Joint Concurring Resolution that brought the Agreement into effect on October 3, 1972, has so far eluded us. Moreover, the growing imbalance under the proposed Treaty will mean that the United States will, before 1985, risk having to yield to diplomatic coercion on U.S. interests of far greater importance than a SALT II agreement.

The Treaty will NOT cover a number of elements of strategic power, including: numbers of ICBMs, numbers of warheads, an important class of potentially-strategic bombers, "gray area" systems usable against U.S. allies and potentially against the United States, and strategic defenses.

Thus, quite apart from qualitative growth permitted under the Treaty, the Treaty will not prevent Soviet production and deployments that can further worsen the U.S. strategic position by 1985.

The Treaty will NOT protect U.S. relations with its allies, since it will drastically weaken the once-watertight "nuclear umbrella" that in the past counterbalanced the large and growing Soviet superiority in conventional arms and enabled the protection of Western interests in regional crises, which are already increasing in frequency and in demonstrations of U.S. weakness.

The Treaty will NOT support the U.S. policy of nonproliferation of nuclear weapons, which has depended for its success, again, largely on the strength of the U.S. nuclear umbrella.

The Treaty will NOT save the United States money. It will increase the need for qualitative improvements of permitted systems and quantitative increases in systems not covered. This imperative is also seen in the recognized need for improving U.S. conventional capabilities, especially in the European theater, as the strategic nuclear balance has deteriorated—a deterioration that would be codified by the Treaty. There is, however, a sense—a dangerous sense—in which the Treaty might indeed save us money; it might give us a false sense of security, strengthening the hand of those opposed to defense expenditures and making more difficult and less likely the approval of permissible measures to maintain the local adverse strategic as well as conventional balance that we could achieve.

What, then, will the Treaty do?

THE LIMITS ON LAUNCHERS

The first limit imposed by the Treaty is that of 2,400 strategic launchers, as first agreed in the 1974 Vladivostok guidelines. Strategic launchers are defined as ICBM launchers, SLBM launchers, heavy bombers (see below), and air-to-surface ballistic missiles (ASBMs). This limit is to be reduced to 2,250 by January 1980.

The first problem to be noted here is that, in limiting launchers, the Treaty says nothing about numbers of ballistic missiles—and warheads—that may be built. Both sides build more missiles than launchers, in order to have missiles available for operational testing and training. The building of additional fixed launchers is prohibited as in the storing of additional missiles "at launch sites of ICBM launchers," in order to prevent "quick reload," i.e., reload a firing before an empty silo could be destroyed by a slow means such as a bomber or air-launched cruise missile (ALCM). However, the risk is that extra missiles might be launched from "soft launchers" (erectors), i.e., inside of factories or storage buildings (the roof being slid or blown off), or even without any launcher by floating and launching from water (which has been tested).

Launchers are not counted unless they are: operational; in the final stage of construction; in reserve, in storage, or mothballed (presumably, aircraft or submarines); or undergoing overhaul, repair, modernization, or conversion. Most significantly, "in the final stage of construction" means (1) SLBM launchers on submarines which have begun sea trials and (2) aircraft or other strategic offensive arms which are finally assembled in a plant or other facility, after they have been brought out of the facility where their final assembly has been performed. Thus, if, in the above case, the missiles on soft launchers had not been moved to another building after final assembly, then they would not be in violation of the Treaty. At most, the observation of large plants with supplies going in and no final product coming out might raise questions in the minds of U.S. intelligence analysts, but they might not be an adequate basis for a challenge under the Treaty.

Moreover, it must be observed that the risk of such avoidance rather than evasion (as the terms are distinguished in, say, tax law) would hardly be symmetrical for the two signatories. The U.S. could scarcely conceal the building of significant numbers of additional missiles, let alone indoor launchers, whereas this might quite conceivably be done in the closed Soviet society. Moreover, the United States has closed down its Minuteman III production line and would not be in a position to respond if such a Soviet program were discovered or disclosed as a "breakout" by the Soviets. Neither MX nor Trident II will be on-line during the life of the Treaty. Trident I missiles are already committed to replace Poseidon missiles and to go into the new Ohio Class (Trident) submarines in the 1980's. Even if they could be adapted to launch from land launchers, the process of significantly increasing their rate of production, including additional warheads, would take considerable time.

A second problem is that the launcher limit gives more the appearance than the reality of equity. It has been argued that it gives both sides equal numbers and moreover requires the Soviets but not the United States to reduce existing numbers, that is, to retire some old systems. However, it concedes to the Soviets, on a presumably permanent basis, an advantage in ICBM throwweight of between 4½ and 5 to 1. It was argued at the time of SALT I that an ICBM throwweight and megatonnage advantage for the Soviets was more than balanced by U.S. multiple independently-targeted reentry vehicles (MIRVs), greater U.S. missile accuracy, and a larger bomber force (the latter not covered in SALT I). However, the Soviets started testing MIRVs in the first year under SALT I and are now deploying them. Moreover, by the early 1980's they will have accuracies equal to those of the United States. We will indicate below the magnitude of the advantage in warheads into which the Soviets will have converted their throwweight advantage by the expiration of the Treaty.

More than half of the Soviet's throwweight advantage stems from their possession of 308 SS-18 launchers (326, including launchers at test sites), with a throwweight of about 16,000 pounds each and classified

as modern large ballistic missiles (MLBMs), which we do not possess *and are not permitted to build under the Treaty*. An attempt was made in the "Comprehensive Proposal" put forward by the United States in March 1977 to roll back the Soviets to a limit of 150 MLBMs. This proposal was summarily rejected by the Soviets and was withdrawn from the May 1977 U.S. proposal. It has been argued that "In practice, the United States has no interest in heavy missiles, so this apparent [sic] asymmetry is of little importance." While it may be true that two decades ago the United States found it technologically suitable to build more small missiles rather than fewer large ones, this can hardly make "of little importance" the freezing of a large advantage in missile size while limiting the numbers of launchers. When we have analyzed the other components of the strategic forces under the Treaty, it will be seen that, on the contrary, the large Soviet ICBMs will create instability and a usable margin of Soviet strategic superiority.

It is worth noting also that only fifty SS-18s—about sixteen percent of the total number allowed, with ten warheads in the three-quarter megaton range, would carry more megatonnage than the entire present U.S. Polaris/Poseidon SLBM force. Sixty SS-18s, or twenty percent of the force, would still exceed the U.S. SLBM megatonnage in 1985, after the addition of Trident I in ten Poseidon conversion and seven Ohio-class submarines and less that 70 SS-18s will carry the megatonnage of the entire Minuteman III force in 1985.

THE SUBLIMITS ON MIRVED LAUNCHERS

Within the overall ceilings of 2,400 and then 2,250, the Treaty provides, again as a heritage of the 1974 Vladivostok guidelines, a limit of 1,320 on the total number of MIRVed ICBM and SLBM launchers, and heavy bombers carrying cruise missiles. Of this number, not more than 1,200 can be launchers for MIRVed missiles (leaving 120 for cruise missile carriers, if either side so chooses). Within the 1,200 there is a further sublimit of 820 on launchers for MIRVed ICBMs. Let us consider the effect of each of these limits, in reverse order. We will focus on the 1985 end-point, which means also on the 2,250 total limit.

THE 820 MIRVED ICBM LAUNCHERS

"Counting rules" in the Treaty require that any booster of a type on which MIRVs have been tested shall be counted as a MIRVed booster, and any launcher of a type from which such a booster has been launched shall be construed as a launcher for MIRVed ballistic missiles. Thus, the 308 SS-18 silos will count toward the Soviet ceiling of 820. An additional 512 can by 1985 be silos for SS-19 or SS-17s. They are expected to be predominantly SS-19s. The SS-18 has been tested with ten MIRVs, the SS-19 with six, and the SS-17 with four. The 820 Soviet MIRVed ICBMs could carry, then, between 5,128 and 6,152 warheads, and probably will carry close to the latter number.

The United States will have 550 Minuteman III missiles with three warheads each, or a total of 1,650 MIRVs. With the Minuteman II line closed down and MX procurement not yet decided and no longer feasible by 1985, 550 Minuteman IIIs are all the MIRVed ICBMs the U.S. will have deployed at the expiration of the Treaty. (Minuteman III has been tested with seven RVs—the "Pave Pepper" payload—and thus could be so deployed under the Treaty. There are no procurement plans for doing this, however, and doing so with smaller warheads—seventy kilotons versus 170 [or about 300 when the new Mark 12a warhead is deployed]—would not improve the hard-target kill capability of the missile.) A "Common Understanding" in the Treaty says that the U.S. has no plans to and will not deploy more than three warheads.

The significance of MIRVed ICBMs is their prompt hard-target kill capability and their destabilizing potential for improving the strategic balance in a first strike. With a three-quarters megaton warhead and an accuracy expected to reach 0.1 nautical mile 600 feet), about one-third of the Soviet SS-18 force could destroy some ninety percent of the entire U.S. ICBM force. Even if their CEP (circular error probable, or the radius within which fifty percent of the RVs are expected to impact—the conventional measure of accuracy) were only .15 nautical mile, two-thirds of the SS-18 force could achieve the same result, still leaving a force of almost 1,000 SS-18 RV's for attack on other "hard" targets, such as command-control facilities and nuclear weapon storage sites, as well as for the destruction of SLBMs in port and non-alert bombers on the ground (a mission that might be left to SLBMs, with shorter flight times and no need for high accuracy in this role). And there would also remain 512 MIRVed SS-19s and SS-17s with .5- to 1.0-megaton warheads, as well as several hundred unMIRVed ICBMs.

The entire Minuteman III force, in contrast, with Mark 12a warheads on the order of one-third megaton in power, could destroy only about two-thirds of the Soviet ICBM force, thus worsening, not improving, our relative strategic position.

Despite the asymmetry in ICBM forces, this element of instability could be ameliorated or eliminated by reducing the vulnerability of the U.S. ICBM force. This is precisely the objective of the multiple aim point system (MAPS, recently dubbed MPS, for Multiple Protective Structure, by the Air Force). Such a deployment is now being considered (along with the costlier trench and air-launch alternative) for the MX missile. Deferral until this year of the full development and procurement decisions for MX, however, rendered this option irrelevant to the period of the Treaty: MX deployment could now start at the earliest by 1986 and more probably 1987.

What could be done in the early 1980's would be to dig additional silos in the Minuteman fields and to put the Minuteman missiles in cannisters that could be periodically moved about among the silos, along with empty decoy cannisters. The Soviets (and even the U.S. launch crews) would not know which cannister, and silo, held the missile. Thus, they would have to target enough warheads to strike all silos—empty and filled. This scheme has been designated ALPS, for Alternate Launch Point System. It is argued that the cannister, not the silo, would be the launcher (movable but not mobile), and so the prohibition on additional launchers would not be violated. It is doubtful, however, that the scheme would be legal under the Treaty and more doubtful that the Soviets would agree to a finding that it would be legal.

It is sometimes argued that the risk of the vulnerability of the ICBM leg of the Triad can be ignored because of the possibility of launching the ICBM force after the enemy has launched his, but before the attacking missiles arrive. This option, variously formulated as a doctrine of "launch on warning" (LOW), "launch from under attack" (LUA), "launch on assessment," "use 'em or lose 'em," etc., has great appeal to those who believe that "minimum deterrence" will work and to those who believe that it is a virtually cost-free solution, as against costly attempts to build less vulnerable systems. LOW is, however, a terribly dangerous doctrine. No attack assessment system can ever be completely free of the possibility of error, of false alarms, or failure to alarm. Moreover, the doctrine would require virtually automatic operation. Given that attack detection, assessment, and communication would always take some finite time out of the 30 minutes of ICBM flight time, there would be only a few minutes, say 10 or 15, in which the President could decide to give the "go" order. Would we want a President to make such a fateful decision in so few minutes? Certainly, he could have no targeting options. The targeting would have to be pre-programed. Would it be against the enemy silos? We have already seen that during the life of the Treaty the U.S. ICBMs will not be adequate for effective counterforce attack. Moreover, they would be partially wasted on "empty holes"—it is highly unlikely in this timeframe that we would have immediate "empty hole assessment" capabilities that would enable us, if we could retarget, to concentrate our forces on the Soviets' withheld missiles (which they could presumably also launch on warning—and, having initiated the exchange, they could have more reliable warning and more adequate decisionmaking time). In this case or if we attack other targets—population, industry or other military targets—we are automatically escalating the war before we know the enemy's full intentions or the possibility of negotiating some better outcome. The best that can be said for LOW is that it would raise the level of uncertainty in the minds of the enemy; and, therefore, its primary value would be a contribution to deterrence, a value that we should not abjure as a matter of declaratory policy. But surely it is not a doctrine on which we should rest the security of the nation. And surely we should not accept a treaty under which it appeared to offer the only option for attempting to maintain deterrence and crisis stability.

THE LIMIT ON MIRVED SLBM'S

In theory, the entire 1,200 MIRVed launchers could be allocated by both sides to SLBMs. In practice, of course, there will be a preference for allocating launchers first to MIRVed ICBMs, as is implied by the establishment of the 820 MIRVed ICBM launcher sublimit. This preference stems from the greater accuracy (and feasible size, or yield) for ICBM MIRVs under the present state of the art, as well as the greater security and assurance of command, control, and communications for ICBMs than for SLBMs. We have already noted that the Soviets are likely during the life of the Treaty to deploy their full quota of 820 MIRVed ICBM launchers, including the 308 SS-18s, while the United States cannot, because of the closing of the Minuteman III production line and decision delays on the follow-on MX, have more than the 550 Minuteman IIIs deployed during the life of the Treaty.

Thus, the Soviets can deploy up to 380 tubes for MIRVed SLBMs under the Treaty. These could be SS-N-8s, with 4,000-plus nautical-mile range (comparable to the U.S. Trident II which the U.S. may deploy after year) and up to fourteen MIRVs, and SS-N-18s, smaller but already tested at a range of 5,600 nautical miles (in the class of the Trident II which the U.S. may deploy after 1985) with up to seven MIRVs. They can deploy these missiles on the present Delta submarines, carrying sixteen each, and the larger Typhoon, in development and expected to carry two to twenty-four missiles.

The United States already has 496 Poseidon SLBMs deployed, carrying eight to ten MIRVs each, with forty kiloton warheads and a range of 2,500 nautical miles. Ten Poseidon subs are to be backfitted with Trident I missiles between 1980 and 1985, with seven MIRVs of 4,000-mile range and about 100-kiloton yield. In addition, twenty-four Trident I missiles are scheduled to be deployed on each of seven Ohio-class boats. Thus, the United States may have some 664 SLBM launch tubes with up to 5,948 MIRVs, as against 380 Soviet tubes with between 2,660 and 5,320 MIRVs. However, 664 MIRVed SLBMs plus 550 MIRVed Minuteman IIIs

would total 1,214 MIRVed missiles, or fourteen over the 1,200 limit. Therefore, unless the Trident program slips so that only six new boats are deployed by 1985, the United States would have to retire one Poseidon boat (sixteen launchers) or fourteen Minuteman III launchers.

In any event, the U.S. would still have some advantage in numbers in the MIRVed SLBM category. However, with their small warheads and being less accurate than ICBM MIRVs, these weapons will not have significant hard-target kill capability. They are useful against soft targets only. This includes airfields. But it should be noted that the Soviets have more military airfields which are more widely dispersed than those in the United States. The SLBM has long been considered the weapon of choice for a bomber-base attack, because of its short flight time, particularly with the use of depressed trajectories (flying lower but faster, at shorter ranges, than with minimum-energy trajectories). But this mission is of little interest to the United States, both because we are unlikely to plan a first strike and because of the greater depth of location of the Soviet strategic bomber bases.

Moreover, while SLBM forces at sea are considered relatively survivable, being hard to find and destroy in a short time, those in port must be regarded as vulnerable to an initial attack. The United States normally keeps some forty percent in port at any one time, which could be brought down to twenty-five percent during a crisis alert. (By comparison, the ICBMs are generally considered to be ninety percent alert, or reliable, as against 45 to 60 percent *reliable* SLBMs at sea.) Thus, SLBM warheads must be discounted in numbers, as well as yield and accuracy, before being counted in the overall effective balance. (The Soviets generally maintain far fewer missile-carrying submarines at sea than the United States but could well generate comparable proportions at sea in a crisis.)

NON-MIRV'ED BALLISTIC MISSILE LAUNCHERS

There are no fixed limits on non-MIRVed ballistic missile launchers, since the deterrence of 1,050 between the 2,550 strategic nuclear delivery vehicle launcher limit and the 1,200 MIRVed missile sublimit can be utilized for missiles or bombers. However, we can make some first approximations of what can and is likely to happen by 1985.

First, consider single-warhead ICBMs. The Soviets are expected to dismantle over 200 SS-7s and SS-8s—old missiles of the Atlas generation that preceded the U.S. Titan and the Soviet SS-11—in order to reduce its total launchers to 2,250. They appear likely (after considering SLBM and bomber requirements) still to retain 300 to 400 non-MIRVed ICBMs. These could be SS-11s, with about 2,000-pound throwweight and a warhead of approximately one megaton. However, the Treaty permits each side to test and deploy one new ICBM. Moreover, each side will be limited to Modern Small Ballistic Missiles (MSBMs) and Modern Large Ballistic Missiles (MLBMs) no larger in throwweight than their present ones, i.e., about 8,000 and 16,000 respectively for the Soviets (based on the SS-19s and SS-18s), and 8,000 pounds for the United States (based on the Titan II, the United States having no MLBMs and therefore not being permitted any). Thus, the Soviets would have more to gain by using their option for one new ICBM to replace some of the SS-11s than one of their newer MIRVed SS-18s, -19s or -17s, still being deployed.

The Soviets have for several years been known to have a new generation of missiles in development (including component testing), deployable in the early 1980's. One of these could be a new 8,000-pound throwweight missile with a warhead in the 15-to 20-megaton range—a formidable weapon indeed with which to deter a U.S. retaliatory city attack—or large-scale economic attack, which would amount to the same thing. The aggregate power of a force of 300 to 400 such weapons would be on the order of 4,500 to 8,000 megatons.

The United States can, during the period of the Treaty, deploy no new ICBM, as observed above, because of the past unilateral decisions in deploying MX development. It will still have in 1985, therefore, all or most of the 450 Minuteman IIs, of some 2,000-pound throwweight, with a one-megaton warhead, and it may well choose to retain the fifty-four aging Titan IIs, of early 1960's vintage but carrying a warhead of eight-plus megatons, or it may have to restore some of them. Thus, the United States could have 450 to 900 megatons on non-MIRVed ICBMs on launchers—some ten or eleven percent of the Soviet force of this type.

The Soviet Union currently has 792 SLBM tubes deployed and is building several missile-carrying submarines a year. If, as "offloading" RVs or penetration aids is not to be used to permit increased range or depressed trajectories to the same range.

We leave to the verification question whether national technical means of verification can detect variations in the stated characteristics with sufficient precision to make the distinction meaningful. Two observations are relevant here. First, while the Soviets did agree in SALT II to provide a data base as of the date of signing, the data base included numbers only, not figures on the characteristics that are not to vary by more than five percent. Secondly, while each side is limited to the flight testing and deployment of only one new type of light ICBM, the Soviets can deploy their full family of fifth generation ICBMs, the development of which has already been observed and officially announced by the Department of Defense, so long as the changes are asserted and/or observed to fall within the five-percent limit. While it has been argued that this doesn't matter because a five percent difference is not significant, it is clear that the new missiles could include highly significant improvements in characteristics now covered, such as accuracy, reliability, yield-to-weight ratios, and possibly MIRV footprints. Thus, there is a potentially significant asymmetry in this aspect of the Treaty.

THE CRUISE MISSILE LIMITATION

One-hundred-twenty heavy bombers (1,320−1,200=120) will be permitted to carry an average of twenty-eight long-range (over 600 kilometers) air-launched cruise missiles. An agreed counting rule says that an aircraft is a heavy bomber if it carries a long-range cruise missile. Thus, if a wide-bodied transport aircraft should be adapted to function as a cruise missile carrier, it will be counted as a heavy bomber. The wide-bodied transport has always had serious drawbacks in its prelaunch and offshore vulnerabilities; thus the 28 cruise missiles per heavy bomber average limit probably drives it out of the cruise missile carrier competition altogether.

It has long been pointed out, especially since the June 30, 1977, cancellation of the B-1 bomber procurement, that the United States has a considerable technological lead in cruise missile technology (in guidance technology and miniaturization, and in the efficiency of small turbine engines). However, the Soviets have long deployed numerous types of short-range cruise missiles and have recently been reported to be testing cruise missiles of 1,200-kilometer range, launched from Backfires; and the current U.S. technological lead in cruise missiles, like many others, may prove evanescent. In any event, its significance is limited. The stand-off advantage is worth more to the United States simply because the Soviets have a formidable air defense structure and the United States does not. The impressive accuracy of the cruise missile does give it a hard-target kill capability; but, like the bomber-delivered gravity bomb, this is a slow, not prompt, kill capability and is subject to degradation by the Soviet air defenses. (Neither point has been allowed for in recent Administration comparisons of U.S. and Soviet hard-target kill capabilities in 1985—nor has the fact that the Soviet Union has at least twice as many hard targets as the United States.)

The Protocol to the Treaty bans all ground- and sea-launched cruise missiles of greater than 600-kilometer range (324 nautical miles). The Treaty also provides that the parties shall not circumvent the Treaty through arrangements with any other states. This implies the non-transfer of cruise missile technology to U.S. allies.

BOMBERS

There is no limit per se on the numbers of bombers. Since they are, however, included under the total launcher limitations of 2,400 and 2,250, their ultimate deployments under the Treaty can be assumed to be 2,240 less the numbers of ICBM silos and SLBM launcher tubes. From the numbers cited above, recapitulated in Table I, the Soviets could have anywhere from 100 to 200 bombers and the United States from 452 to 500 in 1985. The permitted cruise missile carriers of up to 120 would be included in these numbers.

In the Memorandum of Understanding . . . regarding the Establishment of a Data Base on the Numbers of Strategic Offensive Arms, the Soviets gave their June 18, 1979, inventory of heavy bombers as 156; the United States, 573. However, while the Soviet bombers are aging Bears and Bisons, they have three new heavy bombers under development. These include one with variable-geometry wings and characteristics similar to those of the B-1, and one with fixed wings and optimized for long-distance, high-altitude subsonic flight. (While the Soviets have no present need for a low-level penetrator in view of the current air-defenseless condition of the United States, the former aircraft presumably represents a hedge against a U.S. redeployment of air defenses.) Thus, the Soviets could replace their old bombers and add more by 1985. In addition, of course, they have the refueliable Backfire B, not covered by the Treaty but only by the appended statement by President Brezhnev to President Carter to the effect that the Backfire is a medium-range bomber, that the Soviets will not increase its radius of action to enable it to strike targets in the United States, and that they will not increase its production rate ("confirmed" by President Brezhnev not to exceed thirty per year).

In contrast, the U.S. figure of 573 includes 230 B-52s in mothballs and simply unrecoverable for combat use. This misrepresentation of U.S. assets can only be for the domestic purpose of creating the illusion that we do indeed have almost the permitted number of vehicles and approximate equality with the Soviets. The B-1 has been canceled. Unless its procurement is reinstated in Fiscal Year 1980, it will probably not be feasible to offset further attrition of the aging B-52s during the life of the Treaty. Thus, shown in Table I, the United States will not be able to deploy the permitted total of 2,250 launchers in 1985.

OTHER LIMITATIONS

There are certain other provisions of the Treaty of some significance for our evaluation.

It is agreed that no land-based launchers for other than ICBMs will be converted to launchers for ICBMs, nor tested for this purpose. It is understood that this provision covers specifically the SS-20, a mobile intermediate-range ballistic missile (IRBM) consisting of the first two stages of the SS-16 ICBM. Since IRBMs are included in the non-

central "gray area systems" that are not covered in the Treaty, as noted in the introduction, there is a potential for the addition of SS-16 third stages to convert SS-20s rapidly into ICBMs. (They could also be converted into ICBM-range missiles by the offloading of some of the warheads, since the missile is MIRVed.) There is a Common Understanding that the USSR will not produce, test or deploy SS-16s, and will not produce third stages for that missile. If verifiable, this is a provision of some importance for the United States, since such conversion of the SS-20 could greatly worsen the already adverse balance that would be codified by the Treaty.

Other provisions prohibit the placing of launchers on the seabeds (including inland waters) or in the subsoil thereof, and the testing or deployment of fractional-orbit bombardment systems (FOBS)—or systems that enter orbit but are deorbited to targets before they complete one orbit—a system tested by the Soviets in the past and heretofore considered ambiguous in terms of the prohibition on weapons of mass destruction in space under the Treaty on Outer Space.

There is also a statement of intent that the parties will enter into negotiations as soon as possible with the object of concluding a new treaty on strategic offensive arms (SALT III) before the expiration of the present Treaty in 1985. The statement of negotiating principles and objectives is separate, however, and so is not considered here in its specifics. Two points must be reiterated, however. First, experience under SALT I and in SALT II negotiations has demonstrated that it is difficult to improve one's position by negotiating on matters that have been conceded in an agreement. And second, Executive proposal and Congressional enactment of such unilateral measures as might be taken during the life of the Treaty to improve the strategic balance are likely to be inhibited, not furthered, by the signing and ratification of the Treaty, which would tend to support the position and feeling that an acceptable balance had been struck and would be preserved by the Treaty.

THE IMPLICATIONS OF SOVIET THROWWEIGHT

The numbers of launchers on each side by 1985, see Table I, have been translated into estimated throwweight in Table II. ("Throwweight" is the useful weight that can be lifted into space by a ballistic missile, including the "bus" for MIRVs and possible penetration aids, in addition to warheads. For aircraft, an equivalent throwweight has been estimated by calculating the throwweight of ICBMs carrying warheads of yields comparable to those in the anticipated loading of the aircraft.)

NUMBER OF WARHEADS

As Henry Kissinger pointed out, it is not throwweight but warheads that kill and destroy. But it is throwweight that enables warheads to be deployed and delivered. Table III gives estimated numbers of warheads that can and are likely to be deployed, showing the dramatic loss of U.S. superiority in numbers of warheads by the end of 1985, as the Soviets exploit their huge advantage in ICBM throwweight, a process already well under way.

The key point is that, while the United States may possibly still be marginally or even significantly ahead in total numbers of warheads in 1985, this will only be because the manifold Soviet advantage in ICBM warheads will be balanced by U.S. SLBMs. This is truly comparing apples and oranges, or rather, watermelons and grapes, for several reasons:

1. Soviet ICBM warheads, including those in MIRVs, have yields several times those on U.S. ICBMs (except for the fifty-four aging and inaccurate Titan IIs. At ½-to-1, and more, megatons, Soviet warheads are orders of magnitude more powerful than the 40-kiloton Poseidon warheads that will still dominate our SLBM force in 1985. They are several times as powerful as the Trident I and cruise missile warheads (about 200 kilotons). Table IV shows the aggregate Soviet megatonnage advantage of six-to-one in MIRVed ICBMs and between two-to-one and four-to-one overall.

2. ICBMs are far more accurate than SLBMs and are likely to remain so during the life of the Treaty. They therefore have a "hard-target kill capability" that SLBMs do not, as well as a prompt-capability against time-urgent targets that bomber-delivered weapons do not have.

3. ICBMs are considered to be about ninety percent "alert," that is, except for reliability problems, common to all weapons, ICBMs on launchers are all available for use. In contrast, only SLBMs at sea are available, since those in port (¼ to ½ of the force, depending on alert status) are highly vulnerable to attack. Similarly, only bombers, including cruise missile carriers, that are airborne or on "strip alert"—ready to take off on very short notice—can be counted. As in the case of SLBMs, bombers on the ground and on the runways are highly vulnerable. Moreover, bombers must face defenses as they approach their targets, and these defenses are currently very heavy in the Soviet Union and negligible in the United States.

HARD-TARGET KILL POTENTIAL

In view of the above reasons for not adding up different kinds of warheads, Pentagon and other defense analysts often calculate the hard-target kill potential of the various types of warheads before adding them up. There are several alternative formulas for this calculation that take account of variations in yield and in accuracy. Most commonly, the hard-target kill potential of a given weapon is measured by $Y^{2/3}/(CEP)^2$, where Y equals yield in megatons, and CEP circular error probable, in feet or a fraction of a nautical mile—that radius of a circle within which fifty percent of repeated shots may be expected to fall. Such calculations show even greater ratios in favor of the Soviets for ICBMs, but lower ratios overall, than do the warhead numbers and megatonnage comparisons. We do not consider this an appropriate calculation, both because of the above factors that make ICBM/SLBM/bomber comparisons invalid and because that comparison implies a symmetry between the targets in the United States and the Soviet Union that does not exist. In the real world, Soviet hard targets are more numerous (perhaps double) and on the average harder than those in the United States. Strategic forces—in deterrence posture or in conflict—cannot be compared as in a skeet shoot, where each contestant has identical targets and the same number of shots. On the contrary, they must be compared in terms of the actual differences in their targets as well as in the characteristics of the weapons and the conditions, or scenarios, of their use.

SOFT-TARGET KILL POTENTIAL

In Table IV, we compared the forces in megatonnage, and we have noted earlier that the overall Soviet advantage is understated because of the asymmetry in air defenses. We would add that most scenarios, quite properly, in our view, assume that the Soviets reap the advantage of striking first and further increasing their relative advantage. But again, Government and other analysts often make a further calculation, adjusting megatons (MT) to "equivalent megatons" (EMT) by a formula that reflects the fact that the destruction of "soft" targets—people, buildings, etc.—does not increase in proportion to the yield of the weapon used but only in proportion to the two-thirds power of that yield. This calculation makes the smaller U.S. warheads look somewhat better, though still far from equal: but again the adjustment is a rationalization rather than a correction, because:

1. The killing of people, measured in tens of megadeaths, should not be the object of war; and

2. If people and industry are indeed the targets, then the comparison must also take account of the Soviet civil defense program, which has no significant counterpart in this country. However uncertain the effectiveness of U.S. and Soviet civil defense programs may be, there is certainly a great asymmetry that must influence both calculations for deterrence purposes and outcomes if deterrence fails. This asymmetry cannot be redressed by 1985, both because the United States is not likely to undertake anything like the Soviet level of effort in this area, and because the Soviets have had large civil defense programs for many years, and civil defense assets—e.g., personnel shelters and hardened equipment—have very low obsolescence rates, so that the cumulative effects of long-term programs are very great.

3. If the ultimate test is indeed that of capability for assured destruction in all-out nuclear exchange, then the importance of fallout justifies the use of megatons, to which fallout is proportional, all other things being equal, rather than EMT.

CONCLUSIONS

To recapitulate, on the basis of the above analysis, that the Treaty is not only inequitable and defective but also profoundly dangerous for U.S. security, because:

It concedes advantages to the Soviet ICBM force that create crisis instability. In a deep crisis in the 1980's, the Soviets might be tempted to further increase their advantage with a counterforce first strike, while withholding forces of such magnitude as surely to deter use of surviving U.S. retaliatory forces.

It concedes such a great asymmetry in strategic offensive forces as to create the potential for Soviet diplomatic coercion of the United States and its allies (arguably already started), including coercion of the United States to accept more unfavorable limits in SALT III and not to undertake programs, in or out of the SALT domain, to redress the balance. This asymmetry will also weaken the inhibitions on nuclear proliferation by Third World countries that have in the past relied on the U.S. nuclear deterrent.

By the omission of controls on "gray area systems"—Backfire, SS-20, and other systems that can potentially be used against the U.S. as well as its allies—it perpetuates risks for our allies and creates additional possibilities for avoidance of SALT limitations by the Soviet Union.

By the omission of strategic defenses—air defense, civil defense, antisatellite capabilities—it exacerbates the effects of the above-noted asymmetries in strategic offensive forces, increasing crisis instability and the potential for Soviet diplomatic coercion.

By limiting launchers only, and not vehicles or warheads, it leaves upon the possibility of massive Soviet breakout from the Treaty or of massive surprise upon the expiration of the Treaty.

TABLE I.—LAUNCHERS FOR STRATEGIC NUCLEAR DELIVERY VEHICLES PERMITTED AND FEASIBLE UNDER SALT II TREATY

[End of 1985]

	United States	U.S.S.R
Launchers for:		
MIRVed ICBM's	536-550	820
of which MLBM's (SS-18)	0	(300-325)
MIRVed SLBM's	650-654	380
Total MIRVed missiles	1,200	1,200

TABLE I.—LAUNCHERS FOR STRATEGIC NUCLEAR DELIVERY VEHICLES PERMITTED AND FEASIBLE UNDER SALT II TREATY—Continued

[End of 1985]

	United States	U.S.S.R.
Launchers for:		
UnMIRVed:		
ICBM's	450–504	380–580
SLBM's	80	270–570
Total	530–584	850–950
Total ballistic missiles	1,730–1,784	2,050–2,150
Heavy bombers:		
With Cruise missiles	120	0–120
Without Cruise missiles	100–220	[1] 100–200
Total	220–340	[1] 100–200
Total MIRVed launchers and Cruise missile carriers	1,320	1,200–1,320
Grand total	1,950–2,070	2,250

[1] Excluding Backfires—estimated at 375 by the end of 1985.

TABLE II.—THROWWEIGHT PERMITTED AND FEASIBLE UNDER SALT II TREATY

[End of 1985; millions of pounds]

	United States	U.S.S.R.
On launchers for:		
MIRVed ICBM's	1.3	10
of which MLBM's (SS–18)	0	(5)
MIRVed SLBM's	2.1–2.2	1.4)
Total MIRVed missiles	3.4–3.5	11.4
UnMIRVed:		
ICBM's	1–1.5	2.3–3.5
SLBM's	.1	.5–1.0
Total	1.1–1.6	2.8–4.5
Total ballistic missiles	4.5–5.1	13.2–15.9
Heavy bombers:		
With Cruise missiles	2.2	0–2.2
Without Cruise missiles	1.4–3.0	[1] 1.1–2.2
Total	3.6–5.2	[1] 1.1–3.3
Total MIRVed launchers and Cruise missile carriers	5.6–5.7	11.4–13.6
Grand total	7.9–10.3	14.3–19.2

[1] Excluding Backfires.

TABLE III.—WARHEADS PERMITTED AND FEASIBLE UNDER SALT II TREATY

[End of 1985]

	United States	U.S.S.R.
On launchers for:		
MIRVed ICBM's	1,650	5,640–6,052
of which MLBM's (SS–18)	0	(3,080)
MIRVed SLBM's	5,152–5,312	3,752–5,320
Total MIRVed missiles	6,802–6,962	9,393–11,372
UnMIRVed:		
ICBM's	450–504	380–580
SLBM's	240	270–570
Total	690–744	750–850
Total ballistic missiles	7,492–7,706	10,142–12,222
Heavy bombers:		
With Cruise missiles	3,360	0–3,360
Without Cruise missiles	800–2,640	[1] 400–800
Total	4,160–6,000	[1] 400–3,920
Total MIRVed launchers and Cruise missile carriers	10,162–10,322	9,392–14,732
Grand total	11,650–13,700	10,542–15,282

[1] Excluding Backfires.

TABLE IV.—MEGATONNAGE PERMITTED AND FEASIBLE UNDER SALT II TREATY

[End of 1985; thousands of MT]

	United States	U.S.S.R.
On launchers for:		
MIRVed ICBM's	0.4	4.3
of which MLBM's (SS–18)	0	(2.3)
MIRVed SLBM's	.4	.5
Total MIRVed missiles	.8	4.8
UnMIRVed:		
ICBM's	.5–1	5
SLBM's	.1	.5–1
Total	.6–1.1	5.5–6
Total Ballistic Missiles	1.4–2.9	10.3–10.8
Heavy bombers:		
With Cruise missiles	.7	0–.7
Without Cruise missiles	1.6–3.6	[1] 1.6–3.2
Total	2.3–4.3	[1] 1.6–3.9
Total MIRVed launchers and cruise missile carriers	2.2–3.7	6.4–8.7
Grand total	3.7–6.6	11.9–14.7

[1] Excluding Backfires.

ANALYSIS OF THE PROTOCOL, JOINT STATEMENT OF PRINCIPLES, AND THE SOVIET BACKFIRE STATEMENT

(By WILLIAM SCHNEIDER, JR.)

The 1979 Treaty on the Limitation of Strategic Offensive Arms has been in negotiation since October 1972 when the first-round Interim Agreement on Offensive Arms (SALT I) was ratified. In November-December 1974, President Ford and Soviet General Secretary Leonid Brezhnev agreed to a structure for the second-round strategic arms agreement (SALT II). This structure embodied a three-tiered agreement corresponding to the specificity or duration of the terms.

The first element, the Treaty limiting offensive arms was to replace the Interim Agreement on offensive arms which expired in October 1977. The new Agreement, to expire on December 31, 1985, is supplemented by two additional elements that are considered integral to the Treaty. These are the Protocol to the Treaty on the Limitation of Strategic Arms to run through December 31, 1981, and the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms. The Protocol is intended to encompass areas of the Soviet-American strategic arms competition in which "permanent" agreement could not be reached, or where the evolutionary stages of new types of military technology leave both sides uncertain as to how such developments should be taken into account in the permanent agreement. The Joint Statement of Principles is a statement by the parties of their intent in negotiating a third-round SALT Agreement (SALT III).

Not envisioned in the 1974 Ford-Brezhnev summit conference (the Vladivostok Accords) was an additional document composed of two unilateral statements. The first is a statement of intent (in the form of a letter) by the Soviet Union with regard to improvements in its strategic bomber, the Tu-22M Backfire (previously identified in the Western press as the Tu-26 or Tu-30). The second is a U.S. unilateral statement which reports on a verbal assurance given to President Carter by President Brezhnev at the Vienna summit conference to the effect that the annual production rate of the Backfire would not "exceed thirty per year."

The duration of the Protocol, an issue independent of the content, has been a major focus of concern during the last two years of negotiation between the U.S. and the Soviets. Although the Protocol was supposed to last for three years (through December 31, 1980), the U.S. negotiating position withered rapidly as the ability of the parties to conclude an agreement on a treaty to replace the Interim Offensive Forces (IOF) Agreement prior to its October 1977 expiration receded.

Under the defense program proposed by President Ford in the Fiscal Year 1977 and 1978 budgets, the original period of the Protocol's duration would not have interfered with U.S. strategic programs, but the extension of the Protocol well into Fiscal Year 1982 would have interfered with the availability for flight testing or deployment of strategic ground- and sea-launched cruise missiles, and the MX ICBM program based on the level of defense expenditure proposed by President Carter. The Carter Administration resolved this issue, however, by slowing down the development of the ground- and sea-launched cruise missiles (in the FY 78 and 79 DoD budgets), and by delaying a full-scale engineering development decision on the MX ICBM program for more than thirty months. A decision on the basing mode for the MX is due by the end of FY 79.

The result of the administration's decisions to slow the development of U.S. strategic programs has been to delay significantly the modernization of U.S. strategic forces. The MX program will not achieve full operational capability (FOC) until 1990. The ground- and sea-launched cruise missile will not be available to either U.S. forces or for transfer to U.S. allies until FY 84 or later. Only the air-launched cruise missile will be available earlier, but restrictions on deployment accepted by U.S. negotiators limit its deployment to heavy bombers; for the foreseeable future this means the B-52. Although the cruise missile has undergone most of its flight tests launched from a tactical aircraft (a Navy A-6 carrier-based attack aircraft), its deployment in this mode is prohibited. This prohibition will reduce the usefulness of a highly promising technological development to the U.S.

A more subtle issue associated with the duration of the Protocol can be considered in two parts: (a) will the U.S. acquiesce in a Soviet demand to extend the Protocol's duration to overlap with the duration of the Treaty; and (b) if the Protocol is not formally extended, what will be its precedential value in influencing the course of post-Protocol negotiations?

The Soviets have made no secret of their expectation that the Protocol will be extended. This view has been communicated to virtually every official U.S. visitor to Moscow, as well as having been emphasized in Soviet press commentary on SALT. An interesting logical issue is raised by this discussion, namely, what end is served by the U.S. signing a document restricting its behavior when it cannot engage in the restricted behavior during the period of the Agreement? The most reasonable expectation aroused by such an agreement is that the U.S. will accept *some* of the Protocol's restrictions in the post-Protocol period, otherwise why should any restriction have been accepted in the first instance? As we have seen in Presidential statements, a voluntary abstention from engaging in behavior restricted by the Protocol is a plausible alternative. President Carter has indicated that he would "comply" with the strictures of SALT, even if the Agreement were rejected by the Senate in that he would not approve budget requests for strategic systems incompatible with the terms of SALT II. The failure of the President to proceed with the development of the ground- and sea-launched cruise missiles, when their development cycle would be completed during the period the Protocol is in force, lends support to this view.

The precedential value of the Protocol is an issue likely to be in continuous dispute

following ratification of the Agreement. According to statements of intent by both parties, negotiations are to resume immediately upon ratification of SALT II for a subsequent agreement. If the Protocol is extended formally as the Soviets expect, limitations agreed to will remain through 1985 and will undoubtedly influence the course of post-1985 military modernization.

The problems created by SALT II for alliance affairs in particular would be more severe if there was an informal extension of the Protocol beyond 1981. Not only would the U.S. be denied the ability to deploy mobile land-based ICBMs to assure the survival of a major element of its own strategic forces, but it would continue to be denied the ability to transfer cruise missile technology to its allies as a means of offsetting the growth of those threatening Soviet systems which are allowed to grow without limit (e.g., the SS-20 mobile intermediate-range MIRVed ballistic missile,) or at the limit of current Soviet production capacity (the Tu-22M Backfire bomber). Friction with U.S. allies would be likely to emerge if the U.S. had the legal right to transfer such technology, but abstained out of a desire to affect the course of third-round SALT negotiations.

The most difficult-to-evaluate aspect of the duration of the Protocol is the effect the Agreement will have on post-Protocol negotiations. The Joint Statement of Principles emphasizes achieving further quantitative as well as qualitative reductions in strategic arms. The most likely candidates for reductions are systems already limited in SALT II. As a result, one could expect that the Soviets would take a strong position in the post-Protocol period on gaining further limitations on systems controlled by the Protocol, even if the Protocol had not been formally or informally renewed. Because the Administration agreed to limit systems during the Protocol after showing no enthusiasm for accelerating the deployment of systems controlled by SALT II during the period of negotiation, legitimate doubts can now be raised about the bargaining "leverage available to U.S. SALT III negotiators as a result of these decisions. Arms control agreements reflect reality: the Soviets have achieved a substantial numerical advantage in SALT, in large-measure because their strategic modernization program gave them the bargaining leverage over the United States to exact formal recognition of their numerical superiority in both SALT I and SALT II. When faced with the prospect of negotiating SALT III in an environment where the United States had not yet begun to deploy systems limited by the SALT Protocol, it is most unlikely that the United States will be able to win terms in SALT III which do not carry with them some of the restrictions we have accepted on systems controlled by the SALT II Protocol.

THE PROHIBITION OF LAND-MOBILE ICBM'S AND AIR-TO-SURFACE BALLISTIC MISSILES

The Protocol to the Treaty on the Limitation of Strategic Offensive Arms is composed of our articles in where are five "Common Understandings" and four "Agreed Statements." The use of Common Understandings and Agreed Statements is intended to circumvent the difficulties encountered in SALT I with the use of unilateral statements and interpretations made by the United States regarding its expectations about Soviet compliance (primarily to reassure the Congress) which were later denounced de facto by the Soviets when they proceeded to modernize their strategic forces in a manner contrary to U.S. unilateral statements (on the grounds that they had never assented to them). In summary form, the Protocol is a document which, as an integral part of the Treaty, prohibits the flight testing or deployment of land-mobile or air-mobile intercontinental ballistic missiles, and the flight testing or deployment of ground- and sea-launched cruise missiles through 1981.

These two areas of limitation strike directly at the modernization, currently underway, of two of the three elements of the U.S. strategic nuclear Triad (land-based ICBMs, submarine-launched ballistic missiles, and air-breathing delivery systems). So the details of these limitations deserve careful analysis of their relevance to the future limitations of American security and the security of nations with which we are allied.

Articles I and III of the SALT II Protocol explicitly prohibit the U.S. from flight testing or deploying land-mobile ICBMs and air-to-surface ballistic missiles. The only systems that could meet the land-mobile criterion are the proposed MX and Minuteman II when deployed in a mobile mode. The deployment modes currently under review are not, strictly speaking, mobile; rather they are transportable. The pattern of deployment does not make the missiles (either MX or Minuteman) substantially more mobile than they are at present; merely that the number of shelters in which they can be deployed would be increased four-fold to improve the likelihood that sufficient missiles could survive a Soviet first strike to assure the maintenance of deterrence.

The prohibition of land-mobile ICBMs affects the United States because it impinges directly upon current U.S. programs to deploy a survivable intercontinental ballistic missile system to replace the fixed-point silo-based Titan/Minuteman ICBM systems which have been deployed since the early 1960's. As a consequence of the evidence gained through the course of the Advanced ICBM Program, a major Air Force research and development effort, three principal candidate systems for a survivable ICBM basing mode and a host of alternative missiles have been developed that would be suitable for a survivable ICBM system. All of the proposed basing modes involve alternative schemes to sustain uncertainty as to the precise location of the missile within a confined area.

In one scheme known as the "vertical shelter" basin mode, 200 to 250 MX ICBMs would be deployed at random in a field of approximately 4,000 silo-like concrete shelters. These shelters, with a blast resistance of approximately 1,000 pounds per square inch would require the expenditure of virtually the entire Soviet ICBM arsenal likely to be deployed by the mid to late 1980's to destroy all of them. Under present circumstances, the current Minuteman deployment would require the expenditure of less than 20 percent of the throwweight of the Soviet ICBM force, thereby leaving the Soviets with a second-strike capability of more than 4,000 to 6,000 warheads for purposes of threatening U.S. urban-industrial areas and otherwise deterring a U.S. retaliatory strike.

An alternative basing mode for a survivable ICBM is known as the "hybrid trench" that would move a similar number of ICBMs randomly through a series of hardened trenches covered with approximately five meters of concrete and earth overburden to insure the positional uncertainty of the missile's location. Thus, for an adversary to execute a successful attack on the system, the entire trench structure involving up to 3,000 linear miles of trenches would have to be brought under attack, causing a similarly large expenditure of the Soviet ICBM inventory.

Both systems are regarded as feasible by the U.S. Air Force and its principal advisory bodies, the U.S. Air Force Scientific Advisory Board and the Department of Defense Science Board, with the vertical shelter preferred on cost-effective grounds.

A third alternative basing mode has been proposed by the National Security Council reflecting the President's concern that the preferred solutions from the perspective of cost and military effectiveness may be incompatible with the terms the U.S. has accepted in SALT II, relating to the construction of additional ICBM launchers and the prohibition on concealment measures which impede verification, respectively contained in Articles II and XV of the Treaty. The details of the alternative proposal would allow the ICBM to be moved on a wheeled transporter to various hardened points located between 3,000 and 7,000 feet apart. Verification by Soviet national technical means (NTM) would be assured through limitations on access to the deployment area, and the movement of the missile in an open area between the hardened points. This system will cost $10 billion more than either the vertical shelter or hybrid trench deployment modes. This represents a "cost" of the ratification of SALT easily overlooked. To comply with the terms of SALT, we are obliged to invest more in defense to preserve our deterrent.

The ban of mobile systems in Article I of the Protocol is widely perceived to inhibit the U.S. deployment of a new ICBM (or the redeployment of an existing ICBM) in a multiple protective shelter (MPS) mode. This perspective persists despite the fact that Soviet opposition, expressed by a former Soviet SALT Ambassador Semyonov has been dismissed as "unofficial." The fact that the Administration has on many other occasions at the Strategic Arms Limitation Negotiations taken the statements of senior Soviet negotiators as "official" statements of Soviet policy has given rise to suspicions by many observers that once Soviet opposition is formally expressed, the United States will, after having ratified the Treaty, be obliged to suspend its deployment of an ICBM based in a multiple protective structure mode. Indeed, some cynical observers of the SALT ratification process have described the Administration's dismissal of the Semyonov objection as a mere strategem to tranquilize Congressional critics, a maneuver to mask the Administration's well-known hostility to the deployment of an ICBM force in a multiple protective structure.

A related SALT-oriented complication is the ambiguity of a launcher definition expressed in Article II of the Treaty. When ICBMs were only deployed in silos and their associated launch equipment was mounted in the silo, a launcher was identical to a silo, and consequently posed few problems for arms control negotiators. The Soviet development of cold-launching techniques for its SS-17 and SS-18 ICBMs has tended to diminish the significance of the "launcher" definition, because of the possibility of refires from an existing silo. With conventional "hot-launch" techniques, it is not feasible to refire a missile from a single silo without days or weeks of preparation because of the destruction wrought within the silo by the ignition of the rocket motor. The possibility of a mobile deployment by the Soviets of the type proposed for the MX missile poses additional definitional difficulties. This is due to the fact that the ICBM cannister, that is part of the complex that is routinely transported on an overland transporter, carries with it all the necessary equipment to launch the ICBM. Hence, strategic arms limitation constraints on "launchers" is rendered more difficult to apply under circumstances where a survivable ICBM is required.

In this regard, it is important to note some elements of the negotiating history of SALT II that have brought this difficult situation to pass. Under the terms of SALT I, the Congress was led to believe that the U.S. intended to stick by its definition of a light and heavy missile. That is, a "light missile" was to be a missile no larger than the largest light missile deployed at the time SALT II was ratified, October 1972. At that time, the light missiles for the Soviet Union and the United States were respectively the SS-11 with a 1,500 pound throwweight and the Minuteman III with a throwweight some-

what larger. The Soviet heavy missile, the SS-9, with a throwweight of approximately 12,000 pounds was deployed in more modest numbers (326 heavy missile silos for SS-9s and SS-18s are currently active) though the United States was to be allowed no heavy ICBMs. The current Soviet light missile, the SS-19, is now 7,500 pounds, five times the throwweight of the SS-11.

Had the United States retained or enforced the provisions it led the Congress to believe it was insisting upon, the need for a multiple protective structure basing mode would not exist, because the Soviet Union could not deploy sufficient numbers of re-entry vehicles within an ICBM of only 1,500 pounds throwweight to provide a high-confidence threat to Minuteman. The consequence of seven years of diminishing concern with the survivability of the ICBM force has now provided that threat which makes a multiple protective structure basing mode or a similar survivability basing mode a necessity.

The ban on the deployment of a mobile ICBM for the duration of the Protocol inhibits the United States from exploiting its most promising alternatives to assure the survivability of its ICBM force. As a consequence, the United States is faced with three relatively unpalatable alternatives. These alternatives are, first to change its firing doctrine to a posture that has been rejected for more than two decades, namely, to launch U.S. ICBMs under attack or as a consequence of the assessment of an imminent strike on U.S. ICBMs. The difficulties with this posture are legion, and more fully described elsewhere; but one need only read the "accidental war" debates of the 1950's and 1960's to appreciate the increased chance for nuclear war that a launch-under-attack assessment posture would encourage. Moreover, there is the obvious military problem that is infrequently addressed in these discussions (of a launch-on-warning firing doctrine), namely, at what target does one direct the ICBMs so launched? If they are directed at the adversary's urban-industrial centers, it leaves untouched thousands of ICBM and SLBM warheads that would be capable of executing swift and devastating retaliation against U.S. urban-industrial areas. If they are directed at military targets such as ICBM silos and air bases, they might strike "empty" targets, because sufficient time would not have been allowed to determine what forces the Soviets have expended. Hence, the "empty hole problem" with the prospect that some and possibly most, U.S. ICBMs employed in instant retaliation would contribute nothing to the retaliatory purpose to which they were directed—and, needless to say, nothing to prewar deterrence as well.

A second alternative would be to deploy an active defense (i.e., antiballistic missiles) in the vicinity of U.S. ICBM complexes to defend them against Soviet ICBM warheads. The technology to do so is now far more promising than it was in 1972 when the ABM Treaty was ratified, even against the greater-than-expected Soviet threat which has emerged subsequent to SALT I, and could enable the United States to deploy a medium- to high-confidence ABM system for the protection of Minuteman ICBM's by the mid-1980's. Nevertheless, this would require either a renegotiation or an abrogation of the ABM Treaty, an option that is singularly unattractive to the current Administration.

The third alternative, if a survivable ICBM is not to be deployed, is simply to eliminate one element of the Triad—the element that is perceived by some to be the sole source of instability in current U.S. strategic forces. What is unknown about such a posture (a "dyad") is the consequences of allowing the Soviet Union to focus its entire investment in strategic forces on the suppression of two rather than three elements of the strategic Triad. Soviet ICBMs, freed from the burden of having to attack U.S. Minuteman sites, could be efficiently used for barrage attacks against U.S. submarines at sea.

It should be noted as well, however, that the Soviet Union already has deployed a mobile ballistic missile that has an intercontinental potential. This missile, the SS-20, is currently described as an intermediate-range ballistic missile because its range, 2,500 to 3,500 nautical miles at its maximum payload, meets the definition of "intermediate range." This range limitation emerges as a consequence of the heavy payload the Soviets have deployed on the missile, a three-warhead MIRV package. Its range could be increased to more than 5,000 nautical miles, well in excess of the "strategic" definition in the SALT Treaty (5,500 kilometers or approximately 3,200 nautical miles) by the use of a light-weight single nuclear warhead. In addition, because the SS-20 is simply the first two stages of a currently deployed ICBM, the SS-16, the United States could face a "breakout" problem of major proportions if the Soviets were able to covertly construct SS-16 third stages, storing them for deployment during a crisis while being able to deploy in large numbers SS-20s within the terms of the Agreement. The verification prospects for this dimension of Soviet activity are poor.

SALT advocates have pointed to the fact that the United States has no firm commitment to extend the SALT Protocol, and hence it would be free to resume its efforts to deploy a survivable ICBM following the expiration of the Protocol. Considerably more persuasion is required however to make the case that accepting the risks of a limitation on the deployment of a survivable land-based ICBM system is worth the potential benefits. On this point, SALT advocates have failed to make their case.

LIMITATIONS ON TESTING AND DEPLOYMENT OF CRUISE MISSILES AND REMOTELY PILOTED VEHICLES

Cruise missiles entered the SALT negotiating process relatively late in its history. Although the Soviets have had cruise missiles in their inventory for many years as a major element of their naval aviation units and long-range aviation, cruise missiles were a relatively modest component of the U.S. strategic forces. After considerable experimentation with cruise missiles in the 1940's and 1950's (including the intercontinental Regulus submarine-launched cruise missile), the United States focused its attention on cruise missiles as aids to bomber penetration. Until the short-range attack missile (SRAM) was deployed in the late 1960's, the Hound Dog air-to-surface cruise missile was deployed with a range of 700 kilometers, but was notably less accurate than can be achieved with modern technology.

Following the signing of the Strategic Arms Limitation Agreements in June 1972, the Nixon Administration submitted a supplemental appropriation request for several R&D initiatives including work on an advanced cruise missile for strategic use. The R&D program was intended to build upon technological innovation that had emerged in the course of the development of tactical drone aircraft in the Vietnam conflict. In particular, the Williams turbo fan engine made possible the prospect of constructing an air-breathing missile that could be capable of long ranges and yet fit within the constraints of a standard 21-inch torpedo tube permitting submarine launch. Cruise missiles actually became a focus of discussion in the Strategic Arms Limitation Talks in the aftermath of confusion that emerged following the 1974 Ford-Brezhnev Vladivostok summit conference. Restrictions were offered that were intended to provide limits on air-launched "missiles." Although the United States specifically intended the application of this clause in the Vladivostok discussions to apply only to air-launched ballistic missiles, the Soviets sought to have the concept applied to both cruise and ballistic missiles. As a consequence, there was protracted discussion over the content of limitations on air-launched cruise missiles, and discussion was subsequently extended to include both ground- and sea-launched variants as well.

The question of the content of restrictions on cruise missiles assumed a new level of importance after June 30, 1977, when the Carter Administration made a decision to terminate production of the B-1 aircraft, a proposed supersonic penetrating bomber to replace the B-52. As a consequence, the air-breathing "leg" of the Triad would eventually become dependent on the penetrability of cruise missiles as the primary means of nuclear delivery rather than as a secondary or supporting means of nuclear delivery for the penetrating manned bomber. The manned penetrating bombers, the B-52 and FB-11, currently carry more than 50 percent of the deliverable megatonnage in U.S. strategic forces. The shift to a heavy emphasis on cruise missiles has resulted in a dramatic reduction in the megatonnage deliverable by an aerodynamic vehicle in the mid-1980's and beyond. Hence, the constraints which have emerged in SALT pertinent to cruise missiles have assumed the utmost importance.

From 1974 until October of 1978, rigorous restrictions were proposed for cruise missiles, particularly in regard to range limitations. The range on air-launched cruise missiles was to be limited to 2,500 kilometers, and the range of ground- and sea-launched cruise missiles was to be limited to 600 kilometers. The imminent deployment of the Soviet SA-10 surface-to-air missile tended to erode confidence in the penetration capability of cruise missiles and, in particular, the survivability of cruise missile carriers. For example, a naval version of the SA-10, deployed on surface vessels could be stationed well off the Soviet coast athwart the principal arrival corridors for cruise missile carriers.

As a consequence, the use of Soviet air defense tactics, that would have the effect of extending the defense perimeter of Soviet air space up to 800 nautical miles off the Soviet coast, could induce a substantial degradation in the target coverage of cruise missiles with an operational range limited to 2,500 kilometers. Moreover, the Soviets' insisted upon employing "odometer" range rather than the preferred U.S. "operational range" criterion for the measurement of a cruise missile's maximum range. The U.S. concept takes into account the evasive route a cruise missile must take to avoid defenses and to locate areas of substantial terrain contrast to update its terrain comparison radar guidance system that enables it to find its target. The Soviet concept has prevailed in SALT II with respect to ground- and sea-launched cruise missiles which reduces the operating range by 20 to 40 percent depending upon the density of local air defenses and the character of local terrain. There are, however, no range restrictions in either this Treaty or the Protocol on air-launched cruise missiles. However, the U.S. has accepted an onerous restriction on ALCMs by limiting their deployment to heavy bombers.

In October 1978, the Soviets agreed to a substantial modification of their position by eliminating their demand to limit the range of air-launched cruise missiles. Instead, however, they won a concession from the United States to limit the range for ground- and sea-launched cruise missiles to 600 kilometers based on an "odometer" calculation. Moreover, air-launched cruise missiles may only be deployed on heavy bombers, and when so deployed would require that the

heavy bomber be counted in the aggregate MIRV ceiling of 1,320 delivery systems. Further, the heavy bombers carrying cruise missiles have to be modified so that they would have functionally related observable differences (FRODs) to assist verification.

The limitations on air-launched cruise missiles apply to the period of the Treaty (through 1985) and hence will have no tactical applications. A system, which at one time held great promise as a means of assuring the penetration of manned bombers, has now assumed a major burden in that cruise missiles constitute what may perhaps be the only improvement of a fundamental kind to the air-breathing leg of the Triad for the balance of this century. The air-launched cruise missile deployment will be severely limited because of constraints on the number of cruise missiles that may be carried on cruise-missile-carrying aircraft—20 in the case of the B-52, and 28 in the case of a new cruise missile carrier. Because the United States already has substantial numbers of ballistic systems deployed with the ICBM and SLBM forces, there is limited space for additional MIRVed vehicles carrying cruise missiles under the SALT ceiling. Moreover, in order to assure the effectiveness of cruise missiles, a manned penetration bomber force must be maintained as well. Only the B-52G and H models are currently suitable for use in a penetrating role because of the engine and airframe modifications that were made in the early 1960's to extend their life for low-altitude penetration.

Currently, modifications to the B-52G and H models will permit the carriage of a maximum of 20 cruise missiles. Only the development of a larger aircraft would permit the deployment of a larger number of cruise missiles. Hence, the attractiveness of cruise missiles, once unbounded, has decreased substantially (though it has not been eliminated entirely) owing to the limitations proposed in SALT II.

A more complicated issue relates to the limitations placed on ground- and sea-launched cruise missiles. Because air-launched cruise missiles have been extensively studied from the date in the early 1950's when a role for them in the U.S. force structure was first proposed, the utility of air-launched cruise missiles is fairly well understood. On the other hand, ground- and sea-launched cruise missiles are a relatively new entrant to both tactical and technical analyses. As a consequence, the potential contribution of ground- and sea-launched cruise missiles to U.S. security was woefully underestimated in the early 1970's. Ground- and sea-launched cruise missiles can be extensively dispersed giving them a low pre-launch vulnerability, thereby reducing if not eliminating one of the major drawbacks to air-breathing systems namely, the relative vulnerability of manned aircraft because of their concentration on a small number of bases. The potential utility of ground- and sea-launched cruise missiles has also been expanded because of the successful development of terrain comparison guidance to improve delivery accuracy from hundreds to tens of feet.

SALT II provides very severe limitations on ground- and sea-launched cruise missiles. The range is limited to 600 kilometers, and with the "odometer" rather than "operational range" method of calibration being used, the useful range does not exceed 450 kilometers. This limits the application of sea-launched cruise missiles to an anti-shipping role and perhaps limited shore bombardment, but eliminates them from the strategic mission. Similarly, ground-launched cruise missiles will not be able to contribute substantially to offsetting the disadvantage that U.S. forces face in Europe by virture of the Soviet deployment of both fixed-site and mobile medium- and intermediate-range ballistic missiles.

In addition, ground-launched cruise missiles are of special interest to U.S. allies. Problems associated with the procurement, operation, and maintenance of cruise missiles are considerably less than for ballistic missiles, making cruise missiles an attractive investment for U.S. NATO allies. However, Articles 12 and 13 of the Treaty contain a noncircumvention clause that will inhibit the ability of the United States to transfer this promising technology to U.S. allies, at least during the period of the Protocol. The intent of the noncircumvention clause would certainly rule out the transfer of technology relating to cruise missiles that cannot be deployed by the United States during the period of the Protocol, namely GLCMs and SLBMs with a range in excess of 600 kilometers. A more complicated and unresolved dimension of the noncircumvention problem relates to the transfer of component technology. If cruise missile component technology that is transferred to U.S. allies and utilized in cruise missile systems with range or deployment properties exceeding those permitted the United States, such a transfer would represent a violation of the Treaty. Therefore, the usefulness of cruise missiles to U.S. allies, as a means of offsetting the enormous threat that has been allowed to emerge as a consequence of the failure of the United States to get effective controls placed on the Backfire bomber and the SS-20 mobile IRBM, has been reduced; and as a result there will be a net degradation in European security due to SALT emerging with a vengeance in the early and mid-1980's with the deployment of the Backfire and SS-20.

An important longer-term option that may be foreclosed by SALT is the modernization of cruise missiles to include individually powered, terminally guided submunitions. The Protocol currently prohibits the testing and deployment of multiple warhead payloads of cruise missiles. One of the most promising technological developmnts associated with cruise missiles is the application of advanced sensors to permit the coverage of multiple targets within the footprint of the submunitions. Such a development would enhance the efficiency of both delivery and penetration of cruise missiles and would greatly reduce the requirment for costly tactical aircraft. The denial of cost-reducing technological alternatives to the U.S. is another major cost of SALT.

A new issue raised by the Soviet Union in late 1978 concerned the role of remotely piloted vehicles (RPVs). One outgrowth of cruise missile technology has been a substantial increase in the capability of RPVs. Although they have been employed in reconnaissance and target drone roles for many years, the application of micro-electronics, efficient turbo-fan engines, high energy-density fuels, and new munitions technology provides a wide range of new options for RPVs. Among these are target designation (employing lasers, television, or infra-red sensors), anti-radiation attacks against air defense radars, electronic warfare, intelligence collection, and strike purposes. Under the terms of the SALT Protocol, controls have been established over RPVs that threaten the ability of the U.S. to exploit this promising military technology, while the stimulus to this innovation, Soviet tank armies in Europe, are unaffected by SALT.

Article III prohibits the employment of armed RPVs at a range in excess of 600 kilometers. Moreover, both parties acknowledge that they have no plans to develop long-range RPVs during the period of the Protocol. As with cruise missiles, this provision cannot be verified by national technical means of verification if the flight tests are conducted at less than full range. But such a commitment weighs heavily against the initiation of any such program by the United States until after the expiration of the Protocol. The United States has already flight tested reconnaissance RPVs (e.g., the Compass Cope program) with a potential range far in excess of 600 kilometers (the vehicles have a 24 to 30 hour endurance). The language of the Protocol will effectively stop the U.S. scientific and engineering community from exploring the military potential of long-range ground-launched cruise missiles and RPVs. It is, of course, in long-range systems where the U.S. and NATO face their most conspicuous military shortcomings. Long-range systems are required to strike rear-echelon Soviet forces that sustain a conflict. Without the exploitation of low-cost cruise missiles and RPV technology, we will be forced to rely on our inadequate numerical inventories of tactical aircraft and ballistic missiles. These inventories are small compared to their Soviet counterparts. Restrictions accepted in the SALT II Protocol have compromised the very core of American military power, our technological advantage.

JOINT STATEMENT OF PRINCIPLES AND BASIC GUIDELINES FOR SUBSEQUENT NEGOTIATIONS ON THE LIMITATION OF STRATEGIC ARMS

The Joint Statement of Principles (JSP) is a document likely to attract little attention during the course of the debate over the ratification of SALT II, but will become an important international document when SALT II is ratified. The document contains four sections:

First, the objectives of SALT are restated, namely, equality and equal security in achieving further reductions in both the qualitative and quantitative dimension of strategic forces;

Second, the intent is specified to secure further reductions in strategic arms subject to adequate verification by national technical means (NTM) including cooperative measures;

Third, in the next round of the Strategic Arms Limitation Talks "significant and substantial reductions in the numbers of strategic offensive arms" will be sought, along with qualitative limitations on strategic offensive arms, including restrictions on the introduction of new types of strategic arms and the modernization of existing offensive arms; and

Fourth, each party will be free "to raise any issue relative to the further limitation of strategic arms."

The four principles agreed to by the parties in SALT contain numerous pitfalls that are capable of imposing serious limitations on the ability of the U.S. to maintain the quality of its deterrent force as well as to meet its international security obligations to its allies in Europe, Asia, and the Middle East. The JSP proposes to extend the SALT II emphasis on qualitative limitations into SALT III. However, the asymmetries in major strategic aggregates, particularly throwweight related, drawn into SALT II from the legacy of SALT I's "interim" restrictions (favoring the Soviets on a "temporary" basis), are not addressed in the JSP. Rather, the focus is to be on reductions in quantitative limits set in SALT II.

The text of SALT II limits the numbers of strategic delivery vehicles with a distinction being drawn only between heavy and light missiles. The prohibition on changes in silo geometry (in the Treaty) will prohibit the U.S. from the acquisition of heavy missiles. However, the right, granted in the Treaty to the Soviets to have heavy missiles in both SALT I and SALT II will make it difficult at best for the U.S. to negotiate in SALT III either a reduction in Soviet heavy missiles or a compensation for the U.S. in the form of the additional systems. The language of the JSP implies that SALT III will attempt to achieve reductions in strategic forces in the categories negotiated in SALT II. Such a proposal insures a permanent Soviet advantage in the crucial strategic aggregates of throwweight, missile gross launch weight,

and missile volume. This is due to the fact that SALT II limitations are expressed in terms of strategic delivery vehicles without reference to their characteristics (save for the heavy missile distinction noted above).

It may be argued that the language in the Fourth Principle, "Each party will be free to raise any issue relative to the further limitation of strategic arms," would provide a basis for an attempt to reduce the quantitative advantage ceded to the Soviets in SALT I and II. But a careful reading of the document tends to discourage such optimism. The Fourth Principle also states that "The parties will consider other steps to . . . implement the above principles and objectives" (emphasis added). One reasonable interpretation of the intent of the Fourth Principle would be that each party is free to raise new issues only in the context of implementing the objectives of the first three principles expressed in the JSP.

A second troublesome dimension of the JSP is the content of the Third Principle, in particular, point three, "Resolution of the issues included in the Protocol to the Treaty . . . in the context of the negotiations relating to the implementation of the principles and objectives set out herein." The Administration has emphasized its view that the U.S. is under no obligation to extend the Protocol beyond its expiration date of December 31, 1981. Yet, the JSP proposes a "resolution of the issues included in the Protocol" in the context of the principles and objectives promulgated in the JSP. Thus, the JSP which focuses upon reductions in strategic forces, creates a presumption that forces identified in the Protocol (i.e., land- and air-mobile ICBMs and ground- and sea-launched cruise missiles) would be subject to the strictures of the JSP.

The creation of such a presumption is a dangerous one from many perspectives. First, the U.S. depends heavily upon the future deployment of a land-mobile ICBM to mitigate the impending vulnerability of its ICBMs. A Soviet insistence upon negotiating SALT III constraints on mobile ICBMs, based upon the U.S. commitment in the JSP to "resolve" issues identified in the Protocol, could affect the course of Soviet-American negotiations aimed at reducing Soviet heavy ICBMs which threaten strategic stability. In addition, an unwillingness by the U.S. to negotiate the resolution of the mobile ICBM issue raised by the Protocol could create a lavish Soviet propaganda assault on U.S. defense policy. And, as demonstrated during the "neutron bomb" controversy, Soviet propaganda can delay a President in executing a defense program in the American interest.

A second element at risk by the presumption embodied in the JSP, namely, that issues raised in the Protocol should be "resolved" in SALT III by way of reductions, concerns the development and transfer of promising cruise missile technology on behalf of U.S. interests in Europe and elsewhere. The structure of forces currently deployed in Europe provides the Soviet tank armies with a very significant military advantage under circumstances in which NATO forces could mobilize. This advantage is due to the vast mechanized armored formations under Soviet command within a few miles of the inter-German border. Without mobilization, NATO has inadequate combat power in its forward forces to stem a Soviet-led invasion. The planned U.S.-NATO response to this dangerous situation has been to introduce weapons with advanced technologies to offset the advantages which would otherwise accrue to the massive Soviet armored forces. Cruise missile technology is the most promising alternative because it is capable of placing a high volume of anti-armor munitions (nuclear or non-nuclear) on Soviet concentrations far cheaper than it could be done by augmenting NATO tactical aircraft or armored battalions.

Yet it is this very technology which the JSP is directed against when a presumption is created that such issues raised in the Protocol will be resolved in a "reductions" scheme in SALT III. The dilemma created by the JSP is particularly troublesome in the framework of European politics. The specter of the Soviet SS-20 and Backfire, codified by SALT and "protected" from reductions by the language of the JSP, has created considerable pressure on the U.S. to seek limits on Soviet "gray area" systems by further U.S. concessions particularly in regard to ground-launched cruise missiles. Such a delay, which the JSP language fosters, serves to undermine the objectives of the U.S.-NATO Long-Term Defense Program by eliminating important technological alternatives that could contribute significantly to enhancing European security. From a political perspective, such a development could contribute to the Soviet Union's long-standing political objective in Europe, to drive a wedge between the United States and its NATO allies by encouraging Western Europe to depend for its security more on Soviet goodwill (in declining to press its military advantage) than on U.S.-NATO military strength.

It is likely that the authors of the JSP will put forth the case for SALT III in terms which suggest a non-prejudicial interpretation of the JSP, noting correctly that the U.S. has agreed to no specific formulation of SALT III. One of the liabilities of the SALT process, however, is that follow-on negotiations do not begin *de novo*; instead they build on the weight of precedent and the momentum of a decade of negotiation. The United States was, of course, under no obligation to accept terms in SALT II which allowed the Soviets 326 heavy ICBMs while denying the United States any, but the precedential value of SALT I when embedded in the *process* of negotiations made this vast Soviet advantage impossible to dislodge in SALT II.

SOVIET-AMERICAN STATEMENTS ON BACKFIRE

The relationship of the Backfire bomber to SALT has been a contentious one since its deployment began in 1974 following a protracted development cycle (its first flight was in 1969). The Tu-22M Backfire is assigned to the Long-Range Air Army (Dalniya Aviatsiya) branch of the Soviet Air Force supplementing a force of 156 Tu-95 Bear and Myasishchev M-4 Bison which are accountable for SALT purposes. In addition, the Backfire is also deployed with the Naval Aviation branch (Aviatsiya Voenno Morskava Flota) for maritime reconnaissance and strike roles. The latter function includes providing over-the-horizon targeting information for ship- or submarine-launched cruise missiles.

Following the introduction of the Backfire-B in 1973, extensive studies were carried out on the aerodynamic characteristics of the aircraft to determine its performance parameters. The Backfire-B is a large aircraft weighing 231,500 pounds when fully loaded. It is capable of a maximum speed of Mach 2.3, and is equipped with a refueling probe. For nearly four years, successive estimates within the intelligence community resulted in a steady narrowing of differences in conclusions about the Backfire-B's capability. By 1977, virtually the entire intelligence community agreed that the Backfire could conduct strikes against U.S. targets. Indeed, with a representative five-ton load, the Backfire bomber has a greater range than the B-52D (3,220 nautical-mile range for the Backfire compared to 3,012 nautical miles for the B-52D). Yet, the Backfire is not a SALT-accountable aircraft for the Soviet Union, but the B-52 is (including the 80 "D" models all modified for conventional bombing missions).

The Soviet refusal to discuss the status of Backfire in SALT led to an effort by the Carter Administration to identify an alternative means of gaining a measure of control over future Backfire deployments for two reasons: allied concern that the U.S.-Soviet negotiations were having the effect of causing a major increase in the nuclear threat to Europe, and Congressional concern about the failure to include the Backfire within the scope of SALT limitations. The Soviets were asked to provide a letter certifying their intention to limit modifications to the Backfire that could have the effect of increasing its range (including both aerodynamic and re-engining improvements), to limit training activities for intercontinental missions, and to eliminate any expansion in its fleet of refueling aircraft that could be employed to service the Backfire. The Soviets steadfastly refused to provide any such assurances, insisting that the Backfire "is a medium range bomber" and that it does "not intend to give this airplane the capability of operating at intercontinental distances."

The Soviet record on assurances gives little cause for optimism about the usefulness of the Soviet letter. Moreover, among other assurances, the letter states that it does not "intend to give it [Backfire] such a capability [to enable it to strike targets on the territory of the USA] in any other manner, including inflight refueling." Yet widely published photographs in the public press show a refueling probe on the aircraft making Soviet forebearance on the use of its existing aerial tankers our only "guarantee" against the Backfire being used for intercontinental operations. The recent additions to the Soviet tactical aviation inventory, particularly the MiG-23/27 series and the Su-19 (respectively known by their NATO code names Flogger and Fencer) may induce an expansion of the Soviet aerial tanker fleet through conversion of two Soviet civil aircraft, the IL-76 and the IL-86. In addition, the Soviets could reduce their strategic delivery vehicle total by converting some or all of the 156 SALT-accountable Bear and Bison bombers to the aerial tanker role, thereby increasing the efficiency of the Backfire force while allowing additional submarine or ICBM launchers to be deployed in the place of the "retired" bombers.

Despite President Carter's request at the Vienna summit, the Soviets would not provide production rate data in their statement on Backfire. U.S. intelligence sources have estimated Backfire production to be at 2 to 3 units per month. The Soviets would only agree "'that it will not increase the production rate of this airplane as compared to the present rate." Obviously dissatisfied, President Carter apparently sought further written assurance, but was unable to obtain any. Therefore, the President offered a unilateral statement based upon a conversation with Soviet leader Brezhnev stating that "President Brezhnev confirmed that the Soviet Backfire production rate would not exceed thirty per year." President Carter stated further that the United States "considers the carrying out of these commitments to be essential to the obligations assumed under the Treaty."

The latter statement is a close parallel to the discredited U.S. practice in SALT I of writing unilateral statements that could not be enforced, short of abrogation. The Soviet Union has not acknowledged that it considers the Backfire agreement essential to the obligations assumed under the Treaty. The precise definition of what constitutes the production of thirty aircraft per year (actual deployment; deployment without weapon loads; deployment without squadron markings) is lacking in the Soviet-American "agreement" on Backfire.

Indeed, no assurance is of any significant

value from a military perspective because the aircraft is capable of striking targets in the United States. While it is undoubtedly the case that the Backfire would have to land in friendly territory in North America (e.g., Cuba), similar routing is required of all U.S. heavy bombers. They lack sufficient fuel for the return flight to the U.S.; thus they must recover in friendly territory (e.g., Turkey).

The Backfire problem has been exacerbated by recent intelligence findings that the Soviets have flight tested a long-range air-launched cruise missile (approximately 1,000 kilometers). As it is virtually impossible to certify compliance with SALT provisions governing cruise missiles, it was not possible for the U.S. to determine whether the launch took place on a Backfire or another Soviet medium-range aircraft (e.g., a Blinder or a Badger). Should the Soviets deploy a long-range air-launched cruise missile (they have already carried the AS-6 Kingfish cruise missile on the port wing outboard of the landing gear) without an identifiable test, it will not be feasible to learn whether the Backfire will be so equipped in time of war. Moreover, should the Backfire be equipped with cruise missiles, it will be able to launch its cruise missiles at standoff ranges to avoid direct contact with U.S. air defenses, thereby mitigating its range deficiencies.

The failure to include the Backfire as a SALT-accountable delivery system is a major indictment of the SALT II negotiations, and its consequences extend far beyond the immediate concerns of these negotiations.

The failure to include Backfire in SALT II will make it exceedingly difficult to include it in SALT II reduction proposals, as a precedent for its exclusion has been established in SALT II.

The last-minute willingness of the Administration to accept a letter and a verbal acknowledgement of the Backfire production rate betrays a willingness on the part of the U.S. leadership to accept a low-quality agreement from the perspective of enforceability (it is only a part of SALT II on the basis of an American unilateral statement, not Soviet acquiescence to its formal inclusion in SALT II) and our ability to verify compliance with the terms of the Agreement.

As the Agreement will permit the Soviets to deploy not less than 350 Backfire bombers by 1985, it will contribute to suspicions within the Atlantic alliance that America's motive in bilateral Soviet-American negotiations is to improve those bilateral relations at the expense of European security.●

POWER GRAB IN THE NAME OF ENERGY

● Mr. RIBICOFF. Mr. President, legislative bodies sometimes act in haste and then repent after reflection. David Broder, in the Washington Post of October 14, 1979, carefully analyzed the consequences to our Federal system of the Senate's action on S. 1308, the bill that creates the Energy Mobilization Board. This article is worthy of serious thought by all of us. I ask that the Broder article be printed in the RECORD.

The article follows:

POWER GRAB IN THE NAME OF ENERGY

On the face of it, the proposal seems to defy the supposed public resentment of intrusive, big-brother Washington bureaucracy.

The idea of a president of the United States seriously proposing that four of his appointees—three of them part-timers not even subject to the standard conflict-of-interest statutes—be empowered to substitute their judgment for that of independent federal, state and local regulatory bodies, and even, in certain instances, to block the application of federal or state law, seems far-fetched.

That such a proposal would be approved by the U.S. Senate and be moving toward passage in the House of Representatives is even more improbable.

But exactly that has happened, without a rumble of public protest, in the past few weeks. Under the guise of speeding vital energy projects, the federal government is about to accomplish the most significant power grab in recent years. It may or may not accomplish its stated goal of making the United States more energy-independent. But it will certainly damage the federal system and diminish the accountability of those exercising authority in Washington.

As part of his July energy program, President Carter proposed creation of a federal energy mobilization board, with authority to speed the development of high-priority projects, whether they be pipelines, refineries or exotic fuel plants. The measure was designed to deal with a real problem—the delays in federal, state and local licensing and siting decisions, which have, in some instances, held up important plans for years.

The need to slice through the red tape is recognized by everyone. The question is how to do it without creating a new center of arbitrary power in Washington and destroying the responsibility the Constitution gives states and localities for the welfare of their own citizens.

Two options were offered the Senate earlier this month, and the choice the Senate made—to the cheers of the Carter administration—was disturbing.

One bill would have limited the number of energy projects that could be cleared for "fast-track" action and would have restricted them to projects with a significant impact on reducing U.S. energy dependence. The other bill had no such limits.

The Senate chose the blank-check approach.

One bill would have let the new federal agency go to court to enforce a reasonable deadline (usually one year after submission of the plans) for decision-making by a state or local agency on the environmental, social and economic consequences of an energy project.

The other would let the presidential board substitute its own judgment for that of the local or state body, if the federal deadline was not met.

The Senate chose the second way—the path of federal preemption.

One bill would have forced the regulators to obey all the existing laws. The second would allow the federal energy expediters to bar the application of any law passed by Congress, state legislatures or city councils, subsequent to the start of work on a particular project.

The Senate chose the second course, embodying the daring constitutional assertion that four presidential appointees can nullify the enforcement of a statute passed by the elected officials on any level of government.

The vote was not close in the Senate. By a margin of 58 to 36, the senators gave Carter the power he sought, brushing aside vehement objections from such senators as Abraham A. Ribicoff (D-Conn.), Edmund S. Muskie (D-Maine), Gary Hart (D-Colo.), William V. Roth (R-Del.) and Charles H. Percy (R-Ill.).

They also ignored a chorus of protests from the nations' governors' mayors, county executives and state legislators, who see the proposal as a serious threat to their role in the federal system. They have threatened to challenge the legislation in court, if it is finally passed.

It is an understatement to say that it is extremely shortsighted to launch a national energy acceleration prorgam with a bitter battle between Washington and leaders of state and local governments.

But the companion bill being prepared by a House committee is an even more extreme invasion of state and local authority by Washington, and even more glaring contradiction of the supposed public distaste for expanding bureaucratic power.

The governors and mayors and their Senate allies are trying to say we do not have to sacrifice the federal system to speed up energy production. But most of Washington is ignoring the message. The country will suffer the consequences for years to come.●

ALTERNATIVE FUELS PROVISIONS OF H.R. 4930

● Mr. PRESSLER. Mr. President, the bill before us would provide funds to stimulate commercial production of alternative fuels, of which $1.5 billion will be immediately available to the Secretary of Energy.

Mr. President, I applaud the members of the Appropriations Committee for fashioning the bill in its present form. The committee wisely expanded the fuels production category by designating it as alternative fuels rather than the more restrictive synthetic fuel classification. This, thereby, encompassed the alcohol fuel technology.

In the hysteria caused by the current oil shortages, we have too long overlooked a simple and old means of energy—one available from a renewable resource—alcohol fuel from plants.

The use of alcohol as a fuel additive is not some new technology we have just recently discovered, but was quite common practice in many parts of the world in the 1930's where petroleum was in short supply. During World War II, this practice continued and even expanded, as the disruption caused by the war led to gasoline shortages around the world. Not only alcohol, but other substances such as wood, charcoal, and cow manure, were used in many areas. Germany, which was in particular need of fuel for its war machine, developed an entire industry for producing alcohol fuel. In the late 1940's these practices were stopped in favor of gasoline produced from crude oil. Neither alcohol nor any other alternative fuels could economically compete with the cheap and readily available flood of crude oil that entered the world market at that time.

As far back as 1917, Alexander Graham Bell stated here in Washington, D.C., that "we need never fear exhaustion of our present fuel supplies so long as we produce an annual crop of alcohol." He pointed out alcohol can be manufactured from wood chips, cornstalks, sugarcane, and other sources, such as growing crops, weeds from farm and garden, even the garbage from our cities.

Now that oil is in short supply—the Carter administration is anxiously pushing crash programs to cost billions of dollars for synthetic fuel production—including such exotic plans as coal liquidation and oil production from shale.

In this rush to find new technologies, we have nearly overlooked one of the oldest and most readily available means of fuel production. In the President's ambitious synthetic fuels program, which some estimate at $88 billion, there is scant reference to alcohol fuel production and gasohol production.

The bill before us is a step in the right direction by encompassing fuel alcohol.

I have been advocating fuel alcohol as long as I have been in Congress. Shortly after entering the House in 1975, I cosponsored legislation that would exempt fuels with at least 10 percent alcohol from the Federal excise tax. The Congressional Rural Caucus of which executive board I was a member, struggled in those years to promote gasohol programs in Congress. We were active in seeking assistance from the White House, the Environmental Protection Agency and other agencies in the promotion of gasohol. I also personally drove various gasohol powered tractors and vehicles to illustrate the feasibility of this fuel's utility. In the 95th Congress some further headway in this cause was achieved with passage of the alcohol fuel exemption bill which I again cosponsored. I also cosponsored that year the Comprehensive Alcohol Fuel Encouragement Act.

Since coming to the Senate, I have introduced legislation, S. 819, which amends the Clean Air Act to permit the use of fuel alcohol as well as set goals for its sales. This legislation is needed I believe, along with several other amendments I have offered, to classify fuel alcohol as a synthetic fuel and to provide funds for the research and development of alcohol fuels on a large scale.

I recount these efforts because, like other Members of Congress from farm States, I believe we have been aware for some time of the feasibility of fuel alcohol.

Until just a few months ago, however, few experts in the energy "establishment" were willing to give serious attention to such an approach.

It is, I believe, therefore, very significant that a Department of Energy report of June 1979, stated that alcohol fuel is "the only alternative fuel commercially available now, and the only one likely to be available in quantity before 1985."

And now that gasoline costs $1 per gallon, fuel alcohol, which also sells for $1, is economically feasible. However, an infant alcohol fuels industry cannot readily compete with a well-established petroleum industry without Government action.

Therefore, we must provide proper incentives and encouragement so sufficient quantities of alcohol fuels can be produced.

Through such efforts, conservative estimates indicate a reduction of more than 11 percent in foreign oil imports and a lessening of our trade deficit of more than $5 billion a year by 1985.

Fuel alcohol in certain market areas is currently being sold mixed with gasoline in a 10 to 90 percent ratio producing gasohol or alcofuel. This is being done without modification in automobile engines and without a drop in miles per gallon. The 10 to 90 percent ratio is not a rigid number; in the future with carburetor modification a larger percent of alcohol could be used—as in Brazil, where autos are fueled with 100 percent alcohol.

Based upon DOE studies, this country could produce up to 10 billion gallons of alcohol fuel by 1985. This without strain on our present food supply. Currently we import 96 billion gallons of oil—45 percent of which is converted into gasoline. With today's OPEC price of $21 per barrel, this means a savings in excess of $5 billion. The impact on our present $25 billion plus of trade deficit would be extremely beneficial and would go far to help stem inflation.

Domestically, gearing up for alcohol fuel production will have the impact of creating new jobs both in the construction phase of alcohol stills and subsequently on the production and running of the distilleries.

The largest continuing employment impact of alcohol production will occur on the new material side. The ready, and perhaps insatiable, market presented by fuel production could be expected to increase agricultural activity. This will come about not only in the West and Midwest with the vast resources for corn and wheat production, but in the Southern States with their sugar capabilities and the Northeast with its plentiful wood supplies.

Mr. President, I believe we should go still farther in the development of alcohol fuel than the bill before us provides. I do not, however, intend to offer an amendment to this effect to the pending appropriations measure. Other more suitable legislation is expected to appear on the Senate floor in the near future. I believe that those responsible for administering programs under this bill should, however, give weighty consideration to development of alcohol fuel.

Important as coal and shale oil production are, we should be mindful of the DOE statement I earlier mentioned that fuel alcohol is the only alternative fuel commercially available now, and the only one likely to be available in quantity before 1985. Now is the time we must signal private enterprise that we are truly serious about this alternative. A commitment by the Secretary of Energy of 10 percent of the funds available in this bill would be a good start. By providing loan money for studies and for production development, private capital would be encouraged to move into this form of alternative fuel.●

RAILROAD PASSENGER SERVICE

● Mr. BUMPERS. Mr. President, I call the attention of my colleagues to a thought-provoking article by Tom Wicker, printed in the October 2 New York Times, on changes which would enhance our railroad passenger system.

The recent debate in Congress over the size and direction of Amtrak reflects an increased interest in the potential of mass transit systems to serve both rural and urban areas. Such consideration is necessary as we seek solutions to the problem of our dependence on foreign oil. Even a small increase in the price per barrel of that commodity wreaks havoc in all sectors of the economy.

I ask that the article be printed in the RECORD.

The article follows:

[From the New York Times, Oct. 2, 1979]

THE AMTRAK PARADOX

(By Tom Wicker)

In June, thanks mostly to long lines at the gasoline pump, Amtrak ridership rose 24 percent over that of June 1968, to a total of 2,050,000. It was the first month in the system's brief history that it had carried more than two million passengers. About this, two paradoxes might be noted:

Oct. 1 brought a Congressionally ordered cutback in Amtrak service.

Yet, the outlook for a decent intercity rail passenger service now seems marginally improved.

The route pruning that finally goes into effect—lawsuits are contesting some of the cuts—actually will be only a small part of the 43 percent cutback the Carter Administration originally sought and Congress at one time seemed sure to approve.

The summer's gasoline shortage—or whatever it was—gave Congress renewed concern for public transportation. The legislators largely rescued Amtrak from the Administration assault and even improved its financing. Now, with energy concern continuing and gasoline prices drastically increased, serious cutbacks will not be likely any time soon.

President Carter, moreover, seems finally to have committed his Administration to an expanded mass transit program—although it is not clear to what extent that program depends on the ephemeral windfall tax on oil profits. If Mr. Carter realizes that mass transit must be a part of an effective energy conservation program, he's that much nearer to seeing the need for intercity rail service, too.

A strong public transportation advocate, former Mayor Neil Goldschmidt of Portland, Oreg., now heads the traditionally highway-oriented Department of Transportation. Secretary Goldschmidt, unlike his predecessor, preferred the limited route cuts ordered by Congress to the 43 percent reduction proposed by the Administration; and he told Ernest Holsendolph of The New York Times that he "would not be surprised if we had another Amtrak crisis in the next two years, comparable to the rush to trains during the fuel crisis" of last summer.

Nevertheless, the Carter Administration remains no more than grudgingly interested in intercity rail service; whether Mr. Goldschmidt will or can make much headway in that atmosphere is uncertain. And the major problem of Amtrak is still what it has always been: no Administration of either party and no Congress has ever given it enthusiastic support, much less sufficient funds and authority.

Without such backing, not even recurring gasoline shortages can make much improvement in the current poorly managed, ill-equipped, hamstrung system. With real support, much could be done.

Outmoded work rules could be eliminated. The 16-hour trip of the Montrealer from New York through New England to Canada, for example, now requires six crew changes, running up wage costs exorbitantly. Authority to hire its own crews under new and more efficient work rules would be a great step forward for Amtrak.

Amtrak also could be efficiently utilized to carry the mail, as trains used to. This would be energy-efficient (highway postal trucks cannot carry passengers) and provide much-needed revenue. American Airlines received $36.5 million for carrying mail in 1978. Greyhound Bus took in $152.5 million for its package express service in 1976.

A sensible public transportation system also would utilize trains and buses to the maximum extent, dovetailing their schedules as much as possible and making these schedules convenient to passengers. Incredibly enough, such cities as Buffalo, Pittsburgh, San Antonio, Charlotte, Omaha, Hartford, and Syracuse are served by Amtrak only between 11 p.m. and 7 a.m. The Floridian, one of the trains being discontinued (despite a 19.6 percent ridership increase in the first half of this fiscal year), does not include

Atlanta on its Chicago-Miami route. Is that any way to run a railroad?

Much roadbed work needs to be done, too. When the Hilltopper made its last run through the West Virginia mountains Sept. 30, it was grinding along at a snail's pace on track laid down for coal-hauling in the 19th century. Roadbed rebuilding would be cheaper than highway construction, but the mismanaged Northeast Corridor project is the only major effort now going forward.

A major obstacle for Amtrak is the persistent notion that rail passenger service must pay its way. That is not possible against competition of swift planes and convenient cars. But the Government spent $1.8 billion in 1978 on the Air Traffic Control System and since 1971 has spent $8.5 billion from general funds on highway construction and maintenance. Amtrak's subsidies have been miniscule by comparison.

Besides, rail passenger service is needed for areas the airlines can't serve and to provide an energy-efficient alternative to energy-wasting autos and airliners. A six-coach train carrying 600 passengers produces 400 passenger-miles per gallon—an unsurpassed potential, if Amtrak only had the equipment, the roadbeds, the scheduling, and the Government backing to make it possible.●

INFLATION

● Mr. LUGAR. Mr. President, the annual rate of inflation has risen to over 13 percent, and shows no sign of diminishing. The longer we permit inflation to rage unabated, the more difficult it will be to wring it out of the economy. This is true in part because a high rate of inflation becomes built into peoples' expectations and calculations. When this happens, normal and desirable patterns of investment and consumption become distorted.

Mr. President, I have for a long time urged that we must address the problem of inflation on an urgent basis. We must not permit inflation to take permanent hold in the American psyche. Each day that we fail to take decisively action against inflation, our options to deal with it become more and more limited and more and more extreme.

Mr. President, this issue is addressed in a recent article by George Marotta, a senior research fellow at Stanford University. I ask that his article entitled "The War on Inflation: More Winners and Losers" be printed in the RECORD.

The article follows:

[From the Santa Ana (Calif.) Register, Sept. 25, 1979]

THE WAR ON INFLATION: MORE WINNERS AND LOSERS

(By George Marotta)

Each day finds more recruits joining in the battle against inflation. As prices steadily increase, more Americans are learning how to cope with this insidious enemy.

In the face of these counterattacks, one might conclude that inflation will be conquered soon. Alas, such is not the case.

The reason for pessimism is that people are not really fighting against inflation—they are only hedging against inflation. In fact, many of the actions they are taking are adding to the problem.

Over the past decade, the dollar has been so eroded by inflation that it buys less than half of what it did ten years ago.

Increasing numbers of Americans (and foreigners) are learning rueefully that one of the worst things you can do is hold dollars because they depreciate so rapidly. The first half of 1979 found inflation raging at the rate of over 13 percent on an annual basis.

Many are learning the primary lesson: to protect oneself against inflation you must get out of dollars and into something else. In fact, almost anything people bought over the past decade was better than holding dollars. But those who gained most bought gold, which has increased from $35 to over $350 an ounce. Other "winners" in the war on inflation bought real estate, silver, diamonds, antiques and other collectibles.

Many bought goods with borrowed monies on the correct assumption that they could pay back the loan with cheaper dollars, thereby reducing the "real" rate of interest. Those who borrowed added to inflation by contributing to the demand for goods and bidding up the prices.

The prime interest rate's recent rise to the record level of 13 percent is evidence of the persistence of this round of inflation. Because it has been raging over eleven years, the longest in United States history, many believe interest rates will go even higher.

Even at these historic levels, people are willing to borrow and it's not difficult to see why. A 13 percent interest rate in a period of 13 percent inflation produces, in effect, an interest-free loan.

The best action people could take to slow down our nation's inflation would be to postpone purchases and to save money. This would reduce demand for goods and help to stabilize prices. However, banks only pay 5½ percent interest on passbook savings. In a period of 13 percent inflation, this is a loss of 7½ percent. To add insult to injury, the government taxes the interest which you did not really earn!

The government must feel some sympathy for the saver because it recently authorized banks to pay an additional ¼ percent on passbook savings, but the increase is grotesquely inadequate.

Since government fully taxes interest on savings and allows a tax deduction for interest paid on money borrowed, it is no wonder that more people are borrowing than saving. The level of savings in the United States, 4½ percent of disposable income, is the lowest among the major industrialized countries, while the level of payments on loans (both mortgage and consumer loans) for Americans is a record 40 percent of income.

Wages and salaries have doubled over the past decade and on the average have kept up with inflation. Take-home-pay has decreased, however; due to the fact that federal and state taxes are taking a bigger bite because the graduated tax rates have not been adjusted or indexed for inflation. Many taxpayers are now being taxed at rates once applied only to the rich. This might be one reason why government is slow to stop inflation—they get 16 percent more revenue every time inflation goes up by 10 percent.

Guess what is the main cause of inflation: federal government deficit financing (spending more than is collected in taxes). The deficit this year will total more than $30 billion.

It is one of the supreme ironies of our time that government, the main perpetrator and beneficiary of inflation, reaps its windfall profits, while business, organized labor and consumers blame each other for causing the problem.

If large numbers begin hedging against inflation, the result will be a boom and bust economic expansion where everyone will suffer in the subsequent collapse.

What is the solution? If just one-tenth of the effort spent on hedging were marshalled into fighting inflation, we just might win the war on inflation.

Bold action is required. We must elect politicians who promise to do less for us (and to us) in the future and who would balance the budget. Since we have not done this in the past, another more permanent action we could take is to pass an amendment to the federal constitution to require a balanced budget in the future or to support the amendment to limit the increase in expenditures to the real increase in our national production.

A rational society is one that learns from its mistakes. We have made many fiscal and monetary mistakes over the past decade. The time is ripe for corrective actions. Our major weapon is, as usual, the ballot box.●

DECOLONIZING THE WEST

● Mr. GRAVEL. Mr. President, I would like to call to the attention of the Senate an editorial which appeared in the October 15, 1979, edition of the Wall Street Journal.

The editorial speaks to the growing unrest in the West over the Federal domination of the lives of residents through its ownership of much of the land in the West.

As the article points out, Alaska has suffered at the hands of the Federal Government in several ways. Lands promised the State at the time of statehood—104 million acres—have still not been transferred to the State. Although the country is suffering from an acute energy shortage, the Federal Government is strongly in support of massive new park and wilderness areas in Alaska which would preclude any further exploration or development of energy sources. Further thwarting of the development of new energy sources will occur through the blocking of access to adjacent State and private lands by the large conservation system units. Some of these link up to form access barriers hundreds of miles long.

The Federal Government has simply not proven its ability to manage its vast estate in a responsible, balanced manner. It seems it either errs on the side of extreme protection or, as the article points out, on the side of abusive land practices.

Perhaps it is time we reexamine the role of the Federal Government in land management and how such management may be creating second class citizens in the West and at the same time be leading us down the path to economic destruction.

Mr. President, I ask that the editorial be printed in the RECORD.

The editorial follows:

[From the Wall Street Journal, Oct. 15, 1979]

DECOLONIZING THE WEST

When President Carter met with 12 Western governors in Albuquerque last week, he found out that the West is chafing under federal land, water, energy and wildlife policies.

Wyoming is angry over mining restrictions. Utah and Montana are suing over federal control of their water. Nevada has passed a law "nationalizing" a 49 million acre chunk of federal land. All are fearful of rape and ruin by federal energy programs. Federal Bureau of Land Management district managers are being likened to the Sheriff of Nottingham and colonial magistrates. Guerrilla attacks have been made on federal property in Alaska. And western governors have organized to pursue a common strategy for wresting control of their states from Washington.

The problem is that federal land holdings are concentrated in the West, making for real differences in the amount of say the states have in managing their own affairs. Only 1 percent of New York state is in federal hands, but 95 percent of Alaska is. The federal government also owns 87 percent of Nevada, 66 percent of Utah, 64 percent of Idaho and from one-third to one-half of other Western states. With such high proportions of their lands in Washington's hands, people in the West wonder if they are on equal footing with other states, or even if they are states at all.

Senator Orrin Hatch (R., Utah) says the West is "an economic colony of the rest of the country," and if you look at a map showing the distribution of federal land you will see a compelling argument that decolonization came to a halt at about the 100th meridian. Uncle Sam has refused to turn loose the colonies west of Texas. The feds have not even conveyed to Alaska the 103.5 million acres promised 20 years ago in the Statehood Entitlement Act. And if the land is ever conveyed, Washington will still hold title to 74 percent of Alaska.

But while the federal mother has dithered about turning over the statehood dowry, she found the energy to lock up through imperial decree vast amounts of Alaskan territory in wilderness areas.

That was salt in the wounds and worse when you consider that the land was locked up in such a way as to interfere with access to land and resources which escaped the federal deepfreezer. The small part of Alaska over which the state is sovereign is "landlocked." The state can't get to what exists of itself because the feds won't give it a passport to travel through federal wilderness areas.

Washington's tenacious hold on the West is against historical precedent. Traditionally Washington acted as trustee of lands within newly created states until the states could accept the land and manage it effectively or until it could be sold into private ownership. For example, in 1632 the Public Lands Committee reported to the Senate that "the speedy extinction of the Federal title within their limits is necessary to the independence of the new states, to the development of their resources, to the subjection of their soil, taxation, cultivation and settlement, and to the proper enjoyment of their jurisdiction and sovereignty."

And judging from the Bureau of Land Management's admission that only 17 percent of its vast land holdings are in excellent or good condition, there doesn't seem to be any practical case either for continuing the title in Washington's name. This could come as no surprise. Given what we know about the record of other nationalized industries, why should we expect nationalized real estate to be any better?

Naturally everyone wants to preserve national parks, national forests and a reasonable amount of wilderness area. But we can have those without the federal government owning one-third of the nation's land at the expense of 12 states. The nation may have to think about the solution, but the new anger in the West ought to start a renewed debate on a fundamental question: What conceivable justification is there for the federal government to own these vast lands? ●

NATIONAL DIABETES WEEK

● Mr. TOWER. Mr. President, last week we observed National Diabetes Week. Ten million Americans suffer from diabetes. Health care, disability payments, and lost wages due to diabetes cost this country $6.8 billion annually. Only cancer and cardiovascular disease take more lives in the United States than diabetes.

Recently, testimony of a fellow Texan to the National Diabetes Advisory Board has come to my attention, and I would like to share his remarks with my colleagues. This young man is unfortunate in that he has diabetes, but fortunate to have lived 28 years with his disease. Most victims of diabetes die within 25 years of its onset. This young man must live not only with his disease but also with the knowledge that 5-year-old daughter is a diabetic, too.

Mr. President, I ask that the text of this testimony be printed in the RECORD.

The statement follows:

NATIONAL DIABETES ADVISORY BOARD HEARINGS

(By William A. Hammond)

To the members of the National Diabetes Advisory Board, I would like to first of all, say think you for doing a good job of seeing that we get the most mileage possible out of research appropriations. It has really paid off this year. One of my top concerns is the needed extension of the National Diabetes Advisory Board as the only coordinating body for Diabetes within the Federal Government.

Remarks on the need for more appropriations for research are meant to be passed on to Congress. I know where the money comes from. In fact, I've only had three hours of sleep in the last fifty-four hours, as I worked non-stop in an effort to get constituents of key Senators on the Appropriations Committee to tell their Senators not to balance the budget with human lives.

I'm here to speak to you as both Diabetic, and the father of a Diabetic child.

I'm concerned because despite insulin and other treatment, half the children with Diabetes die within an average of 25 years after onset from kidney failure, and that's just one of the many deadly complications. I'm in the lucky half. I've had Diabetes 28 years and am in excellent health, but I'm the exception, rather than the rule. I've got the Quarter Century Victory Medal from the Joslin Diabetes Foundation for having lived 25 years as an insulin dependent Diabetic without a trace of complications. Perhaps it makes me the wrong person to get up here and testify, unless this is put in perspective.

Exactly how rare this is surprised me, but in talking with Dr. Bradly at lunch, I learned that in the 30 years the Victory Medals have been available, only 200 have been awarded . . . out of millions of Diabetics. The idea behind the Victory Medal is that you'll be held up as an example and hope for other Diabetic children. Unfortunately, while giving them hope, we turned off research because folks think all Diabetics are healthy like me. I want to apologize to the families of the some one million Diabetics who have died since I qualified for the medal. I'm sorry that in giving some hope, many have died.

But I can't blame folks for not knowing how serious Diabetes is. For 25 years, I too thought Diabetes was just an inconvenience. I didn't even think they still awarded the Quarter Century Victory Medal, because I didn't think it was unusual to live 25 years without complications. After all, I'd had no problems. Out of sight, out of mind.

I was lucky, but all that changed three years ago when my daughter, now five, developed the disease, possibly caused in part by a virus. It got me active in promoting the need for research to find a cure after looking at the facts and learning the startling truth that Diabetes is one of the three most deadly diseases. I'm fine, but someone out there is contributing to those grim statistics, and I want to make sure it is not my daughter.

All the best treatment and facilities in the world didn't keep long-time Diabetic Congressman William Steiger, a picture of health, from suddenly dying last year in his early 40's from a common Diabetic complication.

This past year ADA Dallas Board member William Shesunoff had all the best programs available to him, but they couldn't keep him alive past age 33. And Robert Lacey in my hometown of Carrollton, outside Dallas, had the best medical attention money could buy, but he didn't have a cure before Diabetes ended his life at age 31. Present treatment is not sufficient. We need more research to avoid the complications such as blindness, neuropathy, kidney disease and associated problems caused by degeneration of the cardiovascular system . . . and we need more research to find a cure. That is the answer.

Today we have some real hope, thanks to Government funding of research that has produced four major breakthroughs just this year. But now is not the time to slow down. It's time to pour on the steam. Every day wasted kills as many Americans as died in Jonestown . . . Every day wasted kills three times as many taxpayers as perished in the Chicago DC-10 crash . . . every day!

We need continued support for manpower and training programs to bring new people into the field, but what good does it do to train them if we don't continue increasing funding above cost of living adjustments so we can fund their new projects after training?

No; we can't keep doubling Diabetes research dollars, but there's still room for significant increases. We're not asking for several billion to make up for lost time. Unfortunately, we can't even ask for what is justified by the numbers because we're still building a foundation in research. Diabetes is of such significance and magnitude as to warrant its own institute, just as Cancer and Heart Disease. Statistics are woefully inadequate because Diabetes is not a reportable disease and many victims don't even know they have it. Diabetes is increasing at an alarming rate of 6 percent per year. It's reaching epidemic proportions as a new case is discovered every minute while someone else dies from Diabetes or its complications every other minute. As treatment keeps more people alive longer, we've developed a population of over ten million Americans walking around with a time bomb ticking away inside them.

Some studies show 50 percent of all heart attacks are caused by Diabetes and 75 percent of all strokes are caused by Diabetes. Cure Diabetes and you may eliminate half the heart problem. If Diabetes were a reportable disease, we'd have a better source of information on this and other associated health problems.

There are four times more Diabetes under treatment than cancer patients, partly because there is no cure for Diabetes; and each year about as many, if not more Americans die from Diabetes as Cancer. It might seem Diabetes should get as much for research as Cancer, but such would not be practical because it has been so poorly funded in the past that there aren't enough researchers available to make use of a billion dollars. New researchers are being attracted to the field, however, and increased funding during the past few years has paid off with dramatic new discoveries which require more investigation. Good use could be made of $250 million in research this year, a small fraction of what is spent on Cancer, and a healthy increase of $100-150 million should be spent in succeeding years until we reach the level of Cancer funding, or find a cure. Recent breakthroughs lead me to believe that sizable increases now will result in finding a cure and a vaccine before reaching the funding levels now held by Cancer research.

A major investment in Diabetes research will actually save many dollars because we are so close to a cure. The Congressional Budget office says Diabetes costs the government $6 billion in terms of treatment, disability and welfare expense, tax benefits to those blinded by the disease and lost tax dollars when complications shut down a productive individual.

Now is the time for a cure. It's close at hand and this is the time to increase funding, not cut back on projects. Diabetics have been waiting over fifty-five years for a cure. Insulin helped keep them alive while they waited, but now the wait is killing them. Diabetics are literally dying for a cure. It's within our grasp. Let's pour on the steam in an all out effort to bring the latest breakthroughs to culmination in a life-saving cure. ●

ADDRESS BY SENATOR MATHIAS ON REVENUE SHARING

● Mr. MOYNIHAN. Mr. President, It has been said that the revenue sharing program is perhaps the most important development in our Federal system of recent years. At the least, the program held forth the prospect of a revitalization of State and local government at a time when many feared the consequences of overcentralization. And yet we have come to observe the organization of a political effort, if not to undo the program, at least to reduce its scale. I am therefore pleased to call the attention of the Senate to an important speech by our colleague from Maryland, Senator CHARLES MATHIAS. He addresses the matter with characteristic insight and pungency. This is not the first time that I have learned something from what he has said. I ask that the text of his speech on revenue sharing, given in Frederick, Md., on October 6, be printed in the RECORD.

The speech follows:

REVENUE SHARING: AN ASPECT OF CREATIVE FEDERALISM

It is a pleasure to welcome the Maryland Municipal League to Frederick—a town with all the grace a rich past can bestow—a town whose hardworking citizens deal effectively with the complex problems of contemporary life—my hometown. I know you will enjoy being in Frederick. I know the people of Frederick will enjoy having you here.

Talking about Federal Revenue Sharing here in Frederick, has a special irony for me. I have been struggling without success to persuade the federal government to share some of its revenue with Frederick ever since my first term in Congress. And the story goes back much further than that.

It goes back to a little-known incident in the Civil War, when the people of Frederick, by a gallant and selfless act, profoundly influenced the course of American history. On the morning of July 9, 1864, Confederate General Jubal Early rode into the city of Frederick and demanded $200,000—an absolutely staggering sum in those days—or the equivalent in supplies. At that time, more than one million dollars worth of Union military supplies were stored in Frederick, and the townspeople were determined those supplies would not fall into enemy hands.

Throughout the day and into the night, they negotiated with General Early. Finally, to save Frederick from the torch, the citizens of Frederick emptied the local banks to pay the $200,000 ransom Early demanded.

With the money in hand, but delayed one day by the protracted negotiations, Jubal Early and his men moved on to Washington. When he reached the outskirts of the Capital, Early discovered to his surprise that the Union defenses were too strong to breach and he retreated across the Potomac without attacking. The forces which deterred Early's assault had been hastily reinforced, while he lingered in Frederick haggling over the ransom.

For the next 87 years, the citizens of Frederick taxed themselves to pay back the money they had borrowed from their banks. In 1951, the $200,000 debt was at last paid off. But the debt the United States Government owes the people of Frederick still has not been settled. And so in each new Congress, I introduce the "Frederick Ransom Bill" which asks the Federal Government to share a very small portion of its revenue with the people of Frederick who once saved its hide.

I am sure everyone in this room can appreciate the justice of that request. You deal on the local level and you know that what happens on the local level makes all the difference. But, I am sorry to say, it is not always possible to get that point across at the federal level I have just introduced my 10th "Frederick Ransom Bill" and the Congress remains unmoved.

With this sad example before us, let me turn to my topic—Federal Revenue Sharing Reenactment: What We Need To Do. Here, there is good news and bad news.

The good news is that in July we managed to beat back an attempt in the Senate to cut $684 million from revenue sharing funds which would have meant a one-third cut in the funds going to each state. The bad news is how far the attack got before it was beaten back and how vigorous it was.

I'm sure many of you followed those proceedings, but I think it is instructive to review them. The HUD-Independent Agencies Appropriations Bill for Fiscal 1980, as reported by the Senate Appropriations Committee, cut revenue sharing funds $684 million below the amount provided in the bill passed by the House. The Committee stipulated that this cut was to be applied solely against payments to the states. I fought against the cut in Committee and I led the fight against it on the floor

Senator Proxmire defended the reduction on the grounds that "a great number of states—10 to be precise—have cut taxes in the last 18 months because of surpluses while all of the states are taking in more money than they are spending."

We had heard variations on this theme in the Committee debate. Opponents of revenue sharing maintain that state governments no longer need $2.3 billion in revenue sharing because all states project a $4.3 billion surplus for 1979. Now, it is true that all states do project such a surplus. But over half of that amount luxuriates in the coffers of just four states: Alaska, Wisconsin, California and Texas. The majority of the other states are not nearly so fortunate.

Furthermore, cutting revenue sharing in Fiscal Year 1980, without a word of warning, would have thrown a number of states into the red, since their current budgets are contingent on revenue sharing funds.

In addition, of course, nearly 40 percent of all state revenue sharing money is passed on to local governmental units. The Advisory Commission on Intergovernmental Relations reports that state aid to local governments has risen over the past decade from $14 billion in 1965 to $61 billion by 1976. Tampering with the states' cut of revenue sharing would almost certainly nip this promising trend in the bud.

The bill reached the Senate floor on July 27th. I was ranking minority member and floor manager, and I am happy to say that we managed to mount a strong bipartisan defense of revenue sharing. Some of the most eloquent members of the Senate joined the debate to oppose the fund cut.

Senator Moynihan, who combines the Irish gift for words with an equally Irish feistiness, rose to the occasion magnificently. He called revenue sharing "one of the finest instruments ever sustaining federalism" and said:

"It has not created a large Federal establishment. . . . It is beautifully efficient and, therefore, it is attackable, unlike those endless prehistoric bureaucracies that inhabit the stygian glooms of the lower reaches of our departments like some still persisting paleolithic organism."

We were also fortunate to have three former governors—Senator Ford of Kentucky, Senator Pryor of Arkansas and Senator Exon of Nebraska—oppose the cut because of personal experience.

Senator Ford told the Senate, "I saw how this program, through both the local and State allotments, filled many vital needs in community after community across my state . . . revenue sharing works because it shifts the decision-making process back to the local level where it should be."

Senator Baker too made a powerful contribution by reminding the Senate that revenue sharing has been a determined bipartisan effort over the years to change the direction of the growth of government. He said it was a Democratic initiative first proposed by the Chairman of the Council of Economic Advisers for President Kennedy, and later carried out by President Nixon. Senator Baker recalled that the late Senator Humphrey and he had prevailed on both national conventions in 1968 to include identical platforms on revenue sharing, which was "the only plank in the platform of the two political parties that was not partisan."

My first tactic to defeat the cut was to make a point of order that the Committee's amendment was improper because it was legislation in a general appropriations bill which is prohibited by the Standing Rules of the Senate. The Chair sustained my point, thereby automatically restoring the $684 million.

Then Senator Proxmire offered a new amendment to cut the same funds. Happily, once again the Senate rose to the occasion; the Proxmire amendment was defeated 31 to 59, and revenue sharing funds were safe for another year.

So much for the good news. Now for the bad.

During the course of this debate, some who voted against the cut noted they would not be with us next year. Several Senators opposed the cut simply because they didn't think it was fair to turn off the spigot on the states without warning. As Senator Stevenson explained:

"I continue to oppose participation by the States in revenue sharing and I intend to vote accordingly when the authorizaton for revenue sharng expires at the end of fiscal year 1980. I see no justification to increase the federal budget deficit in order to contribute to state budget surpluses. However . . . to make a revenue sharing cut now would damage states which have relied in good faith on these funds during fiscal year 1980."

From Senator Stevenson's statement it's easy to see that what we got from the Senate this summer was not a pardon but merely a stay of execution. The authorization for General Revenue Sharing will expire on September 30, 1980—less than a year from now—and the battle lines in the Congress are already being drawn.

To give you a hint of what the main event will be like just look at the figures the Budget Committee is projecting for 1981, 1982 and beyond.

The program currently funnels $6.85 billion yearly to about 40,000 state and local governments across the country. The Budget Committee recommendation for FY 1981 through 1984 assumes a reduction of $1.4 billion annually in the program's funding

level. This recommendation was in the Second Concurrent Budget Resolution adopted by the Senate just a few weeks ago.

Already, as the Advisory Council on Intergovernmental Relations puts it, revenue sharing has been "allowed to twist slowly in inflationary winds." Its value has eroded 40 percent over the last eight years.

There are other troubles too. The National Journal explains that:

"Politically, the states incurred congressional wrath earlier this year and late last year when a number of governors and state legislatures demanded a balanced federal budget. Many Members of Congress responded that the best way to balance the budget would be to trim federal aid to states, and that revenue sharing would be a good place to start."

During our debate this summer, Senator Bentsen made no bones about how he felt. "I proposed eliminating the state portion of revenue sharing earlier this year," he said:

"I did it at the time the Governor's conference was being held in Washington and I heard from Governors immediately. They were outraged. . . . It's great fun to go down there and cut a ribbon and get the television cameras on you and take full credit for it when you have used federal revenue sharing and you are a Governor, and you have not had to tax the people to raise that money. . . .

Then you turn around and just really raise cain with those 'spendthrifts in Washington, who are spending the taxpayers' money on all these extravagances."

Senator Bentsen concluded, "I just don't think you can have it both ways." A lot of people, who are going to have a say about the future of revenue sharing, agree with him.

Senator Long objects to revenue sharing because it relieves the Congress of its Constitutional responsibility to appropriate money for specific purposes. And that is true. But the Founding Fathers never contemplated the tremendous growth of the national economy.

It seems to me that creative federalism—which is certainly what the Founding Fathers had in mind even if they could not anticipate all its forms—means adjusting to the facts of real life as they unfold. The national economy is a great, powerful force in this country. If we can hitch up this great force, if we can let the money come from the national economy and the decisions come from the local level, then we will have the best of both worlds. And we've got to get this idea across.

The Administration too seems to be backing off on revenue sharing. We're receiving pretty strong signals that some in the Administration may recommend terminating the program. There are rumors around that OMB not only wants to eliminate the states from revenue sharing in 1981, but wants to provide revenue sharing funds only when there is a federal surplus—and I wouldn't hold my breath waiting for that day to come.

There's also a big question mark about President Carter's views. Don't forget he was the only governor to come before the Congress in 1972 and oppose revenue sharing. Now the September 15, 1979, due date for a Presidential recommendation on the future of revenue sharing has come and gone without a word from the White House to the Congress on what it plans to recommend for the general revenue sharing program once its authorization expires next year.

With all these straws in the wind, it's obvious that anyone who wants revenue sharing to continue is going to have to be able to answer a lot of hard questions in the coming months. And they're going to have to make a positive case for revenue sharing that will address all the issues raised in the Senate debate this summer. Incidentally, I've had some reprints of that debate made and brought them along for you because it will give you an idea of what you're up against.

By the end of the current authorization period, the General Revenue Sharing will have distributed $55 billion over its nine-year life. It seems to me that the single most important contribution you can make to assure continuation of revenue sharing is to demonstrate that these funds have produced a solid record of achievement in meeting needs. It is hard for even the best friend of revenue sharing to make a case for it, if there's evidence that the funds have just been socked into an interest account or into municipal bonds or squandered on a statue of the mayor.

But if each official and each agency across the country that has received revenue sharing funds can document what these funds have meant in human terms, then I'm confident we'll be able to convince a majority of the Congress to continue the program. Bring me a solid record of achievement and I guarantee you it will make a difference.

It would also make a difference if we could tone down the Proposition 13 rhetoric a little. In Maryland, we have good cooperation at all levels of government, I think, and I'm proud of that. But I wish you could get the message across to your colleagues in other states that we are all in a fiscal bind together and we'll do a lot better by cooperating with each other than by caterwauling at each other. As Senator Bentsen said "You can't have it both ways."●

JUDICIARY COMMITTEE HEARING ON NATIONAL SKI PATROL CHARTER

● Mr. HATCH. Mr. President, last week the Judiciary Committee held a hearing on S. 43, the National Ski Patrol System Recognition Act, a bill I was pleased to introduce in the 96th Congress. The hearing was most informative and impressive from the standpoint that it provided the opportunity for a number of people familiar with the National Ski Patrol System from around the country to participate in the legislative process. I would like to express my sincere appreciation to Senator KENNEDY, chairman of our committee, for his kind consideration in scheduling this hearing and for his active support of the bill. His staff counsel, Ms. Patti Saris, was enormously helpful in arranging the meeting and has been a pleasure to work with on the bill.

I think the fact that so many Senators have joined together to help make this bill a public law is indicative of the enjoyment and satisfaction we can derive from encouraging an effective volunteer organization in its work. There are now 60 cosponsors of S. 43, 27 Democrats and 33 Republicans. These Senators represent 41 States.

In addition to the citizens who came to testify on the bill, our colleague, the distinguished Senator from Pennsylvania, Mr. HEINZ, took the time to give us his observations on the National Ski Patrol System, both as a former patroller himself and as a recipient of their first aid services. Senator RIEGLE, also a cosponsor of the bill, stopped by the committee to introduce a constituent, Mr. Donald Williams, national director of the National Ski Patrol System. Other cosponsors, Senators CANNON and THURMOND, submitted endorsements of the legislation for the hearing record; Senator THURMOND correctly noted that the emergency training of the national ski patrol enables their more than 23,000 members to save lives anywhere and during any season of the year.

Donald Williams, NSPS national director, testified that patrollers were called upon to assist medical and law enforcement personnel in Chicago last winter when the great city became immobilized after back to back blizzards. Their efforts helped transport the ill or the injured to medical facilities when our super-equipped ambulances could not do the job. Patrollers on skis moved supplies and food to the elderly and the shut-ins during that weather crisis in Chicago.

Mr. Williams also testified to the extensive training required of NSPS members and to the other various programs and functions they perform. Mrs. Luanne Skinner, former assistant national director from Ogden, Utah, added some perspective from the point of view of a veteran patroller saying that in spite of the comprehensive training, the expense of buying their own ski and patrol equipment, the temperature and the wind chill, that the real benefit of being a national ski patroller is the deep satisfaction of helping others. "The service we render to others," she said, "is really the rent we pay for our room on this Earth."

Mr. Channing Murdock, owner and president of Butternut Basin in Great Barrington, Mass., was kind enough to share with the committee his views on the NSPS charter legislation as a ski area owner. Mr. Murdock noted the importance the NSPS played in safe operation of a ski area. Mr. Murdock explained the difference between professional patrollers and patrollers of the NSPS as well as the necessity for having the volunteer group. He testified that many ski areas would either have to increase the prices for winter recreation to consumers or sacrifice safety enforcement and emergency first aid services altogether in the absence of the National Ski Patrol System. He brought to the committee statements from other members of the National Ski Area Association which indicated a universal support for this legislation.

Two witnesses representing the XIII winter Olympic games at Lake Placid, N.Y., shared with us the special relationship between the National Ski Patrol and the Olympic committee. Mr. Bob Paron, manager of White Face Mountain, operated by the State of New York, and Mr. Serge Lussi, chairman of the Alpine events for the 1980 winter Olympic games explained for the committee the cooperation between the NSPS and the Olympic committee for many years. The NSPS will furnish a brigade of patrollers to assist in the various events scheduled for the 1980 international competition. It was pointed out that special skills were needed to render such services in competition due to the speeds the contestants are skiing and the short intervals between starts. The NSPS will serve the Olympic games without charge, just as they do recreational skiers every day.

Mr. Joe Prendergast, president of the American Ski Federation representing the diversified ski industry, ski areas,

manufacturers, instructors, retailers and others, pointed out that there was unanimous support for S. 43 among these groups and stressed the importance of the NSPS to the overall health of the industry.

Mr. President, the testimony presented by these witnesses indicates the universal acceptance of this legislation. I ask that the prepared remarks of the seven witnesses be printed in the RECORD as well as the opening statement of Senator KENNEDY and the statements submitted by Senators CANNON and THURMOND.

I also ask that a current list of Senate cosponsors be printed in the RECORD.

The material follows:

STATEMENT OF SENATOR JOHN HEINZ

Mr. Chairman, as a representative of Pennsylvania which is blessed with many fine ski resorts—notwithstanding the derogatory remarks of those from the New England and Rocky Mountain states about our vertical drops—I am grateful for this opportunity to testify on behalf of S. 43, which I cosponored along with my distinguished colleague from Utah, Senator Orrin G. Hatch. This measure involves no expenditure of federal funds but would provide a federal charter for the National Ski Patrol System.

I served as a member of the ski patrol during college and am thus personally familiar with the valuable services provided by this organization. Founded in 1938, the NSPS operates patrol units in 43 states, Canada, and foreign nations where U.S. government and military personnel are stationed. Members of the patrol are expertly trained in first aid, search and rescue techniques, and avalanche control. As part of its ongoing efforts to promote safety in skiing and other wintersports and to provide emergency assistance to the injured, the NSPS has been chosen to select patrollers for the Nordic events at the 1980 Winter Olympic Games at Lake Placid.

Unfortunately, the valuable work of the NSPS is in danger of being drastically curtailed because of the reporting and registration paperwork and fees required in each state in which NSPS operates. This nonprofit, volunteer organization lacks the personnel and financial resources to meet the various filing fees and registration redtape of the states in which it operates.

I thus find myself in the most unusual situation of advocating more, not less, federal paperwork. The act of placing the NSPS under a federal charter would not only recognize the exemplary achievements of the NSPS and its dedicated service to people, but would also make the organization directly accountable to Congress and the federal government for financial reporting, taxes, and other requirements. Such action would significantly reduce the amount of time and money the NSPS must expend merely to stay in operation. NSPS would thus enjoy status similar to that of the American Red Cross and the Boy Scouts of America.

The measure which I have cosponsored also expressly prohibits profit-making or political activity on the part of the NSPS, and does not provide authorization for federal tax subsidies.

In short, I hope that my distinguished colleagues on the Judiciary Committee will agree that passage of this measure is vital for the continued safe enjoyment of downhill skiing, one of the most popular sports in the nation. It is my further hope that the members of this Committee will avail themselves this winter of the opportunity to witness the services of the National Ski Patrol firsthand—at one of the many nearby Pennsylvania ski resorts.

Thank you.

TESTIMONY OF DONALD C. WILLIAMS, NATIONAL DIRECTOR, NATIONAL SKI PATROL SYSTEM, INC.

My name is Donald Williams and I am National Director of the National Ski Patrol System. I would like to express to the members of the Senate Judiciary Committee my sincere thanks for considering a federal charter for the National Ski Patrol System, Inc. The Charter would be very meaningful to the Ski Patrol, if Congress should grant us the privilege.

The National Ski Patrol System (NSPS) is a non-profit organization operated primarily by volunteer personnel. The N.S.P.S. is comprised of approximately 800 patrols, 23,000 patrollers, of which 5040 are women. We have patrols registered in 43 states, with our patrollers residing in 46 states. Of our membership, 3,338 are American Red Cross Instructors, 337 Emergency Medical Technicians, and 2459 Instructors in cardio-pulmonary resuscitation.

I should mention that in my travels to various ski areas throughout our country I have been fortunate to meet skiers from every state and U.S. possession.

To become a member of the National Ski Patrol System, certain mandatory qualifications must be met. To become a candidate in our system, an individual must have an advanced course in First Aid, as given by the American Red Cross, and an ability to ski. Upon acceptance by a patrol, the candidate must go through a training period during which time he learns how to work with toboggans, immobilize injuries and improve skiing. Upon completion of their training, the candidates must take a Proficiency Test in all of these categories. After passing the test, the candidate is now eligible to join the N.S.P.S. as a patroller. After a minimum period of one year and further training, the patroller is eligible to take a further test qualifying him as a senior patroller. To reach this position an individual must take further and more demanding classes in First Aid and splinting procedures along with other subjects. Each year thereafter, regardless of what position or level an individual may be, a refresher course on First Aid must be taken from our instructors.

The National Ski Patrol, through necessity, has several other specialized training programs available. These programs encompass categories such as Avalanche, Mountaineering, Nordic and Search and Rescue. These programs are available to any patroller whose geographic location may require his knowledge of a particular subject. As an example, in the Avalanche program, the N.S.P.S. teaches avalanche information, inhouse, and to the skiing public, teaches the U.S. Forest Service avalanche program, and each year now holds a multitude of classes for anyone, whether members of our organization or not.

Our Nordic program is the fastest growing facet of our organization. With the increasing popularity of cross-country skiing, there is a need for more properly trained personnel who can go in to the "back" country with what he has on his back, and be capable of caring for and transporting an injured party back to civilization, even though it might mean staying out a day or two. Our present Nordic program, even though it is in its infancy, is already proving capable of handling the job. I might add that a significant amount of this work is being performed in the U.S. Government wilderness areas.

Many of our patrols are registered with the Civil Defense, such as in Chicago. When the city was immobilized due to the blizzard last winter, units of our organization, in conjunction with the city, worked as rescue units to help citizens in need and to render first aid, and where necessary, transport the injured by snowmobile and skis to the nearest aid station. In the West, many of our units work on search and rescue operations for persons lost in the back country or hurt and unable to descend some mountain they had attempted to climb, along with our work with Area Management and the Forest Service on avalanche control. The reward the individual patroller receives is the satisfaction of helping someone in need. The patroller must pay membership dues to the N.S.P.S. so that he/she may have the privilege of doing so.

Membership dues, which are assessed at different levels of our organization, are the main source of our operating revenue. We do receive some donations, but not enough. Therefore, practically every dime that is spent comes from dues. Our National Office in Denver has the only paid employees of the System, who take care of our everyday business. However, any registration which may be required in the 43 operating States must be performed by volunteer help in the states and divisions. The Congressional Charter would make it possible for the N.S.P.S. to redirect this function to the National Office where our full time personnel can properly and efficiently perform what is required on the Federal level.

In summation, I have tried to give an overall picture of our organization which I feel hadn't previously been presented to you. Perhaps with this information, you will have a better picture of our function in society. Thank you for this opportunity to be heard. I will be pleased to respond to any questions you may have.

STATEMENT OF CHANNING MURDOCK, REPRESENTATIVE OF THE NATIONAL SKI AREA ASSOCIATION

My name is Channing Murdock. I am here today both as an operator who enthusiastically supports the Ski Patrol and a representative of the National Ski Area Association. By way of background, I am president and owner of Butternut Basin in Great Barrington, Massachusetts. Additionally, I am a member of the board of directors of the National Ski Area Association. I opened Butternut Basin in 1963 and have been an avid supporter of the National Ski Patrol since that time.

I have just returned from Anchorage, Alaska where the National Ski Area Association held its mid-year board meeting. The charter for the National Ski Patrol was considered at that meeting. It was unanimously agreed by those directors in attendance that I should present here today a message of strong support for all ski area operators throughout the country for this legislation.

The board of the National Ski Area Association is composed in such a way as to be representative of all areas both in size and geographical distribution. Therefore, the message I bring today is indicative of the tremendous efforts of the Ski Patrol and the wide acceptance the patrol receives from our industry.

All of us in ski area operation who have worked with the Ski Patrol have found the patrol to be an essential part of our operation. The Patrol provides both an immediate response to accidents and accident prevention. At my own area, I feel the ski patrol is largely responsible for our area's tremendous safety record.

The National Ski Areas Association wants to go on record as supporters of the ski patrol. Due to the efforts of this group of volunteers, skiers can be assured a much safer experience while in pursuit of their sport. The patrol has always been there in time of need to assist the skier. Without this value organization, the sport of skiing could not have reached the popularity it now enjoys in this country. Novice and seasoned skiers alike recognize quickly the dedication and professionalism of the many volunteer members of the National Ski Patrol.

Other members of the National Ski Areas Association wanted to be here today to tell you first-hand their experiences with the Ski Patrol. Time does not permit them to be

with you since every ski area is now in the process of getting ready for the upcoming ski season.

Additionally, we understand that your committee could not receive more witnesses than are scheduled here today. I would like to present to you, however, some comments I received at our National Ski Areas Association board meeting from other ski areas operators enthusiastic about the legislation now before you. Tom Corcoran, President of Waterville Valley Ski Area, New Hampshire, which I might add is New Hampshire's largest ski area, asked me to read the following statement:

"I have worked in management of ski areas in both Colorado and New Hampshire for almost twenty years now, and I know firsthand how important the National Ski Patrol is to the sport of skiing and ski area operation throughout the United States.

"The concept of the National Ski Patrol is unknown in other skiing countries where mountain rescue and first-aid services are a charged-for service to injured skiers. By contrast, an extraordinarily high level of specialized safety services are provided at areas in the United States by the National Ski Patrol totally free of charge. The National Ski Patrol truly deserves the recognition and honor of a National Charter."

Ray Johnson of Park City, Utah wanted to be here today to support the patrol, but the operation of one of Utah's largest areas so close to the skiing season prevented his attendance. He asked me to relay the following message:

"I want to thank Senator Hatch for his enthusiasm and efforts in representing skiers in our State by supporting the National Ski Patrol. The Ski Patrol is an extremely important part of ski area operation here in Utah and, I am confident, throughout the country. Since I became involved in ski area operation, I have continued to witness the untiring efforts of the patrol and its many members. It is without reservation that I recommend favorable action to a charter for the National Ski Patrol.

"Hopefully, the committee will recognize the importance of the patrol, its charitable and heroic pursuits, and the need for a charter to allow the patrol to function more efficiently and effectively."

Chuck Lewis from Copper Mountain Colorado is a member of the board of directors of the National Ski Areas Association as well as the Colorado Ski Country, USA. He states:

"The National Ski Patrol is essential to ski area operation at many locations here in Colorado. The services provided by these dedicated men and women who volunteer their time and energy are of tremendous benefit to the skier. I support the Charter for the National Ski Patrol and urge the committee to favorably consider the legislation now before it."

It is an honor and a privilege to appear before this committee and even more so since the subject is so important to the sport of skiing.

I appreciate the opportunity to come before you and hope I have provided this committee with some feeling for the importance of the National Ski Patrol and the ski area operator in this country.

I would be pleased to answer any questions any members of the committee might have.

The National Ski Patrol System Recognition Act (S. 43)

Help wanted, man or woman, over 18 for seasonal outdoor work.

Must take 40 hours of first aid training plus yearly 8 hour first aid refresher course for weekend work. Job training required at no pay. Must be in good physical condition, must be able to withstand temperatures of 30 below zero and winds up to 70 miles per hour. Must also lift twice their own weight, pull heavy loads, move at the speed of life and do it all over again the next day. Must buy own uniforms and equipment and provide own transportation. Remuneration includes respect, smiles and occasional thank you letters.

Interested persons please contact any one of the 23,000 members of the National Ski Patrol.

What serious trouble we would be in if the NSPS had to rely on the foregoing ad in the "help-wanted" section of the paper! What is it that draws men and now women—from all walks of life, rich and poor, old and young—over 23,000 of us, to join the Ski Patrol?

Is it the "free ski pass" that lures us to put our lives on the line, be subject to lawsuits, have to be out in sub-zero weather? Or is it the "tangible" expression of appreciation, the look of thanks, relief from pain? The work of NSPS is exemplary and can help us to boost a positive, enthusiastic attitude about everything we do. We teach safety, enforce rules and save lives. Nothing can be more positive that that! Two years ago I was awarded the "purple Merit Star" given to a ski patroller who saves a human's life—which I am very proud of.

Fifteen years ago when I applied for membership on the Ski Patrol, it was a novelty having a woman on the patrol, and maybe I "smooth-talked" my way in; then later, due to the fact that I was one of the few women patrollers in the Division and also a legal secretary by profession, I can see why they would ask me to be Secretary of the Division; then two years ago our National Director at the time, Mr. Charles Haskins, was determined to make some changes and asked for applications from women so he could choose one of them to be one of his Assistant National Directors. I applied, was chosen, and filled a two-year term—so, there may be politics involved in every organization. But by golly—when it comes right down to the line of whether or not you have the training of saving another human's life if the occasion arises, all politics disappear!

Those of you who have experienced saving another human's life knows what a warm, gratifying feeling it is—a weak, drained feeling. This is when all the many hours of training necessary in becoming a Ski Patroller makes the whole thing worth while! Each year, before being allowed to register as a ski patroller, we must all spend two full days in extensive training of new techniques of splinting broken legs, dislocated shoulders, etc.; we must be able to successfully administer CPR, be trained in water rescue, and even know how to deliver a baby! We must spend another full day on the mountain learning how to evacuate a ski lift in the event of a mal-function of the lift, and also evacuate ourselves from the lift with a small piece of rope we carry in our packs.

After all this training is over, we are allowed to pay our yearly dues, purchase our own ski equipment, patrol parks, fanny pack, and every test we take to advance in the ranks, has a fee attached to it, plus we donate our time to be on the mountain, regardless of the weather, to help injured skiers. We are all tough, in good shape, and physically fit, so this part of becoming a ski patroller isn't that difficult—the most tangible benefit of belonging to the NSPS is the deep satisfaction of helping someone—the desire and attitude—that is what makes a National Ski Patroller different! The service we render to others is really the rent we pay for our room on this earth.

The National Ski Patrol System has combined two of the most important elements in America—sports and volunteerism. Every American who has ever skied owes the National Ski Patrol a debt of gratitude for making it a safer sport. In Utah alone, 588 volunteer ski patrollers treated over 3,500 cases. The NSPS has worked closely with the American Red Cross and has principal responsibility for avalanche control in many of our national forests, and the Ski Patrol has been selected to patrol the skiing events at the 1980 Winter Olympic Games. These accomplishments surely speak well for its effectiveness and dedication.

Senator Orrin G. Hatch, whom we all love and respect, has put in many untiring hours as our sponsor of legislation that would provide a congressional charter to the National Ski Patrol System, Inc.—which charter is very vital to our being able to continue our volunteer organization, as the demands made of this volunteer group are becoming so great that this volunteer service may be dissolved. The National Ski Patrol System is the only volunteer organization in the country founded for the purpose of enforcing Safety Rules and Rendering First Aid.

In seeking this Charter, as we have stated to all of you in our many letters, we seek no escape from taxes—no prestige. This would enable us to purchase Surplus equipment needed in our many First Aid training sessions, rescue operations, chair and tram evacuations; would give relief from the many reports. Don't let this fine organization be dissolved because of bureaucracy! The NSPS gives services, free of charge of saving lives (in some cases), transporting the many injured skiers from the ski slopes throughout the United States and in some areas in Europe. The NSPS has National membership of over 23,000, with chapters in 42 states, and has just had its 40th anniversary.

We are all very aware that Congress could conceivably be deluged with bills requesting the charter for hundreds of organizations. That the Senate Judiciary Committee has established a set of criteria for charters which has been strictly observed. We have endured six years of waiting, writing, calling, promoting, research and hoping, and we are willing to go through this same process every two years, if necessary, to obtain this charter. We will persevere, and continue to administer first aid on the hill to the injured, and will not give up. We are proud of our organization and active in helping it to achieve excellence which could never be recognized by a congressional charter alone. You may ask "Why do over 23,000 of us give of our free time to contribute service to a charitable cause?" It is for the SATISFACTION that I have mentioned above. Every one of you have 'gone the extra mile' and expended your energy to overcome obstacles for accomplishment and progress, so you know the feeling!

Please—May we have your support?—Lu Skinner.

Prepared Statement of Serge Lussi

As a man with a double role—member of the executive committee of the Lake Placid Olympic Organizing Committee, and Alpine Chairman of that organization—I am doubly concerned with the passage of Senate Bill 43 which would give our hard-working ski patrol men and women a much-needed national charter.

A Federal charter would put the nation's some 25,000 ski patrol people on an equal footing with other national volunteer organizations such as the Boy and Girl Scouts, and the American Red Cross.

Ski patrols have a hard enough job threading their way down mountainsides and braving the adverse elements of nature, without having to thread their way through a mass of red tape and brave local bureaucracy, now required to operate under various individual state jurisdictions.

We can not operate ski racing without a volunteer ski patrol. From the grassroots junior programs which involve children learning to race at five and six years old, all the way up to Olympic competition, the racing organization must have the support of the ski patrol system.

The ski racing organization is comprised entirely of volunteers, and these people must be supplemented by ski patrol volunteers, since no funds are available to pay for medical evacuation during ski races.

To prepare for the 1980 Olympic Winter Games at Lake Placid I required that the ski patrol go through two dress rehearsals—one at the 1978 National Downhill Ski Championships, and again at last winter's World Cup races. The ski patrol, which numbers over 100 people, came to Lake Placid in 1978 and 1979, and found their own food and lodging. And now they'll be back again next February—without pay—for America's premier sports events. We could not put on the Olympic Alpine events without them.

The National Ski Patrol System is both non-political and non-partisan, and the NSPS is not seeking funds under this bill. They seek only the national recognition that they have long deserved, and the legislation to continue serving—unhampered—this Nation's growing number of winter sports enthusiasts.

Prepared Statement of Robert J. Paron

There is probably no group of people connected with the ski industry that has done more to advance the sport of skiing or to create an atmosphere of safety in the sport than the members of the National Ski Patrol system. Their many programs directed at educating the skiing public as to the various hazards that exists in the sport, has resulted in a very substantial reduction of accidents. Their continuing workshops, refresher courses, and in house communications keep them abreast of the latest emergency first aid equipment and techniques. The amount of personal time and dedication that is involved in being an active member of the ski patrol is very substantial and the rewards other than the personal pride and satisfaction in minusule. They receive no pay and charge no fee for their service.

Ski area managers know the value and necessity of a qualified ski patrol. No prudent manager would or should operate his facilities or open his trails for skiing without proper ski patrol coverage. We only have to observe the daily activities of a typical ski patrolman to understand the unique qualifications they must possess. Like all emergency medical technicians, they have achieved a high level of emergency medical training. Beyond this and unlike other medical technicians, they must possess a high degree of skiing ability. The injured people that they are caring for are on mountain sides and must be treated at the scene and transported to the base area on toboggan type carriers by the patrolman on his skis. To do this in a safe and effective manner requires great skiing ability and a complete understanding of the injury.

Many reports are available indicating where lives have been saved, and the possibility of permanent injury has been substantially reduced due to the training and capability of the ski patrolman. Due to the fact they receive no pay or charge for their services, they are constantly confronted with a difficult financial burden. When people give so much of their personal time and finances to the care of others, I feel the least we should do is furnish them the basic necessities to perform their service.

I therefore pray you will look favorably at bill S. 43.

Statement of Joe Prendergast, President, American Ski Federation

My name is Joe Prendergast. I am the president of the American Ski Federation which represents the entire ski community.

The American Ski Federation is made up of ski area operators, ski equipment manufacturers and importers, ski retail shops, professional ski instructors, ski patrollers, and skiers.

The American Ski Federation was created to provide a forum for all interested in the sport of skiing, a place to exchange ideas and resolve problems affecting the sport.

Additionally, the American Ski Federation was created to allow the sport to speak with a united voice. I am here today to express support for the National Ski Patrol Charter as the united voice of the sport of skiing.

Today, you will hear from members of the American Ski Federation who felt this legislation was of such great importance that they should appear. We are, however, in unanimous agreement that the role of the National Ski Patrol is vital to the support of skiing.

The role of the National Ski Patrol has not been limited to the mountain.

With us today is Harry Pollard, former National Director of the Ski Patrol and early president of the American Ski Federation. The participation of Harry and the National Ski Patrol went a long way in developing a more unified ski sport.

While I cannot address the technical operation of the National Ski patrol, I can address the widespread acceptance and dependence found in the ski community. Skiers have come to recognize the National Ski Patrol insignia as an important part of the skiing experience. In fact, the public-at-large has benefited by the training given thousands of ski patrollers every year. This training has provided communities all over this country with individuals experienced in first aid and rescue techniques.

The National Safety Council has recognized the importance of the Ski Patrol and has awarded it the Council's Distinguished Service to Safety Award. Other organizations outside of skiing have also recognized the importance of National Ski Patrol to include government agencies such as the Forest Service and the Park Service.

Since becoming president of the American Ski Federation in October of last year, I have heard from many businesses and individuals in skiing on a variety of issues. This charter which this committee is considering today has continued to be an important issue on the mind of many. It is safe to say that anyone who has skied has witnessed the National Ski Patrol and, I am confident, viewed the presence of the Ski Patrol as an essential element of ski safety. You will hear today from the National Ski Areas Association an expression of unanimous support for the Charter and the National Ski Patrol.

The ski area operator has a difficult task to perform. Like the farmer, his business is highly dependent upon the weather and now even more dependent upon the availability of energy. The services provided by the National Ski Patrol are to some areas an essential ingredient for successful operation. Without a trained resource of men and women to patrol ski areas for safety, skiing would not be the enjoyable sport that it is today.

In the interest of time, I have made my statement brief. I urge your favorable consideration of the Charter.

All members of the American Ski Federation urge your favorable consideration of the Charter for the National Ski Patrol for the good of the sport and in the interest of safety of our Nation's ski areas.

I would be happy to answer any questions any members might have.

Thank you.

Statement of Senator Edward M. Kennedy

We begin hearings today on S. 43, a bill to grant the National Ski Patrol System a Federal charter.

As an avid skier myself, and as one who has long been familiar with the very important services of the Ski Patrol, I am particularly delighted to be here today to consider this bill to give the Ski Patrol the national recognition it so clearly deserves.

I would like to thank Senator Hatch, who is co-chairing these hearings with me today, for his efforts on behalf of the Ski Patrol charter. The popularity of the legislation is evidenced by the fact that there are sixty co-sponsors on the bill, eleven from the Judiciary Committee alone. If passed, the Ski Patrol would be the first non-profit group since 1971 to receive a Federal charter.

The hearings today will examine whether the Ski Patrol meets the criteria established by this committee to determine which groups merit a Federal charter. These criteria guarantee that a group serves an important public interest and that the legislation has broad bi-partisan support.

In my experience, the Ski Patrol performs invaluable volunteer services in protecting the safety and health of our American citizens and visitors who ski. The Ski Patrol provides extensive expertise in emergency medical aid, search and rescue techniques, avalanche forecasting and control methods, and snow safety training. It also performs important civil defense functions in areas hit by blizzards.

This year the Ski Patrol won the distinguished "Service to Safety" award.

As Bob Bergland, the Secretary of Agriculture, said in a letter to the Judiciary Committee regarding S. 43, the activities of the Ski Patrol are important to the "long term stability of winter safety programs at ski areas where many employees change seasonally."

The Ski Patrol operates in 42 States and has over 23,000 members. A Federal charter would help the Ski Patrol in dealing with the enormous quantity of paperwork required to operate in all these States by permitting it to report directly to the Congress and to the GAO. Instead of spending its scarce resources on paperwork, the Ski Patrol could concentrate its efforts where they belong—on the slopes.

Today we are going to hear about the Ski Patrol from a number of witnesses from all over the country. Welcome.

Statement of Senator Howard W. Cannon

Mr. Chairman: It is a pleasure for me to have this opportunity to express support for S. 43, a bill to promote safety and health in skiing and other outdoor inter recreational activities, by granting a federal charter to the National Ski Patrol System (NSPS).

Since the inception of NSPS in 1938, it has volunteered countless hours in rendering life-saving emergency services to accident victims. It is time that the outstanding work of over 23,000 dedicated individuals which comprise this fine organization be recognized.

A federal charter would recognize the exemplary achievements of the NSPS and its dedicated service to people. Moreover, it would relieve ski patrollers of the onerous task of complying with a multiplicity of state laws dealing with incorporation of non-profit organizations. The amount of time and money NSPS must raise to stay in operation would, thereby, be significantly reduced.

Although Congress should not be indiscriminate in granting federal charters, we are empowered to grant them in worthwhile instances, particularly in the promotion of volunteerism and service to others. The National Ski Patrol is deserving of this assistance and its charter should be approved without reservation.

Statement by Senator Strom Thurmond

Mr. Chairman: I am very pleased that today we are holding hearings on S. 43, The National Ski Patrol Recognition Act. This bill, of which I am a cosponsor along with 58 of my colleagues, has a simple yet very important purpose. S. 43 would grant a Federal charter to the National Ski Patrol System (NSPS), making this organization accountable to Congress and to the Federal government for taxes, financial reports and

other requirements. As a result, the NSPS would no longer have to comply with the reporting and registration requirements in each of the states in which it operates. Thus, the granting of a Federal charter would mean a great savings of both time and money to the NSPS.

Mr. Chairman, the NSPS is a non-profit volunteer organization consisting of over 23,000 skilled and dedicated men and women. I am pleased to cosponsor legislation which would provide much deserved recognition and praise for the achievements of and the services provided by the NSPS. In reading background material on the NSPS, I was impressed by the fact that it is the only organization in the entire United States which exists for the sole purpose of promoting safety in skiing and other winter sports and providing emergency assistance to the injured. In performing these functions, the NSPS works closely with the National Park Service, the U.S. Forest Service, as well as other Federal agencies and organizations. Equally as impressive as the emergency assistance which these patrollers provide on the ski slopes is the lifesaving aid which they have provided in a number of other contexts, such as following automobile accident, heart attacks, and drownings.

Finally, Mr. Chairman, I would like to point out that, in addition to having active patrol units in 42 states, the NPS also has units stationed in Canada and in foreign countries in which U.S. government and military personnel are stationed. Through these units, as well as through exchanges with ski patrollers of other nations, the NSPS has been helpful in encouraging friendly relations with a number of other countries.

I would like to thank all of our distinguished witnesses for agreeing to appear before the Senate Judiciary Committee, and I look forward to hearing your testimony on S. 43. I am hopeful that the Committee will be able to act expeditiously on this important legislation.

COSPONSORS OF S. 43, THE NATIONAL SKI PATROL SYSTEM RECOGNITION ACT

Malcolm Wallop, Republican of Wyoming.
John Durkin, Democrat of New Hampshire.
Gordon Humphrey, Republican of New Hampshire.
Paul Laxalt, Republican of Nevada.
Patrick J. Leahy, Democrat of Vermont.
John Melcher, Democrat of Montana.
Alan K. Simpson, Republican of Wyoming.
Warren G. Magnuson, Democrat of Washington.
Ernest F. Hollings, Democrat of South Carolina.
Alan Cranston, Democrat of California.
Ted Stevens, Republican of Alaska.
Harrison A. Williams, Jr., Democrat of New Jersey.
Donald W. Riegle, Jr., Democrat of Michigan.
Harrison Schmitt, Republican of New Mexico.
Henry Bellmon, Republican of Oklahoma.
Robert Dole, Republican of Kansas.
Jesse Helms, Republican of North Carolina.
Robert T. Stafford, Republican of Vermont.
William Armstrong, Republican of Colorado.
William S. Cohen, Republican of Maine.
Dennis DeConcini, Democrat of Arizona.
James A. McClure, Republican of Idaho.
Mark O. Hatfield, Republican of Oregon.
Mike Gravel, Democrat of Alaska.
Daniel Patrick Moynihan, Democrat of New York.
H. John Heinz III, Republican of Pennsylvania.
Gary Hart, Democrat of Colorado.
Richard G. Lugar, Republican of Indiana.
Strom Thurmond, Republican of South Carolina.
Howard Baker, Republican of Tennessee.
Rudy Boschwitz, Republican of Minnesota.
Howard Cannon, Democrat of Nevada.
Thad Cochran, Republican of Mississippi.
David Durenberger, Republican of Minnesota.
Jake Garn, Republican of Utah.
Barry Goldwater, Republican of Arizona.
S. I. Hayakawa, Republican of California.
George McGovern, Democrat of South Dakota.
Robert Morgan, Democrat of North Carolina.
Charles H. Percy, Republican of Illinois.
Larry Pressler, Republican of South Dakota.
Abraham Ribicoff, Democrat of Connecticut.
William V. Roth, Republican of Delaware.
John Tower, Republican of Texas.
Paul Tsongas, Democrat of Massachusetts.
John Warner, Republican of Virginia.
Lowell Weicker, Republican of Connecticut.
Max Baucus, Democrat of Montana.
Jennings Randolph, Democrat of West Virginia.
Henry Jackson, Democrat of Washington.
Charles McC. Mathias, Republican of Maryland.
Quentin Burdick, Democrat of North Dakota.
Carl Levin, Democrat of Michigan.
Roger Jepsen, Republican of Iowa.
J. Bennett Johnston, Democrat of Louisiana.
Richard Schweiker, Republican of Pennsylvania.
John Stennis, Democrat of Mississippi.
Herman Talmadge, Democrat of Georgia.
Edward Zorinsky, Democrat of Nebraska.
Birch Bayh, Democrat of Indiana.●

CONGRESSIONAL PAY RAISE

● Mr. DeCONCINI. Mr. President, I would like to take this opportunity to make clear my opposition to the action taken by the Congress on Friday evening. After weeks of haggling between the two Houses, a continuing resolution was enacted that contained a 5.5-percent increase in pay for Members of Congress.

This action, Mr. President, will contribute substantially to the already low esteem in which the American people hold their national legislators. Members of Congress, like other citizens, are feeling the pinch of inflation, and the buying power of their salaries has decreased at the same overall rate. But their primary obligation is not to themselves; rather, it is to the men and women who elected them—men and women who, in most instances, cannot raise their own salaries at will to compensate for inflation; men and women whose real buying power is decreasing; men and women whose standard of living is deteriorating; and men and women who have been asked by their Government to make sacrifices to break inflation's back.

How can we expect the average citizen to take seriously the wage and price guidelines articulated by the President, and how can we expect the average citizen to subject himself to exceptionally high interest rates and a likely recession, if we—the people's representatives—cannot stand firm and set an example for the rest of the Nation? We are not, nor should we be, professional legislators; we should be simply members of the community who have temporarily been invested with the public trust. And as trustees, we should be above reproach.

By appearing venal—and I have no doubt that congressional action on the pay raise was so perceived—we denigrate our own position and partially eliminate our effectiveness in leading the Nation. Leadership is the quality of being able to inspire others, but it presupposes trust and respect. The recent pay raise debacle will neither establish greater trust between the elected and the electorate nor will it inspire respect. In providing for its own well-being, Congress has contributed to the general alienation of our people toward Government and has made it more difficult to generate the sacrifice and community action that will be necessary to overcome the worsening inflation.

I can only hope that the public will recognize that the action by Congress reflects not the universal attitude of its members, but the willful opportunism of some who were willing to sacrifice the welfare of the Nation to their own interests. I should also like to remind my colleagues that the Senate repeatedly rejected this excursion into legislative blackmail. I can only pray that in the months left to the 96th Congress it will conduct itself with dignity and restraint and will, by its actions, regain some of the trust and respect that it has lost.●

THE MAKING OF THE CONSTITUTION

● Mr. HELMS. Mr. President, during the past several weeks, I have shared with my colleagues several lectures given as part of the 1979 Winter Symposium presented by the Student Bar Association of the Campbell University School of Law.

The purpose of this symposium, entitled "In Anticipation of the Constitutional Bicentennial: The Philosophical Foundations of the Creation of a Nation," was to identify and evaluate the roots of American fundamental law. This purpose was accomplished by inviting distinguished speakers to present lectures on the history of the American Constitution.

I regret that it is not possible to share all of these stimulating lectures with my colleagues. However, I especially want Senators to have available the text of remarks by my dear friend, Dr. Charles W. Lowry. Charles is author of "To Pray or Not To Pray" (a book on the Supreme Court's school prayer decisions), has been a professor of theology, a parish minister, a government consultant, and a foundation executive. This lecture addresses the challenging and burdensome drafting process that faced the authors of the Constitution and Bill of Rights.

Describing the Constitution as "the 8th wonder of the world," Dr. Lowry expresses his conviction that its drafters specifically intended that Congress should "provide a definite check on the Supreme Court" (U.S. Const., art. III, sec. 2(2)). He further posits that "(l)aws of men must in some manner stand under a higher law if they are to be truly legitimate and win the assent of conscience."

Mr. President, I ask that the lecture delivered by Dr. Charles W. Lowry at the Campbell University School of Law Winter Symposium on February 15, 1979, be printed in the RECORD.

The lecture follows:

THE MAKING OF THE CONSTITUTION

The Constitution of the United States of America is one of the wonderful works of man in all the ages. It deserves to be called the 8th wonder of the world: and it was an achievement of the mind and spirit of man.

It is hard not to see in the outcome of the Constitutional Convention, meeting all summer in Philadelphia, a hand that was more than human. George Washington was convinced that it was only by Divine Providence that the Revolutionary War had been won. Of all men he had reason to know by what slender threads victory hung over seven gruelling and painful years.

No doubt Washington felt the same way about the Constitution and the rebirth under its auspices of the nation conceived in liberty and baptized in blood and hardship. Who shall say that he was mistaken in his simple, sincere faith in God?

Nevertheless, the Constitution was eminently a human work. It was hammered out by the combined brainwork and willpower of an assembly of remarkable men.

Thomas Jefferson was not keen at first on the Constitution, in which he had had no direct part. Much later he made up for his little faith and perhaps brought together both sides of the divine-human equation when he called the Convention of the Constitution an assembly of Demigods.

The Constitution came at a certain point in the early history of the Republic. Not a little water had already flowed under the dam. First and foremost, there was our first great Charter, the Declaration of Independence, of which Thomas Jefferson was the chief author.

We are everlastingly fortunate as a Nation and People that we have the Declaration of Independence and that it came first. The outstanding feature of this Charter of Liberty on which America was first founded is that it is a political document which is at the same time a religious testament.

In the Declaration of Independence you cannot separate these two strands: the political and the theological. No knife of logic is sharp enough to do this. The two elements are woven together in a seamless robe.

It is impossible to overestimate the importance of this basic character of our first great national charter. Its language is fixed and abides as an imperishable witness to the mind of the Founding Fathers of our country.

The Declaration is of course in no way isolated as an ideological pronouncement. Just a year earlier, on July 6, 1775, the Representatives of the United Colonies of North America, met in Congress at Philadelphia, had issued a "Declaration of the Causes and Necessity of Taking up Arms." This is one of the most reverent of all American State Papers.

On June 12, 1776 a Declaration of Rights was drawn up and issued by "the Representatives of the good people of Virginia in full and free convention; which rights do pertain to them and their posterity, as the basis and foundation of government."

This remarkable document was drafted by George Mason, except for the final paragraph on religious freedom which has been ascribed to Patrick Henry. This concluding declaration breathes the very spirit of Christian charity and love. I quote:

"That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other."

Our Declaration of Independence, of which the Virginia Declaration is the noble forerunner, drew on Deism, Locke, and the ancient natural law of the Church Fathers, the Roman lawyers, and the Stoic philosophers. It remains the fountainhead of the American conviction that we are a Nation under God.

If the Constitution stood alone, we could not be so sure of this. Some modern commentators have noted and sought to make capital of the more secular language of this Charter. But it does not stand alone and there is the obvious fact that a Constitution is a legal instrument, not a ringing pronouncement.

The Declaration of Independence was the work of the Continental Congress, the first governmental polity of the United States. The men of this Congress realized its inadequacy and in 1777 drew up the Articles of Confederation. The State of Maryland unfortunately held up the ratification of this first Constitution till March 1, 1781. Thus it came about that the period of government under the Articles was basically the early post-war period of the newly independent United States.

The Articles posited a Confederation but a loose one. In effect, the weak government of the Continental Congress which had grown up and under which the War for Independence had been fought was ratified and rendered prescriptive, with a little tightening and clarification here and there.

The key was the Congress. It was appointed annually "in such manner as the legislatures of each state shall direct." Its delegates were subject to recall.

The Congress was authorized somewhat vaguely to provide for the exercise of an executive power. It could not be the President who was expressly defined as the presiding officer with his tenure limited to "one year in any term of three years." In fact, it was committees of Congress that functioned in an executive capacity.

The Congress was given the power: to make war and peace and enter into treaties and alliances; to equip an army and navy, requisitioning men, money and supplies from the states; to appoint the superior officers of the United States Army, to borrow money, emit bills of credit, to pledge the credit of the United States, and also to coin money with the exclusive right to regulate the alloy and value of such coins; to provide for a postal system; to provide for the arbitration of boundary and land disputes between states; and to regulate trade with the Indians.

On the negative side, the Congress had no power to tax or to regulate commerce. There were no provisions for enforcing Congressional decisions either by sanctions applied to the status or their officers or through laws operating directly upon individual citizens.

There was no independent judiciary, in fact no federal courts at all except for a Court of Appeals for Admiralty established in 1780.

With respect even to the powers given the Congress, there were severe built-in limitations. When acting in relation to war, commerce, foreign relations, money, or requisitions, Congress had to have the assent of nine states.

The only advantage of this provision was that it gave the framers of the Constitution in 1787 the brilliant idea of requiring ratification by nine states only for the inauguration of the new Federal Republic. (Otherwise North Carolina would have held up and might have prevented the rebirth of the Nation. Our old North State is the only one that actually rejected the Constitution and later reversed itself.)

Amendment of the Articles required the unanimous action of all the states.

It is interesting that the admission of Canada into "this union" was authorized. Any other colony would require the approval of nine states.

The states under the Articles remained, as is evident from what has been said, sovereign, and dominant. Although a state could be represented in Congress by from two to seven delegates, each state had but one vote "in determining questions in Congress assembled."

The states were prohibited: from maintaining standing armies; making war (except in the event of invasion) or entering into treaties (with other states or a foreign power); or levying any import or duty that would interfere with stipulations of treaties of the United States.

They were enjoined to: accord to the free inhabitants of each state "all the privileges and immunities of free citizens in the several states," free ingress and regress from any other state, and the privileges of trade and commerce. In each state full faith and credit were to be given to the records, acts and judicial proceedings of every other state. However, there were no sanctions or provisions for the enforcement of these undertakings.

Such was the government of the United States after freedom had been won. It was a time potentially of great vitality and expansiveness. But because of the ineffectiveness and indeed impotence of the central government, it was a period of increasing tension, conflict, and frustration.

Primarily the troubles that agitated and exasperated the new Americans were economic. Concern about trade and commerce was uppermost, as the original "Resolution of the General Assembly of Virginia, January 21, 1786, proposing a Joint Meeting of Commissioners from the States," forcefully shows.

Only five States had Commissioners at Annapolis for a meeting which convened on September 11, 1786. These were New York, New Jersey, Pennsylvania, Delaware, and Virginia. Four other States, including North Carolina, apparently appointed Commissioners, but they did not show up at Annapolis. The four remaining States, including Maryland, seem not to have taken any action.

The Commissioners, reacting favorably to an action by New Jersey calling for an enlarged object of consideration at Annapolis, adopted a Resolution that tactfully called for a Convention which would go beyond the problem of commerce and the regulation of trade and would enter into "the general system of the federal government" with a view to studying the defects which were generally recognized and what adjustments might give it efficacy.

When Congress took up in February 1787 the report of a "grand committee" to which the report of the Commissioners meeting at Annapolis had been referred, it derailed after some parliamentary maneuvering the Committee resolution which put the Congress in the position of "entirely coinciding with (the Commissioners) as to the inefficiency of the federal government and the necessity of devising such further provisions as shall render the same adequate to the exigencies of the Union." Instead a Resolution was adopted which states that in the opinion of Congress it is expedient that a Convention of delegates appointed by the several states be held in Philadelphia the second Monday in May next "for the sole and express purpose of revising the Articles of Confederation."

So it came about that on Friday, May 25, 1787 the representatives, 29 in number, of 7 States were called to order and proceeded on a motion made by Mr. Robert Morris on behalf of the Pennsylvania delegation to elect George Washington President of the "Federal Convention" (Madison's phrase).

This motion was seconded by Mr. John Rutledge of South Carolina who expressed his confidence that the choice would be

unanimous. The two men Morris and Rutledge conducted Washington to the Chair.

The Convention had been called for Monday, May 14th, but it was not until the 25th that representatives from seven or a majority of the States had arrived. In all 74 delegates from 12 States were appointed. Rhode Island did not participate. Of the 74, 55 went to Philadelphia. Of the 55, two came very late, five were absent for a major part of the proceedings, and seven left midway or earlier during the Convention.

39 delegates from 12 states signed the finished, proposed Constitution. Four delegates who had been active participants refused to sign. These were Elbridge Gerry of Massachusetts, Luther Martin of Maryland, and George Mason and Edmund Randolph of Virginia.

Five only of the signers had signed the Declaration of Independence. Four of these—George Clymer, Benjamin Franklin, Robert Morris, and James Wilson—were from Pennsylvania; one, Roger Sherman, was from Connecticut.

In general, the architects of the Constitution were young men. The average age was 44. The venerable Dr. Benjamin Franklin, the oldest delegate, was 81. He pulled the average age up by one year.

What was the mind of these young men, the flower of educated America at that time, who were gathered in Philadelphia during the hot summer of 1787? What did they set out to do? What did they end up doing?

It is clear, I think, that these men as a whole were grasped by a bold design. They did not feel that they had come to Philadelphia to tinker with the ineffectual Congressional system that the United States had suffered under during the Revolutionary War and in the intervening years of peace. They considered that a crisis was at hand. Unless a sounder form of government could be found, there was a likelihood of increasing anarchy and a violent response in the form of dictatorship in some mode.

Otto, the French *Chargé d'affaires*, reported to his government that at a dinner of the Cincinnati on May 17th, attended by Washington, when after dinner bottles sped round the table and the toasts were many, there was rough talk. If, he wrote his government, the convention failed, the military would take arms in their hands and establish a central government, a monarchy maybe, as Knox had written Washington, by force.

From the point of view of creative thinking, the role of two young men in the Convention was incisive and decisive. These men were Alexander Hamilton, aged 30, and James Madison, aged 36 but of so youthful a countenance that a New England delegate meeting him for the first time wrote of him as a boy just out of college.

Hamilton was brilliant in the extreme. He had a mind that moved like lightning and the gift of making complicated problems seem clear. He was well-read, but his flair was practical rather than academic.

Madison was the star of the Convention: and the shining of this star was steady and unwavering. He had been boning up on Constitutions and the history particularly of confederacies—not a very encouraging study. He was a fount of information and his energy took the form of perseverance and hard work.

No regular minutes were kept and the delegates were pledged to strict secrecy. On this Washington was insistent and no one willingly risked his wrath. Notes of course were made by various members, some of them voluminous. But it was Madison who had the wit and energy to deep a day-by-day record of the debates and proceedings of the Convention. Our debt to him cannot be overestimated. He deserves in every way to be called the Father of the Constitution.

Virginia had an impressive delegation and played from the beginning a stellar role. The Virginians were ready with a point of view and a plan. On the first day of debate the Randolph Resolution, more usually called the Virginia Plan, was introduced. It is believed that Madison was the primary source of this plan.

The key to the Virginia plan was a nationalist vision. It was a program for a strong Union and an energetic central government resting upon the people as a whole.

There was to be a National Legislature of two branches or houses with representation proportioned either to the quotas of contribution or the number of free inhabitants. The second branch was to be elected by the first from persons nominated by the State Legislatures.

A National Executive was to be elected by the Legislature for a fixed term of years and to be ineligible for re-election.

There was to be a Council of Revision composed of the Executive and members of the Judiciary to review acts of the National Legislature and particular state legislatures and to exercise a suspensive veto over these acts.

A National Judiciary was to be provided. It would include a "supreme tribunal" and inferior tribunals chosen by the Legislature but to serve during good behavior.

Finally, provision was to be made for the admission of new states; the territory of each state and a republican government for each state were to be guaranteed; and the Legislative, Executive, and Judiciary officers in each state were to be bound by oath to support the articles of the Union.

And now a curious development took place. The Virginians, with strong assist from New York in the person of Hamilton, South Carolina in Charles Pinckney, and Pennsylvania in James Wilson, seem to have taken the Convention by storm.

The Virginia plan within a short time seemed to be near adoption. It was agreed that the Articles should be discarded. The two legislative houses, with a popular election of the lower house, was accepted. The idea of a strong executive met with approval. The proposals for a national veto of state laws and for a national judiciary with powers of direct enforcement of federal law met with favor.

Within two weeks the main themes of the National plan put forward by Virginia had been advanced, considered, and favored. The outline of a new and forceful national government and clearly emerged. On June 10th and 11th the Convention settled on a plan of ratification and, mirabile!—had agreed that representation in the upper house as well as the lower should be in proportion to population.

Then came one of those unexpected reversals in the tides of affairs. The day was June 14th. William Patterson, speaking for several deputations, but especially on behalf of his own, New Jersey, asked for time in which to contemplate the Plan now reported from the Committee of the whole (essentially the National Plan of Virginia) and to digest an alternate one, "purely federal," which they hoped to have ready on the morrow.

Let me pause to say a word on terms. Their history and evolution are often curious. As "Federal" is being used at this stage of the Convention, it is in contradistinction to National and means, as Gouverneur Morris explained on May 30th, a government that was "a mere compact resting on the good faith of the parties." A "national, supreme government," on the other hand, had "a compleat (sic) and compulsive operation."

This is all the more curious when we recall that in a few years "Federal" will designate the Hamiltonian preference for a strong, central government, whereas the Antifederalists will denote the Jeffersonian republicans.

The New Jersey Plan was the conservative one, favored by the small middle states. South Carolina and Georgia do not seem to have joined this faction in the Convention.

The New Jersey Plan began thus: "Resolved that the articles of Confederation ought to be so revised, corrected and enlarged, as to render the federal Constitution adequate to the exigencies of Government, and the preservation of the Union."

In actuality, the new Plan altered the Articles very little. It was a strongly "Federal" plan, designed to have the central government dependent on the states and to keep the smaller states on an equality in power with the larger. Congress was to be composed of one house with the states equally represented and the plural Executive removable either by Congress or by a majority of the Executives of the states.

This was a far cry indeed from the vision of a great Nation that had brought many delegates to Philadelphia and that in fact was responsible for the Convention. Nevertheless, the Convention for the next two weeks remained on dead center, hopelessly bogged down in flashy but sterile oratory.

Rescue came with a new intervention, to be known in history as the Connecticut Compromise. On July 2 Roger Sherman of Connecticut arose, with a short and somewhat pessimistic proposal, reported as follows by Madison:

"We are now at a full stop, and nobody he supposed meant that we should break up without doing something. A committee he thought most likely to hit on some expedient."

Roger Sherman, let us note in passing, deserved well of his country. He is the only American who signed 4 great documents that represent steps in a stairway in the founding of the Republic. They are a kind of summary of constitutional history. These documents are:

1. The Articles of Association of 1774: creating the Continental Congress.
2. The Declaration of Independence of 1776.
3. The Articles of Confederation, ratified in 1781.
4. The Constitution of 1787, ratified in 1788.

A committee was appointed; it was unwieldy, being required to have a representative from each state. Madison and Wilson tenaciously opposed it. But for once this expedient worked.

Five days later the committee reported. Debate followed for ten days and the three essential provisions of the Connecticut Compromise were adopted: popular representation in the lower house; equal state representation in the upper house; and all money bills originate in the lower house.

The labor of making the Constitution was by no means over. There were other issues, some requiring compromise. Settlements and final judgments at various points were still required.

But our "demigods," who undoubtedly saw themselves as anything but that, had rounded the bend. They were on homestretch. In time the momentous document was finished. It only required some final polishing up.

A high-powered Committee was appointed on style and arrangement. The Chairman was Dr. William Samuel Johnson, soon to be President of Columbia College. The other members were Hamilton, Madison, Rufus King, and Gouverneur Morris.

The last, Morris, was the work-horse of the Committee. Years later he wrote Timothy Pickering: "That Instrument was written by the Fingers which wrote this Letter. Having rejected redundant and equivocal Terms, I believed it to be as clear as our Language would permit."

The Constitution has been called "a bundle of compromises." It certainly is a product of

compromise. Otherwise it could scarcely have come into being.

Yet compromise is inadequate as a key to the finished work, our Constitution. Synthesis, I believe, is a more accurate term. And synthesis implies dialectic—thesis and antithesis, with each containing truth.

The Constitution made America a national Republic. It remained also a union of States, each with a republican form of government guaranteed in the new instrument. The structure of the national legislature expressed the two realities and at the same time united them.

The electoral college even in the form in which it survives today, as the method of electing the President, illustrates the same point. A President can be elected without a majority of the popular vote, though this does not often happen. Furthermore, if an election is thrown into the House of Representatives, the House in finally choosing a President must vote by states.

Still a third instance of a dual structure in an ultimate unity is our judicial system. The State and Federal Courts are parallel and as a rule non-intersecting until they reach the top, which is the Supreme Court. Always of course the Constitution, with the laws and treaties of the United States, "shall be the supreme law of the land." (Art. VI 2)

There is still another and more sweeping sense in which the Constitution represents a brilliant synthesis. Government is the organization of power. Power is a reality. It inheres in the dual fact that man is a social being with an appetite for power.

Someone is going to exercise power. This is the reason for states. It is the explanation of "that great Leviathan, or rather (to speak more reverently) of that Mortal God, to which we owe under the Immortal God, our peace and defense."

A just government is the organization of power under right. This means the union of power and authority. It provides the answer to the dilemma implicit in the simple assertion of a government by laws not by men.

Calvin Coolidge, for example, once said: "The Constitution represents a government of law. There is only one other form of authority, and that is a government of force. Americans must make their choice between these two."

President Coolidge seems not to have realized that democracy requires force and that dictators may prescribe laws and enforce them. Laws of men must in some manner stand under a higher law if they are to be truly legitimate and win the assent of conscience.

It is the distinction of James Madison that he saw clearly the problem of government in a disharmonious society (the only sort of society that has ever existed), and that he was able to formulate, in theory and practice, a brilliant solution. Dos Passos goes so far as to say of Madison's final compact formulation of his theory of government that it is "as compelling in its field as Newton's law of gravitation in the field of physics."

Here is Madison's compact statement: "The great desideratum in Government is, so to modify the sovereignty as that it may be sufficiently neutral between different parts of the Society to control one part from invading the rights of another, and at the same time sufficiently controlled itself, from setting up an interest adverse to that of the entire Society."

He adds that in the extended Republic of the United States the General Government would hold a pretty even balance between the parties of particular States, "and be at the same time sufficiently restrained by its dependence on the community, from betraying its general interest."

It was important to Madison from the beginning that the national Government represent individuals and act upon individuals as well as include and operate in relation to the several States. This Government must be both energetic and stable, powerful and controlled.

To this end it was to be in the clearest way a Government of distinct and provisionally separate powers, legislative, executive, and judicial. The separation in the nature of things could not be absolute, nor could the checking and balancing of the powers be so weighty as to annul action.

Thus the President has a veto in Congress, but it is not unqualified. The Senate has a check on Presidential appointments and on treaties that in theory is final and absolute. On the other hand, the President as administrator of foreign relations and as commander-in-chief has a great deal of independent power.

With respect to the Judiciary, the members of the Supreme Court are appointed by the President but for life and subject to the consent of the Senate. After that, as our system has worked out in practice, there is no check or specific balancing power upon the Supreme Court.

This is in my view a curious aspect of American history, and the most striking side of the curiosity in the lack of awareness of it on the part of the American people generally including the Bar and the Judiciary as a whole. I am convinced that it was the intent of the architects of the Constitution to provide a definite check on the Supreme Court. The language of Article III. 2. (2) is most explicit:

"In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and to fact, with such exceptions, and under such regulations, as the Congress shall make."

It is indisputable, I think, that the intent of the Constitution was to provide a substantial, final check on the Supreme Court. Congress was to have this ultimate word, as in the case of proposed laws vetoed by the President. In one case, Ex parte McCardle, in 1868, the Supreme Court has agreed to hear arguments, on a writ of habeas corpus. Involved were the military courts set up by the Reconstruction Acts and by implication their legality. The Radical Republicans rushed through Congress a law denying the Court appellate jurisdiction in cases concerning habeas corpus. The Court bowed by refusing to hear the case.

This issue has never again arisen, though in 1965 the House of Representatives passed a resolution denying to the highest Court appellate jurisdiction in cases concerning apportionment. At that time Senator Dirksen was attempting to get through in the Senate a Constitutional Amendment that would have undone the construction placed on the Constitution by the apportionment decisions of the Supreme Court. The Senate agreed by a majority vote but not by the necessary two-thirds.

The same thing happened in 1966 to Senator Dirksen's effort to get through an Amendment permitting voluntary prayer in the public schools. The Senator, according to an Editor of Reader's Digest Gene Methvin who at my suggestion took a message to him, did not seem aware of the authority of the Congress over the Court as laid out in Article III, 2., (2), and was much interested in the possibilities opened up by this Constitutional provision. Unfortunately, the Senator did not live long enough to act on this new insight.

It only remains to note an unusual development, connected with the ratification of the Constitution but resting on a kind of growing gentleman's understanding or expectation with regard to a Bill of Rights. Agreement would be too strong a term, for there could not in the nature of the case be any definite undertaking to add such a Bill. Ratification was ratification and was irrevocable.

What happened was that there was a strong ferment in favor of a Bill of Rights. It was not much evident at first. The leading men of the Convention, Madison, Wilson, Hamilton, Gouverneur Morris, Charles Pinckney, even Benjamin Franklin, were entirely unconcerned about a specific declaration of rights. George Mason at the last minute urged the inclusion as a preface of a Bill of Rights. Gerry of Massachusetts moved for a Committee to prepare a Bill of Rights, Mason seconded the motion. It lost 10 to 0, with Massachusetts abstaining. New York is not recorded. That was on September 12.

Mason and Gerry both declined on September 17 to sign the finished Constitution.

As soon as Jefferson saw the proposed instrument, he took up the cudgels, especially with Madison, for a Bill of Rights. He had other objections as well.

With respect to ratification, the small States and, among the large, Pennsylvania acted with despatch. In December Delaware, Pennsylvania, and New Jersey acted; in January, 1788 Georgia and Connecticut followed suit. In February Massachusetts climbed on the band wagon, after urging eight alterations and amendments, but not a Bill of Rights. In April and May respectively Maryland and South Carolina sent in their simple ratifications without comment.

On June 21, while the Virginians were still cussing and discussing ratification, New Hampshire stole the show, becoming the swing State. The Constitution then came into effect.

New Hampshire echoed the complaints of Massachusetts in submitting assent and ratification. She urged 12 alterations and amendments, including as number 11 this interesting proposal: "Congress shall make no Laws touching Religion, or to infringe the rights of Conscience."

Five days later Virginia came in by a narrow vote. Appended to her formal ratification was a recommended declaration of Rights under 20 heads and an additional 20 proposed amendments to the body of the Constitution.

In July New York sent in a ratification hedged with a few minor reservations and a host of urgent recommendations respecting both rights and amendments.

On August 1 North Carolina in Convention assembled adopted a Resolution that a Declaration of Rights and a body of Amendments ought to be laid before Congress and a new Constitutional Convention, and followed this up with a sample Declaration of Rights which was an exact replica of Virginia's proposal and 26 proposed amendments to the Constitution. Ratification had been decisively voted down.

It was nearly 16 months later, on November 21, 1789, that North Carolina sent in her ratification.

Last of all, Little Rhode Island, once denounced in Massachusetts as Rogues' Island, and a law unto itself, lamely climbed aboard. The date was May 29, 1790. The ratification was hedged in the manner of New York and accompanied by an individual declaration of Rights and a long list of proposed amendments.

So much for details. The important thing is that the new Government (Congress and President) got the message and that a Bill of Rights in the form of 12 Amendments was sent out by the new Congress to the States on March 4, 1789.

The first two, concerning the size and proportionate representation of the lower House of Congress and a restraint upon varying their compensation by the Senators and Representatives, failed to receive the necessary 10 votes.

The other 10 Amendments—our Bill of Rights—were agreed to by 10 States. Three States, Massachusetts, Connecticut, and Georgia were not heard from and therefore, for the record, did not participate in securing the Bill of Rights.

There can be no doubt that this final Constitutional development and enactment was a momentous one. It accomplished several things:

1. It quieted the anxieties of a large section of the people generally and so made possible a larger harmony and a more perfect union.

2. It reached a hand back to 1776, signifying a union and congruence of the Constitution and the Declaration.

3. It gave a deeper meaning and a transcendental sanction to the intent of the architects of the Constitution, namely, to establish just government and a "government of laws, not of men."

4. It provided specific protection for individuals against the possible encroachments of a strong central government designed to act directly upon individuals and not merely upon States.

5. It set up for all time in the new Republic a citadel of Liberty.●

REPORT OF OFFICE OF SURFACE MINING ANALYZED BY DIRECTOR HEINE

● Mr. JACKSON. Mr. President, on September 11, the Senate took the misguided action of passing a bill to amend the Surface Mining Control and Reclamation Act of 1977, S. 1403.

That action was misguided primarily because it was premature. The purported failings of the Office of Surface Mining, including the drafting of regulations which are unreasonably inflexible, is based on a lot of rhetoric and not very much fact.

One of the documents cited by opponents of OSM's regulations is the study prepared by Consolidation Coal Co. entitled "Cost Impact Analysis of Selected Provisions of the Office of Surface Mining's Permanent Regulatory Program." This study claims to show that many of OSM's regulations are unreasonably inflexible since the environmental standards of the act could be met by alternative means, so-called good engineering practices.

Because the study provided what was apparently one of the most concrete sets of criticisms aimed at the "cookbook" aspect of OSM's regulations, I asked the Director of that Office to analyze the report and respond to the points raised in it.

Director Heine has responded to my request by letter dated October 9, 1979. I believe that his letter punches some sizable holes not only in the Consol study but also in the general argument against OSM's regulations. I ask that Director Heine's letter be printed in the RECORD at the conclusion of my remarks. I hope that it will be read with care by those of my colleagues who are convinced that OSM has gone astray.

The letter follows:

OFFICE OF SURFACE MINING,
RECLAMATION AND ENFORCEMENT,
Washington, D.C., October 9, 1979.

Hon. HENRY JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: Thank you for bringing to our attention the pamphlet "Cost Impact Analysis of Selected Provisions of the Office of Surface Mining's Permanent Regulatory Program" prepared by the Consolidation Coal Company (Consol). The Office of Surface Mining (OSM) has been aware of this study since it first appeared as a report last May, and initiated a series of meetings on the subject with Consol at that time. Our technical staff has devoted considerable time to reviewing the Consol data and concludes that the pamphlet, in its current state, is misleading, and is based on serious technical and analytical inaccuracies.

Many of our initial concerns about the study have been transmitted to Consol, the results of which were a reduction of the reported cost for three of the 21 issues Consol analyzed. However, there remain so many factual inaccuracies and erroneous conclusions in both the study and the resultant pamphlet so as to render the document useless as an analytical tool.

Our objections to the Consol study and pamphlet fall into two general categories. First, costs attributed to areas of the regulations are generally based on incorrect interpretations of the Act and the associated regulatory program and are always identified as "maximum OSM costs." The values presented in the Consol report represent "worse case" situations in all instances. As such, the worse case situations cannot be considered typical or remotely representative of actual mining conditions.

Approximately nine of the 21 issues analyzed clearly overstate expected cost impacts because they are based on unreasonable assumptions or they do not take advantage of the flexibility built into the final regulations to specifically enable exemptions or variances. For example, Consol has had limited experience with subsidence control and monitoring to date, yet their estimated cost for this activity is based heavily on assumptions and judgment without qualifying the study results accordingly.

Consol has also overstated the expected cost impact for Appalachian spoil disposal. Consol reports that the maximum costs of OSM final regulations for this activity is an added $3.98 per ton of coal produced and that their "good engineering practice" would add no additional cost to production. The analysis is based entirely on compliance with the requirements of Section 816.72 and 816.73 and does not consider or even acknowledge situations in which variances would be issued under Sections 816.74. Failure to recognize and make provisions for such variances in the analysis is a serious methodological error. Ironically, our inclusion of Section 816.74 which allows "end dumping" of predominently rock spoils, was in response to Consol's technical and economic presentation to us during final rulemaking.

Second, in addition to gross overstatements of actual or potential costs under the OSM requirements, the Consol study touts less expensive alternatives which they term "good engineering practices." "Good engineering practices" is not a universally accepted term by engineers and appears to have different meanings in different situations. At least one of the considerations that must be included in "good engineering practice" is that the design or action meets the intent of the Act. Dam design and construction, for example, is a case where Consol's "good engineering practice" may be one way to build a dam; however, their design does not meet the minimum safety standards established by the Mining Safety and Health Administration and the Corps of Engineers.

Consol claims OSM requirements incorporate "overdesign" and it cites as one example our topsoil regulation. We find, however, that Consol's analysis of our topsoil requirements does not meet the intent of the Act. Consol's study results are based on its belief that it is not necessary to save all the topsoil present at a mine site; however, such retention is required by the Act [Section 515(b)(5)(6)(7)]. Therefore, its lower cost estimates reflect the movement and handling of a much smaller quantity of soil material in-place on the mine site. This practice could lead to serious problems in revegetation and post-mining land use and is an unnecessary waste of valuable resources.

This is not to say that we are in absolute disagreement with all portions of the Consol analysis. We have identified several areas of potential agreement, although these items account for only seven (7) cents of the $2.19 per ton of coal difference claimed by Consol in its conclusions.

In summary, while our analysis of the Consol study and pamphlet has been a useful exercise and may eventually be helpful to us as we evaluate requests from States and mine operators for site-specific variances or experimental practices, the problems we have mentioned above render Consol's cost conclusions meaningless.

I would be happy to elaborate further on these or any other issues.

Sincerely,

WALTER N. HEINE,
Director.●

PRESIDENT'S PAPERWORK CUT FACES TEST

● Mr. WALLOP. Mr. President, for all the talk about reducing Federal bureaucracy and "redtape," President Carter and Congress have done spectacularly little about it. According to an article in the Washington Post, Sunday, October 14, 1979, the Office of Management and Budget estimates that the paperwork burden will increase by no less than 16 million hours over the next 2 years. To give you an idea of the magnitude of that figure, one person working a 40 hour week for 50 weeks per year works 2,000 hours per year. At that rate, it would take that person 8,000 years to complete the additional paperwork required to satisfy the appetite of the Federal Government for just 1 year. That situation does not even include processing, digesting, and making some sense out of the results.

Mr. President, until a workable solution is found to this problem, until the Federal Government can curb its intrusion into the private lives of individuals, we can only be accused of revelling in an intolerable situation. I think it is time we approach the question looking at the forest, rather than each tree. I am not convinced we have adequately addressed the question of the worth of all these reporting requirements and all this information. Backing up even further, we ought to better examine our need for so many Government programs. The monitoring is not worth the expense. It is now time for real action. Our country and our economy can stand no more. I request that the following article from the Post be printed in the RECORD.

CARTER'S PAPERWORK CUT FACES TEST

(By Samuel Allis)

President Carter took particular pride in announcing at his press conference Tuesday that federal paperwork has been cut by 15 percent under his administration.

What he did not say, though, is that a spate of new environmental and energy-related programs soon to take effect could add millions of man-hours to the federal paperwork burden, consuming much of the gains he mentioned.

According to the Office of Management and Budget, a minimum of 16 million hours is expected to be added to the load. Warren Buhler, former staff director of the now-defunct Commission on Federal Paperwork, calls that figure "horrendously low" and estimates that 80 million to 100 million more hours could be added to the government burden over the next two years.

"There are going to be huge increases in paperwork coming up," said Buhler who now publishes the Regulatory Eye, a publication which tracks government regulations. "If something isn't done quickly we're going to be in serious trouble."

The saving, Carter mentioned, according to OMB, is actually 13.9 percent and represents some 126.5 million hours of paperwork pared from all federal agencies from January 1977 through December 1978.

As of the beginning of 1977, the total paperwork burden in the federal government was 912.6 million hours, according to the same OMB report from which Carter cited his 15-percent figure. By the end of last year, the total had dropped to 786 million hours.

"Carter could say it's down 50 percent, but all of our people say they're getting choked to death with paperwork," added Jeffrey Perlman, who directs the newly created Council on Paperwork of the Chamber of Commerce.

In the same Office of Management and Budget report from which Carter cited the 15 percent reduction, OMB Director James T. McIntyre predicted that:

An estimated 8 million hours will be needed to implement new standards from the Office of Surface Mining in the Department of the Interior.

Three million hours in new paperwork will be needed to implement the National Energy Conservation Policy Act.

New Requirements added to the Resources Conservation Recovery Act could tack on several million more hours to the reporting burden of the Environmental Protection Agency.

"In addition," the report states, "we have reached the point where most, if not all, of the so-called 'easy' targets have been identified."

Each federal agency has created its own "burden reduction effort" in the wake of Carter's efforts in that area. Yet their effectiveness has been questioned by some officials.

"None of them on a sustained basis can be put up as a model," observed Stanley Morris, Deputy Associate Director of OMB for paperwork control and regulatory practices. "There's no lasting impact at the moment."

"You can't reduce directives when you get new programs all the time," countered William Baird, who directs record management at the Department of Housing and Urban Development.

"It's largely an uncontrollable burden due to legislative mandates," echoed Beth Weinberger at the Department of Health, Education, and Welfare. "Medicare/Medicaid forms are a burden we cannot reduce, for example."●

CONTRADICTIONS IN BRITAIN

● Mr. LUGAR. Mr. President, with the recent election of a conservative government in Britain, we have seen Prime Minister Thatcher begin efforts to reverse the growing cancer of socialism. Over the past few years, Britain has seen a dramatic worsening of its economic fortunes—spiraling inflation, high unemployment, lowered production, and a lack of confidence in its money supply—a situation not unlike that confronting the United States today.

During a recent trip to London, Ben Cole of the Indianapolis Star's Washington bureau addressed these issues in an excellent column which appeared in the Star. Mr. Cole was in Britain at the time of the trade union council's annual conference at Blackpool. Despite the warnings by Sir Geoffrey Howe, Chancellor of the Exchequer, the trade unions adopted a stand denouncing Mrs. Thatcher's modest cutbacks in social spending.

At the time of this statement, the Reveille, one of London's largest weekly newspapers with a circulation of 7 million, was forced out of business because of a strike.

Mr. President, I ask that Mr. Cole's article, "Contradictions in Britain," along with the text of Sir Geoffrey Howe's speech before local businessmen in Caterham on September 1, be printed in the RECORD for my colleagues' perusal.

The material follows:

CONTRADICTIONS IN BRITIAN

(By Benjamin R. Cole)

LONDON.—It's nip-and-tuck if Prime Minister Margaret Thatcher's government can even begin to cure the cancer of socialism in Britain.

The early, modest efforts to curb inflation and restore a semblance of reality to British economics has the trade unions screaming as if their threats were being cut.

Over the weekend of Sept. 2, Sir Geoffrey Howe chancellor of the Exchequer, laid it on the line to the Trade Union Council. He told them their behavior the last year had alienated millions including many of their own members.

He also told them they had been living in a "dream world" the last 25 years and it was time to face reality. "No other group in the country has the same capacity to damage or improve Britain's future," he told the labor bosses. "No one else has the same capacity as the unions and their members—if they wish—to inflict failure on us all."

The essence of Sir Geoffrey's speech was an eloquent reaffirmation of that ineluctable absolute that there is no free lunch—not even in Britain.

But the unions are not listening. At their Blackpool congress the week of Sept. 3, the trade union moguls were denouncing Mrs. Thatcher's modest cutbacks of social spending. "Social vandalism," the trade unionists called them.

And in London, notice was posted that Reveille, a weekly newspaper which sold 7 million copies a week, had suspended publication, forced out of business by striking employees.

Very few in Britain are neutral about Mrs. Thatcher.

The struggling small businessman sees her as a latter day Jeanne d'Arc, come to deliver him from the grinding oppression of socialism. But those with a vested interest in the socialist system deplore her.

A self-employed London builder vowed that socialism had brought his nation to its lowest estate, destroying incentive to succeed. He was fed up with having the printing press money produced by social spending rob his safe without opening the door.

A College professor, on the other hand, exults in the redistribution of wealth under the socialists, saying Britain no longer has the extremes of poverty such as he ascribes to the United States. As for the peril of dictatorship when ruinous inflation eventually wrecks the economy, his answer is, "I really don't know much about economics."

And a stockbroker's agent actually said in shocked tones, "Margaret Thatcher wants to bring back free enterprise!" It was obvious the prospect chilled him.

The Thatcher government has notable goals—increased production, stable money, relief from high taxes, and restoration of Britain's competitive position in world trade. One commentator suggested the prime minister is pressing to restore "entrepreneurism," perish the thought.

There are strange contradictions in Britain today. The people appear to enjoy a prosperity despite murderous prices. There are many new cars on the road, no few of them Rolls-Royces and big French Peugeots.

Shops are crowded with buyers. Weekend parties come from Holland, France and Germany to patronize London shops. The prices are the same as at home, but the selection pleases them.

There is serious unemployment, according to all reports. Yet jobs are going begging everywhere. Much of the daily work is performed by East Indian and African immigrants. Car cards in the underground trains plead for Britons to take jobs building coaches, doing electrical work, mechanics, etc.

Asked about this inconsistency, our college professor friend said many Britons are more comfortable on the dole which provides their essential needs. They don't want to take jobs that are beneath them, he said.

DREAM WORLD OR REALITY

For most of the last 15 years, the British people have not faced reality. We have run away from it.

For the reality is not pleasant. It is all the more dangerous because North Sea oil, which won't last long, has made everything look better than it really is.

While developing countries like Korea, India and Taiwan have been rapidly building their industrial base and capturing an increasing share of world markets, we in Britain have wearily witnessed the decline of much of our manufacturing industry: we are producing today fewer manufactured goods than we did six years ago.

That much reality we can see already. The reality of hardship—inability to create the wealth to maintain public services, to care for the old and the sick—will come later, if we lack the energy and courage to reverse our decline.

This Government is ready to confront those realities. But it is no good Government facing reality if the people are not ready to do so.

ARE THE TRADE UNIONS FACING REALITY?

So the questions I want to ask today, on the eve of next week's Trade Union Congress, are ones which millions of others will be asking. How far are the trade unions willing to face reality? Are they part of the solution? Or part of the problem? Are they contracting into reality? Or contracting out?

Are these issues on which the trade union movement can speak with a single voice? Or are they questions which can only be answered individually by each of the 12 million trade unionists in this country—the vast majority of whom have little sympathy with the strident calls of the militant few?

They are important questions, for no other group in the country has the same capacity to damage or improve Britain's future. Many of us can try hard—and yet fail in the task ahead. But no-one else has the same capacity as the unions and their members—if they wish to—to inflict failure on us all.

I have talked of confronting reality. So that I may already have said enough to be accused of "confrontation" by some union leaders. But they should not react too quickly or defensively. It is in their own interest to confront the truth, as it is in the interest of us all. We share the same future. We have all, as I have said, been running away from reality, putting off doing difficult things for too long. We haven't much time left. Better to speak plainly before it is too late.

Behaviour by, or in the name of, some unions over the last year alienated millions of people, including millions of trade unionists. If unions are to regain the trust of the public—even, sometimes, the trust of their own members—their leaders must be ready to respond to public opinion. They cannot claim the right to advise or criticise others, if they deny others the right to criticise or advise them. "He who will have no judge but himself condemns himself".

THE REALITY OF UNION POWER

If anyone has any illusions about the damage which irresponsible union action can inflict today, they have only to look at the Hunterston Iron Ore Terminal. With one hundred million pounds of taxpayers' money, it was opened at the beginning of June. It has not yet been used. One can only hope that wiser counsels will soon prevail. Indeed, if this were an isolated case, we could perhaps ignore it. But union militancy has for years been making similar bonfires of the nation's wealth. Almost as fast as one part of society creates the wealth, there seems to be a group somewhere else ready to destroy it.

So we find that a strike by a handful of computer operators in the Post Office has been costing £5 million a day in lost cash flow since the dispute began last April. And of course it is the customer who will have to foot the bill for all the extra borrowing the Post Office have been forced to undertake.

Can anyone doubt, any longer, that the use—or misuse—of union power can lead to more damaging behaviour than market competition ever can? Many experienced trade unionists recognize this very clearly. Indeed, one of the most memorable speeches at last year's Labour Party Conference was that of Sidney Weighell, who was at some pains to stress his condemnation of the 'philosophy of the pig trough'.

The power which trade unions and trade unionists can exercise is thus beyond dispute. Is it not then right to ask where that power has actually led trade union members? And is not the answer, all too often, 'not in the right direction'?

No-one, of course, should seek to blame our national economic decline on any one section of the population. Certainly I do not. Its causes are many and various. But trade unions must bear their share of the responsibility. Government would be doing a dis-service to the real interests of union members if it lacked the courage to say so.

We firmly believe that trade unions have an important role to play in today's society. And we certainly do not seek to lay our problems at the door of union leaders alone. But do we not also have a duty to the people of this country to bring these issues out into the open so that they may be squarely faced?

THE ECONOMIC DREAMWORLD

On that basis, is it not fair to suggest that one of the great difficulties facing Government in Britain is that thousands of people in positions of influence, particularly in the trade unions, have been conditioned, over the last twenty-five years, to believe in an economic dreamworld?

It is a dream world in which we can find a better future without having to do anything different or difficult about it; a dream world where we can have more public spending without higher taxes, higher interest rates or greater inflation; a dream world in which all this can be delivered by an economy whose productivity is hardly growing and whose manufacturing output is below its level of six years ago.

It is a dream world in which there is no such thing as cause and effect, a dream-world in which people can be paid more without producing more; where earnings can always go up in good times, but never down in bad; where profits can be reduced but investment and living standards increased; where all men can be equal but differentials will be preserved; where any action is justified to get more jam today, while someone else can be left to worry about providing for tomorrow.

For years the message has been that people work for "the bosses". But the real boss is the customer. It is he who can choose whether to buy the product. And if it is too expensive, or of the wrong type, or too late in arriving, then there is no job. It is in the end the customer who makes you redundant, not the boss. But how often has one heard union officials acknowledge the customer's importance? Still more that of the competitor who can do better in the same market place?

THE REAL WORLD

The real world is dominated by the hard facts of arithmetic. Ultimately, wage increases which are not matched by higher productivity can only be paid in one of two ways—through lower profits or higher prices. Lower profits threaten future investment. And higher prices increase the danger that the customer will take his patronage elsewhere. Either way, there is a risk to jobs.

So we do not work for the 'bosses'. We work for each other—and for ourselves. The industrial economy is based on the need to exchange what we make, but don't want, for what we want, but don't make. We are all simultaneously workers, customers, investors, owners.

What then do we go on strike for? More of other people's goods, in return for less of our own? The idea that people can somehow become richer overnight by stopping producing goods and fighting each other for banknotes is absurd. Real economic progress is a long job in which today's efforts pay off in the years to come.

We, in Government, have pledged ourselves to remove as many as possible of the obstacles to the creation of wealth. For we have recognised that success or failure in this respect is, in the last resort, in the hands of individuals. Is it not vital that trade unionists should recognise this as well? Wealth and value are created when customers, workers, managers, capital and technology come together successfully.

It is just here that Britain's record has been so poor. Overmanning, inflexible work practices and strict demarcation lines are among the characteristics of our industrial scene which have put British companies at a disadvantage compared with their competitors. Comparative studies of similar firms in Britain and other countries frequently show that output per worker in British companies is lower, even when similar plant and machinery are used. This is not necessarily because workers in other countries work harder or longer hours than British workers. Often it is because restrictive practices and inflexible working mean that more men are needed to make a particular product. There is fairly recent evidence of how it takes more, often many more, men to repair breakdowns on British production lines than elsewhere and that sometimes they will deal only with breakdowns and not undertake preventive servicing. The effect on production of the widely reported skill shortages in industry is made much worse by inefficient use of the skilled labour that is available or by unwillingness on the part of employees to accept "dilutees". Union structures have frequently encouraged demarcation disputes, which again hold up production. I know that some trade unionists are very concerned about these matters. Some indeed are urging their unions to play a greater role in educating their members to recognise the importance of improving productivity if they are ever to enjoy higher incomes and better job security. I welcome the efforts made, for example, in some of the Sector Working Parties to promote a better understanding of these facts on both sides of industry. For the only place where the real changes can be made is by management and unions at company level.

WHAT DO STRIKERS ACHIEVE?

But is not far too much of the habitual pressure still in the opposite direction? Is not the strike, the go-slow, now all too often the instant response? Yet, generally, to what purpose? In almost every case strikes can only serve to make matters worse.

If we really believe that striking can make us rich, then the whole country might as well go on permanent strike for West German living standards!

To take an example, nothing saddens me more than the current strike action at many shipyards. Here we have an industry fighting for its life against intense foreign competition. We, the Government, have offered generous financial support over the next three years so that the industry can put itself into a condition to compete in terms of efficiency and productivity with other countries. British Shipbuilders have responded positively with proposals for restructuring the industry.

Certainly, they involve some yard closures and redundancies. But everyone knew that was inevitable because of the surplus capacity in merchant shipbuilding. It is wholly unrealistic to suppose that Government—or indeed the taxpayer—could pay out money indefinitely to keep men in work building ships which nobody wants.

The imperative is—or should be—to build up in the yards that survive a solid reputation for reliability and prompt completion. But what has been the reaction of many of the workforce? To down tools, to prevent ships being launched, to declare a ban on overtime.

We all recognize that workers have legitimate cause for anxiety when they feel that their jobs are being threatened. But the futility of the present industrial action is plain to see. The only results are likely to be delays to work on existing orders, a loss of confidence in British Shipbuilders among customers and potential customers, on whom the prospects for future orders depend, and in the end more closures and more redundancies than would otherwise have been the case.

To take a specific case.

One shipyard in Penzance has already had to close down, throwing more than 80 people out of work in one of the worst hit unemployment areas in the country. There was, apparently, no dispute between the men and the management at all. But, it is vital for yards of this kind to achieve a quick turn round of the ships; and they were therefore completely dependent on overtime.

So as soon as an overtime ban and a short working week were declared all this firm's contracts had to be cancelled. What conceivable purpose can any of this have had? What can be the use of an industrial dispute in the cause of higher pay if this simply causes men to lose their jobs?

The myths of the dreamworld will have ended up, as all too often in Britain, by delivering a nightmare of reality.

REFORMS IN UNIFORM LAW

This is the background against which our proposals for limited reforms in union law have been represented by the union leadership as a divisive attack on the hard-won rights of workers and their trade unions. But rights to do what? And to what purpose? Is it not sometimes the behaviour of certain unionists which now threaten our prosperity, even divide our society, rather than the Government's modest proposals for reform?

Trade union rights are not God-given. They are given by society, by the law, by the elected Government. If they are used to do economic damage and inflict human suffering is it not legitimate and necessary to question their scope?

We should be absolutely clear on this.

When we talk about union rights we are talking about rights of unions and of union members that are unique to Britain: rights to damage each other, the customer, the pensioner, the country as a whole. All too often the only people helped by militant union action are our overseas competitors. The only jobs created by most strikes are in other countries, not in Britain.

Many trade unionists, called to strike action without having been consulted in any ballot, see that very clearly. Is it not *our* right, and duty, to argue *their* case? And is it not a case that deserves to be heard?

TRADE UNIONS AND POLITICS

Many trade unions do, of course, have links with the Labour party which extend back over many decades, and I fully recognise the historical importance of this long-standing alliance. But do not the trade unions have a similar duty to recognise the realities of our economic situation? Economic life brings together millions of people of differing shades of political opinion who nonetheless have a clear responsibility to co-operate peacefully in the interests of all. And the political framework for such co-operation has already been set: it was set on 3rd May when the country, including about 50 per cent of all union members voted for a change of Government. A larger majority still looked for a change in union attitudes.

So the political context is clear. Of course unionists have views on the policies we are following. But whatever opposition they may choose to express, to respond with industrial disruption and escalating pay claims can only harm their members further. There are some who come close to saying to the Government: "If you don't return to the policies that we urge, we will do our own members such injury that you will eventually be forced to change course." Is not this the nature of the often unspoken threat to a Government elected with a decisive majority four months ago?

SEEING OUR POLICIES THROUGH

Let me therefore make our position as clear as possible. No Government by itself can create real jobs or create prosperity. All we can do, by firm monetary discipline and cash limits, is to squeeze out inflation, bring down the price of Government, and create the conditions in which individuals can achieve more. Everything else depends on our success in that. We readily accept the responsibility for that task.

We are determined to see our policies brought to fruition. Much inevitably depends upon the conduct of others, particularly of pay bargainers in the months ahead. But we shall not allow ourselves to be deflected by short-term considerations from our chosen strategy: on the contrary, it would be disastrous if we were to do so. In particular, we shall stick firmly to our financial policies, which are crucial to the mastering of inflation. We have seen all too often the dangers of pursuing short term expediency. The problems of the British economy are deep-rooted and long-term; so too must be our solutions.

It follows that if trade unionists persist in excessive claims, if, by using industrial muscle, they force employers to concede large pay settlements, the casualty will not be the Government's financial policies. It will be employment, and our chances of higher living standards in future years.

So the onus on pay negotiators is obvious. If they behave reasonably, we shall avoid large increases in unemployment; and, against a background of falling inflation made possible by our financial policies, the long haul of rebuilding the economy can start. But if union negotiators try again to do the impossible, to get ahead of inflation and stay there, then they simply make inflation's cure more unpleasant for all concerned. Unemployment will rise higher, production and living standards fall lower, than would otherwise be the case.

RENDEZVOUS WITH REALITY

Britain's long-delayed rendezvous with reality will undoubtedly involve some cost. To some extent this will have to be borne by union members and others workers. Often it will fall on those who are innocent of any responsibility for the problems I have been discussing. But if we try to run away from reality again, the cost would be even greater next time around. Today's redundancies and retrenchment would be far less painful if we had faced up to our problems years ago. Almost all of today's problems are simply yesterday's problems made bigger by cowardice and delay.

My message to union negotiators and employers is simple. Be clear about what Government can and can't do. You do your job. We will do ours. It can't be put off again.

WHAT CAN WE EXPECT FROM CONGRESS?

So when the Trades Union Congress meets next week, the people of this country will be watching. They will be asking themselves how far it is likely that the trade union movement will try to get a grip of the real issues facing the country, and of the contribution they can make.

For there is a growing public weariness and impatience at the repeated repertoire of strikes, go-slows and work-to-rules. These negative responses seem less and less relevant, increasingly destructive in face of the nation's economic difficulties.

Most people when faced with hardship, work harder, not less hard. The country feels itself increasingly divided into those who still expect to react in that basically adult fashion and those who do not. These may be harsh words but I believe I speak for millions when I say them.

This is why so many people will look anxiously for signs that those who meet at Blackpool next week really understand what is happening.

There will, of course, be predictable attacks on every aspect of this Government's policies—although millions of trade unionists, whose block votes will be used in their absence at Congress, voted for those policies only four months ago; and although such policies have led to prosperity for other countries—and can yet do the same for Britain.

There will be the familiar insistence that economic recovery should be possible without any inconvenience, without temporary sacrifice or additional effort. There will probably be calls for import controls, and certainly for increased public spending and nationalisation.

But what I and millions of other people hope is that, this year, Congress will talk about reality. As we watch and listen we will ask ourselves: "Are the real questions being discussed? Are the unions really examining their present role and reputation?

There are so many important topics for discussion. Let me offer some examples. How can unions involve their members more closely in their employer's success, through share ownership or profit-sharing?

Should union negotiators be doing more to relate pay claims to real output, instead of trying to win paper increases regardless of real results?

How far are they negotiating for long-term real prosperity rather than simply cash today at the expense even of survival for tomorrow?

Why are there three-quarters of a million unfilled jobs in Britain today? And about the same number of empty houses? Have union attitudes helped to bring about this fossilisation?

Should individual members be encouraged to build up their own savings and investments so that they are free and independent individuals?

When about three-quarters of all the new jobs in America come from small firms that are less than five years old, should we not do even more to encourage new small businesses in Britain? What can the unions do to help in that direction? Would not employers pay more, invest more, recruit more, expand more, if they knew that both sides in the pay bargain had to keep their word? Are the much-vaunted "union rights" to disregard this obligation really so good for their members?

Would it make sense to negotiate, and stick to, no-strike agreements in certain crucial services?

Should union leaders have more power to allow them to control the wild men who now do so much damage? Or should they be more accountable, so that union members had more opportunity to ballot about proposed union action?

It is easy to wish, as many union officials and members must do, that Congress would concentrate on questions like these. It is much harder to get them on to the agenda. But when questions like these are dominant at Congress, there will be a real meeting of minds between the union leadership and the British people.

THE UNIONS MUST FIND THEIR PROPER ROLE

It would, I emphasise once again, be foolish and unjust to lay all the blame for Britain's problems at the feet of the unions. There are very many companies where union and management work successfully together. There are good and bad managers, good and bad union officials, good and bad shop stewards. It takes all sorts.

So, too, it would be unfair to criticise today's union leaders too harshly for following traditions and displaying attitudes which have developed over many years. We should certainly not ignore the role of those politicians who have actively sought to give the unions greater political power.

But surely the British people are entitled now to look for a sense of reality from the trade union movement—and to hope for stronger leadership from men and women who believe in real democracy and who try to understand the workings of the free economy.

The Government is committed to tough measures at this stage because there is no other route by which we can bring inflation down and so start the economy moving again. No other route by which we can create the wealth on which improvements in public services must depend. No other route by which we can ensure the higher employment, higher growth and higher living standards which we all want to achieve.

It is certainly not too late to reverse our current economic decline—provided the country as a whole heeds our message and acts upon it. But first we must face up to reality. And above all at Blackpool next week. I have tried to offer an agenda for reality—not just for one week's Congress, but for the nation over several years ahead.●

THE INDEPENDENT OIL OPERATOR

● Mr. GRAVEL. Mr. President, I would like to share with my colleagues the thoughts of Mr. Hayden Atchison concerning our present energy situation.

Mr. Atchison is a petroleum geologist and he belongs to that important group known as independent oil operators. His remarks are taken from a speech which he has given on many occasions throughout the United States.

Mr. Atchison correctly identifies Government price controls as the source of our energy supply problems, and he shows why independent exploration and

production of oil and gas have such an important role to play today.

I ask that his remarks be printed in the RECORD.

The speech follows:

THE ROLE OF THE INDEPENDENT OIL OPERATOR IN OUR DOMESTIC OIL INDUSTRY

A. History of the oil industry.

1. The oil industry formally started in the United States with the drilling of the Drake well in 1859 at Titusville, Pennsylvania, to a depth of sixty-nine feet. Crude oil at that time sold for $20.00 per barrel. Pennsylvania production was 2000 barrels in 1859 and increased to 500,000 barrels in the year 1860, and one of the truly phenomenal developments of the civilized world was off to a roaring start.

2. Exploration and drilling for oil spread rapidly from Penn. to Kansas, California, West Virginia and Texas. At that time, literally hundreds of oil and gas seeps, asphalt veins and oil impregnated outcrops existed throughout the United States. In past history, they were objects of curiosity and of some small use to both primitive and civilized man, but now they pointed the way to the first commercial oil fields in America and to most of the significant discoveries during the first half century of our modern petroleum age.

3. Standard Oil, founded by the Rockfeller family, was the principal major oil company prior to 1900, sharing with the early independents the birth of a new industry which was to have a profound effect upon the destiny of the United States in making her the industrial leader of the world. With the discovery of oil in the Texas Gulf Coast in 1901 at the famed Spindletop Field, many of the major oil companies we know today were founded, among them Gulf, Texaco, Sun and Phillips. The oil independents of that day were from every segment of our population; businessmen, financiers, gamblers, promoters, soldiers of fortune and just ordinary folks willing to take a chance—all trying to capitalize on the "Rags to Riches" possibilities of new wildcat oil discoveries. Unfortunately, this romantic aura of potential overnight riches still exemplifies the concept that many people have of the oil industry in spite of the fact that our industry has long been a part of the typical American business community.

B. With this brief history out of the way, let us now look at what I call the "State of the Art".

1. Since the Drake well in 1859, we have found in the United States approximately 170 billion barrels of oil and 700 trillion cubic feet of gas. During this period we have used 130 billion barrels of oil and 500 trillion cubic feet of gas, leaving us a present reserve of approximately 40 billion barrels of oil and 200 trillion cubic feet of gas recoverable under present producing technology. Our present average year's usage of reserves here at home, not including imports, is approximately three billion barrels of oil and 18 trillion cubic feet of gas. At current rate of use, therefore, the present reserves will last about 12 years. If our estimates are in error on the low side by as much as 60 percent, we would then have a 20 year, rather than a 12 year supply. Up until a few years ago, a 20 year reserve was ample because the frequency of finding new large fields onshore was simply much greater—but this is no longer true! Permit me to use an oversimplification—consider the exploration for oil and gas to be similar to operating a seine in a lake abounding in various sized fish.

The mesh size of the seine determines the size of the fish that are caught, but it does little good to continue seining with the same size because most of the fish too large to pass through the seine are caught in the first few passes, but just reduce the size of the mesh a small amount and the very first "pass" will be rewarded with a full catch. In our onshore exploration for oil and gas, we have been reducing our mesh size year after year, until it is mostly small fields that are being found. However, new technology, deeper drilling, and especially changing economics in the form of higher prices for oil and gas have combined to overcome some of the scarcity brought on by the constant "seining" we have been doing since the turn of the century

2. Through the years as more and more oil and gas was found, therefore, leaving less and less to be found, the generally smaller remaining "targets" or potential oil and gas "fields" were not as attractive to the larger sized "Major" companies because it took a greater frequency of success than could be normally expected to replace the reserves of oil and gas being produced from large previously discovered fields. Expecting the major oil companies to sustain themselves on smaller and smaller sized successes puts them in the role of "trying to feed an army on rabbits—!" A platoon or even a regiment perhaps, but not an army. The net result, therefore, was that the major oil campanies turned a large measure of their efforts away from the "mature" oil provinces in the U.S.—the historical sites of all the previous successes, and proceeded to put the bulk of their domestic technical exploratory emphasis in the greater risk, higher potential, new frontier areas such as Alaska, and in the Gulf Coast, California and Atlantic Seaboard offshore areas. This left the mature regions, the regions which had been thoroughly explored for large fields, principally to the independents, who could prosper on the available remaining opportunities typified by smaller fields. A fairly small discovery is capable of doubling the size of an independent, whereas it would have little impact on a major company.

3. What is an independent? He ranges in size from an individual to a family sized business to partnerships, to corporations with assets of a hundred million dollars or more. In all, it is estimated that there are approximately 10,000 independents in the United States and perhaps a hundred of these assets in excess of twenty-five million dollars. Their producing capabilities would range from a hundred or so barrels of oil per day to several thousand and annual budgets range from a hundred thousand to perhaps 40 million dollars or more per year.

4. What is the independent's contribution to our current domestic exploration and production activity? He drills 90 percent of the onshore wildcat or exploratory wells, discovers 75 percent of the new fields and accounts for 54 percent of the new reserves added. Needless to say, he is a pretty important "guy" to keep in business.

5. Where does the independent get his funds to carry on his drilling and exploration activities? He provided 60 percent or 3 billion dollars of the total 5.8 billion dollars spent in the domestic oil industry in 1975. Basically, there are five sources from which financing can be obtained. Generally, the independent relies on some combination of the following sources:

a. Personal funds—residual money, income from other businesses,

b. Borrowing from banks, insurance companies and institution lenders,

c. Cash flow from current oil operations,

d. Equity financing, the sale of stock or other securities to the public, and

e. The taking of partners—that is, sharing the risk with the partner who pays a disproportionately larger share of the cost—this is known in the trade as promotion.

6. How does the independent generate his opportunities?

a. Frequently more than one independent join together to drill a prospect.

b. Independents "take deals" from major companies—that is, drill on leases held by a major on some type of sharing basis when oil or gas is found.

c. Changing technology may often make a marginal prospect more attractive and drillable as, for example, it may improve the chances of better producing rates and ultimate recoveries.

d. Changes in economics, i.e., increased prices for the oil and gas, are extremely important in creating new opportunities through better economic return. This can mean the difference between drilling or not drilling the prospect.

e. Professional expertise—that is doing the job better—developing prospects through the application of sound oil finding principles.

f. and perhaps best of all—just dumb luck. As can be readily seen, all of these circumstances are directly and immediately beneficial to the independent.

C. Now, I would like to say a few words concerning the future of our Domestic oil industry—as well as the future of our total energy requirements.

In this connection, we can indulge in some of the Good News—Bad News exercises. The bad news is that we are not likely to attain a self-sufficiency in energy in the foreseeable future. We now import approximately 40 percent of our daily oil usage. We used 54 percent more oil in 1975 than we found and downward direction of this trend has been established for several years. Our finding costs of oil and gas are spiralling to such an extent that capital formation, i.e., the generation of the billions of dollars necessary to carry on drilling and exploration activities is becoming increasingly difficult, especially in the face of adverse tax legislation and governmental price controls, and finally; we find our efforts to develop more energy from all significant sources to be directly in conflict with the increasingly greater sensitivity of our environment to all types of operations such that future coal mining and usage is effected; nuclear development is in jeopardy; and the drilling for and transportation of oil and gas is negatively influenced.

Ladies and gentlemen, that is a lot of bad news!! Now for the Good News—The good news is that we have an abundant supply of coal—an estimated 500 year supply at current usage, we have the technology to eventually make possible the development of nuclear energy thru fusion, which is a much more desirable source of atomic energy.

We are making progress in the development of solar energy which in the overall picture is small, but none the less of real merit. We are underway in developing thermal energy—natural steam wells and, most of all, we have the world's finest technological capabilities in the future discovery and development and recovery of new oil and gas reserves in frontier areas and offshore waters where we, as a nation, can expect to develop the bulk of our future reserves. And, finally, the Congress and the Carter Administration are trying to agree on an energy program that is acceptable to the Executive Branch, the House and the Senate and, most important of all, the consuming public. At least this is a long needed happening. This has to be good news!!

We must recognize that until such time as non-conventional and "exotic" energy sources are produced in significant quantities, U.S. energy needs will remain tied to fossil fuels. Coal will play an increasingly important role, but oil and natural gas will continue to be the mainstays in the U.S. energy mix through the 1980's.

During the years that lie immediately ahead, one question is paramount—how can adequate energy supplies be attained at the lowest possible cost.

There is only one answer for the short term. Find, develop and produce the potential domestic resources of crude oil and natural gas. There is no feasible alternative.

In the last quarter of the 20th Century, America faces no more complex or challenging problem than that of assuring availability of adequate, secure energy supplies in general and petroleum (oil and natural gas) in particular. Since the mid-1960's the nation has moved from an era of abundant supplies of petroleum fuels to its present position of shortages of both domestic oil and natural gas.

Correction of our energy supply dilemma is not subject to easy, quick or inexpensive cures. It will come about only by unprecedented capital expenditures to increase the domestic supply of energy. This will call for stable government policies to encourage the private sector to move ahead in development of both conventional and non-conventional energy resources.

BEGINNING OF THE PROBLEM

America's petroleum supply gap did not "just happen." It became visible in 1973 because the Arab producing countries embargoed oil shipments to the United States, creating shortages that could not be made up by domestic production. Since the 1973 embargo, U.S. dependence on Middle East-North African oil subject to such embargo threats is 50 percent greater and still growing.

But a gap in domestic oil supplies actually began as early as 1968, when oil demand exceeded U.S. productive capacity for the first time and we had to have foreign oil to make up the difference. In 1968, the gap between our oil requirements and producing capacity amounted to only five percent of domestic demand which caused no alarm. But after that, dependence on foreign oil accelerated rapidly. Today, two of every five gallons of oil consumed by Americans are imported.

While our domestic supply gap began in 1968 and grew to its present dangerous proportions in seven short years, it had its beginning much, much earlier. Shortages of both oil and natural gas were the direct result of the decline in domestic drilling that began in 1957 and continued on an almost uninterrupted basis for 17 years. From a peak of 58,160 wells in 1956, drilling dropped more than 50 percent to only 27,600 wells in 1973. Drilling increased in 1974 and 1975, but much greater activity will be required.

During the 17 years of shrinkage in the domestic petroleum production industry and in its efforts to find new domestic petroleum supplies, demand for both oil and natural gas more than doubled. It became inevitable that growing demand would overtake the declining productive ability of the domestic industry. Once we became import dependent, it became only a matter of time when imports would be cut off, and shortages would confront the American people.

OIL POLICY: PENNY WISE, POUND FOOLISH

The overriding reason for the decline of the domestic oil and natural gas producing industry was the political decision to "protect" the consumers of petroleum fuels by controlling prices. The federal government, under a Supreme Court mandate, began fixing prices charged for natural gas at the wellhead in 1954. Beginning in the late 1950's the federal government used the oil import program as a tool to control domestic crude oil prices by coercion and jawboning.

These are the primary reasons that the domestic petroleum industry retrenched to half its former size, reduced its exploration drilling by half, and was unable to keep production abreast of demand.

WHERE DO WE GO FROM HERE?

In total energy resources—oil and gas, coal, oil shales, tar sands, and nuclear power—the nation has potential supplies to meet its requirements for the foreseeable future.

The adequacy of domestic energy supplies in the future, as in the past, will be controlled more by economic conditions than by geology and technology. The economic climate for energy development in the future will be the result of industry and government working to meet the demands of the American people. Therefore, appraising the demands of the American people and making known to the American people the industry's ability to meet their demands under current government interference or assistance are key factors in our energy future.

Because oil and natural gas will continue to supply the bulk of U.S. energy needs for the next decade or so, the nation has no viable choice except to encourage the massive capital expenditures needed to search out and make available its potential petroleum resources. To reduce dependence on foreign oil to acceptable levels in the decade ending in 1985, for example, expenditures for domestic drilling alone must be doubled to an average of $8.5 billion a year. Other expenditures such as geophysical and geological work, lease acquisitions, and production outlays, must be similarly increased. Future inflation could require even greater outlays.

Unless these massive efforts are made to increase domestic petroleum production, U.S. import dependence will increase to 50 percent of requirements by 1980 and to 60 percent by 1985. Such dependence on others for vital energy would cause intolerable economic problems and unacceptable security risks.

The greatest uncertainty in the nation's energy future has been punitive and constantly changing government policies. The most important need in restoring relative self-sufficiency, therefore, are sound and consistent government policies and actions to encourage the unparalleled commitment of capital resources needed to assure our future strength in essential energy supplies.

I would like to share with you a report which was compiled by The Center for Strategic and International Studies at Georgetown University and submitted to the Congressional Joint Committee on Atomic Energy in September, 1973. Data for this report was supplied by the National Petroleum Council, the Atomic Energy Commission, the U.S. Department of the Interior, various major oil companies, scientific institutions and a number of highly respected, independent research laboratories. Projects based upon this very comprehensive study reveal what must be done in the U.S. if we are to become self-sufficient in energy, not by 1985, but by the year 2000.

Assuming that demand continues to rise at a predictable rate, we must do the following:

Find 10 more Prudhoe Bays or 4 more states of Texas and produce them to capacity.

Ban all new cars larger than 40 horsepower so that by 1985 half the cars on the road would be that size.

Force a 20 percent improvement in building heating systems.

Force a 15 percent improvement in energy efficiency by industry.

Force a 15 percent improvement in the efficiency of converting electrical power.

Totally develop all offshore oil and gas reserves as far as the outer continental shelves of both the east and west coasts.

Increase coal production 270 percent.

Convert all of California, Montana and Idaho to geothermal steam electric power (which would be like building 110 Hoover Dams at a cost of approximately 40 billion dollars).

Double the present rate of hydroelectric power generation. (80 percent of potential sites are located in parks, wilderness areas and scenic areas.)

Produce 2 million barrels per day of shale oil by the year 2000. (Only 6–7 percent is useful by weight. This is equivalent to digging the Panama Canal once per day to achieve a two million barrel per day production.)

Convert all homes in New Mexico, Arizona, Nevada, Montana, Idaho, Wyoming, western Colorado and southeast California to solar energy.

Add one conventional atomic power plant every three weeks from now to 1985 and one each week thereafter to the year 2000.

Do all this and the charts still indicate a shortage of several million barrels per day in the year 2000. Isn't that a mind boggeling assignment?

The nation's energy crisis must, and can, be resolved. Actions will be required on many fronts by both industry and government.

The problem is basically two-sided: more efficient use of energy and increased domestic supplies. The solution does not lie in more efficient use alone. An expanding economy, full employment and higher standards of living will require more, not reduced, consumption of energy, particularly oil and natural gas during the 1970's and 1980's.

Industry and government, therefore, must pursue energy policies consistent and effective in accomplishing the primary goal of expanding domestic petroleum production. The essential key to restoring a balance between demand and U.S. oil and natural gas supply is reliance on the forces of the free market and private enterprise.

Thank you.●

STATEMENT BY SENATOR DOLE

Mr. STEVENS. Mr. President, I ask unanimous consent that a statement by the Senator from Kansas (Mr. DOLE) entitled "Taxflation Is No Stabilizer" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DOLE

TAXFLATION IS NO STABILIZER

The debate continues over whether the United States has entered a recession. The drop in unemployment during the last quarter indicates that there is some steam left in the prolonged recovery from the 1974–75 recession. At the same time, it is generally acknowledged that the monetary and fiscal restraint needed now to bring down the inflation rate make a visible downturn in the economy likely. It should be mentioned that, had the Administration acted much sooner in imposing the kinds of restraint it now says are necessary, we might not be faced with the Hobson's choice between recession and double-digit inflation.

The question now becomes, how will we deal with recession without dropping our guard against inflation? Our danger is that we will again run into the economic phenomenon of the 70's known as stagflation—high unemployment and high inflation occurring simultaneously. There are no easy answers, but surely we can agree that it is foolish to permit the continuation of policies that aggravate the situation. One such policy demands our immediate attention.

The income tax system allows taxes to rise automatically in periods of inflation. When income rises to keep up with the price increases, a higher rate of tax is imposed under our progressive income tax system. Thus taxes go up even though real income has not grown, and we have an effective across-the-board tax increase. Congress need do nothing for the Government to receive this revenue windfall, other than decline to follow effective anti-inflationary policies.

This system has been defended on the ground that automatic tax increases help stabilize the economy in times of high infla-

tion. This automatic stabilizer theory assumes that inflation is caused by excess demand, and that an increased tax bite will cut demand and moderate inflation. This theory ignores the cost-push factor in inflation, and overstates the impact a tax increase can have on panic-buying, when people are so convinced that inflation will continue at a high rate that they are determined to buy today rather than wait to see what the price will be tomorrow. But the automatic stabilizer theory has an even more serious drawback.

In times of stagflation, the automatic stabilizer becomes a destabilizer. During periods of high unemployment the "automatic stabilizer" has a destabilizing effect, draining off income and reducing purchasing power. That purchasing power might otherwise be used for consumption or for investment that could help build a period of stable growth. The last recession, in 1974 and 1975, would have been less severe had taxflation—the automatic tax increase from inflation—been eliminated. Taxflation cuts back the important marginal income that otherwise helps ameliorate the problems of stagflation.

We should not make the same mistake again. The Tax Equalization Act, S. 12, would eliminate taxflation by requiring modification of the tax brackets, zero bracket amount, and personal exemption to compensate for the effects of inflation. The adjustments would mean that tax rates would correspond to constant levels of real income unless Congress acted to change the rates. The danger of aggravating stagflation would be reduced.

I introduced the Tax Equalization Act this year in hopes that a real reform of the tax system could be made. In this time of economic uncertainty, it would be wise for the Congress to address itself to the issue of tax equalization.●

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980—TIME FOR VOTE ON TABLING MOTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that notwithstanding the fact that a tabling motion is not debatable, the vote on the motion to table not occur until 12:30 p.m. tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. I ask unanimous consent that following the prayer and the approval of the Journal tomorrow, the Senate resume consideration of the Interior appropriations bill, which would mean that the two leaders would give up their time.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, the Senate will come in at 10 a.m., and almost immediately will go to the Interior appropriations bill.

I ask unanimous consent that if Senators wish to call up other amendments, they may do so, in view of the fact that the vote on the pending motion to table has been set for 12:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be debate and there may be rollcall votes on motions or amendments in relation to the Interior appropriations bill prior to 12:30 p.m. tomorrow. In any event, the vote will occur at 12:30 p.m. tomorrow on the motion to table the motion to reconsider the vote by which the amendment by Mr. JAVITS was rejected. That will be a rollcall vote.

There will be other rollcall votes during the afternoon on motions and/or amendments in relation to the bill. It is hoped that the Senate will complete action on the Interior appropriations bill tomorrow.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:46 p.m. the Senate recessed until tomorrow, Tuesday, October 16, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 15, 1979:

DEPARTMENT OF DEFENSE

Edward Hidalgo, of the District of Columbia, to be Secretary of the Navy, vice W. Graham Claytor, elevated.

AMBASSADOR

Abelardo Lopez Valdez, of Texas, for the rank of Ambassador during his tenure of service as Chief of Protocol for the White House.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Genta A. Hawkins, of California, to be an Assistant Administrator of the Agency for International Development, vice Jean Price Lewis, resigned.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Frank A. Camm, of Virginia, to be an Associate Director of the Federal Emergency Management Agency (new position).

IN THE AIR FORCE

Gen. James E. Hill, U.S. Air Force, (age 57), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Kelly Howard Burke, 419-20-0489FR, U.S. Air Force.

IN THE ARMY

The following officer for appointment as a Reserve commissioned officer in the Adjutant General's Corps, Army National Guard of the United States, under the provisions of title 10, United State Code, sections 593(a) and 3392:

To be brigadier general

Col. William Fremont Engel, 530-14-4237.

EXTENSIONS OF REMARKS

NATIONAL DIABETES WEEK

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1979

● Mr. COUGHLIN. Mr. Speaker, this past week was "National Diabetes Week." As a sponsor of House Joint Resolution 209 which authorized the President to make this proclamation, I am gratified that public attention is being focused on this too often neglected and misunderstood disease.

Today diabetes is recognized as one of the leading causes of health problems in the Nation, ranking as a cause of death behind only heart disease and cancer. Diabetes-related health problems affect more than 10 million Americans and the frightening fact is that this number is on the rise despite steady advances in medicine. Public understanding of diabetes is improving thanks to private and Government efforts but most Americans remain unaware that diabetes can occur at any age, that the long-term effects of the disease may be blinding and crippling, and that, while it can in many cases be controlled, a cure has not been found.

As with any disease, finding a cure or more effective treatment is the hope of millions who suffer from diabetes or who know its victims. It is also the work of an army of dedicated researchers. The Federal Government plays a major role in this effort, a role, I am pleased to note, that has been expanding in the past few years. The National Institute of Arthritis, Metabolism, and Digestive Diseases now supports eight diabetes research and training centers and three diabetes-endocrinology research centers. In addition, the Diabetes Information Clearinghouse established by NIAMDD performs a valuable service by collecting educational materials on diabetes and providing them to health care professionals, patients, and the public.

Current intensified research activity has centered on new methods of drug treatment, cell transplantation, and the development of automated insulin supply systems. Broad research is continuing on the genetic factors in diabetes as well as other possible causual factors, relationships between hormonal action and metabolism, and the interconnections of long-term complications resulting from diabetes.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

With the expert advice and recommendations of the physicians, researchers, diabetics, and parents of juvenile diabetics who formed the National Commission on Diabetes, the Federal Government has been provided with a broad plan for combating diabetes. The Congress has taken some important steps toward implementing the Commission's funding and organizational proposals. We must continue to work to implement that plan with the guidance of the National Diabetes Advisory Board. Legislation which I am sponsoring is pending in the House to extend the authorizations for the advisory board as well as the diabetes research and training centers so that their important work can continue. I take this opportunity to urge the Interstate and Foreign Commerce Committee to act on this legislation at the earliest possible date. I also suggest that "National Diabetes Week" would be an appropriate time to give consideration to adding "diabetes" to the name of the National Institute of Arthritis, Metabolism, and Digestive Disease in recognition of the growing Federal commitment to combating this threat to life and health.●

WILDERNESS AND MINING DO NOT MIX

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, last May, during the debate on the Alaska lands issue, a number of my colleagues took the floor in defense of the Udall-Anderson bill and stated that it would not affect mineral development in Alaska. They implied that mining could be conducted in wilderness areas as the Wilderness Act allows mineral entry until 1984. This, they indicated, would allow development of such areas as Quartz Hill in southeast Alaska, site of the world's second largest molybdenum find.

I would like to call your attention to an article that appeared in today's Washington Post which discusses proposed mineral development in the Cabinet Mountains Wilderness, Mont. I am not trying to support one side or the other in this dispute; however, this case serves as a good example of what happens when a wilderness area is established in a region that contains resources other than scenic ones.

The American Smelting and Refining Co. has begun core drilling in the Cabinet Mountains, pursuant to the Wilderness Act. In response, the Forest Service has invoked conditions such as requiring helicopter access and placement of equipment on platforms, rather than on the ground, which must also be lifted in by helicopter. National preservation groups, such as the Sierra Club, have said "we'll be ready (to intervene) on a moment's notice." In other words, if an economical deposit is found, which would necessitate a road being built and full-scale mining activity taking place, the project will be immediately tied up in the courts.

I think that this case clearly indicates the need to very carefully assess our resources before establishing any sort of single-use area. We had this chance in Alaska—the bills reported by the Interior and Merchant Marine and Fisheries Committees would have both provided for millions of acres of wilderness but would have also carefully excluded areas that were more suitable for multiple use management. I hope that all Members will look carefully at this case study and consider the implications when wilderness legislation is brought before the Congress. We can have both preservation and development; however, it will require careful balancing of alternatives rather than knee-jerk reactions to special interest preservation lobbies.

I ask that the following article appear in the RECORD:

CONCERN IN MONTANA: TEST DRILLING IN WILDERNESS AREA LEAVES CONSERVATIONISTS CHILLED

(By Rich Landers)

LIBBY, MONT.—A 1964 law setting aside millions of acres of "wilderness areas" is providing an opening for mining companies to test drill for minerals in federally protected forests and wildlife areas.

The American Smelting and Refining Co. (ASARCO) has begun exploratory drilling for silver and copper inside the Cabinet Mountains Wilderness Area, the first mining firm to test drill in the U.S. Forest Service's northern region that covers most of the Pacific Northwest.

The 94,272-acre Cabinet Mountains Wilderness is one of the 187 designated wilderness areas in the United States.

The drilling for silver and copper in the Cabinet area, along with other regional developments, has chilled conservationists.

A provision in the Wilderness Act of 1964 gives mining companies the right to stake and explore claims in designated wilderness areas up to 1984. After that, said Bill O'Brien, a forester based in the Kootenai National Forest office here, only claims that have been explored and documented as having commercial quantities of minerals can be mined.

John Balla, ASARCO's manager for northwest exploration, said the company has 140 claims of about 20 acres each, all in the wilderness area near 7,018-foot Chicago Peak.

"We have to make a valid discovery before Dec. 31, 1983," he said, for commercial mining to commence.

That is just the beginning. Troy District Ranger Bjorn Dahl of the Forest Service said more than 3,000 mining claims, old and new, have been filed in his district alone. Oil and gas lease applications for 493,000 acres in three northern Montana wilderness areas have been received in the Forest Service leasing division in Missoula.

Activist groups are sprouting. The Libby Rod and Gun Club has brought suit against a proposed hydroelectric dam on the Kootenai River that backs into Canada, the Cabinet Resource Group is dogging an ASARCO copper-silver mine 25 miles from here at Mount Vernon and the Northern Sanders County Citizens Group has made unsuccessful attempts to stop the exploratory drilling in the Cabinet Mountains Wilderness Area.

On the other side, the recently organized Northwest Energy Employment and Development citizens' group (NEED) is promoting two proposed hydroelectric power dams and the Mount Vernon mine to bring more money and jobs to the area.

The most recent group is GREED—Get Rich Exploiting Earth's Development.

Mining in a wilderness area is a last resort, Balla said. The company has a right to extract core samples from the wilderness but the Forest Service can impose costly restrictions.

Because no roads can be built into the wilderness for exploration, ASARCO must haul drilling equipment to the site by helicopter.

If ASARCO finds an ore deposit large enough to make it economical to mine, the firm conceivably could be permitted to build a road and mine within the wilderness boundary, Andy Anding, acting Cabinet District ranger, said.

In February, ASARCO filed a plan with the Forest Service for mineral exploration of the wilderness. The Forest Service responded with a 117-page environmental assessment (an analysis to determine whether an environmental impact statement is necessary) that said the exploration would not significantly disturb the area.

The U.S. Fish and Wildlife Service, as required under the Endangered Species Act, studied it and concluded that the area's grizzly bears, listed under the act as "threatened," would not suffer significantly.

The Western Sanders County Involved Citizens appealed the Cabinet District approval, but Northern Region forester Tom Costin in Missoula upheld the district.

The group's attorney, Peter Wagstaff of Coeur d'Alene, Idaho, said he has appealed to Forest Service officials in Washington, D.C., but will not go into federal court. "This isn't the time," he said.

Rocky Rockwell, district forest resource assistant, said, "We all have opinions about what they should or shouldn't be doing in the wilderness, but that's immaterial. The law spells out pretty much what they can do."

Besides hauling equipment to the wilderness drilling sites by helicopter, ASARCO is required to put its equipment on 9-by-9-foot wooden platforms to minimize disturbance to land on a 30-foot square drilling site.

The Montana Department of Natural Resources has given temporary permission to pump up to 7,500 gallons of water a day from nearby Cliff Lake to help cool the diamond drill bits.

Sludge from the drilling is supposed to be settled in water tanks—actually livestock water troughs—and hauled out of the wilderness for disposal. "All we are going to leave there is a hole that will be covered up, nothing else that would degrade the area," Balla said.

The holes, he said, will be up to 1,400 feet deep, adding that it costs ASARCO about $40 a foot to drill. The drills bore about 80 feet a day in two 10-hour shifts. The drilling will continue after winter until the ore deposit can be analyzed, Balla said.

While the ASARCO test drilling in the Cabinet Mountains Wilderness Area proceeds, environmental groups largely have adopted a wait-and-see attitude.

"This isn't big enough potatoes yet," said Bob Springer, spokesman for the Sanders County citizens group. "But anyone in the United States who has a concern for wilderness is going to have to take a look at this."

Bill Cunningham, Montana representative for The Wilderness Society, said, "We recognize that mining was one of the many compromises needed in the 8½ years it took to pass the Wilderness Act. We feel under certain circumstances that mining done with minimum access and very strict reclamation standards can be compatible with wilderness."

"Our concerns don't just stem from the Wilderness Act," he said, "but for the physi-

cal land and wildlife in the area. We'd be concerned even if it wasn't wilderness."

Cunningham said the Wilderness Society has had no success in pressing the Forest Service to make an overall assessment of development in western Montana.

"I think it's essential that a regional environmental impact statement be made to look at the whole variety of major development occurring in the area," he said. "We can't continue to look at it piecemeal."

But Cunningham called the Fish and Wildlife Service's assumption that ASARCO drilling would not affect the grizzly population "a whitewash," claiming that input on occupied grizzly habitat and water quality problems "hasn't been adequately investigated."

Doug Scott, northwest representative for the Sierra Club, said the time is not ripe for the club's lawyers to intervene.

"At the proper moment in the application and approval process," he said, "we'll be ready on a moment's notice. Right now we're relying on the local folks." ●

PHYSICAL ACTIVITY AND HEALTH

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1979

● Mr. DANNEMEYER. Mr. Speaker, one of my constituents, Dr. Cliff Mattson, has forwarded to me a newsletter discussing participation in sports and the preparations necessary for safe and successful activity. The approach taken is a logical discussion aimed at preventing injury and insuring an enjoyable rather than painful experience. I am offering this for the consideration of my fellow Members because the advice offered has something for each of us no matter how strenuous our level of activity may be. The simple and practical nature of the advice offered here should prove helpful to all.

The newsletter follows:

NEWSLETTER

The training season for fall sports is upon us with students returning to school. We should start our preparation now to prevent and minimize sports injuries. Athletes should and must have plenty of fluids. . . . Preferrably natural fruit juice without sugar added. The choices in order of preference are orange, grapefruit, apple, grape and cranapple. Drinks to be avoided are gatorade, soft drinks, or lemonade made with beet or cane sugar. Instead use fructose (available in most health stores) as a sweetener. Increasing the fluid intake is true for all sports where the athlete perspires heavily.

Prevent foot blisters by having the athlete wear clean white socks for each practice and use a skin toughener such as an alcohol or vinegar rub down. On areas of high friction (heels/ankle bones) a layer of adhesive tape may be applied to the skin. The athlete should warm up for one week to recondition the muscles before trying to go "all-out" in his/her performance.

Open wounds should be cleaned with hydrogen peroxide, then a sterile dressing applied and several drops of D.A.G. applied to moisten the gauze. A healing ointment may be applied the next day or continue using the D.A.G. solution. It has been proven that open wounds heal faster when covered. On the third day a dry sterile dressing should be applied. The dressing will protect the wound from further injury. Strain, sprain and bruise injuries require an ice pack compress to reduce swelling and pain. Continue this treatment for 24–48 hours. Come into the office as soon after an accident as possible so that proper treatment can be accomplished before any swelling or permanent damage takes place.

THE ATHLETE

Americans are devoting more and more of their leisure time to health-building athletic activities. It is estimated there are 12 million golfers in this country. Tennis playing is experiencing similar popularity as are numerous other physical recreation such as racquetball, volley ball and soccer.

Weekend athletes experience injuries primarily from a single cause, failure to limber up before exercising. This applies equally to the motorcyclist or 4-wheeler who goes cross-country without preparing the body for the vicious jarring and jolting such activity produces upon the physical frame.

Most amateur players and riders are not aware of the effects hard knocks and shocks can have on the body. As your chiropractor allow me to warn you of the possible consequences of physical exertion without proper preparation.

First, strains and sprains result from turning twisting or stretching the body beyond the limits available to the individual joint. How many instances have you experienced of catching a ball with one finger and spent the remainder of the day watching this particular finger swell up enormously as a result of joint strain?

Many of the common type injuries received on the playing field can be avoided by taking time to stretch the torso, extremities and neck backward, forward and side to side. This increases your ability to achieve better coordination and to wind up farther to gain the full measure of hitting or throwing power needed to play your hardest.

One-sided sports, such as golf, are not "normal" in the physical sense. They demand an unusual one-sided supremacy. You hit a golf ball with the action of the left side of the body, otherwise your swing will produce an "overspin" causing a hook or slice. This continued left-side impact and shock can cause a shocking injury which will cause a mal-adjustment of low back or neck bones (vertebrae). To overcome this condition to play (regardless of the pain or aggravation) means professional athletes pay big dollars to have chiropractors go with them to keep them in shape.

THE FIRST TWO WEEKS AFTER AN ACCIDENT ARE CRITICAL

The best protection after an accident is to come to the office for an examination. Range of motion tests and neurological tests are given together with the necessary x-rays taken to rule out possible factures. Treatment and relief can begin right away. Our healing methods are known to be effective in muscle, nerve, and joint problems. Remember that chiropractic doesn't cost it pays. Waiting one or two years before getting relief is more costly than seeking help immediately.●

INCREASED FEDERAL SPENDING—NOT AGAIN

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, this House spends much of its time discussing reductions in Federal spending, even more of its time actually increasing Federal spending. Let me give an example of this.

The National Economic Development and Public Works Act of 1979, H.R. 2063, will change the Economic Development Administration (EDA) from its emphasis on providing assistance in economically distressed areas to administering programs in practically every area of our Nation. This may be correct. After paying for new Federal programs and an increased Federal budget, our entire country may well be considered as "economically distressed."

This bill disturbs me for several reasons. First, H.R. 2063 will provide for a nationwide system of Regional Development Commissions across the country. These Regional Commissions will become a new layer of Federal bureaucracy. At a time when citizens are fed up with the increasing redtape and paperwork emanating from Washington, consideration of a bill to increase bureaucracy is unwise. Expanding the role of the Regional Commissions will jeopardize the sovereignity of State and local governments, forcing them to become accountable to regional bureaucrats, as well as Washington bureaucrats, instead of to their citizens. No wonder there is a crisis of confidence in our Nation today.

Incidentally, the cost of covering the entire country with Regional Commissions will contribute to the predicted 158 percent increase in the cost of fiscal year 1980 EDA public works programs over the 1979 price tag for those same programs.

Second, H.R. 2063 creates a development finance program which consolidates various Federal loan and loan guarantee plans currently offered to businesses in economically distressed areas. With this consolidation would come an increase of 429 percent in the total amount of loan guarantees over fiscal year 1979 levels and increase direct loan amounts by 87 percent. Further, $350 million in interest subsidies would be initially authorized for fiscal year 1980. Here again, at a time when the American public is looking to Washington to cut back its huge budget, we see Washington abandoning the diet before it ever starts. An interesting fact to note about these proposed increased expenditures is that they do not make distressed areas significantly more attractive to businesses. Many of these funds would be made without Government financing, while another part of these funds would be applied to projects that are not economically viable. This outlines an area where Washington can start its budgetary diet without depriving the country.

Third, this proposed legislation would establish a standby local public works program to be put into effect when the Nation's unemployment rate reaches 6.5 percent. Here is an additional $2 billion to be spent on public works projects. In effect, this is an incentive to allow unemployment to increase to qualify for the funds, not a program to prevent unemployment. I see a problem here. Washington provides a supposed cure for the ill, yet, does not take any action to prevent the ill when it could. Prevention is the best cure for our Nation's economic ills, not increased Government cures.

Before we expand another Federal program, we must remember the example of another job creation program, CETA. In 1977, the CETA program was rapidly expanded to serve as an antirecession device. According to Isabel Sawhill, Director of the National Commission for Manpower Policy, "having to grow that rapidly gave way to a lot of the current fraud and abuse" now present in the CETA program. A Washington Post article examining the rapid expansion of CETA assessed the problem: "Localities were forced to expand their programs so rapidly that the effort blew apart." In heeding this example, we might be able to begin our budgetary diet by avoiding the creation of a $7.5 billion disaster.●

DECREASED MILITARY CAPABILITY THREATENS UNITED STATES

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1979

● Mr. SPENCE. Mr. Speaker, I am deeply concerned about the ability of the United States to meet its military needs, especially in terms of our future naval requirements; 152 of our colleagues and I have written the President to urge him to display the leadership which the Nation is demanding, and to present a 1981 budget which reflects the importance of a strong shipbuilding program to the future defense capabilities of the United States.

The American people are becoming increasingly concerned about the threat to the freedom and well-being of our Nation due to a lack of the will and resolve that we formerly possessed. Our decreased military capability is a direct reflection of this change in attitude.

The United States must pay the tangible cost of strengthening its Navy or it will pay the intangible cost of losing the geopolitical influence necessary to safeguard American interests. The best way to invite a war, and possibly the loss of all these freedoms that we have, is to appear weak militarily and weak in resolve. We have given good indications of both in the recent past. The best way to prevent a war is to be so strong that no one will be misled into some adventuresome course against us.

I ask that the complete text of this letter to the President be reprinted at this point in the RECORD, along with a list of the 152 Members who joined with me as cosigners.

OCTOBER 12, 1979.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We of the Congress are deeply concerned about the threat to the freedom and well-being of our nation. We feel that the taproot cause of America's major ills today is a lack of the will and resolve that we formerly possessed as a nation. This is reflected in our decline as a military power.

This military decline results in a growing inability to protect our legitimate interests around the world and to influence world events that have a direct and indirect effect on our domestic economic problems: energy shortages, inflation, unemployment, and reduced productivity.

Mr. President, this is the perception of millions of heartland Americans and it is shared by many of their elected representatives in Congress. It is the perception of many others in this world, friend and foe alike. This perception is based on many examples of indecisive action on our part.

Mr. President, the American people are frustrated with our national image. We don't appear to have the will to prevent any aggressor—big or small—from taking advantage of us. Our allies are beginning to sense that "You better not choose sides with the United States; they'll run off and leave you."

Americans saw that we were not allowed to chase the aggressors back across the Yalu River in the Korean war, not allowed to bomb the bases from whence they came. They saw that we allowed an American Navy ship—the USS Pueblo—to be seized on the high seas without punishing those responsible. They saw 50,000 American men killed and billions of dollars worth of equipment left in Vietnam. They remember the pathetic sight of people grabbing for the last helicopter leaving our Embassy in Saigon. Most Americans know we didn't lose that war: Our civilian leadership just wouldn't allow our military to win.

They saw our Embassy in Iran stormed and our Marines not allowed to defend it—or themselves. Americans saw our oil supply endangered while they endured gas lines. At the same time, Americans do not see these things happening to the Soviet Union, because of the fear of reprisal.

Mr. President, we believe that Americans are in favor of an increase in defense spending to strengthen our Armed Forces. We are confident that they will support any effort to achieve this goal.

The condition of our Navy needs priority attention. We are an island nation. Our interdependencies are global. We, unlike the Soviets, are very much dependent on maritime trade. Yet in a few short years, the Soviets have built a formidable Navy. There can be only one reason for building such an impressive sea force—to deny use of the sea to others when such denial is in the Soviet national interest. The trends are even more alarming. They are embarked on a massive shipbuilding program at great cost.

Meanwhile our Navy has slipped to a force level of 455 ships, the lowest since pre-World War II. A great number of our ships are not capable of operating in high threat areas, having been designed for escort missions only, while newer, faster Soviet ships bristle with weaponry.

The kind of Navy America needs is quite different from that of our allies. Our Navy has to be a blue-water Navy, able to fight and sustain itself far from U.S. shores. Our allies count on us to complement their navies. They count on us to supplement their forces. Therefore, of necessity, U.S. ships become the nucleus of allied task forces.

Just to maintain our Navy at its current level until the year 2000 would require that we build about 400 ships at a cost of about seven to eight billion dollars per year for ship construction. To bring our Navy to the level of acceptable risk we need to build about 25 to 30 ships a year. The Chief of Naval Operations has said he needs about six hundred ships—of the right kind—to assure control of the seas. Control of the seas and naval projection of power ashore are inseparable. We need more ships, and more quality ships, and we need them fast. By building them in numbers that are actually needed, rather than in the numbers that are politically expedient, we will realize a lower unit cost.

We also need to build nuclear attack submarines at a faster rate to maintain our anti-submarine warfare edge since we will be facing block obsolescence in a few years. We need to build more tactical aircraft. Presently we are not even replacing the aircraft lost by accidents. We need land and sea attack cruise missiles. We need offensively capable surface action groups (SAGs) for areas where we don't have enough aircraft carriers. These SAGs must be capable of getting through heavy threat areas and choke points. This means that Aegis-type air defense systems must be added to the Fleet in numbers at the earliest possible time.

We understand that we cannot do all these things overnight. It takes five to seven years to build a modern sophisticated warship, even with a healthy shipyard industry. Our current shipyard industry has been weakened because of the lack of a sufficient shipbuilding program.

This will cost money, Mr. President, and a lot of it. But we shouldn't ask "Can we afford it?" In our judgment, and that of the American people, we can't afford not to. The United States must pay the tangible cost of strengthening its Navy or it will pay the intangible cost of losing the geopolitical influence necessary to safeguard American interests.

Our forebears believe that the primary reason for a central government was to protect the people and the states who, individually, could not protect themselves. Article I of the Constitution charges the Congress with providing and maintaining a Navy. To build a proper Navy will require the strong support of the Commander-in-Chief, as well as that of the Congress. We implore you, Mr. President, to display the leadership necessary and to present a 1981 budget and shipbuilding plan that will provide future generations with a much stronger Navy. We pledge our best efforts to you if you undertake this task.

The best way to invite a war, and possibly the loss of all these freedoms that we have, is to appear weak militarily and weak in resolve. We have given good indications of both in the recent past. The best way to prevent a war is to be so strong that no one will be misled into some adventuresome course against us.

Sincerely,

COSIGNERS OF LETTER TO THE PRESIDENT

Sam Stratton, Democrat of New York.
G. V. Montgomery, Democrat of Mississippi.
Sam B. Hall, Jr., Democrat of Texas.
Bob Wilson, Republican of California.
Robert W. Daniel, Jr., Republican of Virginia.
Daniel E. Lungren, Republican of California.
Bob Walker, Republican of Pennsylvania.
Charles F. Dougherty, Republican of Pennsylvania.
Dan Daniel, Democrat of Virginia.
Pete McCloskey, Republican of California.
Gene Snyder, Republican of Kentucky.
Robert K. Dornan, Republican of California.
Richard T. Schulze, Republican of Pennsylvania.
William L. Dickinson, Republican of Alabama.
Bob Livingston, Republican of Louisiana.
Dawson Mathis, Democrat of Georgia.
Bill Nichols, Democrat of Alabama.
Tom Loeffler, Republican of Texas.
Charles E. Bennett, Democrat of Florida.
Bill Wampler, Republican of Virginia.
Tom Coleman, Republican of Missouri.
David Satterfield, Democrat of Virginia.
Harold Runnels, Democrat of New Mexico.
Larry D. Hopkins, Republican of Kentucky.
Henry J. Hyde, Republican of Illinois.
Jim Martin, Republican of North Carolina.
Carroll Campbell, Republican of South Carolina.
Bill Young, Republican of Florida.
William Broomfield, Republican of Michigan
John J. Duncan, Republican of Tennessee.

Mickey Edwards, Republican of Oklahoma.
Bill Goodling, Republican of Pennsylvania.
John Paul Hammerschmidt, Republican of Arkansas.
Don Bailey, Democrat of Pennsylvania.
John P. Murtha, Democrat of Pennsylvania.
Joe Wyatt, Jr., Democrat of Texas.
Bill Archer, Republican of Texas.
Richard Kelly, Republican of Florida.
Bill Clinger, Republican of Pennsylvania.
James T. (Jim) Broyhill, Republican of North Carolina.
Louis A. Bafalis, Republican of Florida.
Billy L. Evans, Democrat of Georgia.
Wes Watkins, Democrat of Oklahoma.
Bill Hefner, Democrat of North Carolina.
Bob Ginn, Democrat of Georgia.
Toby Roth, Republican of Wisconsin.
Floyd Spence, Republican of South Carolina.
Larry McDonald, Democrat of Georgia.
Marjorie S. Holt, Republican of Maryland.
Paul Trible, Republican of Virginia.
Robert E. Badham, Republican of California.
Trent Lott, Republican of Mississippi.
Carlos J. Moorhead, Republican of California.
Donald J. Mitchell, Republican of New York.
John H. Rousselot, Republican of California.
Bob Bauman, Republican of Maryland.
Bob Michel, Republican of Illinois.
Eldon Rudd, Republican of Arizona.
John Myers, Republican of Indiana.
George Hansen, Republican of Idaho.
Robert J. Lagomarsino, Republican of California.
F. James Sensenbrenner, Jr., Republican of Wisconsin.
John M. Ashbrook, Republican of Ohio.
Bob Stump, Democrat of Arizona.
J. K. Robinson, Republican of Virginia.
John W. Jenrette, Democrat of South Carolina.
William E. Dannemeyer, Republican of California.
John Slack, Democrat of West Virginia.
Clair W. Burgener, Republican of California.
Gerald B. Solomon, Republican of New York.
Harold Sawyer, Republican of Michigan.
Don Young, Republican of Alaska.
Mario Biaggi, Democrat of New York.
Wayne Grisham, Republican of California.
Jim Jeffries, Republican of Kansas.
Gene Taylor, Republican of Missouri.
Tom Hagedorn, Republican of Minnesota.
Robert H. Mollohan, Democrat of West Virginia.
Eugene Atkinson, Democrat of Pennsylvania.
Ron Paul, Republican of Texas.
Richard H. Ichord, Democrat of Missouri.
W. Henson Moore, Republican of Louisiana.
Carroll Hubbard, Democrat of Kentucky.
Tom Evans, Republican of Delaware.
Edward Madigan, Republican of Illinois.
Walter B. Jones, Democrat of North Carolina.
Ike Andrews, Democrat of North Carolina.
Glenn English, Democrat of Oklahoma.
Jerry Lewis, Republican of California.
Ben A. Gilman, Republican of New York.
Ed Bethune, Republican of Arkansas.
Chuck Grassley, Republican of Iowa.
Don Clausen, Republican of California.
Gary A. Lee, Republican of New York.
Clarence Miller, Republican of Ohio.
Dave Stockman, Republican of Michigan.
Jon Hinson, Republican of Mississippi.
Delbert Latta, Republican of Ohio.
Daniel B. Crane, Republican of Illinois.
John J. Rhodes, Republican of Arizona.
Mendel J. Davis, Democrat of South Carolina.
Manuel Lujan, Jr., Republican of New Mexico.
Tim Lee Carter, Republican of Kentucky.
James H. Quillen, Republican of Tennessee.
James Abdnor, Republican of South Dakota.
Keith G. Sebelius, Republican of Kansas.
Newt Gingrich, Republican of Georgia.
Doug Barnard, Democrat of Georgia.
Bill Frenzel, Republican of Minnesota.
Bill Whitehurst, Republican of Virginia.
M. Caldwell Butler, Republican of Virginia.
Robert W. Davis, Republican of Michigan.
Thomas N. Kindness, Republican of Ohio.
Ike Skelton, Democrat of Missouri.
Doug Bereuter, Republican of Nebraska.
James C. Cleveland, Republican of New Hampshire.
Ken Holland, Democrat of South Carolina.
Marilyn L. Bouquard, Democrat of Tennessee.
Virginia Smith, Republican of Nebraska.
Jim Lloyd, Democrat of California.
Kent Hance, Democrat of Texas.
Marvin Leath, Democrat of Texas.
Bob Whittaker, Republican of Kansas.
Joel Deckard, Republican of Indiana.
Ken Kramer, Republican of Colorado.
Tom Corcoran, Republican of Illinois.
Charlie Stenholm, Democrat of Texas.
L. H. Fountain, Democrat of North Carolina.
Doug Applegate, Democrat of Ohio.
Bill Chappell, Democrat of Florida.
James M. Collins, Republican of Texas.
Dick Cheney, Republican of Wyoming.
Bud Shuster, Republican of Pennsylvania.
Ed Derwinski, Republican of Illinois.
Robin Beard, Republican of Tennessee.
Sam Devine, Republican of Ohio.
Steve Symms, Republican of Idaho.
William M. Thomas, Republican of California.
Guy Vander Jagt, Republican of Michigan.
Philip M. Crane, Republican of Illinois.
Bud Hillis, Republican of Indiana.
Jack Kemp, Republican of New York.
Ariand Stangeland, Republican of Minnesota.
Barry Goldwater, Jr., Republican of California.
Dan Marriott, Republican of Utah.
Norman D. Shumway, Republican of California.
Tennyson Guyer, Republican of Ohio.
William H. Harsha, Republican of Ohio.
John Wydler, Republican of New York.
Jim Courter, Republican of New Jersey.
Dan Quayle, Republican of Indiana.
Dave Treen, Republican of Louisiana.
Clarence Brown, Republican of Ohio.●

QUESTIONS ABOUT EPA'S FUGITIVE DUST POLICY STATEMENT

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1979

● Mr. GRASSLEY. Mr. Speaker, I would like to draw your attention and the attention of my colleagues to the letters I have sent to Mr. Douglas Costle, administrator of the U.S. Environmental Protection Agency. The letter deals with his Agency's attempts to require that dust from Iowa's farms and farm-to-market roads be considered a pollutant which must be cleaned up. It must be cleaned up, say the policymakers and regulation writers of that Agency, not because it is damaging to Iowans' health. They agree it is not in the situation we are talking about. It must be cleaned up, they say, in order to protect Iowans' "public welfare," whatever that means. I am told that primarily that means visibility—being able to see better in Iowa. We think we see pretty well in Iowa right now.

After having reviewed the EPA's policy concerning farm dust and rural road dust—which EPA officials call "rural fugitive dust"—I am convinced that we in Iowa have better, less esoteric notions of how to protect our "public welfare" than the policymakers in EPA. We know what our "public welfare" is a lot better than someone downtown here in Washington or someone in Kansas City.

I have reviewed EPA's policy and, as I stated, I have sent a letter to Mr. Costle asking him about it. I would like to request that a copy of my letter, along with a copy of the EPA's fugitive dust policy, be placed in the RECORD at this point.

The articles follow:

CONGRESS OF THE UNITED STATES,
Washington, D.C., October 12, 1979.

Mr. DOUGLAS COSTLE,
Environmental Protection Agency,
Washington, D.C.

DEAR MR. COSTLE: In my August 2, 1979 letter to you, I posed many questions which have remained unanswered despite our August 31, 1979 conference with Region VII officials. If you could please respond by return mail to the inquiries enclosed without referencing me to another document or future conference, I would greatly appreciate it.

I am deeply concerned about the impact which your agency's policy for dealing with rural fugitive dust will have on industrial development in Iowa and in my congressional district in particular. A number of extremely important cities in Iowa currently meet or will soon meet the primary ambient air quality standard for particulates. As you know, that standard is designed to protect public health with a margin of safety. These cities meet this standard even when concentrations of rural fugitive dust are fully taken into account. However, these cities do not, and will not in the foreseeable future, meet the secondary ambient air quality standard for particulates with rural fugitive dust is taken into account.

As you know, your agency is proposing that the State of Iowa require industries interested in locating or expanding in these areas to obtain offsets in order to do so. In most, if not all, cases these urban areas are only lightly industrialized. In the few cases where they are not, the industries are usually already using the best available environmental technology. The great majority of particulates in these areas result, not from industrial sources, but from public sources (which Iowa has already indicated will be reduced by local governments by 50 percent by 1982), from worldwide natural background, and from the windblown dust from farm fields and rural roads. These sources are not susceptible to significant additional controls. Therefore, if new industrial facilities of any size are contemplated, offsets are not likely to be available. I am disturbed at this result and cannot believe it was intended by the Congress.

I have reviewed your agency's policy (attached) on fugitive dust and have several questions which I would like to request that you answer at your earliest convenience:

1. Concerning urban fugitive dust areas which would comply with primary standards for particulates but would not comply with secondary standards for particulates after rural fugitive dust has been taken into account:

(a) Does your rural fugitive dust policy anticipate control of fugitive dust coming from rural sources as well as public and industrial sources, when the latter are already controlled to the maximum extent?

(b) When existing industrial offsets are not available and public sources are controlled to the maximum extent possible, what measures do you anticipate should be taken to control rural fugitive dust blowing into these towns from farm fields and roads? Do you anticipate taking farm land out of production, changes in tillage practices or treatment of farm to market roads? If so, who will pay for such measures? What studies have been made to date to determine the costs of such measures? What additional studies are anticipated?

2. Your policy statement speaks of "contamination by industrial pollutants" which are "suspect in their health affects" (page 2), the "toxic fraction of fugitive dust" (page 4), "potentially harmful and potent ingredients" (page 5), "population at risk" (page 5) and so on. These expressions appear to relate to the primary standard, rather than the secondary standard. I have been advised that the secondary standard primarily protects visibility. Yet, from a visibility standpoint, particulates would affect all areas of the state equally, not just cities over a particular size.

Please list in detail the specific ways in which the "public welfare" is adversely affected by including rural fugitive dust concentrations when determining when secondary particulate standards have been violated. To what extent are economic factors considered in determining how the public welfare is affected by fugitive dust?

3. Your fugitive dust policy is applied differently in eastern cities of 100,000 to 200,000 than in western cities of 25,000 to 50,000. Why is that so? Where is the division between the "east" and "west"? How was that determined?

4. Is the EPA in the process of revising or studying the possibility of revising the primary or secondary standards for particulates? If so, how might this affect the rural fugitive dust question? Do you have a timetable for making such revisions?

5. On pages 2 and 8 or your policy statement (attachment No. 1), you suggest that state rural fugitive dust control programs will require time to develop, coordinate, and implement; that initial demonstration projects may be appropriate; and that implementation programs could require several years to implement. In light of this relatively slow timetable, why are you already requiring immediate offsets from rural fugitive dust sources in areas where industrial and public source offsets are not available?

I would like to reiterate my deep concern about the economic impact of this policy in the State of Iowa. May I hear from you in the near future?

Very truly yours,
CHARLES E. GRASSLEY,
Member of Congress.●

CONSTRUCTION FRUSTRATIONS CAUSED BY DAVIS-BACON

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1979

● Mr. HAGEDORN. Mr. Speaker, I have spoken many times in this Chamber about the extraordinary waste that is caused by the administration of the Davis-Bacon Act in the hope that my colleagues would see fit to protect the victims of its waste, the American taxpayers. On previous occasions, I have submitted to the House examples of the costly effects of Davis-Bacon that have been brought to my attention in correspondence from around the Nation.

Today, I am submitting for the RECORD a glaring example of Davis-Bacon waste and inflation which appeared in the August 27 issue of Business Week magazine. In this startling account, Mr. W. F. Numrich, a West Virginia resident who operates a construction company in Ohio, discussed the extreme subjectivity of Davis-Bacon decisionmaking on the part of Government officials. This particular instance of waste and Government over-regulation has prompted Mr. Numrich to take this case to Federal court to try to get something done about these work rules.

Individual citizens such as Mr. Numrich are to be commended for their willingness to fight for what is right. Many of my colleagues have joined me in legislative efforts to get something done about Davis-Bacon. These judicial and legislative efforts will continue until we rid our economy of this act which wastes millions of dollars while benefiting only a few. It is my hope that consideration of the many Davis-Bacon accounts of frustration and waste which have been brought to the attention of this House will convince my colleagues of the desperate need to make changes in this act and the manner in which it is administered.

THE FRUSTRATIONS OF BUILDING FOR HUD

(By W. F. Numrich)

Construction is my livelihood. I am an engineer by training. I have been president of my own construction company for 10 years.

Under what is known as the 236 program of the Housing & Urban Development Dept.—a program that subsidizes mortgage interest for middle-income families—I built Pinewood Village in Parkersburg, W. Va. Pinewood Village consists of 125 apartments, from one to four bedrooms, and it was completed in 1975 after 18 months of construction.

The Pinewood Village story begins early in 1972, when HUD authorized by West Virginia Housing Development Fund (WVHDF) to hold a competition to see who would be authorized to build this project. The fund selected a panel of three judges. Five developers submitted proposals. Our proposal received every vote. Of course, I was elated. I had never built a housing project before.

My elation was short-lived. My proposal had been submitted on June 1, 1972. I had proposed that construction be started in September, 1972. When HUD accepted my proposal, its officials informed me that my starting date was a bit optimistic. They felt it would take until November, 1972, to process my application.

The director of the West Virginia Housing Development Fund said: "Walt, consider yourself lucky that they agreed to a November starting date. No other proposal has ever been processed in twice that time."

Well, this one was not processed in twice the estimated time, either. November, 1972? It took the agency until November, 1973, to process my proposal.

DEPRESSION HOLDOVER

Meanwhile, I was reminded that a Davis-Bacon minimum wage-rate determination must be made for all federally funded construction projects. The Davis-Bacon Act was passed in 1931, during the Depression, when unemployment was in the range of 25 percent to 30 percent and the building trades unions were suffering. Their unemployment rate was higher than the average, and they were affiliated with the AFL, which had lots of political influence. They got Congress to adopt the principle that any federally funded project must pay "prevailing wages." The Davis-Bacon section of the U.S. Labor Dept. determines what the prevailing wages are. In other words, it sets the minimum wages to be paid on each project.

Parkersburg, in the mid-Ohio Valley, is highly industrialized, and the building trades unions are strong. (In my opinion, they also have excellent craftsmen.) Housing in West Virginia, however, is traditionally built with nonunion labor. Union rates are double those of nonunion labor. On federally funded projects using union construction labor, the Davis-Bacon minimum wage determination can be perfunctory: The union rate is frequently used. But in the Pinewood Village project, the Davis-Bacon section had to make a field survey to determine the minimum wage rate by finding out what workers on nonunion construction projects in the area were getting.

SETTING THE MINIMUMS

The person making a field survey goes around to construction projects in the area and talks to the workers building houses or apartments. He establishes their crafts—carpenter, plumber, sheet-metal worker, electrician, and so on. He finds out what they are being paid. When he feels that his survey is ample, he determines the minimum wage from the data he has assembled. If 30 percent or more of the workers in a craft are being paid the same rate, this becomes the minimum wage. If no rate scores as much as 30 percent, the average is used. Since nonunion housebuilders pay their craftsmen according to ability, the 30 percent rule is rarely invoked. The average usually prevails.

The method is fine if the person making the field survey is objective. If he is not, he can make the figures come out to suit him. If he wants a high rate, he can tear up his low samples.

The first Davis-Bacon wage-rate determination for Pinewood Village was issued on July 26, 1973. It was an objective survey. It closely correlated with a private survey made for me by a labor consultant.

On Oct. 2, 1973, a new wage-rate determination was issued by Davis-Bacon. I made some rapid calculations. My costs would be increased by roughly $80,000. I called the head of the Davis-Bacon section area headquarters in Pittsburgh.

"What the hell is going on?"

"Someone from the Parkersburg Building Council called and asked for a new determination."

Building trades councils are local organizations consisting of one representative from each of the construction unions. Although union wages have nothing to do with the Pinewood Village project, the government had put through an increase in my minimum wages because the unions asked for it.

AVOIDING A DELAY

I called the director of the West Virginia Housing Development Fund and told him that I wanted to submit for an increase in the cost of building Pinewood Village. He said: "Two things, Walt. You have already been delayed a year. This will cause a further delay. Besides that, your project is going to be the best in all West Virginia. The quality you are building into this project we like, but it is approaching the top limit established by HUD. The $80,000 additional may throw it over and get the project declared 'unfeasible.'" His advice was: "Go through

with the project and then submit a change order asking for an increase after the job is completed and you can precisely establish how much this is costing you. WVHDF will recommend that the change order be approved."

I respected the director, and I bought his argument. "Unfeasible" means that a project will not be approved by HUD and therefore will never be built, and I didn't want to take a chance that that would happen. Initial closing documents were signed on Nov. 15, 1973. We started construction the next day.

One thing that the Davis-Bacon wage determination had done was eliminate all helpers' rates for the major trades—carpenter, sheet metal, and so on. On Dec. 2, I requested that the HUD office in Charleston have Davis-Bacon establish helpers' rates for all crafts. Housebuilders use as many helpers as they do craftsmen. My letter was never answered. By the grapevine, I heard that HUD had called Davis-Bacon and had been told to ditch my request because the AFL-CIO didn't want any helpers' rates.

A WORKER'S WINDFALL

About halfway through the project, the government made a field survey and found a helper carrying a piece of sheet metal. He was listed on the payroll as a laborer. The government issued an order that this man must be paid retroactively the full difference between sheet metal and laborer scale. According to the government, if a man carried a piece of sheet metal, that was adequate proof that he was a qualified sheet-metal worker. The man received a windfall check for $2,500. But, of course, we had to lay him off because he was not qualified as a sheet-metal worker.

When Pinewood Village was substantially completed, I documented the increase in labor costs due to the second Davis-Bacon wage-rate determination and submitted a request for a change order. HUD denied it but said: "You can submit it again if you wish."

After construction was totally completed, I submitted the request again. I felt that, by trying a second time, I could get it reviewed at a higher level of HUD than the Charleston office, which had turned down the first request.

The second request was denied. I asked who reviewed it, and they told me: "The same people who reviewed your first request." If I had known that, I wouldn't have wasted my time. The same people would have to admit that they made a mistake the first time if they approved it the second time. What kind of review is that? They say, "That's the way we operate."

I believe this story only because it happened to me. If you don't believe it, I don't blame you.●

PERSONAL EXPLANATION

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1979

● Mr. FORSYTHE. Mr. Speaker, over the summer it was necessary for me to be absent from Washington because I was recovering from surgery. I regret that I could not be here to cast my votes. However, on September 27, and October 12, 1979, I published an explanation of how I would have voted had I been present. I would like to complete that explanation today:

Rollcall No. 380. H.R. 3996. Amtrak Reorganization Act of 1979. Passage of the bill to authorize $1,115,000,000 for fiscal 1980, $940.5 million for fiscal year 1981, and $958.5 million for fiscal 1982, and to set formulas for retaining some trains scheduled for elimination under the Carter administration's plan. July 25, 1979. I would have voted "no."

Rollcall No. 381. S. 1030. Emergency energy conservation. Adoption of the rule providing for House floor consideration of the bill to authorize the President to impose conservation measures in the event of a national energy shortage. July 25, 1979. I would have voted "no."

Rollcall No. 382. S. 1030. Emergency energy conservation. Ottinger amendment to permit gasoline rationing when there is a 15-percent shortage—instead of a 20-percent shortage—in petroleum supplies for 30 days. July 25, 1979. I would have voted "no."

Rollcall No. 383. S. 1030. Emergency energy conservation. Broyhill amendment to require the President to submit a standby gasoline rationing plan to Congress within 180 days of enactment and then giving Congress 60 days to approve the plan. July 25, 1979. I would have voted "yes."

Rollcall No. 384. S. 1030. Emergency energy conservation. Gilman amendment to give either House of Congress 30 days to veto a standby gasoline rationing plan submitted by the President. July 25, 1979. I would have voted "yes."

Rollcall No. 385. S. 1030. Emergency energy conservation. Dingell motion that the Committee of the Whole rise. July 25, 1979. I would have voted "no."

Rollcall No. 387. H.R. 3920. Unemployment Compensation Commission. Stark amendment to delete language extending through January 1, 1982, the exemption to employers from paying Federal unemployment insurance tax for certain temporary alien farmworkers. July 25, 1979. I would have voted "no."

Rollcall No. 388. House Resolution 317. Romanian emigration. Adoption of the resolution to disapprove—thus revoking trade benefits—the President's request to extend for 12 months a waiver of the freedom of emigration provisions of the 1974 Trade Act with respect to Romania. July 25, 1979. I would have voted "no."

Rollcall No. 389. H.R. 3000. Energy Department—civilian programs. Adoption of the rule providing for floor consideration of the bill to authorize $6.9 billion in fiscal 1980 for civilian programs of the Energy Department. July 26, 1979. I would have voted "no."

Rollcall No. 390. H.R. 3000. Energy Department—civilian programs. Fuqua amendment to allow for termination of the Clinch River, Tenn., fast breeder reactor and to authorize $107 million to carry out a study and design for an alternative breeder reactor. July 26, 1979. I would have voted "no."

Rollcall No. 392. H.R. 2462. Maritime authorization. McCloskey amendment to reduce the construction differential subsidy authorization to $32 million from the $101 million contained in the bill. July 27, 1979. I would have voted "yes."

Rollcall No. 393. H.R. 2462. Maritime authorization. McCloskey amendment to prohibit the use of construction differential subsidies for vessels manned by crews that numbered greater than 50 percent of the minimum, which was determined by the Coast Guard to be necessary for safe operation. July 27, 1979. I would have voted "yes."

Rollcall No. 395. H.R. 3633. Nurse training. Dannemeyer amendment to reduce fiscal 1980 authorizations for special projects and nurse practitioner training and eliminate other authorizations for nursing school grants, loans, construction aid and financial aid for students. July 27, 1979. I would have voted "no."

Rollcall No. 396. H.R. 3633. Nurse training. Passage of the bill to extend through fiscal 1980 authorization for capitation, construction, and other types of grants to nurse training schools, and loans and other financial aid for nursing students, for a 1-year total of $103 million. July 27, 1979. I would have voted "yes."

Rollcall No. 398. H.R. 3509. Safe drinking water amendments. Waxman motion to suspend the rules and pass the bill to authorize $236.6 million and extend from fiscal 1980 to 1982 the provisions of the 1974 Safe Drinking Water Act. July 30, 1979. I would have voted "yes."

Rollcall No. 399. House Resolution 391. Diggs expulsion. Brademas motion to table the resolution calling for the expulsion of Representative CHARLES C. DIGGS, JR., from the House of Representatives, July 30, 1979. I would have voted "no."

Rollcall No. 400. H.R. 111. Panama Canal Treaties implementation. Bauman amendment to instruct House conferees to the House-Senate conference committee on the bill to insist on certain House provisions of the legislation to implement the 1978 Panama Canal treaties. July 30, 1979. I would have voted "yes."

Rollcall No. 40. House Concurrent Resolution 168. Congressional adjournment. Adoption of the concurrent resolution to provide for a House recess from August 2 to September 5, 1979, and a Senate recess from August 3 to September 5, 1979. July 30, 1979. I would have voted "yes."

Rollcall No. 402. H.R. 4930. Interior appropriations, fiscal 1980. Passage of the bill to appropriate $10,230,003,000 for fiscal 1980 for the Interior Department, the Energy Department and related agencies. July 30, 1979. I would have voted "yes."

Rollcall No. 403. Procedural motion. Sensenbrenner motion to approve the House Journal of Monday, July 30, 1979.

Rollcall No. 404. House Resolution 378. Diggs censure. Adoption of the resolution to censure Representative CHARLES C. DIGGS, JR. to order DIGGS to repay the Treasury $40,031.60 and to require DIGGS' employees to certify to the House Committee on Standards of Official Conduct for the remainder of the 96th Congress that they are being paid by DIGGS in full compliance with House rules. July 31, 1979. I would have voted "yes."

Rollcall No. 405. House Concurrent Resolution 80. Martin Luther King Jr. Statue. Nedzi motion to suspend the rules and pass the bill to authorize $25,000 from House contingent funds for a statue of Martin Luther King Jr. to be placed in the Capitol building. July 31, 1979. I would have voted "yes."

Rollcall No. 406. S. 391. Speedy Trial Act amendments. Gudger motion to suspend the rules and pass the bill to delay until July 1, 1980, from July 1, 1979, the effective date of the 1974 Speedy Trial Act dismissal sanctions. July 31, 1979. I would have voted "yes."

Rollcall No. 408. S. 1030. Emergency energy conservation. Stockman amendment to provide for a one-House veto over a standby gasoline rationing plan proposed by the president, but deleting the provision for a one-House veto of implementation of rationing. July 31, 1979. I would have voted "yes."

Rollcall No. 409. S. 1030. Emergency energy conservation. Wright amendment to delete the requirement of the previously adopted Gilman amendment that either House could veto a proposed standby plan. July 31, 1979. I would have voted "no."

Rollcall No. 410. S. 1030. Emergency energy conservation. Marks amendment to delete the requirement that a 20 percent shortage of petroleum exist before gasoline rationing could be imposed. July 31, 1979. I would have voted "no."

Rollcall No. 412. S. 1030. Emergency energy conservation. Kramer amendment to provide that the president's rationing and conservation powers be valid until September 30, 1980, instead of until September 31, 1981. July 31, 1979. I would have voted "yes."

Rollcall No. 413. S. 1030. Emergency energy conservation. Wylie amendment to require an exemption from restrictions on the heating and cooling of buildings for a building operator who achieved an equivalent reduction in energy consumption by means other than controlling thermostats. July 31, 1979. I would have voted "yes."

Rollcall No. 414. S. 1030. Emergency energy conservation. Dingell motion that the House resolve itself into the Committee of the Whole for further consideration of the bill. August 1, 1979. I would have voted "yes."

Rollcall No. 415. S. 1030. Emergency energy conservation. Hughes amendment to the Rinaldo amendment to delete language in the bill suggesting that the President adopt as a standby conservation measure a plan that requires a car owner not to drive one day of the week, with the nondriving day selected by the car owner. August 1, 1979. I would have have voted "yes."

Rollcall No. 416. S. 1030. Emergency energy conservation. Moffett substitute amendment, to the Rinaldo amendment, to restore the language suggesting a nondriving day as a conservation measure, with the requirement that Governors be consulted as to the special needs of rural areas. August 1, 1979. I would have voted "no."

Rollcall No. 417. S. 1030. Emergency energy conservation. Stockman amendment to prohibit a Federal conservation plan from restricting the operating hours of a business. August 1, 1979. I would have voted "yes."

Rollcall No. 418. S. 1030. Emergency energy conservation. Loeffler amendment to prohibit a Federal conservation plan from regulating the operating of any energy production, exploration, processing, or transportation facility unless the facility were first given a chance to save energy through other measures. August 1, 1979. I would have voted "yes."

Rollcall No. 419. S. 1030. Emergency energy conservation. Brown amendment to exempt health care facilities from Federal conservation measures. August 1, 1979. I would have voted "yes."

Rollcall No. 420. S. 1030. Emergency energy conservation. Dingell motion to end debate on section 3 of the bill at 3:45 p.m. August 1, 1979. I would have voted "no."

Rollcall No. 421. S. 1030. Emergency energy conservation. Tauke amendment to require that the President, upon finding a supply shortage, set aside middle distillate oil in order to provide supplies for agricultural production. August 1, 1979. I would have voted "yes."

Rollcall No. 422. S. 1030. Emergency energy conservation. Moffett amendment to require that the President, upon finding a supply shortage, set aside heating oil in order to provide supplies to homeowners. August 1, 1979. I would have voted "no."

Rollcall No. 423. S. 1030. Emergency energy conservation. Gilman motion to recommit the bill to committee with instructions to reinsert language providing for a one-House veto of a standby rationing plan. August 1, 1979. I would have voted "yes."

Rollcall No. 424. S. 1030. Emergency energy conservation. Passage of the bill to authorize the President, with the consent of Congress, to require rationing of gasoline during a 20 percent oil shortage and to impose conservation measures on uncooperative States during a 10 percent oil shortage. August 1, 1979. I would have voted "no."

Rollcall No. 425. H. R. 4388. Energy and water development appropriations, fiscal 1980. Breaux motion that the House recede and concur in the Senate amendment to allow construction of the Tellico Dam and reservoir in Tennessee notwithstanding the provisions of the Endangered Species Act. August 1, 1979. I would have voted "yes."

Rollcall No. 426. H. R. 4388. Energy/water appropriations, fiscal 1980, Hart Office Building. Bevill motion that the House recede and concur in the Senate amendment to appropriate $57,480,700 with a total construction ceiling of $142,627,700 for the Hart Senate Office Building and that the Senate vacate offices in certain non-Federal buildings. August 1, 1979. I would have voted "yes."

Rollcall No. 427. H. R. 4388. Energy/water appropriations, fiscal 1980, Hart Office Building. Bevill motion that the House recede from its disagreement with Senate amendment 37. August 1, 1979. I would have voted "yes."

Rollcall No. 428. Procedural motion. Rousselot motion to approve the House Journal of Wednesday, August 1, 1979. August 2, 1979. I would have voted "no."

Rollcall No. 429. H.R. 4057. Food stamps. Adoption of the conference report on the bill to increase by $620 million the spending ceiling for the food stamp program in fiscal 1979, and to provide elderly and disabled recipients increased deductions for medical and shelter costs. August 2, 1979. I would have voted "no."

Rollcall No. 430. H.R. 3324. Foreign economic aid. Adoption of the conference report on the bill to authorize 1.979 billion in fiscal 1980 for bilateral economic aid programs and the Peace Corps. August 2, 1979. I would have voted "yes."

Rollcall No. 431. H.R. 4392. State, Justice, Commerce, Judiciary appropriations, fiscal 1980. Adoption of the conference report to appropriate $8,345,091,000 for the Departments of State, Justice, and Commerce, the Federal judiciary, and 18 related agencies for fiscal 1980. August 2, 1979. I would have voted "yes."

Rollcall No. 432. H.R. 3434. Social services and child welfare. Adoption of the rule providing for House floor consideration of the bill to raise to $3.1 billion, from $2.5 billion, the permanent ceiling on Federal matching expenditures for State social service programs. August 2, 1979. I would have voted "yes."

Rollcall No. 433. H.R. 3434. Social services and child welfare. Michel motion to recommit the bill to the Ways and Means Committee with instructions to report it back immediately with an amendment to delete the provision to establish the $266 million authorization for assistance to State child welfare programs on an entitlement basis rather than on an authorization and appropriations basis. August 2, 1979. I would have voted "yes."

Rollcall No. 434. H.R. 3434. Social services and child welfare. Passage of the bill to amend the Social Security Act to raise to $3.1 billion, from $2.5 billion, the permanent ceiling on Federal matching expenditures for State social services programs. August 2, 1979. I would have voted "yes."●

AMENDMENTS TO THE FISHERY CONSERVATION AND MANAGEMENT ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, I am today introducing legislation that will amend the Fishery Conservation and Management Act to correct two problems that have been identified during the recent oversight hearings held by the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

When the FCMA was first passed, the Congress recognized the complexity of fisheries management on the Pacific coast by granting membership to Washington and Oregon on the North Pacific Fishery Management Council and to Alaska on the Pacific Fishery Management Council. Both fish stocks and fishermen from all three States can be found in both areas and so this was thought to be an equitable arrangement. However, the Oregon and Washington delegates had voting membership in the

North Pacific; the Alaskan delegate had a nonvoting position.

In recognition of this problem, both the North Pacific and Pacific Councils have recently agreed that the Alaskan delegate should receive a voting membership. The first part of my bill will establish that voting position on the Pacific Council and add one more voting member to retain the existing balance.

The second part of my bill deals with a more serious problem. Under the FCMA, regional councils are charged with preparing fishery management plans that will be used to manage the fisheries in their areas of jurisdiction. The plans are developed by the councils and after various procedural requirements are met and submitted to the Secretary of Commerce for review. The Secretary is given 60 days to accept or reject the plan.

Unfortunately, the 60-day review period often stretches on interminable. Plans sit before the Secretary for months while legal "experts" pick away at their contents. Plans are rejected for reasons known only to the Department of Commerce. This has led to a serious slowdown in implementation of the FCMA and management of our Nation's fisheries.

My amendment would cut this Gordian knot by giving the Secretary 45 days to either approve a fishery management plan or disapprove it based on the requirements of the FCMA. If the Secretary takes no action, which is often the case, the plan will be approved automatically at the end of 60 days.

I believe that these amendments will fine tune the FCMA and allow us to get on with the proper management of our Nation's fisheries.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 16, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 17

8:00 a.m.

Energy and Natural Resources

Business meeting, to resume markup of S. 9, 222, and H.R. 39, bills designating certain public lands in the State of Alaska for protection of their resource values under permanent Federal ownership and management.

3110 Dirksen Building

9:30 a.m.

Armed Services

To continue hearings in closed session, on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

S-407, Capitol

Judiciary

Improvements in Judicial Machinery Subcommittee

To hold oversight hearings to determine the alleged role of organized crime and other perpetrators in the illicit operations of bankruptcy frauds.

1202 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to consider the nomination of James C. Webster, of South Dakota, to be an Assistant Secretary of Agriculture.

324 Russell Building

Commerce, Science, and Transportation

To resume oversight hearings on the Federal Trade Commission's study of the life insurance industry's cost disclosure policy.

235 Russell Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Finance

Business meeting, to mark up H.R. 3464 and 3236, bills to remove certain work disincentives for the disabled recipients of supplemental security income benefits; S. 350, 351, 748, and 760, bills to encourage and facilitate the availability, through private insurance carriers of basic health insurance at reasonable premium charges; and on proposals for savings in unemployment compensation programs.

2221 Dirksen Building

Foreign Relations

To continue mark up of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

4221 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To hold hearings on S. 742, proposed Nuclear Waste Management Reorganization Act.

Room to be announced

Judiciary

To hold hearings on S. 1763, proposed Immigration and Nationality Efficiency Act.

2228 Dirksen Building

Labor and Human Resources

Child and Human Development Subcommittee

To hold oversight hearings on the implementation of older American volunteer programs by the ACTION Agency.

4232 Dirksen Building

Select on Intelligence

Charters and Guidelines Subcommittee

To hold a closed business meeting.

224 Russell Building

11:00 a.m.

Environment and Public Works

To hold hearings on the nominations of Ines S. Reid, of New York, to be Inspector General, Environmental Protection Agency; and Eckardt C. Beck, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

4200 Dirksen Building

Joint Economic

To hold hearings on the Federal Reserve System's new monetary policy, focusing on how it will affect inflation and whether it will result in a substantial increase in unemployment.

1114 Dirksen Building

2:00 p.m.

Armed Services

To continue hearings in closed session on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

S-407, Capitol

Foreign Relations

Business meeting, to continue mark up of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

4221 Dirksen Building

Judiciary

To hold hearings on the nominations of Thomas A. Clark, of Florida, to be U.S. Circuit Judge for the Fifth Circuit; Alcee L. Hastings, to be U.S. District Judge for the Southern District of Florida; Neal P. McCurn, to be U.S. District Judge for the Northern District of New York; and Alan N. Bloch, to be U.S. District Judge for the Western District of Pennsylvania.

2228 Dirksen Building

OCTOBER 18

9:30 a.m.

Armed Services

To continue hearings in closed session, on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

S-407, Capitol

Judiciary

Improvements in Judicial Machinery Subcommittee

To continue oversight hearings to determine the alleged role of organized crime and other perpetrators in the illicit operations of bankruptcy frauds.

1202 Dirksen Building

Judiciary

Jurisprudence and Governmental Relations Subcommittee

To hold hearings on proposed legislation to establish a non-profit corporation known as the State Justice Institute, to further the development and adoption of improved judicial administration in the State courts in the United States.

5110 Dirksen Building

10:00 a.m.

Energy and Natural Resources

To hold hearings on S. 1699, and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620) to reflect recent legislative initiatives to foster greater domestic energy production.

3110 Dirksen Building

Finance

Business meeting, to continue markup of H.R. 3464 and 3236, bills to remove certain work disincentives for the disabled recipients of supplemental security income benefits; S. 350, 351, 748, and 760, bills to encourage and facilitate the availability, through private insurance carriers of basic health insurance at reasonable premium charges; and on proposals for savings in unemployment compensation programs.

2221 Dirksen Building

Foreign Relations

Business meeting, to continue markup of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

4221 Dirksen Building

Governmental Affairs

To hold hearings on the proposed Reorganization Plan No. 3, to consolidate trade functions of the United States Government.

3302 Dirksen Building

Labor and Human Resources

Aging Subcommittee

To hold joint oversight hearings with the Special Committee on Aging on the implementation of the comprehensive Older American Act Amendments of 1978.

1114 Dirksen Building

*Labor and Human Resources

Health and Scientific Research Subcommittee

Business meeting, to consider S. 1177, to establish a partnership between the Federal Government and the States in the planning and provisions of mental health services.

4232 Dirksen Building

Special on Aging

To hold joint oversight hearings with the Subcommittee on Aging of the Committee on Labor and Human Resources on the implementation of the comprehensive Older American Act Amendments of 1978.

1114 Dirksen Building

Joint Economic

To resume hearings to examine the minority job prospects in the next five to ten years, focusing on population shifts, labor force changes and employment trends for minorities.

340 Cannon Building

2:00 p.m.

Armed Services

To continue hearings in closed session, on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

S-407, Capitol

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Foreign Relations

Business meeting, to continue mark up of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

4221 Dirksen Building

2:45 p.m.

Judiciary

To hold hearings on the nominations of Scott E. Reed, to be U.S. District Judge for the Eastern District of Kentucky; Dudley H. Bowen, Jr., to be U.S. District Judge for the Southern District of Georgia; and Robert H. Hall, to be U.S. District Judge for the Northern District of Georgia.

2228 Dirksen Building

OCTOBER 19

9:30 a.m.

Energy and Natural Resources

To continue hearings on S. 1699 and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620) to reflect recent legislative initiatives to foster greater domestic energy production.

3110 Dirksen Building

*Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To hold oversight hearings on alleged fraud and mismanagement practices in the Community Services Administration.

3302 Dirksen Building

10:00 a.m.

Finance

Business meeting, to continue mark up of H.R. 3464 and 3236, bills to remove certain work disincentives for the disabled recipients of supplemental security income benefits; S. 350, 351, 748, and 760, bills to encourage and facilitate the availability, through private insurance carriers of basic health insurance at reasonable premium charges; and on proposals for savings in unemployment compensation programs.

2221 Dirksen Building

Foreign Relations

Business meeting, to continue mark up of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

4221 Dirksen Building

Judiciary

To resume hearings on S. 1246, to protect against the growth of a monopoly power among major petroleum companies, and to encourage oil companies to invest profits back into oil exploration, research, and development.

2228 Dirksen Building

Labor and Human Resources

Business meeting, to mark up S. 1724, 771, 1270, 1331, 1603, 1725, and 1805, bills to provide grants to States to assist low- and moderate-income individuals to meet the rising home energy costs.

4232 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 22

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 1435, to provide for the more rapid depreciation by businesses of investments in machinery, equipment, and buildings to promote economic growth; S. 1021, to provide holders of municipal bonds to either exclude the bond interest from taxable income or to claim a Federal tax credit of 67 percent of the amount of interest; S. 1078, to provide a credit against taxes on an artist's estate for testamentary transfers of his art to the Federal Government; and S. 1467, to provide for a clarification of the existing method of accounting for property used by the railroad industry to determine depreciation allowances for income tax purposes.

2221 Dirksen Building

9:30 a.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To receive a report from officials of the Energy Information Administration of the Department of Energy on the current price and supply outlook for petroleum fuels.

3110 Dirksen Office Building

OCTOBER 23

9:30 a.m.

Armed Services

To resume hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

212 Russell Building

Judiciary

Business meeting, to mark up pending legislation and nominations.

2228 Dirksen Building

Select on Small Business

To hold hearings to examine the economic outlook for the small business.

424 Russell Building

Joint Economic

Economic Growth and Stabilization Subcommittee

To resume hearings to promote equitable economic deregulation of the railroad industry.

5110 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources

To hold oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training and educational programs.

4232 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.

457 Russell Building

2:00 p.m.

Armed Services

To continue hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

212 Russell Building

OCTOBER 24

8:00 a.m.

Agriculture, Nutrition, and Forestry

Rural Development Subcommittee

To hold oversight hearings to review the implementation of rural transportation programs and how they affect the quality of life in rural and small urban areas in America.

324 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordination program in weather modification within the Department of Commerce.

235 Russell Building

Judiciary

Constitution

Business meeting, to consider S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.

155 Russell Building

Select on Small Business

To hold hearings to examine the Small Business Administration and the Farmers Home Administration loans and loan guarantees to industrialized cattle, hog, poultry, and dairy operations.

424 Russell Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Judiciary

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

Labor and Human Resources
To continue oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training, and educational programs.
4232 Dirksen Building

Select on Indian Affairs
Business meeting, to mark up S. 668, to allow the Cow Creek Band of the Umpqua Indians of Oregon to file a claim with the U.S. Court of Claims for alleged failure of the United States to fulfill treaty obligations; H.J. Res. 199, to correct a land description as contained in P.L. 95-498, providing that certain public lands be held by the United States in trust for the Santa Ana Pueblo Indians; S. 1682, to authorize a 99-year lease of restricted land owned by Indians in Chelan County, Wash.; and S. 916, to improve and expand the educational opportunities available to native Hawaiians.
5110 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

OCTOBER 25

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 1215, to establish a uniform Federal policy for the management and utilization of Government-sponsored inventions in order to encourage private industry participation in Federal research and development programs
235 Russell Building

Veterans' Affairs
To hold joint oversight hearings with the House Committee on Veterans' Affairs on admission policies to Veterans' Administration's medical care facilities.
345 Cannon Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on S. 1383, 1439, and 1689, bills to establish on an emergency basis uniform weight and length limits for trucks using the National System of Interstate and Defense Highways to help conserve currently limited supplies of diesel fuel.
4200 Dirksen Building

Judiciary
To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

OCTOBER 26

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.
235 Russell Building

10:00 a.m.
Joint Economic
To resume hearings on the Consumer Price Index figures and inflationary trends.
5110 Dirksen Building

OCTOBER 29

9:30 a.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To hold hearings on S. 1335 and 1336, bills to establish a program of financial assistance to improve the energy efficiency of residential heating systems.
3110 Dirksen Office Building

•**Veterans' Affairs**
To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.
5110 Dirksen Building

10:00 a.m.
Select on Indian Affairs
To hold hearings on the nomination of William E. Hallett, of Colorado, to be Commissioner of Indian Affairs.
1202 Dirksen Building

2:00 p.m.
Joint Economic
To hold hearings in observance of the 50th anniversary of the beginning of the Great Depression of 1929, focusing on the causes and effects of depression.
318 Russell Building

OCTOBER 30

10:00 a.m.
•**Agriculture, Nutrition, and Forestry**
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
6226 Dirksen Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry, on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
6226 Dirksen Building

OCTOBER 31

9:30 a.m.
•**Commerce, Science, and Transportation**
To hold joint oversight hearings with the Select Committee on Small Business and the House Committees on Small Business and Science and Technology to review proposed techniques in the field of industrial development.
1202 Dirksen Building

Select on Small Business
To hold joint oversight hearings with the Committee on Commerce, Science, and Transportation and the House Committee on Science and Technology to review proposed techniques in the field of industrial development.
1202 Dirksen Building

Select on Small Business
To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessibility of information released by such services.
424 Russell Building

10:00 a.m.
Rules and Administration
To hold hearings on S. 392 and 507, bills to assure access for the elderly and handicapped to polling and registration locations for Federal elections; and other legislative and administrative business.
301 Russell Building

NOVEMBER 1

9:30 a.m.
Select on Small Business
To continue hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessibility of information released by such services.
424 Russell Building

NOVEMBER 2

9:30 a.m.
Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

NOVEMBER 6

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To resume hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
3302 Dirksen Building

NOVEMBER 7

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
1318 Dirksen Building

NOVEMBER 14

9:30 a.m.
•**Commerce, Science, and Transportation**
To resume oversight hearings to review proposed techniques in the field of industrial development.
235 Russell Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

NOVEMBER 15

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To resume oversight hearings to examine the scope of the general revenue sharing policy.
3302 Dirksen Building

NOVEMBER 16

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

NOVEMBER 20

9:30 a.m.
•**Commerce, Science, and Transportation**
Science, Technology, and Space Subcommittee
To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.
5110 Dirksen Building

SENATE—*Tuesday, October 16, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DAVID PRYOR, a Senator from the State of Arkansas.

PRAYER

The Reverend Hensel E. Hendrickson, Trinity Evangelical Lutheran Church, Bismarck, N. Dak., offered the following prayer:

Let us pray.

Our heavenly Father, we thank You for the blessings that You have so graciously given to us as a nation.

This place, O Lord, abounds in silent testimony of Your abundant love and Your abiding presence. Help us to be a grateful people by living out Your promises—not in fear but in faith. May we, by Your power, lift up our dreams and our designs of what this country is and could be rather than to find contentment by leaning on the shaky supports of lethargy and lack of vision. Keep us ever mindful of Your light that does not fade and Your love that does not fail. Be with this assembly this day.

In Your name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 16, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business and that Senators may speak therein up to 10 minutes each and that the period not extend beyond 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there morning business?

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 4930, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, recent events have underscored the dangers inherent in this Nation's unchecked and rapidly increasing—dangerously increasing—dependence on foreign oil. The continued flow of American dollars abroad to pay for high priced imported oil is a major cause of the current inflationary spiral that is beginning to cripple our economy.

We have only to look at the stories in today's newspapers, and I quote from a story that appeared in one of the local newspapers today.

Yesterday Libya, America's third largest supplier of oil, and Iran announced price boosts of $2.77 and $2.87 per barrel respectively, thereby exceeding OPEC's official ceiling price of $23.50.

So, Mr. President, those were just two oil-exporting countries which are raising the price of oil once again.

I also saw an indication in the press today or yesterday, to the effect that Mexico is going to increase its oil prices.

Mr. President, our own national security is critically linked to a thin line of oil tankers spread throughout the world, and so not only do we have this growing problem of oil supply and oil pricing that underlies the inflationary spiral, but the fact that we cannot rely on an assured supply of oil affects our national security interests.

Increased prices for oil have a serious impact on the stability of the dollar. They constitute a very vital and adverse factor in our trade imbalance and, as I say, constitute a major factor in inflation.

As the distinguished Senator from Washington (Mr. JACKSON) yesterday pointed out, next year this country will be paying more than $70 billion to import oil. This year it is, I think the figure is something like $65 billion—$65 billion to import oil, to keep the gasoline in the tanks.

The slightest shift in world oil supplies could be the signal for a crisis of international proportions. The urgent need to free ourselves from this excessive dependence cannot be too often repeated.

Mr. President, I intend to speak for another 10 or 15 minutes. Does the distinguished Senator from Wisconsin wish to make a statement at this time?

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. PROXMIRE. No. Go ahead.

Mr. ROBERT C. BYRD. Mr. President, today, each Member of this body has an opportunity to help turn this Nation away from more OPEC price increases and the ever-present threat of energy supply shortages. Today, we can embrace a commitment for action and take a step toward energy self-sufficiency.

My amendment—previously incorporated in the appropriations bill for the Department of Interior and related agencies, allots $20 billion for the production of alternative fuels. This provision is the best possible national insurance policy and is expressive of a consensus emerging in Congress that we must act now to do something that we should have done a long time ago to make optimum use of our own plentiful energy supplies.

The Appropriations Committee recommended a total appropriation for this alternative fuels program of $20 billion. Money was put in at the subcommittee level of the subcommittee which I chair. We had a fight on it in the Appropriations Committee. The Appropriations Committee one day knocked it out and the next day regained its equilibrium and its good commonsense and reinstituted the money. As my colleagues are aware, I moved yesterday to strip the bill of this provision, and have offered it as a floor amendment.

Part of this funding, $1.5 billion, will come from a transfer of prior-year appropriations from the strategic petroleum reserve. As Congress has not yet completed action on pending legislative proposals to expedite synthetic fuels production, the committee has recommended appropriating the full $20 billion to a special Treasury account called the energy security reserve. Commercial incentives will be available from this reserve for oil shale and biomass fuels as well as liquids and gases from coal.

Of the total, $2.2 billion will be immediately available for loans for site feasibility studies of potential synthetic fuel plants and for purchase agreements and price supports for alternate fuels production. The balance will remain in the energy security reserve until it is specifically made available in future appropriations acts once program authorizations have been enacted. Appropriations control will be maintained until a clear definition of synthetic fuel development authority has been approved by the Congress. However, these funds can be transferred to any independent energy production corporation if such an entity is subsequently created.

The urgent need to reduce American dependence on imported oil has generated a number of proposals to stimulate the development of a synthetic fuels industry. At the time the gas lines were longest—and they will be out there again, Mr. President; in my judgment, they have only gone away temporarily, and I hope they will never come back, but I am afraid they will be back—but at the time they were longest, the House passed legislation in the form of an amendment to the Defense Production Act, to provide Federal support for a synthetic fuels initiative. Major synthetic fuels bills are now pending before various Senate committees.

By taking this action, the Appropriations Committee did not, in any way, intend to prejudge the merits of the numerous proposals currently under consideration. However, the committee does intend its action to stand as an expression of national commitment to the curtailment of petroleum imports and to the creation of an alternate fuels production capacity.

That objective will not be realized tomorrow or next week, but if Congress had taken this action 10 years ago we would be closer to it now. And if at some future time we hope to accomplish this objective, we have to start sometime, somewhere. A journey of a 1,000 miles begins with the first step. So the committee's action constitutes a commitment that we are going to proceed down that road in a commonsense way. The committee does intend the adoption of this proposal to stand as a statement of the Senate's determination to overcome the strategic and economic vulnerability which the United States now faces on account of our overdependence on foreign oil.

There can be no question that synthetic fuels offer a long term solution to our energy problems. In the near term, much more must be done to conserve energy and to expand the output of existing types of domestic energy resources. We must bring about conversion by public utilities from oil and natural gas to coal. Removing unreasonable regulatory constraints is also a critical component in the effort to increase domestic energy supplies. However, the needs of our complex society make it imperative that we do more now to accelerate the introduction of new energy resources and in particular, to develop alternate methods to produce liquid fuels.

Coal gasification and the extraction of liquid fuel from both coal and oil shale constitute two of the most promising energy alternatives. Coal is our most abundant energy resource. With known recoverable deposits of 215 billion tons, coal accounts for almost 85 percent of our fossil fuel reserves and at present production rates, the supply could last about 300 years. But coal constitutes only about 18 percent of the total energy that we use in this country. Coal gasification and liquefaction require no technological breakthroughs. The basic technique was discovered many years ago and South Africa has been producing coal liquids on a commercial scale for almost 25 years.

What is needed are demonstrations of commercial feasibility. Because they can provide fuel for vehicles and other types of transport, synthetic fuels from coal and oil shale are of particular value to an America dependent upon a vast transportation network. Furthermore, the commercial scale production of synthetic gas from coal can help replace petroleum products in many applications, thereby making it possible to reserve more domestic oil for transportation. The immediate need is to develop a number of commercial-size synthetic fuel plants that would be sufficient to demonstrate the technology, environmental effects, and economic practicality of various synfuel options. This will provide the base for subsequent rapid expansion to a full scale production goal in later years.

I wish to note that the committee has strongly endorsed the construction of two solvent refined coal demonstration plants through appropriations in the fossil energy research and development area. This appropriation is separate from the creation of the energy security reserve. The administration has now reversed its earlier position, calling for design competition between SRC I and SRC II demonstration plants, and has finally submitted a budget amendment, at my request, to support the immediate construction of both SRC I and SRC II facilities. Proceeding as rapidly as possible with these two plants, one of which will be located in Morgantown, W. Va., is consistent with the urgent national need to develop an alternate fuels capacity.

For the past several weeks, this Chamber has echoed with the call of those Senators who are concerned about our defense capabilities and our strategic posture around the world. I believe that one of the most important investments we can make to strengthen our national security is the investment in alternate fuel capability. There is no wiser national security program we can adopt than to move toward energy self-sufficiency. The longer we delay in developing a synthetic fuels industry, the more vulnerable this Nation becomes to the whims of the oil-exporting countries.

Some may argue that the costs of Government assistance in the synthetic fuel area are unnecessarily high, especially in this time of tight budgets. But while such costs may be substantial, the costs of not proceeding with the development of new energy technologies will be even higher. The Appropriations Committee could not adopt a go-slow attitude in light of the mood of national urgency to move ahead with this program. Synthetic fuels production is imperative, and the action of the Appropriations Committee is a responsible and effective means of advancing this priority.

I hope the Senate will support this initiative.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business before the Senate is H.R. 4930.

Mr. PROXMIRE. And, I take it, there is an amendment pending to that bill?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. PROXMIRE. And that amendment is the Byrd amendment which would provide $20 billion for a trust fund which could be used for synthetic fuels; is that it?

The ACTING PRESIDENT pro tempore. The Senator is correct. That amendment is pending.

Mr. ROBERT C. BYRD. It creates an energy security reserve.

Mr. PROXMIRE. Yes, it has been broadened by the Tsongas amendment, so it is not only synthetic fuels but for other purposes.

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. Mr. President, the difference of opinion between the distinguished Senator from West Virginia, our majority leader, and the Senator from Wisconsin and, perhaps, a few others, has nothing to do with the fundamental issue. The issue is very important, and we all agree wholeheartedly in meeting the energy crisis as promptly as possible, meeting it swiftly and meeting it effectively. There is no issue on that.

The issue is on the procedure, and the procedure in this case is very, very important. I happen to be chairman of the Banking Committee. We worked and worked hard on this matter. We had hearings, extensive hearings, that lasted a number of days. We had witnesses come in; we went to great pains to mark up our bill. We wrote a report on our bill, and we came to the floor with a report. It is pending and is pending now. That bill provides $3 billion for synthetic fuels; it provides about $9 billion if it is compared to what the Energy Committee did, because we have a 3-to-1 ratio on guaranteed loans.

Now, Mr. President, the Appropriations Committee, of which I am also a member, has gone ahead and ignored, in my judgment, what the authorizing committee has done.

Mr. President, we have, I think, a procedure which is not only respected, but is necessary. It is necessary that we have an opportunity for authorizing committees to set the framework within which appropriations are made, to establish the limits; I think we all recognize that. We sometimes appropriate the full amount authorized; very often we do not. Usually we do not. We rarely exceed that limit.

As I say, the Banking Committee, which was given the responsibility—because we do have the responsibility for credit, we have jurisdiction in that area, and of course this is a massive credit proposal, with great effect on our markets—made the best judgment we could, based on overwhelming testimony before us, which was that synthetic fuels could proceed with a much more modest authorization and expenditure.

Maybe we were wrong. Very possibly we were wrong. No question about it, the Energy Committee has great expertise in this area, and they may have been right. They felt that more money could have been spent, and they have decided, in the Energy Committee, to provide an authorization for synthetic fuels at about $20 billion. That energy bill will be on the floor in a few days.

What we are doing with the Byrd amendment is not to provide an appropriation which can be spent tomorrow or the next day. All we are providing with the Byrd amendment is the assertion, the symbolism, that we intend to support synthetic fuels, and now, with the Tsongas amendment added, to provide other funds.

It has been asserted again and again that we cannot spend this money without a further authorization and appropriation. So what good does it do, except to insult our committee, except to provide that we are going to evade the rules of the Senate, which we can do because of the germaneness technique, which I have heard many Senators, including our leadership, deplore in the past, but which is now being used to circumvent the opportunity for us to decide whatever level at which we will support synthetic fuels?

As I say, we may have been wrong in the Banking Committee in providing a lower level. But we should at least have an opportunity to have our hearings record discussed and debated on the floor, and our committee report read and discussed by Senators. But that is all out the window now, because of the Byrd amendment, with the further amendment by Mr. TSONGAS, providing a commitment of $20 billion for synthetic fuels and other purposes.

I have great respect for our majority leader. I think he is a fine majority leader. I have been here for 20 years, and cannot recall any other majority leader who has been as fair and as considerate as he has been. But I do think in this case a movement to go ahead with an appropriation which can really accomplish no practical purpose, before we have an opportunity to consider fairly the authorization, is a mistake; and I do hope, with all respect, as I say, for our fine majority leader, that the Senate will carefully consider the advisability of voting down the Byrd amendment when it comes up for a vote today.

I realize that is asking a great deal, because I realize the administration as well as the leadership has worked hard to line up votes in favor of the Byrd amendment. But I think, if we are going to stand up for our procedures, that we should sustain our committees, giving them an opportunity to act in an orderly way, and that if Senators realize there is no practical advantage in passing the Byrd amendment, they will consider going the way they should go, first with the authorization process, and then moving ahead with the appropriation.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Wisconsin (Mr. PROXMIRE) for his kind remarks concerning me, and I want to reciprocate. He is a very studious Senator, and a very able Senator, and very dedicated. As an indication of the kind of dedication that Senator PROXMIRE has demonstrated, he has an unbroken rollcall record, I guess, of more than——

Mr. PROXMIRE. Six thousand.

Mr. ROBERT C. BYRD. In more than 6,000 rollcall votes, he has not missed a rollcall. That is a record since 1789, when the Senate first was organized and adopted Senate rules, and operated the first 5 years behind closed doors. That record has never been matched, and I doubt that it will ever be matched before the crack of doom.

But he can be wrong. I can be wrong. He says there is no real practicality to proceeding with this proposal.

Well, let us take it from the beginning. Let us take the distinguished Senator's argument. Of course he is against the amendment, and he states that it is being brought up here in a way that is not in conformity with established procedures. I guess that, in essence, fairly characterizes what the Senator says.

He says that even the leadership itself has deplored the procedure of going the route of attaching legislation to an appropriations bill and raising the question of germaneness.

Well, what this Senator, in my news conference of last Saturday, deplored was something that is quite different from what we have seen here, and I am able to explain that. The story appeared in one of the newspapers on Sunday, and it was quoted yesterday by my good friend from New Mexico (Mr. SCHMITT).

But in reality, I spoke on the subject for perhaps 10, 15, or 20 minutes in that news conference. The news reporter did not intend for every word that I had said to be repeated in his story. There was no necessity for that, nor did I expect it. But I did have some words to say about this business of delaying appropriations bills by attaching legislative riders that had not received hearings in the authorization committees, dealing with substantive matters that had not received hearings in the appropriations committees, and riders which did not resolve the substantive issue at all, but were used repeatedly to tie up the appropriations process.

That is quite different from what we have in this instance. Here we are talking about synthetic fuels. The substantive legislation on synthetic fuels has already passed the other body. The substantive legislation on synthetic fuels has already proceeded almost to the point of being reported out by Mr. JACKSON's Energy Committee in the Senate. So, first, the subject matter has been the subject of action by the substantive committee in the other body, and the synthetic fuels section of the energy bill has already been marked up by the Energy Committee in this body.

So this is not a back door approach. This is not an attempt to do something on an appropriations bill that otherwise would not be done.

This amendment is not in that category of riders which come back year after year without resolving any substantive issue.

The substantive matter at issue here has been studied and acted upon by the legislative committees which have jurisdiction over this substantive matter. An authorization will be in place in the near future. So that is different, different from the subject which I was addressing on Saturday.

Secondly——

Mr. PROXMIRE. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Not yet, but I will be so courteous as to see that the

Senator from Wisconsin gets the floor in a moment. I will not deprive him.

The Interior Appropriations Subcommittee did hold hearings on this matter. I conducted the first 2 hours of that hearing. The Secretary of the Department of Energy Duncan appeared before that subcommittee; Mr. Deutch, the Under Secretary appeared. Those hearings went on all day. Mr. HUDDLESTON, the acting chairman of the subcommittee, conducted the hearings. The previous week, hearings had been conducted as to the technical aspects of synthetic fuels, and so on. So hearings were conducted by the Appropriations Subcommittee on this matter.

There are two points that are different from the situation that we have been facing and to which I addressed my remarks on last Saturday.

Thirdly, the administration sent up a budget amendment asking for $20 billion. The House had acted on the appropriations bill before the August recess, and such a budget request had not been lodged with the House by the administration. But when it came time for the Senate committee to conduct its work on the bill, the administration sent up its budget request for $20 billion, which is often done. It is not a precedure unheard of around here. The committee acted in support of that proposal.

So much for what the majority leader may have said or did say in his news conference last Saturday. What I addressed my remarks to last Saturday was not on all fours with the matter we have before us, but, to the contrary, every leg of that argument which I used on Saturday still stands and is not apropos to the situation we have here.

The distinguished Senator from Wisconsin has said that there is no practicality in proceeding in this way; it is just a symbol. Well, let him tell the folks in Wisconsin that. I am sure he can very ably present his case on the stump anywhere, if I am any judge of the election records up there.

But that argument will not stand the light of scrutiny, asking for action by the authorizing committee to act. As I have already stated, the authorizing committee in the House has already acted and the authorizing committee in this Senate has acted. But the authorizing committee in the House and the Appropriations Committee in the House are two things we should take a look at.

If we do not approve an appropriation for alternative fuels, the only matter that will be in conference on this bill when it goes to conference will be the House version. That version, unlike ours, does prejudge a legislative program. It funds only the so-called Moorhead bill. It gives no support—none, n-o-n-e—to the legislation that is being developed by the Senate Energy Committee. It gives no support to the legislation that has been supported by the administration. It gives no support to the budget amendment that has been sent up to the Congress subsequent to the action by the House.

That is all we are going to have in conference if we do not have this amendment.

By the time this bill is in conference, and probably before it is completed, it is possible—even likely—that the Senate will have acted upon the energy authorization bill.

The Senator says it will require further action. Yes, it will require further action in the form of a concurrent resolution dealing with this, once the authorizing committees have completed their work. But for now the money will be placed in an energy security reserve so that we know that the appropriation is there, and at such time as the authorizing committees have completed their work, then that money can be transferred to the Energy Security Corporation, or whatever entity is created by the authorizing committees. We will not need a second supplemental appropriation bill, at this late date.

Thanksgiving is close and Christmas is not far away. Once the authorization measures have been approved, there would have to be an appropriations to fund those authorizations if this amendment is not adopted. The prospects for a second supplemental appropriation bill at this time I would not deem to be very good. The House schedule for November and December does not provide any real opportunity for the consideration of a supplemental appropriations bill on synfuels.

The House leadership, I am told, only intends to hold pro forma sessions during most of November and December. So passage of this amendment today will expedite the appropriations process and will make money available subject to actions by the two bodies in the way of a concurrent resolution to fund the authorizing legislation when it is passed.

So there is a practical reason, and a good one, for proceeding in this manner. It is not mere symbolism.

Mr. President, I hope that the Senate will act favorably on the amendment today.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, yesterday I had a brief exchange with my good friend from West Virginia on getting recognition more than once on the same matter. As a matter of record now, does the record show that the Senator from Wisconsin is being recognized for the second time and that the Senator from West Virginia has been recognized twice on this pending amendment? Is that correct?

The ACTING PRESIDENT pro tempore. The Chair keeps no record on that subject.

Mr. PROXMIRE. When I came in this morning the distinguished leader was speaking on this floor. When I finished, I sat down and yielded the floor. The Senator from West Virginia then had the floor.

Mr. ROBERT C. BYRD. Will the Senator yield to me? I will answer the Senator's question.

Mr. PROXMIRE. Yes, I yield.

Mr. ROBERT C. BYRD. Yes, I have been recognized twice on the same subject. But on yesterday I had not been recognized twice, about this matter.

Mr. PROXMIRE. Well, the Senator——

Mr. ROBERT C. BYRD. Will the Senator allow me——

Mr. PROXMIRE. I have the floor.

Mr. ROBERT C. BYRD. Yes, but the Senator is talking about the majority leader.

Mr. PROXMIRE. Yes, and let me say that the majority leader is doing a fine job. I admire him greatly. The fact was he got the floor more than he thought he got the floor, because I marked it down. The Senator said, "Who has the floor?" The Senator from West Virginia was recognized at least twice. Then the Senator from New Mexico was recognized and he was recognized twice, too. The Senator from West Virginia was right in invoking the rule.

Mr. ROBERT C. BYRD. I did not invoke it.

Mr. PROXMIRE. Well, the threat was made.

Mr. ROBERT C. BYRD. No, no.

Mr. PROXMIRE. Aw, come on.

Mr. ROBERT C. BYRD. No, I was merely calling attention to the fact that such a rule existed.

Mr. PROXMIRE. All right.

Mr. ROBERT C. BYRD. Let me say to my friend, let us have an end to this discussion. If he will be merciful enough, if he will be compassionate enough to allow me to proceed while he has the floor——

Mr. PROXMIRE. Oh, certainly.

Mr. ROBERT C. BYRD. Yesterday, I spoke more than twice up to the point that the Senator raised the question, but I spoke at the sufferance of Senators who had the floor. So it is not how many times one speaks. If the Senator yields to me and I speak, that does not count as one of the two speeches. It is when the Senator has the floor.

Mr. PROXMIRE. The Senator from Wisconsin was not speaking about the Senator from West Virginia asking other Senators to yield. The Senator made a specific point of addressing the Chair, saying, "Who has the floor?" and the Chair said, "The Senator from West Virginia has the floor." That happened at least twice during the course of that discussion. As I say, I am not going to and I do not think any other Senator is going to invoke the rule on speaking—I do not think they could. I am just calling to the attention of the Senator, however, that usually other Senators do not invoke that. Once in a while, the majority leader refers to it. He does not invoke it, either. But he has, I think, a very gracious and effective way of working his will on other Senators and I just wanted to call attention to that.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I regret that the Senator took umbrage yesterday at my merely calling attention to that rule. I had no intention of invoking it. I think the Senator would have to say, off the record as well as on the record, that the majority leader is about as fair as any Senator can be to the Members on both sides. I have risen to protect the rights of Members on the other side

of the aisle just as much as I have for Members on this side of the aisle. They may feel they have been shorted, but they have not.

I had no intention of invoking the rule. At that point in time, I did want to say something before the Senator from New Mexico made his point of order. I was not questioning his right to make a point of order, but once that was made, there would be no debate. I did want to say something else and I thought he should have allowed me to do that.

But I have no rancor toward the Senator from New Mexico. I have no rancor toward the Senator from Wisconsin, who quickly leaped very ably to the defense of the poor Senator from New Mexico, who was about to be run over, roughshod and barefoot, by the majority leader, in the mind of the distinguished Senator from Wisconsin. I admire him for his chivalry and for his courtliness in rushing to the defense of Senators, but I want to assure him that I really had no intention of invoking the rule and will be very carful, very careful, about ever attempting to invoke that rule.

Does that settle the matter?

Mr. PROXMIRE. Of course it does. I am sure the Senator from West Virginia would never run roughshod or barefoot over anyone. Any time anybody runs roughshod or barefoot, it is a delight. I love to have the feeling of those bare feet on my body. That is no problem. [Laughter].

Mr. President, the Senator from West Virginia has given an argument that we should move ahead now with authorizing legislation on the grounds that the authorizing committees have already acted. I can see a very strong argument the other way. If the authorizing committees had not acted, if they had not had hearings, if they had not gone through this process, then I think we could make a case that, because of the necessity of acting promptly rather than waiting for all that procedure in the authorizing committees, we should move ahead.

As I pointed out, the argument that I am making is that the Banking Committee has acted. We have held hearings, we have made a report. The bill is pending on the floor. It can be taken up and acted on. It can be settled, probably, within 1 day. Rather than do that and rather than waiting another 2 or 3 or 4 days for the Energy Committee to act so we could have both bills before us and then proceeding with the Interior appropriations bill, the distinguished chairman of the Appropriations Subcommittee, who is also the majority leader, has argued that we must act right away, we must act without considering the authorization process.

As I say, I think it is very important for our procedures here, very important if we are going to have deliberative, careful, thoughtful action, that we know what we are doing, that we act fully on the authorization process, that we consider what our hearings have told us, what our report has told us, that we debate the framework within which we shall have appropriations, which is exactly, of course, what the authorization process does.

The distinguished majority leader said, well, a supplemental will take a while to get through and we would have to wait for that. I think the Senator knows that with the urgency every one of us, all 100 Senators and 435 Members of the House, feels about energy, there is no way the leadership is going to be held up on an energy bill this year or an energy supplemental. We can act on those authorization bills. We can act and work our will, decide what level of authorization to have, not prejudge the case as we are doing with the Byrd amendment which is pending. It seems to me that that is certainly the most prudent way to act.

The Senator from West Virginia, the majority leader, talked about how he had had hearings in the Interior Committee. Well, the hearings we had in the Banking Committee did have the administration witnesses appear. We had one or two other people who had announced publicly their belief in a huge synthetic fuels program, Attorney Cutler and others.

But the other expert witnesses we asked to testify, and we had no idea what their position was going to be, were overwhelmingly against proceeding with a big, massive synthetic fuels program. They said it would be wasteful. They said it would be extravagant. They said it would not pay off. They said it was not necessary. They said the technology was not ready for it.

These were experts in the synthetic fuels area; these were financial experts; these were others who, as I say, overwhelmingly opposed this kind of massive action. They said you just cannot buy an energy program by throwing money at it.

The testimony of the Harvard Business School experts, for instance, stressed that the way to handle this problem is to put far more emphasis on conservation—some on solar, but far more on conservation. But this is the sensible way, the prudent way to go and not just give the country the false notion that, just because we are pouring billions and billions of dollars into synthetic fuels, that is going to solve our problem.

Mr. President, I do hope that before we act on the Byrd amendment, Senators will consider the importance of considering testimony from financial experts, technical experts, and others who have testified before both the Energy Committee and the Senate Banking Committee and not rush into a $20 billion commitment without having our eyes opened.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize one of those Senators and then I would like one of them to yield to me.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I should be happy to yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I merely want to express a hope that we can find or probably arrive at a time agreement which will allow us to vote on the Byrd amendment at some point during the day so as to give Senators an opportunity to discuss it, and if they have amendments to it, to consider them. But I hope we can vote today on the amendment and possibly, in the meantime, arrive at a time on which to vote so that all Senators will know.

Mr. HART. Will the majority leader yield?

Mr. ROBERT C. BYRD. The Senator from Wyoming has the floor.

Mr. WALLOP. I shall be happy to yield to the distinguished Senator from Colorado.

Mr. HART. If the majority leader would calculate in, as far as the interest of the Senator from Colorado, I should like to speak for 15 minutes and I have no amendment.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Very well. The Senator's request will be remembered at such time as an agreement can be arrived at.

I thank the Senator.

UP AMENDMENT NO. 646

(Purpose: To provide sufficient funds for the acquisition of Yellowstone Park Company in Yellowstone National Park)

Mr. WALLOP. Mr. President, I ask unanimous consent that it be in order for me to offer an amendment at this time and set aside the pending business.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 646.

Mr. WALLOP. I ask unanimous consent that further reading be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 12, strike out $119,938,000 and insert in lieu thereof $124,838,000.

Mr. WALLOP. Mr. President, let me begin by telling the majority leader that I appreciate his courtesy in allowing me to bring up this matter at this time.

What I seek to do, Mr. President, is provide the National Park Service with an additional $4.9 million so it can buy out the Yellowstone Park Co.'s concessions facilities in the Yellowstone National Park at the price of $19.9 million, which now all parties have agreed to.

The committee is familiar with this issue. Last year Congress authorized such sums as may be necessary for the purchase of the YPC concessions facilities. This came on the heels of an NPS study which found that YPC's services and facilities were unacceptable, and that YPC had not made capital investments on schedule. Congress authorized the Park Service to acquire the YPC holdings, renovate them satisfactorily, and contract short-term operators to run and manage them. This process is now occurring.

The administration's fiscal year 1980 budget requested $15 million to acquire the YPC holdings. The House did not fund this item but deferred a decision pending further information. The Park Service appraisal in 1978 valued the YPC holdings at $16.9 million. This July the Park Service officially updated its appraisal to $19.7 million, which is the projected value as of October 31, 1979, when the YPC contract expires. A YPC appraisal done last June projected the October 31 value of the YPC assets at $25 million. Recently the Park Service and General Host Corp., the parent company of YPC, agreed in writing to a firm figure of $19.9 million for the purchase of the YPC assets. This agreement has been approved by the board of directors of General Host Corp.

The committee has directed that the Park Service can come back with a reprograming request for the difference between the $15 million provided in this bill and the agreed-to price of $19.9. I understand the committee's thinking and ordinarily would agree, but in this case I believe there are a number of benefits to be gained by providing the full $19.9 million in this legislation. In order to reprogram these funds, the Park Service must first seek and receive Department of the Interior approval, then OMB approval, and then approval of this committee and the House Appropriations Committee. This process can be time consuming, and has an uncertain outcome.

The contract with YPC expires on October 31 of this year, and requiring the Park Service to reprogram these funds might force the parties involved to renegotiate the terms of the contract. In addition, a reprograming of this magnitude would have a significant effect on the Service's construction program out of which it must come. This program consists largely of water and sewer, rehabilitation, and high priority historic preservation projects, and much of it is already earmarked for specific purposes.

I am especially concerned that this money might come out of the $5 million the administration requested and this committee and the House have approved for rehabilitation and new construction in Yellowstone Park. This money is urgently needed and should not be lost for these purposes.

If the Park Service is unable to pay the full $19.9 million when the contract expires, YPC may very well go to court. This could be a lengthy process, and will not result in a lower settlement price by virtue of the fact the Park Service's appraisal is almost as high as the agreement price. The NPS appraisal was done after exhaustive review by a solid, MAI appraiser. I am not sure that the committee is completely aware of this new appraisal, but it does make the outcome of any court settlement more predictable.

Furthermore, until full payment is made to YPC, the new concession must pay approximately $1 million annually in rent, and that goes to whoever holds the concessions. Once full payment is made, this rent will go to the Federal Government, into either Yellowstone's budget for rehabilitation purposes or into general revenues.

Prior to that, it goes to the Yellowstone Park Co., which is the company already in default of its service performance. To the extent we do not pay off YPC and General Host on time, the Federal Government is forfeiting these revenues.

Mr. President, Yellowstone is our Nation's oldest national park, and receives over 4 million visitors yearly. It is a major tourism attraction in the Rocky Mountain region, and the quality of its services and facilities affect the tourism economy for our entire region.

More importantly, the judgment of those 4 million people who annually visit the Yellowstone Park is a judgment on this country's ability to run and maintain one of the finest park systems that exist in the world. To the extent YPC's facilities are found to be shabby, disorderly, and the services poorly administered, this country and its Park Service suffers proportionately.

It is important the public perceives that the Government is taking steps to improve Yellowstone's older, worndown facilities since it has pledged to do so. The committee's approval of funds needed to do this will help insure this goal and result in improved service in Yellowstone Park.

Contrary to some thinking, YPC is not especially happy with the price it has agreed to, but it is willing to accept it, sell, and get out. I submit full funding for this purpose will save the Federal Government, YPC, the judicial system, and this Congress further work and greater expense. I would ask the committee to consider and approve this request.

Mr. SIMPSON. Mr. President, I have followed most closely the activities of the Senate Interior Appropriations Subcommittee as it relates to the question of the Yellowstone National Park buyout and am pleased to join my colleague, the distinguished Senator from Wyoming, in this amendment to add $4.9 million to complete the transaction. It has been my pleasure to work diligently, along with Senator WALLOP, on this matter and with John Townsley, the superintendent of Yellowstone National Park.

Mr. President, I am greatly disappointed that the full amount for the buy-out has not been made available by the Senate Interior appropriations measure, but I am fully aware and realize the difficulty that this issue has presented to the committee as it relates to the negotiations for the buy-out which were completed only within recent days by National Park Service personnel. The most recent appraisal report was not available to the committee at the time the bill was reported.

I am also keenly aware of the extreme difficulty in overturning the committee decision in this regard. I have been involved in the process and have been working closely with the National Park Service as to discussions on the reprograming of funds to make up the difference between the $15 million provided for by this bill and the $19.9 million obviously required to finalize the buy-out under the current appraisal figure.

I look forward, Mr. President, to continued activity on this matter and appreciate the fine cooperation that has been extended by the committee, particularly the Senator from Kentucky (Mr. HUDDLESTON), and I am very aware that the matter is still open for what I trust will be a resolution in the very near future.

The pledge of the manager of this Interior appropriation bill to take the matter up in conference committee is deeply appreciated by me, and I think will assist in resolving this very important matter.

I thank the Chair.

Mr. WALLOP. Mr. President, I ask unanimous consent that Senator SIMPSON be added as a cosponsor of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, is is so ordered.

Mr. WALLOP. Mr. President, I am happy to yield.

Mr. HUDDLESTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

Mr. HUDDLESTON. Mr. President, the subcommittee and the full committee of the appropriations were sympathetic to the situation that has been described by the distinguished Senator from Wyoming.

We did add back into the bill $15 million that had not been included by the House. The question of the additional $4.9 million we felt should best be left until we had a request from the Department outlining the need for it, first; and second, until the negotiations had been concluded to the extent that the Department and OMB had a chance to review them and make their submission to us.

It was our feeling, our belief, that the Department could, through reprograming, meet the aditional cost above the $15 million if it should be determined that it was necessary.

We expect that this action will go forward, will be completed successfully, and stand ready to do whatever is necessary as soon as the Department indicates to us precisely what they need.

Mr. WALLOP. Mr. President, I appreciate what the Senator from Kentucky is saying and I understand it. I would ordinarily not have brought up the matter because of the report language that is in there directing reprograming. But I ask him to seriously consider the circumstances as they exist right now, today.

The deal has been cut. The contract is over on October 31. Reprograming can be a considerable process to go through, in that it requires both committees' approval, Department of Interior approval, and OMB's approval.

I have no doubt that the request will be coming. But the plain fact is that there is no reason for a million dollars in annual rentals to be going to the Yellowstone Park Co. when the money could be returning to the people of the United States. There really is no reason

to delay with this small figure when everything has been agreed to.

I appreciate what the Senator has said: that the Park Service should have officially asked for the full funding. I do not even know why they did not. But I believe it is in the national interest to fully fund this item at this time to achieve what has to be a common public goal: to get the Yellowstone Park Co. out. They have not been successful in Yellowstone. We need to get the public in possession of those concession facilities so that we can begin to right past problems and manage these concessions properly.

Mr. HUDDLESTON. The settlement has been negotiated, but it has not been reviewed and approved by the OMB. The reprograming request can be handled within a matter of a few days. It is just a question of their determining what is necessary and sending a letter to the committees.

I assure the Senator that the subcommittee will not delay in any way the request, when it comes to it. They have made arrangements for continuing the operation.

Mr. WALLOP. I understand that they have done that.

The problem primarily, I believe, is the October 31 date, which would not necessarily be satisfied by accepting this amendment.

I reiterate the concerns I expressed earlier, which are that the Park Service might seek to reprogram the additional buyout funds out of the $5 million which is earmarked for rehabilitation and new construction in Yellowstone, and which is extremely important for those purposes.

Mr. HUDDLESTON. We will be prepared to replenish any reprogramed money in a subsequent supplemental. We have taken the approach that we are for the project; we expect that it will occur. We think it can be handled as rapidly, from our standpoint and the standpoint of making the money available, as they can put the deal together.

Mr. WALLOP. I appreciate what the Senator says.

It should be urged in the conference language that this matter be settled as expeditiously as possible. I do not want to see these negotiations reopened. I know the public will pay more if that occurs. I think all due haste is in order; and if the Senator assures me that will be the position he will have in mind when he goes to conference on the bill, I will withdraw the amendment.

Mr. HUDDLESTON. I thank the Senator. I assure him that we will give close attention to this matter and expedite it in every manner possible.

The ACTING PRESIDENT pro tempore. The amendment is withdrawn.

Mr. WALLOP. Mr. President, I ask unanimous consent that the pending business may be set aside and that a request for report language may be in order at this time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what does the Senator wish to proceed with?

Mr. WALLOP. It is a USGS uranium hydrology study, which I think the staff is aware of, and I believe they have agreed to, directing the expenditure of USGS funds on a uranium hydrology study in Wyoming.

Mr. ROBERT C. BYRD. Does the Senator intend to offer an amendment to the bill?

Mr. WALLOP. No. I intend to engage in a colloquy with the chairman and that this be report language.

Mr. ROBERT C. BYRD. I have no objection to that.

Mr. President, will the Senator yield?

Mr. WALLOP. I yield.

Mr. ROBERT C. BYRD. Mr. President, Mr. JAVITS wishes to offer a modification to his amendment on which the Senate voted yesterday, and I think he should be given an opportunity to modify his amendment.

A vote is to occur today, under the order entered yesterday, on my motion to table the motion to reconsider the vote by which the amendment of Mr. JAVITS was rejected. I hope the Senate will allow the Senator from New York to modify his amendment and get a vote on it.

Therefore, I ask unanimous consent to withdraw the yeas and nays on my motion to table, to withdraw the motion to table, that the vote on the adoption of the Javits amendment be reconsidered, and that the amendment be restored to a position allowing him to modify his amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object—and I will not object—will the majority leader tell us the projected timetable for that? Would that vote then occur at 12:30?

Mr. ROBERT C. BYRD. No. His modified amendment would be open to debate, and it would run the normal course of debate, and a vote thereon—whether it would be a voice vote or a vote by division or a rollcall vote. It would be up to the Senator to decide. At that point, there would be a vote.

Mr. ARMSTRONG. I appreciate the explanation of the majority leader, and I have no objection.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER (Mr. EXON). Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, that means that the Javits amendment to the Byrd amendment is now pending, and Mr. JAVITS will have a right to modify his amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Notwithstanding the fact that the yeas and nays may be ordered on it at some point. I hope that the order protects him in his right to modify the amendment.

The PRESIDING OFFICER. At the moment, the yeas and nays are still ordered on the amendment.

Mr. ROBERT C. BYRD. So he is protected.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. WALLOP. Mr. President, I would like to engage in a brief colloquy with the subcommittee chairman.

I want to propose that the committee direct USGS, in conference report language, to use $100,000 within its allowance for water resources studies in this bill for a baseline study on uranium hydrology in the Powder River Basin of Wyoming.

There is genuine concern developing in my State over the effects of uranium development, both in situ and surface, on the water resources of the area. There are now 14 uranium mines and 2 mills in production in the Powder River Basin of Wyoming, including one in situ mine. By 1983, up to 30 additional mines and 3 additional mills may be in place, including up to 12 in situ mines. At least four of the planned mines, and one mill, are owned and controlled for the benefit of the Tennessee Valley Authority.

The immediacy of this development makes it essential that we know more about the effects this development will have on the water resources of the area. The Powder River Basin Resource Council, a conservation organization concerned with energy development in the Powder River Basin, has proposed a USGS study of uranium development-groundwater relationships. The State of Wyoming has indicated such a study could produce valuable data, and that environmental and socioeconomic effects of uranium development could exceed those of coal mining in the next several years. USGS is actively engaged water-resources evaluations in the Powder River Basin, primarily in connection with development of coal resources. I ask unanimous consent that a letter from the USGS explaining the USGS studies now going on in the Powder River Basin be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. Mr. President, as this letter indicates, these USGS studies are not specifically addressing the impact of uranium mining on ground water. By virtue of past language accompanying the appropriation, Federal money made available to USGS for energy-related hydrologoy is dedicated largely to water resources aspects of coal and oil shale development. USGS is very aware of the problems relating to uranium development in the Powder River Basin, and has been considering undertaking this kind of a baseline study.

The administration's 1980 USGS budget request for water resources studies was $20,120,000 for Energy Hydrology. This broke down to $12,370,000 for coal hydrology; $5,308,000 for nuclear energy hydrology; $1,100,000 for oil shale hydrology; and $1,342,000 for overhead and other cost-sharing expenses. The committee has reduced the USGS hydrology program by $460,000, and recommended a total of $19,660,000 for energy hydrology. I considered the possibility of asking the committee to restore $100,000 of the $460,000 deleted for

a uranium development-groundwater study in the Powder River Basin. However, I share the committee's concern for restraining the budget, and therefore I am simply requesting that the committee agree to seek conference committee language directing that USGS use $100,000 within the $19,660,000 recommended by the committee for this extremely important study. USGS feels $100,000 would be sufficient for the purpose of such a study and has informed my office unofficially that it can in all likelihood undertake this study without hurting its other hydrology programs, and that it would be happy to do so.

Mr. President, I ask unanimous consent that a letter from Powder River Basin Resource Council explaining its proposal for a groundwater-uranium study, a list of present and proposed uranium developments in the Powder River Basin, and a newspaper article entitled "Ranchers Worried About Uranium Exploration," published in the Rawlins Daily Times, be printed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WALLOP. Mr. President, while I do not intend to recommend that the Powder River Basin Resource Council study should necessarily be implemented by USGS as proposed, I do bring it to the committee's attention since it points out some of the problems and needs in this regard.

EXHIBIT 1

U.S. DEPARTMENT OF THE INTERIOR,
Reston, Va., July 25, 1978.

In Reply Refer To: EGS-218816 Mail Stop 411

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WALLOP: Your letter of July 11, 1978, requested that the Geological Survey confer with resource agencies in Wyoming to evaluate data now available, determine what additional data are needed for managing ground-water quality and quantity impacts of uranium exploration and mining in the Powder River Basin, and to recommend the best methods for instituting investigations should they be necessary.

As noted in your letter, the Geological Survey is actively engaged in water-resources evaluations in the Powder River Basin, primarily in connection with development of coal resources. Coal hydrology investigations have been assigned high priority, necessitating diversion of personnel from other programs. An investigation of the hydrology and water potential of the Madison Limestone of the Northern Great Plains region has been underway for several years, and a study of the major aquifer systems of the entire Northern Great Plains region was initiated this year. We maintain liaison with concerned State and Federal agencies and private groups to ensure that they are informed on the nature of the work and progress. These federally-funded studies are broad in nature and will provide many of the water-information needs for large-scale management decisions concerning the water resources. They are not, however, specifically addressing the impact of uranium mining on ground water. By virtue of language accompanying the appropriation, Federal money made available to us for energy-related hydrology is dedicated largely to water-resources aspects of coal and oil-shale development.

In addition to these federally-funded regional projects, for many years the Geological Survey has conducted systematic programs of water-resources investigations in the State of Wyoming in cooperation with the Wyoming State Engineer and certain other State agencies. Priority of scheduling and programs of work are formulated by mutual agreement. These investigations provide important information for management of the State's water resources and are generally helpful in evaluating mining impacts. However, the program of cooperative investigations does not presently include work directed specifically to uranium mining effects.

Mr. Sam West, our District Chief for water resources investigations in Wyoming, is being requested to confer with the Wyoming Department of Environmental Quality, the Wyoming State Engineer, and the Powder River Basin Resources Council for further determination of needs for ground-water investigations directed to uranium exploration and mining activity in the Powder River Basin and to explore means to accomplish needed work.

Sincerely yours,

W. A. RADLINSKI,
Acting Director.

EXHIBIT 2

POWDER RIVER BASIN GROUNDWATER-URANIUM STUDY TOPICS

EXPLORATION

(1) the extent of problems caused by exploration drilling, including lowered groundwater tables, aquifer communication, and loss of artesian pressure

(2) who has been affected by the problems, and to what degree

DEEP AND OPEN PIT MINING

(1) what effect mine de-watering has had locally upon aquifers

(2) what effect de-watering associated with greatly expanded deep and open pit mining activity will have upon aquifers; who will be affected, and to what extent

(3) the probability that shallow aquifers (such as the Fort Union and Wasatch formations) will not recharge with various levels of deep and open pit mining activity if water from de-watering is not artificially re-injected

(4) the technical and economic feasibility of artificial re-injection of water from de-watering operations

(5) the best approaches to artificial re-injection

SOLUTION MINING

(1) how solution mining in the Powder River Basin would affect groundwater if various restoration standards were to be applied

(2) with various geologic and hydrologic site conditions characteristic of the Basin, how well ammonium bicarbonate, ammonium carbonate, sodium compounds, and sulfuric acid can be recovered without decomposing in groundwater into potentially harmful by-products

(3) the potential for trace element mobilization with the different chemical solutions under various geologic and hydrologic site conditions

(4) what long and short-term effects leach solution decomposition and trace element mobilization could have under various conditions

(5) what potential exists for the contamination of surface water supplies via solution mine excursions in those areas adjacent to water courses

(6) what safeguards for protecting groundwater should or can be employed in solution mine operations

TAILINGS PONDS

(1) how tailings ponds have performed in the Basin

(2) what effects (if any) seepage from tailings ponds has had upon levels of radiation in immediate groundwater supplies

CUMULATIVE, LONG-TERM IMPACTS

what long-term cumulative impacts upon groundwater can be expected with various levels of exploration and mining under various levels of exploration and mining under various groundwater protection and restoration strategies

The information needs outlined above reflect problems which have already been observed in the Basin, as well as serious potential problems which may arise if rational uranium-groundwater policies are not followed. Conscientious policies, of course, are more probable when an adequate information base exists. Toward this end, we respectfully request that you consider the merits of the above outline.

PRESENT AND PROPOSED URANIUM DEVELOPMENT IN THE POWDER RIVER BASIN

1. *Kerr-McGee Nuclear Corporation:* Two open pit and one underground mine are now producing 255,000 tons of ore per year. Two additional open pits and eight underground mines are planned (South Powder River Basin Uranium Facility). A mill is also planned.

Kerr-McGee is also involved in a joint venture with Conoco on the proposed Moore Ranch Mine, which is scheduled to produce 342,000 tons of ore per year by 1983 (open pit). There may also be a 1,000 tons per day mill associated with this mine, to be located in Campbell County near the Converse County line.

Kerr-McGee holds a number of old Tennessee Valley Authority leases, along with other leases, in Crook County. Exploration is now taking place in that area.

2. *United Nuclear Corporation:* One underground mine has already been built as part of the Morton Ranch project, producing 660,000 tons of ore per year by 1981. Additional underground mines are planned, plus an extensive series of open pits. A 2,000 tons per day mill is scheduled for construction in 1980. (The Morton Ranch project is owned by the Tennessee Valley Authority and operated by UNC.)

3. *Exxon Minerals Corporation:* One open pit mine has been constructed, producing 1,152,000 tons of ore per year. Two in-situ projects are now planned for the same general area. Exxon is operating the second largest mill in the nation, processing 3,200 tons per day, at the Highland site.

4. *Rocky Mountain Energy:* RME's Bear Creek Mine now consists of eight open pits producing 350,000 tons per year by 1980. The Bear Creek mill is scheduled to expand to 2,000 tons per day. An in-situ mining operation is planned for Nine Mile Lake, nine miles north of Casper, to produce 250,000 pound of yellowcake per year by 1981.

RME is also planning a 250,000 pounds per year in-situ operation on the Reno Ranch site in the Pumpkin Buttes (1981).

5. *Pioneer Nuclear Corporation:* Currently constructing one open pit mine in the southern Powder River Basin.

6. *Wold Nuclear Corporation:* Wold is planning an in-situ mine in the southern Powder River Basin, to be operating in 1983.

Wold is also in a joint venture with Western Nuclear (Christiansen Ranch) for another in-situ operation, to produce 250,000 pounds per year of yellowcake by 1983 in the Pumpkin Buttes.

7. *Cleveland Cliffs Iron Company:* Through several individual and joint ventures, 10–15 underground, open pit, and in-situ operations are planned for the Pumpkin Buttes. An application for an underground operation in the Buttes was recently returned by DEQ as deficient. A 3,500 tons per day mill is scheduled to begin production in 1983.

8. *Cotter Corporation:* Cotter now has an experimental milling process site. An open pit mine to produce 1,000 pounds per year of yellowcake is planned in the Pumpkin Buttes.

9. *U.S. Energy Corporation:* U.S. Energy is operating in the Kaycee area. Several open pit and underground mines are planned, to produce 125,000 pounds per year of yellowcake by 1980 or 1981.

10. *Wyoming Minerals Corporation:* An in-situ uranium operation in Johnson County is scheduled to produce 220,000 pounds per year of yellowcake this year, escalating to 500,000 pounds per year by 1981. Production in some wellfields was recently curtailed because of excursions.

11. *American Nuclear Corporation:* A 1,500 tons per day mill is scheduled to begin operation in 1982 in the Pumpkin Buttes. Several open pit and underground mines are planned.

NERCO, Homestake Mining, and the Tennessee Valley Authority all have extensive leaseholdings in the Black Hills region, which may be developed within the next few years.

[From the Rawlins (Wyo.) Daily Times, July 24, 1979]

RANCHERS WORRIED ABOUT URANIUM EXPLORATION

DOUGLAS, WYO.—The high, dry plains of central Wyoming are becoming drier, and ranchers are blaming uranium exploration companies.

The ranchers say uranium exploration holes are puncturing underground water formations, turning the aquifers into colanders and wells into dry cavities.

"I think the whole southern Powder River Basin is in trouble," says LeRoy Van Buggenum, "because they've drilled thousands and thousands of holes."

Van Buggenum's family has been raising cattle and sheep in the Pumpkin Buttes area north of Douglas for more than 60 years. He says water levels on his land are sinking.

Walter Reynolds, a neighbor of Van Buggenum, says the water level in a well drilled on his ranch in 1927 began dropping three years ago, after uranium holes had been drilled nearby.

The water "started dropping off and it stopped flowing about a year and a half ago," Reynolds says.

Other ranchers report similar problems, but they have difficulty proving uranium holes are the cause.

"It's hard to pinpoint," says Durwood Robertson, who drills water wells for ranchers. "You know something is causing the water levels to drop throughout the Powder River Basin."

Robertson blames uranium exploration. "It's causing a decline in water levels," he says. "I think that's pretty obvious."

Van Buggenum says he has had water problems for the past 10 years of uranium exploration on his land. In return for letting the uranium companies on his ranch, he says, he was paid $35 for each hole drilled and promised 5 percent of the value of any uranium mined on his land. But the money wasn't worth the water loss.

"I told them I didn't give a damn," he says. "Why take a chance on losing my water for 5 percent ore that you don't know is there?"

"Finally," Van Buggenum says, "I just put the whoa on them."

Other ranchers have been quiet about the problem for fear of disrupting their lucrative financial arrangements with the companies.

"We're in a position where we have to maintain negotiations with these companies," says one rancher, who says he has had water problems. He asked not to be identified.

"Over the past 10 years, probably, we are beginning to see changes not only in the levels of water tables but in the quality of water being taken out of flowing wells," he says.

"Some artesian wells are either diminishing in flow," the rancher says, "or they entirely cease to flow."

"Springs that have existed for years have dried up," he says. "Some of this has occurred pretty close to some of the exploratory uranium drilling. The numerous exploratory holes that are being drilled are, in most cases, not being plugged according to the state statutes."

Wyoming law requires all uranium exploratory holes coming in contact with groundwater to be filled from top to bottom with drilling mud, a bentonite jelly. Holes puncturing aquifers that feed artesian wells must be cemented near the top. The others must be plugged near the top in other ways. The tops must be filled with dirt.

"It is almost a voluntary law," says Gary Beach of the state Environmental Quality Department. "It's a real headache to enforce."

Uranium exploration holes drilled in Wyoming last year, put end to end, would stretch more than 3,000 miles. This year's drilling is expected to total 4,000 miles or more. Most holes are less than 300 feet deep, but they can reach depths of 2,000 feet, officials say.

The environmental agency was given $5,000 by the Legislature to monitor uranium exploratory drilling this year.

When an aquifer is left with a gaping hole, the water may be pressured to the surface, drained to a deeper, dry formation or become polluted from the surface, says Walter Ackerman, head of the state environmental agency's Land Quality Division. Or, he says, the hole may "allow salty or radium-bearing water to escape upward or downward and mingle with water from a higher or lower aquifer."

"These extensive drilling activities have punctured or breached shallow water aquifers in some areas of the state like a sieve," Ackerman contends in a recent letter to a state senator who questioned the seriousness of the problem.

The U.S. Geological Survey in Cheyenne wanted to conduct a $30,000 study this year to assess the problem, but the money request was denied within the agency, says James Marie of the Cheyenne office.

The Geological Survey still plans to try assessing the problem, but Marie says the effort will be only "a quick reconnaissance, because operating on a shoestring, that's all it can be."

Company officials maintain they are filling and plugging all holes.

"This is a standard practice of ours," says Dave Beling of Wold Nuclear Co. of Casper, "and we're doing it on every hole. There's no chance that we've been missing a hole."

Wold Nuclear operates independently, while 90 percent of the uranium exploring in Wyoming is contracted out by major corporations, Beling says. He says contractors aren't likely to fill or plug the holes unless the contract calls for it.

"If you don't tell them to plug the hole," he says, "chances are they won't do it."

Jim Wambeke of Teton Exploration Co. says his company always fills and plugs the holes according to state law. But he says the requirement generally isn't included in its contracts.

Mr. HUDDLESTON. Mr. President, the committee has no objection to the approach that has been suggested by the distinguished Senator from Wyoming.

This was not brought to our attention during the deliberations on the pending bill. We had no opportunity to give it consideration at that time.

We will be very pleased to utilize this colloquy in our conference in attempting to bring about the desired results that the Senator has indicated for us.

Mr. WALLOP. Mr. President, I thank the distinguished chairman, and I wish to say I would have brought it to the committee's attention had I realized that the nuclear hydrology funding does not cover uranium mining, but was related to the disposal of nuclear wastes and the effect on water tables. In my ignorance of the total affairs of things I figured that some of these funds would be available for hydrology studies relating to the production of uranium, or I would have brought it to the committee's attention earlier.

I very much thank the chairman for these assurances, and I yield the floor.

Mr. LEVIN and Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

UP AMENDMENT NO. 647

Mr. LEVIN. Mr. President, I sent an amendment to the desk, which is an amendment to the pending amendment No. 520, and ask for its immediate consideration. I understand that it has been cleared with the floor manager.

The PRESIDING OFFICER. There is an amendment pending to the Byrd amendment. That is the amendment of the Senator from New York. It will take unanimous consent to set that amendment aside for consideration of this amendment.

Mr. LEVIN. Mr. President, I ask unanimous consent that that amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Mr. President, reserving the right to object, and I shall not object, I wish it to be cleared on this side.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 647 to amendment 520: On page 4, after line 3, insert the following:

Nothing herein is intended to preempt, preclude or prejudge the Senate's consideration of appropriation, authorization or revenue bills which may be reported by Senate committees relative to expenditures on synthetic fuels, solar (including renewables) and conservation, in this or subsequent fiscal years, nor is anything herein intended to establish or set a binding pattern as to the proportion of appropriations for synthetic fuels, solar (including renewables) and conservation.

Mr. LEVIN. Mr. President, there has been a great deal of debate as to the significance of the pending amendment. This amendment is intended to clarify that. It speaks for itself. I do not think anything I could say could set forth more clearly what it intends to say. I understand it has been accepted by both sides.

Mr. HUDDLESTON. Mr. President, the amendment by the distinguished Senator from Michigan has been studied by this side of the aisle. We have no objection to it. It just makes clear that the action that has been taken, the acceptance of the Tsongas amendment of yesterday, does not in any way establish a pattern which will have to be followed as relates to the expenditure of funds for the alternative fuels projects from the energy security reserve.

I do not see the distinguished Senator from Alaska now, but he has also reviewed this amendment and I believe has no objection.

Mr. STEVENS. Mr. President, that is correct. I have reviewed it. I think it states the conditions under which the moneys are appropriated in this bill, and I have no objection to it.

Mr. LEVIN. I thank the Senator from Kentucky.

I also thank my friend from Colorado for yielding to me.

Mr. ARMSTRONG. Mr. President, I wish to be heard on the pending amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. LEVIN. Mr. President, if the Senator from Colorado will yield, is he referring to my pending amendment?

Mr. ARMSTRONG. Indeed I am.

Mr. LEVIN. I thank the Senator.

Mr. ARMSTRONG. Mr. President, I think this is really an ingenious amendment, one which I am certainly going to support, but I will do so clearly with the understanding that we are engaging in an eloquent bit of subterfuge because what the amendment of the Senator from Michigan says is that we are not making any prejudgments when, in fact, that is exactly what we are doing under the terms of the underlying pending Byrd amendment.

Now, of course, how we describe our action really is irrelevant to its effect. We are making a prejudgment. We are writing an energy program here in the Chamber today, and that is exactly the process to which I objected yesterday and to which I still object.

I think it is fine for Senators to say that we are not making prejudgments, but, in fact, that is precisely what we are doing. We are engaging in the kinds of activity, it seems to me, which is almost impossible for the energy industry to understand, which is almost impossible for consumers of energy to understand, which will be incomprehensible to the business community and the investment community and which leads our constituents at home to think that we have lost our senses.

As one who has long favored the development of synthetic fuel and as one who has for many years pressed for the adoption of measures which are calculated to increase the supply of synthetic fuels, I am not sure whether or not to be pleased or appalled by the recent flurry of interest in synthetic fuels by the White House and by the Senate.

On the one hand, I think it is fine, and I think it is commendable that there is a growing recognition of the need to develop energy sources, particularly oil shale and tar sands and similar possibilities. It is long overdue.

But this kind of process, when coupled with the wildly optimistic projections of how much synthetic fuel can be produced, how soon, at what cost, and the implication that in some way synthetic fuel is a panacea, gives me great concern.

I also regret the fact that so many of the Members of the Senate seem to be jumping to the conclusion that, since synthetic fuel is desirable, it follows logically that we need a massive growth of Government intervention in the private energy production and consumption economy.

I think that conclusion is not by any means justified by testimony before the committees of Congress. It is erroneous, and it flies in the face of what seems to me to be the clearly stated facts.

Mr. President, the amendment presented by the Senator from Michigan brings into clear focus what is really wrong with the Byrd amendment, in my judgment. We have had a lot of testimony, as the Senator from Wisconsin has pointed out, before the Banking Committee. We have had testimony before the Senate Energy Committee. We have had, in fact, testimony in recent months before no less than 50 committees of the House of Representatives and the Senate which have asserted jurisdiction over some aspect of energy legislation.

We have had a number of consultants who have come forward to comment on the energy needs of the Nation, and I wish to share with Senators some of the conclusions which they have reached.

For example, the Pace consultants made this observation:

> Although there are many contributing factors, including the obvious one, that an increase in oil prices ricochet throughout the economy and drives up prices in general the most important single influence—

Referring now to the price at which oil might be produced from synthetic sources—

> the most important single influence seems to be a steadily increasing knowledge of costs as a result of more detailed engineering design.

CRS in commenting on the issue of at what price we might produce oil from shale or other synthetic sources made this observation:

> Cost estimates also tend to vary according to the process selected. Of greater importance, however, is the uncertainty engendered by the inexperience of designers, contractors, and others. In short, no U.S. commercial plants have yet been built, so no one actually knows what the costs will be. It can be postulated, however, that the actual costs may be as high as twice the estimates.

In other words, Mr. President, consultants who have looked at the issue of synthetic fuel production say, "We don't really know what we are doing."

During the month of August I contacted a number of the companies in the energy industry whom we would expect ordinarily would be the prime movers in the development of synthetic fuel, and I simply said this to them:

> The President has sent to Congress a proposal for an $88 billion Energy Security Corporation, an idea that sounds to me like a very important one, but I want your opinion.

So I asked these energy companies:

> What would it take to get you into the business of producing oil from synthetic sources, from shale, tar sands, coal, and whatever it might be?

The answers that came back, I think, are most enlightening. Basically, there were six broad classifications of answers that came back from the two dozen or so energy companies which I contacted.

First, they called for decontrol of oil and natural gas prices. Yes, decontrol of the price of fuel produced from conventional sources will, in the opinion of these industry experts, have everything to do with stimulating production of oil from synthetic sources.

Second, they called for a reduction in the regulatory burden.

Third, they called for a production tax credit, such as a $3 a barrel tax credit for oil produced from synthetic sources or similar sources.

Fourth, they called for the existing tax credit.

Fifth, they called for accelerated plant depreciation.

And, sixth, some of them called for a guaranteed purchase plan or other form of assistance, such as loan guarantees in the development stage.

Well, now, Mr. President, the legislation which we have before us in the Byrd amendment makes decisions about the size and shape of the program by which Congress intends to encourage synthetic energy production; notwithstanding the amendment of the Senator from Michigan, we are making decisions, we are literally writing an energy program here right on the floor, and I think it is obvious to many Senators, and certainly it was obvious last night to the Senator from Massachusetts (Mr. TSONGAS) when he offered his amendment, and it was obvious to the Senator from New York when he offered his amendment, that the bandwagon is leaving, and anybody who wants to get on the wagon had better do it now because he is likely to be preempted.

So while I intend to support the Senator's amendment, I think I should point out to him, and I am sure he appreciates it, that once this Byrd amendment is adopted, if indeed it is adopted, the boat will have sailed, and there will be a very, very strong presumption in favor of those measures which are consistent with this language, and a very strong presumption against those measures which are not.

Which brings me to my objection to the amendment, that is, to the Byrd amendment not the Levin amendment. My objection is simply that we are acting without really knowing what we are doing. It is contrary to the normal order, despite what has been said last night and this morning, for us to appropriate prior to the adoption of the authorizing legislation.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Of course, I will be pleased to yield.

Mr. ROBERT C. BYRD. Is the Senator aware of the fact that the Department of Energy has for 2 years or 3 years, I suppose, had money appropriated for it without authorization? Is the Senator aware of that?

Mr. ARMSTRONG. I will have to say to the majority leader I am not aware of that. Is the majority leader suggesting that that is a desirable process, whether it is the regular order for conducting business before the Congress?

Mr. ROBERT C. BYRD. I am simply saying the Senator's statement with respect to my amendment to the effect that, in essence, we always authorize before we appropriate, does not quite hold up.

Mr. ARMSTRONG. Mr. President, I will say to the majority leader that the Senator from Colorado has made no such statement. I have said to appropriate in advance of authorization is contrary to the regular order.

I am not saying it is unprecedented, I am not saying we have never done so before. I am saying in my judgment, in the judgment of this Senator, it is a poor process and an unwise process. We do not know as we are asked——

Mr. ROBERT C. BYRD. I misunderstood the Senator.

Mr. ARMSTRONG. I am glad to clarify that.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Of course.

Mr. WEICKER. Is the Senator from West Virginia indicating that the Department of Energy is operating without any authorization at this time?

Mr. ROBERT C. BYRD. They have a limited authorization under the National Energy Act for some of the grant programs.

Mr. WEICKER. But otherwise without authorization?

Mr. ROBERT C. BYRD. Otherwise the Congress has been appropriating money without authorization.

Mr. WEICKER. Well, I suggest that considering the results of the Department of Energy over the past couple of years, this might be a very good reason why they should not be funded at all.

Mr. ROBERT C. BYRD. The Senator has his own opinion on that. He certainly has a right to that, but he himself has been maintaining that, as I understand it, we cannot appropriate without authorizing first, and I simply want to call his attention and call to the attention of others that the Department of Energy has been receiving appropriations without authorization for 2 or 3 years.

Mr. ARMSTRONG. I am sure that my colleagues appreciate, as I do, the discussion of the appropriation and authorizing process, and I think I will stand by my earlier observation that this is contrary to the regular order, and that it is contrary to the best order and to the best traditions of the Senate.

Mr. President, in summary, my objections to the approach represented by the amendment offered by the majority leader are that, first of all, the proposed solutions in the amendment are not responsive to the testimony and the need which have been discovered by the committees that have been looking into this.

The proposal to create a $88 billion Energy Security Corporation, of which the $20 billion in this bill is the down payment, is the first installment I believe it was characterized as yesterday, is simply not consistent with anything that anybody who is expected to produce oil from shale or tar sands or other synthetic sources has suggested.

A moment ago I shared with my colleagues some of the recommendations that have come forward from industry. You know, it is an interesting thing that I do not recall a single one of these companies—and I am talking now about companies that have been out in the field, that have been making tests, that have invested millions and scores of millions of dollars to bring synthetic fuel to market—not a single one of them that said, "We are ready to go ahead and produce oil from shale or oil from tar sands, but we cannot do it unless the Government forms an Energy Security Corporation."

I do not believe there was one of them that said that. I do not think there was one of them that said we have got to have an energy security reserve fund in the Department of the Treasury. No, they did not say that. What they did say is this: "Let us cut the redtape." They did say "let us have a $3 a barrel tax credit." They did say "let us save a fast track for permitting." They did say "let us have some commitment by Congress that we are not going to continue the scheme of price controls and allocations that has hamstrung the energy economy."

I think we ought to have an energy bill that takes into account and responds to the real needs of the economy, and that will produce energy, and I do not, frankly, think that the creation of this Energy Security Corporation will have that effect.

But to return to the institutional objections to this approach, it comes down to a very simple question: Should we be appropriating $20 billion before we have made the decision, and if we make the decision for $20 billion are we not preempting our later discussions? I think clearly we are.

We are legislating on an appropriation bill. Yesterday we engaged in a parliamentary exercise, and under the precedents of the Senate the point of order which I offered, and which the Senator from New Mexico also offered, was overruled by the Chair. I, of course, accept that. But I do think, recognizing that the basis for the precedents is fictitious, and that the action of the Senate is a legalism and that, in fact, we are nonetheless creating a brand new program on an appropriation bill, that in the truest sense of the word we are legislating on an appropriation bill, and we are making a prejudgment.

We are also being asked to appropriate $20 billion.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. ARMSTRONG. Yes.

Mr. ROBERT C. BYRD. Nobody questions the point the Senator has made, to wit, that we are legislating on an appropriation bill. There is no question about that. But the House legislated on the appropriation bill; opened the door for the Senate; and so, the Byrd amendment is simply an amendment to the legislation that the House put in the bill.

The Byrd amendment is germane to that legislation on the appropriation bill. So it is legislation on an appropriation bill. But the question yesterday resolved itself—the question yesterday was whether the Byrd amendment was germane to the legislation passed by the House.

I agree with the Senator; it is legislation on an appropriation bill.

Mr. ARMSTRONG. Well, Mr. President, as a recognized authority on the Senate rules, the majority leader, of course, has stated accurately the parliamentary situation.

However, the mere fact that it qualifies in a parliamentary sense by a strict application of the rule under which the Senate may declare something to be germane really does not, in my judgment, alleviate the fact that it is a bad practice, or that we are creating from scratch a new program on an appropriation bill, and again, in my judgment, contrary to the regular order.

Mr. President, let me sum up quickly; I do not want to prolong this discussion.

I want to point out that in being asked to appropriate $20 billion, we are putting up money for a program which we really do not have all the details of. I call the attention of the Senate to the committee report, on page 71:

> The Committee recognizes that Congress is still working on the development of a complete legislative authorization for this costly new program. Details have yet to be worked out on the funding sources and mechanisms and the organizational changes that might be established. However, there is little doubt that a congressional commitment exists, and the Committee believes it is essential that significant funding be made available now under limited authority so that preliminary work can begin immediately.

Some of the things that we do not know about how this $20 billion will be spent are the following:

First, how it will be used. Will it be used for the GOCO approach, the Government-owned, company-operated method of development, or will the so-called GOGO approach, Government-owned, Government-operated be followed? We do not know that. We do not know whether it will be used for loan programs, for guaranteed purchases of products, or perhaps for various kinds of studies.

Second, we do not know what it will cost. Yesterday we were told this $20 billion is not an expenditure but an investment; but we do not know how it is to come back or be repaid to the Treasury, whether by return on some kind of speculation, or pursuant to regulation within the Department. Someone made the observation, in support of the $20 billion and not in opposition to it, which I found astonishing and appalling, that we do not know whether it is enough, or

whether the actual expenditure will be more or less.

Third, we do not know what agency will administer the funds.

Fourth, we do not know whether the projects which may be funded by this appropriation will comply with the provisions of the Nonnuclear Energy Research and Development Act of 1974, and the reason we do not know that is because this amendment specifically precludes the congressional review specified by section 19 and section 7(c) of that act. As Senators know, there is built into the Nonnuclear Energy Research and Development Act a series of check points and reports to Congress, and then an opportunity for Congress to review the projects under that act. However, that is preempted by the adoption of the Byrd amendment, and I am not clear on why that is.

Fifth, we are not told, and we do not know, whether or not the expenditure of these funds will leave room for the tax measures which many feel are the essence of the incentives needed to get production started in this country.

And last but not least, we do not know whether any of the funds that will be expended under this program will be repaid.

Mr. President, we are told this either is or is not an exercise in symbolism. Some of those who have spoken in support of this extraordinary approach to appropriation have said, "Yes, this is symbol; we are sending a signal." Others have said, "No, that is not right, it really is not a symbol; we are taking action. It is a commitment."

Mr. President, I think this is most unwise, at a time when our budget process is in a shambles; the Budget Committee has been unable to meet its deadlines for the fiscal 1980 budget, and yesterday on the Senate floor the chairman of the Budget Committee told us that the budget process itself is in danger, and may break down.

The appropriations process clearly is in a state of breakdown, because here we are, 2 weeks into the fiscal year, and most of the appropriations bills have not been acted on. The fiasco surrounding the continuing appropriation a few nights ago, I think all Members will agree, whether they were for or against abortion or for or against the pay raise, certainly the manner in which that continuing resolution was handled reflects little credit upon the Senate. In fact, my own opinion is that it was handled in a truly disgraceful manner.

With the budget process in disrepair, with the appropriations process breaking down and perhaps falling apart, with Senators making fools of ourselves on the continuing resolution, does it really make sense to further compound this approach by appropriating $20 billion for a program that has not yet been authorized? I think it only serves to make the situation worse rather than better.

The final objection I want to make has really nothing to do with energy, but has everything to do with what most people in this country think is our most significant problem, and that is inflation. We all know the Nation's families and taxpayers and working men and women and business firms have been racked by the worst inflation since World War II—an inflation which has not only driven up prices, but which is creating in many areas of the country serious unemployment as well, an inflation which has been caused by the budgetary excesses of the Congress of the United States, by the annual deficits which we have enacted and which have resulted in higher prices leading to the inflation.

So most of us feel it is a time for restraint in Federal spending, that this is not a time for just ordinary prudence, but for the utmost prudence. This is a time for us to scrutinize every expenditure carefully, and know exactly what we are getting for the money we are being asked to spend, and, as we make appropriations, to ask ourselves, Is this really so important that we want to add to the inflationary budget deficit in order to make this expenditure?

We ought to ask that question about every item. I have watched my friends around this Chamber who have pet programs that they have invested years of their hearts and concern in, vote to hold the line, to reduce not to increase expenditures, and to provide restraint in deference to that critical overriding need to hold the line on Federal spending. But here, in one stroke, we are being asked to approve a $20 billion pig in a poke, to put up $20 billion for something that has not even been authorized yet.

Mr. President, I think this is a very poor policy. It is a policy which leads us into a quagmire. We do not really know what we are buying. I think we see the broad outlines of the program, a program which may well preempt other more desirable solutions. I hope that on reflection, my colleagues will agree with me that this is a most unwise amendment, and that it will be defeated.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 647) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from New York. The Chair recognizes the Senator from Colorado.

Mr. HART. Mr. President, I intend to oppose the amendment offered by the majority leader to appropriate $20 billion for synthetic fuels. Before the vote I wish to explain my position to my colleagues and my constituents.

I do not believe that the real question before the Senate is the question of appropriations. I think the real issue is the concept of the Energy Security Corporation itself, the concept of the bureaucratic approach the administration has suggested to Congress to help solve part of our energy problem.

In acting on this appropriation bill, on the Energy Security Corporation, on the Mobilization Board, and on the other elements of this new energy package, Congress is responding to a demand for action on energy. There is no question that the American people are watching the Congress on these issues.

Mr. President, I think all of us understand that all action is not wise action. The Energy Committee, which is marking up legislation on the issue of the future structure of the synthetic fuels industry and the Government role in that industry, should be commended. It is very difficult to get a consensus today on what steps should be taken on energy policy.

Mr. President, we do not vote here merely to reward hard work. We vote to decide between what is right and wrong, what is effective and ineffective, between what is sound and unsound, between what is good precedent and what is bad precedent. I think that is the issue before the Senate.

Mr. President, I think the issue is whether the U.S. Senate should ever completely deliver its deliberative judgment over to the President or any single committee acting for the President. We are being faced with this issue because there is an emergency. It is argued that we should take extraordinary governmental measures to respond.

I think Congress should take strong action. The issue still remains whether the action being recommended to Congress is right or wrong.

Without question there is a national security issue involved here, causing a need for strong measures. The Senator from Washington (Mr. JACKSON) yesterday spoke eloquently about the dangers, not only to our economy, but also to the long-range security of this country, from our increasing reliance on imported oil.

All of us agree that we have to act, we have to respond, we have to take emergency and quick measures. But, Mr. President, the size of the commitment cannot and should not be gaged merely in dollar terms, or in the dramatic nature of the agency which we seek to establish to spend those dollars. The question is not what is most dramatic, but what is most effective.

Mr. President, we are being offered an appropriation of $20 billion for synthetic fuels. As has been pointed out by my colleague from Colorado and many other Senators, this would be an appropriation for a program yet to be established by the Congress. I believe we should establish the program over the next few weeks, and then vote on the appropriations to fund what the Congress decides to do.

I believe the $20 billion proposed appropriation is too large, even if we agree procedurally to put the cart before the horse. Let me outline the type of synthetic fuels program which I think will be most effective. This program will not need $20 billion in 1980.

Mr. President, we should establish within the Department of Energy a new office to administer the new synthetic fuels program. It might be called the

Office of Energy Security or the Energy Security Administration. This new office could be composed of the same sort of effective new managers as envisaged for the Energy Security Corporation. However, instead of establishing a separate entity, such as the Energy Security Corporation the new office would answer directly to the Secretary of Energy. I think we should act within the Department of Energy which the Congress has only established within the last 2 or 3 years. Let us improve the effectiveness of this Department, rather than leaving it as is, and adding another Federal agency.

We should give this new office authority to negotiate price guarantees; and to establish purchase contracts in conjunction with the Department of Defense under the Defense Production Act; and to provide loan guarantees for small and intermediate size producers, especially to produce gasohol. There should be no federally owned synthetic fuel plants.

In addition, there should be tax credits for the production of synthetic fuels. The $3 per barrel tax credit such as I have proposed for oil shale and as the Finance Committee has adopted for all synthetic fuels, should be available to companies as an alternative to price or purchase guarantees. Some companies will prefer the independence of tax credits, especially if their processes are closely competitive with the priced imported oil.

The annual budget for such an office in the Department of Energy would be sized according to the price or purchase guarantees for which this office could actually contract in each year. Large expenditures such as price guarantees for commercially sized synthetic fuels plants would be approved in annual authorization and appropriation steps under traditional congressional practices. Congress would approve major price guarantees on a project-by-project basis. Congress would approve funding for price for the life of a project in the year when it approves the contract.

Loan guarantees would be limited to some modest amount, such as $25,000,000 per project.

Mr. President, such an approach is an effective alternative to the program to be offered shortly by the Energy Committee. The costs of this alternative have been estimated by a careful analysis and calculations done by my office:

First of all, in 1980 we could have authority for $3 billion for price guarantees for one 50,000-barrel-per-day synthetic fuel plant, plus an additional $1 billion for loan guarantees to small and intermediate-sized producers. Also, in 1980 we could expect 1 company to commit funds for a 50,000-barrel-per-day plant based on the $3 per barrel tax credit.

In 1981 the program could amount to another $3 billion in price guarantees for another 50,000-barrel-per-day synthetic fuel plant. We could also expect two 50,000 barrel-per-day plants to be initiated as a result of the $3 per barrel tax credit.

In 1982, roughly $10 billion for price guarantees would be appropriated for four additional synthetic fuel plants.

In total, from this program there would be nine pioneer commercial plants in operation in the mid to late 1980's. Congress would decide on whether to provide incentives for duplications of these first-generation plants after the pioneer plants prove their cost effectiveness and their environmental suitability. If some of the processes work as well as expected, this country would have 1.5 million barrels of synthetic fuel produced in the early 1990's.

Mr. President, the total cost of the development of a synthetic fuels industry is much less if we pick among the best demonstrations in the mid 1980's. This is the way that most consultants to the Senate Budget Committee proposed. This program would not build duplicate plants of untested processes, as proposed by the President in his original energy message. Most of the experts agree we can achieve the results desired by the creation of a new synthetic fuels energy in this country with substantially less Federal dollars than the $88 billion proposed by the administration. The program I am recommending would require $17 billion in appropriations over a 3-year period. The actual outlays would occur over 15 to 20 years.

So it is not just a question of buying the proposal of the Energy Committee together with that of the Appropriations Committee. There are alternative approaches which are less complicated and which involve less bad precedent.

Every law student in this country learns as a first lesson upon entering law school that hard cases make bad law. There is no question, Mr. President, that we have hard cases here. We are going to have to pay more for our energy. We are going to have to use less. We are certainly going to have to import less.

We are going to have to create, a self-sufficient synthetic fuels industry. We need alternative renewable energy supplies. We need dramatic changes in conservation. We need to convert to coal in industrial boilers and powerplants. We need much greater efficiency in transportation, even higher performance standards for automobile engines than those already enacted by the Congress. We need cogeneration in industry and waste heat utilization in power generation.

We need to do a lot of things of which the synthetic fuels industry is only a part.

But the real question, Mr. President, in achieving all these things, particularly the synthetic fuels industry, is whether because of the hard case we are going to make bad law. The Senator from Colorado feels very strongly the establishment of the Energy Mobilization Board, the proposal for the Energy Corporation, the proposal for a separate trust fund in the Treasury to finance this synthetic fuels energy, all border on the extraconstitutional and will create very bad precedents for the structure and organization of our Government.

It might be worth the risk, Mr. President, to test and strain the bonds of the Constitution where the several branches of Government are concerned if in fact there were no other alternatives.

Mr. President, there are alternatives. We do not need to do it this way. Justification for extraordinary measures is determined by the nature of the threat and seriousness of that threat to this country weighed against the alternatives that are available. The program put forward by the administration, which is being followed by the Energy Committee and by the Appropriations Committee, is not the only alternative.

The synethic fuels industry is only one of several steps that must be taken. The American people are beginning to understand that the energy produced by such an industry will not be available in large amounts for almost a decade. We have to begin in 1979 in order to produce large amounts in the 1990's. But we do not necessarily have to begin in the ways that we are being offered in this body.

I think the decision on the Energy Mobilization Board was wrong. It may even be unconstitutional. I think the proposal being put forward by the President and our own Energy Committee for an Energy Security Corporation is wrong. I do not know that it fits within the boundaries of what is the proper role of the legislature and what is the proper role of the executive branch.

I certainly think it is wrong to create a separate trust fund to finance these operations even in spite of the urgent nature of getting under way with them. The funding requirements for energy may be greater or smaller than the revenues from a so-called windfall profits tax.

Mr. President, I have the greatest fear that down the road we will look back in 1985 and understand that we created some structures here that may or may not have contributed to the production of synthetic fuels in this country, but certainly contributed to the confusion in Government and the overlapping and duplication frustrating most Americans. I hope we do not go beyond what needed to be done to achieve the results which all of us desire.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

UP AMENDMENT NO. 648

(Purpose: To allow the Department of the Interior to disburse certain funds appropriated for fiscal year 1979)

Mr. DECONCINI. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator from Kentucky wish to temporarily lay aside the amendment of the Senator from New York and allow the Senate to proceed to the consideration of the amendment of the Senator from Arizona?

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the amendment of the Senator from New York be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of the Senator from Arizona will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 648.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place, insert the following:

"Notwithstanding the provisions of section 6 of the Act of April 16, 1934 (48 Stat. 596), as added by section 202 of the Indian Education Assistance Act (88 Stat. 2213, 2214; 25 U.S.C. 457), funds appropriated pursuant to this or any other Act for fiscal years ending September 30 of 1979 and 1980 may be utilized to reimburse school districts for up to the full per capita cost of educating Indian students (1) who are normally residents of the State in which such school districts are located but do not normally reside in such districts, and (2) who are residing in Federal boarding facilities for the purpose of attending public schools within such districts."

Mr. DECONCINI. Mr. President, the amendment I propose simply allows the Bureau of Indian Affairs to expend funds appropriated in fiscal year 1979, and included in the fiscal year 1980 bill.

For the 20 years prior to 1974, funds appropriated under the Johnson/O'Malley Act were used to pay the entire per capita tuition for all students living in BIA dorms regardless of their home residence. When this agreement expired, an effort was made to continue a BIA desire that the States assume responsibility for education. JOM money would no longer be used for tuition costs for in-State students. But, in early 1975, a waiver of the implementing regulations for Public Law 93-638, the Indian Education Assistance Act, allowed the use. Thus, the Arizona tuition program functioned for 3 more years.

However, in the fall of last year, an opinion issued by the Arizona Field Solicitor, and reviewed by the agency, rendered the payments to be illegal. Therefore, four school districts are faced with not receiving approximately $180,000 for services already rendered.

Mr. President, I believe this practice should be reviewed by the proper legislative authorizing committee, but this amendment is the only recourse we have to correct the present impasse.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HUDDLESTON. Mr. President, we had an opportunity to review the amendment by the distinguished Senator from Arizona. We have no objection to including it at this time. The staff has not had an opportunity to review fully the potential impact, so we want to reserve the right to give it further study between now and the time we go to conference.

We have no objection to the amendment; and it has been cleared on the other side of the aisle, I understand. We are ready to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I thank the Senator from Kentucky and the ranking minority Member for their courtesy. The amendment is very important to a couple of schools and their students there.

The PRESIDING OFFICER. The question recurs on consideration of the amendment of the Senator from New York.

The Senator from Kentucky is recognized.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Chair understood the motion to set aside both pending amendments.

UP AMENDMENT NO. 649

(Purpose: To delete $10,000,000 in Energy Policy and Conservation Act grants and increases the allocation for coal conversion by $10,000,000)

Mr. HUDDLESTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) for himself, Mr. ROBERT C. BYRD, Mr. RANDOLPH, and Mr. FORD, proposes an unprinted amendment numbered 649: On page 41, line 18, insert the following: Delete "$702,502,000" and insert in lieu thereof "$692,502,000"; on page 43, line 1, delete "$144,264,000" and insert in lieu thereof "$154,264,000".

Mr. HUDDLESTON. Mr. President, the purpose of this amendment, which is offered on behalf of myself, Senator BYRD of West Virginia, Senator RANDOLPH, and Senator FORD, is to increase from $20.3 million to $30.2 million the appropriation for coal utilization under the Economic Regulatory Administration. This increase is offset by a reduction in the energy policy and conservation grant program which brings the Senate figure in line with House action on this program.

Coal utilization funds are to be used for implementation of the powerplant and Industrial Fuel Use Act of 1978 for the conversion of coal capable oil and gas burning facilities to coal. In private conversations with the officials of the Department of Energy, it is my understanding that an additional $10 million will lay the groundwork for the conversion of almost twice as many facilities as would have been converted under the lower budget figure.

Coal conversion offers our most promising and short-term alternative to foreign oil imports. Studies by the President's Commission on Coal indicate that up to 724,000 barrels of oil per day could be saved by the conversion of coal capable plants alone.

We have new leadership at the Department of Energy, and a new commitment to coal. It is important that we give them the tools they need to get the job done.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the effect of the amendment of the Senator from Kentucky is to take $10 million from the State grants program, which was added by the committee. There was no budget request for that amount. There was, however, an overall request for a program that was not authorized and the committee has singled out this one item as being meritorious.

If the Senator's amendment is approved, it will mean we will not be funding an unbudgeted item and the burden would be on the administration, particularly the Department of Energy, to come forward and ask for reprograming of funds that are authorized and appropriated here in excess of their needs.

I can think of many of those, particularly weatherization where there is too much money. They cannot spend it in 1 year. We all know it.

So I do not oppose the Senator's amendment because I know the State's program can be taken care of through the simple mechanism of a reprograming request by the Department of Energy.

Mr. HUDDLESTON. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER (Mr. LEVIN). The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 649) was agreed to.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that I may be added as a cosponsor of Amendment No. 520 as proposed by the Senator from West Virginia (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:30 p.m. today.

There being no objection, the Senate, at 12:03 p.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following votes occur as sequenced in the request I am about to make:

A vote occur on the modified amendment by Mr. JAVITS at 5 p.m. today; a vote occur on the amendment by Mr. ROTH immediately thereafter; a vote occur on the amendment by Mr. MCGOVERN immediately after the disposition of the Roth amendment; a vote occur on the pending Byrd amendment, as amended, immediately after the disposition of the McGovern amendment; and a vote on final passage of the bill occur upon the disposition of the Byrd amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS and Mr. METZENBAUM addressed the Chair.

Mr. STEVENS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is understood there will be a time limit. Will the majority leader agree to seek that time limit on the Javits amendment and the Roth amendment?

Mr. ROBERT C. BYRD. Yes. With the further proviso that there is a 40-minute time limitation on the amendment by Mr. JAVITS to be equally divided and controlled in accordance with the usual form and 30-minute time limitation on the amendment by Mr. ROTH to be equally divided and controlled in the usual form.

Mr. STEVENS. Mr. President, reserving the right to object further, could we have the remainder of time equally controlled by the managers of the bill?

Mr. ROBERT C. BYRD. Yes, the remainder of the time between now and 5 p.m., with the exception of the time that is allotted to the two Senators on their amendments, would be controlled by Mr. STEVENS and Mr. HUDDLESTON.

Mr. STEVENS. Mr. President, I am more than willing to allot time to the Senator from South Dakota (Mr. MCGOVERN). We do not have any time for him. But I do think that it should be understood that the time will be controlled.

Mr. ROBERT C. BYRD. Let us save 30 minutes to Mr. MCGOVERN with the understanding that the managers of the bill could allot additional time.

Mr. STEVENS. There is no objection to that.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS and Mr. METZENBAUM addressed the Chair.

Mr. JAVITS. Mr. President, reserving the right to object, will the Senator protect me if I need any modification of my amendment?

Mr. STEVENS. That is already done, I say to the Senator from New York.

Mr. METZENBAUM. Mr. President, reserving the right to object, it is possible that upon the defeat of the Javits amendment there may be a desire to offer a subsequent amendment and if the majority leader will see fit to provide something like 40 minutes in the event I, or some designee, desire to offer an amendment then I have no objection. I shall appreciate that.

Mr. ROBERT C. BYRD. Mr. President, the Javits amendment will not be lost, but in conformity with the suggestion that has been made by Mr. METZENBAUM, which I think is a good suggestion, I include that in the request and that the time be under his control.

Mr. METZENBAUM. I thank the majority leader.

Mr. ROBERT C. BYRD. That is the time on such amendment.

Mr. METZENBAUM. I understand.

Mr. ROBERT C. BYRD. I take it he would offer it.

Mr. METZENBAUM. I intend to offer an amendment but I might not do it.

Mr. STEVENS. Mr. President, I ask the majority leader, in the event the Javits amendment is defeated and Mr. METZENBAUM's time comes into effect we would move back the timeframe for commencing the vote. The Senator from Ohio may not realize it. The vote on the Javits amendment does not take place until 5 p.m.

Mr. METZENBAUM. Five p.m. I am aware of that.

Mr. STEVENS. In the event it is defeated then the Senator from Ohio's time would come in and other votes would be moved accordingly.

Mr. METZENBAUM. That is correct.

Mr. ROBERT C. BYRD. Mr. President, in the event the Javits amendment is defeated, and I dare say it will not be, then Mr. METZENBAUM would have an opportunity to call up his amendment and have 40 minutes equally divided and have it disposed of before the Roth amendment.

Mr. METZENBAUM. I thank the Senator.

Mr. STEVENS. Mr. President, I say to the Senator from Ohio, it is my understanding the Javits amendment will be modified. We have the right for him to modify the amendment and so modified it is my understanding it will be acceptable to the managers of the bill on the majority and minority sides. So in all probability the Javits amendment should pass unless there is something I do not know about it.

Mr. METZENBAUM. I am delighted to learn that, and I will certainly have no desire to offer an additional amendment in the event the Javits amendment is accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

The PRESIDING OFFICER. Who yields time?

The Senator from New York.

AMENDMENT NO. 521, AS MODIFIED

(Purpose: To provide energy fuel assistance funds)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. KENNEDY, Mr. STAFFORD, Mr. METZENBAUM, Mr. LEAHY, Mr. RIEGLE, Mr. MCGOVERN, Mr. WEICKER, Mr. DURKIN, Mr. GLENN, and Mr. PELL, proposes an amendment numbered 521, as modified:

On page 4, after line 3, insert the following:

EMERGENCY FUEL ASSISTANCE

For emergency fuel assistance programs administered by the Director of the Community Services Administration under section 222(a)(5) of the Economic Opportunity Act of 1964, $1,200,000,000, to be transferred to the Director of the Community Services Administration.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. STEVENS. Mr. President, will the Senator yield to me just one moment?

Mr. JAVITS. Of course.

Mr. STEVENS. Mr. President, it is my understanding the Senator is going to modify this amendment. May I inquire if the Senator from New York would be willing to qualify his amendment, as modifies it, to the extent that this money that is made available to CSA, it cannot be reprogramed or transferred from CSA?

Mr. JAVITS. Mr. President, will the Senator give me a few minutes to find out what the points are?

Mr. STEVENS. Yes.

Mr. JAVITS. Mr. President, the reason for calling up my amendment was that I noted the presence in the Chamber of Senators MUSKIE and BELLMON, and I know the Budget Committee has a very great interest in this matter.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JAVITS. Yes.

Mr. MUSKIE. I would like to make it clear that our presence in the Chamber is accidental. We are not here because we were notified of developments which we understand have already taken place today, and are developments which are planned for the day.

We find ourselves on the threshold of a renewal of the budget conference with the House Budget Committee at 2 o'clock in which this issue, as well as others, is very much in disagreement between the two bodies.

While we expect to find ourselves in the Cannon Office Building, the committee rooms of the House Budget Committee, negotiating this and other issues, apparently here in the Senate Chamber the Senate will be acting to take discretion out of our hands.

Mr. JAVITS. Mr. President, will the Senator allow me to continue?

Mr. MUSKIE. Of course. I just wanted to make it clear we are here without any previous notifications.

Mr. JAVITS. I think the Senator is jumping at very fast conclusions.

Mr. MUSKIE. That is not jumping at a conclusion.

Mr. JAVITS. Mr. President, would the Senator allow me to continue?

Mr. MUSKIE. Of course.

Mr. JAVITS. When I said what I did I meant it literally. I was prepared to give the Senator all the notice in the world. I did not know there were any conflicting engagements or anything else. I was pleased, when they walked into the Chamber, to be able to call up this amendment as we are supposed to vote at 5 o'clock, and there are other amendments en suite.

If the Senator will find it more convenient I am perfectly willing to take the amendment down and offer it again at 4:20 so that the Senator will have plenty of time.

First let me explain what it is all about.

Mr. MUSKIE. Let me just comment on that. If we are going to vote on the Senator's amendment sometime this afternoon, there is no way for me to be here unless I ask the House conferees to simply adjourn the conference which, by law, is supposed to be finished tomorrow, until the Senate decides what it is going to order us to do. It is the same complaint I made yesterday, and it is still relevant today. I find it a most frustrating situation in which to find myself.

I understand the Senator's interests, and I do not challenge his position, but I am simply making the point that I cannot be here and in the Cannon Office Building at one and the same time, fighting this very same issue on the Senate floor and also fighting it in conference with the House Budget Committee. There is no way for me to do both things. I am under a mandate from the Budget Act to finish this conference, which is supposed to be finished in 7 days from the day it begins or the conference is discharged.

We have got difficult issues to resolve in that budget conference, and I can hardly go over there, and engage in that, while this business is pending here.

Mr. JAVITS. Mr. President, the scheduling of the Senate is not my doing. If the Senator from Maine can get his leader to put this matter over until tomorrow or Friday, Saturday, Monday, any time he wishes to, I am more than happy to cooperate. This is not my choice, and I do not wish to be charged with it.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. JAVITS. I yield myself 5 more minutes.

Mr. President, no deals have been made of any kind or character, but the closeness of the vote last night and the fact that a good many Members of the Senate are just as worried as I am about this situation, and just as factual about it, compelled me to rethink what could be done.

In an effort to rethink, I consulted with the manager of the bill, and there is nothing more logical than that, and I suggested to him a course of action which I think endeavors to solve the dilemma in which many Members, not only I, were placed, and that dilemma is this:

On the one hand, we realize time is of the essence in this matter. If we are going to do it, we have very little time in which to press the button that will set the machinery in motion. Therefore, we are using existing machinery. There is no question about that, and it is machinery which has been used before.

If we delay, Mr. President, it takes 30 days to begin to get these checks out. If we acted right now, promptly, they could get out in early January. If we wait until the next opportunity, the next continuing resolution or supplemental, it is clear and assured that it is not less than 30 days and probably more.

So I suggested to the manager of the bill the course which I am now adopting, and that is to reduce the amount sought from $1.35 billion to $1.2 billion, relying upon the normal appropriations processes for the balance.

The fact is there is $250 million in the continuing resolution, and that the Appropriations Committee has under consideration in one of its subcommittees $150 million as asked for by the President.

The only two things which this will do are the following, if the Senate does act favorably: One, it will separate the $1.2 billion from the excess profits tax condition which the President has put on it. So if the Senate votes affirmatively it will be saying, "We are going to deal with this matter without regard to the excess profits tax."

The second thing it will do, Mr. President, is to advance the matter by putting it in the stream of conferences of the Appropriations Committee and the Budget Committee, both of which are now in conference on various matters, including this bill, which will go to conference after we vote it this afternoon. That is a measurable step forward because in that way something can be done without waiting for the next opportunity to come along, whenever that is.

Those are the only two accomplishments. I have made it clear, Mr. President, and I make it clear again to the ranking member and to the chairman of the Budget Committee and to the chairman of the Appropriations Subcommittee, the Appropriations Committee and their ranking members, that the matter is in their custody. They will have the opportunity to fashion what should be a suitable remedy for a situation which appalls all of us, not me alone, but every Member of the Senate.

It seems to me, Mr. President, that that is doing things the right way, and that the wrong way would be simply to throw our bodies across the tracks and say, "Because all the procedure is not ready, because all the pieces are not in place, we are not going to do anything," when there is an opportunity to do something. That is the only thing I plead for with the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, it is my understanding, and I voted with the Senator from New York last night, and reflection that if we follow the Senator's approach on this, then relief for those in need because of the energy crisis will be in the form of a block grant to the States; is that correct?

Mr. JAVITS. The Community Services Administration has been administering this program through the governors of the States but subject to its regulations which give priorities, for example, and so forth, so that it does actually go through the agency of the States but under regulations of the Community Services Administration.

Mr. DANFORTH. Here is my problem with it. We are now in a process of wrestling with exactly this question in the Senate Committee on Finance in connection with the windfall profits tax, and we will, as a matter of fact, be going back at 2:30 this afternoon to redo consideration of this matter.

But it is my understanding, and the understanding of some of us, that at least some States are simply not in a position to effectively administer this as a block grant program.

The PRESIDING OFFICER. The Senator has used his time.

Mr. JAVITS. I yield myself 2 additional minutes.

Mr. DANFORTH. For that reason, the approach some of us have taken in the Committee on Finance, including the Senator from Missouri, is that the States should be offered a block grant, but that they would be in the position of turning it down if they are not able to manage it, so that the funds could be distributed by the Federal Government to, say, food stamp eligible persons and SSI recipients.

Mr. JAVITS. Well, now, let me clarify first. The fact is that three-quarters of this money will go to the SSI and the AFDC. The difficulty with the food stamps is that there is no accurate record on the Federal level, whereas with others there is a record. Only a quarter of the money will go to the Governors of the States, and the Finance Committee, I do not think I have to assure the Senator can easily get the ECA to do what he wants, because they know you are working on permanent legislation.

Mr. DANFORTH. But a portion of the money would be administered through block grants; is that not right?

Mr. JAVITS. I assure the Senator right now that what he suggests is eminently sensible and practicable.

Mr. DANFORTH. I am not sure, though, that necessarily a portion of the money would be in a block grant.

Mr. JAVITS. The Senator's suggestion is that the money be offered as a block grant to the Governors only if they have the facilities to distribute it equitably?

Mr. DANFORTH. That is correct.

The PRESIDING OFFICER. The Senator's additional 2 minutes have expired. Who yields time?

Mr. BENTSEN. Mr. President, I would like, for the purpose of engaging in a colloquy, unanimous consent to propose an amendment which I shall later withdraw.

Mr. HUDDLESTON. I believe it would require unanimous consent to set aside the pending amendment temporarily.

Mr. BENTSEN. That is what I request. I ask unanimous consent that we set aside the pending amendment for the purpose of offering an amendment which I will later withdraw, for the purpose of establishing a colloquy.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? Without objection, it is so ordered. The Senator .rom Texas.

UP AMENDME .T NO. 650

(Purpose: To provide unds to prevent further flood and erc ion damage at the Lyndon B. Johnson National Historic Site)

Mr. BENTSEN. Mr. President, this a minor matter, but it is a major matter as far as the Lyndon B. Johnson National Historic Site is concerned. They have had a couple of major floods in two consecutive years, and have had substantial damage there. I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 650: On page 14, line 12——

Mr. BENTSEN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 12, insert the following: Strike "$119,938,000" and insert "$120,263,000".

Mr. BENTSEN. I understand the objections of the committee on both sides to adding funds to this particular piece of legislation for this purpose, but what I am asking in lieu of that is that the Department of the Interior bring about some reprograming of funds to try to take care of this emergency situation.

What we have involved here is some $325,000 to be expended for backsloping and rip-rap, immediate needs that have to be taken care of or we will have further immediate damage to this national historic site.

We have talked about this with the majority and the minority, and it is my understanding that that would be acceptable. Will the Senator from Kentucky please advise me whether that understanding is correct?

Mr. HUDDLESTON. The staff of the committee has looked at this problem and at the figures the Senator has indicated to us here as to the particular damage and what is needed to be done. We are of the opinion that it should be done. We think it can be done through reprograming, and we would certainly be sympathetic to replacing any funds that had to be diverted from other jobs just as soon as the Department sends to us the justification of the need.

Mr. BENTSEN. Will the managers of the bill advise me if that is also the viewpoint of the minority? Can the Senator from Alaska advise me if that is the viewpoint of the minority, that the request for reprograming of this $325,000 be done by the Department of the Interior, to provide protection for the Lyndon B. Johnson National Historic Site on the Pedernales?

Mr. STEVENS. I say to my good friend from Texas that we would certainly be sympathetic if there were a justification for reprograming. I do not believe we have ever objected to a reprograming that is fully justified.

Mr. BENTSEN. Mr. President, I ask unanimous consent to withdraw my amendment at this time.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn. The question recurs on agreeing to the amendment of the Senator from New York.

AMENDMENT NO. 521, AS MODIFIED

Mr. STEVENS. Mr. President, before proceeding with that amendment, will the Senator yield for a parliamentary inquiry?

Mr. JAVITS. I yield.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. STEVENS. Is my understanding correct that the Javits amendment is an amendment to the Byrd amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Would the Senator from New York be willing to modify his amendment so that it is an amendment to the bill at the appropriate place, and not to the Byrd amendment, so that we may take care of a parliamentary situation?

Mr. JAVITS. I have no objection to that, except that I assume it would require unanimous consent, since the Byrd amendment is pending.

Mr. STEVENS. I ask unanimous consent——

Mr. JAVITS. Let me put that in the form of a parliamentary inquiry.

The PRESIDING OFFICER. It does require unanimous consent.

Mr. JAVITS. Then, Mr. President, I ask unanimous consent that my amendment may appear at the appropriate place in the bill; that it not be an amendment to the Byrd amendment, but that its consideration now may continue.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Alaska has the floor. Who yields time?

Mr. HUDDLESTON. Mr. President, I yield the majority leader such time as he may require.

Mr. ROBERT C. BYRD. I thank the Senator. Mr. President, I ask unanimous consent, with respect to the order that was earlier entered anent the sequential voting on amendments and final passage of the bill, that it be altered to this extent: that the motion to reconsider the vote on the amendment by Mr. JAVITS, which would occur later today, not be in order until Thursday of this week, and that immediately following the vote on the motion to reconsider the vote on the Javits amendment on Thursday, the bill be advanced to third reading without further amendment or debate, and to final passage without further debate, and that paragraph 3 of rule XII be waived.

Mr. STEVENS. Mr. President, reserving the right to object, would the majority leader consider having advancement to third reading occur after the vote on the Byrd amendment today? I want to make sure we advance to third reading today, and close off the amendatory process as soon as possible.

Mr. ROBERT C. BYRD. I believe my request would do that.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Mr. President, reserving the right to object, and I will not object——

Mr. ROBERT C. BYRD. Will the Senator let me rephrase my request, please?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, at a certain hour today the Senate will vote on the modified amendment by Mr. JAVITS. There are certain reasons why it is desired that that vote be reconsidered on Thursday, and that in the meantime the bill go to third reading, or in essence go to third reading, so that other amendments to the bill will be closed off, so that on Thursday we would only vote on the reconsideration of the vote on the amendment by Mr. JAVITS.

Mr. HUDDLESTON. And then proceed to final passage.

Mr. ROBERT C. BYRD. And then final passage, without further amendment or debate. That is what I am about to ask the Senate to do by my request; but before I propound the request, I would like to know if the Senator from New Hampshire has some difficulty with it.

Mr. DURKIN. I hope not. The situation is that in my opinion we have legislation on an appropriation item with respect to the curtailment of refined products under entitlement. I do not want to be put in a position where I am precluded from making a point of order, not on the bill, but on that particular item, which treats of entitlement extensions as an energy action requiring the action of Congress.

Mr. ROBERT C. BYRD. The Senator does not have reference to any of the items, I do not believe, that are listed in the order. What amendment would that be?

Mr. DURKIN. It will not be in the form of an amendment. Senator JOHNSTON's committee amendment.

Mr. ROBERT C. BYRD. The Senator wants to make a point of order on that committee amendment, as I understand it.

Mr. DURKIN. Yes; I do not want to be precluded on that. I support your efforts, and I have supported and cosponsored Senator JAVITS' amendment.

Mr. ROBERT C. BYRD. Would the Senator be willing to do that today?

Mr. DURKIN. Yes, at any time. I want to inform Senator JOHNSTON before I do it.

Mr. ROBERT C. BYRD. The committee amendments were agreed to on the condition that points of order would not be waived, so the Senator from New

Hampshire has the right to make that point of order.

Mr. McCLURE. Mr. President, will the Senator from West Virginia yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Is my understanding correct, then, that the action on the Javits amendment of yesterday has been totally wiped out, but that it is your intention to go to a rollcall vote on the Javits amendment today, and that in the event it passes or fails, it would be subject to reconsideration, but reconsideration only if so voted on Thursday; is that correct?

Mr. ROBERT C. BYRD. Precisely.

(Mr. LEVIN assumed the chair.)

Mr. McCLURE. Mr. President, the reason I ask that question is that I understand that the Senators from Maine and Oklahoma are seeking to be able, in the budget conference, to work a compromise between the House and the Senate on the issue raised by the Javits amendment, or the several issues raised by the Javits amendment, without having been prejudiced by a position taken by the Senate prior to that time.

It would seem to me, if that is really their desire, that all of the votes on the Javits amendment should be reserved until Thursday, because having voted on it certainly does have some effect upon the conferees' latitude in the conference. I just wonder if the Senator from New York, the Senator from Oklahoma, and the Senator from Maine have discussed the possibilities of having all of the votes on the Javits amendment on Thursday rather than simply reconsideration.

Mr. ROBERT C. BYRD. May I say the Senator mentioned the Senator from Maine. The Senator from Maine is agreeable to having the vote today, with the reconsideration vote going over until Thursday, because that would not constitute final action by the Senate.

Mr. JAVITS. So does the Senator from Oklahoma. We both agree.

Mr. McCLURE. I understand now that they have agreed, but I am not sure that I understand why they are afraid of having Senate action on this amendment unless they are assuming that it will be defeated today and they want to preserve to the Senator from New York the opportunity to revive it on Thursday.

Mr. ROBERT C. BYRD. They are faced with a fait accompli. The vote on the amendment by Mr. JAVITS is already set by unanimous consent and will occur today. That was done before Mr. MUSKIE was advised that it was about to happen. So he only hopes now that the motion to reconsider will be preserved until Thursday, which would allow him in conference to say quite legitimately and properly that the Senate has not finally acted.

Mr. McCLURE. If the Senator will yield further, I understand that that is true, but what the Senator is seeking now takes unanimous consent, and I assume the earlier action could be accomplished by unanimous consent, too. Perhaps the Senator from New York wants to comment. Truly, if we want to leave the Budget Committee free to act without having been in any way prejudiced by action taken by the Senate on the Javits amendment, it would seem to be better to leave the vote until Thursday in order to accomplish that. I understand, too, that the Senator from New York does not wish to pass the opportunity to put the Senate on record on this issue, and he could do that by waiting until Thursday. It does not have to be done today.

Mr. JAVITS. The Senator proceeds on the wrong assumption, that they expect this amendment to be defeated. They do expect it to pass. Their agreement is premised on the idea that it will. That is why they want the agreement they want. There are reasons for it, as negotiators. I cannot define those. But the arrangement made was satisfactory to me because I always wish to accommodate Senators. If the Senate wishes to reverse itself Thursday, there is nothing in the law that says it cannot. I am pretty adult and I know it can. But I do want this amendment acted upon today for this reason: One, there has been a very thorough debate and this is what the lawyers call the res gestae. They have actually thought about it, thought it overnight, deliberated on it, and I think most Senators have come to a firm conclusion. I am the advocate of the amendment. I wish to act on it.

Mr. McCLURE. I understand. I thank the Senator for his explanation. But certainly if the Budget Committee wants to go to that budget conference unprejudiced by a vote of the Senate, they are certainly not accomplishing that by the expectation that it will be voted affirmatively today and then go to the conference and say, "Now we are free to act," because they are certainly not free to act. The Senator from New York obviously would be pleased by that result because he desires first that the amendment be agreed to and, second, that the budget conference be influenced by this act, which is his desire. But at least from the standpoint of the Senator from Idaho, I have no illusions that that really frees the Senate's Budget Committee conferees in any way from the influences of having had a vote upon the motion today.

Mr. JAVITS. I think it is a good idea for conferees to have an idea about how their body feels. This is the first time I have ever heard that conferees would like to reject how their body feels and not even know it.

Mr. McCLURE. It seems to me that is precisely what the Senator from Maine was saying all yesterday afternoon.

Mr. JAVITS. He found out yesterday afternoon and he will have the opportunity to find out again today. I might say to the Senator if he is particularly anxious to be recorded against it he, like another Member when they ask for a recorded vote, will get it. The Senator knows that. I have told the other Senators who were concerned that I will not ask for a record vote today. But if the Senator wishes to, he may. I will take my chances.

Mr. McCLURE. Will the Senator yield further?

Mr. JAVITS. Yes.

Mr. McCLURE. If the Senator from New York is trying to persuade the Senator from Idaho to not speak to the unanimous-consent request, he is certainly not succeeding in that purpose. The Senator from Idaho can object.

Mr. JAVITS. Of course he can, and I can, too.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. McCLURE. Of course.

Mr. ROBERT C. BYRD. I hope the Senator will allow this procedure to go along in deference to the request by Mr. MUSKIE.

Mr. McCLURE. Is it possible, Mr. President, and is it the expectation of the majority leader, that it be done by a voice vote, that there be no record vote on this matter today?

Mr. ROBERT C. BYRD. That would be fine with me.

Mr. McCLURE. But that is not part of the deal?

Mr. ROBERT C. BYRD. No, it is not.

Mr. McCLURE. Mr. President, it is a curious situation, so far as I can see, in which we seek not to influence them but we are going to have a vote on it for the purpose of influencing them. If, as a matter of fact, it is then the desire not to influence them but we are going to have a vote today to accommodate the Senator from New York, then it would seem to me that we ought to also by unanimous consent say that it be by voice vote. Or can we agree to accept it by unanimous consent? In that way there would be no influence on the Budget Committee and their actions, or at least it would be less than if there was a recorded vote on it.

Mr. ROBERT C. BYRD. I feel this will be satisfactory.

Mr. McCLURE. I do not mean to prolong this, but I find this curiouser and curiouser and curiouser. I appreciate the explanation of the Senator from New York, but there is something, obviously, as to the expectation to come from a voice vote because that does indicate to me that there has been some understanding. I am not certain yet whether the Senator from Idaho is agreeable to a voice vote on it. I do not like the entire procedure of trying to make promises in regard to future actions by the Appropriations Committee. I am troubled by that in this instance as well as the other.

I favor the program. I will vote for the program, but I do not think that trying to do it ahead of the actions being taken by authorizing committees is going to get it done.

Mr. JAVTIS. Will the Senator yield once more? I will try to control my tone of voice.

Mr. McCLURE. I thank the Senator.

Mr. JAVITS. I apologize if I seem irritated. I am not. My motives are very simple. This matter has been debated. We passed on it last night. There was another opportunity to pass on it today because the motion to table was to be voted upon today. From my understanding with the manager of the bill, that was dispensed with for this procedure, because I was willing to reduce the amount to meet what seemed to be the way the thing was laid out, that is, $1.2 billion in this bill and $400 million in

other bills. Apparently, this is a procedure which is entirely agreeable to Senators MUSKIE and BELLMON. My feeling about the thing is that it is a sound thing, a good thing, an important thing that the Senate let its conferees know how it feels about this matter.

Sure, it may influence them in their negotiation; it may not. I have no idea, because both of them voted against it last night. They can vote against it again.

I am grateful to the Senator for being for it. I think it deserves that. But I do not see any improper prejudice by acting on this at the time when we are supposed to act on it. That is all.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Does the form of the Javits amendment now clearly identify the source of funding for the program? In other words, will it clearly now be an energy function in the Budget Committee crosswalk or an income security function in the Budget Committee crosswalk? Or is that something that is unresolved?

Mr. JAVITS. Well, I believe that the matter will be negotiated in the conference by this particular subcommittee. But the appropriation is an appropriation which will move through the Community Services Administration.

Mr. McCLURE. That is, generally speaking, the Community Services Administration is in the income security item by budget function; is that not correct?

Mr. JAVITS. I do not recall that, as a matter of fact. I think it is.

The answer is yes.

Mr. McCLURE. The Senator from Kansas is a member of the Budget Committee and, I might say, the Senator from Idaho is a former member of the Budget Committee. It is my understanding, if that is the case, that money being suggested for the program at this time would be in the income security function of the budget and whatever direction there is to our conferees, whatever influence this action might have with respect to our conferees, would indicate that that is where it would be. As I recall, that is one of the items for consideration in the conference.

The Senate Budget Committee having already put $600 million into the income security function for this purpose——

Mr. JAVITS. $500 million.

Mr. McCLURE. And the House having put $1.6 billion for this purpose in the energy function, I think that, that being one of the important items to be resolved in the conference, having a clear record here for whatever influence it may have on the conferees might be helpful in supporting the already expressed conviction of the members of the Budget Committee on behalf of the Senate and the action taken by the Senate on the second concurrent resolution, that this item is appropriately in the income security function within the budget.

I thank the Senator for yielding.

I say to the majority leader that I shall not object to this request, although, as I say, it gets curiouser and curiouser.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Should I repeat the request? I think perhaps I should.

Mr. DURKIN. Will the leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. DURKIN. Would it be appropriate at this time to ask, as a part of the same request, that we be given a half-hour on the point of order, equally divided between Senator JOHNSTON or his designee and myself?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that, on a point of order which will be raised by Mr. DURKIN to a committee amendment later today or at any point during the afternoon, there be a 30-minute time limitation on the point of order, to be equally divided between Mr. DURKIN and Mr. JOHNSTON.

Mr. JAVITS. Two other things, Mr. President.

Mr. ROBERT C. BYRD. This is separate from the request.

Mr. JAVITS. There are two other things which need to be dealt with.

As my amendment is now going onto the bill, I would ask that points of order be waived as against that. It is now in a different place and may have a different situation.

Second, it will be remembered that Senator METZENBAUM had a proviso that if my amendment were defeated, he would have a right to call up an amendment. That should be cranked into this.

Mr. ROBERT C. BYRD. Yes, Mr. President, I am glad the Senator from New York reminded me of that.

I make the request now with respect to the point of order by Mr. DURKIN.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I make the request, with respect to Mr. JAVITS' amendment, that it be detached from its earlier status as an amendment to my amendment and made an amendment to the bill without any points of order being waived.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, Mr. President, is it necessary to waive points of order against the Javits amendment?

Mr. JAVITS. The reason is that it is now, at their request, a part of the bill and not——

Mr. ROBERT C. BYRD. Oh, I am sorry. I misunderstood. The Senator does not want a point of order. Am I correct?

Mr. JAVITS. Yes, any point of order against it is waived because, at the suggestion of the manager, I made it part of the bill.

Mr. ROBERT C. BYRD. I misstated it, Mr. President.

Mr. JAVITS. It is not part of, not any part of the Byrd amendment.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request.

Mr. McCLURE. It will be offered as an amendment to the bill?

Mr. JAVITS. Right.

Mr. McCLURE. It seems to me it ought to stand on its own merits, with or without the waiver of the points of order. I do not understand why, having made that decision, it should now have a position that is favored over the position that it had before.

Mr. JAVITS. There is nothing favored about it, I say to the Senator. This is an amendment, as it stands now, to Senator Byrd's amendment, which deals with the subject of $1.5 billion that is being taken out of one account and put into another. It is that account which I tried to reach by my amendment. Now I am asked to take the amendment out of the Byrd amendment, where it is, I believe, unchallengeable, and put it into the bill generally. I have no idea what the situation is, but if I am doing that, why should I jeopardize it? That is the only reason I am taking this precaution.

Mr. McCLURE. Mr. President, I see no reason to waive points of order against this amendment. I do not know that anybody is going to raise one. I am not even sure it is subject to one. But I am not certain why, having made this change, it should now be subject to a waiver of points of order.

Mr. JAVITS. Only because it is an elementary precaution by me in view of the fact that I am taking the amendment out from where it belongs and putting it in the bill because that is the way in which it seems to accommodate Senators MUSKIE and BELLMON. That is the only reason I am taking this basic precaution.

Mr. ROBERT C. BYRD. Mr. President, he is doing this in order that the final disposition of his amendment may go over until Thursday.

Mr. JAVITS. Exactly.

Mr. ROBERT C. BYRD. And, this would not prevent final disposition of the Byrd amendment today.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, does the change in form from an amendment to the Byrd amendment to an amendment to the bill change the status of the proposed amendment with respect to possible points of order?

The PRESIDING OFFICER. It would still possibly be subject to a point of order.

Mr. McCLURE. And it would be possibly subject to a point of order in its current status; is that not correct?

The PRESIDING OFFICER. The Chair reminds the Senator that this amendment was moved to the bill and is pending to the bill, according to the agreement reached 20 minutes ago.

Mr. McCLURE. So its current status does not change its status with respect to a point of order.

The PRESIDING OFFICER. Not in that respect.

Mr. McCLURE. Not in that respect.

Mr. President, I hope the Senator will not insist on asking that points of order be waived because surely, I have the understanding that he would like to have that and I do not know that any points

of order will be made against it, but I would be constrained to object

Mr. ROBERT C. BYRD. Mr. President, I hope, also, that the Senator would not insist upon that, if I may, upon the point of order waiver. I say that in the spirit of friendship and feeling that I am being helpful to him.

Mr. JAVITS. Well, Mr. President, I ask unanimous consent that I may call for a quorum without the time being charged against either side.

Mr. ROBERT C. BYRD. Will the Senator withhold that? Could we proceed with the rest of the request in the meantime?

Mr. JAVITS. Well, I think it kind of hangs on this. I need to know where I stand, and frankly, I do not right now. That is important to me. I have been here too long to get caught short on something like this.

Mr. President, I ask unanimous consent that my amendment be temporarily laid aside and that Senator RANDOLPH may be given the floor.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The Senator from West Virginia is recognised.

Who yields time to the Senator from West Virginia?

Mr. HUDDLESTON. I yield what time the Senator may require.

Mr. RANDOLPH. Mr. President, earlier today during the debate on this appropriation measure, the able Senator from Colorado (Mr. HART), who is always well versed in discussion of the appropriate subject matter, made a particular point with regard to synthetic fuels. I know this from his leadership in the Committee on Environment and Public Works and his chairmanship of the Subcommittee on Nuclear Regulation. This afternoon, however, I feel that he perhaps did not have all the facts currently available when he suggested the Senate should agree that the expenditure of $20 billion for synthetic fuels proposed by this amendment is not compatible with the best interests of the American people to meet the energy tragedy in which the American people at present find themselves.

The Senator, my colleague with whom I work, expresses tribute to Chairman JACKSON of the Energy and Natural Resources Committee but cannot agree with the eloquent plea that Senator JACKSON made for this $20 billion which is asked for in this amendment being considered here.

Again, I must reinforce what Senator JACKSON has said. He spoke, as a part of his very cogent remarks, about the increases in the oil prices and the amount of petroleum supplies which are being imported in this country. Approximately one-half of all the oil that we use for operation of our motor vehicles, for heating oil, for general utility boilers, and other operations is imported. About one-half of the petroleum that we are using in one way or the other is coming from overseas.

So when we insist we should not move in what I call an all-out frontal attack in this matter, but rather explore the situation with timid steps, I believe the latter, Mr. President, will not suffice.

Let us see by reading the headline in this afternoon's Washington Star what is said about the very subject matter that I am discussing.

Libya, Iran Raise Oil Prices. Move Could Signal Wave Of Increases.

Libya, for example has raised its crude oil price to about $26 a barrel, breaking the ceiling which had been set by the OPEC countries at $23.50 a barrel.

The article goes on to state:

Iran also boosted its oil price, but only to the ceiling level. And oil industry and U.S. government sources again said there were indications that Iran was delaying oil shipments, despite Iranian denials.

Libya and Iran provide about 10 percent of the oil used by the United States, and analysts said the price increases could add a penny or two to the price of a gallon of gasoline or heating oil in the United States.

Last week Kuwait announced that it would raise its oil prices by 10 percent, effective Oct. 1. Kuwait's oil prices, however, remained below the $23.50 ceiling, averaging about $21.50 a barrel.

Besides increasing their official prices, some OPEC members have been diverting more of their oil into special sales above those prices. The result has been an expansion of the commercial spot market, where oil is freely traded, into a new tier of high-priced oil.

In recent days, prices on the upper-tier spot market have neared $40 a barrel.

This is not a rumor. This is a fact. It is substantiated by the Gulf Oil Corp., Marathon Oil, and Conoco, Inc.

This is a situation where I think the American people, very frankly, are going to wonder about the Senate of the United States. If it defeats the proposal for $20 billion for beginning a synthetic fuels, they are going to have the right to look and wonder, how long Government will continue to procrastinate before taking steps toward energy independence.

I need only refer my colleagues to the situation we had with the space programs of the world. Let us be very frank. Let us recognize that the Soviet Union was 10 years ahead of us. Is that right? Absolutely. Of course, we have a Member who was involved in our space program here on the floor today, who might want to comment if he cares to.

But the Russians were 10 years ahead of us during the Eisenhower administration. At that time it was estimated we could spend the approximate sum of $40 billion and do the Apollo space program in 20 years. Twenty years and $40 billion to develop a comprehensive program during a much less inflationary period of our history.

What happened? We made the Apollo program a priority. We started 10 years late, but we made a priority of it; a commitment by the American people to do the job.

It actually took only $20 billion. But we did it. Not in 20 years, but in 10 years.

This is the record in connection with that one program, the Apollo program.

We certainly should not forget that the Wright Brothers gave their genius to us through the gift of the heavier-than-air craft. They gave the gift of flight to the world, but principally to the United States of America. I say to the Senator from Kentucky (Mr. HUDDLESTON) who chairs the subcommittee dealing with this important subject, that they gave it to the United States of America 10 years before we ever decided to do anything about it in this country of ours. Every aircraft flying in World War I with U.S. pilots were manufactured in Europe. They were not constructed in the United States of America. They were constructed overseas.

Yet, American pilots were flying them. Yet we had a 10-year headstart in this country because of what the Wright brothers had done.

There are too many times when we do not move in this country. We wait until after the fact, rather than before the fact.

If we wait on this program of synthetic liquid fuels which is being offered here; yes, a massive program—call it that; yes, a program that costs money, we will again lose valuable time. But I state it is a program not to spend dollars, but to invest dollars, because a dividend in a more secure America and, thus a peaceful world, can result from the action that will be taken here later this afternoon.

I shall always remember, because I have been a student of aviation, two West Virginians who were working at Edwards Air Force Base in the days before we had planes flying faster than the speed of sound. Chuck Yeager from the hills of our State and, of course, his friend, Frank K. Everest, Jr. These were two pilots, among others, who were working and helping us move, in 1947 and 1948, into the space program.

I do not want the States and the local municipalities overrun by a synfuels development program. I do not want to set aside the States and the local communities right to make decisions affecting their areas. But I do know that this job is to begin, it must be started here, and it must be now.

I remind Senators that I am not one who will advocate the scrapping of environmental programs of this country to see that it is done. I would resist it. But we should realize, as we approach a vote later on this issue, that we are being asked to do something very concrete. Frankly, if Senators vote for it, in my opinion—and I respect every Senator—they are voting for something that is far more than symbolic. They are voting for something that is realistic—realistic in the type of world in which we live and the problems that beset us.

The necessary program must start now. The able Senator from Massachusetts said that nothing will happen; it will not go on line for another 10 years. If we do not act it will not be in 10 years or 8 years or 6 years—it will never be!

Action—and that comes almost always in crises situations in this country—comes when a President can and does act at the White House. In World War II, when we decided that we were going to have synthetic rubber plants in this country we moved out and did the program. This synthetic fuel development is somewhat the same situation. More dollars are involved, of course, but

with a wider scope of productivity and products.

I remind my colleagues again that it is not enough to say, "Well, we will have certain approaches, whatever they may be. We will get ready, and then all in good time we will do something about this."

I remind Senators that we have had the opportunity for 5 or 10 years to do something about this. I remind my colleagues that the opportunity has been there, but the opportunity has not been grasped collectively by administrations, by Senators, or by Members of the House.

I speak earnestly and vigorously because of a deep-down feeling I have that we cannot pass up this opportunity; we cannot pass up this responsibility to the leadership of Senator ROBERT C. BYRD and Senator HUDDLESTON and others in this body. If we move and move now, the American people, although they may not know it this afternoon, are going to recognize in the tomorrows that the Senate of the United States did not let the people of this country down. We have a real challenge and a real opportunity to commit ourselves to this program by saying "yes" or "no" later in the day.

I thank my colleagues in the Chamber for the opportunity of drawing these conclusions and bringing these matters to their attention. I do it in a sense of reiterating, perhaps, what I might have said in other ways yesterday when I had the colloquy with Senator TSONGAS. If Senator HART were in the Chamber, I might have a colloquy with him. But I do it because I feel—I sense, I know—that now is the time for affirmative action, and we will serve America well and all our people well if we get the job done.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, an order has been entered providing for sequential voting on the amendments by Mr. JAVITS, Mr. ROTH, Mr. MCGOVERN, Mr. ROBERT C. BYRD, and then for a final vote on the bill itself, today.

I ask unanimous consent that upon the disposition of the amendment by Mr. JAVITS today, no motion to reconsider be in order today, but that the Senate then move on to the amendment by Mr. ROTH, in accordance with the order previously entered.

Provided, further, that when the Senate completes action today on the amendment by Mr. ROBERT C. BYRD, no further debate or motions or amendments with relation to the bill, with the exception of the motion to reconsider the vote and the motion to lay on the table that motion—that once that amendment is disposed of finally today, there be no further debate, motions, or amendments in relation to the bill today.

Provided, further, that on Thursday, following routine morning business, the Senate resume consideration of the bill, at which time a motion to reconsider the vote on the Javits amendment be in order; that a 10-minute limitation, equally divided, be in order on the motion to reconsider, with no motion to table in order. So that there indeed will be a motion to reconsider.

Provided, further, that upon the final disposition of the Javits amendment on Thursday, if the Javits amendment is rejected, Mr. METZENBAUM be recognized to call up an amendment on which there will be a 40-minute limitation, to be equally divided in accordance with the usual form; that in either case—namely, that if an amendment by Mr. METZENBAUM is called up, upon the disposition of that amendment, without further motion, debate, points of order, or amendments, the bill go to third reading and, without further motions, or debate, to final passage.

Provided, in the alternative, that if the amendment by Mr. JAVITS is approved, then, without further debate, motion, amendment, or point of order, the bill go to third reading, and without further delay and immediately, without any intervening motion or point of order, the bill go to final passage.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, can we have a time?

Mr. ROBERT C. BYRD. With paragraph 3 of rule XII waived.

Mr. STEVENS. Can we have a time when that vote will take place? The sequence would start on Thursday.

I have been notified that some Members on our side would want to be present on Thursday. They are scheduled to leave. Could the sequence start running at noon on Thursday?

Mr. ROBERT C. BYRD. I include that in my request.

Mr. STEVENS. The Senator from New York has a 10-minute time frame, 10 minutes to each side, so that the sequence would start at noon.

Mr. ROBERT C. BYRD. The order would begin running at noon.

Mr. STEVENS. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Will the Senator protect me on any modification of my amendment?

Mr. ROBERT C. BYRD. Yes. The distinguished Senator from New York may be permitted to modify his amendment today.

Mr. JAVITS. That is correct.

Mr. ROBERT C. BYRD. He may be permitted to modify his amendment today if he so wishes.

Mr. MCCLURE. Mr. President, reserving the right to object, and I shall not object, there will be no motion to table the motion to reconsider but that waiver possibility of the motion to table does not extend to the possibility if the Metzenbaum amendment is offered. Is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement pertaining to the procedure on Thursday is as follows:

Ordered, That the Senate resume consideration of H.R. 4930 (Order No. 380), an act making appropriations for the Department of the Interior and related agencies for the fiscal year ending Sept. 30, 1980, and for other purposes, at 12:00 o'clock noon on Thursday, October 18, 1979, at which time no further points of order, debate, motions or amendments with respect to the bill shall be in order (except a motion to reconsider the vote by which an amendment by the Senator from New York (Mr. JAVITS) was agreed to, on which there shall be 10 minutes debate, to be equally divided and controlled by the Senator from New York (Mr. JAVITS) and the manager of the bill, the Senator from Kentucky (Mr. HUDDLESTON); an amendment by the Senator from Ohio (Mr. METZENBAUM), to be offered if on reconsideration the amendment by the Senator from New York is rejected, on which there shall be 40 minutes, to be equally divided and controlled by the Senator from Ohio (Mr. METZENBAUM) and the Senator from Kentucky (Mr. HUDDLESTON), with a motion to table the amendment to be in order; an amendment by the Senator from Louisiana (Mr. JOHNSTON), on which there shall be 10 minutes, to be equally divided and controlled by the Senator from Louisiana, (Mr. JOHNSTON) and the Senator from New Hampshire (Mr. DURKIN); and an amendment by the Senator from South Dakota (Mr. PRESSLER), on which there shall be 20 minutes, to be equally divided and controlled by the Senator from South Dakota (Mr. PRESSLER) and the Senator from Kentucky (Mr. HUDDLESTON)).

Ordered further, That following the disposition of the Pressler amendment, there shall be third reading of the bill, followed immediately by the vote on final passage of the bill as amended.

UP AMENDMENT NO. 651, AS MODIFIED

(Purpose: To provide energy fuel assistance funds)

Mr. JAVITS. Mr. President, I send a modification of my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) for himself, Mr. KENNEDY, Mr. STAFFORD, Mr. METZENBAUM, Mr. LEAHY, Mr. RIEGLE, Mr. MCGOVERN, Mr. WEICKER, Mr. DURKIN, Mr. GLENN, Mr. PELL, and Mr. MELCHER proposes an unprinted amendment numbered 651, as modified. On page 32, after line 19, insert the following:

COMMUNITY SERVICES ADMINISTRATION

For emergency fuel assistance programs administered by the Director of the Community Services Administration under section 222(a)(5) of the Economic Opportunity Act of 1964, $1,200,000,000, to be transferred to the Director of the Community Services Administration.

Mr. JAVITS. Mr. President, to maintain consistency I noticed my amendment has a redundancy.

I ask unanimous consent that the final words in the amendment "to be transferred to the Director of the Community Services Administration" may be stricken.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS Mr. President, I think I have completed all the debate that I wish to have on it.

Mr. HUDDLESTON and Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I simply wish to first of all commend the distinguished Senator from New York for working with the committee in the modification that he has made. I think it was demonstrated here that there is a

great deal of interest and concern in the problem that he is addressing with his amendment.

Many Senators have indicated that they wish to have a second opoprtunity to consider what might be done and what should be done to meet the serious problems that have been indicated here.

So, I think the program has now been worked out and we are on the way to a final resolution of that suggestion that has come from the Senator from New York.

Mr. JAVITS. Mr. President, do I understand, then, that this amendment is acceptable to the manager?

Mr. HUMPHREY. Mr. President, if we are about to vote, I wish to have 60 seconds.

Mr. HUDDLESTON. Mr. President, I have the floor. I was going to yield.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. HUDDLESTON. Unless there be objection, I move to set aside this amendment temporarily and proceed with the——

Mr. JAVITS. Why do we not vote on it? I am ready to yield back the remainder of my time. I wanted to yield to Senator Humphrey.

Mr. HUDDLESTON. Mr. President, it is my understanding we had an agreement to vote at 5 p.m. on the amendment.

Mr. ROBERT C. BYRD. Mr. President, I wonder if I could modify that order in the following way, that if rollcall votes are ordered that they occur at the times set forth in the order. If rollcall votes are not ordered, then the voice votes may occur at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, in response to the question of the Senator from New York, as far as this side of the aisle is concerned, the committee is prepared to accept the amendment.

Mr. RIEGLE. Mr. President, I rise in support of Senator JAVITS' amendment to provide an additional $1.2 billion for the Community Services Administration's energy assistance program.

I want to make it clear that yesterday when Senator JAVITS initially brought this matter forward I was in Lansing, Mich., conducting a Labor and Human Resources Subcommittee hearing on the impact of rising energy prices on low-income households in our State. Had I been here yesterday I would have strongly supported the amendment of the Senator from New York, an amendment which I am, incidentally, cosponsoring.

But the hearings we conducted yesterday in Michigan drove home, in very dramatic fashion, the tremendous financial pressure so many of our citizens are under due to the sharply rising costs of energy, as well as rising costs of virtually every other item.

In my State, Michigan, winter has begun. Most people have had their furnaces on now for nearly a month, and are already incurring these higher costs. It is estimated, and our hearing evidence illustrated, that the average low-income household in Michigan will be spending 50 percent of their income this year just to heat their homes, and in the coldest months of the year this figure will rise to something closer to 80 percent of a low-income family's budget.

Obviously, our senior citizens are going to be the hardest hit and, in fact, we start from the situation where 30 percent of the senior citizens in the State of Michgan already live below the poverty line.

Yesterday we also had a chance to talk with fuel oil and propane gas distributors, and we are finding that they too are being squeezed by the suppliers from which they get their fuel and, therefore, they have been pushed into a position in many instances where they have to demand cash on delivery, and if there is no cash, in turn there is no fuel. Even the largest distributors in Michigan are insisting on payment that is made within 30 days or no more supplies will be forthcoming.

As I said, many of the oil and gas jobbers have no choice in this matter because their suppliers are demanding cash on delivery.

Many of these small business persons delivering oil and propane in the outlying areas of the State themselves are faced with the possibility that they may be put out of business this winter, and in the event that happens, it is not clear how people in the outlying areas are even going to be able to be served with fuel.

Last winter, we had 23,000 households in the Detroit area alone that had their gas service terminated during the winter because they were unable to pay their bills; and another 30,000 were added to that in the spring as a result of unpaid bills that had accumulated.

The situation is far worse this winter, and I just cannot think that Congress, while we have time to deal with so many other issues, will fail to find the time to deal directly with this particular problem.

The citizens involved here are helpless victims of energy prices that are now out of control, they were not in any way responsible for the decision to decontrol prices, and they cannot nor should they be asked to bear the burden of the decision in this particular instance.

So I want to commend Senator JAVITS for his leadership, because the amendment that he proposes is the fastest and the most direct way to get this urgently needed energy assistance into the pipeline and into the hands of the people who so desperately need the help.

I am hopeful that the Senate, when we have the chance to vote on reconsideration, will choose to support the amendment because it is the only practical means at our disposal to try to respond in a serious way to a problem that is threatening the lives of people not just in the northern regions of our country but all across the country.

When added to the $250 million already approved for energy assistance in the Labor-HEW conference report, it would make $1.45 billion available for this winter. We cannot afford to wait for a supplemental appropriation or for more authorizing legislation. We have an opportunity to make this money available now. Sufficient authorization already exists for the Community Services Administration to spend this money to aid low-income Americans.

If low-income citizens die this winter because they have no money to heat their homes, it will be because Congress was asleep when the time to act was upon it. I urge my colleagues to join in supporting the Javits amendment.

● Mr. KENNEDY. Mr. President, this amendment I am supporting with Senator JAVITS and others is a simple matter of strict necessity. The Interior Committee has correctly established that the strategic petroleum reserve program is unfortunately stalled. The administration is reluctant to purchase more oil at this time at spot market prices, and therefore there are substantial unexpended funds in this program. Of that unexpended amount, the committee bill transfers $1.5 billion into an account that totals $20 billion for synthetic fuels.

Mr. President, there should be absolutely no argument whatever that as between the long-term supply option of synfuels, and an immediate crisis for our most needy families, that the low-income assistance this winter must take precedence. My fellow Senators need only call their Governor's office to get a sense of the alarm and frustration that is growing over the impact of soaring prices on our constituents.

Our amendment seeks to reprogram only $1.35 billion for the purpose of aiding low-income families this winter. Together with the $250 million we have already approved in the Labor-HEW appropriations bill, a total of $1.6 billion will thus be available as early as is legislatively possible this winter.

CSA has all necessary authority to spend this appropriation in a manner that is consistent with our intention here today.

Mr. President, this would still leave $18.65 billion in the synfuels account—an ample amount for a program whose outlines are not yet settled.

I urge my colleagues to support this amendment.●

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I supported the chairman of the Budget Committee last night in opposing the amendment that my colleague from New York put forth because I believe that the Senate must get its financial affairs in order. The Senate must act responsibly.

I do not want anyone to misinterpret my support of the chairman of the Budget Committee last night. I support an emergency fuel assistance program. As the Senators in this Chamber know, it is already cold in New Hampshire.

I held a hearing, sanctioned by the Senate Labor and Human Resources Committee, in Concord, N.H., last Saturday, and I know full well that my constituents want this program. I want it. My heart is in it, and I am going to vote for a fuel assistance program. But I must say with all respect to my colleague from New York that I think it is unfortunate

that we are being asked once again to vote on this matter before the Budget Committee conference has acted, giving us some indication of what is available in the way of funds.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, is there any amendment pending to my amendment at the present time?

The PRESIDING OFFICER. There is none.

Mr. STEVENS. The Javits amendment is pending.

Mr. JAVITS. Mr. President, I am ready to yield back my time. I ask unanimous consent that Mr. MELCHER may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I am ready to yield back my time if the manager of the bill is.

The PRESIDING OFFICER. Do the managers of the bill yield back their time?

Mr. HUDDLESTON. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. All time is yielded back, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my support for the amendment also.

Mr. STEVENS. Mr. President, having voted against it yesterday, I also express my support of this amendment. It is a modified version of the one I voted against yesterday.

Mr. McCLURE. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. (Putting the question.) No "nays" being heard, the "ayes" have it, and the amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on final passage of the bill for next Thursday.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 652

(Purpose: to provide funding for enzymatic hydrolysis)

Mr. HATFIELD. Mr. President, I send to the desk an amendment on behalf of Senator TSONGAS of Massachusetts and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD), for himself and Mr. TSONGAS, proposes an unprinted amendment numbered 652.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 16, strike "$692,502,000" and insert in lieu thereof "$693,402,000."

On page 42, line 22, add the following last sentence: "Provided further that of the total amount appropriated at least $1,400,000 be available for enzymatic hydrolysis research, development and demonstration for alcohol production."

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Chair informs the Senator from Oregon that an amendment to the bill is already before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and this is why I am asking the Senator to yield, that my amendment be temporarily laid aside and that the Senator from Oregon be allowed to proceed with his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I thank the Senator from West Virginia for providing that opportunity.

Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Oregon.

TIME LIMITATION AGREEMENT

I ask unanimous consent that on an amendment by Mr. LEVIN there be a 20-minute time limitation to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the amendment that Senator TSONGAS of Massachusetts and I offer today is for the purpose of maintaining the research team at the U.S. Army-Natick Laboratories Facility, which is funded jointly by the Department of Energy and the Department of Defense. This is a research team that has been involved in the area of enzymatic hydrolysis for a combined total of 38 years work experience. It was the first laboratory to identify the fungal enzyme complex which hydrolyzes cellulose to glucose. It is continuing an active research program to both improve enzyme production by fungus mutation and develop basic knowledge concerning the three-enzyme system necessary to convert cellulose to glucose.

The need to conduct research and develop improved technology for conversion of cellulosic wastes to sugar is an essential element of the Nation's efforts to expand alcohol fuel production. The potential for conversion of cellulosic wastes is staggering considering the availability of millions of tons of agricultural and forest residues that are available annually. Technical development of the processes in this field are expected to lead to expanded capital investments and commercialization within 5 to 10 years.

This is an area of particular concern to me, being from the Northwest, because of the vast amounts of available forest wastes and residues. These residues are not yet being effectively utilized for alcohol fuels production. The development of an enzymatic hydrolysis to convert these wastes would provide an abundance of alcohol fuels to the Northwest and other regions where an abundance of forest wastes and residues are currently available.

My particular concerns with the Army-Natick facility are that it represents the only facility that is outside of a university atmosphere and that it is solely oriented to solving problems associated with the enzymatic hydrolysis process. This facility is threatened with extinction, which would mean the loss of 38 valuable years of work experience, because the Defense Department has determined that alcohol fuels are not feasible at this time for its vehicles. In order to maintain this facility as the only non-university lab involved in enzymatic hydrolysis and to provide for the continued excellence that has been demonstrated by this work team in the past, it is important to approve this increase of $900,000 to provide funding for the research team.

In closing, I wish to quote the National Academy of Sciences Committee on Pollution Abatement and Resources Recovery Periodic Report No. 96, in which the work of the facility is described:

The NARADCOM program on enzymatic conversion of cellulosic wastes fills a vital niche in the national effort to develop alternative energy sources. Enzymatic conversion of naturally occurring cellulosic materials to glucose, a key step in the technology for producing liquid fuels from biomass, has been the focus of the NARADCOM effort. No other group in the United States, and probably no other group in the world, has achieved a comparable level of competence and recognition in this area. The Committee therefore believes that the NARADCOM program represents a national resource of great value and that its continuation, in a healthy and productive mode, is essential.

Mr. President, I wish to simply conclude by saying that this is basically an attempt to keep this team together by keeping the present level of funding, so the amendment is a matter of trying to add $900,000 to maintain that level of operation that is now in place.

I think this is one of those unique places where we have an opportunity to pursue research that can be very helpful in the field of developing alternative fuels and energy, and it is an important issue not only to the people of Massachusetts but we certainly have potential application of this technology in the northwestern part of the United States as well.

So I am happy to offer this at the request of Congresswoman MARGARET HECKLER, who has been battling for this particular matter over on the House side, and I am happy to yield to the distinguished Senator from Massachusetts (Mr. TSONGAS).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I thank the Senator for yielding.

There was testimony before the Energy Committee on just exactly what the situation was with respect to solid waste. It was quite clear after that that it is going to be instrumental in whatever the United States has to do insofar as the problem of energy is concerned and that is to convert its solid wastes into renewable sources of energy.

I find it ironic that just as we pump $20 billion into a synthetic fuels program that, at the same time, we would take a step that would reduce the capability of providing additional energy, which is an

important issue, but resulting in the disposal of solid wastes.

I would like to commend the Senator from Oregon for understanding the problem and being sensitive to it, and I hope the amendment will pass not only obviously because of the impact it would have in Massachusetts but literally every community in this country which has a solid waste problem or will have, in every community that has an energy problem. This is a happy coincidence of technology and capability for the purpose of solving a very present problem, and I thank the Senator from Oregon for his help in this amendment.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. DURKIN) be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, the committee is certainly not unsympathetic to the objectives of the amendment as far as the research project is concerned.

We had no opportunity to consider this during our markup. We understand that this program or this type program is funded out of two accounts, the urban waste, which we do have in our bill, and the biomass research, which is in another bill. We have a total of $10 million in the bill we are considering here today. The biomass funding is in the neighborhood of $50 million.

So we have some concern that this entire program should be borne out of this account, No. 1; and, second, we would like to have justification from the Department; a request indicating the need and desirability for this particular program.

I suggest, of course, that this can be handled through reprograming. It can be handled through additional requests that would come to us for budget authorization and budget funding.

So I hope we will not burden the Interior Subcommittee's appropriations with this entire amount of some $900,000 at this time.

I also seem to have discovered here a technical problem that the Senator may be referring to the wrong line in the bill, and I suggest the absence of a quorum to look at the amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. Persident, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent to make some technical modifications to Senator TSONGAS' and my amendment relating to the page numbers of the bill to which this amendment would apply.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 41, line 18, strike "$692,502,000" and insert in lieu thereof "$693,402,000."

On page 42, line 22, add the following last sentence: "*Provided further*, That of the total amount appropriated at least $1,400,000 be available for enzymatic hydrolysis research, development and demonstration for alcohol production."

Mr. HATFIELD. Mr. President, I ask the manager of the bill if he has a proposal to offer, in lieu of the amendment we are attempting to provide a remedy for here today.

Mr. HUDDLESTON. Mr. President, I will say again to the Senator from Oregon that we are sympathetic to the project that his amendment addresses. We think that we ought to make it clear to the Department of Energy that we would expect a reprograming request be made for this project from their biomass funding.

The distinguished Senator from Oregon is the ranking member of the subcommittee which handles that legislation, and I am sure his indication of support will be given thorough consideration.

With such a request forthcoming, we would be prepared to move, insofar as it comes within our jurisdiction, very rapidly to see that this project does continue.

Mr. HATFIELD. Do I correctly understand, then, Mr. President, that the chairman of the subcommittee and floor manager of the bill now has given full support to the proposition that the legislative record should clearly indicate that it is the desire and expectation on the part of the Senate that within the $50 million fund in the biomass section of the Department of Energy's budget, that there should be reprograming of that to cover this particular need for the $900,000 represented in our amendment?

Mr. HUDDLESTON. The Senator is correct.

Mr. HATFIELD. Mr. President, I yield to the Senator from Massachusetts for any comments he may have based upon that issue, with this colloquy to be considered as important legislative history; as much so as the report language, as far as the Department of Energy getting the message and the importance of that message is concerned. With that assurance, I would be happy to withdraw the amendment. I yield at this time to the Senator from Massachusetts for his comments.

Mr. TSONGAS. Mr. President, I thank the Senator from Kentucky for insuring the continuation of the capacity that would have been lost in the absence of his agreement.

I just want to make it clear that we anticipate and expect that the Department of Energy will read this record and will proceed apace in regard to the problem in terms of reprograming rather than returning the matter to the floor of the Senate in terms of legislative remedy. I thank the Senator from Kentucky for his support of our position, and the Senator from Oregon. I would like to acknowledge the presence of Representative MARGARET HECKLER, in whose district this project is located and who was instrumental in having the people testify before the Energy Committee, so that Senators were aware of the problem beyond the Massachusetts delegation.

Mr. HATFIELD. Mr. President, on the basis of the comments of the Senator from Massachusetts and the manager of the bill pending on the floor, I again thank him for his assurances and his support, and withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HUDDLESTON. Mr. President, I thank the Senator from Oregon and the Senator from Massachusetts. I yield to the Senator from Nebraska.

Mr. ZORINSKY. Mr. President, in 1976 the Bureau of Indian Affairs began to phase out the Johnson-O'Malley basic support program for Indian schools. This program supplied funding for the day-to-day operations of some 27 Indian schools located in five Plains and Southwest States. During the past 3 years this funding has been gradually decreased, and in most cases adequately replaced by funds under the Department of Health, Education, and Welfare's impact aid program.

However, at least two schools, the Santee and Macy schools in Nebraska, will not receive sufficient funds for operation under the impact aid program this year. In fact, since even the insufficient impact aid money may not become available until the spring of next year, the schools will run completely out of funds, and will close their doors to their students this November.

The two schools, existing on a barebones budget already, need an additional $200,000 to keep operating this year. It means a great deal to the 400 students of the Macy and Santee schools. It means that their schools will be able to pay the light bills, that they can pay their teachers, and that they can continue to offer their students an opportunity to learn.

Last year Congress passed the Education Amendments of 1978, making clear the intent of Congress to continue basic support funding of Indian schools. Section 1103(B) of that law authorizes funding for public schools educating Indian students in cases where the total sum of Federal, State, and local funds are insufficient to bring the education of the enrolled Indian students to a level equal to the level of education provided non-Indian students, where the absence of such support would result in the closing of schools or the reduction in quality of the education program afforded Indian students attending public schools.

If the Santee and Macy schools do not receive an additional $200,000 in basic support moneys, they will close within the year.

It is my understanding that the H.R. 4930 includes sufficient funding for the Johnson-O'Malley program to provide the necessary support for these two schools. My colleague from Nebraska, Senator EXON, and I request that $200,000 of these funds be specifically earmarked for the operational support of the Santee and Macy schools.

A recent General Accounting Office report cites these two schools as ones

which will be harmed by the cutoff of basic operational support money. The GAO audit shows that the schools will not have enough money to remain open this year without the Johnson-O'Malley funds.

That same report raises some important questions about the phasing out of the program, and suggests that clarification of congressional intent concerning the program be sought.

I would submit, however, that there is no need for clarification of this one point—Congress does not intend for schools to shut their doors.

There is sufficient money within available funds to prevent such an occurrence. I ask my colleague on the Appropriations Committee to give Senator EXON and me his assurance that language earmarking these funds for the two Indian schools will be included in the conference report.

I hope that our esteemed colleague from Kentucky can give us that assurance.

Mr. HUDDLESTON. Mr. President, as the Senator knows, we did add $1.2 million to this fund to correct a deficiency, a BIA oversight on the Johnson-O'Malley program. It is our expectation that these schools will be properly funded within the available funds, and that they will not have to close. We state that in our report language, and will deal with it in the conference, to make sure that we are very explicit concerning our intention that these schools will receive proper funding.

Mr. ZORINSKY. I thank the Senator from Kentucky. I commend him on his able management of the bill.

Mr. HUDDLESTON. I thank the Senator from Nebraska.

Mr. President, I see no other Senators on the floor at this particular point who may have amendments. I would just say to those who may be listening in that we are moving along on this bill. I am very hopeful that we can conclude it tonight, with the exception of the special order for the reconsideration vote on the Javits amendment. So if there are those who have amendments and want to have them considered, I would hope they would come to the floor as soon as possible.

At this time, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 653

(Purpose: Technical amendment)

Mr. HUDDLESTON. Mr. President, there is a technical amendment from the committee at the desk. I call it up and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 653:

On page 14, line 13, strike the word "Capitalized".

Mr. HUDDLESTON. Mr. President, that is the amendment. It is very technical. An unnecessary word is being deleted. This has, of course, been cleared on both sides of the aisle, and I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 653) was agreed to.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I wish to call the attention of my colleague, who is ably handling the present important measure, to the fact that there seems to be some breakthrough, in connection with certain public utilities who have been designing plants to use nuclear power. Some now seem ready to look toward coal. Has the Senator noticed what the Virginia Electric & Power Co., did yesterday. This utility is now studying coal for replacement of units three and four of their North Anna powerplant now designed to use nuclear fuel.

Mr. HUDDLESTON. The Senator is correct. I did note that. I think it is an encouraging sign because it demonstrates that with the environmental restraints and with the clean air requirements coal is still a viable fuel for the generation of electricity.

I might point out, as the Senator is aware, that the Department of Energy, in my judgment, is now taking an aggressive position in the conversion of oil and gas-fired burners to coal. They have issued six conversion orders. One has been received voluntarily. So there are seven plants now which are in the process of being converted from oil and natural gas to coal.

This is not our only way but our most immediate way to reduce the amount of oil when we are using it. When we reduce the amount of oil, we are reducing the amount of imported oil. That is significant.

Mr. RANDOLPH. The comment of my colleague from Kentucky is certainly to the point. The Senator will remember that a few days ago during debate on the Energy Mobilization Board I had the opportunity to join with the Senator in the presentation of an amendment which went to the very heart of this immediate problem. That amendment assured conversion to coal not 5 years from now, not 3 years from now, but beginning now.

I feel Secretary Duncan, the new head of the Energy Department, has given us a new promise as a new Secretary, to commit himself to act now with regard to coal conversion and replacement. Is that correct?

Mr. HUDDLESTON. That is correct, and it is very encouraging.

Mr. RANDOLPH. It is very encouraging.

Mr. President, I submit to my colleagues at this point for their consideration an article which appeared in the Metro section of the Washington Post this morning. I believe it shows the utility industries' new found confidence in direct coal utilization. Stanley Ragone, president of Vepco has directed that a study as I mentioned earlier be conducted to examine the economic advantage of converting two partially completed nuclear powerplants to coal.

The study allegedly is the result of design problems with the nuclear plants, however the impact of their decisions is the recognition, by at least one utility, that the direct burning of coal—with full environmental safeguards—is the national energy option which will assure lower energy costs to consumers while simultaneously lessening our dependence on oil. I ask that the Washington Post article explaining the study, be printed as part of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 16, 1979]

VEPCO TO STUDY SWITCHING 2 NUCLEAR POWER PLANTS TO COAL—"GROWING UNCERTAINTIES" BEHIND UTILITY'S DECISION

(By Jerry Knight)

After a decade of promising its customers that nuclear power would give them lower electric rates, Virginia Electric and Power Co. yesterday announced it is considering converting two partially built nuclear plants to coal.

Vepco has already spent nearly half a billion dollars on the two plants, but may have to change them because of "growing uncertainties" about nuclear power, Vepco President Stanley Ragone said at a Richmond press conference.

No other utility company has ever switched a plant from nuclear to coal power at such an advanced stage of construction, nuclear industry sources said.

Although Ragone insisted Vepco has not abandoned its decade-long commitment to nuclear energy, the announcement was seen as another major setback for the nuclear power industry, already reeling from the Three Mile Island accident.

The two nuclear plants Vepco is considering converting to coal are located at North Anna, 70 miles south of Washington. Both were designed by Babcock & Wilcox, the same company that designed the Three Mile Island plant near Harrisburg, Pa.

A federal study under way of the Three Mile Island accident last March could force Babcock & Wilcox to make major changes in the design of its plants.

That problem, the soaring cost of building nuclear plants and growing apprehension about the federal government's commitment to nuclear power are the main reasons Vepco plans to study switching to coal, Ragone said.

"It's pretty obvious the government right now is not content with the nuclear power

option," Ragone said, adding, "There is no doubt in my mind that with a proper national policy, nuclear is the way to go."

The study, expected to take six to 12 months, will look at North Anna units 3 and 4, a pair of 938,000 kilowatt power plants. They are part of a complex that includes two nuclear plants and was planned to have four.

Virtually all of the $485 million worth of work done so far on North Anna 3 and 4 will be usable if the plants are switched to coal, Ragone added.

Ragone said Vepco does not yet know what effect switching the plants to coal will have on electric bills of Virginia residents. "That's what the study will try to determine," he said.

Starting this month, Virginia consumers are paying an average of $5.50 a month more on their electric bills because of Vepco's problems with its nuclear power plants.

The first unit at North Anna is shut down for refueling, a three-month job that started Sept. 25.

North Anna, recently constructed, has never started up because of a Nuclear Regulatory Commission moratorium on licensing new nuclear plants. North Anna 1 and 2 were built by Westinghouse, not Babcock & Wilcox, but new nuclear plants have been held up by the Three Mile Island incident.

At Vepco's other nuclear power complex, in Surry, Va., 130 miles south of Washington, one plant is shut down for piping repairs and another is idle while a new steam generator is being installed. It is unclear when either will resume operation.

Without its nuclear plants to generate power, Vepco has been forced to make electricity by burning coal and oil—both of which cost more than nuclear fuel—and to buy electricity from other utilities, also at a higher cost than nuclear power.

The Virginia State Corporation Commission last month agreed to let Vepco raise electric bills by $37 million over the next three months to pay for the higher power costs. Vepco has already warned that it may have to ask for another increase in bills starting in January if its nuclear plants are not in operation by then.

If Vepco backs off from completing the North Anna atomic plants, it will be the second time the utility company has abandoned a pair of nuclear projects.

The Surry complex originally was to have four units, but the third and fourth plants were scrapped in 1977 after Vepco had invested $164.5 million in them. That cost was tacked on to consumer's electric bills and spread over a 10-year period, until 1987.

Vepco abandoned the Surry 3 and 4 units because declining demand for electric power made them unnecessary.

For the same reason, Vepco is studying selling part of the $1 billion project it is building in Bath County to store power for peak periods of use, Ragone disclosed yesterday.

Vepco has offered to sell part of the project to American Electric Power Co., and to Allegheny Power System, Ragone said.

Scheduled for completion in 1982, the Bath County project is called a pumped storage facility and has two large lakes, one several hundred feet above the other. Water flowing from the upper lake to the lower one will run turbines to provide electricity during periods of heavy use.

At night—when Vepco produces more electricity than its customers consume—the excess power will be used to pump water back into the upper lake, so it can come down again the next day.

The Bath County project—like the defunct Surry units 3 and 4—was planned several years ago, when the demand for power by Vepco's customers was growing at a rate of 10 percent per year.

Vepco now is projecting a 4 percent growth rate in maximum power consumption. That figure may be reduced again when a new forecast of electrical demand is completed in December, Vepco sources said yesterday.

The sources said, however, that the North Anna plants will still be needed and there are no plans to abandon the project. Work on North Anna 3 and 4 started in 1971 and has been delayed several times. Completion is expected sometime in the early 1980's.

Switching North Anna 3 and 4 from nuclear power to coal requires replacing the "burner" that heats water to make steam to power a turbine generator. The turbine is the same, regardless of its source of fuel.

While coal burning plants are generally cheaper to build than nuclear plants, coal besides being several times more expensive than the uranium fuel for a nuclear plant, requires expensive pollution control equipment.

Vepco says it costs 1.21 cents to produce a kilowatt-hour of electricity from its nuclear plants, compared to 2.27 cents from coal and 2.57 cents from oil. Both fuel and plant construction costs are included in those figures.

Last year Vepco produced about 35 percent of its power from nuclear plants, 26 percent from coal and 36 percent from oil. The remainder came from hydroelectric power or was purchased from other companies.

Mr. RANDOLPH. Mr. President, present law provides the means to accomplish short-term expansion of coal utilization but many of these initiatives are not being vigorously pursued. Information gathered by the President's Coal Commission stresses the fact that enough oil-fired boilers can be converted to coal in the short term to save as much as 724,000 barrels of oil per day. Another 900,000 barrels per day could be saved in 5 years by accelerating new, coal-fired-boiler construction. OMB recently indicated to me personally that if the President's windfall profits tax approached the $142 billion requested, a major portion of that amount would be used for this construction effort estimated to be around $50 billion.

Conversion of 117 coal-capable utility boilers must be started immediately. I feel it can be done in an environmentally safe manner. I am concerned, however, that action to convert oil-burning, coal-capable utility boilers to coal may be stalemated pending the passage and implementation of the President's energy proposals. Continuing emphasis must be focused on moving quickly to facilitate and encourage conversions, and cannot be held hostage to the longer range development of synfuels, or passage of a windfall-profits tax.

I submit, it makes no sense for the Congress and the administration to embark on massive, new projects costing billions of tax dollars without implementing existing programs.

This is not to say that nothing is being done. I know, for example, that 74 of 76 permit applications for new, coal-fired powerplants have been granted this year. These plants represent 114 million tons of new utility coal demand—a 23-percent increase over 1978.

I know the Environmental Protection Agency has approved a majority of the Department of Energy's oil-to-coal switching requests for powerplants—100 of about 140. One plant in Massachusetts alone, Brayton Point, will displace 17 percent of New England's residual oil with coal. But, on what specific date will this plant be actually burning coal?

I know the Department of Energy is working on an agreement with the Environmental Protection Agency so environmental requirements can be established for new energy technologies so that demonstration facilities will not face a "moving target" problem with various environmental standards.

I know that to encourage the use of synfuels in powerplants, the Environmental Protection Agency established less stringent new source performance standards for the initial, full-scale, synfuels demonstration units. This will provide an opportunity to work out any preliminary design problems.

And, I also know that the President has directed the Regulatory Council to begin an effort to eliminate overlapping and inconsistent Federal and State regulations affecting coal production and coal use.

But even with all this apparent affirmative, positive activity no actual conversions seem to be taking place. I am still asking the same questions I have been asking since Congress enacted the Energy Supply and Environmental Coordination Act in June 1974.

Why have we not seen a significant increase in direct coal utilization?

Why do we continue to burn oil and gas under stationary boilers when oil imports are disrupting our economy and are an important source of inflation?

Why do we continue to burn oil and gas under stationary boilers when oil dependence threatens our Nation's security?

Why do we continue to burn oil and gas amid a glut of readily available coal and thousands of unemployed miners?

When coal costs one-third to one-half the cost of oil, why do electric utilities continue their dependence on costly imported oil at the rate of millions of barrels per day?

Why have our Government agencies seemingly been unable to take account of the full array to technical and economic considerations, to assess comparative costs, technical feasibility and capital requirements for a meaningful program of direct coal burning?

Mr. President. The time for action on conversion of coal-capable utility boilers is now. We must act aggressively and quickly to pursue this course of action.

Mr. HUDDLESTON. I might say that the Senator (Mr. RANDOLPH) and I cosponsored an amendment which gives some additional funding for that very specific purpose, so that they can double the number of conversion orders or prohibition orders, as they are referred to, those prohibiting the use of oil in these large burners. They can double that number within the next fiscal year, and that will make a very significant contribution to the reduction of our usage of oil.

Mr. RANDOLPH. It releases petroleum for other uses, other than in the boilers in electric generating plants, is that correct?

Mr. HUDDLESTON. It is correct.

Mr. RANDOLPH. That is not a small

sum of petroleum. It is a very substantial sum.

We, again, know of at least 117 of these coal-capable boilers where conversions can be made.

Mr. HUDDLESTON. That is correct. That is a figure which has been determined by the President's Coal Commission, of which the Senator from West Virginia, the Senator from Illinois (Mr. PERCY), and I are members. They have analyzed all of the oil-burning facilities in the country and determined that 117 of them could be switched to coal. That would make a very substantial contribution to the reduction of our oil consumption.

Mr. RANDOLPH. I have this final thought: We do realize that there are certain environmental safeguards which must be exercised, in connection with the burning of coal.

I think the Senator from Kentucky was impressed last Thursday when several Senators from coal-producing States had the opportunity to counsel with Secretary Duncan and also with Administrator Costle, of the Environmental Protection Agency.

I personally was impressed with their desire to work together to bring about a speedier conversion. Is that your feeling?

Mr. HUDDLESTON. That is correct. I might say that the cooperation between those two Departments, the Department of Energy and the Environmental Protection Agency, is absolutely essential if we are to move forward as we should move in the matter of utilizing coal and meeting our energy needs in a number of other ways. That cooperation has not always been satisfactory, I would say, but the indications are that now they are on the right track. I think we can expect that they will work together and that we can demonstrate that the greater utilization of coal, certainly to the extent that we are talking about in converting these plants which are now using oil, will not do any violence to the environmental standards we have set for this country, the clean air standards.

They can be accommodated. Coal can be burned as cleanly as oil. There are some exciting research projects underway which make coal even a cleaner burning fuel. One SRC project which is scheduled for West Virginia and another one scheduled for Kentucky will take all the pollutants out of coal and make it a clean burning fuel, either in a solid or a liquid state. The future seems exceptionally good and bright.

The important thing is that we not neglect what can be done now with these conversions. I think the sooner we can get on with that project, and the more successful we are with it, the better we will be able to withstand those shortages of oil that are undoubtedly going to come again, whether it is in a reduction of imports available to us, whether it is our own restraint on imports, which the President already indicated he intends to apply, or whether it is the increased demand in this country which will be bumping against the limits which are going to be set. We need to divert every barrel of oil we can from the large oil burning utilities and other industrial boilers and use the one energy supply that we have in abundance, coal.

Mr. RANDOLPH. The Senator is very knowledgeable. I will not continue this colloquy except to say that we need, from time to time in this body, to reinforce the need for action in connection with coal conversion, coal-derived liquids and gas from synthetic liquid fuel programs, the use of the shales in the Rocky Mountain States, and other areas where enhanced recovery of oil and gas can be realized.

Mr. HUDDLESTON. The Senator is correct. Shale, gasohol, and a dozen different processes, none of which in themselves can solve all of our problems, but in combination will lead us to energy independence.

We had an inventor before the committee that I was chairing, dealing in the question of new, innovative approaches to the energy problem. He made that statement. He said one of our problems is that we keep looking for that one grandiose, all-encompassing program that, in one fell swoop, will solve our energy crisis. He said that is not likely to happen. I think he is right. He said it would take a thousand new ideas, a thousand new processes before we can really get to the place where we are self-sufficient, totally independent from outside influences in meeting our energy needs. I think he is correct.

That is why, and I know the Senator from West Virginia agrees with me, while we are much concerned about the utilization of coal, we are not any less concerned about all the other energy developments and all the other processes that will produce additional energy for this country and decrease our dependence on foreign oil.

Mr. RANDOLPH. Mr. President, I want to add that I was very impressed with the presentation by Dr. Armand Hammer, when he counseled with the questioners on Meet the Press this past Sunday. I find that here is a man 81 years young, who is thinking in terms of the future of this country. I commend the creativity, followthrough, and insight which were expressed by him and, hopefully, will be expressed by the Senate, the Congress, and the administration on every occasion.

I thank the Senator very much.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I have a question of the manager of the bill and I am wondering if he would be so kind as to comment on it.

Am I correct that, except for the $2.2 billion, there is no specified time period over which we are committed to appropriate the approximately $19 billion being placed in the energy security reserve by this amendment?

Mr. HUDDLESTON. The Senator is correct. There would be no time requirement.

Mr. LEVIN. I appreciate that, Mr. President. I thank the Senator from Kentucky.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I rise simply to advise my colleagues that we are operating under an order that will call for a vote to begin on the pending amendments at 5 o'clock. That is an hour and a half from now.

Consequently, without subsequent unanimous-consent action, any consideration of amendments will come to a conclusion at that 5 o'clock time.

We are aware of two or three amendments that have been suggested by Members. I am not certain they intend to proceed with them. But it would be very helpful if they could advise us as to whether or not they intend to and, if they do, take into account the fact that the time is running out.

We have an hour and a half to go. We have 30 minutes of that time already set aside by special order for Senator JOHNSTON and Senator DURKIN on an amendment that will be proposed. So that leaves only an hour to handle other amendments that might be contemplated.

I suggest that staff that might be present, or anyone who would want to advise the Senators that the clock is running and that if they expect consideration of their amendments this is the time to do it.

Does the Senator from Delaware wish time at this point?

Mr. ROTH. Yes.

I apologize to the manager of the bill. Unfortunately, we have committees meeting at the same time, at which critical decisions are being made on the windfall profits tax.

It is a little difficult to be in two places at once.

UP AMENDMENT NO. 654

(Purpose: To reduce total budget authority provided for the adminstrative and regulatory costs of the Department of Energy in this Act by $103 million, excepting alternative fuels production)

Mr. ROTH. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an unprinted amendment numbered 654.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, after line 8, insert the following:

SEC. 310. Notwithstanding any other provision in this Act, the total amount of budget authority provided in this Act for the Department of Energy, excluding that for Alternative Fuels Production, is hereby reduced in the amount of $103,000,000: Provided, That Congress intends that this reduction shall be achieved by the improvement of program and regulatory efficiency and administrative productivity: Provided further, That this section shall not be construed to change any law authorizing appropriations or other budget authority in this Act.

Mr. ROTH. Mr. President, my amendment provides a 5-percent efficiency cut in the administrative and regulatory costs of the Department of Energy in this bill. This will save the taxpayers $103 million and stimulate needed management reforms at the Department of Energy. Our amendment does not cut the $20 billion in this bill earmarked for alternative fuels production.

Mr. President, if we are to achieve a national energy policy and reduce inflation, we in Congress must begin by conserving—by conserving tax dollars and stopping the inflationary waste and mismanagement at the Department of Energy.

This bill contains a budget-busting 20-percent increase for DOE over last year—and that does not even include the alternative fuels production or the strategic petroleum reserve. Cutting $100 million would still leave DOE with a $250 million or 16-percent increase—double what the working men and women of this country are permitted under President Carter's wage and price guidelines.

Our amendment does not cut specific programs, projects or energy "hardware,"—such as plant and capital equipment—but instead requires reductions in administrative and regulatory costs only, in order to improve program efficiency and administrative productivity within DOE.

Federal regulation, whether of energy projects or whatever, is strangling the growth and productivity of our Nation.

As the distinguished managers of this bill have pointed out before, for example, a coal mine operator must obtain permits under at least 30 separate Federal regulations—including DOE regulations—before he can get the first shovel of coal out of the ground.

For another example, anyone who wants to explore the Outer Continental Shelf for oil and gas has to fight through a regulatory maze involving 4 different departments—including DOE—and at least 15 different sub-Cabinet and independent agencies.

In addition, I am sure my colleagues are aware of the redtape and regulatory delays that accompany both the coal utility conversion program at DOE and DOE's fossil fuel demonstration projects. I think no more graphic example of what DOE is doing to the independent businessman can be provided than an article last August 24 in the Washington Post, with the headline "Oil Firm President Says Energy Department is Ruining Him, and It Agrees." Let me read an excerpt from it for the benefit of my colleagues:

> The vice president of a Kansas oil company that operates 225 independent gasoline stations in 27 states came to Washington yesterday to proclaim that Energy Department price and allocation regulations are putting him out of business.
>
> The Energy Department agreed.
>
> I'm in Washington because my company is being destroyed by the Department of Energy, said R. J. Gaffney, vice president of Highway Oil Inc., of Topeka.
>
> He's right, said a top official in the Energy Department, asking not to be identified because of his agency's mounting image problems. He has given an accurate description of what DOE regulations are doing to some people in this industry.

Let me suggest there are many areas in the present bill where regulatory costs can be reduced and program efficiency increased at DOE.

First, let us look at the Economic Regulatory Administration, this bill contains an incredible—and I mean incredible—45-percent increase in funding for the Economic Regulatory Administration. This is $45 million over 1979, and $19 million over the House allowance. Included are a 49-percent increase in administrative costs, a 67-percent increase in fuels regulation, and a 44-percent increase for the development of new regulations alone.

Another area where efficiency cuts are desperately needed in order to achieve program goals is the weatherization program. This program is running a full 2½ years behind schedule. As the committee report itself points out, and I quote:

> A total of $290 million has been appropriated over the last 3 years for this program, enough to weatherize approximately 753,000 homes by the Department's estimate. Through July of this year less than $40 million has been outlayed and only 174,000 homes insulated.

In other words, Mr. President, the weatherization program has an unspent balance of over $250 million, or over $430 per family it is intended to reach. And yet, this bill funds it at the same level as last year, $199 million.

Another desperately needed conservation program at DOE, the schools and hospitals program, is almost a year behind schedule because of DOE administrative inefficiency.

In short, you might say Nero fiddled while Rome burned, but DOE is fiddling while millions freeze. DOE's fleet of gas guzzlers is still another area where reductions can be made without affecting specific programs. In fiscal 1978, DOE spent $28 million for the use of motor vehicles. According to U.S. News and World Report, the Department of Energy has used 29 percent more fuel for vehicles and equipment over the last 3 years than the agencies it was formed to replace. This record would certainly be an embarrassment for any agency. But it is inexcusable for the Department of Energy and it is a record we must not permit to continue.

We are not advocating irresponsible or precipitous elimination of any programs in this bill. I am actually urging a more reasonable level of funding—a level more consistent with the Presidents' stated goals and certainly more in keeping with those which citizens have been demanding all over the country.

The important point we must make, the clear signal we must send to DOE, is that we can accomplish a 5 percent cut by management efficiencies, by reduced regulation, and by increased administrative productivity—without hurting the many programs approved by Congress.

On the one hand, we are telling the people back home, the working people, the taxpayers, the family, because of inflation, "You have to make your dollar go further. You have to be a little more effective. You have to be a little more efficient."

On the other hand, that is all our 5-percent efficiency cut is doing here. We are putting the various departments on notice that they are just going to have to do a better job with the funds available, that they can find and correct at least 5 percent waste and fat in their budgets without destroying worthwhile programs.

As my colleague from Wisconsin has pointed out to this body, the special interests, the bureaucrats, the regulators and the big spenders come up here over and over to testify on the budget, and we never hear them urge Congress to cut, conserve and economize; it is always the same refrain—spend, spend and spend.

Well, I think it is time to send a message to DOE bureaucrats and DOE regulators who are stifling our energy production and squandering our energy conservation programs: They are going to be measured by the same productivity standards as all working Americans. The House has already sent DOE a message by abolishing their gasoline price controls and allocation regulations. I believe we should send DOE a message on fiscal responsibility and prudence. To do less would be to totally ignore the taxpayers of this country.

Mr. President, I urge my colleagues to support my 5 percent efficiency cut of DOE, and I intend to ask for the yeas and nays.

Mr. HUDDLESTON. Mr. President, we all recognize that this is a time when budget restraint is not only very desirable but also, in many ways, very necessary and that we are attempting here, through the processes of Congress, to bring under control Federal spending.

The Senate has gone on record as being in favor not only of reducing the national deficit but also of moving toward a balanced budget in the coming fiscal years. Nobody can dispute the necessity for doing everything we can to cut Federal expenditures to the barebone.

However, I think we also have to recognize that this is also a time for action, that it is necessary that we take such steps as may be necessary to address some of the major problems we have in this country. This appropriation bill that we are considering now attempts to address a good many of those problems.

Of course, many other programs are included that are of utmost importance. But all the funding that is in here has been put there only after long days of hearings, after budget requests made by the administration, after consultation

with the Departments and with other parties interested in these particular figures.

The committee, as all other committees have done, would be opposed to any kind of blanket, across-the-board reduction in the figures that are put in here.

The distinguished Senator from Delaware mentioned the area of ERA—that is the Energy Regulatory Administration, not the movement that is afoot throughout the country—where some $19 million has been added over the House figure. The reason is that budget requests totaling more than $23 million were forthcoming, too late for the House to consider. Consequently, we made the judgment that those were expenditures that should be made. We are $39 million under the fiscal year 1980 request for ERA. In all the other areas that have been brought into question, the committee has done its work, has given careful consideration to requests that have been made, and has suggested and put into the bill the figures that are here.

I could not agree more with the Senator from Delaware in his recitation of the difficulties we have imposed upon ourselves so far as Government regulation is concerned.

I attended some of the hearings and chaired some of the hearings to which he has referred, as to the testimony given by small businessmen and others and the difficult time they are having in dealing with some of the regulations, some of the paperwork and redtape that have been imposed upon them. I think we should attack this regulation and redtape in every way possible and do what we can to reduce it and to eliminate it. Certainly, there is no argument in that respect with the Senator from Delaware.

Incidentally, ERA is one agency which is supposed to be identifying those regulations that are not necessary, or not productive, and should and can be eliminated.

So, Mr. President, I expect to move to table the motion of the distinguished Senator from Delaware, if no other Senators present wish to speak with respect to it.

Does the Senator intend to ask for the yeas and nays on his amendment?

Mr. ROTH. Yes. A sufficient second is not present.

Mr. HUDDLESTON. Mr. President, a parliamentary inquiry. Does the special order under which we are operating preclude any rollcall votes before 5 o'clock?

The PRESIDING OFFICER. That is correct.

Mr. HUDDLESTON. In that case, Senator ROTH's amendment will come in order after 5 o'clock, at which time I am sure there will be an opportunity to ask for the yeas and nays, with a sufficient second.

I intend to move at that time to table the amendment.

Mr. ROTH. That is satisfactory to me. It necessarily will have to be under the unanimous-consent agreement.

I am perfectly willing to yield back the remainder of my time.

Mr. HUDDLESTON. I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute on behalf of Mr. HUDDLESTON off the bill.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I see the distinguished minority leader is in the Chamber.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 385, 386, and 354.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, these items are cleared on our calendar, and we have no objection to their consideration and passage.

BUDGET ACT WAIVER

The resolution (S. Res. 246) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4249, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provision of section 402(a) of such Act are waived with respect to the consideration of H.R. 4249. Such waiver is necessary because H.R. 4249, an Act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes, provides an additional authorization of $1,500,000 to be available until expended which was not included in the committee's submission to the Budget Committee.

Compliance with the deadlines of the Congressional Budget Act of 1974 was not possible by May 15, 1979, as the need for an additional authorization for the National Alcohol Fuels Commission established by section 170 of the Surface Transportation Assistance Act of 1978 did not come to the committee's attention until after such date.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 250) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 595, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 595, a bill to authorize the appropriation of funds for the acquisition of stockpile materials and to authorize the disposal of three excess stockpile materials.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provide that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

It was impossible for the Committee on Armed Services to properly review and give adequate consideration to H.R. 595 before the May 15, 1979, deadline due to the press of other priority legislation; namely, S. 428, the annual military procurement authorization bill, and S. 1319, the military construction authorization bill. Further, the Committee on Armed Services considered and on June 6, 1979, reported H.R. 2154 which constitutes a complete revision to the Stock Piling Act requiring for the first time authorization for appropriations for stockpile acquisitions; this revision (H.R. 2154), which represents a major initiative by the legislative branch, logically required consideration and action before implementing legislation (H.R. 595) on specific commodities could be acted on.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 595 as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STRATEGIC AND CRITICAL MATERIALS TRANSACTION AUTHORIZATION ACT OF 1979

The Senate proceeded to consider the bill (H.R. 595) to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes, which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Strategic and Critical Materials Transaction Authorization Act of 1979".

SEC. 2. There is authorized to be appropriated the sum of $237,000,000 for the acquisition of strategic and critical materials for the National Defense Stockpile established under section 3(a) of the Strategic and Critical Materials Stock Piling Act.

SEC. 3. The following materials in the quantities specified, determined to be excess to current stockpile requirements, are authorized to be disposed of from the National Defense Stockpile:

(1) tin, thirty-five thousand long tons;
(2) silver, fifteen million troy ounces; and
(3) industrial diamonds, one million five hundred thousand carats.

SEC. 4. (a) All transactions authorized by this Act shall be carried out under the provisions of the Strategic and Critical Materials Stock Piling Act.

(b) The President, on behalf of the United States, is authorized to contribute up to five thousand long tons of tin from the amount authorized to be disposed of in section 3(1) to the Tin Buffer Stock established under the Fifth International Tin Agreement. Upon the

termination of such Agreement in 1981, all proceeds generated from such contribution shall be remitted to the National Defense Stockpile Transaction Fund established under section 9 of the Strategic and Critical Materials Stock Piling Act.

● Mr. HART. Mr. President, earlier this year the Senate acted on a stockpile policy bill which set out policy and management guidelines for reshaping our national defense stockpile. This bill was signed into law by the President on July 30, 1979. It is now time to get on with specific transactions—the buying of needed materials and the selling of excess materials—to get the right materials, in the right quantity, in the right place, so that our strategic stockpiles can serve their intended purpose.

By way of background there are now 93 different materials—ranging from aluminum to zinc—that have been identified as strategic and critical materials—those important to our national defense. For each different material a stockpile goal has been established based on the anticipated wartime need. Of the 93 materials now in the stockpile, 53 are below stockpile goals. This means that an active program of stockpile acquisitions is necessary. There are, however, excess quantities of 40 different stockpile materials which can be sold to finance the needed acquisitions and that is precisely what the bill before us proposes.

With respect to acquisitions, the bill authorizes appropriations of $237 million to acquire needed stockpile materials. The administration has proposed the acquisition of 20 different, highest priority stockpile materials. The administration has asked, and the Armed Services Committee has agreed, that this list of commodities not be made public due to the potential for unethical market speculation. However, the list of commodities proposed to be purchased is available for any Member who wishes to see it.

Three commodities are authorized to be sold—tin, silver, and industrial diamonds. In the case of each of these materials, the stockpile currently contains substantially more of each commodity than would be needed under any wartime scenario. Details on each commodity are contained in the bill and the report and I will not go into them further at this point. These sales are expected to generate receipts of about $300 million in fiscal year 1980 and these receipts, under the provisions of the Stockpile Policy Act, will go into a special fund where they can only be used for the acquisition of needed materials. This fund effectively precludes the manipulation of the defense stockpile for economic or budgetary purposes.

The authorization to sell tin has created a great deal of interest from many parties. While it is clear that we have an excess of tin currently in the stockpile, the committee has also been made aware of the potential significant impact of the proposed tin sales on the tin-producing nations around the world—especially Bolivia and Malaysia. The committee is sensitive to these potential impacts and has taken steps toward extraordinary oversight of the tin disposal program. I emphasize that the tin disposal authorized in this bill is permissive and not directive. Before any sales are made the General Services Administration must accomplish market impact studies to determine how much tin—if any—can be sold, and at what rate, so as not to unduly impact the international tin market. In addition, as a member of the International Tin Agreement the United States must consult with the other parties to the agreement before any sales are made. The committee in its report has required a special quarterly report on the tin disposal program to permit a careful analysis of the program as it is executed.

The bill authorizes the donation of up to 5,000 long tons of excess tin to the international buffer stock. This same markup legislation, which, among other passed bill and has the endorsement of Senators CHURCH and JAVITS of the Foreign Relations Committee as indicated in their letter which I ask be printed following my statement.

Mr. President, this is the first installment of stockpile transaction legislation. It will take years to get our stockpiles into balance—selling off the excesses and buying needed materials. Fortunately this can be done for the next several years without cost to the taxpayer because receipts from the sales of excess materials will finance the purchases.

We must move with a sense of urgency. These stockpiles, which would sustain the United States in a prolonged conventional conflict, also serve to deter such a war. In a world of increasing interdependencies and dwindling natural resources, adequate stockpiles of strategic and critical materials give us added insurance, and—in the case of this bill—at no cost to the taxpayer.

I urge my colleagues to support this bill.

Mr. President, I ask that a letter from Mr. CHURCH and Mr. JAVITS be printed in the RECORD.

The letter is as follows:

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., July 16, 1979.

Hon. GARY HART,
Chairman, Subcommittee on Military Construction and Stockpiles, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR GARY: It is our understanding that the Subcommittee on Military Construction and Stockpiles of the Senate Armed Services Committee, which you chair, will shortly markup legislation, which, among other things, will provide for the disposal of 35,000 long tons of tin considered surplus in the General Services Administration Strategic Stockpile. We have a particular interest in that section of the legislation which calls for the contribution by the United States of 5,000 tons of tin to the Fifth International Tin Agreement.

We wish to express our strong support for the contribution to the International Tin Agreement (ITA), since it would provide sorely needed resources to the International Tin Council in its efforts to bring the price of tin within the agreed upon price band as set forth in the Agreement. As you know, the United States has been a member of this Agreement since 1976. The ITA has been less than effective in stabilizing prices, largely due to the inadequate size of the buffer stocks relative to world demand for tin. The U.S. contribution would not only make good the commitment which Secretary Vance made in 1977 to make a voluntary contribution to the ITA, but would also have, we hope, a beneficial influence on world prices.

In addition, although the disposal of the remaining 30,000 tons of tin by GSA does not fall within the purview of our Committee, we wish to express our support for this initiative as well, because we think that this will have a strongly anti-inflationary impact on the American economy at a time when it is suffering from high and rising inflation.

We are confident that provisions in the Strategic and Critical Materials Stockpile Act will be sufficient protection to producers of tin in preventing undue or damaging disruption of the market as the tin is released.

Sincerely,

JACOB K. JAVITS,
Ranking Minority Member.
FRANK CHURCH,
Chairman.●

● Mr. TOWER. Mr. President, I shall make a few points about this bill which would authorize the President to contribute up to 5,000 long tons of tin metal from the national defense stockpile to the tin buffer stock and authorize the General Services Administrator to dispose of another 30,000 tons of surplus tin from the national defense stockpile.

There is a substantial quantity of tin currently held in the stockpile in excess of the requirements determined to be necessary for the purposes of the Stockpile Act and it does make sense to begin to reduce this excess stockpiled tin. However, I am concerned about the authority given to GSA to dispose of 30,000 tons of tin, which if not handled very carefully could disrupt the market of the sole producer of primary tin in the United States, the Texas City Smelter.

Texas City Smelter currently produces about 15 percent of the U.S. consumption of newly refined tin. Texas City has developed new smelting technology which will permit the use of any tin-bearing material, thus reducing dependence on tin concentrates. This change in the use of raw materials assures an independent U.S. capacity for tin production. Due to transportation costs, the tin produced by Texas City Smelter normally is marketed only within the United States.

Therefore, disposal of U.S. stockpiled tin would compete head on with Texas City's sales. Consequently, the very existence of Texas City Smelter is threatened by anything short of a carefully planned and monitored disposal program.

Protection against disruption of the markets of processors and producers by stockpile sales is required by law but the point bears emphasis. Also, our committee reiterated in its report on the Strategic and Critical Materials Transaction Act the necessity to avoid market dislocation by the GSA sales program.

Therefore, should this bill become law, the General Services Administration in a tin disposal program must assure that there is no undue disruption of the tin

market. Senator HART, who has managed this bill as chairman of the Senate Armed Services Subcommittee on Military Construction and Stockpiles, has commented on the sensitivity of the tin disposal in his floor remarks and I want to reinforce those comments. There must be no misunderstanding as to GSA's responsibility in this matter.●

● Mr. JAVITS. Mr. President, I rise in support of H.R. 595 which would authorize the disposal of excess quantities of tin, silver, and industrial diamonds froms the national defense stockpile. This bill also allows the President to contribute up to 5,000 tons of excess tin from the stockpile to the International Tin Buffer Stock, which was established under the Fifth International Tin Agreement.

As a participant in the International Tin Agreement and the major industrialized country in the world, the United States has a responsibility to the international community to participate actively in the agreement, which has as its objective the moderation of price swings in the tin market. The contribution of 5,000 long tons of tin to the tin buffer stock will help moderate the price fluctuations of this commodity.

In addition, the release of 35,000 tons of tin from the strategic stockpile will help fight inflation and benefit tin consumers, who are bearing the brunt of price increases as tin consumption continues to exceed world production. Producers and consumers alike have been waiting to see if the United States will authorize the release of this excess tin into the world market since, in the near term, neither a significant decline in consumption nor in production is likely. This situation has created an uncertainty among both tin producers and consumers regarding tin supply. The release of 35,000 long tons of tin will serve to reduce this anxiety and will, therefore, help to stabilize the international tin market.

While consumers will benefit from the increased availability of tin in the international market, I believe that this bill has met the concerns of many of the developing countries which are major tin producers. These countries fear that the sale of tin will depress the world price for tin and cause severe damage to their domestic economies. The United States has a commitment to protect the developmental needs of these countries. In order to insure that surplus tin is released to the market in an orderly manner and that the markets for developing countries are not unduly disrupted, the legislation regulating stockpile disposals by the GSA already stipulates that GSA must not allow price dislocations to occur when excess stockpile reserves are released on the world market. This bill assures a U.S. commitment to stable world markets by further stipulating that the GSA must issue a quarterly report to the Committee on Armed Services in both the House and the Senate on the impact of tin sales and proposed tin sales on tin markets, producing countries, and U.S. producers.

In addition, H.R. 595 allows for the disposal of 15 million troy ounces of silver. Silver is an essential element in the photographic industry, which is located primarily in New York State; and I welcome this release.

I urge my colleagues to support this legislation, which will help fight inflation by increasing the supply of certain key commodities while taking into consideration the concerns of producers. In addition, this legislation will permit the United States to meet its international obligation under the International Tin Agreement.●

● Mr. THURMOND. Mr. President, legislation to give careful management of the national defense stockpile was approved earlier this year and the pending bill is the first attempt to put that law into operation.

As the report on the pending bill, H.R. 595, indicates, there are 93 different commodities presently in the defense stockpile, 53 of which are below stockpile goals.

In an effort to begin redressing these shortages, H.R. 595 proposes to dispose of quantities of commodities in excess of our needs in order to generate funds to buy those items in which we have shortages.

This particular bill proposes the sale of silver, tin, and industrial diamonds. I favor the House position of no sale of silver since it is a scarce commodity and its price is steadily rising. However, this issue will be addressed in the conference and for that reason, I will not object to the pending bill.

Mr. President, I do feel it is important to begin addressing the shortages in the defense stockpile and for that reason, I urge passage of this modest beginning.●

● Mr. ROBERT C. BYRD. Mr. President, I rise to support passage of the Strategic and Critical Materials Transaction Authorization Act of 1979.

By authorizing the disposal of noncritical amounts of tin and silver, the Committee on Armed Services has taken a positive step to mute the inflationary pressures which have plagued these commodities.

In my own State of West Virginia the high price of tin has created concern, particularly among those engaged in tin plating, such as the Weirton Steel Co. Since tin is a raw material of companies such as Weirton Steel, any price reduction will increase demand for their products and encourage full employment of their productive capacity.

The bill also provides for the purchase of a list of commodities which the committee feels are necessary to maintain strategic preparedness.

I commend the administration for requesting—and the committee for agreeing—that this list be withheld from the public to avoid speculation in the commodity markets.

Speculation in the nonferrous metals markets has been intense over the past year, particularly in the last several months. Nonferrous metal prices had increased 40 percent over the previous year before the recently announced Federal Reserve action to tighten credit and let interest rates rise.

One of the rationales offered for the Fed's action was to limit the supply of money available for speculative, nonproductive investments, such as those driving up the price of these metals.

It is my hope that bankers and brokers who have financed these speculative activities will adhere to the message of restraint which Chairman Volcker has suggested. To do otherwise not only frustrates efforts to dampen inflation—it also violates all principles of prudent credit analysis.

Those who allocate credit must act responsibly to avoid speculative, nonproductive, purely financial loans. Otherwise, pressures will increase to artificially direct credit through Government action. This is an approach which no one in this country wants. It will be unnecessary if credit markets respond to the Fed's recent action in a responsible fashion.

I compliment the distinguished floor manager of the bill, Mr. HART, for his role in bringing this legislation to the floor. I also thank the Armed Services Committee for its work on the bill.●

● Mr. RANDOLPH. Mr. President, on the first day of the 96th Congress I introduced S. 27, which called for the release of 35,000 long tons of tin from the U.S. strategic materials stockpile. My colleague from West Virginia, Representative ROBERT MOLLOHAN, introduced an identical bill H.R. 595 on the same day.

The House approved H.R. 595 by a vote of 371 to 16 on April 3.

The Senate Subcommittee on Military Construction and Stockpiles held a hearing on S. 27, S. 1397, and H.R. 595 on July 10. I am appreciative that the subcommittee allowed me to testify on the merits of S. 27.

The strategic materials stockpile currently contains over 200,500 long tons of tin. Of that total, only 32,500 long tons are necessary to fulfill the stockpile goals pursuant to the Strategic and Critical Materials Stockpiling Act. Thus, there are 168,000 long tons of tin which could be made available for sale without jeopardizing our national defense goals.

I feel that this oversupply of tin in the stockpile is an economic waste. I am also concerned with the fate of the domestic tin-plated steel industry in West Virginia. This industry provides jobs for more than 5,000 workers in West Virginia. The jobs of these West Virginians, as well as other Americans, are threatened by the artificially high price of tin imported into this country. These high prices are the result of action by commodity speculators in the world tin markets.

In January 1976, the average price of tin was $3.01 per pound. Today, 3 years later, the price has risen to $7.45 per pound. If this legislation is not passed, the price promises to go even higher.

Total consumption of tin in the United States is approximately 61,000 tons per year. The tinplate canning industry uses approximately 18,500 tons of that total usage. West Virginia uses over 4,000 tons to produce tin-plated steel. During the past 2 years, the cost to purchase tin by this one industry in West Virginia has

increased by $26,640,000. These increased costs are borne by U.S. consumers. The price of tin has increased due to two factors: A shortfall of tin supply in the world market and fluctuation of tin prices by commodity speculators. Today the supply levels are near world demand for the first time in several years. Therefore, I believe that a release of tin would have a moderating effect on these escalating tin prices.

Legislation authorizing the sale of tin passed both the House and the Senate in the 95th Congress. In the Senate, this was in the form of an amendment, which I cosponsored with Senator CHURCH, to the sugar bill and was lost in the rush to adjournment. As soon as this fact reached the trade press, speculators pushed the price of tin even higher. Failure to pass this legislation will, once again, push tin prices to higher levels. This will have an inflationary impact on food prices throughout the United States.

I urge the Senate to expedite the passage of this bill. Enactment of this legislation will help us fight the war against inflation.

I appreciate very much the cooperation and support my proposal has received from Subcommittee Chairman GARY HART; Chairman JOHN STENNIS and the members and staff of the Armed Services Committee.●

● Mr. CHURCH. Mr. President, I rise in support of S. 595, a bill to authorize disposal of 35,000 tons of surplus tin from our domestic strategic stockpile—up to 5,000 tons of the total to be contributed to the international tin buffer stock established under the Fifth International Tin Agreement in 1976.

The United States joined the Fifth International Tin Agreement in the belief that such an agreement could be of great benefit to both producer and consumer countries by providing some measure of price and supply stability in an otherwise volatile world market. The international tin buffer stock is today in desperate need of tin if the agreement is to be able to function successfully to dampen upward pressures on tin prices—prices already at historically high levels.

It is U.S. policy that international commodity agreements be financed by both producer and consumer contributions—either in cash or kind—in the belief that both sides must have an equal stake if any agreement is to be a success. In keeping with this belief, Secretary of State Vance, in May 1977, pledged that the United States would make a voluntary contribution to the tin buffer stock. The administration has been seeking congressional approval for such a contribution ever since.

Many of my colleagues will remember that in the closing days of the last Congress both the House and Senate voted favorably on this legislation. Only the confusion of the closing days prevented it from becoming law. In April of this year, the House once again considered this legislation (H.R. 595) and at that time acted favorably on this measure by an overwhelming margin of 371 to 16.

Let me, for one moment, address the foreign economic policy concerns which have been raised with regard to these sales. Specifically, Bolivia, one of the world's largest producers of tin—second only to Malaysia—is apprehensive that the sale of 35,000 tons of tin will be severely disruptive to its traditional markets. This, it feels, will severely impair its export earnings which accrue primarily for international sales of tin.

While I understand the apprehension of the Bolivian Government, I think that this concern can be laid to rest. Article 43 of the International Tin Agreement specifically prohibits members of the ITA from undertaking any noncommercial stockpile disposal which might be disruptive to "the usual markets" of tin producers, processors, and consumers. Bolivia is a signatory nation of the International Tin Agreement, as well as the United States. In addition, article 43 also requires that the United States, as a member of the International Tin Agreement, consult regularly with the International Tin Council, the administrative body of the ITA, before undertaking any transactions from our strategic stockpile. It has also been U.S. policy to consult on a bilateral basis, with all major producers of tin before taking any action. Further, as my distinguished colleague from Colorado, Mr. HART, can attest to, the Strategic Stockpile and Critical Materials Act of 1979, which has recently become law, also instructs GSA to conduct sales in such a manner as not to disrupt the traditional markets of producers and consumers. Both the ITA and the new Stockpile Policy Act provide sufficient protection against tin disposal without due regard to market conditions. Further, it is my understanding that this policy bill also requires that GSA get "top dollar" for all sales. Therefore, it would certainly not be in the interest of GSA to dump large quantities of tin on the market all at once without due regard to what this might do to the price it would receive.

It is my belief that disposal of this tin, conducted in a judicious manner, can help to stabilize its price on world markets. Since the United States is the world's largest consumer of tin, utilizing approximately 25 percent of the world's production—almost all of which must be imported—this measure should serve as an important step in curbing the high and rising rate of inflation in this country.

Senate adoption of this bill will in no way damage our national security as the strategic stockpile currently has 168,000 long tons of tin in excess of our needs. Adoption of this bill will allow the U.S. Government, at long last, to make good on an international pledge, and at the same time be a step which will substantially reduce the inflationary impact of the present high price of tin.●

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to authorize certain transactions involving the acquisition and disposal of strategic and critical materials for the national defense stockpile."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HART I move that the Senate insist on its amendment, request a conference with the House of Representatives, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. HEFLIN) appointed Mr. HART, Mr. STENNIS, Mr. CANNON, Mr. THURMOND, and Mr. TOWER conferees on the part of the Senate.

HOUSE BILL JOINTLY REFERRED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 3909, received from the House today, be jointly referred to the Committees on Governmental Affairs and the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 516

(Purpose: To restore $10,000,000 to the Bureau of Indian Affairs Operations of Indian programs for education)

Mr. MELCHER. Mr. President, I have an amendment at the desk, a printed amendment numbered 516, and I ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator ask that the pending amendment by Senator ROTH be laid aside temporarily?

Mr. MELCHER. I so ask.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself and Mr. MCGOVERN, proposes amendment No. 516:

On line 22 of page 20, strike "$770,835,000", and in place thereof insert "$780,835,000".

Mr. MELCHER. Mr. President, I ask unanimous consent that Senator DECONCINI be added as a cosponsor.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

Mr. MELCHER. Mr. President, last year an item in this amount that is listed here on line 22, page 20, for school operation was listed at $190,478,000.

The House has allowed for school operation for this coming fiscal year a very similar amount, almost identical, for the schools, these Indian schools.

Now, these are schools that are operated by the Bureau of Indian Affairs.

It is very understandable to me, Mr. President, why the subcommittee and the Appropriations Committee of the Senate would try to save money where possible. But I believe that in striking about $10 million out of school operations for these Indian schools they have been a little bit too careful in protecting the Federal Treasury.

We understand from the committee and from the Bureau of Indian Affairs that the number of students for this coming fiscal year in these schools is about the same number. If it is up a few or down a few, it is about the same. I cannot tell you whether it is a slight increase or a slight decrease, but it is apparent that in every school's operations the effects of inflation on operating the schools have been rather severe.

That cannot be avoided if you are going to have quality education and you are going to have to meet the inflationary pressures and recognize that to maintain the same level of quality education, whether it is for Indian schools, for public schools, for private schools, for any schools, you are just going to have to pay out more money.

I think it is unwise, Mr. President, for that amount of money to be cut out of the operating budget of these Indian schools.

Mr. MCGOVERN. Mr. President, will the Senator from Montana yield?

Mr. MELCHER. Yes, I would be delighted to yield to the Senator from South Dakota.

INDIAN EDUCATION

Mr. MCGOVERN. Mr. President, I support the amendment offered by my colleague, Senator MELCHER which I am pleased to cosponsor. It is true that waste must be cut, but I contend that a more judicious method must be found which will pinpoint that waste. Under the $10 million cut proposed today, the schools which will be the primary losers will be those small schools for which a 5-percent cut may mean the difference between closing or remaining in operation as an educational facility. In most cases, there is no other school within miles—there is simply no alternative for the children.

The primary reason for a restoration of the cut is that there is no money saved under the formula—it is merely redistributed. Perhaps a small number of schools may be slightly overfunded, but by cutting across the board, it is not possible to focus on those schools, whereas the majority of schools which have been underfunded each year will bear the burden. Additionally, at this time, the Bureau of Indian Affairs is working on a uniform funding standard, which is to be completed for fiscal year 1981. Now is not the time to cut funding—it is at best, premature.

In South Dakota, for instance, there are 16 schools with enrollments between 30 and 200 children. Over 7,000 children attend all the schools which will be affected in South Dakota alone. These children will receive a lesser education if this cut is not restored. Let us take a close and careful look at specific cases of waste in Indian education and eliminate that waste. We cannot afford to jeopardize the education of all Indian children because of minor overfunding in a few of our schools.

I ask unanimous consent that a table indicating affected schools in South Dakota be printed at this point in the RECORD.

There being no objection, the table is ordered to be printed in the RECORD, as follows:

Affected schools in South Dakota and pupils in each school

Enemy Swim	45
Flandreau	450
Cherry Creek	100
Cheyenne-Eagle Butte Coop	870
Promise	20
White Horse	61
Little Wound	530
Lone Man	350
Red Scaffold	47
Bridger Day School	30
Swift Bird	46
Manderson Day School	245
Manderee	184
Oglala Community Coop	1,033
American Horse	145
Ft. Thompson	224
Crow Creek	135
Lower Brule	222
Rosebud Dorm	150
Crazy Horse	381
Porcupine Day School	153
St. Francis	481

Mr. MCGOVERN. I heartily applaud and indeed I am a cosponsor of the amendment of the Senator from Montana.

What the Senator is attempting to call to the attention of the Senate is that the $10 million cut ordered by the Appropriations Committee on Indian education is not properly targeted. It is an across-the-board slash in all Indian schools without regard to their present level of funding.

I am told there are a few of the Indian schools that are overfunded, but the overwhelming majority, most of which are small schools, are underfunded, and in many parts of the country, including my own State, they are the only schools to which Indian children have access. They would have to go a great many miles to find another school.

If this cut is not restored it will have the effect of actually closing down a number of Indian schools in South Dakota. There are some 7,000 children who are affected by this possible reduction in school services.

It would be much more sensible, it seems to me—and this is what I understand motivates the Senator from Montana—for selective cuts to be made aimed at those schools where a case can be made that they are overfunded. We may very well have to increase the funding on some of the other schools where they do not have adequate budget support.

But it would certainly be pennywise and pound foolish to try to save a few dollars at the expense of the education of Indian children. If we are ever going to bring the Indians in this country up to the economic, social, and political level of other citizens of the United States, education is going to have to be the key factor in that effort. The reason most of us are here in the U.S. Senate is because we have had the opportunity for education, many of us go on to advanced degrees.

Education means job advancement, it means security, it means a better life for our people, and especially for these Indian children who come into the world with two strikes against them at the outset.

So I hope instead of going forward with this $10 million across-the-board slash, the committee will give the Bureau of Indian Affairs an opportunity to complete the study they now have underway to determine which schools are overfunded and which are underfunded, and then make some selective judgments rather than this kind of an across-the-board indiscriminate cut.

I want to commend the Senator from Montana for giving us the opportunity to make this case here on the Senate floor. I hope the committee will see fit to adopt this amendment, to accept this amendment. I thank the Senator for yielding to me.

Mr. MELCHER. Mr. President, I thank my friend from South Dakota for his very apt remarks, because he is zeroing in on the very, very point of why we offer the amendment.

The $10 million proposed reduction would affect all of the approximately 220 Indian schools throughout the country, and under the funding formula established by sections 1128 and 1129 of the Education Act Amendments of 1978, Public Law 95-561.

Every school is supported from a central fund. There is no targeting of appropriations. If $10 million is taken out of the pot, out of this school operation pot, for the schools all schools will have about, well, it is a little more than a 5 percent amount less to work with this coming fiscal year for operation expense. I do not believe this serves the national interests nor is it practical in furthering Indian education, particularly in light of whatever we end up with for fiscal 1979 as our inflation rate, and what that is going to be, the inflation rate, in fiscal 1980.

If there should be a 10-percent inflation rate, it is obvious that the reduction from the amount that was appropriated last year will be further reduced by that inflation rate. It is extremely difficult for me to believe that this would be wise, in that we have said for years, as a conventional policy, that Indian education is one of the top priorities that we provide for our Indian people. I think their opportunities are enhanced only as the

educational opportunities are exercised and used by Indian children.

I would very much hope that the committee will find favor with our plea for restoring this $10 million.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, it is a very difficult thing to stay within budget restraints and within the authorizations in the budget resolutions that we all try to deal with. It is difficult at best. It is impossible if you are willing to appropriate additional funds for agencies and projects for which there have been no requests for additional funds.

As has been indicated, the committee felt that a $10 million reduction here could be sustained by this function without doing any damage to the operation of the Indian schools. The cut was made; we have had no appeal from the agency regarding this reduction.

The funds will be disbursed under a formula system that has been established, and we have to believe that this formula can be satisfied, that adequate funds will be made available to the schools on the basis of that formula within the appropriation that has been included here in the bill.

I have not had long experience in this area of dealing with the problems of the Indians and the schools, in particular, but it is my understanding that prior to the new formula distribution system now being used, the schools were virtually on their own. It has been suggested by the Senator from Montana and the Senator from South Dakota that some schools were indeed overfunded and perhaps some were underfunded.

It seems to me that the present system has brought some order to that procedure, and that, with the funds provided, and with no objection to the reduction that has been made, the committee's recommendations should be accepted by the Senate.

I might also point out that a portion of this reduction also relates to the closure of two off-reservation boarding schools that were consolidated, and this consequently reduced the requirements for funding. So I would hope that the Senator from Montana would not press the amendment. If he does feel that he needs to have a vote on it, of course, it will come under the special order, I assume; is that correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUDDLESTON. In line with the other amendments.

Mr. MELCHER. Will the Senator yield——

The PRESIDING OFFICER. The Chair will correct itself. The yeas and nays have not been ordered.

Mr. MELCHER. Mr. President——

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. The very able floor manager of the bill, the Senator from Kentucky (Mr. HUDDLESTON), has stated that the Department has not appealed. But we are confronted, in our offices, and indeed the Select Committee on Indian Affairs is also confronted, with scores, perhaps hundreds, of calls from Indian communities throughout the country that are apprehensive that the cut is not warranted and will seriously jeopardize their school operations in 1980.

While I cannot speak as to the official position of the Department or the Bureau of Indian Affairs, I can relate this sincere concern of many of our Indian citizens across the country who are involved.

There is one statement the Senator made as to which I would like to know whether my thinking is correct or wrong. The Senator mentioned two schools that would be dropped, that would be closed, and that that would alleviate some of the funding that we are talking about.

It was my understanding that both of those schools were involved with Johnson-O'Malley funds, a separate item. Is that true, or not?

Mr. HUDDLESTON. I am advised by the staff that those are not the two schools.

Mr. MELCHER. And they would also be involved in these operating funds?

Mr. HUDDLESTON. They will be as long as they are operated. They are boarding schools.

Mr. MELCHER. But they are to close down?

Mr. HUDDLESTON. At the end of December, I believe.

Mr. MELCHER. Can the Senator advise me how much that would relieve the operating fund, how much was allowed for them during fiscal 1979?

Mr. HUDDLESTON. I will be happy to check our files. I do not have that immediately available, but we will get that for you.

Mr. MELCHER. Mr. President, I ask unanimous consent that this amendment be temporarily laid aside, and perhaps we can have that information made available.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

Who yields time?

UP AMENDMENT NO. 655

(Purpose: Require the Energy Information Administration to share information with the Justice Department and the Federal Trade Commission)

Mr. MAGNUSON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON), for himself and Mr. KENNEDY, proposes an unprinted amendment numbered 655:

On page 43, line 12, insert the following: *Provided:* That none of these funds shall be available beyond the 60th day following enactment of this Act—

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, line 12, insert the following: *Provided:* That none of these funds shall be available beyond the 60th day following enactment of this Act for the collection, assembly, evaluation, analysis, validation, maintenance, production, or processing of energy information (including information collected prior to enactment of this Act) which the Department does not promptly make available to the Department of Justice or the Federal Trade Commission, upon their request, for their use pursuant to their duties and responsibilities as prescribed by existing law, including but not limited to, antitrust statutes.

Except that the foregoing shall not apply to information collected prior to enactment of this Act where an explicit written commitment was given by the Department restricting its distribution from the Department of Justice or the Federal Trade Commission.

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Washington?

Mr. MAGNUSON. Mr. President——

The PRESIDING OFFICER. The Senator will suspend. Does the Senator from Kentucky yield to the Senator from Washington?

Mr. HUDDLESTON. I yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I understand there is unanimous consent that all amendments must be submitted by 5 o'clock. Is that correct?

Mr. HUDDLESTON. The Senator is correct.

Mr. MAGNUSON. But there was no time provided for anybody to discuss amendments. If I had been here, I would have objected.

Mr. HUDDLESTON. We have been on the floor all afternoon, and there has been a great deal of time available.

Mr. MAGNUSON. I have been busy. I need at least 5 minutes to discuss my amendment.

Mr. HUDDLESTON. I think you can take 5 minutes.

Mr. MAGNUSON. This is an amendment, Mr. President, on behalf of Senator KENNEDY and myself, which would require the Energy Department's Energy Information Administration to share information with the Justice Department and the Federal Trade Commission.

This provision does not provide any new legal authority to our antitrust agencies. It merely insures that these agencies have access to information to which they should already be entitled.

Mr. President, in 1974 the Energy Supply and Environmental Coordination Act provided the predecessor to the Department of Energy with the power to collect energy information.

That law also provides that such information would be available to the FTC and Justice Department when these agencies need information to carry out their lawful functions.

But now, despite this Nation's chronic energy problems, the Department of Energy is refusing to cooperate with our antitrust agencies.

The Department of Energy has been able to circumvent the information sharing requirements laid down by Congress and avoid the Energy Supply and Environmental Coordination Act by collecting information using other authorities, exclusively.

Mr. President, this is not a new problem. There are numerous instances over the past 4 years where the Department of Energy has hindered our antitrust agencies.

Why? What reason does the Department of Energy give for its behavior?

The Department's only answer is that it fears the oil companies will not fully cooperate if Justice and the FTC have access to DOE's information.

As the chairman of the Senate Judiciary Committee knows—and I understand that your committee has held hearings on this matter—section 11(d) of the Energy Supply and Environmental Coordination Act protects the oil companies information from public disclosure.

I therefore ask: What are the oil companies hiding? Why would the Department rather cooperate with these companies than with our antitrust agencies?

Finally, Mr. President, I would like to point out that when the Department withholds information, FTC and Justice must obtain it directly from the companies.

The result is duplicative information requests and unnecessary court battles for information already in the Government's possession. By the time our antitrust agencies obtain the information, our energy crisis has already passed and the next one is upon us.

Mr. President, we cannot continue to allow the oil companies to set one Government agency against another. It is time to join forces to solve our energy problems. This amendment is a step in that direction.

There is some question, I will say to the distinguished Senator from Kentucky, about the original amendment.

We modified the original amendment. We exempted information where there was an agreement with the oil companies that the information should not be given to the Department of Justice or Federal Trade Commission. I was hopeful that the Senator from Kentucky would take the amendment to conference.

I discussed this amendment in the Appropriations Committee but decided that I would not pursue the matter at that time.

Mr. HUDDLESTON. I do remember. The very feature which the Senator from Washington mentions is the one which caused myself and other Members a great deal of trouble. There are agreements between the Department and oil companies about certain types of information, and it is given on the basis that it will be held confidential.

Mr. MAGNUSON. This exempts those written agreements.

Mr. HUDDLESTON. With that type of information exempted, it certainly makes it a more acceptable amendment. However, I do not see my colleague from Alaska in the Chamber to express his opinion on this amendment. I understand he will be here very shortly.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 656

(Purpose: $372,000 to be appropriated to the National Park Service for the acquisition of the property comprising the former home and office of Frederick Law Olmsted in Brookline, Massachusetts)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration. Mr. President, I ask unanimous consent that it be in order to proceed with the immediate consideration of this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this amendment is in behalf of myself and my colleague, Senator TSONGAS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) for himself and Mr. TSONGAS, proposes an unprinted amendment numbered 656.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 7, strike out "$554,175,000" and insert in lieu thereof "$554,547,000".

On page 8, line 15, strike out "$149,022,000" and insert in lieu thereof "$149,394,000".

Mr. KENNEDY. Mr. President, on June 7, 1979, the Senate passed S. 495, a bill to establish the Frederick Law Olmsted National Historic Site in Brookline, Mass.

Last week, the Senate agreed to the House amendments to the bill, and sent the legislation to the President for his signature. The President signed the bill on Friday.

The bill authorizes the acquisition and management of Olmsted's home and office, together with the extensive archival collection which is housed there.

Frederick Law Olmsted is called the "father of landscape architecture." Before his death in 1903, Olmsted had created 17 major urban parks, planned entire cities, and designed scores of college campuses from coast to coast.

Olmsted's major accomplishments include:

Central Park in New York City.

The Emerald Necklace in Boston.

The Capitol Hill Grounds.

Preservation of Yosemite Park.

More than anyone else, Olmsted was responsible for bringing green space to our Nation's cities. Millions of Americans appreciate his work every day.

This amendment only provides funds needed to acquire the site in Brookline at a cost of $372,000.

We must act now. The family which owns the home and office has been waiting 6 years for congressional action. The Park Service indicated in their budget justification that the family cannot afford to keep the house much longer.

During markup, the committee decided not to include funds because of lack of authorizing legislation. Now that Congress has enacted this legislation, I am hopeful that we will provide the funds necessary to acquire the site.

Mr. President, I have talked to the floor manager of the bill and to members of the minority. I believe there is no objection.

Mr. HUDDLESTON. Mr. President, the Senator has stated correctly that this matter was not considered in the markup because of the lack of authorization at that time. We are willing to add it now with, of course, the understanding that still the figures may not be precise. At the time of the conference, I think we can make a determination as to specifically what is required.

The PRESIDING OFFICER. Is there objection to the amendment? If not, the amendment is agreed to.

UP AMENDMENT NO. 657

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. It is necessary to have the amendment of the Senator from Washington set-aside temporarily.

Mr. LEVIN. Mr. President, I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment. The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself and Mr. PRYOR, proposes an unprinted amendment numbered 657.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54 after line 9, insert the following:

Further, the Secretary of the Interior is authorized and directed, subject to the supervision and approval of the Franklin Delano Roosevelt Commission, to construct the Franklin Delano Roosevelt Memorial in accordance with the general design developed by the Franklin Delano Roosevelt Memorial Commission and approved by the Commission on Fine Arts on March 2, 1978. For this purpose the sum of $10,000,000 is appropriated.

Mr. LEVIN. Mr. President, this amendment authorizes and directs the Secretary of the Interior to construct the Franklin Delano Roosevelt Memorial. The matter has languished just too long. It is time to get this matter off dead center. The total cost of this amendment is estimated by the Commission to be between $24 and $32 million. The $10 million figure referred to in this amendment which I have introduced on behalf of myself and Mr. PRYOR would be to appropriate the first $10 million toward that total cost.

Mr. President, there is no authorization bill yet for this memorial. I have spoken with the floor manager of this bill and he has indicated to me that if this amendment were withdrawn, the com-

mittee would undertake to hold hearings on this matter. I am wondering whether or not he may be able to comment on that at this time.

Mr. HUDDLESTON. Mr. President, I am glad to affirm to the Senator that we will, in fact, do just that. There is no budget request at this time. There have been no hearings by our committee, no reason to hold hearings up to now. It is a matter that I have some interest in and I can assure the Senator from Michigan that we will, certainly, look into it.

Mr. LEVIN. Mr. President, with that understanding to hold hearings, which I understand it to be, I withdraw this amendment. In conclusion, I just state that it is not a partisan issue that we are undertaking here. It is a matter of pride, it is a matter of remembrance of our past, that we finally have a memorial to President Franklin Roosevelt.

I thank the Senator from Kentucky. I am wondering if I did understand him correctly that the floor manager of the bill is undertaking to hold hearings on this matter. I was distracted for a moment.

Mr. HUDDLESTON. Mr. President, that is a correct understanding.

Mr. LEVIN. I thank the Senator.

With that understanding, Mr. President, I do withdraw the amendment at this time.

The amendment was withdrawn.

UP AMENDMENT NO. 655

Mr. KENNEDY. Mr. President, I believe that a few minutes earlier, Senator MAGNUSON offered an amendment in behalf of himself and me dealing with the information that has been provided to the Department of Energy and its availability to the Federal Trade Commission. I rise to strongly support that amendment. It only makes sense, Mr. President, as we are attempting to fashion and shape an energy program, that information that is in one governmental agency be made available to other governmental agencies under the clear restrictions of confidentiality under which the information has been obtained.

One of the critical problems we have been facing in fashioning energy policy is information. This amendment would permit the transfer of information to another agency in Government which has the authority and power to gain such information. We have seen, over a period of months and years, how difficult it is for an agency to gain the information it needs.

It seems to me, Mr. President, that this is an extremely wise amendment. It is one that can make a great deal of difference to the Congress in fashioning energy policy. I think that, most importantly, it is clearly in the interest of the consumers of this Nation. I commend the Senator from Washington for bringing this matter before the Senate and I commend him, speaking as the chairman of the full Judiciary Committee, which has an interest in the competitive aspects of our economy. Knowing the very constructive role that the Federal Trade Commission has played in insuring a greater sense of competition, I say this action is in our national interest.

I join in urging the Senate to accept it and again commend the Senator from Washington for offering it.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I move the adoption of the amendment.

Mr. DOMENICI. Mr. President, I want to say to the distinguished chairman that Senator MCCLURE desires to be heard on this amendment. He is on his way. I certainly want to give him that opportunity and would only ask, since I have the floor, that I may hold it for him.

I do have a 30-second dialog with Senator BYRD. I wonder if I could do that and Senator MCCLURE will arrive in short order. He wants to oppose the amendment and state some facts on it. I think, under the rule, he is entitled to that.

ORDER TO LIMIT ROLLCALL VOTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the rollcall votes following the first rollcall vote by limited to 10 minutes each to run for the remainder of the day.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the only comment I have on the amendment that is pending—and if my good friend from Idaho desires to debate the issue, I have held the floor for him—is that I cannot imagine how Senator MAGNUSON could have been here so many times arguing about legislation on appropriations and then come along with this one, which has been debated in authorizing committees time after time. It is not one that we have not considered, I say to my good friend. I am sure the Energy Committee of the Senate has considered this proposal, as the appropriate authorizing committee, many, many times and has not seen fit to go along with it. Now, in an appropriations bill, the Senator from Washington sees fit to bring it up.

I just do not think it is the way to do business. Besides its being bad law, I do not think it is very consistent to argue that we ought not to do it and then do it on one of the most important and controversial issues that has come before the Energy Committee.

Mr. MAGNUSON. Will the Senator yield?

Mr. DOMENICI. I am finished.

Mr. MAGNUSON. As a matter of fact, Mr. President, the Energy Committee has held hearings on this issue. Senator JACKSON agrees with the amendment. The Judiciary Committee has held hearings on it. They agree with the amendment.

Mr. DOMENICI. Let me say to my friend that if they have had hearings on it, they have had, many, many times, the opportunity to report out such a measure and the Energy Committee has never done that. I cannot imagine that they agree with it and yet will not report it out.

Mr. MAGNUSON. They agree with it.

Mr. DOMENICI. Perhaps there is some other reason.

Mr. KENNEDY. Will the Senator from Washington yield for a question?

The PRESIDING OFFICER. Does the Senator from Kentucky yield?

Mr. HUDDLESTON. Yes, I yield 1 minute.

Mr. KENNEDY. Is it not true that this amendment has been adopted by the Senate on two previous occasions?

Mr. MAGNUSON. Yes.

Mr. KENNEDY. On authorizing legislation.

Mr. MAGNUSON. Yes.

Mr. KENNEDY. And is it not true that still the Department of Energy has been recalcitrant in supplying that information to the commission?

Mr. MAGNUSON. That is correct.

Mr. KENNEDY. Is not the purpose of the Senator's amendment once again to reaffirm the position of the Senate that the Department of Energy should conform with what has been the clear expression of the Senate on previously authorized legislation?

Mr. MAGNUSON. And we take care to say—

Except that the foregoing shall not apply to information collected prior to enactment of this Act where an explicit written commitment was given the Department restricting its distribution from the Department of Justice or the Federal Trade Commission.

Mr. KENNEDY. Mr. President, in 1974 the Congress passed the Energy Supply and Environmental Coordination Act. This act granted extensive powers to Federal energy policymakers—then located in the old Federal Energy Administration—to acquire energy information. The act not only provided authority to gather information, but it also provided a comprehensive scheme for its treatment. It detailed the manner in which confidentiality was to be protected: It provided protection for trade secrets; and it provided for the sharing of the information among other Government agencies and with the Congress.

When the Department of Energy was created all this authority was transferred to the new Department. The new Energy Department, however, attempted to sidestep the information gathering provisions of Energy Supply and Environmental Coordination Act by purporting to gather data pursuant to earlier and less comprehensive authority.

The sole purpose of this side-step was to avoid having to share data with other agencies, particularly the Department of Justice and the Federal Trade Commission.

The Energy Department went this route because it thought that would improve the convenience with which it could gather data. But its main effect has been to force Government agencies to make separate and overlapping requests for data that has already been collected by DOE, and it has thus placed an unnecessary burden on industry. It has recreated the waste, duplication, and inefficiency that section II of the ESECA was designed to prevent.

Last Congress, as chairman of the Antitrust and Monopoly Subcommittee, I held hearings on this question. I was shocked at the poor state of cooperation between the Federal Trade Commission

and the Department of Justice on one hand and the Department of Energy on the other. I found the continued failure of the Energy Department to bring its data gathering functions under the comprehensive scheme provided in section II of the ESECA inexcusable and it was even more inexcusable that the reason for the failure was simply to avoid congressional mandated cooperation with other Government agencies.

When the National Energy Act was before the Senate last year, I introduced an amendment similar to that now being offered by the senior Senator from Washington. It would simply have done what the Congress thought it did when it passed the ESECA with section III. This amendment was passed by the Senate but got lost between the cracks in conference.

The Congress is long overdue in correcting this situation. On one hand it is wasteful for business to have to respond to multiple demands for the same data and information. On the other hand it is equally inefficient and illogical for energy companies to be able to treat each Federal agency as if it were a separate Government whose files are immune from reasonable access by other agencies.

This amendment does nothing more than what the Senate has attempted to do on two previous occasions: Put the data gathering functions of DOE into a comprehensive scheme that avoids waste and duplication both by industry and by other Government agencies.

I eliminate those items that have explicit written commitments restricting distribution to FTC and Department of Justice.

The PRESIDING OFFICER. Who yields time?

Mr. MCCLURE. Mr. President.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. MCCLURE. Mr. President, first of all, this is not a new battle. It is a very old and continuing saga. But to represent that this is simply what the Senate has done before on other laws is not entirely accurate.

This battle has been going on, as I said, for a long, long while and this is the only way in which the information can be acquired and the only way in which it can be disseminated and, as a matter of fact, the laws now on the books require and accept quite a range of possibilities for the collection and the use of the data which the Energy Information Agency can require and can obtain.

It is the very fact that there is a range of possibilities under existing law that has led to the offering of this amendment.

Mr. President, it is true that the Energy Committee has held hearings on this. We have held hearings on it. I do not know of any subject that has been debated more extensively in the Energy Committee than this specific subject.

When the Energy Information Agency was created, we carefully wrote into law the results of all that debate and all that deliberation and the Senate approved it.

So if what we want to do is stick with what the Senate has approved, we should reject this amendment, because this is a change from what the Senate has already approved.

The Senate approved it. The House approved it. It came out of the conference and was signed into law by the President. The status quo would not be preserved. It would be changed.

As a matter of fact, I think it does not stretch the imagination to know that if it did not change something, there would be no point in the amendment.

It is always hard to know what the intention of the proponent might be. But it is obvious there can be only one purpose in the amendment, and that is to change what the status quo is.

So we are trying by the amendment to change what the existing fact is, in fact, of a different circumstance that would exist following the adoption of the amendment, if it were adopted.

The Federal Energy Administration Act is the primary vehicle for the information and it does not require the transfer to the FTC, that the Federal Energy Administration Act is incorporated into the DOE Organization Act. All that by action taken by the Congress prior to this.

I yield to the Senator from Washington if he has an inquiry he would like to make.

Mr. MAGNUSON addressed the Chair.

Mr. MCCLURE. If he has a question.

Mr. MAGNUSON. No.

Mr. MCCLURE. For that purpose.

Mr. MAGNUSON. We are trying to allow freedom of information for our antitrust agencies.

Mr. MCCLURE. I appreciate what the Senator says because, of course, it is obvious——

Mr. MAGNUSON. The oil companies give information to the Department of Energy. We believe this same information should be available to our antitrust agencies.

I know what the oil companies are afraid of.

But all this does prevent the oil companies from giving improper information to the American public.

Mr. MCCLURE. Mr. President, in answer to the inquiry of the Senator from Washington, let me simply state that I appreciate his statement that it is intended to change existing law and practice. It should not fly under false colors. I think it is intended to change existing law and practice.

The fact of the matter is that in the hearings and in the discussion in the Energy Committee, we very carefully examined whether this kind of provision would enhance the flow of information or whether it would restrict it. The considered opinion of the authorizing committee was that such a provision would restrict the flow of information that was legitimately useful to the Government in administering energy programs because it would immediately make available information which is useful to the Government internally for purposes unrelated to the legitimate request for the information.

It is a little like saying in this instance, "All right, let's open all your income tax files because other agencies of Government would like to look at that information for other reasons."

It is not quite a fair analogy. But the instinctive reaction of many is similar.

Mr. MAGNUSON. Will the Senator yield?

Mr. MCCLURE. I am happy to yield.

Mr. MAGNUSON. The amendment agrees in advance to provide the same protection from public disclosures as provided by the DOE.

The antitrust agencies get the information. But the oil companies get the same protection. That is what the amendment is very careful to provide.

Mr. MCCLURE. I say to my friend that there is a great argument that has gone on for years as to what is proprietary information, which it cannot require them to give, that there are all classes of information, some of which they would give voluntarily for one governmental purpose, but which they would not give and should not be required to give for other governmental purposes.

Once we open the process to the kind of information transfer which is suggested by this amendment, we immediately restrict the opportunities for the agencies of government to get the information for other purposes, and we will inhibit the ability of the Department of Energy to get the information through the Federal Energy Information Administration and to use it within the Department of Energy for the energy program evaluation and trust which they desire to have if this is amended.

It is just going to cut off that flow of information. Rather than having more information available to Government, we might well have less information available to Government.

It is that kind of weighting of legitimate public interests that is best handled not in the amendment on the floor in a situation like this, but in the authorizing committee, in hearings and markup that have been conducted day after day after day in the past in the Energy Committee.

It is for that reason that I appear to oppose the amendment.

The Department of Energy has concluded and the Energy Committee has concurred that transfer automatically to the Federal Trade Commission for regulatory purposes would have a significant effect, a chilling effect, on the voluntary compliance with information requests made to the industry that are necessary for research and development, for supply and demand information, and for policy-related information that now, routinely, the Department of Energy requests of energy companies, which is routinely and voluntarily supplied to the Department of Energy, on a voluntary basis.

It is that relationship that this amendment would destroy. It is that relationship which has led the Department of Energy in the past to refuse to comply with the requests or accede to the requests of the Federal Trade Commission for the very information which this amendment would require.

I think the Senator from Washington knows that the Department of Energy is

very strongly opposed to this kind of amendment.

I think for us here on the floor of the Senate, with no more opportunity for discussion than we have here today——

Mr. MAGNUSON. Why?

Mr. McCLURE. For the very reason, I say to the Senator from Washington——

Mr. MAGNUSON. They want to keep it all to themselves.

Mr. McCLURE. I say to the Senator from Washington, the Department of Energy is opposed to this amendment for the very reasons I have been giving here.

Mr. MAGNUSON. They want to keep information all for themselves and not inform the public.

Mr. McCLURE. I say to my friend from Washington, he is entirely wrong on that.

The Department of Energy has consistently said under the current Secretary, under the past Secretary, that to adopt this kind of statutory language would inhibit their ability to get the information they need.

It is not so much a matter of helping the FTC as hurting DOE.

If you want to have effective information flowing into DOE in order to get the information they have to have to direct the energy programs of this country, pass this amendment, and you will inhibit that process. That is what the argument is all about.

I do not mean to monopolize the time, and I will be happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to get the floor in my own right.

Mr. McCLURE. Before doing that, I would like to make certain that I have enough time to get a colloquy into the RECORD.

Mr. KENNEDY. I will be glad to do that, if I can have 5 minutes.

Mr. President, I ask unanimous consent that the Senator from Idaho be recognized at 5 minutes to 5.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, what is the request?

Mr. KENNEDY. That the Senator from Idaho be recognized at 5 minutes to 5. He is going to yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, very briefly, in the final few moments of this discussion, we are not, by this particular amendment, granting to the Federal Trade Commission any new authority that does not already exist. That is important to understand. The way it has been presented here by some of those in opposition to this amendment, it would suggest that we are trying to provide new authority. We are not. We are trying to insure that the law is going to be enforced. We are trying to eliminate some of the redtape.

We hear a great deal on this floor about the duplication of governmental processes. The Federal Trade Commission has certain authority, the Justice Department has certain authority, and the Department of Energy has certain authority, and industry has to respond to all of them.

It is clear under the FEA program adopted in 1974 that "under the provisions of confidential information"—and the purpose of this amendment is not to make information public. It is for law enforcement purposes, to maintain confidentiality, the way the Department of Energy does, but also to consider it from a law enforcement point of view.

It is very clear in the 1974 act that, on the disclosure, upon request, any delegate of the Federal Energy Administration, for the purpose of carrying out this chapter and the Energy Petroleum Allocation Act of 1973, the Attorney General, the Secretary of the Interior, and the Federal Trade Commission—and the Federal Trade Commission.

In the Coal Conversion Act of 1977, I offered an amendment which reads:

> Any energy information acquired, collected and held by the Department of Energy which is subject to the requirements of section 11(d) of the Act of 1974—

That incorporated the language which was accepted on the floor of the Senate of the United States, without debate.

All we are asking here is for the Department of Energy, which has failed to comply with that law since 1974, failed to comply with the law of 1977, to do what the Senate of the United States has required them to do by law for the past 5 years.

Mr. President, it seems to me that if we are going to develop and fashion an energy program and if we are going to expect that the laws are going to be complied with, in order to protect consumers from overcharges and many other violations which have come to the fore, the Magnuson amendment would be an important protection for the consumers.

I fail to see the chilling effect. What is chilling is the fact that the consumers will be chilled this winter because of our failure to take action here in the development of a sensible and responsible energy program.

Mr. President, I hope that the amendment of the Senator from Washington will be accepted, and I urge the Senate to support it.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. STEVENS. Mr. President, is any time remaining on this amendment?

Mr. HUDDLESTON. Yes. We can go to 5 o'clock.

Mr. STEVENS. Mr. President, a parliamentary inquiry. Is there any time on the amendment?

Mr. JOHNSTON. Mr. President, would it be in order at this time to propound a unanimous-consent request with respect to the Magnuson amendment?

Mr. STEVENS. I would like 1 minute on this amendment, if I may.

The PRESIDING OFFICER. The Senator from Alaska has the time.

Mr. STEVENS. I yield myself any time that I have.

The PRESIDING OFFICER. The Senator has 2 minutes and 1 second.

Mr. STEVENS. Mr. President, the problem with this amendment is the perennial problem, and I do not mean to take umbrage with my good friend from Washington. However, we are constantly saying that items such as this should not come up extraneous to the subject matter in the bill that is before us.

I think it is a far-reaching amendment, and obviously the Senator from Massachusetts does not think so. I believe it is an amendment that should be considered at length. It amounts to legislation on an appropriations bill. We have nothing in this bill pertaining to the FTC, nothing pertaining to the Department of Justice. We are not the experts in this area. We are not the people who have dealt with this subject, and I do not believe it should be in this bill.

While I might support it in another context, I cannot support it as the ranking Republican on this subcommittee, because I think these bills are too loaded down with extraneous matters now.

I say that with all due respect for our chairman. It is not a subject that should be brought up on an appropriations bill, particularly one that does not cover the subject matter of the agency involved, which is the FTC in this instance.

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized.

Mr. DOMENICI. Mr. President, will the Senator yield 1 minute?

Mr. McCLURE. I yield 1 minute to the Senator from New Mexico, without losing my right to the floor.

Mr. DOMENICI. Mr. President, first, I commend the Senator from Idaho for resisting this amendment.

I hope the Senate does not take seriously the argument of the Senator from Massachusetts that this bill is motivated by an intent to cut redtape. This bill is motivated by the fact that the Federal Trade Commission has been unable to get certain information that it wants.

We come here on an appropriations bill and say to a new agency of the Government, which we just set up a few months ago to collect information for the American people, "You are not going to be able to collect that unless you agree to give it to the Federal Trade Commission and the Justice Department, because you won't have any money to spend."

That is not a way to cut redtape. That is the way to use an appropriations bill to get what somebody cannot get through an authorizing committee of the Senate. That is what it is, plain and simple. It is not a matter of cutting redtape. It is a way to supply the Federal Trade Commission with more information, when it does not know what to do with what it is getting.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time I take now not be charged against the Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. McCLURE. I yield to the Senator, with that understanding.

Mr. ROBERT C. BYRD. Mr. President, under the order that was entered,

Mr. DURKIN was permitted to make a point of order against one of the committee amendments, and there was to be a 30-minute limit on that, to be equally divided.

Mr. DURKIN and Mr. JOHNSTON have been consulting, and they are willing to forego the point of order, provided the consent order can be modified in such a way as to allow Mr. JOHNSTON to call up an amendment on Thursday, following the disposition of the Javits amendment or the Metzenbaum amendment, whichever happens to be the case at that point, and that before final passage of the bill, Mr. JOHNSTON be permitted to call up an amendment, and that there be a time limitation thereon of 10 minutes, to be equally divided, in accordance with the usual form.

Mr. JOHNSTON. And that no point of order would lie against that amendment.

Mr. ROBERT C. BYRD. And that no point of order would lie against that amendment.

Mr. STEVENS. Mr. President, reserving the right to object—and I do not think I shall object—I will be interested to hear the reason for not having a point of order lie against the amendment.

Originally, the two managers of this bill had time to yield to Senators whom we knew had amendments. I had time that I intended to use to take care of an amendment to be offered by Senator PRESSLER. He had given us notice that he intended to raise this, but unfortunately, in terms of the discussion as it has developed, I do not have time to yield to Senator PRESSLER.

Can there be an understanding, if we are going to take care of that amendment which we knew about, that we also can have at least 10 minutes on a side for Senator PRESSLER.

Mr. ROBERT C. BYRD. I add to my unanimous-consent request the proviso that Mr. PRESSLER be recognized for not to exceed 10 minutes on an amendment he would call up, immediately following the disposition of the Johnston amendment, and with the understanding that 10 minutes on the Pressler amendment will be allotted to Mr. HUDDLESTON.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Just prior to third reading and final passage on Thursday.

Mr. STEVENS. Did that include the provision with respect to no point of order for the Senator from Louisiana?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. May I have an explanation? Is that to be a substitute for the Senator's entitlements provision in the bill?

Mr. JOHNSTON. Yes. This is to be a substitute. There is presently in the bill a provision which prevents the administration from raising entitlements to above 30 percent on residual or other products, without making it subject to a one-House veto. The same type of provision was in the bill last year. A point of order was raised. The Senate voted with me on the question of germaneness.

So we have precedent for the question of germaneness being settled by the Senate.

Mr. STEVENS. My question really was whether the Senate was going to add to the existing provision. It is a substitute to the existing provision.

Mr. JOHNSTON. It is a substitute to prevent entitlements changed from the 50-percent level.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, will the majority leader entertain a question on scheduling?

Mr. ROBERT C. BYRD. Yes, if the Senator from Idaho will yield under the previous condition.

The PRESIDING OFFICER. The Senator from Idaho has the time.

Mr. McCLURE. I yield under the previous condition. That will leave me 4 minutes, I believe.

Mr. DANFORTH. Mr. President, at some point I wish about 5 minutes to engage in a colloquy with the managers of the bill. I am wondering when would be an appropriate time?

Mr. STEVENS. Mr. President, if the Senator will yield to me, it is my understanding under the order we already entered into, although there will be an equivalent of third reading following the series of votes, the colloquies we intend to have on this bill will be in order; is that not correct?

Mr. ROBERT C. BYRD. Mr. President, I make the unanimous-consent request now that following the disposition of the Byrd amendment tonight there be not to exceed up to 30 minutes for colloquies, the time to be equally divided between Mr. HUDDLESTON and Mr. STEVENS, but that the remaining part of the order be intact.

Mr. DOMENICI. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection to the request?

Mr. DOMENICI. Yes, I reserve the right to object. I intend to raise a point of order on this amendment. I believe it is subject to rule XVI.

Nothing in the unanimous-consent request prevents that from happening, does it?

Mr. ROBERT C. BYRD. Nothing prevents that.

Mr. DOMENICI. I have no objection.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. What is before the Senate?

The PRESIDING OFFICER. The amendment by the Senator from Washington is before the Senate.

Mr. MAGNUSON. I yield back the remainder of my time, and the time of 5 p.m. has arrived. There is no more time.

The PRESIDING OFFICER. The Chair will inform the Senator that under the previous unanimous-consent request the Senator from Idaho has 4 remaining minutes on the amendment.

Mr. McCLURE. Mr. President, the point has been raised that this is simply to further what has already been written into the statutes.

Let me just make this point, as we close this debate on this amendment, that there is a duplication of authority with respect to energy information. The FTC has its own authority, but that authority is for regulatory purposes and it is under the statute granting them authority. The Department of Energy has several different authorities to acquire information and several different reasons to acquire information, primarily under the Federal Energy Administration Act. The FEAA was then incorporated into the Department of Energy in the DOE Organic Act.

But I think the thing that is important to remember with the point the Senator from Massachusetts raised is that this is simply to comply with an act passed in 1974. That act was limited in its scope and DOE has been complying with that act to the extent they have information that is required of them that FTC is authorized to require or to get under the 1974 act. DOE is complying with it for the very reason that it is limited in scope.

The conflict arises because DOE has much broader authority than the FTC has; therefore, it looks like DOE is withholding information that is required to be given to the FTC. But it seems to me that it is important for us to remember that the responsibilities of the Department of Energy are substantially different than the responsibilities of the Federal Trade Commission and because of that difference in responsibilities they have been given different authority.

I think it is important for us, also, to remember what DOE does with many of these information requests that they make. They only get a sample, a sample from several different companies but not all of the companies that are involved. The result would be, if they gave it to the FTC, that those who had given that information might find that they are moved against by the FTC while other companies that were not required to give identical information would escape the scrutiny of the FTC. That is another reason why, Mr. President, it seems to me to be wrong for us at this time in this forum on this appropriation measure to seek to change the law that applies to the Department of Energy and not to the Federal Trade Commission.

I think the most important factor to remember in all of this is that because it would have a chilling effect upon the voluntary provision of information DOE would be hampered in its efforts to administer the law which it has the responsibility to administer and the Federal Trade Commission would not be enhanced in its ability to meet its own needs for information. Rather it would simply cripple DOE without helping the Federal Trade Commission.

Mr. President, I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. How much time does the Senator from Idaho have remaining?

The PRESIDING OFFICER. The Senator has 31 seconds remaining.

Mr. DOMENICI. Mr. President, as I indicated, I am going to make a point of order that this amendment is legislation on an appropriation bill under rule XVI, and I really think that the Senate should seriously consider this one.

Obviously when the Senate will not act, when a committee will not have a hearing, when a committee will not take legislative action, we are frequently forced to come down here and legislate on appropriations. But it is eminently clear that the Senate created an information agency and seriously considered this proposal and rejected it. Now to come down here to do it this way——

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. I make the point of order that this amendment is out of order under rule XVI.

Mr. KENNEDY. Mr. President, I raise the issue of germaneness.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question of germaneness having been raised, under rule XVI, the Chair submits the question of germaneness to the Senate.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. STEVENSON), are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The yeas and nays resulted—yeas 35, nays 62, as follows:

[Rollcall Vote No. 361 Leg.]

YEAS—35

Baucus	Hollings	Nelson
Biden	Jackson	Pell
Bradley	Kennedy	Pryor
Bumpers	Levin	Ribicoff
Church	McGovern	Riegle
Cranston	Magnuson	Sarbanes
Culver	Mathias	Sasser
DeConcini	Matsunaga	Stewart
Durkin	Meicher	Stone
Eagleton	Metzenbaum	Williams
Exon	Moynihan	Zorinsky
Hart	Muskie	

NAYS—62

Armstrong	Glenn	Nunn
Baker	Goldwater	Packwood
Bellmon	Gravel	Percy
Bentsen	Hatch	Pressler
Boren	Hatfield	Proxmire
Boschwitz	Hayakawa	Randolph
Burdick	Heflin	Roth
Byrd, Harry F., Jr.	Heinz	Schmitt
	Helms	Schweiker
Byrd, Robert C.	Huddleston	Simpson
Cannon	Humphrey	Stafford
Chafee	Javits	Stennis
Chiles	Jepsen	Stevens
Cochran	Johnston	Talmadge
Cohen	Kassebaum	Thurmond
Danforth	Laxalt	Tower
Dole	Leahy	Tsongas
Domenici	Long	Wallop
Durenberger	Lugar	Warner
Ford	McClure	Weicker
Garn	Morgan	Young

NOT VOTING—3

Bayh	Inouye	Stevenson

The PRESIDING OFFICER (Mr. BAUCUS). On this vote, 35 Senators voted "yea," and 62 voted "nay." Therefore the amendment is held not to be germane.

The question of germaneness having been decided in the negative, the Chair now holds that the point of order is well taken under rule XVI insofar as it relates to legislation on the appropriation bill.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the question of germaneness was decided.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed, now, for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF THE CONFERENCE REPORT ON S. 1030 TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that tomorrow after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of the conference report on S. 1030, the emergency energy conservation bill, that there be a 1-hour time limit on the conference report, overall, on amendments in disagreement, and on motions and/or amendments in relation thereto, the time to be equally divided between the Senator from New Mexico (Mr. DOMENICI) and the Senator from Washington (Mr. JACKSON).

Mr. BAKER. Mr. President, reserving the right to object, the reservation is not to object, but to advise the majority leader, as he knows, that this request is cleared on our side and we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF INTERIOR APPROPRIATIONS, 1980

The Senate continued with the consideration of H.R. 4930.

UP AMENDMENT NO. 654

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment offered by the Senator from Delaware (Mr. ROTH).

Mr. ROTH. Mr. President, I ask for the yeas and nays, and ask unanimous consent to proceed for 5 minutes.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. Mr. President, the purpose of my amendment is to provide an efficiency cut——

The PRESIDING OFFICER. There is no time for debate on the amendment.

Mr. ROTH. Mr. President, may I have unanimous consent for 30 seconds?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator have 1 minute, and that the manager of the bill have 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, may we have order, so that we can hear the Senator?

The PRESIDING OFFICER. The Senator's observation is well taken. The Senate is not in order. The Senate will be in order.

Mr. ROTH. Mr. President, my amendment provides a 5-percent efficiency cut in the administrative and regulatory costs of the Department of Energy as provided in this bill. It will save the taxpayers $103 million, and I think would stimulate much needed management reforms in the Department of Energy.

I emphasize that it in no way affects programs for alternate fuels production, but it provides efficiency cuts to make this department more effective and more efficient.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, we oppose the amendment on the basis that what is provided for in the legislation before us is there after long analysis, hearings, committee markup and full committee consideration. We have made cuts every place that we thought we could make cuts.

Mr. HART. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until order is restored. All Senators who wish to converse will please retire from the Chamber. The Senator will not proceed until the Senate is in order.

The Senator from Kentucky may proceed.

Mr. HUDDLESTON. The bill reflects congressional priorities as they have been expressed to us in committee and as expressed by the Members of the Senate here on the floor. The one agency that is singled out by the distinguished Senator from Delaware, the Energy Regulatory Administration, has as one of its major objectives the analysis of all regulations, looking toward eliminating those that are not needed or overly burdensome, or serve no useful purpose.

It also deals with the applications that come from the service stations, applications which allocate the fuels in accordance with the allocation program.

So I do not think we need to make a major attack on that particular agency.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HUDDLESTON. If I might continue for 10 seconds, I would indicate that the $19 million we added was in response to a $23 million amended request that came from the President after the House had acted upon this bill and had no opportunity to consider this matter. We oppose the amendment of the Senator from Delaware.

Mr. ROBERT C. BYRD. Mr. President, is this a 10-minute rollcall vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROTH. Mr. President, I would point out that as far as the Economic Regulatory Administration is concerned, it represents a 49-percent increase in administrative costs, a 67-percent increase in fuel regulations, and a 44-percent increase for developing new regulations. I think we need less regulation rather than more.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Delaware. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—48

Armstrong	Garn	Pressler
Baker	Goldwater	Proxmire
Bellmon	Gravel	Pryor
Biden	Hatch	Roth
Boren	Hayakawa	Schweiker
Boschwitz	Heinz	Simpson
Byrd, Harry F., Jr.	Helms	Stafford
	Humphrey	Stone
Chafee	Jepsen	Talmadge
Church	Kassebaum	Thurmond
Cochran	Laxalt	Tower
Cohen	Long	Wallop
Danforth	Lugar	Warner
Dole	McClovern	Weicker
Durenberger	Nelson	Zorinsky
Eagleton	Nunn	
Exon	Pell	

NAYS—49

Baucus	Cannon	Durkin
Bentsen	Chiles	Ford
Bradley	Cranston	Glenn
Bumpers	Culver	Hart
Burdick	DeConcini	Hatfield
Byrd, Robert C.	Domenici	Heflin
Hollings	Matsunaga	Sarbanes
Huddleston	Meicher	Sasser
Jackson	Metzenbaum	Schmitt
Javits	Morgan	Stennis
Johnston	Moynihan	Stevens
Kennedy	Muskie	Stewart
Leahy	Packwood	Tsongas
Levin	Percy	Williams
McClure	Randolph	Young
Magnuson	Ribicoff	
Mathias	Riegle	

NOT VOTING—3

Bayh	Inouye	Stevenson

So Mr. ROTH's amendment (UP No. 654) was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Montana (Mr. MELCHER). (Putting the question).

Mr. MELCHER. Mr. President, I ask unanimous consent for 1 minute to describe the amendment.

I withdraw my request.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was rejected.

● Mr. JEPSEN. Mr. President, I rise in opposition to the Byrd amendment to include $20 billion in the Interior appropriation for synthetic fuels. In the first place, we have not even passed authorizing legislation yet, which means that we are legislating on an appropriations bill in violation of Senate rules. Second, the Finance Committee has not yet completed action on the windfall profits tax bill, meaning that there is no revenue to spend really. Third, these expenditures are not provided for in the budget resolution. And lastly, I am opposed to a crash program to build synthetic fuel plants outside the context of an overall energy supply policy.

I fear that such a program will only waste the taxpayers' money on projects which the market has already rejected because the cost is too high. I much prefer a go-slow policy which carefully weighs the costs and benefits of a synfuel program against the costs and benefits of alternative energy policies, such as accelerated decontrol of oil and gas prices, encouragement of nuclear power, and other options.

Mr. President, I have spoken out on the issue of synthetic fuels before. My position is quite clear. I have nothing against development of synthetic fuels per se. If someone wants to get together their own money and go out and build a synthetic fuel plant it is fine with me. And I would support efforts to streamline the regulation process so that there are no unnecessary burdens placed in the path of synfuel development.

What I am opposed to, however, is Federal subsidies for synfuels, especially when we continue to discourage oil and gas production through price controls and place enormous obstacles in the path of coal and nuclear power production.

It is perfectly clear to me that the reason no one is building synfuel plants on their own is because it is presently impossible to manufacture synthetic oil or gas for less than it can be bought from conventional sources, including OPEC. Those who are such strong supporters of synfuels would have a lot more credibility with me if they put up some of their own money to manufacture synfuels instead of throwing taxpayers' money at it.

I ask unanimous consent that a table be prepared by the Congressional Research Service showing the estimated cost of production for various synthetic fuels. As one can see, the estimated costs for synfuels is far greater than prices currently paid for conventional fuels.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SELECTED SYNFUELS TECHNOLOGIES THAT MIGHT BE COMMERCIALIZED UNDER THE PROPOSED "ENERGY TRUST FUND"[1]

Technology/Process	Estimated capital cost[2,3]	Plant output	Economic incentives allowed under existing law (July 1979)	Estimated price of product at plant[2,3]
A. Oil shale synfuels:				
Above ground oil shale processing retort/Tosco, Paraho, Union Oil Co. system.	$2 billion	50,000 barrels per day	Loan guarantees	$30 to $50 per refined barrel.
Multiple mineral oil shale processing/Superior Oil Co. system.	$2 billion	50,000 barrels per day	Loan guarantees	$25 to $45 per refined barrel.
Vertical modified in situ oil shale processing/Occidental Petroleum Corp.	$900 million	50,000 barrels per day	Loan guarantees	$25 to $45 per refined barrel.
B. Coal synfuels:				
Hi-Btu coal gasification/Lurgi	$2 to $2.5 billion	250 million cubic feet of gas	Loan guarantees, joint Federal industry cooperation, investment tax credits for synfuels.	$5 to $8 per mcf at plant gate.
Medium-Btu coal gasification/numerous processes available.	$250 million	75 billion Btu per day	Loan guarantees, cost sharing, investment tax credit for synfuels.	$4.75 to $6.50 per million Btu.
Low-Btu coal gasification/numerous processes available.	$4 to $5.5 million	1 billion Btu per day	Loan guarantees, cost sharing, investment tax credit for synfuels.	$4 per million Btu using $35 per ton coal.
Coal liquefication/possibly Fischer Tropsch	$2 to $2.5 billion for a syncrude plant.	50,000 barrels per day	Loan guarantees, guaranteed prices, purchase of products, investment tax credit for synfuels.	$35 to $50 per refined barrel at plant gate.

[1] For synfuel technologies, e.g., oil shale processing systems and coal synfuels systems, it is difficult to estimate the project and product costs. Many uncertainties are associated with the economics of technologies that have not yet been commercialized. Economic projections on synfuels technologies are likely to remain uncertain until several plants have operated and produced fuels on a reliable basis for a sufficiently long period of time. Because of these uncertainities, the number presented in this table should be considered to be "best guesses" and are subject to much uncertainty.

[2] All cost and price figures are in 1979 dollars and are assumed to represent costs as of the period of initial operation.

[3] "Best guess" estimates, prepared by Rothberg and Gushee.

Mr. JEPSEN. Mr. President, those who support a crash program to develop synthetic fuels will frequently agree that the per barrel cost of synthetic fuels is uncompetitive but assert that we should move forward anyway because it will reduce our balance-of-trade deficit. In my view, this is an extremely weak argument. In the first place, there is no evidence that a balance-of-trade deficit is the primary cause of the dollar's instability on foreign markets. And second, there is no evidence that oil imports are a factor in the dollar's decline either. Both Germany and Japan import higher percentages of OPEC oil than we do and yet they run balance-of-trade surpluses and have strong currencies and domestic economies. The cause of the dollar problem is that we are flooding the world with dollars. This is why I support the

recent actions by the Federal Reserve Board to stem the flow of dollars.

In conclusion, I will just say that I think this is a very bad way to legislate. Throwing $20 billion out there for unnamed synthetic fuel programs today, rather than waiting for an authorization bill, is not going to do anything to speed our Nation on its way to energy independence. It takes many years to build a synthetic fuel plant and it is going to take more than a decade to build enough of them to have a meaningful impact on energy supplies. Under the circumstances and considering the massive amount of dollars we are being asked to consider for synthetic fuels I think it is critical that we move slowly and carefully, lest we squander enormous amounts of money unnecessarily, while possibly foreclosing other cheaper, more effective alternatives.●

● Mr. DOLE. Mr. President, the Senator from Kansas realizes the need our country has for developing a domestic synthetic fuels program. We need to break our dependence on OPEC oil while we still can.

Notwithstanding this crucial need, we must not rush to judgments by riding roughshod over the proper legislative mechanisms needed to authorize such a program.

Mr. President, synthetic fuel proposals are now pending before several Senate committees. The Finance Committee, of which I am the ranking minority member, is currently wrestling with the so-called windfall profits tax legislation. This complex issue of taxing energy revenues is directly related many of the issues discussed today.

While these committees are addressing this problem in a reasonable fashion, the distinguished Senator from West Virginia, Mr. BYRD, is asking us to bypass this venerable process and to rush headlong and headstrong into making energy policy through the amendment process on the floor of the Senate.

Mr. President, I do not intend to demean the amendment before us as being frivolous, but I do think it important to address this disturbing process of policy through amendments to unrelated measures.

It is particularly disturbing when a sum as large as $20 billion is at stake.

Mr. President, at a time when the projected Federal budget deficit during fiscal year 1979 is higher than $30 billion, and with the subsequent inflation such a deficit brings, we cannot afford to throw away $20 billion on questionable or for that matter unauthorized energy projects. I am constrained to ask just what are these projects we are funding today? Where are the plans? We have not seen them. I have not seen them and I would conjecture that some of my colleagues have not either. We are being asked to spend $20 billion to buy something which is totally uncertain, unauthorized, and undisclosed.

The Carter administration has treated us to a host of simplistic and hasty "solutions" to the energy crisis. And with each new solution, the American people are told it is the ultimate solution. Recent history has shown this not to be the case. However, 2 years ago, the administration induced us to create the multibillion-dollar Department of Energy—a bureaucratic nightmare which has given us a roadmap to redtape. I am pleased to support the amendment of my able colleague from Delaware, Mr. ROTH, which would cut the DOE appropriations by 5 percent. This is the route we should take: Cutting back bureaucratic spending, not adding to it.

Mr. President, the issue is not whether we should develop a synthetic fuels program, but rather who should develop it, and how. Should we have a free market approach or a governmental bureaucratic approach? The Senator from Kansas feels that the free market approach is the only reasonable one, and has voted accordingly in the Finance Committee during deliberations on the windfall profits tax legislation. The so-called Energy Security Corporation, which would be just another Government bureaucracy, poses serious threats to the free enterprise system. The Senator from Kansas must say at this point that I am not totally opposed to some governmental involvement, but it must be peripheral at best. It is this very issue which the Energy Committee is addressing in its present hearings and which the Byrd amendment seeks to avoid by simply appropriating a lump sum of $20 billion; most of this money to be put on the shelf for whatever purpose comes along.

The U.S. Congress and the Federal Government are establishing their biggest accumulation of power in decades, all in the guise of producing more energy. First we had the Department of Energy, then we had the Energy Mobilization Board and today we have an alternative fuels program with no substance.

Furthermore, Mr. President, the issue of adequate incentives and capital formation necessary for private business to develop new synfuels is very complex and is not being addressed by this amendment to the Interior bill.

Mr. President, the Senator from Kansas is concerned that this amendment could set a dangerous precedent, by sanctifying the principle of "appropriating before authorizing." Yesterday's vote on the question of germaneness, was close enough to raise serious questions as to whether we should be considering this amendment at all today. However, we feel about the question of germaneness, that it is not the real issue. The real issue is whether we should adopt a dangerous precedent of "appropriating before authorizing." Let no man say that the slogan "energy now" should obliterate the question of "at what price?" Let no one think that waving the magic wand of Federal expenditure will produce instant energy. This approach may produce nothing more than a mountain of redtape, coupled with additional requests for funds to unravel the tape.

There are those who argue that this proposed $20 billion is not an "expenditure" but rather an "investment." But the Senator from Kansas is once again constrained to ask, "an investment in what?" We simply do not know yet. Recent disclosures of massive wastage of Federal money by the GSA, HEW, the Department of Energy and other Federal bureaucracies raise serious questions about the intelligence and integrity and wisdom of injecting newly appropriated funds into the Department of Energy account.

Arguing that our voting to appropriate these funds is a serious "commitment" by the U.S. Congress, is clouding the issue. We must be shown evidence that this money will be spent on projects based on sound technology, not the mere pipe dreams and fantasies of some DOE bureaucrat. We need to act on the total energy question, but we need to act responsibly on a comprehensive synfuels program, including the proper tax incentives, and private sector initiatives which when combined will produce energy on a cost-effective basis.

The administration would have us believe that creating new bureaucracies, inventing new names for them, and appropriating more Federal money will produce "energy now." But the point is that Mr. Carter has consistently failed to address himself to the main cause of our energy crisis—OPEC.●

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from West Virginia (Mr. ROBERT C. BYRD). The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent

The PRESIDING OFFICER (Mr. LEAHY). Have all Senators who wish to vote voted?

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 363 Leg.]

YEAS—59

Baker	Glenn	Pell
Baucus	Heflin	Pressler
Bellmon	Hollings	Pryor
Bentsen	Huddleston	Randolph
Biden	Jackson	Ribicoff
Boren	Javits	Riegle
Bradley	Johnston	Sarbanes
Burdick	Kennedy	Sasser
Byrd, Robert C.	Levin	Stennis
Cannon	Long	Stevens
Chiles	Magnuson	Stewart
Church	Matsunaga	Stone
Cranston	Melcher	Talmadge
Danforth	Metzenbaum	Thurmond
DeConcini	Morgan	Tsongas
Domenici	Moynihan	Warner
Durkin	Muskie	Williams
Eagleton	Nelson	Young
Exon	Nunn	Zorinsky
Ford	Packwood	

NAYS—38

Armstrong	Gravel	McClure
Boschwitz	Hart	McGovern
Bumpers	Hatch	Mathias
Byrd, Harry F., Jr.	Hatfield	Percy
Chafee	Hayakawa	Proxmire
Cochran	Helms	Roth
Cohen	Heinz	Schmitt
Culver	Humphrey	Schweiker
Dole	Jepsen	Simpson
Durenberger	Kassebaum	Stafford
Garn	Laxalt	Tower
Goldwater	Leahy	Wallop
	Lugar	Weicker

NOT VOTING—3

Bayh	Inouye	Stevenson

So the amendment of the Senator from West Virginia (UP No. 642), as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, as a member of the Interior Subcommittee, I think it appropriate to rise in support of H.R. 4930, especially in view of the difficulties we have had this year not the least of which has been having to deal with a complex myriad of legislative proposals in the synfuels area.

I was especially pleased that the committee saw fit to hold hearings in August in response to extreme unrest in the West resulting from grazing reductions and other land and resource management actions that are adversely affecting many citizens and especially small ranchers. I wish to commend the subcommittee chairman for his extreme patience and understanding of our difficulties and I think it is a tribute to his fairness and his unfailing courtesy that he allowed these hearings to be held on such short notice. The activities which occurred out West in August contributed much to the committee's records regarding the so-called "sagebrush rebellion" which has occurred there and the committee has followed up by taking action which should do much to mitigate the difficulties that exist.

Under the circumstances I think this committee has come to the floor with a bill which we can all be very proud of. Although we are some $15.5 billion over appropriations for fiscal year 1979, it is significant to note that we would be well below funding for fiscal year 1979 if it were not for the need to fund a synfuels effort.

Finally, I think it appropriate to extend a special commendation to our ranking minority member, TED STEVENS, who along with the subcommittee chairman deserve the highest praise for their responsiveness to the requests and needs of all subcommittee members and indeed all members of the Senate, of which there are many who are concerned with this bill.

WILSON'S CREEK FUNDING

Mr. DANFORTH. Mr. President, funding for the completion of Wilson's Creek National Battlefield project was reduced from $1,395,000 to $462,000 by the Senate Appropriations Committee, due to the last minute request of the Department of the Interior. This money has been transferred to another project without explanation, even though full funding is provided by the House.

In 1960, President Eisenhower signed the bill designating Wilson's Creek Battlefield a National Battlefield, and its completion has been a principal goal in Southern Missouri for more than 30 years.

Phase I, for which $1.6 million already has been appropriated, includes maintenance facilities; water and sewage plants; road relocation; an entrance road and parking; and a picnic area. Phase I has been put to bid, and the low bidder is a Springfield, Mo. contractor, Luther L. Essary Construction Company. The Denver Service Center of the National Park Service is awaiting receipt of the contractor's performance bond to award the contract on phase I of the project.

The original appropriation request of the Department of the Interior for phase II of the project was $1.395 million. This phase includes the construction of a solar powered visitors center. The plans and specifications for phase II are currently scheduled to leave the offices of the contract engineers in Kansas City, Mo. for the Denver Service Center, where they will be reviewed, and a bidding document developed. Phase II could be put to bid late this fall, and a contract awarded by December 1, 1979.

The proposed reduction of funding for phase II of the Wilson's Creek Battlefield Project is unfortunate. More than half of the total funding for the project is already committed. The administration has provided no explanation for its change to the original budget recommendation. The Federal Government has been interested in Wilson's Creek Battlefield since the late 1800's, and various historical groups in Missouri have persevered for more than 30 years in their efforts to obtain Federal funding for this project.

It is not my intention to seek to add funds to this bill, nor do I want to get into an argument over project reductions on other projects to make room for this project. What I would like is the assurance of the managers of the bill that in conference they will take a careful look at the merits of this project with an eye toward retaining the level of funding provided for in the House version of this bill.

Mr. STEVENS. Mr. President, I know my good friend from West Virginia, the chairman of our subcommittee, is here, but the Senator from Kentucky (Mr. HUDDLESTON) and I have handled this portion of the bill, and what the Senator from Missouri states is correct. Long after the budget was submitted the Department requested us to change the money allocated within the Park Service construction account, as the Senator from Missouri has indicated.

There was no implied lack of support for the project he mentions. It was just that the Park Service had a priority item that they sent up, and rather than get additional clearance for funds, they asked us, in effect, to reprogram right in the bill for a more pressing need somewhere in Massachusetts—Lowell, Mass., I recall, and it was done.

I assure the Senator, and Senator HUDDLESTON has asked me to assure the Senator, that the matter will be in conference. We will give every consideration to the original priority that was set for us in the budget and we are hopeful we will be able to follow the Senator's request and restore the money.

Mr. DANFORTH. I very much appreciate the assurance of the Senator from Alaska.

Mr. STEVENS. Mr. President, to my knowledge, the other colloquies that were to be considered at this time have previously have been considered and are a matter of record, and I know of no other requests, either to the Senator from Kentucky or to me for time on the bill, and unless there is a request for time on the bill itself I yield back on behalf of the Senator from Kentucky and myself the remainder of the time on the Interior appropriation bill.

Mr. McCLURE. Would the Senator from West Virginia, Mr. BYRD, yield for the purpose of clarifying a point relating to the Interior Appropriations Bill Report No. 96-363.

Mr. ROBERT C. BYRD. I would be happy to yield for that purpose.

Mr. McCLURE. I thank the Senator. I call to the attention of the members of the Interior Subcommittee of the Senate Appropriations Committee the language on page 38 of Report No. 96-363 relating to the helium fund.

At the Appropriations Committee markup of the fiscal year 1980 Interior bill on October 11, the committee accepted my report language on the helium fund. Unfortunately, there is a mistake in the language as it appears in this committee report.

The language which the committee adopted reads as follows:

The committee recommends the rescission of $47,500,000 in contract authority for helium purchases provided annually by permanent legislation. Under present Federal policy this authority is not being exercised since current Federal reserves are deemed to be adequate for immediate Federal requirements. There will, however, be an increasing need for helium for advanced energy technologies beginning in the time period 1990-2000, with shortages of helium beginning sometime in the 21st century. The appropriate authorizing committee should review the existing helium conservation program with emphasis on meeting future national helium needs. Expenditures of billions of tax dollars for energy research and development programs could be wasted for lack of helium. It is critical that the Congress not foreclose any potential solution to our energy problem because of a lack of foresight with respect to this critical element.

Mr. ROBERT C. BYRD. The Senator is correct. That is the language which was accepted by the Appropriations Committee. Mr. President, let the record show that this was the language adopted by the Appropriations Committee relating to the helium fund, as directed in Report No. 96-363.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I wish to call the attention of the floor managers of the bill to the provision that funds the design of two desalting demonstration plants, under the Office of Water Research and Technology. This is the program authorized by section 2 of Public Law 95-84, as amended by Public Law 95-467. Page 12 of the committee report states that the money included in this bill will accelerate design of the two selected plants—one at Virginia Beach, Va., and one at Alamogordo, N. Mex.

While I am disappointed that the committee did not recommend the House figure of nearly $1.2 million for this program, I recognize the need for restrain-

ing spending, together with the likelihood that funds over and above the committee's recommendation of $814,000, could not be spent in fiscal year 1980.

Because of the great importance that a national program to demonstrate effective desalting techniques offers as a way to expand national supplies of usable water, I appreciate the consideration and high priority given to the desalting demonstration program by the committee. In that context, I would like to ask several questions of the floor manager.

First, is it accurate that the sums included in the bill for desalting demonstration plants—$814,000—are expected to complete all the preconstruction work for both the Alamogordo and Virginia Beach plants, and that this pre-construction work is expected to be completed in fiscal year 1980?

Mr. ROBERT C. BYRD. Yes, that is correct.

Mr. DOMENICI. Is it also correct that it is the committee's intent that the Office of Water Research and Technology shall submit to the Congress, at the earliest date possible, the required report on the proposed projects, and that this submission must not be delayed or used as a hostage to discussions over cost-sharing or other proposed changes in the existing law?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. DOMENICI. Finally, is it correct that the committee intends to go forward in fiscal year 1981 with the construction of these two plants, presuming no major technical difficulties, and that construction is expected to be funded?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. DOMENICI. I thank the distinguished majority leader and floor manager for this bill, Mr. ROBERT C. BYRD, for the great work and attention that he and the ranking minority member on the subcommittee, Mr. STEVENS, are giving to this program.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein up to 5 minutes each.

Mr. DANFORTH. Mr. President, reserving the right to object, it was my understanding that we would have some period of time to proceed on this bill with colloquy. Am I mistaken?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. President, I ask unanimous consent that the period for routine morning business be 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR ANNUAL RATES OF COMPENSATION OF EMPLOYEES OF THE SENATE UNDER CONTINUING RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, for the RECORD, I am submitting the order of the President pro tempore of the Senate effecting the authority for annual rates of compensation of employees of the Senate under the recently-enacted continuing resolution.

The order follows:

ORDER

U.S. SENATE,
Office of the President pro tempore.

By virtue of the authority vested in me by section 4 of the Federal Pay Comparability Act of 1970, it is hereby—

Ordered,

CONVERSION TO NEW MULTIPLE

SECTION 1. (a) Except as otherwise specified in this Order or unless an annual rate of compensation of an employee whose compensation is disbursed by the Secretary of the Senate is adjusted in accordance with the provisions of this Order, the annual rate of compensation of each employee whose compensation is disbursed by the Secretary of the Senate is adjusted to that multiple of $202 which is nearest to but not less than the rate such employee was receiving on October 1, 1979, immediately prior to the application of this Order.

(b) For purposes of this Order—

(1) "employee" includes an officer other than a United States Senator and other than the Senate Legal Counsel and Deputy Senate Legal Counsel); and

(2) "annual rate of compensation" does not include longevity compensation authorized by section 106 of the Legislative Branch Appropriation Act, 1963, as amended, merit compensation authorized by section 109 of the Legislative Branch Appropriation Act, 1979, or any other additional compensation that may hereafter be authorized by law.

RATE INCREASES FOR SPECIFIED POSITIONS

SEC. 2. The annual rates of compensation of the Secretary of the Senate, the Sergeant at Arms and Doorkeeper, and the Legislative Counsel (as such rates were increased by prior orders of the President pro tempore) are further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of either of the following: (1) the annual rate in effect for positions in level III of the Executive Schedule under section 5314 of title 5, United States Code, or (2) an annual rate of compensation which is $1,000 less than the annual rate of compensation of Senators.

(b) The annual rates of compensation of the Secretary for the Majority and the Secretary for the Minority (as such rates were increased by prior orders of the President pro tempore) are further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this order, at an annual rate of compensation in excess of $500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(c) The annual rates of compensation of the five Senior Counsels in the Office of the Legislative Counsel and the maximum annual rates of compensation of the Assistant Secretary of the Senate, the Parliamentarian, the Financial Clerk, the Assistant to the Majority Leader for Floor Operations, and the Assistant to the Minority Leader for Floor Operations (as such rates were increased by prior orders of the President pro tempore) are further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $1,000 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(d)(1) The maximum annual rate of compensation of the Director of the Office of Classified National Security Information in the Office of the Secretary of the Senate (as such rate was increased by the prior order of the President pro tempore) is further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202 Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this order, at an annual rate of compensation in excess of the next lowest multiple of $202 which is at least $2,000 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(2) The maximum annual rate of compensation of the Special Deputy to the Federal Elections Commission in the Office of the Secretary of the Senate (as such rate was increased by prior orders of the President pro tempore) is further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $202 which is at least $2,500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(3) The maximum annual rates of compensation of the seven Reporters of Debates in the Office of the Secretary of the Senate (as such rates were increased by prior orders of the President pro tempore) are further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $202 which is at least $4,300 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(4) The maximum annual rates of compensation of the Legislative Clerk (as long as that position is occupied by the present incumbent) and the Assistant Parliamentarian in the Office of the Secretary of the Senate are increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $202 which is at least $5,100 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

CHAPLAIN'S OFFICE

SEC. 3. The annual rate of compensation of the Chaplain and the maximum annual rate of compensation for the position of secretary to the Chaplain are increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

OFFICES OF THE SENATE

SEC. 4. (a) The maximum annual rates of compensation for positions or classes of positions (other than those positions referred to in sections 2 (c) and (d) of this Order) under the jurisdiction of the Secretary of the Senate and the Sergeant at Arms and Doorkeeper are increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

(b) The following individuals are authorized to increase the annual rates of compensation of the employees specified by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

(1) the Vice President, for any employee under his jurisdiction;

(2) the President pro tempore, for any employee under his jurisdiction;

(3) the Majority Leader, the Minority Leader, the Majority Whip, and the Minority Whip, for any employee under their respective jurisdictions;

(4) the Majority Leader and the Minority Leader, for the Assistant to the Majority Leader for Floor Operations and the Assistant to the Minority Leader for Floor Operations, respectively (subject to the provisions of section 2(c) of this Order);

(5) the Secretary of the Conference of the Majority and the Secretary of the Conference of the Minority, for any employee under their respective jurisdictions;

(6) the Secretary of the Senate, for any employee under his jurisdiction (subject to the provisions of sections 2 (c) and (d) of this Order);

(7) the Sergeant at Arms and Doorkeeper, for any employee under his jurisdiction;

(8) the Chaplain, for his secretary;

(9) the Legislative Counsel, subject to the approval of the President pro tempore, for any employee under his jurisdiction (other than the five Senior Counsels);

(10) the Senate Legal Counsel, for any employee under his jurisdiction (subject to the provisions of section 701(b) of the Ethics in Government Act of 1978).

(11) the Secretary for the Majority and the Secretary for the Minority, for any employee under their respective jurisdictions; and

(12) the Capitol Guide Board, for the Chief Guide, the Deputy Chief Guide, the Assistant Chief Guide, and the Guides of the Capitol Guide Service.

(c) The limitation on the rate per hour per person provided by applicable law immediately prior to October 1, 1979, with respect to the folding of speeches and pamphlets for the Senate, is increased by 6.87 percent. The amount of such increase shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

(d) The limitations on the gross compensation which may be paid during a fiscal year to employees in the Offices of the President pro tempore, the Majority Leader, the Minority Leader, the Majority Whip, the Minority Whip, the Secretary of the Conference of the Majority, the Secretary of the Conference of the Minority, the Secretary for the Majority, and the Secretary for the Minority are each increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

COMMITTEE STAFFS

SEC. 5. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended, (as modified by this Order) and the other provisions of this Order, the chairman of any standing, special, or select committee of the Senate (including the majority and minority policy committees and the conference majority and conference minority of the Senate), and the chairman of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate, are each authorized to increase the annual rate of compensation of any employee of the committee, or any subcommittee thereof, of which he is chairman, by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

(b)(1) The figures "$22,302" and "$33,642" appearing in section 105(e) of the Legislative Branch Appropriation Act, 1976, amended, (as provided in section 5(b)(1) of the Order of the President pro tempore of October 9, 1978) shall be deemed to refer to the figures "$23,836" and "$35,956", respectively.

(2) The maximum annual rates of "$55,944", "$58,212", and "$61,425" appearing in such section 105(e) (as provided in section 5(b)(2) of such Order of October 9, 1978) are each further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202, and shall be deemed to refer to the figures "$59,792", "$62,216", and "$65,650", respectively.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of a standing committee of the Senate or the majority or minority policy committee of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $202 which is at least $5,900, $4,600, and $2,000, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

(4) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of any special or select committee of the Senate or the conference majority or conference minority of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $202 which is at least $5,900, $4,600 and $2,500, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this order.

(5) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $202 which is at least $5,900, $4,800, and $2,900, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this order.

SENATORS' OFFICES

SEC. 6. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended, (as modified by this Order) and the other provisions of this Order, each Senator is authorized to increase the annual rate of compensation of any employee in his office by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

(b) The table contained in section 105(d)(1) of such Act shall be deemed to read as follows:

"$543,178 if the population of his State is less than 2,000,000;

"$558,934 if such population is 2,000,000 but less than 3,000,000;

"$596,910 if such population is 3,000,000 but less than 4,000,000;

"$645,794 if such population is 4,000,000 but less than 5,000,000;

"$685,790 if such population is 5,000,000 but less than 7,000,000;

"$727,806 if such population is 7,000,000 but less than 8,000,000;

"$750,026 if such population is 8,000,000 but less than 9,000,000;

"$773,458 if such population is 9,000,000 but less than 10,000,000;

"$808,606 if such population is 10,000,000 but less than 11,000,000;

"$854,662 if such population is 11,000,000 but less than 12,000,000;

"$889,810 if such population is 12,000,000 but less than 13,000,000;

"$934,654 if such population is 13,000,000 but less than 15,000,000;

"$979,498 if such population is 15,000,000 but less than 17,000,000;

"$1,024,342 if such population is 17,000,000 but less than 19,000,000;

"$1,057,874 if such population is 19,000,000 but less than 21,000,000;

"$1,091,406 if such population is 21,000,000 or more.".

(c)(1) The second sentence of section 105(d)(2) of such Act (as modified by prior orders of the President pro tempore) is further modified to read as follows: "The salary of an employee in a Senator's office shall not be fixed under this paragraph at a rate less than $1,010 per annum or in excess of $32,926 per annum except that (i) the salaries of three employees may be fixed at rates of not more than the rate referred to in subsection (e)(1), (ii) the salaries of five employees may be fixed at rates of not more than $57,974 per annum, and (iii) the salary of one employee may be fixed at a rate of not more than $60,600 per annum.".

(2) Notwithstanding the modification made by paragraph (1) of this subsection, any individual occupying a position to which a rate referred to in clause (i), (ii), or (iii) of such modification applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $202 which is at least $5,900, $5,400, and $2,500, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

(d) The figures "$157,626" and "$52,542" appearing in subsections (a), (b)(1), and (b)(2) of section 111 of the Legislative Branch Appropriation Act, 1978, as amended, (as provided in section 6(d) of the Order of the President pro tempore of October 9, 1978) shall be deemed to refer to the figures "$168,468" and "$56,156", respectively.

GENERAL LIMITATION

SEC. 7. (a) The figure "$1,134" appearing in section 105(f) of the Legislative Branch Appropriation Act, 1968, as amended, (as provided in section 7(a) of the Order of the President pro tempore of October 9, 1978) shall be deemed to refer to the figure "$1,010".

(b)(1) The maximum annual rate of compensation of "$61,425" appearing in such section (as provided in section 7(b)(1) of such Order of October 9, 1978) is further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202, and shall be deemed to refer to the figure "$65,650".

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any individual occupying a position to which such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $202 which is at least $2,500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

NOTIFYING DISBURSING OFFICE OF INCREASES

SEC. 8. In order for an employee to receive the increase in his annual rate of compensation pursuant to section 4, 5, or 6, the individual designated to authorize such increase for that employee shall notify the Disbursing Office of the Senate in writing that he authorizes such increase for that employee and the date on which such increase is to be effective. Such increase shall become effective as provided in section 105(a)(2) of the Legislative Branch Appropria-

tion Act, 1968, except that (1) if the notice required by the preceding sentence is given within five days (not counting Saturdays, Sundays, or holidays) after the date on which this Order is issued, such increase may become effective on or after October 1, 1979, and (2) in the case of an employee holding a position the maximum rate of compensation which was limited during the fiscal year 1979 by section 304 of the Legislative Branch Appropriations Act, 1979, if the notice required by the preceding sentence is given within five days (not counting Saturdays, Sundays, or holidays) after the date of enactment of a law which limits such maximum rate during the fiscal year 1980, such increase may become effective on and after October 1, 1979.

DUAL COMPENSATION

SEC. 9. The figure "$12,430" contained in section 5533 (c) (1) of title 5, United States Code (as provided in section 9 of the Order of the President pro tempore of October 9, 1978) shall be deemed to refer to the figure "$13,337".

EFFECTIVE DATE

SEC. 10. Sections 1–9 of this Order are effective October 1, 1979.

REGARDING TRADE WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. HOLLINGS. Mr. President, I understand that the administration is today submitting its most-favored-nation trade agreement with the People's Republic of China. This submittal greatly complicates our country's ability to reach a bilateral textile agreement with the PRC. Further, it is contrary to what we were led to expect during the discussions surrounding the formulation and implementation of the so-called administration white paper on textiles.

Negotiations to achieve a textile bilateral with the People's Republic have thus far yielded nothing. Another round of talks between American and Chinese negotiators will take place in Washington within weeks, but there is no sign of breakthrough and no indication that the Chinese will be any more forthcoming than they were in the earlier discussions.

Meanwhile, PRC textile-apparel goods continue to pour into the United States. In shirts, the Chinese have already filled the quota which the administration imposed on a few categories earlier this year, and the PRC can ship no more shirts into the United States until next May.

That kind of pressure on the Chinese was welcome, and I have always advocated that we take unilateral action against a larger number of categories. The Chinese would understand that, and I think it would facilitate the conclusion of a bilateral agreement covering the whole textile-apparel trade area—in addition to stemming the import tide.

I thought we were all marching in tune on this one. When Secretary of Commerce Kreps went to China earlier this year, I am told that she stressed to the PRC officials that submittal of the most-favored-nation agreement depended upon conclusion of a satisfactory bilateral. Ambassador Strauss reportedly made the same kind of representations to the Chinese when he went to Peking. In fact, every sign, signal, and representation which was given by the administration was that they would press and press hard on this matter.

Now we are caving in. Here comes the administration today, submitting the most-favored-nation agreement, and thereby telling the PRC not to worry, they can eat their cake and have it too. I have always thought that when we go into an important negotiation, we should make use of the leverage and tools available so as to maximize our own position. We had the leverage because we could hold up the one agreement in order to encourage a textile bilateral. And we had the tools to move things along with a wider application of unilateral action against surging Chinese imports.

The Chinese really want this most-favored-nation treatment. It means better trade terms for them, and diplomatically it puts them one up on the Soviet Union. If we press them hard enough, my guess is that they would give concessions elsewhere to achieve their goal—and by elsewhere, I mean textiles. Instead, we now give away the store right on the eve of the new textile talks, and we tell them there is no longer any requirement to reach a bilateral textile agreement. We give them most-favored-nation treatment on a silver platter, and in return they will inundate us with textiles and gobble up American textile jobs. The Chinese have the capacity to deal our textile industry a devastating, perhaps a fatal, blow.

I do not like this kind of odd-day, even-day approach to government. I do not like one day's representation to become the next day's discard. And I especially do not like it when at stake is the largest manufacturing industry in the United States—textiles and apparel. I have expressed my concern to President Carter, and I am today reiterating to my colleagues in Congress the need to hold up on most-favored-nation until we have a textile agreement.

We are not asking the impossible of the administration. All we ask is that we use the tools we have to persuade the Chinese that we mean business and that a bilateral textile agreement is urgently necessary. With some good standup, toe-to-toe negotiating, we could have wrapped one up a long time ago. I think it can still be done, but it requires that we in the Congress make it clear that MFN for the Chinese hinges upon their willingness to make an agreement on textiles.

THE ROLE OF THE SENATE LEGAL COUNSEL

Mr. RIBICOFF. Mr. President, in a pending suit by Senator GOLDWATER and 24 other Members of Congress concerning the revocation of the Mutual Defense Treaty with Taiwan, counsel for the Government have raised a question about the intent of the statute enacted last year establishing the Office of Senate Legal Counsel.

In civil action No. 78–2412, the district court has recently asked parties to comment on the legal and procedural effect of a Presidential message to the Senate requesting approval of the notice of termination of the defense treaty with Taiwan. In its response, the Justice Department suggests that the court should take into account the failure of the Senate to direct its Office of Senate Legal Counsel to appear in this case.

Mr. President, if the Justice Department is successful, the courts may be led to draw unwarranted conclusions from the fact that the Senate has not directed its counsel to participate. This could seriously undermine the ability of any Senator to bring a suit on his own in situations where the Senate as a whole does not authorize the Senate Legal Counsel to appear in support of such suit.

Without commenting in any way on the merits of this particular case, I want to assure the Senate, as the chief author and floor manager of the provision establishing the Senate Legal Counsel, that the Justice Department's position is not consistent with my understanding of the intent of this legislation.

The interpretation proposed by the Government would have a detrimental effect on the ability of individual Senators to pursue their own legal actions. It would make the ability of an individual Senator to bring a case dependent on what action, if any, the full Senate authorized the Legal Counsel to take. Such a result would be very unfair to the individual Senator. As one fully familiar with the history of this legislation I can assure the Senate that this is not the intent of the law.

The Senate report confirms that the Senate, by establishing the Office of the Senate Legal Counsel, never intended thereby to reduce the ability of an individual Senator to pursue a suit on his own. The legislative history emphasizes that the possibility of involvement by the Senate Legal Counsel was seen as enhancing, not excluding or injuring, the continuing ability of individual Senators to bring a legal action. The Senate Report (S. Rept. No. 95–170) states on page 40:

> The bill enhances the ability of a Member of Congress acting as an individual to bring any kind of civil action arising out of the performance of official duties he or she might desire to bring. The Counsel may advise, consult, and cooperate with such individual with respect to retaining private counsel although the counsel may not represent such Member. The title preserves the ability of a Member to intervene or appear as amicus curiae in a legal proceeding, even when the Congressional Legal Counsel is already appearing on behalf of Congress and even if the Member is taking a different position from that taken by the Congressional Legal Counsel. The Counsel will also assist individual members by making relevant legal research materials available to them.

The interpretation urged by the Justice Department also distorts the purpose of the legislation because it denies the Senate as a whole the opportunity to stay neutral in any particular litigation. If the Justice Department interpretation is correct, whenever the Senate Legal Counsel did not appear, for whatever reason, the Senate would in effect be placed on record in opposition to the Senators bringing the suit, and in opposition to any other party whose legal position was in support of the constitutional powers of the Senate. The Senate could avoid this implication only by authorizing an appearance by the Senate Legal Counsel in each case, whether the Senate wanted to get involved or not. The Senate would no longer have the option of simply not considering the matter, for such inaction would be incorrectly interpreted as a decision against the Senators. And the opportunity of the Senate to vote against Senate participation after full consideration would also be reduced since any negative vote, for whatever reasons, would be interpreted as opposition to the suit of the Senators.

The provisions of the statute and its legislative history make it clear that the Senate never intended to pass a statute which would so limit the flexibility and discretion of the Senate, and its ability to stay out of cases brought by individual Senators.

Sections 703 and 706 provide that the Senate Legal Counsel may intervene in any suit which places in issue the powers and responsibilities of the Congress under the Constitution, but only if directed to do so by the full Senate. Section 706 (b) requires the Legal Council to notify Senators of the existence of legal proceedings only if he first determines involvement by the Senate would be in the interest of the Senate. The notice must describe the reasons why the Legal Counsel thinks the Senate should act. The procedure then leaves the decision whether to approve action by the Legal Counsel entirely within the discretion of the Senate Leadership Committee and the Senate. Nothing requires the Senate to even consider the matter.

Nothing in section 709 of the statute, cited by the Justice Department in support of their position, is to the contrary. Section 709 sets forth certain substantive legal positions which the Senate Legal Counsel must take if he is performing representational duties authorized under other sections of the statute. Section 709, despite the Justice Department's assertion otherwise, does not define when the Senate Legal Counsel should become involved in a legal matter, but only how the Legal Counsel must conduct himself once becoming involved in a case.

No adverse inference concerning any aspect of the case should necessarily be drawn from the fact that the Senate chooses not to participate in a proceeding, for it may choose to do nothing for any number of reasons, including limited resources, or a feeling that the position of the Senate is already being adequately protected, or a simple desire to stay neutral on the issue. The Senate report emphasizes that the failure of the Senate to appear in a case may be necessarily based on opposition to the position taken by the Senator bringing the suit, but rather on the fact that—

> The plaintiff is already defending the powers and responsibilities of Congress and intervention by Congress will not increase the likelihood that the court will broadly construe these powers and responsibilities . . . (pp. 97–98).

The legislation thus preserves for the Senate three different options whenever a suit arises that might affect the constitutional powers of Congress.

The Senate can vote affirmatively to participate in the suit through the Legal Counsel. The Senate can decide, through an actual vote, against participation. But as a third option, the provisions of the law allow the Senate to avoid taking any position simply by no steps being taken to bring the matter before the full Senate for its consideration and vote. This option fully preserves the right of the Senate, through inaction, to avoid affecting in any way how a case is decided. Given the possibly large number of cases that may touch on the powers and responsibilities of the Congress, this third alternative is as important a one for the Senate as the other two.

The interpretation proposed by the Justice Department ignores the fact that the law so preserves for the Senate the option of not taking any position in a suit involving the constitutional powers of Congress. It ignores the fact that the law allows the Senate to do so by simply not taking any steps to authorize the appearance of the Senate Legal Counsel in the proceeding. Because it ignores these facts, the position of the Justice Department misinterprets the basic nature and purpose of the legislation providing for the Senate Legal Counsel.

THE SENATE LEGAL COUNSEL: CONGRESSIONAL INTENT

Mr. PERCY. Mr. President, as the ranking minority member of the Governmental Affairs Committee and as an original cosponsor of S. 555, I would like to associate myself fully with Chairman RIBICOFF's statement regarding the Justice Department's assertion that under the provisions of Public Law 95–521, the courts should deny an individual Senator the right to bring suit if the Senate as a whole does not appear in support of the individual Senator's suit. This interpretation of title VII of the Ethics in Government Act is clearly inaccurate.

As Senator RIBICOFF has noted, it was not the intent of Congress to limit in any way the authority of individual Senators to pursue their own suits on questions which may be of abiding interest to them but on which the Senate does not participate for any number of possible reasons—including the sheer weight of other business.

To suggest that congressional powers could be yielded by inaction as a result of this statute would completely reverse the basic purpose of Public Law 95–521. Title VII was designed strictly as a means of strengthening the hand of the Senate and assisting individual Senators. In no way was it intended, nor should it be interpreted, as paving the way for a diminution of congressional powers—including the right of individual Members to bring suit—simply because this additional tool is not utilized. Nor should the absence of the Senate Legal Counsel in a proceeding carry any implication with respect to the Senate's position on the substantive issues at stake.

Mr. President, in closing, I reiterate that the interpretation of Title VII of Public Law 95–521 which has been suggested by the Justice Department was not contemplated at any point in the drafting of that legislation, and runs counter to the clearly expressed intent of the statute.

SENATE LEGAL COUNSEL: LEGISLATIVE INTENT

Mr. JAVITS. Mr. President, I want to join with my colleagues, Senators RIBICOFF and PERCY, in expressing concern over the position regarding Senate Legal Counsel taken by the Justice Department in its papers in *Goldwater* v. *Carter* (civil action No. 78–2412). I express no opinion on the merits of the underlying case itself, since that is the function of the Court. However, as one who was deeply involved in the establishment of the Office, I would like to make clear that it was never my intent, nor to my knowledge the intent of any of the other authors of this legislation, to make the Office the exclusive method for a Senator to gain standing in court.

Under the statute setting up the Office, the authority of the Legal Counsel to represent the Senate or its individual Members is dependent on the concurrence of the full Senate on a case by case basis. There are many reasons why such concurrence may not be forthcoming in any particular matter. For example, a case may be viewed as too political. There may be disagreement among the Members as to what the Legal Counsel's position should be. The Senate may determine that the Office's limited resources are better spent elsewhere. Or the Senate may simply fail to act at all.

Yet, if the Justice Department's position were adopted, the Senate's failure to authorize representation by the Legal Counsel, even if by inaction, would prevent a Senator from filing a lawsuit in his own right. This interpretation would thus result in sharply reduced standing for Members of the Senate.

It was our intention in framing this legislation to establish an office responsible to the Senate that could provide high-caliber legal representation when the Senate, as an institution, requested it. That capacity had previously been lacking. It was not our intent, I believe, to diminish in any way, the ability of individual Members to bring legal actions on their own. Thus, the Senate report on the legislation establishing the Legal Counsel's Office states:

> The bill enhances the ability of a member of Congress acting as an individual to bring any kind of civil action arising out of the performance of official duties he or she might desire to bring. . . . The title preserves the ability of a member to intervene or appear as amicus curiae in a legal proceeding, even when the Congressional Legal Counsel is already appearing on behalf of Congress and even if the member is taking a different position from that taken by the Congressional Legal Counsel. S. Rept. 95–170 at p. 40.

In my view, the position taken by the Department of Justice in this matter is contrary to the legislative intent, and is inconsistent with legislative history.

MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives delivered by

Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 567. An act to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorney for the eastern district of New York to reside within twenty miles of the district.

The message also announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 1825) to protect archaeological resources on public lands and Indian lands, and for other purposes, with an amendment in which it requests the concurrence of the Senate; and that the House agrees to the amendment of the Senate to the title of the bill.

ENROLLED BILL SIGNED

At 1:35 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bill:

S. 567. An act to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorney for the eastern district of New York to reside within 20 miles of the district.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 600. An act to incorporate United Service Organizations,

H.R. 1298. An act to designate the U.S. Post Office and Federal Building, Huntington, W. Va., as the "Sidney L. Christie Federal Building";

H.R. 3407. An act to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge;

H.R. 3909. An act to amend section 12 of the Contract Disputes Act of 1978;

H.R. 4259. An act authorizing the President of the United States to present a gold medal to the American Red Cross;

H.R. 4627 An act to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands;

H.R. 4792. An act to name a certain Federal building in Houston, Tex., the Bob Casey Federal Building—U.S. Courthouse;

H.R. 5025 An act to amend title 10, United States Code, to provide that any person eligible for medical care under the civilian health and medical program of the uniformed services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities;

H.R. 5176. An act to establish an independent personnel system for employees of the General Accounting Office; and

H.R. 5386. An act to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States.

The message further anounced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1728. An act to designate the U.S. Federal courthouse building located at 655 East Durango, San Antonio, Tex., as the "John H. Wood, Jr., Federal Courthouse."

The message also announced that, pursuant to section 2(e) of Public Law 93-379, the minority leader has appointed Mr. Robert S. Thompson, of Washington, D.C., as a member of the District of Columbia Law Revision Commission, vice Mr. Dewitt S. Hyde, resigned.

At 2:33 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 3173, an act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal years 1980 and 1981, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 196. Concurrent resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 3173.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 600. An act to incorporate United Service Organizations, Inc.; to the Committee on the Judiciary.

H.R. 1298. An act to designate the U.S. Post Office and Federal Building in Huntington, W. Va., as the "Sidney L. Christie Federal Building"; to the Committee on Environment and Public Works.

H.R. 3407. An act to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge; to the Committee on Armed Services.

H.R. 3909. An act to amend section 12 of the Contract Disputes Act of 1978; to the Committee on Governmental Affairs and the Committee on the Judiciary, jointly, by unanimous consent.

H.R. 4259. An act authorizing the President of the United States to present a gold medal to the American Red Cross; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4627. An act to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands; to the Committee on Armed Services.

H.R. 4792. An act to name a certain Federal building in Houston, Tex., the Bob Casey Federal Building—U.S. Courthouse; to the Committee on Environment and Public works.

H.R. 5025. An act to amend title 10, United States Code, to provide that any person eligible for medical care under the civilian health and medical program of the uniformed services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities; to the Committee on Armed Services.

H.R. 5176. An act to establish an independent personnel system for employees of the General Accounting Office; to the Committee on Governmental Affairs.

H.R. 5386. An act to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States; to the Committee on Labor and Human Resources.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 16, 1979, he presented to the President of the United States the following enrolled bill:

S. 567. An act to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorneys for the eastern district of New York to reside within 20 miles of the district.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2322. A communication from the Director, Legislative Liaison, Department of the Air Force, transmitting a draft of proposed legislation to amend title 5, United States Code, to entitle Civil Air Patrol Cadets 18 years of age and older to compensation available to Civil Air Patrol senior members in the event of disability or death and to increase the amount of that compensation; to the

EC-2323. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant, to law, notice that the Commission was unable to render a final decision in Investigation and Suspension Docket No. 9205, Trainload Rates on Radioactive Materials, Eastern Railroads and Investigation and Suspension Docket No. 9205 (Sub No. 1) Trainload Rates on Radioactive Materials, Eastern Railroads, in the specified period; to the Committee on Commerce, Science, and Transportation.

EC-2324. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a report on two new systems of records for the Office of Personnel Management, pursuant to the Privacy Act; to the Committee on Governmental Affairs.

EC-2325. A communication from the Deputy Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a proposed plan for the use and distribution of Indian judgment funds awarded in Docket 182, the Fort Sill Apache Tribe et al. v. the United States of America, and Docket 182-A, the Fort Sill Apache Tribe of the State of Oklahoma, et al. v. the United States of America, before the United States Court of Claims; to the Select Committee on Indian Affairs.

EC-2326. A communication from the Executive Director of the Committee For Purchase From The Blind and Other Severely Handicapped, transmitting, pursuant to law, the annual report of the Committee for Purchase From the Blind and Other Severely Handicapped for fiscal year 1978; to the Committee on Labor and Human Resources.

EC-2327. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, final regulations on Indian Education: Policies and Transfer of Functions, published in the Federal Register; to the Committee on Labor and Human Resources.

EC-2328. A communication from the Executive Secretary of the National Labor Relations Board, transmitting a copy of proposed legislation which was to have been transmitted with a communication of the Chairman of the National Labor Relations previously received; to the Committee on Labor and Human Resources.

EC-2329. A communication from the Principal Deputy Secretary of Defense for Research and Engineering, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for the period October 1978 through March 1979; to the Select Committee on Small Business.

EC-2330. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on three deferrals of budget authority proposed in the President's 12th special message for fiscal year 1979 on August 27, 1979; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Labor and Human Resources, and the Committee on Finance.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-479. A resolution adopted by the Senate of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTION

"Whereas, scleroderma affects some three hundred thousand people in the United States, eighty percent of whom are women of childbearing age; and

"Whereas, the cause of scleroderma is not known; and

"Whereas, scleroderma is more prevalent than muscular dystrophy, multiple sclerosis, and a host of better known ailments; and

"Whereas, not nearly enough attention has been focused on this disease and the result is a shortage of funding for research into a possible cure; and

"Whereas, eighteen United States congressmen have co-sponsored resolution 321 urging Congress to declare February third through February ninth as National Scleroderma Week; Now therefore be it

"*Resolved*, That the Massachusetts Senate respectfully urges his excellency, the Governor of the Commonwealth, and the Congress of the United States to declare February third through February ninth, inclusive, nineteen hundred and eighty as National Scleroderma Week; and be it further

"*Resolved*, That copies of these resolutions be transmitted forthwith by the clerk of the Senate to the presiding officers of each branch of Congress, to each Senator and Representative from Massachusetts in the Congress and to his excellency, the Governor of the Commonwealth."

POM-480. A resolution adopted by the House of Representatives; to the Committee on Governmental Affairs:

"HOUSE RESOLUTION No. 246

"Whereas, The continuing decline in the percentage of the populace which fails to exercise the right to vote is detrimental to the well-being of our nation, which is dependent upon citizen participation. Only with the maximum numbers of our people expressing their will via the ballot can government at all levels be truly representative of the people; and

"Whereas, Several states, in an effort to make voting more convenient and uniformly more accessible, have taken steps to heighten voter participation in elections. Although theories vary as to why so many people fail to participate in the democratic process, it is nonetheless a fact that something must be done to ameliorate this situation; and

"Whereas, It is incumbent on the federal government to take such steps as are necessary to ensure that people who wish to vote, but for reasons of location, weather, or health do not, can vote in the most convenient and safe, and the easiest way possible; and

"Whereas, A great aid to solving this dilemma would be to provide postage free absentee ballots to any and all individuals who wish to vote in this manner. Surely this would make voting more convenient for those who seek to partake in the election process; now, therefore, be it

"*Resolved by the House of Representatives (the Senate concurring)*, That we hereby memorialize the President and the Congress of the United States to provide postage free absentee ballots to all those wishing to vote in this manner; and be it further

"*Resolved*, That copies of this resolution be transmitted to the President of the United States, the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and to the members of the Michigan Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment:

S. 1871. A bill to extend the existing antitrust exemption for oil companies that participate in the agreement of an international energy program.

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources today considered S. 1871, a bill to extend the existing antitrust defense for oil companies that participate in the agreement on an international energy program. The committee ordered S. 1871 to be favorably reported to the Senate.

On June 26, 1979, the Senate passed S. 1317, a bill which extended the duration of the antitrust defense proviso included in the Energy Policy and Conservation Act of 1975 by four months, until October 31, 1979. That bill passed the House of Representatives the following day and was enacted as Public Law 96-30 on June 30, 1979.

The purpose of S. 1871 is to extend the duration of the existing antitrust defense for oil companies that participate in the international energy program until June 30, 1980. An ongoing investigation by the General Accounting Office of the effectiveness of the International Energy Agency is expected to be completed in May 1980. The report of the GAO investigation will be available to the Committee on Energy and Natural Resources and the Committee on the Judiciary prior to consideration of the administration's proposal to extend the duration of the antitrust defense proviso to January 19, 1986.

U.S. oil companies participating in the international energy program were granted a limited antitrust defense by section 252 of EPCA, enacted on December 22, 1975. Section 252 was due to expire on June 30, 1979, but a 4-month extension was signed into law on that date. American companies are provided an antitrust defense through the adoption of voluntary agreements and plans of action. In March 1976, the voluntary agreement and plan of action to implement the International Energy Program was adopted. There are 21 U.S. oil companies voluntarily participating in that agreement.

The Federal Trade Commission, which has several responsibilities under EPCA and the voluntary agreement, pointed out in its seventh report to the Congress and the President, September 1979, that without some form of exemption, some of the activities of U.S. oil companies participating in the IEP might subject those companies to liability under the U.S. antitrust laws.

S. 1871 will preserve the status quo concerning the existence of the antitrust defense proviso until June 30, 1980, and will afford additional opportunity for a more thorough review of the situation and the need for a further extension of that proviso beyond June 30, 1980.

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. Res. 257. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1012. Referred to the Committee on the Budget.

S. Res. 258. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1668. Referred to the Committee on the Budget.

By Mr. CHURCH, from the Committee on Foreign Relations, with an amendment:

S. 1012. A bill to provide for the participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes (Rept. No. 96-369).

By Mr. CHURCH, from the Committee on Foreign Relations, with amendments:

S. 1668. A bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981 (Rept. No. 96-370).

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION, TRAVEL AUTHORIZED BY CHAIRMAN HOWARD W. CANNON EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Adlai E. Stevenson:									
Austria	Austrian schillings	7,698.24	$576.00	1,198.97	$89.71			8,897.21	$665.71
Bulgaria	Leva	257.12	300.00					257.12	300.00
	DM			589.64	1,075.00			589.64	1,075.00
Subtotal			876.00		1,164.71				2,040.71
Larry Pressler:									
France	French franc	765	180.00					765.00	180.00
Switzerland	Swiss franc	166	100.00					166.00	100.00
Italy	Lira	122,700	150.00					122,700	150.00
	DM			3,802.93	2,076.40			3,802.93	2,076.40
Subtotal			430.00		2,076.40				2,506.40
Total			1,306.00		3,241.11				4,547.11

Oct. 12, 1979

HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON GOVERNMENTAL AFFAIRS, EXPENDED BETWEEN DEC. 1 AND DEC. 16, 1978

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Casimir A. Yost:									
United Kingdom	Sterling	136.53	$270.00					136.53	$270.00
U.S.S.R.	Rubles			227.90	$339.64			227.90	339.64
					1,047.10				1,047.10
Margaret Halle:									
United Kingdom	Sterling	136.53	270.00					136.53	270.00
U.S.S.R.	Rubles			227.90	339.64			227.90	339.64
					1,047.10				1,047.10
Total			540.00		2,773.48				3,313.48

Oct. 3, 1979.

ABRAHAM A. RIBICOFF,
Chairman, Committee on Governmental Affairs.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1979

Name and continent	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]
Senator John Chafee: Europe									[2] $1,697.38

(Amended report originally submitted June 25, 1979; printed in Congressional Record, July 12, 1979.)

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. [2] Amends previous report.

June 25, 1979 (amended Oct. 5, 1979).

BIRCH BAYH,
Chairman, Select Committee on Intelligence.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BOSCHWITZ:

S. 1889. A bill for the relief of Mr. In-Hueng Chung; to the Committee on the Judiciary.

S. 1890. A bill for the relief of Mr. Jonuah Morhur; to the Committee on the Judiciary.

S. 1891. A bill for the relief of Miss Rosalind Padmini Raj; to the Committee on the Judiciary.

S. 1892. A bill for the relief of Mr. Edmundo Cox; to the Committee on the Judiciary.

S. 1893. A bill for the relief of Dr. Romulo Kabatay; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 1894. A bill to provide that residents of certain institutions otherwise eligible to receive Supplemental Security Income payments shall not be deprived of such payments; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 1895. A bill to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam; to the Committee on Environment and Public Works.

By Mr. TSONGAS:

S. 1896. A bill for the relief of Winston Edmund DuBois; to the Committee on Governmental Affairs.

By Mr. FORD:

S. 1897. A bill for the relief of Dr. Joselito S. Almario; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 1898. A bill to integrate the provisions of the National School Lunch Act and the Child Nutrition Act of 1966, and to extend those programs that expire in fiscal year 1980; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES:

S. 1899. A bill to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake & Ohio Canal National Historical Park Commission from the date ten years after the effective date of such Act to the date twenty years after such effective date; to the Committee on Energy and Natural Resources.

By Mr. RIEGLE (for himself, Mr. LEVIN, and Mr. HUDDLESTON):

S.J. Res. 115. A joint resolution designating July 1980 as "National Porcelain Art Month"; to the Committee on the Judiciary.

By Mr. RANDOLPH:

S.J. Res. 116. A joint resolution providing for the commemoration of the 100th anniversary of the birth of Franklin Delano Roosevelt; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE:

S. 1894. A bill to provide that residents of certain institutions otherwise eligible to receive supplemental security income payments shall not be deprived of such payments; to the Committee on Finance.

Mr. McCLURE. Mr. President, I am offering today a bill which will extend, in a narrow way, the current exemption which allows those living in a publicly operated community residence to continue to receive the supplemental security income payments to which they are entitled by law. The Social Security Act presently provides that no person is eligible for SSI payments with respect to any month in which he is "an inmate of a public institution". According to the act, public institution does not include a publicly operated community residence which serves no more than 16 residents. My amendment would provide that eligible SSI recipients would continue to receive payments regardless of the total number of residents if there are no more than 20 such eligible SSI recipients living in the facility and provided that all residents pay their own way for room, board, and services provided.

Quite frankly, the measure is intended to address an anomalous situation which was brought to my attention by the application of the current law to the community restorium in Bonners Ferry, Idaho. Bonners Ferry is the seat of Boundary County, which touches on the Canadian border in the panhandle of Idaho.

The county owned residence facility was built in 1976 after the citizens of Boundary County overwhelmingly approved a bond issue to provide housing for the community's senior citizens and handicapped. Private industry was not interested in building a facility in this remote community, and the people felt it necessary to take care of their own. Residents pay $325 per month for room and board. No nursing or special medical treatment is provided to occupants. Those residents meeting low-income and other SSI qualifications have received their monthly payments directly, which they have up until now been able to use to pay for their boarding costs.

In a decision dated September 28, the Social Security Administration Appeals Council in Washington, D.C., determined that residents of the community restorium are ineligible for SSI, and their payments were terminated. There is, in fact, a real danger that they will be forced to repay money previously received.

I do not believe it was the intent of Congress to deprive these people of money they depend upon to live. Clearly, use of the term "inmate" in this provision implies something other than those residing in a facility such as this of their own volition. It is through no fault of their own, the only facility in their community which was built by the county. The county does not profit or benefit from its operation of the residence. It is merely a point of pride with the people of the community that they are providing a home for their friends and neighbors.

In my judgment, this sort of community effort should be encouraged, not defeated, by the application of laws and redtape. I believe the law can be amended to accommodate this situation within reason. I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1611(e)(1)(C) of the Social Security Act (42 USC 1382(e)(1)(C)) is amended by striking "16 residents" and inserting in lieu thereof, "20 residents otherwise eligible to receive payments under this subchapter and in which residents are required to pay a reasonable amount for room, board, and services provided".

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 1895. A bill to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam; to the Committee on Environment and Public Works.

● Mr. DOMENICI. Mr. President, today Senator SCHMITT and I are introducing legislation to change the name of a Corps of Engineers dam in our State of New Mexico from Los Esteros Dam to Santa Rosa Dam.

Los Esteros Dam was authorized in Public Law 83–780 and is presently near completion. It will provide substantial recreational, environmental, and economic benefits to the County of Guadalupe, N. Mex.

Recently, Senator SCHMITT and I were approached by county commissioners and officials of Santa Rosa, N. Mex., with a request that the name be changed. The name Los Esteros has no cultural, historical or geographic significance. Consequently, residents of the area would like to name the dam after Santa Rosa, the closest town to the dam. We are, therefore, introducing this legislation and urge its adoption.●

By Mr. McGOVERN:

S. 1898. A bill to integrate the provisions of the National School Lunch Act and the Child Nutrition Act of 1966, and to extend those programs that expire in fiscal year 1980; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL CHILD NUTRITION ACT

● Mr. McGOVERN. Mr. President, I am extremely pleased to be introducing today a comprehensive redraft of the National School Lunch Act and the Child Nutrition Act of 1966. The National Child Nutrition Act would integrate these two statutes into one comprehensive, coordinated statue.

Our effort to eliminate poverty caused malnutrition among the Nation's young people has evolved into a complex array of child nutrition programs, statutory language, and regulations. Over 27 million children every day currently participate in the school lunch program, the school breakfast program, summer food service, child care food program, special milk program, WIC program, and others.

Together these programs represent a great American success story.

In my opinion, of all our programs designed to help people, the Nation's feeding programs have been the most successful. Many of the programs that were developed during the sixties and seventies have come under great criticism lately as being inefficient and a waste of taxpayers' money. The generalization does not apply to the Nation's feeding programs. The Nation can be proud of the commitment we have made to feed the hungry and of our accomplishments. The Nation's nutrition programs work.

When a team of medical doctors recently testified before the Nutrition Subcommittee summarizing the findings of their 10-year followup examination of rural poor countries, They told the subcommittee:

> Our first and overwhelming impression is that there are far fewer grossly malnourished people in the country today than there were ten years ago . . . The facts of life for Americans living in poverty remain as dark or darker than they were ten years ago. But in the area of food there is a difference. The food stamp program, the nutritional component of head start, school lunch and breakfast programs, and to a lesser extent the women-infant-children (WIC) feeding programs have made the difference.

From a technical point of view, however, the present statutes are difficult to use. Earlier this year I requested assistance from the General Counsel's office at the Department of Agriculture to help redraft this body of law. They have responded above and beyond the call of duty. I am indebted to Mr. Daniel Marcus, the General Counsel of the Department, to Ms. Helen Lutzen, and the other members of this Office of General Counsel.

The National Child Nutrition Act, despite its length, is technical in nature. It is not intended to make any substantive changes in any of the child nutrition programs, with one exception. The legislation would extend and make permanent those programs which are to expire at the end of fiscal year 1980: Summer food service, State administrative expenses, and nutrition education and training.

I expect that the Nutrition Subcommittee will want to hold a number of hearings during the remainder of the 96th Congress in the area of child nutrition. S. 605, which was introduced by Senator BELLMON will be considered shortly. Senate Resolution 90 calls on the Secretary of Agriculture to make recommendations to the Congress. In addition, other current issues deserve congressional oversight: The importance of nonpoor students to the economic and social viability of the lunch program; expansion of the breakfast program; plate waste; onsite preparation versus preplated meals; the child care food program; the role of management companies; and USDA commodity distribution procedures.

It is my hope that the Agriculture,

Nutrition, and Forestry Committee, as well as the Congress, will use the National Child Nutrition Act as the vehicle for any changes we would like to make in the current law.

I ask unanimous consent that the attached correspondence between myself and Mr. Marcus, the National Child Nutrition Act, and the supporting explanations, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Child Nutrition Act".

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TITLE I—DECLARATION OF POLICY

SEC. 101. It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other foods, by assisting States and the Department of Defense, through grants in aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of programs to meet more effectively the nutritional needs of our children.

TITLE II—DEFINITIONS

SEC. 201. For the purpose of this Act—

(a) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the

Pacific Islands, and the Northern Marians Islands.

(b) "State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (2) a board of education controlling the State department of education.

(c) "Secretary" means the Secretary of Agriculture.

(d) "School year" means the annual period from July 1 through June 30.

(e) "Food service equipment assistance" means equipment used by schools in storing, preparing, or serving food for schoolchildren.

(f) "School" means (1) any public or nonprofit private school of high school grade or under, (2) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and (3) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (1) and (2) of this subsection, the term "nonprofit," when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.

(g) Except as used in titles VIII and XIV of this Act, (f) "child" and "children" shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any child care institution as defined in title IX of this Act or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped: *Provided,* That no institution that is not otherwise eligible to participate in the program under title IX of this Act shall be deemed so eligible because of this sentence.

TITLE III—SCHOOL LUNCH PROGRAM

PAYMENTS TO STATES

SEC. 301. For the purpose of enabling States to assist schools in supplying foods for consumption by children in nonprofit school lunch programs, the Secretary shall make food assistance payments to each State educational agency for each fiscal year, at such times as he may determine, from the sums appropriated therefor.

GENERAL ASSISTANCE PAYMENTS

SEC. 302. For each fiscal year, general assistance payments shall be made to each State educational agency in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 310 of this title) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this title under agreements with such State educational agency, by a national average payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this title: *Provided,* That in any fiscal year such national average payment shall not be less than 10 cents per lunch and that the aggregate amount of the food assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of the school lunch program.

SPECIAL ASSISTANCE PAYMENTS

SEC. 303. (a) For each fiscal year, special assistance payments shall be made to each State educational agency in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 310 of this title) served free to children eligible for such lunches in schools within that State during such fiscal year by the special assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced price lunches prescribed by the Secretary for such fiscal year.

(b) For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced price lunches which shall be 20 cents less than the special-assistance factor for free lunches: *Provided,* That, if in any State all schools charge students a uniform price for reduced price lunches, and such price is less than 20 cents, the special-assistance factor prescribed for reduced price lunches in such State shall be equal to the special-assistance factor for free lunches reduced by either 10 cents or the price charged for reduced price lunches in such State, whichever is greater. For succeeding fiscal years, the special-assistance factor for free lunches shall be adjusted as provided in section 304 of this title.

(c) In the case of any school which determines that at least 80 per centum of the children in attendance during a school year (hereinafter in this sentence referred to as the "first school year") are eligible for free lunches or reduced price lunches, special-assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests, for the school year following the first school year, on the basis of the number of free lunches or reduced price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced price lunches served during that year to other children determined for that year to be eligible for such lunches.

(d) In the case of any school that (1) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (2) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period, special-assistance payments shall be paid to the State education agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special-assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments to determine on a more frequent basis the number of children eligible for free and reduced price lunches who are served lunches during such period.

ADJUSTMENT OF RATES

SEC. 304. (a) The Secretary shall prescribe on July 1 of each fiscal year, and on January 1 of each fiscal year, semiannual adjustments in the national average general assistance rate determined under section 302 of this title, and the special-assistance factor for lunches determined under subsection 303 (b) of this title, that shall reflect changes in the cost of operating a school lunch program under this title, as indicated by the change in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Such adjustments shall be computed to the nearest one-fourth cent.

(b) In providing assistance for school lunches served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marians Islands, the Secretary may establish appropriate adjustments for each such State to the national average general assistance payment rate prescribed under section 302 of this title and the special-assistance factor prescribed under subsection 303(b) of this title, to reflect the differences between the costs of providing lunches in those States and the costs of providing lunches in all other States.

MATCHING REQUIREMENTS

SEC. 305. General assistance payments to any State under section 302 of this title for any school year shall be made upon the condition that each dollar thereof, other than general assistance payments made in connection with lunches served free or at reduced prices, will be matched by $3 from sources within the State determined by the Secretary to have been expended in connection with the school lunch program under this title. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any school year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section have been met, the reasonable value of donated services, supplies, facilities, and equipment as certified, respectively, by the State educational agency (but not the cost or value of land, of the acquisition, construction, or alteration of buildings of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school lunch program under this title. For the purpose of this section, "United States" means the fifty States and the District of Columbia.

STATE REVENUES

SEC. 306. For each school year, State revenues (other than revenues derived from the school lunch program) appropriated or used specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local level) shall be disbursed to schools in an amount equal to 10 per centum of the amount obtained by computing a three-for-one matching requirement as set forth in section 305 (with adjustments for the per capita income of the State), but based upon the total general assistance payments made to the State, including those made in connection with free and reduced price lunches. Such State revenues shall be disbursed to the schools to the extent the State deems practicable, in such manner that each school receives the same proportionate share of such revenues as it receives of the funds apportioned to the State for the same year under this title and under titles IV and VII of this Act.

STATE DISBURSEMENTS TO SCHOOLS

SEC. 307. (a) General assistance payments to any State during any fiscal year pursuant to section 302 of this title shall be disbursed by the State educational agency, in accordance with such agreements, approved by the

Secretary, as may be entered into by such State agency and the schools in the State to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school lunch program. Such disbursement to any school shall be made only for the purpose of assisting it to finance the cost of obtaining agricultural commodities and other foods for consumption by children in the school lunch program under this title. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof.

(b) In no event shall disbursement for general assistance to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school lunch program under this title during such year by a maximum general assistance rate for the State, for the type of lunch served, as prescribed by the Secretary. In any fiscal year in which the national average general assistance rate per lunch determined under section 302 of this title is increased above the amount prescribed in the previous fiscal year, the maximum general assistance rate for the State, for the type of lunch served, shall be increased by a like amount.

(c) Special assistance payments to any State during any fiscal year pursuant to section 303 of this title shall be used by the State educational agency to assist schools of that State in financing the cost of providing free and reduced price lunches to children in the school lunch program under this title. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(d) Disbursements to schools by State educational agencies under this title may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

GUIDELINES FOR FREE OR REDUCED PRICE LUNCHES

SEC. 308. (a) No later than June 1 of each fiscal year, the Secretary shall issue revised income poverty guidelines for use during the subsequent twelve-month period from July through June. The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually under section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d): *Provided*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the nonfarm income poverty guidelines based on the average 1977 Consumer Price Index, by the change between the average 1977 Consumer Price Index and the Consumer Price Index of March 1978, using the most current procedures of the Office of Management and Budget. The income poverty guidelines for future periods shall be similarly adjusted. For purposes of this subsection, "Consumer Price Index" means the Consumer Price Index published each month by the Bureau of Labor Statistics of the Department of Labor.

(b) Following the announcement by the Secretary of the income poverty guidelines for each twelve-month period, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such twelve-month period in making determinations of those eligible for a free lunch as prescribed in this section. The income guidelines for free lunches shall be prescribed at 25 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during the twelve-month period from July through June in making determinations of those children eligible for a lunch at a reduced price. Such income guidelines for reduced price lunches shall be prescribed at 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary.

(c) Local school authorities shall publicly announces such income guidelines on or about the opening of school each fiscal year, and shall make determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household: *Provided*, That such local school authorities may for cause seek verification of the data in such application.

SERVICE OF FREE OR REDUCED PRICE LUNCHES

SEC. 309. (a) Any child who is a member of a household which has an annual income not above 125 per centum of the applicable family size income level set forth in income poverty guidelines prescribed by the Secretary shall be served a free lunch.

(b) Any child who is a member of a household which has an annual income which falls between (1) the applicable family size income level of the income guidelines for free lunches prescribed by the State educational agency and (2) 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary, shall be served a reduced price lunch at a price not to exceed 20 cents.

(c) The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in title XV of this Act.

(d) Any child who has a parent or guardian who (1) is responsible for the principal support of such child and (2) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parent or guardian during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parent or guardian. Local school authorities shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (1) and (2) of the preceding sentence solely on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian.

(e) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this title shall be made by the school, nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or by any other means.

(f) Each school participating in the school lunch program under this title shall report each month to its State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month. Each participating school shall provide an estimate, as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

(g) The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month. Each State educational agency shall provide an estimate as of October 1 and March 1 of each year, of the number of children who are eligible for a free lunch or reduced price lunch.

(h) None of the requirements of this section in respect to the amount for "reduced cost" meals and to eligibility for meals without cost shall apply to schools which are private and nonprofit (as defined in title II of this Act) and which participate in the school lunch program under this Act, until such time as the State educational agency certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.

NUTRITIONAL REQUIREMENTS

SEC. 310. Lunches served by schools participating in the school lunch program under this title shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research: *Provided*, That such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students.

FOOD WASTE

SEC. 311. (a) The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this title without endangering the nutritional integrity of the lunches served by such schools.

(b) Students in senior high schools that participate in the school lunch program under this title (and, when approved by the local school district or nonprofit private schools, students in any other grade level in any junior high school or middle school) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this title or the amount of payments made under this title to any such school for such lunch.

(c) As a means of diminishing waste of foods without endangering nutritional integrity of meals served, the Secretary shall conduct a study to determine the cost and feasibility of requiring schools to offer a choice of menu items within the required meal patterns. This study shall, as a minimum, include different needs and capabilities of elementary and secondary schools for such a requirement. The Secretary shall develop regulations designed to diminish such waste based on the results on this study.

USE OF ABUNDANT AND DONATED FOODS

SEC. 312. (a) Each school shall, insofar as practicable, utilize in its lunch program foods designated form time to time by the Secretary as being in abundance, either nationally or in the school area, of foods donated by the Secretary.

(b) Any school participating in food service programs under this Act may refuse to accept delivery of not more than 20 per centum of the total value of donated foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused foods, other foods to the extent that other foods are available to the States during that year.

PILOT PROJECTS

SEC. 313. (a) The Secretary may conduct pilot projects in not more than fourteen

school districts (or other appropriate units), of which not more than two may be located in any administrative region of the Food and Nutrition Service of the Department of Agriculture, for the purpose of determining the feasibility, cost, and other consequences of providing lunches free to all children, without regard to the income of the children's families, during the school year beginning July 1, 1979.

(b) The Secretary shall reimburse school food authorities participating in a pilot project under this section for all lunches served to children on the same basis that the Secretary normally provides for lunches served to children meeting the eligibility requirements for free lunches under this title.

(c) The Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a report on the pilot projects conducted under this section not later than six months after the conclusion of such projects.

(d) There are hereby authorized to be appropriated such sums as are necessary for the fiscal year beginning October 1, 1978, for the purpose of conducting an evaluation of pilot projects conducted under this section and for the purpose of making additional payments for lunches served to children (beyond what the school food authorities would otherwise receive under this title) to school food authorities participating in pilot projects.

TITLE IV—SCHOOL BREAKFAST PROGRAM

POLICY

SEC. 401. As a national nutrition and health policy, it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with State educational agencies, to carry out a program of information in furtherance of this policy.

PAYMENTS TO STATES

SEC. 402. For the purpose of assisting the States to initiate, maintain, or expand nonprofit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this title, the Secretary shall make food assistance payments to each State educational agency for each fiscal year, at such times, as he may determine, from the sums appropriated therefor.

RATES OF PAYMENT

SEC. 403. (a) The payments to each State educational agency shall be in a total amount equal to the result obtained by (1) multiplying the number of breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 408 of this title served during such fiscal year to children in schools in such States which participate in the breakfast program under this title under agreements with such State educational agency by a national average breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this title; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a national average free breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this title; and (3) multiplying the number of reduced price breakfasts served to children eligible for reduced price breakfasts in such schools during such fiscal year by a national average reduced price breakfast payment prescribed by the Secretary for such fiscal year to carry out the provisions of this title: *Provided*, That in any fiscal year the aggregate amount of the breakfast assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the school breakfast program. The national average payment established by the Secretary for all breakfasts served to eligible children shall not be less than 8 cents; an amount of not less than 15 cents shall be added for each reduced price breakfast; and an amount of not less than 20 cents shall be added for each free breakfast.

ADJUSTMENTS OF RATES

SEC. 404. (a) The Secretary shall prescribe on July 1 of each fiscal year, and on January 1, of each fiscal year, semiannual adjustments in the national average rates for breakfast served under this title that shall reflect changes in the cost of operating a school breakfast program under this title, as indicated by the change in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Such adjustments shall be computed to the nearest one-fourth cent.

(b) In providing assistance for school breakfasts served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under this title to reflect the differences between the costs of providing breakfasts in those States and the costs of providing breakfasts in all other States.

SCHOOLS IN SEVERE NEED

SEC. 405. (a) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced price breakfast at schools that are in severe need.

(b) The maximum payment for each such free breakfast shall be the higher of—

(1) the national average payment established by the Secretary for free breakfasts, plus 10 cents; or

(2) 45 cents, which shall be adjusted on a semiannual basis each July 1 and January 1 to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Deparment of Labor for the most recent six-month period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977.

(c) The maximum payment for each such reduced price breakfast shall be 5 cents less than the maximum payment for each free breakfast, as determined under subsection (b) of this section.

(d) Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, which shall include those schools in which the service of breakfasts is required pursuant to State law and those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 per centum or more of the lunches served to students at the school were served free or at a reduced price and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program. Pursuant to those State eligibility standards, a school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 per centum of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in subsection (b) of this section for free breakfasts, whichever is less.

STATE DISBURSEMENTS TO SCHOOLS

SEC. 406. (a) Funds paid to any State for the purpose of this title shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in financing the costs of operating a breakfast program pursuant to this title. Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families.

(b) Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

FREE AND REDUCED PRICE BREAKFASTS

SEC. 407. Breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 309 of title III of this Act.

NUTRITIONAL REQUIREMENTS

SEC. 408. Breakfasts served by schools participating in the school breakfast program under this title shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.

USE OF ABUNDANT AND DONATED FOODS

SEC. 409. Each school participating in the breakfast program under this title shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary.

TITLE V—DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

SEC. 501. (a) For the purpose of obtaining Federal payments and foods in conjunction with the provision of lunches and breakfasts to students attending Department of Defense dependents' schools which are located in areas other than those within the definition of "State" in this Act, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and foods as are provided to States for schools participating in the school lunch and school breakfast programs under titles III and IV of this Act.

(b) The Secretary of Defense shall administer the school lunch and school breakfast programs authorized by this title and shall determine eligibility for free and reduced price breakfasts under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the school lunch and school breakfast programs under this title.

(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal pat-

terns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is highly impracticable.

(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this title and for payment of the difference between the value of foods and payments received from the Secretary of Agriculture and (1) the full cost of each lunch and each breakfast for each student eligible for a free lunch or free breakfast, and (2) the full cost of each lunch and each breakfast, less any amounts required by law or regulation to be paid by each student eligible for a reduced price lunch or breakfast.

(e) The Secretary of Agriculture shall provide the Secretary of Defense with technical assistance in the administration of the lunch and breakfast programs authorized by this title.

TITLE VI—SPECIAL MILK PROGRAM

PROGRAM AUTHORIZATION

SEC. 601. The Secretary of Agriculture shall, under such rules and regulations as he may deem in the public interest, encourage consumption of fluid milk by children in the States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. The Secretary shall administer the special milk program provided for by this title to the maximum extent practicable in the same manner as he administered the special milk program provided for by Public Law 89-642, as amended, during the fiscal year ending June 30, 1969. Any school or nonprofit child care institution shall receive the special milk program upon its request.

REIMBURSEMENT RATE

SEC. 602. For the fiscal year ending June 30, 1975, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year thereafter to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.

FREE MILK

SEC. 603. Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) also be eligible for free milk upon their request.

TITLE VII—FOOD SERVICE EQUIPMENT ASSISTANCE PROGRAM FOR SCHOOLS

PROGRAM AUTHORIZATION

SEC. 701. The Secretary shall formulate and carry out a program to assist the States to supply schools drawing attendance from areas in which poor economic conditions exist and which have no, or grossly inadequate, equipment, with equipment other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this Act.

APPORTIONMENTS TO STATES

SEC. 702. Except for the funds reserved under section 704 of this title, the Secretary shall apportion the funds appropriated for the purposes of this title among the States on the basis of the ratio that the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 310 of title III of this Act) served in each State in the latest preceding school year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches served in all States in such preceding school year. If any State cannot utilize all of the funds apportioned to it under the provisions of this section, the Secretary shall make further apportionments to the remaining States in the manner set forth in this section for apportioning funds among all the States.

STATE APPORTIONMENTS TO SCHOOLS

SEC. 703. States shall apportion their share of funds apportioned and paid under section 702 by giving priority to schools without a food service program, schools that do not serve both breakfasts and lunches but that will use food service equipment to initiate the service of breakfasts or lunches, and schools without the facilities to prepare and cook hot meals at the schools (including schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals) or at a kitchen that serves the schools and that is operated by the local school district or by a nonprofit private school or the authority that is responsible for the administration of one or more nonprofit private schools. After making funds available to such schools, the Secretary shall make the remaining funds available to eligible schools that do not meet the priority criteria, for the purpose of purchasing needed replacement equipment.

RESERVE OF FUNDS

SEC. 704. For the fiscal years ending September 30, 1979, and September 30, 1980, 40 per centum of the funds appropriated for the purposes of this title shall be reserved to the Secretary for apportionment among the States to assist schools without a food service program and schools that do not serve breakfasts or lunches but that plan to use food service equipment to initiate a breakfast or lunch program. The Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program and in schools moving toward the initiation of the service of breakfasts to the number of children in all States enrolled in schools without a food service program and in schools moving toward the initiation of the service of breakfasts. The funds so reserved shall be used by the State only to assist schools without a food service program and schools moving toward the initiation of the service of breakfasts. If any State cannot use all the funds apportioned to it under the provisions of this section, the Secretary shall make further apportionment to the remaining States for use only in assisting schools without a food service program and schools moving toward the initiation of the service of breakfasts. If, after such further apportionment, any funds under this section remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of section 702 of this title.

MATCHING FUNDS

SEC. 705. Payments to any State of funds apportioned under the provisions of this title for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this title shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this title to assist schools that are especially needy, as determined by criteria to be established by each State and approved by the Secretary.

APPLICATION BY SCHOOLS

SEC. 706. (a) In the election of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance and the inability of the schools to finance the food service equipment needed.

(b) Disbursements to any school may be made, by advances or reimbursements, only after approval by the State educational agency of a request by the school for funds, accompanied by a detailed description of the equipment to be acquired and the plans for the use thereof in effectively meeting the nutritional needs for children in the school.

USE OF FUNDS BY SCHOOLS

SEC. 707. (a) Funds authorized for the purposes of this title shall be used only for facilities that enable schools, or local public or private nonprofit institutions under the conditions prescribed in paragraph (b) of this section, to prepare and cook hot meals or receive hot meals at the school or institution unless the school can demonstrate to the satisfaction of the State that an alternative method of meal preparation is necessary for the introduction or continued existence of the school lunch or breakfast program in such school or to improve the consumption of food or the participation of eligible children in the program.

(b) If a school authorized to receive funds under this title cannot establish a food service program of hot meals prepared and cooked by the school, or received by the school, and the school enters into an agreement with a public or private nonprofit institution to provide the school lunch or breakfast program for children attending the school, the funds provided under this section may be used for food service facilities to be located at such institution, if (1) the school retains legal title to such facilities and, (2) in the case of funds made available under section 704 of this title, the institution would otherwise be without such facilities.

TITLE VIII—SUMMER FOOD SERVICE PROGRAM

PROGRAM AUTHORIZATION

SEC. 801. The Secretary is authorized to carry out a program to assist States to initiate, maintain, and expand nonprofit food service programs for children in service institutions.

DEFINITIONS

SEC. 802. For purposes of this title, (a) "program" means the summer food service program for children authorized by this title; (b) "service institutions" means nonresidential public or private nonprofit institutions, and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program or the school breakfast program under this Act; (c) "areas in which poor economic conditions exist" means areas in which at least 33⅓ per centum of the children are eligible for free or reduced price school meals under this Act as determined by information provided from departments of welfare, zoning commissions,

census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (d) "children" means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (1) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped, and (2) participating in a public or nonprofit private school program established for the mentally or physically handicapped.

STATE PARTICIPATION

SEC. 803. Each State desiring to participate in the program under this title shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit by February 15 a management and administration plan for the program for the fiscal year, as required under title X of this Act.

ELIGIBLE SERVICE INSTITUTIONS

SEC. 804. (a) Eligible service institutions entitled to participate in the program shall be limited to those that—

(1) demonstrate adequate administrative and financial responsibility to manage an effective food service;

(2) have not been seriously deficient in operating under the program;

(3) either conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualify as camps; and

(4) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

(b) The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

(1) local schools or service institutions that have demonstrated successful program performance in a prior year;

(2) service institutions that prepare meals at their own facilities or operate only one site;

(3) service institutions that use local school food facilities for the preparation of meals;

(4) other service institutions that have demonstrated ability for successful program operation; and

(5) other service institutions that plan to integrate the program with Federal, State, or local employment programs.

(c) The States shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

AMOUNTS OF PAYMENTS TO SERVICE INSTITUTIONS

SEC. 805. (a) Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: *Provided*, That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor: *Provided further*, That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate.

(b) Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State. Payment to service institutions for administrative costs shall equal the full amount of State approved administrative costs incurred, except that such payments to service institutions may not exceed the maximum allowable levels determined by the Secretary.

ADVANCE PAYMENTS TO STATES

SEC. 806. Not later than April 15, May 15, and July 1, of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served by service institutions in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary to be necessary for advance program payments to service institutions in accordance with section 807 of this title. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to section 805 of this title not later than sixty days following receipt of valid claims therefor.

ADVANCE PAYMENTS TO SERVICE INSTITUTIONS

SEC. 807. (a) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution: *Provided*, That (1) the State shall not release the second month's advance program payment to any service institution that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities, and (2) no advance payment may be made for any month in which the service institution will operate under the program for less than ten days.

(b) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (1) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (2) 50 per centum of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (3) 65 per centum of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: *Provided*, That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or $40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to serve institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

CAMPS

SEC. 808. Notwithstanding any other provision of this title, camps that satisfy all other eligibility requirements of this title shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price school meals, as determined under this Act.

STARTUP COSTS

SEC. 809. In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 per centum of the administrative funds provided for in the administrative budget approved by the State under subsection 805(b) of this title. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection 805(b) of this title.

QUALITY OF MEALS

SEC. 810. To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State. Such contracts shall require (a) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (b) that bacteria levels conform to the standards which are applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality. Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

MEAL SERVICE REQUIREMENTS

SEC. 811. (a) Service institutions receiving funds under this title shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance.

(b) Any service institution shall be permitted to serve up to three meals per day of operation if at least one of the three meals is a meal supplement, and any service institution that is a camp shall be permitted to serve up to four meals per day of operation, if the service institution has the administrative capability, and the food preparation and food holding capabilities (where applicable), to manage more than one meal service per day, and if the service period of different meals does not coincide or overlap.

Such meals may include a breakfast, a lunch, a supper, and meal supplements.

(c) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar.

MEAL PREPARATION FACILITIES

SEC. 812. To the maximum extent feasible, consistent with the purposes of this title, any food service under this title shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

FREE MEALS

SEC. 819. Meals shall be served without cost to children attending service institutions approved for operation under this title, except that, in the case of camps, in conformity with section 808 of this title, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals.

ADMINISTRATIVE COST PAYMENTS TO STATES

SEC. 814. (a) The Secretary shall pay to each State for its administrative costs incurred under this title in any fiscal year an amount equal to (1) 20 per centum of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (2) 10 per centum of the next $100,000 distributed to that State for the program in the preceding fiscal year; (3) 5 per centum of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (4) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

(b) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under section 1003 of title X of this Act, the Secretary may withhold from the State such funds authorized under this section as the Secretary determines to be appropriate.

(c) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the summer food service program, an additional amount, not to exceed the lesser of actual costs or 1 per centum of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

FOOD SERVICE MANAGEMENT COMPANIES

SEC. 815. (a) Service institutions may contract on a competitive basis only with food service management companies registered with the State in which they operate for the furnishing of meals or management of the entire food service under the summer food service program, except that a food service management company entering into a contract with a service institution under this title may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or part of a contract entered into by a food service management company under this title. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity. The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.

(b)(1) Each State shall provide for the registration of food service management companies. For the purposes of this section, registration shall include, at a minimum—

(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or food service management company that received summer food service program funds in any prior fiscal year;

(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal years; and

(D) the addresses of the company's food preparation and distribution sites.

(2) No food service management company may be registered if the State determines that such company (A) lacks the administrative and financial capability to perform under the summer food service program, or (B) has been seriously deficient in its participation in the program in prior fiscal years.

(c) In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies and their program record for the purpose of making such information available to the States.

(d) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

(e) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of $100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

REGULATIONS

SEC. 816. The Secretary shall publish proposed regulations relating to the implementation of the summer food service program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications, and handbooks by February 1 of each fiscal year.

TITLE IX—CHILD CARE FOOD PROGRAM

PROGRAM AUTHORIZATION

SEC. 901. The Secretary shall carry out a program to assist States to initiate, maintain, and expand nonprofit food service programs for children in institutions providing child care.

INSTITUTION DEFINED

SEC. 902. For the purposes of this title, the term "institution" means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for handicapped children. In addition, the term "institution" shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours.

ELIGIBILITY CRITERIA

SEC. 903. For purposes of determining eligibility—

(a) No institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the child care food program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health, Education, and Welfare; and

(b) No institution shall be eligible to participate in the program unless it satisfies the following criteria:

(1) accepts final administrative and financial responsibility for management of an effective food service;

(2) has not been seriously deficient in its operation of the child care food program, or any other program under this Act, for a period of time specified by the Secretary; and

(3) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program.

APPLICATION AND APPROVAL OF INSTITUTIONS

SEC. 904. Any eligible public institution shall be approved by the State for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (a) has tax-exempt status under the Internal Revenue Code of 1954 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax-exempt status, or (b) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax-exempt certification if they are sponsored by an institution that has tax-exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax-exempt status or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this title shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application.

CASH ASSISTANCE TO STATES

SEC. 905. (a) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals served by institutions in the manner specified in subsection (b) of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this title shall not exceed the sum of (1) the Federal funds provided by

the State to participating institutions within the State for that fiscal year, and (2) any funds used by the State under section 1703 of title XVII of this Act.

(b) The Secretary shall provide assistance to each State in the following manner:

(1) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where no less than two-thirds of the children enrolled are members of families that satisfy the income standards for free and reduced price school lunches and breakfasts under section 308 of title III and section 407 of title IV of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 403 of title IV of this Act;

(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average general assistance payment rate for lunches under section 302 of title III of this Act, and the national average special assistance payment rate for free lunches under section 303 of title III of this Act; and

(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 23.75 cents. For supplements served in these institutions thereafter, the Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

(2) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where less than two-thirds but not less than one-third of the children enrolled are members of families that satisfy the income standards for free and reduced price school lunches under section 308 of title III of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment raté for reduced price breakfasts under section 403 of title IV of this Act;

(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average general assistance payment rate for lunches under section 302 of title III of this Act and the national average special assistance payment rate for reduced price lunches under section 303 of title III of this Act; and

(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements shall be 18 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

(3) For meals served to children in institutions, other than family or group day care home sponsoring organizations and institutions electing to use the optional reimbursement procedures under subsection 906(c) of this title, where less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced price school lunches under section 308 of title III of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the national average payment rate for breakfasts under section 403 of title IV of this Act;

(B)(i) the total numbers of lunches and suppers served in the State in these institutions by (ii) the national average general assistance payment rate for lunches under section 302 of title III of this Act; and

(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 6 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

(4) For meals served to children in institutions electing to use the reimbursement procedures under subsection 906(c) of this title, each State shall receive assistance in the following manner:

(A) for meals served to children who are members of families that satisfy the income standards for free school meals under section 308 of title III of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(i)(I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 403 of title IV of this Act;

(ii)(I) the number of lunches and suppers served by (II) the sum of the national average general assistance payment rate for lunches under section 302 of title III of this Act and the national average special assistance payment rate for free lunches under section 303 of title III of this Act; and

(iii)(I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (1) of this subsection;

(B) for meals served to children who are members of families that satisfy the income standards for reduced price lunches under section 308 of title III of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(i)(I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for reduced price breakfasts under section 403 of title IV of this Act;

(ii)(I) the number of lunches and suppers served by (II) the sum of the national average general assistance payment rate for lunches under section 302 of title III of this Act and the national average special assistance payment rate for reduced price lunches under section 303 of title III of this Act;

(iii)(I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (2) of this subsection; and

(C) for meals served to all other children in these institutions, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(i)(I) the number of breakfasts served to such children by (II) the national average payment rate for breakfasts under section 403 of title IV of this Act;

(ii)(I) the number of lunches and suppers served to such children by (II) the national average general assistance payment rate for lunches under section 302 of title III of this Act; and

(iii)(I) the number of supplements served to such children by (II) the national average payment rate for supplements determined under clause (C) of paragraph (3) of this subsection.

(5) For meals served in family or group day care homes, each State shall receive amounts sufficient to make payments for such meals under subsection 906(d) of this title.

STATE DISBURSEMENTS TO INSTITUTIONS

SEC. 906. (a) Funds paid to any State under this title shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in financing the cost of providing meals to children attending institutions, or in family or group day care homes. Disbursements to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

(b) The Secretary shall establish maximum per meal reimbursement rates for each of the three categories of institutions specified in subsections 905(b) (1), (2), and (3) of this title. Such maximum reimbursement rates for lunches and suppers shall be equal to the maximum reimbursement rates established by the Secretary for lunches served under the national school lunch program. The disbursement to any institution for meals provided under this title shall not be less, for any fiscal year, than the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rates for States for each such type of meal at that category of institution, unless the resulting sum exceeds the cost to the institution of providing such meals.

(c) Institutions, other than family or group day care home sponsoring organizations, may elect to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced price, or paid lunches under section 309 of title III of this Act. Such reimbursement shall be based on (1) the national average general assistance payment rate for lunches under section 302 of title III of this Act; (2) the national average special assistance payment rates for free lunches and reduced price lunches under section 303 of title III of this Act; (3) the national average payment rates for breakfasts, free breakfasts, and reduced price breakfasts under section 403 of title IV of this Act; and (4) the national average payment rates for supplements under section 905 of this title. Reimbursements to such institutions shall be made under the same procedures for determining such reimbursement levels as were prescribed by regulations in effect on September 30, 1978.

(d) Institutions that participate in the program under this title as family or group day care home sponsoring organizations shall

be provided, for payment to such homes, a reimbursement factor in an amount determined by the Secretary to be adequate to cover the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this title, without a requirement for documentation of such costs. Such institutions shall also receive reimbursement for their administrative expenses. Reimbursement for administrative expenses shall not exceed maximum allowable levels prescribed by the Secretary.

STARTUP FUNDS

SEC. 907. (a) Startup funds shall be payable to enable institutions satisfying the criteria of section 904 of this title, and any other standards prescribed by the Secretary, to develop an application for participation in the child care food program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such startup funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of startup funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

(b) Reimbursement for administrative expenses of institutions that participate in the child care food program under this title as family or group day care home sponsoring organizations shall include startup funds to finance the administrative expenses for such institutions to initiate successful operation under the program. Such startup funds shall be in addition to other reimbursement to such institutions for administrative expenses.

ADVANCE PAYMENTS

SEC. 908. By the first day of each month of operation, the State shall provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institution will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

FAIR HEARINGS

SEC. 909. The State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this title, or its claim for reimbursement under this title.

STANDARD FORM OF AGREEMENT

SEC. 910. The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

MEAL AND SERVICE REQUIREMENTS

SEC. 911. (a) Meals served by institutions participating in the program under this title shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.

(b) No institution may be prohibited from serving breakfast, lunch, supper, and supplements to any eligible child each day, except in the case of institutions that provide care to school children outside of school hours.

(c) Meals shall be served free to needy children.

(d) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

(e) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

EQUIPMENT ASSISTANCE FOR INSTITUTIONS

SEC. 912. (a) Of the sums appropriated for each fiscal year to carry out the purposes of this title, $6,000,000 shall be available to the Secretary for the purposes of providing equipment assistance to enable institutions to establish, maintain, and expand the child care food program. The Secretary shall allocate among the States during each fiscal year the funds available under this section. Such allocation shall be based on the ratio of the number of children below the age of six in each State who are members of families that satisfy the income standards for free and reduced price school meals under section 308 of title III of this Act to the number of such children in all States. In making such allocation, the Secretary shall use the most recent data available.

(b) If any State cannot use all of the funds allocated to it under this section, the Secretary shall make reallocations to the remaining States in the manner set forth in paragraph (a) of this section for allocating funds. Payments to any State of funds allocated under this section for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this section shall be financed from sources within the State, except that this condition shall not apply to equipment obtained for institutions that are especially needy, as determined by the State.

(c) Each State shall establish criteria for determining institutions that are especially needy for purposes of this section and shall inform all institutions within the State of those criteria. Such criteria shall be submitted to the Secretary for approval and be included in the State plan of operation for the child care food program required by section 1004 of title X of this Act.

(d) Within thirty days of notification by the Secretary of the State of the amount of funds available under this section, the State shall notify institutions of the availability of funds for food service equipment. The Secretary shall establish standards to assure prompt action by States on requests by institutions for such funds and shall also prescribe a priority system to be followed by States in allocating funds under this section.

(e) The Secretary shall issue regulations authorizing the State to disburse funds under this section directly to a supplier of food service equipment if the funds are used to purchase equipment for an institution that (1) meets all the requirements for participation under this title, except for the licensing requirements, and (2) satisfies all the requirements for licensing, except for a requirement for food service equipment. The State shall retain legal title to such equipment until the State and the institution sign an agreement authorizing the institution to participate in the program under this title.

STATE AUDIT EXPENSE

SEC. 913. The Secretary shall make available for each fiscal year to States administering the program under this title, for the purpose of conducting audits of participating institutions, an amount up to 2 per centum of the funds used by each State in the program under this title during the second preceding fiscal year.

STATE AFFIRMATIVE ACTION

SEC. 914. States participating in the program under this title shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this title. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved, or registered, or that receives funds under title XX of the Social Security Act, of the availability of the program, the requirements for program participation, the availability of food service equipment funds under the program, and the application procedures to be followed in the program. The list of institutions so notified each year shall be available to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this section.

STUDIES

SEC. 915. (a) The Secretary shall study the administrative costs of institutions participating in the program under this title, including the cost effect of such factors as the types of institutions, the number of children served, and the location of institutions in urban or rural areas. The Secretary may prescribe maximum allowable levels of administrative payments that reflect the costs of institutions participating in the program.

(b) The Secretary shall conduct a study of the food service operations carried out in the program under this title. Such study shall include, but not be limited to (1) an evaluation of meal quality as related to costs; and (2) a determination of whether maximum reimbursement levels should be set for food service costs, including whether different reimbursement levels should be established for self-prepared meals and vendored meals, economies of scale, and differences between food service operations in institutions and family and group day care homes.

(c) The Secretary shall conduct a study on licensing problems faced by institutions and family or group day care homes. Such study shall include, but not be limited to, an evaluation of the licensing requirements under this title.

(d) Of the funds appropriated for the fiscal year ending September 30, 1979, to carry out the purposes of this title not to exceed $2,000,000 shall be available to the Secretary for the purpose of conducting the studies required under paragraphs (a), (b), and (c) of this section. The Secretary shall report the results of such studies to Congress, along with any recommendations the Secretary wishes to make, not later than eighteen months after enactment of the Child Nutrition Amendments of 1978.

TITLE X—STATE PLANS OF OPERATION—SCHOOLS, SERVICE INSTITUTIONS—INSTITUTIONS

SEC. 1001. Each year by not later than a date specified by the Secretary, each State educational agency shall submit to the Secretary, for approval by him as a prerequisite to receipt of Federal funds or any commodities donated by the Secretary for use in programs under this Act, a State plan of child nutrition operations for the following school year, which shall include, as a minimum, a

description of the manner in which the State educational agency proposes to use the funds provided under this Act and funds from sources within the State to furnish a free or reduced price lunch to every needy child in accordance with the provisions of title III of this Act; to extend the school lunch program under this Act to every school within the State; and to use the funds provided under titles IV, VIII, and IX of this Act and funds from sources within the State to the maximum extent practicable to reach needy children.

SCHOOL BREAKFAST PROGRAM

SEC. 1002. The State plan of child nutrition operations required under section 1001 of this title shall include the eligibility standards established by the State educational agency for providing additional assistance under the school breakfast program to schools in severe need, as required under subsection 405(d) of title IV of this Act.

SUMMER FOOD SERVICE PROGRAM

SEC. 1003. Each year, not later than February 15, each State desiring to participate in the summer food service program under title VIII of this Act shall submit for approval a management and administration plan for the program for the fiscal year which shall include, but not be limited to (a) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection 814(b) of title VIII of this Act; (b) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's methods for assessing need, and its plans and schedule for informing service institutions of the availability of the program; (c) the State's best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used; (d) the State's plans and schedule for providing technical assistance and training eligible service institutions; (e) the State's schedule for application by service institutions; (f) the actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities; (g) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (h) the State's plan and schedule for registering food service management companies; (i) the State's plan for timely and effective action against program violators; (j) the State's plan for determining the amounts of program payments to service institutions and for disbursing such payments; (k) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and (l) the State's procedure for granting a hearing and prompt determination to any service institution wishing to appeal a State ruling denying the service institution's application for program participation or for program reimbursement.

CHILD CARE FOOD PROGRAM

SEC. 1004. For the child care food program, the State plan required under section 1001 of this title shall provide, in addition to other information required by regulation or available from regular reporting—

(a) the number of institutions and the number of family or group day care homes participating in the program, together with the average daily attendance in such institutions;

(b) the number of institutions and the number of family or group day care homes in the State that are licensed, approved, or registered or that receive funds under title XX of the Social Security Act, and the number of such institutions and homes that participate in the program authorized under this section;

(c) the action program the State proposes to undertake to use the Federal funds provided under title IX of this Act, including the State's plans to (1) extend the child care food program to all eligible institutions (placing priority on reaching institutions in needy areas first), (2) assist family or group day care homes in obtaining sponsoring organizations, and (3) encourage eligible institutions to participate in such program;

(d) a plan for the conduct of audits; and

(e) a plan to monitor program performance and measure progress in achieving program goals.

TITLE XI—MISCELLANEOUS PROGRAM PROVISIONS

NONPROFIT PROGRAMS

SEC. 1101. The food and milk service programs in schools and nonprofit institutions receiving assistance under titles III, IV, and VI of this Act shall be conducted on a nonprofit basis.

PRESCHOOL PROGRAMS

SEC. 1102. The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

PROHIBITION REGARDING INSTRUCTION

SEC. 1103. In carrying out the food and milk service equipment provisions of titles III, IV, VI, and VII of this Act, neither the Secretary nor the State shall impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

STATE AND LOCAL EXPENDITURES

SEC. 1104. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under titles IV, VI, VII, VIII, and IX of this Act.

VALUE OF ASSISTANCE

SEC. 1105. The value of assistance to children under this Act shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

SEPARATE COST ACCOUNTING

SEC. 1106. No provision of this Act shall be construed to require any school receiving funds under this Act to account separately for the cost incurred in the school lunch and school breakfast programs. In no event, however, shall reimbursement to school food authorities exceed the net cost of operating both the lunch and breakfast programs, taking into account the total costs and total incomes of both programs.

STATE ADVISORY COUNCILS

SEC. 1107. Each State educational agency that receives food assistance payments under this Act for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of food assistance for such program.

TITLE XII—FEDERAL ADMINISTRATION OF PROGRAMS

SCHOOL LUNCH PROGRAM

SEC. 1201. If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under title III to any of the schools in the State, or is not permitted by law to match Federal funds made available for use by such schools, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency, including the requirement that payments shall be matched, in the proportion specified in section 305 of title III of this Act for such State, by funds from sources within the State expended by such schools within the State participating in the school lunch program under title III of this Act. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 305 of title III of this Act.

SCHOOL BREAKFAST PROGRAM

SEC. 1202. The Secretary shall make payments from the sum appropriated for any fiscal year for the purposes of title IV of this Act directly to the schools which are private and nonprofit (as defined in title II of this Act) within a State, that participate in the breakfast program under an agreement with the Secretary, for the same purposes and subject to the same conditions as are authorized or required under title IV of this Act with respect to the disbursements by State educational agencies.

FOOD SERVICE EQUIPMENT ASSISTANCE PROGRAM FOR SCHOOLS

SEC. 1203. (a) If, in any State, the State educational agency is prohibited by law from administering the food service equipment assistance program for schools authorized by title VII of this Act in nonprofit private schools within the State, the Secretary shall administer such program in such private schools, in the same manner and subject to the same conditions as are authorized or required with respect to disbursements to schools within the State by the State educational agency.

(b) In those States in which the Secretary administers the food service equipment assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under the provisions of section 703 of title VII of this Act an amount which bears the same ratio to such funds as the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 310 of title III of this Act) served in nonprofit private schools in such State, in the latest preceding school year for which the Secretary determines data are available at the time such funds are withheld, bears to the total number of such lunches served in all schools within such State in such preceding school year.

(c) In those States in which the Secretary administers the food service equipment program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under section 704 of title VII of this Act an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or moving toward the initiation of the service of breakfasts in such State bears to the total number of children enrolled in all schools without a food service program or moving toward the initiation of the service of breakfasts in such State.

SUMMER FOOD SERVICE PROGRAM

SEC. 1204. If any State (1) is unable for any reason to disburse the funds otherwise payable to it under title VIII of this Act, or (2) does not operate the program in accordance with the requirements of title VIII of this Act, the Secretary shall assume authority for administration of the summer food service program under such title in such

State, and shall disburse the funds directly to service institutions in the State for the same purposes and subject to the same conditions as are required of a State disbursing funds made available under title VIII of this Act.

CHILD CARE FOOD PROGRAM

SEC. 1205. In any State where the State is not permitted by law or is otherwise unable to disburse the funds payable to it under title IX of this Act to any institution in the State, the Secretary shall withhold all funds to which such State would be entitled and shall use such funds for the same purposes and subject to the same conditions as are required of a State.

NUTRITION EDUCATION AND TRAINING

SEC. 1206. Notwithstanding any other provision of title XVI of this Act, if, in any State, the State educational agency is prohibited by law from administering the program authorized by that title in nonprofit private schools and institutions, the Secretary may administer the program with respect to such schools and institutions.

RETENTION OF STATE ADMINISTRATIVE FUNDS

SEC. 1207. Where the Secretary is responsible for the administration of programs under this Act, the amount of funds that would be allocated to the State agency for administrative services under title XIII and under section 814(a) of title VIII of this Act shall be retained by the Secretary for the Secretary's use in the administration of such programs.

TITLE XIII—STATE ADMINISTRATIVE EXPENSES

ALLOCATIONS TO STATES

SEC. 1301. (a) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ per centum of the Federal funds expended under sections 302 and 303 of title III of this Act, and under titles IV, VI, VII, and IX of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with paragraphs (b), (c), and (d) of this section.

(b) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under this Act, except for the programs authorized under titles VIII, IX, and XIV of this Act, an amount equal to not less than 1 percent and not more than 1½ per centum of the funds expended by each State under sections 302 and 303 of title III of this Act and under titles IV, VI, and VII of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this section be less than the amount such State was allocated in the fiscal year ending September 30, 1978, or $100,000, whichever is larger.

(c) The Secretary shall allocate to each State for its administrative costs incurred under that program authorized by title IX of this Act in any fiscal year an amount, based upon funds expended under that program in the second preceding fiscal year, equal to (1) 20 per centum of the first $50,000, (2) 10 per centum of the next $100,000, (3) 5 per centum of the next $250,000, and (4) 2½ per centum of any remaining funds. The Secretary may adjust any State's allocation to reflect changes in the size of its program.

(d) The remaining funds appropriated for the purposes of this title shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under this Act, except for title XIV of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

(e) If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid under this title to the State not later than the succeeding fiscal year.

REALLOCATION OF FUNDS

SEC. 1302. The Secretary shall reallocate any unused funds, as evidenced by the plans for disbursement of funds submitted by the State under subsection 1305(b) of this title.

MAINTENANCE OF STATE FUNDING

SEC. 1303. Payments of funds under this title shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this Act (except titles VIII and XIV of this Act), not less than the amount expended or obligated in fiscal year 1977.

USE OF FUNDS BY STATES

SEC. 1304. (a) Funds available to States under this title and under subsection 814(a) of title VIII of this Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 per centum of any of the amounts allocated among such programs.

(b) Funds paid to a State under this title may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; and for staff development.

(c) Notwithstanding any other provision of law, funds available to each State under this title for fiscal year 1978 that are not obligated or expended in that fiscal year shall remain available for obligation and expenditure by that State in fiscal year 1979.

(d) The State may use a portion of the funds available under this title to assist in the administration of the commodity distribution program.

PLANS FOR USE OF FUNDS

SEC. 1305. (a) Each State shall submit to the Secretary for approval by October 1 of each year an annual plan for the use of State administrative expense funds including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

(b) For fiscal year 1979, and the succeeding fiscal year, the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this title for each such year.

STATE STAFFING STANDARDS

SEC. 1306. The Secretary, in cooperation with the several States, shall develop State staffing standards for the administration by each State of titles III, IV, VI, VII, and IX of this Act, that will ensure sufficient staff for the planning and administration of programs covered by State administrative expenses.

TITLE XIV—SPECIAL SUPPLEMENTAL FOOD PROGRAM

STATEMENT OF PURPOSE

SEC. 1401. Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this title to provide supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of these persons.

DEFINITIONS

SEC. 1402. As used in this title—

(a) "Administrative costs" means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program; centrifuges, measuring boards, spectrophotometers, and scales used for such certification; food delivery; monitoring; nutrition education; outreach; startup costs; and general administration applicable to implementation of the program under this title, such as the cost of staff, warehouse facilities, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

(b) "Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

(c) "Children" means persons who have had their first birthday but have not yet attained their fifth birthday.

(d) "Competent professional authority" means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

(e) "Infants" means persons under one year of age.

(f) "Local agency" means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health, Education, and Welfare, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

(g) "Nutrition education" means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize the individual's personal, cultural, and socioeconomic preferences.

(h) "Nutritional risk" means (1) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (2) other documented nutritionally related medical conditions, (3) dietary deficiencies that impair or endanger health, or (4) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

(i) "Plan of operation and administration" means a document that describes the manner in which the State agency intends to implement and operate the program under this title.

(j) "Post partum women" means women up to six months after termination of pregnancy.

(k) "Pregnant women" means women determined to have one or more fetuses in utero.

(l) "State agency" means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare.

(m) "Supplemental foods" means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and post partum

women, infants, and children, as prescribed by the Secretary.

PROGRAM AUTHORIZATION

SEC. 1403. (a) The Secretary shall carry out a special supplemental food program to assist State agencies to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, post partum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in section 1407 of this title. The program shall be supplementary to the food stamp program (91 Stat. 958) and to any program under which foods are distributed to needy families in lieu of food stamps.

(b) Subject to amounts appropriated for the program under this title for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982—

(1) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

(2) any State agency approved eligible local agency that applies to participate in or expand the program under this title shall immediately be provided with the necessary funds to carry out the program.

(c) Nothing in this section shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplementary food program under section 1304 of the Food and Agriculture Act of 1977 shall not preclude the approval of an applicant from an eligible local agency to participate in the program under this title nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this title.

ALLOCATIONS TO STATE AGENCIES

SEC. 1404. By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the funds appropriated for the purposes of this title on the basis of a formula determined by the Secretary. Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation. For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries. If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians. Notwithstanding any other provision of this title, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this title.

STATE PLAN OF OPERATION

SEC. 1405. (a) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this title. The plan shall include, among such other information as the Secretary may require—

(1) a description of how the State agency will distribute administrative funds, including start-up funds, to local agencies operating under the program;

(2) a description of the State agency's financial management system;

(3) a description of methods used to determine nutritional risk;

(4) a budget for administrative funds;

(5) the staffing pattern;

(6) nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians;

(7) plans to provide program benefits under this title to eligible migrants and Indians;

(8) a list of all areas and special populations, in priority order based on relative need, within the jurisdiction of the State agency, and the State agency's plans to initiate or expand operations under the program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program and the availability of technical assistance in implementing the program, and a description of how the State agency will take all reasonable actions to identify potential local agencies and encourage such agencies to implement or expand operations under the program within the following year in the neediest one-third of all areas unserved or partially served;

(9) a description of how the State agency's delivery system will enable low-income persons to receive supplemental foods under the program, in accordance with standards developed by the Secretary;

(10) the State agency's plans for informing eligible persons of the program in accordance with subsection 1409(c) of this title;

(11) a description of how the State agency plans to coordinate operations under the program with special counseling services such as, but not limited to, the expanded food and nutrition education program, family planning, immunization, prenatal care, well-child care, alcohol and drug abuse counseling, child abuse counseling, and with the food stamp program; and

(12) a copy of the procedure manual developed by the State agency for the program.

(b) The Secretary shall not approve any plan that permits any person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977.

(c) Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this section, the State agency shall conduct hearings to enable the general public to participate in the development of the State agency plan.

STATE AND LOCAL AGENCY APPLICATION

SEC. 1406. The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval. Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application.

INDIVIDUAL ELIGIBILITY

SEC. 1407. (a) Participation in the program under this title shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

(b) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced-price school lunches under section 308 of title III of this Act.

(c) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

(d) If a person certified as eligible for participation in the program under this title in one area moves to another area in which the program is operating, that person's certification of eligibility shall remain valid for the period for which the person was originally certified.

(e) Local agencies participating in the program under this title shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

MIGRANTS

SEC. 1408. (a) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this title when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

(b) By October 1 of each year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under section 2002 of title XX of this Act.

INFORMATION AND EDUCATION

SEC. 1409. (a) The State agency shall ensure that nutrition education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this title but who do not participate in the program. The Secretary shall prescribe standards to ensure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this title. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received.

(b) The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health, Education, and Welfare for comment, issue such materials for use in the program under this title.

(c) The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations,

hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low-income areas.

(d) The State agency shall (1) provide nutrition education materials and instruction in languages other than English and (2) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

FAIR HEARING

SEC. 1410. The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

STANDARDS FOR ADMINISTRATION

SEC. 1411. The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this title or to implement the approved plan of operation and administration submitted under this title, the Secretary may withhold such amounts of the State agency's administrative funds as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

SUPPLEMENTAL FOODS

SEC. 1412. (a) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this title. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate. Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary.

(b) State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

(c) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns.

STATE AND LOCAL ADMINISTRATIVE COSTS

SEC. 1413. (a) The Secretary shall make 20 per centum of the funds provided for the purposes of this title each fiscal year (other than funds expended for evaluation and pilot projects under section 1415 of this title) available for State agency and local agency administrative costs. When reallocating funds, the Secretary may exceed the 20 percent limitation for administrative costs if the Secretary determines such action necessary for the proper, efficient, and effective administration of the program. Not less than one-sixth of the funds expended by each State agency for administrative costs under this section shall be used for nutrition education activities, unless the State agency requests that it be authorized to expend a lesser amount and such request is accompanied by documentation that other funds will be used to conduct such activities.

(b) The Secretary, for each of the fiscal years 1979 through 1982, shall allocate administrative funds to each State agency on the basis of a formula determined by the Secretary, which shall include a minimum amount, and which shall be designed to take into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the program at those agencies.

(c) Each State agency shall provide, from its allocation for administrative funds, funds to local agencies for their administrative costs. Each State agency shall distribute administrative funds to local agencies under allocation standards developed by the State agency in cooperation with the several local agencies, which satisfy allocation guidelines established by the Secretary. Such allocation standards shall take into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as local agency staffing needs, density of population, number of persons served, and availability of administrative support from other sources. These allocation standards shall be included in the plan of operation and administration required by section 1405 of this title.

(d) The State agency shall forward in advance to local agencies those administrative funds necessary for successful commencement of program operations under this title during the three months following approval or until a program reaches its projected caseload level, whichever comes first.

REPORTS

SEC. 1414. State agencies shall submit monthly financial reports and participation data to the Secretary.

EVALUATION AND PILOT PROJECTS

SEC. 1415. Of the sums appropriated for any fiscal year for the program under this title, one-half of 1 per centum, not to exceed $3,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, and administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

TITLE XV—FOOD DONATIONS

PURCHASE AND DONATION AUTHORITIES

SEC. 1501. (a) Funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, other than title VI hereof, shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under title III, IV, VI, VIII, and IX of this Act, in accordance with the needs as determined by the local school and service institution authorities. The provisions of law contained in the proviso of the Act of June 28, 1937 (50 Stat. 323), facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act approved August 24, 1935 (49 Stat. 774), as amended, shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the Secretary under this section. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this Act.

(b) Notwithstanding any other provision of law, the Secretary, during the period ending September 30, 1982, shall—

(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) foods of the types customarily purchased under such section (which may include domestic seafood commodities and their products) for donation to maintain the annually programed level of assistance for programs carried on under this Act; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase foods of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(c) Foods purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under title III of this Act as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such foods.

(d) Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school breakfast program under title IV of this Act.

(e) The Secretary is authorized to donate to States, for distribution to service institutions participating in the summer food service program for children under title VIII of this Act, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1). Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

(f) The Secretary shall donate foods produced in the United States for use in institutions participating in the child care food program under title IX of this Act.

(g) Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935, may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under the special supplemental food program under title XIV of this Act. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to such programs, with appropriated funds, including funds appropriated for the purposes of title XIV.

(h) Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

(i) Among those foods delivered under subsection (a) of this section, the Secretary shall give special emphasis to high protein foods, meat and meat alternates (which may include domestic seafood commodities and their products).

PROCEDURES

SEC. 1502. (a) In providing food assistance under this Act for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of food assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State food preferences and that such views are considered by the Secretary in the purchase and distribution of foods and by the States in the allocation of such foods among schools within the States;

(2) solicit the views of States with respect to the acceptability of foods;

(3) ensure that the timing of food deliveries to States is consistent with State

school year calendars and that deliveries occur with sufficient advance notice;

(4) provide for systematic review of the costs and benefits of providing foods of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

(5) make available, technical assistance on the use of foods made available under this Act.

(b) In purchasing foods for programs carried out under this Act, the Secretary shall establish procedures to ensure that contracts for the purchase of such foods shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

LEVEL OF FOOD ASSISTANCE

SEC. 1503. (a) For each fiscal year, the national average value of donated foods for the school lunch program, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and that amount shall be adjusted on an annual basis each school year after June 30, 1975, to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each lunch shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest one-fourth cent.

(b) The value of foods (or cash in lieu of foods) donated to each State for each school year, for use in institutions participating in the child care food program under title IX of this Act, shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in the State during that school year by the rate for donated foods or cash in lieu thereof established for lunches for that school year under subsection (a) of this section.

CASH IN LIEU OF FOOD ASSISTANCE

SEC. 1504. (a) Not later than May 15 of each school year, the Secretary shall make an estimate of the value of foods that will be delivered that school year to States for the school lunch program. If such estimated value is less than the total level of assistance authorized under subsection 1503(a), the Secretary shall pay to each State educational agency, not later than June 15 of that school year, an amount of funds that is equal to the difference between the value of such deliveries as then programed for such State and the total level of assistance authorized under subsection 1503(a). In any State in which the Secretary directly administers the school lunch program in any of the schools of the State, the Secretary shall withhold from the funds to be paid to such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of lunches served in schools in which the school lunch program is directly administered by the Secretary during that school year bears to the total of such lunches served under the school lunch program in all the schools in such State in such school year. Each State educational agency, and the Secretary in the case of private schools in which the Secretary directly administers the school lunch program, shall promptly and equitably disburse such funds to schools participating in the school lunch program, and such disbursements shall be used by such schools to purchase United States agricultural foods for their food service program. Such foods shall be limited to the requirements for lunches and breakfasts for children as provided for in regulations issued by the Secretary.

(b) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (a) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under this section. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (a) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

(c) Funds made available under subsections (a) or (b) of this section shall not be subject to the State matching provisions of section 305 of title III of this Act.

(d) Notwithstanding any other provision of this title, not less than 75 per centum of the food assistance provided under this Act for school lunch programs shall be in the form of donated foods.

(e) Any State receiving food assistance under this title for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the foods to which it would otherwise be entitled. In determining whether to request cash in lieu of foods, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated foods.

(f) (1) Notwithstanding any other provision of law, where a State phases out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by subsection 1503(a) of this title.

(2) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of foods to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural foods for their food service programs.

FOODS FOR THE ELDERLY

SEC. 1505. (a) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural foods of the types customarily purchased for donation under section 311 of the Comprehensive Older Americans Act Amendments of 1978 (42 U.S.C. 3030a) or for cash payments in lieu of such donations under section 311(c) of such Act (42 U.S.C. 3030(c)).

(b) The authority granted the Secretary in subsection 1501(b) of this title shall also be available to the Secretary for the purchase of foods to maintain the annually programed level of assistance for programs carried on under title VII of the Older Americans Act of 1965 (42 U.S.C. 3045f).

TITLE XVI—NUTRITION EDUCATION AND TRAINING

FINDINGS AND PURPOSE

SEC. 1601. (a) Congress finds that—

(1) the proper nutrition of the Nation's children is a matter of highest priority;

(2) the lack of understanding of the principles of good nutrition and their relationship to health can contribute to a child's rejection of highly nutritious foods and consequent plate waste in school food service operations;

(3) many school food service personnel have not had adequate training in food service management skills and principles, and many teachers and school food service operators have not had adequate training in the fundamentals of nutrition on how to convey this information so as to motivate children to practice sound eating habits;

(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and

(5) there is a need to create opportunities for children to learn about the importance of the principles of good nutrition in their daily lives and how these principles are applied in the school cafeteria.

(b) It is the purpose of this title to encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing a system of grants to State educational agencies for the development of comprehensive nutrition information and education programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

DEFINITION

SEC. 1602. For purposes of this title, the term "nutrition information and education program" means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (a) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (b) training school food service personnel in the principles and practices of food service management; (c) instructing teachers in sound principles of nutrition education; and (d) developing and using classroom materials and curricula.

PROGRAM AUTHORIZATION

SEC. 1603. (a) The Secretary is authorized to formulate and carry out a nutrition information and education program, through a system of grants to State educational agencies, to provide for (1) the nutritional training of educational and food service personnel, (2) the food service management training of school food service personnel, and (3) the conduct of nutrition education activities in schools and child care institutions.

(b) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health, Education, and Welfare; and other interested groups and individuals concerned with improvement of child nutrition.

(c) If a State educational agency is conducting or applying to conduct a health ed-

ucation program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health, Education, and Welfare, the Secretary may make funds authorized for this title available to the Department of Health, Education, and Welfare to fund the nutrition education component of the State program without requiring an additional grant application.

AGREEMENTS WITH STATE AGENCIES

SEC. 1604. The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this title.

GRANTS TO STATES

SEC. 1605. (a) The Secretary, in carrying out the provisions of this title, shall make grants to State educational agencies who, in turn, may contract with land grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328) including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of educational and school food service personnel with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

(b) Grants to each State from funds appropriated for the purposes of this title shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within such State, except that no State shall receive an amount less than $75,000 for that year. If funds appropriated for such year are insufficient to pay the amount to which each State is entitled under the preceding sentence, the amount of such grant shall be ratably reduced to the extent necessary so that the total of such amounts paid does not exceed the amount of appropriated funds. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

(c) Enrollment data used for purposes of this section shall be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare.

STATE CONTRACTS

SEC. 1606. The State, in carrying out the provisions of this title, may contract with State and local educational agencies, land grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.

USE OF FUNDS

SEC. 1607. (a) The funds made available under this title may, under guidelines established by the Secretary, be used by State educational agencies for (1) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs; (2) undertaking an assessment of the nutrition education needs of the State; (3) developing a State plan of operation and management for nutrition education; (4) applying for and carrying out planning and assessment grants; (5) pilot projects and related purposes; (6) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel; (7) coordinating and promoting nutrition information and education activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs); (8) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this title; and (9) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials.

(b) An amount not to exceed 15 per centum of each State's grant may be used for up to 50 per centum of the expenditures for overall administrative and supervisory purposes in connection with the program authorized under this title.

(c) Nothing in this title shall prohibit State or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this title.

PLANNING AND ASSESSMENT GRANT

SEC. 1608. Any State desiring to receive grants authorized by this title may, from the funds appropriated to carry out this title, receive a planning and assessment grant for the purposes of carrying out the responsibilities described in clauses (1), (2), (3), and (4) of subsection 1607(a) of this title. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: *Provided*, That in order to receive additional funding, the State must carry out such responsibilities.

STATE COORDINATORS FOR NUTRITION

SEC. 1609. (a) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State as provided in subsection (b) of this section, prepare a State plan as provided in section 1610 of this title, and coordinate programs under this title with all other nutrition education programs provided by the State with Federal or State funds.

(b) Upon receipt of funds authorized by this title, the State coordinator shall prepare an itemized budget and assess the nutrition education needs of the State. Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

STATE PLAN

SEC. 1610. Within nine months after the award of the planning and assessment grant, the State coordinator shall develop, prepare, and furnish the Secretary, for approval, a comprehensive plan for nutrition education within the State. The Secretary shall act on such plan not later than sixty days after it is received. Each such plan shall describe (a) the findings of the nutrition education needs assessment within the State; (b) provisions for coordinating the nutrition education program carried out with funds made available under this title with any related publicly supported programs being carried out within the State; (c) plans for soliciting the advice and recommendations of the National Advisory Council on Child Nutrition, the State educational agency, interested teachers, food nutrition professionals and paraprofessionals, school food service personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (d) plans for reaching all students in the State with instruction in the nutritional value of foods and the relationships among food, nutrition, and health, for training food service personnel in the principles and skills of food service management, and for instructing teachers in sound principles of nutrition education; and (e) plans for using, on a priority basis, the resources of the landgrant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute. To the maximum extent practicable, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including the use of public hearings.

REPORTS

SEC. 1611. State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

TITLE XVI—ADDITIONAL EDUCATION AND TRAINING AUTHORIZATIONS—SURVEYS, PROJECTS

GENERAL

SEC. 1701. Not to exceed 1 per centum of the funds provided for carrying out the programs under this Act, other than the special milk program under title VI, is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs, for pilot projects required to be carried out under section 313 of title III of this Act, and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in this Act.

GRANTS TO STATES

SEC. 1702. (a) The Secretary is hereby authorized and directed to make cash grants to State educational agencies for the purpose of conducting experimental or demonstration projects to teach schoolchildren the nutritional value of foods and the relationship of nutrition to human health.

(b) The Secretary shall withhold not less than 1 per centum of any funds appropriated for the purpose of this section and shall expend these funds to carry out research and development projects relevant to the purpose of this section, particularly to develop materials and techniques for the innovative presentation of nutritional information.

SPECIAL DEVELOPMENTAL PROJECTS

SEC. 1703. In the regulations issued under section 2101 of title XXI of this Act, the Secretary may provide for a reserve of up to 1 per centum of the funds available to any State to carry out special developmental projects.

TITLE XVIII—ACCOUNTS AND RECORDS

GENERAL PROVISIONS

SEC. 1801. (a) States, State educational agencies, local agencies, service and nonprofit institutions, and schools participating in the school lunch, school breakfast, special milk, food service equipment assistance, summer food service, child care food, State administrative expenses, special supplemental food and nutrition, education and training programs under titles III, IV, VI, VII, IX, XIII, XIV, and XVI of this Act shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with the provisions of such titles and the regulations thereunder, respectively. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years for the school lunch, summer food service, child care food, special supplemental food and nutrition and training programs or three years for the school breakfast, special milk, food service equipment assistance and State administrative expenses programs, as the Secretary determines is necessary.

(b) Accounts and records for the child care food program under title IX of this Act shall also be available at all times for inspection and audit by the Comptroller General of the United States and appropriate State representatives.

TITLE XIX—CRIMINAL PROVISIONS

GENERAL

SEC. 1901. Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

SUMMER FOOD SERVICE PROGRAM

SEC. 1902. (a) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the summer food service program for children under title VIII of this Act, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with such program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(b) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the summer food service program for children, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by such program or any money, funds, assets, or property derived from benefits provided by such program, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over $200, then the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both).

(c) If two or more persons conspire or collude to accomplish any act made unlawful under this section, and one or more of such persons do any act to effect the object of the conspiracy or collusion, each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

TITLE XX—ADVISORY COUNCILS

ADVISORY COUNCIL ON CHILD NUTRITION

SEC. 2001. (a) There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of nineteen members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area, one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member shall be a classroom teacher, two members shall be parents of children in schools that participate in the school lunch program under this Act, two members shall be senior high school students who participate in the school lunch program under this Act, and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to child food programs.

(b) The fifteen members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of two years, except that the appointments for 1978 shall be made as follows: Two replacements, one parent, and one senior high school student shall be appointed for terms of two years; and two replacements, one parent, and one senior high school student shall be appointed for terms of one year. Thereafter, all appointments shall be for a term of two years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Parents and senior high school students appointed to the Council shall be members of State or school district child nutrition councils or committees actively engaged in providing program advice and guidance to school officials administering the school lunch program. Such appointments shall be made in a manner to balance rural and urban representation between parents and students. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

(c) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(d) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(e) Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(f) It shall be the function of the Council to make a continuing study of the operation of programs carried out under this Act and any related Act under which meals are provided for children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for the administrative and legislative changes as it deems appropriate.

(g) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this Act.

(h) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council: *Provided*, That members serving as parents, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION

SEC. 2002. (a) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of twenty-one members appointed by the Secretary. One member shall be a State director of a program under title XIV of this Act; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under title XIV of this Act (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under title XIV of this Act in an urban area; one member shall be a local agency director of a program under title XIV of this Act in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under title XIV of this Act or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental food program; one member shall be a person involved at the retail sales level of food in the special supplemental food program; two members shall be officials of the Department of Health, Education, and Welfare appointed by the Secretary of Health, Education, and Welfare; and two members shall be officials of the Department of Agriculture appointed by the Secretary.

(b) Members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

(c) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

(d) The Council shall make a continuing study of the operation of the special sup-

plemental food program under title XIV of this Act and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning with the fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations.

(e) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

(f) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council: *Provided*, That parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

TITLE XXI—REGULATIONS

SEC. 2101. The Secretary shall prescribe such regulations as he may deem necessary to carry out this Act, including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this Act. Such regulations shall not prohibit the sale of competitive foods approved by the Secretary in food service facilities or areas during the time of service of food under this Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools. In such regulations, the Secretary may provide for the transfer of funds by any State between the programs authorized under this Act on the basis of an approved State plan of operation for the use of the funds, except that the Secretary may not provide for the transfer of funds from the nutrition education and training program to any other program.

TITLE XXII—APPROPRIATIONS AUTHORIZED

SCHOOL LUNCH PROGRAM

SEC. 2201. For each fiscal year there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary to carry out the provisions of title III of this Act, title V of this Act insofar as it relates to the school lunch program, and section 2001 of title XX of this Act.

SCHOOL BREAKFAST PROGRAM

SEC. 2202. There is hereby authorized to be appropriated for each fiscal year such sums to enable the Secretary to carry out the provisions of title IV of this Act and title V of this Act insofar as it relates to the school breakfast program.

SPECIAL MILK PROGRAM

SEC. 2203. There is hereby authorized to be appropriated for each fiscal year such sums as may be necessary to enable the Secretary to carry out the program authorized under title VI of this Act.

SUMMER FOOD SERVICE PROGRAM

SEC. 2204. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of title VIII of this Act.

CHILD CARE FOOD PROGRAM

SEC. 2205. There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of title IX of this Act.

FOOD SERVICE EQUIPMENT ASSISTANCE FOR SCHOOLS

SEC. 2206. There is hereby authorized to be appropriated for each fiscal year not to exceed $75,000,000 to enable the Secretary to carry out the food sevice equipment assistance program for schools under title VII of this Act.

STATE ADMINISTRATIVE EXPENSES

SEC. 2207. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of title XIII of this Act.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the purposes of title XIII of this Act.

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 2208. There are hereby authorized to be appropriated $550,000,000 for the fiscal year ending September 30, 1979, $800,000,000 for the fiscal year ending September 30, 1980, $900,000,000 for the fiscal year ending September 30, 1981, and $950,000,000 for the fiscal year ending September 30, 1982, for the purpose of carrying out the program authorized by title XIV of this Act.

FOODS FOR THE ELDERLY

SEC. 2209. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of section 1505 of title XV of this Act.

NUTRITION EDUCATION AND TRAINING

SEC. 2210. There is hereby authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs under title XVI of this Act an amount equal to the higher of (a) 50 cents for each child enrolled in schools or in institutions within each State, or (b) $75,000 for each State.

EXPERIMENTAL OR DEMONSTRATION PROJECTS

SEC. 2211. In order to carry out the program provided for in section 1702 of title XVII of this Act, there is hereby authorized to be appropriated not to exceed $1,000,000 annually.

ADVANCE APPROPRIATIONS

SEC. 2212. Appropriations to carry out the provisions of this Act for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States.

CONTINUED AVAILABILITY OF FUNDS

SEC. 2213. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of this Act shall remain available for the purposes for which appropriated until expended.

SECRETARY'S ADMINISTRATIVE EXPENSES

SEC. 2214. (a) Not to exceed 3½ per centum of the funds appropriated for carrying out the provisions of this Act, other than title VI hereof, is hereby being made available to the Secretary for his administrative expenses under this Act.

(b) There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expense under titles IV, V (insofar as it relates to the school breakfast program), VI, VII, XIII, XIV, XVI, section 1702 of title XVII and section 2002 of title XX of this Act.

TITLE XXIII—ADMINISTRATION AND BUDGET

CENTRALIZATION OF ADMINISTRATION

SEC. 2301. Authority for the conduct and supervision of Federal programs to assist schools in providing food service programs for children is assigned to the Department of Agriculture. To the extent practicable, other Federal agencies administering programs under which funds are to be provided to schools for such assistance shall transfer such funds to the Department of Agriculture for distribution through the administrative channels and in accordance with the standards established under this Act.

NEW BUDGET

SEC. 2302. Appropriations and expenditures for this Act shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

TITLE XXIV—TREASURY PAYMENTS

SCHOOL LUNCH PROGRAM

SEC. 2401. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under section 302 of title III of this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

OTHER PROGRAMS

SEC. 2402. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under titles IV, VI, VII, and XIII of this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

TITLE XXV—MISCELLANEOUS PROVISIONS

NATIONAL SCHOOL LUNCH ACT AND CHILD NUTRITION ACT OF 1966

SEC. 2501. The National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, are hereby repealed.

REGULATIONS

SEC. 2502. The provisions of the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, which are relevant to current regulations of the Secretary governing all programs authorized under those Acts shall remain in effect until such regulations are revoked, suspended, amended, or modified by regulations issued pursuant to the National Child Nutrition Act.

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., May 11, 1979.

Mr. DANIEL MARCUS,
Acting General Counsel, USDA,
Washington, D.C.

DEAR MR. MARCUS: I very much appreciate the aid and assistance the General Counsel's office has provided the Committee over the years, particularly in the area of nutrition legislation.

If possible, I would again like to call upon the services of your office.

There has been interest in recent years in a comprehensive rewrite of the National School Lunch Act and the Child Nutrition Act of 1966. I would very much appreciate your office integrating the two statutes into one bill without any substantive changes. I recognize that this is a rather substantial undertaking, but believe that the Committee may want to use such a bill as the basis of its consideration of child nutrition legislation next year.

Completion of the draft bill by September 1979 would be most helpful.

With every good wish, I am

Sincerely,

GEORGE MCGOVERN,
Chairman, Subcommittee on Nutrition.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., May 16, 1979.

Hon. GEORGE MCGOVERN,
Chairman, Subcommittee on Nutrition, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGOVERN: In your letter of May 11, you asked if our office could provide assistance to the Senate Agriculture

Committee by drafting a bill that would integrate the provisions of the National School Lunch Act and the Child Nutrition Act of 1966 into a single statute without making any substantive changes.

We would be happy to assist you and your committee, and believe that we can produce such a draft bill, as you requested, by September of this year. If you or your staff have any questions as we proceed, please let us know.

Sincerely,

DANIEL MARCUS,
Acting General Counsel.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., October 2, 1979.

Hon. GEORGE MCGOVERN,
Chairman, Subcommittee on Nutrition, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGOVERN: We are pleased to forward to you the draft legislation prepared by our office which integrates the provisions of the National School Lunch Act and the Child Nutrition Act of 1966.

After meeting with Mr. Matz, Special Counsel, Senate Agriculture Committee, we have redrafted the legislation to incorporate the alterations requested by Mr. Matz. Attached to this letter is a list of the two technical amendments which are necessitated by the resolution of certain inconsistent provisions of the National School Lunch Act and Child Nutrition Act.

If you or your staff have any questions concerning this legislation, please contact Bonnie Luken of this office at 447-4396.

Sincerely,

DANIEL MARCUS,
General Counsel.

EXPLANATORY NOTES*

1. Section 201(g).—The definition in section 8 of the National School Lunch Act purports to cover the terms "child" and "children" wherever used in that Act. However, the definition cannot be reconciled with the express definition in section 13(a)(1) of the National School Lunch Act (title VIII of this "Act").

2. Section 301.—Cf. matching requirements which are based upon a school year.

3. Section 302 and Section 403(a).—This "grandfather" provision is not currently effective but could be triggered by a downward adjustment in the CPI.

4. Section 305.—Essentially the same provision, but stated in the negative, has been omitted. See the last sentence in section 13(i) which provides that any State unable to disburse funds payable to it under the section shall notify the Secretary by January 1 of its intention not to administer the program.

5. Section 803.—The present act uses the word "may." Since later program provisions are mandatory, "shall" has been substituted.

6. Section 901 and Section 1403(a).—This provision of the National School Lunch Act refers to school lunch and school breakfast programs and also to programs under "section 13 of this Act." When the provision was enacted (P.L. 91-248, 84 Stat. 212, May 14, 1970), section 13 encompassed both the summer food service program for children (currently section 13 of the National School Lunch Act) and the child care food program (currently section 17 of the National School Lunch Act). Although the reference to section 13 was not changed, it is clear from section 17(i), enacted by P.L. 95-627, 92 Stat. 3609, Nov. 10, 1978, that the requirements of section 11(e) of the National School Lunch Act apply also to the child care food program.

7. Section 1001.—When this provision was enacted, the term "service institution" encompassed both "service institution" and "institution," as presently defined in sections 13 and 17 of the National School Lunch Act.

8. Section 1501(a) and Section 2101.—This reference to "institutions" preceded the use of the term in the child care food program. It referred to charitable institutions authorized to receive section 32 commodities for the use of needy persons. See the food donation regulations, 7 CFR Part 250.

9. Section 1501(c).—Section 416 of the Agricultural Act of 1949 and section 709 of the Food and Agriculture Act of 1965 authorize the Secretary to donate commodities acquired under those sections to school lunch programs.

10. Section 1501(d).—The term "institution" here encompasses "institution" as defined in the child care food program, "service institution" as defined in the summer food service program for children, "local agency" as defined in the special supplemental food program, and food programs for the elderly.

11. Section 1504(f)(2).—This has been adapted from section 16 of the Child Nutrition Act of 1966. Read literally, the section would apply also to States operating under the special supplemental food program which has a separate records provision.

12. Section 1801.—Section 19(e) of the Child Nutrition Act authorizes the Secretary to issue such regulations as are necessary to implement the nutrition education and training programs, a provision which appears redundant in view of the language of section 10 of the Child Nutrition Act. However, there may be some question as to whether the last sentence of section 10, CNA, is applicable to the nutrition education and training program. Because section 19(e) of CNA provides for the NET regulations, section 10, CNA, is probably not applicable to NET.

13. Section 2101.—Subsection (a) of this section was added by section 7 of P.L. 95-627, 92 Stat. 3621, November 10, 1978. Subsection (b) of this section was a part of section 7 of the Child Nutrition Act of 1966 since its amendment by P.L. 95-166, 91 Stat. 1338, November 10, 1977.

14. Section 2207(a).—This provision is currently in section 4 of the Child Nutrition Act of 1966, applicable to the school breakfast program. A similar provision, applicable to the national school lunch program, was enacted as independent legislation (Public Law 90-302, May 8, 1968, 82 Stat. 117).

TECHNICAL AMENDMENTS

1. Title IX, section 901 of this Act substitutes the word "shall" for the word "may" used in section 17(a) of the National School Lunch Act. The word "shall" has been substituted because the Secretary has no discretion to refuse to carry out the program.

2. Section 19(e) of the Child Nutrition Act of 1966 authorizes the Secretary to issue such regulations as are necessary to implement the nutrition education and training program (NET). Section 10 of the Child Nutrition Act authorizes the Secretary to issue such regulations as are necessary to implement the Child Nutrition Act and the National School Lunch Act. Since § 19(e), CNA, provides for the issuance of the NET regulations it is redundant for § 10, CNA, to provide for the same issuance of the NET regulations. Further, the NET program is carried out by grants from the Secretary to State educational agencies. All other NSLA and CNA programs are carried out by reimbursements from the Secretary to the State educational agencies for the number of meals served. It would be difficult to transfer NET funds to other programs. Therefore, § 10, CNA, is amended to provide that funds may be transferred from one program to another within a state at the Secretary's discretion, except that funds cannot be transferred from the NET program.

TABLE 1.—*Cross reference*

Old legislation	New legislation
I NSLA[1]	
2	101
3	2201, 2212, 2213
4	301, 302
5	Omitted
6	312(b)
6(a)	1501(a), 1701, 2214(a)
6(b)	1504(a)
6(c)	1504(b)
6(d)	1504(c)
6(e)	1501(i), 1503(a), 1504(d)
7	301, 305, 306, 2401
8	201(g), 307(a), (b), (d)
9(a)	310, 311(a), (b)
9(b)	308, 309(a), (b), (d), (e)
9(c)	309(c), (h), 312(a), 1101, 1501(c)
10	1201
11(a)	304(a), 404(a)
11(b)	307(c)
11(c)	Omitted
11(d)	Omitted
11(e)	309(f), (g), 1001
12(a)	1801(a)
12(b)	Omitted
12(c)	201, 1103, 1105
12(d)	201(a-f)
12(e)	1105
12(f)	304(b), 404(b)
12(g)	1901
12(h)	1106
13(a)	201, 801, 802
13(a)(2)	812
13(a)(3)	804
13(a)(5)	808
13(b)	805
13(b)(2)	811(b)
13(c)	811(c)
13(d)	806
13(e)	807
13(f)	810, 811, 813
13(g)	809, 816
13(h)	811, 1501(e)
13(i)	1204
13(j)	1104
13(k)	814
13(l)	815
13(m)	1801(a)
13(n)	1003
13(o)	1902
13(p)	2204
14(a)	1501(b), 1505(b)
14(b)	1501(h)
14(c)	1505(a), 2209
14(d)	1502(a)
14(e)	1107
15	2001
16	1504(f)
17(a)	901, 902, 903
17(b)	905(a)
17(c)	905(b)
17(d)	904, 1407(a-c)
17(e)	909
17(f)	906
17(f)(4)	907
17(f)(5)	908, 1801
17(f)(6)	1406
17(g)	911
17(h)	1501(f), 1504(e)
17(i)	1004
17(j)	913
17(k)	910
17(l)	915, 1501(g)
17(m)	1205
17(n)	912
17(o)	914
17(p)	1104
17(q)	1801(b)
17(r)	2205
18	Omitted
19	Omitted
20(d)	313
21	Omitted
22	101, 311(c), 501

[1] National School Lunch Act, Public Law 79-396, 60 Stat. 230, June 4, 1946.

*Prepared by the Department of Agriculture, Office of General Counsel.

New legislation	Old legislation
II CNA[2]	
2	101
3	601, 602, 603, 2203
4(a)	402, 2202, 2302
4(b)	402, 403, 405(a–c)
4(c)	406
4(d)	405(d), 1002
4(e)	407, 408
4(f)	1202
4(g)	401
5(a)	701, 2206
5(b)	702, 703, 705
5(c)	701, 706
5(d)	1203(a), (b)
5(e)	704, 705, 1203(c)
5(f)	707
6	2402
7(a)	2207(a)
7(a)(5)	1304
7(a)(6)	1207
7(b)	1306
7(c)	1304(b)
7(d)	1301(e)
7(e)	1302, 1304(c), 1305(b)
7(f)	1304(d)
7(g)	1305(a)
7(h)	1303
7(i)	2207(b)
8	409, 1501(d)
9	1101
10	1703, 2101
11(a)	1103
11(b)	1104, 1105
12	1102
13	2301
14	2214(b)
15	201(a–f)
15(f)	201g
16	1801(a)
17(a)	1301(a–d), 1401
17(a)(6)	1207
17(b)	1402
17(b)(14)	1412(b)
17(c)	1403
17(d)	1407(a–c)
17(e)(1)	1409(a)
17(e)(2)	1409(b)
17(f)	1405
17(f)(4)	1414
17(f)(5)	1408(a), 1801(a)
17(f)(6)	1406
17(f)(7)	1407(e)
17(f)(8)	1409(c)
17(f)(9)	1410
17(f)(10)	1407(d)
17(f)(11)	1411
17(f)(12)	1412
17(f)(13)	1412(c)
17(f)(14)	1409(d)
17(g)	1415, 2208
17(h)	1413
17(i)	1404
17(j)	1408(b)
17(k)	2002(a)
17(l)	1501(g)
18(a)	1702
18(b)	2211
19(a)	1601(a)
19(b)	1601(b)
19(c)	1602
19(d)	1603
19(d)(4)	1605(a)
19(d)(5)	1606
19(e)	1604, 2101
19(f)(2)	1607(a)
19(f)(3)	1608
19(f)(4)	1607(b)
19(g)(1)	1607(c)
19(g)(2)	1801(a)
19(h)(1)	1611
19(h)(2)	1609
19(h)(3)	1609
19(i)(2)	1610
19(j)(3)	1605(b), 2210
19(f)(1)	1605(c)
20	101, 501(a)

[1] National School Lunch Act, Public Law 79–396, 60 Stat. 230, June 4, 1946.

[2] Child Nutrition Act of 1966, Public Law 89–642, 80 Stat. 885, Oct. 11, 1966.

TABLE 2.—*Cross reference*

New legislation	Old legislation
101	2,22 NSLA[1]
	2,20 CNA[2]
201(a–f)	12(d), 13(a) NSLA
	15 CNA
201(g)	8 NSLA, 15(f) CNA
301	4,7 NSLA
302	4 NSLA
303	11 NSLA
304(a)	11(a) NSLA
304(b)	12(f) NSLA
305	7 NSLA
306	7 NSLA
307(a) & (b)	8 NSLA
307(c)	11(b) NSLA
307(d)	8 NSLA
308	9(b) NSLA
309(a), (b)	9(b) NSLA
309(c)	9(c) NSLA
309(d), (e)	9(b) NSLA
309(f), (g)	11(e) NSLA
309(h)	9(c) NSLA
310	9(a) NSLA
311(a), (b)	9(a) NSLA
311(c)	22 NSLA
312(a)	9(c) NSLA
312(b)	6(a)(3) NSLA
313	20(d) NSLA
401	4(g) CNA
402	4(a), (b) CNA
403	4(b)(1) CNA
404(a)	11(a) NSLA
404(b)	12(f) NSLA
405(a), (b), (c)	4(b)(2)(A), (B), (C) CNA
405(d)	4(d) CNA
406	4(c) CNA
407	4(e) CNA
408	4(e) CNA
409	8 CNA
501	22 NSLA, 20 CNA
601	3 CNA
602	3 CNA
603	3 CNA
701	5(a), (c) CNA
702	5(b) CNA
703	5(b) CNA
704	5(e) CNA
705	5(b), (e) CNA
706	5(c) CNA
707	5(f) CNA
801	13(a)(1) NSLA
802	13(a)(1) NSLA
803	13(n) NSLA
804(a)	13(a)(3) NSLA
804(b)	13(a)(4) NSLA
805(a)	13(b)(1) NSLA
805(b)	13(b)(3) NSLA
806	13(d) NSLA
807(a)	13(e)(1) NSLA
807(b)	13(e)(2) NSLA
808	13(a)(5) NSLA
809	13(g) NSLA
810	13(f) NSLA
811(a)	13(f), (h) NSLA
811(b)	13(b)(2) NSLA
811(c)	13(c) NSLA
812	13(a)(2) NSLA
813	13(f) NSLA
814	13(k) NSLA
815	13(l) NSLA
816	13(g) NSLA
901	17(a) NSLA
902	17(a) NSLA
903	17(a) NSLA
904	17(d) NSLA
905(a)	17(b) NSLA
905(b)	17(c) NSLA
906(a)	17(f)(1) NSLA
906(b)	17(f)(2) NSLA
906(c)	17(f)(3) NSLA
906(d)	17(f)(4) NSLA
907	17(f)(4) NSLA
908	17(f)(5) NSLA
909	17(e) NSLA
910	17(k) NSLA
911	17(g) NSLA
912	17(n) NSLA
913	17(j) NSLA
914	17(o) NSLA
915	17(l) NSLA
1001	11(e)(1) NSLA
1002	4(d) CNA
1003	13(n) NSLA
1004	17(i) NSLA
1101	9(c) NSLA; 9 CNA
1102	12 CNA
1103	12(c) NSLA; 11(a) CNA
1104	13(j), 17(p) NSLA; 11(b) CNA
1105	12(c) NSLA; 11(b) CNA
1106	12(h) NSLA
1107	14(e) NSLA
1201	10 NSLA
1202	4(f) CNA
1203(a), (b)	5(d) CNA
1203(c)	5(e) CNA
1204	13(i) NSLA
1205	17(m) NSLA
1206	19(d)(6) CNA
1207	7(a)(6) CNA
1301(a), (b), (c), (d)	7(a) CNA
1301(e)	7(d) CNA
1302	7(e) CNA
1303	7(h) CNA
1304(a)	7(a)(5) CNA
1304(b)	7(c) CNA
1304(c)	7(e) CNA
1304(d)	7(f) CNA
1305(a)	7(g) CNA
1305(b)	7(e) CNA
1306	7(b) CNA
1401	17(a) CNA
1402	17(b) CNA
1403	17(c) CNA
1404	17(i) CNA
1405	17(f) CNA
1406	17(f)(6) CNA
1407(a), (b), (c)	17(d) CNA
1407(d)	17(f)(10) CNA
1407(e)	17(f)(7) CNA
1408(b)	17(j) CNA
1409(a)	17(e)(1) CNA
1409(b)	17(e)(2) CNA
1409(c)	17(f)(8) CNA
1409(d)	17(f)(14) CNA
1410	17(f)(9) CNA
1411	17(f)(11) CNA
1412(a)	17(f)(12) CNA
1412(b)	17(b)(14) CNA
1412(c)	17(f)(13) CNA
1413	17(h) CNA
1414	17(f)(4) CNA
1415	17(g) CNA
1501(a)	6(a) NSLA
1501(b)	14(a) NSLA
1501(c)	9(c) NSLA
1501(d)	8 CNA
1501(e)	13(h) NSLA
1501(f)	17(h) NSLA
1501(g)	17(i) NSLA
1501(h)	14(b) NSLA
1501(i)	6(e) NSLA
1502	14(d) NSLA
1503(a)	6(e) NSLA
1503(b)	17(h) NSLA
1504(a)	6(b) NSLA
1504(b)	6(c) NSLA
1504(c)	6(d) NSLA
1504(d)	6(e) NSLA
1504(e)	17(h) NSLA
1504(f)(1)	16(a) NSLA
1504(f)(2)	16(b) NSLA
1505(a)	14(c) NSLA
1505(b)	14(a) NSLA
1601(a)	19(a) CNA
1601(b)	19(b) CNA
1602	19(c) CNA
1603(a)	19(d)(1)
1603(b)	19(d)(2)
1603(c)	19(d)(3)
1604	19(e) CNA
1605(a)	19(d)(4) CNA

1605(b)	19(j)(2) CNA
1605(c)	19(j)(3) CNA
1606	19(d)(5) CNA
1607(a)	19(f)(1) CNA
1607(b)	19(f)(3) CNA
1607(c)	19(f)(4) CNA
1608	19(f)(2) CNA
1609	19(h)(1)(2) CNA
1610	19(h)(3) CNA
1611	19(g)(2) CNA
1701	6(a)(3) NSLA
1702	18(a) CNA
1703	10 CNA
1801(a)	12(a), 13m NSLA
	17(f)(5), 19(g)(1), 16 CNA
1801(b)	17(q) NSLA
1901	12(g) NSLA
1902(a)	13(o)(1) NSLA
1903(b)	13(o)(2) NSLA
1902(c)	13(o)(3) NSLA
2001	15 NSLA
2002	17(k) CNA
2101	10 CNA; 19(e) CNA
2201	3 NSLA
2202	4(a) CNA
2203	3 CNA
2204	13(p) NSLA
2205	17(r) NSLA
2206	5(a) CNA
2207(a)	7(a) CNA
2207(b)	7(i) CNA
2208	17(g) CNA
2209	14(c) NSLA
2210	19(j)(2) CNA
2211	18(b) CNA
2212	3 NSLA
2213	3 NSLA
2214(a)	6(a) NSLA
2214(b)	14 CNA
2301	13 CNA
2302	4(a) CNA
2401	7 NSLA
2402	6 CNA

TABLE 3.—*Omitted provisions*

GENERAL

All obviously obsolete provisions relating to a prior year.

References to section 10, NSLA, or to Secretary as an alternate to State. See, for example, section 5(f), (1) CNA. It would not seem necessary to refer to operation by the Secretary in view of the express language of provisions authorizing the Secretary to act. See title XII of the new "Act." Also, if references are to be made to the Secretary as an alternate program administrator, the references to operation by the Secretary should be made much more frequently.

A reference to "grants-in-aid" is made only in the "Declaration of Policy." The various program provisions are specific as to the type of program to be conducted.

NATIONAL SCHOOL LUNCH ACT

§ 5 and all references to § 5.

§ 6(a)(2).

References in § 7 to agreements between Secretary and States.

The proviso at the end of § 11(a).

§ 11(c).

§ 11(d).

§ 12(b).

§ 12(d)(4) & (5).

The proviso at the end of § 13(b)(1).

The reference to the study at the end of § 13(b)(3).

§ 13(b)(4).

The first sentence of the last ¶ of § 14(d).

§ 18.

§ 19.

§ 20(a), (b), (c).

§ 21.

CHILD NUTRITION ACT OF 1966

The third sentence of § 4(c).

The last sentence of § 4(g).●

By Mr. SARBANES:

S. 1899. A bill to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date 10 years after the effective date of such act to the date 20 years after such effective date; to the Committee on Energy and Natural Resources.

● Mr. SARBANES. Mr. President, I am pleased to introduce this legislation which would extend the life of the C. & O. Canal Citizen Advisory Commission beyond its current expiration date in 1981. The intent of this bill is that the outstanding work of the Commission, one of the most effective and useful citizen panels ever created by Federal law, be continued for an additional 10 years. This legislation is being advanced in the House of Representatives by my colleagues Congressman MICHAEL BARNES and Congresswoman BEVERLY BYRON, where congressional districts encompass the Maryland portion of the national park.

The Chesapeake and Ohio Canal National Historical Park Commission, as it is officially known, was created in 1971 at the same time that the canal was designated a national park. The Commission was established in recognition of the unique character of the canal. Unlike most other national parks, the C. & O. Canal is situated close by thriving urban and suburban communities in the District of Columbia and Maryland. Because of this close proximity, the Citizen Advisory Commission has been an important instrument in providing a voice for the concerns of the members of these communities.

During the past 8 years, volunteer representatives from Montgomery, Frederick, Washington, and Allegany Counties in Maryland have joined with other citizens from the District of Columbia, Virginia, and West Virginia in providing valuable advice regarding the operation and maintenance of the canal. With the guidance of the Commission, the Department of the Interior developed a comprehensive master plan for the long-range management of the canal. The result of this activity has been greater use and enjoyment of this national treasure by thousands of Americans. It is my hope that Congress will act to insure the continued success of the C. & O. Canal as a national park by retaining this very worthwhile citizen advisory group, the Chespeake and Ohio Canal National Historical Park Commission.●

ADDITIONAL COSPONSORS

S. 300

At the request of Mr. KENNEDY, the Senator from Nevada (Mr. LAXALT) was was added as a cosponsor of S. 1619, a bill Antitrust Enforcement Act of 1979.

S. 1619

At the request of Mr. MATHIAS, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 300, the to provide that motion picture films and video tapes which are produced for sale or rent as training films are to be treated as educational films for purposes of the investment credit.

S. 1865

At the request of Mr. KENNEDY, the Senator from California (Mr. HAYAKAWA) added as a cosponsor of S. 1865, the Radiation Exposure Compensation Act of 1979.

S. 1884

At the request of Mr. HART, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S. 1884, a bill to provide that legislation appropriating funds for payment of salaries to federal employees shall be enacted separately from other legislation.

AMENDMENT NO. 518

At the request of Mr. HUDDLESTON, the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of amendment No. 518 intended to be proposed to the resolution of ratification of the treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms (Ex. Y, 96–1).

AMENDMENT NO. 520

At the request of Mr. HUDDLESTON, his name was added as a cosponsor of amendment No. 520 proposed to H.R. 4930, the Interior appropriations bill.

SENATE RESOLUTION 257—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. CHURCH, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget.

S. RES. 257

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1012, a bill to provide for the participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes. Such a waiver is necessary to allow the authorization of $20,800,000 in additional budget authority for fiscal year 1980 to carry out United States participation in this exposition.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline, because of a delay in the presentation of the Administration's position on this legislation.

The effect of defeating consideration of this supplemental authorization will be a disruption of U.S. efforts to prepare for this exposition.

The desired authorization will not delay the appropriations process.

SENATE RESOLUTION 258—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. CHURCH, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget.

S. RES. 258

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1668, a bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal year 1980. Such a waiver is necessary to allow the authorization of $207,290,000 in additional budget authority for fiscal year 1980 for migration and refugee assistance. The amount previously authorized for this purpose, $248,951,000, has proven inadequate to fund the United States refugee effort.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline, because of the unexpected increases in the flow of refugees from Southeast Asia.

The effect of defeating consideration of the supplemental authorization will be a disruption of the U.S. refugee program.

The desired authorization will not delay the appropriations process.

AMENDMENTS SUBMITTED FOR PRINTING

ADOPTIVE ASSISTANCE AND CHILD WELFARE ACT OF 1979—H.R. 3434

AMENDMENT NO. 522

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to H.R. 3434, an act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

● Mr. SCHWEIKER. Mr. President, today I submit an amendment to H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979.

This amendment is similar to amendment No. 507, which I submitted October 9, as it makes urgently needed improvements in title XIX (medicaid) program administration by requiring prompt installation of computerized medicaid management information systems. After informal consultation with Senate Finance Committee staff, however, I have made some minor changes in the amendment to insure that sufficient flexibility among the States is allowed. I appreciate the help the Finance Committee staff has given me in drawing up this amendment, and feel that it has been improved.

Mr. President, I ask unanimous consent that the text of my amendment, a section-by-section analysis, and a summary of the status of MMIS in the States be printed at this point in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follow:

AMENDMENT No. 522

At the end of the bill insert the following new sections:

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. 308. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new section:

"(r)(1) The amount otherwise payable for any quarter under paragraphs (2) and (7) of subsection (a) (without regard to this subsection) shall be reduced by an amount equal to—

"(A) 25 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1980, and ending before July 1, 1981,

"(B) 50 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1981, and ending before July 1, 1982,

"(C) 75 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1982, and ending before July 1, 1983, and

"(D) 100 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1983,

with respect to any State which fails to meet the requirements of paragraph (2).

"(2)(A) In order to receive payments under section 1903(a) without being subject to reduction under paragraph (1) of this subsection, a State must provide that mechanized claims processing and information retrieval systems of the type described in section 1903 (a)(3)(A)(i) which are approved by the Secretary as achieving the objectives of an effective system at reasonable cost (whether such systems are operated directly by the State or by another person under a contract with the State) be operational with respect to the entire State, and that such systems meet the requirements of paragraph (3) of this subsection.

"(B) With respect to quarters ending before July 1, 1981, payments to a State shall not be subject to reduction under paragraph (1) of this subsection if such State has submitted, and the Secretary has not formally disapproved, an advanced planning document which specifically describes (in reasonable detail) the State's plans for installing and operating mechanized claims processing and information retrieval systems described in subparagraph (A).

"(3)(A) In order to be approved by the Secretary, or to be reapproved by the Secretary in the case of a system which is initially approved but is subsequently disapproved, mechanized claims processing and information retrieval systems must meet the following requirements:

"(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types and items of service, including prescribed drugs, to the extent such profiles are not duplicative of information developed and available under the program established under part B of title XI of this Act.

"(ii) The State must provide that information on possible fraud or abuse which is obtained from, or developed by, the systems is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

"(iii) The systems must meet the standards developed by the Secretary under paragraph (4).

"(B) Any mechanized claims processing and information retrieval system which does not meet the requirements of subparagraph (A) shall not be approved by the Secretary (in the case of a State which is seeking initial approval of its systems) or shall be disapproved by the Secretary (in the case of a State which has systems which were initially approved). The Secretary shall periodically reassess the systems in operation in each State to determine whether the systems should be disapproved.

"(4) The Secretary, with respect to State systems, shall—

"(A) develop written approval procedures for use in approving State systems, including specific criteria for testing systems in operation to insure that all performance standards and requirements are met;

"(B) establish and periodically update the systems performance criteria, objectives, regulations and guides;

"(c) give priority to aiding States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

"(D) for the purpose of ensuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

"(i) develop a uniform identification coding system for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under the State plans (approved under this title) or under title XVIII;

"(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

"(F) develop and disseminate clear definitions of those types of reasonable costs relating to the State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

"(G) report on or before April 1, 1981, to the Congress on the extent to which States have developed and operated effective mechanized claims processing and information retrieval systems.

"(5)(A) In any case in which a State's mechanized claims processing and information retrieval system is disapproved by the Secretary pursuant to paragraph (3)(B) of this subsection, the State (with the assistance of the Secretary) shall develop a corrective action plan for bringing the system back into compliance with the requirements of paragraph (3)(A) of this subsection, and submit such plan to the Secretary within a period of time which the Secretary determines to be adequate to submit such plan, but not to exceed one year after the disapproval.

"(B) If the State's system has not been reapproved by the Secretary as being in compliance with the requirements of paragraph (3)(A) within a period of time after disapproval which the Secretary determines to be adequate to comply with such requirements but not to exceed two years, payments to such State under this section shall be made without regard to the provisions of subsection (a)(3).

"(C) If the State's system has not been so reapproved within one year after the date on which payments to the State were reduced under subparagraph (B), the payments with respect to administrative costs made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a reimbursement rate of 25 percent rather than the percentage specified in such paragraphs.

"(D) If the State's system has not been so reapproved within two years after the date on which payments to the State were reduced under subparagraph (B), no payments with respect to administrative costs shall be made to such State under paragraphs (2), (3), and (7) of subsection (a).

"(E) If a State's system is reapproved, payments under this section shall be made without regard to this paragraph beginning with the first quarter that begins after the date of such reapproval.

"(6)(A) The Secretary shall waive the provisions of this subsection in which or in part with respect to any State which had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures reimbursable under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title, including the State's ability to develop provider, physician, and patient profiles as described in paragraph (3)(A)(i).

"(B) A waiver granted under subparagraph (A) may be withdrawn if the Secretary determines that the State no longer meets the criteria for such waiver. If such waiver is withdrawn, the State shall develop a plan to be followed for the expeditious installation or modification of a mechanized claims processing and information retrieval system.

"(C) If the State's system is not approved by the Secretary as being in compliance with the requirements of paragraph (3)(A) within such period of time after the waiver granted under subparagraph (A) is withdrawn as the Secretary determines to be reasonable to comply with such requirements, but not to exceed two years, payments made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a rate equal to 50 percent of the rate otherwise payable under such paragraphs.

"(D) If such system has not been so approved within a period of one year after the expiration of the period described in subparagraph (C), payments made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a rate equal to 25 percent of the rate otherwise payable under such paragraphs.

"(E) If such system has not been so approved within a period of one year after the expiration of the period described in subparagraph (D), no payments shall be made to such State under paragraphs (2), (3), and (7) of subsection (a).

"(7)(A) The reduction in payments to States required under paragraphs (1), (5) and (6) of this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the requirements of such paragraphs due to circumstances beyond the control of such State.

"(B) If the Secretary determines under subparagraph (A) that a State is not subject to such reductions, he shall recommend a plan for corrective action so that such State's system will expeditiously meet the requirements for approval under this subsection, and shall report to the Congress on each such determination, including a description of the plan for corrective action.".

"(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.".

EXCHANGE OF INFORMATION ON TERMINATED OR SUSPENDED PROVIDERS

SEC. 309. (a) Section 1862(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of any determination made under the provisions of this subsection.".

(b) Section 1866(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Where an agreement filed under this title by a provider of services has been terminated by the Secretary, the Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of such termination.".

(c) Section 1902(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (40) the following new paragraph:

"(41) provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the State plan, the State agency shall promptly notify the Secretary of such action.".

SECTION-BY-SECTION ANALYSIS OF SCHWEIKER MEDICAID AMENDMENT

Section 308:

Paragraphs 1–2: The first two paragraphs of the amendment establish penalties for states that fail to institute and have approved by HEW a computerized claims processing and information retrieval system (also known as a Medicaid Management Information System, MMIS). The penalties are in the form of reduced federal matching funds for the administration of the State Medicaid program. States (unless waived) must have submitted plans for installation by July 1, 1980, and must have the system operational by July 1, 1981.

Paragraph 3A: Stipulates that in order for a state's computerized system to be approved, making the state eligible for increased matching funds, certain basic requirements must be met.

(1) The system must include provider, physician, and patient profiles which are sufficient to provide charting of drug and service use.

(2) The state must agree that all information on possible fraud or abuse obtained from the system be turned over to the State Medicaid Fraud Control Unit so that further action may be taken.

(3) The system must meet certain standards developed by HEW under the direction of Section 308 Paragraph 4 of this bill.

Paragraph 3B: Requires HEW to review periodically state systems in operation to see if they continue to meet established standards. If they do not, they will be de-certified and subject to the penalties established in Section 308 Paragraph 5.

Paragraph 4: Requires the Secretary of HEW to develop specific criteria for checking states' systems in operation, and forces HEW to take a more active role in advocating computerized systems and aiding states with technical problems. HEW is directed to give priority to developing the capability of the computerized system to detect cases of possible fraud or abuse, to develop guidelines for states to follow so that their Medicaid and Medicare systems become compatible, and to define the precise kinds of costs that the federal government will reimburse as part of the mechanized management system. HEW must report to Congress on the progress of the states in developing effective systems.

Paragraph 5: Outlines penalties to be assessed to states that fail to meet minimum established standards upon periodic inspection. States are given up to two years to bring their system into compliance with standards before they lose federal funds. HEW is to aid the noncomplying state to make necessary improvements. If states fail to meet standards after two years have elapsed from the finding of noncompliance, they become subject to penalties in the form of reduced matching funds for Medicaid administrative costs.

If a state system is recertified by HEW, full federal funds are restored.

Note that the penalties in this paragraph are different from those established in paragraphs 1–2. Paragraphs 1–2 penalties apply to states that fail to install mechanized systems; these penalties apply to states that have installed an initially approved system but have failed to maintain it properly. These penalties will apply, for example, to any of the states that already have initially approved systems if inspection shows that their system does not meet minimum performance standards.

Paragraph 6: A waiver provision—requires the Secretary to waive the requirement that states install mechanized systems if the state had a 1976 population of under one million, FY 1976 total Medicaid expenditures of under $100 million, and can reasonably demonstrate that the efficiency of administration of its Medicaid program would not significantly improve with MMIS installation. This section also gives the Secretary the authority to lift the waiver if he determines the situation has changed enough in the state that a mechanized system would be beneficial.

Paragraph 7: Provides that the penalties for states outlined in paragraphs 1–2 and 5 of this amendment will not apply if the Secretary determines, and demonstrates to Congress, that a state is unable to comply with the requirements of the amendment due to circumstances beyond the control of the state.

Section 309:

Provides that information on the status of providers (e.g. "terminated," "suspended," or "On probation") must be exchanged between the federally administered Medicare

system and each state's Medicaid system, and vice-versa.

STATUS OF MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)

1. States approved for 75% Federal Financial Participation (FFP) for operations of a mechanized claims processing and information retrieval system: (27)

Alabama, Arkansas, California, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, and Louisiana.

Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Mexico, New York (N.Y.C. only), North Carolina, North Dakota, and Ohio.

Oklahoma, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin.

2. States that do not have fully operational mechanized claims processing and information retrieval systems. Some states listed have partially operational systems, but have not yet met the standards for 75% FFP.

Alaska, Colorado, Connecticut, Delaware, District of Columbia, Guam, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Mississippi, and Missouri.

Nevada, New Jersey, New York (Balance of State), Northern Mariana Islands, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Virgin Islands, West Virginia, and Wyoming.

3. No Medicaid Program.

American Samoa, and Arizona.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to record a date and time change in a previously announced hearing of the Subcommittee on Federal Spending Practices and Open Government. The hearing on fraud and abuse in the Community Services Administration will be held on Friday, October 19, 1979, at 9:30 a.m. in room 3302 Dirksen Senate Office Building.

Anyone wishing additional information about this hearing may contact the subcommittee office at 224-0211.●

SUBCOMMITTEE ON AGRICULTURE CREDIT AND RURAL ELECTRIFICATION

● Mr. ZORINSKY. Mr. President, on November 6, 1979 the Subcommittee on Agricultural Credit and Rural Electrification will hold an oversight hearing on the Farmers Home Administration. The hearing is scheduled for 9:00 a.m. in room 324 of the Russell Senate Office Building.

The subcommittee intends to examine a number of problems related to the current operations of the Farmers Home Administration. These include problems relating to the rapidly growing, outstanding debt to the agency and personnel problems associated with loan supervisions and counseling.

In addition the subcommittee will examine both the operation of the guaranteed agricultural loan programs and difficulties the agency has had with respect to the economic disaster loan program. The subcommittee also intends to look into the problems relating to the installation of a management information system at the agency.

The Agricultural Credit and Rural Electrification Subcommittee will hear from invited witnesses on November 2. Written testimony is welcome, and may be sent to the Senate Agriculture Committee, Russell 324.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, October 17, 1979 beginning at 2 p.m. to hold a hearing on pending executive nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the sessions of the Senate today, Wednesday, October 17, 1979 and Thursday, October 18, 1979 to hold hearings on the SALT II treaty and protocol.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TAXFLATION DISTORTS OUR TAX POLICY

● Mr. DOLE. Mr. President, whenever politicians talk of modifying the tax structure, they discuss things like altering the progressivity of the income tax, shifting the tax burden from the individual to the corporation, and increasing or decreasing the use of tax incentives to modify behavior. Lately there has been consideration of using a value added tax to reduce the tax liability on personal income. These are all questions that need to be aired, but it must be pointed out that, in a very real sense, politicians who address these issues simply cannot know what they are talking about.

The problem is that inflation distorts the tax system. Without taking inflationary distortions into account, it is impossible to discuss intelligently the impact of making this or that change in tax policy. Tax rates on given income levels change each year because of inflation, although Congress periodically adjusts the rates, just as it changes income tax deductions, exemptions, and credits. Some of the rate reductions made by Congress are designed to compensate for the effects of inflation.

Yet the very fact that Congress tries to make such compensation at the same time as it makes other changes in the tax laws makes it difficult to sort out the effects of the compensation from the other policy changes. As a result, we cannot know for sure whether policy changes have quite the intended effect.

Consider the very basic matter of setting the rate of tax deemed appropriate for certain income levels. Suppose a 10-percent inflation rate has increased overall taxes by pushing people into higher brackets and increasing the importance of the marginal rate within each bracket.

Further, suppose that Congress wishes to correct this effect by cutting tax rates. Most congressional tax cuts have other effects, such as increasing the progressivity of the system. But how can we separate out the inflation-correcting action from the change in progressivity? Because of recurring inflationary tax increases, we do not have the ability to make clear-cut changes in tax policy whose effects are readily measurable.

A further point should be made. When Congress cuts taxes partly in order to compensate for inflation, the cuts do not correspond exactly to the inflation tax burden. That burden, or "taxflation," falls more heavily on some groups than others. In cutting taxes, Congress never gears the tax cuts to income groups that have suffered most from taxflation. As a result, some people are never adequately compensated for taxflation, while others are overcompensated.

There is a simple way to clarify the situation so that Congress can see just what it is doing when it adjusts tax policies. All that is needed is to index the income tax for inflation so that inflationary tax increases are automatically compensated for. Not only will automatic adjustments relieve Congress of this problem, but the compensation for taxflation will be aimed at taxpayers in direct proportion to the tax increase they have experienced.

Mr. President, the Tax Equalization Act, S. 12, would accomplish the very goal described above. It would require adjusting the income tax brackets, zero bracket amount, and personal exemption by the percentage rise in the Consumer Price Index for the previous fiscal year. This system will provide the maximum correction possible in time for preparing withholding tables for the coming tax year. We should get on with tax equalization so that we may have better control over tax policy. This is one of the many reasons why the Senator from Kansas introduced S. 12, and one of the reasons why the bill is needed now.●

SECRETARY VANCE PROPOSES INTERNATIONAL STRATEGY TO MEET COMMON NEEDS IN A DIVERSE WORLD

● Mr. McGOVERN. Mr. President, Secretary of State Cyrus Vance made an excellent speech last week before the 34th session of the U.N. General Assembly. He placed the United States on the side of taking advantage of new opportunities for collective effort and creative diplomacy to meet the increasingly complex international challenges we face. He called on the members of the United Nations to resist the voices of international confrontation. The need, he said,

is to resolve and not to deepen the divisions which hinder international progress on arms control, energy, economic growth, and other major problems. Mr. President, Secretary Vance has set out a challenging agenda for the General Assembly to find enlarged areas of common ground where diverse nations with diverse interests can stand. I hope that other members of the U.N. will respond constructively to his proposals so that we may have a fruitful and important session of the General Assembly in the weeks ahead. I ask permission to print the text of Secretary Vance's remarks in the RECORD for the benefit of my colleagues.

The text of the remarks follows:

UN: COMMON NEEDS IN A DIVERSE WORLD

(By Secretary of State Vance)

We meet in this General Assembly on the threshold of a new decade. It will be a time of complex challenge—a period in which, more than ever, cooperative endeavors among nations are a matter not only of idealism but of direct self-interest.

The decade now drawing to a close has been characterized by rapid change—far-reaching and fundamental.

Awesome technological developments are all about us.

The assertion of national independence has reshaped the political geography of our planet.

Within nations, we see an accelerating rise in individual economic, political and social expectations.

The unrelenting hostility of the Cold War has given way to a more complex relationship between East and West, with elements of both competition and cooperation.

The simple notion of a bipolar world has become obsolete. Increasingly there is a profusion of different systems and allegiances and a diffusion of political and military power.

The world economic order is also undergoing inexorable transformations. Many nations, formerly among the disadvantaged, now are achieving global economic power. Economic interdependence has become a daily reality for the citizens of every nation.

These sweeping changes have, for the most part, worked in constructive directions, changing lives for the better and opening new possibilities for collective effort and creative diplomacy.

But while these developments demonstrate that progress is possible, they by no means demonstrate that it is inevitable. I say this for two reasons.

First, in a number of areas, the pace of current progress is dwarfed by the scope of coming challenges. The next decade will decide whether we have the collective wisdom and the common will to surmount a series of imposing and interrelated problems which must be dealt with in a comprehensive manner.

The need to develop new forms of energy will pose a continuing challenge. We have entered the difficult transition from a petroleum economy to one based on other forms of energy.

Even without this added burden, we face an imposing task in providing for the basic needs of people and in narrowing the combustible disparity between wealth and despair. The food shortage facing developing countries, for example, was 12 million tons in 1975. It could be 70–85 million tons by 1990, unless productivity rises sharply.

We must strike a decent balance between the burgeoning demands of more people for a better life and the inescapable reality of a fragile environment.

Such prospects carry the seeds of future discord. As these seeds ripen, and the growth and spread of weapons continue, regional conflicts become all the more dangerous—in their toll of lives and resources and in the heightened risk of wider confrontation.

And despite our emergence from the days of unrelenting hostility, the East-West relationship can deteriorate dangerously whenever one side fails to respect the security interests of the other.

Our ability to meet these tests depends on a second issue: Will we confront such challenges together, and benefit together? Or will we let adversity divide us, and thus conquer? I must be frank to say that I am not sure what the answer will be.

There are some reasons for encouragement. In recent years, the nations here represented have found it easier, in many different forums, to talk with each other rather than at each other.

East and West have entered into the broadest arms control agenda in history. The Soviet Union and the United States have negotiated significant limitations on strategic arms in a treaty that now awaits ratification.

North and South have made progress on financial, trade, and commodity issues—far more progress than has been acknowledged. Agreement has been reached on a sharp increase in the resources of the International Monetary Fund. Lending by the multilateral development banks has increased. Expanded trade opportunities have been opened by the recent concluded trade negotiations. We have moved ahead on other matters such as international debt and a common fund for commodities. We should recognize such progress and build on it.

We have taken steps as well toward the resolution of some deeply imbedded regional disputes.

But I am concerned that there are also factors at work which could reverse this cooperative trend. The severity of the problems we face could drive nations to the pursuit of their own separate advantage at the expense of international cooperation. In times of economic trouble, even relatively prosperous countries find it more difficult to look beyond their internal concerns to meet international needs. Indeed, it is a vivid lesson of history that hardship can breed shortsighted insularity. It can arouse instincts for self-preservations at the expense of others. In such times, the voices of economic nationalism will be raised in all our countries. We must resist them.

We must resist, as well, the voices of international confrontation. In a number of international negotiations, political as well as economic, we have worked our way through to the toughest issues involved. We must not react now in frustration and unleash a spiral of rhetoric which can deepen rather than resolve our divisions.

The challenges of the 1980's can be met if each of us here represented meets the responsibilities we share.

SEARCH FOR PEACE

Our first responsibility is to persist in the search for peace, to reduce both the danger and the destructiveness of war.

The future of two regions—the Middle East and southern Africa—depends on specific decisions that will be made in the coming months.

Middle East

We believe the March 26, 1979, treaty between Egypt and Israel has reduced the dangers inherent in the Arab-Israeli conflict and has laid the foundation for a settlement that can be both durable and just.

But the dramatic achievement of peace between Israel and Egypt and the successful implementation of the first phases of the treaty of peace have not obscured the necessity to move toward peace between Israel and its other neighbors. Indeed, it remains the resolute view of my government that further progress toward an overall peace is essential.

We know that an ultimate settlement must address the legitimate rights of the Palestinian people. The Palestinian question must be resolved in all of its aspects.

As the peace process continues to unfold, it is our deepest desire that representatives of the Palestinian people and the Governments of Jordan and Syria will join in this great quest. This is consistent with, indeed it underscores, our unshakable commitment to Israel's security and well-being, now and in the future.

None of the parties involved in this difficult negotiation has any illusions that resolving the Palestinian issue will be easy. But the United States is convinced that progress will be made toward this goal.

Preserving the integrity of Lebanon is also critical to peace in the Middle East. There has been a cease-fire in southern Lebanon, the fragility of which is underscored by the events of the day. We need not only a cease-fire but a broader truce. We will be working toward such a goal in our discussions with other interested governments here at this Assembly. Lebanon has suffered all too much.

The desire for peace is shared by all the peoples of the Middle East. We recognize that there are disagreements about how best to reach that common goal. We believe the course on which we are embarked is the right one, indeed the only one that has shown practical results. We call on all who genuinely seek peace to join us in this endeavor.

Southern Africa

A step toward peace has been taken as well on the Rhodesian conflict. The parties are now engaged in negotiation toward a solution that could combine true majority rule with essential minority rights. The British Government, the Commonwealth nations, and the parties themselves deserve great credit for this new step. Agreement on a fair constitution and new elections, as called for in the Lusaka communique, could end the deepening agony of war.

We have made substantial progress in Namibia. But obstacles remain. The contact group [Canada, France, West Germany, United States, and United Kingdom] is working with the parties concerned to find ways to resolve the few outstanding issues. We do not understate the difficulties, but neither should any of us underestimate the opportunities that a settlement would bring for all of southern Africa.

In most negotiations, we can best make progress by stages. A knot can never be untied from the inside. We must begin with the parts we can grasp and work our way through to the end of the problem. History will judge us severely if we let our opportunities for peace slip away. As negotiations proceed, the issues we address become progressively more difficult. But we must not let future fears or ambitions undermine the progress that has been made.

As we work on these and other conflicts, let us also squarely face the fact that our planet is plagued by those who make war on innocents, as we saw just weeks ago in the

tragic death of Lord Montbatten. We must have greater international cooperation to combat the barbarous practices of the terrorist. The United States strongly supports the basic elements of the draft convention outlawing the taking of hostages. The conclusion of this treaty will contribute to a growing consensus that terrorism will not be tolerated, regardless of the political cause its perpetrators claim to pursue.

Arms control

Finally, the requirement of peace carries with it an international responsibility to limit the spread and accumulation of arms.

A particular obligation falls to the largest nuclear powers—the United States and the Soviet Union—to contain the competition in strategic weapons. The SALT II treaty can be a major step toward fulfillment of that obligation.

The goal of strategic stability will be further served if the Soviet Union, Great Britain, and the United States are able to agree on a Comprehensive Test Ban.

As the nuclear superpowers seek the path toward mutual restraint, all nations must also recognize the direct threat to their security from the spread of nuclear weapons. Developments in recent years can bring new impetus to the nonproliferation effort—including progress in the International Nuclear Fuel Cycle Evaluation, which can help us find safer ways to develop nuclear energy for humanity; the strengthening of International Atomic Energy Agency safeguards; the substantial increase in the number of parties to the Nonproliferation Treaty [NPT]; the entry into force of the Treaty of Tlatelolco, which now finally appears within grasp; and the pledge by a number of nuclear powers, under specific circumstances, to refrain from the use of nuclear weapons against nonnuclear states. But there have also been serious setbacks—further demonstrations of intent to acquire nuclear weapons, in disregard of the inherent dangers for regional and international security. The NPT Review Conference next year will be a critical time for taking stock—and for redoubling our efforts to make progress on this urgent international priority.

ECONOMIC NATIONALISM

Beyond the search for peace, a second responsibility we share is to be sensitive to the international consequences of our national economic decisions and resist the temptation to solve our economic problems at the expense of others.

The imprudence of economic nationalism has been harshly demonstrated in the past. The world depression a half-century ago was spread, deepened, and prolonged by a wave of protectionism. That memory has spurred us toward a new multilateral trade agreement intended to open markets and keep them open, even in a time of economic strain.

Energy

Today, let me address one of those issues which most clearly reflects the direct connection between national decisions and global consequences. That issue is energy. In almost no area is the need for common action more apparent or more urgent. It is an issue which now threatens to divide us, economically and politically. In a future of greater scarcity, these divisions could weaken the fabric of international comity which this organization embodies.

All nations will suffer if all nations do not act responsibly—in their consumption of energy, in its pricing, and in its production. Despite a difficult prognosis for our energy future, I believe the basis may exist for progress.

Until the 1970's, modern industrial economies operated on two basic assumptions, which also governed relations between oil importers and exporters—that oil is cheap and that supplies are unlimited. Now all nations realize that these assumptions no longer hold.

The commitments made by the major industrial countries at the Tokyo summit demonstrate this clearly. My government is taking ambitious action to address the energy problem and is making efforts to exceed these commitments.

President Carter has committed the United States not to import more than 8.2 million barrels of oil a day in 1979 and never to exceed the peak level our imports reached in 1977.

Total U.S. energy research and development this year is $3.2 billion. We are investing $528 million this year—and $600 million next year—in the development and use of solar energy.

We are significantly expanding our development of synthetic fuels to take advantage of the abundant coal and oil shale supplies in our country. Much of this new energy technology will have application in other countries as well. We will seek to make it available to others under mutually satisfactory conditions. For we recognize that by helping others resolve their energy problems, we help resolve our own.

Let me indicate some of the ways in which we are prepared to work with others to meet our common energy needs:

We have joined other industrial nations in agreeing to establish a provisional international technology group which will recommend ways to broaden international participation in the commercial development of alternative fuels.

I pledged last year that the United States would do more to mobilize its technical talents in behalf of the development of others. I am pleased to report that next month we will establish an Institute for Scientific and Technological Cooperation. This Institute will work for the goals set by the U.N. Conference on Science and Technology for Development. It will help the people of developing nations benefit from our technologies—and help them expand their own technological capacities. The Institute's policy council will include experts from developing nations. Energy development will be among its highest priorities.

We will participate actively in preparations for the 1981 World Conference on New and Renewable Energy.

At the recent economic summit conference, the World Bank was invited to take the lead in coordinating our assistance to developing nations in the field of energy. We suggest that the World Bank bring together a group of experts to review the question of energy research, development, and training in detail. Specifically, it could evaluate the work of existing energy research and training centers, both national and international, in developing countries. In addition, it could recommend how current institutions could be strengthened and whether new multilateral ones should be created.

We are supporting expansion of the World Bank's program for exploration and development of mineral fuels.

The Bank is also considering whether local programs of development finance are adequate to support the rapid application of solar, small hydro, and other renewable energy technologies in developing nations.

The Inter-American Development Bank has proposed creation of a facility to provide political risk insurance and loan guarantees for private investment in energy and minerals projects in its region. This could be an effective means of stimulating energy development there. We are willing to pursue with the Bank its initiative and work with other countries to develop an acceptable proposal.

As the industrial countries make serious efforts to restrict oil demand and to help the developing countries meet their energy challenges, the question increasingly becomes whether the oil producing nations are prepared to stabilize prices and, to the extent it is within their control, insure adequate supplies. A failure to do so will continue to have harsh consequences for the world economy, especially the poorer nations.

We understand the natural desire of oil exporting nations to husband this valuable resource for future generations. And we accept the fact that oil prices must reflect not only the strength of demand but also the long-term scarcity of supply—so long as scarcity is never contrived to manipulate price.

But oil producers must understand that there is a limit to what the economies of the oil consuming nations, and the global economy, can sustain. We must all proceed with a responsible recognition that our national energy decisions will have profound global effects—and will return either to haunt or to help their makers.

COMMITMENT TO HUMAN WELFARE

A third common responsibility is an intensified commitment to help improve the lives of our fellow human beings—to provide the necessities of life, to afford the chance to progress, to assure a voice in decisions which will determine their future.

HUMAN RIGHTS

We have made progress in the field of human rights, but we must do more.

In the past year, some nations have taken steps to restore legal protections and democratic institutions. And we have seen the inauguration of an Inter-American Court of Human Rights, the OAU's [Organization of African Unity] forceful call for the creation of regional human rights institutions on the continent of Africa, and the activation of UNESCO's (U.N. Educational, Scientific and Cultural Organization) human rights procedures.

The growing concern for human rights is undeniable. Yet the sad truth is that even as we sit here today, men and women face torture, death, and oppression for daring to exercise rights set forth in the charter of this body three decades ago. Our joint challenge is to advance the aspirations of all peoples for individual human dignity.

Our commitment must be to economic as well as political and social rights—for all are indispensable to human dignity. Improvements in economic well-being, opportunities for participation in the political process, and a growing sense of both economic and political equity can do much to defuse the grievances which can lead to national convulsions and international tensions.

Food and population

To meet this commitment to a better life for all peoples, we must each strive to move the North-South dialogue beyond grand themes and on to specific cases—to priority areas in which practical development goals can be met. Let me discuss in this connection our efforts toward a goal we should adopt as a matter of simple humanity: that by the end of this century, no person on this bountiful earth should have to go hungry.

Last year, I noted that we must not be lulled by good weather and plentiful harvests into losing our sense of urgency. Since then, poor harvests in a number of countries have substantially increased the international demand for food. This situation underscores the need to accumulate adequate stocks to support world food security. I assure you

that the United States will do all it can to prevent a global food crisis.

The American harvest this year will be of record size. We have removed all restrictions on wheat production for next year. We have established farmer-owned grain reserves which—through accumulation and release of stocks—have helped stabilize supplies.

An International Wheat Agreement still eludes our grasp. We should not abandon this goal. But we should move immediately to complete negotiations for a new Food Aid Convention. The World Food Council has urged an agreement by mid-1980. We support that recommendation. In the meantime, we are already implementing the higher food aid pledge the convention would entail.

At the same time, major emphasis must be placed on improving global food production. Over half of American direct development aid now is devoted to agriculture. We will continue working to improve the yields of major food crops, to preserve croplands, and to expand research on ways to increase production of traditional and new crops, especially those grown by poor farmers.

These efforts have received effective support from the international agricultural research centers. We support proposals to double the resources contributed to those centers and intend to increase our contribution. We hope additional countries will become contributors. We must be aware, however, that in the long run these efforts could be vitiated if the world's population is not slowed. Half the couples of child-bearing age still do not have adequate access to family planning services. We must strive to make family planning services, along with other elements of basic health care, adequate food supplies, and clean water, available to all as rapidly as we can.

And in the short run, we must be prepared to meet emergency needs wherever famine afflicts humanity or refugees seek haven—in Africa, in Latin America, in Southeast Asia, or elsewhere.

Refugees

The proposal made by Vice President Mondale at Geneva for a refugee resettlement fund reflects our belief that the international community should deal on a global basis with a global and grave refugee crisis. We urge broad participation in this fund.

Vigorous and large-scale international action is required to bring relief to the starving in Kampuchea, now facing one of the great human tragedies of modern times. Tens of thousands of sick and hungry Khmer are already pressing on Thailand's border. Hundreds of thousands may soon follow them. Even more widespread famine and disease are in prospect, especially in view of recent reports of intensified fighting. To avert unthinkable catastrophe, an international program of humanitarian relief must be established in Kampuchea as soon as possible. International organizations must be able to bring a coordinated, massive, and adequately monitored program of emergency relief to all needy Khmer. We would endorse such an effort.

As the food crisis in Kampuchea promises both to multiply the flow of refugees and to take a terrible toll among those who cannot escape. The flood of refugees from Vietnam, Laos, and Kampuchea already has brought great suffering to hundreds of thousands of innocent people as well as heavy burdens on countries of first asylum.

The international community has begun to respond. But humanitarian steps are not enough. The community of nations must make a more active effort to restore peace to the region and to resolve by nonmilitary means the problems that developments in Indochina have carried in their wake. They pose a threat to the stability of the region as a whole.

DEMANDS FOR GLOBAL RESPONSES

I believe we can meet the challenges before us. But let us not misjudge their magnitude. Resolution of regional disputes and placing new limits on the instruments of war will require new acts of national and international will. The 1980's could portend a prolonged energy crisis. It could be a decade of widespread famine. Unless the swelling deficits of developing countries can be managed, many of their economies may stagnate; some could be threatened with collapse.

Global problems like these demand global responses.

This Assembly will decide whether to launch a new round of negotiations on economic cooperation for development. Let me state today that the United States would participate, in the Committee of the Whole, in consultations to decide the most effective way of conducting such negotiations.

If new global negotiations are to succeed, their participants must be realistic about the political and economic capabilities of each other. We must assign priority to those issues on which concrete results are possible. And we should avoid duplicating the work of existing institutions. In this way, the negotiations could help build a global consensus for action.

Many of the issues I have addressed are already prominent on the agenda of the United Nations. The need for cooperation in addressing them requires that we continue to strengthen this institution. Financial, procedural, and management reforms are urgently necessary. As a first step, we urge that the Secretary General's recommendations, now adopted by this Assembly, be fully implemented.

The urgency of the requirements I have described calls for something more on the part of all members of the United Nations.

The distinctions between North and South, like those between East and West, reflect differing interests. They have a role in defining the issues and in clarifying our choices. But we must commit ourselves to finding areas where our interests converge.

Each of us has our special values to be nurtured, our particular goals to be served. I do not suggest it can or should be otherwise. The United States believes in a world of diversity. But let us resolve here, at this Assembly, to find in our common needs and common humanity a renewed dedication to the search for common ground.●

STATE ALLOCATION FORMULA FOR UNIVERSITY COMMUNITY SERVICES AND CONTINUING EDUCATION PROGRAM

● Mr. MAGNUSON. Mr. President, I support H.R. 5386 which will correct some problems we are having with the State allocation formula for the university community services and continuing education program. This is also known as title I of the Higher Education Act.

The fiscal year 1980 Labor-HEW appropriations bill contains $10 million for this program. This amount is not adequate to fund the so-called hold-harmless payments to small States. Since the current allocation formula would be based strictly on population, a $10 million appropriation would cause 28 of our smaller States to receive large reductions in their allocations from the Office of Education.

H.R. 5386 changes the formula so that each State allocation will be reduced proportionally from its 1979 allocation when the appropriation was $16 million. I am glad to see this bill moving through Congress. The authorizing committees are to be congratulated for their speedy action to correct this problem. The bill will provide equitable treatment for all States and will alleviate a problem created by a reduced appropriation in the fiscal 1980 Labor-HEW appropriations bill.●

CARL POHLAD: BANKER

Mr. McGOVERN. Mr. President, the current issue of Forbes magazine carries a stimulating article about a friend of mine, Carl R. Pohlad, president of the Marquette National Bank in Minneapolis.

The article traces his climb to success in financial and business ventures, underscoring his basic concern for personal considerations in his dealings with others while adhering to the rules.

I ask that the following article, "The Banker Who Likes Poor Risks," from the October 29 issue of Forbes, be printed in the RECORD.

The article follows:

THE BANKER WHO LIKES POOR RISKS

(By Sharon Reier and Alyssa A. Lappen)

Getting mixed up in the businesses he lends money to is about the last thing your average banker wants. He's a banker, not a . . . well, a whatever.

But just about every rule in business can be turned upside down with a certain amount of success: President Carl R. Pohlad of Minneapolis' Marquette National Bank (assets $300 million) is evidence of that. From his tersely furnished offices in Minneapolis' I.D.S. Center, Pohlad seems to have used banking as an acquisition tool until he now controls an estimated $1 billion (assets) business empire. Its parts include a string of Pepsi, Dr. Pepper and 7-Up franchises from Wisconsin to Tulsa to Salt Lake City; a host of small- and medium-size banks across the northern Midwest from Illinois to Montana; a bus company (ultimately to be bought out) serving 42 Chicago suburbs. There's a mail-order small-loan company that lends money primarily to teachers at rates of up to 33%; and a Minnesota wholesale wine distributing company. Top it off with an 8% interest in a Florida real estate investment trust with over $110 million in assets.

Pohlad got into these businesses by channeling money into exactly those situations most of his peers would avoid—"distressed merchandise," in the words of another Minneapolis banker. This rival banker respects Pohlad but does not admire him. Half in awe, half in disapproval, he says: "Pohlad waits very patiently until you're just coming up for air the last time, and then says, 'I'll save you,' and insists that you do what he tells you and pretty quickly turns you around and makes money. Then once he gets through cleaning house and getting a profitable business going, he will sell it off or make money in some way."

Adds another, more disapproving Minneapolis banker who prefers not to deal with Pohlad: "I see maybe a dozen deals a month where there are people in trouble, where I could make those kinds of loans and take control. Any banker does. The loans aren't primary. It's a way of obtaining a company. That's not what banking is supposed to be about."

The subject of this controversy, the Iowa-born Pohlad, is a young-looking 63-year-old who admits to "majoring in football" at Spokane's Gonzaga University and got into banking in a characteristically unusual way. He

didn't marry a bank president's daughter, but his sister married a big-time banker—specifically Russel L. Stotesbery, president of the Marquette National Bank of Minneapolis. The brother-in-law brought Pohlad from the Dubuque-based finance company where he had been working and put him in Marquette's correspondent department. When Stotesbery died of a heart attack in 1955, the sister, then holding the controlling stock in Marquette, voted her brother in as president.

Pohlad's travels as a correspondent banker had given him a pretty good idea of which local bankers were in trouble, and he was able to act upon it. A fellow Minnesota banker says, almost wistfully, "Those were the days you could go out and buy a bank like you could go out and buy a car." As most people buy cars on credit, so Pohlad bought his banks on credit. His shares in his holding company, Bank Shares Inc.—which owns Marquette and four other banks—are 72% leveraged. That probably helped him pick up 30-odd, mostly troubled banks, some of which he has sold. Borrowing on his banks' corresponding balances also helped with acquisitions. Pohlad, asked about those days, says with quiet satisfaction: "We made investments in a number of troubled banks and they have all worked out very well." The holding company is not traded because it is 97 percent family-owned.

Even when they sniff at his methods, fellow bankers do concede that Pohlad keeps well within the limits of the law. Says one, perhaps enviously: "Carl understands all the angles, but he's not going to use any that would get him in trouble with the regulatory bodies. You've got to give the devil his due. He plays according to the rules. He's an able, shrewd, careful guy. He doesn't walk into a cave. He makes sure it's a tunnel, and that he knows how to get out."

Adds a small-town banker who managed one of Pohlad's banks: "He never took any extra dividends out. He never asked us to finance any of his ventures. He never asked for a $20,000 consulting fee. He just said, 'Keep a clean bank.' In the five years he owned my bank he flew in twice. He was too busy with his other deals."

There were plenty of deals to be busy with, including a deal which left him for a time with a controlling interest in a good-size airline and a major Las Vegas convention hotel. After establishing himself as a banker, in 1959 Pohlad bought into the publicly traded (NYSE) Minneapolis surface transit company after it had been converted from trolleys to buses and had reportedly been looted by former managers. The bus company was converted into a holding company, Minneapolis Enterprises Inc. and later changed its name to MEI Corp.; it is now one of Pohlad's major ownership vehicles. The bus operation was soon restored to profitability and the profits were reportedly lent interest-free to MEI, which acquired the Chicago-area West Towns Bus Co. and about 50 percent of what is now called Texas International Airlines Inc. Pohlad then managed to have TIA buy Las Vegas' Tropicana Hotel.

"The whole purpose of TIA buying un the Tropicana," says Pohlad, "was to consolidate tax returns, because an airline has a lot of deoreciation and investment credit." He was optimistic in assuming that the Tropicana would have profits to offset those credits. It didn't. About that time in the early 1970s the stock market was going down the tube, and Las Vegas was experiencing a slowdown. Pohlad exited quickly by selling the Tropicana to his former friend, Minnesota banker Dell Gustafson.

Out of Las Vegas, Pohlad pushed MEI systematically into soft-drink bottling, incorporating his own soft-drink bottling holdings into the Big Board company. The result is an outfit with 1978 sales of $209 million, a current market value of $108 million and a respectable 20 percent five-year return on equity. Pohlad owns a controlling 25 percent of MEI personally, the family a bit more.

"I got into bottling 16 years ago," says Pohlad. "Now it's an excellent investment, but 16 years ago many people didn't think that way." For his bottlers Pohlad paid in some cases little more than net asset value, rather than the big premiums that 20th Century-Fox, Liggett and Philip Morris paid recently.

He also foresaw the recent craze for investing in life insurance companies. Believing that "the money business had a great future," he listened sympathetically when approached in 1973 by Richard H. Headlee, who had just become chief of Michigan-headquartered Hamilton International Corp. That outfit was then beset by stockholders' suits and a takeover attempt. "I personally directed $3.5 million into Hamilton," says Pohlad. In return he got about 27 percent of the voting stock, and he sent a team of troubleshooters to help the ailing firm.

It was not life insurance as such that appealed to Pohlad, apparently, but tax breaks and the pool of capital that life insurance commands. Under Pohlad, Hamilton bought a St. Louis bottler, and looked into buying a liquor distributorship, a restaurant chain and a California-based chain of movie houses. That didn't sit too well with the life insurance types at Hamilton. Headlee puts it delicately: "MEI was a little go-go. We weren't certain they fit with our style."

So when Pohlad showed signs of wanting to sell Hamilton, Headlee insisted that he do so despite some wavering in the middle of negotiating a sale to Household Finance Corp. Pohlad then bought back the bottler for $5.2 million and realized $140,000 on the Hamilton stock. "He didn't want the publicity of a proxy fight," comments Headlee. Pohlad's view? "We never look back."

Looking ahead, there is MEI's interest in Diversified Mortgage Investors Inc., a REIT with a $55 million tax loss carryforward. "The trick," says Pohlad, "is to find some way to use that, and hopefully we'll be able to assist them." But probably not in bottling; he feels it's too costly today. Pohlad talks about snack food distribution; it would dovetail with his current bottling distribution network. That's a field where there is still "distressed merchandise" around, and distressed merchandise is Carl Pohlad's forte. He's not your conventional banker but he's a mighty smart businessman.

VIEW FROM TAIWAN OF UNITED STATES-TAIWAN RELATIONS

● Mr. GOLDWATER. Mr. President, it has been almost 10 months since President Carter announced several radical changes in relations between the United States and the Republic of China on Taiwan. No thanks to the Carter administration, and with much thanks to the American people and the support of Congress, Taiwan has survived these changes to date.

Only the future can tell what will happen to freedom and the safety of 18 million people in the Republic of China. Is the Carter administration still bent on reducing Taiwan to the status of a mere province of the totalitarian regime run by the Communists on the Chinese mainland? Or, will Taiwan be recognized for what it is, a truly independent and sovereign nation administered by its own governmental authorities?

Will the representatives of Taiwan residing in the United States be provided adequate protection, privileges, and immunities which are due to the personnel of another nation? Will the administration end its moratorium on new arms sales to Taiwan and provide our ally with the kind of advanced, defensive equipment necessary to protect the security of the free Chinese people in the years ahead?

And, will the State Department insist on replacing our existing civil aviation agreement with Taiwan with a so-called unofficial, informal arrangement of some sort that virtually diminishes the international status of Taiwan to a non-entity?

Mr. President, the real answer to these questions is given in the Taiwan Relations Act, which stands as the authoritative statement by law of U.S. policy toward Taiwan. This law, signed by President Carter on April 10, expressly preserves the status of all treaties and agreements with Taiwan as continuing in force. It specifically provides, as the law of the land, that Taiwan is a separate nation fully to the same extent as if we maintained official diplomatic relations with her. It also restores, at least partially, the traditional security commitments of the United States to free China.

Mr. President, these points are well expressed in a series of recent editorials printed by the China News, which is published daily in Taipei. Because these editorials are well reasoned and even profound and because they give the view from Taiwan of how the new U.S. relationship with free China is evolving, I ask that the editorials be printed in the RECORD.

The editorials follow:

[From the China News, Aug. 31, 1979]

TAIWAN IS NOT FOR GIVING

Red China turned out a lot of people to greet Vice President Mondale in Sian and then claimed it was the biggest Chinese welcome ever for an American.

That is to be doubted. The greeting to President Dwight D. Eisenhower at Taipei in 1960 was bigger—and sincere.

The simple truth is that the Chinese Communists could turn out the whole population of the mainland, if they wished.

These are not welcomes but demonstrations given by the numbers—an exercise in regimentation.

We don't think the American people will be deceived but cannot help but wonder about the U.S. government.

Mr. Mondale talked a lot about friendship, new beginnings and cooperation for peace.

He said, for example, that "the unprecedented and friendly relations among (Red) China, Japan and the United States bring international stability to Northeast Asia."

If the Carter administration really believes this, it is a confession of amazing naivete.

Red China has never made a contribution to peace and has no intention of making one.

To the south, the Chinese Communists talk of teaching Vietnam another lesson. To the east, they threaten to cross the Taiwan Straits and impose their tyranny on this island. To the north and west, they would blast the Soviet Union out of existence with nuclear missiles, if they could.

Nowhere in the world is Red China bent on peace. There is no stability in East Asia precisely because of the existence of Chinese Communism.

No one will deny that the Soviet Union is a problem in East Asia, but the Russians are not engaged in aggression. Only the Chinese Communists are aggressing now—directly in some cases and through surrogates in such countries as Indonesia, the Philippines, Malaysia, Thailand and Burma.

The Carter administration supposedly has cosied up to Red China in order to play off nearly a billion people against the USSR and in the hope of selling a bottle of Coke to each of them.

This doesn't make much sense. Against Vietnam, the Chinese Communist forces bogged down and were compelled to withdraw. The only lesson involved their own weakness.

As for the Chinese mainland market, only foreigners can buy the coke, American cigarettes and most other foreign products.

Red China is interested in acquiring weapons and machinery—on credit at that. Buying power is measured at the level of 2 or 3 billion dollars and not the 300 to 600 billion of which the Chinese Communists have talked.

The American people are aware that the Chinese Communists are not their friends.

They have not forgotten the Korean War, in which Red China was the principal antagonist of the United States and the United Nations.

They have not forgotten the Vietnam War, in which Red China supplied manpower as well as weapons to kill Americans.

Vice President Mondale says that the United States is the friend of Red China and that it would react strongly if the Russians marched on Peiping.

Most Americans would view the thought of fighting for the Chinese Communists with abhorrence. We do not believe they would do so.

Nations and their leaders say a lot of foolish things in pursuit of international protocol and phony friendship.

This is the oratory of foreign affairs. It doesn't mean much, and both sides know it.

When the chips are down, countries follow their own interests. The interests of the United States do not coincide with those of Red China.

It is revealing that the Chinese Communists have not reciprocated Mondale's love feast toasts.

This is not because the Chinese Communists have any objection to lying. Rather, it is because they have the unfinished business of Taiwan to take care of and wish to retain a tough stance in order to frighten the Carter administration and the American people as much as possible.

Nominally, we should not be disturbed at what Vice President Mondale has been saying. It could be dismissed as ornate prose addressed only to his hosts.

But we must stop and consider that the Republic of China continues to need the help and the friendship of the United States to maintain its place in the world and augment its defenses.

This year we have not negotiated with the United States for defensive armaments. President Carter took it upon himself to promise there would be no weapons talks with the ROC in 1979.

As of January 1, the ban is off. We shall return to the conference table to ask for the further modernization of our weapons systems.

While on the mainland, Mr. Mondale has spoken of defensive weapons for Taiwan in limited quantities. Is he trying to tell us something? Is he trying to tell the Chinese Communists that in time the military forces of the Republic of China may not be such a tough antagonist?

Above all, is the vice president of the United States trying to imply that the Carter administration would be willing to help Red China obtain possession of the province of Taiwan?

That is hard to believe. Yet it seems strange that the second ranking leader of the Carter administration should say some of the things he has during this visit. He has offered almost everything the United States can give. Is it possible that Taiwan is not on the silver platter only because the United States does not have the power to hand us over?

These are not things we like to say. The United States remains our friend and, we still believe, our chief ally. The American people are not in sympathy with any policies or actions which would jeopardize the free existence of the Republic of China on Taiwan.

However, Americans need to face up to the implications of what Vice President Mondale seems to have in mind. They may wish to make it clear to the Carter administration that the Taiwan Relations Act means exactly what it says in pledging that the United States has a stake in the ROC-Taiwan future.

[From the China News, Sept. 11, 1979]

STATE OF ROC DEFENSES

Defense is much on the minds of the people and government of the Republic of China these days.

The Chinese Communists have not modified their aggressive intentions. They still insist that if we don't surrender, they will attempt to invade Taiwan.

Our continuing freedom depends on strong defenses.

By unilateral decision of President Carter, the Mutual Defense Treaty between the United States and the Republic of China will be terminated as of next January 1.

The Congress and President Carter have joined in saying that the continuing freedom of the people of Taiwan is of great concern to the United States.

This is not, however, a legal commitment in the sense of the Mutual Defense Treaty.

The United States could decide that a life under Communism would contribute to the freedom of our people.

Expressions of "concern" and promises of money and weapons didn't help the people of South Vietnam survive in freedom.

The Taiwan Relations Act pledges that the United States will continue to sell defensive weapons to the Republic of China.

Nothing is said about the quantity of such armaments, but the presumption is that it will be sufficient to keep the Communists at bay.

Recently, Americans have been talking about the supply of "limited defensive weapons." Vice President Walter Mondale imposed the restriction of "limitation" when he mentioned defense aid to the Republic of China in Peiping.

The limit the Chinese Communists seek is that of zero—no weapons at all from the United States to the Republic of China.

Considering the Carter administration's drive to appease Red China, this is a little frightening.

For the year of 1979, the Republic of China has been unable to negotiate with the United States for the sale of weapons. This proscription was a part of President Carter's recognition deal with the Chinese Communists.

Deliveries of weapons in the pipeline have continued. We have also been able to buy some armaments from countries other than the United States.

A foreign correspondent who visited Taiwan recently said the Republic of China is buying nearly US$700 million worth of weapons abroad this year, including only US$13 million worth from the United States.

Still, most purchases from countries other than the United States require U.S. approval.

Clearly, the defense relationship with the United States is of paramount importance—not only in terms of improved weaponry but also to assure parts for old ones.

Members of the Congress, correspondents and commentators have urged the Carter administration to continue selling weapons to the Republic of China after expiration of the defense treaty.

Why should such admonitions be necessary? The Taiwan Relations Act obliges the United States to make such sales. American public opinion supports these sales.

The "limitation" concept may provide a clue to the future of our U.S. defense relationship. The Carter administration has already declined to give us the fighter planes we requested and need. There even has been hesitation about improving the F5Es that we make here in cooperation with Northrop of the United States.

Limitation could easily equate with inadequacy.

Our only enemy is pledged to a program of military modernization.

Chinese Communist industrial modernization has come a cropper, but this does not affect plans of the militarists.

Most of Red China's new weapons will come from abroad. The United States has thus far declined to sell weapons to Peiping, but some Americans would like to reverse that decision.

Chinese Communist military men have been in France, Germany, Italy, Belgium and Britain looking at armaments. The compulsion to buy has been greatly strengthened by the failure of the war effort against Vietnam.

The International Institute for Strategic Studies of London recently said Red China has 8000-mile missiles ready for test firing into the Indian or Pacific Ocean.

Some 3000-mile missiles have been deployed. Nuclear warheads are estimated at several hundred.

Our people approve the government's decision not to develop nuclear weapons. At the same time, there can be no doubt that without the nuclear umbrella of the United States to protect us, the Republic of China is vulnerable. We must count not on Communist humanitarianism, but on the ambition of the Chinese Communists to take over intact the "bigger than Shanghai" industrial capability that we have created in Taiwan.

The Republic of China's defense industry has made considerable progress.

We have one short-range missile and a new ground-support aircraft. Research, development and manufacture are receiving top priority from government and industry.

Maybe in a decade or so, we can be self-sufficient in weapons. It is a goal worth pursuing; it could be the difference between life and death.

Meanwhile, the dependence on the United States cannot be waived or limited drastically.

Our weapons systems are those of the United States. Changes will have to be made slowly.

Preparations should be started now for the reopening of arms purchase talks with the United States at the outset of 1980. American intentions and limitations, if any, need to be learned as quickly as possible.

This is not only a matter of seeking weapons elsewhere, and building as many of our own as we can, but also of rallying the American people and our many friends in the legislative branch of government to support the right of self-defense we have been promised.

U.S. governments of the last few years have hurt the Republic of China. We have survived and waxed stronger primarily because of the friendship of the Congress and the American people.

We don't ask that we be given the tools to do the job, as was the case when we fought with and for the United States in World War II.

We ask only that the United States sell us the weapons to assure our survival and peace

in this part of the world. The American people fortunately recognize that a strong and not a weak Republic of China is their best assurance of staying out of war in East Asia and the Western Pacific.

[From the China News, Sept. 14, 1979]

STATE OF U.S. RELATIONS

Some of our best American friends think the United States should not have been allowed to pretend that we did not exist while continuing relations with the Republic of China on U.S. terms.

While agreeing with this in principle, our government thought it was necessary to be "realistic."

The Republic of China made its position clear but allowed the United States to have its cake and eat it, too.

The Carter administration got the formal relationship with Red China it wanted and at the same time continued to enjoy full benefits from what it described as the unofficial relationship with the people of Taiwan.

President Chiang Ching-kuo made no bones about saying that the United States had betrayed us. Yet we found it necessary to remain on friendly terms with our betrayers.

Possibly this was necessary. There was a lot at stake, and we were trying to protect our own interests.

The decision was based on belief that this was a one-time betrayal, and that the United States would keep its new promises to the Republic of China (or at least to the people of Taiwan).

Now we are beginning to have some doubts about the intentions of the present U.S. administration.

Attention has been called to two developments: the Carter administration's stipulation that the defensive weapons promised us will have to be "limited" in quantity and the contention that the aviation agreement between the United States and the Republic of China must be scrapped and replaced with an unofficial agreement—whatever that means.

In fact, by U.S. definition all relationships between the United States and the Republic of China are now "unofficial."

That is merely a pretense to appease the Chinese Communists. As so clearly indicated in the Taiwan Relations Act, the obligations of the United States remain the same. There is no definitive change except that President Carter has given notice of terminating the Mutual Defense Treaty as of the end of this year.

The Taiwan Relations Act extends all treaties and agreements between the two countries and makes them just as binding as before. That is what the Congress was told and what the Congress expected.

Now Vice President Mondale is saying that if the Carter administration wishes to change the aviation agreement, it will do so. A member of the State Department has said that a new accord could be more advantageous to the Republic of China than the old one.

This country is being told that the United States will define the ongoing relationship with "Taiwan" as it pleases, that there is nothing we can do about it, and that we had better take it or leave it.

Questioning of this procedure has been started by Robert Parker, the president of the American Chamber of Commerce in the Republic of China.

Mr. Parker is our friend but does not have a closed mind on the China problem. He was one of the American Chamber presidents in Asia who went to Red China to see Vice President Mondale.

As he points out, if the Carter administration can change the aviation agreement at will, it can scrap or alter any of nearly 60 other treaties and accords unilaterally and without consultation.

This is completely unacceptable.

If the Carter administration is going to regard the Taiwan Relations Act as a document for presidential interpretation, we had better announce we do not accept the terms of the legislation and that we, too, will follow the dictates of self-interest.

We have humbled and hurt ourselves enough. We never accepted the "unofficiality" of the U.S. relationship but went along with the effects. We have allowed the United States to do as it pleased, to ride roughshod over our feelings, our pride and our economic and social interests.

The Republic of China does not believe its friendship with the American people and the Congress of the United States can be destroyed.

At the same time, we are compelled to wonder if any real friendship exists with the functionaries of the Carter administration.

Some people tell us we should not bite off our nose to spite our face, and that we are helpless against the mighty United States. If we don't knuckle under, the Communists will come and get us.

We do not accept this interpretation. Many Americans are going to protest against the treatment the Carter administration is handing us. Others in the world are of the view that the United States has treated us shabbily.

It is also said that we are helpless, bound to the United States by military dependence and we dare do nothing.

That is likewise unacceptable. Ours is a nation with nearly 18 million people under its control. We have sizable and strong armed forces. We are one of the strongest small economic powers in the world.

Most important of all, we have right and principle on our side. We have been kicked around by a great power which was once our friend.

If the Carter administration wishes to regard us as a football, it might find that the ball had blown up in its face.

We are not without options and maneuvering room. As for durability, the Republic of China has shown in the three difficult Taiwan decades that it has staying power.

This is a time to let the Carter administration know that if it is not prepared to keep assurances made to the "people of Taiwan," we have no intention of lying down like a rug to be walked over.

These are strong words, but they are backed by a strong intention. The Taiwan Relations Act was signed into law just a few months ago. Congress wrote and passed the legislation but the final approval was President Carter's.

He has the power to demand that his functionaries adhere to the letter of the document that bears his signature.

We ask him to do so. If he doesn't, let the chips fall where they may. We think the U.S. Congress will pick them up and insist that Mr. Carter keep the promises that senators and representatives made and he accepted.

The aviation treaty and the continuing supply of U.S. defensive weapons are tests. If the United States is not going to respect these commitments, the Taiwan Relations Act isn't worth the paper on which it is written and the U.S. relationship already requires redefinition.●

THE NATION SHOULD HEED SENATOR BYRD'S CALL FOR RATIONALITY AND REALISM ON SALT AND CUBA

● Mr. McGOVERN. Mr. President, as we prepare to hear President Carter's remarks this evening on the American response to the Soviet troop presence in Cuba, we should heed the remarks of our distinguished colleague and majority leader, Senator ROBERT BYRD, on the relation between SALT and the Soviet troops. I know of no finer statement on this issue which has been made. Last week, a newspaper column reported Senator BYRD's appreciation for my remarks on Cuba and SALT. I am glad to know that we have come out with almost precisely the same position. We both agree that the crucial question on SALT is: Does this particular SALT II treaty improve American security and help pave the way for genuine arms reductions? And we both agree that the troop issue is not a test of challenge by the Soviet Union. Instead, it is a foreign policy problem which has been overblown. The symbolism of the troop issue no longer bears any rational relation to the real capabilities or history of the Soviet facilities in Cuba. I agree with Senator BYRD's characterization of this as a "pseudo-crisis." I hope President Carter this evening will follow the steady course and sense of perspective recommended in such a compelling manner by Senator BYRD.

Mr. President, I want to recommend Senator BYRD's statement from this morning's Washington Post to all of my colleagues, and ask to print it in the RECORD for that purpose.

The article follows:

SALT AND A "PSEUDO-CRISIS"

(By ROBERT C. BYRD)

We should not permit political myopia to obscure our wider vision of U.S. national interests in the field of central strategic nuclear systems—which is what the SALT II treaty is all about. The stakes—establishment of limitations on strategic nuclear weapons—are higher and far more vital to our national security than is the peripheral issue of 2,000 to 3,000 Soviet troops in Cuba.

As Senate committees near the completion of their consideration of the treaty, we find ourselves focusing not on this issue of momentous significance to our national security and our leadership in the world, but rather on a matter unrelated to, and far less significant than, the treaty.

There has been a regrettable tendency to lose sight of the larger issue in an atmosphere of near-hysteria over the question of Soviet troops in Cuba. Let me state unequivocally that I am not sympathetic to the presence of Soviet troops in Cuba. But we should not lose all sense of perspective. We need to take a step back, examine the matter in a broader context and recognize how much is involved here and what is actually at stake.

First, we should study the treaty itself, and the hearings conducted by the Senate Foreign Relations, Armed Services and Intelligence committees. Those hearings have been very thorough and valuable. I have read through the transcripts of all the hearings. I believe that a careful reading may lead others to conclude that the treaty can be a modest but important step forward, a positive contribution to our national security. I have not yet reached a final judgment of my own position on the treaty. I want to complete my review of the recent report of the Senate Intelligence Committee on the important issue of verification before reaching that judgment.

By August, the treaty had emerged from the Foreign Relations and Armed Services hearings in relatively good shape, and prospects for Senate approval looked good—with the addition of certain reservations and understandings to the Resolution of Ratification. The hearings dealt not only with the specific elements of the treaty, but also served the useful purposes of focusing attention on the overall growing military and strategic imbalance. The big question was not whether the treaty would be approved, but what steps should be taken, and how much funding should be provided, to proceed with the necessary modernization of our strategic and conventional forces.

But shortly before the Senate reconvened in September, the Cuban issue emerged. I have served in Congress since 1952, and in my 27 years in Washington I have witnessed a few periods of genuine crisis. It has been my belief from the beginning that the current Cuban episode is not anything near crisis proportions. From the outset, I emphasized that we needed to establish, as best we could, exactly what the situation was. It made no sense for the administration to state that "the status quo is unacceptable" until we knew precisely what the "status quo" was.

There were some who rushed forward with statements that the Soviets were "telling" us, as though this were some grave new threat with far-reaching ramifications. In fact, however, all intelligence reports thus far indicate that the Soviet troops in question probably have been in Cuba for years; indeed, they may well be a residue of the 20,000 or so Soviets who were there at the time of the 1962 missile crisis.

So this is not a "test" or "challenge" to the United States. But there were some—and the administration is not blameless in this regard—who contributed to such a perception before looking at the realities of the situation, and thus was created this "pseudo-crisis" in which we became all too deeply immersed.

As a result, the treaty suddenly became subjugated to a far less important issue—not an "artificial" issue, as Andrei Gromyko claims, but not one meriting a crisis atmosphere. Certainly, the Cuban question should not overshadow the SALT II treaty—a treaty that represents the work of nearly seven years of negotiations by three administrations, Republican and Democratic. If the Senate, after careful judgment, rejects the treaty on its merits, that is one thing; but if the treaty dies either because of delay, or an unwarranted connection to the presence of a relatively small number of Soviet troops in Cuba, that is quite another thing.

Neither of these two reasons for the treaty's death would reflect well on the Senate or on the country. To effect the treaty's demise through either of these means would send uncertain signals to our allies in Europe and to the nations in the world. For the treaty to die from a sudden seizure of trembling delirium brought on by the discovery of a handful of Soviet troops in Cuba—an island on which U.S. forces are also stationed—would ill serve the image of the United States as a powerful and mature nation. Undue delay, in itself, would also lead, I feel certain, to the further entanglement of SALT in politics, particularly with next year's campaign season being only a short time ahead, and would lead to its execution on the gallows of political posturing and partisan rhetoric by candidates in both parties.

So the Senate should proceed, in a deliberate and rational way, to make its judgment. The committees have conducted their hearings in a most responsible fashion. Proponents and opponents have been heard in the committees, and there is ample time for a full-scale Senate debate later this year.

When the Senate makes that judgment, it should come down to a simple question—a question not simply answered, but still a simple question: is this treaty in the best interests of the United States? This should be the benchmark by which the Senate measures its decision. Let us not cloud the environment with a totally unrelated issue—one that is clearly not a threat to U.S. security. If the treaty is not in our own interests, it ought to be rejected. Conversely, if it is in our country's interests, then the treaty should be approved, with any appropriate reservations and understandings.

Now, it could be correctly pointed out that the United States should long ago have devised a strategy to deal with Soviet adventurism around the world. Clearly, Moscow has developed and deployed—in some cases in conjunction with Cubans—military capabilities well beyond the legitimate needs of its own territorial security. The already overdue need to develop a viable and effective strategy of dealing with Soviet adventurism, however, will not be achieved by holding the treaty hostage. After all, no one in his right mind would suggest that the treaty be ratified as a favor to the Soviet Union.

To those who advocate that Senate debate on the treaty be put off until late into next year or thereafter, the question should be addressed: what happens to our national security in the meantime? The SALT process would be stopped dead in its tracks, and the prospects for achieving significant reductions in nuclear armaments in the future, and for limiting the proliferation of nuclear weapons, would become increasingly dim. In the meantime, the Soviets, having already built considerable momentum, would be free to go ahead with the development, deployment and expansion of systems that would otherwise be prohibited under SALT II.

For example, there would be no constraint on Soviet development of the SS16 mobile intercontinental missile, which is banned under the treaty. The Soviets could proceed with no limit on fractionation—putting more than 10 warheads on an SS18 missile, for example. Under the treaty, the Soviets would be limited to 10 warheads per SS18, whereas the missile has the capacity of carrying up to 20—even 30—warheads, and this would greatly expand their offensive capacity. Moreover, instead of being limited to the production of 30 Backfire bombers per year, the Soviets could greatly increase their production rate. Further, there would be no restriction on telemetry encryption or other concealment practices, thus making our verification of Soviet missile testing, development and deployment much more difficult. Additionally, instead of being restricted to a single new-type missile, as provided in the treaty, the Soviets would be free to deploy as many new types as they choose—and they have the capability, the technology and the momentum to develop several new missiles in the near future.

Also, whereas the treaty establishes a limit of 2,250 strategic launcher systems and heavy bombers by Jan. 1, 1982, the Soviets could have 3,000 such systems by 1985. Sub-limits, likewise, would not exist and, instead of being held to 820 MIRVed land-based ICBM's, the Soviets could deploy from 1,100 to 1,300. In other words, without the treaty all caps are gone and all bets are off.

With or without SALT II, we are going to have to proceed with the strengthening of our strategic and conventional forces, as well as theater nuclear forces in Europe. But without SALT II, we face a much less predictable strategic situation and the need for much greater military spending than would be necessary with the treaty. Much of the money that is needed for building up our conventional forces would be siphoned away to match the Soviets in an uncontrolled strategic nuclear armaments race.

We must retain a sense of reason and perspective. We have to be aware of the consequences of delaying the treaty inordinately. A matter of this significance must not become a political football. The Senate deserves the opportunity to vote on the treaty. The country deserves to have the treaty judged on its merits.

The truth is that any lengthy delay in Senate consideration of SALT II effectively kills the treaty. I believe it should be debated in the Senate and stand or fall on the basis of its value to U.S. national security, and not on the basis of an issue not relevant to the treaty.

As one who voted against the 1963 Test Ban Treaty, who has voted for increased defense spending, who has sharply criticized the Soviets for adventurism and suppression of dissidents, I am constrained to say that holding the treaty hostage to 2,000–3,000 Soviet troops in Cuba—apparently long existent, but only recently identified—would be much like throwing an antique chair, brought over on the Mayflower, at a mouse that suddenly appears on the drawing room floor: the chair is reduced to splinters, but the mouse escapes untouched. In other words, we can end up with the treaty down the drain, while the Soviet troops—long in Cuba—remain there.

Let us return to a steady course and bring our best judgment to bear, in a realistic way, on the problems that confront our national security interests.●

THE NEEDS OF OUR CHILDREN

● Mr. McGOVERN. Mr. President, over the past summer months, the Daily Republic, a fine newspaper in my hometown of Mitchell, S. Dak., published in observance of the International Year of the Child, a series of excellent articles on the needs of children in our American society.

Karen Iverson, a sensitive young reporter for the paper who arranged and edited the series, explained in her introduction of the series:

We hope adults will take a closer look at the young ones around them—their own as well as others—and will see them as little people rather than just kids, who have needs and desires that mean as much to them as those of adults do to themselves. Perhaps in some small way it can draw all of mankind just a little closer together.

The articles are written on topics of increasing importance to children's development and happiness: Nutrition, books and reading, health and medical care, recreation and play, and spiritual development. In addition, personal and heartwarming articles on the joys of motherhood and the experience of adopting a child are included. Also included are articles on the needs of handicapped children and minority children, such as the American Indian, which remind us of how far we have come but also of how far we have to go before we reach equality without reservation.

I am proud of the efforts made in my hometown of Mitchell to bring the needs of children to the public's attention. This is, after all, the purpose of the International Year of the Child. In 1976, the 31st session of the United Nations General Assembly proclaimed 1979 as the International Year of the Child, encouraging countries around the world to set aside this period of time to focus attention on the 1½ billion children who populate our planet.

Mr. President, I request that this series of articles be printed in the RECORD so that my colleagues can be reminded of the importance of providing for our Nation's children.

The articles follow:

A CHILD HAS THE RIGHT TO SPECIAL CARE, IF HANDICAPPED

[July 2, 1979]

(Jan Baltzer, Right-to-Read program coordinator)

Learning to read, acquiring the skills enabling a person to read is a big achievement. But once those skills are acquired, one must want to read to truly know the joy and pleasure it can bring.

The challenge facing us as parents and educators is how to teach reading without squeezing out the joy. Why should we care whether children read or not, as long as they are ABLE to read? Because for a skill to be maintained it must be practiced and because reading increases one's understanding and knowledge of the world.

Because nearly half of a child's intellectual development occurs before he enters formal schooling, parents are important teachers. Parents are the first and most important teachers a child will ever have. Listen to your child, speak with him, and most importantly read to and with him. Only when a good model is supplied will a child realize the full joy of reading.

[July 16, 1979]

(By Carla Scott, Registered Dietitian, St. Joseph Hospital)

Good nutrition is one of the chief elements of good health. In this Year of the Child we should each take time to examine the nutritional rights of children and how those rights are to be protected.

Long before the child has any say, its nutritional health is being determined. A woman planning to bear children has the responsibility to make the proper nutritional choices both before and during pregnancy. The poor nutrition, smoking, heavy drinking of the mother, all affect the unborn child. Mothers should be encouraged to breast feed or at least use a physician approved formula. They should not be over anxious to wean their infant to cows milk nor to introduce solids too early.

While the Mother's responsibility—with regard to the nourishment of the unborn child—is greater, the Father's role is at the very least supportive. It is a joint parental responsibility to plan family meals and snacks to help the child develop good eating habits. Eating habits are developed early. Children are born without food prejudices. Each day new eating habits are formed that may continue into adulthood. Helping children develop good eating habits is easier than changing bad ones.

Educators and medical professionals play an extremely important role in teaching proper nutrition and directing the nutritional choice of parents and child.

Food producers, food processors, and food regulatory agencies are responsible for supplying the child with quality foods that are not overprocessed, are free of harmful pesticide residues and additives, and are not laden with excessive sugar, fats, and salt. Advertisers should appropriately control their advertisements affecting children's choices of foods.

The greatest responsibility for protecting the nutritional rights of the child belongs to society, to us all. Social pressures, peer pressure and tradition greatly affect food choices and habits. We all need to work toward developing social attitudes that favor good nutrition. For example, it should be socially acceptable for a child to bring apples to school instead of candy for a birthday treat, and it should be socially acceptable to fill school vending machines with fruit and fruit juice instead of candy and pop.

We can help our children make proper nutritional choices by teaching them good nutrition and then make them feel good about themselves when they make the right choices.

[Aug. 6, 1979]

(By Rev. Glenn Ellis)

Whosoever therefore shall humble himself as this little child, the same is greatest in the kingdom of heaven. And whosoever shall receive one such little child in my name, receiveth me. (Matthew 18:4–5).

A painting entitled "His Majesty, The King" does not show any shining crown or royal robes, yet its subject tugs at the heart and captures the imagination of the mind. The painting is a picture of a small boy crossing the street on his way home from school. A policeman stands in the intersection holding the traffic with his upraised hand. The implication is clear. No one would deny that even the youngest infant is "king" in the hearts of his parents.

"Children are on the march," wrote Dr Louis Evans. They march into our lives, our homes, our Sunday Schools. They change our plans, influence our aspirations and ambitions, they consume our thoughts and plumb the very depths of our emotions. Indeed, they change our whole lives.

Our generation will inevitably pass. We will have to lay down our places of leadership to our children whether we have completed our God-given tasks or not. They will then teach our Sunday School classes, direct our choirs, fill our pulpits, and enter into our halls of government—all too soon for us.

Sometimes we are tempted to say, "Oh, there is plenty of time." Is there? Horace Bushnell, in his book Christian Nurture, warns: "Let every Christian father and mother understand, when their child is three years old, they have done one-half as much as they will ever do to mold his character."

St. Francis of Assisi was a busy man. One day as he was writing he instructed his assistant, "Let no one disturb me. I want absolutely no intrusion whatsoever for at least half a day." As the assistant started to leave, St. Francis called him back and said, "Unless it is a little child who asks for me." St. Francis recognized something we all must recognize, that children do not wait. Their eagerness, their enthusiasm, their curiosity will not wait until we are ready. We have only one opportunity to teach and enjoy them, and that opportunity is now, this very moment.

No one has ever lived a fuller, busier life than Jesus. He had a tremendous task to complete in just three short years. Every moment was essential, yet He readily gave these moments not only to adults in need, but to children as well.

[Aug. 11, 1979]

(By Gail Johnson)

The medical needs of children are unlikely to be met by chance. The parents must take the primary responsibility of child care. This role especially falls to the mother who usually arranges for check-ups and immunizations.

The monitoring responsibility usually is assumed by the family's physician or in some instances by the community health nurses or school nurses. Parents must recognize and evaluate cues the child gives them and arrange for appropriate treatment. But it must also be stressed that although there are certain guidelines, each child will grow in their own way.

There are many resources for parents, such as informational pamphlets to which they may refer. Well baby assessments are usually held by the community health nurses. The most frequent request at these clinics is reassurance in the simple aspects of child care. Any problems with the child are referred to the child's doctor.

Pre-school assessments can also pin point potential problems such as vision and hearing problems and appropriate follow-up can be arranged.

Despite the availability of resources directed toward health promotion and prevention many facilities are underused. One of the major causes of this is that after the first year of age, parents feel they do not need to secure care for well children.

The old adage, "An ounce of prevention is worth a pound of cure," can apply to the health care of children. Regular and periodic screening and updated immunizations are examples of this.

[July 30, 1979]

(By Billie Keenan)

Every parent in Mitchell has more than likely heard the phrase "There's NOTHING to do" at least a million times. The Parks and Recreation Department provides almost that many alternatives for energetic children.

Recreation plays an important role in a child's development. A child who is exposed to a variety of recreational activities will be more apt to make responsible decisions on how to spend his leisure time constructively as he grows older. In this International Year of the Child, an emphasis has been placed on broadening the recreational experiences of the youth of Mitchell.

Athletic activities have always provided a solid base for programming. Large numbers of children can participate, while family members and friends can also get involved as spectators. A total learning experience with the key word being "fun" is provided. Children have the opportunity to socialize with peers, get to know authority figures such as coaches on a one-to-one basis, and master physical skills at their own speed. Basic rules are taught, and children learn the importance of fair play and good sportsmanship. Whether it be team or individual sports, a wide variety is available for the interests of any child.

Children are some of the most curious and creative people around! So, when programming for them, creative outlets are a priority. Nature day camps get children in closer contact with the mysterious world of nature, and programs such as Art in the Park give them the change to share their individual talents in the arts, music, dance and dramatics.

Fun, laughter, physical well-being, the joy of accomplishment, the excitement of exploring new areas, a feeling of self-worth and the worth of others—just a few of the benefits for children through recreation.

[July 2, 1979]

(By Shirley Barns)

Even so late as 10 years ago many children, handicapped by birth defect or disease, were doomed to an existence in back bedrooms or restrictive institutional facilities. The right to a life in the social mainstream was denied them by disbelief in and ignorance of their real worth and potential. Society watched as, in the early fifties, courageous parents and legislators led the movement to bring these children into the realm of every day life and acceptance. A former South Dakota governor, Joe Foss, was one of the group of national leaders who were involved in the beginning effort which now, in the late seventies, declares that every child with a handicap has the right to special care.

Institutional workers, legislators, educators, indeed, an entire citizenry has been challenged by the force of that declaration to ensure that children with special needs receive a full measure of the meaning of this right. It does mean that they deserve:

The right to life in the least restrictive environment;

A free, public education;

Therapies which speed the habilitative process;

Recreational opportunities;

Accessible buildings and transportation systems;

Acceptance in the mainstream of American life.

In reality, this movement has just begun. New dimensions to its meaning will come with its development. True and lasting rights will come for these children through moral and legislative commitment of a people influenced by research now underway.

[Aug. 27, 1979]

(By Bonnie Messer)

The right to enjoy these rights, regardless of race, color, sex, religion, national or social origin.

Today people are very concerned about the development and conservation of our natural resources. In our discussions, we often tend to overlook our nation's greatest natural resource—our children. Truly, the future of our country and the world depends upon the children who will be tomorrow's leaders as teachers, ministers, doctors, politicians, lawyers, etc.

In our multicultural nation, people from many different backgrounds and cultural heritages have contributed to making this country what it is today. To ensure the continued growth of this great nation, we need the skills and services of all our children—Scandinavian, Italian, Chinese, Irish, African, Asian, Jewish, Mexican, German, and American Indian. As citizens, we must do all that we can to provide these children with adequate care (physical, educational, and emotional) so that they can develop to their fullest potential.

There are approximately one million American Indians in the United States; one-half of them are under 17 years of age. We cannot afford to lose their contributions. Yet, 50 percent of those young people presently drop out of school—a rate that is double the national average. Did you know that the average length of schooling for American Indians is 5 years? How many potential Albert Einsteins, Oscar Howes, and Leonardo da Vincis are we missing?

In South Dakota, 5 percent of our population is American Indian. We need to seriously ask ourselves if the American Indian children in our communities are having equal opportunities to the rights of adequate nutrition and health care, quality education, loving care in their own homes, economic security, recreation and play, and most important, the right to grow up to be a useful member of society.

The International Year of the Child is a time for each of us to recommit ourselves to not only providing more positive growing environments for our own children, but also to work towards improved living conditions for minorities in our state and nation.

[July 21, 1979]

(By Nan Jakobson)

This year has truly been the "Year of the Child" in our home. After 10 years of marriage as a "couple," we officially became a family!

Anne-Marie, who came to live with us last Nov. 21, became ours in the true legal sense just last month when her adoption was finalized. As special as this was for us, this is not a unique or uncommon experience in our society. But I would like to zero in on an area to which I've become much more sensitive the past eight months—the vocabularly of adoption.

Please don't think me judgemental if you have used some of the words, terms or phrases I cite. I'm sure I've used them myself when talking to other adopting families. And please don't feel reluctant to visit with me the next time you see me out with the baby, for fear you'll say the wrong thing. I'm still learning, too!

But words can evoke feelings and emotions. They can carry implications or become labels. They can bring opposite to mind and thereby other meanings than the original words chosen. Following are some words or phrases that my husband and I have personally had experience with:

"Natural mother." Does this make the adopting mother, then, the unnatural mother? Better choices might be birth mother, biological or genetic mother, when speaking of the woman who gave birth to the child.

"How could anyone give that baby away?" Attributes an uncaring, unloving nature to the biological parents when just the reverse may have very well been the case.

"She looks enough like you to be your own." She is our own! And besides, I think we all know families where the children don't resemble each other or their biological parents at all.

"What a lucky little girl." That's a loaded one, too! While this most probably is meant to be a compliment to the adopting parents, it can carry other implications when the child is old enough to understand the reason for herself or himself. For instance, does that mean that life with the biological parents would have been unlucky or bad? Does it mean that the child has to try extra hard to live up to being "good enough" for these "wonderful parents" he or she has been placed with?

Enough said! In this "Year of the Child," perhaps we can all examine our word usage in regard to adoption just a bit more closely so that we can be more sensitive to the feelings and emotions of those involved, most particularly, the children.

[June 25, 1979]

(Karen Iverson)

Ah, I remember well. . . . Today I see you sitting there, a new book in your hand, the pages flipping. You look up, momentarily, to see if I'm still there, then wrinkle up your face and grin. It's ok and soon you are lost in your busy world of play.

Ah, just a single year ago you were a squiggly little bundle of girl. Laid into my arms for the first time, you made a very special moment shared by your daddy and me.

You're walking now—still a little wobbly sometimes off exploring every corner, every surface, every object that catches your attention or instincts. A year ago we were only guessing at what accomplishments you'd make.

A year. One single year. But a year that has made a great big difference.

We saw you adjust to night and day, before never knowing there was any difference. You kept us up all night, wide awake, hungry, wanting to be cuddled until in the wee morning hours we fell asleep at last.

We watched you find your little hands and feet, to grope for objects that were little more than a passing shadow in front of you.

You went on to first roll over, to sit, to scoot and crawl and then to walk. When you found what feet were used for, there was no stopping you. Tops of everything, insides of everything were a mystery to you, so you became the super sleuth.

We felt every tooth come in and cooled down your fevers. Each time a new one showed up, we had to check that it was coming straight and true.

When you declared your independence we stood by and encouraged your individuality, your spirit. We know you have a right to be you, yet we know we must teach you, mold you, shape you, to develop your personality wisely and well.

But more than anything else, we've loved you.

We've licked one year of parenthood. Through it and the many more to come, we seek but one thing: That whatever the future brings, we have, at least, put forth our best in the role of Mom and Dad.

COMMON ELIGIBILITY MAKES COMMONSENSE

● Mr. JEPSEN. Mr. President, for the past several months I have had the pleasure of working very closely with the Iowa Department of Social Services. The department has been and continues to be very helpful to my office in understanding and interpreting the ever abundant maze of Federal programs which serve the poor, the disadvantaged, and the elderly.

During the August recess the Iowa Department of Social Services expressed concern over the manner in which complexity and inconsistency in determining client eligibility for income maintenance programs result in a multiplicity of forms, and leads to confusion for both clients and workers and increased errors.

This is of particular interest to me because of the recent debate here in the Senate over error rates pertaining to AFDC and medicaid entitlements.

Therefore, Mr. President, I would like to submit for printing in the RECORD a statement prepared by the Iowa Department of Social Services which I believe the Members of Congress and their respective staffs will find both useful and informative.

The statement follows:

COMMON ELIGIBILITY MAKES COMMONSENSE

(By Diane Milobar—Iowa Department of Social Services)

The Problem: Complexity and inconsistencies in determining client eligibility for income maintenance programs* result in a multiplicity of forms and lead to confusion for both clients and workers and increased errors.

Background: Standards and methods of computation vary from program to program in many areas including: resource and income limitations and exemptions; child care deductions; training allowances and educational loans and grants; work expenses; interest and life insurance. The following examples are illustrative of needless program eligibility discrepancies:

To be eligible for ADC a family is limited to resources of $800 plus $400 for each additional member. That same family could have $1,750 in resources—or $3,000 when there are two or more members and one is over age 60—and still be eligible for food stamps. The ceiling on resources for SSI is $1,500 an individual and $2,250 per couple.

ADC allows deductions from income for the actual cost of child care, but the food stamp program combines child care and housing and sets a maximum deduction. (SSI has no allowance for child care.)

Work expenses are computed for ADC and SSI, but the food stamp program allows a flat 20 percent deduction for these.

The Work Incentive (WIN) training allowance is counted as income for food stamps but is exempt for ADC; CETA training allowance is counted as income for food stamps but exempt from ADC and SSI.

Household goods are totally exempted for ADC and food stamps, but SSI allows $1,500 for an individual and $2,200 for a couple.

In food stamp computation, interest from a savings account is counted as unearned income. ADC exempts income from any source

*Income Maintenance programs considered are: ADC, SSI, food stamps and medical assistance. An ADC or SSI client is automatically eligible for Medicaid.

under $5, so most interest is disregarded. If interest is posted quarterly or less, it is not counted for SSI.

The cash value of life insurance is exempt for food stamps as long as it's not converted to cash. SSI will exempt life insurance with a face value of $1,500 or less, but if it's worth more, the entire cash value is counted. ADC exempts $1,000 face value per member of the eligibility group. If the total life insurance exceeds that figure, then the cash value is substituted for the face value; if it still exceeds limitations, the excess is applied to the family's resources.

As you can see, it gets pretty complicated, and income maintenance workers must undergo continuous training to keep up with the changes that occur in all the programs. Sometimes increased benefits in one program affect another program. For instance, ADC or SSI grants may increase for some clients causing their food stamp allotments to decrease. Try explaining that one.

If common eligibility is such a good idea, why hasn't it been implemented? It's a great idea, but its time hasn't come. There has to be a federal congressional initiative toward consistency among programs, uniform laws and regulations. At present basic philosophic differences exist between HEW, the agency that provides basic financial grants, and USDA, the agency that issues food coupons. The food stamp program is highly regulated at the federal level, as contrasts to the ADC program where federal regulations are loose enough for individual state differences.

Recommendation: To reduce error rates and cut unnecessary program complexity, there should be a federal move toward common program eligibility. Basic philosophic differences between HEW and USDA must be broached to achieve common standards uniformly applied.●

IF THE SELF-RIGHTEOUS RULE

● Mr. METZENBAUM. Mr. President, earlier this year, former Senator Thomas McIntyre of New Hampshire, one of the finest men to ever have served in this body, published a profoundly disturbing book. In that book, entitled "The Fear Brokers," Senator McIntyre gave to the people of this country a stark warning of what the rise of the so-called "new right" could mean for the future of our democratic institutions. If we ignore his warning, we do so at great peril.

On August 6, in a speech before the Summer Leadership Conference of the Michigan Education Association, Senator McIntyre spoke out forcefully about the ruthless tactics and the authoritarian potential of right wing extremism in America. I commend this address to the urgent attention of my colleagues and I ask that it be printed in the RECORD.

The address follows:

ADDRESS BY FORMER U.S. SENATOR THOMAS J. MCINTYRE

IF THE SELF-RIGHTEOUS RULE

Although this is my first visit to Sault Ste. Marie, I feel a special kinship with this community.

There is an institution here that was dear to a very great American. I speak of the Lake Superior State College and the late Senator Philip Hart.

The origin of the Philip A. Hart Scholarship Fund for Lake Superior State College says a great deal about the kind of man—the kind of American—Phil Hart was.

He saw a struggling new college in need of scholarship funds. He knew there were Michigan high school graduates who deserved a chance to go to college. And upon his death, and to honor his wish, his many friends of all political persuasions, color, creed and ethnic origin joined together to sponsor a symphony to raise the seed money for the scholarship fund.

Many of the people who worked for this memorial to Phil Hart did not agree with his politics. But they respected his integrity, his character . . . and, most of all, his consummate decency.

Throughout his life he pursued the social justice goals of his political and his religious heritage. But he did so with understanding and magnanimity and endless good will. And this is why even his political foes held him in such warm esteem.

What Phil Hart was—and what he stood for—is the very antithesis of a political movement in America today that is the subject matter of this part of your conference—and of a book I have just published.

The book is called "The Fear Brokers," and the subject is The New Right.

You'll be hearing from other speakers about the organizations and the people who make up the leadership of The New Right, so I'm going to concentrate my remarks on the reasons why I believe the movement is so dangerous to America.

I am convinced that the New Right poses the greatest threat to this country since the days of Joe McCarthy. And I would remind you that such wise observers of the American scene as Eric Sevareid have called the McCarthy years the closest we've come in this century to seeing our basic institutions collapse and disintegrate. That takes on special meaning when we consider the other major crises of this century—four wars, the Great Depression, and Watergate.

What is more, I believe that the major media of this country have not yet recognized the full dimensions of this threat. What the New Right is—and what it portends—is the great untold political story of our generation.

I am willing to predict here and now that when the strength of the New Right manifests itself at the national political conventions next year, the press will watch in openmouthed amazement.

I have told friends—and only half facetiously—not to be surprised if they see Ronald Reagan booed for sounding too liberal when he takes to the podium at the Republican convention, for the New Right delegates at that convention will brook no departure from the True Believer line even if it is done in the interests of party unity.

Am I saying the New Right will nominate a candidate for the 1980 presidential election?

No.

But I am convinced that its grassroots skill in electing delegates to those conventions could force both parties to accept planks in the party platforms which would change the character of those parties as we have not seen it done since the Goldwater convention of 1964.

If this happens, no one should be surprised. We've been told, again and again, by the leaders of the New Right that they are out to destroy the Republican Party and rebuild it in their image. We have also been told that they intend to divide and weaken the Democratic Party and wean from it those party members they believe are most susceptible to the New Right's political primitivism and single-issue appeals.

Perhaps you have heard this before, but let me quote New Right leaders to illustrate what I mean:

Here are the words of Philip Weyrich, the National director of The Committee for the Survival of a Free Congress:

"We are different from previous generations of conservatives. We are no longer working to preserve the status quo. We are radicals working to overturn the present power structure of this country."—end of quote.

Here are the words of Richard Viguerie, the computer mailing wizard who is known as The Godfather of the New Right:

"I don't believe in my lifetime you will ever again be able to successfully market the word Republican. You could as easily sell the Edsel or Typhoid Mary. The Republican Party is like a disabled tank on the bridge impeding the troops from crossing to the other side. You've got to take that tank and throw it in the river."—end of quote.

Now if this strikes you as brazen beyond belief, you might want to consider why the New Right is as cock-sure as it is. After all, the Number of Americans actively enrolled in the New Right still constitutes only a fraction of membership of either party and a much smaller fraction of the total population.

Why then do they speak so confidently of taking over the Republican party and the leadership of the nation?

Because they have already demonstrated that they exert power far beyond their numerical strength.

These are not loonies who run around talking to each other. They are skilled, sophisticated, pragmatic politicians who know where and when to push the right buttons to get things done their way.

In Viguerie, they have one of the most effective direct mail operations in the world at their disposal. They can reach out and tap True Believers for all the money they need. They can reach out and trigger True Believers to inundate the Congress with mail on any issue they want to influence. They can reach out and mobilize thousands to work in campaigns, take over political caucuses, wrest control from party regulars.

Though they operate as separate organizations under the umbrella title of the New Right, they are really one network operation with the same ideology, techniques and goals.

And they have mastered the strategy of using other, conservative but main-line organizations to increase their influence exponentially.

Example: When the New Right leadership set out to defeat a very modest labor law reform bill in 1978, they worked hand-in-glove with business political action committees, the Right to Work Committee, the Chamber of Commerce and the National Association of Manufacturers.

When the New Right Leadership set out to defeat ratification of the Panama Canal Treaties, they used patriotic and veterans organizations to augment their clout with the Congress and they came within one vote of stopping ratification.

Moreover, they place their shots so as not to waste bullets. They concentrate election efforts in those races where there is no incumbent, where one candidate seems especially vulnerable to an emotional single issue, or where the voter turn-out is expected to be unusually low. Then they throw all their resources into the effort, including an all-out push to get the True Believers to the polls.

Is it effective? Last year the New Right knocked eight Senators out of office on the Panama Canal issue, elected thirteen of its own candidates and lost only one incumbent.

Nor can anyone tell me that the Congressional stampede to get on the Proposition 13 bandwagon for a short time last year was a genuine conversion.

I've felt those pressures. I can understand how they work. I can sympathize with those who rationalize that cutting a conscience corner here or there is the only way to keep someone much worse from winning their office. And because I understand, I admire more than ever before the Senators and Congressmen who stand firm under those

pressures. And there are many of them, my friends. Enough of them like Phil Hart to keep us from making some colossal mistakes.

But I'm worried. I don't know how much longer the balance of reason will prevail. That's why I wrote "The Fear Brokers." That's why I'm here today.

If I thought that the New Right had peaked, that its influence was on the wane, I would not be as concerned as I am. But I do not have that confidence. Indeed, I believe the worst is yet to come.

Let me tell you why.

All of the conditions that made it possible for the New Right to surface and succeed still prevail.

On November 10, the Gannett newspaper chain's Pat Ordonvensky wrote, and I quote: "The activist New Right, which has been making steady gains in both Houses of Congress, got by far the most for its money in Tuesday's voting."

But election results are only a small part of the measure of New Right successes. What you cannot appreciate unless you've been in the Congress—as I have—is its influence on incumbents who fear becoming its targets.

This is hard to calibrate. But you can feel it. You can look at votes on certain issues and almost sense what went into the decision on how that vote was cast. And sometimes you can sense fear.

No one can tell me that the House vote against public funding of abortions for needy women is an accurate reflection of how individual House members really feel about this issue.

No one can tell me that the close Senate vote earlier this year on the restoration of prayer in the public schools is an accurate measure of how Senators really feel about this issue.

For all the signs of well-being, there is great uneasiness and uncertainty among Americans.

Vietnam shook their confidence in the power or the moral purpose of our country.

Watergate shook their confidence in the rectitude of leaders and institutions.

Inflation continues to erode their confidence in the currency of this nation.

The energy crisis has forced recognition that we may no longer be the land of endless milk and honey.

The two major political parties are in disarray, fragmented, undisciplined, floundering in search of a unifying gospel.

Centrists and liberals in both parties have abandoned the political lists to extremists while they reassess their own attitudes in a time of harsh new economic realities.

We are a nation at loose ends, my friends. And that is an open invitation to extremist ideologues to move in and take over.

Now I'm going to draw an analogy here to lead up to my final observations, but I want it clearly understood that the analogy I've chosen in no way should be taken to mean that I equate the New Right with the Third Reich. I do not. Extreme though the New Right's ideology may be, it is a far cry from the sinister and malevolent ideology of that time and land. Nevertheless, there are disturbing similarities in circumstances and strategies we ought not overlook.

Hitler, you may recall, noted that the time to capture power is the time when the people have lost confidence in their currency, their government, and themselves—a time when, as he put it, "everything is anchorless."

Once he seized power, he moved quickly to quell internal criticism. And I need not remind this audience that his first target was the educated. He burned books. He vilified intellectualism—which Himmler said rotted the German character because it equated with Jewishness. In short, Hitler set about to quiet every voice of sane and reasoned protest—be they college professors, priests, preachers, rabbis, journalists, authors, or philosophers.

At the same time, he cynically exploited the peasant, exalting him, wooing him to march behind the superpatriotic banner, telling him over and over again that the leaders he had deposed were the people who had betrayed Germany, that they, the peasants, were the loyal and steadfast Germans.

If you have watched the New Right in action, you will have noted the similarities. They are thriving in a time of uncertainty and lack of public confidence in leaders and institutions. They woo the common man by exalting common sense over learning. They quell their opposition with single issue attacks frequently launched under the guise of "real Americanism." They draw up their political hit lists well in advance of elections and launch their attacks early and hard.

The New Right has been running ads and mailing messages against George McGovern since early summer, long before he had an announced opponent in his bid for re-election. And those mailings, my friends, viciously imply that George McGovern—a decorated World War II combat veteran—is not a loyal American. Because Senator McGovern supported ratification of the Panama Canal Treaties and because the New Right believes he will vote to ratify Salt II, posters have been prepared which say: "McGovern Sells Out the U.S. Again" . . . If McGovern wins, YOU LOSE!"

Also on the New Right hit list for 1980 are office holders, including Catholics, who voted to provide public funds for abortions for indigent women when pregnancy endangered life or health or was the result of incest or rape. Though we Catholics in Congress are opposed, by creed, to abortion, a number of us recognize that Americans differ on this agonizing issue, that individual choice must be considered, and that it is inherently unfair to deny an option to the pregnant poor that women of means can exercise under the law. On the Sunday before the election that I lost, pamphlets describing me as a baby killer were stuck under the windshield wipers of cars in Catholic church parking lots. This time around, Father Drinan, the only Catholic priest in the Congress, is on the New Right's hit list.

If there is one characteristic that is common to the leadership and much of the membership of the New Right, it is self-righteousness. And this leads into my final comment.

Earlier I said that I believe the movement had not yet peaked. What prompted that observation is clear evidence that the New Right is now deliberately and openly setting out to enlist an immense new bloc of Americans in its political cause. I speak of an estimated 75 million evangelical Christians.

It is important to note here that there are political differences within the evangelicals which are common to most groups. The New Right could not hope to enlist progressive evangelicals like Jimmy Carter, or former Iowa Senator Harold Hughes, or Oregon Senator Mark Hatfield, who wrote the introduction to my book, for example. But the New Right hopes to convince conservative evangelicals that the movement shares with them a mutual attitude on most issues.

The recruiting campaign was launched this summer under the title: "Christian Voice." And it is reportedly meeting with astonishing success in the heartland of America. Already it claims to have enlisted 1,500 ministers and 100,000 Christians, and hopes to have 5,000 ministers enrolled by next year.

The organizers of Christian Voice call themselves, and I quote: "The chosen shepherds of the flock in these times." Among the New Right leaders actively involved are Senators Roger Jepsen of Iowa, Orin Hatch of Utah, James McClure of Idaho, Gordon Humphrey of New Hampshire, and Congressmen Robert K. Dornan of California, Daniel Crane of Illinois, George Hansen of Idaho, and Larry McDonald of Georgia, among others.

Christian Voice claims to have an initial budget of $1 million, has opened and staffed a Washington office, and will lobby Congress on issues dear to heart of the New Right.

Christian Voice also has announced that it will use Christian television networks, which claim to have between 40 and 50 million viewers, to spread its views nationwide. Sixty second spots will feature Senator Orin Hatch on issues before Congress. There will be half hour documentaries on Christians in politics, a series of radio announcements and a weekly 30-minute commentary for cable television. Senator Roger Jepsen already has been featured on one 30-minute program.

The Rev. Robert Gordon Grant, one of the founding directors of Christian Voice, calls 75 million evangelical Christians, and I quote, "the sleeping giant of American politics."

"The giant is no longer asleep," he said. "Millions of Christians are frustrated, angry and fearful. They are searching for a means to channel their frustration in such a way that they can have real impact."—end of quote.

Now what kind of "Christian" politics are we talking about here?

Well, in the first place the Rev. Grant says political liberalism is, and again I quote, "inconsistent with Christianity." He says the nation "is crumbling under the onslaught (by) the rulers of darkness of this world and insidiously sustained under the ever-more-liberal ethic."

Let me turn to another politicized evangelical, the Rev. Bob Thoburn of Virginia. He runs an alternative Christian day school. Richard Viguerie, the godfather of the New Right, is a Catholic. He took his children out of Catholic catechism class because the nuns discussed ecology. He took them out of public school because he didn't like the way history was being taught. Then he enrolled them in the Rev. Thoburn's school.

Well, the Rev. Thoburn ran for Congress last year because, he said, "what's the use of having some evangelical Christians in office (like Mark Hatfield), if they don't vote like Christians?"

And what does voting "like Christians" mean? Here are some of Thoburn's views: The welfare state is contrary to the Bible. The purpose of civil government is to punish criminals, protect our property rights, and maintain a strong defense. The government's function is not to redistribute wealth; the income tax is unscriptural . . . the free market is the biblical approach to economics . . . We should have let the military win in Vietnam in a couple of weeks. The most powerful nation in the world could have easily licked a fourth rate power like them.

All right, then, so much for the politics of the movement. How about the danger of mixing church and state?

You will remember that the Third Reich successfully converted its political creed into what amounted to a state religion. Is that what the New Right intends to do with Christian Voice?

I sincerely wish the New Right was more convincing in its denials. Let me read one paragraph from an article in a recent issue of the Des Moines Register-Tribune to show you what I mean.

"(Senator Orin) Hatch said he was not troubled that the lines between church and state may be blurred by Christian Voice, and he agreed that there are similarities between its efforts and the goals of Iran's Ayatollah Khomeni to establish a state based on religious principles. 'There is the same desire to spread the viewpoint of good people . . . so that we can change some things that are happening,' said Hatch."

Do you wonder now why I'm so worried about the New Right?

I cannot close, however, without sounding a note of optimism. What you and your parent organization, the NEA, are doing to alert the public to the dangers of this movement is extremely encouraging. I find the same alarm being sounded by labor organizations, women's groups, minority leaders, librarians, and main-line church leaders . . . and not a moment too soon. I am encouraged, as a Catholic, that some of the leaders of my church are recognizing that the social justice goals of our faith suffer a net loss when an office holder who supports those goals, but does not vote a rigid line on abortion, is defeated by a Right to Life candidate who supports none of those goals.

I leave you now with this final thought.

The New Right and Christian Voice like to quote the line from the Bible that goes ". . . when the righteous rule, the people rejoice; when the unrighteous rule, the people mourn."

A columnist in the Des Moines Register Tribune added one more line: "And when the self-righteous rule, watch out!" ●

NO COMMENT

● Mr. MCGOVERN. Mr. President, I would like to submit for publication in the RECORD an August 26, 1979, editorial from the Concord, N.H., Monitor as well as a letter from our distinguished colleague, GORDON HUMPHREY.

The material follows:

HUMPHREY TESTS "CODE"

U.S. Sen. Gordon Humphrey, R-N.H., has signed a letter sent to 40,000 conservatives nationwide opposing the re-election candidacies of five of his colleagues in the Senate.

The letter, distributed by the National Conservative Political Action Committee of Arlington, Va., calls the five Democratic senators either "extremist" or "radical" or associated with "big labor."

It is Sen. Humphrey's prerogative to seek the defeat of those running for public office whom he considers liberal, and to promote the candidacies of those who espouse a political philosophy akin to his own.

But the Senator's allegiance to this cause should take second billing to his responsibilities to his New Hampshire constituents. This is where the letter in question may do damage to the best interests of New Hampshire.

It is no secret that the U.S. Senate is a closely-knit club with a highly-developed code of personal relationships, expressions of mutual respect and effusive courtesy which any member violates at his peril.

While on one hand it is almost a comic opera code observed despite sometimes strident philosophical differences, it also is a valuable foundation for an individual senator to win Senate approval of legislation that particularly affects his home state.

If other members of the Senate have no particular interest in the legislation, they will vote for it out of deference to the senator from the state concerned. Purists in the democratic process may decry this back-scratching process, but that is the way it works.

The letter Sen. Humphrey signed described Sen. Birch Bayh, D-Ind., as "famed for his extremist support of the Equal Rights Amendment . . ." It said Sen. George McGovern, D-S.D., was a "radical . . . who favors recognition of communist Cuba."

The letter called Sen. Frank Church, D-Idaho, a "radical . . . who single-handedly has presided over the destruction of the FBI and the CIA." It described Sen. John C. Culver, D-Iowa, as "the most radical member of the U.S. Senate."

And it said Sen. Alan Cranston, D-Calif., was "one of big labor's staunchest allies in the U.S. Senate."

The letter was widely viewed as a violation of the Senate code which holds that one senator should not attack another publicly.

How Sen. Humphrey gets along with his colleagues is something he must decide for himself. But when retaliation for his actions comes in the form of votes against legislation that would benefit New Hampshire, all of the state suffers for it.

The Senate's courtesy code may be an anachronism, but it is there and Sen. Humphrey would do well to consider the consequences to New Hampshire before he violates it.

GORDON HUMPHREY,
Washington, D.C.

MONDAY MORNING

DEAR FRIEND: The numbered report I've enclosed is for your eyes only.

I'm sending this report to a limited number of leading conservatives across the country.

I've attached a special label to your report with your name and personal report number. To verify receipt of your report please peel off the top half of this label and send it back to me on the enclosed reply memo.

You see, this report contains the National Conservative Political Action Committee's (NCPAC) plans for electing a conservative majority to the U.S. Senate in 1980.

1980 provides us with an unusual opportunity to make noticeable gains. Thirty-four Senators in all will stand for re-election; twenty-four are liberal Democrats. Most observers are convinced that at least half of the liberal Democrats and a few liberal Republicans will be vulnerable.

Let me give you an idea of which liberal Senators are standing for re-election in 1980:

George McGovern—the radical Senator from South Dakota who favors recognition of communist Cuba.

Frank Church—the radical Chairman of the Senate Foreign Relations Committee who single-handedly has presided over the destruction of the FBI and the CIA.

John Culver—the freshman Democrat from Iowa who, while largely unknown, is credited with being the most radical member of the entire U.S. Senate.

Birch Bayh—the Democrat from Indiana who is famed for his extremist support of the Equal Rights Amendment extension and abortion on demand.

Alan Cranston—one of Big Labor's staunchest allies in the U.S. Senate.

And I could list at least twenty more liberals just like them who will be standing for re-election in 1980. The 1980 election will provide us a real opportunity to make inroads into the strong liberal domination in the U.S. Senate.

And because of the NCPAC special plan called "Target '80" I am convinced that we can actually seize control of the U.S. Senate.

But I'm sure you understand that conservatives need to get organized early if they are to win. Unfortunately, many of our candidates don't realize this important fact. They wait until the last minute before announcing for election.

As a result, liberal Senators begin with a huge advantage by using tax money to publicize their names and activities.

And no one criticizes these Senators for their liberal votes in the U.S. Senate until a few months before the electon.

Well, the NCPAC solution to this problem is amazingly simple. We will set up independent campaigns in each of these critical states (and many more if funding permits) immediately, in order to explain to the voters of these states just how radical their U.S. Senators are.

Why? First, because incumbents begin with huge name identification and popularity ratings subsidized by your tax money. Incumbents use their staff, computers, mailing services, newsletters and many other government funded services to fool unsuspecting voters into voting for them.

Second, conservative opponents to these radicals won't surface for another year, and many won't even begin their campaigns until September of 1980. But professional polls show that up to 60% of the voters decide who they are voting for before September 1st.

Conservative candidates are like a football team which only starts playing in the fourth quarter.

So unless we get started now, and expose these radical Senators, it will be the fourth quarter before we know it.

The "Target '80" plan includes the use of sophisticated polling services, massive mailings to registered voters in these states, as well as an entirely independent radio and television and newspaper advertising program which will destroy the popularity ratings of many of these incumbent liberals.

The "Target '80" plan itself—as well as its scope and depth—is unprecedented in American political history. That's why I'm so excited about it. I hope you are too.

Because I'm convinced that "Target '80" will work.

I want you to know, NCPAC doesn't merely hand out money to conservative candidates, sit back and hope for the best. We provide expert analysis and campaign guidance which has proven the moving force in many important political races.

Most conservative candidates agree that NCPAC provides the best professional campaign assistance available today—the best pollsters, the best television consultants, the best advertising and precinct organization leaders, and many other key personnel.

And now, with your help, NCPAC will be successful in its most important project yet: taking over the U.S. Senate for conservatives.

Of course, it won't be easy, but I'm convinced NCPAC's "Target '80" plan will make possible gains in the U.S. Senate that we never dreamed of.

Just imagine the added beneficial side effects of this plan:

First, it will rid us of the most radical members of the U.S. Senate and the ringleaders for almost all liberal legislation that comes up in Congress.

Second, it will put all the other liberals on notice that if they step out of line and vote for the SALT Agreements, taxpayer financing of congressional elections, and all Big Labor's other special interest legislation, the voters will rise up and oppose them.

Third, we can then count on defeating the SALT Disarmament Treaty, repeal of the right to work laws, and other key liberal legislation that will be brought up this year.

Finally, it will let other good conservatives in the Senate know we can win key strategic battles.

Instead of just fighting liberal legislation, at last conservatives will start proposing legislation of their own—for the first time in 20 years.

NCPAC has already begun this massive program to rid us of the liberals in the U.S. Senate. Right now we need to commit $27,000 to polls alone to explore the weaknesses of incumbent liberal Senators.

Immediately after that, NCPAC needs an additional $157,000 to begin their first round of advertising. This program can't be stalled for another minute if it's going to be successful.

Because of conservatives like you, NCPAC has worked wonders in electing scores of conservatives to the Congress, as well as state and local office.

That's why I am going to come right out and ask you to send a contribution right away to NCPAC for their special "Target '80" project. So please do me the personal favor of reading the enclosed "Target '80" report I have enclosed and then send at least $15 to NCPAC immediately.

If at all possible, I'd like you to send as much as $25, $50, $100 or more if you can.

As I mentioned earlier there are not many people who, like you, are astute enough to understand the importance of programs like this.

That is why you are so important to the success of NCPAC's "Target '80" program.

So please, don't hesitate. Send your largest possible contribution to NCPAC today.

I look forward to hearing from you.

Sincerely,

GORDON HUMPHREY,
U.S. Senator.

P.S. "Target '80" is so important that NCPAC needs the help of every dedicated conservative. Please let us know if you'll be able to help today.

P.P.S. Please don't forget to peel the label off the special report and put it on the reply memo to verify that you are the one who personally received the report. ●

U.S. IMMUNIZATION DRIVE IS SUCCESSFUL

● Mr. BUMPERS. Mr. President, a dramatic announcement was made by HEW last month which generally went unnoticed.

Surgeon General Julius B. Richmond announced that more than 90 percent of the Nation's children in grades kindergarten through 8 have been immunized against measles, polio, diphtheria, tetanus, and pertussis (whooping cough). Eighty-four percent have been immunized against rubella.

The new immunization levels reflect the dramatic success of the nationwide immunization campaign begun by HEW in April 1977, when immunization levels for the six diseases ranged from 66 to 75 percent.

Cases of measles and rubella, which were reported in epidemic proportions in many parts of the country in 1977, have declined significantly since that year. Measles cases dropped 78 percent, from 52,374 cases in a 1-year period ending August 19, 1977, to 11,711 cases in a comparable period ending August 1979. Rubella cases dropped 43 percent, from 18,315 cases in the 1977 reporting period to 10,421 cases in 1979.

In contrast to the eight cases of diphtheria and eight cases of tetanus that were reported in 1977, there have been no cases of diphtheria or tetanus reported among children this year.

Although immunization levels against polio are at an alltime high among children, 23 cases of the crippling disease have occurred in 1979, compared with 17 in 1977. The increase is due to outbreaks of polio in Amish communities in Pennsylvania, Iowa, and Wisconsin, which infected 15 persons. This increase in cases of polio occurred in a segment of our population in which immunization has been the exception rather than the rule. This should demonstrate the importance of vaccine protection.

Only five cases of paralytic polio have been reported in the non-Amish population in 1979. This is compared with 7 in 1978 and 17 in 1977.

Because few States required immunization against mumps as a condition of school entry in 1977, the campaign against this seventh preventable disease concentrated on preschool, rather than school age children. Since April 1977, administration of mumps vaccine to preschool children in public clinics has doubled from 1.5 million doses to more than 3 million doses. The number of cases of mumps among all children under 15 years of age has dropped 30 percent, from 15,512 cases in 1977 to 11,136 cases in 1979.

At the same time, the number of States requiring mumps immunization before school enrollment has increased significantly, from 2 in 1977 to 18 today. Mr. President, this may sound self-serving, but the national immunization program was modeled after the successful immunization programs organized for Arkansas children by my wife, Betty, when I was Governor.

In 1973–74, the State of Arkansas, through a massive coordination and cooperation effort by existing public agencies, such as the State health department, cooperative extension service, the National Guard, the Arkansas League of Nursing, the Arkansas Medical Society, and over 10,000 volunteers, increased the immunization level in Arkansas from one of the lowest in the Nation to the highest.

In 1975, the number of children in this country susceptible to preventable childhood diseases was a reflection of one of the most abysmal failures in the medical history of our Nation. The failure to conduct adequate awareness programs alerting the public to the risks and costs of epidemic was compounded by a lack of funding to support aggressive immunization programs. I was alarmed that only $6.2 million was appropriated in fiscal year 1975 for the childhood immunization grant program. In comparison, $35 million was appropriated in fiscal year 1979 for this program.

This increase in the appropriation level for childhood immunization grants over the past few years has received strong support from the chairman of the Appropriations Committee, Mr. MAGNUSON; the Senator from Massachusetts, Mr. KENNEDY, and the Senator from Indiana, Mr. BAYH. I also want to recognize the efforts of the late Senator Hubert Humphrey in support of this program.

The appropriation level increased to $17 million in 1977 from $6.4 million in 1976. The original request by the Ford administration in 1977 was only $13 million, but Congress added $4 million to the appropriation in the supplemental for that year. As I mentioned, the appropriations level for fiscal year 1979 was $35 million.

The immunization levels which I described at the beginning of my statement are a direct result of these appropriations and the effort by HEW and the thousands of volunteers who have worked on this program across the country.

State legislative activity has been an important factor in the battle against childhood diseases. Since April 1977, five States have enacted laws requiring every child to be immunized as a condition of school entry. Twenty-five other States have strengthened their immigration laws. Today all 50 States have school immunization statutes designed to insure that youngsters are protected against childhood diseases.

Childhood immunization, however, is not a problem that remains solved. There must remain a continuing education program and a continuing commitment to maintain the immunization levels that have recently been announced.

Mr. President, before rubella vaccine was perfected, an outbreak of German measles, or rubella, as it is called in this country, hit 300,000 people. During an epidemic of this type, children with rubella would infect or communicate the disease to their pregnant mothers. If this occurred during the first 3 months of pregnancy, it was an iron-clad medical certainty that the new child would be handicapped. As a result of that epidemic, approximately 30,000 children who were born during that period had rubella syndrome.

There are 250,000 adults and children in mental institutions across this country. It is estimated that between 5 and 9 percent of those cases are the result of mothers contracting rubella during the first 3 months of pregnancy. Probably two to three times that number of children are less profoundly handicapped and are in sheltered workshops or remain at home. Many constitute a serious financial drain on their families and a loss of productivity to society.

If we just assume that 7 percent of those people are there because of rubella then 17,500 people are institutionalized today as a direct result of rubella. Each one of those people in today's dollars will cost the States and the Federal Government $900,000 directly and through loss of productivity. It is costing this country $15.75 billion in direct outlays. This is an outrageous statistic and should be a cause of shame to all of us.

HEW has announced a long-range plan to immunize infants and calls for the education of new mothers while they are still in the hospital and for special outreach programs to remind mothers of the need for immunization and of the dates when booster shots are due.

We must remain vigilant in support of the childhood immunization program because it is one of the most critical and least costly ways of preventing needless suffering in this country.

I ask that a table indicating the percentage of first grade and kindergarten children with a history of specified vaccines in 1975 to 1980 school years be printed at the conclusion of my remarks. I also ask that two new articles on the immunization program from the Washing Post and New York Times be printed in the RECORD.

The material follows:

PERCENT OF 1ST GRADE/KINDERGARTEN STUDENTS WITH A HISTORY OF SPECIFIED VACCINE, 1975-76 THROUGH 1979-80 SCHOOL YEARS

Project area	Measles					Rubella					Polio (3+)					DTP (3+)				
	1975	1976	1977	1978	1979	1975	1976	1977	1978	1979	1975	1976	1977	1978	1979	1975	1976	1977	1978	1979
Region I:																				
Connecticut	91		91	94		81		92	92		88		90	96		93		91	96	
Maine	80	80	82	92		79	72	76	91		80	82	83	91		86	86	87	91	
Massachusetts	95	96	98	99		79	85	90	93		94	96	[1] 94	98		95	96	[1] 96	97	
New Hampshire	96	95	95	96		96	92	94	96		92	[1] 91	94	96		94	[1] 93	95	96	
Rhode Island	90	91	92	92		88	90	91	91		88	89	91	91		89	90	91	91	
Vermont	92	89		94		73	78		80		91	93		96		95	96		96	
Region II:																				
New Jersey	92	99	99	99		93	98	99			91	97	97	97		91	97	97	98	
New York State	92	94	96	97		91	93	95			92	93	94	96		92	94	95	96	
New York City	81	87		76		80	86		76		80	87		76		79	89		76	
Puerto Rico	27	55		72		24	55		72		24	53		76		28	55		72	
Virgin Islands	90					90					77					77				
Region III:																				
Delaware	90	87	90	98		87	85	89	94		91	87	91	94		93	89	93	95	
District of Columbia	95		95	98		97		79	97		98		89	95		98		93	97	
Maryland	98	99		97		96	99		98		96	99		88		95	97		91	
Pennsylvania	92	92		97		90	91		97		92	92		97		94	93		98	
Allegheny County	96	97	98	93		94	96	97	93		95	96	97	93		96	97	98	94	
Philadelphia			98	83				88	81				89	82				90	84	
Virginia	80	84	91	95		79	84	91	95		79	84	89	94		81	85	90	94	
West Virginia	96	86	98	98		95	96	98	98		96	97	98	97		96	97	98	98	
Region IV:																				
Alabama	93	94		96		93	94		96		93	94		96		93	94		96	
Florida	93	93	92	93		93	93	92	93		93	93	92	93		93	[1] 93	[1] 92	93	
Georgia	86	87		82		86	87		82		86	87		82		86	87		82	
Kentucky	75	79		90		75	79		90		75	79		90		75	79		90	
Mississippi	84			92		84			92		80			92		78			92	
North Carolina	96	95	97	96			95	97	96		96	95	97	96		96	95	97	96	
South Carolina	94			94		94			94		94			94		94			94	
Tennessee	98	94	98			98	94	98			95	93	97			95	92	97		
Region V:																				
Illinois		83		89			81		87			78		86			71		88	
Chicago	83	81		81		65	73		80		75	74		74		79	78		77	
Indiana	75	88		96		67	87		96		76	88		95		83	90		97	
Marion County	71	81	91	95		64	78	91	93		82	85	89	94		83	83	88	95	
Michigan	94	84	89	90		93	82	88	90		92	65	81	90		92	72	85	91	
Minnesota	98	98	96	97		95	98	96	97		83	85	79	92		84	[1] 84	72	88	
Ohio	91		92	98		87		92	98		90		91	97		93		92	96	
Wisconsin	85	89		91		80	87		93		83	90		85		92	93		85	
Region VI:																				
Arkansas	90			99		88			98		87			98		90			98	
Louisiana	96	97		95		94	97		95		94	96		95		96	97		95	
New Mexico	99	96	97	98		99	96	97	98		98	[1] 96	[1] 97	98		[1] 96	[1] 97		98	
Oklahoma	90	81	95	96		87	82	95	96		91	84	91	94		93	90	98	96	
Texas	98	98	98			98	98	98			96	97	97			96	97	98		
Houston	96	98				98	98				93	96				94	96			
San Antonio	92	94				91	93				81	83				80	83			
Region VII:																				
Iowa	85	86	84	96		78	82	83	96		85	86	83	95		89	90	84	94	
Kansas	84	90	95	90		84	90	94	90		85	89	93	88		82	[1] 86	[1] 90	86	
Missouri	80			95		78			93		78			97		79			97	
Nebraska	93	94		97		92	93		96		94	95		97		95	96		97	
Region VIII:																				
Colorado	83	89		73		83	89		73		83	89		73		83	89		73	
Montana	77	77	81	84		66	68	73	82		86	85	88	83		87	88	92	84	
North Dakota	93	94		97		86	93		96		72	81		97		83	89		97	
South Dakota	96	97		88		97	96		88		96	91		88		96	95		88	
Utah	90	95		98		89	95		98		92	93		97		91	93		96	
Wyoming	89	91		90		86	87		89		91	94		88		94	95		89	
Region IX:																				
American Samoa																				
Arizona	75	80	87	90		70	72	84	88		78	78	80	92		85	84	92		
California	86	89		91		73	68		82		85	85		88		89	90		94	
Guam	95	95	94	89		94	93	92	91		88	89	95	91		80	90	95	90	
Hawaii	72	83		98		94	92		97		72	83		98		77	80	77	91	
Nevada	57	73	88	94		62	72	92	93		74	78	74	93					98	
Trust territory	82					71					66					68			95	
Region X:																				
Alaska																				
Idaho	80			67		71			67		82			67		91			67	
Oregon	87	88		97		78	81		96		86	86		93		86	84		92	
Washington																				

[1] Denotes 4+ doses.

[From the Washington Post, Sept. 10, 1979]

U.S. IMMUNIZATION DRIVE IS SUCCESSFUL, DOCTOR SAYS

ATLANTA.—At least 90 percent of the nation's youngsters have been protected against childhood diseases by a sweeping, two-year immunization program, federal health figures show.

And for some of the diseases, particularly measles, the immunizations have cut cases by as much as half.

Launched in 1977 by Joseph A. Califano, then secretary of health, education and welfare, the $58 million federal program targeted full immunizations for 90 percent of the nation's children under the age of 15 by October 1979.

Dr. Alan Hinman, immunization chief for The National Center for Disease Control in Atlanta, says the massive push has been successful.

"We will meet the target for schoolage children and I think we will have clearly exceeded it when all information is in by the first of the year," he said.

As a result of coast-to-coast publicity, millions of doses of vaccine have been given to protect against the preventable diseases polio, measles, diphtheria, pertussis, typhoid, mumps and rubella.

[From the New York Times, Sept. 10, 1979]

PROGRAM IS SHARPLY REDUCING CHILDHOOD DISEASES

ATLANTA, September 9.—At least 90 percent of the nation's children have been protected against childhood diseases by a sweeping, two-year immunization program, Federal health figures show.

For some of the diseases, particularly measles, the immunizations have cut cases by as much as half.

The $58 million Federal program, which was started in 1977 by Joseph A. Califano, Jr., Secretary of Health, Education and Welfare, sought to provide full immunizations to 90 percent of the nation's children under the age of 15 by next month.

Dr. Alan Hinman, immunization chief for the National Center for Disease Control in Atlanta, called the program a success. "We will meet the target for schoolage children and I think we will have clearly exceeded it when all information is in by the first of the year," he said.

The coast-to-coast drive enlisted Star Wars characters and sports stars to urge in advertisements that parents get their children to health clinics and pediatricians' offices. As a result, millions of doses of vaccine have been given to protect against the preventable diseases polio, measles, diphtheria, pertussis, typhoid, mumps and rubella.

Figures are still coming in from the nation's schools, but 1978 school entry surveys showed that 29 states had already met the 90 percent mark and that 95 percent or more of the children in 17 other states and major cities were immunized.

The results of the program have been impressive. "In the 1950's, we had 500,000 cases of measles and about 495 deaths each year," Dr. Hinman said. There were 57,345 cases of measles and 15 deaths in 1977, the year the immunization initiative began. In 1978, the disease control center counted only 26,871 cases with no deaths—a drop of 53 percent.

GOAL TO ERADICATE MEASLES

"This year we expect fewer than 20,000 cases and less than 10 deaths," he said. "This is clearly a result of the immunization activities." The success with measles has been so great that the Federal health goal now is to eliminate the disease in the United States by 1982.

Cases of rubella, or German measles, have fallen from 20,395 in 1977 to 16,468 in 1978, with 10,552 cases reported so far this year. Mumps affected 21,436 people in 1977 and 16,817 in 1978. This year 11,519 cases have been counted.

A major reason for success against mumps has been the discovery of a vaccine that is 95 percent effective, according to medical authorities. This vaccine, which was licensed in 1967, is safe and it is not accompanied by fever or local irritation, as in the case of some vaccines for childhood diseases.

"Reported mumps activity has declined fairly steadily since 1971," the disease center said. "This has been accompanied by decreases in the reported mumps-associated complications, aseptic meningitis, encephalitis and death."

ANOTHER PROFILE IN COURAGE

● Mr. METZENBAUM. Mr. President, for more than a decade it has been my pleasure to know Annie Glenn, the dedicated wife of my colleague from Ohio, Senator JOHN GLENN.

Annie Glenn recently made a speech before 300 women in Ohio. That would normally not be newsworthy, but for this wonderful lady it was a milestone in her life and an inspiration for millions of other Americans.

For most of her life, Annie Glenn has been a stutterer and as she is quoted in an article in the Cleveland Plain Dealer on October 6, 1979:

> There are more stutterers in this world than anybody knows, and they're hiding.

But Annie Glenn has not been among them and for some 6 years she has been undergoing therapy to overcome the problem. When she made that speech the other day, it marked the first full-length speech she had ever made in her life.

I take this opportunity to express how proud and happy I am for her. It is truly an example of courage and perseverance.

I ask that the article, entitled "Speaking of Courage," be printed in the RECORD.

The article follows:

[From the Cleveland Plain Dealer, Oct. 6, 1979]

SPEAKING OF COURAGE

CANTON.—Annie Glenn recently did something that her husband, John, U.S. senator from Ohio, calls a "little profile in courage." She made a speech.

It might be easy for the senator to speak to an audience. But for Mrs. Glenn, an 85% stutterer earlier in her life, it was the first full-length speech she had ever given.

"It has taken many, many, many years for me to reach the point where I am able to stand here today and give a speech," Mrs. Glenn told a luncheon for more than 300 women here.

For nearly 20 minutes she spoke slowly about her family and her life. And she talked of all the difficulties she had encountered as a stutterer and about the therapy that began six years ago at Hollins College.

"Our family has shared many first experiences," she said, "but I share with all of you here today another first that means more than I can begin to tell you."

When Mrs. Glenn's speech ended, most of the women in the room were in tears.

When her husband, who was in Washington, learned that the speech had been a success, he, too, wept. He has been witness to the years of struggling.

Mrs. Glenn was a stutterer when they began dating in the eighth grade in New Concord. The affliction had not measurably improved throughout most of their 36 years of marriage, despite periodic attempts at therapy. She is now 59 years old.

"When I would go shopping, a clerk would snicker and I would explain. Or people would ask me if I was cold," she said in an interview.

For their entire life together, until she began her treatment at Hollins, Glenn had ordered his wife's meals in restaurants and made nearly all her telephone calls. Yet she had never tried to hide the problem.

In 1964, shortly after he announced his candidacy for the Senate, Glenn suffered an ear injury when he slipped in the bathtub. His wife tried to carry on the campaign. She faced reporters, each time explaining that she was a stutterer. Glenn later withdrew from the race.

After Glenn's election in 1974, she was flooded with requests to appear around the state. In declining, she instructed the senator's aides to explain that she was a stutterer, was undergoing therapy and hoped to accept when her speech finally improved.

She insisted, in her recent interview, that her stuttering has never made her depressed. The worst thing that a stutterer can do, she said, is go into a shell and avoid contact with others.

"There are more stutterers in this world than anybody knows, and they're hiding," she said.

Several times a week, Mrs. Glenn works with a speech therapist at Walter Reed Medical Center in Washington. She also practices at home with what she calls a "black box"—a device to detect if a stutterer's speech is becoming choppy.

"I know I'll have to practice or I will digress," she said.●

PROFESSOR PIPES ON LINKAGE

● Mr. TOWER. Mr. President, on October 16, the Committee on Armed Services received the testimony of Prof. Richard Pipes of Harvard University on the SALT II Treaty. I found Professor Pipes' views to be perhaps the most thoughtful and persuasive of any witness to appear before the committee on the matter of "linkage" in United States-Soviet relations. Mr. Pipes addressed the question of the inseparability of the treaty from the broad matrix of Soviet efforts to expand their interests and treated, as well, the role of arms control in Soviet doctrine as but one more instrument for gaining advantage over the West.

Professor Pipes' very cogent analysis, based upon a distinguished career as a scholar in Marxist ideology and Soviet affairs, provides a most timely warning against those who seek to impart to the treaty a distorted significance. In addition, it provides an extremely perceptive criticism of the flaws in current administration thinking regarding Soviet purposes which are served by this treaty. According to Professor Pipes:

In Soviet calculations, SALT is not a vehicle for general disarmament—as it is with us—but a device to inhibit the United States response to Soviet long-term strategic programs.

In the Soviet view, SALT, on the most elementary level, fixes the number of United States systems and thereby facilitates the task of estimating what is required to render them harmless.

On a higher level, SALT alleviates the Soviet Union's recurrent nightmare that an American technological achievement (such as ABM or the cruise missile have been in the past) should suddenly neutralize the ponderous and incremental Soviet buildup.

Last but not least—in the Soviet outlook—SALT serves to create in the United States a political atmosphere obstructive to defense expenditures. SALT persuades much of the American public that any improvements in strategic forces are "destabilizing". SALT inhibits the U.S. government from funding weapons programs presumptively subject to becoming limited or even prohibited in later negotiations.

Professor Pipes has contributed significantly to our understanding of the dangers involved in blindly accepting the treaty, and I commend his views to all my colleagues and request that his testimony be printed in the RECORD.

The statement follows:

TESTIMONY OF PROFESSOR RICHARD PIPES

One of the more controversial aspects of SALT II involves the issue known as "linkage." The controversy is over the question whether negotiations for strategic arms control ought to proceed on their own separate track, oblivious of the broader context of American-Soviet relations, or, on the contrary, ought to be related to the overall pattern of Soviet behavior toward us and the rest of the non-Communist world. The proponents of the treaty argue that the cause of arms limitations is so singularly important that the SALT process, complicated enough as it is, ought not to be burdened by other considerations: whatever else we and the Russians may disagree over, we have an equal stake in the survival of humanity, and must seek to arrive at strategic arms limitations treaties without allowing extraneous factors to intrude.

This argument, unfortunately, does not withstand closer analysis either in its premises or its applications. Such force as it possesses derives in part from ill-considered views of the military utility of nuclear weapons, and in part from the emotional appeal exerted on many persons by every theory or pseudotheory which seems to hold out the promise of banishing the specter of nuclear disaster.

"Linkage" in my opinion is essential, though not in its trivialized form. SALT II ought not to be ratified as a "reward" to the Soviet government for its good behavior; nor ought the treaty be rejected as a means of "punishing" the Russians for such noxious actions as placing a combat brigade in Cuba. The Russians are not children and we are not their teachers. A meaningful linkage approach calls for an assessment of the entire spectrum of Soviet policies. Furthermore, it does not assume a priority that

strategic weapons ought to be isolated from all other kinds of weapons.

There is a deeply held conviction in this country, due in large measure to the memory of Hiroshima and Nagasaki, that nuclear weapons are unique not only because they can cause unprecedented destructiveness but also because no defenses exist against them: the aggressor in this instance suffers the same punishment as his victim. This view, originally articulated in the influential symposium, The Absolute Weapon, published in 1946, has dominated American thinking for a long time and to this day underpins the theory of arms limitations. It provides the intellectual and psychological support of the opposition to "linkage": for if strategic weapons are unique, then they clearly ought to be treated in a unique manner.

Now there are at least three flaws in this reasoning. Those who regard nuclear weapons as "absolute weapons" ignore, for the purpose of their argument, the possibility of limited strategic options, uses which could fall short of all-out destructiveness. They also unduly depreciate various defensive measures, including the possibility of new technology some day devising effective means of neutralizing offensive strategic weapons.

Last but not least they leave out of consideration the political leverage that inheres in nuclear superiority and that may enable the superior party to secure submission to its will without recourse to violence—this despite the fact that we have benefitted politically from just such a preponderance in the Korean War and the Cuban crisis of 1962. In other words, the alternative: arms limitations—Armageddon, is palpably false, for it leaves out of view a great variety of intermediate possibilities.

More grevious yet is the failure of the proponents of this line of argument to take into account that strategic thinking by its very nature involves at least two parties, for which reason it is not enough to develop a strategy suitable for oneself; one must adjust it to that of one's potential adversary. Unfortunately, most of American strategic thinking since World War II has been carried out in a political vacuum from which the Soviet Union has been eliminated (except as a weapons system). The notion that there can be two diverse strategies based on the same weaponry apparently strikes many of our civilian experts to be as absurd as the idea that there can be two different sciences of physics.

In fact, however, anyone who addresses himself to Soviet military literature on the subject will quickly discover that over the past twenty years the Soviet leadership has formulated a very different theory of the nature and utility of strategic weapons from ours. Whether this view is sound or not is not at issue here: what matters is that they hold it, implement it, and, in case of conflict, are likely to act on it. We can ignore this disparity of views only at the gravest risk to our national security.

The differences between our essentially defensive nuclear strategy, and the Soviet overwhelmingly offensive one stand in as sharp a contrast as the perceptions of armored warfare held, respectively, by the German and Allied high commands before World War I—with consequences that are all too familiar. I believe it was the lasting contribution of so-called "Team B," which I had the honor to chair, to have addressed itself to these questions three years ago and to have provided alternative explanations which, unorthodox as they may have seemed then, have been borne out by subsequent events.

In the Soviet view, strategic weapons are integrated into a comprehensive ideology of conflict in which military weapons constitute discrete elements of a broad spectrum of coercive instrumentalities. The place of nuclear weapons in this ideology can be elucidated by a sequence of related propositions:

1. In a world in which there exists private ownership of the means of production and, derived from it, antagonistic social classes, class conflict is both inevitable and "progressive";

2. Since October 1917, when the Soviet state came into being as the first "socialist" country in the world, all international conflicts pitting the Soviet Union against the capitalist world, headed by the United States, assume the character of class conflict;

3. The inevitable outcome of the competition between the "socialist" and "capitalist" camps will be the triumph of the former and disappearance of the latter, following which class and international conflicts will cease;

4. The competition between the two camps goes on all the time, on all levels, but ultimately it must result in war: the more positions the "socialist" camp can secure peacefully, the easier and less painful will be the attainment of final victory;

5. Strategic nuclear weapons have not upset the traditional principles of military science but they have revolutionized their application in that they make it possible to attain the ultimate strategic objective of all war, disarming the enemy, directly, in a matter of hours, instead of by a sequence of prolonged operations;

6. Should general war become unavoidable, that side will gain victory which will boldly strike in a preemptive attack; this strategy calls for a preponderant strategic force with vast strategic reserves and defensive preparations to limit damage.

In this chain of reasoning, it will be noted, nuclear weapons are seen not as "absolute weapons," endowed with some magic qualities that make them *sui generis*, but as a particularly effective means of exercising military coercion which is itself part of a historic conflict. Soviet thinking is imbedded in a network of "linkages" connecting history, economics, politics, ideology, and military hardware. The very idea that one can separate nuclear weapons from the broad range of political-military instrumentalities, and the latter from the historic conflict between socialism and capitalism, would appall any person even superficially versed in the theories of Marxism-Leninism.

If, nevertheless, the Soviet Union engages in negotiations on strategic arms limitations that in fact posit the uniqueness of strategic weapons it is because, well aware of our view of this matter, they see ample opportunities to exploit it to their advantage. If I may quote myself on this subject:

"In Soviet calculations, SALT is not a vehicle for general disarmament—as it is with us—but a device to inhibit the United States response to Soviet long-term strategic programs.

In the Soviet view, SALT, on the most elementary level, fixes the number of United States systems and thereby facilitates the task of estimating what is required to render them harmless.

On a higher level, SALT alleviates the Soviet Union's recurrent nightmare that an American technological achievement (such as ABM or the cruise missile have been in the past) should suddenly neutralize the ponderous and incremental Soviet buildup.

Last but not least—in the Soviet outlook—SALT serves to create in the United States a political atmosphere obstructive to defense expenditures. SALT persuades much of the American public that any improvements in strategic forces are "destabilizing." SALT inhibits the U.S. government from funding weapons programs presumptively subject to becoming limited or even prohibited in later negotiations."*

*"Why the Soviet Union Wants SALT II," Committee on the Present Danger, Washington, D.C., 1979.

Should SALT be linked to Soviet global behavior? It most emphatically should. After all, we practice a sort of positive "linkage" in regard to Great Britain and France, both of which possess enough strategic weapons to destroy much of the United States, but neither of which is perceived as threatening our way of life, for which reason their strategic capabilities give us no anxiety.

In the case of the Soviet Union, the threat resides not so much in the destructive power of its strategic arsenal as in its intentions toward us as manifested in word and deed. If the Russians view nuclear weapons as an intrinsic element of a broad spectrum of coercive instrumentalities, it behooves us in our dealings with them to relate nuclear weapons to Soviet overall behavior. The utility of SALT II has to be measured against a large range of indicators of Soviet intentions and actions. It must be placed against the background of relentless Soviet anti-American hate propaganda inside the Soviet Union and in the Third World; against Soviet armed interventions in Afghanistan, Ethiopia, Vietnam, and more recently, the Caribbean; against Soviet support of terrorism all over the globe; against Soviet encroachments on Norwegian territory and the militarization of the Kuriles; against the building of military highways and railroads in Eastern Europe. None of these actions in and of itself can be said to "threaten" the United States; seen in their totality, they suggest a most ominous pattern of threatening hostility.

Surely it would be imprudent to treat the nuclear balance in isolation from Soviet thinking and Soviet behavior. Linkage means that until and unless the Soviet Union radically modifies its thinking and external policies, we cannot count on SALT enhancing our security and diminishing the probability of war. These ends can be better attained by building up our strength to the point where the Soviet leadership can no longer hope to attain its global ambitions and is forced to turn inward.●

A CENTURY OF PUBLIC SERVICE

● Mr. METZENBAUM. Mr. President, on October 17, the Cuyahoga County Bar Association will pay special tribute to Harry, Helen, and the late Rebecca Auslander—three members of a remarkable Cleveland family who between them devoted a total of 104 years to the service of the people of Ohio.

The Honorable Harry Auslander, former judge of the Cleveland Municipal Court, has served as a prosecutor for the city of Cleveland, as assistant attorney general for the State of Ohio, as Ohio's deputy superintendent for insurance, as assistant director of law for the city of Cleveland, and as a trial referee for the Cleveland Municipal Court. He remains active as special counsel to the attorney general of Ohio, a post he has held since 1977.

But while pursuing his distinguished legal career, Harry Auslander has over the years contributed his time and talent to the betterment of his community.

He has served as president of the Cuyahoga County Bar Association, president of the Hungarian Social and Benevolent Union, president of Cleveland Lodge of B'nai B'rith and was twice chancellor of the Tau Epsilon Rho Law Fraternity. In all these activities Harry Auslander has displayed the diligence, competence, and integrity for which he is so widely known and respected in Cleveland and in Ohio at large.

His sister, Helen Auslander, has also

had a distinguished career in public service.

For 37 years, Ms. Auslander served as deputy clerk of the common pleas court of Cuyahoga County. Her work in that capacity brought her the public servants merit award of the Cuyahoga County Bar Association, and tributes from the Ohio Senate, the Ohio House, the Cleveland City Council and the mayor of her native city.

A third member of this outstanding family—the late Rebecca Auslander—worked for over 30 years in the auditing department of the Ohio Bureau of Employment Services. Upon her retirement in 1972, she was honored by then Gov. John Gilligan with a Governor's award for "loyal, faithful and meritorious service."

Mr. President, I know that it is fashionable today to cast aspersions upon those who choose careers in local, State, and Federal Government. But I believe that the example of the Auslander family demonstrates that devoted public service should be the object to public appreciation. I commend the Cuyahoga County Bar Association for recognizing the Auslanders and I join them in expressing my sincere good wishes to Harry and Helen Auslander for health and happiness in the future.●

THE ANGUISH OF CENTRAL BANKING

● Mr. GARN. Mr. President, events of the last week and a half have focused attention on the important role which the Federal Reserve plays in the fortunes or misfortunes of our Nation's economy. The actions taken by the Federal Reserve on October 6 reaffirmed the importance of monetary policy in the process of combating inflation. Those actions were bold and dramatic, yet essential if our nation is to achieve price stability at an early date.

The role of the Federal Reserve in this process is not always understood, however. Nor are the problems facing the monetary authorities always fully appreciated.

The difficult tasks facing our nation's central bank was outlined recently by Arthur F. Burns in a speech entitled "The Anguish of Central Banking." Dr. Burns made this speech on September 30, 1979, in Belgrade, Yugoslavia.

Dr. Burns' speech is a useful and timely discourse on the role of central banking in a modern, industrialized nation. It is a candid appraisal of the achievements and failures of central banking in this country. I found particularly refreshing Dr. Burns' admission that "* * * despite their antipathy to inflation and the powerful weapons they could yield against it, central bankers have failed so utterly in their mission in recent years." In this paradox, Dr. Burns says, "lies the anguish of central banking."

In light of the actions taken recently by the Federal Reserve, I also found it comforting to know that Dr. Burns agrees that drastic action needs to be taken to reduce the rate of inflation. He stated in his speech:

In view of the strong and widespread expectations of inflation that prevail at present, I have therefore reluctantly come to believe that fairly drastic therapy will be needed to turn inflationary psychology around.

I commend Dr. Burn's speech to my colleagues, and I ask that it be printed in the RECORD.

The speech follows:

THE ANGUISH OF CENTRAL BANKING

(By Arthur F. Burns)

When I was invited several months ago to deliver this year's Per Jacobsson Lecture, I found it easy to give my consent. Per Jacobsson was a financial statesman whose efforts in behalf of world economic order deserve to be remembered by this distinguished audience. I feel I can honor his memory best by presenting on this occasion some straightforward thoughts on central banking.

The international monetary system, which has been in almost constant turmoil during this decade, has benefited recently from several developments. Under the amended Articles of Agreement, the International Monetary Fund can exercise firm surveillance over the exchange rate policies of its members, and is therefore now in a position to move the nations of the world toward a rule of law in international monetary affairs. Another promising development is the establishment of the European Monetary System with the aim of maintaining relatively stable exchange rates within the Common Market.

A third positive development is recognition by the United States that the persisting deficits in its international current account must be eliminated, and that in the meantime decisive intervention to protect the external value of the dollar may well be needed. The conventional theory that a depreciating currency is beneficial to a nation's foreign trade and to its over-all economic activity has lost its appeal within the American government. The officials concerned with economic policy have learned that whatever merit may in some circumstances attach to this theory, it is a dangerous guide for a country whose currency is still the centerpiece of the international monetary system. "Benign neglect" of the external value of the dollar came to an end dramatically, and I would hope irrevocably, last November.

This and other constructive developments suggested earlier this year that a closer approach to international equilibrium was under way and calm returned for a while to foreign exchange markets. But uneasiness about the monetary system, particularly about the future of the dollar, has continued and in fact intensified this summer. There have been ample reasons for concern—among them, the political convulsions in Iran, the enormous new increases in oil prices by OPEC, the narrowing at times of interest-rate differentials between New York and foreign moneymarket centers, and the limited progress in developing an effective energy policy in the United States. While all these factors contributed to nervousness, what has been most disturbing to foreign exchange markets in recent months is the reacceleration of inflation in the United States and in much of the rest of the world. Even Germany and Switzerland no longer qualify as islands of stability.

This unhappy development is one more indication, if any were needed, that the current instability in international finance is largely a consequence of the chronic inflation of our times and that stability will not return to the international monetary system until reasonably good control over inflationary forces has been achieved in the major industrial nations—and especially in the United States. This critical consideration at once raises serious questions. Why is the worldwide disease of inflation proving so stubborn? Why is it not yielding to the various efforts of the affected nations, including some determined efforts, to bring it to an end? Why, in particular, have central bankers, whose main business one might suppose is to fight inflation, been so ineffective in dealing with this world-wide problem?

To me, as a former central banker, the last of these questions is especially intriguing. One of the time-honored functions of a central bank is to protect the integrity of its nation's currency, both domestically and internationally. In monetary policy central bankers have a potent means for fostering stability of the general price level. By training, if not also by temperament, they are inclined to lay great stress on price stability, and their abhorrence of inflation is continually reinforced by contacts with one another and with like-minded members of the private financial community. And yet, despite their antipathy to inflation and the powerful weapons they could wield against it, central bankers have failed so utterly in this mission in recent years. In this paradox lies the anguish of central banking.

My aim today is to consider the causes of this paradox and its implications for the future. Much of what I say will inevitably reflect lessons that I learned during my service as Chairman of the Federal Reserve Board over an eight-year period that ended about eighteen months ago. This may be a good time to reflect on that experience; a year ago I was probably too close to it to have the necessary perspective, and a year from now the sharpness of my impressions may have begun to fade.

I shall focus mainly, although not exclusively, on the United States. That is the area that I know best, and I also believe the American experience—despite some unique aspects—is fairly representative of that of other industrial countries. The developing nations have their own characteristic sources and patterns of inflation. Nevertheless, in our interdependent world, economic conditions in the United States and other industrial countries are bound to have a significant bearing on the fortunes of developing countries.

By way of introduction, I might note that during much of the period since the end of World War II, over-all economic developments were, in the main, satisfactory. By prewar standards, recessions were brief and mild through the mid-1960's, both in the United States and in other industrial countries; world trade expanded rapidly under a beneficent regime of stable exchange rates; and living standards rose impressively throughout the developed world. In most industrial countries inflationary pressures were troublesome from time to time—as in the immediate postwar years, during the Korean hostilities, and for a couple of years after the mid-1950's. These pressures were more substantial in some countries than in the United States, but in none did inflation appear to be out of control.

From 1958 through 1964, the United States enjoyed a remarkable degree of price stability. During that stretch of six years, the wholesale price index remained virtually unchanged and the consumer price index rose at an annual rate of only a little more than one percent. And then the inflation that has ever since been plaguing the American economy got under way. Average wholesale prices rose at an annual rate of 2 percent from 1964 to 1968, 4 percent from 1968 to 1972, and 10 percent from 1972 to 1978. This pattern of accelerating price increases is found in other countries also, although rates of increase have varied widely, and in most industrial nations the acceleration began later—typically in 1969 or 1970.

Analyses of the inflation that the United States has experienced over the past fifteen years frequently proceed in three stages. First

are considered the factors that launched inflation in the mid-1960's, particularly the governmental fine tuning inspired by the New Economics and the loose financing of the war in Vietnam. Next are considered the factors that led to subsequent strengthening of inflationary forces, including further policy errors, the devaluations of the dollar in 1971 and 1973, the world-wide economic boom of 1972–73, the crop failures and resulting surge in world food prices in 1973–74, the extraordinary increases in oil prices that became effective in 1974, and the sharp deceleration of productivity growth from the late 1960's onward. Finally, attention is turned to the process whereby protracted experience with inflation has led to widespread expectations that it will continue in the future, so that inflation has acquired a momentum of its own.

I have no quarrel with analyses of this type. They are distinctly helpful in explaining the American inflation and, with changes here and there, that in other nations also. At the same time, I believe that such analyses overlook a more fundamental factor, the persistent inflationary bias that has emerged from the philosophic and political currents that have been transforming economic life in the United States and elsewhere since the 1930's. The essence of the unique inflation of our times and the reason central bankers have been ineffective in dealing with it can be understood only in terms of those currents of thought and the political environment they have created.

Historically, Americans have had deep faith in the concept of progress—in the idea that it was realistic to expect to better one's own lot and that of one's family in the course of a lifetime. During the greater part of America's history, government intervention in economic life was only peripheral. Personal progress was generally viewed as a reward for personal effort—assisted, perhaps, by good fortune. Provision for bad times or other contingencies of life was deemed prudent, but that was a private responsibility. The American's way through life lay along the road of self-reliance; only in extremity did he look to government or his neighbors for economic assistance.

This tradition of individualism was shattered by the cataclysmic events of the 1930's and 1940's. The breakdown of economic order during the Great Depression was unprecedented in its scale and scope, and it strained the precept of self-reliance beyond the breaking point. With one-quarter of the labor force unemployed, personal courage and moral stamina could guarantee neither a job nor a livelihood. Succor finally came through a political idea that was novel to a majority of the American people but compelling nonetheless; namely, that the Federal government had a far larger responsibility in the economic sphere than it had hitherto assumed.

Under the New Deal the Federal government undertook extensive projects of public construction and offered work relief as well. It gave direct relief to the needy—a function previously performed only by local authorities or private charity. It established unemployment insurance and old-age pensions. It took steps to raise wages and prices with a view to fostering economic recovery. And beyond these innovative actions, the Federal government greatly extended the range of its regulatory activities. It intervened massively in the securities market, in banking, in the public utilities industry, in the housing market, and in the farm sector; and it gave labor unions broad new rights and powers. Together, these and other New Deal measures laid the foundations of an activist government—a government responsible not only for relieving suffering and insuring against economic adversity, but also for limiting "harmful" competition, subsidizing "worthwhile" activities, and redressing unequal balances of market power. In less than a decade the government became a leading actor on the economic stage.

Just as Americans were persuaded during the depression that the Federal government should help the unemployed, so they were taught by the experience of World War II to look to government to prevent unemployment in the first place. Under the compulsions of war, the government had demonstrated that it could assure gainful employment for every willing hand. It therefore seemed reasonable, and not only to the followers of Keynes, to expect government to do the same in a time of peace. In 1944, when President Roosevelt set forth the basis of his postwar domestic program in an "Economic Bill of Rights", he put "the right to a useful and remunerative job" at the head of the list. With the war ended, the Employment Act of 1946 explicitly proclaimed the Federal government's responsibility to promote "maximum employment", and this came to mean "full employment" as a matter of law as well as popular usage.

Armed with the Employment Act, the government sought to demonstrate that it could combat unemployment with preventive as well as curative measures. In fact, the period from World War II to the mid-1960's was marked not only by a dampening of the business cycle but also by persistent increases in the prosperity of American families. On the one side, rising incomes, reflecting substantial gains in labor productivity, made possible rising consumption, greater leisure, and better provision for retirement. On the other side, a steady stream of new and often improved consumer goods tended to sustain the growth of aggregate demand. The extensive development of consumer credit institutions made it easier for people to acquire automobiles, household appliances, and other goods and services, the desire for which was continually being whetted by alluring advertisements and the illustration of potential life styles broadcast by television and the movies. The seemingly inexorable rise in living standards for the bulk of the population was reflected in upward trends in the proportion of families that owned their own home, that owned a summer home, that possessed one, two and even three automobiles that had telephones, that owned television sets, clothes washers, and food freezers; also in the proportion of the population that had graduated from high school and from college, that traveled abroad, that owned corporate stock, that carried life insurance, and so on.

This experience of economic progress strengthened the public's expectations of progress. What had once been a quiet personal feeling that the long future would be better than the past, particularly for one's children, was transformed during the postwar years into an articulate and widespread expectation of steady improvement in living standards—indeed, to a feeling of entitlement to annual increases in real income.

But the rapid rise in national affluence did not create a mood of contentment. On the contrary, the 1960's were years of social turmoil in the United States, as they were in other industrial democracies. In part, the unrest reflected discontent by blacks and other minorities with prevailing conditions of social discrimination and economic deprivation, a discontent that erupted during the "hot summers" of the middle 1960's in burning and looting. In part, the social unrest reflected growing feelings of injustice by or on behalf of other groups—the poor the aged, the physically handicapped, ethnics, farmers, blue collar workers, women, and so forth. In part, the unrest reflected a growing rejection by middle-class youth of prevailing institutions and cultural values. In part, it reflected the more or less sudden recognition by broad segments of the population that the economic reforms of the New Deal and the more recent rise in national affluence had left untouched problems in various areas of American life—social, political, economic, and environmental. And interacting with all these sources of social disturbance were the heightening tensions associated with the Vietnam War.

In the innocence of the day, many Americans came to believe that all of the new or newly discovered ills of society should be addressed promptly by the Federal government. And in the innocence of the day, the administration in office attempted to respond to the growing demands for social and economic reform while waging war in Vietnam on a rising scale. Under the rubric of the New Economics, a more activist policy was adopted for the purpose of increasing the rate of economic growth and reducing the level of unemployment. Under the rubrics of the New Frontier and the Great Society, broad-scale efforts were made to stitch up open seams in the fabric of affluence—inadequate or unequal education, housing, medical care, nutrition. Under the rubrics of civil rights and citizen participation, minorities and other disadvantaged groups were given political weapons to maintain, consolidate, and extend their gains.

The interplay of governmental action and private demands had an internal dynamic that led to their concurrent escalation. When the government undertook in the mid-1960's to address such "unfinished tasks" as reducing frictional unemployment, eliminating poverty, widening the benefits of prosperity, and improving the quality of life, it awakened new ranges of expectation and demand. Once it was established that the key function of government was to solve problems and relieve hardships—not only for society at large but also for troubled industries, regions, occupations, or social groups—a great and growing body of problems and hardships became candidates for governmental solution. New techniques for bringing pressure on Congress—and also on the State's legislatures and other elected officials—were developed, refined, and exploited. Congress responded by pouring out a broad stream of measures that involved government spending, special tax relief, or regulations mandating private spending. Every demonstration of a successful tactic in securing rights, establishing entitlements, or extracting other benefits from government led to new applications of that tactic. Various groups found a powerful ally in the Federal courts, which repeatedly struck down legislative or administrative limitations on access to government benefits. Even government employees, particularly at the state and municipal levels, discovered the pecuniary rewards of shedding genteel notions of public service and pressing economic demands with a strident militancy.

Many results of this interaction of government and citizen activism proved wholesome. Their cumulative effect, however, was to impart a strong inflationary bias to the American economy. The proliferation of government programs led to progressively higher tax burdens on both individuals and corporations. Even so, the willingness of government to levy taxes fell distinctly short of its propensity to spend.

Since 1950 the Federal budget has been in balance in only five years. Since 1970 a deficit has occurred in every year. Not only that, but the deficits have been mounting in size. Budget deficits have thus become a chronic condition of Federal finance; they have been incurred when business conditions were poor and also when business was booming. But when the government runs a budget deficit, it pumps more money into the pocketbooks of people than it withdraws from their pocketbooks; the demand for goods and services therefore tends to increase all around. That is the way the inflation that has been raging since the mid-1960's first got started and later kept being nourished.

The pursuit of costly social reforms often went hand in hand with the pursuit of full employment. In fact, much of the expanding range of government spending was prompted by the commitment to full employment. Inflation came to be widely viewed as a temporary phenomenon—or, provided it remained mild, as an acceptable condition. "Maximum" or "full" employment, after all, had become the nation's major economic goal—not stability of the price level. That inflation ultimately brings on recession and otherwise nullifies many of the benefits sought through social legislation was largely ignored. Even conservative politicians and businessmen began echoing Keynesian teachings. It therefore seemed only natural to Federal officials charged with economic responsibilities to respond quickly to any slackening of economic activity—at times, in fact, as in the early days of 1977, to sheer illusions of such slackening—but to proceed very slowly and cautiously in responding to evidence of increasing pressure on the nation's resources of labor and capital. Fear of immediate unemployment—rather than fear of current of eventual inflation—thus came to dominate economic policy making.

This weighting of the scales of government policy inevitably gave an inflationary twist to the economy, and so too did the expanding role of government regulation. Traditional ways of protecting particular groups against competition—such as raising farm price supports, increasing minimum wages, and imposing import quotas—did not lose their appeal as inflation kept soaring. On the contrary, all these devices of raising costs and prices were liberally employed even in the face of accelerating inflation during 1977 and 1978. Also troublesome were the newer social regulations—those concerned with health, safety, and the environment—that kept multiplying during the 1970's.

However laudable in purpose, much of this regulatory apparatus was conceived in haste and with little regard to the costs being imposed on producers. Substantial amounts of capital that might have gone into productivity-enhancing investments by private industry were thus diverted into uses mandated by the regulators. Improvements in productivity were also slowed by the discouragement of business investment that resulted from the increasing burden of income and capital-gains taxes. Progress in equipping the work force with new plant and equipment proceeded much less rapidly during the 1970's than during the 1950's or 1960's, and this shortfall contributed to the productivity slump and thus to the escalation of costs and prices.

Additional forces on the side of supply contributed to the inflationary bias. As the income maintenance programs established by government were liberalized, incentives to work tended to diminish. Some individuals, both young and old, found it agreeable to live much of the time off unemployment insurance, food stamps, and welfare checks—perhaps supplemented by intermittent jobs in an expanding underground economy. Even enterprising and ambitious individuals who sought permanent jobs could be more leisurely or more discriminating in their search when the government, besides pursuing a full employment policy, provided a protective income umbrella during jobless periods. In such an environment, employed workers could demand and often achieve longer vacations with pay and more frequent holidays and sick leave, besides enjoying coffee breaks and other social rites on the job. In such an environment, they could afford to reject a pay cut or a small wage increase when their employer pleaded serious financial difficulties. Thus the number of individuals counted as unemployed could rise even at times when job vacancies, wages, and the consumer price level were rising.

The philosophic and political currents that transformed economic life and brought on secular inflation in the United States have run strong also in other industrial countries. Rising economic expectations of people, wider citizen participation in the political arena, governmental commitments to full employment, liberal income maintenance programs, expanding governmental regulations, and increasingly pressing demands on government for the solution of economic and social problems—all these became common features of the industrial democracies. And just as the rapid expansion of government activities in the United States was accompanied by persistent budget deficits and inflation, that too happened in other industrial countries. Indeed, other countries have often practiced loose governmental finance and inflation on a more intensive scale than has the United States.

And so I finally come to the role of central bankers in the inflationary process. The world-wide philosophic and political trends on which I have been dwelling inevitably affected their attitudes and actions. In most countries, the central bank is an instrumentality of the executive branch of government—carrying out monetary policy according to the wishes of the head of government or the ministry of finance. Some industrial democracies, to be sure, have substantially independent central banks and that is certainly the case in the United States. Viewed in the abstract, the Federal Reserve System had the power to abort the inflation at its incipient stage fifteen years ago or at any later point, and it has the power to end it today. At any time within that period, it could have restricted the money supply and created sufficient strains in financial and industrial markets to terminate inflation with little delay. It did not do so because the Federal Reserve was itself caught up in the philosophic and political currents that were transforming American life and culture.

The Employment Act prescribes that "it is the continuing policy and responsibility of the Federal government to . . . utilize all its plans, functions, and resources . . . to promote maximum employment." The Federal Reserve is subject to this provision of law, and that has limited its practical scope for restrictive actions—quite apart from the fact that some members of the Federal Reserve family had themselves been touched by the allurements of the New Economics. Every time the government moved to enlarge the flow of benefits to the population at large, or to this or that group, the assumption was implicit that monetary policy would somehow accommodate the action. A similar tacit assumption was embodied in every pricing decision or wage bargain arranged by private parties or the government. The fact that such actions could in combination be wholly incompatible with moderate rates of monetary expansion was seldom considered by those who initiated them, despite the frequent warnings by the Federal Reserve that new fires of inflation were being ignited. If the Federal Reserve then sought to create a monetary environment that fell seriously short of accommodating the upward pressures on prices that were being released or reinforced by governmental action, severe difficulties could be quickly produced in the economy. Not only that, the Federal Reserve would be frustrating the will of Congress to which it was responsible—a Congress that was intent on providing additional services to the electorate and on assuring that jobs and incomes were maintained, particularly in the short run.

Facing these political realities, the Federal Reserve was still willing to step hard on the monetary brake at times—as in 1966, 1969, and 1974—but its restrictive stance was not maintained long enough to end inflation. By and large, monetary policy came to be governed by the principle of undernourishing the inflationary process while still accommodating a good part of the pressures in the marketplace. The central banks of other industrial countries, functioning as they did in a basically similar political environment, appear to have behaved in much the same fashion.

In describing as I just have the anguish of central banking in a modern democracy, I do not mean to suggest that central bankers are free from responsibility for the inflation that is our common inheritance. After all, every central bank has some room for discretion, and the range is considerable in the more independent central banks. As the Federal Reserve, for example, kept testing and probing the limits of its freedom to undernourish the inflation, it repeatedly evoked violent criticism from both the Executive establishment and the Congress and therefore had to devote much of its energy to warding off legislation that could destroy any hope of ending inflation. This testing process necessarily involved political judgments, and the Federal Reserve may at times have overestimated the risks attaching to additional monetary restraint.

Any such errors of political judgment are extremely hard to identify; but I believe, in any event, that errors of economic or financial judgment have in practice been far more significant. In a rapidly changing world the opportunities for making mistakes are legion. Even facts about current conditions are often subject to misinterpretation. Statistics on unemployment in the United States provide a good example. Even before World War II ended, some economists were trying to determine how much frictional and structural unemployment would exist when the demand for labor and the supply of labor were in balance; in other words, the rate of unemployment that would reflect a state of full employment. Before long, a broad consensus developed that an unemployment rate of about 4 percent corresponded to a practical condition of full employment, and that figure became enshrined in the economic writing and policy making.

Conditions in labor markets, however, did not stand still. A huge influx of women and young people into the labor force, the liberalization of unemployment insurance, the spread of welfare programs, the progressive lifting of statutory minimum wages, the increasing proportion of families having more than one worker, and the increase of national affluence itself—all these changes in the economic and social environment served to render the conventional 4 percent figure obsolete. The unemployment rate corresponding to full employment is now widely believed to be about 5½ or 6 percent, and this year's report of the Council of Economic Advisers appears to concur in that judgment. But governmental policy makers, while generally aware of what was happening in the labor market, were slow to recognize the changing meaning of unemployment statistics, whether viewed as a measure of economic performance or as a measure of hardship. The Federal Reserve did not escape this lag of recognition and, once again, I believe that other central banks at times have made similar mistakes.

While misinterpretations of unemployment statistics or other current information have consequences for all public policy making, there are other problems of interpretation to which the central banker's calling is peculiarly subject. Monetary theory is a controversial area. It does not provide central bankers with decision rules that are at once firm and dependable. To be sure, every central banker has learned from the world's experience than an expanding economy requires expanding supplies of money and

credit, that excessive creation of money will over the longer run cause or validate inflation, and that declining interest rates will tend to stimulate economic expansion while rising interest rates will tend to restrict it; but this knowledge stops short of mathematical precision.

Partly as a result of the chronic inflation of our times, central bankers have been giving closer attention to the money supply than did their predecessors; but they continue to be seriously concerned with the behavior of interest rates. They face difficult questions about the relative weight to be given to measures of money and interest rates in this short run and long run; about the concept or concepts of money that are most significant for policy purposes; about the interpretation of such developments as the growth of Eurocurrency deposits and credits; about the length and regularity of the lags with which changes in monetary growth rates influence business activity and prices; about the likely changes in monetary velocity as a consequence of institutional innovations and business-cycle developments; and so on and on—as any student of central banking and monetary theory well knows. And there are more fundamental problems about potential conflicts between domestic and international objectives, about the appropriate response to exceptional events not encompassed by theory, and about the precise relevance of any theory based on past experience to a world where behavioral patterns are continually evolving.

It is clear, therefore, that central bankers can make errors—or encounter surprises—at practically every stage of the process of making monetary policy. In some respects, their capacity to err has become larger in our age of inflation. They are accustomed, as are students of finance generally, to think of high and rising market interest rates as a straining force on economic expansion. That rule of experience, however, tends to break down once expectations of inflation become widespread in a country. At such a time, lenders expect to be paid back in cheaper currency, and they are therefore apt to demand higher interest rates. Since borrowers have similar expectations, they are willing to comply. An "inflation premium" thus gets built into nominal interest rates. In principle, no matter how high the nominal interest rate may be, as long as it stays below or only slightly above the inflation rate, it very likely will have perverse effects on the economy; that is, it will run up costs of doing business but do little or nothing to restrain overall spending. In practice, since inflationary expectations, and therefore the real interest rates implied by any given nominal rate, vary among individuals, central bankers cannot be sure of the magnitude of the inflation premium that is built into nominal rates. In many countries, however, these rates have at times in recent years been so clearly below the ongoing inflation rate that one can hardly escape the impression that, however high or outrageous the nominal rates may appear to observers accustomed to judging them by a historical yardstick, they have utterly failed to accomplish the restraint that central bankers sought to achieve. In other words, inflation has often taken the sting out of interest rates—especially, as in the United States, where interest payments can be deducted for income tax purposes.

In addition to these direct effects of inflation, there are other effects that raise doubts about the meaning of particular growth rates of the monetary aggregates. I have in mind changes in financial practices that evolved in the United States during the 1960's—particularly during the bouts with tight money in 1966 and 1969—and that culminated in an explosion of financial innovations in the 1970's.

Many of these changes were facilitated by regulatory actions or the development of new computer technology. But the driving force behind them was the incentive that sharply rising market interest rates gave to financial institutions and their customers to change their ways of doing business. Commercial banks responded to rising rates by economizing on non-interest-bearing reserves, and their customers responded by economizing on non-interest-bearing demand deposits. Both banks and large corporations developed new sources of funds in the Euro-dollar market and the domestic commercial paper market. Banks developed new techniques of liability management by exploiting these sources as well as the vast potential of the Federal funds market and the market for negotiable certificates of deposit. Other financial institutions—including savings banks, savings and loan associations, credit unions, and money market mutual funds—developed new transactions services in connection with customer accounts on which they paid interest. Banks fought this competition for transactions balances by offering large depositors special services that reduced the average level of balances they had to carry and by employing various ingenious means to pay interest on balances that were held in large part for transactions purposes.

Developments of these kinds have had profound consequences for the environment in which American monetary policy operates. Not long ago, the thrust of monetary restraint was conveyed more by reductions in the availability of credit—particularly residential mortgage credit—than by rising interest rates; at present, rising interest rates are the primary channel of restraint. This means that a higher level of interest rates is required to achieve any given degree of restraint—quite apart from the effect of inflation premiums that I discussed earlier. But how much higher is not clear; only time will tell. Not long ago, changes in M-1, the familiar monetary aggregate confined to currency and demand deposits, reflected reasonably well changes in the aggregate volume of transactions balances; at present, with new alternatives to bank demand deposits emerging all the time, a lower rate of growth in M-1 is required to achieve any given degree of restraint. But how much lower is not clear; only time will tell. Nor is it clear what other monetary aggregate, if any, would be more serviceable than the traditional M-1 as a monetary indicator. As a result of these effects of inflation, central banking has not only lost its moorings in interest rates; that has happened to a large extent also in the case of the monetary aggregates—certainly in the United States and perhaps in other countries as well.

There is no need to expand further on the opportunities for misjudgment that in recent years have surrounded policy making at central banks. Some uncertainty, of course, has always characterized monetary policy, just as it has characterized policy decisions generally, whether in public or private life. It should be noted, however, that lags in recognizing some of the developments I have been discussing—with respect to unemployment rates, interest rates, and growth rates of the monetary aggregates—would tend to bias policy toward monetary ease. Moreover, the emergence of an inflationary psychology in industrial countries has imparted an asymmetry to the consequences of monetary errors, even if the errors themselves occurred as often in one direction as the other.

There is a profound difference between the effects of mistaken judgments by a central bank in our age of inflation and the effects of such judgments a generation or two ago. In earlier times, when a central bank permitted excessive creation of money and credit in times of prosperity, the price level would indeed tend to rise. But the resulting inflation was confined to the expansion phase of the business cycle; it did not persist or gather force beyond that phase. Therefore, people generally took it for granted that the advance of prices would be followed by a decline once a business recession got under way. That is no longer the case.

Nowadays, businessmen, farmers, bankers, trade union leaders, factory workers, and housewives generally proceed on the expectation that inflation will continue in the future, whether economic activity is booming or receding. Once such a psychology has become dominant in a country, the influence of a central bank error that intensifies inflation may stretch out over years, even after a business recession has set in. For in our modern environment, any rise in the general price level tends to develop a momentum of its own. It stimulates higher wage demands which are accommodated by employers who feel they can recover the additional costs through higher prices; it results in labor agreements in key industries that call for substantial wage increases in later years without regard to the state of business then; and through the use of indexing formulas, it leads to automatic increases in other wages as well as in social security payments, various other pensions, welfare benefits, also in rents on many properties and in the prices of many commodities acquired under long-term contracts. On the other hand, unintended central bank effects of a restrictive type do not ramify in similar fashion.

To develop any significant momentum in unwinding inflation, they would need to be both large and repetitive—a combination that can hardly occur under prevailing conditions in the industrial democracies.

If my analysis of central banking in the modern environment is anywhere near the mark, two conclusions immediately follow. First, central banks have indeed been participants in the inflationary process in which the industrial countries have been enmeshed, but their role has been subsidiary. Second, while the making of monetary policy requires continuing scrutiny and can stand considerable improvement, it is vain to look to technical reforms as a way of eliminating the inflationary bias of industrial countries. What is unique about our inflation is its stubborn persistence, not the behavior of central bankers. This persistence reflects the fundamental forces on which I dwelt earlier in this address—namely, the philosophic and economic currents of thought that have impinged on economic life since the Great Depression and particularly since the mid-1960's.

My conclusion that it is illusory to expect central banks to put an end to the inflation that now afflicts the industrial democracies does not mean that central banks are incapable of stabilizing actions; it simply means that their practical capacity for curbing an inflation that is continually driven by political forces is very limited. Historically, central banks have helped to slow down the pace of economic activity at certain times and to stimulate economic activity at other times. They have also contributed to economic stability by serving as lenders of last resort or even going beyond that traditional function. During this decade alone, the Federal Reserve moved on at least two occasions to prevent financial crisis that otherwise could easily have occurred.

I have in mind particularly the failure of the Penn Central Transportation Company in June 1970 and the failure of the Franklin National Bank in October 1974. In the former case the inability of Penn Central to refinance its outstanding commercial paper caused consternation among holders of commercial paper generally. To prevent a financial panic the Federal Reserve put aside its monetary targets for a while, opened

the discount window wide, and changed its regulations so that commercial banks could raise funds in the open market to finance firms unable to renew their maturing commercial paper.

In the Franklin National case, the Federal Reserve loaned to that troubled international bank almost 2 billion dollars; and while these advances were outstanding it was possible to arrange a takeover by another bank that protected the interests of Franklin's depositors and customers. These actions were influenced by a feeling of responsibility for the financial system as a whole—international as well as domestic. The central banks of some other countries, notably the Bank of England, have likewise discharged constructively the function of serving as lenders of last resort, and the entire concept of central bank responsibility has been both widened and clarified through discussion in recent years at the Bank for International Settlements.

All this and much more deserves to be noted about central banks—especially their tireless efforts to awaken the citizens of their respective countries to the economic and social dangers posed by inflation. But whatever the virtues or shortcomings of central banks may be, the fact remains that they alone will be able to cope only marginally with the inflation of our times. The persistent inflation that plagues the industrial democracies will not be vanquished—or even substantially curbed—until new currents of thought create a political environment in which the difficult adjustments required to end inflation can be undertaken.

There are some signs, as yet tenuous and inconclusive, that such a change in the intellectual and political climate of the democracies is getting under way. One of the characteristic features of a democracy is that it encourages learning from experience. Recent disturbing trends in economic and social life, particularly the persistence and acceleration of inflation, have led to much soul-searching by leaders of thought and opinion.

Among economists, the Keynesian school has lost much of its erstwhile vigor, self-confidence, and influence. Economists are no longer focusing so exclusively on unemployment and governmental management of aggregate demand. They are paying more attention to the management of aggregate supply—to the need to strengthen incentives to work and innovate, to ways of stimulating saving and investment, to the importance of eliminating barriers to competition, to ways of reducing the regulatory burdens imposed on industry, and to other means of bolstering business confidence.

Many economists now recognize that much of reported unemployment is voluntary, that curbing inflation and reducing involuntary unemployment are complementary rather than competitive goals, that persistent governmental deficits and excessive creation of money tend to feed the fires of inflation, that the high savings rate that usually prevails in the early stages of inflation is eventually succeeded by minimal savings, and that when this stage is reached it becomes very much harder to bring inflation under control.

The intellectual ferment in the world's democracies is having its influence not only on businessmen and investors, but also on politicians, trade union leaders, and even housewives; for all of them have been learning from experience and from one another. In the United States, for example, people have come to feel in increasing numbers that much of the government spending sanctioned by their compassion and altruism was falling short of its objectives; that urban blight was continuing, that the quality of public schools was deteriorating, that crime and violence were increasing, that welfare cheating was still widespread, that collecting unemployment insurance was becoming a way of life for far too many—in short, that the relentless increases of government spending were not producing the social benefits expected from them and yet were adding to the taxes of hard-working people and to the already high prices they had to pay at the grocery store and everywhere else. In my judgment, such feelings of resentment and frustration are largely responsible for the conservative political trend that has developed of late in the United States.

And I gather from the results of recent elections elsewhere that concern about inflation and disenchantment with socialist solutions are increasing also in other industrial countries. Fighting inflation is therefore being accorded a higher priority by policy makers in Europe and in much of the rest of the world.

In the United States a great majority of the public now regard inflation as the Number One problem facing the country, and this judgment is accepted by both the Congress and the Executive establishment. Some steps have therefore been taken within the past year to check the rapid rise of Federal spending, to lower certain taxes in the interest of encouraging business investment, and yet bring down the still large budget deficit. Pressures to augment the privileges of trade unions have been resisted by the Congress. Some government regulations—as in the case of airlines and crude oil—have been eased. And even restrictive moves by the Federal Reserve, which not long ago would have stirred anger and anxiety in government circles, have been accepted with equanimity. Symbolic of the changed political atmosphere was the announcement of an increase in the Federal Reserve discount rate on the very day this July when a sizable decline of the nation's over-all production was being reported for the spring quarter.

The present widespread concern about inflation in the United States is an encouraging development, but no one can yet be sure how far it will go or how lasting it will prove. The changes that have thus far occurred in fiscal, monetary, and structural policies have been marginal adjustments. American policy makers tend to see merit in a gradualist approach because it promises a return to general price stability—perhaps with a delay of five or more years but without requiring significant sacrifices on the part of workers or their employers. But the very caution that leads politically to a policy of gradualism may well lead also to its premature suspension or abandonment in actual practice. Economic life is subject to all sorts of surprises and disturbances—business recessions, labor unrest, foreign troubles, monopolistic shocks, elections, and governmental upsets. One or another such development, especially a business recession, could readily overwhelm and topple a gradualist timetable for curbing inflation. That has happened in the past and it may happen again.

If the United States and other industrial countries are to make real headway in the fight against inflation it will first be necessary to rout inflationary psychology—that is, to make people feel that inflation can be, and probably will be, brought under control. Such a change in national psychology is not likely to be accomplished by marginal adjustments of public policy. In view of the strong and widespread expectations of inflation that prevail at present, I have therefore reluctantly come to believe that fairly drastic therapy will be needed to turn inflationary psychology around.

The precise therapy that can serve a nation best is not easy to identify, and what will work well in one country may work poorly in another. In the case of the American inflation, which has become a major threat to the well-being of much of the world as well as of the American people, it would seem wise to me at this juncture of history for the government to adopt a basic program consisting of four parts. The first of these would be a legislative revision of the Federal budgetary process that would make it more difficult to run budget deficits and that would serve as the initial step toward a constitutional amendment directed to the same end. The second part would be a commitment to a comprehensive plan for dismantling regulations that have been impeding the competitive process and for modifying others that have been running up costs and prices unnecessarily. The third part would be a binding endorsement of restrictive monetary policies until the rate of inflation has become substantially lower. And the fourth part would consist of legislation scheduling reductions of business taxes in each of the next five years—the reduction to be quite small in the first two years but to become substantial in later years. This sort of tax legislation would release powerful forces to improve the nation's productivity and thereby exert downward pressure on prices: and it would also help in the more immediate future to ease the difficult adjustments forced on many businesses and their employees by the adoption of the first three parts of the suggested program.

I wish I could close this long address by expressing confidence that a program along the lines I have just sketched, or any other constructive and forceful program for dealing with inflation, will be undertaken in the near future in the United States or elsewhere. That I cannot do today. I am not even sure that many of the central bankers of the world, having by now become immured to gradualism, would be willing to risk the painful economic adjustments that I fear are ultimately unavoidable. I would therefore not be surprised if the return to reasonable price stability in the industrial democracies and thereby to an orderly international monetary system is postponed by more false starts. But if political patience in individual countries is severely tested as that happens, the learning process will also be speeded. The conservative trend that now appears to be under way in many of the industrial democracies will then gather strength; and unless political leadership falls into irresponsible hands, the inflationary bias that has been sapping the economic and moral vitality of the democracies can finally be routed.●

A NATIVE RETURNS TO EXPLORE THE OLD STREETS OF PROVIDENCE

● Mr. PELL. Mr. President, one of the most promising developments of the seventies has been the revitalization of many of our most treasured urban resources. In city after city throughout the country, residents have joined together to give rebirth to historic downtown areas and rejuvenate them as centers of life and activity.

The city of Providence has been fortunate to have among its citizenry imaginative individuals who envisioned a revitalized downtown Providence as a dream, and now are beginning to see their dream unfold. The New York Times recognized their efforts in the Sunday October 14, 1979 travel section with an excellent article entitled, "A Native Returns to Explore the Old Streets of Providence." The article so effectively cap-

tures the charm and vitality of the new Providence that I would like to share it with my colleagues.

Mr. President, I ask that the article entitled, "A Native Returns to Explore the Old Streets of Providence" be printed in the RECORD.

The article follows:

A NATIVE RETURNS TO EXPLORE THE OLD STREETS OF PROVIDENCE

(By Richard J. Walton)

Thomas Wolfe was wrong. Sometimes you can go home again. I did recently, to Providence, R.I., and found it not at all the dreary, provincial place of my youthful perceptions, a place I could not wait to escape a quarter century ago, but a vibrant, charming city, one of the most attractive medium-size cities in the country, rich in history and culture and uniquely rich in beautiful dwellings and public buildings of the late 18th and early 19th centuries.

With my mature perceptions, I saw that Providence no longer had to be in awe of Boston nearby, a city in whose shadows my home town has lived for three centuries. Boston is rightly proud of its history, but it can be said, without exaggeration, that America as a democracy was born in Providence, for it was there in 1636 that Roger Williams, a refugee from the intolerance of Massachusetts, founded a truly democratic state in America.

Named in "commemoration of God's providence," the tiny settlement at the head of Narragansett Bay was based on religious and politcal tolerance and separation of church and state. More than a century later, on May 4, 1776, in the Old State House (still standing at 150 Benefit Street and used as a courthouse), Rhode Island declared itself independent of the Crown, the first of the 13 colonies to do so.

What is astonishing to one who took it for granted is the extent to which Colonial and Federal Providence still exists. The best way to see it is to wander through the old streets, although there are a half-dozen places—historic buildings, museums and libraries—mentioned below that should not be missed. A stroll through the historic district, a visit to the adjacent downtown area with its old commercial buildings and a tour of the State House, the largest in the nation, can be accomplished in one crowded day or, better, two leisurely days.

There are hundreds of houses spread across College Hill around Brown University dating from the mid- and late-1700's and early 1800's. Since Providence, as a flourishing seaport that rivaled Boston and New York and Philadelphia, had a population of only 7,000 at the beginning of the 19th century, that means a substantial proportion of the dwellings of that era are still standing. As architectural historians point out in terming Providence one of the nation's finest centers of early American houses, College Hill is not a restored area like Colonial Williamsburg but one which has been lived and worked in continuously for more than 200 years.

One street, Benefit Street, has more than a hundred houses considered notable by the Providence Preservation Society, most of them 18th and early 19th century with a scattering of early Victorian. And there are hundreds more on surrounding streets, called by the society "A Mile of History."

Some of these houses are brick mansions in the Georgian style, like the John Brown House at Benefit and Power Streets which John Quincy Adams once called "the most magnificent and elegant private mansion that I have ever seen on this continent." But most of them are simple, symmetrical wooden clapboard houses of graceful proportion. Side by side, block after block of them along tree-shaded sidewalks of herring-bone patterned red brick, they evoke a feeling of timeless harmony. If by some magic the automobile could be banished—and the horse returned—this would be what a prosperous city was like in the early 1800's.

The rich merchants and shipowners built their mansions and the artisans their simple houses on the hill overlooking the harbor and salt marshes that became the commercial center of Providence. And—perhaps needless to say because they were God-fearing men, even those in the nefarious Triangle Trade of New England rum, African slaves and West Indian sugar—they built their churches nearby.

Notable are First Unitarian Church (1816) at Benefit and Benevolent Streets in whose steeple hangs the largest bell cast by Paul Revere and Son, and the Cathedral of St. John (1810) at 271 North Main Street. This latter area, at the foot of College Hill, is where Roger Williams first settled, marked now by a visitors' center operated by the National Park Service. Nothing remains of the earliest dwellings.

The most notable church is the First Baptist Church of America at 75 North Main Street at the foot of College Hill. Roger Williams not only founded the first democratic state in the colonies but brought the Baptist Church to the New World. Williams and a few companions founded the congregation in 1638 near the original settlement.

Two meeting houses were built at the original settlement and then in 1774 a few hundred yards south the present edifice was begun. It was finished a year later and dedicated "For the Publick Worship of Almighty God, and also for holding Commencements in." Although Brown University has long since ended its ties to the Baptist Church (in my Catholic childhood it was sometimes termed a "Baptist seminary"), for reasons of tradition it still holds part of its commencement exercises in the old church—the slow procession down College Hill is an academic ritual out of the Middle Ages.

The construction of so large a church, 80 by 80 feet, was an act of faith. It seated 1,200 and it was built by a congregation of only 118 souls. The visitor to the church will find his eye drawn to Thomas Street, which runs steeply along the north side of the building. The houses, of various early styles, resemble a stage set.

Uphill from the church and just around the corner to the right at 244 Benefit Street is the museum of the Rhode Island School of Design. The museum, although small, is first rate. There are treasures from Greece and Rome, 20 centuries of Oriental art, including a towering Buddha (9 feet 8 inches) from 10th-century Japan, and a collection of French paintings by Manet, Monet, Degas, Cezanne and Matisse plus a Rodin Balzac. Pendleton House, next door, is the first example in the country of an "American wing," with a collection of nearly American furniture and decorative arts.

Across the street, at 251 Benefit, is the Providence Athenaeum. This Greek Revival building designed by William Strickland in 1836 is where Edgar Allan Poe courted his real-life "Annabel Lee," Sarah Helen Whitman. A visitor has the feeling they might still be sitting in one of the secluded alcoves, for the place has not changed. Its rich collection of 18th-century books (from its 1753 ancestor, the Providence Library Company) is just sitting there on open shelves, available to any member. Only the most rare volumes, like the hand-illustrated Elephant Folio of Audubon, are kept separate.

A block south, just beyond the block-square Court House, modern but in Georgian style, is the house of Stephen Hopkins, Rhode Island's only signer of the Declaration of Independence. Built in 1708 and added to in 1743, it is painted that singular dark red peculiar to early New England houses. The rooms are small and simple, as befitted Hopkin's Quaker beliefs, but the house has a lived-in quality. Among the furnishings is a decanter set presented by George Washington to this man who was a judge, then later governor and chancellor of Brown University.

A bit farther south along Benefit Street is First Unitarian Church and, across the street at 314, the 1869 Mansard Victorian house that was the home of Gen. Ambrose Burnside, the Civil War general whose facial adornment gave us the term "sideburns."

A block farther along, set back deeply on a sharply sloping lawn, is the John Brown House (1786), which was designed by his brother, Joseph, and was the first great mansion in Providence. From it John Brown, China trader, slave trader, privateer and patriot, could glaze down at the harbor and here he entertained most of the great figures of the day, including Washington and the Adamses, father and son.

Given to the Rhode Island Historical Society by a descendant, John Nicholas Brown, it has been restored with meticulous attention to historical accuracy. It is of interest not only for the 18th-century furnishings but also for the chinoiserie brought back by John Brown's ships.

By now it is apparent that the Brown family was predominant in Colonial Providence so no one will be surprised that their benefactions caused Rhode Island College to be renamed after them. The Ivy League university, whose perimeters we have been skirting, was founded in 1764.

A stroll through the campus is especially agreeable in the autumn when the air has that quality that New Englanders believe is unique. Enter at the top of College Street, through the Van Wickle gates. Right ahead is University Hall, the first building at Brown, a large Georgian structure where French and American troops were quartered during the Revolution. Student-guided tours leave from here.

Across the College Green is a monumental stone building in the German Ionic Style, the John Carter Brown Library, with its collection of Americana. The collection includes such treasures as eight editions of Columbus's 1493 letter describing his discovery and various early editions of Amerigo Vespucci's "Mundus Novus," which caused the New World to be named after him.

The library inside has bronze bookshelves, heavy wooden tables, green Tiffany reading lamps and displays of old maps, books and broadsides.

On the downhill side of University Hall, next to the big new Rockefeller Library, is the marble-clad John Hay Library, home of the university's special collections. On display are samples, often from the library's Lincoln material, American popular sheet music and, of steadily growing interest, manuscripts and letters of H.P. Lovecraft, whose weird tales, originally published in pulp magazines, are more popular now than when he wrote them early in the century.

At the bottom of College Hill, along North and South Main Streets, are bars, restaurants and shops, some of them in brick warehouses at the edge of the Providence River. Main Street, the city's first shopping thoroughfare, has a number of old public and commercial buildings, several preserved and used by the School of Design, including a Greek Revival building and the 1773 Market House, also designed by Joseph Brown. This brick structure with its fanlight windows, onetime City Hall and Revolutionary barracks, is marked with a line about five and a half feet feet above the sidewalk where the waters reached during the great hurricane of Sept. 21, 1938.

Across the narrow river, now largely paved over, just a couple of minutes' walk from the bottom of College Hill, is the modern

downtown. It began shortly after the War of 1812 when the British blockade caused the Browns and other wealthy families to turn from shipping to industry. Providence quickly became a major industrial center. Downtown grew exuberantly and scores of the old buildings have survived the suburbanization of Providence. Indeed, downtown is undergoing a renaissance with the establishment of a pedestrian mall, the construction of a new department store, the renovation of old buildings and the new uses being found for two old movie palaces.

One of the most interesting commercial buildings in the country is the 1828 Arcade, the first indoor shopping mall in America. In the Greek Revival style with Ionic columns, the building at the beginning of Weybosset Street has three floors of open tiers connected by balconies with a roof of glass panes.

Among the other notable buildings are the 1856 Italian Renaissance Custom House, whose dome and lantern served as a beacon to ships making harbor and the triangular Turks Head Building with its granite columns, winged Assyrian lions and sculptured Turks head. The eccentric Conrad Building (1885) on Westminster near Empire features a Moorish onion dome, a Venetian colonnade, a Romanesque arch, a Queen Anne Corner bay and portrait heads of uncertain origin.

A block away is the old Majestic movie palace (1916) now, as the Lederer Theater, home of the Trinity Square Repertory Company. Nor should one miss the 1809 Beneficient Congregational (Roundtop) Church with its gold dome at the south end of Weybosset Street or the 1878 City Hall, a Victorian pile decorated with all the gaudy opulence of that age.

Impossible to miss, high on another hill overlooking downtown is the huge State House (1896–1901), 333 feet long and 180 feet wide in its center section. With its enormous unsupported dome, it is a rival in grandeur to the national Capitol.

Most interesting inside are the full-length Gilbert Stuart portrait of George Washington and the epaulets, sword and Congressional commission of Gen. Nathanael Greene of Rhode Island, Washington's top general. Also of special interest are the ornate silver service of the battleship Rhode Island, made by the local Gorham Silver Company in 1907, and an artillery piece from the Battle of Gettysburg that was discovered, in 1962, to be still loaded.

Although Providence, with its population shrunk to 200,000, has all the urban problems of the old cities of the North and East, (unemployment, blighted areas and social tensions), it has retained in the old College Hill district a sense of continuity obvious to a visitor but for so long inadequately appreciated by a former resident.●

PRINCETON'S PRESIDENT IN THE NATION'S SERVICE

● Mr. WILLIAMS. Mr. President, the quality of leadership in our Nation is frequently the subject of philosophers, presidents, and political columnists but I think one of the most perceptive pronouncements on that theme was recently offered by President William G. Bowen of Princeton University.

President Bowen, in his quiet and thoughtful manner, made the sound observation that problems faced by political leaders are often more intractable than those of yesteryear. He draws a particular interesting parallel between the growing complexity of our Nation's economy and the difficulty of problem-solving in the public arena.

A column by Mr. Harry Sayen of the Trenton Times in Trenton, N.J., captured not only the reasoning of President Bowen, but some of his own commitment to excellence in academic leadership.

I think the column would make interesting reading for my colleagues and I ask that it be printed in the RECORD.

The article follows:

PRINCETON: STILL IN THE NATION'S SERVICE

(By Harry Sayen)

Cynicism and pessimism are the gravediggers of democracy; both are at work today as never before in our history. The average citizen's distrust of politicians does not need a Gallup Poll for verification. And, as the politicians' stock plummets, so does the peoples' confidence in themselves.

We have come to expect too much of our leaders. In turn, as impossible expectations remain unfulfilled, the man with the easy answer, not necessarily riding a white horse, becomes more and more attractive. The rascals move into the vacuum; morals join the descending spiral.

William Bowen, the 46 year old, low-profile president of Princeton University, put the problem this way: "Let us recognize it is a hard time to be an effective politician. We blame elected leaders for the problems of society. The problems that politicians confront are, in fact, much harder problems than most people realize or are prepared to accept."

Bowen, who still teaches regularly, quoted his favorite Einstein aphorism: "Make everything as simple as possible but not more so."

The Cincinnati-born economist, an aggressive tennis player with an easy smile and an obvious love for his job, suggested that energy is an example of a "very difficult problem that will not be solved without sacrifice by a lot of people. But this is not well understood."

So, to countervail the cynicism, Dr. Bowen believes that the university must continue its "historic commitment to public service, which has been evident from its earliest days, and which was given enduring verbal form through Woodrow Wilson's famous phrase, 'Princeton in the nation's service.' It must encourage students not to believe in sloganeering, not to approach problems with a quick fix and to be more tolerant of ambiguity."

Continuing, Dr. Bowen said: "We try to encourage students to educate themselves broadly, to take a real interest in affairs of the world and not just vocational, educational affairs." He made it clear that "I am not opposed to vocational training, but it has to be combined with other types of learning."

This line of thought led to secondary education. Bowen averred he had "no credentials" but he assumed "that many troubles stem from lowered emphasis on the basic subjects of mathematics and writing—particularly writing and the discipline that is learned. The pressures for vocationalism are so strong in so many places that it makes it harder to find time in public schools for the broader education that is so effective for citizenship."

In Bowen's estimation, there are many reasons making public life so difficult today: "It is hard to get people to think of the greater good. The special interest groups push for what they want, so it is hard to get a majority for things."

And then there is the changed role of the United States in the world: "We are no longer in a dominant economic position. It is not as easy to get our way because there are other powerful actors on the stage."

As an economist, William Bowen recognizes the depth and complexity of the economic problems. He mentioned higher unemployment of the young and inflation: "We must address our problems realistically. In time, self-correction is possible, but it may taken even worse circumstances to drive people to action—more shortages before conservation, which is absolutely the key. It isn't dramatic or easy."

All of the factors—economic, political, and social—combined with Vietnam and Watergate have led to the low estimation of leadership. This perception of lack of strength in governance has created a void. And the tumultuous reception for Pope John Paul II is a strong indicator of a yearning to fill that void. There was love to be sure; there was faith and charity; but hope—hope for leadership—was the purport of the Papal visit.

The pope's answers to today's malaise—of sharing more, of wanting less—were not easy ones. But if those goals are outlined in an understandable way, people will respond—as they have in wartime. Making sacrifice believable and palatable is the genius of leadership. With that type of leadership, the gravediggers of freedom would have little work to do.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposd arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately avaliable to the full Senate, I ask to have printed in the RECORD the following notification I have just received:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 1, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–06, concerning the Department of the Army's proposed Letter of Offer to Jordan for defense articles and services estimated to cost $33.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director,
Defense Security Assistance Agency.

Attachments.

[Transmittal No. 80–06]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER

(Pursuant to Section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Jordan.
(ii) Total Estimated Value:

(In millions)

Major defense equipment*	$0.0
Other	33.4
Total	33.4

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Product improvement for the Jordanian Improved Hawk air defense system to include system modifications and associated spare parts; technical and logistics assistance; installation, integration, test, inspection, and repair services; and required training.

(iv) Military Department: (Army (UXV).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 11, 1979.

MEETING TOMORROW OF COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be permitted to meet during the session of the Senate tomorrow to markup the SALT II treaty.

Mr. BAKER. Mr. President, reserving the right to object, the majority leader and I have discussed this matter in the course of the day, and I believe he knows, as does the distinguished chairman of the committee, that it will be necessary for me to object.

I reiterate what I have said earlier. I am perfectly willing to sit down with the chairman and the ranking minority member of the Committee on Foreign Relations to try to work out a schedule that will permit us to consider the SALT treaty in due course and expeditiously.

So it is not possible for me to agree to the unanimous-consent request just made by the majority leader for the Committee on Foreign Relations to meet beyond the 2 hours that the rules permit.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CHURCH. Mr. President, reserving the right to object, I appreciate the Senator withholding his objection. I would like to be heard on this subject.

Mr. President, there never has been a time in the history of the Committee on Foreign Relations when so thorough an examination of a treaty has been undertaken as has been the case with the SALT II treaty.

The committee has heard in public session from more than 100 expert witnesses. We have had innumerable executive sessions in addition to our public hearings. These sessions have consumed the whole of the month of July, the whole of the month of September, and a good portion of October. We have compiled more than 4,000 pages of testimony and have undertaken to be as thorough and careful in our examination of the treaty as is possible.

Now we are proceeding with a markup that began on Monday afternoon. The markup itself will be time consuming, under the best of circumstances. It had been my hope that the committee could meet in the morning and in the afternoon each day. If the Foreign Relations Committee cannot meet when the Senate is in session, we cannot complete the markup in any reasonable length of time.

Since the markup commenced. we have had three sessions. We are presently on section 3 of article II of the treaty, which would indicate, I think, that we have some good long distance to go.

So I hope, Mr. President, that objection would not be raised. I do not even know what Senator is objecting. I only know that the objection comes from the Republican side of the aisle.

If the committee cannot meet during the time when the Senate is in session, this markup will be unduly prolonged. The only purpose that an objective would serve at this time would be to prevent the entire Senate from taking up the treaty in a timely fashion.

I am sorry that this objection has been raised. Last week the committee in a business meeting approved its mark-up schedule. I think the committee is entitled to proceed as had been scheduled both morning and afternoon mark-up sessions.

Mr. HART. Mr. President, reserving the right to object, I am not a member of the Committee on Foreign Relations. However, as a member of the Armed Services Committee and one who has spent a good deal of the last year and a half or 2 years studying this treaty as it evolved, following it as an announced proponent of the treaty, I have spent a great deal of time in my State talking to my constituents about this issue, because I strongly believe it is the most important issue this body will take up in a number of years.

During the last few trips into my State, the question I have been asked most often—next to "When is Congress going to act on inflation?"—is, "When does Congress, and the Senate particularly, intend to take up the SALT treaty?" That comes from people who are in favor and those opposed and those who just do not know.

I hope that whatever objections there are will be overcome as quickly as possible, so that the distinguished Senator from Idaho can move forward and can have the treaty on the floor of the Senate and get the public focus on it which I think it deserves. Whether it goes up or down, at least the American public would have heard a full debate, at a reasonable time this fall, on this very vital issue.

I understand the leadership position in which the Senator from Tennessee finds himself. I believe the objection does not come from him. In any case, I suppose it is irrelevant.

I just wanted to add a word to that of the Senator from Idaho, that I hope the Committee on Foreign Relations could move forward as quickly as possible and in a methodical way, which I believe it to be doing.

I withdraw any objection.

Mr. GLENN. Mr. President, I had not planned to get into this discussion, but I think I will, since I spoke on this subject in the committee hearing this morning.

Our distinguished chairman, the Senator from Idaho, is correct when he says that we have gone through some 2,000 pages of testimony.

I do not know how many hundreds of hours of hearings we have had on this subject up to this point.

The hearings have been thorough enough and have ventilated all the issues enough so that there are very serious questions and serious concerns.

I appreciate that we are trying to make the trains run on time around here, and we are trying to make this come through before the NATO group gets together in December. But these questions are serious enough that it is far more important at this stage that we consider them very carefully.

What was our proposed hearings schedule? So that it also goes into the RECORD, the proposed hearings schedule that we still have on the books as of this moment is that we were going to meet every Monday afternoon and Friday afternoon and morning and afternoon on Tuesday and Thursday.

That obliterates any other activities that any Senators on the Foreign Relations Committee may have.

I conducted another committee hearing this morning that had been set up for sometime on another subject and was an hour late getting there. So I missed some of our morning hearing, and it was a matter on which I was vitally concerned.

I know our rules; and the way we have set this up and the way the chairman and the ranking minority member have set it up is that we will have adequate time at the end of the hearings to bring up anything that we do have to miss. I appreciate that we have set it up that way.

But what I proposed this morning was that we set up 3 half days a week. We will have our homework done and have our amendments already distributed and answered. So we will know our views on things and come in there ready to work and ready to go rather than having the interminable discussion we do now by only partial preparations by many members of the committee, including myself, simply because we do not have time, with our other responsibilities here, to do the proper job that needs to be done.

The remarks of the distinguished Senator from Colorado are right on the mark. I think that we probably will not consider another item that exceeds this in importance in quite a while around the Senate. But for that very reason I want to consider this treaty absolutely in the fairest light and have it as correct as it can be, as perfect as it can be before it comes to the Chamber.

I think the alternative to that is to say that we still have some question marks hanging on around this treaty when it comes to the Chamber, and all we will do is move our discussions to the Chamber for unlimited debate in the Chamber.

I do not want to see that happen. I think we will save time in the long run by taking our reasonable time. I do not want to extend consideration of the treaty into the new year in any way, shape, or form. I want to get it done. But I am far more concerned that we do this job right and that we not rush as a committee which I feel we are doing now. That is the reason why I supported the view this morning in committee that we go to a little less rigorous schedule in committee, and it will enable us then to perform some of the other functions that we on the committee have to perform.

I canceled two other hearings this week already and obviously if this goes on for several weeks we will be doing absolutely nothing in the Senate except our Foreign Relations Committee duty on this or we will be missing the markup which I think is probably the most important markup that any of us may participate in for a number of years.

I thank the Chair.

The PRESIDING OFFICER. The time for morning business has expired.

EXTENSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time be extended for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I assured the Senator from Missouri we will have plenty of time.

Mr. BAKER. Mr. President, there is no objection to that. But I wish to make sure that without consuming any more of the time allocated to morning business the Chair notes my objection to the request with respect to the Foreign Relations Committee.

The PRESIDING OFFICER. The objection has been noted.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I urge Senators to accommodate the Senate as much as possible in the request for committees to meet, especially the Foreign Relations Committee which is considering the treaty and which is at the markup stage now, the Finance Committee which is working on the excess profits tax bill, and the Energy Committee which is working on the energy bill.

Of course, the Appropriations Committee has standing consent.

Mr. President, I am not one to urge that we rush the markup on the treaty. I think the markup should be conducted with due deliberation but without unnecessary delay.

And I say that because I think it is important that the treaty be marked up and be reported out and placed on the calendar at the earliest feasible date, considering the need for careful deliberation in the markup, and I know that the committee is proceeding in that way.

But may I say, Mr. President, that it is my desire to take up the treaty before we adjourn this session. If that is not possible, we will just not have a very long holiday for Christmas and New Year's, and we will come back in January and continue.

I do not see any point in delaying the treaty. If the Senate wants to vote it down, that is the Senate's business. If the Senate wants to approve it, then let it be.

But I hope that Senators will not object to the committee meeting in an effort to duly act on the treaty and get it marked up and reported.

Mr. CHURCH. Mr. President, will the Senator yield on this point?

Mr. ROBERT C. BYRD. Yes.

Mr. CHURCH. Mr. President, I agree with the distinguished Senator from Ohio (Mr. GLENN), who is a very able member of our committee, that the hearings having been very thorough have posed a number of issues that must be faced and met during the markup. That is all the more reason, it seems to me, that the committee be given adequate time.

Mr. ROBERT C. BYRD. They do not even have time to discuss it.

Mr. CHURCH. I know of no way to proceed to meet a schedule that I regard as reasonable and in the national interest unless the committee can meet both in the mornings and in the afternoons. Time is running out.

Mr. ROBERT C. BYRD. Yes.

Mr. CHURCH. There is a national interest here by virtue of the impact of the Senate's decision, or the impact of a failure to make a decision, on our allies. Particular note must be made of the NATO alliance, and the attempt to reach an accommodation with our NATO allies respecting the modernization of the theater nuclear force. For this reason, it serves the national interest to proceed with all deliberate speed to do the job that the committee must do, mark up this treaty, and bring it to the full Senate. Once the treaty is on the Senate Calendar the majority leader can call it before the Senate at an appropriate time, before this session has been concluded.

Mr. ROBERT C. BYRD. Mr. President, I would not do that without consulting with the chairman of the committee, the ranking minority member of the committee, and the minority leader, as I always do.

May I say to my friend from Ohio, Mr. GLENN, that making the trains run on time has nothing to do with this treaty. So I wish to debunk that idea right here and now categorically. Trains running have nothing to do with this treaty. But, as I understand it, representatives of the NATO countries will meet in mid-December to make some decisions on theater nuclear force modernization, and that decision may very well be determined one way or the other by whatever action the Senate takes on the treaty.

Mr. CHURCH. Or fails to take.

Mr. ROBERT C. BYRD. Or fails to take. If the treaty is delayed, not that I intend to run the schedule of the Senate on the basis of the NATO allies, but the United States is one of the group, and what those NATO allies decide with respect to theater nuclear force modernization is of very great importance to this country and to its security interests.

So we are not making the trains run on time. We are dealing with the security interests of this country one way or the other. If the Senate wants to reject the treaty, I am not finally locked in yet one way or the other on the treaty. If the Senate wants to reject the treaty, that is one thing. Let the world know that the Senate voted not to approve it. But let us get a decision, not making the trains run on time, but let us get a decision in due time and without delaying the committee in its markup.

I am not a member of the committee, but the problems that confront the committee can only be handled if the committee is meeting. They can only be disposed of one way or the other when the committee meets and Senators deliberate on them.

I have nothing more to say.

Mr. CHURCH. Mr. President, if the Senator will yield to me once more, I see the able Senator from New York (Mr. JAVITS) is here, the ranking member of the committee, so I thought it would be appropriate for me to say that the procedures governing the markup, together with the schedule, the calendar for the committee, have been agreed upon by the committee itself in the regular manner. It has not been the decision of the chairman nor indeed the decision of the ranking minority member nor of the two of us together, but rather the decision of the entire committee that has established the schedule that we had hoped to follow during the course of the markup.

I am sorry that objection is being raised.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. STEWART). Time for morning business has expired.

ORDER FOR RECESS UNTIL 4 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 4 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I think now I control the time at the request of the Senator from Kentucky, the whole time.

Mr. JAVITS. Mr. President, will the Senator yield 1 minute?

Mr. STEVENS. I promised the Senator from Missouri, and if he agrees the Senator can proceed.

Mr. DANFORTH. Of course.

Mr. STEVENS. I yield 1 minute to the Senator from New York.

MEETING OF THE NORTH ATLANTIC ASSEMBLY IN OTTAWA NEXT WEEK

Mr. JAVITS. I would like to note for the RECORD, and I think this is an opportune moment to do so, that the North Atlantic Assembly, composed of parliamentarians of the NATO countries, meets in Ottawa next week, and a great opportunity, I hope, will be availed of to confer with our fellow parliamentarians who have very definite opinions on SALT II as seen from their vantage point in Ottawa.

There is going to be a plane going up Thursday night with the official delegation, and I hope that Members will take note of this as an opportunity for a real chance to learn how our European colleagues feel about SALT II in the course of that annual conference.

I thank my colleague.

Mr. STEVENS. I thank the Senator.

I hope, I know, the Senator from West Virginia, I am sure, is familiar with the Ottawa conference, and perhaps if we get enough interest in people getting up there, we can make an arrangement to provide attendance. That is something we should negotiate with him.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed in morning business for 2 minutes.

Mr. BAKER. Mr. President, will the majority leader extend it for 2 more minutes so that the distinguished Senator from Missouri and I might speak on another matter?

Mr. ROBERT C. BYRD. Mr. President, will the Senator permit me to dispose of these two items?

Mr. BAKER. Yes.

TECHNICAL CORRECTIONS IN THE ENROLLMENT OF H.R. 3173

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 196.

The PRESIDING OFFICER (Mr. STEWART) laid before the Senate House Concurrent Resolution 196 directing the clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 3173.

The concurrent resolution (H. Con. Res. 196) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIRECTING SENATE LEGAL COUNSEL TO REPRESENT RONALD A. CHIODO

Mr. ROBERT C. BYRD. An employee of the Senate, Ronald A. Chiodo, has been subpenaed to testify at a deposition in *Art Metal-U.S.A., Inc.* v. *Rowland G. Freeman, III, et al.*, (C.A. No. 78-1660), pending in the United States District Court for the District of Columbia. Mr. Chiodo is staff director of the Subcommittee on Federal Spending Practices and Open Government. The subpena asks for various documents. Today the Senate need only resolve to direct the Office of Senate Legal Counsel to represent Mr. Chiodo. A further resolution may be necessary in respect to the production of documents.

I send a resolution to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

Senate Resolution 269, directing Senate legal counsel to represent Ronald A. Chiodo, a Senate employee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The resolution was agreed to.

The resolution (S. Res. 259), together with the preamble, was agreed to as follows:

Whereas, in the case of *Art Metal-U.S.A., Inc.* v. *Rowland G. Freeman, III, et al.*, (C.A. No. 78-1660), pending in the United States District Court for the District of Columbia, a subpoena has been issued and served upon Ronald A. Chiodo, an employee of the Senate, directing him to appear and give testimony and produce documents, papers, or records.

Whereas, title VII of the Ethics in Government Act of 1978, Public Law 95-521 ("the Act"), establishes the Office of Senate Legal Counsel and provides that the Senate may direct its Counsel to represent the Senate, its committees, Members, officers, or employees.

Resolved, That pursuant to section 704(a)(2) of the Act the Senate Legal Counsel is directed to represent Ronald A. Chiodo, a Senate employee, in respect to discovery in this case.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOURTEENTH CENTENNIAL OF ISLAM

The concurrent resolution (S. Con. Res. 43) honoring the 14th centennial of Islam, was considered and agreed to.

The amendment to the preamble was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

Whereas November 21, 1979, marks the fourteen hundredth anniversary of the founding of Islam, an event which will be commemorated throughout the world, including in the Holy Cities of Islam; and

Whereas Islam is one of the mankind's great religions in history and today, followed by approximately eight hundred million people encompassing every major region of the world; and

Whereas the word "Islam" derives from Abraham's willingness to accept all God's commands, an example profoundly meaningful to all monotheistic religions; and

Whereas the "House of Islam" extended gracious hospitality to philosophy and science in both the East and West when these scholarly disciplines were threatened by narrowness and prejudice, thus preserving this precious heritage for subsequent generations; and

Whereas Islam strives for a worldwide community which, in the words of one Islamic poet-philosopher, "does not recognize the superficial differences of race, or history, or nationality"; and

Whereas the United States and countries of the Islamic world hold in common many benefits and values including the concept of world community, which inspired the Founding Fathers of our own country; and

Whereas international understanding and peace are strengthened by free and open communications among nations representing various historical and religious traditions: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Islam is hereby recognized for the rich religious, scientific, cultural, and artistic contribution it has made to mankind since its founding.

SEC. 2. The Congress takes note of the contribution of Islam and wishes success to the fourteenth centennial commemoration.

SEC. 3. On the occasion of this anniversary, the Congress pledges its efforts to achieve better understanding, reduction of tensions, and the pursuit of improved relations with all nations of the world.

SEC. 4. The Congress requests that the President forward a copy of this resolution to the Chief of State of each country where Islam has a significant following and where celebrations will mark this important international event.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield to the Senator from Missouri.

FOOD FOR CAMBODIA

Mr. DANFORTH. Mr. President, it is well known that over a period of time considerable blood has been shed in the nation of Cambodia. The fighting continues to go on. The result of this fighting is that planting and harvesting of crops has been interrupted, and now there is a very substantial food shortage, to the point where there are estimates that somewhere between 2 million and 3.5 million Cambodians are now facing loss of life through starvation.

It is estimated that because of the fact that younger people are affected by starvation before anyone else, some 80 percent of Cambodia's children are now suffering slow death from starvation and from disease.

Cambodia will need approximately 165,000 tons of food supplied to it by the outside world within the next 6 months in order to avert the kind of catastrophe that has been predicted for the people of that country.

Yesterday in Kansas City, Mo., President Carter, to his great credit, announced that our country will commit itself to a total of $7 million in expenditures, $5 million for food and $2 million for various support services, which would buy 10,000 tons of food. That 10,000 tons of food is certainly a step in the right direction, Mr. President, but the fact of the matter is that an estimated 165,000 tons will be needed between now and 6 months from now.

There is an additional $15 million available for the purchase of food in the Food for Peace Program. The total of $20 million, the $15 million left and the $5 million the President has obligated, could be used to buy 45,500 metric tons of rice or 125,000 metric tons of wheat. Additional money for transportation of food could be furnished by the Disaster Relief Fund and the Refugee and Migration Assistance Fund.

Mr. President, I think that when an estimated 2 million to 3.5 million people are starving to death, the politics of those people—and, of course, most of them have no politics—should be the last of our considerations, and that the United States should be in a position to put political considerations to the background for the moment, and that we should put people interests absolutely first.

The United States can, if it wants to, commit itself to furnish, with or without multilateral help, all of the food needs of Cambodia—165,000 tons over the next 6 months. We can, if we want to, transport that food to Cambodia. Initially we could do it by airlift, and then, as time permits, we could do it by ship.

It is notable that one of the finest hours of our country's history was in 1948 and 1949, when, for an 11-month period of time, the United States flew into West Berlin 140,000 tons of food each month. Planes were landed every 3 minutes, on the average, in Berlin, because the United States had the compassion to deal with human needs. Mr. President, I believe that the United States has the same sort of opportunity right now—that it is a matter of literally saving hundreds of people's lives, and that it is also a matter of the whole image of our country, not only to the rest of the world but internally as well. This is an opportunity to show the rest of the world and the people of the United States what kind of country we are, what kind of contribution we can make to human needs, and how we use a continuing opportunity to alleviate the hunger, the starvation, and the deaths that are now going on in Cambodia.

So, Mr. President, I commend the President of the United States for his efforts to date. I would urge him to consider even more efforts in behalf of the people of Cambodia, and I would pledge to him the support of at least this Member of the U.S. Senate for any additional help that he can give to the people of Cambodia.

Mr. BAKER. Mr. President——

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I rise to commend the distinguished Senator from Missouri for his remarks, his evident compassion, and his concern for an impending possible human tragedy.

It was my privilege to discuss this matter with him earlier today, and to remark, as we did in that conversation, on the appropriateness and the high moral tone of the President's remarks in Kansas City. This afternoon I called the President of the United States to tell him of my concern for this subject, and to extend my congratulations to him for his initiative.

I believe it is well, Mr. President, to signal that in this matter, as the Senator from Missouri has indicated, there is no politics, and to assure him that there is every desire on our side of the aisle to proceed to a solution of this problem on a nonpartisan basis. I congratulate the President for his effort and his statement at Kansas City, and I pledge to him our support insofar as I can assure that support to implement that program at the earliest and most prompt moment.

I extend my congratulations to the Senator from Missouri for his analogy to the Berlin airlift. The historic proportions of that noble effort are precisely what is required to avert this impending human tragedy. So, Mr. President, it gives me great pleasure to commend two great Americans, in this case the President and the distinguished Senator from Missouri, for their compassion and concern, and to offer these modest remarks in support of their initiative.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will come in at 4 p.m. After the two leaders or their designees have been recognized under the standing order, the Senate will proceed to the consideration of the conference report on the energy conservation bill, which contains the standby gasoline rationing plan, S. 1030. There will undoubtedly be a rollcall vote, I assume, on that matter.

RECESS UNTIL 4 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 4 o'clock tomorrow afternoon.

The motion was agreed to; and, at 6:39 p.m., the Senate recessed until Wednesday, October 17, 1979, at 4 p.m.

HOUSE OF REPRESENTATIVES—*Tuesday, October 16, 1979*

The House met at 12 o'clock noon.

Rabbi Harry Z. Sky, Temple Beth El, Portland, Maine, offered the following prayer:

Friends, as we stand in this Hall, at history's crossroads, the concerns of the world pass before our minds and eyes. We address ourselves to the needs of our country's citizens, and we respond to the cry of mankind. A prayer crosses our lips. Dear Father, let the spark that is You within us burn aglow. Let it seek the spark flickering in the soul of another, and together let a flame of devotion burst forth creating a new Heaven and a new Earth and one eternal glory of divine self-sharing. For life is divine self-sharing; the sharing of concern, the sharing of hope, the sharing of love, the sharing of a dream—a dream of peace for all mankind, a dream of lives replete with fulfillment. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4473. An act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4473) entitled "An act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. PROXMIRE, Mr. CHILES, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. MAGNUSON, Mr. GARN, Mr. HATFIELD, Mr. MATHIAS, Mr. SCHWEIKER, and Mr. YOUNG to be conferees on the part of the Senate.

RABBI HARRY Z. SKY

(Mr. EMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERY. Mr. Speaker, it gives me great pleasure to be accompanied today by Rabbi Harry Sky, a distinguished and respected citizen of my district. An activist in civil, State, and national issues as rabbi of the Temple Beth El in Portland, Maine. He is also a scholar, a teacher at the University of Southern Maine, and holds honorary doctorate degrees from Nasson College in Maine and a doctorate degree from the Jewish Theological Seminary of New York. A member of the Portland Rotary Club and chairman of the Human Relations Council, he is involved in a wide range of human affairs programs and civic causes.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

In these increasingly difficult times of international tensions and domestic uncertainties, Rabbi Sky has brought to his friends both within and outside the Temple Beth El a compassionate and concerned understanding of the events that effect us all and a reassuring outlook on the future. He has touched in a very real and important way a great many people in my State, and is a credit to the religious and civic communities he represents. I am pleased you have had a chance to meet him today, and hope you and my colleagues will keep his thoughts of wisdom close to you as we continue our important business ahead.

Thank you very much.

LIGHTS! CAMERA! INVASION!

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, today I heard a report that the scheduled landing of American marines at Guantanamo was delayed in order to get better media coverage. The original landing, as I understand it, was to take place before dawn. But it was held up for 2 hours so that cameras could better record it in the daylight.

First it was the sports world that became the slave of television needs. Now it seems our national security system is fast becoming a media event. If the Guantanamo landing was supposed to put fear into the heart of Fidel Castro, this delay for better media coverage must have made him laugh into his beard. I can see him now, telling the Cubans that they have nothing to fear from the Americans because all the landing beaches provide the wrong camera angle for effective media coverage.

I have also been informed that there is another reason for the delay until daylight. There is concern that the landing forces will have a difficult time getting into their landing craft in the dark. As an old combat infantryman, I find this hard to believe, but if it is true, we are in bigger trouble than we think.

A NEED FOR A STRONG WINDFALL PROFITS TAX BILL

(Mr. BEARD of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEARD of Rhode Island. Mr. Speaker, as winter approaches Rhode Island, I must address this body in support of a strong windfall profits bill. It is vital that my colleagues here in the House of Representatives join me in urging the Senate to support a reasonable windfall profits bill. Only with passage of this legislation will funds be made available for the elderly, the poor, and the disabled.

An energy crisis assistance program can only be realized if we support H.R. 3919. As of October 5, the Senate Finance Committee has reduced the estimated reserves of the House-passed bill (H.R. 3919) from $104 billion by 1990 to about $70 billion. We are now in the middle of October. Unless we act now and act strongly, the poor, the disabled, and the elderly will be forced to choose between heat or food.

The time needed to implement this program and the possibility of a long conference report fight, demand that action be taken now. By supporting this clear need now, we can reduce the hardships of millions this winter.

I ask that my colleagues join me in contacting Senator RUSSELL B. LONG, chairman of the Senate Finance Committee, to express their support of a strong windfall profits bill and urge him to expedite its passage. Low-income Americans spend a much greater proportion of their income on fuels than others. Deregulation and OPEC increases will greatly add to their burden. They will be left with a choice between food or heat. We must do all in our power to prevent this. We must act now.

BREAD LABELING ACT

(Mr. HIGHTOWER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Speaker, I have introduced legislation today with the intent of establishing a better understanding between farmers and their retail customers. The legislation, if passed, will require each loaf of bread to reflect on the wrapper the cost of the farm products.

The reason is very simple. This summer as wheat prices began to increase, different groups and organizations started to make speeches and write letters to the President and to Congress in almost a panic tone that would have any export sales stopped.

They were trying to convince both the elected officials and the public the moderately higher prices for wheat would send the prices for bread through the roof. The old scare of "a dollar a loaf" was played up again as what might happen if exports continued.

The fact is that the cost of the wheat in one loaf of bread will be around 4 cents. A $1 increase in the cost of a bushel of wheat will only mean an increase of around 1½ cents per loaf of bread. One bushel of wheat yields seventy 1-pound loaves of bread.

If this information is made available on the wrapper of each loaf of bread, the consumer will know what the cost is and we will not have the problem of wanting to pin the blame on the farmer each time the cost in the grocery store increases.

The information required in this bill is readily available. Bakeries with efficient cost accounting procedures know what their costs are to the penny. The wrapper is going to be printed anyway. This should not add 1 cent to the cost of the bread. The bill is not likely to make the price of bread go down. I do hope it is a step in fostering a better understanding between the farmer and his customer.

FTC PROCEEDINGS AGAINST THE CEREAL INDUSTRY

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WOLPE. Mr. Speaker, I rise today on behalf of myself, Mr. KEMP, of New York, Mr. CAVANAUGH, of Nebraska, Mr. OBERSTAR, of Minnesota, Mr. NOWAK, of New York, and Mr. WALKER, of Pennsylvania, to offer a sense-of-Congress resolution that would express, in no uncertain terms, the displeasure of the Congress with the way in which the FTC has conducted its proceeding against the cereal industry. This resolution does not speak to the merits or the substantive issues under consideration. It does, however, speak to several very disturbing process questions that have surfaced during the course of the proceedings.

Because of the tremendous impact a ruling against the cereal industry could have, it is my strong conviction that the following issues of process must be resolved before the proceedings continue:

First. The failure of the FTC to undertake and consider an analysis of the impact on jobs and local communities of proposed remedies requiring divestiture;

Second. The failure of the FTC to permit intervention in the proceedings by the cereal workers themselves; and

Third. An apparent impropriety in the relationship between the Federal Trade Commissioners and the administrative law judge hearing the case.

I urge my colleagues to join us in calling for a suspension of the proceedings until these issues have been resolved. Under Extensions of Remarks, I have inserted a copy of the resolution.

A COMMENDATION TO THE HOUSE LEADERSHIP

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I would like to take this opportunity to commend the Speaker of the House for the leadership that has been shown to this 96th Congress, along with the majority leader, the gentleman from Texas (Mr. WRIGHT), and the majority whip, the gentleman from Indiana (Mr. BRADEMAS). The leadership has done a superb job, I think, in shepherding needed legislation through this Congress, and I have no doubt that history will record this Congress as one which has properly perceived the needs and desires of the American people.

The membership of this Congress was not one that was elected for a "new frontier" but more one that was elected to reassess our values, set priorities, and look at where we have been and where we are going. That is what this Congress is doing. We are facing the issues, reassessing our priorities, and looking at what needs to be done. I think it is encouraging, under our leadership and under Speaker O'NEILL's guidance, that we are on a solid, stable course, and that we have remained on course with some balance. It is so easy to get off on a tangent.

While this may be a time of national complaints and the blaming of Congress for everything imaginable, from energy to inflation, the American system of government is still the best. And, the reason this government has maintained its prominence and position of effectiveness is due to the Congress and the fortunate leadership we have here today.

Again, I sincerely applaud Speaker O'NEILL's leadership.

PERMISSION FOR SUBCOMMITTEE ON LEGISLATION OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Subcommittee on Legislation of the Permanent Select Committee on Intelligence be permitted to sit today during consideration of the 5-minute rule.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONNALLY'S DISASTROUS MIDEAST POLICY

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, Presidential candidate John Connally's proposals for the Mideast, of which we have all heard, are seriously defective, undermine American interests in that critical part of the world, and raise serious questions as to whether he has the judgment required for the Presidency.

The cornerstone of those proposals is the creation of a new Palestinian state on the West Bank of the Jordan. I am startled that Mr. Connally can view that as a contribution to peace; Jordan and Egypt, which currently share the longest borders with Israel, obviously do not agree. Each had the opportunity, from 1948 to 1967, to create a Palestinian state—Jordan on the West Bank, Egypt in the Gaza Strip—and each chose not to do so. Mr. Connally bases his proposal on oil diplomacy, but there is no reason to believe the Saudis want such a state either.

A PLO state will not increase the flow of oil, only of blood. Such a state is sponsored by countries that get their sustenance from the Soviet Union—Libya, Syria, and Iraq. A Palestinian state would just add another star to the anti-United States, pro-Soviet camp. It would be a force for violence and clearly would be contrary to U.S. interests.

I am pleased, however, that the other major Republican candidates for President, Representative JOHN ANDERSON, Senator HOWARD BAKER, former Ambassador George Bush, Representative PHILIP CRANE, Senator ROBERT DOLE, and former Gov. Ronald Reagan, have reiterated their support for traditional American policy and interests in the Mideast.

PETROLEUM FARMING

(Mr. MARRIOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARRIOTT. Mr. Speaker, America needs new sources of energy. America needs to become energy independent by 1985. America needs to unlock the shackles imposed by the OPEL cartel.

The only way we can achieve these three goals is to begin developing alternative energy sources. One such source which could have great potential is petroleum farming; that is, growing and harvesting selected plants for the extraction of hydrocarbons chemically similar to imported petroleum—yes, gas from plants.

The hero in this new petroleum farming concept is the humble milkweed, a plant common around the Nation. The milkweed will grow with little moisture and will produce a crude oil convertible through existing refineries into liquid fuel such as gasoline. The Btu value of milkweed petroleum compares favorably with that of crude oil and is considerably higher than that of coal. Present production yields are estimated at 10 barrels per acre of milkweed at a cost of approximately $17 to $20 a barrel.

It has been estimated that by cultivating and managing this hydrocarbon renewable plant, up to 10 percent of this Nation's petroleum imports could be replaced; that is about 850,000 barrels of oil a day.

Plant Resources Institute is now conducting a feasibility demonstration program in Tremonton, Utah, and Alcalde, N. Mex.

I urge Congress and the Department of Energy to watch this demonstration plant carefully, to assist in some grants, to speed up its potential. Who knows—tomorrow we could be growing energy in fields of milkweed petroleum in our search for energy independence.

ARAB OIL SHOULD NOT INFLUENCE PRESIDENTIAL POLITICS

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, 2 days ago one of the top officials of the PLO urged Arab countries to use money and oil to "exert pressure" on our 1980 Presidential elections. While the PLO itself has few resources, the official stated that the Arab states jointly "can do a great deal where U.S. Presidential candidates are concerned."

Financial contributions from foreign governments to U.S. political candidates are, of course, illegal. However, oil-rich Arab countries may seek to use their resources to influence our Presidential elections indirectly through industries controlled by Arab investments or businesses dependent on Arab petroleum supplies and purchasing power.

The American economy already has suffered a great deal from our inability to prevent or counteract sharp increases in the price of imported oil. The prospect that foreign oil money will further be used to exert pressure on our political campaigns raises serious philosophical issues for candidates of both major political parties.

In formulating positions on the Middle East it is essential that the United States give preeminence to its historical and long term commitment to uphold the security of Israel. We should take great care to insure that Presidential candidates, members of their families, and close associates do not become unduly tied through business or campaign connections to governments wielding the heavy hand of new-found wealth.

In politics, how campaigns are run frequently reflects how governmental policy is later made. Thus the PLO's threat could not remind us more forcefully of the importance of the United States achieving energy independence. The American political system must never be jeopardized by threats or intimidation from foreign interests who seek to change policies to which our country has been historically committed.

□ 1220

DEMOCRATIC MAJORITY HAS LOST TOUCH WITH AVERAGE DEMOCRAT

(Mr. LEWIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS. Mr. Speaker, I came to the floor this morning to watch my colleagues respond to the American public regarding the problems that faced this country. I was astonished to see my good friend, my colleague from Florida, who is the president of the freshmen Democratic class, extol the virtues of the leadership of this House and express such great pride at the progress we have made during the 96th Congress. Nothing can startle me more.

I have worked here for these months in the House, and I have been most impressed with the potential of new Members to bring about change in the direction of our National Government. To hear the president of the freshman Democrat class express such pride in our progress, when inflation is going through the roof, when we have done little, if anything, to meet the challenge of the energy crisis, when indeed the public is asking for less Government, for less regulation, and we seem but to give more and more.

In reality, we find that this House is led by a majority who happen to be Democrats, who indeed have lost touch with the average Democrat out there in the voting public.

It was my hope that there would be a new breath of fresh air with this freshman class. Unfortunately, today's expression by the president from Florida has disappointed us all.

God help the people of this country. Indeed, God help the Republic.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MARIA CORAZON SAMTOY

The Clerk called the bill (H.R. 948) for the relief of Maria Corazon Samtoy.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ELIZABETH BERWICK AND ALEXANDER BERWICK

The Clerk called the bill (H.R. 887) for the relief of Elizabeth Berwick and Alexander Berwick, her husband.

There being no objection, the Clerk read the bill as follows:

H.R. 887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 2401 of title 28, United States Code, or regulations promulgated thereunder, or any other statute of limitations, laches, or lapse of time, jurisdiction is hereby conferred upon the United States District Court for the Middle District of Florida to hear, determine, and render a judgment for damages upon any claims of Elizabeth Berwick and Alexander Berwick, her husband, of Eustis, Florida, against the United States of America, arising out of injuries allegedly suffered by Elizabeth Berwick as the result of improper diagnosis or improper medical treatment, provided by the United States Navy or the failure of the United States Navy to provide proper diagnosis and/or medical treatment, from on or about January 1, 1971 and at all times thereafter until July 31, 1975, such jurisdiction of the court to be to the same effect and for all purposes as though claims were filed on June 16, 1977, by Elizabeth Berwick and Alexander Berwick, her husband, pursuant to the provisions of section 2401 of title 28, United States Code.

SEC. 2. Suit upon any such claims shall not be brought until six months after June 16, 1977 and may be instituted at any time thereafter until June 16, 1979, or within six months after the date of the enactment of this Act, whichever shall be later. Proceedings for the determination of such claims and review thereof, and payment of any judgment thereon, shall be in accordance with the provisions of law applicable to cases of which the court has jurisdiction under section 1346(b) of title 28 of the United States Code. Nothing in this Act shall be construed as an inference of liability on the part of the United States.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, notwithstanding the time limitation of section 2401(b) of title 28, United States Code, or any other provision of law, and subject to the provisions of sections 2 and 3 of this Act, the United States District Court for the Middle District of Florida shall have jurisdiction to hear, determine, and render judgment on and claim of Elizabeth Berwick and Alexander Berwick, her husband, of Eustis, Florida, against the United States for personal injuries which Elizabeth Berwick allegedly suffered as a result of negligent diagnosis or treatment, or both, provided by the United States Navy during the period beginning on or about January 1, 1971, and ending on July 31, 1975.

SEC. 2. Any determination of any claim described in the first section of this Act, any review of such claim, and any payment of any judgment thereon, shall be made in accordance with the provisions of law applicable to cases over which the court has jurisdiction under section 1346(b) of title 28, United States Code, including the provisions of section 2675 of such title requiring disposition of claims by an appropriate Federal agency.

SEC. 3. Any claim under this Act shall be barred unless it is filed with the appropriate Federal agency, pursuant to section 2675 of title 28, United States Code, within six months after the date of the enactment of this Act, and such claim, if filed within such 6-month period, shall be considered to have been filed in a timely manner, notwithstanding the time limitation of section 2401 (b) of such title.

SEC. 4. Nothing in this Act shall be construed as an inference or admission of liability by the United States.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN A. TOWNSLEY

The Clerk called the bill (H.R. 901) for the relief of John A. Townsley.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CAROLINE M. BABCOCK

The Clerk called the bill (H.R. 1616) for the relief of Caroline M. Babcock.

There being no objection, the Clerk read the bill as follows:

H.R. 1616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Caroline M. Babcock, supervisory accounting technician for the Twelfth Coast Guard District, San Francisco, California, is relieved of liability for the payment to the United States of the sum of $8,000. Such sum represents the amount of funds missing on the morning of November 9, 1974, from a safe for which Caroline M. Babcock, as supervisory accounting technician, was responsible. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given to Caroline M. Babcock for the amount for which liability is relieved by this Act.

SEC. 2. (a) If any part of the amount specified in the first section of this Act has been received or withheld from Caroline M. Babcock in connection with the liability relieved under the first section of this Act, the Secretary of the Treasury shall pay to her such amount out of any funds in the Treasury not otherwise appropriated.

(b) No amount in excess of 10 per centum of any appropriation made under subsection (a) of this section shall be paid to or received by any attorney for services rendered in connection with such appropriation. Any person violating this subsection shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RUSSELL W. ALLEN

The Clerk called the bill (H.R. 2531) for the relief of Russell W. Allen.

There being no objection, the Clerk read the bill as follows:

H.R. 2531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, an amount not to exceed $52,703, to be determined by the Secretary of Agriculture to Russell W. Allen of Presque Isle, Maine, in compensation for business losses incurred, during calendar years 1976 and 1977, directly resulting from the restrictions placed on the interstate movement of claimant's seed potatoes by the United States Department of Agriculture. This amount shall be in full and complete settlement of any and all claims against the United States for the calendar years 1976 and 1977, based upon the exercise of authority under the Federal Plant Pest Act of 1957 (7 U.S.C. 150dd; 71 Stat. 32).

SEC. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 2, line 3: After "curred" insert ", through no fault of his own,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GAIL WILLIAMSON

The Clerk called the bill (H.R. 2532) for the relief of Gail Williamson.

There being no objection, the Clerk read the bill as follows:

H.R. 2532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding sections 2401 and 2675 of title 28, United States Code, jurisdiction is hereby conferred upon the United States District Court for the Eastern District of California of any claim of or on behalf of Gail Williamson of Bakersfield, California, against the United States arising from injuries she sustained in an accident on November 12, 1972, on Government property in China Lake, California.

SEC. 2. The jurisdiction conferred by the first section of this Act shall not apply to any action commenced more than six months after the date of the enactment of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That notwithstanding the time limitation of section 2401(b) of title 28, United States Code, or any other provision of law, and subject to the provision of sections 2 and 3 of this Act, the United States District Court for the Eastern District of California shall have jurisdiction to hear, determine, and render judgment on any claim of or in behalf of Gail Williamson of Bakersfield, California, against the United States for personal injuries which she allegedly sustained in an accident on November 12, 1972, on Government property in China Lake, California.

SEC. 2. Any determination of any claim described in the first section of this Act, any review of such claim, and any payment of any judgment thereon, shall be made in accordance with the provisions of law applicable to cases over which the court has jurisdiction under section 1346(b) of title 28, United States Code, including the provisions of section 2675 of such title requiring disposition of claims by an appropriate Federal agency.

SEC. 3. Any claim under this Act shall be barred unless it is filed with the appropriate Federal agency, pursuant to section 2675 of title 28, United States Code, within six months after the date of the enactment of this Act, and such claim, if filed within such 6-month period, shall be considered to have been filed in a timely manner, notwithstanding the time limitation of section 2401(b) of such title.

SEC. 4. Nothing in this Act shall be construed as an inference or admission of liability by the United States.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CLARENCE S. LYONS

The Clerk called the bill (H.R. 3818) for the relief of Clarence S. Lyons.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

VETERANS REHABILITATION AND EDUCATION AMENDMENTS OF 1979

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5288, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. HEFNER) that the House suspend the rules and pass the bill, H.R. 5288, as amended.

The vote was taken by electronic device, and there were—yeas 405, nays 1, answered "present" 1, not voting 26, as follows:

[Roll No. 568]

YEAS—405

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gialmo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Gristham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minetta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Wilson, Bob

ANSWERED "PRESENT"—1

Maguire

NOT VOTING—26

Anderson, Ill.
Anthony
Barnes
Byron
Chisholm
Collins, Ill.
Conyers
Dannemeyer
Edgar
Flood
Garcia
Holtzman
Jones, N.C.
Leach, La.
Moffett
O'Brien
Patten
Rosenthal
Rousselot
Russo
Shuster
Treen
Vander Jagt
Vanik
Winn
Wright

□ 1240

The Clerk announced the following pairs:

Mr. Rosenthal with Mr. Anderson of Illinois.

Mr. Jones of North Carolina with Mr. Rousselot.

Ms. Holtzman with Mr. Vander Jagt.

Mr. Wright with Mr. Winn.

Mrs. Chisholm with Mr. Shuster.

Mr. Patten with Mr. O'Brien.

Mrs. Collins of Illinois with Mr. Dannemeyer.

Mrs. Byron with Mr. Garcia.

Mr. Vanik with Mr. Russo.

Mr. Conyers with Mr. Edgar.

Mr. Anthony with Mr. Barnes.

Mr. Moffett with Mr. Leach of Louisiana.

Mr. ATKINSON and Mr. BONIOR of Michigan changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RESIGNATION FROM AND APPOINTMENT AS MEMBER OF DISTRICT OF COLUMBIA LAW REVISION COMMISSION

Mr. RHODES. Mr. Speaker, pursuant to section 2(a) of Public Law 93-379, I am in receipt of a letter from Mr. DeWitt S. Hyde, wherein he resigns from the District of Columbia Law Revision Commission.

The SPEAKER pro tempore (Mr. MURTHA). Without objection, the resignation is accepted.

There was no objection.

Mr. RHODES. Mr. Speaker, pursuant to section 2(a) of Public Law 93-379, I appoint Mr. Robert S. Thompson, from Washington, D.C., as a member of the District of Columbia Law Revision Commission.

CONFERENCE REPORT ON H.R. 3173, INTERNATIONAL SECURITY ASSISTANCE ACT OF 1979

Mr. ZABLOCKI. Mr. Speaker, I call up the conference report on the bill (H.R. 3173) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal years 1980 and 1981, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 4, 1979.)

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I rise in support of the conference report on H.R. 3173. The major purpose of this report is to authorize the appropriation of funds to finance U.S. international security assistance programs for fiscal year 1980 and to authorize a supplemental fiscal year 1979 appropriation of $100 million in economic support assistance for Turkey.

As agreed by the conferees, the report authorizes appropriations totaling $2,823,358,000 for such programs in fiscal year 1980. Including the Economic Support Fund, amounts for which the House authorized in the International Development Cooperation Act of 1979 (H.R. 3324), the total fiscal year 1980 authorization represents an increase of $66,041,000 above the amounts authorized by the House, a reduction of $69,442,000 below the Senate figure and a reduction of $101,442,000 below the amount requested by the executive branch. The main reason for the increase above the House amount is the inclusion of executive branch funding requests for Sudan, requests which were made subsequent to passage of the House bill.

The specific authorizations contained in the bill are as follows: $110.2 million for grant military assistance; $31.8 million for international military education and training; and $673.5 million for foreign military sales financing. This last amount will finance the sale of $2.235 billion worth of defense articles and defense services during fiscal year 1980. Also authorized are $21.1 million for peacekeeping operations assistance; $1.935 billion for economic support fund; and $51.758 million for international narcotics control.

Mr. Speaker, the basic thrust of the provisions of the House bill passed last March 29 remain intact. Moreover, on the issue of Turkey, the House conferees abided by instructions given by the House on June 21, by a vote of 303 in favor and 107 against, that the conferees insist on disagreement to the amendment of the Senate providing $50 million in grant military assistance to Turkey. No grant military assistance for Turkey is provided in this bill, although a modest amount of grant training, which was not contested, is provided.

However, recognizing the importance of Turkey to NATO and the serious economic situation that Turkey currently faces, the conferees reached a compromise that will allow for $250 million in foreign military sales credits for Turkey, $50 million of which will be on favorable repayment terms, and $198 million in Economic Support Fund assistance, $75 million of which will be on a grant basis. Together, this assistance should promote political and economic stability in Turkey and strengthen its ability to fulfill NATO responsibilities.

This bill will also provide substantial assistance for Israel and Egypt; in fact, approximately three-fourths of the amounts authorized for appropriation will be available only for these two Middle East countries. Enactment of the International Security Assistance Act of 1979 will make available to Israel $1 billion in foreign military sales credit financing, $500 million of which requires no repayment to the U.S. Government; the other $500 million will be on favorable repayment terms as in past years.

As agreed to by the conferees, moreover, the Economic Support Fund will provide $785 million to Israel which may be made as a cash transfer if the President insures the transfer will not have an adverse impact on U.S. nonmilitary exports to Israel; the ESF will also provide $750 million for Egypt. Two-thirds of the ESF assistance earmarked for Israel and Egypt shall be on a grant basis to each country.

The funds for Israel and Egypt will provide important assistance to reinforce the peace efforts underway as the Egypt-Israel Peace Treaty is implemented and should further enhance the economic viability and national security of these two countries.

On other items of major interest, the conference report also:

Authorizes the President to use special authority to drawdown $10 million in DOD stocks in emergencies provided he notify Congress each time he exercises the authority;

Requires a Presidential report on the stockpiling of war reserves in Korea;

Contains three NATO provisions designed to enhance NATO rationalization, standardization and interoperability by facilitating transfers among NATO and by authorizing waiver or reduction of certain changes, on a reciprocal basis, in furtherance of NATO cooperative projects;

Requires reports on price and availability estimates provided to foreign countries with respect to possible major foreign military sales;

Directs the President to undertake a thorough review of interagency procedures and disclosure criteria concerning the transfer of sensitive weapons technology;

Authorizes the President to transfer war reserve material to Taiwan; and

Prohibits assistance to Panama except for grant military training and the financing of nonweapons sales provided a Presidential determination and report to Congress are made.

Besides ESF assistance for Israel and Egypt already discussed, $68 million of ESF assistance will also be available in fiscal year 1980 for southern Africa; $15 million will be available for Cyprus; and not less than $40 million for Sudan.

Mr. Speaker, the conferees on behalf of the House worked diligently with the Senate in assuring that House positions were ultimately maintained. The final conference report represents acceptance of certain Senate proposals that do not undermine House positions on the major issues. This act will provide assistance important to U.S. interests and national security. It also will improve the operation of certain U.S. programs in the security assistance area and will increase the effectiveness of arms export control procedures and of congressional oversight of their implementation. I therefore wholeheartedly support this report and recommend its adoption.

□ 1250

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation we have before us today is vitally important to our national and collective security, and I support this conference report. In particular, the conference report provides for the maintenance of our global interests, be they in the Near East or Europe, Latin America, or Asia.

An important conference provision concerning aid to Turkey preserves the intent of the House—that being to prohibit grant military assistance to Turkey. The House conferees rejected the Senate amendment providing $50 million in grant military aid to Turkey resulting in a conference substitute which allows Turkey to finance one-fifth of its foreign military sales on a concessional loan basis. This substitute not only reflects an important victory for the House but also helps Turkey to play a continuing role in our collective security.

Although we have addressed important problems in relation to Turkey, I am deeply disturbed over the continued lack of progress in regard to Cyprus. A year ago the Congress—under strong pressure from the administration—lifted the arms embargo against Turkey with the understanding that this action would help lead to a resolution of the Cyprus dispute.

Now, a year later and nearly 5 years after the invasion and the occupation of Cyprus, we still await concrete progress on Cyprus. With ever growing tensions in the Mediterranean, the time for an equitable resolution of the Cyprus matter is growing shorter by the day. In view of the Turkish elections this past Sunday, I hope the new government will recognize the concern of the Congress over the human rights situation on Cyprus and the strong reservations of many Members of Congress over providing assistance to Turkey so long as the Cyprus issue remains unresolved.

Another important issue in the conference was the question of security assistance to Panama. As my colleagues know, the House bill prohibited security assistance to Panama. The Senate bill did not. As one who voted with the majority in the House to prohibit military aid to Panama, it was—at my insistence—that the conferees agreed that sales to Panama should not include

weapons. The compromise provides that Panama can receive up to $5 million in foreign military sales credits only for the purchase of nonweapons. Moreover, any assistance to Panama will require a Presidential determination that such assistance is in the national interest of the United States. The President must also report his determination to the Congress at least 30 days before providing any assistance.

With the ever growing Soviet arms buildup, with the many political-military problems in the Caribbean, the Near East, and Asia, there is—at this time—a great need for the United States to join its good friends and allies in seeking new and better ways to collective security. In this regard, the legislation we have before us contains several important provisions—provisions designed to better assist the security of our allies in the Middle East—provisions designed to better facilitate cooperation among our allies in Europe—provisions designed to help counter Soviet adventurism throughout the world.

In conclusion, I believe that this conference report is vital to our country's security interests. I therefore urge my colleagues to support this important legislation.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding. The gentleman mentioned that the conference report prohibits the sale of arms to Panama, but it allows military sales. Will the gentleman tell me how he distinguishes between military equipment and arms?

Mr. BROOMFIELD. Yes; basically what it provides is nonweapons so, in other words, if they wanted trucks or anything of that nature that were not weapons, that could come under this $5 million provision. They would have to purchase those. We are not giving the money for these trucks.

Mr. CHARLES H. WILSON of California. I thank the gentleman.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I support the conference report and urge a vote in favor of it by the House.

Our chairman, CLEM ZABLOCKI, very effectively protected the position of the House in the conference with the Senate, and I believe he is to be commended for the leadership, determination and effectiveness which he demonstrated in sparring with the Members of the other body.

My main interest is in the issue created by the Senate amendments providing for increased grants to Turkey.

The problem developed with the Senate amendment providing $50 million in grant military assistance for Turkey, while our House bill had no such provision. The Senate bill also added $100 million in grant economic aid over and above the $98 million the House had authorized. In the conference, we reduced the economic grant figure by $25 million.

On the military grant called for by the Senate, the conferees finally agreed to make this a loan rather than a grant of $50 million, specifically for the purchase of defense articles and services. This loan will be on concessionary terms with a 10-year grace period before any repayment, followed by a 20-year repayment period.

As the author of the motion to instruct the conferees not to accept the Senate amendment providing for the $50 million in grant military assistance, I am satisfied that our goals have been basically achieved in the conference.

May I direct the attention of the Members to the fact that there is also $42 million in FMS credits on concessionary terms for Greece, and that further credits of $158 million for Greece are recommended. Both Greece and Turkey are longstanding allies, and various provisions of the bill reflect the view of the conferees that we must continue practical programs of cooperation with each nation.

However, I would be remiss if I did not emphasize to the House the continued problems that exist on Cyprus. There still are 180,000 Greek Cypriots who are refugees on their island. The Carter administration, with great fanfare, committed itself to negotiating an end to the division of the island. Almost 3 years have passed, and there is no real progress. Now it seems the administration is turning its back on the conditions that exist on Cyprus as if by so doing, the situation will just quietly go away.

Another ongoing problem which the Members should keep in mind is Turkey's veto of Greece's reentry into NATO. The Turkish Government must recognize that the main motivation for U.S. military support is their participation in the NATO alliance. Greece belongs in NATO, and there is no justification for Turkey vetoing full Greek participation in the alliance.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I want to call the attention of the House to the fact that this conference report contains $5.5 million in assistance to the Republic of Panama. That fact is circumscribed by provisions which were offered by the gentleman from Michigan (Mr. BROOMFIELD) and the chairman of the committee, the gentleman from Wisconsin (Mr. ZABLOCKI) and I appreciate the stand that they have taken. The net outcome is better than nothing. But my concern is that there should be any aid at all in this legislation for the Republic of Panama, not because I have any vendetta against that government but because this House voted overwhelmingly by 2 to 1 to prohibit any assistance of a military nature to that country.

□ 1300

This occurred for several reasons.

First, under the treaties now in effect since October 1 Panama will be getting annual payments of anywhere from $75 to $100 million which will be paid by the users of the canal and in part by the taxpayers of the United States. Why, on top of that, we must give another $5 million in military assistance I do not understand.

The second reason why we should not be giving military assistance to Panama is that the current government there is in a very shaky condition. There have been strikes for the last 2 months, for the most part unreported in the American media. The teachers, the doctors, numerous businesses, all sorts of unions are out on strike. Much of the unrest is directed against the leftist, pro-Cuban policies of the government. Only in the last few weeks have the very same Guardia Nacional that will be using the money this bill provides put down riots and arrested hundreds of people in the streets of Panama City, none of this reported in the United States.

This is the government you are helping with our aid, our military assistance. When the House takes a position 2 to 1 it seems to me the best we could expect would be our conferees would stand by us and prohibit this aid. I do not know how many times we have to go on record on the issue but I say to the managers, they did the best they could. But I think the conference report ought to be rejected.

● Mr. WOLFF. Mr. Speaker, I rise in support of the conference report. As chairman of the Select Committee on Narcotics Abuse and Control I would like to briefly address the section of this report concerning international narcotics control and particularly the question of U.S. assistance to Mexico for the control of the opium poppy.

As my colleagues will recall, a provision was included in last year's version of this legislation that would prohibit U.S. assistance to any program which involved the use of a herbicide to eradicate marihuana if that herbicide was determined by the Secretary of HEW to cause serious harm to persons who may use the sprayed marihuana. On the minds of all of us at that time was the use of the herbicide paraquat by the Mexican Government. During the House debate last year I successfully offered an amendment to prohibit U.S. assistance for the spraying of paraquat unless it was sprayed in conjunction with a "marker agent" which would place marihuana users on notice that it had been sprayed with paraquat. The purpose of this amendment was to safeguard the health of American citizens while at the same time assuring that our efforts to control the spread of marihuana abuse in this country would not diminish. More importantly, however, was my objective to insure that any program cutback on account of paraquat would in no way adversely affect our assistance for the purpose of eradicating the opium poppy, a deceptively innocent looking plant which is the world's source of heroin. In fact, the legislative history clearly stated that the amendment was in no way to affect any program concerning the control of opium.

Earlier this year the Secretary of Health, Education, and Welfare determined that paraquat presented a serious health risk to persons who may use or consume the sprayed marihuana. Unfortunately, this decison was interpreted as requiring a total cutoff of U.S. assistance to Mexico for all programs of international narcotics control. This would have

had the devastating effect of curtailing the highly successful Mexican opium poppy eradication program and would have resulted in increased availability of Mexican brown heroin on street corners in every community throughout the country. I did not intend or contemplate such a result, and I am confident that this body agrees.

The conference report we are now considering reaffirms the original intention that any program cutback resulting from a determination that paraquat presents a serious health risk would in no way jeopardize our international narcotics control efforts aimed at eradicating the opium poppy. This is of absolute importance if we are to continue our heretofore successful efforts in the international arena to curtail the supply of heroin. I should add at this point that the Mexican Government has been a full and complete partner with the United States in this effort.

There are additional points which still require clarification for the record. In 1978, when the paraquat scare first arose, we were led to believe that a proven health risk existed to millions of Americans. We were told that as much as 36 percent of the marihuana entering the United States from Mexico was contaminated. We were told that the average contamination of the seized samples was 450 parts per million. We were told that west coast doctors were treating scores of persons for paraquat-related health problems. However, based on information presented at select committee hearings this past July, I can assure my colleagues with confidence that these assertions were overstated in the least.

Additionally, the Center for Disease Control (CDC) now states that between 50 and 100 Americans might be exposed to a level of paraquat contamination which might cause irreversible lung damage. Yet this figure is suspect because—and this is according to the CDC—all of these potential victims are drawn from a very small subgroup of marihuana users who are assumed to purchase their yearly supply of marihuana in a single lot purchase. This is a far cry from the millions of Americans we were led to believe would suffer from a proven health risk.

The latest available figures compiled by the CDC now show that the prevalence of paraquat-contaminated marihuana nationwide is only 0.63 percent by weight. In the Southwest United States, which should represent the highest percentage of paraquat-contaminated marihuana, the figure is only 2.23 percent by weight. This is nowhere near the 36 percent figure we were told existed last year. Again, according to the CDC, the nationwide range of contamination is 10 to 461 parts per million with an average contamination level of only 111 parts per million. This is only one-quarter of the level we were led to believe then existed. And finally, to date there have been no confirmed cases of any paraquat-related adverse health consequences in the United States.

Finally, I would like to state again for the record that I have serious reservations about both the methodology and scientific sufficiency of the data upon which the Center for Disease Control determined that paraquat-treated marihuana is likely to cause serious harm to the health of persons who may use or consume paraquat-contaminated marihuana. The research data is being reviewed indepth by the select committee and medical experts. We will examine these findings in detail to determine the facts at issue.

I would also like to inform my colleagues that a special United Nations task force—including representatives from the U.S. Department of Agriculture—made an indepth study of various means by which to eradicate marihuana and concluded that paraquat was safe, effective, and the best of all herbicides studied.

The conference report makes clear our intentions that opium eradication programs continue to receive full U.S. support and I urge its approval.●

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 147, not voting 30, as follows:

[Roll No. 569]

YEAS—256

Addabbo	Crane, Daniel	Frost
Akaka	Crane, Philip	Fuqua
Albosta	Danielson	Garcia
Alexander	Davis, S.C.	Gaydos
Ambro	Dellums	Gephardt
Annunzio	Derrick	Gisimo
Aspin	Derwinski	Gibbons
AuCoin	Dickinson	Gilman
Baldus	Dicks	Gingrich
Bellenson	Diggs	Ginn
Benjamin	Dingell	Glickman
Biaggi	Dodd	Gonzalez
Bingham	Donnelly	Goodling
Blanchard	Dougherty	Gore
Boggs	Downey	Gradison
Boland	Drinan	Gray
Bolling	Duncan, Oreg.	Green
Bonior	Early	Guarini
Bonker	Eckhardt	Guyer
Brademas	Edwards, Calif.	Hagedorn
Breaux	Emery	Hall, Ohio
Brodhead	Erdahl	Hamilton
Brooks	Erlenborn	Hance
Broomfield	Ertel	Hanley
Buchanan	Evans, Del.	Harris
Burgener	Evans, Ga.	Hawkins
Burlison	Fary	Heckler
Burton, John	Fascell	Heftel
Burton, Phillip	Fazio	Hightower
Carney	Fenwick	Hillis
Carr	Ferraro	Holland
Carter	Findley	Hollenbeck
Chappell	Fish	Holtzman
Clinger	Fisher	Howard
Coleman	Fithian	Huckaby
Conable	Foley	Hutto
Conte	Ford, Mich.	Hyde
Corman	Ford, Tenn.	Ireland
Cotter	Forsythe	Jenrette
Coughlin	Fowler	Kazen
Courter	Frenzel	Kemp
Kildee	Moakley	Shannon
Kogovsek	Moore	Sharp
Kostmayer	Moorhead, Pa.	Simon
Kramer	Murphy, Ill.	Smith, Iowa
LaFalce	Murphy, N.Y.	Snowe
Leach, Iowa	Murtha	Solarz
Leath, Tex.	Myers, Pa.	Spellman
Lederer	Nedzi	Stack
Lee	Nelson	Stanton
Lehman	Nolan	Stark
Leland	Nowak	Stenholm
Lent	Oberstar	Stewart
Levitas	Obey	Stockman
Lewis	Ottinger	Stokes
Livingston	Panetta	Stratton
Lloyd	Patterson	Studds
Loeffler	Pease	Swift
Long, La.	Pepper	Thompson
Long, Md.	Peyser	Traxler
Lowry	Pickle	Udall
Luken	Preyer	Ullman
Lundine	Price	Van Deerlin
McCloskey	Pritchard	Vento
McCormack	Pursell	Walgren
McDade	Railsback	Waxman
McEwen	Rangel	Weiss
McHugh	Ratchford	White
McKay	Reuss	Whitehurst
McKinney	Rhodes	Williams, Ohio
Madigan	Richmond	Wilson, Bob
Maguire	Rinaldo	Wilson, C. H.
Markey	Ritter	Wilson, Tex.
Marks	Rodino	Wirth
Marriott	Roe	Wolff
Matsui	Rostenkowski	Wolpe
Mattox	Roybal	Wright
Mavroules	Royer	Wyatt
Mazzoli	Rudd	Wydler
Mica	Sabo	Yates
Michel	Santini	Yatron
Mikulski	Sawyer	Young, Mo.
Miller, Calif.	Scheuer	Zablocki
Mineta	Schulze	Zeferetti
Minish	Seiberling	
Mitchell, Md.	Sensenbrenner	

NAYS—147

Abdnor	English	Neal
Anderson, Calif.	Evans, Ind.	Nichols
	Flippo	Oakar
Andrews, N.C.	Florio	Pashayan
Andrews, N. Dak.	Fountain	Paul
	Goldwater	Perkins
Applegate	Gramm	Petri
Archer	Grassley	Quayle
Ashbrook	Grisham	Quillen
Atkinson	Gudger	Rahall
Badham	Hall, Tex.	Regula
Bafalis	Hammer-schmidt	Roberts
Bailey		Robinson
Barnard	Hansen	Rose
Bauman	Harkin	Roth
Beard, R.I.	Hefner	Runnels
Beard, Tenn.	Hinson	Satterfield
Bedell	Holt	Schroeder
Bennett	Hopkins	Sebelius
Bereuter	Hubbard	Shelby
Bethune	Hughes	Shumway
Bevill	Ichord	Slack
Boner	Jacobs	Smith, Nebr.
Bouquard	Jeffords	Snyder
Bowen	Jeffries	Solomon
Brinkley	Johnson, Calif.	Spence
Brown, Ohio	Johnson, Colo.	St Germain
Broyhill	Jones, Okla.	Staggers
Butler	Jones, Tenn.	Stangeland
Byron	Kastenmeier	Steed
Campbell	Kelly	Stump
Cavanaugh	Kindness	Symms
Cheney	Lagomarsino	Synar
Clausen	Latta	Tauke
Clay	Lott	Taylor
Cleveland	Lujan	Thomas
Coelho	Lungren	Trible
Collins, Tex.	McClory	Volkmer
Corcoran	McDonald	Walker
D'Amours	Marlenee	Wampler
Daniel, Dan	Martin	Watkins
Daniel, R. W.	Mathis	Weaver
Daschle	Miller, Ohio	Whitley
Davis, Mich.	Mitchell, N.Y.	Whittaker
de la Garza	Montgomery	Whitten
Deckard	Moorhead, Calif.	Williams, Mont.
Devine		Wylie
Dornan	Mottl	Young, Alaska
Duncan, Tenn.	Murphy, Pa.	Young, Fla.
Edwards, Ala.	Myers, Ind.	
Edwards, Okla.	Natcher	

NOT VOTING—30

Anderson, Ill.	Ashley	Brown, Calif.
Anthony	Barnes	Chisholm
Collins, Ill.	Jenkins	Rousselot
Conyers	Jones, N.C.	Russo
Dannemeyer	Leach, La.	Shuster
Dixon	Moffett	Skelton
Edgar	Mollohan	Treen
Flood	O'Brien	Vander Jagt
Harsha	Patten	Vanik
Horton	Rosenthal	Winn

□ 1310

The Clerk announced the following pairs:

On this vote:

Mr. Mollohan for, with Mr. Moffett against.

Until further notice:

Mrs. Chisholm with Mr. Anderson of Illinois.
Mr. Ashley with Mr. Harsha.
Mr. Russo with Mr. Rousselot.
Mr. Patten with Mr. Horton.
Mr. Rosenthal with Mr. Dannemeyer.
Mr. Vanik with Mr. O'Brien.
Mr. Jones of North Carolina with Mr. Winn.
Mr. Barnes with Mr. Vander Jagt.
Mr. Conyers with Mr. Shuster.
Mr. Flood with Mr. Jenkins.
Mr. Anthony with Mrs. Collins of Illinois.
Mr. Brown of California with Mr. Edgar.
Mr. Leach of Louisiana with Mr. Skelton.

Messrs. MITCHELL of Maryland, DANIEL B. CRANE, EMERY, GOODLING, GUARINI, and FORD of Tennessee changed their votes from "nay" to "yea."

Mrs. SMITH of Nebraska and Mr. ROTH changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 3173, INTERNATIONAL SECURITY ASSISTANCE ACT OF 1979

Mr. ZABLOCKI. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 196) directing the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 3173, and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 196

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 3173) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal years 1980 and 1981, and for other purposes, the clerk of the House of Representatives shall make the following corrections:

In the title of the bill, strike out "fiscal years 1980 and 1981" and insert in lieu thereof "fiscal year 1980".

In section 25 of the bill, strike out "19" and insert in lieu thereof "17".

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BOB WILSON. Mr. Speaker, on the first recorded vote this afternoon, on H.R. 5288, the Veterans' Rehabilitation and Educational Amendments Act, I inadvertently pushed the wrong button and was recorded as voting "nay." I am very much in support of H.R. 5288 and request the RECORD to show that I intended to vote "yea."

DEPARTMENT OF JUSTICE AUTHORIZATION ACT, 1980

Mr. RODINO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3303) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. RODINO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3303, with Mr. WHITE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 15, 1979, all time for general debate had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1980".

SEC. 2. There are authorized to be appropriated for the fiscal year ending September 30, 1980, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following amounts:

(1) For General Administration, including hire of passenger motor vehicles, and miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration: $25,917,000.

(2) For the United States Parole Commission, including the hire of passenger motor vehicles: $5,555,000.

(3) For General Legal Activities, including—

(A) the hire of passenger motor vehicles;

(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;

(C) not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate;

(D) advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529);

(E) pay for necessary accommodations in the District of Columbia for conferences and training activities; and

(F) not to exceed $105,000 which may be transferred from the "Alien Property Funds, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia: $101,119,000, of which $3,000,000 shall be made available for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(4) For the Antitrust Division, consumer protection and kindred laws: $46,915,000.

(5) For United States Attorneys, Marshals, and Trustees, including—

(A) purchase of firearms and ammunition;

(B) lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(C) supervision of United States prisoners in non-Federal institutions; and

(D) bringing to the United States from foreign countries persons charged with crime: $234,632,000.

(6) For Support of United States Prisoners in non-Federal institution, including necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a): $25,100,000.

(7) For Fees and Expenses of Witnesses, including expenses, mileage, compensation and per diems of witnesses in lieu of subsistence, as authorized by law; including advances of public moneys: $27,052,000, but no sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one calendar day.

(8) For the Community Relations Service: $5,428,000.

(9) For the Federal Bureau of Investigation for—

(A) expenses necessary for the detection, investigation, and prosecution of crimes against the United States;

(B) protection of the person of the President of the United States and the person of the Attorney General;

(C) acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies;

(D) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General;

(E) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(F) acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; payment of rewards; and

(G) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157 and 1160), under regulations prescribed by the Secretary of State; and

(H) not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for solely on his certificate:

$575,606,000, but in addition to this amount reimbursement received from the Committee on Appropriations, House of Representatives, and the Committee on Appropriations, United States Senate, for the assignment of investigative and support staff or other assistance may be credited to this amount and none of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall classify the offense of arson as a part I crime in its Uniform Crime Reports.

(10) For the Immigration and Naturalization Service, for expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including—

(A) advance of cash to aliens for meals and lodging while en route;

(B) payment of allowances to aliens, while held in custody under the immigration laws, for work performed;

(C) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies;

(D) payment of rewards:

(E) not to exceed $80.000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate;

(F) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(G) acquisition, lease, maintenance, and operation of aircraft;

(H) firearms and ammunition and attendance at firearms matches;

(I) operation, maintenance, remodeling and repair of buildings, and the purchase of equipment incident thereto;

(J) refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money;

(K) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens;

(L) acquisition of land as sites for enforcement fence and construction incident to such fence;

(M) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157, and 1160) under regulations prescribed by the Secretary of State; and

(N) research related to immigration enforcement which shall remain available until expended:

$319,730,000, of which $2,100,000 shall be made available to redesign, update, and maintain the nonimmigrant control system applicable to arrival and departure of aliens in and from the United States, $5,000,000 shall be made available to install fully automated systems for processing and recordkeeping in District offices, and not to exceed $50,000 may be used for the emergency replacement of aircraft upon the certificate of the Attorney General.

(11) For the Drug Enforcement Administration for its activities, including—

(A) hiring and acquiring law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(B) paying in advance for special tests and studies by contract;

(C) paying in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act (21 U.S.C. 873(a)(2));

(D) paying expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate;

(E) paying rewards;

(F) paying for publication of technical and informational material in professional and trade journals; purchase chemicals, apparatus, and scientific equipment;

(G) paying for necessary accommodations in the District of Columbia for conferences and training activities;

(H) acquiring, leasing, maintaining, and operating aircraft;

(I) research related to enforcement and drug control to remain available until expended;

(J) contracting with individuals for personal services abroad, and such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;

(K) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157, and 1160), under regulations prescribed by the Secretary of State; and

(L) paying for firearms and ammunition and attendance at firearms matches:

$193,836,000, including such sums as are authorized by section 709(a) of the Controlled Substances Act (21 U.S.C. 904(a)), for the fiscal year ending September 30, 1980.

(12) For the Federal Prison System: $344,011,000, including the following:

(A)(i) For the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions;

(ii) purchase and hire of law enforcement and passenger motor vehicles;

(iii) compilation of statistics relating to prisoners in Federal penal and correctional institutions;

(iv) assistance to State and local governments to improve their correctional systems;

(v) purchase of firearms and ammunition; medals and other awards;

(vi) payment of rewards;

(vii) purchase and exchange of farm products and livestock;

(viii) construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18 of the United States Code; and

(ix) transfer to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

(B) For Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Control Corporation Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation including purchase and hire of passenger motor vehicles.

(C)(i) For planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this clause.

(ii) The Attorney General shall take such steps as may be necessary to acquire or to construct, in Los Angeles County, California, a Federal detention facility.

(iii) In addition to any other sums that are authorized to be appropriated by this Act, there are authorized to be appropriated $2,600,000 for planning and site acquisition to carry out clause (ii).

(D) For carrying out the provisions of sections 4351 through 4353 of title 18 of the United States Code, which establishes a National Institute of Corrections, to remain available until expended.

SEC. 3. None of the sums authorized to be appropriated by this Act may be used to pay the compensation of any person employed after the date of the enactment of this Act as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

SEC. 4. (a) Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

(b) Sums authorized to be appropriated by this Act may be used for the purchase of insurance for motor vehicles operated in official Government business in foreign countries.

(c) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5 of the United States Code.

(d) Sums authorized to be appropriated by this Act to the Department of Justice may be used for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

(e) Sums authorized to be appropriated by this Act may be used for—

(1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at costs not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

(2) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

(f) There are authorized to be appropriated for the fiscal year ending September 30, 1980, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

(g) Sums authorized to be appropriated for "Salaries and expenses, General Administration", "Salaries and expenses, United States Attorneys, and Marshalls", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Bureau of Prisons" may be used for uniforms and allowances as authorized by sections 5901 and 5902 of title 5 of the United States Code.

SEC. 5. Section 5315(19) of title 5 of the United States Code, is amended to read as follows:

"(19) Assistant Attorneys General (10).".

SEC. 6. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until, but not later than, the end of the fiscal year ending September 30, 1980. Any dissemination by the Federal Bureau of Investigation of identification and other records to a financial institution chartered or insured by the Federal Government shall be on a cost reimbursed basis.

SEC. 7. With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "MISCELLANEOUS" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521); and

(3) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Associate Director) and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

SEC. 8. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committees on the Judiciary, of the House of Representatives and the Senate, and other appropriate committees a minimum of 15 days before—

(1) reprograming of funds in excess of $150,000 or 10 percent, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) reprograming of funds in excess of $500,000 or 2 percent, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted;

(5) creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; and

(7) significant relocation of offices or employees.

SEC. 9. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organization's programs, as determined by priorities set either by the Congress or the Attorney General.

(b) The evaluations shall be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials shall provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, documentation, and cognizant personnel, as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives.

(e) If the Committee on the Judiciary of either the Senate or the House of Representatives requests the Attorney General to perform an evaluation of the sort described in subsection (a) of this section, the Attorney General shall make the evaluation requested and provide such evaluation to the committee making the request not later than 60 days after the date the request is made, but the committee making the request may extend the time for providing such evaluation.

SEC. 10. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $5,748,770 to improve the quality of medical services within the system.

SEC. 11. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $30,000 to improve the quality of legal services within the system.

SEC. 12. (a) On or before September 1, 1980, the Attorney General shall submit to Congress—

(1) a plan to assure the closure of the United States Penitentiary at Atlanta, Georgia, by September 1, 1984; and

(2) a plan to alter the function of the United States Penitentiary at Leavenworth, Kansas, to that of a modern correctional institution capable of housing not more than 500 prisoners by September 1, 1985.

(b) The plan prepared under this section shall prohibit the use of the United States Penitentiary at Atlanta, Georgia, as a correctional institution by a State or political subdivision after the closure of the institution by the Federal Government.

SEC. 13. (a) In order to create an independent and objective unit—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Immigration and Naturalization Service,

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations, and

(3) to provide a means for keeping the Commissioner of the Immigration and Naturalization Service and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action,

there is hereby established in the Immigration and Naturalization Service of the Department of Justice an Office of Inspector General (hereinafter in this section referred to as "the Office").

(b)(1)(A) There shall be at the head of the Office an Inspector General (hereinafter in this section referred to as "the Inspector General") who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to and be under the general supervision of the Commissioner, who shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(B) The President shall first submit to the Senate a nomination for the position of the Inspector General not later than 90 days after the date of the enactment of this Act.

(2) The Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(3) For the purposes of section 7324 of title 5 of the United States Code, the Inspector General shall not be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(4) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(A) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the Service, and

(B) appoint an Assistant Inspector General for Investigations who shall have the responsibility for the performance of investigative activities relating to such programs and operations.

(c) The following provisions of the Inspector General Act of 1978 (Public Law 95-452) shall apply to the Inspector General, the Office, the Commissioner, and the Service under this section in the same manner as those provisions apply to an Inspector General, an Office, the head of the establishment, and an establishment under such Act:

(1) Section 4 (relating to duties and responsibilities of an Inspector General and the manner in which they are carried out).

(2) Section 5 (relating to reports required to be prepared and furnished by or to an Inspector General and their transmittal and availability).

(3) Section 6 (relating to the authority of an Inspector General and related administrative provisions).

(4) Section 7 (relating to the treatment of employee complaints by an Inspector General).

(d)(1) There shall be transferred to the Office—

(A) the offices of the Service referred to as the "Office of Professional Responsibility", the "Office of Performance Review", and

(B) such other offices or agencies, or functions, powers, or duties thereof, of the Service as the Commissioner may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this section;

except that there shall not be transferred to the Inspector General under subparagraph (B) program operating responsibilities.

(2) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under paragraph (1) are hereby transferred to the Office.

(3) Personnel transferred pursuant to paragraph (2) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(4) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to paragraph (1), such office or agency shall lapse. Any person who, on the effective date of this section, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

(e) For purposes of this section:

(1) The term "Service" means the Immigration and Naturalization Service.

(2) The term "Department" means the Department of Justice.

(3) The term "Commissioner" means the Commissioner of Immigration and Naturalization.

(f) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(152) Inspector General, Immigration and Naturalization Service".

(g) The provisions of this section and the amendment made by subsection (f) of this section shall take effect on the date of the enactment of this Act.

(h) In addition to any other sums authorized to be appropriated by this Act, there are authorized to be appropriated $376,000 to carry out this section.

SEC. 14. The Attorney General shall make arrangements with an appropriate entity for an independent, comprehensive management analysis of the operations of the Immigration and Naturalization Service for the purpose of making such operations efficient and cost effective. After the completion of such analysis, the Attorney General shall promptly submit a report to the appropriate committees of Congress on the results of such analysis together with any administrative or legislative recommendations of the Attorney General to improve the operations of the Service.

Mr. RODINO (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

INTELLIGENCE COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the First Intelligence Committee amendment.

The Clerk read as follows:

Committee amendment: On page 19, after line, 19, insert the following new subsection:

(H) not to exceed $13,400,000 to counter terrorism in the United States; and

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next Intelligence Committee amendment.

The Clerk read as follows:

Committee amendment: On page 19, line 23, strike out "(H)" and insert in lieu thereof: "(I)".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. RODINO

Mr. RODINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RODINO: Page 15, line 24, strike out "$25,917,000" and insert in lieu thereof "$33,168,000".

Mr. RODINO. Mr. Chairman, the net effect of this amendment would be to add 48 positions and $7,251,000 to the amounts originally requested by the administration and approved by the House Judiciary Committee in H.R. 3303. The House and Senate fiscal year 1980 appropriation already provides for these items. The required changes are the result of two separate events. First, the administration transmitted for House Judiciary Committee action a budget amendment which seeks $2,251,000 for three distinct initiatives: First, seven positions and $292,000 for the establishment of an Office of Intelligence Policy and Review. This office represents a consolidation of policy and operational functions dispersed among several offices and underscores the Attorney General's intention to install management improvements in this area; second, three positions and $116,000 to implement Public Law 95-507, recent new legislation intended to increase development services for those small businesses owned by the disadvantaged, and third, 38 positions and $1,843,000 to implement three new initiatives initially recommended by the President's reorganization project on Federal legal representation and now required by Executive Order 12146. The resources will allow staffing for a Federal Legal Council, initiation of a Government-wide litigation notice system and provision of necessary legal training to non-Justice personnel.

The second major portion of the proposed general administration amendment would recognize action already taken by the Senate in its fiscal year 1980 Justice authorization bill to provide an additional $5 million to assist State and local agencies in cooperative drug enforcement efforts. This amendment was also approved in the fiscal year 1980 appropriation and principally relies upon and enhances existing State/local resources and efforts which result in more efficient drug enforcement activity through joint action.

Mr. Chairman, I urge adoption of the amendment.

□ 1330

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I have asked the gentleman to yield in order that I might ask several questions.

First of all, I guess we recognize that we have appropriated funds for these purposes but we have not had any hearings in our committee on the subject of the authorizations that we are now putting into this bill. I would like to inquire what the gentleman perceives as the function of the Federal Legal Council. What is the Federal Legal Council going to do? What is its function going to be?

I judge that it is going to initiate a Government-wide litigation notice system and to provide provisions for legal training to non-Justice personnel and act as a kind of coordinating agency.

Mr. RODINO. That is correct. I feel that that is necessary. The Justice Department states that this is the Legal Council that would be necessary to implement coordination of this kind effort.

Mr. McCLORY. If the gentleman will yield further, then the Department of Justice supports this amendment?

Mr. RODINO. That is correct.

Mr. McCLORY. With respect to the other funds that are provided for the drug enforcement program, again we did not have any hearings on this, but I judge that these funds are going to be used to primarily assist State and local agencies in getting them to cooperate in the enforcement?

Mr. RODINO. The gentleman is correct.

Mr. McCLORY. I thank the gentleman.

Mr. Chairman, I have no objection to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. RODINO).

The amendment was agreed to.

INTELLIGENCE COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the third Intelligence Committee amendment.

The Clerk read as follows:

Intelligence Committee amendment: On page 20, line 3, strike out $575,608,000." and insert in lieu thereof: "$577,408,000."

The Intelligence Committee amendment was agreed to.

INTELLIGENCE COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the final Intelligence Committee amendment.

The Clerk read as follows:

Intelligence Committee amendment: Page 34, strike out line 3 and insert in lieu thereof the following: "Representatives and other appropriate committees".

The Intelligence Committee amendment was agreed to.

AMENDMENT OFFERED BY MR. RODINO

Mr. RODINO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RODINO: Page 17, line 1, strike out "$101,119,000" and insert in lieu thereof "$106,267,000".

Mr. RODINO. Mr. Chairman, the net effect of this amendment would be to add 159 positions and $5,148,000 to the amounts proposed by the Judiciary Committee. These additions would recognize action recently taken in the 1980 appropriation process and reflect the general thrust of certain fiscal year 1980 budget amendments which had been previously requested by the administration in this area. Specifically, the major items of change include the following: First, an additional 40 positions and $651,000 for the Criminal Division, including sufficient resources to support the Office of Special Counsel and intensify the efforts against Nazi war criminals; second, an increase of 29 positions and $942,000 for the Civil Division to handle the expanding number of cases arising from enforcement and defense of Department of Energy regulatory programs; third, an additional 75 positions and $2,897,000 for the responsibilities carried out by the Land and Natural Resources Division, including litigation associated with the control of highly toxic hazardous wastes, and fourth, an increase of 18 positions and $808,000 for Civil Rights Division activities. Also included is a minor adjustment within the Office of Legal Counsel to reflect the transfer of the Department's intelligence oversight function into the general administration area.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. RODINO).

The amendment was agreed to.

TECHNICAL AMENDMENT OFFERED BY MR. RODINO

Mr. RODINO. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Technical amendment offered by Mr. RODINO: Page 22, line 17, strike out "$319,730,000" and insert "$319,386,000" in lieu thereof.

Mr. RODINO. Mr. Chairman, this is purely a technical amendment and it is intended to correct a mathematical error in the computations made during the full committee markup.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. RODINO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: Page 32, line 8, following "committees" add the following: ", and the ranking minority members thereof,".

Mr. EDWARDS of California. Mr. Chairman, this is in effect a technical amendment. It requires that the Department of Justice not only notify the appropriate committees of reprogramings, but also the ranking minority members of the several committees that are notified. I am sure that there are no objections to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. EDWARDS).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the consideration of the amendments offered by the gentleman from California and that they be considered en bloc?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. EDWARDS of California: On page 19, line 20, strike out "$13,400,000" and insert "$12,100,000" in lieu thereof.

On page 20, line 3, strike out "$577,408,000" and insert "$584,408,000" in lieu thereof.

Mr. EDWARDS of California. Mr. Chairman, this amendment accomplishes two things:

First, it establishes the authorized funding level for the FBI's terrorism program at $12.1 million—an increase of $500,000 over the amount initially requested by the FBI and the Department of Justice.

Second, it brings the total figure authorized for the FBI into conformity with the figure agreed upon by the Senate Judiciary and Appropriations Committees and the House conferees for the Justice appropriations bill. This raises the overall FBI authorization level from $577,408,000 to $584,408,000.

This increase is to be spent as follows:

First. General law enforcement, $1.7 million, 93 positions;

Second. Bank robbery, $2.6 million, 102 positions;

Third. Coordination of terrorism, $0.5 million, nine positions, and

Fourth. High priority programs, $4 million, 195 positions.

This discrepancy between our committee's figure and the figure agreed upon by all the other House and Senate committees' dealing with the FBI will have to be worked out in conference or through adoption of this amendment. I suggest that this amendment is the simpler, cleaner way.

I urge adoption of this amendment.

□ 1340

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. EDWARDS).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: Page 32, line 10, strike out "$150,000" and insert "$250,000" in lieu thereof.

Mr. EDWARDS of California. Mr. Chairman, I propose an amendment to H.R. 3303, the Department of Justice authorization bill for fiscal year 1980. Section 8(1) of the bill presently requires the Department of Justice to notify the Judiciary Committee and other appropriate congressional committees of the reprograming of funds in excess of $150,000 or 10 percent, whichever is less, between any programs within the offices, divisions, and boards of the Department. My amendment would raise the minimum dollar level for required notification of reprogramings under section 8, paragraph (1) to $250,000 or 10 percent, whichever is less. The minimum dollar level for required notification of reprogramings in Bureaus would not be altered by this amendment. Bureaus include the FBI, INS, and DEA.

Mr. Chairman, the additional reprograming threshold would allow greater managerial flexibility within the Department, yet it will continue to insure that the original intent of the section was met. My intention in first introducing this section to last year's Department of Justice Authorization Act was to insure that Congress be notified of major policy-oriented funding shifts because I firmly believe that there is a significant relationship between the allocation of resources and the execution of policy. I am now convinced that reprogramings below $250,000 or 10 percent for the offices, divisions, and boards of the Department are generally of little policy or programmatic significance. Reprograming below the $250,000 threshold often reflect technical budget adjustments which are readily trackable through our current oversight process. In addition, the threshold I propose is the same as the level contained in both the House and Senate Appropriations Committee reports to the Department of Justice's fiscal year 1980 Appropriations Act.

Mr. Chairman, consistency with the appropriation mandated thresholds will minimize the duplication and paperwork we are experiencing now and will facilitate a more timely notification of those reprogramings which are of policy and program importance.

In addition, other provisions of section 8 of H.R. 3303 require congressional notification regardless of the dollar amount. For example, the Department must notify the committees if it increases funds for a program for which funds have been restricted, if it creates new programs, reorganizes offices or restructures present programs. Any change that would require a significant investment of funds in future years also must be reported. These provisions, I believe, adequately insure that we receive the information necessary to make informed decisions about the Department's programs and funding requirements.

In summary, Mr. Chairman, increasing the threshold level to $250,000, or 10

percent, protects the purpose for which we initially introduced the reprogramming provision, while it provides some consistency within the authorization and appropriation process, and it provides some needed managerial flexibility for the Department.

Mr. Chairman, I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. EDWARDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: Paragraph (8) of section (2) of the Department of Justice Appropriation Authorization Act, Fiscal Year 1979 (Public Law 95-624), is amended by striking out "$561,-341,000" and inserting in lieu thereof $563,-977,000" and adding "*Provided*, That $3,500,-000 authorized to be appropriated in fiscal year 1979 for the purposes of constructing a forensic science training and research facility at Quantico, Virginia, shall remain available until September 30, 1980".

Mr. EDWARDS of California. Mr. Chairman, the Department of Justice has requested a supplemental authorization of $2.6 million for the FBI for fiscal year 1979. The purpose of the increase is to enhance the FBI's capabilities in conducting foreign counterintelligence investigations. The Department of Justice briefed the member of my subcommittee in some detail regarding this item several months ago. It was the consensus of the subcommittee that the proposed increase should be authorized. The Senate acted favorably on the supplemental request this past summer, as did the House Appropriations Committee. Thus, I urge adoption of the amendment.

The second part of the amendment merely permits funds already authorized to be appropriated in fiscal year 1979 to remain available to the FBI beyond that fiscal year. It does not involve any increase in existing funding levels. The language of the amendment indicates the Department's intent—and mine—that the money be spent by the FBI on the project for which it was authorized originally—the laboratory facility at the FBI Training Academy at Quantico.

I urge adoption of the amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman's amendment is a very good one, but the amendment that the gentleman is offering is not correct. It needs to be revised to fit into the bill.

I think there was another bill that the gentleman had in mind in front of him when he had this drafted. I wonder if the gentleman would withdraw this amendment temporarily for the purpose of perfecting it?

Mr. EDWARDS of California. Mr. Chairman, I would ask unanimous consent to temporarily withdraw the amendment.

Mr. McCLORY. If the gentleman would yield further, I am in support of what the gentleman is attempting to do, but it does not seem to jive with the language of the bill before us.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. EDWARDS)?

There was no objection.

AMENDMENT OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER: Paragraph (5) of section 2 of H.R. 3303 is amended by inserting at the end thereof the following new item:

"(E) acquisition, lease, maintenance and operation of aircraft".

Mr. KASTENMEIER. Mr. Chairman, this amendment has been requested by the Attorney General to clarify the authority of the Marshals Service to use aircraft for the movement of prisoners who are in their custody. This is a technique that is currently being experimented with and has met with considerable success, including a reduction in the necessary overtime of Deputy U.S. Marshals. So there is no expectation that this amendment will result in increased costs to the United States and may indeed result in a savings, as well as a more efficient, secure system for the movement of prisoners.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER: Paragraph (5) of section 2 is amended by striking out "234,632,000" and inserting in lieu thereof "242,573,000".

Mr. KASTENMEIER. Mr. Chairman, when the Department of Justice originally submitted its authorization request, it contemplated removing the power of U.S. Marshals to serve civil process in cases before the Federal courts. At the time the authorization request was made there appeared to be no controversy surrounding this change in power. However, the Administrative Office of U.S. Courts has subsequently informed both the Department and the committee that, as drafted, the present language removing all service of civil process will create serious problems for the Federal judiciary in serving judge issued orders. We have every hope of resolving the apparent conflict in the near future by modifying the original Department language.

However, in order that the orderly functioning of the Federal court system continue uninterrupted we are offering an amendment authorizing an increase of $8 million in the authorization level so that the Department may continue to serve process until we have worked out a resolution to the problem.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

□ 1350

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment. I believe the amendment of the gentleman from Wisconsin is an important one, in that it will allow the U.S. Marshals Service to continue serving civil process. To simply take the Marshals Service out of the business of serving civil process would create serious problems in many States which do not have private organizations available to serve civil process. Therefore, I thank the gentleman for his timely amendment and urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The amendment was agreed to.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the last words.

Mr. Chairman, I would like to point out to my colleagues the important provisions in this bill dealing with the Immigration and Naturalization Service, and what this bill does to improve its operation and to help make sure fraud, waste, mismanagement are, to the extent possible, eliminated.

There have been some recent concerns expressed in the press about corruption in the Immigration Service. We know that there have been frequent complaints about inordinate delays in the handling and processing of cases.

I would like to point out that this legislation calls for the creation of an Inspector General within the Immigration and Naturalization Service, an Inspector General appointed by the President with the advice and consent of the Senate.

I think the creation of an Inspector General will go far to remove the complaints that have existed in the past about possible corruption in the agency as well as mismanagement and will go far to help improve its operations.

In addition, the Subcommittee on Immigration, Refugees, and International Law felt very strongly that the present system with regard to the arrival of foreign visitors and foreigners to the United States is wholly inadequate. We do not have a system for keeping track of persons who come to this country. Millions of people come to America and we do not know if they leave, we do not know if they stay. The situation is chaotic and archaic and intolerable.

This bill contains two provisions addressing this. First, there is substantial funding to begin the automation of the Immigration Service so that the recordkeeping will not be kept by hand, as it is now which, of course, makes the recordkeeping task impossible. Second, the bill calls for the development and upgrading of a system for keeping track of those who arrive in the country and those who depart.

These are major improvements. Although it will take more than one year to overcome the long years of past mismanagement in INS, these steps will make major improvements in the agency. There is widespread support for them and they will go a long way in helping to improve the operation of INS.

The bill also contains funds for strengthening and speeding up the investigation of Nazi war criminals in the United States.

At this time, Mr. Chairman, I want to thank all the members of the subcommittee for their support of these measures and, in particular, I want to commend the gentleman from New York (Mr. FISH) for his cooperation and his help.

I yield back the balance of my time.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 40, after line 23, insert the following:

SEC. 15. (a) The Attorney General shall, during the fiscal year for which appropriations are authorized by this Act, transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If, during the fiscal year for which appropriations are authorized by this Act, the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, while I believe this amendment is noncontroversial, I think it is, nevertheless, important. Let me explain briefly what it does.

There are occasions in which the Justice Department declines to defend the constitutionality of a U.S. statute in litigation. Even though the Justice Department is initially designated as representing the United States, and Congress has passed a statute, and the President has signed it into law, the Justice Department will, on occasion, go into court and declare that the statute is unconstitutional.

I have great problems with that practice to begin with. The Justice Department should faithfully execute the laws, not undermine them. But, at the very least, two things should occur when the Justice Department decides that it is not going to defend a statute of the United States. First, they must notify the Congress of the United States so that the Congress can provide counsel to defend the U.S. laws. That is the first thing this amendment would do. It would require notification in the event the Justice Department declines to defend a statute of the United States.

The second thing it does is to require that when the Justice Department decides it will not defend a statute of the United States, it can no longer continue in that proceeding to represent the United States as such, but thereafter the Justice Department will merely represent the position of the executive department, which is all that they will be doing, rather than the position of the United States.

I think it is important that this amendment and this procedure be again written into the law. It was made a part of the authorization legislation during the last Congress. I suggest that it be made part of the legislation on this occasion as well.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to my distinguished colleague.

Mr. RODINO. Mr. Chairman, I see no strong opposition to this amendment. This reporting requirement is currently the law. I think it may be somewhat superfluous. The gentleman considers it important, however; I do see some merit to it and we have no objection to the amendment.

Mr. LEVITAS. I thank the chairman for his comments.

May I inquire of the chairman one thing, and I am not trying to get a commitment at this point. Rather than go through this process each year, which I am perfectly prepared to do, I wonder if the chairman could give consideration to taking action on legislation that would just make this procedure part of the law rather than go through the annual authorization amending process?

Mr. RODINO. If the gentleman will yield further, at the present time I would advise the gentleman that since the committee will be continuing its oversight, we will have to determine whether or not this will be necessary to be retained as a permanent feature.

Mr. LEVITAS. I thank the chairman for his observation. I certainly would not want anything to interfere with the important work of regulatory reform and legislative veto.

Mr. RODINO. If the gentleman will yield further, as he knows, we have had considerable discussion with the gentleman from Georgia, together with the Attorney General. While there were some areas where we were in disagreement as to the need, nonetheless I think the reporting requirement serves a wholesome, useful purpose, providing it does not become too burdensome. This is why we would like to examine the matter thoroughly and then be able to determine whether this should become a permanent feature of the law.

Mr. LEVITAS. I thank the chairman.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield.

Mr. McCLORY. Mr. Chairman, I would ask the gentleman if there is some time limit within which the Attorney General must act? The reason I ask the question is this: We may enact a piece of legislation here, and it might be a matter of years before there would be any determination to enforce the law or call for its enforcement. I would not want to put the Attorney General in the position where he is going to have to give us advisory opinions within a certain limited period of time in anticipation of litigation or no litigation. Would the gentleman inform me on that?

Mr. LEVITAS. Yes; it provides for that. The two occasions which trigger this report are when the Attorney General himself establishes a policy with respect to that particular statute, and that would, of course, lie in the hands of the Attorney General. Second is during the course of litigation, when by pleading or by otherwise, other action, the Attorney General takes that position. That would be the second occasion. So it does not just happen in the ordinary course of events. It would happen only where the Attorney General has either A, established a policy; or B, has officially taken that position during the course of litigation.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(At the request of Mr. McCLORY and by unanimous consent Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. McCLORY. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I am happy to yield to the gentleman.

Mr. McCLORY. Do I understand that there will always be time within which the Congress might provide legal representation in support of legislation we have passed?

Mr. LEVITAS. Yes; that is precisely a major purpose of this amendment. When Congress has passed legislation and the Attorney General decides that he does

not want to defend that legislation, it would then fall to the Congress to provide counsel.

□ 1400

We have done this on a number of occasions, and indeed the House and the other body at the present time have counsel representing both bodies in court, in a situation in which the Attorney General has conceded that a statute was unconstitutional. Thus far, we have prevailed and the Attorney General has lost each such case.

Mr. McCLORY. So there is an obligation on the part of the Attorney General if at any time, either before or even during a proceeding, he decides that he is not going to defend or is not going to support the legislation, that he report to us?

Mr. LEVITAS. That is precisely the purpose of this amendment.

Mr. McCLORY. I thank the gentleman. It is my further understanding, if the gentleman will yield further, that this was in the authorization bill that we passed last year. I cannot see any objection to it.

Mr. LEVITAS. That is correct. I further discussed the matter with representatives of the Justice Department, and they have no objection to this amendment as far as I can determine.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 40, after line 23, add the following new section:

SEC. 15. The Attorney General shall conduct a study to determine whether there are any other feasible uses for the facility at Ray Brook, New York, that is proposed as a Federal correctional institution, and report the results of such study to the Congress not later than 180 days after the date of the enactment of this Act. Such study shall include an analysis of the economic impact on the surrounding community of each feasible use of such facility.

Ms. HOLTZMAN. Mr. Chairman, this is a very simple and modest amendment that deals with the so-called Olympic Prison in Ray Brook, N.Y. As the members of the committee may know, it has been proposed that the Olympic facility will be turned into a Federal correctional institution.

What my amendment would do is simply require that the Attorney General shall, within 4 months, conduct a study to determine if there are any other uses for that Olympic facility and what the economic impact of those uses would be. The amendment, if adopted, would in no way delay the construction of the prison; nor would it prevent the implementation of existing law which calls for the construction of the prison. All that it would do would be to tell us whether or not there are any economically feasiable alternatives to a prison.

There has been a good deal of concern expressed throughout the State of New York about the construction of the prison facility at the Olympic site. However, no one who has opposed this prison has offered any feasible economic alternative use of the Olympic facility.

It would be useful to conduct a study of other uses of this Olympic facility for several reasons. First, such a study will forestall criticism of the United States which could occur in connection with the Olympic games themselves. Olympic participants might protest the fact that the facilities they are staying in will ultimately be a prison.

Second, there was never any study done of possible alternative when the prison was chosen as a proposed after-use for the Olympic facility. In fact, the idea of using the facility as a prison was pulled out of a hat because at the time nobody could think of any other use. This, of course, does not mean there is no other use for the Olympic facility but there was no study done at any time of any other uses. In addition, the Bureau of Prisons initially took the position that it did not want a prison at the Olympic facility and only after the Olympic facility was under construction did the Bureau of Prisons support its conversion into a prison.

I urge my colleagues seriously to support this amendment. It does not delay the project. It does not commit the Congress to any alternative use. All that it does is say, "Let us be rational about the decision to use the Olympic facility as a prison. Let us see whether there are any other alternatives, and consider what the economic impact of those alternative uses."

I think adopting this amendment will forestall international criticism of the United States and criticism of us at the games. I think it will permit the Congress to make a sound decision about the prison. I have been assured by the Bureau of Prisons personnel that the amendment will in no way affect the present timetable for completion of the facility, but it will allow the Members of Congress to make an intelligent decision as to whether to go forward or whether to consider any other uses for the Olympic facilities.

Mr. DRINAN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I thank the gentlewoman for yielding, and I commend her on her amendment. I proposed the amendment in the full committee, and it failed on a tie vote.

As the gentlewoman has said so well, the amendment will cost us nothing. It is very modest, and the most important aspect of it is that it will put an end to the comments that we never looked into alternative uses. All the amendment says is that finally a study will be done and we will have the findings as to other alternative uses that could be in place for this particular facility.

I hope, therefore, that the gentlewoman's amendment is adopted.

Ms. HOLTZMAN. I thank the gentleman.

Mr. VOLKMER. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, it is my understanding that the gentlewoman stated that the study would not prevent the utilization of the facility for the purposes for which it is presently intended.

Ms. HOLTZMAN. Correct. It in no way prevents the use of the facility for the purpose intended.

Mr. VOLKMER. I just want to make sure.

Ms. HOLTZMAN. There is no intention of doing that. Delay would not be the consequence.

Mr. VOLKMER. There is no intention by this amendment to prevent the Bureau of Prisons or Bureau of Corrections from going ahead as soon as the Olympic games are completed?

Ms. HOLTZMAN. That is correct.

Mr. VOLKMER. Go ahead and prepare it for placement for individuals, which I understand they will be ready to do around the first of October.

Ms. HOLTZMAN. That is correct. As a practical matter, this amendment could not do so because it requires that the study be completed in 4 months. There is no language in the amendment that would delay any construction.

The CHAIRMAN. The time of the gentlewoman from New York has expired.

(At the request of Mr. VOLKMER and by unanimous consent, Ms. HOLTZMAN was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. The gentlewoman has no objection, then, to the Bureau continuing with the plans that they presently have to implement it as a prison facility?

Ms. HOLTZMAN. There is nothing in this amendment to stop them from implementing whatever plans already exist. But, the purpose of this study is to find out whether there are alternative feasible uses that will have a economic impact on the area equal to or better than that of the prison. If such uses exist, I hope they can be identified and implemented before it is too late, but there is no intention to interfere with the present time table.

Mr. VOLKMER. The present proposal is to use it for a youth facility.

Ms. HOLTZMAN. That is my understanding.

Mr. VOLKMER. We have no other youth facility, do we, in the Federal Bureau of Prisons?

We have none.

Ms. HOLTZMAN. That may in fact be the case, but Lake Placid may not be the appropriate place for it. It was not the initial intention by the Bureau to use it for a prison. It seems to me also that since there have been no alternatives studied for this facility, there ought to be a short study in a very brief period of time as to whether or not there are any alternative feasible uses for this institution.

I cannot imagine any serious objection to this since there is no intent to delay and there will be no delay. Congress, without a study, looks as if it is acting in a rush following up on initial decision that was made without a study or without any supporting evidence. This amendment would give us a factual basis to our decision and protect us against international criticism as well.

Mr. McCLORY. Mr. Chairman, I rise in opposition to the amendment.

The amendment would require another study of the Lake Placid facility. Obvious alternatives such as housing for low income persons or senior citizens, dormitory space for area colleges, additional hospital facilities were all explored in 1976 and found to be either unsuitable for the community or not adequate for an athlete village. The proponents of this amendment have had since 1976 to study this issue.

During the Judiciary Committee consideration of the bill we had an extensive debate on this issue. Subsequently the amendment was defeated on a rollcall vote by the committee. The committee then considered an amendment to study the suitability of the facility for use as a prison which was also defeated on a rollcall vote. A motion to reconsider this amendment was then defeated on a rollcall vote.

On this issue it is important to note that approximately 45 percent of Federal inmates with Northeast homes of record are currently located outside of the Northeast region. This facility would allow inmates to be hundreds of miles closer to their homes. Moreover, this facility would allow more youth and young adult offenders to be separated from older repeat offenders.

□ 1410

Finally, Mr. Chairman, it seems to me it would be a breach of the basis upon which the entire authorization and appropriation was made for us now to reconsider and restudy and perhaps determine that we were wrong then, or we had our fingers crossed then, or something of that nature. I just hope that we can defeat this amendment and that we can fulfill a very important function of providing this kind of secure facility for the Olympic athletes at Lake Placid and at the same time provide for a fully justified and necessary use of this facility following the completion of the Olympic games.

I urge the defeat of this amendment.

● Mr. GARCIA. Mr. Chairman, I would like to bring to my colleague's attention the controversy surrounding the after-use of the Winter Olympic site at Lake Placid, N.Y. There are strong reasons which force me to believe that the proposed plan to convert this Olympic village, into a prison, is totally inappropriate.

The location of the prison and the backgrounds of the people who would be imprisoned there are the strongest arguments against the planned conversion. Lake Placid is located in the extreme northeastern section of New York State. The conversion would create a medium-security prison intended for 18 to 26 year old male offenders from the New York City and Boston areas. This creates a major problem of isolation. It has long been a basic prison policy that prisons should be built close to major population centers in order to make family visits more convenient and to enable prisoners to make use of community services. Family ties are an important element in the process of rehabilitation. It would create extreme hardships upon the prisoner's families to make this long and time consuming 300-mile trip. The great distance would drastically cut down on the number of visits made to prisoners and would be a serious blow to inmate morale, making rehabilitation practically impossible.

Opposition to the "Olympic prison" is not confined to a small group. A large number of people and organizations have mounted strong opposition to the prison. Congresswoman HOLTZMAN and Congressman DRINAN are offering an amendment which would require that the Attorney General seriously study the issue in order to determine whether there are any other workable after-uses for the Olympic site in terms of economic implications for the community. An international jurists report, submitted to the U.N. Human Rights Subcommission on Prevention of Discrimination and Protection of Minorities regarding Olympic prison states that:

> Our visit to this site has satisfied us that the site is totally inappropriate for a prison due to the isolation, hostile climatic environment, and the great distance of the site from any urban center from which its poor minority inmates may be expected to come.

A statement of conscience on the Lake Placid Olympic prison by the North County Clergy states:

> We protest the inhumane location . . . For the mothers, fathers, wives, ministers, and priests who will try to visit the inmates it will be virtually impossible, given . . . the expense of getting to the prison and remaining overnight, and even giving up work time to go.

This group of clergymen consists of 61 reverends from 6 different New York State counties.

The amendment to H.R. 3303 calls for a study to determine whether the Olympic site has any feasible after-uses. I hope that the Attorney General would be open to suggestions from interested organizations and individuals.

I strongly support the amendment to H.R. 3303 as offered by Ms. HOLTZMAN and Mr. DRINAN, for it is the last opportunity Congress will have to provide a positive use for these facilities.●

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The question was taken, and on a division (demanded by Ms. HOLTZMAN) there were—ayes 4, noes 17.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: On page 24, line 21, strike out "$193,836,000" and insert in lieu thereof "$202,366,000".

Mr. WOLFF. Mr. Chairman, my colleagues are aware that I serve as chairman of the Select Committee on Narcotics Abuse and Control and I offer an amendment to add $8.53 million to the DEA authorization. This is the minimum amount required for DEA to maintain its fiscal year 1980 operations at the fiscal year 1979 level.

The legislation before us would provide the DEA with a fiscal year 1980 authorization of $193.836 million—main bill. To continue the fiscal year 1979 level of operations into fiscal year 1980, a minimum of $202.366 million is required. I am concerned that the DEA will not be able to continue its successful operations under this authorization. This reduced level of funding will require a substantial number of program alterations.

DEA's domestic enforcement personnel will have to be reduced by 58 positions. Tactical intelligence operations will lose 37 positions. These positions would provide for enhanced strategic intelligence analysis regarding domestic drug movements and trafficking patterns as well as the role of organized crime in the drug trade. Agents will have to spend more of their time doing intelligence analysis instead of field enforcement work. Overseas staffing will be cut back 12 positions. Staff positions will be lost in programs dealing with compliance and regulation. DEA-State/local cooperative programs, including drug law enforcement training, forensic laboratory services, and State and local task forces will also be reduced. Although DEA had planned to expand its diversion investigation units (DIU's) into three additional States each year beginning with fiscal year 1980, the authorization will require that this be reduced to two additional programs per year. Funds for the purchase of evidence and information will be reduced by approximately 15 percent.

Mr. Chairman, when we talk about drug abuse we talk about people. The computers at OMB apparently recognize neither this nor the depth of the problem. There are two sides to the control of drug abuse: demand reduction and supply reduction. Neither one alone can be successful. H.R. 3916, which extends drug abuse and alcohol authorizations makes significant improvements in our demand reduction efforts. Without my amendment we will stand to lose ground in our supply reduction efforts.

DEA has been successful in drastically reducing the availability of heroin. Let us not equate this success with success in combating drug abuse. Drug abuse is cyclical, and heroin is a prime example. We succeeded in eliminating Turkey as the major heroin supplier only to see Mexico fill the void. Our cooperative program with the Mexican Government is succeeding, but we are now faced with the growing threat of heroin from Afghanistan and Pakistan. It is critical that we maintain our efforts at full strength and not cut back on DEA's ability to effectively work overseas. We must continue to disrupt international patterns of supply.

We often find abusers of drugs such as heroin shifting to illegally diverted prescription drugs to maintain their appetites when the heroin is no longer available. In response DEA has successfully established diversion investigation units (DIU's) in a number of States and is now negotiating with West Virginia, Arkansas, Colorado, New York, Arizona, Tennessee, Kentucky, and Ohio to es-

tablish new DIU's. Without my amendment no more than two States will be able to join with the DEA each year in a concerted effort to halt the diversion of prescription drugs.

Mr. Chairman, I understand the need to minimize Federal spending, and I fully support this goal. But I am also painfully aware of the devastating toll brought about by drug abuse. The authorization in this legislation will place the DEA in a competitive disadvantage with those who would seek to profit from trafficking in drugs. The DEA has done an outstanding job. As a nation we will all suffer if we do not allow the DEA the resources with which to continue its efforts.

Mr. Chairman, I realize that DEA has already been appropriated an amount equal to the authorization contained in this legislation. I do not believe this to be a sufficient amount. I can assure my colleagues that the Select Committee on Narcotics will carefully monitor the impact of the present appropriation level on DEA's ability to carry out its mission. My amendment will make possible a supplemental appropriation if that should become necessary.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Illinois.

Mr. McCLORY I thank the gentleman for yielding. We have had an opportunity to examine the amendment here. It is a very good amendment, and we are very pleased to support it.

Mr. WOLFF. I thank the gentleman.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I appreciate the chairman of the Select Committee on Narcotics yielding to me. I want to associate myself with his remarks. Having visited some of the countries where we have problems, and having worked here in the United States, I cannot see any other thing that we can appropriately do but to assist DEA, and this is one way in which we can do it. I commend my chairman again.

Mr. WOLFF. I thank the gentleman.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. I thank the gentleman for yielding. I want to commend the gentleman. I know the tremendous amount of effort he has been putting in the area of drug enforcement and trying to wage a successful war against narcotics addiction, as the chairman of the Select Committee on Narcotics Abuse and Control.

As the gentleman knows, I have been for many years active in the struggle against narcotics and drug addiction and have supported, in this House, such legislation as would enhance the efforts of DEA in interdicting the overwhelming supply of illegal drugs coming into our country. As a member of the Narcotics Committee, I am pleased to support the request of the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. The gentleman was actually the inspiration for the creation of the select committee.

Mr. RODINO. I thank the gentleman. As one who has sat with him over the years on this committee, I can see the need for and I fully support the amendment.

Mr. WOLFF. I thank the gentleman.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the ranking minority member on the committee.

Mr. RAILSBACK. I thank the gentleman for yielding. I also want to commend the gentleman in the well.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. WOLFF).

Under the very able and distinguished leadership of Chairman WOLFF, the Select Committee on Narcotics Abuse and Control has closely monitored and exercised extensive oversight of the Drug Enforcement Administration since the select committee was established in late 1976. While jurisdiction over DEA is vested in both the Judiciary Committee and the Interstate and Foreign Commerce Committee, the select committee has watched the activities and accomplishments of the DEA very closely.

Over the past 3 years I have witnessed a concerted effort on the part of the Federal Government to achieve a sensible, coordinated approach to the overwhelming problem of drug abuse in the United States. The DEA has been at the forefront of this effort working in conjunction with the State Department and Federal law enforcement agencies.

This amendment does one very simple thing. The amendment returns the authorization level for DEA to its 1979 level of operations. It does not increase DEA's funding, but merely makes a supplemental appropriation possible if, and only if, the Appropriations Committee deems it necessary. DEA may or may not need the additional $8.5 million, but in light of the immense drug abuse problem in the United States today DEA should not face such a significant reduction.

DEA's appropriation has already been set at $193.8 million for fiscal year 1980. This is identical to the authorization level contained in the Judiciary Committee's bill. Yet this figure would require the DEA to make significant cutbacks in its foreign, domestic, and intelligence operations. Domestic enforcement would suffer the most. DEA would have to reduce its domestic field squads by 38 positions, which represents a 3-percent reduction in force. In addition, 20 support personnel and $1 million in "buy" money would be eliminated from the domestic enforcement effort. In addition, 37 intelligence analysts positions would be lost.

Finally, DEA had planned to increase its highly successful State diversion investigation units (DIU) from 17 to 20. This reduction will mean that one of those units will not be established. In hearings held by the select committee in Chicago in July of this year, we learned that the abuse of prescription drugs has reached epidemic proportions. The DIU's, which concentrate on halting the abuse and transfer of legal drugs, have been highly effective. All 50 States should be authorized one of those units.

At a time when the abuse of drugs, particularly among young people, women, and the elderly is on the rise, the administration has chosen to cut back programs designed to curtail the widespread trafficking of illicit drugs and the diversion of licit drugs.

While DEA has been highly successful in helping curtail the rise of heroin, the war against this battle is far from over.

Just last week the Washington Post ran a front page story detailing the new heroin connection. Opium grown in remote areas of Afghanistan, Pakistan, and north Lebanon can now produce over 55 tons of heroin annually, and this amount is growing steadily. Close to 85 percent of the heroin in West Germany today originates from this area. DEA Administrator Peter Bensinger has told the select committee that Middle East heroin represented approximately 2 percent of the heroin in the United States in 1976, but by 1977 this had risen to close to 8 percent. Mr. Bensinger predicts that much more Middle East heroin could reach the United States by early 1980.

All of us are anxious to hold the budget in line, but the DEA is not an appropriate place to cut back. I urge my colleagues to support the increase authorization.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding. I want to commend the gentleman for his amendment, associate myself with his remarks, and merely add that I have had the good fortune to be with the gentleman and with his Select Committee on Narcotics Abuse and Control in a number of countries. I have seen how impressed leaders of other world communities are when the gentleman and members of his committee talk to them. I think if we were not to adopt the gentleman's amendment it would be a setback and would create an effect of where they would think we really do not care as much as we say we care about controlling narcotics. I think the amendment is essential, and I hope we adopt it.

Mr. WOLFF. I thank the gentleman.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by the distinguished chairman of the Narcotics Select Committee (Mr. WOLFF), of which I serve as a member, that provides the necessary funding authorizations to maintain the Drug Enforcement Administration (DEA's) program in fiscal year 1980 at the same program level as in fiscal year 1979. Without the passage of this amendment, DEA's operations would be severely curtailed, its domestic enforcement personnel, intelligence operations, overseas staffing and other positions; would be reduced by at least 130 positions.

Mr. Chairman, hardly a day goes by when Federal, State, and local drug law enforcement authorities do not seize

large quantities of heroin, cocaine, marihuana, PCP, amphetamines, barbituates and other dangerous drugs. Narcotics trafficking costs this Nation alone an amount exceeding $45 billion and this Nation's effort to combat drug abuse and narcotics trafficking is less than $1 billion.

The amendment offered by the gentleman from New York adds a little over $8 million to maintain DEA's existing programs, personnel, and the mission to effectively fight the international narcotics traffickers who reap unknown billions of tax-free dollars from the human suffering of those who become dependent upon or addicted to drug abuse.

Mr. Chairman, let us not tie the hands of our courageous law enforcement officers who daily risk their lives to rid our streets of a pandemic disease that effects all mankind. Rather, we must provide these dedicated men and women with the necessary tools to effectively perform their dangerous tasks. In the final analysis, by cutting back on existing programs and personnel, we would only be hurting our own citizens.

Accordingly, Mr. Chairman, I urge my colleagues to support this vitally important amendment.

Mr. LIVINGSTON Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I thank the gentleman for yielding. I, too, want to congratulate the chairman for his extremely important work in this vital area. This could be one of the most threatening crises facing our American citizens today, as we watch our youth get drained away by the crushing input of drugs throughout our schools. I think the gentleman has done a great service to the country by focusing on this issue through the Select Committee on Narcotics. This amendment will do much to enable DEA to continue with their great battle against this threat to our country, and I particularly congratulate the gentleman for his efforts and support his amendment.

Mr. WOLFF. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment to the text of the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: Page 40, insert after line 23:

SEC. 15. (a) Section 709(a) of the Controlled Substances Act (21 U.S.C. 904) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1979," the following: "and $194,000,000 for the fiscal year ending September 30, 1980,".

(b)(1) Section 709 of such Act is amended by adding after subsection (b) the following new subsection:

"(c) In carrying out its functions under this title, the Drug Enforcement Administration may pay tort claims, in the manner authorized by section 2672 of title 28, United States Code, when such claims arise in foreign countries in connection with Drug Enforcement Administration operations abroad."

(b)(2) Section 511(d) of such Act (21 U.S.C. 881(d)) is amended by (A) by striking out "All provisions" and inserting in lieu thereof "The provisions", and (b) by striking out "and the award of compensation to informers in respect of such forfeitures".

(c)(1) Paragraph (4) of section 102 of such Act (21 U.S.C. 802(4)) is amended to read as follows:

"(4) The term 'Drug Enforcement Administration' means the Drug Enforcement Administration in the Department of Justice.".

(2) Sections 508 and 516 of such Act (21 U.S.C. 878, 886) are each amended by striking out "Bureau of Narcotics and Dangerous Drugs" each place it occurs and inserting in lieu thereof "Drug Enforcement Administration".

(3) Section 513 of such Act (21 U.S.C. 883) is amended (A) by striking out "Director of the Bureau of Narcotics and Dangerous Drugs" and inserting in lieu thereof "Administrator of the Drug Enforcement Administration", and (B) by striking out "Director may" and inserting in lieu thereof "Administrator may".

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1420

Mr. WAXMAN. Mr. Chairman, this amendment is entirely consistent with H.R. 3303 and is noncontroversial. It has three parts.

First, the amendment would amend the Controlled Substances Act to authorize appropriations of $194 million for the expenses of the Drug Enforcement Administration in the Department of Justice for fiscal year 1980. H.R. 3303 is a simple, 1-year authorization bill and does not amend the Controlled Substances Act. It authorizes appropriations of $193,836,000.

Second, the amendment would amend the Controlled Substances Act to authorize the Drug Enforcement Administration to pay tort claims in foreign countries in connection with the operations of the Drug Enforcement Administration. The claims would be settled under the same regulations promulgated pursuant to the Federal Tort Claims Act.

And third, the amendment would amend the Controlled Substances Act to repeal the requirement that an award of compensation be made to informers in accordance with the customs laws. The result is that the Attorney General will be able to use the current authority of section 516(a) of the Controlled Substances Act to pay rewards as he deems appropriate.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think the amendment is necessary and I urge the Members to support it.

I yield back the balance of my time.

AMENDMENT OFFERED BY MR. WOLFF TO THE AMENDMENT OFFERED BY MR. WAXMAN

Mr. WOLFF. Mr. Chairman, I offer a technical amendment to the amendment offered by Mr. WAXMAN.

The Clerk read as follows:

Amendment offered by Mr. WOLFF to the amendment offered by Mr. WAXMAN: On page 1, line 7, strike out "$194,000,000" and insert in lieu thereof "$202,366,000".

Mr. WOLFF. Mr. Chairman, this is in the nature of a conforming amendment that conforms actually to the amendment that has just been passed by the House to the other portion of the bill.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I would be delighted to yield.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding. In light of the fact the House has just adopted this revised figure, we would then deem it a technical amendment and urge its approval.

Mr. WOLFF. Mr. Chairman, I thank the gentleman.

Mr. CARTER. Will the gentleman yield, Mr. Chairman?

Mr. WOLFF. I would be delighted to yield.

Mr. CARTER. Mr. Chairman, we also support the conforming amendment.

Mr. WOLFF. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF) to the amendment offered by the gentleman from California (Mr. WAXMAN).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN), as amended.

The amendment, as amended, was agreed to.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will possibly offer an amendment to page 22 of the bill.

I would invite the attention of the chairman of the committee and the attention of the ranking member of the committee to the fact that on page 22, section (L), reads: "acquisition of land as sites for enforcement fence and construction incident to such fence."

I do not know if we are all acquainted with the concern which arose on the border as the immigration people, with some authorization from Congress, began to either reconstruct, add to or build new fencing on the Mexican border. Concern has been expressed that the fencing was almost inhumane. It was constructed so as to cut the fingers of anyone who tried to climb it, et cetera. We were assured by the Immigration and Naturalization Service that the construction would not include such features.

Mr. Chairman, my concern is that this does not say where, it does not say how much, it does not say what type of fence, it says nothing except to give authorization to acquire land space for enforcement fence, whatever that might mean and apparently in whatever amounts they decide upon and whatever type construction they might choose.

Mr. Chairman, I would like to offer an amendment to strike out that section. I read in the report nothing concerning

the subject. I do not know if there is anything in the hearings.

Mr. RODINO. Mr. Chairman, would the gentleman yield?

Mr. DE LA GARZA. I would be happy to yield to the chairman of the committee.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, I can appreciate the gentleman's concern. I would hardly consider it wise to strike out that section but I think for legislative purposes we could carry on a colloquy here. Certainly we know full well we should not and we cannot possibly endorse any kind of enforcement fence construction which would be inhumane. We understand the fence is constructed for detention purposes, a facility that would be absolutely humane and in keeping with trying to at least interview these individuals who unfortunately transgress and do come across the border.

Mr. Chairman, I would certainly want to assure the gentleman we could enter into a dialog which could be included in the report expressing a humane intent of this committee with regard to construction of enforcement fences.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I will yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, this colloquy concerns me. I do not know what type of fence we should direct the Immigration and Naturalization Service to provide. We do not want to provide a fence that is easily surmounted because that might encourage entry of illegal aliens. On the other hand, I am wondering what kind of a fence there should be that would retard illegal entry.

Mr. DE LA GARZA. Mr. Chairman, this is my problem. There have been hearings held by the committee and the committee has a record of the hearings. They could build here a fence 90 feet high, 3,000 miles long. I cannot tell. That is my concern. It already has caused the concern along the border, within our 2 nations and throughout the world. I would hate to pass this type of authorization that has no reference and no control over type and size. If it is a matter of reconstruction, then they need not acquire new sites.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I will yield again to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I would hope there would be no fence at all and we could provide a compatible society and a relatively free movement of people, legally, across the borders of our two countries. I hope something can be worked out like that. However, for us to spell out in the legislation what is humane, which, I assume, the administration and the Immigration and Naturalization Service would be bound to undertake, I think would probably not be acceptable.

□ 1430

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has again expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, I would like to tell the chairman of the Committee on the Judiciary that I appreciate very much the gentleman's interest. I know of his personal interest in this matter and personal concern.

I wonder if we could by legislative history or necessarily by an amendment if it did not endanger the other part of the bill, that somehow we could insist that before the Immigration Service does anything under this authorization that they should come back to the committee of the chairman before they take the first step under this authorization. Could that be done as legislative history, or would we have to offer an amendment?

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I would be happy to yield.

Mr. RODINO. I would certainly be happy to provide whatever forum is necessary in order to insure that we would elicit from the department this kind of an understanding, and as the gentleman, the ranking member, stated a while ago, all of us are concerned with not even building fences or doing anything that might be setting up these barriers. I would hope that somehow or other we might get this across to the Justice Department and to the Immigration Service.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman very much.

For my part, I would accept the word of the chairman and the ranking member, which in no case would I ever doubt, at any rate, that working together with other members from the border that it will be the intent of the chairman and the ranking member of the committee that we advise the department that before they proceed any further, should they under this authorization, they would come back to consult with the appropriate committee, which is the gentleman's committee.

Mr. RODINO. It is perfectly agreeable to me and I think it would be a wise course to follow.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has again expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I appreciate the gentleman yielding. I wish to associate myself with the remarks of the chairman of the Committee on the Judiciary and say in addition that it is my understanding that this language has never been interpreted to authorize new fences. It just authorizes the repair of existing fences, whatever they may be. I certainly share the gentleman's concern.

Mr. DE LA GARZA. I appreciate the gentlewoman joining us. It does not read that way, but I hope it does not authorize new fences.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, I just want to make clear, having gone into this at some length and been out there and seen some of these fences, this is the authority that has been used by the INS in the past to repair already existing fencing. I would not want it suggested here by what we have said that the INS has to come back to our committee every time they want to make some repairs on a fence that is repaired virtually daily. This is the authority they have used. We do not have any funds in the appropriation legislation that passed this House that would contemplate the creation of a large-scale fence whatsoever.

Mr. DE LA GARZA. We are not speaking about routine repair, of course; but when they came out with that new monstrous fence, they were using the same authority also.

Mr. LUNGREN. I understand; but as far as actual construction, this is the authority that has been used in the past.

Mr. DE LA GARZA. I appreciate that and I sincerely thank the chairman of the committee and the ranking member.

Mr. KAZEN. Mr. Chairman, I, too, rise on this subject. Those of us from the border were very, very embarrassed last year when the tortilla curtain concept came out of Mexico. A lot of our people became indignant because they did not know that such an idea existed. They started asking how much money it was costing to repair fences that apparently were not doing the job that they were supposed to do.

I saw some pictures of one of those fences around the area of the chairman in El Paso with great big holes in it that did not keep anybody back.

So the question is, if these fences are not doing the job, why are we continuing to put more money in them?

Actually, it finally boiled down to what Mexico considered was an affront to them.

We, in the past, criticized the Berlin Wall, the Bamboo Curtain, all of these other barriers that keep people away from each other and yet we in the United States, with all of our preaching of human dignity and human rights, talk of building a fence to help solve a problem.

Then came the stories about the type of fence that was being built. They had spikes in them. They showed where some people had been trying to cross those fences and they had blood all over the fence. They had people cut up because they were trying to cross those fences.

Now, I come back to the basic element that my colleague, the gentleman from Texas (Mr. DE LA GARZA) just brought up, the wording of the statute which says:

> . . . acquisition of land as sites for enforcement fence and construction incident to such fence;

Regardless of how you interpret it, this means you are going out to get a right-of-way to build a new fence, not to repair a fence that is already there.

I do not have to interpret this wording for the members of the committee. All you have to do is read the language itself. There is nothing in the report to indicate that this is an authorization to use funds to rebuild present fences. Actually, it says, "acquisition of land." If it is to rebuild present fences, you do not need to acquire any land; but that is the authority you are giving the INS, the Immigration Service.

I say to you that as far as I am concerned, I would like to take this section out, and if my colleague, the gentleman from Texas (Mr. DE LA GARZA) does not offer the amendment, I will, to strike this provision out of this bill. If it is intended to help us keep illegal aliens out of this country, it darn sure is not doing the work.

I asked how much money is authorized. I would like to be able to answer questions like that. How much money are we authorizing to repair the fences? According to what the gentleman has just said, the gentleman's understanding is—I will be delighted to yield to anyone who will tell me how much money is being appropriated or is being authorized.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, as I understand it, there is no specified sum to be utilized. It is utilized as a regular maintenance. If you go down on the border, you will see that they use anything they have available to try to repair the fence along the way because they have holes that go up daily.

The fence to which the gentleman refers that was suggested by some of the people in INS as a possibility is a fence, frankly, that is so expensive that I will be happy to find the figures to give to the gentleman; but I recall it is something like $1 million every so many miles. That has never been officially approved. It was a prototype that they established. It is not in place anywhere along the border.

I saw a piece of it. I happen to think it is somewhat dangerous, although it does not have spikes in it, but it is somewhat dangerous.

The CHAIRMAN. The time of the gentleman from Texas (Mr. KAZEN) has expired.

(By unanimous consent, Mr. KAZEN was allowed to proceed for 4 additional minutes.)

Mr. LUNGREN. Mr. Chairman, will the gentleman yield further?

Mr. KAZEN. I yield to the gentleman.

Mr. LUNGREN. Mr. Chairman, there is approximately 960 miles of border between the United States and Mexico; of that, perhaps 50 to 100 miles of it actually has fencing. Fencing is by and large in the populated areas, so that where it is much more difficult to stop crossings of the border because of the impact of the area populationwise and the fences basically act as a guide, if you will, forcing people who are attempting to make illegal entry out of the most populated areas and where it is more easy to fence.

Mr. KAZEN. Mr. Chairman, I thank the gentleman for that explanation; but according to that explanation, if the money is being used to repair that fence on a daily basis, it only means one thing to me. It is not working. I do not care how many fences you build; it is not going to work.

□ 1440

So what we are doing is spending the taxpayers' money on something that does not work. It would be better if we take this money and put it into manpower or any other type of sensor device than to keep throwing the money away, repairing a fence that is being torn down every single day. It is just like a sieve. For goodness sake, it is time we stopped throwing good money after bad.

Let me talk about another matter—and the effect this is having on our relations with Mexico, which are very, very delicate at this particular time. It was the Government of Mexico and the people of Mexico who took such great offense to this fact that we are building a fence between us and those who are supposed to be our good neighbors to the south. Now, the question is: Do we treat them that way, and do we or do we not have any alternatives to stop the illegal flow?

I say to the Members that we do, and as far as I am concerned, I would like to see this whole thing stricken and all reference to a fence between two friendly countries completely eliminated.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Yes, I am delighted to yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I think the gentleman from Texas (Mr. KAZEN) makes a good point. I do not think fences belong between two countries that are friendly.

But I would say to the gentleman that I am advised by staff that there is no money whatsoever in this authorization for the construction of any new fence, and that the Department of Justice in its budget submission, both to the Committee on the Judiciary and the Committee on Appropriations, had not one single penny for the construction of any new fence.

Mr. KAZEN. Then, Mr. Chairman, I ask the gentlewoman, why do we have this authorization? Is it not, I would ask the gentlewoman, for the purpose of having in the future, if it has not been done now, another appropriation, a supplemental? This will already be authorized, so we might have a future appropriation.

Ms. HOLTZMAN. Mr. Chairman, I would say to the gentleman that there is no intention by this language nor was there any intention by the Department of Justice to ask for or authorize any new fence.

Mr. KAZEN. What does "acquisition of land" mean? It provides for acquisition of new land.

Ms. HOLTZMAN. It allows it, but there is no intention to authorize a fence, and there is no funding at all for the acquisition of land.

Mr. KAZEN. Mr. Chairman, let me reclaim my time.

I understand what the gentlewoman from New York (Ms. HOLTZMAN) is telling me. There has been no appropriation because the appropriation bill has already passed. We are doing things backward here. We are just now authorizing something that has already been appropriated. I am not worried because it was apparently not in the appropriation bill. I agree with the gentlewoman from New York.

But we are here authorizing something that has not been appropriated yet, and that will lead to a supplemental appropriation in the future. If this were not here, a supplemental appropriation would be no concern of mine or of this House.

The CHAIRMAN. The time of the gentleman from Texas (Mr. KAZEN) has expired.

(On request of Mr. DE LA GARZA, and by unanimous consent, Mr. KAZEN was allowed to proceed for 1 additional minute.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I certainly do yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, there is a possibility of this, I say to the gentleman, because in the other body there was some funding provided in the appropriation process that could conceivably be related to this.

But I would like to ask the gentleman if he would join with me and accept the commitment that we have here without endangering what could, if necessary, be something that might need to be done. The gentleman knows that there are fences surrounding or adjacent to the bridges for people control, not for illegal aliens as such.

In order not to jeopardize some of the legitimate uses, perhaps we could avail ourselves—those of us on the border, the gentleman and myself, as well as some of our other colleagues—of the generous attitude of the subcommittee chairman and the ranking minority member that the legislation here stand as the gentlewoman from New York has said and as others have said, and that a request be made of the Immigration and Naturalization Service that no movement beyond ordinary repair be made without consulting the chairman of the committee, who would inform us, if necessary, to continue the dialog with an appropriate committee of jurisdiction and with the INS, rather than with us individually.

Would the gentleman subscribe to that?

The CHAIRMAN. The time of the gentleman from Texas (Mr. KAZEN) has expired.

(By unanimous consent, Mr. KAZEN was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, if I may, let me answer the gentleman from Texas (Mr. DE LA GARZA) this way: I would be willing to have the distinguished committee chairman and his committee look at this whole idea of a fence that has as its object the stopping of the illegal alien flow into the United States, and I hope that they will come to the opinion that no such fence is needed between our two countries.

If for some reason or other there must be a control fence around the bridges for the protection of our own people and for

other safety reasons. I certainly would have no objections.

But I would say that we should be given an opportunity at least to appear before the distinguished gentleman's committee and debate this question about a fence that has been created in the past. In the meantime, hopefully the chairman of the committee can direct the Immigration and Naturalization Service not to build any new fences and not to throw good money after bad trying to mend fences that cannot be mended, because this is just wasting money.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Yes, I am delighted to yield to the chairman of the committee.

Mr. RODINO. Mr. Chairman, I would certainly endorse what the gentleman from Texas (Mr. KAZEN) is saying. I give him my personal assurance—and I am sure that every member of the committee will join me—and that we are concerned with not only maintaining the kind of relations that we should have with a friendly country such as Mexico, but that, in keeping with what we consider to be a tradition of extending ourselves and trying to be humane, we would also direct to the Immigration and Naturalization Service the kind of interest and concern that has been demonstrated here today, hoping that there is no need for any fence except for people control or other kinds of safety measures.

Mr. KAZEN. Around the international bridges?

Mr. RODINO. That is correct.

The CHAIRMAN. The time of the gentleman from Texas (Mr. KAZEN) has again expired.

(By unanimous consent, Mr. KAZEN was allowed to proceed for 1 additional minute.)

Mr. KAZEN. Mr. Chairman, let me thank the gentleman from New Jersey (Mr. RODINO) for that statement. I can certainly go along with him.

I just wanted the gentleman to understand why I am here, because when this thing broke, it was handled in a very, very bad manner. It left a very bad taste in the mouths of our friends. All along the border and in my district people were completely aroused. The "tortilla curtain" became known all over the world, and here we are, the United States of America, talking about civil rights, about our friendliness, and about our good relations with our neighbors to the north and the south, yet we consider building a fence to keep our neighbors out.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the committee chairman.

Mr. RODINO. Mr. Chairman, I would just want to tell the gentleman again that not only do I re-echo his sentiment, but when it was even suggested by some individuals who had been studying this question that there be some kind of barrier, I immediately rose at that time in strong opposition.

The CHAIRMAN. The time of the gentleman from Texas (Mr. KAZEN) has again expired.

(On request of Mr. MCCLORY, and by unanimous consent, Mr. KAZEN was allowed to proceed for 2 additional minutes.)

Mr. MCCLORY. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Yes, I am delighted to yield to the gentleman from Illinois.

Mr. MCCLORY. Mr. Chairman, I do not want to prolong this debate, but I want to point out to the gentleman that the chairman of the committee and I, along with the chairman of the subcommittee, the gentlewoman from New York (Ms. HOLTZMAN), and the ranking minority member of the subcommittee, the gentleman from New York (Mr. FISH), are members of the National Commission on Immigration and Refugee Policy, which is to report early next year.

This is one of the considerations that we will have. It will relate to the question of an immigration policy with regard to Mexico and Canada and to the Western Hemisphere.

So I am sure that this will be one of the subjects that will be considered carefully there, and we will be making recommendations in, I believe, May 1980. I think that would be an appropriate time to resolve this matter harmoniously between Mexico and the United States and between the border States as well.

Mr. KAZEN. Mr. Chairman, I thank the gentleman from Illinois (Mr. MCCLORY) for his attitude, and I particularly want to thank the gentlewoman from New York (Ms. HOLTZMAN) for her attitude because I know how she feels about these things. I am sure her viewpoints will be listened to in immigration circles, and that nothing as onerous as some people are thinking about will happen.

Mr. RUNNELS. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from New Mexico.

Mr. RUNNELS. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Texas (Mr. KAZEN). I appreciate his bringing to the attention of this body something that has perturbed many of my constituents.

□ 1450

Just a few minutes ago for the first time I just heard the word "Canada" mentioned. Up until then I believe it was discrimination in its worst form because everybody on the committee, with the exception of the ranking minority member, had not mentioned anything but Mexico. I believe that Mexico holds a lot for Americans in the future. I would hate to see that we had the tortilla curtain pulled up. We need it pulled down. For that reason, I would hope that the full committee and the subcommittee would not authorize any new construction or purchase of land.

Mr. KAZEN. I thank the gentleman for his remarks. I do hope that we can do away completely with any physical barrier now and in the future.

AMENDMENT OFFERED BY MR. DRINAN

Mr. DRINAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DRINAN: Section 4(b) is amended by adding the phrase "and aircraft" after the phrase "for motor vehicles."

Mr. DRINAN. Mr. Chairman, this is an amendment requested by the Department of Justice.

In the 1970 Appropriation Act for the Department of Justice a provision was included to permit the use of funds for the payment of premiums or fees for contracts of indemnification or insurance of officers, employees, and agents for their liability, or that of the United States, resulting from the operation of personal or official motor vehicles by them, while in the scope of their employment in foreign countries. This language adds aircraft to this provision. If an employee of the Department, while operating a motor vehicle or aircraft in a foreign country on official business becomes involved in a collision which causes personal injury or property damage, this provision provides a basis for payment of damages to a third party. Some countries have compulsory liability insurance laws. The Department advises that this provision protects employees and permits them to comply with the laws of countries where they operate aircraft on official business and avoids embarrassment of unfavorable publicity for the United States.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. DRINAN).

The amendment was agreed to:

AMENDMENT OFFERED BY MR. DRINAN

Mr. DRINAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DRINAN: Section 4 of H.R. 3303 is amended by adding the following paragraph:

(h) The first sentence of section 5924(4)(B) of title 5, United States Code, is amended by striking out "or the United States Information Agency," and inserting in lieu thereof the following: ", the International Communications Agency or the Department of Justice."

Mr. DRINAN. Mr. Chairman, this amendment is also requested by the Department of Justice.

This amendment provides for one round trip per year educational travel for the dependents of Department of Justice personnel stationed overseas. Such benefits presently exist for Department of State, AID, and ICA employees overseas. CIA and NSA have received this benefit in S. 975—intelligence authorization—which is presently awaiting conference report approval.

Besides DEA, other department personnel covered by this provision are FBI legal attachés and INS employees stationed overseas. The Department of Justice could not provide the number of dependents who will benefit from this provision. There is no objection from OMB.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. DRINAN).

The amendment was agreed to.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think one of the most

important issues we have before the Congress is this matter dealing with illegal aliens. It is not limited to Mexico. It also involves people from a number of islands offshore. I also think the gentleman from Texas (Mr. KAZEN) said what I have on my mind. This whole process is backward. I happen to conduct hearings on appropriations for the Justice Department. I have done it now for several years. We do not have at the time we conduct those hearings opportunity to use the guidelines laid down by a bill like this. It has not been passed yet. We have no guidelines to go by. The whole process is backward. And yet we have before us today a bill that is just for fiscal year 1980. The appropriations have already been made for fiscal year 1980. They are working downtown right now on a proposal for fiscal year 1981. The bill should have been passed a month ago for fiscal year 1981.

Why could we not, Mr. Chairman, amend this authorization to make it include 1981 instead of just 1980?

Mr. RODINO. If the gentleman will yield, I would first like to point out that, in a colloquy with the gentleman from Illinois yesterday during debate on this bill, we pointed out that the House should have considered this authorization very early at a time when the Committee on the Judiciary had already reported this bill.

Mr. SMITH of Iowa. I appreciate the gentleman had reported this bill several months ago.

Mr. RODINO. That is correct.

Mr. SMITH of Iowa. That leads to my second question. Why do we not amend this bill and make it include 1981, and then we would have something to go by in the hearings early next year.

Mr. RODINO. The only thing is that the Committee on the Judiciary, having oversight, feels that it must be necessary to sort of rein in. The Justice Department feels that it must do this on an annual basis. I can see the reason for doing it as the gentleman suggests, but nonetheless, since there are moneys that are appropriated each year, this is the problem we have.

Mr. SMITH of Iowa. That is where I disagree with the gentleman. The best way to have effective oversight is to get your authorization out of the way. That does not prevent your committee from going ahead and proposing amendments if you want to during the coming year. But with the authorization out of the way, then you can conduct oversight hearings. A number of committees are starting to do that now. If you would just get a year ahead instead of a year behind, you would have a lot more influence with the Justice Department.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I am glad that the gentleman has taken the well to bring this point up, and I am also most pleased with the response of my chairman, the gentleman from New Jersey (Mr. RODINO).

I think the real solution is this—and I do not mind talking about it, because in my experience you have to talk about something for 5 or 6 years before it seems to register. What we ought to start doing is to continue what we started doing a few years ago when we moved up the fiscal year 3 months from July 1 to October 1. Now we ought to take a deep breath, hold onto our hats, and take one more step and make the fiscal year coincide with the calendar year. In other words, what we ought to be doing now is working in the 1981 fiscal year, not on the 1980 fiscal year.

Mr. SMITH of Iowa. It should have been passed last month.

Mr. DANIELSON. This Government has grown, the country has grown, it has grown in complexity, as well as size. We simply cannot put together a budget in the amount of time available. There was a time in the days of the gentleman's grandfather and mine when we had the fiscal year start on July 1, the Congress would come in in January and meet and pass the budgets and everything, and by July 1 they were already back home plowing corn and the new budget could take effect. That was fine. But we are too complicated for that. It takes a year. So why do we not just take the next step and have another transition quarter, have the fiscal year coincide with the calendar year, and then what we would be doing here, we would be passing the authorization bill for the next year, and the appropriation could come trotting along behind it. We would all be happy and we could go back home and decorate the Christmas tree.

Mr. SMITH of Iowa. The point I would like to make is that it would be much better for the Appropriations Committee if the guidelines were set before we even consider the funding bill. It would be a lot better for the administration if they knew what the guidelines were before they drew up the funding proposal.

In addition to that, they would not have the latitude they now have of submitting anything they want and then saying, "We asked for an authorization to cover that." You take this fence along the Mexican border. They may come to Congress next year and ask for a fence. I do not know if they will or not. But they could and then they can say, "Well, the authorization has not been passed yet, so we requested an authorization and the appropriation at the same time." If you had the authorization out of the way, they would know they are not going to get any authority to fund a fence and all you have to do to this bill is to change the 1980 date and add to it "and 1981," and then for once you would be caught up. I wish the gentleman would consider it.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: Page 40, line 24, insert the following:

SEC. 15. The National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to use funds, and to authorize States to use funds, for programs, projects or events devoted to the international aspects of crime prevention and criminal justice.

(b) Notwithstanding any other provision of law, the State of California is authorized to utilize the proceeds of block grants awarded during fiscal year 1979 or fiscal years previous thereto to fund the 1980 Congress on the Prevention of Crime and Treatment of Offenders.

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DANIELSON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk concluded the reading of the amendment.

□ 1500

Mr. PHILLIP BURTON. Mr. Chairman, I have cleared this matter with the majority and minority, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The amendment was agreed to.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was infuriated to read in this morning's Washington Post that the FBI has been passing information about our colleague from Illinois (Mr. ROSTENKOWSKI) to intelligence operatives of the Polish Government.

I can certainly sympathize with Mr. ROSTENKOWSKI because my house in Colorado was broken into in 1972 by the FBI. The operative, Timothy Redfern, is in jail. Those who ordered him to do it remain free. In fact, one of them has a building in Washington named after him.

One of the most annoying aspects of disclosures of this sort is the fact that they take place so long after the abuse occurred. The single best way to assure prompt disclosure and correction of illegality, such as the reprehensible passing of information about Mr. ROSTENKOWSKI, is to protect employees who decide to disclose publicly wrongdoing. Whistleblowers in the FBI can expose and thereby prevent wrongdoing.

Last year, as part of the Civil Service Reform Act, Congress passed strong whistleblower protections for all Federal employees. The same, strong substantive rights are provided to FBI agents. Nevertheless, because the FBI had a temper tantrum during the conference on the bill, the Attorney General was instructed to issue his own regulations to protect FBI whistleblowers, rather than be subject to the general rules covering all other Federal employees. This requirement was signed into law last October 13, over a year ago.

Where are these regulations? They have not yet been promulgated. After a series of unsuccessful telephone attempts to dislodge these regulations last spring, I sent a letter to Attorney General Bell asking where they were. On June 4, Assistant Attorney General John Harmon wrote to say the release of these

regulations was imminent. I learned privately that the regulations were sent over to the White House on that day. And the regulations still have not been issued. They have been languishing over at the White House for over 4 months.

I want to publicly inform the administration today that I do not appreciate its ignoring of a clear instruction from the Congress for over a year. On an issue of this importance, and in view of the shocking revelations today, this delay is wholly inexcusable.

● Mr. FRENZEL. Mr. Chairman, H.R. 3303, the Justice Department authorization bill, was, according to the committee report, slightly over the President's budget and 7½ percent over the amount expended last year.

Since I believe that the President's budget, and the Congress too, is much higher than necessary. The $30 billion deficit which will result from either budget is too much.

Therefore, I must vote against the Justice Department authorization. I have no particular complaint with department's work, nor objections to particular programs. The problem is simply that we must cut somewhere, and I believe we should make cuts in most agency's spending.●

● Mr. McCLORY. Mr. Chairman, a communication from the Director of the FBI, William H. Webster, responds to four questions regarding funds and programs for domestic counterterrorism. Judge Webster's letter to my colleague, J. KENNETH ROBINSON and his detailed report on terrorism in the United States is attached to these remarks as follows:

JUNE 5, 1979.

Hon. J. KENNETH ROBINSON,
Permanent Select Committee on Intelligence, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN ROBINSON: Reference is made to your letter of May 24, 1979, which raises four questions regarding the FBI's Fiscal Year 1980 authorization for counterterrorism.

Enclosed is our response to your letter.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.

JUNE 5, 1979.

HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Reference is made to letter from Congressman J. Kenneth Robinson dated May 24, 1979.

In that letter, Congressman Robinson requested the FBI respond to four questions relating to appropriations for the Terrorism Program for Fiscal Year 1980.

The following is in response to those questions.

Would you please give us a brief overview of the terrorism situation in the United States and any changes that have taken place in the past few years?

The mobility and complexity of modern society is an ideal environment in which terrorism can flourish. The geographic diversity not only of those whose tactic is terrorism, but also those who are its victims, is illustrated by the terrorists attacks that have occurred. These include the armed takeover of the Chilean Consulate, San Juan, Puerto Rico, in July, 1978; the armed takeover of the West German Consulate in Chicago, Illinois, in August, 1978; and the theft, for nuclear extortion purposes, of Uranium from a plant in Wilmington, North Carolina, in January, 1979. Although the number of terrorist-related bombings has decreased to 52 in 1978, as compared to 100 in 1977, the number of injuries, deaths, and property damage remains high.

The deterrent nature of the preventive phase of this program, as well as the reactive phase of arrest and incarceration of terrorists, may well account for the decreased terrorist activity during 1978. It is axiomatic that this program, by its mere existence and success, will cause a decline in both investigative activity and related statistics concerning terrorism.

There perhaps has been in this area a change in emphasis from domestic terrorist groups to international terrorist groups activity in the United States. This is evidenced by a decline in domestic security investigations from 119 in December, 1977, to 52 in December, 1978. Investigative activity concerning international terrorism due to the recent events in the Middle East coupled with the rhetoric of Yasir Arafat, head of the Palestine Liberation Organization, seems to indicate a potential problem in the area of international terrorism in the United States. There are currently approximately 300 international terrorist investigations concerning the threat posed by individuals and groups in this area.

What initiatives are being taken by the Counter-terrorism Program to curtail terrorist activities in the United States?

The FBI's Terrorism Program efforts are directed toward strengthening the reactive capabilities of criminal-related terrorism matters with preparedness as an objective.

Because of the possibility of an increase in terrorist activities at international events, the FBI has begun planning and coordination of security measures for the 1979 Pan American Games to be held in San Juan, Puerto Rico. These operations include conferences on both the Headquarters and field office levels to ascertain possible problem areas in order to maintain an alert responsive posture for terrorist activities. Similar attention is being directed at the 1980 Winter Olympics in Lake Placid, New York, to ensure that terrorist groups do not use this occasion as a means to seek world notoriety for their causes. In this regard, the FBI is part of a Federal Coordinating Committee and is working closely with the New York State Police concerning law enforcement responsibility for this event. Preparations have involved not only periodic conferences at the field and Headquarters levels, but also specialized training for Special Agents at that location. During this event, the FBI will maintain a command center through which intelligence on terrorist groups can be disseminated.

Additionally, the FBI has established investigative initiatives in the area of anti-Tito terrorist activities. As a result of terrorist activities engaged in by Yugoslav emigre groups, which have involved force or violence and in some cases violations of Federal law, the investigative effort to successfully resolve these acts of terrorism is being coordinated by 15 FBI field offices having an active Yugoslav emigre population.

Because acts of terrorism committed by Yugoslav emigres have been directed at West German establishments, such as the recent takeover of the West German Consulate in Chicago, Illinois, in August, 1978, future violent activities may not be confined to Yugoslav establishments and personnel. The Yugoslav emigre terrorist movement is an international activity necessitating cooperation and exchange of information between the FBI and friendly foreign police agencies.

The result of these initiatives will be a coordinated effort to detect, identify, and prevent unlawful, violent activities of these Yugoslav emigres.

The Terrorism Program, through a multi-year plan for upcoming fiscal years, includes the exploration of a multi-nation coordinated effort to combat terrorism. In this regard, the FBI, through representatives of the Terrorism Program, has exchanged information concerning terrorism with friendly foreign intelligence services with the information being well received and reciprocal information furnished. Through this method of contact with foreign countries, as well as attendance at international conferences and symposiums, and the hosting of symposiums on terrorism at the FBI Academy, the lessons learned from terrorist actions throughout the world will be utilized to enhance the FBI's ability to deal with terrorist actions taking place in the United States. In this context, lessons learned in the United States will be shared with representatives of friendly governments to better their capabilities in dealing with terrorist incidents.

What functions are currently performed in the management direction area of the Counter-terrorism Program? How many Agents would be needed to carry out these functions?

The mission of the Terrorism Program is to manage the activities of the FBI as they relate to terrorism. The current composition of this program consists of:

The program Front Office managed by Mr. Sebastian S. Mignosa with an assistant. The Program Manager assures all aspects of investigative areas are thoroughly completed; ensures compliance with the Attorney General Guidelines for Domestic Security Investigations; and participates in numerous conferences, meetings, and seminars concerning terrorism with other Government agencies and friendly foreign services.

The Substantive and Civil Disorders Unit has program responsibility for nuclear extortion investigations, National Aeronautics and Space Act of 1958 investigations, civil disorders and demonstrations, domestic security investigations, Atomic Energy Act investigations, and Act For the Protection of Foreign Officials and Official Guests of the United States investigations. This Unit is responsible for management of preliminary, limited, and full domestic security investigations and with respect to that, is in frequent contact with the Investigation Review Unit of the Department of Justice concerning each of these investigations. Nuclear extortion matters involve frequent conferences with the Nuclear Regulatory Commission and and the Department of Energy, as well as participating as active members in the Department of Energy's Nuclear Emergency Search Team (NEST) Operations Committee, NEST Steering Committee, NEST Planning Committee, NEST Threat Credibility Assessment Group, and NEST Access Working Group. These NEST committees and working groups meet on a quarterly basis to discuss state-of-the-art developments concerning nuclear material and nuclear weapons and assess and evaluate various methods by which a nuclear threat, theft, diversion, or extortion may be successfully dealt with.

This Unit, in managing investigations of the Act For the Protection of Foreign Officials and Official Guests of the United States, has frequent contact with the U.S. Department of State, Central Intelligence Agency, and other Federal agencies, as Drug Enforcement Administration, concerning threats received or acts committed against foreign officials. As evidenced by the investigation into the bombing death of former Chilean Ambassador to the United States, Orlando Letelier, these investigations may be long-term, involving continuous daily review of investigative activity of more than a dozen field offices and coordinating investigative effort to achieve the investigative objective. This is an example of one supervisor being utilized exclusively to coordinate this complex, long-standing investigative matter.

The Bombing and Nationalist Unit is responsible for program management of investigations of Neutrality Matters, Puerto Rican Nationalist Matters, Anti-Castro Matters, Bomb Threats, Explosive and Incendiary Devices, and Antiriot Laws. Supervisors in this Unit are responsible for coordinating all investigative efforts concerning the violent anti-Castro Cuban exile groups, as well as the violent Puerto Rican groups. Also included are those groups which advocate a change in the Governmental system and seek to implement this change by violent activity.

The False Identity—Espionage-X Unit is responsible for management of investigations of Sedition, Passport and Visa Matters, Treason, Espionage-X, Sabotage, and False Identity Matters. This Unit is routinely in frequent contact with the Department of Justice concerning these sensitive investigations, as well as other Governmental agencies concerning elements of the violation or background of individuals who may be involved.

Also included in this program is the Terrorist Research and Bomb Data Unit, which provides up-to-date statistical and technical information and training to law enforcement agencies which have responsibilities of responding to and investigating cases involving improvised explosive devices. The Unit also maintains statistics on domestic terrorist incidents and conducts research regarding terrorist organizations in order to prepare bulletins concerning them. The Unit operates two programs, the FBI Bomb Data Center and the Terrorist Research Center.

The International Terrorist Unit is managed within the Terrorism Program, but for funding purposes, is funded by the Foreign Counterintelligence budget. This Unit is responsible for investigations of organizations and individuals according to the Attorney General Foreign Counterintelligence Guidelines and are designed to detect and prevent the occurrence of terrorist acts within the United States by members of foreign terrorist organizations or associates of foreign terrorist organizations. The Headquarters management direction complement for this Unit is derived from the Foreign Counterintelligence budget and therefore is not included in the Terrorism Program budgetary request.

The Terrorism Program has representatives who are active participants in the National Security Council/Special Coordinating Committee Working Group and Executive Groups To Combat Terrorism; the Critical Collection Problems Committee (chaired by the Central Intelligence Agency), the Steering Committee of the Federal Response Plan for Peacetime Nuclear Emergencies, the Nuclear Threat Credibility Assessment Project, and the Working Group on Unauthorized Disclosures of the Security Committee (under the direction of the Director of Central Intelligence).

During July, 1978, the FBI hosted an International Symposium on Terrorism at the FBI Academy which brought together experts from around the world to discuss their respective experiences and to identify the techniques of international terrorism.

Representatives from the Terrorism Program attended the International Conference on Terrorism at the International Institute for Scientific Research in West Berlin, Germany, which included representatives of free world law enforcement and intelligence agencies. Its purpose was to assess and analyze experiences and techniques in dealing with a terrorist incident and methods to prevent such incidents from occurring.

There also exists within the FBI, the Intra-Bureau Committee on Terrorism, which is comprised of representatives from the Intelligence and Criminal Investigative Divisions, as well as support divisions, such as Laboratory, Technical Services, Training, and Records Management Divisions. Its function is to discuss possible problems involved in dealing with a terrorist incident and the immediacy of response required should an incident occur. As a result of this Committee's efforts, the FBI has identified select individuals with specialties who can be immediately dispatched to the scene of a terrorist incident to provide assistance and support to the field investigative team managing the investigation. This group consists of representatives possessing expertise in communications, explosives, identification, hostage negotiations, and Special Weapons and Tactics specialists.

In addition to responsibility for items enumerated above, the management direction of the Terrorism Program supervises and reviews contingency plans for each of the 59 FBI field offices throughout the United States which are formulated to provide a timely and effective response to a terrorist incident.

Additionally, the program is responsible for FBI participation, coordination, and responsibilities of the VIII Pan American Games to be held in San Juan, Puerto Rico, in July, 1979, and the Winter Olympics to be held in February, 1980, in Lake Placid, New York. This involves numerous conferences, symposia, training, and liaison with police and other members of the Executive Committee that are concerned with these games.

Further, the program is responsible for the terrorism budget, Congressional inquiries concerning the budget, and numerous interrogatories concerning domestic security investigations. This program also replies to questions concerning terrorism from whatever source. In addition to these functions, during a crisis situation, for example, takeover of an embassy, a nuclear extortion, or situations of a similar magnitude, supervisors of the Terrorism Program immediately gather in the FBI Operations Center and act as the FBI Crisis Managers during these sessions.

In order to fulfill the two-pronged investigative effort consisting of the preventive phase, detection, identification, and collection of evidence for prosecution of terrorists and their groups; and the reactive phase consisting of coordinated preplanning to ensure an effective and timely response to a terrorist act through crisis management and intensive investigative effort, eighteen supervisory personnel for management direction are needed. The Fiscal Year 1980 budget for the Terrorism Program provides funds for nine supervisory personnel for management direction, which would severely curtail or eliminate most of the activities set forth above currently performed within this program.

To fulfill the mission of the Terrorism Program of responding in an effective and timely manner to terrorist incidents utilizing the two-pronged investigative effort of prevention and reaction, an additional nine Agents would be needed to adequately fulfill these functions. This would be a decrease of four Agents which were funded for Fiscal Year 1979 and would represent a reorganization of the Terrorism Program to ensure the United States Government being in a position to respond to terrorist acts efficiently and effectively and to anticipate occurrence of these acts to preclude disruption of the functioning of all levels of Government, prevention of civil disorders, and possible loss of life.

Could funds for these Agents be obtained by reprogramming resources within the Bureau without doing irreparable harm to other important programs such as Organized Crime, White Collar Crime, or Foreign Counterintelligence?

Since additional funding was specifically sought for the priority areas of Foreign Counterintelligence, Organized Crime, and White-Collar Crime and approved for those areas, it would not be feasible to reallocate resources from those programs without affecting the overall program objectives of those priority areas.●

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly the committee rose; and the Speaker having assumed the chair, Mr. WHITE, chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 3303), to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes, pursuant to House Resolution 319, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, as amended, adopted by the Committee of the Whole. If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 386, nays 24, not voting 23, as follows:

[Roll No. 570]

YEAS—386

Abdnor	Bellenson	Buchanan
Akaka	Benjamin	Burgener
Albosta	Bennett	Burlison
Alexander	Bereuter	Burton, John
Ambro	Bethune	Burton, Phillip
Anderson, Calif.	Bevill	Butler
	Biaggi	Byron
Andrews, N. Dak.	Bingham	Campbell
	Blanchard	Carney
Annunzio	Boggs	Carr
Anthony	Boland	Carter
Applegate	Bolling	Cavanaugh
Archer	Bonor	Chappell
Ashbrook	Bonior	Cheney
Ashley	Bonker	Clausen
Aspin	Bouquard	Clay
Atkinson	Bowen	Cleveland
AuCoin	Brademas	Clinger
Badham	Breaux	Coelho
Bailey	Brinkley	Coleman
Baldus	Brodhead	Conte
Barnard	Brooks	Corcoran
Barnes	Broomfield	Corman
Beard, R.I.	Brown, Calif.	Cotter
Beard, Tenn.	Brown, Ohio	Coughlin
Bedell	Broyhill	Courter

Crane, Daniel	Hutto	Pursell
D'Amours	Hyde	Quayle
Daniel, Dan	Ichord	Quillen
Daniel, R. W.	Ireland	Rahall
Danielson	Jacobs	Railsback
Daschle	Jeffords	Rangel
Davis, Mich.	Jeffries	Ratchford
Davis, S.C.	Jenkins	Regula
de la Garza	Johnson, Calif.	Reuss
Deckard	Johnson, Colo.	Rhodes
Dellums	Jones, Tenn.	Richmond
Derrick	Kastenmeier	Rinaldo
Derwinski	Kazen	Ritter
Dickinson	Kemp	Roberts
Dicks	Kildee	Robinson
Diggs	Kindness	Rodino
Dingell	Kogovsek	Roe
Dixon	Kostmayer	Rose
Dodd	Kramer	Roth
Donnelly	LaFalce	Roussselot
Dougherty	Lagomarsino	Roybal
Downey	Latta	Royer
Drinan	Leach, Iowa	Rudd
Duncan, Tenn.	Lederer	Runnels
Early	Lehman	Sabo
Eckhardt	Leland	Santini
Edwards, Ala.	Lent	Sawyer
Edwards, Calif.	Levitas	Scheuer
Edwards, Okla.	Lewis	Schroeder
Emery	Livingston	Schulze
English	Lloyd	Sebelius
Erdahl	Loeffler	Selberling
Erlenborn	Long, La.	Sensenbrenner
Ertel	Long, Md.	Shannon
Evans, Del.	Lott	Sharp
Evans, Ga.	Lowry	Shelby
Evans, Ind.	Lujan	Shumway
Fary	Luken	Simon
Fascell	Lundine	Skelton
Fazio	Lungren	Slack
Ferraro	McClory	Smith, Iowa
Findley	McCloskey	Smith, Nebr.
Fish	McCormack	Snowe
Fisher	McDade	Snyder
Fithian	McEwen	Solarz
Flippo	McHugh	Solomon
Florio	McKay	Spellman
Foley	McKinney	Spence
Ford, Mich.	Madigan	St Germain
Ford, Tenn.	Maguire	Stack
Forsythe	Markey	Staggers
Fountain	Marks	Stangeland
Fowler	Marlenee	Stanton
Frost	Marriott	Stark
Fuqua	Martin	Steed
Garcia	Mathis	Stenholm
Gaydos	Matsui	Stewart
Gephardt	Mattox	Stockman
Gialmo	Mavroules	Stokes
Gibbons	Mazzoli	Stratton
Gilman	Mica	Studds
Gingrich	Michel	Stump
Ginn	Mikulski	Swift
Glickman	Miller, Calif.	Synar
Goldwater	Miller, Ohio	Tauke
Goodling	Mineta	Taylor
Gore	Minish	Thomas
Gradison	Mitchell, Md.	Thompson
Gramm	Mitchell, N.Y.	Traxler
Grassley	Moakley	Trible
Gray	Moffett	Udall
Green	Mollohan	Ullman
Grisham	Montgomery	Van Deerlin
Guarini	Moore	Vander Jagt
Gudger	Moorhead, Calif.	Vento
Guyer	Moorhead, Pa.	Volkmer
Hagedorn	Murphy, Ill.	Walgren
Hall, Ohio	Murphy, Pa.	Walker
Hall, Tex.	Murtha	Wampler
Hamilton	Myers, Ind.	Waxman
Hammer-schmidt	Myers, Pa.	Weaver
Hance	Natcher	Weiss
Hanley	Neal	White
Harkin	Nedzi	Whitehurst
Harris	Nelson	Whitley
Harsha	Nichols	Whittaker
Hawkins	Nolan	Whitten
Heckler	Nowak	Williams, Mont.
Hefner	Oakar	Williams, Ohio
Heftel	Oberstar	Wilson, Bob
Hightower	Obey	Wilson, Tex.
Hillis	Ottinger	Wirth
Hinson	Panetta	Wolff
Holland	Patterson	Wolpe
Hollenbeck	Pease	Wright
Holt	Pepper	Wyatt
Holtzman	Perkins	Wydler
Hopkins	Petri	Yates
Horton	Peyser	Yatron
Howard	Pickle	Young, Alaska
Hubbard	Preyer	Young, Fla.
Huckaby	Price	Young, Mo.
Hughes	Pritchard	Zablocki
		Zeferetti

NAYS—24

Bafalis	Fenwick	Lee
Bauman	Frenzel	McDonald
Collins, Tex.	Gonzalez	Mottl
Conable	Hansen	Pashayan
Crane, Philip	Jenrette	Paul
Dannemeyer	Jones, Okla.	Satterfield
Devine	Kelly	Symms
Dornan	Leath, Tex.	Watkins

NOT VOTING—23

Addabbo	Flood	Russo
Anderson, Ill.	Jones, N.C.	Shuster
Andrews, N.C.	Leach, La.	Treen
Chisholm	Murphy, N.Y.	Vanik
Collins, Ill.	O'Brien	Wilson, C. H.
Conyers	Patten	Winn
Duncan, Oreg.	Rosenthal	Wylie
Edgar	Rostenkowski	

□ 1520

The Clerk announced the following pairs:

Until further notice:

Mr. Rostenkowski with Mr. Winn.

Mr. Rosenthal with Mr. O'Brien.

Mr. Vanik with Mr. Andrews of North Carolina.

Mr. Murphy of New York with Mr. Shuster.

Mr. Charles H. Wilson of California with Mr. Wylie.

Mr. Russo with Mr. Jones of North Carolina.

Mr. Patten with Mr. Duncan of Oregon.

Mr. Conyers with Mr. Edgar.

Mrs. Collins of Illinois with Mrs. Chisholm.

Mr. Addabbo with Mr. Anderson of Illinois.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. RODINO. Mr. Speaker, pursuant to the provisions of House Resolution 319, I call up from the Speaker's table the Senate bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. RODINO

Mr. RODINO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RODINO moves to strike out all after the enacting clause of the Senate bill, S. 1157, and to insert in lieu thereof the provisions of the bill, H.R. 3303, as passed, as follows:

That this Act may be cited as the "Department of Justice Appropriation Authorization Administration Act, Fiscal Year 1980".

SEC. 2. There are authorized to be appropriated for the fiscal year ending September 30, 1980, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following amounts:

(1) For General Administration, including hire of passenger motor vehicles, and miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration: $33,168,000.

(2) For the United States Parole Commission, including the hire of passenger motor vehicles: $5,555,000.

(3) For General Legal Activities, including—

(A) the hire of passenger motor vehicles;

(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;

(C) not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate;

(D) advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529);

(E) pay for necessary accommodations in the District of Columbia for conferences and training activities; and

(F) not to exceed $105,000 which may be transferred from the "Alien Property Funds, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia:

$106,267,000, of which $3,000,000 shall be made available for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(4) For the Antitrust Division, consumer protection and kindred laws: $46,915,000.

(5) For United States Attorneys, Marshals, and Trustees, including—

(A) purchase of firearms and ammunition;

(B) lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(C) supervision of United States prisoners in non-Federal institutions;

(D) bringing to the United States from foreign countries persons charged with crime; and

(E) acquisition, lease, maintenance and operation of aircraft $242,573,000.

(6) For Support of United States Prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a): $25,100,000.

(7) For Fees and Expenses of Witnesses, including expenses, mileage, compensation, and per diems of witnesses in lieu of subsistence, as authorized by law; including advances of public moneys: $27,052,000, but no sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one calendar day.

(8) For the Community Relations Service: $5,428,000.

(9) For the Federal Bureau of Investigation for—

(A) expenses necessary for the detection, investigation, and prosecution of crimes against the United States;

(B) protection of the person of the President of the United States and the person of the Attorney General;

(C) acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies;

(D) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General;

(E) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(F) acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; payment of rewards; and

(G) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157

and 1160), under regulations prescribed by the Secretary of State; and

(H) not to exceed $12,100,000 to counter terrorism in the United States; and

(I) not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for solely on his certificate:

$584,408,000, but, in addition to this amount reimbursement received from the Committee on Appropriations, House of Representatives, and the Committee on Appropriations, United States Senate, for the assignment of investigative and support staff or other assistance may be credited to this amount and none of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall classify the offense of arson as a part I crime in its Uniform Crime Reports.

(10) For the Immigration and Naturalization Service, for expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including—

(A) advance of cash to aliens for meals and lodging while en route;

(B) payment of allowances to aliens, while held in custody under the immigration laws, for work performed;

(C) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies;

(D) payment of rewards;

(E) not to exceed $80,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate;

(F) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(G) acquisition, lease, maintenance, and operation of aircraft;

(H) firearms and ammunition and attendance at firearms matches;

(I) operation, maintenance, remodeling and repair of buildings, and the purchase of equipment incident thereto;

(J) refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money;

(K) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens;

(L) acquisition of land as sites for enforcement fence and construction incident to such fence;

(M) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157, and 1160) under regulations prescribed by the Secretary of State; and

(N) research related to immigration enforcement which shall remain available until expended:

$319,386,000, of which $2,100,000 shall be made available to redesign, update, and maintain the nonimmigrant control system applicable to arrival and departure of aliens in and from the United States, $5,000,000 shall be made available to install fully automated systems for processing and recordkeeping in District offices, and not to exceed $50,000 may be used for the emergency replacement of aircraft upon the certificate of the Attorney General.

(11) For the Drug Enforcement Administration for its activities, including—

(A) hiring and acquiring law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(B) paying in advance for special tests and studies by contract;

(C) paying in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act (21 U.S.C. 873(a)(2));

(D) paying expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate;

(E) paying rewards;

(F) paying for publication of technical and informational material in professional and trade journals; purchase chemicals, apparatus, and scientific equipment;

(G) paying for necessary accommodations in the District of Columbia for conferences and training activities;

(H) acquiring, leasing, maintaining, and operating aircraft;

(I) research related to enforcement and drug control to remain available until expended;

(J) contracting with individuals for personal services abroad, and such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;

(K) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157, and 1160), under regulations prescribed by the Secretary of State; and

(L) paying for firearms and ammunition and attendance at firearms matches:

$202,366,000, including such sums as are authorized by section 709(a) of the Controlled Substances Act (21 U.S.C. 904(a)), for the fiscal year ending September 30, 1980.

(12) For the Federal Prison System: $344,011,000, including the following:

(A)(i) For the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions;

(ii) purchase and hire of law enforcement and passenger motor vehicles;

(iii) compilation of statistics relating to prisoners in Federal penal and correctional institutions;

(iv) assistance to State and local governments to improve their correctional systems;

(v) purchase of firearms and ammunition; medals and other awards;

(vi) payment of rewards;

(vii) purchase and exchange of farm products and livestock;

(viii) construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18 of the United States Code; and

(ix) transfer to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

(B) For Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Control Corporation Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles.

(C)(i) For planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this clause.

(ii) The Attorney General shall take such steps as may be necessary to acquire or to construct, in Los Angeles County, California, a Federal detention facility.

(iii) In addition to any other sums that are authorized to be appropriated by this Act, there are authorized to be appropriated $2,600,000 for planning and site acquisition to carry out clause (ii).

(D) For carrying out the provisions of sections 4351 through 4353 of title 18 of the United States Code, which establishes a National Institute of Corrections, to remain available until expended.

SEC. 3. None of the sums authorized to be appropriated by this Act may be used to pay the compensation of any person employed after the date of the enactment of this Act as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

SEC. 4. (a) Such sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

(b) Sums authorized to be appropriated by this Act may be used for the purchase of insurance for motor vehicles and aircraft operated in official Government business in foreign countries.

(c) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5 of the United States Code.

(d) Sums authorized to be appropriated by this Act to the Department of Justice may be used for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

(e) Sums authorized to be appropriated by this Act may be used for—

(1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at costs not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

(2) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

(f) There are authorized to be appropriated for the fiscal year ending September 30, 1980, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

(g) Sums authorized to be appropriated for "Salaries and expenses, General Administration", "Salaries and expenses, United States Attorneys, and Marshals", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Bureau of Prisons" may be used for uniforms and allowances as author-

ised by sections 5901 and 5902 of title 5 of the United States Code.

(h) The first sentence of section 5924 (4)(B) of title 5, United States Code, is amended by striking out "or the United States Information Agency," and inserting in lieu thereof the following: ", the International Communications Agency or the Department of Justice."

SEC. 5. Section 5315(19) of title 5 of the United States Code, is amended to read as follows:

"(19) Assistant Attorneys General (10).".

SEC. 6. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until, but not later than, the end of the fiscal year ending September 30, 1980. Any dissemination by the Federal Bureau of Investigation of identification and other records to a financial institution chartered or insured by the Federal Government shall be on a cost reimbursed basis.

SEC. 7. With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "MISCELLANEOUS" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521); and

(3) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Associate Director) and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

SEC. 8. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committees on the Judiciary, of the House of Representatives and the Senate, and other appropriate committees, and the ranking minority members thereof, a minimum of 15 days before—

(1) reprograming of funds in excess of $250,000 or 10 percent, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) reprograming of funds in excess of $500,000 or 2 percent, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted;

(5) creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; and

(7) significant relocation of offices or employees.

SEC. 9. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organization's programs, as determined by priorities set either by the Congress or the Attorney General.

(b) The evaluations shall be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials shall provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, documentation, and cognizant personnel, as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives, and other appropriate committees.

(e) If the Committee on the Judiciary of either the Senate or the House of Representatives requests the Attorney General to perform an evaluation of the sort described in subsection (a) of this section, the Attorney General shall make the evaluation requested and provide such evaluation to the committee making the request not later than 60 days after the date the request is made, but the committee making the request may extend the time for providing such evaluation.

SEC. 10. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $5,748,770 to improve the quality of medical services within the system.

SEC. 11. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $30,000 to improve the quality of legal services within the system.

SEC. 12. (a) On or before September 1, 1980, the Attorney General shall submit to Congress—

(1) a plan to assure the closure of the United States Penitentiary at Atlanta, Georgia, by September 1, 1984; and

(2) a plan to alter the function of the United States Penitentiary at Leavenworth, Kansas, to that of a modern correctional institution capable of housing not more than 500 prisoners by September 1, 1985.

(b) The plan prepared under this section shall prohibit the use of the United States Penitentiary at Atlanta, Georgia, as a correctional institution by a State or political subdivision after the closure of the institution by the Federal Government.

SEC. 13. (a) In order to create an independent and objective unit—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Immigration and Naturalization Service,

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations, and

(3) to provide a means for keeping the Commissioner of the Immigration and Naturalization Service and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action there is hereby established in the Immigration and Naturalization Service of the Department of Justice an Office of Inspector General (hereinafter in this section referred to as "the Office").

(b)(1)(A) There shall be at the head of the Office an Inspector General (hereinafter in this section referred to as "the Inspector General") who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to and be under the general supervision of the Commissioner, who shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(B) The President shall first submit to the Senate a nomination for the position of the Inspector General not later than 90 days after the date of the enactment of this Act.

(2) The Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(3) For the purposes of section 7324 of title 5 of the United States Code, the Inspector General shall not be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(4) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(A) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the Service, and

(B) appoint an Assistant Inspector General for Investigations who shall have the responsibility for the performance of investigative activities relating to such programs and operations.

(c) The following provisions of the Inspector General Act of 1978 (Public Law 95-452) shall apply to the Inspector General, the Office, the Commissioner, and the Service under this section in the same manner as those provisions apply to an Inspector General, an Office, the head of the establishment, and an establishment under such Act:

(1) Section 4 (relating to duties and responsibilities of an Inspector General and the manner in which they are carried out).

(2) Section 5 (relating to reports required to be prepared and furnished by or to an

Inspector General and their transmittal and availability).

(3) Section 6 (relating to the authority of an Inspector General and related administrative provisions).

(4) Section 7 (relating to the treatment of employee complaints by an Inspector General).

(d)(1) There shall be transferred to the Office—

(A) the offices of the Service referred to as the "Office of Professional Responsibility", the "Office of Performance Review", and

(B) such other offices or agencies, or functions, powers, or duties thereof, of the Service as the Commissioner may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this section;

except that there shall not be transferred to the Inspector General under subparagraph (B) program operating responsibilities.

(2) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under paragraph (1) are hereby transferred to the Office.

(3) Personnel transferred pursuant to paragraph (2) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(4) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to paragraph (1), such office or agency shall lapse. Any person, who, on the effective date of this section, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

(e) For purposes of this section:

(1) The term "Service" means the Immigration and Naturalization Service.

(2) The term "Department" means the Department of Justice.

(3) The term "Commissioner" means the Commissioner of Immigration and Naturalization.

(f) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(152) Inspector General, Immigration and Naturalization Service".

(g) The provisions of this section and the amendment made by subsection (f) of this section shall take effect on the date of the enactment of this Act.

(h) In addition to any other sums authorized to be appropriated by this Act, there are authorized to be appropriated $376,000 to carry out this section.

SEC. 14. The Attorney General shall make arrangements with an appropriate entity for an independent, comprehensive management analysis of the operations of the Immigration and Naturalization Service for the purpose of making such operations efficient and cost effective. After the completion of such analysis, the Attorney General shall promptly submit a report to the appropriate committees of Congress on the results of such analysis together with any administrative or legislative recommendations of the Attorney General to improve the operations of the Service.

SEC. 15. (a) The Attorney General shall, during the fiscal year for which appropriations are authorized by this Act, transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If, during the fiscal year for which appropriations are authorized by this Act, the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

SEC. 16. (a) Section 709(a) of the Controlled Substances Act (21 U.S.C. 904) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1979," the following: "and $202,366,000 for the fiscal year ending September 30, 1980,".

(b)(1) Section 709 of such Act is amended by adding after subsection (b) the following new subsection:

"(c) In carrying out its functions under this title, the Drug Enforcement Administration may pay tort claims, in the manner authorized by section 2672 of title 28, United States Code, when such claims arise in foreign countries in connection with Drug Enforcement Administration operations abroad."

(2) Section 511(d) of such Act (21 U.S.C. 881(d)) is amended by (A) by striking out "All provisions" and inserting in lieu thereof "The provisions", and (B) by striking out "and the award of compensation to informers in respect of such forfeitures"

(c)(1) Paragraph (4) of section 102 of such Act (21 U.S.C. 802(4)) is amended to read as follows:

"(4) The term 'Drug Enforcement Administration' means the Drug Enforcement Administration in the Department of Justice.".

(2) Sections 508 and 516 of such Act (21 U.S.C 878, 886) are each amended by striking out "Bureau of Narcotics and Dangerous Drugs" each place it occurs and inserting in lieu thereof "Drug Enforcement Administration".

(3) Section 513 of such Act (21 U.S.C. 883) is amended (A) by striking out "Director of the Bureau of Narcotics and Dangerous Drugs" and inserting in lieu thereof "Administrator of the Drug Enforcement Administration", and (B) by striking out "Director may" and insertang in lieu thereof "Administrator may".

SEC. 17. The National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to use funds, and to authorize States to use funds, for programs, projects or events devoted to the international aspects of crime prevention and criminal justice.

(b) Notwithstanding any other provision of law, the State of California is authorized to utilize the proceeds of block grants awarded during fiscal year 1979 or fiscal years previous thereto to fund the 1980 Congress on the Prevention of Crime and Treatment of Offenders.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3303) was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the bill just passed, H.R. 3303.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON HUMAN RESOURCES OF COMMITTEE ON EDUCATION AND LABOR TO MEET DURING 5-MINUTE RULE

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Human Resources of the Committee on Education and Labor be permitted to sit during the 5-minute rule proceedings.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us why we need to do this?

Mr. HARRIS. If the gentleman will yield, I would be pleased to do so. Both the minority and majority have been working and have held hearings on the bill. We do want to get started and had planned to get started on markup on legislation, and we want to sit tomorrow morning.

Mr. ROUSSELOT. Is it for hearings only?

Mr. HARRIS. No, it is not. We will be proceeding on markup on this legislation.

Mr. ROUSSELOT. Can the gentleman guarantee that no other legislation will be brought up?

Mr. HARRIS. I certainly can. I will be pleased to do so.

Mr. ROUSSELOT. The gentleman has consulted with the minority, and it is agreeable to them?

Mr. HARRIS. Yes, we have been working closely with the minority. This is just on the subcommittee.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

EXTENSION OF ALCOHOLISM AND DRUG ABUSE PREVENTION PROGRAMS

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3916) to extend for one fiscal year the current authorization of appropriations for programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3916, with Mrs. SCHROEDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 15, 1979, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 3916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 301 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4571) is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each of the fiscal years ending September 30, 1979, and September 30, 1980".

(b) Section 310(a) of such Act (42 U.S.C. 4574) is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(c) Section 312 of such Act (42 U.S.C. 4578) is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each of the fiscal years ending September 30, 1979, and September 30, 1980".

(d) Section 503 of such Act (42 U.S.C. 4587) is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each of the fiscal years ending September 30, 1979, and September 30, 1980".

(e) Subsection (c) of section 504 of such Act (42 U.S.C. 4588(c)) is amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "three succeeding fiscal years".

(f)(1) Section 303(a)(3) of such Act (42 U.S.C. 4573(a)(3)) is amended by inserting "and women and the elderly" after "minority and poverty groups".

(2) Section 303(a)(4)(B) of such Act is amended by inserting ", by the elderly," after "by women".

(3) Paragraph (4) of section 311(c)(4) of such Act (42 U.S.C. 4577(c)(4)) is amended to read as follows:

"(d) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects for the prevention and treatment of—

"(1) alcohol abuse and alcoholism by women,

"(2) alcohol abuse and alcoholism by the elderly and

"(3) alcohol abuse and alcoholism by individuals under the age of eighteen.".

(g) Title VI of such Act is amended by adding at the end the following new section:

"SEC. 604. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

SEC. 2. (a) Section 409(a) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(a)) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1979," the following: "and September 30, 1980,".

(b) Section 410(b) of such Act (21 U.S.C. 1177(b)) is amended by adding at the end the following: "For the fiscal year ending September 30, 1980, there is authorized to be appropriated $137,000,000 for grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs and $24,000,000 for grants and contracts under such subsection for other programs and activities. At least 10 per centum of the funds appropriated under the preceding sentence shall be obligated for grants and contracts for primary prevention programs.".

(c) Section 503 of such Act (21 U.S.C. 1193) is amended (1) by striking out "(a)", and (2) by striking out subsection (b).

(d)(1) Section 409(e)(3) of such Act is amended by inserting "(including women and the elderly)" after "population groups".

(2) Section 409(e)(5)(B) of such Act is amended by inserting ", by the elderly," after "by women".

(3) Subsection (d) of section 410 of such Act is amended to read as follows:

"(d) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects for the prevention and treatment of—

"(1) drug abuse and drug dependence by women,

"(2) drug abuse and drug dependence by the elderly, and

"(3) drug abuse and drug dependence by individuals under the age of eighteen.".

(e) Within sixty days of the date of the enactment of this Act the Director of the National Institute on Drug Abuse shall report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

(1) the number of grants and contracts made or entered into by the Director before such date of enactment for research which was not completed before April 1, 1979,

(2) the identity of the persons who received such grants and contracts,

(3) the amount of funds authorized to be paid under each such grant and contract and the amount of funds expended by the recipient of each such grant and contract by such date of enactment,

(4) the purpose of the research project funded under each such grant and contract, and

(5) the progress made in each such research project by such date of enactment.

(f)(1) Title IV of such Act is amended by adding at the end the following new section:

"§ 414. Contract authority

"The authority of the Secretary to enter into contracts under this title and title V shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

(2) The table of sections of such title IV is amended by adding at the end the following new item:

"414. Contract authority.".

□ 1530

Mr. WAXMAN (during the reading). Madam Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 8, strike out "(d)" and insert in lieu thereof "(4)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

Mr. WAXMAN. Madam Chairman, I ask unanimous consent that the remaining committee amendments be considered en bloc, considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The remaining committee amendments are as follows:

Page 3, line 12, strike out "(1)" and insert in lieu thereof "(A)".

Page 3, line 13 strike out "(2)" and insert in lieu thereof "(B)".

Page 3, line 15, strike out "(3)" and insert in lieu thereof "(C)".

The committee amendments were agreed to.

Mr. FLORIO. Madam Chairman, I rise in support of the reauthorization of alcoholism and drug abuse prevention and treatment programs as an important step in recognition of this enormous problem in our society.

I have a particular interest in the alcoholism sections in this bill and in its companion legislation, S. 440.

As you know, in 1976 I authored in this House the section of the bill that permits the creation of the National Alcohol Research Centers under section 504 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 as amended. I introduced the provision creating the National Alcohol Research Centers because I believed that there was a need for a concentrated research effort to determine the causes of alcohol problems and to provide empirical data that would be helpful to reduce the incidence and prevalence of alcohol problems. The need for such research is no less today than it was in 1976. To be sure recently the President's Mental Health Commission recognized in its report the need for increased funding for research on alcoholism and alcohol problems. I am concerned, Madam Chairman, that the bill which we take up today, H.R. 3916, will not permit needed increases in appropriations for the National Alcohol Research Centers.

Madam Chairman, I would like to take a moment to tell you of my visit last year to the Rutgers University Center of Alcohol Studies, which has been designated a National Alcohol Research Center. I was profoundly impressed by the research effort that is going on at Rutgers and by the quality and character of the scientists who are making this research their lives. This sort of research which I

witnessed firsthand at Rutgers, but which is also taking place in each of the other eight National Alcohol Research Centers, is basic to our understanding and preventing alcoholism which the Secretary of HEW recently reported as costing our society more than $43 billion a year.

In his 1978 report to Congress on alcohol and health, Secretary Califano stated:

Continued research is essential not only for a better understanding of the processes leading to alcoholism, but also to enable us to provide better treatment and more effective approaches to prevention.

I firmly believe the Secretary is correct.

There are 10 million alcoholics and problem drinkers and many millions who suffer because of the alcohol problems of others. I recognize that most persons who drink experience few or no problems, but I also recognize that the human and economic costs from alcoholism and alcohol abuse must be reduced. Unfortunately, we neglected alcoholism as an illness until recently and consequently at this time, we know less about the causes, effective prevention, and treatment of alcoholism than we do about the causes, prevention, and treatment of most major illnesses.

The National Alcohol Research Centers are a central part of our Government's commitment to reduce the incidence of alcoholism and alcohol abuse and deserve our support. The funds allocated to the research centers are supporting essential research in such areas as the social, cultural, psychic, and genetic factors related to problem drinking; the effects of alcohol on the central nervous system; alcohol metabolism and liver disease; treatment outcome prediction; and formal responses to drinking problems related to prevention and treatment.

It is my hope that the conference committee will give favorable consideration to the $9 million authorization level contained in S. 440 in order to provide adequate support for the nine multidisciplinary alcohol research centers designated by the National Institute on Alcohol Abuse and Alcoholism.

Another matter which I am concerned with relates to the renewal period contained in H.R. 3916. It is extremely important for the continuity of emerging programs at all levels of government and in the private sector that the Federal Government maintain a clear focus on alcohol problems through a separate institute with assured longevity and, therefore, the renewal period for the National Institute on Alcohol Abuse and Alcoholism should be 3 years.

On a related topic, it has come to my attention that Secretary Califano and also the Bureau of Alcohol, Tobacco and Firearms began productive dialogs with representatives of the alcohol beverage industry concerning industry programs to discourage alcohol abuse. I applaud these initiatives and I am encouraged by what appears to be a positive response from the alcohol beverage industry. I hope that Secretary Harris will continue this important cooperation with the industry.

Mr. COLLINS of Texas. Madam Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. COLLINS of Texas: Page 3, line 18, strike out "section" and insert in lieu thereof "sections"; strike out the close quotation marks and the period following in line 22 on that page; and add after line 22 the following:

"SEC. 605. No funds provided under this Act may be used to pay the compensation of any individual who illegally uses or possesses any controlled substance (as defined in section 102(6) of the Controlled Substances Act).".

Page 6, line 4, strike out "section" and insert in lieu thereof "sections"; strike out the close quotation marks and the period following in line 9 on that page; and add after line 9 the following:

"§ 415. Use of funds

No funds provided under this title may be used to pay the compensation of any individual who illegally uses or possesses any controlled substance (as defined in section 102(6) of the Controlled Substances Act.)".

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. COLLINS of Texas. Madam Chairman, both of these amendments are identical. One applies to the alcohol section and one applies to the drug section.

Madam Chairman, the purpose of my amendment is to provide that any staff personnel associated with the Public Health Service in the Alcohol Drug Abuse and Mental Health Administration shall not use drugs. The amendment covers all Department employees in this bill. It states that individuals may not illicitly use or possess any controlled substance.

The Drug Enforcement Agency already has this rule applying to all of the people who work in its operation. Anyone that comes with the Drug Enforcement Agency knows that they must not use drugs in any form and to do so is grounds for dismissal.

I was surprised to learn that in the Alcohol Drug Abuse and Mental Health Administration the management makes it a policy to never question employees concerning personal use of illicit drugs. They also abide by the civil service regulations which state that the use of controlled substances would not result in automatic disqualification of Federal employees.

Controlled substances are clearly defined in section 102 of 21 U.S.C. 802. The people working in this Department know what a drug is according to this terminology.

In hearings last year before the Oversight and Investigations Subcommittee of the Interstate and Foreign Commerce Committee, I questioned Dr. Dupont. This testimony made it abundantly clear that they do not ask if a person uses drugs. Dr. Dupont's view was that this is a question of people's private lives and that the NIDA follows all civil service procedures for questions that are asked of prospective or current employees.

To confirm this view I received a letter from Dr. Gerald Klerman back in October of 1978 where he specifically stated that this agency has never made it a policy to question employees concerning personal use of illicit drugs, and he quoted their position in regard to civil service.

He did not actually know, nor did he plan to find out, whether any of their employees used such controlled substances.

What this amendment requires is that people who are dedicated to removing the drug problem from America do not use drugs in their personal lives. How can a person be critical of drugs if he participates and uses them himself in his daily life? There is even an incentive to arrange through prescription or other means to secure special drugs and to benefit by being in this particular Department.

This does not limit private lives, because if a person feels obligated to use drugs in their daily lives, they have access to work in most of the departments in the Federal Government. We know that the DEA does not allow drugs at this time. We know that President Carter does not allow drug use in the executive department. As far as I know, all of the Members of Congress completely abstain from the use of drugs in their daily lives.

It certainly seems reasonable and most appropriate that we specify in this law that we are not going to have any drug users running the business of the drug department. In the past 10 years, drugs have been the greatest challenge to our normal society. More drugs are sold, more drugs are trafficked. Drugs bring teenagers into crime, and the record of this drug abuse section during the past 6 years has not been outstanding in eliminating or reducing America's drug problem.

I believe it will be a much stronger department when we have dedicated people who are fully cognizant of the dangers of drugs. It will be a greater department when we have people who are dedicated to removing drugs from the lives of so many Americans. I am certain there are only a few who use drugs in this Department at this time. To remove drugs from America we must provide the best example through the exemplary leadership of the people working in the Alcohol Drug Abuse and Mental Health Administration.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WAXMAN, and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 5 additional minutes.)

Mr. WAXMAN. Madam Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding. This is the first time I have had an opportunity to be aware of this amendment. I was trying to listen to the gentleman's justification for it, and it raises some questions in my mind which I would like to address to him. How would the gentleman propose that NIAAA or NIDA administer this provision?

Mr. COLLINS of Texas. What I would do is when I hired an employee if I man-

aged this section, I would do what I do when I hire an employee in my own office. I am not subject to Civil Service, but I ask each applicant. I ask people, "Do you use drugs in any form? Do you plan to use drugs in any form? Do you possess drugs in any form?" That is all I do. I just ask them, but so far on my staff I have not had anyone answer affirmatively. What I am proposing in this is when the applicant comes in the door, they should ask them, and then periodically they should ask them again because we do not want people working in the section who use drugs. This is going to be a judgment decision for the administrator.

Mr. WAXMAN. Who would ask them this question? And if they answer it in the affirmative, then would we expect that they would no longer be employed or would no longer receive funds pursuant to this act.

Mr. COLLINS of Texas. That is right. They would not work in this section. That would not mean they could not work for the Government elsewhere.

□ 1540

Mr. WAXMAN. You state that you want to deny funds to individuals who illegally use or possess any controlled substance. Would not a finding of illegal use require a conviction by a court? You mentioned the case out in California where a judge has been accused of possession of marihuana and cocaine. No one could conclude because of the accusation that he, in fact, is guilty of that crime until there has been a finding by a court that he, in fact, has committed a crime. Would the gentleman require a conviction before anyone would forfeit compensation under this act?

Mr. COLLINS of Texas. No, I would not require a conviction and for this reason. I believe people who have been drug users, who may have served time, yet never plan to use drugs again, can be very effective in helping others to rehabilitate.

The fact that someone has been convicted would not apply.

I will tell the gentleman what I would do. Under the provisions of this amendment, as the administrator, I would ask everyone under oath, which I think is most reasonable to do: "Do you take drugs, do you possess drugs?" I would just let him answer it under oath. That is no conviction. That is something else.

Mr. WAXMAN. What if the applicant for employment refused to take that oath and took the fifth amendment, which I think is a perfectly appropriate position for an individual to take, where he refuses to incriminate himself. Would the gentleman deny him employment?

Mr. COLLINS of Texas. He is not taking the fifth under this. We are making the law plain that this is a provision of the job. This is a qualification of the job.

They do this in DEA, Drug Enforcement Administration. They are requiring this right now.

Mr. WAXMAN. They do?

Mr. COLLINS of Texas. That is right. They are requiring this right now. They had a person at home who took marihuana and he objected and said he should not be dismissed and it was held he could be dismissed.

The President of the United States has said he is not going to tolerate drug use in the White House. The decision is with the administrative head, the administrator of the department will make the decision. When he decides the person is taking drugs or that he possesses drugs, and the possession of drugs is much more definite. In other words, usually I have found that the conviction comes from the possession.

Mr. WAXMAN. Would the gentleman also want to include, since this includes the alcoholism program, the possession and use of alcohol by people who work for the alcoholism program?

Mr. COLLINS of Texas. I did not include alcohol, although I would be very inclined to because I do not believe they ought to be drinking alcohol either. I am also including the people in the alcohol program, for everybody up there, they ought not to use drugs. On this issue there can be no middle ground. They cannot be taking cocaine or marihuana or other controlled substance drugs.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WAXMAN, and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 1 additional minute.)

Mr. COLLINS of Texas. This department can have no middle ground. We all know that drugs in this country are a tremendous problem. The exemplary example must come from Washington, from the Executive Department, from the HEW department itself. We have had marihuana use increasing, we have had cocaine use increasing. Cocaine, in the country of Colombia, has gotten to be a bigger crop than coffee. Drugs are the biggest crop in the country. Where are they selling it? They are selling it to our country.

Madam Chairman, we have a wonderful agency here that could do something about this but the people have to have the spirit to stop it.

Mr. WAXMAN. Will the gentleman yield, Madam Chairman?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. WAXMAN. You mention DEA already has this authority. Do they have it under statute or is this part of their personnel requirements that they have adopted for themselves?

Mr. COLLINS of Texas. I do not understand how they do it but I do know that this agency here has turned it down and told me that they do not have the right. I do not know how DEA decided it had the right to require drug abstinence. Perhaps it is because they had a strong executive. Both under Dr. duPont—and I do not know whether this gentleman is still in charge over there or not, this man, Gerald Klearman. Is he in charge, we have heard about private lives and they did not object to drug use.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. CARTER, and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 3 additional minutes.)

Mr. COLLINS of Texas. This gentleman here wrote me a letter which at a later time I will ask permission to include in the RECORD. He makes it very plain that not only would he as the Director, not ask them, because he is obsessed with this invasion of privacy rule, but he would not, under civil service rules, ask them. Well, Madam Chairman, I will tell you, in the defense of the country we place defense first. In this case of drugs it is time we put the interests of America first. If these people want to smoke marihuana or they want to use cocaine that is their business but they should not be doing it on the Government payroll and certainly not in this Agency.

Mr. CARTER. Will the gentleman yield, Madam Chairman?

Mr. COLLINS of Texas. I yield to the gentleman from Kentucky.

Mr. CARTER. I find some difficulty in the wording of this amendment, as I have told the gentleman previously. How will one find out if the person uses drugs or not? If you say you are going to ask them, then I would suggest your amendment be changed to say any individual who admits illegal use or possession of drugs.

I would ask the distinguished gentleman from Texas if he would consent to that change in the language.

Mr. COLLINS of Texas. Should we say "admits under oath"?

Mr. CARTER. As far as I am concerned it certainly would be all right.

Mr. COLLINS of Texas. We would change the language——

Mr. CARTER. "Who admits illegal use or possession."

Otherwise, we have no way of telling whether he uses it or not. One would have to surreptitiously slip up on him which in itself would be illegal as I see it.

Mr. COLLINS of Texas. I will accept that. "Who under oath illegally admits."

Mr. CARTER. "Admits illegal use or possession."

Mr. COLLINS of Texas. "Illegal use or possession of any controlled substances."

As we understand it, it would be the responsibility of the administrator to call on all members of his staff if there was any reason, at any time, and he would also call on them before they started to work as well as periodic intervals. Would you object to taking oaths at periodic intervals?

Mr. CARTER. I feel that would help the amendment a great deal.

I would like to ask the distinguished committee chairman what he thinks of this change in the amendment.

Mr. COLLINS of Texas. Would the gentleman accept the suggested change?

Mr. WAXMAN. Madam Chairman, it sounded like it was something I could support but I would appreciate it if we could have the amendment read in its amended form.

Mr. COLLINS of Texas. The gentleman asks unanimous consent that we change this to "who admits under oath"—where it says "any individual who admits under oath the illegal use or possession of any controlled substance."

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 4 additional minutes.)

Mr. WAXMAN. Will the gentleman yield, Madam Chairman?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. WAXMAN. I have no objection to the amendment being adopted. I have one inquiry, however, about this language. Would this require that every person who wishes to work for a program funded by NIDA, or the NIAAA, take an oath?

Mr. COLLINS of Texas. That is right.

Madam Chairman, I ask unanimous consent that the amendments be modified.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas (Mr. COLLINS).

There was no objection.

The CHAIRMAN. The Clerk will report the modification to the amendments.

The Clerk read as follows:

Beginning on line 6 of the first Collins amendment strike the words, "illegally uses or possesses" and insert, "any individual who admits under oath to the illegal use or possession of".

Beginning on line 7 of the second Collins amendment, strike the words, "illegally uses or possesses" and insert, "any individual who admits under oath to the illegal use or possession of".

Mr. WAXMAN. Madam Chairman, will the gentleman yield further?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. WAXMAN. The gentleman then assumes this would require an oath of every person who wishes to work for the agencies?

Mr. COLLINS of Texas. When a person comes with the agency they would take an oath and I think if there is any reason to question, they should also take it periodically.

Madam Chairman, there is nothing wrong with asking people whether or not they take drugs. I would not be embarrassed to ask that question every day in the week.

Mr. WAXMAN. Will the gentleman yield to me further?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. WAXMAN. I think the language the gentleman proposes is superior to the language he originally proposed. However, I have to oppose it for at least one reason: When you have a drug abuse program I think to have former drug abusers work on that program would be very helpful in guiding those people you want to get off of drugs.

I think among the people in that world, to ask them, as a condition of employment, to swear that they are not using drugs is the kind of thing that may well deter people, who would be very valuable in this kind of a program, from coming forward and working actively in the program.

□ 1550

It seems to me that if anyone commits a crime, there is a clear procedure for the conviction of that person and administration of an appropriate sentence. I think this really could be a very damaging amendment to the kinds of programs that are so desperately needed to get people away from using drugs; particularly among our young people.

Mr. COLLINS of Texas. Madam Chairman, I thank the gentleman. I would say this, that if someone stopped using drugs and swore off using drugs, I would welcome them in the program. They could provide an example; but it is just like in Alcoholics Anonymous. They tell you to stay off alcohol and I think the best thing that could happen to people that use drugs is to stay off of it completely from now on. I mean, stay completely out of drugs and that is all we are asking. It is not a matter whether they used them before, but from the time they go with this agency they will never use drugs again.

Mr. WAXMAN. Madam Chairman, if the gentleman will yield further with me, I have no disagreement with what the gentleman intends to accomplish; but it seems to me that we should also ask people who work for the alcoholism program to take an oath that they are not abusers of alcohol and it should not be limited to these programs. Why not other programs where we do not want people who are actively abusing any kind of substance. I think it is a mistake to add the amendment to this bill.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas (Mr. COLLINS), as modified.

The question was taken; and the Chairman announced that the noes appeared to have it.

The question was taken; and on a division (demanded by Mr. COLLINS of Texas) there were—ayes 7, noes 14.

Mr. COLLINS of Texas. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1600

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Texas (Mr. COLLINS) for a recorded vote.

Does the gentleman insist on his demand for a recorded vote?

Mr. COLLINS of Texas. Madam Chairman, I withdraw my demand for a recorded vote, and I ask unanimous consent that I may have the right to demand another division.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. WAXMAN. Madam Chairman, reserving the right to object, I will not object because I think this is a reasonable request. I think we ought to have more Members on the floor, and I think we ought to have another division vote without going through a rollcall so we may accept these amendments on the House side.

Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. COLLINS of Texas. Madam Chairman, I again demand a division on the amendments, as modified.

On a division (demanded by Mr. COLLINS of Texas) there were—ayes 34, noes 18.

So the amendments, as modified, were agreed to.

AMENDMENT OFFERED BY MR. RANGEL

Mr. RANGEL. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RANGEL: Page 4, line 8, insert after "programs" the following: ", $5,000,000 for grants under paragraph (7) of subsection (a).".

Page 5, insert after line 7 the following:

(e)(1) Section 410(a) of such Act is amended (A) by striking out "and" at the end of paragraph (5), (B) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and (C) by adding after paragraph (6) the following:

"(7) make grants, in accordance with subsection (c)(5), to units of general purpose local government—

"(A) for the preparation of local plans for the provision and coordination of drug abuse prevention, treatment, and rehabilitation services; and

"(B) to implement such plans and to evaluate the services provided pursuant to such plans.".

(2) Section 410(c) of such Act is amended by adding at the end the following:

"(5)(A) The Secretary may approve the application of a unit of general purpose local government for a grant under subsection (a)(7) only if the Secretary finds that such unit of government—

"(i) has a population of at least 175,000, as determined on the basis of the most satisfactory, current data available to the Secretary,

"(ii) has a high concentration of drug abuse and other drug-related problems among its population, and

"(iii) has the capacity to improve planning for and coordination of drug abuse, prevention, treatment, and rehabilitation services for its population.

"(B) Any unit of general purpose local government desiring to receive a grant under subsection (a)(7) shall submit to the Secretary a local plan for planning, coordinating, and evaluating projects for the development of more effective drug abuse prevention, treatment, and rehabilitation services. Each such local plan shall—

"(i) designate or establish a single municipal agency as the sole agency for the preparation and administration of the plan or for supervising the preparation and administration of the plan;

"(ii) contain satisfactory evidence that the municipal agency designated or established pursuant to clause (i) will have

authority to prepare and administer, or supervise the preparation and administration of, such plan in accordance with this subparagraph;

"(iii) set forth, in accordance with criteria established by the Secretary, a detailed survey of the local needs for prevention and treatment of drug abuse and drug dependence and a plan for coordination of services to meet these needs; and

"(iv) provide that the municipal agency will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(C) No grant provided under subsection (a)(7) may exceed $300,000.".

Page 5, line 8, strike out "(e)" and insert in lieu thereof "(f)".

Page 6, line 3, strike out "(f)" and insert in lieu thereof "(g)".

Mr. RANGEL (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RANGEL. Madam Chairman, basically, my amendment points out a problem which has been seen by the other body, and that is that under existing law the State governments do all the planning and development in terms of prevention of drug abuse and rehabilitation of drug addicts.

As most of us know, one of the major reasons that we were able to get the Congress to pay attention to this problem has been because this problem has arisen in our urban communities.

□ 1610

Unfortunately, in many of our State capitals, we find that the legislative bodies are located in the rural areas, and now we find ourselves in the city of New York, as well as other major cities, with concentrated problems as relates to drugs, being unable to have input in the development of these plans. What I would hope that this amendment would be able to do is to have $5 million to be allocated to make certain that our local officials have an opportunity to participate and to develop plans, and where there is a minimum population of 175,000 people, to be able to put a cap on grants to be awarded to these municipalities and counties of $300,000 to deal with a problem which is basically urban. The relationship between NIDA and the local government is something that I know even the chairman of the subcommittee, who has worked very hard to develop this legislation would agree, once the sensitivity, the understanding as to what the local problems are.

It is my hope that we can go along with the Conference of Mayors and the organization that represents municipalities and allow those that have the responsibility of taking care of their own the opportunity to have input and to develop these plans and to present them to our Federal Government.

Mr. GILMAN. Madam Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Madam Chairman, I know the gentleman's long-time concern with regard to narcotics, narcotics treatment, and narcotics rehabilitation and enforcement.

It is my understanding that under the Rangel amendment a unit of general purpose local government may apply for a Federal grant by submitting a local plan for planning, coordinating, and evaluating drug abuse prevention, treatment, and rehabilitation services, provided that such a unit of local government has a population base of 175,000.

My question to the gentleman would be: Would such a unit of local government include county government?

Mr. RANGEL. It certainly would.

Mr. GILMAN. I certainly want to support the gentleman's amendment, but I also wanted to make certain that it would include our counties as units of government from all rural areas where they would be able to consolidate the population and take advantage of the gentleman's amendment.

I certainly urge support for the gentleman's amendment. As our distinguished colleague knows, hardly a day goes by when Federal, State, and local drug law enforcement officials do not seize large quantities of heroin, cocaine, marihuana, and other dangerous drugs. The problem is critical. It is growing. It needs help. I certainly think that the gentleman's amendment would provide the kind of help we need.

Mr. RANGEL. I would like to point out that my answer would not apply, of course, to the city of New York, where its five counties are not governing counties as they are in most political subdivisions throughout the United States. But in the city of New York, where we have really considered ourselves to be the drug traffic capital of the world, we cannot have input into the overall plan that is being developed by our State, which affects our youngsters every day, as the gentleman well knows.

Mr. GILMAN. I thank the gentleman for clarifying his intent.

Mr. WAXMAN. Madam Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding, and I commend the gentleman for his interest in assuring greater participation of cities in the allocation of federally supported drug abuse prevention and treatment services. Drug abuse is a serious public health problem which impacts harshly on our Nation's cities. Cities should take an active role in the development of drug abuse programs within their jurisdictions.

My concern, however, is that this amendment is premature. We have not had an opportunity to evaluate how establishing a separate drug abuse planning authority for cities, on top of what the States now do, could most effectively be utilized. I think we ought to have an opportunity, at the committee level, to look carefully at this. We are only asking for a 1-year authorization of drug abuse authorities. I would hope the gentleman would allow us an opportunity next year to see how we can best get the cities and the States together in the drug abuse planning process. If the cities are not able to fully participate in the State planning process, that is something we want to correct.

The CHAIRMAN. The time of the gentleman from New York (Mr. RANGEL) has expired.

(On request of Mr. WAXMAN and by unanimous consent, Mr. RANGEL was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. If the gentleman will yield further, I would hope we could do it through an orderly procedure rather than at this time adding more money and another layer of planning authority without figuring how the two will relate to the existing State plan.

Mr. RANGEL. I would just say this to the distinguished chairman: The relationship between major cities and State government is pretty well known. If there was any problem in recognizing the concentration of the addicts we are talking about, the moneys we are appropriating to the States are based on the statistical data that are prepared by the cities, yet the cities do not have the opportunity to direct how these moneys should be spent.

Mr. WAXMAN. If the gentleman will yield further, the law already provides opportunities for cities and other political subdivisions within the State to submit to the single State agency recommendations regarding the preparation of the State plan. We have already provided for the participation of cities in the State plan. If cities are not adequately participating, we want to know why and what we can do about it. Perhaps new regulations regarding submission of the State plan would be sufficient?

The CHAIRMAN. The time of the gentleman from New York (Mr. RANGEL) has again expired.

(By unanimous consent, Mr. RANGEL was allowed to proceed for 1 additional minute.)

Mr. RANGEL. Madam Chairman, I do not have any problem that the cities should have a reasonable opportunity to participate. What we are talking about today is whether Governors give reasonable opportunities for mayors and county executives to be heard. The political reality is that the Governor and the State have their problems and the cities are stuck with theirs. It just troubles me that when we legislate here we clearly are talking about problems that exist in the cities, that we can have legislation that directs that the State develop the programs which the cities ultimately are going to be stuck with.

Mr. WAXMAN. If the gentleman will yield further, could the gentleman tell us then how the gentleman's planning authority, that would be vested under the cities, would fit into the existing planning authority already vested under the States? Would there be some relationship between the two, or would they be on independent tracks? If they are independent tracks, they would not, in my view, be serving the needs of our drug abuse programs.

Mr. RANGEL. All I am asking for this House to do is to provide the funds so that the cities can get on the track so that their plans can be considered by the State. Under existing law, they just have a reasonable opportunity.

The CHAIRMAN. The time of the gentleman from New York (Mr. RANGEL) has again expired.

(On request of Mr. WOLFF and by unanimous consent, Mr. RANGEL was allowed to proceed for 2 additional minutes.)

Mr. WOLFF. Madam Chairman, will the gentleman yield?

Mr. RANGEL. I yield to my colleague, the gentleman from New York.

Mr. WOLFF. Madam Chairman, I want to congratulate the gentleman on his amendment. I rise in strong support of the amendment, knowing both sides of the picture, and especially the fact that the drug abuse problem really was founded in our cities. It was not until it spread to various other parts of the country that people became aware of the problem and now the cities are really neglected in the present program. Therefore, I congratulate the gentleman for offering this amendment and I rise in strong support of it.

Mr. RANGEL. I thank the gentleman for his remarks.

Madam Chairman, I urge the Members to support the amendment.

Mr. WAXMAN. Madam Chairman, I rise in opposition to the amendment, and I rise in opposition reluctantly because I think there is a very good purpose in mind in having this amendment offered to us. But I am afraid that what we are being asked to do is to solve the problems for New York City by changing the drug abuse planning process for the rest of the country.

Cities should participate in the planning of statewide drug abuse programs. As public policy, we should encourage such participation. Present law does allow cities to participate with the States in the planning process. To now adopt this amendment, without any consideration for what the States are currently doing in drug abuse planning, would be to give $5 million to the cities and have them go off on a completely independent track. I think we would be wasting the $5 million.

It would be far better if we were able to carefully look at the relationship between the current State plans and the proposed city plans in reauthorization hearings next year.

I would urge that the Committee reject the amendment.

Mr. CARTER. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I want to commend the gentleman on his very pointed remarks. I thought they were excellent. Certainly we want the city of New York and other cities to have the opportunity to participate in the drug abuse planning process.

Over the years, since I come from an extremely impoverished area, I have tried to help the poor in both ghetto and rural areas. Certainly we want to help the distinguished gentleman from New York. However, the problem of which he speaks is nationwide. Drug abuse does not exist in New York City alone.

I just had the distinguished chairman of the full committee, Mr. STAGGERS, relate to me that in his district in West Virginia, drug abuse was rampant. I can say the problem, even back in the hills of Kentucky, is also rampant. I have here at my disposal a letter showing where a plane dropped 2,500 pounds of marihuana down in the Webster County area of Kentucky. It is a nationwide problem and certainly I want to help the distinguished gentleman in any way I can. I will certainly support hearings on this problem next year, with the goal of creating a proposal that will be effective in rural areas of the country, as well as in our cities.

Mr. RANGEL. Madam Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Madam Chairman, I appreciate the remarks of the gentleman, because when I went to the well one might suspect that I was trying to help the city of New York. I want to make it abundantly clear that the cities of Albuquerque, Anchorage, Baltimore, Cleveland, Gary, Jersey City, Los Angeles, Minneapolis, Newark, New Orleans, Philadelphia, Phoenix, Providence, St. Louis, Chicago, and Milwaukee all believe that they have that same problem with their State government.

□ 1620

It is not a question of just helping the city of New York. It is giving the type of fiscal assistance so that the cities who have the problem can participate in developing that State plan.

I thank the gentleman.

Mr. CARTER. In reclaiming my time, I would like to say that we would want to help the distinguished gentleman and all these cities. As I said before, it is a nationwide problem.

Along with the distinguished chairman of the Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce, the gentleman from California (Mr. WAXMAN), I certainly would be happy to work toward the solution of this terrible problem which afflicts us all from Maine to California.

Mr. WAXMAN. Madam Chairman, would the gentleman yield?

Mr. CARTER. I yield to the gentleman from California.

Mr. WAXMAN. It certainly would be our intention in this next year to hold hearings and to look seriously at this problem. I know that the problem is very real.

There are many cities that are greatly concerned about the lack of participation they have in developing these State plans. However, I would not want us to adopt this amendment without first having hearings and determining how a city planning process is going to mesh with those already in existence. If we do not, all we are doing is creating another planning agency to act independently of an existing planning agency. I am afraid we will waste money and not get assistance to the people who are most in need of help.

Mr. CARTER. I thank the distinguished chairman. I commend him on his remarks.

As for my part, I will state that I will do my best to assist the gentleman in conducting these hearings when the time comes.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RANGEL).

The amendment was rejected.

Mr. STAGGERS. Madam Chairman, I would like to commend and congratulate the chairman of the Subcommittee on Health and the Environment, the gentleman from California (Mr. WAXMAN), for the work he and the gentleman from Kentucky (Mr. CARTER), and the other members of the subcommittee have done on this bill in bringing it to the House.

I would like at this time to congratulate the staff, too, for the work and research they have done in helping to prepare the bill.

Madam Chairman, I would especially like to say that we are all so happy that the gentleman from Kentucky (Mr. CARTER) is back with us. He has been in the hospital with a very serious operation. He is a great American and one of our great statesmen here in the Congress of the United States. We are happy to have him back, because he is always working for what he thinks is in the best interests of the land.

The issues addressed in this legislation are of such importance to America. The best analogy of the problems of alcohol and drug abuse is that it is like termites eating at your home. If you find out they are eating up your home, you try to get those termites out; you realize that if you leave them there long enough, the house is going to be eaten up and destroyed.

It is like the insects that get into our crops and our land. We use all kinds of insecticides to get rid of them; but the insects are the menace. Alcohol and drugs do the same thing to the human body, they destroy. We must stop that destruction, because the human body is more valuable than any building or any crops that we grow.

I think it is time America wakes up to these problems, because they are destroying America.

Today, if called upon by America in an emergency, the youth of our Nation would not be able to respond as they have in the past. They could not do so. They would try to, I am sure, but they just could not do it, because those who are addicted to drugs—and they are addicted in my home town, as they are in most home towns across this land—would be incapable of response. The tragedy is that even some individuals in positions of trust have been found selling drugs to our children and grandchildren. We have evidence of that. Why something is not done, I do not know.

I say that the time has come for this Congress to do something about it. Let America know, and the rest of the world know, that we intend to do something to make our people a little bit stronger.

Mr. WOLFF. Madam Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. WOLFF. I thank the chairman for yielding.

I want to thank the gentleman for the dedication he has shown in this whole problem of drug abuse and the fight that we have in this country.

I also take this opportunity to congratulate the chairman of the Subcommittee on Health and the Environment, the gentleman from California (Mr. WAXMAN), on the outstanding work that he has done in cooperation with the Select Committee on Narcotics Abuse and Control, as well.

The gentleman from Kentucky (Mr. CARTER) and the gentleman from California (Mr. WAXMAN), are to be congratulated.

Mr. STAGGERS. I thank the gentleman very kindly.

Mr. GILMAN. Madam Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding. I rise in support of H.R. 3916, extending for 1 fiscal year the current authorization of appropriations for programs under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972, and commend the distinguished chairman of the Subcommittee on Health and the Environment (Mr. WAXMAN) and the distinguished ranking minority member of that subcommittee (Mr. CARTER) for their leadership in sponsoring this legislation, together with the incisive report accompanying H.R. 3916 submitted by the distinguished chairman of the Committee on Interstate and Foreign Commerce (Mr. STAGGERS).

I am particularly pleased that H.R. 3916 authorizes special consideration for programs and projects for the prevention and treatment of drug abuse and drug dependency by women, the elderly, and our youth and requires that at least $16.1 million (or 10 percent authorized for drug abuse programs) be allocated for drug prevention programs, an area that has been downgraded by NIDA whose so-called highly visible 1979 drug abuse prevention campaign, in my view, much to be desired.

As a member of the Narcotics Select Committee that has held extensive hearings on narcotics trafficking both here and abroad, that has focused its spotlight on this Nation's efforts to prevent, treat, and control drug abuse and that has focused attention on heroin, cocaine, marihuana, Phencyclidine (commonly known as PCP or "angel dust"), and polydrug abuse by women and children, I can assure my colleagues that drug abuse in this Nationa and throughout the world has reached epidemic proportions. Each year more and more women, the elderly, and our youth resort to drugs in an effort to escape from their personal and social problems. Each year more and more of our citizens are obtaining drugs illicitly obtained or drugs that are overly prescribed by physicians and filled by pharmacists.

The National Institute on Drug Abuse (NIDA) estimates that in 1978 approximately 8,400 of our citizens, mostly this Nation's youth, succumbed to drug overdose and 286,000 hospital emergency room visits occurred for drug overdose, and this is only the tip of the iceberg of the human misery and loss of life from drug abuse that goes undetected and unreported.

Madam Chairman, I support the 1-year extension authorized under H.R. 3916 and urge my colleagues to support this legislation. I also urge that the NIDA Administrator and the Secretary of Health, Education, and Welfare take a close, hard look at the Narcotic Select Committee's hearings on preventing, treating, and controlling drug abuse, the oversight hearings on NIDA, and the Interstate and Foreign Commerce Committee's report accompanying H.R. 3916 which points out the "waste and inefficiency in several NIDA programs", "the severe management deficiencies within the Institute," and "the numerous instances involving NIDA employees and contractors which had the appearance of, or potential for, conflict of interest, cronyism, favoritism, or preferential treatment in the contracting process." In my view, NIDA's so-called drug prevention campaign for 1979 has been an abysmal failure. Hopefully, with the proper administration of H.R. 3916, more of our citizens will be educated regarding the dangers of drug abuse, and those that are dependent upon or addicted to drugs will be treated, rehabilitated, and once again live healthy and productive lives.

Mr. STAGGERS. I thank the gentleman for his contribution.

Mr. NEAL. Madam Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from North Carolina.

Mr. NEAL. Madam Chairman, I rise to speak in favor of H.R. 3916 to extend the alcoholism and drug abuse prevention and treatment authorities and to congratulate the chairman and the Subcommittee on Health and the Environment for their thoughtful work in preparing the legislation.

Madam Chairman, it is in my capacity as chairman of the Task Force on Marihuana of the Select Committee on Narcotics Abuse and Control that I would like to make a few comments. The issue I wish to address specifically is the provision in the bill (section 410(a) which requires ten percent of all project grant monies to be set aside for the prevention of drug abuse.

Our Task Force on Marihuana recently held two days of hearings on the subject of Marihuana and Health. Each of our witnesses testified that marihuana was by no means a benign substance, and probably has health implications for the user not unlike alcohol, valium and other drugs which can, and often do, seriously effect the health of users. The focus of concern at our hearings was the declining age of first use; nearly one out of every ten of our twelve year olds has been introduced to marihuana. Recent studies from Maine and Maryland indicate that sixteen percent of all high school seniors smoke marihuana daily, which is an increase of 67 percent over the past 4 years.

Madam Chairman, it is obvious that our traditional approaches to the drug problem have not only been inadequate, but in many cases disastrous. We have been spending $1 billion dollars a year to interdict drugs and treat drug abuse and the problem grows, primarily in middle-class communities. According to a recent IRS report the drug trade alone accounts for an estimated $23.6 billion lost in potential tax revenues, along with the many billions that are drained from our country to supply this $45 billion a year trade of organized crime. Each year we allocate many millions of dollars to treat those who enter into drug withdrawal programs with meager results. A recent GAO report also tells us that the treatment statistics are frequently fraudulent by 15 to 50 percent. According to some reports, we have been spending ninety percent of the resources on two percent of the problem.

Madam Chairman, when we look at our dollars allocated to preventing the abuse of drugs, those programs which work with schools and families to prevent drug problems before they occur, we see another story. Barely 1 percent of the Federal drug budget is spent on prevention. Similarly, in the Office of Education, only 1 percent of our schools are affected by drug prevention efforts. The general explanation for this is that the drugs are strong and the people are weak, so the only effective approach is to keep drugs out of the hands of people. We also hear the complaint that prevention is too vague, so the money goes for methadone.

But we need to strengthen people in their resolve to say no to drugs and in their ability to create alternatives to drug dependency. We need to educate the elderly about medications, so that they can protect themselves against unwitting mixing of alcohol with medications. We need also to support programs that will prevent drug dependency among women and minorities.

Madam Chairman, we especially need to prevent drug and alcohol problems among adolescents. The traditional prevention and education programs have frequently done more harm than good. We have "educated" young people in "Reefer Madness" language about marihuana which has often stimulated interest, Madam Chairman, what is required for this ten percent allocation for prevention is that the money be spent to replicate those programs with a reputation for success.

Madam Chairman, the National Institute on Drug Abuse is oriented toward research and treatment. A measure of

research and evaluation is appropriate. But there are a number of programs in local communities established through citizen efforts that have had success in preventing drug dependency. These programs deserve to be supported and extended. Additionally, prevention money should not be spent primarily to counsel the drug abusers and their families. The commitment of H.R. 3916 money to prevention should be used to strengthen a troubled young person who is having trouble in the family, trouble in school, and trouble in the community. These troubles most often begin by the sixth grade and that is where we must begin our programs of prevention. If we can identify problems early and assist in developing programs for young people we may be able to substantially cut down the percentage of young people who develop a life-style of drug dependence. Prevention is vital to our drug abuse efforts; however, it is complex. If we are not willing to deal with the complex issues that involve people in a dependency on substances we will not deal adequately with the drug issue.

Madam Chairman, there are private programs in New York City; Charlotte, N.C.; Orlando, Fla.; Atlanta, Ga.; to name a few, which have done an effective job. These programs deserve to be replicated, to strengthen the person's resistance to drug dependency by enlisting the resources of community programs, school, religious organizations and others. The National Institute on Drug Abuse has been resistant to prevention efforts and this is why the committee found it necessary to mandate an allocation for prevention. I think I can safely speak for my fellow members of the Select Committee on Narcotics in saying that we shall monitor the expenditure of prevention funds carefully to insure that prevention is well grounded in local communities and sharply focused on the needs of the elderly, women, minorities, and especially those troubled 10 and 12 year olds and other young people. I urge all of my colleagues to support H.R. 3916 and the 10-percent provision for primary prevention.

Mr. STAGGERS. Madam Chairman, I would like to conclude by saying that I do not believe any Member of this Congress should vote against this bill. I urge its immediate adoption.

I yield back the balance of my time.

● Mr. OTTINGER. Madam Chairman, I rise in strong support of H.R. 3916, which provides authorization of appropriations for fiscal year 1980 for the programs of the National Institute of Drug Abuse and the National Institute of Alcoholism and Alcohol Abuse. Similar legislation passed the Senate on May 7.

Of particular concern to me are the legislation's provisions dealing with alcohol abuse and alcoholism. During the previous session of Congress I introduced two bills to provide Federal assistance to employers, labor organizations, and other groups to establish and operate occupational alcoholism programs. Identical legislation was introduced in the Senate by Senator William Hathaway, then chairman of the Senate Subcommittee on Alcoholism and Drug Abuse.

The first bill authorized the Secretary of HEW in conjunction with the National Institute of Alcoholism, to make grants for up to one half the cost of occupational alcoholism programs. Funds were allotted to States on the basis of the labor force population of the State. To fund the program, the bill provided the appropriation of an amount equal to 2.5 percent of the total Federal alcohol taxes collected on beer, wine, and liquor for fiscal years 1978 through 1982. The second bill would have helped combat alcoholism by requiring Government contractors to establish and operate alcoholism programs or to provide adequate referrals as a condition of doing business with the Government.

Groups which have instituted occupational alcoholism programs, including several in my congressional district, have seen dramatic results. These programs promote early intervention and recovery before the more destructive and less reversible aspects of this progressive disease take hold. These programs have an additional benefit—they are cost effective. At hearings in the Senate last year, companies testified that delays in implementing programs of this kind are not related as much to cost as to reluctance by management to recognize alcoholism as a serious employee problem.

Given the generally recognized effectiveness of occupational alcoholism programs, I think it is imperative that we expand our efforts in this area. I am hopeful that when Congress reconsiders the extension of the alcohol and drug abuse prevention and treatment authorities we will make a major new effort in the occupational setting. In the meantime, I urge my colleagues to support H.R. 3916.●

● Mr. BROWN of California, Madam Chairman, I would like to address my colleagues regarding H.R. 3916, the reauthorization of alcoholism programs. When this bill was considered as passed in the Senate on May 7, one provision that was involved was a requirement for a health warning to be included on all labels that reads: "Caution: Consumption of alcoholic beverages may be hazardous to your health."

In the last few days, when considering this legislation, this body went to great lengths to point out the nongermaneness of this amendment to the legislation under House rules.

I would like to point out to my colleagues that, while this amendment is insufficiently relevant to this reauthorization bill, the subject of health warnings is of the utmost importance to the subject of the bill—alcoholism treatment and prevention.

I request my colleagues to consider the subject of alcoholism and alcohol abuse. We are presently passing on legislation to provide $221.5 million for treatment and prevention of alcoholism. The Federal outlay for alcoholism treatment in no way compares to the total social cost of alcoholism and alcohol abuse estimated at more than $43 billion a year. That figure does not even include the toll in human lives, which is estimated at over 200,000 a year.

While we aim our efforts at treatment of alcoholism, we should consider ways to affect the source of the problem itself, consumption of alcoholic beverages. I am not urging a reenactment of prohibition, but I am urging that the Federal Government take a more active role in affecting excessive alcohol consumption.

The warning label is one approach that the Federal Government can take that is both effective and inexpensive.

There has been much debate on the effectiveness of a warning label. But, in a recent hearing before the Senate Subcommittee on Alcoholism and Drug Abuse the Director of NIAAA (National Institute on Alcoholism and Alcohol Abuse) for whom we are considering this bill, stated:

> There can be little question that warning labels would raise public awareness of the health hazards and over a period of time, would have some effect on patterns of alcohol consumption.

In a recent statement in the CONGRESSIONAL RECORD, one Senator asserted that a health warning would do nothing to reduce consumption among alcoholics and problem drinkers. This may or may not be true. However, that is not the only group that we should be concerned with. It is estimated that 19 percent of our youth between the ages of 14 and 17 have problems with alcohol. It is no wonder that the problem is so severe among our youth. The young people of our nation have little impression of alcohol consumption other than that which is portrayed in the media. If such a warning label is effective to carry that negative message to youth, then the small investment we make would have been worthwhile.

I believe the public awareness must be raised to the real hazards that are posed by alcohol consumption. In the past we have emphasized "responsible drinking." This does nothing to raise the attention of the public to the health threats of alcohol consumption and really amounts to free advertising for the alcohol industry.

A health warning would carry the message directly and succinctly, "Caution: Consumption of alcoholic beverages may be hazardous to your health." ●

● Mr. RANGEL. Madam Chairman, alcohol, the most abused drug in America, exacts an appalling and costly toll on our citizens and our economy. On the personal level, the use of alcohol disrupts family life, destroys personalities, and contributes significantly to illness and premature death. I would be willing to venture that virtually everyone in this Nation is affected by alcohol abuse, in the form of a close friend or relative who is one of 10 million problem drinkers. For society as a whole, the economic effects of this disease are startling. An estimated $40 billion, including $20 billion in lost productivity, and $13 billion in health care costs, is lost each year as a result of the alcohol problem.

Today, we are deliberating a bill, H.R. 3916, that would reauthorize the funding for alcohol abuse, prevention, treatment, and rehabilitation. While I support this bill, I feel that there is an issue that the bill does not address, and I would like to bring it to the attention of my colleagues in the House.

The alcohol abuse problem is such a complex issue that it contributes to and spawns a host of other difficult and vexing problems. Up to now, these problems associated with alcohol abuse have been approached individually, instead of from a central focus. Therefore, it has been impossible for Congress to direct Federal resources to those areas where they could be utilized most effectively.

To remedy this situation, I urge my colleagues to support in conference section 21 of S. 440, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979, which would create a National Commission on Alcoholism and Alcohol-Related Problems. Section 21 is very similar to a bill I introduced on May 14 of this year, H.R. 4078. This National Commission would investigate the alcohol abuse problem and its attendant problems as a whole; including in its purview an assessment of rehabilitation, treatment, and planning needs; the relationship of alcoholism to crime, aggressive behavior, recidivism, family violence, and health problems; an evaluation of prevention and research needs, and finally, a much needed look at the special needs of special populations, such as rural areas and Native Americans.

The Commission would be composed of 8 Members of Congress, 4 from each of the two bodies, and 11 public members appointed by the Senate. The report of the Commission would serve as a basis for a sorely needed national consensus on this serious drug problem.

I feel that the establishment of this Commission is absolutely necessary if we are to seriously attack the alcohol abuse problem. Therefore, I hope my colleagues will join me in supporting section 21 of S. 440 when the House and Senate confer on H.R. 3916, S. 440, and S. 525.●

The CHAIRMAN. Are there any further amendments to the bill? If not, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3916) to extend for 1 fiscal year the current authorization of appropriations for programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972, pursuant to House Resolution 307, she reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 396, nays 8, not voting 29, as follows:

[Roll No. 571]

YEAS—396

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonier
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—8

Collins, Tex.
Crane, Daniel
Crane, Philip
Hansen
McDonald
Paul
Stump
Symms

NOT VOTING—29

Addabbo
Anderson, Ill.
Chisholm
Collins, Ill.
Conyers
Diggs
Dixon
Duncan, Tenn.
Flood
Giaimo
Goldwater
Goodling
Jones, N.C.
Leach, La.
Michel
Mitchell, Md.
Murphy, N.Y.
Murtha
Nolan
O'Brien
Patten
Rosenthal
Rostenkowski
Shuster
Treen
Vanik
Winn
Wylie
Young, Alaska

□ 1640

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Anderson of Illinois.
Mr. Giaimo with Mr. Young of Alaska.
Mr. Patten with Mr. Wylie.
Mr. Rostenkowski with Mr. Goldwater.
Mr. Jones of North Carolina with Mr. Shuster.
Mr. Rosenthal with Mr. Duncan of Tennessee.
Mr. Murphy of New York with Mr. Goodling.

Mr. Murtha with Mr. O'Brien.
Mr. Vanik with Mr. Winn.
Mr. Mitchell of Maryland with Mr. Nolan.
Mrs. Collins of Illinois with Mr. Conyers.
Mrs. Chisholm with Mr. Dixon.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 307, the Committee on Interstate and Foreign Commerce is discharged from the further consideration of the Senate bill (S. 440) to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike out all after the enacting clause of the Senate bill, S. 440, and insert in lieu thereof the text of section 1 of H.R. 3916, as passed by the House, as follows:

That (a) section 301 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4571) is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each of the fiscal years ending September 30, 1979, and September 30, 1980".

(b) Section 310(a) of such Act (42 U.S.C. 4574) is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(c) Section 312 of such Act (42 U.S.C. 4578) is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each of the fiscal years ending September 30, 1979, and September 30, 1980".

(d) Section 503 of such Act (42 U.S.C. 4587) is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each of the fiscal years ending September 30, 1979, and September 30, 1980".

(e) Subsection (c) of section 504 of such Act (42 U.S.C. 4588(c)) is amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "three succeeding fiscal years".

(f)(1) Section 303(a)(3) of such Act (42 U.S.C. 4573(a)(3)) is amended by inserting "and women and the elderly" after "minority and poverty groups".

(2) Section 303(a)(4)(B) of such Act is amended by inserting ", by the elderly," after "by women".

(3) Paragraph (4) of section 311(c)(4) of such Act (42 U.S.C. 4577(c)(4)) is amended to read as follows:

"(4) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects for the prevention and treatment of—

"(A) alcohol abuse and alcoholism by women,

"(B) alcohol abuse and alcoholism by the elderly, and

"(C) alcohol abuse and alcoholism by individuals under the age of eighteen.".

(g) Title VI of such Act is amended by adding at the end the following new sections:

"SEC. 604. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"SEC. 605. No funds provided under this Act may be used to pay the compensation of any individual who admits under oath to the illegal use or possession of any controlled substance (as defined in section 102(6) of the Controlled Substances Act).".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 307, the Committee on Interstate and Foreign Commerce is discharged from the further consideration of the Senate bill (S. 525) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike out all after the enacting clause of the Senate bill, S. 525, and insert in lieu thereof the text of section 2 of H.R. 3916, as passed by the House, as follows:

That (a) section 409(a) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(a)) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1979," the following: "and September 30, 1980,".

(b) Section 410(b) of such Act (21 U.S.C. 1177(b)) is amended by adding at the end the following: "For the fiscal year ending September 30, 1980, there is authorized to be appropriated $137,000,000 for grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs and $24,000,000 for grants and contracts under such subsection for other programs and activities. At least 10 per centum of the funds appropriated under the preceding sentence shall be obligated for grants and contracts for primary prevention programs.".

(c) Section 503 of such Act (21 U.S.C. 1193) is amended (1) by striking out "(a)", and (2) by striking out subsection (b).

(d)(1) Section 409(e)(3) of such Act is amended by inserting "(including women and the elderly)" after "population groups".

(2) Section 409(e)(5)(B) of such Act is amended by inserting ", by the elderly," after "by women".

(3) Subsection (d) of section 410 of such Act is amended to read as follows:

"(d) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects for the prevention and treatment of—

"(1) drug abuse and drug dependence by women,

"(2) drug abuse and drug dependence by the elderly, and

"(3) drug abuse and drug dependence by individuals under the age of eighteen.".

(e) Within sixty days of the date of the enactment of this Act the Director of the National Institute on Drug Abuse shall report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

(1) the number of grants and contracts made or entered into by the Director before such date of enactment for research which was not completed before April 1, 1979.

(2) the identity of the persons who received such grants and contracts,

(3) the amount of funds authorized to be paid under each such grant and contract and the amount of funds expended by the recipient of each such grant and contract by such date of enactment.

(4) the purpose of the research project funded under each such grant and contract, and

(5) the progress made in each such research project by such date of enactment.

(f)(1) Title IV of such Act is amended by adding at the end the following new sections:

"§ 414. Contract authority

"The authority of the Secretary to enter into contracts under this title and title V shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"§ 415. Use of funds

"No funds provided under this title may be used to pay the compensation of any individual who admits under oath to the illegal use or possession of any controlled substance (as defined in section 102(6) of the Controlled Substances Act).".

(2) The table of sections of such title IV is amended by adding at the end the following new item:

"414. Contract authority.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3916) was laid on the table.

□ 1650

DEPARTMENT OF ENERGY AUTHORIZATION ACT FOR FISCAL YEARS 1980 AND 1981—CIVILIAN APPLICATION

Mr. DINGELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3000, with Mr. STUDDS, Chairman, pro tempore, in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Friday, October 12, 1979, title II was open to amendment at any point.

Are there further amendments to title II?

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 40, after line 23, insert the following new subsection:

(c) Using such sums of the amount authorized to be appropriated under subsection (a)(2)(E) as may be necessary, the Secretary shall—

(1) review the mandatory allocation regulations (and orders) applicable to petroleum products to determine whether, consistent with existing statutory provisions, it is practicable to modify such regulations (and orders) to take into account—

(A) the most recent data then available regarding the consumption of those petroleum products for the appropriate period, and

(B) reductions in demand for such products based on energy conservation; and

(2) make such modifications to such regulations (and orders) as may be appropriate on the basis of the determination under paragraph (1) and consistent with such existing statutory provisions.

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. HOLTZMAN. Mr. Chairman, this is not, I expect, a controversial amendment. I have discussed it with the chairman of the full committee and with the minority. Basically this amendment is designed to take into account and correct problems that occurred in the mandatory allocation system. In the event that it should be replaced or reinstituted by the Congress, this amendment would insure that appropriate data are used in connection with any particular period and that no area is penalized for use of conservation.

During the recent gas crisis the New York metropolitan region as well as other parts of the country suffered severe shortages, which other areas experienced no disruption in supply. This was partly due to Department of Energy's regulations which gave a bonus to areas with higher gasoline use during the months from October to February. This of course benefited States which do not experience, as New York does, a harsh winter. States, under these regulations, may be reluctant to implement energy conservations measures, fearing that they will find themselves at a disadvantage, because their supply would be based on prior usage.

My amendment requires the Department of Energy to review the Government's allocation plans and make changes to take into account reduction in demand due to energy conservation as well as assure the use of the most recent figures on fuel use. This amendment seeks to assure that any future allocation system will not subject the public to long lines and glaring inequities.

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I will be happy to yield to the gentleman from Michigan (Mr. DINGELL), the chairman of the full committee.

Mr. DINGELL. I thank the gentlewoman for yielding. I have had a chance to review the amendment. The amendment has been reviewed by the staff of the committee. We find that there is no objection to it. We find that it is helpful, and I am happy on this side to accept the amendment.

Ms. HOLTZMAN. I thank the chairman for his comments.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title II?

AMENDMENT OFFERED BY MRS. HECKLER

Mrs. HECKLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. HECKLER: Page 40, after line 23, insert the following new section:

RECOVERY OF COAL BURNING EXPENSES

SEC. 203. (a) Any public utility which is regulated under part II of the Federal Power Act and which receives an order pursuant to section 110(f) or 113(d) of the Clean Air Act the effect of which is to permit the burning of coal in lieu of oil in any powerplant, may fully recover through appropriate rates, in accordance with applicable provisions of Federal and State law, any and all capital and increased operation and maintenance costs prudently incurred by such utility in connection with such burning of coal. The recovery of such costs, which become effective after the costs have been incurred, may be authorized by surcharge or other appropriate means, by the Federal Energy Regulatory Commission.

(b) The provisions of subsection (a) shall cease to be effective September 30, 1980.

Mrs. HECKLER. Mr. Chairman, this amendment would rectify a situation in which the operator of a powerplant who has received an order from EPA permitting it to burn coal in an environmentally acceptable manner in lieu of oil, to recover the costs involved with switching fuels. Under current law—the Federal Power Act—there exists a situation by which a utility may not be able to recover the costs incurred in rehabilitating equipment related to switching to the burning of coal.

For example, the Brayton Point generating plant in Massachusetts, operated by the New England Power Co., which is generally used as the example of a utility's ability to switch to coal in lieu of imported oil, has embarked on a program to convert to coal on a permanent basis. Even though the plant has previously burned coal, it took the company 4 years to negotiate the coal conversion agreement with EPA.

However, pending completion of the "permanent" long-range conversion, which will take at least 2 years, the company also received within the past month a "compliance date extension" under section 113(d) of the Clean Air Act, the effect of which is to permit the burning of coal in units I and II—Brayton Point has a total of four "units" or generators—virtually immediately.

However, NEPCO's rates are regulated by FERC. FERC uses a "forward looking test year," which means that only funds which the company expects to expend in the year following the filing of a formal rate case, may be considered in that rate case.

Under the 113(d) order, the company has expended funds to rehabilitate the necessary coal handling equipment for the short-term burning of coal in order to minimize the burning of oil.

This quick switching to coal significantly benefits NEPCO's customers who will immediately begin receiving a $2 million a month fuel cost savings passthrough. This fuel switch also benefits the Nation and especially New England, by saving over 400,000 barrels of oil a month. Since the costs incurred with the switching are present, and not anticipated future costs, under current law they are not recoverable by the company in a future rate case.

The costs incurred with respect to units I and II at Brayton Point regarding the quick switch to coal are about $1,600,000. Considering the fuel cost savings to the company's customers of over $24,000,000 a year, it appears inequitable to disallow the recovery of such costs, thereby subjecting the company's stockholders to this loss.

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentlewoman for yielding.

Mr. Chairman, I have had a chance to review the amendment. I understand it is intended to put a very limited exemption insofar as time and scope and will give FERC time to consider these matters and to develop appropriate remedies here. The staff and I have had a chance to review the amendment, and I have no objection to it.

Mrs. HECKLER. I thank the distinguished Chairman for his support.

Mr. LOEFFLER. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentleman from Texas.

Mr. LOEFFLER. I thank the gentlewoman for yielding. The minority as well have reviewed the gentlewoman's amendment, and we have no opposition to it.

Mrs. HECKLER. I think the distinguished gentleman.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Massachusetts (Mrs. HECKLER).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title II?

Mr. FISHER. Mr. Chairman, I move to strike the last word. I would like to engage in a short colloquy with the gentleman from Michigan (Mr. DINGELL). As I understand it, the authority to control the price of gasoline under present law will expire at the end of September 1981. Is that understanding correct?

Mr. DINGELL. If the gentleman would yield, the gentleman is correct. The authority to force controls on prices on all products, on all crude, now vested in the

President expires at the end of September 1981; that is correct.

Mr. FISHER. So that under present law and under the committee's version of the bill before us, the price control authority over domestic crude and over gasoline and other refinery products would all expire on the same date at the end of September 1981?

Mr. DINGELL. Under existing law, the gentleman is correct. All authorities for price controls would expire on the same date under existing law. Under the amendment adopted the other day by the House, sponsored by our good friend, the gentleman from New Jersey (Mr. COURTER), removing price controls on gasoline, that would no longer be so.

Mr. FISHER. Under that so-called Courter amendment the authority to control the price of gasoline would expire with the passage of the act containing that amendment.

□ 1700

Mr. DINGELL. The gentleman is correct. I would point out that the President has in his comments on this matter indicated that he has authority to take steps at his discretion with regard to controls of both crude and with regard to controls on product and to do so in such fashion as would meet the public need. He has indicated he does not feel that the exercise of that power is wise or necessary at this time.

Mr. FISHER. Then the only way we could retain authority to control gasoline prices as one of the major refinery products and make it similar to authority to control the price of crude, would be to vote down the Courter amendment in some way or other and return to the committee's version of the bill on this point?

Mr. DINGELL. The gentleman is correct.

Mr. FISHER. It does seem to me, Mr. Chairman, that we would be better off to phase down gasoline price controls more or less over the same time period and in the same manner, perhaps, as we phase down the price of domestic crude that would remain under controls. This would be the symmetrical and probably the fast way to do it and it would avoid the possibility or tend to avoid the possibility that in a clinical moment of some kind retailers of gasoline, independents or company retailers would not have the opportunity for a windfall, perhaps a big windfall, in this area or that where panic might have set in?

Mr. DINGELL. The gentleman is entirely correct. I would point out that the President's program does envision the gradual decontrol of gasoline through the decontrol of crude, all of which would end in a deregulation of petroleum and product market on September 30, 1981.

Mr. FISHER. It seems to me, then, even more important to go back to the committee's version on this point because we do not yet, even, have an emergency rationing plan on the books that could take effect in the event of a considerable emergency such as a 20-percent shortage as called for under the emergency rationing bill as it left the House. Would the gentleman agree with that?

Mr. DINGELL. I concur with the gentleman. I would point out that the Subcommittee on Energy and Power stands ready to consider questions of this kind at any time legislation is drafted and presented. However, the drafting of a piece of legislation like this in committee is much more desirable than the rather crude way of handling this thing on the floor through floor amendment, which has never been considered in the committee.

As the gentleman well knows I have opposed all efforts to run around the committee on control, decontrol of either product or crude.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FISHER was allowed to proceed for 2 additional minutes.)

Mr. FISHER. Finally, let me say I advocate getting out of the price control system in this industry. Crude, product, whatever. I have thought it would be better to phase our way out of it over not too long a period of time; a year or two. It happens to be that we put into the law relating to crude oil prices 2 years from now. It does seem to be a better course to deal with the product prices in the same way and disengage from those controls over the same period of time and that we have a better chance this way of protecting ourselves against any undue windfalls in times of crisis. We do have a better chance of protecting ourselves there and it is more understandable to the public, I believe, to handle the two sets of prices or the prices at the two stages in this industry, in approximately the same manner.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, I think the gentleman is making an important point but I hope the gentleman would understand that the administration has the power right now to gradually decontrol the margin of limits on the gasoline sector, both the marketers and the retailers, but I see no plan they are going to undertake that.

Mr. FISHER. I think the gentleman is correct in this sense, and the administration is doing that right along, now.

Mr. Chairman, my problem with the Courter amendment is that it would preclude that possibility by denying funds in this next year to be used to continue to disengage from price control over gasoline prices.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from New York.

Mr. STRATTON. I appreciate the gentleman yielding to me.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. STRATTON, and by unanimous consent, Mr. FISHER was allowed to proceed for 3 additional minutes.)

Mr. FISHER. I yield to the gentleman from New York.

Mr. STRATTON. I wonder if I could ask the chairman of the subcommittee, the gentleman from Michigan, if he could explain precisely what the difference is between the controls on crude oil and the controls on gasoline. In other words, what is the control, a certain margin over whatever the price is paid for crude oil?

Mr. DINGELL. There are controls of all levels of the industry. There are controls on the crude producer which are fixed by the statutory formula as modified by the President's decontrol measures.

The controls on refiners are roughly that the refiner get his cost of crude plus the costs of refining, plus certain incentives which have been built in through measures such as the gas tilt. In other words, he gets his costs plus, essentially, a margin. Then the jobbers and the retailers get their product costs plus a markup which is fixed in the regulations.

Mr. STRATTON. Is the gentleman saying that the President's order for phased decontrol is addressed not only to the control of the crude oil but also to a specific reduction of the other controls the gentleman has just referred to?

Mr. DINGELL. What happens is, since the President's plan for phased decontrol of crude oil is essentially a decontrol by volumes as opposed to a rise in price, the consequences are that this carries the gasoline prices upwards to world market prices at the same time that the last of the domestically produced crude is decontrolled on the 30th of September of 1981.

Mr. STRATTON. Will there still be a limit on the margin that you can get over and above that when March of 1981 arrives?

Mr. DINGELL. At that time all controls would expire. The probability is, by reason of the title that has been given to afford gasoline a higher percentage of the cost of refining, that it would ordinarily have been entitled to under old regulations, that probably gasoline prices would rise to world market prices before the 30th of September of 1981. About 5 percent earlier in terms of time and dollars.

□ 1710

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STUDDS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 4580, DISTRICT OF COLUMBIA APPROPRIATIONS, 1980

Mr. CHARLES WILSON of Texas. Mr. Speaker, I call up the conference report on the bill (H.R. 4580) making appropriations for the government of the District

of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 18, 1979.)

The SPEAKER. The gentleman from Texas (Mr. CHARLES WILSON) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. PURSELL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. CHARLES WILSON).

Mr. CHARLES WILSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. CHARLES WILSON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 4580 and on the amendments in disagreement, and that I be permitted to include a tabulation summarizing the conference report.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CHARLES WILSON of Texas. Mr. Speaker, the conference report now before the House will provide the District of Columbia government with total resources of $1.9 billion for fiscal year 1980, of which 40 percent or $784.5 million will be in Federal funds. This amount includes a Federal payment of $238.4 million and Federal loans for capital outlay of $125 million.

The conference agreement provides a total of $1.5 billion in District of Columbia funds, and includes $1.4 billion in operating expenses and $157 million for capital outlay. This is $115 million below the amount requested in the amended budget, $58 million above the House allowance, and $19 million below the Senate bill. The increase of $58 million above the House bill is due primarily to budget amendments totaling $86.6 million which were transmitted to the Congress too late for consideration by the House.

In Federal funds, the conferees recommend a total of $373.7 million, a reduction of $113.2 million below the budget request, $46.2 million above the House allowance, and $10.9 million below the Senate bill. Mr. Speaker, the increase above the House allowance is due partly to the budget amendments I mentioned a moment ago and partly to a reduction in the carryover surplus which was required to fund the fiscal year 1979 supplemental.

The conferees have approved $5.1 million for operation of a summer jobs program for District youth, ages 14 to 21, as well as $4.2 million for a jobs program for adults with dependents. Language has been included in the bill prohibiting the use of funds for the summer youth jobs program until the city's plan is approved by both the House and Senate Committees on Appropriations. A total of $2.9 million has been approved to cover the costs of equipment and contractual services for the care of St. Elizabeths patients who are placed in community-based facilities. The conferees recommend a total of $10.2 million for the city's day care program, an increase of almost 10 percent above the 1979 level.

The conference action adds $800,000 and 33 positions to the fire department's budget for the sole purpose of improving the emergency ambulance service. The city will now have a total of 15 emergency ambulance units available. The conference agreement includes an increase of $11 million above the House allowance to cover the cost-of-living salary increases. This will provide a total of $58 million for this purpose. Mr. Speaker, the District of Columbia has entirely too many employees. If you count employees paid for through Federal grants, there are over 47,000 employees for a population of 672,000. The committee is trying to do something about this, and in conference we agreed to hold down the personnel ceiling to the lower level that was in the House bill. In addition, Mr. Speaker, the conference action reflects a one-half percent base reduction in overhead and administrative costs for all departments except the public safety agencies as reflected in the House bill.

The full budget request of $351,500 has been approved for the District's Commission on the Arts and Humanities. This will allow the Commission to fully match the basic State agency grant from the National Endowment for the Arts. Additional funds have also been approved to meet the increased demand for birth and death records and to provide for improvements in the treatment and prevention of alcoholism. The conferees have approved various increases which will provide improved staffing and maintenance at several recreational facilities throughout the city.

The conferees have agreed to the full budget request for the city's Department of Housing and Community Development, except for the half percent base reduction, and have included an increase of $250,000 for a home mortgage assistance program for low and moderate income families. For mass transportation, the conferees have approved the revised budget request of $17.8 million for the city's capital contribution to Metro.

The conferees were unable to resolve their differences concerning the abortion issue, and that amendment, amendment No. 27, has been brought back in disagreement.

Mr. Speaker, the conference agreement provides adequate funds for the operation of the District of Columbia government during fiscal year 1980. This is a good conference report and I urge its adoption.

At this point in the RECORD, Mr. Speaker, I will insert a tabulation summarizing the conference action.

The table follows:

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1980 (H.R. 4580)—CONFERENCE SUMMARY

Item	New budget (obligational) authority, fiscal year 1979	Budget estimates of new (obligational) authority, fiscal year 1980	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	Conference action compared with— Fiscal year 1979	Budget estimates, 1980	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE I									
TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA									
Salaries and expenses	$7,500,000	$500,000	$500,000	$500,000	$500,000	−$7,000,000			
TITLE II									
DISTRICT OF COLUMBIA									
FEDERAL FUNDS									
Federal payment	250,000,000	317,000,000	191,500,000	249,121,500	238,200,000	−11,800,000	−$78,800,000	+$46,700,000	−$10,921,500
Payment in lieu of reimbursement for water and sewer services to Federal facilities	12,200,000	10,500,000	10,300,000	10,500,000	10,500,000	−1,700,000		+200,000	
Federal payment to retire R.F.K. Stadium bonds	9,900,000					−9,900,000			
Loans to the District of Columbia for capital outlay		159,391,700	125,725,700	125,000,000	125,000,000	+125,000,000	−34,391,700	−725,700	
American Agricultural Movement demonstration expenses	2,565,000					−2,565,000			
Total, Federal funds to District of Columbia	274,665,000	486,891,700	327,525,700	384,621,500	373,700,000	+99,035,000	−113,191,700	+46,174,300	−10,921,500

Item	New budget (obligational) authority, fiscal year 1979	Budget estimates of new (obligational) authority, fiscal year 1980	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	Conference action compared with— Fiscal year 1979	Budget estimates, 1980	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
DISTRICT OF COLUMBIA FUNDS									
Operating Expenses									
Governmental direction and support	($66,475,600)	($70,983,200)	($67,399,700)	($64,879,000)	($63,456,900)	(−$3,018,700)	(−$7,526,300)	(−$3,942,800)	(−$1,422,100)
Economic development and regulation	(14,992,300)	(25,673,700)	(13,810,900)	(16,609,700)	(16,127,000)	(+1,134,700)	(−9,546,700)	(+2,316,100)	(+117,300)
Public safety and justice	(291,569,100)	(303,024,900)	(293,247,700)	(296,177,800)	(295,472,300)	(+3,903,200)	(−7,552,600)	(+2,224,600)	(−750,500)
Public education system	(309,564,000)	(326,162,300)	(310,596,700)	(317,379,500)	(312,493,500)	(+2,929,500)	(−13,668,800)	(+1,896,800)	(−4,885,000)
Human support services	(335,498,700)	(374,156,500)	(329,110,500)	(350,432,400)	(347,359,500)	(+11,860,800)	(−26,797,000)	(+18,248,900)	(−3,072,900)
Transportation services and assistance	(83,797,900)	(95,717,600)	(91,280,100)	(92,858,600)	(92,084,100)	(+8,286,200)	(−3,633,500)	(+804,000)	(−774,500)
Environmental services and supply	(76,273,200)	(81,519,200)	(77,137,800)	(79,206,100)	(78,297,800)	(+2,024,600)	(−3,221,400)	(+1,160,000)	(−908,300)
Personal services	(34,610,600)	(81,610,600)	(47,354,500)	(58,354,500)	(58,354,500)	(+23,743,900)	(−23,256,100)	(+11,000,000)	
Repayment of loans and interest	(120,400,000)	(121,657,300)	(120,457,300)	(120,457,300)	(120,457,300)	(+57,300)	(−1,200,000)		
Demonstration expenses	(2,565,000)					(−2,565,000)			
Total, operating expenses	(1,335,746,400)	(1,480,505,700)	(1,350,395,200)	(1,395,754,900)	(1,384,102,900)	(+48,356,500)	(−96,402,800)	(+33,707,700)	(−11,652,000)
Capital Outlay									
Capital outlay	(77,215,000)	(176,540,300)	(132,830,200)	(165,355,300)	(157,531,300)	(+80,316,300)	(−19,009,000)	(+24,701,100)	(−7,824,000)
Total, District of Columbia funds	(1,412,961,400)	(1,657,046,000)	(1,483,225,400)	(1,561,110,200)	(1,541,634,200)	(+128,672,800)	(−115,411,800)	(+58,408,800)	(−19,476,000)
RECAPITULATION									
Grand total, new budget (obligational) authority	282,165,000	487,391,700	328,025,700	385,121,500	374,200,000	+92,035,000	−113,191,700	+46,174,300	−10,921,500
Consisting of:									
Temporary Commission on Financial Oversight of the District of Columbia	7,500,000	500,000	500,000	500,000	500,000	−7,000,000			
District of Columbia:									
Federal funds to the District of Columbia	274,665,000	486,891,700	327,525,700	384,621,500	373,700,000	+99,035,000	−113,191,700	+46,174,300	−10,921,500
District of Columbia funds	(1,412,961,400)	(1,657,046,000)	(1,483,225,400)	(1,561,110,200)	(1,541,634,200)	(+128,672,800)	(−115,411,800)	(+58,408,800)	(−19,476,000)

Mr. PURSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we would on this side support the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. CHARLES WILSON of Texas. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will designate the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 4: On page 3, line 24, strike out "$67,399,700" and insert: "$64,879,000,".

MOTION OFFERED BY MR. CHARLES WILSON OF TEXAS

Mr. CHARLES WILSON of Texas. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHARLES WILSON of Texas moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$63,456,900".

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 4, line 24, strike out "$13,810,900" and insert "$16,009,700.".

MOTION OFFERED BY MR. CHARLES WILSON OF TEXAS

Mr. CHARLES WILSON of Texas. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHARLES WILSON of Texas moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$16,127,000".

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 16: Page 7, line 23, insert ": *Provided further*, That none of the funds appropriated for the summer youth jobs program shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved a plan submitted by the Mayor and the City Council detailing proposed expenditures.".

MOTION OFFERED BY MR. CHARLES WILSON OF TEXAS

Mr. CHARLES WILSON of Texas. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHARLES WILSON of Texas moved that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 10, line 6, strike out "$4,906,700" and insert "$5,288,100".

MOTION OFFERED BY MR. CHARLES WILSON OF TEXAS

Mr. CHARLES WILSON of Texas. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHARLES WILSON of Texas moved that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$5,278,100".

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 25: Page 16, line 11, strike out "Supplemental requests and budget amendments shall be transmitted to the Congress in a timely manner. Such supplementals duly submitted may be considered by the Congress in connection with a Federal supplemental or in a separate District of Columbia supplemental. Budget amendments duly submitted may be considered as a part of the annual District budget to which the amendment pertains.".

MOTION OFFERED BY MR. CHARLES WILSON OF TEXAS

Mr. CHARLES WILSON of Texas. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHARLES WILSON of Texas moved that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: Strike the matter stricken by said amendment and insert:

None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the government of the District of Columbia whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations or their duly authorized representatives.

The motion was agreed to.

The SPEAKER. The Clerk will desig-

nate the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27: Page 16, strike out lines 22 and 23.

MOTION OFFERED BY MR. CHARLES WILSON OF TEXAS

Mr. CHARLES WILSON of Texas. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHARLES WILSON of Texas moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert:

SEC. 220. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. CHARLES WILSON of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PREFERENTIAL MOTION OFFERED BY MR. STOKES

Mr. STOKES. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. STOKES moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein.

Mr. CHARLES WILSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this amendment would apply the antiabortion language contained in the continuing resolution (H.J. Res. 412), which was agreed to by the House and Senate and signed by the President last Friday, October 12, to all Federal funds in the fiscal year 1980 D.C. appropriation bill (H.R. 4580). The District government would be prohibited from using any Federal funds, including revenue sharing funds and the Federal payment, to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or where rape or incest has occurred and such rape or incest has been reported promptly to a law enforcement agency or public health service. Under this amendment, the District of Columbia will be treated the same as the 50 States, except for revenue sharing funds which States can now use for abortions but the District, under the language in my amendment, must use for purposes other than abortions.

Mr. Speaker, my amendment is the only fair and reasonable way to deal with this issue as far as the District of Columbia is concerned, and I strongly urge a yea vote on my motion which will apply the antiabortion language which has already been adopted by the Congress in the continuing resolution to all Federal funds in this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the purpose of my motion is to have the House recede from its disagreement to the amendment of the Senate and concur therein. The Senate bill contains no language pertaining to the funding of abortions in the District of Columbia. Thus, the effect of my motion is that any restrictions on the use of Federal funds to pay for abortions, as spelled out in the Labor-HEW appropriations bill, would continue to apply to the District of Columbia as well as to the rest of the country. The Congress has followed this practice in the past. Because the Labor-HEW appropriations bill for fiscal year 1980 has not yet been signed into law, however, the restrictions established in the fiscal year 1980 continuing resolution would apply to the District of Columbia until such time as a Labor-HEW bill is finalized. As you well know, the language in the continuing resolution provides that no Federal funds are to be used to pay for abortions, except where the life of the woman would be endangered if the fetus were carried to term, or in the case of rape or incest with prompt reporting to a law enforcement agency or the Public Health Service.

Earlier this year, the House attached two antiabortion amendments to the District of Columbia bill that would establish a different standard for the District of Columbia than for the rest of the Nation. The first amendment states:

None of the funds appropriated herein for the medical expenses necessary to saving the life of a pregnant woman entitled to receive medical benefits under this act shall be denied.

The second amendment states:

None of the funds appropriated under this act shall be used to pay for abortions.

The combined effect of these amendments would have been to prohibit the District of Columbia from using locally generated tax revenues to pay for abortions, except where the life of the mother would be endangered. Mr. Speaker, the reason for this is that the Congress appropriates funds for the entire budget for the District of Columbia, even though this budget is financed in part by Federal funds and in part by local revenues. In fact, 59 percent of the District of Columbia operating and capital budget approved in this bill is financed through local taxes, fees, charges, and other collections. These local resources will amount to over $1 billion in fiscal year 1980.

When the conferees on the District of Columbia bill met, we agreed to delete the first antiabortion amendment and to report the second antiabortion amendment in disagreement. Thus, unless my motion is passed by this House, a flat prohibition against funding any abortions will exist in the District of Columbia. The District will be prevented from using its own local funds to finance any abortion. This even includes an abortion critical to saving the life of a pregnant woman. If allowed to prevail, the current House language would be cruel, not only because it does not recognize life-threatening circumstances, but also because it imposes on the District of Columbia an unfair and highly restrictive standard that no other State, city, or county has to follow.

I would like to emphasize that even though current law provides for the limited use of Federal dollars to fund abortions, States still have the option of using State funds to pay for abortions. Again, every State except Arizona, which has no medicaid program, currently allows for the use of State funds to finance abortions in life-threatening or more liberal circumstances. The amendment on the House bill denies the District of Columbia this option, which every other State possesses.

The author of the amendment we are discussing, my distinguished colleague from California, has advanced the argument that the District of Columbia should be restricted in its use of local revenues because these funds are "commingled" with Federal funds. The fact is that no more commingling of funds occurs in the District of Columbia than in any other jurisdiction in this country that receives Federal aid.

The basic issue here is whether the residents of the District of Columbia should have the right to determine the disposition of local tax dollars: The same right that is enjoyed by all other taxpaying citizens in this country. There is absolutely no justifiable reason to impose an unfair and unreasonable law upon the citizens of the District of Columbia that is not imposed upon any other jurisdiction in this Nation.

Mr. Speaker, in the interest of fairness and decency, I urge the House to adopt my motion.

Mr. PURSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in favor of the motion offered by the gentleman from Ohio.

Accepting this added restriction on District of Columbia residents would result in a conflict with our present position debated and addressed in the Labor/HEW appropriations bill. In past years and in action taken thus far for the fiscal year 1980 budget, we have established several restrictions on Federal moneys as applied to medicaid-funded abortions. The District's budget plan—like the plans for all the 50 States—now operates under this restriction for the use of Federal funds. However, by defeating this motion and thus insisting on the amendment by the gentleman from California, we would be establishing new, more restrictive language on a certain, limited number of people in the United States. This is discrimination. In effect, we would be penalizing the citizens of the District of Columbia for being the special entity they are.

Here we are not discussing the issue of abortion and the right to human life. The issue is, will Congress dictate the way a city or a State spends its own revenues. I must certainly agree with my colleague from Ohio that I highly doubt that any one of us here would allow these same restrictions of spending on our own

State's revenues. It would be, indeed, a frightening precedent to make.

Whether or not you support the right to refuse Federal funds for abortion, you must support this motion. We cannot tell the District how to spend its own money collected as sales tax on food and hotel rooms, real estate and corporations any more than we can tell Sacramento how to spend its revenues—whether it's for welfare, transportation, education, or medicaid abortions.

Let me again urge passage of this motion.

□ 1720

Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. It was a great disappointment to me to learn that the House has failed to reach a compromise with the Senate on the matter of the District of Columbia budget legislation. The Senate wisely refused to accept an amendment which would have forbidden the use of public revenues for abortions; the House should do the same.

What is at issue here is not abortion. It is the matter of the U.S. Congress telling the citizens of the District of Columbia how their tax dollars may or may not be spent. We are not telling the citizens of Bridgeport, Conn., or of Los Angeles, Calif., or of any other city that they cannot spend their tax dollars as they see fit. We would not dare to do so. Were we to attempt to apply such restrictions to our own constituents we would be laughed out of office. Citizens of the District do not have a vote in Congress and are therefore easy targets for those who wish to do some political grandstanding. Consequently, we are singling out the District of Columbia for special treatment, and it is grossly unfair.

When we passed the Home Rule Act close to 6 years ago it was the culmination of many years of bitter struggle. The disasters predicted by its enemies have not come to pass. Restrictive legislation, such as the amendment we are considering now, would make the Home Rule Act stand for little more than an empty promise, and would be a slap in the face of the citizens of the District of Columbia. We are, in effect, telling the people of the District of Columbia that they cannot use their own judgment as to which programs and policies should be established and how their money should be spent.

Mr. Speaker, it occurs to me that if we continue to heap injustices of this sort upon the citizens of the District of Columbia, who by the way already bear the great injustice of being taxed without voting representation in Congress, we may by our own actions be laying the foundation for a version of the Boston Tea Party right here in the Nation's Capital. We should show our confidence in the judgment of the District's elected officials and its people by not dictating to them as to how they should spend their own money. I urge my colleagues to join me in voting against this abortion amendment.

Mr. PURSELL. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Speaker, it has been most interesting to watch the rhetorical arguments develop concerning "home rule" and the "constitutionality" of my amendment to the District of Columbia appropriations bill.

I do not have to remind my colleagues, that we took an oath to uphold and defend the Constitution upon accepting office. Now, that part of the Constitution which refers to the District of Columbia, states that the Congress has the power, and I quote, "to exercise exclusive legislation in all cases whatsoever, over such District * * *."

Second: Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act—which, by the way, was approved by many Members still here—states in part:

SEC. 102. Subject to the retention by Congress of the ultimate legislative authority over the Nation's Capital granted by article I, section 8 of the Constitution, the intent of Congress is to delegate certain legislative powers to the Government of the District of Columbia.

That was October 10, 1973.

SEC. 446. No amount may be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been approved by Act of Congress, and then only according to such Act . . .

SEC. 601. The Congress of the United States reserves the right at any time, to exercise its constitutional authority as legislature for the District by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the Council by this Act, including legislation to amend or repeal any law in force in the District prior to or after enactment of this Act and any act passed by the Council.

And yet, there are some who insist that my amendment to the D.C. appropriations bill is somehow "unconstitutional" or that it violates the "home rule" charter. This argumentation is a smokescreen. There is no "home rule" cry when the Congress specifies in the same bill how many chauffeurs the Mayor can have or what he can pay for mileage on official business. Or when the Congress attaches five or six pages of numerous and sundry other "restrictions" on the D.C. budget including a prohibition on the D.C. government for picking up ashes in alleys or installing taxicab meters.

I also find it strange to see a Member of the other body breastbeat vociferously on the "home rule" principle, in opposition to my amendment, and then threaten to hold up the entire D.C. budget over the location of the University of the District of Columbia. So much for revolutions in Vermont.

A similar diversionary or side-stepping tactic was tried by a Member of the other body in attempting to crush a bill to abolish slavery in the District on March 4, 1862. Speaking in opposition to the bill, Senator Davis of Kentucky said:

Was there anything in British oppression upon the colonial inhabitants of this country at all comparable in grievance, in real wrong and outrage, to what you are endeavoring now to force upon the people of this District? Have they not as much right to say they will have slaves as you to say that you will not have slaves? If you will not allow them that privilege, will you not allow them the poor privilege of voting whether free Negroes shall stay here among them or not, a curse to the soil, a blight upon this small and poverty-stricken society?

Lastly, I would just like to inform my colleagues that there is really no valid reason to oppose my amendment to this bill, because according to a September 19, 1979, Washington Post article, the procedures prohibited by my amendment will be paid for out of the profits of some doctors and abortion clinics in the District. I might add that we have been paying with taxpayers' dollars, some practitioners of this sordid trade in the six-figure category. That's correct. Over $100,000 just for abortions. It will be most difficult to explain to your constituents that you voted their public money for this life-taking process when private money was available for this.

I urge you to reject the amendment of the gentleman from Ohio.

Mr. CHARLES WILSON of Texas. Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER. The question is on the preferential motion offered by the gentleman from Ohio (Mr. STOKES).

The preferential motion was rejected.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. CHARLES WILSON).

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

ENERGY MOBILIZATION BOARD—SHOULD CONGRESS ISSUE A BLANK CHECK?

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WIRTH. Mr. Speaker, the Senate's passage last week of legislation creating the proposed Energy Mobilization Board has focused the attention of a wide variety of groups on the House. During the next several weeks my colleagues will be faced with key decisions on the breadth of powers to be granted to the Board—decisions which may determine to a large degree not only the speed with which this Nation can develop new energy resources but also the future course of our federalist system of government.

In an excellent article in yesterday's Washington Post, columnist David Broder laid out the choices which faced the Senate during its consideration of the legislation, clearly pointing up the wide differences between the two versions debated in the other House. In Mr. Broder's view, two particular issues were of preeminent importance: the unlimited number of projects the Energy Mobilization Board would be empowered to designate for a decisonmaking "fast track" under the Senate-passed version and the power that bill would grant to the Board to preempt State and local agencies' decisionmaking authority in the event of undue delay.

These are major questions which will face the House in its consideration of Energy Mobilization Board legislation within the next several weeks. But I would point out to my colleagues that the bill which will come to the House floor from the Commerce Committee presents issues of far greater magnitude. Regardless of which Senate version of the legislation one prefers—and I believe there are major weaknesses in both—the House Commerce Committee bill takes a major step beyond the Senate's final choice, empowering the EMB to waive the requirements of existing Federal, State and local law on its own authority, subject only to Presidential approval and a one-House congressional veto. This blanket authority for an appointed Federal Board to nullify the policy decisions of Congress was roundly rejected when it was proposed on the Senate floor. Waiver of existing State and local law was not even considered by the Senate.

Mr. Speaker, Mr. Broder's column provides an important element of perspective in the debate on the breadth of the powers to be granted the Board, and I recommend it to my colleagues' consideration:

POWER GRAB IN THE NAME OF ENERGY

On the face of it, the proposal seems to defy the supposed public resentment of intrusive, big-brother Washington bureaucracy.

The idea of a president of the United States seriously proposing that four of his appointees—three of them part-timers not even subject to the standard conflict-of-interest statutes—be empowered to substitute their judgment for that of independent federal, state and local regulatory bodies, and even, in certain instances, to block the application of federal or state law, seems far-fetched.

That such a proposal would be approved by the U.S. Senate and be moving toward passage in the House of Representatives is even more improbable.

But exactly that has happened, without a rumble of public protest, in the past few weeks. Under the guise of speeding vital energy projects, the federal government is about to accomplish the most significant power grab in recent years. It may or may not accomplish its stated goal of making the United States more energy-independent. But it will certainly damage the federal system and diminish the accountability of those exercising authority in Washington.

As part of his July energy program, President Carter proposed creation of a federal energy mobilization board, with authority to speed the development of high-priority projects, whether they be pipelines, refineries or exotic fuel plants. The measure was designed to deal with a real problem—the delays in federal, state and local licensing and siting decisions, which have, in some instances, held up important plans for years.

The need to slice through the red tape is recognized by everyone. The question is how to do it without creating a new center of arbitrary power in Washington and destroying the responsibility the Constitution gives states and localities for the welfare of their own citizens.

Two options were offered the Senate earlier this month, and the choice the Senate made—to the cheers of the Carter administration—was disturbing.

One bill would have limited the number of energy projects that could be cleared for "fast-track" action and would have restricted them to projects with a significant impact on reducing U.S. energy dependence. The other bill had no such limits.

The Senate chose the blank-check approach.

One bill would have let the new federal agency go to court to enforce a reasonable deadline (usually one year after submission of the plans) for decision-making by a state or local agency on the environmental, social and economic consequences of an energy project.

The other would let the presidential board substitute its own judgment for that of the local or state body, if the federal deadline was not met.

The Senate chose the second way—the path of federal preemption.

One bill would have forced the regulators to obey all the existing laws. The second would allow the federal energy expediters to bar the application of any law passed by Congress, state legislatures or city councils, subsequent to the start of work on a particular project.

The Senate chose the second course, embodying the daring constitutional assertion that four presidential appointees can nullify the enforcement of a statute passed by the elected officials of any level of government.

The vote was not close in the Senate. By a margin of 58 to 36, the senators gave Carter the power he sought, brushing aside vehement objections from such senators as Abraham A. Ribicoff (D-Conn.), Edmund S. Muskie (D-Maine), Gary Hart (D-Colo.), William V. Roth (R-Del.) and Charles H. Percy (R-Ill.).

They also ignored a chorus of protests from the nation's governors, mayors, county executives and state legislators, who see the proposal as a serious threat to their role in the federal system. They have threatened to challenge the legislation in court, if it is finally passed.

It is an understatement to say that it is extremely shortsighted to launch a national energy acceleration program with a bitter battle between Washington and leaders of state and local governments.

But the companion bill being prepared by a House committee is an even more extreme invasion of state and local authority by Washington, and even more glaring contradiction of the supposed public distaste for expanding bureaucratic power.

The governors and mayors and their Senate allies are trying to say we do not have to sacrifice the federal system to speed up energy production. But most of Washington is ignoring the message. The country will suffer the consequences for years to come.

□ 1210

WHAT THE AMERICAN PEOPLE WANT IS LEADERSHIP

(Mr. DASCHLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DASCHLE. Mr. Speaker, the Republican Party today is dominated by the belief that the American people are ready to retreat from their historic commitment to the education, the health, the prosperity, and well-being of their fellow citizens.

A small army of Republican Presidential candidates crisscrosses the Nation in a frenzied effort to outbid one another for the "no more government" vote. Their strategy, in fact the central Republican strategy for the 1980's, is to ride to victory on a wave of pledges to dismantle our Federal Government.

I believe those efforts will come to grief. They will flounder on their fundamental misreading of the mood of the American people.

At scores of meetings across my district, at the front doors of hundreds of my South Dakota constituents, the message I have heard suggests this Republican sounding of national retreat is destined to failure.

The Democratic Party correctly perceives that the people of this Nation are not interested in lowering the curtain on our efforts to solve the great problems that confront us.

Our people do not want the elimination of government, they want government that works.

They are not tired of battles against ignorance and poverty, they are tired of losing those battles.

They do not seek an end to all Government spending, they seek Government spending that returns a dollar's value for a dollar spent.

It is the Democratic Party, the party of the average citizen, that understands these facts.

It is the Democratic Party, the party of the farmer, the worker, the housewife, and small business person, that seeks to couple leaner government with renewed commitment to the well-being of our people.

It is the Democratic Party, in education, in energy, in agriculture, and unemployment that seeks programs which cost less, but which work.

The people of South Dakota do not believe in quitting. When they see expensive failures in Washington they do not ask that we turn tail and run. Like our Democratic Party and like their fellow citizens across the Nation, they reject failure. But they reject surrender as well.

What they want is leadership.

It is harder, it is riskier, it may even be more divisive, but leadership, not retreat, is what our Democratic Party is all about.

LEGISLATING IN APPROPRIATIONS BILLS

(Mr. HARRIS asked for and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HARRIS. Mr. Speaker, last week, hundreds of thousands of Federal employees received only half their paychecks because Congress was at an impasse on the continuing appropriations resolution for fiscal year 1980. And millions more who depend on the Federal Government were threatened by our inability to come to an agreement. Fortunately, more serious delays and disruptions were avoided when Congress finally voted last Friday evening to pass an emergency appropriations bill providing funding through November 20, 1979.

Although the resolution was a fiscal year 1980 appropriations bill, the controversy did not stem from a disagreement over any of the recommended funding levels. Rather, the problem was over unrelated, controversial legislative riders attached to the bill. The funding for vital Federal programs and Federal workers was held hostage while Congress debated congressional pay raises and Federal funding for abortions.

By passing the emergency appropriations bill on Friday evening, the funding problem for fiscal year 1980 is temporarily resolved. But the problem will not go away. Until we change the House rules, unrelated, controversial legislation will continue to bottleneck the legislative process, jeopardizing the orderly and efficient conduct of the Federal Government and Congress.

That is why I am reintroducing my resolution to severely limit legislation in appropriations bills. My resolution would remove the loopholes in the current House Rule XXI that has permitted legislative language in appropriations bills. It would also cover all appropriations measures, including continuing resolutions which House Rule XXI does not now cover.

I firmly believe we must have a system that handles legislation responsibly, thoughtfully and deliberately. Legislative riders on appropriations bills simply do not meet this standard. Appropriations bills should be money measures for purposes authorized by law—not Christmas trees on which to hang other, unrelated issues.

SUMMARY—RESOLUTION TO LIMIT LEGISLATION IN APPROPRIATIONS BILLS

(Introduced by Congressman HARRIS, Oct. 16, 1979)

The Harris resolution would amend the second sentence of clause 2 of House Rule XXI. It would remove language permitting any Member to offer so-called retrenchment amendments. It would prohibit any provision in an appropriations bill or amendments thereto which change existing law or impose any limitation not contained in existing law.

The resolution would allow floor amendments that:

1. Change amounts of money in the bill;
2. Appropriate funds for authorized programs not included in the bill if germane and if not contrary to these strengthened strictures against legislation in appropriations bills;
3. Retrench expenditures if the authorizing committee has reported to that effect and if those amendments are germane. (This provision is in the current rule and would not be modified by my resolution.)

The resolution covers all appropriations measures, including continuing resolutions.

It would not disturb the right to offer motions to recommit when bills are reported back to the House from the Committee of the Whole.

The resolution would not change House Rule XX which provides that any Senate amendment in an appropriations bill that changes existing law cannot be agreed to by House conferees unless specific authority to agree to the amendment is first given by the House by a separate vote on every such amendment.

FULL FUNDING NEEDED FOR AGRICULTURAL CONSERVATION PROGRAM

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I rise to speak in favor of continuing full funding for the agricultural conservation program. We must continue to maintain those longstanding and important conservation programs under ACP to preserve our soil for future generations. I ask my colleagues to support this very important program.

Our entire economy is dependent upon a financially healthy American agriculture, for it is the foundation of our economic well-being. Agriculture is the base on which industry or labor depend. The cost of food, clothing, and shelter is going to be paid either by the user, the consumer, the taxpayer, or the land. We cannot charge the cost to the land for if we wear out our agricultural base, we will find ourselves like many other countries who are food deficient. Our farmers must continue to grow the food and fiber needed to meet domestic world needs. We forget that our high standard of living comes because so few of us provide food, clothing, and shelter for the rest of us. This allows the rest of us to provide the many other things that make for our high standard of living.

With world demand for food expanding and with ever-increasing inflation and other serious threats to our ability to produce adequate food supplies in the future, it is essential that we continue to emphasize those programs which will protect our land and water resources so as to strengthen food production. To maintain exports of our chief stock in trade and continue our efforts to maintain a favorable balance of trade with the other nations of the world we must restore our land.

I ask my colleagues to maintain the funding for the ACP program and other programs that will secure our future in agriculture. We must continue to maintain a viable, strong farm community and provide adequate support at the grassroots level.

SAY LESS! SPEND LESS!

(Mr. LOEFFLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOEFFLER. Mr. Speaker, if there is one constant message that I receive from my constituents it is that the cost of the Federal Government far exceeds benefits. Most people point to the executive branch as the chief offender, but Congress is by no means exempt from criticism. I am certain that we are all aware of our ranking in the latest public opinion polls—far below bankers, lawyers and even Presidents. Less than 15 percent of the American public has confidence in this Congress.

Mr. Speaker, it is clear we must begin to set this House in order. Today I am introducing a resolution that would limit the number of pages Members may insert into the Extensions of Remarks to four per session of Congress. In 1978 the cost per page of printing the Extensions of Remarks section of the CONGRESSIONAL RECORD was $347; taking the year as a whole, this amounted to 13.9 pages per Member at a cost of $4,814. For 1980, the cost per page is expected to be at least $393; at this rate, printing the Extensions of Remarks section will cost the taxpayers of America $5,452 per Member of Congress if the number of pages of Extensions remains constant—a highly unlikely event.

My resolution would limit the insertions per Member into Extensions of Remarks to four pages per year from the 1978 average of 13.9 pages per Member. Four pages is no small amount; each page consists of three columns of 9¼ inches per column. Under this resolution, each Member would retain the right to insert 111 column inches of material in the CONGRESSIONAL RECORD per year. The savings to the taxpayer, again assuming the number of pages did not increase over 1978, would be $1,687,935.

Mr. Speaker, I question if any of our constituents would approve of each Member of Congress spending $5,450 of taxpayer funds to print extraneous material in the CONGRESSIONAL RECORD. My resolution will allow any Member of Congress to have printed in Extensions of Remarks whatever material he or she desires; however, the space limitations will force us to refrain from the irrelevant—and very expensive—use of this forum and, instead concentrate on the legislative business at hand.

I urge the favorable consideration of this resolution by all my colleagues.

MORE CAPITAL—MORE OIL DRILLING

(Mr. COLLINS of TEXAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLLINS of Texas. Mr. Speaker, studying the energy shortage in the United States confirms one basic fact—the U.S. oil industry needs more capital in order to provide more oil drilling. I have called on geologists back in Texas to furnish me with comparable data on drilling showing similar production costs. Geologist James A. Gibbs of Dallas furnished me with the cost data of comparable oil wells drilled in Montague County up in North Texas. This compares 1972 versus 1979. The completion costs of an oil well must be added, which doubles the initial drilling costs. For instance, the drilling costs for these three oil wells had an average cost of $5.48 a foot for drilling, and $5.35 a foot for completing the oil well, which gave a total cost of $10.83 back in 1972. Compare this $10.83 with the total cost of three wells in 1979 which was $28.63 a foot.

This data was from McCommons Oil Company of Dallas which is a small but very efficient, well managed company. It has had many years of experience in Montague County. Let me quote from Gibbs' letter on McCommons Oil:

In 1972, McCommons drilled three wells in an area of Montague County and completed them as successful producing wells. (See Schedule "A" attached.) In 1978 and 1979, three more wells were drilled and completed as producing wells in the same area.

In the approximate seven year period between the time the six wells were drilled, the drilling costs rose from an average of $5.48 per foot to $14.31 per foot, a 261 per cent increase (37.3 per cent per year). The cost

of a completed well rose from an average of $10.83 per foot to $28.63 per foot, a 264 per cent increase (27.8 per cent per year). Since these wells were drilled, costs have continued to rise. Furthermore, the costs of some goods and services have risen more than these average costs. The day-to-day operational costs of producing the oil from the wells have also risen during the past seven years or so, so that wells which could have been operated for a profit with prices of $15 per barrel oil several years ago may no longer be.

We in Congress must also remember that there is great potential in secondary and tertiary recoveries. We have only recovered 30 percent of the oil out of the present discovered oil formations. But secondary recovery is very expensive. Why should we pay $24 for Arab OPEC oil when we can recover U.S. oil under secondary recovery for $20 a barrel. Let us always bear in mind the fact that 6 years ago we were importing $3 billion of foreign oil and this year we are going to import $60 billion of foreign oil. We are financially draining America, when deregulation of the oil industry could make us energy independent.

THE INFLATION CHALLENGE

The SPEAKER. Under a previous order of the House, the gentleman from Arizona (Mr. RHODES) is recognized for 60 minutes.

Mr. RHODES. Mr. Speaker, the purpose of this special order is to outline what Congress should be doing to help our Nation turn back inflation. It has been said that inflation is the neutron bomb of our economy. It destroys the value of the paycheck while leaving the figures intact.

Recent action by the Federal Reserve is the first really effective step our Government has taken to meet inflation head on. It was a courageous act. It signaled to the world that the Fed does intend to take the firm steps within its power needed to corral inflation. Chairman Paul Volcker has made it clear that his organization intends to stay the course and to wring inflationary credit speculation out of our economy. It tells the world we do not intend to let inflation ruin our currency and economy.

He should not have to act alone. The Congress should get cracking on an anti-inflation package. This would help lay a solid foundation on which our economy can build during the coming decade.

To date there has been little but hand-wringing from the administration and the Congress. Vacillation has created the national malaise Mr. Carter complains about. Mr. Carter has said, on the one hand, that any real moves against inflation must necessarily cause a rise in the unemployment rate.

He then tells big labor that he does not intend to fight inflation with their jobs. He cannot have it both ways, as he has tried to do all along. Paul Volcker said on a recent TV interview that if inflation is allowed to soar as it is doing today, the eventual crash would cause massive unemployment for an extended period of time, and that relatively small adjustments now can head off runaway inflation and future chaos.

Showing its complete misunderstanding of the working of our economy, the administration has embraced a social contract with big labor. A program to allow wages to advance while trying to put the clamps on prices will not work. Wages are 75 percent of our national earnings, and they do play a direct role in creating higher prices in the marketplace. Guidelines and jawboning have proven feeble instruments for inflation control. The danger is that a politically desperate administration will succumb to the short-term lure of mandatory wage-price guidelines which never have worked since old Diocletian tried them many centuries ago.

We cannot blame workers for trying to match their incomes with prices that keep leaping ahead. The wage-price spiral is more a thermometer of inflation than a base cause. It has been said that there are a thousand hacking at the branches of evil for every one attacking its roots. That is the challenge facing this Congress and the American people today. When we get at the underpinnings of inflation, we find that they are firmly rooted in Government policies.

The Congress has done virtually nothing to fight inflation. It has, on the other hand, undermined its credibility with the American public by the farcical, almost childish, mishandling of a continuing resolution necessary to fund the Federal agencies. This resolution itself is an indictment of the sloth of this Congress. The fiscal year was jiggered to October 1, specifically so Congress would have time to enact appropriations bill. Senseless bickering, jurisdictional disputes and intramural rumbles between the House and Senate have shown that the majority party in this Congress not only is incapable of enacting forward-looking, timely legislation, it cannot even tend to the housekeeping chores of funding Government.

It is time for the Congress to get off the dime—get to work—stop its kiddie-car level of operation and get moving on legislation to help the Federal Reserve in its so-far single-handed battle against inflation. It is little wonder that the American public rates Congress the lowest of any major national institution. Their high level of disregard has been well-earned.

Republicans in the House have tried to inject common sense into the legislative process. We have attempted to pass corrective legislation, and adopt policies that will help America during the next decade. Unfortunately, most of these efforts have been overriden by a majority in Congress and an administration that cannot see beyond the next election.

Inflation has been defined as being too much money chasing too few goods and services. Thus, Government has a key role to play.

Budgetary restraint is imperative. We must set an example for frugality and prudence for the American people to follow. Yet, we find committees busily engaged in cooking up massive new Federal agencies and devising fanciful schemes to spend billions more.

We Republicans have submitted a carefully planned, pragmatic program to balance the budget by next year. It can be done, but it will take discipline and judgment that to date have not been conspicuous in the budgetary actions of the majority in this Congress. Certainly, today's inflation has been built on the base of $800 billion in deficit spending racked up by profligate Congresses of the past, all controlled by the same political majority that even today is trying to spend its way out of all our problems. During the past decade—Congress spent $3.2 trillion. It has solved no national problems, but it has created a monstrous inflationary headache for our economy and our people. The annual interest on the present national debt equals the total Federal budget of as recent a year as 1956.

Clearly, Government is the fountainhead of inflation, and Congress has the responsibility to stop borrowing the Nation into economic impotence.

Restraint in spending will enable us to cut taxes without increasing the deficit. It is no secret that the real windfall profits today are falling to the Government, through tax bracket creep. Federal revenues are escalating without legislative tax increases, simply because the Congress has refused to give up the inflation bonus built into our tax system.

With OPEC oil and Government-fueled inflation eating away at Americans' incomes, Congress should enact a reasonable tax cut, not next year, but now. This cut should operate through the withholding system and put money in the pockets of our people now, when they need it, thus returning some of the windfall money Government is taking away from the taxpayers by its failure to curb inflation.

Productivity is a word that has been kicked around a lot in the media. The real truth of our situation today is that the only solution to national inflation is to produce our way out of it.

We have the oldest, most inefficient manufacturing plant in the industrialized world. We are getting our socks beat off in the world marketplace. The dollar is declining as our balance of payments worsens.

It should be obvious that the right kind of tax incentives for savings which would result in capital formation would be the best investment Congress could make for the future of America. We have a puny savings rate, some 4.5 percent, a fifth of that in Japan and little more than a fourth of that in West Germany.

Why have people decided to spend—not save? Because the Congress has penalized thrift and emphasized tax breaks that stimulate consumption, while the saver has become the forgotten American.

It is time we begin to emphasize the supply side of our economy and not continue incentives for speculation and runaway credit buying.

Congress should pass accelerated depreciation—10 years for plants, 5 for machinery, and 3 for vehicles. The double-taxation of dividends should be stopped. Tax incentives for the small saver should be enacted and a universal IRA program established to allow Americans to build their own nest egg and lessen the pres-

sure to increase future pension programs. Pension liabilities have become a fiscal time bomb ticking away for Government and industry alike.

Federal regulation has become a major inflationary force causing billions in unproductive expenditures that are passed along to consumers as higher prices. We all know that a measure of regulation is needed, but Congress has overlooked its oversight function and allowed regulatory overkill to become a dampening force on our economy. It is time for the Congress to take a hard look at what the bureaucracy is doing, weed out superfluous regulations and regulators, cut redtape and paperwork that cost the economy billions in paper-shuffling waste, and trim Federal regulation down to size. Regulation can be effective without being massive and overly expensive, as it has become today.

Hand in hand with regulatory reform—Congress should be tightening up the lavish and loose income support payments programs that will take $250 billion of the national budget this year.

There is simply no excuse, at a time when Democrat leaders solemnly declare that a tax cut is inflationary, for them to tolerate waste such as the admitted misspending by HEW of $7 billion a year. Abuses, cheating, overpayment, and the whole, self-generating, redistribution-of-wealth apparatus should be overhauled by the Congress.

The American people have always been willing to help the helpless and disadvantaged. They do object strenuously to programs that make nonproducers a permanent class who gain their livelihood from the earnings of the ambitious, hard-working, and thrifty.

Congress should encourage a full-scale job training program. It should not be dead-end, leaf-raking, artificial jobs creation. It should be coupled with our free enterprise economic system. That is where the jobs are, some 81 million of them today.

Basic to all of our aspirations for prosperity through a growing, vigorous economy in the 1980's will be energy. Congress has frittered away the past 5 years since the Arab oil embargo. We still have no national energy policy. We do have an energy agency, which has shown by its inability to handle even an allocation program, that it has no answers to our energy problems.

Even today, when crisis is upon us, the majority in this Congress is spending its time salivating over how to split up the windfall-profits tax pie, rather than hammering out a practical energy program for the 1980's.

We are suffering from congressional sins of the past. When Congress went overboard on environmentalism in the early 1970's, it created a web of redtape that has immobilized energy development in its sticky grasp. We need a mobilization board, with authority to slash through the thicket of Federal regulations, allocate resources, and get the country really moving ahead toward energy independence.

Since there is no miracle on the horizon to lessen our dependency on oil for the short term, we must enact incentives for production of oil and gas. Congress should be working on a plowback provision that will invest energy profits into more production, which, after all, is the only answer to energy needs. Conservation can help greatly, but it is not the final answer. We cannot go and grow by turning into a Nation of rustics, trying to subdivide a shrinking supply of energy.

Much of our domestic energy supplies lie under public land, which belongs to all the people of America, not just the armchair environmentalists or backpack devotees. Congress should be working out a program of wise development of the tremendous energy sources we have within our borders. Instead, today, we have an administration that is putting roadblocks of every kind in the path of development, keeping energy away from the people and laws on the books that erect a prohibitive cost barrier to development of such sources as coal and oil shale.

The nuclear knot should be untied. We are falling behind in world technology, a sad fate for the Nation that pioneered the nuclear age and now sees threats of it ending in frustration over Federal failure to develop its potential. We need the breeder reactor to help solve our nuclear waste problem and extend fuel supply.

The American people are beginning to realize that the Carter administration cannot make good its flourishing promises. Most know that the answer to development of a synthetic fuels industry lies with the free enterprise system, not in creation of another Federal agency—or corporation—which would assure us minimum progress—at maximum cost.

A real national energy program of conservation and diversification is vital to our future. Congress should support fully a program to develop solar technology and practical use of sun power. Nuclear fusion is a long-term investment, but hybrid fusion-fission reactors could produce much energy within a decade. Geothermal—wind power and biomass all deserve attention from the Congress. Incentives for investment in these fuel sources should be provided.

The realistic way to solve our energy challenge is to let the marketplace make the decisions. We have seen shortages and misallocations due to Federal tampering with the price structure. Decontrol is the best method of assuring adequate future supplies.

No one is going to make the investment of money and effort to produce more energy if the long hand of Uncle Sam is laid on the price structure to the extent that it becomes uneconomic to bring in more energy.

I have just hit the high points of what this Congress should be doing to help us rev up America so we can produce our way out of inflation. The Fed is doing its part on the monetary side. Now it is up to the Congress to get down to work instead of playing petulant politics between the Houses, fiscal politics with the tax laws, and punitive politics with the free enterprise system, which after all is our only hope for the millions of new jobs we will need to employ a growing labor force during the 1980's.

My Republican colleagues will detail further the various aspects of our anti-inflation agenda, an outline of the course the Congress could and should take to help win the war against inflation.

□ 1740

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, I thank the gentleman for yielding.

I would like to commend the gentleman for bringing this special order to the attention of the House so that the American public can see that there are those who are concerned about the future of America. There are those who are not content to sit around wringing their hands in despair, but who are seeking to outline a program of progress for this country.

I think that the gentleman's outline of a three-pronged approach, particularly dealing with inflation, that is; restraining the supply of money and credit, as we are trying to do, and the Congress restraining the Federal Government in its expenditures of taxpayers' funds as well as trying to encourage the private sector to produce by providing the necessary incentives to do that, instead of regulating the private sector out of existence, is exactly what this country needs.

In closing, I would point out to the gentleman one thing. I think that it is most important that we look at it.

We, as an institution, have been indicted for the failure of the leadership of others. I think that when we look at the situation and find that the popularity rating of the body in which we serve is actually lower than the prime rate that exists in America today, then we have it summed up. We have a Congress at a 13.2 percent popularity rating and a prime rate of interest at 14.5; and the President is just about to be the first President in history to gain that dubious honor as well.

I again commend the gentleman from Arizona (Mr. RHODES), and I wish to associate myself with his remarks.

Mr. RHODES. I thank the gentleman from South Carolina.

I also would remind the gentleman that there is another percentage which is fairly close to 14.5, and that is the annual rate of inflation.

Certainly, this is another reason why we in the Congress should be addressing ourselves to producing our way out of the inflation in which we find ourselves today.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to my distinguished colleague from Arizona (Mr. RUDD.)

Mr. RUDD. Mr. Speaker, I thank the minority leader for yielding.

I would like to commend our minority leader for taking a special order to point out the gravity of the situation which exists today and the means for solving that situation.

Mr. Speaker, I know that the people of Arizona and the rest of the country are tired of hearing excuses about allegedly complex problems.

Our foremost economists as well as our commonsense dictate that the primary cause of inflation is the deficit spending caused by the big-spending programs of the Federal Government.

Contrary to liberal rhetoric, it is a simple solution.

The most recent indicator, the Consumer Price Index tabulated by the Bureau of Labor Statistics, reveals that the cost of living rose at an annual rate of 12.7 percent during the 3-month period of June, July, and August.

This is the highest projected inflation rate since 1974.

Mr. Speaker, I feel certain that the liberal response to this debate will be something to the effect that ending inflation is not a simple matter.

They will say that inflation is a complex situation, and the American people must be patient as the Congress struggles with how to cope with inflation.

This will be typical, Mr. Speaker, for it is precisely the procrastinating excuse which the liberals have given for so many years.

The economic situation of the country continues to deteriorate, and yet the liberal rhetoric continues unabated, "we don't want to move hastily."

In reality, they do not want to move at all. They do not want to make the hard decisions which they recognize are needed.

The American people are demanding real, not cosmetic, action. Yet the majority continues to dawdle.

I join the minority leader in expressing the hope that responsible members of both parties can unite to forge positions which will meet—head-on—the problem of government-induced inflation.

The time has long since come that Congress must meet its compelling responsibility to be more frugal with the tax dollars of our constituents, and thereby to eliminate the rampant inflation which threatens to cripple our economy.

Mr. RHODES. I thank the gentleman from Arizona (Mr. RUDD).

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. CONABLE. I also appreciate the burden that the distinguished minority leader is carrying today.

As a politician, I am afraid we are all too inclined to live by the aphorism which says, if you have to explain anything, you are in trouble.

In fact, a burden of explanation is necessary about an issue like inflation, which has many causes.

Implicit in the gentleman's remarks is something that I can confirm time and again in my own constituency, that inflation is the primary concern of the people; and while they may not understand all of the details of its causation, they do understand what the gentleman has emphasized, that it begins right here with Government policy or lack of policy or faulty policy.

□ 1750

We, in the two-party system, have an obligation to provide alternatives. It is not hard to provide an alternative to a complete vacuum of policy on the other side. But I do think we have got to explain in detail. If we are to do our job now we can work our way out of the mess we have got our economy in through failures of various sorts.

As I look at inflation, I agree absolutely with the gentleman in the well that it does start with faulty fiscal policies which, because they have been faulty for so long, have resulted in a cumulative deficit which has made independence on the part of the monetary authorities virtually impossible. They have had to monetize the gap to a substantial extent. As they have done that year after year and flooded the market with more money than necessary, the law of supply and demand has affected our dollars. The more that is out there in circulation, the more that is held abroad as well as in this country, the less the individual dollar is going to be worth. So if we have had a rising trend line in inflation, it has been for that reason alone.

There are other factors that exacerbate our inflation rate and the gentleman has identified them in one way or another. Energy, for instance; a failure of our energy policy has resulted in rising energy costs which have become an exacerbation of our resulting rates of inflation as these rising energy costs have worked their way through the economy.

We have had, of course, erratic food prices; they have become a factor. I always had the feeling they are rooted somewhere in government policy as well as our energy failures have been.

We have the problems that come from high taxes; they are a cost that have to be paid ultimately by the people, either as consumers or as taxpayers, and that affect the cost of living as well, and clearly taxation is one of the responsibilities of Government.

There is also the problem of the diversion of our productivity into those socially desirable goals of safety and environment, which, if these goals are not kept under control and in perspective, result in a further exacerbation of the rate of inflation, again clearly attributable to Government.

We can also find problems resulting from the imbalance in the marketplace which have tended to such devices as industrywide bargaining. As long as our manufacturers know they are not going to be affected competitively by rising labor costs, they are going to accede easily to the demands made of them, and those costs are going to go into the cost of living as a further exacerbation.

The imbalance of payments has resulted in a tremendous dollar overhang which has driven the value of the dollar down and thus caused the price of imports in our markets to go up, reducing competition here, and, in effect, further exacerbating the problems of inflation. Again, the fine hand of Government is present, so, as the public suspects, we can find in almost every element whether it is a rising trend line resulting from faulty fiscal and monetary policy, or all of the other little increments that come from the various other items I have talked about, we can find that a failure of Government policy is behind it.

We are not going to correct that without strong understanding and political accountability that is going to depend, I think, ultimately on the kind of statement the gentleman has made in the well. People are going to have to not only have this vague feeling somehow the Government is at fault, they are going to have to know the elements of policy that are necessary. And a failure of policy on the other side does not justify a failure of policy on our side.

The gentleman is acting as a leader should. He is coming before us, he is setting out in clear fashion how our faulty policies, how our lack of policies, and how our negative policies in many cases can be corrected. As such he is in the best traditions of this body and the best tradition of the leadership of this body and I thank him for his contribution.

Mr. RHODES. I thank the gentleman from New York, not only for his contribution tonight, but for his continuing contribution as the very capable ranking Republican member of the Ways and Means Committee.

I ask the gentleman if, in his opinion it is not also true that one of the areas of endeavor of the Ways and Means Committee and particularly the gentleman from New York is to change the depreciation schedules on plant and equipment, and if this is not about as critical to working our way out of this inflation as anything.

There is no doubt that capital formation is lagging behind in this country. Savings are way down and, of course, one of the ways to increase capital availability for expansion of productive capacity, which I think is necessary in order to return us to a competitive position with the rest of the world today, so we can someday repatriate that dollar overhang with goods, is it not quite important that we address ourselves almost immediately to all phases of capital formation, but particularly to the depreciation schedule?

Mr. CONABLE. If the gentleman will yield further, I would like to confirm the implication of his question. It seems to me somehow we have got to add to the incentives in our system to get this remarkable pool of capital that has been built up over the years by the foresight and industry of our forefathers, flowing again instead of achieving the stagnancy that seems to afflict it right now.

One way to do that would be through a speedup of depreciation, bringing the United States into the 20th century. At least putting us on a par in the use of capital with the rest of the developed world.

It seems to me this sort of thing is long overdue and again a result of failure of policy and of understanding of how the system works on the part of those who have been serving in the leadership of this body.

There are other ways of improving capital formation. But those of us who have been talking to computers on this issue are convinced there is more bang for the buck in depreciation reform than anything else. We are overstating our

corporate profits using the technique of the useful life of depreciation by about 50 percent at this point given the level of inflation we have, and the replacement cost of the items that are being depreciated. And thus, clearly, we are having a serious distortion in what we like to think is an incentive system that will increase productivity and in an almost straight line. Productivity curves have been flat and clearly we need this kind of reform.

I thank the gentleman for supporting this initiative, and wish to associate myself with his analysis, that this sort of thing ultimately is going to help the economy more than any amount of continued, mindless stimulation of aggregate demand can.

We need the incentives of saving and investment that he is advocating.

Mr. RHODES. Again I thank the gentleman from New York.

I yield now to the gentleman from Arkansas, the president of the freshman class (Mr. BETHUNE).

Mr. BETHUNE. I thank the gentleman for yielding. I would like to associate myself with the gentleman's remarks.

I think the gentleman makes a point that is excellent and that is that the Federal Reserve seems to be the only interested party in this Government in doing something about inflation. And it is a healthy sign that there at least is somebody around that cares enough about the American people to try to do something.

Unfortunately, when we get in the circumstances where one agency is trying to do the work of the entire Government, they have to take measures that are too stern sometimes.

□ 1800

I do not want to pass judgment now on whether their measures may have been too stern, but the fact is that so long as they are the only ones that are doing anything, it might be possible that they have to do too much from time to time. If this Congress would get busy and help, as the gentleman has indicated, by getting the tax burden off the people and by getting the regulatory burden off the people, by balancing the budget, the Fed would not be forced into this position. There would be no inflation, and interest rates would be lower, and the Fed and everyone would be happy.

One thing that needs to be brought out out is this: I would like for the gentleman to bring this out. The gentleman had foresight, having written a book several years ago exactly forecasting the problem the country has today. The book was, "The Futile System."

The gentleman wrote extensively about how this Congress works, and he wrote also about how this Congress fails to operate. I think there are some good points in there that should be brought out. The gentleman saw it coming years ago, and while we are talking about this entire problem I think it would be a good time for us to bring out some of the points that the gentleman made in his book.

I wish the gentleman would think back about the treatise and comment some about who controls the flow of legislation here in this Congress; who makes the rules here in this Congress about how we can consider a bill when it comes to the floor; who controls the parliamentary decisions that are made in this Congress, which are very important from time to time; and who, by the way, has a 2-to-1 majority in this Congress and can pass any bill any day it chooses.

I wish the gentleman would comment on these points, because he has been talking about what the minority is trying to do.

Mr. RHODES. I thank the gentleman from Arkansas, and I am glad to comment on those points because they are very basic. As a matter of fact, the main reason that the Federal Reserve System has found it necessary to take these heroic measures is not only because of the failure of this Congress, but because of the failures of past Congresses.

One result of 40 years of domination of the Congress by one party has been to create, among other things, a national debt of some 800 billions of dollars, which is terribly inflationary in itself. I said in that book, if the gentleman will remember, that there is something about a legislative body that causes it to grow arrogant, to grow unmindful of the welfare of the people it serves if it is under the control of one majority too long.

I said in that book—and I am not trying to sell it because it is out of print—that if the Republicans had been in control of the Congress for that long, it would be time to kick them out and bring somebody else in. I think the American people need to understand that they are not going to get any change in the thrust of this body, of this Congress, unless there is a change in the majority, because unfortunately each person who is in the majority leadership seems to take on the mantle of those who went before. We just do not get any change; we get more of the same.

Mr. BETHUNE. I think the gentleman makes an excellent point. If he will yield further, it seems to me that the people are under the impression from time to time that those who control this Congress are trying to do things to improve the processes, but they just do not seem to get it done. In other words, we have seen a revision of the budget process, we have seen some tinkering with the seniority system, we have seen also some revision of the way the committees work, and some of the entities have been improved from time to time, but it seems to me that one remedy that the people have to improve this body has not been employed for a long, long time; that is, to change the majority in the House.

I think there are a lot of people in the country who are not quite certain, No. 1, how that is done; and No. 2, what it could mean to the country if it were done. I wish the gentleman would comment on that.

Mr. RHODES. It is very simple. What the people of this country have to do is to start electing Republicans instead of Democrats. That is just the way it has to work. The majority controls every legislative body. The minority can try to amend. We can try to beat bills that are bad, but we act on the stage which is set by the majority, and that is true of every legislative body. As long as the majority is of the party which has been the majority for almost the last 40 years, the situation is not going to change very much. In order to change that majority, you just have to defeat a few Democrats and start electing more Republicans.

Mr. BETHUNE. I thank the gentleman. He has brought forth some excellent points.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I appreciate the opportunity to express my views on the October 6 action of the Federal Reserve Board to drastically tighten up on monetary policy. I would like to first associate myself with the views of the gentleman in the well, the distinguished minority leader, who has provided us with a good deal of very solid leadership in this area of economic policy of our country. You know, it is somewhat encouraging that at least the Federal Reserve Board has indicated willingness to address the economic woes besetting us and we find that Congress and the administration generally have not addressed those problems.

But, I am compelled by my experience as the ranking minority member of the Joint Economic Committee to warn the Fed against creating a credit crunch through excessive monetary restraint that might worsen the current recession.

We are already entering an economic slowdown and we are going into it with a relatively high rate of unemployment right from the start. Extreme care must be taken to avoid making the slowdown drastically worse or unemployment will reach dangerous social dimensions.

I understand why the Federal Reserve felt it had to take action. It had to balance the inordinate expansion of the money supply it permitted during this past summer. Inflation had become so high that even record interest rates were unable to bring the supply of money and credit under control. The dollar was under speculative attack and gold prices were soaring. Inflation was driving up speculation in the stock market. Dollars were being dumped for gold, Swiss francs stocks, antiques, real estate, any inflation hedge available. An out-of-control money supply threatened to push inflation even higher, destroying people on fixed incomes, raising taxes on everyone, and crippling investment and job creation. Clearly, the inflation and speculation must be brought under control.

But the Fed is running a grave risk of worsening the short run economic outlook, even though its actions will bring down inflation and interest rates in the long run. I urge the Federal Reserve to move very gradually in reducing the growth rates of money and credit, to avoid a credit crunch. A gradual approach can accomplish the Fed's goals of reducing inflation, while avoiding a deep recession which might only lead to demands for a new round of excessive expansion later on. But fiscal steps must

also be taken now, if we are to have a soft landing.

The administration has been slower than the Congress to recognise the need to take fiscal policy steps to avoid the severest impact of the monetary steps necessary to squeese inflation out of the economy. These fiscal steps include marginal personal tax rate cuts, social security tax cuts, stimulation of personal savings through tax credits, and modification of depreciation rates, all designed to promote work effort, saving, modernization productivity, and hiring. They also include spending restraint by the Federal Government to close the deficit and bring the budget into balance.

The Fed, and the country, would not be in this mess if the Fed had not been misbehaving steadily for several years. In 1977 and 1978, contrary to the advice of three JEC minority reports, money growth was much too fast, far in excess of the real growth of the economy. The result was a burst of inflation, soaring gold prices, and a falling dollar. This culminated in the dollar collapse of last November 1978.

The Fed reacted to the dollar collapse with a sharp and sudden tightening of money growth through the winter. This extreme tightening was a classic Fed overreaction. In the consensus JEC Annual Report of 1979, both majority and minority members warned against monetary overkill. Unfortunately, the damage was already done, and the current recession is the result. The recession would have come even faster, and with more severity, if it were not for the public perception of a growing acceptance of spending restraint on the part of Congress, and a growing awareness of the need for supply side tax cuts.

Unfortunately, the Fed then overreacted to the credit restriction of last winter with the credit explosion of this summer, at rates of expansion which were probably in excess of the Fed's own intentions, and certainly in excess of the JEC's recommendations. The dollar crisis and the desperate measures to combat it last week are the result.

The last thing a patient with a queasy stomach needs is another ride on the roller coaster. The Fed has a long history of overreaction to every policy mistake they have made. The result is boom after bust after boom after bust. We have got to get the Fed off the money supply roller coaster so the economy can get off the recession-inflation roller coaster.

The Fed got on its roller coaster years ago by trying to manage credit and money creation indirectly, through manipulation of interest rates. This procedure was always inexact, at best. At worst, in a time of rapid inflation, even very high interest rates had little impact on the demand for credit. As a result, the Fed kept losing control of the money supply, and kept sending the inflation rate and the economy on a wild ride. Never sure if its policy moves were strong enough to be effective, the Fed fell into a pattern of sudden and extreme swings in money creation—either much too fast, or much too slow.

As a result of its October 6 moves, the Fed changed its operating procedure and will try to control the money supply more directly by focusing on bank reserves, as it should have done all along. This could be a big improvement, if (and I stress "if") that control is gradual, responsible, and not an overreaction to past errors.

It is my hope that Chairman Volcker will lead the Fed into a policy of gradualism rather than overreaction. Mr. Volcker's was one of the earliest voices warning against the excessive money creation of this spring and summer while he was still at the Federal Reserve Bank of New York. Now, as the newly installed Chairman of the Board of Governors, he has brought about a change in operating procedure, in order to gain more accurate control over credit creation. It may be that he wants this greater accuracy to make sure that the correction of the recent policy excesses will be gradual, with no accidental stumbling into a credit crunch.

If this is Mr. Volcker's intention, we may be seeing a historic event—the first carefully measured response by the Federal Reserve to a major monetary crisis. And if fiscal policy is addressed promptly, we may get the Fed and the country off the roller coaster and onto solid ground.

□ 1810

Mr. RHODES. I thank the gentleman from Ohio.

Mr. Speaker, I now yield to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, before commenting on the conditions that prompted the Federal Reserve Board to raise the discount rate Saturday before last, let me take this opportunity to commend the distinguished minority leader for taking the initiative and organizing the special order today. With all the rhetoric we hear these days, it is hard to distinguish sometimes between the cause of inflation and the effects, between symbolic attempts to deal with inflation and substantive efforts to cut it, and between who is causing inflation and who is just reacting to it. Yet such distinctions are essential if we are to surmount the serious problems facing this Nation and it is much to the minority leader's credit that he has taken the lead in making them.

The most frequently heard justification for the increase in the discount rate is that it was necessary to discourage speculative financing that was contributing to inflation. However, such an explanation overlooks one salient fact—that speculative financing generally-results from a desire to keep up with inflation. Investors seeking to keep our current 14 percent inflation rate from eroding the value of their money are not likely to put all of their funds in savings accounts paying 5 percent or even Treasury notes paying twice that. They are going, and who can blame them, to look for investments paying 14 percent or more and since continuation of such an inflation rate means they would repay the money in cheaper dollars, they are going to borrow funds to do it. Even higher interest rates aren't going to entirely deter speculation for the very reason that loan repayment in cheaper dollars will offset some of the higher interest charges.

Thus, what we have is not so much a question of speculation promoting inflation but inflation promoting speculation. That being the case, the blame should fall not on those who are speculating, for they are not the culprits but the victims, but rather on those who are responsible for the inflation rate soaring to 13 percent or higher. And who are they—why they are Members of this very body who have been voting for almost a quarter trillion dollars in deficits the last 5 years.

Mr. Speaker, one wishes that an issue such as deficit spending were not a partisan matter but given the fact the same party has controlled Congress continuously for the last 25 years, and Congress authorizes and appropriates the money, it is difficult to come to any other conclusion. It is the "tax, spend, and elect" philosophy of the majority party in Congress, the Democratic Party, that has led to these deficits and it is the deficits that have forced expansion of the money supply and it is the expansion of the money supply that has contributed so heavily to inflation.

Speaking of taxing, I would be remiss if I did not also point out that the ever-increasing burden of taxation required to pay for much of this spending is having another unforeseen consequence. In the current issue of U.S. News & World Report, there is an article about the underground economy we have in this country. By underground economy, it is meant that money which is earned but which is not reported to the IRS or on which taxes are otherwise not paid.

Not long ago, the IRS itself estimated that, for 1976, earnings on which tax was not paid came to $184 billion. Now we have other economists estimating these earnings as high as $542 billion—or 27 percent of GNP in 1978. Depending on which figure you use, that represents anywhere from $26 to $104 billion in lost income to the Federal Government.

But, just as important as the loss is one of the major reasons for it—increasing frustration over rising taxes and wasteful Federal spending. As the U.S. News article points out, a lot of people feel they are getting ripped off and, in response, they are engaging in their own form of tax revolt. Ironically, by doing so, they may be artificially inflating unemployment estimates and, thus, pushing Federal spending even higher.

Who is to blame? Again, it is a question of cause and effect. No one is condoning tax evasion but the fact of the matter is that, in recent years, the majority in Congress has been claiming to cut taxes at the same time they have voted for the deficits that promote the inflation which, in conjunction with our graduated tax system, results in an increase in taxation. No wonder frustration is increasing.

What would make far more sense would be a cut in taxes coupled with a

cut in spending. Not only might that reduce the underground economy but it would stimulate the above-ground economy as well. With more money to invest, productivity would be encouraged and more new jobs would be created.

Which brings me to one final point—energy. Without an adequate supply of energy, it will be difficult to increase productivity even with adequate capital for investment. But there again there is a problem. Instead of encouraging energy productivity by decontrolling energy prices, the majority in this Congress has voted time and time again to do just the opposite. What is needed is not just phased decontrol but immediate decontrol of crude oil, petroleum products and natural gas. The Courter amendment is a step in the right direction, but it is only a step.

In conclusion, let me just say that I realize that the problems created by inflation, taxation and energy shortages are not easy to solve. But they will not be solved unless we are willing to do not just what may be popular but what is necessary. And, what is necessary is less spending, lower taxes and less Government intervention in the field of energy.

Mr. Speaker, let me congratulate the distinguished minority leader, the gentleman from Arizona (Mr. RHODES), for pointing out that if the American people want to change the way this Congress is running the country, they have got to change the faces of the people who run this place. Let us start by electing some Republicans around the country.

Mr. RHODES. I thank the gentleman from California.

Mr. Speaker, I now yield to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. I thank the gentleman. I congratulate the distinguished minority leader, the gentleman from Arizona (Mr. RHODES) on calling this discussion together to get to the heart of where the American people fit into this recent Federal Reserve Board action. It is really easy for a free-spending Congress to go home now and tell the people how inflation is being brought under control by the Federal Reserve. Those individuals who for years have built the deficits to the point where we are now—over $800 billion—can now say that it is the Federal Reserve's fault because you cannot get a mortgage. It is the Federal Reserve's fault that you cannot buy a car; it is their fault that you cannot get consumer credit; it is not my fault. The belt-tightening which should have occurred in Congress over 23 years is now occurring in one fell swoop due to the Federal Reserve action. Does that mean Congress is now being bailed out? Does it mean that this congressional leadership is getting off scot-free with no need to tighten its own belt? Not if we can educate the people—if we can bring the message to the people that the reason they are being choked is because Congress for 23 years of Democrat leadership has not lived up to its responsibility.

The distinguished minority leader mentioned productivity. Another way to fight inflation is to increase the output of goods and services to make them less expensive. The way we get productivity is by reward. It is by rewarding workers for their efforts and investors for their risk.

Just this last weekend I was home, and I was talking to a friend of mine who happens to be a trucker—he is in the Teamsters Union. He said to me, "Don, I don't bother working Saturdays any more and, heaven forbid, Sundays. I figured it out. The rate of taxes on that Saturday pay is pushing 60 percent. It just doesn't pay me to work." That is a sad commentary on where we have come.

One of the other elements that is stifling productivity in this country is overregulation. Opposing overregulation has become fashionable, and a lot of people in this Congress go back home to their districts and rant and rave about overregulation of the Federal bureaucracy. But do you know what? They are voting for it and they are not putting their foot down. The Democrat leadership of this Congress is not putting its foot down when it comes to overregulation. There are more and more agencies with an ever increasing number of regulations to cut down how much Americans can produce.

I tried to get some data not long ago on what the health effects were of putting the catalytic converter on automobiles. What had those emission-control devices actually done to promote the public health of the people of the United States? To this day I have not found clear data which addresses that issue. The National Academy of Science report back in 1973 projected a fuel shortfall due to this kind of refining to provide the kind of unleaded fuels that are necessary to go into the catalytic converter as something close to 25 percent of our total gasoline output.

□ 1820

That is an enormous price to pay. It may be that we have to pay the price. But one would think the Government that imposed this regulation would at least have taken the trouble to find out whether it worked or provided a beneficial effect to the American people.

The latest fantasy of our Government is an air pollution control on the emissions of a lawnmower engine. Can we actually afford to beef up small tools by putting an air pollution device on everything in sight that burns gasoline, including a lawnmower engine? Let's be realistic.

Mr. Speaker, this morning I had breakfast with a group of engineers, scientists and technical professionals. This is a group which for very long has not been involved in our political arena. But this group is becoming very active. They are looking precisely at this Congress lack of leadership in putting through intelligent energy programs, for example. They are concerned very much with the inability of Congress to develop a program to produce domestic American energy. The National Society of Professional Engineers, as their first political statement includes a little booklet which talks about domestic American energy. These individuals are going to take this message back to their districts. Those individuals who sit on the majority side who have constantly voted against domestic American energy production are going to hear from their technical professionals back home.

Productivity does not appear out of thin air. Productivity flows from the availability of rewards, incentives and a policy which is rational, not emotional.

Often we hear a deeply emotional commentary coming from the Democratic side of this Congress. Too often that emotional commentary as a substitute for a real energy program amounts to mere gloomsaying and doomsaying—not energy policy.

Mr. Speaker, we need positive leadership. This is the richest country in the world. We have more energy resources than any other country in the free world and yet we are the only country to experience gasoline lines. While Japan imports 100 percent of their energy, they had no gasoline lines. Germany, which imports virtually 100 percent of its oil also had no gasoline lines.

The answers lie in leadership, in the leadership of this Congress. I think the distinguished leader of the Republican Party has stated it very aptly when he said the people of this country, if they want a change, should start looking at positive Republican programs and solutions. After 23 years of downhill slide, I think they are going to get the message. Thank you.

Mr. RHODES. I thank the gentleman from Pennsylvania.

Mr. GRASSLEY. Will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Iowa.

Mr. GRASSLEY. I thank the distinguished minority leader for yielding and also thank him for laying out in a very precise way what is the cause of inflation: Which is the fiscal policy of this Congress and of the Federal Government.

It was almost just a year, I think on October 23 last year, that the President laid out a program to fight inflation. The program had as its basis, voluntary wage and price controls. The gentleman's laying out the cause of inflation being the fiscal policy of the Congress is in sharp contrast to that of the present administration. The administration that always wants to put the blame elsewhere for inflation other than the Federal Government. In that instance last October, because of his call for a voluntary wage and price controls, he was blaming the blue-collar worker, the working man of America, as well as the business person in America for that inflation. Now, that policy, which was wrong in the first instance and with which I do not agree, is almost as bad as mandatory wage and price controls. The proposed policy is now not serving its purpose and it means that they have to go someplace else, and that is why, now, they are going to the Federal Reserve Board.

Mr. Speaker, I think our distinguished leader is bringing home to the floor of the House of Representatives and to the American people an admittance

that this is where it all starts. He is laying out who is the cause of it, the majority party, and suggesting if we are ever going to bring inflation under control we cannot be passing the buck to the Federal Reserve, to the business person, or the working person of this country. He is saying that it has to be solved right here. I thank the gentleman for bringing this to the attention of the House and to the American people.

Mr. RHODES. I thank the gentleman from Iowa.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I am happy to yield to the gentleman from Georgia whose motto is: Let us have a budget of hope and not one of despair.

Mr. GINGRICH. I thank the distinguished minority leader for yielding.

I want to commend the gentleman for the continued efforts he has shown throughout this year in my freshman term and for beginning to show us who have just arrived, the gap between responsibility and irresponsibility and the gap between what the gentleman said—hope and despair.

Mr. Speaker, I wanted to ask, if I might, several brief questions. I have heard some of our colleagues on the other side offer certain explanations for what is happening in this building and what is happening to our economy. I wondered if the minority leader might comment on this from his background of experience.

First, they say we face an institutional crisis, that Congress has become unmanageable. I wonder if in the experience of the minority leader it is the Congress or the leadership that happens to be presiding over this body that is at fault.

Mr. RHODES. To be very brief, my good friend, I have said—and I believe—that if we had 218 Republicans in the House of Representatives there would be no lack of leadership, regardless of who the leader is. The Republican nucleus which we have here now is capable, willing and so talented that the leadership which would evolve would have to be good and would have to be effective.

Mr. GINGRICH. Mr. Speaker, I think that is apparent just on its face. I note that we now have a bipartisan domestic policy in which the Republicans are united and we get some Democrats against what is still a majority of the dominant party but a dwindling majority as the economy caves.

Second, I would like to ask the distinguished minority leader this: The gentleman has provided for us a real program for economic growth and for economic opportunity in the future. Many of our friends on the other side would say that the economy is out of control, that we are doing the best we can in hard times, but that it is not their fault.

Would the gentleman agree with that or does the gentleman see a real relationship between the behavior of this Congress and the economy we have?

Mr. RHODES. I think there is no doubt but what the foundation of our problem is almost 40 years of rule by one party in the Congress. That party has developed a philosophy of being spendthrift as far as public money is concerned and is not willing to face up to the hard decisions that are necessary to keep this country a representative republic based on free enterprise.

Those are very key words. A representative republic based on free enterprise.

We are going to lose this most advantageous system with which any people have ever been blessed in this world unless we are capable of facing up to the reasons for our current difficulties, and of meeting the demands which are necessary to put us back on the high road to prosperity and to the standard of living our forefathers expected we would enjoy.

Mr. GINGRICH. Mr. Speaker, I commend the gentleman.

Again I want to express my appreciation for the leadership the gentleman from Arizona, our distinguished minority leader, has shown.

□ 1830

Mr. RHODES. Mr. Speaker, I yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I want to join in thanking our majority leader and commending him for taking this time this afternoon, as the gentleman has done in previous sessions of the House, to bring to the attention of the American people the cruelty that is being inflicted on them by inflation. Certainly, everybody knows what inflation is doing to their particular pocketbook; but the gentleman in the well knows, as I do, where the root cause of inflation lies. It is with this Congress of the United States.

It is too bad the Fed had to take some action, very drastic action, I might say, which I support, and as a last resort to rein in this inflation which will soon reach 14 percent. Fourteen percent is a lot of inflation.

Mr. RHODES. Indeed, it is.

Mr. LATTA. It is almost unthinkable that this Congress would not take some action before the Fed had to take the action they did.

Let me say, as the gentleman well knows, the membership of the Republicans here in the Congress has been attempting to fashion time after time a budget resolution which would really bring into focus what the budget resolution and the budget process is all about; namely, that we would put a cap on spending. We would reach a figure over which we would not go and then have all the departments and agencies of the Government fit their spending into that particular figure.

Mr. RHODES. Which, if the gentleman will pardon me, is exactly what we intended to have done by the Budget Committee when it was set up. It never has been, and the gentleman has done his very best to make that committee face up to its responsibilities.

Mr. LATTA. Let me say that the budget process is never going to work until we do that. All they have been doing and are doing today, as we sat in the budget conference with the Senate, is continuing with the process of the House and adding up, adding up expenditures on their want list. Then after they get them all added up they say, "Well, this is our target. This is the outlay and this is our budget authority under the budget resolution."

This is not, as the gentleman has already indicated, the way for this process to work. Certainly, had the House adopted the budget that was proposed with the labors of the gentleman in the well and others on our side, that we proposed for a $20 billion tax cut, a reduction in the deficit for the fiscal year 1979 below the $20 billion level, we would have had a budget resolution that we could have supported, which would have been in the best interests of the American people; but no, because of the want list that always comes up when they attempt to please this group, this group and that group, as a consequence they please no one.

● Mr. BROYHILL. Mr. Speaker, I welcome this opportunity today to join with my colleagues in observing some of the problems afflicting our country as a result of some often misguided economic policymaking during recent years. We need to take a close look, as we are doing today in this special order, at not only the economic problems that confront us, but also at some of the solutions to those problems.

We fail to occasionally step back and take a look at the overall picture of our Nation's economic health. I think this is a good time to take such a look and address those areas in which we might make some basic changes to guide our Nation in the proper direction.

I would like to offer for the benefit of my colleagues and those in the administration a number of proposals which I think would go a long way to restoring our Nation's economy to a firmer footing. It is high time that the administration adopt a firm but workable plan to not only bring inflation under control, but to add to the economic prosperity of our people. It is appalling to see the results of the present policies followed by the Carter administration, which can only have the result of higher unemployment, higher taxes, more deficit spending, continued high interest rates, and continued inflation.

If we are to provide the people of our Nation with any hope for economic security, a plan along these lines should be implemented without delay:

1. BALANCE THE BUDGET

Continued deficit spending has increased the national debt by almost $350 billion in the past 5 years. That debt now stands at $825 billion and if nothing is done, it will rise to $900 billion by the end of 1980. Spending money we do not have and then adding billions of dollars to the money supply each year, without corresponding increases in the production of goods and services, is the root cause of our inflation. I do not think it is old fashioned to say that the Federal Government, like every family, should balance its budget. The North Carolina State government is required to do this. Why not Uncle Sam? I have cosponsored legislation which would require a balanced Federal budget, because it has become apparent that such a step is the

only way to compel Congress to tighten its belt on Federal spending.

2. REDUCE TAXES TO STOP PENALIZING THE TAXPAYER FOR INFLATION

Each year the present tax system siphons an increasing share of the incomes of individuals to the Government. This occurs because of the impact of inflation on the graduated income tax. When a person receives a cost-of-living increase, he is pushed into a higher income tax bracket. When multiplied several million times, extra billions are taken from the taxpayers' pockets each year, sent to Washington, and there the spending decisions are made.

Over the past 5 years, an additional $83 billion has been paid to the Federal Government in revenues granted solely as a result of inflation. Because our present tax rates are not indexed to account for the impact of inflation, taxpayers end up paying additional taxes without any corresponding increase in living standards. If this trend continues, this factor alone will effectively pick the pockets of all taxpayers, to such an extent that any incentives to produce more or learn more will be virtually eliminated. Instead of the Government making the spending and economic decisions for our Nation, let us devise a fair tax system pegged to more moderate spending goals, that will leave the hard earned money in the wage earners' pockets, and let them make their own spending decisions.

3. FORGE A MODERNIZED CAPITAL RECOVERY AND CAPITAL FORMATION SYSTEM SO AS TO BE ABLE TO FINANCE THE CREATION OF NEW JOBS IN THE YEARS AHEAD

Industry finances their new plants and equipment through retained after tax earnings and depreciation allowances. The effects of inflation are having a severe impact on the ability of businesses to pay the increased costs of machinery and buildings. For example, a new modern textile loom purchased in 1975 for $34,000 would today cost $72,000. The present depreciation rates allowed by the Internal Revenue Code do not permit the saving of sufficient funds to repurchase new machinery to replace old machines or to buy new machinery to increase output. On the other hand, foreign producers operating under more modern depreciation schedules are permitted faster depreciation, and are thus operating their plants with the most modern machinery in the world.

If we in this country are to continue fighting unemployment by employing additional millions of workers each year, billions of dollars for new plants and equipment will have to be available for investment. This does not even take into account the billions needed to meet new environmental standards which will be required in the 1980's to combat water, air, or noise problems. I strongly favor the Capital Cost Recovery Act, which would allow a 10-year write-off of industrial buildings and a 5-year depreciation of machinery and equipment. This modern depreciation schedule would be a giant step forward in encouraging more production of goods and services, which is needed to hold down prices. When the supply of goods and services increases relative to the money supply, prices come down.

4. BECOME ENERGY INDEPENDENT—REDUCE OUR RELIANCE ON THE OPEC NATIONS FOR ENERGY

The degree to which the United States has become dependent upon foreign oil is alarming, and poses a serious threat to our Nation's economy and security. We currently import 45 percent of our total supply of petroleum, at a cost which has already exceeded $60 billion in 1979 alone. Rather than encourage increased domestic production, however, the response of the United States to the Arab oil embargo in 1973 was to slap controls on a major part of the U.S. energy industry. This has resulted in a significant reduction in incentive for domestic producers to increase domestic oil supplies, and has added to the already excessive outflow of U.S. dollars. I support phased deregulation as now being implemented by President Carter. The only feasible way to increase our domestic supply of petroleum is to create greater incentives for domestic producers to expand their drilling and refining capacities. While new sources of energy, such as solar, will come on stream in the 1980's, increased production of conventional energy sources are needed to meet our total energy needs today.

5. REDUCE THE ECONOMIC BURDEN OF GOVERNMENT REGULATIONS

Economists now estimate that Government regulations are costing the American consumers in excess of $100 billion. As I have said previously, it is obvious that some Government regulation is necessary. One of the functions of Government is to guard the health and safety, and provide for the well-being, of its citizens. But often we find that the regulations go too far, and become excessive and overly expensive. I urge that we take a cost-versus-benefit type of approach to analyzing the countless Government regulations which impose on our lives today. Rather than expanding our Federal Government with new departments and agencies, we should be taking a second look at those already in existence, with an eye toward making them work more effectively and economically for all of us. I am convinced that not only would our Federal budget be trimmed by eliminating those agencies and regulations which impose greater costs than benefits, but our entire economy would be allowed to operate more efficiently and to a greater capacity.

6. INCREASE THE EXPORT OF U.S. GOODS TO REDUCE OUR TRADE DEFICIT AND RESTORE THE U.S. DOLLAR TO A SOUND FOOTING THROUGHOUT THE WORLD

Between January and August of this year, our trade deficit has reached a total of $15 billion. This deficit has plunged the dollar's value overseas and fueled inflation at home. American businesses have found it increasingly difficult to compete with those of other nations whose economies are not afflicted by rampant inflation, and whose governments take a more active role in promoting business overseas. Unless we make a greater effort to assist our own businesses in seeking out foreign markets, and provide incentives for businesses to expand overseas, we are going to continue to suffer from the severe imbalance of payments we have been experiencing for most of the 1970's. The U.S. Government needs to take a lesson from those nations whose overseas businesses are thriving, to the virtual exclusion of our own industries. By promoting the expansion of our own business sector overseas, we will strengthen our economy here at home and restore the value of the dollar throughout the world.●

The SPEAKER pro tempore. (Mr. FARY). The time of the gentleman from Arizona (Mr. RHODES) has expired.

Mr. LATTA. Mr. Speaker, I ask unanimous consent that the gentleman proceed for 5 additional minutes.

The SPEAKER pro tempore. That request is not in order.

GENERAL LEAVE

Mr. RHODES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

EMB IS A POWER GRAB IN THE NAME OF ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, Sunday's Washington Post carried a column by David S. Broder in which the highly respected columnist stated that—

> Under the guise of speeding vital energy projects, the Federal Government is about to accomplish the most significant power grab in recent years.

I, too, question this approach and made known my dissenting views in the Commerce Committee report accompanying H.R. 4985 (Rept. 96–410, part 2). The Priority Energy Project Act of 1979 is the wrong approach and I commend the Broder article to my colleagues and include it in the RECORD at this point:

POWER GRAB IN THE NAME OF ENERGY

(By David S. Broder)

On the face of it, the proposal seems to defy the supposed public resentment of intrusive, big-brother Washington bureaucracy.

The idea of a president of the United States seriously proposing that four of his appointees—three of them part-timers not even subject to the standard conflict-of-interest statutes—be empowered to substitute their judgment for that of independent federal, state and local regulatory bodies, and even, in certain instances, to block the application of federal or state law, seems far-fetched.

That such a proposal would be approved by the U.S. Senate and be moving toward passage in the House of Representatives is even more improbable.

But exactly that has happened, without a rumble of public protest, in the past few weeks. Under the guise of speeding vital energy projects, the federal government is about to accomplish the most significant

power grab in recent years. It may or may not accomplish its stated goal of making the United States more energy-independent. But it will certainly damage the federal system and diminish the accountability of those exercising authority in Washington

As part of his July energy program, President Carter proposed creation of a federal energy mobilization board, with authority to speed the development of high-priority projects, whether they be pipelines, refineries or exotic fuel plants. The measure was designed to deal with a real problem—the delays in federal, state and local licensing and siting decisions, which have, in some instances, held up important plans for years.

The need to slice through the red tape is recognized by everyone. The question is how to do it without creating a new center of arbitrary power in Washington and destroying the responsibility the Constitution gives states and localities for the welfare of their own citizens.

Two options were offered the Senate earlier this month, and the choice the Senate made—to the cheers of the Carter administration—was disturbing.

One bill would have limited the number of energy projects that could be cleared for "fast-track" action and would have restricted them to projects with a significant impact on reducing U.S. energy dependence. The other bill had no such limits.

The Senate chose the blank-check approach.

One bill would have let the new federal agency go to court to enforce a reasonable deadline (usually one year after submission of the plans) for decisionmaking by a state or local agency on the environmental, social and economic consequences of an energy project.

The other would let the presidential board substitute its own judgment for that of the local or state body, if the federal deadline was not met.

The Senate chose the second way—the path of federal preemption.

One bill would have forced the regulators to obey all the existing laws. The second would allow the federal energy expediters to bar the application of any law passed by Congress, state legislatures or city councils, subsequent to the start of work on a particular project.

The Senate chose the second course, embodying the daring constitutional assertion that four presidential appointees can nullify the enforcement of a statute passed by the elected officials of any level of government.

The vote was not close in the Senate. By a margin of 58 to 36, the senators gave Carter the power he sought, brushing aside vehement objections from such senators as Abraham A. Ribicoff (D-Conn.), Edmund S. Muskie (D-Maine), Gary Hart (D-Colo.), William V. Roth (R-Del.) and Charles H. Percy (R-Ill.).

They also ignored a chorus of protests from the nation's governors, mayors, county executives and state legislators, who see the proposal as a serious threat to their role in the federal system. They have threatened to challenge the legislation in court, if it is finally passed.

It is an understatement to say that it is extremely shortsighted to launch a national energy acceleration program with a bitter battle between Washington and leaders of state and local governments.

But the companion bill being prepared by a House committee is an even more extreme invasion of state and local authority by Washington, and an even more glaring contradiction of the supposed public distaste for expanding bureaucratic power.

The governers and mayors and their Senate allies are trying to say we do not have to sacrifice the federal system to speed up energy production. But most of Washington is ignoring the message. The country will suffer the consequences for years to come.●

LEM KAERCHER NATIONAL WILDLIFE REFUGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. NOLAN) is recognized for 5 minutes.

● Mr. NOLAN. Mr. Speaker, I would like to take this opportunity to ask support from my colleagues in renaming the Big Stone Wildlife Refuge "the Lem Kaercher National Wildlife Refuge." By dedicating this refuge to Mr. Kaercher Congress can reassure the American citizens that a single individual can still initiate change and make a difference in our society.

Some 20 years ago Lem Kaercher recognized the need for this project. Government, however, did not respond. But, Lemuel Kaercher did not give up. With perseverance and persistence Lem Kaercher hounded the Budget Bureau until the project was cleared for favorable consideration by Congress. He secured support from environmentalists, conservationists, and sports and recreation-minded individuals. He then came to me for my support and advocated his cause with the executive and legislative branches. And, because of this man's commitment and determination the authorization bill was passed through Congress.

Clearly, our responsibility is now to recognize the efforts of Lemuel Kaercher and grant the wishes of the thousands of people in the area of Big Stone County, Minn., who have expressed an interest and petitioned to have the Big Stone Wildlife Refuge changed to be known as the Lem Kaercher National Wildlife Refuge. Mr. Kaercher's efforts should serve as an example for everyone with a desire to make a difference in our country by using the democratic process.

Mr. Speaker, I once again urge the support of my colleagues in dedicating this richly deserved memorial to a great citizen—Mr. Lem Kaercher.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, official business required that I be away from the floor on two rollcalls, Nos. 566 and 567, on Friday. I would have voted as follows: For the amendment to H.R. 2061 which would extend the coverage of the Public Safety Officers Death Benefits Act administered by the LEAA to rescue squad personnel; and against final passage of H.R. 2061, to restructure the Federal Law Enforcement Assistance Administration.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. SYNAR) is recognized for 5 minutes.

● Mr. SYNAR. Mr. Speaker, on Friday, October 12, 1979, I was not present for several recorded votes on amendments to HR. 2061, a bill to reauthorize the Federal Law Enforcement Assistance Administration. Had I been present, I would have voted as follows:

Rollcall 556: Resolve to Committee of the Whole House, "yes";

Rollcall 558: McClory amendment, "no";

Rollcall 560: Volkmer amendment, "no";

Rollcall 562: Sensenbrenner amendment, "no";

Rollcall 564: Sensenbrenner amendment, "yes";

Rollcall 566: Neal amendment, "yes"; and

Rollcall 567: Final passage, "no." ●

ENERGY ARTICLE NO. 4: HYDROGEN FUEL—COMING ON STRONG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● Mr. ALEXANDER. Mr. Speaker, in the very near future, I believe that hydrogen fuel will be making a major contribution to the country's energy needs. The central feature of hydrogen is its utilization in gaseous or liquid form as a means of storing and transmitting energy. Hydrogen, itself, represents in some ways an almost ideal energy carrier. It can be transmitted and burned as a fuel in a manner almost identical to natural gas. When burned as a fuel, hydrogen has the unique characteristic of producing only water vapor as a byproduct and no carbon dioxide or other damaging hydrocarbon or sulfur pollutants. Finally, hydrogen can be produced directly from electricity and water by a rather simple process known as electrolysis which dissociates water molecules into elemental hydrogen and oxygen. A major source of hydrogen could come from electricity generated by the so-called "soft" technologies: solar, wind power, water wheels, tidal power, wave machines and even ocean thermal energy conversion (OTEC).

Considerable work now is being done to develop hydrogen-powered internal combustion engines. Any type engine can easily be converted to run on hydrogen. A conversion will soon be on the market that can be adapted to any vehicle now on (or off) the highways, be it a gas or diesel, carbureted or injected engine. Concerning the development activities now ongoing for using hydrogen as an automotive fuel, I would like to share with my colleagues an article which appears in the November 1979 issue of 4-Wheel & Off-Road magazine.

The article follows:

HYDROGEN: FUTURE FUEL?

(By Richard H. Johnson)

Somebody's doing something about the energy problem. It may not be long before we can forget about buck-a-gallon gasoline, threatened shortages and rationing. The time may soon be upon us when motor vehicle-caused air pollution will be a thing of the past and fuel will be infinitely available at a very low cost.

Sounds like a dream, doesn't it? Well, it isn't, and we aren't talking about solar-powered electric vehicles, either. We're talking about hydrogen-powered internal combustion engines. They've already been developed and tested: they've proven themselves, and now they're ready to be marketed for off-roaders.

At first mention of the word hydrogen, people's eyes widen and visions of the *Hindenburg* or hydrogen bombs come to their minds. Fear and doubt have kept us shackled to the same old system far too long, and now is the time for some dramatic changes in the automotive industry. Here's a look at the possible fuel of the future . . . hydrogen.

SAFETY

Hydrogen as an automotive fuel is safer than gasoline in several ways. First, it doesn't pollute. The only by-product of the combustion of hydrogen is water vapor. An engine can be run for hours inside a closed garage, and the only effect will be foggy windows and higher humidity. This aspect of hydrogen as a fuel would help the world in a couple of ways: it would eliminate a certain amount of smog and a large portion of government bureaucracy concerned with smog and its attendant bill to taxpayers.

But, it's the more violent type of threat that interests most people when they think of hydrogen. How about the danger of explosion? Remember the *Hindenburg*? And here again, hydrogen proves to be safer than gasoline as an automotive fuel. Nobody in this country can plead ignorance of the lawsuits and injuries caused by the rear end collisions and resultant explosions in certain makes of cars. The problem has been that, after a wreck, the gas tank ruptures and fuel pours out all over the ground about the same time it ignites; the spreads everywhere.

The fire wouldn't go everywhere, however, if hydrogen was being used as the fuel. Hydogen flows straight up. It dissipates so rapidly there is no chance for heat to go any direction other than up. Were it possible to ignite a hydogen tank (located where normal gas tanks are installed in vehicles), there would be very little, if any, injury to passengers.

That brings up another point: it's nearly impossible to get a hydrogen storage tank to ignite. Billings Energy Corporation, of Provo, Utah, a major developer of hydrogen as an automotive fuel system, produced a storage tank utilizing metal hydrides. During safety testing, they fired armor-piercing incendiary bullets into the tanks after they had been fully charged with hydrogen, to see if they would explode. The tiny flame that resulted soon extinguished itself.

ECONOMY

It's no secret what's happening to gasoline prices. The world is looking in many directions for alternatives to the energy situation, and drivers are taking up all the slack in their wallets. Gasahol would relieve about 10 percent of the need. Electric vehicles will never work out as off-road rigs because they can barely pull their own weight, let alone climb a hill or take a dunking through a deep stream. But hydrogen could work.

One aspect of economy is efficiency. At the Billings complex, there is a one-of-a-kind dynamometer developed specifically for testing automotive engines running on the various fuels. The very best the engineers have been able to produce out of a gasoline-powered engine is 28 percent efficiency. But, with the same engine running on hydrogen, the percentage jumped to 40—a 12 percent improvement just by changing fuels.

Improving the efficiency of the engine produced another by-product besides added miles per gallon. It also made the engine run cooler. An experimental passenger bus running in Riverside, California, maintains an engine temperature of about 130 degrees F. Anyone who has visited Riverside during the summer can verify that the temperature of the roadway is often higher than the engine in this hydrogen-powered bus. Lower engine temperatures mean longer lubricant life, longer bearing life and longer engine life in general. That boils down to economy.

Economy in the price of the fuel, however, in another story. Hydrogen costs quite a bit right now. It is still more expensive than gasoline, but at the rate the price of gas is going up, that may not be true for long. Its cost to produce is tied to the cost of electricity at this time.

AVAILABILITY

Availability is part of the expense problem. You can't just drive on down to your corner filling station and fill 'er up on hydrogen today. But, it wasn't long ago that you had to search far and wide or follow 18-wheelers from truck stop to truck stop to find diesel fuel. When diesel passenger vehicles became popular, however, all that changed.

And, so it may well be with hydrogen in the future. There won't be hydrogen filling stations until there is a market for the fuel. Today, you can get a fill-up at a Union Carbide plant and few other places. When the demand increases, the supply will, too.

There's no reason to ever fear running out of hydrogen as a fuel. It's one of the most abundant elements in the world, and it's one of the two in water, the other being oxygen. A method of separating hydrogen from water, electrolysis, captures the hydrogen and releases the oxygen. After combustion of the hydrogen, it again unites with oxygen and returns to water vapor. As long as water holds out, there's a source of hydrogen, and as long as you burn hydrogen, there will be water. Of course, that's an oversimplification, but you get the point.

Hydrogen is also a product of coal gasification, petroleum refining and other heavy industry such as steel manufacturing. For the most part, all that free fuel is simply released back into the atmosphere by the industries involved. It could easily be captured, sold and used as a fuel.

Although hydrogen is available from many sources, Billings has developed a system whereby the owner of a hydrogen-powered vehicle could produce all of his own fuel at home. The unit is about the size of a small desk, and works on the electrolysis method. You pour water in one end, and hydrogen comes out the other, into a large home storage tank until needed. The drawback is that the machine works on electricity, and draws too much power to make home production of hydrogen economically feasible at the present time. Again, as the price of gasoline rises, this may reverse itself.

By combining companion technologies such as solar and wind power to produce electricity for running the electrolyzer, the ongoing production of hydrogen could theoretically be free. Keep in mind that the technologies necessary for such a fantastic dream to come true are already working. Some refining, some perfecting and some cooperating among the engineers of the various sciences will bring about the whole thing in the near future—at least we hope.

FEASIBILITY

Roger Billings drives a 1977 Cadillac that runs on either gasoline or hydrogen; a flip of the switch on the dash determines which fuel is used. His home runs on hydrogen: the gas range, gas furnace, lawn tractor and so on. A converted Winnebago acts as a passenger bus, running on hydrogen. A hydrogen-powered postal Jeep is now being tested at Jet Propulsion Laboratories in Pasadena, California. The Space Shuttle will function on hydrogen fuel. Several aircraft manufacturers are looking into hydrogen as a fuel. In short, the stuff definitely works.

Now, for us. Automotive enthusiasts haven't been left behind in all this research. One of the first cars Billings converted was an antique Model A Ford. Today's main man in the Billings automotive division is Ed Davis, an enthusiastic off-roader. He's the one who does all conversions and experimentation, and you can bet it won't be long before he's out running his own rig on hydrogen.

Ed has come up with a conversion kit that can be adapted to any internal combustion engine. The conversion can be done to any vehicle now on (or off) the highways, be it a gas or diesel, carbureted or injected engine. Nobody's vehicle will be made obsolete by this technology. An old M38 Jeep will be just as good as a brand-new Bronco or a diesel Scout. The conversion is no big deal, either: mainly plumbing and a new intake system, plus the addition of the fuel tank.

Of course, until the market opens up, things will continue to be expensive—prototype equipment always is. But the good news is that the system works, it is pollution free, the fuel is abundant and it improves the performance of any vehicle now coming out of Detroit or anywhere else. It's also encouraging that somebody is actually *doing* something about the energy situation. I don't know about you, but I've had about enough rhetoric to last a lifetime.

As always, there are problems to be solved. The fuel tanks are heavy, and the hydrides now being used aren't as efficient as they could be. But Ed Davis says there are some secret doings behind the scenes that will solve that problem soon. One thing is certain: the men behind this energy technology have come a long way since they started, and with work going the way it is now, it shouldn't be long before they overcome the remaining obstacles.

More information about the progress in hydrogen energy technology can be obtained by writing to Billings Energy Corporation, 2000 E. Billings Ave., Provo, UT 84601.●

ENERGY NEEDS OF ELDERLY ARE SPECIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DOWNEY) is recognized for 5 minutes.

● Mr. DOWNEY. Mr. Speaker, I recently held a hearing of the Select Committee on Aging in my district on the very special energy needs of the elderly. In light of the skyrocketing costs of heating I was concerned about the possibility that senior citizens in Suffolk County might have to choose between "food and fuel." Unfortunately, I discovered that my fears were well founded.

Mr. Henry Mehl, a 72-year-old constituent of mine from Brentwood, N.Y., testified that he planned to lower his fuel bills by lowering his thermostat to 60 degrees this winter. When I questioned Dr. Robert Butler, the director of the National Institute of Aging, about the prudence of Mr. Mehl's plan, he sternly warned of the severe chance he was taking. Dr. Butler stressed that senior citizens are particularly vulnerable to hypothermia, a drop in body temperature which can lead to coma or even death for the elderly. This can occur with temperatures as mild as 65 degrees.

Another constituent of mine, Mrs. Dorothy Nelson from North Babylon, N.Y., told us about her experience with the existing fuel assistance program. She applied twice for help in the spring and again in the fall—trying to prepare for this winter. Not only did Mrs. Nelson

never get any money, she was never even told why.

The mismanagement of this program was further dramatized by two other witnesses: The directors of the Offices on Aging for Babylon and Islip towns, Marge Boylan and Ruth Joldersma. They expressed rage and frustration at the futility of putting in long hours on complicated forms only to learn too late that, although money was available, they could not get to it. Both women, in fact, offered to administer the program themselves rather than have to make excuses for another year of unfulfilled promises.

This winter lower-income households will be paying more than 40 to 50 percent of their incomes for heat, as compared to 18 to 20 percent last year. There is little doubt that this Congress intends to provide for the needs of senior citizens: however, it will be virtually impossible to pass any new program in time for this year's heating season. The snow is already falling in parts of New York State and, unlike the surprise snow we recently experienced here in Washington, it will continue to fall.

So, as Commissioner Lou Glasse, of the New York State Office of Aging testified at the hearing, this year we must adequately fund existing programs to make the best of what we already have.

For the future I have proposed the Basic Fuel Assistance Act which would create a 3-year program for emergency fuel assistance. The program will emphasize both that fuel must be provided on a continuous basis and that emergencies must also be taken into account. Therefore, my program allows oil to be delivered to each home on a regular basis and provides an immediate source of help for elderly persons who experience a sudden problem. Last year no payments were made under the existing crisis intervention program until the heating season was over. People were placed in the ridiculous position of having to submit evidence that they had already paid heating bills at the same time that they were also asked to prove they were incapable of paying those same bills. This is the kind of situation that my program will prevent.

Mr. Speaker, as this hearing demonstrated, the energy needs of the elderly are special. To meet those needs we must use our current programs as best we can and, at the same time, plan better for the future by replacing them with more efficient ones, such as my own "basic fuel assistance." We must have a system that anticipates need, not one that races the ambulance to the door.●

UNDOCUMENTED ALIENS AND THE CENSUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, the bill which I am introducing today is designed to encourage the participation of undocumented aliens in next year's census.

Because untold thousands of such persons were not counted during the 1970 census, States, and cities, with large concentrations of undocumented aliens, have lost substantial Federal revenues over the last 10 years. When you consider that $50 billion of Federal funds—involving over 100 different Federal programs—are allocated annually on the basis of population, it is apparent why every U.S. resident must be counted in the 1980 census. Further, because undocumented aliens utilize the services provided by our State and cities, it is essential that the census include such individuals.

The reason for the failure of the Census Bureau to enumerate this particular population is evident. Most of them are terrified by the constant threat of detection and deportation. As a result, they are suspicious of, and make every effort to avoid, all Government officials, including census takers. They also sincerely believe that census information is normally transmitted to the Immigration and Naturalization Service to help that agency locate and deport undocumented aliens. Because of these deep-seated feelings of distrust, it is evident that undocumented aliens were subject to a large undercount in 1970. The same will occur in 1980 unless immediate action is taken by the Congress.

While some efforts have been made to allay the fears of undocumented aliens that information they provide to census takers will not be used to their detriment, they are inadequate.

For this reason, I am introducing legislation which will assure undocumented aliens that they will be immune from deportation if the information they give to census takers is used against them. Specifically, my bill provides that no person can be deported or excluded based on identifiable information provided in the course of the 1980 Decennial Census. I believe that this legislation—if enacted and if widely publicized—will convince undocumented aliens to come forward and be counted.

Because of the need for expeditious action on this legislation, I am scheduling hearings on this bill next week in New York and I am hopeful that my Subcommittee on Immigration, Refugees and International Law will be able to proceed to a markup of this bill in the near future.

For the benefit of my colleagues, I am inserting into the CONGRESSIONAL RECORD at this point the full text of my legislation:

H.J. RES. 422

Joint resolution amending the Immigration and Nationality Act to encourage the participation of undocumented aliens in the 1980 Decennial Census

Whereas there was a significant and disproportionate undercount of undocumented aliens in the 1970 Decennial Census;

Whereas this undercount resulted from the fear of undocumented aliens that census information would be divulged to the Immigration and Naturalization Service and used to deport or exclude them from the United States;

Whereas this undercount resulted in the loss of substantial Federal funds to States and communities with large concentrations of undocumented aliens;

Whereas undocumented aliens may refuse to participate in the 1980 Decennial Census because of their belief that information which they or members of their families provide to the Bureau of the Census may be used to deport or exclude them from the United States; and

Whereas undocumented aliens will be encouraged to participate in the 1980 Decennial Census if they are assured that they and their families will be immune from deportation or exclusion based on their provision of census information: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 9 of title II of the Immigration and Nationality Act is amended by adding after section 293 (8 U.S.C. 1363) the following new section:

"PROHIBITIONS OF EXCLUSION OR DEPORTATION OF INDIVIDUALS ON THE BASIS OF CENSUS INFORMATION

"SEC. 294. (a) The Attorney General may not deport or exclude an individual, or member of the individual's family or household, from the United States on the basis of any information obtained or derived, directly or indirectly, from such individual or from any member of the individual's family or household by any officer, employee, or agent of the Department of Commerce in connection with the 1980 decennial census of population conducted under section 141 of title 13, United States Code. This prohibition shall not apply to such information if it is in a statistical or aggregate form which does not identify any individual.

"(b) The Attorney General shall provide, in cooperation with and, through the Secretary of Commerce and other appropriate Federal, regional, State, and local officials and employees and before and during the census described in subsection (a), for the appropriate dissemination of information concerning the prohibition specified in subsection (a).".

(b) The table of contents of such Act is amended by adding after the item relating to section 293 the following new item:

"Sec. 294. Prohibition of exclusion or deportation of individuals on the basis of census information.".●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ADDABBO (at the request of Mr. MINISH), after 3:30 for rest of day, today, on account of official business.

Mrs. CHISHOLM (at the request of Mr. WRIGHT), for today, on account of illness.

Mrs. COLLINS of Illinois (at the request of Mr. WRIGHT), for this week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MAVROULES) to revise and extend their remarks and include extraneous material:)

Mr. NELSON, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 10 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. SYNAR, for 5 minutes, today.
Mr. ALEXANDER, for 10 minutes, today.
Mr. DOWNEY, for 5 minutes, today.
Ms. HOLTZMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LIVINGSTON, to revise and extend his remarks on H.R. 3303 in the Committee of the Whole today.

Mr. MCCLORY, to revise and extend his remarks and include extraneous matter immediately preceding vote on H.R. 3303.

Mr. FLORIO, to revise and extend his remarks immediately following the adoption of the Committee amendments.

(The following Members (at the request of Mr. PAUL) and to include extraneous matter:)

Mr. FINDLEY in two instances.
Mr. ROYER.
Mr. ASHBROOK in two instances.
Mr. MICHEL in four instances.
Mr. SYMMS in two instances.
Mr. CORCORAN.
Mr. COLLINS of Texas in two instances.
Mr. PRITCHARD.
Mr. DERWINSKI in three instances.
Mr SAWYER.
Mr. PAUL in two instances.
Mr. RINALDO.
Mr. KEMP in three instances.
Mr. EVANS of Delaware.
Mr. GOLDWATER.
Mr. BERREUTER in two instances.
Mr. HILLIS.

(The following Members (at the request of Mr. MAVROULES) and to include extraneous matter:)

Mr. GUARINI.
Mr. WOLFF in two instances.
Mr. PEPPER.
Mr. BARNES in two instances.
Mr. BENJAMIN.
Mr. UDALL.
Mr. MCDONALD in five instances.
Mr. EDWARDS of California.
Mr. HANCE.
Mr. ROE.
Mr. STARK in five instances.
Mr. CONYERS in two instances.
Mr. FARY.
Mr. MURPHY of New York.
Mr. OTTINGER.
Mr. DIXON.
Mr. GARCIA.
Mr. DOWNEY.
Mr. CORRADA.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 567. An act to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorneys for the eastern district of New York to reside within 20 miles of the district.

ADJOURNMENT

Mr. MAVROULES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 33 minutes p.m.) the House adjourned until tomorrow, Wednesday, October 17, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2641. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of various transfers of funds for Navy shipbuilding and conversion, pursuant to Public Law 96-38 (93 Stat. 99); to the Committee on Appropriations.

2642. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment and services to Spain (Transmittal No. 80-01), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2643. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment and services to Spain (Transmittal No. 80-02), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2644. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense articles and services to Spain (Transmittal No. 80-03), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2645. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Israel (Transmittal No. 80-07), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2646. A letter from the Director of Legislative Liaison, Department of the Air Force, transmitting the annual report for fiscal year 1978 on the Air Force's recycling of materials, pursuant to section 612 of Public Law 93-552; to the Committee on Armed Services.

2647. A letter from the Director of Legislative Liaison, Department of the Air Force, transmitting a draft of proposed legislation to amend title 5, United States Code, to entitle Civil Air Patrol cadets 18 years of age and older to compensation available to Civil Air Patrol senior members in the event of disability or death and to increase the amount of that compensation; to the Committee on Education and Labor.

2648. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Spain (Transmittal No. 80-01), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2649. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Spain (Transmittal No. 80-02), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2650. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Spain (Transmittal No. 80-03), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2651. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Thailand (Transmittal No. 80-04), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2652. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Oman (Transmittal No. 80-05), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2653. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (Transmittal No. 80-06), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2654. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (Transmittal No. 80-07), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2655. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to NATO (Transmittal No. 80-09), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2656. A letter from the Special Counsel, Department of Justice, transmitting his report on the investigation of Carter's warehouse; to the Committee on the Judiciary.

2657. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NICHOLS: Committee on Armed Services. H.R. 5235. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services (Rept. 96-517). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 2196. A bill to establish a congressional award program for the purpose of recognizing excellence and leadership among young people; with amendments (Rept. No. 96-518). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AMBRO:

H.R. 5594. A bill to authorize the National Water Resources Policy and Development Act of 1979, to direct the Water Resources Council to act as the coordinating body for a program of water resources assistance to the State; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

By Mrs. BOUQUARD:

H.R. 5595. A bill to extend the Joint Funding Simplification Act of 1974; to the Committee on Government Operations.

By Mr. CONTE:

H.R. 5596. A bill to amend the Internal Revenue Code of 1954 to provide a 30-percent tax credit for expenditures for certain efficient replacement furnaces or boilers; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 5597. A bill to amend the Energy Policy and Conservation Act to authorize certain appropriations for energy conservation programs for schools and hospitals and buildings owned by units of local government and public care institutions, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FRENZEL:

H.R. 5598. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of motor vehicles will be determined in the same manner Government employees determine reimbursement for use of their vehicles on Government business; to the Committee on Ways and Means.

H.R. 5599. A bill to amend the Internal Revenue Code of 1954 to provide a maximum individual income tax rate of 50 percent; to the Committee on Ways and Means.

By Mr. GRASSLEY:

H.R. 5600. A bill to amend the Department of Education Organization Act to transfer authority with respect to rural education to the Assistant Secretary for Elementary and Secondary Education, and for other purposes; to the Committee on Education and Labor.

By Mr. GUARINI:

H.R. 5601. A bill to amend the Internal Revenue Code of 1954 to provide for a reduction of individual income taxes if the national rate of unemployment increases 1 percentage point above the rate of unemployment on January 1, 1979; to the Committee on Ways and Means.

By Mr. HIGHTOWER (for himself, Mr. DASCHLE, Mr. ENGLISH, Mr. EVANS of Georgia, Mr. HAGEDORN, Mr. HARKIN, Mr. LEATH of Texas, Mr. MARLENEE, Mr. NOLAN, Mr. PICKLE, Mr. STENHOLM, Mr. WEAVER, Mr. CHARLES WILSON of Texas, Mr. HANCE, and Mr. SKEELUS):

H.R. 5602. A bill to amend the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), to require that the label on each loaf of bread disclose the cost to the manufacturer of the farm product ingredients; jointly, to the Committees on Agriculture and Interstate and Foreign Commerce.

By Mr. LUJAN (for himself and Mr. RUNNELS):

H.R. 5603. A bill to change the name of the Los Esteros Dam (New Mexico) to the "Santa Rosa Dam"; to the Committee on Public Works and Transportation.

By Mr. MURPHY of New York (for himself, Mr. BREAUX, Mr. FORSYTHE, and Mr. TREIBLE):

H.R. 5604. A bill to provide for the control of interstate and foreign commerce in fish and wildlife; to the Committee on Merchant Marine and Fisheries.

By Mr. PAUL:

H.R. 5605. A bill to amend the Trading With the Enemy Act; to the Committee on Foreign Affairs.

By Mr. SABO:

H.R. 5606. A bill to amend the Railroad Retirement Act of 1974 to make annuities payable before the first day of the month when the first day is on a weekend or holiday; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Iowa (for himself and Mr. McDADE):

H.R. 5607. A bill to assist innovative small businesses by strengthening their role in federally funded research and development and by fostering their information and growth in the economy, and to encourage investment in small businesses; jointly, to the Committees on Small Business, Ways and Means, and the Judiciary.

By Mr. UDALL (by request):

H.R. 5608. A bill to amend provisions of Federal reclamation law restricting delivery of project water to newly irrigated lands for crops the supply of which is likely to be excessive; to the Committee on Interior and Insular Affairs.

By Mr. WAXMAN:

H.R. 5609. A bill to assure the provision of certain basic rights to residents in long-term-care facilities; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. WHITEHURST:

H.R. 5610. A bill to amend title II of the Social Security Act to provide that disability insurance benefits may not be paid to individuals who are confined in penal institutions or correctional facilities; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 5611. A bill to amend the Fishery Conservation and Management Act of 1976 to provide for expedited review of fishery management plans, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GUARINI:

H.J. Res. 421. Joint resolution designating the week beginning June 23, 1980, as "National Deaf Awareness Week"; to the Committee on Post Office and Civil Service.

By Ms. HOLTZMAN (for herself and Mr. GARCIA):

H.J. Res. 422. Joint resolution amending the Immigration and Nationality Act to encourage the participation of undocumented aliens in the 1980 Decennial Census; to the Committee on the Judiciary.

By Mr. WRIGHT:

H.J. Res. 423. Joint resolution providing for the commemoration of the 100th anniversary of the birth of Franklin Delano Roosevelt; to the Committee on Rules.

By Mr. WOLPE (for himself, Mr. KEMP, Mr. OBERSTAR, Mr. CAVANAUGH, Mr. WALKER, and Mr. NOWAK):

H. Con. Res. 197. Concurrent resolution expressing the sense of the Congress concerning the administrative proceeding brought by the Federal Trade Commission against the Kellogg Co., General Mills, Inc., and the General Foods Corp.; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRIS:

H. Res. 446. Resolution to amend the Rules of the House of Representatives to restrict provisions of and amendments to appropriation bills; to the Committee on Rules.

By Mr. LOEFFLER:

H. Res. 447. Resolution limiting the use of the section of the CONGRESSIONAL RECORD entitled "Extensions of Remarks" by Members of the House of Representatives; to the Committee on House Administration.

By Mr. NOLAN:

H. Res. 448. Resolution to rename the Big Stone National Wildlife Refuge to be known as the Lem Kaercher National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. HARKIN (for himself, Mr. MILLER of California, Mr. MOFFETT, Mr. STARK, Mr. MAGUIRE, Mr. BELLENSON, Mr. JOHN L. BURTON, Mr. LEHMAN, Mr. PANETTA, Mr. BONKER, Mr. BEDELL, Mr. RANGEL, Mr. HOLLENBECK, Mr. DRINAN, Mr. DODD, Mr. OTTINGER, Mr. DELLUMS, Mr. FAUNTROY, Mr. WOLPE, Mr. REUSS, Mr. SCHEUER, Mr. BONIOR of Michigan, Mr. NOLAN, Mr. CARR, Mr. DOWNEY, Mr. WEAVER, Mr. STOKES, Mr. EDWARDS of California, Mrs. SCHROEDER, Mr. FLOOD, Mr. STEWART, Mr. KILDEE, Mr. BARNES, Mr. CONYERS, Mr. OBERSTAR, Mr. LLOYD, Mr. WEISS, Mr. BRODHEAD, Mr. KASTENMEIER, Mr. PHILLIP BURTON, Mr. BROWN of California, Mr. MARKEY, Mr. BLANCHARD, Mr. McHUGH, Mr. VENTO, Mr. RICHMOND, Mr. WALGREN, Mr. GLICKMAN, Mr. HALL of Ohio, Mr. EDGAR, Mr. KOSTMAYER, Mr. DASCHLE, Mr. VAN DEERLIN, Mr. FASCO, Mr. LELAND, Mr. UDALL, Mr. GRAY, Mrs. CHISHOLM, Mr. MITCHELL of Maryland, Mr. ROSENTHAL, Mr. CAVANAUGH, and Mr. HAWKINS):

H. Res. 449. Resolution expressing the sense of the House of Representatives with respect to the failure of the Government of Chile to extradite Manuel Contreras, Armando Fernandes, and Pedro Espinosa to the United States, and to urge the President to take certain actions with respect to Chile; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1121: Mr. CORRADA, Mr. DIXON, Mr. DRINAN, Mr. FLOOD, Mr. GARCIA, Mr. HAWKINS, Mr. LEHMAN, Mr. OTTINGER, Mr. STARK, Mr. STOKES, Ms. MIKULSKI, Mr. SOLARZ, Mr. BINGHAM, Mr. GUARINI, and Ms. FERRARO.

H.R. 1539: Mr. PRITCHARD.

H.R. 1605: Mr. ROBERT W. DANIEL, JR., Mr. PATTERSON, Mr. ZEFERETTI, Mr. GUDGER, Mr. GILMAN, Mr. EVANS of the Virgin Islands, Mr. KEMP, Mr. TREEN, and Mr. ERDAHL.

H.R. 2644: Mr. LEACH of Iowa.

H.R. 3697: Mr. D'AMOURS.

H.R. 4832: Mr. COLLINS of Texas, Mr. LAGOMARSINO, Mr. PURSELL, Mr. BADHAM, Mr. KINDNESS, and Mr. RAILSBACK.

H.R. 4833: Mr. COLLINS of Texas and Mr. SOLOMON.

H.R. 5166: Mr. BEVILL, Mrs. BYRON, Mr. DAVIS of South Carolina, Mr. EMERY, Mr. GOLDWATER, Mr. KEMP, Mr. KOGOVSEK, Mr. MITCHELL of Maryland, Mr. RAHALL, Mr. BAUMAN, Mr. KASTENMEIER, and Mrs. SNOWE.

H.R. 5225: Mr. COLLINS of Texas, Mr. WILLIAMS of Ohio, Mr. ATKINSON, Mr. RUNNELS, Mr. DUNCAN of Tennessee, Mr. MARRIOTT, Mr. GRISHAM, Mr. WHITTAKER, Mr. ICHORD, and Mr. DE LA GARZA.

H.R. 5308: Mr. HEFTEL, Mr. DERRICK, Mr. EVANS of Georgia, Mr. COLEMAN, Mr. ERDAHL, Mr. HAMMERSCHMIDT, Mr. VENTO, Mr. DAN DANIEL, Mr. BUTLER, Mr. LLOYD, Mr. SKEELUS, Mr. FASCO, Mr. CAMPBELL, Mr. YOUNG of Alaska, Mr. BARNARD, Mr. DANNEMEYER, and Mr. DORNAN.

H.R. 5362: Mr. HOLLENBECK, Mr. WILLIAMS of Ohio, Mr. MARKEY, Mr. D'AMOURS, Mr. ROE, Mr. MURPHY of New York, Mr. DOUGHERTY, Mr. LUKEN, Mrs. SPELLMAN, Mr. DOWNEY, Mr. MITCHELL of New York, and Mr. STOKES.

H.R. 5396: Mr. MYERS of Pennsylvania, Mr. MOAKLEY, Mr. PRITCHARD, Mr. DONNELLY, Mr. GUARINI, Mr. MITCHELL of Maryland, Mr. FLIPPO, Mr. BLANCHARD, Mr. KINDNESS, Mr. BENJAMIN, Mr. APPLEGATE, and Mr. BAILEY.

H.R. 5399: Mr. WHITEHURST, Mr. ERDAHL, Mr. SENSENBRENNER, Mr. LAGOMARSINO, Mr. BEDELL, Mr. CHARLES WILSON of Texas, Mr. MURPHY of Pennsylvania, Mr. OBERSTAR, and Mr. COURTER.

H.R. 5571: Mr. BROYHILL.

H.J. Res. 338: Mr. PANETTA, Mr. SOLOMON, and Mr. KINDNESS.

H.J. Res. 392: Mr. QUILLEN, Mr. HUBBARD, Mr. COLLINS of Texas, Mr. McDONALD, Mr. McDADE, Mr. NICHOLS, Mr. WOLPE, Mr. BEREUTER, Mr. HOPKINS, Mr. ARCHER, Mr. WHITEHURST, Mr. OBERSTAR, Mr. UDALL, Mr. DAN DANIEL, Mr. SCHEUER, Mr. JEFFORDS, Mr. MURPHY of Pennsylvania, Mr. FROST, Mrs. BOUQUARD, Mr. LAGOMARSINO, Mr. ROBERT W. DANIEL, JR., Mr. FRENZEL, Mr. PANETTA, Mr. FASCO, Mr. MARRIOTT, Mrs. CHISHOLM, Mr. CAMPBELL, Mr. BEDELL, Mr. MAZZOLI, Mr. COLEMAN, Mr. NEAL, Mr. FLIPPO, Mr. MYERS of Indiana, Mr. LONG of Maryland, Mr. DOUGHERTY, Ms. OAKAR, and Mr. PREYER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

208. By the SPEAKER: Petition of Women in Communications, Inc., Austin, Tex., relative to second-class-postage rates; to the Committee on Post Office and Civil Service.

209. Also, petition of the Tribal Council, Eastern Band of Cherokee Indians, Cherokee, N.C., relative to halting construction of the Tellico Dam; to the Committee on Public Works and Transportation.

210. Also, petition of the Erie County Legislature, Buffalo, N.Y., relative to exempting the first $1,500 in savings account interest from Federal income taxes; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2313

By Mr. ANDREWS of North Dakota:

—Page 26, after line 2, add the following new section:

RESTRICTION OF COMMISSION STUDIES AND INVESTIGATIONS RELATING TO AGRICULTURAL COOPERATIVES

SEC. 305. The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, for the purpose of—

(1) conducting any study, investigation, or prosecution of any agricultural cooperative which meets the requirements of the Act entitled "An Act to authorize association of producers of agricultural products", approved February 18, 1922 (7 U.S.C. 291–292), commonly known as the Capper-Volstead Act, or

(2) conducting any study or investigation of any agricultural marketing orders.

By Mr. KEMP:

—Page 26, after line 2, add the following new section:

RESTRICTION OF COMMISSION ACTIONS AGAINST CEREAL MANUFACTURERS

SEC. 305. (a) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982 for the purpose of—

(1) continuing any administrative or other proceeding brought by the Federal Trade Commission against the Kellogg Company, General Mills, Incorporated, and the General Foods Corporation which is pending on the date of the enactment of this Act; or

(2) initiating any such proceeding, based upon any allegation of anticompetitive practices, against any such business organization after such date of enactment;

until the Commission carries out a study in accordance with subsection (b).

(b) The Commission, in carrying out the study specified in subsection (a), shall—

(1) examine the economic impact which may result from any proceeding specified in subsection (a) against the Kellogg Company, General Mills, Incorporated, and the General Foods Corporation, including the impact upon—

(A) individuals employed by such business organizations and any labor organizations representing such individuals;

(B) the communities in which such business organizations are located; and

(C) other business organizations, employees, and labor organizations;

(2) study any impact which such proceeding may have upon—

(A) the collective bargaining rights of labor organizations; and

(B) employee wages, pension rights, insurance benefits, and working conditions, and any other contractual rights of employees; and

(3) determine whether any individual employed by the Kellogg Company, General Mills, Incorporated, or the General Foods Corporation who suffers a loss of employment caused by the economic impact resulting from such proceeding would be entitled—

(A) to be provided with new employment by his employer; and

(B) to receive payment or reimbursement for relocation expenses incurred by such individual.

By Mr. VOLKMER:

—On page 3, after line 2 insert the following new section:

SEC. 102. None of the funds authorized to be appropriated by this Act shall be utilized for the purpose of investigating, or taking any action against, or promulgating any rule or regulation (excepting rules or regulations that already are the subject of litigation in the courts of the United States) with respect to any legal, dental, medical or other State regulated profession, or with respect to its State or national professional associations.

H.R. 3000

By Mr. NEAL:

(In the nature of a substitute; page and line numbers refer to H.R. 4839.)

—Page 41, add the following new title:

TITLE III—PEAT FUELED COMBUSTION DEMONSTRATION PLANT

SEC. 301. There is authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act, for supply, research, and development and plant and capital equipment (including planning, construction, acquisition, and modification of facilities and land acquisition), the sum of $3,100,000 for project 80–FE–12, a peat-fueled combustion demonstration plant at a site to be determined (for A-E and long-lead procurement only).

SEC. 302. Notwithstanding any other provision of this Act, there is authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the fossil energy surface coal gasification program, a sum not to exceed $85,050,000.

By Mr. WYDLER:

(To the amendment in the nature of a substitute; page and line numbers refer to H.R. 4839.)

—On page 56, lines 21 and 22, substitute the following new title: "TRANSITIONAL STORAGE OF SPENT FUEL."

On page 57, after line 7, insert the following new subsections:

(b) In providing for transitional storage of spent nuclear fuel the Secretary of Energy shall give primary consideration to such fuel from U.S. civilian nuclear power plants to insure that each has the ability to maintain Full Core Reserve (FCR) in its spent fuel storage capacity.

(c) Upon the initiation of operation of the Away-From-Reactor (AFR) Storage Facility referred to in section 502 of this Act, the Secretary shall, as soon as is practicable, in accordance with the provisions of this title, authorize removal of all the spent fuel referred to in this title to said AFR.

On page 57, redesignate the subsection (b) as subsection (d).

H.R. 3712

By Mr. MOORE:

—Page 3, strike out line 22 and all that follows down through and including the material between lines 14 and 15 on page 30, and insert in lieu thereof the following:

SEC. 2. MORTGAGE SUBSIDY BONDS; EXCLUSION OF CERTAIN INTEREST.

(a) MORTGAGE SUBSIDY BONDS.—Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) MORTGAGE SUBSIDY BONDS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), any mortgage subsidy bond shall be treated as an obligation not described in subsection (a) (1) or (2).

"(2) MORTGAGE SUBSIDY BOND DEFINED.—For purposes of this subsection, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on (or other owner-financing of) owner-occupied residences.

"(3) EXCEPTION FOR QUALIFIED VETERANS' BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified veterans' mortgage bond.

"(B) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of subparagraph (A) the term 'qualified veterans' mortgage bond' means any obligation—

"(i) which is issued in registered form as part of an issue substantially all the proceeds of which are to be used to provide residences for veterans,

"(ii) the payment of the principal and interest on which is secured by the general obligation of a State, and

"(iii) which is issued as part of an issue no part of the proceeds of which is to be used to acquire or replace existing mortgages.

"(c) ADVANCE REFUNDING NOT PERMITTED.—An obligation which is issued for the advance refunding of another obligation shall not be treated as a qualified veterans' mortgage bond.

"(D) EXCEPTIONS TO NEW MORTGAGE REQUIREMENT.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (B)(iii)

"(E) QUALIFIED REHABILITATION.—For purposes of subparagraph (D)(iii), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence."

(b) EXCLUSION OF CERTAIN INTEREST.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 128 as section 129 and by inserting after section 127 the following new section:

"SEC. 128. INTEREST ON SAVINGS.

"(a) EXCLUSION.—In the case of an individual, gross income does not include amounts received as interest on deposits or accounts in a qualified savings institution.

"(b) LIMITATION.—The aggregate amount excluded by reason of subsection (a) for any taxable year shall not exceed $100 ($200 in the case of a joint return under section 6013).

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SAVINGS INSTITUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified savings institution' means—

"(i) a bank (as defined in section 581),

"(ii) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar institution under Federal or State law, and

"(iii) a credit union.

"(B) INSTITUTIONS MUST BE AUTHORIZED TO MAKE HOME LOANS.—The term 'qualified savings institution' shall not include any institution which is not authorized to make residential home mortgage loans, home rehabilitation loans, or home improvement loans (including loans for energy-related improvements).

"(2) CLARIFICATION OF TREATMENT OF CERTAIN AMOUNTS PAID AS DIVIDENDS.—The term 'interest' includes amounts paid or credited as dividends on deposits or withdrawable accounts if the amounts so paid or credited are withdrawable on demand subject only to customary notice of intention to withdraw.

"(d) ESTATES AND TRUSTS NOT ELIGIBLE.—The exclusion provided by this section shall not apply to estates and trusts."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 584(c) of such Code (relating to dividends from common trust funds) is amended to read as follows:

"(2) DIVIDENDS AND INTEREST.—The proportionate share of each participant in the amount of dividends to which section 116 applies, and in the amount of interest to which section 128 applies, received by the common trust shall for purposes of such sections be considered as having been received by such participant."

(B) Paragraph (5) of section 702(a) of such Code (relating to income and credits of partner) is amended by adding at the end thereof the following: "and interest with respect to which there is provided an exclusion under section 128,".

(C) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the item related to section 128 and inserting in lieu thereof the following:

"Sec. 128. Interest on savings.

"Sec. 129. Cross references to other Acts.".

(3) EFFECTIVE DATE.—Notwithstanding section 4, the amendments made by this subsection shall apply to taxable years beginning after December 31, 1979.

Page 33, line 2, strike out "103A(1)(4)" and insert in lieu thereof "103(g)(3)(B)(iii)".

Page 38, line 7, strike out "subsection (p) of section 103A" and insert in lieu thereof "subparagraph (C) of section 103(g)(3)".

Amend the title of the bill so as to read: "A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage subsidy bonds will not be exempt from Federal income tax, and to exempt interest on certain savings from Federal income tax."

EXTENSIONS OF REMARKS

AMBASSADOR MANSFIELD SPEAKS OUT ON ASIAN POLICY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. FINDLEY. Mr. Speaker, I would like to commend our Ambassador to Japan, the Honorable Mike Mansfield, on his recent statement concerning U.S. military policy in the Pacific. In the October 10 article from the Baltimore Sun that follows, Ambassador Mansfield maintains that U.S. air and naval forces in the Asian Pacific region "should be beefed up" to counter a buildup of Soviet naval forces there.

I share the Ambassador's belief that realignment of the U.S. military presence in the Pacific is necessary, especially with what apears to be an emerging crisis of confidence in Japan and Southeast Asia over the credibility of the U.S. defense guarantee.

Our Pacific allies have repeatedly voiced their concern over what they perceive as an ongoing American retrenchment in Asia and the apparent strategic parity between the United States and Soviet Union. In late 1978, Japanese Vice Minister of Defense Ko Marayama asserted that the United States had only a "limited capability" of defending Pacific sealanes with the 7th Fleet. Japan's July 1978 White Paper on defense noted that Soviet reinforcement of its naval forces in the Asian Pacific has become "a factor that cannot be ignored when considering the security of the islands off Asia."

Presently, the Soviet Union has at least 25 percent of its modern land forces and 26 percent of its air force in Asia—all of first-rate caliber. It is no wonder, therefore, that Japanese and Southeast Asian officials have expressed strong concern about the Soviet military planes and ships stationed in Vietnam. They regard them as a potential threat to their Mideast oil lifeline, as well as the overall stability of Asia.

What we seem to be forgetting, is that these Pacific sealanes are not only a commercial lifeline, but as the Ambassador astutely points out, our "back door to the Middle East." These sealanes are crucial to our deployment of forces through the Indian Ocean. It would indeed be a tragedy if for some reason the Soviets were able to halt either directly, or by proxy, commercial or other shipping through these critical sealanes. To avert such a tragedy, Ambassador Mansfield suggests that we seriously reassess our military policy in this region of the world.

I applaud the Ambassador's foresight and statesmanship and agree that we are indeed "hanging on to an outmoded policy." Our politico-military doctrine for the Asian Pacific is in dire need of being clarified and redefined. Too many gray areas remain in our policy toward this region, and it is high time we reassure our allies of our credibility as a defense partner.

Text of article follows:

[From the Baltimore Sun, Oct. 10, 1979]

MANSFIELD SAYS UNITED STATES SHOULD ADD TO ASIAN FORCE

TOKYO.—United States Ambassador Mike Mansfield said yesterday that the Asia-Pacific area "could become more important" than Western Europe to American defense measures, although the U.S. emphasizes Europe.

He has long believed that U.S. air and naval forces in the Asia-Pacific area "should be beefed up and should be given parity, at least, with those in the Atlantic and Western Europe," Mr. Mansfield told a gathering of American correspondents.

The ambassador was commenting on reports that the Pentagon has been restudying longstanding plans to shift forces from this region to Europe in the event of a Soviet attack there and on the U.S. policy of being prepared to fight only one major conventional war at a time, probably in Europe, plus minor actions elsewhere—the "one-and-a-half wars policy."

He emphasized that his proposal of Atlantic-Pacific naval and air strength parity "wouldn't interfere in any way with the troop strength in Europe, nor would it necessarily interfere with the air strength over there."

The Soviet Pacific fleet has three times the tonnage of the U.S. Seventh Fleet and there has been "a tremendous buildup of forces along the Chinese-Russian frontier and in the maritime province" of the Soviet Union, Mr. Mansfield said.

"We are hanging on to an outmoded policy," the former Democratic senator from Montana asserted. "When we shipped the two divisions to NATO, in '51 I believe it was, the understanding was . . . that they'd be there for a year or so.

"What we've done is increase the numbers so we have the equivalent of four or five divisions there—213,000 troops in West Germany compared to 46,000 out here in Japan and probably 35,000 or so in Korea," he said.

The Soviet Union has "at least 25 percent of its modern land forces in Asia and 26 percent of its air force—and it's all first-rate.

"I think the threat could come from any direction. If we tie ourselves down to one direction, I think we'll pay a pretty heavy price for it if anything happens elsewhere."

The ambassador observed that the U.S. Seventh Fleet, which is assigned to the Pacific and Indian oceans, is introducing better and in some cases bigger ships on a replacement basis although the number of ships is not increasing. And he noted the introduction of F-14 and F-15 fighter aircraft to naval and air force units in the area.

But he said, "The naval ratio of 55 in the Atlantic and 45 in the Pacific should be at least at a parity and preferably a little additional strength out here . . . there ought to be another carrier and escort group attached to the Seventh Fleet."

The ambassador called the Indian Ocean the "back door to the Middle East," and recalled that in the 1973 Israeli-Egyptian war, "all the European countries except Portugal refused to allow us to land our planes carrying supplies to the Middle East."

At one point yesterday, Mr. Mansfield mentioned that the outmost limits of U.S. defense in this region are Japan and the Phillippines.

Asked why he had not included Korea, he hastened to say that he was not making "an Acheson statement"—a reference to a somewhat similar omission by the late secretary of state, Dean Acheson, which is believed to have caused North Korea to miscalculate in 1950 and assume that the United States would not defend South Korea against an invasion.

The ambassador said the U.S. mutual security treaty with South Korea "will be

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

honored. But as for our own outermost lines of defense, I feel that its the Philippines and Japan. So we have a mutual security treaty with Japan which is in our interest, in our defense," he said.

Mr. Mansfield has on at least one similar occasion in the past signaled a new U.S. policy emphasis affecting Korea. But it was not clear whether his remarks on Korea yesterday were intended as a reminder to South Korea President Park Chung-hee—whose regime U.S. officials have harshly criticized for its expulsion from the National Assembly last week of Kim Young-sam, the outspoken opposition leader.

RUSSIFICATION CAMPAIGN IN LITHUANIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. DERWINSKI. Mr. Speaker, I have repeatedly called the attention of the Members to the consistent record of human rights violations perpetrated by the authorities of the Soviet Union.

The latest report on Soviet human rights abuse was carried in the "Spotlight" of October 22, which gives an account of the Russification efforts in Lithuania. I wish to insert the article at this point.

RUSSIFICATION CAMPAIGN IN LITHUANIA

A massive new "Russification" campaign is directed at the very existence of the non-Russian nations in the USSR, a message from the Lithuanian underground asserts. The message, which accompanied official Soviet documents, appealed to the world to focus attention on the "crude violation by the Soviet Union of human rights to communicate and to learn in one's native language."

One document, taken from the 10th issue of the Lithuanian samizdat journal "Perspektyvos," contains excerpts from the draft recommendations to the conference on "Russian—the Language of the Friendship and Collaboration of the Peoples of the USSR." The conference, devoted to the teaching of Russian to non-Russians, was held in Tashkent, Uzbek SSR, May 22–24. Also smuggled out were texts of two directives from V. P. Elyutin, USSR minister of higher and secondary specialized education, requiring more intensive study of Russian at the expense of other parts of school curricula, as well as similar measures.

The message from the Lithuanian underground says the texts of recommendations were received from Moscow in March, and have been locked up in a safe used by several offices in Lithuania. The employees of the offices were not allowed to see the actual photocopies of recommendations, containing the names of the "senders" and "signers." There is talk that the recommendations saw the daylight with Brezhnev's consent.

"VOLUNTARY" LIES

In recent years, the underground message continues, the Russification campaign has been "particularly intensified." All schools, from kindergartens to universities, are to be transformed into "chief centers of Russification." The directives require that "all forms of teaching be increasingly performed in Russian. Analogous directives are issued also by the ministeries of the national republics.

According to the message, the purpose of the Tashkent conference has been to "show that the citizens of the national republics allegedly support the Russification policy conducted by the Communist Party and government. The government of the czar used to do this openly and directly, but the present rulers wish to give the appearance that it would be accomplished with the citizens' own hands."

INTENSE APPREHENSION

The apprehensions of the Lithuanian people are further confirmed by statements of leading Soviet officials. In his message of greeting to the participants of the Tashkent conference, Brezhnev spoke of the emergence of a "new historic community—the Soviet people (among whom) the Russian language objectively plays an ever increasing role in the creation of communism and in the education of a new man . . . the Russian language was expanding under mature socialism." A Mr. Prokofyev, USSR minister of education, emphasized that a "harmonious system of studying a second language . . . must start in the pre-school age."●

IMPORTANT PROGRESS IN TREATING EPILEPSY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. BARNES. Mr. Speaker, in recent years significant strides have been made in the treatment of epilepsy, one of the world's most misunderstood illnesses. I submit for the information of my colleagues an article on epilepsy which appeared in the New York Times of August 28, 1979. The article, which includes references to our distinguished and courageous colleague, TONY COELHO, follows:

EPILEPTICS AIDED BY NEW RESEARCH

(By Lois Sauer)

When Tony Coelho campaigned for the United States House of Representatives last year, his political strategists advised him to suppress one aspect of his life that they feared could sink his chances for election if it became a public issue.

Tony Coelho has epilepsy. Rather than taking the advice of the political pros, however, he spoke openly about epilepsy.

"I had nothing to hide or cover up," said Mr. Coelho, who is now a Democratic Congressman from California, in an interview.

For him and the majority of people with the condition, epilepsy is no longer a physical handicap because medical treatment can now control seizures. But the colossal obstacle still facing many epileptics—public attitude—has changed slowly. Many epileptics still face ostracism and discrimination in work and education, Congressman Coelho said.

Impressive strides have been made in recent years in research, diagnosis and treatment of epilepsy. As a result, about half of the nation's two million epileptics, like Mr. Coelho, are free of seizures and about 30 percent more have improved control over their seizures.

The medical progress includes new drugs, widespread use of sophisticated diagnostic equipment and a new laboratory technique that determines the right dosage of medication for an individual.

In the laboratories at the National Institute of Neurological and Communicative Disorders and Stroke in Bethesda, Md., and at many medical centers around the world, scientists are investigating the spectacular world of the human brain to understand brain function and malfunction.

"Epilepsy is a complex, heterogeneous problem," said Dr. Roger J. Porter, director of the epilepsy branch at the Bethesda Institute. "We now have leads about the mechanism involved in epilepsy, but many of the details are still unknown."

Epilepsy is a disorder of the nervous system in which some brain cells are electrically abnormal. Like an aberrant lightbulb in a theater sign, these cells sporadically produce electrical impulses that trigger bodily responses, which are termed seizures.

Researchers are looking for the biochemical explanations of how epileptic cells become abnormal, why they generate electrical activity and how the electrical impulse spreads from the abnormal cells to adjacent normal cells.

Evidence now suggests that epileptic cells do not have enough of a chemical that normally controls electrical activity. The chemical that normally controls electrical activity. The chemical is a neurotransmitter called GABA, which is short for gamma-aminobutyric acid.

Recent findings indicate that epileptic cells have fewer of the sites where GABA is usually produced, according to a report last month by scientists at the City of Hope National Medical Center in California. Because GABA ordinarily suppresses nerve activity, a deficiency of it makes nerve cells electrically hypersensitive.

Aside from their general characteristics, no two cases of epilepsy are alike, Dr. Porter said. There are many causes of epilepsy, and there are great variations in where the epileptic cells are situated, in the frequency of abnormal electrical activity, in the types of seizure and in the treatment.

The main known causes are head injuries, infections, damage to the brain before or during birth, metabolic and nutritional disorders and brain tumors. For many people, epilepsy cannot be traced to a specific cause. Contrary to a widely held notion that epilepsy is inherited, heredity is thought to play a minor role.

Among the dramatic advances in tools for diagnosing epilepsy are computerized X-rays called CAT scans and tracings of the brain's electrical activity called electroencephalograms, which provide clues about the nature and location of the epilepsy.

In addition, three anticonvulsant drugs have appeared on the market in the United States in the last five years. The newest, valproic acid, was heralded as a miracle drug and was available in Europe a decade before it was approved for use in the United States. Enthusiasm has decreased since some patients taking the drug were discovered to have diminished liver function.

The new drugs are considered superior to their predecessors because they offer better seizure control without the drowsiness common to the earlier drugs, which were derivatives of barbiturates.

Drug dosage is critical in controlling seizures, and new laboratory techniques bring precision to what was previously an almost haphazard process. By measuring the amount of a drug in a person's bloodstream over a period of time, the dosage can be adjusted to keep the concentration just high enough to prevent seizures but no higher, to avoid unnecessary side effects.

"The ability to monitor blood levels is the greatest advance in neurology in years," said Dr. Hart Peterson, assistant professor of neurology and pediatrics at Cornell Medical Center. The lab techniques, commonly referred to as GLC and EMIT (for Gas Liquid Chromatography and Enzyme Multiple Immunoassay Technique), are now routinely available in laboratories throughout the country.

Although drug therapy can eliminate seizures or make them brief and infrequent for 80 percent of epileptics, it cannot control those of the other 20 percent.

Surgery is used in a few cases when a specific injured area of the brain can be identified and removed without damaging other brain functions.

Although there are many types of seizures, the most common are called grand mal, petit mal and psychomotor seizures.

Grand mal seizures are characterised by blackouts and violent shaking of the body, often accompanied by drooling and irregular breathing. Petit mal seizures are lapses of consciousness lasting 10 to 20 seconds. Usually associated with children, they are often mistaken for daydreaming. Psychomotor seizures usually involve some form of "stereotyped movements" as a chewing, unbuttoning clothing, reciting phrases or wandering.

Seizures are often preceded by a warning aura of sensations. After a seizure, the person is likely to return to whatever was being done before the seizure.

It is estimated that there are 100,000 new cases of epilepsy in the United States each year.

"The tragedy of epilepsy is that many cases could be prevented," said Dr. Peterson. Automobile accidents alone account for about 20,000 new cases annually, according to the Epilepsy Foundation of America. It says many head injuries could be prevented with better automobile crash protection equipment, mandatory motorcycle helmet laws and enforcement of the speed limit.

Early detection and treatment are critical for controlling seizures and minimizing the psychological and behavioral scars that often accompany the disorder, according to experts who testified before a 1977 National Commission on the Control of Epilepsy and Its Consequences.

The stigma of epilepsy "stems from public misconceptions that equate epilepsy with mental illness, mental retardation, violence and even possession by the devil," said a young man who developed epilepsy after receiving a head wound in Vietnam. "Other health problems don't have a stigma. Saying you've had a seizure to someone isn't the same as saying you've had a heart attack. I'm sure many persons never get over the feeling of being ashamed."●

TRIBUTE TO PETER J. MARKOVICH, GENERAL MANAGER, DALY CITY CHAMBER

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. ROYER. Mr. Speaker, on the evening of November 9, 1979, many close friends and professional associates will gather to honor a resident of Daly City, Calif., who has given of himself to the community for many, many years—Peter J. Markovich.

Mr. Markovich was born on September 1, 1910, in Oakland, Calif., and moved with his family to Daly City, Calif. in 1911 where he has resided ever since. He married Jean Reinecke on September 27, 1947, and has four children, Frank, Mike, Peter L. and Marjorie, and one grandchild, Frank Robert, Jr.

After graduation from St. Mary's College in 1933 with a B.A. degree, Pete applied for a job with the Bank of America and was hired. He left the bank after 4 years to open his own insurance business, which is presently being managed by his wife Jean and son Mike.

Peter Markovich, together with Fred Martin and Marshall Sanders, organized the Daly City Chamber of Commerce in 1953 and has served as manager of the chamber since that time. He has also served as president of the Daly City Mission Merchant Association, president of the North San Mateo County Insurance Agent's Association, member of the San Mateo County Board of Health and Welfare, member of the Jefferson High School board of trustees, and member of the San Mateo County grand jury.

Mr. Markovich is truly deserving of the honors and recognition bestowed upon him. Although he is retiring as general manager of the Daly City Chamber, I know that Pete is not about to retire from his community, and I expect to see him involved in community affairs in the many years ahead. I am proud to join his many friends in paying him tribute.●

JOHN PAUL II'S FIRST YEAR AS POPE

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. FARY. Mr. Speaker, in the year since his election, on October 16, 1978, many have realized that Pope John Paul II is an exceptional man. Members of the press, usually cynical toward religion, have hailed him as a superstar. People of all faiths have felt at least curious and often uplifted and inspired when they have come into contact wth him. However, many have also realized that the Pope is more than a compelling personality who knows how to make a dramatic gesture before the cameras.

The Pope has spent his first year actively asserting his position and that of the Catholic Church on many issues. In his sermon here in Washington 10 days ago, His Holiness said that the church will stand up before the world to proclaim the sanctity of life. Those of us who have heard him know that he speaks authoritatively. For John Paul II, "life" is a word replete with meanings. The immediate reference is to life as it exists from conception. However, through his encyclical, Redemptor Hominis, and through his actions, we can see that he is concerned for life from that moment through all stages of its development and in all its manifestations. Everyone who sees him cannot help noticing his love for children and babies. While here in Washington, the Pope sent several hours at Trinity College praying for each one of a large group of cripples and sick people. His response to a crowd is an expression of his love for every person present and he is not afraid to show it.

This genuine love for humanity is also expressed in his concern for human rights in his native Poland and everywhere in the world. Life can be defined as existence free from misery caused by oppression or hunger. So, the right to life means that every person in the world should be able to live in a free society where he is able to adequately satisfy his own needs for food and shelter and that of his family. Since John Paul II has said that the purpose of governments is to serve the people, it follows that it is the duty of legislators to guarantee these rights for the people we serve.

Even if we are not Catholic or do not share the Pope's views or faith, we should find his example as a world leader inspiring. He reminds us that our purpose is to insure that every person has the right to life, liberty, and the pursuit of happiness. We should keep in mind that it is our job to protect these values that are the basis for our democratic government.●

CONGRESSMAN GOODLING CITES ROLE OF FEDERAL INTERFERENCE IN EDUCATION DECLINE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. ASHBROOK. Mr. Speaker, my colleague BILL GOODLING came to Congress after a long career as a professional educator. As ranking minority member of the Education and Labor Committee, I am particularly fortunate to have a man with BILL's background serving with me on that committee. What he has to say about the Federal role in education in the October 6 issue of his regular report to his constituents, aptly named Plain Talk, is worthy of the attention of the Congress and of the American people in general.

Mr. GOODLING is dead accurate in pointing out that the creation of the Department of Education is not aimed, as its supporters contend, at putting a special emphasis on education. Its real purpose is to increase Washington's direct control over State and local education. Last year, in the Ashbrook substitute for the 5-year Federal aid to education authorization, I proposed that all the money authorized be sent directly to the State legislatures to be distributed by them to areas where education needed help, rather than being parceled out by bureaucrats in Washington for programs specified by Washington. The defeat of that substitute made it perfectly clear that the purpose of liberal school-aid policy is not support of local school systems, but control of them. BILL GOODLING's judgment about the attitude of many Education and Labor Committee members applies to the attitude of the liberal majority as a whole:

> By the end of my first year as a member of the Committee it was apparent that many of its members looked with disdain upon educators.

I believe that the elitist liberal majority looks upon not only educators, but Americans in general, with disdain. The decline in educational quality which has gone hand-in-hand with increasing Federal control is but one example of decline throughout many sectors of our country's life. In each case, the origin of this decline can be traced directly to increased rules and regulations coming out of Washington. What Mr. GOODLING has to say about education specifically is important in itself. But it is even more important if we see it as a part of the

whole problem of rule by the self-styled liberal elite which now controls Congress, the White House, and a steadily increasing proportion of the Federal judiciary.

The full text of Mr. GOODLING's October 6, 1979, Plain Talk follows below:

PLAIN TALK

(A weekly commentary written by U.S. Rep. Bill Goodling of Pennsylvania's 19th District.)

WASHINGTON, D.C.—When I left the field of education after 23 very enjoyable years and came to Congress I thought perhaps I could find a way to get federal tax dollars back to local school districts without the rules and regulations and paperwork that accompanied such tax sharing in the past.

To do this I decided it would be best to serve on the Education and Labor Committee. I soon learned that the majority only wanted categorical grants (Fed. strings attached) rather than returning the money to determine how to best educate all youngsters.

When I joined that Committee, I found another educator as a member, namely Congresswoman Shirley Chisholm from New York. We discussed how former educators might be able to help those back in the trenches and thought perhaps separating education from the Department of Health, Education, and Welfare might be a way to do that. By the end of my first year as a member of the Committee it was apparent that many of its members looked with disdain upon educators.

I am sure that many members of Congress really believe that they know what is in the best interests of young people. I believe many of them feel that teachers and administrators are not capable of supplying a proper curriculum to meet the needs of all young people. I know they believe that all of the failures of education are the fault of teachers, no matter how often I remind them that today in public education we are mandated to educate all children. This naturally causes a difference in test scores. No matter how many times I tell them that the deterioration of the family unit has had a significant adverse effect upon education of youngsters—no matter how often I tell them the federal mandates thrust upon teachers, along with many extra co-curricular activities and community activities, has had an adverse effect on a child's academic learning process—and no matter how often I tell them that getting on a bus at 6:30 or 7:00 in the morning and getting off at the same hour in the evening is not necessarily conducive to a good education—they still point the finger to the local and state educational process and are thoroughly convinced that they have all the answers on the federal level.

Of all the problems facing this country I think the one that worries me most is that there is a subtle, calculated, determined effort to bring the entire educational system under the direction of a federal bureaucracy in Washington. Unfortunately, those who will be effected most by this effort sometimes innocently support such a move.

An example of another step in this direction is the truth in testing legislation, which is the next issue before my Committee. On the surface, it sounds very innocent. However, it is just one more attempt to federally control education in this country. Just listening to my colleagues talk and testify would indicate to me that a competency test from the federal level should be the determining factor as to whether a youngster is promoted or not. Watching this insidious movement during the last five years I can see how perhaps these competency tests will also be used to determine the worth of the teacher.

As I indicated to several constituents, if I thought federal agencies would be staffed by people who had served on the front line, experienced teachers and administrators, I wouldn't be as worried about the Department of Education. But my five years in Washington certainly indicate that dreamers, those without experience, will soon fill the ranks of the bureaucracy and make the decisions for the educators in the field. They will promulgate all kinds of paperwork and regulations in order to promote their actual existence and growth.

As Congresswoman Fenwick remarked during the debate on the conference bill for the Department of Education, "do you realize that in France at this very hour every youngster in each grade is on the same page in the same book because of their federal education system." Is that what we want for the future of the American education system?●

NEW YORK ARCHDIOCESE CELEBRATES CATHOLIC SCHOOLS WEEK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. BIAGGI. Mr. Speaker, today I am pleased to note that in my home State of New York, our Catholic Archdiocese is celebrating an event this week called, "Catholic Schools Week" from October 14 to 20. During this week, many activities are planned by local communities, through their churches and parochial schools to highlight this year's theme: "The Catholic School—One of the Family."

I am very proud of our parochial school system in New York and the many fine things it provides for both our children and our communities in the way of educational, religious, and social instruction. The local church and its school can provide important direction to members of the community by informing them of issues and problems that directly bear upon their lives. It can also provide them with moral direction, a sorely needed component in the daily actions of many.

Our Catholic schools also provide some of the finest education in New York City. A recent survey revealed that children in New York City parochial schools were achieving at a level 2 to 3 months above the national norm in math and reading skills in grades 3 through 7. It has been noted by many professionals that these figures indicate achievement well above average, in both reading and math levels. It is to the credit of the New York Archdiocese that these figures reflect such an impressive level of achievement.

As the ranking New York member on the House Education and Labor Committee, I have devoted many legislative efforts to enhancing the role of the independent schools in our State. In the Education Amendments of 1978 I successfully sponsored an amendment which would provide $15 million for 15 local educational agencies to establish or maintain school safety programs. The absence of crime was a reason, the study noted, for the increased achievement levels in parochial schools.

Additionally, in the Education Amendments of 1979 I introduced legislation which helped to alleviate a potential student loan shortage by raising the ceiling on the special allowance—the Federal subsidy paid to banks to encourage them to grant loans to students. Because of this bill, many students in private and parochial institutions of higher education were able to finance their education this past fall.

Finally, the major piece of legislation dealing with higher education has just cleared the Education and Labor Committee. I played a major role in including legislation which would increase the amount of supplemental grant moneys to private colleges and universities so that more students will be able to afford to attend these institutions.

I am extremely pleased and proud of our educational system in New York State and the diversity as well as opportunity that it affords our citizens. It has been successful in producing well-rounded, enlightened, and intelligent graduates of integrity.●

TOWARD A BALANCED PERSPECTIVE ON NUCLEAR ENERGY

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, since the incident at the Three-Mile Island nuclear power generating station in Pennsylvania last spring, much reaction, commentary, and speculation has filled innumerable column inches and airtime.

Dr. Edward Teller, a pioneer in nuclear power, recently made public an informed point of view, via the Tuesday, October 16, 1979, edition of the Washington Post.

Dr. Teller was born in Hungary and educated in Germany. He came to the United States in 1935 and worked extensively on nuclear developments during and after World War II. He led the earliest efforts to ensure the safety of nuclear power reactors and to achieve clean power generation. In recent years he has concentrated increasingly on the varied aspects of the coming energy shortage, and has argued for utilization of every feasible form of energy. Active in national programs to explore peaceful uses of nuclear power, Dr. Teller is a senior research fellow at the Hoover Institution, Stanford, Calif., and professor emeritus at the University of California.

Dr. Teller offers his comments about nuclear energy based on a thoroughly professional and scientific background. So that this information may be readily accessible to my colleagues and anyone seeking a balanced perspective on the possible role of nuclear power in our energy future, I ask that the text of his comments be included in the RECORD.

STATEMENT OF DR. EDWARD TELLER

On May 7, a few weeks after the accident at Three-Mile Island, I was in Washington.

I was there to refute some of the propaganda that Ralph Nader, Jane Fonda and their kind are spewing to the news media in their attempt to frighten people away from nuclear power. I am 71 years old, and I was working 20 hours a day. The strain was too much. The next day, I suffered a heart attack. You might say that I was the only one whose health was affected by that reactor near Harrisburg. No, that would be wrong. It was not the reactor. It was Jane Fonda. Reactors are not dangerous.

Now that I am recovering, I feel compelled to use whatever time and strength are left to me to speak out on the energy problem. Nuclear power is part of the answer to that problem, only a part, but a very important part.

I have worked on the hydrogen bomb and on the safety of nuclear reactors. I did both for the same reasons. Both are needed for the survival of a free society. If we are to avoid war, we must be strong and we must help to generate the progress that makes it possible for all nations to grow and prosper.

And what is the greatest present-day threat to the prosperity and even the survival of nations? A lack of energy. Both developed and developing nations are threatened.

The citizens of the United States have just begun to recognize the impact of the world's growing energy shortage. Gasoline lines, electrical brownouts and higher prices are minor irritants. They are nothing compared to what may lie ahead. In a struggle for survival, politics, law, religion and even humanity may be forgotten. When the objective is to stay alive, the end may seem to justify the means. In that event, the world may indeed return to the "simpler" life of the past, but millions of us will not be alive to discover its disadvantages.

When our existence is at stake, we cannot afford to turn our backs on any source of energy. We need them all.

When it comes to generating electricity, we especially need nuclear power. Contrary to what Nader and Fonda, and their friends such as Sterngiass, Wald and Kendall, would have you believe, nuclear power is the safest, cleanest way to generate large amounts of electrical power. This is not merely my opinion—it is a fact. Due to the lessons learned at Three-Mile Island, the nuclear way of generating electricity will be made even safer.

I have attempted to respond briefly to some of the questions which people ask about nuclear power. The problems that these questions raise are problems because of political indecision or public fear. Technically, they are nonproblems, because the dangers they imply either do not exist or else we have the know-how to solve them. I am absolutely convinced of this, after a lifetime of work as a nuclear scientist.

I was once asked how I would like for my grandson, Eric, to think of me and my life's work after I am gone. Eric is nine years old. He is a terrible guy—he beats me at the game of "GO." I am enormously fond of him, but I have not given much thought to what he will someday think of my life's work. I have given a great deal of thought to whether he will be alive in the next century, and whether he will be living in freedom or in slavery. If he is living under communism, he will know I was a failure.

I believe that we have reached a turning point in history. The anti-nuclear propaganda we are hearing puts democracy to a severe test. Unless the political trend toward energy development in this country changes rapidly, there may not be a United States in the twenty-first century.

The President has recognized the danger of the energy shortage. As yet, he has given only some of the answers. I think—I hope—that democracy has enough vitality to evaluate the risks and to recognize the great benefits of nuclear power to human health and well-being, and to the survival of our free society.

Q. Can a nuclear reactor explode like an atomic bomb?

A. No. Energy cannot increase fast enough in the reactor. Therefore, it is absolutely impossible for a nuclear power plant to explode like a bomb. For this to happen, the laws of nature would have to be repealed.

Q. What is the risk of nuclear power compared to other forms of producing electricity?

A. It is far safer than coal or hydroelectric power, but all three are necessary to meet our need for energy. It may sound strange to say it, because coal has been around so long, but we know more about controlling radiation than we do about controlling the pollutive effects of burning coal. And, of course, a dam has no backup system to protect those who live below it. Indeed many of these people have lost their lives and more their homes.

Q. I live within 50 miles of a nuclear power plant. What are my chances of being injured by a nuclear accident?

A. About the same as being hit by a falling meteor.

Q. What about the effect of an earthquake on a nuclear plant?

A. At the first sign of a tremor, the reactor would shut down automatically. Also, reactors are built to withstand enormous structural damage. The only man-made structures I can think of that are more stable are the pyramids of Egypt.

Q. Is it true that we still have no satisfactory way to dispose of nuclear wastes?

A. No. Ways do exist. What we have not had is a decision by our government on which way to go. Waste disposal is a political problem, not a technical problem.

Q. How much radioactive waste materials are produced by nuclear plants?

A. At the moment, about 12½% of our electricity is generated by nuclear power. If all of it were produced this way, the wastes from these plants over the next 20 years would cover a football field to a depth of about 30 feet. To dispose of this waste a mile underground would add less than one percent to the cost of electricity.

Q. How dangerous is the release of low-level radiation from a nuclear power plant?

A. If you sat next to a nuclear power plant for a whole year, you would be exposed to less radiation than you would receive during a round-trip flight in a 747 from New York to Los Angeles.

Let me put it another way: The allowable radiation from a nuclear plant is five mrems per year. In Dallas, people get about 80 mrems per year from the natural background of buildings, rocks, etc. In Colorado, people get as much as 130 mrems per year from the natural background. Therefore, just by moving from Dallas to Boulder you would receive ten times more radiation per year than the persons gets who lives next to a nuclear power plant.

Q. How much radiation were the people around Three-Mile Island exposed to during the accident?

A. Let me put it this way. Your blood contains potassium 40, from which you get an internal dose of some 25 mrems of radiation in one year. Among the people not working on the reactor, a handful may have gotten as much radiation as 25 mrems.

Q. Should "spent" nuclear wastes be reprocessed to save the plutonium and other by-products?

A. Yes. Plutonium, for example, is as valuable as the original uranium fuel, because of its potential use to produce still more energy. In the end, reprocessing is needed to make nuclear energy abundant and lasting.

Q. Is there a danger that the plutonium produced by nuclear reactors might be stolen by terrorists and used to construct home-made nuclear explosives?

A. I believe that reactor products can be properly safeguarded from terrorists. This can be much more easily done than the guarding of airplanes. Also, any terrorist who puts his mind to it can come up with ways to terrorize a population that are less dangerous to himself than handling plutonium. The answer is not to get rid of the reactors—let's get rid of the terrorists.

Q. Will the expansion of nuclear power by other countries enable them to produce nuclear weapons?

A. Unfortunately, yes. This is already happening. Two-thirds of the reactors in operation in the free world today are outside the United States. Since we can't stop other nations from building nuclear plants or weapons, what we must do is find better solutions to international problems. An energy-starved nation is much more likely to make and use nuclear weapons as a last resort to survival. The only way to prevent that is to see to it that there is enough energy to go around, and to strengthen cooperation and confidence among the nations.

Q. What have we learned from the accident at Three-Mile Island?

A. Two things. First, that nuclear reactors are even safer than we thought. Despite many human errors and a few mechanical failures at Three-Mile Island, the damage was contained. No one was killed, or even injured. We have also learned that a lot can be done by better educated, better paid and more responsible reactor operators, and by a more efficient display of the state of the reactor by modern instrument panels.

Three-Mile Island has cost $500-million, but not a single life. We must pay for safety and, even after we have paid for it, nuclear energy is the cheapest source of electrical power. It is most remarkable that in the case of nuclear energy we are paying for our lessons in dollars, not in lives.●

SOCIAL NOTE: PAYOFF PARTY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. MICHEL. Mr. Speaker, for those of our colleagues who may not be informed about the latest social events in Washington, I want to remind them of an article that appeared in the style section of the Washington Post. The article told of a party, a "quid pro quo" according to the Post, "the symbolic paybacks and payoffs between an exultant executive branch and an obliging legislative branch aided by 140 special interest groups."

Payoffs? Paybacks? These are harsh words. Surely the Post does not mean to state that the special interests groups who got the Department of Education will now pay off that debt by political support. But in the same article there is call for these special interests to work for the "reelection of the President" with the same dedication they put into their drive to get the Department of Education.

Perhaps there has been a misunderstanding or a misquotation. Otherwise we would be forced to the conclusion that there is blatant abuse of the legislative

system by the education special interests. I hope this is not so. But the evidence strongly suggests it. The evidence suggests that political power, not educational excellence, is at the heart of the creation of this new Department.

The Post does not say who paid for the party. It would appear, however, that it is taxpayers, parents, and children who will have to pay.

At this time I wish to insert in the RECORD, "Partying for Education" from the Washington Post, October 11, 1979:

PARTYING FOR EDUCATION

(By Donnie Radcliffe)

Gratitude took several forms: plaques for the floor managers, kudos for the coalition and due bills for Jimmy Carter payable in November 1980.

"I hope," drawled Rep. Jack Brooks (D-Tex.), who as floor manager had steered the legislation creating the new Department of Education through the House, "that you'll all work to get President Carter reelected with the same dedication and effort you used to get this bill through Congress."

It was politics at its purest last night, that heady aftermath of victory when nothing could be more natural than quid pro quo—the symbolic paybacks and payoffs between an exultant executive branch and an obliging legislative branch aided by 140 special-interest groups.

"No problem at all," said Al Sumberg somewhat expansively, speaking for the American Association of University Professors. "Jimmy Carter's a pro-education president; there's been nobody like him since Lyndon Johnson, a period when improvements in education were tied to civil rights."

"Jack (Brooks) always uses a very direct approach," said an amused Owen Kiernan of the National Association of Secondary School Principals.

Rep. Brooks was one of the celebration's stars, the other being his counterpart in the Senate, Abraham Ribicoff (D-Conn.).

A former secretary of Health, Education and Welfare, Ribicoff told the crowd of more than 200 sipping white wine and nibbling cheese and meatballs in a Dirksen Building committee room that he had long felt education had been "put on the back burner because health and welfare were always in some crisis that required the secretary to pull them out of the fire."

Joining in the salute was James McIntyre, head of the Office of Management and Budget, which will oversee implementation of the legislation expected to be signed into law Oct. 17 by President Carter.

"A tough fight," said McIntyre. "If I had to be with somebody in a foxhole, I think I'd like it to be Jack Brooks."

Neither McIntyre nor Brooks professed to know whom the president is considering to head the department.

None of the possibilities who have been mentioned in recent months—Jerry Apodaca, former Democratic governor of New Mexico; Mary Berry, assistant secretary of health, education and welfare for education; Alan Campbell, head of the Office of Personnel Management—turned up at the celebration. That may have been because none—except Berry in her HEW capacity—was invited.

"I don't think this is going to be any place for theorists," said Owen Kiernan, expressing the hope that "they bring people in from the trenches" to do the new jobs within the department.

"Whether you get a former governor of New Mexico or a university president and former governor of North Carolina (Terry Sanford) to head it is really of less concern than quality programs," Kiernan said.

"I'm sure it will be some political friend of the president's," said Bette E. Hamilton of the American Association of Community and Junior Colleges. "Andy Young is looking for a job."

There were a few congressional faces in the crowd, including those of Sen. Carl Levin (D-Mich.) and Rep. Robert F. Drinan (D-Mass.), but not many. Drinan said he was sorry the U.S Catholic Conference had opposed the legislation, "and I'm glad God prevailed."

But the party was clearly a victory thank-you to Ribicoff and Brooks by the people who had helped pull the bill through, organizations like the National Education Association, the U.S. Student Association, the International Reading Association and the National Conference of Teachers of English.

"Some people say it's the most effective lobby they've ever seen," said Allen Cohen, head of the ad hoc committee that started building its 140-member coalition last November.

Working out of the state of Illinois Office of Education here, Cohen was one of many working full time, but he wouldn't attempt to estimate man hours or money spent getting the bill through Congress.

"What counts," he said, "is that we put together a cabinet voice."●

OSHA'S "NONSUCCESS" RATE

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. BEREUTER. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial which recently appeared in the Sioux City, Iowa, Journal. The editorial notes the degree of "nonsuccess" of the Occupational Safety and Health Administration (OSHA) to date and raises the question of how effective OSHA will be in regulating the use of carcinogens. I believe this thoughtful commentary deserves note. Accordingly, I place the full text in the RECORD.

[From the Sioux City (Iowa) Journal, Oct. 4, 1979]

OSHA'S NON-SUCCESS

When Congress created the Occupational Safety and Health Administration in 1971, it gave the agency an almost impossibly difficult job: to regulate safety and health conditions in millions of U.S. workplaces. Almost every employer and worker in the country was affected.

In its first decade, OSHA has cost American taxpayers almost $1 billion. The nation's business and industrial sector has spent an added $25 billion to comply with OSHA regulations.

Now the U.S. Chamber of Commerce wonders if the cost has been worth it. Their study and statistical analysis shows that OSHA has tended to tinker (remember the agency's regulations on standardized toilet seats?), and that the main job of reducing serious job accidents and sickness has been ineffective.

Statistics gathered by the Bureau of Labor show that total injury and illness rates have indeed declined since 1972. But the rate for serious injury and illness—the stuff that causes lost days of work—rose 15 percent from 1972 to 1977. Days lost due to sickness and accidents rose 29.1 percent. Fatalities rose by more than 24.1 percent from 1976 to 1977.

Although OSHA stopped counting worker fatalities of small employers (11 or fewer) in 1977, these deaths can be reliably estimated. For large companies, worker fatalities rose by 20.8 percent in 1977, far overshadowing earlier declines.

With this kind of track record, we join the chamber in wondering just what kind of performance OSHA will demonstrate in its newest endeavor: An attempt to identify, catalogue and regulate the use of thousands of carcinogens—substances alleged to cause cancer—in the work environment. OSHA's regulatory plan could require industry to spend upwards of $68 billion to meet federal strictures in this area.

Let's hope OSHA sees that the money is wisely spent. Given its past performance, however . . .●

THE GOLD OWNERSHIP ACT OF 1979

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. PAUL. Mr. Speaker, yesterday, the Domestic Monetary Policy Subcommittee of the Banking Committee, under the leadership of the Honorable PARREN MITCHELL, held hearings on my bill, the Gold Ownership Act of 1979. Because I believe this legislation rectifies an injustice in U.S. law, and because I believe the full House will be called upon to vote on this legislation this year, I would like to take this opportunity to bring my testimony to my colleagues' attention.

The testimony follows:

THE GOLD OWNERSHIP ACT OF 1979

(By RON PAUL)

Thank you, Mr. Chairman.

There are many American citizens grateful to you today for holding hearings on the Gold Ownership Act of 1979. Attention to the subject of gold confiscation is long overdue.

The U.S. Treasury takes the position that gold is not money, and in pursuance of this, Secretary of the Treasury Miller and Federal Reserve Board Chairman Volcker have expressed no opposition to the repeal of the Treasury's authority to confiscate gold. Both Mr. Miller and Mr. Volcker have expressed their positions to me and Senator Helms and I ask unanimous consent that their letters be inserted into the record at this point.

Since gold ownership was legalized in 1974, millions of Americans have chosen to invest in this commodity. Most of them are uneasily aware of the presidential power remaining on the books since 1933. They enthusiastically urge its repeal. Of course, the majority of Americans do not know such a power exists, but I am convinced they would be aghast if they knew it did.

The Treasury's power to take forcibly the people's gold coins and bullion, at a price set by the government, is unamerican, to say the least. It should not be permitted to remain on the books. It is unnecessary in this modern age of the Federal Reserve System and the International Monetary Fund, which both have officially relegated the "barbarous" metal to strictly non-monetary functions. It is unwise, for it achieves nothing productive for the citizens or the government. It is unfair, for it discriminates against those who choose to invest in gold and gives preference to other commodities. It is unconstitutional, for there is no passage in the Constitution granting the Treasury any such power. It is unenforceable,

since mass resistance would be bound to occur.

Most people forget that when the gold was taken from the American people in the 1930s, our government gave only 57 percent of the market value. Fear and ignorance permitted our government to get away with this violation of civil liberties.

The right to own property should apply to gold, whether or not it is thought of as money. The function of gold as understood by a free people should not enter into the discussion of whether or not they should be permitted to own it. Fortunately, today in these hearings, this point is not being debated.

The recent rapid rise in the price of gold has focused almost everyone's attention on its importance. Gold has served both the small and the large investor as a hedge against depreciating paper dollars. But so have land, houses, art, antiques, other metals, gems, other commodities, and even rare stamps. There is no justification whatsoever to single out gold and treat it uniquely by threatening its confiscation. And the threat is inconsistent and arbitrary. Gold in jewelry is not threatened. A gold coin in a necklace would not be seized, but a gold coin by itself would. Those rich enough to buy gold in jewelry form, with its high mark-up, would be immune from the law.

The right to our life and property cannot be violated arbitrarily. If it is, the erosion of all our liberties will eventually occur. American citizens, like people throughout history, want to own gold. Surely they have the moral right to do so. The most fundamental civil liberty is our right to our person and the fruits of our labor. This should mean all property, so long as that property was obtained without force or fraud and is not being used to inflict injury on other people.

The fact that gold ownership has grown in popularity since its re-legalization in 1974 emphasizes the importance of this metal in the eyes of many people. Whether it's right or wrong, good or bad, wise or unwise to own gold is no more significant to this discussion than similar questions about owning stocks, bonds, commodity futures, or T-bills.

The impracticality of getting millions of Americans to turn their gold in if the Treasury ever decided to order it needs special mention. I'm afraid it would only make lawbreakers out of many thrifty and prudent Americans. Establishing a fair price would be impossible. Highly volatile gold prices can now fluctuate as much as $35 a day—ironically the full price of an ounce at one time. Some would have to be mistreated, most likely the small investors—not the international bankers who somehow mysteriously anticipate and capitalize on all major financial events.

I'm delighted at the momentum that has gathered behind this repeal effort. With the confiscation power repealed, we may want to think about allowing more Americans to obtain the gold that the U.S. Treasury is dumping on the international markets, gold which is gobbled up by European bankers and Arab interests. It is little known that approximately $16 billion worth of gold went to Europe in the 1960s at $35 an ounce.

If the American people want gold, and its ownership is not of concern to our Treasury and Federal Reserve, then we can easily make gold available to all Americans in the form of coins of various sizes. This would be far fairer than allowing all our gold to drift into the hands of foreign bankers and wealthy Arabs.

Again, Mr. Chairman, I would like to express my deep appreciation to you for holding these hearings and I hope that the mark-up of the legislation can occur as well. With no known opposition, official or unofficial, to the bill, rapid passage can be anticipated by the full committee and the House.●

THE CIGARETTE SAFETY ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. MOAKLEY. Mr. Speaker, the story of the careless use of smoking materials leading to the destruction of life and home is all too familiar. According to the U.S. Fire Administration, cigarettes represent the No. 1 national cause of both injuries and fire deaths in residential dwellings.

During 1978, there were 70,000 smoking-related fires across the country, and a resulting 1,800 deaths, 4,000 injuries, and $180 million in economic losses. The saddest part of these statistics is that these fires could have been prevented.

The Cigarette Safety Act (H.R. 5504) requires that cigarettes stop burning within a period of 5 minutes if they are not smoked during such period. So not to create additional health risks, it also requires that the levels of tar, nicotine, and carbon monoxide of self-extinguishing cigarettes not increase by more than 5 percent of the level that these cigarettes would have been had this feature not been required.

The majority of cigarettes are manufactured by including chemical additives, such as citrate or phosphate salts, which promote slow, continuous burning. Research has shown that a freshly lit cigarette will burn approximately 24 minutes when placed on a flat surface. A lit cigarette dropped into a piece of upholstered furniture will start to smolder within 10 to 15 minutes, and a fire may start within 30 or more minutes.

The capability to manufacture self-extinguishing cigarettes is recognized. There are over 15 patents registered with the Federal Government that have demonstrated self-extinguishing features for cigarettes. The cigarette manufacturing companies have not shown the inclination nor the initiative to implement these available techniques, and I believe the serious nature of this problem merits congressioinal action.

I would like to stress that this is not an antismoking bill. I believe the decision to smoke or not to smoke should be left up to the individual. Nor will self-extinguishing cigarettes interfere with an individual's smoking habits since the typical smoker puffs on his cigarette about every minute. So, only if the smoker forgets will he have to relight.

I believe this legislation can help reduce the damage to life and property due to smoking-related fires, and I urge my colleagues to join me in working to reduce this danger by supporting this legislation.

A text of the bill and extraneous materials follow:

H.R. 5504

A bill to require persons who manufacture cigarettes or little cigars for sale or distribution in commerce to comply with processing standards prescribed by the Consumer Product Safety Commission which ensure that such cigarettes or little cigars will stop burning within a period of five minutes after being ignited if such cigarettes or little cigars are not smoked during such period, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Cigarette Safety Act".

STATEMENT OF POLICY

SEC. 2. (a) The Congress finds that—

(1) the United States Fire Administration has determined that cigarettes and careless use of smoking materials are the major causes of fire-related death and injury in residential occupancies in the United States;

(2) fires caused by cigarettes and careless use of smoking materials in the United States annually—

(A) kill approximately one thousand eight hundred people,

(B) injure approximately four thousand people, and

(C) result in property damage amounting to approximately $180,000,000;

(3) laboratory experiments have shown that a cigarette will burn continuously for approximately twenty four minutes when placed on a flat surface and that, with few exceptions, a cigarette must burn for at least five minutes before a fire will result; and

(4) more than fifteen patents describe methods by which cigarettes may be made to be self-extinguishing.

(b) The Congress declares it to be the policy of the Congress to reduce the loss of life and property in the United States by requiring that cigarettes and little cigars manufactured for sale or distribution in commerce be processed to ensure that such cigarettes or little cigars, if ignited, will stop burning within a period of five minutes after being ignited if such cigarettes or little cigars are not smoked during such period.

UNLAWFUL PRACTICES

SEC. 3. (a)(1) The Consumer Product Safety Commission shall prescribe by regulation processing standards to ensure that any cigarette or little cigar, if ignited, will stop burning within a period of five minutes after being ignited if such cigarette or little cigar is not smoked during such period. No such processing standard shall cause the levels of tar, nicotine, and carbon monoxide of any cigarette or little cigar to exceed 105 per centum of the levels of tar, nicotine, and carbon monoxide which would have been the level of any such cigarette or little cigar had such cigarette or little cigar not been processed in accordance with such processing standard.

(2) Except as provided in section 4, it shall be unlawful for any person to manufacture any cigarette or little cigar for sale or distribution in commerce which is not processed in accordance with regulations prescribed under paragraph (1).

(b) Any person who violates subsection (a)(2) shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than $10,000. Each day during which any person violates subsection (a)(2) shall be a separate violation.

(c) The district courts of the United States shall have jurisdiction, upon application by any person or the United States, to restrain any violation of subsection (a)(2) and to restrain the sale or distribution of any cigarette or little cigar manufactured in violation of such subsection.

CIGARETTES AND LITTLE CIGARS FOR EXPORT

SEC. 4. The provisions of section 3 shall not apply with respect to cigarettes and little cigars manufactured—

(1) for export from the United States, or

(2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws,

except with respect to cigarettes or little cigars manufactured for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

ADMINISTRATION OF ACT

SEC 5. The Consumer Product Safety Commission may prescribe such regulations and take such other actions as may be necessary to carry out this Act.

DEFINITIONS

SEC. 6. For purposes of this Act—

(1) the terms "cigarette", "commerce", "United States", and "little cigar" shall have the meanings prescribed for them in paragraphs (1), (2), (3), and (7), respectively, of section 3 of the Federal Cigarette Labeling and Advertising Act; and

(2) the term "sale or distribution" includes distribution of samples or any other distribution not for sale.

EFFECTIVE DATE

SEC. 6. This Act shall apply with respect to any cigarette or little cigar manufactured on or after January 1, 1981.

STATEMENT OF GEORGE H. PAUL

It is fitting and proper that we meet here at fire headquarters during National Fire Prevention Week, to join Congressman Moakley in formally announcing his introduction of what I am sure will become landmark legislation.

The Cigarette Safety Act is more than a symbolic ganutlet thrown down before a giant industry; it is a life-saving tool for those of us in fire service and related fields who know in our hearts and by our expertise and experience that too many Americans are dying needlessly in fires caused by cigarettes that are manufactured to burn longer than necessary.

The dropped cigarette is the main cause of home fire deaths in the United States, killing thousands each year and injuring, often horribly and permanently, many thousands more.

The dollar loss is close to $2 billion, including property loss, hospitalization, wage and job loss, firefighting and other services.

I commend Congressman Moakley for responding so quickly and so decisively to my request for legislative assistance in helping to save the lives of the many who die each year because of fires caused by cigarettes and I am proud to add my support and that of the many other concerned and dedicated fire service professionals gathered here today.

But let us remember, that this is but the first step in the legislative process . . . the road ahead will be difficult to say the least.

All of us should make a concerted and unified effort to give every possible assistance to Congressman Moakley and those of his colleagues who stand with us in this effort, to keep the issue alive and to educate the public that we are not attempting to abrogate their right to smoke—but, rather, we are trying to affirm their right to live—and for the rights of non-smokers who are often victims of fires caused by smoking materials.

And, in closing, all we ask of the media is that they present the facts to the public and let the public decide the merits of our case.

If so informed, the choice for them will be an easy one to make.

Thank you.

IAFF ENDORSES H.R. 5504 THE CIGARETTE SAFETY ACT

The International Association of Fire Fighters, AFL–CIO, supports the efforts of Congressman Joe Moakley of Massachusetts to reduce fire deaths and injuries in the United States, by his introduction of H.R. 5504, a bill which calls for the production of self-extinguishing cigarettes and little cigars by all American tobacco manufacturers.

Recent research has shown that with few exceptions, a cigarette must burn for at least five minutes before a fire will result. Congressman Moakley's bill therefore calls for a cigarette which self-extinguishes within that time period. Although over 15 patients for a self-extinguishing cigarette are already in existence, no efforts have been made to bring it into general use by the American public; in spite of the fact that nearly half of the residential fire deaths in this country are caused directly by cigarettes.

The Cigarette Safety Act would go a long way in saving the lives of most of the 2000 U.S. citizens who die every year in fires started by cigarettes and spare thousands more from the pain and anguish of fire injuries.

We applaud Congressman Moakley for his efforts in this area and stand ready to support the legislation to see it enacted into law.

ACTION ON SMOKING AND HEALTH,
Washington, D.C., October 11, 1979.

Re: Bill No. HR–5504, "The Cigarette Safety Act."

Hon. JOSEPH MOAKLEY,
Cannon Office Building,
Washington, D.C.

DEAR CONGRESSMAN: In response to your request for comment upon the above referenced bill, ASH would like to go on record as strongly supporting this and similar legislation.

The needless tragedy of smokers and members of smokers' households being horribly burned as a result of home fires started by cigarettes falling onto furniture, bedclothing, and other combustible household material has never received the attention it warrants. Although the problem has long been known to the tobacco industry, the medical community, fire officials and other government agencies, this bill is the first indication we at ASH have seen that Congress might be prepared to step in and take appropriate measures to reduce the appalling loss of life and property caused by cigarettes which are chemically treated and designed to keep burning even when the smoker is not attending them.

We have examined the entire bill, and we are in agreement with its objectives and approach. Cigarettes are an inherently dangerous product, and the industry has refused to address the problem even though economically feasible technology exists to reduce cigarettes' ignition hazard. The public—smokers and nonsmokers alike—is entitled to the protection this bill will provide.

As always, ASH stands ready to assist you or your staff in any way. Detailed comments or suggestions on any specific aspect of this bill or any problems which may arise in the future, as well as relevant background information or scientific data, are available upon request. Simply give us a call or write our offices.

Sincerely,

PETER N. GEORGIADES,
General Counsel.

INTERNATIONAL ASSOCIATION OF FIRE CHIEFS,
Washington, D.C., October 11, 1979.

Hon. JOSEPH MOAKLEY,
U.S. House of Representatives,
Cannon Office Building,
Washington, D.C.

DEAR MR. MOAKLEY: The International Association of Fire Chiefs shares your concern with the needlessly high toll of deaths, injuries and financial damage resulting from fires caused by careless smoking.

At the Association's 106th Annual Conference, held last month in Kansas City, Missouri, the membership unanimously passed a resolution endorsing the concept of self-extinguishing cigarettes. That resolution reads:

Whereas, Approximately half of all residential fire deaths in the United States are caused by carelessly discarded cigarettes; and

Whereas, Most of these fire deaths can be prevented if cigarettes were to self-extinguish rapidly;

Now, therefore be it resolved that the International Association of Fire Chiefs at its Annual Conference in the City of Kansas City, Missouri, September 18, 1979, supports and endorses efforts to require that all American produced cigarettes self-extinguish-rapidly.

The Association is aware that you have introduced legislation (H.R. 5504) mandating self-extinguishing cigarettes. I would like to take this opportunity to pledge the Association's full support for that legislation, the "Cigarette Safety Act."

Such legislation is vitally necessary because statistics from the National Fire Data Center indicate that careless smoking is the number one cause of fire-related injuries in this country. This translates into an alarming figure of nearly 4,000 injuries annually. In addition, careless smoking is responsible for 7.6% of the annual dollar loss from fires, and is the fourth leading cause of fires overall.

The U.S. Department of Agriculture estimates that in 1978 the total consumption of cigarettes in the United States for persons more than 18 years of age was 616-billion. This rate of consumption creates enormous potential for fires resulting from careless smoking.

The self-extinguishing cigarette is not a new concept. Patents for this product have existed since the 1850s. The technology is available to produce these cigarettes, yet no manufacturer has shown an interest despite the tragic tool of deaths, injuries and human suffering caused by careless smoking.

Congressman Moakley, the Association, as an international fire service organization representing fire chiefs whose day-to-day activities are devoted to saving lives and property, offers you its support and assistance. The Association believes your "Cigarette Safety Act" complements the lifesaving activities of fire chiefs and fire departments across the nation. Let us work together to reduce the unnecessarily high number of deaths and injuries caused by careless smoking and the misuse of smoking materials.

Please do not hesitate to call upon the International Association of Fire Chiefs if the Association can be of assistance.

Sincerely,

R. S. ROCKENBACH,
President.

THE "CIGARETTE SAFETY ACT" INTRODUCED IN CONGRESS

(SF) Today, in Boston, Congressman Joseph Moakley announced that he has introduced a bill entitled "The Cigarette Safety Act." If passed, the Cigarette Safety Act would mandate that cigarettes self-extinguish in five (5) minutes or less if not puffed on and, therefore, significantly reduce the fire hazard caused by carelessly discarded cigarettes.

The Burn Council, based at the Trauma Center at San Francisco General Hospital, has been instrumental in spearheading this national campaign. Among the many groups joining in support of Congressman Moakley's bill and the self-extinguishing cigarette are:

International Association of Fire Chiefs;
National Fire Protection Association;
Action on Smoking and Health;
American Burn Association;
Junior League of San Francisco and many other organizations.

The Cigarette Safety Act (H.R. 5504), if enacted, would prevent nearly 2,000 deaths each year in the U.S., and would reduce the number of severe burn injuries by approxi-

mately 4,000 per year. The self-extinguishing cigarette could be the single most effective way of preventing the major cause of fire death in this country. The Burn Council strongly supports all efforts to gain passage of Congressman Moakley's Cigarette Safety Act.

NATIONAL FIRE PROTECTION ASSOCIATION

The National Fire Protection Association has endorsed proposed federal legislation requiring cigarettes to self-extinguish if not smoked in five minutes.

Introduced on October 10 by Congressman John J. Moakley (D. MA.) the bill is aimed at the reduction of death, injury and property damage resulting from cigarette-caused fires. Cigarettes now manufactured burn up to 24 minutes if left unattended. A cigarette that would self-extinguish in five minutes would be insignificant as a cause of fire.

An NFPA study reveals that cigarette ignited fires are the leading cause of residential fire deaths; they are involved in fires that resulted in 39 percent of all deaths in residential fires, according to the study.

"We agree with the American Burn Association, the Fire Marshals Association of North America, the United States Fire Administration and other leading fire safety groups that the self-extinguishing cigarette is an idea whose time has come," said Charles S. Morgan, President of NFPA.

"I hope that the bill will focus national attention on this problem, one that apparently can be solved by the manufacturers of cigarettes. At the very least, hearings in the House of Representatives should be scheduled and witnesses called to bring all the facts to light. From an examination of the information currently available, it seems that a technical solution to the problem is possible without interfering with the rights of cigarette smokers or the commercial interests of tobacco manufacturers.

"Any research that may be needed or technical problems that may exist would be exposed by such hearings. The steps necessary to bring this idea to reality can be taken, if those interested in saving lives will offer full cooperation to the idea," Mr. Morgan said.

Mr. Morgan said that the 32,000 members of NFPA are being provided information on this project so they can determine its potential for reducing the serious fire problem in America.●

ONE NATION UNDER GOD

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. GOLDWATER. Mr. Speaker, recently, at the Republican State Central Committee Banquet, the invocation was of particular thoughtfulness and eloquence. Jackie Harker, southern regional vice chairman of the California Republican Party composed a prayer imbued with a straightforward dignity and grace. I want to share it with my colleagues:

INVOCATION DELIVERED BY JACKIE HARKER

Oh Heavenly Father, be with us as we celebrate the new California gold rush.

Help us remember that even as gold was the first gift of the Magi to your Blessed Son, our golden gift to our State and Nation should be that of inspired leaders and leadership.

Even as gold, let our motives be not base but pure, let our decisions be of constant and enduring worth.

Grant that our actions may be pleasing unto You—that our future may be as bright as our past. And that our Nation may endure as it was intended to be—One Nation under God. Amen.●

BILL OF RIGHTS FOR RESIDENTS OF LONG-TERM CARE FACILITIES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. WAXMAN. Mr. Speaker, in the Constitution, the Bill of Rights defines the basic rights which are guaranteed to each American citizen. Yet for some older and poorer citizens, residents of nursing homes and other long-term care facilities, these guarantees are often meaningless.

We have knowledge of thousands of incidents each year, in which the rights of citizens in nursing homes are infringed, including among others their right to privacy and confidentiality, the right to know the cost of their treatment, the right to choose their physician, and their right to understand reasons for their transfer from one place to another.

Such residents are often afraid to ask questions, seek better care, complain about inadequate care, or refuse transfer, because they feel helpless, friendless, and at the mercy of other people. Although provisions dealing with the rights of persons in institutions are included in medicare and medicaid regulations, their enforcement has been most inadequate. Since the sole remedy for violations of these regulations is total denial of Federal reimbursement, the Government has been reluctant to use this sanction, correctly being wary of the cost of closing such institutions.

At present, 37 States have recognized the need for legislation which would define and clarify rights of institutionalized patients, and spell out sanctions and remedies which can be used effectively. I believe it is time now for the Federal Government to recognize its role in this area, and to make Federal policy clear to all long-term care home operators, about the rights of residents in those facilities.

The bill I am introducing today parallels S. 1546 and will serve as a focus for discussion of this important issue. It will set into law a national standard of rights of residents in long-term care facilities, including traditional civil and religious liberties as well as rights specific to conditions in institutions. These include among others, the right to be informed about medical decisions, the right to communicate with family and friends outside the institution, the right to personal privacy, and the right not to be involuntarily discharged without cause.

This legislation would require that nursing homes post these rights in their facilities where all residents can see them; would encourage ombudsman and advocates for residents; would provide a resident with a private right of action against facilities which are in violation.

Simply because a citizen is a resident of a long-term care facility does not render him incapable of making decisions about his life, and enjoying protection from personal abuse. This legislation would insure that residents are treated with dignity and respect, and have recourse when they feel they have complaints.

Directors of nursing homes, dozens of senior citizens organizations, unions, churches, action groups, associations of operators of homes have called for a patient's bill of rights. I am pleased to introduce such needed legislation and hope it will serve to stimulate thought and comment about this growing national issue.●

SHORE UP NICARAGUA'S MODERATES

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. PRITCHARD. Mr. Speaker, I would like to bring to the attention of my colleagues the following article which appeared in the Wall Street Journal on October 2, 1979. This thoughtful article was authored by two of my distinguished constituents, Roy Prosterman and Jeff Reidinger.

SHORE UP NICARAGUA'S MODERATES

(By Roy Prosterman and Jeff Riedinger)

The new Nicaraguan government to date has proved a surprise: far more rational, moderate and democratic than almost anyone could have hoped in mid-July. There have been no officially sanctioned executions and few reprisals, a free press is functioning side-by-side with Sandinista organs and the broadly representative junta leads the government not only in name but to a considerable exent in practice.

Nationalizations have been limited to Somoza-control enterprises, except for domestically owned banks, where reasonable compensation arrangements have been made and a huge burden of debts of doubtful collectibility has been assumed. The land redistribution has started as a flexible one, with a mix of individual holdings, small co-ops and larger units to be tailored to crop and region, and the business community has been reassured.

Indeed, the refrain "Sandinismo si, communismo no" has begun to be heard, typified by a recent incident in Moninbo, where the villagers rejected Cuban help in reconstruction that did not include the rebuilding of their church.

Still, the situation is precarious. Perhaps 20% of the Sandinista movement that overthrew the Somoza dictatorship are dedicated Marxists. In Managua, the capital, street vendors sell the last of the goods stolen during the upheaval of the revolution. Within weeks, unless sufficient aid is received from the outside, the last inventories will be gone, and Nicaragua will run out of all imported commodities—everything from toothpaste to gasoline to raw materials for industry and agriculture.

The economy, already ravaged by war and systematically pillaged by Somoza, will suffer the most catastrophic collapse experienced by any Latin American economy in this century. Almost certainly, in the wake of an economic collapse, the extreme radical minority within the Sandinista army will come to the fore. Heretofore constructive village committees might become a vehicle for political mischief. Instead of a new model of pluralistic and democratic governance in Central America, Nicaraga will experience a new Castroism. Instead of the Mensheviks, the Bolsheviks.

A SMALL MIRACLE

That there is still the opportunity for U.S. support of a moderate result in Nicaragua is, in itself, a small miracle. A history of aiding the Somoza plutocracy for 41 of its 43 years, with the military hardware we had previously supplied being used to kill 20,000 to 40,000 Nicaraguans in the past year, hardly sets the stage for a U.S. role in shaping the post-Somoza outcome.

Yet, surprisingly, as we can attest from our recent travels, there is great friendliness to Americans in the country, and a widespread willingness to structure a new, amicable relationship based upon their genuine nonalignment.

But the economic situation is desperate. Unemployment is running 30% to 40%, and will spread total paralysis of the economy unless closed businesses can obtain the resources needed to make repairs and replenish inventories. Only 30% of the acreage of the chief foreign-exchange earner, cotton, could be planted because of the widespread fighting, and much of that may be lost unless sufficient pesticide can be imported during the next two months.

Before they left, the Somozas followed a virtual "scorched earth" policy. Besides sacking opponents' businesses, they borrowed heavily from outside using the convenient apparatus of a government that was synonymous with the family financial empire, looted the treasury and left behind a staggering short-term foreign debt. They depleted the cattle herds on their vast estates—probably one-third of the agricultural land in the country, they are now being redistributed to the *campesinos*—, selling off so many head that Nicaragua's entire beef export quota to the U.S. was essentially filled by May.

During the waning hours of his rule, Somoza's cohorts stripped the warehouses in Corinto, the major port, fleeing with their loot to Honduras in scores of small boats, in a modern-day parody of Dunkirk. What the Somozas leave behind is a bankrupted society, its infant-mortality rate higher than that of India.

But one great "plus" of the situation is that Nicaragua is small—only 2.5 million people, living in a country the size of Oregon—and that the amount of aid required is correspondingly modest. Many have already responded. Holland, which has no geopolitical interests at stake has just made an initial contribution of $11.7 million, Panama, which does, has mobilized a $20 million loan through its banking system, and business community—the proportionate U.S. contribution considering our vastly larger GNP, would be $16 billion, but this is many times more than what is needed.

What is needed, according to the best outside estimates, is some $1.3 billion over the next three years, divided about evenly between new aid and the rescheduling of old debt. The leadership must lie with us, and Nicaragua will run out of all imported commodities—everything from toothpaste to

Step 1: Provide $100 million to $150 million, most of it in the next 90 days, in U.S. commodities to restore the basic functioning of the Nicaraguan economy and make crucial repairs. This, beyond the $15 million which we have already committeed in emergency and reprogrammed aid, would be the U.S. share of an overall international package of $250 million to $350 million needed for this purpose. It cannot be emphasized too strongly that time is crucial here, and the these resources must begin to flow by late October if economic, and political, catastrophe is to be averted.

Step 2: Provide, via our commercial banking system, $50 million to $100 million in medium-term loans to the Nicaraguan private sector, also within the next 90 days, to restore basic business activity. This should be facilitated with convertibility and political-risk insurance written by the Overseas Private Investment Corporation, a government agency that regularly offers such guarantees.

Step 3: Renegotiate the heavy short-term debt, as part of a process of international consultations involving both public-sector and private-sector indebtedness, rescheduling payment over the next several years. Most of this is owed to commercial banks, with about 40% of the $300 million in private sector debt owed to U.S. banks. Close to $100 million of the amount due to U.S. banks is due in 1979. Short-term public-sector debt to the banks is as large or larger.

Step 4: Put together an international aid program that—in the hands of a government which is clearly committed to basic human needs—will correct the ravages of two generations of economic fiefdom. The U.S. share, if around 40% to 50% of the total, would come to roughly $75 million to $100 million in each of the next three years, and might continue at or near that level until the mid-1980s. Between $25 million and $35 million annually of this development assistance woud fulfill AID's strong new commitment to support of land-reform programs, finally recognized as the key to agricultural development in settings such as Nicaragua. Providing support for credit, land-improvement and ancillary facilities under the flexible land redistribution which is projected would not only permit the new owners to sharply raise productivity—as did our support in postwar Japan and Taiwan—but would give the Nicaraguan peasantry a political and economic stake in the functioning of a vigorous private sector.

TOTAL U.S. COST

The total cost to the U.S. for these four steps would be less than the $750 million which we currently spend in one year for development-aid and commodity imports for Egypt. Paradoxically, if we do not act, adequately and in time, there will be a Vietnam-style flow of hundreds of thousands of refugees that will almost certainly end up costing us much more than a direct aid program would—this apart from the vast indirect costs of such a failure.

But, with an effective U.S. response, there is, in the words of one foreign businessman who has long lived in Nicaragua, "not just a long shot, but an excellent chance, that a moderate, democratic solution will last." Such U.S. flexibility in adapting to and supporting this moderate alternatve would, moreover, do much to pave the way for similar outcomes in such presently chaotic Central American societies as El Salvador and Guatemala, and beyond.

It is probably the best investment opportunity this country has been given since the Truman Doctrine and the Marshall Plan.●

COMMONSENSE ON EDUCATION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. MICHEL. Mr. Speaker, William Raspberry of the Washington Post has reminded us of some basic truths about education. "Education" he writes, "and public education most especially, should be a conservative enterprise." He wrote those words in a column dealing with a new book on education. The author of the book feels that educational innovation has gone too far. But this same author coauthored a book 15 years ago that was responsible for many of the most absurd educational innovations of the late 1960's and early 1970's. Both books are best-sellers.

In short, the fashionable educational experts make money when they are wrong and make money when they finally recognize what is right. That is pleasant and lucrative for them, but the hundreds of thousands of students whose education was ruined by the "innovative" programs brought about by such experts are not so fortunate. It is precisely this irresponsible educational philosophy that has dominated American education for the past 20 years and has brought it to new depths. And what do these experts say as they look at the destruction they have brought about? They blame it all on television.

At this point I wish to insert in the RECORD, "Subversive Teacher, Reformed" by William Raspberry, from the Washington Post October 12, 1979:

SUBVERSIVE TEACHER, REFORMED

(By William Raspberry)

You may or may not remember Neil Postman's controversial book of a decade ago, "Teaching as a Subversive Activity."

No matter. It was all a mistake in the first place, he now admits. Well, he doesn't quite admit that he was wrong, only that the times—and his views—have changed. His new book is "Teaching as a Conserving Activity."

The earlier book, co-authored with Charles Weingartner, was heavily into education "reform." More electives. More freedom. More openness. More individualization of instruction. More tolerance in such matters as grammar.

Now he's pushing such traditional values as careful speech and writing and even dress codes.

What happened?

"Fifteen years ago," Postman told The New York Times in a recent interview, "it seemed to me that the schools needed to be innovative because culture—its politics and social ideas—was not keeping pace with technological change. So the schools had to serve as a spark for change. They needed to do things like add more subjects to the curriculum.

"We succeeded in opening up the schools, but since then the impact of television and the other new communications media has forced change at a much more rapid rate than even I thought possible 15 years ago. The changes have come fast and furious. Now schools face a different situation."

It wasn't so much that he was wrong back

then, you see. It's just that times have changed. Television, you know.

Postman should come off it. Television and "the other new media" weren't the culprits, then or now. The problem is a mistaken view of what the public schools can and should do.

Education—and public education most especially—should be a conservative enterprise. Its central purpose is (or should be) to preserve the common themes, the traditional values, of society and to conserve a common body of knowledge.

When the rest of society is in flux, as it was at the time of Postman's earlier book, it becomes more important, not less, for the schools to stay on track. Of course it is important to encourage children to challenge old ideas. But it is first necessary to see to it that they understand those old ideas, to make sure they have some place to stand while they move the world.

Jazz musicians will understand what I mean. The essence of jazz is innovation—improvisation. But if the horn men are to be free to take flights of improvisational fancy, the bassist or the drummer—somebody—must hold the line.

When everybody is improving all over the place, the result is not music but chaos.

Mention a jazz musician or a classical composer whose innovations have advanced his genre, and you are talking about a musician who first understood and internalized the traditions, the basics.

In part because of the influence of writers like Postman, we have children engaged in historical criticism who never learned grammar and spelling. We have children who are choosing from a dizzying array of "electives" before they are old enough to know the necessaries. And the result is that we are raising up a generation of children who know neither the new nor the old.

To return to the music analogy, it seems to me that it is the peculiar role of the schools (and of the homes) to do two things: to conserve the accumulated knowledge of theory and technique and to keep thumping out the rhythm that makes improvisation and innovation possible.

Seek ye first a thorough grounding in the traditional and the innovative shall be added unto you.

Postman, to his credit, seems finally to understand that, though only dimly.

"I've done a turnaround on the question of standard dialect," he told The Times. "Back in those days, I had the idea that a school should encourage diversity and variety on the ground that society was not doing that.

"Now it seems to me that many of our institutions—religious, economic, political—encourage diversity and variety. So one valuable function of the schools today is to teach some standard language that could then act as a unifying force for all the children in school."

Welcome back, Postman.●

A TRIBUTE TO MILDRED TENNYSON McNAIR

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. DIXON. Mr. Speaker, today I would like to bring to your attention a resolution of community excellence that is being presented to a woman who has devoted her entire professional career to helping others.

Mildred Tennyson McNair, an educator of long standing, has unselfishly contributed her time and energy through the years to improve the quality of life for her family and neighbors in Inglewood, Calif. Dedicated to the principles of excellence, Mildred McNair is a shining example of what one individual can do to make their community a better place to live. Mrs. McNair is a lady well loved and respected for all her contributions in and outside of the academic arena.

RESOLUTION

Whereas, Mildred Tennyson McNair has championed the cause of human rights for all her fellow citizens in the city of Inglewood, and

Whereas, she has worked hand in hand with school officials and parents to help achieve the optimal atmosphere for the educational pursuits of their children, and

Whereas, she has volunteered innumerable hours to further improve school policies and guidelines to enhance the academic environment of students and future generations of students to come, and

Whereas, she has campaigned to beautify and cultivate our schools from planting flowers on campus grounds to contributing over $3,000 in supplies and equipment for student and office use, and

Whereas, she was responsible for implementing the Title I Program for disadvantaged children at the Celeste Scott Christian School in Inglewood, and

Whereas, she was the prime mover for initiating the new human rights policies in the Inglewood Police Department, that helped establish good community relations with the citizens of Inglewood and their police department.

It is an honor and a privilege to proclaim, with other members of her community, Mildred Tennyson McNair as a "Human Rights Dynamo." ●

INTERAGENCY TASK FORCE ON SUBURBAN DEVELOPMENT

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. WOLFF. Mr. Speaker, I am today introducing a bill that would establish an Interagency Task Force on Suburban Development. This Task Force would be composed of the Secretaries of Commerce, Treasury, Housing and Urban Development, Health, Education and Welfare, Labor and Transportation. The Task Force would be charged with the important responsibility of conducting a comprehensive study of the suburban areas of the country. Included in the Task Force's final report and recommendations to the President and Congress shall be a review of the recent developments in land use, transportation, environment, employment, population, taxation, housing, and Federal assistance to suburban areas.

Several members of the suburban caucus recently met with President Carter to discuss the need for developing a "National Suburban Policy." There is a clear need for establishing such a policy. Suburban areas of our country not only possess many resources which could be useful in the economic development of the metropolitan region as a whole, they are also afflicted with a number of problems which must be addressed at the national level. The creation of an Interagency Task Force would be an excellent vehicle for identifying issues which should be addressed in a suburban policy.

Mr. Speaker, as an elected Representative whose congressional district consists of both an urban center and a suburban area, I am able to gage the importance of an urban policy and the urgency for establishing a separate suburban policy.

Mr. Speaker, I respectfully request that a copy of the bill be printed in the RECORD.

H.R. —

A bill to establish an Interagency Task Force on Suburban Development

Be it enacted by the Senate and House of Representatives of the United State of America in Congress assembled, That there is established a task force to be known as the Interagency Task Force on Suburban Development (hereinafter in this Act referred to as the "Task Force"), to be composed of the Secretary of Commerce, the Secretary of Treasury, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Labor, and the Secetaery of Transportation.

SEC. 2. The Task Force shall carry out a comprehensive study of suburban areas in the United States. Such study shall include recent developments in land use, transportation, environment, employment, population, taxation, housing, and Federal assistance to suburban areas.

SEC. 3. The Secretaries referred to in the first section of this Act shall make available to the Task Force such staff, supplies, and office space as the Task Force may require to carry out its duties under this Act.

SEC. 4. The Task Force shall transmit a report to the President and to each House of the Congress not later than one year after the date of enactment of this Act. Such report shall contain a detailed statement of the findings and conclusions of the Task Force study, together with the recommendations of the Task Force for such legislative and administrative actions as it considers appropriate.

SEC. 5. The Task Force shall cease to exist 60 days after the date it transmits its report to the President and to each House of the Congress.

SEC. 6. For purposes of this Act—

(1) "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

(2) "suburban areas" means areas which meet the criteria for a Standard Metropolitan Statistical Area as set forth in the 1975 publication of the Office of Management and Budget entitled "Standard Metropolitan Statistical Areas", except that such term shall not include any city which has a population of fifty thousand or more.●

FAIR HOUSING BILL SUPPORT GREAT, DIVERSE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. EDWARDS of California. Mr. Speaker, thousands of local, State, and national organizations should be commended for the strong stands they have taken in the fight against housing discrimination. To say that these groups are diverse is an understatement: Civil rights and civil liberties, consumer, education, ethnic and minority, handicapped, labor, professional, religious, veteran's and women's organizations are working together in support of H.R. 5200, the Fair Housing Amendments Act of 1979, which will soon be marked up by the House Judiciary Committee. For my colleagues' benefit, I wish to share the names of organizations actively involved on behalf of this important civil rights bill.

The Leadership Conference on Civil Rights, a coalition of 149 national organizations, considers H.R. 5200 the highest priority. The conference and its member groups have in fact taken a leadership role in educating the public to the need for a strengthened enforcement mechanism to combat housing discrimination. Member organizations of the leadership conference include:

Actors Equity,
African Methodist Episcopal Church,
African Methodist Episcopal Zion Church,
Alpha Kappa Alpha Sorority, Inc.,
Alpha Phi Alpha Fraternity, Inc.,
Amalgamated Clothing and Textile Workers Union of America,
American Baptist Churches, U.S.A.-National Ministries,
American Civil Liberties Union,
American Coalition of Citizens with Disabilities, Inc.,
American Council of the Blind,
American Ethical Union, and
American Federation of Government Employees.

The list of organizations supporting H.R. 5200 will be continued in tomorrow's RECORD.

Today, in addition, I wish to bring to the attention of my colleagues a letter to the editor of the New York Times by officers of the League of Women Voters.

TEETH FOR HUD TO COMBAT HOUSING DISCRIMINATION

To the Editor:

The series of cross burnings in the New York area are extreme demonstrations against racial integration in this part of the country. Most acts of housing discrimination are far less obvious and, according to a recent study by the Regional Plan Association, are widespread throughout the New York metropolitan area.

The factors that have crammed more than 60 percent of greater New York's black population into less than 2 percent of its residential acreage are complex. Black poverty would seem an obvious explanation, but the R.P.A. study shows that only 6 percent of black families are too poor to live in an integrated community. Reluctance to leave one's old neighborhood, initial moving expense and lack of information on other localities all play a part, the study finds, but simple discrimination is the chief force preventing blacks from living where they would like.

Of course, there are laws against discrimination, going back to the 14th Amendment, which guarantees equal protection of the law to all Americans. The 1968 Civil Rights Act specifically deals with housing in Title VIII, but the administration of its provisions is assigned to the Department of Housing and Urban Development with no enforcement powers except "conference, conciliation and persuasion." H.U.D. cannot even instigate its own investigations but must await complaints. No wonder its track record in the successful resolution of cases of bias is poor—less than 9 percent in this region.

Clearly, H.U.D. needs legal teeth if it is to do battle with those who prey on popular fears and mores in order to prolong housing segregation. The enforcement weapons so badly needed by H.U.D. are being drafted in a bill known as the Fair Housing Amendments Act (H.R. 2540/S. 506), now before Congressional committees. The bill would enable H.U.D. to initiate investigations and impose stiff penalties in cases of willful discrimination based on race, color, religion, national origin or physical handicap.

Would this bill add an unnecessary layer to Washington bureaucracy? The League of Women Voters believes that it would not. We cannot accept the failure to provide enforcement of a law which grants freedom of choice to every American. We urge your readers to consider the compelling need for the Fair Housing Amendments Act and to relay their support to their members of Congress.

BETSY HEDDEN,
ELIZABETH HUBBARD,
JOAN A. CROWLEY,

MONTCLAIR, N.J., *October 3, 1979.*

NOTE.—The writers are the presidents of the League of Women Voters of New Jersey, Connecticut and New York, respectively.●

ENVIRONMENTAL MESSAGE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. MURPHY of New York. Mr. Speaker, in his August 2, 1979, environmental message to Congress, the President directed that legislation be introduced to overcome the obstacles which inhibit law enforcement efforts in controlling illegal trade in wildlife and plants. The bill, "To provide for the control of interstate and foreign commerce in fish and wildlife" is designed to improve our law enforcement capabilities and to strengthen the laws regulating trade in wildlife.

Following is a brief explanation of the need for and background of this legislation, which was included in the executive communication, No. 2629, submitted by the Department of the Interior on October 11, 1979:

This proposal repeals the present Black Bass Act, as amended (16 U.S.C. 851–856) and sections 43 and 44 of the Lacey Act of 1900, as amended (18 U.S.C. 43 and 44), and replaces them with a single, comprehensive statute which we recommend be codified in Title 16.

The current Black Bass Act prohibits the importantion or transportation in interstate or foreign commerce of black bass and other fish in violation of foreign, State, or other applicable law, or the purchase of such fish. As written, however, it does not adequately deal with the problems in this area. For example, it only comes into play when the law of the State of origin has been violated. Thus, the shipment of white amur (grass carp) from Arkansas to California is not a violation of the Act, notwithstanding a California law finding this fish injurious to its environment, because Arkansas has no law prohibiting shipment of such fish. The criminal penalties in the Black Bass Act are also unsatisfactory. The maximum penalty is $200 or three months in jail. These penalties provide no real deterrent to a commercial violator and the standard of proof of criminal intent which is required is so high that law enforcement officials have no real incentive for strict enforcement.

Section 43 of the Lacey Act prohibits transportation and certain other activities involving wildlife and parts or products thereof (other than migratory birds, which are protected under the Migratory Bird Treaty Act, as amended (16 U.S.C. 703–712)) taken, transported, or sold in violation of Federal, State or foreign laws and regulations. Section 44 of the Lacey Act provides for labeling (or otherwise identifying the contents) of packages containing wildlife transported in interstate or foreign commerce. Like the Black Bass Act, section 43 of the Lacey Act may be interpreted to require criminal intent standards which are very difficult for the prosecution to meet. The legislative history of the Act may be read to require that the defendant have knowledge of the applicable foreign, State or Federal law. This has proved to be a standard which is nearly impossible for the prosecution to meet. In addition, section 43 of the Lacey Act contains no provision for assessing civil penalties without a showing of knowledge or lack of due care on the part of the defendant. Our bill proposes a "strict liability" provision which imposes a moderate penalty following conviction. We believe that this provision will be particularly helpful in cases where forfeiture or a civil penalty would be a sufficient deterrent to prevent further violations. The bill also authorizes criminal sanctions of up to $20,000 in fines and/or 5 years in jail. Furthermore, the present law provides only for judicial forfeiture. Our proposal provides for an administrative forfeiture procedure for items of low value similar to the one found in the Endangered Species Act and other wildlife laws which have incorporated the forfeiture provisions of the customs laws.

We also recommend that legal protection be extended to species of wildlife not now covered by the Act. For example, current Federal law apparently does not permit us to investigate unlawful interstate and foreign traffic in coral, although it is protected by some State and foreign laws. We encourage the States and foreign governments to protect a broad variety of species; our legal mechanisms should be supportive of those governments in the interstate and foreign commerce area.

The proposed legislation also broadens the coverage of the present Lacey Act to include wildlife and wildlife parts or products taken in violation of Indian tribal law. This was done because many tribes have management authority over substantial wildlife resources within their tribal boundaries.

A reward provision has also been added that would allow the payment of rewards for information which leads to a criminal conviction, a civil penalty assessment or the forfeiture of property. The amount of the reward if any, is not to exceed the

amount of penalty, fine or forfeiture collected.

Both the Black Bass Act and section 44 of the Lacey Act contain marking requirements for shipments of fish and wildlife. Our proposal would allow the Secretary to make these provisions uniform and modify them to conform to modern commercial practices.

We believe that this bill, if enacted, will resolve problems in the existing laws concerning illegal trade in wildlife, and will also improve and strengthen the ability of the government to control illegal trafficking in wildlife.

We urge the Congress to act favorably on this proposal for the protection of our diminishing fish and wildlife resources.

The Office of Management and Budget has advised that this proposal is in accord with the program of the President.

Sincerely,

DAVID HALES,
Acting Assistant Secretary.

(To provide for the control of interstate and foreign commerce in fish and wildlife)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Lacey Act Amendments of 1979."

DEFINITIONS

SEC. 2. For the purposes of this Act——

(a) The term "fish or wildlife" means any wild animal, whether alive or dead, including without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate or other invertebrate, whether or not bred, hatched or born in captivity, and includes any part, product, egg, or offspring thereof.

(b) The term "person" includes any individual, partnership, association, corporation, trust, or any other entity subject to the jurisdiction of the United States.

(c) The term "Secretary" means, except as otherwise provided in this Act, the Secretary of the Interior or the Secretary of Commerce, as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090).

(d) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Marianas Islands, American Samoa and any other territory, commonwealth, or possession of the United States.

(e) The term "taken" means captured, killed, or collected.

(f) The term "transport" means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

SEC. 3. PROHIBITED ACTS.—It is unlawful for any person to—

(a) Import, export, transport, sell, receive, acquire or purchase any fish or wildlife taken or possessed in violation of any law, treaty or regulation of the United States or any Indian tribe;

(b) Import, export or transport, sell, receive, acquire or purchase in interstate or foreign commerce any fish or wildlife taken, possessed, transported or sold in violation of any law or regulation of any State or foreign country;

(c) Within the special maritime and territorial jurisdiction of the United States (as defined in Section 7 of Title 18, United States Code), possess any fish or wildlife taken, possessed, transported or sold in violation of any law or regulation of any State, Indian tribe, or foreign country;

(d) Import, export or transport in interstate or foreign commerce any container or package containing any fish or wildlife unless such package or container has previously been plainly marked, labeled, or tagged as specified in accordance with regulations prescribed by the Secretary;

(e) Make any false record, account, document, label or identification concerning any fish or wildlife imported, exported or transported in interstate or foreign commerce;

(f) Assault, resist or impede any person enforcing this Act.

(g) Attempt to commit, solicit another to commit, or cause to be committed, any offense defined in this section.

SEC. 4. (a) Civil Penalties. (1) Any person who violates any provision of this Act, or any regulation issued hereunder, may be assessed a civil penalty by the Secretary of not more than $500 for each such violation. Any person who in the exercise of due care should know that he is violating any provision of this Act, or any regulation issued hereunder, may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any civil penalty may be remitted or mitigated by the Secretary.

(2) Hearings held during proceedings for the assessment of civil penalties shall be conducted in accordance with section 554 of title 5, United States Code (80 Stat. 384). The Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeals in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706 (2) of title 5, United States Code. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(b) Criminal Penalties—Any person who knowingly violates any provision of this Act or any regulation issued hereunder shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than five years or both. Each violation shall be a separate offense.

(c) Permit Sanctions—The Secretary may also suspend, modify or cancel any Federal hunting or fishing license, permit or stamp or any license or permit authorizing person to import or export fish or wildlife or to operate a quarantine station for imported wildlife issued to any person who is convicted of a criminal violation of any provision of this Act or any regulation issued hereunder. The Secretary shall not be liable for the payments of any compensation, reimbursement or damages in connection with the modification, suspension, or revocation of any licenses, permits, stamps or other agreements pursuant to this section.

SEC. 5. FORFEITURE.—(a) All fish or wildlife imported, exported, transported, sold, received, acquired or purchased contrary to the provisions of this Act or any regulation issued pursuant thereto, and all vessels, vehicles, aircraft and other equipment used to aid in the importing, exporting, transporting, selling, receiving, acquiring or purchasing of fish and wildlife contrary to the provisions of this Act, or any regulation issued pursuant thereto, shall be subject to forfeiture to the United States.

(b) All provisions of law relating to the seizure, forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officers or employee of the Treasury Department may, for the purposes of this Act, also be exercised or performed by the Secretary or by such persons as he may designate.

(c) Any person convicted of a violation under this Act, or assessed a civil penalty, shall be liable for the costs incurred in the storage care and maintenance of any fish or wildlife in which he has an interest seized in connection with such violation.

SEC. 6. ENFORCEMENT.—(a) The provisions of this Act and any regulations issued pursuant thereto shall be enforced by the Secretary, the Secretary of Transportation or the Secretary of the Treasury. Such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

(b) Any person authorized under subsection (a) to enforce this Act may carry firearms; may make an arrest without a warrant for any criminal violation of this Act if he has reasonable grounds to believe that the person to be arrested has committed such violation; and may execute and serve any subpeona, arrest warrant, search warrant or other warrant of civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this Act. Any person so authorized, in coordination with the Secretary of Treasury, may detain for inspection and inspect any vessel, vehicle, aircraft or other conveyance or any package, crate or other container, including its contents upon the arrival of such conveyance or container in the United States or the customs waters of the United States from any point outside the United States or such customs waters, or, if such conveyance or container is being used for exportation purposes, prior to departure from the United States or the customs waters of the United States. Such person may also inspect and demand the production of any documents and permits relating to the package, crate or container as required by the country of natal origin, birth

or re-export of the fish or wildlife. Any fish, wildlife, property, or item seized shall be held by any person authorized by the Secretary pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, property, or item pursuant to section 6 of this Act; except that the Secretary may, in lieu of holding such fish, wildlife, property or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(c) District Court Jurisdiction—The several district courts of the United States, including the courts enumerated in section 460 of title 28, United States Code, shall have jurisdiction over any actions arising under this section. The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued thereunder.

(d) Rewards—The Secretary or the Secretary of the Treasury shall pay out of any moneys in the Treasury not otherwise appropriated a reward to any person who furnishes information which leads to a criminal conviction, civil penalty assessment, or forfeiture of property for any violation of this Act or any regulation issued hereunder. The amount of the reward, if any, is to be designated by the Secretary or the Secretary of the Treasury, as appropriate, but shall not exceed the amount of the penalty, fine or forfeiture collected in a case in which the person was an informant. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this subsection.

SEC. 7. ADMINISTRATION.—(a) The Secretary after consultation with the Secretary of the Treasury is authorized to issue such regulations as may be necessary to carry out the provisions of this Act.

(b) The Secretary may enter into such contracts, leases, cooperative agreements, or other transactions with any Federal or State agency, public or private institution, or other person, as may be necessary to carry out the purposes of this Act.

SEC. 8. COORDINATION WITH OTHER LAWS.—All fish or wildlife transported into any State for use, consumption, sale, or storage therein shall upon arrival in such State be subject to the operation and effect of the laws of such State to the same extent and in the same manner as though such fish or wildlife had been produced in such State and shall not be exemnt therefrom by reason of being introduced therein in original packages or otherwise.

SEC. 9. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 10. (a) EFFECT ON POWER OF STATES.—Nothing in this Act shall be construed to prevent the several States from making or enforcing laws or regulations not inconsistent with the provisions of this Act.

(b) The Black Bass Act of May 20, 1926, as amended (41 Stat. 846, 16 U.S.C. 851-856) is hereby repealed.

(c) Section 5 of the Act of May 25, 1900 (31 Stat. 188, 16 U.S.C. 667e) is hereby repealed.

(d) Sections 43, 44, 3054, and 3112 of Title 18, United States Code are hereby repealed.

(e) Nothing in this Act shall be construed as repealing, superseding or modifying any provisions of Federal law other than as specifically stated in subsections (b), (c) and (d) of this section.

(f) It shall be an affirmative defense to prosecutions under this act for violations of the law of a foreign nation that the fish or wildlife was taken on the high seas (as defined in 90 Stat. 335, 16 U.S.C. 1802 (13)) and that the United States does not recognize the jurisdiction of the foreign nation over such fish or wildlife.●

FREEDOM FOR SOVIET JEWS—A VITAL ISSUE VIII

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. UDALL. Mr. Speaker, I would like to once again bring to the attention of the Members the plight of Soviet Jewry and the struggles of these people to emigrate. With the Olympics approaching, real progress in helping the Soviet Jews emigrate can be made.

Many of the refuseniks have relatives in the United States and Israel. The Soviet Union's refusal to allow these people to be reunited with their families amounts to a direct violation of the Helsinki Accords which the U.S.S.R. signed in 1975. The agreement stipulates that persons who wish to be reunited with their families would be treated in a positive humanitarian spirit. It has become obvious that the U.S.S.R. has no intention of faithfully abiding by this part of the accords. If their treatment of the refuseniks is any indication, the Soviet Union does not take seriously the commitment it made when it signed the accords to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating states. We must start insisting upon conformation to these agreements.

At the present time I am corresponding with Soviet authorities and our State Department on behalf of Dr. Gregory Rosenstein, Butlerova Street 2, Korpus 1, Apt. 69, Moscow, his wife and their two young sons, who first applied for an exit visa 6 years ago next month. Soon after Dr. Rosenstein's application was received, he was dismissed from his post at a medical institute. The authorities have refused to grant him a visa because they have claimed his research of 14 years ago was sensitive and secret. This is obviously a weak excuse, for Dr. Rosenstein has devoted his career to the study of epilepsy, and the results of his research have been published in scientific journals both here and in the U.S.S.R. But now he is forced to depend on menial work to support his family, and even those jobs are sometimes made unavailable to him. Nevertheless, he has continued to participate in Jewish cultural seminars and translate religious literature into Russian.

The Rosenstein's son Misha was promised an exit visa separate from the rest of his family in May of 1979. Unfortunately this appears to have been revoked, with no reason given, and Misha stands a chance of being drafted into the Soviet Army. Once drafted he will also be held for several years because of the claim that he will have been privy to state secrets in the armed forces.

I recently received a letter from Dr. Rosenstein which appears at the end of this statement. Unfortunately he believes that my letters to Soviet officials may have caused them to revoke the exit visa previously promised to his son Misha. This possibility shocked and saddened me, but I am afraid the Soviet bureaucracy is capable of just this kind of retaliation. So I have had to reevaluate my entire strategy here, to look again at my efforts and those of so many of my colleagues in the House to help the Soviet refuseniks. There is a chance that every time we try to help a family the Soviets will decide not to let them emigrate, so we may be doing more harm than good.

We may be, but I do not think we are. The Soviet Union, despite the warnings of its leaders, is very susceptible to outside pressures. After 30 years of "building socialism," the U.S.S.R. cannot feed its own people, its standard of living is far below that of the West and other Eastern European nations, and its industry is dependent on Western technology and science. The "labor surplus" which was supposed to flow to the workers after the fall of capitalism has instead gone to the bureaucrats and party members. So they need the United States, they need foreign trade, and I think if we continue to press for reforms in emigration policy we may gain some concessions. Not great ones, but every person freed and allowed to live where he pleases is a great step forward and a great victroy.

So I intend to continue my efforts for the Rosensteins, and for the two other Soviet families I have "adopted," the Fradkins and the Paritksys. We have to fight for these people, for as Mr. Fradkin once wrote me, in the Soviet Union "it is impossible, in fact, to struggle."

Mr. Rosenstein's letter follows:

DEAR SIR: Thank you very much for your letter from June 19, 1979 was received in a month as same as for impressive letters in my care sent by you to Soviet officials. (I received copies of the letters through friends in USA some days ago) As I see a part of American public recognizes the destiny of my family as one of examples and tests by those the real meaning of words and gestures of Soviet officials can be proved. It gives me the courage to occupy your attention with additional details of my situation although I understand how busy you are as one of distinguished representatives of American people in our complex times

Such an understanding put on me the duty to avoid personal emotions and I will try to follow that course.

As you know dear Sir my son Misha, 17½, was promised to give his visa separately from us in May 1979. In the beginning of June it was received that he must be ready to receive his visa "in some days." But Soviet officials changed their mind and I was informed by the Chief of Department of Visas (OVIR) Mr. Zotov in the middle of July that Misha can try to apply for a visa again in November only. Can we rely on it? As to me, my wife and our small son it was said that we must wait for our visas during additional years (being about six years "refusniks" up to now). It's our last news. Dear Sir, in your letter to Soviet Minister of Interior Mr. Nicolai Shchelokov you insist on the right of my family to leave for Israel not being

separated from Misha. It is possible that your remark was an impulse for Soviet officials to change their mind in Misha's case and to refuse in about three weeks after your important letter to give even the visa of my son?

It sounds strange enough but it isn't the only strange thing we saw being refusniks. When Misha received his first refusal about a year ago the Chief of Moscow OVIR Mr. Paddeev claimed for example that Misha—in that time a boy of 16½—is refused "because of secret reasons!"

Dear Sir, I'm thankful for your support and hope it will continue. I wish to express my deep esteem for your great people trying to save basic principles of humanity in our corrupting world.

Very truly yours,

GREGORY ROSENSTEIN.●

FAMINE RELIEF FOR CAMBODIA

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. WOLFF. Mr. Speaker, the fate of the Cambodian people, the 3 million or so who somehow survived the murderous Pol Pot regime, and are now caught in the jaws of an occupying Vietnamese army on the one hand, and famine on the other, has come increasingly to United States and world attention through the efforts of the news media.

The Congress has acted swiftly in the face of mounting need. and the administration is, more slowly, following suit. Without the constant focus now being provided by the press, action would be difficult to push, given the many competing interests and crisis which assail our consciousness, and consciences, every day.

The distinguished newspaper in my home district on Long Island, Newsday, recently ran an editorial which I am pleased to present for the attention of the House today. As the Newsday editorial pointed out, the crisis facing the Cambodian people transcends political questions, and makes legal nicities irrelevant—at least, for the time being.

Once the immediate crisis is met, and once we are satisfied that millions of Cambodians are not dying from lack of food—and lack of a world humanitarian relief effort—then, of course, we can properly address ourselves to some of the details which will be necessary to effectively carry out a long-range relief program. No one argues that in the long run, the interests of the Cambodian people, and the world community, will be best served by a program where full accounting and distribution practices are closely monitored, as in any other relief effort.

But we face today no normal circumstances; we face literally the death rattle of an entire people. If we do not act to the fullness of our capacity to act, if we only do the least possible, rather than the most, then for the second time in this century we will have stood by while an entire people—6 million human beings—fall victim to genocidal policies.

Last week, the Subcommittee on Asian and Pacific Affairs, which I have the honor to chair, was pleased to hear from the administration that it has finally decided on an initial $7 million U.S. contribution to Cambodian famine relief. Much more can and must be done.

At the same hearing last week, we took testimony on legislation offered by Mr. ANDERSON and Mr. SOLARZ, and were pleased to join with Chairman ZABLOCKI and many colleagues from the Foreign Affairs Committee in cosponsoring H.R. 5519, which would appropriate $20 million for the international disaster relief fund.

I hope to be able to report to the House soon on the favorable consideration of such legislation, which represents our attempt to put into action the wishes of the House as expressed in its unanimous endorsement of H.R. 431, passed September 27, and calling for a worldwide humanitarian relief effort for Cambodia under the sponsorship of the United Nations.

In the meantime, I call to the attention of the House the eloquent words of Newsday, which follow:

CAMBODIA CAN WAIT NO LONGER

Even if the West airlifted massive food supplies starting this week, a million or more Cambodians would still die of starvation. That's the grim estimate of international relief experts in Phnom Penh. Perhaps another two million could be saved with prompt delivery of relief supplies. But there'll be no massive airlift.

How can that be? There's not the slightest question about the need. The food is available. The international mechanism exists for gathering and transporting it. Yet the world seems impotent—as once before in Idi Amin's Uganda—to respond in the face of great human tragedy. And the reason is the same as in Uganda: International law acknowledges no right of intervention in crimes against humanity perpetrated by governments on their own territory.

In Cambodia, civil war between the rival governments of China-supported Pol Pot and Vietnam-backed Heng Samrin has destroyed what remained of Cambodian agriculture after the Vietnam War. But on top of that, the Vietnamese puppet government, which now controls most of the country, refuses to give assurances that UN food supplies will be fairly distributed. So, not knowing what would happen to relief supplies, UNICEF and the International Red Cross have held back shipments.

It's been suggested that the UN circumvent normal procedures and simply get a food airlift under way to Cambodia with or without the usual permissions and precautions. Even if the contending governments interfered with the relief operation, at least some of the food would reach its intended destination.

President Carter said yesterday that this country is trying to work with other countries to get food into Cambodia. This is a time when speed means much more than the niceties of international cooperation. The hour is late. The planes should be in the air now.●

BANKRUPTCY LAWS

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. BEREUTER. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial which recently appeared in the Pierce County (Nebraska) Leader. The editorial points out what I regard as a genuine concern—that recent action by Congress has paved the way for a rash of bankruptcies. I request that the full text of the editorial be placed in the RECORD.

LET'S ALL FILE

Recent action by Congress has paved the way for a rash of bankruptcies, a condition that has existed far too much in the past. The federal action creates more liberal exemptions, which in fact allows people to declare bankruptcy and still be fairly well off.

We have always felt that the bankruptcy law was too liberal as it was, but to make it more liberal could cause some serious consequences. It is going to be easy for a person who incurs an indebtedness that he feels he cannot pay off, to declare bankruptcy, take his exemptions which allows him to pocket a good percentage of his assets, have the debt slate wiped clean and start all over.

"Generally those who go through bankruptcy court end up better off than ever before, in fact better off than many of those who feel that indebtedness is an obligation to be met. There are some exceptions, of course, but in examining records, it is fairly obvious that many who file bankruptcy have debts that many would consider 'minor' and within reason to pay off."

The new laws could remove incentive from a lot of people who may consider it easier to get out from under creditors by simply going to court and having papers made out that say you are forgiven, your debts are past, go out and make a million.

State legislatures can take some legislative steps to counteract the federal laws and hopefully Nebraska will do so. Other aspects of the law are beyond the state's authority to counter. All in all, it looks like it's going to be a lot easier to "go broke" than it used to be, and a lot easier to recover and become prosperous.●

AGREEING WITH COLORADO COLLEAGUE

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. HANCE. Mr. Speaker, amid the mounting hysteria concerning campaign support for congressional candidates from political action committees comes a breath of fresh air and commonsense from my Colorado colleague, RAY KOGOVSEK.

Though I might differ with Mr. KOGOVSEK's support of public financing as an alternative to present sources of funding, the gentleman from Colorado has stated the case admirably for the real nature of political action committee contributions; that these are the product of many small, individual contributors who are, by the PAC vehicle, encouraged to become involved in the political process.

As Congressman KOGOVSEK correctly observes, the provisions of Obey-Railsback will simply increase the already horrendous cost of congressional campaigns and will make running for Congress a rich man's pursuit.

PACs, notes Mr. KOGOVSEK, permit the average man to run for Congress. That is what representative government is all about and why Obey-Railsback should be defeated.

The following is a reprint from the Colorado Statesman:

WITH THEIR HELP, THE AVERAGE MAN CAN RUN FOR CONGRESS

(By U.S. Representative RAY KOGOVSEK)

A clamor about campaign contributions from Political Action Committees (PAC's) has brought a bill to the House of Representatives that threatens to eliminate the average or poor man from participation in the electoral process.

The Obey-Railsback Amendment to the Elections Act asks that PAC contributions be limited to $2,500, down from $5,000 presently permitted. It also calls for a $50,000 limitation on total PAC contributions.

To adopt such an amendment without concurrent adoption of a public financing bill creates a myriad of problems. And the public financing bill did not even get out of committee this session.

First, reducing PAC contributions to $2,500 increases the cost of campaigns. Candidates would be forced to seek more individual contributions to the $1,000 limit, and the only effective way of seeking those contributions from wealthy contributors is through the mail—by far the most expensive fundraising technique.

Because individual contributions are limited to $1,000—and not many average individuals can contribute that amount—the Obey-Railsback Amendment opens the door even wider to wealthy candidates who can spend personal earnings to get elected.

The amendment also assumes that $5,000 from a PAC buys a lot of influence. When congressional and senatorial campaigns are costing from $200,000 to $1 million, $5,000 is a small contribution. It doesn't buy as much influence as one might think, and certainly doesn't buy much in the way of mailing or media advertising for the candidate.

The public perceives PAC money as bad, coming from special interest organizations out to protect their own behinds. If an elected official lets a PAC contribution sway his every move, then there is something wrong with PAC money. But will $2,500 sway him less, if that's all the PAC's are legally permitted to contribute?

Further, such a limitation only encourages special interest groups to split off into smaller, more specialized organizations in order to contribute more than $2,500.

Political Action Committees are a successful vehicle for increasing participation in the political process. Individuals who have never before contributed to a campaign feel an organized interest among their peers to be involved. The individual's contribution to a PAC is one he can afford as a teacher, corporate employee, steelworker and auto worker as easily as a doctor or lawyer can afford it.

PAC contributions are not all bad, and they allow the average man to run for Congress and be elected, even if most of his colleagues are still from the more wealthy ranks, cushioning PAC contributions with money from their own bank accounts.

I don't like being forced to take PAC money, particularly when the public's conception of PAC is that of special interest money buying off the elected official.

But until the public realizes that PAC money is from individuals like you and I, the negative connotation will continue. And if the public doesn't understand where PAC money comes from—the pockets of organized employees—then they should actively and vocally support public financing of campaigns, to be followed by a decrease in PAC contributions limitations.

A $1 voluntary contribution through an income tax return might be better accepted than a slightly larger contribution to a Political Action Committee.

Democrat KOGOVSEK is serving his first term in D.C. and previously served in the Colorado legislature.●

LANGUAGE AS A FOREIGN POLICY TOOL

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. MICHEL. Mr. Speaker, the Congress is often blamed—and quite correctly in my view—for not thinking far enough ahead. Too often we are content, it would seem, to fight yesterday's legislative problems instead of trying to discover what opportunities we may have in the near future.

I thought of this as I read a recent article in the New York Times. It told of the attempts of the Soviet Government to bring about linguistic uniformity in the Soviet Union.

At first glance this may not seem to be the kind of problem Congress should be interested in. It sounds like a purely internal question involving scholarly and historical concerns.

But at a time when the Russian population of the Soviet Union is dwindling in proportion to the non-Russian population, the ethnic question—and its inevitable linguistic overtones—is a political as well as demographic fact.

The Kremlin rulers want to impose the Russian language on non-Russian ethnic groups. What we may well see in the Soviet Union as a reaction to this linguistic imperialism is an emergence of national and ethnic spirit that may be a major issue within that country for years to come.

It seems to me that the United States should increase its hours of Voice of America and Radio Liberty broadcasts in the indigenous languages of the Soviet Union. I think that this will show the ethnic people of the Soviet Union that we care for their cultural heritage. We will be demonstrating our concern for human rights in a useful fashion without interfering directly in internal matters of the Soviet Union.

At this point I wish to insert in the RECORD, "Russian, Russian, Everywhere", by Roman Solchanyk, from the New York Times, October 11, 1979.

RUSSIAN, RUSSIAN, EVERYWHERE

(By Roman Solchanyk)

MUNICH, WEST GERMANY.—At a time when ethnic and linguistic minorities in disparate parts of the world—Kurds in the Middle East, Basques and Catalans in Spain, and Bretons in France—are asserting their rights against dominant majorities, the Soviet Union is aiming at linguistic uniformity in its multinational community in which about 130 languages are spoken.

This conclusion emerges from the draft recommendations of a major conference on "The Russian Language—the Language of Friendship and Cooperation of the Peoples of the U.S.S.R.," held in the Soviet Central Asian City of Tashkent last May.

The draft, a 34-page document recently received in the West, represents the most ambitious attempt at language planning since the Soviet education reforms of the late 1950's.

Not surprisingly, it has already caused ripples of dissent in several non-Russian republics, notably Lithuania, where shifts in linguistic policy are invariably linked with Russification.

In view of the explosive nature of the language issue in the Soviet Union, observers of the Soviet scene will no doubt pause to consider the impact on relations between the Russians and their 125 million "ethnics."

Why have Leonid I. Breshnev and his colleagues decided that the time has now come for the Soviet minorities to acquire a fluent command of Russian?

A frequently cited reason is that Russian is the native language of the Soviet Union's majority nationality. Yet, almost a decade ago the Russians accounted for only 53.4 percent of the Soviet population.

A 1978 study by the Soviet demographer M. B. Tatimov, "The Development of Population and Demographic Policy," predicts that by the year 2000, the Russian share in the Soviet Union's population will have been reduced to a plurality of 46 to 47 percent.

The implications for Soviet domestic policy of a radical shift in the ethnic composition of the Soviet Union reflects only one aspect of the problem. No less disconcerting is the foreign-policy dimension provided by the recent Moslem revivalist movements in Iran and Afghanistan, both of which border on the Soviet Union and include peoples with ethnic, linguistic and religious ties to their Soviet brethren (Azerbaijanis, Turkmen, Tadzhiks, Uzbeks and Kurds).

Recently, Soviet scholars have become exceedingly forthright in voicing their concerns.

In a 1977 book, "The Russian Language as the Means of Inter-National Discourse," F. P. Filin, director of the Soviet Academy of Sciences' Russian Language Institute, explained: "Whereas on the whole the Russians constitute more than half of the population of our country, in connection with the decelerated growth of population in those areas inhabited by the great bulk of Russians and the considerable increase in population in the Turkic-speaking republics, the correlation along nationality lines of children in the preschool-age group (and also in the school-age group) is shifting substantially in favor of the Turkic-speaking population. In this connection, knowledge of the Russian language as the language of inter-national discourse is becoming particularly urgent."

Mr. Filin is echoing the views of Soviet experts on nationality relations who have long maintained that mastery of Russian by non-Russians works toward the development of positive attitudes on sensitive nationality-related issues.

Relying on ethnographic studies, Soviet sociologists have argued that the most desirable form of acculturation occurs among those non-Russians who have learned Russian at an early age.

The draft recommendations for the Tashkent conference go a long way in fostering precisely the kind of "melting-pot" acculturation deemed desirable by Soviet language planners.

Heading the list of proposals, which cover every aspect and stage of the educational system, is the suggestion that the teaching of Russian be introduced in the current school year in every non-Russian kindergarten and nursery for children aged five. Russian-language training is to be intensified at all levels. Moreover, the recommendations were preceded last October by specific legislation in Moscow that is obligatory for all 14 non-Russian republics.

What effect these reforms will have on already existing ethnic tensions in the Soviet Union is difficult to gauge in any precise terms.

Nonetheless, the fact that the Soviet leadership has not yet published the texts of either the new legislation or the Tashkent recommendations indicates that it is aware of the reactions in such places as Tbilisi, Baku, Vilnius and Alma-Ata.●

THE CRUCIAL RESOLVE IN EAST-WEST CONFLICTS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. DERWINSKI. Mr. Speaker, one of my distinguished constituents, Dr. Lawrence S. Finkelstein, professor of political science of North Illinois University, recently had his letter to the editor of the New York Times published in the October 8 edition of that newspaper. Dr. Finkelstein comments on the subject of the relevancy of the current debate on the SALT treaties. I wish to insert his letter at this point:

THE CRUCIAL RESOLVE IN EAST-WEST CONFLICTS

To the Editor: McGeorge Bundy is correct in saying that U.S. strategic doctrine has been based on the threat of retaliation, not on "usable superiority" [news story Sept. 18]. There is an important corollary to that. The credibility of that threat is what matters when we have important disputes with the Russians. And there is much reason to believe that credibility of the threat to risk nuclear war depends on clarity as to what is essential to the national interest and what is not.

Nothing is more dangerous to the national interest and to world peace than the fashionable current belief that a technological "fix" can take the place of clarity of purpose, in short, resolve.

Throughout most of the postwar period, the U.S. strategic arsenal was bigger and better than Moscow's. Yet we did not prevail in all our important disputes with the Russians. Khrushchev was forced to withdraw the missiles from Cuba in 1962. But the Russians had not been deterred from posing severe threats to our interests in Berlin and, although we were able, through a series of crises, to retain our rights there, we finally had to let the East Germans and the Russians keep their "wall." We couldn't stop the Russians in Poland and Hungary in 1956 or in Czechoslovakia in 1948 and 1968.

This record does not support the belief that "nuclear superiority" determines the outcome when our interests are challenged. A different rule seems to apply: The advantage lies with the side that has the deeper interest in the outcome. We prevailed in the Cuban missile crisis. The Russians prevailed in the East European cases. We came to a kind of stalemate over Berlin. The rule stands up against examination of the other cases of conflict.

Other factors enter also, particularly the balance of relevant non-nuclear forces. There is nothing in the record, however, to contradict the conclusion that we have all the strategic nuclear force we need to defend what is vital to us, when we know what that is.

LAWRENCE S. FINKELSTEIN.●

HEARINGS ON SHORTER WORKWEEK LEGISLATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. CONYERS. Mr. Speaker, the Labor Standards Subcommittee, chaired by my distinguished colleague and friend, EDWARD P. BEARD of Rhode Island, has scheduled 3 days of hearings on shorter workweek legislation to be held October 23, 24, and 25. These hearings will examine work time issues that the Congress has not dealt with in a systematic way since the early 1960's.

The focus of the hearings will be legislation I introduced in the 95th Congress, and again, last February 1 in the 96th Congress, known as the Fair Labor Standards Amendments of 1979. The legislation seeks to eliminate compulsory overtime, raise the overtime rate from time-and-a-half to double-time, and gradually over a 4-year period reduce the standard workweek to 35 hours.

More than 40 years have passed since the Fair Labor Standards Act of 1938, that created the 40-hour week and a premium rate for overtime. A major purpose of the act was to spur new employment and spread existing work, yet a number of developments, including the costs of hiring new workers, have rendered the job-creation purposes of the law ineffectual. In the past several years more than one-quarter of the work force has normally worked in excess of 40 hours. Major avenues of potential new employment have been closed off because of employers' refusal to hire new workers and in many industries their ability to compel employers to work overtime, regardless of the arbitrariness in scheduling.

Meanwhile, unemployment has remained at historically high levels for more than a decade, and literally has spelled disaster for significant groups, especially young people and minority communities within central cities. What Samuel Gompers, the founder of the American Federation of Labor, said some 90 years ago rings as true today:

> So long as there is one man who seeks employment and cannot find it, the hours of labor are too long.

In the longer term, two trends in industry and the labor force make consideration of worktime reduction all the more promising an approach to reducing joblessness and spreading existing work. Technological displacement of labor will continue to pose a major threat to industrial employment. It is estimated, for example, that 13.6 million production workers today produce a few hundred percent more products than roughly the same number 25 years ago. Thirty years ago, several thousand telephone operators handled 1 million long-distance calls; today, because of automated switchboards, only a few dozen operators are needed. Worktime reduction is a way to deal with this trend.

Recent and continuing trends in the composition of the labor force make a shorter workweek an increasingly realistic way to spread work equitably among the greatest number of workers. The great expansion of women in the labor force, the reduced size of families, the increasing number of multiple earner households, and a growing demand for leisure are reasons why working time reduction and work sharing are being so prominently discussed. Shorter hours do not necessarily mean reductions of household income, under these circumstances, and can mean more of the valued leisure time that growing numbers of working people seek.

Most European countries have experimented with the shorter workweek and work sharing. A few weeks ago in Great Britain the decision was made to reduce gradually the 40-hour week. In Germany a shorter workweek has been at the top of the list of bargaining demands for a number of unions. Germany and France have long had in place work sharing arrangements to counteract cyclical unemployment. In our own country, the International Ladies Garment Workers, printers, and some electrical unions have operated on a 35-hour schedule. The United Auto Workers has pursued a policy of spreading work by means of increased vacation time.

The shorter workweek hearings next week will shed new light on critical labor and worktime issues. Over the 3-day period these issues will be explored from a great many perspectives, and I urge my colleagues to inform themselves of the proceedings.●

THE SUGAR BILL—HELPING TO SOLVE OUR ENERGY CRISIS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. COELHO. Mr. Speaker, I would like to alert my colleagues about a television program this evening that I believe will be of particular interest.

Tonight on the educational NOVA program on channel 26 will be aired a 1-hour documentary entitled "The Sweet Solution." This program is very timely as the House will soon consider H.R. 2172, the International Sugar Stabilization Act.

This documentary describes how sugar can be the "sweet solution" to some of the world's energy problems. In 1973, when OPEC imposed its first major increase in the price of oil, Brazil saw the handwriting on the wall. In recent years, Brazil has undertaken a crash program to make itself energy independent.

Next year, I understand, most Brazilian cars will run on gasohol—a mixture of gasoline and alcohol fermented from sugar. Gasohol, made from agricultural products like sugar, deserves our attention as we seek to solve our Nation's energy crisis. H.R. 2172, by authorizing the Commodity Credit Corporation to guarantee up to $25 million in loans for 2 years beginning in fiscal year 1980 for the construction, conversion, or modification of facilities to produce and market industrial hydrocarbons and alcohol from sugar products, would enable the United States to establish a program of this nature.

I recommend that you watch "The Sweet Solution." I hope that it will help convince you to support H.R. 2172.●

HUMANITARIAN AWARD

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. PEPPER. Mr. Speaker, distinguished colleagues, I wish to bring to your kind attention an outstanding member of our community in Dade County, Fla. Mr. William S. Ruben of Miami Beach, who, in the course of his residence in our area has touched so many lives in a helpful and energetic way and who will be remembered for his excellence and human kindnesses with the B'nai B'rith Foundation's National Humanitarian Award at a dinner and ball in his honor this coming November.

Thank you.

Mr. Ruben, who has distinguished himself by raising a son and a daughter in our midst, together with his lovely wife, Marilyn E. Ruben, has effectively extended himself beyond his personal interests in the service of humanity. I know that there are many needs constantly to be addressed and healed, even in our modern world, sometimes because of the efficiency, division of interests and opportunities of our times and I am personally grateful every time a man takes it upon himself to help his fellows in such a meaningful way as Mr. Ruben has done.

Among his many responsibilities, Mr. Ruben is faithfully affiliated with Temple Israel of Greater Miami, has served as chairman of the United Way of Dade County, was vice president of the Greater Miami Chamber of Commerce and in various capacities assists the Florida Philharmonic, Florida International University, the Museum of Science, the Greater Miami Jewish Federation, the Orange Bowl Committee, the Jewish Home for the Aged, which performs an excellent service with the others, and many more.

Mr. Ruben, in addition to being honored with the National Humanitarian Award of B'nai B'rith, has been the deserving recipient of the Silver Medallion (Brotherhood Award) of the National Conference of Christians and Jews, the Dade County Outstanding Citizen Award of 1977, and the Harold Bosworth Memorial Award of 1971, given by the Mercantile Division of the Combined Jewish Appeal.

Let me commend this capable and responsible citizen of my community to all, that by his unselfish and faithful example of community service men may be inspired to move their actions toward such high goals and become givers to those who share their world, in the finest tradition of mankind's moral leaders. Thank you.●

GRANDMOTHER WOULD HAVE LOVED FRIDAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. DERWINSKI. Mr. Speaker, the historic visit of Pope John Paul II was very properly reported by the media. It was a truly remarkable event and will leave a lasting impression on all those who had an opportunity to see him.

A true human interest story by Dennis Wheeler, editor of the Star-Herald Newspapers in Oak Forest, Ill., reflects the great impact of the Pope's visit. This heartwarming article appeared in the October 7 edition of that newspaper, and I wish to insert it at this point in the RECORD:

GRANDMOTHER WOULD HAVE LOVED FRIDAY

(By Dennis Wheeler)

I just wish my grandmother could have lasted long enough for Friday.

My grandmother was a real Catholic. Born in Ireland, in the county Cork, and an emigrant to America in Nineteen oh something, she and her familial Grogans settled on Chicago's South Side.

Later she married and lived in an apartment house directly behind Gately's People's store in Roseland. The address was 112th and Edbrook.

My grandmother would have been in the crowd Friday at Grant Park. Tears would have streamed down her face; her rosary would have become a tangle around her wrists. The faith she had in God, the Church, the Holy Father would have burned brighter than ever Friday afternoon.

My grandmother did her best, along with my mother, to make me a good Catholic boy. Certainly her example was good. She went to mass every morning at Holy Rosary Church (just down South Park from the Pullman bank) and took me along as often as she could during the years I was a preschooler.

We would walk through Palmer Park, which was beautiful and quiet in the morning. Nuns, besmocked in black and white, would stroll by, their beads clicking. "Meema, Meema," I reportedly exclaimed one morning. "Look: Halloweens!"

My grandmother loved to tell the story and did so often over the years. She also told how the nuns, hearing me say what I said, almost fell down on the sidewalk laughing. The nuns may have struck a child as strange-looking, but they were very, very human. And warm and understanding, I was assured by my grandmother.

Later, when she grew ill and senility set in, she lost track of who was who in our family. She confused me with my father after I grew to a certain height. My three sisters merged into one child, all with the same first name.

But she knew Father Juniper, who came to comfort her every day he could make it. And she would tell him of her infirmities her still-distinct Irish brogue filled with sadness and pain. And he would nod and hold her hand and he would not leave until he was sure she was feeling better.

My grandmother had instilled in me love for the Church and its mystery. The office of the Pope was part of that mystery. The idea of a world religion—where the people in China or Italy or Africa were saying the same mass in the same language and the same liturgy as we in America were—was majestic. So were the vestments, and the traditions, the history.

All of that my grandmother helped instill in me. When I was a teenager I was an altar boy.

By the 60's, I was having trouble with my religion. A study of the Church's history—from the Spanish Inquisition in the Middle Ages to the hands-off-politics policy of World War II—shook my faith. The inability of the Church to change with a rapidly-changing world disturbed me. A parish priest who was blatantly racist in his sermons drove me out of my home church. The spirit of Pope John died fast after he died, and so finally did my faith.

What happened to me happened to a lot of Catholics in the 60's. The American arm of the Church tried to change. It tried to re-attract the young, who were leaving in droves, with a more modern, upbeat approach. Guitar masses, modernized accoutrements, abolition of Latin masses, involvement of the people in the liturgy—all of these helped.

But these things also worried and in some cases alienated the older people. My grandmother would have been scandalized by English-spoken masses and would have been enraged by nuns wearing modern secular clothes.

What has been needed for years is a middle choice. The blending of the old with the new, the traditional with the modern. The human with the mysterious.

That's why my grandmother would have loved Friday.

That's why the young people loved Friday.

That's why people of other religions loved Friday.

Pope John Paul II came to Chicago the same way he came to Ireland, Boston, Philadelphia, New York, and Des Moines. He came as a modern Pope steeped in traditional Catholicism. He came with a world view, both secular and moral. He came with a love for all people, young and old, and it was a love he shamelessly bestowed. He maintained the glory and mystery and majesty of his office while at the same time coming across as totally human.

He came with messages about the Church, but also with messages about life. He spoke with equal ease to clerics and clerks. He gave an insight through his own behavior into what it must be to be at total peace with the world.

The faithful came away from it more confirmed in their faith.

The unfaithful came away with a sense of wonder and questioning.

Those in between may be moved to reassess.

The Pope has improved chances for an ecumenical view of a moral world. Possibly by being the first Pope to go to the people instead of waiting in Rome for the people to come to him, he furthered the chances for peace.

It was a remarkable couple of days in Chicago area history.

I just wish my grandmother could have been here to see it.●

DR. GALBRAITH ON WAYS TO COMBAT INFLATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. CONYERS. Mr. Speaker, the Democratic Caucus on October 23 once again will take up the question of giving the President standby authority to impose wage and price controls to curb inflation. The public overwhelmingly and consistently has favored some form of restraint. The inflation rate shows no signs of abating, in fact, is worsening.

As a means of clarifying the questions that arise with respect to wage and price controls, I offer excerpts from a recent work, "Almost Everyone's Guide to Economics," authored by one of the leading authorities on the subject, Dr. John Kenneth Galbraith. On the question of inflation, like on so many other economic issues, I can think of no better guide for this difficult terrain than Dr. Galbraith. The excerpts that follow are an edited version that appeared in Consumer Reports, February 1979:

JOHN KENNETH GALBRAITH ON INFLATION

1. WHAT HAPPENED TO THE MARKET?

NICOLE SALINGER. What specifically has happened to the market?

JOHN KENNETH GALBRAITH. It suffers from a peculiar form of affection. Everyone loves it except as it applies to himself or herself or to the organization to which he or she belongs. For the individual the market is a menace, an inconvenient and arbitrary force determining his income or price, which he seeks, and with increasing success, to influence or control.

NS. So what conditions did the neoclassical economists believe necessary if the market was to work?

JKG. The market, let me remind you, is the regulatory apparatus that takes the place of the state—of authority. If the market fails, so does the case against government intervention. Intervention becomes the alternative to anarchy or the exploitation of the weak by the strong. And to be an effective regulator, the market must be an impersonal force beyond manipulation by any individual or organization. Price-setting becomes impersonal, beyond the power of any participant, when there is competition. There should, in one of the oldest phrases in economics, be the competition of many sellers and many buyers. If any seller asks more than the market price, then all customers can go to those who sell at the market price. They are a readily available alternative. The presence or total withdrawal of any one seller or any one buyer doesn't appreciably alter the price in the market. So there is nothing any one buyer or seller can do to influence the market.

NS. Are these conditions ever really fulfilled?

JKG. In the absence of government intervention, this kind of impersonal price-making does hold for such farm crops as cotton, wheat, feed grains or soybeans. If even the largest cotton producer dies, goes to heaven and takes his plantation with him, it will make no difference to the price of cotton. Big as he may be, he's unimportant in relation to the total production. So this is, indeed, an impersonally determined price which applies to all and which no single seller can influence or control.

NS. But it still seems to me the exception.

JKG. It is—and increasingly so. And this is the vital point.

NS. What has been the effect of corporations and the government on the market? Has it been like that of the unions?

JKG. Adverse, all three. Forty-odd years ago, when I was first studying economics, it was just coming to be recognized, and it's now accepted, that if instead of a single seller you have a small number—three, four, half a dozen, a dozen, twenty—selling the same product or service, you get roughly the same result as with only one. The notion of oligopoly—an exceedingly unmusical word—had come into economic discussion. It denotes several sellers rather than many or just one.

The reason is simple. If you have a small number of companies, as now in the automobile, chemical, pharmaceutical, rubber, steel, aluminum, electrical, computer or many other industries, each firm will see the common advantage in the most profitable price and the common disaster in price-cutting. So the resulting price will be much the same as with monopoly.

The sense of the common or group interest allows firms, usually without any formal communication, to find the best price. This ability is not seriously disputed by economists; it is described in all the textbooks. It follows that if the economic system is taken over by large corporations, you no longer have an impersonal, competitive market.

NS. And the trade unions have countervailing power?

JKG. Yes. Large corporations bring large numbers of workers together, and they are then rather easily organized. They see the power of the corporation in buying their labor so, as I suggested earlier, they have a very strong incentive to match that power in selling their labor. This I have called the tendency to the creation of countervailing power. So, as a nearly invariable rule, where one has large corporations controlling their prices, one has strong unions controlling the prices at which labor is sold. This, in turn, has a good deal to do with the modern problem of inflation.

NS. And government? How does that affect the market?

JKG. As economies develop, more and more services are provided by the government—support to the weapons industry, education and the provision of qualified manpower, highways for the automobiles, research and development where, as in the case of nuclear energy or modern air transport, the costs or risks are too great for private firms, health services, housing, social insurance, transportation, rescue operations for private corporations that come on hard times, electricity and telephone service in many countries. All this we've seen. And much production for or by the government is outside the market. So the competitive market disappears in this part of the economy.

However, the government has a yet more important effect in modifying the market system. Where the market still works, where there is still competition, there is that mixed affection of which I spoke—the deep love for the market in principle, the great dislike for the market's punishment in actual practice.

So the government steps in to mollify those who experience the practical effects, to ease the pain. It sets prices, or anyhow establishes minimum prices, for farmers. It sometimes establishes minimum margins for retailers to keep the competition there from being too harsh. Where, as occasionally happens, an oligopoly has difficulty maintaining prices, it comes to the government for help in doing so. We are now having such a rescue mission in the United States for the steel industry.

Finally, where workers do not have unions, the government establishes a substitute in the form of a minimum wage. One group of rather conservative economists in the United States accepts unions but is gravely critical of a legislated minimum wage. The distinction has always been something of a puzzle, for the minimum wage is the poor man's union; it serves the same function as a union for the poorest members of the working force. I never want to be unkind, but I strongly suspect my economic colleagues of defending competition and the market with most vigor where the people involved don't fight back.

So, to summarize, corporations, trade unions and the government have all united to impair or destroy the competitive market.

NS. And doesn't monetary policy deal with inflation?

JKG. It does. If the central bank tightens up sufficiently on the commercial banks so that it affects decisively the money they have to lend and forces them to lend what they do lend at high interest rates, there will obviously be less spending, less demand in the economy. In particular, there will be less money to build houses, for other construction, for smaller business investment in inventories, plant and equipment and for installment purchases of automobiles and household appliances because all of these things are financed by bank borrowing. If this restraint on borrowing—on creation of deposits to be spent and respent—is pressed hard enough, it will stop inflation.

But the effect of this restraint will always be highly unequal. It works, let me repeat, through restricting the aggregate of spending in the economy, restricting what economists call aggregate demand. When this restriction in demand hits General Motors, Exxon, Shell or the other large corporations, it doesn't force them to stop raising prices. They first cut back on sales and production. We've already seen that they have the power to resist price reductions. It's one of the reasons they want to be big. And if their wage costs are going up or there is other justification for raising prices, they will do so. They will only be forced to stop raising prices and forced to resist wage increases when there is a lot of idle capacity. But then there will be a good deal of unemployment. And this will also help restrain union demands. So, for these large firms, monetary policy works by creating unemployment. And that, of course, has been the highly visible consequence of its recent use.

It has another effect—what amounts to another favor for the strong and against the weak. The large corporation has a source of capital independent of the banks. That is from its own earnings, and resort to this source is not affected by sequence, it is very difficult to raise taxes in order to reduce private spending; it runs against a broad social current and invites mass opposition.

It's almost equally difficult to reduce public expenditures. The things that the state provides are also part of our standard of living. This part of the living standard is slightly more vulnerable because public education, public housing, public health care, various social expenditures, all help to bring the consumption levels of the less affluent up toward those of the more fortunate. Many people of means are naturally indignant over the waste in such spending. They speak vehemently of the failure of government officials to see their clear duty and to cut public outlays, a few things like defense, air safety and necessary business services apart. They don't always see, though some do, that public expenditures buy for the

poor the education, recreation, health care, housing, even the protection against crime, that the affluent are able to provide for themselves.

NS. I still don't see why things got so much worse in the last ten years.

JKG. Change in economic institutions is more rapid than we appreciate or like to believe. In addition to the changes I just mentioned, corporations continued to get larger and stronger. Unions became important in the United States in new fields, especially in the public services. Governments, as an aspect of responsive democracy in which we all rejoice, came to the support of new groups—the old, the minorities, the dependent, the ill. These were given, if not control of, at least protection for their income. All of this contributed further to the retreat from the market. And the market, let me repeat once again, is essential for effective fiscal as for effective monetary policy. Once people or organizations are in control of their own prices and incomes, there is no way that monetary or fiscal policy can keep them from increasing those prices and incomes except by creating unemployment and inducing a recession.

NS. Then what do we do?

JKG. The solution that is emerging has no generally accepted name. It recognizes that an uncontrolled struggle for more income brings an inflation that defeats some or most of these efforts and that the traditional methods of control—monetary and fiscal policy—either do not work or work by hurting the least affluent, the least employable, those with least control over their prices and incomes. This we've seen. And the solution accepts that no single group can carry the burden of restraint. It must be fairly distributed among all groups.

NS. You say this type of action has no name?

JKG. Various terms have been used in the past to describe efforts along these lines—incomes policy, wage and price policy, controls. Some of the terms have overtones of ineffectuality because their authors don't really wish to face the hard issues. I've used the word "control" in the past so that no one would think there was an easy escape from firm government responsibility. I now propose that we try a new designation, one that is fairly descriptive, and speak of a Comprehensive Incomes and Prices Policy, a CIPP.

NS. This goes beyond what we ordinarily think of as control of wages and prices?

JKG. Yes, much. It extends in principle to all who have achieved a measure of control over their incomes; after all, the escape from the control of the market is what makes it necessary in the first place. And it involves a variety of restraints. Trade union claims are limited to what can be afforded, on the average, from increased productivity. Then there is no general increase in labor costs. Large business corporations which now control their own prices—have opted out from control by the market—respect this wage restraint and do not increase their prices. Profits can still go up but only as these result from more sales or above-average gains in productivity or efficiency. This is not a very revolutionary step. It means only that public price restraints replace the private price-fixing of the large corporations.

The pay of civil servants, who are now a very important group, must be consistent with the general restraint. Here the government already has a strong hand or should have. Minimum farm prices, minimum wages and transportation costs are already set by public action. Farm prices are especially important because of their direct bearing on living costs. For basic crops the proper policy, now also generally accepted, is to maintain balancing reserves. These are accumulated when prices are low, thus sustaining prices, and sold when supplies are short, thus stabilizing prices.

Some price fluctuation for farm products is, of course, inevitable. And small industries, service enterprises, the self-employed, should not be controlled. Here the market, even though imperfect, still works.●

A CLOSER ANALYSIS OF THE INCREASES IN HOME HEATING OIL PRICES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. BIAGGI. Mr. Speaker, I along with many others in the House are profoundly cognizant and concerned about the escalating cost of residential energy and the inability of our poorest citizens to pay. In this past Sunday's New York Times a detailed analysis of the factors which contribute to the increase were disclosed in an article entitled, "Price of Home Heating Oil Jumped Twice as Fast as the Cost of Crude."

What the Times article says is the retail price of home heating oil has risen almost twice as fast as the price of the imported crude oil from which it is made. More specifically the Times article discloses that between January 1977 and May 1979 whereas the price of crude oil increased by 32.3 percent—the average price of a retail gallon of home heating oil soared by 58.1 percent. In reality the bulk of this increase has been measured in this year and as a result we are approaching a crisis point.

I have conducted five national hearings as chairman of the Subcommittee on Human Services of the House Select Committee on Aging to investigate the impact of these price increases on low- and fixed-income senior citizens. On the average, home energy prices are running at a rate 4 and 5 times that of the cost of living provided under programs such as social security and SSI. The result is tragically simple—thousands of elderly in this Nation will face the dilemma this winter of choosing between heating and eating unless some meaningful assistance is provided.

To that end I have introduced House Joint Resolution 398 which calls for an emergency supplemental appropriations for the low-income energy assistance program administered by the Community Services Administration. I am joined by 28 of my colleagues as cosponsors and urge all others to do so as well. The Subcommittee on Labor-HEW appropriations will conduct hearings on my bill as well as a request made by the President for additional CSA funds. It is absolutely essential that we act soon to impact on this winter. The simplest way to achieve it is to provide funds for a program which is in operation in all 50 States. This is what my bill would do.

After we deal with this winter, it is imperative in light of continuous findings of oil company gluttony, that we enact a strong windfall profits tax which would at least provide that some of the increases paid by the American consumer can go to programs to benefit these same consumers.

At this point in the RECORD I wish to insert the aforementioned New York Times article:

PRICE OF HOME HEATING OIL JUMPED TWICE AS FAST AS THE COST OF CRUDE

(By Matthew L. Wald)

The retail price of home heating oil rose nearly twice as fast as the price of crude oil from January 1977 to May 1979, according to statistics from the Federal Department of Energy. And industry analysts say growing rennery and dealer profit margins are continuing to add heavily to prices.

In contrast to a public perception that increases imposed by oil exporting countries is the overwhelming factor in the rise in home heating oil costs this winter, the figures show that the percentage increase in refinery, wholesale and retail margins was at least as rapid.

The industry has reported sharp rises in profits, but spokesmen say high interest rates and rising costs for labor and other components of production also contributed to a rise in heating oil prices above the increases mandated by the higher costs of crude set by the Organization of Petroleum Exporting Countries.

Spokesmen for the major oil companies were reluctant to provide figures that would show whether their profit margins had changed. They said there were too many factors, including a changing mix of crude oil types and refined products, to allow such a calculation. Other industry sources agreed that the calcuation would differ for each refinery, but said the figures did show strong growth in the average profit margin.

INQUIRY BY U.S. PRICE COUNCIL

The refinery profit margins are now the subject of an inquiry by the Council on Wage and Price Stability. According to the council's chairman, Alfred E. Kahn, the panel has found "a fair number" of companies, mainly small refiners, to be out of compliance with the voluntary standard of a 6.5 percent annual growth in profit margin. Earlier this year, Amerada Hess was found to be exceeding the standard, but it has since come back into compliance, according to a spokesman for the council.

The price increases from domestic sources come at a time of growing concern about how the poor will keep warm this winter, and even how some lower-middle-income families will stay out of poverty.

Connecticut has set a special legislative session to deal with the problem, and New York may do the same. Concurrently, Congress is debating special fuel aid, a "windfall profits" tax on oil companies and the reimposition of price controls on oil products. Heating oil controls were ended in June 1976.

Energy Department figures show that the average price of a gallon of home heating oil rose 58.1 percent between January 1977 and May 1979, from 40.6 to 64.2 cents, while the cost of the crude oil from which it is made rose 32.3 percent, from $11.64 a barrel to $15.40, with the refiners' margin increasing the most.

CRITICS POINT TO PROFIT MARGIN

Comparable figures for months later than May are not available from the Federal agency, but according to a study by the Congressional Research Service, retail prices for home heating oil rose 50.1 percent (from 53.7

to 81 cents a gallon, on average) while the price of crude oil rose 47.4 percent, from 31.2 to 46 cents a gallon from January to August of this year.

Critics of the oil industry say that the profit motive, not higher costs, is the reason for the greater markups.

"These are businessmen and they're going to make as much money as they possibly can," said Representative Toby Moffett, Democrat of Connecticut, who is chairman of the Energy Subcommittee of the Government Operations Committee. "The fact that this is a necessity people can't do without is not something that is going to affect their behavior."

Representative Moffett, whose proposal to reinstitute price controls on refineries was defeated 2 to 1 in the House on Thursday, said his subcommittee had heard testimony over the last few weeks showing increases in gross refiner margins of up to 100 percent.

Explaining how some factors of the cost increased even faster than crude oil, William Harlow, a spokesman for the Department of Energy, said: "It's not going to be a one-to-one correlation. The rate is going to go up for any kind of product, because of the piping that costs more, the refineries, and the shipping that costs more."

FIGURING THE MATHEMATICS

Mathematically, however, the correlation would be less than one to one unless other factors were increasing as fast or even faster than crude oil. For example, if heating oil was selling for 40 cents a gallon and the cost of crude oil accounted for 60 percent of that, a 30 percent increase in the cost of crude would add only 7.2 cents, or 18 percent.

"What's in there is inflation, higher labor cost and higher fuel cost," said John Buckley of Northeast Petroleum Corporation, a Boston-area fuel oil wholesaler and retailer. "And then I think there's higher profit. That will vary from refiner to refiner, but they're making more money."

Wholesalers and retailers, as well as the major oil companies, are also operating on higher margins, according to the figures. From January 1977 to May 1979, for example, the wholesale margin rose from 8.4 to 12.1 cents a gallon, or 44 percent, according to the Department of Energy figures.

One result is that, according to Government figures, crude oil, which in 1976 accounted for 63.8 percent of the cost of heating oil, accounted for only 58.6 in June.

Industry sources differ as to the reasons for the higher margins. All note that when home heating oil was decontrolled in June 1976, the action allowed the price level to be dictated by market conditions, instead of the Government's reckoning of cost and fair profit margins.

VARIED FACTORS NOTED

But beyond that, the major oil companies say it is not possible to break down the costs of producing home heating oil.

First, they note, crude oil is sold in a variety of different grades, requiring different refining processes. In addition, transportation costs for getting the crude to the refineries differ. Some refiners have relatively cheap long-term contracts, while others must buy on the expensive spot market.

The Government figures are for the composite refiner acquisition cost of crude oil, a weighted average including foreign and domestic sources, including transportation costs to the refinery.

A bigger problem, oil industry representatives say, is apportioning the cost of production between the different products.

"The analogy that's always used is with the cow," said Earl Ross, of the American Petroleum Institute. "What's the cost of the lesser type cuts as against the prime rib?" While the cost of raising the cow may be known, he went on, there is no logical division between the cost of hamburger and the cost of steak.

"There is no generally accepted procedure for allocating total operating and investment costs among the hundreds of coproduced products of a refinery, said an Exxon spokesman. He added, however, that the company's American subsidiary, Exxon USA, reported "refining/marketing" profits that were 48 percent lower this year than last.

HOW COMPANIES CAN RECOUP

However, with one of the petroleum products—gasoline—still controlled, there are financial incentives to looking at the costs in certain ways.

"Refiners have been allowed because of the lack of controls to pump more of the costs into middle distillates instead of gasoline, in an effort to recoup more of their investment," said Allan Darrow, public affairs director of the National Oil Jobbers Council. If they feel they are not earning enough on gasoline, he suggested, oil companies can try to make up the difference in a product for which the market is very strong, and on which there are no controls, such as home heating oil.

Some oil companies, however, say that at least part of the increases in margins are eaten up by increases in costs for components of production other than oil. Texaco, for example, listed "rising manufacturing and labor expenses, taxes and inflation."

Interest rates have become a major concern, with many OPEC nations now requiring payment for expensive oil within 30 days, which leaves refiners borrowing money to pay for a tanker-load while it is still at sea.

Interest is also a major concern for wholesalers and retailers, who to purchase the same number of gallons they did last year may have to borrow twice as much money, and at higher interest rates.

"You've gone in one year from 9 percent to 14 percent," said Mr. Buckley of Northwest Petroleum. "We've had to borrow way out of line, disproportionately to earlier years."

Financing one gallon of home heating fuel cost roughly half a penny a month last year he said, but it is now "pushing past a penny a month" because of higher interest rates and product price. "If we buy it in August and sell it in December, that's 5 cents," he said.

Other retailers said that the cost of fuel to run their delivery trucks, the cost of the trucks themselves, and everything else a small business buys, including insurance, labor, and electricity, had risen in costs.●

A RESPONSIBLE IMMIGRATION AND REFUGEE POLICY IS NEEDED TO MEET WORLDWIDE CRISIS

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. SAWYER. Mr. Speaker, in our search for solutions to temporary crises, in our immediate responses to immediate problems, we may lose sight of the principles which underlie our actions. The needs of some refugees are immediate: they must be helped now. The Indochinese boat people, for example, must be rescued from the water, and in light of their need we in the United States postpone considering the bases on which American aid for refugees rests. But the refugee situation is not a one-time crisis, a crucial, abrupt turning point which can be resolved. Instead, the world is in a period of unrest in which it is assured that more millions of refugees will continue to be generated. Refugees are going to be, for the foreseeable future, a continuing fact of international relations. We can predict that they will exist; all that we cannot predict is from which country they will come next.

It is necessary, therefore, to prepare principles on which we can agree, and on which we can base an American policy toward refugee aid and refugee resettlement. We have sympathy for all refugees, for all of those mistreated in their home countries, persecuted because of their religion, race, language, politics, or ethnic group, for those forced to flee out of fear for their lives. But if we based our policy solely on our concern, our humanitarian fellow-feeling for abused people, we would declare ourselves to be responsible for millions of people whom we would be unable to aid. Estimates of the number of refugees in the world have ranged up to 14 million people. World Refugee Crisis, issued in August 1979 by the Congressional Research Service, gave a range of estimates from 8 to 11 million people, and said their numbers were not to be considered accurate, but only as an indication of the magnitude of the problem. And in its country and area analyses, the CRS indicated that there was no area of the world in which it could state that the refugee problem would abate, that the numbers would grow smaller rather than larger, even as the millions of today's refugees were settled in new host countries.

One small example of tomorrow's problem is the August 13, 1979, United Press release which quoted Vietnamese Secretary of State Nguyen Co Thach as indicating that 3 million Vietnamese may eventually want to leave their country, depending on the political situation. The United States, today taking over half of all Vietnamese refugees being permanently resettled, must be prepared to recognize the dimensions of the responsibility it has shouldered. To aid in promoting the discussion of underlying principles of refugee aid and resettlement, the Federation for American Immigration Reform has released the following statement:

FAIR STATEMENT ON REFUGEES

The historic mission of the United States to act as a refuge from persecution can and should continue under any changes made in our immigration system. Refugees must be given a higher priority in America's immigration quotas. They are now seventh among preference categories; they should be first.

The definition of refugees under United States law must be changed. Present law recognizes only refugees who originate in Communist countries or the Middle East. This position ignores the reality that refugees flee from many parts of the world from many kinds of racial, religious, and political persecution.

At the same time, however, the United States must recognize its limited ability to solve the refugee problem of the world by acting alone. While some other countries are willing to a limited extent to help finance the expense of resettling refugees, few countries other than the United States are willing to accept large masses of refugees as settlers, and no country admits a number approaching those the United States resettles. But the size of the problem, fourteen million refugees in the world today and millions more to be expected in the future, negates the possibility that the United States could take in enough people to seriously reduce the number of homeless people in the world. America is one of the few countries in the world with the compassions, the sense of responsibility, and the freedom from debilitating racial, cultural, and religious prejudice to wish to take refugees from among many nations and peoples. We must insist that other nations make real efforts to open their societies to strangers in need, as the United States has done. Refugees must be a shared responsibility of the world.

The United States must take care not to call forth more waves of refugees by its policy of openness. If the sole prerequisite for entering the United States is to be a refugee, then more millions of people will become refugees. The United States is a magnet for the poor from throughout the world. Our policy of aiding those driven from their countries cannot be allowed to be used as an excuse for countries which wish to expel their unwanted minorities or their poverty-stricken excess population.

The United States must not allow its compassion for refugees to destroy its immigration system. Illegal immigration to the United States is at an all-time high, and its control is not now in sight. Legal immigration to the United States added nearly a half million people to the population last year. Hundreds of thousands of refugees yearly must not be added to this flow. Refugees must be seen as a component of immigration to the United States, and their number must be considered when determining the effect of immigration on the United States. The total number of people who should immigrate to the United States should be determined by informed public debate, and refugee immigrants to the United States should come within that immigration ceiling.

Ultimately, the solution of the problem of refugees cannot be resettlement. International migration can never approach the scale that would be necessary to solve the problem of refugees. The only full-scale answer is a system of international law and international public opinion which condemns and does not allow the expulsion or persecution of national minorities. Any temporary assistance given to any small portion of refugees in the absence of such international pressures against persecution can be viewed honestly only as doomed to be inadequate.●

ANTI-AMERICAN STATEMENT OF PRIME MINISTER MICHAEL MANLEY OF JAMAICA

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. EVANS of Delaware. Mr. Speaker, as each of us know, Cuban President Fidel Castro recently hosted the Sixth Nonaligned Summit Conference in Havana. This conference brought together leaders of many countries in the world and served as a pulpit for many who wished to castigate the United States.

One such leader was Michael Manley, Prime Minister of Jamaica. During his address, Prime Minister Manley by inference, criticized the United States and supported just about every Communist and Socialist scheme in the world. Since Prime Minister Manley's address did not get what I would consider to be appropriate attention in this country, I want to bring his remarks to the attention of my colleagues.

He began his address by praising Lenin as the "catalyst and unmoveable rock of the nonalined movement." He stated that "the forces committed to the struggle against imperialism today are stronger than ever before." He credits this strength to the Cuban revolution and Fidel Castro, pointing out that Cuba, of course, is a nonalined country. He states that those who consider Fidel Castro something less than neutral are either ignorant of the world and of new forces which are shaping its future, entangled in a traditional policy of power or believe that "the world still is a hunting ground in which power becomes the means for foreign domination, subjugation of peoples, and exploitation of economic resources as if it were an extension of a natural right."

In his speech, Manley indicated his support for such courses as the leftist government in Grenada, the Sandinista guerrillas, the independence movement in Puerto Rico, the "just struggle of oil exporting countries" to control oil, the recovery of Guantanamo Bay, the liberation forces of Zimbabwe, Namibia, and South Africa, and the front line states of Mozambique, Botswana, Tanzania, Zambia, and Angola.

Clearly in his speech Prime Minister Manley has thrown down the gauntlet to the United States. He has fallen into the jargon of the Communist world in condemning this country, yet he still has his hand out for continued U.S. aid.

Mr. Speaker, the people of Jamaica are facing many severe economic and social problems. This crisis has been severe enough to drive many of the educated and technically trained citizens out of the country. In fact, in the last 2 years this mass exodus has been compared to the flight of the middle class in Cuba upon the takeover of Fidel Castro. News reports have repeatedly said such an emigration by business and professional people is threatening the country's economy and development. According to a New York Times article by Ann Crittenden, which appeared on September 30, 1979, Jamaica now has only 13 dentists with specialized training, including one periodontist and one orthodontist. In 1978 there was one dentist for every 24,000 people. The ratio of doctors and nurses to the population has also declined.

The article goes on to say that the Citibank branch in Kingston has lost more than 30 percent of its staff in the last 18 months.

The socialization of the country by Prime Minister Manley obviously is the cause of this mass exit. We have seen that, time and again in Europe, Asia, and now Latin America, people are voting with their feet every time a leader like Manley seeks to force Socialist domination upon them.

Jamaica is important to the United States because of its close proximity and because of its key location within the Caribbean region. The Congress has long recognized its importance and has provided some $189 million to the Government of Jamaica since 1964. In addition, this year's foreign assistance appropriations bill earmarked only three countries—Egypt, Israel, and Jamaica—for specific funds under the important economic support fund program, which is essentially cash grants.

I am, however, concerned that the word may not be getting to the Jamaican people that the United States is interested in them and their problems. It is clear by the remarks of Prime Minister Manley that he is interested only in attacking the United States and becoming closely alined with the Socialist forces led by Fidel Castro. It is widely reported that the opposition party to Prime Minister Manley is afraid to criticize his regime for fear of physical violence. This is particularly troubling since it is important to both the Jamaican and the American people that the free democratic process be preserved in that country.

Additionally, I am concerned that the concept of a free press is coming under serious attack by the Manley government. The 145-year-old Daily Gleaner has been the subject of an intimidation campaign by the Jamaican Government because of its criticism of the Manley regime. I ask unanimous consent that an article which appeared in the Miami Herald, of Sunday, October 7, 1979, by Jim Hampton entitled, "Jamaica Aims Gun at Free Press" be included in the RECORD.

Mr. Speaker, I urge the Carter administration to focus greater attention on the plight of Jamaicans. We need to communicate in no uncertain terms to the Jamaican people that we are interested in their problems and are fully aware that their rights are being threatened by a leader who is falling into lock step with Fidel Castro.

The article follows:

JAMAICA AIMS GUN AT FREE PRESS

(By Jim Hampton)

Today begins National Newspaper Week, which I'll observe in one sentence: Despite an antagonistic Supreme Court and an imperfect record of meeting its own standards, the U.S. press is robust and quite able to fend for itself.

Our colleagues abroad aren't often as fortunate, however. In Jamaica today, the 145-year-old *Daily Gleaner* is fighting to keep from being suppressed by a government that controls all other communications media there.

Prime Minister Michael Manley's flirtation with Fidel Castro lately has blossomed into near-total sycophancy. Mr. Manley has led—or rather pushed—Jamaica to the edge

of economic ruin. His term expires in 1981, and signs are abundant that he may try to manufacture a "state of emergency" to enable him to postpone facing an electorate that might well chuck him out of Jamaica House.

Mr. Manley and the Cuban ambassador to Jamaica, Ulises Estrada, have joined in a blatant campaign to intimidate *The Daily Gleaner*. The newspaper is the only Jamaican news outlet not owned by the government, and thus not slavishly given to praising the erratic prime minister and his leftist People's National Party (PNP). The PNP has demanded a meeting with The Daily Gleaner's board of directors on Thursday. The PNP's general secretary, D. K. Duncan, says the government will lay down rules then for *The Daily Gleaner's* operation during the next two years.

Imagine, if you will, a small and struggling Third World nation in which the only television station, all four radio stations, and the only other newspaper are government-run. Imagine a prime minister of demonstrated ineptitude and questionable stability who shrilly denounces the nation whose aid keeps his government afloat: the United States.

That's Jamaica, and that's Mr. Manley. Now mix Castro's man in Kingston, Mr. Estrada, into this equation. Mr. Estrada recently accused *The Daily Gleaner* of lying about him and Cuba. He also hinted that the newspaper's managing director (publisher, in effect), Oliver Clark, is a CIA agent.

The Daily Gleaner responded by offering the Cuban envoy free space in its pages to present evidence of its alleged CIA ties. And the paper called on Mr. Manley to declare Mr. Estrada *persona non grata*, which would require Cuba to recall him.

Things got hotter in Kingston after that. On Sept. 24, a mob of PNP and Communist Party (Jamaica has two legal Communist organizations) members marched on *The Daily Gleaner*. The marchers railed against the newspaper and, in words and with placards, hailed Cuba. Among the crowd: Prime Minister Manley.

"I have no speech to make," Mr. Manley told the mob. "You have made the speech for me, and you have made the speech for the progressive forces. And you have made the speech with no notice and no plans or preparations. But next time, next time, next time . . ."

The crowd began to chant: "Next time, next time . . ."

Then the prime minister added: "Let them learn, freedom of the press, yes; but no more lies . . . But next time, next time . . . Be alert and listen for . . . next time."

It takes courage to continue opposing a government in that kind of menacing atmosphere. It takes courage to be the lone voice pointing out your own government's increasing subservience to the mesmerizing influence of Castro. It takes courage to continue printing the truth when the government and its Cuban supporters brand that truth as lies and bring a mob to your doorstep to intimidate you.

The Daily Gleaner has courage aplenty. It has resisted, successfully, the government's efforts to withhold official advertising from its pages. It has resisted, successfully, Mr. Manley's effort to persuade Jamaicans not to buy the paper. It has resisted, successfully, the government's threat to restrict importation of newsprint, without which it could not publish.

It has resisted actively, not passively. And, bless its writers, *The Daily Gleaner* has resisted with barbed wit. Columnist Dawn Ritch recently referred to Ambassador Estrada, who hasn't a hair on his head, as Feather Mop. Columnist Morris Cargill, in a column headlined "The Comrade Higgler" confers upon Prime Minister Manley the title of Comrade Conceptualizer.

But pungent drollery and the will to keep resisting might not be enough if Mr. Manley loses his temper and invokes the menace veiled in his litany of "Next time . . . next time." Already he has issued a statement of intent to sue *The Daily Gleaner* for libel because of an anti-Manley ad it carried on a recent Sunday. And Mr. Duncan, the PNP general secretary, has hinted that *The Daily Gleaner* will have to face mob vengeance unless it moderates its criticism of the Manley regime after the meeting on Thursday.

There isn't much we American journalists can do except call attention to *The Daily Gleaner's* situation. Perhaps publicity will dissuade Jamaica's government from reminding us, in the worst possible way, of just what our own First Amendment protects us from.●

PREPARATION FOR TAX CUT NEEDED

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. GUARINI. Mr. Speaker, today I am pleased to introduce legislation which will provide a mechanism for implementation of a reduction in individual income taxes should the national rate of unemployment increase significantly in the near future.

The recent uncertainty in the American economy requires action on the part of Congress to avert economic disaster for millions of Americans. Current statistics indicate that unemployment has maintained a fairly constant rate of between 5.6 percent and 5.8 percent since January. However, the decline in the gross national product in the second quarter of this year is considered by many economists to be an indication that we are on the brink of a recession, typically defined as a decline in GNP over two or more consecutive quarters. Although early indicators show a slight improvement in GNP in the third quarter, leading economists predict a further decline over the fourth quarter of 1979.

It is incumbent upon the Congress to prepare for what lies ahead in the next several months. Rather than wait until we have a full-fledged recession upon us, I urge my colleagues to provide the leadership which is desperately needed to prevent the suffering which a recession with increased unemployment causes to millions of workers and their families.

The tax cut legislation I am proposing could not be triggered until the national unemployment rate had risen by 1 percent above the unemployment rate of January 1979. Under this bill, the tax reduction would be implemented through the simple device of doubling the present zero bracket amount to $4,600 for single taxpayers and to $6,800 for those filing joint returns. According to the Joint Committee on Taxation, this would concentrate the impact of the tax cut on those taxpayers with incomes of $25,000 per year or less.

Estimated revenue loss would be approximately $30 billion. However, each 1 percent of unemployment costs between $14 and $17 billion in lost tax revenue and increased expenditures for social services—food stamps, unemployment compensation, welfare, medicaid. These estimates do not include the tragedy visited on working men and women and their families by the loss of unemployment.

I respectfully urge my colleagues to join me in taking this first step in dealing with the expected recession.

Thank you.●

IS CANADA A MEDICAL UTOPIA?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. MICHEL. Mr. Speaker, we hear so much these days concerning the alleged blessings of the medical system in Canada that it would be refreshing to learn about that system from an expert who has examined it at firsthand. Harry Schwartz, editorial consultant of Private Practice magazine has written an article which exposes what might be termed the "dark side" of the Canadian experiment in socialized medicine. Far from being the answer to the problems faced by fee-for-services medical practice, government control of medical finances in Canada has led to deteriorating services, an exodus of highly skilled doctors and, generally speaking, a feeling that the original promises of politicians who pushed the socialized health-care schemes should have been examined more closely. I hope the United States takes a hard, long look at the entirety of the Canadian experiment and not just a look at some of its more popular aspects.

At this point I wish to insert in the RECORD, "Medicine in Canada" by Harry Schwartz, Private Practice magazine, August 1979.

MEDICINE IN CANADA

(By Harry Schwartz, Ph. D.)

Some time ago, it is said, the provincial health authorities of Newfoundland decided to limit what they considered the excessively high incomes of some physicians. The top acceptable figure was decided to be $100,000. The first Newfoundland doctor—a neurosurgeon—approaching that figure was told that once his government-paid fees had reached $100,000, he would be paid only one-quarter of the fees he had received before reaching the magic figure. Finding the limit unacceptable, the physician replied that after reaching $100,000, he would simply vacation in Miami or some similar spot for the rest of the year. In the face of that threat the authorities allegedly surrendered, for he was the only neurosurgeon in the province and they saw no way of getting a substitute specialist.

The story may be apocryphal, but it was to'd during the recent annual convention of the Canadian Medical Association as a tale

that summed up many of the paradoxical features of that country's national health insurance, which has recently been praised so highly by Senator Edward M. Kennedy and similarly-minded American reformers.

First, this problem arose and was settled in a single province, pointing up the fact that there are really 10 different health systems in Canada—one for each province. Secondly, fee-for-service is still alive and well in Canadian medicine roughly a decade since the politicians decreed "free medical care." Third, the anecdote indicates the tendency of some Canadian health authorities to serve non-health related social goals—in this case egalitarianism—by manipulating the medical system. And finally, the ending of the tale is a useful reminder that Canadian physicians are by no means slaves, but can frequently—and sometimes successfully—challenge government edicts.

I went to the 1979 CMA convention in Toronto for two reasons. First, Senator Kennedy's television extravaganzas comparing the alleged bankruptcies of some American families having particular health problems with the "freecare" of their supposed Canadian counterparts have made the Canadian experience an important part of the current United States debate over national health insurance. Secondly, at the very time Senator Kennedy's spectaculars were being broadcast, there were more and more items in New York City and Washington newspapers about increasing unhappiness among Canadian doctors.

In short, while Kennedy was touting Canada as a utopia for patients, evidence was mounting it was no utopia for doctors. It seemed time to pay attention to the mounting chorus—most of it, ironically, from liberals—calling on Americans to learn from the Canadian experience.

For all their differences, the 10 provincial health systems in Canada are more similar than diverse. Throughout the country all persons are entitled to receive almost all normal ambulatory and inpatient medical care without any immediate payment out of pocket.

Normally, physicians treat their patients and send the bills to designated government offices which, after some weeks or months, send the checks for payment. The payments are based on fixed fee schedules much as they might be in a Blue Shield system or an Individual Practice Association in this country. Hospital costs are similarly met by government allocations of funds.

The money to pay these doctor and hospital bills comes from both the national Canadian treasury and provincial coffers. In some provinces, notably Ontario, the historic link to health insurance is retained by requiring public payment of premiums. Usually the money comes from general government revenues or, in some cases, from taxes designated to pay for health care costs. But after a decade most Canadians have forgotten the earlier links to American-style health insurance. They think of medical care as a "right" which the government properly provides them free of charge.

For Americans who know the history of our own Medicare and Medicaid programs, the history of Canada's Medicare—the term used for the entire national health insurance program—will have few surprises. The 1970s in Canada have seen rapid growth in health expenditures superimposed upon a general inflationary trend. The result has been a preoccupation at all levels of government with trying to halt the rocketing costs of health care. For three years, 1976–78, the recently defeated Liberal Government of Prime Minister Pierre Trudeau operated a general wage and price control program resembling the Nixon program of the early 1970s.

Physicians were in a uniquely vulnerable spot from the point of view both of controlling general inflation and of restraining medical care costs. For the overwhelming majority of Canadian physicians, the government is a monopoly employer with whom they must negotiate. While other professionals—lawyers, accountants, architects, etc.—bargained over fees with individual clients in a climate of more or less equal bargaining strength, physicians have had to bargain with the government colossus itself.

Provincial authorities, with equal ease, saw holding down physician fees as the easiest way of holding down health care costs. The details are complex, but the overall trend in the different provinces during much of the 1970s was for prices to go up 8 to 11 percent or more annually, while physician fees were allowed to rise only 4 to 6 percent annually. Under this system, physicians trying to maintain their purchasing power could do so only by seeing more patients. Even so, physician real earnings are estimated to have declined 20 percent or more during the 1970s. In addition, the once wide gaps between average annual earnings of doctors and average annual earnings of lawyers, architects, accountants, etc. have narrowed perceptibly. Simultaneously, the intrusion of government into medical care has increased, with officials closing hospitals or cutting bed numbers, vetoing the purchase of CAT scanners and other expensive modern equipment, controlling the number of physicians in different areas, and the like.

The discontent born of this situation has been reflected in two ways. In the first, physicians have simply voted with their feet, leaving Canada for some other country, usually the United States. In 1975, a total of 405 physicians, including interns and residents, left Canada. In 1978 that number is estimated to have reached 1,000 or more. (CMA Journal, April 7, 1979) At the CMA convention, it was predicted that the number of emigres this year would exceed the 1978 figures. Since Canada graduates about 1,800 physicians from its medical schools annually the 1978 emigration is equivalent to depriving that country of a number of doctors exceeding half the number of new graduates.

Perhaps the most ominous signal given by this emigration is derived from the high quality of those physicians leaving Canada. Here is how an article in the CMA Journal last April described these men and women:

"As the data show, it is more than a handful of malcontents and oddballs who are leaving the country. The bulk of today's medical emigrants are Canadian-born and trained; most are fully established in patient care (many from specialties in high demand); at least half (who have graduated before 1965) are at the age of having growing families and children in school, and the vast majority are leaving Canada's most culturally developed, diversified and wealthiest provinces."

But most Canadian physicians are too bound to their native land by family ties and other bonds to emigrate. And a large fraction of them—French-Canadian physicians in Quebec—are primarily French speakers who see no opportunity for themselves in the English-speaking United States. And for all Canadian physicians there is now the awesome barrier of the United States Visa Qualification Exam which, says some Canadian physicians, is deliberately being made very hard so American doctors can stop worrying about competition from emigrant physicians.

The result is that most of the discontent of Canadian physicians is now being expressed in the historic battle over a central issue in national health insurance: How much of the cost—if any—should be borne by the patient when he receives hospital or ambulatory care?

To understand the struggle one must first understand the terms used by Canadian physicians to describe the ways this issue arises in different provinces. As noted, most doctor-patient encounters in Canada end financially with the doctor sending a bill to the government, whose reimbursement is based on a government-approved schedule of fees. But in many provinces now there are also fee schedules approved by the provincial medical societies. These are higher—90 percent in Ontario—than the government fee schedules. A physician balance bills when he bills the government for the approved fee and then bills the patient for the difference between the government fee and the medical association fee.

Some physicians believing their services to be worth even more than medical association approved fee schedules engage in extra billing, i.e., they bill the government for its approved fee, and they bill the patient for the difference between the government fee and the fee they consider proper—fees which in this case are above the medical association schedule.

Finally, in Ontario and some other places a physician may opt out. A physician who does this announces to his patients and to the government that after a certain date he will no longer accept government fees but will expect to be paid by his patients directly. In these cases the physician bills his patient for his full fee, and it is the patient himself who applies to the authorities and receives partial reimbursement through a refund of the governmentally approved fee.

Not surprisingly, many patients accustomed to receiving "free" medical care as a result of physicians accepting government fees were irked when exposed to balance billing, extra billing, or opting out.

Earlier this year in Ontario the number of doctors opting out rose (over a relatively brief period) from about 9 percent to 18 percent of all physicians in the province. As thousands of patients began receiving unaccustomed bills from their doctors, a major public storm broke. The newspapers were full of stories about doctors sending "huge bills" to patients who could not possibly afford to pay them. And the media reminded their audiences that doctors were rich, liked to play golf, and sometimes drove Mercedes or Rolls Royces. The political pressure on the Conservative Government of Ontario became enormous as the anti-doctor claque conjured up visions of people untended and dying unnecessarily because selfish doctors refused to serve them unless paid exorbitant fees. More and more predictions were heard—some from authoritative sources—that either the provincial or the federal authorities would act to outlaw opting out and to require physicians to accept government fees, and only government fees. With last spring's national Canadian election approaching rapidly, the issue threatened to become a political football with unpredictable, but potentially disastrous, consequences for doctors.

It was under this extreme pressure that the Ontario Medical Association eased the situation by making a far-reaching concession to the provincial government. The OMA promised it would see to it that any resident of Ontario needing medical care could get it from a doctor who opted-in, i.e. accepted the government fee as full payment. Some weeks afterward I asked Dr. William J. Vail, the OMA president, whether it was difficult

to keep his promise. He indicated that only a handful of cases had arisen, all of which had been satisfied easily. The real problem, he said, was one that had not been anticipated. It arose when unconscious patients were brought to emergency rooms, posing the question in each case of whether the patient—if conscious—would have agreed to accept doctors who had opted out, or would have insisted on doctors who had opted in. However, the number of such incidents had been small, and the Ontario Medical Association felt that its pledge to the provincial government had defused at minimal cost a dangerous political threat to physicians' freedom.

Throughout Canada the debate is raging over how much, if anything, a patient should pay toward his medical bill. Dr. Kenneth Wylie, the CMA's 1978–79 president, put the position of most Canadian doctors this way in a speech delivered in late May, saying Canada needs "to establish a new, better method of paying for medical services, including a method whereby the recipient of the service pays for a portion of the cost involved." He then added, "According to his financial ability, the patient should pay a part of the cost, out of his own pocket, for all health services when and where the service is provided." (*Medical Post*, June 5, 1979)

In his valedictory address at the CMA convention a few weeks later, Dr. Wylie was even more blunt. He accused Prime Minister Trudeau's government of having taken a "bully approach" to doctors, posing the danger of confrontation. He deplored the fact that during his year as CMA president no public official had spoken to him about quality of care, adding, "All they seem to want is 'free care.'" He denounced "the senseless insistence on having mediocre or even poor health care in the name of equality." He warned that "rights are only obtained at the expense of somebody or something," a statement that seemed to come very close to accusing Canadian politicians of wanting to assure voters "free care" at the expense of the rights and interests of Canadian physicians.

Reflecting on why Canadian physicians had permitted themselves to be trapped in the health insurance scheme, the OMA president, Dr. Vail, said, "We failed to recognize initially that government funding had a limit. The failure to recognize this basic fact was probably clouded by the affluent society and the unlimited monies of government in the 1960s. We failed to recognize that government has finite resources with the public having infinite care demands. The profession was further trapped by the apparent (government) guarantee that bad debts would vanish, the patient would not have to be encountered with a bill, with the pie in the sky hope that the fee structure would be maintained."

But Dr. Vail said, the problem went deeper than the Canadian medical profession's initial illusions. For even when these were exploded, doctors still thought they could negotiate fair and reasonable incomes for their work.

"We again misjudged—you cannot negotiate in this society of ours without the threat of confrontation—and the only real confrontation our society understands is a full and total strike. I feel that this is a sad commentary on our society, but it is still a fact. Our profession recognizes and knows that full and total strike is not possible for one second without a loss of life. Strike is a power that we have which is so horrendous that I am sure our honored profession would never utilize it. Withdrawal of non-emergency services is a lesser form of confrontation, but . . . as doctors . . . we do not want to interfere with their (our patients') health care."

Conversations with many delegates at the CMA convention showed that the somber thoughts of Drs. Wylie and Vail were widely shared. Yet, happily, the convention did not end before an unscheduled speech and a few hints that there might be better days ahead.

The unexpected speech was from David Crombie, the former mayor of Toronto and the newly designated Health Minister in Prime Minister Joe Clark's cabinet. It was the first time since assuming office that Mr. Crombie had spoken in public. From the beginning it was clear that his approach to the doctors was a positive one, far more positive than that of the Liberal Party minister who had preceded him. For one thing, Mr. Crombie came out publicly and firmly for the right of Canadian doctors to deduct the cost of continuing medical education in their income tax calculations. It may seem like a small matter, but the CMA had tried in vain for years to get such a concession from the Trudeau government.

But Mr. Crombie went further. He indicated firmly that he would support the basic features of Medicare in Canada, but added he was well aware doctors also had rights and those rights could not be ridden over roughshod. In a press conference later Mr. Crombie indicated he felt "doctors were voting with their feet" when they emigrated or opted out of Canada's medical insurance scheme, suggesting that doctors had deep grievances for which remedies should be sought.

Cynics could and did say this showed only that Mr. Crombie was new to his job and had not yet been adequately brainwashed by the permanent bureaucrats in his department. That possibility could easily prove to be true. But those more optimistically minded could argue that Mr. Crombie was bringing a much fairer and more moderate attitude to medical affairs than had been true of his predecessors under Mr. Trudeau. Perhaps Mr. Crombie was trying to create a climate of good will in which the government and the medical profession could reach mutually satisfactory compromises.

There was no assurance this would be Mr. Crombie's and Prime Minister Clark's policy in the future. But the mere fact that the possibility had been raised changed the whole temper of the CMA convention and sent many of its delegates home in a far better frame of mind than that in which they had arrived.

It remains for time to demonstrate whether the cynics or the optimists are right in their expectations.●

COMMUNICATIONS WORKERS OF AMERICA CALL FOR UNITED STATES INITIATIVE FOR NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of this body a resolution which was passed by the Communications Workers of America at their convention in Detroit this past July. This foreign policy statement calls upon the President and the Congress to address the human rights violations in Northern Ireland by calling upon the British Government to remove themselves from Northern Ireland.

As chairman of the 130-member Ad Hoc Congressional Committee for Irish Affairs, I am always heartened to learn that there exists in this country from all sectors of the population support for the promotion of self-determination for the people of Ireland. The ad hoc committee has as its foremost priority the restoration of human and civil rights to all people in Ireland and has worked tirelessly to insure that our foreign policy, the cornerstone of which is human rights, is applied on an equitable basis in all parts of the globe.

In this light, I have introduced House Concurrent Resolution 122 which expresses a sense of Congress that Great Britain should begin a peaceful initiative in Ireland to restore to all people their human and civil rights. This measure currently has 70 cosponsors and we are aggressively seeking to increase this number with the support of the Irish-American community.

The text of the resolution is as follows:

RESOLUTION

At the Communications Workers of America convention in Detroit which lasted from July 16th to July 20th (attended on the 16th by President Carter), the C.W.A. foreign policy statement was amended (by James Devine, President of Local 1116, Troy, N.Y.) as follows:

"The C.W.A. feels that more must be done by the United States and by other nations to end the needless suffering of the Irish people at the hands of the British government. We call upon the President and Congress to take dramatic and immediate actions that are within their powers to (1) call on the British government to cease all violations of human rights of the Irish people and to call upon the British government to remove themselves from Irish soil and allow the Irish people the right to seek their own destiny, which should be the right of all freedom loving people."●

RUDOLPH JONES

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. JONES of Tennessee. Mr. Speaker, I rise today with sadness to express my deep regret at the recent passing of one of Tennessee's greatest conservationists, Mr. Rudolph Jones. Mr. Jones died at Baptist Hospital in Memphis, Tenn., on October 9, 1979.

Without a doubt, Rudolph Jones was a man far ahead of his time. Long active in civic affairs of Shelby County, Tenn., he knew full well the need to replace some of the resources we extracted from the soil as progress was being made. Having served on the Shelby County Commission for 16 years, he was considered a local expert on soil conservation and flood control, talents that were very useful in Memphis, a city located on the Mississippi River.

Rudolph Jones took many a lonely stand in his efforts to conserve our greatest natural resource as Memphis developed and progressed. He was not afraid of taking those stands, opposing uncontrolled development, because he knew the importance of following basic conservation practices. His passing will certainly leave a void in the Shelby County area and I want to express my

own deep regret to his family and friends.

I would like to take this time to insert into the RECORD copies of stories appearing in the Memphis newspapers upon the death of Mr. Rudolph Jones.

[From the Memphis Commercial Appeal, Oct. 10, 1979]

JONES, CONSERVATION CRUSADER, DIES

Rudolph Jones, former Shelby County commissioner of roads, bridges and the penal farm and a longtime environmentalist and conservationist, died at 8:30 a.m. yesterday at Baptist Hospital, where he had been in the coronary care unit since Aug. 28. He was 78.

Services will be at 2 p.m. tomorrow at Idlewild Presbyterian Church, where he was an elder, with burial in Pleasant Hill Cemetery in Brunswick. Swift Treadwell & Canale Funeral Directors has charge. The family asks that any memorials be sent to Focus Memphis, an education program at Southwestern at Memphis, to the Heart Fund or to Idlewild Presbyterian Church.

The studious and outspoken Mr. Jones was frequently a controversial crusader for soil conservation, public parks and greenbelts and adequate county roads. He also advocated a water and sewage system and fire protection for rural areas.

The son of Luther Jones, a county commissioner from 1918 to 1940, Mr. Jones was born in the log house on his family's 1,000-acre farm near Brunswick, where he lived until his death.

He was elected to the old Shelby County Commission in 1946 and served until his defeat for re-election in the reform sweep of 1962.

From 1964 to 1973 he served as a paid consultant to the Shelby County Conservation Board and later in a similar capacity with the Chickasaw Basin Authority.

Although considered a dreamer and visionary by some, many of his ideas and projects became a reality. He was instrumental in forming the Shelby County Board of Public Utilities, the Shelby County Conservation Board and many of the county's open-space, park and greenway projects.

He also was widely considered to be the county's leading authority on soil conservation and flood control. "Nobody in Shelby County has a better knowledge of the soil and water conservation needs of this community than Rudolph Jones," The Commercial Appeal once editorialized.

"I don't like to stand on the Mississippi bluffs here at Memphis and watch West Virginia and Montana flowing by," Mr. Jones was quoted as saying in 1964.

"He was willing to take a lonely stand years ahead of his time," said Paul Coppock, a reporter who covered Mr. Jones' activities for The Commercial Appeal for many years. "I would say that his most outstanding characteristic was his long look into the future, particularly with drainage and flood control problems. But he had also looked as far ahead as another Memphis bridge to be built, in his forecast, at the northern edge of Shelby County. His fear was that the long expressways without intersections would become Chinese walls separating the natural parts of Shelby County. So he wanted this approach to be outside of Millington, Arlington and Collierville."

A 1919 graduate of Memphis University School, Mr. Jones earned a bachelor of science and a civil engineering degree from Washington and Lee University in 1923. He was a division engineer for the Tennessee Highway Department from 1933 to 1943, when he entered the Navy as a Seabee. He left military service in 1946 as a lieutenant commander after skippering a construction battalion for 18 months in the Pacific.

He was manager of Memphis Municipal Airport for about six months between his discharge and election to the commission.

In 1969, the Memphis Civitan Club awarded Mr. Jones the 10th annual Jack Carley Award, named for the late editorial writer for The Commercial Appeal, for his contributions to conservation and development of the Mississippi River.

"This is something I dreamed of but never thought about," he said at the time. "It couldn't have made anyone more happy. It's just too much to be placed in the category of Tom Sawyer and Huckleberry Finn."

Years before federally forced construction of sewage treatment facilities here, he pushed for an end to the dumping of raw sewage into the Mississippi and championed stream pollution control and water recreation.

When he was, as he put it at the time, "forcibly retired" from the consulting job with the conservation board, his response was typical:

"I haven't been running a popularity contest at all. I knew that, but I have been doing what I felt was right. I still think the opposition will lose and the environment will be preserved.

"For years business people in Memphis have told people in government 'When are you going to quit listening to this crazy Rudolph Jones? He'll bankrupt the country.'"

Mr. Jones had served as president of the Tennessee County Highway Officials Association and as a director of the county and local roads division of the American Road Builders Association. He was a Mason.

He leaves his wife, Mrs. Mary Ann Jones; two daughters, Mrs. Frank M. Gilliland Jr. of Memphis, and Mrs. David A. Nunnally of Nashville; a son, Rudolph Jones Jr. of Brunswick; a sister, Mrs. Franky J. Callis of Germantown, and 12 grandchildren.

[From the Memphis Press Scimitar, Oct. 10, 1979]

RUDOLPH JONES

Rudolph Jones never stopped dreaming of greater things for Memphis and Shelby County.

He was full of ideas, many of which had to do with conservation, flood control and appreciation of the Mississippi River as the city's No. 1 attraction.

Some came to fruition in the years he served the public—including time as a county commissioner and conservation board consultant. Some are under official consideration. Some were still only dreams when he died this week at the age of 79.

His vision and enthusiasm didn't dim following a heart attack three weeks ago. In his hospital room the other day, he took pleasure in describing for a visiting reporter a favorite plan for recreational foot trails along both sides of the Mississippi.

Then he paused. "My contribution is at an end," he reflected. "But, you know, some day I think this will be a reality. The people won't let it die."

That was Rudolph Jones. Always hoping to make Memphis a better place in which to live.

For which we owe him a debt of gratitude.●

UNICEF: KIDS GET TRICKED; GUERRILLAS GET TREATED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. McDONALD. Mr. Speaker, with Halloween fast approaching, it will soon be time again to send all the children out to collect for UNICEF. The children will be told of all the good works UNICEF does for the starving children of the world. And again, when anyone protests UNICEF aid going to guerrilla movements, they will always be assured that this material is always for humanitarian relief and that it does not go to persons engaged in terrorism or fighting. Do not believe it. The most recent known incident of diversion of UNICEF aid turned up in Mozambique during a raid by troops from Zimbabwe-Rhodesia on one of Mr. Mugabe's base camps.

The article from the Daily Telegraph of London for October 2, 1979, follows:

RHODESIA TROOPS LEAVE GUERRILLA BASE IN RUINS

(By Christopher Munnion)

Troops from Zimbabwe-Rhodesia withdrew from Mozambique yesterday, after a five-day operation to destroy the main logistics and control base of guerrilla loyal to Mr. Mugabe.

Several hundred Zania guerrillas are believed to have died in the raid on Chimoio Base, an underground complex extending over 40 square miles of bush about 12 miles from the craggy eastern border with Zimbabwe-Rhodesia.

Two Zimbabwe-Rhodesian soldiers were killed and several were wounded.

Senior officers who took part in the raid conceded that they met unusually strong resistance, possibly because of the presence of Mr. Rex Nhongo, a senior guerrilla commander, and Soviet or East German advisers.

On the raid's third day, units of Mozambique's regular army attacked Zimbabwe-Rhodesian forces in six Soviet-built TM 34 tanks of 1939–45 war vintage. They were beaten back.

DISRUPT TALKS

A military spokesman said the main aim of the raid had been to destroy the Chimoio base "particularly at this time when we know that Zania leaders were instructed by Mugabe to push the maximum number of troops into Zimbabwe Rhodesia to disrupt the focus of the London constitutional talks."

For the first time in a raid on Mozambique Zimbabwe Rhodesia flew foreign correspondents—one reporter and two cameramen—to the scene of the attack.

Mr. Allan Pizzey, a Canadian freelance, reported in a censored dispatch that from the air the complex, five-feet deep zig-zag trenches and underground bunkers, was barely visible.

He quoted a senior field commander as saying there was strong evidence that the camp design and operation was the work of Soviet military advisers. "I admire the guy who designed this. It's well-sited," the officer said.

The operation began with air strikes shortly after dawn last Thursday, particularly against a hill code-named "Monte-Cassino," where the guerrilla command bunker was situated.

Mr. Pizzey said he saw at least aircraft guns which along with containers of intelligence material and documents, were flown out before the Zimbabwe Rhodesians withdrew.

There was no official body count. Some were removed by the guerrillas, others lay rotting, or were devoured by hyenas.

The "Monte Cassino" ridge was taken after fierce fighting by many of the estimated 1,000 guerrillas. Mr. Nhongo escaped, as did one white man, believed to be a Soviet or East German adviser.

"When we put down by helicopter on the ridge-top it was being held by a handful of weary, blacked troops," Mr. Pizzey reported. "From the slit trenches, the sickly-sweet smell of the rotting bodies of three dead guerrillas wafted on the hot breeze."

He found an underground hospital or medical dispensary in a half-mile line of trenches and bunkers.

SUPPLIES FROM WEST

"It appeared that patients had stayed above ground for most of the time in rudimentary lean-tos. Piles of medical equipment from UNICEF (United Nations Childrens Fund), South Africa and Eastern block countries was littered throughout the area."

In one bunker he saw more than two tons of food supplies, including Canadian tinned mackerel, Dutch canned goods, and powdered milk packets marked "gift from the Government of Switzerland." The food dumps had been blown up.

Mr. Pizzey reported that almost every bunker and trench had copies of a small red book with a message from Mr. Mugabe.

Entitled "1979—The Year of the People's Storm," the book began with: "The armed struggle for the total liberation of Zimbabwe now enters its final, must most-dramatic phase."●

THE CONSTITUTIONAL AUTHORITY FOR CONGRESS TO COIN MONEY DOES NOT IMPLY THE AUTHORITY TO PRINT MONEY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. PAUL. Mr. Speaker, article I section 8 of the Constitution gives the Congress the authority to "coin money, regulate the value thereof, and of foreign coin. . . ." This clause has been construed to mean that Congress may delegate its monetary functions to the Federal Reserve System, which in turn may issue greenbacks that must be accepted as payment for all debts public and private.

The problem of inflation stems from and can be traced back to this fundamental misunderstanding and misconstruction of the Constitution. The constitutional authority to coin money does not imply, logically or otherwise, the authority to print money, or money substitutes. Our entire monetary system is unconstitutional, and inflation will remain and will drive us from crisis to crisis until we learn the lesson that the Founding Fathers knew so well: Unbacked paper money is a threat to the public welfare and an act of theft by the monetary authorities.

I would like to include in the RECORD at this point a portion of an article that appeared in the Brooklyn Law Review in 1976. Written by Robert Getman, the article is entitled "The Right to Use Gold Clauses in Contracts." This portion is entitled "The History of Gold and Paper Money in America." I urge my colleagues to study this brief article if they wish to understand the nature of the inflation that now threatens our economy and our people.

The article follows:

I. THE HISTORY OF GOLD AND PAPER MONEY IN AMERICA

A. THE PRECONSTITUTIONAL PERIOD

Congress' constitutional power over money has been assumed to encompass the power to make paper legal tender. The unimpeded exercise of the latter claimed power, which caused gold clauses to become standard contractual provisions in the first place, simultaneously served as the pretext for their nullification. This being so, it is important to examine the power over money derived from the concept of sovereignty and the historical background out of which Congress' constitutional money power evolved. Such an examination will indicate that the asserted congressional power to make irredeemable paper legal tender lacks constitutional foundation and, consequently, that the asserted congressional power to nullify gold clauses is likewise unsupported.

1. The common law heritage

Money is property. A basic question that the law always has faced is: whose property—that of the government or that of the governed? At common law, this issue was framed in terms of the power of the sovereign. Kings always coveted money, but, inasmuch as they produced none of the wealth for which it stood, they could amass money only by expropriating it from their subjects. Coin-clipping and debasement were favorite methods of expropriation.

By the eighteenth century, however, the common law had evolved[26] to the point where it regarded money as private property and debasement as beyond the rightful power of the sovereign. Such was the view of Coke,[27] of Blackstone[28]—whose *Commentaries* were the source of the phrase (in Article I, section 8 of the United States Constitution) delineating Congress' money powers[29]—and of John Locke, a politico-economic mentor of our Constitution's Framers.[30] At common law, the rights of the governed limited the sovereign's power over money (not vice versa); recognition of this common law limitation is essential to an understanding of what ultimately became Congress' constitutional monetary powers. For, as Chief Justice John Marshall observed, the Constitution "must be interpreted in the light of the common law . . . and [can] not be understood without reference to the common law."[31]

2. The colonial period

English colonial policy was notably defective in its failure to supply the colonies with a sound currency.[32] The consequent thirst for a currency was slaked in different ways. At various times, such things as beaver skins,[33] wampum,[34] and tobacco[35] were used as legal tender. Paper, too, in the forms of bills of credit,[36] often was issued as legal tender. When such issues were comprised of irredeemable fiat currency, rather than of notes redeemable in specie, the currency usually depreciated and scaling legislation had to be enacted to redefine its legal value in executory contracts.[37] Nine colonies printed such paper bills, originally intended to be legal tender only as against their own governments.[38] Ensuing depreciation of these bills generated litigation when they were tendered in satisfaction of private obligations. One case, a suit upon a bond to be paid either in bills of the Massachusetts Bay Colony, which bills had depreciated after issuance and had been withdrawn from circulation, or in "current lawful money of New England," [39] was appealed to the Privy Council in England. There, Lord Mansfield confessed that he was "at a loss" to fix a just recovery and decreed that the depreciation should be borne equally by the parties.[40] Amidst such confusion, contracts, specifying payment in gold or silver, however, generally remained unimpaired.[41] Eventually, when Parliament prohibited paper bills of credit from being declared legal tender, the monetary chaos diminished somwhat.[42]

3. Paper money and the Revolutionary War

Independence and the Articles of Confederation, far from ameliorating the monetary chaos, worsened it. The Continental Congress [43] and the States used their powers to issue bills of credit as "the principal means of financing the War . . . [Congress] used the authority up to the hilt, denouncing anyone who refused to take its continental dollar "as enemy of the liberties of the United States,' and requested the States . . . to make its paper a legal tender." [44]

At the Revolutionary War's end, Congress offered to redeem the "Continentals" at only one-fortieth of par, even though the twelfth Article of Confederation solemnly had pledged the public faith for satisfaction. Few were redeemed and most "quietly died in the hands of their possessors." [45] State issues scarcely fared better.[46] One commentator conservatively remarked: "[We] can sum up the pre-constitutional monetary history of the United States as an experience which contained far more failures than successes and which wound up with hyper-inflation. Trade was at a standstill." [47] James Madison was far less circumspect, excoriating pre-Constitutional paper money "as a pestilence which inflicted nothing but destruction." [48] Many other of the Framers brought similiar beliefs to the Constitutional Convention.

B. MONEY AND THE CONSTITUTIONAL CONVENTION

Monetary discord beset the Constitutional Convention even before it had begun: Rhode Island, a paper money stronghold, "scented monetary reform in the air and refused to participate." [49] The Convention's keynote speaker, Edmund Randolph, "inveighed against 'the havoc of paper money' in his indictment of the Articles of Confederation." [50] Once the Convention was under way, proposals that the Federal Government be given the power to coin money and to fix its value and that both the Federal and State Governments be vested with authority to emit bills of credit triggered heated debate over the appropriate limits of governmental monetary power.

A preliminary draft of the Constitution, paraphrasing the Articles of Confederation, would have given Congress the power: "To borrow money and emit bills on the credit of the United States." [51] At that time, "bills of credit" was synonymous with paper money.[52] An excerpt from James Madison's notes reveals that "Mr. Govr. Morris moved to strike out 'and emit bills on the credit of the U. States'—If the United States had credit such bills would be unnecessary; if they had not, unjust & useless." [53] James Madison suggested, in response, that it would suffice to prohibit making such bills legal tender.[54]

Some of the delegates expressed concern that withdrawal from Congress of the power to emit bills could be harmful to the Nation in times of peril. Colonel Mason thought that Congress "would not have the power unless it were expressed. Though he had a mortal hatred to paper money, yet as he could not foresee all emergencies, he was unwilling to tie the hands of the Legislature." [55] Edmund Randolph expressed similar reservations.[56]

Some delegates thought that paper money itself was a peril; Nathaniel Ghorham believed that the power to issue notes "as far as it will be necessary or safe is involved in that of borrowing." [57] Other delegates also expressed vehement opposition to legal tender paper:

Mr. Elseworth thought this a favorable moment to shut and bar the door against paper money. The mischiefs of the various experiments which had been made, were now fresh in the public mind and had excited the disgust of all the respectable part of America. . . . Paper money can in no case be necessary. Give the Government credit, and other resources will offer. The power may do harm, never good.

Mr. Butler remarked that paper was a legal tender in no Country in Europe. He was urgent for disarming the Government of such a power.

Mr. Read, thought the words, if not struck out, would be as alarming as the mark of the Beast of Revelations.

Footnotes at end of article.

Mr. Langdon had rather reject the whole plan than retain the three words ("and emit bills").[58]

The phrase "and emit bills" finally was struck from the document because the overwhelming majority of the Framers unalterably were opposed to paper legal tender. Subsequently, one delegate somewhat bitterly re-emphasized the Framers' intent:

A majority of the convention, being wise beyond every event, and being willing to risque any political evil rather than admit the *idea* of a paper emission, in any *possible* case, refused to trust this authority . . . and they erased that clause from the system.[59]

The overwhelming majority's antipathy to non-metallic legal tender was further manifested by the Convention's stance on State monetary powers. When the Convention considered the list of powers to be forbidden to the States, it was pointed out that no clause absolutely prohibited the States from issuing paper money.[60] Madison's notes show that—

Mr. Wilson and Mr. Sherman moved to insert, after the words 'coin money' the words "nor emit bills of credit, nor make anything but gold and silver a tender in payment of debts," [thus] making these prohibitions *absolute*. . . . Mr. Sherman thought this a favorable crisis for crushing paper money.[61]

The motion carried (8–2) on emitting bills, and unanimously on the legal tender clause.[62] Luther Martin, an ardent "partizan of paper money, confirmed that "the Convention was so smitten with the paper money dread, that they insisted that prohibition should be absolute." [63]

Although the Federal Government was not prohibited *in haec verba* from issuing legal tender paper, as were the State governments, such an express prohibition would have been superfluous. At that time, the States had powers and constitutions predating the United States Constitution; the federal charter granted the States no new powers, but merely imposed limitations upon pre-existing powers. The Federal Government, on the other hand, derived all of its powers from the Constitution. The power to make paper legal tender was neither expressed in nor could it be inferred from the Congress' enumerated monetary powers.[64] Article I, section 8 of the Constitution gave Congress the power "[t]o coin Money, regulate the Value thereof, and of foreign Coin . . . ." Significantly, the term "coin" was used in a literal sense, while the term "regulate" was used as a term of art. As Oliver Wendell Holmes observed:

The power to "coin money" means to strike off metallic medals (coin), and to make those medals legal tender (money); the Constitution says expressly that Congress shall have power to make metallic legal tender, how can it be taken to say by implication that Congress shall have power to make paper money legal tender?[65]

Nor could the power to "regulate" the value of money be deemed to have given Congress the power to create legal tender paper. Congress was to *coin* money and to regulate the value *thereof*—only the relative values of *coined* money were to be regulated. This construction of the power to regulate comports with that used by Adam Smith, a major economic guide of the Framers, who understood the term "regulate" to mean the power to fix ratios of value between various types of coin.[66] Moreover, the parallel grant of power to regulate the value of foreign coin, contained within the clause conferring the power over domestic coin, bolsters this construction of the word "regulate." Clearly, Congress could not regulate the kind of money that foreign governments might issue, but could establish only the ratio of value between foreign and domestic coinage.

Justice Johnson summarized the goals that the Framers had set for the Nation's monetary system: "The whole [of the Constitution's monetary provisions] was intended to exclude everything from use, as a circulating medium, except gold and silver. . . . [t]hat the dollar may represent property and not the shadow of it." [67] Thus, the Framers, heedful of the common law's teachings that money is private property and is not to be debased by the government,[68] and especially mindful of the ravages that so recently had been wrought by Revolutionary War paper money issues, forged a clear mandate for sound metallic money of gold and silver. Thereafter, inasmuch as all legal tender was indeed metallic, gold clauses seemed superfluous and their use diminished—until the Civil War.

FOOTNOTES

[26] The engrossing saga of the evolution of monetary common law is painstakingly summarized in *Eder I and Eder II, supra* note 22.

[27] 2 CO. INST.* 576, 578, *quoted in Eder II, supra* note 22, at 735–36.

[28] 2 J. STEPHEN, COMMENTARIES ON THE LAWS OF ENGLAND 629 (16th ed. 1914), *quoted in Hannigan, supra* note 22, at 503 n.43a. was a "law book of first importance in this country during and long after the Revolution. . . ." *Id.*

[29] *See* 1 W. BLACKSTONE, COMMENTARIES *228. Article I, section 8 gives Congress power, *inter alia*, "[t]o coin Money, regulate the Value thereof, and of foreign Coin. . . ."

[30] *Eder II, supra* note 22, at 739–41, *citing* three pamphlets co-authored by John Locke and Sir Isaac Newton. *Id.* at 739.

[31] United States v. Wong Kim Ark, 169 U.S. 649, 654 (1898) (citations omitted). *See also* Baldwin v. New York, 399 U.S. 117, 124 (1970) (Harlan, J., concurring and dissenting).

[32] *Eder I, supra* note 22, at 377.

[33] *Id.* at 378.

[34] *Id.*

[35] *See generally* Turner v. Fendall 5 U.S. (1 Cranch) 117, 129 (1801); A. BRECKINRIDGE, LEGAL TENDER, ch. VI (1903); A. HEPBURN, A HISTORY OF CURRENCY IN THE UNITED STATES 1–4 (1924); Royall, *Virginia Colonial Money*, 1 VA. L. REV. 447 (1877).

[36] The term "bills of credit" originally was defined as "a paper medium intended to circulate between individuals and between government and individuals, for the ordinary purposes of society." Craig v. Missouri, 29 U.S. (4 Pet.) 410, 425 (1830) (Marshall, C. J.).

[37] *Eder I, supra* note 22, at 379–80. The acts and decisions construing the scaling legislation forbade their use to reopen partly or wholly executed transactions. *See generally* Faw v. Marstellar, 6 U.S. (2 Cranch) 10 (1804); E. HARGREAVES, RESTORING CURRENCY STANDARDS 12–14 (1926).

[38] G. DUNNE, MONETARY DECISIONS OF THE SUPREME COURT 7 (1960) [hereinafter cited as DUNNE].

[39] Dearing v. Parker, 4 Pa. (4 Dallas) 23 (1760).

[40] *Id.*

[41] *Eder I, supra* note 22, at 379–80.

[42] 4 Geo. 3, c. 34 (1763). In 1751, an act had been passed restraining the issuance of such bills in New England. 24 Geo. 3, c. 53. In 1773, the 1763 ban was amended. 13 Geo. 3, c. 57.

[43] *See* Articles of Confederation, Article IX.

[44] DUNNE, *supra* note 38, at 9. The Resolution of 1777 is reprinted in the Legal Tender Cases, 79 U.S. (12 Wall.) 457, 644–45 (1871) (Clifford J., dissenting). *See also* A. HEPBURN, A HISTORY OF CURRENCY IN THE UNITED STATES ch. 1 (1924). For a discussion of state moratorium, inflationary and forcing acts, see G. BANCROFT, HISTORY OF THE FORMATION OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA ch. VI (1882).

[45] Legal Tender Cases, 79 U.S. (12 Wall.) 457, 622 (1871) (Clifford, J., dissenting), *citing* 2 J. STORY, CONSTITUTION §§ 1359–60 (3d ed. 1858).

[46] George Washington's predicament was typical. General Washington, "had refused compensation for his Revolutionary [War] service, then [came] home to have his mortgages paid off in Virginia paper worth ten cents on the dollar." DUNNE, *supra* note 38, at 11.

[47] *Id.* at 10.

[48] THE FEDERALIST No. 44 (J. Madison).

[49] DUNNE, *supra* note 38, at 11.

[50] Documents Illustrative of the Formation of the Union of American States, H.R. Doc. No. 398, 69th Cong., 1st Sess 115 (1927).

[51] This draft was submitted on August 6, 1787. J. MADISON, NOTES OF DEBATES IN THE FEDERAL CONVENTION OF 1787, 389 (Koch ed. 1969) [hereinafter cited as MADISON].

[52] See note 31 *supra*.

[53] MADISON, *supra* note 51, at 470–71. The vote was 9–2.

[54] *Id.* at 470.

[55] *Id.*

[56] *Id.* at 471.

[57] *Id.* at 470.

[58] *Id.* at 471.

[59] Folwell, *Evolution in Paper Money in the United States*, 8 MINN. L. REV. 561, 563–64 (1924) (address by Luther Martin) (emphasis in original).

[60] MADISON, *supra* note 51, at 541.

[61] *Id.* at 451–42 (emphasis in original).

[62] *Id.* at 542.

[63] Folwell, *supra* note 50, at 563–64 (1924).

[64] Daniel Webster "belonged to the class who advocated the largest exercise of powers by the General Government." Legal Tender Cases, 79 U.S. (12 Wall.) 457, 659 (1871) (Field, J., dissenting). Indeed, Webster urged a broad construction of federal money-related powers and of the Necessary and Proper Clause when he was counsel for the Bank of the United States in *McCulloch* v. *Maryland*. 17 U.S. (4 Wheat.) 316, 322–51 (1819). Yet even Webster believed that,

If we understand by currency the legal money of the country, and that which constitutes a lawful tender for debts, and is the statute measure of value then undoubtedly, nothing is included but gold and silver. *Most unquestionably there is no legal tender, and there can be no legal tender in this country, under the authority of this government or any other, but gold and silver*—either the coinage of our own mints or foreign coins, at rates regulated by Congress. This is a constitutional principle perfectly plain, and of the very highest importance. The States are expressly prohibited from making anything but gold and silver a tender in payment of debts, and, although no such express prohibition is applied to Congress, yet, as Congress has no power granted to it in this respect but to coin money, and to regulate the value of foreign coins, it clearly has no power to substitute paper, or anything else, for coin as a tender in payment of debts and in discharge of contracts . . . The legal tender, therefore, the constitutional standard of value, is established and cannot be overthrown. To overthrow it would shake the whole system.

Webster made this statement in a speech in the United States Senate in 1836, *quoted in* Legal Tender Cases, 79 U.S. (12 Wall.) 457, 659 (1871) (Field, J., dissenting) (emphasis added). Webster did not live to see the whole system be shaken by the greenbacks and by the Legal Tender Cases.

[65] 1 J. KENT, COMMENTARIES 271–72 (12th ed. 1873), *quoted in* C. FAIRMAN, 6 HISTORY OF THE SUPREME COURT OF THE UNITED STATES, 1864–88, at 715 & n.118 (1971) [hereinafter cited as FAIRMAN].

[66] 1 A. SMITH, THE WEALTH OF NATIONS, ch. 5; *cf.* THE FEDERALIST No. 42 (J. Madison).

[67] Craig v. Missouri, 7 U.S. (4 Pet.) 410, 442–43 (1830) (Johnson, J., dissenting).

[68] See notes 26–31 *supra*, and accompanying text. ●

A MORE REALISTIC PERSPECTIVE ON THE "FINDINGS" OF THE SCLC DELEGATION TO LEBANON

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. KEMP. Mr. Speaker, a delegation of Americans from public and private life, organized by the Southern Christian Leadership Conference (SCLC), toured Lebanon from September 17 through September 21st. The report of this 10-member delegation was reported in the CONGRESSIONAL RECORD on October 11th. The report is something of a milestone in the unquestioning acceptance of the propaganda of an organization with objectives so inimical to those of the United States. The organization which became the focus of the tour is, of course, the Palestinian Liberation Organization.

A measure of the gullability of the report is suggested by the fact that role of the Soviet Union not only passes without being discussed—it is never mentioned. This is a weighty omission as the PLO has been, from its inception, a central instrument of Soviet policy in the Middle East. It is worthwhile to review some of the findings of the delegation with all due respect to the sincerity of the participants.

1. "A VICIOUS CYCLE OF FEAR, VIOLENCE AND HATE"

The report states that the delegation found that "The Palestinians fear that Israel's intention is to exterminate those Palestinians who steadfastly hold to the goal of self-determination and a Palestinian homeland. That fear gives rise to acts of violence in what Palestinians call "occupied Palestine" designed to remind Israelis that there will be no peace until there is justice and a homeland for the Palestinians."

This is a remarkable finding. Israel has attacked PLO positions in Lebanon only after the PLO was expelled from Jordan following an unsuccessful effort to overthrow King Hussain in 1970. Israel's interest has always been in a peaceful Lebanon, and thus had no incentive to extend its military operations there until the PLO began to conduct cross-border terrorism into Israel from Lebanon after 1970. Indeed, it is Israel that is helping defend Christians in Lebanon from being exterminated.

Indeed, Lebanon was an island of tranquility in the Middle East until the PLO's armed forces moved into Lebanon.

More than 20,000 have been killed in civil strife in Lebanon that is directly traceable to the presence of the PLO in its efforts to convert Lebanon into a combatant against Israel. The PLO was unable to conduct successful terrorist operations against Israeli military and police targets during the 1960's when it was based in Jordan. The new dimension of PLO terrorist activities following its establishment in Lebanon is its exclusive focus on nonmilitary targets in Israel, and the massive re-equippage of PLO military units by the Soviet Union.

There is no nation on earth that would allow terrorist operations to be conducted against its civilian population from an adjacent nation without taking military action against the source of those attacks. To use the notion of a "cycle of violence" in the manner intended by the report is to confuse responsibility for making Lebanon the battleground it has become. It is clearly a responsibility of the PLO, and ultimately the Soviet Union—without whose assistance, the PLO would be little more than a debating society—for the violence which has engulfed Lebanon.

Similarly, to excuse PLO attacks on innocent parties to the conflict in Israel to, in the words of the delegation's report, "to remind Israel" that there will be no peace is to condone the most immoral type of violence on the international scene today. The report further implies that such violence is justified until there is "a homeland for the Palestinians." Scarcely has there been a more cogent justification for "the means justifies the ends," an attitude condemned by every ethical code know to man.

Those who argue for a "Palestinian homeland" are arguing for the destruction of Israel for no other interpretation is consistent with the Palestinian National Charter. The PLO Charter requires the abolition of Israel. There can be no "separate" Palestinian entity coexisting with Israel because the destruction of Israel is a central tenet of belief in the PLO. The extent to which so many Americans have been deluded into accepting the notion of a separate Palestinian state for no development could be more antithetical to America's interest in the Middle East. One should make no mistake about the character of the organization which would control a Palestinian state—it is the PLO which is dominated by the Soviet Union.

The PLO has been armed and trained by the Soviet Union. The Soviet Union provides intelligence for the PLO on the disposition of Israeli military forces. The Soviet Union provides the logistical support for the PLO's military operations, and the KGB facilitates the PLO's diplomatic and terrorist activity outside of the Middle East. A brief reading of the PLO charter is all that is required to appreciate the radical Marxism that would dominate the establishment of a Palestinian state.

Indeed, the radical character of the PLO explains why the nations contiguous to Israel state privately that they do not want a Palestinian state established. A Palestinian state would be a threat to every nation in the Middle East, because large Palestinian minorities exist in every state in the region. Unlike Libya which has mixed an orthodox Islam state with a heavy dose of Marxism, a Palestinian state would be a secular state of a thoroughly Marxist character. One should not overlook the fact that the most militant Palestinian terrorist organizations (for example, the Popular Front for the Liberation of Palestine) are not Arab or Islamic in character. In the wake of the destruction of Israel, none of the moderate Arab States in the region could survive the establishment of a Palestinian state.

2. "LEBANON, A CASUALTY OF THE 30 YEAR STATE OF WAR"

The tragic destruction of Lebanon is a direct consequence of the PLO's attempt to convert that nation into a combatant against Israel. The PLO's armed forces, armed with advanced Soviet weapons quickly swept aside Lebanon's modest armed forces, enabling the PLO to upset the delicate Arab-Christian political balance which had kept Lebanon free, prosperous, and uninvolved in the disputes elsewhere in the Middle East. While the delegation expressed "outrage" at the use of American-made weapons by Israel in Lebanon, it did not see fit to take notice of the use of Soviet-made explosives, rocket launchers, and small arms against noncombatants in Israel, nor to assign responsibility to the initiating parties: the PLO and their Soviet mentors.

Indeed, the delegation recommends that "it is now time for the U.S. Government to use its influence with the Government of Israel to stop the military operations in southern Lebanon." The delegation is silent on expressing symmetrical means for inducing the PLO to cease its attacks on Israel from southern Lebanon.

3. THE PROPOSALS OF THE SCLC DELEGATION

The delegation has advanced two major proposals: One urging the PLO to recognize the sovereignty of Israel, and the second seeking a moritorium on violence. While the PLO agreed to a moritorium on further operations in southern Lebanon, they refused to cease terrorist operations against Israel from southern Lebanon. The PLO never responded to the delegation's request for a recognition of Israeli sovereignty. Such a response, if genuine, would require a rewriting of the PLO charter, because article 33 of that documents states that the charter "shall not be amended save by (vote of) a majority of two-thirds of the total membership of the National Congress of the PLO (taken) at a special session convened for that purpose."

In an assertion reminiscent of visitors to the Soviet Union in the 1930's who declared that they "have seen the future, and it works," the delegation's report "far from being a 'bloodthirsty killer' and 'wild-eyed terrorist' the Western press has made of him, Mr. Arafat appears reasonable and open to dialog within the framework of the interest of his own people." While the visitors to the Soviet Union were taken to Potemkin village, thirty million people died at the hands of Stalin in the GULAG Archipelago. Arafat is the architect of a policy of attacks on civilian personnel in Israel and elsewhere; a policy that depends upon the murder of the innocent to achieve the PLO's political ends. The bromides dispensed in the SCLC report reflect the view of individuals who do not wish to confront the murderous dimension of Mr. Arafat's career out of a concern that it would serve to undermine the case they seek to make against Israel with the American people.

The record of the PLO is too clear to be ignored by anyone who wishes to comprehend it. The SCLC delegation's report cannot be described as a contribution to peace in the Middle East. It is little more than an example of the successful transmission of propaganda from the PLO to well-meaning, but poorly informed politicians on a Potemkin village tour.●

CASE AGAINST CEREAL INDUSTRY

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. WOLPE. Mr. Speaker, today I was joined by my colleagues Mr. KEMP, Mr. CAVANAUGH, Mr. OBERSTAR, Mr. NOWAK, and Mr. WALKER, in introducing a sense of Congress resolution concerning the FTC's case against the cereal industry. I am inserting into the RECORD a copy of this resolution. I am also inserting a letter—still unanswered—that I wrote to Chairman Pertschuk and the other members of the FTC in mid-August which lays out in greater detail my concerns about the due process procedures of the FTC hearings. I draw my colleagues attention to this letter and I urge their support for the resolution.

The material follows:

H. CON. RES. 197

Concurrent resolution expressing the sense of the Congress concerning the administrative proceeding brought by the Federal Trade Commission against the Kellogg Company, General Mills, Incorporated, and the General Foods Corporation

Whereas the Federal Trade Commission investigation of the business practices of certain cereal companies was begun 7 years ago, and the administrative proceeding brought by the Commission as a result of such investigation, entitled "In the Matter of Kellogg Company, General Mills, Incorporated, and the General Foods Corporation" (F.T.C. Docket No. 8333), still has not been resolved;

Whereas such proceeding has imposed a substantial financial burden upon taxpayers;

Whereas serious due process issues have arisen concerning the propriety of negotiations between the Commission and the administrative law judge who initially presided over such proceeding, and concerning the subsequent contractual retention of such judge by the Commission before such judge was replaced in such proceeding by a new administrative law judge;

Whereas the Commission has not provided for the carrying out of any economic impact analysis in connection with such proceeding, even though remedies proposed by the Commission in such proceeding threaten the economic stability of the communities in which the cereal companies involved are located;

Whereas remedies proposed by the Commission in such proceeding have raised substantial and understandable concern among cereal company employees whose jobs, collective bargaining agreements, and pension rights are endangered by such remedies;

Whereas the American Federation of Grain Millers, after seeking to intervene in such proceeding to address the effect of remedies proposed by the Commission, was denied the right to intervene by the presiding administrative law judge: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) there are grounds for deep concern over the refusal of the administrative law judge presiding over the administrative proceeding brought by the Federal Trade Commission, entitled "In the Matter of Kellogg Company, General Mills, Incorporated, and the General Foods Corporation" (F.T.C. Docket No. 8333), to permit intervention in such proceeding by the American Federation of Grain Millers;

(2) such refusal by such administrative law judge should be reconsidered and intervention in such proceeding by the Federation should be permitted; and

(3) such proceeding should be suspended until—

(A) the Federation is permitted to intervene in such proceeding;

(B) the Commission makes a full disclosure concerning negotiations between the Commission and the administrative law judge who initially presided over such proceeding, and the subsequent contractual retention of such judge by the Commission; and

(C) the Commission provides for the carrying out of an economic impact analysis concerning remedies proposed by the Commission in such proceeding.

Commissioner MICHAEL PERTSCHUK,
Federal Trade Commission,
Washington, D.C.

DEAR COMMISSIONER PERTSCHUK: Recently several issues have come to my attention which raise serious questions regarding the Federal Trade Commission's (FTC) litigation against the Kellogg Company, General Mills, Inc. and General Foods Corporation (Docket 8883).

I would like to make clear from the outset that in no way do my concerns with this case go to the merits or substantive issues under consideration by the administrative hearing at the Federal Trade Commission. I recognize that it is not within the purview of Members of Congress to make qualitative judgments on proceedings under adjudication, and I have, as yet, even to reach a personal opinion on the questions raised by the *FTC* v. *Kellogg Company, et al.* However, upon detailed examination of the proceedings of the last year-and-a-half, a number of very disturbing process questions have surfaced which I feel are in need of resolution.

I find particularly disquieting the circumstances and conditions surrounding the retirement and subsequent contractual employment of former Administrative Law Judge (ALJ) Harry R. Hinkes by the Federal Trade Commission.

According to my understanding of the Administrative Procedures Act (APA), and the intent of Congress at the time of passage of the Act, there is the requirement of complete independence of Administrative Law Judges from any improper influence, however subtle, from the agencies over whose hearings they preside.

Upon examination of the available information regarding the circumstances of former ALJ Hinkes' retirement and contractual reinstatement, the question of judicial independence—so central to any fair and impartial inquiry—appears to be seriously called into question. It is this fundamental due process issue which brings this letter today.

After review of both the Administrative Procedures Act and the congressional debate surrounding the enactment of curative provisions in the Act, and upon the close of staff conversations with the American Law Division of the Library of Congress and the Office of Personnel Management, I have concluded that:

1. Through the APA of 1946, it is the intent of Congress to make fully independent ALJ's from the agencies to which they are assigned. This independence was accomplished by a strengthening of the Civil Service Commission (CSC) now the Office of Personnel Management.

2. It is to be the sole responsibility of the CSC to:

a. set and adjust the amount of pay ALJ's receive, independent of agency recommendations or ratings.

b. determine the tenure of ALJ's.

3. An agency may appoint an ALJ only with the prior approval of the CSC, except when it makes its selection from a "certificate of eligibles" furnished by the CSC.

4. An agency may remove an ALJ only for good cause established and determined by the CSC.

Clearly, through enactment of the APA, Congress attempted to establish a mechanism whereby ALJ's were sufficiently insulated from agency influence, in order that defendants could be assured the reasonable protection of a fair and impartial trial.

When on September 6, 1978, Harry R. Hinkes executed a private contract with the FTC, it would seem that the independence and objectivity of the ALJ was seriously undermined. Further, from the limited information which is available concerning the contractual arrangement between Judge Hinkes and the FTC, and through recent conversations with the Office of Personnel Management, it is apparent that:

1. Through the FTC contract, Judge Hinkes was to receive a salary which when combined with his annuity, was far above the standard allowable rate set by the CSC for administrative law judges (approximately $70,000, just below the compensation paid Associate Justices of the Supreme Court).

2. Judge Hinkes' salary, as specified in the contract was determined by the FTC, not the CSC, in direct contradiction to the provisions of the Administrative Procedures Act.

3. The length of Judge Hinkes' employment was determined solely by the FTC, not the CSC, which is impermissible under the APA. Further, Judge Hinkes could be removed from the hearing at the sole discretion of the FTC.

4. The FTC did not request of the CSC, nor were they granted by the CSC, prior approval of the contract between the FTC and Judge Hinkes. In fact, it appears that in discussions with the Civil Service Commission on the propriety of such a contract, the FTC was informed that the proposal did not conform with APA regulations. The FTC apparently consummated the agreement without regard of this information. Additionally, Judge Hinkes' contractural appointment would not fall under the "certified eligibles" exception, as he was a sitting Administrative Law Judge.

The December 8, 1978 decision by the Federal Trade Commission that found Judge Hinkes "unavailable" for service as of September 8, 1978, does not resolve any of the questions surrounding this extraordinary agreement. Moreover, it is precisely the unanswered questions which raise serious doubts as to whether the FTC has adhered to the intent of Congress as suggested by the Congress' passage of the APA. I seek your help in resolving my doubts through your responses to the following questions:

1. Why did the FTC pursue a contract with Judge Hinkes that seemed so overwhelmingly at odds with the provisions of the APA? Were other alternatives to this contract explored? If so, what were they and why were they not pursued?

2. At what time did Judge Hinkes first consider retirement?

3. Who initiated the idea of a special contract to retain the services of Judge Hinkes?

4. At what time did negotiations commence regarding the terms of Judge Hinkes'

contract? Who was involved in those negotiations?

5. Who at the FTC, CSC, and Administrative Law Judge Office knew of the contract, and when did they know about it?

6. When was the contract actually offered to Judge Hinkes?

7. Did the CSC, in fact, advise the FTC that such a private contract was in violation of the APA? If so, when did this occur?

8. Why were the respondents not informed of the negotiations and the subsequent contract settlement?

9. Were any of the FTC Commissioners personally involved in Judge Hinkes' contractual agreement? If so, what was the nature and extent of that involvement, and how does that involvement square with the intended separation of ALJ's and the Commission?

The preceding queries relate directly to the process by which the administrative hearing has been conducted in the *FTC v. Kellogg Company, et al.* case. I am deeply concerned that without a resolution of these questions—questions which have arisen as a result of various FTC activities outside the hearing room—the credibility of the process will be severely undermined and the critical issues of public policy will be held in the balance.

The Congress and the various federal commissions share an ongoing interest in insuring the independence of our administrative procedures. Impartiality and objectivity—and the perception of both by the public—are the cornerstones of the success of our judicial and administrative systems.

I hope that as you review this matter, you will agree that a full disclosure of the facts surrounding Judge Hinkes' departure from his administrative law post is in the best interest of the regulatory system administered by the Federal Trade Commission.

I look forward to your reply.

Sincerely,

HOWARD WOLPE,
Member of Congress.●

THE 136TH ANNIVERSARY OF B'NAI B'RITH

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. RINALDO. Mr. Speaker, I ask that we turn our attention from the legislative business of the day and take a few moments to pay tribute to one of our Nation's outstanding service organizations, B'nai B'rith. October 13, 1979, commemorates this organization's 136th birthday. It is not only America's oldest and largest national Jewish agency; it is also the Nation's oldest native-born service organization—older than both the American Red Cross and the Daughters of the American Revolution.

B'nai B'rith began in 1843 when 12 men assembled in Sunsheimer's Cafe on the lower East Side of New York City to found an organization dedicated to "uniting persons of the Jewish faith in the work of promoting the highest interests of humanity; of developing and elevating the mental and moral character of the Jewish people; of inculcating the purest principles of philanthropy, honor and patriotism; of supporting science and art; alleviating the wants of the poor and needy; coming to the rescue of victims of persecution; providing, protecting, and assisting widows and orphans on the broadest principles of humanity." These remain the guiding principles of B'nai B'rith's 1,700 lodges.

Throughout the years, B'nai B'rith has played a vital role in our Nation's struggle for justice and equality. As B'nai B'rith grew, so did its accomplishments. Every facet of American life—culture, education, health, politics, law—has been touched by this agency.

Its causes have not been solely "Jewish causes." B'nai B'rith went to the aid of cholera epidemic suffers in Israel and provided food, clothing and medical supplies to the victims of the disastrous Chicago fire. In the late 1800's, when Eastern European immigrants poured into this country, B'nai B'rith sponsored Americanization classes, trade schools and relief programs. During the Nazi regime and the holocaust, B'nai B'rith actively protested the persecution of Jews and non-Jews in Germany. It aroused the conscience of the world to the severity of events taking place in Eastern Europe.

Under the aegis of B'nai B'rith, the Anti-Defamation League was formed to combat anti-semitism in an intelligent, dignified and organized way. ADL's later efforts to protect the civil rights and civil liberties of all Americans and its active campaign on behalf of the civil rights movement and the 1964 Civil Rights Act are well known.

B'nai B'rith has succeeded far beyond the wildest dreams of its founders, to the benefit of us all. Mr. Speaker, I join in saluting B'nai B'rith and its Westfield, Clark, and Cranford, New Jersey chapters for their unstinting efforts to promote social harmony and justice for all Americans.●

BEACON IN A DARKENING SKY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. FINDLEY. Mr. Speaker, John B. Connally raised some eyebrows as well as a few cries of anguish with his recent speech on Mideast policy.

In a vital respect he also put himself a cut above all other men mentioned for the U.S. Presidency in 1980—including Jimmy Carter. He alone has laid out a plan for dealing with the most critical and complicated foreign policy problem confronting the United States. He has done so with common sense, candor, and courage.

It is speeches like this one that make believable his bumper sticker slogan: "Leadership for America."

His proposal: A comprehensive peace under which Israel vacates land occupied in 1967 in return for security and recognition, Palestinians get a homeland on the West Bank, and the United States gets military bases in the region through which it can guarantee these peace terms and at the same time assure its access to Mideast oil.

His plan closely resembles recommendations of former Under Secretary of State George W. Ball in his article, "How to Save Israel from Itself," and the terms of resolutions I introduced in Congress on March 24, 1975, and again on July 17, 1977.

Connally's proposals are consistent with the recommendations of the Israeli Peace Movement headed by retired Israeli General Mattityahu Peled, the pronouncements of the January 1979 Baghdad Conference of Arab States which included the PLO, and the majority of the countries in the United Nations.

Eventually it will become plain to all that a comprehensive peace requires a crediable U.S. guarantee. The bitterness between Arab and Israelis runs so deep it can be overcome only after some years of U.S. peacekeeping. Israel is understandably opposed to returning the occupied lands unless it wins recognition from all parties to the dispute. It insists on more than promises from its Arab neighbors.

The United States can guarantee the terms of peace best through a strong and long-term military presence of its own in that region. This presence would also serve to assure U.S. access to oil in the Arabian area—access which is absolutely essential to our economic survival.

Some will be fearful of a Vietnam-like involvement in the Mideast. Unlike Vietnam, the United States cannot turn its back on the Mideast. The best way to avoid a Vietnam-like experience there is to act wisely and forthrightly at the earliest possible stage.

Connally's speech is welcome for another reason. It will help to justify and sustain Palestinian patience during what may be a long and stormy year. It may well save lives.

With Presidential primaries approaching, President Carter is showing still greater timidity in Mideast policy. With each passing day it becomes less likely that he will permit his special envoy to the Mideast to do what has obviously been needed for months: Begin direct exploratory talks with the PLO. Observers assumed when Ambassador Robert Strauss got the assignment last spring that he would have started informal talks with PLO leader Arafat weeks if not months ago. If these talks do not begin by Thanksgiving, U.S. policy in the Mideast will be stalemated until the Presidential election is over a year hence.

What will the PLO do during that period? A movement like the PLO cannot ride at anchor for a year. It must have an active program. It has to be active either on the diplomatic or military front.

Already Arafat is under heavy pressure from hardliners—the radicals within the PLO—to strike out with violence. Whether he can hold these forces in check depends on his ability to sustain a nonviolent diplomatic offensive.

Connally's proposal, coming as they do from a strong contender for the Presidency, will help Arafat follow a course of moderation. They are evidence that "help is on its way" in the United States for a just peace in the Mideast.

Governor Connally is building on the rising U.S. public interest in Palestinian problems developed by the recent visits of black leaders to the PLO in Beirut.

This will help make possible the first rational, balanced public discussion of Mideast problems in the United States in many years. This in itself will help to restrain violence by the PLO.

What Connally proposes is also very much in the best interest of the State of Israel. That small but great state needs relief from the enormous strains of military preparedness and constant alert. It has as much to gain as the Palestinians in the achievement of a comprehensive settlement backed by credible U.S. guarantees. As one who has always been a strong and consistent supporter of Israel, I can see nothing but trouble ahead for Israel until it agrees to true self-determination for the Palestinians.

The United States is the only nation with the capacity to do the important things that must be done: First, enable Israel to survive; and second, bring about conditions which afford justice to the Palestinians and other Arabs.

Governor Connally's proposals suggest strongly that he has the determination to use this capacity to bring peace and justice to Israelis and Arabs alike.

His speech is a beacon in an otherwise darkening sky.●

SOVEREIGN AND EQUAL STATUS?

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. SYMMS. Mr. Speaker, the public lands situation in the 13 Western States is a longstanding inequity which is now becoming a national issue. While there has long been western interest in cession of public land to the States, the ever-tightening net of Federal regulation has now fanned this interest into flame. Such regulations are particularly painful now when energy development is needed as perhaps never before. And in these times of federally caused inflation, the lost revenue from these lands due to Federal-regulation-hindered development and control is of increased importance to the States.

On one side of this issue are those who hold the populist view that these lands are owned by the people—that every American holds title to 2½ acres of land. This view holds that central control and management by Federal bureaucracy is necessary to hold these lands in trust for the people. They fear that individual State control is supported only by those "monied" interests wishing to exploit the people's heritage.

On the other side are those who feel that the Federal Government held the lands in trust for the new States; that admittance of these Western States on an equal basis should include cession of lands to the States; that not only is it not too late to correct this inequity, the time is particularly ripe to do so. The philosophy holds that State control will be more responsive to local needs and, that State management will better allow for differences in the potentials of the various regions.

I feel that all of us have an interest in this issue, and I ask you to consider my remarks and the attached editorial from the October 15, 1979, edition of the Wall Street Journal:

DECOLONIZING THE WEST

When President Carter met with 12 Western governors in Albuquerque last week, he found out that the West is chafing under federal land, water, energy and wildlife policies.

Wyoming is angry over mining restrictions. Utah and Montana are suing over federal control of their water. Nevada has passed a law "nationalizing" a 49 million acre chunk of federal land. All are fearful of rape and ruin by federal energy programs. Federal Bureau of Land Management district managers are being likened to the Sheriff of Nottingham and colonial magistrates. Guerrilla attacks have been made on federal property in Alaska. And Western governors have organized to pursue a common strategy for wresting control of their states from Washington.

The problem is that federal land holdings are concentrated in the West, making for real differences in the amount of say the states have in managing their own affairs. Only 1 percent of New York state is in federal hands, but 95 percent of Alaska is. The federal government also owns 87 percent of Nevada, 66 percent of Utah, 64 percent of Idaho and from one-third to one-half of other Western states. With such high proportions of their lands in Washington's hands, people in the West wonder if they are on equal footing with other states, or even if they are states at all.

Senator Orrin Hatch (R., Utah) says the West is "an economic colony of the rest of the country," and if you look at a map showing the distribution of federal land you will see a compelling argument that decolonization came to a halt at about the 100th meridian. Uncle Sam has refused to turn loose the colonies west of Texas. The feds have not even conveyed to Alaska the 103.5 million acres promised 20 years ago in the Statehood Entitlement Act. And if the land is ever conveyed, Washington will still hold title to 74 percent of Alaska.

But while the federal mother has dithered about turning over the statehood dowry, she found the energy to lock up through imperial decree vast amounts of Alaskan territory in wilderness areas. That was salt in the wounds and worse when you consider that the land was locked up in such a way as to interefer with access to land and resources which escaped the federal deepfreezer. The small part of Alaska over which the state is sovereign is "land-locked." The state can't get to what exists of itself because the feds won't give it a passport to travel through federal wilderness areas.

Washington's tenacious hold on the West is against historical precedent. Traditionally Washington acted as trustee of lands within newly created states until the states could accept the land and manage it effectively or until it could be sold into private ownership. For example, in 1832 the Public Lands Committee reported to the Senate that "the speedy extinction of the Federal title within their limits is necessary to the independence of the new states, to their equality with the older states, to the development of their resources, to the subjection of their soil, taxation, cultivation and settlement, and to the proper enjoyment of their jurisdiction and sovereignty."

And judging from the Bureau of Land Management's admission that only 17 percent of its vast land holdings are in excellent or good condition, there doesn't seem to be any practical case either for continuing the title in Washington's name. This should come as no surprise. Given what we know about the record of other nationalized industries, why should we expect nationalized real estate to be any better?

Naturally everyone wants to preserve national parks, national forests and a reasonable amount of wilderness area. But we can have those without the federal government owning one-third of the nation's land at the expense of 12 states. The nation may have to think about the solution, but the new auger in the West ought to start a renewed debate on a fundamental question: What conceivable justification is there for the federal government to own these vast lands?●

PUTNAM ENGINE AND HOSE COMPANY NO. 2 ANNIVERSARY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. OTTINGER. Mr. Speaker, on October 28, the Putnam Engine and Hose Company No. 2 will celebrate its 125th anniversary of volunteer service to the village of Port Chester, N.Y.

I am pleased to share with my colleagues at this time a brief history of this vital organization and to thank all of those firefighters who give tirelessly of themselves year after year:

HISTORY OF PUTNAM ENGINE AND HOSE COMPANY NO. 2, VILLAGE OF PORT CHESTER

One hundred and twenty-five years of growth and rich history have evolved since the company, Putnam Engine & Hose, was established in October, 1854.

They chose their namesake from General Israel Putnam, a famous Revolutionary general under George Washington, who was in command of the Patriot troops in this area. His famous ride down "Puts" Hill is today memorialized by an appropriate monument.

The new company elected John E. Marshall its first Foreman.

In the beginning a fund raiser headed by John E. Marshall and Edward Field enabled the company to purchase a new Hose & Engine Cart from J. W. Sickles of New York City which arrived on October 31, 1854. Putnam Engine & Hose was one of those early fire companies that used methods and equipment in fighting fires long since obsolete.

Putnam used a hand pumper with the men doing the pumping as well as pulling the engine to the fire. They relied on cisterns located in several places to draw water.

On the 7th of June, 1855, a firehouse was appropriated by the Board of Trustees of the village. A bell tower was erected on top and was one of the first fire alarm signals used by the village department.

On March 2, 1892 Putnam Engine & Hose set out to purchase a new Handdrawn Steamer. A committee was formed of twelve members. A subscription roll was circulated among the village citizens and a fair held for eight days which raised a considerable amount of money. Putnam's new steamer arrived in August of 1892 by rail from Seneca Falls, New York. It was the first piece of mechanized equipment in the village.

The steamer was subsequently converted to a horsedrawn vehicle. Then in 1916 the company purchased a tractor and the steamer became a completely motorized piece of equipment, thereby, ending the era of the horsedrawn apparatus. It served the company faithfully for a total of thirty-five years, having been retired in 1927.

An "Auto Horse Cart" was purchased and served the company until 1952.

In July of 1952, a 1,000 gallon American LaFrance was put into service at a cost of $22,000. This apparatus served the company until 1974 when the village purchased a new Seagrave fire truck which is presently in use.

Putnam Engine & Hose has had four members who became "Chief" of the Village Fire Department. The first being Thomas T. Tompkins who was an active fireman for over fifty years. The other Putnam members who have served as "Chief" are Matthew Jenkins, Harry Branstrom and Arthur Schiff. Presently there are four members of the company who each have served over fifty years.

Today, after one hundred and twenty-five years of faithful and continuous service to the citizens of the Village of Port Chester, the men of Putnam are continuing in the tradition of their forebears, never failing to answer an alarm.

Therefore, it is with pride and honor that we celebrate the "One Hundred and twenty-fifth Anniversary" and look forward to many more years of service from the oldest volunteer fire company in the Village of Port Chester.●

THREE GREAT LEADERS IN THE POLISH WOMEN'S ALLIANCE OF AMERICA

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. BENJAMIN. Mr. Speaker, allow me to take this opportunity to ask my fellow colleagues to join me in commending and congratulating three very outstanding women from Lake County, Ind.: Helen Zielinski, Joanna Zotkiewicz and Helen Lis who are and have been great leaders in the Polish Women's Alliance of America.

The Polish Women's Alliance was founded in 1898 and today it is the largest women's organization in America. Its 28th National Convention was recently held in Dearborn, Mich., where delegates from 17 States met to plan for the growth of this organization and to elect officers for the next term. I am proud to report that Helen Zielinski of Merrillville, Ind., was elected to her third 4-year term as national president. I congratulate Helen Zielinski and wish her continued success in her unsurpassed and energetic work as the national president.

The Polish Women's Alliance also holds State conventions to elect State officers who are sworn in at the national convention. The State of Indiana has been extremely fortunate to have Joanna Zotkiewicz of Hammond, Ind., serving as the State president for the past 20 years. Mrs. Zotkiewicz began her service in the "Polonia" in 1919 and has been giving of herself ever since. Throughout these 60 years of service, Mrs. Zotkiewicz has initiated and established numerous projects in Lake County to preserve the Polish culture and heritage.

She has earned the reputation of being the Grand Dame of the Polish Women's Alliance in the State of Indiana. Mrs. Zotkiewicz recently chose to retire as State president. Her leadership and dedication will be truly missed by the State of Indiana and the Nation.

Mr. Zotkiewicz will be honored on November 18 at a testimonial dinner at St. Stanislaus Center, East Chicago, Ind., for a lifetime of service to the Polonia. A record of her accomplishments, achievements and recognitions would require several pages of the CONGRESSIONAL RECORD. It is suffice to say that her compassion, community and church service and dedication to her family have few parallels in American history.

The avid participation and devout commitment to the Polonia of Mrs. Zotkiewicz are now being followed by her daughter, Wanda Torok, who has served as vice president for 6 years and auditor for 24 years in local group 128 and treasurer for 6 years and auditor for 19 years in council 21, Indiana's largest.

As Mrs. Zotkiewicz leaves her State presidency, the State of Indiana chose another outstanding woman to take her place. Mrs. Helen Lis of Merrillville, Ind., has been sworn in as State president at the national convention. Mrs. Lis is a great source of pride in Lake County and the Polish Women's Alliance can look forward to continued growth and success under her leadership. The great Polish heritage and culture cannot be denied with these great women who have given their time, leadership and dedication to Polonia and America.●

PAY PARKING CAUSES HARDSHIP FOR SUBURBAN FEDERAL EMPLOYEES

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1979

● Mr. BARNES. Mr. Speaker, for many months now I have closely followed the progress of President Carter's plan to charge parking fees to Federal employees. I am deeply concerned about the hardship that this policy will bring to many of my constituents who work at suburban Federal facilities not served by mass transportation.

I have submitted formal recommendations for altering the policy to the General Services Administration and the Office of Management and Budget, and I have also conveyed my concern in numerous conversations with executive branch officials. I submit a copy of a telegram on this subject which I sent to President Carter today:

OCTOBER 16, 1979.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In just two weeks, your policy of charging parking fees to federal employees is scheduled to go into effect. By now you must be aware of the fact that this policy is a matter of grave concern to thousands of federal employees, many of whom stand to be treated unfairly or penalized unjustifiably under the regulations as they are now written. I urge you to delay its implementation until the major problems have been studied and fully resolved.

Mr. President, the fact is that many federal employees simply have no alternative in commuting to their workplace other than by private automobile. If buses or subways provided regular service along the route from their home to their place of employment, they would gladly take advantage. If carpools were a feasible option given their respective working hours and geographic distribution, they would be happy to oblige (and thousands already do carpool, as you are aware).

But the reality is that for many federal employees, these alternatives do not exist. Public transit in many areas is not yet available, carpools are often impractical or impossible, yet under the provisions of your parking fee policy, all will still be required to pay, regardless of circumstances beyond an individual's control.

These are the same federal employees who have loyally served their country year-in and year-out, while inflation has steadily outpaced the "cost-of-living" adjustments in their salaries. These are the same federal employees—referring, at least, to those with whom I speak—who share your desire for American energy self-sufficiency, who want efficient forms of mass transportation, and who are willing to do their fair share in the fight against inflation.

Understandably, however, they fail to see the connection between achievement of these worthy policy goals and imposition of an indiscriminate parking charge, applied without due regard to individual circumstance. Though the parking policy certainly arises out of noble policy intentions, in many instances it amounts to an unjust penalty, meted out as the latest manifestation of an insensitive attitude toward the legitimate concerns of the federal workforce. Quite frankly, federal employees have grown weary of being singled out, time and again, as unfair examples in the latest federal policy initiative, however well-intentioned.

With these things in mind, Mr. President, I urge you to reconsider the policy of charging parking fees to federal employees, particularly for those who work in non-urban locations without access to regular public transportation. I am grateful for your consideration of this urgent request.

Sincerely,

MICHAEL D. BARNES,
Member of Congress.●

SENATE—*Wednesday, October 17, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 4 p.m., on the expiration of the recess, and was called to order by Hon. PAUL E. TSONGAS, a Senator from the State of Massachusetts.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

It is a good thing to give thanks unto the Lord, and to sing praises unto Thy name, O most High:

To show forth Thy loving kindness in the morning, and Thy faithfulness every night.—Psalms 92: 1, 2.

O Lord, our God, help us who work at many and diverse tasks in this place to reveal the love and the mercy Thou dost bestow upon us day in and day out. For it is our hands and our minds with which Thy work is done here. Our help comes from Thee and we need Thy higher wisdom and Thy bountiful grace. Keep us ever attentive to the guidance of Thy spirit. Subdue all evil thoughts, unholy impulses, and impure desires. Sanctify our personal relations and unite us in a firm spiritual alliance to serve this Nation and set forward Thy kingdom on Earth.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (MR. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 17, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL E. TSONGAS, a Senator from the State of Massachusetts, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. TSONGAS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HOSPITAL FEES FOR MEDICARE PATIENTS RISE

Mr. ROBERT C. BYRD. Mr. President, last week, the Department of Health and Human Services announced that medicare patients will pay at least $20 more for a hospital stay beginning next January. The medicare hospital deductible—which medicare patients must pay before the Government begins any payment for their hospital care—will be raised from $160 to $180. Such action would make the deductible almost equal to the cost of an average day's stay in a hospital.

In addition to the higher deductible, a medicare patient with a serious illness will be paying more in 1980 if the hospital stay exceeds 60 days. A patient's payment will increase from $40 to $45 a day from the 61st through the 90th day of a hospital stay. For stays beyond 90 days, the patient's share will rise from $80 to $90 per day. Copayment rates for posthospital, skilled nursing care will also be increased for medicare patients.

More than 26 million Americans are covered by hospital insurance under the medicare program. By 1980, more than 27 million are expected to be covered under the program. The majority of these citizens are 65 or older.

The cost of hospital care has been rising faster than the overall cost of living and faster than other medical costs. Next year, the Federal Government will spend an estimated $24.3 billion for medicare patients' hospital stays, up from $21 billion this year. By law, medicare patients' cost-sharing payments must be adjusted annually to keep pace with inflation.

Rapidly escalating health care costs have debilitating implications for the Nation's elderly. Senior citizens have greater need for medical care than any other age group. Older Americans spend proportionately more of their income on health services than the population at large. Because health care costs, in particular the costs of hospital care, have been rising much faster than the Consumer Price Index, they have been steadily outdistancing social security cost-of-living increases. Social security is the economic support system for a vast majority of older Americans.

Most senior citizens live on fixed incomes. The median income of an older person living alone is only about one-half that of an individual under 65 living alone. Many people under the age of 65 do not realize that medicare covers only a modest portion of older Americans' medical expenses—the program currently pays for only 38 percent of the average senior citizen's medical bill. Today, older Americans are spending proportionately more out of their own pockets for medical care than they were in 1964, the year medicare was enacted.

Congress has taken cognizance of the health care needs of older Americans and has provided, in several different pieces of legislation, some tools for addressing these needs. We must be aware of the continuing need to help assure adequate medical care of elderly citizens and take action, where it may be needed.

The ever-increasing cost of health care is but one aspect of the toll which inflation takes upon all of our citizens. Its toll is particularly harsh for the elderly, whose health care needs are proportionately greater, and who often must meet the costs of those needs out of relatively fixed incomes.

Inflation is the cruelest tax. Its toll is indiscriminate and persistent. Its impact on the elderly—in the form of higher home heating bills and health care costs—has been the subject of debate and study here in the Congress.

Within the last few weeks, the Senate has acted to address one of the major causes of the current inflation: namely, energy. More legislation on the same subject will be reported soon. As I already noted, we have also acted on health care cost inflations.

We shall continue to act on as many fronts as need be to bring inflation under control.

Does the distinguished Senator from Alabama wish some of my time?

Mr. HEFLIN. Yes.

Mr. ROBERT C. BYRD. Mr. President, how much time have I remaining?

The ACTING PRESIDENT pro tempore. The Senator has 6 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield 6 minutes to the Senator from Alabama.

Will the Senator from Alabama yield to me briefly?

Mr. HEFLIN. Yes.

AUTHORIZING THE CHIEF COUNSEL AND SUBCOMMITTEE STAFF DIRECTOR TO APPEAR AND TESTIFY

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Florida (MR. CHILES), I send a resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro temtempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 260) to authorize the chief counsel and staff director of the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs to appear at a deposition and to testify with respect to certain matters.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, this resolution would permit Ronald A. Chiodo, chief counsel and staff director of the Subcommittee on Federal Spending Practices and Open Government of the Governmental Affairs Committee, to appear at a deposition on October 17, 1979, and to testify with respect to certain matters pursuant to a subpena issued in the case of *Art Metal-U.S.A., Inc.* v. *Rowland G. Freeman III, et al.* (C.A. No. 78-1660), pending in the U.S. District Court for the District of Columbia.

Yesterday, the Senate passed a resolution (S. Res. 259), pursuant to section 704(a)(2) of the Ethics in Government Act of 1978, Public Law 95-521, directing the Senate Legal Counsel to represent Ronald A. Chiodo in respect to discovery in this case.

I move that the Senate approve this resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 260) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 260

To authorize the Chief Counsel and Staff Director of the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs to appear at a deposition and to testify with respect to certain matters

Whereas in the case of Art Metal—U.S.A., Inc. v. Rowland G. Freeman, III, Administrator, General Services Administration, et al. (Civil Action No. 78-1660 pending in the United States District Court for the District of Columbia, a subpoena has been issued by the court and addressed to Ronald A. Chiodo, Chief Counsel and Staff Director of the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs directing him to appear before counsel of the plaintiff to give testimony and to present other evidence with respect to such case;

Whereas, by the privileges of the Senate of the United States no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by the privileges of the Senate of the United States, and by Rule XXX of the Standing Rules of the Senate, no officer or employee of the Senate is authorized to produce any information, documents, papers or records of the Senate but by order of the Senate and information secured by officers or employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate;

Whereas, when it appears that testimony of an officer or employee of the Senate is needful for use in any court for the promotion of justice and, further, that such testimony may involve documents, papers and records under the control of or in the possession of the Senate and communications, conversations, and matters related thereto, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate. Now, therefore be it

Resolved, That Ronald A. Chiodo, Chief Counsel and Staff Director of the Subcommittee on Federal Spending Practices and Open Government is authorized, in response to a subpoena issued by the United States District Court of the District of Columbia in the case of Art Metal—U.S.A., Inc. v. Rowland G. Freeman, III, Administrator, General Services Administration, et al: (1) to appear at a deposition on Wednesday, October 17, 1979, and to testify with respect to oral or written communications between the personnel of the Subcommittee on Federal Spending Practices and Open Government and personnel of the General Services Administration dating from July 20, 1979 to October 15, 1979, concerning (a) Art Metal—U.S.A., Inc.; (b) Purchasing of office furniture; (c) A hearing to be held and in fact held by the Subcommittee on Federal Spending Practices and Open Government on October 10, 1979; (2) to take with him and produce memoranda, correspondence, minutes of telephone conversations and meetings pertaining to oral or written communications between personnel of the Subcommittee on Federal Spending Practices and open Government and personnel of the General Services Administration dating from July 20, 1979 to October 15, 1979, and concerning (a) Art Metal—U.S.A., Inc.; (b) Purchasing of office furniture; (c) A hearing to be held and in fact held by the Subcommittee on Federal Spending Practices and Open Government on October 10, 1979;

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the United States District Court for the District of Columbia and to the counsel of the plaintiff named in such subpoena.

Mr. ROBERT C. BYRD. Mr. President, I now yield my remaining time to the Senator from Alabama.

(The remarks of Mr. HEFLIN at this point in connection with the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no further need for my time. I have a request for a portion of it by the Senator from New Mexico.

I yield such of my time as I have remaining to the distinguished Senator from New Mexico (Mr. DOMENICI).

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

A FUNDAMENTAL STEP

Mr. DOMENICI. Mr. President, our generation has had the opportunity to observe some of the most exciting advances in science since man began to study and understand his Universe. This week Dr. Robert Golden of New Mexico State University and his colleagues S. Horan, B. G. Mauger, G. D. Badhwar, J. L. Lacy, S. A. Stephens, R. R. Daniel, and J. E. Zipsey reported one of those fundamental steps we have come to expect of our scientific community. Their efforts in the demonstration of antimatter in our Universe has added to our basic understanding of our Universe and certainly it will increase our curiosity about it as well. I would like to share this step with my colleagues and ask unanimous consent that the article appearing on the front page of the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EVIDENCE OF ANTIMATTER FOUND: HERETOFORE THEORETICAL PARTICLES TRACKED

(By Thomas O'Toole)

A balloon 60 stories tall carrying 5,000 pounds of instruments 120,000 feet over the American Southwest has found the first evidence in nature of antimatter, particles that are the exact opposite of all matter and whose existence has eluded science for the last 50 years.

Instruments sent aloft by scientists at New Mexico State University July 21 detected no fewer than 29 particles of antimatter during an eight-hour balloon flight over Texas and New Mexico. The 29 particles had precisely the same mass as the positively charged particle known as the proton, but not one of the 29 possessed a positive charge.

"They carried negative charges, the opposite of the proton," Dr. Robert Golden of New Mexico State said yesterday in announcing the finding. "We have found antimatter protons."

Antimatter is made up of atomic particles with the same mass and same-size electrical charge as protons (positive) and electrons (negative), with one big difference: they have the opposite charge. An antimatter proton is negatively charged, and an antimatter electron carries a positive charge.

Predicted by theory for most of the 20th century, antimatter is produced routinely in the laboratory of highspeed collisions of accelerated particles like protons with atoms of hydrogen gas, but have never before been found in nature. One reason is that whenever a particle of antimatter collides with a particle of matter they annihilate each other.

The team of New Mexico State scientists who claim to have found the first natural antimatter has been working nine years to devise a way to detect antimatter.

"We started trying to make actual observations with balloons in 1976, but things didn't go our way at first," Golden said by telephone from Las Cruces, where New Mexico State is located. "We're only able to fly twice a year when the winds are right, and we had five balloon failures in a row before we finally succeeded."

The balloon flown by Golden and his team has a gasbag 600 feet high holding 28 million cubic feet of helium when fully inflated. Attached to the balloon is an instrument package that weighs 5,000 pounds, most of it cosmic ray sensors and counters, but including a 300-pound superconducting magnet.

"The magnet is so powerful that it points the entire 5,000 pounds of instruments toward the north," Golden said. "It is the world's largest compass."

The instruments were flown to an altitude of 120,000 feet, where there are almost no air particles to collide with antimatter striking the Earth from deep space. Scientists have long theorized that antimatter produced by an exploding star would reach the Earth but be annihilated as soon as it struck matter in the upper atmosphere.

The instruments in Golden's balloon were built to measure the flight path and speed of all particles caught by the powerful magnetic field produced by the superconducting magnet. Protons caught by the magnet were moved, or bent, one way, electrons another.

"The amount of bending told us its energy, and we already knew its velocity," Golden said, "and by knowing the two we could calculate the mass of each particle we caught."

The 29 antimatter protons trapped by the magnet were all bent the same way protons were bent. There was a single difference: they all had negative charges, meaning they were antiprotons.

Where did the antimatter come from? Golden said its high velocity and high energy means it traveled great distances and probably was produced by the collision of debris from stellar explosions with hydrogen clouds between the stars.

Theory has it that at the time of creation there were equal amounts of matter and antimatter produced. The question is, where did the antimatter go? One theory is that it flew to the edge of the universe, where there are stars and entire galaxies made of antimatter.

CANCER AND URANIUM MINERS

Mr. DOMENICI. Mr. President, on August 30, 1979, I chaired a hearing of the Senate Special Committee on Aging in Grants, N. Mex.—the heart of uranium country—to discuss the health problems of our Nation's first uranium miners, those who mined during the 1950's and 1960's when the Atomic Energy Commission was the sole procurer of uranium for defense purposes.

During the course of the hearing I learned firsthand from my own constituents that much of what we have read about this subject in the press in recent months is, unfortunately, true. Excessive numbers of our early uranium miners have contracted various types of cancer and respiratory diseases as the result of their employment in poorly ventilated mines. Furthermore, it was uncovered at the hearing that significant numbers of these afflicted miners and their survivors are "falling through the cracks" of existing workmen's compensation programs, and that they are not being adequately compensated for their work-related illnesses.

Harry Barnes, Sr., a miner for many years in the Grants area, and a former commander of VFW Post 3221, was scheduled to testify at the August 30 hearing. Unfortunately, Mr. Barnes, who has contracted cancer as the result of his uranium mine work, was not able to be with me at that time. Harry Barnes, Jr., speaking in his father's behalf, outlined for me not only the physical suffering his father has endured since he contracted lung cancer, but also the economic hardships the entire family has encountered trying to meet Mr. Barnes' medical expenses. Harry Barnes is very definitely one of those uranium miners who has "fallen through the cracks" of our existing health care delivery and workmen's compensation systems. It is fortunate that he had the VFW to turn to for some assistance. Other miners and their families are not so fortunate. Mr. President, I ask unanimous consent that the letter and resolution I received from VFW Post 3221 urging assistance for Mr. Barnes and other afflicted uranium miners be printed in the RECORD at this time.

Subsequent to the August hearing, I introduced legislation, S. 1827, designed to provide a fair level of compensation to those uranium miners (and survivors of miners) who have contracted cancer and other diseases as the result of their employment during the 1950's and 1960's. It is my hope that this legislation will be enacted, so that Harry Barnes, and others like him, will receive the compensation they so justly deserve.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
September 7, 1979.

Hon. PETE DOMENICI,
U.S. Senator, Russell Senate Building,
Washington, D.C.

DEAR SENATOR DOMENICI: The enclosed Resolution was passed unanimously at a post meeting held in Grants on September 5, 1979.

It is self explanatory. Documentation is available.

On behalf of the Post and others in Grants, your efforts on behalf of the miners' problem in this area is deeply appreciated.

The resolution covers another facet of the total problem. The fact that afflicted miners, many times, do not have any place to go for help.

In the case of Barnes, the VFW is the only organization that might help him, although mining is not the function of the veterans, especially.

At the time he needed legal aid to fight the decision of the Social Security, none evidently was available.

That his remaining source of income, compensation from the insurance company, was cut off because of the decision of Social Security is hairy.

Please continue to help the afflicted miners in general and Comrade Harry Barnes in particular.

Yours truly,

GEORGE DANNENBAUM,
Past State Commander.

RESOLUTION

Whereas Harry Barnes, a former Commander of Post 3221, Grants, New Mexico, Veterans of Foreign Wars of the United States, and a former District Commander in the State of New Mexico, is at this time permanently disabled, and, as a result of an erroneous decision made at a hearing held by Social Security on the 29th day of June, 1977, at which time Comrade Barnes was declared not permanently disabled, and, whereby, as a result of that decision, Comrade Barnes was deprived of his sources of income except for a small company pension,

And whereas the Veterans Administration Center located in Tucson, Arizona, knows the condition of Comrade Barnes to be one of an advanced state of cancer, and, this fact is known and can be substantiated,

And whereas the 1977 decision was obviously in error at that time,

And whereas Comrade Barnes devoted his life to mining and has worked for decades in Uranium mines, endangering his life and contributing to the mining industry and to the welfare of the citizens of the United States of America,

And whereas Comrade Barnes served his country in the front lines of Europe during World War II and received honors for his bravery as an outstanding soldier,

And whereas many members of VFW Post 3221 have engaged in the mining profession and have been victims of cancer,

Therefore be it resolved: That the United States government immediately see that Comrade Barnes' status be immediately declared as disabled in fact by Social Security so that Comrade Barnes may receive the compensation he so justly deserves, and that Social Security be contacted at once and so advised,

Be it further resolved: That the State Commanders of New Mexico and Arizona, Veterans of Foreign Wars, be asked to contact the President of the United States, the Congressional delegations of Arizona and New Mexico for support, and that the National Commander in Chief of the Veterans of Foreign Wars of the United States use his considerable influence to see that justice prevails in the case of Comrade Harry Barnes,

And be it further resolved: That the United States government, the executive and legislative branches initiate, at once, a complete investigation of the treatment of disabled miners, veteran and non-veteran.

Mr. DOMENICI. Mr. President, I do not need any further time. I yield it back to the minority leader.

Mr. BAKER. Mr. President, I do not have any further need for my time. I yield it to the majority leader if he wants it.

Mr. ROBERT C. BYRD. Mr. President, I have no need for it.

Mr. BAKER. Mr. President, I yield back my time.

EMERGENCY ENERGY CONSERVATION ACT OF 1979—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report on S. 1030, which the clerk will state.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 12, 1979.)

The ACTING PRESIDENT pro tempore. The Chair informs the Senate that time for debate on this report, including amendments in disagreement and motions and/or amendments in relation thereto shall be limited to 1 hour, equally divided between the Senator from Washington (Mr. JACKSON) and the Senator from New Mexico (Mr. DOMENICI).

Mr. JACKSON. Mr. President, I urge the prompt adoption by the Senate of

the conference report on S. 1030, the Emergency Energy Conservation Act of 1979. This legislation contains a workable procedure for the development and approval by Congress of a rationing plan for gasoline and diesel fuel. It also provides for emergency conservation during less severe shortages than those requiring rationing of any energy source in short supply through State initiatives.

Under the terms of the emergency conservation title of the bill, the President would be authorized to impose a standby Federal emergency conservation plan to achieve the emergency energy conservation target set for any State, in the event that any State fails to respond to the national needs to conserve energy during an emergency.

I do not believe that it is realistic to expect the Congress to design and legislatively approve the details of a gasoline rationing plan or the specifics of other individual emergency measures to reduce energy consumption during a severe supply shortfall. Therefore the conference report before us contains a balance between a simple grant of authority to the President and congressional involvement in the approval of the final work product of the executive branch.

Mr. President, I congratulate Senator JOHNSTON and Senator DOMENICI on their initiative throughout the process of developing and enacting this legislation in the Senate and, also, on their leadership roles during conference with the House. The report of that conference should be approved and sent to the President at the earliest possible opportunity. Enactment of S. 1030 will establish basic and sorely needed authority to deal with the sort of episodic supply disruptions we will face for the foreseeable future.

Mr. President, I ask for the yeas and nays on the conference report.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JACKSON. Mr President, I yield to the distinguished Senator from Louisiana (Mr. JOHNSTON) who has worked so hard on this and deserves full credit, for better or for worse, on the result of the conference.

Mr. President, if it goes bad, I will say that he has everything to do with it. If it works, some of us will take credit.

Mr. JOHNSTON. Mr. President, I thank the junior Senator from Washington for his kind comments

Mr. President, this rationing plan is one that will work and that will guarantee that in the event of an emergency we will have in place both a gasoline rationing plan and an emergency energy conservation plan.

Mr. President, I think it is very noteworthy that the report of the conference was adopted unanimously by all conferees of both parties and of both the House and the Senate. I think it reflects a full realization on the part of all Members of both parties and of both Houses that it is absolutely essential that this country have in place a standby gasoline rationing plan in the event of an emergency.

Mr. President, the likelihood of an emergency, the likelihood of a cut off of oil from the Middle East, whether by reason of a blockade of the Strait of Hormuz, instability in any of the countries that supply us with oil, sabotage in any of the oil fields or of the pipelines, or any of a number of a host of possibilities—that possibility of such a cut off looms larger and larger.

We first considered the question of gasoline rationing when we passed the Energy Policy and Conservation Act in 1975. At that time, the idea of having to invoke gasoline rationing seemed to be remote, seemed to be one of those eventualities that we need not worry about. Indeed, after we passed the law and requested the administration at that time to bring forth a plan, no plan came forth because there was so much to think about and argue about internally.

That administration ended and another administration was installed. Finally, Mr. President, after a long delay, the President submitted his rationing plan.

As we know, of course, that plan was disapproved in the Congress. But by the time we disapproved the plan in the Congress, Mr. President, the necessity of establishing a workable standby rationing plan had become obvious to everyone. So it was we got the full cooperation of all parties involved to put together this legislation.

It is a legislation that involves certain major compromises. The first and perhaps the most important compromise, the item that hung up the Congress last time, was the question of whether we use historic averages as the basis on which we allocate rationing stamps, or whether we use a per person or per automobile formula. It was one of the principal questions we had to deal with.

The conference report requires a rationing plan using historic averages. That is to say, rationing stamps will be allocated to individuals based upon the most recent historic driving patterns in each individual State. Therefore, if a user resides and has his car licensed in a State which has high historic averages, he will get that incremental additional amount of rationing stamps for his automobile.

By specifying that we use the most recent figures, we guarantee that those historic averages will not be so ancient as to be out of date and not reflect the reality of driving patterns in the various States.

Second, Mr. President, we had great debate about the question of what is the trigger for gasoline rationing.

The Senate bill initially went with no specific trigger other than a severe supply interruption as interpreted by the President.

The House, on the other hand, used a figure of 20 percent to define a severe energy supply interruption. We in the Senate felt that 20 percent was much too high a trigger, that we could have a severe emergency involving a cutoff of petroleum supplies on the order of 15 percent to 19 percent, and it would be perfectly obvious to everyone that gasoline rationing should be invoked.

We compromised the measure in this way, Mr. President. We provided that the President can submit a plan which shall become effective immediately, after, of course, it is initially approved, but shall become effective unless vetoed by either House if the President finds that the cutoff in supplies is 20 percent or more. If the President finds that the cutoff is 20 percent or less, then rationing could still be implemented provided that Congress by joint resolution approves that implementation of the plan at this lower cutoff level.

So we have a fail-safe mechanism, Mr. President: Above 20 percent the President may invoke rationing subject only to a one-House veto; below 20 percent, it requires the participation of Congress in the form of a concurrent resolution.

The third compromise we had, Mr. President, perhaps the most hotly debated, was the question of how the plan initially is approved; in effect, how is it put on the shelf.

The compromise we finally agreed to was that the plan may be submitted by the President. It shall lie with both Houses for a period of 30 days and shall become effective as a standby plan unless it is disapproved by joint resolution of both the House and the Senate.

The reason this was so difficult for us to agree to was that of the experience we had had with the first rationing plan where it was sent to the Congress, the Senate initially indicated that it would reject the plan, and changes were made. The plan was then approved, and when it was sent to the House, it was disapproved.

Under the compromise language, Mr. President, we will avoid that kind of situation because we will require a very high standard of congressional action to disapprove a plan. That is, the adoption of a joint resolution would be required for disapproval, rather than, as under the previous law, an affirmative approval by both Houses.

This, Mr. President, will insure that all but the most outrageous plans will be approved by the Congress and will become effective as a plan on the shelf.

The plan may be amended by the President by simply letting amendments to an approved plan lie before the appropriate committees of the Congress for at least 15 days.

Mr. President, we also achieved important agreements with respect to energy conservation. The touchstone of our energy conservation plan is participation by the States. What we want to do, Mr. President, in the case of a cutoff in petroleum supplies, in the case of a

severe supply interruption, the President may submit a target for State conservation plans, and then it will be incumbent upon the State to submit its own plan with which to comply with that plan.

Mr. President, I think it is a creative plan because it adjusts the requirements of energy conservation and the possibilities of energy conservation to the various geographic and social conditions pertaining in each State.

Some States use more coal, some use more oil, some are more dependent on electricity, some have particular climatic conditions, and some have particular business patterns that make it difficult to dictate to those States a uniform national plan.

For that reason, we have provided for maximum flexibility on the part of the States to fashion a plan that will be consistent with their climate, their social patterns, their economic patterns, their population patterns. All those things are taken into consideration and made the basis upon which the States would comply with the plan.

We also have provided for a modification in building temperature restrictions. Using the concept of State and local involvement, we provide that State and local governments may submit to the President a comparable plan containing provisions whereby a State or unit of local government will approve and enforce an alternative plan for buildings which, when in effect, will conserve at least as much energy as would be conserved by the temperature regulations. The alternative plan need not conserve energy in the same fashion as the temperature regulation.

For example, a State or a local unit of government can submit a plan providing for less heat or less electric lighting or less use of other energy consuming machines in lieu of the rather inflexible Federal rule on temperature restrictions.

There are other provisions in the conference report with respect to minimum purchase of motor fuels, middle distillates monitoring and reports, restrictions on odd-even plans, and hoarding, which I also think will be quite useful.

Mr. President, I think this is an excellent conference report, reflecting, as I say, the unanimous concurrence of every Republican and every Democrat on the conference committee, of both the House and the Senate. It is workable legislation. It will give the Nation the necessary standby protection it needs in the event of a severe cutoff. It fully recognizes the rights and abilities of States and local units of government to participate and fashion their own plans in the most effective and least painful way, and I think it meets the national interest in the best way.

Mr. President, the report of the House-Senate conference on S. 1030, the Emergency Energy Conservation Act of 1979, contains an acceptable compromise on two of the most difficult issues the Congress has had to face in recent years: Standby gasoline rationing and the emergency reduction in energy consumption during serious supply shortages short of those requiring rationing.

The title of the legislation dealing with the rationing of gasoline and diesel fuel assures us that we will get a plan with which the Congress can live. I believe this legislation will also result in a rationing plan which will be promptly approved. This plan is required by the statutory language of the conference agreement to base the distribution of rationing coupons on historic use so that each State experiences the same percentage reduction in consumption from the base period.

The act also requires that sufficient rationing coupons will be available to attain, to the maximum extent practicable, the objectives of the Emergency Petroleum Allocation Act. These objectives include:

The protection of the public health, safety, and welfare and the national defense; the maintenance of all public services; the maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities and service directly related thereto; and the availability of the fuels necessary for the maintenance of activities related to the exploration for and production of fuels and minerals essential to the United States.

These requirements, which are written into the act, accurately reflect the concerns the Senate expressed when it approved the President's first gasoline rationing plan, as amended, on May 9, 1979.

The title of the legislation dealing with emergency energy conservation for situations less severe than those requiring gasoline rationing is derived from legislation Senator DOMENICI and I initiated and which the Senate overwhelmingly adopted. Indeed, the conference report incorporates the basic approach of this legislation:

States are encouraged, and given every reasonable opportunity, to take the lead in planning, administering, and enforcing measures for the emergency reduction in the public and private use of energy consistent with the authority available to them;

Federal authority is made available for delegation to any State lacking its own specific authority to impose mandatory energy conservation measures during an energy emergency; and

In the event that a State fails to assume its responsibilities in conserving energy to meet a national goal of reducing energy use during a severe energy supply interruption, carefully drawn provisions permit the President to step in and impose a Federal emergency energy conservation plan in that State to insure that all States conserve their fair share of energy.

The Senate conferees agreed to certain of the provisions adopted by the House which would restrict the ability of the President to impose the standby Federal emergency conservation plan, but the conference report makes these threshold conditions applicable only in the case that an approved State emergency energy conservation plan, implemented in good faith, fails to work.

In the case that a State simply refuses to develop an acceptable emergency energy conservation plan of its own or, if such State has an approved plan, but fails to properly implement it during an emergency, only a minimal bar to implementation of the Federal plan would exist.

In my opinion, these provisions make the conference substitute better legislation than either the House or the Senate bill. The Senate bill gave the President broad authority to initiate action in lieu of State authority and could, if enacted, have encouraged an activist President to preempt legitimate State efforts to fulfill the requirements of emergency energy conservation during a national emergency. The House bill, on the other hand, would have established several substantial barriers to Presidential action in the event that the Federal plan is needed, so that States might conclude that the legislation really requires them to do nothing.

The conference agreement contains the proper compromise between these positions. A State that makes a good faith effort to develop an adequate emergency energy conservation plan (and which implements this plan in good faith once an emergency occurs) has sunbstantial protection from a Federal preemption of State efforts. However, a State that fails to accept its fair share of the burden of reductions in energy consumption will, in all likelihood, find a Federal plan imposed within its jurisdiction it it fails to meet the energy conservation target set by the President for that State. Under these provisions a real incentive exists for the States to get involved in developing their own approaches to emergency energy conservation.

This is as it should be. Emergency energy conservation can be achieved most effectively if local authorities plan the program and administer and enforce it. Only when local authorities fail to act should the Federal Government be required to intervene to insure that the national interest is recognized.

Mr. President. I ask unanimous consent that a more detailed summary of the conference agreement on S. 1030 be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSTON. Mr. President, I thank and commend my distinguished colleague, the senior Senator from New Mexico (Mr. DOMENICI) for outstanding work on this bill. The fact that we were able to secure unanimous approval and rather prompt approval of this measure, of which he was one of the principal co-

authors, is great testimony to his ability and to the hard work he put in on this measure.

Also, I would like to congratulate the leaders of the House conferees, Representative JOHN D. DINGELL and Representative CLARENCE (BUD) BROWN, their staff, and the staff of the House Legislative Counsel, all of whom behaved in a highly professional and gentlemanly manner throughout this conference.

Mr. President, this is a good bill. Each member of the conference committee, majority and minority, has signed the conference report. I strongly urge its adoption by the Senate.

EXHIBIT 1

SUMMARY: S. 1030, THE EMERGENCY ENERGY CONSERVATION ACT OF 1979

I. MOTOR FUEL RATIONING

The conference agreement amends existing law governing gasoline and diesel fuel rationing (the Energy Policy and Conservation Act, passed in 1975) in several specific ways. Among the major changes are the following:

(a) The President would be required to submit another rationing plan;

(b) The plan would have to—

(1) distribute coupons on a State-to-State basis so that the degree of shortfall from base period use is shared equally among States;

(2) distribute coupons to the maximum extent practicable based on relative needs of different classes of end users; and

(3) provide enough coupons to meet priority needs (as those needs are set forth in the purposes of the Emergency Petroleum Alloaction Act of 1973).

(c) A progress report on the development of the new plan must be submitted to Congress within 120 days after enactment. An additional progress report is required after 90 more days have elapsed unless a plan has been submitted in the next 90 days.

(d) When the plan itself is submitted, it will be subject to Congressional review over a period of 30 days. The plan will be considered approved after. that period unless a joint resolution of disapproval is enacted (in which case the plan would be disapproved).

(e) An approved plan could be amended provided the Congress is notified and the proposed amendment lies before the appropriate Committes of Congress for at least 15 days;

(f) Before an approved plan can be imposed (so that the purchase of gasoline would require a rationing coupon) the President must

(1) find that a 20 percent shortfall with respect to the projected normal demand of gasoline and middle distillate fuels exists or is likely to exist for at least 30 days; and

(2) subject his proposal to implement rationing to Congressional review for 15 days with right of either House to disapprove.

The Congress, by concurrent resolution, could waive for a period of 60 days the requirement for a Presidential finding of a 20 percent shortfall. During that 60-day period the President would be free to impose rationing without further review by Congress.

II. EMERGENCY ENERGY CONSERVATION

The conference agreed to enact new authority for mandatory energy conservation during emergencies as follows:

(a) Upon declaration of an energy supply emergency with respect to any fuel, the President would publish State-by-State energy conservation targets and a target for Federal facilities. These targets would consist of a uniform national percentage reduction (related to the projected shortage) applied to the appropriate base period consumption of the fuel involved. The base period consumption for each State would reflect historical use, growth in consumption and would be chosen so that achievement of the target would not impair the objectives of the Emergency Petroleum Allocation Act of 1973.

(b) Any time before 45 days after notification of the establishment of a target, a State would submit its plan to reduce consumption to meet the State target. If approved the plan would go into effect for at least 90 days. After this time, unless the President finds that the State plan is not achieving the target, it would continue in effect.

(c) If the President finds an approved State plan is not achieving its target, he may impose a Federal emergency energy conservation plan provided he determines that the shortfall from projected normal demand in that State for the energy source involved is at least 8 percent.

(d) A State may seek judicial review (under expedited procedures) of its target, of a disapproval of its plan, or of the President's determination that its target is not being met.

(e) If a State has no approved plan, or is not effectively implementing a plan as provided for in assurances given when it was approved, the President may after a reasonable time impose a Federal emergency energy conservation plan without the prior requirement of a finding of an 8 percent shortage.

(f) The Federal plan must contain provisions to insure that implementation will not impair the objectives of the Emergency Petroleum Allocation Act of 1973. The plan must also offer a State or political subdivision thereof the opportunity, subject to the President's approval, to substitute for any measure of the Federal plan if the substitute will conserve at least as much energy as the Federal measure. This substitute may include provisions whereby affected persons may apply to the State or political subdivision for permission to conserve at least as much energy by alternate means.

(g) Targets and Federal measures could remain in effect for no more than 12 months without a finding by the President that the energy supply emergency continues to exist.

III. OTHER PROVISIONS

(a) Building Temperature Restrictions:

Section 202 of the Energy Policy and Conservation Act would be amended to provide that in case of a plan which would regulate building temperatures—

(1) Any State or local government may submit to the President a comparable plan containing a provision whereby the State or unit of local government will approve and enforce an alternative plan for affected buildings which when in effect will conserve at least as much energy as would be conserved by the temperature regulation;

(2) The alternative plan under (1) need not conserve energy in the same fashion as the temperature regulation;

(3) Nothing in the section precludes any unit of local government from applying directly to the President for approval of a comparable plan.

(b) Minimum Purchase of Motor Fuels:

The President would be authorized to prohibit tank topping during an emergency by setting minimum purchase levels for motor fuel. This authority could be delegated to a State.

(c) Middle Distillate Monitoring and Report:

A set of regular reports on middle distillate supply and demand would be required, the first of which is due within 60 days after enactment. An end-of-the-year summary must also be submitted which discusses the impact of the middle distillate supply situation on supplies of other petroleum fuels and the role competition and market forces are playing in protecting consumers from inequitable prices.

(d) Restriction on Odd-Even plans:

No Federal, State or local plan restricting motor fuel sales in any State based on license plate numbers may affect vehicles other than those licensed by the State in question or by States contiguous to that State.

(e) Hoarding:

The Secretary of Energy is required to report to Congress within 180 days after enactment on commercial and industrial storage of gasoline and middle distillates.

LEGISLATIVE HISTORY

Senate

S. 1030, to authorize the President to create an emergency program to conserve energy, and for other purposes, was introduced on April 26, 1979, by Mr. Domenici (for Mr. Johnston) (for himself, Mr. Domenici, and Mr. Jackson); Senate Committee Report 96-117 dated May 4, 1979; Passed the Senate on June 5, 1979, by vote of 77-13.

House

House of Representatives Report 96-384 dated July 23, 1979; Passed House August 1, 1979, by vote of 263-159.

Mr. DOMENICI. Mr. President, a parliamentary inquiry. Do I have 30 minutes allocated under the consent order?

The ACTING PRESIDENT pro tempore. The Senator has 29 minutes and 52 seconds.

Mr. DOMENICI. I took 8 seconds asking the question.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DOMENICI. The Chair never charged that to me before. [Laughter.]

Mr. President, first, I thank my good friend from Louisiana. Everything he has said about my participation applies more than equally to him.

I hope no one thinks that because the conferees, Democrat and Republican, unanimously approved this conference report, it is not a significant measure, because it is. As a matter of fact, a year and a half ago, I would not have thought that we could have passed this kind of legislation, much less come out of conference with all the conferees for it.

We in the United States are going to be energy short, not only for some time to come but, in my opinion, also for years to come. While we are short of energy, it is going to be a long time before we are really energy secure again. We are going to be vulnerable to acts of aggression and to the activities of outside governments in a way we never imagined.

As a result, this body, the Congress of the United States, in a free and open society, would be totally remiss if it did not place on the shelf, for utilization by this great Government, effective emergency plans in the field of energy. An

emergency energy plan, ready and available, but for the happening of an untoward event that we hope never will happen, is a must today. That is what we have tried to do in this legislation, and in my opinion we have taken a big step in that direction.

We are not going to have gasoline rationing next week, and we hope we never will have it in America. There are those who think that would be a very easy kind of episode for Americans, hoping that when those lines appeared, we could solve them quickly by rationing. When rationing comes, it is going to be an episode in management the likes of which we have never seen in the United States..

Consider how long it took to get the social security checks into the computers, lined up so that they went to the right people in the right amounts. That was about 12 million.

Under this allowance, by which the President will come up with a plan, it could very well be that every automobile and truck in America will get something in the mail regularly from the U.S. Government, an entitlement to stamps. With the number of vehicles today—between 130 million and 140 million—I say to my good friend from Louisiana that that many pieces of mail will have to go to the right place, with the right things in the envelopes, with the right computer printout, so that people can go to the gas station and buy gasoline.

For those who think that would be Utopia, let me suggest that that is probably going to take a year to iron out, and we hope we never will have to use it.

We are satisfied that we have done the best we can in a free society to share in the responsibility with the President of the United States. That was the big challenge. We have a President, but he is subject to our policymaking and our ideas and our representation of our constituents. So we cannot sit here in the Senate and devise a rationing plan for those 140 million cars in our 50 States, with the various interests that come into play. We have to let our President do it. Yet, we are elected to make sure Presidents do the right thing. So we retain something here.

In summary, we said to the President, "You have the authority to get this plan started."

Incidentally, for those who think this might be premature, the estimate is that it will take between 6 months and a year after the plan is ready to get everything ordered and to put it somewhere on the shelf in order to have it ready. So if we have an emergency tomorrow, the fact that we pass this legislation today does not mean that we will have a rationing plan. But this administration had better not be like previous administrations. They had better get it ready for the hearings required and send it to Congress, so it will be ready.

I want to discuss briefly with my colleagues the things I think are important in this rationing plan that will protect our people and establish a policy for gasoline rationing.

First, to the best of our ability, we have sent a message to the President that we intend that historic use be the basis on which the rationing occur. That means that some people, of necessity, have used their cars far more than others, and that shows up in historic use; and we have asked that the plan be designed around that premise.

Many Senators have played a part in developing this, and it has been carried on through this conference. I am reminded of one Senator in particular, the Senator from Texas (Mr. BENTSEN), who was the prime producer at one time of historic use upon which to base rationing. That is in this measure.

Second, we had the responsibility of deciding when, if ever, it should be used, and the majority leader on this measure calls that the trigger. That means the point in time when the President can use it. We have clearly delineated in this legislation when the President can use it. There must be a 20-percent shortage for him to call it into play; and if that occurs, either House can veto it.

They have 30 days to do that. We think that is a good arrangement because that would be a very critical point in time and we do not think either House could act arbitrarily in that instance because they would have to act very responsibly because of the crisis.

We said there may be occasions when 20 percent is too steep a trigger. That is a 20-percent shortfall. So we have gone on to say that in the event there is a 10 percent shortfall the President can implement it but in that event he has to have the concurrence of both bodies. Both bodies must actively say, "Yes, we think that is good protection also," and that keeps us in this chain of decision-making.

That leaves only one other event, and that is after the plan is ready and before we ever put it into use what is the role of Congress? And here we had a big dispute because under the old law before it became effective either both Houses had to concur for the plan to even be on the shelf, to even become a valid contingent plan. We decided we want the President to send this up to Congress and a serious act occur of looking at it and seeing if it is right. And in that regard what we have done is we have basically said both Houses by joint resolution would have to disapprove, which basically means it would have to be terribly arbitrary, capricious, totally without any merit because we would have to have two-thirds of both bodies overruling the plan.

Nonetheless, the President knows that we are looking at it so he would be guided accordingly.

I am not going to elaborate on the second aspect of this bill, the emergency energy conservation portion, because I think it has been adequately explained and I am pleased to be part of the original concept. I believe the House of Representatives did indeed temper the broad authority that we had given to the President. When you put their approach to requiring some specific shortages to exist and then giving the States every opportunity first before you implement national conservation plans, I think they contributed to the mix of conservation emergency Presidential action and the three are molded quite well together.

I have gone into detail for my colleagues into when and how that second phase of this bill can be implemented.

I personally think it is an excellent accommodation.

Mr. President, the conference report which the Senate conferees bring back to the Senate today contains a number of departures from the Senate passed bill. In several instances those departures represent major policy changes. However, the conference report has included new restrictions on use of Federal authorities to impose rationing and other conservation plans, and in balance leaves the bill with the best of both approaches. I am pleased with the conference agreement and urge support by my colleagues.

The most important change in the bill as passed by the Senate is the new procedure for congressional review and approval of the rationing plan. Under the previous approach, both the House and the Senate had to affirmatively approve the rationing plan before it could be implemented by the President. Under the conference substitute, Congress will be given 30 days to review the plan and if it finds it unacceptable, it can be disapproved by a joint resolution. The joint resolution. The joint resolution effectively means that two thirds of both the House and Senate would have to disagree with the President in order to override the expected veto of the disapproval resolution.

The change in congressional review procedures in the legislation has been accompanied by a statutory mandate that the President cannot implement rationing after a plan has been approved until he finds that a 20 percent shortage of motor fuels and distillates exists. His decision to implement, after making the requisite 20 percent finding is still subject to a single House veto within 15 days.

In addition, the conferees recognized that a potential for chaos in the gasoline market exists at shortages less than 20 percent, depending on the circumstances. In order to provide for some flexibility in this event, the bill contains a provision allowing the President to implement the plan at less than a 20 percent shortage if Congress has waived the 20 percent requirement by a concurrent resolution. The authority to implement under the waiver would only last for 60 days. However, if the plan were implemented during that time, the plan would continue to operate for the 9 months provided for under EPCA.

The conference substitute has retained the Senate concept of historical use as the basis for allocating ration rights to the various States. This was an important issue for the Senate and it is significant that the Senate provision on this subject has been preserved. In addition, provision is made for the President to use the best data available to him in determining how

best to allocate rationing rights to the ultimate end users. The conferees fully intend that the Department of Energy reevaluate completely its regulation regarding allocation of end user rights. There were many parties whose needs were inadequately addressed in the first plan and it is clear that in order for there to be a degree of confidence in the fairness in the plan, these needs must be reevaluated.

EMERGENCY ENERGY CONSERVATION

The emergency energy conservation portion of the bill retains the basic thrust of the Senate passed bill, S. 1030. New limitations to the President's authority have been added. But the basic intent of S. 1030, as passed by the Senate, namely to revise the procedures by which the President, as the chief executive officer of this country, and the Congress handle energy emergencies, has been preserved.

Under the conference substitute, the President would have to make a finding that a severe energy supply interruption for a particular energy source exists or is imminent or that the conservation actions are necessary in order to fulfill the obligations of the United States under the international energy program. When that finding is made, the President then has the authority to set conservation targets for each State. At that time the President would also indicate what authorities under Federal law and under State law will be either implemented by the Federal Government or the State to meet that target.

The targets must be fuel specific. And they apply only to the fuel that the President has determined is in short supply. The targets are to be determined by the President in a way that takes into consideration the use of energy for priority activities, such as agriculture and energy production. He must make sure that the attainment of the targets would not impair those needs, as well as all of the priority activities currently treated under the Emergency Petroleum Allocation Act.

Each State's energy conservation target will be a uniform national percentage of that State's base period use of the fuel that the President has determined is in short supply. In calculating the base period use, the basic Senate approach of making adjustments to that base period to reflect priority activities, such as agricultural or energy production, has been basically preserved, but modified slightly. Under the conference substitute, the base period will be adjusted by the President, to the degree he determines necessary to reflect—

First, growth in energy use, second, reduction in energy consumption already achieved by conservation programs, third, energy shortages which may affect current levels of base period use, and, fourth, variations in weather.

In addition, the President is required to adjust, to the extent he determines necessary, each State's base period consumption to make sure that achievement of any of the targets will not impair the attainment of objectives contained in section 4(b)(1) of the Emergency Petroleum Allocation Act. Among those objectives are the maintenance of all public services and agricultural operations, protection of public health, safety and welfare, and preservation of an economically sound and competitive petroleum industry. These were all matters of paramount concern to the Senate and the conferees have made it quite clear that the attainment of these objectives is critical to maintaining the maximum amount of healthy economic activity during a period of energy shortages.

In order to draw the States strongly into the whole process of planning for and managing energy shortages, the conference substitute is structured in such a way as to encourage States to adopt their own conservation planning procedures and get them approved by the Department of Energy prior to any emergency actually happening. State plans that are approved in advance would be used in lieu of Federal conservation measures. Only if such plans were ineffective in meeting the State target would there be any means by which the Federal Government could impose a Federal plan on a State.

If the State is not capable of meeting its target, or there are State measures which are not working as planned, then the President may impose a Federal plan on that State to assure that its target is met, but only if he also finds that there is an overall shortage of 8 percent or more of the relevant energy supplies in that State.

The conferees also adopted a very important provision which allows other governmental bodies to develop their own conservation measures and have them approved by the Department of Energy. These plans can include, as can the State plans, individual measures which allow energy users to develop alternate means of conserving the same amount of energy. The use of alternative means is not intended to be a loophole. Quite the contrary. The use of alternative means is intended to allow individual users of energy to develop those means of conserving energy which preserve their best interests as well as meeting the national challenge to conserve energy. It is not possible for either the Federal Government, or even State and local governments to develop plans which are absolutely fair to everyone. However, it is possible that individual users can figure out a way to save the prescribed kind of energy in other ways than means prescribed in broad national, State or local government plans. And it was our view that they should be given every opportunity to prove that they are right.

The judicial review provisions of the bill are equally important to the Senate. The bill and the statement of managers make it clear that the judicial review contained herein is not intended to be an exclusive remedy for any State in challenging the specified action of the Federal Government. Other remedies, authorized under other law or the Constitution, would be available to the State under section 214.

In sum, Mr. President, we have here a bill that will make it much easier to meet energy emergencies that the Nation may face in the coming years. The President is clearly in charge and that is what the Senate had in mind when it passed its bill. In addition, we have broadened the participation in the effort to conserve energy during an emergency and we have made additional provision for prior planning. The responsibility for effective implementation now will reside with the President and with the State and local governments. We have already been informed of several State and local governments who are developing their own conservation plans. We encourage them and we encourage the Department of Energy to actively solicit other groups to do the same. We are going to be energy short for some years. And it will be a long time before real energy security returns to this Nation. As a result, effective energy emergency planning must be a way of life for all government. This bill takes a big step in that direction.

Again, I urge its adoption by my colleagues.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DOMENICI. Mr. President, I yield whatever time Senator HATFIELD needs at this point.

Mr. HATFIELD. Mr. President, I commend the conferees for a very difficult job which I think has been well done. The differences between the House and Senate positions on emergency conservation measures and on rationing of gasoline and diesel fuels were both numerous and great; yet the distinguished chairman of our committee and the Senators from Louisiana (Mr. JOHNSTON), Ohio (Mr. METZENBAUM), Idaho (Mr. McCLURE) and New Mexico (Mr. DOMENICI) were able to emerge from the conference room with a bill I believe will accomplish the Senate's objectives. These are, first, to provide a mechanism for emergency response to oil supply interruptions that is both effective and reflective of the different patterns of fuel use in the various States, and, second, to provide a mechanism that will insure development of a sound standby rationing system.

Mr. President, we will experience oil supply interruptions again, as surely as we are standing here in the Senate today. We must have standby plans ready to deal with them. The alternative is to experience unnecessarily disruptive economic and social problems every time a major foreign oil producer experiences a production loss or attempts to exert pressure through an embargo.

When we passed the Energy Policy and Conservation Act of 1975 we created a mechanism we thought would accomplish the two objectives I just restated. The mechanism failed. Four years later we have nothing to show for it but a building temperature restriction program of dubious value.

Today we must start again. We simply cannot, by inaction, keep risking our economic health and our social well-being. A mere 5-percent shortfall created the gasoline lines of this spring. Imagine what a 20-percent shortfall would do. Our mandatory petroleum allocation system could not handle it. Chaos would

ensue in the absence of ready programs to accomplish emergency conservation, including, if absolutely necessary, rationing.

I urge my colleagues to support the conference report on S. 1030, and I urge the President to respond to its call for action in the shortest possible time.

Mr. President, before yielding the floor, I wish to commend especially the Senator from New Mexico (Mr. DOMENICI) and the Senator from Louisiana (Mr. JOHNSTON) for their leadership in this area. Their inspiration and their untiring efforts are responsible for the movement of this entire body in a much needed direction today.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BUMPERS. Mr. President, will the distinguished floor manager of the bill yield to me? Does he have time remaining?

Mr. JACKSON. We will yield. How much time does the Senator wish?

Mr. BUMPERS. Just 3 or 4 minutes.

Mr. JACKSON. Mr. President, we yield whatever time the Senator needs.

Mr. BUMPERS. I thank the Senator.

Mr. President, I preface my remarks by saying that I am going to vote for this bill, but not enthusiastically.

One of the questions I am most frequently asked every time I go home is why does not Congress do something about energy?

Last year we passed an energy bill called the National Energy Policy Act, after debating it for almost 2 years and after one of the longest filibusters in the history of the Senate over the decontrol of natural gas.

When the President signed that bill, he called all Senators and Members of the House of Representatives who had worked on the bill over to the White House and made a great public relations demonstration out of how Congress had finally dealt with the energy problem.

The very simple reason people still do not believe Congress has dealt with the energy problem is because we have not. Congress has not called on the American people, nor has the President called on the American people to make any sacrifices. We have not called on them to cut down on their driving. We reduced our driving in Washington earlier this year out of necessity. As a matter of fact, people took some pride in the fact that they were getting to and from work and getting along reasonably well here in Washington, even though we were using 17 percent less gasoline than we used in 1978. It was, frankly, a rather exhilarating feeling for a lot of people to know they had been able to reduce their driving without seriously changing their lifestyles.

I introduced the first rationing bill in this Congress in 1976. I got 15 votes—they were quality votes—to ration as a conservation measure, not when there is an OPEC cutoff or after the crisis has already occurred. There were 15 votes for my amendment in 1976. Since that time the inflation rate has gone from about 8 to 14 percent, and 4 percent of the inflation rate is directly attributable to oil imports.

Now we have before us today a standby rationing plan which says, No. 1, the President will design the plan and send it to Congress for its approval.

The President sent us a standby rationing plan earlier this year. Do Senators remember that? It has been less than a year since the President sent a rationing plan over to Congress, and we finally, after a great deal of deliberation and debate, passed it in the Senate, and the House of Representatives promptly rejected it.

Now, we are saying to the President, "Try again. Send us another plan."

First of all, we are unlikely to get any plan passed by Congress because of the thousands of myriad interests that are affected adversely when you mention rationing. Assuming the best, Congress does not disapprove the plan submitted by the President; or if the resolution of disapproval is passed, the President does not exercise his veto of the resolution of disapproval; and if exercised the veto is not overriden by a two-thirds vote.

We are right back with the old dog-chasing-its-tail trick. Instead of having three branches of Government with checks and balances, we have two branches of Government, with Congress and the executive branch continuing to cancel each other out. The result is that people will continue to ask me every weekend why has Congress not done anything about energy?

Let us assume that the energy plan is submitted. Let us assume Congress approves it and the President agrees with all of the congressional amendments. The real capstone of this bill is that the President may not implement it until he finds that a 20-percent shortfall of gasoline and middle distillate fuels is likely to exist for 30 days, and he has resubmitted it to Congress. That is what I call biting into a marshmallow. Give the President authority and say to him, in effect, that "You can't even use it unless there is a 20-percent shortfall."

Well, friends, when there is a 20-percent shortfall in this country the crisis is already underway. We are already in insurmountable trouble, and even then Congress may say to the President, "No, even though there is a 20-percent shortfall you cannot put this plan into effect."

Ever since Watergate you have heard time and time again that Congress has the bit in its mouth, it is not ever going to relinquish its authority to an imperial Presidency. We just continue to hang our hat on that, and we continue to cancel each other's authority. That is the reason for the paralysis of government over energy.

When are we going to tell the American people that things "ain't" like they used to be? I remember one time somebody asked Will Rogers, "Why isn't it like it used to be?" And he said, "Things ain't like they used to be, and they never was." They are not like they used to be, and the sooner Congress admits it the quicker we will solve this crisis.

The American people have a much better grasp of this problem than Congress. The people of this country are begging for Congress and the President to point the way to control inflation, and we cannot even get a standby rationing bill. This is not a rationing bill. It is a standby plan. It is not about to go into effect and, in my opinion, the walls of the temple will have to fall before we do anything about it.

We continue to allow Detroit to tell the American people "People don't like those little cars. They just don't want to buy them." And, at the same time, 28 percent of the sales in this country are being unloaded onto the docks of New York and San Francisco.

Well, I have got a couple of compact cars, and I like them. I enjoy driving them, and I feel that I am making a significant contribution.

I have two cars that get over 2½ times as many miles per gallon as the two cars I traded last year. I am going to save myself $2,000 this year.

Twenty-eight percent of the people in America who are buying those imports are buying them for the very same reasons and, happily, making a contribution to the energy problem at the same time.

Mr. President, did you know the fleet average of every automobile in Italy is 30 miles per gallon? It is almost that high in the rest of Western Europe and Japan.

If we had an outbreak of sanity in this body and mandated that every automobile manufactured in the country had to get 30 miles per gallon, do you know what the fleet average of this country would be in a year's time? The national average would only increase from 14.5 to about 16 miles per gallon.

No wonder people ask us on weekends, "When is Congress going to do something about energy?"

I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DOMENICI. Mr. President, I yield 5 minutes to the Senator from Idaho.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Chair.

Mr. President, I rise in support of the conference report on S. 1030, the Emergency Energy Conservation Act of 1979. As a member of the conference committee, I am pleased to report to the Senate that the conference report constitutes an acceptable compromise beween the markedly different Senate bill and House amendments. Specifically, in several key areas of disagreement, the conference report adheres to the basic principles and concepts of the Senate-passed bill.

I am particularly pleased to report that the conference report retains an affirmative role for the Congress in the approval of the standby gasoline rationing plan. As my colleagues may recall, existing law requires two-House approval of any standby gasoline rationing plan. Under that law, the Senate approved and amended a form of the President's proposal this past summer but the House defeated the proposal, thereby killing the plan.

As a result of the bitter battle on gas rationing in the House, and the House

leadership conclusion that virtually no plan would ever be approved by the House, the House amendments to this bill struck the requirement for congressional approval of a standby gas rationing plan. The Senate bill was silent on this issue, and the Senate conferees successfully refused to remove Congress from the approval process completely. Consequently, the conference report adopts a rather complex formula for two-House disapproval of a proposed gas rationing plan, using a joint resolution. While the joint resolution mechanism significantly weakens the previous congressional approval role, there still will be a guaranteed opportunity for both Houses to vote to disapprove a proposed rationing plan. As one who opposed the last gas rationing plan, and who is concerned seriously about the specific details in any future plans, I believe that retention of this mechanism for both political and substantive reasons was necessary. I, therefore, believe the conference report protects the prerogatives of the Senate for some form of prior review of any future plan.

The original emergency energy conservation bill passed by the Senate dealt with national and State emergency energy conservation programs for situations involving shortages less serious than that requiring gas rationing. The intent of the Senate bill was to provide a single, broad-based emergency mechanism for dealing with any form of energy emergency in the future, while giving maximum flexibility to the States to develop their own responses to any such emergencies. The House amendments adopted a similar program, but one which added a series of restrictions and more rigid requirements to the Federal and State authorities in the bill. The conference report restores much of the flexibility included in the Senate bill, but adopts certain restrictions to avoid an overly broad delegation of authority to either the Federal Government or the State governments in an energy emergency. Also, the conference report adopts a series of adjustments to State energy conservation targets which recognize priorities for certain energy users.

Of particular importance in regard to the adjustments of State emergency conservation targets in section 211(a)(3)(C). The cited subsection provides that the President shall adjust the computation of the targets for each State to insure that there is no impairment of the priority objectives contained in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973. It is the intent of the conferees that the President will use this authority in any case where a State target would result in a negative impact on the priorities of section 4(b)(1) in the State. In other words, this subsection should be interpreted as a requirement that the priorities of section 4(b)(1) will be incorporated directly in computing the individual State targets.

Section 214 sets out a special procedure for judicial review instituted by any State of certain actions by the Federal Government under the emergency authorities of title II. As is made clear in the statement of the managers, at page 40 of the conference report, section 214 is not intended to constitute an exclusive remedy for a State in challenging the specified actions of the Federal Government. If any other judicial review is available to a State under any other provision of law and the constitution, as is quite likely, that remedy would also be available in addition to the statutory action provided in section 214.

The conference report also adopts versions of several other House amendments, while rejecting several others. I am pleased particularly that the conference adopted a provision to allow for so-called comparable measures under the building temperature restrictions conservation plan now in effect. The same comparability concept also was incorporated in the State emergency conservation plan provisions. I believe it is important that we preserve nationally the concepts of individual decisions and actions meeting any conservation targets. The best judge of an individual businesses' ability to achieve any given amount of energy conservation in the end, is the business itself and not some bureaucrat in Washington or a State capitol. This comparability concept makes good sense as added to this bill, and I am hopeful that adoption here will insure the use of the concept in any future conservation plans proposed under the Energy Policy and Conservation Act, this act, or other authorities available to Federal and State governments. It certainly is the intent of the conferees that comparability be so included in any future Federal actions.

The conference report in section 242, establishes additional requirements for the monitoring of the supply situation of middle distillates. One of the most frustrating aspects of our experience over the past 10 months since the Iranian revolution has been the marked absence of any accurate and reliable information on the middle distillate supply situation. During the conference, I was particularly insistent that the conference report retain some form of the House amendments dealing with middle distillate monitoring. As we go into the winter heating season with projected tightness in the petroleum markets, I believe these authorities and requirements will insure that we are better prepared and better informed to deal with competing uses for agriculture, trucking, utility use, and heating oil.

Mr. President, my position on the original Senate bill reflected a significant concern with the breadth of the delegation of authority we were being asked to make. I also became concerned during the House consideration of the bill that there was an erosion of congressional prerogatives regarding gas rationing. The conference report before the Senate today adopts a balanced compromise with regards to these concerns, as well as with regards to the differences in the Senate bill and the House amendments. On balance, then, the conference report should be acceptable to the Senate and to the American people, and I urge its adoption.

Let me take just a couple of minutes longer to comment about one aspect that I think is important to understand in this legislation as contrasted with the one that we had before.

One matter that was troublesome to me in the last rationing plan that was before us was that it was based upon historic average. That, in some way, was aberrant as far as the State that I represent was concerned, because while we have long distances, when we look at the average consumption in my State per vehicle registered—which is the way it was measured under the last plan—my State was far below the national average.

I recognize, and I think it is beyond refutation, that that simply is evidence of some kind of a problem in that particular method of computation of average fuel consumption.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. McCLURE. I would be happy to yield.

Mr. JOHNSTON. Let me say to the Senator there had to be something wrong with those figures. I am quite certain there was something wrong and for that reason we specify in this bill the most recent available figures. It is thought that rather than use what really were preliminary figures, figures that we had the data of before us in the Committee on Energy and Natural Resources last time, that we will have accurate and recent figures which I am quite certain are going to show that Idaho is at least at the national average because that is the ordinary experience of those of us who looked at Idaho and would say it is at least at the national average. So I think the Senator can be reassured that the new figures will reflect much higher consumption of gasoline due to actual driving patterns in Idaho.

Mr. McCLURE. I thank the Senator, and that was a problem.

Perhaps, one of the difficulties in the formulation used was that we first said we will grant coupons on the number of registered motor vehicles, and then we decided, well, that would give somebody who had a lot of automobiles in their family an advantage over somebody else, so we limited it to three.

The other side of that is in Idaho we have the highest per capita registration of recreational vehicles in the United States, and that simply is a reflection of the fact that we are an outdoors people, we live outdoors, that is where our recreation is; and for many that is where their livelihood is. So they may have a four-wheel drive or two, as well as the automobile, as well as the pickup, as well as the farm truck, and so on, and they do not drive all of them all at once, but they will drive one and then the other, so the result will be that the limitation on registrations and the measurement by registration may be the reason why the final figure came out wrong.

I mention that only because this does not specify the precise formula to be used but allows us to look at base figures on the last and most recent data base, so that we can get an equitable distribution of the gasoline among the several States.

Mr. President, that formulation and the way it worked last time caused me to vote against the rationing plan that was voted out of committee once before.

But with that change and with the expectation that we will find the reason why and come up with a different formulation, I am pleased to be able to support this conference report and join with my colleagues in commending both the Senator from Louisiana and the Senator from New Mexico for their leadership in this field.

I am sorry the Senator from Arkansas has left the floor because I wanted to just note that he is talking about annual fleet averages, and he mentioned that he traded off two cars last year.

I say to the Senator there are a lot of people in my State who just could not afford to trade off two cars last year or two cars this year. A good many of them have to keep a car longer than that and, therefore, it takes longer for them to move into smaller automobiles, as useful as that might be in terms of national policy.

I do not think people who failed to trade off their old automobile are or should be thought to be somehow unpatriotic American citizens simply because they cannot afford to do what some of us here, with our $57,000-a-year salaries, can afford to do.

I thank the Senator for yielding time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Washington yield to me?

Mr. JACKSON. Yes. Mr. President, I yield such time as the distinguished majority leader may require.

GAS RATIONING AND ENERGY CONSERVATION

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Washington.

Mr. President, action on the conference report on S. 1030 will culminate a long and difficult struggle over the procedure by which emergency conservation measures are developed.

Last spring, this Nation faced the second severe energy shortage in 5 years. We all endured the inconvenience of long gasoline lines. In the midst of that crisis, the President offered several proposals to curb energy consumption, in order to avoid serious disruption in the flow of commerce and to insure that our national security was not jeopardized. These proposals, offered under the authority of the Energy Policy and Conservation Act of 1975, engendered considerable controversy and caused each of us to consider what measures could be adopted to effectively deal with such energy shortages without undue sacrifice or discomfort to the American people.

The Congress considered carefully each of the proposals offered by the President. We sought to determine what energy savings would result and to balance the necessity for those savings against the hardship imposed upon our citizens. Among other things, the President requested standby gasoline rationing authority and offered a specific plan to be put in place as an insurance policy against further cutoffs by the oil exporting countries. The Senate approved a standby gas rationing plan in June, but unfortunately, the House did not.

As a result, the President challenged Congress to provide a standby gasoline rationing plan. I urged that the President send us another plan, as a challenge not only to Congress but to the executive branch. I stated to him that I thought the American people expected action, whether by Congress or by the President, or by both, and that it was not a matter to be handed by one body to the other as a challenge. But in any event, we still do not have a standby rationing plan on the shelf. The President never did send up another plan, as I urged him to do, even though the threat of further shortages has only increased in the last 2 months.

This legislation, the Emergency Energy Conservation Act of 1979, was originated by the distinguished Senator from Louisiana (Mr. JOHNSTON) and by the Senator from New Mexico (Mr. DOMENICI) as a vehicle for obtaining greater State participation in emergency conservation planning. While this bill easily passed the Senate, the House added numerous amendments to alter the legal framework for gas rationing and to provide for various regional interests in the event energy shortages recurred.

Some of these provisions were well taken and were adopted by the conferees. The conferees, under the distinguished leadership of Senator JACKSON and Senator JOHNSTON, and with the able assistance of Senator DOMENICI and Senator McCLURE, worked hard to derive a new scheme for developing a gas rationing plan. I believe the measure incorporated in the conference report will allow for flexibility on the part of the executive branch while insuring proper congressional input. This was an arduous task and the conferees are to be commended—I say commended—for their efforts.

What is now important is the actual drafting of a standby gasoline rationing plan. I do not believe that any further dispute over procedure would be useful. Our national security and the fate of our economy hinges upon the actions we take in the immediate future to curb our dependence on foreign oil and to prepare ourselves for future emergencies. In that light, preparation of a standby rationing plan must be among our highest priorities.

Mr. President, I again wish to express my commendation to Mr. JACKSON, Mr. JOHNSTON, Mr. DOMENICI, and the other conferees, and I especially want to compliment and to thank Mr. JACKSON and the members of the Energy Committee for the demonstration, repeatedly, on their part of responding to the need for energy legislation, not only responding to the need, but, by continuing hearings on the legislation—and they have done this over the years—they have brought bills to the floor, and right now the Energy Committee is on the verge of reporting the second big energy bill, one which will have in it the synfuels authorization and the various other aspects of the overall plan that are so needed to place this Nation in a position to meet the energy problem and to guide us toward energy self-sufficiency. I thank them, and I think the Senate is in their debt.

Now, Mr. President, I would like, if I may—does the Senator from Massachusetts wish to speak on this subject?

Mr. TSONGAS. Yes.

Mr. ROBERT C. BYRD. I yield the floor.

Mr. JACKSON. Mr. President, may I, before we go on, emphasize that the work of the committee has been the work of a team. Senator JOHNSTON has had to carry the load for me on both bills, the energy conservation bill, the synfuels legislation, and on the rationing bill before us, and we have had wonderful cooperation on a bipartisan basis. Senator DOMENICI has been heavily involved, as well as Senator HATFIELD and Senator McCLURE, on the minority side.

I just want to emphasize that there are still areas where we disagree, but we try to iron them out and bring them to the floor, and I think the bipartisanship has been outstanding.

I yield to the junior Senator from Massachusetts.

The PRESIDING OFFICER (Mr. BAUCUS). The time of the Senator from Washington has expired.

Mr. DOMENICI. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from New Mexico has 12 minutes.

Mr. DOMENICI. How much time does the Senator wish?

Mr. TSONGAS. 3 minutes.

Mr. DOMENICI. I yield the Senator 3 minutes.

Mr. TSONGAS. I assume 3 minutes on the Republican side is equal to 3 minutes on the Democratic side.

Mr. DOMENICI. Certainly. In fact, it is worth 6.

Mr. TSONGAS. I accept the 6 minutes.

Mr. President, I am going to vote for this conference report. I commend the Senator from New Mexico on his reasonableness in pursuing this issue and commend the Senator from Louisiana on his knowledge and the way he has chaired the committee. I do not understand it, but I can certainly recognize and appreciate it.

I would like to associate myself with the remarks of the Senator from Arkansas. He talked about where he thinks this country is in its capacity to accept restrictions. I find it incredible that this country, which began with Valley Forge and all the hardships endured by people in the West, including the State of New Mexico, would find 78° to be a totally unacceptable, totally inhumane concept, and that somehow our physiologies are unable to adjust to that temperature, or that the same Nation so enchanted with saunas and hot tubs should find itself unable to adjust to 78° in restaurants.

Mr. President, I do not believe this country is of that mind. I think there is a great deal of capacity out there to do whatever is necessary, and I think the Senate ought to recognize that.

So I am pleased to support the conference report, and I thank the Senator for yielding.

Mr. DOMENICI. Mr. President, I want to say that I am most appreciative of the work Senator McCLURE did. Anyone who works with Senator McCLURE knows that when it gets tough, it is nice to have him around, because he often comes up with the answers. I am delighted that he and I shared the Republican side on this effort.

Mr. President, I just wish to make one observation. I really do not believe that the comments of our good friend, the Senator from Arkansas (Mr. BUMPERS)—that may be his version of this bill, but it seems to me we have truly handed this policy to the President, where it belongs, to develop a rationing plan, and we do not have anything to say about it unless there is a most extraordinary failure, because it takes two-thirds of both Houses to say no to it. So basically we have said to him, "Come up with an intelligent plan." After that, it is out of our hands until he seeks to implement it. Then, if there is a 20-percent shortfall, we can veto it, but nobody is going to veto it with a 20-percent shortfall, as defined here, because then we would be facing a real crisis.

The other triggering mechanism, for less than a 20-percent shortfall, requires that we concur, because we have agreed that is the way it ought to be, because that is not a serious enough problem.

I really do not think we tried to make this difficult. To the contrary, we realize the President and the administration have to develop a rationing plan; if you leave it up to Congress, it would be almost impossible. Yet we want to have some say-so.

I think there are differing views on how it ties his hands and how involved we are, and I wanted to make my own known.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. DOMENICI. I have agreed to yield 2 minutes to the Senator from Mississippi.

How much time do I have remaining?

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. The Senator from New Mexico will suspend until order is restored. The Senate will be in order.

Mr. DOMENICI. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. DOMENICI. Mr. President, I want to reserve 3 minutes. I wish to be advised of that. I yield to my friend from Louisiana.

CORRECTION OF ENROLLMENT OF S. 1030

Mr. JOHNSTON. Mr. President, there are certain technical conforming changes which need to be made in this act, for which we have a concurrent resolution. I am just getting ready to ask for unanimous consent to pass the concurrent resolution at this point to save time. If that does not meet with any objections—

Mr. ROBERT C. BYRD. Mr. President, let us clear that concurrent resolution on both sides first.

Mr. President, I ask unanimous consent that the Senator from Louisiana may send to the desk a concurrent resolution and ask that the Senate proceed to its immediate consideration for not to exceed 1 minute at this time.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

S. CON. RES. 44

Resolved by the Senate (the House of Representatives concurring) That, in the enrollment of the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, the Secretary of the Senate shall make the following corrections:

In the table of contents insert, at the appropriate place,

"Sec. 215. Reports"

In section 101 strike out

"(a) FINDINGS.—".

In section 103(b)(1) strike out "42 U.S.C. 6361(e)" and insert in lieu thereof "42 U.S.C. 6261(e)".

In section 103(b)(2)(C) insert between the words "other" and "pursuant" the word "than".

In section 103(c)(1) strike out "42 U.S.C. 6361(f)" and insert in lieu thereof "42 U.S.C. 6261(f)".

In section 103(c)(2) strike out "42 U.S.C. 6361" and insert in lieu thereof "42 U.S.C. 6263".

In section 105(b)(1) strike out "42 U.S.C. 6261(d)(2)" and insert in lieu thereof "42 U.S.C. 6263(d)(2)".

In section 105(b)(2) strike out "42 U.S.C. 6261(d)(3)(A)" and insert in lieu thereof "42 U.S.C. 6263(d)(3)(A)".

In section 105(b)(3) strike out "42 U.S.C. 6261" and insert in lieu thereof "42 U.S.C. 6263".

In section 105(b)(4) strike out "42 U.S.C. 6261" and insert in lieu thereof "42 U.S.C. 6263".

In section 301 strike out "(a)".

Mr. JOHNSTON. Mr. President, this is simply for technical and clerical corrections.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMERGENCY ENERGY CONSERVATION ACT OF 1979

The Senate continued with the consideration of the conference report.

Mr. DOMENICI. Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I am supporting this conference report. No one is happy to put controls or rationing on the people, but I believe it may become necessary. I know that rationing is the fairest way that we can get at this problem. It is an effort to treat all people according to their needs as nearly as possible.

If we must resort to limited use, rationing can also effectively take care of the need of fuel to plant, grow, care and market our agricultural crops.

I know, too, that it is a system that will take care of the needs of the rural people where the population may be sparse, relatively, but the need is high in order to get enough gasoline to go to and from the day's work for many of our people.

I would support a bill that goes further. I know this is the best bill they could get out of the conference. But I believe to be emphatic with these OPEC nations that are raising their oil prices almost at will, and which will continue to raise prices, we ought to show them a stronger bill and to let them know that we are going to do more about conservation ourselves. Conservation is the effective field that we can save energy and can quickly make it effective.

It is not that we will not do other things along with this, but we are willing to take the medicine and get the job done, at least starting on the road to independence, rather than more and more dependence.

As I say, I know this is the best bill we could get under the circumstances. Mr. President, I yield back any time remaining.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. HELMS. Will the Senator yield for a question?

Mr. DOMENICI. Mr. President, I am pleased to yield for a question.

Mr. HELMS. Mr. President, I understand that this act will provide for agricultural priorities to be by means of reference to the Emergency Petroleum Allocation Act of 1973. Am I correct on that?

Mr. DOMENICI. The Senator is correct. Perhaps Senator JOHNSTON should agree or disagree with my statement.

Mr. JOHNSTON. Mr. President, the Senator is correct. The full agricultural priority, indeed all the priorities set forth in the Emergency Petroleum Allocation Act of 1973, are mandated in this plan. I believe that gives full and complete protection for agriculture.

In my judgment, it is just as strong as in the rationing plan the Senate first passed but which was later turned down by the House.

Mr. HELMS. Mr. President, I thank the Senator. I would like to proceed one step further. Since reference is used as the means of stating the agricultural priority, I assume that the existing Federal regulations, specifically volume 10 of the Code of Federal Regulations, section 211.51 as revised as of January 1, 1978, are what should be referred to in determining precisely what is the intent manifested here. Is that correct?

Mr. JOHNSTON. Mr. President, I understand that the rules in effect under the Emergency Petroleum Allocation Act interpret the allocation for agriculture. I do not know that they are precisely similar to the citation the Senator just gave, but they are set forth in the Emergency Petroleum Allocation Act and the regulations thereunder.

Mr. HELMS. I thank the Senator.

Mr. DOMENICI. Mr. President, I would say as part of all the regulations the answer is yes, they are included. The Senator did not state every regulation that applies, but the ones stated are intended and are included.

Mr. HELMS. I thank the Senator.

Mr. METZENBAUM. Mr. President—

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. Does the Senator need time on this bill?

Mr. METZENBAUM. I would like to ask for 1 minute in order to have a colloquy with the Senator from Louisiana.

Mr. DOMENICI. I yield 1 minute.

Mr. METZENBAUM. Will the Senator from Louisiana clarify for the Senator from Ohio the agricultural priority? It is my understanding that the agricultural priority in this bill is that which is provided in the EPAA but not the same agricultural priority provided in the Natural Gas Policy Act. Am I correct in that?

Mr. JOHNSTON. The Senator is correct.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The Senator has 1 minute 40 seconds remaining.

ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1825.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 1825) entitled "An Act to protect archaeological resources on public lands and Indian lands, and for other purposes", with the following amendment:

In lieu of the matter proposed by the amendment of the Senate to the text of the bill, insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Archaeological Resources Protection Act of 1979".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for noncommercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this Act is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "archaeological resource" means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this Act. Such regulations containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in an archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such items is at least 100 years of age.

(2) The term "Federal land manager" means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this Act of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term "Federal land manager" means the Secretary of the Interior.

(3) The term "public lands" means—

(A) lands which are owned and administered by the United States as part of—

(i) the national park system,

(ii) the national wildlife refuge system, or

(iii) the national forest system; and

(B) all other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution;

(4) The term "Indian lands" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or an Indian individual.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688).

(6) The term "person" means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Indian tribe, or of any State or political subdivision thereof.

(7) The term "State" means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

EXCAVATION AND REMOVAL

SEC. 4. (a) Any person may apply to the Federal land manager for a permit to excavate or remove any archaeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this Act, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

(b) A permit may be issued pursuant to an application under subsection (a) if the Federal land manager determines, pursuant to uniform regulations under this Act, that—

(1) the applicant is qualified, to carry out the permitted activity,

(2) the activity is undertaken for the purpose of furthering archaeological knowledge in the public interest,

(3) the archaeological resources which are excavated or removed from public lands will remain the property of the United States, and such resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution, and

(4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

(c) If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Federal land manager, before issuing such permit, the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 9.

(d) Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this Act, as the Federal land manager concerned deems necessary to carry out the purposes of this Act.

(e) Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Act and other law applicable to the permitted activity.

(f) Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of subsection (a), (b), or (c) of section 6. Any such permit may be revoked by such Federal land manager upon assessment of a civil penalty under section 7 against the permittee or upon the permittee's conviction under section 6.

(g)(1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431), for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe, except that in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain a permit under this section.

(2) In the case of any permits for the excavation or removal of any archaeological resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

(h)(1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431-433), for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906, shall remain in effect according to its terms and conditions following the enactment of this Act. No permit under this Act shall be required to carry out any activity under a permit issued under the Act of

June 8, 1906, before the date of the enactment of this Act which remains in effect as provided in this paragraph, and nothing in this Act shall modify or affect any such permit.

(i) Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 106 of the Act of October 15, 1966 (80 Stat. 917, 16 U.S.C. 470f).

(j) Upon the written request of the Governor of any State, the Federal land manager shall issue a permit subject to the provisions of subsections (b)(3), (b)(4), (c), (e), (f), (g), (h), and (i) of this section for the purpose of conducting archaeological research, excavation, removal, and curation, on behalf of the State or its educational institutions, to such Governor or to such designee as the Governor deems qualified to carry out the intent of this Act.

CUSTODY OF RESOURCES

SEC. 5. The Secretary of the Interior may promulgate regulations providing for—

(1) the exchange, where appropriate, between suitable universities, museums or other scientific or educational institutions, of archaeological resources removed from public lands and Indian lands pursuant to this Act, and

(2) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 (16 U.S.C. 469–469c) or the Act of June 8, 1906 (16 U.S.C. 431–433).

Any exchange or ultimate disposition under such regulation of archaeological resources excavated or removed from Indian lands shall be subject to the consent of the Indian or Indian tribe which owns or has jurisdiction over such lands. Following promulgation of regulations under this section, notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this Act.

PROHIBITED ACTS AND CRIMINAL PENALTIES

SEC. 6. (a) No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4, a permit referred to in section 4(h)(2), or the exemption contained in section 4(g)(1).

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a), or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

(d) Any person who knowingly violates, or counsels, procures, solicits, or employs any other person to violate, any prohibition contained in subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than $10,000 or imprisoned not more than one year, or both: Provided, however, That if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of $5,000, such person shall be fined not more than $20,000 or imprisoned not more than two years, or both. In the case of a second or subsequent such violation upon conviction such person shall be fined not more than $100,000, or imprisoned not more than five years, or both.

(e) The prohibitions contained in this section shall take effect on the date of the enactment of this Act.

(f) Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to an archaeological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

(g) Nothing in subsection (d) of this section shall be deemed applicable to any person with respect to the removal of arrowheads located on the surface of the ground.

CIVIL PENALTIES

SEC. 7. (a)(1) Any person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—

(A) the archaeological or commercial value of the archaeological resource involved, and

(B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed an amount equal to double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered.

(3) No penalty shall be assessed under this section for the removal of arrowheads located on the surface of the ground.

(b)(1) Any person aggrieved by an order assessing a civil penalty under subsection (a) may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such a person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (1), or

(B) after a court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of a civil penalty,

the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

(c) Hearings held during proceedings for the assessment of civil penalties authorized by subsection (a) shall be conducted in accordance with section 554 of title 5 of the United States Code. The Federal land manager may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

REWARDS; FORFEITURE

SEC. 8 (a) Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay from penalties and fines collected under sections 6 and 7 an amount equal to one-half of such penalty or fine, but not to exceed $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 6 occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

(1) such person's conviction of such violation under section 6,

(2) assessment of a civil penalty against such person under section 7 with respect to such violation, or

(3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

(c) In cases in which a violation of the prohibition contained in subsection (a), (b), or (c) of section 6 involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to the Indian or Indian tribe involved of all penalties collected pursuant to section 7 and for the transfer to such Indian or Indian tribe of all items forfeited under this section.

CONFIDENTIALITY

SEC. 9. (a) Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act or under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of the United States Code or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

(1) further the purposes of this Act or the Act of June 27, 1960 (16 U.S.C. 469–469c), and

(2) not create a risk of harm to such resources or to the site at which such resources are located.

(b) Notwithstanding the provisions of subsection (a), upon the written request of the Governor of any State, which request shall state—

(1) the specific site or area for which information is sought,

(2) the purpose for which such information is sought,

(3) a commitment by the Governor to adequately protect the confidentiality of such information to protect the resource from commercial exploitation,

the Federal land manager concerned shall provide to the Governor information concerning the nature and location of archaeological resources within the State of the requesting Governor.

REGULATIONS; INTERGOVERNMENTAL COORDINATION

SEC. 10. (a) The Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes, representatives of concerned State agencies, and after public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this Act. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996). Each uniform rule or regulation promulgated under this Act shall be submitted on the same calendar day to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives, and no such uniform rule or regulation may take effect before the expiration of a period of ninety calendar days following the date of its submission to such Committees.

(b) Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a), as may be appropriate for the carrying out of his functions and authorities under this Act.

COOPERATION WITH PRIVATE INDIVIDUALS

SEC. 11. The Secretary of the Interior shall take such action as may be necessary, consistent with the purposes of this Act, to foster and improve the communication, cooperation, and exchange of information between—

(1) private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this Act, and

(2) Federal authorities responsible for the protection of archaeological resources on the public lands and Indian lands and professional archaeologists and associations of professional archaeologists.

In carrying out this section, the Secretary shall, to the extent practicable and consistent with the provisions of this Act, make efforts to expand the archeological data base for the archeological resources of the United States through increased cooperation between private individuals referred to in paragraph (1) and professional archeologists and archeological organizations.

SAVINGS PROVISIONS

SEC. 12. (a) Nothing in this Act shall be construed to repeal, modify, or impose additional restrictions on the activities permitted under existing laws and authorities relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

(b) Nothing in this Act applies to, or requires a permit for, the collection for private purposes of any rock, coin, bullet, or mineral which is not an archeological resource, as determined under uniform regulations promulgated under section 3(1).

(c) Nothing in this Act shall be construed to affect any land other than public land or Indian land or to affect the lawful recovery, collection, or sale of archeological resources from land other than public land or Indian land.

REPORT

SEC. 13. As part of the annual report required to be submitted to the specified committees of the Congress pursuant to section 5(c) of the Act of June 27, 1960 (74 Stat. 220; 16 U.S.C. 469–469a), the Secretary of the Interior shall comprehensively report as a separate component on the activities carried out under the provisions of this Act, and he shall make such recommendations as he deems appropriate as to changes or improvements needed in the provisions of this Act. Such report shall include a brief summary of the actions undertaken by the Secretary under section 11 of this Act, relating to cooperation with private individuals.

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. DOMENICI. Mr. President, as this legislation is being passed into law I reiterate my position on what this legislation does and does not do.

This bill was necessary in order to give Federal land managers the authority to protect archeological sites from piracy and pillage. A court ruling in the ninth circuit voided the old law.

Archeological resources in this bill are defined so as to insure only those artifacts of true value as antiquities are preserved. They must, for example, be 100 years old.

A system of civil rather than criminal penalties is established to insure that general users of public lands will not be subject to criminal prosecution in the event of controversy.

This bill also provides the Governor of any State the authority to request a Federal land manager to grant a permit for the purpose of conducting archeological research. This is meant to expand and simplify the procedure for use of the public lands and to open them to wider use. An example would be a Boy Scout troop requesting the Governor for permission to explore public lands for arrowheads, bullets, or coins.

In the course of the hearings on this bill, I consistently stressed that the Federal land managers can help to protect the archeological resources through the education of the visitor. Educational materials will help the visitors to understand and appreciate our national resources and how to best protect them.

Mr. President, in New Mexico we have archeological sites containing Mimbres artifacts which are extremely valuable. There are those who invade public lands with bulldozers and ravage antiquities for profit. They must be stopped. We also have literally tens of thousands of citizens who enjoy exploring the public lands with a genuine interest in the history and background of their home towns. Their rights to enjoy the lands must also be protected. This legislation will put teeth in the law to stop the criminal but also protects and expands the use of the lands by all Americans who will now better understand how to protect them.

I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. A message from the House on H.R. 1825.

Mr. HATFIELD. Mr. President, I see the manager of the bill is here on the majority side. I was going to move to adopt the House amendments.

Mr. President, I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, this measure will protect archeological resources located on public and Indian lands. H.R. 1825 was first passed by the House of Representatives on July 9. On July 30, the Senate approved the House-passed bill with an amendment in the nature of a substitute.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, for the benefit of my colleagues, I would like to explain the major changes which were made by the House to the Senate-passed text of H.R. 1825.

First. Defined age of an archeological resource. The Senate-passed provision defined an archeological resource as being at least 50 years of age while the House substitute amendment would define an archeological resource as being at least 100 years of age. Although the Senate 50-year provision would protect additional resources, there is general agreement that, for the purposes of this act, the 100-year provision is reasonable and acceptable.

Second. Permits for excavation. The House substitute text provides that upon the written request of a Governor of any State, a Federal land manager shall issue a permit for the purpose of conducting archeological research. The Senate-passed provision would maintain the existing procedures for issuance of permits, that is, permits would be issued only by the Federal land manager. In the substitute text a permit issued to a Governor on behalf of a State or its educational institutions, would be subject to most of the restrictions applicable to private permittees.

In light of the longstanding interest by the States and their educational institutions to conduct research on lands within the State and the ongoing efforts by the Federal land managing agencies to cooperate with the States in the identification of significant archeological resources, this amendment is acceptable and is supported by the sponsors of the Senate companion measure and the members of the Energy and Natural Resources Committee.

Third. Exemption from civil and criminal punishment for persons removing arrowheads from the surface of the

ground. While this amendment is acceptable to the sponsors of the legislation and the members of the committee, it should be noted that removing arrowheads is prohibited under the 1906 Antiquities Act, the 1916 National Park Service Organic Act, and would not be allowed on Indian lands without an appropriate permit. In addition, the removal of arrowheads without a permit should not be permitted near sites where investigations and excavations are underway or where areas are protected by signs. Persons collecting arrowheads should be familiar with the guidelines of the various land managing agencies and the locations where such activity is permitted.

Fourth. Ninety-Day Congressional Review Period for Regulations. The House substitute text provides that final regulations promulgated under the act shall be transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and shall lay before the committees for 90 days before they become effective.

Finally, I want to emphasize that the effectiveness of this legislation can be greatly enhanced by efforts to inform the public about the importance of our archeological and cultural resources. The Federal managers can help to protect the archeological resources through the education of the visitor. Educational materials, interpretive programs, and so forth, will help the visitors to understand and appreciate the cultural resources located on public lands and Indian lands and the need for their protection.

Mr. HATFIELD. Mr. President, I rise in support of H.R. 1825 as amended by the Senate and the House. I compliment the Senator from New Mexico (Mr. DOMENICI) for his hard and fruitful work in bringing agreement and solution of the problems presented by archeological depredation on public lands.

The major House amendments to the Senate amendments modify the original House-passed bill in the following ways:

Although the definition of "archeological resources" no longer specifically excludes bullets and arrowheads, these items along with coins are given special consideration so that hobbyists need not fear Federal penalties.

It is the intent of the authors and supporters of this bill that only artifacts of true archeological interest will be considered "archeological resources."

Such items as coins, bottles, and bullets are clearly not intended to come under the purview of this law unless found within an archeological site. While arrowheads located on the surface of the ground may be considered "archeological resources," and permits may be required to remove them, no civil or criminal penalties may be imposed. As stated, other acts also regulate the removal of arrowheads.

I feel that we should be honest and warn that the taking of arrowheads may be prohibited by other laws and other regulations on some public lands such as national parks. However, the intent of this bill in this matter is to educate not punish. We do not intend to affect activities such as the Boy Scouts had a few years ago where merit badges were awarded for arrowhead collecting. Under a proper land ethic, these activities are being curtailed, modified, or eliminated as education and knowledge of our actions increase. Education is the key.

I have been interested in this legislation from a number of viewpoints. Some archeological depredation has occurred in Oregon. A goodly number of constituents in Oregon are legitimate public land users: Hikers, rockhounds, collectors, explorers, wanderers, and persons who like to poke around for fun, picking up arrowheads, old bottles, and old metal. Some of these persons use metal detectors in their pursuits. In Oregon, there are three companies manufacturing metal detectors. They have made positive contributions to this legislation. They have not opposed the legislation as they agree with the goals of protecting our "archeological resources."

I have some questions for the distinguished chairman of the Parks, Recreation, and Renewable Resources Subcommittee.

I would like to know what impact this legislation would have on an individual citizen who picks up arrowheads, bottles, coins from Federal land and brings them home for a collection?

Mr. BUMPERS. Mr. President, in answering the distinguished Senator from Oregon (Mr. HATFIELD). First, anyone engaging in the activities you describe before enactment of this legislation may retain any collection after enactment if the archeological resource was in the lawful possession of such person. Second, nothing in this act applies to the collection for private purposes any rock, coin, bullet which is not an archeological resource. The collection of arrowheads found on the surface of the ground is not a civil or criminal violation, under this act. However, as the Senator stated, arrowhead removal may be currently prohibited on certain Federal lands, such as national parks.

Mr. HATFIELD. Does this legislation limit the use of metal detectors on public lands?

Mr. BUMPERS. This legislation does not affect the use of metal detectors on public lands. If it is legal to use metal detectors currently, this act does not diminish that use. If it is illegal to use metal detectors, as in national parks, this act does not allow such use.

Mr. President, the House substitute language is acceptable to the Senate sponsor of this legislation and to me. I urge that the Senate concur in the amendments of the House. Mr. President, I move that the Senate agree to the House amendments.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I originally introduced that bill as S. 490. What we have agreed to today is an improvement. I wholeheartedly support it. There is a need. I thank the Senator from Arkansas for bringing it here today.

EXTENSION OF ANTITRUST EXEMPTION FOR OIL COMPANIES PARTICIPATING IN THE AGREEMENT ON AN INTERNATIONAL ENERGY PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, at the request of Mr. JACKSON, that the Senate proceed to the consideration of Calendar Order No. 388 for not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Hearing none, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1871) to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program.

The Senate proceeded to consider the bill (S. 1871) which had been reported from the Committee on Energy and Natural Resources with an amendment on page 1, line 5, strike "June 30, 1979" and insert "October 31, 1979," so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 252(j) of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6272(j)) is amended by striking out "October 31, 1979" and inserting in lieu thereof "June 30, 1980".

Mr. JACKSON. Mr. President, the United States and 15 other oil-consuming nations signed an agreement on an international energy program on November 18, 1974. To accomplish its objectives, that agreement created the International Energy Agency, an autonomous institution within the Organization for Economic Cooperation and Development. The IEA is headquartered in Paris and is administered by a Secretariat consisting of Ministers or their delegates from each of the participating countries. There are presently 20 nations which participate in the IEA.

Recognizing the need for cooperation with and information from the major international oil companies, the IEA has established major industry advisory bodies. The so-called reporting company group currently consists of 21 U.S. oil companies and 11 foreign-based oil companies. The industry advisory board consists of seven U.S. oil companies and six foreign oil companies.

Since the exchange of sensitive trade information and the participation of the oil companies in the IEA allocation program would be highly suspect under U.S. antitrust law, the participating American oil companies were granted a limited antitrust defense by section 252 of the Energy Policy and Conservation Act of 1975. This section of that statute provides for the adoption of voluntary agreements and plans of action to implement the

allocation and information provisions of the international energy program.

Some 21 U.S. oil companies have agreed to participate in the voluntary agreement which was created in March 1976. The voluntary agreement sets forth the procedures the oil companies must follow in order to qualify for the antitrust defense.

S. 1871 would extend the duration of the present antitrust defense proviso in EPCA to June 30, 1980. On June 30, 1979, Public Law 96-30 was enacted and had the effect of extending the antitrust defense proviso for 4 months, until October 31, 1979.

The 8-month extension provided in S. 1871 will provide the General Accounting Office an opportunity to complete its ongoing investigation of the effectiveness of the international energy agency. The GAO report is expected to be available to Congress in May 1980, and will be valuable to the Committee on Energy and Natural Resources and the Committee on the Judiciary in their consideration of S. 1413, a proposal by the administration to extend the antitrust defense proviso until January 19, 1986.

Mr. President, I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to support this measure, which was introduced by myself, Senator JACKSON, and Senator THURMOND. In doing so, I want to make it clear that it is not an indication that I believe that, on a long-range basis, the international energy agency serves a useful purpose for our Nation. It may or may not. That is the subject that is before the Senate Antitrust Subcommittee of the Commitee on the Judiciary, a matter on which we have been conducting hearings.

There are some real questions as to whether or not this international energy agency is a body to which our Nation should be committed, in which we ought to be involved, whether or not it does not provide a means for oil to be diverted from our shores, rather than for oil to flow to our shores.

Mr. President, there is another issue that is a very strong one. That is that if our Nation should be involved in the international energy agency, is there any reason why there should be a specific exemption in the law under our antitrust laws? Although there are some arguments that can be made in support thereof, there is an equally strong argument that could be made that a clearance letter could be had in each instance in which the oil companies meet with the IEA.

The General Accounting Office appeared before our committee, which had joint jurisdiction with the Energy Committee, and indicated that they were studying this subject, that they hoped that, by April or May, they would be able to give a full report to Congress on the value and effectiveness or whether it is worthwhile for our Nation to continue its participation. For that reason, I introduced this legislation, to provide an adequate amount of time so that Congress could have the GAO report before we come to a final decision on the subject.

Since the matter has been previously jointly referred to the Energy Committee as well as the Judiciary Committee, which was not, in this instance, at my own instance, because I saw no reason to have joint hearings at this particular point; I feel this issue will have to come back to Congress because I feel the major thrust of this entire question is that of an antitrust question and whether it should be permitted in the law. I assume when we next come forward with legislation, the measure will be jointly referred to both committees for final disposition.

Mr. President, I urge the Members of the Senate to support this legislation in its present form in order that they may have ample opportunity to give the entire subject our full consideration.

Mr. JACKSON. Mr. President, I commend the distinguished Senator from Ohio for his cooperation in this matter. He chairs the Antitrust Subcommittee and I know we shall be following it closely, during the period ahead, especially in connection with the GAO report.

Mr. METZENBAUM. I look forward to working closely with the chairman of the Energy Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. DOMENICI. Mr. President, the Senator from Oregon desired to speak on this bill. Is there any time remaining?

The PRESIDING OFFICER. There are 30 seconds remaining.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time be extended for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I thank the Senator for yielding.

Mr. President, I rise in support of S. 1871, a bill reported by the Energy and Natural Resources Committee to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program. This bill would extend the antitrust exemption in existing law, which expires at the end of this month, for an additional 6 months until June 30, 1980. The 6-month extension under the bill will insure that the voluntary participation of the international oil corporations in the international energy program will continue without interruption for the next 6 months.

The original antitrust exemption was included in the Energy Policy and Conservation Act of 1975, with an expiration date of June 30, 1979. On June 30 of this year, Public Law 96-30 was enacted with an extension of the exemption until the end of this month. The 4-month extension included in that act was intended to allow additional time for the Energy Committee and the Judiciary Committee to consider the several complex legal and policy issues associated with the original antitrust exemption. While a majority of the members of the Energy Committee and the administration are convinced that the exemption has not resulted in any apparent or real antitrust difficulties, some Members and the Judiciary Committee have expressed concerns that the exemption may be overly broad and an invitation for possible antitrust difficulties. The 4-month extension until the end of this month enacted in June, and the additional 6-month extension contained in this bill constitute an effort to provide a full opportunity for consideration of those concerns.

I believe it is important to note for the record, that the Justice Department and the Federal Trade Commission, pursuant to the original law, closely monitor all activities of the oil companies under this exemption in the international energy program. The agencies both file quarterly reports commenting on the antitrust considerations in those activities. Both agencies, in those reports and in testimony before congressional committees, have stated that the existing monitoring procedures by the agencies are adequate to protect against any antitrust violations. At the same time, the Departments of Energy and State have consistently testified to the importance of this antitrust exemption to insure the voluntary participation of the oil companies in the international oil program. Also, we fully appreciate that the companies may very well be subjecting themselves to serious antitrust violation allegations if they were to participate in the international energy program without this exemption. It is important to note that the participation of the oil companies includes both advisory committee membership and actual operational responsibilities under the international energy agency, in the event the international energy agreement is triggered. On balance then, a majority of the members on the Energy Committee and the administration are convinced that there is no identified reason to modify or terminate the exemption, but there is very good reason to extend it as an essential part of our continued efforts to manage the world energy situation.

At this time, I commend the Senator from Ohio (Mr. METZENBAUM) for his leadership in proposing the 6-month extension and helping to clear it through the Energy Committee and the Judiciary Committees. I know that the Senator has reservations about this exemption, and is actively pursuing a detailed analysis with GAO to review his concerns. At the same time, however, he has been instrumental in insuring that this exemption does not terminate before the Congress has had a full review of all the relevant considerations. Consequently, we can insure that the existing IEA mechanisms, including the voluntary participation of the oil companies, will continue during that review. Since companion legislation already has been reported in the House, we are hopeful that, with Senator METZENBAUM'S assistance, we successfully will be able to enact this extension in short order. I again commend the Senator from Ohio, and thank him for his efforts.

It was his initiative, his leadership, that brought it to this point today. I think it is a very important matter for us to accept, to take the recommendations of the committee. I know it has been primarily a burden carried by the Senator from Ohio. I wanted to make that point at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JACKSON. Mr. President, I yield back whatever time I have.

Mr. DOMENICI. We yield back whatever time we have.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 3434

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 352, H.R. 3434, to amend the Social Security Act to make needed improvements in the child welfare and social services programs, is called up and made the pending business of the Senate, there be a time agreement on that bill as follows: 4 Hours, equally divided, on the bill between Mr. LONG of Louisiana and Mr. DOLE; 1 hour equally divided on any amendment; 1½ hours, equally divided, on a Schweiker amendment on medicaid management information systems; 2 hours, equally divided, on a germane amendment to be offered by Senator BELLMON; 30 minutes, equally divided, on each of two Cranston amendments—one dealing with adjustment of foster care cap and one dealing with medicaid eligibility for certain VA pensioners; 30 minutes equally divided on any amendment in the second degree; 20 minutes on any debatable motion, point of order or appeal if such a point of order is submitted to the Senate for discussion; and that the agreement be in the usual form, with the proviso that the bill not be made the pending business prior to Friday, October 19.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, will the leader tell me what bill that is?

Mr. ROBERT C. BYRD. Yes, it is Calendar Order No. 352, H.R. 3434. It will amend the Social Security Act to make needed improvements in the child welfare and social services bills.

Mr. BAKER. Mr. President, the request is cleared on this side. We have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That not before Friday, October 19, 1979, when the Senate proceeds to the consideration of H.R. 3434 (Order No. 352), to amend the Social Security Act to make needed improvements in the child welfare and social services programs, debate on any amendment in the first degree shall be limited to 1 hour (except on an amendment by the Senator from Pennsylvania (Mr. SCHWEIKER), relative to medicaid management information systems, on which there shall be 1½ hours; a germane amendment by the Senator from Oklahoma (Mr. BELLMON), on which there shall be 2 hours; and two amendments by the Senator from California (Mr. CRANSTON), relative to the adjustment of foster care cap and medicaid eligibility for certain VA pensioners, respectively, on each of which there shall be 30 minutes), to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Louisiana (Mr. LONG) and the Senator from Kansas (Mr. DOLE): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

EMERGENCY ENERGY CONSERVATION ACT OF 1979—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

REQUEST FOR PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, so Senators will be on notice with respect to tomorrow, and this will be the last rollcall vote today, there is an important event tonight, other than it being the last game of the world series. We can look at Senator MAGNUSON and see that he is involved in it.

Mr. President, I ask unanimous consent that the sequence of developments, votes, and so forth, which under the order was to begin at 12 o'clock tomorrow, begin at 4 p.m. tomorrow instead.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I momentarily withdraw the request.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting the Senator from Nevada (Mr. LAXALT), and the Senator from Connecticut (Mr. WEICKER), would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 77, nays 18, as follows:

[Rollcall Vote No. 364 Leg.]

YEAS—77

Baker	Hayakawa	Percy
Bentsen	Heflin	Pressler
Biden	Heinz	Pryor
Bradley	Hollings	Randolph
Bumpers	Huddleston	Ribicoff
Burdick	Jackson	Riegle
Byrd, Harry F., Jr.	Javits	Roth
Byrd, Robert C.	Jepsen	Sarbanes
Cannon	Johnston	Sasser
Chafee	Kassebaum	Schmitt
Chiles	Kennedy	Schweiker
Church	Leahy	Simpson
Cohen	Levin	Stafford
Cranston	Long	Stennis
Culver	Magnuson	Stevens
Danforth	Mathias	Stevenson
Dole	Matsunaga	Stewart
Domenici	McClure	Stone
Eagleton	McGovern	Talmadge
Exon	Metzenbaum	Thurmond
Ford	Morgan	Tsongas
Glenn	Moynihan	Wallop
Goldwater	Muskie	Warner
Hart	Nelson	Williams
Hatfield	Packwood	Young
	Pell	Zorinsky

NAYS—18

Armstrong	DeConcini	Helms
Baucus	Durenberger	Humphrey
Bellmon	Durkin	Lugar
Boren	Garn	Meicher
Boschwitz	Gravel	Proxmire
Cochran	Hatch	Tower

NOT VOTING—5

Bayh	Laxalt	Weicker
Inouye	Nunn	

So the conference report (S. 1030) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that now there be a period for the transaction of routine morning business for not to exceed 30 minutes and that Senators may speak up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE STATUS OF THE NATIONAL WILDERNESS PRESERVATION SYSTEM—MESSAGE FROM THE PRESIDENT—PM 124

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I am transmitting herewith the Fifteenth Annual Report on the Status of the National Wilderness Preservation System. This information has been compiled by the Secretaries of Agriculture and the Interior for lands under their respective jurisdiction and covers calendar year 1978.

JIMMY CARTER.

THE WHITE HOUSE, *October 17, 1979.*

REPORT OF THE NATIONAL CANCER ADVISORY BOARD—MESSAGE FROM THE PRESIDENT—PM 125

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I am pleased to send to the Congress the 1978 Report of the National Cancer Advisory Board, as required by Section 410(g), Part A, Title IV, Public Health Service Act.

JIMMY CARTER.

THE WHITE HOUSE, *October 17, 1979.*

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on today, October 17, 1979, he had approved and signed the following act:

S. 210. An act to establish a Department of Education, and for other purposes.

MESSAGES FROM THE HOUSE

At 4:07 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 241. An act to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes;

S. 440. An act to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; and

S. 525. An act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4580) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendment of the Senate numbered 16 to the bill and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 4, 7, 21, 25, and 27 to the bill and concurs therein each with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 887. An act for the relief of Elizabeth Berwick and Alexander Berwick, her husband;

H.R. 1616. An act for the relief of Caroline M. Babcock;

H.R. 2531. An act for the relief of Russell W. Allen;

H.R. 2532. An act for the relief of Gail Williamson;

H.R. 5288. An act to amend title 38 United States Code to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title to improve the veteran's educational assistance program and for other purposes.

ENROLLED BILL SIGNED

At 6:06 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled bill:

H.R. 3173. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1980 and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. TSONGAS).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 887. An act for the relief of Elizabeth Berwick and Alexander Berwick, her husband; to the Committee on the Judiciary.

H.R. 1616. An act for the relief of Caroline M. Babcock; to the Committee on the Judiciary.

H.R. 2531. An act for the relief of Russell W. Allen; to the Committee on the Judiciary.

H.R. 2532. An act for the relief of Gail Williamson; to the Committee on the Judiciary.

HOUSE BILL HELD AT THE DESK

The following bill was read twice by title and ordered held at the desk, by unanimous consent:

H.R. 5288. An act to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veteran's educational assistance program, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2331. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a report on the transfer of funds made recently in the Shipbuilding and Conversion, Navy, Appropriation; to the Committee on Appropriations.

EC-2332. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on a proposed letter of offer to Spain for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2333. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on a proposed letter of offer to Spain for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2334. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on a proposed letter of offer to Spain for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2335. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on a proposed letter of offer to Spain for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2336. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Federal Weather Program Must Have Stronger Central Direction"; to the Committee on Commerce, Science, and Transportation.

EC-2337. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a notice of a meeting related to the International Energy Program; to the Committee on Energy and Nautral Resources.

EC-2338. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for additional authorization for appropriations for the Tinicum National Environmental Center; to the Committee on Environment and Public Works.

EC-2339. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus for alterations at the Washington, D.C. General Services Administration Building; to the Committee on Environment and Public Works.

EC-2340. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to October 12, 1979; to the Committee on Foreign Relations.

EC-2341. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on the admission of certain aliens under section 212(d)(3) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC-2342. A communication from the Special Counsel, Department of Justice, transmitting, for the information of the Senate, the report on the investigation of the Carter Warehouse and the National Bank of Georgia; to the Committee on the Judiciary.

EC-2343. A communication from the Chairman of the United States Water Resources Council, transmitting a draft of proposed legislation to authorize State participation in municipal and industrial water supply

agreements for payment for water supply from Federal water resources development projects in order to promote water conservation together with cost recovery; by unanimous consent, referred jointly to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the U.S. Water Resources Council, relative to amending the Water Supply Act of 1958 and the Reclamation Project Act of 1939, be referred jointly to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC-2344. A communication from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting, pursuant to law, the first quarterly report on the construction of the Alaska Natural Gas Transportation System; by unanimous consent, referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Federal Inspector for the Alaska Natural Gas Transportation System, transmitting the first quarterly report on the natural gas pipeline project, be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

James C. Webster, of South Dakota, to be an Assistant Secretary of Agriculture.

(The above nomination from the Committee on Agriculture, Nutrition, and Forestry was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes (Rept. No. 96-371).

By Mr. TSONGAS, from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

S. 1748. A bill to authorize the Secretary of Housing and Urban Development to furnish assistance to encourage the use of energy conservation measures (together with additional views) (Rept. No. 96-372).

By Mr. MELCHER, from the Select Committee on Indian Affairs, with an amendment:

S. 751. A bill relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes (Rept. No. 96-373).

By Mr. MORGAN, from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

S. 1716. A bill to establish a Solar Energy Development Bank to help make available below-market interest rate loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States, and for other purposes (together with additional views) (Rept. No. 96-374).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEFLIN:

S. 1900. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of casualty losses in the case of fruit or nut trees; to the Committee on Finance.

S. 1901. A bill to amend the Internal Revenue Code of 1954 with respect to the amount deductible in the case of casualty losses of timber; to the Committee on Finance.

By Mr. STEWART (for himself and Mr. HEFLIN):

S. 1902. A bill to provide for the establishment within the National Cemetery System of a new national cemetery to be located in Russell County, Alabama, and to be known as the "Fort Mitchell Regional Veterans' Cemetery"; to the Committee on Veterans' Affairs.

By Mr. MELCHER:

S. 1903. A bill to authorize and direct the Secretary of Agriculture to establish a national program of rangeland research to be carried out by the United States; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. METZENBAUM:

S. 1904. A bill to provide for a comprehensive national program for domestic energy production and consumption, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CANNON (for himself, Mr. LONG, and Mr. PACKWOOD):

S. 1905. A bill to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MELCHER:

S. 1906. A bill to authorize the Secretary of the Interior to convey certain lands near Miles City, Montana, and to remove certain reservations from prior conveyances; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN:

S. 1900. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of casualty losses in the case of fruit or nut trees; to the Committee on Finance.

Mr. HEFLIN. Mr. President, the recent natural disaster caused by Hurricane Frederic as it ripped through my home State of Alabama, and the neighboring States of Florida and Mississippi, has focused much attention on some of the shortcomings of our disaster relief programs. While on the whole, the programs are working well and responding to the needs of large numbers of persons, certain groups, due to the unique nature of their activities, find little solace in the relief efforts.

One group which was particularly hard hit by this devastating storm was the pecan growers of Alabama and adjoining States. In Alabama, pecan growing as an industry is concentrated in south Alabama, in the Mobile area. Alabama is the third largest pecan producing State in the Nation and 80 percent of that production is in south Alabama, primarily in Baldwin and Mobile Counties. Pecan groves, many of which have been nurtured for decades, were decimated by Hurricane Frederic. Mature, nut producing trees are valued at between $250 and $300 each. Some pecan growers lost as many as 2,000 producing trees and suffered a real, uninsured economic loss of approximately $750,000 not counting the value of the current crops.

Mr. President, you will note that I used the word "uninsured." I mean uninsured in that there was no insurance available to the pecan growers from governmental sources or from private sources.

Moreover, it is estimated that it will cost between $20 to $40 per tree to replace these lost trees. To replace 2,000 trees could require a capital outlay of approximately $100,000. It takes about 10 to 12 years for a new tree to produce enough pecans to break even. Thus, many of our pecan growers face a grim future if we do not rally to their support.

Mr. President, as you know, currently our income tax laws allow a person who has suffered a casualty loss to deduct the loss from the current year's income in computing their Federal income tax, but the deduction is limited to the lesser of the fair market value of the items destroyed or the person's basis in such property. For pecan growers, the tax basis in pecan trees is minimal since it is the handywork of nature along with the husbandry of the hard-working pecan growers which produces a healthy producing tree and establishes its value.

Generally, no basis is acquired in the tree other than the initial planting cost and in many cases producers plant their own trees and get zero basis. The trees of Mr. Richard Higbee of Fair Hope, Ala., for example, were set out by his father between 1916 and 1927. He has no basis in these trees and thus no tax loss. Although the basis may be minimal or nonexistent, the loss in real economic terms can be staggering.

Another example dramatizes what I am saying: Mr. Leslie Hatchett of Grand Bay, Ala., owned 3,350 trees which ranged in age from 4 to 100 years. He lost 2,255 of his trees for a casualty loss of $755,000 from which he can get no relief. We must help people like the Higbees and the Hatchetts.

Mr. President, what I propose in my bill is to allow pecan producers and other nut and fruit producers special consideration under the casualty loss provisions of the Tax Code. I think that the equities of the situation are such that special

treatment is well justified. First, trees which produce nuts and other fruits are substantially different from other types of crops. Although a cash crop may be destroyed by a disaster, usually the producer can replant his crop either the same year or the following year and harvest his crop within a short period of time. However, nut producers must first grow a mature tree. The lead time just to reach the break-even point in the production of pecans is estimated at 10 to 12 years. Second, the speculative nature of the value of a cash crop as opposed to the value of the orchard simply is not the same.

The value of a producing pecan tree can be readily ascertained to a high degree of certainty which is not always the case with respect to a growing crop. Thus, the value of a tree might be readily available even though the estimated value of a given year's crop of pecans might not be. Another factor which must be considered is the nonavailability of insurance for pecan trees. Most growing crops can be insured either through private or governmental sources, but such insurance is not reasonably available with respect to pecan trees.

Mr. President, the bill I am introducing today would allow a taxpayer a deduction for a casualty loss incurred by the taxpayer in his trade or business with respect to nut or fruit trees equal to the fair market value of the trees on the date on which the loss occurs. This loss deduction 10 tax years and, if necessary, taxpayer's basis in the trees as is currently the case. In the event that the taxpayer's loss were greater than his income for the loss year, then the individual could carry back the excess loss deduction 10 tax years and, if necessary, he could carry the loss forward an additional 4 tax years.

The purpose of the carry-back provision, Mr. President, would be to generate a pool of capital by tax refunds which would enable the person who suffered the extreme loss to get back on his feet and reestablish his pecan grove. It is anticipated that some taxpayers would obtain refunds for taxes paid in prior years and these cash resources would enable the taxpayer to get his land back into production. Moreover, for the next 4 years after the loss year if all of the loss was not absorbed during the 10 year carryback, the loss could be carried forward to provide some shelter for income during the period of time when the trees are totally nonproducing. After about 4 years, when the trees begin to produce, the loss deduction would cease to be available.

Mr. President, it is imperative that we act with dispatch in moving this bill forward. A lifetime of hard work on the part of many Alabama pecan producers is at stake, for if we do not act expeditiously, many of these people will be wiped out financially. If each of my colleagues here in the Senate could have joined me as I inspected the devastation wrought by Hurricane Frederic, there is no doubt in my mind that this bill would be passed with little debate.

If any of you have any doubt as to the power of nature to inflict damage, then I suggest that you examine pictures of the almost total devastation of many areas of my State as a result of Hurricane Frederic. We must respond to the needs of these people who have suffered such tremendous losses and I call upon this Congress to take speedy action on this proposal.

Mr. President, I am sending to the desk a bill to amend the Internal Revenue Code on the treatment of casualty losses in the case of fruit and nut trees.

By Mr. HEFLIN:

S. 1901. A bill to amend the Internal Revenue Code of 1954 with respect to the amount deductible in the case of casualty losses of timber; to the Committee on Finance.

Mr. HEFLIN. Mr. President, I am sure the entire Senate is aware of the devastation wrought by Hurricane Frederic as it ripped through my home State of Alabama. The losses caused by this terrible storm are unprecedented in the history of my State and the citizens of Alabama who were affected by this storm will not recover from the ravages of this disaster for many years to come. While relief efforts sponsored by the Federal Government have helped a great deal, still much remains to be done.

The timber producers of Alabama were particularly hard hit by this devastating storm. Entire tracts of land in the south Alabama area will have to be cleared and reforested because of the storm damage. The losses to many of our timber producers are truly staggering. Many of these losses were uninsured; thus, subjecting timber producers to real economic hardship.

Mr. President, as you know, currently our income tax laws allow a person who has suffered a casualty loss to deduct the loss from the current year's income in computing their Federal income tax, but the deduction is limited to the lesser of the fair market value of the items destroyed or the person's basis in the property. For timber growers, the basis is often minimal although the market value of the timber just prior to the storm might have been substantial. Since the timber producer is limited in his deduction to the basis in the trees, he generally has little or no tax loss. Although the basis may be minimal or nonexistent, the loss in real economic terms can often be staggering.

Mr. President, what I propose in my bill is to allow a timber producer special consideration under the casualty loss provisions of the Tax Code. I think that the equities of this situation are such that special treatment is well justified. Although a cash crop may be destroyed by a disaster, usually the producer of that crop can replant his crop, either the same year or in the following year, and harvest his crop within a short period of time. Timber producers, however, have a substantial lead time before a mature tree can be harvested and are not able to recover their losses as readily as other producers of agricultural products.

Moreover, the speculative nature of the value of a cash crop as opposed to the value of a stand of timber generally is not the same. The state of the art of timber cruising is such that most tracts of timber can be valued to a high degree of certainty and, in fact, these tracts are surveyed regularly for a variety of purposes.

Mr. President, I am introducing a bill today which would allow a taxpayer a deduction for casualty losses incurred by the taxpayer in his trade of business with respect to standing timber. This loss deduction would not be limited to the taxpayer's basis in the trees as is currently the case. Under my provision for purposes of determining the loss, the basis would be considered to be at least the fair market value of the trees just prior to the disaster. In the event the taxpayer's loss were greater than his income for the loss year, the individual could carryback the excess loss deduction 10 tax years, and, if necessary, he could carry the loss forward for an additional 4 tax years.

The purpose of the carryback provision, Mr. President, would be to generate a pool of capital by tax refunds which would enable the person who suffered the extreme loss to get back on his feet and reestablish his timberland. It is anticipated that many taxpayers would obtain refunds for taxes paid in prior years and these cash resources would enable the taxpayer to get his timberland back into production.

Mr. President, it is imperative that we act with dispatch in moving this bill forward. A lifetime of hard work on the part of many Alabama timber producers may be at stake. If my colleagues in the Senate could have joined me as I inspected the devastation caused by Hurricane Frederic, there would be little doubt in my mind that this bill would be passed with little debate. We must respond to the needs of the people who have suffered such tremendous losses and I call upon Congress to take speedy action on this proposal.

By Mr. MELCHER:

S. 1903. A bill to authorize and direct the Secretary of Agriculture to establish a national program of rangeland research to be carried out by the United States; to the Committee on Agriculture, Nutrition, and Forestry.

COOPERATIVE RANGELANDS RESEARCH ACT

Mr. MELCHER. Mr. President, today, I am introducing S. 1903 the Cooperative Rangelands Research Act of 1979.

Research is the lifeblood in the development, protection, use and well-being of rangelands, just as is true of any other resource, or science or industry.

To say that we have had enough research in any area is a know-nothing approach to life that can only lead to depletion and decline of the society's resources.

With respect to our range resources, we have all but ignored them as emphasis has been placed on crop and other forms of agricultural research.

Research on methods and systems of

management that would help to regain full productivity of rangelands, consistent with the well-being of all resource values of rangelands is being neglected. All resource values include not only forage for and grazing livestock but also wildlife habitat, endangered species, environmental quality, watershed and other benefits.

The range research effort now lacks in adequacy, balance, and coordination. This is not in agreement with the intent of Congress than rangelands be managed for their multiple goods and services and at full potential for productivity.

Moreover, for Federal budgeting and research planning, range is classified by the Current Research Information System under Forest Resources and Crops. Because of the low direct value of range forage per acre, relative to lumber or cultivated crops, and because range lacks an organized commodity group to emphasize needs, range is a poor competitor for research dollars with other resources.

But—range is not a crop, but rather land that has great value from many uses. Forage crops are produced from range, and productivity in this respect can undoubtedly be increased but forage is not its sole resource, range also produces wildlife, water, energy, minerals, recreational opportunities, and often wood fiber.

Rangelands occupy more land surface area than any other class of land in the United States, yet they are relegated to lower subdivisions of the Federal resource classification system. The cost-benefit rationale for prioritizing research and management of rangelands completely overlooks the intangible values of rangelands and the societal costs of a nonmanagement strategy.

Federal research administrators have not been successful in maintaining strong programs in range research. Through the lack of sufficient commitment and aggressiveness of research administrators and their supporting professional and lobbying groups, good research programs have been allowed to deteriorate in favor of programs that were easier to justify and finance such as strip mine reclamation and ecology of endangered species. Simultaneously, the pool of range scientists has declined as they moved to more popular areas of research with better financial support.

Federal agencies doing natural resources research lack the expertise in range management at the decisionmaking level of research policy formulation to aggressively pursue and implement programs of range research commensurate with the magnitude of range resource needs. At the Washington level, foresters are making the decisions on range research policy in the Forest Service while agronomists are making those decisions in the Science and Education Administration of USDA.

Although the State Agricultural Experiment Stations have demonstrated a greater willingness to maintain range research programs and have generally been more successful than Federal agencies, they have done this with research authorities and funding levels inferior to those of the Federal agencies.

While Hatch Act funds have been reasonably balanced among States, research activities, and commodity groups, the orientation of Hatch research has clearly been to commodities and marketing. Thus, the level of funding available for range research through its share of Hatch funds has been grossly inadequate for the task.

Although a small amount of forest-related range research has been conducted in some States under the McIntyre-Stennis Act, none has been permitted in some other States. McIntyre-Stennis is clearly a forestry research act not geared to range research; it is administered by foresters and funds are allocated on the basis of forest statistics.

With adequate authority the States could and would do a job of range research that the Federal agencies are not currently being funded to do.

At least one authority in forestry education characterized the McIntyre-Stennis Cooperative Forestry Research Act as the most significant single event in American forestry education. That act catalyzed an almost immediate revitalization and upgrading of forestry education and research in the United States. The benefits to American forestry have been immeasurable.

Passage of the Cooperative Rangeland Research Act can do the same things for American range management education as the McIntyre-Stennis Act did for forestry education. This kind of stimulus is needed in range management education even more than it was in forestry. Outside of the United States there are few colleges or universities that offer undergraduate or graduate training in range management. As a result, governments worldwide—particularly from underdeveloped and Third World countries—send their most promising candidates to this country for training in range management. It is not unusual to see one-half of the graduate enrollment of American range schools made up of foreign students. The demand for more and better trained professionals is clearly spelled out in the language of title XII of the International Development and Food Assistance Act of 1975, the Renewable Resources Extension Act of 1978, the Public Rangelands Improvement Act of 1978 and others.

Efforts to plan and coordinate research within the Federal Government and the land-grant colleges and universities by the regional and national agriculture research planning system through the Agricultural Research Policy Advisory Committee has failed to produce a balanced or adequate program of range research for effective solutions to critical rangeland problems.

Most priority range problems in need of research were overlooked in the 1978 national program of research. There is little reason for greater expectations from title XIV of the Food and Agriculture Act of 1977 or the Forest and Rangeland Renewable Resources Research Act of 1978, wherein Congress expressly provides for coordination of range research among Federal and State agencies, colleges and universities.

If our Nation's ranges are to reach their potential for productivity and stability, and if the intent of Congress for assessment, planning, managing, and monitoring rangelands as mandated in recent acts of Congress is to be fulfilled, there is an urgent need to initiate a balanced and coordinated nationwide research program specifically for management of rangelands.

At least six new laws enacted by Congress since 1974 either call for new initiatives in range research, or for a level of range technology that is not now available.

Yet range research is floundering.

The Cooperative Rangeland Research Act is needed to stimulate a revitalization and upgrading of range management education and research, and to assist in increasing agricultural production abroad.

In 1977 there were 414 million acres of non-Federal rangeland, and 134 million acres of pastureland in the United States. This represents an increase of about 66 million acres from the inventories made in 1967. It includes 20 million acres converted from crops to range, and 50 million acres converted from forestland. However, much of the conversion indicated from forestland was the result of reclassification by USDA. During this 10-year period, a little over 4 million acres of pasture and range were converted to urban uses.

The USDA inventory indicates that 12 percent of non-Federal range is in excellent condition; 26 percent of these acres are in good condition; 42 percent are in fair condition; and 18 percent are in poor condition.

Seventy-seven percent of all non-Federal rangeland needs some kind of conservation treatment. Sheet and rill erosion on U.S. range is as high as 10 tons per acre in some areas. Opportunities for improvement are as great on pastureland as on range.

There are estimates that grazing by domestic animals as well as wildlife could be doubled with the results of more research and more range improvement dollars.

Congress made a major commitment to the improvement of range in the Public Rangeland Improvement Act of 1978. However, as I have indicated, many of those things which we desire to occur on our range and pasture lands cannot occur because the technology has not yet been fully developed.

The bill I am introducing provides for the Secretary of Agriculture to develop a balanced rangeland research program on a 50–50 matching fund basis with State supported colleges and universities designated by the Governors of the States.

Mr. President, I commend S. 1903 to the Senate and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Cooperative Rangeland Research Act of 1979".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) more than 60 per centum of the Nation's land area is rangeland,

(2) the Nation's rangelands provide major goods, services, and values necessary for the well-being of the people of the United States and support large numbers of livestock and wildlife which provide efficient conversion of forage to high quality protein for human consumption,

(3) recent natural resource assesments indicate that agriculture production of rangelands can be increased at least 100 percent through development and application of improved management practices, while simultaneously enhancing wildlife, recreational and aesthetic values and reducing excessive water loss with associated hazards of erosion and flooding,

(4) as world population continued to grow and the need to use grain for direct human consumption increases, grain will become less available and less economic to use as livestock feed, and forages from all sources will become more important for production of meat, milk, and fiber. Thus, it is important to improve management of both animal and forage resources for increased food production with minimum use of fossil fuel,

(5) rangelands are rich in resources other than grazing and must be maintained for the protection of these resources in the national interest,

(6) a strengthened program of range management research is the driving force behind progress in developing, utilizing, and protecting the resources of the Nation's rangelands, both forested and nonforested. The development, utilization, and protection of rangeland resources depend on technological advances and continuing development of the knowledge necessary to increase the effectiveness of rangeland management and to extend the benefits of rangelands,

(7) the fulfillment of provisions of the Forest and Rangeland Renewable Resources Planning Act of 1974, the Soil and Water Resource Conservation Act of 1977, the Public Rangelands Improvement Act of 1978, and the Renewable Resources Extension Act of 1978, in the most expedient and efficient manner possible and with the assurance of reliable results consistent with the provision of these Acts, requires a level of technology that is not presently available.

PURPOSES

SEC. 3. It is the purpose of this Act to—

(1) authorize the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") to establish a national program of rangeland research to be performed by the several States,

(2) stimulate through strong, continuing programs in rangeland research, improvements in the educational programs of those schools that must train the practitioners, technicians and research workers in the science and art of range management,

(3) provide improved coordination in the planning, execution and dissemination of results of rangeland research between the several State colleges and universities, and the Federal Government.

The actions called for in this Act are deemed to be consistent with, and to facilitate and complement the policies and directions set forth under—

(a) the Forest and Rangeland Renewable Resources Planning Act of 1974, Public Law 73–378,

(b) the Soil and Water Resource Conservation Act of 1977, Public Law 95–192,

(c) the Renewable Resources Extension Act of 1978, Public Law 95–306,

(d) the Public Rangelands Improvement Act of 1978, Public Law 95–514,

(e) title XIV of the Food and Agriculture Act of 1977, Public Law 95–113, and

(f) title XII of the International Development and Food Assistance Act of 1975, Public Law 94–161.

RANGELAND RESEARCH PROGRAM

SEC. 4. The Secretary of Agriculture is hereby authorized and directed to cooperate with the several States for the purposes of encouraging and assisting them in carrying out programs of rangeland research. Such assistance shall be made available in accordance with plans agreed upon in advance by the Secretary and rangeland research institutions: however, an appropriate State representative designated by the State's Governor shall, in any agreement drawn up with the Secretary of Agriculture for the purposes of this Act, certify those eligible rangeland research institutions of the State which will qualify for assistance, and shall determine the proportionate amount of assistance to be extended those certified institutions.

SEC. 5. The amount provided by the Federal government to any State certified institution eligible for assistance under this Act shall not exceed during any fiscal year the amount available to and budgeted for expenditure by such institution during the same fiscal year for rangeland research from non-Federal sources. The Secretary is authorized to make such expenditure on the certificate of the appropriate official of the rangeland research institution having charge of the rangeland research for which the expenditures as herein provided are to be made. If any rangeland research institution certified for receipt of funds under this Act fails to make available and budget for expenditure for rangeland research in any fiscal year sums at least as much as the amount for which it would be eligible for such year under this Act, the difference between the Federal funds available and the funds made available and budgeted for expenditure by the rangeland research institution shall be reapportioned by the Secretary to other eligible rangeland research institutions participating in the rangeland research program.

DEFINITIONS

SEC. 6. As used in this Act—

(1) The term "rangeland" means land on which the existing vegetation is predominately native or introduced grasses, grass-like plans, forbs, or shrubs suitable for grazing or browsing use and which may have an overstory of trees. Rangelands occur throughout the United States and include natural or developed grasslands managed like rangeland, savannas, shrublands, tundra, alpine, most deserts, forested range and some wetlands.

(2) The term "rangeland research" means—

(A) studies of rangeland to improve the production and quality of feed for livestock and wildlife, and to promote improvement and maintenance of ecosystem functions for production of food, fiber, wildlife habitat, fisheries, recreation, watershed benefits and other multiple uses of rangelands;

(B) studies of integrated systems of land use and management of rangeland with forestland and/or agricultural land, including utilization of crops and waste products, for sustained production and efficient use of rangelands;

(C) studies of rangeland watersheds to improve conditions for soil and water conservation, water utilization, water yield, and water quality; and to protect rangeland watersheds from detrimental uses that lead to unsatisfactory and unstable conditions and to onsite and offsite damage from floods, erosion, and other influences;

(D) studies of revegetation and rehabilitation of depleted and damaged rangelands to restore them to satisfactory condition, including the manipulation and control of noxious species;

(E) studies of economics and policy of rangeland use;

(F) studies of the interactions of the various rangelands and on adjacent ecosystems, and on the function of rangeland ecosystems;

(G) studies to promote and establish uniform procedures and techniques for rangeland inventory and classification;

(H) such other studies as the Secretary considers appropriate to carry out the purposes of this Act, as it concerns the use and management of rangelands.

(3) A "rangeland research institution" is any institution offering a degree or specialization in range management or range science and that has an ongoing rangeland research program and is either—

(A) a land grant college;

(B) a college or university eligible for assistance under the Act entitled "An Act to authorize the Secretary of Agriculture to encourage and assist the several States in carrying on a program of forestry research, and for other purposes", approved October 10, 1962 (75 Stat. 806; 16 U.S.C. 582a—582a-7); or

(C) any State-supported college or university.

(4) The term "land grant college" means any institution eligible to receive funds (A) under the Act entitled "An Act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanic arts", approved July 2, 1862, as amended (12 Stat. 503, as amended, 7 U.S.C. 301–305, 307, and 308), known as the Morrill Act, or (B) under the Act entitled "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an Act of Congress approved July second, eighteen hundred and sixty-two", approved August 30, 1890, as amended (26 Stat. 417, as amended; 7 U.S.C. 321–326, 328), including the Tuskegee Institute.

(5) The term "State" means any of the several States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There is authorized to be appropriated such sums as the Congress may from time to time determine to be necessary to effectively carry out the purposes of this Act and administration expenses associated therewith. Money appropriated under this Act shall be in addition to allotments or grants made under other authorizations and shall remain available until expended.

APPORTIONMENT OF APPROPRIATED FUNDS

SEC. 8. Apportionment of funds among participating State and administrative expenses in connection with the program of this Act shall be determined by the Secretary after consultation with the National Agricultural Research and Extension Users Advisory Board, as provided for in section 1408 of the Food and Agriculture Act of 1977, or such panel that this National Advisory Board chooses to recommend.

REGULATIONS AND COORDINATION

SEC. 9. The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to implement the provisions of this Act and to coordinate this Act with title XIV of the Food and Agriculture Act of 1977.

EFFECTIVE DATE

SEC. 10. This Act shall become effective on October 1, 1980.

By Mr. METZENBAUM:

S. 1904. A bill to provide for a comprehensive national program for domestic energy production and consumption, and for other purposes; to the Committee on Energy and Natural Resources.

CITIZEN'S ENERGY ACT OF 1979

Mr. METZENBAUM. Mr. President, today, Wednesday, October 17, is a national day of protest. It is a national day of protest against soaring energy prices and skyrocketing profits of the oil industry. It could not be more timely.

Energy prices in this Nation are running at an astronomical 68 percent rate above last year, and are almost single-handedly responsible for our double-digit inflation. Our Nation's elderly, the poor, and even the middle-class, are struggling to pay their utility bills, to pay for home heating oil, and to pay for gasoline. In fact, about the only segment of our society that is not suffering as a result of these incredible increases in the cost of energy is the oil industry. They are laughing all the way to the bank. Already, the oil industry's revenues approximate that of the U.S. Government, and it promises to get bigger, and bigger. And as the industry becomes even more powerful, the burden on American consumers promises to become heavier.

Sadly, the administration's response to this dilemma has been to compound the problem, not to alleviate it. By acceding to the oil industry's demand for decontrol of our domestic oil, the administration is voluntarily inflicting upon America the very same devastation imposed by the OPEC cartel. At the same time, the administration claims, with a straight face, that our present rate of inflation is uncontrollable. It is only uncontrollable because this administration has lost control of its own energy policy.

And today, in 103 cities across this country, citizens from all walks of life are protesting this loss of control resulting from the surrender of a national energy policy into the hands of the oil industry. These citizens will be involved in a unique series of energy protests ranging from teach-ins, oil company picket lines, mass rallies, card and petition drives, meetings with Members of Congress, candlelight vigils and symbolic utility bill burnings.

People will be demonstrating everywhere—in downtown squares and senior citizen homes, truck stops and cab stops, oil company headquarters and oil company refineries, churches and State houses, small towns and large cities, city halls and university auditoriums, at Federal buildings and at company owned gas stations. These demonstrations are unique not only in their breadth and diversity, but also because they are organized locally with the broad support of many groups and individuals who may have disagreed on other issues—but who agree on the solutions to energy inflation and oil industry monopoly.

The national day of protest is being coordinated by the campaign for lower energy prices—a campaign sponsored by two national coalitions, the citizen/labor energy coalition and the progressive alliance. Participants in the campaign include over 200 trade union, senior citizen, consumer, religious, environmental, farm, minority, and local citizen organizations. Participants in the campaign have been and will continue to be collecting "big oil discredit cards" and other postcards asking Members of Congress to support their goals. To date, more than 1 million postcards have been collected and delivered. Campaign organizers expect another million to be collected as a result of the activities occurring today.

Today's national day of protest is part of a unique legislative and grassroots campaign to bring down energy prices, to curb the monopoly control of the oil industry, and to counter the influence of the oil lobby. Today's activities organized by grassroots coalitions in 35 States and Washington, D.C., will focus on building national support for a national energy policy that is truly reflective of the desires of the American people.

Congressman TOBY MOFFETT and I are today introducing the Citizen's Energy Act of 1979.

The Citizen's Energy Act of 1979 combines in one legislative package the energy agenda for the future. None of us are foolish enough to believe that this bill will become law tomorrow, but it is equally true that none of us are prepared to stop fighting for an energy policy that protects the American people. This legislation presents policies that ought to be, and the fact that it contrast so sharply with what is, is not an indictment against the bill, but a testament of the powerful interests that have shaped the self-serving, inequitable energy programs of today. It is our hope that the grassroots organizing begun today will help convince the U.S. Congress to move closer in adopting the principles of equity as embodied in the Citizen's Energy Act of 1979.

Mr. President, due to the length of the legislation, I will not ask that it be printed in the RECORD. However, I would like to include at this point a factsheet describing the bill, and a partial list of the organizations participating in the campaign for lower energy prices. I urge my colleagues to give the legislation careful consideration, and welcome cosponsors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACTSHEET ON CITIZENS' ENERGY ACT OF 1979

TITLE I—PRICE CONTROLS

Crude oil: The bill would extend mandatory controls on domestic crude oil through December 31, 1981 and provide the President with discretionary authority to continue controls through December 31, 1983. Under this language, the average price of controlled oil would be allowed to increase only up to 10 percent each year. (Similar to S. 936, H.R. 3621)

Heating oil: The bill would require reimposition of controls on heating oil and diesel fuel within 15 days after enactment. Prices would have to be set in order to ensure consumers pay reasonable prices. (Similar to H.R. 4830.)

Natural gas: The bill would eliminate natural gas deregulation and would require the Federal Energy Regulatory Commission set just and reasonable rates for interstate and intrastate natural gas.

Natural gas lifeline rates: The bill would require states to hold hearings, with full opportunity for public participation including intervenor funding, to determine whether or not lifeline rates for residential natural gas users should be implemented. (Similar to existing law which requires such hearings for residential electric consumers.)

TITLE II—CONSERVATION

Incentives for residential, industrial and commercial conservation: The bill provides a maximum grant of $750 to homeowners or apartment dwellers who insulate or install other conservation measures to increase energy efficiency. This program is based on a Canadian program which has been extremely successful. In addition, the bill provides low-interest loans to commercial property owners and developers to make energy conservation investments. The repayment terms would be set to ensure that the repayment period exceeds the estimated payback of the investment. Finally, the bill provides a loan forgiveness program for engineering grants to industrial firms to study the cost-effectiveness of energy conservation investments. Loans would be repaid only if the study showed investing in a more efficient process would be cost-effective. A per barrel rebate for every barrel of oil saved for the first year following an investment would be provided. The cost of this provision would be $58 billion through 1990, with a savings of 4.4 million barrels of oil equivalent a day or a net savings of $230 billion to the economy. (Similar to Amendment No. 388 to S. 1308, H.R. 5304.)

Residential furnace retrofits: After January 1, 1981, a homeowner would have to undertake retrofits, meet minimum efficiency standards, or have a contract to retrofit a furnace before selling a home. DOE would determine what retrofit devices would be required, while states would have to formulate a plan to certify contractors within one year. Assistance would be provided to states and low-income persons to help them comply with the bill. (Similar to S. 1335.)

Residential audits: Any homeowner receiving an energy audit under the residential utility program established in the Public Utilities Regulatory Policy Act would have to make that audit report available to any purchaser if the home were offered for sale and financed by any agency insured by the Federal government. (Similar to S. 1336.)

55 Mile-per-gallon limit: The bill increases the penalties for violating the 55-mile-per-gallon statute and reduces the percentage of violations needed in order to find a State in non-compliance with the law. (Similar to S. 1337.)

Industrial equipment standards: The bill requires an 18-month study of industrial equipment to determine which categories of devices would benefit from labelling or mandatory efficiency standards. In reaching recommendations, factors such as the economic impact on the industry, the operating costs, and the energy savings to be accomplished would be taken into account. The Department of Energy would have nine months to promulgate labelling requirements and two years to establish standards for any equipment selected. (Similar to S. 1398.)

Note: The last four bills would save up to one million barrels of oil equivalent per day.

TITLE III—GOVERNMENT PARTICIPATION

Energy Corporation of America: The bill creates a Federal energy corporation which would provide a taxpayer-owned competitor to the oil industry. The corporation would have authority to explore for energy on Federal lands, produce, develop, purchase, refine, transport and sell fuel. The corporation would also serve as a yardstick to the oil industry, providing Congress and the public with information to judge the behavior of other oil companies. A Citizens Advisory Commission would be established and intervenor funding provided to allow full public participation in the activities of the corporation. (Similar to S. 580, H.R. 4649.)

Government Import Authority: The bill would create a non-profit authority which would be the sole importer of all crude and petroleum products entering the United States. This authority would be phased in over a period of four years. (Similar to H.R. 3604.)

TITLE IV—REFINERY POLICY

Refinery production: The bill would give the President authority to require refiners to produce maximum amounts of petroleum products in order to avert gasoline or distillate shortages.

Inventory, anti-hoarding authorities: The bill extends indefinitely authorities to prevent industry hoarding, to require refiners to emphasize production of products in short supply, and to establish inventory targets for crude or products. These authorities are scheduled to expire on September 30, 1981.

TITLE V— PUBLIC INFORMATION

Special prosecutor: The bill establishes an Office of Special Prosecutor to investigate pricing and supply violations. The Prosecutor would have the same powers as the Department of Justice, Attorney General, and Department of Energy in terms of collecting information. The office would also have subpena power and power to obtain any information necessary from any Federal agency. (Similar to H.R. 4615.)

Information: The bill would make any information collected by the Department of Energy available to the Justice Department, Federal Trade Commission, Department of Interior, Government Accounting Office, Congress and any Governor upon request.

TITLE VI—SOLAR ENERGY, GASOHOL AND WIND ENERGY

Solar production and information: The bill establishes a goal of producing 20 quads of energy by the year 2000 from solar power. (Most estimates of energy use in 2000 are about 100 to 120 quads. 20 quads represents an equivalent of 10 million barrels of oil a day.) A Solar Heating and Cooling Information Center to commercialize and develop solar energy would be established. The Federal government would have to promote solar by including passive and active systems in new facilities unless proven to be not cost-effective.

The bill would require the sale of an increasing percentage of gasohol at Federal fueling stations, reaching 100 percent by 1990.

The bill sets a goal of installing a capacity of 800 megawatts of wind systems by 1986, requires a wind commercialization program which provides low-interest loans for purchase of wind systems, and establishes a Federal wind systems procurement program. (Similar to S. 950).

Solar Bank: The Solar Bank would make payments to financial institutions to subsidize long-term, low-interest loans to owners or builders of commercial or residential structures for the installation of solar systems. The amount of the loans would be limited to $10,000 per single-family dwelling, up to $500,000 for multi-unit residential dwellings, and $200,000 for commercial buildings. (Similar to S. 1716, H.R. 605.)

TITLE VII—ELIMINATION OF OIL INDUSTRY TAX SUBSIDIES

Foreign Tax Credit: The bill would amend or repeal special tax provisions created for the oil industry and instead make that industry subject to the regulations imposed on other industries. The bill would eliminate the foreign tax credit for what are actually royalty payments to foreign oil-producing nations. Presently, these "tax payments" are used to earn foreign tax credits to offset dollar-for-dollar U.S. taxes otherwise owed on overseas earnings. Under the bill these payments will be treated as royalty payments and will be deductible as an ordinary business expense. The bill would also eliminate the indefinite "deferral" of U.S. income taxes due on overseas income—making these taxes currently payable. These two provisions would increase U.S. Treasury revenues by $2 billion annually.

Intangible Drilling Deduction: Instead of allowing the oil industry to deduct intangible drilling costs immediately, the bill would require costs to be capitalized and deducted over a period of 14 years, as is the case with other industries. This would add $3 billion annually to Treasury revenues.

Oil Depletion Allowance: The bill would repeal the 15 percent percentage depletion allowance which allows certain oil and gas companies to recover their "costs" fifteen to twenty times over. The bill would allow depletion write-offs at the rate that wells actually deplete. This provision would increase Treasury revenues by at least $1 billion annually.

(Similar to H.R. 4128)

TITLE VIII—COMPETITION

Antimonopoly policy: The bill would prevent any merger or consolidation by a major producer or subsidiary if that would result in an acquisition of assets greater than $100 million. This would prevent oil companies from buying up other companies in either the energy or non-energy sectors. (Similar to S. 1246, H.R. 4743.)

Vertical divestiture: After 5 years, it would be illegal for any major natural gas company to engage in more than one of the following activities: production, transportation or marketing. After 5 years, it would be illegal for any major oil company to engage in more than one of the following activities: production, refining, transportation or marketing. (Similar to legislation introduced last Congress by Senators Bayh and Metzenbaum.)

Horizontal divestiture: After 5 years, none of the top 22 oil and gas companies could own any company involved in coal, uranium or solar activities. (Similar to legislation introduced last Congress by Senator Kennedy.)

TITLE IX—LOW-INCOME ASSISTANCE

Fuel assistance: The bill would provide fuel assistance to low-income and elderly households. Households earning 125 percent of the poverty guidelines, (150 percent for elderly families), or SSI recipients would be eligible for up to $360 in benefits. Payment would be made to the fuel vendor serving that household. In addition, a phased tax credit for middle-income users of heating oil would be provided, with a maximum credit of $300, ($150 for single households), phasing out when income reaches $20,000. (Similar to H.R. 5241.)

PARTICIPATING ORGANIZATIONS IN THE CAMPAIGN FOR LOWER ENERGY PRICES

(Partial listing)

Amalgamated Clothing and Textile Workers Union (ACTWU).

American Businesswomen's Association.

American Federation of State, County, and Municipa Employees (AFSCME).

Americans for Democratic Action (ADA).

Association of Community Organizations for Reform Now (ACORN).

California Public Policy Center.

Campaign for Economic Democracy (CED).

Carolina Action.

Catholic Committee on Urban Ministry (CCUM).

Center for Community Change.

Center for the Study of Responsive Law.

Citizens Action Coalition of Indiana.

Citizens Action League (CAL).

Coalition of American Public Employees (CAPE).

Coalition of Black Trade Unionists (CBTU).

Conference of Black Mayors.

Conference on Alternative State and Local Policies.

Congress Watch.

Connecticut Citizens Action Group (CCAG).

Consumer Action Now (CAN).

Consumer Energy Council of America.

Consumer Federation of America.

Consumers Opposed to Inflation in Necessities (COIN).

Democratic Agenda.

Democratic Socialist Organizing Committee (DSOC).

Energy Action.

Environmental Policy Center.

Episcopal Urban Bishop's Conference.

Federation of Southern Cooperatives.

Fraternal Association of Steel Haulers (FASH).

Frontlash.

Gray Panthers.

Graphic Arts International Union.

Illinois Public Action Council.

Industrial Union Department, AFL–CIO.

International Association of Machinists & Aerospace Workers (IAM).

International Chemical Workers.

International Longshoremen's and Warehousemen's Union, San Francisco, CA.

International Union of Operating Engineers.

International Woodworkers of America.

Martin Luther King Center.

Massachusetts Fair Share.

National Association of Farmworker Organizations (NAFO).

National Center for Economic Alternatives.

National Clients Council.
National Community Action Agency Executive Directors' Association.
National Council of La Raza.
National Council of Senior Citizens.
National Education Association (NEA).
National Family Farm Coalition (NFFC).
National Farmers Union (NFU).
New American Movement (NAM).
New Democratic Coalition.
New Jersey Federation of Senior Citizens.
Newspaper Guild, AFL-CIO.
9 to 5 (Massachusetts).
Ohio Public Interest Campaign (OPIC).
Oil, Chemical and Atomic Workers Union (OCAW).
Operation PUSH.
Oregon Fair Share.
Protestant Committee on Urban Ministry (PCUM).
Public Citizen.
Rural America.
Service Employees International Union (SEIU).
Sheet Metal Workers International Association.
Southerners for Economic Justice.
United Auto Workers.
United Electrical Workers.
United Food and Commercial Workers.
United Methodist Urban Ministries.
United Steelworkers of America.
Urban Environment Conference.
Women U.S.A.
Womens International League for Peace and Freedom.

By Mr. CANNON (for himself, Mr. LONG, and Mr. PACKWOOD):

S. 1905. A bill to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MILWAUKEE RAILROAD RESTRUCTURING ACT

● Mr. CANNON. Mr. President, a critical and immediate problem presently before the Commerce Committee is the pending cessation of operations as a result of the financial position of the Milwaukee Railroad. Last Friday, October 12, the Congress agreed to and the President signed legislation in effect freezing the Milwaukee system until November 30 by making available additional ERSA funds to aid in running the system until that date.

The Commerce Committee has held 2 days of hearings on the Milwaukee Railroad problems this year and many know the economic and physical problems of the Railroad remain unresolved. I have directed that development of appropriate legislation to address the Milwaukee problem be a top priority item for the committee. In determining the type of legislation to address this problem, the key question for the committee has been whether or not the Pacific Coast Extension—the western lines which extend from Miles City, Mont., to Seattle, Wash.—can become self-sustaining. Most of the studies done to date have indicated this is not possible, and pose an immediate concern over the need to expedite a solution in order to prevent a continuous drain on that part of the system that could be viable.

On the other hand, some of my colleagues maintain that the western lines can become viable and want an opportunity to put together a plan including these lines. A bill just introduced by Senator MAGNUSON (S.J. Res. 114) and one being considered by the House Interstate and Foreign Commerce Committee sponsored by Congressman FLORIO provide a mechanism to retain more than the core system presently approved by the court and to avoid the hardships envisioned by embargo of the western lines. The Senate Commerce Committee staff at my direction has also been working on legislation to address this issue which Senator LONG, as Surface Transportation Subcommittee chairman and Senator PACKWOOD as ranking minority member of the Commerce Committee join me in introducing today for public review and comment. I would point out that the proposal I introduce today does not represent the committee's final recommendations nor has the bill been endorsed by any members of the Commerce Committee.

Because this is an extremely important matter and many of the proposals establish some unusual precedents for transportation policy, I have called for a full committee hearing on October 29 to review the merits and details of these proposals as well as the critical underlying question of the potential viability of the western lines. Interested parties are urged to submit their views in writing to the committee prior to the October 29 hearing. I look forward to working with my colleagues and all affected parties in enacting affordable, effective, and realistic legislation to address this serious problem.

Mr. President, I ask unanimous consent that the bill together with a staff summary be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Milwaukee Railroad Restructuring Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter referred to as the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (namely, the States of Washington, Montana, Minnesota, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(5) a cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(6) a cessation of such services is imminent; and

(7) there is no other practicable means of obtaining funds to meet payroll and other exepnses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential operations by the Milwaukee Railroad would otherwise cause.

COURT-APPROVED ABANDONMENT AND SALES

SEC. 3(a)(1) Upon the occurrence of an event described in section 11(b) of this Act, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. When a rail carrier is involved in a transaction under this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of the employees who are affected by the transaction as that required under section 11347 of title 49, United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with paragraph (1) of this subsection.

(b) Section 11346 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision, when the proceeding involves the sale or transfer of a line of a railroad in reorganization, the Commission shall give the proceeding preference over all other proceedings related to that type of carrier and make its decision at the earliest practicable time, not to exceed 90 days if the proceeding does not involve a significant competitive impact, nor 210 days in any event: *Provided, however,* That this subsection shall not apply to proceedings commenced prior to the date of enactment of this subsection.".

(c) Nothing in this section shall be construed to affect the priorities or timing of payment of labor protection which might have existed in the absence of this Act.

COURT APPROVED ABANDONMENTS IN PENDING CASES

SEC. 4. Notwithstanding any other provision of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to such section 1170, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 5. (a)(1) Not later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or substantially all of the Milwaukee Railroad into an employee or employee-shipper owned company, and a method for implementing such plan. The plan shall include a comprehensive evaluation of the prospects for the financial self-sustainability of the Milwaukee Railroad.

(2) The Commission shall, within 30 days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5, United States Code.

(3) The Commission shall make a finding that the plan submitted under this subsection is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by March 1, 1980;

(D) the railroad can be operated on a self-sustaining basis; and

(E) the plan contains an assessment of all operating practices, and includes the implementation of changes designed to achieve the greatest possible labor productivity increases consistent with safe operations and adequate service.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate that will be released as part of implementation of the employee or employee and shipper ownership plan, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall immediately submit its finding to the bankruptcy court. Within 10 days after the date of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the creditors of the Milwaukee Railroad, the proponents of such plan shall, not later than March 1, 1980, implement the plan.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor of the Milwaukee Railroad.

(f) In the implementation of any employee or employee and shipper ownership plan involving expenditures of guarantees of Federal funds as hereinafter provided, authorizations shall be conditioned upon an appropriate contribution from labor, including such measures as exchange of assets for relinquishing labor protection claims and changes in work rules to increase productivity: *Provided, however,* That the employee-shipper actual or in kind contribution shall be no less than 25 percent of the total required financing.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 6. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)) is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term 'restructuring' includes an employee ownership plan or an employee-shipper ownership.".

(c) Section 3(e) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(e)) is amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system and for purposes of financing the operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 11(b) of this Act or on March 1, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)).

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses found necessary by the trustee of such railroad for the maintenance and the continuation of service in accordance with this section, and (2) the revenues of such railroad, both determined in accordance with the Uniform System of Accounts prescribed by the Commission.

(f) Notwithstanding any of the provisions of section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)), as amended by this Act, certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act. No payment of interest or principal upon certificates guaranteed under this section shall be required until the conclusion of the Milwaukee Railroad reorganization proceedings, or three years from the date of enactment of this Act, whichever first occurs.

NEW CAREER TRAINING ASSISTANCE

SEC. 7. (a) Any employee who elects to receive a separation allowance shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

(e) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this section.

(f) There is authorized to be appropriated for new career training assistance under this section not to exceed $1,500,000.

OBLIGATION GUARANTEES

SEC. 8. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Milwaukee Railroad for purposes of providing protection of employees affected by restructuring, transactions or reduction in service by the Milwaukee Railroad. Such protection may include, but need not be limited to, moving expenses, compensation for employee relocation and separation allowances. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances.

(e) Pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, the Secretary of Transportation shall guarantee obligations to finance an equipment repair program for the Milwaukee Railroad, or its successors, during the remainder of 1979 and 1980. Obligations

guaranteed under this subsection shall not exceed 430,000,000.

(f) Obligations guaranteed pursuant to this section shall be subordinated to the claims of any creditor of the Milwaukee Railroad as of the date of enactment of this Act.

TRANSACTION ASSISTANCE

SEC. 9. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsections (a) through (e) of this section, the Secretary may purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person prior to November 1, 1980, or retained by the Milwaukee Railroad, and that will be used for continuing rail service.".

APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 10. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to transactions carried out pursuant to this Act.

CONTINUATION OF SERVICE

SEC. 11. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the date of enactment of this Act, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 3(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 3(c) of this Act.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 12. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(e)) is amended by striking out paragraph (2) thereof and the sentence following that paragraph, and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is establishing an employee stock ownership plan which will be reviewed and approved by the Association, and assures that by December 31, 1980, the railroad will contribute to the employee stock ownership plan an amount of convertible preferred employer stock, or cash used to purchase convertible preferred employer stock, equal to the lesser of (A) 20 percent of the amount made available under this paragraph, or (B) 20 percent of the fair market value of the railroad as of that date. The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

AMENDMENTS TO THE DEPARTMENT OF TRANSPORTATION ACT

SEC. 13. (a) Section 5(h)(3)(B) of the Department of Transportation Act (49 U.S.C. 1654(h)(3)(B)) is amended—

(1) in the second sentence thereof, by striking "In accordance with the formula stated in this subsection, the", and inserting in lieu thereof "The"; and

(2) by adding at the end thereof the following: "Notwithstanding the provisions of this subsection, funds available for reallocation as of October 1, 1979, shall be reallocated by the Secretary solely to States which require supplementary assistance to mitigate the effects caused by the filing of large-scale abandonments by railroads in liquidation or reorganization under the Bankruptcy Act. In making such reallocation, the Secretary shall give consideration to the amount of mileage in the State for which an application for abandonment or discontinuance has been filed with the Interstate Commerce Commission in accordance with the provisions of section 10903 of title 49, United States Code, but has not been approved or denied. Consideration shall also be given to the relationship which such mileage bears to the total rail mileage in each State requiring supplementary assistance under this subparagraph.".

(b) The second sentence of section 5(h)(2) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)) is amended by inserting immediately after "and" therein the following: ", except as otherwise provided in this subsection,".

MILWAUKEE RAILROAD[1] RESTRUCTURING ACT

A brief summary of the attached bill follows:

ESOP (SECTION 5)

1. Not later than December 1, 1979, an employee or shipper-employee group may submit to the Interstate Commerce Commission a plan for converting all or substantially all of the Milwaukee Railroad into an employee or employee-shipper owned company, such plan to include a method for implementation and an evaluation of the prospects for self-sustainability of the Milwaukee Railroad.

2. The Commission is required to determine whether the plan is feasible within 30 days after submission. Feasibility is to be based on the following findings:

a. That adequate financing is available;

b. That the plan is fair and equitable to the estate of the Milwaukee;

c. That implementation will occur by March 1, 1980;

d. that the railroad can be operated on a self-sustaining basis;

e. that the plan includes changes in operating practices designed to achieve labor productivity increases.

If the plan is found to be feasible, it is to be submitted to the Bankruptcy Court.

3. The Bankruptcy Court shall hold a hearing within 10 days and determine whether the plan is fair and equitable to the estate of the Milwaukee.

4. If the I.C.C. and the Bankruptcy Court approve the plan, the proponents of the plan shall implement it by March 1, 1980.

5. Implementation of any plan involving expenditures or grants of Federal funds will be conditioned on an appropriate contribution from employees or employee-shippers. This contribution shall not be less than 25 percent of the required financing.

Section 11 of the bill provides for continuation of service at the level provided on the date of enactment until (1) the plan is not implemented, (2) the plan is not timely filed, or (3) there is an adverse finding by the I.C.C. or the Bankruptcy Court.

OTHER PROVISIONS

The bill also includes provisions for funding, labor protection, and expedited handling of abandonments and sales. The Emergency Rail Services Act of 1970 (ERSA) is amended by striking out the findings ordinarily required, including the finding that "the railroad can reasonably be expected to become self-sustaining." Certificates are not to be guaranteed under this section unless the certificate is treated as an expense of administration and receives the highest lien, except that this requirement is not applicable to certificates guaranteed for railroads engaged in "restructuring," which includes an ESOP plan. The ERSA funds provided the Milwaukee under the "restructuring" provision would be subordinated to the claims of creditors of the estate. Section 3(e) of ERSA is amended to revise upward the permissible outstanding aggregate principal amount of certificates from $125,000,000 to $200,000,000. ERSA certificates are to be issued to allow continued service until 60 days after March 1, 1980, or 60 days after occurrence of an event described in section 11,[2] whichever first occurs. (Section 6)

Training assistance for new careers is provided for employees displaced by the restructuring of the Milwaukee Railroad or a reduction in service over the line. (Section 7)

Under Title V of the Railroad Revitalization and Regulatory Reform Act, the Secretary is to guarantee obligations of the Milwaukee Railroad for employee protection purposes, including (but not limited to) moving expenses, compensation for employee relocation and separation allowances. Guarantees under this section are limited to $75,000,000; the obligations are to be treated as an administrative expense of the estate and not subordinated to creditors' claims. (Section 8)

The bill applies the expedited procedures of the new bankruptcy law, section 1170 of title 11, U.S.C., to pending abandonments, including the Milwaukee, the Rock Island and the Boston and Maine. However, the Bankruptcy Court cannot finally approve a Milwaukee abandonment until March 1, 1980 (unless an ESOP is not filed or there is an adverse finding by the I.C.C. or the bankruptcy court). With regard to sales and transfers by railroads in reorganization, expedited I.C.C. handling of all new cases would be required, but transactions of this nature would not be subject to the new bankruptcy provisions. (Sections 3 and 4)

In order to facilitate rehabilitation and improvement of Milwuakee Railroad property retained by the railroad or sold to another entity prior to November 1, 1980 for common carrier purposes, the Secretary is authorized to purchase redeemable preference shares or trustee convertible certificates. (Section 9)

The Regional Rail Reorganization Act of 1973 is amended to provide for an increase of $4,000,000 in the principal amount available to the Delaware and Hudson Railway Company, provided an ESOP is being established, subject to specified conditions including review and approval by the United States Railway Association. (Section 12)

Finally, the Department of Transportation is required (in a manner similar to S. 1781) to provide for reallocation of funds available as of October 1, 1979, to States requiring supplementary assistance under the "Branch Line" legislation revised last year. This provision is intended to mitigate the effects of large-scale abandonment filings by railroads in reorganization. (Section 13) ●

[1] Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

[2] See preceding paragraph.

ADDITIONAL COSPONSORS

S. 837

At the request of Mr. MELCHER, the Senator from Mississippi (Mr. COCHRAN), the Senator from Alabama (Mr. STEWART), and the Senator from Minnesota (Mr. BOSCHITZ) were added as cosponsors of S. 837, a bill to amend the Water Bank Act for the purpose of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes.

S. 924

At the request of Mr. MCCLURE, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 924, a bill to provide for protection of the John Sack Cabin, Targhee National Forest in the State of Idaho.

S. 1163

At the request of Mr. HARRY F. BYRD, JR., the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 1163, a bill to repeal the carryover basis provisions of estate tax laws.

S. 1383

At the request of Mr. MELCHER, the Senator from Alabama (Mr. HEFLIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. STEWART), the Senator from Alaska (Mr. STEVENS), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Maine (Mr. COHEN) were added as cosponsors of S. 1383, the Fuel Energy Conservation Act of 1979.

S. 1522

At the request of Mr. HARRY F. BYRD, JR., the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 1522, a bill to prohibit injury or destruction of a nuclear facility.

S. 1587

At the request of Mr. MCCLURE, the Senator from North Dakota (Mr. YOUNG), the Senator from Indiana (Mr. LUGAR), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 1587, a bill to provide economic incentives for the production of alcohol fuels and for the construction and operation of alcohol fuel production facilities; to establish a system to assure a constant supply of stocks for the operation of such production facilities; to encourage and promote alcohol fuels, alcohol fuel blends and related research, and for other purposes.

S. 1693

At the request of Mr. MELCHER, the Senator from Illinois (Mr. PERCY) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1693, a bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

S. 1703

At the request of Mr. CHAFEE, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1954 to provide an exclusion for income earned abroad attributable to certain charitable services.

S. 1705

At the request of Mr. PACKWOOD, the Senator from Idaho (Mr. CHURCH) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1705, a bill to amend the Internal Revenue Code of 1954 to allow the deduction of charitable contributions to organizations from which a taxpayer or a member of his family receives a service.

S. 1794

At the request of Mr. MELCHER, the Senator from Ohio (Mr. METZENBAUM) and the Senate from Arizona (Mr. DECONCINI) were added as cosponsors of S. 1794, a bill to provide for research concerning Reye's Syndrome, and for other purposes.

S. 1805

At the request of Mr. NELSON, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1805, a bill to amend the Economic Opportunity Act of 1964 to establish a weatherization program designed to enable low-income and near-poor individuals and families to participate in energy conservation programs.

S. 1843

At the request of Mr. CRANSTON, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1843, the Domestic Violence Prevention and Services Act.

S. 1862

At the request of Mr. MCCLURE, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 1862, a bill to improve the administration of Federal firearms laws, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL TRADE COMMISSION AUTHORIZATIONS—S. 1020

AMENDMENT NO. 523

(Ordered to be printed and to lie on the table.)

Mr. MCCLURE (for himself, Mr. COCHRAN, Mr. MELCHER, and Mr. LUGAR) submitted an amendment intended to be proposed by them, jointly, to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, the Governmental Affairs Committee will hold a hearing on Thursday, October 18, on S. 1419, a bill to transfer and abolish several small Federal agencies and commissions. The hearing will be held in room 3302 of the Dirksen Senate Office Building, and will begin at the conclusion of hearings, scheduled to start at 10 a.m., on Reorganization Plan No. 3 of 1979.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I would like to announce that the Select Committee on Small Business will hold a hearing on the business economic outlook. The hearing will take place on Tuesday, October 23, 1979, at 9:30 a.m., in room 424 of the Russell Senate Office Building. The witnesses appearing before the committee will be Mr. Lyle E. Gramley, Council of Economic Advisers, and Mr. William Dunkelberg, professor of economics, Purdue University, who is representing the National Federation of Independent Business.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I wish to announce that the Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Committee on Governmental Affairs has rescheduled the hearing on S. 742, the Nuclear Waste Management Reorganization Act of 1979. The hearing will now be held on Friday, October 19, 1979, at 2 p.m., in room 3302 of the Dirksen Senate Office Building. If you have any questions regarding the hearing please contact the subcommittee at 224-2627.●

ADDITIONAL STATEMENTS

VOLUNTARY PRAYER IN SCHOOLS

● Mr. HUMPHREY. Mr. President, earlier this year the Senate acted on an amendment by our distinguished colleague, Senator JESSE HELMS, to restore the right of public schoolchildren to begin their class day with a voluntary prayer. In so doing, the Senate returned to State officials and judges their constitutional responsibility to freely decide whether voluntary prayer should be available to the schoolchildren in their communities.

I was pleased to speak out in favor of this legislation during the Senate debate and to vote for it. The Senate's action was a proper and sound defense of the intent and meaning of the first amendment in response to a distortion of the language of the Constitution by the Supreme Court. As a coequal branch of the National Government, I believe the Congress has the responsibility to correct erroneous decisions of the Supreme Court. The Supreme Court is not regarded as "supreme" because it is infallible, and it should not be regarded as infallible because it is "supreme."

Mr. President, last month's issue of the Reader's Digest contained a thoughtful and well researched analysis of the Supreme Court's decision concerning voluntary prayer in public schools and the recent action of the Senate to reverse that opinion. Written by Digest senior editor Eugene Methvin, a long-time observer and analyst of the Supreme Court, "Should Prayer Be Restored to Our Public Schools?" provides a clear and concise examination of the history and legal issues involving the Supreme Court decisions and the Senate's passage of legislation to restore the right of voluntary prayer. I commend it to my colleagues and request that it be printed in the RECORD.

The article follows:

SHOULD PRAYER BE RESTORED TO OUR PUBLIC SCHOOLS?

(By Eugene H. Methvin)

In 1962 the U.S. Supreme Court ruled by a six-to-one vote that voluntary prayers said in public-school classrooms violated the U.S. Constitution. Few Supreme Court decisions have stirred such public controversy and outrage, encountered such open disobedience or stimulated such sustained efforts for reversal.

Public-opinion polls have shown that a stable majority of about 75 percent of Americans favors restoring public-school prayer. Last April the U.S. Senate, by a 51–40 vote, approved legislation introduced by Sen. Jesse Helms (R., N.C.) that would restore voluntary prayers to the classrooms. And once again the issue has touched off a torrent of mail to Capitol Hill, this time to the House of Representatives, whose members may soon consider the question.

The Senate's action would largely restore the situation that existed before the 1962 Supreme Court opinion: decisions would be left to the states or to local authorities, and justices in Washington would be out of the business of refereeing local arrangements for voluntary classroom prayer. Which is precisely the way the Founding Fathers, who wrote the First Amendment guarantee of freedom for religion wanted it.

The First Amendment says: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." Those words known as the establishment and free-exercise clauses, were meant to guarantee that religious matters would be decided at the local level.

The record leaves no doubt. When the First Amendment was presented to Congress in 1789, five states had established churches; others had recently disestablished or refused to establish churches. A major purpose of the amendment, as James Madison assured Congress, was to provide that the national government would have no power to disturb these local arrangements. It clearly forbade federal interference either for or against community decisions.

No one would have been more astonished at the Court's 1962 interpretation than the framers of the First Amendment. The same day in 1789 that Congress approved the Bill of Rights, the legislators asked President George Washington to proclaim "a day of public thanksgiving and prayer to be observed by acknowledging, with grateful hearts, the may signal favors of Almighty God." Washington thereupon issued the first Thanksgiving Day proclamation—an act that by the Warren Court's logic violated the First Amendment while its ink was still wet.

The more obvious conclusion is that it was the 1962 justices themselves who trifled with the Constitution. Said Harvard Law Dean Erwin Griswold: "We have a spiritual and cultural tradition of which we ought not to be deprived by judges carrying into effect . . . absolutist notions not expressed in the Constitution itself and surely never contemplated by those who put the constitutional provisions into effect. To say that they require that all trace of religion be kept out of any sort of public activity is sheer invention."

Yet that is precisely what the Warren Court decided in 1962, when the justices decided the Supreme Court's first prayer case. The New York State Board of Regents in conclusion with the clergy of Protestant, Catholic, Jewish, Greek Orthodox and other faiths, had developed this nonsectarian prayer: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country." Local school boards decided whether to use the prayer, and individual students could excuse themselves from participation if they wished. The Warren Court found this a violation of the establishment clause.

To reach its result, the Court had to ignore the First Amendment's clause forbidding the Federal government to interfere in the "free exercise" of religion and adopt a new theory advanced by Justice Hugo L. Black. He contended that the establishment clause forbidding Congress to establish a religion had been applied to the states through the Fourteenth Amendment clause which says that no state shall "deprive any person of life, liberty, or property without due process of law." That language, the Court decided, somehow requires Washington—in the form of the justices—to maintain a "wall of separation between church and state," and strict "neutrality" between religion and irreligion.

Potter Stewart was the only justice to dissent: "With all respect, I think the Court has misapplied a great constitutional principle. I cannot see how an 'official religion' is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish of these schoolchildren to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our nation."

The Warren Court's coupling of the First and Fourteenth Amendments was a bold new seizure of authority from both Congress and grassroots institutions. Other decisions followed: The justices ruled against a Maryland law that provided for the reading of a chapter of the Bible and/or recitation of the Lord's Prayer in schools. When the Netcong, N.J., board of education voted to permit students to come to school early for a "period for free exercise of religion" under the expressed First Amendment authority, the state court refused to allow it. This court even refused to permit schoolchildren to read the daily prayer of the House or Senate chaplain as printed in the Congressional Record. By not accepting the case on appeal, the Supreme Court justices let the state decision stand

These anti-prayer decisions set off a wave of protest that has not stopped. At first, Capitol Hill opponents backed an amendment to the Constitution that would revise the Supreme Court's interpretation of the Fourteenth and First Amendments. In 1966, the Senate voted 49–37 to submit such an amendment to the state legislatures for ratification, but the vote was nine short of the constitutionally required two-thirds majority. In 1971, responding to a nationwide drive sparked by Ohio housewife Louise Buhlin, the House voted 240–162 for an amendment, 28 short of the necessary two-thirds. In each case, many legislators balked for fear that the wording of such an amendment might be interpreted to do harm to other First Amendment provisions regarding freedom of speech and the press.

But today the outlook for prayer proponents is brighter. In the years since 1962, both the makeup of the Supreme Court and opinion about the limits on its powers have changed. The current Chief Justice, Warren E. Burger, has led this different Court in a substantial federalist restoration, curtailing some of the more ambitious activist claims of judicial power of the 1960s, pointing out, among other things, that Congress has remedies against such claims short of amending the Constitution. In fact, the Constitution provides two clear ways to limit the Supreme Court's role in the interpretation of our constitutional rights:

1. Article III, which created the Court, empowers Congress to make "exceptions and regulations" to the Court's appellate jurisdiction. Thus, by a simple majority, legislators can vote to take whole classes of cases away from the Court's jurisdiction.

2. The Fourteenth Amendment, under which the Court claims authority to impose its interpretations of the Bill of Rights on the states, specifically provides: "The Congress shall have power to enforce, by appropriate legislation," the rights the amendment creates. So if the legislators disapprove of the Court's rulings, presumably they can pass statutes—again by simple majority—substituting their own rules.

For three decades the nation has seen decisions and responsibilities transferred from local communities to Washington, thus steadily eroding the federalist concept of our government. When Senator Helms introduced his legislation last April, he emphasized the significance of his proposal in maintaining the Constitution's original plan of a divided and carefully limited power: "Congress must not yield its responsibility under the Constitution to ensure that the freedoms protected by the First Amendment are not undermined by actions of other institutions."

That is why many legal and editorial commentators welcome the Senate move to moderate the harsh anti-prayer rules adopted by the Warren Court. Says columnist James J. Kilpatrick: "When Senator Helms undertakes to restore the possibility of truly voluntary prayer, he merits the support of all those who believe that, while governmental establishments of religion must be resisted, the free exercise of religion should be encouraged. The Constitution expressly authorizes Helms's approach as a form of restraint upon the judiciary short of a constitutional amendment."

Regardless of our views on voluntary classroom religious exercises, all Americans—Christian, Jew, atheist, agnostic, whatever—have cause for alarm when a group of officials in Washington claims the right to dictate radical changes in our lives without consulting us. By debating and deciding such matters locally, we actually strengthen our democratic traditions of tolerance and liberty.

In taking such decisions away from the people, the 1960s-era justices pushed the Court far along the road to a more sweeping tyranny than any that might result from a local excess of religious zeal. As Harvard law professor Raoul Berger says in his recent book *Government by Judiciary*, "A democratic system requires adherence to constitutional limits, by courts no less than presidents. Respect for the limits on power is the essence of a democratic society."●

DEAN MARVIN J. ANDERSON OF HASTINGS LAW SCHOOL

● Mr. CRANSTON. Mr. President, on October 27 the Hastings Alumni Association will be honoring Dean Marvin J. Anderson of Hastings Law School on the occasion of his accession to the chancellorship of the college.

I take this opportunity to call to the attention of my colleagues the accomplishments of Dean Anderson and of Hastings Law School.

Marv Anderson has served for 10 years as the tenth dean of the law school. Under his leadership, Hastings continued its outstanding leadership role in our society.

The school established the first child care center of any law school. It integrated its excellent academic training with a vigorous clinical program for law students. The first and largest legal education opportunity program for disadvantaged students was built. The school's library facilities has expanded immensely and its television and video-tape facilities are second to none among law schools.

Hastings is perhaps most famous outside California for its "65 Club" faculty. These faculty members are senior legal scholars and jurists of national and worldwide reknown who have been invited to join the Hastings faculty upon their retirement from other schools and the bench. Hastings and California have benefited greatly from their presence in our State.

Dean Anderson continued this excellent innovation while tripling the number of course offerings and regular-tenured faculty.

In short, Marvin J. Anderson has taken the best from one of the oldest and finest law schools in the Nation and made it even better.

He will have the best wishes of many admirers on the occasion of his newest undertaking on behalf of Hastings College.●

FIFTIETH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER TO BE 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, the widespread image of Herbert Hoover as a President clinging to old ways in the face of the new necessities brought about by the Great Depression has been challenged in recent years by a revisionist theory. This theory places Hoover as the forerunner of the tremendous governmental changes which his successor, Franklin Roosevelt, expanded. Important in this discussion is Hoover's performance as an administrator: Hoover's one and only elected office was as our 31st President, whereas he spent many years in senior administrative roles.

Dr. Peri E. Arnold, of the Department of Government and International Studies, Notre Dame University, has written an essay discussing the longest and most intensive administrative assignment of Hoover's life—as Secretary of Commerce during the Harding and Coolidge administrations. The essay has been submitted to me for inclusion in the series of essays being printed to commemorate the 50th anniversary of the inauguration of Hoover in 1929. Dr. Arnold concludes that Hoover's "approach to the problem of administration is wholly modern," rather than that of a traditional administrator in the Wilsonian mold. Thus, Dr. Arnold supports a revisionist view of Hoover.

Hoover attacked his new responsibilities at Commerce with typical verve. He was given the choice of two Cabinet positions by Harding—Interior or Commerce. Harding had campaigned for the Presidency on two themes—A return to normalcy and bringing the best minds into his administration. His offer to the prestigious Hoover was entirely consistent with the latter plank. Hoover's selection of the Commerce post reflected his belief that the country's chief problems concerned economic stability and reconstruction.

What Hoover discovered at Commerce was an amalgamation of offices and narrow programs brought together for the purpose of satisfying the call of business for Cabinet-level representation, with no common substantive purpose. The broad and amorphous organic charter of the Department was of no assistance in shaping its programs. Symbolically, the Department represented business; in practice, its job, as described by an early Secretary, was "turning out the lighthouses at night and putting the fish to bed." Woodrow Wilson's Secretary of Commerce struggled with the problem of lack of purpose, but his efforts were stymied by the creation of the War Industries Board, which became the prime arena for the Federal Government's relations with business from 1917 to 1919.

Seizing upon a climate in which a positive relationship between business and Government was developing, Hoover sought to make his Department an instrument for voluntary cooperation between them. In an attempt to make available leading American business voices to the Department, Hoover invited leading businessmen to form an advisory board. However, so many sought membership that the plan had to be scrapped. This experience convinced Hoover that there was no single homogenous business interest which could be voiced through a single unit in the department. As a result, Hoover created within the Bureau of Foreign and Domestic Commerce 17 separate divisions, each focusing on a major commodity, and staffed them with experts from the individual industries or trade associations. These units carried out Hoover's programs for each of the industries covered.

Hoover's major goal as Commerce Secretary was to foster market stabilization through cooperation. The Department's contribution would be to provide the organizational strength to encourage industries to organize to achieve stability, and to gather and disseminate organizational statistics to aid industrial planning. Individual industries and trade associations had been unsuccessful in obtaining industrywide data. In a statement which should put to rest any thought of Hoover as a laissez-faire advocate, Hoover told a trade association executive:

> We have reached a state of national development of such complexity . . . that we must have a national planning of industry and commerce.

As ambitious as his plan to create cooperative Government-industry groups to stabilize and reconstruct industry was Hoover's plan to eliminate the economic waste of a lack of standardization within industry. Hoover established a division of simplified practice within the bureau of standards to accomplish this purpose. The division worked cooperatively with industry, rather than coercively, and achieved substantial success.

One of the means Hoover utilized to effectively achieve his ends was a very active public relations program. This was essential as his goals involved reshaping the behavior patterns of American business. Hoover brought experienced journalists and public relations veterans into the department, both as personal assistants and as heads of operating units. He maintained close relations with an important circle of Washington journalists, and used these individuals as conduits for information to the outside.

He initiated regular conferences with the business press, for the same purpose.

Mr. President, Dr. Arnold's essay, "The 'Great Engineer' as administrator: Herbert Hoover and Modern Bureaucracy," presents a highly interesting examination of Hoover's remaking of the Department of Commerce, and of his administrative style. I request that the essay be printed in the RECORD at the conclusion of my remarks, along with a brief biographic sketch of the author.

The material follows:

BIOGRAPHIC SKETCH OF PERI E. ARNOLD

Born: September 21, 1942.

Education: BA—Roosevelt University, Chicago, 1964; MA—University of Chicago, 1966; Ph.D.—University of Chicago, 1972.

Professional experience: Taught at Western Michigan University one year, 1970–1971; Department of Government and International Studies, University of Notre Dame: Assistant Professor, 1971–76; Associate Professor, 1976; Chairman of Department, 1977.

Memberships: American Political Science Association; Southern Political Science Association; Society for Values and Higher Education.

Publications: Co-author, Values and Regulation of the Electric Power Industry, forthcoming 1980.

Articles: "Herbert Hoover and the Continuity of American Public Policy," Public Policy, 1972; "Reorganization and Politics,"

Public Administration Review, 1974; "Toward a Theory of Congressional–Executive Relations," The Review of Politics, 1974; "The First Hoover Commission and the Managerial Presidency," Journal of Politics, 1976.

"THE 'GREAT ENGINEER' AS ADMINISTRATOR: HERBERT HOOVER AND MODERN BUREAUCRACY"

A half century ago Herbert Hoover entered the Presidency and the "Great Engineer" of the 1920's became, after 1930, the butt of Depression era jokes for many Americans. The economic collapse of 1929 not only broke Hoover's Presidency, it obscured his accomplishments as a key public figure in American life during this century.

In recent years a new, burgeoning industry of Hoover scholarship has refocused on those accomplishments largely through an examination of Herbert Hoover's policy initiatives in the various public posts he held between 1917 and 1932.[1] The thrust of this revisionist view is to see Hoover's policy innovations as entailing intervention in the economy thus marking a sharp break with the laissez-faire tradition. According to this view, Hoover's public policies had more in common with the general level of governmental activities post-1932 than they had with a 19th century laissez-faire tradition. A characteristic shared by the revisionists is that they see Hoover's policy contributions to American politics as essentially modernist and not traditional, far more like Franklin Roosevelt than Calvin Coolidge.

Yet, Hoover remains an illusive figure. Much of his character and work retains a traditionalist character. In particular, his approach to administration and public organization seems to locate him in an older American governmental tradition, and this is critical for understanding Hoover because he was preeminently an administrator; the Presidency was the only elected office he ever held. If in fact his approach to public administration is traditional, the revisionist interpretation of Hoover must be relegated to the status of a partial explanation of his public life, and Hoover must be understood as essentially a precocious traditional politician.

The distinction between traditional and modern administration in American public life rests on a conceptual dichotomy between politics and administration. The rapid expansion of the American national bureaucracy after 1880, along with the growth of the Civil Service, is accompanied by the rise of an American theory of public administration. As the federal bureaucracy expanded, the old Jacksonian tradition of absolute domination of administration by partisan politics became utterly impractical; the system was too big for control through spoils and political loyalty. Woodrow Wilson set the paradigm for a new conception in his great essay of 1887, "The Study of Administration."[2] In it he argued for an absolute separation between administrative things and political matters. Administration, he said, "is a part of political life only as the methods of the counting-house are a part of the life of society; only as machinery is part of the manufactured product."[3]

Wilson's politics-administration dichotomy became part of the standard conceptual currency in American public life between 1887 and the 1930's. Much of its power remains, as reflected in how much conventional language about administration retains the dichotomy's premise.[4] But, beginning in the late 1930's, it became clear that the Wilsonian paradigm was inadequate for understanding the role of administration in the highly bureaucratized, positive state.

Footnotes at end of article.

While it unfortunately lacks the theoretical statement that Wilson offered to an older administrative tradition, modern public administration thoroughly rejects the politics-administration dichotomy. Because we have not had a dominant theorist for the modern period who could sketch a paradigm as powerful as Wilson's, we have no easy label to characterize this period.

But, it is clear that the most prevalent form of contemporary public agency manifests an extremely close fit between its mission and its administrative style and makeup. That the politics-administration dichotomy is no longer an adequate description of the style of most public agencies is clear in a number of discreet aspects of modern bureaucracy. In the last several decades, Presidents have recurringly attempted to effect a greater political control over the upper reaches of the Civil Service.[5] We have come to realize that bureaucrats, far from being neutral, have strong political commitments to their agencies' continuing policy goals.[6] Finally, one can even impressionistically note the degree to which large agencies seem to compose sub-cultural systems. Those who work in the middle or upper ranks of Treasury differ in style and background from their opposites at Agriculture or Housing and Urban Development. The administrator has not been a replaceable cog as he is conceived in the Wilsonian paradigm or its distantly related Weberian bureaucratic model.[7] Rather, the administrator has become a political creature within agencies which have strong commitments to particular goals and possess large amounts of discretion to shape the policies they are given to implement.[8] The modern agency comprises a political subsystem in which politics and administration become one.

At first appearance, Herbert Hoover is an archtypical traditional administrator. The "Great Engineer" achieved immense public acclaim as an administrator during his lifetime. He built the Committee for the Relief of Belgium into a massive international relief operation, beginning from scratch in 1914. In 1917 he achieved huge success in mobilizing American food resources in his role as U.S. Food Administrator. And, from 1921 to 1927 he virtually remade the Department of Commerce, serving as Secretary of that department in the Harding and Coolidge cabinets. Last, he led and dominated the first and second Hoover Commissions in the late 1940's and the middle 1950's in producing the most extensive studies ever accomplished of administrative problems and efficiency in the national government. In each of these roles, Hoover appears as engineer of organizations, who given a goal, can build technically perfect organization. In this sense, the "Great Engineer" seems the very embodiment of the Wilsonian administrator.

This essay will show that this conventional view of Hoover is mistaken and that Hoover's approach to the problem of administration is wholly modern. Thus this essay contributes to and expands the general revisionist view of Hoover. The evidence for this argument will be drawn from the most intensive and sustained administrative role he played during his life, his tenure as Secretary of Commerce. Yet I must begin with a caveat. Hoover's conception of the term "politics" was narrow. In his own mind, a high wall separated politics and administration, but by politics he meant partisan, electoral politics. For example, in the midst of a heated battle between the Department of Commerce and a trade association, the association's president charged that policies and actions of the department were politically motivated (Hoover had been attempting to force that association to cooperate with others in the lumber industry in establishing industry-wide lumber grades). Hoover was aghast at the charge; how could politics be involved? As he stated to the press after the charge was made public: "Up to date no one has suggested either Republican or Democratic grades of lumber."[9] Thus Hoover sounds traditional, but his notion of "politics" did not include policy. So, to understand the degree to which Hoover was a modern administrator one must inquire into the breadth of his notion of administration rather than that of his notion of politics. And, in his redirection and reorganization of the Department of Commerce there is evidence of extraordinary breadth given to that concept; it devours politics understood as policy. To show this I must first describe the Department of Commerce as he found it.

I. The Department of Commerce in Search of Purpose, 1903–1921:

The Department of Commerce began in 1903 as the Department of Commerce and Labor. Its creation capped several decades of demands by organized business groups for cabinet-level representation.[10] By the turn of the century, organized labor picked up the same demand. The context and efficacy of these demands were set by the entrance of the Department of Agriculture into the cabinet in 1889 after strong pressure from agricultural organizations for cabinet status as a recognition of the importance of agriculture to the nation.[11] Granting such status to one functional sector opened the door to the same demands from other key economic groups. With the Department of Commerce and Labor, Congress answered demands from two such groups at once. Although, "Labor" was tacked on as an afterthought and its only organizational role in the new department rested in the Bureau of Labor which had been moved from Interior.

The new development was a classic case of administrative organization created for symbolic rather than substantive purposes.[12] Most of its components were transfers from other departments, and it brought together a hodge-podge of agencies, each of which performed narrow, routine, and regularized service functions. The Lighthouse Board, the Lighthouse Establishment, the Steamboat Inspection Service, the Bureau of Navigation, the United States Shipping Commissioners, the National Bureau of Standards, the Coast and Geodetic Survey, the Commissioners-General of Immigration and the commissioners of immigration, the Bureau of Immigration, the immigration service at large and the Bureau of Statistics all came from Treasury. The Census Office, the Bureau of Labor, the Fish Commission and the Office of the Commissioner of Fish and Fisheries came from Interior. Finally, the Department of State sent the Bureau of Foreign Commerce, which the statute specified was to be joined with the Bureau of Statistics; the latter name being retained.

Two new agencies were created to go into the department, the Bureau of Manufacturers and the Bureau of Corporations. The former was to be a promotional agency for the business community, supplying businessmen with data concerning market conditions. Of all the component parts of the new department, this was the only one mandated to serve a wide business constituency. The Bureau of Corporations also dealt with a wide range of firms, but its role was far different and at conflict with the other agencies in the department. Its function was to "investigate into the organization and management of the business of any corporation, joint stock company or corporate combination engaged in commerce among the several states and with foreign nationals excepting common carriers subject to a prior act."[13]

It was to investigate interstate corporations and report its findings to the President; it was assumed that the light shed by such investigations would retard questionable corporate activities without the passage of more coercive regulatory law.

The Bureau of Corporations lacked sanctions, but its spirit was regulatory while the over-all thrust of the new department was service and promotion. Over-all, the Department of Commerce and Labor was a jumble of agencies and purposes at its creation. Its organic statute suggested the enormous range of concerns that fell into its mandate:

"That it shall be the province and duty of said Department to foster, promote, and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fishing industries the labor interests, and the transportation facilities of the United States."[14]

The mandate was broad and unfocused. How were all of the diverse economic interests listed in statute to be "fostered and promoted," let alone reconciled.

The basic problem of the new department was that it had not been created to fill a concrete need, rather it was an instrument of functional representation. But, aside from the symbolic role of representing business, what was the department to do? For fifteen years this issue lay dormant, and the individual agencies of the department continued the routines that had concerned them prior to 1903. In the words of an early Secretary of Commerce and Labor, the job of heading the department amounted to nothing more than "turning out the lighthouses at night and putting the fish to bed." It was part-time work.[15]

In its first fifteen years, events changed the department in ways that could make it more amenable to central direction and unified purpose. In 1912, the Bureaus of Manufacture and Statistics were merged, resulting in a new agency that would be more competent to collect, organize, and disseminate useful information to businessmen. In 1913 the discordant position of labor in business' department was resolved through the creation of a separate Department of Labor.[16] In 1914 the conflicts between goals of promotion and regulation of business were resolved by the transfer of the Bureau of Corporations responsibilities to the new Federal Trade Commission. But, while these changes created a more consistent department, they did not provide it with a coherent sense of purpose or direction.

William Redfield, Wilson's Secretary of Commerce between 1913 and 1919, was the first head of Commerce to struggle with the problem of purpose in the department.[17] But, as America entered war he was stymied by a new mobilization agency, the War Industries Board; Commerce sat outside the main arena of government's relations with business from 1917 to 1919. During wartime, the War Industries Board fostered cooperative relations between government and business which taught the businessman that such cooperation could guarantee business stability.[18] But, the primacy of the War Industries Board as an innovator of new relations between government and business ended with the war. What was to become of the government-business partnership which it had created? The business community sought some way of continuing the stability producing relationship with government. The demise of the War Industries Board left no government agency which could become the medium for this new peace-time cooperation. So, the immediate post-war years saw the asymmetric irony of a wide-spread acceptance of a new relationship with government by business accompanied by the lack of any governmental agency capable of maintaining that relationship.

Redfield attempted to use Commerce to fill that vacuum. But his efforts were limited by the character of the times and the restrictions imposed by post-war reconstruction. In particular, he developed the Industrial Board of the department; its function was the control of post-war inflation through the medium of voluntary agreements between business and government. This initial extension of the spirit of cooperativism was a dismal failure, and the board shut down in May, 1919.

The movement of the department into the breach left by the War Industries Board was hampered by its lack of organization and unity. It had little capacity for developing coherent new policies. An indication of its organizational weakness is the fact that there had been no increase in the size of the secretary's office since 1915. While major growth had occurred in the operating agencies, the central office remained static in size and managerial capacity.[19]

Beneath Commerce's own organizational failures lay a deeper reason for its lack of purpose and vision. It had been fashioned out of promotional and service components during an era when government was building a regulatory approach to business. Consequently, the department was out of step with the spirit of an era which had first been committed to "trust busting" and then the regulation of business through independent commissions. But, by 1919 a new relationship between government and business was forming. Industrial mobilization during war taught businessmen the virtues of cooperating with each other and government. And, as Secretary Redfield realized, this could be an opportunity for Commerce, given the right leader and sufficient support.

II. Herbert Hoover and the Transformation of Commerce:

Two themes dominated Warren G. Harding's 1920 campaign for the Presidency, "normalcy" and the "best minds." If elected, Harding promised to return America to "normacy" and staff his administration with the "best minds." Herber Hoover, already famous for his organization of war relief and his operation of American food policy during the war, entered the cabinet as a partial fulfillment of the latter promise.

President-elect Harding offered Hoover a choice between the two departments, Interior and Commerce. Hoover selected Commerce, the less prestigious of the two, because he felt that the country's largest problems were in the area of economic reconstruction and economic stability. At the same time, he had no illusions about the department's current state; it would need reorganization and expansion. Soon after accepting the post, he told the press:

"There must . . . be a reallocation of Government bureaus and we must bring into the Department of Commerce bureaus which belong there. The department can materially assist in the economic settlement of our foreign relations and we must engage in more than the mere exploitation of our goods."[20] Hoover did not intend to change the department for the sake of some abstract notion of efficiency. Change was linked to function. His logic is this: if specific changes can be made at Commerce, then the department will contribute to the national life in a manner that transcends "the mere exploitation of our goods." This vision lay behind Hoover's choice of Commerce as his cabinet post, and that vision became the compass point for his reforms in the department.

But, what was this thing that lay beyond "mere exploitation of goods"? Hoover meant a model set of relations between business and government that were founded on the notion of mutual cooperation and gentle guidance of business by government. Central to his view was the idea that the dangers of government coercive powers to a free society could be neutralized through the constant role of businessmen cooperating with appropriate government agencies.[21]

In becoming Secretary of Commerce, Hoover found no need to change the statutory base of the department so as to redefine its mandate and encompass his grand vision.[22] He understood the pre-existing statutory mandate to encompass everything he intended for the department. It was, he said, "a wide open charter,"[23] and he took it as a grant of discretion to remake the department according to his ideal.

Secretary Hoover's administrative reforms at Commerce had three different aspects, they are: 1) a fundamental reorganization of the department's functional relationship to business, 2) a rationalization of central management in the department and an attempt to impose over-all goals on the programs of various agencies, 3) a departmental public relations program which gave it great capacity to reach its constituency while it added to the department's public visibility and political strength.

Hoover's public stature was such that his appointment raised great expectations. As the New York Times observed:

"The reorganization of the Department of Commerce contemplated by Mr. Hoover will make that branch of the Government service the most important public body in touch with American business and will give the great Food Administrator a place of dominant leadership in American business. The plan has been chartered by Mr. Hoover in detail, and it is understood that he will lose no time in putting it into effect."[24]

The heart of Hoover's plan was the idea of shaping the department into an instrument for cooperative relations between business and government. Secretary Hoover wanted his department to incorporate the leading voices and interests of the business community. At the outset of his tenure, he attempted to execute this ambition by creating an Advisory Board for the department. To organize it, he invited representatives of the major national business organizations and some leading corporate executives to a meeting at the department.[25] It is doubtful whether such a board could have provided meaningful, over-all guidance to the department. The very fact that it would include representatives from diverse industries meant that it would have to function at a level of abstract generalization so as to avoid conflict. But, Hoover's plan did not succeed to the point where the problem could arise, for the public announcement of his intention to create such a board created a huge clamor amongst even the most obscure businessmen, demanding invitations to the organization meeting. Hoover quickly changed his plan in midstream and announced that rather than an advisory board, it was his intention to hold a series of conferences, no single one which would be meant to be "completely representative of the geographical divisions of the country or of all different industries."[26]

This initial organizational failure contained an important policy lesson; there was no homogenous business interest that could be voiced through one representative institution in the department. Rather, there are business interests that must be dealt with one by one. This realization provided Hoover with a strategy that tied together a new policy direction for the department with an administrative format built upon the principle of representation. The new policy which Hoover desired to graft onto the department was one of market stabilization through cooperative programs within industries and between the department and industry. The department would provide the impetus and

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Footnotes at end of article.

the organizational strength to aid the member firms of industries to organize and rationalize their behavior so as to achieve greater stability in the industry. As he told one trade association executive: "We have reached a state of national development of such complexity . . . that we must have a national planning of industry and commerce."[37] In short, Hoover saw that aggressively competitive behavior by individual firms was often a threat to the social good and, in the long run, self defeating for the individual as well as destructive for the whole industry.[38] Hoover, moreover, thought that accurate information about the state of the marketplace combined with organized trade association strength in each industry were the tools for bringing rationality to the marketplace.[39] Providing the data and creating or strengthening trade associations would be the central aim of the new Department of Commerce. In regard to information, Hoover told the 1921 convention of the Chamber of Commerce of the United States:

"We should have a more timely, more regular and more complete information of the current production and consumption and stocks of every great commodity in the United States. I am convinced that we should go even further than this; that we should secure and publish the proportion of the total equipment of more important industries that is in current production, together with the total proportion of labor complement that is in service; and that in a few commodities it may be well to procure and publish the primary prices".[40]

And he proceeded to suggest that the Department of Commerce was the proper instrument for the crucial function. He stated:

"Various industries have tried time and time to secure such data informally, but it is essential to success that it should be collected and presented to the whole of the commercial community, buyer, seller, and banker, by some department of the Government which approached the whole problem in a purely objective way, which will hold the individual's return absolutely confidential; and from which the whole public and the whole industry can enjoy equality of service."[41]

Hoover was suggesting that government itself became part of an organizational system through which competition could be constrained or channeled. To the degree that such information was then available at all, it was gathered and distributed solely within the context of individual trade associations. But the associations did not carry the authority necessary for the universal collection of statistics (from non-member as well as member firms). Moreover, many businessmen doubted the confidentiality of a statistics program controlled solely by an association. Finally, such programs run by trade associations faced the risk of antitrust action.[42] But, the circumstance of many industries was even worse because of an absence of trade associations. These problems could be resolved through the intervention of the Department of Commerce to disseminate statistics in cooperation with existing associations and to develop trade associations where none presently existed.

The essential organizational reform which followed from this reorientation of policy at Commerce was the creation of the Commodity Divisions of the Bureau of Foreign and Domestic Commerce. By the end of 1922, seventeen divisions served separate industries and had responsibility for stimulating intra-industry organization, promoting the whole industry, and distributing data regarding market conditions in that industry. The divisions flourished, and they solved the problem of representation upon which the plan for an Advisory Board had foundered.

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The Commodity Divisions constituted an administrative solution to the new policy goals of representation and government-business cooperation. Such relations, if they were to go beyond agreement on broad principles, must take place on the relatively narrow base of the individual industry; this was precisely the logic of the Commodity Divisions.

These divisions were tied to "their" industries with a tight knot. Secretary Hoover invited the trade associations of each industry to be served by a division to nominate individuals to work within and head that division.[43] Some of the earliest appointees to these positions were officers of the trade associations. For example, F. L. Palmerston was appointed in August, 1921, to head the Rubber Division. He had, until this appointment, managed the Foreign Trade Bureau of the Rubber Association of America.[44] As the department's Annual Report for 1922 candidly stated, the men appointed to head these divisions were "chosen because of their experience and familiarity with a given line. These men have been selected, in most instances, in accordance with the desires and recommendations of the interested industries in the most direct and acceptable manner that could be devised."[45]

Further evidence of this personnel tie between the department and the associations is supplied by the department's 1925 appropriation hearings. In these, Assistant Secretary of Commerce J. Walter Drake described Secretary Hoover's success in involving businessmen in the department's work. Drake presented a list of employees to substantiate his point. These were individuals who had been appointed to the department after nomination by their trade association. The list included the heads of every commodity division excepting three, coal, specialities, and petroleum.[46] Coal and specialities were exceptions for the same reason. These were badly disorganized industries incapable of relating to the department through a unified organization. The coal industry was going through massive strikes during this period and resisting attempts by the government to bring order to the industry.[47] The specialities field, by its nature, is simply a confusion of different small industries dealing in luxury goods. There is little there to bring unity to. Neither of these industries demonstrated the organizational unity necessary for such an industry appointment to be made. In industries such as these, the department had to take the initiative and find a man within the industry to take a post in the department. The third division which saw appointment by the department itself, petroleum, presents a different case. This was an industry which was already declining ties with and reliance on two other departments, Interior and State. It had no need for the services of the Department of Commerce.[48]

Secretary Hoover instituted an even more ambitious agency than the Commodity Divisions and designed along the same lines as them, the Division of Simplified Practice in the Bureau of Standards. Its mission was to help industry standardize its products. This division was to have the combined functions of supplying technical expertise to industries and providing organizational building activities to help those industries use these techniques. Hoover's strategy in finding a solution to the economic waste of a lack of standardization was the mobilization of trade associations to deal with product and size proliferation. The Division of Simplified Practice would initiate action, provide its facilities for industry-wide meetings, supply technical expertise, and promulgate industry-wide standardization agreements.

The simplification program was enormously successful. It began with a bang when the Division of Simplified Practice brought together the paving brick industry and helped it reduce the varieties of paving bricks from sixty-six to eleven.[49] Following this success, associations representing the bedding industry requested that the division aid them in establishing standard sizes for beds, springs, and mattresses. By mid-1922, a regular pattern of operation by the division was established. Numerous associations were conducting preliminary surveys of their industry's product variety under its auspices. Work was ongoing in the following fields: warehouse commercial forms, lumber, hardware, paints and varnish, sash and millwork, clay products, cigar boxes, metal lathes, common brick, storage batteries, spark plugs, woolen goods, and hollow building tile.[50] As the division led each industry to agreement on product size and type, it published the agreements in a new Department of Commerce publication, Simplified Practice Recommendations, making the new standards available to a wide public.

Once Secretary Hoover identified the main policy goals he wished to impose on the department, and completed the organizational reforms necessary to implement those policies, he faced the next problem of maintaining central control and consistency over the department's activities. Commerce had never been adequately controlled from the center and had stumbled along as a loose collection of routine service agencies. But, with the fundamental policy changes he had brought to the department, Hoover felt it necessary to closely oversee and coordinate its activities.

Hoover's conception of coherent, orderly administration involved two different principles. One, he saw orderly administration resting on the rational grouping of administrative functions and subjects. He understood the organic statute of the Department of Commerce to grant that department the power "to foster commerce in its most comprehensive sense . . ."[51] In short, all functions pertaining to the fostering of commerce should be in this department. Moreover, the various activities of the department should be grouped and coordinated so as to associate like and related operations.

The other principal elements in Hoover's notion of orderly administration were related commitments to hierarchical command and narrow span of control. He believed that no effective administrative or executive function could be performed in the face of shared authority.[52] Consequently, organizations built for action must be single-headed and manifest very clear lines of authority and responsibility.[53] In fact, his own successes at administration relied heavily on his dominance of organizations and upon the association of the organization and its function with his image. For example, his work at the U.S. Food Administration led Americans to speak of conserving food as "Hooverizing." But Hoover's strong hierarchical organizational model did not result in a domineering organizational style. On the contrary, he had a deft sense of the necessity for delegating authority within organizations, and he demonstrated this as he coped with the growing Department of Commerce.

The department grew rapidly under Hoover in terms of both organizational size and missions. Without massively increasing his central staff, Hoover would have found it impossible to maintain close hierarchical control over all the department's activities. Also, Hoover was far more interested in the new policy directions of the department in the general area of what he called "the movement for the elimination of waste" than he was in routine activities within the old bureaus of Commerce. Therefore, he took personal direction of the activities of the agencies most directly responsible for carrying through the department's new policy

while turning over direct supervision of the other agencies of the department to his assistant secretary and his departmental solicitor.[54]

Finally, Hoover's transformation of Commerce entailed the development of enormously effective capacities for public relations and information distribution. It is ironic, given Hoover's public image as the cool technician, that his managerial style was intensely personal.[55] He welded together his hierarchical administrative conception with the possibility for a kind of charismatic personification of his organization's mission; Hoover's organizations became prisms for his own personality and goals.

A modern notion of administration as incorporating means and ends considerations underlay Herbert Hoover's sense of the importance of public relations for government agencies. Public relations is a prerequisite for success in those agencies which have the goal of reshaping behavior patterns of a particular constituency depending upon its capacity to communicate. Traditional routine service agencies did not need public relations; they had a fixed, routine agenda. But the modern, mission-mandated agency required tools to advertise, cajole, and convince.

The Department of Commerce exemplified the relationship between modern administration and public relations. From 1903 to 1921, Commerce lacked public visibility and support because it was without the means for building that support. At the same time, it must be noted, the department had few if any functions that could be effectively advertised so as to build an active constituency. Hoover's new programs, at the same time, required such advertising and gave the department something to advertise about.

Hoover effected his public relations program through several different means. He brought experienced journalists into the department as his assistants while, at the same time, he maintained close relations with an extensive circle of reporters and public relations people outside of government. Amongst those who he brought into government were Christian Herter, Harold Phelps Stokes, and George Ackerson, all who served as personal assistants. Their publicity sense and their professional contacts gave the department an unusual skill amongst federal departments of that time in using the news media. At one step removed from his immediate circle, Hoover brought into government public relations and news people who undertook special projects for the department and its secretary. George Barr Baker, Edward Eyre Hunt, and Frederick Feiker are leading examples. At a greater distance still from the official workings of the agency, Hoover used luminaries of the press world such as William Allen White and Mark Sullivan as conduits for information that would burnish the public image of the Commerce Department.[56]

Hoover also established a regular channel for publicity about the department's work through the business press. His approach to this task was related to his strategy for establishing ties with trade associations in that he linked the department to the business press through regular conferences for its editors and reporters. Hoover approached the business press as if it were a conventional industry that needed organization, but this time the resulting organization and related conferences between industry members and the department aimed at the use of the press as a megaphone for the department's message.[57]

Finally, Hoover exhibited a fine sense of the importance of public relations in making high level appointments to operating agencies within the department. Thus public relations was not simply a staff responsibility of those who served Hoover in that particular capacity, rather it was a skill which the secretary wished to ingrain into the daily operating life of appropriate agencies. The best example of this consideration was the selection of William Durkin to become the first head of the Division of Simplified Practice. This appointment united technical expertise and public relations. The division's basic function was technical, in that it advised industries on the standardization of products and the simplification of product lines (the reduction in the number of product types manufactured). But, the division was required to "sell" the importance of simplification and standardization to industry. Durkin was an engineering graduate of M.I.T. who, after beginning his career at Commonwealth Edison in Chicago, became interested in the problem of corporate public relations and wound up as that company's director of public relations. Furthermore, most of the appointees to the commodity divisions similarly exhibited experience and skill at public relations, many of them acquiring such background as employees of the trade associations and industries to which they would now relate as public officials. And the head of the Bureau of Foreign and Domestic Commerce, which housed the divisions, was a careful and expert publicizer of the bureau's "bouquets" and kept public relations experts on his own staff.[58]

Through the related administrative reforms which established functional representation with business, rationalized central authority in the department, and provided the department with a "voice" for proclaiming its accomplishments and virtues, Herbert Hoover literally remade the Department of Commerce. After 1921, the department rose from one of the two or three least visible and prestigious departments in the cabinet to a preeminent position in the public eye. It is symbolically fitting that during Hoover's Presidency, the largest federal office building in Washington was constructed for the Department of Commerce.[59]

III. Conclusion:

The "Great Engineer" as administrator was anything but an administrative technocrat who simply applied managerial expertise to existing goals. We must be careful in associating Hoover with a view of efficiency that rests solely on instrumental rationality, that is, efficiency as the measure of the maximization of goals while economizing on means.[60] Hoover did not act as an instrumental rationalist; he clearly assimilated the substantive goals of policy with considerations of implementation, as his stewardship at Commerce amply demonstrates.

To understand Herbert Hoover's administrative style and accomplishments is to understand that he was by no means an antique public man, a nineteenth century mind heroically out of place in the twentieth century. He was, in fact, a remarkably talented, modern administrator who understood the breadth of possibilities present in expansive public bureaucracy. Certainly, as much of his post-presidential career demonstrates, he was fearful of large aspects of the expansive state and critical of some of the uses to which large, capable bureaus could be put. But this fear and hostility should not be read to mean that he was hostile to all the possible uses of the active state and its bureaucracy.[61] His disagreement with the New Deal's use of the state was a disagreement over policy and not an attack on modern state bureaucracy itself, which Hoover himself had used brilliantly during the 1920's.

This view of Herbert Hoover as a modern administrator offers two contributions, one for scholarship concerning American politics and a more important one for public debate in the United States. The preceding discussion helps round out and enrich a developing revisionist literature on Hoover. But, it offers a more important lesson in that it presents a view of Hoover exemplifying a "conservative" view of government which contains a more subtle understanding of modern government than is normally exhibited by contemporary conservatives. It has become the style of the right to flail out at "the bureaucrats," denouncing big government because it is big. Hoover offers the lesson that government might be better attacked for what it does rather than for the means through which it operates. His example suggests that conservatives might more effectively critique government and its works by offering alternative ends to which the energies of government might be directed. Thus reclaiming Hoover's real accomplishments from the stereotypes of the last several decades is more than an interesting academic exercise; it could be an important intellectual step for American conservatism.

FOOTNOTES

*This paper grows, in part, out of an ongoing research on executive reorganization and the federal executive branch. I would like to express my gratitude for the support of the Ford Foundation.

[1] For example, see Ellis Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140; David Burner, *Herbert Hoover: A Public Life* (New York: Alfred Knopf, 1979), and Peri Arnold, "Herbert Hoover and the Continuity of American Public Policy," *Public Policy*, XX (Fall 1972), 525–544.

[2] Woodrow Wilson, "The Study of Administration," *Political Science Quarterly*, LVI (December, 1941), 481–506 (Reprinted from original publican in 1887).

[3] *Ibid.*, p. 484.

[4] For a discussion of the weakness of the traditional or "orthodox" conception of administration and the profoundly political character of modern administration, see Harold Seidman, *Politics, Position, and Power* (New York: Oxford U. Press, 1970), Chapters 1–3.

[5] Notice, for example, Eisenhower's Schedule C and his support of the second Hoover Commission's recommended Senior Civil Service, Nixon's 1971 recommendation of a Federal Executive Service and Carter's successful Civil Service reform, particularly his Executive Service.

[6] Joel D. Aberbach and Bert A. Rockman, "Clashing Beliefs Within the Executive Branch," *American Political Science Review* 70 (June, 1956), 456–468.

[7] For Weber on bureaucracy, Max Weber, *The Theory of Social and Economic Organization*, trans. by A. M. Henderson and Talcott Parsons (New York: Oxford U. Press, 1947), pp. 324–346.

[8] On discretion and its implications in modern bureaucracy, see Kenneth C. Davis, *Discretionary Justice* (Baton Rouge: Louisiana State U. Press, 1969), 3–25.

[9] New York *Times*, June 16, 1923.

[10] Lloyd M. Short, *The Development of National Administrative Organization in the United States* (Urbana, Ill.: Institute for Governmental Research, 1923), p. 397.

[11] See Wayne D. Rasmussen and Gladys Baker, the *Department of Agriculture* (New York: Praeger, 1972); pp. 10–11.

[12] See Murray Edelman, *The Symbolic Uses of Politics* (Urbana: U. of Illinois Press, 1964).

[13] 32 Stat. L. 825, sec. 3.

[14] *Ibid.*

[15] Herbert Hoover, *Memoirs*, vol. II: The Cabinet and the Presidency, (New York: Macmillan, 1952), p. 42.

[16] The role of functional representation in the creation of Labor is hinted at in several key appointments. W. B. Wilson, the first secretary, was formerly an activist and organizer for the coal miner's union; Samuel Gompers, the chief clerk, was the Samuel

[37] Hoover, "Address to the Annual Convention of the Associated Advertising Clubs of America," 1922, p. 3.

[38] Hoover, "Address to the Chamber of Commerce of the United States," 1921, p. 3.

[39] Hoover, "Address to the Annual Convention of the Associated Advertising Clubs of America," 1922, p. 3.

[40] Hoover, "Address to the Chamber of Commerce of the United States," 1921, p. 3.

[41] Hoover, "Address to the Chamber of Commerce of the United States," 1921, p. 3.

[42] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[43] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[44] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[45] Annual Report, 1922, p. 3.

[46] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[47] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[48] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[49] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[50] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[51] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[52] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[53] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[54] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[55] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[56] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[57] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[58] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[59] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[60] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

[61] See Hawley, "Herbert Hoover, the Commerce Secretariat and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 63 (June 1974), 116–140.

Gompers' son, and Terrence Powderly, head of the Information Office, was formerly head of the Knights of Labor.

[17] See William C. Redfield, *With Congress and Cabinet* (Garden City, N.J.: Doubleday, Page and Co., 1924).

[18] See Robert Cuff, *The War Industries Board* (Baltimore: Johns Hopkins Press, 1973).

[19] Carroll H. Woody, *The Growth of the Federal Government* (New York: McGraw-Hill Book Co., Inc., 1934), p. 166.

[20] New York *Times*, Feb. 25, 1921.

[21] On the political implications of Hoover's vision, see Grant McConnell, *Private Power and American Democracy* (New York: Knopf, 1965), chap. 5.

[22] New York *Times*, Feb. 25, 1921.

[23] Herbert Hoover, *Memoirs*, Vol. II, p. 42.

[24] New York *Times*, March 10, 1921.

[25] Letter, Hoover to Stephen Mason, March 28, 1921, Recommendations for Advisory Board, Official File, Commerce Papers, Herbert Hoover Presidential Library, West Branch, Iowa.

[26] *Womens' Wear*, April 26, 1921, and letter, Richard Emmet to Robert Goree, May 9, 1921, Commerce: 2nd Conference Recommendations, Official File, Commerce Papers, Herbert Hoover Presidential Library.

[27] Letter, Hoover to Roy Cheney, July 15, 1923, Herbert Hoover Personal: Government Ownership and Regulation, Personal File, Commerce Papers, Herbert Hoover Presidential Library.

[28] In 1924 Hoover stated: "We often lay too much stress upon competitive features, too little upon the fact that it [business] is in essence a great cooperative effort." Transcript, speech before 1924 meeting of Chamber of Commerce of U.S., Official File, Commerce Papers, Herbert Hoover Presidential Library. In a discussion of the tension between group and individual interests and its effect on action, see Mancur Olson, *The Logic of Collective Action* (Cambridge: Howard U. Press, 1965).

[29] Letter, Hoover to Harry Daugherty, Feb. 3, 1922, Trade Associations: Jan.-Feb., 1922, Official File, Commerce Papers, Herbert Hoover Presidential Library.

[30] New York *Times*, April 29, 1921.

[31] *Ibid.*

[32] This fear proved to be prescient by the Supreme Court's opinion in American Column and Lumber v. U.S., 277 U.S. 377.

[33] Letter, F.M. Feiker to trade paper editors, June 3, 1971, F #81094, RG 40, National Archives, Washington, D.C.; J. Walter Drake, speech transcript Conference of Trade Association Executives, April 12, 1922, Press Release: March–April, 1922, Official File, Commerce Papers, Herbert Hoover Presidential Library; Letter, Drake to Ray Chapin, August 31, 1923, F #81094/2, RG 40, National Archives.

[34] New York *Times*, Aug. 14, 1921.

[35] U.S. Department of Commerce, *Annual Report, 1922* (Washington: U.S. Government Printing Office, 1922), p. 76.

[36] U.S. Congress, House of Representatives, *Hearings: Department of Commerce Appropriation Bill*, 1925, 68th Cong., 2nd Sess., pp. 2–3.

[37] On Hoover's involvement in the coal industry, see Ellis Hawley, "Secretary Hoover and the Bituminous Coal Problem," *Business History Review*, XVI, no. 3 (Autumn, 1968), 247–271.

[38] See Robert Engler, *The Politics of Oil* (Chicago, U. of Chicago Press, 1961), chap. 8.

[39] U.S. Department of Commerce, *Annual Report*, 1922, p. 138.

[40] U.S. Department of Commerce, *Trade Association Activities* (Washington: U.S. Government Printing Office, 1927), p. 247.

[41] Letter, Hoover to Walter Brown, Oct. 4, 1921, F #80553/4, RG 40, National Archives.

[42] Letter, Hoover to Warren G. Harding, Jan. 17, 1924, General Government Reorganization, Official File, Commerce Papers, Herbert Hoover Presidential Library.

[43] Herbert Hoover, *Memoirs*, Vol. I, *Years of Adventure* (New York: Macmillan, 1952), pp. 155, 241–42.

[44] *Ibid.*, Vol. II, p. 42.

[45] See Craig Lloyd, *Aggressive Introvert* (Columbus: Ohio State U. Press, 1972), Chapter 4.

[46] *Ibid.*

[47] Letter, Christian Herter to Louis Resnick, May 4, 1921, National Conference of Business Paper Editors: 1921–1923, Official File, Commerce Papers, Herbert Hoover Presidential Library.

[48] Memo, Marrinan to Klein, March 11, 1926, Colt Co., Official File, Commerce Papers, Herbert Hoover Presidential Library.

[49] After Roosevelt entered office, the department was cut-back because of its status and reputation as Hoover's creation. Memo, A. L. Raiffa, Jan. 15, 1933, F#80553, RG40, National Archives.

[50] See Weber, and Nicos P. Mouzelis, *Organisation and Bureaucracy* (Chicago: Aldine, 1968), Chapters 1–2.

[51] Exemplifying this, observe how strongly the first Hoover Commission supported the notion of a managerially strong Presidency. See, Peri E. Arnold, "The First Hoover Commission and the Managerial Presidency," *Journal of Politics*, 38, No. 1 (February, 1976), 46–70.●

VOLCKER RECOGNIZES PROBLEM OF TAXATION

Mr. DOLE. Mr. President, on October 9 the Chairman of the Federal Reserve Board, Paul Volcker, addressed the American Bankers Association in New Orleans. In his address Chairman Volcker explained the reasons for the Fed's recent credit-tightening moves and the changes in the Fed's method of regulating the money supply. Mr. Volcker also set forth his view of the direction the economy ought to take.

The Senator from Kansas would like to quote from Chairman Volcker's well-considered remarks. Addressing the matter of tax policy, Mr. Volcker expressed the view that:

> If earned by sustained spending restraint, well-structured tax reductions—by which I mean changes that would help stimulate investment, cut costs, and offset the effects of inflation in moving people into higher tax brackets—could be welcome at some time in the future. That time has not yet come, nor is it useful now to speculate when it might. What we need to guard against is premature and excessive stimulus, during expansions as well as recessions—and it does seem to me that we have come a long ways, at the very least, toward learning that lesson.

These comments on tax policy are very much to the point. So, too, is the observation that we should avoid actions that tend to overheat the economy, for example, by continually running high deficits.

I do not agree that it is too soon to consider changing tax policy along the lines suggested by Chairman Volcker, but his suggestions for changing tax policy are indeed welcome. We do need to alter the tax structure in favor in investment and stable, long-term growth. Even more urgently, we need to stop inflation from moving people into higher tax brackets.

As the Fed Chairman surely recognizes, there is only one fair and consistent way to offset the effects of inflation on the progressive income tax. That way is to adjust the tax brackets for inflation, from top to bottom, and similarly adjust fixed dollar amounts in the tax code. No other method can offset the inflationary effect—taxflation—to the same degree that the taxpayer suffers from an inflationary tax increase. Across-the-board tax "cuts" may reduce the overall tax burden, but they do not offset taxflation, which affects different income levels to different degrees. Furthermore, general tax reductions deceive people into thinking they are getting real tax relief, when they are merely getting back some of what they lost to taxflation.

Mr. President, it is good news that Chairman Volcker realizes that tax policy should take account of the effects of taxflation. The Tax Equalization Act, S. 12, would provide just the correction Mr. Volcker is talking about. It would correct the tax bracket cutoff figures according to the percentage rise in the Consumer Price Index. The Tax Equalization Act would require similar adjustments in the zero bracket amount and the personal exemption. I introduced S. 12 because it gives Congress the opportunity to effect a real tax reform, not just make another one-shot tax cut that does not take account of inflation's impact in an equitable way. One virtue of tax equalization is that it leaves Congress free to adjust the tax rates as necessary to deal with the economic situation, or to leave them alone, as Mr. Volcker suggests, to avoid an excessive stimulus. Mr. Volcker's doubts to the contrary notwithstanding, there is no reason why we cannot commit ourselves now to spending restraint and adopt tax equalization as a measure of fairness to the taxpayer. Whatever the Fed Chairman's personal timetable, the Senator from Kansas hopes that Mr. Volcker will continue to publicize the need to offset taxflation, and suggests that the Tax Equalization Act is the only fair way to reach that goal.

DUE CREDIT

● Mr. HATFIELD. Mr. President, in a recent statement, I commended those involved in an innovative approach to medical cost containment at the University of Oregon Health Sciences Center and included in the RECORD, an article from American Medical News, September 14, 1979, describing this program. The article did, however, fail to credit two physicians who actually designed this creative program which involves regular cost feedback to interns.

The work of Drs. Joyce Atlee Campbell and Michael T. Makler, department of clinical pathology at the Portland VA Hospital who are the principal investigators in this study, preceded the medical school program and laid the groundwork for its success. Their efforts are supported by the Veterans' Administration Health Services Research and

Development Service supplemented by funds from the Medical Research Foundation of Oregon. Let the record note these important contributions.●

GENERAL ROGERS ON SALT II

● Mr. PERCY. Mr. President, I received last week a significant letter from Gen. Bernard Rogers, the Supreme Allied Commander in Europe. It contains his views on the importance of SALT II ratification to our NATO allies. As you know, Mr. President, we have gone into this issue in great detail in the Senate Foreign Relations Committee and we have heard from a number of distinguished witnesses, including four European parliamentarians. General Rogers did not testify before the committee which is why I requested that he make a statement in a letter which I could share with my Senate colleagues. Mr. President, I request that the letter dated October 11, 1979, from General Rogers be printed in the RECORD.

The letter follows:

SUPREME ALLIED COMMANDER EUROPE,
October 11, 1979.

DEAR SENATOR PERCY:

Many thanks for your recent letter in which you asked my views on certain issues related to SALT II. I appreciate your providing copies of the testimony of the European parliamentarians who appeared before the Senate Foreign Relations Committee.

I am pleased to provide you my observations which are based on my having been the Supreme Allied Commander, Europe, since 29 June 1979. As you are aware, prior to that time I was the Chief of Staff, U.S. Army, and, as a member of the Joint Chiefs of Staff, was intimately involved with the SALT II treaty as it moved through its negotiating process the last thirty months.

It is my opinion that the ratification of SALT II is considered crucial by our NATO Allies for the following reasons:

a. The adverse impact which non-ratification would have on the credibility of the leadership of the United States in the Alliance, upon the credibility of the Office of the President, and thus on our future relations with our Allies.

b. The adverse impact which non-ratification would have on the Alliance decision to modernize NATO's Theater Nuclear Forces in order to deter the growing threat from the East. This decision, vital for the Alliance, is coupled with the Alliance's desire for arms control negotiations to reduce and balance the NATO and Warsaw Pact Theater Nuclear Forces. Our Allies perceive the SALT III negotiating process as affording that opportunity to get to SALT III.

c. Non-ratification would cause our allied nations considerable concern about future U.S.-Soviet relations, and the impact such relations would have upon them individually and the Alliance collectively.

I am also aware of the comments by some persons that many influential non-U.S., NATO political and military leaders are opposed to the treaty. I do not believe this is the case. There may be some who are opposed. Perhaps there are some provisions about which other European leaders are concerned, but I believe these leaders do support the treaty's ratification.

As the SACEUR, charged with guaranteeing the military security of Allied Command Europe, I hope that the SALT II treaty will be ratified in the very near future.

With best wishes,

Sincerely,

BERNARD W. ROGERS,
General, U.S. Army,
Supreme Allied Commander, Europe.●

YANKEE INGENUITY

● Mr. COHEN. Mr. President, the handiworks of Yankee ingenuity have taken shapes as complex and majestic as clipper ships, and as seemingly simple and insignificant as toothpicks and clothespins. I think my colleagues would be interested to read of the vitality in the latter industry, 94 years after the first wooden toothpick was manufactured by Charles Forster in Strong, Maine.

I wish to direct your attention to an article written by Alan Oser that appeared in the New York Times, Sunday, October 14, "Clothespins: China, Trade and a Factory in Maine." Although the toothpick industry continues to be profitable, other wooden products from Maine's factories have been endangered by a flood of low quality, cheaply priced foreign imports. Clothespin manufacturers are particularly hard pressed to compete successfully with imports from the Far East.

Although I gave my qualified approval to import quotas established by President Carter in February of this year, it is not yet clear that Maine's clothespin industry will survive. Stricter quotas may be required.

The industry fully deserved protection from underpriced imports for a number of reasons. Import quotas are a knotty problem, but in this case they have helped to preserve a traditional trade in Maine, as well as a model of efficiency and innovation. Our Maine factories, producing clothespins, are energy self-sufficient, because they burn wood scraps for heat and power. Their product is reusable and costs consumers only 3 or 4 pennies apiece. One might even observe, as did A. J. Haug, president of Forster Manufacturing Co. that clothespins encourage energy conservation by enticing housewives to their clotheslines rather than to their automatic dryers. Finally, local people regard the factories with pride as examples of Maine's dedication to craftsmanship and quality. These characteristics may become increasingly rare among America's multimillion dollar industries, of which the toothpick and clothespin industry is one.

I submit the following article to be printed in the RECORD:

CLOTHESPINS: CHINA, TRADE AND A FACTORY IN MAINE

(By Alan S. Oser)

WILTON, ME.—The legacy of Charles Forster survives in this small town, the headquarters of the Forster Manufacturing Company.

Ninety-four years ago, Charles Forster manufactured the first commercially sold toothpick in the United States. He did it in Strong, Me., but his successors carry forward his good work in wood-products manufacture in Wilton, East Wilton, Mattawamkeag and Stratton, as well as Strong, all in west-central Maine. The repertoire has also widened—to tongue depressors, sandwich picks, ice-cream sticks, coffee stirrers, doll-pin stands, dowels, croquet mallets and yo-yo's. To name a few.

The president of the company, A. J. Haug, settled back in a chair in his spacious office on the top floor of a turn-of-the-century loft recently and reported with satisfaction that sales had grown 23 percent in two years. Mr. Haug refused to disclose the privately owned company's sales and earnings, but sales are probably more than $20 million.

Forster has a thousand employees. It is one of the handful of wood-products manufacturers in Maine, a state blessed with forests of birchwood, beeches, maples and ash, just the right woods for its products. All is well in toothpicks, Mr. Haug suggests, but he and others in the industry are troubled by turbulence in the clothespin side of the business.

Last year, the Maine wood-products makers went before the International Trade Commission for relief in the face of an import flood of low-priced spring-operated clothespins from China, Poland and Rumania. The commission held a hearing and found that Chinese pins—but not those from Eastern Europe—were disrupting the domestic market.

The Carter Administration, having just signed a trade agreement with Peking, demurred from establishing a quota on Chinese clothespins. But later it did establish a quota on spring clothespins from all sources. The question is whether the quota will have the effect of restraining imports until the industry can modernize to improve its competitive posture, as it hopes to do.

The old-fashioned slotted clothespin, the experts explain, is not the issue. In 1978, these accounted for only about 10 percent of national clothespin consumption. Slotted clothespins had a way of jamming on the clothesline.

Spring pins came to the rescue. Now the domestic industry ships about 3.3 million gross of spring pins a year, a $6.5 million business. Add in slotted pins and it is an $8 million business, with 4.2 million gross shipped. There are 144 pins per gross.

The industry was accustomed historically to a 20 percent penetration from north European countries, said its Washington representative, David Simon. But the Europeans dropped out in the early 1970's under pressure from lower-priced pins from the Pacific, notably China and Taiwan. Danish, Dutch, German, Scandinavian companies all were forced out.

By 1977, the import penetration was up to 48 percent of the domestic market, principally from China, Rumania and Poland, Mr. Haug said. The production cost in the United States was $2.04 a gross, compared with a price of $1.20 a gross, including shipping costs, for the Chinese pins.

"It's the cheapies that killed us," said Mr. Haug, in unflattering reference to the shorter, lowest-priced import product that is of inferior quality, the domestic producers believe, to Maine's finest. The imported pin is of a cheaper wood and a cheaper metal that tends to rust, said Mr. Simon. But the big price threat comes from the lower-cost labor to assemble the product.

The quota allows 50,000 gross of clothespins a year to come in at a price up to 80 cents a gross; 600,000 gross at 81 cents to $1.35 a gross, and 900,000 gross at $1.36 to $1.70 a gross. It took effect at the end of February and is to last three years.

President Carter retained the right to "roll over" unfilled quotas in the higher bracket to the lower bracket. If the "cheapies" quota is exceeded by rollovers from unfilled categories of higher-priced pins, the quota's effect could be nullified, the industry fears.

Because of the possibility of expensive warehousing costs until an oversubscribed category "opens up," importers may be finding it undesirable to "hustle pins into the lowest category," said Mr. Simon. Instead they may fill quotas in the higher categories. But in any event, the domestic people say they have not yet felt the benefit of the quotas in higher orders.

In nearby West Paris, Me., one of Forster's competitors, the Penley Corporation, has a big stake in these esoteric matters. Penley only makes clothespins, employing 100 people in one plant. Donald Penley, the president, reported that the volume of imports had decreased since the quotas went into effect,

but so far he had seen no direct positive effect.

"We used to operate two shifts," he said. "We cut back to one three years ago."

Another producer is the Diamond International Corporation, with divisions in Dixfield and Oakland, Me. "Many clothespins have been imported so there's quite an inventory," said Irving Koenig, a Diamond official "It will take a year to know what's going on."

Mr. Haug takes some solace in what he sees as a general move away from automatic clothes drying, the result of the rise in the price of energy "We've noticed people are beginning to hang out sheets again," he said. That is good for clothespins, a product that Mr. Haug believes has not received the credit it deserves. "It is an ingenious device," he said. "It can be re-used. For a bag of 50 the cost is maybe 3 or 4 cents apiece."

Matters were simpler when the wooden toothpick faced its big competitive challenge. It came from plastics. Forster merely added a plastics division. The two types of picks account for about 25 percent of the company's production. The company's picks are marketed under the brand names Ideal and World's Fair.

The secret to the toothpick business lies in the machinery. Forster designed and manufactured its own, and produces a toothpick with a rounded taper that it considers second to none. Nigeria, said Mr. Haug, wants the company to design and build a toothpick factory there. "They are a toothpick-loving nation," he said.

The visitor to East Wilton spots the venerable plant alit and working late at night. By day, Maurice Thomas, the plant manager, explains amid the din that only the choicest portions of the log find their way to the "chopper" that turns out toothpicks. Hard by the toothpick chopper, other choppers bang out ice-cream sticks and tongue depressors.

For toothpicks, Forster leans to white birch. "It gives the best combination of color, straight grain and resistance to splinter," said Mr. Haug. "It's hard enough to be useful yet soft enough to get into the crevices." It should not be too sharp, in Forster's view. The proper compromise must be struck between sharpness and utility. Forster makes both the flat and rounded variety, but over the years "the market has swung to the round tapered type," said Mr. Haug.

There is no import problem, at least not yet. Last year, Honduras sought the right to bring toothpicks into the United States duty free, but was turned down. This year, Brazil tried, but its petition never even got to the hearing stage.●

JAMAICA

● Mr. SCHWEIKER. Mr. President, the island nation of Jamaica has both a democratic and pro-Western history which has been both a comfort to the United States and a comfort to those in the Western Hemisphere who have been concerned with democratic ideals. Unfortunately recent actions in that country by its current Government gives cause to worry about the continuation of not only Jamaica's pro-Western policy but more fundamentally its democracy. The recent public statements by the current Prime Minister at the nonalined nations meeting in Havana and the recent lead he took in criticizing U.S. action vis-à-vis Soviet troops in Cuba are no less than complete acceptance of the Cuban line on many important foreign policy matters of interest to the United States.

Mr. President, I think it might be worthwhile to place some material concerning Jamaica in the RECORD at this time so my colleagues will be more fully aware of what is happening in that country. Therefore, I request that several newspaper articles, a Department of State cable concerning a recent statement issued by Jamaica, Guyana, Grenada, and St. Lucia, and the speech made by Prime Minister Manley in Havana be printed in the RECORD.

The articles follow:

[From the New York Times, Oct. 9, 1979]

DESPITE I.M.F. AID, JAMAICA STILL LAGS

(By Ann Crittenden)

KINGSTON, JAMAICA.—A few weeks ago in Washington, a small group of international banks met with representatives of the Jamaica Government. On the agenda was a refinancing of the $450 million in commercial debt coming due in the early 1980's and a new loan package of $200 million.

The bankers had already agreed to refinance more than $200 million in debt due them through 1981. But after a look at the figures, disclosing that the sick Jamaica economy shows almost no signs of recovery, they decided that now was not the time for any more deals.

As Jamaica's Prime Minister, Michael N. Manley, saw it, the decision was not surprising. "Commercial banks are not designed for bad weather," he remarked later.

MIRED IN STAGNATION

The banks' refusal confirmed that after more than a year of strict adherence to the conservative economic policies of the International Monetary Fund, which has lent more per capita to Jamaica than to any other country in the world, the Caribbean island is still mired in stagnation. Despite or because of the I.M.F.'s recommendations, in the past year real wages have fallen by more than one-third here; consumption is down; malnutrition seems to be rising, and economic growth, for the fifth straight year, is negative.

As a result, instead of winning the "seal of approval" that I.M.F. policies are supposed to bestow, this country is still ranked as one of the world's worst credit risks by commercial bankers, some of whom privately call the virtually bankrupt country a "basket case."

Eric Bell, Jamaica's moderate Finance Minister, is seriously considering resigning, and Mr. Manley, who sold the I.M.F. austerity program to Jamaicans on the ground that it would start the country moving again, is in serious political trouble. To shore up his eroding popular support, he is making overtures to the restive left, and to those hardest hit by the economic crisis.

If its economic troubles are creating problems for the Jamaican Government, they are potentially highly embarrassing for the I.M.F. Credits from the fund are not only supposed to help countries during times of temporary balance-of-payments difficulties, but also to stimulate the adoption of sound economic policies that will prevent similar problems in the future. Accordingly, the fund stricty monitors the economic performance of its borrowers, who generally lose not only their access to the fund, but to other international lenders as well, if they violate the I.M.F.'s policy recommendations.

Indications are that the failure of its belt-tightening policies in Jamaica has prompted the fund to bend its rules ever so slightly. I.M.F. officials decline to discuss the Jamaican situation, but according to top Jamaican officials, the fund has moved to loosen some of its tough constraints on the economy and to provide more money to ease the country's foreign-exchange bind, in hopes that with more time the economy will correct itself.

I.M.F.'S INTERNATIONAL ROLE

Whatever its eventual outcome, the Jamaican case is significant in light of the increasingly central role played by the I.M.F. in international economic affairs and in the policies of developing nations.

With higher oil prices adding about $10 billion to $15 billion to their import bills this year, with markets for their exports sagging, with aid declining and commercial banks more reluctant to lend, poor nations more and more are looking to the I.M.F. as a lender of last resort. That means, in turn, that more and more nations will have to tailor their domestic economic policies to fit the fund's conservative style, since I.M.F. credits are "conditional" on the borrowers' adopting the fund's policy recommendations.

The idea is that these stringent monetary and fiscal policies will not only force the country to correct its payments imbalance, but will give commercial bank lenders the confidence to augment the I.M.F.'s loans with credits of their own. And in fact, private banks are increasingly relying on the existence of an I.M.F. "stabilization program" to reassure them that a country is a good credit risk.

PROBLEMS WITH I.M.F. SOLUTIONS

The Jamaican economy has not revived under this scenario, at least up until now, for two possible reasons, according to economists and officials here and in the United States.

In the first place, despite its faithful adherence to the I.M.F.'s conservative recommendations, adopted in May 1978 when Jamaica received a major credit, Mr. Manley remains a committed socialist. He and his party remain dedicated to the vision of a mixed economy, with the "commanding heights" of the economy under the control of the state or of worker cooperatives. Not surprisingly, private investors are hesitant to make major outlays in the country, although more domestic private investment is essential to the recovery of the economy.

Thus, even though Mr. Manley and other high Jamaican officials insisted in recent interviews that they agreed with most of the I.M.F.'s policy prescriptions, particularly those requiring a reduction in extravagant Government spending programs, the middle class and its money is still fleeing the country.

And even though the Government has stuck to virtually the whole I.M.F. program, including the elimination of budget deficits, tight limits on monetary expansion, ceilings on workers' wages, the creation of incentives for private investment and a huge 30 percent devaluation, no new factories have been built in Kingston for years.

POLITICAL CONFLICTS CITED

The opposition leader, Edward Seaga, says he warned I.M.F. officials this year that their policies would fail, "because our basic problems are not economic but political."

"No matter how much the economy is reorganized to generate savings, they will never be put into investment because people cannot see down the line politically," he said in a recent interview in Kingston.

The second difficulty, cited by economists was whether some of the I.M.F.'s classic remedies are suitable for undeveloped post-colonial economies like that of Jamaica. The Jamaican Government particularly resisted the I.M.F.'s insistence upon a major devaluation, arguing that such a step would not produce the desired result of making the country's exports cheaper and more competitive or significantly reduce imports.

Oil imports, for example, which consume up to more than one-third of this country's

export earnings, cannot be drastically reduced, because they are necessary for bauxite production. Similarly, almost one-fourth of Jamaican imports are essential capital goods. Devaluation simply makes these imports more expensive.

EXPORTS STILL IN TROUBLE

Nor, according to Norman Girvan, head of the National Planning Agency here, has devaluation stimulated the country's two major exports, bauxite and sugar. The price of sugar sold to Europe is fixed in foreign currency, and sales to the United States are set by quota.

As for bauxite, the aluminum companies argue that Jamaica is still uncompetitive, even after devaluation, and that production in Jamaica will continue to decline unless the Government reduces its levy. Production last year was 11.7 million metric tons, only three-fourths of the level reached in 1974, before the Jamaican Government increased its tax on production by 600 percent and the aluminum companies began to shift their production elsewhere.

In order to reverse the trend, the Jamaican Government has just agreed in negotiation with the companies to slash the levy roughly in half on all production above 3 million tons.

Devaluation has stimulated Jamaica's manufactured exports, which account for about 10 percent of total sales abroad, and tourism. Tourist earnings were 37 percent higher last year, and 1979 looks like another good year. In fact, the industry is one of the few socialist successes in the country, for after the tourist slump in the mid-1970's, the Government took over a number of failing hotels, with more than 50 percent of total rooms.

One such edifice, standing between the state-owned Pegasus and New Kingston Hotels, here in Kingston, has been reincarnated as the Marcus Garvey Building, and houses the Foreign Ministry.

It was the falloff in tourism, on top of higher oil prices, plummeting sugar prices and heavy Government spending that sent Jamaica to the I.M.F. in 1977. The country received a line of credit for $78 million, but when it failed to meet agreed-on economic targets, the I.M.F., and with it other international lenders, closed the doors to Jamaica.

In June 1978, after hard bargaining, the fund extended a new three-year loan of $244 million, subject to strict conditions. To monitor the agreement, the I.M.F. has a resident representative in the Bank of Jamaica in Kingston, the nation's central bank, and teams from Washington go there regularly to see that Jamaica meets its required targets.

The program immediately had the intended effect of sharply increasing prices and reducing buying power, to bring consumption more in line with production. Food prices skyrocketed, all but vital imports disappeared from stores, real incomes dropped by 35 percent and unemployment rose to more than one-quarter of the work force.

BURDEN OF OIL PRICE INCREASE

All this did bring a reduction in the balance-of-payments deficit, which fell from an average of 10 percent of national output for most of the 1970's to 5 percent in 1978. But growth still stagnated, not only because investors remained cautious, but also because foreign exchange was so scarce. Even those who wanted to invest could not purchase the needed materials and equipment.

On top of these hardships, the latest oil price increase burdened Jamaica with an additional oil bill of at least $65 million; unexpected inflation in the United States added its toll, and like the final plagues of Job, floods wiped out much of the sugar crop.

All of the I.M.F.'s original calculations were upset, and in June of this year, the fund increased Jamaica's credit to a total of $338 million, making Jamaica by far the largest per capita borrower from the fund.

Currently, the country has just enough cash to pay its oil bill and to pay off its foreign debts. Everything else, according to Mr. Bell, has to be arranged on some kind of terms.

Mr. Bell, who appeared exhausted, confessed that he was under "terrible" pressures. During a recent conversation he picked up a ringing phone and told the caller, another Government minister, "We're marginal for that test of the 30th. (Pause). We have nothing either. (Pause). Poverty is poverty, man—what am I to do? The school leavers who are out there on the street are unemployed, too."

Banging down the receiver, Jamaica's Finance Minister turned to his visitor. "Don't ask me how we're going to get through this year, but we will get through," he said. "We'll survive."

[From the Miami Herald, Oct. 7, 1979]

JAMAICA AIMS GUN AT FREE PRESS

(By Jim Hampton)

Today begins National Newspaper Week, which I'll observe in one sentence: Despite an antagonistic Supreme Court and an imperfect record of meeting its own standards, the U.S. press is robust and quite able to fend for itself.

Our colleagues abroad aren't often as fortunate, however. In Jamaica today, the 145-year-old Daily Gleaner is fighting to keep from being suppressed by a government that controls all other communications media there.

Prime Minister Michael Manley's flirtation with Fidel Castro lately has blossomed into near-total sycophancy. Mr. Manley has led—or rather pushed—Jamaica to the edge of economic ruin. His term expires in 1981, and signs are abundant that he may try to manufacture a "state of emergency" to enable him to postpone facing an electorate that might well chuck him out of Jamaica House.

Mr. Manley and the Cuban ambassador to Jamaica, Ulises Estrada, have joined in a blatant campaign to intimidate The Daily Gleaner. The newspaper is the only Jamaican news outlet not owned by the government, and thus not slavishly given to praising the erratic prime minister and his leftist People's National Party (PNP). The PNP has demanded a meeting with The Daily Gleaner's board of directors on Thursday. The PNP's general secretary, D. K. Duncan, says the government will lay down rules then for the Daily Gleaner's operation during the next two years.

Imagine, if you will, a small and struggling Third World nation in which the only television station, all four radio stations, and the only other newspaper are government-run. Imagine a prime minister of demonstrated ineptitude and questionable stability who shrilly denounces the nation whose aid keeps his government afloat: the United States.

That's Jamaica, and that's Mr. Manley. Now mix Castro's man in Kingston, Mr. Estrada, into this equation. Mr. Estrada recently accused The Daily Gleaner of lying about him and Cuba. He also hinted that the newspaper's managing director (publisher, in effect), Oliver Clark, is a CIA agent.

The Daily Gleaner responded by offering the Cuban envoy free space in its pages to present evidence of its alleged CIA ties. And the paper called on Mr. Manley to declare Mr. Estrada persona non grata, which would require Cuba to recall him.

Things got hotter in Kingston after that. On Sept. 24, a mob of PNP and Communist Party (Jamaica has two legal Communist organizations) members marched on The Daily Gleaner. The marchers rallied against the newspaper and, in words and with placards, hailed Cuba. Among the crowd: Prime Minister Manley.

"I have no speech to make," Mr. Manley told the mob. "You have made the speech for me, and you have made the speech for the progressive forces. And you have made the speech with no notice and no plans or preparations. But next time, next time, next time . . ."

The crowd began to chant: "Next time, next time . . ."

Then the prime minister added: "Let them learn, freedom of the press, yes; but no more lies . . . But next time, next time . . . Be alert and listen for . . . next time."

It takes courage to continue opposing a government in that kind of menacing atmosphere. It takes courage to be the lone voice pointing out your own government's increasing subservience to the mesmerizing influence of Castro. It takes courage to continue printing the truth when the government and its Cuban supporters brand that truth as lies and bring a mob to your doorstep to intimidate you.

The Daily Gleaner has courage aplenty. It has resisted, successfully, the government's efforts to withhold official advertising from its pages. It has resisted, successfully, Mr. Manley's efforts to persuade Jamaicans not to buy the paper. It has resisted, successfully, the government's threat to restrict importation of newsprint, without which it could not publish.

It has resisted actively, not passively. And, bless its writers, The Daily Gleaner has resisted with barbed wit. Columnist Dawn Ritch recently referred to Ambassador Estrada, who hasn't a hair on his head, as Feather Mop. Columnist Morris Cargill, in a column headlined "The Comrade Higgler," confers upon Prime Minister Manley the title of Comrade Conceptualizer.

But pungent drollery and the will to keep resisting might not be enough if Mr. Manley loses his temper and invokes the menace veiled in his litnay of "Next Time . . . next time." Already he has issued a statement of intent to sue The Daily Gleaner for libel because of an anti-Manley ad it carried on a recent Sunday. And Mr. Duncan, the PNP general secretary, has hinted that The Daily Gleaner will have to face mob vengeance unless it moderates its criticism of the Manley regime after the meeting on Thursday.

There isn't much we American journalists can do except call attention to The Daily Gleaner's situation. Perhaps publicity will dissuade Jamaica's government from reminding us, in the worst possible way, of just what our own First Amendment protects us from.

[From the Washington Star, Oct. 6, 1979]

JAMAICA SEEKS ALLIES TO CONDEMN NEW CARTER PLANS FOR CARIBBEAN

KINGSTON, JAMAICA.—Jamaica, a close friend of Cuba, yesterday sought to rally other Caribbean governments against President Carter's plans to step up U.S. military presence in the region, official sources said

The sources said the leftist government of Prime Minister Michael Manley was trying to get the 12-nation Caribbean Community of English-speaking territories to issue a joint declaration condemning the United States.

The Jamaicans view Carter's announced increase of intelligence, military and political activities to counter the Soviet troops in Cuba as a security threat to the region. Manley has said he sees no threat from the Soviet troops.

Of the four larger nations in the Caribbean Community, known as Caricom, Jamaica and Guyana have left-leaning gov-

ernments and two others, Barbados and Trinidad, are more pro-Western. The headquarters of the organization are located in Georgetown, Guyana.

Sources close to the Jamaican government said consultations were being conducted to "decide an appropriate joint response."

Details of the discussions were scant but the sources said the telephone lines across the Caribbean were "burning" during most of Wednesday, Thursday and yesterday as calls went back and forth between the four major Caricom partners.

Jamaica and Guyana are leading members of the so-called non-aligned movement, but despite their close ties to Communist nations the United States provides substantial aid to both.

[From The Washington Star, Oct. 8, 1979]

CARIBBEAN NATIONS CONDEMN CARTER

KINGSTON, JAMAICA.—Four leftist nations in the Caribbean yesterday condemned President Carter for threatening peace in the region by increasing military activity there. The four, Jamaica, Guyana, Grenada and St. Lucia, all have close ties to Cuba.

The criticism came in a joint communique dated last Saturday in Georgetown, Guyana, and announced yesterday in Kingston. Originally, it was understood that Jamaica had been trying to get all 12 members of the Caribbean Community Common Market behind the declaration condemning Carter's decision to mount exercises at Guantanamo and install a monitoring post at Key West, Fla.

MANLEY'S SOVIET LOVE-FEST: IS JAMAICA THE NEXT CUBA?

(By John D. Lofton, Jr.)

WASHINGTON.—On Aug. 6, 1962, the day his country achieved its independence, Prime Minister Sir Alexander Bustamante announced "the irrevocable decision that Jamaica stands with the West and the United States." The decision was revocable. On March 29 of this year, Michael Manley, Jamaica's present prime minister, setting forth the principles and objectives of his People's National Party, declared that Jamaica is "of the Third World," with "a policy of non-alignment in world affairs."

But Manley's stated policy of neutrality is a fraud, a sham, a snare and a delusion. This was revealed by the Jamaican prime minister's boot-licking performance during his five-day trip last month to the Soviet Union. Commenting on this journey, the Soviet newspaper Pravda gushed: "The U.S.S.R. highly values the non-aligned movement as a positive factor of international politics and welcomes the growth of its role in world affairs." This warm endorsement comes as no surprise, since Manley's views on world affairs, allegedly "non-aligned," are really nothing more than a carbon copy of the Soviet Union's foreign policy.

On April 10, at a dinner in his honor at the Grand Kremlin Palace in Moscow, Manley referred to Leonid Breshnev as "our respected comrade," hailing him as "the genuine friend of all national liberation movements, the leader and ally of all those who struggle against imperialism." He declared:

"We are profoundly conscious of the epochal significance of the Soviet people's victory in 1917, which not only marked the start of the transition from capitalism to socialism but also created a mighty bulwark of support for revolutionary and progressive forces throughout the world."

Manley approvingly quoted Marcus Garvey on V. I. Lenin, the cutthroat terrorist who was the architect of the Russian communist revolution: "Lenin was the greatest of people because he represented a huge number of people (actually Lenin represented only a handful of Bolsheviks who overthrew the legitimate Russian government) . . . Russia has been a beacon of great hope not only for Negroes but also for all the world's weak peoples. Russia and its system have brought the world the promise of a revolution which will give everyone true spiritual liberation."

The Jamaican prime minister, who has called Fidel Castro "one of the great liberation heroes of all history, not only in Cuba but throughout the rest of the world," told his Soviet hosts:

"Jamaica welcomes the support being given by the Soviet Union to the liberation armies of the Zimbabwe Patriotic Front. This is why we have always believed and now believe that Cuba's heroic people and the Soviet Union did mankind an invaluable service when they saved Angola from the racist South African regime; and they are still insuring Angola's security in the face of the new plans of racists and imperialists.

"In each of these cases, guided by socialist internationalism, you saw your duty as giving support to the just struggle of oppressed peoples. Sometimes the struggle has to be waged using arms. At the present time, the struggle is taking place more frequently in the sphere of economic relations. The efforts aimed at creating a new international economic order are, in our view, a decisive new stage in the liberation process."

On behalf of his government, Soviet Prime Minister Alexei Kosygin praised Manley's "socioeconomic transformations aimed at improving the position of the working masses" in Jamaica. The tribute is a sick joke. Since Manley was elected prime minister in 1972, the economy of his country has nearly collapsed. In order to implement his enormous new government programs, he increased government spending from $627 million to $1.5 billion in 1976. Inflation has soared to the double-digit level and unemployment has substantially increased. As the result of a crushing tax burden, a sizable percentage of Jamaica's middle-class professionals have fled the country (and not to the Soviet Union, incidentally).

In order to swing a $244 million International Monetary Fund loan, in 1978 Jamaica had to meet the following IMF conditions: devalue its currency by 30 percent, tightly restrict its controls on imports, raise taxes even higher on business and tourism, raise interest rates even higher, limit credit expansion, and place a severe wage ceiling on workers' raises.

Writing this month in Harper's magazine, T. D. Allman says that when Jamaicans take to the streets now, "it is not to fight for the revolution, but to protest the dwindling supplies of meat and the soaring price of kerosene." Allman says that Jamaica is a country where people can't afford razor blades, 60-watt bulbs, bicycle tires or radio batteries.

Ronald Hilton, executive director of the California Institute of International Studies and editor of the World Affairs Report, says that the next international trouble spots may be the strategic islands and certain coastal areas around the world. "Why Jamaica?" he asks. Because: "In addition to Jamaica's importance as a source of bauxite and its closeness to the Panama sealanes, the Soviet Union and Cuba are trying to turn it into a focal point of anti-white militancy throughout the English-speaking black Caribbean, from Belize to Guyana. A basic aim of Soviet policy is to destabilize the U.S. and the Caribbean by promoting racial hostility, using not only Cuba but also the Communist Party in the U.S."

In an interview, when I ask Alfred Rattray, Jamaica's ambassador to the United States, if a Soviet military presence would be allowed in his country, he laughs, saying: "Absolutely not. We are basically a non-aligned country."

I wouldn't believe him on a stack of Bibles.

[From Business Week, Sept. 10, 1979]

JAMAICA: FOCUS OF GROWING CARIBBEAN DISARRAY

The woes of the U.S. in the Caribbean are escalating at such a rapid rate that Secretary of State Cyrus R. Vance has called back an old State Dept. hand, Philip C. Habib, to mastermind a new strategy for handling them. Habib just toured the trouble spots where the influence of Cuba's Fidel Castro, and indirectly the Soviet Union, is growing. Increasingly, in the months ahead, the focus of the issues dogging the whole region will be on Jamaica. A neighbor of Cuba in the West Indies, Jamaica has 2.1 million people and all of the area's classic problems—exploding population, rising unemployment, limited resources and a brain drain. And, as elsewhere in the Caribbean, there is an increasing infatuation with Castroite solutions.

Unlike most other Caribbean regimes, however, Jamaica since independence has had a strong constitutional regime. Whether it can maintain representative government will be a touchstone for the area—and of great importance in the whole underdeveloped world, where Jamaican politicians and economic planners have had great prestige.

Two different men. An intense contest for the projected elections of 1981 is already under way. The two principals are Prime Minister Michael N. Manley and the leader of the opposition, Edward Seaga. They could not be more different. Manley, flamboyant and charismatic, is the son of a former Prime Minister and a member of Jamaica's "cousincracy" that has ruled the island's politics for decades. Even though he often uses socialist rhetoric, Manley has strong personal connections to the "Mondale Mafia," the younger members of the Carter Administration's foreign policy establishment. Seaga, who was born in Boston and is of Jamaican-Lebanese descent, is cool, almost scholarly, with a calculated manner and a reputation as a financial wizard. Manley won a huge majority of 47 seats in a house of 60 when the two ran in 1976, and he probably can maintain himself until the 1981 elections despite his government's growing unpopularity. The question posed by many observers is whether those elections will ever take place.

Jamaica's whole structure is slipping dangerously. There has been a flight of people as well as of capital—one estimate is that 40 percent of the upper and middle classes have left the country since 1976. Unemployment is officially 25 percent, but more like a third of the potential wage earners are without jobs. And although the government bravely argues that it will produce a 3 percent rise in the gross national product this year, GNP declined 1.7 percent last year—and it was down 2.2 percent the year before.

A leftward swing? Manley's railings against Western capital, and his flirtation with the Soviet bloc, have intensified the nervousness of foreign investors. And with Jamaica's former colonial ruler, Britain, sharply reducing its foreign-aid program overall, London is likely to cut the $200 million Kingston got in 1978. London hopes that, despite these cuts, Jamaica's democratic institutions, Manley's pragmatic instincts, and caution in Havana and Moscow will prevent trouble.

That may not be the case. Seaga has charged repeatedly—with considerable documentation—that Cuban intelligence agents as well as Soviet secret police have infiltrated the Manley administration. Manley has argued that the Cubans in Kingston have not received privileges different from those enjoyed by the U.S. and Britain. But the dispatch of a new ambassador from Havana, Armando Ulises Estrada, has lent weight to Seaga's charges. Estrada is the former deputy head of the Americas Bureau of the Cuban Cabinet in charge of Cuban revolutionary activities in the hemisphere.

The big question now is what the U.S. intends to do to counter the growing disarray. Habib's job will not be easy. Congress is in no mood to loosen the purse strings, particularly for someone who, like Manley, is so much a public admirer of Castro. But without increased financial backing, the Jamaican regime may not be able to handle its growing problems.

[From the Kingston (Jamaica) Daily Gleaner, Aug. 29, 1979]

THREATS FORCE SEAGA FAMILY TO CHANGE HOME

Opposition Leader, Mr. Edward Seaga, has removed from his Temple Meads residence in St. Andrew, out of concern for the safety of his family.

According to a JLP release, an "escalating campaign of terror has now reached the point where Mr. Seaga is seriously concerned about the safety of his family, particularly in view of the fact that he often has to be away from home for several days while campaigning in various parts of the island.

It continued: "In fact, out of concern for the physical safety of his wife and children, Mr. Seaga has now had to move his family out of 19 Temple Meads and has recently purchased an apartment suite which offers considerably better security."

PHONE CALLS

The release said that over the last three months, anonymous telephone calls had been made to Mr. Seaga's Temple Meads residence threatening himself and his family.

The callers could tell when his daughter goes to music lessons; when his wife went to the hairdresser, or supermarket; and when his son, Christopher does swimming training at the National Stadium's pool."

This personal information could only have been ascertained by close surveillance over a period of time, the release said.

It stated: "The public will recall some months ago, a special secret police squad under the direction of Inspector Creary took up residence at 3 Temple Meads, a few yards from Mr. Seaga's residence.

It was only after Mr. Seaga had publicly exposed this that the Government admitted the existence at 3 Temple Meads of this special squad.

"Whatever may be the official reasons offered by Government for the establishment and location of this squad, the fact is that in addition to any other activity in which it might have been engaged, the squad was used to spy on the Leader's residence, to note license numbers, identification and description of persons visiting Mr. Seaga."

UNMARKED CARS

"The public must be made aware that not only Mr. Seaga himself but his wife and children are frequently followed by men in plain clothes traveling in unmarked cars. In most instances, Toyota cars with short radio antennas are used which suggests that this surveillance is being carried out by the security forces."

The release also said: "The public must now be told that one night while Mr. Seaga was sick at home with a strained back, someone tried to enter his home and it was only after he had fired several shots from his licensed revolver that they retreated.

"The public must be told that a few months ago a house very close to Mr. Seaga's was bombed and shortly afterwards, it was learnt that they thought it was Mr. Seaga's."

The release, dated August 28, and signed by Pearnel Charles, had begun: "I call on the people of Jamaica to take serious note of the recent threats made by Dr. D. K. Duncan on the Leader of the Opposition, Mr. Edward Seaga.

"These threats must not be dismissed as merely wild outbursts. If nothing else, Dr. Duncan has established a reputation of meaning exactly what he says.

"Dr. Duncan must obviously know what he means by his recent statement that 1981 will be 'the last time that Mr. Seaga pushes out his head and his completely erroneous statement that Mr. Seaga resides somewhere in southwest Miami.'"

Senator Charles signed statement on behalf of the JLP ended: "I speak on behalf of every JLP member and supporter in saying that we stand ready to defend Mr. Seaga and his family against any acts of violence."

It called on the Prime Minister, Dr. Duncan and the leadership of the PNP to put an end to what is described as "this campaign of terror against the Seaga family."

[From Barron's, June 18, 1979]

SOW THE WIND—IN JAMAICA, THE U.S. MAY REAP A WHIRLWIND

(By Robert M. Bleiberg)

The Daily Gleaner, published in Kingston, Jamaica, since 1834, may not rank among the world's greatest newspapers, but it's surely one of the gutsiest. Since 1972, when the People's National Party, headed by Democratic Socialist Michael Manley, took office, the publication has waged an increasingly difficult and lonely struggle to keep alive what's left on the island of freedom of the press. Since coming into power, the Manley government has taken over Jamaica's radio and television stations, in the process turning them into organs of propaganda. It encouraged and helped to finance (via the Jamaican Development Bank) the launching of a rival daily. Last fall, in a speech to the party faithful (punctiliously reported on the Gleaner's front page), the Prime Minister denounced his journalistic critics as a "call girl" and "harlot," and its publishers and editors as "pimps for imperialism." Government advertising has dried up, official readership has dwindled, and, from time to time, the socialist bureaucracy threatens to cut off the supply of scarce imported newsprint. Covering Washington for Barron's, we used to cry, is like covering Capetown for Ebony, but no longer. The Gleaner makes such small concerns seem downright un-Manley.

In the past week or so, the Gleaner has acquired an unusually sharp cutting edge. Under the banner headline "KGB, DGI agents all over Jamaica—Seaga," the courageous paper recently carried a front-page story featuring allegations by Edward Seaga, leader of the Opposition, that both Cuba and the Soviet Union have stepped up their infiltration of the island. Specifically, Seaga, who urged the Governor-General to launch an inquiry, charged that 5,000 Cubans are freely "operating in and out of Jamaica and that enough stores were housed in a Cuban school project to feed a small army." He added that a number of Jamaican police had received special training in Havana, and that the Peoples National Party was recruiting a home guard with the clear-cut capability of political coercion, as well as the power of arrest.

Prime Minister Manley promptly shrugged off the charges as a "lot of yakkety-yak." There are only 449 Cubans on the island, chimed in the Minister for National Security, all of them busy at socially approved tasks in the countryside comparable to those of the U.S. Peace Corps. The Gleanor found the official rejoinders wanting. Echoing the call for a probe by the Governor-General, it went on to editorialize: "Unfortunately the Government has so far failed to reply responsibly to the grave charges." Its outspoken columnists went much further. According to one, the new Cuban ambassador, who is due to arrive in Kingston next month, currently heads the bureau which furnishes clandestine support to revolutionary groups throughout Latin America. Weighing the credibility of charges and denials, respectively, a second minced no words. "I have wracked my memory," wrote Wilmot Perkins with an acerbity worthy of H. L. Mencken "but I cannot remember a single occasion on which it was demonstrated, or even plausibly made out, that Mr. Seaga had deliberately lied to the country. The same, alas, I cannot say for our Prime Minister. . . . The Manley Government lies habitually, excessively, and, as with all else that it does, incompetently."

Never do business, said J. P. Morgan, with a man you can't trust. With respect to Jamaica, the private sector, both at home and abroad, by and large has heeded this sage advice. Since the early 'Seventies, investment in productive enterprise has plummeted, while capital flight, spurred by punitive taxation, outbursts of lawlessness and political unrest, has accelerated. Trapped by previous commitments, the huge and largely U.S.-owned bauxite industry has sought to make what accommodation it could, up to and including the sale to the government of its landholdings and mineral rights; yet since the pressure started a half-decade or so ago, it has quietly curtailed expansion and shifted resources to more hospitable climes. Small wonder that in a good year, inflation runs at an annual rate of 20% or more, that one quarter of the labor force is idle and that Kingston, when it's flush, boasts foreign exchange enough to keep the island above water for four-to-six weeks.

J. P. Morgan was always bigger on Wall Street than in Washington, where somebody once perched a midget on his knee. These days his wise strictures evidently count for little. For with the hearty encouragement of the U.S. government—Michael Manley, proclaimed our roving goodwill ambassador Andrew Young, is my kind of guy—one global lending institution after another has been lavishing resources on his regime. At latest reckoning, the Inter-American Development Bank had advanced Jamaica $53 million, the World Bank, more than twice as much. Last week, the International Monetary Fund, so to speak, went for broke: despite Jamaica's shaky past and doubtful future, it agreed to lend the island $330 million, half again as much as Kingston already owes the IMF and a staggering sum for so small a place. The credit, explained a spokesman for the Fund, is designed to tide the country over its balance of payments difficulties. What it will do is help to finance the ruinous economic policies of an openly Socialist, quasi-totalitarian state, as well as foster the spread of anti-American bias throughout the Caribbean. Sow the wind, the *Gleaner* in effect has warned, reap the whirlwind.

These days, in any case, it's an ill wind from Jamaica. As our colleague, James Grant, reported in mid-January: "People died in Jamaica last week because the price of gasoline went up 12 cents a gallon. At last count, six were dead, including three policemen; the streets of Kingston were littered with barricades and stalled cars." Crowds poured through the streets crying: "The poor can't take no more," and they had a point. According to S. J. Rundt & Associates, consultants on international business, the rise in consumer prices last year more than tripled, to 35%. Unemployment is rampant, with some 24% of the labor force out of work. Owing to the perennial devaluation of the Jamaican dollar, and an "incomes policy" which clamps a lid of 15% on wage increases, those lucky enough to have a job suffered a relentless decline in their standard of living. As of March 31, the country's international monetary assets totalled $77.6 million, enough to cover only three weeks of imports. Exporters to the island—at least prior to the IMF bailout—rated its credit "poor," a distinction shared in this hemisphere only by near-bankrupt Peru.

For the rapid progress of poverty throughout Jamaica, the Manley government is largely to blame. Back in 1974, in utter disregard of its obligation to submit such disputes to

international arbitration, Kingston unilaterally moved to raise its levy on production of bauxite. In consequence, so a leading financial daily reported last month: "Aluminum producers have been cutting back their bauxite mining and refining operations in Jamaica while stepping up these activities in other countries, such as Australia and Surinam." Other investors, both at home and abroad have been channeling resources elsewhere. As the *Daily Gleaner* recently observed: "The unpalatable fact is that since 1974 there has been a growing decline in the level of private foreign and domestic investment in Jamaica; according to official statistics, in 1977, the decline in net investment reached a disconcerning 83%. This staggering erosion in capital formation is a graphic indication of the reaction of major investors to politically generated uncertainties here. . . ."

As for the Manley government, its extreme leftist leanings are unmistakable. The Prime Minister's ruling People's National Party, though denying direct links with the island's Communists, on a number of issues lately has made common cause with them. Manley, Fidel Castro's personal friend, obsessively speaks in a kind of Marxist pidgin: "imperialism" recurs in his speech like a four-letter word in a sailor's. Furthermore, for a professed democrat, Manley has shown himself all too willing to suspend civil liberties. He did so from June 1976 to May 1977, invoking a "state of emergency" much like martial law, which, the Opposition has convincingly alleged, was concocted to rig the December elections. Despite official demurrers, that home guard looks increasingly ominous. And Jamaica, so the Opposition Party leader now charges, has become a privileged sanctuary for Cuban and Soviet Reds. Subversives, as the country seems destined to learn the hard way, can be as dangerous as the missiles over which the U.S. and U.S.S.R. once went eyeball-to-eyeball.

Today, however, it's Washington that's blinking. Ambassador Young has called Michael Manley "one of the most intelligent and independent leaders in the world." Last week, even as the IMF announced its outrageous transaction, Congressman Henry S. Reuss (D., Wis.), whose judgment on virtually every public issue (see last week's *Barron's*) seems fatally flawed, was bitterly complaining to the U.S. Secretary of the Treasury over a much smaller loan to Nicaragua, which, whatever its other shortcomings, happens to be an American ally and poses a threat to nobody but its own Communist-supported enemies. If this country's influence in the world is waning, one needn't look far for the cause.

[Telegram from American Embassy, Georgetown]

1. Government-owned radio announced morning of October 6 that Guyana had consulted with other Caribbean nations in New York (Ref. A) and that a statement with regard to the October 1 speech of President Carter would be issued shortly. Excerpt from the four nation statement (Guyana, Jamaica, Grenada, St. Lucia) were announced on the evening news the same day, and a purported ministry of foreign affairs statement was printed on the back page of the Government-owned "Chronicle" on October 7. "Chronicle" sources tell us that the article is a verbatim account of the statement with the exception of the first, introductory paragraph. The text of the article follows:

2. Begin text: Quote: Guyana, 3. W.I. Nations concerned over U.S. move in Caribbean. A statement from the Ministry of Foreign Affairs said yesterday that the sovereign governments of Grenada, Guyana, Jamaica and St. Lucia noted with concern the measures announced by President Carter on October 1, 1979 to be undertaken by the United States in the Caribbean region.

They reaffirmed that no decision can be taken affecting the peoples of the Caribbean region without proper consultations with and full involvement of the sovereign governments which represent the people of the region.

They rejected any perception of the Caribbean region as a sphere of influence for any great power and stressed the need for respect for the sovereign equality and independence of all states and their right to freely choose their own politico-economic system.

They reiterated the importance of the principle of non-interference and non-intervention in the internal affairs of states, and declared their opposition to any measures which violated these principles.

Power: They expressed their sound desire and determination to preserve the Caribbean areas as a zone of peace free from great power rivalry and rejected any measures which could escalate tension and threaten the peace and stability of the region.

They emphasized their commitment to the principle of peaceful co-existence and the extension of detente to all regions of the world and reaffirmed their determination to ensuring that these principles are fully respected and applied in the Caribbean region.

They recognized a role for external economic assistance in the region, but expressed the hope that any programme of such assistance would be directed to the purpose of ensuring economic viability and reducing impoverishment and the such programme will be developed in consultation with the respective states of the region. Unquote.

MANLEY'S SPEECH TO NON-ALIGNED MOVEMENT CONFERENCE IN CUBA

Comrade President, colleagues, excellencies, comrades: Jamaica joins all those who have spoken with warm appreciation of the distinguished contribution of the president of Sri Lanka to the development of the non-aligned movement over the past three difficult years. Equally, we share in the expressions of gratitude to the government and people of Cuba for the superb arrangement and exemplary hospitality at this, the sixth conference of the non-aligned movement.

History, Comrade President, occasionally produces movements and men which together provide the impulse and the inspiration for great processes of change. Such movements and such men are at once catalyst and rock: Catalyst, because it is hard to imagine how the change could have taken place without them; rock because they seem to provide a foundation on which new structures can be built.

When we think of the non-aligned movement, we think of President Tito as catalyst and rock. So, too, were Nasser, Nehru and Sukarno. We think of the early impulses of racial pride, self-awareness and self-confidence which were the prerequisites of African freedom, and we know that Jamaica's Marcus Mosiah Garvey was the catalyst and the rock. No man speaks of African independence and forgets Kwame Nkrumah as catalyst and rock.

We may claim to be communist or socialist, or humanist or simply progressive. But all anti-imperialists know that the balance of forces in the world shifted irrevocably in 1917 when there was a movement and a man in the October revolution and Lenin: Catalyst and rock.

As many have said and, we trust, all sincerely believe, the non-aligned movement begins with the struggle against imperialism. No area of the world has had a more extended exposure to, experience of, nor proximity to imperialism than Latin America and the Caribbean. We have seen forces of progress extinguished in Guatemala, snuffed out like a candle in the Dominican Republic, undermined and finally overwhelmed in Chile; and yet I dare to assert that, despite these tragic reversals, the forces committed to the struggle against imperialism are stronger today than ever before. We believe that this is so because our hemisphere has had a movement and a man: A catalyst and a rock: And the movement is the Cuban revolution, and the man is Fidel Castro.

Therefore, Comrade President, the act of holding this conference in Havana is both a tribute and a consequence. It is a tribute to the exemplary heroism of the Cuban people. It is a tribute to the extraordinary qualities of the Cuban movement; a tribute to the clear, uncompromising and yet always humane leadership which you have provided. And, equally, it is a consequence of all those things, because without the catalyst and this rock, the non-aligned movement could not yet have achieved the level of development in this hemisphere to warrant the holding of this summit in our part of the world.

An astute friend of mine, Forbes Burnham of Guyana, remarked to me on Sunday night that non-alignment means to him, among many other things, independence of judgment. He meant, by that, that we are a movement predicated upon the right of member countries to seek to judge issues on their merits, rather than in response to the pressures of power. We believe this to be profoundly true. We have watched you, Comrade President, and Cuba, with detachment as well as affection and admiration over the years. We are absolutely satisfied that Cuba is a non-aligned country guarding and cherishing the principles of non-alignment including this particular test of independence of judgment.

Those among the developed countries who seek to malign you and your country as a surrogate acting upon foreign orders, mistake the Cuban revolution, mistake the non-aligned movement, and above all mistake the man—Fidel Castro. Some spread this story from within the depths of an ignorance born of their inability to understand the world and some of the new forces that are beginning to shape its future. They are so long-steeped as in the tradition of policy that is determined by power that they cannot conceive that principles can provide important parameters in national decison-making.

Others, of course, spread these lies from within the calculated malice of their desire to confuse and confound our movement. For these persons the world still represents a natural hunting ground in which power becomes the instrument for foreign domination, the subjugation of people and the inequitable exploitation of economic resources as if by extension of natural right.

We who are here know that the balance of power and opportunity was altered positively and irrevocably in Africa during those fateful days when Cuban Comrades helped their African brothers to inflict the first military defeat upon the racist army of South Africa in Angola! We know the agony of decision through which you had to pass before commiting your brave sons to struggle and even die in a faraway land. On that act alone you, your people, your revolution and the martyrs who died have written an epic chapter in the history of freedom.

On behalf of the millions of black people who were scattered in the African disaster we record our appreciation. Our presence here this week is the answer to those who have tried to use your courage as the means to divide our movement.

Comrade President, the case of Angola and the use to which some have tried to put it, goes to the heart of the question: What is the non-aligned movement and to what is it committed? We all agree that we are anti-imperialist, anti-colonialist, anti-neo-colonialist, anti-racist, anti-fascist and against all forms of external domination and exploitation.

We are for peace, disarmament, freedom and democratic relations between states. So far so good. Looking back to the genesis of the movement, we also agree that we are opposed to military alliances and blocs. Our common sense must tell us that it is not enough to be opposed to alliances and blocs; but more important to be opposed to the historical forces and circumstances that gave rise to these blocs in the first place. Hence, while we oppose blocs as such, our first concern must be power alliances that seek to entrench a world order characterized by exploitation of the weak by the powerful.

But there are some, particularly certain spokesmen of the developed countries, who would have us believe that non-alignment goes beyond a refusal to be a part of blocs based upon military alliances. They contend that non-alignment should mean neutrality regardless of circumstances. No one believes that nonsense in this room, I am sure. Our remarks, therefore, are directed outside of this room.

If one of our members, or the movement as a whole, takes a position which coincides with a position taken by, for example, the Socialist group, it is claimed that we are surrogates of "Socialist Bloc Power". Nothing could be further from the truth. When that occurs, we are glad that somebody else shares our view. Let the countries of the developed world understand that we will not change our view so as to avoid a coincidence of view with the socialist world, or any part of the world, and for those who are concerned about the fact that there are increasing examples of a coincidence of view between the non-aligned movement and, say, the socialist group about matters like liberation struggles, the matter can be simply remedied by the developed countries changing their position and joining in what would then become a true international consensus; and, certainly, we welcome all occasions when our views do coincide with those of the developed countries. Our only regret is that this seems to happen so seldom.

We in Jamaica are deeply convinced that the non-aligned movement holds out the possibility, and so far it is no more than a possibility, of a permanent new dimension in the dynamics of world politics. The dimension involves the judgment of issues in terms of perceptions of right and wrong rather than calculations of advantage. Of course, this is a new and fragile plant. Of course, there are the cynics who scoff and say that political processes must forever be only a reflection of the dialectics of oppression and resistance, or the cynical perception of class or national advantage.

Nonetheless, there are societies today that are seeking to build their structures and relationships on a basis of clear moral principles. The non-aligned movement represents the possibility of a parallel development at the international level. Therefore, we venture to suggest that all of us here have a tremendous, collective political responsibility. It is a responsibility, when seeking to determine issues, to keep in the forefront of our minds the fundamental principles to which the movement is dedicated. We well understand that in no group of 89 nations could everyone see all issues in exactly the same way.

There are issues which clearly need time and the exercise of patience while we seek the bases for a common approach. On the other hand, there are issues which must always invite us to bold and clear action.

This is why, Comrade President, we gave every possible support to the people of Panama in their just struggle over the canal and rejoiced in their victory. That is why we welcome developments in Grenada and applauded without apology the overthrow of the corrupt tyrant, Gairy; that is why we shared the agony of Nicaragua and rejoiced in news of Sandinista success against the enormous fascist corruption of Somora. We all now share an obligation to give practical assistance in the rebuilding of the battered land.

You will notice Comrade President, that through all of these events there runs a common trend of radicalism which reflects the increasing need for change in our hemisphere and there is clear evidence of an increasing interest among Latin America in the non-aligned movement in the fact that four of the seven new members of our movement—Bolivia, Grenada, Nicaragua and Surinam—are Latin American States. Also, three of the four new observers—Costa Rica, Dominica and St. Lucia—are Latin American. All this is of particular significance considering that Latin America has the greatest potential for the expansion of our movement.

We join our voices with those who assert the right of the Puerto Rican people to self-determination and independence. While we would never seek to impose our will on any territory, we feel it to be the duty of the members of the movement to support those who struggle for Puerto Rican independence, regardless of whether they are in the minority, at this time, because that principle is fundamental to our movement and its beliefs.

The Non-aligned movement and indeed the international community have repeatedly accepted the right of the people of Belize to proceed to full and secure independence with their territorial integrity preserved. The unjustifiable claim by Guatemala and the continued threat of aggression have consigned to prevent a free independent Belize from taking their rightful position as a full and sovereign member in our ranks. Jamaica exhorts the movement to intensify its support for the just cause of the right of the Belizen people to an early independence.

We denounce the blockade against Cuba. Equally the recovery of Guantanamo Bay is an issue that goes to the heart of the right of a sovereign people to determine whether foreign military personnel are allowed within its borders. We support Detente between the hemispheres. It is now time for Detente with this hemisphere; but this will require a fundamental and long overdue shift in United States Policy.

The movement is very clear that there can be no settlement in the Middle East that is not based upon the right of the Palestinian people to self-determination and an independent sovereign homeland; the full recognition of the Palestine Liberation Organization as the sole representative of the Palestinian peoples and its full participation in all negotiations relating to the Middle East situation; and the return of all occupied Arab land consistent with the resolutions of the United Nations. No betrayals will alter the eventful triumph of justice in this regard.

Similarly Jamaica declares its support for the Polisario Liberation Movement and its immediate recognition of the Samaroui Arab Republic. We are glad to observe that this represents a virtual consensus of the movement. Our recognition is not a repudiation of our friends from Morocco—but only as assertion of principle of self-determination that underlies our movement.

We celebrate the fall of the Shah of Iran and welcome into our ranks, the nation that he misled for so long. Equally we heave a sigh of relief that the bloody rule of Amin has been ended and that the people of Uganda will once more live in peace. We trust that Tanzania will now once more enjoy a secure border with Uganda.

For some reasons, we regret that this conference is apparently unable to resolve the questions of seating and recognition in respect of Kampuchea. We accept, however, that we do not have the plans to reconcile our differences and Jamaica is sure that we will have the collective prudence not to create irrevocable division around the issue. In the meantime, we note that the problem must be addressed by the General Assembly of the United Nations later this month. Let me state publicly the repugnance to Jamaica of the bloody genocidal practices of the Pallin Pol Pot regime. On the facts now known to us there can be no justification for further withholding recognition from the Hens Samrin government.

We will not repeat at length the many things that we have said along with countless other nations, on the subject of Southern Africa. We call for all freedom loving people to do everything within their power to support, politically and economically the liberation forces in Zimbabwe, Namibia and South Africa itself. Total support for the armed struggle being waged by the patriotic front is a sacred duty of our movement.

In the recent conference in Lusaka we had no illusions that we had settled the problem of Zimbabwe, but we were pleased that 39 commonwealth nations agreed to repudiate the so-called internal settlement; to repudiate the constitution which was the product of that squalid process; to reject the elections which had followed Muzorewa's betrayal; to repudiate the regime which was created by the betrayal; and to demand that a new conference be held for the purpose of achieving a genuine transfer of power. Thirty-nine nations agreed that the end of sanctions and a cease fire could come only after all the necessary steps have been taken towards a just settlement. Before Lusaka the United States Senate had voted for recognition of Muzorewa's regime and an end to sanctions. Britain seemed headed in the same direction. Lusaka reversed all of that at a stroke, and imposed a renewed diplomatic isolation upon the Salisbury gang then their local puppets.

I hope that this conference will state in unequivocal and resounding terms the principles upon which a genuine transfer of power to the majority must be based, even as this conference renews its loyal commitment to the patriotic front as the only legitimate representative of the Zimbabwe people.

Comrade President, we also hope that this summit will reaffirm that the front line states of Mozambique, Botswana, Tanzania, Zambia and Angola represent a critical factor in the struggle for freedom in the world. Even as we support the patriotic front we need to recognize the untold hardship that is endured by and the sacrifice that is required of the people of these five nations. These are nations suffering from some of the most acute forms of underdevelopment. Their own prospects of development and progress for their people have been immeasurably hampered and retarded by the struggle which they support in our name. I believe it to be the duty of this summit to direct the appropriate agencies of our movement to consider ways and means of rendering special economic assistance to the brothers and sisters of these five heroic members of our fraternity.

Comrades, it has not escaped our attention that while you in Cuba are the victims of a blockade, no member of the developed world will agree to impose economic sanctions against the regime of South Africa. We have the deepest sympathy for all refugees, wherever they originate, including Vietnam. We also grieve for all that Vietnam has suffered during 30 years of heroic struggle. We have no less sympathy for the refugees of Zimbabwe, Namibia, South Africa or Palestine, than for others.

However, we like you, cannot ignore the almost monumental hyprocisy which will select one set of refugees for special concern above all others that will continue to tolerate what is done to Cuba while refusing to lift a finger against South Africa!

Comrade President, the sharp contradic-

tion between the experience of Cuba and the experience of South Africa leads me directly to the question of world economics which we believe must increasingly demand the major attention of the movement. We are forced to observe the increasing tendency among world statesmen of the developed countries to adopt the rhetoric of progress. There are few political leaders who would not now denounce Apartheid. Yet no one will consider any action that would encroach significantly upon the activities of a transnational corporation engaged in South Africa.

Many political figures from the major industrialized countries now pay lip-service to the new international economic order, but few will consider concrete action to implement the proposals involved in this concept. Clearly, the struggle against Apartheid cannot be separated from the struggle against unjust trade relations; unbridled, transnational corporate power; or any of the other elements of the unjust system of world economic exchange.

We, Comrade President, are struck by two things. First, there is now a considerable body of professional expert knowledge about the specific changes which we seek as part of the new economic order; and, more importantly, about precisely how these changes might be effected. No one can contend any longer that the common fund is an abstract, academic idea beyond the reach of practical men. The experts now know precisely how the common fund can work; the resources which it would need; the integrated commodity program upon which it can be based, the "second window" operations which are necessary to its success; and the international commodity associations which must be formed if it is to get off the ground. Yet what was agreed at the common fund negotiations in Geneva earlier this year represents no more than a formal, minimal recognition of the commodities problem.

We now have very clear ideas about the problems of conditionality in the international monetary fund and a painful awareness of how inadequate is the foreign exchange it can make available even when its terms of conditionality have been met. I believe I can say that there are few countries in the world which know more about this problem than Jamaica.

We can measure exactly the effect of discriminatory tariffs against our products. We know how all mankind could benefit if the international division of labor were allowed to evolve along equitable paths. You, yourself, Comrade President, treated us to a graphic illustration of the cost, in social terms, which is represented by the squalid scandal of spending on arms.

Therefore, our moral perceptions are clear in the matter of racism. Our ears tell us that the world's political leadership admits the manifest injustice of the present economic arrangements. Our technicians know how significant change might be achieved, and yet on no front is there significant progress. Clearly, that infinitely complex structure of interlocking, corporate power that largely runs and controls the bulk of the world's economic system is presently beyond either the will or the capacity to control of the political leadership of the developed world.

The second thing which we notice arises from our own experience. If we go back to the Bandung declaration of 1955, it is remarkable and instructive to observe how complete was the grasp of the "founding fathers" of all the essential equations of our present economic situation. We have no significant insights now, that were not adumbrated by them a quarter of a century ago!

In the early years it was unavoidable, that the political aspects of decolonization should command our activist attention, as distinct from our intellectual commitment. But now the tasks of political decolonization are drawing to a close with Southern Africa, Western Samara and the Palestinian people representing a last, but still terrible gasp. In the meantime, the poverty, malnutrition, illiteracy, bad housing and all the awful by-products of underdevelopment press in upon us demanding attention, impatient of every delay, but experience tells us that we are dealing with economic injustices that will not yield to mere words, and have not responded to the demands of a self-evident morality.

What, then, does all this imply? We believe that it implies a necessity for the third world to begin to change the equations of economic power by the development of self-reliance within our own ranks. And here we must be frank with ourselves and each other. For a variety of reasons self reliance in economic terms does not come easily to us. Such a course will demand a particular exercise of political will on the part of our countries. It will also call for great initiatives, ideas and effort on our part. It will require that we ensure the active involvement of our government institutions, and other interests, in our societies. We have the intellectual perceptions, but not as yet the institutional nor technological tools through which programs of self-reliance can be made effective.

For example the Colombo summit was very significant in that it laid down clear programs of action that were to be pursued. Many of the investigatory aspects of these programs have been pursued with vigor and skill; and we acknowledge the dedicated work which has been accomplished by the countries coordinating the work. But, Comrade President, how many of these programs have moved to even the most rudimentary levels of implementation?

We have no doubt, based upon our experience, that the so-called developing world must first of all create the institutions through which economic or other action can be planned, coordinated, mobilized and effected. I urge this conference to examine these matters and to pursue, in the relevant committees, the question as to what institutional arrangements we need to initiate, to realize our objectives; if there are compelling reasons why the non-aligned movement should not be the institution within which this happens, then suitable alternatives must be proposed.

What is the use, Comrade President, for Guyana to carry out exhaustive study of the situation of developing countries in relation to the purchasing of pharmaceutical products, if there is no effective institution which can penetrate the decision making processes of member states to ensure that they take the practical action to which we are invited by the study?

Clearly we need to develop an understanding of the different operational frameworks within which economic programs can be developed. In some cases, it is regional cooperation that is the logical vehicle. In others it is the marriage of factors of production between countries that may be far apart geographically.

If a country in Africa has energy and a country in Latin America has a raw material that requires energy to liberate its production potential, and if a market exists, it is our duty to marry the groom of the raw material, to the bride of the energy at the altar of the market. How many opportunities of this kind have escaped because there was nobody to introduce the bride to the groom, and even if they met by chance, they could not find the way to the altar, and every opportunity has been missed has led to a deeper entrenchment of the economic power of the developed countries; the deeper entrenchment of their control of the world, the deeper entrenchment of their collective ability to resist the just demands of the rest of us.

You rightly remarked, Comrade President, that the time has come to move from rhetoric to action, but even this challenge could become another case of rhetoric if we do not design the institutions through which action can be achieved. Before I turn finally to the question of energy, permit me a few words about the long and protracted conference on the law of the sea.

The developing countries cannot accept that the exploitation of the rich and vast resources of the deep sea bed can be undertaken by transnationals for the benefit of the developed world, the common heritage of mankind must be productively harnessed for the benefit of the entire world.

This is why we view with alarm the report that the United States Government has challenged the right of coastal states to establish a breadth of territorial sea extending beyond 3 nautical miles. Such behavior is completely unjustified, and we categorically reject this action as contrary to international law, and to the consensus in the present negotiations.

Comrade President, energy must be seen from two points of view: The short term and the long term. I will begin with the long term. Increasingly, we recognize that energy is a unique input in the production process and the lives of people. There are various sources of energy, but there is no substitute for it. For generations, man has been profligate in his approach to energy. Cheap oil was both an object of imperialist extravagance. But the oil will not last forever, and when it begins to disappear, we will all be in serious trouble if we have not developed adequate alternative sources.

We support, and have always supported, the just struggle of oil exporting countries for control of this vital natural resource and for just returns from its exploitation. That commitment has not changed. At the same time, mankind must prepare for the future. Inevitably, oil will become more and more a source of sophisticated by-products in the field of plastics and petro-chemicals. Oil is a vital source of economic strength for those who possess it, and it cannot be wise to burn it all away as raw energy. We believe, therefore, that our movement should establish appropriate mechanisms to mobilize technology in the search for alternative sources of energy and more economically justifiable uses of oil.

I turn to the short term aspect. Some developed nations are working day by day to create a split in the non-aligned movement and among the group of 77 argued the question of oil.

They tried this in Manilau and the group of 77, in a united stand, rejected their overtures. We must not and will not let them succeed. We must insist that the developed countries stop the mad squandering of this precious fluid for raw energy. On the other hand, as you pointed out, Comrade President, we cannot ignore the realities, continuing increases in the price of oil have a devastating impact on the economies of non-oil-producing members of the movement.

Furthermore, energy prices have a disproportionate effect on the potential for growth of poor countries by comparison with the developed ones. It has been estimated that a 4 per cent rate of growth in a typical OECD country would imply a 4 percent increase in the consumption of energy, but in most developing countries that 4 percent growth would imply an increase in energy consumption on the order of 5.6 percent. The reason for this discrepancy is simply that the economies that are more Agrarian-based must change the proportions between industry and agriculture if they are to achieve growth, and this means that they must not only increase the energy that they use, but also increase the proportion of their economic activity which requires inputs of energy.

Comrade President, if our movement is serious about the economic development of our peoples, the logic of this reality con-

strains us to treat energy as a very special factor in the process of economic cooperation for collective self-reliance. There can be no question the price of oil affects developing countries far more than developed. In the end developed countries merely pass on increased oil prices to their third world customers in the form of higher prices for their exports, such as tractors and machinery.

I wish to be very clear on this subject. The current disarray in the global economic system is a manifestation of the crisis in the capitalist economic system. The energy crisis is only a part of the problem. We know that international inflation originating in the developed countries has been strangling us slowly for decades. We know that all these problems are to be found in the structures of the world economic system and that it is our first task to change these structures. We intend to continue with all our strength to struggle for those changes which can create a new economic order.

But equally, we know that our capacity to achieve the new economic order is dependent upon three factors; our strength, our unity, our credibility.

All three factors are at stake in this matter. If we cannot grow in economic strength, if we have not the means to explore the opportunities of economic self-reliance, if we cannot translate the arusha program collective self-reliance into action, none of us will have the means to make effective progress in changing the world's economic structure.

If oil prices sap our strength beyond the hope of remedy, our struggle for change will become less effective as we become more concerned with survival itself.

At the same time we must be careful that our actions over oil do not threaten the unity which has been our greatest source of strength up to the present time. We are glad when we see the benefits of oil prices go to the development of oil producing countries and their people. We do not begrudge one dollar of those investments in progress.

But, Comrade President, we are dismayed when we see petro-dollars flowing back into developed economies and then that some of those dollars represent the sweat, and the effort, and the tears of poor people in developing countries struggling to survive, we urge our brothers, whose just struggles have our unstinting support, to explore with us the means of making those dollars work for the benefit of the poor, rather than serving to enlarge the opportunities of the rich.

The third factor, Comrade President, has to do with credibility. We have spoken of credibility in relation to political matters. Let us now speak of it in relation to economic matters. We all suffer unjust conditions of trade on commodities. Often upward movements of oil prices seek only to compensate for adverse movements in the terms of trade and the effects of metropolitan inflation. Equally, upward movements in oil prices themselves have effects that cannot be ignored. Where energy is concerned, however, we are dealing with factors that we have so far not been able to address collectively within this movement. I suggest that if we fail to deal with these problems our credibility will be compromised. Let us avoid that danger by recognizing and addressing the special problems being experienced by the majority of our members.

And here we welcome the statement by the president of Iraq concerning further increases in the price of oil. This is a beginning. We must recognize, however, that the problem is global and must be tackled globally. Also, we must seek answers that do not add significantly to the burden of debt which we already carry.

Comrade President, we welcome initiatives taken to further the process of economic cooperation amongst developing countries. Our movement can advance this process by adopting the report of the consultancy group on mutual assistance which came out of the recent meeting hosted in Georgetown, Guyana. Let us talk with equal purpose and friendly frankness about energy so that plans can be laid here in Havana which ensure a future in which it is a source of strength for us all in the movement.●

"GOD BLESS AMERICANS": A CANADIAN VIEW

● Mr. MUSKIE. Mr. President, for more than a decade it has been my privilege and pleasure to serve as one of three U.S. members of the Roosevelt Campobello International Park Commission. Three of the six commissioners are Canadians, and together we have worked at the job of managing and improving a Canadian island beloved by an American President to fashion a park accessible to and appreciated by people from both countries.

One of the aspects of the job which has always been most enjoyable for me has been the exposure it has given me to Canadian thought and Canadian perceptions of the United States.

We two countries have lived side by side in peace for so long—and belligerence so unthinkable—that we take for granted what is surely a miracle of history. We share the longest unguarded border in the world, and across it flow not only goods and people, but ideas, opinions, and information of all sorts. In the process, both countries are enriched.

One of my Canadian friends, Rowland Frazee, who is an alternate commissioner, recently sent me the August 1979 issue of the monthly letter of the Royal Bank of Canada. Mr. Frazee is also president of that bank.

The newsletter offers not only a brief analysis of the value of the special relationship between the two countries, but also an optimistic view of the United States which I would like to share with my colleagues.

I ask that the newsletter article be printed in the RECORD.

The newsletter is as follows:

GOD BLESS AMERICANS

Here's looking at our neighbours to the south, in friendship and appreciation. They have their faults, as they are the first to recognize. But the benefits of living beside them far outweigh the disadvantages. Anyway, can a nation that invented baseball be all bad?

Canadians are well aware—or they ought to be—that they live in a great country. They are perhaps less conscious that they live on a great continent in more than the geographic sense. Being part of North America is a spiritual, as well as a physical, fact of life for all Canadians. And that is chiefly because of the style, customs and values of the 220 million people of the United States.

It is a running complaint among Canadians that Americans take them for granted. American ignorance of our country can be laughable: "When they said Canada, I thought it would be up in the mountains somewhere," said that dazzling product of American culture, Marilyn Monroe. On a more serious plane, nothing rankles Canadians more than the occasional suggestion from Washington that, because the United States is following a certain course of diplomatic action, Canada should automatically go along with it. But we too take for granted the benefits of having such great-hearted people living beside us. We tend to take their virtues as neighbours as our due, while making an unseemly fuss over their transgressions, failures and faults.

An ardent Canadian nationalist might argue that there are no such things as benefits in our proximity to the land of the CIA, the hamburger chain, and the multinational corporation. The overriding benefit under which all such argumentation takes place is so big and simple that it is easy to ignore. This is that we have lived in peace with the United States for more than a century and a half, which must be close to a record for a relatively small nation bordering on a great power. For all that time, while much of the earth was being ripped apart at intervals by guns and bombs, Canadians have remained safe from the terrors of warfare on their own territory. Nor has that safety been bought at the price of subservience. Canadians have been able to live cheek by jowl with a mighty military nation in a degree of political independence, security and prosperity that would be envied in many parts of the world.

For all that, even non-nationalistic Canadians are inclined to view the United States with mixed feelings. The extent of U.S. ownership in the Canadian economy and the pervasiveness of American culture here have long been matters of political concern. Legislation to lessen American economic and cultural influence has received at least the tacit approval of the electorate. The desire among Canadians to maintain their differences from Americans should not be confused with anti-Americanism, although self-serving attempts to twist it into that shape are sometimes made.

In any case, it is the rare Canadian who has any kind of animosity towards individual Americans. Canadians in general have an affectionate regard for Americans, even though some might not approve of *the* Americans and the things they do. *The* Americans are those rough and ready heavyweights of world affairs, with their almighty dollars, their ubiquitous brand names, their political machinations in foreign lands, their nuclear warheads. Americans are those persons you meet who speak English with a slightly different accent from yours, who say faucet instead of tap and frosting instead of icing, who don't put vinegar on their French fries, and who like their beer weak, their cigarettes strong and their tea ice-cold.

They are a gaudy bunch, much given to travel, colourful clothing, gadgets, hand-held foods, and striking metaphoric variations on the English language. They prefer first to second names, and, in conversation, they seem to use yours in every sentence or two. They play and watch a bewildering variety of games. They belong to clubs and lodges named after animals. They talk to strangers on street corners and at lunch counters. As they themselves would put it, they're friendly as hell.

These are generalizations, of course, for Americans come in all shapes, sizes, colours of skin and shades of opinion. Nevertheless, they do have some superficial characteristics in common, and some less superficial ones as well. By and large, they are people of abiding, if sometimes misguided, goodwill. They tend to be intelligent, industrious, and efficient. This does not stop them from being hospitable, informal and humorous. They do not take themselves too seriously. They have a great gift for laughing at their own national foibles, and, through their media, they do so more than any other people in the world.

To use a standard Canadianism, they are nice people—nice to meet, nice to talk to, nice to have around you. Canadians find them easy to relate to on a personal level,

because the two nationalities share a familiarity unparalleled anywhere. They travel more in each other's country than any other national neighbours, and they do more business together. The two countries historically have exchanged large parcels of population, such as the Franco-Americans of New England and the descendants of the American sod-busters and cowpunchers who played a large part in opening up the Canadian West. Until recently there was a free flow of immigration over the border in both directions. So there are innumerable ties of blood and personal acquaintanceship to add to the cultural, political and economic ties between the two vast lands.

THE AMERICAN IDEAL OF FREEDOM LIVES IN A DISHWASHING MACHINE

Americans are proud of what they call their "know how", which has sometimes been applied to the cause of destruction. Far more often, however, it has been directed towards improving people's lot in life. Canada has been the leading beneficiary of this mixture of superb technology and straightforward ways of getting things done properly. Our industries and professions employ American systems and techniques, and American-designed machinery, devices and electronic equipment can be found everywhere in Canada. American ingenuity, tied to a passion for convenience, has removed much of the routine drudgery from the lives of Canadians, particularly housewives. The American ideal of freedom lives in the vacuum cleaner and the dishwasher—in this case, freedom from unnecessary toil.

Along with the machinery, techniques and ideas Canada has imported from the States, it has also imported considerable human ability. It was a man from Illinois, W. C. Van Horne, who oversaw the construction of the Canadian Pacific Railway to tie this scattered country together, and then went on to build it into an international transportation empire second to none. Half a century later, a Massachusetts-born Canadian cabinet minister named C. D. Howe led the way to the formation of a national airline, one of many national institutions he created. He hired a seasoned U.S. airline executive, Philip G. Johnson, to get the forerunner of Air Canada off the ground.

The above are merely random examples to illustrate the immense contributions individual Americans have made to Canada's progress and well-being. That many of them opted to become Canadian citizens is beside the point. The point is that, because of all their similarities, Americans and Canadians have always been able to work together in an easy-going spirit of co-operation. That spirit turned to mutual dedication in World War II, when men of the two nations fought side by side in the defence of democracy. Common causes have run through most of the history of Canadian-American relations. Though they may differ on details of interpretation and implementation, Americans and Canadians still share the same fundamental ideals.

They share a great deal else besides. A Canadian and an American may work for the same company, belong to the same labour union, cheer for the same team, drive the same kind of car, watch the same television shows, and wear pretty much the same clothing. This is a cause of consternation among nationalistic Canadians, who apparently are unaware of places like Scotland, Austria, Belgium and Portugal, which are subject to similar conditions in relation to their kindred neighbours, but have no trouble in maintaining a cultural identity of their own. Neither do they seem to know much about the attractiveness and potency of American culture around the world; blue jeans are prized in Eastern European countries, and a Coca-Cola machine graces the hallway of the French foreign ministry on the Quai d'Orsay. Much of the resistance to American culture in Canada seems petty and lacking in perspective. Fortunately, it is likely to fade as Canadians increasingly gain confidence in their own abilities and their nation's place in the world.

FEELING NO LESS CANADIAN FOR COMIC STRIPS AND PUMPKIN PIE

In the meantime, the majority of Canadians will continue to enjoy the fruits of American culture without feeling any less Canadian for it. They will laugh at comic strips, sniffle at soap operas, chew gum and eat turkey and pumpkin pie at Thanksgiving, a feast which we celebrate in October instead of November in a typical variation on an American theme. They will use American slang and terminology, and read the books on the New York Times best-seller list.

Capable Canadian performers will persist in setting their sights on Broadway and Hollywood—as will English performers, French performers, Italian performers, and so on. They will do so not so much for the money as to test their talents against the best in the world. For if there is much that is shallow and shabby in American culture, there is much that is excellent. The United States may be the homeland of tuneless rock music, tasteless TV police dramas, and mindless situation comedies, but it is also the homeland of jazz, the Broadway musical, and seven Nobel prize winners for literature. The distinctively American art of George Gershwin, Duke Ellington, Andrew Wyeth, Mark Twain and Tennessee Williams, to name a few, is destined to last for all time.

DEMOCRACY IS PROTESTING THE JUDGMENTS OF THE UMPIRE

To see Americans at their hereditary best, one need look no further than their national pastime, the placid and poetic sport of baseball. It is a game that owes as much to brains as brawn, governed by a set of rules that could have been written by a Philadelphia lawyer. In the long stretches of seeming inactivity between the bursts of action, a fascinating war of strategy is being waged in every ball thrown and every move a player makes.

Baseball brings out a number of basic American characteristics. It is a game of individualism within the context of teamwork. It is a democratic sport, in which the fans, managers and players deem it their right to loudly protest the judgments of that definitive figure of authority, the umpire. It is an enterprise that calls for hard work and dedication.

The game carries in it what might be called the American deception: it has a loping, casual, lazy air which masks a thoughtfulness and seriousness of purpose. This apparent laxity has often deluded enemies of the United States: "I don't see much future for Americans," Adolph Hitler once said. Even American political leaders have been fooled by their compatriot's apparent apathy and malleability. In the early 1950s it looked as if Senator Joseph McCarthy had entirely consolidated his grip on the national psyche by creating hysteria over the "Communist menace". But he underestimated the willingness of the American people to change course abruptly once they have realized they are going the wrong way.

McCarthy's pernicious power was destroyed by the final arbiter of U.S. political affairs, public opinion. Ralph Waldo Emerson likened America's libertarian system to a raft which will never sink, but on which one's feet are always uncomfortably wet. Abraham Lincoln wrote: "Public opinion, though often formed upon the wrong basis, yet generally has a strong underlying sense of justice." And so it has proved in the long run in the United States.

A MORE HUMAN DIMENSION TO THE "AMERICAN DREAM"

Not surprisingly, the sharpest critics of the American *vox populi* have themselves been Americans. The magnificent journalist H. L. Mencken coined the phrase *"Boobus Americanus"*, dismissing the mass of his countrymen as a vulgar, avaricious, unenlightened rabble following third-rate leaders in a war against unconventional ideas. But that was in the complacent days of the 1920s, when Mencken was able to remark: "The American Republic, as nations go, has led a safe and easy life, with no serious enemies, either within or without, and no grim struggle with want."

That same palmy decade gave rise to Sinclair Lewis's *Babbitt*, the back-slapping conformist from Gopher Prairie who was to become an American stereotype. The brash, crass Babbitts of this world believed implicitly in an ill-defined something called "the American dream." It was, as Lewis's contemporary, Eugene O'Neill, pointed out, mainly a dream of materialism. O'Neill lamented: "I sometimes think that the United States for this reason is the greatest failure the world has ever seen."

Much has happend since then to remove the bumptiousness from the American dream and to give it a more human dimension. The stock market crash and the Great Depression grimly demonstrated that the United States was not necessarily the Promised Land. The war with Japan and Germany taught that war was not something to look forward to. The Cold War that ensued with the Soviet Union gave the nation a taste of the loneliness of command in world affairs.

In the past few years Americans have had to come face to face with their own shortcomings. The disgraceful treatment of black Americans could no longer be overlooked as blacks and their white allies stood up for their civil rights. The questionable U.S. involvement in Viet Nam, combined with the disenchantment of large sections of American youth, aroused mass dissent and disorder. The Watergate scandal brought home the message that an obsession with winning by any means can ultimately result in defeat.

Through it all, American public opinion has been divided. In a highly emancipated society made up of millions of opinions, a consensus is never easy to achieve. But in the final analysis there have always been *enough* Americans who truly believe in the humanitarian ideals enshrined in their Constitution to set their nation on the course of justice and honour. Ponderously, belatedly, and often to the accompaniment of the catcalls of the rest of the world, Americans have been at work righting their national wrongs.

"Boobus Americanus" and Babbitt have died a natural death in the mature and concerned society that has grown up since their heyday. Even the frighteningly well-intentioned Quiet American of Graham Greene's novel of Indo-China in the 1950s appears to be breathing his last. In their place have emerged people who are coping with the rebuffs of history with all the resilience and determination that made them a great nation in the first place. They won the lasting friendship of Canadians long ago; in their recent adversity, they have won our lasting respect.●

FREE ENTERPRISE DAY

● Mr. DURENBERGER. Mr. President, today, thousands of Americans are gathering in communities across the country to promote an energy program that has, as its major features, the creation of a Government-owned energy corporation and the reinstatement of price controls on crude oil.

The rapid and extreme increases in the cost of energy has had disastrous effects for every consumer, especially persons with low and middle incomes and those on fixed incomes.

However, the sad reality is that neither

our Government nor our private industries controls those increases. The cost of oil is set largely by OPEC. We are the victims because we failed to heed the clear warnings of 1973–74. Instead of reducing our imports during the past 6 years, we have increased them. We are more at the mercy of OPEC today than ever before.

A realistic energy policy for this country must stress conservation, firm limits on the amount of oil we import, an orderly transition to production of energy from renewable sources and assistance for those people who cannot afford the higher energy costs.

John Herman, editor of the Washington County Bulletin, offers a perspective on today's activities that I feel is important to share. I ask that his editorial be printed in the RECORD.

The editorial follows:

[From the Washington County Bulletin (Cotton Grove, Minn.), Sept. 13, 1979]

LET'S MAKE OCTOBER 17 FREE ENTERPRISE DAY

(By John A. Herman)

Until now, October 17 has been known in American history only as the birthday of Richard Mentor Johnson, the ninth vice president of the United States. Now, Ralph Nader and his cohorts want to change that, organizing a big oil protest day, attempting to make oil companies the scapegoat for higher energy prices. This protest is aimed at trying to restore price controls on crude and heating oil, and trying to establish a government-owned Energy Corporation with eventual nationalization of the big oil companies.

Nader says, "this is purely a power struggle, purely a political struggle." It is clear that Nader and associates seek to gain political power and are using consumer, senior citizens and others as pawns in their struggle for power. One only needs compare the cost of sending a letter and the efficiency of the post office with the price and efficiency of long distance calls and service, to see the folly of their scheme. Any 2-year-old should be able to figure out that if we let our energy production go the way of Amtrak, we'll all be freezing and walking in a very short time.

It was the free enterprise system that gave us the highest standard of living in the world, and the greatest freedom in the world. It is only under the free enterprise system that the consumer holds the ultimate power, and votes daily for and against products and services that businesses, big and small, offer for sale. And all this has been done in spite of government control and regulation, in spite of high taxes and bureaucratic red tape, which has caused our productivity to fall behind the other leading industrial nations.

Nader is right. "This is purely a power struggle, purely a political struggle." But what he doesn't say is that this is a struggle to get economic power over the consumer, and a struggle to gain political power over the citizens. The very foundation of political freedom is economic freedom. You cannot have one without the other. Economic censorship is just as bad as political censorship. It tells us what we can buy, what we must pay for or charge for our products. It is no better than telling us what we can read, write or say, or must read, write or say. The would-be economic censor, like the would-be political censor, seeks the power to decide what is good for us.

It is time that rank-and-file America stood up and told these power seekers that we'd rather do it ourselves, that we stand up for the free enterprise system and economic liberty as well as political liberty, that we don't buy their fairy tale about the Big Bad Wolf, and fear the power they seek more than the wolf. It's time we faced the fact that only the private sector—thousands of individuals working together that make up our free enterprise system—can solve the energy crisis. It's time we faced the fact that any government program that discourages production will result in shortages, that we need incentives to produce to solve our energy problems.

We do not have a shortage of raw materials. We have a surplus of government intervention in the marketplace. Let's all stand up on Oct. 17 and support our producers. Let's make it Free Enterprise Day in America. Let's restore the American dream of political liberty and economic independence!●

CONTROLLING CHEMICAL POISONS

● Mr. MUSKIE. Mr. President, I would like to draw my colleagues' attention to an important editorial from the October 1 Washington Post, entitled, "Living On The Margin." This editorial presents a well-reasoned, cogent statement on why Congress should act expeditiously on comprehensive legislation that responds to the numerous chemical discharge incidents that are occurring.

This editorial comes at a propitious time. The Subcommittees on Environmental Pollution and Resource Protection have begun markups of the Environmental Emergency Response Act of 1979. The bill would create a means of responding to these incidents, tighten liability, and create a fund for cleanup and damages.

A critical threat to public health is posed by congressional inaction. But as this editorial demonstrates, sound economic policy also dictates immediate action. It would be difficult to state a more compelling argument than this editorial has. An expenditure of $4 million in preventive controls and proper disposal techniques could have saved the $24 million that has already been spent in responding to the Love Canal problem as well as the millions more that may be spent on additional damages and cleanup.

Mr. President, I urge my colleagues to reflect on this opinion piece. I ask that the editorial be printed in the RECORD.

The editorial is as follows:

LIVING ON THE MARGIN

Consider one week's harvest of news stories:

Just a few days of dumping untreated sewage may have made the southern end of San Francisco Bay (until now a productive shrimp fishery and bird refuge) uninhabitable for both fish and birds for years.

The Food and Drug Administration confirms that small amounts of carcinogenic chemicals are present in many brands of beer and Scotch.

The governor of Arizona resorts to using the National Guard to shut down a plant that has been leaking radioactive tritium.

Nineteen states find food and animals contaminated with the suspected carcinogens known as polychlorinated biphenyls (PCBs)—all tracing back to a single leaking transformer.

The chief of Michigan's environmental enforcement agency says that "chemical contamination may be so widespread and pervasive . . . that it's to the point where we may find it cheaper to simply write off the groundwater supplies of large portions of southern Michigan.

Such stories are, in a strange way, page-turners, seeming never quite real, never quite plausible, never quite conclusive. They describe things that sooner or later may happen to someone else. But let's stop to consider just one—the Michigan story. What can it mean to write off the groundwater supply? What are the citizens of Michigan to use for water? Is it to be club soda in the washing machine? Maybe not, but the options aren't much more attractive. Either the money has to be found to clean up the water, or an alternate water supply must be found, or the situation can be ignored and the health costs paid later. Unhappily for Michigan, finding large, heretofore unused supplies of water is not so easy, and, as more and more communities are discovering, the cost of cleaning up contaminated resources—air, land and water—is enormous. In fact, the cost is generally prohibitive for all but the already overstrained federal budget.

The Love Canal disaster gives same measure of the relative dimensions of these costs. Approximately 1,000 claims for personal and property damage against the city of Niagara Falls, the state of New York and various other parties have been filed. They total over $2 billion. Millions have already been spent for short-term containment of the leaking chemicals, and the cost of final, long-term disposal will be far greater. However, if the chemicals that caused all this trouble had been properly disposed of to begin with—with all necessary precautions taken against leakage—the cost would have been no more than about $4 million.

Given today's population density and level of industrial activity, threats to crucial resources and human health seem to be multiplying at an unprecedented rate. In relation to some resources in the United States—perhaps including our water supply—we may be treading on the margins of what nature can tolerate. A small mistake, such as the sewage plant failure in San Francisco, pushes the system over the brink.

The evil of too much government regulation has long since become a cliché. A public opinion poll taken last spring concluded that more than half of the public believes that the costs of government regulation are greater than the benefits. The irony is that the facts seem to indicate something different: inadequate and mishandled regulation is doing terrible harm. Instead of returning health and safety concerns to the uncertain care of "market forces," what the country seems to need in these particular fields is *better*—and in some cases, new and tougher—government regulation.●

SOVIET EXPANSIONISM

● Mr. HAYAKAWA. Mr. President, events in Afghanistan provide us with a further example of Soviet expansionism. In the last few months, the Soviet Union has poured sophisticated weapons and military advisers into Afghanistan, and turned a blind eye to the human rights abuses of the Khalqi regime. In Afghanistan we have an opportunity not only to aid the people of Afghanistan in their struggle for religious and political autonomy, but to demonstrate to the world that the United States has not lost its resolve as a great power. Furthermore, the continued presence of a Soviet-backed regime in Afghanistan could have a destabilizing impact on Iran and Pakistan as well.

In this context, I call to the attention of my colleagues an article by Zalmay Khalilzad which appeared in the October 10, 1979 edition of the Washington Post. This article comments on the political implications of Soviet success or failure in Afghanistan and recommends that the United States support sympathetic groups within the Afghan

opposition. Since Mr. Khalilzad's suggestion deserves the attention of all my colleagues, I hereby request that it be printed in the RECORD.

The article follows:

AN OUNCE OF PREVENTION

(By Zalmay Khalilzad)

(NOTE.—The writer is an assistant professor of political science and a member of the Institute of War and Peace Studies at Columbia University.)

The April 1978 coup d'état in Afghanistan that brought the pro-Soviet Marxist party, Khalq, to power has provided the Soviet Union with several opportunities. If the regime of Hafizullah Amin consolidates its position, with Soviet backing, the Soviets could challenge Western interests in the area by supporting a variety of political groups or even by mounting large-scale military operations against Iran and Pakistan, especially in Baluchistan. Such threats have already been made to Pakistan.

While the Khalq regime provides the Soviet Union with opportunities, it also involves serious potential risks that the United States has not tried to take advantage of. For reasons that include the regime's ideological predisposition and its link with the Soviet Union, religious reformists, social democrats, tribal autonomists and Afghan nationalists have initiated a civil war. At present, the outcome of the conflict in Afghanistan is in doubt.

By supporting sympathetic groups within the Afghan opposition, the United States could affect the outcome of the civil war. Given the popular nature of the opposition and the conduciveness of the terrain to guerrilla warfare, the quantity and quality of aid required is likely to be minimal. Most of it could even be provided indirectly through U.S. allies in the area.

The United States stands potentially to gain a great deal by a change in Kabul. The defeat of the pro-Soviet regime might deal a severe blow to Soviet alliance relationships and would decrease Soviet capability to pressure Iran and Pakistan. A group friendlier to the United States might agree to allow American ground stations on its soil for monitoring Soviet activities, especially in relation to SALT verification. At a minimum, denial to the Soviets of Afghanistan as a friendly area would be highly valuable. Even if the civil war continues, increased Soviet involvement will be quite costly and will reduce Soviet capabilities elsewhere.

A number of analysts have opposed any U.S. support for the Afghan opposition movement, arguing that even without any U.S. support, the Soviets might suffer a defeat in Afghanistan similar to what the United States experienced in Vietnam. But one of the major reasons for the American defeat was the large-scale support the North Vietnamese and Viet Cong received from the Soviet Union and China. The Afghan opposition has no comparable support from the United States. Without major external constraints, Moscow is likely to retain considerable power to affect the outcome of the Afghan civil war.

Another position recently taken by some decision-makers and analysts in response to Afghanistan's alignment with the Soviets recalls the geopolitical school that holds that it is only natural for countries close to a superpower to accommodate it. Some have advised Washington not to assist the opposition because, even if it came to power, it would follow a "Soviet-tilted neutralism," and the Soviets might retaliate in Pakistan or Iran. The dubious premise of this argument is that, if allowed to "keep" Afghanistan, the Soviets will be satisfied.

U.S. acquiescence in each Soviet gain could encourage further expansionism or even an eventual large-scale conflict between the superpowers. The foreign policy a future Afghan government follows is likely to be affected by present U.S. policies.

As a result of developments in Vietnam, South Korea and Taiwan, many political groups do not regard alliances with the United States as credible. The Soviet Union, on the other hand, is perceived as a power that delivers on its promises. Afghanistan provides an opportunity where a Soviet defeat could inflict a severe blow to Soviet alliance credibility. By supporting sympathetic groups within the Afghan opposition, the United States would be on the side of a popular movement against an oppressive regime. It would influence the ideological direction of opposition groups, encouraging moderate and politically liberal tendencies. And it could raise the cost of Soviet expansionism, all at little cost.●

LAW OF THE SEA

● Mr. MUSKIE. Mr. President, Ambassador at Large Elliot Richardson, our chief negotiator at the United Nations Law of the Sea Conference, spoke last summer at the launching of the U.S.S. *Samuel E. Morison* at Bath Iron Works in Maine. In his remarks Ambassador Richardson took the opportunity to admonish each of us to turn our attention to a fundamental world debate now under way at the conference. Its mandate is to establish a new regime for the world's oceans—a difficult task, which reaches to the heart of fundamental issues of nationalism, resource exploitation, defense, and world commerce.

Despite the difficulties it faces, the Conference remains our best forum for a peaceful, long-term resolution of the issues confronting the world's oceans. I join Ambassador Richardson in encouraging all Americans concerned with the sea and its resources to familiarize themselves with the work of the Conference.

Mr. President, I ask that Ambassador Richardson's remarks of July 14, 1979, at Bath, Maine, be printed in the RECORD.

The remarks referred to follow:

NATIONAL SECURITY AND THE LAW OF THE SEA

(By Ambassador at Large Elliot L. Richardson)

In the waning days of his exciting, productive life, Samuel Eliot Morison urged us to face the future resolutely and to adapt boldly to a world in which unsettling change was an ever-present reality. "Have faith", he exhorted. "Hang on! In human affairs there is no harbor, no rest short of the grave. We are forever sailing forth afresh across new and stormy seas, or into outer space."

Unsettling change, triggered mainly by the burgeoning claims and aspirations of Third World countries, has overtaken the seas Admiral Morison loved so passionately. Next week in New York representatives of more than 150 countries will resume their striving to channel these forces of change in directions which promote world order. They hope to accomplish this high purpose through a treaty negotiated at the Third United Nations Conference on the Law of the Sea.

Morison the historian—his ravenous curiosity aroused—would have been drawn inexorably to this Conference for it represents a landmark effort by the world community to establish the rule of law over every conceivable use of salt water. Morison the sailor would have examined with flaming interest its implications for American naval operations. And Morison the humanist would have applauded its goal of reducing tension and conflict around the globe.

As we launch this warship, the namesake of a gallant naval officer and an indomitable scholar, it seems entirely fitting to speak of national security and the law of the sea.

Beneath the surface noise of contemporary debate on foreign policy rests a broad base of consensus on our most fundamental goals. We seek a world in which we are at peace with other societies, in which we and they are free to pursue our own interests and destinies, and in which the inevitable conflicts are firmly controlled and fairly resolved.

The primary goals of American national security policy are the subject of equally broad agreement. They are to encourage the evolution of the world we seek by building and maintaining a stable military balance among potential adversaries and by discouraging breaches of the peace that could lead to superpower confrontation or prejudice our basic interests. The missions, levels, weapons systems, and deployments of our land, air, and naval forces, both nuclear and conventional, must be so designed as to proclaim to friend and foe alike their evident capacity to play their necessary parts.

Within this framework, the Navy bears a special responsibility for the prevention—the deterrence—of armed conflict. As Admiral S. G. Gorshkov, the chief architect of the formidable expansion of the Soviet Navy, has written:

"Owing to the high mobility and endurance of its combatants, the Navy possesses the capability to vividly demonstrate the economic and military might of a country beyond its borders during peacetime. This quality is normally used by the political leadership of the imperialist states to show their readiness for decisive actions, to deter or suppress the intentions of potential enemies, as well as to support 'friendly states.'

"Consequently, the role of a navy is not limited to the execution of important missions in armed combat. While representing a formidable force in war, it has always been an instrument of policy of the imperialist states and an important support for diplomacy in peacetime owing to its inherent qualities which permit it to a greater degree than other branches of the armed forces to exert pressure on potential enemies without the direct employment of weaponry."

Admiral Gorshkov's slap at our "imperialism" is, of course, standard Soviet rhetoric. The significant point is strong, if "backhanded," acknowledgment of the peacekeeping contribution of our and our allies' navies.

Nor has the importance of the Navy been affected by the reduction in the number of U.S. overseas bases and military personnel stationed abroad. That is the result of cost constraints, the strong self-reliance of our friends, and the practical lessons of the Viet Nam war, not, as some would have us believe, a contraction in the scope of our vital overseas interests. Indeed, it is hard to imagine where any such contraction is supposed to have occurred. Certainly not in the Middle East, the Persian Gulf, the Indian Ocean, or the Mediterranean. And if our overseas interests in distant parts of the globe have not diminished, the reduction in direct deployment of ground forces does not reduce but adds to the necessity for alternate means of protecting those interests. Our economic well-being, meanwhile, is continually more dependent on overseas trade and vulnerable to distant political developments. The combined result is to compel increased reliance on the strength, mobility, and versatility of the U.S. Navy.

To fulfill its deterrent and protective missions our Navy must have the manifest capacity either to maintain a present in far-flung areas of the globe or to assemble such a presence rapidly. This capacity must embrace two essential components, one operational and the other political. The first is true global mobility—mobility that is totally credible and impossible to contain. The second is the right to sail and take up station without subjecting the United States to involvement with any other state.

This kind of flexibility makes possible the calibration of our responses precisely to the situation at hand. It draws on the Navy's unique ability to position itself at sea near foreign countries without entering the territory of friend or foe. It permits the movement of forces and supplies past the coasts of other countries irrespective of their view of the mission.

In conjunction with the political as well as logistical capacity of our air forces to deliver material rapidly to our friends, we thus preserve the opportunity to persuade them to refrain from steps that would otherwise accelerate localized arms races.

Two accelerating developments in the law of the sea challenge these operational and political premises. First, great seaward expansion in coastal state claims of sovereignty reduces the area in which deployment can remain outside the claimed territory of actual or potential combatants. Second, these claims vastly increase the number of legal chokepoints around the world—mainly straits and archipelagoes—where naval and air transit is essential to the deployment.

These developments, which have not yet run their course, add greatly to the risk and cost of deploying global naval forces. True, once a catastrophic crisis is upon us, the question of risk and cost may be cast aside. It is in our preventive missions and our capacity to deter such a crisis that restraints are most acutely felt.

If deployments to far-flung regions of the world require that we defy the claims of third states along the way, they entail a high risk of political, economic, or even military conflict. What is then left of the credibility of our readiness to move forces into an area if and when necessary? What is left of routine deployments past such states? What political, economic, or military concessions will be demanded of us if we are forced to negotiate bilateral agreements to preserve a right to send warships and military aircraft through other states' claimed waters? Most states, be it noted, have no interest in exercising the same rights off our coasts. What new forms of rivalry will face the major maritime powers if they can preserve military and commercial mobility at sea only by gaining influence over strategically located coastal states?

The net effect is to reduce intermediate options, forcing choices more and more in the direction of either inaction or serious conflict. The only way to bring this deteriorating situation under control is by shaping the assumptions of foreign coastal states about their rights and our rights in the oceans. This is not a matter of who has the superior legal argument. Foreign perceptions will continue to dictate the scope of operational risks and costs.

Thus, the ability of the United States to execute its preventive mission depends upon the existence of a consensus—a consensus of geographically significant coastal states—on rules compatible with the routine global deployment of our forces.

Analysis of the law of the sea, particularly by lawyers, tends to focus on legal substance while ignoring the importance of international consensus in maintaining the international environment needed to support optimum flexibility in global deployments. It is not enough merely to insist that freedom of navigation and overflight beyond a narrow territorial sea and unimpeded transit through, under, and over straits are essential. Nor is it enough to be prepared to assert our rights in the face of challenge. Our strategic objectives cannot be achieved unless the legitimacy of these principles is sufficiently accepted by the world at large that their observance can be carried out on a routine operational basis.

A new element of uncertainty has been added by the recognition that coastal states are entitled to exercise some forms of control far out at sea. Indeed, the United States, with passage of the Fisheries Conservation and Management Act of 1976, established a 200-mile zone in which all fishing activity would come under American jurisdiction. We are thus no longer in a position to base our global mobility on narrow limits of coastal state control for all purposes. Our mobility must be based on accepted distinctions between types of control.

The ocean environment I have described is neither stable nor predictable. The complicating factors stand out starkly:

First, 12-mile territorial seas would affect more than 100 straits around the world narrower than 24 miles. Among these are the Strait of Gibraltar, the Strait of Malacca, connecting the Pacific and Indian Oceans, and the Strait of Hormuz at the entrance to the Persian Gulf. There must be free transit of such straits.

Second, 200-mile fisheries or economic zones cover roughly 40 percent of total ocean area. If these ever come to be regarded by coastal states as their territory, most of our Navy's operational waters will be removed from the exercise of freedom of navigation and overflight. Checking the expansion of coastal state powers in waters that for some purposes are concededly under their jurisdiction becomes more difficult every day. It matters little that it was Soviet overfishing that originally caused a foreign state to declare 200-mile territorial sea if that claim subsequently leads to restraints on navigation either directly, or by encouraging similar claims.

Third, scores of developing states, with their newly asserted nationalism rampant, are in control of the coastlines along which our ships and aircraft must pass. Many of these Third World states have acquired patrol fleets and other craft capable of interdicting naval, commercial, and research ships steaming off their shores. Taken together, this increases the possibility of prejudicial claims, the risk of ignoring them, and the number of situations in which the overt exercise of high-seas rights would be needed to alter perceptions.

Clearly, then, the United States has a major interest in promoting the development of a widely accepted body of international law for the oceans. We must have a legal environment in which our own perception of our rights is unchallenged. This means the right of navigation and overflight free of foreign control, free of substantial military risk, and free of economic or political cost. We know that the old rules are no longer adequate to sustain such a legal environment. We have no choice but to adapt and supplement them. And in the circumstances it is apparent that a universal treaty—if the rules it contains are adequate—would be the most effective basis for maintaining the necessary global legal environment over time.

The negotiating text now before the Third United Nations Conference on the Law of the Sea, if incorporated in a widely ratified Law of the Sea Treaty, would meet this need.

First, by establishing a 12-mile maximum limit for the territorial sea, the text would prohibit further assertions of sovereignty by coastal states beyond 12 miles, and roll back some existing claims.

Second, under the text we would enjoy free and unimpeded passage through, under, and over straits and archipelagic waters. The provisions on these subjects emphasize the obligations of transiting states rather than the right of coastal States to control transit. This approach is designed to protect legitimate coastal state interests without permitting coastal State interference with transit. As you might expect, the only significant exceptions pertain to enforcement of internationally approved maritime safety and pollution measures.

Third, the text provides for an economic zone extending up to 200 miles from the coast. The most important aspect of the economic-zone text is that coastal state rights in the 200-mile zone are not open-ended. They are carefully circumscribed, and relate primarily to control of living and non-living resources. We would continue to enjoy full high seas freedoms in the economic zone for the purposes of navigation, overflight, and related operations.

Fourth, under the text we would be able to bring suit against a state that interferes with navigation or overflight. Compulsory third-party settlement of disputes would give us an important new option in our efforts to control and discourage claims that erode high-seas freedoms. This option would help relieve us of the agonizing choice between acquiescence and costly defiance each time a claim is made. In addition, the possibility of suit would strengthen the advocates of reason and restraint within foreign governments.

Significant though these benefits would be, we will not sacrifice any basic American interests to gain them. A Law of the Sea Treaty would deal with far more than navigation and overflight. Serious deficiencies exist in the current negotiating texts on deep seabed mining and the conduct of marine scientific research. We will insist on what we believe to be the improvements necessary to protect our interests in these matters. We will not accept a treaty unless they are forthcoming. In Samuel Eliot Morison's words, we will "have faith!" we will "hang on!" and do our utmost to bring negotiations to a successful conclusion.

Still, any treaty that has any prospect of widespread acceptance will have costs as well as benefits. Its measure is not whether it is better than the law as we would write it if we could. The measure is whether it is better than the situations most likely to evolve without it. All American interests must be weighed in making this decision. We can expect serious national debate if and when a Law of the Sea Treaty comes before the Senate. It is imperative that those concerned with national security ready themselves to take part in the debate, not just on the adequacy of the navigation articles, but on the overall effect of acceptance or rejection of a treaty on our national security posture well into the next century. Silence and indifference on this basic issue could lead potential adversaries to dangerous—and I trust erroneous—conclusions about the Navy's—and America's—perception of our future role in the maintenance of peace and security.●

UNANIMOUS-CONSENT REQUEST—H.R. 4930

Mr. ROBERT C. BYRD. Mr. President, there is a matter I wish to resolve once and for all.

There has been a request to delay the order for the beginning of the order on tomorrow. I have had a request to delay it until 4 p.m. and I have had a request to delay it until 12:30 p.m.

So I will start with the most difficult one first and ask unanimous consent that the order to proceed tomorrow at 12 o'clock noon on the matter that was carried over on yesterday be modified to provide the Senate proceed at the hour of 4 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I do so with reluctance, but I have a request from two Members on this side to object to a request to change the time for consideration of the Javits amendment. So it is with reluctance that I must tell the distinguished majority leader that contrary to the conversation we had just a few moments ago it is not possible.

Mr. ROBERT C. BYRD. All right.

I make the second request, which is not so strenuous a one. I ask unanimous consent that the order which was to begin running tomorrow at 12 noon begin running instead only just 30 minutes later, 12:30 p.m.

The PRESIDING OFFICER. Without objection——

Mr. BAKER. Mr. President, no, no. I have to be the heavy one more time, Mr. President. I am sorry, but I must do that. I object.

Mr. ROBERT C. BYRD. All right. That takes care of it.

I yield.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the distinguished Senator.

RECENT CHANGES IN THE FEDERAL RESERVE BOARD'S POLICIES AND ACTIONS

Mr. THURMOND. Mr. President, in recent days there seems to be an endless stream of comments and reactions to the October 9 announcement by Federal Reserve Board Chairman Paul Volcker of the Board's program of new monetary restrictions. Public concern for this very important matter is good, of course, and it is applauded. We must, however, continue to maintain our overall perspective that correctly perceives monetary policy as only one part of the complex pattern of problems causing inflation.

Mr. President, so that we will not lose sight of the overall inflationary problem facing our Nation, and so that we will continue to direct our attention to several basic approaches that we must use to combat inflation, I wish to call the attention of my Senate colleagues to several recently published articles that deal broadly, yet specifically, with inflation problem solutions.

The content of these articles, viewed either separately or all considered together, emphasizes the need for appropriate congressional and administrative fiscal policies and actions to complement and undergird the monetary policies and actions of the Federal Reserve Board. Many of these commentators and columnists address the problem in a manner similar to that expressed earlier by Dr. Arthur Burns, as cited to this body on October 10 by the distinguished senior Senator from Illinois, Mr. PERCY. Briefly stated, the former chairman of the Federal Reserve Board suggested that we:

First. Revise the budget process to make deficits less likely;

Second. Implement a comprehensive plan that would eliminate anticompetitive and overly costly regulations;

Third. Endorse restrictive monetary policies; and

Fourth. Reduce business taxes to increase productivity performance.

Mr. President, as stated in one of the articles, "it is important for Americans—especially those in Congress—to remember that tight money alone is not a balanced, effective program to reduce inflation." Certainly we of the Congress have a tremendous responsibility to face these problems of inflation head-on and to not back off until we see the positive results achieved for the long-term best public interest.

The articles to which I refer are:

First. An editorial in the September 26, 1979 issue of the Houston Post;

Second. An editorial in the September 27, 1979 issue of the Dallas Morning News;

Third. An editorial, "Support Mr. Volcker," in the October 8, 1979 issue of the Wall Street Journal;

Fourth. An editorial, "Hitting the Brakes—Harder," in the October 9, 1979 issue of the Washington Post;

Fifth. An editorial, "Now, the Wringer * * *," in the October 11, 1979 issue of the Washington Post; and

Sixth. An article, "The Fed in Charge," by Robert J. Samuelson in the October 13, 1979 issue of National Journal.

Mr. President, in order to share these informative and thought-provoking articles with my colleagues, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Houston Post, Sept. 26, 1979]

EDITORIAL

"Recent action on the 1980 federal budget indicates a growing realization in Congress that this country cannot spend its way out of the recession. This is encouraging if it carries over into the election year. Proposed tax cuts of $20 billion or more were turned down by both the House and Senate. The House rejected the entire budget of $548.4 billion, including a $29.3 billion deficit. The Senate approved a budget of $546.3 billion, which would leave a deficit of $31.6 billion after pruning tax reductions. Differences will be worked out in a joint conference. Congress' action in opposing big tax reductions at this time, however popular the idea of lower taxes might be among constituents, is encouraging.

"Excessive tax reduction could cost us more than is saved by fueling inflation and reducing the value of the dollar abroad. Inflation has already reduced the real purchasing power of the average worker by 4 percent within the last 12 months. Further, the Carter administration and Congress need to demonstrate to the rest of the world that we are taking positive steps to combat inflation. Foreigners hold billions of U.S. dollars and dollar-denominated assets, including oil. If inflation is allowed to further erode the purchasing power of our dollars, the temptation will grow for foreign investors to switch to stronger currencies. This would weaken the dollar even more, add to inflation and wipe out benefits from any lowered taxes.

"Paul Volcker, the new chairman of the Federal Reserve Board, said the rest of the world is not yet convinced that the Carter administration and Congress are doing all they can to reduce inflation, and any deep tax cuts would increase their doubts. One example of the importance of showing the world we are determined to strengthen our economy is that some $42 billion that we have spent on foreign oil has come back home as short-term investments by Middle East countries. It benefits our economy that those investments continue and grow.

"Economic pump priming does not work as it did in the days of the New Deal, when economists' stock prescription to cure recession was a mixture of tax cuts, increased government spending and lower interest rates. That formula now has a different name, 'demand management,' and produces inflation. The consensus is that some tax cuts will be enacted in 1980 because it is an election year, but the consequences should be carefully considered by Congress."

[From the Dallas Morning News, Sept. 27, 1979]

EDITORIAL

"Federal Reserve Board Chairman Paul Volcker has left little doubt that he intends to guide the board into a more conservative monetary policy. The latest move was an increase in the discount rate—the rate the Federal Reserve charges member banks to borrow money—to a record 11 percent.

"The intent is to drive interest rates to a point high enough to discourage borrowing, thus the expansion of the nation's money supply. Money growth targets set by the reserve board have been exceeded throughout the year, creating the classic case of too many dollars chasing too few goods. Or in consumers' language: inflation.

"Historically, high interest rates have slowed consumption. But there is some question whether the increased rates will have an impact on a society infected with an inflation mentality.

"The action of the Federal Reserve Board is courageous, however. In the past, the board often has reacted too late with too little action, primarily, some observers say, because the standards used to measure money supply growth are outdated and reflect trends too late for effective action. Also the board hasn't stuck to its guns under public criticism, such as that already rumbling in Washington over the latest interest rate hike.

"The trick is to maintain money supply growth at approximately the same rate as the real expansion of the gross national product. Too tight a money market can deepen the recession. But, as polls show, Americans are most concerned about inflation. The board's latest gamble is worth the risk."

[From the Wall Street Journal, Oct. 8, 1979]

SUPPORT MR. VOLCKER

The new Federal Reserve anti-inflation package is the most hopeful economic policy development in over a decade, clearly signaling a determination to break the back of the inflation that has wracked the economy. It is not as sharp a break with immediately preceding policy as the dollar-support package of a year ago, but it is a change of a far more sweeping and fundamental character.

Saturday night Fed Chairman Volcker announced the three-part package. The Fed unanimously voted a full point increase in the discount rate. It will now concentrate on direct control of bank reserves, subordinating its previous attempts to peg the interest rate for federal funds. And it will impose new reserve requirements on a wide range of managed liabilities—certificates of deposit, repurchase agreements, Eurodollar borrowings. Each of these steps has been a subject

of intense controversy, and in each case the Fed has now clearly come down on the side of the argument that gives maximum priority to curbing inflation.

It is particularly significant that the discount rate vote was unanimous. The most recent slide in the dollar started with the 4-3 vote on the last increase, the dissenting votes was suggesting that Mr. Volcker was losing control and might not be able to move further if necessary. These fears should be quieted now that the dissenters are back on board, and even the White House is issuing generally supportive statements.

This show of determination is further underlined by the decision to target bank reserves directly and accept whatever effect this may have on short-term interest rates. Since Mr. Volcker took over the reins of the Fed, he has been running a valiant but losing race with interest rates. The Fed has been raising its Fed funds targets, but the market has been pushing rates up even faster. The result has been that the Fed has actually been injecting bank reserves, and thus expanding rather than contracting the supply of money and credit.

Under the new policy this will cease. Short-term rates may rise, though long-term rates may fall as inflationary expectations are reduced. The importance of short-term rates has been grossly overestimated through the influence of Keynesian econometric models; long rates are the ones important to capital spending and investment. The new policy puts the priority where it belongs: clearly the most pressing need for the economy is to control inflation.

The third step of imposing new reserve requirements will be controversial because of its effect on bank profits. Reserve requirements are in effect a tax on the banks, and the tax grows heavier with high inflation. This step will impose real costs: U.S. banks will become less competitive with foreign banks in the Eurodollar markets, for example, and the exodus of banks from Fed membership may speed. Even more worrisome, the pressure to escape reserve requirements is so intense the new controls may only produce even-more-exotic financial innovations.

In terms of long-range policy, we have our own doubts about this part of the package. At least in less-turbulent markets, the better case probably lies with lower reserve requirements, not higher ones. But at the same time, the mushrooming of managed liabilities clearly has complicated the Fed's task of trying to control money and credit, and some would argue that it makes the task an impossible one. Here again, the Fed has come down on the side of the argument that gives it the maximum chance to control inflation, and this deserves support.

Mr. Volcker will need plenty of support if the slide toward recession now accelerates. But after the experience of the last few years, the notion that monetary policy can fight recession is at best tattered. If inflation is not curbed, in any event, the result can only be a deeper and less controllable crash later. Since 1965 inflation has ratcheted ever higher with each turn of the business cycle, with no offsetting gains in production or productivity. It is past time for a decisive step to break that spiral, and Mr. Volcker's package is the best hope we have.

[From the Washington Post, Oct. 9, 1979]

HITTING THE BRAKES—HARDER

The Federal Reserve Board's shift of strategy is dangerous but, unfortunately, justified. The Fed is in the position of a driver who has stepped on the brakes only to discover that the car seems to be speeding up. The Fed will now brake much harder, without knowing exactly how the vehicle will respond. Perhaps it will stop too suddenly for safety. The Fed has decided to take that risk. All it knows with certainty is that by far the greater risk is rising inflation.

Two weeks ago the Fed raised interest rates by a split vote that seemed to be leading to a long pause for internal debate and stock-taking. Instead, on Saturday, the board moved again, forcefully and unanimously. Several developments last week account for it. The producers' price index was published, adding to the evidence that—contrary to the government's forecasts—inflation was accelerating. The unemployment rate fell, strengthening the impression that the recession may unexpectedly have postponed itself. Meanwhile, at the Belgrade meeting of the International Monetary Fund, U.S. officials found themselves confronted with the full range of European anxieties over a sinking dollar.

The Fed had to act. But past experience is no longer a reliable guide to the economy's responses. An example: during the last great tightening of interest rates, from 1972 to 1974, housing starts dropped 40 percent. During the much steeper tightening that began in 1977, they have dropped very little. Why? Because most people now expect high inflation to continue indefinitely, and they consider investment in houses to provide protection from it. People are coping with inflation in ways that make inflation worse.

The government is now trying to damp down credit-fed speculation—in real estate, gold, silver, antiques and all the rest—without crippling the real economy that produces goods and creates jobs. To reduce the current surge of borrowing, the Fed did two things Saturday. It raised one key interest rate that will in turn raise others. It also changed the basic principle on which it steers monetary policy. It will no longer try to maintain target interest rates. Instead, it will rely more heavily on raising the reserves that banks are required to maintain. That's another way to try to hold down the growth of the money supply.

How well will it work in practice? That is a question for next year. The signals last week required action by the Fed. Higher rates are necessary, and the Fed has met its immediate responsibility. But it is important for Americans—especially those in Congress—to remember that tight money alone is not a balanced, effective program to reduce inflation.

[From the Washington Post, Oct. 11, 1979]

NOW, THE WRINGER . . .

Recession, aggravated by high interest rates, lies ahead. The shock of the unprecedented rates has already reached the financial markets. But by last week the economy had arrived at a condition that left no alternative to higher rates and more unemployment. Having rejected all the other methods of controlling inflation, the country is now going to rely on the roughest, riskiest and most bruising of all.

It wasn't that President Carter deliberately chose it, or the Federal Reserve Board or Congress. The country as a whole refused all the other possibilities. They all seemed too foreign to Americans' accustomed ways of conducting their public and private business. But for the future, it's worth remembering that there are other strategies than this sole reliance on the wringer to stabilize prices.

There have been a number of ingenious proposals to enforce wage-price limits. One was the Carter administration's wage insurance plan, which offered promise of tax credits as incentives to hold wage demands down. Neither labor nor employers would touch the idea, and it quickly died in Congress.

Rising oil prices have imposed severe costs on the country. How are those costs to be shared? Because Americans still haven't worked out an answer, many of these costs are still being passed around through the economy. As the oil experience illustrates, most Americans have now organized themselves well for protection against those rising costs. Americans belong to trade associations, labor unions, interest groups and political lobbies, manifold and overlapping. The idea is to catch up with prices and keep even. To the extent that people succeed, those costs get passed along to other people and the inflation continues.

Currently the international champions in controlling inflation are the Germans and the Japanese. Both are highly disciplined populations where social consensus carries unusual force.

In the United States, in contrast, people take pride in mistrusting their government, and they consider adversary relationships to be normal. These traditions have served Americans well—as the comparison with German and Japanese history makes plain—and perhaps controlling inflation is not the most important test of a political philosophy. But the American style—loose-jointed, competitive and litigious—makes any social compact exceedingly difficult to achieve.

Ending inflation requires Americans to do without some of the things to which they are accustomed—starting with cheap gasoline. It means accepting, for a time, slightly lower living standards and economic growth rates than in the recent past. If all Americans could agree to share these setbacks, they would not weigh heavily on anyone. The Germans and the Japanese have managed something of the sort. But in this country, it hasn't worked. That's why the United States is now being reduced to relying wholly on the wringer—with the costs of economic contraction to be loaded disproportionately onto the most vulnerable people in American society.

[From the Economic Focus]

THE FED IN CHARGE

(By Robert J. Samuelson)

We are flying by the seats of our pants. The Federal Reserve has resorted to an old-fashioned squeeze to exorcise inflation. The question is whether it can be done effectively or whether we are about to slip into a period of stop-go policies during which the unemployment and inflation rates periodically flutter past each other, while both remain at historically high levels.

At best, that may be the outlook for the next year. Some relatively optimistic economists think that the inflation rate—now fluctuating between 12 and 14 per cent—might decline to 6 to 7 per cent by the end of 1980. Meanwhile, the unemployment rate, now 5.8 per cent, could well sail toward 8 per cent.

All the political rhetoric notwithstanding, the government has effectively abandoned its effort to achieve the utopian vision of "full employment" and price stability. Mostly, it's muddling along, struggling to find a combination of inflation and unemployment that is tolerable to most people.

The latest thunderclap from the Federal Reserve System only confirms the emergence of monetary policy—that is, the government's regulation of the money supply and interest rates—as the chief tool in this graceless balancing act. This reflects political expediency and, compared with the 1960s, a greater emphasis in fighting inflation.

Politicians prefer to cut taxes and increase spending rather than the reverse, which would be the logical anti-inflationary policy. Even if they were so inclined, the budget process is mechanically cumbersome and time-consuming.

By contrast, the administratively "independent" Federal Reserve can act quickly on its own. And then Members of Congress can enjoy the political luxury of lambasting the Fed no matter what it does.

At one level, the Fed's latest moves consti-

tute a traditional attack on what it regards as excessive lending. By making less money available to banks, the Fed hopes to slow down their lending and, thereby, take pressure off prices. Consequently, the Fed raised to 12 per cent its discount rate—the rate at which commercial banks can borrow from the Fed itself—and, more important, imposed a new 8 per cent reserve requirement on many of the banks' large sources of funds, such as certificates of deposits of $100,000 or more. This means that banks must put aside 8 per cent of any additional funds from these sources.

Together, these actions raise bank costs and make it more difficult for banks to compete for new deposits, thus reducing the funds on hand for loans and forcing up lending rates. Already, the "prime rate," which banks offer to their best corporate customers, has jumped to a record high of 14.5 per cent.

But the process isn't confined to bank lending. Housing, for example, is likely to be hit hard, not because the Fed has directly raised mortgage rates, but because its policies have that effect. Consider the chain reaction.

To relieve their own cash, squeeze, commercial banks are likely to sell some of the U.S. government securities—bonds, notes—that they hold. This drives prices down and interest rates up: a $10,000 bond with an interest rate of 9 per cent will pay an effective rate of 10 per cent if the price drops to $9,000.

At this point, depositors at savings associations—the largest mortgage lenders—would be encouraged to withdraw their funds and buy these higher yielding securities. The associations will either have less money to lend or will have to pay higher interest rates to depositors and, then, raise their own mortgage rates. By raising monthly mortgage payments, those higher rates in turn may deter families from borrowing.

The mechanics of this squeeze are relatively straightforward, but at a second level, the Fed has promised to alter the way it regulates the flow of money into the economy—a change that, potentially, would rank among the major shifts in economic policy since the end of World War II.

If you regard inflation simply as too much money chasing too few goods, the cure is simple enough: make sure that you don't create too much money. To its critics, the Fed has been doing precisely that for years.

The basic process for affecting the money supply is simple and won't change. By buying U.S. government securities from banks, the Fed supplies them with new money. By selling securities, it withdraws money. Depending on the magnitude and direction of these "open market operations," the Fed can undo all its other policies.

In the past, the Fed has conducted these operations by using the "federal funds rate"—the interest rate at which banks lend to each other—as a target. When the funds rate dropped below the target, the Fed sold securities and mopped up money; when the rate exceeded it, the Fed bought securities and added money.

Disaster, said the critics. Watching interest rates led the Fed to supply too much money, leading to inflation. Now the Fed says it won't use the federal funds rate as a target, but will attempt to control the money supply directly by emphasizing the amount of new funds supplied to banks.

All this raises as many questions as it answers. A slumping economy may temporarily reduce inflationary pressures, but it also stunts new sources of supply. Take housing. If we discourage construction today, we may simply create more frustrated demand—and more inflationary pressures—tomorrow. The same problem applies to basic investment.

Nor does a reduced money supply translate immediately into lower wage and price increases. It depends on how workers and firms respond—a subject of violent dispute among economists.

One school believes that today's wage increases primarily reflect yesterday's inflation, which means that any stringent effort to reduce the money supply will mean a severe and protracted slump. Another school argues that once it's clear that money availability won't be relaxed, workers will accept lower wage increases and firms—struggling to conserve limited cash—will demand them. Even then, the transition period to low inflation might involve three to five years of slow growth.

If the Fed is as determined as it sounds, last week was not—to paraphrase Churchill—the end, or even the beginning of the end, but only the end of the beginning.

THE REAL ATTITUDE OF NATO ON SALT II

Mr. THURMOND. Mr. President, an important article by the distinguished editor-in-chief of the Hearst newspapers, William Randolph Hearst, Jr., was released to the public recently.

Mr. Hearst reveals that Brian Crozier, an expert on European affairs who recently retired as director of the prestigious London-based Institute for the Study of Conflict, contends our NATO allies actually oppose SALT II despite their public statements.

Mr. President, both Mr. Crozier and Mr. Hearst deserve the appreciation of this country for bringing to public attention this very important opinion. It has come at a timely moment as the Carter administration pursues its old tactics of threatening the Senate with the collapse of NATO if the SALT II treaty is rejected.

Mr. President, I ask unanimous consent that this editorial published in the Hearst newspapers October 7, 1979, by Mr. Hearst be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SALT II: THE SILENT TREATMENT

(By William Randolph Hearst, Jr.)

NEW YORK.—We are now being asked to "trust" the Soviets in the matter of the Cuban brigade and to sign an agreement with them in the matter of SALT II—the Strategic Arms Limitation Treaty.

A simple question arises. Why?

It is part of the Soviet credo, laid down by Lenin himself, that if a signed agreement later turns out not to suit communist purposes, it is their duty to break it.

Pope John Paul II may be the most influential figure in the world today, notes columnist Jeffrey Hart of King Features Syndicate. It is not to be forgotten that he comes to the West from the communist world. So does that other influential world citizen, also mightily respected, Aleksandr Solzhenitsyn.

Both have seen first hand how Nazis work and how communists work. Both systems are cruelly autocratic; neither has any regard for commitments. Remember when Hitler signed a non-aggression pact with Russia and broke it when it suited him.

It should not be overlooked that such distinguished Americans as retired Naval Admiral Elmo Zumwalt, former chief of naval operations and Paul Nitze, former secretary of the Navy, and one of the negotiators on the SALT I treaty have come out strongly against SALT II. Lt. Gen. Edward J. Rowny, Joint Chiefs of Staff representative on the American SALT delegation for six years, quit the Army in June in order to testify against the treaty in July that it would establish American strategic inferiority and endanger American security.

Also about 75 retired generals and admirals—people who should know what they are talking about—have expressed their opposition to the signing of the treaty.

Now I would like to share with you significant portions of a letter sent by my friend Brian Crozier who retired last month as director of the prestigious London-based Institute for the Study of Conflict. The author of "Strategy of Survival" writes me as follows:

"There is a conspiracy of silence in the European capitals about the SALT II treaty. Chancellor Schmidt of West Germany has publicly praised it, and so has President Giscard D'Estaing of France, in oblique terms. Even Britain's Iron Lady, Mrs. Margaret Thatcher, has expressed the hope that the U.S. Senate will ratify it. Dutifully, Foreign Secretary Carrington and Defense Secretary Pym have echoed her hope.

"The strange thing is that in private these distinguished figures speak in quite different terms, for they are intelligent people and, whatever their degree of expertise, they are quite capable of grasping the fact that the draft treaty is disastrous for Europe's security (and therefore for NATO's and America's).

"Why do they keep their doubts to themselves when making public speeches or statements? I think I know.

"One reason has been relentless pressure from the White House and State Department; private letters from President Carter; amiable but forceful lunches or dinners hosted by American embassies.

"But there are other reasons. Take Britain. The aged fleet of Polaris-equipped submarines, constituting Britain's 'independent nuclear deterrent,' put together by a triumphant Prime Minister MacMillan after his meeting with President Kennedy at Nassau, Bahamas, in December 1962, now looks sadly obsolete.

"The rub is: Where does Britain's next 'indepednent t' deterrent come from? Who has the technology? There is only one answer, and Jimmy Carter knows it, as does Secretary Vance.

"There is another consideration, valid for the European members of the alliance as a whole, and it concerns theatre weapons, including 'mini-nukes,' of which the United States stationed some thousands in Europe years ago. Since everybody agrees that the Soviets enjoy a massive superiority in theatre weapons, something will have to be done to build up NATO's capability in Europe if the alliance is to regain lost credibility.

"Again, where are the theatre weapons to come from? There is only one answer, and President Carter knows it. So do Chancellor Schmidt and Prime Minister Thatcher.

"The argument therefore runs. We know SALT II is a dangerous treaty for European security, but we are not going to say so publicly because we need U.S. military technology, and we may not get it if we speak our minds. The mood in Europe, therefore, is a kind of neo-appeasement. We appease the Russians because they want SALT II to be ratified by the U.S. Senate; and we appease Jimmy Carter because that is what he wants, too.

"President Giscard, with France's own nuclear deterrent (a pretty formidable one, despite the critics), can afford to be slightly aloof in this crucial debate, but only slightly. He values his special relationship with Herr Schmidt and will go a long way to please the German chancellor. As for Schmidt himself, he is obsessed with the weight of the extreme leftists and anti-Americans in his ruling Social Democratic Party (SDP)—men like Egon Bahr, the party manager, and ex-Communist Herbert Wehner, its leader in the Bundestag. Those men want an accommodation with the Soviets. Schmidt does not and needs his American allies all the more, even if he happens to think less of Jimmy Carter than of previous presidents.

"Henry Kissinger, when he guided President Nixon toward SALT I in 1972, and went to Vladivostok with President Ford at the end of 1974, believed the U.S. would go on to build the new weapons that were still on the drawing board. He thought that within the five-year span of SALT I, the U.S. would have the supersonic B1 heavy bomber, cruise missiles with unlimited range and the emotively-termed neutron bomb (enhanced radiation warhead). Ed. note: More effective than the proliferated mini-nukes now in place but free from widespread radioactive fallout.)

"Instead, President Carter canceled the B1 program, halted work on the neutron warhead, and voluntarily restricted the range of the land-based cruise missile."

Noting that the SALT treaty is supposed to cover all strategic weapons, simply defined as nuclear weapons that can reach either the United States or the Soviet Union, Mr. Crozier pointed out that the formidable Soviet SS-20 medium range missiles are classified as "theater weapons," although they are capable of destroying all of NATO's installations in, say, half an hour. Some theater weapon.

"At present," he added, "NATO has no answer to the SS-20. A land-based cruise missile capable of hitting Soviet targets from western Europe would have helped, but under SALT II, the Americans have restricted its range to 320 miles—just short of Soviet territory. Again, the 'neutron bomb' is about the only weapon capable of stopping a Soviet tank offensive in its tracks. But Jimmy Carter has dropped that option as well.

"So, to put it in plain language, SALT II leaves western Europe naked and exposed. That is why we hope the Senate will reject it, and that is what Europe's conspiracy of silence is all about."

This information may strike you as incredible, but believe me I would not be publishing it unless I knew my friend, Brian Crozier, to be a very reliable, well-informed expert on European affairs.

Nor is he the only source from whom I have heard that the European leaders say one thing about the SALT treaty publicly, and privately think the contrary.

I have been told that West German Chancellor Helmut Schmidt justifies his public position on the grounds that he fears that if he opposed the Carter administration on this issue, the German Federal Republic might lose the 2-key system for the firing of American nuclear weapons stationed on German territory. Under that system, a German officer has to turn one of the two keys required to launch a tactical nuclear warhead. The other key is held by an American officer.

Deplorable as it may be to mislead the public, it would not be the first time that heads of government have felt it to be in the national interest to tell the public one thing while they believed the opposite.

U.S. RESOLVE ON TROOPS CRUMBLES

Mr. THURMOND. Mr. President, mail received in my office and editorial comment in South Carolina newspapers indicates that the citizens of my State were very disappointed in the position taken by President Carter in his television response to Soviet combat forces in nearby Cuba.

My own reaction was that the United States cannot continue to do nothing about the Soviet buildup in Cuba. We failed to respond when the nuclear capable MIG-23's were positioned there last year. We have raised little complaint relative to the new naval base there and increased Soviet submarine and bomber activity in the Caribbean. The Soviets will continue to upgrade their forces in Cuba as long as our response amounts to nothing more than hollow complaints or meaningless military maneuvers.

Mr. President, typical of the response in the South Carolina press to this situation was an editorial entitled "U.S. Resolve on Troops Crumbles" which appeared in the October 9, 1979 issue of the Aiken Standard newspaper in Aiken, S.C. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

U.S. RESOLVE ON TROOPS CRUMBLES

A few weeks ago, President Carter told the American people that "we consider the presence of a Soviet combat brigade in Cuba to be a very serious matter and that this status quo is not acceptable." Two days earlier, Secretary of State Cyprus R. Vance declared that the United States "will not be satisfied" if the Soviet army brigade remains in Cuba.

It took less than a month for the administration's resolve to crumble in the face of Soviet intransigence.

Mr. Carter's televised speech to the nation the other night amounted to an acceptance of the continued presence of the brigade on Soviet terms. Now, the unacceptable has become acceptable.

The world is left to wonder why the president eschewed political and economic initiatives that could have squeezed the Soviets and provided them real incentives either to withdraw or at least disband the brigade. Instead, Mr. Carter outlined a series of actions remarkable largely for their impotence. Nothing in the empty "assurances" Mr. Carter said he received from Moscow will deflect the Soviets from their obvious desire to transform Cuba into an increasingly formidable fortress at the strategic mid point of the Western Hemisphere.

The president plans to shuffle a few ships, planes and Marines around the Caribbean. These forces will conduct more frequent military exercises. And the electronic and photographic surveillance of Cuba, which Mr. Carter had foolishly suspended until this summer, will be increased—presumably to count troops and weapons whose arrival Washington seems helpless to prevent.

Otherwise, it's business as usual. The President reaffirmed his support for "detente" despite the fact that its observance seems confined to Washington. He warned ominously of any return to the Cold War, although the Soviets appear never to have departed from it. Likewise, it escapes Mr. Carter's grasp that American interests and security were far less threatened during a time when this country acknowledged the Soviet threat and acted accordingly.

The president coupled all this with the kind of overblown rhetoric we've come to expect in support of the SALT II treaty. At one point, he linked ratification of the treaty to the "survival of the human race."

In sum, the Soviets have successfully breached the Monroe Doctrine which helped keep foreign fighting forces out of the Western Hemisphere for 150 years. In its place, Moscow has substituted a version of the Brezhnev doctrine which holds that Soviet military forces are free to act as they will in "fraternal socialist states"—in this case, Cuba.

And notwithstanding President Carter's warning that the United States would resist Soviet-Cuban intervention elsewhere in the hemisphere, his faltering response to the discovery of a Soviet combat brigade in Cuba will inevitably embolden Moscow and Havana to press their new advantage.

FEDERAL EMPLOYEE PAYCHECK PROTECTION ACT

Mr. STEWART. Mr. President, I would like to announce my cosponsorship and full support of S. 1884, the Federal Employee Paycheck Protection Act. This bill, introduced by the distinguished Senator from Colorado, Senator HART, would separate the appropriation for a Federal agency's operations and programs from the appropriation for its employees' salaries.

As a freshman Senator, I was rather amazed to see that our military service men and women and our Federal employees could have their earned salary checks either partially or completely withheld because the Senate and the House could not agree on the issue of a congressional pay raise or on the language relating to abortions. Those who suffer the consequences of our disagreement neither participated in the debate nor were a part of the issues involved.

This is not the first time that our military personnel and Federal workers have had their incomes, and consequently, their daily lives disrupted by an unrelated dispute in Congress. But, we can act now to make it the last time this happens.

I am not arguing to change the deliberative nature of this body, nor am I attempting to minimize the issues which caused the dispute. I am, however, arguing that a group of our hard-working constituents should not be held hostage to our inability to reach agreement in Congress. No one here has disputed the obligation of our Federal Government to pay its employees on time, yet that obligation has not been met in full as a result of our recent stalemate.

Surely you all received phone calls—as I did—from folks back home who wanted to know why they were not going to receive a full paycheck this month. I am sure many of you shared the feeling of absurdity I felt when I had to explain that because the House wanted a congressional pay raise and the Senate did not, then millions of Federal workers were not going to get their pay on time. There is no logic in that situation, so let us change the procedures to prevent its future occurrence.

Frankly, I do not want the thousands of Alabamians who are Federal employees and all the military personnel in Alabama to find themselves facing, through no fault of their own, payless or half-pay paydays again. After all, do we think that these workers can send their creditors, their landlords or mortgage holders, and their utility companies our excuses in lieu of their bill payments? Moreover, I do not think anyone here believes that a Federal worker should be forced to take money out of his or her savings account or suffer a bad credit report because Congress is holding up their paychecks.

Nor do the ill consequences of these

appropriations procedures fall on the shoulders of our Federal workers alone, either. In the long run, all taxpayers are affected because it costs the Federal Government a large sum of taxpayers' dollars to pay the extra costs incurred in issuing Federal employees their paychecks in two half payments. This is certainly one ridiculous Government expense that we can painlessly eliminate from our future budgets.

We all talk a great deal about removing the unnecessary redtape from the Federal Government. Well, let us start by cleaning our own house first.

To be frank, with the appropriations procedures we have today, we are going to continually find ourselves placed in the unfortunate situation of having to choose whether to stick to our position on an issue and thereby hold up the paychecks of millions of Americans, or compromise a stand we believe in so as not to make our Federal employees and military suffer temporary losses of income. This is a ludicrous situation to be in, and I urge all of you to support this bill and eliminate this unnecessary occurrence.

By separating the appropriations for employee's salaries from the rest of the appropriations bills regarding Federal departments we can end these needless inconveniences and hardships to Federal employes, put a halt to an unnecessary expenditure of taxpayers dollars and, at the same time, leave intact our ability to debate an issue until we find the stand that best answers our concerns.

COMMUNITY ENERGY EFFICIENCY ACT

Mr. TSONGAS. On September 27, I introduced in the Senate the Community Energy Efficiency Act (S. 1829), which would establish a grant program to fund energy conservation and renewable resource planning, programs, and capital projects at the local level. This bill seeks to encourage initiatives in the areas of energy conservation and the development of renewable energy sources on the local level, where such efforts are often the most profitable.

By its very nature, energy conservation must be approached in small-scale applications. Within households, within communities, an awareness of the potential energy savings through more conscious energy use is the most important ingredient in our conservation effort. Local governments can play a particularly important role in this reduction of energy consumption. Community responsibility over land use, building codes, traffic control, and zoning ordinances can have a tremendous energy impact. Moreover, local governments can develop projects for low-head hydro, weatherization programs, solar demonstration projects, resource recovery from municipal solid waste, and other capital intensive projects that will further cut our dependence upon nonrenewable energy sources.

There are already community-based energy projects operating throughout the State of Massachusetts which could benefit greatly from grant moneys made available through the Community Energy Efficiency Act. Franklin County has been especially active in conservation efforts with the individual towns and county government joining together to establish the Franklin County Energy Conservation Task Force. This group seeks to pool the labor and informational resources and experience of the entire county in developing a countywide energy conservation plan, while also developing a plan to introduce renewable energy sources more fully into the energy mix of Franklin County.

In the area of conservation, the Franklin County Energy Task Force has been active in performing energy audits through its energy conservation analysis project. These audits are extremely valuable in determining what types of weatherization and insulation will be most effective in a particular household. CETA funds are being used to conduct these audits on both residential and municipal units. The inclusion of municipal buildings also reflects the task force's attempt to encourage such conservation in buildings typical of the commercial sector, which has not yet taken full advantage of the economic benefits of saving those dollars normally marked for energy bills.

The County energy task force coordinates the efforts of the individual town energy conservation committees. While the task force is necessary for the broader focus of a countywide approach in developing land use policies, these town conservation committees can suggest important innovations which address the individual character of their locality. The town of Heath, Mass., for example, is very interested in the possibility of transforming the power of the wind into electricity for commercial and residential use. Although wind patterns make such an energy source impractical for the entire county, Heath is receiving assistance from the county energy task force in the form of testing and research on the economic viability of wind power.

Solar energy is also being encouraged in Franklin County through the solar utilization for economic development and employment program. This project is training CETA workers in the techniques of passive solar applications and introducing this renewable energy source to low-income households, which are particularly vulnerable to the supply and cost problems created by our continued dependence on nonrenewable fuel sources. Not only does such a program create jobs, but it also promotes the further expansion of solar energy throughout the county.

Across the State there is another group active in solar energy—the Urban Solar Energy Association. This group is bringing together people in the Boston area interested in the various residential and commercial applications of solar power. Workshops and public meetings help both to publicize the feasibility of alternative energy sources and to provide technical assistance and guidance for those interested in developing their own solar projects.

The creation of groups such as the Franklin County Energy Conservation Task Force and the Urban Solar Energy Association opens bright new roads in our energy future. We are witnessing the development of an entirely new type of energy supplier—decentralized, scaled to the resources and needs of the community, and more attuned to the reality of a diminishing fossil fuel base.

The creativity, thoroughness, and enthusiasm of these groups and their counterparts throughout Massachusetts and the United States should serve as an example to other similar groups interested in making contributions to our efforts both to restrict energy consumption and to begin the transition to renewable energy sources. As we make conservation and renewables more active components in our national energy policy, groups such as these will play an increasingly important role in helping this country meet its energy needs. We should applaud their achievements and offer them as much encouragement, in both public recognition and Federal funding, as we can.

Clearly, the interest exists on the local level for a wide range of energy measures aimed at reducing our dependence on foreign oil and other nonrenewable energy resources. A major problem, however, has been lack of funds for expanding these efforts. We spend billions of dollars on high technology, centralized energy projects which offer little short-range relief from our energy problems, while communities throughout our country which can offer much more immediate and long-lasting energy alternatives search desperately for funds. Much has been done and is being done, but with adequate funding, groups such as the Franklin County Energy Conservation Task Force will go further and other cities, towns, and counties will also develop approaches to our energy problems that provide a more successful and appropriate response to our energy supply and consumption problems.

It is the purpose of the Community Energy Efficiency Act to provide such financial support. Though its total appropriation of $5 billion over 5 years is small compared to other energy bills. I believe that the results will prove the wisdom of promoting energy initiatives on the local level. After all, a great percentage of our Nation's energy consumption is made at the local level. Community action at that level is best suited to make that use more efficient. Energy conservation and renewable resources involve decentralized activities. To promote them we must do more than provide subsidies. We must build decentralized capacity to manage these policies and resources. The continued contributions of community groups throughout the United States such as the two I have described will depend upon sufficient funding. I urge each of my colleagues to provide that support by working for speedy enactment of S. 1829.

AUTHORIZATION FOR REPRINTING OF COMMITTEE PRINT ENTITLED "SALT AND THE NATO ALLIES"

Mr. BIDEN. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 261) authorizing the reprinting of the committee print entitled "SALT and the NATO Allies".

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BIDEN. Mr. President, last week the European Affairs Subcommittee, which I chair, issued a report entitled "SALT and the NATO Allies." Because demand for the report has proven to be so great, the initial printing of 2,000 copies is virtually exhausted. I therefore ask that the Senate approve a resolution authorizing the printing of an additional 1,700 copies. Although customarily such a resolution would be considered by the Rules Committee, it is unfortunately the case that that committee will not meet again until the end of this month, and there is a need for additional copies of the report right away, particularly because the report will be much in demand during next week's meeting of the North Atlantic Assembly. Because of this time problem, the chairman and ranking member of the Rules Committee have been kind enough to agree to the resolution being brought up right away. The cost estimate obtained from the Government Printing Office for this additional printing shows that the cost is low enough to allow authorization to be provided by means of a simple Senate resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 261) was agreed to, as follows:

S. Res. 261

Resolved, That there shall be reprinted for the use of the Committee on Foreign Relations one thousand and seven hundred copies of its committee print of the Ninety-sixth Congress, first session, entitled "SALT and the NATO Allies".

INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES AUTHORIZATIONS, 1980, CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BAYH and with the approval of Mr. GOLDWATER I submit a report of the committee of conference on S. 975 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 975) to authorize appropriations for fiscal year 1980 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. GOLDWATER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OPEC STARTS ANOTHER ROUND OF OIL PRICE INCREASES

Mr. MELCHER. Mr. President, with the announced price increases of $2.77 a barrel by Libya and $2.87 a barrel by Iran, there two OPEC nations have increased crude oil prices for the third time in less than 12 months. The latest moves by Libya and Iran alone will cost the American consumer an additional $500 million a year for direct crude oil imports. When this increase is filtered through the economy the cost will be much greater.

This is only expected to be the first move in another general round of OPEC price increases. If the rest of OPEC follows suit, it will cost the American consumer an additional $12 billion a year, and result in gasoline prices of $1.10 a gallon or more by the first of the year.

The pattern of OPEC price increases has now been pretty well established. The OPEC nations meet periodically, now about two or three times a year, and set so-called "fixed prices" for their crude oil. The fixed prices turn out to be, in fact, "base prices" upon which individual OPEC nations add additional price increases whenever they see fit. When enough OPEC nations have boosted their prices, a new OPEC meeting is called and the "base price" is moved upward to correspond to the higher individual prices of the OPEC nations. Then the cycle is repeated.

These cycles of price increases have no relationship to the cost of production or even market factors. At the last OPEC meeting in June we were assured that there would be no more price increases this year if we made efforts to halt the growth in oil imports and acted to strengthen the dollar overseas. We have taken actions to stabilize our oil imports and the dollar is stronger today against world currencies than it was in June. Yet the price of OPEC oil continues to rise. The simple truth is that the nations of OPEC understand monopoly economics and they know they can raise crude oil prices at will because there is no coordinated efforts by the oil importing countries to hold prices down.

Some in the administration and Congress keep telling us that the secret is to learn to do business with OPEC. There is no secret—OPEC is giving us the business. What we need to learn is how to do business with other oil importing nations that have a common interest in restraining the pressure that OPEC is creating to outbid one another in self-destructive competition for OPEC oil at any price.

On June 14, 1979, I introduced with Senator TOWER, S. 1349 a bill calling on President Carter to initiate negotiations with the other oil importing nations to establish a Council of Oil Importing Nations (COIN) to negotiate with OPEC reasonable base prices for oil with the elimination of unreasonable or unjustified surcharges. S. 1349 now has seven cosponsors, Senators TOWER, LAXALT, MOYNIHAN, GARN, HATCH, PRESSLER, and BAUCUS, and an identical bill, H.R. 4574, introduced in the House by Representative WOLFE, now has 30 cosponsors.

Mr. President, if we had taken the kind of action envisioned in S. 1349, we would now be in a much better position to deal with the latest round of OPEC price increases. I do not know how long it is going to take us to realize that only coordinated action by the oil importing countries can constrain the price of OPEC oil. I hope that this realization comes before our industrial base, and the industrial base of the entire world, is undermined by the irresponsible actions of the OPEC cartel.

At this point I ask unanimous consent that the text of S. 1349 be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

S. 1349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds that the current annual inflation rate of 13.4 percent is totally unacceptable and a major threat to the economic well-being of the United States;

That escalating energy prices are a major factor in the current round of high inflation; and

That OPEC oil price increases are the primary factor in our current high energy costs. It is the intent of Congress that the President initiate negotiations with the other oil importing nations to establish a Council of Oil Importing Nations to negotiate with the Organization of Petroleum Exporting Countries reasonable base prices for oil with elimination of unreasonable or unjustified surcharges.

SEC. 2. The President shall develop and submit to the Council of Oil Importing Nations for its consideration a set of appropriate economic and political sanctions to be used when appropriate by the Council's member nations to encourage compliance of any nation that either sells or purchases crude oil on the international market at prices greater than the negotiated oil prices arrived at between the Council and the Organization of Petroleum Exporting Countries.

SEC. 3. The President shall report back to Congress on the progress of negotiations and the development of the sanctions code each 180 days from the date this bill is enacted.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

SALT II

Mr. MORGAN. Mr. President, the Senate has been considering the ratification

of the SALT II treaty now for some time, it having been considered by three Presidents for about 7 years, and I think it is time maybe some of us begin to make our positions known.

We have a recent history of unilateral disarmament, withdrawal from positions of strength and lack of steadfastness in negotiations which is disturbing. For example, we made decisions on the neutron bomb and the B-1 bomber without even attempting to seek anything in return from the U.S.S.R. We announced an intention to withdraw troops from Korea without seeking a quid pro quo from any adversary party to that problem. Only recently revelations of alarming North Korean buildup have slowed that withdrawal.

As to the SALT II treaty, we took a strong, rational position in 1977. We backed off from that strong position, which would have resulted in a real arms limitation treaty. It is not apparent that we achieved anything by this weak position, but rather that the Russians just waited us out.

I have reason to believe that some people in the administration, supported by some of my colleagues in the Senate, have no intention of ever deploying the MX missile system—after SALT II ratification.

I am not one of those who thinks we need seek out opportunities to show the world we are decisive and strong. I believe we are strong and I do not doubt the will and spirit of our people to take decisive action when our true best interests require it.

I do feel, however, that the incidents I have just listed were times when strength and decisiveness were required to safeguard our vital interests and we were found wanting.

If we are going to vote to ratify this SALT II treaty, I will need to be satisfied by the administration, and by my colleagues, that we will act in a strong and positive manner in the future.

I will need to be satisfied by my colleagues that they will support early development and deployment of the MX missile system.

I will need to be satisfied by the administration that they will similarly support development and deployment of the MX.

I will need to be satisfied that we are doing those things necessary to redress the strategic imbalance from now until the MX comes on line.

I will need to be satisfied by the administration that they will take and maintain strong positions on balanced arms reductions in SALT III, and will retreat from any of those positions only in exchange for some equivalent value received from our adversary.

I will need to be satisfied by the administration that our past course of unilateral abandonment of weapons systems or capabilities, without a like response from our adversary, will not continue.

Finally, I will need to be satisfied that the SALT II treaty really limits the strategic terror facing us or I will not vote to ratify the SALT II treaty. Thus far, I have not been satisfied on any of these grave concerns.

H.R. 4986, THE DEPOSITORY INSTITUTIONS DEREGULATION ACT

Mr. MORGAN. Mr. President, on Monday the Committee on Banking, Housing, and Urban Affairs reported H.R. 4986, the Depository Institutions Deregulation Act. This bill makes sweeping changes affecting the operation of our Nation's financial institutions. Many of those changes concern me greatly.

I am concerned that H.R. 4986 sets the stage for the rapid homogenization of our system of separate and distinct types of financial institutions. Moreover, I am concerned that it could erode the earnings of various financial institutions, thus seriously impairing the availability of mortgage credit and other consumer borrowing, all at a time of great financial and economic uncertainty. I am skeptical, despite the claims of the bill's proponents, that the changes mandated by H.R. 4986 will be of much overall benefit to the average consumer and saver.

In lieu of the sweeping provisions of H.R. 4986, I supported a bill which simply would have reversed the decision of a Federal court earlier this year by legalizing automatic transfers of funds between savings and checking accounts, credit union share drafts, and savings and loan association remote service units. A motion to substitute that bill for 4986 (S. 1347) failed during the Banking Committee markup by a vote of 8-7. I believe, however, that enactment of such a bill is by far the wiser course to follow at this time. The bill passed by the House of Representatives authorized the above instruments, and went the additional step of authorizing nationwide negotiable order of withdrawal (NOW) accounts. The House of Representatives specifically refused to include in their bill the various other far-reaching provisions reported by the Senate Banking Committee.

When the Senate Banking Committee version of H.R. 4986 comes to the Senate floor, I intend to offer several amendments. I believe that each State should be given the authority to decide on its own whether to allow NOW accounts. Should a State authorize NOW accounts for State-chartered financial institutions, authority for the federally chartered institutions to do the same should follow automatically. Second, I believe that title II of the bill, reserve requirements, should be removed. The bill presently establishes new authority for the Federal Reserve to impose reserve requirements on nonmember institutions. I believe this serious and controversial policy question should be resolved within the context of separate legislation. Third, I believe that the section of the bill overriding State usury law ceilings should be removed. I spelled out my concerns in greater detail in additional views submitted for the committee report, Report No. 96-368.

I deeply hope that Senators will give serious thought to the ramifications of H.R. 4986 as reported by the Senate Banking Committee. I believe that if this bill is carefully examined by the Senate, many others will share my concerns and conclude that this is an unwise time to make such sweeping changes in the Nation's system of financial institutions.

Mr. President, I am making this statement because I think this perhaps is one of the most important bills that will come before this Senate and this Congress this year.

I am afraid that too many of my colleagues may not be familiar with the far-reaching ramifications that this bill will have with our financial institutions.

Mr. President, I ask unanimous consent that my additional views that I filed with the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 4986, THE DEPOSITORY INSTITUTIONS DEREGULATION ACT

ADDITIONAL VIEWS OF SENATOR MORGAN

As reported by the Senate Banking Committee, H.R. 4986 authorizes NOW accounts on a national basis except for California savings and loans, directs incremental increases in interest rate ceilings culminating in the elimination of such ceilings by 1990, imposes reserve requirements on NOW accounts and share drafts, mandates a reduction in the denomination of money market certificates to $1,000 within two years, expands the lending and trust powers of savings and loans, and overrides various State usury laws.

I strongly oppose enactment of H.R. 4986 (which has been before the Committee in the form of S. 1347). I am concerned that it makes sweeping changes in the economic and regulatory environment of our nation's financial institutions at a time of tremendous economic uncertainty.

Those institutions have been created over time, each performing specialized functions, and each in my opinion, contributing to the general well-being of our economy and our citizens.

In a time of impending recession, the depth and duration of which is uncertain, and a time of high interest rates and soaring inflation, I believe the changes mandated by this bill are unwise.

Basically, I believe that H.R. 4986 sets the stage for the rapid homogenization of our separate and distinct types of financial institutions. Moreover, I am concerned that it could erode the earnings of various financial institutions, could seriously impair the availability of mortgage credit and indeed other consumer borrowing at affordable rates, and would be of dubious benefit to the average consumer.

I believe that a wiser course for the Congress to follow would be to authorize the various instruments declared illegal on April 20, 1979 by the U.S. Court of Appeals (automatic transfers from savings to checking accounts, credit union share drafts, and savings and loan remote service units), while also addressing the question of incentives for savings by giving small savers a long needed tax break on interest income.

Some of my specific concerns are as follows.

Nationwide NOW accounts.—First, I am not persuaded that NOW accounts represent a benefit for the average consumer. Consider this statement from the witness who presented the views of the Independent Bankers Association.

The New England experience has demonstrated that when NOW accounts lose their effectiveness in expanding market share they are more realistically priced and the free NOW account is abandoned. As more and more depository institutions begin to price NOW accounts on the basis of costs and pass these cost on in the form of service charges,

the cost of these accounts to low balance, high activity customers will far exceed the interest earned.

Citing figures on the size of accounts nationally, the witness concluded that:

When these costs are passed on to NOW account customers, some 35 million low balance customers could be paying as much as $55 over the interest received for services they now obtain at little or no out-of-pocket cost.

Secondly, I am concerned that nationwide NOW accounts could reduce the earnings of small community based financial institutions with detrimental results for the communities and consumers they serve. Again, testimony from the Independent Bankers Association, representing predominately small rural and suburban banks asserted that:

Several studies of the impact of NOW accounts on commercial banks in Massachusetts and New Hampshire have found that NOW accounts reduced after-tax earnings significantly. The most recent study covering the period 1970–77 reveals that net income before taxes and securities transactions at New England commercial banks declined sharply by almost 27 percent, from 1.08 percent of assets in 1973 to 0.79 percent of assets in 1977, while banks in the rest of the United States showed only a 2.7 percent decline from 1.12 percent in 1973 to 1.09 percent in 1977. The poor performance of commercial banks in New England was attributed mainly to the cost of operations and acquiring funds rather than the slow growth of the New England economy. A major factor in the decline in profit margins was the increase in interest expense of NOW accounts. By 1977, NOW interest expense had risen to about 18 basis points per dollar of assets and represented about 9 percent of the total increase in interest expense and 11 percent of the increase in interest expense resulting from changes in the composition of deposits. On the whole it is estimated that the introduction of NOW accounts explains roughly one-third of the poorer performance of New England banks.

Homogenization of financial institutions.—Under H.R. 4986, savings and loans throughout the Nation, except those in California, would be able to offer NOW accounts, as well as make consumer loans up to 10 percent of their assets, and engage in trust powers. I believe that the 10 percent ceiling on consumer lending will inevitably increase as S&L's argue that expanded powers are needed to compete successfully with commercial banks. During the Committee's hearings I asked then Secretary of the Treasury Blumenthal what distinctions would remain between S&L's and commercial banks. The Secretary answered that as far as functions and powers were concerned, S&L's and banks "will be much closer together." Under this bill, he said, "the distinctions would certainly be narrowed."

But one of the most eloquent statements of my concerns on this matter came during our Committee mark-up by the sponsor of the bill itself, the distinguished Senator from California, Mr. Cranston, in moving to exempt the S&L's of his own State from NOW account authority.

Senator Cranston said:

My reason for offering this is as follows: the overwhelming number of thrift institutions in the country, as I understand it, do not want NOW accounts. The U.S. Savings and Loan League opposes them. They feel they are too expensive, that the thrift institutions will have to gear up to compete with banks and that will be expensive, and I think there is virtue in keeping differences between different types of financial institutions, between banks on the one hand and S&Ls on the other.

As an example, there's strength in diversity. If all the financial institutions become identical in all their powers and all the things they can do, a strong few will soon dominate the entire industry. Community-based home-owned institutions will vanish from the scene, and I do not think that will be a healthy development. One way to avoid that is to keep the separation, if people wish the separation, and that's why I offer this amendment.

Impact on housing and the cost of borrowing.—I believe that this bill inadequately addresses the question of earnings by financial institutions. It seems clear that if institutions are going to pay higher interest rates, and if market rate money market certificates are going to be available in $1,000 denominations, that institutions are going to have to charge more for the services they offer and the money they lend. I believe this works against the interest of the average citizen generally, and will be especially damaging to housing finance.

The Wall Street Journal recently reported experts' predictions that the average home in most metropolitan areas in the United States will cost $100,000 within 3 years. That is for a standard "no-frills" house, I hasten to add. The Joint Economic Committee has gone further by predicting that by 1988, the cost of an average house could reach over $150,000. Whatever the figure, it is clear that home-ownership is rapidly becoming out of reach for the average American. I fear that this bill would only accelerate that trend.

Testimony presented by Henry B. Schechter of the Department of Urban Affairs of the AFL-CIO was especially sobering in this regard.

On the question of expanded consumer lending and investment powers for savings and loans, the AFL-CIO had this to say:

With the proposed new investment powers, savings and loan associations would compete more effectively for savings by paying higher interest rates, as long as they could place the funds in the markets which provide higher returns than can be obtained from residential mortgages, as they have done within permitted limits. Their future investment pattern would follow that of the mutual savings banks, also originally founded with the purpose of meeting local home financing needs.

In 1965, they had 69 percent of their assets in residential mortgages. However, they have had other investment powers, and their ratio of residential mortgages to total assets declined to 63 percent in 1970 and under 50 percent in 1977 and 1978, but 17 percent of total assets consisted of corporate bonds and stocks at the close of 1978 and another 4.5 percent was in "other loans" which includes Federal funds, open market paper and consumer loans.

In sum, the AFL-CIO strongly argues that experience clearly demonstrates that expanded S&L investment powers would "channel billions of dollars of savings and loan association funds into non-housing investment," while increasing interest rates for homebuyers.

On the question of phasing out Regulation Q, the AFL-CIO reminded the Committee that the "small saver" of America should quite rightly also be thought of as a consumer and borrower. The net impact, the AFL-CIO believes, of higher interest rates on savings will be negative, Mr. Schechter said:

Higher money costs borne by depository institutions paying higher rates on savings would be reflected in their loan interest rates. Higher loan interest rates, in turn, will be reflected in higher prices for goods and services. Increased loan rates will be borne by consumers directly in mortgage, personal and installment loan credit, and indirectly in the prices of goods and services.

Again, in sum, he contended that:

The majority of all consumers—with and without savings—particularly families of low-income, including one-half of elderly families—would probably suffer a net economic loss as a result of higher interest payments on savings under prevailing money market conditions and monetary policies.

Reserve requirements on NOW accounts and share drafts.—This bill in dealing with the subject of permitting all depository institutions to offer NOW accounts (with some exception for the State of California) would bestow reserve-setting authority in the Fed over all depository institutions—State and federally chartered—with respect to NOW accounts and share drafts which are similar to checking accounts for all practical purposes. While the broad issue of whether or not any compulsory reserve-setting authority over nonmember banks should be vested in the Fed is now being considered by the Senate Banking Committee, this bill would give the Fed this controversial reserve-setting authority through a side-door approach that deals only with one class of deposits, namely negotiable orders of withdrawals (NOW accounts) and share draft accounts offered by credit unions.

I seriously question the wisdom of proceeding with authority for reserves within the context of this bill when the issue is before the Congress in other legislation dealing with the problem of declining Federal Reserve membership. The ramifications of this question are complex, and I believe it would be more appropriate to resolve it within the context of the Federal Reserve membership legislation.

If this provision of S. 1347 were enacted, it would be a relatively small step to impose compulsory reserves over all demand deposits of nonmember banks. The basic concept would be established as valid, absent thorough thought as to the consequences.

The House of Representatives on September 10, 1979, passed its version of a NOW account bill (H.R. 4986). The House Banking Committee deleted all provisions dealing with vesting reserve-setting authority in the Fed over all depository institutions with respect to their NOW accounts and third party payment accounts. Chairman Reuss noted during the markup that deleting such provisions would in no way tamper with continuing the power of the Federal Home Loan Bank Board to maintain liquidity reserves for its members, and for the National Credit Union Administration doing the same thing for credit unions. Chairman Reuss pointed out that eliminating the reserve-setting provisions would conform that bill to action already taken by the House of Representatives on H.R. 7, which is before the Senate Banking Committee, and which has been the subject of recent hearings.

I believe the reserve-setting provisions of the Senate NOW account bill should also be stricken, and dealt with through the reserve-setting bills now before the Banking Committee. If H.R. 4986 were to pass with these provisions intact, it would in reality be an end run around the Committee's deliberations on this whole controversial question. Its deletion would do nothing to interfere with the Federal Reserve in setting reserve requirements on NOW accounts and third party payments held by member banks. It would not interfere with the Federal Home Loan Bank Board and the National Credit Union Administration from exercising liquidity requirements for its respective members. It would simply insure that the controversial reserve-setting issue would not be handled in a piecemeal fashion through a NOW account proposal.

Preemption of State usury laws.—This bill also overrides State usury laws on real estate loans, unless overturned by State law within 2 years, and overrides usury limits on business and agricultural loans in excess of $25,000 in Arkansas. On principle, I strongly oppose the Federal preemption of State law in the absence of some extraordinary and compelling national interest.

I believe that States generally have tended to move in the right direction as relates to

usury ceilings and that they should be permitted to continue to do so primarily under the present structure. However, this bill would seek to preempt the long-standing authority of States which are in a superior position to deal with situations unique to their respective regions, and would impose national usury norms which would, in the long run, be less responsive and less appropriate for States than would measures designed by their respective legislatures.

Reflective of State concern in this area is the fact that during the period from December 1975 to June 1979 some 28 States liberalized their usury ceilings on individual or corporate loans in efforts to meet changing economic conditions. During this same period some 15 States exempted from their usury ceilings FHA and/or VA loans.

The AFL-CIO also opposed the sections of the bill which override State usury laws and prohibit the establishment of interest rate ceilings. They note:

This section would undoubtedly permit lenders to charge higher rates than have been experienced in a long time during tight money periods. People in the capital-short areas with above average population growth would be particularly vulnerable to higher mortgage interest rates, but the rest of the country would feel spillover effects.

Interest payments have absorbed an increasing portion of the national income over the past few decades; this trend makes the economy more inflation-prone and it supports great disparities in income distribution that add to economic inbalance. The AFL-CIO maintains its support of the usury laws and urges disapproval of subsection 303 (2)(1).

We also urge disapproval of 303(2)(2) which would prohibit any State law limiting the rate of interest that may be paid on a deposit. As indicated in earlier discussion of the proposed phase-out of Regulation Q, higher savings interest rates are likely to produce net gains for large, generally high-income and net losses for low-income consumers with small savings.

Conclusion.—In light of these considerations, I urge my colleagues in the Senate to reject H.R. 4986 as it presently stands.

Mr. MORGAN. Mr. President, I will from time to time be calling attention of my colleagues and the staffs of the various Senators who I hope are listening in their offices to the end that they may give some study and some thought to this bill and its ramifications before it comes up for debate.

I thank the Chair.

NOBEL PRIZES IN ECONOMICS—A MESSAGE TO CONGRESS ON PRACTICAL POLITICS

Mr. PROXMIRE. Mr. President, the announcement that the Nobel memorial prize in economics was awarded jointly to Sir Arthur Lewis and Prof. Theodore W. Schultz is most welcome news.

It is welcome for a variety of reasons.

It is a victory for original contributions to knowledge which have helpful, practical policy applications over the esoteric computerized nonsense which have only distant and obscure relationships to anything. It continues a message to us in Congress on the practical economic policies we should follow.

Professor Schultz, who is a very distinguished economist at the University of Chicago, did much of his work in agricultural economics. He showed many years ago that the most efficient agricultural productive unit was the family-sized farm. It is not the huge, agribusiness, absentee landowner operated farm which is most productive but the farm run by a farmer and his wife plus his son or a hired man. He urged that for both social and economic reasons public policy support the family-sized farm.

Professor Lewis, in his own way, similarly showed that in economic development the promotion of smaller units and a genuine agricultural revolution was the proper way to development; rather than thrusting on the Third World: big dams, new steel mills, and massive highways before the society had in place at least the beginnings of modern agriculture.

Both men have been highly critical of foreign aid programs which have too often promoted the big project and taken the highway lobby abroad instead of pushing elementary programs of education, agriculture, health, and technical assistance which was the thrust of President Truman's original point IV program before it was corrupted by the policies which attempted to prematurely push a modern industrial state onto a developing country.

Mr. President, I think it is very, very important that we recognize that there is the most solid intellectual support for opposition to the foreign aid program which has been pushed on us, and the Nobel award for the distinguished economists underlines that.

In addition to his original contributions to knowledge in the publication in 1955 of "The Theory of Economic Growth," Dr. Lewis, unlike most economists, writes clear, direct, understandable English prose. His books are a delight to read. They make what Carlyle called "The Dismal Science" readable and interesting. His 1949 book the "Principles of Economic Planning" is a profound book written in simple English.

Dr. Schultz' interest in improving the condition of the poor both on and off the farm in our Nation and elsewhere led to his looking at human as well as natural and physical resources as the source of economic growth.

The benefits of education, prevention of school dropouts, on-the-job training, disease prevention and cure, were all emphasized in this approach which saw great economic and social benefits accruing to a nation which improved the skills and health of its citizens.

Where his emphasis on the development of human capital has been properly applied, as in the vocational education programs in my own State of Wisconsin, we have seen great benefits to society in the form of higher production and higher productivity, efficient industry, low unemployment, and the efficient use of resources.

Where it has been improperly done, as in the promotion of gimmicks and frills in a number of our federally subsidized education programs, we have witnessed a decline in test scores and ability as evidenced by objective measurements.

Leonard Silk writing in the New York Times for today says many of these same things in his usual skillful way. He is one of the best economic writers we have in this country. Especially he points out that the prize "* * * is a tribute to both men to bring humanity to the center of the attention of their fellow economists—and bring the skills of the economist to bear on the problems of poverty that still afflict the human race.

This shared award of the Nobel Prize is not only good for the public, it is also good for the more traditional and sensible economists. Perhaps some of the modern economists will now turn their attention to helping the world solve some of mankind's most difficult problems instead of putting most of their effort into solving computerized mathematical problems which are unrelated to mankind's needs.

I ask unanimous consent that Mr. Silk's excellent article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 17, 1979]

HUMAN CAPITAL IS NOBEL FOCUS

(By Leonard Silk)

The award of this year's Nobel Memorial Prize in Economic Science to Sir Arthur Lewis of Princeton University and to Theodore W. Schultz of the University of Chicago is a tribute to the efforts of both men to bring humanity to the center of the attention of their fellow economists—and bring the skills of the economist to bear on the problems of poverty that still afflict most of the human race.

In that respect, both men represent a throwback of economics from a spurious scientism to the concern for human welfare that marked its origins in the work of such social philosophers as John Locke, David Hume, Adam Smith and Thomas R. Malthus.

Like such eminent predecessors, both of this year's laureates in economics have drawn their models directly from nature and society rather than merely reworking the abstract models of other economists.

Dr. Schultz, who started out as an agricultural economist, served in Germany during the American occupation after World War II. He was struck by the extraordinarily rapid reconstruction of the German economy.

What explained it? The factories and mills and machinery that make up the physical capital were largely gone. But what remained, like a ghost, was the knowledge of how to operate a modern economy and the human will and skills to rebuild it.

And when that reconstruction job was done, Germany returned not just to the level of production it had achieved before the war but to one that far surpassed it. For the knowledge, embodied in human beings and their libraries and technology, had gone on growing while the killing was going on.

Thus Dr. Schultz arrived at the concept of human capital. He himself emphasized that this was, at best, a rediscovery. "The philosopher-economist Adam Smith," Dr. Schultz

noted, "boldly included all of the acquired and useful abilities of all the inhabitants of a country as part of capital" so critical to increasing the wealth of nations.

But the concept of capital later came to be ever more identified with reproducible goods. "Surely," Dr. Schultz said, "one of the major reasons for the widely held popular belief that economics is materialistic is the overcommitment on the part of economists to a partial concept of capital restricted to material objects." He put his concept of investment in human capital and in new knowledge to work in countries all over the world.

Similarly, Sir Arthur, born on the West Indian island of St. Lucia, has not only been a powerful and original scholar but has committed himself to working for the advancement of African, Caribbean and other third-world countries. However, unlike many champions of the so-called new international economic order, he sees the hope of progress for poor countries not in conflict or exploitation of the rich but in a more harmonious relationship with them.

Two years ago, he said at a meeting of the International Monetary Fund and the World Bank that the real menace to the stability of the poor countries was the instability of the rich, which ruined the markets and earnings of the poor countries.

In the long run, he said, "our salvation lies in recognizing that what is good for the developing countries is also good for the developed." Sir Arthur appeared to be taking another leaf from Adam Smith's book, the one that saw the hope for the advancement of different nations in harmonious intercourse between them.

He has worked for harmony as well within countries, including this one. In the late 1960's, when campus conflict was at a peak and demonstrations by black students to get black studies programs established were the rage, Sir Arthur said that those who believed that university black studies could overcome the sense of racial inferiority inculcated into black children were deceiving themselves.

The process began at an early age, he said, and could not be eradicated at the campus stage. The shockingly bad education given to blacks from their earliest years, often by black teachers badly trained in black colleges, repeating a vicious cycle, had to be changed, he said.

Some skeptics may ask what all this has to do with economics, a subject they see as orderly, definite, finite and "objective" rather than heavily mixed up with human values and emotions. But the failures of such a dry and mechanical economics have bred widespread dissatisfaction with its present state.

Instead of the old simplifying assumption that human beings are a commodity called "labor," economists need to look more profoundly at the question of what makes men and women and children of all races and nationalities behave as they do, alone and in groups. That is the new-old economics, to which Sir Arthur and Dr. Schultz have invited their colleagues to return.

THE GENOCIDE CONVENTION: THE ISSUE WILL NEVER DIE

Mr. PROXMIRE. Mr. President, 30 years ago President Harry Truman first introduced the Genocide Convention into the Senate for ratification. Since 1949 the treaty has remained in this same body. From time to time, administrations have taken an interest in the treaty and urged that some action be taken. Hearings have been held and reports have been issued, but we have as yet not taken that one key step: Ratification of the Genocide Convention by the Senate although the treaty has been reported to the body of the Senate four times.

Thirty years is a very long time for a treaty to await ratification. Jokes have been made about the inordinate amount of time it has taken the Senate to ratify the treaty. Last month I brought to the attention of this body a cartoon calling the Genocide Convention the "oldest political prisoner of the U.S. Senate." Perhaps there is humor to be found in our inactivity on this issue. I would prefer to think not.

Mr. President, this issue should take a back seat to none. It is extremely pressing. Day after day, newspapers report human rights violations. There appears to be no end in sight. The Genocide Treaty is an important symbol of the entire human rights movement—a movement which is gaining momentum not only nationwide but worldwide as well.

The issue of genocide is not outdated. It never will be. The holocaust, perhaps the greatest crime against man of modern history, is well past—but the memory will live on forever. But even more importantly, the possibility of genocide occurring again will live on forever. And that is why the importance of the Senate's ratifying the Genocide Convention will never die.

Mr. President, I once again urge my colleagues to join with me in ratifying this treaty.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MELCHER). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. MELCHER). The Chair, on behalf of the Vice President, appoints the following Senators to attend the North Atlantic Assembly to be held in Ottawa, Canada, October 22 to 27, 1979, pursuant to Public Law 84-689: Messrs. BIDEN (chairman), JACKSON, MORGAN, DURKIN, JAVITS, STEVENS, COHEN, and MCCLURE.

SENATOR SASSER

Mr. ROBERT C. BYRD. Mr. President, now that the 1980 appropriations for the legislative branch have been disposed of, I should like to make a few remarks about the chairman of the Legislative Branch Subcommittee of the Committee on Appropriations, the distinguished and able junior Senator from Tennessee (Mr. SASSER).

Mr. President, JIM SASSER has many committee assignments in addition to appropriations that make demands on his time. He is a member of the Budget Committee, the Government Affairs Committee, and the Small Business Committee.

He has distinguished himself in each of these assignments.

But it seems to me that in his assignment on the Appropriations Committee, he has been able to establish a truly outstanding record of solid achievement—a record that has seldom been matched by a freshman Senator here in the Senate during my tenure.

First, there is no doubt that the junior Senator from Tennessee is most concerned about matters of importance to Tennessee. He has successfully worked to support the Tennessee Valley Authority and numerous other appropriations projects of specific importance to Tennesseans.

In his assignment as the chairman of the Legislative Branch Subcommittee, he has been able to trim $95 million from the 1980 budget submitted by the President for the legislative branch, and that "ain't no" chicken feed.

But, JIM SASSER has also carved out a special niche for himself on appropriations matters—that of fighting against fraud, abuse, and waste in Government programs.

Let me give a couple examples.

Last December, Senator SASSER suggested to the Comptroller General that a fraud hotline should be established at the General Accounting Office. Since the hotline went into operation last January, thousands of leads on fraud, abuse, and waste in Government have been phoned in and are now under investigation. I understand a number of allegations regarding the operation of TVA have stimulated a special investigation in that area.

There is no doubt that this suggestion by Senator SASSER was wise and will pay for itself many times over by rooting out fraud, abuse and waste in Government programs.

Another example of Senator SASSER's initiative and perseverance was the legislation he introduced last March designed to reduce by $500 million the amount spent for Government travel. He introduced this legislation after establishing that there were 22,000 Federal employees on taxpayer financed trips every day, Saturdays, Sundays, Christmas, and New Year's.

Senator SASSER chaired the investigative hearing, introduced the legislation, secured cosponsors, sponsored the legislation through his Legislative Branch Subcommittee and successfully followed the matter through conference with the House. President Carter signed the legislation last Friday.

Senator SASSER can be counted on to be vigilant in rooting out waste wherever he finds it.

Earlier this year, he chaired hearings that exposed the fact that Federal agencies were contracting with private firms to come by and water their indoor office plants—to the tune of $250,000 a year.

Subsequently, he successfully introduced legislation to put a stop to that practice—and now certain pampered bureaucrats will have to water their own plants—at a savings of $250,000 a year to the taxpayer.

Another example comes to mind. Not long ago, JIM SASSER held hearings that revealed that debts to the Federal Government amounted to $140 billion and that there had been a 60-percent increase in "bad debts" in the past 2 years. Jim then formulated legislation that would allow the Internal Revenue Service to conduct a pilot test—to withhold income tax refunds from persons owing the Federal Government to offset their debts. These are individuals with the ability to pay, but who simply refuse to pay their just debts. I know we can count on JIM SASSER to continue to pursue this matter vigorously.

In summary, Mr. President, I wish to commend Senator SASSER as a thoughtful person who does not shy away from the tough decisions when the time comes to make them. He is young, hard-working, aggressive, cooperative and interested in his work in the Senate. He tackles each job with zeal. He came to the Senate having never served in elective public office before, but he is quickly making his mark.

He has already accomplished much and continues to grow in his work—and that is an attribute that should be of particular satisfaction to him and to his constituents in these changing times.

I know I can speak for myself, and I believe I can for his colleagues here in the Senate, in saying that we personally appreciate the conscientious attitude he brings to the discharge of his responsibilities in the Senate.

ORDER THAT H.R. 5386, HIGHER EDUCATION AMENDMENTS, BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of H.R. 5386, amendments to the Higher Education Act, and that the bill be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 5288, VETERANS VOCATIONAL REHABILITATION AND EDUCATIONAL PROGRAM AMENDMENTS BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the message from the House of Representatives is received on H.R. 5288, to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans and improve the veterans' educational assistance program, the message be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REMOVAL OF INJUNCTION OF SECRECY FROM EXECUTIVE GG, 96TH CONGRESS, FIRST SESSION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from an amendment to the International Convention on Load Lines, 1966, which was adopted in 1975 (Executive GG, 96th Congress, first session), transmitted to the Senate today by the President of the United States; and ask that the treaty be considered as having been read the first time, that it be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to acceptance, an amendment to the International Convention on Load Lines, 1966. The report of the Department of State is enclosed for the information of the Senate in connection with its consideration of the amendment.

The International Convention on Load Lines establishes uniform international principles governing the safe loading of ships in all seasons and waters. The purpose of this amendment is to expedite the procedure for amending the technical annexes to the Convention.

I believe that the proposed amendment is highly desirable. The Convention's present amendment procedure has made it impossible to bring into force many technical improvements to the requirements of the Convention. The new procedure will greatly facilitate and accelerate the entry into force of these essential improvements.

I recommend that the Senate give consideration to this amendment and advice and consent to its acceptance.

JIMMY CARTER.

THE WHITE HOUSE, *October 17, 1979.*

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT—H.R. 4930

Mr. ROBERT C. BYRD. Mr. President, under the order entered on October 16, the Senate is to resume consideration of H.R. 4930, the Interior appropriations bill, at 12 noon tomorrow. I ask unanimous consent that the hour be changed for the resumption of the consideration of the Interior appropriations bill to 12:30 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, there be a brief period for the transaction of routine morning business not to extend beyond 12:30 p.m., and that Senators may speak therein up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there will be votes tomorrow afternoon. Senators may look at the order which was entered on October 16 on H.R. 4930. That order appears on the second page of today's calendar.

The only change in the order is that which was just made a moment ago, namely; that the time for the resumption of the consideration of the Interior appropriations bill will be changed to 12:30 p.m. rather than 12 o'clock noon.

RECESS

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 6:23 p.m. the Senate recessed until Thursday, October 18, 1979, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate October 17, 1979:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Joan Zeldes Bernstein, of Maryland, to be General Counsel of the Department of Health, Education, and Welfare, vice Richard I. Beattie, resigned.

FEDERAL ENERGY REGULATORY COMMISSION

Charles B. Curtis, of Maryland, to be a Member of the Federal Energy Regulatory Commission for the term of 4 years expiring October 20, 1983 (reappointment).

DEPARTMENT OF THE TREASURY

N. Jerold Cohen, of Georgia, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service), vice Stuart Evan Seigel, resigned.

DRUG ENFORCEMENT ADMINISTRATION

Frederick A. Rody, Jr., of Florida, to be Deputy Administrator of Drug Enforcement, vice Jerry N. Jenson, resigned.

HOUSE OF REPRESENTATIVES—*Wednesday, October 17, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, Almighty God, for Your continued presence in our lives and for the sense of Your purpose for us. May not the pressures of the hour and the day cause us to lose enthusiasm for the tasks committed to us, and may Your spirit encourage us to believe that every good work, great or small, is a measure of our dedication to those values that give strength to this Nation. Help us always to keep before us the principles of justice, mercy, and peace that we may better serve You and all people. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 196. Concurrent resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 3173.

The message also announced that the Senate had passed with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 595. An act to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 595) entitled "An act to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HART, Mr. STENNIS, Mr. CANNON, Mr. THURMOND, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S.J. Res. 83. Joint resolution to authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia; and

S. Con. Res. 43. Concurrent resolution honoring the 14th Centennial of Islam.

SUGAR BILL FAILS TO GIVE CONSUMER A FAIR DEAL

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, later today or tomorrow the House will debate and vote on the sugar bill. I will vote against the bill in its present form and urge that the bill be defeated.

Mr. Speaker, since the committee reported out the bill over 90 days ago, circumstances have drastically changed. The world price for sugar has increased by almost one-third. The changes in the import sugar fees program have made the bill a Treasury burden. The change in the world price of sugar has made this bill obsolete.

Mr. Speaker, I have no objection to a raise in the price of sugar, but I oppose the enactment of laws which would establish a base price to assure the prosperity of the producer and fail to apply or provide a ceiling price which would insure a fair deal for the consumer.

A PAINFUL CHOICE—HEATING OR EATING

(Ms. FERRARO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FERRARO. Mr. Speaker, I am most concerned about the senior citizens who will be facing energy related crises because their fixed incomes will not be sufficient to meet their daily costs. Today, I would like to give the House a brief case history of a woman whom I represent.

She is a 74-year-old frail senior citizen. Her sole source of income is a social security check of $301 a month. Her rent has increased from $135 in June, to $210 today. She has no lease; she is not under rent control.

The woman's other expenses—gas, electricity, insurance, telephone—total $42. She has budgeted $51 for her monthly food and household necessities. With her rent, these add up to $303 a month. I remind you that her social security check is $2 less than that. This constituent has no extra funds for medication, transportation, clothing, entertainment, or any other nonbudgeted expenses. She cannot even come to the senior center every day because she is too frail to walk and cannot afford bus fare.

Mr. Speaker, I have a stack of case histories just like this on my desk. The Congress has a moral obligation to take immediate action to make sure that people who have fallen between the cracks of our programs do not have to make the painful choice of heating or eating.

ADMINISTRATION PRAISED FOR HUMAN RIGHTS ADVOCACY

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, one of the accomplishments of the current administration which is in my view drastically understated has been its success in pointing a new direction in the area of foreign policy.

This administration recognizes as few others have that there indeed is nothing inconsistent between our advocacy of human rights at home and abroad and the preservation of our national self-interest. Whether in Rhodesia or in Nicaragua, this administration has pointed the direction for a foreign policy in which America will for once be identified with the issues of human rights, of self-determination, and of majority rule.

Whenever this country has in the past identified itself with a Somoza or a minority rule regime that parades itself as anti-Communist but completely lacks popular support, we end up creating our own self-fulfilling prophecy, in effect inviting the spread of communism, be it in Africa, Asia, or Latin America.

Mr. Speaker, I think the administration should be commended for this important new direction in foreign policy. I hope it will receive from the American people the support to which it is entitled.

THE RECENT STRENGTH OF THE DOLLAR AND INFLATION

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, in the last several days we have read a lot in the newspapers about the strong dollar that we have had since the Federal Reserve took action last week to raise the interest rates.

I would like to suggest that these high interest rates and what the Fed has done are only a result of inflation and really will not do a whole lot to solve the problem of inflation unless the Fed continues with a very long and determined effort to

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

curb the increase in the money supply. The strength of the dollar as reported in recent days is very much a deception to us because it is not telling us a whole lot.

We have to decide this: What are we talking about, and in terms of what? In terms of other currencies, it is true we can get more Japanese yen today than we could a week or two ago. But the American housewife who has to go to the grocery store does not understand this because her dollar is still very weak and buys as little or less today than it did 1 month ago.

So it is only a deception to think that we have a stronger dollar as a result of the recent Fed action. This is only reflecting the fact that other countries are inflating as well. In the traditional sense, as in days gone by when we measured the strength of the dollar in terms of gold, we find that the dollar is very, very weak.

In recession and in bad economic times prices drop. In terms of gold, prices today are at historic lows. Ten years ago 1 ounce of gold bought 100 gallons of gasoline, today it will buy nearly 400 gallons.

Until we in the Congress realize our problem is the depreciating American dollar and not the high prices that are merely the consequence of our spendthrift ways, we will never solve the problems of inflation that is eating away at the earnings and savings of every American citizen.

PRESIDENT'S EXECUTIVE ORDER 12160 A PLUS FOR CONSUMERS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, on September 26, President Carter issued an Executive order to establish a Federal Consumer Affairs Council including senior-level officials within each of the Cabinet-level departments to represent consumer interests within those agencies and to coordinate various Federal consumer programs. That action should be a real plus for American consumers, particularly under the able guidance of the President's most capable Assistant for Consumer Affairs, Esther Peterson.

In February 1978, the House rejected administration legislation intended to consolidate Federal consumer programs in an independent Consumer Protection Agency. During consideration of that legislation, I offered an amendment in the nature of a substitute which would have strengthened the consumer offices within various Federal agencies and assured their independence. That amendment was rejected I feel largely because it was opposed by interest groups on both sides of the consumer protection question. Even after it was defeated, I continued to argue that strong, independent consumer offices within the various departments—where they could have full knowledge of agency activities—was the best way to go. It not only would have provided an effective voice for consumers, but it also would have done so without expanding the Federal bureacracy.

The administration worked for an independent agency because of what I am sure was an equally strong feeling that that was the best way to address this problem. Quite honestly, I was not disappointed when the administration did not prevail. But I am glad that the administration showed flexibility and decided to pursue other means of enhancing consumer interests in the Federal Government. And I was particularly pleased when they decided on a workable option along the lines of the one I proposed during the last Congress. I am confident consumer interests will be well served.

CALL OF THE HOUSE

Mr. LIVINGSTON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 572]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boland
Bolling
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Butler
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Purselll
Quayle
Rahall
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
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Roberts
Robinson
Roe
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Rostenkowski
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Roybal
Royer
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Runnels
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Sabo
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Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

□ 1020

The SPEAKER pro tempore (Mr. MURTHA). On this rollcall 343 Members having recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT THURSDAY AND FRIDAY, OCTOBER 18 AND 19, 1979, WHILE HOUSE IS IN SESSION

Mr. BLANCHARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs be permitted to sit past 10 a.m., Thursday and Friday, October 18 and 19, 1979, respectively, in order to conduct hearings on the Chrysler Corp. financial situation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON HEALTH AND SAFETY OF COMMITTEE ON EDUCATION AND LABOR, TO SIT FROM 9 A.M. TO 12 NOON TOMORROW DURING 5-MINUTE RULE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Health and Safety of the Committee on Education and Labor, which I chair, be allowed to sit from 9 a.m. to 12 noon during the 5-minute rule on Thursday, October 18, 1979. The subcommittee will be conducting oversight hearings with respect to the Federal Mine Safety and Health Amendments Act of 1977.

I have discussed this with the gentleman from Oklahoma (Mr. EDWARDS), the ranking Republican member, and he has no objections.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1030

FEDERAL ELECTION CAMPAIGN ACT OF 1971 AMENDMENTS

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 414 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 414

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 832) to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such Act, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. The text of H.R. 4970 shall be in order if offered as an amendment to said substitute, all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI, are hereby waived, said amendment shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and said amendment shall not be subject to amendment except for pro forma amendments for the purpose of debate and the following amendments, which shall not be subject to amendment except for pro forma amendments for the purpose of debate: (1) the three amendments printed on page 25135 of the Congressional Record of September 18, 1979, by Representative Obey; and (2) the amendment to the text of H.R. 4970 printed in the Congressional Record of September 19, 1979, by Representative Minish, which shall be in order only if amendment numbered 1 printed in the Congressional Record of September 18 by Representative Obey is defeated. If the text of H.R. 4970, as offered or as amended, is adopted, further amendments to or affecting the Federal Election Campaign Act of 1971 shall not be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of S. 832, it shall be in order in the House to move to take from the Speaker's table the said Senate bill with the House amendments thereto, insist on the House amendments and request a conference with the Senate.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, I assume all of the Members may have made up their minds on this rule and, therefore, it is not much to the point for me to discuss what it contains. I think anybody that listened to the reading of the rule will understand that it makes in order a new bill and several amendments to that bill. I repeat that I gather that it is clear that everybody has made up their mind and have no need to listen to the debate, so I am going to reserve my time for the moment.

Mr. BAUMAN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as the gentleman from Missouri has correctly stated, House Resolution 414 provides for the consideration by the House of the bill S. 832. Unfortunately the resolution goes a step further and provides for the consideration of a nongermane amendment in the form of H.R. 4970. This is the so-called Obey-Railsback amendment.

Mr. Speaker, H.R. 4970 could very easily be called the son of H.R. 1, or better yet, the illegitimate son of H.R. 1. It is illegitimate because H.R. 4970 was not considered, much less reported, by the Committee on House Administration. This "son of 1" is little more than an interim step to public financing of congressional elections and is the real issue brought before us by this resolution. I urge my colleagues to vote no on House Resolution 414 for the following reasons.

To begin, as I have already stated, Obey-Railsback has not been given proper scrutiny by the Committee on House Administration. Even though the Committee has plans to conduct oversight hearings on the FEC and the Elections Act in the near future, this body is being asked to allow Obey-Railsback to escape the critical examination it deserves. As a matter of fact, the committee has already received a study by the Campaign Finance Study Group of the Institute of Politics at Harvard, the findings of which are completely contrary to the provisions of Obey-Railsback. I submit to my colleagues that the proper thing to do would be to vote down this rule and let H.R. 4970 stand or fall on its merits, when viewed in the light of authoritative studies, before hearings of the Committee on House Administration.

Furthermore, Mr. Speaker, the Obey-Railsback bill would not even accomplish the desired objectives of its proponents. This proposal would be ineffective in reducing the influence of political action committees upon the campaign process. A lower contribution limit would not lead to a reduction in the number of such committees. On the contrary it would lead to a proliferation of PAC's and a further diffusion of accountability within the electoral process. Furthermore, Obey-Railsback would increase the possibility of a rapid expansion in "independent expenditures" made on behalf of candidates by organized groups. This would cause a significant diversion of the flow of money in elections away from the control of candidates and their campaign managers and into the hands of organized interests.

This brings us to a further problem with the Obey-Railsback bill. It assumes, incorrectly, that there is something wrong with PAC money. In fact, every PAC dollar given to a candidate comes from a voluntary, individual contributor. Also, it is subject to exactly the same disclosure laws that apply to our campaigns. Furthermore, studies have shown that the most competitive elections, where the voters have the most information about candidates are those in which the most money is spent. Contests in which spending is comparatively high are also those in which voter participation tends to be highest.

To continue, Obey-Railsback would unfairly disadvantage challengers, both Democrats and Republicans alike. In order to gain the name recognition required, challengers who beat incumbents in the last election had to spend an average of $215,028 in the primary and general elections combined. With a limit on PAC's and the 30 percent inflation rate in advertising, this amount would be almost impossible to raise. Needless to say this would be a boon to rich competitors.

Finally, Obey-Railsback would devastate one of the most successful vehicles available for increasing public participation in the election process. The growth of PAC's has encouraged tens of thousands of people who may never have given to a candidate or party before, to participate. I think the Members of this body should take pause before voting for a rule which would allow for the consideration of such an amendment. Especially when viewed in light of the fact that the United States has one of the lowest voter participation rates of any democratic society in the world.

Mr. Speaker, I urge defeat of this rule. I urge my colleagues to force Obey-Railsback to be considered properly in committee and to allow the House to consider the FEC authorization unhindered by this outrageous proposal.

I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding.

I rise in opposition to the rule.

Mr. Speaker, this Congress will go down in history for its obsession with isolating its Members from the American voter. We should have realized back in January that this was the real goal and concern when a series of rules changes attempted to stifle debate and lessen accountability in this Chamber. Recently we have seen that further efforts are underway to cover up what is really going on in this House. A vote switching machine has been installed and just yesterday I heard one of my colleagues introduce a bill to stop considering policy in funding bills. Today we have the cornerstone of the neoisolationists before us. This bill is being brought up with an audacious rule that allows for the sealing off of grassroots outrage to what is going on up here.

This centerpiece of contempt for the American system of government should never have seen the light of day. Yet the Rules Committee saw fit to allow this monstrosity to come to the floor. I hope my colleagues will join me in voting down this rule before we further damage what little credibility this Congress has left. There is no rationale for approving this hybrid rule other than to circumvent the process we all supposedly support. The reason we have standing committees is to consider legislation in detail and to filter out spurious measures before they waste the Congress time. The House Administration Committee wisely saw that the amendments allowed under this rule were a dangerous addition to the already crippling load of regulations on free expression in the American political system. That committee defeated efforts to railroad the Obey-Railsback bill. However, the committee was circumvented by some backroom maneuvers and now we have the prospect of Obey-Railsback being brought up on the floor of the House.

Why does the leadership of this House persist in pressing the issue of limiting grassroots activity in the political process? I think part of the reason is that this Congress has consistently delivered exactly the opposite of what this Nation's voters have demanded. Last year the election was marked by a revolt against higher taxes. This Congress has raised taxes. Last year people said they were fed up with big Government. This Congress has voted massive increases in Federal spending, including the creation of a new bureaucratic monster in the Department of Education. This Nation expressed concern over the decline of American influence in the world. The 96th Congress has been a willing partner in helping Mr. Carter dismantle U.S. defenses and abandon U.S. allies. The American public has cried out for strong leadership. This Congress has offered nothing but empty slogans and cosmetic votes on several major issues.

On every major question, from energy to inflation, this Congress has done more to aggravate the problem than to solve it. The American voter is not as stupid as a number of people in this city would like to think. The grassroots of America realize that the only way to stop inflation, solve our energy crisis, and get the Government off their backs is throw the rascals out. Political action committees are one vehicle open to individuals who do not have the millions of dollars or thousands of workers many of the union and liberal groups employ each election year. By giving a few dollars to a group that speaks for them, many in this Nation feel that they will be able to retake control of their own lives. In recent years PAC groups have shown how successful these minicoalitions of people can be in electing truly representative officials. This has startled the entrenched bureaucrats and incumbents in this city and scared the establishment to fight back. Instead of meeting the PAC challenge by becoming more responsive to the needs of this Nation, the only tool being used is to destroy this new avenue of free expression. This is a contemptible posture and should be unmasked for what it is. To adopt this rule is to approve a blatant power grab by those already in the driver's seat. A "no" vote today is a giant "yes" vote for democracy.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. DICKINSON).

● Mr. DICKINSON. Mr. Speaker, I am strongly opposed to the rule which has been granted by the House Rules Committee for S. 832, which amends the Federal Election Campaign Act. As you know, if the House approves this rule, then Mr. OBEY and Mr. RAILSBACK can offer their otherwise controversial and nongermane proposals which would significantly change the way in which candidates for the House of Representatives will be able to finance their campaigns.

It is not my purpose here to discuss either the merits or the shortcomings of the Obey-Railsback proposals to amend S. 832. I do, however, want to point out and emphasize that the House Administration Committee has never had an opportunity of holding hearings on this, nor has the committee had a chance of examining this legislation in detail or marking it up.

The original Obey-Railsback bill was introduced just prior to the August recess and then was greatly revised as recently as September 17. Many Members of Congress are rightly confused about the implications and ramifications of these legislative proposals. No one has demonstrated any urgent need for changing Federal election law in such a way that requires the House Administration Committee or regular parliamentary procedures to be so totally circumvented, as this rule would allow.

Mr. Speaker, the public interest is poorly served if we legislate on this matter without giving careful study and examination to the Obey-Railsback proposals. Therefore, I would urge my colleagues, including those who have cosponsored Obey-Railsback, to vote against the rule, and avoid any hasty action which we could later come to regret.●

● Mr. NEAL. Mr. Chairman, I rise in support of the amendment, and of the Obey-Railsback proposals to set new limits on campaign contributions by Political Action Committees, commonly known as PAC's.

Before I comment on what this proposal would do, I would like to say something about what it would not do. It would not, as some of my incoming mail contends, "restrict voluntary giving while leaving untouched the union bosses' use of forced dues." The use of union dues for political contributions is strictly forbidden by present law, just as is the case with corporate funds. This legislation would not change that provision of the law. It would, instead, apply equally to labor and corporations and to their PAC's, and those of the various organizations which maintain political action committees. It discriminates in no way against any interest, deprives no individual or group of any of their constitutional freedoms, nor denies them access to the political process.

What this legislation proposes is a ceiling on the total amount of money any PAC—labor, corporate or otherwise—can give to any one candidate, and upon the total amount of PAC money any candidate may receive from all PAC's. Those limits for the candidate are an aggregate of $70,000 for a primary and general election combined, $85,000 total if a runoff is involved. For any PAC, the limits are $6,000 per candidate for a primary and general election combined, or a total of $9,000 if primary, general, and runoff elections are involved. So, Mr. Chairman, we are saying that the sky is not the limit, but considering the altitude of these ceilings, I'd have to say it's up near the stratosphere.

I do not infer that there is something wrong with PAC money, Mr. Chairman. Far from it. Political action committees are a legitimate activity which, through collective effort, concentrate the resources of their membership, whatever their interest, in what they see as the most effective way. I do not for a moment believe there are Members of this House who occupy seats that have been bought by one or more political action committees; but I would swear that somewhere down the line if limitations are not imposed, we would not be able to say that.

There is nothing in the Obey-Railsback proposal which would limit the growth of PAC's. We wouldn't want to do that. We welcome this increase in interest in the political process. We do, however, want to limit the influence of any single PAC, or any group of PAC's acting collectively, on any Member of the House. By limiting the money a candidate can receive from any individual PAC and from PAC's collectively, we would limit what could become, and what certainly is perceived as, undue influence.

The other side of this argument is also important, Mr. Chairman. By limiting the influence of special interest groups, we are increasing the importance of the individual contributors, who also, of course, are subject to Federal election laws.

Consider how PAC contributions have spiraled during the past several years. In 1972, PAC's gave a total of $5 million to candidates for the House. In 1976, they contributed $14.7 million. In 1978, PAC contributions to House candidates were $25 million. In 6 years, Mr. Chairman, PAC contributions, labor, business, and others approximately doubled from election to election. If that trend were to continue, they, will be up to $225 billion by the election of the year 2000.

That extrapolation is far-fetched, to be sure, but who would have though that PAC campaign financing would have quintupled in 6 short years? I sincerely believe, Mr. Chairman, that left unrestricted, PAC money will become a predominant force in the democratic process, which, in effect, would render the process undemocratic.

Mr. Chairman, I see the proposal before us today as a continuation in the process of Government reform and a further attempt to restore confidence in our system of government. Some of us have been working on these goals for some time now, and I would like to take a moment to list a few of the reforms which we have already enacted, for I don't think they are irrelevant to this discussion. We passed a strong new financial code of ethics, which included financial disclosure requirements for Members and key staff members; a 15-percent limit on outside earned income; a $1,000 limit on any honorarium; limits on gifts; restrictions on the use of the frank; curbs on lameduck travel; abolition of unofficial office accounts; and a prohibition on personal use of campaign funds. We reformed the antiquated seniority system; we passed "Government in the Sunshine" legislation and thereby opened up the working of the Government to the citizens. We are continuing to work on lobbying disclosure—the House, of course, passed such a measure in the last Congress. I have supported all of these measures, and in addition I have made my entire voting record, as well as complete financial statements for myself and my family, available to the public.

None of these steps, and certainly not the proposal before us today, are reform for reform's sake. It is crucial that we restore confidence in our system, and all of these changes are steps toward that end. It troubles me greatly that the Congress does not enjoy a better reputation among the people, because I truly believe this is their House, and that we are but the trustees. I believe, further, that the primary cause of voter apathy is that many individuals feel their one vote doesn't amount to anything, and that there is nothing they can do, as individuals, to change the course of events, or to strengthen the great system that has served us so well. If they feel that way about their vote, it stands to reason that they feel that way about giving their money to a candidate—any candidate—in whom they have no more than fleeting and passing interest.

By not passing this legislation, Mr. Chairman, I believe we would add much to that lack of confidence, to increased voter apathy, and to the eroding of the reputation of this House. Our people need to know that this still is their Government, responsive to their needs collectively and individually, and not subject to the influence of any interest capable of raising and giving enormous sums of money to candidates for the House.

Mr. Chairman, we have taken great care in this country to guarantee that this House is constituted of Representatives chosen under the "one person, one vote" doctrine of the Constitution. I think we can enhance that heritage by saying to the American people that we will not permit the power of the purse to negate that constitutional right.

I urge adoption of the amendment.●

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Speaker, I rise in opposition to this rule. As a member of the House Administration Committee, I am incensed at this blatant attempt to usurp our legislative jurisdiction.

Many of us have argued at one time or another that committees may validly be bypassed if a committee refuses to act—we had an example of that recently when a majority of the House demanded the opportunity to consider a busing resolution. But, Mr. Speaker, this situation is entirely different. The House Administration Committee has scrupulously carried out its duties in connection with election law reform. We passed H.R. 5010, a significant package of FEC amendments, earlier this fall, and it is my understanding that the chairman intends to look into other reform proposals, including the role of PAC's in the election process, this year.

The fact is that supporters of H.R. 4970 chose to bypass the committee in this instance because we did act. After extensive hearings and markup, we defeated H.R. 1, taxpayer financing of congressional elections, by a decisive and bipartisan margin.

Mr. Speaker, the House Administration Committee is not unrepresentative of the whole House. We are merely more aware of the sometimes unintended implications of election law changes. A recent report by the Institute of Politics of the John F. Kennedy School of Government at Harvard University, for instance, concluded that while "the overall impact of the (Federal Election Campaign) act has added to the honesty and efficiency of the political system," the reforms have had "unanticipated consequences" resulting in "severe" problems that should be corrected through remedial legislation. The Harvard study was supposed to be the basis for such remedial legislation. That is what the House Administration Committee intended when it commissioned the $60,000 project.

Instead, by this rule, we are faced today with the option of looking at only one piece of reform, not an integrated whole. We are ignoring the problems touched on by the Harvard study, including the "rich candidate" trend; deterioration of the role of political parties; differences in the costs of campaigns in various districts; the need for more money to conduct close, competitive campaigns; the specter of limiting citizen participation.

We are ignoring the conclusion of the Harvard study that money in politics is not an evil force, that on the contrary, "adequate campaign funds are essential in competitive elections" and most campaigns have too little, not too much money. Michael Malbin pointed out in an article in "The Public Interest" that:

> The cost of campaigns now comes to less than the nation's advertising budget for soap, while the cost of running the Federal government exceeds one-fifth of the gross national product. In light of this how can anyone seriously claim that the cost of keeping incumbents on their toes is too high?

How, indeed?

Bad legislative procedure is reason alone to defeat the rule allowing consideration of this nongermane amendment. Mr. Speaker, but when the draftsmanship of the Obey-Railsback bill is examined, the necessity of sending it to committee for full consideration becomes even more apparent.

As Members know, the main sponsors of H.R. 4970 will be offering three amendments to their nongermane bill. They will seek to change their monetary limits, both for individual PAC's and for the aggregate PAC contribution limit. Clearly, then, there must have been no particular reason for the initial figures. They will revise their credit provisions, which members of the Rules Committee seemed to agree were unworkable in any event. And, they will try to add a whole new provision, of questionable constitutionality, limiting the amount that a candidate can loan to his own campaign.

There is nothing sacrosanct about H.R. 4970, Mr. Speaker, and I am inclined to believe its supporters would have accepted a rule allowing practically any amendment—save those which would undermine their basic precept—that PAC money is bad. I testified before the Rules Committee seeking to make in order a motion to strike the overall PAC contribution limit, originally $50,000, now perhaps $70,000 or $85,000. To my mind, this is the most dangerous section of the bill in that it is the first step down the road of limiting the amount of money a candidate can get from various sources and thereby eventually forcing us to use tax money in order to mount a compaign.

The overall limit would have a devastating effect on challengers, particularly competitive challengers and those running for open seats, which are traditionally the most expensive races. It makes personal wealth even more important, since an individual's contributions to his own campaign constitutionally cannot be limited. It ignores the very significant differences in costs of campaigning in various districts—caused by region, size, urban/rural makeup, and media market.

And the overall limit would encourage PAC's, which are not going to go away or stop growing regardless of what we do, to take advantage of the independent expenditure route, also constitutionally protected, to promote or especially to defeat a candidate. Look at what is happening in the Idaho Senate race, where a challenger has not even announced. Look at what has and can be expected

to happen nationally where single-issue groups campaign for and against candidates based solely on a narrow, often emotional subject. Look at what is happening in the Presidential race where the "draft Kennedy" movement is being allowed to raise campaign funds in excess of limits prescribed for announced candidates. The more restrictions we place on campaign contributions, the more we will encourage such groups to function outside of the system and the less the candidate himself will be able to manage and control the direction of his own campaign.

The Rules Committee, by routine voice vote, rejected my amendment to strike the aggregate ceiling and we will not be allowed to vote on it today if this rule is approved.

Mr. Speaker, there is no reason to believe the House will be denied an opportunity to work its will on the question of contribution limits and the role of money in the political process if this rule is defeated. On the contrary, I believe the House Administration Committee is prepared to act. In case some Members may have missed it, I draw your attention to a "Dear Colleague" letter I signed with the other three Republican freshmen on the Administration Committee, all of whom oppose public financing, stating that "We believe there is a need to look at our campaign laws, particularly in the areas of individual and party contribution limits." I suspect that many who oppose H.R. 1 share that belief.

The implications of H.R. 4970 are unclear, Mr. Speaker, except that it might further restrict citizen participation—yes, through perfectly legal, voluntary, congressionally sanctioned PAC's. It is incomplete reform, when we need an overall look, and it goes against a year-long study commissioned by a committee of this House. The bill is predicated on an emotional, misguided belief that PAC contributions are wrong, and it seeks to send that message to the American people.

Mr. Speaker, in the Rules Committee, a colleague who defeated an incumbent and who voted against this rule, indicated that his election might have been unwinnable had this proposal been law. Well, so would have mine. Those of us who are voting today do not have to challenge an incumbent or fight for an open seat. Now we are all incumbents, and have all the advantages gained thereby. I am willing to risk "keeping on my toes," to paraphrase Mr. Malbin, by giving challengers a chance to raise money. I urge my colleagues to keep this House open to viable challengers by voting against this rule.

Mr. Speaker, I would like to direct a question to one of the main sponsors of H.R. 4970, the gentleman from Illinois (Mr. RAILSBACK), who has pointed out that labor PAC's would be one of the groups most affected by the individual PAC limits in his bill. Given that labor PAC's are among the largest contributors, I agree with him, at least on the face of it. But it is also true that the number of corporate PAC's is growing at a much greater rate than the number of union PAC's—1,000 percent versus 14 percent since 1974; there are now 950 corporate PAC's versus 272 union.

Is that why the gentleman included in section 5, the bill's severability clause, the requirement that should the aggregate PAC contribution limit language (section 3) be held invalid, that the individual PAC limits (section 2) also have no further effect? So that union PAC's, which have a limited growth potential compared with corporate PAC's, will not have to give up their big spending ways?

□ 1040

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. HANCE).

Mr. HANCE. Mr. Speaker, I rise in opposition to the rule. The fact there were no committee hearings on this legislation certainly does not offend me. I think everyone pretty well knows the pros and cons of the legislation that we are facing at this time.

The most important thing, though, is the end result that the passage of the Obey-Railsback amendment would bring about. I think the end result would be nothing more than an "incumbents' protection act." It would help incumbents more than anyone else.

The fact is, once we limit the PAC's, limit the amount that they contribute, we are hurting the challenger. One thing I would add is that anytime someone comes up with a large contribution from some PAC, what is wrong with the opponent calling to the attention of the public that the person is receiving too much money? I had an opponent last time who got $2 for every $1 I got from the political action committee. A candidate should call a press conference and say their opponent is receiving too much PAC money and make it an issue in the campaign. I urge a "no" vote.

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, there is nothing very mysterious about this matter. It is pretty obvious that if one can count, one knows the majority, which controls what goes to the floor, has brought out a rule that would make in order an amendment which is nothing but an incumbents' protection bill. There is nothing mysterious about that, and there is nothing new about it.

The majority of this Congress has been trying to protect itself ever since I can remember, and the gentleman from New Jersey, my good friend the chairman of the House Administration Committee, is as adept at that art as any man I have ever known. I congratulate you for your great abilities, my good friend.

Mr. Speaker, we are being asked to adopt a rule to permit consideration of a proposal that not only is nongermane; it also is one which has had virtually no previous scrutiny by the Members. This proposal would make drastic changes in present law covering contributions by political action committees to candidates for Congress. It would cut sharply the amount any PAC could contribute to a candidate during an election cycle. It also would limit the total amount a candidate could receive from all PAC's, and reduce the extension of credit to candidates for certain services.

This proposal is aimed directly at reducing the ability of PAC's to participate in the electoral process. Another result, however, will be to sharply limit the ability of a candidate—especially a challenger—to raise funds, particularly during the critical early stages of a campaign. Thus, a spinoff result will be further to entrench incumbents by making it even harder for challengers to develop effective campaigns against them.

Before the House takes up valuable floor time to consider such an important proposal, it seems to me there should be a body of evidence in support of the changes sought. There should be some showing that the system now in place is not working properly. Yet, despite the enormous impact this legislation would have on our electoral process, not a single day of hearings has been held. I have seen not a single line of testimony, not a single page of a committee report, indicating that election experts, candidates, contributors, or the general public have expressed their views on this subject. I am unaware of any showing that political action committees have abused their rights under the law this body passed just a few years ago.

Nor am I convinced that limiting PAC participation automatically is a blow against so-called special interests, in favor of some vague and undefined public interest. The fact is that PAC's consist of individuals from all walks of life—working people, business men and women, doctors, lawyers, engineers, you name it.

These people join together voluntarily to support various candidates. When the ability of people to support candidates of their choice is discouraged and impaired, American citizens are turned away from taking an active role in the political process. The turnout for congressional elections in 1978 was but 34 percent of those eligible. We should be seeking to raise that turnout, not reduce it.

By curtailing PAC's—without improving the ability of the broad-based political parties to support candidates—we also may be establishing a special class of candidate with a unique advantage. I have in mind those individuals of great wealth who would be able—and willing—to spend their own personal fortunes on their campaigns. As the ability of a candidate to seek contributions from supporters is reduced, the advantage for a candidate with unlimited access to a personal fortune is increased. I doubt my colleagues want to see things move in that direction.

For all of these reasons, I urge my colleagues to vote down this rule. This matter is too important and fundamental to our electoral process to be brought to the floor under such breathless, now-or-never, take-it-or-leave-it conditions.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey, the distinguished chairman of

the Committee on House Administration (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, first of all I would like to express my appreciation to my friend from Arizona, the distinguished minority leader. Did I understand him to say that I am adept at protecting the majority?

Mr. RHODES. Mr. Speaker, if the gentleman will yield, I said that the gentleman is adept at protecting incumbents, and because there is a 2-to-1 majority of his party, that he is very adept at protecting the majority. I say this in all kindness, and in praise.

Mr. THOMPSON. I thank the gentleman. Along the line, I hope that I have helped him.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield for one comment?

Mr. THOMPSON. I yield.

Mr. RAILSBACK. Mr. Speaker, it is very, very important to simply look at the election results and the statistics from the 1978 election. Incumbents got almost four times the money that the challengers received. We talk about the challengers who won. What about the ones who lost?

Mr. THOMPSON. The gentleman is quite right. I might say to my friend, the minority leader, that I have been under some attack over the years from this side for being the sponsor of the rule which commits one-third of the staff to the minority, which I am sure—I know—you put to superb use in a legislative way, and possibly even it has helped politically.

I intend to continue my earlier practice so that the proportion in the House is at least the same, and I hope the gentleman from Arizona, the gentleman from Maryland, and all my other friends over there come back, but we have enough of you, you know.

□ 1050

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Arizona.

Mr. RHODES. I thank the gentleman for yielding. I have always expressed my thanks to the gentleman from New Jersey (Mr. THOMPSON) for the fact that he does support the minority in certain ways, but he wants to keep us viable but small.

Mr. THOMPSON. Small in number. But, for instance, I am looking at a distinguished friend of mine, the gentleman from Missouri (Mr. TAYLOR) who is here.

In any case, I rise in support of the rule. The provision dealing with the FEC authorization is open and requires no further discussion. However, as the Members are aware, the balance of the rule is modified to permit consideration of the amendment to be offered by our colleagues, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Illinois (Mr. RAILSBACK). I shall let those two able cosponsors discuss the specifics of and the need for H.R. 4970. I have, in fact, two amendments which I will offer which will strengthen and improve the bill.

I would like, Mr. Speaker, to discuss the relationship between the rule and the Committee on House Administration. The rule does in effect in a small manner avoid markup by the committee. While such a procedure is not without precedent, I realize that to some it is unusual. I would ask the Members to consider the fact, however, that virtually innumerable amendments and substitutes are written in cloakrooms and on the floor, never printed in the RECORD, and presented in lieu of an entire bill. That is a frequent occurrence here. I submit that because of the need to enact this legislation before the primaries for the 1980 elections, the direct approach contained in the rule is necessary. As chairman of the Committee on House Administration, I am particularly aware of the significance of the rule.

Let me point out some things to my colleagues. All of the provisions of H.R. 4970 have been considered by the Committee on House Administration during the past 2 years. Two of the three major provisions of H.R. 4970 were reported by the committee in the last Congress in the bill H.R. 11315. The committee has held 16 days of hearings on the Federal campaign law in the last 2 years. The committee has performed its own computerized analysis of the finances of the 1978 House elections, and the committee has commissioned and received a campaign law study by the Kennedy School of Politics at Harvard, to which my friend, the gentleman from South Carolina (Mr. CAMPBELL), referred.

All in all, Mr. Speaker, the issues involved in the Obey-Railsback amendment are familiar to the committee. They are well within our recent legislative experience.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BOLLING. Mr. Speaker, I yield 5 additional minutes to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman.

If House seats are to be taken off of the auction block in time for the 1980 elections, the rule must be adopted today. I am not one to subscribe to the theory expounded by the gentleman from South Carolina (Mr. CAMPBELL) that it is incumbent on this body to write the rules for the other body. We have been under rather severe and, in my judgment, unfair attack by the other body in recent days and weeks. They set their own limitation, lifting the ceiling from 15 percent of their salaries to $25,000 for earned outside income. They did it. That is their business, and they are going to have to live with it.

I might point out that in no way that I can see does this lead to public financing. I will state, however, that it is well known that I favor public financing, and it is equally well known that the committee rejected it by a vote of 17 to 9. The fact is, however, that individual contributions will be allowed without any limitation, because under Buckley against Vallejo it is impossible to put limits on moneys expended for House seats. A great many of my colleagues for very good reasons in their minds, I am sure, have voted against the money, all of the moneys for all of the committee operations, have voted for every opportunity to cut back on expenditures, have voted either to limit themselves to a 5.5-percent pay raise or no pay raise at all, and yet a great many of those are inconsistent, in my belief, in saying that it is perfectly all right to spend and raise three or four times the annual salary of a Member of this body in order to keep office. I just think that that is unseemly. I think that House races are entirely too expensive. I think that this is evenhanded, and it is in no way on my part punitive, because when the original Federal election law under which we now operate was passed, I was a cosponsor of the amendment which allowed corporate political action committees, along with our former colleague, Representative Orval Hansen of Idaho.

So on balance we are familiar with the issues. We are familiar with what this rule does. We are familiar with the limitations, and the very least that the Members can and should do is to show their constituents that they are willing to debate this rather than to be in the unseemly position of voting against a rule which would prohibit the debate and foreclose any opportunity to have this legislation enacted for the 1980 elections.

Mr. Speaker, I yield back the remainder of my time.

Mr. BAUMAN. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. HOLLAND).

Mr. HOLLAND. Mr. Speaker, I probably should not use a minute because this debate is not worth a minute. We allegedly have important things to take up in the House of Representatives and, in my judgment, we should vote down this rule and get this absurd issue out of the House of Representatives for the rest of this Congress because we are wasting time.

I heard the gentleman from Illinois (Mr. RAILSBACK) say that incumbents get four times more money from PAC's than nonincumbents. I would say that the PAC's in those cases are exercising the same kind of discretion that your and my constituents have exercised. They have made you and me incumbents. It would seem to me to be an abuse of discretion if these PAC's, or anybody else, went around backing losers.

It is laughable to me that the chairman of the Committee on House Administration expects us to knuckle under to all of these so-called reformers out there who never got elected to anything, thereby tarring ourselves with an unnecessary brush. I hope we defeat the rule.

Mr. BAUMAN. Mr. Speaker, I yield one-half minute to the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. Mr. Speaker, I rise today in opposition to the proposed rulemaking in order certain amendments for consideration of S. 832, the Federal Election Commission authorization for fiscal year 1980.

My opposition to the adoption of this rule stems solely from my concern over the procedures by which it is proposed that we consider these important issues. If we adopt this rule today, we are effectively prohibiting a fair and open debate in this House of the entire question of campaign contribution limitations. If we

adopt this rule today and thereby waive the normal requirements of germaneness in order to consider only certain amendments which in themselves are both substantive and broad in scope, we will in effect be turning our back on the committee process which is designed to provide indepth scrutiny of legislative proposals.

I am also concerned that the consideration of this proposal has become a matter of political expediency rather than a reasonable debate and discussion on the merits of changing our electoral system in this way. Too often recently we have acted on legislation under modified rules limiting debate and the amending process, and I am concerned about the trend that is developing. These procedures only serve to stifle minority views. Therefore it is ironic that some who propose more openness and diversity in our political system are using these means to make their voice heard.

In my judgment, we should consider these important issues in an open and forthright fashion. And, I make that recommendation, Mr. Speaker, as one who supports the concept of a reasonable program for public financing of Federal elections and of restricting the allowable limits of certain contributions to congressional campaigns. As a member of the Maine State Senate, I supported legislation which would have lowered political action committee contributions and corporate contributions to Maine State campaigns form a maximum limit of $5,000 to a maximum limit of $1,000. And, in fact, I am a proponent of the Obey-Railsback proposal with modifications which would be considered as an amendment today if this rule is adopted. However, I would feel far better if this proposal and other similar proposals were considered by this House in a fair, open and truly democratic fashion.

Thank you.

Mr. BAUMAN. Mr. Speaker, I yield one-half minute to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, simply put, this rule is an outrage. First, it violates the principle of germaneness that controls every other piece of legislation. Second, it is totally pro-incumbent and antichallenger.

I speak as one who ran twice against an incumbent to get to this House. Had this been in effect, I would not be here—nor would many other first-termers. The fact of the matter is we need some contributions of large size in order to be able to attract the small contributions. How do you think you pay for the mail for solicitation of small contributions? If you want to get rid of the pro-incumbent status, let us talk about cutting down on staff; let us talk about cutting down on franking privileges; let us be serious about it.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Speaker, I rise in opposition to the rule which would allow consideration of several nongermane amendments to this legislation, and the introduction of the Obey-Railsback amendment.

Little more than 3 years ago I was a lawyer with a quiet little practice in New Orleans. In 1976, having never run for public office before, I decided to run for Congress. I ran—and lost—but not by much. A year later I had the chance to run again, in a special election. I won that election by working terribly hard, by having lots of people working for me, and by spending a lot of money. Thousands of people contributed to my campaign—small amounts—but they contributed. And I was the first member of my party to be elected from my district in 102 years.

Mr. Speaker, if we debate this amendment, and it should pass, we will make that kind of victory much more difficult. We will make it even harder for an unknown candidate, a candidate who does not have personal wealth, to be elected to Congress. Do we want to do that? I do not think so.

I do think that this attempt to change the rules on contributions from political action committees has a double thrust behind it. One of them is an idea that has been around for a few years—the idea that our people do not have enough sense to elect the kind of representation they want—that they cannot be trusted, that they must be protected from so-called special interests.

That idea brought us the Fair Campaign Practices Act of 1974, which was supposed to strengthen grassroots participation in politics and remove the taint of special interests by prohibiting corporate contributions and limiting individual ones. It has had just the opposite effect. Just as small businesses have been crippled by redtape and regulation, so has our political process been stifled by burdensome paperwork. Fewer and fewer Americans are participating.

Those who do not trust the people with free elections are particularly afraid of special interests that are somehow connected with business, with corporations, with the free enterprise system. And they have managed to paint political action committees with that tarnish. Somehow, it has become bad to have political action committees contributing to congressional elections—yet those committees are made up of millions of small donors who are merely banding together, in the tried and true American way, to express their convictions.

These PAC's, as we call them, are not all controlled by huge corporations. To the contrary, many of them are small efforts, established by small plants and businesses across the country—those same businesses who are so damaged by Government action they feel they must take action so they can have a voice in the political process. Some Members of this body fear that voice, and that fear is a powerful incentive behind this legislation.

But there is another incentive and it is an uglier one. One argument against this amendment is that it is designed to protect incumbents—and it is. This amendment, if it is passed, would not hurt my chances for reelection. I stand for reelection now as a man who is known by the people of the First Congressional District. My actions in Congress and my work in the district will be sufficient for them to judge me. But this amendment would hurt anyone who would want to challenge me, or any other incumbent.

If we allow this amendment to be considered today, we must remember that it is before us because it will protect incumbents. There are more Democrat incumbents than there are Republicans and the Democrat leadership is using its power to keep that majority, but putting another layer of redtape over our electoral process.

The Democrat leadership is afraid of political action committees because it is afraid of the message they bring. That message is that there is too much government, too many and too high taxes, too much regulation, too much bureaucracy, and too many years of waste. The Democrat leadership is responsible for too much of the mess people see in Washington today and they are scared.

I hope there are enough Democrats here today who can see clearly what is happening to our political process, who can see the frustration of our people, who know that more controls are not the answer, and who will vote to defeat the rule and banish this amendment as another step in the wrong direction.

We do not need to protect incumbents; we need to protect our unique political system from further destruction. I urge you to defeat this rule and keep open one of the avenues of political participation that is still open to our people.

□ 1100

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Speaker, I can well understand why the sponsors of this legislation would like to pull an end run around the committee system. Any kind of careful legislative scrutiny would cause this proposition to fall of its own weight. It simply cannot stand the light of legislative hearings. Even a cursory examination before the Committee on Rules revealed so many shortcomings that the original sponsors are in here today with amendments trying to correct the defects in their ill-conceived scheme.

Mr. Speaker, the bill rests on two fundamental myths and misconceptions. Myth No. 1, too much money is being spent on congressional campaigns. America spent more money last year on fireworks than we did on all congressional elections combined. In real dollars less was spent in 1978 than in 1974 and as a result on election day, three out of five Americans could not name the challenger of the incumbent Congressmen. Now that might be awful good for the incumbent but it is lousy for democracy.

The House Committee on Administration that has been bypassed by this proposal commissioned a study by Harvard University on election reform laws we have passed up to now. Harvard concluded there have been numerous unintended and unanticipated results that have been disastrous to the political process and concluded that in most congressional elections too little money, not

too much, has been spent and, therefore, the voters are voting blind.

Myth No. 2, that there is something evil and dirty and sinister about political action committee money. Ever since the Sun Oil decision I have spent hundreds of hours and thousands of airplane miles trying to persuade business and industry to become good citizens by participating in politics in the only way they can, through the formation of political action committees.

That some have responded is good, not bad, for democracy.

Mr. Speaker, the average contribution to a PAC is $14.65. What in the world is wrong with hundreds of thousands of Americans participating for the first time in democracy by a $14.65 check? That is good because their interest, their attention, their mind, their heart, and their participation follow that check. Why if this sinister trend continues, some day three out of five might be able to name the challenger of the incumbent Congressman on election day.

Vote for this rule and you will be voting to have the House vote blind on vital legislation. Pass the bill and you will be voting to have the American public vote blind on election day when they choose their Congressmen. The sponsors have the most lofty and wonderful, wonderful intentions but those very intentions should be leading them to lead the charge in screaming bloody murder against this rape of the legislative process and dropping the informational curtain over the American public.

Serve the intentions they espouse so eloquently and vote no on the rule.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, Harry Truman once said that some people like the Government of the United States so much they would like to buy it. That is really what we are talking about this morning when we debate this rule.

There is nothing unique about what is being suggested by way of process. Just a little over a month ago the House passed H.R. 5010 to amend the Federal Election Campaign Act. That bill was put on the suspension calendar. It passed without opposition. There have never been any direct hearings on that legislation.

Mr. Speaker, in contrast, let me point out, as the chairman of the committee has indicated, the committee has had 16 days of hearings on the whole question of the election process. The committee brought to this floor last year two of the three items which would be contained in the amendments which we are seeking to make in order under the rule. I must say I am really amused by people who, in one sentence, will attack this rule for both being against openness and putting in order something in addition to the main subject which would be discussed in the original bill.

Mr. Speaker, what we are trying to do is simply to bring forward for discussion on the House floor one of the gut issues that relates to the election process. To debate anything having to do with the election process without debating how the process is financed is to me laughable.

Mr. Speaker, what we are doing is what the rules provide. The rules provide that if the House chooses we can use those rules in order to address any problem being faced by the country or the Congress itself.

Mr. Speaker, I want to submit I think there are a lot of reasons why this amendment ought to be made in order under the rule but the most important is simply this: An awful lot of people will ask these days—they ask you and they ask me—why cannot Congress get anything done?

I try to explain to them, the No. 1 reason is because we just have a lot of tough issues and the country is divided and if the country is divided you cannot expect that the Congress is not going to be divided and it is going to take time to work out those problems.

In addition to that, there are two other problems we face. One is that we have this mounting growth of one-issue groups and they would rather paralyze the Congress and paralyze our processes than to have any judgment finally made on their particular issue if the judgment that the Congress makes does not exactly square with their own judgment.

Mr. Speaker, the new element is this, that since the law was changed 6 years ago, you now have the ability for a lot of groups to put their money where their mouth is. When you add that new element and when you have single-issue group after single-issue group saying, "If you guys don't do what we want on our issue not only are we going to vote against you but we ain't going to give you no campaign money," you have a prescription for eventual paralysis in this House.

We have seen it happen. You will recall when we had the separate Department of Education measure up a couple of weeks ago. I oppose that as did many Members on the Republican side of the aisle. What happened on that bill? We were told frankly by the NEA that if you voted against that bill you were not going to get any campaign bucks. You were told by the AFT on the other side if you voted for it you were not going to get any campaign bucks.

I have great respect for the head of the machinists' union. I think he is one of the finest union leaders in the country today, but anybody can get carried away once in a while and he did. You will recall he made it quite clear that if you did not vote the way he wanted on natural gas legislation, regardless of your record on anything else you were not going to get any campaign dollars.

□ 1110

So what we are trying to do is simply to do something in this amendment to correct the fact that people's threshold of embarrassment in pressuring this Congress has gotten to outrageously high levels. It is almost impossible for people to be embarrassed by some of the requests they are making of the Congress these days.

It seems to me the way to handle that is to say, fine, interest groups have a perfect right to try to influence the legislative process by contribution, by persuasion.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

Mr. BOLLING. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. OBEY. But we have to put it in balance and that is all we are trying to do. We are trying to have made in order today a proposal which allows us to put in balance the difference between the power that individual citizens have to approach us directly and the power that they have to approach us collectively, or their agents have to approach us collectively. It seems to me that if you are concerned about strengthening grassroots politics and increasing the numbers of people involved in contributions to the political process, that you need to pass this rule, because many of us, and I myself, I got more than half my campaign money last time from PAC. It happens by habit, because it gets so easy to raise PAC money that you forget about the necessity to build your political base back home by going to the grassroots and raising larger amounts of small contributions.

If this legislation passes, if the rule passes, which gives us a shot at discussing this issue, I would predict that what it would do is cause all of us to go back home and to begin to broaden our base and broaden political participation by seeking out greater numbers of smaller contributions which will enhance the health of the political process. I think it will make the public feel a lot better about the political process and I think it will free us from a lot of intimidation which increasingly is going to be going on around here if we do not restore some balance to our political process, as this amendment is trying to do today.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Speaker, the distinguished gentleman from Michigan said earlier that the prime sponsors of this bill should be up screaming against this rule. I was one of the 12 prime sponsors of this bill and I am screaming against this rule.

The thrust of the Obey-Railsback amendment and the motives behind it, are indeed correct; but it seems to me that the approach that is being taken under this rule does not allow the House to address very fundamental questions that relate to this amendment.

I wonder if the Members of the House and those who have sponsored this amendment have taken the time to actually look at what the impact of it will be, particularly that part of the amendment which sets an overall limitation on the amount of money a candidate can receive from political action committees. That money collected by political action committees will not simply go away. That money is still going to be collected and distributed. It will either go to candidates who do not have difficult races or be used for independent expend-

itures. If it goes to candidates without hotly contested races, that money will be used, not to help elect people, but to buy influence, which is precisely what we are supposed to be trying to stop. If it is used for independent expenditures, it will introduce a dangerous, new element into the political campaign process.

I think the impact of that should be analyzed quite carefully by the committee and the House before we jump headlong into accepting this limitation. I do not think we want PAC money being used in uncontested races and I do not think we should force it to be used for independent expenditures.

The gentleman from Wisconsin was quite correct when he said that one of the thrusts of this bill was to get people to go back home and create a grassroots base; but again serious questions about possible inequities should be considered. As the gentleman indicated, he received over half of his money from political action committees; $32,000 out of some $60,000. But this bill will do nothing to affect him; he, and others like him, could continue to finance their campaigns by relying heavily on PAC funds.

I, on the other hand, received $90,000 from political action committees; less than one-third—as compared with Mr. OBEY's one-half—of my campaign funds came from PAC's. Yet, under this proposal, challengers who will be in the same position I was last year, will be forced to dramatically alter their campaign activities. In other words, we are penalizing the candidates who have tough races and who are already seeking contributions from the grassroots and we are rewarding those who enjoy token challenges and rely on the PAC's for most of their campaign dollars. These potential inequities should be analyzed and scrutinized by the committee system and the full House, but this rule does not permit that.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. BOLLING. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman from Missouri for yielding.

There have been several references in the debate thus far to the Harvard Business School study and it has been made to appear that perhaps that study was opposed to any limitations being placed on PAC contributions. Let me quote some language from that study:

> The study group carefully considered whether this increasing presence—
>
> Speaking about PAC money—
>
> may prove detrimental to the political system. The arguments which seem to us most cogent are as follows. First, as is frequently noted, PAC money is interested money. . . . Second, not so widely observed is that a troublesome aspect of PAC growth has been the nationalization in the sources of money available to federal candidates. Candidates now rely more heavily on money from outside their districts or states.

Does that make this a more representative body to have candidates increasingly dependent on sources of funds outside of their own State, outside of their own districts? I think not.

Now, the charge has been made that this is a proincumbent bill, that those of us who support this rule are doing so so that we can lock into these chairs the Members who are already seated here. Nothing could be further from the facts. The pure, simple fact of the matter is that more than three times as much of that PAC money is going to incumbents as is going to the challengers who would like to win a seat in this body. In the last election, in 1978, 176 candidates for the House of Representatives received in excess of $50,000 in contributions of this kind, 32 percent of the contributions that were received by incumbents last year, and there was one case which may have been referred to earlier in the debate where one incumbent received more than 70 percent of his campaign funding from public interest groups, from political action committees.

It has been suggested that somehow we do violence to the procedures of this House with the adoption of this rule. One Member even referred to the rule as an outrage.

Let me tell you what the American people are really outraged about, that is the fact that campaigns are being financed in the way that they are and we, comfortable in our own ways, go along, unwilling to examine the problem and change it before scandal breaks upon us. There is the outrage.

Now, if you could prove and demonstrate to me for one moment in one instance, document for me, that with the growth of these political action committees, with the explosive growth that has taken place in the percentage that they contribute to the total financing campaign, that there has been this great rise in voter participation, that more people than ever before were flooding into campaigns and were working, I for one would view this less of a problem than I do; but the evidence is lacking to that effect and the evidence, I think, is quite to the contrary, that as the gentleman from Wisconsin has suggested, if we want to continue to find ourselves at the mercy of single issue politics, if we want to transfer the power to individual groups and causes in this country to dominate congressional campaigns and dominate the debate in this body by focusing time and time again on their narrow discreet issue alone, then defeat this rule.

□ 1120

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from South Carolina (Mr. DAVIS).

Mr. HYDE. Mr. Speaker, will the gentleman yield for 30 seconds to me?

Mr. DAVIS of South Carolina. I am glad to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am just dismayed at the presentation of the last speaker, my dear friend, who first came to my attention, before I came to this body, as the most militant opponent of "King Caucus." The gentleman made many speeches stating that we Republicans were excluded from the committee process and the processes of democracy itself, and now I find him supporting this outrageous rule today. I am disappointed and dismayed.

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of South Carolina. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Speaker, I oppose this rule because the subject matter is not worthy of the consideration of this House.

Demagoguery is not a reason for limiting political freedom in this country, and this Congress should have no part in gagging a very broad spectrum of our people.

Mr. Speaker, at times here on the floor it seems as if mystical incantation has replaced reason in our debate of public affairs.

This is one of those times.

The Obey-Railsback amendment to S. 832 is alleged to be a reform that will exorcise an archdemon that distorts our political system.

If only we can tame this rampaging beast called political action committee, all will be right, fitting, and proper; and the Sun will rise on a purer world tomorrow.

But what we would do with Obey-Railsback is to create a serious imbalance in our political system, and once again defy the basic good judgment of the American people.

The people recognize the demagoguery and distortion involved in trying to blame the problems of the Nation on political action committees or any other convenient scapegoat.

The people of the Fifth District of Florida by an overwhelming 70 percent disapproved of the idea of public finance of congressional campaigns when they answered my spring questionnaire. And this provision is meant to lead in that direction.

The people understand what the sponsors and not a few editorial writers refuse to accept: That in almost every instance these allegedly evil PAC's, even the biggest, are financed by hundreds and thousands of individual contributions at every level of free enterprise from production line workers through management.

They also recognize the gross distortion of saying that PAC contributions are simply contributions from companies and nothing more.

Our people know the free enterprise system is the best economic system in the world based on performance. They know England has had a filtration with socialism that lured it to the brink of ruin, and they do not want the same thing to happen here.

If this passes we have said two things.

We have said to the big labor unions: It is all right for you to work with all your might for the changes in law that you want—repeal of the right to work, common situs picketing and other nonproductive and inflative measures—using all the in-kind contributions and clout

you can muster. After all, there is no limitation here on newsletter endorsements, headquarters-ordered "volunteer work" or anything of that nature.

And we have said to the free enterprise system, and those who believe in it, this is an open-to-all democratic process, but we really do not want you to participate.

There is only one way for our system to work as it was meant to work.

Let everybody participate fully; not just some, not some to a greater degree and some to a lesser degree, not just those whose goals we find agreeable or certified as proper, but everybody.

This proposal will not exercise demons, but instead will create demons and call them up.

It is a bad idea and the House should reject it.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of South Carolina. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, I made a statement during my earlier speech that the stated purpose of this was to have public financing come into being.

I would like to read from Front Line, the Common Cause newspaper, in which appeared a quotation by Common Cause senior vice president Fred Werthheimer about this bill and its purposes.

He said this is "the key step now in weaning candidates away from the current system of financing campaigns." He went on to say that it should help set the stage for further consideration of public financing as alternative funding for congressional elections.

Mr. Speaker, the complete text of the article is as follows:

BATTLE SEEN TO CUT PAC SPENDING

(By Martha Netherton)

A major battle is taking shape around new campaign finance legislation recently introduced in the House limiting special interest group money in House elections.

On July 26, Reps. David Obey (D–Wis.) and Tom Railsback (R–Ill.) announced the Campaign Contributions Reform Act, which cuts in half the amount of money political action committees (PACs) may give to House candidates. The legislation is expected to be considered in September.

"This new step is necessary to deal with the PAC problem in time for the 1980 elections," CC Senior Vice President Fred Wertheimer said.

Since 1976, when public financing of Presidential elections took special interest money out of those races, PAC contributions to congressional candidates have jumped dramatically.

House candidates received $25 million from PACs in 1978—a 70 percent increase over $14.7 million in 1976. In 1978, 45 of 77 freshman Members received more than $50,000 from PACs, in contrast to 1976, when only 5 of the 66 freshmen in 1976 received that amount.

The bill would:

Limit to $5,000 the amount a PAC can give to a House candidate in the primary and general elections combined (currently a PAC may give a total of $10,000 to a candidate—$5,000 each in the primary and general elections).

Limit the total amount a candidate may recieve from all PACs to $50,000 (there is no limit now).

Prevent PACs, direct mail or political consultants from extending credit in excess of $1,000 for more than 30 days to candidates for political advertising or direct mail. This restriction is designed to prevent temporary campaign contributions, which would otherwise be illegal, from being made in the form of extending credit.

Leaders of business PACs and special interest lobbyists have already met to plan a lobbying effort to defeat the PAC bill, according to an Associated Press report.

"There's going to be an intensive campaign to defeat reform," Railsback said in an interview. He reported being "swarmed" by lobbyists who oppose the bill.

More than 120 House Members have signed as co-sponsors of the PAC bill, including some of the most influential Members of the House.

The bi-partisan group of principal sponsors, in addition to Obey and Railsback, includes five Democrats—House Administration Committee Chairman Frank Thompson (N.J.); Majority Whip John Brademas (Ind.); Rep. Phil Burton (Calif.); House Interior Committee Chairman Morris Udall (Ariz.); and House Budget Committee Chairman Robert Giaimo (Conn.)—and five Republicans—Rep. Barber Conable, the senior Republican on the Ways and Means Committee (N.Y.); Rep. John Anderson (Ill.); Rep. John Buchanan (Ala.); Rep. Hamilton Fish (N.Y.); and Rep. Thomas Tauke (Iowa).

A coalition of 21 organizations backing the PAC bill has written to Reps. Obey and Railsback in support of their proposal. Common Cause is working with these and other groups to generate additional backing among House Members for the measure.

"Unless steps are taken soon to restrict the alarming role of special interest PACs in American politics, their influence in Congress may become too pervasive to curb," Wertheimer said.

"Their contributions are invariably tied to lobbying activities," Wertheimer said. "PACs are causing institutional damage to our political system. There's no way Common Cause is going to give up on the campaign finance issue. It's just too important."

After the House Administration Committee defeated the public financing bill, H.R. 1, in May, many political observers believed the campaign finance issue would not be raised again in this Congress.

Wertheimer called limiting PAC contributions to House candidates "the key step now in weaning candidates away from the current system of financing campaigns." It should help set the stage for further consideration of public financing as alternative funding for congressional elections, he said.

The Obey-Railsback proposal is drawing support from Members who have never before supported public financing. For example, of the initial Republican co-sponsors of the PAC bill, more than half did not co-sponsor public financing.

In addition to the PACs themselves, likely opponents of the legislation will be Representatives who fought to preserve PAC giving under the guise of opposing public funding of elections, Wertheimer said.

"Now they'll have to reveal themselves as opposing any change in the current corrupting system," he said.

Major newspapers immediately endorsing the PAC bill include the New York Times, Los Angeles Times, Boston Globe, New Orleans Times Picayune and Austin-American Statesman.

"If Congress won't establish public financing of campaigns," The New York Times editorial said, "at least let it restrict the rising influence of PAC money and PAC pressure . . . How often can even scrupulous legislators be expected to forget their dependence on PACs?"

Mr. BEARD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of South Carolina. I yield, very briefly, to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Speaker, I would just like to say to my good friend, the gentleman from Illinois (Mr. ANDERSON), who made the impassioned speech for this rule that I would hope and I would like to be reassured that if the gentleman had been present in the Committee on Rules, of which he is a member, during the time this rule was taken up, we would not have now what I consider to be such an unfair, drastic rule as this. I think this is an important point, and I would like to be reassured by the gentleman at some time that he would not have supported a closed rule of this kind.

Mr. DAVIS of South Carolina. Mr. Speaker, I would say to the gentleman from Tennessee (Mr. BEARD) that that is Republican Party business.

Mr. Speaker, I wish to say to the Members of the House that I come here today to oppose this rule for several reasons.

First of all, as the distinguished chairman of the Committee on House Administration said, we have been treated with great disdain by the other body recently, so we come here today and we are going to tie our hands, cripple ourselves, kill our political way of life, and let them go free literally to raid everybody and every PAC. We are not going to stop the existence and the function of PAC's as long as they can continue to contribute large amounts to the Senate, and so the single-issue groups are going to exist and they are going to be of the same size and of the same character as they have before.

But my real problem today is as a member of the Committee on House Administration. We have one of the greatest committee chairman this House ever produced in the gentleman from New Jersey (Mr. THOMPSON), who is a true leader of men. To bypass him and our committee with this important legislation is an outrage. We lose everything. We lose leadership, we lose a great report written by a great staff, and we lose the opportunity to kill this in committee.

It has been argued that the changing of the rules in the middle of the game is not extraordinary, and that the provisions of H.R. 4970 have been considered by the Committee on House Administration for the past 2 years. Well, I have been on that committee, and I really do not remember considering them.

I would like to point out that the committee has never had 1 day of hearings on these provisions, and the reporting of two of the three elements of the bill in 1978 that the gentleman from Wisconsin (Mr. OBEY) mentioned in H.R. 11315 which limited the PAC contributions and prohibited extensions of credit by direct mail fund solicitors was the result of a markup session only, on which a request for the holding of hearings by our former colleague, Mr. Wiggins of California, was denied by the Chair.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of South Carolina. I yield to my most distinguished chairman and great leader, the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I can-

not let the gentleman's kind and generous remarks go unacknowledged and lose the opportunity to thank such a splendid Member. I do hope that the gentleman will reconsider his announced decision not to run again because, after all, we do need friendly opponents on that committee at all times, and I would express my affection for the gentleman, too.

Mr. DAVIS of South Carolina. Mr. Speaker, I thank the gentleman.

Mr. Speaker, let me just say that what we are trying to do is limit PAC contributions, and I would ask, if receiving money from interest groups is bad, does receiving less money make it less bad? I think not.

Mr. BAUMAN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, let me say that I oppose this rule.

I want to say at the outset that my committee always runs a very low budgeted campaign. It would not need PAC support. The records of my campaign committee reveal that my little PAC support has been accepted in the past.

I have never held one of these Washington fund raisers. I read in the newspaper the other day that one of my friends on the majority side of this House just recently held an extraordinarly successful fundraiser here in Washington. I have not ever had to raise these huge funds, but I realize that there are areas in this country where candidates must spend more money than I do to carry on their campaigns.

I have never had an ad on television, for example, but I know that in some districts in the United States candidates have to use television, and it is very, very expensive. However, I am not about to vote to deny candidates in those areas—in New York City, Cleveland, Ohio, or Los Angeles—the right to go out and properly solicit funds so that they can advertise their campaigns on TV.

Furthermore, Mr. Speaker, I think it is wrong to restrict PAC's without limiting the amount labor unions can contribute for so-called "get-out the vote" campaigns and for registration drives in areas favorable to labor.

Mr. Speaker, I think it is wrong to pass a rule making in order an amendment so sweeping which has never been considered by a committee. This is not in the best interests of the legislative process.

CALL OF THE HOUSE

Mr. THOMPSON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 678]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Cochlo
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kasen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1140

The SPEAKER pro tempore. On this rollcall 380 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

FEDERAL ELECTION CAMPAIGN ACT OF 1971 AMENDMENTS

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) has 8 minutes remaining, and the gentleman from Maryland (Mr. BAUMAN) has 5 minutes remaining.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Missouri (Mr. BOLLING).

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, the judgment we are about to make is not whether to adopt the amendment proposed. The judgment is whether to allow it to be considered and debated and voted upon. The vote we cast now will determine whether or not we are willing to consider some upper limit on campaign expenditures and campaign sources—a modicum of legal restraint where none exists at present.

It seems a strange and ironic thing that some Members of the House today would be taking the position that $70,000 from expressly designated special interest sources is not enough, when only 5 years ago, this Congress voted a total expenditure limit of $70,000 per campaign.

Five years ago, we were prepared to say that no candidate for his party's nomination or no nominee for the general election should legally be permitted to spend more than $70,000 in all from every source possible in his bid for election. That is the provision which Congress wrote into law in 1974. It was later invalidated by court action.

Yet today, some quail at the suggestion of even considering a composite $70,000 limit expressly upon those organizations and institutions which have legislative programs and by definition axes to grind.

I am not going to suggest to my colleagues that everyone who raises a political action committee group fund is sinister. I do not think they are sinister. I think for the most part they are good citizens trying to carry out their responsibilities in a democracy.

I do suggest, however, that it is threatening to the democratic process if more and more of the moneys we receive for

carrying on this process must come from special interest groups. I do suggest that it is dangerous to the electoral process if it becomes increasingly dependent upon those sources and if we are unwilling to establish any limit whatever upon the total resources and expenditures that may be extended in seeking public office.

A seat in the U.S. House of Representatives ought not to be like a seat on the New York Stock Exchange, up for sale to the highest bidder.

Well, I hear catcalls from the Republican side, and I just wonder if anybody wants to challenge that assertion. Are there those of my colleagues who feel that public office should be up for sale to the highest bidder?

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Arizona.

Mr. RHODES. I thank the gentleman for yielding.

I think the statement is absolutely ludicrous. It is comparing horses and rabbits. There is no connection whatsoever between a seat on the stock exchange and the House of Representatives.

The gentleman also knows perfectly well that the case of Buckley against Valeo, allowed a rich man to spend his own money to buy a House seat. That is the main reason why an overall spending cap will not work. He knows that. He also knows that is really the reason why restrictions of amounts applying to PAC contributions should not be lowered.

Mr. WRIGHT. I agree with the gentleman. That the case of Buckley against Valeo creates a problem for us, because it says we cannot legally and constitutionally impose a total limit upon campaign expenditures. For that very reason this seems to be the only way, by limiting the sources of big contributions, that we can effectively have any kind of a limit at all.

Therefore, it seems to me that it would be in the interest of wholesome, clean campaigning if we were to adopt this rule and permit this proposal to be considered.

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I feel like a thin patch of oleomargarine between two very thick pieces of bread, the Speaker and the majority leader, but I want the record to show I did not use the words crusty or stale in describing the pieces of bread.

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. BADHAM. I thank the gentleman for yielding.

I just want to point out very briefly that somehow some proponents of this measure seem to think that PAC money is somehow dirty, even though the contributions average only about $14 per individual human being member of the PAC.

□ 1150

I would ask then, as my colleague from South Carolina did, if so much is dirty, is just a little less just a little less dirty?

I would also like to point out to the Members that this amendment has never been heard in committee. It does not include the other body. This is again like the House playing with unilateral disarmament. It just does not make sense.

The rule should be defeated so that the amendment can be heard in committee in the normal traditional, orderly method of legislating.

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Minnesota.

● Mr. HAGEDORN. Mr. Speaker, in order to insure the orderly conduct of its legislative business, the House of Representatives has established a procedure whereby serious and far sweeping legislative proposals go through a rigorous examination of committee hearings, testimony, discussion and debate before the proposal comes before the House for final consideration.

Many unanswered questions can be cleared up before the matter comes before the full House. Individuals and groups who are interested in the legislation are given full opportunity to express their views and to let the Congress know how this bill will affect them. In the spirit of fairness to all concerned, this is how the system should operate—out in the open and by the rules. A majority is still supposed to rule in this nation and any sidestepping of the rules to push a special piece of legislation naturally is suspect. The American public has a very low opinion of the Congress and its Members should be especially alert to moves that are made to railroad legislation which has not gone through the established process and procedure to insure fairness.

What we have before us today is an excellent example of why the Congress is often held in such low esteem by the American public. Certain safely entrenched incumbents do not want to give any type of advantage to a challenger who might be able to attract more campaign contributions because that challenger offers a better program and vision for the Nation than the incumbent.

By making in order the Obey-Railsback amendment to the Federal Election Commission authorization bill, certain top individuals in this House are taking steps to bypass the established procedure so they can help protect the overwhelming majority and stronghold that they already have over the House of Representatives. They feel that the immense advantages of the incumbents—large staff, free mailing, ready accessibility to the press, paid travel and district expenses—should not have any competition from a campaign challenger who would have to raise hundreds of thousands of dollars just to match these incumbency assets.

Besides being disturbed about the manner in which this matter is being considered, I am also disturbed about the lack of control or limit over the in-kind contributions from groups who do not come under the political action committee rules. Hearings held on this amendment would certainly bring out the tremendous advantage that these types of unreported contributions play in certain campaigns, yet no action is being taken by this circumvention of the rules to offer any type of limitation or control on them. The idea of fair play is again attacked by a vicious sideswipe by those who already have access to these types of unlimited contributions.

Labor unions are by and large the principal "violator" when it comes to furnishing these campaign contributions which will never appear on any election report to the FEC. Often, the candidate does not even know of or approve the contributions that are being made. A challenger would have to spend untold thousands of dollars to match the effectiveness of the time, telephone calls, mailings made at reduced taxpayer subsidies rates, computer time, and personal efforts expended on behalf of candidates that special interest organizations such as unions support.

The so-called goal of this amendment is to attack what has been called the undue influence of special interest groups. Yet, there is no consideration given to the unreported contributions made by special interest groups. I agree that the matter of PAC contributions should be studied by the Congress because the original intent of the law may be circumvented by some PAC's. But, these situations would be discussed openly and not have the entire PAC operation considered guilty of excess as this amendment assumes.

The passage of this amendment would only tilt the balance toward others who do not have to report at all. It would only be a further violation of fairness to bind one special interest group and allow other more influential and powerful groups to operate without limitation.

Mr. Speaker, this matter needs to go through the established process. This matter needs to be discussed in the light of limiting the influence of any special interest group. This matter needs to be considered in the spirit of fairness to the American public who deserves to have the ability to choose the best candidates. This matter must not be used as another undercover protection of the incumbent—the individual who might have voted on a change in the law to protect his own special interest. This is a serious subject and the power of other special interests must not be able to overwhelm the attention of the voting public.●

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman. A major problem with the "rule" on Obey-Railsback is that we are dealing with a closed rule. We are shoving through so-called reform in only one segment of campaign financing. If there was one thing that the Harvard study pointed out, it was that the problem with campaign contributions was the lack of individual contributions; that major problem is untouched by Obey-Railsback. The "closed rule" in question serves to choke off one major source of campaign funding without considering any other kinds of funding and is simply not the way to go. I personally would

vote for such a rule if it were not so limited, if it were open to amendment from the floor. In its present "closed" form, I must rise in opposition.

Mr. FRENZEL. Mr. Speaker, I would start my remarks by saying that the majority leader has declared that we are all for sale.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield for clarification?

Mr. FRENZEL. Yes, I will yield to the gentleman.

Mr. WRIGHT. Mr. Speaker, under no circumstances did the majority leader say we are all for sale. The majority leader said that public office should not be up for sale.

Mr. FRENZEL. I thank the gentleman for his clarification. But, if the gentleman wants to protect us from being for sale, what he is doing is not outlawing prostitution but simply setting a lower price on it. Mr. Speaker, this House has heard enough from others about the details of the plot to avoid committee hearings for Obey-Railsback. I do not blame a sponsor of a bill this bad for wanting to avoid the truth of competent testimony, and the sunlight of searching inquiry.

So the sponsors chose an empty husk for a vehicle. To that hollow shell, an unneeded authorization for which the appropriation has long since passed, they have attached their special interest bill which has not had the first minute of honest testimony or inquiry.

For this reason alone the rule should be beaten. Good, honest, straightforwarded bills do not need to be managed in the darkness and protected by a closed rule.

The reason for the unnatural procedure is fear, lack of confidence in ourselves and in our constituencies, and a certain knowledge that Obey-Railsback cannot stand on its own merits.

Here is what the sponsors are trying to hide:

First. This is an incumbent protection bill. All the sophistry in the world cannot hide that fact. Sure, incumbents receive more but they do not need it. They already have the recognition challengers cannot live without. With limits on contributions set at a time when campaigns cost one-third as much as today, challengers cannot make a viable campaign without PAC's.

The reason incumbents have waited this long to smash PAC's down is because only now are they beginning to favor challengers. This incumbents' protection bill is a sure sign of that.

Second. It is a rich person's protection bill. The rich, protected by the Constitution, can spend unlimited personal funds despite a clumsy, unconstitutional attempt in Obey-Railsback. Because individual contributions are limited to $1,000, PAC's are the only defense against rich candidates. Those who contribute a large share to their own campaigns will surely want to vote for it.

Third. It is a big labor protection bill. It restricts all PAC's equally, and leaves labor's enormous special loopholes to communicate and to run registration and get-out-the-vote drives, all of which can be done with dues money collected involuntarily.

Fourth. It is a bill to protect the people from knowing very much about candidates or issues. But, not to worry, it will only stifle those campaigns that are close, or have contested primaries. Only where there is real competition, which we used to think was the life's blood of our political system, will this bill have effect. The sponsors are incumbents. Incumbents do not like competition.

Fifth. But worst of all, its an antiparticipation bill. Hundreds of thousands of thoughtful Americans, not satisfied with parties, turned off on politicians, find political expression by contributing through a reference group. It may be a union, a corporation, a professional association, or an ideological group. Whatever it is, they have some confidence in it. Yes, PAC's are growing because people like them. They find PAC's a convenient way to participate in the political processes of this Nation. They give to PAC's for some reasons in the same way as people give to campaigns directly. So let us throw them out, say the Obey-Railsback sponsors. Let us stifle participation. Let us keep politics for the elite—just for us insiders.

According to Congressional Quarterly, PAC gave 20 percent of all contributions to congressional campaigns in 1978 and 19 percent in 1976. That hardly puts us "awash in a sea of special interest money."

The foregoing are some general objections. Let us look at the specifics that the sponsors never tell you about.

Did you know it forbids accepting contributions from individuals "in a manner which creates the appearance that the contribution was made by a political committee"? Shall we put your treasurer in jail if he or she does not recognize an "appearance". Any who defines "appearance"? The bureaucracy does, of course. If ever a chill was thrown on political participation, this does it.

Do you know about the language that requires paying for all activities associated with mailing services before they are rendered? It is an amendment I invented and rejected long ago. It does not just attack the Viguerie organization. It affects all your mailing. It will force you to hire a lawyer to review everything your committee does during a campaign, and you will probably have to pay the lawer in advance before he goes to work.

Do you know about the severability clause? Its the real give away. If the total limit on candidates, is judged unconstitutional, as it certainly should be, then the per-PAC limit is repealed. That is proof positive that the sponsors only want to restrict spending and not the so-called influence of any PAC. Restrictions on spending are directly contrary to the conclusions reached by the John F. Kennedy Institute at Harvard in its report to the House Administration Committee, and to conclusions of other political scientists.

So, if you want to stifle political participation, stifle competition in elections, stifle the ability of challengers to make an effective campaign and give more control to bureaucrats and take the first step toward using the taxpayers money for congressional elections. Vote for the rule. If you are against legislating by stealth in the dark of the night, if you are for increased political participation, for competition, and for the right of a challenger to make a fair race, please join me in voting against this rule.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the distinguished Speaker of the House, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, 3 years ago I was elected by this body to be the Speaker of the House. At that time I asked the Congress to give to the American people the strongest code of ethics of any legislative body in the world.

Adoption of an enforceable code of ethics was one of the top priorities of the last Congress. We remember the controversies, the difficulties and the special interests pulling one way and another. We wanted a code of ethics with teeth in it, with just punishment in it, and we wanted to restore public confidence in our system of government.

We have before us today a piece of legislation that brings to mind what James Madison observed when he wrote the Constitution. He was greatly concerned about drafting a Constitution that would serve the people, and would not be destroyed by special interests. You know, I firmly believe in the constitutional right to petition our Government. I believe in the right of any organization to establish a political action committee.

What I fear, is excessive influence; and what James Madison warned against, the negative and dangerous effects of special interest groups if not carefully controlled.

Let us look at the record of PAC's in recent years.

In 1974, there were 608 PAC's. Today there are nearly 2,000. In 1972 these PAC's spent $6 million in House campaigns, and in 1978 they spent $25 million.

In 1976 five freshmen-elected Congressmen received over $50,000 from special interest PAC's to run against an incumbent. In 1978, 77 new Members of Congress were elected; 45 of those people, several of whom challenged an incumbent, received over $50,000 from PAC's.

Why did these people receive so many PAC contributions? Because they were opposed to the special interests. Or was it because they were opposed to my colleagues. Political action committees opposed the incumbent and supported a candidate whom they did not know running for office and gave that candidate over $50,000. Special interests. Special interests. I fear for this Congress and for this Nation.

We cannot allow special interests groups through excessive and unchecked influence to destroy our two-party system, to undermine the legislative process, or to distort the political system. I firmly believe the growth of PAC's has been so staggering in recent years that we are fast approaching this dangerous and unacceptable level.

A resolution of this problem should wait no longer. We are clearly headed for Government by special interests if we do not act immediately. Once again, we are talking about public perception of the legislative process and public confidence in the Congress. The American

people want balance in our system. A vote for this rule is a vote against excessive influence by special interests. That is all we are asking for in this legislation. We are not trying to eliminate special interests, we are not attempting to sharply reduce present PAC operations; all we are trying to do is to prevent special interests' groups from getting out of hand in the future, and to curb the growing dependency of House candidates on PAC funds for their election campaigns.

□ 1200

A vote for this rule is a vote for good government for ethics in government and for the integrity of this institution and the integrity of the legislative process, I ask you to adopt the rule. I ask you to have free and open debate. I ask you to give this bill every consideration.

I say to this House on both sides of the aisle, this is a matter of the decency, integrity and future of this institution. Let us not let it slip away. As Madison said, "Regulation of these various and interfering interests forms the principal task of modern legislation."

It is wise for us to heed Madison's advice.

When you yield to special interests, then you yield the rights of the American public, and that action yields the rights of this great democracy of ours.

I hope we adopt the rule.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 182, not voting 23, as follows:

[Roll No. 574]

AYES—228

Addabbo
Akaka
Alboita
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Breaux
Brodhead
Brooks
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Clay
Coelho
Conable
Conte
Conyers
D'Amours
Danielson
Daschle
Dellums
Derrick
Dicks
Diggs
Dodd
Donnelly
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
English
Ertel
Fary
Fasceil
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Hutto
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Long, La.
Long, Md.
Lowry
Lundine
McCormack
McHugh
McKay
McKinney
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Motl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Purcell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Waxman
Weaver
Weiss
Whitley
Whitten
Williams, Mont.
Wirth
Wolf
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—182

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Boggs
Bouquard
Bowen
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Forsythe
Fountain
Fowler
Frenzel
Frost
Gibbons
Gingrich
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hammer-schmidt
Hance
Hansen
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Huckaby
Hyde
Ichord
Ireland
Jeffries
Jenkins
Kasen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
Madigan
Marks
Marlenee
Marriott
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nelson
Nichols
Pashayan
Paul
Quayle
Quillen
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Treen
Trible
Vander Jagt
Volkmer
Walker
Wampler
White
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—23

Applegate
Brown, Calif.
Buchanan
Chisholm
Collins, Ill.
Corman
Dixon
Downey
Flood
Garcia
Harsha
Jones, N.C.
Kogovsek
Leach, La.
Martin
Murphy, N.Y.
Nolan
O'Brien
Patten
Rodino
Rosenthal
Treen
Winn

□ 1210

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Martin against.

Mr. Murphy of New York for, with Mr. O'Brien against.

Mr. Corman for, with Mr. Winn against.

Until further notice:

Mr. Patten with Mr. Kogovsek.

Mr. Garcia with Mr. Flood.

Mr. Brown of California with Mr. Buchanan.

Mrs. Chisholm with Mr. Downey.

Mr. Applegate with Mr. Dixon.

Mr. Nolan with Mrs. Collins of Illinois.

Mr. Jones of North Carolina with Mr. Harsha.

Mr. Rosenthal with Mr. Leach of Louisiana.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. THOMPSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 832) to extend the authorization for the Federal Election Commission.

The SPEAKER pro tempore (Mr. McKAY). The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 832, with Mr. NATCHER in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. THOMPSON) will be recognized for 1 hour, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 1 hour.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I yield myself 10 minutes.

□ 1220

Mr. Chairman, the Committee on House Administration unanimously approved an authorization of $8,968,823 for the Federal Election Commission for fiscal year 1980.

In addition to the authorization figure which I cited, Mr. Chairman, the bill prohibits funds from being used to conduct random audits of congressional candidates and limits the amount of funds which may be used by the Federal Election Commission for its clear-

inghouse function to $400,000 for the fiscal year.

Mr. Chairman, my colleagues are all too familiar with the problems created by the Federal Election Commission in its random audits of 1976 congressional candidates. I might note four of these audits have not yet been completed, even though the elections in question were held 4 years ago.

Mr. Chairman, I might point out the other body has taken an opposite view of this random audit problem which is understandable since the FEC figure is 10 percent. With one-third of the other body running each year it is hardly difficult to understand why four or five Members adhere to that position.

In addition, I might point out that audits are done on a constant basis and audits for reasonable cause are encouraged. The prohibition goes to the random audits, which are really a sort of lottery.

Mr. Chairman, I am aware that many of my colleagues have been contacted by their secretaries of State or their local election officials about restriction of funds for the clearinghouse. Let me assure my colleagues that the FEC authorization provides adequate funds for workshops for State and local election officials. The committee reviewed the Federal Election Commission budget and reached the inescapable conclusion that the FEC was not allocating adequate funds to insure its statutory responsibilities would be in a reasonably timely fashion. Hence, the committee limited the funds available to the clearinghouse, a totally discretionary function. The committee took this step with some reluctance because it believes the Federal Election Commission and not the Congress should establish budgetary priority.

While we are of the opinion that some of the clearinghouse projects are worthwhile, the issue is one of priorities. The Commission, a relatively small agency, has a large number of statutory responsibilities.

The fundamental statutory responsibility of assuring effective public disclosure, certifying matching funds and enforcing the act must be given priority by the Commission.

After careful review of the budget submission, the committee determined that the Commission's basic budget did not provide adequate funds for these fundamental statutory responsibilities, a fact that was acknowledged by the Commission in its testimony before the committee.

Two examples from the Commission's budget submission illustrates the concern of the committee. First, the FEC stated there was a serious staff shortage in the Office of General Counsel, which resulted in delaying filing lawsuits authorized by the Commission. The delays have been as long as 4 and 5 months.

Second, the FEC basic budget provides funds to handle matching fund requests and audits from 12 Presidential candidates. Yet, in 1976, 15 candidates qualified for matching funds. It is an undisputed fact that the audit of the 1976 Presidential candidates were not conducted in a timely fashion. This redesignating of priorities will provide the FEC with needed funds to perform its statutory responsibilities.

Mr. Chairman, with respect to random audits, the committee prohibited the use of any funds authorized for fiscal year 1980 for random audits of House and Senate candidates for their campaign committees. As previously stated, this provision does not prevent the Commission from conducting audits of congressional candidates. On the contrary, it requires audits to be done within the statutory framework of the act. An audit must be authorized by a vote of the Commissioners upon a finding of reason to believe that the candidate or his or her authorized committee has violated the law. The audit must, of course, be related to the alleged violation.

Mr. Chairman, my colleagues are well aware of the problems which have arisen as a result of the 106 random audits of the 1976 House and Senate candidates.

Although the FEC auditors started to work on these audits early in 1977, not one final audit report was released in 1977.

Seventy-eight of the reports were released in 1978, 24 in 1979 relating to candidates who were not incumbents or disappeared from the scene entirely. In other words, Mr. Chairman, 4 years after the elections in question. These time delays are unnecessary and are intolerable. The candidate is unduly burdened, the public receives little benefit from the disclosure of information 4 years after the fact, especially in light of the fact that the statute of limitations has run.

The Federal Election Commission retained the accounting firm of Arthur Anderson to review the Commission's audit process. The Arthur Anderson study concluded that an audit of congressional candidates should never exceed 8 to 10 weeks.

Now, Mr. Chairman, the fundamental authorizing part of this bill has been passed by the other body in S. 832. With respect to the remainder of this legislation and the amendments to be offered and the substitutes thereto, we will discuss them at greater length as we go on.

Mr. Chairman, it is my intention, and it has been published in the CONGRESSIONAL RECORD, to offer amendments to the Obey-Railsback bill in terms of the amounts of moneys involved. We will get to those in due course.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield to me?

Mr. THOMPSON. I will be happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, under the rule I am not aware that we can make any amendments other than those made in order under the rule.

Mr. THOMPSON. I meant to refer to those which are made in order. There are three amendments made in order, two of which I shall offer, one by the gentleman from California (Mr. FAZIO).

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his clarification.

Mr. THOMPSON. I yield back the balance of my time, Mr. Chairman.

Mr. FRENZEL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, there is no disagreement about S. 832, the authorization bill for the Federal Election Commission. The majority and the minority do agree on the amount specified. But, on this side, we find it a little ironic that there is need to pass the bill since the Committee on Appropriations has already appropriated about $300,000 less for this function than we are now authorizing. So, our authorization is an empty gesture which we are performing only to provide a vehicle so that the Obey-Railsback amendment can get a free ride.

Mr. Chairman, I have no objection to S. 832, except a personal one which is not shared by the rest of the House. I believe that random audits are good for this House and for our political system. I am sorry that our committee and the House are undoubtedly going to vote to get rid of them. I think they impose a little discipline into the system which is absolutely necessary.

We imposed the disclosure and the limitations upon our political system for the simple reason that we wanted people to have confidence in our political processes. Without audits, in my judgment, confidence may or may not be warranted, depending on the skepticism of any particular individual.

□ 1230

Mr. Chairman, with respect to the Obey-Railsback amendment, which is really the only thing that we are talking about here, I have already expressed myself with some vigor on this particular bill. I think it is a terrible thing. It does violence, first, to the Constitution; second, the people's right to participate in elections; and, third, to the candidate's ability to promote himself or herself and have the record spread with the issues as he or she sees them.

However, we are not able to make amendments under the closed rule. Not only was the rule granted making nongermane amendments in order, as was noted in the debate on the rule, but also no other amendments will be made in order. So we are restricted, unfairly, to a straight up-or-down vote.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

Mr. FRENZEL. Mr. Chairman, I yield myself 1 additional minute.

So, Mr. Chairman, we are having a straight up-and-down vote on a bad package which was written on the back of a cocktail napkin by a committee whose best previous work was the design of a camel. Unfortunately, it is not good law. Even if it were a good idea, the ideas have not been written into any kind of sweet singing legislation. In two words, its a poorly-written, bad idea.

Mr. Chairman, the severability clause is deficient and poorly motivated, in my judgment. There is a prohibition against contributions being given by an individual in a manner where they might look like they came from the political action committee. That is a prohibition that will put all of our treasurers in jail, I suppose. I do not know what was intended there. Certainly it was some kind of mischief, I suppose. But it certainly does the law no good.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has again expired.

Mr. FRENZEL. Mr. Chairman, I yield myself 2 additional minutes.

There is also a section which prohibits an individual from lending his campaign committee more than a stipulated amount, I think $35,000. This is obviously unconstitutional in light of the Buckley case. I think what we will be doing if we send this bill forward is, of course, to commit ourselves to years of litigation.

The limitation on total PAC contributions which can be received by any candidate, in my judgment, is also patently unconstitutional.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, with respect to the $35,000 figure, I think it should be clear that you are not limited to an expenditure of $35,000. There is no limit. The limit is that you cannot be repaid by your committee more than $35,000. In other words, you cannot be repaid by your committee for a loan in excess of $35,000, although you can loan to your committee an unlimited amount.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution.

In my judgment, that is an unwise, unnecessary, and unconstitutional restriction on an individual's right under our Constitution to conduct a campaign that has any chance of success.

Therefore, in my judgment, it is only one of the many areas in which this bill is seriously deficient.

Mr. Chairman, we have heard arguments against decreasing individual PAC contributions and I am sure all of my colleagues are aware of my opposition to these cuts. But what is most onerous to me is the aggregate limit placed upon PAC contributions. H.R. 4970 would place a $50,000 limit on what House candidates could accept from PAC's. However, sponsors of this legislation are willing to up that figure to $70,000 in order to show their willingness to compromise.

Mr. Chairman, the only ones who are compromised by this kind of provision are challengers. This is truly incumbent protection. In 1978, 16 out of 19 challengers of both parties who beat incumbents spent more than $50,000. Since the authors of this legislation failed to consider inflation, even their amendment raising the limit to $70,000 provides no great relief.

It is irrelevant whether we limit House candidates to accepting $50,000 or $70,000 from PAC's. The results would be the same. By limiting the amount of moneys candidates can receive and therefore spend drastically hurts the chances of challengers of both parties without having much of an impact on incumbents. This view is substantiated by Mr. Malbin, who by the way, the proponents have been quoting lately, although out of context. Mr. Malbin, in quoting Prof. Gary Jacobson, a political scientist and one of the leading students of congressional campaign financing, recently wrote:

> Any reform measures which decrease spending by the candidates will favor incumbents. This includes limits on campaign contributions from individuals and from groups . . . even though incumbents raise money more easily from all sources, limits on contributions will not help challengers because the problem is not equalizing spending between candidates but rather simply getting more money to challengers so they can mount competitive races.

Mr. Chairman, I also have grave doubts concerning the constitutionality of this provision. Each Congress we take an oath to uphold the Constitution of the United States, yet all to frequently we pass legislation without thinking of its constitutionality.

However, when we are tampering with something as sacred and vital to our democratic system as our election process, I feel we have an even greater responsibility to examine the constitutional implications. Congressman GUY VANDER JAGT has included a statement in the CONGRESSIONAL RECORD of September 25 by constitutional lawyer, John Nowak, professor of law at the University of Illinois. I hope each of my colleagues has read and considered his constitutional reservation.

In my mind there can be no doubt that the proposed legislation regulates first amendment rights going far beyond the allowable limits established by the Supreme Court in Buckley against Valeo. In that case the Court found that all campaign financing regulations must be subject to strict judicial scrutiny under the first amendment, even though some limitations on contributions and campaign spending activities might be constitutional. However, I am convinced that the $50,000 or $70,000 limitation would be rejected by the Supreme Court based on the Buckley case and its other recent decisions.

In my opinion the provision is an attempt to restrict campaign spending. The $50,000 or $70,000 limit effectively imposes a ceiling on total campaign contributions and candidate expenditures. In the Buckley case the Supreme Court rejected these kinds of limitations emphasizing that a ceiling on candidate spending was a constitutionally invalid attempt to restrict speech in political campaigns.

This provision also affects the right of individual associations in my opinion. For example, if a congressional candidate has already received $50,000 or $70,000 from PAC's another PAC could not even contribute $1 to the candidate and all of the people who make up the PAC are denied the ability to contribute through their associations. We all sometimes forget that PAC's are people too.

Mr. Chairman, based on the disastrous affect of this provision on challengers of both parties and because of my strong belief in the unconstitutionality of this provision, I strongly urge my colleagues to reject this provision whether it be $50,000 or $70,000, even if necessary, vote against final passage of the FEC authorization bill.

Mr. Chairman, I reserve the balance of my time pending use by the other side.

Mr. THOMPSON. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, in accord with the provisions of House Resolution 414, I will offer as an amendment to S. 832, the text of H.R. 4970, the Campaign Contribution Reform Act of 1979.

H.R. 4970 is designed to curb the increasing role of special interest money in congressional elections and—consequently—the legislative process.

The central provisions of H.R. 4970 would reduce by 50 percent the aggregate amount a single nonparty political action committee (PAC) may contribute to a candidate for the House of Representatives during an election cycle and would impose an overall limit of $50,000 on the aggregate amount a House candidate may accept from all such nonparty PAC's during an election cycle.

The measure also would restrict extensions of credit to House candidates by PAC's, political consultants and other vendors to prevent use of credit as a device to circumvent contribution limits.

These provisions, Mr. Chairman, will not force drastic cut backs in present PAC operations. Instead, they are designed to prevent aggregate PAC influence from getting out of hand in the future, and to curb the growing dependency of House candidates on interest group PAC's for campaign funds.

The amount of such interest group money in congressional elections—and the dependency of House candidates on such funds—has been increasing at an alarming rate in recent years.

In 1972, for example, House candidates received 14 percent of their campaign funds from special interests, in 1974 they received 17 percent, in 1976 they received 22 percent, and in 1978 House candidates received 25 percent of their campaign money from interest group PAC's.

Dependency on PAC contributions is even greater for incumbents. In 1978, incumbent Members of the House seeking reelection received nearly 33 percent of their campaign money from PAC's compared to 28 percent in 1976 and less in earlier elections.

Another indication of the increasing role of PAC money can be seen in the fact that in the 1978 election, 176 House candidates received more than $50,000 from PAC's compared to 57 in 1976; 72 received more than $70,000 compared to 15 in 1976; while 21 candidates received more than $100,000 compared to only 3 in 1976. One 1978 candidate received $153,000 in PAC funds; another received $172,000.

These figures are only the beginning. Over the past 6 years the number of special interest PAC's has nearly quadrupled, going from less than 500 in 1972 to about 2,000 today. And while we have also seen a tremendous growth in PAC giving, we have yet to see this growth reflect the actual number of PAC's presently in existence.

For example, during 1974 to 1978, PAC contributions from the National Automobile Dealers Association grew 6,000 percent from $14,000 to almost $1 million. I am a real estate broker and in general sympathy with many of their goals. But contributions during the same period from the National Association of Realtors increased from $261,000 to $1.1 million, with the NAR's PAC director quoted as saying, that this is just the beginning.

Dozens of new PAC's formed since 1974 have the capacity to achieve similar growth. Twelve of the fifteen largest corporations in America now have their

own PAC's. None gave more than $160,000 in 1978. But there should not be much doubt about the capacity of the fortune 500 to become million dollar PAC's over the next few years if they decide to put their minds and resources to it.

Many of the new PAC's are small today because they are just getting started, not because they have a track record of being small. Many are just learning the ways to raise money. The average contribution for the Automobile Dealers Association grew from $263 in 1974 to $2,612 in 1978, and for the NAR it grew from $1,034 in 1974 to $2,620 in 1978. We can expect similar developments on a much wider scale in the years ahead if the law is not amended.

Prof. Edward Epstein, of the University of California, finds that—

> PAC operations in 1976 and 1978 reveal only the tip of a possible iceberg—clearly for corporations and other business-related groups, but to some extent even for labor.

He concludes that the market for potential company PAC formation is "virtually untapped."

The growth of PAC's is a source of particular concern because PAC contributions are generally contributions with a legislative purpose. The recent study by the Campaign Finance Study Group of Harvard University found that "PAC money is interested money." Bernadette Budde, political education director of the Business Industry Political Action Committee adds:

> A clear pattern emerges when reviewing who does and who does not have a PAC—the more regulated an industry and the more obvious an industry is as a Congressional target, the more likely it is to have a political action committee within the associations or within the companies that make up that industry. As the government moves closer and closer to a partnership with an industry, the result of that liaison is a PAC mothered by industry but unmistakably sired by government.

Some of the franker public statements made about PAC contributions recognize their special investment quality. Fred Radewagen, while serving as political participation director for the U.S. Chamber of Commerce has said:

> The prevailing attitude is that PAC money should be used to facilitate access to incumbents. The business community has got to do something it has never done before.

As the Washington bureau chief of the Wall Street Journal noted:

> The bulk of special interest contributions represents a sort of investment in the careers of incumbent Congressmen and Senators with the aim of enhancing the influence of the financing groups. Obviously this money is given to buy influence.

One of the best examples of the investment attitude that often accompanies PAC giving can be seen in the activities of the American Medical Association in California. The AMA has been the Nation's largest individual PAC giver to congressional candidates in each of the last three elections.

During the 1974 elections the AMA's PAC's gave contributions totaling $151,165 to 29 of the 37 California incumbents facing reelection. This included 17 incumbent Republicans and 12 incumbent Democrats ranging the ideological spectrum. Only two challengers to California incumbents received AMA contributions and in each case their incumbent opponents received larger contributions. In three of the five races in California that year not involving an incumbent, the AMA contributed to both Democratic and Republican candidates assuring financial support by the AMA whomever won. Similarly in the California U.S. Senate race of that year, the AMA gave $10,000 each to the liberal Democratic incumbent and his conservative Republican challenger.

To cite just one other example, during the 1976 Senate elections, there were five candidates, including four incumbents, who each received a $5,000 contribution from the Trial Lawyers' PAC, and who then went on to lose their general election races. Following the November defeats of these five candidates, the Trial Lawyers turned around and made substantial contributions to each of the five candidates who had defeated them. Not one of the winning candidates had received any contributions from the Trial Lawyers during their campaign.

I do not have any doubt about the integrity of Members of the House. But this does not obscure the point that a large percentage of special interest dollars in the political system puts in question the integrity of the election process.

All you have to do is look around you and you have some pretty spectacular examples. You have the example of the machinists. The president of the machinists is one of the most constructive people in the American labor movement today. But the point he made on the natural gas issue was that if a Member did not vote the way he wanted them to vote, that Member was not going to get any campaign contributions.

We have just voted on a separate Department of Education. Both the AFT and NEA were interested in that bill, one group saying, "You get no contribution if you vote for the separate Department of Education;" and the other one saying, "You get no contribution if you vote against it." This means that the decision, in terms of who is going to be supported by the two major education groups in this country, is going to be made not on the basis of what you do for the needs of kids but what you do for the institutional needs of two organizations involved.

To the extent that PAC's become a larger and larger influence on the political scene, you exacerbate that problem. Members mention to me the problems they have had with one PAC or another, if not by direct statement certainly by indirection and implication, leaving the clear impression if a Member did not perform A, B, or C, they would have a tough time getting a campaign contribution. This bill is not going to stop that, but it will put the power of each individual PAC in its proper perspective, and will decrease the inclination of PAC representatives even to consider making these suggestions.

That will be a healthy development for the public, as well as PAC's and Members of Congress, to understand the effect of interested money on the political process. A 1978 survey by Louis Harris found that in almost every case in which the public "was asked about different types of political contributions, organized groups came up negatively." By placing realistic limits on special interest money, we therefore take an important step toward maintaining public respect for and confidence in the House of Representatives.

As I noted at the outset, the sponsors of H.R. 4970 support the legitimate role of special interest groups. We also believe their role must be kept in balance to protect the integrity of the congressional process. The Supreme Court agreed with this point of view 4 years ago when it upheld the constitutionality of limits on the amount a special interest group may contribute to a candidate for the House or Senate.

These limits, however, are only a partial safeguard against undue influence. First, the limits are so generous that they have done nothing to stem the increasing influence of PAC contributions. Second, the interests of PAC contributors frequently coincide, such as when an issue affects business as a whole or an entire industry and all of the companies and labor unions in that industry.

When that occurs, when a large number of groups which have made substantial contributions to Members are all lobbying on the same side of an issue, the pressure generated from those aggregate contributions is enormous and warps the process. It is as if they had made a single, extremely large contribution.

In addition, interest groups will attempt to maximize their combined influence by collaborating in joint lobbying efforts even though some of the groups involved do not have a strong interest in the issue at hand. These ad hoc coalitions shift all the time.

The result of such activities is to negate the basic purpose of contribution limits on individual PAC's, and the only effective way to deal with such a problem is to put an overall limit on such contributions such as imposed in H.R. 4970. By placing realistic limits on special interest money, we therefore take an important step toward maintaining public respect for and confidence in the House of Representatives.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Chairman, before the gentleman from Wisconsin leaves, I would like to ask a question of the gentleman.

The gentleman from Wisconsin is quoted in this morning's paper, the Washington Post, on page A-4, if I could have the gentleman's attention.

Mr. OBEY. I hear the gentleman.

Mr. GINGRICH. The gentleman is quoted on page A-4 of the morning paper as saying, and I quote:

> It was a bonehaded deal.
>
> Horse trading goes on all the time, but the price was too high.

Then a very competent national reporter, Mary Russell, of the Washington Post, goes on to say, without quotes:

> Obey contends this will be the last chance Democrats have to contain special interest contributions. He predicts that the contributions which now go mainly to Democratic

> incumbents will begin to shift to Republicans as business becomes more confident in its electioneering.

Then she goes on to quote the gentleman as saying:

> After this year they'll be too big and too powerful to stop.

I simply wanted to inquire of the gentleman from Wisconsin if her summary of the gentleman's views is accurate.

I yield to the gentleman from Wisconsin.

Mr. OBEY. Well, as the gentleman knows, I have great respect for the reporter who wrote that story; but that quote was in the context of a general discussion about the escalating degree of campaign expenditures. The point that I was making in that conversation is that you are going to see, in my judgment, business PAC's continue to escalate their contributions to Republican candidates. You are going to see labor continue to escalate their contributions to Democratic candidates. As a matter of fact, I was at a State labor convention in my own State just a month ago when they voted at that convention to assess for political purposes 1 hour's contribution each month for a fundraising purpose.

The point I was simply making is that this is the last chance we have to stop that kind of escalation. It is kind of like the arms race, that whatever one group does one year, the other side is going to figure out how to counter it next year and the victims are going to be the consumers and the general public who cannot possibly compete.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. GINGRICH) has expired.

Mr. FRENZEL. Mr. Chairman, I yield 1 additional minute to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I just would like to comment that I think in the context of the article, and again I quote what she wrote after the interview:

> Contributions which now go mainly to Democratic incumbents will begin to shift to Republicans.

It does seem to me that it clarifies the degree to which this is a proincumbent protection act and the degree to which this is an antichallenger, antiopenness measure.

I just am amazed that such a distinguished gentleman could mask partisan self-interest in reform.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield.

Mr. OBEY. Mr. Chairman, I think I have adequately explained the context in which I made that statement and as the gentleman will note, that statement was paraphrased. I would simply repeat the statement, that I do believe that you are going to have both business and labor give to their favorite dolls in this House and the dollars are going to go up and up and up and the victims are going to be the people in this House who are trying to walk a sensible road between the two groups.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. GINGRICH) has again expired.

Mr. FRENZEL. Mr. Chairman, I yield 1 additional minute to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, the gentleman does concede then, though, that over the near future as again, and to use the paraphrase, as contributions shift away from incumbents, that those contributions are shifting toward challengers and that, therefore, by the gentleman's own definition——

Mr. OBEY. No. I do not concede that. I did not use the word "incumbents." I was discussing the tendency of business to give to Republicans and labor to give to Democrats. I think that is going to continue and I think the amounts are going to escalate and damage the entire political system.

Mr. GINGRICH. So in that context and in the historical record in recent years, this is clearly a pro-Democratic incumbent—and I will not yield further—this is clearly a pro-Democratic incumbent and clearly an anti-Republican challenger bill, as it is currently written.

Mr. OBEY. Well, if the gentleman is asking me a question, but will not yield, I do not see how I can answer.

Mr. GINGRICH. Mr. Chairman, I thank the gentleman.

□ 1240

Mr. THOMPSON. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, about this business of whether the PAC contributions go to challengers, let me just say for the record to begin with that in 1972 I was a candidate for the Congress, and I was an incumbent. My challenger outspent me 3.8 to 1 in that election, and he was elected. By the way, he is a rather good friend of mine. His name is Bill Hudnut, and he is now the mayor of Indianapolis.

But in 1974 we had a rematch, and our roles were reversed; he was the incumbent, and I was the challenger. By the logic that I have heard in this debate so far, I should have had the lion's share then of the contributions, because God knows the PAC committee people are only interested in democracy and in fairness. To hear the debate, one would suspect that the purpose of the PAC organizations is to aid challengers and to give them the right balance.

Well, I was the challenger then in 1974, and my opponent outspent me 4.5 to 1 in 1974. And why? Because it does not have the slightest thing to do with whether one is an incumbent or whether one is a challenger. PAC contributions deal with what you can do for PAC, and if the fellow who is in there, be he a Republican or be he a Democrat, be she a Republican or be she a Democrat, is not voting according to their desires, then it is in the interest of the PAC organization to contribute to the challenger.

If, on the other hand, the incumbent, be he or she a Republican or be he or she a Democrat, is voting according to your desires as a PAC organization, then you as a PAC are not going to contribute to the challenger; you are going to contribute to the incumbent. The record is, I think, rather clear on that.

I heard the gentleman from Georgia (Mr. GINGRICH) suggest that, well, this legislation will help the Democrats and hurt the Republicans, so it is perfectly obvious why Democrats would be supporting the legislation. Is it not, then, equally obvious as to why Republicans would be opposing it?

The bottom line or the real question is this: Is it right or is it wrong in terms of democracy? Do the contributions from PAC's automatically go to challengers?

The record will clearly show not only in my case, but in every case, that they do not necessarily go to challengers; they go to those who agree with them, and the dollars given individuals are spent to obtain a disproportionate voice in national affairs.

Mr. Chairman, I think one of the finest statements and one of the best phrases I have ever heard in a debate in the House during the 13 years I have been a Member of Congress was uttered by the gentleman from Missouri (Mr. BOLLING), the chairman of the Committee on Rules, when he said that the sum total of the special interests do not add up to the sum total of the national interests.

During this debate there are going to be some harsh things said. I regret that because I know the gentleman from Minnesota (Mr. FRENZEL) to be a fair Member, although he is a Member with whom I disagree. We just see this issue from opposite viewpoints—as opposite as it is possible to see two issues on any subject. But as Bill Mauldin said in his cartoon of a boy making a report in school, "My conclusion is that wars are impossible unless both sides are right."

However, I think my side on this is much, much more logical than the other side. I ask the Members to just keep that in mind as the debate goes on. I say to the Members, "Don't let anybody tell you that PAC's are in business to help challengers." They are in business to help people who agree with them, whether they are challengers or whether they are incumbents.

Mr. Chairman, I thank the gentleman from New Jersey (Mr. THOMPSON) for yielding me this time.

Mr. FRENZEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I take this time only to remind the body that the case which the previous speaker mentioned occurred before the Sun PAC decision which made PAC's legitimate was handed down, and it also occurred before the change in the law which we made and which ratified the Sun PAC decision.

I do not think any speaker has challenged the fact that more PAC contributions go to incumbents. What we have said is that incumbents do not need it and challengers do need it.

Mr. Chairman, I yield 7 minutes to the distinguished gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, before I make any statement concerning this, I would like to go back and make one observation, and that is that the American public is not being treated to a free and open debate on this subject, because the rules have been made so that we can only consider that which the majority would have us consider and we are not

offered the opportunity to amend or make other recommendations.

There are many of us in this body who do favor some election reform, and there are many of us who would like, for instance, to increase the role of political parties while cutting down the role of special interests. We have been denied that right. We have been denied that right to express our opinions and make constructive changes.

That observation, I think, should hang over these hours of debate, and I think it ought to hang heavily because it is an indictment. It is an indictment of the process that does not allow the will of the whole to come in and work itself on the majority or on the legislation. There are constructive changes that could have been made within the context of this legislation, and possibly a reasonable bill could have come out here that would have had close to unanimous support, but we are not allowed that chance.

Therefore, Mr. Chairman, I rise in strong opposition to the Obey-Railsback amendments to S. 832.

The bill's sponsors contend that passage of their proposal is necessary to curb the "alarming" increase of special interest money in congressional campaigns and the growing "dependency" of House candidates on such funds, to quote them and to quote the previous speaker.

First of all, Mr. Chairman, the PAC's, or special interests, which would be affected by this bill are nothing more than voluntary organizations of like minded citizens which provide an effective mechanism by which these citizens can participate in the political process. There is nothing illegal, immoral or wrong about PAC's or PAC money.

Further, individual PAC contributions are already limited to $5,000 per election. I do not think a PAC is going to buy itself a congressman for $5,000 in these days of campaigns where we are looking at the cost of over $200,000 per election on the average for those new Members who were elected this year.

I resent the implication that there would even be a possibility of buying a single Member of the Congress of the United States for any amount. I would also like to point out that current law protects us from being beholden to any single PAC for a significant portion of campaign funds. Corporate PAC contributions in 1978 in fact averaged less than $1,000 per candidate, individually given.

Now, the idea which has been espoused here that all corporate or trade association PAC's have identical goals, and that all business giving can be lumped together as a conspiratorial effort to influence Members, is simply wrong. The bill following this one on the whip notice is a good example—the Sugar Stabilization Act. I have been talked to and lobbied ad finitum on this question—and I am sure we will have—by the sugar producers who support the bill and by the bakers who oppose it. I submit that while there may be a commonality of interest on some issues, business differs as much as any other segment of the population when we get down to specific bills considered in the Congress.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I thank the gentleman for yielding.

I hope that the gentleman has noted that I have not said, suggested, or intimated that any Member of this body or any prospective Member can be bought or even rented, nor have I suggested that all political action committees of corporations and trade associations are Republican oriented, because that is not the fact, any more than the suggestion that labor PAC's are not restricted by this bill.

□ 1250

My major concern has been the utterly fantastic proliferation of political action committees from 248 in 1974 for business and trade association PAC's to 1,633 now. They are growing on a daily basis. That is my concern. I do not care to which candidate they contribute, but I just want a reasonable limit on them, and I think the limit suggested is much more reasonable than the current one.

Mr. CAMPBELL. I appreciate the observations of the distinguished chairman. The gentleman and I do not disagree, nor have I ever said that he would make such a statement about Members of Congress either being purchased or rented. However, those statements were made by Members during the previous debate on this.

Quite frankly, I think we ought to look at some other things, in line with what the chairman has just said. If Members want to further limit individual PAC contributions, with the probable sole effect—and I would like to point this out—if they want to limit corporate PAC contributions, the probable sole effect will be the spawning of more PAC's, as we point out the numbers, as the much cited Harvard study has predicted. I would be glad to cite the gentleman on that. That is all right with me. I do not have any hangup at all about reducing the amount that can be given by a single political action committee. I would like to say that openly and publicly, because I do believe in some reform. But it is not all right with me to unfairly lump all political action giving together, as if PAC's were all participants in one big, special-interest conspiracy with identical goals. The facts do not prove that. That is what we are in effect saying by setting an aggregate ceiling on contributions of all nonparty political action committees.

The real victim of this legislation, Mr. Chairman, is business and those people who choose to participate in the political process through their workplace. The real beneficiary is labor, and I do not see why we should not be honest about it. While it is true that labor PAC contributions would be cut the same as business PAC contributions under this bill, the unions' other strengths, manpower, get-out-the-vote drives, facilities and other in-kind campaign assistance, would remain untouched. Meanwhile, corporate PAC's have grown in numbers by about 1,000 percent, as has been cited by the distinguished chairman, in the last 5 years, while the number of union PAC's has grown by 14 percent. Who would be hurt most by the aggregate PAC contribution limit?

During consideration of the rule to this bill, Mr. Chairman, I asked one sponsor about the questionable draftsmanship of the severability clause of this particular proposal before us. The fact is, if proponents cannot limit the overall contribution ceiling of PAC's, they would scrap the individual limits, solely because individual limits would hurt big-spending labor PAC's. An aggregate limit would hurt the corporate PAC's, with a clearly better chance of growing in numbers. It is time that we just laid it out on the table.

The Supreme Court held in Buckley against Vallejo that—

> The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the first amendment.

As a restriction of one element of our society versus another, as a ceiling in practical terms on overall campaign spending, as a threat to the first amendment's protection of associational rights, I believe this provision might well fail the test of constitutionality. It would be totally irresponsible for this House to pass such legislation.

Beyond that, the Obey-Railsback amendment should be defeated on the merits. While it is billed as a measure to instill more public confidence in Congress as an institution, what it really does is build into the law still more advantages for incumbents and to discourage still more citizens from participating in the political process.

Obey-Railsback would help incumbents simply as a result of the fact that it would have a devastating effect on challengers. Although only 13.3 percent of candidates for the House in 1978 exceeded the bill's originally proposed $50,000 aggregate PAC ceiling—most of them incumbents—38 percent of the candidates running for open seats and 14 of 19 successful challengers to incumbents exceeded that limit. Challengers of both parties who beat incumbents last election spent an average of $215,028. PAC's contributed $50,000 or more in 100 percent of all the races won by 10 percent or less. And even if the ceiling is raised to $70,000, inflation would soon eat up the difference. Since an individual's contributions to his own campaign constitutionally cannot be limited, Obey-Railsback would close the doors to candidates of modest means. The amendment to limit the amount a candidate can lend to his own campaign does not solve the problem. It would only assure that a less-than-wealthy candidate could not provide the seed money to prove the viability of his campaign and would have no effect on the direct expenditures wealthy candidates could afford to make.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. CAMPBELL) has expired.

Mr. FRENZEL. Mr. Chairman, I yield 2 additional minutes to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I would like to point out right here that when I happened to get elected, the man I ran against was a very wealthy gentleman who spent approximately $100,000

of his own money. Had I not had the opportunity to raise funds, I could not have competed. It is a fact.

Obey-Railsback ignores the wide-ranging differences betwen the districts. Do the Members know that there is nearly $40,000 difference in the average campaign expenditures between the Northeast and the Far West? There is a variancy that has not been recognized.

Obey-Railsback would encourage independent expenditures, completely out of the candidate's control.

We speak of single-issue expenditures. Look what is going on now in the election concerning a couple of Senators where single-issued groups are doing nothing but spending money to defeat or to defame a Member of the U.S. Senate. That is what we are going to spawn if we limit the candidates' ability to control their own election.

It is said that in Washington, perception is more important than reality, and I believe that is the vital flaw in Obey-Railsback—it seeks to correct perception, not reality. It seems to solve a problem that does not exist.

In closing, let me say this: There is a study by Mr. Michael J. Malbin, of the American Enterprise Institute. I talked about the spawning of the single-interest groups. Here is what he says, in conclusion:

> Finally, and most importantly, Congress ought to do some serious thinking about the basic purpose of campaign laws. Ultimately, this should have something to do with the purpose of campaigns. In turn, campaigns should be recognized as having something to do with the purpose of representation—of empowering some people to govern. . . .
>
> Laws that favor a polarizing, negative politics run counter to these goals. . . . It is suicidal to "reform" politics in a manner that systematically favors their tactics.

Mr. THOMPSON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Connecticut (Mr. RATCHFORD), a member of the committee.

Mr. RATCHFORD. Mr. Chairman, I rise to support the Obey-Railsback bill.

Outside of the OPEC price negotiations, the financing of congressional campaigns has become the highest priced poker game in the world. The ante is going up, and the poker game, regrettably, is becoming less and less friendly each year. At stake, of course, and sadly, is a public prize, a seat in Congress.

The system really says two things. Unless you are rich, or unless you are beholden to PAC's, your chances of becoming a Member of Congress are growing less and less each year. I am sure that this was not the intent of our Founding Fathers. In fact, the impact of the PAC spending each year is growing in a proportion not unlike that of a nuclear chain reaction—out of control.

Look at the figures. We have heard a lot cited. But look at the figures. In 1975 there were 608 PAC's. In 1978 there were 1840 PAC's. The number is going up each and every year.

Look at the spending. That fact is even more frightening; $12 million spent by the PAC's in 1974, $32 million spent by the PAC's in 1978. The rate of spending is going up each and every year.

Look at the individual situation. In 1978, 178 House Members received at least $50,000 in PAC contributions and, more significantly, 138 of these won. Think of it. One hundred and seventy-eight House Members received $50,000 or more from PAC's and, more staggeringly, of that number, 138 won.

Look at it from the point of view of percentages. In 1972, 14 percent of the spending in congressional campaigns was PAC money. In 1978, 25 percent. And again, as is the case with the other figures, it is going up and up and up.

□ 1300

Mr. Chairman, it is an insane game of poker, and it must be halted.

I personally wish we were here today debating public financing of campaigns, H.R. 1.

I cannot help observing that many of those persons at the committee level who resisted public financing to the teeth and said they would like to see some reform in this area are the very same people this afternoon who are here opposed to the legislation that is pending before us.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. RATCHFORD. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. I thank the gentleman for yielding.

I would like to make the observation, yes, there are some of us here who oppose this particular thing, because we were not allowed, as I pointed out, any ability to amend or even debate openly alternatives which we think should be debated and that we have a partial proposal here and not a complete one.

Mr. RATCHFORD. Of course, the gentleman well knows we had several weeks of hearings on public financing, where virtually every issue that comes before us today was aired. The gentleman also knows that the key questions still are the proliferation of the number of PAC's, and the amount of spending each year, so I think the issues are before the Members.

I would note again that the opponents of public financing rise again in different clothes this afternoon. I do not say it is a perfect bill. I do not say it is an ideal bill. I am sure that the sponsors would not say the same.

I do say, however Mr. Chairman, unless we take this important first step, we are going to go into 1980 and see the proliferation of the number of PAC's continue, see the special interest spending continue, and see the number of successful candidates financed by PAC's continue.

If we do that, we will have taken a step away from an open process that says to any American, "If you are qualified, if you are competent, and you can go out there and compete in a free and open market; you can be a candidate for Congress."

I hope we will take that imoortant first step in a journey of 1,000 miles, because I think in passing this bill, we do take a step forward toward vitally needed reform toward the financing of campaigns.

Mr. CAMPBELL. If the gentleman will continue to yield, I would like to follow up a moment.

I certainly do not think the gentleman means to imply that throughout the course of debate on H.R. 1, public financing, which is not before us now, that there were not many other proposals that came forward that are not before this House today that perhaps have a great deal of merit. Would the gentleman concede there were?

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. RATCHFORD) has expired.

(At the request of Mr. FAZIO and by unanimous consent, Mr. RATCHFORD was allowed to proceed for 2 additional minutes.)

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. RATCHFORD. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. The proposal such as increased involvement in political parties and strengthening the roles of parties, which this bill excludes us from even having an opportunity to put forward in debate, things a lot of us might be interested in, I believe on both sides of this issue, we are being denied a right to do that. It is an incomplete piece of legislation. I think it does have some merit I think the demerits do outweigh the merits.

Mr. RATCHFORD. So my good friend who actively participated in that debate on the House Administration Committee, I think the real issue is who is going to finance campaigns and what are they going to do.

I think as far as participation, as far as involvement, as far as the role of citizens, that occurs when candidates, attractive candidates, are nominated who can articulate the issues and, reach out and draw in people. I do not think there is any correlation between this and the amount of spending. We are talking about controlling spending here, not involving people. Unless we control spending, we are driving people out of politics. That is why I favor this bill.

Mr. CAMPBELL. If the gentleman will yield further, I would certainly agree that the gentleman favors taxpayer-financing elections and I do not. That is not to say that both of us might not favor some reform of the system.

Mr. RATCHFORD. We do favor some reform. That is why I am for this bill.

Mr. FRENZEL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. BADHAM), a member of the committee.

Mr. BADHAM. Mr. Chairman, I have listened with great interest to some of the comments that have been made.

First of all, I think it should be pointed out that the House Administration Committee did an excellent job on S. 832. That is really why we are here today; to discuss the passage of S. 832, to bring the FEC system into some semblance of order. It is out of order. It is chaos. It cannot operate the way it is.

Now we are put in a position where we are either going to kill S. 832 in its entirety or amend it with a nongermane amendment that has never been heard in the committee.

It is poorly drafted. It does not include the Senate. It is unilateral disarmament of the House to the Senate.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. I fail to understand what the relevance of the Senate is.

I know it is being brought in continuously simply because a lot of us are unhappy with the Senate. The fact is we do not have a race that pits the House against the Senate. We are trying to set up our own rules. The Senate is free to do whatever it wants and has very little impact on the House.

Mr. BADHAM. We tried that with the pay raise. We have that with outside income and abortion a number of other things. It has not worked. It is not going to work today.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. I am sure the gentleman is keenly aware there are several States in which the House Member has to run statewide, just as the Senators have to run statewide. Yet, we would say by this legislation the Senate should be entitled to more money to run in the same area than should a Member of the House of Representatives.

Mr. BADHAM. I thank the gentleman for his contribution. The Speaker of the House of Representatives in encouraging us to pass a closed rule to allow, as he called it, free and open debate on an ungermane amendment which fell somewhat short of the traditions in which this House was founded.

The Speaker told us that it was a sin or heresy to have incumbents defeated, almost with huge tears in his eyes.

He told us how evil and wrong it was to have incumbents defeated. I do not think so. I think the better person should win in an election, regardless of campaign contributions. If it is the incumbent, fine, but if not, that is fine, too. If we were discussing S. 832, as we should be today, that bill should have passed on suspension.

We have had comment from the gentleman from Connecticut (Mr. RATCHFORD): "If you are not rich, you are beholden to PAC's."

I hope the gentleman is rich, to make such a statement like that on this floor.

We have also heard from the proponents that somehow everybody else is bought and sold, but not the person in the well making the speech. But then the person in the well proposing the amendment would imply, therefore, that somehow he is honest, but is afraid of being bought—such timidity has no place in this House—after all, no one need accept any contribution.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

The gentleman is aware I am a cosponsor of the Obey-Railsback bill.

But the gentleman may have noticed that I voted against the rule. I must say that as a cosponsor of the basic bill, I was embarrassed to hear the pitch made by the Honorable Speaker, particularly to his Democratic colleagues, about this bill is necessary because incumbents may be defeated.

I certainly do not think this is an incumbent protection bill. I would not cosponsor the bill if I thought it were.

I would also say that I object to the procedure of bypassing the committee and the procedure giving us a vote up-or-down on the bill, without the opportunity to perfect it. I think it could be perfected, and therefore, I intend, even though I am a cosponsor of the Obey-Railsback bill, to vote against the amendment when it is offered.

Mr. BADHAM. I thank the gentleman for his contribution.

I thank the Speaker for causing the gentleman to see the light on this ill-advised amendment.

What we are really talking about is whether or not PAC money can really buy people. Now if you can buy a Member of Congress for $5,000, can you buy 60 percent of one for $3,000? Is that really what we are talking about? That is nonsense.

I think the answer to the whole thing is disclosure.

I cannot be bought by any amount of PAC money or any other kind. I am willing to stand on the floor and say that. And I am willing and I do make full disclosure of my campaign funds. If this is an incumbent bill, the Speaker ought to say it is an incumbent bill. If it is one to bring honesty to all the other Members of the House and not the proponents of the bill, then they should say so.

The CHAIRMAN. The time of the gentleman from California (Mr. BADHAM) has expired.

Mr. FRENZEL. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. BADHAM).

□ 1310

Mr. BADHAM. In closing I would just simply like to say I do not believe our votes are for sale. I believe that if Members of the House disclosed the source of their contributions, and I think they should, the people of this country and our districts could readily determine whether or not we do a proper job.

This amendment that we are going to have before us is poorly drafted. It is unworkable, it deprives people from the right to be in the political process, and it really does not address the problem.

Mr. FAZIO. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I want to thank the gentleman for yielding and say at the outset that this is one bill where there is genuine, I think, sincere disagreement on both sides of the aisle. Disagreement as to the impact of the bill, disagreement as to the desirability of the bill. Yet, I want to make it very clear that there are over 25 Republican cosponsors of the legislation, including the gentleman from New York (Mr. CONABLE), the gentleman from Illinois (Mr. ANDERSON), the gentleman from Iowa (Mr. LEACH) and, until very recently, the other gentleman from Illinois (Mr. ERLENBORN). I can kind of understand his concern about some of the remarks made in the debate on the rule.

I want to also mention to the Members of the House that in my opinion there are many Members of the minority side who have been willing to literally stick out their political necks at the risk of losing perhaps, some contributions.

I want to also single out particularly, the gentleman from South Carolina, who happens to be opposed to the so-called Obey-Railsback bill because, in my opinion, he, as much as any Member of the House, has tried to be constructive and helpful in the field of election law reform; and I am talking about Mr. CAMPBELL.

But be that as it may, my interest in so-called campaign spending goes back to March of 1974. I introduced a rather, I guess what could be characterized as a rather unusual, or even a rather radical proposal that would have dealt with the issue of what I believe was a pervasive misuse of the franking privilege and other perquisites of the incumbents. I was concerned at that time about campaign spending. I had sat as a member of the House Judiciary Committee, and when during the course of our so-called Watergate investigation one of the minority members on our side, Mr. Mayne of Iowa, suggested that rather than just go into the problems of the President with dairy contributions, let us also, in fairness, take a look at dairy contributions as they related to the Members of Congress.

I will tell you, when we went into that, when I saw the amount of money that was being thrown around—and I got some of it—there were many Members that got contributions from dairy co-ops, who at that time were seeking to raise the dairy parity price, who did not have cows in their districts.

In any event, my bill did not go anywhere and perhaps it should not have. It was a little bit impractical.

Then I was asked to be involved in public financing. I have some reservations about public financing, the desirability of it because of the so-called in kind contributions that do not come under the cap and which the Washington Post, in an editorial, said amounted to something like $11 million in the Ford-Carter Presidential election that did not come under the cap and which benefited the President rather than the former President, Jerry Ford.

When I was asked to cosponsor with DAVID OBEY some amendments to cut down on PAC spending, I wholeheartedly agreed, and I will tell my colleagues why. When we look at the statistics over the last few elections, about the last three elections, but particularly the 1978 elections, we will see there are contributions coming from four different so-called political action groups. There are business PAC's, there are the trade PAC's, there are the labor PAC's and there are the ideological PAC's.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FAZIO. Mr. Chairman, I yield the gentleman from Illinois (Mr. RAILSBACK) 3 additional minutes.

Mr. RAILSBACK. I thank the gentleman for yielding.

It is patently clear, patently clear that incumbents are the beneficiaries in

many cases even of unsolicited contributions and at a rate of almost 4 to 1.

I have heard a lot made on our side, frankly, on our side, that there have been some of our successful Republican challengers that were elected because they had substantial sums of PAC money, and I am sure this is true equally on the majority side.

Take a look at the whole picture. I have a list of eight races on our side where we came very close, where the members of the minority came very close. When we look at the contribution rate between the incumbent and the challenger, I can tell my colleagues that literally the challenger was buried by PAC contributions.

I do not think this legislation is any kind of a panacea. I do want to make it clear some of the literature that was distributed dealt with a $50,000 contributor level. We are going to try to raise that to $70,000.

In my opinion, and Mr. CAMPBELL, I think, would agree with me, and Mr. LEACH and some others, there are some things that we should do. One thing would be to raise, I would favor raising the individual contributor level. I would want hearings held, and I believe there are going to be hearings held on the question of indexing for inflation. I would want to do something about maybe raising the level which a person could contribute without having his or her name disclosed because that would clearly favor challenges.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. I thank the gentleman for yielding and I certainly agree with him on many of the reforms he has outlined and do support them. I would like to say to the gentleman I have enjoyed working with him and he knows I could very easily support a reform piece of legislation if we did not have a cap on a specific subject. I do not support capping either individuals, PAC's or parties, but I have no objection to cutting down the amounts.

Mr. RAILSBACK. I appreciate that.

May I just add one other thing.

Right now there is a lot of opposition from the business community and the business PAC's because they think they have things going for them and I can understand that. They have expanded. Generally speaking, business PAC's give much smaller sums of money, for instance, than labor. So clearly one section does not impact on them like it impacts on labor.

But more importantly, and I think the gentleman from Wisconsin hit the nail right on the head, if we want to do something about the spiraling campaign spending, recognize that if business PAC's continue to proliferate, do not think for a minute labor is not going to respond and labor is going to respond in one loud voice by saying to their employees, "Give us an hour's wages a month," and watch the war chests that they build.

This legislation is designed properly to impact on both and that is what we want.

Mr. LEACH of Iowa. Will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, I rise in strong support of the Obey-Railsback amendment.

In my judgment, it represents a kind of a domestic SALT agreement between big business and big labor; an agreement disliked by each, but to the stark advantage of the individual citizen and taxpayer.

It is debatable how nefarious or constructive PAC giving has been in past campaigns, but as all of us know, electoral history may not be a good guide to future campaign behavior. PAC's, both labor and business, are girding for future Armageddons—battles that in quantum magnitudes are likely to be more expensive than Americans have ever experienced.

It is no accident that we have a Congress of the United States increasingly indebted to either big business or big labor, a Congress where the small businessman, the farmer, the worker and ordinary citizen are only secondarily represented. Hence also, it is no accident that the middle class bears a heavier tax burden than the rich; that small companies lack the tax advantages of the integrated oil companies; and that inflation is the economic issue of the day. I would like to stress this last point; inflation is not unrelated to campaign financing abuses.

The roots of inflation begin in Federal spending and Federal spending begins in promises and obligations, and all this begins with politicians. It begins, in fact, in the way campaigns are run. It begins in politics as usual, in commitments to large contributors, no matter who they are.

The most effective way for a candidate to achieve support in a bid for legislative office is to isolate every identifiable group—especially moneyed groups—and announce support for the group's vested interest. Unfortunately, going along with the most powerful interest groups inevitably leads either to the proliferation of Federal programs or to the weakening of the tax structure. Fiscal balance and equitability are impossible to maintain after lawmakers, that is, the successful candidates, have committed themselves in advance to support specific tax advantages or Government programs favoring those having made generous campaign contributions. America may be a society of individuals, but power groupings—not individuals—are represented in legislative bodies where money is a key determinant of election outcome.

A government of the people, by the people, and for the people cannot be a government where influence is purchasable through large, private campaign contributions. The subordination of individual rights to indiscriminate moneyed influence is the subordination of representative democracy to institutional oligarchy.

It is simply a fact of life that when big money in the form of group contributions enters the political arena, big obligations are entertained. Groups seldom reflect the same collective judgment as all their members. More importantly, decisions for organizations frequently occur at the top not the bottom and the abdication of local control over funds leads to the aggrandizement of leadership power within organizations and thus within any government channel where the organization's impact is felt. Individuals who control other people's money become power brokers in an elitist society. Their views, not the small contributors to their association, become the views that carry influence.

And the views of power brokers are frequently the views of out-of-State interests rather than the concerns of individual constituents. The giving of a significant policy voice to people who have no ties with the State from which an individual Congressman is elected is one of the most unfortunate ingredients of modern politics. It weakens constituent ties to a Representative once elected; it also undercuts the desire of constituents either to contribute campaign funds in modest amounts or participate enthusiastically in volunteer activity.

Without reasonable restrictions on giving there is a clear danger that large numbers of challengers will never be given a reasonable competitive chance. The stultification of incumbency will continue as the hallmark of congressional elections.

Statistically, by an approximate 4-to-1 margin, the vast majority of PAC funds goes to one definable group; namely, incumbents. In a sense, both parties in Congress have a common incumbency self-interest—a self-interest which amounts to a monopoly if the experience of the most recent decade is guide.

Monopolies in the political arena apparently can only be broken up by the exercise of countervailing monopoly power or by placing restrictions on the exercise of that power.

The Obey-Railsback approach is a good first step toward establishing prudent campaign rules, thereby protecting the traditional and the best in American politics. I urge its adoption.

□ 1320

Mr. FRENZEL. Mr. Chairman, I yield 5 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, before I start my remarks I would like to mention two personal items and get them out of the way.

I regretted very much indeed that the audit was abandoned. I think the random audit was a very sound principle and I was sorry we lost it. Second, as far as money is concerned, I would like to have this on the record: I contribute to my own campaign my personal funds exactly to the extent that my opponent does, and no more, unless he accepts PACs. I think it is perfectly ethical for me, since I do not accept PAC's, to contribute if I want to, to the same amount, but no more. I would like to get that on the record.

Mr. Chairman, I would like to say that we have heard a great deal today about the effect of this proposed legislation upon the election or nonelection of chal-

lengers and incumbents. Frankly, I do not think the public cares one bit about that subject, whether or not an incumbent is going to gain through this, or a challenger is going to gain. The real point is, what is this legislation going to do to the national interest, to the interest of the public? What effect is it going to have on the kind of legislation we vote on in this House and how we vote? That is the real point.

The public perception must be taken into account also. What does the public think when, time after time after time, a certain candidate in every election gets enormous contributions from one or another trade, business, labor union, or whatever special interest it might be, and the vote follows the legislation as day follows night.

I do not question anybody's motives. I am not saying that anybody is bought, although on the floor of this House another Member spoke to this last year. The point is, the public is not reassured that there is no special influence when this happens time after time. I do think it is something that has to be considered.

We have all had experiences in this House. I once asked one of my colleagues, "What are you going to do on the veto override?"

The answer was, "I took $58,000 from so-and-so. They want it. MILLICENT, are you kidding? What do you think I am going to do?"

Another time I asked a Member about a vote and the answer "I took $14,000 from such-and-such group, and they want it."

In the New York Times there was this: One of the sitting Members of this House got a telephone call, and so it was reported to the New York Times. The telephone rang in his office, and a voice said, "We have a bill we would like you to sponsor."

The Member said, "I would like to see it."

The voice on the other end of the telephone said, "Hey, buddy, wait a minute. We are friends, aren't we? We contributed to your campaign. Friends don't ask to see a bill before they sponsor it."

This kind of thing contributes to the following kind of situation. A colleague from the west coast said, "One of the reasons I am not running is that it takes $250,000 in my district to run and win a campaign. Where do I get that kind of money? I got several contributions of $10,000." If I do what they want, and I know why they are giving me the money, I feel that I have been bought. If I do not do it, I feel—" he searched for a word—"ungracious."

He said, "Everytime this happens, you lay your soul on the line."

Now, this is the kind of pressure that Members of good conscience are under, and I think it is time that we came to some kind of action about it. There was $12,500,000 contributed to Congress in 1974; $22,600,000 in 1976; over $35 million in 1978, and the estimates are that there is going to be over $50 million in 1980.

As one Member of this Congress said, "In 16 years I have never seen anything like it. This is the best Congress that money could buy."

That is a Member of Congress discussing it, not the public. What does the public think of us? That is something else that we can find out when we look at the polls. I think we know. I do not think we can represent the public properly without some genuine effort toward reform.

This effort is small enough. It does not contain the automatic audit that would have allowed the Federal Election Commission to go into any Member's accounts anytime. It requires now a vote of the Commission, a complaint and so on. I think that was a loss. It is time for reform. The dirty work of the PAC's cannot be allowed to continue.

Mr. FRENZEL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Chairman, we all bring our own experience to this particular piece of legislation. I, along with many other Members, was not at all pleased by the distinguished Speaker's blatant appeal to terrify certain incumbents; namely that somehow or other this bill was going to hurt them. I survived the most expensive race in the history of the U.S. House of Representatives in 1976. There were 14 candidates whose combined expenditures totaled $1,700,000. I thought that with inflation someone would pass that figure in 1978, but I have not come across any higher priced race to date.

My opponent in the November election 1976, spent over $680,000, and with legal bills and other extraneous matters that do not go on FEC forms his final total was probably around $800,000. I sued him for libel. He settled out of court for $35,000 with a cashier's check. I believe that also set an American historical precedent. I do not know any Senator or House Member who has ever received one libel dollar from an opponent.

My last election was dubbed "Star Wars" by the District of Columbia papers. My very young 1978 Democratic opponent has a very famous father; he as a friend of the Speaker and of other prominent Members of the majority party. He raised over $300,000 spendable impact dollars to my roughly $220,000. Most of which was raised in the last 2 months. I was up against raw wealth for the second time in a row.

As far as Federal Election Commission audits are concerned, they have dumped random audits and do not seem inclined to audit for cause. The FEC on Friday, it seems, has dropped any investigation against my young opponent, who accepted 13 $1,000 illegal campaign contributions in the last weeks of the election. These contributions were all given by one man and brought to my opponent's headquarters as cashier's checks. We know such contributions are illegal. If you know a person and he tries to give you cash, you can send him to the bank and he brings back a cashier's check, but who here would not be suspicious if someone walked into your campaign headquarters to deliver $13,000 in 13 separate cashier's check. Thirteen of them.

The money which found its way into my opponent's campaign came all the way across the continent to Los Angeles from Alabama. The particular contributor names cited on my opponent's FEC forms are Alabama names, mixed in with Manhattan, Palm Spring, Malibu, and Beverly Hills, Beverly Hills, Beverly Hills. Outrageous.

There should have been an immediate audit for cause, but that is obviously not going to happen.

Many seeking Federal office today are sons of multimillionaires. I have two of them coming back at me next time. The distinguished Mr. OBEY does nothing to address the problems of the sons of the rich trying to buy congressional seats. If you look at the Senate side, there are 41 millionaires there. And just look at those who have inherited family money, or wives' money, or company money, and they can use it any way they want to, and there is nothing done to consider this in limiting others. I think the envious drooling we see exhibited here today by speakers in this House does a disservice to this very healthy proliferation of PAC's. We have gone past the major corporations developing their PAC's and now we are seeing very small companies and corporations developing their very humble PAC operations.

Mr. OBEY. Mr. Chairman, will the gentleman yield to me, since he mentioned my name?

Mr. DORNAN. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me just respond to the gentleman, on the rich candidate issue, by pointing out that, as he well knows, the Supreme Court has made it clear that there is only one thing we can do on the rich candidate issue, which is to pass public financing. If we do not want to do that, there is nothing we can do. I would suggest that I doubt the gentleman in the well wants to see public financing.

Mr. DORNAN. I do not.

Mr. OBEY. Then he has criticized me for not doing something that no one has any ability to do unless they follow the other road, that the gentleman does not want to follow.

Mr. DORNAN. I will explain that, if I may reclaim my time. Public financing by Supreme Court decision will simply not stop rich families spending the way they please. By limiting the contributions by smaller PAC's—and I hope this proliferation explodes multifold over the next two elections—we cripple participation by middle America in the election process. Now we are involving the small hardware stores, the small distribution companies, and all of the small businesses that are the backbone of our Nation.

□ 1330

If $50 million is spent in the next election——so what—that is great, that is healthy. I respectfully disagree with my distinguished friend, the gentlewoman from New Jersey (Mrs. FENWICK). This expenditure is pure Americana. Fifty million is only a fraction of what is spent in this Nation to sell cosmetics or perfume. What it does is energize more Americans to involve themselves in our political system.

I had perhaps about $75,000 deep into the summer of last year's 1978 election. This time I have already $108,000 as of

yesterday and I am averaging about $7 per donation. I am proud of that. I have not gone to the PAC's yet, but I will, and when they support me that means they will be adjusting to my views and opinions, not I adjusting to their interests and if I want to change my mind on an issue, let them take their money elsewhere the next time around.

There is absolutely nothing inherently evil about the contribution of Political Action Committees to American politics. I have been at the kick-off ceremonies—the formation of many small PAC's, and these activities are the healthiest thing I have seen around politics in decades. If we really want to reform this House.

I will tell you what we should do. Adopt a House resolution I am going to introduce this week to limit House Members to six terms, that is 12 years, starting after the next election following passage. Then we should limit our friends in the Senate to two terms, also, 12 years, and of course after a break in service S-Hot Members of either body could come back for 12 more years. This is the way to break any incumbency abuses around here.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the fabulous gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding. I respectfully suggest if we have a revolving door for Congressmen here, we will really have the bureaucrats running the Government, so I hope the gentleman has some second thoughts about that.

Mr. DORNAN. Twenty years with a 2-year break followed by another 12 years and so forth, hardly a revolving door. A distinguished Member like the gentleman from Illinois would be assured of 18 years at least because of his current seniority followed by 12 and 12 and 12, but I know he will be "up or out" long before that rising in the political system like a shooting star. But to return to this massive exercise in jealousy and confusion here today, I state emphatically that arbitrary and changing caps or ceilings on this or that will accomplish nothing. Disclosure. Disclosure Disclosure * * * with swift and certain punishment for reporting violations is the answer. Let the voters judge the shadow of financial support. Long live the PAC's. Vote down Obey-Railsback.

Mr. FAZIO. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD of Tennessee. Mr. Chairman, I rise before you today to express my wholehearted support for the Obey-Railsback amendment to S. 832, the FEC authorizations. As my colleagues have already stated this amendment is designed to reduce the amount of political action committee spending in House elections.

There is little doubt that candidates to the House are depending more and more on special interest money to finance campaigns. The amount of money PAC's contributed to congressional candidates tripled between 1974 and 1978. According to Federal Election Commission figures, 1 in 10 candidates received PAC contributions of $70,000 or more. A few candidates received as much as $171,000. It is time to loosen the growing financial dependency of congressional candidates on narrow-special interest-business, labor, and other groups.

The rapid proliferation of PAC's and their potential for inordinately influencing congressional decisions and votes is slowly destroying our governmental system of district representation.

Existing legislation may be responsible for the increase in PAC's because of the limitation on the amount an individual may contribute to a candidate. This has forced candidates to rely heavily on either their personal resources or these political groups.

Few will question that special interest money generally comes with implied and sometimes not very subtle strings attached. It is degrading and humiliating to even suspect that U.S. Congressmen are mere puppets to these organizations. And, even when there are truly no strings attached, dependence on PAC contributions makes it more difficult for a Member of Congress to be objective when legislation affecting his financial backers is being considered by the House.

Our efforts to enact this legislation should not be misconstrued. On the face of it, there is nothing wrong with business, labor, and other groups financially supporting candidates to the House who have similar positions as theirs. These groups make up our constituency and legitimately represent their concerns.

PAC contributions are consolidated contributions from many individuals. I am a recipient of PAC contributions myself. However, there must be a balancing of their influences on the legislative process to protect true representative Government.

The argument that this amendment has bypassed the normal committee processes of public hearings and debate, cannot be substantiated because similar legislation has previously been before Congress.

It is important for us to curb the existing practicing of influence buying and to rebuild the confidence of the American people in their Government. It is important for the voters to know that the decisions of their Congressman reflects his conception of what is best for them and their district.

I join my committee members on the majority side in full support of this legislation that is before the House today and ask and urge all of my colleagues to support this bill.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Chairman, had an open rule and not a closed rule on this bill been allowed previously, I had intended to offer an amendment to benefit challengers in congressional campaigns by raising the disclosure limit on contributions to those challengers, from $100 to $500. If the Harvard University study which was alluded to earlier, commissioned by the Committee on House Administration, made one recommendation above all, it was that greater individual participation and contribution are necessary in election campaigns. My challenger's protection amendment concurs with the 1979 Harvard study recommendation on raising the disclosure level to $500, but it gives the threshold increase only to those who need it, to challengers, not to incumbents.

Many of us in this body would like to see some major change, and the way to gain such change is to make it easier for the American people to run for Congress. Obviously those people are not incumbents; they are challengers. If my amendment had been in order, I would make the following arguments in support of why I believe challengers in congressional campaigns deserve fairer treatment under the 1972 FEC Act. The legislation before us, Obey-Railsback, will have a great impact on the way the Nation conducts the financing of congressional elections. The limitations on PAC contributions are derived from the genuine belief on the part of many that serious flaws exist in the Federal Elections Act governing campaign contributions, but Members should be aware that the Harvard study on the impact of the Federal Election Campaign Act, published in May 1979 under contract from the Committee on House Administration, underscored many harmful effects of the Federal Election Campaign Act between 1972 and 1978. The study concluded that substantial contributions from individuals were needed to run a campaign and that the present limitations on individual contributions should be raised, and that the disclosure of individual contributions should only be required above $500. The study did not recommend reducing PAC contributions. The study concluded that more not less funds were needed by candidates to get their messages out. This is particularly true for challengers.

I believe that the primary reason PAC's have gained so much in influence is they are more and more becoming the only game in town, particularly for many challengers, those who do not have rich parents or rich families or a rich mother-in-law; those who do not have law practices which can benefit from the publicity of running.

The important data to consider is the trends in how these contributions have been made. Challengers have been receiving increasing amounts.

□ 1340

Just a short while ago our distinguished Speaker of the House made the plea better than any one of us opposing Obey-Railsback when he documented the increasing number of large total contributions going to challengers. He passionately documented some eight or nine challengers in hotly contested races having $50,000 or more in PAC contributions as if it were a heinous crime. What is wrong with challengers raising money to take on incumbents. I think the tenor of the Speaker's statement alone confirms Obey-Railsback to be an incumbent's protection act.

Mr. Chairman, the people of America are benefiting by numbers and variety of individuals able to run for Congress without being a millionaire. In other

words, many challengers have had severe difficulty raising personal contributions in their own districts because of widespread local fear on the part of contributors of incumbent influence, pressure, retaliation, intimidation, real or imagined.

The Harvard study underscored, it is precisely more individual contributions that are needed.

In response to this need for individual involvement in political campaigns, I had prepared an amendment to the Rules Committee-passed bill, H.R. 4970, which seeks to help resolve fundraising problems facing challengers for congressional seats and at the same time restore individual local contributors to a much more reasonable position than they face today.

My challengers protection amendment would have enabled challengers to raise contributions of up to $500 without the present requirement that the names of those contributors who, in a real or imagined way, fear retribution, intimidation, harassment or just plain embarrassment over helping a challenger be disclosed.

In urging such a change, the Harvard study's recommendation would apply it to incumbents as well as challengers. Yet, I think we all clearly realize from the facts of recent congressional elections, that incumbents do not really need this help nearly as much as challengers.

My hope is that my amendment will send a signal to the American people that we are concerned about the "chilling effect" that FEC regulations are having on challengers. By supporting the challengers protection amendment, we increase the fund-raising chances of the challenger and we get to the heart of the matter of bringing the individual back into political campaigns. That in itself, will go a very long way toward balancing out the role of political action committees which increasingly have become an important part of the American political campaign process.

Obey-Railsback is a well-intentioned political reform not without merit. Yet it promises to perform amputative surgery without getting down to what is really wrong with the congressional election system. Obtaining large numbers of small contributions usually is impossible for would-be challengers. Because challengers are relatively unknown, and due to the high costs, direct mailings are not an effective solution either.

To quote the Harvard Study:

> Since public disclosure is effectively functioning only at the level of larger contributions, and since the volume of information itself is handicapping public disclosure, the study group believes that these problems can be alleviated without damaging the essential value in public disclosure by raising the threshold at which contributions and expenditures are disclosed.

By giving a greater chance to challengers seeking entry into our political system, we will strengthen this important route to better government. I deeply appreciate the consideration of my colleagues on this important and much-needed change.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I would like to mention one point that I think has been missing in this discussion on the Obey-Railsback amendment. Up until now we have been talking mainly about the solution to this problem, that I think we all recognize, without really being concerned and trying to understand what the basic problem is. I do not believe it is accidental we are facing this crisis in the way we are elected and the way campaigns are run and the way lobbyists work at this particular time in our history. I think it is what we should expect.

Mr. Chairman, if we look at the problems involving campaigns and the way they are financed, it is very similar to the problems we talk about when we were trying to regulate lobbyists. I think we fail, if we pass this amendment, to really address ourselves to protecting the Constitution. I am disappointed that my liberal friends are not championing the right of free speech and also the right to petition our Government because I do believe this is what is at stake here. If we are careless with the right to petition our Government and the right of free speech we jeopardize the foundation of freedom itself.

To curtail the constitutional rights of PAC's or lobbyists who are considered less than ethical means that the decent citizens who want to organize only to promote freedom will suffer as well.

Mr. Chairman, I do understand the frustration however. The dollar influence in this Government is overwhelming. It is very influential in elections and legislation and this is disappointing. What we seem to be doing is something like we do in economics. We pass a law, we cause a new problem that calls for two or three new laws to correct the problem we have. To pass legislation like this would just be adding to the problem.

Mr. Chairman, I see the problem in this way. The Government is just too big; there is too much intervention; there is too much governmental power to pass out favors. There are too many dollar favors available to the people. There is welfare on two ends of the spectrum. There is welfare to the poor and there is corporate welfarism and they are both encouraged for this reason to come and lobby for their share of the loot. We here in the Congress seem to do nothing more than to be passing out the loot and, therefore, it is worth the lobbyists investment to spend a lot to come up here and lobby for their so-called share.

Mr. Chairman, I think this attitude has dominated our politics and our economics in the last several decades. But the solution cannot be that we increase the regulations on the lobbyists or regulate elections or regulate the PAC committee to a greater extent. The election process should be minimally regulated if you want a free society. There is something, however, that needs regulating and that is big Government. The Congress needs regulating. The Congress and the Government need to be reduced in its effective control over the economy and over the people. If we continue to address only regulating elections, donations, money, candidates, and lobbyists, I think we miss the whole point. There is a serious problem here but the problem is that the Government itself has too much power and authority to pass out powers. This power must be curtailed.

Regulating and curtailing the constitutional rights of our citizens through FEC legislation can in no way compensate for the abuse of constitutional restraints on Government power that the Congress participates in on a daily basis.

Reduce the size of the Government; remove the Government's unconstitutional authority to intervene in the economy and in our lives and the influence of the lobbyist and their dollars will disappear.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Chairman, discuss and vote on this particular bill and the amendments thereto, I think it is interesting for us to look at those things which we are not allowed to consider as well as those we are allowed to consider. During the consideration of the rule on this legislation in the Committee on Rules, an attempt was made to deal with a real problem that has arisen in the political system right now. That is of an unannounced but, many people believe, soon to be announced. Presidential candidate, having a proliferation of committees around the country set up on his behalf which allow them to have an advantage under the system of raising funds against those who are announced candidates. That is a serious consideration.

Although this particularly affects the other party, it is something that really has something to do with the way the political process is working this year. Yet in the Committee on Rules, that was defeated. We were not allowed to deal with that serious problem that we all know exists and ought to be addressed. Yet we are told we must deal with Obey-Railsback now because there is a serious problem. If there is a serious problem in the Presidential election system, why is that not brought to the floor with the same haste with which we are dealing with Obey-Railsback?

Mr. Chairman, the gentleman from Illinois (Mr. RAILSBACK) made some genuine comments here about the need for reform in this system. I agree with that. Yet we do not have the opportunity to vote on indexing the contribution level. We do not even have the opportunity to vote on the question whether individual contributions limits are to go up. And yet we are told that we can deal with this one small part of the loaf and somehow that is going to take care of the problem. We know that is not true. We are given a very limited opportunity to deal with one specialized area of a situation that really will not right itself if we only deal with a small part of it.

It seems to me more than coincidental that this is being brought to us today, when the experience since 1974 as PAC's have come on line and begun to contribute to campaigns is that we see more

Democratic incumbents being defeated with greater frequency year after year. In the midst of that is it any wonder that some say, "Well, now, we have to change the rules of the game."

Mr. Chairman, I have been one who has criticized PAC groups for not putting their money where their mouths are, for supporting those people who do not generally support their views on the floor. In other words, criticising them for not backing those people who represent the views that they espouse.

Now, when we see a raised consciousness on the part of many of these PAC's, that now they are going to start contributing a little bit more to those people who are expressing the views with which they agree, we say that is a bad thing. And we say that is a bad thing because we are afraid they are going to help more challengers contest incumbents.

Mr. Chairman, I think the Speaker said it better than anyone else today. Had I the opportunity I would have given him 5 more minutes to speak. I would have done this because he talked about the fact that failure to pass Obey-Railsback is going to jeopardize those people sitting in this House. Certainly, incumbent protection should not be a basis for attempting to restrict our constitutional rights of free speech.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Chairman, I am not convinced the PAC's are as bad as we try to make them sound today. I received about one-third of my money from PAC's and about two-thirds from non-PAC's. No one put any pressure on me or tried to buy me off. I honestly think they gave me the money because they supported my particular viewpoints on some of the issues. I think what the PAC's are doing is—that they are giving money to people because they want to balance the budget, give a tax cut, preserve western water rights, because they are for or against, say, the Panama Canal Treaty or some other good or bad legislation which from their point of view is justified.

It seems to me, Mr. Chairman, what the proponents of this bill are really trying to do is somehow limit influence that some groups might have.

May I quote from a Newsweek article of November 6.

> Special interest groups, old and new alike, have developed a potent array of weapons. They have formed Political Action Committees and now raise more money than either the Democratic or Republican Parties and they enlist their money and muscle to cajole, influence and even threaten legislators.

It was interesting to look back in the 1978 issue of U.S. News & World Report to see who packs all this influence that we are concerned about.

Listen to this. Order of influence:

First. The White House. I am wondering what this bill does to cut down the influence peddling of the White House.

Second. Large business.
Third. The U.S. Senate.
Fourth. The Supreme Court.
Fifth. Television.
Sixth. Federal bureaucracy.
Seventh. The U.S. House of Representatives.
Eighth. Labor unions.
Ninth. Banks.
Tenth. Miscellaneous lobbies.

□ 1350

Eleventh. Newspapers.
Twelfth. Wall Street.
Thirteenth. Cabinet.

Then comes the Democratic Party, public opinion polls, State and local government, radio, magazines, educational institutions, military, civil rights groups, the family, the medical profession, organized religions; and, oh, how unhappy, the Republican Party, No. 27.

Small business, No. 28.

The cinema, No. 30.

This list shows where the power is. Yet we seem to be trying to somehow limit the influence that PAC's have.

Mr. Chairman, I would just like to conclude by making an observation that I honestly believe any person in this country or any group of people have every right, if not an obligation, to try to get and use whatever influence they legally and lawfully can.

I believe they have that right under the first amendment. By limiting then the PAC's to some arbitrary ceiling like $70,000 seems to me to be in violation of not only the spirit of what we are trying to do, but works against commonsense and first amendment rights. What we really need are more people, more coalitions, actually working for those principles they believe in.

The CHAIRMAN. The time of the gentleman from Utah (Mr. MARRIOTT) has expired.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I think in all candor one has to admit that substantial contributions from any public interest group tend to bias the recipient in favor of that special interest group, No. 1, since most of us are merely human beings; but by the same token, the cure in trying to eliminate that bias is far worse, in my judgment, than the special interest contribution. It is an inhibition on free speech or political advocacy. There is a bias in this legislation against the private sector. That bias pervades all this type of legislation, Federal financing of congressional campaigns and others.

The assertion has been made time and again, either by implication or otherwise, that special interests are somehow tainted. They are somehow unwholesome. Someone even recalled the distinguished chairman of the Committee on Rules as saying, "The sum of all the special interests don't equal the national interest."

I disagree. I think the sum of the special interests are this Nation. They are the national interest. Show me someone who has no special interest and I will show you a social and political eunuch, a cipher, a neuter, a zero. The opposite of "special interest" is "no interest."

I think it is naive or disingenuous not to concede that most special interests cancel each other out. You have big banks, independent banks, savings and loans, credit unions, even labor unions disagree.

We have the National Education Association for the new Department of Education. You have the AFL teachers against it.

You have the National Rifle Association. You have the handgun control lobby.

Senior citizens, taxpayers' groups; consumer groups, industry groups, proabortion groups, antiabortion groups, but they are all made up of Americans and they are entitled to exercise political advocacy, or in other words, free speech.

Not everyone can man a phone bank, participate in voter registration drives or get out the vote drives, but they can write a check. Their writing a check is a referendum in support of someone who thinks like they think and advocates causes that they support.

The answer to the evil of undue influence is not to limit special interest groups, but disclosure. Limiting a legal device for the exercise of free speech or political advocacy is something George III would have welcomed in 1776. Free speech is too precious and too fragile to inhibit where there is no clear and present danger; but that is what we are doing here with this legislation.

Lastly, let me just suggest, as a great Senator from New York did some years ago, that the man who said, "Patriotism is the last refuge of a scoundrel," never considered the possibility of the word reform.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wyoming (Mr. CHENEY).

Mr. CHENEY. Mr. Chairman, I rise in opposition to H.R. 4970, the so-called Obey-Railsback amendment. I understand the concerns of the sponsors of this legislation, and I certainly do not want to question their motivation in offering the bill. Nonetheless, it is clear to me that while their intentions are no doubt honorable, the consequences of their proposal would be detrimental to the electoral process. They proceed from faulty assumptions, that somehow, money and politics do not mix, that political contributions, from whatever source, are inherently evil, that a Member of Congress will be unduly influenced by a $5,000 contribution, but not by one for $2,500.

The fact is that the problem in campaign finance today is too little, rather than too much, money. The study of the impact of the campaign finance laws conducted by the Kennedy Institute of Politics at Harvard offers convincing evidence that the quality of the election process is directly affected by the amount of money available to finance campaigns, and that the problem in recent years has been that most campaigns are underfinanced, not that too much money is available from political action committees and so-called special interest groups.

The fact is that voter awareness of the issues, voter knowledge of the candidates, voter interest in campaigns, and voter participation in an election is directly related to the amount of money available to the candidates. Adequate campaign financing is an important part of enabling the voting public to make enlightened election day decisions.

In this day and age, transmitting information to the electorate is an expen-

sive proposition. The supporters of Obey-Railsback would have us believe that by limiting the amount of money available for campaigns, we are going to improve the quality of the electoral process. Nothing could be further from the truth. Underfinanced campaigns and unnecessarily restrictive and burdensome regulations lead to less voter awareness, less electoral competition, and lower rates of political participation. And that is not healthy for American politics.

The evidence suggests that the primary beneficiaries of this legislation will be incumbents who have enormous resources to perpetuate themselves in office, including more than $300,000 per year for staff, the use of the franking privilege, and virtually unlimited travel. The other group to benefit will be independently wealthy candidates, the individual who can afford to write out a personal check to pay for the expenses of a campaign. The vast majority of Americans would not be able to contemplate a race for Congress because they cannot afford to finance it themselves, and because Obey-Railsback makes it difficult to raise the funds from anyone else.

The proponents of this legislation have not made a case that this legislation is even necessary. No one has identified an evil which will be corrected by this amendment.

The losers, if Obey-Railsback passes, will be the American people.

If this body really wants to improve the electoral process, then we should seek to implement the recommendations embodied in the Kennedy Institute's study. We should provide for a higher ceiling on individual contributions, streamlined reporting procedures and incentives for the American people to participate once again in the political process.

We should not be considering legislation which will have the effect of eliminating competition, discouraging participation and lowering voter interest. We should not pass a bill which will only benefit incumbent Members of this body.

The CHAIRMAN. The time of the gentleman from Wyoming (Mr. CHENEY) has expired.

Mr. THOMPSON. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I have asked the gentleman to yield to express my appreciation for the thoughtfulness of his statement. I am in strong disagreement with his comments with respect to this legislation. With respect, however, to the results of the Harvard study, which has been completed, it is my intention as chairman of the committee to establish task forces very, very shortly to oversee the entire Federal election law and to refer specifically to the recommendations in the Harvard report and others.

For instance, I believe that indexing is a very strong and necessary possibility, especially in inflationary times.

The CHAIRMAN. The time of the gentleman from Wyoming (Mr. CHENEY) has again expired.

Mr. THOMPSON. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. Chairman, if the gentleman will yield further, we do not want to restrict any more the Buckley-Valeo restriction on the availability of reasonable amounts of money to candidates. That is not our intention.

Mr. CHENEY. The gentleman would agree, however, that no place in the study done by the Kennedy Institution for the committee which the gentleman chairs is the recommendation embodied that we have currently before us in the Obey-Railsback amendment. The study that was done showed that the problem today is inadequate financing, that the Obey-Railsback amendment does nothing to correct the problem.

Mr. THOMPSON. The answer to that is that the major parts of the Obey-Railsback amendment have been gone over in the committee in great detail. Further work needs to be done, I am conceding that, but this is the best vehicle at this time and I think it is defensible and I think it should be supported.

Mr. CHENEY. Mr. Chairman, I thank the gentleman.

□ 1500

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, during the course of the debate on the rule the distinguished Speaker raised what I thought was a legitimate question that deserves a response. He raised the question, referring to those of us who oppose the Obey-Railsback amendment, of just how much money we get from the special interests, and so the implication is that such money is the reason for our opposition. It is a legitimate question, particularly when one starts from the assumption, as he did, that Members of Congress can be bought by the special interests. So I think the question is worth answering, and I will answer it.

I went back through my records, and I found that I received $3,650 from political action committees in the last campaign. From these particular groups I received $3,650 in contributions of $100 or less, because I personally set that limitation.

What I am saying is that under the present law, if we are really fearful of the Congress being bought I suggest that we all have an option of limiting our own contributions, limiting them to $100. I do that. Ninety percent of my money comes from sources outside the PAC's. Yet I was able to outspend the challenger in my race by 18 to 1.

Mr. Chairman, what I am saying is that there is an ability right now to do something about this business of limitation. We can put on ourselves within the law without going the route that we are talking about going here today, based on a supposedly valid assumption that we can be bought.

I do not think that is a right assumption. I question the validity of that assumption. I think the Speaker defined it pretty well for us then, because what he said is that what we are really concerned about is challengers, what we are worried about is protecting incumbents.

This is an incumbent protection bill we are considering. If we really believe our role is to protect ourselves here in Congress, then we should vote for Obey-Railsback. That is what it is all about.

If we think the national interest has something to be said for it, if we think that challenges in campaigns should be strong, legitimate challenges to incumbencies and that is healthy for the American system, then I say we have to reject Obey-Railsback, because what this is doing is preventing challengers from launching a significant candidacy, and it is an effort to protect us as incumbents in our seats.

I do not think we were anointed in our first election. I think what we have been given is a challenge, and we have been given an opportunity to serve and do our best. If that incumbency is not done right, then we should expect to be challenged within the political system, and should not be seeking artificial protections for ourselves.

Mr. Chairman, I am disturbed by this kind of legislation.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, if everybody followed the path that the gentleman in the well has outlined, we would not need campaign reform at all.

Mr. WALKER. I would agree.

Mrs. FENWICK. If that were true, we would not need campaign reform. But when we heard last year the gentleman I referred to, speaking in the House say, "I had to accept a $10,000 contribution." In that case there is a difference—a big difference between $100 and $10,000.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WALKER) has expired.

Mr. FAZIO. Mr. Chairman. I yield 1 additional minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, in order to put some perspective to the gentleman's pietv, I wonder if he would tell us how much his opponent was able to spend in the last election in which the gentleman said he was able to outspend his opponent 18 to 1.

Mr. WALKER. My opponent raised a total of $3,000, I think.

Mr. FAZIO. Mr. Chairman, I think that does give us some indication of why the gentleman is making these statements. Obviously from the standpoint of reality, we can all take a very strong personal stand in this regard, but when it is competitive, when we are in an open race or in a situation where a strong incumbent is entrenched, I think it is only realistic to recognize that all of us have to turn to every resource available. Some would be required to go beyond the gentleman's limit in terms of what should be contributed in a campaign to be at all competitive. Statements of self-imposed limitations are meaningless unless we provide teeth to a law that applies to all

in all situations. A personally applied PAC limit against a candidate who raises $3,000 is an attempt to project an image of purity without any substance.

Mr. WALKER. Mr. Chairman, I will reclaim my time.

Mr. Chairman, what I am saying is that if the validity of the assumptions is correct on Obey-Railsback, as we heard the distinguished Speaker talk about them, those assumptions should be taken by us personally and we should put limitations on it so that this does not take place.

In the political system there is an obligation to do what one believes is right. I do not limit contributions out of piety. This is something I did from the very beginning of my political career because I thought it right. I simply say it is a route some of us can take within the present system.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from South Carolina (Mr. CAMPBELL), a member of the committee.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I think out of this debate has come a great deal of good. I think there is a recognition that even those who would oppose the Obey-Railsback provision would not be opposed to campaign reform.

Therefore, I would like to serve notice at this time that should the Obey-Railsback provision be adopted, I will have a motion at the desk to recommit, not to kill the Obey-Railsback bill but to strike only one section, the aggregate cap with which we disagree.

Mr. Chairman, the Members should know that that opportunity will come on passage, and that the effort is not being made to scuttle campaign reform.

Mr. FRENZEL. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this has been a good and spirited debate. I hope that the Members who are not with us have been attentive at their television sets so that they will have the good sense to vote down the Obey-Railsback amendment to the pending bill and get the House back on track where it belongs, worrying about those things that are important in this country.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1977" and by inserting after "1978" the following: ", and $8,908,823 for the fiscal year ending September 30, 1980":

Mr. FRENZEL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1420

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 575]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boling
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Dodd
Donnelly
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Trader
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1430

The CHAIRMAN. Three hundred and seventy-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1440

The Clerk will read.

The Clerk read as follows:

Provided, That none of the funds appropriated hereunder for the fiscal year 1980 shall be used by the Commission to audit a House or Senate candidate or his or her authorized committee, unless such audit is based on a finding by the Commission of reason to believe that a violation of this Act has occurred: *Provided further*, That none of the funds appropriated hereunder, in excess of $400,000, for fiscal year 1980 shall be used, directly or indirectly, by the Commission for the operation or support of the clearinghouse functions authorized in section 315 or any activities related thereto.

The CHAIRMAN. If there are no amendments to the committee amendment in the nature of a substitute, the Chair will recognize the gentleman from Wisconsin (Mr. OBEY) to offer the amendment made in order by the rule.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman

from Minnesota will state his parliamentary inquiry.

Mr. FRENZEL. Mr. Chairman, under the rule is it possible to offer pro forma amendments on the bill proper after the gentleman from Wisconsin and his friends have offered their amendments?

The CHAIRMAN. The Chair would like to advise the gentleman from Minnesota (Mr. FRENZEL) that pro forma amendment would be in order at that time.

Mr. FRENZEL. I thank the Chairman.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY: At the end of the bill, add the following:

SEC. 2. (a) Section 320 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following new subsection:

"(1)(1) No multicandidate political committee (other than a multicandidate committee of a political party) shall make contributions to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees which in any calendar year exceed—

"(A) an aggregate of $5,000 with respect to (i) a general election and a primary election relating to such general election, or (ii) a special election and a primary election relating to such special election; or

"(B) an aggregate of $7,500 (but not more than $5,000 for one election), with respect to (i) a general election and both a primary and a runoff election relating to such general election, or (ii) a special election and both a primary election and a runoff election relating to such special election.

"(2) For purposes of this subsection, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held, and any contribution made after the date of such election shall be considered a contribution with respect to such election only if such contribution is used to pay obligations incurred with respect to such election.".

(b) Section 320(a)(2) of the Federal Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by striking out "No multicandidate" and inserting in lieu thereof "Subject to subsection (1), no multicandidate".

SEC. 3. Section 320(a) of the Federal Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(1) inserting after paragraph (3) the following new paragraph:

"(4) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized political committees shall not accept contributions from political committees, other than committees of a political party, aggregating more than $50,000 in any calendar year except that in the case of a candidate who is a candidate in a general election and a special election, such candidate may accept such contributions aggregating—

"(A) $50,000 with respect to such general election and any primary election relating to such general election; and

"(B) $50,000 with respect to such special election and any primary election relating to such special election.

For purposes of this paragraph, any contribution made in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held, and any contribution made after the date of such election shall be considered a contribution with respect to such election only if such contribution is used to pay obligations incurred with respect to such election."; and

(2) redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively.

SEC. 4. Section 301(e) of the Federal Campaign Act of 1971 (2 U.S.C. 431(e)) is amended—

(1) by inserting after paragraph (4) the following new paragraph:

"(5) means, with respect to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized political committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, by direct mail (including direct mail fund solicitations) or other similar types of general public political advertising, if such extension of credit is—

"(A) in an amount of more than $1,000; and

"(B) for a period of more than 30 days after the date on which such goods or services are furnished, which date in the case of advertising by direct mail (including a direct mail solicitation) shall be the date of the mailing; but";

(2) in paragraph (4), by striking out "but" after the semicolon at the end thereof; and

(3) by redesignating paragraph (5) as paragraph (6).

SEC. 5. If any provision of any amendment made by this Act, or the application of such provision to any person or circumstance, is held invalid, the validity of any such other provision and the application of such provision to other persons and circumstances shall not be affected thereby, except that if any provision of an amendment made by section 3 of this Act or the application of such provision to any person or circumstance is held invalid, the amendments made by section 2 shall have no further effect.

SEC. 6. The amendments made by this Act shall take effect upon the enactment of this Act and shall not apply to contributions received before such enactment.

Mr. OBEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. The Chair would like to state that pursuant to the rule no amendments are in order to this amendment except pro forma amendments for the purpose of debate, and the following amendments which shall not be subject to amendment except for pro forma amendments for the purpose of debate:

First, the three amendments printed on page 25135 of the CONGRESSIONAL RECORD of September 18, 1979, by Representative OBEY; and Second, the amendment to the text of H.R. 4970, printed in the CONGRESSIONAL RECORD of September 19, 1979, by Representative MINISH, which shall be in order only if amendment No. 1, printed in the CONGRESSIONAL RECORD of September 18, by Representative OBEY, is defeated.

The Chair now recognizes the gentleman from Wisconsin (Mr. OBEY) for 5 minutes in support of his amendment.

Mr. OBEY. Mr. Chairman, I would appreciate the cooperation of the membership, as I regret that I have but one voice to give for my amendment.

I think that the amendment that we are offering is simple. Basically, as I think everyone understands, it does three things. First of all, it reduces the amount that any PAC can give in terms of an individual contribution from the present $10,000 to $5,000. It puts a flat cap on the amount that all PAC's can contribute to a Member's campaign of $50,000, and it also places a limit on credit which can be extended by PAC's political consultants or other providers of services in a campaign.

Immediately after the offering of this amendment Mr. THOMPSON will be offering the first of what will be three amendments which present efforts to compromise with those who feel that the original amendment being offered by myself and the gentleman from Illinois (Mr. RAILSBACK), is somewhat stringent. If the amendments which are offered are carried, we will then have a package under which we will have overall limits of $70,000 on PAC contributions, or $85,000 in a situation of runoff. We will have an individual PAC limit of $6,000 rather than the $5,000 which I am offering in my amendment; and we would also have under the Fazio amendment a limitation of $35,000 in the amount of funds from campaigns which candidates can use to repay themselves for loans which they have extended to their own campaign committees.

Now, as I said during debate on the rule, I think we need to pass these amendments, and we need to pass them now. Most of the time when I go back home the prevailing question is, "Why can't the House get anything done?"

As the Members know, it is very difficult to explain to people the complexity of the issues with which we deal, and explain to them the fact that because the country is divided on major issues, the House is bound to be divided on those same major issues. I really believe that to be the major reason why the House has difficulty in arriving at final decisions on important matters.

There are a number of other reasons why we are having increasing difficulty and will have much greater difficulty in future years in functioning as a representative legislative body in the greatest democracy in the world. One of the reasons, I submit to the Members, is because political parties have become weaker, and consequently they have less ability to bring people together, less ability to sort out priorities, less ability to make compromises and bring major alternatives to the floor of either the House or Senate for resolution. So, we have greater centrifugal force which is being applied to this place all the time.

When we add to that the pressure from single-interest groups who want to judge this place and judge us individually only on the basis of how we perform on their own single issue, and to blazes with what we do on anything else, we have a situation in which the ability of the House to perform is at best marginal.

□ 1450

When you add to that the ability of all of these groups to now begin to inject large and ever increasing amounts of dollars into each of our campaigns and into the campaigns of our opponents, you have a prescription for making the

Federal Government one giant, isometric exercise, because you gradually freeze the wheels in this place because you have such tremendous pressure being put on this place, it is pulling this place apart on every single issue you can name. We almost lose our ability to put together a majority, if anything. As I said during the discussion on the rule, we can think of a lot of examples.

On the separate Department of Education, for instance, when we had major teacher associations on both sides of the amendment, we saw groups like the AFT or the NEA telling Members, "If you don't vote with us"—and they are on opposite sides of the question—"you are not going to get any campaign contributions." What happens then is that what happens to the kids in this country becomes secondary to what happens to the institutional needs, of the two groups involved in the issue. And you see a repetition of this on issue after issue.

We had the case of the natural gas issue last year where one union made it quite clear that Members who did not vote the way they wanted them to vote on that single issue, regardless of their position on any other issue, would get no funding. We have business-backed pressure on this very bill. In the campaign school of the Democratic National Committee just last week a representative of industry PACs said in so many words that anybody who votes for Obey-Railsback better understand it is going to be very difficult for them to get a campaign contribution unless they have a very good excuse for voting for it.

The problem is that again, as I said earlier, the threshold of embarrassment keeps rising and rising and rising until today it is apparent to me that there is very little embarrassment felt by people who are trying in their conversations with us to make direct linkages between votes and campaign contributions, and I do not think we ought to have to tolerate that. I think this amendment will help to discourage that kind of conduct.

The point of this amendment is that to the extent the dependency upon special-interest dollars grows in House races, and it has grown in terms of the percentage of campaign dollars that come from special-interest groups in each of the last three elections, to the extent that continues to grow, to that extent we are more and more vulnerable to that kind of linkage. And we see something that I very seldom saw when I came here 10 years ago. We see linkages being made before the votes rather than after the votes, and I think that does no one any good. The need to do something has been made so clear that even 30 Members of this House who received more than $50,000 in campaign contributions from PAC's last year have put their names on this legislation as sponsors of this amendment.

We are not saying—we are not saying—that there is something wrong with PAC money. What we are saying is that there is something wrong when the amount of PAC money becomes disproportionate to the amount of money which is being provided from other sources, and I would respectfully suggest to the Members of this House on both sides that if we really want to see a resurgence in grassroot activities, pass this amendment, and the Thompson amendment and the Fazio amendment to follow, because that will make it necessary for all of us and our challengers to go back to the grassroots and to redouble our efforts to get more and more people involved in the political process. Right now some people say they give to the PAC's; why worry about that? I think we have happening to politics what has happened to charity in this country. Instead of saying, "We gave at the office," people are saying, "We gave at the PAC." So if we try to get individuals to contribute individually, they say, "Well, I don't want to do that. I have already tossed my nickel in" or "my $7 in," whatever figure the gentleman wants to use. I think that is unhealthy. I think we ought to be encouraging direct contributions from individuals, and to the extent the PAC contribution gets out of line, we discourage that and we see grassroots politics and political participation continue to shrink.

I want to give you just a couple of examples of how PAC's have grown between 1974 and 1978. Contributions from one PAC grew 6,000 percent from $14,000 to almost $1 million. During the same period contributions from another PAC increased from $261,000 to $1.1 million. Dozens of new PAC's formed since 1974 have the capacity to achieve the same kind of growth. Today if you take the Fortune 500 list of industrials and nonindustrials, you see that only 26 percent of those corporations have at this point established PAC's. Can you imagine the tremendous power that those PAC's will have and those corporate entities will have to unbalance our political system and to unbalance our system of giving in political campaigns if all of those corporations go down the same route? As I said, I attended a labor convention in my own State where they adopted a new rule which provides that from now on they are going to be able to get 1 hour's contribution a month from every single member of that union, and there are 36,000 members of that union.

I suggest to you that we have a new arms race on our hands, only the arms instead of missiles are campaign dollars. Whatever business learns to do one year, labor is going to learn to do and next and vice versa, and the victims in the end will be people who are trying to vote our consciences on this House floor, because we will be pulled and pressured to vote more and more on the extremes of each issue, and I do not think that is something the House or the country can afford.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. OBEY. Surely, I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding. What, in my opinion, the gentleman is saying and has stated very well, is that we are faced with the rather dim prospect of a never-ending spiral. You are going to have business increasing their contributions and proliferating, and then you are going to have labor feeling compelled to respond, and if we do not do something, I think that all of us are asking for trouble.

I also want to mention that the gentleman in the well was, in my opinion, very accommodating in recognizing that many of us on both sides of the aisle thought that the $50,000 cap was too low, and we are in agreement that that cap, the aggregate cap, should be raised to $70,000. That is a lot of money, $70,000, in PAC contributions. I want to commend the work of the gentleman in the well.

AMENDMENT OFFERED BY MR. THOMPSON TO THE AMENDMENT OFFERED BY MR. OBEY

Mr. THOMPSON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON to the amendment offered by Mr. OBEY: On page 2, strike out line 5 and all that follows through line 22, on page 4, and insert in lieu thereof the following:

SEC. 2. (a) Section 320 of the Federal Election Campaign Act of 1971 (2 U.S.C. 411a) is amended by adding at the end thereof the following new subsection:

"(1) No multicandidate political committee (other than a multicandidate committee of a political party) shall make contributions to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees aggregating more than—

(1) $6,000 (but not more than $5,000 for one election) with respect to a general election and a primary election relating to such general election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the general election relating to such primary and runoff elections; and $6,000 (but not more than $5,000 for one election) with respect to a special election and a primary election relating to such special election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the special election relating to such primary and runoff elections; or

(2) $9,000 (but not more than $5,000 for one election) with respect to a general election and both a primary and a runoff election relating to such general election; and $9,000 (but not more than $5,000 for one election) with respect to a special election and both a primary election and a runoff election relating to such special election.

(b) Section 320(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by striking out "No multicandidate" and inserting in lieu thereof Subject to subsection (1), no multicandidate".

SEC. 3. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a (a)) is amended by—

(1) inserting after paragraph (2) the following new paragraph:

"(3) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees shall not accept contributions from political committees, other than committees of a political party, aggregating more than—

"(A) $70,000 with respect to a general election and a primary election relating to such general election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the general election relating to such primary and runoff elections; and $70,000 with respect to a special election and a primary election relating to such special election, or a primary election and a runoff election in the case of a candidate who is not a candidate in the special election relating to such primary and runoff elections; or

"(B) $85,000 in the case of a candidate who is a candidate in a general election and both a primary election and a runoff election relating to such general election, and $85,000 in the case of a candidate who is a

candidate in a special election and both a primary election and a runoff election relating to such special election.

For purposes of this paragraph, any contributions made after the date of a general or a special election shall be considered a contribution to such election only if the candidate at the time of receipt does not have sufficient funds to pay obligations incurred with respect to that election."; and

(2) redesignating paragraph (3) through (8) as paragraphs (4) through (9), respectively.

Sec. 4. Section 330(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441 (a)) is amended by—

(1) inserting after paragraph (9) as so redesignated by section 3 of this Act the following new paragraph:

"(10) Any contribution to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees that is made in the name of an individual and in a manner which creates the appearance that the contribution was made by or on behalf of a political committee shall be reported by such political committee as a contribution to such candidate and shall be treated as a contribution by such political committee for purposes of the limitations imposed by this section."

And redesignate the following sections accordingly.

Mr. THOMPSON (during the reading). Mr. Chairman, this having been printed in the RECORD some time ago, I ask unanimous consent that it be considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. FRENZEL. Reserving the right to object, Mr. Chairman, I was hoping to have some time to respond to the gentleman from Wisconsin before the first amendment was offered.

Mr. THOMPSON. If the gentleman will yield, except for the figures, essentially the amendments are the same.

Mr. FRENZEL. I think the amendments narrow the focus of the discussion, but the gentleman from Wisconsin (Mr. OBEY) made some broad statements which cry for refutation.

Mr. THOMPSON. Then if it is parliamentarily possible, I would defer for 5 minutes so that the gentleman can be recognized and have a colloquy with the gentleman from Wisconsin. Would that be satisfactory?

Mr. FRENZEL. If the gentleman upon offering his amendment and achieving his unanimous consent request would simply yield to me a couple of minutes to speak out of order and not on this amendment but on the bill, I would then, Mr. Chairman, withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 1500

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 5 additional minutes.)

Mr. THOMPSON. Mr. Chairman, the amendment which I am offering today has three basic purposes. First, it will increase the amount of money a political action committee may contribute to a candidate, from $5,000, which is in the Obey-Railsback amendment which is currently in H.R. 4970, to $6,000 for both a primary and a general or a primary and a runoff. No more than $5,000 could be contributed in any one election.

If a candidate is involved in a runoff, a political action committee or committees could contribute an additional $3,000 for a total of $9,000 in contributions by a political action committee for the primary runoff and general election. Again, no more than $5,000 could be contributed with respect to any election.

Mr. Chairman, the effect is that, with the $6,000 limit, a candidate may receive any combination of 1 and 5 or 3 and 3 from the same political action committee in the election cycle, except in those States and Commonwealths which have runoff elections, where an additional $9,000 in contributions would be allowable.

The second purpose of my amendment is to increase the amount that a candidate may accept from all political action committees from the $50,000 currently in H.R. 4970—Obey-Railsback—to $70,000 for both a primary and general or a primary and a runoff. If a candidate is involved in a runoff, he or she could accept an additional $15,000, bringing the total to $85,000 for a primary, a runoff and a general election.

Third, my amendment adds a provision to prevent possible evasion of this contribution limit by political action committees. Under this provision if a contribution from an individual to a particular candidate is made in a way that indicates the contribution is attributed to a political action committee, the contribution will be deemed a political action committee contribution for the purposes of the Campaign Act limitations.

Mr. Chairman, at the outset I would like to state that I have been an early and strong supporter of H.R. 4970. I believe that this Congress must, in order to preserve the integrity of the legislative process, place some restraints on the rapidly accelerating role of special interest contributions in House campaigns.

Mr. Chairman, the percentage of total House campaign funds supplied by special interest political action committees has increased from 14 percent in 1972 to 17 percent in 1974, to 22 percent in 1976 and, finally, to 25 percent in 1978 and, believe me, it is rising.

Incumbents in 1978 received 32 percent of their campaign funds from political action committees.

While I support the right of any organization to establish a political action committee and, indeed, I sponsored and supported such legislation, I do believe that aggregate political action committee support can reach a level which has the effect of distorting the political system.

Mr. Chairman, I believe we have reached that level and the time for action is now.

Mr. Chairman, the purpose of H.R. 4970 is not to force sharp cutbacks in present PAC operations; rather, it is designed to prevent aggregate political influence from getting out of hand in the future and to curb the growing dependency of House candidates on PAC funds for political campaign funds.

After reviewing the figures for the 1978 election, however, I believe that the $50,000 limitation is too low. Since elections are not an exact science it is difficult to arrive at a precise figure for the limitation.

Mr. Chairman, in 1978 the average amount of political action contributions received by both Democratic and Republican House candidates was below $50,000. However, the average PAC contribution for all candidates in races with 5 percent or less vote margins exceeded $50,000. Democratic winners averaged $51,000 and Republican winners averaged $57,000. I, therefore, believe that the $50,000 figure in H.R. 4970 is too low but that $70,000 would provide sufficient leeway in a closely contested election. I hope the Members of this body will support that figure.

Finally, Mr. Chairman, if the purposes of this legislation are to be achieved, we must be assured that the limitations cannot be easily evaded. My amendment would insure that integrity. A Political Action Committee would be prohibited from circumventing the limits by collecting contributions from its stockholders, executives, or members of its sponsoring union and then delivering these "individual" contributions to that candidate.

When the Political Action Committee exercises influence over the making of contributions and facilitates their delivery these contributions will be deemed contributions from the Political Action Committee to the candidate and therefore subject to the PAC's limitations.

Mr. Chairman, for the purposes of this provision the word "delivery" would include transmittal of the contributions to the candidate or his or her political committees by any employee or representative of the Political Action Committee as well as the mailing of contributions to the candidate on stationery which identified the Political Action Committee of the sponsoring corporation, trade association, or labor union.

In short, if a Political Action Committee uses any method which identifies the Political Action Committee or its sponsoring organization the contributions will be considered contributions from the Political Action Committee to the candidate and thereby subject to the PAC limitation.

Obviously, Mr. Chairman, this amendment applies equally to both corporations and to labor unions. I, of course, urge its adoption.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from California.

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I would first like to indicate I strongly support the gentleman's amendment. I think it greatly increases the attractiveness of the bill from the standpoint of anticipating the need to index the average figures from the 1978 election to a realistic amount for the 1980 elections.

Mr. Chairman, I do have a question which is a request for clarification of the amendment. The one before us deals with contributions in the name of an individual that are really PAC contributions. It does not deal with a situation

in which an organization covered by 2 U.S.C. 441b has its officers, employees, or members make contributions in their own name in a manner designed that indicates that the real contributor is the organization. Does this omission create a loophole?

Mr. THOMPSON. No, I will say to the gentleman it does not. The Federal Election Campaign Act as it stands prohibits corporations and unions from channeling contributions to a candidate. Any use of organizational time, money, or facilities for that purpose is a violation of the law as it now stands. It is because the question that the gentleman raised is answered by the law as it stands that no amendment to the act in this regard is necessary.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding. I hope the gentleman will allow me a few minutes to respond to the gentleman from Wisconsin (Mr. OBEY).

The gentleman from Wisconsin opened his statement by saying that the reason the House cannot get anything done is because of PAC contributions. I recall last year the gentleman from Wisconsin said we could not get anything done because we were taking too much honoraria and needed a pay raise. I will tell you what trouble the gentleman from Wisconsin got us into on that one.

Mr. THOMPSON. He was right about half of that and wrong about the other half.

Mr. FRENZEL. Mr. Chairman, the gentleman from Wisconsin has had a bad track record on telling us why we cannot get things done in the House of Representatives. If the gentleman would yield to the gentleman from Wisconsin I know he will have a snappy rejoinder.

Mr. THOMPSON. I yield to the gentleman from Wisconsin.

Mr. OBEY. I would just suggest at this point that I am used to the gentleman's paraphrasing my words and leaving the wrong impression about what I said because it has happened to me many times when the gentleman has been speaking.

□ 1510

I simply want to make quite clear that in talking about why the House has difficulty in getting things done, that came at the bottom of my list, but it is an additional burden which we bear in addition to all the other problems which I laid out earlier, as the gentleman well knows and in his usual fashion chooses to ignore.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. THOMPSON) has expired.

(At the request of Mr. FRENZEL, and by unanimous consent, Mr. THOMPSON was allowed to proceed for 3 additional minutes.)

Mr. FRENZEL. Mr. Chairman, if the gentleman will yield further, I would comment on another remark by the gentleman from Wisconsin. He was talking about the growing dependency on PAC contributions. I believe week before last the Congressional Quarterly showed the percentage of PAC contributions to Members of the House and to Members of the Senate. If you put them together and take them as a lump, as congressional contributions, you will find the PAC's contributed about 19 percent of all contributions to candidates committees in 1976 and there was an enormous increase, all the way up to 20 percent in 1978.

I suppose that that staggering increase is what has overpowered the gentleman from Illinois and the gentleman from Wisconsin into demanding a redress of this terrible situation.

Well, I do not think a 1-percent increase is important.

We have also been told that PAC's have grown disproportionately and there has been such a soaring growth that the Congress is awash in a sea of special interest money. I cannot remember if that was the language of the gentleman from Illinois (Mr. ANDERSON), or whether it was written for him by Mr. Cohen; but I would invite the Members to recall, the Sun PAC decision was not handed down until 1975, and was not ratified effectively by this Congress until 1976.

Since political action committees were discouraged by law until that time, obviously they had a low base, almost no base at all. We expected growth. We encouraged them by the Sun PAC decision and by the law that was subsequently passed ratifying that decision. We said that people should go out and start PAC's, whether they represented a union or a corporation or a neighborhood group or an ideological club or whatever. It is a good way to participate.

Now we come in and say, "Hey, fellows, we didn't really mean it."

There is something sneaky about this kind of activity. I thought they had the right to free association.

Mr. THOMPSON. Mr. Chairman, if the gentleman will stand corrected, the figure for House incumbents, without regard to those of the other body, is 32 percent in 1978, up from 17 percent in 1974.

Mr. FRENZEL. No, that is incorrect. It is 24.8 in 1978, I think the gentleman will find.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to point out that the figures used by the chairman are correct, when you are talking about incumbents. It is simply nonsense to include Senate races, because this bill does not deal with Senate races. It deals with House races. If you look at House races, the percentage of money which has come into those races from PAC has gone up from 14 percent, 6 years ago, to 25 percent plus today, which is almost a 40-percent increase. I think that is a little more than the 1 percent that the gentleman from Minnesota is trying to imply is actually the case.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield.

Mr. THOMPSON. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, just one additional clarification. The 24.8 percent referred to by the gentleman——

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. THOMPSON) has again expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 3 additional minutes.)

Mr. RAILSBACK. The 24.8 percent referred to by the gentleman from Minnesota includes all of the candidates, including those elected. About 20 or 25 percent came from PAC. When you take those that were successful, the figure rises to about 32 point some percent or almost to 33 percent.

Mr. THOMPSON. The gentleman is correct.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding. I simply wanted to congratulate the gentleman in the well, the gentleman from Illinois and the gentleman from Wisconsin, on their leadership on this issue.

In the 4½ years that I have been here, the thing that has been most clear to me as to what frustrates the public interest and the public will in this body is, in fact, the disproportionate influence of special interest funding.

I think that the bill that is before us, plus the amendment, offer us an opportunity to self-regulate in this area. I certainly hope that we will pass these very important proposals.

I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to my friend, the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding further.

I have been under the delusion all these years that the reason we were doing such a bad job was that there were too many Democrats in the body.

Mr. THOMPSON. Mr. Chairman, I am glad the gentleman admits that that is a delusion.

Mr. FRENZEL. Mr. Chairman, with respect to the business PAC versus the labor PAC, I think that when you reduce the effectiveness of PAC, you leave some very important advantages for labor. Those are the advantages they had prior to the Sun PAC decision of 1975. The various advantages have been spread over the record. I am not going to list them again, but certainly this amendment does not balance the scales. You make a tremendous imbalance in one direction.

For all these reasons, I think the original Obey amendment is a great mistake.

I thank my friend, the gentleman from New Jersey for yielding to me.

Mr. THOMPSON. Mr. Chairman, in conclusion, may I say, although I am in very strong disagreement with the gentleman from Minnesota, on the substance of this, I do extend to the gentleman my thanks for his many courtesies in this and other matters. I am sorry that the gentleman is so wrong on this, but his intentions are really splendid. I thank the gentleman.

Mr. CAMPBELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this point not

to delay any of the consideration, but due to the fact that I was unable at the time to engage in a colloquy with the gentleman from Wisconsin (Mr. OBEY) and to correct a few things that were said. I think that it is very important that they be corrected.

Quite frankly, if we are talking about broadening the base of participation in politics, then why does not the gentleman have in his bill something to encourage that party participation be increased? Why did not the gentleman come to this body saying, "Let us raise the amount that parties can give and cut back PAC's," if that is what he wanted to do?

Or why did not the gentleman come in here citing the Harvard study, saying let us do something to encourage individuals to give more, let us have a tax credit for people that want to give to political campaigns. Let us deal with the ceilings on individuals. Let us encourage the grassroots. I have to ask the question why he did not do it. I ask it rhetorically, because I think we know why the gentleman did not do it. There was no intention in this legislation of encouraging or increasing participation, because this legislation merely cuts back a source of funding. It does not increase any source of funding from any other segment and does nothing to encourage or help a candidate try to seek office, particularly a challenger.

Now, those are the facts that we have to deal with. The House has been denied the right to consider these other reform options. We cannot debate them for a vote. We do not have the chance to let our body work its will on this, to try to expand the role of the party or the individual. We only are asked here today to cut back a group, not to encourage anybody else to participate. That is not the way we ought to be considering legislation.

It was also stated by the gentleman about the vote over the Department of Education, about the AFT and the NEA. There is nothing in this legislation that prohibits them from sending out their employees and their people into the fields to work on behalf of or against a candidate. Those "in kind" contribution expenditures are not limited. That is a smokescreen and it should absolutely be exposed as one.

I quite frankly am a little bit concerned that we are being pushed into something in the name of reform when, in effect, it is not reform to encourage participation, but rather to limit it. I think that all of us ought to recognize that as we vote.

□ 1520

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I thank the gentleman from yielding.

Mr. Chairman, there are other areas where in-kind contributions play an enormous role in the influencing of Members of this House, in addition to labor unions and in addition to the AFT-NEA battle we recently observed. Those are the areas of intense environmental controversies.

For example, the Sierra Club, the Environmental Defense Fund, and various other environmental groups do not make contributions of money, but they contribute vast amounts of staff effort in order to lobby their particular causes.

I think their enormous victory in the Alaska lands legislation points that up. I am not arguing the merits of the Alaskan lands bill, which I supported, but it was obviously a lobbying victory of the environmental movement.

And yet, Mr. Chairman, those cases are not at all covered by the Obey-Railsback amendment.

Mr. CAMPBELL. Mr. Chairman, the gentleman is absolutely correct. Those cases are not covered, and, quite frankly, I think it should be pointed out that the very group that has written and proposed and pushed this piece of legislation, Common Cause, is a political lobbying group. I have no bone to pick with them because they have done a lot of good work in this country, but the fact is that they themselves are a political lobbying group, and instead of being under any control, they have used public influence by putting out hit lists, "dirty dozen" lists and everything else. They have published them in the media, they have put them on the front page, and that is something one cannot buy with a PAC contribution.

There is nothing to limit that in this bill. That is free speech, and I would not want to limit it. That is freedom of speech. I think we ought to recognize that.

Mr. Chairman, I am in full accord with the efforts to expand the grassroot movement, but I also believe we should expand the role of political parties, as I think both sides of the aisle want to do. But there is nothing in this amendment to do that.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, do I understand the gentleman to say that any organization can send somebody out in the field and campaign for an issue or against an issue and then indirectly campaign for or against a particular candidate, and that that in-kind contribution is not reportable?

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. CAMPBELL) has expired.

(On request of Mr. KAZEN, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 1 additional minute.)

Mr. CAMPBELL. Mr. Chairman, in answer to the gentleman from Texas (Mr. KAZEN), the gentleman is absolutely correct. It has no bearing under the limits of this legislation.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, I understood that it was reportable.

Mr. CAMPBELL. It is reportable in the sense of what a committee spends. It does not come under the limitations of expenditures here because it is an independent expenditure, not a coordinated effort, and, therefore, it would not come under this legislation or under the limits of this legislation.

Mr. KAZEN. I understand.

Mr. Chairman, I thank the gentleman for his response.

Mr. MINISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the chairman of the Committee on House Administration, the gentleman from New Jersey (Mr. THOMPSON).

I regret having to take this action, but the rule approved by the House leaves me with no other recourse. I support cutting the amount that PAC may contribute to House campaigns. In fact, it is my firm belief that we ought to put PAC's on the same footing as individuals.

However, under the rule, I will not be permitted to offer my amendment to accomplish this end unless the pending amendment is defeated.

The amendment before us at this time would admittedly reduce the amount a political action committee could contribute during an election cycle to candidates for the House of Representatives. Under this proposal a PAC would be limited to $6,000 overall for a candidate in a primary and general election and a total of $9,000 if the candidate is also involved in a runoff election.

Why are the proponents of this approach willing to settle for a situation under which PAC would be able to contribute as much as 300 percent more than an individual to a congressional candidate? I will not settle for it. I see no reason for giving corporations, trade associations, or unions more influence over elections and legislative matters than the average citizen.

My amendment, if I am permitted to offer it, will reduce political action contributions to $1,000 per election, exactly the same limit which now applies to individuals. Acceptance of this approach will go a long way toward restoring real confidence in democratic institutions.

During the debate this morning on the rule one of the speakers said that we make it appear that there is something sinister about PAC's, and another Member said that some people would have us believe PAC money is dirty. Well, it all depends on how it is used. In some cases it may not be dirty, but it certainly is not very clean in some others, and if we believe it is not dirty in some cases, then I respectfully say that we must be colorblind.

Mr. Chairman, let me read a few quotes from the Congressional Quarterly on how one organization used PAC funds. This is the National Association of Realtors.

Don McEwan in an interview described interstate land sales as a "relatively high priority legislative issue for us" in the 96th Congress.

Observed Don McEwan, Washington spokesman for the NAR—

> We certainly encourage political activity. We have a potent political action committee.
>
> Industry spokesmen make no bones about it—they hope their friendships will pay off when Congress takes up various issues they

> are concerned about, including interstate land sales.

And he said, a candidate's view on interstate land sales "was one of the issues that served as a test" of whether the candidate received money.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. MINISH. If I have time, I will yield later, but not at this point.

Mr. Chairman, my good friend, the gentleman from Minnesota (Mr. FRENZEL), said earlier that he thought Congress was not working well because there were too many Democrats in Congress. I am pleased to inform my good friend, the gentleman from Minnesota, that according to the Wall Street Journal, the Republican Party is doing something about that, and I want to quote from todays Wall Street Journal, as follows:

> The GOP hopes to accelerate this trend. "Between now and the end of the year, I'll spend half my time with business PACs, advising them where to put their money," says Steve Stockmeyer, executive director of the GOP Congressional Campaign Committee.

Mr. Chairman, I will be happy to yield to the gentleman from Iowa now, if he still wants me to yield.

Mr. TAUKE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I share many of the concerns the gentleman expressed relating to the differences between PAC's and the way they handle their money. The gentleman suggested, for example, that some money is clean and some is not so clean, and I concur with the gentleman in that regard.

I think money that is used legitimately to help candidates win elections in contested races is good PAC money. I am concerned, however, about that PAC money which is designed to influence or gain access to people when money flows into uncontested races, because I assume it is going for that purpose.

But then the gentleman went on to suggest that the National Real Estate Association had some difficulty because they asked them before they contributed money to them what their positions were on certain issues, specifically the interstate land issues, and if they agreed with the realtors, they got money, and if they did not agree with them, they did not get money. I do not understand why that makes political action committee money wrong.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. MINISH) has expired.

(On request of Mr. TAUKE, and by unanimous consent, Mr. MINISH was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. Mr. Chairman, if the gentleman will yield further, I think those in Congress and those outside of Congress do a disservice who suggest that it is improper for political action committee money to follow the issues.

Mr. MINISH. Mr. Chairman, I will ask the gentleman, may I have my time back?

Mr. TAUKE. Yes, certainly.

Mr. MINISH. Mr. Chairman, the gentleman from Iowa is the one who said they met with them; I did not say they met with any Members. However, I thank the gentleman for his contribution, and I hope he will support my amendment if it is offered.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I am pleased to yield to my good friend the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I thank the gentleman from New Jersey (Mr. MINISH) for his remarks, and I regret that I do not agree with him on this amendment. The gentleman and I have discussed it at great length.

My understanding is that it is the view of my colleague, the gentleman from New Jersey (Mr. MINISH), that the limit ought to be $2,000 on political action committees. I believe that is really essentially the gentleman's feeling and his argument. I do not agree with him, but I certainly do respect him for the presentation of his views.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I speak with some feeling about campaign reform. I had to run three times to get here, twice against an incumbent and once in an open race against a personally wealthy State senator who spent $165,000 out of her own pocketbook.

If we look at campaign reform, I think this debate in process explains in large part why this institution is in trouble with the country and why Congress ranks below the prime rate in believability.

□ 1530

I think that what we really have engaged today is the wrong issue, that there are two models of what is wrong with American politics. The one model, the Obey-Railsback model, says that too much money is being spent. I would suggest just the opposite, that too little money is being spent. The one model, the Obey-Railsback model, says there are too many political action committees. I would suggest just the opposite, that there are too few groups actively concerned about Government, actively concerned about issues, actively involved in politics.

The Obey-Railsback model ultimately means that there are too many incumbents being challenged and that it is dangerous to make an incumbent responsible for a vote, accountable for giving their word on an issue. I would suggest just the opposite, that there are too few incumbents being challenged and that the hill of defeating an incumbent is already too steep to climb and that this particular so-called reform will make it even steeper.

Obviously, the so-called forces of reform cannot talk openly about building a Maginot Line to defend incumbents. They cannot talk openly about the real impact of this so-called reform. That is why we are legislating in haste today. It grieves me to not be able to work closely with the chairman of our committee in developing a solid, comprehensive piece of election reform. But this particular process is a mockery.

I would suggest, based on those three campaigns, that there are four things that will happen based on this reform. It will further tilt the balance in favor of more and more independent expenditures by large political action committees, expenditures outside the system, expenditures that are unaccountable and irresponsible and generally negative.

Second, it will further tilt the balance in favor of the very wealthy, who, under the Supreme Court ruling, can buy a seat even if the rest of us are limited to what we can get.

Third, it will increase the value of sensationalism, of seeking page one of the newspaper because you cannot afford to engage in any kind of advertising strategy.

And, finally, it will further weigh the advantages of the incumbent who is in no significant way affected in terms of his ability to send out direct mail to service his district to guarantee his own security, no matter what the public may think of the institution in general.

Mr. McHUGH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think that a reasonable argument can be made that the most serious problem facing our country today is not inflation, is not the impending recession, is not the energy crisis, because as serious as all of these things are, and as effective as we must be in dealing with them in the months ahead, it seems to me that in a democracy like ours the most serious problem that we could face is the lack of confidence of our own people in the political process and in their own Government. I think all of us would have to admit that this is a growing problem. I say it is a growing problem because there are more and more Americans dropping out of the system, turning off, believing that their Government and their representatives are not sensitive, are not responsive to their primary concerns. We see this in the voting patterns all across the country.

If we have this kind of a problem, as I believe we do, it is almost impossible for the political leadership to generate the kind of political support in our country that is essential in dealing with inflation, with recession, with energy and all the rest. It is absolutely critical in a democracy like ours that we have the confidence and faith and trust of the people, even while we may honestly disagree about how to deal with these fundamental problems.

Clearly, many things have contributed to that lack of confidence. We could cite the Vietnam war, the divisions that it created, and the fact that the Government during that period did not tell the American people the entire truth. We could cite the Watergate crisis, which influenced not only how the people view Richard Nixon and his administration, but how people now look at all political officials. We could cite the complexity, as the gentleman from Wisconsin did, of the problems we must deal with, how difficult it is for people to fully understand those problems, and how difficult it is for us to resolve them.

Beyond these obvious matters, Mr.

Chairman, people also lack confidence in the Government and the political process because they perceive that the political process is more and more dominated by these special interests which we are discussing today.

Let me make it clear, as others have done, that there is a place for political action committees, there is a place for participation by people of like mind in our political process. But if we examine the growth of political action committees, and the excessive influence of these special interest groups, it is not surprising that the average American perceives that he or she is left out of that system. The statistics have been quoted. There is no reason to go through them again. But it should be obvious to all that the influence of these groups is growing and will continue to grow unless some reasonable limitation is placed upon them, and that is the purpose of this amendment and that is the purpose of the Obey-Railsback bill.

The average American, Mr. Chairman, perceives that as campaigns grow more expensive, that as these special interest groups and political action committees proliferate, that as they organize around very narrow issues and as their financial impact increases, he feels left out of the system, he feels more powerless. I believe that is a more fundamental problem than almost any other that we face.

In closing, Mr. Chairman, I sincerely hope that the Members of this Committee will support the amendment offered by the gentleman from New Jersey (Mr. THOMPSON) and the Obey-Railsback bill as amended.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto end following the presentation of the gentleman from Minnesota (Mr. FRENZEL), however long that may take.

The CHAIRMAN. Does the Chair understand that that is just on the amendment offered by the gentleman from New Jersey?

Mr. FRENZEL. Mr. Chairman, I wonder if we could have such a request extend for 15 minutes.

Mr. THOMPSON. Mr. Chairman, I ask unanimous consent that all debate on the amendment end 15 minutes following the gentleman's presentation.

Mr. FRENZEL. On the Thompson amendment to Obey?

Mr. THOMPSON. Yes, on the Thompson amendment to Obey only.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SOLOMON. Mr. Chairman, as a new Member of this House, I am not sure of the parliamentary procedure. Are there going to be opportunities to strike the last word and speak for 5 minutes on other amendments after this amendment?

The CHAIRMAN. The gentleman is correct.

Mr. SOLOMON. I thank the Chair.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FRENZEL. Mr. Chairman, it is by now, I hope, obvious to the House that I do not approve of any limitations on receipt of PAC contributions. In fact, I believe that they are clearly unconstitutional. Buckley against Valeo, I think, is clear on that issue.

There is no way that we can legally restrict a candidate's ability to spend money for his or her campaign and to take his or her case to the people. So I will not elaborate on that. But I would like to ask the gentleman from New Jersey a question about this particular amendment.

The last paragraph of the amendment has that language that I referred to in the general debate about the individual contributing and it having the appearance of being contributed by a political action committee. To me, that is redundant because we already have a section 441(a) which prohibits that sort of thing. The business of appearance, it seems to me, is too easy for the FEC to write a 100-page regulation about, and put our treasurers in jail over. I am wondering if the gentleman can explain why he needed that and maybe give me some hope to believe that in conference we might be able to erase that noxious section.

Mr. THOMPSON. If the gentleman will yield, I would have to give thought to erasing it. The purpose was to tighten it up. I will say to my friend, the gentleman from Minnesota, that he is well aware of the fact that these FEC amendments are subject to review by our committee and, believe me, if we see anything looking like a 100-page document that does not make any sense, we will take care of it.

Mr. FRENZEL. The gentleman knows that frequently we reject FEC regulations. I appreciate that. I think the gentleman has been very good in that regard.

On the other hand, there may be no regulations in effect because they cannot write one that we like. There could be advisories that could be confusing to people during campaigns. I would simply ask the chairman to ask the staff to look at that in light of the existing law under 441 and see if we can get a clear statement somewhere along the line so our committees do not feel they are in jeopardy by that kind of thing.

□ 1540

Mr. THOMPSON. I am certain that we can do that, and by this colloquy, I say to the gentleman if this amendment carries, as I hope it does, that we will undertake to include, if possible, clarifying language in the conference report or by such other means to make exactly clear what we are trying to do.

Mr. FRENZEL. I appreciate the gentleman's concern on that matter.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 2¼ minutes each.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. I thank the chairman.

I just want to say I listened to the distinguished gentleman from New York comment that PAC's are a way to keep the little people out of the political process.

I suggest this bill is designed to keep the little people out. What is a PAC? It is a facility, a device for collecting money from people to support the candidate of their choice. People contributing—I thought that was the American way. There is nothing evil about setting up a central facility to collect small amounts of money for people to support their candidates.

Post-Watergate ethics did not involve corruption involving contributions to campaigns. The Koreagate scandals, the recent action of our Ethics Committee that we had on the floor, the predecessor to our distinguished chairman, the matters in the State of Louisiana during the last session, none of these involved corruption involving special interests, but rather, the personal conduct of some of the Members here.

It just seems to me we are pushing out the little people by denying them the full use of PAC's to involve themselves in the political process.

My friend from Wisconsin (Mr. OBEY) said, "My God, what if all these corporations form PAC's?" Would that not be awful? What if all these employees got a chance to facilitate supporting candidates of their choice? Would that not be awful?

As far as I am concerned, that worrying noise you hear is James Madison and Thomas Jefferson turning over in their graves.

I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, what I have to say will take more than 2½ minutes.

I will wait until next time.

I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, when I was speaking earlier with the gentleman from New Jersey about the influence political action committee money can have, we both concurred political action committee money that is used to elect candidates could be called good political action committee money. And we agreed that the PAC money which is used to exert influence or to obtain influence over lawmakers

perhaps could be classified as inappropriate or bad PAC money.

The point I was going to make, if I had been allowed to continue, was that what this amendment tends to do is to shift money that is currently going to elect candidates into funds that will be used to influence individual lawmakers. The reason I suggest that is the case is because in this particular amendment we put a lid on the one side of the equation but do not put a lid on the other.

There is no lid on the inflow of money into political action committees. It will continue to increase, but by putting a lid on the expenditure side, and on the amount of money that individual candidates can accept from PAC's, we are going to force PAC's to give more money to candidates who do not have contested races. When candidates who do not have contested races receive PAC money, it is not to elect them. It is to exert influence over them. So we are shifting good PAC money into bad through the kind of amendment that is being considered here today.

That is one of the reasons why I voted against the rule. Although I am generally sympathetic and supportive of the effort that is being made here to do something about putting limitations on the influence of PAC's and trying to make certain that lawmakers are not unduly influenced, the effort that we are taking today is being made without addressing these really tough questions about the real impact of this kind of legislation.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, all we have at issue on this amendment is whether we should change the limit from $50,000 to $70,000.

In my judgment, that represents a reasonable balance between the present limit, which is zero and my amendment, which is 50.

I think we ought to adopt the Thompson amendment.

I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the amendment which has been proposed by the gentleman from Wisconsin which attempts among other things, to limit the total amount of PAC contributions which a candidate may accept in his campaign. The amendment would raise the limit which presently appears in the bill from $50,000 to $70,000. I oppose the limit suggested by the amendment as well as the limit contained in the bill because I believe any such restriction is unconstitutional.

What the amendment and the bill proposes is nothing less than an indirect limitation on expenditures. We are all aware that the Supreme Court in Buckley against Valeo specifically rejected on first amendment grounds limitations on what a candidate may spend for his campaign. One cannot accept that verdict of the Court and suggest that a limit on overall PAC receipts could pass constitutional muster. If the Court had said that Congress may not impose expenditure limits on privately financed campaigns then it follows that Congress cannot limit aggregate receipts raised by a candidate in amounts subject to a contribution limit. The Buckley case stands for the proposition that certain contribution limits may be imposed but no limit can be imposed on the total amount of money that can be raised in limited amounts and ultimately spent.

I therefore urge my colleagues to vote against this amendment since it clearly appears to be unconstitutional. I urge the defeat of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I simply urge the members of the committee to support the Thompson amendment to the Obey amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. THOMPSON) to the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. THOMPSON TO THE AMENDMENT OFFERED BY MR. OBEY

Mr. THOMPSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON: On page 5, line 2, strike out "paragraph" and insert in lieu thereof "paragraphs".

On page 5 strike out "for goods" on line 7 and all that follows through line 20, and insert in lieu thereof the following: "by a person (other than a broadcasting station, newspaper or magazine, and who is not otherwise prohibited from extending credit under this Act) providing goods or services in connection with preparing or purchasing advertising on broadcasting stations, in newspapers or magazines or other similar types of general public political advertising, if such extension of credit is beyond the normal period of credit extended by such person in the ordinary course of business or 60 days from the date on which such goods or services are provided, whichever is less;

"(6) means, with respect to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees, any extension of credit or advance of funds in connection with the preparation for mailing, or mailing, of any materials which solicit funds for the purpose of influencing the election of such candidate; but"; ".

On page 5, line 24, strike out "(6)" and insert in lieu thereof "(7)".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Chairman, my second amendment revises the credit provisions of H.R. 4970. As the Commission has recognized, a loan to a candidate or performance of services for him for delayed payment are forms of contributions. Unless such extensions of credit are regulated the way to evade the contribution limits is open.

My amendment, therefore, provides first a separate limit on the extension of credit by political consultants, advertising firms and similar organizations that provide advertising services to House candidates. Such organizations may only extend credit to candidates on the same basis as it is extended to nonpolitical clients subject to an outside limit of 60 days on any extension of credit. This 60-day limit applies even if the firm ordinarily extends credit for longer periods.

H.R. 4970 has a 30-day time limit. My amendment enlarges this period.

This 60-day limitation, for example, prevents a firm from using the firm's funds to book media time and carry the cost as an outstanding obligation owed by the candidate for a period longer than 60 days.

Appropriate limitations on the extension of credit are not a new concept in campaign financing laws. Under current provisions, the Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission regulate the extension of credit to candidates by persons regulated by such agencies. The CAB limits extensions of credit to 45 days, but not more than 30 days in the last 2 months before the general election. The limit established by the FCC is 60 days: The ICC flatly prohibits any unsecured extension of credit.

Many of my colleagues have expressed concern that their campaigns may be found in violation of the law if campaign workers simply by inadvertence overlook a bill from an advertising agency and do not get payment made within the 60-day period or the customary credit period for that firm if less than 60 days. I want to assure my colleagues that this is not the intent, nor will it be the effect, of this legislation.

The Federal Election Commission must prescribe regulations, similar to those prescribed by the FCC, the CAB, and the ICC, setting forth the steps a creditor must follow to avoid a violation of the law. The FEC regulations are, of course, subject to review, by this body.

I wish to emphasize that this section is not meant to abrogate the current FEC regulations pertaining to the settlement of corporate debts in a commercially reasonable manner.

The second aspect of my amendment is a provision that prohibits any extension of credit or advance of funds in connection with the preparation for mailing, or the mailing, of any materials which solicit funds for the purpose of influencing the election of a candidate to the House. This proposal tracks that proposed by Representative FRENZEL in the last Congress and accepted by the House Administration Committee during the committee's consideration of comprehensive legislation overhauling the FECA. The legislation now before the House demonstrates once again that under the present circumstances success in fundraising is critical to campaign success. Because that is so, and because a disguised contribution that aids a can-

didate in his fundraising is so valuable, the second portion of my amendment adopts the straightforward rule prohibiting all extensions of credit or advances of funds in connection with direct mail fundraising.

A direct mail fund raiser for a candidate sent to scores of individuals costs thousands of dollars to prepare and may bring in tens of thousands of dollars in contributions. Plainly then, if that fundraiser is paid for by a third person, that person is making a contribution far in excess of the contribution limits.

As I have noted, because the stakes are high we must expect attempts to evade the restriction imposed. I therefore wish to make it clear that the point of my amendment is to assure that a candidate makes full and timely payment of the entire charge to him for direct mail fundraising. Evasions such as selling combined direct mail and other services and setting an artificially low price on the direct mail component are to be treated for what they are—a disguised extension of credit which violates my amendment.

□ 1550

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, one could only hope that my distinguished chairman, the gentleman from New Jersey, would be as receptive to all my amendments as he has been to this one.

I conceived this amendment about a year and one-half ago when we were working on a different election bill, but, fortunately, I had the good sense to realize subsequently that it is a very poor amendment.

I think it has come to be known as the anti-Viguerie amendment because the Viguerie Co. is well-known and typical of mailing companies that the provision seeks to control. These kinds of companies customarily make advances to candidates in congressional elections.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. Yes; I yield to the gentleman from New Jersey.

Mr. THOMPSON. I would suppose the gentleman's characterization is correct. I am sorry he has changed his mind about it. It is also, just to lay it all out, anti-Rafshoon.

Mr. FRENZEL. Understood. I was going to come to that later but since the gentleman raised it, I do not have to.

I will only make the comment that I do not think it stops Rafshoon because it does not stop a person from giving up his or her 15 percent commission. That was the Rafshoon gambit in the election of 1976.

I do not think it stops the Viguerie Co. or any consultant like it. What it does is increase the cash flow of the mailing company because you have to have cash on the barrelhead for any kind of mailing solicitation that goes through this kind of a campaign consultant.

What it really does, however, is say that anyone who does not have up-front cash—and a person that does not have up-front cash is the new candidate, the minority candidate, the independent candidate, and yes, the Republican candidate who has difficulty raising money as a challenger—that candidate cannot get the up-front money to finance the direct mail solicitation so that he or she can make a good campaign, and generate individual contributions.

What Obey-Railsback does is to limit PAC's contributions; to limit the ability of a candidate to go through direct mail, if there is a customary extension of credit. In effect, it says "Go get individual contributions," and then makes it nearly impossible to get individual contributions.

Obey-Railsback prevents every way that the candidate has, if we pass this amendment, to get those individual contributions. A candidate cannot use direct mail anymore because he or she does not have the front money. He or she cannot get the money from PAC's because of restrictions.

In my judgment this is a very unwise amendment. I do not think it hurts the mailing companies. I think rich candidates are going to be able to put down their deposit and get the money necessary to stimulate the flow of funds.

Mr. Chairman, in addition, I think we are going to help the mailing companies because they are going to have their cash flow accelerated. What we have done here is simply to emphasize, and increase, the incumbent's advantage again and again and again.

I might state that as near as I can figure there are only three constituencies for this bill. One is Common Cause, who has a very positive vested special interest in lobbying. Another, the incumbent Members of this House who would like to have as little challenge as possible; and the other is the AFL–CIO who, no matter what restrictions we put on PAC's, will still have their unusual advantages conferred by the Hansen amendment in our first election law of 1972.

So we are going to satisfy those constituencies but keep the average person from conducting a responsible and effective campaign. I think this is a mistake. I very strongly oppose the amendment. I think I know as much about it as anybody since I wrote it myself in the first place. It does not do what its sponsors think it will do. With such an amendment we only hurt candidates.

The principal reason we cannot hurt the mailers is because they own the lists. As long as they own the lists, candidates are going to have to find the money to go to them. The only thing we will have done is accelerate the rate at which they collect their money.

Mr. Chairman, it is a bad amendment and it should be defeated.

The CHAIRMAN. The question is on the amendment offerd by the gentleman from New Jersey (Mr. THOMPSON) to the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 22, noes 26.

RECORDED VOTE

Mr. THOMPSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 298, noes 114, not voting 21, as follows:

[Roll No. 576]

AYES—298

Addabbo
Akaka
Alboata
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boiling
Bonar
Bonior
Bonker
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Clay
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Grassley
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Lundine
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roe
Rose
Rostenkowski
Roybal
Royer
Runnels
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Stowe
Snyder
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—114

Abdnor
Ashbrook
Ashley
Badham
Bauman
Bouquard
Bowen
Broomfield
Brown, Ohio
Burgener
Butler
Campbell
Carney
Cheney
Clausen
Cleveland
Clinger
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Erdahl
Erlenborn
Evans, Ga.
Fenwick
Findley
Forsythe
Frenzel
Gingrich
Goldwater
Gradison
Gramm
Grisham
Guyer
Hall, Tex.
Hammer-schmidt
Hance
Hansen
Hightower
Hinson
Holt
Hyde
Ichord
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Lewis
Loeffler
Lott
Luken
Lungren
McClory
McCloskey
McDonald
McEwen
Marks
Marriott
Martin
Mathis
Miller, Ohio
Montgomery
Moorhead, Calif.
Myers, Ind.
O'Brien
Pashayan
Paul
Rhodes
Ritter
Roberts
Robinson
Roth
Roussalot
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Smith, Nebr.
Solomon
Spence
Stangeland
Stenholm
Stockman
Stump
Symms
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Wilson, Bob
Wyatt
Wydler
Wylie

NOT VOTING—21

Anderson, Ill.
Chisholm
Collins, Ill.
Corman
Dixon
Dougherty
Flood
Garcia
Harsha
Jones, N.C.
Leach, La.
Leland
Murphy, N.Y.
Patten
Rodino
Rosenthal
Shuster
Stack
Treen
Winn
Young, Alaska

□ 1610

Messrs. ROYER, HAGEDORN, MINISH, EDWARDS of Oklahoma, and LIVINGSTON changed their votes from "no" to "aye."

Mr. LAGOMARSINO and Mr. DECKARD changed their votes from "aye" to "no."

So the amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. FAZIO TO THE AMENDMENT OFFERED BY MR. OBEY

Mr. FAZIO. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. FAZIO to the amendment offered by Mr. OBEY: On page 6 before line 1, insert the following new section, to be designated appropriately:

Sec. . Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 44a (a)) is amended by—

(1) inserting after the last paragraph the following new paragraph, to be designated appropriately:

( ) No candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress shall use contributions to such candidate and his authorized committees aggregating more than $35,000

to reimburse himself for expenditures from his personal funds (including funds derived from loans or from the personal funds of his immediate family) made by such candidate and his authorized committees in connection with (i) a general election and any primary or runoff election relating to such general election and (ii) a special election and any primary election or runoff election relating to such special election. For purposes of this paragraph, the term "immediate family" means a candidate's spouse and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouse of such persons.

And redesignate the following sections accordingly.

Mr. FAZIO (during the reading). Mr. Chairman, I ask unanimous consent that since the amendment was printed in the RECORD, it be considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FAZIO. Mr. Chairman, the amendment which I am offering today is simple and straightforward. It would prohibit candidates for the House of Representatives from using funds contributed to their campaigns usually after a successful election to repay themselves for personal loans and contributions to their campaign which exceed $35,000. In other words, it would place a $35,000 limit on personal funds that a candidate may loan to his or her campaign and be paid back from subsequent individual or PAC contributions. The purpose of my amendment is to prohibit candidates for the House from circumventing the intent and reasoning behind the Supreme Court's holding in Buckley against Vallejo that we cannot constitutionally limit the amount candidates may contribute to their own campaign. In that decision the Supreme Court declared unconstitutional a section of the Federal Elections Campaign Act of 1971 which set a limit on expenditures by a candidate from his personal funds for the personal funds of his immediate family in connection with his or her campaign.

The court voided this provision on the reasoning that the corruption of the political process did not support the limitation on the candidate's expenditure of his own personal funds.

The court went on to say in Buckley against Valeo that indeed the use of personal funds reduces the candidate's dependence on outside contributions and thereby counteracts the coercive pressures and attendant risks of abuse to which the PAC contribution limits are directed.

Mr. Chairman, since the Supreme Court's decision in 1975, many candidates have taken advantage of the court's striking of the candidate expenditure limitation by making loans to their campaign and then after the election paying themselves back with the solicited campaign contributions. In other words, they used personal funds to finance their election and then so-called special-interest funds to pay themselves back. They would have the best of both worlds.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Illinois.

Mr. RAILSBACK. My understanding is in one particular case, not only did they loan their campaign money and then get repaid out of a fund raiser but they actually paid themselves interest.

Mr. FAZIO. I understand a number of candidates have paid themselves interest; In other words, gained in return more than they loaned.

Mr. KAZEN. Mr. Chairman, will the gentleman yield for a question?

Mr. FAZIO. I will be happy to yield to the gentleman from Texas.

Mr. KAZEN. Does that provision apply to his immediate family, also?

Mr. FAZIO. Yes. This limitation on personal financial resources includes those of the members of the family which are available.

Mr. KAZEN. In other words, father, mother, brother, sister owing him some money, he is limited by $35,000 for the entire family?

Mr. FAZIO. Limited to the extent that he can be repaid, that is correct. He can only be repaid $35,000.

My amendment does not limit the amount of money wealthy candidates may contribute or loan themselves to their campaign. It does not violate the holding of Buckley against Valeo in terms of not limiting the amount of personal funds a candidate may use for his election. A candidate may still contribute or loan amounts in excess of $35,000 to his or her campaign.

The amendment only limits the amount of money to $35,000 that a candidate may expect to get back from his personal contributions.

I would like to say I have been an early and strong supporter of campaign contribution limitations. I believe Congress must take steps to place some further restraints on the rapidly growing role of special-interest influence in campaigns for the House of Representatives, Obey-Railsback does this.

Mr. Chairman, my amendment is in the spirit of this effort and it also reduces the influence of special-interest money, and not just during the campaign. I submit if the candidate is susceptible to these influences during his or her campaign, he or she is more thankful for the contributions when the money is going directly into the candidate's personal account after a brief deposit in the treasury of the campaign committee.

Finally, Mr. Chairman, I wish to point out in arriving at the $35,000 figure, we attempted to come up with a figure that recognizes that virtually every nonincumbent candidate for the House finds it necessary to fund his campaign with seed money immediately following his or her announcement or at some crucial point during the campaign.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I will be happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I would like to compliment the gentleman on an extraordinarily good amendment,

in an effort to try to put some balance on the ability of personal wealth to bring about campaign reform but I would ask the gentleman a question.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. GLICKMAN, and by unanimous consent, Mr. FAZIO was allowed to proceed for 2 additional minutes.)

Mr. FAZIO. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I would like the gentleman to again restate the issue in connection with the case of Buckley against Valeo, whether we have any constitutional problems by saying that a candidate cannot be reimbursed. I intend to vote for the amendment but I do not want to ride roughshod over that issue because I think it is one the courts will address later on.

Mr. FAZIO. We believe that it has constitutional validity. There are several themes running through Buckley against Valeo. Certainly one is to reduce the influence of special-interest contributions and that aspect was maintained and enhanced in this amendment. What we are doing here simply is continuing—with a sensitivity to the first amendment which allows the individual to make any amount of money available to his or her campaign—to further the effect of campaign spending limits. We are saying that you cannot have it both ways. We cannot allow people to have a subterfuge and get around the intent of the law. In summation, we believe we are consistent with both of the major themes of the Buckley against Valeo decision.

Mr. GLICKMAN. And therefore the fact that a candidate could still contribute whatever means he has to his own campaign, even under amendment, would tend to indicate that the decision of Buckley against Valeo would not be violated?

Mr. FAZIO. We believe the court would uphold this law because it does not violate that first amendment protection they reaffirmed in their decision.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I will be happy to yield to the gentleman from California.

Mr. PASHAYAN. Does this provision of yours not have the effect of making it easier for well-to-do or wealthy candidates to contribute money? Is this not going to have the effect of doing considerable financial harm to those candidates who are not so fortunate as to have a considerable amount of money themselves?

Mr. FAZIO. I really do not see it that way. I think the figure of $35,000 is a good average figure derived from among the recent experiences of the newly elected Members who loaned funds to their campaign. There will be no limitation on the total amount a wealthy individual can contribute.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. PASHAYAN, and by unanimous consent, Mr. FAZIO was allowed to proceed for 2 additional minutes.

Mr. FAZIO. I yield to the gentleman from California.

Mr. PASHAYAN. I believe the effect is it is going to make it more difficult for somebody who does not have the wherewithal to finance a certain amount of money to, in fact, reimburse himself and conversely it will encourage candidates, I think, that have a great amount of money to step in.

Mr. FAZIO. I think it simply tells a wealthy candidate that he must consider the fact he is operating, after the $35,000 figure, without the protection of repayment he now has. He must consider the fact that he may not be reimbursed for that money and it limits the effect of his wealth.

We have some data from the 1976 election which may be useful. In that year 281 candidates loaned themselves funds for their campaign. Only three would have been effected by the $35,000 loan repayment provision. One challenger loaned himself $53,000 and repaid it all. Two open seat contenders loaned their campaigns funds. One loaned his campaign $78,000 and repaid it all. Another repaid $120,000 of a $277,000 loan to his campaign.

If I may reclaim my time, I would like to conclude by saying that we attempt in no way to punish anyone. We simply seek to insure that the wealthy candidates do not have the best of both worlds, the luxury of making large loans to their campaigns before the election which are then paid back through solicited campaign contributions after their election to the House of Representatives.

The gentleman from California (Mr. DORNAN) spoke earlier in general debate. I thought he made an eloquent case for my amendment. I would simply urge the House to adopt the amendment.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from California (Mr. PASHAYAN) made a very telling point. Where rich candidates bother us in campaigns where they do not get their money back. They do not need it back if they are rich enough.

So all you will do with this amendment is to eliminate some of the medium well-off who will not get repaid their money. The very rich do not care if they get their money back as long as they get their office. This amendment is a nice try, but it does not work.

Mr. Chairman, what is really wrong with this amendment is that it violates the Constitution in a way that is more obvious than some of the other constitutional mistakes that are embodied in the Obey-Railsback amendment. If this measure were adopted it would, in my judgment, present serious constitutional problems which I believe have already been addressed by the Supreme Court.

There are two problems, Mr. Chairman. The first is, it is an indirect attempt to limit the amount of money which may be expended by a candidate from personal funds. It is a well known tenet that we cannot do by law indirectly what we are not allowed to do directly.

□ 1630

This is, of course, an indirect attempt to restrict what an individual can contribute to his or her own campaign. I think the Buckley-Valeo record is replete with strong enough evidence on this to show most Members that this feature would not last 5 minutes before the Supreme Court.

Unfortunately, there is a second element as well. That is that the amendment would indirectly place a limit on certain types of expenditures by the committee, by saying that it could only pay $35,000 to return loans to the candidate, to himself or herself.

Here is a second attempt by indirection to do that which we cannot do by direction, that is, to limit expenditures for elections.

Mr. Chairman, really, the amendment is hardly worthy of comment. It will not last long under court test, which it will certainly get. You will simply save those fine old gentlemen in black robes a little extra labor if you vote it down now. I urge you to support me in so doing.

Mr. Chairman, I oppose the amendment which has been proposed by the gentlemen from Wisconsin. What the amendment attempts to do is to prohibit reimbursements to a candidate in excess of $35,000. This measure if adopted, would in my opinion present serious constitutional problems which I believe have already been addressed by the Supreme Court.

Specifically, I see two problems. First, it appears that this is an indirect attempt to limit the amount of money which may be expended by a candidate from personal funds. We all know that the Congress included such a provision in the 1974 amendments to the Federal Election Campaign Act. That provision was specifically and categorically ruled unconstitutional under the first amendment in the landmark case in Buckley against Valeo. It is unambiguous that such a restriction on the use of a candidate's personal funds is not permitted under the Constitution except possibly under a system of public financing such as we have with Presidential campaigns.

I have a second and equally serious constitutional reservation. This amendment would also indirectly place a limit on certain types of expenditures. That is to say that a committee may not spend more than $35,000 for the purpose of reimbursing a candidate. In the Buckley case the Supreme Court held that expenditure limitations violate the first amendment. There is no reason to believe that the type of indirect limit suggested by this amendment is any less unconstitutional than the limits which were thrown out by the court in Buckley. In my mind this is no different than the provision in the original Federal Election Campaign Act which made it unlawful for Federal candidates to spend more than a certain amount of money for media advertising. Those limits are similarly in violation of the first amendment.

Therefore Mr. Chairman, I must oppose this amendment on the grounds that it is an unconstitutional limitation

on the amount of money which may be spent by a candidate or by his committee.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I would just like to say in support of the amendment that this most certainly is not an attempt to do by indirection what we cannot do by direction.

I want to give an example of what this amendment is trying to stop. In the 1976 campaign, one group, and I will not name it, but one group contributed very substantial contributions to five Members of Congress, incumbents, who were then defeated. They had made no contributions to their challengers. After the election, that same association made five very substantial contributions to Members after they knew they were elected.

Now, on the surface, there is nothing wrong with that, I suppose; but the problem is this, that if an individual lends himself a significant amount of money and cannot raise any political contributions because at the time the PAC are not interested in him, but then gets elected, then at that point the PAC are in a position where they are providing a campaign contribution and what that campaign contribution does at that time is to directly and personally and financially benefit the receiver of that contribution. That is the line which we feel is improper to cross. That is why we have the Fazio amendment, which I think is crucial in retaining our ability to separate contributions to campaigns and contributions to which, in fact, wind up going in the individual pocket. That is why the Fazio amendment is very badly needed.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. OBEY. Surely, I yield.

Mr. KAZEN. Mr. Chairman, let me see if I understand the gentleman. We are only talking about that amount of money that the candidate himself can repay himself for a loan that he made to his campaign; am I correct?

Mr. OBEY. What the Fazio amendment does is to say he can spend whatever he wants. We do not especially like that, but the courts have made it quite clear that we cannot prevent that.

Mr. KAZEN. That is correct, and all that he can repay himself is $35,000.

Mr. OBEY. That is correct.

Mr. KAZEN. But in the example that the gentleman has just cited, if a PAC or somebody else comes in and gives him money to repay other loans, would that be permissible; not loans that he made to himself, but other loans?

Mr. OBEY. Yes, it will be; but the point that I am making is that especially when that contribution is made with the knowledge that that money is going to wind up in the Member's own pocket, there is a real problem which should be corrected.

Mr. KAZEN. Oh, yes.

Mr. OBEY. That creates a significant problem, in my judgment, and I think is a major reason for the Fazio amendment.

Mr. KAZEN. Mr. Chairman, I thank the gentleman.

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from South Carolina.

Mr. DAVIS of South Carolina. Mr. Chairman, I would like to ask the gentleman, in other words, what the gentleman is saying, it is perfectly all right if the money were to end up in the candidate's brother's pocket or the chairman of the PAC's brother's pocket, because he had made a loan to the campaign, but because the individual made a loan to the campaign it is suddenly immoral and you are giving him personal benefits?

Mr. OBEY. No; I am not saying that.

Mr. DAVIS of South Carolina. Well, would not those repayments be illegal?

Mr. OBEY. I am simply saying what I am saying and the gentleman is well aware of what I am saying and I think we will leave it at that.

Mr. DAVIS of South Carolina. I thank the gentleman for answering.

Mr. HALL of Texas. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. HALL of Texas was allowed to speak out of order.)

ANNOUNCEMENT OF APPOINTMENT OF HONORABLE MARTY RUSSO TO COMMITTEE ON WAYS AND MEANS

Mr. HALL of Texas. Mr. Chairman, I have just been advised, that the Policy and Steering Committee has chosen my very good friend, the gentleman from Illinois, Mr. MARTY RUSSO, to fill a vacancy on the Committee on Ways and Means.

I have already congratulated my friend, MARTY. He will be an outstanding member of that committee. I certainly want to thank the committee for the very fine job that they have done and to publicly state to the Democratic side that I do not intend to pursue this matter any further, that I will not take it before the Democratic Caucus. I respect the leadership and I respect what they have done.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words. I rise to speak in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment and all other amendments which are going to enhance the Incumbent Protection Act which our good Speaker O'NEILL characterized much earlier when he spoke against the Obey-Railsback bill, but then urged us to vote for it.

I want to commend him for his eloquent speech; but I rise more than that, to point out the real inequities that exist in campaigns. My good friend, the gentleman from New York, brought up this subject of Watergate and I would like to recite some history to you, which will point up the real inequities in Federal election law.

You know, back in 1974 there was a class that I will characterize as Watergate babies, and the reason I say Watergate babies is because my colleague happened to mention Watergate and Richard Nixon; but this class of Watergate babies, and I do not use that term disparagingly, I use it because they were the types of candidates that had no chance of winning, but were elected in the Watergate landslide and are still here.

I ask you, why are they still here? When they came in, they pushed out all the good Conservative Democrats, all my friends on that side of the aisle, and there are many of them. They replaced them as committee chairmen. They pushed through an image of the Democratic Party being propublic financing, proabortion, progun control, and pro everything else that the American people do not believe in and then they pushed through another image of being antidefense, anti-CIA, anti-FBI, and that is the kind of image the Democratic Party has and those Watergate babies are still here, except for a few of them.

Do you know why most of them are still here? Because in 1975, the day they got here, they immediately increased all the congressional perks, benefits that assure the reelection of incumbents.

Today you have almost unlimited mailing privileges. I know in my own campaign when I announced in January, all of a sudden the new computer terminal that my opponent incumbent had in his office, started working overtime and every week or every 2 weeks he was pumping out mass mailings addressed to Mr. and Mrs. John Doe to what seemed like every voter in the district.

I think he must have franked the whole voter registration and I know that there are many incumbents that have done just that.

Well, when you take that, when you take all of these free mailings that go out, you take the rolling billboard mobile offices that all these Watergate babies now have rolling around the countryside, when you take the 22 employees that they have with maybe 4 or 5 employees in Washington and the other 18 back in the district serving as PR men, this is where the inequity lies because the incumbent has a built-in advantage of using $200,000 to $300,000 of taxpayers' money which cannot be matched by a challenger.

So when we limit campaign contributions, we literally assure incumbents of being reelected time after time.

So when Speaker O'NEILL characterized this as an Incumbent Protection Act, he is absolutely right. I am sure that none of us want to support that kind of legislation.

Let us give the challengers a fair shake. Let us let them get out and have the money to campaign against us. I urge defeat of this bill.

□ 1640

Mr. RATCHFORD. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, first of all, I think as a body we would do well to direct ourselves to the amendment pending before us. There will be plenty of opportunity for our constituents in 1980 to judge whether or not our approach to responsibility has been correct. I think we would do better this afternoon to direct

our attention to the legislation, as opposed to baring our own breasts or engaging in personal confessions.

The reasoning behind this amendment is obvious, Mr. Chairman. It is an attempt to take away some of the immense advantages a wealthy candidate now enjoys. As my colleagues are aware, the Supreme Court said in January 1976 in Buckley against Valeo, that Congress could not limit how much an individual could spend of his or her money on his or her own election to Federal office.

Since that decision we have witnessed many campaigns for the House of Representatives in which the personal wealth of the candidate has been a decisive factor. Because of the Supreme Court's holding on the use of personal funds, our ability to legislate in this area is severely restricted.

I personally feel that the amendment pending before us falls within the restrictions set by the Court. Presently, under the law and under this decision, a rich candidate has the advantage of using his or her own personal funds to make unlimited loans to their campaigns, to be later repaid by their personal committees. He or she thus could avoid any risk of personal loss.

What the Fazio amendment does is to recognize that spending cannot be restricted, but it says that there shall be a limit—and I think the limit suggested is a reasonable one—on how much money, in this particular case, $35,000, one can loan his or her own committee and then subsequently be repaid.

The amendment, Mr. Chairman, moves toward a balance, a balance that does not now exist, and if there is anything needed in the area of financing our campaigns, it is a balance.

Mr. Chairman, the Fazio amendment achieves that. Let us direct our attention to the amendment, stay away from the extensive rhetoric, and get on to a vote on the bill pending before us.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. RATCHFORD. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, I fail to see how this is not a rich man's statute or amendment.

Let us suppose a candidate goes out and borrows $50,000 from the bank and puts it in his campaign fund. Under this provision, the committee can always pay him back the $35,000. So I would have to assume that this is a provision that benefits the rich man. That is why I ask: What is $15,000 to a rich man?

But for a man who does not have the good fortune to be rich, this provision does much harm to him financially. I see this as a rich man's provision.

Mr. RATCHFORD. Mr. Chairman, I say in response to the gentleman that my own economic views are such that the level of $35,000 is reasonable, and when we go above that, we may indeed be in the rich man's arena.

Mr. PASHAYAN. It is reasonable, as long as one is rich, and all he has to pay back is an additional $15,000.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. RATCHFORD. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I want to associate myself with the gentleman's comments, and I want to direct my comments to the gentleman from New York (Mr. SOLOMON).

The gentleman who was replaced by the gentleman from New York was indeed one of the "Watergate babies," just as I am and as many other Members are. But I would also point out that the gentleman from New York replaced was one of the ranking Members in this House, both with respect to the use of perks and with respect to the issue of campaign reform.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. FAZIO) to the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The amendment to the amendment was agreed to.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are getting close to the close of the business for the day. We are now about to vote on the Obey-Railsback amendment, as amended, to S. 832.

In my judgment, it would be a dreadful mistake for the House to adopt this amendment, but we have already had one test vote on the rule, and it looks like we are going to be a few votes short on trying to defeat this Obey-Railsback amendment.

I have pointed out that it is unconstitutional. I have pointed out that it is prejudicial to challengers' abilities to make a reasonable race. And I have pointed out that it stifles public participation by those hundreds of thousands of people who think that when they make contributions to their PAC, they are doing something good in the political process.

But, Mr. Chairman, the House has heard this rhetoric, and I think most Members know how they are going to vote, and some Members know something about the bill.

Mr. Chairman, there will be another chance, however, even if the Obey-Railsback amendment is adopted, because the distinguished gentleman from South Carolina (Mr. CAMPBELL) will be offering a motion to recommit. That motion will allow the fans of Obey-Railsback to preserve everything that is in the bill with the exception of the $70,000 cap, which seems to the gentleman and to me to be the most unreasonable provision of Obey-Railsback. I think this gives each Member a chance for some kind of middle position that we otherwise will not get in the bill that has been stuffed down our throats under a closed rule without hearing.

So, Mr. Chairman, I would hope that even those who feel obligated to commit themselves or who have committed themselves to the Obey-Railsback substitute will be able to vote for the motion to recommit which will be offered by our colleague, the gentleman from South Carolina (Mr. CAMPBELL).

Mr. DAVIS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to my distinguished colleague, the other gentleman from South Carolina (Mr. DAVIS).

Mr. DAVIS of South Carolina. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, at the heart of this controversy today has been the idea that maybe because groups have organized together to become an interest group, that is bad. It also may even be further stated that we have the fact that if that interest group contributes to the political process, some Members are here voting because of that contribution.

I happen to think more of this body and of its Members than that. I think maybe we get contributions because of the way we vote, maybe for free enterprise, maybe because we are pro-labor, or maybe because we address specific issues. But to say that just because we have taken money, we are casting votes in the interest of that money, I think, is unsound.

I think it is, therefore, unsound to go a step further and say we are going to limit a group to organize and participate in the political process. This is what Obey-Railsback does. It says that we created the entities that are today considered bad because they have grown, as anything would grow over a period of 5 years.

Mr. Chairman, I think we ought to look at the whole system, the picture as a whole, and ask ourselves: Where are we standing if we think that because we have received contributions, we are that corrupt? Maybe we ought to limit ourselves rather than putting on limitations such as these.

Mr. Chairman, I hope the Obey-Railsback amendment will be defeated.

Mr. Chairman, at the heart of the controversy surrounding this bill is the belief that public confidence on the Congress is on the decline due to too much special interest money involvement in congressional campaigns and that this unduly influences legislative decisions.

I have yet to hear of, nor has it been proven, that a Member has consistently voted solely because of a campaign contribution. It has been proven, however, that House Members receive contributions because they vote the interest of a particular group.

By limiting the PAC's, we are imposing the judgment that certain kinds of constitutionally protected political activity, such as free spending by individuals and groups to promote and support their own candidacies or views, are excessive or "bad" and indicating corruption?

This kind of logic has the effect of making special interest and public interests two separate entities. Because a number of people are concerned enough to organize themselves around a particular issue does not make this issue one that is not legitimate. It makes that interest. An element within the public interest.

Political free speech is constitutionally protected. Political action committees provide political homes for thousands of individuals who would otherwise feel unable to make their views known and who might therefore become totally disenchanted by the political system. But because they can join with a group with the same interest, they feel their voice can be heard and they therefore participate. The increase in political action committees is a healthy exercise for all Americans because, as pointed out, it involves millions of Americans in the issues of the day and gives them a forum from which to exercise their political free speech.

It is interesting to note that the country's leading authority on campaign financing; Herbert Alexander, found that public financing of Presidential campaigns had significantly reduced the level of grassroot participation in the 1976 Presidential campaign because the limits on the use of funds and the State-by-State ceilings on spending had fostered a new cost effective means of campaigning.

Limiting the PAC's will have the same effect on House campaigns and, since it will restrict the amount of money available in elections, it will eventually force taxpayer financing of elections.

There has been much talk about the proliferation of PAC's in recent years. Since they have only been legal for the last few years, it is natural to see an increase.

It is interesting to note that the proponents of this legislation who complain about the increase in the number of PAC's fail to heed the warning of political studies that limiting PAC's will have the effect of causing the existing PAC's to splinter and more PAC's will then give less money to each candidate.

With respect to the limit on the aggregate amount a candidate can receive from all PAC's, I would like to point out that, had this bill been law in 1978, there would have been 176 instances of PAC's being unable to contribute to candidates of their choice, thus preventing them from exercising their right to political free speech. My question to each of you is, will this limitation pass the constitutional test of political free speech in Buckley against Valeo. The Buckley court said that the first amendment denies Government the power to determine that spending to promote one's political views is excessive, wasteful, or unwise.

Those of you who were successful challengers in 1978, might have had your campaigns severely restricted had these ceilings been in effect. The record shows that successful challengers always need substantial campaign treasuries in order to defeat incumbents. This flies in the face of the argument by the proponents of this legislation that it will solve the problem of the "entrenched incumbent."

A Harvard Institute of Political Study commissioned to study Federal election laws by the Committee on House Administration concluded that elections are under-financed, not over-financed. I might also point out that the committee leaders are failing to follow the results of the study the committee, itself, commissioned—presumably to be guided thereby.

Another effect if this bill in combination with the Supreme Court's ruling in Buckley against Valeo is that it will make it possible for the wealthy to come to Congress because a source of funds to the less affluent is cut off. Buckley held the provisions of the 1976 amendments to the FECA providing for ceilings on the amount candidates could spend on their own campaigns, an unconstitutional restriction of free political speech.

I am also concerned that this bill will force candidates into an increasing state of dependence upon interest groups now exempt from the campaign laws—unions and labor. Unions or labor are not limited as to such invaluable services as registration, or the get-out-and-vote, or member communication drives. Labor can spend as much as it desires on communication with its members. Individuals can contribute their time and talents without any limits because these efforts are not considered a contribution. Everyone knows that in the last Presidential election, it has been estimated that almost $11,000,000 was spent on phone banks and other activities in support of Carter and yet $11,000,000 did not have to be listed as an expenditure or contribution.

I urge you to defeat this bill and in a less hurried setting permit more thought to be given to whether or how something such as is proposed here should be done so that the problems inherent in this bill will not become the law.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution, and I yield back the balance of my time.

Mr. PEYSER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I sat through for several hours and listened to this discussion, although I have served on this committee, I have not entered this debate because the Obey-Railsback amendment and the issues that were being brought forth have certainly been well covered by other Members.

However, as sort of a conclusion, as I listened to everything that has taken place, the one regret I have is that we are not now voting on the issue of public financing, because that is the issue that everybody alludes to one way or the other in this whole discussion. All these questions of limiting or not limiting the PAC contributions and all these questions of whether we are influenced or not influenced by moneys that are given to us may be valid questions. They could all be answered if we were not in any way committed to either groups or organizations or major contributors and if we had the chance to be voting on this floor today on the issue of public financing.

Public financing, as the Members know, was defeated in the committee by an overwhelming vote in the Committee on House Administration. It was not even close. Yet after listening to this debate, I think we have shortchanged the American public and we have shortchanged ourselves by not standing up and voting on the issue of public financing.

□ 1650

I hope, even though I support the Obey-Railsback amendments that are being offered and the amendment to the amendment offered by the committee chairman, that we will again have a chance and an opportunity, if not this year, next year, to stand up and face this issue for all of the American people and for this Congress and to vote on public financing.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are, I hope, back to square 1 and will conclude this debate very shortly.

I simply want to reiterate the situation as I see it. We have adopted the three amendments to Obey-Railsback and have, thereby, perfected it and, I am informed by my cooperative friends on the other side, that they will ask for a rollcall on that subject.

I rise to restate what I think is in its perfected form now a really splendid bill and a splendid opportunity to do the right thing. I respectfully urge my colleagues to support the Obey-Railsback amendment, as amended.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Obey-Railsback amendment to set new limits on campaign contributions by political action committees, commonly known as PAC's.

Before I comment on what this proposal would do, I would like to say something about what it would not do. It would not, as some of my incoming mail contends, "restrict voluntary giving while leaving untouched the union bosses' use of forced dues." The use of union dues for political contributions is strictly forbidden by present law, just as is the case with corporate funds. This legislation would not change that provision of the law. It would, instead, apply equally to labor and corporations and to their PAC's, and those of the various organizations which maintain political action committees. It discriminates in no way against any interest, deprives no individual or group of any of their constitutional freedoms, nor denies them access to the political process.

What this legislation proposes is a ceiling on the total amount of money any PAC—labor, corporate, or otherwise—can give to any one candidate, and upon the total amount of PAC money any candidate may receive from all PAC's. Those limits for the candidate are an aggregate of $70,000 for a primary and general election combined, $35,000 total if a runoff is involved. For any PAC, the limits are $5,000 per candidate for a primary and general election combined, or a total of $9,000 if primary, general, and runoff elections are involved. So, Mr. Chairman, we are saying that the sky is not the limit, but considering the altitude of these ceilings, I would have to say it is up near the stratosphere.

I do not infer that there is something wrong with PAC money, Mr. Chairman. Far from it. Political action committees are a legitimate activity which, through collective effort, concentrate the re-

sources of their membership, whatever their interest, in what they see as the most effective way. I do not for a moment believe there are Members of this House who occupy seats that have been bought by one or more political action committees; but I would not swear that somewhere down the line, if limitations are not imposed, we would not be able to say that, and Mr. Chairman, there is nothing in the Obey-Railsback proposal which would limit the growth of PAC's. We would not want to do that. We welcome this increase in interest in the political process. We do, however, want to limit the influence of any single PAC, or any group of PAC's acting collectively, on any Member of the House. By limiting the money a candidate can receive from any individual PAC and from PAC's collectively, we would limit what could become, and what certainly is perceived as, undue influence.

The other side of this argument is also important, Mr. Chairman. By limiting the influence of special interest groups, we are increasing the importance of the individual contributors, who also, of course, are subject to Federal elections laws.

Consider how PAC contributions have spiraled during the past several years. In 1972, PAC's gave a total of $5 million to candidates for the House. In 1976, they contributed $14.7 million. In 1978, PAC contributions to House candidates were $25 million. In 6 years, Mr. Chairman, PAC contributions, labor, business, and others, approximately doubled from election to election. If that trend were to continue, PAC contributions would be up to $225 billion by the election of the year 2000.

That extrapolation is farfetched, to be sure, but who would have thought that PAC campaign financing would have quintupled in 6 short years? I sincerely believe, Mr. Chairman, that left unrestricted, PAC money will become a predominant force in the democratic process, which, in effect, would render the process undemocratic.

Mr. Chairman, I see the proposal before us today as a continuation in the process of Government reform and a further attempt to restore confidence in our system of Government. Some of us have been working on these goals for some time now, and I would like to take a moment to list a few of the reforms which we have already enacted, for I do not think they are irrelevant to this discussion.

We passed a strong new financial code of ethics, which included financial disclosure requirements for Members and key staff members; a 15-percent limit on outside earned income; a $100 limit on any honorarium; limits on gifts; restrictions on the use of the frank; curbs on lame duck travel; abolition of unofficial office accounts; and a prohibition on personal use of campaign funds. We modified the antiquated seniority system; we passed "Government in the Sunshine" legislation and thereby opened up the workings of the Government to the citizens. We are continuing to work on lobbying disclosure—the House, of course, passed such a measure in the last Congress. I have supported all of these measures, and in addition I have made my entire voting record, as well as complete financial statements for myself and my family, available to the public, all because I think the good of restoring confidence in our system of representation democracy is so important.

Mr. Chairman, none of these steps, and certainly not the proposal before us today, are reform for reform's sake. It is crucial that we restore confidence in our system, and all of these changes are steps toward that end. It troubles me greatly that the Congress does not enjoy a better reputation among the people, because I truly believe this is their House, and that we are but the trustees. I believe, further, that the primary cause of voter apathy is that many individuals feel their one vote does not amount to anything, and that there is nothing they can do, as individuals, to change the course of events, or to strengthen the great system that has served us so well. If they feel that way about their vote, it stands to reason that they feel that way about giving their money to a candidate—any candidate—in whom they have no more than fleeting and passing interest.

By not passing this legislation, Mr. Chairman, I believe we would add much to that lack of confidence, to increased voter apathy, and to the eroding of the reputation of this House. Our people need to know that this still is their Government, responsive to their needs collectively and individually, and not subject to the influence of any interest capable of raising and giving enormous sums of money to candidates for the House.

Mr. Chairman, we have taken great care in this country to guarantee that this House is constituted for Representatives chosen under the "one person, one vote" doctrine of the Constitution. I think we can enhance that heritage by saying to the American people that we will not permit the power of the purse to negate that constitutional right.

I urge adoption of this amendment.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would simply say at this relatively, I think, late time that I think we have had a good debate. I happen to think that the so-called Obey-Railsback amendment, which title I am getting, frankly, tired of hearing, is a constructive step in the right direction. It certainly is not a panacea. It does not even represent, in my opinion, any kind of a comprehensive election reform.

On the other hand, I strongly disagree with the insinuation that it is a pro-protection incumbent bill because I think anybody that studies the facts and the statistics will soon see that it is anything but that. Incumbents are receiving checks that they did not solicit. There are some PAC's that are good; there are some that are not so good. There are many that, without a doubt, are trying to buy access. I do not like to say "buy influence," because I do not think we can prove that at all.

The motion to recommit with instructions to delete the aggregate cap would obviously have the effect of killing the bill. I am sure there are some who want to do that. The $70,000 cap, the $70,000 aggregate cap, again is a partial compromise elicited by some of us on our side of the aisle because we thought, along with some of the Members of the majority, that a $50,000 aggregate cap was simply high enough, given the rate of inflation, and so forth.

One other point. The chairman of the committee indicates to me that he is going to hold hearings on the question of indexing for inflation. It is my understanding that they are going to take a look at some of the other, I think, pressing needs for reform.

I would urge a vote against the motion to recommit, primarily because in my opinion it would have the effect, either intended or unintended, of killing the bill.

Mr. CAMPBELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the vote that we are about to take is, of course, directly on the Obey-Railsback proposal, as amended.

However, later, if this vote prevails, we will have an opportunity to address one of the shortcomings of this piece of legislation; that is, the ability to amend it as far as the aggregate ceiling goes.

I would disagree with the gentleman from Illinois respectfully that the effort to recommit would be an effort to kill the legislation. It would not. The motion to recommit will carry an instruction that the only section to be stricken would be the aggregate ceiling, and that being the one part that we would deal with.

I was not interested in or looking for a colloquy on it. I just wanted to correct that.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

Mr. Chairman, I have not and will not—because I do not believe it—attribute anything unconstructive to the gentleman. I do think, in fairness, however, to the Members, and particularly the Members on the other side, that they feel that if the aggregate cap, which the gentleman and I do not happen to feel very comfortable with, and the gentleman knows I agree with him on that, I view it, however, as a kind of tradeoff, because there are some on their side who do not like cutting the $10,000 back to $6,000 because they think it impacts on labor. So I think they are going to kill the bill.

Mr. CAMPBELL. Mr. Chairman, if I may reclaim my time, let me say this: If the motion to recommit prevails, as a member of the committee I would certainly vote to report it back out, with the portion that we have adopted here, immediately.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

I would like to respectfully submit that the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from Wisconsin (Mr. OBEY) have done an excellent job in an area which I think they firmly believe that they are making a constructive step forward. But in talking with one of the authors and in talking with a number of the supporters, they believe that Obey-Railsback is only one part of an overall view of campaign financing reform.

But what is to assure that those other parts receive due consideration? For example, since the Federal Election Commission reforms were enacted in 1974—and they originate and the numbers they deal with originate back in 1972—more and more emphasis has shifted away from the individual contributor. What we have essentially done in the last 7 years is take the individual contributor out of political campaigns.

The Harvard report stated that an increase in the disclosure threshold level was desirable, that in many ways this would protect contributors to challengers who are fearful of intimidation, either real or imagined. The report proposes that the limitation be increased beyond $1,000 per individual contributor. If we recommit this bill we have a chance to seriously address the problems of campaign financing. If we do not recommit this bill, we are approaching this piecemeal. We are looking here at one element in an overall package, an element, incidentally, that many of us might be willing to accept if the overall package took into account why PAC's have become more important.

There is one other item that deserves attention. That is the special interest groups which do not contribute money but which do create great influences in political races. Are we limiting them? The public interest groups, with all of their excellent intentions, are still free to roam the political terrain without any sort of intervention or limitation.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, with respect to the gentleman's last point, such organizations as he named have first amendment rights, as does any other organization, and therefore should not be fettered.

With respect to the remainder, I said earlier, and I restate here my intention—and when I make such promises I keep them—that the Committee on House Administration is going to go into the entire Federal Election Campaign Act, including a consideration of indexing for inflation and other matters not carried here. The bottom line here does not affect the individual about whom you and I are concerned.

□ 1700

The motion to recommit would simply lift the ceiling and make 1,600 or 1,800 political action committees fair game at $6,000 each. That would be utterly absurd.

Mr. RITTER. If I could regain my time, I do not think there is anyone in this body who could argue that the private sector, that the ideas and the potential forward movers of free enterprise, have made significant gains in the United States of America since 1972.

What the gentleman is talking about, and in comparison with these special-interest groups which do not contribute money, the point I would like to make there is that these organizations can send out a whole variety of special mailings, a whole variety of political action which is not accounted for in this legislation.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. RITTER) has expired.

(By unanimous consent, Mr. RITTER was allowed to proceed for 1 additional minute.)

Mr. RITTER. A contribution of this kind, an in-kind contribution, is patently illegal from a corporation source. A typewriter cannot even be used. No mailings can occur. Nobody on company time can be active.

We are talking about banning one element or severely restricting one aspect of political involvement and letting the others roam free. Let us be fair and look at the whole picture.

Thank you, Mr. Chairman.

Mr. DORNAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as long as this House plays around with the idea of limitations and putting caps on people's or groups' ability to spend money, they are going to have this issue come up on a yearly basis.

What we should do and would make Common Cause happy and any other public interest group that wants honesty in Government happy, is disclosure, disclosure, disclosure, not limitation.

The FEC forms are now getting as complex as your income tax 1040.

In trying to compile a record for a newspaper article on the 95th Congress, on this Congress, on the California delegation of 43, I have found more arithmetic errors, including on my own form, going back over them, and I have found more errors in filling out the FEC forms; and I have found more instances of coverup of what should be investigated by sheer whim of the very partisan FEC.

I went down and paid 40 cents for my opponent of last year's forms and found out that here is a 29-year-old guy who loaned his campaign $15,500 to pay back the money that he sent back to Alabama for those 15 $1,000 illegal campaign contributions that he took in October to come close to me. There will be no even regular audit, let alone an audit for cause. Disclosure does not even work.

Putting all these limitations to turn this House into a House two or three Congresses from now of rich men and women and failures, you pick the mix, is not the way to bring honesty to Government.

The way to do it is to make the disclosure work. The American public is showing more and more interest, more interest than maybe since our Founding Fathers went to their graves, in this political system by the very healthy proliferation of small PAC's. The more PAC's we have, the better it will be. The smaller the PAC, the smaller the membership; the smaller the little company or organization, the better off we are going to be.

Let us get our act together here on disclosure and not pass the accountant and campaign treasurers proliferation act and the incumbency act at the same time.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding.

I would just like to say that a Bernadette Budd this weekend at this campaign conference singled me out as being one who will not get 1 cent from any business or industrial PAC. She said I represent trees, not companies.

Mr. DORNAN. I sympathize with the gentleman.

Mr. WEAVER. I would like to say that a healthy system is where they can take some—all these PAC's the gentleman is talking about—I am not talking about one PAC. I am talking about this whole amalgam of PAC's saying, "Absolutely not," simply because I am trying to keep our national forests from being cut down all at once. That is not a healthy thing, I say to the gentleman.

Mr. DORNAN. I am sure there will be other PAC's that will compensate that are environmental PAC's. The more PAC's the healthier for the country. Let us be fair and stop this incumbency protection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY), as amended.

RECORDED VOTE

Mr. DAVIS of South Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 198, not voting 18, as follows:

[Roll No. 577]

AYES—217

Addabbo	Cavanaugh	Ford, Mich.
Akaka	Clay	Ford, Tenn.
Ambro	Ccelho	Fowler
Anderson, Calif.	Conable	Fuqua
	Conte	Gaydos
Annunzio	Conyers	Gephardt
Applegate	D'Amours	Giaimo
Aspin	Danielson	Gilman
Bailey	Daschle	Glickman
Baldus	Dellums	Gore
Barnes	Derrick	Gray
Beard, R.I.	Dicks	Green
Bedell	Diggs	Guarini
Bellenson	Dodd	Gudger
Benjamin	Donnelly	Hall, Ohio
Bennett	Downey	Hamilton
Bevill	Drinan	Harkin
Biaggi	Early	Harris
Bingham	Eckhardt	Hawkins
Blanchard	Edgar	Heckler
Bo'and	Edwards, Calif.	Hefner
Bolling	Emery	Heftel
Boner	English	Hollenbeck
Bonior	Ertel	Holtzman
Bonker	Fary	Hopkins
Brademas	Fascell	Horton
Brodhead	Fazio	Howard
Brooks	Fenwick	Hubbard
Brown, Calif.	Ferraro	Hughes
Burlison	Fish	Hutto
Burton, John	Fisher	Jacobs
Burton, Phillip	Fithian	Jeffords
Carr	Florio	Jenrette

Johnson, Calif.	Natcher	Sharp
Johnson, Colo.	Neal	Simon
Jones, Tenn.	Nedzi	Skelton
Kastenmeier	Nichols	Smith, Iowa
Kildee	Nolan	Snowe
Kostmayer	Nowak	Solarz
LaFalce	Oakar	Spellman
Lagomarsino	Oberstar	St Germain
Leach, Iowa	Obey	Stack
Lederer	Ottinger	Staggers
Lehman	Panetta	Stark
Leland	Patterson	Steed
Long, La.	Pease	Stewart
Long, Md.	Pepper	Stokes
Lowry	Perkins	Studds
Lundine	Petri	Swift
McCloskey	Peyser	Synar
McHugh	Preyer	Tauke
McKinney	Price	Thompson
Madigan	Pritchard	Udall
Maguire	Pursell	Ullman
Markey	Rahall	Van Deerlin
Marlenee	Railsback	Vanik
Matsui	Rangel	Vento
Mattox	Ratchford	Walgren
Mavroules	Regula	Waxman
Mica	Reuss	Weaver
Mikulski	Richmond	Weiss
Miller, Calif.	Rinaldo	Williams, Mont.
Mineta	Roe	Williams, Ohio
Mitchell, Md.	Rose	Wirth
Mitchell, N.Y.	Rostenkowski	Wolff
Moakley	Roybal	Wolpe
Moffett	Russo	Wright
Mollohan	Sabo	Yates
Moorhead, Pa.	Santini	Yatron
Mottl	Scheuer	Young, Mo.
Murphy, Ill.	Schroeder	Zablocki
Murtha	Selberling	Zeferetti
Myers, Pa.	Shannon	

NOES—196

Abdnor	Duncan, Tenn.	Lott
Albosta	Edwards, Ala.	Lujan
Alexander	Edwards, Okla.	Luken
Andrews, N.C.	Erdahl	Lungren
Andrews, N. Dak.	Erlenborn	McClory
Anthony	Evans, Del.	McCormack
Archer	Evans, Ga.	McDade
Ashbrook	Evans, Ind.	McDonald
Ashley	Findley	McEwen
Atkinson	Flippo	McKay
AuCoin	Foley	Marks
Badham	Forsythe	Marriott
Bafalis	Fountain	Martin
Barnard	Frenzel	Mathis
Bauman	Frost	Mazzoli
Beard, Tenn.	Gibbons	Michel
Bereuter	Gingrich	Miller, Ohio
Bethune	Ginn	Minish
Boggs	Goldwater	Montgomery
Bouquard	Gonzalez	Moore
Bowen	Goodling	Moorhead, Calif.
Breaux	Gradison	Murphy, Pa.
Brinkley	Gramm	Myers, Ind.
Broomfield	Grassley	Nelson
Brown, Ohio	Grisham	O'Brien
Broyhill	Guyer	Pashayan
Buchanan	Hagedorn	Paul
Burgener	Hall, Tex.	Pickle
Butler	Hammer-schmidt	Quayle
Byron	Hance	Quillen
Campbell	Hanley	Rhodes
Carney	Hansen	Ritter
Carter	Hightower	Roberts
Chappell	Hillis	Robinson
Cheney	Hinson	Roth
Clausen	Holland	Rousselot
Cleveland	Holt	Royer
Clinger	Huckaby	Rudd
Coleman	Hyde	Runnels
Collins, Tex.	Ichord	Satterfield
Corcoran	Ireland	Sawyer
Cotter	Jeffries	Schulze
Coughlin	Jenkins	Sebelius
Courter	Jones, Okla.	Sensenbrenner
Crane, Daniel	Kazen	Shelby
Crane, Philip	Kelly	Shumway
Daniel, Dan	Kemp	Sisk
Daniel, R. W.	Kindness	Smith, Nebr.
Dannemeyer	Kogovsek	Snyder
Davis, Mich.	Kramer	Solomon
Davis, S.C.	Latta	Spence
de la Garza	Leath, Tex.	Stangeland
Deckard	Lee	Stanton
Derwinski	Lent	Stenholm
Devine	Levitas	Stockman
Dickinson	Lewis	Stratton
Dingell	Livingston	Stump
Dornan	Lloyd	Symms
Duncan, Oreg.	Loeffler	Taylor

Thomas	Watkins	Wilson, C. H.
Traxler	White	Wilson, Tex.
Tribie	Whitehurst	Wyatt
Vander Jagt	Whitley	Wydler
Volkmer	Whittaker	Wylie
Walker	Whitten	Young, Alaska
Wampler	Wilson, Bob	Young, Fla.

NOT VOTING—18

Anderson, Ill.	Flood	Patten
Chisholm	Garcia	Rodino
Collins, Ill.	Harsha	Rosenthal
Corman	Jones, N.C.	Shuster
Dixon	Leach, La.	Treen
Dougherty	Murphy, N.Y.	Winn

□ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Murphy of New York for, with Mr. Jones of North Carolina against.

Mr. Rodino for, with Mr. Dougherty against.

Mr. Garcia for, with Mr. Harsha against.

Mrs. Collins of Illinois for, with Mr. Shuster against.

Mrs. Chisholm for, which Mr. Winn against.

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair (Mr. NATCHER), Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 832) to extend the authorization for the Federal Election Commission, pursuant to House Resolution 414, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment adopted by the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CAMPBELL. In its present form, I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CAMPBELL, moves to recommit the bill, S. 832, to the Committee on House Administration with instructions to report the same back to the House forthwith with the following amendments:

Beginning with page 3, line 1:

1. Strike Section 3, relating to the aggregate limitation placed upon political committee contributions, of the text of S. 832 as amended:

On page 6, line 5:

2. In Section 5, relating to severability, of the text of S. 832 strike all that follows the word "thereby" and insert in lieu thereof a period.

Mr. CAMPBELL (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The SPEAKER. The gentleman from South Carolina (Mr. CAMPBELL) is recognized for 5 minutes.

Mr. CAMPBELL. Mr. Speaker, we have debated at great length all merits, demerits, shortfalls, and everything else of the Obey-Railsback bill. This House was denied the right in any manner to amend the proposals that were brought out of the Rules Committee. This motion to recommit accepts the reform and instructs the House Administration Committee to report back the bill with the cut in the PAC contributions, with the limitation on the advancement of credit, with all of the other aspects of the bill. It strikes only the aggregate ceiling. That is the only thing that it does, strikes the aggregate ceiling. It gives this House the opportunity to amend the proposal, to vote for a reform piece of legislation, but to eliminate one aspect of it that many of us cannot support.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have not had a chance to debate this bill as freely as we would like because, of course, no amendments have been allowed under the rule. There have been no hearings on the matter pending before us, and it seems to me that a tiny compromise is now in order. This bill will probably go forward. It looks like the votes are there for it, but it seems to me that the gentleman from South Carolina has suggested a very tiny compromise that I would hope the Members of this whole House could accept.

Most Members on my side of the aisle think that a challenger would be hopelessly stymied if that total contribution or total ability of a candidate to accept only $70,000 remains in the bill. So, I would hope that this body would allow the bill to go forward with some unanimity, and accept the gentleman's motion to recommit.

I thank the gentleman from South Carolina for having constructed what I think is the best chance of the House to salvage a reasonable bill with some personal dignity for the day's work.

□ 1730

Mr. CAMPBELL. I thank the gentleman for his observations. This is not an effort in any manner to kill this legistion. As a member of that committee there are those of us who have pledged to vote with the majority in reporting the legislation back out with this one change.

Mr. LEWIS. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from California.

Mr. LEWIS. I thank the gentleman for yielding.

Mr. Speaker, in responding to this proposal for a minor adjustment in the bill, a moment ago I was speaking with a freshman Member from the other side of the aisle, the gentleman from Maryland, whose opponent last time was a multimillionaire who could not care less about any $35,000 limitation. Literally this bill in its present form I think maybe would hurt the gentleman from Maryland. I would suggest that both sides of the aisle ought to look at what we are doing here and give serious consideration to this minor adjustment.

I thank the gentleman.

Mr. CAMPBELL. I yield back the remainder of my time.

Mr. THOMPSON. Mr. Speaker, this is not a minor, insignificant motion to recommit but rather a monumentally bad one, the effect of which would be to devastate all of our work. I cannot be told that the Members of this body are not intelligent enough to have understood the merits of this legislation and understand exactly what it means and how much it will help to restore confidence in this body. I hope that the motion to recommit is defeated.

Mr. BARNES. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Maryland.

Mr. BARNES. I thank the gentleman for yielding. There were just made references to the gentleman from Maryland. I am that gentleman from Maryland to whom the references were made. I intend to vote against the motion to recommit.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. CAMPBELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 189, nays 222, not voting 22, as follows:

[Roll No. 578]

YEAS—189

Abdnor	Barnard	Buchanan
Addabbo	Bauman	Burgener
Albosta	Beard, Tenn.	Butler
Andrews, N.C.	Bereuter	Byron
Andrews, N. Dak.	Bethune	Campbell
Anthony	Biaggi	Carney
Archer	Bouquard	Carter
Ashbrook	Bowen	Chappell
Atkinson	Breaux	Cheney
AuCoin	Brinkley	Clausen
Badham	Broomfield	Cleveland
Bafalis	Brown, Ohio	Clinger
	Broyhill	Coleman

Collins, Tex.	Holland	Pickle
Corcoran	Holt	Quayle
Cotter	Huckaby	Quillen
Courter	Hyde	Rhodes
Crane, Daniel	Ichord	Ritter
Crane, Philip	Ireland	Roberts
Daniel, Dan	Jeffords	Robinson
Daniel, R. W.	Jeffries	Roth
Dannemeyer	Jenkins	Rousselot
Davis, S.C.	Jenrette	Royer
de la Garza	Jones, Okla.	Rudd
Deckard	Kazen	Runnels
Derwinski	Kelly	Satterfield
Devine	Kemp	Sawyer
Dickinson	Kindness	Schulze
Dornan	Kramer	Sebelius
Duncan, Tenn.	Latta	Sensenbrenner
Edwards, Ala.	Leath, Tex.	Shelby
Edwards, Okla.	Lee	Shumway
Erdahl	Lent	Smith, Nebr.
Evans, Del.	Levitas	Snyder
Evans, Ga.	Lewis	Solomon
Evans, Ind.	Livingston	Spence
Findley	Lloyd	Stangeland
Flippo	Loeffler	Stanton
Foley	Long, La.	Stenholm
Forsythe	Lott	Stockman
Fountain	Lujan	Stratton
Frenzel	Luken	Stump
Frost	Lungren	Symms
Gibbons	McClory	Tauke
Gingrich	McCormack	Taylor
Ginn	McDade	Thomas
Goldwater	McDonald	Traxler
Gonzalez	McEwen	Tribie
Goodling	McKay	Vander Jagt
Gradison	Marks	Walker
Gramm	Marriott	Wampler
Grassley	Martin	Watkins
Green	Mathis	White
Grisham	Michel	Whitehurst
Guyer	Miller, Ohio	Whitley
Hagedorn	Montgomery	Whittaker
Hall, Tex.	Moore	Wilson, Bob
Hammer-schmidt	Moorhead, Calif.	Wilson, Tex.
Hance	Myers, Ind.	Wyatt
Hansen	Nelson	Wydler
Hightower	O'Brien	Wylie
Hillis	Pashayan	Young, Alaska
Hinson	Paul	Young, Fla.
		Zeferetti

NAYS—222

Akaka	Dingell	Howard
Alexander	Dodd	Hubbard
Ambro	Donnelly	Hughes
Anderson, Calif.	Downey	Hutto
Annunzio	Drinan	Jacobs
Applegate	Duncan, Oreg.	Johnson, Calif.
Ashley	Early	Johnson, Colo.
Aspin	Eckhardt	Jones, Tenn.
Bailey	Edgar	Kastenmeier
Baldus	Edwards, Calif.	Kildee
Barnes	Emery	Kogovsek
Beard, R.I.	English	Kostmayer
Bedell	Ertel	LaFalce
Bellenson	Fary	Lagomarsino
Benjamin	Fascell	Leach, Iowa
Bennett	Fazio	Lederer
Bevill	Fenwick	Lehman
Bingham	Ferraro	Leland
Blanchard	Fish	Long, Md.
Boggs	Fisher	Lowry
Boland	Fithian	Lundine
Bolling	Florio	McCloskey
Bonker	Ford, Mich.	McHugh
Bonior	Ford, Tenn.	Madigan
Bonker	Fowler	Maguire
Brademas	Fuqua	Markey
Brodhead	Gaydos	Marlenee
Brooks	Gephardt	Matsui
Brown, Calif.	Giaimo	Mattox
Burlison	Gilman	Mavroules
Burton, John	Glickman	Mazzoli
Burton, Phillip	Gore	Mica
Carr	Gray	Mikulski
Cavanaugh	Guarini	Miller, Calif.
Clay	Gudger	Mineta
Coelho	Hall, Ohio	Minish
Conable	Hamilton	Mitchell, Md.
Conte	Hanley	Mitchell, N.Y.
Conyers	Harkin	Moakley
D'Amours	Harris	Moffett
Danielson	Hawkins	Mollohan
Daschle	Heckler	Moorhead, Pa.
Davis, Mich.	Hefner	Mottl
Dellums	Hertel	Murphy, Ill.
Derrick	Hollenbeck	Murphy, Pa.
Dicks	Holtzman	Murtha
Diggs	Hopkins	Myers, Pa.
	Horton	Natcher

Neal	Rinaldo	Studds
Nedzi	Roe	Swift
Nichols	Rose	Synar
Nolan	Rostenkowski	Thompson
Nowak	Roybal	Udall
Oakar	Russo	Ullman
Oberstar	Sabo	Van Deerlin
Obey	Santini	Vanik
Ottinger	Scheuer	Vento
Panetta	Schroeder	Volkmer
Patterson	Selberling	Walgren
Pease	Shannon	Waxman
Pepper	Sharp	Weaver
Perkins	Simon	Weiss
Petri	Skelton	Whitten
Peyser	Smith, Iowa	Williams, Mont.
Preyer	Snowe	Williams, Ohio
Price	Solarz	Wirth
Pritchard	Spellman	Wolff
Pursell	St Germain	Wolpe
Rahall	Stack	Wright
Railsback	Staggers	Yates
Rangel	Stark	Yatron
Ratchford	Steed	Young, Mo.
Regula	Stewart	Zablocki
Reuss	Stokes	
Richmond		

NOT VOTING—22

Anderson, Ill.	Flood	Rodino
Chisholm	Garcia	Rosenthal
Collins, Ill.	Harsha	Shuster
Corman	Jones, N.C.	Treen
Coughlin	Leach, La.	Wilson, C. H.
Dixon	McKinney	Winn
Dougherty	Murphy, N.Y.	
Erlenborn	Patten	

□ 1740

Mr. ERDAHL changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the Senate bill.

The Senate bill was passed.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. THOMPSON

Mr. THOMPSON. Mr. Speaker, pursuant to House Resolution 414, I move to take from the Speaker's table the Senate bill (S. 832) to extend the authorization for the Federal Election Commission, insist on the House amendments, and request a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. THOMPSON, NEDZI, BRADEMAS, DAVIS of South Carolina, JOHN L. BURTON, FAZIO, OBEY, FRENZEL, BADHAM, GINGRICH, and CAMPBELL.

AUTHORIZING CLERK TO MAKE TECHNICAL AND TYPOGRAPHICAL CORRECTIONS IN S. 832

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Clerk be permitted to make technical, conforming, and typographical corrections in the title and text of Senate bill, S. 832.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the Senate bill, S. 832.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on October 12, 1979, the President approved and signed a bill and joint resolution of the House of the following titles:

H.R. 5419. An act to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes; and

H.J. Res. 412. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes.

FIFTEENTH ANNUAL REPORT ON STATUS OF NATIONAL WILDERNESS PRESERVATION SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on the Interior and Insular Affairs:

To the Congress of the United States:

I am transmitting herewith the Fifteenth Annual Report on the Status of the National Wilderness Preservation System. This information has been compiled by the Secretaries of Agriculture and the Interior for lands under their respective jurisdiction and covers calendar year 1978.

JIMMY CARTER.

THE WHITE HOUSE, *October 17, 1979.*

CONFERENCE REPORT ON S. 428, DEPARTMENT OF DEFENSE AUTHORIZATION, 1980

Mr. PRICE submitted the following conference report and statement on the Senate bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 96-521)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Department of Defense Authorization Act, 1980".

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1980 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,002,600,000; for the Navy and the Marine Corps, $4,534,-900,000; for the Air Force, $7,842,340,000.

MISSILES

For missiles: for the Army, $1,202,900,000; for the Navy, $1,575,100,000; for the Marine Corps, $20,500,000; for the Air Force, $2,253,800,000.

NAVAL VESSELS

For naval vessels: for the Navy, $6,706,-800,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,679,000,000; for the Marine Corps, $13,000,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $336,800,000.

OTHER WEAPONS

For other weapons: for the Army, $170,-500,000; for the Navy, $153,000,000; for the Marine Corps, $25,200,000.

REPORT ON B-52 AIRCRAFT MODIFICATION PROGRAM

SEC. 102. Of the amount authorized to be appropriated under section 101 for procurement of aircraft for the Air Force, $431,900,-000 is authorized for the procurement of avionics and cruise missile integration for the B-52 aircraft modification program subject to the condition that the Secretary of Defense provide to the Congress at the earliest possible date, and not later than November 30, 1979, a report on—

(1) all uncertainties in the effectiveness of the B-52 aircraft as a cruise missile carrier over the next decade, including any degradation of defense penetration capabilities of the B-52 aircraft which could result from possible air defense advances by the Soviet Union; and

(2) the requirement for maintaining the defense penetration capability of the B-52 aircraft and the options available during the next decade to maintain such capability.

AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTION TO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) FOR NATO

SEC. 103. There is authorized to be appropriated for fiscal year 1980 the sum of $243,-100,000 to be available only for contribution by the United States of its share of the cost for such fiscal year of the acquisition by the North Atlantic Treaty Organization of the Airborne Early Warning and Control System (AWACS).

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 104. (a) During fiscal year 1980, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defense on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;
(B) quality assurance;
(C) codification;
(D) inspection;
(E) contract administration;
(F) acceptance testing;
(G) certification services; and
(H) planning, programming, and management services;

(2) waive any surcharge for administrative services otherwise chargeable; and

(3) in connection with the NATO E-3A Cooperative Programme for fiscal year 1980, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

(b) Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1980 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,866,461,000, of which $3,000,000 is authorized only for the performance and completion of a feasibility demonstration of launching Heliborne Missiles (HELLFIRE) from UH-60 helicopters.

For the Navy (including the Marine Corps), $4,542,992,000, of which (1) $50,000,-000 is authorized only for the continued research, development, test, and evaluation of the 3,000-ton prototype Surface Effect Ship (SES), and (2) $30,000,000 is authorized only for joint Navy/Air Force full-scale engineering development of the Air-to-Ground Standoff Missile system which is to be available for production on or before December 31, 1984.

For the Air Force, $4,994,046,000, of which (1) $670,000,000 is authorized only for the concurrent full-scale engineering development of the missile basing mode known as the Multiple Protective Structures (MPS) system and the MX missile, as provided in section 202 of the Department of Defense Supplemental Appropriation Authorization Act, 1979 (Public Law 96-29), and (2) $30,-000,000 is authorized only for the research, development, test, and evaluation required for competitive hardware demonstration of the Strategic Weapons Launcher and a derivative of a military aircraft or a commercial aircraft, in order to establish not later than September 30, 1981, the utility of these aircraft as cruise missile carriers.

For the Defense Agencies, $1,110,618,000, of which $42,500,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

REPORT ON NEW BASING MODE FOR INTERCONTINENTAL BALLISTIC MISSILES

SEC. 202. The Secretary of Defense shall submit to the Congress in writing, not later than March 1, 1980, a report evaluating in detail the ability of the basing mode for land-based intercontinental ballistic missiles known as the Multiple Protective Structure (MPS) system to survive foreseeable attempts by the Soviet Union to neutralize such system.

RESTRICTION ON THE USE OF FUNDS FOR DEVELOPMENT OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM

SEC. 203. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

TITLE III—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 301. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1980, as follows:

(1) The Army, 776,700.
(2) The Navy, 528,000.
(3) The Marine Corps, 189,000.
(4) The Air Force, 558,000.

AUTHORIZED STRENGTHS OF RESERVE GENERAL AND FLAG OFFICERS

SEC. 302. (a) Section 3218 of title 10, United States Code, is amended by striking out "and those serving in the National Guard Bureau" and inserting in lieu thereof "those serving in the National Guard Bureau, and those counted under section 3202 of this title".

(b) Section 5457(a) of such title is amended by inserting after "rear admiral" a comma and "exclusive of those counted under section 5442 of this title,".

(c) Section 5458(a) of such title is amended by inserting after "combined" a comma and "exclusive of those counted under section 5443 of this title,".

(d) Section 8218 of such title is amended by striking out "and those serving in the National Guard Bureau" and inserting in lieu thereof "those serving in the National Guard Bureau, and those counted under section 8202 of this title".

ANNUAL OFFICER GRADE DISTRIBUTION REPORT AND PROMOTION PLAN TO BE INCLUDED AS PART OF THE ANNUAL MANPOWER REQUIREMENTS REPORT RATHER THAN AS A SEPARATE REPORT

SEC. 303. (a)(1) Section 686 of title 10, United States Code, providing for an annual officer grade distribution report, is repealed.

(2) The table of sections at the beginning of chapter 39 of such title is amended by striking out the item relating to section 686.

(b) Paragraph (3) of section 138(c) of such title, providing for an annual manpower requirements report, is amended to read as follows:

"(3)(A) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the annual active duty end strength level for each component of the armed forces for the next fiscal year and the annual civilian personnel end strength level for each component of the Department of Defense for the next fiscal year, and shall include in that report justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time. The justification and explanation shall specify in detail for all military forces (including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit) the—

"(i) unit mission and capability;

"(ii) strategy which the unit supports; and

"(iii) area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

"(B) The Secretary of Defense shall also include in the report required under subparagraph (A) a detailed discussion of—

"(i) the manpower required for support and overhead functions within the armed forces and the Department of Defense;

"(ii) the relationship of the manpower required for support and overhead functions to the primary combat missions and support policies; and

"(iii) the manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions.

"(C) In such report, the Secretary of Defense shall also identify, define, and group by mission and by region the types of military bases, installations, and facilities and shall provide an explanation and justification of the relationship between this base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce such costs.

"(D) The Secretary of Defense shall also include in such report with respect to each armed force under the jurisdiction of the Secretary of a military department—

"(i) the estimated requirements in members on active duty during the next fiscal year;

"(ii) the estimated number of commissioned officers in each grade on active duty and to be promoted during the next fiscal year; and

"(iii) an analysis of the distribution by grade of commissioned officers on active duty at the time the report is prepared.".

TITLE IV—RESERVE FORCES

AUTHORIZATION OF STRENGTHS

SEC. 401. (a) For fiscal year 1980, the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 355,700.
(2) The Army Reserve, 197,400.
(3) The Naval Reserve, 87,000.
(4) The Marine Corps Reserve, 33,600.
(5) The Air National Guard of the United States, 92,500.
(6) The Air Force Reserve, 57,300.
(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths prescribed by subsection (a), the reserve components of the Armed Forces are authorized, as of September 30, 1980, the following number of Reserves to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 6,244.
(2) The Army Reserve, 4,238.
(3) The Naval Reserve, 707.
(4) The Marine Corps Reserve, 67.
(5) The Air National Guard of the United States, 1,560.
(6) The Air Force Reserve, 681.

(c) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

AMENDMENTS TO SELECTED RESERVE EDUCATIONAL ASSISTANCE PROGRAM

SEC. 402. (a) Section 2131(b)(1) of title 10, United States Code, is amended by striking out "50 percent" and inserting in lieu thereof "100 percent".

(b) Section 2132(b) of such title is amended to read as follows:

"(b)(1) A member who fails to participate satisfactorily in training with his unit, if he is a member of a unit, during a term of enlistment for which the member entered into an agreement under section 2132(a)(4) of this title shall refund an amount computed under paragraph (2) unless the failure to participate in training was due to reasons beyond the control of the member. Any refund by a member under this section shall not affect the period of obligation of such member to serve as a Reserve.

"(2) The amount of any refund under paragraph (1) shall be the amount equal to the product of—

"(A) the number of months of obligated service remaining during that term of enlistment divided by the total number of months of obligated service of that term of enlistment; and

"(B) the total amount of educational assistance provided to the member under section 2131 of this title.".

(c) The amendments made by this section shall apply only to individuals enlisting in the Reserves after September 30, 1979.

DISCRETIONARY AUTHORITY OF SECRETARY CONCERNED TO RETAIN CERTAIN RESERVE OFFICERS ON ACTIVE DUTY UNTIL AGE 60

SEC. 403. (a) Section 3855 of title 10, United States Code, is amended by inserting "Veterinary Corps," after "Dental Corps,".

(b) Section 8855 of such title is amended by inserting "veterinary officer," after "dental officer,".

REPEAL OF AUTHORITY FOR ADDITIONAL PAY FOR PERFORMANCE OF ADMINISTRATIVE FUNCTIONS BY OFFICERS OF THE NATIONAL GUARD AND RESERVE COMPONENTS

SEC. 404. (a)(1) Section 309 of title 37, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking out the item relating to section 309.

(b) The amendments made by this section shall apply only with respect to administrative functions performed after September 30, 1980.

TITLE V—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 501. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1980, of 983,600.

(b) The strength for civilian personnel

prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program, and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

(e) During fiscal year 1980, the Secretary of Defense shall manage the manpower resources of the Department of Defense in a manner that will insure that those functions of the Department of Defense involving maintenance, construction, engineering acquisition, or repair activities will be provided civilian manpower resources sufficient to fulfill the work requirements for which funds have been appropriated on a schedule consistent with the requirements of national security and military readiness.

TITLE VI—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1980, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 54,865.
(2) The Navy, 61,913.
(3) The Marine Corps, 22,618.
(4) The Air Force, 49,249.
(5) The Army National Guard of the United States, 7,988.
(6) The Army Reserve, 4,772.
(7) The Naval Reserve, 906.
(8) The Marine Corps Reserve, 3,156.
(9) The Air National Guard of the United States, 1,968.
(10) The Air Force Reserve, 1,276.

(b) In addition to the number authorized for the Army, the Army National Guard of the United States, and the Army Reserve in subsection (a), such components are authorized military training student loads of not less than the following numbers to be utilized solely for one station unit training:

(1) The Army, 19,603.
(2) The Army National Guard of the United States, 6,631.
(3) The Army Reserve, 1,556.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) for fiscal year 1980 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

TITLE VII—CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There is authorized to be appropriated for fiscal year 1980 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251–2297) the sum of $106,800,000.

INCREASE IN AMOUNTS THAT MAY BE APPROPRIATED FOR CONTRIBUTIONS TO STATES FOR PERSONNEL AND ADMINISTRATIVE EXPENSES

SEC. 702. The last proviso of section 408 of the Civil Defense Act of 1950 (50 U.S.C. App. 2260) is amended by striking out everything after the last semicolon and inserting in lieu thereof "and appropriations for contributions to the States for personnel and administrative expenses under section 205 shall not exceed $40,000,000 per annum.".

TITLE VIII—GENERAL PROVISIONS

AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE

SEC. 801. (a) Section 802 of title 10, United States Code (article 2 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before "The" at the beginning of such section; and

(2) by adding at the end thereof the following new subsections:

"(b) The voluntary enlistment of any person who has the capacity to understand the significance of enlisting in the armed forces shall be valid for purposes of jurisdiction under subsection (a) of this section and a change of status from civilian to member of the armed forces shall be effective upon the taking of the oath of enlistment.

"(c) Notwithstanding any other provision of law, a person serving with an armed force who—

"(1) submitted voluntarily to military authority;

"(2) met the mental competency and minimum age qualifications of sections 504 and 505 of this title at the time of voluntary submission to military authority;

"(3) received military pay or allowances; and

"(4) performed military duties;

is subject to this chapter until such person's active service has been terminated in accordance with law or regulations promulgated by the Secretary concerned.".

(b) Section 836(a) of such title (article 36 (a) of the Uniform Code of Military Justice) is amended by striking out "The procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals," and inserting in lieu thereof "Pretrial, trial, and post-trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial, military commissions and other military tribunals, and procedures for courts of inquiry,".

WAIVER OF APPLICABILITY OF OMB CIRCULAR A-76 TO CONTRACTING OUT OF CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

SEC. 802. (a) Except as provided in subsection (b), neither the implementing instructions for, nor the provisions of, Office of Management and Budget Circular A-76 (issued on August 30, 1967, and reissued on October 18, 1976, June 13, 1977, and March 29, 1979) shall control or be used for policy guidance for the obligation or expenditure of any funds which under section 138(a)(2) of title 10, United States Code, are required to be specifically authorized by law.

(b) Funds which under section 138(a)(2) of title 10, United States Code, are required to be specifically authorized by law may be obligated or expended for operation or support of installations or equipment used for research and development (including maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft and ships) in compliance with the implementing instructions for and the provisions of such Office of Management and Budget Circular.

(c) No law enacted after the date of the enactment of this Act shall be held, considered, or construed as amending superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.

AMENDMENTS RELATING TO THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

SEC. 803. (a) Section 2112(b) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "In so prescribing the number of persons to be graduated from the University, the Secretary of Defense shall, upon recommendation of the Board of Regents, institute actions necessary to ensure the maximum number of first-year enrollments in the University consistent with the academic capacity of the University and the needs of the uniformed services for medical personnel.".

(b) Section 2114(b) of such title is amended by striking out "uniform" in the first sentence of such section and inserting in lieu thereof "uniformed".

(c)(1) The first two sentences of section 2115 of such title are amended to read as follows: "The Secretary of Defense may allow not more than 20 percent of the graduates of each class at the University to perform civilian Federal service for not less than seven years following the completion of their professional education in lieu of active duty in a uniformed service if the needs of the uniformed services do not require that such graduates perform active duty in a uniformed service and as long as the Secretary of Defense does not recall such persons to active duty in the uniformed services. Such persons who execute an agreement in writing to perform such civilian Federal service may be released from active duty following the completion of their professional education.".

(2) The section heading of such section is amended to read as follows:

"§ 2115. Graduates: limitation on number permitted to perform civilian Federal service".

(3) The item related to section 2115 in the table of sections at the beginning of chapter 104 of such title is amended to read as follows:

"2115. Graduates: limitation on number permitted to perform civilian Federal service.".

AMENDMENTS RELATING TO COMPENSATION OF HEALTH PROFESSIONALS

SEC. 804. (a) Section 2121(d) of title 10, United States Code, relating to stipends for

members of the Armed Forces Health Professions Scholarship program, is amended to read as follows:

"(d) Except when serving on active duty pursuant to subsection (c), a member of the program shall be entitled to a stipend at the rate in effect under paragraph (1)(B) of section 751(g) of the Public Health Service Act (42 U.S.C. 294t(g)) for students in the National Health Service Corps Scholarship program.".

(b) Section 313(a) of title 37, United States Code, relating to special pay for medical officers who execute active duty agreements, is amended—

(1) by striking out clause (4) and redesignating clauses (5) and (6) as clauses (4) and (5), respectively; and

(2) by inserting after the first sentence of such subsection the following new sentence: "However, while serving an active duty obligation resulting from a medical education program leading to appointment or designation as a medical officer, such an officer shall be paid $9,000 (rather than an amount determined under the preceding sentence) for each year of the active duty agreement.".

(c) The amendments made by this section shall take effect on October 1, 1979.

SIX-YEAR SERVICE OBLIGATION FOR PERSONS ENLISTING AFTER AGE 26

SEC. 805. (a) Section 511(d) of title 10, United States Code, is amended—

(1) by striking out "who is under 26 years of age,"; and

(2) by striking out the comma after "in an armed force".

(b) Section 651 of such title is amended by striking out "before his twenty-sixth birthday".

(c) The amendments made by this section shall apply only to individuals who become members of an Armed Force after the date of the enactment of this Act.

RESTRICTION ON CONVERTING PERFORMANCE OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS FROM DEPARTMENT OF DEFENSE PERSONNEL TO PRIVATE CONTRACTORS

SEC. 806. (a) During fiscal year 1980, no commercial or industrial type function of the Department of Defense that on the date of the enactment of this Act is being performed by Department of Defense personnel may be converted to performance by a private contractor—

(1) to circumvent any civilian personnel ceiling; and

(2) unless the Secretary of Defense shall provide to the Congress in a timely manner—

(A) notification of any decision to study such commercial or industrial type function for possible performance by a private contractor, together with a certification that the government in-house cost calculation for the function is based on an estimate of the most efficient and cost effective organization for in-house performance;

(B) if a decision is made to convert to contract performance, upon completing the study described in subparagraph (A) and before contracting for the performance of such function by a private contractor, a report showing—

(i) the potential economic effect on employees affected, and the potential economic effect on the local community and Federal Government if more than 50 employees are involved, of contracting for performance of such function; and

(ii) the effect of contracting for performance of such function on the military mission of such function; and

(iii) the amount of the bid accepted for the performance of such function by the private contractor whose bid is accepted and the cost of performance of such function by Department of Defense personnel, together with costs and expenditures which the Government will incur because of the contract.

(b) The Secretary of Defense shall submit a written report to the Congress by February 1, 1980, describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors during fiscal year 1979. The Secretary shall also include in such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense personnel and the percentage of such functions that will be performed by private contractors during fiscal year 1980.

ADVANCE PAYMENT OF STATION HOUSING ALLOWANCES FOR MEMBERS OF THE UNIFORMED SERVICES ASSIGNED OVERSEAS

SEC. 807. (a) Section 405 of title 37, United States Code, relating to allowances for members on duty outside the United States or in Alaska or Hawaii, is amended by inserting after the third sentence in such section the following new sentence: "A station housing allowance prescribed under this section may be paid in advance.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

ANNUAL REPORT ON NATO READINESS

SEC. 808. (a) Each year the Secretary of Defense shall assess, and make findings with respect to, the readiness status of the military forces of the North Atlantic Treaty Organization and shall submit a report of such assessment and findings to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives on the same date that the President transmits to the Congress the Budget. The first such report shall be submitted on the date the Budget for fiscal year 1981 is transmitted.

(b) The annual assessment by the Secretary of Defense under subsection (a) shall include the assessment and findings of the Secretary of Defense with respect to—

(1) deficiencies in the readiness of the North Atlantic Treaty Organization (including an analysis of such deficiencies in each member nation of the North Atlantic Treaty Organization) with respect to—

(A) war reserve stocks;
(B) command, control, and communications systems (including the susceptibility of such systems to degradation by potential overt activities of the Warsaw Pact);
(C) electronic warfare capabilities;
(D) offensive and defensive chemical warware capabilities;
(E) air defense capabilities (including ground and air systems and the integration of ground systems with air systems);
(F) armor and anti-armor capabilities;
(G) firepower capabilities;
(H) forward deployed units and the proximity of such units to assigned general defensive positions;
(I) the availability of ammunition;
(J) the availability, responsiveness, and overall effectiveness of reserve forces;
(K) airlift capabilities to meet reinforcement and resupply requirements;
(L) the ability to protect, cross-service, and stage air assets from allied air fields;
(M) the maritime force capabilities (including sealift, minelaying, and minesweeping capabilities);
(N) logistical support arrangements (including the availability of ports, air fields, transportation, and host nation support);
(Q) training (including the availability of the facilities and equipment needed to conduct realistic operational exercises); and
(P) the compatibility of operational doctrine and procedures among armed forces of the member nations;

(2) planned corrections in the identified readiness deficiencies of the United States with respect to the North Atlantic Treaty Organization and that portion of the Budget transmitted to the Congress by the President on the date such report is transmitted which is allocated for such corrections; and

(3) commitments made by other member nations of the North Atlantic Treaty Organization to correct readiness deficiencies of such nations (including any deficiencies of such nations in the items listed in paragraph (1)) and an identification of particular improvements to be made in readiness by weapons system, program, or activity.

QUARTERLY SELECTED ACQUISITION REPORTS TO CONGRESS

SEC. 809. Section 811(a) of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 89 Stat. 539) is amended to read as follows:

"(a) Beginning with the quarter ending December 31, 1979, the Secretary of Defense shall submit quarterly to the Congress written selected acquisition reports for those major defense systems which are estimated to require a total cumulative financing for research, development, test, and evaluation in excess of $75,000,000 or a cumulative production investment in excess of $300,000,000. The report for the quarter ending on December 31 of any fiscal year shall be submitted within 20 days after the President transmits the Budget to the Congress for the following fiscal year, and the reports for the other three quarters of any fiscal year shall be submitted within 30 days after the end of the quarter. If a preliminary report is submitted for any quarter, then the final report for such quarter shall be submitted to the Congress within 15 days after the submission of such preliminary report.".

AUTHORIZATION OF APPROPRIATIONS FOR ASSISTANCE FOR 1980 OLYMPIC WINTER GAMES

SEC. 810. There is authorized to be appropriated to the Secretary of Defense for fiscal year 1980 an amount not to exceed $10,000,000 for the purpose of providing assistance for the 1980 Olympic winter games, as authorized by section 816(a) of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 92 Stat. 1626). Except for funds used for pay and nontravel related allowances of members of the Armed Forces, no funds may be obligated or expended for the purpose of carrying out such section unless specifically appropriated for such purpose. The costs for pay and nontravel related allowances of members of the Armed Forces may not be charged to appropriations made pursuant to this authorization.

PRESIDENTIAL RECOMMENDATIONS FOR SELECTIVE SERVICE REFORM

SEC. 811. (a) The President shall prepare and transmit to the Congress a plan for a fair and equitable reform of the existing law providing for registration and induction of persons for training and service in the Armed Forces. Such plan shall include recommendations with respect to—

(1) the desirability and feasibility of resuming registration under the Military Selective Service Act as in existence on the date of the enactment of this Act;

(2) the desirability and feasibility of establishing a method of automatically registering persons under the Military Selective Service Act through a centralized, automated system using existing records, together with a discussion of the impact of such method, or of alternative methods of establishing such a registration system, on privacy rights under the Constitution and under statutes protecting such rights (including section 552a of title 5, United States Code, commonly referred to as the "Privacy Act") and any proposal for reform of such Privacy Act or other statutes, relevant court decisions relating to Selective Service procedures, and the impact of such alternative methods on other constitutional issues;

(3) the desirability of the enactment of authority for the President to induct persons registered under such Act for training and service in the Armed Forces during any period with respect to which the President determines that such authority is required in the interest of the national defense;

(4) whether women should be subject to registration under such Act and to induction for training and service in the Armed Forces under such Act;

(5) the desirability and feasibility of providing authority for the President to induct persons into the Individual Ready Reserve;

(6) whether persons registered under such Act should also be immediately classified and examined or whether classification and examination of registrants should be subject to the discretion of the President;

(7) such changes in the organization and operation of the Selective Service System as the President determines are necessary to enable the Selective Service System to meet the personnel requirements of the Armed Forces during a mobilization in a more efficient and expeditious manner than is presently possible;

(8) the desirability, in the interest of preserving discipline and morale in the Armed Forces, of establishing a national youth service program permitting volunteer work, for either public or private public service agencies, as an alternative to military service;

(9) such other changes in existing law relating to registration, classification, selection, and induction as the President considers appropriate; and

(10) other possible procedures that could be established to enable the Armed Forces to meet their personnel requirements.

(b) The President shall transmit with the plan required by subsection (a) proposals for such legislation as may be necessary to implement the plan and to revise and modernize the Military Selective Service Act.

(c) The plan required by subsection (a), together with the proposed legislation required by subsection (b), shall be transmitted to the Congress not later than January 15, 1980, or the end of the three-month period beginning on the date of the enactment of this Act, whichever is later.

PRESERVATION OF SELECTIVE SERVICE SYSTEM AS AN INDEPENDENT AGENCY

SEC. 812. Section 1 of the Military Selective Service Act (50 U.S.C. App. 451) is amended by adding at the end thereof the following new subsection:

"(f) The Congress further declares that the Selective Service System should remain administratively independent of any other agency, including the Department of Defense.".

STUDY OF TITAN II MISSILE SYSTEMS

SEC. 813. The Secretary of the Air Force shall conduct an investigation of Titan II missile systems located within the United States to assess the physical condition of those facilities and components thereof as well a relevant maintenance procedures. Not later than 180 days after the date of the enactment of this Act, the findings of that investigation, along with recommendations for any needed physical or procedural improvements to protect the public safety (including the safety of military personnel assigned to those systems) shall be reported to the Committees on Armed Services of the Senate and House of Representatives.

LIMITATION ON OVERSEAS TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS

SEC. 814. Section 406 of title 37, United States Code, relating to travel and transportation allowances for dependents, is amended—

(1) by striking out "A" at the beginning of subsection (a) of such section and inserting in lieu thereof "Except as provided in subsection (1) of this section, a";

(2) by striking out "In" at the beginning of subsection (h) of such section and inserting in lieu thereof "Except as provided in subsection (1) of this section, in"; and

(3) by adding at the end of such section the following new subsection:

"(1)(1) After September 30, 1980, and except as provided in paragraph (3) of this subsection, the allowance and transportation authorized by subsection (a) and subsection (h) of this section for travel and transportation of dependents may not be provided with respect to travel and transportation of any dependent of a member of the Army, Navy, Air Force, or Marine Corps from any place inside the United States to any place outside the United States, or from any place outside the United States to any place inside the United States, during any period in which the number of dependents accompanying members of the Army, Navy, Air Force, and Marine Corps who are stationed outside the United States and who are authorized by the Secretary concerned to receive such allowance or transportation for dependents exceeds 325,000.

"(2)(A) The Secretary of Defense shall allocate among the three military departments the limitation established by paragraph (1) with respect to the total number of dependents who may be accompanying members of the Army, Navy, Air Force, and Marine Corps stationed overseas who are entitled under subsection (a) or (h) to travel and transportation for dependents before the allowance for such travel and transportation is suspended under such paragraph.

"(B) The Secretary of each military department, in his discretion, shall administer the limitation on the number of dependents who may be provided travel and transportation under subsections (a) and (h) allocated to his military department under subparagraph (A) in such manner as the Secretary considers to be fair and in the best interest of the United States.

"(3) Paragraph (1) does not prohibit the provision of travel and transportation under subsection (a) or subsection (h) of this section for travel and transportation of dependents from a place outside the United States to a place inside the United States if the travel and transportation of such dependents to such place outside the United States was authorized under subsection (a) or subsection (h) of this section at the time of the travel and transportation of such dependents to such place outside the United States.".

PURCHASES OF GASOHOL AS A FUEL FOR MOTOR VEHICLES

SEC. 815. To the maximum extent feasible and consistent with overall defense needs and sound vehicle management practices, as determined by the Secretary of Defense, the Department of Defense is authorized and directed to enter into contracts by competitive bid, subject to appropriations, for the purchase of domestically produced alcohol or alcohol-gasoline blends containing at least 10 percent domestically produced alcohol for use in motor vehicles owned or operated by the Department of Defense.

EXTENSION OF PERIOD FOR CERTAIN RESERVISTS TO ELECT COVERAGE UNDER SURVIVOR BENEFIT PLAN

SEC. 816. Section 208 of the Uniformed Services Survivors' Benefits Amendments of 1978 (Public Law 95-397; 10 U.S.C. 1447 note) is amended—

(1) by striking out "the end of the nine-month period beginning on the effective date of this title" and inserting in lieu thereof "January 1, 1980"; and

(2) by striking out "at the end of the one-year period beginning on the effective date of this title" and inserting in lieu thereof "on March 31, 1980".

EXTENSION OF PERIOD FOR REDUCTION IN NUMBER OF SENIOR-GRADE CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE

SEC. 817. Paragraphs (1) and (2) of section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (10 U.S.C. 131 note), are amended to read as follows:

"(1) After October 1, 1980, the total number of commissioned officers on active duty in the Army, Air Force, and Marine Corps above the grade of colonel, and on active duty in the Navy above the grade of captain, may not exceed 1,073.

"(2) After September 30, 1981, the total number of civilian employees of the Department of Defense in grades GS-13 through GS-18 (including positions authorized under section 1581 of title 10, United States Code) may not exceed the number equal to the number of such employees employed by the Department of Defense on July 30, 1977, reduced by the same percentage as the percentage by which the total number of commissioned officers on active duty in the Army, Air Force, and Marine Corps above the grade of colonel, and on active duty in the Navy above the grade of captain, is reduced below 1,141 during the period beginning on October 1, 1977, and ending on September 30, 1980.".

SENSE OF CONGRESS CONCERNING IMPORTATION OF STRATEGIC AND CRITICAL MATERIALS

SEC. 818. It is the sense of the Congress that the United States should have unlimited access to strategic and critical materials which are vital to the defense and security of the United States and that every effort should be made to remove artificial impediments against the importation of such materials into the United States.

REPORTING REQUIREMENT REGARDING SALARIES OF OFFICERS OF FEDERAL CONTRACT RESEARCH CENTERS

SEC. 819. (a)(1) Chapter 139 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2359. Salaries of officers of Federal contract research centers: Reports to Congress

"The Secretary of Defense shall notify the Congress not later than January 31 of each year of any officer or employee of a Federal contract research center the amount of whose compensation paid out of Federal funds during the preceding calendar year exceeded the annual rate of basic pay authorized (without regard to any limitation on the payment of such pay) for level II of the Executive Schedule under section 5313 of title 5 on the last day of such year. Such notification shall include a detailed statement of the reasons for the payment of such amount of compensation to each such officer or employee.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2359. Salaries of officers of Federal contract research centers: Reports to Congress.".

(b) The first notification under section 2359 of title 10, United States Code, as added by subsection (a), shall be made not later than January 31, 1980.

(c) Section 407 of Public Law 91-121 (83 Stat. 206; 10 U.S.C. 2358 note) is repealed.

TECHNICAL AMENDMENTS TO TITLES 5 AND 10, UNITED STATES CODE, TO REFLECT CHANGES MADE BY THE DEPARTMENT OF DEFENSE REORGANIZATION ORDER OF MARCH 7, 1978

SEC. 820. (a) Section 136(a) of title 10, United States Code, relating to the Assistant Secretaries of Defense, is amended by striking out "nine" and inserting in lieu thereof "seven".

(b) Section 3013 of such title, relating to the Under Secretary and Assistant Secretaries of the Army, is amended by striking out "five" and inserting in lieu thereof "four".

(c) Section 5034(a) of such title, relating to the Assistant Secretaries of the Navy, is amended by striking out "four" and inserting in lieu thereof "three".

(d) Section 8013 of such title, relating to the Under Secretary and Assistant Secretaries of the Air Force, is amended by striking out "four" and inserting in lieu thereof "three".

(e)(1) Paragraphs (13), (14), (15), and (16) of section 5315 of title 5, United States Code, relating to positions at level IV of the Executive Schedule, are amended to read as follows:

"(13) Assistant Secretaries of Defense (7).

"(14) Assistant Secretaries of the Air Force (3).

"(15) Assistant Secretaries of the Army (4).

"(16) Assistant Secretaries of the Navy (3).".

(2) Paragraph (96) of section 5316 of such title, relating to positions at level V of the Executive Schedule, is amended to read as follows:

"(96) Deputy Under Secretaries of Defense for Research and Engineering, Department of Defense (4).".

CORRECTION OF ERRONEOUS SECTION DESIGNATION

SEC. 821. (a) The last section in chapter 49 of title 10, United States Code, relating to military unions (as added by Public Law 95-610; 92 Stat. 3085), is redesignated as section 976.

(b) The item relating to such section in the table of sections at the beginning of such chapter is amended by striking out "975" and inserting in lieu thereof "976".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL S. STRATTON,
RICHARD H. ICHORD,
LUCIAN N. NEDZI,
CHAS. H. WILSON,
RICHARD C. WHITE,
BILL NICHOLS,
BOB WILSON,
WM. L. DICKINSON,
BILL WHITEHURST,
FLOYD SPENCE,
ROBIN BEARD,

When differences regarding intelligence-related activities are under consideration only:

BILL D. BURLISON,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
EDWARD P. BOLAND,
J. K. ROBINSON,
BILL WHITEHURST,

Managers on the Part of the House.

JOHN C. STENNIS,
HENRY M. JACKSON,
HARRY F. BYRD, JR.,
SAM NUNN,
JOHN CULVER,
GARY HART,
JOHN TOWER,
STROM THURMOND,
JOHN W. WARNER,
GORDON HUMPHREY,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—PROCUREMENT

AIRCRAFT

ARMY

C-12 (Huron)

The budget, as submitted, contained no request for C-12A aircraft. The House added $22.5 million for 20 C-12A aircraft. The Senate bill contained no authorization for C-12A's.

Conferees reached an agreement to authorize $13.7 million for 10 C-12A aircraft.

AH-1S (Cobra-Tow) helicopter

This aircraft was not requested in the fiscal year 1980 budget. However, the House amendment contained $66.3 million for procurement and $1.7 million for spare parts for 34 helicopters for the National Guard.

The Senate bill did not authorize any AH-1S's.

The conferees agreed to authorize 15 AH-1S helicopters in the amount of $29.5 million plus $500,000 for spares.

Modification of aircraft (Guardrail V)

In the fiscal year 1980 Defense Department request of $2.4 million for modifying the RU-21 aircraft there were no funds for the new Guardrail V system. The House amendment contained $14.9 million for this modification, including $12.5 million for Guardrail V. The Senate bill contained $2.4 million for the RU-21 modification.

The Senate recedes.

NAVY

A-6E (Intruder)

The budget submission included a request for $56.7 million to procure airframe, avionics and engine peculiar ground support and $12.4 million for spares for the A-6E aircraft. No aircraft procurement was requested. The Senate bill added $88.9 million to the $56.7 million request, for a total of $145.6 million, to procure six aircraft in fiscal year 1980. The House amendment authorized the amount requested. The conferees agreed to an authorization of $145.6 million to procure six aircraft in fiscal year 1980.

The House recedes.

F-14A (Tomcat)

The budget request was for $464.7 million for 24 aircraft plus $115.7 million for advance procurement for 24 aircraft in fiscal year 1981. In addition, $58.0 million was requested for spares and repair parts for 24 aircraft.

The Senate bill approved authorizations in the amounts requested. The House amendment provided authorization of $640.2 million to procure 36 aircraft in fiscal year 1980, $157.2 million to provide long-lead items for the procurement of 36 aircraft in fiscal year 1981, and $76.1 million for spares and repair parts.

The conferees agreed to authorization of $569.5 million to procure 30 aircraft in fiscal year 1980, $126.5 million for long-lead procurement for 30 aircraft in fiscal year 1981, and $67.0 million for spares and repair parts for 30 aircraft.

F/A-18 (Hornet)

The Senate bill provided for authorization of $926.1 million to procure 26 aircraft (plus spares for 10 aircraft above the request) in fiscal year 1980 and $91.5 million for advance procurement for 48 aircraft in fiscal year 1981. The House amendment provided for authorizations of $955.4 million for 30 aircraft in fiscal year 1980 and $147.9 million for the advance procurement for 72 aircraft in fiscal year 1981. The Senate bill authorized $60.7 million for spares and repair parts while the House amendment provided for $109.3 million.

The conferees agreed to authorization of $890.0 million to procure 25 aircraft in fiscal year 1980 and $130.1 million which will provide for the procurement of long-lead items for 72 aircraft in fiscal year 1981. The conferees also agreed to an authorization of $96.8 million for spares and repair parts.

The conferees further agreed to the following statement concerning the use of advance procurement funds for the F/A-18 which could not be included as bill language under the rules of the House.

Authorization for advance procurement of items and services for F/A-18 aircraft

Of the amount authorized to be appropriated under section 101 for the procurement of aircraft for the Navy and Marine Corps, $130,100,000 shall be available only for the advance procurement of long-lead items for 72 F/A-18 aircraft during fiscal year 1981, and the Secretary of Defense shall contract for items and services required for such advance procurement on a termination liability basis.

This method of contracting and budgeting reduces the funding needed prior to the procurement authorization of full funding of the aircraft, and more accurately represents the manufacturing effort actually incurred during the advance procurement period.

The House recedes.

P-3C (Orion)

The budget request was for $259.6 million to procure 12 aircraft in fiscal year 1980 plus $58.3 million for advance procurement items for 12 aircraft in fiscal year 1981. The Senate bill approved the amount requested for procurement in fiscal year 1980 and reduced the amount requested for advance procurement by $16 million; providing an authorization of $42.3 million. The House amendment authorized the amounts requested.

The conferees agreed to a net reduction in P-3C procurement of $12.3 million of which $4.0 million is apportioned to the procurement of fiscal year 1980 aircraft and $8.3 million is apportioned to advance procurement for fiscal year 1981. Authorizations of $255.6 million and $50.0 million, respectively, are approved.

C-9B (Skytrain)

No authorization was requested for C-9B procurement in fiscal year 1980. The Senate bill contained no authorization. The House amendment provided authorization of $73.8 million to procure five aircraft and $7.4 million for spares and repair parts.

The conferees agreed to authorize $29.5 million for two aircraft and $1.5 million for spares and repair parts.

Modification of aircraft (Navy)

The budget request included $781.4 million for the modification of Navy aircraft. The Senate bill provided an authorization of $781.1 million, a reduction of $300,000 relating to modifications of the C-9B aircraft. The House amendment provided for a general reduction of $100.0 million and an authorization of $681.4 million.

The conferees agreed to authorize $726.1 million for Navy aircraft modifications.

AIR FORCE

A-7K (Corsair)

There were no A-7K aircraft requested in the fiscal year 1980 Air Force budget; however, the House amendment contained an addition of $135.5 million in authorization for the procurement of 12 A-7K two-place trainer aircraft for the Air National Guard. This amount included $123.35 million for procurement, $3.65 million in advance procurement and $8.5 million in spares. The Senate bill contained $149.2 million for the same 12 A-7K aircraft.

Conferees agreed to authorize $123.35 million for 12 A-7K's and $8.5 million for spares. The $3.65 million in advance procurement contained in the House bill was deleted.

E-3A (airborne warning and control system (AWACS))

Although the Senate authorized three E-3A Airborne Warning and Control System (AWACS) aircraft requested for fiscal year 1980, it deleted $68 million requested for advance procurement for three AWACS planned in fiscal year 1981. The House amendment contained the $68 million requested in advance procurement as well as authorization of the three E-3A's requested.

During conference, the Senate conferees pointed out that the AWACS program had been restructured and the Air Force planned to buy only two E-3A's in fiscal year 1981, two in fiscal year 1982 and two in fiscal year 1983 instead of three aircraft in fiscal year 1981, and three in fiscal year 1982. Therefore, only $55 million would be needed for advance procurement authorization for fiscal year 1981 and the conferees agreed to that amount.

C-130H (Hercules)

The Air Force budget submission did not contain a request for C-130H aircraft. The House added $77.22 million for procurement of eight aircraft and $2.47 million for spares for a total authorization of $79.69 million. The Senate bill contained a total of $79.0 million for eight C-130H aircraft.

The conferees agreed to $79.69 million in authorization, as provided in the House amendment, for eight C-130H aircraft and spares.

The Senate recedes.

Modification of aircraft

The budget request contained $1,575.1 million for the modification of Air Force aircraft. The Senate bill provided an authorization of $1,590.1 million, with the addition of $15 million for reengining the KC-135 tanker aircraft. The House amendment provided an authorization of $1,495.1 million, a net reduction of $80.0 million after the addition of $87.0 million for EF-111 electronic countermeasures modification and $15.0 million for reengining KC-135 aircraft and the imposition of a general reduction of $182.0 million.

The conferees agreed to authorization of $1,637.9 million for Air Force aircraft modifications including the addition of $15.0 million for KC-135 reengining and $47.8 million for EF-111 electronic countermeasures modifications.

General reduction

The House amendment reduced the authorization for the Air Force aircraft modification account by $182 million as a general reduction. The Senate bill made no similar reduction.

The conferees agreed to a general reduction in the aircraft procurement account of $100 million to be distributed at the discretion of the Air Force with the exception that no reduction is to be taken against the KC-135 reengining modification account.

MISSILES

ARMY

Hawk

The House amendment authorized $71.9 million for procurement of 397 Hawk missiles and replacement rocket motors. The Senate bill authorized $36.5 million for procurement of 197 missiles.

The House recedes.

Roland

The House amendment authorized no funds for procurement of the Roland missile system. The Senate bill authorized $283.3 million for procurement of 18 fire units and 410 missiles.

The House recedes.

Patriot

The House amendment authorized $396 million for procurement of 5 fire units and 155 missiles. The Senate bill authorized $426 million.

The Senate recedes.

Stinger

The House amendment authorized $106 million for procurement of 3,200 missiles. The Senate bill authorized $81 million for procurement of 2,400 missiles.

The House recedes.

TOW

The House amendment authorized $28.7 million for procurement of 6,260 missiles. The Senate bill authorized $13 million for procurement of 2,060 missiles.

The Senate recedes.

Pershing IA

The House amendment authorized no funds for procurement of Pershing IA missiles. The Senate bill authorized $70.6 million.

The Senate recedes.

Chaparral modifications

The House amendment authorized $28.1 million for Chaparral modifications, including $12 million to expedite the fielding of the Forward Looking Infrared (FLIR) modifications. The Senate bill authorized $16.1 million.

The Senate recedes.

Hawk modifications

The House amendment authorized $103.3 million for Hawk modifications. The Senate bill authorized $44.1 million.

The conferees agreed to authorize $84.9 million for Hawk modifications, including $26.7 million to complete procurement of the tracker adjunct system; $4 million for procurement of passive decoy sets; and $10 million for Hawk mobility improvements.

Spares and repair parts

The House amendment authorized $128.9 million for missile spares and repair parts. The Senate bill authorized $117.5 million.

The House recedes.

Defense acquisition radar

The House amendment authorized $29.7 million for procurement of 9 Defense Acquisition Radars. The Senate bill contained no authorization for this radar.

The Senate recedes.

Other financing

The House amendment reduced the fiscal year 1980 missile request by $65 million based upon the assumption that termination of the Roland program would make this amount in the fiscal year 1979 Roland appropriation available for financing the 1980 Army missile program.

The Senate bill contained no such financing adjustment, since the Senate bill continued the authorization for the Roland.

The conferees agreed to continue the procurement of the Roland system, and therefore, the House recedes.

NAVY

BGM-109 Tomahawk

The Department of Defense requested no authorization for procurement of either the land-attack or anti-ship versions of the Tomahawk missile. An authorization of $3.3 million was requested for long-lead items for 24 anti-ship missiles to be procured in fiscal year 1981.

The Senate bill authorized $19.4 million for the procurement of six land-attack missiles in fiscal year 1980 and approved the $3.3 million requested for long-lead items.

The House amendment provided $19.3 million for the procurement of six anti-ship missiles and $19.4 million for six land-attack missiles in fiscal year 1980. The House amendment also included authorizations of $3.3 million for long-lead items for 24 anti-ship and $7.4 million for 24 land-attack missiles to be procured in fiscal year 1981. In addition, $11.2 million was authorized for Tomahawk missile support.

The conferees agreed to an authorization of $19.4 million for the procurement of three anti-ship and three land-attack missiles in fiscal year 1980 and an authorization of $10.7 million for long-lead items for 24 missiles of each version in fiscal year 1981. The conferees urge the Department of Defense to preserve an initial operating capability for the land-attack and anti-ship Tomahawk in 1982.

The House recedes.

AIM-7F/M (Sparrow), AIM-9L/M (Sidewinder), AIM-54A/C (Phoenix)

The budget request contained $64.3 million to procure 240 AIM-7F and AIM-7M Sparrow missiles. The Senate bill provided an authorization of $48.9 million to procure 120 AIM-7M missiles. The House amendment approved the amount and numbers of missiles requested. The conferees agreed to an authorization of $64.3 million for the Sparrow missile procurement program as requested.

The budget request contained $21.3 million to procure 320 AIM-9L and AIM-9M Sidewinder missiles. The Senate bill provided an authorization of $16.3 million for 160 AIM-9M missiles. The House amendment approved the amount and numbers of missiles requested. The conferees agreed to an authorization of $21.3 million for the Sidewinder missile procurement program as requested.

The budget request contained $101.4 million to procure 180 AIM-54A and AIM-54C missiles. The Senate bill provided an authorization of $89.3 million for 60 AIM-54C missiles. The House amendment approved the amount and numbers of missiles requested. The conferees agreed to an authorization of $101.4 million for the Phoenix missile procurement program as requested.

The Senate recedes.

AIR FORCE

Ground launched cruise missile (GLCM)

The budget request contained $25.0 million for the Ground Launched Cruise Missile (GLCM) procurement program. The Senate bill approved the amount requested for procurement. The House amendment approved $8.2 million for GLCM procurement and transferred $16.8 million to the Air Force research, development, test and evaluation account. The conferees agreed to adopt the House position.

The Senate recedes.

AIM-7F/M (Sparrow)

The budget request contained $144.2 million for 1,320 AIM-7F and improved AIM-7M Sparrow missiles. The Senate bill authorized $84.5 million for 660 AIM-7M missiles. The House amendment authorized the amount and numbers of missiles requested. The conferees agreed to an authorization of $124.2

million of the AIM-7F/M Sparrow missile procurement program.

AIM-9 L/M (Sidewinder)

The budget request contained $86.8 million for 2,050 AIM-9L and improved AIM-9M Sidewinder missiles. The Senate bill authorized $71.8 million for 1,025 AIM-9M missiles. The House amendment authorized the amount and numbers of missiles requested. The conferees agreed to an authorization of $86.8 million for the Sidewinder missiles procurement program as requested.

The Senate recedes.

Other missile support

The budget request contained $599.6 million for other missile support. The Senate bill authorized $611.6 million for these programs. The House amendment authorized $596.6 million. The conferees agreed to an authorization of $611.6 million.

The House recedes.

NAVAL VESSELS

The House amendment authorized a shipbuilding program totaling $6,790.4 million. The Senate approved a shipbuilding program totaling $5,791.6 million.

The conferees agreed on a compromise shipbuilding program totaling $6,706.8 million as follows:

Authorization (number)	*Millions*
SSN-688 class attack submarine (2)	$809.6
CVN repeat *Nimitz* class nuclear powered carrier (1)	2,094.0
TAGOS ocean surveillance ships (3)	104.0
Outfitting	82.7
Escalation on prior year programs	97.7
LSD-41 long lead funding	41.0
LPH conversion (1)	49.5
Financing adjustment, DDG-2 conversion	−55.0
Financing adjustment, SSN nuclear submarine	−21.2
Programs not in dispute	3,504.5
Total, Naval vessels, Navy	6,706.8

The conference agreement relating to major areas of difference is further discussed below.

SSN-688 nuclear attack submarine

The House amendment authorized $831.5 million for two SSN-688 nuclear attack submarines.

The Senate bill authorized $429.6 million for one SSN-688 nuclear attack submarine. The Senate bill also contained authorization for long lead funding for another SSN-688 submarine.

The conference agreement provides $809.6 million for two SSN-688 attack submarines and advanced procurement for future submarines.

CVN Nimitz nuclear-powered aircraft carrier

A major difference in conference was the propulsion system for a new aircraft carrier. The Senate bill authorized $1,760 million for a *Kennedy* class conventionally powered carrier.

The House amendment contained $2,094 million for a *Nimitz* class nuclear-powered aircraft carrier.

The conferees agreed on the nuclear-powered ship.

LSD-41 landing ship dock

Advance procurement for the Landing Ship Dock (LSD-41) was a conference item due to a difference of $500,000 between the amounts authorized by the House and Senate. The Senate receded to the House figure, authorizing $41 million in fiscal year 1980 for procurement of long lead items associated with procurement of the lead ship of this class. The decision of the managers to adopt the lower figure is a financial adjustment and implies no lessening of congressional support for this program. The conferees strongly endorse the report language adopted by both the Senate Armed Services Committee (S. Rept. 96-197) and the House Armed Services Committee (H. Rept. 96-166) which called for construction of the first LSD-41 in fiscal year 1981, leading to an expeditious replacement of the LSD-36 class ships now approaching block obsolescence.

LPH conversion

The Senate bill authorized $49.5 million for conversion of one LPH amphibious assault ship to a light carrier.

The House amendment provided no authorization for this purpose.

The conferees note Navy testimony that antisubmarine warfare and mine countermeasure platforms are inadequate. The conferees agreed that priority should be given to addressing these serious shortages and that the Navy must move more rapidly toward providing air-capable platforms.

Conversion of one LPH assault ship to a light carrier is authorized at the cost of $49.5 million. A light carrier will add to the Navy's at-sea air capability and complement existing fleet carriers. It can be converted to undertake a variety of missions such as antisubmarine warfare, mine countermeasures operations and amphibious assault.

Before any actual conversion is undertaken, the Secretary of the Navy shall report to the Committees on Armed Services of the House and Senate on the cost and details of the conversion, and the advantages and disadvantages of the proposed conversion, in sufficient detail to allow the committees to review and further evaluate the conversion. The conversion shall not be undertaken until the expiration of a period of thirty days of continuous session of Congress following the submission of the Secretary's report.

TAGOS ocean surveillance ships

The House amendment provided $104 million for three TAGOS ocean surveillance ships.

The Senate bill authorized no funds for these ships.

The Senate recedes.

Financing adjustment

Section 106 of the House amendment authorized financing adjustment of $55 million for an additional SSN-688 nuclear attack submarine from unobligated funds previously appropriated for the DDG-2 destroyer modernization program.

The Senate bill authorized financing adjustments of $76.2 million.

The House recedes.

TRACKED COMBAT VEHICLES, ARMY

Fighting vehicle systems

The House amendment authorized $225.4 million for procurement of 208 fighting vehicles and $2 million for a cost reduction study. The Senate bill authorized $225.4 million for the fighting vehicle systems and directed a cost reduction study but authorized no funds for such a study.

The conferees agreed to authorize $226.4 million for fighting vehicle systems, including $1 million for a cost reduction study.

The cost reduction study should be conducted cooperatively by the Army and the Office of the Secretary of Defense to explore all promising manufacturing options (to include competitive procurement), rates of production and manufacturing techniques.

The House and Senate Armed Services Committee reports directed the results of this study be submitted to the Armed Services Committees by December 31, 1979. However, since additional time may be required to insure a quality study effort, the Army should submit the study to the Armed Services Committees of the House and Senate by April 1, 1980.

Combat engineer vehicle

The House amendment authorized $51.5 million for procurement of 56 combat engineer vehicles (CEV's). The Senate bill authorized no CEV's.

The Senate recedes.

M60A3 tank production

The House amendment authorized $216.8 million for procurement of 251 M60A3 tanks.

The Senate bill authorized no new M60A3 tank production.

The conferees agreed to authorize $55 million for procurement of 64 new M60A3 tanks.

XM-1 tank

The House amendment authorized $576.9 million for procurement of 352 XM-1 tanks. The Senate bill authorized $562.7 million for procurement of the same number of tanks.

The Senate recedes.

M60 modifications

The House amendment authorized $117.4 million for M60 tank modifications. The Senate bill authorized $177.4 million, including $60 million for conversion of an additional 251 tanks from the M60A1 to the M60A3 configuration.

The conferees agreed to authorize $162 million for M60 tank modifications including $44.6 million for conversion of an additional 187 M60A1 tanks to the M60A3 configuration.

Spares and repair parts

The House amendment authorized $140.4 million for tracked combat vehicle spares and repair parts. The Senate bill authorized $106.2 million.

The Senate recedes.

Depot maintenance facilities

The House amendment authorized $20.1 million for depot maintenance facilities. The Senate bill authorized $6.6 million.

The Senate recedes.

TORPEDOES, NAVY

Torpedo MK-48

The Senate bill authorized $121.7 million for 144 MK-48 torpedoes.

The House amendment provided $46.6 million only for continuing testing and engineering support of previously approved MK-48 torpedo programs.

The House recedes.

Torpedo MK-48 modifications

The Senate bill authorized $5.9 million for MK-48 torpedo modifications.

The House amendment provided for $10.8 million for MK-48 torpedo modifications.

The House recedes.

OTHER WEAPONS

ARMY

M198 howitzer

The House amendment authorized $54.7 million for procurement of 208 M198 howitzers. The Senate bill authorized $28.8 million for procurement of 107 M198 howitzers.

The House recedes.

NAVY

MK-15 close-in weapon systems (CIWS)

The Senate bill authorized $109.4 million for 61 CIWS gun units.

The House amendment provided for $114.4 million for 61 CIWS units.

The House recedes.

MARINE CORPS

M198 howitzer

The House amendment authorized $15 million for procurement of 55 M198 howitzers. The Senate bill authorized $21.5 million for procurement of 80 M198 howitzers.

The House recedes.

Report on B-52 modification program (sec. 102)

Section 103 of the House amendment to the Senate bill directed that the Secretary of

Defense provide to the Congress at the earliest possible date a report on all uncertainties in the effectiveness of the B-52 aircraft as a cruise missile carrier including the requirement for maintaining the defense penetration capability of the B-52 and the options available during the next decade to maintain such capability.

The report was required to be submitted no later than September 30, 1979.

The conferees agreed that a study and report on the effectiveness of the B-52 as a cruise missile carrier and as a penetrating bomber over the next decade would be helpful in arriving at decisions regarding strategic aircraft during the next several years. The conferees agreed to extend the reporting date to no later than November 30, 1979.

The Senate recedes with an amendment.

E-3A NATO airborne early warning and control system (AWACS) (sec. 103)

The budget request contained $250.2 million in the Air Force aircraft procurement account for the NATO Airborne Early Warning and Control System (AWACS) program. The Senate bill authorized $243.1 million for the NATO AWACS within the Air Force aircraft procurement account and prohibited the reprogramming of funds appropriated for that purpose. The Senate also denied $7.1 million of the amount requested, since this amount was proposed to pay the costs of administrative expenses not properly included in a defense procurement act.

The House amendment authorized the amount requested in a separate section and contained no provision regarding reprogramming of funds.

The conferees agreed to authorize $243.1 million for the NATO AWACS program in a separate section which provides that the funds authorized to be appropriated shall be available only for the United States' contribution of its share of the cost of this program for fiscal year 1980.

Authority provided Secretary of Defense in connection with the NATO airborne warning and control system (AWACS) program (sec. 104)

With the fiscal year 1980 budget submission, the President requested special legislation authorizing the Secretary of Defense to take necessary actions to implement an international agreement signed in December 1978 for the procurement of the NATO AWACS. The Senate bill and the House amendment differed in the following respects as to the legislation approved for this purpose.

The Senate bill authorized the Secretary of Defense to assume contingent liability for losses resulting from the gross negligence of U.S. contracting officers. The House amendment provided that the authority granted the Secretary in this section be limited to the extent provided in appropriations acts as required by the Congressional Budget Act of 1974. The conferees agreed to accept the additional authority provided in the Senate bill and also to accept the requirement for implementing appropriations legislation contained in the House amendment.

Restriction on obligation of aircraft modification funds

Section 102 of the House amendment to the Senate bill provided that the amounts authorized to be appropriated for the modification of aircraft shall be available only for aircraft modification and that none of the funds specified could be obligated or expended for any other purpose.

The Senate bill contained no similar provision.

After considerable discussion, the conferees agreed to delete the House provision. The Department of Defense is directed to submit a full accounting, by program, of the obligations and expenditures of funds authorized to be appropriated for aircraft modifications to the Committees on Armed Services of the Senate and House of Representatives concurrently with the submission of the budget request for fiscal year 1981 and subsequent years.

The House recedes.

Structural soundness of the KC-10A advanced tanker cargo aircraft (ATCA)

Section 103 of the Senate bill contained language providing that no funds authorized to be appropriated for the KC-10A Advanced Tanker Cargo Aircraft (ATCA) may be obligated until the Federal Aviation Administration had reinstated the type certification for the commercial operation of the DC-10 aircraft and until the Secretary of Defense notifies the Congress that the KC-10 aircraft is structurally sound.

The House amendments contained no similar provision.

The conferees agreed to delete the Senate provision since the Federal Aviation Administration rescinded the grounding orders relating to the DC-10 aircraft on July 13, 1979.

The Senate recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

GENERAL

The Department of Defense requested authorization of $13,541,441,000 for the fiscal year 1980 Research, Development, Test and Evaluation appropriations. The following table summarizes the Senate and House modifications to the Research and Development budget request:

R.D.T. & E. SUMMARY

[In thousands of dollars]

	Request	House	Senate	Conference
Army	2,927,000	2,772,422	2,933,900	2,866,461
Navy [1]	4,489,341	4,569,544	4,524,396	4,542,992
Air Force	5,005,100	4,940,265	4,994,100	4,994,046
Defense agencies	1,085,600	1,064,118	1,076,600	1,058,118
Director, test and evaluation	33,400	42,500	33,400	42,500
Total, R.D.T. & E.	13,541,441	13,388,849	13,562,396	13,514,117

[1] Includes $5,341,000 in special foreign currency.

As shown, the conferees agreed on a total of $13,514,117,000 which is $27,324,000 less than the amount requested for fiscal year 1980.

The details of the differences between the Senate bill and the House amendment and the positions adopted by the conferees are reflected in the following tables:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION—ARMY, FISCAL YEAR 1980

[In thousands of dollars]

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
101	Defense research sciences	110,650	110,335	110,650	+3,345	114,000
102	Missile technology	29,350	27,850	29,350	+1,500	27,850
103	Communication-electronics	13,291	8,000	13,291	+5,291	13,291
104	Recovery from injury (A813)	4,957	3,465	4,957	+1,492	4,500
105	Test, measurement, and diagnostic equipment technology	700	0	700	+700	0
106	Medical systems in chemical defense	1,890	3,600	1,890	−1,710	3,600
107	Military energy technology	2,635	0	2,635	+2,635	1,000
108	Very high speed integrated circuits	12,000	0	12,000	+12,000	0
109	Terminal homing systems	9,500	0	9,500	+9,500	9,500
110	Advanced land mobility system concepts (D188)	15,936	1,560	15,936	+14,376	15,936
111	Advanced technology demonstration of test, measurement, diagnostic equipment	700	0	700	+700	0
112	Night vision advanced development (DK70)	14,017	11,863	14,017	+2,154	14,017
113	Advanced development of automatic test equipment and systems	2,800	0	2,800	+2,800	1,400
114	Fuels and lubricants (advanced development)	600	600	3,600	+3,000	2,000
115	Ballistic missile defense advanced technology	113,668	120,855	113,668	−7,187	120,855
117	Ballistic missile defense systems technology program	114,784	120,840	114,784	−6,056	120,840
118	Surface-to-surface missile rocket system (D216)	72,250	69,250	72,250	+3,000	70,250
119	Antitank guided missile (ATGM) improvements	8,700	8,000	9,200	+1,200	9,200
120	Field artillery cannon system (D285)	12,000	0	12,000	+12,000	12,000
121	Special purpose detectors	3,306	2,306	3,306	+1,000	2,306
122	Tactical operations system (T105)	3,000	0	3,000	+3,000	0
123	Command and control	36,482	0	36,482	+36,482	0
124	Aircraft avionics	18,590	0	18,590	+18,590	9,000
		756	0	756	+756	756

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
125	CH-47 modernization	23,146	20,146	23,146	+3,000	22,000
126	Roland	11,250	0	11,250	+11,250	11,250
127	Heliborne missile—Hellfire	61,000	61,000	61,000	−0,000	61,000
128	Fire and forget—Hellfire	15,000	0	15,000	+15,000	0
129	Countermine and barriers (D380)	4,503	3,303	4,503	+1,200	3,303
130	Tank systems	31,500	48,500	62,300	+13,800	48,500
131	High mobility weapons carrier	2,500	0	2,000	+2,000	2,500
132	Cavalry fighting vehicle (CFV) XM3	111	0	111	+111	0
133	Tank gun cooperative development	51,000	38,300	47,400	+9,100	43,000
134	Tactical data system interoperability (D324)	4,904	4,904	6,904	+2,000	4,904
135	Family of military engineer construction equipment (FAMECE)	25	0	25	+25	0
136	Battlefield systems integration	3,300	0	3,300	+3,300	0
137	Chaparral	6,052	10,052	6,052	−4,000	10,052
138	Standoff target acquisition systems	66,400	66,400	52,900	−13,500	66,400
139	Mechanized infantry vehicle	0	0	3,000	+3,000	0
140	Classified programs	34,946	27,546	32,946	+5,400	27,546
141	U.S. Army Training and Doctrine Command (TRADOC) studies and analyses	2,300	2,200	2,300	+100	2,200
142	Theater nuclear force serviceability (TNF/S) analysis	2,400	0	2,400	+2,400	0
143	Technical information activities	4,890	3,915	4,890	+975	3,915
144	TRADOC operational testing	26,925	28,925	24,925	−2,000	24,925
145	OTEA operational testing	12,613	12,613	11,613	−1,000	11,613
146	Programwide activities	52,710	52,710	49,710	−3,000	49,710
147	Viper	3,000	18,100	3,000	−15,100	16,100
148	Advanced diesel engine (development technology)					14,500
	Other, Army	1,895,305	1,890,305	1,890,305		1,890,305
	Total	2,927,000	2,772,422	2,933,900	+161,478	2,866,461

[1] Without prejudice.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION—NAVY, FISCAL YEAR 1980

[In thousands of dollars]

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
201	Defense research sciences	204,716	191,000	204,716	+13,716	198,000
202	Command and control technology	26,870	30,870	26,870	−4,000	28,870
203	Energy and environmental protection technology	11,686	2,400	11,686	+9,286	3,000
204	Very high speed integrated circuits	10,430	0	10,430	+10,430	0
205	Avionics	10,396	12,896	10,396	−2,500	11,896
206	Antiradiation missile (ARM) system technology	3,513	0	3,513	+3,513	1,500
207	Air-to-air missile technology demonstration	6,883	0	6,883	+6,883	[1]0
208	Advanced air launched air-to-surface missile system (W0627)	6,956	3,915	6,956	+3,041	3,915
209	Surface launched munitions	5,618	8,618	5,618	−3,000	5,618
210	Laser countermeasures/counter countermeasures	3,010	0	3,010	+3,010	0
211	Environmental protection	5,053	3,000	5,053	+2,053	3,000
212	Manufacturing technology	5,500	0	5,500	+5,500	0
213	Surface electromagnetic/optical systems (X0665)	10,114	3,359	10,114	+6,755	[1]3,359
214	Laser communications study	0	0	2,000	+2,000	0
215	Extremely Low Frequency (ELF) communications	13,494	0	6,750	+6,750	6,750
216	Trident missile system	40,640	0	40,640	+40,640	25,640
217	High speed collision avoidance and navigation system	1,429	2,429	1,429	−1,000	1,429
218	Air launched/ship launched antiship missile Harpoon	7,970	0	7,970	+7,970	[1]0
219	Modular glide weapon improvement program	9,317	2,000	9,317	+7,317	2,000
220	Maritime patrol aircraft (MPA) program	4,024	0	4,024	+4,024	0
221	Vertical/short takeoff and landing (V/STOL) aircraft development	16,779	0	14,779	+14,779	3,000
222	NATO identification system	2,000	0	2,000	+2,000	0
223	Medium range air-to-ground standoff weapon	15,844	30,844	9,644	−21,200	30,000
224	Air control	2,521	0	2,521	+2,521	1,250
225	Advanced identification techniques (AIT)	3,985	0	3,985	+3,985	0
226	Hydrofoil craft (advanced)	442	0	442	+442	442
227	Landing vehicle assault (LVA)	17,797	14,115	17,797	+3,682	14,115
228	Navy energy program (advanced)	17,100	6,100	17,100	+11,000	8,000
229	Avionics development (W0572)	5,881	4,072	5,881	+1,809	4,072
230	Airborne tactical signal exploitation	2,000	0	1,000	+1,000	0
231	Area air defense (SD854)	25,307	15,057	11,907	−3,150	15,057
232	Air-to-air missile (AAM) systems engineering	44,711	32,000	44,711	+12,711	32,000
233	Close-in weapon system (Phalanx)	2,114	1,000	2,114	+1,114	1,500
234	NATO Seasparrow	5,091	2,000	4,191	+2,191	4,191
235	Computer systems engineering development	1,126	0	1,126	+1,126	0
236	Joint defense improvements	2,121	0	2,121	+2,121	[1]0
237	Joint Army/Navy guided projectile	22,072	25,072	22,072	−3,000	22,072
238	Gun systems improvement (S0178)	15,170	11,870	15,170	+3,300	13,170
239	Navy energy program (engineering)	9,015	4,000	9,015	+5,015	5,000
240	AV-8B+	0	0	5,000	+5,000	5,000
241	Surface effect ship	0	100,000	0	−100,000	60,000
242	Major caliber lightweight gun	0	32,000	0	−32,000	1,000
243	Submarine ASW standoff weapon	8,040	8,040	0	−8,040	7,000
244	Advanced ASW target	11,104	11,104	5,200	−6,104	5,000
245	Submarine tactical warfare system	42,782	42,782	38,612	−4,170	38,612
246	SSNX	10,000	10,000	0	−10,000	5,000
247	Radar surveillance equipment (advanced)	13,575	13,575	4,575	−9,000	7,500
248	Combat system architecture	10,000	10,000	8,800	−1,200	6,000
249	Combat system integration	12,054	12,054	8,054	−4,000	8,054
250	Combat system engineering development site	44,818	44,818	41,818	−3,000	44,818
251	5-inch rolling frame missile	19,051	19,051	18,051	−1,000	19,051
252	Radar surveillance equipment	14,993	14,993	7,993	−7,000	7,993
253	A-6 squadron	3,446	3,446	2,246	−1,200	3,446
254	Tactical information system	17,819	17,819	14,519	−3,300	14,519
255	Advanced design submarine nuclear propulsion plant	7,854	7,854	0	−7,854	5,000
256	Ship development (advanced)	14,219	14,219	12,419	−1,800	27,419
257	Ship development (engineering)	63,953	63,953	54,953	−9,000	58,953
258	Penguin	9,284	9,284	0	−9,284	4,500
259	Marine ground combat/supporting arms	1,554	1,554	6,554	+5,000	6,554
260	Light carrier design	0	0	25,000	+25,000	10,000
261	SEAMOD	0	0	8,000	+8,000	8,000
262	APRAPS	0	0	3,100	+3,100	3,100
263	Advanced target systems development	1,037	0	1,037	+1,037	0
264	Aerial target fund	7,447	0	7,447	+7,447	6,500
265	Surface warfare training device	23,691	3,940	10,000	+6,060	10,000

Footnote at end of table.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION—NAVY, FISCAL YEAR 1980—Continued

[In thousands of dollars]

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
266	International R.D.T. & E.	1,316	621	1,316	+695	1,316
267	Test and evaluation support	191,516	191,516	184,516	−7,000	187,516
268	Navy studies and analyses (reduction)		−12,000		+12,000	[1] −12,000
269	Advanced computer technology					12,000
270	30 mm gun pod					2,000
	Financing adjustment from fiscal year 1979:					
	ELF communications			−13,250	−13,250	−20,000
	Surface effect ship			−44,000	−44,000	0
	Other, Navy	3,361,594	3,542,495	3,542,495		3,542,498
	Total [2]	4,489,341	4,569,544	4,524,396	−45,148	4,452,992

[1] Without prejudice.

[2] Includes $5,341,000 in special foreign currency.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION—AIR FORCE, FISCAL YEAR 1980

[In thousands of dollars]

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
301	Defense research sciences	113,184	107,000	113,184	+6,184	110,000
302	Aerospace avionics	63,200	55,200	63,200	+8,000	55,200
303	Training and simulation technology	11,400	10,500	11,400	+900	10,500
304	Personnel utilization technology	4,800	4,500	4,800	+300	4,500
305	Advanced simulator technology	0	2,000	0	−2,000	2,000
306	Advanced computer technology	2,700	4,700	2,700	−2,000	4,700
307	Advanced drone/remotely piloted vehicles development (2233)	5,500	3,500	5,500	+2,000	3,500
308	Advanced avionics for aircraft	12,000	12,000	8,300	−3,700	12,000
309	Cruise missile carrier aircraft	30,000	0	30,000	+30,000	30,000
310	Penetrating manned bomber	5,000	0	5,000	+5,000	0
311	Strategic bomber enhancement	12,800	0	12,800	+12,800	0
312	AN/ALQ-161 defensive avionics system	0	15,000	0	−15,000	0
313	Strategic weapons launcher/AMST competitive flyoff	0	30,000	0	−30,000	0
314	Missile surveillance technology	21,800	4,400	21,800	+17,400	4,400
315	Minuteman squadrons	30,300	40,300	30,300	−10,000	40,300
316	Postattack command and control system (E-4) (2212)	25,500	24,500	25,500	+1,000	24,500
317	PARCS range extension	5,000	6	5,000	+5,000	0
318	WWMCCS ADP/E-4	800	0	800	+800	0
319	Air Force satellite communication system	70,600	19,200	60,600	+41,400	19,200
320	Bomber penetration evaluation	54,900	54,900	30,000	−24,900	54,900
321	SAC communications	18,000	18,000	12,000	−6,000	18,000
322	Combat aircraft technology (2600)	8,000	2,000	8,000	+6,000	2,000
323	Enforcer aircraft	0	6,000	0	−6,000	6,000
324	Theater ballistic missile	4,000	0	4,000	+4,000	2,000
325	Engine model derivative program	26,000	39,300	26,000	−13,300	39,300
326	FAC-X	1,000	0	1,000	+1,000	1,000
327	Ground launched cruise missile	44,100	60,900	44,100	−16,800	60,900
328	Low level laser guided bomb	12,000	8,000	12,000	+4,000	8,000
329	Common NATO munitions (2639; 2641)	16,700	2,200	12,800	+10,600	2,200
330	Reconnaissance equipment (2057; 2368)	20,400	4,900	20,400	+15,500	4,900
331	Precision location strike system (PLSS)	24,900	70,200	0	−70,200	[1] 15,000
332	Combat rescue replacement helicopter	500	6	500	+500	0
333	F-4 squadrons	500	2,000	500	−1,500	2,000
334	30 mm gun pod	0	7,000	0	−7,000	0
335	Advanced attack weapon	35,800	35,800	34,800	−1,000	34,800
336	Pave mover	6,700	6,700	4,000	−2,700	6,700
337	Close air support system	54,000	54,000	60,000	+6,000	60,000
338	Advanced communication system	12,000	12,000	6,000	−6,000	12,000
339	Aircom	500	0	500	+500	0
340	Special activities	353,139	368,239	467,739	+99,500	440,739
341	Development planning	2,100	1,100	2,100	+1,000	1,100
342	Next generation trainer aircraft	1,900	0	1,900	+1,900	1,900
343	Management headquarters, research and development	19,751	17,800	17,751	−49	17,751
344	Productivity, reliability, availability, and maintainability (PRAM)	7,900	3,000	5,900	+2,900	5,900
345	Public affairs	300	0	300	+300	300
346	General reduction			−12,500	−12,500	−12,500
347	Very high speed integrated circuits					38,430
348	Advanced warning systems					12,000
349	Night attack aircraft	12,800	12,800	12,800	0	25,300
	Other, Air Force	3,852,626	3,820,626	3,820,626		3,820,626
	Total	5,005,100	4,940,265	4,994,100	+53,835	4,994,046

[1] Without prejudice.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION—DEFENSE AGENCIES, FISCAL YEAR 1980

[In thousands of dollars]

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
401	Foreign weapons evaluation (OSD/JCS)	9,100	0	9,100	+9,100	0
402	Technical support (OSD/OJCS)	19,962	10,000	19,962	+9,962	14,000
403	Laser communication experiment (DARPA)	0	5,000	0	−5,000	5,000
404	Classified program (NSA)	1,200	0	1,200	+1,200	0
405	WWMCCS ADP (DCA)	4,694	2,614	4,694	+2,080	2,614
406	WWMCCS system engineering (DCA)	34,166	29,046	24,166	−4,880	29,046
407	Director, test, and evaluation	33,400	42,500	33,400	−9,100	42,500
	Other, defense agencies	1,017,458	1,017,458	1,017,458		1,017,458
	Total	1,120,000	1,106,618	1,110,000	+3,382	1,110,618

ARMY

Advanced diesel technology engine

The Senate bill authorized $14.2 million for development of a diesel engine within the XM-1 tank development program. The House amendment did not include authorization for diesel-engine development. The conferees agreed to an authorization of $14.2 millions in a new program, Advanced Diesel Technology Engine.

The conferees intend that this authorization be directed toward completing advanced technology work on the AVCR-1360 diesel engine by building two new engines and rebuilding two existing engines and to conduct design, test, and durability improvements on those engines.

This program should follow the proposals the Under Secretary of Defense made to the House and Senate Committees in May of 1979 and would include modification of two prototype test vehicles to accept the AVCR-1360 engine with modified controls, cooling systems, and to include automotive testing. The program would also include Army field tests, lab tests, and program support for the above-mentioned effort.

Anti-tank guided missile

The Senate bill authorized $12 million for the Anti-Tank Guided Missile program as requested by the Department of Defense. The House amendment did not include authorization for this program.

The conferees authorized $12 million for continued support of technology, rather than a structured development program, in view of the inability of the Department of the Army to propose a specific program. The technology supported should be selected for its potential to improve anti-tank weapon operational effectiveness. Weapon lethality and reducing exposure of missile-launching troops should be emphasized. The Army should also use funds provided in this program to explore interoperability and standardization of anti-armor weapons within NATO.

In order to reduce confusion over the Army's requirements and plans, work performed during fiscal year 1980 should be structured to complete a comprehensive plan for an expedited development program so that the Congress can act on a specific proposal in the fiscal year 1981 budget request.

Tactical operations system (TOS)

The Army requested $36.5 million for the Tactical Operations Systems. The Senate bill authorized the full amount. The House amendment did not authorize any funds. The Senate receded to the House. The conferees support the concept of the TOS but not the program as presented by the Army. The conferees, therefore, deleted the request for authorization without prejudice.

Tank gun cooperative development

The Senate bill authorized $47.49 million of the $51.89 million requested for the Tank Gun Cooperative Development program. The House amendment authorized $39.39 million. The conferees agreed to authorize $43.09 million.

The authorization of $43.09 million approved by the conferees is $8.8 million below that requested. The reduction is the amount identified by the Army as excess to the authorization required for fiscal year 1980.

The Senate insisted on providing authorization of $8.7 million for continued development of an interim round for the 120-mm smoothbore gun, and the House receded.

Terminal homing systems

The Senate bill authorized the full Army request of $9.5 million to initiate development of the 8-inch anti-radiation projectile.

The House amendment deleted the entire request.

The House action was based on the Army's plan to develop an entirely new 8-inch guided projectile with an anti-radiation seeker without consideration of previous Navy efforts that resulted in the successful development of an 8-inch guided projectile.

Subsequent to passage of the House amendment and Senate bill, the Army advised the Committees on Armed Services that an investigation of the Navy's 8-inch guided projectile resulted in the selection of the Navy's projectile body for the anti-radiation projectile. Consequently, the House receded to the Senate position with the understanding that the Army will proceed with the Navy 8-inch guided projectile body.

Theater nuclear force survivability analysis

The Senate bill authorized $2.48 million as requested for the Theater Nuclear Force Survivability Analysis program. The House amendment denied all authorization.

The conferees denied Army authorization for this program with the understanding that theater nuclear force survivability analysis may be continued in programs approved for Department of Defense agencies, including the Defense Nuclear Agency.

NAVY

Advanced computer technology

The Senate bill authorized the Navy request for $26.87 million and $1.126 million for the Command and Control Technology and Computer Systems Engineering Development programs, respectively.

The House amendment authorized $30.87 million, an addition of $4 million to the Navy request for Command and Control Technology and deleted the entire request of $1.126 million for the Computer Systems Engineering Development program.

The conferees authorized $26.87 million for the Command and Control Technology program but provided no authorization for the Computer Systems Engineering Development program. In addition, the conferees agreed that funds are required for continued development during fiscal year 1980 for advanced computers.

The conferees established a new program elements, Advanced Computer Technology, with an accompanying authorization of $12 million of which $7 million is for the large-scale integrated circuit (LSI) 43/44 project and $5 million for the Advanced S-1 computer project. The $5 million for the S-1 is in addition to the $1.5 million authorization requested and approved for this project under the Command and Control Technology program. The authorization of the LSI 43/44 is predicated on the availability of funds for the S-1 project.

Light carrier design

The conferees authorize $10 million in R&D funding for continued design work on a Light Carrier. The conferees expect the Navy to move as rapidly as possible to develop a Light Carrier design to the point where a Light Carrier can be authorized. These funds may not be applied to any purpose other than Light Carrier design without a reprogramming action.

Surface electro-magnetic/optical system (project X0665)

The Senate bill authorized the full Navy request for $10.114 million which included $6.755 million for the continued development and testing of an infrared search tracker (IRST) system.

The House amendment deleted the $6.755 million requested for this project. Last year, the conferees, in the joint explanatory statement accompanying the conference report on H.R. 10929, conveyed to the Navy the necessity for technology exploitation that culminates in an operationally deployable system. The basis for this concern emanated from the Navy's long-term research and development investment in infrared systems with no substantive deployment of hardware in the fleet. The conferees agreed that the authorization for the IRST project be deleted without prejudice. In the event the Navy continues this project during fiscal year 1980, the conferees expect that a shipboard implementation plan for infrared systems including IRST and forward-looking infrared (FLIR) be provided in conjunction with the fiscal year 1981 budget submission.

Trident II

The Senate bill authorized the full Navy request for $40.64 million for the Trident II missile system.

The House amendment deleted the entire request in the absence of a requirement for the Trident II missile, or a description of the Trident II system alternatives, and on the basis of the high cost of the system considering other Navy requirements for funds.

The conferees agreed to an authorization of $25.64 million for the improved accuracy program, tradeoff studies and concept design of the Trident II missile.

The conferees requested that the Secretary of Defense provide to the Committees on Armed Services by March 1, 1980, a report on the requirement for the missile, the design alternatives of the total missile system, its affordability—that is, how the program will be funded within the constraints of the Navy budget—and a management plan for completing the development and production of the missile system components and integration.

AIR FORCE

Bomber penetration evaluation

The Air Force requested $54.9 million to continue evaluation of the B-1 as a penetrating bomber. The House authorized the full amount; the Senate authorized $30 million. The Senate receded to the House. The conferees agreed that this would be the final authorization for the Research, Development, Test and Evaluation for the B-1 as a penetrating bomber unless the Department of Defense could demonstrate that such testing was part of an approved program to deploy a penetrating bomber. The future requirement to test the effects of electromagnetic pulse on the B-1 should be funded in the aircraft survivability program.

Common NATO munitions/night-attack program

The Air Force requested $16.7 million for the Common NATO Munitions program which included $12.5 million for the Airborne Tracker Laser Illuminator System (ATLIS II) project. The Senate bill authorized $12.8 million which included $12.5 million for the ATLIS II project. This authorization was predicated upon a reduction of $12.5 million from the overall Air Force research and development account.

The House amendment deleted the request for authorization for the ATLIS II program.

The conferees agreed on the requirement for a Laser Designator capability for the F-16 aircraft.

The conferees, therefore, agreed to authorize $12.5 million under the Air Force Night-Attack System program element for the purpose of a competition for the selection of a laser designator-equipped pod for the F-16 and other aircraft.

The conferees are concerned over the proliferation of the electro-topical pods and request that the Air Force, Army, and Navy

provide a coordinated report to the Congress, as part of the fiscal year 1981 budget submission, on a plan to reduce the types of pods being developed and procured for the three services in order to achieve maximum commonality.

Missile surveillance technology

The Senate bill authorized $21.8 million as requested for the Missile Surveillance Technology program and the House amendment authorized $4.4 million.

The conferees agreed to a reduction of $17.4 million in the authorization requested for the Missile Surveillance Technology program and provided authorization of $12 million to initiate a new program titled Advanced Warning Systems. The conferees also agreed to authorize $4.4 million for the Missile Surveillance Technology program to allow continuation of the infrared background measurements program.

The conferees have been advised that prior to January 1980, Defense Systems Acquisition Review Council meetings will be convened to address the requirement to improve or replace the Defense Support Program system and which new technologies should be pursued if a requirement is established. This authorization is provided to give the Department of Defense the funding flexibility required to make a decision and present schedule and cost estimates for a new warning satellite program to Congress, if such a program is required.

All appropriations provided through this authorization are to be used only for continuing base technology efforts until the requirement, the system characteristics and the technologies to be incorporated in a new warning satellite have been established and presented to Congress by the Secretary of Defense. The funds authorized are intended to be used to maintain all feasible technical options that might be used in the new system.

The M-X missile

The House amendment in section 201(1) identified $670 million only for concurrent full-scale engineering development of the Multiple Protective Structure (MPS) basing system and the M-X missile. The Senate bill contained no such provision.

The Senate recedes.

Section 202 of the House amendment required the Secretary of Defense to submit a report to Congress by March 1, 1980, evaluating the ability of the MPS missile basing to survive attempts by the Soviet Union to neutralize such a system. The Senate bill section 202 authorized appropriations of $670 million for research and development of the M-X missile and required the President and the Secretary of Defense to report no later than October 1, 1979, on the final characteristics of the missile system. The Senate bill further stated that if a final-basing system chosen was other than a land-based system, the President or his designee would be required to certify to Congress that a land-based system is not in the best interest of national security and that the approved basing system is either militarily more effective than any land-based system or less costly and equally or more militarily effective than any land-based system. Additionally, the Senate bill stipulated that no funds may be expended for the program for 60 days after receipt of such a report unless both Houses passed a resolution of approval within that period.

In view of the President's decision and his report to Congress on the selection of a M-X basing mode subsequent to Senate action on the bill, the Senate agreed with the House position to include the House language in section 202.

Precision Location Strike System (PLSS)

The Air Force requested $24.9 million for the development of a PLSS for detection and location of enemy air defense radars. The House authorized $70.2 million; the Senate deleted the entire amount.

The conferees agreed to authorize $15.0 million, the reduction made without prejudice, with the direction that no funds are to be obligated or expended until a report on the restructured program is submitted to the Congress by the Secretary of Defense.

DEFENSE AGENCIES

Blue/green laser communications

The Senate bill authorized $2 million for a joint office of Naval Research and Defense Advanced Research Projects Agency (DARPA) analysis of the potential of blue-green laser technology for communicating with patrolling submarines. The House amendment authorized $5 million for DARPA to initiate a feasibility demonstration.

The conferees agreed to authorize $5 million for DARPA to be used for both the feasibility demonstration and a review of the potential of this technology. The conferees ask that a report be submitted by March 1, 1980, that defines the cost, risk, schedule and capability of an operational system.

Technical support OSD/OJCS

The Senate bill authorized $19.982 million as requested by the Department of Defense, and the House amendment authorized $10 million. The conferees agreed to authorize $14 million of which $2.5 million is to be used specifically by the Under Secretary of Defense for Research and Engineering to establish a list of "Military Critical Technologies." This list is to be provided to the Secretary of Commerce in compliance with the Export Administration Act of 1979.

Very high-speed integrated circuits

The Senate bill authorized $12.0 million for the Army, $10.43 million for the Navy, and $8.0 million for the Air Force to begin development of very high-speed integrated circuits. The House amendment provided no authorization for this work. The conferees agreed to authorize the full amount requested.

In approving the authorization for $30.43 million, the conferees established a new program line in the Air Force titled Very High-Speed Integrated Circuits. Management of this tri-service program, including funding control, is to be executed by the Under Secretary of Defense for Research and Engineering.

The conferees concurred in the concerns of the House and approved authorization for this program with the following understanding:

The export of the technology developed in this program would be controlled where applicable by the International Traffic in Arms Regulations until the state-of-the-art for such technology progresses to the point where national security permits its transfer to other controls for export.

The contracts awarded for this program must include the clauses contained in amendment number 0003 dated September 24, 1979, to the Request for Proposals issued for this program on June 22, 1979. These clauses provide the Government the option of having licenses granted so that the technology developed under this program can be used in practice by the Department of Defense and its contractors as needed for future programs.

World wide military command and control system (WWMCCS)

The Defense Communications Agency requested authorization of $4.694 million for the WWMCCS Automatic Data Processing-Joint Technical Support Activities (ADP-JTSA) program and $34.166 for the WWMCCS System Engineering program. The Senate bill authorized the full request for the WWMCCS ADP-JTSA but levied an undistributed reduction of $10 million against the WWMCCS System Engineering program. The House amendment reduced the WWMCCS ADP-JTSA program request by $2.06 million and the WWMCCS System Engineering program by $5.12 million.

The conferees accepted the House authorization levels but agreed to provide the Department of Defense the flexibility to apply the reduction across the full set of Defense Communication Agency WWMCCS activities.

The reports accompanying the Senate bill and the House amendment both expressed concern about the WWMCCS program. The Senate report requested that the Department of Defense undertake a critical review of all strategic surveillance, warning and command and control programs and submit a report on its findings by January 15, 1980. The House report requested that the Department of Defense present an integrated plan with the fiscal year 1981 budget submission that clearly indicated what type of ADP capability is required by the various commands for their command and control functions and how the Defense Department plans to modernize both the computer hardware and software elements of the WWMCCS in support of these requirements.

The conferees agreed to the authorization with the understanding that the Department of Defense will address the concerns expressed in both reports.

Advanced self-protection system

Section 201 of the House amendment provided that $13.19 million be authorized only for the joint Navy/Air Force development of a common electronic self-protection system for integration into, but not limited to, the Navy F-18 and Air Force F-16 aircraft.

The Senate bill did not contain any such provision.

The conferees agreed with the intent of section 201 of the House amendment, but concluded that specific language was not required in the law and, therefore, the House recedes. It is the clear intent of the conferees of both Houses that the joint Navy/Air Force development of a common electronic self-protection system should go forward.

TITLE III—ACTIVE FORCES

Active duty military strengths in the Senate bill and House amendment differed by a total of 10,100. The conferees' agreement is summarized in the following table:

	House	Senate	Conference
Army	780,337	776,700	776,700
Navy	529,002	524,000	528,000
Marine Corps	189,000	189,000	189,000
Air Force	558,761	557,300	558,000
Total	2,057,100	2,047,000	2,051,700

The conference agreement is 4,700 above the Senate position and 5,400 below the House. The changes from the Administration request are in the Army, for which the conference agreement is 2,700 above the Administration request in order to accommodate the President's decision to defer troop withdrawals from Korea in fiscal year 1980, and in the Air Force.

Double counting of reserve general officers (sec. 302)

The House amendment contained a provision (sec. 804) that amends current law to provide that a Marine Corps reserve general officer who is serving on extended active duty—and charged against the active duty ceiling—will not be charged against the reserve general officer strength while so serving.

The Senate bill (sec. 303) amends current law in a similar manner but extends the amendment to include all services.

Officer grade distribution reporting requirement (sec. 303)

Current law requires each of the Service Secretaries to submit an officer grade distribution report and promotion plan to Congress by April 30 of each year. Section 304 of the Senate bill required that this information be included as part of the Manpower Requirements Report rather than as separate reports.

No similar provision was contained in the House amendment.

The House recedes.

TITLE IV—RESERVE FORCES

Section 401(b) of the bill contains the authorization for the number of reservists on full-time active duty for the purpose of organizing, administering, recruiting, instructing and training the Reserve components. The House and Senate differed on the strength for such full-time active duty Reserve personnel in the Naval Reserve. The Senate increased the Administration request by 1,500 personnel for a total of 1,707. The House amendment had authorized 207, the amount requested. The conferees agreed to an increase of 500 (bringing the total in the bill to 707). The additional full-time support personnel should be used in a test program involving high-priority missions of the Naval Reserve or to offset deficiencies in critical skills in the active Navy.

The conferees expect the Naval Reserve to be provided full-time support consistent with the average strength of 87,000.

The conferees believe that critical types of units with important capabilities such as deployment-related units, aviation, ship and aircraft maintenance, intelligence and other highly professional skills should be retained in the force structure consistent with modernization programs and that 17 Reserve Naval Mobile Construction Battalions should be retained.

There were no other differences between the Senate bill and the House amendment on Reserve component strengths.

Amendments to the Reserve Educational Assistance Program (sec. 402)

Section 402 of the House amendment amended the current Reserve Educational Assistance Program (sections 2131(b)-2135 of title 10, United States Code). The House amendment increases from 50 to 100 percent the reimbursement for a year's education expenses, although still limited to the existing limit of $500 per year. The recoupment provision of the Reserve Educational Assistance Program is revised in order to take into account the amount of time a participant serves satisfactorily in the Selected Reserve in computing the amount to be refunded.

The Senate recedes.

Retention of reserve veterinary officers to age 60 (sec. 403)

Section 403 of the House amendment granted permissive authority to the Secretary of the Army and the Secretary of the Air Force to retain reserve veterinary officers to age 60 under the same conditions as reserve officers of other health professions and chaplains.

No similar provision was included in the Senate bill.

The Senate recedes.

Administrative duty pay (sec. 404)

The Senate bill contained a provision (sec. 402) that would terminate the authority to pay Administrative Duty Pay to reserve and national guard commanders for performing administrative functions.

The House amendment contained no similar provision.

The House conferees expressed concern that unilateral action at this time terminating this authority would have an adverse impact on these individuals who spend significant time above and beyond their normal paid drill periods performing administrative tasks. However, the House conferees agreed payment is no longer functional and eventually should be terminated.

In order to minimize the impact of this termination, the conferees agreed to an amendment delaying for one year termination of this authority and request the Secretary of Defense to submit a report evaluating possible changes to the overall Reserve Compensation System by December 31, 1980.

The House recedes with amendment.

TITLE V—CIVILIAN PERSONNEL

For fiscal year 1980, the Department of Defense requested an end strength of 985,100. The House authorized a Department-wide end strength of 986,292. The Senate authorized a civilian end strength for each of the services totaling 980,900. The conferees agreed to provide for an overall Department of Defense-wide authorization for civilian personnel of 983,600—a reduction of 1,500 from the Administration request. The conferees agreed that in allocating civilian manpower spaces in fiscal year 1980, the Department of Defense should follow the specific recommendations made by the respective committees concerning increases for Naval Air Rework Facilities and for medical support activities. In accommodating the reduction, the Department of Defense should include a reduction in support personnel for dependent activities overseas and give consideration to the areas addressed in the reports of the House and Senate Committees on Armed Services concerning civilian personnel.

CIVILIAN MANPOWER FOR MAINTENANCE-RELATED ACTIVITIES

The Senate bill contained a section which provides that the Secretary of Defense shall manage manpower resources in a manner that will insure that activities engaged in maintenance, construction, engineering acquisition, or repair are provided sufficient civilian manpower to perform the work for which funds have been appropriated.

The House recedes.

INTELLIGENCE ANALYSTS

The conferees agree on the need to improve intelligence analysis capabilities. The conferees strongly recommend that the services set a goal for fiscal year 1980 of increasing the number of production analysts in the intelligence community by 300 active duty military in the military services and Defense Intelligence Agency, and a related increase of 100 civilians for the Army and 100 civilians for the Defense Intelligence Agency. The United States must continue to invest in high technology systems for intelligence collection, but it must not neglect the need to train and maintain an adequate number of expert analysts to give meaning to the intelligence data collected. These increases should provide additional top quality line analysts and are specifically not to be used for other intelligence activities.

TITLE VI—MILITARY TRAINING STUDENT LOADS

The Senate bill and the House amendment differed on military training student loads for the Army, Army National Guard, and Army Reserve.

The Senate bill specifically authorized a portion of the requested student loads for utilization solely for One Station Unit Training.

The House amendment, although containing the same numbers overall, authorized these training loads without any specific allocation for One Station Unit Training.

The House recedes.

TRAINING LOAD ADJUSTMENTS

The Senate bill contained a provision requiring the Secretary of Defense to adjust the military training student loads in order to be consistent with the manpower strengths authorized in Titles III, IV, and V of this Act. The House amendment contained no such provision.

The House recedes.

SCHOLARSHIPS FOR MILITARY JUNIOR COLLEGES

The conferees agreed to endorse the language of the Senate report which recommends that 30 of the additional two-year R.O.T.C. scholarships requested by the Army for fiscal year 1980 be allocated to military junior colleges.

TITLE VII—CIVIL DEFENSE

The House provided $138 million for civil defense. The Senate authorized $106.8 million. The House recedes.

The House version also contained a five-year authorization for civil defense. The multi-year authorization included a provision containing a new civil defense policy statement and related program elements. The Senate conferees were unable to accept the House provisions for a series of specific authorizations totaling $969.9 million over a five-year period for civil defense operations without any hearings having been held on the nature of the programs that would be funded by such authorizations. The House recedes.

However, the conferees do agree that civil defense is a vital and necessary part of a sound deterrent posture, and therefore, recommend to the appropriate executive agencies that earnest efforts be made over the next five years to increase the commitment to and effectiveness of the nation's civil defense, with funding each successive year at a level that reflects both the inflation rate and the Soviet threat.

The House amendment contains a provision to eliminate various limitations on appropriations for personnel and administrative expenses, student travel, radiological instrument procurement and personal equipment for state and local civil defense workers. The Senate bill contains a provision that increases the limitation on appropriations for personnel and administrative expenses from $35 million to $40 million and retains the existing limitations on other activities.

The House recedes.

The Senate amendment to the Federal Civil Defense Act establishing a Federal-State matching requirement for the construction of emergency operations centers was not agreed to. The Senate recedes.

TITLE VIII—GENERAL PROVISIONS

Amendments to the Uniform Code of Military Justice to improve military discipline (sec. 801)

The Senate bill contained a provision (sec. 801) intended to improve military discipline by limiting the right of an accused to raise defects in the enlistment process to defeat court-martial jurisdiction, and to clarify the President's authority to issue a manual of procedure not only for trial procedures, but pre-trial and post-trial procedures as well.

The House amendment has no similar provision.

The House recedes.

The House conferees were reluctant to take a step which might be misinterpreted as providing further encouragement to an already serious recruiting malpractice problem. However, it is inappropriate to address the issue of malpractice in a court-martial proceeding.

The conferees agree that the current management technique of using recruiting quotas has increased the likelihood of recruiting malpractice. The Secretary of Defense is urged to review the management of recruiting in the military services and to consider an alternative aproach to the current quota system.

The conferees have also agreed that a more effective administrative process to permit enlistees to raise questions of the validity of their enlistment is necessary. The conferees expect the Secretaries of each of the services to establish an administrative process that will provide each enlistee a voluntary opportunity to raise any improper matters in his or her enlistment, as well as permit service management to uncover recruiting malpractice. The general framework of this process shall permit an enlistee at the end of his basic training period, or at a similarly appropriate point, the opportunity to raise such matters.

The service secretaries shall report back to each of the Committees on Armed Services by December 31, 1979 on the process that will be established to uncover recruiting malpractice.

Waiver of OMB Circular A-76 for contracting out of certain research and development activities (sec. 802)

Section 801 of the House amendment contained a provision exempting most research and development (R&D) activities from the application of Office of Management and Budget (OMB) Circular A-76. This circular establishes the policies and procedures to be used by executive branch departments for implementing the general policy that the Government will rely on competitive private enterprise where practicable to supply the products and services it needs. Only those support activities for R&D which are more structured in nature, such as facility and equipment maintenance, are excluded from the prohibition contained in the House provision.

The Senate bill had no similar provision.

The Senate recedes.

Uniformed Services University of the Health Sciences (sec. 803)

Section 802 of the House amendment requires that the Secretary of Defense take actions to insure the Uniformed Services University of the Health Sciences operates at full capacity, upon recommendations of the Board of Regents and consistent with academic capabilities. It also makes a technical correction (changes "uniform" to "uniformed") and clarifies original Congressional intent to allow up to 20 percent of graduates to serve in civilian Federal service in lieu of military service by clarifying the language to indicate that authority is *permissive* in nature.

No similar provision was included in the Senate bill.

The Senate recedes.

Stipend increase for Health Professions Scholarship Program (sec. 804(a))

The House amendment contained a provision (sec. 806(a)) that would increase the stipend for the Health Professions Scholarship Program participants to the same level as that received by participants in the National Health Service Corps Scholarship Program—administered by the Department of Health, Education and Welfare—($453 per month) and provide for annual adjustments thereafter at the same time and in the same amount as the HEW stipend.

The Senate bill contained a provision (sec. 807) that would adjust the current stipend ($400 per month) in the future.

The Senate recedes.

Special pay for medical officers during periods of obligation (sec. 804(b))

The House amendment contained a provision (sec. 806(b)) that provides $9,000 per year to military physicians who are not in internship or residency training but who are serving their initial active duty obligation.

No similar provision was included in the Senate bill.

The Senate recedes.

Six-year military service obligation for persons enlisting after age 26 (sec. 805)

The House amendment contained a provision that extends the 6-year statutory military obligation to all enlistees by terminating the exception for enlistees age 26 and over. The Senate bill contained no similar provision.

The Senate recedes.

Restrictions on contracting out (sec. 806)

The Senate bill declared that it was United States policy that the provisions of the Office of Management and Budget Circular A-76 prohibiting the use of private contractors to avoid personnel or salary limitations and prohibiting personnel actions in violation of Civil Service personnel regulations are binding on the Department of Defense. Further, commercial or industrial type functions being performed by Department of Defense personnel at Davis-Monthan Air Force Base on January 1, 1979, may be contracted out to a private contractor only if such action does not affect technical skills necessary to critical military capabilities, mobilization capabilities, or accountability in the Department of Defense.

The Senate bill also required an annual report by the Secretary of Defense on conversion of commercial or industrial type functions to performance by private contract for the year preceding the fiscal year in which the report is provided and an estimate of such conversion for the fiscal year in which the report is provided.

The House amendment contained language that provides that no commercial or industrial type function may be converted from performance by Department of Defense personnel to performance by private contractor to circumvent a civilian personnel ceiling or unless the Secretary of Defense—

(1) Notifies the Congress of a decision to study a function for conversion;

(2) Submits a report showing the economic impact of such a conversion on the community, the employees affected, and the military mission or function; and

(3) Notifies the Congress of a final decision to convert a function to performance by private contractor, and submits the amount of the bid accepted and the cost of performance by government personnel, together with all other costs and expenditures the government could incur by such conversion.

The House amendment also provided that no funds may be obligated or expended for a contract after a decision to convert until the appropriate congressional committees have had 30 legislative days to review the decision.

The conferees agreed on language similar in most respects to that contained in the House amendment without the requirement for the 30 legislative day delay before obligation of funds can occur and with the requirement for an annual report of such conversions as contained in the Senate bill.

Advanced housing allowance (sec. 807)

Section 807 of the House amendment authorized the Department of Defense to make advanced payments of the overseas housing allowance.

No similar provision was included in the Senate bill.

The Senate recedes.

Annual report on NATO readiness (sec. 808)

This section of the House amendment required the Secretary of Defense to assess annually and report to the Congress on the readiness status of the military forces of the North Atlantic Treaty Organization (NATO), including an annual assessment of deficiencies, a reporting of planned corrections in the identified readiness deficiencies and the portion of the budget which is allocated for such corrections, and a reporting of commitments made by other member nations to correct their readiness deficiencies. There was no similar provision in the Senate bill.

The conferees agreed that the Secretary of Defense should also include within the required report an assessment of the readiness status and deficiencies relating to NATO tactical and theater nuclear capabilities.

The Senate recedes.

Selected acquisition reports (sec. 809)

Both the Senate bill (sec. 804) and the House amendment (sec. 809) contained provisions requiring quarterly selected acquisition reports to the Congress. Both provisions contained essentially the same language and the technical differences were resolved by the conferees.

Assistance to the 1980 Winter Olympic Games (sec. 810)

Both the Senate bill (sec. 805) and the House amendment (sec. 810) authorized an amount not to exceed $10 million for providing assistance under certain conditions to the 1980 Winter Olympic Games.

The Senate provision required specific appropriations to carry out the provisions of the section. The House provision had a similar requirement but excluded pay and nontravel related allowances.

The Senate recedes.

Presidential recommendations for Selective Service (sec. 811)

The House amendment contains a requirement for the President to provide a report on his recommendations for reform of the Selective Service System. The Senate bill contains no similar provision.

The Senate recedes with an amendment.

The President's recommendations with regard to the feasibility of establishing a registration plan through a centralized automated system should specifically address court decisions with respect to the requirement for issuing induction orders in the proper "order of call," as well as those dealing with conscientious objectors, classification procedures, and other relevant court decisions.

Both the House and Senate Committee on Armed Services have made a detailed review of the plan presented with the President's fiscal year 1980 budget for registration and induction under the Selective Service System following mobilization. Both committees have concluded that this ambitious plan will not work and that peacetime registration is needed. If the President intends to rely on this or some other post-mobilization registration plan as the foundation of our mobilization capacity at time of emergency, then the report called for in section 811 should also address the extent of testing of the plan that will be done, the acquisition schedule, and capability of computers, and other necessary equipment, the extent of agreements with state election officials or other non-Federal agencies, the schedule for training Federal and non-Federal personnel who would be involved in registration, and the likelihood that induction orders issued under such a plan would survive potential court challenges.

Preservation of the Selective Service System as an independent agency (sec. 812)

The House amendment contained a provision (sec. 813) that expresses the Congress' view that the Selective Service System should remain an independent agency. The Senate bill contains no similar provision.

The Senate recedes.

Study of Titan II (sec. 813)

Section 814 of the House amendment requested a study of the physical condition of Titan II facilities and maintenance procedures. Findings and recommendations of the studies were to be furnished to the Committees on Armed Services and to the Members

representing the districts in which Titan facilities are located within 180 days of enactment.

No such provision was included in the Senate bill.

The Senate recedes with an amendment deleting the requirement that the studies be furnished to the Members representing the districts in which Titan facilities are located.

Junior enlisted dependents (sec. 814)

The Senate bill contained a provision (Sec. 302) that would have allowed reimbursement for travel and transportation of dependents only to service members above the pay grade of E-4 who have over two years of service in an effort to reduce the number of dependents overseas. This provision would be less favorable to junior enlisted personnel than current law.

The House amendment contained a provision (Sec. 814) that would have prohibited the Service Secretaries concerned from differentiating among members (or dependents of members) on the basis of a member's grade, rank, rating or years of service, with respect to these benefits. This provision would be more favorable to junior enlisted personnel than current law.

The conferees, after lengthy discussion, agreed to drop both provisions from the bill (in effect retaining current law) and to include a provision mandating the Secretaries to undertake a program to reduce the total number of dependents including the use of discretionary authority in the granting of travel entitlements by prohibiting payment after September 30, 1980, of travel and transportation benefits to members assigned overseas when the total number of dependents authorized to be overseas and entitled to receive travel allowances exceeds 325,000. This level would represent a reduction of about 10,000 in the current number of so-called command sponsored dependents and addresses, in part, the intent of the provision contained in the Senate bill.

The House conferees reluctantly dropped the language contained in the House amendment with the understanding that the language of the conference report leaves the implementation of any restrictions resulting from the ceiling to the discretion of the Service Secretaries concerned. It is the intent of the conferees that the Service Secretaries implement any restrictions on travel entitlements fairly and in a manner in the best interest of the United States. The conferees agreed that junior enlisted members should not bear the unilateral burden of restrictions in travel entitlements or in reductions of dependents overseas, but that the Secretary in his discretion can consider such factors as age, size of family, length of service, number of overseas tours and overall morale of the service in implementing travel restrictions.

The conferees unanimously expressed concern with the current capability to evacuate the dependent population from overseas during a period of hostilities. In view of this concern, the Secretary of Defense, by March 31, 1980, is requested to submit and certify as to its effectiveness to the Committees on Armed Services of the Senate and House of Representatives, and evacuation plan for military dependents in Europe. This plan should address not only the dependents of U.S. service members, but also the impact of the other noncombatant U.S. citizens who would be competing for the limited evacuation resources during a time of extreme emergency, including the potential impact of the requirement to evacuate combat casualties.

Gasohol (sec. 815)

The House amendment contained a provision designed to encourage the use of alcohol and alcohol-blends as a fuel in military motor vehicles.

The Senate bill contained no such provision.

The Senate recedes.

Extension of cut-off for electing coverage under the Reserve Survivor Benefit Plan (sec. 816)

The House amendment contained a provision (sec. 819) that would extend the cut-off date for electing into the Reserve Survivor Benefit Program for 6 months, from September 30, 1979, to March 31, 1980.

No similar provision was included in the Senate bill.

Public Law 95-397 modified the Survivor Benefit Plan to permit reservists who have completed 20 years of satisfactory service to provide survivor benefit coverage in the event they die before reaching age 60. Those reservists who had already completed 20 years of service by October 1, 1978, were given until September 30, 1979, to elect coverage before age 60.

The Senate recedes.

Extension in time period for reductions in high grade civilians (sec. 817)

The House amendment contained a provision (sec. 820) that would extend for one year the period of time during which reductions in high grade civilians (GS-13 and above) mandated under Public Law 95-79 are required.

No similar provision was included in the Senate bill.

Enactment of the Civil Service Reform Act resulted in certain restrictions on reducing the grades of high grade civilians. The conferees agree that this extension is granted only for this reason and that further extensions of the required reduction will not be considered.

The Senate recedes.

Sense of Congress expression concerning importation of strategic and critical materials (sec. 818)

The Senate bill contained a provision to amend the Strategic and Critical Materials Stock Piling Act to require the cessation of importation of strategic materials from Zimbabwe-Rhodesia and further to lift all trade sanctions against that country. Subsequent to the passage of the bill in the Senate, Congressional action was taken on other legislation providing procedures for ending sanctions against Rhodesia and the House conferees, therefore, declined to yield.

The conferees agreed, however, on a new section 818 expressing the sense of Congress that the United States should have unlimited access to strategic and critical materials which are vital to the defense of the United States and that every effort should be made to remove artificial impediments to the importation of such materials.

Requirement for reporting salaries of officers of Federal Contract Research Centers (sec. 819)

Section 806 of the Senate bill directs that the Secretary of Defense report to Congress annually on all employees of Federal Contract Research Centers whose salaries are in excess of that paid to Government employees at the pay grade of level II of the Executive Schedule and the reasons for their salaries being above that amount. This reporting requirement would begin September 30, 1979, according to the Senate bill.

The House amendment had no similar provision.

The conferees agreed to include the provision in the conference report but changed the date establishing the reporting requirement to January 31, 1980.

The House recedes with an amendment.

Technical amendments to Defense reorganization order (sec. 820)

The House amendment makes technical amendments to several sections of titles 5 and 10, United States Code, to reflect changes made by the Department of Defense reorganization order of March 7, 1978.

The Senate recedes.

Correction of erroneous section designation on prohibition against military unions (sec. 821)

The House amendment corrects an erroneous section designation in title 10, United States Code.

The Senate recedes.

Extension of Polaris program

Section 803 of the Senate bill contained language which would prohibit the deactivation of any Polaris submarines prior to one year following the enactment of this legislation.

The House amendment provides no such provision.

The Senate recedes.

Limitation on reduction of forces at Guantanamo Bay

Section 811 of the House amendment contained a provision to prohibit the use of any funds authorized by the bill for reduction of personnel support or equipment levels at Guantanamo Bay, Cuba, or reducing military functions supported by Guantanamo Bay.

No such provision was included in the Senate bill.

The House recedes.

Pay of administrators and instructors in junior ROTC

Senate bill contained a provision (sec. 809) that would require the Department of Defense to reimburse schools with Junior ROTC units for 60% (vice 50%) of the difference between the salary of administrators and instructors and military retired pay.

No similar provision was included in the House amendment.

The House conferees indicated that no problem is apparent in recruiting personnel, no programs have been terminated based on financial conditions, and no complaints have been received from the schools.

The Senate recedes.

MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL S. STRATTON,
RICHARD H. ICHORD,
LUCIAN N. NEDZI,
CHAS. H. WILSON,
RICHARD C. WHITE,
BILL NICHOLS,
BOB WILSON,
WM. L. DICKINSON,
BILL WHITEHURST,
FLOYD SPENCE,
ROBIN BEARD,

When differences regarding intelligence-related activities are under consideration only:

BILL D. BURLESON,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
EDWARD P. BOLAND,
J. K. ROBINSON,
BILL WHITEHURST,

Managers on the Part of the House.

JOHN C. STENNIS,
HENRY M. JACKSON,
HARRY F. BYRD, JR.,
SAM NUNN,
JOHN CULVER,
GARY HART,
JOHN TOWER,
STROM THURMOND,
JOHN W. WARNER,
GORDON HUMPHREY,

Managers on the Part of the Senate.

PRODUCT LIABILITY PROBLEMS ADDRESSED BY INTRODUCTION OF NEW LEGISLATION

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, along with several colleagues, I am introducing the National Product Liability Act. This bill has the support of the National Product Liability Council and is in response to the serious problems faced by manufacturers, sellers, distributors, purchasers, and users of products due to the unavailability or astronomical cost of product liability insurance.

The product liability problem affects thousands of businesses, both large and small. Many have testified at great length before various committees and subcommittees here in the States that the viability of their businesses is threatened by developments in the product liability insurance market.

The effects on our economy are numerous and serious. The job security of many employees is threatened. Competition may be lessened by the suspension of smaller enterprises unable to afford to buy insurance and unwilling to "go bare."

Consumers are adversely affected by these economic side effects and by the higher cost of goods. One of the most tragic effects on consumers is that some who are injured may not be compensated adequately due to the absence of insurance or the bankruptcy of the product seller.

The Commerce Department itself recognized the need for relief from rising product liability costs. The Commerce Department also recognized the need for uniformity. A major part of the problem confronting sellers is that they face divergent and sometimes conflicting State laws defining the limits on their liability. This diversity has caused confusion and uncertainty in the law of product liability. It may be that this uncertainty can only be cured by Federal legislation.

Mr. Speaker, this bill does not create a Federal cause of action and will not add to the caseload of our burdened Federal courts. Furthermore, it does not attempt a massive revision of the tort law. Instead, it provides relief in basically three areas.

First, the bill provides a statute of repose which will bar actions 10 years after a product is first sold to anyone. The bill retains the State statute of limitations, provided the statute runs within the 10-year period. The statute applies to all goods and provides for injuries arising out of multiple exposures to a product such as a pharmaceutical. In such cases, the statute of repose period runs from the date the consumer was last exposed to the product.

The statute of repose will not bar actions which arise out of alterations or modifications of a product if the seller owed the buyer a statutory or contractual duty to make a change or if the seller made, authorized or furnished materials for the accomplishment of a modification and such modification introduced a new hazard which was the cause of the injury.

The statute of repose will not apply to claims based on express warranty so that the period may be lengthened if the manufacturer or seller guarantees the product.

Second, the bill provides standards for determining when liability will attach for defects in product formulas and designs. A manufacturer will not be found liable unless the plaintiff can show that the manufacturer failed to adopt an available safer design of which he knew or should have known at the time of manufacture because it was in substantial use. The safer design must be a practical one.

If a product is suited to a number of functions, the manufacturer will not be liable for failing to attach a safety device for every conceivable use when to do so would make the product unsuitable for some uses, if the person injured or his employer knew or should have known the safety device was available.

The bill also makes compliance with mandatory Federal standards a defense to a cause of action based on a design defect if the Federal standard applied to the particular hazard which caused the injury.

Third, the bill provides standards for determining when a warning is necessary and adequate. The manufacturer has a duty to warn of all identifiable hazards associated with use and misuse of the product; the nonmanufacturing seller need only pass on all warnings that the manufacturer provides, unless he actually knows of other hazards to which consumers should be alerted, in which case he must make a reasonable effort to alert the last known consumer.

The bill also provides defenses if a product has been altered and the injury arises out of the alteration or if the product is misused in such a way that it causes injury.

The bill attempts to alleviate some of the burden of strict liability on nonmanufacturing seller shall not be liable unless the plaintiff proves that the defendant seller exercised significant control over the characteristics, function or design of or warnings given with respect to a product or otherwise had actual knowledge of the defect which caused the injury. This exclusion does not apply, however, where the manufacturer of the product cannot be subjected to service of process in the State where the suit is brought or has been judicially declared insolvent.

Mr. Speaker, this bill sets out a potential solution to the product liability problem which we should consider. As the Consumer Protection and Finance hearings on product liability continue, I hope that the issues raised in the bill will be fully discussed.

PAY TO MEMBERS OF CONGRESS

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. WHITTEN. Mr. Speaker, many people and some Members, particularly Members of the Senate do not seem to fully understand the provision adopted by the Congress affecting appropriations for pay to Members of Congress, which, of course, means Senators and House Members

As we pointed out in our committee report, 58 percent of programs in the laws we have had built-in escalation clauses—that is, provisions to increase the amount of funds available to offset inflation. Inflation is thus doubled.

Largely as a result of this fact, the purchasing power of the dollar has gone down 50 percent since 1967.

One of the places where such laws have taken over is that of Federal executive pay, which under existing law increased 12.9 percent—effective October 1, 1979. I voted against such law.

Our Committee on Appropriations does not have authority to change the law but is limited to appropriating.

When the matter of appropriating came before the committee, believing we should scale back—we reduced the 12.9 to 5.5 percent and provided that such 5.5 percent would be in lieu of the 12.9 percent called for by law.

The Senate, by turning this proposal down until after October 1, made such 12.9 percent effective. Thus, we were faced with cutting back to 5.5 percent. We insisted that Members of the Senate take the same reduction—we were successful.

Much publicity went out that the Senate opposed the 5.5-percent limitation—many Members did attempt to be exempted—had they succeeded in being left out—they would thereby retain the 12.9 percent. Some doubtless did not intend that, but it is a fact.

Mr. Speaker, I include here the particular language we sponsored which spells out in a nutshell what we insisted upon. I quote:

For the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9 percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5 percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year.

And a copy of the report which reads as follows:

EXECUTIVE PAY

The committee notes that in the last 2 years since Federal executive pay has been frozen, that the consumer price index has risen by about 23 percent and that the purchasing power of the dollar has decreased by about 50 percent since 1967. The committee also recognizes the necessity to take steps to achieve a balanced budget as well as the necessity to slow down and control inflation, which unless controlled will lead to financial disaster.

A balanced budget means a balance of income and outgo. Present conditions are such that it appears that this balance depends on keeping income up while reducing expenditures, particularly that part of expenditures within the annual review and appropriating process of the Congress. Approximately 58 percent of the budget is for programs which have built-in automatic increases to offset inflation, which itself is additional inflation.

Our problem is that our rate of inflation is so great that we must take immediate steps to moderate increases and help move toward stability.

One of these places where such laws have taken over is that of Federal executive pay, which under existing law would increase by 12.9 percent.

In an effort to help deal with these problems, the committee is providing that for the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9-percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5-percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year. This action, sharply decreasing such automation increases, is taken in an effort to contribute toward the objective of immediately slowing and over a period eventually stopping further inflation. The limitation of 5.5 percent represents a significantly sharp decrease and amounts to only about one-fourth to one-third of the actual rate of inflation during this period. It is hoped that this example will be followed by other parts of the Federal Government, private industry, and State and local government. Unless we slow down, we face disastrous inflation which has wrecked the economy of other nations.●

1978 REPORT OF THE NATIONAL CANCER ADVISORY BOARD—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 90–)

The SPEAKER pro tempore (Mr. FARY) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I am pleased to send to the Congress the 1978 Report of the National Cancer Advisory Board, as required by Section 410(g), Part A, Title IV, Public Health Service Act.

JIMMY CARTER.

THE WHITE HOUSE, *October 17, 1979.*

CONGRESSWOMAN MIKULSKI ON ENEMIES LIST AT WHITE HOUSE

(Ms. MIKULSKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. MIKULSKI. Mr. Speaker, I note in this week's issue of Newsweek that I have been put on some kind of enemies list at the White House. Apparently an anonymous "senior staffer" to the President crossed my name off the receiving line for the departure of Pope John Paul II because of my supposed attacks on the President's anatomy.

This comes as a surprise to me; especially since I have been working for the last month to get hospital cost containment out of committee and this is supposed to be one of the President's legislative priorities.

I did vote against the Department of Education, because I thought it was a boondoggle. And I voted against the first gas rationing proposal, because I thought it was unfair. If the test of friendship for this administration is to vote for legislation that is unnecessary or inequitable, then I am not going to be invited to their parties.

I am afraid that the Carter White House has confused an independent voting record with a political endorsement.

GASOLINE DECONTROL VOTE SHOULD BE REVERSED

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DINGELL. Mr. Speaker, last week the House acted in what I consider to be a poorly considered fashion when it approved an amendment by the gentleman from New Jersey to decontrol gasoline. At the conclusion of the consideration of this bill in the Committee of the Whole, I will request a separate vote on that amendment. I urge my colleagues to reconsider their vote last week and to reject the amendment.

DECONTROL AMENDMENT WOULD PERMIT PRICING VIOLATORS TO GO FREE

The gasoline amendment is drafted in a manner which is far broader than its supporters would intend. By precluding the expenditure of funds to enforce gasoline price regulations, companies and individuals who have been found in violation of the regulations could not be prosecuted.

The Special Counsel's Office has identified several billion dollars in pricing violations by major oil companies. Some of those overcharges relate to gasoline prices. If DOE is unable to spend funds to enforce those regulations, the companies will go free.

This congressional "pardon" of oil company sins was certainly unintended, but is one example of the flaws in this poorly crafted amendment.

HISTORY OF CONTROLS

Our gasoline regulatory program is an outgrowth of the wage and price controls begun in 1970 to control inflation. The price controls were extended in the Emergency Allocation Act of 1973 and allocation controls were added at that time.

CONTROLS WILL EXPIRE NATURALLY ON SEPTEMBER 31, 1981

The gasoline decontrol amendment adopted last week is effective for only 1 year. It would remove controls only until September 30, 1980. At that time, controls could return, but only for 1 additional year because, by law, all authorities to control gasoline expire on September 30, 1981. It makes little sense to remove controls for just 1 year, particularly when, by law, they will expire in 2 years.

ALTHOUGH ALLOCATION CONTROLS WERE CRITICIZED, THE GRAMM AMENDMENT RETAINS THEM

During the recent gasoline shortages, the gasoline allocation program was subjected to much criticism, and the experience, no doubt, played a major role in last Friday's vote. Interestingly, though, the allocation controls were later restored by an amendment from the gentleman from Texas, so this problem has not been solved.

THE AMENDMENTS HAVE CREATED CONFUSION IN THE LAW

The end result of the passage of the Courter and Gramm amendments, unfortunately, is serious confusion in the law on gasoline regulations. For example, the Gramm amendment makes reference to language in the EPAA relating both to allocation and price, but it is uncertain as to whether the Secretary retains pricing authority, and many lawsuits will certainly arise over that issue. If the Gramm amendment does not permit the Secretary to administer pricing rules, but does permit allocation, other lawsuits will arise. For example, suppose an oil company is ordered to supply gasoline to a farmer, and the company states that it will comply, but will sell the gasoline at $3 per gallon. It is clear that without some pricing authority, the allocation authority is useless, so questions will arise over the implied extent of pricing authority.

CONSUMERS, MARKETERS, FARMERS, OTHER PRIORITY USERS WILL SUFFER

In short, by our vote of last Friday, we have raised all types of unforeseen problems. All types of people may suffer the consequences of Friday's vote. Consumers may face skyrocketing prices for gasoline at a time when inflation is already at a record high. Gasoline jobbers and marketers may face a termination of their supplies, as oil companies use the decontrol opportunity to shift their products to company-owned outlets. Priority users may lose their protection of supplies at equitable prices.

DECONTROL MEANS HIGHER PRICES

Having noted that the amendments passed last week have created a whole new set of problems, let us look at the various consequences of the amendments. On the pricing side, the impact is clear—higher prices. There is bound to be disagreement over the amount of increase which decontrol will cause, but some facts are certain:

First. We are in for a period of tight supplies.

Government officials, market analysts, and the oil industry all agree with this analysis.

Second. Any significant reduction in Arab oil exports is likely to bring back the gas lines of last summer.

Reports of production decreases in Iran, Kuwait, and Saudi Arabia suggest that these shortages could occur.

Third. During the shortages last summer, people paid $1.50 for gasoline. In any future shortage, prices could go easily to that level, or higher.

If we remove price controls from gasoline, the consumer will be left with no protection from the price gouging which could legally occur during shortages. We could also see immediate price increase, for example, to spot market price levels. Even those increases could increase the inflation rate by 1.5 percent and cost the average family $300 per year. Gasoline decontrol will erase nearly all of the consumer benefits of crude oil controls.

PRESENT REGULATIONS DO NOT DENY COMPANIES A FAIR PROFIT

The gasoline pricing regulations do not deny companies a fair profit. To the contrary, they are quite generous. The recently adopted gasoline "tilt" rule permits refiners to allocate a greater than pro rata share of costs to gasoline for purposes of determining the ceiling price. This regulation has added 5 cents per gallon over refiner margins of just 1 year ago. To give this figure some perspective, the crude oil phased decontrol has added only about 1 cent per gallon to date.

Retailers are also permitted higher margins than ever before. Margins are up by 50 to 100 percent over last year's levels.

DECONTROL AMENDMENT REMOVES PROTECTION FOR JOBBERS, RETAILERS

The Emergency Petroleum Allocation Act of 1973 was passed for a variety of reasons, but one of the primary reasons was to protect independent marketers and retailers. During periods of shortage, there are powerful incentives for oil companies to sell their supplies through company-owned outlets and to deny product to independent retailers, jobbers, and others. Therefore, the Emergency Petroleum Allocation Act requires that available supplies be shared in an equitable manner, and states as one of the considerations for allocation "the preservation of an economically sound and competitive petroleum industry."

The largest organization of oil jobbers—the National Oil Jobbers Council—opposes the decontrol of gasoline at this time. They approved a resolution stating in part:

Be it therefore resolved that NOJC supports such gasoline regulation on a temporary basis as long as gasoline supplies are not adequate provided that price controls are modified to permit a fair increase in the return on the marketer's investment and provided also that the regulations be removed and a free market restored as soon as the supply picture returns to balance.

Although they favor eventual removal of controls, they recognize that this is not the time for such decontrol for two important reasons:

First. The gasoline market is tight and likely to remain that way for the foreseeable future.

Second. The study of subsidization in the oil industry, mandated by Congress in the "Dealer Day" legislation of last year, is due to be completed soon.

Last year, the Congress enacted the Petroleum Marketing Practices Act to protect retail operators from unfair practices by oil companies. The legislation also required the Department of Energy to study the issue of subsidization—that is, to what extent do integrated oil companies subsidize their retail and wholesale outlets with upstream profits, thus making it difficult for independent marketers to compete. This study will be completed soon, and may suggest the need for remedial regulations on gasoline. The Courter amendment would prevent any such actions.

Under carefully considered legislation, it may be possible to put an end to unnecessary portions of the controls, while retaining protections for marketers and others. The decontrol amendment, on the other hand, would end all regulation. Even minor regulations, or emergency regulations, could not be prescribed or enforced.

THE ALLOCATION PROGRAM WAS NOT THE CAUSE OF SHORTAGES

After last summer, the gasoline allocation program was subjected to much criticism, and some of the criticism was justified. The experience does not, however, justify the removal of controls. A review of the allocation experience indicates the following:

First. Many problems with the allocation program were caused by mismanagement by DOE, and not the nature of regulations.

As an example, DOE failed to update the allocation base period from 1972 for the past 6 years. Finally, when shortages arose, regulations had to be changed abruptly.

Second. Oil companies also create problems when they control allocation.

The shortages of distillate, a decontrolled product, in farm areas showed that oil companies do not necessarily respond well to market needs.

Small communities have had problems in obtaining aviation fuels for their commuter airlines. Aviation fuels are also decontrolled.

Third. When oil companies were permitted to reallocate 5 percent of their supplies to shortage areas, few took advantage of this opportunity.

INTRODUCTION OF THE INTELLIGENCE IDENTITIES PROTECTION ACT

(Mr. BOLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BOLAND. Mr. Speaker, in the past several years the intelligence activities of the U.S. Government have been exposed to the light of public scrutiny to a degree never before witnessed in this or any other country.

Presidential commissions, congressional committees, judicial decisions, investigative reporters, have all, at one time or another, given us a detailed glimpse of the day-to-day practices of our intelligence agencies.

To an unfortunate degree, some of these practices were found wanting—wanting in terms of their compatibility with American values, morals, laws, and constitutional precepts.

We have now, I believe, taken the painful but necessary steps to bring a halt to such practices and to insure that they do not occur again.

All of this has not taken place without rancor, divisiveness, and heated debate among our people and within the Government.

Significantly, however, both sides of the debate have always proceeded on the unquestioned assumption that it is both necessary and proper for this country to possess a clandestine intelligence service.

The operating heart of any such service is the use of undercover agents and officers overseas to collect intelligence information. Obviously, if the names of these people are spread upon the public record their usefulness is ended and the effectiveness of the clandestine service is diminished.

In my opinion and, I think, in the opinion of the overwhelming majority of the American people, unauthorized disclosure of the names of undercover intelligence agents is a pernicious act that serves no useful informing function whatsoever. It does not alert us to abuses; it does not further civil liberties; it does not bring clarity to issues of national policy; it does not enlighten public debate; and it does not contribute one iota to the goal of an educated and informed electorate.

Whatever the motives of those engaged in such activity, the only result is the complete disruption of our legitimate intelligence collection programs—programs that bear the imprimatur of the Congress, the President, and the American people. Such a result benefits no one but our adversaries.

Therefore, today I and the 13 other members of the Intelligence Committee have introduced "The Intelligence Identities Protection Act." It is a carefully drawn bill designed to protect the undercover identities of a narrowly defined group of U.S. intelligence officers and agents.

The bill achieves this purpose by making the unauthorized disclosure of such identities a criminal offense subject to different penalties and elements of proof depending on the status of the alleged offender. If the person disclosing the identity of an undercover CIA agent had authorized access to classified information containing such information, the prescribed penalty is a fine of $50,000 or 10 years imprisonment, or both. If the offender has had no access to classified information, the penalty is a fine of $10,000, or imprisonment for 1 year, or both, and the Government must prove that the defendant intended to impair or impede the foreign intelligence activities of the United States.

I fully recognize that this latter provision will be controversial. It could subject a private citizen to criminal prosecution for disclosing unclassified information obtained from unclassified sources. It was included in the bill only after careful, thorough, and somewhat agonizing deliberation. It reflects the realization that the unauthorized disclosure of the name of an undercover agent is no less damaging to the national security and no more beneficial to the public because it was disclosed by a private citizen instead of a CIA employee.

I trust that all of the bill's provisions will be fully aired in public hearings and that congressional debate will focus public attention on the crucial and controversial issues involved. In the final analysis what must be determined is whether an effective intelligence collection capability is compatible with the values upon which our democratic society is based. I think it is.

Mr. Speaker, I ask that a section-by-section analysis of the Intelligence Identities Protection Act be included in the RECORD at this point.

SECTION-BY-SECTION ANALYSIS OF INTELLIGENCE IDENTITIES PROTECTION ACT

The Act would add a new Title V to the National Security Act of 1947.

Section 501 would establish two separate offenses for the disclosure of information identifying certain United States intelligence personnel, depending on the status of the offender.

Section 501(a) would apply if the offender had authorized access to classified information containing the identity of certain intelligence personnel and discloses any information identifying such personnel. In such a case, the offender would be subject to a fine of $50,000 or imprisonment for not more than ten years, or both.

Section 501(b) would apply to any person who discloses information identifying certain United States intelligence personnel. In such a case, the offender would be subject to a fine of $5,000, or imprisonment for not more than one year, or both.

As to both categories, the government must prove that the intelligence relationship which is revealed by the disclosure is classified, that the disclosure was intentional, that the offender knew or had reason to know that the information disclosed identified protected intelligence personnel, that the offender knew or had reason to know that the United States was taking affirmative steps to conceal the intelligence relationship of the protected intelligence personnel, and that the person to whom the identifying information is disclosed was not authorized to receive classified information.

If the offender has not had lawful access to classified information, the government must also prove that the disclosure was made with an intent to impair or impede the foreign intelligence activities of the United States.

The Intelligence personnel whose identities are protected from disclosure by Section 501 (a) and (b) are:

Civilian officers or employees of the CIA or an intelligence component of the Department of Defense, or members of the Armed Forces assigned to duty with the CIA or such component, if such officer, employee or member is serving outside the United States at the time of the disclosure or has so served within 5 years preceding the disclosure.

Anyone, except a United States citizen residing within the United States, who is or has been an agent of, or informant or source of operational assistance to, the CIA or an intelligence component of the Department of Defense.

Section 502(a) establishes as a defense to a charge under 501 (a) or (b) the fact that the United States had, prior to the disclosure, publicly acknowledged or revealed the intelligence relationship which is the subject of the disclosure.

Section 502(b) (1) and (2) insure that a person who does not actually disclose information cannot be convicted under theories of aiding or abetting, misprision of a felony, or conspiracy unless the government proves an intent to impair or impede the foreign intelligence activities of the United States.

Section 502(c) requires the government, when attempting to prove the intent element of section 501(b), to produce some evidence of intent in addition to the inferences that may be drawn from the fact of the intentional disclosure. Thus, the legal principle that a person is presumed to intend the foreseeable consequences of his actions cannot be used as the sole basis to prove that the defendant intended to impair or impede the foreign intelligence activities of the United States.

Section 502(d) insures that disclosures made directly to the Senate or House Intelligence Committee are not criminal offenses.

Section 503 makes clear that the federal government can prosecute a United States citizen or a permanent resident alien for an offense under Title 5, though the offense is physically committed outside of the United States.

Section 504 is intended to make clear that the provisions in this title cannot be the basis for an executive branch decision to withhold information from Congress.

Section 505 contains the definitions of the operative terms of the preceding provisions.

The term "classified information" means identifiable information or material which is protected from unauthorized disclosure for reasons of national security pursuant to the provisions of a statute or executive order.

The term "authorized" when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of a United States district court, or provisions of any rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

The term "disclose" means to reveal by any means whatsoever, including publication in the press or other public information media.

The term "intelligence agency" means the CIA or any intelligence component of the Department of Defense.

The term "informant" means any individual who furnishes or has furnished information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

The terms "agent", "informant", and "source of operational assistance" do not include individuals who are citizens of the United States residing within the United States. Thus, for example, a disclosure that an American college professor, was, on a confidential basis, aiding CIA recruitment on campus could not be the subject of a criminal prosecution.

The terms "officer" and "employee" have the meanings given such terms by sections 2104 and 2105, respectively, of Title 5, United States Code.

The term "Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

The term "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the very distinguished member of the select committee, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, I am pleased to join with my colleagues on the permanent Select Committee on Intelligence and the committee's chairman, the gentleman from Massachusetts (Mr. BOLAND) in introducing the Intelligence Identities Protection Act.

Mr. Speaker, this legislation is desperately needed. We must provide all appropriate protection for the brave men and women who serve our vital national interests by working for our country undercover in foreign lands—often at their own personal peril.

After Philip Agee decided a few years ago to work for the destruction of his former employer, the Central Intelligence Agency, in some circles it has become a sort of perverse vogue to blow the covers off of U.S. intelligence personnel working secretly overseas.

The Director of Central Intelligence, Adm. Stansfield Turner, hit the mark dead center when he described as "traitors" those who are exposing the identities of our intelligence officers and agents. If these individuals were truly seeking to end all involvement of countries in the affairs of others, why are they only exposing U.S. operations and not those of the Soviet KGB or the Cuban DGI intelligence services? Is Philip Agee really anything other than a defector?

This legislation would make criminal the unauthorized disclosure of the identity of an intelligence officer or agent who is working overseas for the United States. If this act is undertaken by someone who gained the information through authorized channels, then the mere disclosure need only be proved for conviction. If the information is obtained through other means, then the Government must show that the individual charged with disclosure acted "with the intent to impair or impede the foreign intelligence activities of the United States."

While the need for this legislation cannot be overstated, the Congress must also act to revise existing statutes which seek to protect other types of information which have been classified to protect our national security. Hearings held in January of this year by the Intelligence Committee's Subcommittee on Legislation, on which I am honored to serve as ranking minority member, pointed clearly to the inadequacies of the current espionage laws. The call for change came from voices across the political spectrum, both from within the Government and without. It is my hope that in considering the legislation we are introducing today, the Intelligence Committee will, as well, consider proposals to change the espionage laws—including a proposal which I introduced in January, H.R. 1068, the Foreign Intelligence Information Protection Act of 1979, which 30 of our colleagues have joined as cosponsors.

Mr. Speaker, I commend the gentleman from Massachusetts for sponsoring this legislation, and I am sure that with his leadership in the Intelligence Committee, we will in due course be bringing this legislation to the floor for consideration by the full House of Representatives.

Mr. BOLAND. Mr. Speaker, I thank the gentleman.

As the gentleman from Illinois has indicated, this is a proposal which has been sponsored by the 13 members of the

Intelligence Committee. The Intelligence Identities Protection Act is a carefully drawn bill designed to protect the undercover identities of a narrowly defined group of U.S. intelligence officers and agents.

THE EPA'S FUGITIVE DUST POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 15 minutes.

Mr. GRASSLEY. Mr. Speaker, the time has come to provide EPA with some guidance as to the effect of their application of the fugitive dust policy on the economy of rural agricultural States. In an attempt to stay within their statutory authority and apply the law in a universal fashion, EPA has clouded the future economy of many agricultural States. While it is understandable that EPA might be reticent to deviate from their interpretation of the act, their conclusions are unacceptable to Iowans and other affected States.

Rather than constant haggling, it seems to be a more intelligent solution to present EPA with a clear picture of what Congress wants. I do not believe any Member of Congress wants to see public health endangered by air pollution. I also believe that many Members of Congress want the States to have some input into what they consider to be their own public welfare. Iowans do not consider blowing agricultural dust detrimental to their public welfare. EPA cannot tell Iowans why blowing dust is detrimental to their welfare; they can only tell them that it might be detrimental to their welfare in some unknown ways.

EPA is in a bad spot. They want to error on the side of safety, so they are saying "since we don't know, we'll count blowing dust toward your achievement of ambient air quality standards." Individuals sue EPA constantly, and it is understandable that the Agency does not want to be left out on a limb.

The bill I am introducing today will provide EPA with the necessary guidance they should have. It merely amends the Clean Air Act to tell EPA that if they are satisfied that the primary attainment standards for public health have been met by a State, including its blowing dust, then a State may decide whether or not the concentrations of rural fugitive dust adversely affect that State's welfare.

This addition to the act should clarify the State and Federal roles in achieving national ambient air quality standards. It will also free EPA to concentrate on the more serious aspects of air pollution without exposing them to lawsuits. This measure warrants your support, and I hope you will join me in clarifying this policy.

H.R. 5615

A bill to insure the minimum degree of economic disturbance in the agricultural sector of the economy consistent with protection of the public health and welfare, by clarifying the administrative standards to be used in determining when secondary ambient air quality standards have been met in areas with rural fugitive dust

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress finds that:

(1) Certain States, particularly States with significant agricultural production, have a high proportion of natural, windblown fugitive dust from farm fields, open spaces, rural roads and similar sources.

(2) If these States must include such rural fugitive dust when determining whether secondary ambient air quality standards designed to protect public welfare have been met, less industrial growth will be allowed in these States than in others which do not have rural fugitive dust. Such a result was not intended and would unfairly penalize agricultural and other States with these conditions. There is an urgent need to resolve this problem.

(3) States should be given the discretion to determine for themselves whether concentrations of rural fugitive dust adversely affects their overall general welfare.

SEC. 2. Section 110 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(k) For purposes of determining whether or not any applicable implementation plan meets any requirement of this section with respect to national secondary ambient air quality standards for total suspended particulates, concentrations of rural fugitive dust (as defined by the Administrator) shall not be taken into account."

REPEAL OF AIRCRAFT USE TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. HOLLAND) is recognized for 5 minutes.

● Mr. HOLLAND. Mr. Speaker, I am today introducing legislation to repeal the annual tax on use of civil aircraft. This levy has been on the books since the Congress enacted the Airport and Airway Revenue Act of 1970. It is one of several taxes which were imposed by that statute to provide revenue for the airport and airway trust fund—under which airport development and air navigation facility programs have been funded since 1970. By every measure, the aircraft use tax is one of the prize nuisance taxes of the many which have been inflicted on our citizens over the years—and we can strike a blow for tax reform by repealing this one forthwith.

Mr. Speaker, the aircraft use tax—also known as the aircraft registration tax—is levied on all civil aircraft at the following rates: $25, basic rate applicable to all civil aircraft, plus 2 cents per pound of maximum certificated takeoff weight in excess of 2,500 pounds, if aircraft is not turbine powered; or 3½ cents per pound of total maximum certificated takeoff weight, if aircraft is turbine powered.

The Internal Revenue Service (IRS) states that the amount of revenue collected from the $25 portion of the aircraft use tax is not known—but it was estimated some years ago by the Senate Finance Committee that it would raise $5 million in fiscal year 1978. IRS further advises that the total amount collected during fiscal year 1978 under the rates cited above was $22,609,000.

Now, Mr. Speaker, I do not contend that $22 million is a paltry sum—far from it. But it is true that the revenue derived from this tax is only a miniscule portion of the $1.4 billion raised annually by the several aviation taxes imposed by the 1970 act. The 8-percent airline ticket tax brings in the lions share of the revenue flowing into the trust fund—about $1.2 billion or some 85 percent.

It seems evident to me, Mr. Speaker, that the aircraft use tax is rightfully categorized as a nuisance levy. The $25 basic tax applies to all civil aircraft regardless of size—from the smallest to the largest. And most civil aircraft are small single-engine aircraft—at least 90 percent of the 200,000 active civil aircraft throughout the country. About 98 percent of all civil aircraft are general aviation aircraft. It should be noted here that the 1970 act also imposed a 7-cents-per-gallon tax on general aviation fuel—in addition to the aircraft use tax. So it cannot be said that general aviation would not be "paying its way" if we repeal the aircraft use tax.

Mr. Speaker, I am informed that IRS cannot estimate the costs it incurs in collecting the aircraft use tax. My guess is that they are exorbitant—perhaps in excess of the revenue collected. Many aircraft owners are not even aware that such a tax exists—and I am advised that IRS is undertaking a concerted enforcement campaign utilizing FAA registration records.

Mr. Speaker, I think it is time for us to repeal this irksome, inequitable levy. And I invite my colleagues to join me in this effort. It is a chance for us to do something positive for aviation—and we should bear in mind that more than 300,000 of our citizens are duly licensed aircraft pilots.

The bill I am introducing today is a tax reduction measure with minimal revenue implications. It is a proposal we can all support without reservation.

The full text of the bill follows:

H.R. 5620

A bill to repeal the tax on use of civil aircraft

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Airport and Airway Revenue Act of 1970, as amended (84 Stat. 236 et seq.), is amended—

(1) by striking out section 206 thereof, and

(2) by renumbering sections 207 through 211 thereof as sections 206 through 210.

SEC. 2. The effective date of this Act shall be January 1, 1980.●

● Mr. SCHULZE. Mr. Speaker, I rise to express my full support for the efforts of my friend and colleague, the gentleman from South Carolina, to repeal the existing tax on use of civil aircraft. This is one of those petty little levies which the country can well do without—and I am happy to join my colleague in cosponsoring the bill he is introducing today.

The gentleman has explained the rationale for proceeding with his proposal—and I concur fully with his remarks, the aircraft use tax raises very little revenue—yet, its enforcement consumes inordinate amounts of time and resources at the Internal Revenue Service, and submission of the requisite return is a bothersome annual chore for aircraft owners. I agree that its repeal would be in the best interests of all concerned—the Federal Government and aircraft owners alike.

I urge my colleagues to join me in cosponsoring the legislation proposed by my friend from South Carolina, Mr. HOLLAND.●

GAO WARNS CONSUMERS AGAINST NOW ACCOUNTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on September 11, 1979, when my colleagues overwhelmingly passed legislation to permit nationwide NOW accounts (negotiable orders of withdrawal), I warned that this legislation was the biggest consumer rip-off to come down the pike in a long time. Nobody listened. Now, the General Accounting Office (GAO) has issued a report which supports me on this issue.

NOW accounts are accounts only for the wealthy. GAO states that—

Depositors who can meet and maintain the minimum balance requirements can indeed benefit from transfer fund plans. However, those who cannot do so would fare better with regular checking and savings accounts.

What are these minimum balance requirements? They range from $200 to $5,000. In fact, the average balance in a New York State NOW account is $7,000. How many people in your district have $7,000 to put into a checking account?

There are some 35 million checking account customers in this country with balances of less than $200. NOW accounts will do nothing for them, and will probably hurt them in the long run. The interest paid on NOW accounts will have to come from somewhere, and it will most likely be from higher interest paid on loans and other bank services. Those charges will be borne by the small depositor while the rich guys happily collect interest on their consumer-oriented NOW accounts.

Both in the subcommittee, and again in the full Banking Committee, I offered an amendment which would have made NOW accounts available to those with a minimum deposit of $100. Both times it was defeated.

But, not only does the GAO agree with me that NOW accounts will not benefit the little guy, they also state that shopping around for the best NOW account isn't a simple matter.

Banks which offer NOW accounts are reluctant to advertise the conditions in simple language, and for good reason. Who wants to advertise a sham? GAO researchers noted that they could not get all the facts they needed to analyze the costs and benefits of the new NOW accounts from bank advertisements. Additional phone calls to bank officers were necessary to answer such basic questions as:

How is the interest compounded? How is the minimum balance compounded? How do service charges change when the depositor meets or fails to meet minimum balance requirements? This is basic information and it is being withheld.

The less sophisticated consumer will undoubtedly be duped into opening a NOW account which promises wealth from checking accounts. While profit-hungry financial institutions cackle with delight as they rake in new-found profit from NOW account service charges, their secretaries will be writing letters to 367 Members of the House of Representatives thanking them for their support on this issue.

Mr. Speaker, we blew it.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 5 minutes.

● Ms. FERRARO. Mr. Speaker, due to the fact that on the last two Fridays on which the House remained in session beyond the 3:30 adjournment target, I have been unable to be present on the floor of the House for several votes. The first of these occasions was on Friday, September 28, 1979, when my presence was required at a long-standing commitment to participate in a weekend conference with Italian legislators. The second time was last Friday, October 12, 1979, when my presence was required at the White House. Had I been present at those times, I would have voted as follows:

SEPTEMBER 28, 1979

Rollcall No. 526: Passage of H.R. 3642, to extend the programs under section 789 and title XII of the Public Health Service Act relating to emergency medical services, "yea."

Rollcall No. 527: An amendment to House Resolution 367, the rule providing for consideration of H.R. 2859, the Domestic Volunteer Service Act amendments. The amendment provided for 2 hours of general debate, "yea."

Rollcall No. 528: Passage of House Resolution 367, the rule providing for consideration of H.R. 2859, the Domestic Volunteer Service Act amendments, "yea."

Rollcall No. 529: A motion to resolve into the Committee of the Whole, "aye."

Rollcall No. 530: Passage of House Resolution 393, the rule providing for the consideration of H.R. 2172, the International Sugar Stabilization Act of 1979, "yea."

OCTOBER 12, 1979

Rollcall No. 567: Passage of H.R. 2061, the Justice System Improvement Act, "aye."●

VICE PRESIDENT MONDALE'S SPEECHES—AN APPROPRIATE BRACKET TO THE POPE'S STAY IN WASHINGTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, there were hundreds of significant speeches given during Pope John Paul's stay in America. But except for the words of the Pontiff himself, none touched me as deeply as those made by Vice President MONDALE at the Pope's arrival and departure.

These two short speeches bracket the time Pope John Paul spent in our Nation's Capital and appropriately express both our joyful anticipation of his presence and thoughtful reflection on that experience. We looked forward to learning more about a man who has become a moral and political force in the world. We then looked back on what he taught us about ourselves.

In his lyrical and moving comments, Vice President MONDALE captures the feelings many of us have about the Pontiff who captured our hearts. I would like to insert the Vice President's comments in the RECORD.

The comments follow:

(Following is a shortened version of Vice President Mondale's greetings to Pope John Paul II on his arrival at Andrews Air Force Base)

Your Holiness, distinguished visitors from the Holy See, and friends. It is with joy, with friendship, with honor that I welcome your Holiness to the capital of our nation.

For the American people, for President Carter and for this city you exalt by your presence, welcome to Washington on this glorious day.

We watched you from afar as you won the love of men and women all around the globe, in Mexico where you stirred the hearts of our neighbors, in Poland where you celebrated the irrepressible human spirit of your native land, in Ireland where you summoned the power of love, that it might triumph over hate.

We watched and we waited. And now you have come to America. We have discovered for ourselves what man it is who won the love of the world—truly a global leader, a lover of liberty, a messenger of hope and joy and love. And we have discovered something more. Through you, we have rediscovered a portion of ourselves.

In the midst of all the problems that confront us, we sometimes forget the enduring values that have struck deep roots in this American soil. And sometimes it takes a visitor from far away, a visitor who sees our visions and our dreams to put us back in touch with the meaning deep within our own land.

How many millions of Americans proudly repeated the words that you spoke when you arrived in our country: "And crown thy good with brotherhood, from sea to shining sea."

And how many in those happy and exuberant crowds were reminded that we believe as you do in the democracy born in Philadelphia, in the freedom you loved and praised in front of the Statue of Liberty, in the quiet strength and family spirit you found in our farm lands and too in the promises still

to be met and the work yet unfinished in Harlem . . .

Your Holiness, welcome, welcome to Washington.

REMARKS OF VICE PRESIDENT WALTER F. MONDALE AT THE FAREWELL CEREMONY FOR HIS HOLINESS POPE JOHN PAUL II

Your Holiness, distinguished visitors from the Holy See, ladies and gentlemen:

A great writer once said that when you truly treasure each moment, time passes slowly. Your Holiness, you have been in America only seven days—and yet you have bestowed so many treasures, and so renewed our spirit, that we feel your presence has always been among us, and that it always will.

Years ago, you wrote a poem to God, saying He was "a channel, unleashing a force called man." You, too, are a channel, carrying rivers of hope and love to all the people of the world.

You are the philosopher—who has taught us that in this modern age of complexity and doubt, there still is a sacred difference between right and wrong.

You are the statesman—who has promoted the cause of freedom the whole world over.

And you are the poet—who sings us a hymn to life, and assures us that life is not to be endured, but to be loved and enjoyed.

This is the successor of Peter that Americans of all races and religions have discovered. And they have welcomed your message.

You have said that where there is plenty, it must be shared; where there are arms, they must be controlled; where there are humans, there must be rights; where there are rights, there must be respect; and where there is life, there must be love.

Your Holiness: The moments of your stay will live in our memory for years. These thoughts you kindle will live forever. On behalf of the American people, I thank you. I wish you farewell.●

STATEMENT OF REPRESENTATIVE FERNAND J. ST GERMAIN IN RECOGNITION OF NATIONAL SOLIDARITY DAY FOR CIVIL RIGHTS FOR THE HANDICAPPED TO BE OBSERVED IN PROVIDENCE, R.I., ON SATURDAY, OCTOBER 20, 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, nothing is so deplored in its presence, or missed in its absence, as is work. Who does not complain loudly about Monday morning after an enjoyable weekend? What worker does not look forward to his vacation each year? Yet, if every day were a Saturday, every week a vacation, how many would truly be happy with such an existence?

Of course, this is partly because most of us recognize that, in order to provide the necessities for ourselves and our families, we must work. Furthermore, a basic belief in our society is that the harder one works and the more demanding or necessary one's job, the greater the rewards will be. Beyond this, historically individuals have been defined by their jobs. What you do is who you are. This is even reflected in names—Smith, Farmer, Baker, come instantly to mind.

We have long recognized a responsibility to handicapped individuals. We have provided support, so that those who cannot provide for themselves will be provided for by society. It is now time that we realize that many people who are handicapped in one way or another are quite capable of performing demanding tasks. Not only are they capable, they are more than willing.

They, too, want a chance to accept the challenges, and, if successful, to reap the rewards of today's complex workplace. They want the self-esteem that comes with knowing they are contributing, and the respect of their employers and coworkers, who will recognize their competence. What they do not want is to remain in low-paying, undemanding jobs when they are capable of much more. They do not want to be condescended to, to be subsidized, merely carried on a payroll. They want the chance to prove what they can do and the chance simply to be rewarded for their abilities, rather than stigmatized by their disabilities. We must allow handicapped people the chance to define themselves, as do the rest of us, not by what they cannot do, but by what they can do.

In assuring the handicapped their right to protection against discrimination in employment, all of us will benefit, not only in obvious economic ways, such as reducing welfare costs and increasing income tax revenues, but in more intangible ways as well. Underutilizing the abilities of our work force breeds discontent; it leads to less productivity; it denies us access to the very best our society has to offer. All Americans must be able to seek jobs knowing that they will be judged not on some extraneous factor, such as their sex, race, or handicap, but on their qualifications for the job. Only then can we truly say that our Nation fulfills the vision of our forefathers by providing equal opportunity for all.●

THE RETURN OF THE SWEATSHOP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 10 minutes.

● Mr. WEISS. Mr. Speaker, maintenance of fair labor standards is entirely dependent on uniform enforcement of Federal laws covering the workplace.

If a sector of the American workforce is unprotected by minimum wage standards and occupational safety and health provisions, all workers in our Nation suffer as a consequence. Unscrupulous employers are able, in a situation such as this, to pit the unprotected group against other workers and to undermine job security, fair pay practices and due process for all employees.

This scenario is a reality in the United States today. Millions of undocumented workers are presently laboring in atrocious conditions for subsistence wages. The hard-won gains of the labor movement are being imperiled because of the existence of this enormous subclass of undocumented aliens.

The solution to this growing problem lies not in wholesale deportation of workers who are not citizens or registered aliens, but rather in a realistic and fair response by the Federal Government.

An article appearing in the August 13 issue of the New Leader examines this entire question and offers some compelling proposals. Because this issue is germane to so many of my colleagues, I am sure they will be interested in this thoughtful analysis:

THE RETURN OF THE SWEATSHOP
(By Jay Mazur)

Our modern industrial society is rich in paradox. Although various economic and social forces have combined to provide the majority of workers with a respectable standard of living and at least some protection from arbitrary employer power, the very same forces have resulted in many other workers being made to suffer the indignities of the common sweatshop. In some industries, moreover, sweatshops operate alongside shops whose employees receive decent wages, and enjoy the benefits and job security offered by collective bargaining. A striking example is the New York garment industry, where today well over 500 sweatshops noted for subminimum wages, long hours, no fringe benefits, employer intimidation, and frequent firings coexist with the shops covered by union contracts. Hidden away in the alleys and garages of the South Bronx, Brooklyn and Queens, and in parts of Manhattan, these sweatshops have gradually increased their share of the city's garment production. Consequently, wages and working conditions throughout the industry, as well as in other labor-intensive industries, are being undermined.

The return of the sweatshop is not attributable to human greed alone. True, sweatshop owners are a special breed of businessmen who, unlike most businessmen, seek to maximize profits unconstrained by socially agreed upon norms; they left nothing—not the health, the livelihood, or the worthiness of the workers—stand in their way. But the large-scale abuse of labor standards is ultimately not just a matter of personal morality. In significant measure, the sweatshop has been able to flourish again because of the misguided policies government leaders have pursued throughout this dismal decade. In the case of the garment industry—perhaps the only one where Adam Smith's laws of the market are still obeyed—unrestricted imports of cheaply-made goods from abroad and the sluggish behavior of the U.S. economy have greatly intensified competitive pressures. At the same time, government programs that were playing an important role in the enforcement of labor codes have been undercut. Add to all this the recent immigration of several million undocumented workers—"illegal aliens," in the unfortunate popular term—and you have all the ingredients for the rebirth of the sweatshop.

Possessing no legal rights to residence or employment in this country, the new immigrants find themselves condemned to the status of the underclass. They are easy prey for employers eager to unjustly depress labor costs, who see them as ideal employees. In labor intensive industries, where competition is severe, the ability of employers to compel undocumented workers to accept low and even subminimum wages helps sweatshops multiply and thrive. Comprehensive wage data does not yet exist, but the most authoritative studies' demonstrate that the typical undocumented worker earns less and works longer hours than the native worker employed in a comparable job. What is more important, it is estimated that almost 25 per cent of undocumented workers earn less than the Federal minimum wage.

The dollar savings is only one of the factors making undocumented immigrants an enticing labor force. As part of an underclass bereft of legal standing and protection, these workers are easily disciplined and, therefore, highly unlikely to join a union or even report employer violations of state and Federal labor laws. Those who speak up, or exhibit pro-union sympathies, soon find themselves on the street or in the clutches of the Immigration and Naturalization Service (INS). Insecure in their homes and their jobs, undocumented workers live in fear of detection, detention and eventual deportation—a fear that provides employers with their most effective disciplinary weapon.

The workings of this discipline is a heart-rending drama played out daily in the garment sweatshops of New York. One recent poignant incident involved a group of undocumented women workers who came to the offices of Local 23–25 of the International Ladies' Garment Workers' Union (ILGWU) seeking redress from their employer, the owner of a nonunion shop in the Elmhurst section of Queens. For weeks they had labored daily from 7:00 a.m. to 11:00 p.m., earning a mere $15 for this 16-hour day, but their immediate grievance was much more basic: Their paychecks had been returned marked "insufficient funds." When they asked the employer to make good the checks, he replied, knowing full well that they were undocumented workers, that he would do so if they would produce their "green cards," the registration document foreigners are required to secure from the INS that in effect amounts to a work permit. A union organizer sent to look into the situation was confronted with the same response. Scared of deportation, these workers dropped their complaints and changed their addresses that very night. Some of them have since been placed in jobs in union shops; the rest, unfortunately, must have moved on to other sweatshops where in all likelihood, they will once again be abused and exploited.

Union organizing drives in industries where undocumented workers make up a large proportion of the labor force are hampered in two ways. First, many undocumented workers are unfamiliar with the nature and purposes of unions. Coming from poor countries where unions are often government-controlled, employer dominated, weak, or simply nonexistent, many foreign workers look upon union organizers as extensions of the government. They suspect that involvement with a union—signing a union authorization card, attending a meeting, or merely talking to an organizer—might very well increase the probability of apprehension by INS agents. Understandably, undocumented workers prize anonymity, and contact with unions necessarily diminishes this.

Second, many employers have cleverly used the INS as insurance against union drives. In California, for instance, employers faced with union representation elections have frequently called in INS agents shortly before the voting. On election day, many potential union supporters are either back in their home countries, or attempting to avoid deportation. To some extent, this practice has been curtailed by an ILGWU suit against the INS which resulted in a court order requiring that INS agents obtain search warrants before raiding shops. But this ruling, along with a whole series of others, is only the beginning of an effort to clarify many constitutional questions involving the rights and status of undocumented aliens.

To eradicate sweatshops, we first need to eliminate or at least to erode their economic advantages. Since the advantages stem primarily from their ability to compel workers to accept inferior wages and working conditions, the course of action is clear: The basis of compulsion—fear among undocumented workers—must be removed. This can be accomplished by easily transforming "illegal aliens" into legal resident aliens—workers who lack full citizenship rights, yet need not fear deportation to their homelands. In other words, I am suggesting that we declare a full amnesty for undocumented workers already living in the United States. Such a policy would, in a single sweep, end the underclass status of millions of individuals.

A full, unqualified amnesty, however, is a highly controversial proposal. President Carter's limited amnesty, as embodied in the legislation proposed last year by Representative Peter Rodino (D.-N.J.) in the House and by Senators Edward M. Kennedy (D.-Mass.) and James O. Eastland (D.-Miss.) in the Senate, quickly came under heavy attack from large agribusiness interests and lobbyists for small, labor-intensive enterprises. Both of these groups, of course, have a strong interest in preserving the status quo. Some of their allies on the Hill have gone so far as to suggest that fines be imposed on undocumented workers. Representative William S. Broomfield (R.-Mich.) introduced a bill calling for fines of $500 to $2,000 and prison terms of one to five years for apprehended "illegals."

Nor is opposition to a full amnesty limited to those with a direct economic stake in maintainng an underclass of frightened, intimidated workers. Many ordinary citizens also oppose amnesty. They erroneously view it as an open invitation to millions of unskilled, low-wage workers sitting on the other side of the Mexican border, or in countries like Greece, the Dominican Republic, Haiti, and now even Vietnam. This inspires the concern that the flood of foreign labor into the U.S. will threaten their jobs, undermine their unions, and increase the burdens on their tax-financed social welfare systems. In short, amnesty is not a popular proposal.

But much of the anti-amnesty sentiment reflects a popular mythology about undocumented workers. According to these legends, foreign workers aggressively compete with native workers for decent-paying jobs. They come to stay, to permanently sink their roots in the American economy. And they arrive laden with dozens of sickly children who need health care, education and food stamps.

The facts belie each myth. Undocumented workers are not a significant cause of unemployment among native workers. An exhaustive study of apprehended undocumented aliens conducted for the U.S. Department of Labor found that over 75 percent of them held unskilled or semiskilled jobs, with the vast majority receiving wages far below the level usually acceptable to Americans. Only 1.6 per cent worked as professionals or in technical jobs, and only 15.5 percent could be classified as craftsmen. Thus, at most a very small portion of undocumented workers are effectively in economic competition with native American workers.

This rather slight competitive impact can be partially explained by refuting the widespread myth that all undocumented workers come to the United States in order to begin a new life. Numerous studies have shown that generally they are temporary immigrants, intent upon returning home as soon as they have enough money to buy a house, some more land, or a store. Typically, an undocumented worker will undergo severe deprivations or work several jobs to accumulate the needed sum in as short a time as posible. Many who are from Mexico come for stays of as little as six months, or are "shuttle" migrants who spend a few working months a year in the U.S. and otherwise reside and work in Mexico. Undocumented workers who emigrate from the Caribbean or the Eastern Hemisphere countries tend to stay longer, since distance and the cost of travel make short trips impractical, but the available data indicate that they rarely extend their time in the U.S. beyond 2–3 years.

The assertion that undocumented workers drain government revenues by further burdening already overtaxed social services is another unsupported myth. The U.S. Labor Department study found that only a small number of undocumented workers ever avail themselves of tax-financed services: Five percent of those sampled had made use of free medical care; 3.9 percent had received unemployment benefits; 1.3 percent had succeeded in procuring food stamps; and less than 1 percent had obtained welfare payments. To the extent that undocumented immigrants make use of essential services—fire protection, police water—they do draw on public funds. Yet the irony here is that their illegal status accounts for the adverse effect. Municipalities are increasingly reliant on Federal grants that are based on population estimates. Unfortunately, the illegal status of the undocumented immigrants prompts them to hide from census takers and other collectors of information. Clearly, amnesty would eliminate this problem.

Unnoticed in the hue and cry over the use of services, incidentally, are the considerable cash contributions undocumented workers make to the public coffers. Every study has found that approximately 75 percent of them have Federal income and Social Security taxes withheld from their paychecks. These payments are partly "free" additions to the government's treasury, because most undocumented workers are so fearful of any contact with an official agency that they hardly ever file for the income tax refund they are usually entitled to. Similarly, since it is unlikely that many undocumented workers will be in the U.S. long enough to qualify for Social Security, their payments help to replenish these hard-pressed funds. Like all of us, meanwhile, undocumented workers buy goods and pay for services. In areas with large concentrations of undocumented workers, this participation in the local economy is of no small weight. Despite the infrastructural costs arising from the physical presence of undocumented immigrants, therefore, their net contribution to the economy and to the well-being of the society is positive.

While amnesty must be the cornerstone of any serious effort to counter the sweatshops, it has to be accompanied by a renewed commitment to enforcing labor standards and reforming the INS. The policing of labor codes has fallen off drastically. In New York State, for example, the State Labor Department's budget was slashed by 40 percent in 1976, wiping out the unannounced field investigations that had been an integral component of the Division of Labor Standards' activities since the early 1930s. At present, inspections are performed only in response to complaints from workers, leaving sweatshop employers virtually free to act as they please.

Compliance with local and national labor codes can be immediately tightened without further legislation if adequate funding is

restored. Inadiciencies caused by overlapping jurisdictions can be remedied as well by coordinating the activities of the various Federal and state agencies responsible for the enforcement of wage, child labor, health, and safety standards, and by targeting the industries most prone to abuse. Ultimately, though, new standards and penalties have to be set. Criminal penalties and stiff fines should be imposed on employers who violate basic labor standards, and goods produced under illegal conditions should be permanently confiscated.

In addition, the Immigration and Naturalization Service must be reorganized. Historically, the INS has suffered from severe underfunding and administrative neglect—a phenomenon influenced by the desire of agribusinesses and nonunion employers in a low-wage industries to maintain a steady flow of undocumented immigrants. The consequent highly selective enforcement of the immigration codes encourages abuses and undermines the agency's credibility. Moreover, the Service is plagued with massive bureaucratic backlogs; it frequently takes 48 months to process those fortunate "green card" applications that do not get lost in the INS' enormous file, deterring potentially "legal" immigrants from following proper procedures.

Whether the nation will choose these policies as a way out of the sweatshop is as yet unclear. The mood is changing, however, and the signs are promising. Recently, the Carter Administration established a Select Commission charged with a full review of immigration and refugee policies, thereby tacitly acknowledging the shortcomings of its earlier proposals. As critics had noted, the limited amnesty proposed by the President arbitrarily disenfranchised immigrants who had come to the U.S. since 1970, and also lent itself to abuse, for there is no way to accurately determine the length of an undocumented worker's stay.

Arresting the slide back into the sweatshop is the immediate task confronting the Select Commission. This is contingent on relieving undocumented workers of the stigma of illegality. Despite our society's increased reliance on immigrant labor, we have consistently denied any obligations to these workers. In this way, we have condemned them to the status of an underclass and acquiesced in their exploitation. Only by freeing them from their vulnerability to unscrupulous employers can we restore a modicum of justice and decency to the workplace. And only such a policy is in keeping with the American tradition of championing human rights throughout the world.

Beyond amnesty lies the troubling question of regulating the future flow of immigrants. While unrestricted immigration is not the answer, the long controversy over immigration policy suggests that simple, pleasing solutions are not readily available. The United States must begin to rethink its overall approach to immigration in the light of current economic realities, not only here but in the home countries of prospective immigrants. We must realize that the labor market is becoming truly international in scope and that national boundaries, even when heavily patrolled by guards, are becoming increasingly irrelevant for thousands of foreign workers.●

FLOOD CONTROL REGULATION PROCEDURES

(Mr. WHITTEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. WHITTEN. Mr. Speaker, in the Continuing Resolution which we got through the Congress last Friday night, October 12, 1979, and which was immediately signed by the President, I included the following provisions, which became law.

I quote:

SEC. 106. None of the funds available to the Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil in fiscal year 1980 shall be available, except on a voluntary basis, for the acquisition of land or easements at or around the four lake projects in the Yazoo Basin, Mississippi, pending the submission to Congress of a plan for changing the curve by which the flow is regulated in line with the instructions contained on page 60 of the conference report accompanying H.R. 4388 and of alternative solutions for the protection of Coffeeville, Mississippi, and other properties affected by the flood control operation at the project.

The report referred to and by reference a part of this action, provides as follows. I quote:

The Chief of Engineers is directed to review the current flood control regulation procedures for the Yazoo Basin Headwater lakes with a view toward determining whether modifications should be made in these procedures that would increase the downstream flow in the rainy non-farming season so as to decrease soil erosion from the foothill area and enable the Corps to retard or stop the flow at such times as may improve the planting, cultivation and harvesting of crops on lands near the reservoirs.

Mr. Speaker, this action came because lands were being taken by eminent domain or threat of such action, certainly without my knowledge and I believe at prices below real value. Public hearings had not been held and from present information, the town of Coffeeville, Yalobusha County, Miss., was endangered and its economy being threatened.

The Corps of Engineers can obtain land by consent of the owner.

According to the Corps of Engineers, time has proven early estimates of flooding have proven faulty. Doubtless the clearing of land has been a factor too.

For some years, many landowners and some engineers have believed that the corps might, by changing its procedures; letting the water out during the rainy season, improve farming conditions generally.

Mr. Speaker, there are four reservoirs, four dams, Arkabutla, Sardis, Enid, and Grenada, each different but all part of the same project and becoming the same stream, the Yazoo River.

These dams were provided for by law before I came to Congress. Since I came here, I was able to get jury trials for the landowner, 75 percent of the land rental back to the counties for roads and schools, recreation facilities, and roads, for State parks.

Once again, I have been able to get the Congress to support my efforts to relieve to some degree present problems. The Corps of Engineers assure me they will be cooperative.

Mr. Speaker, I wish to thank my colleagues here and Members of the Senate for their support.●

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from South Carolina (Mr. HOLLAND).

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. DOUGHERTY (at the request of Mr. RHODES), from 2 p.m. today, on account of official business.

Mr. GARCIA (at the request of Mr. RANGEL), for the balance of this week, on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PASHAYAN) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS of Texas, for 15 minutes, today.

Mr. GRASSLEY, for 15 minutes, today.

Mrs. SMITH of Nebraska, for 30 minutes, on October 18, 1979.

(The following Members (at the request of Mr. SWIFT) to revise and extend their remarks and include extraneous material:)

Mr. HOLLAND, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Ms. FERRARO, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. ROSTENKOWSKI, for 5 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. WEISS, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PASHAYAN) and to include extraneous matter:)

Mr. MICHEL.
Mr. FINDLEY in two instances.
Mr. MCKINNEY.
Mr. DANIEL B. CRANE.
Mr. DANNEMEYER.
Mr. DOUGHERTY.
Mr. GILMAN in two instances.
Mr. MCCLOSKEY in two instances.
Mr. BROTHILL.
Mr. SYMMS.
Mr. ROTH.
Mr. DERWINSKI in two instances.
Mr. MITCHELL of New York.

Mr. LOTT.
Mr. BERNUTER in two instances.
Mr. MILLER of Ohio in two instances.
Mr. ASHBROOK in three instances.
Mr. SOLOMON.

(The following Members (at the request of Mr. SWIFT) and to include extraneous matter:)

Mr. BENJAMIN.
Mr. PICKLE in 10 instances.
Mr. WOLFF in two instances.
Mr. GUDGER in two instances.
Mr. HAMILTON.
Mr. STARK.
Mr. SABO.
Mr. CONYERS.
Mr. FORD of Michigan.
Mr. ROE.
Mr. SANTINI.
Mr. DODD in two instances.
Mr. SOLARZ in two instances.
Mr. SCHEUER.
Mr. CAVANAUGH.
Mr. UDALL.
Mr. WON PAT.
Mr. WRIGHT.
Mr. EDWARDS of California.
Mr. AUCOIN.
Mr. DUNCAN of Oregon in three instances.
Mr. KILDEE.
Mr. ZABLOCKI in two instances.
Mr. HAWKINS.
Mr. BEDELL.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 83. Joint resolution to authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia; to the Committee on House Administration.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3173. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1980, and for other purposes.

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 4 minutes p.m.) the House adjourned until tomorrow, Thursday, October 18, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2658. A letter from the Deputy Assistant Secretary of the Interior of Land and Water Resources, transmitting a management plan for the upper Missouri River, Mont., pursuant to section 3(b) of the Wild and Scenic Rivers Act, as amended; to the Committee on Interior and Insular Affairs.

2659. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for additional authorization for appropriations for the Tinicum National Environmental Center; to the Committee on Merchant Marine and Fisheries.

2660. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the General Services Administration Building in Washington, D.C., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2661. A letter from the Comptroller General of the United States, transmitting a report on the coordination of Federal weather programs (LCD-80-10, October 16, 1979); jointly, to the Committees on Government Operations and Science and Technology.

2662. A letter from the Chairman, U.S. Water Resources Council, transmitting a draft of proposed legislation to authorize State participation in municipal and industrial water supply agreements for payment for water supply from Federal water resources development projects in order to promote water conservation together with cost recovery; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

2663. A letter from the Federal Inspector for the Alaska Natural Gas Transportation System, transmitting his first quarterly report on the Alaska natural gas pipeline project, pursuant to section 7(a)(5)(E) of Public Law 94-586; jointly, to the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SLACK: Committee on Appropriations. H.R. 2583. A bill to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes (Rept. No. 96-467, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 5192. A bill to amend and extend the Higher Education Act of 1965, and for other purposes; with amendment (Rept. No. 96-520). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee of Conference. Conference report on S. 428 (Rept. No. 96-521). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. SMITH of Iowa: Committee on Small Business. H.R. 4660. A bill to amend the Small Business Act and an act to amend the Small Business Act (Public Law 94-305, 90 Stat. 669) to provide regulatory flexibility for small businesses and small organizations to minimize unnecessary burdens in complying with Federal rules and reporting requirements. (Rept. No. 96-519, pt. 1). Reported with amendments, referred to the Committee on the Judiciary for a period ending not later than November 30, 1979, for consideration of such provisions of the bill and amendments as fall within the jurisdiction of that committee pursuant to clause 1(m), rule X, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO (for himself and Mr. MITCHELL of Maryland):

H.R. 5612. A bill to amend section 8(a) of the Small Business Act; to the Committee on Small Business.

By Mr. ASPIN:

H.R. 5613. A bill to amend the Internal Revenue Code of 1954 to clarify the standards used for determining whether individuals are not employees for purposes of the employment taxes; to the Committee on Ways and Means.

H.R. 5614. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. BOLAND (for himself, Mr. ZABLOCKI, Mr. BURLISON, Mr. MURPHY of Illinois, Mr. ASPIN, Mr. ROSS, Mr. MAZZOLI, Mr. MINETA, Mr. FOWLER, Mr. ROBINSON, Mr. ASHBROOK, Mr. MCCLORY, Mr. WHITEHURST, and Mr. YOUNG of Florida):

H.R. 5615. A bill to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources; to the Permanent Select Committee on Intelligence.

By Mr. COELHO (for himself, Mr. CORMAN, Mr. PANETTA, Mr. MINETA, Mr. PANETTA, Mr. ROUSSELOT, Mr. JOHNSON of California, Mr. MATSUI, Mr. PASHAYAN, Mr. LLOYD, Mr. VAN DEERLIN, Mr. CLAUSEN, Mr. GOLDWATER, Mr. MOORHEAD of California, Mr. BURGENER, Mr. STARK, Mr. BOB WILSON, and Mr. THOMAS):

H.R. 5616. A bill to preserve the existing tax status of wine used in the production of distilled spirits; to the Committee on Ways and Means.

By Mr. FINDLEY:

H.R. 5617. A bill to provide for certain priorities in the disposal or treatment of hazardous waste, to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment, to provide for the cleanup of inactive hazardous waste disposal sites, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

By Mr. GRASSLEY:

H.R. 5618. A bill to insure the minimum degree of economic disturbance in the agricultural sector of the economy consistent with protection of the public health and welfare, by clarifying the administrative standards to be used in determining when secondary ambient air quality standards have been met in areas with rural fugitive dust; to the Committee on Interstate and Foreign Commerce.

By Mr. HANLEY (for himself and Mr. MITCHELL of New York):

H.R. 5619. A bill to clear titles of Indian claims in the counties of Madison and Oneida, N.Y.; to the Committee on Interior and Insular Affairs.

By Mr. HOLLAND (for himself and Mr. SCHULZE):

H.R. 5620. A bill to repeal the tax on use of civil aircraft; to the Committee on Ways and Means.

By Mr. LEWIS:

H.R. 5621. A bill to provide that parking fees charged to Federal employees shall remain at current levels; to the Committee on Government Operations.

By Mr. MOFFETT:

H.R. 5622. A bill to provide for a comprehensive national program for domestic energy production and consumption, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, Banking, Finance and Urban Affairs, Public Works and Transportation, Interior and Insular Affairs, Science and Technology, Ways and Means, and the Judiciary.

By Mr. PASHAYAN (for himself and Mr. COELHO):

H.R. 5623. A bill to assure that weather modification activities and the collection of hydrometeorological information necessary to the management of water resources can be conducted in conjunction with the management and administration of wilderness and other Federal lands; to the Committee on Interior and Insular Affairs.

By Mr. RAHALL:

H.R. 5624. A bill to amend the Tennessee Valley Authority Act of 1933 with respect to the determination of terms of sale of electric power; to the Committee on Public Works and Transportation.

By Mr. REUSS:

H.R. 5625. A bill authorizing the President of the United States to present a gold medal to the A. Philip Randolph Institute; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SENSENBRENNER (for himself, Mr. BROYHILL, Mr. ROTH, Mr. SAWYER, Mr. CORCORAN, Mr. STOCKMAN, Mr. LUKEN, and Mr. IRELAND):

H.R. 5626. A bill to establish standards and procedures for determining legal and financial responsibilities in product liability actions; to the Committee on Interstate and Foreign Commerce.

By Mrs. FENWICK (for herself, Mr. PEPPER, Mr. HOLLENBECK, Mr. SENSENBRENNER, Mr. GRADISON, Mr. HUGHES, and Mr. RANGEL):

H.J. Res. 424. Joint resolution disapproving and invalidating regulations of the Department of Housing and Urban Development concerning the section 8 Housing assistance payments program for new construction, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEWIS:

H. Con. Res. 198. Concurrent resolution providing that parking fees charged to congressional employees and Members of Congress shall remain at current levels; to the Committee on House Administration.

By Mr. FLOOD (for himself and Mr. DERWINSKI):

H. Res. 450. Resolution to authorize the printing as a House document an anthology of Captive Nations Week proclamations, addresses, and other relevant material; to the Committee on House Administration.

By Mr. LEACH of Iowa (for himself and Mr. PRITCHARD):

H. Res. 451. Resolution condemning the use of poison gas in Laos; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

314. By Mr. WON PAT: Memorial of the Legislature of the Territory of Guam, relative to the Presidential Task Force report on economic development, Federal assistance, coordination of Federal grants, Federal organization and Federal presence; to the Committee on Interior and Insular Affairs.

315. By the SPEAKER: Memorial of the Senate of the Commonwealth of Massachusetts, relative to requiring home heating oil distributors to allow retail dealers a 30-day credit period; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BUCHANAN:

H.R. 5627. A bill for the relief of Alfonso Manuel Telles; to the Committee on the Judiciary.

By Mr. LELAND:

H.R. 5628. A bill for the relief of Freya Alwi Shatry; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3005: Mr. BINGHAM, Mr. SOLARZ, Mr. DELLUMS, and Mrs. HOLT.

H.R. 3284: Mr. MCCLOSKEY and Mr. MCKAY.

H.R. 3677: Mr. DORNAN.

H.R. 4113: Mr. SWIFT.

H.R. 5008: Mr. BINGHAM, Mr. CORRADA, Mr. FLOOD, Mr. WEISS, Mr. LAGOMARSINO, Mr. GUARINI, Mr. DELLUMS, Mr. PASHAYAN, Mr. LEHMAN, Mr. KOGOVSEK, Mr. DIGGS, Mr. HUGHES, Mr. PANETTA, Mr. MARKEY, Mr. VENTO, Mr. LEVITAS, Mr. GLICKMAN, Mr. MOFFETT, Mr. EVANS of the Virgin Islands, Mr. STOKES, Mr. YOUNG of Alaska, Mr. MITCHELL of Maryland, Mr. MOORHEAD of Pennsylvania, Mr. ERDAHL, and Mr. PETRI.

H.R. 5225: Mr. QUILLEN, Mr. TAYLOR, Mr. KRAMER, Mr. PAUL, Mr. PHILIP M. CRANE, Mr. GUYER, and Mr. DAVIS of Michigan.

H. Con. Res. 147: Mr. DONNELLY, Mr. EVANS of Delaware, Mr. FORSYTHE, Mr. GUYER, Mr. HOLLENBECK, Mr. PATTEN, Mr. PRITCHARD, and Mr. THOMPSON.

H. Res. 400: Mr. SHUMWAY, Mr. CHARLES WILSON of Texas, Mr. PAUL, Mr. LOEFFLER, Mr. STENHOLM, Mr. ROUSSELOT, Mr. DERWINSKI, Mr. HILLIS, and Mr. DORNAN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2313

By Mr. RUSSO:

—Page 26, after line 2, insert the following new section:

RESTRICTION ON COMMISSION REGULATION OF FUNERAL INDUSTRY

SEC. 305. (a) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated under this Act to issue—

(1) in final form the proposed trade regulation rule described in subsection (b), and

(2) in proposed or final form any other trade regulation rule which sets forth rules substantially similar to the rules set forth in the proposed trade regulation rule described in subsection (b).

(b) For purposes of subsection (a), the proposed trade regulation rule described in this subsection is the proposed trade regulation rule which was published in the Federal Register of August 29, 1975, beginning on page 39901, and which concerns the regulation of funeral industry practices.

H.R. 3000

By Ms. HOLTZMAN:

(To the amendment in the nature of a substitute; page and line numbers refer to H.R. 4839.)

—Page 58, insert after line 19 the following new section:

ENERGY CONSERVATION GRANTS

SEC. 602. (a)(1) The Secretary shall administer an experimental program under which grants may be made available to local governmental units to undertake any of the energy conservation activities described under subsection (b). Any local governmental unit desiring to receive a grant under this section shall submit an application therefor to the Secretary in such manner, at such time, and containing such information as the Secretary may require.

(2) In determining the amount of any grant to be awarded under this section, the Secretary shall consider—

(A) the contribution to energy conservation which can reasonably be expected to result from the activities for which the grant is made;

(B) the number of people to be affected by such activities; and

(C) such other factors as the Secretary considers appropriate.

The amount of any grant made to a local governmental unit shall not be more than $3 multiplied by the total number of individuals residing within the jurisdiction of such unit, as determined on the basis of the most recent census figures available from the Department of Commerce.

(b) The energy conservation activities for which grants may be made under this section may include the following:

(1) The establishment of a mechanism for coordinating all energy-related activities of the local governmental unit, such as the creation of an energy office, the designation of an agency to serve as a lead agency with regard to energy matters, or the establishment of citizen advisory groups.

(2) The establishment of local energy conservation targets which are consistent with any State energy conservation targets established by the President.

(3) The development of programs to encourage energy conservation in operations of the local governmental unit, including such activities as—

(A) retrofitting street lights;

(B) devising and implementing innovative heating and cooling systems;

(C) generating energy from such resources as local water sources, fuels, biomass, wind, wood, and other available resources;

(D) cogeneration of power;

(E) installing adequate installation and other energy-saving devices in public buildings; and

(F) installing a synchronized traffic signal system.

(4) The development of programs or laws to decrease energy consumption by the private sector, including—

(A) the revision of zoning laws and building codes to require energy conservation measures in new or existing buildings;

(B) the revision of zoning and other land use laws to encourage more efficient land development and discourage sprawl; and

(C) the development of more extensive public transit systems.

(5) Establishment of a central clearinghouse to provide information relating to energy conservation programs available to citizens of the local governmental unit, including—

(A) Federal, State, and local programs (such as programs providing assistance for the installation of solar energy devices, programs offering assistance to low-income individuals to encourage energy conservation measures, or tax credits available for certain energy conservation activities); and

(B) programs offered by utilities within the area, such as energy audits.

(6) Development of regional plans and projects with other local governmental units to promote conservation on a regional basis by providing for improved public transportation systems, areawide solid waste disposal treatment using alternative technologies, or such other conservation projects as may be effectively accomplished on a regional basis.

(c) Funds appropriated under this section may not be made available as grants or loans to any individual or to any private entity.

(d) Within one year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress which specifies the recipients of the funds made available under this section, the amount of the grant received by each recipient, the projects for which the grants were made, and the actual or estimated energy savings resulting from such projects.

(e) For purposes of this section—

(1) the term "local governmental unit" means any city, county, township, parish, or other unit of general government which (A) is a political subdivision of a State, and (B) has taxing authority with respect to real property; and

(2) the term "Secretary" means the Secretary of Energy.

(f) There are authorized to be appropriated to carry out this section $50,000,000 for the fiscal year ending September 30, 1980.

By Mr. LEVITAS:

(To the amendment in the nature of a substitute); page and line numbers refer to H.R. 4839.

—Page 40, after line 23, insert the following new subsection:

(c)(1) Notwithstanding any other provision of this Act, funds authorized to be appropriated pursuant to this Act for purposes of—

(A) promulgating, administering, or enforcing any regulation, or

(B) issuing or enforcing any order, applicable to the mandatory allocation or price control of motor gasoline may be expended for such purposes.

(2) As of September 30, 1980—

(A) no regulation shall be promulgated, administered, or enforced, and

(B) no order shall be issued or enforced, under section 4(a) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(a)) applicable to the mandatory allocation or price of motor gasoline.

H.R. 3712

By Mr. JACOBS:

—Page 3, strike out line 22 and all that follows down through and including the material between lines 14 and 15 on page 30, and insert in lieu thereof the following:

SEC. 2. MORTGAGE SUBSIDY BONDS; CREDIT FOR CERTAIN MORTGAGE INTEREST AND MORTGAGE INSURANCE FOR FIRST-TIME HOME BUYERS.

(a) MORTGAGE SUBSIDY BONDS.—Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) MORTGAGE SUBSIDY BONDS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), any mortgage subsidy bond shall be treated as an obligation not described in subsection (a)(1) or (2).

"(2) MORTGAGE SUBSIDY BOND DEFINED.—For purposes of this subsection, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on (or other owner-financing of) owner-occupied residences.

"(3) EXCEPTION FOR QUALIFIED VETERANS' BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified veterans' mortgage bond.

"(B) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of subparagraph (A), the term 'qualified veterans' mortgage bond' means any obligation—

"(i) which is issued in registered form as part of an issue substantially all the proceeds of which are to be used to provide residences for veterans,

"(ii) the payment of the principal and interest on which is secured by the general obligation of a State, and

"(iii) which is issued as part of an issue no part of the proceeds of which is to be used to acquire or replace existing mortgages.

"(C) ADVANCE REFUNDING NOT PERMITTED.—An obligation which is issued for the advance refunding of another obligation shall not be treated as a qualified veterans' mortgage bond.

"(D) EXCEPTIONS TO NEW MORTGAGE REQUIREMENT.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation (as defined in section 44D(1)(6)(B)), an existing mortgage, shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (B)(iii)."

(b) CREDIT FOR CERTAIN MORTGAGE INTEREST AND MORTGAGE INSURANCE FOR FIRST-TIME BUYERS.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44C the following new section:

"SEC. 44D. CERTAIN MORTGAGE INTEREST AND MORTGAGE INSURANCE FOR FIRST-TIME HOME BUYERS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified mortgage interest expenses, plus

"(2) the qualified mortgage insurance expenses.

"(b) QUALIFIED EXPENSES.—For purposes of subsection (a)—

"(1) MORTGAGE INTEREST.—

"(A) IN GENERAL.—The qualified mortgage interest expenses are 10 percent of so much of the mortgage interest expenses paid or incurred by the taxpayer during the taxable year with respect to a qualified residence as does not exceed $4000.

"(B) TARGETED AREA RESIDENCES.—In the case of mortgage interest expenses paid or incurred with respect to a targeted area residence, subparagraph (A) shall be applied by substituting '20 percent' for '10 percent'.

"(2) MORTGAGE INSURANCE.—The qualified mortgage insurance expenses are so much of the mortgage insurance expenses paid or incurred by the taxpayer at the time the mortgage is executed with respect to a qualified residence as does not exceed the lesser of one-half of 1 percent of the loan secured by the mortgage, or $250.

"(3) EXCLUSION OF EXPENSES ATTRIBUTABLE TO LOANS MADE THROUGH TAX-EXEMPT FINANCING.—No mortgage interest expenses or mortgage insurance expenses may be taken into account under this section if such expenses are attributable to a loan the funds for which are provided in whole or in part from the proceeds of any obligation the interest on which is exempt from tax under section 103.

"(4) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) INCOME LIMITATION.—

"(1) IN GENERAL.—If the adjusted gross income of the taxpayer for the taxable year exceeds $20,000 ($10,000 in the case of a married individual filing a separate return), the credit which would (but for this subsection) be allowed by subsection (a) for such year shall be reduced by $1 for each $20 of the adjusted gross income of the taxpayer in excess of $20,000 or $10,000, as the case may be.

"(2) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of any targeted area residence, paragraph (1) shall be applied by substituting '$25,000' for '$20,000' and '$12,500' for '$10,000' each place they appear.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MORTGAGE INTEREST EXPENSES.—The term 'mortgage interest expenses' means expenses for interest on—

"(A) any mortgage loan for the purchase of a qualified residence,

"(B) any qualified home improvement loan, or

"(C) any qualified rehabilitation loan.

"(2) MORTGAGE INSURANCE EXPENSES.—The term 'mortgage insurance expenses' means, with respect to a loan secured by a mortgage on a qualified residence, expenses to insure payment of such loan in the event of the mortgagor's default on such loan.

"(3) QUALIFIED RESIDENCE.—The term 'qualified residence' means a residence with respect to which each mortgagor meets the requirements of subsections (e), (f), and (g).

"(e) RESIDENCE REQUIREMENTS.—A mortgagor meets the requirements of this subsection with respect to a residence for the taxable year only if the residence—

"(1) is a single-family residence,

"(2) is used as the principal residence of the mortgagor, and

"(3) is located in the United States or a possession of the United States.

"(f) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—A mortgagor meets the requirements of this subsection with respect to a residence only if the mortgagor had, at no time during the 3-year period ending on the date the mortgage with respect to such residence is executed, a present ownership interest in any other residence which was a principal residence of such mortgagor. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the credit under subsection (a) is claimed shall not be taken into account.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to—

"(A) any targeted area residence,

"(B) any qualified home improvement loan, and

"(C) any qualified rehabilitation loan.

"(g) PURCHASE PRICE REQUIREMENT.—

"(1) IN GENERAL.—A mortgagor meets the requirements of this subsection with respect to a residence only if the acquisition cost of such residence does not exceed 90 percent of the average area purchase price applicable to such residence.

"(2) AVERAGE AREA PURCHASE PRICE.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residence (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

"(3) SEPARATE APPLICATION TO NEW RESIDENCES AND OLD RESIDENCES.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '90 percent'.

"(5) EXCEPTION FOR QUALIFIED HOME IMPROVEMENT LOANS.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(h) TARGETED AREA RESIDENCES.—

"(1) IN GENERAL.—For purposes of this section, the term 'targeted area residence' means a residence which, at the time the mortgage is executed, is in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) QUALIFIED CENSUS TRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) DATA USED.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) AREA OF CHRONIC ECONOMIC DISTRESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) CRITERIA TO BE USED IN APPROVING STATE DESIGNATIONS.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use for owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(i) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MORTGAGE.—The term 'mortgage' includes any other owner-financing.

"(2) STATE.—The term 'State' includes a possession of the United States and the District of Columbia.

"(3) STATISTICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) STANDARD METROPOLITAN STATISTICAL AREA.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.

"(4) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) EXCEPTIONS.—The term 'acquisition cost' does not include—

"(i) usual and reasonable settlement or financing costs,

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) SPECIAL RULE FOR QUALIFIED REHABILITATION LOANS.—In the case of a qualified rehabilitation loan, for purposes of subsection (g), the term 'acquisition cost' includes the cost of the rehabilitation.

"(5) QUALIFIED HOME IMPROVEMENT LOAN.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed $15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only of such items as substantially protect or improve the basic livability of the property.

"(6) QUALIFIED REHABILITATION LOAN.—

"(A) IN GENERAL.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(i) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) QUALIFIED REHABILITATION.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(7) JOINT OCCUPANCY.—Except as provided in subsection (c), in the case of any qualified residence with respect to which mortgage interest expenses or mortgage insurance expenses (as the case may be) are paid or incurred during any calendar year by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of such expenses paid or incurred during such year by all such individuals with respect to such residence shall be determined by treating all such individuals as one taxpayer whose taxable year is such calendar year, and

"(B) there shall be allowable with respect to such expenses to each of such individuals a credit under subsection (a) for the taxable year in which the calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenses paid or incurred by such individual during such calendar year bears to the aggregate of such expenses paid or incurred by all of such individuals during such calendar year."

(2) TECHNICAL AMENDMENT.—Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(3) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Certain mortgage interest and mortgage insurance for first-time home buyers."

(4) EFFECTIVE DATE.—Notwithstanding section 4, the amendments made by this subsection shall apply to mortgages executed after December 31, 1979, and to taxable years beginning after such date and before December 31, 1982.

Page 33, line 2, strike out "103A(1)(4)" and insert in lieu thereof "103(g)(3)(B)(iii)".

Page 38, line 7, strike out "subsection (p) of section 103A" and insert in lieu thereof "subparagraph (C) of section 103(g)(3)".

Amend the title of the bill so as to read: "A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage subsidy bonds will not be exempt from Federal income tax, and to allow a credit for certain mortgage interest and mortgage insurance for first-time home buyers."

EXTENSIONS OF REMARKS

WHEN CORPORATIONS GET UP AND LEAVE TOWN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. FORD of Michigan. Mr. Speaker, I would like to include in the RECORD today an excellent analysis of the problem of "runaway corporations" that appeared recently on the op-ed page of the New York Times. The article was authored by Victor S. Kamber, assistant to the president of the Building and Construction Trades Department of the AFL-CIO, who has studied the rootlessness of American corporations and the effect of this rootlessness on the economic and political health of our Nation with great care and insight.

As Mr. Kamber notes, corporate decisions to relocate operations and facilities from one part of the country to another (or overseas), although made secretly, unilaterally and solely in the self-interest of the corporations and their stockholders, have tremendous consequences for, and impose significant costs on, the workers and communities that depend on them for jobs and tax revenues. And the adverse consequences of corporate relocations are not suffered by the workers and local taxpayers alone.

The Commerce Department reports that in one 7-year period, from 1966 to 1973, the United States lost over 1 million manufacturing jobs because of plant relocations overseas. The overseas investments of U.S. corporations have grown from about $12 billion in 1950 to $150 billion in 1979. Typical of this trend and its poisonous effects on our economy is Chrysler Corp.'s recent announcement that at the same time it is closing the old Dodge main plant in Detroit it will build a $110 million four-cylinder engine plant in Saltillo, Mexico.

Although a dozen States have begun to consider legislation to prevent sudden, massive, uncompensated economic dislocations resulting from private corporate action, Mr. Kamber rightly states that only the Federal Government can enact truly effective legislation "in order to prevent one State or another from becoming the competitive victim in the relocation process."

To that end, together with 58 cosponsors, I have introduced H.R. 5040, the National Employment Priorities Act of 1979, to regulate the closing and relocation of business operations and facilities where such actions would have a significant impact on the local or national economy.

Mr. Kamber's thought-provoking column follows:

WHEN CORPORATIONS GET UP AND LEAVE TOWN

(By Victor S. Kamber)

WASHINGTON.—American corporations have found themselves yet again with one foot on each side of the fence.

Any moderately astute consulting firm can tell you that corporations are now spending more time and money on a worldwide scale to develop the paternal side of their personalities, hoping to promote greater loyalty, higher productivity and political malleability in their employees.

This same consultant can also tell you that this corporate paternal instinct is very likely to vanish the moment there arises an economically based reason for that same corporation to hotfoot it out of town.

Runaway corporations have levied a social and economic hardship on American communities in the last 15 years in the same social and economic manner that runaway parents create hardships not only for the spouses and children they might abandon but also for the communities whose social services and tax dollars must pick up the responsibilities they have left behind.

Discounting plant closures caused by economic misfortune, the planned and premeditated closings of large Northern shops in order to cash in on tax benefits or to relocate in areas where workers have historically settled for lower wages and fewer benefits is a sign not only of greed but also of social irresponsibility.

For instance, the now-famous closing of Lykes-Youngstown Sheet and Tube resulted in the immediate termination of some 5,000 employees. While this is a horrifying figure in itself, the closing of this plant actually resulted in associated loss of jobs for 11,199 workers in the surrounding Youngstown, Ohio, area. It has been estimated that the costs imposed on the Federal Government in the form of lost corporate, and income-tax payments, in unemployment compensation, food stamps, welfare and medical services resulting from the closing of that one steel plant will total nearly $50 million by the end of 1980.

While it is easy to cast a suspicious eye on such overwhelming figures, it must be clear that the bearer of the burden of this disaster was not the corporation that slowly undermined the fiscal health of the plant operation and escaped with great tax write-offs and other tax benefits. The bearer of this burden continues to be the taxpayer, the abandoned workers of Youngstown, their families and the associated small businesses that dealt with the corporation and relied on its employees for income.

The Federal Bureau of Labor Statistics offers a nearly incomprehensible figure regarding the loss of jobs in New England, the mid-Atlantic states and the Great Lakes region caused by runaway corporations that have relocated in areas they hope to be untouched by the wage standards imposed by arbitration with workers' groups.

The bureau says that at least 1.4 million workers have found themselves jobless because of such moves since 1966. Many of these men and women have invested so many years in one job or industry that the prospect of finding other adequate jobs in their home area is unlikely. Once again the economic and social burden of this displacement falls on the taxpayers' shoulders.

Citizens groups in various states have begun to take measures toward preventing such abandonment of responsibility by corporations. Several pieces of legislation recently proposed have emphasized the necessity of cooperation between industry, labor and the community.

Common aspects of these people in Ohio, Massachusetts and Wisconsin include these:

1. There should be advance public notice by any corporation intending to close or relocate. The amount of time of such notice required by each proposal varies from 60 days to two years. Considering the enormous interdependence a community shares with the corporations in its boundaries, the length of time must be adequate to prepare for the possible effects of tax-base loss and increased strain on government funds and social services.

2. There should be adequate severance pay for employees left behind.

3. There should be adequate and mandatory contributions by corporations to counterbalance the increased drain on public funds stemming from unemployment compensation and social and medical-welfare services. In order for corporations to benefit from the legal tax deductions and credits allowed during a relocation or divestiture, the corporations would have to cooperate with local and Federal Governments in avoiding the social and economic chaos possible in such moves.

It is clear that any truly effective legislation in this field must come from the Federal Government in order to prevent one state or another from becoming the competitive victim in the relocation process.

Obviously, no economic system can hope to prosper in an atmosphere in which change and progress are discouraged. On the other hand, no social system can survive amid thoughtless or greedy economic chaos. Industry, labor and the community as a whole must cooperate with each other to make the most careful and prosperous use of resources, the labor force and each other's good will. It is only reasonable.●

UNITED FOR FAIR HOUSING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. EDWARDS of California. Mr. Speaker, when it becomes law, the Fair Housing Amendments Act of 1979 (H.R. 5200) will help solve one of our Nation's most serious and persistent problems—that of discrimination in housing.

It is most encouraging to me that extremely diverse organizations with millions of members across the country are united in their advocacy of H.R. 5200. The Leadership Conference on Civil Rights, a coalition of 149 national organizations, considers the fair housing legislation a top priority. LCCR member organizations include:

American Federation of Labor-Congress of Industrial Organizations.

American Federation of State, County and Municipal Employees.

American Federation of Teachers.

American Jewish Committee.

American Jewish Congress.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

American Postal Workers Union.
American Veterans Committee.
Americans for Democratic Action.
Anti-Defamation League of B'nai B'rith
A. Philip Randolph Institute.
Asociacion Nacional Pro Personas Mayores.

NOTE.—Continued from October 16, 1979, and to be continued on future days.●

RABBI GOLDSTEIN'S LETTER TO A BLACK FRIEND

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. FINDLEY. Mr. Speaker, as most of my colleagues know, I have been one of the proponents in the House of Representatives for greater understanding of the Palestinian position within an inviolate framework of Israel's security. As a consequence, I have encountered some confusion, questioning, and occasional hostility from some members of the Jewish community within my congressional district. Recently, I met with some of the prominent Jewish leaders in Springfield. I asked for the meeting to explain to them in person why, in pursuing my deep and abiding support for Israel, I must recognize the plight of the Palestinians in the Middle East.

After our meeting, Rabbi Joshua Goldstein of Temple B'rith Shalom in Springfield sent me his Yom Kippur sermon, entitled, "Letter to a Black Friend." In it, Rabbi Goldstein speaks in stirring terms of the parallel struggles of blacks and Jews for freedom and integrity and of the similarities and differences between the two minority groups. The sermon is a moving call for mutual tolerance and understanding that cannot help but inspire all who read it. We are all part of one world and share in a greater responsibility for its betterment.

While I can only place an excerpt from the sermon in the CONGRESSIONAL RECORD, I especially want to point out the significant litany of facts which he cites toward the end of his letter. Rabbi Goldstein rightly states that "Israel has created a record that offers hope to the world" and he then recounts:

The fact of Israel's humane treatment of the territories it acquired in 1967. The fact of Israel's willingness to give up those territories in return for recognition and peace. The fact that Israelis do not teach hatred for Arabs.

Rabbi Goldstein's sermon is a remarkable exposition of a reasonable and moderate position on the central issue of controversy in the Middle East—the future of the occupied lands. Rabbi Goldstein speakes of the loving care of Israel for the lands that Prime Minister Begin calls Judea and Samaria, yet he would willingly relinquish the occupied territories in exchange for a lasting comprehensive peace that would allow Arabs and Israelis to live side by side.

That is precisely the objective I have been seeking. And while I have recommended dealing with the PLO as a means of achieving this end, I am convinced that if the end itself could somehow be made clear, it would not be necessary for me or anyone in the United States to identify the bargaining agent for the Palestinians. For I do not believe it is the agent that causes all of this strife, but the unsettled and unsettling end toward which every one is working. For that reason, I am convinced that Rabbi Goldstein and I have far more in common than the subtle differences which separate us over the means to peace. And where there are differences, as he says, "where there is pain, there is hope."

I commend the Rabbi's sermon to each of my colleagues, and to all Americans. It represents a responsible attitude toward one of the most serious problems facing our Nation—and the world—today. If we could all but agree to the basic framework he outlines, the current difficulties we are experiencing would plague us no more.

Excerpt from Rabbi Goldstein's sermon follows:

I've written a letter to a black friend of mine, whom I've not seen in many years, but who went to college with me, and who is now a member of the Southern Christian Leadership Conference. And I would like to share that letter with you:

"My friend. It has been many years since we've talked. Perhaps that's the real problem we face. Most blacks and Jews just don't see each other anymore. And it's only when a crisis comes, it seems, that we feel the need to communicate.

"But, the crisis has come. A decade of disenchantment has burst forth in a rage. We Jews have sensed with deep unhappiness the rise of black anti-Semitism. And you have viewed certain Jewish positions on affirmative action and busing, as a reversal of the old Jewish liberalism. We see black aid and comfort to the PLO as an atrocious act, as bizarre as would be a black alliance with the Ku Klux Klan. And you may see the support of many Jews for the Bakke case as racist. And we're angry at each other. It seems to matter little, that neither of our communities is monolithic. That not all who bear Jewish names or black identities speak for their entire communities. And we seem to agree on only one thing: that we no longer share the same interests.

"Maybe we were too wrapped up in the idealism of the sixties. In the dream of brotherhood we shared. Because we neglected to talk about other aspects of our histories. You see, the Christian education which your enslaved descendants received, also taught about my people, the Jews. And Jews were, in no way, identified with the children of Israel. Blacks learned that Jews killed their savior, and that we were inimical to everything good.

"And Jews were not just villians whom your people learned about in songs and Sunday School lessons. Jews were also real human beings, with whom your ancestors came into direct contact. But these personal contacts did not destroy the image of Christ-killer. In fact, direct contact often reinforced the animosity.

"Like other whites, many Jews were slave traders and slaveholders. And some of my ancestors found slavery to be a profitable business. Apparently, we behaved no better and no worse than other white people. That's not a very palatable part of Jewish history. And it's even less palatable, when we recall that at the very time when many Jews owned slaves, most Jews were themselves enslaved, and lived in European ghettos far worse than those in the South Bronx and East St. Louis. History does have its ironies!

"In one other important respect, Jews were much more removed from black slaves than their Christian counterparts. Christian masters not only permitted, but promoted the conversion of slaves. Blacks shared the same religion as their owners, and often attended services with them. But Judaism never exhibited the proselytizing enthusiasm of evangelical Christianty. In fact, during the antebellum period, Southern Jewish congregations in Richmond, New Orelans and Charlestown, specifically indicated in their constitutions, that membership was restricted to white Israelites. These provisions reflect a clear and conscious desire to exclude blacks from Jewish fellowship. And the more we separated ourselves from you, the more stereotypes we developed about each other: All Jews are rich. All blacks are lazy. Jews are the ruling class in America. Blacks are prone to violence. Jews hate blacks. Blacks hate Jews. And on and on.

"My friend. I do not bring up our past animosities, in order to indicate that we are locked into our historical backgrounds. In fact, you and I once disproved that, by virtue of our friendship. We did not permit the past to prevent us from being friends. And yet, as a Jew, I cannot ignore history. You see, the same negative image of the Jew that was taught to blacks as part of the Christian Gospel, was what allowed the Holocaust to take place in Europe. And unless we can begin to understand the forces that have pitted us against each other in the past, there will be little hope for our future.

"All right. I've talked about the past. What about the present? What about now? I suspect that you and I have conflicting opinions on a number of key issues.

"I know from the black manifesto issued by the Southern Christian Leadership Conference, that you are upset by the fact that Israel trades with South Africa and Zimbabwe Rhodesia. And you want me to bring pressure on Israel to halt its support of those repressive and racist regimes.

"To respond to this, my friend, is to be reminded that the world still puts Jews under a special category. Even if Israel doesn't see herself as having higher moral standards, you apparently do. And so, the United States can trade with countries whose policies run counter to our own, but it's wrong for Israel to trade with South Africa. And you can meet with the PLO, even if it has not renounced its aim to destroy Israel, but it's intolerable and morally unacceptable for Israel to trade with South Africa.

"We Jews have had enough of humanity's double standards. What's more, Israel is forced into the position of trading with South Africa. Who else is there? Israel also used to help Black Africa until they themselves broke off these relations, in order to take a more pro-Arab position. And so I have one answer for you: Don't force more isolation on Israel. We're isolated enough, thank you. But if it's any consolation, trade does not imply acquiescence to a nation's internal policies. Israel has always opposed South African apartheid, because Jews can never condone discrimination. To do so, would be to violate our faith.

"And if you think I represent a Holocaust mentality, you are right. I have a Holocaust mentality, and I make no apologies for it. Because I believe that Jews need a place where we can control our own fate.

"Is there a way for me to defend Israel accurately without leaving myself open to the accusation of exaggeration? All I can tell you is the truth. Israel has created a record that offers hope to the world. If she were an island, surrounded by water, instead of oil-rich Arabs, then humanity would stand in awe of her achievements. Yes, Israel has her problems. It's not utopia. But it is a place where lives have been reclaimed. The fact of Israel's humane treatment of the territories it acquired in 1967. The fact of Israel's willingness to give up those territories in return for recognition and peace. The fact that Israelis do not teach hatred for Arabs. The fact that a country so dependent on its military has not become militaristic. The fact that Israel was one of the first countries to provide refuge for Indo-Chinese Boat people. The fact that Israel alone fights for the survival of Black Jews in Ethiopia, and for Christians in Lebanon . . . all these are facts, not propaganda.

"But now I am playing your game. I'm defending Israel on the basis of moral standards, that few other countries begin to approach. Is it really necessary for me to argue this way? Must I be an apologist for Israel? And can you not accept Israel's right to exist, even without her unprecedented accomplishments?

"My friend. You and *I* share a kinship of suffering. We've each gone down to Egyptland. We know the bitterness of slavery, the shame of discrimination. When I read Nat Turner's sermons to his fellow slaves. When you studied my people's history. When Martin Luther King raised his voice in righteous indignation. When we appreciated our common struggle for ethnic identity, we trembled with recognition. Is it all over between us now? Are we destined to enter our isolated camps as enemies? Are we content to accept that?

"Between us there are real conflicts and different judgments. And that produces a special pain, maybe because we had such high expectations of each other. But where there is pain, there is hope.

"Jews and blacks must not allow themselves to be used. We've got to be wary of those who would polarize us. We can't allow divided judgments to be converted into racial or religious prejudice. Because only the bigot profits from our falling apart. Yes, we have separate agenda and interests which do not, and will not, always coincide. But they become self-destructive when they blind us to our common bond of freedom and independence. We need each other. And it is only when we recognize this, can we fulfill the hope expressed in the old black spiritual:

O Brothers, don't get weary, O Brothers don't get weary,
God's children are on their way to Canaan's shore,
There to live as brothers evermore." ●

COMMANDER ANTHONY J. LONGO, VETERAN OF FOREIGN WARS

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. DOUGHERTY. Mr. Speaker, on Saturday, October 20, the First District, Philadelphia County of the Department of Pennsylvania Veterans of Foreign Wars of the United States, is sponsoring a testimonial dinner honoring the Department of Pennsylvania commander, Anthony "Tony" J. Longo.

Commander Longo is the first Philadelphian elected to this high office of the Veterans of Foreign Wars in the Commonwealth of Pennsylvania in 28 years.

Commander Longo is a retired U.S. Postal Service supervisor who has been active in the Veterans of Foreign Wars since his discharge from the Army in 1945. He is a charter member of VFW Post 5205, Chestnut Hill, in Philadelphia.

He served the post as commander in the 1950's and later assumed leadership roles at the county and district levels. He was elected to his first statewide office in 1976 as department judge advocate moving to junior vice commander in 1977 and senior vice commander in 1978.

Commander Longo served with the 110th Field Artillery, 29th Division of the U.S. Army during World War II and also the Army Postal Service. He served in the China, Burma, and India theater of war. He was commissioned a first lieutenant in India in 1942.

He has also been active in such activities as the Chestnut Hill Community Association, the Chestnut Hill Business Men's Association, and the Sandy Run Country Club. He is married and has four children.

Mr. Speaker, I would like to ask my colleagues to join with me is saluting Commander Longo on his dedicated service to all veteran's of our great Nation and continued best wishes for his services in the future.●

THE NATIONAL JUDICIAL COLLEGE—AN IMPRESSIVE RECORD OF JUDICIAL EDUCATION AND RESPONSIBLE ADMINISTRATION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. SANTINI. Mr. Speaker, the National Judicial College of the University of Nevada in Reno—funded in part through the Law Enforcement Assistance Administration—is celebrating its 14th anniversary this year. We in Nevada are proud of the contributions which the National Judicial College is making to the advancement of judicial education in our Nation and to our State of Nevada.

The college is filling an indispensible role in upgrading and advancing the standards of judicial competence nationwide. U.S. Supreme Court Justice Warren E. Burger recently called the judicial college "one of the most important developments in the administration of justice in this century." Through the courses offered at the college, judges are able to observe their courtroom capabilities on videotape, discuss their good points and shortcomings with fellow judges, and undergo intensive training in sentencing, evidence, court, and juror management. Methods to reduce court delays are discussed.

Another administrative tribute to the college's effectiveness and efficiency is evidenced by the fact that the costs of the program has remained virtually the same during the last 4 years. While holding down the operating costs, the college has increased the programs and seen a significant expansion of enrollment.

This remarkable educational institution has provided much of the initiative for improvement in our State courts systems in recent years. The National Judicial College has kept our judicial system on an even keel by making the administration and delivery of justice an ongoing subject of education and improvement.

I am pleased that the House of Representatives passed H.R. 2061, the LEAA authorization, on October 12. The CONGRESSIONAL RECORD and history of the legislation demonstrate the continuing commitment of the House of Representatives to supporting judicial education and the National Judicial College of the University of Nevada, Reno.●

A FAILURE OF INTELLIGENCE—IN BOTH SENSES OF THE WORD

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. MICHEL. Mr. Speaker, syndicated columnist Patrick Buchanan reminds us of the numerous failures of our intelligence agencies during the past 25 years. We were caught by surprise on any number of occasions, including the installation of Soviet missiles in Cuba in 1962, the Yom Kippur war of 1973, and the North Vietnamese offensive in 1975.

But we are asked by the administration to rely on this same intelligence-gathering apparatus to verify the SALT II agreement. It seems to me that we have a twofold failure of intelligence: Our intelligence-gathering agencies do not have the kind of track record to make us feel secure and, it seems, the administration is not making intelligent or, at times, even intelligible moves in foreign affairs and national security.

At this time I wish to insert in the RECORD, "Miserable Failures of Spymasters," by Patrick Buchanan, from the Chicago Tribune, October 16, 1979.

MISERABLE FAILURES OF SPYMASTERS

(By Patrick Buchanan)

WASHINGTON.—On the eve of World War I, Kaiser Wilhelm—preparing to face the combined might of the British, French, and Russian empires—dispatched Gen. Ludendorff to visit the Austrian Army.

The general returned to Berlin with the disquieting news; "We are allied to a corpse."

As former Deputy Defense Secretary Robert Ellsworth and Kenneth Adelman write in the fall issue of Foreign Policy, Stansfield Turner should have given the President the same message before Carter toasted the shah on New Year's Eve of 1978 as the beloved leader of the Iranian people residing on an island of stability in the Middle East.

When the shah was swept off his island by an unanticipated wave, Carter sent Adm. Turner a terse message: "I am not satisfied with the quality of political intelligence."

The Iranian revolution was neither the first nor the greatest blunder of strategic intelligence in our time. The roll call is remarkable.

The British and French were astonished by the German breakthrough in the Ardennes which ended the "phony war" and destroyed the greatest army in Europe in six weeks. Stalin stubbornly refused to believe British warnings of impending German attack. Gen. Marshall was out horseback riding in Rock Creek Park when planes of the Japanese Imperial Fleet struck Pearl Harbor.

In the postwar era, U.S. intelligence has, time and again, been shocked by unanticipated events: the 1949 Russian detonation of an atomic bomb, years before expected;

the 1950 invasion of South Korean; the Soviet launching of Sputnik in 1957; the secret installation of missiles in Cuba in 1962; the ouster of Khrushchev and the explosion of the first Chinese atomic bomb on the same day in the fall of 1964; the Tet offensive of 1968; the Yom Kippur War of 1974; the North Vietnamese offensive of 1975.

Though U.S. intelligence was caught in varying stages of undreas by each of these events, it is upon that intelligence that we are relying for verification of SALT II, for signs of any Soviet "breakout" which would give Moscow the strategic superiority the uses of which Henry Kissinger has begun to appreciate.

But the American record on predicting Soviet weapons development has been abysmal.

President John F. Kennedy once said he believed that a ballistic missile defense was beyond the capability of science. Three years after his death, the defense secretary announced that the Russians were deploying a rudimentary system around Moscow.

In the middle '60s, Robert McNamara informed the nation that the "Soviets have decided that they have lost the quantitative" strategic arms race and "are not seeking to engage us in that contest." Lest the point be missed, he emphasised, "There is no indication that the Soviets are seeking to develop a strategic nuclear force as large as ours."

In Brussels in 1974, before heading for Moscow to negotiate a SALT II agreement, Kissinger told the press, "I do not believe a country can rely politically or militarily on a first-strike capability and I do not believe that a country can achieve a first strike capability . . ." Even before SALT II has been approved by the Senate, the Soviets have achieved precisely that—the capacity to destroy 90 per cent of the U.S. land-based missile force in a first strike.

Nor does the record end there. During the period of SALT I, the United States underestimated the speed with which the Russians could match us in multiple warhead technology and accuracy of missiles. In 1976, we discovered that, for years, we had been underestimating by as much as 50 percent what the Soviets were spending on weaponry.

In Carter's term, the mistakes have continued:

Only recently did U.S. intelligence acknowledge that a military buildup had been under way for years in North Korea, forcing Carter to cancel plans for withdrawal of U.S. forces from the South.

Write Adelman and Ellsworth: "The U.S. Navy was agape last May . . . when the Soviets launched a nuclear-powered submarine that steams faster (40 knots) and dives deeper (more than 2,000 feet) than anything the United States has.".

So what, the question runs. Well, here is what. Given the vulnerability of our land-based missiles, given the vulnerability of our B-52 fleet, now less than half as large and 17 years older than it was when JFK rattled it in the Cuban missile crisis, America's deterrent rests largely upon the third leg of the Triad, 41 missile submarines.

A Soviet breakthrough in detecting and targeting those vessels, a Soviet "breakout" in deploying a missile defense, and it becomes: Red to move and win.

Incidentally, our advance warning system of any such breakthrough is manned by organizations which cannot yet tell us whether that 3,000-man Soviet combat brigade has been in Cuba 17 years, 17 months or 17 days.●

ASSESSING THE IMPACT OF INFLATION

HON. WILLIAM E. DANNEMEYER

IN THE HOUSE OF REPRESENTATIVES

OF CALIFORNIA

Wednesday, October 17, 1979

● Mr. DANNEMEYER. Mr. Speaker, with the recent floor debate on the second concurrent resolution on the budget, attention was once again focused on the negative effects of inflation. Unfortunately, however, while everyone was in agreement that inflation is bad, there seemed to be no consensus of opinion as to what causes it much less any agreement on what should be done to stop it.

As I pointed out during the debate that took place September 19, such that such a problem exists is not new nor, after reviewing past efforts to come to grips with inflation, should it be surprising. The inflationary spiral of 1973–74, which followed on the heels of some $46 billion in deficit spending in 1971–72, had a lot to do with creating a climate favorable to passage of the Congressional Budget Act of 1974. It also had much to do with the House passing what is now rule XI (2) (1) (4) of the House rules, which requires that an inflation impact statement accompany each bill reported to the House floor by a committee of the House. Unfortunately, however, the promise of these two initiatives has not been matched by subsequent events; not only has deficit spending accelerated since passage of the Budget Act but, as I noted during the debate, inflationary impact statements have, if anything, produced the opposite effect of that intended. Rather than sound a warning against the dangers of further spending, they have been so consistent in their denial of inflationary impact as to provide a rationale for further spending.

So that my colleagues might get a clearer picture of my concern about these inflationary impact statements, I ask unanimous consent to insert, in the RECORD, a chart indicating the thrust and scope of all the inflationary impact statements attached to all spending bills passed from the beginning of this Congress to the start of the August district work period. After having read it, I hope you will agree with me that, if we are really serious about combating inflation, we must stop trying to create the illusion of substance and start with substance itself. Detailed inflationary impact statements, using common methodology and relating expenditures more to the deficit than to the total budget, would be a step in that direction.

INFLATIONARY IMPACT STATEMENTS: CONGRESSIONAL APPROPRIATIONS BILLS, 96TH CONG., JAN. 1, 1979, TO AUG. 2, 1979

Bill No.	Date passed	Bill title	Size of inflationary impact statement		Scope of inflationary impact	CBO cost estimate (outlays) (billions)
			Paragraphs	Lines		
H.R. 4289	June 6, 1979	Supplemental Appropriations Act, 1979	4	23	0	$11.0
H.R. 4387	June 19, 1979	A bill making appropriations for Agriculture, Rural Development, and related agencies programs for the fiscal year ending Sept. 30, 1980, and for other purposes.	4	24	0	12.8
H.R. 4381	June 18, 1979	Military Construction Appropriation Act, 1980	2	10	Strictly local	3.48
H.R. 4392	July 12, 1979	Department of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act, 1980.	4	30	0	7.64
H.R. 4383	July 16, 1979	Treasury, Postal Service, and General Government Appropriations Act, 1980	2	7	Minimal	8.62
H.R. 4394	June 27, 1979	Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980.	3	20	0	72.2
H.R. 4598	July 17, 1979	District of Columbia Appropriation Act, 1980	1	15	0	.327
H.R. 4388	June 18, 1979	Energy and Water Development Appropriation Act, 1980	4	24	0	10.7
H.R. 4389	June 27, 1979	Department of Labor and Health, Education and Welfare Appropriations Act, 1980	2	6	0	73.57
H.R. 4930	July 31, 1979	A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending Sept. 30, 1980, and for other purposes.	1	12	0	10.25
		Total	27	171		210.737
		Average size of inflationary impact statement	2.7	17.1		

Bill No.	Date passed	Bill title	CBO cost estimate (outlays)		Stated scope of inflationary impact	Size of inflationary impact statement	
						Paragraph	Lines
H.R. 7	June 20, 1979	Monetary Control Act of 1979	$1.0	billion	0	1	8
H.R. 39	May 16, 1979	Alaska National Interest Lands Conservation Act of 1979	558.0	million	0	1	4
H.R. 111	June 21, 1979	Panama Canal Act of 1979	2.187	billion	Existent but indeterminable	3	7
H.R. 1046	June 25, 1979	Magistrate Act of 1979	9.0	million	0	1	4
H.R. 1543	May 30, 1979	Trade Assistance Program Adjustment Act	569.3	million	0	1	9
H.R. 1608	May 21, 1979	Veterans Health Care Adjustments of 1979	204.1	million	0	2	6
H.R. 1705	March 28, 1979	NASA Authorization Act of 1980	4.8	billion	0	3	19
H.R. 1787	March 28, 1979	NASA Supplemental Authorization Act	185.0	million	0	1	6
H.R. 1790	June 25, 1979	Fishery Conservation and Management Act Authorization	120.0	million	0	1	4
H.R. 1825	July 9, 1979	Archeological Resources Protection Act of 1979	4.0	million	0	1	4
		Subtotal	8.6364	billion		15	81

Bill No.	Date passed	Bill title	CBO cost estimate (outlays)		Stated scope of inflationary impact	Size of inflationary impact statement	
						Paragraph	Lines
H.R. 2035	June 25, 1979	Anadromous Fish Conservation Act of 1979	43.8	million	0	1	4
H.R. 2043	July 9, 1979	Water Bank Act Amendments	7.5	million	0	1	4
H.R. 2277	Mar. 26, 1979	FAA Authorization	77.8	million	0	1	9
H.R. 2282	July 16, 1979	Veterans Disability Compensation and Survivors Benefits Amendments.	2.9	billion	0	1	4
H.R. 2283	Mar. 21, 1979	Council on Wage and Price Stability Extension	22.24	million	0	1	6
H.R. 2295	May 31, 1979	Coast Guard Authorizations	1.38	billion	0	2	18
H.R. 2374	June 8, 1979	Frederick Law Olmstead National Historic Site Act	1.1	million	0	1	8
H.R. 2444	July 11, 1979	Department of Education Organization Act	42.6	million	0	1	4
H.R. 2462	July 7, 1979	Maritime Authorizations	184.2	million	Positive	1	13
		Subtotals	4.6992	billion		10	66
H.R. 2520	May 14, 1979	National Ocean Pollution Research and Development and Monitoring Act Authorization, Fiscal Year 1980.	4.3	million	0	3	18
H.R. 2575	May 31, 1979	Department of Defense Supplemental Appropriation Authorization, 1979.	1.146	billion	0	2	6
H.R. 2641	June 8, 1979	Civil Rights Commission Authorization Act of 1979	14.0	million	0	1	2
H.R. 2676	Mar. 27, 1979	Environmental Research Development and Demonstration Authorization Act of 1980.	361.3	million	0	4	21
H.R. 2779	Mar. 27, 1979	NSF Authorization Act, Fiscal Year 1980	1.0	billion	0	5	30
H.R. 2774	Mar. 27, 1979	Arms Control and Disarmament Act Amendments of 1979	41.3	million	0	1	7
H.R. 2907	May 7, 1979	Bankruptcy Act Amendments of 1979					
H.R. 2814	July 9, 1979	Corse River Improvement Act	24.3	million	Insignificant	1	8
H.R. 3055	June 4, 1979	Shipping Act Amendments of 1979	1.1	million	0	1	4
		Subtotal	2.6143	billion		18	109
H.R. 3091	Mar. 27, 1979	Business Expenses of State Legislators, tax deductions	2.7	million in lost revenues.	0	1	3
H.R. 3173	Mar. 29, 1979	International Security Assistance Act of 1979	1.38	billion	Beneficial	4	17
H.R. 3292	July 9, 1979	Fish and Wildlife Conservation Act of 1979	11.0	million	0	1	4
H.R. 3324	Apr. 16, 1979	International Development Corporation Act of 1979	5.15	billion	Beneficial	7	25
H.R. 3347	June 8, 1979	Treasury Department International Affairs Act	23.1	million	0	1	2
H.R. 3354	Apr. 25, 1979	Naval Petroleum Reserves Development Authorization, Fiscal Year 1980.	85.2	million	0	1	8
H.R. 3363	Apr. 24, 1979	Foreign Relations Authorization Act, Fiscal Year 1980 and 1981.	4.57	billion	0	1	4
H.R. 3434	Aug. 2, 1979	Social Services and Child Welfare Amendments, 1979	4.29	billion	0	1	3
H.R. 3464	June 6, 1979	Supplemental Security Income Disability Amendments of 1979.	465.0	million	0	1	5
H.R. 3504	July 9, 1979	Smithsonian Quadrangle Development Planning Act	.5	million	0	1	6
		Subtotal	16.0075	billion		19	72
H.R. 3509	July 30, 1979	Safe drinking Water Authorization Act	248.1	million	0	3	14
H.R. 3575	June 25, 1979	Peanut Marketing Flexibility Act	1.8	million in lost revenues	0	1	6
H.R. 3577	May 14, 1979	National Advisory Committee on Ocean and Atmosphere Authorization Act	.55	million	0	1	4
H.R. 3633	July 27, 1979	Nurse Training Amendments of 1979	204.0	million	0	2	18
H.R. 3641	July 16, 1979	Public Health Service Act Extension	94.5	million	0	3	15
H.R. 3661	July 16, 1979	Navajo-Hopi Indian Relocation	2.45	million	Minimal	1	3
H.R. 3756	May 7, 1979	Insular Areas Authorizations	36.4	million	0	1	4
H.R. 3757	May 7, 1979	National Parks and Recreation Act Amendments	71.9	million	Minimal	2	12
H.R. 3767	May 23, 1979	Gold Medal for John Wayne	15,000			No statement	
H.R. 3821	July 18, 1979	Intelligence and Intelligence Related Activities Authorization Act, fiscal year 80	63.1	million plus	0	1	6
		Subtotal	772.8	million plus		15	98
H.R. 3875	June 7, 1979	Housing and Community Development Amendments	6.5	billion	0	14	186
H.R. 3879	May 17, 1979	Temporary Commission on Financial Oversight, D.C., Authorization.	11.0	million	0	1	2
H.R. 3892	May 21, 1979	Private Health Care for Veterans	270.5	million	0	1	3
H.R. 3917	July 19, 1979	Health Planning and Resources Development Amendments of 1979.	1.16	billion	0	2	14
H.R. 3920	June 25, 1979	National Commission for Unemployment Compensation	.2	million	0	1	3
H.R. 3923	May 21, 1979	National Historical Publications and Records Commission Authorization Extension.	8.0	million	0	1	5
H.R. 3930	June 26, 1979	Defense Production Act Amendments of 1979 (Synfuels)	2.0	billion	0	2	26
H.R. 3951	July 16, 1979	National Capitol Transportation Amendments of 1979	1.27	billion	0	1	2
H.R. 3969	June 25, 1979	Fort Mitchell Regional Veterans Cemetary	7.6	million	0	2	11
		Subtotal	11.2273	billion		25	170
H.R. 3996	July 25, 1979	Amtrak Reorganization Act of 1979	3.04	billion	0	1	5
H.R. 4011	May 22, 1979	Small Business Act	1.34	billion	0	2	11
H.R. 4015	June 5, 1979	Veteran Senior Citizen Health Care Act of 1979	85.0	million	0	1	2
H.R. 4016	June 4, 1979	Federal Fire Prevention and Control Act Authorizations	31.0	million	0	1	11
H.R. 4035	May 30, 1979	Special International Security Assistance Act of 1979	1.09	billion	0	1	8
H.R. 4057	July 11, 1979	Food Stamp Act Amendments of 1979	620.0	million	0	1	8
H.R. 4303	June 26, 1979	Eliminate Restrictions on Excess Shelter Expense Deductions for Food Stamps.	101.4	million	0	1	11
H.R. 4476	July 31, 1979	Education Act Amendments of 1979	5.4	billion	0	1	9
H.R. 4537	July 11, 1979	Trade Agreements Act of 1979	5.15	billion in lost revenue	0	1	6
		Subtotal	16.8574	billion		10	64
S. 948	June 4, 1979	Medal for the Trans-Atlantic Balloonists	45,000		Not available	No statement	
S. 532	May 14, 1979	Pension Policy Commission Act	2.0	million	Not available	No statement	
S. 613	June 4, 1979	Medal to Mrs. Hubert Humphrey	15,000		Not available	No statement	
S. 961	July 31, 1979	Speedy Trial Amendments Act of 1979	.1	million	0	1	3
S. 1030	Aug. 1, 1979	Emergency Energy Conservation Act of 1979	1.6	billion	0	1	10
		Subtotal	1.6022	billion		2	13
		Total	63.3771	billion		114	680
		Average size of inflationary impact statement authorization bills.				1.6	8.5

Note: The above list includes all spending bills that have passed the House of Representatives, irrespective of Senate action, as of Aug. 2, 1979. Bills that are not expected to result in the outlay of any Federal funds, such as the Taiwan Relation Act (H.R. 2479), are not listed.●

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. McCLOSKEY. Mr. Speaker, I have a constituent of whom I am inordinately proud, because he has spent a lifetime participating in good will efforts to improve our governmental processes as they relate to the free enterprise system.

TRIBUTE TO GEORGE J. BURGER

George J. Burger, Jr. joined the National Federation of Independent Business (NFIB) staff in July of 1947. The Federation at the time had less than 75,000 members. He has decided to hang up his spurs at the end of the year. Today, much to his credit, NFIB has in excess of 585,000 members.

The Federation has become an articulate and effective spokesman for the small business sector. Over the past three decades, George Burger has rendered a stellar contribution to it's growth and progress.

The Mandate, alerting members to important legislation impacting on small business, has been the cornerstone of NFIB operations. Until recent years, George was primarily responsible for the Mandate, and also wrote most of the testimony that was used by the Federation's legislative staff in testifying before various congressional committees.

George, working with his father, George Burger, Sr., who was Director of NFIB's Federal lobbying activities for nineteen years, has done much to improve the climate for small business.

Among the many developments in which he was involved were the following:

Establishment of the House and Senate Small Business Committees as a permanent fixture;

Creation of the Small Business Administration, first on a temporary basis and later as a permanent Agency;

The initial 7 percent investment tax credit;

Preservation of the Robinson-Patman Act against strong opposition;

Measures limiting bank holding companies;

Enactment of Keogh-type retirement programs; and

Stronger penalties for antitrust violations, and he worked diligently to strengthen antimerger statutes.

Mr. Burger took the initiative in development procedures to gather economic data from NFIB members. George personally discussed these findings with economists in Treasury, the Department of Labor, the Federal Reserve, Commerce, SBA and others. In 1971 Burger was invited to participate in quarterly meetings with Dr. Paul McCracken, Chief of the President's Economic Advisors, to discuss trends and problems of small business.

Mr. Burger took the initiative in having NFIB conduct a Quarterly Economic Survey of its members. This survey is under the supervision of economists with the University of California and Purdue University. Last year, with Burger's encouragement, the Federation created a Research Department under the direction of William Dennis. In addition to surveying employment trends and cost of doing business, special surveys have obtained information on tax reform proposals, the Federal paperwork burden, impact of an increase in the Federal minimum wage, National Health care, etc.

Everyone associated with small business should be eternally grateful for the positive influence George J. Burger, Jr., has had over the past thirty-two years.●

ANTINUCLEAR SNAKE OIL

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, many well-meaning individuals have been taken in by the snake oil salesmen of the antigrowth lobby. The "new hysteria of opposition" generated by the nuclear naysayers has truly frightened many people.

The Mattoon, Ill., Journal Gazette has printed a stinging indictment of the no-growth shock troops, repeating the speculation that the movement is an attempt by those who have made it financially to prevent others from climbing the ladder of success. I urge my colleagues and all Americans to heed the warnings given by this newspaper.

The editorial was written by William Missett, publisher-emeritus of the Oceanside, Calif., Blade Tribune. I commend Mr. Missett's views to the attention of my colleagues.

[From the Mattoon (Ill.) Journal Gazette, July 20, 1979]

NUCLEAR POWER FOES OPPOSE PROGRESS

It was a supreme irony that on the very week that OPEC increased the price of its oil by 25 percent some 20,000 protestors demonstrated against the starting up of Diablo Canyon generating plant in California.

The plant is not in the planning stages, it has been built at great cost after complying with all of the regulations which enmesh the creation of all generating plants, and atomic ones in particular.

It was significant that the governor of California, Jerry Brown, spoke at the meeting, even though he was not on the planned program. Brown, who is running for the presidency, has attached himself to the anti-nuclear movement.

Who were the demonstrators? For the most part they are the scions of upper or middle-class families, who have been looking for a new "cause" to obstruct growth. You don't find poor people or minorities in this kind of effort.

Recently Robert Nisbet, Albert Schweitzer Professor of the Humanities at Columbia University, has come up with the interesting postulation that the environmentalists and their allies are against growth, per se.

He speculates that it is an attempt by those who have made it financially to prevent others in the country from rising from their present situation to a better position in the nation's economy and social structure.

The anti-nuclear brigade includes such figures as Ralph Nader, Dr. Spock, Jane Fonda and her husband Tom Hayden, and much of the groups that were anti-U.S. when we were in combat in Vietnam.

Hayden, with the aid of Gov. Brown, is attempting to build himself a political base in California by his all-out advocacy of solar power and his opposition to the nuclear industry.

The accident at Three Mile Island in Pennsylvania has triggered new opposition to generating electricity by nuclear power. It has been blown all out of proportion by the media and the intellectuals leading the anti-nuclear cause.

For twenty-five years no one has been killed in a nuclear accident. Nor was anyone killed at Three Mile Island. On the day that President Carter visited the plant the radiation was no higher than might be suffered from a dentist's X-ray machine.

This is a new hysteria of opposition with the Abalone Alliance at Diablo Canyon, the Clamshell Alliance at Seabrook, New Hampshire, the Prairie Alliance at Clinton, Ill., and the snail darter protectors in Tennessee.

They are against coal mining, against dams being built, against coal-fired generating plants, against refineries, against growth. In our opinion they are against the American dream of progress.●

THE SAGEBRUSH REBELLION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. UDALL. Mr. Speaker, out West we are seeing increasing evidence of a movement known as the "Sagebrush Rebellion." State legislators in several States, including my home of Arizona, have embraced this attempt to turn all or much of the Federal land in the West over to either State governments or to private citizens. I recently wrote a constituent newsletter on the topic, pointing out some of the problems and the fallacies in this approach.

So I was pleased to learn that Ben Avery, the distinguished outdoor editor of the Arizona Republic, had written a column on the Sagebrush Rebellion. Ben's words speak for themselves. I commend his article to my colleagues' attention.

[From the Arizona Republic, Sept. 16, 1979]

SAGEBRUSH REVOLT REPULSIVE

(By Ben Avery)

The Sagebrush Revolt! A catchy phrase. But beware of catchy phrases. What is behind it?

This movement started in Nevada, spearheaded by ranchers revolting against any controls on how they use public lands.

But Nevada is hardly a state to emulate. Nevada has no state lands today because greedy ranchers wanted them—and a poverty-stricken state prior to the gambling boom needed money. The state's lands were sold to the ranchers for a fraction of what they would be worth today. Since the ranchers of Nevada acquired the state lands, they have been spearheading moves, largely through the National Association of Counties and the national cattle and sheep growers associations to get the federal lands. They tried to force legislation through Congress in the early 1950s to authorize their sale at a low price. The idea was to get them on the tax rolls, but the current permittees would have had the inside track.

Grazing lands on the tax rolls do not bring in much revenue, and ranchers don't line up to have their valuations raised any more than homeowners do.

The present revolt is really against the new Federal Land Management Act, which for the first time provides for management of federal grazing and mineral lands plus enforcement of rules. Of course, the revolt also is against the new higher fees for grazing and the U.S. District Court Decision forcing the U.S. Bureau of Land Management to comply with the Environmental Protection Act. A provision of the Land Management Act also requires that all BLM lands be evaluated for potential wilderness areas.

I doubt if the supporters of those acts are going to let the Sagebrush Revolt wipe them out by turning over the federal lands to the states so politically powerful ranchers at the local level can use them at low fees with no controls.

Don't get me wrong. The ideal situation would be to have the states own and control all of the public lands if there were assurance their management would not be controlled by the users for their personal gain. That's an ideal of government, however, that is almost a fantasy in this day and age of greed and political corruption.

The next best probably would be to have a federal agency manage all of the public lands. A federal agency might be impervious to local greed and corruption, but the maze of federal bureaucracy leaves much to be desired, and crazy-quilt federal laws don't help land management, which should be based on sound business practices and scientific land management.

Arizona's pulic lands—the state trust lands totaling about 9 million acres, BLM lands totaling about 13 million acres and National Forest lands totaling 11 million acres—are a tremendous asset to this state under wise, multiple-use management. They are used for grazing, mineral exploration and development, wildlife management to preserve all of our varied wildlife species, and a wide range of recreational activities that make Arizona an open-space jewel.

It would be my hope that level-headed ranchers would reject this misguided "Sagebrush Revolt" because they know that sound multiple use management requires the cooperation of ranchers, both the federal and state government agencies—and the body politic, the general public.●

WORLD MILITARY EXPENDITURES AND ARMS TRANSFERS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. ZABLOCKI. Mr. Speaker, I would like to call attention to the release on October 14 of World Military Expenditures and Arms Transfers 1968—1977 by the U.S. Arms Control and Disarmament Agency. This publication, the 11th in an annual series, is the single most comprehensive and authoritative source of statistical information on global military budgets and the international trade in weapons. The report, which is produced in conjunction with other Federal agencies, collates data from 145 countries concerning armed forces, weaponry, and international arms traffic as well as selected civilian statistical figures over a 10-year period. It is available upon request from the Arms Control and Disarmament Agency.

The survey notes that worldwide military spending approached $434 billion in 1977, an increase of nearly $30 billion over 1976. The developed countries continued to account for roughly three-quarters of the world's total military expenditures. A heartening trend may be indicated by the fact that for the first time, after adjusting for inflation, military spending by developing states decreased by almost 1 percent between 1976 and 1977. Much of this decrease reflected reduced spending by states in the Middle East.

The data presented in World Military Expenditures and Arms Transfers 1968–1977 also indicate that the international arms trade continues to grow. Over $17 billion worth of conventional armaments was transferred internationally in 1977, an increase of 7 percent over 1976 and a jump of 48 percent over the decade of the amount transferred internationally in 1966.

The United States and the Soviet Union were the two leading arms exporters, together accounting for over two-thirds of the world's total in 1977. Over three-quarters of the total transfers were received by less developed countries in 1977 with the three leading importers all being in the Middle East.

ACDA Director George M. Seignious II states in the foreword that:

> In a world of poverty and scarcity for many, over $400 billion is spent a year on weapons and military forces. Not only has the amount spent increased steadily, but the sophistication of the weapons in many countries has grown as well. These developments, on a highly interdependent globe where local crises could escalate to nuclear confrontation, pose a threat to the security and stability of all nations. Restraining these trends is the road to our future, and our common survival and well-being.

I hope that this valuable publication receives the careful attention that it deserves, and that it focuses renewed concern upon the serious problems and dangers posed by increased military expenditures and arms transfers. I urge my colleagues to avail themselves of this valuable information from the Arms Control and Disarmament Agency.●

GETTING AWAY WITH MURDER IN THE UNITED STATES

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. STARK. Mr. Speaker, 3 years ago Orlando Letelier, a Chilean and critic of the Pinochet government was murdered in Washington along with an American associate when a bomb exploded under their car. A subsequent investigation led to Roger Townley, an American who, at the time, worked for the Chilean secret police. Townley, in turn, implicated three other members of the police.

Chile has continually refused to extradite these three men to be tried in Washington. This was demonstrated most recently and finally on October 2 when a five judge panel of the Chilean Supreme Court threw out all independent evidence in the case. This action followed the decision of Chile's chief justice to throw out the testimony of Townley on the grounds that it was a result of plea-bargaining.

Such behavior by a judicial body not only signals an affront to justice but an affront to human life as well. We cannot tolerate terrorism on our streets. The actions of the supreme court of Chile serve only to demonstrate its lack of independence and the central role Chile's top leaders played in this inexcusable act.

We cannot sit by and quietly condemn the Pinochet regime and an international act of terrorism. Only strong and determined action will be consistent with the values of our Nation and the values of our people.

I, therefore, urge my colleagues to join me in support of the resolution of Messrs. HARKIN, MILLER, and MOFFETT, a resolution to express the sense of the House on the failure of the Chilean Government to extradite the three Chilean secret service agents indicted by a Washington, D.C., grand jury for the murders of Orlando Letelier and Ronni Karpen Moffitt.

In conjunction with these brief remarks, Mr. Speaker, I would like to introduce into the RECORD editorial comments on this outrage from the New York Times, October 5, 1979, and the Los Angeles Times, October 15, 1979. I share the conclusion of the Los Angeles Times comment: By one means or another, the military junta in Chile should be made to understand that this is one murder case that will not go away quietly.

[From the New York Times, Oct. 5, 1979]

GETTING AWAY WITH MURDER IN CHILE

Chile's Supreme Court has refused again and finally to extradite three former secret police officials to be tried in Washington for the murder of Orlando Letelier. By so doing, Chile thumbs its nose at the United States, and at elemental justice. Strong evidence offered in American courts has shown the assassination was ordered by Chile's secret police. But the Chilean court now calls the evidence too slight to support prosecution even in Chile, let alone extradition. The State Department's prompt protest must now be followed by severe sanctions.

Mr. Letelier, an exiled critic of the Pinochet regime, and an American colleague were killed three years ago in Washington by a bomb placed under his car. A resourceful Federal investigation led to Michael Townley, an American working for DINA, the Chilean police, who planted the bomb. He implicated others, including DINA's chief and two high aides.

The Justice Department, observing proper Chilean procedures, then sought extradition. It went to the chief justice, but he said no—after excluding the most damaging evidence, Townley's testimony. He said it could not be trusted because it resulted from plea-bargaining for leniency. To reach that conclusion, the judge had to ignore voluminous independent evidence.

Then the American prosecutors appealed to a five-judge panel of the Chilean Supreme Court. This panel has now thrown out the whole case. That required sustained ingenuity and determination to avoid facts. First, the panel upheld the exclusion of the Townley confession. But he had made a similar confession to a Chilean general before there was any plea-bargaining. How did the court deal with that? It threw that out, too, apparently on the ground that the general lacked authority to accept a confession.

Next, the Chilean panel took up the independent evidence previously ignored—long enough to throw it out on technical grounds wholly out of place in extradition proceedings. Then the court scrapped still other evidence because it was authenticated by the wrong magistrate, or because American investigators, though formally invited to Chile, had somehow violated Chile's sovereignty.

Far from eliciting respect as the work of independent judges, this kind of judicial pyrotechnics is best understood in the context of the current Chilean regime, tightly controlled by persons who might themselves

be implicated. Chile, in short, has stonewalled.

The United States is obliged to respond strongly. Our ambassador, already recalled twice over the matter, has now been recalled again. America gives too little aid to Chile for its withdrawal to mean much. The most promising sanction relates to the current return of American businesses and capital to Chile—the Congressional proposal to block private lending to Chile. The United States, far from blameless for the existence of the dictatorship, has a special duty to reaffirm human rights and its own sense of justice.

[From the Los Angeles Times, Oct. 15, 1979]

COLD BLOOD ON THE STONE WALL

A few days ago the Supreme Court of Chile ruled, in effect, that officials of the Chilean secret police can plot the murder of a politician opponent on American soil and get away with it. The United States strongly protested the decision and called its ambassador home for "consultations." But the matter should not be dropped there.

In September 1976, a bomb exploded under the car of Orlando Letelier, Chile's former ambassador to the United States, as he drove along Massachusetts Avenue in Washington. Letelier and an American assistant were killed.

Michael Townley—an American employe of DINA, the Chilean secret police—subsequently admitted placing the bomb under the car, and he testified that the assassination was plotted by high-ranking officials of the Chilean intelligence agency.

A U.S. grand jury returned indictments against Gen. Juan Manuel Contreras, who was the chief of DINA at the time of the murder, and two aides. Washington then sought extradition of the three men from Chile to stand trial in this country.

The Chilean Supreme Court has now made a final decision to deny the extradition request on the grounds that the Townley confession resulted from plea-bargaining, and was thus not reliable evidence. The court found technical reasons for rejecting supporting evidence.

In one sense, the decision was predictable. Chile is run by a military dictatorship, and it is very unlikely that Letelier's murder could have been plotted without the knowledge and approval of the junta.

Chile's courts are supposedly independent. But the case was considered in an intimidating atmosphere created by officially inspired charges that the United States was trying to blacken Chile's international image. A Chilean news magazine that dared to suggest support for the American extradition request was closed down for two months.

In the absence of extradition, the United States would be satisfied if Chilean prosecutors would pick up the evidence and make a credible effort to win convictions in a Chilean court. But of course, the regime has no intention of allowing that to happen.

Many Chileans were outraged at the disclosures a few years ago of direct interference by the U.S. Central Intelligence Agency in their country's internal affairs. Those disclosures were a major factor in the ensuing shakeup of the CIA.

Now we are dealing with a cold-blooded murder that was plotted in Chile and carried out in an American city. The United States has a right to expect a great deal more than the stonewalling that has occurred.

This country provides little foreign aid to Chile but there are other forms of leverage.

The Chilean economy is heavily dependent on loans and investments from American banks and corporations. The United States obviously has a strong voice in such international lending institutions as the World Bank and Inter-American Development Bank. American trade unions representing dock and maritime workers could, if they chose, cripple Chile's exports to this country by imposing a boycott.

By one means or another, the military junta in Chile should be made to understand that this is one murder case that won't go away quietly.●

REAFFIRMING THE GOP COMMITMENT TO D.C. VOTING RIGHTS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. McKINNEY. Mr. Speaker, as Members of Congress, all of us contributed to the fight for D.C. voting rights in our own particular way. Many of us signed on early, worked hard and we are proud of our accomplishment in getting this amendment through the Congress. Admittedly, we did not foresee the present difficulties which the amendment is encountering in some State houses throughout the Nation. However, I feel that we should not view these setbacks as a signal to abandon the amendment, and to back off from our earlier support, but rather as a challenge to each and every one of us to step forward and redouble our efforts toward achievement of our original goal.

When the first anniversary of the D.C. Voting Rights Amendment was observed approximately 2 months ago, I found little cause for celebration and more cause to worry. I worried that only six States had ratified the amendment. I worried that more attention was being focused on the movement's fratricidal infighting than on its common goal. I worried about the future of the movement and the future of the amendment in general. However, one fact that troubled me even more is the flagging bipartisan support for this issue.

The spirit of bipartisanship has accompanied the D.C. Voting Rights Amendment from its earliest days, and that bipartisanship has served us well. In fact, our greatest legislative accomplishments have come when we, Republicans and Democrats alike, have shared the burden of the fight for ratification together. In the early days of the fight, Republican support for the D.C. Voting Rights Amendment was evident everywhere. Not only was the amendment backed by a Republican President, and included in the Republican Party Platform in 1976, but the personal intercession of Republican National Committee Chairman, the Honorable Bill Brock, was responsible for lining up solid Republican support when the amendment passed both the House and the Senate.

Today, while many Republican Governors and State legislators can be counted in the ranks of those actively working for passage of the amendment, there seems to be a growing perception among many individuals that, in State after State, Republicans form the core of the opposition. We all know that the problems confronting the amendment cannot be attributed to one singular factor. While partisan politics does play a role in some States, the constitutional arguments, rural versus urban arguments, black versus white arguments, and, at times, us—the District—versus them—the States—arguments all contribute in one way or another to the amendment's fate.

As a Republican, I will accept the fact that much work has to be done within the ranks of my party to dispel the partisan myths which seem to accompany discussion of the amendment. I think that much of this burden should fall to the Republican leaders on the national level who were with us in the beginning and who now must continue to stand tall.

Last month, I wrote to Republican Chairman Brock expressing my dismay over the fact that "Republican efforts have fallen far short of what they could be in fostering continued support for this issue in the various State legislatures." I have offered my time and direct assistance in any endeavors which we might take to rectify this wrong. Please be assured that I am not advocating any diversion from the bipartisan efforts which have brought us this far. I am simply talking about a concurrent effort at establishing rapport with, and keeping up an ongoing communication with, Republican officeholders on the issue of D.C. Voting Rights.

Mr. Speaker, I do not adopt the philosophy of those who view the D.C. Voting Rights Amendment as a "problem without a solution." I do not think that it is time to start writing the amendment's obituary. I do not agree with those who think that perhaps it is time the amendment should be redrafted and we should start over again. No, instead, I call upon my colleagues in Congress on both sides of the aisle, but particularly Republicans, who have worked so diligently to bring the amendment this far to reaffirm their commitment. We must do this not only through words, but through actions to rectify the serious injustice which exists under the present system of "taxation without representation" in the Nation's capital.●

ATOMIC ACCIDENTS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. DELLUMS. Mr. Speaker, as a participant in the public information project on the little-known history of atomic accidents, I am today introducing the following excerpt from Leo Goodman's catalog of mishaps involving nuclear materials:

TWENTY-SIX CASES OF RESPIRATORY BERYLLIOSIS

(Source: HASI 36—"Health Protection in Beryllium Facilities, Summary of Ten Years Experience", May 1, 1958, pages 1, 2, 45.)

The first reports of occupational illness, which appeared as early as 1936, did not receive wide attention in the United States or were, in some instances, discredited. Today concurrence is unanimous among investigators that beryllium "per se" is the causative agent of the occupational illness

which is unique to the industry. On the other hand, it has been clearly demonstrated that the application of suitable engineering control measures can make the handling of beryllium and its compounds no more hazardous than that of other more common toxic industrial materials such as mercury and lead.

It is interesting to compare the data in Figure 37 for the period during which the large number of illnesses occurred, where 1.5 percent of all dust samples show > 100 ug/m³, with data in Figure 33 (survey 7), where 5 percent of all samples show > 100 ug/m³. Ten cases of illness occurred in the immediately preceding quarter in 1950, and no cases occurred in 1956.

The average in-plant atmospheric beryllium concentration should not exceed 2 ug/m³.●

CONGRESSIONAL SALUTE TO NEW JERSEY FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS UPON THE CELEBRATION OF THE 60TH ANNIVERSARY OF ITS FOUNDING WITH SPECIAL PLAUDITS TO NEW JERSEY'S WOMEN MAYORS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. ROE. Mr. Speaker, on Saturday, October 20, the New Jersey Federation of Business and Professional Women's Clubs, Inc. will assemble for its annual observance of National Business Women's Week to celebrate the 60th anniversary of its founding and to honor our State's women mayors. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to the businesswomen of New Jersey upon this most noteworthy occasion.

Mr. Speaker, at the outset may I most wholeheartedly commend to you the following distinguished honorees of this 60th anniversary celebration who have achieved the highest office of public trust—the chief executive officer—of the communities of our State, as follows:

The Honorable:
Irene Smith, Mayor of Belvidere.
Marie P. Koch, Mayor of Califon.
Dorothy Willis, Mayor of Chatham.
Lorraine Schierer, Mayor of Deiran.
Sandra Greenberg, Mayor of Englewood.
Ann A. Mullen, Mayor of Gloucester.
Phyllis Kavett, Mayor of Howell.
Joanne Makely, Mayor of Mahwah.
Maureen B. Ogden, Mayor of Millburn.
Mary Patrick, Mayor of Millstone.
Helen Lucas, Mayor of Ogdensburg.
Sonya K. Fineberg, Mayor of Old Bridge.
Barbara Chadwick, Mayor of Rutherford.
Virginia M. McKinney, Mayor of Roselle Park.
Dorothy B. Manson, Mayor of Shrewsbury.
Ida E. Bruni, Mayor of Wrightstown.

Mr. Speaker, the National Federation of Business and Professional Women's Clubs has sponsored the observance of National Business Women's Week as a time to reflect on working women's role in society, in politics and in the economy. This prestigious organization spans six decades of dedicated service in helping to improve the status of women and we are proud of their outstanding achievements in the communities throughout our Nation.

The New Jersey Federation was organized in Trenton, N.J. on May 30, 1919, and is one of the first 19 State federations chartered by the National Federation. Their charitable and benevolent activities on behalf of all of our people, young and adults alike, are legion. As we all know, one of their top priorities and most able expertise have been devoted to active and dynamic participation in the political and government processes, and the outstanding success of their endeavors is applauded by all of us.

They are dynamically participating in the decisionmaking process on vast and diverse issues of international, national, and individual concerns affecting each and every one of our citizens and I appreciate the opportunity to seek this national recognition of our New Jersey Federation of Business and Professional Women's Clubs for the excellence of their contribution to the American way of life and the American dream.

Mr. Speaker, may I also commend to you the following roster of members who have attained leadership positions at the State and Federal level of the Federation of Business and Professional Women's Clubs:

The current esteemed officers of the New Jersey Federation of Business and Professional Women's Clubs, as follows:

STATE BOARD OF DIRECTORS

1979–1980 Executive Committee

The Honorable:
Anita K. Bernstein of Irvington, President.
Mary M. Gray of Trenton, President-elect.
Sister Carmela M. Cristiano of Guttenberg, 1st Vice President.
Margaret M. Murray of Parsippany, 2nd Vice President.
Phyllis Anderson of Bernardsville, Recording Secretary.
M. Susan Chambliss of Roselle, Corresponding Secretary.
Elizabeth J. Lemke of Cranford, Treasurer.
Marie Jensen of Clark, Assistant Treasurer.
Emma McGall of Westfield, Parliamentarian.

1979–1980 Standing Committee Chairmen

The Honorable:
Debra J. Colodin of Eatontown, By-laws.
Thelma Trmal of Parsippany, Finance.
Marion Johnson of Red Bank, Foundation.
Susan W. Stewart of Pennington, Legislation.
Zelda Reach of Montclair, Membership.
Carmela M. Cristiano of Guttenberg, Program.
Eileen Thornton of Trenton, Public Relations.
Blanche Corbman of Elizabeth, Young Careerist.

1979–1980 Special Committee Chairmen

The Honorable:
Ruth Simsek of Secaucus, Advertising Manager.
Anne M. Castele of Highland Park, Archivist.
Dorothy O. Bowers of Roselle, Career Education Awards.
Lorraine Conover of Plainfield, Circulation Manager.
Mary Eng of Trenton, Magazine Editor.
Eleanor Pandetta of Burlington, Nominating.
Carol Melvin of Atco, Policy and Procedure Manual.
Helen Roney of Andover, Resolutions.
LuAnne M. Holdcraft of Pennsauken, State Convention.
Margaret Lucca of Somers Point, State Convention.
Peggy Mills of Stratford, Past President's Club.

1979–1980 District Directors

The Honorable:
Marie McLaughlin of Madison, District No. 1.
Geraldine Runfeldt of Berkeley Heights, No. 2.
Grace D'Addazio of Union, No. 3.
Clara Dreibelbiss of Linden, No. 4.
Josephine Konover of Princeton, No. 5.
Sophie Petracco of Bricktown, No. 6.
Amy Yeater of Woodbury, No. 7.
Muriel deAzevedo of Secaucus, No. 8.

1979–1980 Club Presidents

The Honorable:
Christine C. Smith of Turnersville, Alice Paul Club.
Susanne Baldanza of Manasquan, Asbury Park.
Mary E. Haynie of Ventnor, Atlantic City.
Bernice A. Bramson of Bayonne, Bayonne.
Frances Manderrichio of Kenilworth, Berkeley Heights.
Dora Markle of Bedminster, Bernardsville.
M. Grace Shultz of Burlington, Burlington County.
Elizabeth A. Cauti of Sewaren, Carteret.
Concetta Forgione of Union, Connecticut Farms.
Ida M. Misel of Elizabeth, Cranford.
Barbara Bravman of Cliffside Park, East Bergen.
Helen B. Zack of Elizabeth, Elizabeth.
Marianne Muoio of Scotch Plains, Fanwood-Scotch Plains.
Anna Schmitz of Woodbury, Gloucester County.
Eva G. Blackford of Bordentown, Greater Bordentown.
Mary Jane Sinclair of Morristown, Hanover-Par-Troy.
Susan Hagerty of Cranbury, Hightstown.
Evelyn E. Buttwell of Union, Hillside.
Marie Timoney of Hoboken, Hoboken.
Ruth E. Cimirro of Maplewood, Irvington.
Sister Mary Alexandrine of Jersey City, Jersey City.
Dorothy C. Miller of Matawan, Lenape.
Rae Silverman of Linden, Linden.
Elizabeth W. Palmer of Convent Station, Madison.
Rose M. Maker of Newark, Maplewood.
Naeda E. Kleeau of Middlesex, Middlebrook.
Anastasia Carumpalos of Millburn, Millburn-Short Hills.
P. Leah Santora of Middletown, Monmouth Shore.
Jean E. Battersby of West Caldwell, Montclair.
Linda J. Forbes of Mount Tabor, Morristown Area.
Constance V. Alongi of South River, New Brunswick.
Mary Lou Rizzo of Succasunna, Northwest Morris.
Mae Withers of Cedar Grove, Orange.
Mary R. Kizma of Palisades Park, Palisades.
Cathie A. Kennedy of Easton, Pa., Phillipsburg.
Carol Luerson of No. Plainfield, Plainfields.
Betty Anne Gooley of Bricktown, Point Pleasant.
Laverne A. Hebert of Kendall Park, Princeton.
Blanche M. Gadzinski of Weehawken, Secaucus.
Sophie A. Baranowski of Bridgewater, Somerset.
Helen Prystak of Basking Ridge, Somerset Hills.
Bonnie A. Reynolds of Secaucus, South Bergen.
Janice A. Iasello of Summit, Summit.

Bertha M. Conover of Branchville, Sussex County.

Anna H. Rhoades of Lakewood, Toms River.

Mary T. Emge of Trenton, Trenton.

Caroline C. Theiss of Bloomfield, Tri-Town.

Martha W. Gresham of Westfield, Westfield.

Eleanor A. Kvaska of No. Arlington, West Hudson.

Therese M. Schroeder of Rahway, Woodbridge.

STATE FEDERATION MEMBERS AT NATIONAL LEVEL

The Honorable:

Paula Laddy, First National Treasurer (1919).

Mary L. Johnston; Treasurer (1923).

Myra A. Blakeslee, Third Vice President (1937).

Libby E. Sachar, Finance Chairman (1954–1956).

Alba Thompson, Observer to United Nations (1956).

Helen G. Hurd, Acting Executive Secretary (1956).

Libby E. Sachar, Public Affairs Chairman (1957).

Helen G. Hurd, Chairman, Foundation Finance Committee (1960 and 1962).

Emma C. McGall, Chairman of Elections (1964).

Emma C. McGall, Legislative Chairman (1964–1966).

Emma C. McGall, Legislative Committee (1966–1967).

Helen G. Hurd, Chairman, Golden Anniversary Committee (1968–1970).

Genevieve Ford, Assistant United Nations Representative (1968–1972).

Charlotte McCracken, Chairman, Nominations (1970–1971).

Mary Louise Wetjen, Program Planning Committee (1970–1971).

Mildred McLean, Resolutions Chairman (1970–1971).

Mary Louise Wetjen, 1972 National Convention Contact Chairman.

Mildred deSimone, Chairman, Membership Committee (1972–73).

Mildred deSimone, Legislative Committee (1973–74).

Mildred de Simone, Career Advancement Scholarship Committee (1974–75).

Nancy Siracusa, Bylaws Committee (1976–78).

Roberta Rossi, Public Relations Committee (1977–78).

The highly respected members of the Anniversary Committee, as follows:

The Honorable:

Helen Hurd of Highland Park, General Chairman (Past President, NJFBPW; former Councilwoman).

Lorraine Schmierer, Speaker on behalf of honorees (first woman to serve as President of the New Jersey Conference of Mayors).

Betty Harragan, Keynote Speaker.

Charlotte McCracken of Elizabeth (Past President, NJFBPW).

Mary Louise Wetjen of Cranford (Past President, NJFBPW).

Mary Andiorio of Bernardsville.

Jay Bacchetta of Hackettstown.

Mrs. Bernstein; Emily Fogerty of Hillside.

Marie McLaughlin; Helen F. Meehan and Eleanor Hoffman of Madison.

Helen Zack of Elizabeth.

Maryann Davis; Rae Silverman of Linden.

Eleanor Luttgens of Roselle Park.

Roberta Rossi of Summit.

Caroline Theiss of Bloomfield.

Eileen F. Thornton of Trenton.

Leslie Turek of Sussex County.

Eleanor Voyski of Livingston.

Ann Weber of Berkeley Heights.

Eileen F. Thornton, Public Relations Chairperson.

Mr. Speaker, during National Business Women's Week, we do indeed salute the working women of America and I take special pride in today's congressional salute to the New Jersey Federation of Business and Professional Women's Clubs upon the celebration of their 60th anniversary dedicated to the business and professional women of our State who have made valued contributions and an outstanding record of achievements in every phase of civic, political, and economic life with special plaudits to this year's testimonial honorees, the distinguished lady mayors of the communities of New Jersey.●

SOLVING FARM PROBLEMS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 17, 1979, into the CONGRESSIONAL RECORD:

SOLVING FARM PROBLEMS

By all indications, 1979 will be a good year for many farmers. The news seems even better when one considers that 1978 was, in virtually every respect, also a good year.

The underlying strength of America's agricultural sector has certainly been showing up in the statistics. Net farm income in 1979 should be nearly $30 billion, up from $28 billion in 1978. Growing conditions were generally favorable during late summer, and as a result record harvests are anticipated. The corn, wheat, and soybean crops are all expected to be larger than last year's. Moreover, American agricultural exports—which now account for 20% to 25% of farm income—are posting steady increases. Export value will probably total between $35 billion and $40 billion in 1980, up from an estimated $32 billion this year, and export volume will jump from 127 million tons to more than 145 million tons.

In spite of the solid overall outlook, however, there are several matters of concern to the farmer. I firmly believe that these matters should be addressed as quickly and completely as possible. The following legislative initiatives are intended to solve farm problems and thereby ensure that the farmer will continue to do well in the years to come:

Nitrite ban: Recent tests have suggested that nitrite may cause cancer in laboratory animals, yet no satisfactory substitute for this important meat preservative has been found. I have co-sponsored a bill that would temporarily prevent the Department of Agriculture and the Food and Drug Administration from banning nitrite as a food additive so that there would be time to review the tests and evaluate the alternatives. After a one-year moratorium, the agencies would be permitted to phase out nitrite gradually over a two-year period if such action were necessary and if a safe, effective, economically feasible substitute for nitrite were found.

Foreign investment in American farmland: An American farmer who sells his land must pay capital gains tax on the profits, but a foreigner who sells his land need not. This unfair tax break only increases incentives for foreigners to speculate in land, thus driving up its price beyond the reach of many Americans who might otherwise wish to buy. I have co-sponsored a bill to end the preferential tax treatment afforded to foreign owners of American farmland.

Marketing and bargaining: Food processors are frequently able to dictate marketing terms, especially to producers of perishable commodities. Farmers have formed bargaining associations in response, but these associations have often been circumvented or weakened. I have co-sponsored a bill to require that processors and accredited producer associations meet at reasonable times for the purpose of bargaining together in good faith. The bill would also rule out some unfair practices—such as attempts to break up producer associations—and would provide guidelines for mediation if an impasse were reached during bargaining.

Hopper car shortage: When farmers are ready to transport their commodities during the harvest this fall, they could face one of the worst shortages of hopper cars in recent years. The domestic hopper car manufacturers are simply unable to meet demand: they have reported a two-year backlog of orders—more than 120,000 cars. I have co-sponsored a bill that would increase the number of available hopper cars by suspending the import duties for two years on critically needed hopper cars produced abroad.

Uniform truck standards: Farmers are looking more and more to trucking as a way to transport their commodities. Congress has set maximum weight limits for trucks on the interstate system, but because ten states have adopted lower limits the movement of larger loads has been blocked. I have co-sponsored a bill to set uniform truck weight and length standards to facilitate the movement of farm products.

Alcohol fuels: In agricultural states such as Indiana, alcohol fuels could both become a significant source of energy and provide an important new market for farm products and wastes, especially if alcohol-producing facilities are developed rapidly. I have co-sponsored a bill to provide loan guarantees for the construction of facilities to produce alcohol. Priority would be given to farmers. The bill would also expand grants for research in alcohol fuels and offer tax incentives for marketing of "gasohol", a mixture of gasoline and alcohol.

Alternative energy sources: Independent sources of energy, sources free from domination by foreign interests, must be developed for America's farm regions. I have co-sponsored several bills aimed at saving energy and exploiting various alternative sources of energy. One bill would create a solar development bank to make long-term, low-interest loans to individuals and businesses for the purchase of solar energy equipment. Another bill would accelerate the development of wind power, a source of energy which looks promising in rural areas. Yet another bill would offer financial incentives for the production of "synfuels" through any acceptable technology, whether coal gasification or liquefaction, or extraction of oil from shale or tar sands.●

REGULATIONS DECREASE STRAWBERRY ACREAGE

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. AuCOIN. Mr. Speaker, I want to address the issue today of unnecessary and unauthorized Federal regulation which has resulted in a sharp decline in the amount of acreage in Oregon devoted to growing strawberries.

This is not the first time I have expressed my anger on this subject. Last year, I paid a visit to the Secretary of Labor and hand delivered a carton of strawberries from Oregon with the message that he better enjoy them now while he has the chance.

That message has turned out to be more prophetic than even I realized.

In the last 10 years, strawberry acreage in my State has plummeted by more than 50 percent from 12,000 acres to just about 5,000 acres. This indicates a dim future for Oregon's $14 million strawberry crop.

What has caused this decline? The Department of Labor does not like the idea that 10- and 11-year-olds pick the strawberries, and it has done everything it can think of to block them—despite a clear mandate from Congress in the Fair Labor Standards Amendments of 1977.

This is not a child labor issue. It is an opportunity for Oregon farmers to secure a large short-term work force nearby their farms and for Oregon youngsters to earn a few dollars on weekends and after school.

A total of 19,670 youngsters under the age of 16—and 1,308 under the age of 11—are employed annually in the strawberry harvest in Oregon. For most, there are no other jobs at hand. Their pay of 8–10 cents per pound is valuable to them.

The Department of Labor's most recent effort to block these youngsters from working in the fields centers on the dangers of exposure to pesticides.

No reasonable person would ignore a problem such as this—if it is a problem.

A study just completed by the Extension Service of Oregon State University concludes that the Department of Labor's study was "poorly prepared and failed to show an adequate basis for (the) conclusion" that children may be harmed by exposure to certain chemicals.

What is more, the Department of Labor failed to make clear why the danger of pesticide exposure is so great for 10- and 11-year-olds, but it is OK for older youngsters and adults.

In short, the Department of Labor's thinking on this issue is muddled. One can hope it will simply withdraw from the issue as gracefully as possible and the sooner the better.

Despite court decisions permitting youngsters into the strawberry fields, the Department has continued to interfere. Farmers have lost important income because of hassles with the Department, and court actions last year cost farmers in excess of $3 million in legal fees.

This is a sad story of how our Government works. Over time, strawberry farmers who can afford it will invest in machines to tend their fields and harvest their crop.

In some respects mechanical harvesting of strawberries is cheaper. It certainly is more reliable than workers.

But there is a price. Thousands of youngsters will have lost out on a chance to gain valuable work experience. And, the product from the farms will change. To harvest strawberries mechanically, a sturdier stock is needed that yields a harder berry. It is not nearly as succulent as the current type that is handpicked.

For people in Oregon, the activity of the Department of Labor in blocking young strawberry pickers has come to be a symbol of excessive regulation by the Federal Government. It is a black eye the Federal Government does not need.●

CONTRACT AWARDS TO MINORITY-OWNED BUSINESSES

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. WRIGHT. Mr. Speaker, under consent to extend my remarks, I am placing in the RECORD information which has come to my attention concerning the award of contracts to minority-owned businesses, a matter in which I have a deep interest. I would like to take this opportunity to commend General Dynamics Corp., a major division of which is headquartered in my congressional district, for conducting an aggressive and highly rewarding program in this area. General Dynamics accelerated efforts in this area which now span approximately 4 years have met with steadily growing success.

In 1978 the Convair Division of General Dynamics won the National Award of Excellence from the Commerce Department's Office of Minority Business Enterprise; and this year the Defense Department awarded a special citation to the Fort Worth Division of General Dynamics for a subcontract involving approximately $5.4 million to a minority-owned electronics firm. General Dynamics was the first defense contractor in the Nation to receive such a citation.

I would hope that other large corporations will follow the fine example set by General Dynamics. It is certainly my judgment that all businesses and the Nation as a whole would be strengthened as a result.

The information to which I refer is as follows:

GENERAL DYNAMICS CORPORATION

MINORITY PURCHASES EXCEED $18 MILLION

General Dynamics Corporation has increased its purchases from minority owned firms ten-fold in the past three years. The Corporation's purchase awards to these firms have increased from $1.8 million in 1975 to more than $18 million in 1978!

General Dynamics has always been committed to providing equal opportunity to minority firms, but this diversified producer of aircraft, missiles, electronics, communications equipment, and construction materials has now achieved a leadership role in the minority business area.

Renewed emphasis was given this program in March 1976 when the Chairman reaffirmed General Dynamics' commitment to the affording of equal opportunity to minority business enterprises in furnishing purchased goods and services. He stated: "This company is committed to the concept of providing equal opportunities to minority businesses, and all members of management are expected to work toward placing General Dynamics in a position of leadership and excellence with respect to this important aspect of equal opportunity."

Extensive work was undertaken to identify qualified or qualifiable minority suppliers and, once they were identified, to assure that they were given an opportunity to compete. This is a key element of the General Dynamics program—to maintain the underlying principle of procurement through maximum competition while providing every possible opportunity for minority business to participate. They believe that only through continued supplier development provided by tough competition can strong suppliers be established. The added competition provided by minority suppliers has helped General Dynamics in the fight against inflation due to the frequently lower costs of MBE firms.

Each year, internal Divisional goals are established for purchases from minority-owned firms and, in order to monitor Divisional/Subsidiary performance, data reporting to the Corporate Material Department is required on a monthly basis. A consolidated report comparing Divisional performance to goals is furnished by Corporate Material to the Chairman and Divisional/Subsidiary heads on a quarterly basis.

Motivation of purchasing personnel to utilize minority suppliers is an important element of the overall program. Each Division/Subsidiary has developed its own incentive program for purchasing personnel. A Corporate-wide incentive is an "Outstanding Minority Business Effort of the Year" award of $1,000.

General Dynamics responds in writing to all letters received from minority vendors, directing them to appropriate contacts for their specific commodities/services. The minority vendor is supplied with a copy of a brochure which has been developed specifically for small and minority businesses entitled "How To Sell To General Dynamics—A Guide for Small and Minority Businesses." The brochure contains names, addresses and telephone numbers of all Purchasing supervision along with identification of the commodities purchased and includes a description of the purchasing procedures to be followed.

The Corporation is a member of the National Minority Purchasing Council and many divisions and subsidiaries, as well as the Corporate Office, actively participate in their regional Minority Purchasing Councils. For example, the Corporate Office in St. Louis participates in the Missouri-Southern Illinois Purchasing Council activities, provides printing services to the Council on a regular basis, and composes the Council newsletter.

General Dynamics' encouragement of minority business is an integral part of their purchasing activity which is mutually beneficial to business, the minority community, our cities and the nation. Federal directives encourage the utilization of minority-owned businesses, but General Dynamics has extended its program beyond Government contracts for F-16 international fighters, submarines and missiles, into LNG ships and other commercial products. Minority purchases have run the gamut from high technical engineering services to fuel oil suppliers and include long term multi-million dollar production awards.●

GUAM TRIBUNE NEW PAPER ON ISLAND

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. WON PAT. Mr. Speaker, I am pleased to announce that starting soon Guam will have a new daily newspaper—the Guam Tribune.

The publisher of the Guam Tribune is one of the island's most successful and respected businessmen, Mr. Marciano V. Pangilinan. He has long been highly active in a number of civic causes and is owner of Pangilinan Enterprises, Inc., which controls a number of local business firms.

I have long been privileged to be a close friend of Mark Pangilinan and salute his desire to bring to Guam a fresh new look in journalism. Competition is as vital a force in journalism as it is in other forms of business and we on Guam look forward to enjoying the Guam Tribune.

In these days of rapidly changing events, it is important that the people of Guam be assured of getting all of the facts on events which could affect us. I am confident that this is what the Guam Tribune will do. Mr. Pangilinan is a man of outstanding drive and experience and he has assured me that his publication will do everything it can to serve the public in a manner consistent with the highest tradition of journalism.

Guam is at present served by one daily paper—the Pacific Daily News—owned and operated by the Gannett chain. The Pacific Daily News has long been Guam's only daily paper and I am confident that the competition between it and the Guam Tribune will only serve to enhance the quality of both papers.

Recently, Editor and Publisher's magazine carried a story about the opening of the Guam Tribune. Because it contains a great deal of informative information about Mr. Mark Pangilinan, I ask that it now be carried in the RECORD.

Thank you.

GANNETT SOON TO HAVE COMPETITION ON GUAM

A second daily newspaper is about to be published on Guam.

The *Pacific Daily News*, owned by the Gannett Group of Newspapers, faces competition from a new daily to be published by Marciano V. Pangilinan, a wealthy Guamanian businessman.

Gannett has no competition on the island of 110,000, located 6,000 miles west of California. The News is a morning publication with a circulation of 18,000.

Pangilinan plans on publishing a morning newspaper aimed at the same market. He is taking delivery in June of an 8-unit Goss Community Offset Press, together with late-model computerized typesetting equipment complete with VDTs. He is remodeling one of his large commercial buildings in downtown Tamuning to house the operation.

The owner of Pangilinan Enterprises, Inc., Pangilinan is one of the island's largest and wealthiest businessmen. He spends upwards of $350,000 a year advertising in the Pacific Daily News. Among his businesses, which are estimated to gross him $30 million a year, are a large department store, a Ben Franklin Store, the Honda Agency, Ace Hardware, a sporting goods store, insurance agency and propane gas service business.

He also has an advertising production staff of 18, which puts together all of his advertising camera ready for the News. He says that the News allows none of its advertisers any agency commission for this service. He also objects to its policy of emphasizing national and world news, rather than local news.

He is recruiting a staff of experienced stateside personnel for all the key positions, and has the cooperation of production supervisors from McClatchy Newspapers in California in planning his operation.

Pangilinan has a considerable following on the island, and has been active in many political and social activities. In addition to being head of the Filipino Community—which numbers 20 percent of the population—he is chairman of the board of trustees of the University of Guam, a director of the Medical Center of the Marianas and was head of the Guam Power Authority for many years.

A native of the Philippines, he arrived on Guam in 1947. He was recently honored by Ferdinand Marcos, president of the Philippines, as the "Overseas Filipino of the Year".

Guam's economy, which until fairly recently was entirely dependent on American military bases, has begun to broaden. Tourism, 85 percent of which comes from Japan, has taken hold, and Guam has become the center of a growing tourist business in the Mariana Islands as well as Micronesia, providing many basic services.

Although it is only 212 square miles in size, it is the largest island in that part of the Pacific, with the Philippines and Japan both 1,500 miles distant.

Pangilinan indicates that he sees considerable growth for Guam in these areas, as well as the importance of Guam as the most westerly bastion of the United States, and its proximity to China.●

AMENDMENTS TO FEDERAL CAMPAIGN ACT

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. CAVANAUGH. Mr. Speaker, I am pleased that the House is today considering amendments to the Federal Campaign Act in an effort to bring under control the ever increasing domination by powerful special interest groups over the Congress. I believe it is high time that this body consider returning Government to the people where it properly belongs and out of the hands of special interest groups where it is now.

I believe the Obey-Railsback bill, as well as the amendments which were offered to it, were just and fair to both business political action committees and to labor union political action committees, which will all be treated equally under this legislation, with no slant in either direction.

In the 1978 congressional elections, labor unions contributed $10.3 million, while other political action committees contributed $24.8 million. To see the effects of these contributions one had only to read the August 20, 1979, Washington Post that stated in June, when the House Ways and Means Committee watered down the windfall profits tax, 95 percent of the members of that committee who got more than $2,500 from oil PAC's voted the industry line—against the American consumer and for the oil industries.

When this same windfall profits tax bill came before the full House, of the 236 Congressmen who voted for the position of the oil industry 83 percent had received oil-related PAC money. In view of these statistics, as well as other data, I believe our lack of a good strong energy policy can be directly attributed to the contributions of oil companies and affiliated industries. This is just one instance of where excessive special interest contributions are dictating policy and injuring the public at large.

I have noticed in the mail I have received in recent weeks on the Obey-Railsback bill the groups who have written in opposition to these changes in campaign contributions limits have been the groups with the largest political action coffers and a record of the highest contributions to the Congress. On the other hand, the people who have written in to me supporting the bill have been individuals from my district who have requested that the Congress release itself from the hold of narrow special interest groups.

On many occasions I have had the personal experience of people in my congressional district telling me of their support or opposition to a legislative initiative and then having the special interest group that they belong to which is typically headquartered here in Washington tell me that the people were wrong—that they misunderstood the issue. I do not think this is the case at all. I have great confidence in the ability of my constituents to think for themselves and to reach rational decisions on what is good for them as citizens, Americans and Nebraskans.

The growth of special interest groups in recent years has been tremendous. In 1974 there were 608 special interest political action committees; today there are 2,000. In 1974 political actions committees contributed $8.3 million to candidates for elective office; in the last election in 1978 these PAC's contributed $35.1 million. This trend is frightening and detrimental to our democracy.

I fully recognize the value of special interest groups petitioning the Congress on issues which effect their industries and I invite their input; however, I do not believe that the power of the PAC's should be greater than that enjoyed by individual citizens. I feel the restrictions provided under the Obey-Railsback bill are a much better approach toward restoring the independence of Members of Congress to make well thought out, rational decisions on public policy than was the suggested public financing of campaigns which would have used tax dollars and which I firmly opposed in testimony presented to the House Administration Committee.

Some of the arguments given by the special interest groups against the Obey-Railsback bill have been that it will restrict the voluntary individual's contributions. This is hardly the case. Members will now be forced to go out into their districts and solicit both contributions and votes from the people they represent. This has been my practice since becoming a candidate for elective office. The primary financial support for any elective office should come from the congressional district residents, not from Washington based special interests. Some of my colleagues who have relied on PAC money rather than small individual contributions may find themselves in the position of finally getting to know the citizens in their district. I believe this will be a healthy and possibly enlightening experience for those here in the Congress who have become dependent on big PAC contributions.

We must not forget why we are in the Congress—it is to represent the people, all of them, including those who are members of special interest groups. However, the scales must weigh equally for the private citizen in Omaha, Nebr., as well as the interest groups here in Washington, D.C. This bill is a step in the right direction in restoring equality.

As you stated, Mr. Speaker, in your remarks earlier today, "To yield to special interest is to yield the rights of the American people." You could not have summed up the case in support of the Obey-Railsback bill any more eloquently or succinctly.●

SHORTER HOURS, SHORTER WEEKS: SPREADING THE WORK TO REDUCE UNEMPLOYMENT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. CONYERS. Mr. Speaker, the Labor Standards Subcommittee, chaired by my distinguished colleague and friend, Mr. EDWARD P. BEARD, next week will be holding the first major hearings on worktime reduction as a means to combat unemployment that have occurred in the last 15 years. The focus of the hearings on October 23, 24, and 25 will be legislation (H.R. 1784), which I introduced that provides for increasing the overtime rate to double-time, the voluntary consent of employees in the scheduling of overtime, and the reduction in the standard workweek over a 4-year period to 35 hours.

Powerful new trends in the composition of the labor force make a shorter workweek an increasingly effective means to spread work equitably among the greatest number of workers. The expansion of women in the labor force, the increasing number of multiple-earner households, the reduced size of families, and a growing demand for leisure time are some of the reasons why worktime reduction and work-sharing are being so prominently discussed. Under these circumstances, shorter hours will not mean reduction in household income. For the economy as a whole, it could mean less unemployment, higher morale and productivity in the workplace, and a fuller utilization of our resources.

The hearings on the shorter workweek will examine the impact of changes in the labor force on working time and overtime.

One of the Nation's leading authorities on the labor force is Dr. Sar A. Levitan of George Washington University. Dr. Levitan was Chairman of the National Commission on Employment and Unemployment Statistics and is Director of the Center for Social Policy Studies. Among his numerous works is "Shorter Hours, Shorter Weeks: Spreading Work to Reduce Unemployment" (1977). An article, drawn from that work, entitled "Reduced Worktime: An Alternative To High Unemployment," offers an excellent analysis of changes in the work force and explores the shorter workweek as a policy tool to combat unemployment. I urge my colleagues to read the excerpts from the article that follows.

PAST TRENDS PRELUDE TO FUTURE?

THE QUEST FOR SHORTER HOURS

Before we turn to crystal ball gazing, an examination of past developments might be helpful to gain some insights about probable future trends in worktime. Although many people think the workweek is shrinking, adults employed full-time have experienced no significant gain in their leisure time in more than three decades. The picture of a 40-hour workweek as a standard becomes even clearer when one looks at the current distribution of working hours within the employed labor force. Over 42 percent of the persons employed in the United States work exactly 40 hours. Slightly more than 27 percent of the labor force is on the job in excess of 40 hours per week. Also, contrary to popular impressions, the population of workers on long schedules of 49 hours and higher per week is moving in just the opposite direction from what the prophets of cybernetics and the disappearance of work would have us believe. In 1948 about eleven percent of the employed population worked 49 hours or more. By 1976 this figure had grown in both absolute and relative terms, with 12.6 million people, or over 15 percent of all nonfarm workers, putting in more than 48 hours a week on the job.

Organized labor has always officially adhered to the position proclaimed by Samuel Gompers, founder of the American Federation of Labor, some 90 years ago: "So long as there is one man who seeks employment and cannot find it, the hours of labor are too long." However, labor unions have not applied the Gompers dictum with the same vigor during every time period. Since World War II, many unions have made demands for reducing the length of the workweek as part of the preliminary rituals, but have dropped these demands before the hard bargaining begins. This has been a recurring pattern in postwar collective bargaining.

In fact, studies of collective bargaining agreements show only minor changes in the length of the workweek from the late 1950s to the early 1970s. For example, a study of the major agreements found that 81 percent of the settlements (covering a thousand workers or more) in 1973 contained a basic workweek of 40 hours, compared with 79.4 percent in 1956. The percent of workers covered by contracts with less than a 40-hour weekly base remained virtually unchanged between 1956 and 1973 and included one of every nine workers in both years. It is interesting to note that contrary to the expectations of ever-declining work hours, the proportion of workers covered by agreements calling for a basic workweek of over 40 hours showed a slight increase in the 17-year period. This comparison reveals a surprisingly minor shift toward reduced weekly hours for workers covered by major collective bargaining agreements.

Yet, by mid-1974, one of every five major agreements, covering 2.1 million workers, included clauses calling for reduction of hours during slack work periods, and 119 of the 311 contracts, covering 800,000 workers, contained specific clauses dealing with the sharing of work. However, in a study prepared for the Congressional Research Service, Peter Henle stated that such clauses are invoked very infrequently in most industries and companies.

Before the onset of the recession in the mid-1970s, there was a good deal of media interest in four-day workweeks, flexible hours, and overtime. However, almost all agreements which establish a basic workweek still cite a five-day week. The Labor Department in the above cited study could not even find a single agreement which provided for a four-day, 40-hour workweek for all regular full-time employees.

Workers in most cases have only restricted rights to turn down overtime. A survey of 422,500 workers covered by major agreements found that less than one of six workers had the unrestricted right to refuse to work overtime. In most cases workers had restricted rights to turn down overtime but the majority of workers sampled had to provide a "reasonable excuse" and an alternate worker had to be available to do the job.

The relatively minor gains in the workweek reduction have led union leaders and others to call for added legislation and new federal programs. The argument behind these calls is that collective bargaining by itself will not be able to overcome all of the rigidities in worktimes. However, some observers—even within the ranks of labor—have argued that unions have not emphasized demands for shorter hours. In light of the recent deep recession and forecasts of continued high unemployment, demands for reduced worktime—as a means to put more men and women back on the job—have taken on a new urgency. During several recent labor-management disputes, worktime has become the number one issue dividing the camps. The prime example of this situation was the 1976 United Auto Workers strike against Ford Motor Company. In fact, representatives of both parties in the dispute asserted that if it were not for the worktime issue, the UAW and Ford might have averted a strike.

EARNINGS-LEISURE TRADE OFF

Productivity increases are, in a sense, a dividend that can be allocated to higher wages, more leisure, or a combination of the two. This explains the ability of the economy to raise real wages as well as to reduce working hours. The long-run trend shows that roughly 75 to 80 percent of the productivity dividend has been used to increase consumption and the balance has been allocated to increase leisure. However, contrary to the presumed demise of the work ethic, recent experience shows a marked decline from this historical pattern with only about eight percent of the rise in productivity being allocated toward reducing work time. If the post-World War II experience had followed the historic pattern, the standard workweek for full-time workers in the United States would be close to 35 hours.

One explanation for the priority placed on boosting earnings in recent years centers on the unleashing of a pent-up demand for consumer goods and services following the Great Depression and World War II. Increasing wages to finance these strong consumption desires became a habit while reducing the workweek was placed on the back burner. Birth rates which were very low during the 1930s skyrocketed after the war with renewed prosperity. Not only were there more children to feed, clothe and house; this generation of parents was determined to give their children "all the good things" they never had. This included hefty doses of added education and health care, whose costs continued to mount as demand rose. With the number of children increasing, and the child rearing costs per young one edging up, boosting income continued to be the first concern. Many Americans, in all groups, were willing to trade a portion of potential gains in leisure for more money. Also, keeping up with, and ahead of, the Joneses became the name of the game requiring sacrifices in leisure gains. Regardless of the Joneses, keeping ahead of inflation has become a new preoc-

cupation since the late 1960s. Just to remain in place on the treadmill, many American families have had to trade leisure for income.

Evidence indicates that younger workers and females tend to prefer shorter hours to additional income. In 1976 the labor force increased by 2.2 million people; the increase included over 1.5 million women and 127,000 teenagers. Coupled with reduced pressures exerted by forces which drive people for more income over leisure, the composition of the labor force is shifting in the direction of those who give added weight to leisure.

Given reduced fertility rates, and the increasing number of multiple paycheck families, shorter hours do not necessarily mean reductions of per capita income for households. Also, with a wife taking on a full-time job, or even part-time work, coupled with a continued load of housework, a family probably experiences a net reduction in leisure time. The growth in married women's labor force participation rates could impact the family leisure-income trade-off in the direction of leisure.

In fact, one of the prime reasons women have placed a greater emphasis on so-called leisure time is that many females in effect have been multiple-job holders (workers in both the labor market and the home). Due to changing social mores, an increasing number of men are following suit and assuming similar dual responsibilities. This change, which creates a net reduction in real leisure, places an increasing number of male workers in a position of seeking less hours of labor in the market.

For all these reasons, it is reasonable to expect a tilt in the income-leisure decision. It probably will not be a massive swing of the pendulum, but even a small change can have an important cumulative impact.

REDUCED WORKTIME AS A POLICY TOOL

Despite numerous unresolved problems, three factors indicate that the reduced worktime issue and related job security demands are not about to fade away:

1. The composition of the labor force will be more skewed toward those favoring additional leisure.

2. The pressures, which have resulted in only eight percent of productivity increases being allocated toward leisure, appear to be abating.

3. Coupled with these two secular forces is the foreboding that high unemployment rates will continue to plague the economy for years to come.

As indicated by the West European experience and several American examples, work sharing, shorter and flexible hours, and part-time employment can have a positive short-run role in combating unemployment and sharing the hardship caused by an economic downturn. The economy's ability to react to contractions or slumps is reduced if worktime, as well as wages and prices, remain sticky even during a severe recession. The consequences may be massive layoffs and unused productive capacity. Programs designed to reduce worktime rigidities have often demonstrated sizeable benefits to individual workers, companies, and society. The associated costs of such changes (compared to alternatives of unemployment insurance and increased welfare spending) often have been less than the standard recession-related measures.

Worktime changes, and even job security measures, in the long run cannot make a substantial contribution to fighting unemployment unless they are accompanied by adequate stimulation, job creation efforts, and manpower policies designed to improve the functioning of labor markets.

For example, the long-run employment picture in the steel industry probably was not dramatically altered by the extended vacation plan won by the Steelworkers Union in 1963. However, what has not been seriously considered in the United States to date is a policy-mix that would combine reduced worktime with fiscal, monetary and manpower efforts. If the workforce demands more leisure, this preference can be used to reduce unemployment. With a reduction in either the workweek or workyear, more jobs could be required to produce a given level of output. Fiscal and monetary policies can insure a healthy level of output, while innovative worktime programs could mean that given this level of output more jobs will be created. The battle to reduce unemployment could be aided if the long-run trend of the American workforce towards more leisure is properly harnessed.

Industries represented by strong unions and controlled by a few large firms probably will be the first to experience worktime changes. It should take some time for similar changes to affect unorganized or highly competitive industries, which cannot easily pass on to the consumer added costs from reduced worktime programs. This fact indicates that legislation may be required before shorter hours or shorter work years become widespread in the American economy. This would not be the first time that federal law had a major impact on worktime. The industry codes of the National Industrial Recovery Act and the Fair Labor Standards Act during the New Deal had a large role in establishing current work patterns, including the standard 40-hour week.

The introduction of work sharing and other work patterns requires institutional changes. Many laws, labor-management practices, and transfer payments, such as unemployment insurance, in effect hinder worktime changes. There is also the problem of timing, since worktime reductions may be most needed as an economic downturn strikes. However, such timing problems are not unique to worktime adjustments. The effectiveness of fiscal and monetary policies have often been diminished because of poor timing by government policy makers. For this reason it might be wise to diversify the arsenal of weapons to combat recessions by adding flexible worktimes as another built-in stabilizer. For example, during periods of growing forced idleness, unemployment insurance payments could be liberalized to compensate for part of the earnings lost due to reduced worktimes.

Such programs entail costs, but they must be compared to the alternative costs of continued widespread forced idleness. No industrialized nation is rich enough or strong enough to bear the human and material costs of extremely high unemployment rates indefinitely. Full employment, however, is also not a free good. There is a price to be paid in meeting tight labor markets. Reduced worktime, including work sharing, could be part of that price which must be compared to other alternatives.

Whatever other beneficial effects reduced and flexible worktime plans may create, they can have only a marginal impact on reducing unemployment. Yet, relying exclusively on stimulating demand through monetary and fiscal policies has proven to be less than adequate for our economic ills, and such medicine has demonstrated dangerous side effects. A mixture of traditional fiscal and monetary policy, coupled with a new emphasis on the supply side of the economy (and labor continues to be the largest supply factor) could offer a needed complement to current measures. If high levels of unemployment persist, and continue to be tolerated by the government, pressures for shortening worktimes will mount and become more intense than at any time since the Great Depression.●

MAINSTAY OF MOUNTAIN HERITAGE

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. GUDGER. Mr. Speaker, my mountain homeland of western North Carolina has been blessed by many outstanding citizens and by no means have all of them been men. Our mountain women stand tall as mainstays of our heritage, our culture, and our character.

I was sadly reminded of this the other day when I received word of the passing of Dr. Thelma Howell, one of the most remarkable ladies I have ever known. "Doc" Howell, as I called her, was cast in the same mold as Dr. Mary Martin Sloop, the founder of the Crossnore School, and Mrs. Lyndon McKee of Sylva, N.C., who was western North Carolina's first woman representative to serve in the North Carolina general assembly.

Doc Howell called Highlands, N.C., home, but all of western North Carolina—and even a part of Georgia—claimed her. She was such a vital person that I cannot really believe that she left us on September 23, 1979.

She had boundless energy and an indomitable will and was totally dedicated to the people of the mountains. She was quietly confident and resourceful, always working for progress and for education of her fellow mountain people. Like Dr. Sloop and Mrs. McKee, Doc Howell was an extraordinary person, a frontier woman who refused to be stopped by artificial boundaries.

After earning her A.B. degree from the old Trinity University and her master's from Duke University, she went on to earn her doctorate at North Carolina State University in Raleigh, the institution which later cited her for outstanding contributions to research graduate education in administration.

After teaching in North Carolina public schools for 8 years, from 1922 to 1930, she moved to the college level, first at Western Carolina Teachers College in Cullowhee from 1930 to 1934 and then to Wesleyan College in Macon, Ga., where she was department chairman and professor of biology from 1934 to 1959.

Part of the time while she was teaching at Wesleyan, she helped found and directed the Highlands Biological Station, from 1946 to 1972.

She was also the first woman to serve on the board of commissioners of the town of Highlands, holding that post for 14 years. She also served as chairman of the Macon County Democratic Party. My good friend, Bob Sloan, editor of the Franklin Press in Macon County, notes that she was a woman who took a stand on just about every cause. And I agree. But her biggest stand, her lifelong commitment was to the well-being of her own mountain people.

We shall all be a little poorer for her passing, but far richer because she devoted so much of her life to us.●

MINORITY UNEMPLOYMENT PROJECTIONS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. HAWKINS. Mr. Speaker, it has been nearly a year since the President signed into law the Humphrey-Hawkins' Full Employment and Balanced Growth Act of 1978; yet 'full employment' is as elusive today as it was in October last year. Despite the passage of the Humphrey-Hawkins bill, the Nation's unemployment level remains unacceptable. Recently, the Department of Labor reported a slight decline in the level of unemployment, but this report is of little comfort to the thousands upon thousands of Americans who are unemployed, and gives very little, if any, comfort to those Americans facing impending layoffs.

The unemployment picture for nonwhites, 89 percent of whom are blacks, is particularly alarming. A noted research firm, Data Resources, Inc., predicts that the unemployment rate among nonwhites will rise from 11.6 percent in the second quarter of 1979 to 13.5 percent in the fourth quarter of 1980; reaching 13.9 percent in 1981. This compares with an expected decline in the unemployment rate for whites from 6.4 percent in the fourth quarter of 1980 to 6.1 percent in 1981.

At my request, the Congressional Budget Office explored the effects of the upcoming recession on minority employment in selected industries. For the benefit of my colleagues, the projections of the Congressional Budget Office follow:

PROJECTED CHANGES IN NONWHITE EMPLOYMENT FOR SELECTED INDUSTRIES, 1979–81

	Change in employment, in thousands of jobs, between 1979–II and—			
	1980–IV		1981	
	Optimistic assumption	Pessimistic assumption	Optimistic assumption	Pessimistic assumption
Contract construction	−12	−25	+1	−13
Mining	+1	−3	+1	−2
Finance, real estate, and insurance	+13	−2	+20	+5
Transportation and public utilities	+7	−15	+12	−11
Services	+107	+55	+168	+115
Wholesale retail trade	+18	−43	+43	−19
Federal Government	+1	−7	+2	−6
State and local government	+13	−26	+36	−3
Manufacturing—Total	−92	−152	−63	−124
Nondurables—Total [1]	−25	−49	−17	−41
Food and products	−4	−18	−4	−18
Textiles and products	−9	−12	−7	−10
Apparel and products	−1	−5	+2	−2
Petroleum products	−1	−2	−1	−2
Durables—total [1]	−63	−99	−46	−82
Primary metals	−13	−16	−9	−12
Fabricated metals	−9	−14	−9	−14
Nonelectrical machines	−1	−9	+1	−7
Electrical machines	−7	−13	−2	−8
Transportation equipment	−23	−29	−21	−27
Instruments and parts	−4	−5	−4	−5
Miscellaneous manufacturing	−4	−5	−3	−4

[1] Note that the industries listed represent only some of the industries classified under this heading. Thus, the total of employment changes for the indicated industries need not equal the total for the entire industry group under which they fall.

Source: Data Resources U.S. Review, September 1979, table 12.3, p. 1.115; and U.S. Bureau of Labor Statistics, Employment and Unemployment During 1978: An Analysis, table 30, pp. A 29, A 30.●

WEIGHING THE DETERRENT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. SKELTON. Mr. Speaker, the editorial page editor of the Kansas City Star, James W. Scott, wrote an article on October 14, 1979, which I would like to share with my colleagues. Mr. Scott stresses the fact that if we are to prevent war, the best hope is in a civil defense and survival capacity that would promise the destruction of an enemy no matter what it unleashes.

I recommend the reading of this article by Mr. Scott. It is entitled "Weighing the Deterrent" and is set forth as follows:

WEIGHING THE DETERRENT

(By James W. Scott)

Sometime in the 1980s the intercontinental ballistic missile (ICBM) force of the Soviet Union will reach a peak of strength that would let the Russians do this:

Destroy or neutralize most of the land-based missiles in the United States.

Wipe out an undetermined but substantial number of missile submarines and nuclear bombers.

Obliterate or threaten to destroy the cities of Western Europe and Japan.

This, of course, assumes that the president would not fire American missiles when the warning system showed the Russian rockets lifting off. The Soviets have no such assurance, and that is at once part of the deterrent and part of the hair-trigger peril under which the world lives.

But put yourself in the president's place. The screens show the Russian missiles are up. Are they headed for China? Is it a mistake? Has some third party spooked the warning system? (An Air Force research and development boss says the last is unlikely but not impossible.) The Soviet missiles will be hitting somewhere in 20 to 30 minutes. If they strike the American Minuteman and other ICBM fields, from 3 million to 10 million people will be killed.

So the president has six or seven minutes to decide. Should he "launch while under attack"? Should he wait until after the first strike, and then fire our remaining nuclear warheads at the Soviet Union knowing that surviving Russian rockets would be loosed to kill 100 million or more Americans?

The doctrine of Mutual Assured Destruction (MAD)—the balance of terror—has been the saving deterrent against World War III for years. What is new is the Soviet strength at all levels of weaponry that might make a first-strike gamble seem worth the risk to the Kremlin despite enormous slaughter on both sides. It might not have to come to that for Soviet purposes of dominance. Fear could be enough to dilute resolve around the world. Last month at a meeting in Brussels Henry Kissinger said that "never in history has it happened that a nation achieved superiority in all significant weapons categories without seeking to translate it at some point into foreign policy benefit."

In a modest Pentagon office in Washington, an Air Force general, a true young professional of the missile-nuclear age, talks of the rockets with a creepy mixture of dread and awed affection. He points out that the modern ICBM is just about a perfect strategic weapon: It has to be hit almost directly to knock it out. It sits dormant in the ground until needed. It uses no fossil fuel. It gets to its target thousands of miles away in 30 minutes while even the fastest bomber needs hours.

"It has enduring usefulness," he says, as if speaking of a highway or a canal. "After the initial spasm, if the missile survives, it could sit there for weeks and months, waiting to strike. And if everything does blow, what happens weeks or months later might be decisive."

"The initial spasm" is a genteel way of describing the convulsion that would rip up the land and burn and dissolve people, places and things for miles around in the region of U.S. missile silos in western Missouri and Kansas.

The truth is, there can be no real defense against the sort of cataclysmic destruction that has been part of the nuclear age since its birth. There is no place to hide from a hydrogen warhead.

The rockets around Sedalia and Wichita are not there to win World War III. They are there to prevent it. The best hope is a civil defense and survival capacity that would promise the destruction of the Soviet Union no matter what it unleashes.●

ADMINISTRATION'S PROPOSED BUDGET CUTS IN SCHOOL LUNCH PROGRAM NOT SUPPORTED BY EVIDENCE AND COULD SERIOUSLY DAMAGE CHILD NUTRITION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. ASHBROOK. Mr. Speaker, I do not recollect ever having asked my colleagues to reject proposed cuts in Federal spending, but I feel strongly that the administration's proposals to cut back on

support for the national school lunch program have been made without adequate justification. That, also, is the judgment of the General Accounting Office in testimony before our Committee on Education and Labor on March 13 of this year.

Because we are going to be debating the second budget resolution, and because the Budget Committee has adopted a substantial portion of the proposed school lunch cuts, it is imperative that every Member of this House understand the probable impact of those cuts.

Adequate nutrition for America's children is a matter—like national defense—of fundamental importance to every citizen. For more than 30 years the Federal Government has helped achieve the goal of adequate child nutrition through the national school lunch program. While State and local school food administrators are the first to admit that improvements can be made in the program, they know—and we should know—that ill-advised cuts in support can wreck the program because it is balanced on a thin edge of economic viability.

Among other cuts in child nutrition programs, the Carter administration proposed a $262 million reduction in support for school lunch, and an additional $110 million cut in the special milk program for schools. In concluding the GAO testimony on these cuts, Henry Eschwege, Director of the Community and Economic Development Division urged us to require the Secretary of Agriculture to make a comprehensive evaluation of our child nutrition programs, which earlier in his testimony he indicated was necessary to make any judgment on program changes which might be needed. The following paragraph from his testimony was headed "Conclusions and Recommendations" and I commend it to the attention of my colleagues:

The Department made an effort to limit program cuts to children who would be least affected by the cuts. The lack of program information and evaluation material severely restrained both us and the Department from fully assessing the impact of the cuts and the viability of alternative proposals. The Department had little convincing evidence to support their proposed modifications in the School Lunch Program. . . .

Unquestionably, the Department's proposed cuts will save money. They will also remove many children from these programs. Unfortunately we are unable to measure the trade-off between budget cuts—some or all of which could be well taken—and cutting children off from program benefits.

In so many words, Mr. Speaker, we are being told by GAO that the administration does not know what the effect of its proposed budget cuts will be, and we are being asked to act blindly in a matter as critical as the health and nutrition of school children. I cannot in good conscience do that.

I found Assistant Secretary Carol Tucker Foreman's testimony in support of these cuts vague and unpersuasive as to their impact, and I regret that our colleagues on the Budget Committee felt otherwise. The GAO testified that the cuts would not affect just the students from families with above average income, but "will affect children in all categories." The GAO made this appraisal of the impact:

The Department estimates that these revisions will result in about 1.1 million of the 26.1 million participants dropping out of the program—a 4.2 percent reduction. Of the estimated 1.4 million children who will move from free lunch eligibility to reduce price eligibility, 350,000 will drop out. Another 370,000 children will move from reduced price eligibility to paying status, but 185,000 in this category will drop out. Another 580,000 paying students will drop out because of the 5-cent cut. These Department figures assume certain economic conditions based on estimates derived in part from projections provided by the Council of Economic Advisors.

The Department sought to cut back on benefits at the middle and upper income levels. However, the results show that 31 percent of the estimated dropout will be from students formerly eligible for free lunches. Another 17 percent of those dropping out will be from those formerly eligible for reduced price lunches, and the remaining 52 percent of the children dropping out will be those affected solely by the 5-cent cut.

Those who administer the school lunch program fear that a major impact will be on those families with incomes just above the level which qualify their children for free or reduced price lunches. There are the families hit hardest by inflation—those who are getting no help and who are cutting not luxuries but necessities in trying to stay afloat financially.

Mrs. Foreman, with her customary sensitivity to the problems of hard-pressed middle-income families, told our committee that she could afford to pay an extra 5 cents for her children's lunches—and our colleague JOHN BUCHANAN, Republican, of Alabama, had to remind her that precious few families have her $50,000 income. Past experience indicates that those extra costs for lunches will drive hundreds of thousands of students out of the program—most to "brown bags" with inadequate lunches or to no lunches at all. It may very well also wreck the program.

Unfortunately, few people outside those who run the program understand the economics of it. Like many enterprises, it survives on a very thin margin of financial viability. In most of the more than 85,000 participating public and private schools, the "paying student"—who pays the full difference between the true cost of a meal and the public support provided—really supports the program. In many schools, if enough of those students stop buying lunch the program would be insupportable, and thus could not be made available for the economically disadvantaged students who qualify for free and reduced price lunches. So we are talking about cuts in support leading to drops in participation which might well kill the entire program.

That is why I ask my colleagues to think hard about these particular cuts which may be embodied in the second budget resolution and could be forced through operation of the Budget Control Act. I am not opposed to all cuts in nutrition programs. No program is sacrosanct in the present budget crisis, nor can be if we expect ever to stop the disastrous spiral of inflation. But budget cuts should be justified.

We are committed to a $50 million cut in the entitlement for the WIC program because it cannot be effectively spent. Reductions may well be made in the summer feeding program through tightening up procedures for participation. I do not like the administration's proposal for slashing the special milk program because it was not thought through to insure that all children can get whole milk at school, but perhaps cuts could be made there. But in the school lunch program there is absolutely no evidence that the proposed cuts would not be a disaster. That is a risk I am not prepared to take.

Chairman PERKINS and I disagree on a lot of things—often on spending priorities and sometimes on child nutrition issues. But we agree on this issue and we will stand together in opposing the cuts in the national school lunch program. I hope our colleagues on both sides of the aisle will carefully weigh the GAO testimony and think twice before approving these cuts.●

CAMBODIAN GENOCIDE—AN APPEAL FOR ACTION

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. SOLARZ. Mr. Speaker, our Nation has repeatedly urged the civilized societies of the world to appropriate most urgently needed aid for the refugees of Cambodia. Action is urgently needed to help prevent the millions of deaths of Cambodian people, by starvation and disease.

We are not alone in asking for a worldwide effort to help avert the annihilation of the Cambodian people. I would like to submit for the benefit of my colleagues, a statement submitted to me by my good friend Chhang Song, former Minister of Information of Cambodia, on behalf of the free Cambodian refugee communities of France and the United States. The purpose of their statement is to help coordinate the appeal for urgent measures to be taken by the civilized societies of this world, to save the Cambodian people:

CAMBODIAN GENOCIDE—AN APPEAL FOR ACTION

Recognizing the need for immediate action to avoid the complete and impending genocide of the Cambodian people.

We, the under-signed, representing the free Cambodian refugee communities of France and the United States, held an emergency meeting in Paris, France, on September 23, 1979, to coordinate our appeal for urgent measures to be taken by the civilized societies of this world.

We, hereby, (directing our appeal particularly to the United Nations and to the Presidents of the United States and La République Française).

1. Urge speeding the evacuation of all Cambodian refugees in Thailand.

(a) To preclude any (and further) forced repatriations to Cambodia; and

(b) To make possible the survival of other tens of thousands of would-be Cambodian escapees.

2. Urge negotiations at the highest levels with the Socialist Republic of Vietnam.

(a) To provide economic assistance to the more than 150,000 Cambodian refugees now in Vietnam; and

(b) To arrange, in cooperation with the United Nations, for the processing of these refugees for resettlement.

3. Urge the coordination of the efforts of all existing relief and refugee organizations to make a massive international effort to speed up shipments of food, medicine, clothing and other necessities to the Cambodian people inside Cambodia

(a) To reduce mass famine and the death toll of disease; and

(b) To help staunch the flow of refugees to the outside world.

4. Urge the creation of a neutral zone in Cambodia (50 kilometers wide and 200 kilometers long) located along the Cambodian-Thai border

(a) To provide a locus for the carrying out of the international relief effort, and, at the same time; and

(b) To provide an area of survival and hope.

In the same order of idea, we urge the neutralization of the Angkor Wat Temples area, to make possible an international effort for the preservation and maintenance of this world's art treasure for the benefit of all mankind.

In order to accomplish these objectives, we further call upon

1. The Cambodian communities, including both the refugee community and the Cambodians inside Cambodia: To put aside political considerations so that this massive humanitarian effort receives first priority, in the process to cease all military actions of Cambodian versus Cambodian to facilitate cooperation with the effort of the various international relief agencies for the direct distribution of aid to the people inside Cambodia.

2. The super-powers, their allies and the non-aligned nations: To put aside political considerations (and to urge respective Cambodian factions to do likewise) to avoid fueling the internal warfare which precludes humanitarian efforts. Particularly, the non-aligned nations must forestall petty argumentation over United Nations representation while the lives of the people to be represented are in jeopardy.

3. The United Nations: To call a special conference on Cambodia to consider all possibilities to avert complete genocide, even going as far as to provide United Nations forces to restore peace and order and even considering the possibilities of a United Nations interim trusteeship.

4. The United States: To formulate a long-term, comprehensive relief program designed to cope with any future influx of refugees from Cambodia to Thailand, respectfully recommending that the United States invoke the clauses of the Washington-Hanoi 1973 Paris Agreement, particularly Article 20(B) which calls upon the parties "to put an end to all military activities in Cambodia . . . totally withdraw and refrain from re-introducing . . . troops, military advisors and military personnel, armaments, munitions and war materiel."

We hereby designate Mr. Chhang Song, former Minister of Information of Cambodia and currently Executive Director of the Cambodia Affairs Institute in the United States, to serve as spokesman.

Paris, September 23, 1979.

Sim Var, former Prime Minister and Ambassador to Japan.

Yeam Sambaur, former Prime Minister and President of the National Assembly.

Sok Chhong, former Deputy Prime Minister and Minister of Finance.

Uy Say, former Minister of National Defense and Ambassador to Laos.

Sonn Voeunsai, former Deputy-Prime Minister and Permanent Representative to the United Nations.

Chhang Song, former Minister of Information.●

THE CHANGING WATER POLICY

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BEREUTER. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial that recently appeared in the Lincoln (Neb.) Journal. The editorial provides a thoughtful, balanced discussion of Federal State water policy. I insert the editorial in the CONGRESSIONAL RECORD at this point:

WATER POLICY: IT'S A-CHANGING

At a regional water conference in Denver last weekend, a University of Colorado economist declared he wasn't joking—well, not entirely—when he suggested a tax of something like 400 percent on water.

What CU Professor Kenneth Boulding said is that it is a "fundamental principle nobody will ever conserve anything that is dirt cheap." That isn't a gag, Luke. It's an Enduring Truth.

Take water. Excessively cheap or subsidized water has been a central feature of this country's national water policy for a long time. Too long, as more people are coming to understand. While the price of federal reclamation project water remains dirt cheap, so to speak, there is insufficient incentive to conserve; rather, the tilt goes the other way, toward resource exploitation.

The Carter presidency is a time when historic federal water policies are being challenged at the highest level. The pressure to change is marked. It is not episodic. Revision is constantly promoted, inadvertently aided by inflation. Some change almost surely is coming, and that's not all to the bad.

For two years President Carter has sought a congressional requirement that states participate financially in approved new water projects, many of which are still on drawing boards of the U.S. Army Corps of Engineers and the Bureau of Reclamation or in the heads of promoters.

The Journal agrees with the president and others on this point: Leaving aside the specifics of minimum percentage participation, there should be state cost sharing of front-end money to pay for new water resource projects.

If the Legislature regards a proposed multi-million-dollar reclamation project as crucially needed in Nebraska, it being deemed an investment of great worth, then that same Legislature ought to put some bucks with its rhetoric.

There is something faintly irresponsible about insisting that a deficit-ridden national government continue to carry the full financial freight.

This newspaper also agrees that interest rates attached to federal reclamation project loans to beneficiaries are unconscionably low. For years they've been too low. The application of unrealistic rates through those years materially improved project cost-benefit arithmetic. Such favorable data was then used to justify economically any number of projects.

The recommendation here is that federal reclamation projects bear interest rates more related to the actual market; that is, a rate which reflects the average of market conditions over the last several years.

Why should Uncle Sam have to borrow money at 9 percent and 10 percent interest so that the government can then make 40-year reclamation loans at 3.5 percent interest? That's obscene economics. Better we should give away the money as grants than continue such a fiscal charade.

Where this publication parts company with some advocates of policy change is that it believes there's still a constructive place for the Corps of Engineers. That engineering unit has done fabulous good for the United States, even conceding some contemporary evidence of a pave-the-world mentality.

A balanced federal water policy may well force the moderating of traditional ideas and values, or at least the primacy of certain ideas. But there will continue to be a role for the corps, and in certain locations, it may be that construction of dams may prove the more satisfactory alternative to the attainment of multiple water resources objectives, particularly affecting vast geographical areas. Anyway, that alternative should not be completely shelved in a revision of federal policy.●

DR. FREDERICK S. HUMPHRIES

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I wish to rise today to commend Dr. Frederick S. Humphries, the faculty, staff, alumni, and friends of Tennessee State University for their noble and courageous activities leading to the merger of Tennessee State University and the University of Tennessee at Nashville. With Dr. Humphries as president, assuming the leadership role, an unprecedented consolidation of two institutions—one predominantly white, the other predominantly black—was realized. The Institution, Tennessee State University, now stands as a symbol of a unitary system of public higher education in Nashville.

The merger implementation itself has been an example of harmonious and well-organized activity which has bonded together two institutions of diverse character. Throughout an 11-year period in which a legal question moved from the Federal district court to the highest court in the land, the administration, faculty, staff, and students of the university stood firm in their commitment that the interest of public higher education could best be served by combining all of public higher education into a single institution in Nashville. The Supreme Court has now shown that this sentiment was and is both just and legal.

Without the support of friends of the university and a fine staff, it is certain that no one individual could have withstood the many trials, tribulations, and distraction involved over the past 4 years. However, Dr. Humphries has demonstrated leadership of exceptional caliber during the last 4 critical years of the institution.

We, the Congress of the United States, congratulate Tennessee State University and recognize that it stands on the threshold of becoming the model multiracial public institution of higher education in this Nation.●

THE CITIZEN'S ENERGY REVOLT

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. DODD. Mr. Speaker, last year our country was embroiled in a tax revolt propelled by Americans who would no longer countenance the combined burdens of State, local, Federal, and retirement taxes. Another revolution is now gathering a steady momentum that threatens to balloon to explosive proportions this winter as consumers try to come to grips with exorbitant fuel bills.

Today, the Citizen's Energy Revolt arrived at the steps of the Capitol where its proponents demanded that we, in Congress, respond to their needs instead of those of the Nation's oil companies. Their requests were hardly unreasonable: Adequate supplies of energy at affordable prices. Their frustration was also warranted in light of Congress and the administration's inability to come up with a politically viable comprehensive energy program that will deal effectively with out short- and long-range energy problems.

The longer we delay in enacting legislation that will enable us to achieve energy independence, the harder it becomes to reverse the self-destructive course we are currently pursuing. While America produces nearly 25 percent of the world's energy; our people, our industries, and our utilities consume nearly 30 percent of the world's available energy supplies. Our cars alone use up one-ninth of the world's energy. But our domestic consumption of fuel is only part of our problems. As long as OPEC sets the price for our energy here and abroad, there will be no free market forces at work that will insure competition among suppliers and induce lower energy prices.

In December, OPEC will be meeting again to discuss price increases and Libya has already raised their crude oil price $2.77 per barrel over the OPEC ceiling of $23.50. There are also reports that Iran is slowing crude production again, yet another indication that the U.S. Government must face up to continuing uncertainties in the OPEC supply line as well as escalating prices in the years to come.

Our dependence on OPEC for nearly half of the fuel oil we use has crippled our country economically as well as socially. In New England, where 70 percent of the fuel oil is imported, prices of distillate have nearly doubled since last year and elderly, and low- and middle-income people will be paying over $1,000 to heat their homes this coming year while conserving as much as they possibly can. Reducing consumption of energy by driving less is a relatively painless way to conserve energy, but drastic cutbacks in heating oil use can be life endangering and our citizens should not be forced to make the kind of impossible choices that they face this winter.

Too often our Government looks for easy solutions to bail us out of difficult problems. There are no easy answers to our energy problems, only the prospect of a lot of hard work in the years to come. To accomplish our goal of energy self-sufficiency while protecting consumers against interruptions in fuel supplies and unreasonable price hikes, a program needs to be passed now.

Our constituents, the American people, are becoming united in their demands for action from Congress. They are asking us to hold the lid on gasoline and oil prices, keep refineries running at full speed, insure sufficient fuel supplies, provide low-income energy assistance, and put an end to the unjustifiable profit margins that have been reported by our Nation's oil companies. Legislation to accomplish these goals will be presented to Congress in varying forms over the coming months, and I would urge my colleagues to become united in their efforts to enact effective energy legislation.●

GUATEMALA AND HUMAN RIGHTS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. SOLARZ. Mr. Speaker, it is my understanding that the Inter-American Commission on Human Rights at the Organization of American States is evaluating the need for a thorough study of the human rights situation in Guatemala. I strongly encourage this investigation, particularly in light of information alleging that Guatemala has committed serious human rights violations.

I believe that these human rights violations are matters of tremendous importance and utmost urgency. In my view, it is important that the Commission authorize and conduct, at the earliest possible date, an onsite investigation.

For the benefit of my colleagues, I would like to submit for the RECORD the conclusions of an investigation by the National Lawyers Guild and La Raza Legal Alliance into human rights violations in Guatemala:

NATIONAL LAWYERS GUILD AND LA RAZA LEGAL ALLIANCE URGE OAS TO CONDUCT ON-SITE INVESTIGATION INTO HUMAN RIGHTS VIOLATIONS IN GUATEMALA

The joint mission of the National Lawyers Guild and La Raza Legal Alliance which spent two weeks in Guatemala in March, 1979, today filed a communication to the Organization of American States, Inter-American Commission on Human Rights, urging an immediate on-site investigation by the IACHR of the human rights violations in Guatemala. The joint mission in its submission concluded that grave violations of human rights occur in Guatemala, with disturbing regularity. The mission's communication included testimony from 14 individuals, detailing death threats and physical assaults against these individuals.

The mission was invited to investigate the human rights situation in Guatemala by the Committee for Trade Union Unity (CNUS), a Guatemalan trade union confederation. In recent months, Union organizers have been prominent targets of assassinations by paramilitary death squads who operate without governmental interference. However, the current repression in Guatemala has affected all sectors of the popular movement and the population in Guatemala. As the mission concluded in its 28 page OAS submission:

CONCLUSIONS

(1) Despite ratification of the American Convention on Human Rights, which guarantees freedom of association, and the International Labor Organization Conventions 87 and 98, which protect the right to organize trade unions, the right to legal recognition of unions and the right to strike, the government of Guatemala provides no effective protection for trade unions and workers. Violations of trade union rights range from refusal to recognize unions, delays or refusal to prosecute violations of the Labor Law, refusal to prevent the firing of actual or suspected union organizers, to assassinations of trade union officials.

(2) Because of police indifference, if not active hostility, the absence of easily accessible judicial procedures and a campaign of violence against sympathetic lawyers, peasants are provided with no effective legal protection of their rights to their land. This, in turn, has led to widespread violations of land rights, which then result in both extra-legal struggles by the peasants and a campaign of violence directed against peasant leaders and organizations. In at least some areas, the mobile army plays an active role in the violence against peasants, and in some areas army officers acquire title to lands which are appropriated from peasants.

(3) Freedom of assembly, freedom of expression and the right to engage in peaceful demonstrations are not respected. These rights are subject to unreasonable and unjustified legal qualifications, such as the requirement of legally responsible sponsors for public rallies. In addition, excessive force is used to disperse public demonstrations, and retaliation sometimes takes place against individuals who participate in the exercise of these rights.

(4) Insuperable legal obstacles are created to the juridical recognition of opposition parties. In addition, physicial violence and assassinations are used as tools to prevent the growth of any opposition parties, even those of moderate tendencies.

(5) Although the right to form political organizations is guaranteed and discrimination on the basis of political belief is prohibited by Article 1 and 16 of the American Convention on Human Rights, the Guatemalan Constitution bans communist organizations and withholds political rights from communists (Constitution Articles 27, 63 and 64). This discrimination has been a permanent fixture of the Guatemalan Constitution since 1956. It is a discrimination which bears no relationship to the legitimate interests of the government and it cannot be justified under international law.

(6) Economic, social and cultural rights, which are of equal importance with political rights, are not adequately protected in Guatemala. Large sectors of the population, especially agricultural workers and urban slum dwellers, receive inadequate income, little or no medical care, no potable water, no electricity, and agricultural workers are exposed to deadly chemicals. Malnutrition affects 82 percent of the population under the age of five and infant mortality is 8.1 percent. Only 52 percent of the school age population receives a primary education.

These violations of the basic economic, social and cultural rights are inseparably linked to the government's unwillingness to protect trade union rights and the land rights of peasants, and the policy of denying civil and political rights to all groups which represent the interests of the disadvantaged sectors of Guatemalan society.

(7) The government completely has failed in its obligation to safeguard the right to life and the right to physical integrity of its citizens. Private industry and large landowners are permitted to maintain "security forces" which assume governmental functions and commit grave crimes against the people of Guatemala. In addition, all the evidence points to direct involvement by the army and the national police in the assassinations, tortures and kidnappings which have become endemic in Guatemala.

(8) Every sector of the population—workers, students, clergy, lawyers and the poor—is affected by the above-mentioned policies and practices. There exists in Guatemala a reign of terror which obstructs the exercise of the most fundamental human rights and democratic freedoms guaranteed by the American Convention on Human Rights and by other pertinent international instruments.

(9) Immediate measures must be initiated to stop the systematic repression and governmentally orchestrated violence. We hope that the Inter-American Commission on Human Rights will take prompt action in this regard. We are confident that the Commission will find a similar pattern of events and that the current situation in Guatemala is one which demands international attention and censure.

Also appended to the communication by mission, was a five-page list of some of the well-documented cases of individuals who have been assassinated, kidnapped, exiled, tortured or disappeared. The prevailing violence in Guatemala, according to Amnesty International and newspaper reports, estimates some 1,300 political assassinations between July 1978 and June 1979 and additional cases of torture or "disappearance". The list of Acts of Violence was ". . . appended to the communication of the mission because the obvious relationship between the reality, these deaths and the intimidation, violence and interference with organizing efforts made by trade unions and opposition partie and all sectors, the popular movement in Guatemala."

The mission would appreciate it if it could be stated that copies of the report are available c/o Barbara Ellen Handschu 604 Brisbane Building, Buffalo, New York 14203, at $2.00 per copy. The Spanish edition should be available shortly.

For further information, contact Ms. Handschu, member of mission.●

PERSONAL EXPLANATION

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. ROTH. Mr. Speaker, due to hearings conducted by the National Alcohol Fuels Commission, on which I serve, in Jonesboro, Ark., on September 27 and 28, I was unable to be present and voting on a number of matters before the House. Had I been present, I would have voted in the following manner:

Rollcall No. 518, "yea" DOD amendment that sought to provide for the consolidation of military helicopter pilot training programs;

Rollcall No. 519, "yea", DOD amendment that adds $10 million for support of the Army graduate medical education programs.

Rollcall No. 520, "yea" House resolves itself into the Committee of the Whole.

Rollcall No. 521, "nay" DOD amendment to repeal the Maybank proviso.

Rollcall No. 522, "yea" DOD final passage.

Rollcall No. 523, "yea" conference report on S. 737.

Rollcall No. 524, "yea" conference report on S. 237.

Rollcall No. 525, "yea" International Travel Act, final passage.●

HISTORY REPEATED AS FARCE

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. SOLOMON. Mr. Speaker, 17 years ago, little question existed in the minds of U.S. leaders, or among the American people, that international communism as controlled by Moscow was on the move. Khrushchev, then in charge of the Kremlin, was threatening. His Deputy Foreign Minister V. V. Kuznetzov said immediately after the Cuban missile crisis in 1962: "This is the last time you Americans will be able to do this to me."

Nevertheless, the United States kept up its guard—until recently.

To an astonishing degree U.S. handling of the recent "crisis" over the presence of Russian combat troops in Cuba ignores the fundamental elements of a Soviet global strategy for world domination.

From an explicitly geopolitical framework, the United States as the leader of the free world's maritime alliance, faces terrifying prospects in the years ahead. In peninsular Europe, the Soviet Union, and the Warsaw Pact, have developed a military capability for rapidly overrunning the American bridgehead. Linked to this, the awesome growth in Soviet strategic nuclear power makes it highly unlikely the United States would threaten nuclear escalation to come to NATO's assistance. Should the Warsaw Pact move on Western Europe, the North American mobilization base—a base which has traditionally served for the development and production of trained manpower and equipment—would not find easy access to the European rimland, nor would it find the rimland in friendly hands. Offshore, the increased presence and power of Soviet naval activity increasingly threatens to outflank the approaches to the Eurasian-African rimland and all related reinforcement and supply routes. Indeed with base facilities in the Indian Ocean, the Atlantic Ocean, and now the Caribbean, the Soviet Union is moving into position to interdict supply routes from the Persian Gulf.

The overriding meaning of these developments is that the Soviet Union is on the verge of acquiring a strategic advantage from the exploitation of our geopolitical position.

Central to this exploitation is the use of proxy troops in the Third World, principally from Cuba. Despite this, President Carter has refused to take any action—directly or indirectly—to correct this situation. Whether it be Soviet and Cuban support of Ethiopia against Somalia, the Communist coup in Afghanistan and South Yemen, the Shah's overthrow in Iran, Vietnam's invasion of Cambodia, the destabilization of Rhodesia and South Africa by Marxist forces, the nonrecognition of Taiwan, the presence of Soviet troops in northern Japan and Cuba, or the increasingly destabilized situation throughout the Central American region, the United States under the Carter administration has either stood quietly in the background or has assisted revolutionary forces. Slowly, the United States is being forced to accept a posture of fortress America.

In an article appearing in the Washington Post on Monday, October 15, 1979, Dr. Ray S. Cline, Deputy Director of the Central Intelligence Agency during the 1962 Cuban missile crisis and presently executive director of the Center for Strategic and International Studies at Georgetown University, underscores the fundamental difference between the Cuban "mini-crisis" of a few weeks ago and the Cuban missile crisis 17 years ago. While President Kennedy sorted out his intelligence and established appropriate strategic priorities, President Carter totally misread the situation. Mistaking the presence of Soviet combat troops for the real menace—the destabilization caused by Cuban troops in the Caribbean, in Africa, and in the Middle East—the Carter Administration lost an important opportunity to face squarely present strategic realities and thereby enhance American prestige around the globe, help restore confidence and pride in our country domestically, and reaffirm the Monroe Doctrine as a symbol of our determination "to remain Master of our own House."

I commend the article to my colleagues as follows:

HISTORY REPEATED AS FARCE

(By Ray S. Cline)

President Jimmy Carter reached a new low in his TV performance as star of a little farce entitled "Shoot-Out With the Red Brigade in Cuba," story and music by the boys from All Thumbs Corral at 1600 Pennsylvania Ave. It was a melancholy moment for the nation as our commander-in-chief humorlessly explained that the Soviet brigade was not there and yet appeared to our satellite camera stare, was not there again today because Leonid Brezhnev assured him it would not go away. On the basis of this impeccable logic, the president proceeded to wish the brigade away as an international issue, and he preached a lesson on the urgency of an arms limitation treaty involving cooperative measures with the Soviet Union.

For me, this moment seemed especially sad and humiliating. In 1962, as deputy director of the Central Intelligence Agency, I made the alerting call to McGeorge Bundy and early in the morning of Oct. 16 took to the White House the photographs of Soviet missiles in Cuba that began the drama of the "13 days" of that year. I was in the White House when President Kennedy made his electrifying TV address to the nation—Oct 22, 1962 Kennedy had a real crisis, he sorted out his intelligence and his strategic priori-

ties, and he courageously took the steps that forced the removal of Soviet strategic offensive weapons from the Caribbean. He did not consider the Soviet troops in Cuba an offensive force and did not ask for their withdrawal. This presidential action added immeasurably to American security and international prestige. How discouraging to see history repeated as farce.

The facts are that Soviet troops organized in combat units were in Cuba in strength in 1962 and that a number of those combat troops have been in Cuba ever since. After many annual troop rotations and a buildup of various kinds of Soviet military technicians in Cuba, the exact status of the Soviet forces became fuzzy. When Carter early in 1977 deliberately cancelled the traditional aircraft reconnaissance overflights of Cuba as a gesture of good will to Fidel Castro, the CIA and the Defense Intelligence Agency went virtually blind in this region. Intelligence analysts with many other things to do got the signal that the White House attached no priority to fine points about Soviet forces in Cuba. Consequently, they did not keep up to date on reading the messages later discovered to have referred to the brigade. Nor, evidently, did they trouble to sift out the exact meaning of the flurry of Soviet activity that plainly accompanied Castro's shipment of Cuban proxy armies all over Africa and as far away as Yemen on the oil-rich Arabian peninsula.

Actually, a few thousand Soviet combat troops in Cuba are the least menacing of the many activities Moscow has been conducting in our Caribbean back yard. After the first Soviet venture into Angola in 1975, the Soviet military presence in Cuba and in the Caribbean expanded substantially in ways genuinely threatening to American security interests. Within four years the U.S.S.R. was flying long-range airborne reconnaissance missions to cover the Atlantic reaches, was deploying submarines in Caribbean waters and operating them from a base at Cienfuegos, and was manning, large, communications facilities both for military command and electronic intercepts of U.S. signals. Soviet air power now includes a fighter-bomber force with advanced-design MiG23s as well as transport planes to ferry Cuban troops wherever they are wanted.

Thus the non-crisis began when the Carter administration discovered what had been in Cuba all along. The president and his spokesmen panicked and misled the Congress and the public with assurances of no change in the status of Soviet forces in Cuba, then belatedly discovered that the troops had indeed been brigaded and were photographed in August 1979 on maneuvers with tanks and artillery. This fact, they thought, was a "smoking gun" of evidence, so they handed it to their dovish, pro-Castro friend on the Senate Committee on Foreign Relations, Frank Church. With one quick look at his problems in getting reelected in 1980 in conservative Idaho, Church took the gun and shot Carter in the foot by demanding removal of the Soviet brigade. It was this self-inflicted wound that the president thought he could heal by a judicious application of prime-time TV.

Actually, of course, the Carter-Church crowd got it backward. They seemed to believe that a few thousand combat troops were a danger if they maneuvered in Cuba but were acceptable if they were, as Breshnev claimed, a "training center." It is exactly the fact that the Soviet Union is using Cuba as one vast training center for proxy armies and cobert intervention forces that is causing a real strategic crisis in the Caribbean, in Africa, in the Mideast. This global assault on American interests and American friends abroad, passively acquiesced in by the United States, is what is destabilizing international peace and discreting American foregn policy.

If President Carter had moved to meet this menace, he would at long last be facing strategic reality in a way that would hearten the American people and our allies. Instead, he gave us the baffling description of the little Red Brigade that is or is not there. This episode in presidential history is not crisis management; it is crisis mangling. It is small wonder our alliance partners watch in disbelief and dismay. How many real confrontation crises will the backroom strategic planners in Moscow calculate can safely be staged in the next 14 months? And will President Carter's men march up the hill and march down again, as they did in this case, without so much as a hint of concession from the Soviet Union?●

COUNTRY MUSIC ASSOCIATION—13TH ANNUAL AWARDS PRESENTATION

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BONER of Tennessee. Mr. Speaker, on Monday, October 8, 1979, at the Grand Ole Opry House in Nashville, Tenn., I was privileged to join with hundreds of performers and other individuals to witness the Country Music Associations 13th Annual Awards Presentation sponsored by Kraft Foods, Inc. To receive a CMA award is to attain the highest degree of recognition accorded a country music performer or songwriter, for the CMA award is an honor indicative of a standard of excellence set forth by members of the country music industry itself. Voted upon by the entire membership of the Country Music Association, each of the CMA awards is given to that person or persons demonstrating outstanding achievement in country music.

Mr. Speaker, I was privileged and honored to witness the talented performers who appeared on stage at the Grand Ole Opry House before a national CBS–TV audience. At this time I would like to commend those performers who received the Country Music Association awards. They are as follows: Instrumental Group of the Year, Charlie Daniels Band; Female Vocalist of the Year, Barbara Mandrell; Entertainer of the Year, Willie Nelson; Single of the Year, "The Devil Went Down to Georgia" by the Charlie Daniels Band on EPIC records; Instrumentalist of the Year, Charlie Daniels; CMA Hall of Fame, Hank Snow and Hubert Long (postumous); Album of the Year, "The Gambler" by Kenny Rogers on EMI/US Records; Male Vocalist of the Year, Kenny Rogers; Vocal Duo of the Year, Dottie West and Kenny Rogers; Vocal Group of the Year, the Statler Brothers; and Song of the Year, "The Gambler' written by Don Schlitz and published by Writers Night Music.

In addition, Mr. Speaker, I would like to commend the officers of the Country Music Association, especially President Ralph Peer II, of the Peer Southern Organization, and the board of directors chaired by Tom Collins, of Pi-Gem Music, Inc. I would also like to commend Joe Walker, executive director; Dick Frank, legal counsel; and Mike Milom, legal counsel.

Mr. Speaker, the citizens of Tennessee join with the Nation in honoring the Country Music Associations 13th Annual Award Winners.●

STATEMENT OF CONGRESSMAN THOMAS A. DASCHLE

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BEDELL. Mr. Speaker, on September 19, 1979, the Small Business Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Businesses, which I chair, held hearings to determine the extent of major oil companies' efforts to discourage their dealers from marketing gasohol.

One of the witnesses who testified at the hearing was our colleague and my good friend from South Dakota, Mr. DASCHLE. As the author of H.R. 3958, the Gasohol Marketing Freedom Act, Mr. DASCHLE is well acquainted with the nonmarket impediments which many gasoline dealers have confronted in attempting to market gasohol.

For the benefit of my colleagues, Mr. Speaker, and all others interested in furthering the production of alcohol fuels from renewable resources, I am today submitting Mr. DASCHLE's very fine statement.

The statement follows:

STATEMENT OF CONGRESSMAN THOMAS A. DASCHLE

Mr. Chairman, I welcome this opportunity to testify on gasohol marketing. The Congress this year has devoted considerable attention to alcohol fuels and with good reason. Alcohol produced from our nation's renewable resources can make an important contribution to the nation's energy supply and reduce our growing dependence on uncertain foreign sources of energy.

Most of this attention has been focused on the production of alcohol for fuel however. As the Administration and the Congress proceed to eliminate red tape and unnecessary obstacles to the production of alcohol fuel and provide financial incentives and assistance for alcohol fuel production, the importance of gasohol marketing increases daily.

Because of the importance of gasohol marketing, the Subcommittee's decision to examine this subject is both timely and most appropriate. I understand this is the first Congressional hearing on gasohol marketing and I would like to particularly thank this Subcommittee and its distinguished Chairman for holding this hearing.

The value of ethyl alcohol as a component of liquid motor fuel for internal combustion engines has been fully examined and well established. My testimony will not belabor the facts of gasohol, a blend of 10% ethyl alcohol and 90% gasoline, generally unleaded gasoline. My comments will be limited to the subject of gasohol marketing.

As the Subcommittee examines gasohol marketing it may seek to answer a number of pertinent questions including: Are there obstacles to the marketing of gasohol?; Do petroleum franchisors oppose the marketing of gasohol?; Can franchised dealers freely and without reservation market gasohol?;

and if a franchised dealer markets gasohol in spite of franchisor opposition, what are the possible consequences? I hope my testimony today will be useful to the Subcommittee as it seeks to answer these questions.

Franchised gasoline dealers are subtly and not so subtly pressured by franchisors not to market gasohol. This subtle and not so subtle opposition to gasohol marketing from the major oil companies is without any doubt a major institutional obstacle to the marketing of gasohol. Phillips Oil Company, Gulf Marketing and Refining, Conoco, Union Oil and the Mobil Oil Corporation have each clearly expressed their subtle opposition to gasohol marketing by questioning the feasibility and advisability of gasohol. A franchised dealer of any of these refiners' products does not need an interpreter to understand company policy on gasohol marketing.

Franchisor opposition to gasohol marketing has also been expressed without finesse. Consider the warning on gasohol marketing published by the Marketing Department of the Mobil Oil Corporation in Mobil Energy Update, an in-house publication for Mobil product dealers. The last paragraph in Energy Update reads, "Gasohol, of course, is a non-Mobil product and while the sale of a non-Mobil product is not absolutely prohibited by dealer and distributor marketing agreements, the marketing of an adulterated Mobil gasoline as a Mobil product is expressly prohibited. Therefore, if you are thinking about installing gasohol at a Mobil branded retail outlet, we suggest you first contact your Marketing Representative."

What effect does this warning have on franchised dealers who would like to market gasohol? One Mobil dealer who received a copy of Mobil Energy Update has told me he was on the verge of marketing gasohol, but, "there are a lot of unforeseen problems that could come into play at anytime. The major consideration is the Mobil Oil Corporation. Obviously they are dead set against this. That is, they will not come out up front and acknowledge this, but they will sabotage anyone (especially the first in the area) with all their tools at the disposal. . . . That is the crux of my fears and concerns."

Potential gasohol marketers do not have adequate legal protection from the pressures which can be brought to bear by a franchisor opposed to gasohol marketing. Legal protection, when it does exist, is clearly inadequate because it fails to take into account the very real unequal bargaining power between the franchisor and the franchised dealer. A franchisor opposed to gasohol marketing could possibly: (1) terminate the dealer, (2) withhold supplies of gasoline or other products, (3) unilaterally alter the terms of the lease contract, such as rental, or (4) charge discriminatory prices or terms for products delivered to a franchised dealer who chose to market gasohol.

Unfortunately, the Petroleum Marketing Practices Act (Dealer Day in Court), which specifies the grounds by which a franchisor may terminate a franchise relationship, as it is now in force, does not provide protection to a franchised dealer who chose to market gasohol. As written the Petroleum Marketing Practices Act would in fact sanction franchisor termination of a franchised dealer who marketed gasohol. One of the statutory grounds enumerated in the Petroleum Marketing Practices Act for franchisor termination of a franchise agreement is the adulteration of products. The Mobil Oil Corporation has certainly indicated it would consider the blending of ethyl alcohol and Mobil gasoline as an adulteration of the Mobil product.

Although franchised dealers are independent business men and women, the franchised dealer who would like to market gasohol is clearly operating at the mercy of the franchisor. If the franchisor indicates opposition to gasohol marketing, the franchised dealer had better take heed of this opposition or be willing to suffer the consequences of marketing gasohol which could include the loss of his or her business. This is the situation facing thousands of branded franchise dealers today. More than 146,000 "independent" managers of branded franchise stations to be exact who manage more than 82% of the retail gasoline stations in the nation.

This situation will undoubtedly continue until franchised dealers receive adequate legal protection and are assured the right to market gasohol. If gasohol is to be marketed freely and without reservation or fear by franchised dealers, franchised dealers need to be assured their franchise agreement will not be terminated if they market gasohol and they need assurance their franchisor will not engage in any act of economic reprisal or discrimination against them if they market gasohol. Unless these assurances are provided, gasohol will certainly not be marketed by thousands of franchised dealers.

Earlier this year I introduced H.R. 3958, The Gasohol Marketing Freedom Act. This legislation amends the Petroleum Marketing Practices Act to eliminate the mixture of alcohol and gasoline as grounds for termination of a franchise relationship and prohibits a franchisor from engaging in an act of economic reprisal or discrimination against a franchised dealer who markets gasohol. This legislation which has been referred to the Energy and Power and Consumer Protection and Finance Subcommittees of the Interstate and Foreign Commerce Committee when enacted will provide the assurances which are needed by franchised dealers to facilitate the marketing of gasohol. This measure is currently cosponsored by 65 members of the House.

This concludes my statement, Mr. Chairman. I would be happy to answer any questions which the members of the Subcommittee may have for me.

Again, let me commend this Subcommittee and its distinguished Chairman for the decision to hold this hearing, the first hearing on gasohol marketing.●

BARBARA MANDRELL

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to honor an outstanding performer who brings joy and music to the hearts of country music fans across the Nation. On October 8, 1979, I was privileged to attend the 13th Annual Country Music Association Awards at the Grand Ole Opry House in Nashville, Tenn.

It was my privilege to witness Barbara Mandrell receive the Female Vocalist of the Year Award. I wanted to share with the Congress and the Nation the background of this outstanding artist.

Barbara Mandrell was born in Houston, Tex., December 25, 1948, the daughter of Irby Mathew and Mary Ellen (McGill). Barbara is married with three children. She has been a country music singer since 1959, performing throughout the United States and many foreign countries. She has been a member of the Grand Ole Opry since 1972. Barbara was named "Miss Oceanside"—California—in 1965; "Most Promising Female Singer" by the Academy of Country and Western Music in 1971, and received the CMA 1979 Award as "Female Vocalist of the Year." She is a member of the Musicians Union; Screen Actors Guild, AFTRA; a director of the Country Music Association; the Association of Country Entertainers and a member of the Order of Eastern Star. Barbara currently makes her home in Hendersonville, Tenn.●

THE VALUE ADDED TAX PROPOSAL

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BEREUTER. Mr. Speaker, I would like to call to the attention of my colleagues an editorial that appeared recently in the Norfolk (Nebr.) Daily News. The editorial provides a thoughtful discussion of the value added tax proposal. I request that the editorial be reprinted in full in the CONGRESSIONAL RECORD.

The editorial follows:

A "NEW" TAX

Rep. Al Ullman, chairman of the House Ways and Means Committee, has promised to hold hearings on a new form of collecting taxes from Americans. It is called a "value added tax," and is used widely in Europe as a source of public funds.

Some regard VAT as a national sales tax, but with a different label. Mr. Ullman does not think that adequately describes the tax, since it is literally imposed on "value" of purchases and is paid by the buyer.

Those are distinctions of a subtle nature, arguable by economic theorists. In practice, the tax cannot differ much from existing ones on sales and service imposed by many states, in part because they feel the income tax is largely the province of the federal government and in part because the property tax levy does not apply broadly enough.

Whatever definition is used for the "VAT," the tax would have to be paid by many already contributing to the public treasury.

The only issue is whether or not it might spread the burden more fairly to some not paying as much as they should for governmental services because of exempt income. One might include in such a category those who derive much income from tax-exempt bonds, or relatively small numbers of retirees drawing disability pensions that are tax exempt, without actually being so disabled as to be able not to work. It might also include those able to evade income taxes on some other basis. Clearly, though, there would not be large numbers who could be tapped as "new" sources of revenue for a value added tax system. Mostly, the fees would be paid by those already paying.

Mr. Ullman recognizes that danger in arguing that VAT "on its own could go nowhere." He would make sure that it provided funds to make other tax adjustments, with the total take by the federal government not increased. He suggested that the new tax might be used to provide for a 25 percent cutback in the Social Security tax, without any loss of benefits. Or it might provide more rapid depreciation of business investments, or an end to the extra load on dividends, which are doubly taxed because they come from after-tax profits of corporations and are then subject to taxes as income to stockholders.

It might be possible to shift $120 billion to $150 billion from existing taxes to the

value added system under such a combination of proposals, Mr. Ullman says.

Such a shifting will be found attractive by many who view the present tax system as oppressive. But before the rush to a "new" source, it is important to remember that any shifting in the tax base, or its broadening so far as federal levies are concerned, is not the answer to the nation's fiscal problems. The solution lies in demanding less in the way of taxes, not merely shifting the load.

As the system exists today, taking into account federal levies, state and local taxes, all bases have been touched. European nations which rely on the VAT do not have the proliferation of taxing units that the United States has.●

CONSIDERATION BY THE INTERIOR COMMITTEE'S SUBCOMMITTEE ON ENERGY AND THE ENVIRONMENT ON NUCLEAR POLICY REVIEW

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. SYMMS. Mr. Speaker, our Interior Committee's Subcommittee on Energy and Environment met yesterday to review a proposal made by Chairman UDALL to proceed with the drafting of leigslation over a broad spectrum of nuclear policy questions. I can recall that when the decision was made to initiate the committee's own investigation of the event at Three Mile Island, coupled with a series of comprehensive hearings, there was a broad base of support that this posture was a responsible discharge of our rather unique jurisdiction. The chairman, as a participant in those hearings, demonstrated his aparent interest in assuring a full and balanced record and representing all interests on the committee.

As we all know, there have been a number of investigations undertaken by various groups including the NRC, the President's Kemeny Commission, and the Senate Environment and Public Works Committee. All of these efforts have one thing in common—an interest in developing a credible basis for drawing any conclusions about the lessons to be learned from Three Mile Island. There is only one vehicle that I know of for reaching this goal—writing a balanced and objective report illuminating the various issues and proceeding to evaluate what recommendations are constructive and supported by the record—not wish lists.

Mr. Speaker, I believe that a two part report that presents, in one part, finding of fact and in a second part, conclusions, is an essential ingredient to both develop and support useful and constructive legislation. I think that the report of the President's Commission as well as relevant studies underway by NRC could be an invaluable aid to us in the development of our conclusions. I think we should seriously consider the following:

First. The development of a report that makes a finding of fact based upon the transcript and submitted testimony. This report could either be a staff report or we may want to consider requesting the services of the Congressional Research Service with staff oversight.

Second. Upon completion of this report of a bipartisan task force of the subcommittee members and staff should be charged with the development of a report that presents conclusions on the finding of facts. This process would permit a balancing of all the facts and assure that our work product was internally consistent. This would also provide a mechanism for considering the work of the President's Commission and ongoing studies by industry and NRC.

Mr. Speaker, I believe that this approach will permit the development of legislation that is balanced, useful, and credible.

We have heard pleas before this committee that the confidence of the public and financial communities is in a fragile condition. Let us not take action that would further erode the confidence of these communities; our Nation cannot stand it.●

ALBERT G. VINICK, CATHOLIC LAYMAN OF 1979–80

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BENJAMIN. Mr. Speaker, allow me to take this opportunity to ask my colleagues to join me in commending and congratulating Albert G. Vinick of East Chicago, Ind., for his selection as the Catholic Layman of 1979–80 by the Monsignor Connelly Council No. 1700, Knights of Columbus. Albert G. Vinick is a man of high character and honor, who has dedicated his entire life and work to the principals of charity, brotherly love, and patriotism which personify and exemplify the ideals of the Knights of Columbus.

The honoree was born in the coal town of Shenandoah, Pa., on March 25, 1903, where he graduated from grammar school before working in the coal mines to provide an income for his family after the injury of his father in 1917.

By 1919, Albert had become an apprentice carpenter and a volunteer fireman. In 1925 he entered the construction trades in Philadelphia and attended evening classes.

In 1929 Albert began working as a steelworker in East Chicago and later as a firebrick layer at a local refinery. He also joined St. Francis Catholic Church. He served in the church choir until 1951 and served as president of the Holy Name Society for several years after helping to organize it in 1933.

In 1939 Albert received his high school diploma as a result of correspondence courses. He also attended Indiana and Purdue Universities. In that year he also joined the Knights of Columbus and became Grand Knight in 1954–55. His service in the third degree has been continuous to the present date.

In 1932 Albert began work with the Democratic Party of East Chicago, Ind., and joined the Lithuanian White Rose Political and Benevolent Club and the Lithuanian Pleasure Club. He later founded the Lithuanian American Council of Lake County, Ind., in 1943, and continues to serve as the president of this organization.

In 1914 he was appointed to be a notary public. In 1939 he became involved in politics in the city of East Chicago and was appointed superintendent of water works for the city. Albert served in this capacity until 1952. Albert began to work for Inland Steel in 1952 as a field force engineer and subsequently retired from Inland in 1968 at the age of 65.

Albert was appointed as a trustee for the water works of the city of East Chicago in 1964 and is currently a member of the board. Since his retirement from Inland Steel, Albert has worked for the North Township County assessors office for 11 months and as a branch manager for a local savings and loan bank.

Albert G. Vinick will be honored by the Knights of Columbus on October 21, at a testimonial dinner to be held at the Knights of Columbus Hall in East Chicago, Ind. Those in attendance will include Ray J. Madden, former Congressman of the First District of Indiana, Robert A. Pastrick, mayor of the city of East Chicago, and Irv Lewin, commentator for WJOB radio in Hammond, Ind. Albert G. Vinick's work has been a great source of pride to the citizens of Lake County, and I am hopeful that he will continue in these efforts for years to come.●

VERNON CHAPEL A.M.E. CHURCH TO HONOR ITS PASTOR, REV. REUBEN RUSSELL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. KILDEE. Mr. Speaker, I am pleased to bring to the attention of my colleagues in the Congress a brief sketch of the accomplishments and contributions of Rev. Reuben Russell, pastor of Vernon Chapel A.M.E. Church in Flint, Mich. The church is honoring him with a special 3 days of services this weekend.

Since Reverend Russell came to Flint 13 years ago the membership of Vernon Chapel A.M.E. Church has nearly doubled and the congregation has been able under his leadership to move to a beautiful new church. Besides being a full-time minister of the Gospel and visiting the sick and shut-ins, counseling the troubled, consoling the bereaved, and conducting the other duties of the ministry, Reverend Russell also serves the community in its civic affairs. His involvement has included being vice chairman of the Urban Renewal Housing Board and former president of the Interdenominational Ministerial Alliance.

Reverend Russell's current civic involvement includes the following: Chairman of the Genesee Valley March of Dimes; first vice president of the NAACP; second vice president of the Concerned Pastors for Social Action; member of the NAACP Credit Union Board; member of American Red Cross Board; vice chairman of the Chaplain Advisory Committee of the Corrections Department of the State of Michigan; member of the Greater Flint O.I.C. Board; member of Panel Three of United Funds; member of the Genesee County Legal Aid Society Board of Directors, and a member of the Greater Flint Council of Churches.

Reverend Russell has given unselfishly of himself to his church and to his community, and I am proud to point out his distinctions to the Congress of the United States.●

DESTROYERS BUILT AT INGALLS ARE THE BEST EVER CONSTRUCTED FOR THE NAVY

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. LOTT. Mr. Speaker, a newspaper in my district, the Sun/the Daily Herald, recently carried an account of how the *Harry W. Hill*, a destroyer built at Ingalls Shipbuilding, weathered its maiden voyage in the turbulence of Hurricane Frederic. The ship's superb performance further confirms my belief that destroyers built at Ingalls are the best ever constructed for the U.S. Navy. I am proud of the people who work at this shipyard for the outstanding job they do, and I call the following remarkable article to your attention:

CAPTAIN'S LOG TRACES TENSE MOMENTS OF SHIP'S BATTLE WITH FREDERIC

(By Kat Bergeron)

Somewhere in the Gulf of Mexico—Captain's Log, Sept. 12, 1979:

11 a.m.—Ship taking frequent heavy seas over bow. Shaking and shuddering along with heavy pitching. Making 25 knot speed and don't know of any other type ship which could make that much speed into 18-feet head seas.

11:30 a.m.—Wind and seas increasing . . . vessel in very violent motion.

12:36 p.m.—Last six minutes seemed the longest in my life.

The Harry W. Hill, an anti-submarine destroyer constructed by Ingalls Shipbuilding, was to undergo two tests before U.S. Navy approval for sea duty.

Thanks to Hurricane Frederic. she underwent three.

It was the unexpected trial on Sept. 12 which led to the entry in the Captain's Log, a diary which is filled with one man's account of a ship's maiden voyage through a turbulent storm. At 2:20 p.m. Captain Jimmy Watler simply wrote, "The worst is over."

That unanticipated trial, and the two planned exercises, have been so successful that the Navy has set a Nov 24th commissioning date for the vessel. The recently constructed ship is one of 30 Spruance-class destroyers being built by Litton Industries for military use.

However, it is the mid-September date that will stick in the minds of many Pascagoula shipyard workers. That's the day the employees-turned-crewmen experienced firsthand the hurricane's fury. Normally landlubbers, they learned what it means to have "sea legs."

More than 160 employees can now spin tales of the furious winds and 25-foot waves which buffeted the Hill's bow. Seasickness was common and they said they felt like they had been forced to ride on the world's bumpiest roller coaster at sea.

The senior Ingalls official aboard, who also happens to be the director of the shipyard's test trials, remembers a quote from one of the crewmen after the seas had calmed: "Why don't you radio the shipyard and request permission to surface?"

But now that the experience is over, the crew remembers most the anguish of not knowing whether their families and homes on land had survived the storm.

They had heard only sketchy reports of the damage to the Mississippi, Alabama and Florida Gulf Coast.

A radio relay system was finally set up so that contact could be made with the crewmen's relatives on land, but many had no information on their families until the boat docked Friday afternoon, nearly three days after departure. A clogged channel and downed navigational aids had prevented the destroyer's return after Frederic's departure.

The saga of the Harry W. Hill, DD-24's unexpected test began when Ingalls officials decided to take her to sea, rather than weather the hurricane near land. A week earlier, she had passed the first builder's test. It's much like the test-run a car is given once off the assembly line.

In the predicted 15-foot waves of the hurricane, the Hill could have easily been washed ashore, her 563-foot hull wreaking havoc to anything in her path. Then she would have been good for little but scrap metal.

But today, the Hill is docked in Pascagoula, ready for duty.

Two weeks ago, when the Navy paced the destroyer through her final acceptance trials, it was smooth sailing for the 7,800 ton, gas turbo-powered Hill. This was mild after being tossed around in the 100-plus mph winds and high seas. The ship suffered only a few broken rails and antennas.

"Well, when the full (Navy) crew takes her over, they'll at least be comfortable with the fact that this ship has been proven seaworthy," said Ron Elias of the Ingalls public information office.

He admitted that not many new ships get the kind of testing the Hill received Sept. 12. The crew was comprised mostly of Ingalls employees who normally participate in the builder's trials as part of their job (Capt. Watler is the trial master for most Ingall's constructed boats).

However, "hurricane tests" were new to them all.

A special edition of Ingalls News, a company tabloid published for its employees, has recorded the thoughts of some of those crewmen:

"We were being tossed around like a cowboy riding a bronco at a rodeo."—electrician Jack Power.

"When the ship's bow went under water a couple of times, I wasn't so sure it'd come back up."—rigger Chester Forehand.

"It was scary as hell. I didn't know if we'd make it through at first. But these destroyers proved to me they can take anything."—machinist Mike Willis.

"It was the kind of experience you like to forget in a hurry. Because we went through such an ordeal, I think it brought many of the guys onboard closer together. But the time at sea was not without a lot of worries and pressures. I didn't know until Friday whether I still had a family or a house."—test engineer Danny Givens.

Engineer Terry Walker spoke for most crewmen when he said "the worst thing for me was the waiting to return to shore (as the boat sat helplessly outside the Pascagoula channel, unable to enter because of obstructions), and not knowing what happened to my family."

The homes and property of some crewmen was ravaged by the hurricane, but miraculously, the storm had claimed no lives locally.

Today, the Harry W. Hill is docked in Pascagoula, waiting to be commissioned. The minor damages incurred from the storm are being repaired. The Navy's prospective commanding officer, Commander J.J. Hogan, who on request participated in the unexpected Sept. 12 trial, is readying her for the military ceremonies.

And 15 sailors, who were also onboard for the storm, now call her home—because after they finally reached land, they found their living quarters had been damaged.●

TIME TO ACT ON HAZARDOUS WASTE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. FINDLEY. Mr. Speaker, I am introducing today a bill which, if enacted into law, will go a long way toward removing the environmental hazards caused by toxic chemical wastes. My bill, the Hazardous Waste Disposal Act of 1979, is a result of my long standing concern over the dangerous and potentially deadly consequences inherent in much of the material created from industrial processes. Congress addressed itself to this waste problem most recently in the Resource Conservation and Recovery Act of 1976. In that act, Congress provided authority to the Administrator of the U.S. Environmental Protection Agency to develop plans to regulate the management of hazardous wastes in the United States. In the 3 years since passage of RCRA, numerous deficiencies in the act along with EPA's inept implementation of its require that Congress again take action.

In hearings before both the House Subcommittees on Oversight and on Transportation and Commerce, testimony has been presented that is truly alarming. Inadequate disposal of hundreds of billions of pounds of hazardous waste at both active and inactive sites poses a severe threat to both man and the environment. These hearings have also laid bare EPA's failure to meet statutory deadlines for issuing regulations, to determine and catalog the location of all hazardous waste sites, and to enforce vigorously laws and regulations against polluters. Congress can no longer afford to wait for EPA to act to provide adequate protection to the public from these toxic materials.

The Hazardous Waste Disposal Act which I am introducing today addresses the inadequacies of existing law and EPA's lackadaisical enforcement.

Of particular concern to me has been the hazardous waste facility located in Wilsonville, Ill., a small community in my congressional district. A private company, the Earthline Corp., a division of

SCA, Inc., developed a waste disposal facility employing modern technology for hazardous waste treatment, storage and disposal. Yet, incredibly, Earthline chose to locate this dangerous hazardous materials disposal site partially within the city limits of Wilsonville, and on top of an abandoned coal mine. Learning this, the village took Earthline to court to force closing of the site.

In August of 1978 the residents won a judgment against Earthline when District Judge John Russell ordered the facility closed and removal of all the materials stored there. The decision was based on the fact that the facility is a public nuisance and a threat to the health of the public and the surrounding environment. In September of this year, the Illinois Court of Appeals affirmed the lower court decision.

In the course of my investigation of the problems stemming from the Earthline site at Wilsonville, I came to the conclusion that the law should not permit establishment of a hazardous waste disposal site in or near a populated area where people can be exposed to the hazards of a chemical wastes dump.

That is exactly what my bill does. It requires that all future hazardous waste disposal sites be located away from populated areas and be constructed on public lands. It also emphasizes the importance and desirability of using alternative means of disposing of these dangerous materials by recycling, neutralizing, and incinerating them rather than depending on land fill disposal as the sole means of discarding chemical refuse. Additionally, the bill requires companies engaged in the hazardous waste disposal business to establish a public trust fund to make restitution to those who suffer losses due to toxic waste pollution.

Had my bill been law, Earthline's request to build its facility in Wilsonville would have been automatically denied. If it were required that companies first attempt to recycle, detoxify, or incinerate wastes, many of the dangerous chemicals now stored in Wilsonville would not have been placed there in the first place.

Public disclosure of information about planned hazardous waste treatment facilities is another important feature of this legislation. Incredibly, even today Earthline and other responsible authorities are reluctant to provide a full public accounting of what is buried at the facility. My bill would make prior disclosure routine and would require that a public hearing on the proposed facility be held before a construction permit is issued.

It is time for U.S. EPA to get serious about the burgeoning hazardous waste problem in this country. Today, EPA does not even know where such wastes are buried. When EPA made a preliminary survey of the number of sites nationwide, the Earthline site in Wilsonville was left off the list. When I pointed out this mistake, I was told in effect that EPA does not consider this site to be dangerous. This flies in the face of Judge Russell's decision closing the facility because of the hazard it poses to the community and the environment. U.S. EPA should conduct a survey and catalog both active and inactive sites around the country, and my bill orders them to do so as expeditiously as possible.

Improper disposal of hazardous waste constitutes an extremely serious environmental problem. Thirty to forty million tons of waste material are being produced each year, and EPA acknowledges that 80 to 90 percent is disposed of by unacceptable means. If we are to prevent further economic and human hardship caused by hazardous waste pollution, such as occurred at Wilsonville, Congress must act. Chairman FLORIO of the Subcommittee on Transportation and Commerce has begun holding hearings on this problem and I am hopeful that the provisions in my bill will be swiftly enacted into law.●

HANK SNOW

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to honor an outstanding performer who brings joy and music to the hearts of country music fans across the Nation. On October 8, 1979, I was privileged to attend the 13th Annual Country Music Association Awards at the Grand Ole Opry House in Nashville, Tenn.

It was my privilege to witness Hank Snow receive the CMA Hall of Fame Award. I wanted to share with the Congress and the Nation the background of this outstanding artist.

Hank was born in Brooklyn, Queens County, Nova Scotia, Canada. The lure of the sea drew the youngster into becoming a cabin boy at the age of 12. Once when the sea-going fellow returned from one of his trips, he learned his mother had obtained a cheap guitar from a mail order house. This gave the youngster his first try on a stringed instrument.

Not long after this, Hank learned that the late Jimmie Rodgers had been discovered by Ralph Peer, and was already recording for the RCA Victor Co. "The Singing Brakeman," as Jimmie was known, was not only to become Hank's idol, but would serve as his guiding star along the rough road to success. Although Hank worked at many jobs, including work on fish docks, as a stevedore, on farms, et cetera, he continued his practice on the guitar and often sang to entertain his friends and ward off loneliness. Finally he was encouraged by his friends to seek an audition at Radio Station CHNS in Halifax. He did his first radio show on the day of his audition.

Soon after acquiring his radio position, Hank decided to form the now famous Rainbow Ranch Boys and establish himself as the "Singing Ranger." As Hank matured professionally, more important things came his way. Soon he was invited to become a featured act on the "Canadian Farm Hour." After much persuasion, he was signed to his first recording contract with RCA Victor, Canada, in October 1936, under the recording supervision of Hugh Joseph. In 1974 Hank re-signed with RCA through 1987, which means he will be under contract with one label for 50 years—longer than any artist in any musical field.

In 1949 Hank made his first performing tour in the United States to coincide with the release of his first American record. Hank, who joined the Grand Ole Opry in 1950, has assembled an impressive file of hits, including, "I'm Moving On," "Rhumba Boogie," "Bluebird Island," "Golden Rocket," "Hello Love," and many more. He has recorded more than 80 albums, and more than 2,000 songs and instrumentals.

Hank has received many impressive awards in his lifetime, but still considers citizenship to the United States of America his greatest honor.●

NATIONAL PRODUCT LIABILITY ACT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BROYHILL. Mr. Speaker, I am cosponsoring the National Product Liability Act which is being introduced today by Congressman F. JAMES SENSENBRENNER. During hearings before the Consumer Protection and Finance Subcommittee of the House Commerce Committee, it has become clear that a product liability problem exists. This problem affects the ability of businesses, both large and small, to obtain product liability insurance at an affordable price. However, the lack of affordable product liability insurance is not solely a business problem. The price of insurance affects the ultimate price of a product being offered for sale. This higher price is passed on to consumer. Further, if a company elects to "go bare," because that company cannot afford the price of product liability insurance, the consumer who might be injured by that product may have no one from whom to seek compensation.

Because the product liability problem affects so many aspects of our society, it is important that we examine all possible solutions to the problem. The court reform provisions of the National Product Liability Act represents one potential solution to the problem. This may not be the only solution or the best solution. However, I do believe that it is important to get these ideas before the public so that they can be fully discussed and reviewed.

The Product Liability Risk Retention Act of 1979, which I am also cosponsoring, was introduced last week. The National Product Liability Act is a natural complement to the Risk Retention Act. The two of them together represent one possible solution to the product liability problem. Hopefully, in upcoming hearings, we will be examining whether or not this is indeed the correct solution.●

PLO AND THE AMERICAN BLACKS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. WOLFF. Mr. Speaker, I rise today to commend Vernon Jordan of the National Urban League for standing up for the values of one of the great American leaders of this century, Martin Luther King.

The philosophy of peaceful change through passive resistence and nonviolent action, developed by Martin Luther King and Mahatma Gandhi in the course of their respective struggles, is the major advance in the humanity of social change. The struggle of American blacks for freedom and equality, as led by Martin Luther King, is a model for social and political transformation in a democratic society.

This century has seen barbarism unparalleled; in the Holocaust, two world wars, and the birth of the potential for nuclear destruction. The Inquisition cannot rival the atrocity of this "modern" age. Terrorism is another manifestation of the violent nature of our time. Political change through the murder of civilians could not be any more at odds with the philosophy of passive resistance. Endorsing the PLO endorses the terrorist activities in which they are engaged, and flies in the face of Martin Luther King's teachings.

I would like to insert into the RECORD excerpts of Vernon Jordan's recent speech which appeared in Newsday, the respected newspaper from Long Island. I would like to express my agreement with his remarks. As Mr. Jordan says in his speech, the destinies of all Americans are "linked and intertwined," no matter what race or religion; we all have a common interest in ending racial and religious intolerance. At this point, Mr. Speaker, I would like to insert the Newsday piece into the RECORD:

PLO FLIRTATION: IT'S NOT GOOD FOR THE BLACKS

(By Vernon E. Jordan, Jr.)

Like many of you, I was held spellbound last week, watching the journey of His Holiness, Pope John Paul II, in our nation.

The Pope took every opportunity to deliver an age-old message: Love thy neighbor, help the poor, feed the hungry. He called for a just society.

The Pope's message comes at a time when Americans appear to have abandoned the quest for social justice and retreated into an antisocial privatism.

In the 1960s there was a general consensus, shared by whites and blacks alike, that an activist government should achieve full employment, reverse the effects of discrimination and revitalize the cities. Today that consensus has been shattered. In its place we see the formation of a New Negativism in America that calls for a weak, passive government, indifference to the plight of the poor, abandonment of affirmative action and letting the cities twist slowly, slowly in the wind.

Make no mistake about it. Race is central to the rising support of the new negativism. People are not merely saying "no" to high taxes and inflation, they are saying "no" to inclusion of black and brown people into the mainstream. And behind that "no" are the vestiges of a racism that blights American life and casts a long shadow over our pretentions to speak on behalf of human rights throughout the world.

Perhaps the most insidious idea fostered by the new negativism, and one that is shared by too many Americans, is the strange idea that blacks and browns have made so much progress that special efforts are no longer needed.

So let us look for a moment at the thesis that there has been significant black progress, progress that should be trumpeted loudly to a self-satisfied nation.

THE BLACK-WHITE INCOME GAP IS GROWING

Income is a basic measure of progress. Some of us have made great strides. A few have reached parity with whites. We are often told about the 9 per cent of black families in the upper income brackets. But what about the other 91 per cent? How are they doing? A third are poor—three times the white rate. The majority are near poor. They earn less than the government itself says is needed for a minimum adequate living standard.

The shameful fact this nation must face is that the gap between whites and blacks is growing instead of closing. At the end of the '60s, the typical black family income was 61 per cent of the typical white family income. Today, it is down to 57 per cent.

Education is another basic area. Twenty-five years after *Brown* [the Supreme Court decision outlawing school segregation] more black children attend racially isolated schools than in 1954.

Yes, more blacks are attending college than ever before. But the majority are in two-year community colleges, while the majority of whites are in four-year schools that put them on career ladders denied to blacks. Black enrollments in medical and professional schools are declining while total enrollments rise.

Has there been progress in housing? Some. [Yet] one out of five black families lives in housing that the government says is physically deficient.

It is clear that the glass of racial progress is only half-full. It is clear that blacks remain disadvantaged.

We've got to make the 1980s a decade in which black people finally enjoy full equality. We've got to organize behind an agenda for the 1980s—an agenda that includes a national full employment policy, a massive drive for affirmative action in all aspects of national life, a national youth development policy that gives hope and skills to young people denied both, a national health policy that assures high quality health care for all and a housing program that assures a decent living environment for all.

And we've got to recognize that our agenda demands construction of powerful alliances. We can't do it alone. We shouldn't have to try to do it alone.

Black people must concentrate on forging alliances with other segments of our society for the good of all.

We must reach out to other groups who share our problems. An obvious ally is America's large hispanic population, which also suffers discrimination and disproportionate poverty. But other groups share our agenda, too, and every effort must be made to cross the artificial barriers of race and ethnicity and organize around issues of common concern.

I am concerned that our traditional alliances are under pressure these days. At the core of the civil rights alliance of the '50s and '60s were blacks, the labor movement and the Jewish community. Now the events following Andy Young's resignation have led to deep strains in that alliance.

While some have categorized statements on black-Jewish relations as being a declaration of independence, I believe we need a declaration of interdependence. For black or white, Christian or Jew, urban or rural, our destinies are linked and intertwined. We must strengthen the ties that bind us, not weaken them.

We should be very clear about the need to combat racism, anti-Semitism and religious bigotry in all its forms. The confusions of the past several weeks must not be allowed to polarize the civil rights alliance, nor must they be allowed to heighten or to release feelings of racism, anti-Semitism or religious bigotry.

The only ones who benefit from black-Jewish tensions are the enemies of both groups. It is time to stop providing joy to the cross burners and bomb throwers. It is time to strengthen the traditional, fruitful alliance between blacks and Jews.

BLACK-JEWISH RELATIONS

That alliance must be based on mutual respect, concern for each group's vital interests, and a refusal to categorize all blacks or Jews for the actions or statements of some. We will disagree about some issues. There will always be occasional disagreements over issues among members of any alliance. But those disagreements must be in the nature of family disputes that do not affect the overall harmony of our relations.

Black-Jewish relations should not be endangered by ill-considered flirtations with terrorist groups devoted to the extermination of Israel. The black civil rights movement is based on nonviolent moral principles. It has nothing in common with groups whose claim to legitimacy is compromised by cold-blooded murder of innocent civilians and schoolchildren.

Black people have the right and the duty as citizens to help shape our foreign policy. No one has the right to limit our involvement to predetermined "black" issues. But as we frame our foreign policy options we must be sensitive to the basic interests of our domestic allies and consistent with our historic values of justice and morality.

In the past several weeks we've seen more concern exhibited about Palestinian refugee camps than about America's ghettos. We've seen more concern about the PLO's goals than about black America's aspirations for equality. And we've seen more concern about Yasser Arafat's future than about the future of the millions of black kids growing up in poverty.

Given the recent preoccupation of some black leaders with these concerns, it becomes more important than ever that the black community and its allies focus strongly on the immediate problems facing the black poor. Our agenda for the 1980s comprises the vital survival issues for black people, issues that can't be allowed to be displaced by sideshows. That agenda for the 1980s depends on the success with which we can cut across racial, class and regional lines to unite Americans behind our blueprint for a progressive future.●

KENNY ROGERS

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to honor an outstanding performer who bring joy and music to the hearts of country music fans across the Nation. On October 8, 1979, I was privileged to attend the 13th Annual

Country Music Association Award at the Grand Ole Opry House in Nashville, Tenn.

It was my privilege to witness Kenny Rogers receive the Male Vocalist of the Year Award. I wanted to share with the Congress and the Nation the background of this outstanding artist.

Kenny Rogers was born in Houston, Tex., August 21, 1938, the son of Floyd and Lucille (Hester). He attended the University of Houston. Kenny appeared on American Bandstand and was a member of the Bobby Doyle Trio and later the New Christy Minstrels from 1966 to 1967. From 1967 to 1976, he was lead performer with Kenny Rogers and the First Editon. He has performed numerous concerts throughout the United States, Canada, England, Australia, and New Zealand, starred in his own syndicated television series "Rollin," and has appeared on the Tonight Show. He has been a recording artist with United Artists since 1976, and his records include: "Just Dropped In to See What Condition My Condition Was In," "But You Know I Love You," "Ruby (Don't Take Your Love to Town)," "Tell it All Brother," "Heed the Call," "Reuben Jones," "Somethin's Burnin'," "Love Lifted Me," "Homemade Love," "Laura," "While the Feeling's Good," and "Lucille." He was named Cross-over Artist of the Year by Billboard Magazine in 1977. In addition to being named Male Vocalist of the Year, Kenny also received the 1979 CMA Award for Album of the Year, "The Gambler" and shared the Vocal Duo of the Year Award with Dottie West.●

HON. EZRA TAFT BENSON'S WORDS SHOULD BE REMEMBERED AND REPEATED

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. ASHBROOK. Mr. Speaker, one of the real patriots of our time is my good friend, the former Secretary of Agriculture in the Eisenhower administration, Hon. Ezra Taft Benson. His entire life has been dedicated to the moral uplifting of America through his work in public service and his church.

Like many patriots of the past, his words and advice have too often been unheeded by a country bent on following liberal-radical leadership over the precipice. Now that we are at that point where all Americans seem to be reconsidering the disastrous course we have been following it is well to remember and repeat the words of those Americans who did not advocate the course of action which has brought us to a political and economic weakness that threatens our future.

In August 1975, Secretary Benson spoke at a Sino-American Fellowship Prayer Breakfast in Taiwan. Recall those years since that time culminating in President Carter's infamous December 15 sellout to the Communists and the betrayal of our staunch friends and allies, the Nationalist Chinese on Taiwan.

From time to time, we should recall the prophetic warnings and advice of those great and patriotic Americans who tried to tell us what was happening. I call this address to the attention of all who would work at this late hour to turn this country around before it is too late. The address follows:

THE PRICE OF LIBERTY—ETERNAL VIGILANCE

(By Ezra Taft Benson)

Gentlemen: You accord to me a great honor by extending this invitation to address you at your Fellowship Prayer Breakfast. It is a distinct honor and privilege for me to be here with you today amidst such a distinguished group.

I am not a stranger to your wonderful country. I well remember the two impressive and delightful hours my wife and I spent with General Chiang Kai-Shek and his lovely companion, the Madame, in 1960. I was very impressed by his gentlemanly qualities, his manner being characterized by a very marked kindliness. I was equally impressed with Madame Chiang Kai-Shek, and regard her as surely one of the amazing women of the world. I want you to know that your venerable leader, General Chiang Kai-Shek, is held in high esteem throughout the free world by patriots and lovers of liberty. His lifelong struggle against the tyranny of Communism is an example to free people in all nations. Our task is to see that his struggle was not in vain.

The establishment of Taiwan-Free China has besen an inspiration to all freedom-loving people. As a people, you have accomplished much under very difficult circumstances on this lovely island of Taiwan. Today, living standards are among the highest in Asia. You are second only to Japan in terms of standard of living. One of the most heartening trends in your agricultural economy has been the diminution of tenancy from 43 percent of the cultivated land to about 14 percent today. As tenants become owners, incentive increases. Standard of living is thereby raised. As I have traveled over the world, many have expressed admiration for the pioneer spirit which you have established and the manner in which you have moved forward in meeting your problems, solving them, and raising the economic level of your people. I commend you, and encourage you to continue this direction.

Today I would like to say a few words to you in regard to freedom and liberty. While I am saddened by action taken by other nations toward Taiwan—and I have specific reference to the expulsion of your country, a founding member, from the United Nations—it is my feeling that the time is coming that the United States will rue the day that it became a member of this Communist-dominated, international organization. In the face of international ostracism, your nation is to be admired for your courage, your lack of vindictiveness, and your resolution in facing the future with self-reliance and determination. Critical circumstances such as these are sometimes the forge by which the noblest qualities are fashioned—internal resolution, courage, self-reliance—qualities which will be needed for the more difficult days which lie ahead of us.

The dictum of Curran seems appropriate as a theme, that "the price of liberty is eternal vigilance." Taiwan is a free nation today because of the sacrifice of others. Your vigilance must preserve this liberty.

Freedom is an eternal principle. Heaven disapproves of force, coercion, and intimidation. Only a free people can be truly a happy people. Of all sad things in the world, the saddest is to see a people who have once known liberty and freedom and then lost it.

I have seen the unquenchable yearning of the human heart for liberty on two unforgettable occasions. These experiences are indelibly etched on the memory of my soul.

I saw this yearning spirit in the faces of many European people, in the aftermath of World War II. It fell my lot, under the direction of the President of the Church, to be among the first to go into war-torn European countries and distribute food, clothing, and bedding to the suffering members of our Church. I saw first hand entire nations prostrate, flat on their backs economically. I looked into the face of hunger—the pale, the thin, the many dressed in rags, and some barefooted. I saw the refugees, the poor unwanted souls who were driven from their homes to destinations unknown. They came with all their possessions on their backs. I visited some of their homes—shacks—where as many as twenty-two people were living in one room—four complete families. I saw men enslaved by habit barter their food and clothing for a cigarette. I saw some fortunate to get hold of an American magazine and pour over its pages and wonder if what they saw could possibly be true. I saw struggles on every hand to get to America—some legal and others illegal—all in an effort to enjoy freedom and liberty. These were a people who had once known freedom, but had let it slip away.

The second unforgettable experience was when I was in Russia in 1959. We had been touring seven European countries as a part of the objective of the government of the United States to develop world markets and create good will.

Mr. Krushchev had promised me that I would be able to visit a Christian Church in Russia. During our stay there, the guides did everything possible to prevent this. On the way to the airport, before leaving Moscow, I insisted that we go to a Baptist Church in Mcscow. It was only a few minutes out of the way. Reluctantly, we were taken to the Church. Our guides had told us that the churches were empty, that no one attended church any more, and that religion is the "opiate of the people."

When we arrived at that Baptist Church, we found it full to overflowing. I looked into the faces of the people. Many were middle-aged and older, but a surprising number were young. As we were being ushered to pews, which had been vacated for our unexpected visit, people reached out and grasped for our hands to touch us "almost," in the words of one newsman, "as one would reach out for the last final caress of one's most beloved just before the casket is lowered." They were in misery and yet a light shone through the misery. They gripped our hands like frightened children.

Later in the service I was asked to address the congregation. I spoke to them about God and Jesus Christ, His Son. I encouraged them to be unafraid and to pray for peace. I witnessed to them the reality of the resurrection and that this life is only a part of eternity. Then, in closing, I told them that truth would endure and that time was on the side of truth.

I don't recall all I said, but I recall being lifted up and inspired by their rapt faces. When I sat down, the whole congregation broke into a favorite hymn of my childhood, "God Be With You Till We Meet Again." We walked down the aisle and they waved their handkerchiefs in farewell—it seemed all 1500 were waving as we left. When we finally left, the young lady Russian guide whispered to my wife, "I'm a Christian, too."

It has been my privilege to speak before many church bodies in all parts of the world, but the impact of that experience is almost indescribable. I shall never forget that evening as long as I live.

Seldom, if ever, have I felt the oneness of mankind and the unquenchable yearning of the human heart for freedom so keenly

as at that moment. One correspondent described the experience in these words: "The Communist plan is that when these 'last believers' die off, religion will die with them. What the atheists don't know is that God can't be stamped out either by legislated atheism or firing squad. This Methodist backslider who occasionally grumbles about having to go to church, stood crying unashamedly, throat lumped, and chills running from spine to toes. It was the most heart-rending and most inspiring scene I've ever witnessed. With heavy hearts we left to rejoin the smug, smart-aleck atheist guides who took us to the church but refused to go in." (Tom Anderson, Editor and Publisher, Farm and Ranch Magazine.)

Never will I forget this victory of spirit over tyranny, oppression, and ignorance. Never can I doubt the ultimate deliverance of the Russian people.

In perilous circumstances, such as Taiwan finds itself today, it is quite natural that its people would have a concern about the ever-present external threat of Communist China. Freedom from aggression is a justifiable concern. As historians have pointed out, however, great nations do not usually fall by external aggression; they first erode and decay inwardly, so that, like rotten fruit, they fall of themselves.

The history of nations shows that the cycle of the body politic slowly but surely undergoes change. It progresses—

From bondage to spiritual faith;
From spiritual faith to courage;
From courage to freedom;
From freedom to abundance;
From abundance to selfishness;
From selfishness to complacency;
From complacency to apathy;
From apathy to fear;
From fear to dependency; and
From dependency to bondage.

The greatest threat to the freedom of any nation is erosion, not erosion from the soil but erosion of the national morality and character. What we have to fear is not force from without, but weakness from within.

Every nation yearns for liberty, but too frequently its own self-indulgence precludes the possibility of freedom. I speak of the trend of pleasure without conscience, wealth without work, business without morality, politics without principle, and worship without sacrifice. I believe personally there is a strong relationship between a strong, prosperous nation and the faith and righteousness of its people. This brings me to the crux of my message to you today.

There are indispensable conditions which must be met if a nation is to preserve freedom and prevent its own downfall. May I cite four of these conditions—pillars upon which a nation's security rests. The first pillar I name is:

1. A faith in God and in the universal brotherhood of all mankind.

I believe with all my heart the words of the American patriot, Patrick Henry, who, on the eve of the American Revolution said, "There is a just God who presides over the destinies of nations and who will raise up friends to fight our battles for us." (March 23, 1775.) Further, it is part of my faith that no people can maintain freedom unless their political institutions are founded on faith in God and belief in the existence of moral law. God has endowed men with certain inalienable rights and no government may morally limit or destroy these.

The Founding Fathers of the United States seemed to have a clear realization that, to survive, the new nation would need a reliance on the protection of God for their survival. In the Declaration of Independence there is an appeal to the "Supreme Judge of the world," and to "the laws of nature and nature's God." The document is concluded with this affirmation: "And for support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor."

Here we see that the principle of supremacy of the individual over government is rooted in religious precept. The corollary to this recognition and reliance upon God is the belief in the worth of the individual. The two precepts go hand in hand. The truth is very evident and simple. There is a God in heaven who is the Sovereign power of the universe, and we are His literal offspring. He has endowed us with inalienable rights among which are life, liberty, and the pursuit of happiness. This He has implanted in the human breast. This is why men cannot be driven indefinitely or led by despotic rulers to intellectual or physical slavery and bondage. Fear and despotism may rule for a generation or two, or three, but in time the human spirit rebels, the spirit of liberty manifests itself, and its tyrannous hand is overthrown. Yes, as the offspring of God, we share a common paternity that makes us literally brothers, and thus a common destiny. When this truth sinks into the human heart, men demand their rights—life, liberty, and happiness. It is as the Apostle Paul told the Corinthians, "Where the spirit of the Lord is, there is liberty." (II Corinthians 3:17.)

I believe this spirit of liberty is beginning to manifest itself in Soviet Russia today, as evidenced by the testimonial of the Nobel Prize recipient, Alexander Solzhenitsyn.

"We the dissidents of the U.S.S.R. don't have any tanks. We don't have any weapons. We have no organization We don't have anything. Our hands are empty. We have only a heart and what we have lived through in the half century of this system. And when we have found the firmness within ourselves to stand up for our rights, we have done so. It's only by firmness of spirit that we have withstood. And if I am standing here before you, it's not because of the kindness or the good will of Communism, not thanks to détente, but thanks to my own firmness and your firm support. They knew that I would not yield one inch, not one hair. And when they couldn't do more they themselves fell back." (Congressional Record—Senate, July 8, 1975, S11956.)

In the meantime, we must not forget the Source of all our blessings—our prosperity, our wealth, our comforts, our freedom. We must not forget that it is by God's gracious hand that these blessings are preserved, and not by our own superior wisdom. May we keep alive our faith in God by worshipping Him and keeping His commandments. A second pillar of freedom is:

2. Strong homes and family ties.

The home is the rock foundation, the cornerstone of civilization. No nation will rise above its homes, and no nation will long endure when the family unit is weakened or destroyed. Even the Chinese Communists found, with their communal social experiment in dissolving the family, that they could not do that and endure as a nation.

I need not remind you of the great threat to the family in all nations of the world today. Divorce is epidemic. The father's place at the head of the home is being challenged, and mothers have, in many instances, left the hearth to join the work force, which weakens the stability of the home. Children, not growing up with strong parental guidance and spiritual influence, are allowed to roam freely. Not only does this lack of training and permissiveness sponsor indolence, but many of these youth, out of boredom, have turned to drugs, juvenile delinquency, or crime.

Your nation faces some of these problems as does my own, but I am heartened to know that in Taiwan, strong family ties are still fostered, this being a part of your cultural and traditional past. May God bless you to preserve this honorable tradition. For a third pillar, I name:

3. A political climate and governmental system which protects man's inalienable rights.

Every governmental system has a sovereign, one or several who possess all the executive, legislative, and judicial powers. That sovereign may be an individual, a group, or the people themselves. Broadly speaking, there are only two governmental systems in the world today. One system recognizes that the sovereign power is vested in the head of state (a monarchy or dictatorship) or a group of men (an oligarchy). This system is as old as history and rests on the premise that the ruler grants to the people the rights and powers he thinks they should have. It is the basis of Roman or civil law, and all dictatorships of history. The system is wrong regardless of how benevolent the dictator may be, because it denies that which belongs to all men inalienably—their right to life, property, and liberty. Since all men are brothers, it follows "that it is not right for any man to be in bondage one to another." (D&C 101:79.)

The other system is that which had its historic origin almost two hundred years ago, 1776, the year of the American independence. The Founding Fathers were men who understood the tyranny that can come out of the system of civil law. They had been indoctrinated in a different system of thought, that of common law, which was premised on the idea that true sovereignty rested with the people. Believing this to be in accord with truth, they inserted this imperative in the Declaration of Independence: "That to secure these rights (life, liberty, and the pursuit of happiness), governments are instituted among men, deriving their just powers from the consent of the governed."

Later, when the young nation had won her independence through the Revolutionary War, a free peoples' representatives drafted a second document, the Constitution of the United States, which opens with this Preamble:

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Here the people were speaking. They recognized their sovereignty, not that of a king, emperor, or oligarchy. All rights and powers not granted specifically to the government were retained by themselves. This is the difference between freedom and despotism!

There are only two possible sources of man's rights. Rights are either God-given as part of the divine plan or they are granted by government as part of the political plan. Reason, necessity, tradition, and religious convictions all lead me to accept the divine origin of these rights. If we accept the premise that human rights are granted by government, then we must be willing to accept the corollary that they can be denied by government. I, for one, shall never accept that premise. As the French political economist, Frederick Bastiat, phrased it so succinctly, "Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place." (*The Law*, 1850, p. 6).

Since God created man with certain inalienable rights, and man, in turn, created government to help secure and safeguard those rights, it follows that man is superior to government and should remain master over it, not the other way around. Even the nonbeliever can appreciate the logic of this relationship.

It just isn't good for government to do

for people what they can and should do for themselves. Any country which pursues policies that cause the self-reliance, initiative, and freedom of its people to slowly drain away is a country in danger. Let it be remembered that our primary task, under God, as government leaders is to protect the freedom of the people. This leads me to the final pillar:

4. Elected government officials who are wise and good, and a vigilant, informed citizenry.

You will note that I have qualified what, to me, should epitomize those fit to lead. They must be both good and wise. Some men are good, but too naive to be wise statesmen. Other men possess great intellect, but are not morally good. A nation, to endure, must have leaders at the helm whose mandate is higher than the ballot box.

If a government is really the sum of its people, and they are sovereign, then it follows that they must be watchful, vigilant and informed lest their liberties become gradually usurped by naive or unscrupulous leaders and they awaken to find their liberty gone. Despotism does not arise on the platform of totalitarianism, or anything resembling it. It is voted into office on platitudes of "democracy," "freedom," promises of "something-for-nothing," or what the government will provide the people. In reality, government should do nothing economically for a people that they cannot do for themselves. To pursue policies to the contrary, weakens national initiative and destroys character; and politicians who prey on the gullibilities of the electorate, to stay in public office, are unworthy of the trust given to them.

We must keep the people informed that collectivism, another word for socialism, is a part of the communist strategy. Communism is essentially socialism. Aexis de Tocqueville, with unusual insight, was able to foresee and predict the spiritual deterioration that would occur if the people forfeited their rights to a paternalistic welfare state. "After having thus successively taken each member of the community in its powerful grasp, and fashioned him at will, the supreme power then extends its arm over the whole community. It covers the surface of society with a network of small complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate to rise above the crowd. The will of man is not shattered but softened, bent and guided; men are seldom forced by it to act, but they are constantly restrained from acting. Such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes, and stupefies a people, till each nation is reduced to be nothing better than a flock of timid and industrial animals, of which government is the shepherd." (Democracy in America, Part II, Book IV, Chapter VI.)

Wise leaders ought to have then, as one of their major objectives, the education of citizens to the truth. "Enlighten the people generally," said Thomas Jefferson, "and tyranny and oppression will vanish like evil spirits at the dawn of day." (Works, 6:592.)

These are the pillars upon which any nation's national security rests:

1. A faith in God and in the universal brotherhood of all mankind.
2. Strong homes and family ties.
3. A political climate and governmental system which protects man's inalienable rights.
4. Elected government officials who are wise and good, and a vigilant, informed citizenry.

May these pillars stand as monuments in the sun on your beautiful island.

Yes, today we are in a worldwide battle, the first of its kind in history between two opposing systems, between freedom and slavery; between the spirit of Christianity and the spirit of the antiChrist for the bodies and souls of men. May God grant that we will win the battle by alertness, determination, by courage, and by an energizing realization of the danger.

The price of liberty is eternal vigilance. Are we willing to pay the price?

The days ahead are sobering and challenging and will demand the faith, prayers, and loyalty of all men to the truth.

As the ancient apostle declared: "The night is far spent, the day is at hand: let us therefore cast off the works of darkness, and let us put on the armour of light." (Romans 13:12.)

May God give us the wisdom to recognize the danger of complacency, the threat to our freedom and the strength to meet this danger courageously.

I pray God's blessings to be upon you and your "beautiful island," which is what Formosa means. I testify to you I know that God lives, that He governs in the affairs of men, and that He does provide for our protection and care as we turn to Him. May His bountiful blessings be upon you, each and every one. This is my prayer for you this day, in the name of Jesus Christ. Amen.●

GROWING HYDROCARBONS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. BROWN of California. Mr. Speaker, over the past few weeks, I have inserted a number of articles dealing with "energy agriculture." There are a number of plants with commercial potential that produce hydrocarbons directly and can be used to replace imported petroleum in various industrial processes. As I have stated before, we need to look at replacing the end uses of petroleum and petrochemicals.

The jojoba plant produces a unique oil that is the only known replacement for sperm whale oil, a high grade lubricant and cosmetic base. By encouraging the commercial production of jojoba we can insure a supply of quality lubricating oil and, due to the low water demands and salinity tolerance, can offer a new crop to areas of the Southwest that currently have no agriculture industry. Research currently underway also shows that jojoba oil has promise for use as a feedstock in a number of chemical processes.

I encourage my colleagues to read the following article:

THAT SHE GROWS

(By Noel Vietmeyer)

In the Southwest in recent years, drought has shriveled the land, desiccating crops, taxing water supplies, driving farmers to near ruin. The hunt is on for new crops that need less water, survive recurring droughts, and produce income. The most exciting candidate is an obscure wild plant, never before grown commercially. It goes by the strange name "jojoba" (pronounced, in the Spanish manner, ho-*ho*-ba), and its value lies in the oil in its seeds.

Virtually unknown three years ago, jojoba now appears so drought-tolerant and profitable that in recent months California farmers have planted more than 2,000 acres of it, many ripping out grapes, oranges, and avocados to provide the land. "In the last 90 days we've had orders for 540,000 seedlings," said Ramsey Harris, owner of a recently established jojoba company. In California, jojoba may well become the Cinderella crop of the 1980s.

Recently, for the first time, jojoba oil was produced to allow for testing in industrial products. The results were so impressive that several companies already are competing to purchase all available supplies. Demand has pushed the price so high that Dr. Thomas Miwa, a leading researcher at the U.S. Department of Agriculture, has dubbed the oil "liquid gold." Few crops—other than opium poppy or marijuana—are so profitable. Currently a gallon of the oil sells for $70; an oil-drum-full can bring over $3,000.

Jojoba oil may well become a new renewable resource, produced the world over by solar energy in dryland areas where sunlight is abundant. It might even be produced profitably in marginal, unproductive wastelands where uncertain rainfall makes growing conventional crops too risky. And, because of a remarkable coincidence, it is likely to save the sperm whale from extinction.

Jojoba is a scrubby shrub that grows wild in deserts straddling the westernmost section of the U.S.-Mexican border. Millions of jojoba shrubs dot Sonora Desert hillslopes in Arizona, California, and northern Mexico. Few plants can survive the region's inhospitableness, sparse rainfall (in places less than five inches per year), poor soils, soaring daytime temperatures (up to 115° F), and freezing nights. Not only does the jojoba survive in such a hostile environment, it also has a natural life span in excess of 100 years. Furthermore, it needs no water during the summer, when rain almost never falls anyway; its leaf pores (stomata) are virtually sealed by a waxlike film that prevents the evaporation that would quickly shrink it to parchment; and it shows remarkable resistance to salt, which is commonly found in desert regions and is lethal to most plants.

A haven of green in the cactus-strewn desert, jojoba is a woody, upright bush, growing up to 15 feet tall. Individual plants are either male and bear pollen, or female and bear tiny leaflike flowers that, when pollinated, develop into fruit. The greenish fruits are about the size of acorns. On maturing, their outer husk dries out, splits, and peels away, exposing the brown-skinned seeds inside.

A desert-stunted jojoba bush may annually yield less than one pound of seed, but healthy shrubs can bear five pounds, and pampered shrubs in plantations may yield more than 12 pounds of dry seed. Plantation yields of more than one ton of seed per acre seem attainable. By farming standards, these are exceptionally good figures.

Jojoba seeds are about half oil. The chemical structure and molecular shape of this oil are quite different from those of other vegetable oils. Corn, soybeans, olives, and other plants form their oils by combining glycerol and fatty acids, but instead of glycerol (a small molecule with three alcohol groups), jojoba uses a much larger linear molecule with just one alcohol group.

Only one other organism, the sperm whale, produces a similar oil in any quantity. Why in all of nature just one animal and one plant produce these unique substances which are liquid waxes rather than fats, is not known. That the two developed virtually identical oils is one of nature's great curiosities.

Actually, jojoba's promise has been known to science since the 1930s. I first heard of it over a decade ago when I was a graduate student at the University of California, Berkeley. In those days the plant was known to only a handful of botanists, among them Professor Nicholas Mirov, who introduced me

to it. Mirov had spent a long career vainly trying to interest the world in jojoba, and he stressed the importance of my working to advance this crop.

For years I dreamed of being able to help. Then in 1971 the opportunity came when, as a staff scientist at the National Academy of Sciences, I met William P. Miller, a Cherokee, former Olympic silver medalist and now a federal administrator working to improve welfare and economic development on Indian reservations in the Southwestern states. I told him about jojoba and learned that the land where wild jojoba was widespread belonged to the most impoverished and destitute Indian tribes—people who had no jobs, no foreseeable economic future, no hope.

In 1972, through Miller's drive and initiative, the federal government put up money for the San Carlos Apaches in Arizona and several tribes in southern California to harvest jojoba seeds from their lands. The oil they extracted was so promising that the Indians have since gathered more than 400,000 pounds of seed, providing enough jojoba oil to fill a railroad tank car. The University of Arizona has distributed much of it to researchers and industries for analysis and testing in products as diverse as automobile lubricants and cosmetics.

The results prove that jojoba oil can provide an enormous range of valuable products. Leading jojoba chemists, such as Dr. Miwa and Dr. Jamie Wisniak at Israel's Ben-Gurion University, have demonstrated that jojoba oil can become a basic feedstock for many chemical industries. They have shown that its double bonds and ester group (a chemical structure formed when an acid combines with an alcohol) make it reactive to several chemical transformations, including hydrogenation, isomerization, sulfur chlorination, epoxidation, sodium reduction, and hydrolysis. All of these reactions produce new chemicals with properties that are important to industry.

The oil now purchased goes largely into specialty cosmetics because it penetrates skin, is nongreasy, and may control acne and other skin disorders. But in the future jojoba oil may be use mainly in automobile transmissions and engines and other high-speed machinery. Its lubricating power is so great that it exceeds the limits of conventional testing equipment. New tests will have to be devised before we can determine how good it really is. Chemically, it is similar to the high-performance, gas-saving engine oils recently marketed by the major U.S. oil companies. At least one race car in the 1977 Indianapolis 500 used a jojoba-based engine oil.

The bushes growing wild on Indian reservations in Arizona and California now provide almost all the available jojoba oil. Indians have formed jojoba cooperatives in Arizona and California. Through these cooperatives they have organized and managed the annual jojoba harvests and have sold seeds, oil, and jojoba-wax candles.

Pampered plantation shrubs can be cultivated and harvested far more cheaply than scattered wild plants, and they yield much more seed. In 1974, with federal support, Indians established the first jojoba plantations on the San Carlos Apache Reservation in Arizona and on tribal lands in southern California. Some plants were lost to frost, but others, notably those on California's Pauma Reservation, have thrived. By 1977 the shrubs bore small amounts of seed and in 1978 the yield was very good. To develop jojoba as a crop for California Indians, Governor Brown has provided $750,000 to establish more and much larger plantations on the reservations. Their planting is guided by Professor Demetrios Yermanos of the University of California, Riverside, one of the giants in jojoba's domestication.

These plantations should ensure that Indians get a fair share of the benefits of this liquid gold. But private enterprise is beginning to take up jojoba too. Over two dozen small jojoba companies were incorporated in the last few years and at least two Fortune 500 corporations have begun trial plantings. The Israeli government has launched a $4 million jojoba company financed by the World Bank and U.S. investors. Its first plantations (using seed from Arizona and California) are already in the ground in the Negev Desert and in saline soils near the Dead Sea. The Mexican government also has set up large jojoba plots in the states of Baja California and Sonora.

The major beneficiary of all this progress may be the sperm whale. Sperm whales are killed only for their oil; their meat is almost inedible. The oil is so valuable to industry that more sperms are killed annually than any other whale species. But jojoba oil is a virtual duplicate of sperm oil; in fact, it is molecularly purer and less contaminated with undesirable compounds. Jojoba oil now sells at more than 10 times sperm oil's price, but as plantations begin bearing over the next five or 10 years, the two should become marketplace competitors. Then all incentive for sperm whaling will be gone. No longer could anyone afford to send ships, planes, helicopters, and large crews to hunt the sperm whales.

Then the animals will live and multiply unmolested. After sighting the slanted spout of a sperm whale, a whaler captain will shrug, curse, and steam on. On that day, strolling under cloudless azure skies, the world's "sperm oil" producers will look out over their crop and sigh with satisfaction: "Thar she grows!"●

THE WAR ON INFLATION: MORE WINNERS AND LOSERS

HON. PAUL N. McCLOSKEY, JR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1979

● Mr. McCLOSKEY. Mr. Speaker, I wish to insert in the RECORD two recent articles on inflation, by Mr. George Marotta, a senior research fellow at the Hoover Institution on War, Revolution and Peace. I find myself in agreement with most of Mr. Marotta's points and believe they are worthy of consideration by our colleagues:

[From the Wall Street Journal, Aug. 6, 1979]

NOTABLE & QUOTABLE

Although it is generally thought that everyone loses from inflation, this is not so. True, some lose more than others, but a small but growing number even gain from inflation. . . .

People who borrow money, including most of the younger people, are winners in the game of inflation. Whether for mortgage, consumer or capital goods, the goal and the hope is to pay the loan back with "inflated" dollars, thereby reducing the "real" interest carrying charges. . . . In fact, borrowers win twice in an inflationary period because interest paid is a business and personal tax deduction.

Conversely, people who save are losers, and they lose twice. First their rate of interest earned and their principal is reduced by the rate of inflation. . . . Furthermore, the saver's loss is made worse as he pays taxes on the interest that he really did not earn. . . .

The eroding value of the dollar . . . affects our other values by turning our world upside down. Saving and investing, previously a virtue, become gambling, while spending and borrowing become investing.

A society cannot debase its curency without affecting also its other values. The work ethic diminishes in direct proportion to the instability of the value of wages. Individual responsibility is eroded by uncertainty regarding the future value of the currency.

Uncertainty over the value of purchases causes confusion and mitigates against careful spending. . . .

The people's disillusionment increases as they watch the government tinker around the edges of the problem it created to enhance its power by instituting wage and price guidelines. The guidelines have served only to accelerate wage and price increases by business and labor which anticipate the imposition of actual controls.

Respect for government decreases further as one observes the federal officials "jawboning" others, such as business, labor and the hospitals. These are futile attempts to divert the public's attention from the main cause of inflation, government deficit-financing.

[From the Santa Ana (Calif.) Register, Sept. 25, 1979]

THE WAR ON INFLATION: MORE WINNERS AND LOSERS

(By George Marotta)

Each day finds more recruits joining in the battle against inflation. As prices steadily increase, more Americans are learning how to cope with this insidious enemy.

In the face of these counterattacks, one might conclude that inflation will be conquered soon. Alas, such is not the case.

The reason for pessimism is that people are not really *fighting* against inflation—they are only *hedging* against inflation. In fact, many of the actions they are taking are *adding* to the problem.

Over the past decade, the dollar has been so eroded by inflation that it buys less than half of what it did ten years.

Increasing numbers of Americans (and foreigners) are learning ruefully that one of the worst things you can do is hold dollars because they depreciate so rapidly. The first half of 1979 found inflation raging at the rate of over 13 percent on an annual basis.

Many are learning the primary lesson: to protect oneself against inflation you must get out of dollars and into something else. In fact, almost anything people bought over the past decade was better than holding dollars. But those who gained most bought gold, which has increased from $35 to over $350 an ounce. Other "winners" in the war on inflation bought real estate, silver, diamonds, antiques and other collectibles.

Many bought goods with borrowed monies on the correct assumption that they could pay back the loan with cheap dollars, thereby reducing the "real" rate of interest. Those who borrowed added to inflation by contributing to the demand for goods and bidding up the prices.

The prime interest rate's recent rise to the record level of 13 percent is evidence of the persistence of this round of inflation. Because it has been raging over eleven years, the longest in United States history, many believe interest rates will go even higher.

Even at these historic levels, people are willing to borrow and it's not difficult to see why. A 13 percent interest rate in a period of 13 percent inflation produces, in effect, an interest-free loan.

The best action people could take to slow down our nation's inflation would be to postpone purchases and to save money. This would reduce demand for goods and help to stabilize prices. However, banks only pay 5½ percent interest on passbook savings. In a period of 13 percent inflation, this is a loss of 7½ percent. To add insult to injury, the government taxes the interest which you did not really earn!

The government must feel some sympathy for the saver because it recently author-

ised banks to pay an additional ¼ percent on passbook savings, but the increase is grotesquely inadequate.

Since government fully taxes interest on savings and allows a tax deduction for interest paid on money borrowed, it is no wonder that more people are borrowing than saving. The level of savings in the United States, 4½ percent of disposable income, is the lowest among the major industrialized countries, while the level of payments on loans (both mortgage and consumer loans) for Americans is a record 40 percent of income.

Wages and salaries have doubled over the past decade and on the average have kept up with inflation. Take-home pay has decreased, however, due to the fact that federal and state taxes are taking a bigger bite because the graduated tax rates have not been adjusted or indexed for inflation. Many taxpayers are now being taxed at rates once applied only to the rich. This might be one reason why government is slow to stop inflation—they get 16 percent more revenue every time inflation goes up by 10 percent.

Guess what is the main cause of inflation: federal government deficit financing (spending more than is collected in taxes). The deficit this year will total more than $30 billion.

It is one of the supreme ironies of our time that government, the main perpetrator and beneficiary of inflation, reaps its windfall profits, while business, organized labor and consumers blame each other for causing the problem.

If large numbers begin hedging against inflation, the result will be a boom and bust economic expansion where everyone will suffer in the subsequent collapse.

What is the solution? If just one-tenth of the effort spent on hedging were marshalled into fighting inflation, we just might win the war on inflation.

Bold action is required. We must elect politicians who promise to do less for us (and to us) in the future and who would balance the budget. Since we have not done this in the past, another more permanent action we could take is to pass an amendment to the federal constitution to require a balanced budget in the future or to support the amendment to limit the increase in expenditures to the real increase in our national production.

A rational society is one that learns from its mistakes. We have made many fiscal and monetary mistakes over the past decade. The time is ripe for corrective actions. Our major weapon is, as usual, the ballot box.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 18, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 19

8:00 a.m.

Energy and Natural Resources
Business meeting, to continue markup of S. 9, 222, and H.R. 39, bills designating certain public lands in the State of Alaska for protection of their resource values under permanent Federal ownership and management.
3110 Dirksen Building

9:00 a.m.

Business meeting, to continue markup of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Appropriations
Defense Subcommittee
To consider, in closed session, H.R. 5359, making appropriations for fiscal year 1980 for the Department of Defense.
1223 Dirksen Building

Energy and Natural Resources
To continue hearings on S. 1699 and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 to reflect recent legislative initiatives to foster greater domestic energy production.
3110 Dirksen Building

*Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold oversight hearings on alleged fraud and mismanagement practices in the Community Services Administration.
3302 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To hold hearings on the nominations of Jane McGrew, of Maryland, to be General Counsel of the Department of Housing and Urban Development; Gloria C. Jimenez, of North Carolina, to be an Assistant Director of the Federal Emergency Management Agency; and Ronald P. Laurent, of Illinois, to be President, Government National Mortgage Association.
5302 Dirksen Building

Foreign Relations
Business meeting, to continue mark up of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

Judiciary
To resume hearings on S. 1246, to protect against the growth of a monopoly power among major petroleum companies, and to encourage oil companies to invest profits back into oil exploration, research, and development.
2228 Dirksen Building

Labor and Human Resources
Business meeting, to mark up S. 1724, 771, 1270, 1331, 1603, 1725, and 1805, bills to provide grants to States to assist low- and moderate-income individuals to meet the rising home energy costs.
4232 Dirksen Building

10:30 a.m.

Joint Economic
To hold hearings on the economic impact of racial discrimination on minority communities.
210 Cannon Building

2:00 p.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Government Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To resume hearings on S. 1878, and 1879, bills to extend the authority of the General Accounting Office in areas relating to auditing procedures.
3302 Dirksen Building

OCTOBER 22

9:00 a.m.

Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 1435, to provide for the more rapid depreciation by businesses of investments in machinery, equipment, and buildings to promote economic growth; S. 1021, to provide holders of municipal bonds to either exclude the bond interest from taxable income or to claim a Federal tax credit of 67 percent of the amount of interest; S. 1078, to provide a credit against taxes on an artist's estate for testamentary transfers of his art to the Federal Government; and S. 1467, to provide for a clarification of the existing method of accounting for property used by the railroad industry to determine depreciation allowances for income tax purposes.
2221 Dirksen Building

9:30 a.m.

Energy and Natural Resources
Energy Regulation Subcommittee
To receive a report from officials of the Energy Information Administration of the Department of Energy on the current price and supply outlook for petroleum fuels.
3110 Dirksen Building

2:00 p.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

OCTOBER 23

9:30 a.m.

Armed Services
To resume hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
212 Russell Building

Judiciary
Business meeting, to mark up pending legislation and nominations.
2228 Dirksen Building

Select on Small Business
To hold hearings to examine the economic outlook for the small business.
424 Russell Building

Joint Economic
Economic Growth and Stabilization Subcommittee
To resume hearings to promote equitable economic deregulation of the railroad industry.
5110 Dirksen Building

10:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Labor and Human Resources
To hold oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training and educational programs.
4232 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
457 Russell Building

2:00 p.m.

Armed Services
To continue hearings on military implications of the SALT II Treaty (Exec. Y. 96th Cong., 1st sess.).
212 Russell Building

OCTOBER 24

8:00 a.m.

Agriculture, Nutrition, and Forestry
Rural Development Subcommittee
To hold oversight hearings to review the implementation of rural transportation programs and how they affect the quality of life in rural and small urban areas in America.
324 Russell Building

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordination program in weather modification within the Department of Commerce.
235 Russell Building

Judiciary
Constitution
Business meeting, to consider S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.
155 Russell Building

Select on Small Business
To hold hearings to examine the Small Business Administration and the Farmers Home Administration loans and loan guarantees to industrialized cattle, hog, poultry, and dairy operations.
424 Russell Building

10:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

Labor and Human Resources
To continue oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training, and educational programs.
4232 Dirksen Building

Select on Indian Affairs
Business meeting, to mark up S. 668, to allow the Cow Creek Band of the Umpqua Indians of Oregon to file a claim with the U.S. Court of Claims for alleged failure of the United States to fulfill treaty obligations; H.J. Res. 199, to correct a land description as contained in P.L. 95-498, providing that certain public lands be held by the United States in trust for the Santa Ana Pueblo Indians; S. 1682, to authorize a 99-year lease of restricted land owned by Indians in Chelan County, Wash.; and S. 916, to improve and expand the educational opportunities available to native Hawaiians.
5110 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

OCTOBER 25

8:30 a.m.

*Veterans' Affairs
To hold joint oversight hearings with the House Committee on Veterans' Affairs on admission policies to Veterans' Administration's medical care facilities.
345 Cannon Building

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 1215, to establish a uniform Federal policy for the management and utilization of Government-sponsored inventions in order to encourage private industry participation in Federal research and development programs
235 Russell Building

10:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on S. 1383, 1439, and 1689, bills to establish on an emergency basis uniform weight and length limits for trucks using the National System of Interstate and Defense Highways to help conserve currently limited supplies of diesel fuel.
4200 Dirksen Building

Judiciary
To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

2:00 p.m.

Judiciary
To hold hearings on pending nominations
2228 Dirksen Building

OCTOBER 26

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.
235 Russell Building

10:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Joint Economic
To resume hearings on the Consumer Price Index figures and inflationary trends.
5110 Dirksen Building

OCTOBER 29

9:30 a.m.

Energy and Natural Resources
Energy Regulation Subcommittee
To hold hearings on S. 1335 and 1336, bills to establish a program of financial assistance to improve the energy efficiency of residential heating systems.
3110 Dirksen Office Building

*Veterans' Affairs
To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.
5110 Dirksen Building

10:00 a.m.

Select on Indian Affairs
To hold hearings on the nomination of William E. Hallett, of Colorado, to be Commissioner of Indian Affairs.
1202 Dirksen Building

2:00 p.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Joint Economic
To hold hearings in observance of the 50th anniversary of the beginning of the Great Depression of 1929, focusing on the causes and effects of depression.
318 Russell Building

OCTOBER 30

10:00 a.m.

*Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
6226 Dirksen Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry, on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
6226 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

OCTOBER 31

9:30 a.m.

*Committee, Science, and Transportation
To hold joint oversight hearings with the Select Committee on Small Business and the House Committees on Small Business and Science and Technology to review proposed techniques in the field of industrial development.
1202 Dirksen Building

Select on Small Business
To hold joint oversight hearings with the Committee on Commerce, Science, and Transportation and the House Committee on Science and Technology to review proposed techniques in the field of industrial development.
1202 Dirksen Building

Select on Small Business
To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information released by such services.
424 Russell Building

10:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Rules and Administration
To hold hearings on S. 392 and 597, bills to assure access for the elderly and handicapped to polling and registration locations for Federal elections; and other legislative and administrative business.
301 Russell Building

NOVEMBER 1

9:30 a.m.

Select on Small Business

To continue hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and accessability of information released by such services.

424 Russell Building

NOVEMBER 2

9:30 a.m.

Judiciary

To resume hearings on S. 1613, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

NOVEMBER 6

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit and Rural Electrification Subcommittee

To hold oversight hearings to examine the current operations of the Farmers Home Administration, focusing on recent problems relating to the outstanding debt to the agency and personnel problems associated with loan supervisions and counseling; also to examine the implementation of the guaranteed agricultural loan programs and the economic disaster loan program; and to review the installation of a management information system at the agency.

324 Russell Building

9:30 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To resume hearings on S. 1108, to provide relocation assistance and guidlines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.

3302 Dirksen Building

NOVEMBER 7

9:30 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To continue hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.

1318 Dirksen Building

NOVEMBER 14

9:30 a.m.

•Commerce, Science, and Transportation

To resume oversight hearings to review proposed techniques in the field of industrial development.

235 Russell Building

Foreign Relations

To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D. 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

NOVEMBER 15

9:30 a.m.

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

Governmental Affairs

Intergovernmental Relations Subcommittee

To resume oversight hearings to examine the scope of the general revenue sharing policy.

3302 Dirksen Building

NOVEMBER 16

9:30 a.m.

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

NOVEMBER 20

9:30 a.m.

•Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

5110 Dirksen Building

SENATE—*Thursday, October 18, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Our Father-God, whose name is love, whose word is truth, whose spirit is goodness, in whose service is perfect freedom, and in knowledge of whom standeth eternal life, into Thy hands we commend our work this day.

"God be in our head and in our understanding;
God be in our eyes and in our looking;
God be in our mouth and in our speaking;
God be in our mind and in our thinking;
God be at our end—and at our departing."

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 18, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RESTORATION OF LEADERSHIP TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be restored up to not to exceed 5 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. It is so ordered.

PROTECTING OUR NATIONAL SECURITY

Mr. ROBERT C. BYRD. Mr. President, as Senate committees continue to work on the SALT II treaty and as the treaty and associated issues are discussed in the

• This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Senate, in the media, and among the public, it is important to be attentive to the need to protect security-sensitive information.

In order to consider all aspects of the treaty and fulfill its constitutional responsibility, it is necessary for the Senate and certain of its committees to take account of some highly classified information.

In this respect, the Senate Select Committee on Intelligence, of which I am an ex officio member, has a particular responsibility. The committee has made an indepth study of the capabilities of the United States to monitor the SALT II treaty. I have been in the process of reviewing the committee's detailed and classified report on this subject, and I have been impressed by the quality of the work and the care with which the committee and its staff treat this sensitive information.

The Intelligence Committee, under the leadership of the Senator from Indiana (Mr. BAYH) and the Senator from Arizona (Mr. GOLDWATER), has rendered an important service to the Senate.

For the Senate to be able to make informed decisions on matters relating to our national security, and particularly on an issue as significant as the SALT II treaty, Senators need to have access to certain classified information. But in having access to this information, Senators and their staff assume the responsibility for avoiding any leaks or breaches of security.

The leaking of privileged information is not a new problem in Washington. Access to information is a source of power and, in this city, power can be used to pursue many different goals. Some individuals leak information for personal or career advancement; political figures may leak information in order to curry favor with the media; bureaucrats or staff may seek to promote their personal interests or those of the agencies they represent. Others may leak information because they believe that it is in the national interest to do so. And, of course, there are public officials who "selectively declassify" information to bolster their case for a particular program or to block programs that they oppose.

Some information leaks are harmless. Perhaps too much information is withheld from the public as sensitive when really it is not sensitive. But one leak creates an incentive for a counterleak. Soon the distinction between what is sensitive and what is not becomes blurred. If the process is unchecked, over time, there is little of value left to leak.

There is certain information that I believe all of us would agree is legitimately classified. I am referring to information on special defense programs and intelligence collection procedures and capabilities on which our national security depends.

The leaking of security-sensitive information is a very serious matter, a process that threatens the very foundations of our national security. It cannot be condoned.

Earlier this year, the leadership on both sides of the aisle consulted with the Director of Central Intelligence, Admiral Turner, and others in the administration to establish procedures for handling highly sensitive national security information related to the SALT II treaty.

The joint leadership discussed this with the chairmen and ranking members of the Armed Services Committee, the Foreign Relations Committee, and the Select Committee on Intelligence. On the whole, with one or two serious exceptions, these procedures seem to have worked very well.

With the continued cooperation of Senators and their staff—and their staff—these procedures can continue to work well.

I urge that, as the Senate debates SALT II in the weeks to come, Senators and our staffs remain mindful that it is the national security interests that are at stake, not our personal interests, not our interests in advancing ourselves, not our career interests, not our interests in playing to the media. It is the security of the Nation that we are talking about and we must be mindful always of the national security implications of the information at our disposal.

I want to compliment the staff of the Select Committee on Intelligence. I have been reading the highly secret report that was written, and which was alluded to in a newspaper column just this week. A staff member of that committee brought the report to my house in a briefcase. He would not leave without it. In other instances, it was brought by a staff member to my office. The staff member would not leave my office while I had the report.

That is the way it should be done. I do not take umbrage because, as a U.S. Senator or as the majority leader, I am not permitted to take such material home. I do not think I should be permitted to take it home. I could lose it; I could leave it somewhere inadvertently. I could copy it down. If I had it in my office, I could Xerox it. I could put it into a safe, intending that, of course, it be protected. But I do not have the kind of 24-hour security necessary to protect information of this kind. The Intelligence Committee is handling this highly secret information as it should.

So I compliment the members and the staff of the Select Committee on Intelligence for the strict regulations that are being followed with respect to that highly sensitive report. Insofar as this Senator is concerned, those regulations have been followed.

I think we all need to be mindful of this—Senators and our staffs—and we must proceed in a manner that reflects credit on the United States and fully protects our national security.

I yield the floor.

Mr. BAKER. Mr. President, I join in the admonitions of the majority leader and I do so not only as minority leader, but as an ex officio member of the Intelligence Committee and a member of the Senate Committee on Foreign Relations.

From that experience I have learned that nothing—nothing—is more important to the Senate's access to important information than the proof that we can keep a secret.

If we do not prove we can keep a secret, we are not going to have the quality of information we require from the intelligence community and others for fear of a resumption of the massive leaks that occurred in this town for so long.

It is imperative we prove we can keep our mouth shut.

I was a member of the original Intelligence Committee and I saw firsthand the negotiations that went on in that committee with the CIA, the DIA, the NSA, the other intelligence agencies, the FBI, and the concern, the real fear, they had that if we established an oversight committee of the Senate, that if they turned over that information it would be minutes, days, or weeks, until it was out and the lives of agents jeopardized, highly sensitive information compromised, and the national security of the Nation would be impaired.

I saw that concern, and I heard it over and over.

I participated in the effort to convince the intelligence apparatus of this Government that we could keep a secret.

So, Mr. President, it is of more than passing importance to me to see we perform on the promise that the Senate has implicitly made to every intelligence agency in the Government that we will treat that information discretely and appropriately. That is why we set up the Intelligence Committee, which is a select committee. We choose the members well, and I trust them. That is why we set up the special secure facilities, the National Office of National Security Information, located in a particular place in this Capitol. That is why we have done these things.

But, Mr. President, it is absolutely essential that every one of us turn his attention to plugging any incipient leaks, because to do otherwise is not only dangerous, but it is a breach of the confidence that the Government has placed in the Senate, and our ability to maintain those confidences in the future.

(Later the following occurred:)

Mr. GLENN. Mr. President, remarks were made on the Senate floor about 10 minutes ago, by the majority leader and the minority leader, regarding security matters in the Senate. I associate myself completely with the remarks that were made at that time. I was listening on the speaker in my office and came over as soon as I heard that subject come up.

Mr. President, I think we have reached the stage where, if we are not very careful, we are about to do irreparable harm to our Nation as well as to the U.S. Senate as an institution.

When reports appear in the public press, quoting top secret material that we are working in the U.S. Senate, with regard to the SALT treaty, in spite of all procedures and all the precautions we have taken, then I say we have to be very, very careful. Security matters are not established lightly. Security classifications of individual pieces of correspondence or individual studies or memorandums are not classified lightly, particularly in the area of what we can do with regard to monitoring the Soviet Union, what is being done by agents, what is being done at clandestine sites, what is being done by satellites, what is

being done by all the potential intelligence sources. This is of the highest order of classification.

When some details of reports we have in the Intelligence Committee, which are of the highest classification in the land, start to show up in public print, we had better be careful.

Neither Members of the Senate nor staff members can take it upon themselves to decide unilaterally that these established classifications are not important, nor should they take these matters to the press or leak them to the press for their private political gain or for their personal ambitions.

When we do that, we risk the lives of agents who are representing this country outside this Nation's borders; we risk the lives of their families, perhaps. We also risk giving away the manner in which we obtain some of this information, so that it no longer will be available to us, from whatever source, whether in space or on the surface. If we do this, we vitally affect the lives of people as well as the ability to monitor the SALT treaty, and we give away intelligence information that might well be critical in other areas, quite apart from the SALT treaty.

I will not belabor this point. I have spoken on it repeatedly in committee.

Mr. HARRY F. BYRD, JR. Mr. President, I associate myself with the remarks made earlier by the distinguished majority leader and the distinguished minority leader concerning the need for the Senate to safeguard critical national security information. The majority leader, as he always does, ably put this matter into focus.

It is extremely important that we, as Members of the Senate as well as our staffs, who in many cases act briefly in our behalf, recognize that just because we are Senators or just because they are staff members, we have no right to leak to the press, or otherwise make available to the public or to individuals, classified documents pertaining to the national defense of our Nation.

I was delighted that I was in the Chamber this morning when the distinguished majority leader and the distinguished minority leader spoke about this matter. They are right in what they have said, and I am pleased to associate myself with their views and to express to each my appreciation, as an individual Senator, for their comments this morning.

U.S. DISTRICT COURT RULING ON TERMINATION OF MUTUAL DEFENSE TREATY WITH TAIWAN

Mr. BAKER. Mr. President, the U.S. District Court for the District of Columbia held that President Carter exceeded his constitutional authority by unilaterally terminating the U.S. Mutual Defense Treaty with Taiwan.

The ruling came in a case brought by the distinguished Senator from Arizona (Mr. GOLDWATER). Senator GOLDWATER has been diligent in the defense of the Senate's prerogatives, and everyone in this Chamber has not always agreed with his positions and points of view. I agree with his advocacy of the point of view that the Senate has a role in the abrogation of a treaty solemnly ratified by this group.

But whether everyone agrees with him or not, I think we should all acknowledge today that Senator GOLDWATER has made an important contribution to the continuing unfoldment of the definition of the role of the Senate in the formulation of foreign policy.

I will await with great interest the further judicial review of the decision made on yesterday in the suit brought by Senator GOLDWATER. I urge that we take account of our responsibility. If the decision of the lower court is upheld, then, of course, it will be incumbent on the Senate to further consider that matter, that is, the abrogation of the treaty with Taiwan.

I am not taking a position now on the merits of that case. I am simply saying we owe Senator GOLDWATER a debt of gratitude for his effort to further extend and elaborate the institutional role of the U.S. Senate.

Mr. President, I offer him my congratulations. I offer him my congratulations not only for an effort well undertaken, but for a significant contribution.

Mr. JAVITS. Will the Senator yield?

Mr. BAKER. I yield.

Mr. JAVITS. The fact is that that amendment is still pending. That is, that matter is still before us.

I think we have facilitated Senator GOLDWATER's action because Senators RIBICOFF, PERCY, and I advised the court that the appointment of counsel for the Senate in no way made that a preemptive appointment, which is an argument made against it.

I look forward also to the fact that it will be decided in a definitive way, as it should be. I think he has rendered a service in raising the issue.

All of us were very careful to preserve all his rights while these proceedings were going on.

Several Senators addressed the Chair.

Mr. BAKER. I thank the Senator from New York for his remarks. I agree with every one of them.

I have said this often, and I repeat it again: The first year I came to the Senate in 1967, one of my predecessors at this desk told me that JACK JAVITS—if he will excuse the informality—is not only a great Senator, but he is the Senate's lawyer.

In this case, and many others, he has proven his competence and the value of his contribution.

Mr. PROXMIRE. Will the Senator from Tennessee yield on that point with respect to Senator GOLDWATER?

Mr. BAKER. I am glad to yield.

Mr. PROXMIRE. I want to join the distinguished Senators in praise of the remarkable Senator from Arizona.

Not only did he perform a service in carrying this fight to the courts and in winning, but he performed a service because his cause was correct.

I feel very strongly that no President of the United States, Republican or Democrat, should be able to act unilaterally after the Senate of the United States has solemnly acted to affirm a treaty. We have that treaty power. We should jealously guard our powers. They have been eroded in the past.

I have great admiration, respect, and affection for the Senator from Arizona. I think in this case he served the cause of the country, not only in standing up for a Senate right, but because he is right. He is dead right in indicating that the Congress of the United States or the Senate of the United States should have this authority.

Mr. BAKER. Mr. President, I thank the Senator.

I am sure Senator GOLDWATER will be equally grateful for his remarks.

Mr. PROXMIRE. I might add that I know the Presiding Officer (Mr. HARRY F. BYRD, JR.) if he were not presiding, would want to speak on this matter.

Senator HARRY F. BYRD, JR. has also made a very strong fight for the right of the Congress, the Senate particularly, to uphold its authority under the Constitution.

I think I can speak for him in saying, he, too, feels very strongly that Senator GOLDWATER deserves great commendation for having won this battle in the courts.

I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I share in the compliments being extended to Senator GOLDWATER. I admire and respect him for his desire to uphold the prerogatives of this institution and, certainly, the constitutional process.

While I may disagree with the position that he has taken, I certainly do not disagree with respect to our admiration and respect for him.

I call attention that on this subject, Mr. President, I may have something more to say about this later. I do not intend to talk much at length right now because I first want to read this very lengthy ruling which I have in my hand.

But in this morning's Washington Post there is a paragraph which reads as follows, in regard to Judge Gasch:

> Gasch indicated in June that he felt Carter had exceeded his authority by unilaterally terminating the 1954 treaty, but said the members of Congress challenging his action lacked proper legal "standing" because Congress had not expressed an opinion on the issue.
>
> Within hours of his ruling, the Senate passed a resolution that declared its view that the Taiwan treaty could not be terminated without Senate approval.

That is an absolute error—absolute error. The Senate has not passed any resolution that declared its view that the Taiwan treaty could not be terminated without Senate approval.

Now, if the judge was under that impression, then that may have affected his decision. But, certainly, that is an error and it is conceivable that the judge was misinformed to that extent.

That is misinformation. I wanted to call it to the attention of the readers of the RECORD.

There was a vote in June on an amendment substituting language for the resolution that was reported by the Foreign Relations Committee, but there was never any final disposition of that matter.

The resolution itself is still on the calendar—Calendar No. 113 Senate Resolution 15, resolution concerning mutual defense treaties. So there was a

vote on an amendment, but the final vote on the resolution itself never occurred. As a matter of fact, the chairman of the Committee on Foreign Relations had offered an amendment which clearly would have put the matter in focus, but the Senate was not able to reach a vote on it. So the matter went back on the calendar, without any final decision.

It is quite conceivable that the Senate could have rejected the resolution after having approved the amendment, which in effect would have killed the amendment.

So the record should show that the Senate did not pass any resolution that declared its view that the Taiwan Treaty could not be terminated without Senate approval. I hope the court takes cognizance of that fact.

I thank the Senator for yielding.

(Mr. PROXMIRE assumed the chair.)

Mr. HARRY F. BYRD, JR. Mr. President, on June 6, 1979, the Senate, by a vote of 59 to 35, adopted my proposal that no mutual defense treaty between the United States and any other nation could be abrogated without Senate approval. While the resolution itself was not formally adopted, the Senate spoke loud and clear as to the merits of the issue.

The distinguished Presiding Officer, the Senator from Wisconsin (Mr. PROXMIRE), was a cosponsor of that proposal, which received affirmative action on the part of the Senate.

Yesterday, Judge Oliver Gasch of the U.S. District Court for the District of Columbia upheld exactly that same proposition. He ruled that President Carter must have approval of the Congress or of the Senate before our defense ties with the Republic of China on Taiwan can be severed. Specifically, Secretary of State Cyrus Vance has been prohibited from taking any action to cause the defense pact to be terminated unless and until such approval is obtained.

I commend Judge Gasch for upholding the position taken by the Senate on June 6. But, more important, I commend him for having the courage to uphold the Constitution in what must have been a very difficult case.

Opinions on relations with Taiwan and with Mainland China differ in the Congress and in the country. Personally, I favor establishing diplomatic relations with mainland China—but I do not favor casting Taiwan overboard.

But the important point is that a mutual defense treaty cannot be terminated by a President alone, but must be done in partnership with the Senate—just as it was created jointly by the President and the Senate.

Judge Gasch's decision is a reversal for the President and is a reversal which could have been avoided had the President acted within the limits of his constitutional authority in the first instance. He exceeded his authority, and he has now been called to task.

Judge Gasch's decision is a victory for our distinguished colleague, the Senior Senator from Arizona, Mr. GOLDWATER, who brought the suit in Federal court. I congratulate Senator GOLDWATER.

The matter of Taiwan can be settled quickly. The President or his supporters in the Senate could submit the matter to the Senate for a decision. Frankly, I do not understand why it was not done previously.

THE GASCH DECISION ON TREATY TERMINATION

● Mr. HELMS. Mr. President, the decision of U.S. District Judge Oliver H. Gasch on the role of Congress in treaty termination is an historic reaffirmation of the powers of the legislative branch in the face of usurpation by the executive branch.

This is an issue which has been under intense debate from the very first day of this session. The President acted arbitrarily and illegally in his unilateral decision to terminate the mutual defense treaty with the Republic of China; moreover, he acted imprudently in taking the action last December while Congress was out of session and not available for consultation as a body.

Now Judge Gasch has vindicated the position of those of us who argued that the President's action was unconstitutional and illegal. What his decision does is to reaffirm that the Senate, in particular, has a constitutional role in foreign policy, that the Senate indeed does participate in executive functions. It is perfectly obvious under the Senate rules that whenever we take up matters such as treaties or nominations, we go into executive session. We go into executive session because we are performing executive functions. Judge Gasch has ruled that when the United States is a "Party" to a treaty, that "Party" is not the President acting alone. The President merely communicates the decision of the constitutional process.

Now that the judicial branch has acted to reaffirm the plain meaning of the Constitution, and to reaffirm the precedents which I cited in my additional views in the Foreign Relations Committee Report on Senate Resolution 15, I think that it would be folly for the President to seek to appeal this decision. Appeal would merely exacerbate the constitutional crisis into which we have been thrown by the President's illegal actions. In the opinion of the Senator from North Carolina, the President was led into his decision by bad advice from the Department of State.

The State Department has had a long history of regarding the U.S. Congress as the main obstacle to its free wheeling concepts of foreign policy, concepts which have led to the diminishing of U.S. influence, and the erosion of U.S. interests. I hope that the President will reject any further advice he gets to continue his confrontation with Congress on this issue.

Mr. President, I believe that the main point is that elected and appointed officials are ultimately responsible to the people of the United States. The Constitution established the Congress, and the Senate in particular, to advise the President on foreign policy, and to act as a check upon arbitrary actions. The Gasch decision will not in any way interfere with the legitimate conduct of foreign policy by the President; it simply insures that stability and legality will strengthen U.S. policy decisions and guarantee that a national consensus lies behind the President. I cannot imagine that any President would want to act without the Congress behind him. That way would lead to dictatorship.

I think that the President's future course of action should be clear. If he wishes to terminate the Mutual Defense Treaty with the Republic of China, he should act now to send a message to the Senate and have his request approved by a two-thirds vote; or he could ask for legislation to be approved by a majority of both Houses of Congress. I think that he should feel confident in his decisions, confident that Congress will support them. By trying to evade the Constitution and to evade the test of congressional decision, he exposes his weakness to the world. It would be far better for the President, for the country, and for the world community to abandon any thought of appealing the Gasch decision, and to send a message to Congress properly requesting termination in the constitutional form.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 12:30 p.m., and that Senators may be permitted to speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. There is such an order.

The Chair recognizes the Senator from Wisconsin.

BIRTHDAY OF SENATOR HELMS

Mr. BAKER. Mr. President, today is the birthday of our distinguished colleague from North Carorlina (Mr. HELMS).

I do not see him in the Chamber now, but if he were here, I would wish him happy birthday.

THE ROOT OF THE PROBLEM

Mr. PROXMIRE. Mr. President, in 1967 I pledged to speak out on this Nation's shameful inaction on the Genocide Convention. In the 18 years that had passed since the Convention's adoption by the United Nations, 63 countries had endorsed the treaty's fundamental condemnation of genocide as a crime against humanity. I felt it a great wrong that the United States was not among them.

Today, 12 years after I made my pledge, 30 years after the treaty's initial adoption, the number of signatories has grown to 83—and still the United States has not ratified the Convention, choosing instead to stand conspicuously apart from this consensus of civilized nations.

Why does this country present such an image of disinterest? Is it that we as a people consider the issue an unimportant one?

I am convinced that this is not so. Americans are deeply concerned with human rights, in this country and abroad. Examples of political repression or religious persecution offend our moral consciousness. They outrage our sense of humanity. Genocide, the ulti-

mate denial of human rights, is clearly repugnant to our national values. It is not a trivial matter to the people of this Nation.

Instead, it is the indifference of the Senate that is the root of the problem. Our Nation should have set an international example on this basic moral question, but through the Senate's lack of moral direction and initiative, we have yet to follow the example set for us by the rest of the world community. By neglecting this treaty for three decades, the Senate has neglected its moral obligation to the country and to itself.

I respectfully urge my colleagues to meet these obligations, and to ratify the Genocide Convention.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now resume consideration of the pending business, H.R. 4930, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 4030) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Senate resumed consideration of the bill.

Mr. JAVITS. Mr. President, I understand that each side has 10 minutes.

The PRESIDING OFFICER. Each side has 5 minutes. There is a 10-minute limitation overall on time on the motion when made.

Mr. JAVITS. Very good.

I yield 30 seconds to the Senator from Alaska.

The PRESIDING OFFICER. The motion has not been made, so there is no time until the motion has been made.

Mr. STEVENS. Mr. President, I ask unanimous consent to proceed on my own time without interfering with the time of the Senator from New York at this time.

The PRESIDING OFFICER. No time is running until the motion has been made.

Without objection, it is so ordered.

The Senator from Alaska may proceed.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to the Senator from Alaska proceeding, but I wish to call attention that the Senate will resume consideration of H.R. 4930 at 12:30 p.m. at which time no further points of order, debate, motions or amendments with respect to the bill shall be in order; except a motion to reconsider the vote by which an amendment by the Senator from New York (Mr. JAVITS) was agreed to.

The PRESIDING OFFICER. The Senator is absolutely correct.

I understood the Senator from Alaska asked unanimous consent to proceed.

Mr. STEVENS. I do ask unanimous consent to proceed for the purpose of offering a technical amendment to section 308 to correct an error made in that amendment.

The PRESIDING OFFICER. Without objection, the Senator from Alaska is recognized for that purpose.

UP AMENDMENT NO. 656

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 656.

On pages 57 and 58 delete Section 308 and insert in lieu thereof the following:

"SEC. 308. Notwithstanding the provisions of any other law, the State of Alaska is exempted from application of the provisions of Section 7(i) of the Export Administration Act of 1979 (Public Law 96-72)."

Mr. STEVENS. Mr. President, section 308 was included in this bill at my request to rectify a problem created by passage of the Export Administration Act Amendments of 1979. The language presently in the bill, however, is too broad as it would render ineffective laws and regulations in existence prior to the enactment of Public Law 96-72 which was not our intention and, therefore, the language in the bill is in error.

The amendment I have sent to the desk would delete section 308 as included in the committee bill and substitute language exempting Alaska only from the provisions of section 7(i) of the Export Administration Act. This action will protect existing timber sales contracts in Alaska allowing for export of red cedar for which there is no domestic market.

Mr. President, this amendment has been cleared with the manager of the bill. It will allow the continued export of red cedar under limited circumstances from Alaska, and I believe this has been explained to all concerned.

I ask that this amendment, which is highly technical in nature, be adopted. It does not change the intent of the committee bill, but rather clarifies that intent.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Senator from New York.

UP AMENDMENT NO. 651

Mr. JAVITS. Mr. President, I move to reconsider amendment No. 651 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New York has 5 minutes.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

Mr. President, this matter has been fully debated, and the appropriation is authorized by the 1978 amendments to the Economic Opportunity Act of 1964. The only question that has arisen is the nature of the distribution.

The nature of the distribution of the Community Services Administration today would be about three-quarters of the funds to the SSI recipients and the AFDC, and 25 percent to Governors under State plans dealing with mainly elderly people with incomes of less than 125 percent of the poverty level.

But there are 3 weeks before this goes into the computers of the distributing agency and, therefore, ample time for that agency to adopt the plans which have now emerged from the Finance Committee, which will emerge from the Human Resources Committee this Friday and which will emerge from committees in the House of Representatives.

Mr. President, I deeply believe we have enough confidence in our ability to get an agency to do what we want so that, if the money comes through conference, it will be worked out exactly the way we want it.

At worst, this is not an impossible distribution, but we prefer a more optimum one, and I am confident we will get it.

Lastly, in fairness to the Budget Committee, I reiterate what I said before. I am expressing my confidence as the author, and the cosponsors I think are with me, to Senator MUSKIE and to Senator BELLMON that we understand that what is worked out here if this carries, as I hope very much it will, will be entirely in their hands to work out between the budget and this appropriation, both of which will be in conference.

My sole purpose is to get this on the track so that there can be prompt action. Otherwise, it will be so delayed that it will not do what we all want it to do. That is my only purpose.

I know I and I believe the Senate will have complete confidence in them to work it out.

Mr. President, I yield 1 minute to Senator NELSON of Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 1 minute.

Mr. NELSON. Mr. President, I rise to endorse the proposal made by the distinguished Senator from New York. I do not think there is any other way to get the money out to give fuel asistance to the low income people than to adopt this proposal for the appropriations immediately.

Both the Human Resources Committee and the Finance Committee are dealing with programs now, but there is no way to put in place a new piece of legislation with a new formula and get the assistance out there in time before January, February, or March, if we follow that procedure. So I think it is urgent that we adopt this appropriation.

I wrote a letter to the President on this question urging immediate action on September 21, 1979. Mr. President, I

ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 21, 1979.

Hon. JIMMY CARTER,
The President, The White House, 1600 Pennsylvania Avenue, Washington, D.C.

DEAR MR. PRESIDENT: On September 12, 1979, you spoke before the American Association of Retired People and the National Retired Teachers Association in Hartford, Connecticut, and outlined a Low-income Energy Assistance program for fiscal years 1980 through 1983 to provide financial assistance to low-income households to offset the impact of excessive heating bills and increasing energy costs.

I am in full accord with the Administration that there is an overwhelming and urgent need to help low-income persons, particularly older Americans, pay for increased residential energy costs. As you know, I have been working over the past few months with members of your Administration on an energy assistance program for low-income households, as well as on a weatherization program to conserve energy and reduce energy consumption in poor and near-poor households. On September 7, 1979, I introduced S. 1725 to provide authority of a Comprehensive Energy Conservation Services program to assist low-income individuals and families with their energy-related needs.

I am writing to you at this time because of the *immediate* crisis low-income Americans face this winter. As weather grows colder, reports are already beginning to surface in Northern States that people are unable to pay the cost to secure essential fuel oil for heating purposes. Over the next 30 days, that crisis will compound and place the health and well-being of many persons in jeopardy.

It is, therefore, my judgement that the Administration would be well advised to initiate an energy assistance program for low-income individuals and families for the 1979/1980 winter season as soon as possible. Such a program should be based on the programs that have been tried, tested, and implemented under the authority of 222(a)(5) of the Economic Opportunity Act over the past three years.

There are a number of factors which have led me to this judgment. First, it could take several weeks, perhaps one or two months, before Congress approves an authorization bill to conduct a new low-income energy assistance program. Right now, there are more than ten proposals pending before the Congress to deal with the energy-related needs of the low-income population, and at least six authorizing Committees that may consider such legislation.

Second, even assuming a new authorization bill could be enacted rapidly, an appropriation bill to implement the program subsequently would have to be enacted. This means that the House and Senate Appropriations Committees would be delayed in considering the appropriate funding level for an energy assistance program for low-income persons until after the authorization process was completed. Using existing legislative authority under the Economic Opportunity Act has the benefit of allowing the appropriations committees to begin their deliberations immediately.

Third, and perhaps most importantly, the Subcommittee on Employment, Poverty, and Migratory Labor has developed information that any new energy assistance program for low-income individuals and families needs 60 days lead-time from the point at which the appropriation bill is enacted to time at which eligible recipients actually receive assistance.

Given this time frame, and the uncertainties of the legislative process, I believe that the Administration should proceed to design and implement an energy assistance program based upon existing statutory authority.

During the past three years, the Community Services Administration (CSA) has operated a low-income assistance program, utilizing legislative authority which was originated by the Subcommittee on Employment, Poverty, and Migratory Labor. CSA has the experience to design and implement a program this winter that is effective and easy to administer, and with which the administrative agencies in the various States are quite familiar.

For these reasons, I urge the Administration to submit to Congress a supplemental appropriation bill requesting, at the very least, the $1.2 billion you have stated as the Administration's commitment to energy assistance for low-income persons for fiscal year 1980. If the Administration were to hold back its request for this appropriation until the windfall oil profits tax is enacted into law, a perilous situation could result this winter—a situation that must be avoided.

I will appreciate your serious consideration of this request, and stand ready to assist the Administration in whatever way I can be helpful.

Best wishes.

Sincerely,

GAYLORD NELSON,
Chairman, Subcommittee on Employment, Poverty, and Migratory Labor.

Mr. NELSON. Mr. President, on Thursday, October 11, 1979, the Community Services Administration published in the Federal Register the rules applicable to the fuel assistance program that will be dispensed this season by the Federal Government.

Mr. President, I ask unanimous consent that these rules be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1061; CSA Instruction 6143-]

EMERGENCY ENERGY CONSERVATION PROGRAM; ENERGY CRISIS ASSISTANCE PROGRAM

Agency: Community Services Administration.

Action: Final rule.

Summary: The Community Services Administration is filing an amendment to the final rule on the Energy Crisis Assistance Program. This rule is required to implement the fiscal year 1980 appropriation which includes funding for the program. This rule details how these energy funds will be allocated and sets forth project application and post grant requirements.

Effective date: October 11, 1979.

For further information contact: Mr. Edward J. Freel or Mr. Wallace W. Lumpkin, 2000 K Street NW., Suite 350, Washington, D.C. 20006, Telephone (202) 254-9633, Teletypewriter (202) 254-6218.

Supplementary information: On September 4, 1979, CSA published in the Federal Register (44 FR 51780) (45 CFR 1061) a final rule for its FY 80 Energy Crisis Assistance Program with a notation that while the rule was final and effective in 30 days due to the emergency nature of the program, CSA would welcome comments through September 19, 1979, and that the rule could be amended to reflect comments, if warranted.

A number of comments have been received from the public and other federal agencies which CSA believes are important enough to warrant amending the rule. Subpart 1061-70 is reprinted in its entirety for the convenience of the public and supersedes the September 4, 1979 regulation.

CSA received 107 comments by September 19, 1979. Comments came from many different types of groups including Community Action Agencies (39), Aging Offices (12), Legal Service Agencies (10), and State Governments (15). Many of the comments referred to questons of clarification and those changes have been incorporated into the amended regulation.

Many comments urged CSA to designate Community Action Agencies as the local administering agencies. It is CSA's position that it would not be consistent with congressional intent to compel Governors to utilize a specific local administering network. CSA does anticipate that Governors will utilize Community Action Agencies where they have demonstrated the capability to effectively implement energy assistance programs. CSA wishes to remind prospective grantees that they must provide for the participation of the poor.

Many commentators urged GSA to raise the income eligibility level to 150 percent of the CSA poverty threshold, if not for all persons, then at least for the elderly and the handicapped. CSA does not believe that raising the income level to 150 percent of the poverty level would be consistent with congressional intent. CSA does believe that this question should receive serious consideration in the development of future energy assistance programs.

Many comments urged GSA to establish a timetable for processing the State Funding Plans and to provide the states with additional guidance for developing the State Fundings Plans. While it is not possible to provide a timetable for the review and approval of the State Funding Plans, CSA is committed to reviewing and approving the plans expeditiously. CSA will also be providing a guidance to the states concerning the review process to be used by the Regional Directors. In addition, a number of changes made in the regulation serve to clarify the type of information required in the plans.

Many commentators indicated that the reporting requirements were excessive. Appendix C in the original final rule has been revised, reformatted and included in the body of the regulation as § 1061.70-16. CAP Form 11, OEO Form 393 and CSA Form 380 will no longer be required for State and local governments; instead, standard assurances under Part V of OMB Circular A-102 should be provided. CSA has amended the regulation further to require that the CSA Form 440 and SF 269 be provided on a quarterly basis rather than bi-weekly. SF 272 should also be provided quarterly. Grantees, however, are to submit bi-weekly until January 30, 1980 the following information in addition to the other reporting requirements: total number of households assisted, total number of individuals assisted, total number of elderly-headed households assisted, total dollars obligated for heating fuel, and total dollars obligated for other purposes.

While CSA agrees that a bi-weekly reporting requirement is stringent, CSA also believes that it is in the public interest at least during the heating season to have current program information be available.

Many commentators indicated that the 10 percent administrative cost would not be sufficient to provide for adequate monitoring, processing of forms, certification, and outreach. CSA realizes the need for sufficient administrative funds and has made available from FY 79 Crisis Intervention Funds to each state up to $100,000 for planning and implementing the FY 80 Energy Crisis Assistance Program. This is in addition to the allowed 10 percent to be expended from FY 80 program funds. CSA believes that to permit more than 10 percent of the funds to be expended on administration would be inconsistent with the intent of the Congress.

This amended rule will go into effect on October 11, 1979. OMB clearance No. 116-R-3363 under the Federal Reports Act for the use of the reporting requirements in this application has been received. CSA is waiving a comment period because any further delay

would be impractical and contrary to the public interest. Additional delay would render it impossible to publish a final rule prior to the onset of winter weather, would not provide Governors sufficient time to plan for winter-related problems in their states, and would not be consistent with Congressional intent that this program be operated during the cold weather months.

For these same reasons, an emergency exception to the regulatory analysis provision in Executive Order 12044 is appropriate. In addition, such an analysis would not be feasible because no monies have been appropriated to date, and it is unclear at what level the program will be eventually funded. In any event, CSA has conducted somewhat similar programs since FY '77 so that this rule will not be significantly different than the prior years nor impose significantly different burdens on grantees.

Gracielа (Grace) Olivares,
Director.

45 CFR Part 1061 is amended by revising subpart 1061.70, "Energy Crisis Assistance Program" to read as follows:

Subpart 1061.70—Energy Crisis Assistance Program

Sec.
1061.70–1 Effective Date.
1061.70–2 Applicability.
1061.70–3 Policy.
1061.70–4 Who can apply for funds.
1061.70–5 Administration of the program at the State Level.
1061.70–6 Local administering agency[ies]
1061.70–7 How a local program is operated.
1061.70–8 What these funds can be used for.
1061.70–9 Who is eligible to participate in this program.
1061.70–10 Termination of program.
1061.70–11 How a Governor requests funds.
1061.70–12 General funding policies.
1061.70–13 Post-funding requirements.
1061.70–14 CSA application review and approval process.
1061.70–15 Coordination with utility/fuel vendors.
1061.70–16 State Funding Plans.
Appendices
A—Regional Office Addresses.
B—CSA Poverty Guidelines.
C—CAP Form 11, Assurance of Compliance with . . . Title VI of the Civil Rights Act of 1964.
D—CSA Form 393, Certificate of Applicant's Attorney.
E—CSA Form 440, Project Progress Review Report.
F—SF–269, Financial Status Report.
G—SF–272, Federal Cash Transactions Report.
H—OEO Form 380, Accounting System Certification Form.

Authority: Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).

Subpart 1061.70—Energy Crisis Assistance Program

§ 1061.70–1 Effective date.

October 11, 1979.

§ 1061.70–2 Applicability.

This subpart is applicable to Energy Crisis Assistance grants funded under section 222 (a)(5) of the Economic Opportunity Act of 1964 as amended, if the assistance is administered by the Community Services Administration.

§ 1061.70–3 Policy.

(a) The primary intent of the program is to make funds available to states to enable Governors to respond to energy-related crises affecting poor and near poor households, which are caused by the high cost of energy and an anticipated severe winter.

(b) This one-time CSA-funded program does not entitle any household to a certain amount and/or form of assistance.

§ 1061.70–4 Who can apply for funds.

(a) Governors of each State, Puerto Rico and the Virgin Islands, and the Mayor of the District of Columbia may apply for funds under this program. (Note: All references in this document to "Governor" include the Mayor of the District of Columbia.)

(b) The funds will be distributed by CSA among the States and the District of Columbia according to a formula based on climate, fuel, and low-income population factors. If additional funds for this program become available, CSA may revise the distribution formula if conditions so warrant.

(c) To make a request, the Governor will submit a State Funding Plan to the CSA Regional Office serving his/her state. (See Appendix A). This will begin the formal application process.

(d) For further information regarding the application process see § 1061.70–11.

§ 1061.70–5 Administration of the Program at the State Level.

The Governor may choose any agency to serve as the grantee of record for this program, which meets the following criteria:

(a) Has proven experience in administering, monitoring, or operating programs for the poor;

(b) Will be able to implement the program and provide services in a timely manner throughout the state;

(c) Has a sound fiscal system and proven acceptability of its audits; and

(d) Will be able to comply with CSA's program and financial reporting requirements.

Where there are either administrative or legislative impediments that would prevent an agency at the State level from implementing the delivery of services in a timely manner, CSA will work with the Governor to develop an alternate plan which could include the option of designating more than one grantee for the state.

§ 1061.70–6 Local Administering Agency(ies)

The Governor also has the flexibility to choose the local administering agency(ies), such as community action agencies, aging offices and welfare offices. [Note: This does not preclude using the single state grantee as a deliverer.] However, in making the determination regarding the local operator(s), the Governor must assure that the operator(s) has:

(a) Experience in operating programs that serve the poor;

(b) The ability to carry out, or arrange for the outreach activities outlined in § 1061.-70–7; and

(c) An adequate accounting system with appropriate fiscal controls.

§ 1061.70–7 How a local program is operated.

(a) *Serving clients.*—(1) *Reaching Potential Clients.*

(i) The local administering agency is required to provide assistance to those households that do not have access to other supportive service networks but are income eligible for this program as well as to those who do have such access.

(ii) To carry out this mandate effectively, local delivery systems must notify, inform, and contact persons potentially eligible for this program through, for example, the use of outreach workers, community groups, decentralized intake and certification systems, mass mailings, radio and TV spots, use of community newspapers, church bulletins, etc. In the State Funding Plan, the Governor must describe how outreach services will be provided to potential clients eligible for services. Expenses for these activities are to be included as administrative costs.

(2) *Serving the elderly.* Highest priority should be placed on serving the elderly. Therefore, local program operators should offer special services. Suggested activities include:

(i) Intake and certification by mail;

(ii) Scheduled appointments;

(iii) Transportation;

(iv) Use of senior citizen centers for provisions of services; and

(v) Intake and certification in residences for persons unable to leave their residences due to infirmity or fear of victimization.

In the State Funding Plan, the Governor must describe how priority will be given to serving the elderly.

(3) *Serving Renters.* This program is also intended to serve renters who are experiencing an energy related crisis. In the State Funding Plan, the Governor must indicate how renters in an energy-related crisis will be served. For example assistance might be provided where a renter lives in a building heated with natural gas provided for in his/her rent; but where because the heating is inadequate, the renter has to purchase two electric space heaters and pay the electric bill himself.

(b) *Limitations on payments.* In no event shall the sum of all assistance under this program made to and/or on behalf of any household, exceed the actual amount needed to ameliorate the household's energy-related problem or $400 whichever is less. In the event a Governor wants to set assistance limits at a lower level and/or provide for varying the maximum assistance level up to the $400 limit based on factors such as: climate, fuel, and low income population, he/she must provide in the State Funding Plan justification including the specific criteria used as the basis for changing or varying the limits of assistance.

(c) *Appeal by household which has been denied assistance.* (1) The grantee of record will ensure that each program operator will make known to all applicants procedures for review of the partial or complete denial of assistance under the program to any household. If the agency has an existing process which includes the elements listed below its continued use will satisfy the requirements of this policy.

(2) The state-designed procedures are to be applicable to partial or complete denials of requests for assistance for specific, tangible benefits to low-income households, e.g. utility payments, in-kind assistance, etc. for which the grantee of record currently is receiving CSA funds. The procedures will not apply to such activities as community organization, information and referral, etc.

(3) For purposes of this policy we will consider that there has been a denial of assistance when the benefits or services and/or funds currently are available, the local program operator has the authority to provide or disburse them, and the applicant falls within or believes that he/she can prove that he/she falls within the income eligibility and established program guidelines.

(4) CSA will provide a model form for States and local program operators to use in designing their intake/application form. CSA will notify the public in the Federal Register as soon as possible about this model form.

(5) In addition operators will develop procedures for reviewing denials of assistance which will include:

(i) Provisions for notifying the applicant in writing of the reasons for denial of assistance, that he/she may request a review of the denial and may submit additional information (in writing or orally) which the applicant believes would warrant a favorable determination;

(ii) Provisions for reviewing the denial of an application for assistance in a timely manner if such is requested by the applicant. This should include the specific assignment of responsibility to a senior level official other than the person making the initial determination;

(iii) Provisions for notifying the applicant in writing of the agency's final decision; and

(iv) The methods the agency will employ to publicize the existence of the appeal process.

(6) If the population served by the local program operator includes a sizable non-

English speaking group, procedures, written materials, and publicity shall be made available in that language.

(7) A written description of the above required procedures shall be maintained on file by the local program operator and shall be available for public inspection.

(8) All documents relating to specific denials of assistance and action(s) taken will be maintained in the agency's files for the length of time required by CSA policy on "Retention and Custodial Requirement for Records." These records will be available for review by CSA officials upon request.

§ 1061.70–8 What these funds can be used for.

Funds made available under this program must be used to provide assistance to eligible households to offset the high cost of household energy. Only the following types of assistance can be provided with these funds:

(a) Payments to vendors and suppliers of fuel, goods, and other services.

(b) The establishment of lines of credits with fuel/utility vendors for the benefit of eligible households. The Governors may provide limitations on the use of lines of credits such as: limiting the line of credit to the elderly and the handicapped only, establishing a specific duration of a future credit to the elderly and varying the maximum level (not to exceed $400). The Governor must describe in the State Funding Plan how future credits will be used in that particular state.

(c) Direct money assistance not to exceed $50 for the duration of the program to eligible households in those cases where a household is without resources to pay for other necessities as a result of paying utility/fuel bills, or as a means of implementing activities allowable under paragraph (d) of this section. Such payments shall be made by check only and not with coin or currency.

(d) Where necessary to prevent hardship or danger to health, the provision of immediate assistance in the form of goods or services such as emergency fuel deliveries, warm clothing, blankets, temporary shelter, emergency repairs to housing such as patching a roof or replacing a broken window, food, medicines or other supportive services. Funds under this program shall not be used to weatherize homes.

§ 1061.70–9 Who is eligible to participate in this program.

(a) *Income Eligibility.* Households with incomes at or below 125 percent of the CSA Poverty Guidelines and households whose heads receive SSI shall be eligible for assistance under this program. No state may change these income eligibility guidelines.

(b) *Program Eligibility.* The Governor may specify certain program eligibility criteria by defining what constitutes an energy-related crisis in that particular state. Where a Governor wants to establish such eligibility criteria, he/she must provide an explanation and justification in the State Funding Plan for the Eligibility criteria selected as well as a description of the procedures to be used in determining the program eligibility. The Governor may not require proof of unpaid fuel bills or notices of termination of utility service as criteria for eligibility under this program. The Governor also has the option to use income eligibility criteria as the sole eligibility critera.

(c) *Income disregard.* Payments made under this program are not to be considered as income for purposes of determining eligibility or benefits under any income maintenance program. The Governor also has the option assistance, veterans benefits, food stamps, or Supplemental Security Income.

(d) *Determination of Income Eligibility Required of Grantees.* Proof of income eligibility is required. The period for determining eligibility will be not more than 12 months nor less than the 90 day period preceding the request for assistance. When proof of eligibility is unavailable, an applicant must sign a declaration of income eligibility. In such cases, the local program operator must make a reasonable number of spot checks to verify income eligibility.

§ 1061.70–10 Termination of program.

No funds under this program may be obligated after September 30, 1980. For this program, "obligation" shall mean certification for assistance by the program operator of a specific eligible household.

§ 1061.70–11 How a Governor requests funds.

(a) Applications for funds under this program will be for the statewide coverage. CSA will establish set-asides to serve Native Americans and farmworker groups.

(b) Within 15 calendar days of the effective date of this subpart, the Governor will submit a State Funding Plan to the appropriate CSA Regional Office with all the information required in section 1061.70–16. The State Funding Plan must provide a timetable indicating when services will be provided at the local level.

(c) CSA requested from OMB a complete waiver of the clearinghouse review procedures for the FY 80 Energy Crisis Assistance Program. OMB has granted a waiver under the following conditions transmitted in a letter dated August 29, 1979:

(1) The Governor's State Funding Plan will be subject to modified procedures of Part III of A–95. To the fullest practicable degree, the State agency responsible for development of the plan will involve the State clearinghouse in the development phase. Where such early coordination is not possible, the plan will be sent to the State clearinghouse not later than simultaneously with the submission of the plan to CSA;

(2) The State clearinghouse will determine the degree to which areawide clearinghouses should be involved in the review process and a normal 45 day review period will be afforded, on an *after the fact* basis:

(3) CSA's approval of the State Funding Plan will be conditional, in that the State plan may be subject to possible subsequent revision to accommodate any appropriate recommendations for its modifications as provided by clearinghouses in the A–95 review process. The State operating agency will be instructed to make every effort to accommodate such recommendations and will provide appropriate clearinghouses with a statement as to its final judgment on each recommendation. As a result of this requirement CSA must require that any revisions made to the State Funding Plan be submitted to the appropriate CSA Regional Office for approval;

(4) CSA will provide State and appropriate areawide clearinghouses, via Standard Form 424, with an information copy of the "block" grant award to the State agency receiving the funds;

(5) In addition the State agency will provide, for each "sub-state" project grant award, information to the State and appropriate areawide clearinghouses as to the amount of monies awarded, to whom, and the purpose of each award. For these substate award notifications the use of Standard Form 424 is encouraged but is not mandatory.

(d) If a state fails to submit a State Funding Plan within 15 calendar days of the effective date of these regulations or if a submitted plan is not acceptable for approval, CSA may develop and implement a plan for the state.

§ 1061.70–12 General funding policies.

(a) *Matching Share.* A matching share is not required for this program. However, states and local program operators are encouraged to mobilize additional resources to supplement and support this program.

(b) *Maintenance of Effort.* Resources for similar services scheduled to be provided this heating season under state and local authorities shall not be reduced because of this program nor shall this program be used as a substitute for such services. The Director of CSA may make exceptions only in those situations where a strict application of this requirement would result in unnecessary hardship or be inconsistent with the purposes of the Energy Crisis Assistance Program.

(c) *Administrative Costs.* The grantee of record may expend up to 10% of the total state grant for administrative and program support costs. Where the grantee has contracted out performance of all or part of the work program, such as outreach, grantee must provide a reasonable portion of these administrative funds to those program operators to enable them to administer the program.

(d) *Overexpenditures.* If the grantee of record incurs expenditures in excess of the total amount of the approved grant, the amount of the overexpenditure must be absorbed by the grantee of record.

(e) *Procurement.* In accordance with OMB Circulars A–110 and A–102 all proposed sole source contracts where only one bid or proposal is received in which the aggregate expenditure is expected to exceed $5,000 must receive prior approval by the appropriate SCA Regional Office.

§ 1061.70–13 Post-funding requirements.

(a) *Audit.* The graduate of record will not be required to have a separate audit of this program. The program including its contracted-out components will be audited at the time of the grantee of record's regularly scheduled audit. Five copies of the audit shall be submitted by the auditor to the appropriate CSA Regional Auditor concurrent with submission to the grantee of record.

(b) *Project Reporting.* The grantee of record is required to submit a Project Progress Review Report CSA Form 440 on a quarterly basis to cover activities performed in this program. Grantee will also submit bi-weekly, until January 30, 1980 the following information in addition to the other reporting requirements; total number of households assisted, total number of individuals assisted, total number of elderly-headed households assisted, total dollars obligated for heating/fuel bills, total dollars obligated for other purposes.

(c) *Financial Reporting.* The grantee of record must submit a separate SF–269, Financial Status Report, covering activities for this program on a quarterly basis with a final report due 90 days after the end of the program. The grantee of record shall follow these procedures for submission of the SF 269: one copy to the appropriate CSA Regional Office, one copy to Grants Accounting Branch, Finance and Grants Management Division, CSA Headquarters, 1200 19th Street N.W., Washington, D.C. 20506, and one copy to Energy Crisis Assistance Task Force, 2000 K Street, N.W., Washington D.C. 20006.

(d) *Evaluation.* In the event that CSA undertakes a national evaluation of this program, the cooperation of the grantee of record, the local program operators and that of participating utility/fuel vendors will be requested.

(e) *Prohibition against transfer to another grant.* Funds unobligated at the termination of the grant cannot be transferred by the grantee of record to another grant.

§ 1061.70–14 CSA application review and approval process.

(a) CSA Regional Directors are delegated the authority for final approval of grants under this program.

(b) Based on a uniform review process, Regional Directors will determine the adequacy of State Funding Plans.

(c) Once a plan has been approved by the Regional Director, Regional Offices will expedite the processing and forward the Statement of CSA Grant (CSA Form 314) to the grantee of record chosen by the Governor. Upon receiving the CSA Form 314, the grant-

ce of record must sign it and return it to the CSA Regional Office.

(d) A state may amend its State Funding Plan only with the prior approval of the appropriate CSA Regional Director.

(e) When a state deviates from its approved state plan, without CSA approval, upon investigation, CSA will take appropriate action.

§ 1061.70–15 Coordination with utility/fuel vendors.

The Governor must ensure that in each case where payment is certified that:

(a) Reconnection of utilities and/or delivery of fuel is made upon certification for payment:

(b) For any remaining balances, the customer is offered a deferred payment arrangement or a level payment plan:

(c) A reconnection charge is paid only where such a charge was company practice prior to September 1, 1979; and

(d) No security deposit is required to be paid except where such a deposit was required by state law or explicit state regulations prior to September 1, 1979 and, where required by law or regulation is included in a deferred payment arrangement.

§ 1061.70–16 State Funding Plans.

The Governor will submit a State Funding Plan to the appropriate CSA Regional Office. The State Funding Plan will include the following:

(a) A letter from the Governor within the 30-day comment period and a request for a specific amount of funds.

(b) The following elements as described in this subpart:

(1) State Administering Agency.
(2) Local Administering Agency(ies).
(3) Timetable for Implementation.
(4) Outreach Activities.
(5) Elderly Priority.
(6) Renters.
(7) Program Guidelines.
(8) Appeals Process.

(c) Information on the following:

(1) A plan for monitoring to ensure immediate investigation, and if warranted, redress in cases of poor administration of the program, faulty and/or inadequate eligibility certification, duplication and fraud.

(2) A summary of administrative costs and the activities to be performed.

(3) A list of the areas to be served by the program, the distribution of funds by area, and the specific factors used in making the allocation.

(4) A plan for providing management and fiscal technical assistance to the local administering agencies.

APPENDIX A—CSA REGIONAL OFFICE ADDRESSES

Mr. Ivan Ashley, Regional Director, CSA Region I, E-400, John F. Kennedy Fed. Bldg., Boston, Massachusetts 02203, Phone: (617) 223-4080/FTS-8-223-4080, Boston: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Mr. John C. Finley, Acting Regional Director, CSA Region II, 26 Federal Plaza, 32nd Floor, New York, New York 10007, Phone: [212] 264-1900/FTS-8-264-1900, New York: New Jersey, New York, Puerto Rico, Virgin Islands.

Dr. W. Astor Kirk, Regional Director, CSA Region II, Old U.S. Courthouse, P.O. Box 160, 9th and Market Streets, Philadelphia, Pennsylvania 19105, Phone: [215] 597-1139/FTS-8-597-1139, Philadelphia: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Mr. William "Sonny" Walker, Regional Director, CSA Region IV, 101 Marietta Street NW., Atlanta, Georgia 30303, Phone: [404] 221-2717/FTS-9-242-2717, Altanta: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Mr. Glenwood Johnson, Regional Director, CSA Region V, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606, Phone: [312] 353-5562/FTS-8-353-5562, Chicago: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Mr. Ben T. Haney, Regional Director, CSA Region VI, 1200 Main Street, Dallas, Texas 75202, Phone: (214) 767-6126/FTS-8-729-6126. Dallas: Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Mr. Wayne Thomas, Regional Director, CSA Region VII, 911 Walnut Street, Kansas City, Missouri 64106, Phone: (816) 374-3761/FTS-8-758-3761, Kansas City: Iowa, Kansas, Missouri, Nebraska.

Mr. David Vanderburgh, Regional Director, CSA Region VIII, 1951 Stout Street, Federal Building, Denver, Colorado 80294, Phone: (303) 837-4767/FTS-8-327-1767, Denver: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Mr. Alphonse Rodriguez, Regional Director, CSA Region IX, 450 Golden Gate Avenue, Box 36008, San Francisco, California 94102, Phone: (415) 556-5400/FTS-8-556-5400, San Francisco: Arizona, California, Hawaii, Nevada, Trust Territories.

Mr. N. Dean Morgan, Regional Director, CSA Region X, 1321 Second Avenue, Seattle, Washington 98101, Phone: (206) 442-4910/FTS-8-399-4910, Seattle: Alaska, Idaho, Oregon, Washington.

APPENDIX B—COMMUNITY SERVICES ADMINISTRATION

125 PERCENT OF POVERTY INCOME GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII

Size of family unit	Non-farm family	Farm family
1	$4,250	$3,638
2	5,625	4,800
3	7,000	5,963
4	8,375	7,125
5	9,750	8,288
6	11,125	9,450

For family units with more than 6 members, add $1,375 for each additional member in a non-farm family and $1,163 for each additional member in a farm family.

POVERTY GUIDELINES FOR ALASKA

Size of family unit	Non-farm family	Farm family
1	$5,338	$4,562
2	7,050	6,013
3	8,763	7,463
4	10,475	8,913
5	12,188	10,363
6	13,900	11,813

For family units with more than 6 members, add $1,713 for each additional member in a non-farm family and $1,450 for each additional member in a farm family.

POVERTY GUIDELINES FOR HAWAII

Size of family unit	Non-farm family	Farm family
1	$4,913	$4,158
2	6,488	5,525
3	8,063	6,863
4	9,638	8,200
5	11,213	9,538
6	12,788	10,875

For family units with more than 6 members, add $1,575 for each additional member in a non-farm family and $1,338 for each additional member in a farm family.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HUDDLESTON I yield 5 minutes to the Senator from Maine (Mr. MUSKIE).

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. ROBERT C. BYRD. I yield 3 minutes to Mr. MUSKIE.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 minutes.

Mr. MUSKIE. Mr. President, the other day on the first Javits amendment I indicated my concern about the amendment. I still think from the point of view of the parliamentary situation that it is most unfortunate that this amendment has been offered to this bill. The issue is in the budget conference which has not yet completed its work. Yesterday that conference was on the verge of collapse. This program was an important bargaining chip for the Senate conferees to use in undertaking to close the gap between the Senate and House budget conferees.

Now, because of the events that have already taken place on this floor, and which are about to take place, the value of that bargaining chip has been pretty well dissipated.

The Senate ought to know that the Senate budget conferees this morning made an offer to the House conferees on a package of functions and programs which included not the $1.45 billion we are talking about for this amendment but the $1.6 billion that I indicated the other day it was our intention to offer. There is another way, a more orderly way to do it than this way.

But if we continue to ignore our regular procedures and to use ways like this in order to achieve objectives, no matter how worthwhile, pretty soon you are going to nibble away at the budget process, and there will not be much left. I appreciate the expression of confidence in me that the distinguished Senator from New York has just stated. But it is not a question of my credibility or my personal prerogatives or my integrity; it is a question of how you get these things done.

Every budget resolution is a package of tradeoffs. In order to get tradeoffs you have got to be prepared to give up something to get something. Now, surely, that is not an unfamiliar notion in the Senate of the United States, and a budget conference is no different. You have to give up something to get something, and that is all I have been arguing for.

But, Mr. President, I appreciate the fact that the other day a majority of the Senate, a bare majority, supported me in taking this position on procedural grounds. But it is not fair to them, to those who would have supported the program on its merits, to ask them to jump through that hoop again. It simply is not fair, and I do not think it is fair to ask me to do it.

So the value of the bargaining chip having been almost totally dissipated by what has already happened, I am not going to insist on a procedural position that I asked the Senate to take the other day.

I will vote for the Javits amendment now. This is the situation where we are, and I will support this amendment, having expressed my doubt about the procedure.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 30 seconds more.

Mr. President, when I said to Senator MUSKIE that I had confidence in him, of course, I have it personally. I have demonstrated that for 20 years, but I mean in respect of this negotiation. I do not believe he has lost his bargaining chip, whatever it may mean. I believe he still has it because of the fact that both issues are still in conference.

Mr. MUSKIE. Mr. President, will the Senator yield for a comment? Yesterday afternoon, when we included this in our package offer, Congressman GIAIMO said to me, "You have not given us anything here. It is obvious the Senate wants this as badly as we do." That is what I mean by having dissipated the bargaining chip.

Mr. JAVITS. May I say to the Senator you are too experienced a Senator to take the word of a bargainer in anything like that. The actual fact is this has yet to emerge from both conferees, so I deeply believe nothing whatever has been lost, but if something has been lost——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, do I have more time? I yield 30 seconds.

Mr. JAVITS. The bigger point is if we are going to get this show on the road for people who otherwise might not survive the fact that we do not act, that is the whole issue, and I hope the Senate will vote "no" on the motion to reconsider.

I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, is there any time left at all?

The PRESIDING OFFICER. The Senator has 42 seconds remaining.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Massachusetts may have up to 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. No objection. Reserving the right to object, if I may, I would like to add Senator DURENBERGER and Senator LEVIN as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this amendment I am supporting with Senator JAVITS and others is a simple matter of strict necessity. We face an immediate crisis for our most needy families. My fellow Senators need only call their Governor's office to get a sense of the alarm and frustration that is growing over the impact of soaring prices on our constituents.

Mr. President, according to a DOE Advisory Committee, from 1972 to 1978, while the Consumer Price Index increased 55.9 percent, fuel prices increased 151.7 percent.

In 1978, the average median-income family spent 10.4 percent of their income on direct household expenditures for energy, while low-income families spent 25.3 percent, or more than one-quarter of their income directly on energy.

If energy prices increase by 50 percent this year, the average low-income family could find itself spending 38 percent of its family budget directly on energy, and as much as 27.5 percent even after eliminating automobile use.

National averages, while troubling, understate the true picture for regions like New England, where direct energy expenditures could approach 50 percent of the family budget if energy prices increase 50 percent over 1978.

Energy prices have far outstripped increases in income, resulting in a loss of $4 billion in purchasing power for 16.2 million low-income households since 1972.

Clearly, past Government efforts to alleviate this crushing burden are inadequate. The crisis intervention program is only reaching an estimated one-tenth of the eligible families at the current low appropriation levels.

Our amendment would appropriate $1.2 billion for the purpose of aiding low-income families this winter. Together with the $250 million we have already approved in the Labor-HEW appropriations bill, a total of $1.45 billion will thus be available as early as is legislatively possible this winter.

CSA has all necessary authority to spend this appropriation in a manner that is consistent with our intention here today.

I urge my colleagues to support this amendment.

Mr. President, the case for this amendment was made the other evening, and I know it has been restated here during the few moments before the vote. But one point I want to underline is the issue of timing. There are many good intentions of Members of the Senate and the administration about how to deal with a critical problem we are going to face in the colder climates this winter.

There are different ideas of the best way to meet this particular challenge. But what we are resorting to here today, Mr. President, is a mechanism and a means which has been tried, and has been successful in the past. It has worked effectively, it has provided relief, and this does provide the only opportunity for us to assist the millions of elderly people, needy people, and poor people in our society who are paying an enormously disproportionate share of their scarce income for heating bills.

It seems to me imperative that if we are serious about trying to deal with the problem this winter we must take action now to uphold earlier Senate action in favor of this particular amendment.

I join with my colleagues in urging the Senate to reject reconsideration of this amendment.

The PRESIDING OFFICER. All time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. LEVIN may proceed for 2 minutes.

● Mr. DOLE. Mr. President, I want to commend my distinguished colleague from New York, Mr. JAVITS, for offering the low-income fuel assistance amendment to the Interior appropriations bill. This amendment, which appropriates $1.2 billion to be transferred to the Community Services Administration, is a timely measure which received affirmative action by this body on Tuesday, and we must not reverse that action today. There have been arguments made during the debate on this amendment that the Senate should not allow this type of legislative language to be attached to an appropriations bill. I do not intend to demean those arguments, but I must confess that those poor and needy families who are beginning to feel the cold chill of the pending winter weather find it difficult to understand the parliamentary budgetary problems which have been debated on the Senate floor.

Mr. President, there is a time crunch. Old man winter is not about to wait for the Congress to go through their legislative shenanigans before he starts to flex his muscle. We have no choice, we must act now and act responsibly, or else innocent low-income families will bear the brunt of our irresponsibility. We need to get this program rolling and get this money out as soon as possible. If we can act affirmatively on this proposal, the bureaucratic mechanism needed to get these checks out can be set in motion immediately. This would mean that those qualified recipients could begin receiving their checks sometime in January.

FINANCE COMMITTEE ACTION

Mr. President, the Finance Committee has recently acted on a low-income energy assistance program which is generally consistent with the Javits proposal. As the ranking Republican on that committee, I offered a low-income fuel proposal last week. I am happy to announce that the majority was able to see the necessity for this sort of assistance, and we were able to reach an adequate compromise.

The provisions adopted by the committee would involve direct cash payments to welfare recipients, including SSI, AFDC and food stamp recipients. States at their option could receive as a block grant the funds otherwise designated for direct cash payments to any or all of the three welfare recipient categories and use those funds for a plan of their own devising. The funds for payments to welfare recipients, for State block grants, would be allocated among the States under a formula which takes into account heating degree days, by low income population and residential energy expenditures.

Mr. President, the Javits amendment assures that the maximum amount of money allowed under the budget will go to low-income people this winter. The CSA has the needed authority to initiate this program. All they need are the funds to make it operable. Energy prices have risen dramatically and there is no question as to the necessity for this legislation. For those individuals who live in those regions of our country most severely affected by harsh winter weather there is no greater concern than that of enabling them to pay their heating bills. I have been concerned about this problem for some time, and I have had occasion to speak with not only consumers but also with small- and medium-sized fuel oil dealers.

Mr. President, the ripple effect of OPEC's price gouging on oil extends to both the consuming and selling sectors of our economy. I have listened to small- and medium-sized fuel oil dealers tell me about the severe cash flow problems they expect to encounter this winter. These dealers expect to be hit from both sides,

as they are being forced to pay higher prices for the very fuel which they sell, while they expect that their own customers will have increasing difficulty in paying for this same fuel. It is a "no win" situation for both the dealers and the consumers, because their own money is being shuttled to OPEC's oil sheiks even as soon as they complete a transaction. They are at the mercy of OPEC, whose cartel price policies show "no mercy."

Small- and medium-sized oil dealers are accumulating increasing amounts of customer debt, because their customers cannot afford to pay for their fuel. Inflation, which itself is spurred on by OPEC's increasing oil prices, is making it more difficult for low- and middle-income customers to pay the inflated fuel bills. In turn, they cannot afford to pay the fuel dealers for oil, and need to have credit extended for longer periods of time.

Mr. President, unless we can rectify this situation these small- and medium-sized dealers will be driven out of business by this severe cash flow problem. Thus reducing competition in a sector of our marketplace already suspected of having too little competition and too much collusion. The smaller and medium-sized independent oil dealers feel, quite legitimately, that they are at the mercy of their suppliers, the large oil companies.

FUEL OIL GUARANTEE ACT OF 1979

The Senator from Kansas is deeply alarmed at this problem for it threatens our free enterprise system. As a society, we cannot afford to let any segment of our national economy go out of business due to severe circumstances over which they have no control.

In an effort to remedy this problem, I introduced on September 20, 1979, the "Fuel Oil Guarantee Act," S. 1783.

This bill would give banks the necessary impetus to extend additional credit to fuel oil dealers when they need such credit in order to stay in business, and provide their users with needed fuel oil. The bill provides for a guaranteed loan program to be administered under the Small Business Administration.

The eligibility for these loans would be tied to the 1978 volume of fuel oil sold by the dealer rather than by the dollar volume of his business. In this way, small dealers whose dollar volume has been inflated by the outrageous OPEC price increases will not be squeezed out of business.

OPEC: THE REAL ENEMY

Mr. President, the Senator from Kansas would like to state to his colleagues that he introduced this very legislation and is in support of the Javits low-income fuel assistance amendment to the Interior bill today, due in large part to the unconscionable price gouging practices of OPEC and the seeming inability of the Carter administration to adequately deal with our energy problem. During the last year, the price of home heating oil has been increased by 100 percent, while gasoline prices at the pump have increased by nearly as high a margin.

The essence of our problem is simply this: The Carter administration has persistently failed to deal effectively with OPEC, and has adopted policies which sanction and strengthen this foreign cartel. For example, since last November, the President has not bought any oil for our strategic oil reserves, which now holds only 94 million barrels—barely enough to let us survive for 12 days. In deference to OPEC's oil sheiks, Mr. Carter has unaccountably stopped building our strategic oil reserve. This policy only allows OPEC to threaten us more, raise prices higher, and wreak havoc on the very same consumers which the Javits amendment today seeks to assist. What we are really being forced to do is sanction OPEC policy toward the United States and insist that our taxpayers and consumers bear the brunt.

NEEDED: A COHERENT ENERGY POLICY

Mr. President, in his July 15 television address, President Carter told us that we have met the enemy in the energy "moral equivalent of war," and that the enemy is us because of our inordinate consumption of energy. Certainly, the punitive consequences of OPEC's price racking policies on all our consumers would verify the President's finding that our own people are the enemy. It apparently has not occurred to the President to look in the opposite direction and see that if anyone is the enemy, it is OPEC, and that this cartel has declared the "moral equivalent of economic war" on us. By yielding to OPEC, failing to build up our strategic oil reserve, and engaging in a continuous policy of appeasement toward OPEC in general, the President is only enabling this cartel to punish our own people more severely in the future.

The Javits amendment, like my Fuel Oil Guarantee Act, will help to mollify the pressure on those segments of our economy most in need at this time of year. But such "first aid" proposals cannot cure our long-term energy crisis any more than a bandage can cure cancer.

What this country needs, and cries out for on a daily basis, is a coherent national energy policy which aims to weaken the very core of our energy disease—OPEC. Punishing our own consumers and then giving them first aid is not a cure to our disease, only a temporary treatment for the symptoms. It is at the very least a necessary gesture of succor which our Government is morally obligated to give to its own people. We must put the interests of our own people above the interests of foreign powers.●

Mr. LEVIN. Mr. President, I rise in support of Senator JAVITS' amendment. I believe that it is imperative that we act now, not next spring, to provide help to those citizens who may have difficulty meeting the increased cost of energy this winter, and who, without this help, may literally freeze in the dark.

With the price of home heating oil doubling over the past year or so, the consequences of not providing assistance of this sort could be tragic during the coming winter. We already know that the poor and elderly spend a much larger percentage of their total income on basic heating needs than do others in our society, as much as 50 percent of their income in some of the colder regions of the country. With the recent dramatic increases in fuel prices, this situation will only be aggravated, and many Americans simply will not be able to afford to keep their homes heated to a tolerable level. This is not a new problem; thousands of households in my own city of Detroit found their gas service discontinued last winter and this spring because of inability to pay their bills. The problem is not new, but it will be far more critical this year than ever before, assuming a normal winter or worse, if we do not help those faced with the stark choice of keeping their homes heated or their stomachs full.

Whatever the merits of deregulation of energy prices, and those of us in this body have disagreed over that issue in the past, we must all agree that we cannot inflict the burden of deregulation on those who were not involved in the decisions to deregulate, and who can least afford to bear their consequences. I note that even the American Petroleum Institute, which must certainly be one of the strongest proponents of decontrol of fuel prices, has recognized that the burden falls disproportionately upon the poor, and has urged that special consideration be given to their problems. These problems are not, in my view, a matter of political philosophy; they do not involve a judgment of the relative merits of free market capitalism versus Federal Government intervention. They are rather a matter of simple compassion for those who bear the brunt of policy decisions, whatever their merits, which have been made by their Government.

I know that some have argued that we need not address this issue now; that we can wait until we are able to calculate the revenues which will be produced by the windfall profits tax, and then pass a supplemental appropriation to provide this aid. I am one who not only supports a strong windfall tax, but believes that a strong tax is essential to justify decontrol of crude oil prices, and to make an investment in our Nation's energy future. I also believe that the tax should ultimately finance a program of assistance to those in our society who have difficulty meeting their fuel needs.

But in this instance, with winter weather already upon us in my State and other regions of the country, I do not think we can afford to wait. Even if we appropriate these funds today, it will still take some time for the CSA to put in place the machinery to distribute the money. If we wait until next year, until we can pass a supplemental, we may be in the ridiculous position of providing after-the-fact aid next spring to those who may already have suffered the dire consequences we hope to forestall.

Mr. President, I support this amendment, and I urge my colleagues to give it their overwhelming support.

Mr. JAVITS. Mr. President, I ask unanimous consent to proceed for 10 seconds.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Senator BYRD of West Virginia be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. WEICKER. Mr. President, pending before this body is the Javits amendment which would provide $1.2 billion

to the Community Services Administration for emergency energy assistance to elderly and poor persons during this winter season. This is in addition to the $250 million appropriated under the 1980 Labor-HEW bill the Congress accepted last month for CSA's emergency energy program.

As a cosponsor of the Javits amendment, I firmly believe that this is the best solution before the Senate and before this Congress to the problem of assisting poor and fixed-income Americans meet the high cost of energy this winter. Time is of the essence. Just last week, it snowed from New England to Washington, D.C. In many parts of the Northeast, the winter heating season has already begun. And with that, many of our elderly and poor will be faced with the intolerable choice of choosing between heating and eating.

The cost of energy, already high, has skyrocketed. Home heating oil will cost at least 50 percent more this winter than last, and could reach $1 a gallon, several times its cost 5 years ago. Thus, even if the winter is relatively mild, and less fuel is needed, fuel bills will be higher, tragically higher for those already on tight budgets who will have to make impossible choices between heating, food, clothing, and other necessities.

We all agree, here in the Congress and in the White House, that something should be done to save these people from the financial hardship this winter will have on them.

Mr. President, I realize that a number of alternative low-income energy assistance proposals are being debated at this time. But, we do have the crisis intervention program already in place in the sense of administrative procedures, several years of experience, and trained people to carry it out. While this program has had problems in the past, this is the first year we will have given CSA, the administrating agency, some lead-time by early funding. I am confident that they will do a much better job than in the past and we will really be able to respond to the need this winter.

The program mechanics are fairly simple: Each State will receive a share of the funds based on a formula which factors in the severity of the winter, the relative increase in the cost of fuel and the number of low-income individuals in the State. The State Governors submit a plan for the administration of the program. Eligibility requirements will be the same as in past years: Households at 125 percent or less of U.S. census poverty level—currently $7,750 for a family of four and $5,200 for a family of two—or for heads of households eligible for SSI, the supplementary security income assistance. Recipients receive up to a maximum of $400 per household and benefits will be in the form of assistance with utility bills relating to energy. Part of the benefit could be in the form of cash grants, maximum of $50, or for such emergency items as blankets, food, and so forth.

Mr. President, this Congress has precious little time to debate this issue; that the real issue is basic human need, and we must not forget that. I urge the Senate to reverse itself and vote in favor of keeping the heat on for millions of Americans this winter.●

● Mr. McGOVERN. Mr. President, I am pleased to have the privilege of joining with my distinguished colleague, Senator JAVITS in offering this important amendment.

I appreciate the concerns of many Members who have expressed concern about the need to enact legislation through the normal channels as well as the inappropriateness of attaching this amendment to the Interior appropriations bill. I do not think anybody can argue that it would be better to follow such procedures. We are, however, rapidly approaching an emergency which must be dealt with immediately.

As my colleague from New York has pointed out, even if we enact this proposal today, at least 80 days will pass before the first fuel assistance check is issued. In other words, no family would actually receive financial assistance until January. I can tell you that the winter is fast approaching South Dakota and that I am already receiving letters from constituents who have begun to draw down on their existing heating oil supplies. Many of them have no idea as to how they will afford additional supplies when their storage tank is empty.

This remains the only vehicle available for Congress to provide emergency assistance to those who will be most impacted by the increasing price of energy. Energy prices in the last 3 months have gone up at the rate of 68 percent over the last year. Hearings held in the Senate Human Resources Committee have already documented that many low income families will be spending upwards of 50 percent of their income to stay warm this winter.

Frankly, this is a very simple amendment. We are creating no new program. The Community Services Administration has all the authority they need to administer the funds. We have not increased the budget. We have simply transferred funds which were originally earmarked for the strategic petroleum reserve for emergency fuel assistance.

Mr. President, we cannot afford to argue the appropriateness of this amendment, or how much the transfer of these funds will affect the synthetic fuel budget in the bill. As my colleague, Senator DURKIN, pointed out yesterday—how does one explain a parliamentary, procedural difficulty to families who are having to choose between heating, eating and paying the rent. We must take action now to make this money available. This is our only opportunity to prevent almost certain tragedies this winter.●

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to reconsider the amendment (UP No. 651) of the Senator from New York which was agreed to. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "nay."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

The PRESIDING OFFICER (Mr. BAUCUS). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 11, nays 85, as follows:

[Rollcall Vote No. 365 Leg.]

YEAS—11

Armstrong	Exon	McClure
Byrd, Harry F., Jr.	Helms	Morgan
Cochran	Kassebaum	Tower
	Long	Wallop

NAYS—85

Baker	Gravel	Pell
Baucus	Hart	Percy
Bellmon	Hatch	Pressler
Bentsen	Hatfield	Proxmire
Biden	Hayakawa	Pryor
Boren	Heflin	Randolph
Boschwitz	Heinz	Ribicoff
Bradley	Hollings	Riegle
Bumpers	Huddleston	Roth
Burdick	Humphrey	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Javits	Schmitt
Chafee	Jepsen	Schweiker
Chiles	Johnston	Stafford
Church	Kennedy	Stennis
Cohen	Leahy	Stevens
Cranston	Levin	Stevenson
Culver	Lugar	Stewart
Danforth	Magnuson	Stone
DeConcini	Mathias	Talmadge
Dole	Matsunaga	Thurmond
Domenici	McGovern	Tsongas
Durenberger	Meicher	Warner
Durkin	Metzenbaum	Weicker
Eagleton	Moynihan	Williams
Ford	Muskie	Young
Garn	Nelson	Zorinsky
Glenn	Nunn	
Goldwater	Packwood	

NOT VOTING—4

Bayh	Laxalt	Simpson
Inouye		

So the motion to reconsider was rejected.

AMENDMENT NO. 519

(Purpose: To increase funds for the Rural Fire Protection and Control Fund)

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the special orders relating to the Johnston-Durkin amendment and the Pressler amendment be reversed and that it be in order to consider now the Pressler amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I call up my amendment No. 519 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an amendment numbered 519.

Mr. PRESSLER. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 7, delete "$58,018,000" and insert in lieu thereof "$73,518,000".

Mr. PRESSLER. Mr. President, I ask for a rollcall vote on this amendment.

Mr. HUDDLESTON. Mr. President, may I inquire what the parliamentary procedure is with regard to a rollcall on a tabling motion that would precede his amendment?

The PRESIDING OFFICER. It will take unanimous consent to order the yeas and nays on a tabling motion.

Mr. HUDDLESTON. I ask unanimous consent that the yeas and nays be ordered on any tabling motion that may be made on Senator PRESSLER's motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PRESSLER. Mr. President, in regard to the rural fire protection and control program, I point out that it is the core fire control program in almost all the States. In my own State, as much as 40 percent of fire prevention and control activities derives from a State allocation of funds from the Federal program. Thus, Mr. President, there is a genuine national interest in maintaining a Federal presence in rural fire protection of eligible State and private forest lands. Fire does not respect the boundaries between State or private lands and Federal lands.

This program does not involve a large bureaucracy of Federal personnel out in the field. Instead, the program relies on non-Federal personnel and State and local efforts to apply Federal funds and Federal fire control and prevention research and expertise to the task of safeguarding Federal, State, and private forests. This is an exceptional approach to Federal involvement in the function of Government. All too often, Federal help instigates the creation of a new layer of bureaucracy. The rural fire protection and control program of the Forest Service has effectively carried on fire suppression assistance activities in cooperation with the States for years without creating more Federal bureaucracy.

This program is a matching program in which States put up the same amount as they are allocated from Federal funds.

Smoke management and suppression requirements of the Federal Clean Air Act have significant impact on States. As with so many other Federal programs which have stimulated new regulations and rules, the Clean Air Act does not adequately compensate other units of Government for the increased costs which they must bear as a result of such regulatory creations.

While this program does not immediately relate to clean air regulations, there is no doubt that it represents an easing of that burden on the States. Through the program fires are prevented and fought and, in the process and to the extent that these federally assisted activities are successful in combating fire, smoke is diminished as an air pollutant.

If I may be permitted to corrupt an old truism, where there is fire there is smoke. The Federal support in fighting fire helps other governmental units in a small way to bear the burden of Federal clean air standards.

I understand that the Office of Management and Budget rationale for recommending no money at all for this program was that, on a nationwide average basis, the Federal funds represented only 14 percent of all funds spent in the States on rural fire prevention and control activities.

I do not see the logic of that rationale. In fact, it seems to be a flimsy rationalization for destroying a minimal program which facilitates the dissemination of Federal fire prevention and control expertise and research to State and local governments.

I might also stress that it is strange that effective Federal assistance programs are proposed for elimination when we continue to pour money into ineffective Federal programs. This has been judged an effective Federal program. This is not the time to slash drastically the already very small Federal assistance for State and local fire prevention efforts, not with over 10,000 fires so far this year in California and extremely dry conditions in many States like Minnesota and fires in Montana.

Some could ask why is a Federal contribution to a legitimate Federal involvement in one of the most basic safety functions of Government everywhere in the world not considered a legitimate area? I certainly suggest that it is.

The cuts that are occurring in this area will have a great impact on many of our States. I have circulated to each Senator the listing of the amount under the fiscal year 1979 allocation, fiscal year 1980 projected under the committee bill, and what it would be under the Pressler amendment. This amendment restores it almost to the level of the fiscal year 1979 allocation.

For those reasons, Mr. President, I ask that this amendment be considered. I also ask unanimous consent that Senators THURMOND, BIDEN, and DURENBERGER be added as cosponsors of this amendment.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I yield back my time.

Mr. MAGNUSON. Will the Senator yield?

Mr. PRESSLER. Yes, I yield.

Mr. MAGNUSON. I have been very active in the establishment of a fire academy and things of that kind. The academy is supposed to dig out information where big fire departments might have technical information but smaller fire departments, particularly volunteer departments, will not have it. As I understand the amendment of the Senator from South Dakota, this would involve a great number of volunteer fire departments.

Mr. PRESSLER. Yes, as I understand it, for the development of fire control training courses for volunteer firemen, development and fabrication of firefighting tools and equipment used largely in rural areas, technical assistance in protecting firefighters, and direct funding of State-administered fire prevention control activities.

My understanding is that this would have a great impact on volunteer firemen.

Mr. MAGNUSON. Because most rural fire departments are volunteer departments. They do not have the expertise and this would allow them to participate in the national fire academy teachings, things of this kind.

Another thing: I understand that the amendment would lower the fire insurance rates in several places.

Mr. PRESSLER. That is good news.

(Mr. EXON assumed the chair.)

Mr. HUDDLESTON. Mr. President, I shall use my own time for a minute. I hope the distinguished chairman is not confusing this program with the rural fire department program that is administered through the Department of Agriculture, which does go directly to the rural volunteer fire departments.

Mr. MAGNUSON. No, this deals with forest fires and activities of that kind. That is of interest to me. We are talking about programs that are important to the small towns and the forest areas of my State, who have volunteers.

Mr. HUDDLESTON. I just wanted to make sure the Senator did not have this confused with the other program that is funded in the agricultural appropriation bill.

Mr. MAGNUSON. The two programs are separate.

Mr. HUDDLESTON. They are separate programs. This deals with fire control programs, not directly with fire departments. It provides grants to programs operated through the State foresters.

I yield myself, Mr. President, 3 minutes.

Mr. President, let me say first of all that I am fully sympathetic with the goal expressed by the Senator to maintain rural fire control support for State and private lands at the 1979 level. I have supported this program for many years, as has the Appropriations Committee. Repeatedly, successive administrations have attempted to phase out this program on the basis that the States should take it over on their own. Just as repeatedly, the Congress has restored funding for it in response to the various State and local agencies that benefit from the program.

But Mr. President, let me emphasize again that we cannot restrain Federal spending as the Senate has twice voted to do in budget resolutions and still fully fund every popular program. We cannot satisfy all the congressional demands for budget increases and still fully fund every ongoing program without permitting undesirable and unacceptable increases in Federal spending.

The committee has tried in every way that it can to accommodate Senators priorities. The committee recommendations alone provided $700 million in unbudgeted appropriations directly in response to individual Senators requests. Since we have had this bill on the floor we have added more than $2 billion more in response to Senators requests. The only reason that we are not in worse shape with respect to the budget and to the congressional spending ceiling is that the committee, after months of hearings and months of staff analysis, was able to develop substantial budget reductions to offset these congressional add-ons. Nevertheless, I must call to the Senate's attention that we are continuing to push beyond the Senate's own limitation on outlays for fiscal 1980. Senators who participated in the recent second budget resolution debate are well aware that, as a whole, we are already $2.5 billion over our own adopted outlay ceiling on the basis of appropriation bills

already approved by the Senate. Now, in this bill, we are pushing another $400 million over that ceiling, even without fully assessing the impact of the $1.2 billion in outlays associated with the fuel assistance program, which was finally enacted just a few minutes ago.

Mr. President, we cannot have it both ways. We cannot vote on the budget resolution to restrain Federal spending and then vote for every budget increase that happens to be popular.

It is not that we have neglected the Forest Service. We are already $15 million over the budget for rural fire control, and for the Forest Service as a whole we are nearly $200 million over the budget. I hope Senators will keep these numbers in mind in deciding whether to support this additional increase in the appropriation bill.

One final note: let me point out to Senators that they failed to reduce this bill by more than $100 million on Tuesday by the margin of only one vote. Those 48 Senators who voted then to reduce this bill will, I hope, keep in mind their desire to cut Federal spending on this amendment as well.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEWART. Mr. President, I ask the Senator from South Dakota if he will yield some time to me?

Mr. PRESSLER. I will yield, Mr. President, but first I would like to list the groups supporting this, if that is possible at this time.

The PRESIDING OFFICER. The Senator from South Dakota has 4 minutes and 31 seconds remaining.

Mr. PRESSLER. Mr. President, this effort is supported by the Association of State Foresters, National Forest Products Association, Volunteer Firemen's Council, South Dakota Game Fish and Parks Department, National Fire Protection Association, American Forestry Association, and the Forest Farmers Association.

Mr. President, I ask unanimous consent to have printed in the RECORD a paper entitled "Rural Fire Protection and Control Program, State Allocations."

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

RURAL FIRE PROTECTION AND CONTROL PROGRAM—STATE ALLOCATIONS

	Fiscal year 1979 allocation	Fiscal year 1980 projected under committee bill	Under the Pressler amendment
Alabama	$757,000	$371,000	$755,391
Alaska	520,000	255,000	518,895
Arizona	180,000	88,000	179,618
Arkansas	676,000	331,000	674,563
California	1,043,000	1,001,000	2,038,656
Colorado	744,000	365,000	742,438
Connecticut	144,000	71,000	143,697
Delaware	71,000	35,000	70,850
Florida	919,000	450,000	917,070
Georgia	872,000	428,000	870,158
Hawaii	189,000	93,000	188,603
Idaho	553,000	271,000	551,838
Illinois	287,000	141,000	286,397
Indiana	185,000	91,000	184,611
Iowa	150,000	73,000	149,685
Kansas	423,000	207,000	422,111
Kentucky	605,000	296,000	603,729
Louisiana	765,000	375,000	763,393
Maine	632,000	310,000	630,672
Maryland	404,000	198,000	403,151
Massachusetts	395,000	193,000	393,172
Michigan	770,000	377,000	768,383
Minnesota	582,000	285,000	580,777
Mississippi	781,000	383,000	779,359
Missouri	724,000	355,000	722,479
Montana	616,000	302,000	614,706
Nebraska	405,000	198,000	404,149
Nevada	330,000	162,000	329,307
New Hampshire	281,000	138,000	280,409
New Jersey	504,000	247,000	502,941
New Mexico	360,000	176,000	358,244
New York	715,000	350,000	713,498
North Carolina	829,000	406,000	827,259
North Dakota	170,000	83,000	169,643
Ohio	427,000	211,000	426,103
Oklahoma	414,000	203,000	413,130
Oregon	831,000	407,000	829,254
Pennsylvania	792,000	388,000	790,336
Rhode Island	137,000	67,000	136,712
South Carolina	789,000	386,000	787,343
South Dakota	575,000	282,000	573,792
Tennessee	708,000	347,000	706,513
Texas	651,000	318,000	649,632
Utah	300,000	147,000	299,370
Vermont	102,000	50,000	101,785
Virginia	793,000	389,000	791,334
Washington	837,000	410,000	835,242
West Virginia	450,000	221,000	449,055
Wisconsin	762,000	373,000	760,399
Wyoming	353,000	173,000	352,258
Puerto Rico	47,000	23,000	46,901
Guam	47,000	23,000	46,901

Mr. PRESSLER. Mr. President, I yield 2 minutes to my good friend from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 minutes.

Mr. STEWART. Mr. President, I rise today in support of Senator PRESSLER's amendment to H.R. 4930, the Interior Department and related agencies appropriation bill, which would restore funding for the rural fire protection and control program to the fiscal year 1979 level. As we know, the President recommended no money for the rural fire protection and control program for fiscal year 1980. The Senate and the House made recommendations of $15 million, or approximately one half of the funding level for 1979. I have concern that $15 million is only half of what is needed in this program and support the Senator from South Dakota's amendment which would raise the funding level for this program to $30.5 million.

There is a great deal of merit to this program which provides assistance to States in fighting and preventing forest fires on non-Federal, State, and private lands. The money to the States under this program funds State-administered fire prevention and control activities, helps to provide technical assistance for the fighting of certain types of rural fires, trains volunteer firemen, and assists in the development of firefighting equipment.

While there are States that have shown the ability to meet their firefighting needs through State funds, too many States, rich in timber resources, lack the ability to adequately address the problem of rural fire protection and control without the financial help this program provides. I speak not just for the rural areas in my own State of Alabama which benefit so greatly from this small Federal outlay, but for all rural areas which will feel the impact of this reduction in federal assistance. A reduction in this program will, in many cases, mean a loss of jobs, which, in turn means a loss of firefighting manpower. Put simply, a reduction in the assistance under this program will mean more fires and a greater loss of timber in every State.

Our forests represent one of our Nation's great natural resources; a renewable resource which, through care and conservation, can continue to serve a variety of our national needs. But care and conservation require dollars. The comparitively small amount of Federal outlay under the rural fire protection and control program goes an impressively long way. The Federal Government gets a return on its money every time the State forest services lend their assistance to Federal firefighters in their States. Much of the money under this program goes to volunteer firemen in the various States. I have seen on a firsthand basis the resourcefulness and dedication of the volunteer fireman, and the lengths which a dollar will go when placed in his hand.

The State Forest Services have a difficult and often defeating task in attempting to manage non-Federal, State, and private forest land. The assistance made available to the States under the rural fire protection and control program has done a great deal to aid them in their monumental task, and has caused a significant reduction in damage from fires to our timberland and our rural areas.

I commend the Senator from South Dakota for his amendment and urge the Senate to consider favorably this measure.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the able junior Senator from South Dakota (Mr. PRESSLER) of which I am a cosponsor, to increase funding for forestry fire protection and control programs by $15,500,000. Failure to provide funding at a level at least approximately equal to that provided last year would severely cripple the status of these

fire protection programs which depend on both Federal and State funds to provide forest fire protection to State and private forest lands.

Cooperative Federal-State forest fire protection programs originated with the Clark-McNary Act in 1924, which had as its purpose the protection of forest and water resources. Thus, there is a long-standing and well-recognized vested public interest at both national and State levels in the protection, conservation and development of forest and related natural resources. Protection of forest resources on State and private lands from destruction by wildfire is basic and absolutely necessary if benefits are to be realized, in the form of forest porducts, hunting and fishing, water supplies, and aesthetic, environmental values.

Sharply curtailing Federal-State cooperative forest fire protection at a time when protection, conservation and development of our natural resources and environmental values is a critical national need would be shortsighted, unwise, and unconscionable.

The results of drastically reducing Federal cooperative forest fire control funding would be:

First. Greatly decreased fire control capability on the State level in all States.

Second. Increased numbers of wildfires as well as forest acreage burned, not only destroying needed forest resources but also homes and other improvements within and in close proximity to forested areas.

Third. The reduction of technical forest fire control support currently being provided by the U.S. Forest Service to the States.

Fourth. A reduction in the number of State fire control crews available to help suppress wildfires on Federal lands.

Fifth. Increased siltation and pollution of lakes and streams from accelerated erosion resulting from wildfires.

Sixth. A reduction in the supply of forest products needed to meet future national needs and to serve international markets.

Seventh. A rise in unemployment as fire control employees lose their jobs.

Mr. President, wildfire is the greatest enemy of our forest resources. These additional funds are needed to help State fire control personnel combat this enemy in an effective manner. The States simply lack the resources to do the job without a modest amount of Federal funding and technical assistance. I believe this cooperative Federal-State fire protection program definitely serves the national interest, and I, therefore, urge the Senate to adopt this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I have no requests for time. I have made the arguments I want to make. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I yield back the remainder of my time and move that the amendment of the Senator from South Dakota be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. All time has been yielded back, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Montana (Mr. MELCHER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Illinois (Mr. PERCY) and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

The PRESIDING OFFICER (Mr. STEWART). Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 37, nays 56, as follows:

[Rollcall Vote No. 366 Leg.]

YEAS—37

Bellmon	Glenn	Muskie
Bentsen	Gravel	Nunn
Burdick	Hart	Proxmire
Byrd, Harry F., Jr.	Hatfield	Randolph
Byrd, Robert C.	Hayakawa	Ribicoff
Chafee	Huddleston	Stevenson
Chiles	Humphrey	Stone
Church	Johnston	Talmadge
Cohen	Levin	Tsongas
DeConcini	Long	Weicker
Eagleton	Lugar	Williams
Exon	Metzenbaum	Zorinsky
	Moynihan	

NAYS—56

Armstrong	Goldwater	Pell
Baker	Hatch	Pressler
Baucus	Heflin	Pryor
Biden	Heinz	Riegle
Boren	Helms	Roth
Boschwitz	Hollings	Sarbanes
Bradley	Jackson	Sasser
Bumpers	Javits	Schmitt
Cannon	Jepsen	Schweiker
Cochran	Kassebaum	Stafford
Cranston	Leahy	Stennis
Culver	Magnuson	Stevens
Danforth	Mathias	Stewart
Dole	Matsunaga	Thurmond
Domenici	McClure	Tower
Durenberger	McGovern	Wallop
Durkin	Morgan	Warner
Ford	Nelson	Young
Garn	Packwood	

NOT VOTING—7

Bayh	Laxalt	Simpson
Inouye	Melcher	
Kennedy	Percy	

So the motion to table the amendment was rejected.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the yeas and nays on the Pressler amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I urge passage of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the special order relating to the Johnston-Durkin amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I want to express my strong opposition to the provision in the Department of the Interior appropriation bill which would reduce the entitlement for imported residual fuel oil from 50 percent to 30 percent and make future changes in the program subject to a one-House veto.

From the beginning there has been a great deal of confusion over the purpose of the entitlements for imported refined products. To some they appear to be nothing more than an unjustified giveaway for the benefit of the Northeast at the expense of the rest of the Nation. This, in my view, represents a serious misunderstanding of not only the entitlements program but the purpose of crude oil price controls. Whether one agrees with such controls or not, their clear intent is to distribute the benefits of "old" low-cost domestic crude oil to the American consumer. For obvious reasons of history, geology and geography, all Americans do not have equal access to "old" crude oil. This situation was remedied by equalizing, at least in a nominal sense, the access of all refiners to old crude oil. This was done through the entitlements program.

The effect of the program was to equalize petroleum costs for all but one class of consumers—those dependent upon imported refined product. There was no reason why people dependent upon imported product should not share equally in the benefits of the price controls. They certainly had as much right to these benefits as those dependent upon imported crude oil.

I therefore believe we should not tie the President's hands in this matter.

Mr. GLENN. Mr. President, much of the debate over this bill concerns large-scale items involving billions of dollars. That is both necessary and appropriate because of the immediate impact such expenditures have on our economy. I think it is wise to remind ourselves from time-to-time that there are also small items in appropriation bills which may have little impact on our economy in the succeeding year but which may have very large beneficial impacts in later years.

One such item in H.R. 4930 concerns low-grade heat recovery which is located under the item of heat recovery component technology. This modestly funded program, which will have a total of 8.5 million dollars in fiscal year 1980, is one that I have followed with active interest over the past few years.

The program concerns the utilization of waste heat from the presently operating uranium enrichment plants at Portsmouth, Ohio; Oak Ridge, Tenn.; and Paducah, Ky., as well as the facility at Savannah River, S.C. These plants, which are inherently inefficient, reject a total of 12.8 x 10^9 btu per hour, equivalent to 4,000 MW of electricity, which is the equivalent of about 20 million barrels of oil per year.

The program to study the possible use of this waste energy is now beginning to produce results which to my mind provide the highest justification for increasing the funding levels for fiscal year 1980. I expressed that view to the distinguished chairman of the Appropriations Subcommittee on the Department of the Interior and related agencies, Senator BYRD, and I am pleased that my requests to provide an additional $4.5 billion appropriation to the Department of Energy for low-grade heat recovery technology was supported by the committee and is contained in this bill. I would like to take a moment to give an example, using the uranium enrichment facility at Portsmouth, Ohio, of the possible future benefits that may accrue from this program.

The Bechtel Corp. recently completed a study for the Department of Energy that concluded that approximately 1,600 new, direct, and indirect, jobs representing a payroll of the order of $20 million per year, could be created within 5 years from applications involving greenhouses, lumber predrying, and grain and hay drying. All of this I should add, in an area of chronic high unemployment in southeastern Ohio. The potential energy savings at Portsmouth alone are of the order of nearly 7 million barrels of oil per year. Equivalent benefits can be expected at the other nuclear facilities as well.

Mr. President, this is a program which can achieve benefits from energy conservation within a relatively short amount of time and with a relatively modest investment.

Mr. President, we are not going to solve our energy problem by making one massive investment in one kind of energy source. We need to seek out all the best ideas and fund them to the extent needed to establish their feasibility. And our No. 1 priority in this respect should be energy conservation. The waste heat utilization program is an excellent example of the kind of investments we should be making in conservation, and points to the kind of benefits we may expect. It is a program that is good not only for Ohio. It is good for the entire country.

Mr. President, this bill also is of importance to Ohio, and the Nation, for other reasons. Contained in the legislation is $15 million to be used to acquire lands identified for inclusion in the Cuyahoga National Recreation Area—funds that I requested in testimony before the Senate Appropriations Committee.

These funds will permit this vital land-acquisition program to continue—permitting the Department of the Interior to secure land in this essentially urban area before development costs and inflation make further acquisitions prohibitively expensive.

This new National Recreation Area in Ohio exists in the center of a heavily populated area—the corridor along several miles of the Cuyahoga River—stretching from Cleveland to Akron, Ohio. Intense development pressures are raising the costs for land. A centralized urban recreation area, like Cuyahoga, deserves priority funding not only to keep land acquisitions down, but also to expedite serving the millions of Ohioans and other Americans who need access to an expanded and improved Cuyahoga National Recreation Area.

The CRA is the only major open space left between Cleveland and Akron. It is within an hour's drive of 5 million people and an easy tankful of gas away from 15 million. Located near three major interstate highways and several State highways, and accessible by train, the area and its many attractions are already receiving national visitors as well. The Congress has established and is improving a priceless recreational and environmental facility for millions of Americans to use and appreciate.

Mr. President, also included in the bill are funds needed at several historic Ohio sites: $196,000 for the Perry Victory Column and $57,000 for its rehabilitation and exterior lighting, $161,000 for the Mound City Group, and $108,000 for the home of William Howard Taft. I am pleased that Cuyahoga and these sites will continue to provide recreational and cultural services to Ohioans and visitors from other States.

● Mr. MUSKIE. Mr. President, today the Senate will complete action on S. 4930, the Department of the Interior appropriations bill of 1979. While I support the bill in its final form, I do want to express my concern about one of its provisions.

I am speaking of section 303, as amended by the Appropriations Committee regarding the petroleum products entitlement policy authorized under section 4(a) of the Emergency Petroleum Allocation Act of 1973. The amendment effectively reduces the portion of an entitlement available to an importer of residual fuel oil from 50 percent to 30 percent. The amendment freezes all other petroleum product entitlements at their April 30, 1979 level. And, finally, the amendment provides that any future changes in entitlements policy be submitted to the Congress by the administration as an "energy action," subject to the disapproval of either House within 15 days of promulgation.

Mr. President, my concern with this provision is twofold: First, the change that is proposed for the residual fuel oil entitlement would mean higher energy prices in my home State of Maine and a number of other States. Second, subjecting the administration of our entitlements program to a one-House legislative veto is a legislative act, and is inappropriate on an appropriations bill.

This effort to legislate on an appropriation bill means the amendment is subject to a point of order, under rule 16. The bill, as passed by the House of Representatives, made no reference to the entitlements program.

I understand, however, that revisions to the amendment will be made in conference which will preserve the existing program. Under these circumstances, I will not raise the point of order in objection to this provision. And I reserve my right to oppose the conference report if this matter is not successfully resolved.●

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. HUDDLESTON. Mr. President, have the yeas and nays been ordered on passage?

The PRESIDING OFFICER. They have been.

Mr. HUDDLESTON. Mr. President, I would like to call the Senate's attention to a matter in the bill of particular interest to the distinguished Senator from Indiana (Mr. BAYH). This involves a section of the committee report, at page 40, that reflects a misunderstanding of an agreement made at the subcommittee level to provide funding for a Mining and Mineral Resources Research Institute to be located in the State of Indiana.

The subcommittee members accepted the amendment of the Senator from Indiana (Mr. BAYH), but apparently there was some confusion over the amendment's intent. The legislature of a State plays a role in forwarding to OSM the name of a public college or university that should be designated as a mineral institute by OSM. As Senator BAYH pointed out in subcommittee, the Indiana State Legislature does not meet again until after the first of the year—January 7, 1980, to be exact—and 30 days should be granted for the Legislature to designate Indiana's nominee. Therefore, I would like the record to reflect the date February 8, 1980,—not January 1, as stated in the report, as the date upon which the $270,000 designated for Indiana shall revert to OSM's operating account if no school in the State of Indiana—the State that ranks sixth in coal production from surface mining—is found eligible under current criteria.

Mr. STEVENS. Mr. President, I just want the Senate to know that the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from West Virginia (Mr. ROBERT C. BYRD) have been most patient with me on this bill, and I thank them for their consideration of a timing problem of mine which delayed consideration of this bill.

But, all in all, the bill before us is a good one, and I hope it has the support of the Senate.

I am also grateful to the Senator from North Dakota for his assistance on the bill and, as I say, I hope we will have an overwhelming vote for passage of the bill so that we can do well in conference on the subject.

Mr. ROBERT C. BYRD. Mr. President, I want to express my appreciation to the Senator from Alaska (Mr. STEVENS). Without his cooperation, the Senator from Kentucky, who is the acting manager of the bill, and I would have had an extremely difficult course to follow.

The Senator from Alaska is always attentive to his responsibilities as indicated by his presence at the hearings, his presence at the markup, and he has demonstrated the finest kind of cooperation always during our service together on this Interior appropriations bill.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Illinois (Mr. PERCY), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "yea."

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 9, as follows:

[Rollcall Vote No. 367 Leg.]

YEAS—86

Baker	Goldwater	Nelson
Baucus	Gravel	Nunn
Bellmon	Hart	Packwood
Bentsen	Hatfield	Pell
Biden	Hayakawa	Pressler
Boren	Heflin	Pryor
Boschwitz	Heinz	Randolph
Bradley	Hollings	Ribicoff
Bumpers	Huddleston	Riegle
Burdick	Humphrey	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Javits	Schmitt
Chafee	Jepsen	Schweiker
Chiles	Johnston	Stafford
Church	Kassebaum	Stennis
Cochran	Kennedy	Stevens
Cohen	Leahy	Stevenson
Cranston	Levin	Stewart
Culver	Long	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Tsongas
Durenberger	McGovern	Warner
Durkin	Melcher	Weicker
Eagleton	Metzenbaum	Williams
Eizenstat	Morgan	Young
Ford	Moynihan	Zorinsky
Glenn	Muskie	

NAYS—9

Armstrong	Hatch	Roth
Byrd, Harry F., Jr.	Helms	Wallop
Garn	Lugar	
	Proxmire	

NOT VOTING—5

Bayh	Laxalt	Simpson
Inouye	Percy	

So the bill (H.R. 4930), as amended, was passed.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GLENN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical and technical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. PRYOR) appointed Mr. ROBERT C. BYRD, Mr. HOLLINGS, Mr. BAYH, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. DURKIN, Mr. STEVENS, Mr. YOUNG, Mr. HATFIELD, Mr. BELLMON, Mr. MCCLURE, and Mr. LAXALT conferees on the part of the Senate.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to exceed 30 minutes, and that Senators may speak thereon up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATE VERSUS FEDERAL REGULATION OF INSURANCE

Mr. THURMOND. Mr. President, one of the recurring issues which comes before the Senate is the notion that the Federal Government can do a better job than the States in regulating insurance. History should teach us a lesson. The Federal Government has certainly not made a record of excellence as a regulator. Regulatory reform is now one of the key issues in the Senate.

Recently an article on this subject appeared in a major paper in my home State. I believe it is very important to share with my colleagues. If there is one message that most of us receive from home, it is "get the Federal Government off our backs."

Mr. President, I ask unanimous consent that the editorial "Federal Insurance Control Looms Again," from the State, Columbia, S.C., October 14, 1979, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FEDERAL INSURANCE CONTROL LOOMS AGAIN

Armed with a new report from the General Accounting Office citing flaws and abuses in state insurance regulation, some members of Congress are likely to push again for federal takeover of insurance regulation. The GAO report should be further warning for the states to stand guard and clean up their insurance acts where necessary.

There have been several attempts in recent years to get Congress to repeal the 35-year-old McCarran-Ferguson Act, which specifically gives the individual states the right to regulate insurance.

In a way, it is rather easy to get the ball rolling in Washington towards federal insurance regulation. What happens is that any number of reports or accounts—the latest one by GAO serving as an example—can be dredged up showing where states have made messes of insurance. There have in fact been some insurance disasters, particularly in the car insurance field, but a few shambles here and there do not warrant dismantling the concept of state regulation.

The GAO document does not recommend outright that the national government take insurance authority away from the states, but the report provides fuel for those Congressmen who want to go off in that direction again.

Some of the findings of the new report, which concentrates on auto insurance, are that states do a poor job of devising rate classifications and that there is not much difference in rates between states which highly regulate the prices and those states which don't. It cites inadequate financial reporting requirements of insurance companies, and a revolving-door relationship between insurance regulatory agencies and the industry.

This latter point noted that the principal regulatory personnel, especially chief insurance commissioners, often are hired from the industry and also join insurance companies after leaving public office. This seems to be an odd criticism. As with many other highly specialized and complicated fields, there is bound to be some interchange between government and private industry.

Portions of the GAO report certainly have merit. A case in point: it urges the regulators and the industry to provide consumers with more information about insurance needs and cost options.

In the intricate, multi-billion dollar business of insurance, it is not hard to pull out consumer and regulatory horror stories that would tempt some members of Congress to step into this issue. The problem is, as experience has shown over and over, there is little likelihood that the federal government will do any better.

SHIFTS IN UNITED STATES-SOVIET BALANCE OF POWER

Mr. THURMOND. Mr. President, a highly regarded evaluation of the shifting balance of military power from the United States to the Soviet Union will be made public in December of this year.

The International Institute for Strategic Studies in London will publish at that time its annual study of "The Military Balance."

Because of the importance of this report and the rapid trend against the United States, Editor John L. Frisbee of the Air Force Magazine has taken the unusual step of commenting on this study prior to its official publication. He warns that the U.S.S.R. is implementing a global strategy.

In an editorial in the October issue of this magazine, entitled "The Military Balance 1979–80," Editor Frisbee points to the lack of leadership in Washington, despite these serious developments.

Mr. President, I ask unanimous consent that this editorial be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MILITARY BALANCE 1979–80

Each year, in early September, the International Institute for Strategic Studies in London publishes "The Military Balance" for the current and coming years. Through an exclusive arrangement with IISS, AIR FORCE Magazine has reprinted the Institute report in our December issue for the past eight years. We will publish it again in December 1979.

The Institute, as most of our readers know, is an independent center for research in defense-related areas and is universally recognized as the leading authority in its field. Its reputation has been built on adherence to cold facts and, where judgments are made, on cautious conservatism. To paraphrase a TV commercial, when IISS speaks, people listen.

In the past, we have reserved comment on "The Balance" until it appeared in AIR Force Magazine. Because of some unusually significant reporting and analysis, we are breaking that precedent.

The Institute reports this year that in the strategic area, "the capabilities of the Super-Powers will continue to increase despite SALT II, if asymmetrically. On the Soviet side, older land-based missiles are being replaced by more accurate systems carrying greater numbers of warheads. Extrapolation of this trend will create a theoretical vulnerability of U.S. land-based systems by the mid-1980s which greater hardening cannot

redress. . . . Given the time lag inherent in the production and deployment of new strategic systems and the new constraints introduced by SALT II, it will be eight to ten years before the U.S. could again restore a degree of invulnerability to their land-based deterrent forces. . . ."

That means the deterrent value of U.S. strategic forces will be pretty much limited—by 1982, we believe—to preventing an attack on the U.S. itself. This unwelcome wind of change will have turned inside out the nuclear umbrella that has protected U.S. allies and external interests. That leads to another significant IISS judgment.

Until this year, it generally has been accepted that the US had some 7,000 tactical nuclear weapons in Europe, compared to about 3,500 for the USSR—an apparently comfortable margin that should give the Kremlin long thought about starting trouble in Europe (or other theaters, for that matter) or about first use of nukes if a conventional war were launched.

Now the institute finds that instead of the rough parity reported in our March 1979 issue (p. 47), "there currently exists a 25% advantage to the Warsaw Pact in terms of *deliverable* [our emphasis] warheads likely to be deployed in a European conflict and a moderate 13% advantage to the Warsaw Pact in terms of the effectiveness of those warheads when measured against the three parameters of survivability, assurance of penetration, and flexibility. . . . We note that this balance is sustained by American central systems (*Poseidon* SLBMs) allocated to SACEUR for Europe's defense (but counted in SALT. If these central systems are removed from the equation, the Warsaw Pact advantage rises to almost 60% in both numbers and effectiveness. Continued deployment of SS–20 intermediate-range ballistic missiles . . . will alter the balance substantially in favor of the Warsaw Pact if NATO's Theater Nuclear Forces are not increased or modernized or both."

It follows from this that if US strategic and theater nuclear forces are both neutralized, potential conflict between the superpowers or their alliances is most likely to be at the conventional level, where the USSR has an advantage in military manpower and a wide quantitative lead in offensive equipment.

For example, the USSR's inventory of tanks, according to "The Balance," stands at about 50,000, compared to 10,500 for the US, and the Soviet Navy continues to emphasize amphibious ships and attack submarines. Finally, the Soviet Union is stockpiling (our term) large quantities of up-to-date military equipment in such strategic locations as Libya, South Yemen, Ethiopia, and Vietnam along the West's oil and raw materials supply routes.

From this evidence and a great deal more comparative data in the new "Military Balance," we find strong support for our belief that the USSR is implementing a carefully integrated global strategy, elements of which claim fleeting public attention but which, as a unified strategy, has been obscured by the shadows of détente, oil, and inflation.

In ten years, the USSR has moved patiently, step by step, from strategic inferiority to parity-plus, headed for superiority; from gross inferiority in theater nuclear forces to parity-plus, headed for superiority; from parity in conventional forces to superiority; and from a land-locked continental nation to a global presence headed for global hegemony. "Hair by hair," as the Russian proverb goes, "you can pluck the whole beard."

This outbound passage from military inferiority has cost the Soviet people dearly—from eleven to fifteen percent of each year's gross national product. But the Kremlin's goal of world domination has been judged by the few who rule to be worth the sacrifices of the many who serve.

The relative decline of Western power is not likely to be reversed by anything short of heroic measures. We do not see such measures in the immediate offing, but there is a growing grass-roots recognition—at least in this country—that all is not well. That's a first step. If the people will tell their leader where they want to go, perhaps the leader will lead them.

—JOHN L. FRISBEE, *Editor*.

MESSAGES FROM THE HOUSE

At 12:21 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 1157. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TOWER, from the Committee on Armed Services:

Robert W. Komer, of Virginia, to be Under Secretary of Defense for Policy.

By Mr. WARNER, from the Committee on Armed Services:

Edward Hidalgo, of the District of Columbia, to be Secretary of the Navy.

By Mr. LEVIN, from the Committee on Armed Services:

Dennis P. McAuliffe, of New Jersey, to be Administrator of the Panama Canal Commission.

(The above nominations from the Committee on Armed Services were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

● Mr. STENNIS. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: In the Air Force there are 2,142 officers to the grade of major and captain (list beginning with Douglas A. Abbott); and, in the Army there are 1,218 officers for promotion to the grade of colonel and lieutenant colonel (list beginning with Colbert L. Flannery), and in the Regular Army of the United States there are 1,923 officers for promotion to the grade of first lieutenant (list beginning with Bruce C. Abbott). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask that they be ordered to lie on the Secretary's desk for the information of any Senator.●

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of October 4, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 1907. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

By Mr. CANNON (for himself and Mr. LAXALT):

S. 1906. A bill to amend the act entitled "An act to provide for the sale of desert lands in certain States and territories", approved March 3, 1877; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 1909. A bill to designate the Sheep Mountain Wilderness Area in the State of California; to the Committee on Energy and Natural Resources.

By Mr. MCCLURE:

S. 1910. A bill to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON (for himself and Mr. LAXALT):

S. 1908. A bill to amend the act entitled "An act to provide for the sale of desert lands in certain States and Territories," approved March 3, 1877; to the Committee on Energy and Natural Resources.

● Mr. CANNON. Mr. President, I introduce for myself and my distinguished colleague (Mr. LAXALT) a bill to amend the Desert Land Entry Act. Specifically, this bill deletes a provision of the act permitting nonresidents to apply for such land in the State of Nevada. Nevada is the only State in which nonresidents are permitted to apply and this exemption is specifically spelled out in the act. In August of last year the Bureau of Land Management reopened the Desert Land Entry application process in response to a suit brought by the Nevada Attorney General. While I am pleased that the act is once again open to applicants, I am concerned that the nonresident exemption will create difficulties.

Nevada is one of the fastest growing States in the Nation. The historical basis for the nonresident exemption which was to entice settlers to an unsettled and barren wilderness no longer applies. Further, the reopening of the application process has led to abuse outside the State by encouraging so-called agents to offer expensive assistance in obtaining "free" land. There is no free land.

In fact the chances of success are very slim. Land with agricultural potential long ago went into private ownership. Development estimates for any remaining marginal land range from $300 to $500 per acre. An economic farm unit requires from 600 to 1,000 acres—far larger than can be acquired under the Desert Land Act. There is little chance that an applicant with thorough knowledge of Nevada and the availability of water will succeed. The difficulties are compounded for the nonresident and the opportunity for fraud is great.

I believe the time is right for removing the nonresident exemption in Nevada and I hope this legislation will receive favorable attention.●

By Mr. CRANSTON:

S. 1909. A bill to designate the Sheep Mountain Wilderness Area in the State of California; to the Committee on Energy and Natural Resources.

SHEEP MOUNTAIN WILDERNESS AREA

● Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to designate the Sheep Mountain Wilderness Area in the Angeles and San Bernardino National Forests in California.

Mr. President, in 1975 I introduced legislation to designate a 52,000 acre Sheep Mountain Wilderness Area. At that time, the Forest Service was studying the suitability of designating 31,680 acres in the Angeles and San Bernardino National Forests as wilderness. Following hearings on my designation bill, the Senate Interior Committee recommended expansion of the study area to cover the full 52,000 acres, and the Congress subsequently enacted a Sheep Mountain wilderness study bill.

The Forest Service has now completed its wilderness study of Sheep Mountain and the administration is recommending that 30,400 acres be designated as wilderness. However, based on the data developed in the Forest Service study and additional information provided by individuals who are intimately familiar with the Sheep Mountain area, I strongly believe that 44,400 acres should be designated as wilderness. The bill I am introducing today calls for the 44,400 acre designation.

Located at the back of the Los Angeles Basin, the Sheep Mountain area offers a wilderness experience within an hour's drive of 10 million people. The area is rugged and precipitous; there are five dominating peaks—Mount San Antonio, Dawson Peak, Pine Mountain, Mount Badden-Powell, and Sheep Mountain—with elevations reaching nearly 10,000 feet. There are also beautiful waterfalls and deep pools with substantial numbers of rainbow trout. Some of the canyons, in particular Fish Fork of the San Gabriel River, are almost inaccessible and support perhaps the best trout fishery in southern California.

In addition to its wilderness value, the Sheep Mountain area is important as the habitat of the Nelson bighorn sheep, now considered vulnerable to extinction. Approximately 150 of these wild animals can be found on the hillsides within the boundaries of the proposed Sheep Mountain wilderness. These sheep herds have been isolated from others of their species and are now a stockier animal. But they need the protection wilderness designation affords. The Forest Service's recommendation for wilderness does not cover the entire bighorn sheep range and is inadequate for protection of the bighorn herds. The wilderness boundaries I'm proposing, according to available documents, more closely correspond to the boundaries of the actual range of the bighorn sheep.

I would like to add a few words about the wilderness proposal and its relationship to existing and proposed ski development in the Sheep Mountain area. There is an existing ski area at Mt. Baldy with a capacity to handle over 3,300 skiers at one time. The San Bernardino National Forest Supervisor has recently informed me that he has issued a new permit for the Mt. Baldy Ski Area which includes the Stockton Flats area within the ski permit boundary. Expansion of the Mt. Baldy Ski Area into Stockton Flats and construction of lift 1A there would provide ski opportunities for an additional 1,750 skiers. I do not want to preclude the option of expansion of the existing Mt. Baldy Ski Area into Stockton Flats, and have carefully drawn the boundaries in the Sheep Mountain wilderness bill to exclude this area.

The Forest Service has also looked at the potential for ski development on the northeast side of Mt. San Antonio, and in 1969 found that ski development of this area was not economical. However, I am aware of continuing interest in expansion of the Mt. Baldy Ski Area to the northeast of the mountain, and feel that this option should not be foreclosed. Thus, I have also excluded this area from the wilderness proposal.

Mr. President, I believe that we have refined the boundaries since the introduction of the earlier bill in 1975 so as to delete some nonconforming uses. The Sheep Mountain area has long deserved inclusion in the national wilderness system, and it is my hope that the 96th Congress will designate the Sheep Mountain wilderness area.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890), certain lands in the Angeles and San Bernardino National Forests which comprise about forty-four thousand four hundred acres and which are generally depicted on a map entitled "Proposed Sheep Mountain Wilderness", and dated October, 1979, are hereby designated as wilderness.

SEC. 2. As soon as practicable after this Act takes effect, a map and legal description of the wilderness area designated by and pursuant to this Act shall be filed with the Interior and Insular Affairs Committee of the House of Representatives and the Energy and Natural Resources Committee of the United States Senate, and such map and description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The wilderness area designated by this Act shall be known as the "Sheep Mountain Wilderness" and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.●

By Mr. McCLURE:

S. 1910. A bill to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir; to the Committee on Energy and Natural Resources.

AMERICAN FALLS

● Mr. McCLURE. Mr. President, the bill I am introducing today will correct an oversight which should have been taken care of years ago. It will authorize and direct the Secretary of the Interior to transfer to the city of American Falls, Idaho title to its city parks—title which has been mistakenly retained by the Federal Government since 1925.

The facts leading to this situation are interesting.

When the original American Falls Dam was constructed by the Bureau of Reclamation in 1925, the old city of American Falls was moved from its low lying location behind the new dam. The new city, which was platted by the Bureau of Land Management on land purchased from private owners, included a number of city parks.

The city has developed the parks and has used them over the years without knowing they continued to be owned by the BLM. American Falls residents have paid taxes to maintain the parks for the past 54 years, and the parks have been treated as city property.

A recent title search turned up the fact that the Federal Government apparently owns the city golf course, the central city square, and several other smaller parks. Rather than having to lease the parks from the Government, the Bureau of Reclamation has suggested to the city officials that legislation giving title to the city would be the best way to solve the problem. I fully agree.

I am accordingly introducing this measure to accomplish that purpose. I see no reason that it should be controversial; it involves only a small amount of land which has in any case been treated as city property for some time. The Bureau of Reclamation has helped to draft the language I am introducing, and has no objections to its adoption. I might just note also that there is still plenty of land in my State owned by the Federal Government, so this small amount should not be missed.

Correction of this oversight is long overdue, and I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1910

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to convey by quitclaim deed to the city of American Falls, Idaho, without cost, the following real property located within or adjacent to the city limits of said city of American Falls, reserving all right-of-way and oil and gas in land to the United States:

(a) The area identified as the Campbell Stebbins Park, including the park area located between the Oregon Trail Highway and the Oregon Short Line Railroad, and the area identified as a Public Square, all as shown on the official plat of the Reclamation Addition to the city of American Falls approved October 18, 1923, and recorded in the county of Power, Idaho, as instrument No. 32042.

(b) Block 44 of the original townsite of American Falls;

(c) A tract of land containing 11.7 acres, more or less, described as follows:

Beginning at the Northwest corner of the Southwest quarter of the Southwest quarter (SW¼SW¼) of section 21, Township 7 South, Range 31 East, Boise meridian; thence South 45 degrees 16' East, a distance of 1870.3 feet, more or less, to the Southeast corner of said SW¼SW¼; thence North 67 degrees 33' West, a distance of 1434.9 feet, more or less, to a point on the West section line of said section 21, said point being 550.0 feet North of the Southwest corner of said section; thence North along the West section line a distance of 768.7 feet, more or less, to the Northwest corner of the SW¼SW¼ of said section 21, the point of beginning.

(d) A tract of land containing acres, more or less, described as follows: (Description to be provided later.)

(d) A tract of land containing eight and seventy-nine hundredths (8.79) acres more or less in the South Half of the Southwest Quarter (S½SW¼), Section Twenty-eight (28), Township Seven (7) South, Range Thirty-one (31) East, Boise Meridian, Idaho, and more particularly described as follows: Beginning at the Southwest corner of said Section Twenty-eight (28); thence North forty-four degrees and thirty-eight minutes (44°38') East, one thousand eight hundred and sixty-eight and six-tenths (1868.6) feet to the 16 17 corner of said section; thence East along the North boundary of the Southeast quarter Southwest quarter (SE¼SW¼) of said Section Twenty-eight (28), three hundred sixty-seven and two tenths (367.2) feet to a point; thence South three hundred twenty-four and nine-tenths (324.9) feet to a point; thence North eighty-nine degrees and fifty-nine minutes (89°59') West, ninety-two and eight-tenths (92.8) feet to a point; thence South forty-nine degrees and twenty-three minutes (49°23') West, three hundred sixty-one and nine-tenths (361.9) feet to a point; thence South seventy-eight degrees and thirty-four minutes (78°34') West, seven hundred and eight (708) feet to a point; thence South twenty-six degrees and fifty-five minutes (26°55') West, three hundred thirty-three and seven tenths (333.7) feet to a point; thence South sixty-one degrees and fifty-one minutes (61°51') West, two hundred seventy-one and six-tenths (271.6) feet to a point; thence South forty-three degrees and twenty-nine minutes West, (43°29') two hundred eighty and three-tenths (280.3) feet to a point on the South Boundary of said Section 28; thence South eighty-nine degrees and fifty-nine minutes (89°59') West along the South boundary of said Section 28, thirty-four and nine-tenths (34.9) feet to the place of beginning.

(e) A tract of land containing 8.0 acres, more or less, located in the West Half of the Southwest Quarter (W½SW¼), Section Twenty-eight, Township Seven South, Range Thirty-one East, Boise Meridian, Idaho, and more particularly described as follows:

Beginning at the Southwest corner of Section 28; thence South 44°58' East, a distance of 1886.6 feet to the NE corner of the NW¼SW¼ of Section 28; thence North a distance of 1320 feet to the NE corner of the NW¼SW¼ of Section 28; thence West, a distance of 30 feet to a point on the East edge of Hillcrest Avenue; thence Southwesterly along a curve on the side of Hillcrest Avenue a distance of 2955 feet to a point on line between Sections 28 and 29; thence South 65.0 feet to the Southwest corner of Section 28, the place of beginning.

Such property shall be conveyed subject to the reservation of rights-of-way for ditches, canals, and pipelines constructed by the authority of the United States and to other existing rights-of-way of record. The conveyance of such property shall contain a reservation to the United States of all oil and gas in the land, together with the right to prospect for, mine, and remove the same under such regulation as the Secretary of the Interior may prescribe.●

ADDITIONAL COSPONSORS

S. 246

At the request of Mr. BENTSEN, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code of 1954 to encourage greater individual savings.

S. 531

At the request of Mr. BENTSEN, the Senator from Texas (Mr. TOWER) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 531, a bill to allow State-inspected meat plants to sell meat to federally-inspected meat plants which could then sell it in interstate commerce after further processing.

S. 1427

At the request of Mr. SCHMITT, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1427, the United States-Mexico Good Neighbor Act.

S. 1523

At the request of Mr. THURMOND, the Senator from Florida (Mr. STONE), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1523, the Veteran Senior Citizen Health Care Act of 1979.

S. 1681

At the request of Mr. PRYOR, the Senator from Oregon (Mr. HATFIELD), the Senator from Vermont (Mr. LEAHY), and the Senator from Idaho (Mr. McCLURE) were added as cosponsors of S. 1681, a bill to reduce paperwork in the administration of certain construction contract provisions of law relating to wage rates.

SENATE RESOLUTION 241

At the request of Mr. McGOVERN, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of Senate Resolution 241, calling for the earmarking of funds from the proposed windfall profits tax for railroad revitalization.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business has postponed the hearing scheduled for October 25 on the economic outlook to November 6, 1979. The hearing will be held at 9:30 a.m. in room 424 Russell Senate Office Building. If you have any questions regarding the hearing please contact the committee at 224-5175.●

COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, I would like to announce that the October 25 joint hearing of the House and Senate Committees on Veterans' Affairs to investigate admitting practices and treatment of veterans in Veterans' Administration hospitals and clinics previously scheduled to begin at 9:30 a.m. in room 345 of the Cannon House Office Building will begin at 8:30 a.m.●

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Tuesday, October 23, 1979, at 3 p.m. in room 4232 Dirksen Senate Office Building on the nomination of John N. Gentry, of Virginia, to be Under Secretary of Labor.●

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

● Mr. PRYOR. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will continue hearings on the use of consultant services by the Federal Government on October 29, 1979, at 10 a.m. in room 1318 of the Dirksen Senate Office Building.

Anyone wishing additional information about the hearings may contact the subcommittee staff at 224-4551.●

SUBCOMMITTEE ON THE CONSTITUTION

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Indiana (Mr. BAYH), I wish to announce that the mark-up session scheduled on S. 506, a bill to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, for Wednesday, October 24, 1979, in room 155, Russell Senate Office Building, at 9:30 a.m., has been postponed.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate today, Friday, October 19, 1979 and Monday, October 22, 1979 beginning at 2:00 p.m. to hold mark-up sessions on conservation amendments to S. 932 and other pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FEDERAL DISTRICT COURT RULES PRESIDENT CARTER CANNOT TERMINATE THE TAIWAN DEFENSE TREATY WITHOUT LEGISLATIVE APPROVAL

● Mr. GOLDWATER. Mr. President, I am pleased to announce something that I am certain most of this body has already heard, and that is that U.S. District Court Judge Oliver Gasch yesterday afternoon ruled in favor of the lawsuit which I and 24 other Members of Congress have brought against President Carter's attempted unilateral termination of the Mutual Defense Treaty with Taiwan.

Judge Gasch of the U.S. District Court of the District of Columbia held in a 31-page opinion that treaty termination is a shared power belonging jointly to the executive and legislative branches.

He ruled that President Carter cannot revoke the Taiwan defense treaty without the advice and consent of two-thirds of the Senate or the approval of a majority of both Houses of Congress. He also enjoined Secretary of State Vance from taking any action to implement the

President's notice of termination given last December 23.

Mr. President, the judge's decision is a victory for the Constitution. It means that no single person or officer in this country can take the law into his own hands.

The decision is a victory for the American people. It means their elected representatives in Congress must be consulted and participate in major decisions of foreign policy that involve changing or repealing the law of the land.

Mr. President, the decision is a courageous one. The State Department put heavy pressure on the judge by trying to argue that a decision against the President would upset the Government's entire new program of normalizing relations with the People's Republic of China.

The judge wisely saw through this outrageous tactic. I can recall attending the last proceedings in open court when a lawyer representing the President and State Department warned the judge that he should not even decide this case on the merits because of the supposed consequences to the President's foreign policy. As I recall it, the judge calmly retorted from the bench by asking: "If that is true, why does the President not come to Congress and seek early approval of the action he wants to accomplish?"

Of course, the truth is that my lawsuit will not disrupt relations with the People's Republic of China and I have no intention of interfering with the establishment of official diplomatic relations between the United States and the People's Republic of China.

Mr. President, today is the first time in this Nation's almost 200 years of constitutional history that a Federal judge has ruled directly on the power of treaty termination. It is a historic moment for the concept of rule by law. It is a historic reaffirmation of the separation of powers.

The judge recognizes that treaties are a part of the supreme law of the land, just as any other legislative enactment is; and he has ruled that the President acting alone cannot repeal such a law.

If the President wishes to terminate the Defense Treaty with Taiwan, all he has to do is ask us in the Senate or Congress for authority. But he cannot repeal a treaty by himself, any more than he can repeal the Civil Rights Act or any other law.

I honestly think the President was persuaded into doing something, that the Federal Court has now ruled is unconstitutional, by persons in the State Department who wanted to enhance their power, not to promote his policy.

Mr. President, I would think that every Senator in this body would welcome the judge's decision. He has upheld the power of this institution under the Constitution.

It will be clear to anyone who will read his decision that the judge's conclusions did not turn on his interpretation of the vote in the Senate on June 6. He did not misread the import of that vote. Rather, he based his decision squarely on the Constitution itself. And this should bring joy to the hearts of every Senator who supports our representative system of government in which no one person can take the law into his own hands.

I hope that the President will now submit a proper request for legislative approval of his policy on its merits, rather than continue to battle the Congress over an issue of constitutional power.

Mr. President, I ask that the full text of the judge's opinion and order be printed in the RECORD.

Also, I ask that there may be printed in the RECORD a list of the other Senators and Congressmen who are parties to the lawsuit and a list of my attorneys.

The material follows:

[U.S. District Court for the District of Columbia, Civil Action No. 78-2412]

SENATOR BARRY GOLDWATER, ET AL., PLAINTIFFS, v. JAMES EARL CARTER, ET AL., DEFENDANTS

ORDER

Upon consideration of plaintiffs' motion to alter or amend the Court's judgment in this case of June 6, 1979, the memoranda in support thereof and in opposition thereto, the arguments of counsel in open Court, the entire record herein, and for the reasons set forth in the Court's Memorandum of this same date, it is by the Court this 17th day of October, 1979:

Ordered that plaintiffs' motion to alter or amend the judgment of June 6, 1979 be, and hereby is, granted; and it is further

Ordered that the Order and accompanying Memorandum of June 6, 1979, be, and hereby is, altered and amended by this Order and accompanying Memorandum of this same date; and it is further

Ordered that defendants' motion to dismiss or, in the alternative, for summary judgment be, and hereby is, denied; and it is further

Ordered that plaintiffs' cross-motion for summary judgment be, and hereby is, granted; and it is further

Ordered that it be, and hereby is, declared as the Judgment of this Court that defendant President Carter's notice of termination of the 1954 Mutual Defense Treaty Between the United States and the Republic of China must receive the approval of two-thirds of the United States Senate or a majority of both houses of Congress for that notice to be effective under our Constitution to terminate the Mutual Defense Treaty of 1954; and it is further

Ordered that defendant Secretary of State Cyrus R. Vance and his subordinate officers be, and hereby are, enjoined from taking any action to implement the President's notice of termination unless and until that notice is approved as herein declared.

OLIVER GASCH,
Judge.

[U.S. District Court for the District of Columbia, Civil Action No. 78-2412]

SENATOR BARRY GOLDWATER, ET AL., PLAINTIFFS, v. JAMES EARL CARTER, ET AL., DEFENDANTS

MEMORANDUM

Before the Court is plaintiffs' motion under Rule 59(e) of the Federal Rules of Civil Procedure to alter or amend the Court's judgment in this case of June 6, 1979. This suit was brought by eight members of the United States Senate, a former senator, and sixteen members of the House of Representatives seeking declaratory and injunctive relief against the notice given by defendant President Carter to the Republic of China ("ROC" or "Taiwan") to terminate the 1954 Mutual Defense Treaty Between the United States of America and the Republic of China. Plaintiffs seek to have this Court declare that the termination of the 1954 Treaty cannot be legally accomplished, nor can notice be given of intended termination, without the advice and consent of the United States Senate or the approval of both houses of Congress. Plaintiffs contend that President Carter's unilateral notice of termination violated their legislative right to be consulted and to vote on the termination and also impaired the effectiveness of prior votes approving the 1954 Mutual Defense Treaty.

By Memorandum-Order dated June 6, 1979, the Court dismissed plaintiff's complaint without prejudice on the ground the plaintiffs lacked standing. Under the circumstances then presented, the Court believes that plaintiffs had not suffered the requisite injury in fact to support standing. The Court now concludes, for the reasons set forth in Part II A of this Memorandum, that all plaintiffs with the exception of former Senator Curtis[1] have suffered and are suffering a present judicially cognizable injury in their capacity as individual legislators. Accordingly, the Court hereby alters and amends its judgment of June 6, 1979 to hold that these plaintiffs have standing to seek a judicial declaration with respect to the constitutionality of the President's unilateral termination of the 1954 Treaty. The Court further concludes, for the reasons set forth in Part II B, that this case does not present a nonjusticiable political question, and thus the issue of treaty termination should be decided on the merits.

For the reasons set forth in Part II of this Memorandum, the Court holds that the termination of the 1954 Mutual Defense Treaty Between the United States of America and the Republic of China cannot be constitutionally accomplished without the advice and consent of the United States Senate or the approval of both houses of Congress.

I.

A full discussion of the events leading up to the present diplomatic situation is contained in the Court's Memorandum-Order of June 6, 1979, and is incorporated herein by reference. The essential dispute concerns the constitutional validity of President Carter's unilateral notice of termination of the Mutual Defense Treaty, given on December 23, 1978 through the United States Deputy Secretary of State, Warren Christopher. According to the notice, the termination will be effective January 1, 1980 pursuant to the termination clause contained in Article X of the treaty.[2] The President has not submitted, for the purpose of obtaining legislative concurrence, the notice of termination to either the Senate or the Congress as a whole.[3] Instead the President maintains, and has continued to maintain, that he possesses the unilateral authority under the Constitution to terminate the Mutual Defense Treaty with the Republic of China.

II.

Before reaching the merits of that constitutional question, however, it remains necessary to resolve the threshold issues of standing and political question, which are subsumed within the concept of justiciability. These inquiries become particularly sensitive in the context of a suit by Senators and Congressmen seeking to challenge executive action, because of the accompanying political overtones and separation of powers concerns. Although in this context, standing to sue and the political question doctrine are interrelated to a large degree, the Court, as it did in its earlier opinion, believes it appropriate to address the standing issue first.[4]

A. Standing

In moving this Court for an order to alter or amend its judgment of June 6, plaintiffs contend that the requirements for injury in fact expressed in the Court's earlier opinion have been satisfied and that they now have

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standing to assert their derivative constitutional rights.

It has been noted that no special standards govern congressional standing questions. As articulated by the Court of Appeals for the District of Columbia Circuit, a legislator must satisfy the same basic requirements for standing as any other litigant: (1) that he has suffered injury in fact; (2) that the interests being asserted are within the zone of interests to be protected by the statute or constitutional guarantee in question; (3) that the injury is caused by the challenged action; and (4) that the injury is capable of being redressed by a favorable decision. *Harrington* v. *Bush*, 553 F.2d 190, 204, 205 n.68 (D.C. Cir. 1977). At issue here is the existence of injury in fact, a constitutionally mandated requirement inherent in the Article III "case or controversy" limitation on federal judicial power. *See Association of Data Processing Service Organizations, Inc.* v. *Camp*, 397 U.S. 150 (1970).

The Court of Appeals, beginning with its important decision in *Kennedy v. Sampson*,[5] has developed a comprehensive body of law setting forth an analytical framework for approaching cases involving congressional standing. The theory of standing established in Kennedy is one of derivative injury, based upon the right of each individual legislator to participate in the exercise of the powers of the institution.[6] This concept of derivative institutional injury requires a plaintiff Congressman to show, first, an injury in fact to the institution of Congress, and, second, that as an individual legislator he has been injured in fact because of the harm done to the institution. *Harrington v. Bush*, 553 F.2d 190, 199 n.41 (D.C. Cir. 1977). The institutional injury alleged by plaintiffs here is that President Carter's unilateral notice of termination of the 1954 Treaty has violated the constitutional right of Congress to be consulted and to vote on that termination.[7] Under the circumstances present at the time of the Court's June 6 decision, the Court could not discern the existence of a definite and concrete institutional injury, and thus held that the individual legislators could not claim a derivative injury to their participatory rights. In large part this was due to what the Court perceived as a substantial likelihood of resolution of the treaty termination issue through the legislative process and the Court's reluctance to interfere with a potential political solution.

The question of the availability of alternative political remedies to redress executive action is indeed another dimension underlying the congressional standing cases and the insistence on a clear showing of injury in fact.[8] It is in this context that the prudential and functional concerns expressed by the Supreme Court in *Baker v. Carr*, 369 U.S. 186 (1962), the leading statement on the political question doctrine, interrelates with the analysis of congressional standing. Both reflect the deference to be accorded a coordinate branch of government under our system of separation of powers.[9] Hence, courts are justifiably concerned when a suit by individual legislators seeks to vindicate derivative rights susceptible to being adequately redressed in the political arena.

The potential availability of a remedy through the legislative process, however, is not conclusive on the question of injury in fact and thus certainly not fatal to a legislator's standing claim. *Metcalf v. National Petroleum Council*, 553 F. 2d 176, 189 n. 129 (D.C. Cir. 1977); *see Reuss v. Balles*, 584 F. 2d 461, 468 (D.C. Cir.), *cert. denied*, 439 U.S. 997 (1978); *Kennedy* v. *Sampson*, 511 F. 2d 430, 435 n. 17 (D.C. Cir. 1974). Rather, in deference to the fundamental constitutional principle of separation of powers and in order to avoid abuse of the judicial process, the Court must require a clear showing of injury in fact. In each case where a denial of standing has been based in part on the existence of alternative political remedies, there was no impediment to the legislative process whatsoever and the powers of the plaintiff Congressmen remained rather clearly undiminished.[10] In those instances, there was a genuine risk that granting standing could have the effect of interfering with or circumventing the legislative process, and thus provide judicial redress for Congressmen who had simply failed to take advantage of, or to succeed in persuading their colleagues to take advantage of, an expedient opportunity for legislative action. The Court is convinced that this suit is distinguishable, given the present legislative posture and the nature of the derivative injury claimed.

At the time of the Court's June 6 decision, at least three resolutions dealing with the treaty termination power and the notice of termination given with respect to the 1954 Mutual Defense Treaty were then pending before, and apparently being actively considered by, the United States Senate.[11] The Court was especially concerned that a premature judicial declaration might circumvent legislative action directed at either approving or rejecting the President's notice of termination. Believing that the resolution of the ultimate issue of treaty termination authority in this case should in the first instance be in the legislative forum, the Court stated that its judicial powers should be exercised only after the legislative branch had been given the opportunity of acting.[12] At that time there was no indication whether the Senate or the Congress as a whole intended to assert a right to participate in the treaty termination process, nor whether the action likely to be taken would be such that a judicial declaration would interfere with it.

The legislative branch has now had further opportunity to act. On June 6, 1979, within hours after the Court's initial ruling in this case, the United States Senate voted 59 to 35 to adopt an amendment proposed by Senator Harry F. Byrd, containing language identical to original Senate Resolution 15,[13] as a substitute for the substitute amendment [14] proposed by the Senate Foreign Relations Committee. 125 Cong. Rec., pp. 13695–13696 (June 6, 1979). The language adopted by the Senate vote reads as follows:

"That it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation." (125 Cong. Rec., p. 13672)

Subsequent to that vote, additional amendments were proposed by Senator Church, Chairman of the Foreign Relations Committee, and by Senator Goldwater, a plaintiff in this action.[15] Neither amendment came up for a vote, and Senate Resolution 15 as amended by Senator Harry F. Byrd's language has been returned to the Senate calendar without further action. The vote in favor of the Byrd amendment does not constitute final action by the Senate,[16] although it stands as the last expression of Senate position on its constitutional role in the treaty termination process. By that vote, the Senate rejected a Committee substitute that would have expressly approved of the action taken by the President in terminating this treaty.[17] No further steps have been taken by the Senate with respect to treaty termination powers.

The action taken by the Senate has admittedly not been decisive. It does, however, evidence at least some congressional determination to participate in the process whereby a mutual defense treaty is terminated, and clearly falls short of approving the President's termination effort.[18] At the same time, as was true in *Kennedy* v. *Sampson* Congress has given no indication that it disapproves of the individual suits, and there appears to be no action presently planned with which a judicial declaration would interfere.[19] It must be emphasized, moreover, that when President Carter gave notice to terminate the Mutual Defense Treaty without submitting it for congressional approval, effective legislative participation was delayed and became more difficult in light of that action.[20] Indeed, it can be argued that the theoretical ability of Congress to pursue an alternative political remedy through affirmative legislative action in these circumstances is not necessarily relevant to an analysis of injury in fact to a protected constitutional right, since the Constitution already limits the power of a coordinate branch to act in a particular area.[21] Without adopting the latter position, it certainly can be said that, by the President's unilateral action, the matter of the treaty termination became less amenable to congressional control than the matters involved in other cases presenting the availability of legislative solutions.[22]

It is in this vein that plaintiffs' efforts at pursuing an alternative political remedy, and the danger of the Court's preempting that remedy, must be viewed. Though any such assessment is certainly problematic in the context of relative congressional inaction, in this instance the Court is convinced that there is no apparent risk of circumventing or evading the legislative process by a decision on the merits. The Court therefore concludes that plaintiffs have suffered and are suffering injury in fact to their legislative right to be consulted and to vote on the termination of the 1954 Mutual Defense Treaty. Defendants do not challenge, and indeed there can be no serious dispute, that plaintiffs meet the remaining three requirements of standing relating to zone of interests, causation, and redressability.[23] Thus, plaintiffs satisfy the criteria for standing to sue in their capacity as individual legislators. Hence, unless plaintiffs have presented a nonjusticiable political question, the Court may decide the case on the merits.

B. Political question doctrine

Defendants contend that even if plaintiffs have standing, they are not entitled to a judgment on the merits because this case presents a nonjusticiable political question. The political question doctrine reflects the view that under our governmental system of separation of powers some issues are not to be resolved by the judiciary but by one of the political branches of the government. Consequently, if a true political question comes before the courts for adjudication, it should be dismissed on nonjusticiable.

Political questions traditionally have been defined as those issues that have been committed by the text of the Constitution, either explicitly or by reasonable inference, to the autonomous control of a coordinate branch.[24] The textual commitment test is indeed an important aspect of the political question doctrine,[25] although other prudential and functional concerns also characterize this flexible restraint on judicial power. In *Baker* v. *Carr*, 369 U.S. 186 (1962), the Supreme Court stated that on the surface of any case held to involve a political question was at least one of the following formulations:

"a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjuricial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question."

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Id. at 217. Defendants contend that several of these formulations, including a textually demonstrable constitutional commitment to the Executive, are inextricable from the case at bar.

Cases invloving the foreign relations of the United States are commonly cited as examples of judicial abstention because the issues presented were political questions.[38] For example, courts have considered themselves bound by the Executive's determination regarding which political group represents the government of a foreign state,[37] which nation has sovereignty over disputed territory,[38] and whether certain aliens should be deported.[39] But as the Supreme Court noted in Baker v. Carr, "it is error to suppose that every case or controversy which touches foreign relations lies beyond judicial cognizance." [40]

Certainly, it is clear that the conduct of the foreign relations of the United States is committed by the Constitution to the executive and legislative branches of the government and "the propriety of what may be done in the exercise of this political power is not subject to judicial inquiry or decision." [41] This is the basis of the Supreme Court decisions in the foreign relations cases traditionally viewed as raising political questions. In none of these cases did the Court refuse to consider whether the President's action had exceeded his constitutional authority. Instead it concluded that the President's decision was within his authority and therefore binding on the courts.[42] In the area of foreign relations, as in any other area, a court generally should not dismiss a case as a political question if the Constitution does not entrust resolution of the issue to a coordinate political branch or if the challenged governmental action is *ultra vires*. *See Powell* v. *McCormack*, 395 U.S. 486, 519, 548–49 (1969); *United States* v. *American Telephone & Telegraph Co.*, 567 F. 2d 121, 125–26 (D.C. Cir. 1977). Unless the case raises other concerns of a prudential or functional nature, a judicial resolution under those circumstances requires no more than an interpretation of the Constitution—a responsibility that beyond question lies with the courts.[43]

Defendants urge that the executive power over foreign affairs [44] represents such a constitutional commitment and that the President's action in giving notice of termination in accordance with the terms of the Mutual Defense Treaty is within this authority. The Constitution carefully delineates the roles played by the executive and legislative branches in treaty formation, stating that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties . . . ." [45] The Constitution is silent, however, on the question of treaty termination. Although defendants argue that the President's recognized constitutional responsibility for the conduct of foreign affairs and the implementation of treaties includes the power to terminate treaties, they acknowledge, as they must, that there is no express constitutional commitment of this power. Their argument that such a commitment can be implied [46] is unsatisfactory, for it is just as possible to imply the requirement of a legislative role in the termination process. Thus, the "textual commitment" formulation of the political question doctrine does not bar judicial resolution of plaintiffs' claim.

Defendants also contend that this case presents a political question principally because of the "unusual need for unquestioning adherence to a political decision already made," the "potentiality of embarrassment from multifarious pronouncements by various departments on one issue," and the "impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion." [47] The Court finds that an interpretation of the Constitution with respect to the allocation of power between the political branches in the treaty termination process presents none of these prudential and functional concerns. Nor are any of the other formulations of a political question "inextricable from the case at bar." [48] In this case, the Court is not attempting to evaluate the wisdom of the underlying political decision or to substitute its judgment for that of a political department, but simply to determine whether the treaty termination was effectuated by constitutionally permissible means.

Many times in our history, courts have heard and resolved disputes concerning the allocation of power between the legislative and executive branches without raising the bar of the political question doctrine.[49] Rather than presenting a nonjusticiable political question, the procedure required by our Constitution to terminate the Mutual Defense Treaty must be decided on the merits. The Court is confronted with a dispute consisting of a clash of authority between the two political branches in a posture suitable for judicial resolution.

The prime question confronting the Court in this case is what governmental action is required by the Constitution to terminate the 1954 Mutual Defense Treaty with Taiwan. Because that treaty contains a termination clause stating that notice of termination may be given by either party, the narrower issue becomes whether the President of the United States is a "party" for purposes of this clause and thus able to take unilateral action with respect to the notice of termination.

Unlike its careful allocation of the power to enter into treaties, the Constitution contains no specific reference to the manner in which treaties are to be terminated. Nor is there any definitive evidence of the intentions of the Framers. No court has ever addressed the precise issue here presented of the President's authority to effect termination of a validly binding treaty, let alone a mutual defense treaty, without legislative participation.[50] A wide range of legal opinion has been presented by scholars and commentators, who are unable to agree concerning which branch of the federal government has authority to represent the United States in treaty terminations.[51]

Since the first treaty to which the United States was a party was terminated in 1798 by an act of Congress,[52] a variety of means have been used to terminate treaties: by statute directing the President to deliver notice of termination; by the President acting pursuant to a joint resolution of Congress or otherwise acting with the concurrence of both houses of Congress; by the President acting with senatorial consent; and by the President acting alone.[53] The final method of termination is of particular relevance here, but the precedents involving unilateral executive action [54] are of only marginal utility. None of these examples involves a mutual defense treaty, nor any treaty whose national and international significance approaches that of the 1954 Mutual Defense Treaty.[55] Virtually all of them, moreover, can be readily distinguished on the basis of some triggering factor not present here.[56]

The great majority of the historical precedents involve some form of mutual action, whereby the President's notice of termination receives the affirmative approval of the Senate or the entire Congress.[57] Taken as a whole, the historical precedents support rather than detract from the position that the power to terminate treaties is a power shared by the political branches of this government.

A.

Defendants' argument that the President has authority to terminate unilaterally the Mutual Defense Treaty is premised on the executive power over foreign affairs. This authority derives from the enumerated Article II powers, including those that authorize the President to make treaties with the advice and consent of the Senate [58] and to receive representatives of foreign nations.[59]

Because the President has been termed "the sole organ of the federal government in the field of international relations," [60] defendants argue that construing the Constitution to require that the Senate or the Congress also has a right to participate in treaty termination would be inconsistent with the President's constitutional authority over foreign affairs. They further urge that the Senate's role of advising and consulting in the making of treaties is not an independent source of legislative power, but only a limitation upon the treaty-making power of the President. Such limitations, they conclude, must be strictly construed and not extended by implication. *See Myers* v. *United States*, 272 U.S. 52, 164 (1926).

An attempt to justify a unilateral presidential power to terminate treaties by analogy to the Supreme Court's treatment of the removal power in Myers is unpersuasive. The power to remove executive personnel cannot be compared with the power to terminate an important international treaty. The removal power is restricted in its exercise to "purely executive officers" charged with a duty unrelated to the legislative or judicial power.[61] It concerns the President's administrative control over his subordinates and flows from the President's obligations to see that the laws are faithfully executed.[62] By contrast, treaty termination impacts upon the substantial role of Congress in foreign affairs—especially in the context of a mutual defense pact involving the potential exercise of congressional war powers—and is a contradiction rather than a corollary of the Executive's enforcement obligation. The same separation of powers principles that dictate presidential independence and control within the executive establishment preclude the President from exerting an overriding influence in the sphere of constitutional powers that is shared with the legislative branch. A power to terminate treaties that are made "by and with the advice and consent of the Senate" [63] simply does not fall within the limited scope of the Myers rationale.

Nor, for reasons more fully set forth below, can the President's status as the nation's spokesman and representative in foreign affairs serve as the basis for exclusive executive power over the entire process of treaty termination. While the President may be the sole organ of communication with foreign governments, he is clearly not the sole maker of foreign policy. In short, the conduct of foreign relations is not a plenary executive power.[64]

Defendants also suggest that the recognition power of the President [65] is directly implicated in the present situation because termination of the 1954 Mutual Defense Treaty was generally viewed as a prerequisite to normalization of relations between the United States and the People's Republic of China.[66] As a result, defendants urge that the President's notice of termination is supported by his exclusive "[p]ower to remove . . . obstacles to . . . recognition," a power that has been acknowledged by the Supreme Court. *United States* v. *Pink*, 315 U.S. 203, 229 (1942); *United States* v. *Belmont*, 301 U.S. 324 (1934).

The Pink and Belmont cases both involved the propriety of the Litvinov Assignment, an international executive agreement providing that Soviet claims to Russian assets in the United States would be assigned to the United States government and used to settle American claims resulting from Soviet nationalization decrees. Settlement of these claims had become a condition precedent to

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the establishment of diplomatic relations with the Soviet government. The Supreme Court held that this agreement was valid and superseded New York state laws and policy against confiscation of private property.

Defendants rely on the following statement of Justice Douglas, writing for the Court in Pink: "Power to remove such obstacles to full recognition as settlement of claims of our nationals . . . certainly is a *modest implied power of the President* who is the 'sole organ of the federal government in the field of international relations.' . . . Unless such a power exists, the power of recognition might be thwarted or seriously diluted." 315 U.S. at 229–30 (citations omitted) (emphasis added).

Defendants' argument lacks merit. The power to terminate a Mutual Defense Treaty cannot similarly be described as a "modest implied power of the President." A holding that the recognition power incidentally confers the power to make an executive agreement settling property claims and that such agreement has supremacy over conflicting state law does not justify an incidental power to terminate treaties without congressional approval. The argument that any executive action becomes constitutional if it is ancillary to an act of recognition is without merit. If limitations imposed by other constitutional provisions exist, the recognition power cannot be used as a "bootstrap" to support the President's unilateral action in terminating the Mutual Defense Treaty with Taiwan.

B.

The termination of a treaty is not a single act entrusted by the Constitution to one or the other of our political branches. Like treaty formation, treaty termination is comprised of a series of acts that seek to maintain a constitutional balance. Initially, a policy determination must be made concerning whether the treaty should be terminated and the appropriate negotiations to effect termination undertaken. Such actions are clearly within the competence of the executive branch. Similarly, the communication of the message terminating a treaty, as here by delivery of formal notice to the other party pursuant to the terms of the agreement, is committed to the President as the sole representative of our country in foreign affairs.[67]

But these purely executive functions are not the only elements involved in treaty termination. Termination of a treaty also involves a repeal of the "law of the land" established by the agreement. It is in this area that congressional participation is required under the present circumstances. The mere fact that the President has the authority to make an initial policy determination regarding the exercise of an option to terminate, and to notify the foreign state of termination, does not vest him with the unilateral power to complete the termination process and thereby effect the abrogation of the treaty. As two scholars have recently noted, "[i]t is inherently inconceivable that . . . a constitutional policy requiring joint action for external agreement and internal legislation could allow that agreement and law to be terminated by the president alone, against the intentions of the legislature." [68]

This conclusion is dictated by several constitutional factors: the status of treaties as the supreme law of the land, together with the obligation of the President to faithfully execute those laws; the implications to be derived from the constitutionally delineated role of the Senate in treaty formation; and the fundamental doctrine of separation of powers. It is further bolstered by the historical experience represented by constitutional interpretation and practice.

Article VI of the Constitution provides: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land . . . ."

U.S. Const. art. VI, cl. 2. Defendants argue, however, that the 1954 Mutual Defense Treaty is not a "law of the land" for supremacy clause purposes. They assert that only those treaties that are self-executing, and thus become effective as domestic law at the time the agreement goes into effect, constitute the supreme law of the land.[69] Careful consideration of the provisions of the Mutual Defense Treaty establishes that a number of its provisions are self-executing [70] and that still others have been implemented by subsequent legislation.[71] In light of the terms and conditions of the Treaty, as well as the acts subsequently taken by the Congress and the President which have fixed and defined the nation's responsibilities under it, it is now far too late to assert that this Treaty fails to have the status of the supreme law of the land under Article VI. Moreover, none of the factors that would impair that status are involved here.[72]

Article II, section three of the Constitution requires that the President "shall take care that the Laws be faithfully executed." This constitutional responsibility clearly extends to all laws of the land, including in this instance the Mutual Defense Treaty. The President cannot faithfully execute that treaty by abrogating it any more than he can faithfully execute by failing to administer. He alone cannot effect the repeal of a law of the land which was formed by joint action of the executive and legislative branches, whether that law be a statute or a treaty. The limits upon his authority are in no way altered by the inclusion of a termination provision in Article X of the Mutual Defense Treaty, allowing either party to terminate upon one year notice. The President's powers of administering the Treaty do not include the power to terminate in accordance with the provisions of Article X. The "party" to which the termination provision refers is the United States, not the President alone, and such termination can only be effectuated in accordance with United States constitutional processes.

The requirements imposed by the Supremacy Clause and the President's responsibility to faithfully execute the laws are further supported by the doctrine of separation of powers and its corollary concept of checks and balances, which lies at the heart of our constitutional system. In the treaty formation process, the Constitution expressly limits the Executive's role by requiring the advice and consent of two-thirds of the Senate.[73] This constitutional requirement reflects the concern of the Founding Fathers that neither political branch possess unchecked power.[74]

A judicial determination that the President enjoys unilateral authority to terminate treaties would raise the same fears and present the same possibility of abuse. It would be incompatible with our system of checks and balances if the executive power in the area of foreign affairs were construed to encompass a unilateral power to terminate treaties. It is undisputed that the President is without power to amend the terms of a treaty. Any such amendment must be submitted to the Senate for its advice and consent.[75] If the lesser power to amend treaties is denied the President, a fortiori, the greater power to annul should also be denied. In the present situation the President may very well be carrying out the wishes of the American people but because the legislative branch has not participated in the treaty termination process, there is no way to ascertain this fact. As Justice Frankfurter stated in *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 520, 594 (1952): "The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority."

The predominate United States' practice in terminating treaties, including those containing notice provisions, has involved mutual action by the executive and legislative branches.[76] In most instances, the President's notice of termination has received the affirmative approval of either the Senate or the entire Congress. Although no one constitutional interpretation has been accepted, nor has a definitive procedure emerged, the weight of historical precedent clearly supports the view that some form of congressional concurrence is required. Support can be found for requiring either of two alternatives: (1) the approval of a majority of both houses of Congress,[77] or (2) the consent of two-thirds of the Senate.[78] The latter is of course the most analogous to the treaty-making power,[79] while the former is based primarily on congressional authority to repeal a law of the land.[70]

When faced with an apparent gap in the Constitutional allocation of powers, the Court must refer to the fundamental design of the entire document and determine how its purposes would be best served in the gap area. The Court believes that either of these two alternative procedures for congressional participation is a constitutionally sound means of terminating treaties. The important point is that treaty termination generally is a shared power, which cannot be exercised by the President acting alone. Neither the executive nor legislative branch has exclusive power to terminate treaties. At least under the circumstances of this case—involving a significant mutual defense treaty with a faithful ally, who has not violated the terms of the agreement, and the validity of which has not otherwise been destroyed—any decision of the United States to terminate that treaty must be made with the advice and consent of the Senate or the approval of both houses of Congress. That decision cannot be made by the President alone.

In view of the foregoing, it is the declaration of this Court that the President's notice of termination must receive the approval of two-thirds of the United State Senate or a majority of both houses of Congress for it to be effective under our Constitution to terminate the Mutual Defense Treaty of 1954.[71] It is further ordered that the Secretary of State and his subordinate officers are hereby enjoined from taking any action to implement the President's notice of termination unless and until that notice is so approved.

OLIVER GASCH,
Judge.

Date: October 17, 1979.

FOOTNOTES

[1] The Court continues to reject the particular standing claims of plaintiffs Thurmond and Curtis that are grounded on the allegation that the President's action has impaired the effectiveness of their prior votes approving the 1954 Treaty. An interest in ensuring enforcement or the proper administration of laws for which a legislator has voted is insufficient to confer standing. *See Harrington v. Bush*, 553 F. 2d 190, 213–14 (D.C. Cir. 1977); *Harrington* v. *Schlesinger*, 528 F. 2d 455, 459 (4th Cir. 1975). All plaintiffs other than former Senator Curtis also claim an injury to their legislative right to be consulted and to vote on treaty termination, and it is this injury that the Court now finds sufficient to support standing.

[2] Article X of the treaty contains a termination clause which states that the treaty "shall remain in force indefinitely," but continues: "Either party may terminate it one year after notice has been given to the other party."

[3] Had this been done under Senate Rules VII and XXVIII the President's message would have been given priority. Deferential attention in the Senate where both the Majority leader and the chairman of the Senate Foreign Relations Committee support the President's position would be expected.

[4] *See Reuss v. Balles*, 584 F. 2d 461, 465 n. 14 (D.C. Cir.), *cert. denied*, 439 U.S. 997 (1978); *Harrington v. Bush*, 553 F. 2d 190, 194 n. 6 (D.C. Cir. 1977).

[5] 511 F.2d 430 (D.C. Cir. 1974). In Kennedy, the Court held that the plaintiff Senator had standing to seek a declaratory judgment that a bill for which he had voted had become law despite a presidential pocket veto. The Senator's vote in favor of the bill and his constitutional right to participate in a vote to override the veto had been nullified by the executive action.

[6] *Id.* at 435–36.

[7] In *Kennedy v. Sampson*, the nullification of a specific constitutionally prescribed vote was sufficient to constitute injury in fact. *Id.* at 436. *See Harrington v. Bush*, 553 F.2d. 190, 211 (D.C. Cir. 1977). The impairment of other rights of Congress conferred by the Constitution may also serve as a basis for standing under the participatory rights analysis of Kennedy. See Note, Congressional Access to the Federal Courts, 90 Harv. L. Rev. 1632, 1641 (1977). The right to participate in the treaty termination process would constitute a right.

[8] *See Reuss v. Balles*, 584 F.2d 461, 468 (D.C. Cir.), *cert. denied*, 439 U.S. 997 (1978); *Harrington v. Bush*, 553 F.2d 190, 215 (D.C. Cir. 1977); *Metcalf v. National Petroleum Council*, 553 F.2d 176, 189 & n. 129 (D.C. Cir. 1977); *Harrington v. Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975); *Public Citizen v. Sampson*, 379 F. Supp. 662 (D.D.C. 1974), *aff'd mem.*, 515 F.2d 1018 (D.C. Cir. 1975).

[9] *See Reuss v. Balles*, 584 F. 2d 461, 465 n. 14 (D.C. Cir.), *cert. denied*, 439 U.S. 997 (1978); *Harrington v. Bush*, 553 F.2d 190, 215 (D.C. Cir. 1977); Note, *Congressional Access to the Federal Courts*, 90 Harv. L. Rev. 1632, 1643–52 (1977).

[10] Thus in *Public Citizen v. Sampson*, 379 F. Supp. 662 (D.D.C. 1974), *aff'd mem.*, 515 F.2d 1018 (D.C. Cir. 1975), a group of 17 Congressmen challenged a General Services Administration regulation authorizing agencies to grant exclusive rights to patents developed under federal research contracts. The Court found no injury in fact and denied standing because promulgation of the regulation could not deprive Congress of its "uncontested right and power" to dispose of government property by proposing legislation regulating the contractual authority of GSA. The powers of the plaintiff Congressmen in that case were not diminished in any respect.

Comparable factual situations were posed in *Metcalf v. National Petroleum Council*, 553 F.2d 176 (D.C. Cir. 1977), and *Harrington v. Bush*, 553 F.2d 190 (D.C. Cir. 1977). In *Metcalf*, the plaintiff Senator alleged that the NPC and its subgroups were unlawfully functioning as advisory committees in violation of the Federal Advisory Committee Act and the Federal Energy Administration Act. Standing was denied partly on the basis that plaintiff's power to act in his role as legislator and Subcommittee chairman to acquire accurate, unbiased information was completely intact. 553 F.2d at 189. In *Harrington*, a Congressman sued for a declaration that certain CIA activities were in excess of the agency's statutory authority, and an injunction prohibiting the CIA from using the funding and reporting provisions of the CIA Act of 1949 in connection with those illegal activities. The Court again denied standing, noting that the legislative process regarding the power to prescribe CIA activities remained unimpeded, and that plaintiff to a large extent was attempting to get more information concerning CIA funding than the Congress wished him to have. 553 F.2d at 199 n.41 201 n.50, 214–15.

Finally, in *Reuss v. Balles*, 584 F.2d 461 (D.C. Cir.), *cert. denied*, 439 U.S. 997 (1978), the Court of Appeals again appeared to base its denial of standing in part on the existence of an alternative political remedy. In that case a Congressman sought declaratory and injunctive relief alleging that 12 U.S.C. § 263(a) provided for an unconstitutional composition of the Federal Open Market Committee of the Federal Reserve System in violation of the Appointments Clause of the Constitution. In rejecting plaintiff's theory of legislator standing, the Court noted that the Congressman could simply introduce a bill requiring all FOMC members to be presidential appointees, and thus that "no supposed impairment of his legislative functions [was] due, in any part, to the actions or omissions of the named defendants." 584 F.2d at 468. *See also Harrington v. Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975) (holding that plaintiff Congressman lacked standing to challenge military expenditures as violative of statutes limiting United States involvement in Southeast Asia because of the available legislative solution of tightening the statutory restrictions).

[11] Memorandum Opinion of June 6, 1979, at 9 n.13. Additionally there was a commitment by the Senate leadership that Resolution 15 would be considered not later than June 8th. 125 Cong. Rec., pp. 4306–4314 (March 8, 1979).

[12] Memorandum Opinion of June 6, 1979, at 11.

[13] Senate Resolution 15 was introduced by Senator Harry F. Byrd on January 18, 1979. 125 Cong. Rec. 475.

[14] The Senate Foreign Relations Committee, on May 1, reported Resolution 15 with an amendment to strike all after the resolving clause and insert substitute language providing several grounds for unilateral Presidential terminations of treaties. 125 Cong. Rec. S5018. It was this substitute Committee amendment that was displaced by the Byrd amendment on June 6.

[15] The Church amendment would add the following language:

> The provisions of this Resolution shall not apply with respect to any treaty the notice of termination of which was transmitted prior to the date of adoption of this Resolution.

125 Cong. Rec. 13718 (June 6, 1979). The Goldwater amendment would add the following language:

> (1) The provisions of this resolution shall not be construed to approve or disapprove of the proposed termination of the Mutual Defense Treaty with the Republic of China, such proposed termination not having been submitted to the Senate or the Congress for approval prior to the date of adoption of this resolution.
>
> (2) Nor shall anything in this resolution reduce or prejudice any of the Constitutional powers of the Senate.

125 Cong. Rec. 15209–15210 (June 18, 1979).

[16] *See* Declaration of Murray Zweben, Parliamentarian of the Senate, dated June 29, 1979, submitted in support of Defendants' Opposition to Plaintiffs' Motion to Alter or Amend the Judgment of June 6, 1979.

[17] One of the grounds for unilateral Presidential treaty termination provided in the Committee substitute was "where . . . provisions of the treaty itself, give rise to a right of termination or suspension on the part of the United States. . . ." 125 Cong. Rec. S7014 (June 6, 1979). Article X of the 1954 Mutual Defense Treaty contains a termination clause giving either party the right to terminate one year after notice. *See* note 2, *supra*.

[18] The Court continues to reject defendants' suggestion that the enactment of the Taiwan Relations Act, Pub. L. No. 96–8, 93 Stat. 14 (April 10, 1979), can be interpreted as legislative ratification of the notice of termination. *See* Memorandum Opinion of June 6, 1979, at 9 n. 14.

[19] *See* Note, *Congressional Access to the Federal Courts*, 90 Harv. L. Rev. 1632, 1650–51. *See also Pressler v. Simon*, 426 F. Supp. 302, 304 (D.D.C. 1976) (three judge court), *aff'd mem. sub nom. Pressler v. Blumenthal*, 434 U.S. 1026 (1978).

[20] In each of the four instances where Presidents have initiated the termination process and then requested authority from Congress to terminate treaties, Congress has responded promptly to authorize completion of the termination process. President Taft received legislative ratification and approval to terminate a commercial treaty with Russia three days after his request came to the Senate. 37 Stat. 627. President Wilson on May 17, 1920 sought the "advice and consent" of the Senate to withdraw from the International Sanitary Convention. On May 26, 1921 two-thirds of the Senate present resolved to advise and consent to the denunciation of the convention. 61 Cong. Rec. 1793–1794. President Polk sought authority to terminate the Convention on Boundaries with Great Britain concerning the Oregon Territory. By joint resolution such action was authorized by Congress in less than five months. 9 Stat. 109–110. President Pierce requested authority to give notice to Denmark of the termination of a commercial treaty. Within four months the Senate unanimously gave the requested authority. S. Res. of March 3, 1855, 33d Cong., 2d Sess.; 9 Sen. Executive Journal 431.

The Court assumes that a request by the President in the instant case would have been met with similar deferential attention. See note 3 supra. The record discloses that, prior to President Carter's delivery of the notice of termination, Senator Goldwater and Senate Minority Leader Baker sought to have the President call a special session of Congress to allow for legislative participation. See Plaintiffs' Supplementary Memorandum on the Privileged Status in Congress of Presidential Messages, Exhibits 2–5.

[21] *See* Note, *Congressional Access to the Federal Courts*, 90 Harv. L. Rev. 1632, 1642 (1977).

[22] *See* note 10, *supra*.

[23] Clearly, the denial of plaintiffs' participatory role in the treaty termination process is "within the zone of interests to be protected or regulated by the . . . constitutional guarantee in question." *Ass'n of Data Processing Serv. Organization, Inc. v. Camp*, 397 U.S. 150, 153 (1970). In addition, it is the President's purported termination of the Treaty, without submitting the notice of termination for congressional approval, from which the denial of plaintiffs' role can be fairly traced. *See Simon v. Eastern Ky. Welfare Rights Organ.*, 426 U.S. 26, 41–42 (1976). Finally, a judicial decision declaring the constitutional requirements for terminating the Treaty can afford plaintiffs the precise relief requested, and thus the injury is one "likely to be redressed by a favorable decision." *Id.* at 38. The critical requirement to be satisfied by the congressional plaintiffs here is that they have suffered injury in fact. Any difficulty in demonstrating causation in this case could only derive from the same issue of alternative political remedies already resolved under the injury in fact inquiry. *See Harrington v. Bush*, 553 F.2d 190 (D.C. Cir. 1977).

[24] Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 Harv. L. Rev. 1, 7–9 (1959).

[25] *See, e.g., Powell v. McCormack*, 395 U.S. 486, 518–21, 548–49 (1969).

[26] *See* L. Henkin, Foreign Affairs and the Constitution 210–16 (1972).

[27] *Guaranty Trust Co. v. U.S.*, 304 U.S. 126, 137–38 (1938); *Williams v. Suffolk Ins. Co.*, 38 U.S. (13 Pet.) 415, 420 (1839).

[28] *Foster & Elam v. Wilson*, 27 U.S. (2 Pet.) 253, 307 (1829).

[29] *Haristiades v. Shaughnessy*, 342 U.S. 580, 588–89 (1952).

[30] 369 U.S. 186, 211 (1962).

[31] *Id.* at 211 n. 31, quoting *Oetjen v. Central Leather Co.*, 246 U.S. 297, 302 (1918). *See also Chicago & S. Air Lines, Inc. v. Waterman S.S. Corp.*, 333 U.S. 103, 111 (1948).

[32] Henkin, *Is There a Political Question Doctrine?*, 85 Yale L. J. 597, 612 (1976).

[33] *See United States v. Nixon*, 418 U.S. 683, 703–05 (1974); *Powell v. McCormack*, 395 U.S. 486, 548–49 (1969); *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).

[34] The President's powers over the conduct of foreign relations derive from a number of Constitutional provisions. U.S. Const., art. II, § 2 ("The President shall be Commander in Chief of the Army and Navy. . . ."; *id.* ("He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties. . . ."); *id.*, art. II § 3 ("[H]e shall receive Ambassadors and other public ministers; he shall take Care that the Laws be faithfully executed. . . .").

[35] U.S. Const., art. II, § 2.

[36] *See Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

[37] *See Baker v. Carr*, 369 U.S. 186, 217 (1962).

[38] *Id.* The Court finds distinguishable those decisions that held actions challenging the legality of military operations in Southeast Asia to be nonjusticiable. Because of various pieces of congressional legislation in support of such operations and the changing nature of the hostilities, those cases primarily involved the difficulty posed by the "lack of judicially discoverable and manageable standards." *Id.* Thus, the courts were not competent to resolve disputes over the specific form of legislative action required to constitute congressional approval, whether unilateral action by the President escalating the activities had exceeded the scope of congressional authorizations, or whether, if unauthorized, the President was nevertheless acting in good faith to terminate involvement in the war. *See, e.g., Mitchell v. Laird*, 488 F. 2d 611, 614–16 (D.C. Cir. 1973); *Holtzman v. Schlesinger*, 484 F. 2d 1307 (2d Cir. 1973), *cert. denied*, 416 U.S. 936 (1974); *DaCosta v. Laird*, 471 F. 2d 1146 (2d Cir. 1973). Simply determining what the constitutionally required allocation of power between the two political branches is with respect to treaty termination, and that some mutual participation is required, involves no such problems.

[39] *See, e.g., Buckley v. Valeo*, 424 U.S. 1 (1976); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952); *Myers v. United States*, 272 U.S. 52 (1926); *United States v. American Tel. & Tel. Co.*, 567 F. 2d 121, 125–26 (D.C. Cir. 1977); *Senate Select Comm. on Presidential Campaign Activities v. Nixon*, 498 F. 2d 725 (D.C. Cir. 1974).

[40] In *Van Der Wyde v. Ocean Transport Co.*, 297 U.S. 114 (1935), the Supreme Court upheld the constitutionality of the President's delivery of a notice of termination of treaty provisions that were in conflict with the Seamen's Act of 1915, where such termination was specifically "requested and directed" by Congress in the Act. The Court found it unnecessary to pass on the question of "the authority of the Executive in the absence of Congressional action, or of action by the treaty-making power, to denounce a treaty of the United States. . . ." *Id.* at 117.

The Court has also recognized the President's power to determine compliance and the continuing validity of a treaty. *See, e.g., Clark v. Allen*, 331 U.S. 503, 508–14 (1947); *Charlton v. Kelly*, 229 U.S. 447, 474–76 (1913); *Terlinder v. Ames*, 184 U.S. 270, 285–88 (1902). That power, however, is sharply distinguishable from a power to act affirmatively to terminate a validly binding treaty—as here, in accordance with a treaty provision granting the United States the option to terminate. *See* note 46 *infra* and accompanying text.

[41] *See, e.g.*, L. Henkin, Foreign Affairs and the Constitution 167–71 (1972); Scheffer, *The Law of Treaty Termination as Applied to United States De-Recognition of the Republic of China*, 18 Harv. Int'l. L. J. 931 (1978); Nelson; *The Termination of Treaties and Executive Agreements by the United States: Theory and Practice*, 42 Minn. L. Rev. 879 (1958); Riesenfeld, *The Power of Congress and the President in International Relations: Three Recent Supreme Court Decisions*, 25 Calif. L. Rev. 643, 656–664 (1937); M. Reisman & M. McDougal, *Who Can Terminate Mutual Defense Treaties?*, The National Law Journal, May 21, 1979, at 19. *See generally Resolution Concerning Mutual Defense Treaties: Hearings on S. Res. 15 Before the Committee on Foreign Relations*, 96th Cong., 1st Sess. (1979).

[42] The first treaties terminated by the United States were the treaties of 1778 between the United States and France, terminated by the Act of July 7, 1798, 1 Stat. 578. The validity of that congressional action was upheld in *Hooper v. United States*, 22 Ct. Cl. 408, 425 (1887).

[43] *See generally Resolution Concerning Mutual Defense Treaties: Hearings on S. Res. 15 Before the Committee on Foreign Relations*, 96th Cong., 1st Sess. 157 (1979) ("History of Treaty Terminations by the United States," an appendix to a memorandum prepared by the Department of State Legal Advisor) [hereinafter cited as State Dept. Memorandum]; Emerson, *The Legislative Role in Treaty Abrogation*, 5 J. Legis. 46, 52–64 (1978); Scheffer, *supra* note 41, at 979–85, 993–95 (1978).

[44] Of the more than fifty treaty terminations in our nation's history, defendants point to thirteen instances in which the President acted to terminate a treaty and his action was unaccompanied by specific senatorial or congressional approval. *See* Supplementary Memorandum in Support of Defendants' Opposition to Plaintiffs' Motion to Alter or Amend; State Dept. Memorandum, *supra* note 43. Not all of the cited examples constitute precedent for presidential termination, since in two cases the notice of termination was subsequently withdrawn by the President. *See* 1965 notice of termination of the Warsaw Convention. 49 Stat. 3000, T.S. No. 876; 1933 notice of termination of the Extradition Treaty with Greece, 47 Stat. 2185, T.S. No. 855. For a critical analysis of these precedents for unilateral presidential termination, see Scheffer, *supra* note 41, at 979–86.

[45] Most of the terminations by the President alone involved commercial situations where the need for the treaty, or the efficacy of it, was no longer apparent.

[46] Unilateral executive action in terminating a treaty would presumably be permissible, as both parties recognize, when the treaty is superseded by an inconsistent law or treaty; when the treaty becomes impossible to perform or is otherwise rendered inoperative; when the treaty is violated or denounced by the other party; or when there has been a fundamental change in circumstances affecting the treaty. In such cases, the President may determine that the continuing validity of the treaty has been destroyed, either because under principles of international law the United States could justifiably withdraw from the treaty or because the treaty is in conflict with more recent legislation. Scheffer, *supra* note 41, at 987–88; *see, e.g., Clark v. Allen*, 331 U.S. 503 (1947); *Van Der Wyde v. Ocean Transport Co.*, 297 U.S. 114 (1935); *Charlton v. Kelly*, 229 U.S. 447 (1913); *Terlinder v. Ames*, 184 U.S. 270 (1902).

Many of the instances cited by defendants in which the President has acted alone involve one or more of the above factors. In others, if the treaty was not actually superseded by inconsistent legislation, there was at the very least a substantial participation by Congress in establishing the policy that led to the termination, the result of which amounted to an implied authorization. *E.g.*, 1933 termination of the Multilateral Convention for the Abolition of Import and Export Prohibitions and Restrictions of 1927, 46 Stat. 2461, T.S. No. 811. In those few remaining instances in which the presidential termination cannot otherwise be justified, the treaty had already become generally ineffectual or the matter involved was relatively insignificant. *E.g.*, 1944 Termination of the Inter-American Convention for Trademark and Commercial Protection of 1929, 46 Stat. 2907, T.S. No. 833; 1927 termination of the Convention with Mexico on the Prevention of Smuggling, 44 Stat. 2358, T.S. No. 178.

[47] *See* notes 66–70 *infra* and accompanying text. *See generally* authorities cited at note 43 *supra*.

[48] U.S. Const. art. II, § 2.

[49] *Id.* § 3.

[50] *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 320 (1936).

[51] *Humphrey's Executor v. United States*, 295 U.S. 602, 631–32 (1935); *see Weiner v. United States*, 357 U.S. 349 (1958).

[52] *Myers v. United States*, 272 U.S. 52, 235, 163–64 (1926).

[53] U.S. Const. art. II, § 2.

[54] As Justice Jackson, in referring to Article II, § 1 of the Constitution, stated in his concurring opinion in *Youngstown Steel & Tube Co. v. Sawyer*, 343 U.S. 529, 641 (1952): "I cannot accept that this clause is a grant in bulk for all conceivable executive power but regard it as an allocation to the presidential office of the generic powers thereafter stated."

[55] The President's power to recognize a government as the representative of a foreign state—in this case recognizing the People's Republic of China as the sole government of China—is not challenged. *See, e.g., United States v. Pink*, 315 U.S. 203, 229; *Guaranty Trust Co. v. United States*, 304 U.S. 126, 137–38 (1937). The recognition power flows from his express authority under U.S. Const. art. II, § 3, to "receive Ambassadors and other public ministers."

[56] *See, e.g.*, Declaration of Warren Christopher, Deputy Secretary of State, in support of Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment, ¶¶ 4, 7. Steps toward normalization were taken with the exchange of ambassadors on March 1, 1979.

[57] *See* Restatement (Second) of the Foreign Relations Law of the United States § 163(a)(1) (1965).

[58] M. Reisman & M. McDougal, *supra* note 41, at 19, col. 4.

[59] The distinction between self-executing and non self-executing treaties was first expressed by Chief Justice Marshall in *Foster v. Neilson*, 27 U.S. (2 Pet.) 253 (1829): "Our Constitution declares a treaty to be the law of the land. It is, consequently, to be regarded in courts of justice as equivalent to an act of the legislature, whenever it operates of itself, without the aid of any legislative provision. But when the terms of the stipulation import a contract—when either of the parties engages to perform a particular act, the treaty addresses itself to the political, not the judicial department; and the legislature must execute the contract, before it can become a rule for the court." Id. at 314. See generally L. Henkin, Foreign Affairs and the Constitution, 156–61 (1972); Restatement (Second) of the Foreign Relations Law of the United States § 141 (1965).

[60] The Treaty's key provision—Article V, which declares that each party would act to meet the common danger of an armed attack in the West Pacific area "in accordance with its constitutional processes"—is self-executing. Under the "constitutional processes" of the United States, the

President has authority to take certain action, short of a declaration of war by Congress, to alleviate the threat of armed attack. Thus the provision does not require the aid of implementing legislation in order to be operative. The mere fact that a congressional power exists does not mean that the power is exclusive so as to preclude the making of a self-executing treaty within the area of that power. Restatement (Second) of the Foreign Relations Law of the United States § 141 comment f (1965).

[10] For instances, Article VII, which provides for the location of United States forces in and about Taiwan, is not self-executing at least to the extent that it requires appropriations by Congress, but such appropriations have been made. This non self-executing provision has thus been legislatively implemented.

[11] *See* note 46 *supra* and accompanying text. The termination here is based solely upon the invocation of the termination provision in Article X of the Mutual Defense Treaty, rather than upon a determination that the Treaty is no longer validly binding.

[12] Article II, § 2 provides: "[The President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur . . . ."

[13] Alexander Hamilton, in discussing the treaty-making power, stated: "The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate, created and circumstanced, as would be a president of the United States." Federalist No. 75, pp. 505–06 (J. Cooke ed. 1961).

[14] *See The Amiable Isabella*, 19 U.S. (6 Wheat.) 1, 75 (1821); Restatement (Second) of the Foreign Relations Law of the United States § 163(2) (1965).

[15] At the Court's request counsel supplied information as to the number of treaties terminated and whether the terminations were effected by joint action or unilaterally. Different totals were submitted. Further study of these terminations indicates that in most of them there was some congressional action which was consistent with the position of the Executive.

[16] The passage of a joint resolution specifically authorizing or directing the President to give notice of termination has been a relatively common method employed by Congress in exercising its role in the treaty termination process. Two examples involving express presidential requests for such authority are particularly instructive. The termination of the 1827 Convention with Great Britain for the Joint Occupation of the Oregon Territory—the first termination pursuant to a notice provision in a treaty—was effected in 1846 following the enactment of a joint resolution authorizing President Polk to give the notice of termination. H.J. Res. of April 27, 1846, 9 Stat. 109. The 1832 Treaty of Commerce and Navigation with Russia terminated when President Taft's delivery of the notice of termination—again pursuant to treaty provision—was subsequently approved by joint resolution, H.J. Res. of December 21, 1911, 37 Stat. 627, following the President's message to the Senate of his intent to terminate "with a view to its ratification and approval," 46 Cong. Res. 454 (1911). In other instances, joint resolutions directing or authorizing the termination of treaties pursuant to notice provisions have been passed without any prior presidential initiative. J. Res. of Feb. 26, 1883, 22 Stat. 641 (Amity Treaty of 1871 with Great Britain); J. Res. of June 17, 1874, 18 Stat. 287 (Treaty of Commerce and Navigation of 1858 with Belgium); J. Res. of Jan. 8, 1865, 13 Stat. 566 (Reciprocity Treaty as to Fisheries, Commerce, and Navigation of 1854 with Great Britain). In addition Congress has enacted statutes which conflict with earlier treaties and which specifically request the President to terminate inconsistent treaties. Fishery and Conservation Management Act of 1976, Pub. L. No. 94–265, Title II, § 202(b), 90 Stat. 340; Seamen's Act of 1915, Pub. L. No. 63–302, § 16, 38 Stat. 1184. *See also* Trade Agreements Extension Act of 1951, Pub. L. No. 82–50, § 5, 65 Stat. 72.

[17] A least two treaties have been terminated pursuant to Senate approval without any participation by the House of Representatives. Pursuant to notice of termination delivered by President Buchanan, the 1826 Convention of Friendship, Commerce, and Navigation with Denmark was terminated following a unanimous Senate resolution. S. Res. of March 3, 1855, 33d Cong., 2d Sess. In connection with that termination, the Senate Foreign Relations Committee issued a report in April, 1856, which concluded that the treaty-making power—the Senate and the President acting together—could terminate a treaty without participation by the House of Representatives. S. Rep. No. 97, 34th Cong., 1st Sess. (1856). A second instance was the termination of the International Sanitary Convention of 1903 following a two-thirds vote of approval by the Senate as requested by President Wilson. S. Res. of May 26, 1921, 61 Cong. Rec. 1793.

[18] Several commentators have argued the constitutional soundness of terminating treaties in accordance with the same power that concludes those treaties. *E.g.*, Scheffer, *supra* note 41, at 1002–03; Riesenfeld, *supra* note 41 at 660–61. There is also some eminent dictum to support that approach: in *Techt* v. *Hughes*, 229 N.Y. 222, 243, 128 N.E. 185, 192, *cert. denied*, 254 U.S. 43 (1920) Judge Cardozo stated: "[The] President and Senate may denounce the treaty, and thus terminate its life."

[19] The Supreme Court's decision in *Van Der Wyde v. Ocean Transport Co.*, 297 U.S. 114 (1935), would appear to be the strongest judicial authority for participation by the entire Congress in the treaty termination process. *See* note 40 *supra*. Requiring such participation is supported by the fact that a treaty, like a statute, constitutes the supreme law of the land whose repeal is the proper subject of congressional authority. In that regard, it is undisputed that a subsequent act of Congress which is clearly inconsistent with a treaty supersedes that treaty as domestic law to the extent of the conflict. *Chae Chan Ping v. United States*, 130 U.S. 581, 599–601 (1889); *Whitney v. Robertson*, 124 U.S. 190, 194 (1888); *Head Money Cases*, 112 U.S. 580, 597–99 (1884); *Diggs v. Shultz*, 470 F.2d 461, 466 (D.C. Cir. 1972). *See also Reid v. Covert*, 354 U.S. 1, 18 (1957).

[20] As previously indicated, nothing contained in the Taiwan Relations Act, Pub. L. No. 96–8, 93 Stat. 14, can be construed as legislative approval of or acquiescence in the President's notice of termination. *See* note 18 *supra*.

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HANDLING THE CUBAN CRISIS/ PREVENTING OTHERS

● Mr. McGOVERN. Mr. President, in spite of assurances by the President that the administration is taking steps to protect our interests in the Caribbean, many Americans remain confused and concerned about the presence of Soviet troops in Cuba. The unfortunate linkage of the troops' presence with the SALT II treaty has clouded the issue, and if the calls for confrontation with the Soviets had been heeded, it would have been, in President Carter's words, "destructive to the national interest and to the security of the United States."

There are lessons to be learned from this "crisis," which one British newspaper called "a self-inflicted technical knockout." Don Oberdorfer of the Washington Post has written an excellent account of the handling of the Cuban troop situation which I recommend to my colleagues.

In his attempt to reassure the American people, President Carter presented a list of five responses to the Soviet troop presence—four of which are of a military nature. The fifth dealt with increasing foreign aid to countries in the Caribbean region in order to promote stability in the area. In my opinion, this is the best way to insure our own national interest and to prevent other Cubas. A Minneapolis Tribune editorial on aid to the Caribbean specifically cites Nicaragua and makes an excellent case for increased aid to that country, and I commend the editorial to my colleagues. I ask that the editorial and Mr. Oberdorfer's article be printed in the RECORD.

The material is as follows:

[From the Minneapolis Tribune, Oct. 5, 1979]

CARTER'S "POINT FIVE": AID TO THE CARIBBEAN

"Fifth, we will increase our economic assistance to alleviate the unmet economic and human needs in the Caribbean . . ."

Though last in President Carter's list of responses in the Soviet-Cuban affair, that promise may be the most important. It could also be the most difficult to fulfill.

Aid dollars planted carefully can grow into political and economic benefits for the United States as well as for recipient countries. But the administration and Congress must be sure that any new aid reaches the right people. Too often in the Caribbean and Central America, the wrong people have reaped the harvest.

Nicaragua is a vivid example. Past aid programs may have given marginal benefits to the needy in that small, poor country, but

economic control rested with President Anastasio Somoza until he was deposed three months ago. By then he had a billion-dollar fortune. And when Somoza and his clique left Nicaragua, they took with them every possible portable asset, thus impoverishing further a country already battered by internal warfare.

In a Wall Street Journal article this week, two American development specialists argue for $1.3 billion in international aid to Nicaragua during the next three years, half to come from the United States. On grounds of need, a case can also be made for increased assistance elsewhere in the area: to island countries like Jamaica, to Central American countries like Guatemala. Because the list could be longer, its limits are evident: Alone or in concert with others, the United States cannot fill all the "unmet economic and human needs" that Carter mentioned in his fifth response.

Budget limits impose one restraint. The foreign-aid appropriations bill for the coming year is facing its customary trials in Congress; the House this month lopped more than $1 billion off the administration request, and the Senate is moving toward nearly as great a cut. Prospects for an unexpected aid increase in the Caribbean may therefore be slim, especially when a specific request has yet to be made.

On Thursday, U.S. aid officials had not heard from the White House what increases for what countries the president had in mind during his Monday night speech. Moreover, aid flows have already risen sharply: to Caribbean islands alone, from $32 million five years ago to $125 million in the fiscal year just ended, with a $155-million request for the year ahead.

The proper use of aid dollars should impose at least as great a restraint as budget limits. For example, the military government of El Salvador last year gave the appearance of improving human rights. Though the changes were superficial, the Carter administration stepped up the aid flow. But repression increased, as did revolutionary violence in response. So more aid to El Salvador would be foolish in its current circumstances, which resemble those of Somoza-era Nicaragua. Several other countries are in similar situations.

Because of these restraints, aid must be granted more selectively than Carter's general promise suggests. His emphasis on security in the Caribbean and on Cuba's potential for Soviet-assisted troublemaking should lead to Nicaragua as the logical starting point for increased economic assistance.

Some U.S. policy-makers worry that Nicaragua might become "another Cuba"—a Communist regime linked to the Soviet Union. The United States could assure that result by alienating Nicaragua's new leaders, leaving much of the reconstruction effort to Cuba. The United States could probably assure the same unhappy outcome by conditioning a more generous aid program on the establishment of a non-socialist Nicaraguan government. Or the United States could make Carter's "Point Five" a turning point for American policy. Aid to Nicaragua should be generous. It should be provided quickly. It should carry no ideological strings. Otherwise, Americans may one day be worrying about how to prevent "another Nicaragua."

[From the Washington Post, Oct. 16, 1979]

CUBAN CRISIS MISHANDLED, INSIDERS AND OUTSIDERS AGREE

(By Don Oberdorfer)

As Sen. Richard Stone (D-Fla.) arrived at the ornate Senate Caucus Room for a Foreign Relations Committee hearing at 10 a.m. last July 17 a senatorial aide pulled him aside to impart a fascinating tip.

"I've been picking up reports on a recent buildup of Soviet combat troops in Cuba, perhaps as much as a brigade," said the aide, whom Stone will not identify.

In response to the expected question, the aide announced, as Stone recalled it, that the information did not come from a classified official paper, and therefore "you don't have a classification problem" about sounding a public alarm.

In the course of the hearing, supposedly addressed to the strategic arms limitation treaty (SALT II) on nuclear weapons, Stone pointedly inquired of the witnesses, retired members of the Joint Chiefs of Staff, about the impact of the hypothetical Soviet introduction of "as much as a brigade of combat troops in Cuba."

The press corps perked up at this new element in the dull SALT story. Off the record and off camera, Stone also had a private exchange that morning with John Carbaugh, a staff aide to anti-SALT Sen. Jesse A. Helms (R-N.C.).

Carbaugh had heard reports of his own about a Soviet combat force in Cuba. Within a few hours, Carbaugh passed his tip along to ABC Television, which began an independent investigation.

These small transactions in mid-July ballooned into a large-scale national and international controversy late in August, leading to a diplomatic confrontation with the Soviets in September and President Carter's televised address about Soviet troops in Cuba on Oct. 1.

Whatever the view of the importance or unimportance of the Soviet "brigade," whether insiders or outsiders to the Carter administration, whether Carter friend or Carter foe, nearly all those familiar with the details of this latest Cuban crisis agree that it was badly mishandled.

Accidents, miscalculations and, much more appalling to old hands, the seeming lack of any sophisticated calculation, contributed to the result, which was described by a British newspaper as "a self-inflicted technical knockout."

Among the other contributing elements:

An administration still divided at the top on Soviet policy after 2½ years in office, even as the pending SALT II generates a national debate about the nature and intentions of the Russians.

The present Washington fishbowl in which official secrets quickly leak or are leaked by contending factions, forcing premature announcements and decisions.

Members of Congress and congressional aides who possess the knowledge, power, maneuver skills and, increasingly, the inclination to do their own thing in U.S. diplomatic and military affairs.

The inherent ambiguity of the intelligence and misleading character of the term, "Soviet combat brigade," which created a widespread and erroneous impression that something fundamentally new and threatening had been found.

The results of all this—to create vast public concern and confusion, to endanger the strategic arms treaty, to jeopardize U.S.-Soviet relations—did not emerge overnight. They developed step by step since Stone brought the issue to light on July 17.

Soviet troops in Cuba and U.S. intelligence awareness of them go back many years, but a July 12 report by the highly secret National Security Agency marked the beginning of a new and troublesome phase.

The NSA report suggested that a Soviet brigade organization, separate from known military advisers or training elements, had been present in Cuba for several years.

Although there was no firm conclusion and no reference to the word "combat," the report touched off alarm bells in high places and led to a new increase in U.S. surveillance of Cuba.

Only five days later Stone had his tip. After attracting the interest of the media at the morning hearing on July 17, the Florida senator took his inquiry to a closed-door Foreign Relations Committee hearing with top Pentagon and intelligence officials which, by coincidence, had been scheduled for that afternoon.

Defense Secretary Harold Brown and the chiefs of U.S. intelligence agencies gave "an equivocal answer but not a flat denial," according to Stone, and then told a secret impromptu hearing of the NSA findings up to that point. Stone made it clear he would take his suspicions, but not the details of the briefing, to television cameras waiting for him outside.

The committee leadership, concerned about the potentially explosive controversy, asked for and obtained a public statement drafted by Brown and the intelligence chiefs on the spot to put the matter in perspective.

The statement issued in the names of Chairman Frank Church (D-Idaho) and the senior Republican, Sen. Jacob Javits (N.Y.), said there was "no evidence of any substantial increase" in Soviet military presence in Cuba over several years. It also said "our intelligence does not warrant the conclusion" that any "significant" Soviet forces, other than the long-known military advisory group, was present in Cuba.

The statement gave no hint of the intense internal study and debate on the issue, which only two days later, on July 19, produced a secret CIA finding that a brigade headquarters or structure, at least, was in Cuba separate from an advisory group.

The basis for this finding was simple and persuasive: Soviet officers and men had been overheard repeatedly to refer to a brigade headquarters, or "brigada." There was no agreement in this compromise finding, negotiated by CIA Director Stansfield Turner, on the organization, personnel strength or mission of the shadowy entity.

Turner was briefing Secretary of State Cyrus R. Vance on the finding late on July 19 when the two men were confronted by ABC television's inquiries.

Diplomatic correspondent Ted Koppel was informed that a "command structure" adequate for a brigade had been confirmed, but the charge of a brigade itself was rejected.

The next day Koppel broadcast a report attributed to undisclosed congressional sources that "a brigade of Soviet troops, possibly as many as 6,000 combat-ready men, has been moved into Cuba within recent weeks." He noted the administration denials.

Despite the new developments in intelligence and confirmation of the "command structure," the administration continued to use the cautiously worded denials of the July 17 Church-Javits statement, notably in a letter from Vance to Stone dated July 27.

When the letter became known it caused a furor among intelligence professionals. Some of them considered it "a lie" and determined to make sure that the true situation would reach the public.

Another step into the thicket came nearly a month later, after U.S. intelligence had obtained clear satellite photographs of Soviet troops acting as a unit, complete with tents, tanks and artillery, on field maneuvers at a prearranged time and place a few miles west of Havana's Jose Marti International Airport.

Based on the new evidence, the CIA's National Foreign Assessment Center issued a coordinated intelligence finding Aug. 22 that the previously identified structure was a "Soviet combat brigade." Beyond the important conclusion, the choice of words was crucial in what was to come.

The word, combat, had not been used in the findings before, but there is no indication that its threatening connotations and political implications were appreciated, or even examined, at the time.

Intelligence officials later explained that the "Soviet combat brigade" was so described

to distinguish it from a training outfit. Once the words had been repeated in internal documents, with wide circulation and even public statements, "we can't back off," an inquiring official was told.

In fact, there is no sign that the Soviet force in Cuba had ever engaged in combat, and no indication that its mission is to be prepared to do so. There is no airlift or sealift attached to the unit to permit speedy "combat" deployment. There is no plausible "enemy" for the small force to do "combat" against.

According to those who have examined the evidence closely, it is more accurate to say that the Soviet force appears to have some role other than training and advising Cubans. (It also may have that role from time to time.) Even today, U.S. intelligence has not concluded what the real mission or missions are. Engaging in combat is not considered to be among the most likely possibilities.

The words, "Soviet brigade" or "Soviet nonadvisory brigade" or even "Soviet infantry brigade" would have been much more accurate, and much less alarming. But it was left to the sophisticated minds of the "wise men," the former high officials summoned to the White House on the eve of Carter's Oct. 1 address, to spot the semantic significance of the "Soviet combat brigade" and challenge it frontally. By then the damage had been done.

The coordinated intelligence finding of Aug. 22 presented the government with a hot potato at an awkward moment, with most top officials out of town or on vacation. The first inclination was to delay.

President Carter was informed of the finding Aug. 23 as he sailed down the Mississippi aboard a paddlewheel boat. Back in Washington, an interagency meeting of second-level officials at the White House concluded that the brigade reflected a long evolution rather than a sudden change in Cuba, and that it did not have a "short time fuse."

They hoped that major action could be delayed until after Labor Day, when Congress and the main administration figures would be back.

A telephone call from the Washington bureau of Aviation Week, a noted vehicle for leaks from the Pentagon and defense contractors, changed all that. On Thursday morning, Aug. 30, the magazine asked the State and Defense department press spokesmen about reports of Soviet combat troops in Cuba, and told the officials that a story on the matter was going to press that night.

The Aviation Week query touched off a near panic among high officials, but in fact it was a bluff. The magazine's information was considered neither solid enough nor important enough by its own editors to warrant publication in the issue that went to press that day. Lacking confirmation from the government, Aviation Week printed nothing about the Soviet brigade in its post-Labor Day issue.

Government officials, who assumed that Aviation Week was printing a complete version, decided to inform senior members of Congress immediately and to prepare an official announcement. This led to emergency calls late on Aug. 30 to eight ranking members of Congress, who were scattered throughout the world on the eve of Labor Day.

The decision by one of them, Frank Church, to make the news public in stark fashion set the terms of public dialogue. After informing Vance that he was going to make a statement—but not what he intended to say—Church summoned reporters to his living room in Boise and announced government confirmation of a Soviet brigade of ground combat troops in Cuba. Church demanded their "immediate withdrawal," and later said SALT II could not be ratified unless this were done.

In an effort to step back from Church's call for Soviet withdrawal, a negotiating objective considered impractical under the circumstances, Vance and the State Department fell back on the vague statement that, for the United States, "the status quo is unacceptable."

This was approved at a White House meeting Sept. 4 and put forward by Vance the next day in a press conference and by the president on Sept. 7.

No attempt was made to explain to the public until late in the affair that an unacceptable status quo could be altered by U.S. compensatory actions or that some situations which are unacceptable, in diplomatic language, persist nevertheless.

A powerful senator picked up the problem with the official language right away. When Vance completed a private briefing the day of his news conference, this close friend of the administration expressed surprise, in a tone of disapproval, of the "status quo" language.

It implies you are going to be able to do something about the Soviet brigade, the senator told Vance, thus setting up a public perception of failure if this does not happen.

The issue dominated the American press, was a major and growing impediment to the ratification of SALT II, and had been the subject of Church's announcement, a State Department announcement, Vance's news conference and a public announcement by Carter. Yet negotiations still had not begun with the Soviets. Vance was increasingly desperate for the return of Soviet Ambassador Anatoliy F. Dobrynin.

The Soviet official was still in Moscow, where his father was dying in a hospital and his mother gravely ill in the same institution.

Despite the poignant personal considerations, Vance felt Dobrynin's presence essential to the chances, such as they were, for a diplomatic settlement. Messages were dispatched through the Soviet embassy in Washington and the U.S. embassy in Moscow, and finally an appeal was made by Vance direct to Soviet Foreign Minister Andrei A. Gromyko.

Gromyko telephoned Dobrynin to ask him—but not order him——to return to accommodate Vance. The envoy was on the next plane, which took off shortly before the second of his parents died.

The Soviet position, which became clear on Dobrynin's return, had been foreshadowed by a message delivered by Deputy Ambassador Vasev several hours after Vance's news conference. The Soviets insisted that their force was a "training center" that had been in Cuba since 1962 and had not changed since in either the number of its personnel nor its function.

The Soviets were at the same time angered, puzzled and suspicious. They could not understand why the issue had suddenly emerged, and took the position that they had done nothing to cause this "manufactured" crisis.

Dobrynin, like his superiors in Moscow, proved unsympathetic. Either U.S. intelligence was so bad it did not spot the Soviet force in 17 years, or it was so slipshod that it failed to inform those at the top of the U.S. government—in either case no affair of the Kremlin, he said.

He asked two questions: Is the force a threat to the United States? Is it a violation of the previous U.S.-Soviet understandings about Soviet activities in Cuba? In both cases the U.S. answer was no.

In these circumstances the Soviets were willing to supply information about their Cuban force and later, in what they called a unilateral gesture to Washington, to supply certain "clarifications" about the role of their troops.

But they were unwilling to take any action to change the existing physical situation of the Soviet force on the ground, as suggested by the United States. And they have not agreed to do so in the future, though neither is this foreclosed.

In the midst of Vance's attempt to convince the Soviets to make at least face-saving concessions, an "or else" note crept into public utterances and private briefings at the White House. This generated confusion, which still persists, about retaliatory measures against Moscow for failure to remove or dissolve the brigade.

Presidential assistant Zbigniew Brzezinski, who hinted at retaliatory action on several occasions, took as his text a sentence in the presidential statement of Sept. 7: "We do have the right to insist that the Soviet Union respect our interests and our concerns if the Soviet Union expects us to respect their sensibilities and their concerns."

Brzezinski spoke Sept. 21 and on other occasions of "the principle of reciprocity" and of unspecified "consequences" for U.S.-Soviet relations if negotiations fail to settle the issue.

On Sept. 23 columnist James Reston of The New York Times, whose access to top officials is legendary, described a set of potential consequences apparently reflecting option papers under consideration.

These included "countermeasures along the borders of the Soviet Union," a stepup in U.S. propaganda and economic appeals to communist countries in Eastern Europe and even the Ukrainian minority within the Soviet Union, and an increase in U.S. "economic, technological and, particularly, military aid to Peking," Moscow's arch rival.

A battle raged within the U.S. government about countermeasures to be taken. Who won and to what extent is in doubt.

The U.S. compensatory measures announced in Carter's Oct. 1 address were limited to symbolic or nonmilitary displays in the Caribbean region, and increases in worldwide U.S. alertness or deployments which had previously been scheduled. The speech was devoid of anti-Soviet retaliatory measures.

State Department officials have told reporters that anti-Soviet options were not approved by Carter. These officials deny the existence of a "hidden agenda" of authorized retaliatory actions.

Hints from the White House run the other way. Some reporters have been told that the leaked announcement of Brown's coming trip to China flowed from U.S. displeasure about the Soviet brigade, and that the substance of Brown's dealings in Peking were likely to be affected. There is talk of three or four "associated measures" deliberately chosen but not announced at the time of the presidential speech. How much of this is substance and how much is smoke is still unclear.

It is easy to say, in hindsight, how the issue of Soviet troops in Cuba could have been more effectively handled under other circumstances.

If the administration had been either silent or more candid in the early stages. If the intelligence had been more definitive, and the description of the findings more precise. If there had been time and the means for quiet negotiations with the Soviets before the issue became public. If congressional leaders had been quietly supportive rather than outspoken. If some public rhetoric had not supported hopes for an unattainable diplomatic settlement, and other rhetoric had not fed expectations, in the midst of the negotiation, of hardline anti-Soviet action. If the whole thing had not developed while the top rank of official Washington, and the Soviet ambassador, were out of town.

What is impossible to say is whether any or all of this would have changed the final result in which the Soviet force, whatever it is, remains in Cuba and the U.S. government and public remain concerned and unsatisfied.

One certainty, in the opinion of veteran observers, is that the Carter administration's Cuban crisis was mismanaged. Worse than that, they fear that it was not managed at all.

THE PENALTY FOR THRIFT

● Mr. COHEN. Mr. President, this summer I introduced the Small Savers Incentive Act of 1979 to encourage more Americans to pursue a sensible savings program. Currently, our tax laws discourage average Americans from increasing their savings.

My bill would exempt from taxation the first $150 of interest earned on a savings account at a bank, savings and loan association, or credit union. For a husband and wife filing a joint return, the exemption would be $300. My bill would provide tax relief and motivation to a working family that is trying to preserve its income from destruction by inflation.

During the past weeks, two articles have appeared in the Wall Street Journal illustrating the need to promote savings and the benefits that accrue to both the individual and the national economy. The first, "Europe's Savings Rate, Far Outstripping United States, Aids Economic Growth," written by June Kronholz, appeared Friday, October 5, 1979. The second, "Slumps Usually Help Savings Institutions—But Not This Time," appeared Wednesday, October 17, 1979. It was written by Richard F. Janssen.

I commend both articles as current reading for my colleagues.

It is interesting to note that in Western Europe and in Japan, government incentives are behind the people's saving psychology. Here in the United States there are many government policies that stimulate the opposite psychology of spending and incurring debt.

As reported in the October 5 article, a high savings rate "has what one economist calls 'a virtuous effect' on a country's economic performance." In Germany, for example, businessmen turn to their banks to raise funds rather than offering stock on the market. The explanation, according to the article, is that "with high deposits, the banks have plenty of money available to lend for plant investment and expansion."

Admittedly, American savers are confronted by an inflation crisis that erodes their deposits. As Mr. Janssen points out in the October 17 article:

> Many people are hit so hard by inflation that they find themselves unable to save at all.

Savers are, in fact, penalized, not only by Government's failure to control inflation, but also by low ceilings on interest rates currently paid by savings institutions and regressive taxation on earned interest. Fair reforms are required to help savers fight inflation and to improve the ability of both commercial and thrift institutions to serve their customers.

Over the last 30 years, private personal savings have accounted for 65 percent of net saving in the country, always an important component of the Nation's capital stock. Moderate assistance to savers now will help Congress evaluate what future steps might be taken to curb inflation through emulating the European "saving psychology."

I ask that certain articles in support of my position be printed in the RECORD.

The articles follow:

[From the Wall Street Journal, Oct. 5, 1979]

EUROPE'S SAVINGS RATE, FAR OUTSTRIPPING U.S., AIDS ECONOMIC GROWTH

(By June Kronholz)

FRANKFURT.—The late-summer sales are offering what, to Germans, are terrific bargains: canvas sandals for $30, large-size cotton dresses for $100, major appliances for perhaps double U.S. prices, and the usual array of last winter's heavy-duty underwear for $8.70 a set.

Despite such temptations, Renate Schumacher, a 24-year-old telephone operator, expects to stick to the budget she devised four years ago. From her take-home pay of about $740 a month, she regularly banks $284 and "whatever is left" after paying for rent, food and upkeep on her automobile.

Old stories of depression, deprivation and hyper-inflation are passed along like family recipes here, and they have turned West Germany into a nation of super-savers. This year Germans will spend more and borrow more than ever before, but they also will save more—the equivalent of about $60 billion. In all, they will squirrel away about 14% of their disposable incomes, more than double what Americans will put away.

VIRTUOUS HABIT

The importance of that high savings rate is that it has what one economist calls "a virtuous effect" on a country's economic performance. Instead of turning to stock offerings to raise money, German companies traditionally turn to their banks—an easier and more reliable way to raise funds. With deposits high, the banks have plenty of money available to lend for plant investment and expansion.

All this is a prime factor in the German economy's success story—and a comment on the comparatively slack economic performance of the U.S. The funds made available by saving have helped push productivity ahead at a faster rate in Germany since the 1960s than in any other Western nation. And even though productivity shows signs of slowing lately, it still is expected to rise five times faster this year than in the U.S.

Savings rates—the percentage of income that people put into bank accounts, bonds, securities, insurance and mortgages—have been growing steadily in most of Western Europe in recent years. The French are expected to save even more than the Germans—about 17% of their incomes this year, according to the Organization for Economic Cooperation and Development. In Italy, where the Consumer Price Index is rising faster than in any other major European country, savings will total about a quarter of disposable income, the OECD says.

There is some government encouragement behind these figures. Frenchmen get generous tax breaks on their savings-account interest, and the German government stimulates savings by offering a cash bonus to savers of up to about $100 in each year.

THE INVOLUNTARY FACTOR

Much of the growth in European savings is due to payroll-savings plans and other contractual savings programs. Britons, for instance, saved more than 14% of their disposable income last year, double the rate of the 1960s. But London's National Institute for Economic and Social Research estimates that about half of their current savings are involuntary—payroll-paid life-insurance and pension programs, for example.

Deepening fears of inflation seem, oddly, to encourage savings in Europe. Previous inflations spurred people to spend their money before it lost further buying power. "The logical thing to do is to borrow everything you can," says Roger Bookhouse, an economist for Bankers Trust Co. in London.

But, beginning in the 1970s, European consumers have been doing just the opposite. "They feel the need for a larger cushion," says F. T. Blackaby, deputy director of London's National Institute. "They fear the future."

In 1974, these economic fears, fueled by Germany's highest inflation rate (7%) since World War II, prompted Germans to bank so much of their money that the government, worried that the economy would stagnate, passed a series of measures to encourage spending. It was no use producing more if no one was buying. (The economy recovered anyway, and savings rates dropped back.)

This year, while other Europeans warily anticipate a recession inspired by high oil prices, Germany has no such concerns, inflation and unemployment are only about 4% each, and the real gross national product will grow by 4% this year, double the American rate, according to the Deutsche Bundesbank, Germany's equivalent of the U.S. Federal Reserve.

THEY SPEND, TOO

As enamored as ever with new cars and eager to travel because current foreign-exchange rates are in their favor, Germans will increase their consumer spending by 7% this year over 1978, the Paris-based OECD predicts. Dresdner Bank, Germany's second largest says that consumer loans, which weren't even offered by German banks until 1959, now average about $1,000 for every German and will jump about 20% this year.

Still, Germans are expected to keep saving, because—well, because they always have. "It's something Germans got with their mother's milk," says Herbert Wolf, chief economist for Commerzbank, a major bank.

A poll that Commerzbank conducted among its depositors concluded that Germans don't save to buy anything in particular. Indeed, when they buy a car, furniture or a package-tour vacation, it usually is on the installment plan, even though almost all borrowers have savings accounts too. Most Germans told Commerzbank that their savings were for emergencies or for old age, even though Germany has generous social-security and medical-care programs.

Because wages are rising twice as fast as prices in Germany—and because inflation isn't eating away at purchasing power—Germans can afford to save more than most people. Germany's commercial banks almost ignored private savers, leaving them to the savings banks, until they recognized the growth in disposable income 20 years ago. The commercial banks then quickly began opening 1,000 bank offices a year to help handle savings accounts.

Now, Dresdner estimates that 95% of Germans have savings accounts, and that bank savings alone average $3,900 a person. To handle all those depositors, Germany has 44,000 bank offices—one for every 1,400 people—and traveling tellers regularly visit elementary schools to open accounts for children as young as six.

Whatever motives Germans may have for saving, interest rates don't seem to be the primary one. A few years ago, a research firm discovered that two-thirds of Germany's depositors didn't know how much interest they were being paid.

Now, Germans are becoming more aware of interest rates, the major banks say. But passbook accounts still are the most popular way to save, even though they pay only 3.5% interest now and were paying a mere 2.5% a year ago. Other forms of bank saving, including certificates of deposit, pay higher interest rates, but aren't as popular.

Despite that low return, Gunnar Kockerols, who is studying for a doctorate in economics at the University of Frankfurt, says he reg-

ularly puts 40% of his income as a teaching assistant into a passbook account. With a certain doomsday logic, Mr. Kockerols says he saves "because of my own anxiousness and what might come," and he saves in a passbook account because "I want to be able to get to my money."

The German preference for a safe, handy investment helps explain the indifference to investing in company stock. Last year, Germans put the current equivalent of $31 billion into banks, but only $1 billion into stock, the Bundesbank says. The Frankfurt stock exchange, one of eight in the country, lists only 229 companies.

Other investments are similarly unpopular; bond holdings far outnumber stock holdings, but the Bundesbank says their sales have been falling for two years.

Not everyone learned the same lessons from Germany's bad economic times, of course. Although there are 15 bank offices within a short walk of her job, Kerstin Franke says she saves only about 3% of her income as a travel agent—and even that will be put into a piece of real estate as soon as she can manage it. "After the last war, the people who saved found their money was worth nothing," she reasons.

Nonetheless, economists don't expect many young people to scuttle their bank accounts as Miss Franke plans to do. The savings rate will grow slightly again this year, predicts Mr. Wolf, the Commerzbank economist. "Americans sleep well with debts," he explains. "But Germans sleep well only when they have money in the bank."

[From the Wall Street Journal, Oct. 17, 1979]

SLUMPS USUALLY HELP SAVINGS INSTITUTIONS—BUT NOT THIS TIME

(By Richard F. Janssen)

To the nation's thrift institutions, a recession usually looks a lot like the cavalry galloping to the rescue.

As consumers stop anticipating more inflation and as job security becomes more tenuous, saving looks smarter than spending. As market interest rates shrivel, passbook accounts—the instrument that the thrift institutions like best for financing their mortgage-lending activities because it costs them less than other money—again become attractive to savers.

That scene may yet be acted out, industry sources hope. But so far, the current slowdown is doing nothing to help the besieged mutual savings banks and savings and loan associations. The two main reasons:

Inflation remains high. Running at an annual rate of about 13% so far in 1979, it has outpaced passbook rates (a maximum of 5.5%) by so much for so long that savers are increasingly turning to alternatives bearing higher yields—yields that are rising even higher following the Federal Reserve Board's latest actions tightening the reins on credit. Many people are hit so hard by inflation that they find themselves unable to save at all.

Washington, discovering "the small saver," has put through one increase in passbook-rate ceilings and is intent on putting through more of them. That sounds as though it would help the thrift institutions by attracting more savings, but there are two catches. First, the rate ceilings shaping up won't be nearly high enough to protect the small saver from inflation, hence won't attract many new depositors. Second, these new ceilings will be paid to old depositors, too, of course, and will be high enough to strain the many thrift institutions that are stuck with older, low-yield mortgages.

THE "GREATEST UNEASINESS"

Such mortgages are especially prevalent among thrifts in the northeast, and these institutions are feeling the "greatest uneasiness" these days, says Anita Miller, a member of the Federal Home Loan Bank Board. She notes that they are also burdened with low usury ceilings on new mortgages, branching restrictions and their region's low economic growth.

William Popejoy, president of First Charter Financial Corp., a big California S&L holding company, worries that unless there is an early decline in interest rates paid by other competitors for the saver's dollar, such as money-market funds, there will be "collapses and bankruptcies" among Northeast thrifts, with unpredictable ripple effects elsewhere.

Some commercial bankers have suggested removal of all passbook-rate ceilings so that banks could better compete for the saver's dollar with other suitors. So has President Carter. That might be fine for commercial banks, whose business-lending rates are mostly pegged to fluctuations in the prime rate, but the thrifts don't have that much flexibility.

CHOICE OF EVILS

If ceilings were removed and the thrifts paid depositors drastically higher interest rates, their costs would immediately skyrocket. If they didn't pay such rates, they would lose deposits to banks that were paying them.

Most close observers therefore believe that the government won't remove the rate ceilings. It is more likely, they reason, that the ceilings will be raised gradually, bringing chronically higher home-mortgage costs and constricted housing starts without placating individual savers. "We are in a real predicament, with no easy answer to our problems," says Donald C. Sims, president of Union County Savings Bank in New Jersey.

The growing gap between the inflation rate and the passbook rate could further erode grass-roots faith in savings, observers say. It could even produce "a crisis of confidence in our banking system," says Jonathan E. Gray, a securities analyst with Sanford C. Bernstein & Co.

Savers' increasing ire is evident. Some are lobbying. Some are making angry phone calls to newspapers. It isn't only that "anyone who saves money is being penalized," says an anonymous caller to The Wall Street Journal newsroom; it's also that savings banks, by losing deposits, "could become illiquid to the point where some of them might fold."

HAVES AND HAVE-NOTS

Some analysts worry that class-consciousness is being stirred by the contrast between low rates on passbook accounts, for which the banks and S&Ls typically don't set any minimum balances, and the 11 percent or more they're allowed to pay those who have $10,000 to set aside for at least six months in certificates. "People realize," says an aide at a West Coast thrift institution, "that they're being divided clearly into a nation of haves and have-nots."

Federal agencies approved an increase of one-quarter of a percentage point in passbook rates effective last July 1. S&Ls and savings banks now can pay 5½ percent and commercial banks can pay 5¼ percent. The increase was far from enough to stop savings from being "grievously eroded by inflation," a Treasury aide concedes, but he cites "the safety and soundness of our financial system" as the obstacle to doing more.

This fairness vs. failures dilemma makes things difficult for President Carter's aides. In following up the President's seemingly bold call last May to eliminate the "increasingly unfair" ceilings, these aides and the Federal Reserve Board have generally given support to a Senate bill that wouldn't require any change until 1982. After that, the ceilings would be nudged up by only one-quarter of a point each Jan. 1 and July 1 and wouldn't disappear entirely until 1990.

Increasingly, the bigger commercial banks are chafing at the lowest-common-denominator approach of the regulators, an approach that requires them to hold their interest rates down to what the weakest links can afford to pay. The U.S. financial system is "still an industry dominated by 'mom and pop' stores," says A. W. Clausen, president of huge Bank of America; he complains that federal rules aimed at preserving thousands of small thrift institutions are preventing "true economies of scale."

The situation poses some awkward problems for the big banks. Their top officers are crusading for elimination of the Fed's Regulation Q passbook ceilings, which apply directly to all other U.S. banks and thrifts. At the same time, "our retail marketing side is trying to convince the public to keep their savings coming," says Kay Williams, marketing vice president of the Bank of America division covering domestic retail banking. The marketing effort isn't having much success, though; the bank reported that its domestic consumer savings deposits at mid-year had dropped nearly 5 percent from a year before, to $8.7 billion.

The big banks' double-edged campaigns are taking on some unusually abrasive aspects. To enlist public support for abolishing ceilings, Citibank has put up lobby posters blaming Regulation Q for preventing banks from keeping customers abreast of inflation. Because Citibank uses the slogan "The Citi Never Sleeps" (to promote its 24-hour electronic-teller machines), the customarily staid Manufacturers Hanover Trust Co. couldn't resist taking out full-page newspaper ads crowing, "We Caught the Citi Napping." The message: While Manufacturers Hanover has made full use of the two increases in the past six years in passbook ceilings, "Citibank still pays only 4½ percent interest" on passbooks.

That's true, a Citibank spokesman says, but he adds that the passbook is merely "there if people want it" and that "we haven't been pushing the product." Instead, Citibank has been promoting other savings accounts that pay the 5¼ percent limit and are related to use of the bank's plastic cards for electronic deposits and withdrawals.

Such public skirmishing among the giant banks only adds to the anxiety of thrift executives. Without the constraint of Regulation Q ceilings, the commercial banks could wage "bitter, sustained rate wars" against the thrifts, warns Louis H. Nevins, an official of the National Association of Mutual Savings Banks.

That, thrift-industry pessimists say, could bring near-extinction of the specialized consumer-savings, mortgage-lending institutions.

TURNING TO ALTERNATIVES

Meanwhile, many S&Ls are becoming more like big banks. Less able to rely on the rank-and-file savers, they are turning more to larger-scale sources of capital. As of August, S&Ls' regular savings accounts had dwindled to about $123 billion from almost $142 billion a year before; the funds they raised by selling certificates of deposit of $100,000 and more, which are exempt from interest ceilings, had grown to almost $21 billion from below $13 million; S&L deposits in the form of six-month $10,000 certificates, whose rates are linked to those on Treasury bills, soomed to $94 billion by the end of August from $15 billion a year earlier.

The Federal Home Loan Bank Board has proposed letting S&Ls reach out even farther afield by tapping the Eurodollar pool of some 700 billion U.S. dollars on deposit outside the U.S. Large-scale borrowings from abroad are usually possible at interest costs a little lower than at home, and the pool is brimming with surplus funds of the oil cartel.

But the interest rates that the thrifts have to pay on all the larger-scale borrowings are more than double what they pay on passbooks, so they are struggling to keep the cheap money coming in. They are seeking,

for one thing, to focus public attention more on the underlying problem of inflation.

To talk of raising passbook rates is "spitting in the wind," scoffs Robert Chil, spokesman for the California Savings and Loan League. Because of inflation, he says, most people with earnings up around $20,000 a year "barely can meet their bills, much less save any money."

TAX INCENTIVE SOUGHT

The consumer pollster Albert E. Sindlinger agrees. "More than two-thirds of all U.S. households aren't in a position to add to their savings," he reports. And even if they were, he asks, "what sense would it make to save and get only 5.5% interest when the inflation rate is more than twice that?"

The thrifts are also pressing Congress to enact some sort of tax incentive for savings, such as an exemption of a portion of savings-account interest from the federal income tax As things now stand, analysts note, the tax typically trims a 5.5% interest rate to below 4%, so that when inflation is running at 13%, the small saver's account loses purchasing power at an annual pace of about 9%.

"I don't know anyone out there who can pay the kind of rate it would take to justify savings in this kind of inflation," says Mr. Sims of Union County Savings Bank.

The stock-brokerage houses and other sponsors of money-market funds are coming close, however—too close for the comfort of the traditional thrift institutions. These funds put money into Treasury bills and other high-yield, short-term instruments and pass along most of the interest to the investors. They usually pay about twice the passbook rate, and sometimes on amounts as low as $1,000.

The growth of such alternatives is raising doubt that individuals will come flocking back with passbook money even if inflation cools. Still, the conventional savings account isn't disappearing. Large and small savin institutions alike report that new accounts keep coming along. Customers apparently open them for convenience, to help establish a good credit rating, and out of habit. But people keep smaller amounts in their savings accounts these days while putting any larger sums they have into higher-yield varieties.

Some economists say that the U.S. faces a broader problem of inadequate savings i any form. After averaging 3.7% of after-tax income in the 1950s and 1960s, personal savings ouside of pension funds dropped to less than 1% in 1977 and 1978, Morgan Guaranty Trust Co. says. The bank contends that only if savers get a real, or after-inflation, return, will there be enough savings for the nation "to extricate itself from the morass of high inflation."

Once they get such a return, the argument goes, they will start saving more and spending less, thus damping inflation's fires.●

ALASKAN MARINE PILOTS

● Mr. GRAVEL. Mr. President, I call to the attention of my colleagues an article by Randy Bayliss which appeared in the September 1979 Alaska magazine, entitled "Pilots: The Mariner's Mariners."

This is an interesting article on the Alaskan marine pilots who guide the tankers through the narrows of Prince William Sound to eventually dock in Valdez. This is yet another phase of the TAPS terminal operations that I feel will be of interest to my colleagues. I ask that it be printed in the RECORD.

The article is as follows:

PILOTS: THE MARINER'S MARINERS

(By Randy Bayliss)

En route to Valdez, after a 2,000-mile trans-Pacific crossing, the empty oil tanker has traversed three-quarters of Prince William Sound when she slows from 15 knots to 4 knots just abeam of Bligh Island. The master pivots her stern smartly into the seas. On the windward side, the waves furiously rebound off the hull. The leeward seas have been flattened, calm except for the whirlpools of turbulence which testify to the power of the maneuver. In this lee, a striking black-and-white steel 65-foot Norwegian trawler approaches, matches speed and nudges alongside just long enough for a lone figure to leap from her deck to a ladder hung over the side. After a 30-foot—three-story—climb up the ladder to the deck and the five-story stairway to the bridge, this man takes control of the tanker, navigates the Valdez Narrows and directs two or three large tugs in her docking at the loading berth. These most difficult tasks are reserved for the most capable of mariners—the pilots.

In April 1977, I was an observer aboard the tanker *ARCO Fairbanks*, with 35 to 40 veteran tanker captains undergoing terrain familiarization in Valdez Arm before the start-up of pipeline operations. There was a combined 1,200 years of seagoing experience aboard. In that distinguished crowd, two men easily stood apart. There was no mistake that they were the pilots and even a casual bystander knew instantly they were in control. No-nonsense, intent, but not forced, they'd emerge from one of the black curtain-surrounded radar consoles, stalk to the bridge windows, glare at an invisible trackline on the water and quietly direct the helmsman: "Come right a degree to 221." Onlookers knew to stand aside and the background noise seemed to hush just before the pilots infrequently spoke.

Although shipmasters and pilots are both professional mariners and similarly licensed, the difference lies in specialization. As a ship approaches the landfall, the master gets nervous; when the ship approaches open water, the pilot gets nervous.

Gone are the romantic days when first sighting of tall masts on the horizon emptied the harbor taverns and triggered a race of pilot cutters. (The fastest pilot won the fee, and, hopefully, the fastest was the best.) Today's pilots get contracts, attend maritime academies, train in simulators, operate anticollision computers, and undergo countless tests and certifications. Pilots are articulate, authoritative and rarely hesitate to express an opinion. While ordinary tourists view the landscape, pilots subconsciously take bearings, estimate distances and calculate velocity and drift. If you look deeply into their eyes, you can almost see radar images.

Two groups of pilots operate in Alaska. The Southwest Alaska Pilots Association dispatches out of Homer, halfway between Anchorage and Kodiak. They split their work between Valdez, nearby Cook Inlet, and the Seward/Kodiak areas and with Nome, icebound for eight months a year, their northernmost port. The Southeast pilots are based in Ketchikan, the southernmost "Gateway to Alaska." They pilot considerable seasonal cruise ship traffic through the foggy, spruce-on-rock fjords of the Panhandle. Alaskan pilots handle the largest ships to enter any United States port—the five 265,000-deadweight-ton oil supertankers loading at the Valdez trans-Alaska pipeline terminal. Other ships requiring pilots include container vessels, chemical and gas bulk carriers, and log ships. Pilots work 304 days a year, either on call or piloting.

Boarding a tanker at sea can be hazardous to your health. It's easy enough for the tanker to smooth out some 6- or 8-foot wind waves in relatively protected Valdez Arm, but out near Hinchinbrook Entrance is another matter. Swells of 15 to 20 feet may come from one direction (or more) and wind chop of 6 to 8 feet comes from another direction. The pilot times his leap at the crest of a swell. If the crest of the next swell is higher, he risks getting crushed against the tanker if the pilot boat doesn't get away. Or the pilot boat could be slammed against the ladder on the downward cycle of the swell and the ladder could be ripped loose. Or the ladder could become fouled on the pilot boat as it pulls away. . . . Fortunately, most tanker masters are licensed to take their ships into protected waters inside Prince William Sound.

A pilot memorizes the local terrain. I was sipping coffee with an off-duty pilot in the mess when he glanced out the partly open porthole, sighted a cloud-shrouded craggy peak and casually announced that we were abeam of Middle Rock. I jumped up and peered out the porthole: we were directly abeam, and not 10 feet either side of Middle Rock. It was no accident.

A pilot handles a different ship each day and each ship has its idiosyncracies. And the docking maneuvers are supersensitive. If a large tanker meets the berth moving faster than a third of a mile an hour, it'll damage the structure. At slow speeds, the tanker's rudder is not too effective and very few tankers have bow thrusters or twin screws for slow-speed maneuvering. An unloaded tanker rides high in the water with a great deal of steel buffeted by the wind. (The Cook Inlet pilots who guide ships between Homer and Nikiski have to deal with large ice floes and 8-knot tidal currents, and usually with no tugs docking.) Turnaround time at the Valdez oil pipeline terminal averages about 24 hours. The pilot reboards and directs the careful departure of the loaded tanker. Tugs pull the tanker away from the dock, the pilot using a hand-held VHF radio to command 7,500-horsepower tugs at each end of the tanker, one-fifth of a mile apart. The tugs pull the tanker a short distance from the berth, then one tug escorts the tanker to Middle Rock in Valdez Narrows 10 miles away. Outbound speed is held down to 6 knots for safety reasons so it takes about three hours to pass through the narrows.

The luxurious 65-foot pilot boat *Berling*, previously a yacht owned by a wealthy aerospace family, not only shuttles pilots to and from tankers, but also serves as a palatial residence for pilots during their two-week tour of duty in Valdez. Their mooring at Rocky Point is secluded and access is restricted by sumerged rocks, so there's a degree of privacy. But depending on the workload, visitors usually get royal treatment, and on the *Bering*, royal means royal. The anchorage is circled by magnificent Sitka spruce and while moored, the pilots commonly sight deer, eagles, puffins, otters and dozens of other forms of life. Off-duty pilots can cross-country ski and set crab pots in the winter and pick berries, catch salmon or beachcomb in the summer. If you can take the chilly rain, it's paradise.

I was chagrined to learn that even pilots have weaknesses. One calm summer evening, a pilot friend and I floated just yards outside the Valdez small-boat harbor in my 18-foot catboat, sails slatting annoyingly back and forth. We were complaining about government regulations, a popular sport with pilots. Fifty, then 30 yards astern, a female killer whale surfaced twice. I was fumbling hopefully for my camera when my intrepid pilot bolted to his feet and shrieked, "Start the engine!" Startled, I asked why. "We'll be killed," he replied. I assured him that killer whales only do that sort of thing by mistake and told him he'd seen too many silly movies. To reassure him, I rapped twice on the hull with my knuckle to make enough noise to let the killer whale know where we were. My friend accentuated my efforts by nearly stomping a hole in the deck with his boots. The bewildered killer whale didn't surface again for half a mile. Away went my camera.

Even the most capable mariners have a more serene perspective on killer whales when they are 80 feet above the water on a tanker bridge.●

PAY ADVICE COUNCIL SHOULD MOVE TO END TAXFLATION

● Mr. DOLE. Mr. President, yesterday the Carter administration set into operation its new Pay Advisory Committee, comprised of representatives of business and labor. The theme of yesterday's inaugural meeting was that labor should desist from pushing for wage increases to catch up with prices and that business, likewise, should resist pressure for such wage increases. Alfred Kahn, the President's chief anti-inflation spokesman, said that wage increases in excess of productivity gains merely contribute to the inflationary spiral.

Mr. Kahn's statement is not wrong, but the administration seems to be looking at the wage question through the wrong end of a telescope. Moral suasion to restrain wage demands can never be as effective as changing the policies that encourage high wage demands. For example, take the familiar analogy to the football stadium where one spectator stands up to get a better view of the game. Because that spectator blocks the view of others, more people stand up until the entire stadium is standing. Everyone is on their feet, but no one has a better view than before. They are just maintaining their position, as workers try to do vis-a-vis inflation.

The administration's strategy is like telling the man in the last row to sit down in order to break up the trend. While it is possible that the man's example might spread, there is no guarantee that it will. The correct answer is to get the guy who started it all to sit down so that others need not try to see around him. Where inflation is concerned, that man in the front row is the Government, which encourages the financing of wage and price increases through the financing of a burgeoning Federal deficit.

Fortunately the administration is showing signs of focusing on the real problems, and we will have to wait to see whether they can adhere to fiscal and monetary restraint. The Pay Advisory Committee may be best understood as a sort of psychological backup to the real anti-inflation process. But the administration, if it is serious about wage restraint, ought to consider eliminating a major disincentive to such restraint.

It is simply this: Inflation pushes people into higher tax brackets, raising their real tax liability, and thus puts them farther behind than the inflation figures alone would suggest. This phenomenon is taxflation, and it is a major reason why people feel compelled to push for higher wages to maintain their standard of living. There is no excuse for allowing such an incentive for high wage demands to continue in times of high inflation.

Mr. President, the Senator from Kansas has introduced the Tax Equalization Act, S. 12, which would end taxflation. The Tax Equalization Act would require adjustment of the tax brackets, zero bracket amount, and personal exemption to compensate for the effects of inflation. Taxflation would cease to add to the financial difficulties of our citizens, and they could better afford to moderate their pressure for higher wages. Let the administration endorse the Tax Equalization Act, which would make the task of the Pay Advisory Council that much easier. It is in the interest of both business and labor.●

ENERGY NEEDS OF "WARM WEATHER" STATES

● Mr. STONE. Mr. President, I believe that it is essential that any energy assistance program take into account the needs of "warm weather" States. I ask that a copy of my letter to the chairman of the Senate Committee on Labor and Human Resources, expressing my concerns with regard to this program, be printed in the RECORD.

The letter is as follows:

U.S. SENATE,
Washington, D.C., September 28, 1979.

Senator HARRISON A. WILLIAMS,
Chairman, Senate Committee on Labor and Human Resources.

DEAR MR. CHAIRMAN: For the last three days your committee has held hearings on the development of a new program to help low-income households meet the sharply rising costs of home energy. I commend your leadership in this area and strongly support such a program.

The citizens of my state, and in particular our large senior citizen population, have been severely impacted by rising energy costs. Sixty-six percent of all "low-income" households in Florida are headed by a person receiving Social Security Income. As the testimony before your committee has confirmed, low-income elderly families will be forced to spend between one-fourth and one-half of their income to meet their home energy costs. In fact, Florida has a large number of households in every age group which will be forced to choose between the basic necessities of life, without an energy assistance program.

I am very aware of the importance of meeting the heating needs of the low-income citizens of our country where the choice is often "to heat or eat". However, it is important to point out that while air conditioning is often viewed as a luxury, it is a necessity for thousands of citizens who reside in Florida and other southern states. Our elderly in particular suffer disease and death as a result of exposure to heat. Therefore, I believe that it is essential that any energy assistance program reflect energy needs beyond just home heating.

It is especially important that any agency assistance program take into account the needs of "warm weather" states because Florida's utility rates are among the highest in the country. This is so in large part because of Florida's historic dependence on imported residual fuel oil to generate electricity.

In summary, I respectfully submit that in developing any energy assistance program, criteria for assistance should be based on: (1) ability to pay for necessary energy; (2) need to protect health and well-being; and (3) actual cost increases of energy. These criteria will insure that all citizens who need assistance to meet their basic energy needs will be provided with the necessary assistance regardless of their geographic location.

Warm personal regards.

Most cordially,

RICHARD (DICK) STONE.●

S. 1241—THE STATE-BY-STATE ALLOCATION

● Mr. DOMENICI. Mr. President, Senators MOYNIHAN, DURENBERGER, JAVITS, and I hold a great interest in moving forward on a more effective water resources development program. Our proposal is S. 1241. we are pleased with the interest it has stimulated. Unfortunately, there has been a good deal of misinformation floating about regarding the effect of S. 1241 and the way money under this bill is allocated among the States.

I recently asked that the Library of Congress compile a table showing the breakdown of S. 1241 by States. It must be recognized that there would, of course, be additional funds in the water program as a result of regional projects under S. 1241.

I ask that these tables be printed in the RECORD.

The tables are as follows:

S. 1241 ALLOCATIONS

	Population (thousands) (1)	Area (square miles) (2)	Population (percent of whole) (3)	Area (percent of whole) (4)	Composite (col 3 and 4 divide 2) (5)	Allocation (dollars) (6)
Alabama	3,742	51,609	0.017550	0.017203	0.017377	60,380,140
Alaska						100,000,000
Arizona	2,354	113,909	.011040	.037970	.024505	93,609,100
Arkansas	2,186	53,104	.010253	.017701	.013977	53,392,140
California	22,294	158,693	.104561	.052898	.078730	300,748,600
Colorado	2,670	104,247	.102523	.034749	.023636	90,289,520
Connecticut	3,099	5,009	.014535	.001670	.008103	30,953,460
Delaware						13,333,333
District of Columbia						13,333,333
Florida	8,594	58,560	.040307	.019520	.029914	114,271,480
Georgia	5,084	58,876	.023844	.019625	.021735	83,027,700
Hawaii						13,333,333
Idaho	878	83,557	.004118	.027852	.015985	61,062,700
Illinois	11,243	56,400	.052731	.018800	.035766	136,626,120
Indiana	5,374	36,291	.025205	.012097	.018651	71,246,820
Iowa	2,895	56,290	.013583	.018763	.016173	61,780,860
Kansas	2,348	82,264	.011012	.027421	.019217	73,408,940
Kentucky	3,498	40,395	.016406	.013465	.014936	57,055,520
Louisiana	3,966	48,523	.018601	.016174	.017388	66,422,160
Maine	1,091	33,215	.005117	.011072	.008095	30,922,900
Maryland	4,143	10,577	.019431	.003526	.011479	43,849,780
Massachusetts	5,774	8,257	.027021	.002752	.014887	56,868,340
Michigan	9,189	58,216	.043097	.019405	.031251	119,378,820
Minnesota	4,008	84,068	.018798	.028023	.023411	89,430,020
Mississippi	2,404	47,716	.011275	.015905	.013590	51,913,800
Missouri	4,860	69,686	.022794	.023229	.023012	87,905,840
Montana	785	147,138	.003682	.049046	.026364	100,710,480
Nebraska	1,565	77,227	.007340	.025742	.016541	63,186,620
Nevada	660	110,540	.003095	.036847	.019971	76,289,220
New Hampshire						13,333,333
New Jersey	7,327	7,836	.034354	.002612	.018488	70,624,160
New Mexico	1,212	121,666	.005684	.040555	.023120	88,318,400
New York	17,748	49,576	.083240	.016525	.049883	190,553,060
North Carolina	5,577	52,586	.026157	.017529	.021843	83,440,260
North Dakota	652	70,665	.003058	.023555	.013307	50,832,740
Ohio	10,749	41,222	.050414	.013741	.032078	122,537,960

S. 1241 ALLOCATIONS—Continued

	Population (thousands) (1)	Area (square miles) (2)	Population (percent of whole) (3)	Area (percent of whole) (4)	Composite (col 3 and 4 divide 2) (5)	Allocation (dollars) (6)
Oklahoma	2,880	69,919	.013507	.023306	.018407	70,314,740
Oregon	2,444	96,981	.011463	.032327	.021895	83,638,900
Pennsylvania	11,750	45,333	.055109	.015111	.035110	134,120,200
Rhode Island						13,333,333
South Carolina	2,918	31,055	.013686	.010352	.012019	45,912,580
South Dakota	690	77,047	.003236	.025682	.014459	55,233,380
Tennessee	4,357	42,244	.020435	.014081	.017258	65,925,560
Texas	13,014	267,338	.016037	.089122	.075075	286,786,500
Utah	1,307	84,916	.006130	.028305	.017218	65,772,760
Vermont						13,333,333
Virginia	5,148	40,817	.024145	.013606	.018876	72,105,320
Washington	3,774	68,192	.017700	.022731	.020216	77,225,120
West Virginia	1,860	24,181	.008724	.008060	.008392	32,057,440
Wisconsin	4,679	56,154	.021945	.018718	.020332	77,668,240
Wyoming	424	97,914	.001989	.032638	.017314	66,139,480
Total	213,215	3,000,009	.999942	1.000001	0.999983	3,999,938,878

PRESENT ALLOCATIONS

	Corps of Engineers [1]	Bureau of Reclamation [2]	Soil Conservation Service [3]	Total State allocation
Alabama	178,200		3,291	181,491
Alaska	37,998		0	37,998
Arizona	7,622	107,652	4,692	119,966
Arkansas	22,050		5,751	27,801
California	96,820	135,049	7,765	239,634
Colorado	3,400	[4] 72,045	2,014	77,459
Connecticut	18,000		235	18,235
Delaware	0		881	881
District of Columbia	3,500		0	3,500
Florida	46,480		330	46,810
Georgia	55,279		958	56,237
Hawaii	12,205		1,349	13,554
Idaho	5,400	1,742	97	7,239
Illinois	34,565		7,564	42,129
Indiana	7,000		661	7,661
Iowa	27,328		4,829	32,157
Kansas	35,600	1,078	7,429	44,107
Kentucky	62,033		3,697	65,730
Louisiana	81,758		607	82,365
Maine	0		325	325
Maryland	26,000		641	26,641
Massachusetts	4,350		1,113	5,463
Michigan	3,384		637	4,021
Minnesota	15,959		1,313	17,272
Mississippi	2,500		9,387	11,887
Missouri	69,200		1,252	70,452
Montana	30,355	6,274	859	37,488
Nebraska	100	10,110	2,617	12,827
Nevada	0	46,377	0	46,377
New Hampshire	0		10	10
New Jersey	4,650		2,335	6,985
New Mexico	5,645	3,215	1,021	9,881
New York	11,570		1,912	13,482
North Carolina	37,200		4,085	41,285
North Dakota	847	3,261	1,265	5,373
Ohio	14,800		3,021	17,821
Oklahoma	39,438	0	12,372	51,810
Oregon	155,628	4,698	2,321	162,647
Pennsylvania	43,648		3,068	46,716
Rhode Island	0		5	5
South Carolina	14,423		1,424	15,847
South Dakota	0	200	963	1,163
Tennessee	0		3,254	3,254
Texas	77,767	30,681	18,601	127,049
Utah	0	54,715	845	55,560
Vermont	0		150	150
Virginia	19,834		1,885	21,719
Washington	57,258	43,185	1,005	101,448
West Virginia	27,200		4,992	32,192
Wisconsin	500		2,046	2,546
Wyoming	0	4,979	1,168	6,147
Total	1,397,494	525,261	138,052	2,060,807

[1] Taken from "Civil Works Appropriations, U.S. Army Corps of Engineers, Fiscal Year 1979." November 1978.

[2] As transmitted by Baretta Minardi (343-6995) of Bureau of Reclamation, June 6, 1979.

[3] As transmitted by Jim Spitz (447-4533) of Soil Conservation Service.●

CHARLIE SMITH—AGE 137

● Mr. CHILES. Mr. President, on October 5, Charlie Smith died at the age of 137. According to the Social Security Administration, he was the oldest living American. I mention his death because he lived in Florida, and because as a Senator from Florida and chairman of the Special Committee on Aging, I take pride in the example Mr. Smith set for all of us as we grow older. Of himself, Mr. Smith said, "Getting older makes me feel like a winner." This is indicative of the zeal with which he pursued life.

At the age of 115, Mr. Smith retired from his job as a fruit picker because he could no longer keep up with men one-fifth his age. Feeling confident about his health on his 135th birthday, he said, "I feel good and I look good. The cake is good and so am I." Mr. Smith, a former slave and Texas cowboy, was a living example of the contributions that can be made by older people. His positive attitude was contagious and his enthusiasm for life undaunted until the end.●

THOMAS ALVA EDISON

● Mr. LEVIN. Mr. President, October 21, marks the 100th anniversary of the invention of the incandescent electric light. This device that we take for granted together with a host of other innovations is the brainchild of the Wizard of Menlo Park, Thomas Alva Edison. This gifted man combined the imagination of the theoretician with the technique of a manufacturing engineer so that his inventions enhanced the life of the populace instead of merely affording amusement to a few. His influence on the industrial genuises who ushered in the automotive age is manifested by the preservation of his laboratory at Greenfield Village in Dearborn, Mich.

The lives of all Americans and most of human kind have been brightened by the legacy of this gifted man and I rise today to memorialize our debt to him in the pages of the CONGRESSIONAL RECORD.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the eight notifications I have just received.

There being no objection, the notices were ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 16, 1979.

Hon. FRANK CHURCH,
Chairman, Committe on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-01, concerning the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services estimated to cost $400.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 80-01]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value: Major Defense Equipment,* $0.0 million; other, $400.0 million; total, $400.0 million.

(iii) Description of Articles or Services Offered: Equipment and support for three Perry-class guided missile frigates to be built by the Spanish including shipboard hardware, logistic support and equipment, and technical assistance in computer programming and combat system development.

(iv) Military Department: Navy (LDE).

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 16, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 16, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-02, concerning the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services estimated to cost $150.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 80-02]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value: Major Defense Equipment,* $0.0 million; other, $150.0 million; total, $150.0 million.

(iii) Description of Articles or Services Offered:

Equipment and support for one anti-submarine warfare aircraft carrier to be built by the Spanish to include shipboard hardware, logistic support and equipment, and technical assistance in computer programming and combat system development.

(iv) Military Department: Navy (LDF).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 16, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 16, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-03, concerning the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services estimated to cost $50.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 80-03]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value: Major Defense Equipment,* $0.0 million; other, $50.0 million; total, $50.0 million.

(iii) Description of Articles or Services Offered: Construction of a Combat Systems Test Center for the purpose of developing, testing, and integrating the combat systems computer programs of the anti-submarine aircraft carrier and the guided missile frigates being built by Spain.

(iv) Military Department: Navy (LDG).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 16, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 16, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-04, concerning the Department of the Army's proposed Letter of Offer to Thailand for defense articles and services estimated to cost $14.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 80-04]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Thailand.

(ii) Total Estimated Value: Major Defense Equipment,* $13.1 million; other, $1.6 million; total, $14.7 million.

(iii) Description of Articles or Services Offered: Thirty four (34) M198 155mm towed howitzers, twenty four (24) M101A1 105mm towed howitzers, supporting equipment, spare parts, and quality assurance team.

(iv) Military Department: Army (UPD).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 16, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 16, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-05, concerning the Department of the Air Force's proposed Letter of Offer to Oman for defense articles and services estimated to cost $15.3 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

[Transmittal No. 80-05]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36 (b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Oman.

(ii) Total Estimated Value: Major Defense Equipment,* $7.0 million; other, 8.3 million; total, $15.3 million.

(iii) Description of Articles or Services Offered: Two hundred and fifty (250) AIM-9P SIDEWINDER air-to-air missiles.

(iv) Military Depart...ent: Air Force (YAA).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 16, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 16, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-06, concerning the Department of the Army's proposed Letter of Offer to Israel for defense articles and services estimated to cost $19.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

[Transmittal No. 80-06]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value: Major Defense Equipment,* $15.4 million; other 3.6 million; total, $19.0 million.

(iii) Description of Articles or Services Offered: Twenty-five (25) M88A1 tracked recovery vehicles.

(iv) Military Department: Army (XIL).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: Oct. 16, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 16, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-07, concerning the Department of the Army's proposed Letter of Offer to Israel for defense articles and services estimated to cost $41.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

[Transmittal No. 80-07]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value: Major Defense Equipment,* $0.0 million; other, 41.0 million; total, $41.0 million.

(iii) Description of Articles or Services Offered: Three hundred (300) M60A3 tank fire control systems, associated test equipment, and spare parts.

(iv) Military Department: Army (XHZ).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: Oct. 16, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 16, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-09, concerning the Department of the Army's proposed Letter of Offer to NATO for defense articles and services estimated to cost $17.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

[Transmittal No. 80-09]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: NATO.

(ii) Total Estimated Value: Major Defense Equipment*, $16.0 million; other, 1.0 million; total, $17.0 million.

(iii) Description of Articles or Services Offered: One hundred and seventy four (174) Improved Hawk air defense missiles.

(iv) Military Department: Army (URM).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 16, 1979.●

JUSTICE SYSTEM IMPROVEMENT ACT OF 1979

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 241.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

(The amendment of the House is printed in the RECORD of October 12, 1979, beginning at p. 28142.)

Mr. KENNEDY. Mr. President, I move that the Senate disagree to the amendment of the House, and that the Senate request a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. KENNEDY, Mr. BIDEN, Mr. DECONCINI, Mr. BAUCUS, Mr. HEFLIN, Mr. THURMOND, Mr. LAXALT, Mr. DOLE, and Mr. COCHRAN conferees on the part of the Senate.

HIGHER EDUCATION ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5386.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5386) to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such Act from the amount so appropriated for fiscal year 1979 shall be borne equally by all States.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 659

(Purpose: To assure that funds not be withheld from a State student incentive grant program because of a failure to meet the requirements of section 415C(b)(4) of the Higher Education Act of 1965)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 659.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 2. No fiscal year 1979 funds may be withheld from a State under subpart 3 of part A of title IV of the Higher Education Act of 1965 because of a failure of a State to meet the requirement of section 415C (b)(4) of that Act based upon the provisions of a State statute enacted prior to October 1, 1978.

Mr. BENTSEN. Mr. President, today I have the opportunity to submit a noncontroversial amendment to assure that $4.1 million of Federal funding will not be withheld from the Texas State student incentive grant program. This money has been promised to approximately 10,000 Texas students to make it possible for them to meet tuition costs; however, for two unacceptable reasons their education is being held in the balance.

First, in exercising its right to maintain quality education throughout the State, Texas employs an accreditation process for institutions of higher education. The national law, however, mandates that Federal grants must be distributed to all institutions of higher education unless they are in violation of the State constitution. The net effect is that the national law infringes on the State law to the extent that Texas would have to distribute its grant money to all institutions, whether they are accredited or not. Due to this mismatching of Federal and State guidelines, the funds have been withheld to prevent underqualified schools from being subsidized through the State student incentive grant program.

Members of the House agree that this bureaucratic inconsistency should not be allowed to cause students financial hardships or tie the hands of the State from encouraging quality higher education. The House-passed higher education reauthorization bill will permanently correct this situation.

The second reason making immediate action necessary is simply a problem in timing. Mr. President, if by February 1, 1980, enabling legislation is not passed, funds for Texas students to meet this year's educational costs will be forfeited back to the Federal bureaucracy.

Even though the situation will be corrected by the provision in the House-passed reauthorization bill, that legislation will not become law in time to benefit students this year.

We cannot let an inconsistency between national and State bureaucracy that will be corrected in future years and unfortunate timing in the legislative process block funds from 10,000 students this year. My amendment is designed only to free funds that have already been granted and are in a state of limbo because of the time delay for the reauthorization bill to pass.

I want to emphasize that the scope of this amendment is very narrow. It will not have any effect in future years nor will it do anything but correct this localized problem in Texas.

Mr. President, I ask that this noncontroversial amendment be accepted.

Mr. President, I ask that this amendment be accepted in order that some 10,000 students in Texas will have the benefit of the program that other States will also be receiving.

The PRESIDING OFFICER. Is there objection to the amendment?

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BENTSEN. I thank the distinguished majority leader for his assistance.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 5386), as amended, was passed.

The PRESIDING OFFICER. Is there further morning business?

The Senator from West Virginia.

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Utah (Mr. HATCH) to attend the North Atlantic Assembly, to be held in Ottawa, Canada, October 22-27, 1979.

AUTHORITY FOR CERTAIN ACTIONS TO OCCUR PRIOR TO 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5 p.m. today to submit statements for the RECORD and to introduce bills, resolutions, petitions, memorials, and that committees may have until 5 p.m. today also to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE BUDGET COMMITTEE TO FILE REPORT BY MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Budget Committee have until midnight to file its report.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I expect rollcall votes tomorrow. It is expected that the conference report on the D.C. appropriations bill, H.R. 4580, will be called up tomorrow.

There will likely be a rollcall vote on the matter in relation thereto. It is also expected that the conference report on the Defense Department authorization bill, S. 428, will be called up tomorrow and there will probably be a rollcall vote or votes in relation thereto.

Other matters may be cleared for action that, in the meantime, may be called up.

RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until tomorrow.

The motion was agreed to and, at 2:21 p.m., the Senate recessed until tomorrow, Friday, October 19, 1979, at 12 noon.

HOUSE OF REPRESENTATIVES—*Thursday, October 18, 1979*

The House met at 10 a.m.

The Reverend Charles A. Rogers, Centenary United Methodist Church, Fort Ashby, W. Va., offered the following prayer:

O God, we thank You for the return of the wonderous day that brings with it the opportunities and the challenges which face each of us. Let not the unworthiness of Your servant stand between You and the Members of this body as we join in prayer.

Grant Thy blessings upon those who promote human welfare. Let Your favor rest upon those who seek to heal divisions which set men in hostile camps. Guide and strengthen them as they seek to bring classes and individuals to mutual understanding.

Direct and bless those who speak where many listen and write what many read. Teach them, that they may teach us: Inspire them that they may inspire us, grant that, thinking little of fame or profit, they may do their part to make the mind of the people wise, their hearts sound, their will righteous.

We pray especially for those who make up this honorable delegation, give them good health for the physical strains of their office, good judgment for the decisions they must make, wisdom beyond their own, and clear understanding for the problems of this hour.

May Your will be done, for the good of all the land and the peace of all the people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 975) entitled "An act to authorize appropriations for fiscal year 1980 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1030) entitled "An act to authorize the President to create an emergency program to conserve energy, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate, to a bill of the House of the following title:

H.R. 1825. An act to protect archaeological resources on public lands and Indian lands, and for other purposes.

The message also announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1871. An act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program; and

S. Con. Res. 44. Concurrent resolution correcting the enrollment of S. 1030.

The message also announced that the Vice President, pursuant to Public Law 84-689, appointed Mr. BIDEN (chairman), Mr. JACKSON, Mr. MORGAN, Mr. DURKIN, Mr. JAVITS, Mr. STEVENS, Mr. COHEN, and Mr. MCCLURE to attend the North Atlantic Assembly to be held in Ottawa, Canada, October 22 to 27, 1979.

REV. CHARLES ROGERS

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, the prayer was delivered by Rev. Charles Rogers, pastor of the Centenary United Methodist Church. He is a native of West Virginia. He was educated at West Virginia University and the New England College in Henniker, N.H. He has held pastorates in New Hampshire and at several places in West Virginia. He is a man who believes and teaches God as the infinite architect of the universe and the compassionate ruler of destiny. He is a good man, a great man, and he is a man of God in every sense of the word. We are proud to have him as pastor of our church, and may the Lord which dwelleth in heaven watch over him, his good wife and their family, keep them safe and guide and guard them and lead them along life's pathway.

CAROLYNN CONYER WOSOBA

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it was my pleasure this morning to hear the presentation of Carolynn Conyer Wosoba at an oversight hearing on identification of low-income children in school food programs.

The hearing was before the Subcommittee on Elementary, Secondary and Vocational Education.

Carolynn Wosoba, the talented 35-year-old superintendent of Anchorage Independent School District in Jefferson County, Ky., is one of two women school superintendents among Kentucky's 181 school districts.

The Kentucky Association of School Administrators honored Carolynn Wosoba in 1978 by voting her as "Superintendent of the Year" in Kentucky.

Carolynn is a native of Crittenden County in my congressional district and her parents are two favorite constituents of mine, Mr. and Mrs. Lal Conyer of Marion, Ky.

Carolynn Wosoba received her bachelor of science and master of arts degrees at Murray State University, in my district, and is now working on her doctorate in school administration at Indiana University.

I am very happy that Superintendent Carolynn Wosoba could testify today before Chairman CARL PERKINS and the aforesaid subcommittee.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

PITTSBURGH PIRATES—WORLD SERIES CHAMPIONS

(Mr. MOORHEAD of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. I know, Mr. Speaker, that the House is curious to know what I, as a Member of Congress from the city of Pittsburgh, might want to discuss with the House today, but I will give a hint by holding up a copy of the sports page of the Washington Post.

But frankly, Mr. Speaker, I want to commend two great athletic teams, the Baltimore Orioles, who are almost the world champions of baseball, and, of course, my own Pittsburgh Pirates, who have become the world champions. Led by their leader and captain, Willie Stargell, who was voted the most valuable player of the series, the Pirates came back from a 3-to-1 deficit, only the fourth time in World Series history that a team has done this, to win in the seventh game of the World Series.

These Pittsburgh Pirates, who have scrapped and scraped all year long, really deserve the devoted attention of the Pittsburgh area fans who helped them along with moral encouragement throughout the season.

The "family," as the team likes to call itself, provided a year of thrills and excitement all season and right through the final game of the 1979 World Series.

I want to take this moment to commend each and every Pirate, the team ownership and managers and, most certainly, the loyal fans of the Pittsburgh area for a sports year that will not soon be forgotten.

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from California.

Mr. PASHAYAN. I thank the gentleman for yielding.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman and to underscore the fact that the humility that Willie Stargell expressed in the great achievement I think is appreciated by all Americans, the fact that he was not bragging about it, he was not boastful about it, he was very humble. That, I think, underscores what a great athlete and what a great person he is.

Mr. MOORHEAD of Pennsylvania. And a real gentleman, I would say.

Mr. PASHAYAN. I agree.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

Mr. Speaker, I think this is a great tribute to the Pirates, and I would like to join my colleague also. The Pirates for many, many years have been famous. Whether they have been at the bottom of the heap in the cellar or at the top, their fans are the most supportive of any fans of any team anywhere in the Nation.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Ohio, our neighboring State.

Mr. DEVINE. I thank the gentleman for yielding.

Mr. Speaker, I would also like to associate myself with the remarks of the gentleman from Pennsylvania. The Pittsburgh Pirates happen to be owned by John W. Galbraeth and Danny Galbraeth of Columbus, Ohio, so all of us from that area are also supportive of the Pirates and I congratulate the gentleman and his team.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for his kind remarks.

IMPORTANCE OF PHYSICAL FITNESS

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, first of all, I will take my hat off to the Pirates, but I do not think I need to defend the Orioles, which is not the real reason why I have taken the floor today, but I must say that I think we had one heck of a series and the Orioles will be back. But congratulations to the Pirates.

Mr. Speaker, during the last several weeks we have heard various freshmen Members of the House from this side of the aisle review some of the impressive accomplishments of the House Democratic leadership and the administration. I am sure that all objective observers will agree that the record they have reviewed is indeed commendable and I see no reason to repeat these achievements at this time.

I would like to take this opportunity to bring to the attention of my colleagues one aspect of this record that might have been overlooked. A great deal of the attention of this Congress has been directed toward solving our energy problems by becoming self-reliant as a Nation in meeting our energy needs in the future.

Part of the answer to achieving energy independence is the greater self-reliance of American citizens. More and more individuals are conserving energy through home weatherization, solar energy, wood stoves, and other measures which increase the ability of our people to provide for their own energy needs.

But there has been a remarkable growth in activities related to physical fitness which is instrumental in enabling individuals to provide for their own needs. Millions of Americans have been inspired toward engaging in activities which promote physical fitness by Democratic Presidents. President Kennedy began this movement and his contributions are still remembered through the 50-mile hikes which he sponsored, including one which will be held in my district this November 17 for the 17th time. These efforts are continued through the ongoing work of the President's Council on Physical Fitness and Sports and the outstanding example of President Carter's jogging. These activities will reduce our national health care costs and improve the quality of life for Americans for decades to come.

□ 1010

PRESIDENT CARTER AND DECONTROL DECISION

(Mr. HANCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCE. Mr. Speaker, I would like to take a minute this morning to make some observations concerning President Carter and the energy crisis. We all know there is no immediate answer to the energy problem. It has taken several years for this problem to be brought to our attention and there will be no easy answer to it.

Whatever the plan, however the implementation and whomever the President, there would be no simple answer, no quick solution.

President Carter was faced with a tremendous decision this past spring when the deadline came for crude oil price controls. The simplest answer politically would have been for him to do nothing and let controls continue for 2 more years. However, he chose to begin phasing out crude oil price controls, and I know he made the proper decision. It took great courage for him to make a decision such as this, and it was one which I join with him in believing was best for the country.

President Carter did not place controls on oil prices. For that we have to blame previous Congresses and the previous two Republican administrations. More than 6 years of controls have proven as self-defeating as any policy in recent history of the United States. Controls have delayed our efforts to conserve, given strength to the OPEC oil cartel, and put the dollar under tremendous strain. In making his decision to decontrol, President Carter faced tremendous pressure from many sides—and we all understand the pressures which come with a highly political issue in the midst of an upcoming national election. It would have been easy for him to bow to the politically expedient decision, but he chose the one which will prove far better for his country in the long run. The call of statesmanship and national leadership was to decontrol. President Carter answered that call and is to be commended for his judgment.

MOVE TO UPSET DECISION ON COURTER DECISION

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, today we are going to continue with the debate on the Department of Energy. I understand that during that debate there may be a move to upset my amendment, which was passed last Friday morning by approximately three votes.

That amendment had to do with removing the burdensome allocation system that we have and removing price controls on motor fuels.

I urge my colleagues to resist any attempt, whether it be in the committee or the House to do the same.

I also would like to read for the next 30 seconds a couple of statements made by those people who know most about the allocation system.

For example, Mr. David Bardin, who is a former Administrator of the Economic Regulatory Administration of the DOE said the following:

> I dare say that if Congress had mandated an identical control system for milk, that we could be having milk shortages around the country.

Mr. Alfred Kahn, administration inflation fighter, said:

> The spectacle of the Department of Energy chasing gasoline and diesel fuel shortages all across the country and trying to solve them by continually modifying its allocations—and leaving new shortages in its wake * * *

I would also like to emphasize what the Washington Post said a number of days ago.

> If Mr. Carter wants to help the people who are confronted with those enormous bills for oil heat, he might usefully begin immediately by decontrolling gasoline.

I hope all will oppose any move to upset the decision that the House made last Friday.

PRESIDENT HAS NO RIGHT TO TERMINATE TREATY WITHOUT CONCURRENCE OF SENATE

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, I think we can all be pleased that the U.S. Court has said that the President of the United States has no right to terminate a treaty without concurrence of the Senate. I am pleased that the court has spoken so decisively as it relates to our defense treaty with Taiwan.

I hope now that the President will renew our full relationship with Taiwan. I think the court has spoken decisively and that it is proper that the President of the United States abide by the Constitution, which he tells us he is so anxious to do. The President's amendments to the U.S. defense treaty with Taiwan should be submitted to the U.S. Senate immediately.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

I would like to commend the gentleman for bringing out this important point.

Mr. ROUSSELOT. It was a major headline. I am surprised it was missed by some of our colleagues.

Mr. RUDD. If the gentleman will continue to yield, I simply want to join my colleague in his statement today, noting that the court has correctly recognized the powers of Congress were ignored by the President in unilaterally abrogating our country's treaty with Taiwan.

Mr. ROUSSELOT. I am sure our colleagues on the other side overlooked it.

I thank my colleague from Arizona.

HEW CONTINUES TO DISCARD USABLE MATERIAL

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, as we debated on the floor the question of waste in Government, particularly at HEW, oftentimes we have been told that it is awfully difficult to find exactly where this waste occurs.

In this morning's Washington Post, it indicates that although we now have a probe going on of those people in Government who are apparently throwing away still-usable pieces of equipment, evidently the practice is continuing.

Yesterday, at a Montgomery County landfill in Rockville, a truck from HEW pulled up and unloaded equipment and told the people there to immediately crush it up by bulldozer.

As quoted in the paper, the bulldozer operator said, "They unloaded the stuff and told us we had to crush it up immediately and then bury it. Usually they only request us to cover it that fast when they bring in election files or chemicals. I tried to salvage some myself—they were good wooden swivel chairs and tables, stuff I could have used—but they said, 'No way,' that we had to get rid of the stuff right away."

It seems to me that this is something we ought to keep in mind when we deal in the expenditures billions and billions and even trillions of dollars and wonder where the money goes.

It strikes me that if HEW can do this on a regular basis, maybe there is a little bit more of that waste and fraud that we can get rid of over at HEW.

Maybe the gentleman from Illinois (Mr. MICHEL), is on the right track when he suggests that we should cut their budget and tell them to go find the fraud and waste so we can save the American people their hard-earned tax dollars.

AMERICAN PEOPLE HAVE ALREADY PASSED JUDGMENT ON ENERGY PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, once again, the House has been treated to a series of canned leadership remarks delivered by the other side. I was fascinated to hear the gentlewoman from Maryland (Mrs. BYRON) and the gentleman from Texas (Mr. HANCE) talk about this administration and this Congress having an energy program. We do not need to have them put it in a good light.

The American people have already rendered a judgment on the energy program. They have rendered a judgment that it is a complete and utter failure.

Any attempt to put it in better light will be laughed at by the American people.

And then to hear the gentlewoman from Maryland (Mrs. BYRON) fit it in with the physical fitness program of this administration fascinated me, because it seemed to me, and I hope this was not the case, that that physical fitness program may have been characterized by the President's problem in the foot race in the gentlewoman's own district.

□ 1020

I just hope his dropping out of the running in that race was not characteristic of the entire physical fitness program. Certainly it did characterize, however, his energy efforts.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, if you have to fight rabbits every day you have to stay in good condition. The 1979 baseball season may be over, but it was interesting to notice today the designated hitters are still swinging here in the House of Representatives.

DEPARTMENT OF ENERGY AUTHORIZATION ACT FOR FISCAL YEARS 1980 AND 1981—CIVILIAN APPLICATIONS

Mr. SHARP. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Indiana (Mr. SHARP).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 3, answered "present" 1, not voting 38, as follows:

[Roll No. 579]

YEAS—391

Abdnor	Benjamin	Butler
Addabbo	Bennett	Byron
Akaka	Bereuter	Campbell
Albosta	Bethune	Carney
Alexander	Bevill	Carr
Ambro	Biaggi	Carter
Anderson, Calif.	Bingham	Cavanaugh
	Blanchard	Chappell
Anderson, Ill.	Boggs	Cheney
Andrews, N.C.	Boland	Clausen
Andrews, N. Dak.	Boner	Clay
	Bolling	Cleveland
Annunzio	Bonior	Clinger
Anthony	Bonker	Coelho
Applegate	Bouquard	Coleman
Archer	Bowen	Collins, Tex.
Ashbrook	Brademas	Conable
Aspin	Breaux	Conte
Atkinson	Brinkley	Corcoran
AuCoin	Brodhead	Corman
Badham	Brooks	Cotter
Bafalis	Broomfield	Coughlin
Bailey	Brown, Calif.	Courter
Baldus	Brown, Ohio	Crane, Daniel
Barnes	Broyhill	Crane, Philip
Bauman	Buchanan	D'Amours
Beard, R.I.	Burgener	Daniel, Dan
Beard, Tenn.	Burlison	Daniel, R. W.
Bedell	Burton, John	Danielson
Bellenson	Burton, Phillip	Dannemeyer
Daschle	Johnson, Calif.	Rahall
Davis, Mich.	Jones, Okla.	Railsback
Davis, S.C.	Jones, Tenn.	Rangel
de la Garza	Kastenmeier	Ratchford
Deckard	Kazen	Regula
Derrick	Kelly	Reuss
Derwinski	Kemp	Rhodes
Devine	Kildee	Richmond
Dickinson	Kindness	Rinaldo
Dicks	Kogovsek	Ritter
Dingell	Kostmayer	Roberts
Dodd	Kramer	Robinson
Donnelly	LaFalce	Roe
Dornan	Lagomarsino	Rose
Dougherty	Latta	Rostenkowski
Downey	Leach, Iowa	Roth
Drinan	Leath, Tex.	Rousselot
Duncan, Oreg.	Lederer	Roybal
Duncan, Tenn.	Lee	Royer
Early	Lehman	Rudd
Eckhardt	Leland	Runnels
Edgar	Lent	Russo
Edwards, Ala.	Levitas	Sabo
Edwards, Calif.	Lewis	Santini
Emery	Livingston	Sawyer
English	Loeffler	Scheuer
Erdahl	Long, La.	Schroeder
Erlenborn	Long, Md.	Schulze
Ertel	Lott	Sebelius
Evans, Del.	Lowry	Sensenbrenner
Evans, Ind.	Luken	Shannon
Fary	Lundine	Sharp
Fascell	Lungren	Shelby
Fazio	McClory	Shumway
Fenwick	McCloskey	Shuster
Ferraro	McCormack	Simon
Findley	McDade	Skelton
Fish	McDonald	Slack
Fisher	McHugh	Smith, Iowa
Fithian	McKay	Smith, Nebr.
Flippo	McKinney	Snowe
Florio	Madigan	Snyder
Foley	Maguire	Solarz
Forsythe	Markey	Solomon
Fountain	Marks	Spence
Frenzel	Marlenee	St Germain
Frost	Marriott	Stack
Fuqua	Martin	Staggers
Gaydos	Mathis	Stangeland
Gephardt	Matsui	Stanton
Giaimo	Mattox	Steed
Gibbons	Mavroules	Stenholm
Gilman	Mazzoli	Stewart
Gingrich	Mica	Stockman
Ginn	Michel	Stokes
Glickman	Mikulski	Stratton
Goldwater	Miller, Calif.	Studds
Gonzalez	Miller, Ohio	Stump
Goodling	Mineta	Swift
Gore	Minish	Symms
Gradison	Mitchell, N.Y.	Synar
Gramm	Moakley	Tauke
Grassley	Moffett	Taylor
Gray	Mollohan	Thomas
Green	Montgomery	Thompson
Grisham	Moore	Traxler
Guarini	Moorhead, Calif.	Trible
Gudger	Moorhead, Pa.	Udall
Guyer	Mottl	Ullman
Hagedorn	Murphy, Ill.	Van Deerlin
Hall, Ohio	Murphy, N.Y.	Vanik
Hall, Tex.	Murphy, Pa.	Vento
Hamilton	Murtha	Volkmer
Hammer-schmidt	Myers, Ind.	Walgren
	Myers, Pa.	Walker
Hance	Natcher	Wampler
Hanley	Neal	Watkins
Hansen	Nedzi	Waxman
Harkin	Nelson	Weaver
Hawkins	Nolan	Weiss
Hefner	Nowak	White
Heftel	O'Brien	Whitehurst
Hightower	Oakar	Whitley
Hillis	Oberstar	Whittaker
Hinson	Obey	Whitten
Holland	Ottinger	Williams, Mont.
Hollenbeck	Panetta	Williams, Ohio
Holt	Pashayan	Wilson, Tex.
Holtzman	Patten	Wirth
Hopkins	Patterson	Wolff
Horton	Pease	Wolpe
Howard	Perkins	Wright
Hubbard	Petri	Wydler
Huckaby	Peyser	Wylie
Hughes	Pickle	Yates
Hutto	Preyer	Yatron
Hyde	Price	Young, Alaska
Ichord	Pritchard	Young, Fla.
Jacobs	Pursell	Young, Mo.
Jeffords	Quayle	Zablocki
Jeffries	Quillen	Zeferetti
Jenrette		

NAYS—3

Lloyd	Paul	Wilson, Bob

ANSWERED "PRESENT"—1

Nichols

NOT VOTING—38

Ashley	Fowler	Pepper
Barnard	Garcia	Rodino
Chisholm	Harris	Rosenthal
Collins, Ill.	Harsha	Satterfield
Conyers	Heckler	Seiberling
Dellums	Ireland	Spellman
Diggs	Jenkins	Stark
Dixon	Johnson, Colo.	Treen
Edwards, Okla.	Jones, N.C.	Vander Jagt
Evans, Ga.	Leach, La.	Wilson, C. H.
Flood	Lujan	Winn
Ford, Mich.	McEwen	Wyatt
Ford, Tenn.	Mitchell, Md.	

□ 1030

So the motion was agreed to.

The result of the vote was announced as above recorded.

□ 1040

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3000, with Mr. STUDDS, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, October 16, 1979, title II was open to amendment at any point.

Are there any further amendments?

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

Mr. LOEFFLER. Mr. Chairman, I reserve a point of order on this amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 40, after line 23, insert the following new subsection:

(c) Using such sums of the amount authorized to be appropriated under subsection (a)(2)(E) as may be necessary, the Secretary of Energy shall prepare and submit before December 31, 1979, a report to the Congress in which the Secretary shall examine the middle distillate situation, summarizing the relevant supply and demand data, information, and analyses on a State-by-State basis, and discussing in detail matters required to be addressed in findings made pursuant to section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 760(d)(1)).

Mr. LOEFFLER. Mr. Chairman, I withdraw my point of order.

Mr. VENTO. Mr. Chairman, this amendment seeks to provide a study based on the various criteria the Secretary should use and report back to Congress by December 31, 1979, of the status of the middle distillate situation. This is similar to other language that has been tentatively adopted by a conference, but I think we ought to reemphasize our support for this now because of the critical nature of middle distillate in our economy. Our interest has been heightened with regard to middle distillates based on the action of the House in the preceding week on this matter. I have discussed this with the majority and the minority. I think that they are amenable to and accept the amendment.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Indiana.

Mr. SHARP. I thank the gentleman for yielding. I would like to indicate that the committee certainly has no objection and welcomes the amendment. We are hopeful that it will either become law through this bill or through S. 1030 which the gentleman previously amended.

Mr. VENTO. I thank the gentleman from Indiana.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. VENTO).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. HEFTEL

Mr. HEFTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFTEL: Page 40, after line 23, insert the following new subsection:

(c)(1) There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, an amount not to exceed $2,000,000 for purposes of developing a plan for the consideration, establishment, and implementation of a reserve under the Strategic Petroleum Reserve Plan in the State of Hawaii in order to provide substantial protection against the interruption or reduction of petroleum imports to such State.

(2) The Secretary of Energy shall transmit a copy of such plan to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate before the earlier of March 31, 1980, or the expiration of 180 days after the date of the enactment of this Act.

Mr. HEFTEL. Mr. Chairman, the 1975 Energy Policy and Conservation Act provided for strategic storage in the noncontiguous areas, including Hawaii. The commonsense reason for it is that if you were to ship to Louisiana and then in an emergency bring it back to Hawaii, the cost of the shipping after it passed Hawaii, went to Louisiana and came back, would be greater than the cost we would have incurred in having the strategic oil storage in Hawaii in the first place. More important, the best calculation is that Hawaii, if an emergency arose, could be served by Louisiana within 63 days, and we do not have a standby supply that would last that long. So to the extent that strategic storage is necessary, Hawaii would almost have to have a reasonable amount of strategic oil stored in the State.

I would be glad to answer questions from both chairmen.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Indiana.

Mr. SHARP. I thank the gentleman for yielding. The committee is happy to support the amendment. It helps to carry forward the intent of the original act establishing the strategic petroleum reserve, and the money is for the purpose of developing a plan to assure that the noncontiguous territories of the United States and the State of Hawaii will have emergency preparation made for them.

just as we hope to have that kind of preparation for the entire Nation.

Mr. HEFTEL. I thank the gentleman.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from TEXAS.

Mr. LOEFFLER. I thank the gentleman for yielding. As the gentleman knows, I am a very strong supporter of the strategic petroleum reserve system, and am somewhat disappointed, in fact greatly disappointed, that we have not moved rapidly in the development of the strategic petroleum reserve storage capacity. Currently the goal is that we should have already achieved 250 million barrels of storage in the salt domes of Louisiana and Texas; yet we are only now at a level of some 90 million-plus barrels within the storage facility. Fortunately, to date the Department of Energy has finally provided the capability for withdrawal of this very valuable crude oil. I have some questions that I would like to ask the gentleman from Hawaii (Mr. HEFTEL). In view of the fact that we only have 90 million barrels that are currently in storage and a strategic petroleum reserve system that has been mismanaged and has not moved as rapidly as it should have, I wonder if the gentleman could enlighten me as to why we should move toward storage facilities today in the State of Hawaii when in fact the refinery capacity is relatively small, and basically what Hawaii needs more than crude is the refined product itself. I wonder if we might discuss that for just a moment.

□ 1050

Mr. HEFTEL. I would be delighted.

Fortunately, we do have refining capacity.

Mr. LOEFFLER. What is the per-day output of the two refineries in Hawaii?

Mr. HEFTEL. I do not have the exact barrels-per-day output, but it exceeds 60,000 barrels per day.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I will yield to the gentleman.

Mr. SHARP. It should be pointed out that while the gentleman from Texas is focusing his attention, as it needs to be focused, on crude oil storage, that in fact the strategic petroleum reserve legislation does allow for storage of refined products.

Mr. HEFTEL. Mr. Chairman, we would have the refining capacity to protect the islands by virtue of having the strategic oil storage. As an example, if there were to be an emergency in which crude was not available, we would have to wait 63 days before Louisiana could actually bring to Hawaii the strategic storage in place.

When we point out Louisiana is not prepared to act if there were an emergency, it only heightens the need for Hawaii to protect itself because the 63 days for Hawaii would be elongated if Louisiana could not move faster than its most efficient production.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield further?

Mr. HEFTEL. I yield to the gentleman from Texas.

Mr. LOEFFLER. I would like to say to the gentleman from Hawaii that I understand the plight and I am sympathetic to the problems of Hawaii.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. LOEFFLER and by unanimous consent, Mr. HEFTEL was allowed to proceed for 2 additional minutes.)

Mr. HEFTEL. I yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, I believe it is in the interest of the United States, national security as well as to our own needs in the various regions we represent, that we should jointly encourage the Department of Energy to move ahead with the strategic petroleum reserve program to cut out the delay and the mismanagement, to move as expeditiously as possible in the purchase of the crude. In view of this dialog, Mr. Chairman, I will not oppose the gentleman's amendment.

Mr. HEFTEL. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Hawaii (Mr. HEFTEL).

The amendment was agreed to.

The CHAIRMAN pro tempore. If there are no further amendments to title II, the Clerk will designate title III.

Title III reads as follows:

TITLE III—COMMERCIALIZATION AND RELATED ACTIVITIES

AUTHORIZATION

SEC. 301. There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed—

(1) in the case of renewable resources activities—

(A) $5,000,000 for solar commercial planning functions;

(B) $1,479,000 for program administration functions; and

(2) in the case of conservation activities—

(A) $11,362,000 for buildings and community systems conservation functions;

(B) $3,062,000 for transportation conservation functions;

(C) $80,000,000 for State and local conservation functions under part C of title III of the Energy Policy and Conservation Act, as amended by the Energy Conservation and Production Act; and

(D) $6,783,000 for State and local conservation functions not provided for under subparagraph (C).

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: Page 41, after line 24, insert the following new section:

AUTHORIZATION FOR CERTAIN CONSERVATION FUNCTIONS

SEC. 302. (a) There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed $30,000,000 for purposes of carrying out the program described in subsection (b).

(b)(1) The Secretary of Energy shall establish and shall implement not later than January 1, 1980, a program under which the Secretary will enter into one or more contracts to—

(A) conduct a continuing national public awareness campaign to inform the public of methods of conserving energy, including the savings to the public (and the Nation) from such conservation; and

(B) conduct a continuing national evaluation program to determine the effectiveness of the campaign conducted under subparagraph (A).

(2) Such program shall be designed to achieve over the duration of the program—

(1) a reduction in domestic energy consumption of at least 5 percent; and

(2) an aggregate savings to the public of at least $17,500,000,000.

(3) Not later than January 1, 1980, and not less frequently than every 3 months thereafter during the duration of the program, the Secretary shall prepare and transmit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the program, and the activities thereunder, established under this section, including the results of the evaluation under paragraph (1)(B) and such other information and recommendations as the Secretary may deem appropriate.

(4) To the extent provided in any appropriation Act, funds authorized to be appropriated under this section shall remain available for obligation or expenditure until September 30, 1981.

Mr. OTTINGER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OTTINGER. Mr. Chairman, the majority on the committee has acceded to the suggestions of the minority with respect to an advertising program for conservation, to do this on a national testmarket basis and for a much more modest sum than was originally proposed. This amendment calls for a $30 million national test program in that respect. I believe we have reached agreement on it.

Mr. Chairman, I would ask support of the committee.

Mr. LOEFFLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at the outset of the consideration of title II of this bill, I offered an amendment which would have in essence provided for reduction from $95 million to $30 million for the test-marketing system with respect to advertising on conservation. The chairman of the subcommittee, the distinguished gentleman from Michigan (Mr. DINGELL), has assured us earlier during consideration of H.R. 3000 that the advertising will not be of a political nature and that he will vigorously pursue any activities that are directed in that way.

Mr. Chairman, for that reason I have no opposition and I join the gentleman from New York in support of the amendment.

Mr. DINGELL. Will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Michigan.

Mr. DINGELL. I commend the gentleman for his most statesmanlike comment. I also support the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title III?

If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—POWER MARKETING, FEDERAL LEASING AND OTHER ACTIVITIES

SEC. 401. (a) Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following power marketing programs:

(1) Alaska Power Administration, including expenses for engineering and economic investigation to promote the development and utilization of the water, power, and related resources of Alaska, and for energy conservation and renewable energy programs, $2,910,000;

(2) Southeastern Power Administration, and energy conservation and renewable energy programs, $2,400,000;

(3) Southwestern Power Administration, and energy conservation and renewable energy programs, $33,180,000;

(4) Western Area Power Administration, for construction, rehabilitation, operation, and maintenance of electric power transmission facilities, and power marketing activities, and for energy conservation and renewable energy programs, $128,150,000, including purchase, maintenance and operation of one fixed-wing aircraft and an additional 100 full-time permanent positions in fiscal year 1980, of which $107,400,000 shall be derived from the Department of Interior reclamation fund;

(5) Western Area Power Administration, for the Emergency Fund established pursuant to the Act of June 26, 1948 (43 U.S.C. 502), to assure continuous operations during unusual or emergency conditions, $200,000, all of which shall be derived from the reclamation fund; and

(6) Western Area Power Administration, for continued work on the transmission system of the Upper Colorado River Storage Project, authorized by section 1(1) of the Act of April 11, 1956 (Public Law 485 of the Eighty-fourth Congress; 70 Stat. 105), and legislation supplementary thereto, including the Act of August 10, 1972 (Public Law 92-370), $5,152,000.

(b) The Bonneville Power Administration is hereby authorized to make expenditures from the Bonneville Power Administration Fund to purchase, promote, and encourage energy conservation and the utilization of renewable energy sources. Such Administration may expend for such purposes amounts derived from bonds, notes, and other evidences of indebtedness. Such bonds, notes, and evidences of indebtedness issued under section 13 of the Federal Columbia Transmission System Act may be expended without regard to the provisions therein respecting construction, acquisition, and replacement of the transmission system.

SEC. 402. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following Federal leasing and fuel data gathering and analysis programs:

(1) Federal leasing expenses, $3,368,000; and

(2) Fuel Data Gathering and Analysis expenses, $3,000,000.

AMENDMENT OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLINGER: Page 41, after line 24, insert a new title IV as follows and renumber the following titles accordingly.

TITLE IV

TAX CREDIT STUDY

SEC. 401. (a) There is authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed $38,500 to conduct the study under subsection (b).

(b) The Secretary of Energy shall conduct a study to assess the various proposals for Federal tax credits for residential coal-heating equipment, as contained in legislation introduced in the Congress during the 96th session. The study shall include an estimate of the costs to the United States of the various tax credit proposals and an evaluation of the possible savings in consumption of heating oil and natural gas that would result from the proposals. Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall submit to the Congress a report of the results of the study.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

Mr. CLINGER. Mr. Chairman, I am sure that many of my colleagues can recall when the coal furnace was one of the most popular sources of home heating throughout the United States. Instead of modern refineries, processing plants, supertankers, and pipelines, the average American family depended primarily on coal for its home heating needs. Gradually, however, coal was replaced with what were then cheap and convenient substitutes. Ironically, heating oil and electricity are no longer inexpensive nor are they easily available.

Today, I hear my colleagues debate exotic and futuristic forms of energy, from breeder reactors to passive solar collectors. However, there is significant controversy between those who oppose and those who defend each alternative. Perhaps it is time Congress reexamined some tried and true methods.

I believe all Americans want to contribute to the solution of the energy problem. They are tired of waiting in gas lines in the summer and hearing forecasts of inadequate supplies of heating oil in the winter. In dramatic ways, consumers are changing spending habits with the purchase of smaller cars, storm windows, and added insulation, all in an effort to fight rising costs and stretch short supplies.

American ingenuity is also at work in the trend toward alternative sources of heat, like stoves, furnaces, and boilers using wood, peat, and coal. Under the National Energy Act, the Department of Energy can recommend to the Internal Revenue Service additional items of equipment for conservation and renewable energy tax credits.

In a recent study, last year the Department of Energy conducted an "assessment of proposed Federal tax credits for residential wood-burning equipment". I am sure this study helped the committee on Ways and Means which recently held hearings on a residential tax credit for wood- and peat-burning stoves.

My amendment would simply call for a similar study to determine if coal-heating equipment would be worthy of a tax credit. The cost of the study would be about the same as the study for wood-burning stoves, about $38,000.

In my area of the country, there is an industry undergoing a rebirth—the manufacture of coal stokers. Stokers are home heating devices that automatically feed small-grade coal about the size of peas or rice into furnaces. It is my understanding that coal-burning devices for the heating of hot water are also being produced.

Through the study called for in my amendment, members of Congress would have the information we need to make educated decisions on the costs to the Treasury versus the benefits of oil and gas savings.

The President supports the increased use of plentiful coal supplies, and a preparatory study of this nature certainly conforms with the administration's policy.

□ 1100

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. DINGELL. Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, I make a point of order that the amendment is not germane.

Mr. Chairman, the legislation before us, H.R. 4839, is a 1-year authorization bill for the Department of Energy. It is an authorization bill which relates to the energy activities of the Department of Energy, as opposed to taxable matters and taxes.

The amendment is not germane for several reasons. The first is that it relates to matters other than energy, in that it directs a study with regard to tax credits. Nowhere in the proposal before us, Mr. Chairman, do we find anything relating to tax credits in the legislation.

Now, without denegrating the able author of the proposal, and I am sure the gentleman is very sincere in this matter, there is another defect yet also in the amendment now pending.

I would point out that the Secretary of Energy, according to the language of the amendment in paragraph (b) is directed to conduct a study to assess various proposals for Federal tax credits for residential coal heating equipment as contained in the legislation in the Congress. I now quote: "During the 96th session."

Now, I assume that refers to the 96th Congress. The 96th Congress will be for this fiscal year, plus portions of the succeeding fiscal year.

I would observe that if the study includes matters which were introduced during the 96th Congress. It will include matters which were introduced after the conclusion of the fiscal year in which we find ourselves and after the conclusion of the period covered by the authorization proposal.

The amendment further in its last three lines says as follows:

Not later than one year after the date of the enactment of this Act, . . .

That mandates actions by the Secretary of Energy 1 year after the date of enactment of this statute, which would be whatever date it might be, but it would be 1 year after at least probably the conclusion of the fiscal year in question. Again I recall to the Chair the fact that the proposal before us is a 1-year authorization bill and that this mandates

actions by the Secretary well after the conclusion of the period covered in the 1-year authorization bill which is before the committee.

For that reason, I believe that the amendment is nongermane. I would urge that position on the Chair.

The CHAIRMAN pro tempore. Does the gentleman from Pennsylvania (Mr. CLINGER) desire to be heard on the point of order?

Mr. CLINGER. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. CLINGER. Mr. Chairman, just in response and in defense of the amendment, I would point out that the amendment is really addressing the question of what savings can be made in oil and gas in this country if encouragement is given to the use of coal burning stoves. In no sense is it attempting to interfere with or to countervene anything that the Committee on Ways and Means would have to do. It does not in any way dictate to them. It just provides for a study to determine the feasibility for encouragement of coal burning stoves and primarily the emphasis in the study would be to determine how much can we save, how much can we be expected to save in the way of oil and gas as a result of this kind of encouragement; but the study in no way mandates going any further than that, just to determine the feasibility of such a plan.

Mr. DINGELL. Mr. Chairman, just one further observation with regard to this matter.

I think there is merit in the amendment. It has not been reviewed by the committee. We will have conservation legislation coming forward shortly and I would be happy to discuss with the gentleman the possibility of the inclusion of a proposal of this sort in that legislation at the appropriate time.

The CHAIRMAN pro tempore. Does the gentleman from California (Mr. PASHAYAN) desire to be heard on the point of order?

Mr. PASHAYAN. Yes, Mr. Chairman. I oppose the point of order.

The CHAIRMAN pro tempore. The Chair will hear the gentleman on the point of order.

Mr. PASHAYAN. Mr. Chairman, I rise to oppose the point of order. I cannot agree with my distinguished colleague that this matter is not germane. Surely a study to be conducted within a year, although the year does extend beyond the period of time of the authorization, goes to the very heart of what the Department of Energy ought to be doing. That the gentleman rests his case on the fact that this is not germane or the fact that the study is not germane to the bill, I do not think stands up, because if the Department of Energy does not do this kind of thing, surely then what are we expected to do? If anything, the Department of Energy, if it has the resources to do anything at all, certainly ought to have the resources to conduct exactly this kind of study.

I think this is most germane to the issue at hand.

The CHAIRMAN pro tempore. Does the gentleman from Texas (Mr. KAZEN) desire to be heard on the point of order?

Mr. KAZEN. Yes, I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. KAZEN. Mr. Chairman, I would also urge upon the Chair the fact that this proposal is very vague and indefinite, in that the study shall be based on all legislation which may be introduced in the 96th Congress, which is an impossibility for the Secretary to undertake, since all of the proposals in the 96th Congress have not yet been introduced and there is no limit to when they can be introduced before the end of the 96th Congress and the impossibility of meeting this 1-year deadline is within the ambiguity of this amendment.

Therefore, for that reason, Mr. Chairman, I urge that the point of order be sustained.

The CHAIRMAN pro tempore. Does the gentleman from California desire to be heard further on the point of order?

Mr. PASHAYAN. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. PASHAYAN. Mr. Chairman, I would like to ask a question of my good friend, the gentleman from Texas. I do not see the word "all" here. I am not so sure that it is meant to be read in the legislation.

The CHAIRMAN pro tempore. The Chair will advise the gentleman, this is not the time for debate. It is a time to address the Chair on the point of order.

Mr. PASHAYAN. Well, Mr. Chairman, I am going to the point of order. The point of order the gentleman was making was that it was nongermane because it pertains to prospective legislation.

The gentleman said that the bill contained the word "all" legislation. I am addressing the gentleman's point by saying the bill does not use the word "all." It says "legislation introduced" and that might very well have only retrospective application.

The CHAIRMAN pro tempore (Mr. STUDDS). The Chair is prepared to rule. The amendment offered by the gentleman from Pennsylvania directs the Secretary of Energy with funds separately authorized by the amendment for fiscal year 1980 to conduct a study to assess legislative proposals introduced in the 96th Congress which provides Federal tax credits for residential coal heating equipment in order to evaluate the costs of those proposals and possible savings in the consumption of heating oil and natural gas that would result therefrom.

The Secretary shall report his findings not later than 1 year after enactment.

The possibility that the study might not be completed within the fiscal year 1980 does not seem to the Chair to be crucial in this case, since the study is only to be funded by fiscal year 1980 funds and since other activities of the Department of Energy funded by the bill for fiscal year 1980 are ongoing in nature and could also involve continued participation beyond September 30, 1980.

A more central question is the issue of the tax study. While ordinarily revenue matters are within the jurisdiction of the Committee on Ways and Means and would not be germane to a bill reported by another committee, in the present case the Department of Energy is mandated by its organic statute (Public Law 95-91) to annually study and recommend changes in all laws and regulations needed to encourage more conservation of energy.

The Chair would also observe that title III, which the committee has already dealt with, does address the issue of energy conservation programs in the Department.

As a new title, the amendment imposes upon the Secretary of Energy for fiscal year 1980 a more specific responsibility to study energy conservation consequences of certain tax proposals than those currently required by law, but nevertheless a responsibility within the ambit of the Secretary's existing authority and confined to the fiscal year covered by the titles of the bill read to this point.

□ 1110

The Chair would further observe that the observation made by the gentleman from Texas (Mr. KAZEN) are addressed to the merits and the substance of the amendment rather than to its germaneness.

The Chair, therefore, overrules the point of order.

AMENDMENT OFFERED BY MR. DINGELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CLINGER

Mr. DINGELL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL as a substitute for the amendment offered by Mr. CLINGER: Page 41, after line 24, insert a new title IV as follows and renumber the following titles accordingly:

TITLE IV

TAX CREDIT STUDY

SEC. 401. (a) There is authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed $38,500 to conduct the study under subsection (b).

(b) The Secretary of Energy shall conduct a study to assess the feasibility of Federal tax credits for residential coal-heating equipment. The study shall include an estimate of the costs to the United States of various tax credit proposals and an evaluation of the possible savings in consumption of heating oil and natural gas that would result from the proposals. The Secretary of Energy shall sumbit to the Congress a report of the results of the study within fiscal year 1980.

Mr. DINGELL. Mr. Chairman, I think this substitute does everything that the author of the original amendment wanted to have done. It meets the objections which I had stressed of a procedural character, and it also meets our objections along substantive lines.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding.

This substitute is perfectly acceptable to me certainly. I feel it accomplishes what I intended to accomplish, and that is to obtain a study this year.

Mr. DINGELL. Mr. Chairman, I thank the gentleman.

As I had indicated, I am sympathetic with the purposes of the gentleman. I

simply wanted to offer language to meet the objections I had mentioned.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, I thank the distinguished chairman of the subcommittee as well for his courtesy.

We on this side support the substitute language.

I also wish to commend the gentleman from Pennsylvania (Mr. CLINGER) for offering his amendment. I believe it is a good amendment and a step in the right direction.

This amendment deals with the question of conservation, and this is a minimal study to assess the feasibility of coal-heating techniques. It encourages conservation.

Again, Mr. Chairman, I commend the gentleman from Pennsylvania (Mr. CLINGER), and I thank the gentleman from Michigan (Mr. DINGELL) for offering his substitute.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. CLINGER).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. CLINGER), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. The Chair will inquire, are there further amendments to title IV?

PARLIAMENTARY INQUIRY

Mr. KAZEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. KAZEN. Mr. Chairman, I will ask, is the Chair calling for amendments to this title IV which has just now been presented?

The CHAIRMAN pro tempore. The Chair is calling for amendments to title IV as it appears in the bill.

Mr. KAZEN. I thank the Chair, and Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, the purpose of section 401 of H.R. 3000 is to authorize appropriations for fiscal year 1980 for four of the five Federal power marketing administrations: The Alaska Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration.

Section 401, as originally contained in H.R. 3000, authorized the following sums for use in fiscal year 1980: $2,660,000 for the Alaska Power Administration, $1,400,000 for the Southeastern Power Administration, $32,180,000 for the Southwestern Power Administration, and $128,152,000 for the Western Area Power Administration. This is a total of $164,392,000.

Mr. Chairman, the Committee on Interior and Insular Affairs to which section 401 was exclusively referred, perceived certain deficiencies in the budgets of these administrations which could be rectified by the authorization of additional funds. Consequently, the committee added $7,600,000 of additional appropriations to section 401 which brought the total appropriations authorization for the Federal power marketing administrations for fiscal year 1980 up to $171,991,000. This figure is now contained in the section 401 presently before the committee.

Specifically, the Committee on Interior and Insular Affairs added $250,000 for Alaska, $1,000,000 for Southeastern, $1,000,000 for Southwestern, and $2,000,000 for Western Area all to be used by these power administrations to carry out energy conservation and renewable energy programs. In addition, the committee provided $2,500,000 to the Western Area Power Administration so that it could correct its severe personnel shortage by the hiring of 100 additional personnel. Also, $850,000 was added for Western Area to allow it to purchase one fixed-wing aircraft so that it will be able to patrol its vast service area.

Mr. Chairman, the Committee on Interior and Insular Affairs also modified section 401 to authorize the Bonneville Power Administration to utilize its existing bonding authority for energy conservation and renewable energy programs. Bonneville was placed on a "self-financed" basis in 1974 with enactment of the Federal Columbia River System Transmission Act. That act allows the Bonneville Power Administration to use its revenues to carry out its activities and may issue bonds, subject to a limit of $1¼ billion, to the U.S. Treasury to help finance such activities. However, that act did not authorize the Bonneville Power Administration to issue bonds to carry out energy conservation and renewable energy programs. The change adopted by the Committee on Interior and Insular Affairs and embodied in section 401 of H.R. 3000 allows the Bonneville Power Administration to use this existing bonding authority for energy conservation and renewable energy programs. It does not authorize any additional bonding authority.

Mr. Chairman, I strongly support the provisions of section 401 and urge my colleagues to do so also.

Mr. LUJAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I concur with the remarks of the gentleman from Texas, the very able chairman of our subcommittee, and will only add a few remarks for the record on the authorizations for the Western Area Power Administration (WAPA).

As the gentleman pointed out, our committee added $1,250,000 to the WAPA authorization for the purpose of hiring staff personnel, and we added $850,000 for the purpose of buying a fixed-wing aircraft. Neither of these added authorities was tacked on as a light gesture or a whim. Our committee has done more than most committees in cutting Federal spending this year, and it was only after we had heard very convincing testimony that we agreed to add this $2.5 million for WAPA.

Relative to the additional personnel, we agreed to the increase because WAPA is a new agency, just getting started, and its mission is a very large mission, marketing Federal power throughout the Rocky Mountain States, the Southwest and several of the Plains States. It received some personnel from the Bureau of Reclamation when it replaced the Bureau in this function. But it did not receive all of the personnel which the Bureau had utilized for this purpose. Thus the Western Area Power Administration has functioned for a year or more under almost impossible circumstances and only by heroic efforts on the part of its people. They need these staff people badly. And they need the aircraft we authorized so as to service the far-flung area they administer, because it is often impossible to obtain commercial flights into some of the smaller communities that they serve.

So it was only after the closest and most careful deliberation that we added the increased authorizations. They are justified and they are needed.

For these reasons we were very disappointed when the other body chose to delete these funds from the appropriations bill that was passed earlier this year. Deleting the funds did not delete the need, and it will cost the Government much more in the long run than if the funding had been left intact. I am stressing this point now, in anticipation of WAPA's coming back for a supplemental appropriation based on this authorizing act, and I want the record to show that our committee fully believes that such supplemental appropriations are justified and necessary.

Mr. Chairman, I support the committee's amendments to title IV of H.R. 3000, and urge the acceptance of this title by the Committee of the Whole.

□ 1120

The CHAIRMAN pro tempore. Are there further amendments to title IV? If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—NUCLEAR ASSESSMENT, SPENT FUEL DISPOSITION OPERATIONS, AND DECONTAMINATION AND DECOMMISSIONING

AUTHORIZATION

SEC. 501. There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed—

(1) $71,693,000 for uranium resource assessment operating expenses;

(2) $2,500,000 for uranium resource assessment construction for purposes of project 80-GPP-1, general plant projects, Grand Junction, Colorado;

(3) $3,110,000 for uranium resource assessment, acquisition and fabrication of capital equipment not related to construction;

(4) $13,300,000 for spent fuel disposition functions; and

(5) $28,000,000 for decontamination and decommissioning functions.

INTERIM STORAGE OF SPENT NUCLEAR FUEL

SEC. 502. (a) There is authorized to be appropriated to the Department of the fiscal year ending September 30, 1980, not to exceed $5,000,000 for the purposes of subsections (b), (c), (d), (e), and (f) of this section.

(b)(1) For the purpose of providing for the interim storage of spent fuel withdrawn from the core of any nuclear reactor licensed by

the Nuclear Regulatory Commission and, where appropriate and consistent with applicable law, foreign nuclear reactors, the Secretary of Energy, in accordance with the provisions of this section, shall conduct a study regarding such storage. Such study shall include—

(A) a determination of the extent to which away-from-reactor interim storage capacity for spent fuel is required by January 1, 1985, because of a lack of adequate existing or planned capacity at existing reactor sites and at future reactor sites within the United States;

(B) an evaluation of the time it will take to establish interim storage capacity at away-from-reactor facilities and the estimated costs thereof, as compared to the time and costs associated with the expansion or modification of existing storage facilities at reactor sites;

(C) consideration of any available conclusions, findings, and recommendations developed by any Federal agency or interagency study of such storage; and

(D) such other factors as the Secretary and other participants in the study shall include.

(2) In making the determination under paragraph (1)(A), the Secretary (A) shall specify the criteria used in making any such determination and (B) shall consider and provide in the report specific data regarding—

(i) the need for away-from-reactor storage capacity, the number of away-from-reactor interim spent fuel storage sites which should be selected, and the number of away-from-reactor facilities which should be in operation by January 1, 1985, to provide the required away-from-reactor interim storage capacity for spent fuel from such reactors;

(ii) the amount of additional interim spent fuel storage capacity at existing and future reactors located within the United States, which, taking into account technical, economic, and regulatory considerations, could be provided by the private sector through—

(I) the modification or expansion of existing and planned storage facilities;

(II) the maximum efficient use of such existing or planned spent fuel storage facilities; or

(III) the intra-utility and inter-utility transshipment of spent fuel; and

(iii) the need for providing storage capacity for spent fuel discharged from future nuclear power reactors.

(3) The study required under this subsection shall—

(A) identify the location of—

(i) one or more potential away-from-reactor spent fuel storage sites, as may be appropriate, which the Secretary believes will comply with the requirements for licensing by the Nuclear Regulatory Commission and which should be considered for such purpose, and

(ii) such existing or future reactor sites which should continue to be used to the fullest extent possible, with or without expansion or modification, for such purpose;

(B) determine the period for which each such away-from-reactor site identified therein is expected to be needed for such interim storage of spent fuel; and

(C) specify the capacity of each away-from-reactor site identified therein.

(4) The identification of potential sites under paragraph (3) shall be made only after consideration of—

(A) the problems associated with transporting such spent fuels to away-from-reactor storage sites;

(B) the identity and location of nuclear powerplants which will use such sites for the interim storage of spent fuel because of their inability for technological, economic or regulatory reasons, which shall be identified by the Secretary, to expand or modify existing reactor storage capacity at such sites;

(C) the safety and environmental factors associated with the transportation and storage of such spent fuel on an interim basis at such sites;

(D) any law affecting the establishment and operation of such sites, including section 107 of the Department of Energy Appropriations Act of 1978—Civilian Applications; and

(E) any other factors as may be appropriate.

(c) To the maximum extent practicable, the Secretary of Energy shall, within one month after the effective date of this section—

(1) issue a report of the results of the study under subsection (b), including his recommendations and those of the other participants in the study and a statement of reasons for each recommendation contained in the report;

(2) publish in the Federal Register a brief summary of the report and a statement of its availability to the public; and

(3) submit a copy of the report of the President, the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and the Governor of any State in which any potential site (as identified in the report under this subsection) of any away-from-reactor spent fuel storage facility may be located.

(d)(1) After completion of the study referred to in subsection (b), the Secretary shall hold public hearings in each State in which any away-from-reactor interim spent fuel storage facility may be located, based upon the study's preliminary identification of the probable location of one or more sites for such facilities. Such hearings shall also be held in the case of any other such sites as the Secretary may subsequently identify.

(2) Hearings required under this subsection shall be held in the vicinity of each potential site. The Secretary shall provide for adequate notice of such hearings. Such notice shall be printed in each newspaper which serves a substantial number of residents within a one-hundred-mile radius of such potential. The Secretary shall give adequate notice of any such hearing to the Governor of the State in which such site is located.

(3) The Secretary shall give the Governor so notified (or his designee) and other interested persons an opportunity for the written and oral presentation of data, views, and arguments and shall provide an adequate opportunity for the oral or written submission of rebuttal and supplementary information.

(4) There shall be a written transcript of each hearing under this subsection which shall be available to the public and may be copied at a reasonable cost of reproduction

(5) Hearings under this subsection shall be completed by March 1, 1980, unless the Secretary, taking into consideration the date the report required by subsection (c) is submitted to Congress and other factors, finds that a longer period is required to complete such public hearings and publishes in the Federal Register his reasons therefor.

(e)(1) The Secretary shall to the maximum extent practicable, within 45 days after the date all public proceedings required under subsection (d) are completed, and after consideration of all relevant matters presented during such proceedings and consideration of any other factors he identifies and determines are relevant, issue and submit to the President and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a final report which—

(A) reviews the findings and recommendations contained in the reports issued under subsections (c) and (f) and confirms or modifies the findings or recommendations to the extent appropriate; and

(B) designates one or more away-from-reactor sites as a potential site or sites for the interim storage of spent fuel, and identifies to the extent practicable the at-reactor sites which should continue to be used with or without modification or expansion for such storage.

(2) The final report required under this subsection shall include a statement of reasons for each designation and recommendation contained in such report. The Secretary shall publish in the Federal Register a brief summary of the report and a statement of its availability to the public, and shall submit a copy of the report to the Governor of any State in which there is located a site of a spent fuel storage facility, as designated in such report. Each report shall include the views and comments, if any, for the Governor of any State in which there is located a site of a spent fuel storage facility, as designated in such report, and of the other Federal participants in the study.

(f) Not later than February 1, 1980, the Secretary of Energy shall prepare and transmit to the President and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report and recommendations respecting—

(1) the estimated acquisition, construction, maintenance, and operating cost of each proposed away-from-reactor spent fuel storage site and facility identified in accordance with the provisions of subsection (b)(3);

(2) how any potential spent fuel storage site and facility identified under subsection (b)(3) should be acquired and constructed;

(3) how any potential interim away-from-reactor spent fuel storage facility should be managed and operated, and by whom;

(4) the methodology to be used in establishing charges to be made to cover the full costs of acquisition, construction, maintenance, and operation of any such site (including all costs associated with the decontamination and decommissioning of any such facility);

(5) an estimate of the per unit amount of such charge;

(6) an estimate of a fee covering all costs, including ultimate disposal costs, as compared to an estimate of a fee covering only the full costs of interim storage of spent fuel;

(7) the ownership of such spent fuel;

(8) the appropriate methods and periods for paying for such full costs by persons using or proposing to use any such site or facility;

(9) persons eligible to make use of such a facility; and

(10) such other factors as the Secretary may deem appropriate.

(g)(1) If the Secretary determines that acquisition by the Federal Government of one or more away-from-reactor sites selected and designated in the report under subsection (e) is appropriate after determining that private acquisition is not practicable, the Secretary may—

(A) acquire such away-from-reactor sites, including any facilities thereon, by purchase, lease, condemnation, or otherwise, and

(B) design such facilities as may be appropriated for such sites.

Such acquisition authority for any away-from-reactor site or facility for the interim storage of spent fuel under this subsection shall be subject to the authorization and appropriation for fiscal year 1981 and subsequent fiscal years of funds by the Congress for such acquisition. Funds appropriated to the Department for fiscal year 1980 and funds and revenues otherwise available to the Department in such fiscal year shall not be available for such acquisition.

(2) If the Secretary designates any away-from-reactor site or sites for the temporary

storage of spent fuel pursuant to this section, such designated site or sites should, by January 1, 1984, be in operation to receive spent fuel from nuclear powerplants that lack available storage at existing storage facilities at reactor sites. Such operation shall be subject to the availability, or acquisition (where appropriate), of a site for such a facility, the authorization and appropriation of such funds as may be necessary for the construction or modification of such facility and the operation thereof, and the requirements of other applicable provisions of law.

(h) Nothing in this Act shall be construed to preclude the Secretary from entering into negotiations, after the submission of the report referred to in subsection (c)—

(1) for the transfer of spent fuel to any potential interim spent fuel storage facility which may be designated under this section,

(2) for other related matters, including the payment of the full costs of the acquisition, construction, maintenance, and operation of any such site and facility, including the costs associated with decontamination and decommissioning, and

(3) with the owners of existing away-from-reactor storage sites and facilities as may be necessary to obtain information regarding the availability or suitability of such sites for selection or designation in the reports issued under subsection (c), (e), and (f)

except that no agreement regarding any such transfer or related matters shall be executed prior to the authorization and appropriation of funds for purposes of such agreement or for the acquisition of any designated site or sites.

(i) The Secretary of Transportation, the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency shall participate in the study and selection of sites and subsequent hearings and in the development of the reports and recommendations under this section.

(j) This section shall take effect on October 1, 1979, or on the date of the enactment of this Act, whichever is later.

URANIUM MILL SITE AT EDGEMONT

SEC. 503. (a) The Secretary of Energy shall undertake an investigation with funds appropriated pursuant to section 501(5) to determine whether Federal funding is appropriate for 90 percent of the cost of any stabilization, decommissioning, and decontamination actions necessary in connection with the uranium mill tailings site owned by the Tennessee Valley Authority and located at Edgemont, South Dakota. Such study shall take into consideration whether such tailings resulted all or in part from activities conducted under Federal contract. Such investigation shall include an analysis of the total costs which would be required to undertake such actions with respect to such site, including the costs of acquiring and managing any disposal site and facilities which may be necessary for disposal of radioactive materials removed from the site. Not later than one hundred and twenty days after the date effective of this section, the Secretary shall submit a report to the Congress containing the results of his investigation under this section. Such report shall include any recommendation for legislation to provide for such funding. Any such recommended legislation shall be consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978. The report shall also contain the comments and recommendations of the Tennessee Valley Authority.

(b) This section shall take effect October 1, 1979, or the date of the enactment of this Act, whichever is later.

FOREIGN SPENT NUCLEAR FUEL OF UNITED STATES ORIGIN

SEC. 504. (a) The Secretary of Energy shall immediately take steps to prepare for the removal of spent nuclear fuel of United States origin from countries which may become ineligible for additional nuclear exports pursuant to sections 128 and 129 of the Atomic Energy Act of 1954. These steps should include, where appropriate, (1) the initiation of specific and detailed feasibility studies for retrieving such fuel, and (2) the acquisition, in accordance with applicable provisions of law and this section of physical capacity for implementing a retrieval operation.

(b) There is hereby authorized to be appropriated to carry out this section, $5,000,000 for the fiscal year 1980.

AMENDMENT OFFERED BY MR. WYDLER

Mr. WYDLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by the Mr. WYDLER: On page 56, line 21 and 22, substitute the following new title: "TRANSITIONAL STORAGE OF SPENT FUEL."

On page 57, after line 7, insert the following new subsections:

(b) In providing for transitional storage of spent nuclear fuel the Secretary of Energy shall give primary consideration to such fuel from United States civilian nuclear power plants to insure that each has the ability to maintain full core reserve (FCR) in its spent fuel storage capacity.

(c) Upon the initiation of operation of the away-from-reactor (AFR) storage facility referred to in section 502 of this Act, the Secretary shall, as soon as is practicable, in according with the provisions of this title, authorize removal of all the spent fuel referred to in this title to said AFR.

On page 57, redesignate the subsection (b) as subsection (d).

Mr. WYDLER. Mr. Chairman, I think this amendment is a fairness amendment to treat American industry and American problems at least as well as we are planning to treat foreign industry and foreign problems in the legislation before us. This is a genuine energy continuity amendment. It is intended to make sure that this country does not have to shut down nuclear powerplants in the 1980's for reasons other than normal refueling or conventional operating problems. The interim storage of spent fuel, which would be done in the away-from-reactor storage facility, cannot possibly be accomplished by the 1985 date. And, even if that timetable could be met, we could face the domestic emergency of shutting down nuclear plants in the meantime.

The present legislation provides for retrieval of U.S.-supplied spent fuel from foreign reactors because of weapons proliferation concerns. In this amendment we are simply providing similar coverage for our own utilities. Given our tight energy supply problems, it would be criminal to do otherwise. We cannot condone the neglect of our own utility industry. It would require roughly a year lead-time to modify an existing DOE facility to prepare it for transitional storage. But doing this in a timely manner will preclude the eventuality of losing hundreds of millions of barrels of oil—I repeat that: hundreds of millions of barrels of oil—because of nuclear shutdowns.

I think that should be a very clear and present danger to the Congress today, since we are hearing the message from the Middle East oil-producing countries that they want to cut back their oil production, they want to increase the price of their oil and to do it on a continuing basis. We must make provisions for our own industry even as we are making provisions for foreign industry to see that our own nuclear plants, which are vital to the economic health and well-being of our country, are provided for.

Therefore, Mr. Chairman, I ask that the members of the committee support this much-needed amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, the gentleman is not eliminating the provision for spent fuel interim storage from foreign countries, I take it?

Mr. WYDLER. The gentleman is exactly correct. There is in the bill at the present time a provision which provides for the emergency storage of spent fuel from foreign countries. My amendment merely puts America on the same basis as the foreign countries and provides that in setting up these facilities we can provide that they can be used for emergency purposes for American spent fuel as well. So it does not eliminate the present provision; it merely adds that these facilities can be used for American spent fuel as well as foreign spent fuel.

Mr. OTTINGER. If the gentleman will yield further, I understand that we already have made a provision for the away-from-reactor storage in this legislation.

Mr. WYDLER. There is a study in the legislation to provide for away-from-reactor storage, and some day I hope there will be such a facility and, obviously, I will support the efforts to bring that into being. This amendment provides when and if we do that—I hope it will be at an early date, but it certainly will not be in time to take care of potential problems we have that may arise on an emergency basis—if and when that date comes that we have that facility, this amendment provides that that will then be used in place of the provisions as set forth in my amendment. So that would then become the away-from-reactor storage point.

Mr. OTTINGER. I do not understand what this paragraph (c) means. Can the gentleman explain that?

Mr. WYDLER. That is just what I was trying to explain to the gentleman. I am sorry if I did not do it very well. I am trying to explain to the gentleman that when the away-from-reactor storage facility referred to in the act, which is part of the act, at that point, when that becomes available, at that point this provision will cease and the material will be shipped to that point.

Mr. OTTINGER. This says that the Secretary has to take the spent fuel away from the transitional storage facility and place it in away-from-reactor storage at that time.

Mr. WYDLER. Exactly.

Mr. OTTINGER. I thank the gentleman for his explanation.

Mr. SHARP. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, there are two things we have to recognize: First, we are moving ahead to deal with the question of away-from-reactor storage for domestic spent fuel. Second, we have to recognize there are fundamental distinctions between what the Nuclear Nonproliferation Act requires of us in terms of foreign spent

fuel and what we are trying to accomplish on the domestic scene.

Let me take the first point. We do set up in this bill a way to bring the Congress to a decision on the basic question of AFR's in the next session. When we deal with this bill next year, we will be in a position to hopefully specifically designate whether or not we wish to go forward with a particular given site. Everybody recognizes there is a whole series of procedural things that have to be done, before a final decision can be made.

This bill sets up an orderly process so we can make that decision. We are by our decision this year, not to delay any of the gut considerations that must occur on the question of AFR's, that is, with respect to what to do about the storage of spent fuel which many of us recognize will become a problem at domestic reactors unless either the industry or the Government resolves it, and we are setting up a mechanism by which the Government can resolve the question.

But second, we have to recognize there is I think, some unfairness in this foreign-domestic comparison. The Nuclear Nonproliferation Act of 1978, which a previous Congress adopted overwhelmingly provides for the United States to take back, under certain conditions, spent fuel. It set up a mechanism by which the U.S. Government could maintain some control over nuclear fuels which leave this country. But the emergency that is envisioned in this bill relates to political emergencies. This bill calls for a contingency planning so that on 2 weeks' notice we could take a full core and be able to provide for its shipment and storage.

The emergency that the gentleman from New York, I think, is trying to avert is one that in fact is not an emergency; it is a matter of predictability, it is a matter of long-term planning, and that is the ability to have full core reserve at every domestic site.

□ 1130

It must be recognized that under the guidelines of the NRC and under the practices of the nuclear industry in this country, I am told, there is at every site full core reserve capacity at this time. Therefore, it is not as if we are talking about a sudden emergency.

I assume that the gentleman is not raising here the question that there is some serious risk at the reactor sites at the present time in their storage facility. That would be a whole other issue.

We are dealing with two kinds of situations. One is an international emergency, for which contingency planning must begin. The other is the question of how to take care of a predictable situation where at some point some domestic reactors are clearly going to have trouble holding onsite their spent storage.

We have set up in the bill a way to deal with that. I do not think we should try to mix the two issues together.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I will be glad to yield to the gentleman from New York.

Mr. WYDLER. As I understand the gentleman's first point, it is to the effect that we are making plans for away-from-reactor storage; therefore, we do not need this. The point is that this amendment is specifically intended to cover the period of time between today and the day when we have that facility, just as we are doing for foreign fuel.

In other words, someday we may have that AFR facility, the away-from-reactor storage facility, and if we have the foreign emergency, we will have a place to put it—just so.

Under my amendment, if we have just an emergency, we will have a place to put domestic fuel. Actually, it is exactly the same whether we are talking about the Bingham provision or my own, except mine takes care of the emergencies for American plants, and the gentleman's amendment takes care of emergencies for foreign plants.

Mr. SHARP. Mr. Chairman, if I may reclaim my time, I guess the gentleman is telling us here—and I have difficulty believing he is—that he anticipates some kind of nuclear accident which will generate an emergency in the storage plant.

Is that the emergency the gentleman is talking about?

Mr. WYDLER. If the gentleman will yield, I am saying nothing of the kind. That is not what I am saying.

Mr. SHARP. I will reclaim my time, if I might, and say if that is not what the gentleman is indicating, then I think we are not talking about the same kind of emergency.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana (Mr. SHARP) has expired.

(By unanimous consent, Mr. SHARP was allowed to proceed for 2 additional minutes.)

Mr. SHARP. The emergency situation we are talking about on the international scene is a political one where we identify that somebody is about to misuse fuel and where the United States seeks to quickly take control of that fuel.

The gentleman from New York (Mr. BINGHAM), who is very knowledgeable about this situation, I think will be here in a moment to discuss this matter.

The emergency the gentleman keeps describing is not of a sudden or immediate character. It is something that one knows in a predictable way, and the fact is that utilities can now arrange to move spent fuel from one plant to another so they will not have a reactor shut down. That is a quite predictable thing. I hardly think it deserves the characterization of an emergency.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from New York.

Mr. WYDLER. I cannot agree. I think to have a reactor shut down in the United States certainly would create an emergency for the American public. It would create the need for more foreign oil. I do not know what the gentleman's emergency might be but it is too restrictive for me.

Mr. SHARP. Mr. Chairman, if I may reclaim my time, my point is that it is not an emergency in terms of a timetable that something is going to happen now and the reactor plant is going to close down. Any given reactor can tell you their estimate of when they are going to need storage.

They are prepared, is my point, and they better darn well be prepared to take a full core and place it in their storage at this time in the event of some emergency situation in the reactor. Even that takes time, obviously. That is not the emergency to which the gentleman, I think, is referring.

I think the gentleman is referring to projections that by 1982 or by 1983, a given reactor may have difficulty finding any place to store fuel.

It is precisely that possibility that we are trying to address in this legislation in the provision on the AFR.

Mr. LUJAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, much will be said about this amendment, but it simply covers an oversight contained in H.R. 3000 as it now exists.

Section 502 of this bill prepares for the needed longer term storage of spent fuel in an away-from-reactor facility. I support this section.

The original section 504 of this bill authorizes foreign spent fuel storage by the DOE, presumably until the away-from-reactor facility is completed. This is for nonproliferation purposes. I also support this original section.

However, there is an oversight contained in these two sections of the bill. They fail to similarly provide transitional storage for U.S. spent fuel until the away-from-reactor facility is completed. This amendment is a simple correction of that oversight. This amendment provides the same transitional storage for U.S. fuel as H.R. 3000 provides for foreign fuel.

This amendment does not result in any abrupt change in current U.S. practices with spent fuel. We customarily ship spent fuel in the United States and store it in different places, both in the Department of Energy facilities and private facilities. This amendment would result in a gradual and smooth buildup of these present activities. These practices are fully safe and are reviewed by the public.

I urge my colleagues to support this simple solution to correct this oversight that would otherwise discriminate against spent fuel from U.S. reactors.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from New York.

Mr. WYDLER. I think we and Members of this Congress have to really get it clear in our minds that although the two situations may not be exactly the same, the emergencies that occur are likely to arise, and the emergencies are really the problems that will be faced by perhaps 16 currently operating nuclear plants which are supplying electrical power to the consumers of our country having to shut down for some inspections. It may or may not happen, but possibly needing some place to temporarily store some spent fuel. That would be an emergency in my judgment, because the result would be, if that storage space was not available and it could not be done, these plants would have to close.

That would mean that the electrical

rates in those areas would go way up. It means we would have a shortfall in our electrical production capacity. It means we probably would have to use more foreign oil. I call that an emergency. It is not exactly the same kind of emergency. It is an American emergency, if utilities are not allowed their flexibility in managing these plants but it is a serious problem we all are trying to face here in the Congress.

I hope that the Members will give to the American industry at least the same protection that they are now going to offer to foreign industry.

Mr. LUJAN. The gentleman is absolutely correct. They were talking about any emergency that might not exist.

Let me give a small example of something that would happen that is not a catastrophe, but let us say that there was a small rupture somewhere that needed to be fixed, and you needed to take the core out in order to repair it. If you need to do that, and if you do not have the facility to do that, you would be operating under unsafe conditions. You have to have full core reserves in these reactors.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Indiana.

Mr. SHARP. That is required under NRC, so that is a practice on any given site. They can take the core out and put it in storage they have available.

The issue, I think the gentleman correctly wants to address and which we have sought to address, is that at some point you can only stack up so many cores, and at some point you are going to want to have a long-term facility.

I could not agree more with that thinking, but I certainly do not characterize that in the same characterizations as an emergency where in 2 weeks you have got to have something.

We can predict in every given reactor. That is what the GAO is trying to study and trying to get an accurate handle on, what we need over the next 5, 10, or 15 years.

Mr. LUJAN. Maybe the gentleman does not understand that there are presently reactors without a full-core capacity, so if something happened, for example, at the San Onofre, in California, right today, that the core had to be removed, there is not enough space in that particular reactor site for a full-core reserve.

Now, what would the gentleman do? Operate it unsafely or provide space for the full core to be pulled out so that the repair could be made? It would be unsafe to continue to operate it simply because of the limitation that the gentleman is talking about.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico (Mr. LUJAN) has expired.

(At the request of Mr. CORCORAN and by unanimous consent, Mr. LUJAN was allowed to proceed for 1 additional minute.)

□ 1140

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. Certainly I yield to the gentleman.

Mr. CORCORAN. In the example the gentleman gave us, could he tell us presently what that particular utility does with the storage of its spent fuel?

Mr. LUJAN. They are having to ship to GE at Morris, Ill., as I understand, because they do not have the capacity.

Mr. CORCORAN. So the point of the gentleman is if there is a rupture or some sort of difficulty, there is not at the site capability of storing or of accomplishing core reserve?

Mr. LUJAN. That is correct. The point I am making is if there is a very, very small rupture, then because they do not have the facility to move the core out, then just what do they do with it? Do they not fix it? That could be disastrous. Nothing would happen but it would get worse and worse all the time.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. Certainly.

Mr. McCLORY. Would this amendment accommodate a nuclear generating plant located in my district which is rapidly using up its available temporary storage facilities in pools which are at the same location as the generating plant. The company desires to revise or to modify the storage area so that it can accommodate additional spent fuel rods.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico has again expired.

(At the request of Mr. McCLORY and by unanimous consent, Mr. LUJAN was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. If the gentleman will yield further, would this amendment accommodate that kind of an emergency situation?

Mr. LUJAN. It would help in the sense that if they do not have capacity right now, they do not have sufficient capacity, what are they going to do with it? This amendment says take those rods that are now stored, put them in a temporary facility, and while we are arguing about away-from-reactor storage areas, for the time being, let us put them somewhere where it will be safe. It is prudent to follow such a course.

Mr. McCLORY. If the gentleman will continue to yield, it may be right nearby or it may be an expansion, or it may be a modification?

Mr. LUJAN. No. No. That is not the case. What this amendment says is we must look at a facility someplace else. We cannot do it right there.

Mr. McCLORY. So, that if they do run out of space within this temporary facility, then there would be an emergency situation, which would be covered by this amendment, and which then would accommodate this nuclear generating plant?

Mr. LUJAN. To expand, is the gentleman asking?

Mr. McCLORY. The gentleman talks about another area of some kind, an emergency area.

Mr. LUJAN. Yes, a traditional area.

Mr. McCLORY. So the question I ask is that such an area would be available under this amendment?

Mr. LUJAN. Certainly. That is exactly the point.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the gentleman from New York (Mr. WYDLER) in a colloquy if I might. I know the gentleman has discussed this several times already in this debate, but I want to make sure, absolutely clear, that the gentleman's amendment in no way impinges on the language that is already in the bill relating to storage of foreign supplies; is that correct?

Mr. WYDLER. Will the gentleman yield?

Mr. LAGOMARSINO. I am glad to yield to the gentleman.

Mr. WYDLER. Yes, that is correct. In other words, my amendment does not change the language that is in the bill except to add to it a provision which makes it possible for American industry to use the facilities that we are going to provide in any event for foreign countries. So my amendment does not change that provision at all, it just makes those facilities available for American industry as well.

Mr. SHARP. Mr. Chairman, will the gentleman yield on that point?

Mr. LAGOMARSINO. I yield to the gentleman.

Mr. SHARP. Mr. Chairman, I think there is a misunderstanding among us as to what the amendment does. The bill does not authorize the construction, the purchase, or new site for storage of foreign spent fuel and, therefore, the gentlemen's amendment does not authorize any new construction, any new facility. What it does say is that existing Federal storage could be used in an emergency. It does not get at the gut issue that a number of people have been trying to address, and that is a genuine problem, a predictable problem of backing up storage at reactor sites. So I think that we are not really solving what people think is being solved by this amendment. The amendment does not address that gut issue.

Mr. WYDLER. Mr. Chairman, will the gentleman yield further?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. WYDLER. I would say to the gentleman I do not understand the distinction there. Whatever we are doing for foreign industry and for foreign spent fuel we are going to make available for American industry and American spent fuel. I do not care about all of these little differences. The fact of the matter is, it seems to me, the basic point is if American industry has a problem and needs help, we should be providing help to it, at least to the extent that we provide it to foreign countries and foreign industry.

Mr. LAGOMARSINO. I just want to make the point that the language already in the legislation, which is language I cosponsored with the gentleman from New York (Mr. BINGHAM) is clearly necessary to give credibility to U.S. efforts to prevent nuclear proliferation.

This legislation would enable the United States to develop the option of retrieving U.S.-origin nuclear material from a country that violates our nuclear nonproliferation agreement. U.S. laws have established our responsibility for recovering nuclear material used in vio-

lation of intended peaceful purposes. While we have that provision in our laws, we have no actual means to accomplish that retrieval. The small amount of money set aside for this purpose in this bill simply makes more credible our commitment to vigorously pursue the goal of nonproliferation of nuclear weapons.

Apart from the general principle of being able to meet a contingency need for retrieval, we must look to the very real problem we face with the misuse of nuclear fuel by India and its 1974 nuclear explosive test. In less than 6 months, we face the automatic cutoff for cooperation in nuclear energy with countries that violate safeguards against proliferation. That will specifically affect India, which has said that once U.S. exports of nuclear fuel ends, India considers that it can start to reprocess U.S. nuclear material stored at its reactor site at Tarabur. Such reprocessing would result in large supplies of weapons-grade material.

If we are to persuade India and other countries not to proceed with their declared intention to start reprocessing, we had better have the means to implement our policy and provide for a contingent capability to retrieve our U.S. fuel.

The only thing that concerns me about the gentleman's amendment is whether or not it will interfere or impinge on our credibility or our ability to take care of these nuclear problems in foreign countries. In other words, if they feel we do not have the capacity to carry out storage, they are going to ignore the requirements and we are going to face even greater problems of proliferation.

Mr. WYDLER. I would say to the gentleman that we cannot measure these things exactly because, as I am sure the gentleman realizes, we do not know exactly what the emergencies are going to be. But my answer to the gentleman would clearly be no. I think there are adequate facilities in our country to handle both problems and any potential problems without any great difficulty.

AMENDMENT OFFERED BY MR. SHARP AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. WYDLER

Mr. SHARP. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SHARP as a substitute for the amendment offered by Mr. WYDLER: On page 56, line 21 and 22, substitute the following new title: "TRANSITIONAL STORAGE OF SPENT FUEL."

On page 57, after line 7, insert the following new subsections:

(b) In providing for such transitional storage of spent nuclear fuel the Secretary of Energy shall give primary consideration to such fuel from U.S. civilian nuclear powerplants to insure that such plants have the ability to maintain Full Core Reserve (FCR) in their spent fuel storage capacity in order to cope with any emergency.

On page 57, redesignate the subsection (b) as subsection (d).

POINT OF ORDER

Mr. WYDLER (during the reading). Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman will suspend until the Clerk reports the amendment.

Mr. WYDLER. Mr. Chairman, I make a point of order. I believe the gentleman from Indiana was already recognized on this amendment and there were other people standing on the amendment.

The CHAIRMAN pro tempore. The gentleman from Indiana has been recognized to offer a substitute for the gentleman's amendment, and the Clerk is reporting the substitute amendment.

Mr. WYDLER. The gentleman had already been recognized on my amendment. Is the Chairman aware of that?

The CHAIRMAN pro tempore. The Clerk will report the amendment. The gentleman is on the committee which considered the pending title and is entitled to separate recognition to offer an amendment, and the Clerk will report the substitute.

The Clerk concluded reading the amendment.

□ 1150

Mr. SHARP. Mr. Chairman, the gentleman from New York will recognize that the major portion of his language is in this amendment. What I have sought to do is to compromise and accept the notion that, in principle, certainly we will provide for any kind of critical emergency on a temporary basis while we resolve the long-term problem.

I personally think it is not actually necessary to do so, but we will in this amendment provide that in Federal facilities there will be a chance to provide storage in the event of an emergency. However, at this point the amendment would not deal with the long-term question of other spent fuel. That kind of question is to be resolved in the next bill.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I understand the gentleman's amendment. I did not mean that I was objecting to his amendment, but I was merely trying to raise a point of order because I think other Members were trying to be recognized.

I have read the amendment, and frankly I think it does cover the problems I am trying to address. I just feel that we should, as a nation, make some provision for our own industry when they have serious problems. I think this amendment will do that. so I would be willing to accept the gentleman's amendment.

Mr. SHARP. I thank the gentleman.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I have no great objection, but it seems to me that the two provisions, the one that is presently in the bill and this provision, are totally separate matters. The provision in section 504 merely provides for removal of spent fuel from abroad, from other countries. It has nothing to do with storage. It does not make any provision for storage.

It says:

These steps should include, where appropriate, (1) the initiation of specific and detailed feasibility studies for retrieving such fuel, and (2) the acquisition, in accordance with applicable provisions of law and this section of physical capacity for implementing a retrieval operation.

It contemplates using the existing storage of the United States. The thing I want to make absolutely clear is that we are not making any provision, if we do accept the amendment, for the creation of any new transitional storage.

Mr. SHARP. It is my understanding that the original amendment, as well as the amendment I have offered to it, simply provide for storage on an emergency basis. The Federal Government can take spent fuel on an emergency basis and provide for the placing of it in an existing Federal facility that now exists. It clearly would not be a long-term solution. I think the gentleman from New York and I both agree on this.

Mr. WYDLER. I would agree. That is my interpretation. The away-from-reactor (AFR) storage problem on an interim and not transitional basis is faced in section 502 of the act. I think that is where it should be; section 504 with my amendment covers transitional storage for domestic reactors so they can be assured of full-core reserve at all times.

Mr. GOLDWATER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment offered by my colleague from New York (Mr. WYDLER). I think its is an appropriate amendment inasmuch as our storage capacity for spent fuel rods is reaching a dangerous point of undercapacity, and therefore putting us in a position where we might have to shut down a nuclear reactor or in fact not be allowed to build any new ones. We need this capacity, and we do not have the adequate capacity for the future.

That is why this amendment is important as we proceed, by 1985 and probably longer, to build away-from-reactor storage capability.

Mr. Chairman, I also feel that it is somewhat criminal that we have never adopted a policy in this country of completely completing the nuclear fuel cycle, going to reprocessing, and establishing a permanent waste disposal policy and facility. It is a fact that if we proceeded with the full fuel cycle, we could extend the available energy supply some sixty-fold of the nuclear reactor capacity in this country. That is an issue that has plagued us for many, many years, and because we failed to address ourselves adequately to it, we are finding ourselves wasting energy and increasingly moving behind the world in the proper utilization and efficient utilization of nuclear energy.

But nevertheless, faced with the existing policy of storing spent fuel rods in pools of water and reaching a capacity, we need to transition into this away-from-reactor policy which will be established later on in the future. Mr. WYDLER's amendment addreses itself to that.

Mr. Chairman, I would like to ask the gentleman from Indiana (Mr. SHARP), when he puts in the word "emergency", what his definition of an emergency is.

Mr. SHARP. Mr. Chairman, if the gentleman will yield, I am assuming from the conversations that have occurred in the debate so far that we mean a sudden problem. The gentleman from New Mexico mentioned the possibility of a rupture that requires the removal of fuel. The Federal Government will certainly be available to take the fuel core or to guarantee there is storage available at another reactor to cover a serious situation that could lead to a closedown of a plant.

I do not know how to precisely define the situation. I was trying to distinguish an unexpected emergency from a predictable situation. I think we ought to plan for the predictable needs of the 1980's and that is what we are trying to do in this legislation. We can see a need for storage in the near future; and we can decide how to handle it in advance.

Mr. GOLDWATER. Would the gentleman agree, therefore, that the word "emergency" should be interpreted in its broadest extent, encompassing any adverse or unusual situation that could be looked upon as an emergency?

Mr. SHARP. Well, it is hard to dispute the general statement the gentleman has made. I guess I would find that to be acceptable. I would think that any court or any administrator or any Member of Congress would have difficulty specifying a course of action out of that language, but I certainly would take a fairly broad interpretation.

Mr. GOLDWATER. I thank the gentleman.

Our energy needs are in this day and time are such that, failing to select a site to serve as a transitional storage facility would impair our ability to maintain our reactors at peak capacity. In debating this legislation we have over and over pointed up the necessity of alleviating our dependence on foreign oil. By taking the steps this amendment would, we are going a long way to meeting the goal of energy self-sufficiency. The costs associated with modifying our plants, maintaining them, and administering their operation are fundamental to a policy of developing nuclear technology for a system capable of meeting this Nation's demand for power from our public utilities.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I would agree with the gentleman in everything he said. Of course, I would include in those situations one in which, because there was not adequate storage on site for spent fuel at a particular nuclear plant, and circumstances were such that the plant was going to have to shut down with the resulting devastation to the economy and to the country, that the Department of Energy would be in a position to help out.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I simply would like to provide my colleagues with a perspective on this amendment from the point of view of a trained scientist familiar with the technical details that are involved. To clarify my own situation, no reactors are now in my district, nor are there any planned. However, we are close to several, and transport of the materials is a factor. My intention is to provide a few facts in a hope for a reasoned approach and consideration of this amendment.

The amendment is wise in requiring that the Secretary of DOE would insure that U.S. reactors maintain full core reserve in their spent fuel pools.

□ 1200

I will get into the meaning of "full core reserve" in a short while if my colleagues are interested. Scientists and regulatory officials know that in the meantime a full core reserve is the only prudent practice in operating our reactors. Maintaining this full core reserve insures that inspections and maintenance will not unnecessarily be deterred or postponed for lack of storage.

Let me assure my colleagues that spent fuel storage as practiced presently is safe. I know many of you read in the newspapers about leaks, and the leaks you may have heard about concern defense-related liquid solutions associated with producing weapons grade material. They do not relate to the fuel storage from electric utility uses of nuclear power. We have hundreds of reactor years of safe experience in fuel storage. Storage has been shown to be equally safe both for storage in water and in a dry environment. Scientists have done three analyses and detect no deterioration even after almost two decades of storage, but this transitional storage is planned for merely another 5 years.

I would like to talk for a moment about the transportation of spent fuel because there is a transportation factor involved. The transportation of spent fuel has been shown to be fully safe on the basis of very extensive experience. This is not at all surprising to a technical person looking at the very stringent regulations and facilities involved in spent fuel transportation. Regulations are thorough and require tough, thick, impact-resistant casks used for transporting spent fuel. I might add this is in contrast to the containers of other dangerous energy-related materials such as gasoline, such as liquefied gas, and other chemicals such as chlorine, such as a number of highly poisonous acids.

In summary, I assure my colleagues that the technical matters involved in this amendment are sound.

Mr. WYDLER. Mr. Chairman, would the gentleman yield to me?

Mr. RITTER. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding. The gentleman is making an excellent statement, and I appreciate it very much. I think, however, that the committee is ready to support the amendment. I wonder if maybe we could do that and proceed. I appreciate the gentleman's statement; it is an excellent one.

Mr. RITTER. I had finished my statement, and I would gladly yield back the remainder of my time.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment. I think that the compromise which has been reached in this section is one which indicates the ability of both sides in this issue to work together, and to achieve reductions and sound accommodations that meet the desired goals of those who stand on both sides of this issue. At the same time I think that it also recognizes the need to preserve the understanding that was struck by the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce to give the Department of Energy until later next winter to study this question.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. I thank the gentleman for yielding. I want to strongly support this amendment.

Mr. Chairman, Arkansas Power & Light Co. has two nuclear plants in my district. Their first plant (Arkansas Nuclear 1) to go critical and start furnishing power a few years ago will be one of the first domestic powerplants which will have to shut down within the next year because of this storage problem unless positive steps are taken. I strongly support the Wydler amendment which looks to taking care of our own reactors before we solve international problems by retrieving foreign spent fuel. Proliferation concerns are important but our own energy supply situation is critical and that is where our emphasis should be for handling spent fuel emergencies.

Mr. MARKEY. I think that this gives us a real opportunity to have the Department of Energy study the GAO report which was issued in June of this year. The GAO report indicated that utilities and commercial enterprises have a real opportunity to be able to provide onsite storage of nuclear wastes. I think we need the opportunity to have good, strong oversight by the Congress when that report is returned to us by the Department of Energy. At that time I think we would be fully prepared to be able to deal more adequately with the AFR issue. I would hope at this time that the amendment offered by the gentleman from Indiana is accepted.

● Mr. BINGHAM. Mr. Chairman, I rise in support of the substitute offered by the gentleman from Indiana (Mr. SHARP) to the amendment offered by the gentleman from New York (Mr. WYDLER). While the gentleman from New York has indicated very clearly that it is not his intention in any way to compromise the basic objective of the section under consideration—to enable the United States to meet important security responsibilities spelled out in the Nuclear Nonproliferation Act of 1978—his amendment, as originally drafted, would have had the effect of requiring the use of funds authorized by section 504 for the purpose of domestic spent fuel transfers even in the absence of an emergency. The language offered by Mr. SHARP simply insures that the Secretary of Energy will

both take steps to prepare for the retrieval of foreign spent fuel in the event we are faced with an international nonproliferation emergency, and make available the same facilities and equipment for the transfer of domestic nuclear-spent fuel should an emergency at a U.S. nuclear plant site require such action.

As I have stated on a previous occasion before this body, there is a dire need in this country to have a credible capability to retrieve and store safely U.S.-origin nuclear-spent fuel when it serves our vital security interests in preventing the spread of nuclear weapons. There is a lot of U.S.-supplied nuclear fuel spread all over the world, and we recognized our interest in seeing that it is not misused by passing the Nuclear Nonproliferation Act last year by unanimous vote. Nothing concrete, however, has been done to implement those provisions relating to spent fuel. Section 504 of H.R. 4839 would remedy this situation. It directs the Secretary of Energy to develop a spent fuel retrieval capability so that if a country violates an international safeguards agreement or otherwise misuses U.S. materials we will be in a position to respond quickly and effectively.

I would remind my colleagues that India would not be in the position she is today—able to convert U.S. origin spent nuclear fuel into an arsenal of nuclear weapons—had we acted decisively after her 1974 nuclear test to cut off further nuclear trade and to retrieve the remaining spent fuel for safe storage in the United States.

I would hope that the debate has shown today that more must be done, and done quickly to defend vital U.S. foreign and security interests in a tough stance against the spread of nuclear weapons worldwide.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. SHARP) as a substitute for the amendment offered by the gentleman from New York (Mr. WYDLER).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. WYDLER), as amended.

The amendment, as amended, was agreed to.

PERSONAL EXPLANATION

Mr. BINGHAM. Mr. Chairman, I wish to state that I was unavoidably absent from the floor during the discussion on the amendment offered by the gentleman from Indiana (Mr. SHARP) as a substitute for the amendment offered by the gentleman from New York (Mr. WYDLER). Had I been present, I would have risen in favor of the Sharp substitute.

Mr. CORCORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have in my congressional district, at Morris, Ill., the only away-from-reactor (AFR) nuclear spent fuel storage facility operating in the country today. This facility, operated by GE, has contracts with several utilities throughout the United States to store their excess spent fuel.

In February 1977 GE, anticipating its storage space problems in the early 1980's, applied to the Nuclear Regulatory Commission for a license to expand the storage capacity of the Morris facility.

On October 18, 1977, the Carter administration announced its proposal to take responsibility for excess spent fuel produced by commercial nuclear reactors. The announcement outlined four basic commitments: Federal ownership of AFR's; one time fee for interim storage and ultimate disposal; Federal assumption of title to fuel; and Federal responsibility for ultimate disposal.

In response to my local problem and the President's proposal I introduced, on December 15, 1977, legislation (H.R. 10301) to establish a Federal policy on spent fuel storage and nuclear waste management, something we still lack in this country despite 30 years of commercial nuclear power. No action was taken on this proposal, which would have established a specific timetable for evaluation and subsequent action on storage facilities.

In the meantime, the Carter administration continued its studies and assigned task forces to formulate specific recommendations following the President's decision in April 1977, not to reprocess spent fuel. Among these was the Interagency Review Group on Nuclear Waste Management (IRG), a 14-member body whose evaluations confirmed the need for a Federal leadership role in nuclear waste management, including the desired availability for more than one away-from-reactor (AFR) facility for storing spent fuel. The IRG has strongly recommended a "regional siting" approach on the ground that while there is no need for 50 storage sites, there is a need for from three to six sites. Moreover, since may regions benefit directly from nuclear power, it is not unreasonable to expect that each region will bear some of the interim storage burden. Furthermore then as a matter of fairness, no one region or State in the country becomes a so-called dumping ground for nuclear spent fuel as is the case today. The National Governor's Association supported this concept in testimony before our subcommittee during hearings on the administration's spent fuel storage bill, H.R. 2586.

Mr. Chairman, now let us review the congressional commitment to AFR spent fuel storage. As the House moves to approval of the fiscal year 1980 Department of Energy authorization bill, and as the Subcommittee on Energy and Power continues its ongoing process of hearings on the administration bill (H.R. 2586), it is extremely important that we recognize the commitment made in the last Congress to proceed with the implementation of the President's spent fuel executive directive of October 1977. Despite the failure of the administration to transmit enabling legislation last year to deal with this issue, the 95th Congress felt strongly enough about the matter to approve the construction of an initial away-from-reactor storage facility. This congressional approval was given via the passage of the conference report to accompany H.R. 12928, the Energy and Water Resources Appropriations bill, which included Project 79-1-p, a construction line item. This measure was subsequently signed into law by the President (Public Law 95-482) constituting both an authorization and an appropriation bill.

Pending at the close of the 95th Congress was additional clarifying language in section 403 of H.R. 11392, the fiscal year 1979 DOE authorization bill. This language was proposed based on an extensive hearing record constructed before the Energy and Power Subcommittee of the House Commerce Committee as well as extended deliberation by the full committee during its markup process. The author of that section, Mr. Gammage of Texas, provided some important insight into the impact of Project 79-1-p. A colloquy on the House floor between the author and the chairman of the Appropriations Subcommittee on Energy and Water Development, Mr. BEVILL of Alabama, confirmed the intent of Congress to proceed on an AFR program during fiscal year 1979 via the following language:

> H.R. 11392, Section 403: "The Secretary (of Energy) shall conduct a study, select sites . . . and construct facilities at away-from-reactor sites . . . At least one such facility shall be in operation by January 1, 1984 . . ."

Mr. Chairman, the design, construction, long-lead procurement and acquisition authority for regional AFR's given the Department of Energy for fiscal year 1979 via Project 79-1-p has been sustained for fiscal year 1980 by the conference report on H.R. 4388, the Energy and Water Resources Development Appropriations Act. The conference report, which has been approved by both the House and the Senate, earmarks an additional $5 million for Project 79-1-p. The spent fuel storage studies called for in the bill we are considering today (section 502 of H.R. 3000), complement the work that is presently being done on Project 79-1-p. The studies contained in section 502 will also facilitate the progress of Project 79-1-p as is made clear in the legislative history on H.R. 4388.

Mr. Chairman, I would like to point out that President Carter and the Department of Energy requested $30 million to go forward with the program outlined in section 502; however, only $5 million is provided in the pending bill on the grounds that this is what is needed for study and site selection, but that acquisition should not go forward without specific congressional approval as would be provided in the administration's spent fuel storage bill, H.R. 2586, which is pending further hearings in our Energy and Power Subcommittee.

I am very hopeful and determined that we can move on a schedule which addresses all aspects of this issue both by Congress and the affected agencies to solve these nuclear storage problems.

In fact, extensive documentation of

the environmental ramifications of AFR storage is now available. I would like to describe some of the major elements of that documentation at this time in order to inform my colleagues of the work that has already been completed in this regard.

Mr. Chairman, as you know I am disappointed by the continuing opposition of President Carter to reprocessing of spent fuel. In view of our energy crisis I do not think we should deny ourselves the contemplated demonstration testing at Clinch River, Tenn., of this particular nuclear option. However, I am pleased to report that the administration is commendably aggressive in its commitment to solving our nuclear waste management problems. To the extent appropriate DOE has proceeded to fulfill the requirements imposed by the National Environmental Policy Act—NEPA—related to implementing the President's spent fuel proposal.

In August 1978 DOE filed a draft environmental impact statement—EIS—entitled "Storage of U.S. Spent Power Reactor Fuel," examining all alternatives for implementing the President's October 1977 policy statement relative to domestic spent fuel—DOE/EIS-0015-D—A supplement to this draft EIS was made public in December 1978—DOE/EIS-0015-DS.

A document entitled "Preliminary Estimates of the Charge for Spent Fuel Storage and Disposal Services" was made public by DOE in July 1978. This was followed by a December 1978 release of a draft environmental impact statement, "Charge for Spent Fuel Storage" which established the basis for determining both interim storage charges and final disposal—DOE/EIS-0041-D.

Also in December 1978 a draft environmental impact statement dealing with the storage of foreign spent power reactor fuel was published—DOE/EIS-0040-D.

A great deal of public discussion of the need for and the attributes of the program was included in the February 1978 "Report of the Task Force for Review of Nuclear Waste Management," commonly known as the Deutch report. This effort culminated in the Interagency Review Group report to the President on Nuclear Waste Management submitted in March 1979. And, as I understand it, a decision memorandum has been forwarded to the President. In his August 2 environmental message, the President announced that his long-awaited national waste management policy was about to be clarified, thus completing a 2-year cycle on this important issue.

In an important supportive effort the Nuclear Regulatory Commission released in August its final generic environmental impact statement on the handling and storage of spent fuel (NUREG-0575). This assessment, available to the public, includes the impacts of implementing a program for away-from-reactor interim storage, particularly in terms of regulatory considerations. This underlies the ongoing program of approving licenses for onsite (at reactor) expansion of storage capacity. NRC, by the way, as a recipient of some 65 applications for expansion permission has independently determined that substantial away-from-reactor storage will be needed sometime between 1982 and 1983. This progress by NRC should be considered an important aspect of the adherence to NEPA concerns.

Thus I think it should be clear to my colleagues that as far as NEPA and the public comment process is concerned, the pertinent agencies are virtually ready to proceed with activities directly related to site selection and construction of our interim storage facilities for nuclear spent fuel.

Based on the need to proceed with both the authorization process for a definitive project and a parallel path for review of the enabling legislation for transfer of title and establishment of charges for the one-time fee arrangement, we are now being asked to vote on provisions within section 502 of H.R. 3000 which are intended to complement the process initiated in fiscal year 1979. Had the administration moved more expeditiously on the pertinent legislation, we would be involved in a more important vote; namely, giving the Department of Energy the authority to take title to domestic spent fuel. I personally am hopeful that we can bring the Subcommittee on Energy and Power's hearings on H.R. 2586 to a rapid close so that further action on this important program can be taken.

There are several broad issues here on which there is general agreement. First is the issue of need for the interim storage capacity. Essentially all witnesses who have appeared before us during hearings on H.R. 2586 have urged proceeding with the program. The only difference of opinion was stated by the General Accounting Office which, although it concluded that some away-from-reactor storage would be needed as early as 1981, felt that DOE should concentrate its efforts on getting resolution of the question of whether spent fuel would be reprocessed and its valuable fuel residue recovered for further use.

While this forward-looking perspective by GAO is commendable it begs the question before Congress: Are we going to jeopardize the ability to maintain operations of existing nuclear powerplants in the mid-1980's because of a failure to act today? Our responsibility is to anticipate today the energy needs and the practical problems associated with meeting those needs in the coming years and take reasonable planning steps starting now to meet both long-term and short-term needs.

Of course, had it not been for President Carter's decision to force the NRC to terminate its licensing of commercial spent fuel reprocessing plants in 1977, we could now be looking forward to the operation of privately funded facilities in South Carolina, Tennessee, New York, and possibly other States, all capable of storing the excess fuel. In each of these cases the processing facilities would have provided for their own onsite temporary storage until the fuel was loaded into the plant. Hopefully we will some day get back to this mode of operation since every other industrial nation with a substantial commitment to nuclear power is proceeding this way. But clearly that is not the question before us today.

Even more disturbing to me was the GAO's failure to account for the very real prospect that activities of intervenors and regulatory bodies will preclude achieving even a modest improvement in the ability to store the fuel within their own systems. For example, GAO noted that their estimates were based on utilities being able to fulfill their intrautility shipment plans.

However, the Natural Resources Defense Council (NRDC), the same organization which has represented to Congress that implementing the President's AFR policy is unacceptable to them, has proceeded to intervene against Duke Power, in South Carolina, and Commonwealth Edison, in Illinois, to block the shipments of spent fuel between reactors. Intervenors have also challenged the efforts of utilities to expand their onsite capacity to the maximum extent possible. These tactics must be recognized for what they are—blatant efforts to force the shutdown of existing nuclear powerplants.

But perhaps more serious is the action of regulatory bodies such as the Minnesota Pollution Control Agency. This agency, on behalf of the State of Minnesota, has intervened against Minnesota utilities to block expansion onsite. In a case involving this agency and Northern States Power, the agency agreed to allow onsite expansion contingent on the commitment that once the AFR becomes operational, Northern States must halt additional onsite storage and ship to the AFR any spent fuel which is discharged from the reactor after the date on which the AFR became operational. The point is that GAO based its conclusions on the assumption that all current and planned expansions of onsite capacity would be utilized to the maximum extent possible. Thus, we can see that the simplistic assumption of GAO does not meet the test of reality. What we must come to understand is that dealing with this issue is a Federal concern and that the States expect the Government to deliver on its commitment. We cannot allow the unavailability of a firm commitment to build an AFR to be used for harassment of our nuclear electricity production industry.

In my own State of Illinois the State attorney general has taken steps to attempt to block the onsite expansion at two operating facilities, the Dresden and Zion plants, which include five of the seven nuclear units currently providing some 30 percent of our electricity. The GAO's response to my inquiry about their assessment of which this institutional obstacle might be overcome was "we don't know." I submit to my colleagues that it is up to Congress to deal with this debilitating uncertainty.

A key issue important to our discussions is the extent to which regional spent fuel storage facilities will be encouraged. The Interagency Review Group has strongly recommended this approach since it puts the need for providing this interim management option

into perspective—many regions benefit directly from nuclear power so it is not unreasonable to assume that each region will shoulder some of the burden. The National Governor's Association has supported this concept in testimony before the committee and I understand that each Governor involved has recognized the important role of regional facilities.

For example, Governor Riley of South Carolina supports expansion of the Barnwell facility from 400 tons to 1,750 tons in order to accommodate excess spent fuel from nuclear plants in the Southeast. Other regional demands of consequence include the Northeast and the Midwest. The Department of Energy should proceed on a course which emphasizes the use of regional facilities. To date, the proposals presented to Congress would permit aggressive pursuit of this option.

Another important aspect of our efforts to implement the President's spent fuel storage proposal is the establishment of a charge to be paid by the utility at the time fuel is accepted for storage or waste is accepted for disposal. It is his expressed intent that the charge to be paid by utilities for this service will recover all costs including applicable research, acquisition of sites, construction, operation, surveillance, and decommissioning. The utilities support this proposal because they need a sound basis for approaching their local electricity rate commissions. Recently a Connecticut public utility commission approved the use of the DOE estimates for disposal costs as a recoverable expense to be charged customers benefitting from the energy derived from the nuclear fuel.

There has been a bit of confusion over what this one-time fee actually means. I would like to briefly discuss some of these issues. First, the one-time fee would be charged for each batch of fuel assemblies or waste canisters delivered to the Government facility. This fee would be paid at least once a year for the 30 to 40 years of powerplant operations and would include any updates on both costs incurred and revised cost estimates. For example, a utility beginning to operate a power plant in 1980 would be making payments each year through the year 2010 to 2020.

Second, the Government has already established a procedure for full cost recovery over a reasonable period of time. This is currently the basis for charging for uranium enrichment services provided by the Government from the Oak Ridge, Tenn., Portsmouth, Ohio, and Paducah, Ky., plants. These costs include labor, materials, power, research, plant additions, and inventory charges plus a contingency. Criteria have been published describing the basis for the charge and must be submitted to Congress any time a change is contemplated. Third, the charge would be annually updated to include the most recent experience in construction and operation.

As we all know, the technology for the spent fuel storage pools is currently in use at 72 reactors in the United States alone and essentially every Government nuclear installation. Detailed engineering designs for the final repository have been completed for a full range of options—including every candidate geologic media. Extensive documentation is provided in the April 1979 draft environmental impact statement on "Management of Commercially Generated Radioactive Waste" published by DOE. Estimates for repository construction, including mining, back filling, and shaft sealing are provided for salt, granite, shale, and basalt. Various fuel cycles from the throwaway to the residual fuel recovery are also analyzed. By the time the first payments are made by a utility we will have constructed the interim storage facility, and should have specific site construction programs under way. As long as Congress does its part, we should have the first repository operational long before the final fuel is discharged from currently operating reactors. Thus, every utility will be a participant in paying for its share of the storage and disposal system.

The action of this body during its consideration of title I to provide for an Intermediate Scale Technology Demonstration project could contribute significantly to the Department of Energy's refinement of its cost estimate for the disposal-only portion of the fee to be paid by utilities. There is no better way to get the important experience needed than through the construction of a specific site facility which, although designed at a smaller scale, can be used as a basis for examining handling facilities, emplacement techniques, and waste forms in enough detail that even more confidence can be placed in a scale-up of the design. In the event that Congress cannot move expeditiously to resolve the more important question of establishing a comprehensive waste management policy, projects such as these can provide the needed direction for the ongoing program. I personally support this approach because it will enhance rather than detract from our future legislative responsibilities in this area.

While utilities will continue to take whatever actions are available to avoid the shutdown of nuclear power reactors due to inadequate spent fuel storage, the ability of utilities to adopt temporizing measures in expanding spent fuel storage facilities or transshipments is diminishing. Passage of the pending bill (and the approval of H.R. 2586 or a similar measure) is needed to provide AFR capacity because it is the only viable alternative in the near term, because it is the best economic alternative, and because the problem is directly related to uncertainties created by Government policies and, thus, resolvable only by Federal action.

For these reasons I urge passage of this section of the bill as a most important part of this year's Department of Energy authorization bill.

(Mr. CORCORAN asked and was given permission to revise and extend his remarks.)

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 45, line 6, strike section 502.

Mr. GONZALEZ. Mr. Chairman, once again it looks to me as though the House, the Congress generally, is playing nuclear roulette with the fate of the American people, again with a very limited background of thoroughgoing and forthright presentation of all of the issues involved.

My amendment is very simple: It strikes out all of the provisions relating to a study by the Department of Energy on the problem of storage for nuclear reactor wastes, away from the site of such reactors and implementation thereof.

What we are being asked to do, constantly, in the business of nuclear power, is to clean up after this, that or the other mistake. In this case we are being asked to create storage space in communities that don't have nuclear wastes to worry about, to take care of the problems of the communities that do have nuclear wastes to worry about.

I do not see why my community, or any other community that is free of nuclear wastes ought to become the potential waste bin or dumping ground for some place that cannot handle its nuclear trash.

Today, nuclear wastes are stored on the site of nuclear power plants. That is the way it ought to be. That is the way they argued it should be, before T.M.I. Those who create the poison have to live with it.

But Section 504 of this bill would relieve those places of their responsibility to live with what they have created. It would transfer their poison to other places that have been wiser, or you might even argue, more fortunate than to have a nuclear junkpile in their backyards.

I know that the committee will argue that unless away-from-reactor disposal is made available, certain powerplants will run out of storage space in 1983. But the people of this country did not make any agreement to be responsible for storage of this waste. It is the people who create waste that have to be responsible for its disposition, not innocent communities hundreds of miles away. If a power company built a reactor, then its responsibility was to assure that the wastes would be taken care of. But section 504 of this bill relieves them of this responsibility and commands others, who are not responsible, to assume all the risk and all the consequences of this thoughtless act. This is manifestly wrong.

I know too that the committee will argue that without the capacity for away-from-reactor storage, certain powerplants will begin to run out of storage space in 1983 and be faced with the possibility of shutting down. But everyone knew, from day one, how long that storage space would last, and now that the predicted end is near, they are saying that we have to create dump grounds elsewhere, or see tragic consequences. This is nothing other than simple blackmail, and it does not change the fundamental rights and wrongs of the situation. It still does not answer the question of why some communities must become the recipients of the poisons of other communities.

It might be said that if my amendment is adopted it will be the beginning of the end of nuclear power in this country. I say, if that is so, then so be it. We can live without nuclear power, and it might well be that we may not be able to live with it. But if we have to live with nuclear power, let those who created the poison be responsible for it, and live with it. Do not make innocent people have to live with a monster they had nothing to do with, never asked for and never wanted. Let those who did the deed live with its consequences.

□ 1210

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. CORCORAN and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN. Mr. Chairman, will the gentleman yield for a comment?

Mr. GONZALEZ. I yield to the gentleman from Illinois.

Mr. CORCORAN. I respect what the gentleman has said in terms of raising the issue of why have we not provided by now for not only interim storage of spent fuel but also permanent disposal of nuclear wastes.

As I tried to point out in my earlier comments on this section of the bill, one of the problems that has come upon us recently has been the decision of the Carter administration to stop the breeder reactor program. The original idea was that the spent fuel would be used as part of a new technology in developing additional nuclear fuel. For that reason the storage sites were relatively small at the nuclear powerplants. We now find ourselves in a different situation.

There are two things happening which I think are progressing reasonably well under current circumstances. One, section 502 of the bill, which answers the problem the gentleman raises in that it provides for a need study, public hearings and all of the procedures so that we can come to a final determination on whether or not the spent fuel should be stored on site or at away-from-reactor facilities. Second, section 502 of the pending bill helps bring us to that day when we can ultimately have permanent disposal sites for high level nuclear wastes.

Mr. GONZALEZ. I appreciate the gentleman's effort to make the point that I know he wants to make. However, that would be well if that is as far as it went. However, a very careful evaluation of the language of this section will reveal to the gentleman we go beyond that. We are actually making a very definite commitment. If you look at it you will see it goes beyond just coming in with a study and recommendations. It sets up a plan of action; this has been, incidentally, an approach which resembles the way the whole matter of private commercial development of nuclear fission has been presented to the Congress and therefore to the country. It has been absent of all of the established facts.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. CORCORAN and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. CORCORAN. Will the gentleman yield?

Mr. GONZALEZ. Surely I will yield to the gentleman from Illinois.

Mr. CORCORAN. I am sure the gentleman and I can disagree on what we have read, but I can assure the gentleman, having participated in the development of the section as a member of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce which has jurisdiction in this section, that it is the intent, and I declare it is the language of the section that it is a study, and all the other actions are conditioned on that study.

Mr. GONZALEZ. In other words, Mr. Chairman, the gentleman is saying as far as the intent of the committee writing this section is concerned, all you were really asking for is a study and any implementation thereof would have to, of necessity, be evaluated by the Congress subsequently?

Mr. CORCORAN. Will be evaluated, to use the gentleman's words, by the Congress subsequently.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Certainly I will yield to the gentleman.

Mr. SHARP. Mr. Chairman, that is precisely our intent. On both pages 54 and 55 there are references to both the words authorizations and appropriations. In other words, that the Federal Government cannot buy, cannot purchase land, cannot call for construction.

The CHAIRMAN pro tempore. The time of the gentleman has again expired.

(At the request of Mr. SHARP and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. I yield to the gentleman from Indiana.

Mr. SHARP. They cannot take title to spent fuel until there is a further authorization and appropriation. Our assumption is that through this study, through the preliminary groundwork the department will engage in, that on the next authorization bill or on a separate piece of legislation we would then be in a position to have exactly the debate the gentleman properly wishes to have.

Mr. Chairman, there was an effort by the administration and some others to try to get Congress to put money in the bill for the purchase of an AFR facility. We rejected that on the grounds we did not have the documentation of exactly what is the problem, whether we wish to go with further onsite storage or whether the Federal Government should provide storage, so we tried not to resolve all of those gut questions but put us on a timetable so we will have the information available to us in a much more thorough manner when we consider the next authorization bill.

Mr. GONZALEZ. I sincerely thank the distinguished subcommittee chairman and also the gentleman from Illinois (Mr. CORCORAN).

Mr. Chairman, upon reading this amendment, my interpretation leaves me to believe it is essentially erroneous and it does not in any way make a commitment in the way of providing any future site based on a study.

Mr. SHARP. That is right, Mr. Chairman. In fact, we avoided precisely, as one of the gentlemen here can tell you, any allowance of designation of any given site.

We do ask the administration to come forward with potential sites so that when we get down to discussing the issue we will know what we are talking about, where we are talking about, how it will be used. Then and only then will Congress decide: Yes, go forward and buy it, or, No, do not do it.

Mr. GONZALEZ. I have always been in favor of studies. I do not want to be narrow in my interpretation. If this seems to be the consensus here among those who have written the section, I might well ask unanimous consent to withdraw my amendment.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I would like to reassure the gentleman that withdrawal of the amendment would be appropriate. I have expressed the same concerns as the gentleman in the well. I serve on both subcommittees, that of the Committee on Interior and Insular Affairs and that of the Committee on Interstate and Foreign Commerce.

The CHAIRMAN pro tempore. The time of the gentleman has again expired.

(At the request of Mr. MARKEY and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. MARKEY. The language which is in this bill is exactly that. It is intended to allow and mandate the Department of Energy to conduct a study and report back to the Congress on what are their recommendations, but to give them no authority or no appropriations that would allow them to act without specific authorization and appropriations from the Congress. We will have that opportunity then to be able to give specific instructions to them. I think the gentleman's motion to withdraw the amendment would be appropriate because, indeed, we do build in those protections.

Mr. GONZALEZ. I thank the gentleman from Massachusetts.

Mr. Chairman, if it is in order, I ask unanimous consent that I may be allowed to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in considering this section 502, I think it is important for us to keep a few facts clearly in mind. There was some confusion in the discussion of the amendment by the gentleman from Texas that I should like to correct at this time so that there will be no misunderstanding of these facts.

Mr. Chairman, the gentleman stated there is about 75 million gallons of waste, nuclear waste in this country. I should

like to point out that of the nuclear wastes in this country, about 99.9 percent of them have nothing whatsoever to do with our nuclear energy program.

□ 1220

These wastes come almost exclusively from our defense program, our nuclear weapons program. There are virtually no wastes at all from our nuclear energy program, because we have only reprocessed a handful of fuel elements from our nuclear plants. Part of the tank of wastes at West Valley in New York come from commercial fuel elements, but most come from the Department of Defense. This one small tank is partially nuclear energy wastes and this bill does contain a provision to glassify that waste.

So it is important to remember that the nuclear wastes referred to around the country are almost entirely associated with the defense program.

It is important to remember also that each spent fuel bundle, about 6 or 7 inches square and about 10 feet high, contains the electric energy equivalent of between 6 and 10 million barrels of oil in fuel that has not yet been used. There is only about 2 percent waste in a spent fuel element, and we do not get the waste until we reprocess and we do not have any reprocessing program today. I think we would have a reprocessing program, and I regret that it has been delayed.

This study, of course, will, along with the provisions that are provided in title I of the bill, help lead to a reprocessing program at the appropriate time. I have no doubt that we will do that.

I believe, as a matter of fact, that we will come to a conclusion to create a Federal nuclear fuel cycle corporation, where the Federal Government preempts all the fuel cycle from mine mouth to waste disposal and carries out all the operations on a contract basis and leases the fuel elements to nuclear powerplants and has them returned intact for reprocessing. But it is important to get the simple facts in context and to go ahead now with these studies.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I would be glad to yield.

Mr. SHARP. Mr. Chairman, I would just like to take exception to one of the gentleman's facts. I think the gentleman is accurate when he says 90 percent of the volume of radioactive waste does come from the military and 10 percent from our energy program. It is my understanding that given the measure of radioactivity, that it is, in fact, 50–50 in terms of radioactivity.

Mr. McCORMACK. Well, of the wastes themselves, it is about 99.9 percent defense.

In the future the portion from the energy program will increase. As we reprocess the fuel and separate the wastes, and as the radioactivity dies away from the defense wastes, then there will be more activity from the nuclear energy program.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I would be glad to yield.

Mr. WYDLER. Mr. Chairman, I think the gentleman's statement is excellent. I think it tends to put in perspective what the responsibilities of the American people are, because the American people have a responsibility, whether they like it or not or want it or not, to take care of the waste material that has been granted in our country from our nuclear bombs, our atomic weapons, which are there to protect our Nation. That is a Federal problem. There is no way we can escape that and it has to be dealt with at the Federal level.

Some of the earlier discussion, I am afraid, indicated that these spent fuel rods, which are going to be put away from reactor storage facilities, are wastes and, of course, as the gentleman so clearly pointed out, they are not waste. They are one of our most valuable assets, one of our treasures, as a matter of fact, because they contain enormous amounts of power and energy which we can use to develop the economy of our country in the next 100 years. So obviously, it is not a question of disposing of wastes, but it is a question of preserving those assets, so that when we finally make the decision to use them, as we inevitably will, they will be there for us to use them.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman. He is completely correct.

I should point out that not only are these spent fuel elements a great treasure for the United States, they are the greatest source of eneregy we have in this country.

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. McCORMACK) has expired.

(By unanimous consent, Mr. McCORMACK was allowed to proceed for an additional one-half minute.)

Mr. McCORMACK. When the wastes are separated from the spent fuel, they will occupy a very small volume, indeed. When we glassify these wastes, a typical 1,000-megawatt nuclear plant will provide only 10 canisters of waste, about 1½ feet in diameter and 6 to 10 feet high per year. That is the entire volume of high level wastes per year produced by a nuclear powerplant. We have the technology now to totally remove all of the high level wastes completely from the biosphere forever. That technology exists. It is being used in France today. We have already demonstrated it in this country. We simply have to go ahead and do it.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that section 502 as it emerged from the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce is, indeed, a fine compromise position. The study provided for in this section is the away-from-reactor spent fuel storage program. It is inherently a neutral assessment of the nuclear future of our country. It makes no real decision on whether or not reprocessing is something which in the future will be encouraged by our Government. It makes no determination as to whether or not there is the ability at already existing nuclear power facilities for onsite spent fuel storage.

It does not really answer the question of whether or not reracking and expansion of onsite storage pools are an answer which might be able to get us through the interim period while we are awaiting a permanent solution to the nuclear waste disposal problem in this country.

The GAO report, issued on June 27 of this year, indicated that they found that the Department of Energy had greatly overestimated the need for spent fuel by almost four times, making the real storage requirement only about 25 percent of what DOE had projected. When utilities were interviewed by the GAO, only one utility did not have an option to expand its existing storage capacity, and that utility is in fact considering the possibility of building an independent storage facility in partnership with another group of utilities. The study of the problem of commercial spent fuel in section 502 of this bill took a great deal of time and painstaking care to structure. I think all parties understood that it did not make a determination that either reprocessing or Government purchase of AFR capacity was going to be a necessary result of any DOE study. Rather, we intend that there be an impartial zero base analysis of the whole question of away-from-reactor capacity and then recommendations would be returned to the Congress that we would be able to act upon.

I think that is, indeed, what this section of this measure indicates and I would hope that the broad-based support that we receive here will also be present when the recommendations and studies are returned from the Department of Energy.

The CHAIRMAN pro tempore. Are there further amendments to title V?

Mr. FUQUA. Mr. Chairman, are we through with title V?

The CHAIRMAN pro tempore. The Chair is not aware of any further amendments to title V.

Mr. FUQUA. Mr. Chairman, I ask unanimous consent that three amendments be offered to title I of the bill, despite the fact that the title has been passed over in the reading. One amendment is a technical amendment that I will offer. One is an amendment by the gentleman from North Carolina (Mr. NEAL) that has been agreed to; and one is an amendment by the gentleman from Washington (Mr. McCORMACK) that has been agreed to by both the minority and the majority committees involved.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WYDLER. Mr. Chairman, reserving the right to object, I am just going to announce that I will not object to this particular request, but any further requests of this type, I will object to.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman's consideration.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: Page 2, line 4, strike out "$48,000,000" and insert in lieu thereof "$56,000,000".

Mr. FUQUA. Mr. Chairman, this is a technical amendment to clarify an error that was made in the amendment offered by the gentleman from West Virginia (Mr. RAHALL) last week when the bill was considered. The committee accepted the gentleman's amendment. Inadvertently it was printed incorrectly in the RECORD.

I ask that the amendment be adopted.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA).

The amendment was agreed to.

□ 1230

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: Change section 107, paragraph (B), subparagraph (2) on page 5, lines 12 and 13 by deleting the following:

"(2) Waste treatment technology and other activities, $20,950,000."

And adding the following:

"(2) Waste treatment technology and other activities, $21,950,000."

The CHAIRMAN pro tempore. The gentleman from Washington (Mr. McCORMACK) is recognized for 5 minutes in support of his amendment.

Mr. McCORMACK. Mr. Chairman, his amendment is to add $1 million to the subject of waste treatment technology.

The purpose of the amendment is to accelerate the program for research and development into incineration or other methods of reducing the volume of the low-level radioactive wastes that are produced in this country.

About half of the low-level wastes comes from hospitals and from industrial use. Every time somebody goes to a hospital for any kind of therapy and requiring nuclear medicine, any time this type of equipment is used, hospitals eventually have to dispose of radioactive materials, syringes, boxes, anything at all, and there is a considerable volume of this low-level waste.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, as I mentioned before, we have already agreed to accept the gentleman's amendment. We think it is a very worthy amendment, and I urge its adoption by the committee.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman from Florida (Mr. FUQUA).

Mr. Chairman, despite the fact that the amendment has been agreed to, I think there is another point that must be understood here. It is a very important point. That is that for the low-level wastes that are being shipped across this country today, there are only two functioning low-level waste repositories. About half of the material comes from hospitals and other nonnuclear industries, and it has a huge volume. There is very, very little radioactivity involved.

We are shipping these materials all over the country as if they are dangerous materials, only to comply with the regulations, and the important thing, I think, is to reduce the volume as much as possible so we do not have the problem of handling these materials just to meet the requirements of regulations.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NEAL

Mr. NEAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NEAL: On page 2, line 8, strike: $88,150,000 and insert $85,-050,000.

On page 19, after line 8, insert the following new item:

(11) Project 80–FE–12, peat-fueled combustion demonstration plant, site undetermined (A–E and long-lead procurement only), $3,100,000.

On page 35, after line 18, insert the following new item:

(15) Project 80–FE–12, peat-fueled combustion demonstration plant, site undetermined (A–E and long-lead procurement only), $3,100,000.

Mr. NEAL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. NEAL. Mr. Chairman, one of this country's largest untapped energy sources is peat. We have enough peat in the United States to produce the energy equivalent of about 250 billion barrels of oil. That is roughly comparable to Saudi Arabia's total oil reserves.

What is more, the commercial use of peat is no pipe dream. European countries have been burning it successfully for years. We know that with only a few technological refinements we can use peat to produce electricity in the United States. We even have studies indicating that, in generating electric power, peat would be cost-competitive with both coal and nuclear power. We know also that peat is a cleaner-burning fuel than coal.

In view of these facts, it is absolutely incredible that our Department of Energy is not spending a penny to develop peat combustion technology.

We are sitting on an energy resource of enormous value, at a time when this Nation is on the verge of critical energy shortages, and we are simply ignoring it.

Mr. Chairman, that is why I am introducing an amendment to the Department of Energy Authorization Act for fiscal 1980, to provide $3.1 million for first-year funding of a demonstration peat-fueled electric generating plant. It is recognized that this will be the first module in a full-sized commercial electrical generating facility. The Senate version of the DOE authorization bill already contains a similar provision.

This demonstration plant would fill a serious gap in our energy development program. It would fully explore the potential of peat-fired power production by testing and refining the latest available equipment. It would also measure the environmental effects of harvesting and burning peat.

Mr. Chairman, the DOE authorization bill already contains $6.7 million for peat gasification research and development. My amendment would make our peat development program a more balanced one. The Science Committee staff has informed me that no additional funding is necessary, beyond what is in the bill, for the purposes of my amendment. It was pointed out that many aspects of the combustion program, particularly as they relate to peat harvesting, will complement the gasification program.

Mr. Chairman, some will ask why the Government cannot just wait until the utility companies get around to developing this obvious resource on their own. Well, we do not have that luxury anymore. We need energy now. Furthermore, we have to recognize that utilities are not rushing into peat fuel development. Why? Primarily because the available technology has not been refined for use in the United States. Large-scale use of our American varieties of peat—which are different from European peat—will require development of new kinds of boilers and a new harvesting system. This equipment seems to be technologically feasible and easily obtainable, but private utilities now seem unwilling to make the initial investment. I have seldom seen a situation in which the Government had so much to gain from providing an incentive.

I have no doubt that the availability of Federal matching funds would bring forth utilities eager to build a peat-fired electric plant.

One such organization is the North Carolina Electric Membership Corp., which represents 28 consumer-owned electric cooperatives. This group has offered to pay more than half of the cost of constructing a 150-megawatt peat-fired generating plant. After extensive research, the North Carolina cooperatives have estimated that such a plant could generate electricity at a cost of about 17 mils per kilowatt hour. That compares favorably with the Virginia Electric Power Co.'s current cost of 15 mils using old equipment and 20 to 23 mils using new coal or nuclear equipment.

Under the North Carolina proposal, the Federal share of the cost would be $72 million over 6 years. In addition, the cooperative organization's directors recently approved a resolution agreeing to "repay that portion of any moneys the Federal Government has expended for production equipment if the project results in a successful and economic savings to its members." That could reduce the ultimate Federal share to about 20 percent.

As an example of peat's potential value,

consider the fact that North Carolina's peat reserves—only 2 percent of the Nation's reserves—are said to be sufficient to supply all of that State's electric power for 23 years. Other States have even greater stores of peat.

Mr. Chairman, our energy forecasters tell us to expect serious electricity shortages by the 1990's because of problems in bringing nuclear plants on line and in mining sufficient coal. In addition, President Carter has now committed the country to reducing its oil imports by half by 1990.

It is obvious, then, that we had better develop alternatives. Peat is one of our best hopes for closing the energy gap. It is this country's second most abundant fossil fuel. Yet we do not have even one commercial peat-fired generating plant, even though peat's potential in this field has been amply demonstrated in Russia, Finland, Ireland, and other countries.

In addition to its other appealing qualities, peat is not likely to compound our air pollution problems. Compared with coal, peat is a relatively clean-burning fuel. It has significantly less sulfur, ash and nitrogen than coal. The demonstration plant would, however, measure peat-burning's effect on air quality and would answer questions about peat harvesting's impact on the environment and on land use.

On balance, when one considers the availability and potential value of peat, the only remaining question is: What are we waiting for?

I hope that my colleagues will get us started by supporting this amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, the committee has had a chance to review the gentleman's amendment. I think it is an excellent one, and I urge the committee to adopt it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. NEAL).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title V?

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment to title V.

The Clerk reads as follows:

Amendment offered by Mr. VENTO: Section 502(b)(1), add the following new subsection (C) and renumber accordingly:

(C) be based on the assumptions that:

(i) these facilities will be designed solely for the interim, short-term storage of spent fuel;

(ii) these facilities will be used solely for the near term need;

(iii) the storage capacity shall not be expanded beyond the level needed to meet the amount of spent fuel withdrawn from the core of any nuclear reactor licensed by the Nuclear Regulatory Commission prior to 1990, and, where appropriate and consistent with applicable law, foreign nuclear reactors: and

(iv) facilities for the long-term or permanent storage of spent fuel and nuclear high level waste shall be made available as soon as possible.

PARLIAMENTARY INQUIRY

Mr. WYDLER (during the reading). Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. WYDLER. Mr. Chairman, may I ask, is this amendment being offered to title V, and, if so, have we not completed title V?

The CHAIRMAN pro tempore. The Chair will state that the committee is still on title V. The Clerk has not yet designated title VI.

The Clerk will continue to report the amendment.

The Clerk concluded the reading of the amendment.

Mr. McCORMACK. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from Washington (Mr. McCORMACK) reserves a point of order on the amendment.

The gentleman from Minnesota (Mr. VENTO) is recognized for 5 minutes in support of his amendment.

Mr. VENTO. Mr. Chairman, the need or the concern that is expressed in this amendment deals with the study and study criteria stated with regard to away-from-reactor storage. I have shared this amendment with members of the various committees who are concerned with this particular issue, and I was hopeful that we would have this particular provision accepted by those committees. Nevertheless there is concern with regard to the amendment and what the impact of it would be.

What I want to point out today is that what comes through to us on this away-from-reactor study, which is a very unusual study, it all but authorized the quick implementation and construction of away-from-reactor facilities in this legislation.

I think all of us ought to recognize that, and I believe we do recognize it. We also recognize the critical problem in terms of dealing with spent fuel. That problem is with us now, especially with nuclear reactors throughout the country. By 1990 I assume there will be some 150 nuclear reactors operating, all of which will be producing spent fuel, with the real possibility of no resolution regarding permanent or long-term disposal of nuclear material. I think that this would obviously be an abrogation of our responsibility and purpose with AFRS.

My fear with regard to the study is that the time frame for short-term storage is something like a time frame of 30 to 50 years. The problem is that once that has been attained, the pressure really is off with regard to finding permanent or long-term types of storage solutions.

All this amendment would propose to do would be to recognize that up until 1990 there would be a certain amount of spent fuel produced which would require away-from-reactor storage, and that we ought to have certainly short-term storage, that is, a 30- to 50-year short-term storage available. That storage could continue to be used, with this amendment, after 1990, but it would limit the amount of away-from-reactor storage or short-term storage anticipated by the criteria of this study to the 1990 level. This AFRS program will likely be implemented within a year without a congressional veto but hopefully rigorous oversight.

The point is that this amendment really provides an option, to say we were going to obviously provide this capacity but we are not going to go beyond that 1990 base as a solution to the problem.

Obviously that has met with some opposition, and I really think the best interests of nuclear reactors, and so forth, would be served by reaching a long-term or permanent type of storage agreement. But unfortunately, it is my judgment that if this is passed into law, absent the proposed amendment, the impetus to find permanent and long-term storage would be severely retarded.

However, I do agree with the intent of what we are trying to do here. I think we do not have the answers. The interagency group study pointed out the lack of information and the unanswered questions. We cannot force human knowledge or the answers to implement a long term, permanent storage solution to be created by law. There are many questions that should be answered. I certainly hope they will be answered so we can proceed with a plan for the storage of various types of waste and hazardous materials, especially those related to nuclear reactors.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Does the gentleman from Washington (Mr. McCORMACK) insist on his point of order?

Mr. McCORMACK. Mr. Chairman, I do not insist on my point of order. I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Washington (Mr. McCORMACK) is recognized for 5 minutes.

Mr. McCORMACK. Mr. Chairman, with all due respect to the gentleman from Minnesota (Mr. VENTO), because I appreciate the intent of his amendment, I believe that it would put unnecessary, unwieldy restraints upon the programs which will be evolving during the coming years between the administration and the Congress.

I believe that section 502 sets out a study program which is a reasonable one. As did the gentleman who sponsored this amendment in its written form with the committees involved, I say it is a completely neutral study. Indeed I think that is what it should be.

In my own mind, I am convinced that in the very near future the administration will come forth with programs for fuel reprocessing, and that the requirements for fuel storage will be very much reduced as we get a nuclear fuel cycle in operation. But we cannot be exactly sure of the dates and what this amendment does is provide dates which might conceivably confuse the situation and make it unworkable.

□ 1240

Indeed, the amendment contains language which I consider to be vague beyond the point of workability, where it says that spent fuels shall be stored solely for the near-term need. I think defining "near-term need" is almost impossible.

For these reasons, in spite of the fact that I respect the gentleman's attempts to try to define that we shall not protract the surface storage of spent fuel indefinitely, I must rise in opposition to the amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I just want to assure the gentleman that there is no mystery intended by the amendment in terms of subtle meanings that are difficult to define.

I just want to remind the body that we did have amendments before us that said within 1 year, within 2 years, we would in fact arrive at a solution of permanent long-term storage. The intent of this amendment certainly is not to put it in a 1- or 2-year time frame but, rather, to just suggest that the away-from-reactor storage study on the construction that may be authorized under this would in fact fall into some sort of a reasonable time frame. That is the intent of it.

So I think the Members ought to think about it, those who voted for the 1-year and the 2-year construction permit. This really just says we are going to keep this as a long term storage solution on track, that we are not going to let the near-term storage of spent fuels anticipated by this away-from-reactor storage study lulling us into complacency and pretend to fill the need itself. We should keep this on track.

Mr. McCORMACK. I thank the gentleman for his comments.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I want to congratulate the Committee on Interstate and Foreign Commerce on the amendment that they wrote, which I think is very superior to this amendment. I oppose the amendment that is being offered and I support the action of the Committee on Interstate and Foreign Commerce.

Mr. McCORMACK. I thank the gentleman for his remarks.

Mr. Chairman, I only want to say that, in all due respect to the gentleman from Minnesota, I do believe that the wording of his amendment is too vague, is too restrictive, and it will do more damage than good.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, with a great deal of respect to the author of the amendment, I think it is duplicative of provisions already included in the section. It breaches understandings arrived at.

My good friend, the gentleman from New York (Mr. WYDLER), mentioned it was the Committee on Interstate and Foreign Commerce which crafted section 502. It really was not. It was three committees working in concert, the Committee on Interior and Insular Affairs, the Committee on Science and Technology, and the Committee on Interstate and Foreign Commerce.

Mr. Chairman, I oppose the amendment offered by the gentleman from Minnesota on the grounds that it is duplicative of provisions already included in this section.

The purpose of this amendment is to insure that the Secretary, in studying the need for away-from-reactor spent fuel storage, limits his determination of such need to spent fuel discharged from reactors licensed to operate before 1990. The purpose of this limitation is to insure that assistance is provided only to those reactors which were designed to have limited onsite storage capacity and with the expectation that such fuel would be shipped offsite to a reprocessing plant. As reprocessing is not presently an option, these reactors may be running out of storage capacity. As this problem was supposedly caused by Government actions, then, it is argued, the Government should offer relief by providing interim storage capacity. This amendment would then seek to limit that assistance only to those who relied on past Government policies and would require reactors licensed after 1990 to anticipate the problem and provide their own adequate storage capability.

The issue of providing away-from-reactor spent fuel storage capacity for future reactors is already addressed in section 502(b)(2)(ii), which specifically directs the Secretary of Energy to study and submit data on the need for providing storage for future reactors. Thus, the Secretary would then be providing information as to which reactors now under construction would be able to provide their own additional on-site storage capacity for their discharged spent. The existing provisions would not then guarantee space to all such factors, as would this amendment, and, thereby, the existing text would reduce the potential size of the need.

As to the argument that the Government should provide storage for all existing and future reactors, the Department has testified that their intention is only to assist those reactors which face an immediate storage problem as a result of changing Government policies and not to establish a continuing program, which I believe is consistent with the terms of the present text.

It should be noted that the proposed amendment is vague in the sense that it does not define such terms as "short term storage" or "near term needs." The present text, in section (b)(3)(B) directs the Secretary to determine the period of time for which such storage should be provided.

Finally, subparagraph (iv) of the proposed amendment states that—

Facilities for the long term or permanent storage of spent fuel and nuclear high level waste shall be made available as soon as possible.

The objective of our program should not be to perpetuate storage, but find a suitable method of disposal.

For these reasons, I oppose this amendment and urge its defeat.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, we have a carefully established, bipartisan compromise on which the members of two Committees, Commerce and Interior, have agreed.

It is the purpose of the study in section 502 of this bill to determine the need for away-from-reactor storage space for our nuclear spent fuel. Our Nation's utilities are running out of onsite storage space. It is imperative that this condition be redressed if we are not to force utility shutdowns in the 1980's and beyond.

We certainly hope that permanent, effective nuclear waste disposal facilities are in place and operating by 1990. Storing our spent fuel should not be made contingent upon those facilities, however. These are two separate problems. And to arbitrarily say that we will shut down our nuclear utilities in 1990 if such facilities are not in place, and that is what this amendment does, is short-sighted, ill-advised, and dangerous to our energy future.

I have consistently argued that the nuclear option must remain a part of that future. Our utilities are already abandoning nuclear power because of our refusal to make a firm commitment to support nuclear growth. Tuesday's Washington Post highlights this fact by announcing Vepco's decision to refrain from completing two nuclear plants that it had under construction.

This amendment, which would plan to terminate the away-from-reactor program before it begins, would also send an unfortunate message of withdrawal from nuclear power.

We cannot afford to do that. I ask that the recommendation of the two committees having jurisdiction in this matter be accepted, and this amendment defeated.

Mr. SHARP. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I think the author has raised some significant points that I am not sure those of us on the Committee on Interior and Insular Affairs are totally in disagreement with. I think basically we want to keep the focus on finding a long-term solution and certainly have no intention of allowing the AFR issue to become a means to skirt that question. I do not think that is the intent of most of the supporters of the language of the bill.

Secondly, I think another aspect of the amendment that the gentleman intends is another one about which I think there is strong support, and that is that

we do not want the Federal AFR program, if one is adopted, to become a substitute for initial storage onsite at the reactor, because many of us, in our initial judgments on this issue, feel that onsite storage is likely to be safer. The less traveling and the less maneuvering of this material in the country, the better off we are.

So I think the intent, in getting this study, is to try to keep it focused on real problems and not to become a substitute for responsibilities of local utilities and not as an evasion of the long-term waste solutions that are needed.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I have listened carefully to my colleagues in response to the amendment and what its intent was. I just want to assure the Members that the amendment would not preclude or would not have precluded storage after 1990. This sets a limit as to the amount of away from reactor based on capacity of nuclear plants that existed, powerplants that existed, by 1980. So it is not something that would be cut out at that time or stopped.

I think with the discussion here today and the reaction of my colleagues, suggesting that the intent is that a long term or permanent storage should not be retarded with this intent, that a more permanent solution is something that should be kept in focus, I will rely on those assurances and the record that we have established, and I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN pro tempore. Are there additional amendments to title V? If not, the Clerk will designate title VI.

Title VI reads as follows:

TITLE VI—OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

AUTHORIZATION

SEC. 601. There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed—

(1) $6,675,000 for analysis and technology transfer functions regarding buildings and community systems;

(2) $25,000,000 for energy extension service functions;

(3) $18,000,000 for appropriate technology functions;

(4) $5,000,000 for purposes of urban waste energy conservation activities, of which no amount may be transferred to any other agency or instrumentality of the United States;

(5) in the case of fossil energy activities—

(A) $3,750,000 for coal utilization and supply functions;

(B) $3,000,000 for shale oil development and commercialization functions;

(C) $500,000 for enhanced oil recovery functions;

(D) $4,000,000 for unconventional gas development functions;

(E) $500,000 for purposes of supply initiatives; and

(F) $4,295,000 for program administration functions;

(6) $23,000,000 for solar applications—market development and training functions; and

(7) $10,509,000 for industrial conservation functions.

AMENDMENT OFFERED BY MR. DASCHLE

Mr. DASCHLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DASCHLE: Page 58, after line 19, insert the following new section:

COLLECTION, EVALUATION, AND DISSEMINATION OF INFORMATION REGARDING BIOMASS

SEC. 602. (a)(1) The Secretary of Energy shall collect, evaluate, and disseminate to the general public information regarding—

(A) the collection of biomass and the conversion of biomass to energy and to fuels for the production of energy, including the technology of such collection and such conversion,

(B) any financial assistance and any financial incentive available from any source in connection with the conversion of biomass to energy or to fuels for the production of energy (including the construction of plants for such conversion) or in connection with the production of energy from fuels produced from biomass,

(C) the utilization of fuels and byproducts produced from biomass, and

(D) any law of the United States applicable to the collection, acquisition, transportation, transfer, conversion, or disposal of biomass, or fuels or byproducts produced from biomass.

(2) The Secretary shall inform the general public of the availability of information collected and evaluated under paragraph (1).

(b) Not later than 60 days after the close of each fiscal year occurring after the date of the enactment of this Act, the Secretary shall submit to each House of the Congress a report describing the activities undertaken by the Secretary to carry out subsection (a), the results of such activities, and any recommendations of the Secretary regarding the implementation of such subsection in such fiscal year.

Mr. DASCHLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. DASCHLE. Mr. Chairman, I am offering an amendment today to H.R. 3000, the Department of Energy authorization for fiscal year 1980. This amendment directs the Secretary of Energy to collect, evaluate, and disseminate to the general public information regarding biomass energy resources and fuels produced from biomass. This information will include information on technology for collection and conversion of biomass, use of fuels from biomass, use of the byproducts of the conversion of biomass to fuel, financial assistance and incentives for use of biomass, and appropriate Federal laws. I believe this is both a practical and needed amendment.

There is growing interest throughout the country in making wise and fuller use of our Nation's vast renewable energy resources, particularly biomass and the fuels which can be produced from biomass. The American people in unprecedented numbers in every region and in every State are discovering, exploring, and using biomass and fuels produced from biomass because they want our country to become more energy self-sufficient and less dependent on uncertain and increasingly expensive foreign sources of energy.

I believe the public's growing recognition of and interest in biomass and fuels from biomass is very encouraging and well founded. Biomass and fuels from biomass can certainly make an important contribution to the Nation's energy supply. For example, the Department of Energy has recently estimated a total of approximately 156 billion gallons of ethyl and methyl alcohol for fuel could be produced from biomass in 1980. This quantity of alcohol for fuel compares very favorably with the approximate 110 billion gallons of gasoline we are estimated to consume annually.

Biomass and fuels from biomass are not the single solution to the Nation's energy supply problems, but they can and should play a more important role in the Nation's energy future. Petroleum, coal, oil shale, tar sands, natural gas, and other energy resources can help us meet our national energy needs, but unlike biomass, these energy resources are finite and will eventually be exhausted. As long as the Sun shines, biomass will be available to produce alcohol for fuel for our cars, trucks, and tractors and to heat our homes and businesses, methane, and densified biomass which can supplement and replace coal.

Not only is biomass renewable, it is abundant, available in every region of the Nation and in many cases not being utilized as an energy resource. Urban wastes, logging and forestry wastes, cannery wastes, cheese whey, citrus wastes, agricultural products, and residues including animal wastes are forms of biomass which can be converted to fuel.

A large and growing number of people are eager to make wise and fuller use of biomass energy resources, but they lack adequate information. This desire for information is clearly indicated by the unprecedented large number of requests for information made in recent months. The Bureau of Alcohol, Tobacco, and Firearms, which regulates the production of ethyl alcohol for fuel, received fewer than 100 inquiries about these regulations during 1978. In comparison, during the first 5 months of this year, the Bureau received more than 6,000 such requests. During 1978, the Bureau received 18 applications for an experimental permit to produce alcohol fuel. Through August of this year, the Bureau had received more than 3,000 applications for an experimental permit.

In my office, I have established a toll-free line to assist my constituents obtain information. During the last 3 months my office has been swamped with requests for information about alcohol fuels and gasohol. Since early July, I have received more than 2,500 calls and letters from people who are seeking information about the rules and regulations governing alcohol fuel production, financial assistance and incentives for alcohol fuels, alcohol fuel production

technology, alcohol fuel use, and other similar questions. While the majority of these requests have come from South Dakotans, people from 16 other States and the District of Columbia have contacted my office for information.

As my staff and I have contacted the executive branch for information to answer these requests, we have learned no fewer than seven Federal agencies and no fewer than seven different offices within the Department of Energy have some responsibility for biomass and fuels from biomass. My staff and I have experienced frustration as a result of the countless calls we have made to obtain useful information and I can easily imagine the frustration a private citizen must experience as he or she tries to obtain information on biomass and fuels from biomass from the Federal Government.

This lack of information and the inability of citizens to readily obtain adequate information are unquestionably two major obstacles to the wise and fuller use of biomass and fuels produced from biomass. The purpose of my amendment today is to eliminate these obstacles and make adequate information available to the general public.

This amendment is needed because the interest shown by the Department of Energy in biomass and fuels from biomass has been disappointing and without the direction this amendment provides it is likely the Department would make no measurable improvement in its efforts to collect, evaluate, and disseminate information on biomass and fuels from biomass to the public. This amendment is practical because the Department has substantial resources available to it and it is fully capable of providing the public with adequate information on biomass and fuels from biomass at no additional cost to the taxpayers. I urge the adoption of this amendment by the House.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, the committee has had an opportunity to look at the gentleman's amendment. I think the study will serve a very useful function. We support it and urge the committee to adopt it.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, I am not aware of receiving the amendment at the Republican desk. I am wondering if the gentleman would make one available to us.

Mr. DASCHLE. I brought them over last week and talked with several Members on the minority side. There should be an amendment there.

Mr. OTTINGER. Mr. Chairman, if the gentleman will yield, the amendment provides for a study of various factors that need looking at in the biomass area without providing new funds whatsoever. It is within the existing level of funds. I would hope that the gentleman would accept the amendment.

Mr. LOEFFLER. Mr. Chairman, I now have a copy of the amendment. I thank the gentleman for his explanation.

Mr. DASCHLE. I am under the impression that you have accepted the amendment on the minority side; is that correct?

Mr. BROWN of Ohio. No, I would like to reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The Chair will advise the gentleman from Ohio that it is too late to reserve a point of order on the amendment.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise to support the amendment offered by the gentleman from South Dakota. This amendment would require the Department of Energy "to collect and disseminate to the general public information regarding" the identification, collection, and conversion of biomass resources, including agricultural commodities. It would also provide for information for the public on financial assistance from any source available for this conversion, including the construction of conversion plants. This amendment would also provide for information on any laws concernig biomass resources and on the use of the products of the conversion of biomass resources, such as alcohol in the product popularly known as gasohol.

The gentleman from South Dakota's point is well taken. There is no need for Congress to even concern itself with programs to give incentives for the production, commercialization, and use of alternative energy sources if the Department of Energy does not adequately inform the public of the existence of these programs. More people write or call my office inquiring about how they can learn more about becoming involved in the commercialization or use of alternative energy sources than almost any other subject. For example, I have constitutents interested in commercializing alcohol fuels, waste oil technology, wind energy technology, compost technology, electric vehicle technology, and more. Likewise, I am inundated with questions about grants, loans, or tax incentives available for installation of alternative energy systems in residences and commercial buildings.

While not all the energy sources I have mentioned are related to biomass resources, an informational program starting with biomass conversion is a big step in the right direction. That this informational program would not require additional funding makes the amendment much more attractive. However, I would support it even if additional funding were required. It is ludicrous to promulgate programs without adequately informing the people whom they are to benefit.

Use of appropriate technology, new methods of conservation, and new inventions and developments involving alternative technology are decentralized activities by nature. Small businessmen, farmers, and homeowners have a vested interest in these activities, and they are the ones who are going to make the difference in our energy situation. Information on Government programs involving these activities needs to reach these people if it is going to be an effective catalyst.

It is this kind of Government involvement with citizens and business that is both useful and desirable. What is not useful or desirable are Government attempts to alter the free enterprise system by imposing controls and mandatory allocation requirements on the sale of petroleum products. This is the kind of Government that our constituents identify with the Department of Energy and the Congress—especially since last summer. We have an opportunity here to do something to stimulate the economy and benefit our constituents rather than stifle free enterprise with controls and allocations—that even if effective and helpful, which I am sure they are not—the DOE has been proven incapable of enforcing.

Let us give the American entrepreneurs, farmers, homeowners, and other private citizens the chance to solve this energy problem. They are the strength of this country and are the ones to whom its position and welfare today is due. It is not the Congress or an administrative department that has all the answers or definitely knows the best direction to pursue in this situation. The beauty of our system is that those citizens who have ideas and want to help, can—unless by ineffective Government, we preclude the opportunity. To be effective, the electorate must be informed, and I think the Government, and the DOE in particular, has a responsibility to keep them informed. I urge swift passage of this necessary amendment.

□ 1250

Mr. OTTINGER. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would like to inform the gentlewoman that I think the committee has accepted the amendment. I understand the minority will accept the amendment. We would be glad to see it pass. I agree with the gentlewoman's comments.

Mrs. SMITH of Nebraska. I am glad the gentleman does. I thank the gentleman.

I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from South Dakota (Mr. DASCHLE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: On page 58, following line 15, add the following new subsection:

(G) Project 80-RA-1, coal-to-methanol demonstration plant, site to be determined, $7,500,000; *Provided*, That all sums authorized under this project number may be used in accordance with section 7 or section 19 of the Federal Nonnuclear Act of 1974, as deemed appropriate by the Secretary.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that

the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman, I rise in support of my amendment.

Mr. Chairman, when this bill was considered last week, I offered an amendment for two other projects, and I announced at that time that I would offer an amendment to authorize some $7½ million for coal-to-methanol demonstration projects.

This is in effect dealing with demonstration programs of synthetic fuels technology. It is going to be critical in the effectiveness of any of our national commitments to synthetic fuels.

I think it has the support of both the majority and the minority, and I ask that the committee adopt the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA).

The amendment was agreed to.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as we approach the end of this legislation, my good friend, the gentleman from Indiana (Mr. FITHIAN), had colloquy in which he wished to engage.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Indiana.

Mr. FITHIAN. Mr. Chairman, I note that in this title VI, section 601(4) you have identified money to improve the energy management of urban and domestic waste. I would like to endorse and support this position in that I deeply believe that we have too long overlooked the energy production and conservation potential that lie within the ways with which we manage the wastes of our society. In light of this, I would like to ask the gentleman if these moneys would be available to cover such areas of commercial energy production as the anaerobic digestion of waste organic materials for the production of gaseous fuels; the commercial expansion of energy conversion devices that can convert the latent chemical energy of waste into more usable and valuable forms, such as electricity and the commercialization of other small gas generators that operate on waste materials?

Mr. DINGELL. I would like to assure the gentleman that it is precisely these sorts of waste management concepts and techniques that we had in mind when this bill was put together. I share your views that improved waste management holds a real near-term opportunity for not only reducing energy consumption but, also, producing new sources of domestic energy.

I thank the gentleman.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, it is my understanding that within the authorized $3,750,000 for the coal utilization and supply functions of the Department of Energy, as provided for in title VI of this measure, there are sums available to allow the Department to examine the "produce-ability" of New England's one significant fossil fuel resource.

I refer to the anthracite coal field that underlies the southeastern portion of Massachusetts and part of Rhode Island: The so-called Narragansett Coal Basin.

Am I correct in the hope that the DOE budget for 1980 permits the modest investment of $50,000, as originally requested by the Department, to pay for the examination of the production possibilities of the Narragansett Coal Basin, which is New England's only identified fossil fuel resource?

Mr. DINGELL. Yes, the gentleman is correct. It is our intention to maintain that program at the recommended DOE level.

I assure the gentleman of our continuing interest in the matter toward that end.

Mr. MARKEY. I thank the gentleman.

Mr. DINGELL. I thank the gentleman from Massachusetts (Mr. MARKEY), and I yield back the balance of my time.

Mr. WALGREN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose for which I rise is to engage the chairman of the Subcommittee on Energy Development and Application of the Committee on Science and Technology, the gentleman from New York (Mr. OTTINGER), in a colloquy to make clear is the understanding of the committee that the funds authorized for coal preparation under this bill, some $12½ million, include funds to proceed to the pilot plant stage to make usable pellets from lignite.

As I understand the situation, lignite amounts to about 30 percent of our national coal reserves.

We are presently unable to use lignite effectively because of its water weight and difficulties in transportation. But, as a result of basic research sponsored by DOE, a breakthrough was achieved resulting in the economical pelletizing of lignite, increasing the BTU content and allowing ready transfer of the material away from the mine site. This is a major breakthrough bringing us close to the commercial use of huge energy reserves that are presently beyond our reach.

The next step toward the use of lignite would be the funding of a pilot plant to demonstrate that this can be done on a large scale. It is important that we proceed with a pilot plant now.

Is it the understanding of the committee that DOE will allocate the funds necessary to go forward with such a pilot plant out of the funds for coal preparation provided by the Congress in this bill?

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I yield to the gentleman from New York.

Mr. OTTINGER. Yes, indeed, that is my understanding, that the administration's Department of Energy does intend to go ahead with the pilot plant.

I applaud my colleague from Pennsylvania (Mr. WALGREN) for his leadership on this subject, and moving forward on a pilot plant at this time merely awaits the approval of the appropriations bill; but the funds are in the fiscal year 1980 program for completion of a pilot plant.

Mr. WALGREN. I appreciate that, and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. PEASE

Mr. PEASE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEASE: Page 57, lines 19 and 20, strike out "$25,000,000 for energy extension service functions" and insert in lieu thereof "$35,000,000 for energy extension service functions".

Page 58, after line 19, insert the following new section:

ENERGY EXTENSION SERVICE CHALLENGE GRANT PROGRAM

SEC. 602. Section 512(c) of the National Energy Extension Service Act is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) In addition to the funds allocated to States under the preceding provisions of this title from sums appropriated therefor, the Director shall make grants for fiscal year 1980, in a total amount not less than $10,000,000, for the implementation of energy extension service activities in States which have elected to meet the challenge of helping to finance energy extension service activities by including provision in their plans developed pursuant to sections 505 and 506 for the commitment of funds to meet such challenge (by units of State or local government or both) in a manner which will effectively contribute to the achievement of the purposes of this Act. Grants under this paragraph shall be available to States on a first-come first-served basis reflecting the degree of promptness with which such plans are submitted to the Director and are approved by him as meeting the requirements of this paragraph; and the amount of the grant to any State with a plan so approved shall be equal to the lesser of $1,000,000 or twice the amount committed to meet such challenge in accordance with the State's plan by units of the State government and of local governments within the State.".

Mr. PEASE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. PEASE. Mr. Chairman, this is an amendment dealing with the Energy Extension Service, which is in existence and which would be funded at an authorized level of $25 million by the bill before us today.

Originally, the Committee on Interstate and Foreign Commerce decided on a figure of $25 million for the Energy Extension Service.

The Committee on Science and Technology, on which I serve, decided on a figure of $35 million. The compromise struck by the two committees was the $25 million figure.

The intention of my amendment today was to increase that figure back up to $35 million and to create a Federal-State matching grant program to encourage the States to make even greater use of the Energy Extension Service concept.

However, this amendment has somewhat been overtaken by time. As members of the committee know, we have spent a great deal of time on this energy authorization bill.

In the meantime, both of the Committees in Appropriations of the House and the other body have acted to appropriate $25 million in this authorization bill. Since a $35 million authorization would be bucking that, and since I also understand that both the Committee on Interstate and Foreign Commerce and the Committee on Science and Technology will be holding hearings later this month on an energy management participation act, which would include discussion of expansion of the Energy Extension Service, I will not press to completion this amendment, but rather use it as an opportunity to emphasize the great potential that we have in the energy extension service to bring to the homes of ordinary Americans actual knowledge of the technology needed to make their homes more energy efficient.

□ 1300

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I am happy to yield to the gentleman.

Mr. OTTINGER. Mr. Chairman, the committee has had an opportunity to look at the gentleman's amendment. As the gentleman knows, our committee originated the idea of an Energy Extension Service and it was primarily the work of the gentleman from Arkansas who did serve in this body, Mr. Thornton. We provided for the higher figure in our own authorization, but in negotiations with my good friend from Michigan the Committee on Interstate and Foreign Commerce provided less, as the gentleman pointed out, and we arrived at the $25 million figure. Since that time the Appropriations Committee has acted at the lower figure.

As the gentleman indicates, we are going to be having hearings. I assure the gentleman we will do that promptly on the new administration program, the EMPA program, and we will take a very good and close look at the concept in seeing if we cannot expand this very important service.

I think the gentleman is really performing a very useful function by bringing this to the attention of the committee and the House. But I would hope he would go ahead and not press the amendment to a vote at this time since there is an agreement between ourselves and the Committee on Interstate and Foreign Commerce and since the Appropriations Committees have already acted.

Mr. PEASE. I thank the gentleman from New York for his comments.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I would like to commend the gentleman for his amendment. I think there is a critical need to educate the public on conservation. During committee authorization hearings, we learned that lack of capital and access to information were primary barriers to realizing effective conservation by homeowners and small businesses. This is the mission of the Energy Extension Service. It is clearly a good way to help get the word to the people on energy savings. Many simple measures are now available if only the public were aware of them.

In our hearings we also heard about the need to get the States actively involved in the Energy Extension Service program. Matching State funds, as suggested in the gentleman's amendment, is one good step in this direction, and will help get the necessary State participation in this program. For this important reason, I support the concept suggested by the gentleman's amendment.

However, I must reluctantly oppose this amendment for several reasons. First, the Science Committee and the Commerce Committee have worked many hours on this bill to forge an acceptable agreement on DOE authorizations. These committees have concluded that the Energy Extension Service should be funded at $25 million for fiscal year 1980. I do not think that we should disturb this agreement now. Second, as you may well know, the Interior Appropriations Committee has already appropriated $25 million for this program for fiscal year 1980. Thus, an additional authorization at this point would really serve no purpose.

Our committee will consider the gentleman's idea during our upcoming hearings on the EMPA bill, a measure to consolidate the Energy Extension Service program with state grant programs. Our committee plans hearings on the EMPA bill this month, and I am encouraged that the gentleman's proposal be considered during these hearings. Although I believe it is not appropriate to consider the gentleman's idea now, I do believe that the committee's upcoming hearing on the EMPA bill will provide a proper forum for the effective consideration of his proposal.

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I am happy to yield to my friend from California.

Mr. MOORHEAD of California. Mr. Chairman, I rise to oppose this amendment which would increase the funding for a worthless program an additional $10 million. We have already increased their funding in this bill last year's $15 to $25 million. Last year the Energy and Power Subcommittee saw fit to trim funding for this program by $10 million. DOE asked for $25 million and we gave them $15 million. Ultimately, the Appropriations Committee and our colleagues on the House floor confirmed the wisdom of our $10 million cut and $15 million was appropriated. DOE is back again this year asking for $25 million for this same project. This amendment would make it $35 million.

Hearings held in the Energy and Power Subcommittee could unearth no new justification to increase funding. In fact, DOE officials could put forth no reasons why this program should not be phased out. It still duplicates other DOE programs. In another part of this authorization, DOE will get over $85 million for State and local conservation programs. National Energy Act provisions already require utilities to act as energy extension agents for consumers. Several million is already provided to weatherize low-income homes. Information on conservation and solar applications is readily available to small business and others just by writing or calling DOE, HUD, Commerce, the Small Business Administration, energy organizations like the Solar Lobby and of course many consultants in the private sector. HUD and DOE operate a Joint Solar Information Center. Many States and local governments have their own energy conservation programs not withstanding this program.

Virginia, for example, has an entirely State-funded program including a toll free hot line. California has a similar self initiated program. The program I am seeking to cut seems to work to defeat other DOE activities seeking to promote commercialization of solar applications by going into direct competition with individuals in the private sector who provide consulting services to small businesses and others. The only real beneficiaries of the program are those employed by DOE. It is a good make work program but it does nothing to solve our energy problems. There is no doubt in my mind that the DOE energy extension service pilot program overlaps and duplicates several other Federal programs.

An expanded energy extension service would overlap local and State programs as well as Federal programs. One of the most persuasive arguments against this program is the fact that the States themselves should pick up the bill for State energy conservation programs. Twenty-eight State legislatures have called for a constitutional convention to balance the Federal budget. Only 34 States are needed. There are nearly 100 resolutions spending in the Congress calling for a constitutional amendment to balance the Federal budget.

The President has promised to balance the budget. We are under the gun and this is where it starts, right here, by trimming back unnecessary duplicative programs. The States can help us balance the Federal budget right here by taking over some of their own conservation efforts. Everyone in his right mind is for conservation but we will not do any conserving with a wasteful, useless Federal program like the extension service. It would be a mistake to call this a conservation program. There is no evidence that the pilot program has saved one drop of oil or one lump of coal. The program we are seeking to contain could be more accurately called the DOE employee expansion plan. I ask a no vote.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio has again expired.

(At the request of Mr. DINGELL and by unanimous consent, Mr. PEASE was al-

lowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I have great respect and affection for the gentleman and I rise reluctantly to oppose the amendment. I believe there is considerable merit to the concept the gentleman has set forth and I commend him for having done so.

I again reiterate that I must regretfully oppose the amendment because I do not believe this is either the proper time or the proper forum for making the kind of change the gentleman has suggested in the Department of Energy programs. The amendment would impose whole new responsibilities on the Department just at the time the Department is commencing a new program of legislative initiatives, both to conserve energy and also to reorganize the Energy Extension Service program, on which, parenthetically, I observe that the committees, including the Interstate and Foreign Commerce Committee, will shortly be working.

As my good friend from Ohio knows, his committee, the Science and Technology Committee, and the Interstate and Foreign Commerce Committee on which I serve, will be holding hearings on the legislation proposed by DOE, particularly on the Energy Management Partnership Act, better known as EMPA. This would revise and expand Energy Extension Service programs and coordinate the services activities within the Federal and State energy programs.

The gentleman's proposal should be properly considered by the committees working on EMPA. I give the gentleman my personal assurances that it will be given consideration in the forthcoming hearings of the Interstate and Foreign Commerce Committee.

I also assure my good friend from Ohio that I am favorably disposed toward this concept, and only want to see that it is properly integrated in a comprehensive restructuring of the Energy Extension Service and its programs.

I do commend the gentleman for his interest in this matter and for having brought this to the attention of the House.

Mr. PEASE. I thank the gentleman for his contribution and for his assurance that this matter will be thoroughly considered in the hearings upcoming in the Science and Technology Committee and the Interstate and Foreign Commerce Committee.

Mr. Chairman, I would like to make just two brief comments before I ask unanimous consent to withdraw my amendment.

One is that study after study shows that a very large component of any solution to our energy problem is going to be conservation. We simply have a major stake in conservation. Indeed, a recent Harvard University study concluded if the United States were to make a serious commitment to conservation we might well consume 30 to 40 percent less energy than we do now and still enjoy the same or a higher standard of living.

Secondly, I would like to make the point that many people allude to the miracle of American agricultural production. We are able to feed the United States and half of the world as well.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio has again expired.

(By unanimous consent Mr. PEASE was allowed to proceed for 1 additional minute.)

Mr. PEASE. Mr. Chairman, a major reason why American agriculture is so fabulously successful and productive is we have had the Agricultural Extension Service over the years pointing the way to American farmers, bringing them on their own farms the new technology to further increase their productivity. This same thing can happen with energy conservation.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. Are there further amendments to title VI?

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 58, insert after line 19 the following new section:

ENERGY CONSERVATION GRANTS

SEC. 602. (a)(1) The Secretary shall administer an experimental program under which grants may be made available to local governmental units to undertake any of the energy conservation activities described under subsection (b). Any local governmental unit desiring to receive a grant under this section shall submit an application therefor to the Secretary in such manner, at such time, and containing such information as the Secretary may require.

(2) In determining the amount of any grant to be awarded under this section, the Secretary shall consider—

(A) the contribution to energy conservation which can reasonably be expected to result from the activities for which the grant is made;

(B) the number of people to be affected by such activities; and

(C) such other factors as the Secretary considers appropriate.

The amount of any grant made to a local governmental unit shall not be more than $3 multiplied by the total number of individuals residing within the jurisdiction of such unit, to be determined on the basis of the most recent census figures available from the Department of Commerce.

(b) The energy conservation activities for which grants are to be made under this section may include the following:

(1) The establishment of a mechanism for coordinating all energy-related activities of the local governmental unit, such as the creation of an energy office, the designation of an agency to serve as a lead agency with regard to energy matters, or the establishment of citizen advisory groups.

(2) The establishment of local energy conservation targets which are consistent with any State energy conservation targets established by the President.

(3) The development of programs to encourage energy conservation in operations of the local governmental unit including such activities as—

(A) retrofitting street lights;

(B) devising and implementing innovative heating and cooling systems;

(C) generating energy from such resources as local water sources, fuels, biomass, wind, wood, and other available resources;

(D) cogeneration of power;

(E) installing adequate installation and other energy-saving devices in public buildings; and

(F) installing a synchronized traffic signal system.

(4) The development of programs or laws to decrease energy consumption by the private sector.

(5) Establishment of a central clearinghouse to provide information relating to energy conservation programs available to citizens of the local governmental unit, including—

(A) Federal, State, and local programs (such as programs providing assistance for the installation of solar energy devices, programs offering assistance to low-income individuals to encourage energy conservation measures, or tax credits available for certain energy conservation activities); and

(B) programs offered by utilities within the area, such as energy audits.

(6) Development of regional plans and projects with other local governmental units to promote conservation on a regional basis.

(c) Funds appropriated under this section may not be made available as grants or loans to any individual or to any private entity.

(d) Within one year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress which specifies the recipients of the funds made available under this section, the amount of the grant received by each recipient, the projects for which the grants were made, and the actual or estimated energy savings resulting from such projects.

(e) For purposes of this section—

(1) the term "local governmental unit" means any city, county, township, parish, or other unit of general government which (A) is a political subdivision of a State, and (B) has taxing authority with respect to real property; and

(2) the term "Secretary" means the Secretary of Energy.

(f) There are authorized to be appropriated to carry out this section $30,000,000 for the fiscal year ending September 30, 1980.

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask uanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan reserves a point of order.

Ms. HOLTZMAN. Mr. Chairman, as prior speakers have pointed out, one of the most effective ways of dealing with the present energy crisis and reducing our dependence on OPEC nations is a major effort at energy conservation.

I want to commend the gentleman from Michigan and the gentleman from Florida as well as other members of his committee for the concern they have shown in the past about energy conservation.

What my amendment would do, however, is to plug a gap in present energy conservation measures. This bill provides funds to State governments to engage in energy conservation. States are given money to set up energy offices and to develop State energy conservation plans. There is no way, however, to assure that the money will trickle down, in a meaningful way, to local governments. There are no funds in this measure or in any other to provide funds to counties or cities for the creation of local energy offices, or for the undertaking of an effort to encourage conservation by county governments, and city governments. There are no funds to help advise or educate local citizens about energy conservation problems or projects.

I want to commend the committees for providing funds for energy conservation at the State level. The problem has been, and this is true nationwide, is that the county and city governments have not received any substantial part of this money.

□ 1310

Since State and local governments consume 13 percent of the energy consumed in this country, a major effort at the municipal, county, and local level to encourage energy conservation and to give local governments the means to do this would make an important dent in our energy consumption.

Mr. OTTINGER. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I will be happy to yield to my colleague from New York.

Mr. OTTINGER. Mr. Chairman, I am in total sympathy with the gentlewoman's effort. In fact, I was very concerned in the programs that we worked out for hospitals, schools, and for State governments, that municipal governments were in fact not included. They own huge numbers of buildings that ought to be retrofitted and for which they do not have the funds.

I understand that my chairman is either going to make a point of order or oppose the amendment. I would just like to assure the gentlewoman, that in my conversations with the chairman that he is sympathetic to this proposal. He will give the gentlewoman's proposal a full hearing and try to work out some way to get money to localities in the future.

I think it is a real need that the gentlewoman has pointed out, and I would hope that we would act in this area as expeditiously as possible. The committee is going to have a joint hearing with my subcommittee on Energy Development and Applications on the Energy Management Partnership Act very shortly, and perhaps we can include the gentlewoman's amendment at that time.

Ms. HOLTZMAN. I wonder if I can engage the gentleman from Michigan in a colloquy about this amendment, given the concerns expressed by my colleague from New York.

Is there any way, given the present structure of the Department of Energy authorization bill, that the gentleman could assure that some of the moneys going to State governments would be required to be shared with county and local officials so that we can have an effective conservation effort at the local level? Is there some language that could be put in the report? Is there something that could be done in connection with the conference with the other body to insure that there will be funds in fact going to localities?

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentlewoman is a very valuable Member of this body, and it always pains me when I have to oppose her on any matter. The answer to the question is, if we will refer to title III, which is Commercialization and Related Activities, there is an item (C) at page 41, line 17, which provides $80,000,000 for State and local conservation functions under part C of title III of the Energy Policy and Conservation Act, as amended by the Energy Conservation and Production Act; and (D) $6,783,000 for State and local conservation functions not provided for under subparagraph (C).

If the gentlewoman would yield further, I would observe that we will shortly be commencing work on a series of conservation initiatives which will go more broadly into these areas, at which time I assure the gentlewoman that we will very sincerely look at the possibility of utilizing some of the mechanisms she has set forth in her amendment. I want her to know that not only I, but her good friend and colleague from New York (Mr. OTTINGER), who is a very valuable member of our subcommittee, are very interested in seeing to it that we move forward to the consideration of these, because I recognize the value of many of the steps that the gentlewoman has suggested to the House in her amendment.

Ms. HOLTZMAN. Would the gentleman respond further? Under the language he has pointed out on page 41 of the bill, and for the purpose of legislative history, would the gentleman's view be that funds under sections (C) and (D) of title III, section 301, could be used for the creation of local energy conservation offices, by municipalities, and counties as well as by States?

Mr. DINGELL. I have to confess to the gentlewoman that I would like to give her an affirmative answer. I have never had a chance to study her amendment in sufficient detail to give her an affirmative answer. I would advise further that the administration has sent EMPA to the Congress, and we will consider and at that time, in connection with that legislation, try to provide for more direct grants to local communities as opposed to it going through the States. That program is directed in large part at meeting the needs of local units of government.

Ms. HOLTZMAN. Because of the assurance the gentleman has given me, in a moment I am going to ask permission to withdraw my amendment. But, I am very concerned that we will have to postpone adoption of this measure, because time is not on our side. The OPEC nations have already announced that they are going to be cutting back on oil production, and the more we delay in getting conservation enacted all across the country—not just at State or Federal levels, but at local levels as well—the worse off we will be.

I do not intend to beat my head against a stone wall, by insisting on my amendment when the committees oppose its adoption now, but I would urge the gentleman from Michigan to act as promptly as possible, whether in conference with the other body on this bill or holding hearings on my proposal, to get energy conservation implemented at the local level.

Mr. DINGELL. I commend the gentlewoman for her concern in this matter, and we will look forward to working with her.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for his assurance.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The CHAIRMAN pro tempore. Are there further amendments to title VI? If not, the Clerk will designate title VII.

Title VII reads as follows:

TITLE VII—OTHER DEPARTMENTAL ACTIVITIES

AUTHORIZATION

SEC. 701. There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed—

(1) for uranium enrichment operating expenses—

(A) $630,683,000 for purposes of diffusion operations and support;

(B) $6,200,000 for purposes of centrifuge operations and support; and

(C) $2,566,000 for purposes of uranium enrichment program direction;

(2) for uranium enrichment construction projects—

(A) $7,000,000 for purposes of project 80-UE-6, UF^6 tails cylinders and storage yards, gaseous diffusion plants;

(B) $16,200,000 for purposes of project 80-GPP-1, general plant project, various locations;

(C) $28,500,000 for purposes of project 80-UE-5, motor and switchgear upgrading, gaseous diffusion plants;

(D) $10,500,000 for purposes of project 80-UE-4, power recovery demonstration cells, gaseous diffusion plants;

(E) $17,000,000 for purposes of project 80-UE-3, plant facilities security improvements, gaseous diffusion plants;

(F) $17,000,000 for purposes of project 80-UE-2, control of water pollution, gaseous diffusion plants;

(G) $7,000,000 for purposes of project 80-UE-1, control of gaseous effluents, gaseous diffusion plants, Oak Ridge, Tennessee, and Paducah, Kentucky; and

(H) $290,000,000 for purposes of project 76-8-g, enriched uranium production facilities, Portsmouth, Ohio (for a total project authorization of $802,630,000);

(3) $18,400,000 for purposes of uranium enrichment capital equipment not related to construction;

(4) $3,700,000 for purposes of commercial waste management operating expenses relating to site and repository licensing, support studies, decontamination and decommissioning, low-level waste management operation, and repository site selection (other than the research and development aspects of such selection);

(5) for operating expenses for administrative activities of the Department—

(A) $14,500,000 for purposes of policy analysis and systems studies;

(B) in the case of management and support—

(i) $149,871,000 for purposes of salaries and expenses, of which not more than $2,500,000 shall be available for purposes of the Office of the Secretary;

(ii) $86,906,000 for purposes of support services; and

(iii) $6,148,000 for purposes of the salaries and expenses for the Office of Inspector General;

(C) $3,500,000 for international affairs functions;

(D) $36,870,390 for intergovernmental and institutional relations functions;

(E) $3,600,000 for in-house energy management functions;

(F) $44,254,000 for purposes of cost of work for others, and changes in inventory and working capital; and

(G) $16,400,000 for purposes of security investigations;

(6) for construction for the administrative activities of the Department—

(A) in the case of in-house energy management—

(i) $19,700,000 for purposes of project 80–DA–1, modifications for energy management, various locations;

(ii) $4,500,000 for purposes of project 80–DA–2, automated energy management system, Argonne National Laboratory, Argonne, Illinois;

(iii) $4,200,000 for purposes of project 80–DA–3, process waste heat utilization, Portsmouth Gaseous Diffusion Plant, Piketon, Ohio;

(iv) $4,000,000 for purposes of project 80–DA–4, automated energy management system, Pantex Plant, Amarillo, Texas; and

(v) $5,000,000 for purposes of project 80–DA–5, conversion of boiler numbered 5 to high sulfur coal firing, Argonne National Laboratory, Argonne, Illinois; and

(B) $9,000,000 for purposes of project 80–PE&D–1, plant engineering and design, various locations; and

(7) $4,815,000 for capital equipment acquisition and fabrication not related to construction for purposes of the administrative activities of the Department.

OPERATORS TRAINING PROGRAM

SEC. 702. (a) The Secretary of Energy, in consultation with the Nuclear Regulatory Commission, State utility commissions, and the public, shall develop a program to be available for the training and retraining of persons, including supervisory personnel, to operate civilian nuclear reactors and related powerplant facilities in accordance with applicable requirements of law and regulations. The purpose of the program is to assure that such personnel are properly trained to operate such facilities and to assure that such facilities are safely and reliably operated in accordance with applicable requirements of law and regulations.

(b) (1) The Secretary of Energy shall provide to the appropriate committees of Congress, not later than three months after the enactment of this section, the program developed under this section, which shall be accompanied by a report discussing the extent to which the program will improve the training of such operators, the estimated annual costs thereof, the proportion of the costs to be borne by the Federal Government and the proportion to be borne by the private sector. The report shall include the views, comments, and recommendations of the Nuclear Regulatory Commission.

(2) The Secretary of Energy shall conduct research on critical aspects of man-machine interactions in the operations of civilian nuclear reactors.

(c) (1) If, within 60 calendar days of continuous session of Congress after the program, with supporting report, have been submitted to the appropriate committees of the Congress neither House of Congress has adopted a resolution disapproving such program, the Secretary of Energy shall commence operations under such program.

(2) The provisions of section 551(f) and 552(e) of the Energy Policy Conservation Act shall apply to a resolution under this subsection in the same manner as such provisions apply to resolutions under such sections except that in applying section 551(f), the term "energy action" shall be treated as a program submitted under this section.

(d) The sum of $5,000,000 is authorized to be appropriated for fiscal year 1980 to carry out this section.

COMMERCIAL WASTE MANAGEMENT REPORT

SEC. 703. (a) (1) As soon as practicable but not later than the date on which the Secretary transmits to the Congress legislation authorizing appropriations for the Department of Energy for fiscal year 1981, the Secretary shall transmit to the President and the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the national program for management of commercial high level waste and spent fuel.

(2) The report required under this subsection shall provide an identification of the geologic formations, regions, areas, and sites under study by the Department for the determination of qualification or rejection for application for license as permanent repositories for nuclear high level waste or spent fuel. For each geologic formation, region, area, or site identified, the Secretary shall provide—

(A) the criteria used to determine its qualification for study or for rejection for further study; and

(B) an accounting of funds requested for work on each specific geologic formation, region, area, or site for fiscal year 1981.

(b) The report required under subsection (a) shall include a detailed description of how the Department's commercial waste management program relates to the recommendations of the Interagency Review Group on Nuclear Waste Management.

INTERNATIONAL ENERGY ASSISTANCE

SEC. 704. (a) The Secretary shall use, to the fullest extent practicable, the Department's domestic energy research, development, and demonstration activities in support of the Department's international energy program.

(b) The Department shall coordinate its international energy program with research, development, demonstration energy programs of the Department of State, the Agency for International Development, and any other agency of the United States which has responsibilities in international energy.

(c) There is authorized to be appropriated to the Department not to exceed $10,000,000, for the fiscal year ending September 30, 1980, of which—

(1) $200,000 shall be available for the preparation of a comprehensive plan, to be submitted to the Congress by December 31, 1979, which shall contain recommendations for the design of an international energy program which shall concentrate primarily upon the problems of less developed countries; and

(2) $9,800,000 shall be available to implement high priority projects identified in the plan described in paragraph (1), after it has been submitted to the Congress and approved by the Congress.

(d) All activities carried out under this section shall be performed within the framework of the Development Coordination Committee, established by section 640B of the Foreign Assistance Act of 1961. To the extent appropriate, programs and projects under this section shall be implemented in cooperation with, and with the participation of, the Agency for International Development.

AMENDMENT OFFERED BY MR. MCCORMACK

Mr. McCORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: At page 67 line 2 add a new section 705 to read as follows:

705. (a) The Secretary of Energy shall establish, operate and maintain approximately twelve low-level radioactive waste repositories located at appropriate sites in the continental United States on property owned or purchased by the United States Government. The Secretary shall enter into agreements with individual states within which such repositories are to be located for the establishment of the repositories. The repositories shall be made available for the storage of all low-level radioactive wastes generated or used in the region served, and disposable as such in accordance with Federal law. The repositories shall be licensed by the Nuclear Regulatory Commission. The Secretary of Energy shall recover all costs for operating and maintaining these repositories from fees charged for storage of the low-level radioactive wastes. The number of repositories shall be determined by the Secretary of Energy with the goal of serving each region of the country, and in order to minimize the distance that the low-level radioactive wastes will be transported.

(b) There is hereby authorized to be appropriated to the Secretary for fiscal year 1980 the sum of $10,000,000 to carry out this section.

Mr. McCORMACK. Mr. Chairman, this amendment presents a new concept as far as this legislation is concerned, and a new departure from where we have actually been with respect to handling of low-level wastes in this country. What the amendment would do would be to direct the Department of Energy to establish about 12 low-level radioactive waste repositories located around the country on federally owned land in such a manner that the transportation of these wastes would be minimized, and so that each region of the country would be served.

In doing so, the repositories would be licensed, and the Secretary would enter into agreements with the individual States where the repositories are located for the establishment of the repositories. Of course, there would be total cost recovery.

Mr. Chairman, this is a subject which requires our critical attention now. There are only two sites for storing low-level radioactive wastes that are operated in this country. One is in Nevada, and one in South Carolina.

□ 1320

About 2 weeks ago the Governor of the State of Washington closed the site in Washington State because the Nuclear Regulatory Commission and the Department of Transportation were not enforcing their own regulations with respect to packaging of containers for shipping materials to the site. There is nothing wrong with the site, but the containers were not being properly packaged according to the law. This incident

dramatizes the problem we are facing today. The container that precipitated the incident was from a pharmaceutical manufacturer in New England, and this container that had some radioactive material in it was designated as low-level waste, so it was shipped clear across the country for storage at Hanford. What is interesting about this is that most of the pharmaceuticals, most of the material that is used in hospitals for the radioactive diagnosis of various types of illnesses in human beings goes into the human being.

A large percent of this radioactive material that comes to the hospital in some sort of a container gets put inside of a person, and that person is then examined to diagnose for illness. All that radioactivity that goes inside of that person is ultimately excreted and goes into the sewer. There is no control whatsoever. It goes into the sewer and into the river. But the small percentage that is left in the container, because it is designated as low-level waste, has to be packaged very carefully and very properly according to very strict rules, as I think it should be, and then, in this instance, shipped 3,000 miles to be buried. This is absurd. It is absurd especially when we have 2,390 hospitals and medical schools in this country that are producing these wastes today. We have 201 such facilities in California, 102 in Illinois, 81 in Michigan, 161 in New York State, 119 in Pennsylvania, and 171 in Texas, and a corresponding number in other States. Every one of them is producing radioactive material in their diagnoces of human beings, and these containers and the equipment that is used to handle it, everything that touches it or has any potential contact, is marked low-level waste and must be permanently stored under very strict rules. I think it is absurd to put 99 percent of the radioactivity from a container into a human being, to be excreted into the river, and to then take the empty container and ship it across the country for burial, and spend all of this energy and money required to do so. Last year 49 percent of all of the low-level wastes in this country were either institutional, that is, from hospitals or medical schools, or industrial wastes. About 43 percent came from resins used in the cleanup of the cooling water nuclear powerplants, and about 8 percent from military wastes and government wastes.

The problem is that there is a huge volume involved in these wastes. For instance, if you remember when the President visited Three Mile Island and we watched him on TV walking through the control room of the plant, we saw that he was wearing yellow shoe covers. When he walked into what was considered to be a contaminated zone, he stepped across a ribbon marking the area and he wore the yellow shoe covers. Then he wore the yellow shoe covers through the operating room, and he came back out. When he came back out he took off the shoe covers, and he dropped them into a box, and they became low-level waste forever—whether they were radioactive or not. The same applies to large volumes of such wastes, such as cardboard, paper, masking tape, and other similar materials that may have been used at that site. This creates these large volumes of waste, and we are now shipping them all the way across the country, even though the amount of radioactivity in them, if any, is very low. Here we are, using energy and time and saying that wastes should all go to one of two sites: one in South Carolina and one in Nevada. The governors of these States have indicated they are not going to sit still forever and allow this situation to continue. They are being constantly harassed by the press because some truck goes through their State with an improperly packaged container. Not only do the Nuclear Regulatory Commission and the Department of Transportation have to shape up and enforce their regulations for packaging, but we should stop this business of shipping low-level wastes all the way across the country.

What my amendment would do is say there should be a site in each region of the country. If hospitals and other facilities are going to produce these wastes, then at least we should handle them in the region where they are used or generated.

If the members of the Committee will recall, early today I submitted an amendment which was adopted that called for accelerated research and development into the consolidation of these low-level wastes, such as by incineration or by other methods. If we can reduce the volume of the wastes, this would help the problem. It would take a while to institute the utilization of these devices, and, of course, we must still store the wastes of whatever volume. I remind you it is the hospital diagnoses that are potentially most critically affected here. Hospitals are allowed to store only a small amount of radioactive materials. If they are not allowed to store it, they will not be able to obtain it, and they will have to stop their diagnostic procedures. We must put an end to the hysteria and the nonsense associated with sensational press stories about nuclear wastes, both high and low level. Of course we must keep all traces of radioactivity under control, but we must reduce the transportation requirements, and have each region in the country manage its own wastes.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding. I want to congratulate the gentleman from Washington for bringing this amendment before us. It makes so much sense that many of us wonder why it has not been done before. It just does not make sense to be shipping this stuff all over the country. It certainly does not make any sense to saddle one, two, or three particular States with that responsibility. I think the gentleman is correct in this amendment.

Mr. McCORMACK. I thank the gentleman.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. WEAVER, and by unanimous consent, Mr. McCORMACK was allowed to proceed for 2 additional minutes.)

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding. I would like to ask the gentleman if the State in which one of these 12 or so sites would be located would have to consent to this, or could this be done by the Federal Government without the State's consent?

Mr. McCORMACK. Under the law, individual States cannot veto actions of the Nuclear Regulatory Commission. There is a procedure for licensing that, of course, calls for environmental impact statements and public hearings, allows intervenors. The States can act as intervenors. In fact, the States have a de facto veto, because the Federal Government is not going to insist upon putting a site where a State would object. Of course, if all of the States in the region object, it would simply mean that their hospitals cannot function any more using diagnoses using radioactive materials. Under the law, the Federal preemption clause prevails for nuclear licensing. The NRC has that preemptive authority, but in fact has not been using it.

Mr. WEAVER. If the gentleman will yield further, the State of Oregon has a law prohibiting the dumping of radioactive wastes within its territory. Could the NRC, the Secretary of Energy, establish a site within Oregon contrary to Oregon law?

Mr. McCORMACK. Contrary to Oregon law, it is legally possible. Of course, the option is simply not to allow Oregon to have any radiopharmaceuticals in the State.

Mr. WEAVER. Would the gentleman accept an amendment that provides that the State consent to the establishment of such a site?

Mr. McCORMACK. No, I would not. Such an attempt would constitute a violation of the commerce clause which is about the oldest relationship that has been established between the Federal Government and the States. I would not presume to violate it.

Mr. WEAVER. Would the gentleman yield further, then?

Mr. McCORMACK. I yield to the gentleman.

Mr. WEAVER. Under what authority does the Governor of Washington prohibit the shipping in of radioactive wastes?

Mr. McCORMACK. It is a State-owned operation, and that is the beauty of my amendment. We would have a dozen sites operated and owned by the Department of Energy on Federal land. In the case of the State of Washington, the site would be owned and operated by the State of Washington.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. RUNNELS, and by unanimous consent, Mr. McCORMACK was allowed to proceed for 3 additional minutes.)

Mr. RUNNELS. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New Mexico.

Mr. RUNNELS. I thank the gentleman for yielding. I want to congratulate my friend from the State of Washington for discussing openly a subject matter that many people are scared to talk about.

I walk daily in the Halls of Congress and in these buildings, and I have yet to see one soul run from having association with HAROLD RUNNELS. If you are scared of storing nuclear waste, then you should get up immediately and leave. You should leave the Halls of Congress because as I talk to you now I am a walking disposal for nuclear waste. All of you know that I had lung cancer 18 months ago, and when they opened my chest, they inserted in the tumor in my lungs 33 radioactive iodine 125 implants. I wore a bracelet on my wrist that said, "Danger: radioactive." Now I am saying to you that nuclear medicine may have saved my life. If you have ever been told that you have cancer, you will not be scared of it either. You will thank the good Lord that somebody brought it along during your stage in cancer.

□ 1330

After I had that operation just this year, 12 months later I was told I had cancer of the bone in my back and, as you know, I had surgery for the second time.

Mr. Chairman, I am just trying to say since then I have had enough radiation both front and back to be the equivalent of approximately 200,000 X-rays. I go once a month and have inserted in my veins nuclear medicine to give me liver scans, bone scans, brain scans, to see where it jumps next.

Mr. Chairman, I am saying let us do this sanely, let us do it seriously. It can save. It is not always a killer. I support this amendment.

Mr. McCORMACK. I thank the gentleman from New Mexico.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Arizona.

Mr. UDALL. I want to commend the gentleman for his leadership in trying to find a way out of this difficulty. As a country we have been producing waste for 35 years and we have yet to dispose of the first pound of these high-level wastes.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. UDALL and by unanimous consent, Mr. McCORMACK was allowed to proceed for 3 additional minutes.)

Mr. UDALL. Will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Arizona.

Mr. UDALL. The low-level waste in tonnage and volume, as the gentleman has stated, are obviously the biggest part of the waste problem we have. Yet very little has been done and it is causing increasing controversy in many of the States including my own.

Mr. Chairman, I like, basically, what the gentleman is trying to do although I do have misgivings with it. Here is a brand new program which obviously will cost at least several tens of millions of dollars. Neither the committee of the gentleman nor our committee has had a chance to move on this. We have in the Interior Committee some other legislation pending which we hope to bring here one of these days on nuclear policy that touches on some of this. There has been no input from the industry, from the hospitals, from the State governors on this specific program the gentleman provides.

Mr. Chairman, I would much prefer to have a study. I am not trying to bury this with a study—I have a substitute here for the gentleman's amendment which would essentially say to the Secretary of Energy: Let us get going on these low-level nuclear wastes, bring us back a program within 6 months which would provide for the kinds of things the gentleman has talked about. My substitute basically uses the gentleman's language to outline what the secretary should propose.

Mr. Chairman, I am afraid I would have to oppose the amendment of the gentleman in its present form. I wonder if we could do the compromising thing here and go along with this very short study and then be in a position when we come back next year, in the appropriate committees, to write this thing into law and get going on these low-level wastes. We simply have to find repositories and get rid of the stuff.

Mr. Chairman, the gentleman is right. We cannot just nominate the State of Washington and maybe South Carolina and say, "You take care of all the waste." The wastes ought to be in several places, particularly the low-level wastes.

Mr. Chairman, I think the gentleman has a good idea but I would be reluctant to endorse it without some hearings, some input, some further study.

Mr. McCORMACK. Mr. Chairman, if we were to request a study, if we were to accept the gentleman's substitute and request a study by the Department of Energy, could we then, the gentleman's committee and mine, get together very early in the year and write legislation on this one point alone rather than getting it involved in all other nuclear regulatory legislation?

Mr. UDALL. Mr. Chairman, I would love to work with the gentleman and with the appropriate committees on that subject, and I think we could. At least for the low-level. We have to go with the bits and pieces of this thing and eventually confront this monster of high-level waste and do something about it. I would be glad to work with the gentleman to try to put together a solid, specific program. Within a few months, next year or early the following year, we could have these places in operation and not be here talking about what we are going to do about nuclear waste 10 years from now.

Mr. McCORMACK. Under those conditions I would accept the gentleman's substitute.

Mr. OTTINGER. Will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I am advised by the chairman of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, the gentleman from Michigan (Mr. DINGELL), he also would cooperate and support such a study leading to fast action along the lines the gentleman has indicated.

Mr. WYDLER. Mr. Chairman, would the gentleman yield to me?

Mr. McCORMACK. I would be glad to yield to the gentleman.

Mr. WYDLER. Mr. Chairman, I support the gentleman's amendment. I support the proposed compromise. I would merely like to say I am glad to hear the chairman of the Committee on Interior and Insular Affairs say that we should do something about the problem of high-level wastes as well, and God knows we should.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WYDLER and by unanimous consent, Mr. McCORMACK was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. WYDLER. God knows, we should be doing something about high-level waste. The fact of the matter is, we can do something about it when the day comes that the gentleman from Arizona and the gentleman from New York and the gentleman from Washington and the ladies and gentlemen sitting in this Chamber decide they are going to do something about it. We have the technology available. Let us apply it. Let us get on with the job.

Mr. McCORMACK. Mr. Chairman, in conclusion, I should observe that we receive more radiation in this room just from the granite in the building than we would if we were living immediately next door to a low-level waste site. I think it is important for us all to understand that.

AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. M'CORMACK

Mr. UDALL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. McCORMACK: At page 67, line 2, add a new section 705 to read as follows:

SEC. 705. Using such sums authorized to be appropriated under section 701(4) as may be necessary, the Secretary of Energy shall conduct a study on low-level radioactive waste and prepare and transmit a report thereon to the appropriate authorizing committees not later than May 1, 1980. Such study shall provide a plan to establish, operate and maintain low-level radioactive waste repositories located at appropriate sites in the continental United States. The Secretary, as part of the study, shall consider the advisability of entering into agreements with individual states within which such repositories would be located for the establishment of the repositories. The repositories, if established, would be made available for the storage of all low-level radiative wastes generated or used in the region served, and disposable as such in accordance with Federal law. Any such repositories, if established, shall be licensed by the Nuclear

Regulatory Commission. The Secretary of Energy should provide for recovery of all costs for operating and maintaining these repositories from fees charged for storage of the low-level radioactive wastes. The number of repositories shall be determined in the study by the Secretary of Energy with the goal of serving each region of the country, and in order to minimize the distance that the low-level radioactive wastes will be transported.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, I urge the adoption of the amendment offered as a substitute for the amendment of the gentleman from Washington (Mr. McCORMACK).

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MRS. BOUQUARD

Mrs. BOUQUARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BOUQUARD: On page 67 of the committee amendment after line 2 insert the following new section:

URANIUM ENRICHMENT REPORT

SEC. 705. (a) As soon as practicable but not later than the date on which the Secretary transmits to the Congress legislation authorizing appropriations for the Department of Energy for fiscal year 1981, the Secretary shall transmit to the President and the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the long term policy and plan for U.S. uranium enrichment.

(b) The report required under this subsection shall provide a full and complete statement of the Department's policy governing commercial uranium enrichment services and an associated plan, with appropriate projections, to the year 2000. The report of the policy and plan shall include, but not be limited to:

(1) the enrichment policies of the U.S. government, including preproduced enriched uranium inventory management, international market share and nonproliferation objectives, and timing for decisions on new capacity additions including energy efficient advanced isotope separation technology;

(2) operations of the current and authorized enrichment facilities, including operating and transaction tails assay, electric power purchase commitments and availability, and incremental replacement of gaseous diffusion capacity with energy efficient centrifuge capacity;

(3) enrichment service contract demand for domestic civilian and military uses, and for foreign civilian uses;

(4) international commitments related to the Nuclear Non-Proliferation Act of 1978, nuclear fuel-bank set-asides, and any bulk purchase agreements including purchase of feed or tails materials;

(5) estimated annual on-budget costs and total estimated project costs for each increment of authorized and projected additional capacity;

(6) projection of anticipated revenues including foreign exchange;

(7) recommendations for opportunities to encourage private sector involvement in funding; manufacturing, construction, and operation of future increments of enrichment capacity as a supplement to existing government commitments;

(8) impact of domestic uranium production capability and resource availability on enrichment operations, including constraints on uranium production due to land withdrawal.

Mrs. BOUQUARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Tennessee?

Mr. DINGELL. Mr. Chairman, we have not seen the amendment. Until we have had a chance to do so, I must object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

□ 1340

Mrs. BOUQUARD. Mr. Chairman, I feel my amendment is quite straightforward, I think, as a parallel to section 703, which calls for a report on waste management. I think it is rather noncontroversial.

Mr. Chairman, as my colleagues know, the three committees of jurisdiction on this title, title VII, have cooperated fully in fashioning a strong and important continuing commitment to our domestic uranium enrichment program.

More specifically, we have before us an authorization for $290 million for fiscal year 1980 which will assure that ample funds are made available to at least maintain, if not accelerate, the schedule for the Portsmouth, Ohio, gas centrifuge enrichment plant. When Congress first endorsed the administration's decision to build this next increment in enrichment capacity using the very energy efficient centrifuge technology, we fully expected that the Department of Energy would take us seriously. During the Science Committee's hearings on this matter, it became clear that the Department was rather cavalier in its treatment of the congressional mandate to get on with this job.

The delays in this project contemplated by the Department could ultimately add $1.7 billion to the cost of the project, a cost that would be paid by consumers of electricity. Just as critical a factor related to this delay is the erosion of interest within the private sector to provide competitive supplies of technology and products for this program. I personally reject the notion that DOE has the latitude to make decisions of this nature without consulting Congress.

During the Science Committee markup of H.R. 3000, an additional $70 million in authorization was added to this project. This addition did not affect the appropriations since we also made specific provision for the application of the excess revenue of approximately $133 million from the sale of enrichment services to the program. This provision is spelled out in section 804, thus, to the extent possible, the enrichment program is paying for itself and poses essentially no burden on the budget. Over the long-term all costs will be recovered as is now prescribed by law. During fiscal year 1980 it is expected that total revenue will slightly exceed the costs for operation as well as construction.

While I am reasonably satisfied with the outcome of our actions, I would like to point out to my colleagues that arriving at a reasoned decision on enrichment funding was difficult if not cumbersome. It was necessary to pursue resolution of a number of issues after the fact of the hearings through exchanges of letters with a number of department officials. One of my major concerns is that we will be asked to make decisions on the fiscal year 1981 budget request under the same conditions.

To avoid this problem, I have proposed an amendment comparable to that proposed in section 703 which is related to congressional interest in the commercial waste management program. In my proposed section 705, a new section in title VII, I am calling for the Department of Energy to transmit to the congressional committees of jurisdiction a comprehensive policy statement and long-term plan in time for review as a basis for fiscal year 1981 budget decisions. As in the above section 703, this amendment authorizes no new funds and calls on the Department to assemble its various positions into a cohesive and comprehensive picture of where the enrichment program is headed. I might add that the Senate Energy Committee reported S. 688, its version of the fiscal year 1980 DOE authorization, with a comparable study provision calling for submittal to Congress by February 1, 1980.

While I found merit in some of the issues addressed in the Senate proposal, there were additional issues which lacked resolution in my view. I attempted to characterize these in my additional views on the committee report.

What I have been concerned most directly about were the Department's projections of demand including potential foreign commitments related to our nonproliferation and export market objectives, the basis for production planning including plant efficiency and uranium feed requirements, the impact of decisions to delay new capacity versus possible total and operating cost benefits of maintaining the currently authorized schedule, and the importance of preserving an aggressive schedule in the selection of industry participants so that the supporting manufacturing base will be developed in a timely manner.

My amendment addresses all of these specific issues as well as others which must be factored into a comprehensive

policy. What we have learned is that decisions on the uranium enrichment program are intimately linked with key international issues such as commitments to provide a stockpile of enriched uranium for the proposed international nuclear fuel bank and with other seemingly unrelated issues such as natural uranium production and availability.

The specific elements of this amendment are as follows: The Department is to provide Congress with a uranium enrichment plan incorporating currently authorized capacity additions including the Portsmouth, Ohio, GCEP as well as projections of any additional capacity needed by the year 2000. We should expect that DOE will use their planning base of 325,000–380,000 megawatts electric installed capacity to make this projection of the timing and amount of capacity needed. An important element in this projection is the current objective for capture of a fraction of the foreign market as well as other factors such as uranium availability which affects operating tails assay assumptions.

During the course of the Science Committee's hearing on enrichment conducted in Oak Ridge, Tenn., on September 22 of this year, Dr. Stanley Weiss, Deputy Assistant Secretary for Resource Applications, and Mr. Bill Voigt, Director of Uranium Resources and Enrichment, both reviewed this amendment and indicated that the Department of Energy had no objections to it, and in their opinion the material requested in the amendment was reasonable and necessary for the determination of a sound management decision on enrichment policy.

I would urge the adoption of this amendment.

Mr. FUQUA. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the distinguished chairman.

Mr. FUQUA. Mr. Chairman, let me say that the gentlewoman was prepared to offer this in the committee, but because it was to this title of the bill, the gentlewoman was persuaded not to offer it at that time and offer it on the floor.

I certainly have no objection to the amendment of the gentlewoman. I do think that there is one technical suggestion that should be made in reference to the committees, that also the Committee on Foreign Affairs should be reported, because of the nonproliferation activity involved.

Mr. BINGHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentlewoman for yielding. I appreciate the suggestion.

I hope the gentlewoman would not object to including the Committee on Foreign Affairs among the committees to be advised of the report.

Mrs. BOUQUARD. I would certainly be happy to send it to this committee.

Also, this is straightforward. It is merely to report the direction of our enrichment program, the way they are going, the funds that will be needed and the recommendations that they will be making involving the private sector in the program.

Mr. UDALL. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I would like to tell the gentlewoman that the friendly folks on the Committee on the Interior think this is a good amendment and we will support it.

Mrs. BOUQUARD. Mr. Chairman, I thank the chairman and we will see that the gentleman's committee receives this report.

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of a point of order.

The CHAIRMAN pro tempore. The reservation of a point of order is withdrawn.

Mr. DINGELL. Mr. Chairman, I indicate that with the suggested change referring to the Committee on Foreign Affairs, I would have no objection to the amendment.

Mrs. BOUQUARD. Mr. Chairman, I thank the gentleman from Michigan.

Mr. WYDLER. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I make it unanimous.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that immediately following the words "Interior and Insular Affairs" appear the words "The Committee on Foreign Affairs".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the modification to the amendment.

The Clerk read as follows:

On page 67 of the committee amendment after line 2 insert the following new section:

URANIUM ENRICHMENT REPORT

SEC. 705. (a) As soon as practicable but not later than the date on which the Secretary transmits to the Congress legislation authorizing appropriations for the Department of Energy for fiscal year 1981, the Secretary shall transmit to the President and the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, the Committee on Foreign Affairs and Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the long term policy and plan for U.S. uranium enrichment.

(b) The report required under this subsection shall provide a full and complete statement of the Department's policy governing commercial uranium enrichment services and an associated plan, with appropriate projections, to the year 2000. The report of the policy and plan shall include, but not be limited to:

(1) the enrichment policies of the U.S government, including preproduced enriched uranium inventory management, international market share and nonproliferation objectives, and timing for decisions on new capacity additions including energy efficient advanced isotope separation technology;

(2) operations of the current and authorized enrichment facilities, including operating and transaction tails assay, electric power purchase commitments and availability, and incremental replacement of gaseous diffusion capacity with energy efficient centrifuge capacity;

(3) enrichment service contract demand for domestic civilian and military uses, and for foreign civilian uses;

(4) international commitments related to the Nuclear Non-Proliferation Act of 1978, nuclear fuel-bank set-asides, and any bulk purchase agreements including purchase of feed or tails materials;

(5) estimated annual on-budget costs and total estimated project costs for each increment of authorized and projected additional capacity;

(6) projection of anticipated revenues including foreign exchange;

(7) recommendations for opportunities to encourage private sector involvement in funding; manufacturing, construction, and operation of future increments of enrichment capacity as a supplement to existing government commitments.

(8) impact of domestic uranium production capability and resource availability on enrichment operations, including constraints on uranium production due to land withdrawal.

Mrs. BOUQUARD. Mr. Chairman, I urge adoption of this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Tennessee (Mrs. BOUQUARD), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUJAN: On page 65 after line 20, insert the following new section,

SITE RECOMMENDATION FOR A HIGH-LEVEL WASTE GEOLOGICAL STORAGE REPOSITORY

Section 704(a) the Secretary of Energy, in selecting a site for locating a permanent geological repository for nuclear high-level wastes, should give primary consideration to candidate sites located on Federal Government lands with suitable hydrology and geology which are in, or immediately contiguous with, sites having significant quantities of high-level byproduct and special nuclear materials, as defined by Section 11 of the Atomic Energy Act of 1954.

And renumber the final section.

Mr. LUJAN. Mr. Chairman, I rise in support of this amendment to H.R. 3000, which makes the primary consideration for selection of the site for a permanent geological repository to be a location that already has high-level wastes.

The purpose is to limit, as far as we can, the locations in the United States where high-level wastes would be buried. Of course, the Secretary of the Department of Energy must fully take into account the hydrology and geology of the locations to assure that the repository will fully conform with safety requirements. Already investigations by the Department of Energy are far enough along that we know that reasonable prospects exist in Federal lands contiguous to or in Federal sites where high-level wastes exist.

I believe this is a prudent and reasonable guidance in our search for a proper repository location. It does not unduly limit the possible locations in our quest for a fully safe repository.

Further, Mr. Chairman, it assures the

public that we are not needlessly putting significant quantities of high-level wastes in more and more places in the country. Instead, by this amendment, we are being responsible custodians of the lands of this Nation by eliminating needless duplication of high-level waste locations.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I would be glad to yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to thank the gentleman for yielding and indicate that in the present form that this amendment is drafted, I have no objection to it.

I think it is important to understand that as the amendment is drafted, it would refer to about 10 or a dozen sites within the United States, including weapons test sites in Nevada, Louisiana, and Alaska and many national nuclear sites.

The fact is that we probably will not select permanent sites for high-level wastes for 20 or 25 years, in any event. Site selection is not a matter of immediate critical concern.

What we should be doing, of course, is studying the best materials and the best conditions for permanent storage. Such programs are already underway in several places, studying various types of rock. These studies will be followed by long-term demonstrations. We have work going on now drilling holes in various types of rock; and this year we will have electric heaters in these holes. Next year we hope to have radioactive wastes canisters in, I hope.

However, we are not talking about selecting a permanent site until after we have a reprocessing program in operation, and until after we are glassifying the wastes. I think it is acceptable, but it will take about 15 years. I think it is important to remember that when the wastes are glassified from a reprocessing plant, they can be stored indefinitely right in the building where they are glassified.

In France, they are making about a canister a day of glass, about the size of a 55-gallon drum.

It simply goes into a hole in the floor. They have 240 holes in the floor in a big concrete block and they put 10 of these cans on top of each other and then put a plug on top and you can walk right around on top of it.

When we say, "What about a permanent site?" they say, "Oh, in 10 or 20 or 25 or 30 years we'll pick a site."

Maybe that is what we are doing here, too, so the gentleman's amendment is acceptable, even though it has no real meaning at this time. It does not mean that we are going to locate any waste site anywhere during the coming years, but it is, I think, a perfectly legitimate thing to consider sites that already contain wastes.

Mr. LUJAN. Mr. Chairman, I thank the gentleman for his support.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I would be glad to yield to my friend, the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, can the gentleman tell us where these major sites are?

Mr. LUJAN. Well, there are a number of sites. I do not know that I can specify all the different sites, but Nevada, for example, is one that can be considered. There are some sites in the State of Washington. There are some sites at other places.

Mr. WEAVER. Are there any in Oregon that would qualify under this?

Mr. LUJAN. I do not know of any specifically. I do not think there are any that already contain high-level wastes in the State of Oregon, but I cannot assure the gentleman that there are none. I do not believe there are.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, I know of none in Oregon, either, and Oregon has a law prohibiting the storage of radioactive material in Oregon.

I wonder if the gentleman would accept an amendment to require consent of the States here.

Mr. LUJAN. This is simply a study. We are not mandating that they go anywhere. We are just saying to the Secretary that where there are already contaminated lands and where the hydrology and geology is proper, to look at those sites and see which are the better sites.

It is simply a study. It is not mandating anything.

I suppose that if we had that kind of an amendment, every State would want to pass such a law. It is getting back to the same thing we were talking about with the low-level wastes.

□ 1350

The CHAIRMAN. The time of the gentleman from New Mexico (Mr. LUJAN) has expired.

(By unanimous consent, Mr. LUJAN was allowed to proceed for 2 additional minutes.)

Mr. LUJAN. Mr. Chairman, let me ask, what is going to happen to States like Oregon in the case of the study that is going to come up now for low-level wastes?

If Oregon says, "You can't put it here," does that mean the hospitals in Oregon cannot use any kind of nuclear material? What is the solution? Or are we going to say, "Let Oregon have the benefit of this technology, but send the stuff somewhere else?"

This creates a little problem, but at the moment I think it would be best to just leave the amendment as it is.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I will be glad to yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, would it be appropriate to style this amendment, I say to my good friend, the gentleman from New Mexico (Mr. LUJAN), as an ill-disguised attempt to exclude consideration of his congressional district from possible waste disposal.

Mr. LUJAN. No, that is not so.

Mr. SANTINI. Is this goal a possible motivation?

Mr. LUJAN. No.

Mr. SANTINI. Is this goal an indirect influence?

Mr. LUJAN. None at all. The effort is to say, "Look. Don't just look at one place. Look at places where it might be appropriate to put the high level waste. If the land is already contaminated, let us look at that."

That is a very reasonable direction to take.

Mr. SANTINI. Of course, and it is the gentleman's hope, then, that his congressional district will come into the forefront of consideration as a result of his amendment and perhaps be the No. 1 candidate for disposal?

Mr. LUJAN. We are not talking about "No. 1 candidates" here. We are looking at 10 or 12 different areas that need to be looked at to see where the best place to put it is. This has no parochial interest involved at all.

As the gentleman can very well understand, it is in the national interest that we must look at different places and see where the best place is. There may be more. There probably will be more than just one place where high-level wastes can be disposed of.

We are setting a pattern with low-level wastes here with the amendment offered by the gentleman from Washington (Mr. McCORMACK), as amended by the amendment offered by the gentleman from Arizona (Mr. UDALL). There are going to be several locations. Perhaps that is the answer in this case. I do not know. We had better look at all of them.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico (Mr. LUJAN) has again expired.

(On request of Mr. SANTINI, and by unanimous consent, Mr. LUJAN was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield further?

Mr. LUJAN. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, in the gentleman's pursuit of the national interest, does he see anything inconsistent in suggesting a criteria that may give as a matter of law primary consideration to those areas under consideration rather than, as I would urge upon my friend, the idea that the primary consideration ought to be safety?

Mr. LUJAN. Mr. Chairman, I think this does deal with safety in saying that it must be lands with suitable hydrology and geology. It must be or should be lands that are already contaminated.

Let us not spread it all over the country. Where these conditions exist, then that is where we ought to look at it more strongly. There is no mandate to put it in any particular site.

Mr. SANTINI. Mr. Chairman, if my good friend and turquoise enthusiast would yield once more, does he not agree that by imposing this kind of artificial criteria, he may well be foreclosing areas that either geologically or perhaps due to hydrology would be appropriate candidates for disposal, because he is confining those sites to those that fit his descrip-

tion as to where it might be appropriate to put the material?

Mr. LUJAN. No, I do not believe that.

Mr. SANTINI. Mr. Chairman, if the gentleman will yield further, I say, yes, it does have that result.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the gentleman's amendment which would require that the Secretary of Energy, in selecting a site for a long-term geological repository for waste storage, give primary consideration to sites located on Federal lands which are already being used to store significant quantities of high level byproduct and special nuclear materials.

While the resolution of the nuclear waste issue is of paramount importance which requires that we proceed in an expeditious manner, I do not believe it advisable that we limit the Secretary's ability to select the most appropriate site by directing him to give primary consideration to Government-owned sites which are already being used for the storage of significant quantities of high level byproduct and special nuclear materials.

Many of the sites presently in use were selected on the basis of a criteria that was far more lenient than those applicable today. In many of the localities adjoining these sites, a significant portion of the population believes that they are being forced to contend with dangers far more serious than they were originally led to believe. Their concerns have recently been reflected in the actions of a number of State officials who have voiced their opposition to the continued or expanded use of their State for the storage or disposal of nuclear waste.

The Governors of Illinois, South Carolina, and New York which presently have waste storage facilities in their States have each expressed their concern that announced plans for interim storage of spent fuel and low level waste sites discriminate against their States because of the existence of such facilities within their State, and they all feel that their residents are being compelled to bare a disproportional share of the responsibility for handling nuclear waste. Recently, even the pro-nuclear Governor of the State of Washington felt compelled to temporarily close the low-level waste burial site in that State, and a similar site in the State of Nevada was also recently temporarily closed. Local opposition to the proposed Government-owned WIPP site in New Mexico has been significant.

To require the Secretary to give primary consideration to existing Government-owned waste storage sites not only restricts the Secretary's ability to select the most suitable site, but, more importantly, may actually impede to implementation of a waste disposal policy by increasing the opposition of the affected local communities and officials who believe that such a requirement discriminates against them because of their prior willingness to cooperate in previous Government efforts in regard to nuclear waste storage and disposal.

Because I believe the Secretary's ability to select a site for a terminal waste repository should be based on an objective evaluation of all the relevant criteria applicable to the construction and operation of such a facility, and because I believe it is unfair to discriminate against those communities which have cooperated in past efforts to store and dispose of such waste, and because I believe that giving primary consideration to existing sites would, in the long run, be counterproductive.

Mr. Chairman, I regretfully, in spite of my respect for its author, urge the defeat of this amendment.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask my friend, the gentleman from New Mexico (Mr. LUJAN), the author of the amendment, a question. The gentleman does not intend, by this good advice which he is giving to the Secretary about where to look, to change the environmental impact statement requirements or infringe on legal procedures or any of the rest of the requirements?

Mr. LUJAN. Not at all, Mr. Chairman, if the gentleman will yield.

Mr. UDALL. The gentleman is simply sending a little message or a little valentine to the Secretary, and he is just telling him where he ought to look?

Mr. LUJAN. Mr. Chairman, it is more than just a "little message" or "little valentine." This grows out of a feeling that the Department of Energy has not looked at the whole waste question, and we are saying, "There are some lands out there already. Don't you know that? There are lands out there that are already contaminated and that have good hydrology and good geology. Why don't you look at those?"

We are drawing for him a little map and saying these would be places where he ought to look.

Mr. UDALL. Mr. Chairman, my dilemma is that I do not know that the amendment is necessary. Knowing how people operate and having visited with the Governors of a lot of Western States, I understand their feelings and I know they do not have any enthusiasm for being selected as the home for the repository of waste materials and nuclear waste materials.

If we do not pass the amendment, I suggest that these places mentioned in the amendment are where the Secretary will look anyway. Does the gentleman not agree with that, that since certain Western States already have a history of being a repository for waste materials, the Secretary would probably look at those sites first?

Mr. LUJAN. Mr. Chairman, if the gentleman will yield, I say they have not been looking, and we are just pointing them in that direction.

I do not know if the gentleman received a letter this morning from the White House, but I did. It said in effect: We know how difficult it is to vote on these tough, tough issues, but you have done a good job in voting on tough, tough issues before. Keep it up.

Maybe that is the kind of a letter that the Secretary of Energy needs, saying, "Look, you have been trying to resolve this problem, and here are some places that you ought to look at."

Mr. UDALL. Mr. Chairman, I say to the gentleman that is probably where they will look, and the thing that concerns me is that this looks to me like a loaded gun pointed at our friend, the gentleman from Nevada (Mr. SANTINI), whose State has had enough guns pointed at it lately. The more folks in Washington seem to suggest the western public lands are where we are going to be looking, it concerns me that we may do something unnecessarily to stir up the folks in a couple of these specific Western States.

Mr. LUJAN. No. No, it is certainly not my intention to point a gun at my friend, the gentleman from Nevada (Mr. SANTINI). Far be it from me to cause him any more problems than he already has.

It is simply my intention to tell the Secretary of Energy exactly what the amendment says: "Look at these contaminated lands over there. Don't contaminate this whole country. You have already got places where you can put it. Look at these primarily and see if you can't come to a resolution and use those lands. Don't go all over the country."

□ 1400

Mr. UDALL. I do not have strong feelings. I suggest that there are maybe more important, far reaching amendments than this. I can live with it if it passes. But for the reasons that I have stated, I personally am going to vote against the amendment.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, I would simply like to point out that it is not as if there has been an ignoring of other possible sites. This bill alone continues up to $100 million for studies in the State of Nevada and the State of Washington, I am told, on the permanent storage question, in terms of research on that issue.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I want to commend my very good and very imaginative friend, the gentleman from New Mexico, for desiring to remove possible consideration of his congressional district under his well structured criteria and wishing to visit a targeted blessing on my congressional district. We have had many blessings of late, underground nuclear testing, and MX missiles are coming our way. The gentleman wants to add to the gratuitous grab bag of benefits that are being dumped on our State with this amendment. But the amendment is wholly and entirely unnecessary.

There is a study going on right now and, as the gentleman from Arizona, the chairman of our committee, observed, that study is doing exactly what the gentleman is hoping his amendment might lock into legislative concrete.

But, second, I think it is most inappropriate for the gentleman to restructure criteria for nuclear waste disposal to suit his own individual district needs but to the exclusion of the safety and transportation concerns of the Nation. Safety ought to be the primary consideration, not whether there is some study going on right now. As the gentleman has written his amendment, safety is not mentioned anywhere in it, except by inference, and the gentleman has put his well crafted product before this body, nothing is said with regard to the hazards that inevitably will occur from transportation. I think there is in place a mechanism to examine this issue, and this kind of don't-dump-it-in-my-backyard legislative attempt is inappropriate for this body to consider as a meaningful piece of legislative contribution to this bill.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to my friend, the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, let me tell the gentleman that he has totally misread the intent of this amendment. This amendment simply says "put it in the best place that exists, wherever it may be."

Mr. SANTINI. "Outside my congressional district."

Mr. LUJAN. No, it does not say "outside my congressional district," because if my congressional district has contaminated lands, as some lands are contaminated, and if it has the proper hydrology, the proper geology, then let us put it in there.

Mr. SANTINI. Reclaiming my time, if the gentleman will hear me through, again does not the gentleman agree that safety ought to be the principal criteria, not some arbitrary determination of what is being looked at now or which lands have been spoiled now?

Mr. LUJAN. If the gentleman will yield, that is exactly correct. I think safety is a primary interest. That is why the words "the proper hydrology and the proper geology" are in the amendment. As a matter of fact, that is what I had in mind when I put those words in there, that high-level waste be in a perfectly safe place.

Mr. SANTINI. Reclaiming my time, safety is a much easier word than hydrology and geology, and I am just disappointed that somehow that shorter word never found its place in this particular amendment.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I am very sympathetic to my dear friend, the gentleman from Nevada, but I am really at a loss on how to vote for this amendment myself because it does not put the stuff in Oregon. So I am unsure yet as to how to vote. My sympathy certainly lies with the principle the gentleman from Nevada has enunciated, but I would just like to say that there must be something fundamentally wrong with an industry that produces material that everybody wants out of their area.

Mr. SANTINI. I can certainly say that we have had our share of adverse experiences of late, to confirm the gentleman's suspicions. I would urge my good friend, the gentleman from Oregon, my seatmate on the Committee on Interior and Insular Affairs, that if he is wavering, let him waver in the interest of his friend, the gentleman from Nevada.

Mr. LUJAN. Mr. Chairman, if the gentleman will yield further, let me tell the gentleman that, as he well knows, my own home State has been as cooperative as his home State has been to this industry. There is no question about it. It is not a ploy to put it in Nevada. If New Mexico is the best place to put it, after they look at the hydrology and the acceptability and the contamination of lands already there, then so be it. But let us look at all of them.

Mr. SANTINI. I appreciate the gentleman's remarks.

I would not characterize the amendment as a ploy; merely as a constructive endeavor to respond to noble constituent concerns.

Mr. Chairman, I urge the defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Mexico (Mr. LUJAN).

The question was taken; and on a division (demanded by Mr. LUJAN) there were—ayes 12, noes 13.

RECORDED VOTE

Mr. LUJAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1410

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from New Mexico (Mr. LUJAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 197, not voting 28, as follows:

[Roll No. 580]

AYES—208

Abdnor
Addabbo
Albosta
Anderson, Ill.
Andrews, N. Dak.
Archer
Ashbrook
Ashley
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Biaggi
Bowen
Breaux
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, Phillip
Butler
Carney
Carter
Chappell
Cheney
Cleveland
Coleman
Collins, Tex.
Conable
Conte
Conyers
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Deschle
Devis, Mich.
de la Garza
Derwinski
Devine
Dickinson
Dornan
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlel
Evans, Del.
Evans, Ga.
Fascell
Fenwick
Ferraro
Fish
Forsythe
Fountain
Gaydos
Gibbons
Gingrich
Ginn
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammer-schmidt
Hance
Hansen
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Huckaby
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Kazen
Kelly
Kemp
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lehman
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClosky
McDade
McDonald
McEwen
McKinney
Madigan
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Neal
Nichols
Oakar
Pashayan
Paul
Pepper
Petri
Peyser
Preyer
Pursell
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Rousselot
Roybal
Royer
Rudd
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Solomon
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Van Deerlin
Vander Jagt
Vanik
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wolff
Wydler
Wylie
Yatron
Young, Fla.
Zeferetti

NOES—197

Akaka
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Aspin
AuCoin
Baldus
Barnes
Beard, R.I.
Bedell
Benjamin
Bennett
Berill
Bingham
Blanchard
Boggs
Boling
Boner
Bonior
Bouquard
Brademas
Brinkley
Brodhead
Brown, Calif.
Burlison
Burton, John
Byron
Campbell
Carr
Cavanaugh
Clausen
Clay
Clinger
Coelho
Corcoran
Corman
Cotter
D'Amours
Davis, S.C.
Deckard
Dellums
Derrick
Dicks
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Evans, Ind.
Fary
Fazio
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Frenzel
Frost
Fuqua
Gephardt
Giaimo
Gilman
Glickman
Gonzalez
Gore
Gramm
Gray
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Holland
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kindness
Kogovsek
LaFalce
Lederer
Lee
Leland
Levitas
Long, La.
Lowry
Luken

Lundine	Oberstar	Spence
McClory	Obey	St Germain
McCormack	Ottinger	Stack
McHugh	Panetta	Staggers
McKay	Patten	Stark
Maguire	Patterson	Stokes
Markey	Pease	Stratton
Marks	Perkins	Studds
Marlenee	Pickle	Swift
Matsui	Price	Synar
Mazzoli	Pritchard	Thompson
Mica	Quayle	Traxler
Mikulski	Rahall	Udall
Miller, Calif.	Rangel	Ullman
Mineta	Ratchford	Vento
Minish	Reuss	Walgren
Mitchell, Md.	Richmond	Waxman
Moakley	Roe	Weaver
Moffett	Rostenkowski	Weiss
Montgomery	Russo	Whittaker
Murphy, Ill.	Sabo	Whitten
Murtha	Santini	Wirth
Myers, Pa.	Schroeder	Wolpe
Natcher	Shannon	Wright
Nedzi	Sharp	Wyatt
Nelson	Simon	Yates
Nolan	Snyder	Young, Alaska
Nowak	Solarz	Young, Mo.
O'Brien	Spellman	Zablocki

NOT VOTING—28

Andrews, N.C.	Early	Mavroules
Applegate	Erdahl	Rodino
Bellenson	Flood	Rosenthal
Boland	Ford, Mich.	Runnels
Bonker	Fowler	Smith, Iowa
Chisholm	Garcia	Volkmer
Collins, Ill.	Harsha	Wilson, C. H.
Diggs	Horton	Winn
Dixon	Jones, N.C.	
Duncan, Oreg.	Leach, La.	

□ 1430

The Clerk announced the following pairs:

On this vote:

Mr. Jones of North Carolina for, with Mr. Rodino against.

Messrs. IRELAND, MARRIOTT, and GOLDWATER changed their votes from "no" to "aye."

Messrs. JOHNSON of Colorado, RATCHFORD, GILMAN, HYDE, and SPENCE, Mrs. BOGGS, and Messrs. McKAY, KINDNESS, and DOUGHERTY changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Page 67, after line 2, insert the following new section:

PAPERWORK REDUCTION

SEC. 705. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall compile, index, and maintain, in accordance with guidelines developed by the Office of Management and Budget and other applicable provisions of law, a central file containing a copy of each type of application form, each type of information request or requirement form, and every other type of form used by the Secretary to obtain information from any person who participates in, or is affected by, any energy program conducted by the Secretary. The Secretary shall carry out this subsection through the Energy Information Administration.

(b) Not later than one year after the date of the enactment of this Act (but in no event later than September 30, 1980), the Secretary of Energy shall—

(1) promulgate regulations to require, to the extent consistent with the provisions of law applicable to energy programs conducted by the Secretary—

(A) the consolidation of all forms used by the Department of Energy to obtain information which is identical from any person who participates in, or is affected by, any such energy program,

(B) the elimination of forms used to obtain information which is available from any other authority of the United States, and

(C) such further simplification, and reduction of the number, of such forms as may be practicable,

(2) submit to the Congress a report identifying any provision of law applicable to the Department of Energy which interferes with the carrying out of paragraph (1), and

(3) reduce, in accordance with criteria established by the Office of Management and Budget, for fiscal year 1980 the level of paperwork burden hours (as defined and allocated by the Office of Management and Budget) expended by the Department of Energy by 5.5 percent or to the maximum extent practicable.

□ 1440

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, as we contemplate passage of the energy authorization, it is fitting that we consider an amendment to reduce the amount of paperwork it will generate. Experts predict that all the progress made in cutting paperwork over the past 2 years is threatened by the spate of new energy related legislation soon to be enacted. In light of these predictions, it is crucial that we take action to reduce Federal paperwork.

According to the former Director of the Commission on Federal Paperwork, there are going to be huge increases in paperwork coming up unless something is done quickly. Today, we have the opportunity to contain the paperwork problem at the very moment at which it promises to explode. By taking the steps I have outlined in my amendment, we can blunt the growth of Federal paperwork before it has a chance to overtake us. But we must move quickly and decisively to counter this threat.

My colleagues will recall a week ago last Tuesday the President announced that Federal paperwork has been cut by about 15 percent over the past 2 years. This is a significant accomplishment that is much to the administration's credit. But the sad fact is that the programs contemplated in this energy authorization combined with other new efforts may increase Federal paperwork at a rate so fast that it will completely wipe out those gains. We must take steps to forestall these increases. While OMB is predicting a minimum of 16 million man-hours being added to the paperwork burden as a result of new programs, others are calling this figure low and estimate 80 to 100 million more hours could be added to the Government burden over the next 2 years. It will take as many as 3 million hours in new paperwork to implement the National Energy Conservation Policy Act alone.

The reality of the present situation is that as new programs come down from Congress, the bureaucracy responds by issuing some new form or reporting requirement. This situation is further exacerbated when these programs come in the form of a response to a critical situation. Under such circumstances, painfully little attention is paid to the paperwork burden these requirements generate. We must have some assurance that the paperwork reduction process will not be short circuited by the overzealous advocates of particular programs. That assurance will only come if we mandate it by stating our intentions and giving the Department the tools to avoid duplication and to reduce paperwork.

Earlier this year, I asked the General Accounting Office whether it could provide me with a list of all the forms presently in use by the Federal Government. Their response was that it would be impossible to compile such a list without devoting their entire staff to the project for a number of years. If we are ever going to get a handle on the problem we have to force each Department and agency to take account of its own paperwork and to seek out and guard against duplication.

In working with the Office of Management and Budget on this matter, I have found that it has developed a system that Departments can use in reducing their paperwork. My amendment mandates the Department of Energy to adopt that system. The amendment is quite similar to the one which was adopted earlier this year in the Housing bill. It requires the Department of Energy to take the following steps:

First. To make recommendations to Congress for reduction and consolidation that cannot be accomplished through rules and regulations;

Second. To make a good faith effort to achieve a 5.5-percent reduction in its paperwork for fiscal year 1980;

Third. To compile and index its paperwork forms within 180 days of enactment of the bill; and,

Fourth. To use the compilation to eliminate and guard against future duplication and to consolidate existing forms.

My amendment implements the basic recommendation of the Commission on Federal Paperwork and has the support of the Office of Management and Budget. With your support we can send a clear message to the people that we are serious about solving the paperwork problem.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has been gracious enough to make a copy of this amendment available to the committee. It has been reviewed by the committee staff. We find it acceptable, and on behalf of the committee I am most pleased to accept the amendment and I commend the gentleman for offering it.

Mr. PANETTA. I thank the gentleman from Michigan.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Texas.

Mr. LOEFFLER. I thank the gentleman for yielding.

I would also like to associate myself with the remarks of the gentleman from Michigan, the distinguished chairman of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce. On this side of the aisle we support the gentleman's amendment. I particularly support it in view of the fact that the gentleman has unfortunately had to call the attention of the Department of Energy to proper management policies.

I encourage adoption of the gentleman's amendment and urge its support.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title VII? If not, the Clerk will designate title VIII.

Title VIII reads as follows:

TITLE VIII—PROVISIONS REGARDING USE OF FUNDS

LIMITATION OF REPROGRAMING OF FUNDS

SEC. 801. (a)(1) Subject to the limitations of sections 201(b) and 802, no amount appropriated pursuant to this Act (other than title I) may be used for any program, function, or purpose in excess of the amount expressly authorized to be appropriated for that program, function, or purpose by this Act, nor may the amount available for any program, function, or purpose from sums appropriated pursuant to this Act (other than title I) be reduced by more than 5 percent of the total of the sums appropriated pursuant to this Act for such program, function, or purpose or by more than $10,000,000 (whichever is the lesser), except that such funds may be so used (and available funds so reduced) in any case in which—

(A) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) has passed after the receipt by the appropriate authorizing committees of the House of Representatives and the Senate of notice given by the Secretary of Energy or the Federal Energy Regulatory Commission, as the case may be, containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action, or

(B) each such committee before the expiration of such period has transmitted to the Secretary of Energy or the Federal Energy Regulatory Commission, as the case may be, written notice stating in substance that such committee has no objection to the proposed action.

(2) In the case of any office or unit within the Department to which funds are authorized to be appropriated without reference to a particular program, function, or purpose, paragraph (1) of this subsection shall be applied to such office or unit as if the references in such subsection to "program, function, or purpose" were to that office or unit.

(3) At the time of any reprograming of funds appropriated pursuant to this Act (other than title I), the Department shall report to the appropriate authorizing committees of the House of Representatives and the Senate the nature and amount of, and reasons for, such reprograming.

(b)(1) Except as otherwise provided in this Act—

(A) no amount appropriated pursuant to title I of this authorization Act may be used for any program in excess of the amount expressly authorized for that particular program by this Act, and

(B) no amount appropriated pursuant to title I of this authorization Act may be used for any program which has not been presented to or requested of the Congress,

except that such funds may be so used in any case in which (i) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) had passed after the receipt by the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of notice given by the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(2) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated pursuant to the authorization contained in any of the following provisions of this Act shall not, as a result of reprograming, be decreased by more than 10 percent:

Section 101 (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), or (K);
Section 102 (A), (B), (C), (D), or (E);
Section 103 (A), (B), (C), or (D);
Section 104 (A), (B), (C), or (D);
Section 105 (A) or (B);
Section 106(A);
Section 107 (A), (B)(1), (B)(2), (B)(3), (C), (D), (E)(1)(a), (E)(1)(b), (E)(1)(c), (E)(2), (E)(3), (E)(4), (E)(5), (E)(6), or (F);
Section 108 (A)(1), (A)(2), (A)(3), (A)(4), or (B);
Section 109 (A), (B), or (C);
Section 111 (A) or (B);
Section 112 (A) or (B);
Section 113 (A), (B), (C), (D), (E), or (F);
Section 114;
Section 115 (A), (B), or (C);
Section 116 (A), (B), or (C);
Section 117;
Section 118 (A), (B), (C), or (D); and
Section 119.

LIMITATION REGARDING MANAGEMENT SUPPORT SERVICES

SEC. 802. No amount appropriated pursuant to this Act may be used in the fiscal year ending September 30, 1980, for any management support services contract unless the contract was entered into in accordance with the provisions of Circular A-76 of March 1979, and Bulletin 78-11 of May 5, 1978 of the Office of Management and Budget, and Department of Energy Order 1370.1 of June 5, 1978, which prescribe policies concerning the use of contracts for such services.

LIMITATION ON THE USE OF UNEXPENDED BALANCES

SEC. 803. (a) If so specified in an appropriation Act, the unexpended balances of any appropriations to the Department for—

(1) operating expenses,

(2) plant and capital equipment, or

(3) any program, purpose, or function not covered under paragraphs (1) and (2),

may be transferred to the new appropriation account established for the same program, purpose, or function pursuant to an appropriation authorized by this Act, and balances so transferred may be merged with funds in the applicable newly established account and thereafter may be accounted for as one fund for the same time period as originally enacted; except that no such amounts appropriated for plant and capital equipment may be merged with amounts appropriated for operating expenses. The Secretary of Energy shall report such transfers to the appropriate committees of the Congress within 30 days after making such a transfer.

(b) No limitation under any other section of this Act applicable to any funds shall be considered to be inapplicable by reason of this section.

LIMITATION ON THE USE OF CERTAIN REVENUES

SEC. 804. (a) Part C of title VI of the Department of Energy Organization Act is amended by adding at the end thereof the following new section:

"LIMITATION ON THE USE OF CERTAIN REVENUES

"SEC. 661. (a) When so specified in an appropriation Act, (1) any revenues received in any fiscal year by the Department in providing uranium enrichment services may be retained and used solely for the purpose of offsetting any costs incurred by the Department in conducting uranium enrichment service activities, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and (2) the amount of appropriated funds which would otherwise be available for obligation or expenditure for such activities shall be reduced by the amount of any revenues so retained. Revenues from other programs shall not be available for such activities.

(b) Except as otherwise provided in subsection (a) or as specifically provided by any other law, receipts of the Secretary and the Commission, including any payment received because of overcharges by persons under the jurisdiction of the Secretary or the Commission, in fiscal years beginning after September 30, 1979, shall be deposited in the Treasury of the United States as miscellaneous receipts in accordance with section 3617 of the Revised Statutes (31 U.S.C. 484).

"(c) Clause (2) in the first sentence of subsection (a) shall not apply with respect to reprogramming authority allowed under section 801 of the Department of Energy Civilian Programs 1980 Authorization Act or any comparable reprogramming authority.

"(d) This section does not apply to the power marketing functions of the Department.

"(e) Not later than 120 days after the close of a fiscal year, the Secretary shall prepare and transmit to the Congress a report on—

"(1) revenues received during such fiscal year from uranium enrichment activities and other programs, and

"(2) the cost incurred in such year in providing uranium enrichment services.".

(b) The table of sections for the Department of Energy Organization Act is amended by inserting after the item relating to section 660 the following new item:

"Sec. 661. Limitation on the use of certain revenues.".

(c) Section 111 of the Energy Reorganization Act of 1974 (42 U.S.C. 5821) is amended by striking out subsection (h) and redesignating subsection (i) as subsection (h).

OPERATING EXPENSES

SEC. 805. (a) Amounts appropriated for operating expenses for research, development, and demonstration programs pursuant to authorizations in titles I, VI, and VII of this Act may not be used for—

(1) the acquisition of land, except as provided in subsection (b), and

(2) any item of equipment, if the estimated costs to the Federal Government of such item exceeds $2,000,000, unless such item has been previously authorized by statute or the use of such funds is in accordance with subsection (c).

(b) Subject to subsection (c), the Secretary may use up to 1 percent of all funds appropriated pursuant to authorizations in titles I, VI, and VII of this Act for operating expenses, for research, development, and demonstration programs to construct, expand, modify, or acquire any facilities, in-

cluding laboratories or major items of equipment, or to acquire land at any location under the control of the Secretary, if—

(1) the Secretary determines, in writing, that—

(A) such action would be necessary because of changes in the national programs authorized to be funded by this Act or because of new scientific or engineering developments, and

(B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Department, and

(2) in the case of any project the estimated cost of which exceeds $50,000, the determination under paragraph (1) is made in accordance with subsection (c).

(c) No action required to be made in accordance with this subsection shall take effect unless—

(1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain) has passed after the Secretary has transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a written report containing a full and complete statement concerning the proposed action, including—

(A) in the case of the vesting of property under subsection (b), the reasons for determining such vesting to be appropriate, and

(B) in the case of any obligation or expenditure of funds under subsection (b), the nature of the construction, expansion, or modification involved, the cost thereof, including the cost of any real estate action pertaining thereto, and the reason why such construction, expansion, or modification is necessary and in the national interest, or

(2) each such committee before the expiration of such period has transmitted to the Secretary a written notice to the effect that such committee has no objection to the proposed action.

EXEMPTION FROM FISCAL YEAR LIMITATION

SEC. 806. (a) Authorizations in this Act for any construction line item project shall remain effective without fiscal year limitation through the fiscal year ending September 30, 1982, except that any such authorization may remain available without fiscal year limitation beyond that date—

(1) if funds to carry out the projects involved are appropriated or otherwise provided pursuant to applicable law prior thereto, or

(2) if such authorization period is specifically extended by statute enacted after the date of the enactment of this Act, but only to the extent specifically so extended.

(b) If so specified in an appropriation Act, any amount appropriated pursuant to this Act may remain available until expended.

INTERAGENCY TRANSFERS

SEC. 807. If so specified in an appropriation Act, funds authorized to be appropriated by this Act (other than under section 601(4)) for operating expenses may be transferred to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred. Except to the extent expressly provided, no limitation under this Act applicable to any funds shall be considered to be inapplicable by reason of this section.

PERSONNEL EXPENSES

SEC. 808. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

LIMITATION OF FUNDS FOR FACILITIES FOR DEPARTMENT OF ENERGY

SEC. 809. No funds authorized to be appropriated by this Act may be used for the renovation, furnishing, or repair of facilities to provide temporary or permanent space for personnel relocated as a result of the establishment and activation of the Department of Energy and for which funds were appropriated by chapter V of title I of the Supplemental Appropriations Act, 1978.

LIMITATION ON USE OF GASOLINE BY DEPARTMENT

SEC. 810. No funds authorized to be appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to purchase motor gasoline or to reimburse any other Federal agency for motor gasoline in an amount which exceeds 85 percent of the amount of motor gasoline purchased (and for which reimbursement was made to another Federal agency or entity) during the fiscal year ending September 30, 1979, by any component of the Department for which funds are authorized to be appropriated by this Act.

LIMITATION ON CONTRACTING

SEC. 811. Authority under this Act to enter into contracts obligating the United States to make outlays may be exercised only to the extent as may be provided in advance in appropriation Acts.

MILITARY APPLICATIONS

SEC. 812. (a) Nothing in this Act shall apply with respect to any authorization in any other law for appropriations for the fiscal year ending September 30, 1980, for any military application of nuclear energy, for research and development in support of the armed forces, or for the common defense and security of the United States.

(b) For purposes of subsection (a):

(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2121, 2122).

(2) The term "research and development", as used in this section is defined by section 11 z. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

COORDINATION WITH THE ENERGY REORGANIZATION ACT OF 1974

SEC. 813. With respect to the fiscal year 1980, the provisions of this title shall supersede the provisions of section 111 of the Energy Reorganization Act of 1974.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 74, after line 3, insert the following new section:

POSTEMPLOYMENT RESTRICTIONS

SEC. 805. In the case of any employee of the Department of Energy whose basic pay is paid from funds authorized to be appropriated by this Act, section 605(a) of the Department of Energy Organization Act (42 U.S.C. 7215(a)) shall not apply with respect to any appearance, attendance, or written or oral communication made by such employee after the date of the enactment of this Act and before September 30, 1980.

Redesignate the following sections accordingly.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Chairman, all this amendment does is provide that during the period covered by this authorization the present restrictions which exist in the Department of Energy Organization Act concerning postemployment restrictions will not be effective. The reason for so providing is that these postemployment restrictions were placed in the Department of Energy Organization Act prior to the time that the Ethics in Government Act was enacted. The Ethics in Government Act now covers this area, and it seems appropriate and proper that the same standards be applicable to all employees including Department of Energy employees. This amendment does not change existing law permanently, but it gives a little time in which these provisions are suspended and during which the Ethics in Government Act's provisions apply. If this were not passed, I am told that a number of employees of the DOE would leave employment because of the underly restrictive provisions of the Department of Energy Organization Act. This amendment will give the committee time to study the matter and, if it thinks desirable, permanently amend the Department of Energy Act.

Mr. DINGELL. Mr. Chairman, would my good friend, the gentleman from Texas, yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Texas has been gracious enough to make a copy of this amendment available to the committee. We have had a chance to review it. We have no objection to it. As a matter of fact, we find it helpful. I further would advise the gentleman from Texas that the point he raises is an excellent one. It is one which needs correction, and I have instructed the staff that to prepare to move forward toward consideration of substantive changes in the law to deal with the long-term question the gentleman is so wisely dealing with on a short-term basis. I am happy to accept the amendment.

Mr. ECKHARDT. I thank the Chairman.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, last night just before the House adjourned I had an opportunity to address the House for 1 minute under a unanimous-consent request. I rise essentially to reiterate the remarks that were inserted in the RECORD at that time at page 28679. I rise at this time to advise my colleagues in the House that when we go back into the House I will request a separate vote on the Courter amendment

which immediately decontrolled gasoline on the effective date of the legislation on which we now labor.

Mr. Chairman, there are a number of points that my colleagues should have clearly in mind at the time that the matter comes before the House. The first is that the controls will expire according to law on September 30, 1981, and that between now and that time we will see, through the phased decontrol of crude oil, the phased decontrol of gasoline. Gasoline at that time will rise to the world market price. By a curious anomaly, although the allocation controls were criticized, the amendment and bill as modified by the adoption of the Gramm amendment permit the allocations which were so sternly criticized to continue and the price controls, which were not criticized, have been removed.

The amendments on which we have labored in the Courter and the Gramm amendments create serious confusion on gasoline regulations. For example, there is a strong possibility—as a matter of fact, it is almost certain—that the amendments as they have been adopted will eliminate funds for the enforcement of cases now relating to gasoline price violations, and as a result persons who have profited greatly in the violation of law will, by the Gramm-Courter amendment, receive the benefit of expiation and legislative forgiveness of the amounts due the Federal Government, and also will receive the shelter from criminal prosecution for violation of the law. There is also the possibility that through the adoption of these amendments, if the House does so, we may find that although there may be allocation to priority categories of users, small retailers, jobbers, ranchers, farmers, and others, the price cannot be specified under which that allocation will take place, with the result that if there were to be disorder, and allocation were to be required, we could find that allocation could take place but that the price could not be subject to any Federal order. The consequence would be that the person required to allocate could say, certainly he will allocate but since the recipient would be outside a regular chain of distribution, there would be a strong possibility that the allocation could take place at two or three or four or five times the regular market price, something which I think is both unwise and unnecessary. My colleagues must bear carefully in mind that in the event that a major shutoff in supply, gasoline prices would be highly volatile. We could witness ourselves in situations where we would see not a repetition of a $1.50 price which took place during the Iranian crisis, but that prices could go to $2, or according to former Deputy Secretary of Energy Mr. O'Leary, the strong possibility exists that $2 or $3 or $4 gasoline prices could occur.

Last of all, it should be noted that in the near future the studies required by title III of the Petroleum Marketing Practices Act, the so-called Dealer Day in Court, will be submitted to the Congress with regard to how we shall retain competition in the retail and in the wholesale portions of the gasoline marketing industry. To require decontrol at this time is literally to foreclose whatever option we might have to assure that the steps to assure competition are carried out as recommended in that study, and I do not think that the House wishes to be guilty of that particular action.

Last of all, the two major small business organizations in this industry are strongly opposed to gasoline price decontrol. The National Oil Jobbers Council, representing jobbers who are both wholesalers and retailers, have passed a resolution resolving opposition to decontrol at this particular time, and the Service Station Dealers of America, formerly known as the National Congress of Petroleum Retailers, are pointing out that decontrol at this particular time may cause many problems.

□ 1450

For these reasons, when we get back into the House, I urge very strongly that my colleagues join me, not only in securing a separate vote on this question of gasoline price decontrol, so unwisely adopted earlier in the committee, but also that they join me in overturning the action of the committee in view of the reasons just expressed.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it has been indicated when we go back into the House there will be an effort to reverse the Courter amendment. I just want to take a few moments to try to clarify some of the issues and attempt to respond to some of the alarmist rhetoric we have heard about what might be the effect of the decontrol amendment that was adopted.

Mr. Chairman, it has been said in the last few days without price controls in the gasoline market the price of gasoline might rise to $1.50 or $2 a gallon. We just heard in the well of this House a moment ago that indeed it would be even more than that, that it might rise to $3 or $4 a gallon. I think that must tax our credulity just a little bit because I would remind the House that $4 per gallon is the equivalent of oil at $150 per barrel in crude oil prices and I do not think anyone could imagine such an outcome. We are in bad shape in the oil market but certainly not that bad.

Mr. Chairman, what the House has to remember is that today the inventories of gasoline and crude oil have been rebuilt in our refining system.

Mr. Chairman, in contrast to these exaggerated predictions, the fact of the matter is we have rebuilt the crude oil inventories and the gasoline inventories in our refining system. The market supply and demand are now back in balance and if we were to pass this amendment and DOE were to decontrol the price of gasoline tomorrow, in my view it would not rise by even a plug nickel. As a matter of fact, this was testified to before a House committee just yesterday. A spokesman from the Department of Energy appeared before a committee and said there would be no impact on the price of gasoline at the present time. I hope the House would keep that in mind as we reconsider this amendment.

Mr. Chairman, I think the more important point that needs to be made today is that I have had many Members say, "Yes, we wanted to junk, we wanted to jettison that whole allocation system because that clearly has been counterproductive, but do we not need some kind of price controls to protect us, just in case the market is unstabilized?"

I would have to say to the House, Mr. Chairman, before you think the price controls are going to do you any good in protecting your consumers or holding down the price of gasoline, just consider the experience that we have gone through these past 9 months. During the last 9 months we did have the Iranian shutdown, we did have an unstable market. What is the outcome in terms of impact of this whole gasoline price control system on the price of gasoline?

Mr. Chairman, let me give the House some very interesting information: Between January and September, Exxon's price for No. 2 distillate, which is totally uncontrolled, totally unregulated, rose by 54 percent. During that same 9-month period Exxon's wholesale price for gasoline, which is regulated under the program that this move would try to preserve, also rose by 54 percent.

Mr. Chairman, the point is the gasoline price controls over any considerable period of time—3, 4, 5 months or so—do not hold down the price of gasoline because basically that system is simply a revolving door that allows the rising price of crude to be passed through.

Mr. Chairman, the point is, they are not effective in protecting the consumer, as many Members of this House may have been erroneously led to believe.

Mr. Chairman, the gentleman from Michigan suggests that may be true, when the market is in balance the price controls do not protect the consumer. It may be over a period of 8 or 10 months we get the same outcome anyway, but we we should still have the gasoline price controls in case we have another crisis in the world oil market, in case we have another world production outage and we get turmoil in the marketplace.

I would remind the House there are a lot of other countries around the world who went through the same shortage, the same tight market, during April and May that we had in this country. We had price controls on gasoline and they did not. The interesting thing is if you look at the retail price of gasoline at the pump in those countries you will find that even during the crisis period of May and June, their retail price of gasoline, minus the heavy tax they pay, was no different than ours. During June in this country when the price of gasoline was 90 cents a gallon at the pump, in West Germany, minus the dollar tax they pay, the price per gallon of gasoline was 90 cents, as well.

Mr. Chairman, the point is, even during periods of disruption the gasoline price controls do not do a great deal of good. However, certainly, over any 8- or 9-month period they have absolutely nothing to do with holding down the gasoline price because the scarce commodity in the world today is crude oil. If there is an outage of crude oil, the crude oil price is going to rise and this system simply passes it through and it does not protect the consumer.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 1 additional minute.)

Mr. STOCKMAN. What I am suggesting to the House is that we made the right decision to jettison the whole allocation system. I think there is a clear majority in the House to get rid of it.

Mr. Chairman, the further point I am making is that by reversing that amendment under the hope that we are bringing back some price-control protection, we are not doing that at all and so, therefore, the bottom-line meaning of a vote to reverse the amendment that we adopted last week is simply to bring back the allocation system and all the dislocation, all of the disruption that that caused in the market during this previous spring.

Mr. Chairman, I would hope that the House would sustain the wise judgment that we made last week. I hope we will not be misled by that wild, exaggerated predictions that have been made about price. I hope we will understand that this gasoline price-control system really does not hold down the price and by reinstituting the current program the only thing we are doing is taking 3,000 pages of allocation regulations, putting them back on the market and if we get another shortage we will get the same disruption.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. BAUMAN and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 3 additional minutes.)

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I want to concur in what the gentleman from Michigan has said. There is a theory of politics that says that the voter reacts most forcefully to the issues that touch his life intimately. I happen to subscribe to that. I think all of us as practicing politicians realize it.

Mr. Chairman, the issue that is being raised in the Courter amendment and the attempt now to repeal the previous action will have an intimate impact on every one of our constituents. Any Member who votes to continue the gasoline allocation system that has messed up this Nation's economy for 5 years will feel the retribution of every person who sits in a gas line henceforth.

The gentleman from Maryland, together with Members from the other States in the Washington area, sat through repeated meetings with the officials of the Department of Energy who candidly admitted that one of the reasons the Washington area and southern Maryland, suffered so much, was the allocation system and its inability to respond to the needs of the marketplace as well as the months and months of delay in changing allocations.

We have seen thousands of small businessmen, independent gasoline station operators, wiped out over the last several years because of this system. We know the major oil companies do not suffer, but the small businessman suffers, the person who needs gasoline to bring his groceries from the store, his kids to school, to go back and forth to work where there is no mass transit, they are the ones who suffer. All of the experts admit, with a few apologies from some of our friends here who like big government, that it is the Federal gasoline allocation system that is at fault.

Mr. Chairman, if the Members will vote to reverse themselves on this amendment they will have to go home and explain to the people who will suffer that we were willing to continue a system proven false, proven a failure and a system that has harmed this country, harmed individuals and made them suffer.

Mr. Chairman, I do not want that responsibility and we have the chance to reverse a very bad policy today by standing by the Courter amendment.

□ 1500

Mr. STOCKMAN. Mr. Chairman, I appreciate the gentleman's comments.

Let me just say further that the man who ran this program during the worst period in June, Mr. Bardin, testified before our committee and he said that if you had an allocation program for milk like this you would get the same outcome. You would have lines at the supermarket.

Mr. BAUMAN. If milk were under allocation, there would be babies crying all across this country.

Mr. STOCKMAN. I think the gentleman is precisely correct.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I would be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman taking the well to explain to the House what the gentleman has heard in committee. My understanding is that if we keep the allocation system as it presently relates to gasoline. it could be that the cost would be shifted to higher prices for heating oil. Could the gentleman explain that?

Mr. STOCKMAN. Well, I think that is a very distinct possibility and it is a point that we have made before. If you are regulating the refinery margin on gasoline, but not on heating oil, costs that would normally be borne by that gallon of gasoline will be shifted over to heating oil and that means you are going to have people who are in very severe financial straits paying their heating bills this winter, helping to subsidize some teenager who drives his hotrod to school.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. STOCKMAN) has again expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. STOCKMAN. I would be happy to yield.

Mr. ROUSSELOT. Then it is very possible if we reverse what this House very wisely did last Friday, that it could mean that the cost increase will be shifted to heating oil.

Mr. STOCKMAN. That is precisely correct.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman making that point.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 78, line 11, insert "(a)" after "SEC. 810.".

Page 78, after line 20, insert the following new subsection:

(b)(1) The Secretary of Energy shall advertise in the Federal Register to request bids from distributors of alternative fuels produced in the United States for the purchase of such alternative fuels for use during the fiscal year ending September 30, 1980, in motor vehicles owned by the Department of Energy.

(2) The Secretary shall require that each such distributor who submits such a bid include in such bid an agreement—

(A) to provide a quantity of an alternative fuel—

(i) which will produce an amount of energy which is not less than the amount of energy produced by 200,000 gallons of motor gasoline, and

(ii) the cost of which does not exceed the cost that the Secretary would incur to purchase 200,000 gallons of motor gasoline,

(B) to pay any amount, as determined by the Secretary, by which any cost of constructing, operating, and maintaining any facility for the storage of such alternative fuel exceeds the cost of constructing, operating, and maintaining any facility for the storage of motor gasoline that would have been incurred if such motor gasoline had been purchased by the Secretary in lieu of such alternative fuel,

(C) (i) to pay the cost of equipping such motor vehicles to consume such alternative fuel, and

(ii) to deposit in an escrow account established by the Secretary funds sufficient to pay any cost of refitting such motor vehicles to consume motor gasoline if the Secretary determines that the utility of such alternative fuel is inadequate or if such distributor fails to provide the quantity of such alternative fuel specified in such bid, and

(D) to pay any amount, as determined by the Secretary, by which any cost of repairing or maintaining such motor vehicles equipped to consume such alternative fuel exceeds the cost that would have been incurred to repair and maintain such motor vehicles if such motor vehicles had not been so equipped.

(3) The Secretary shall refuse to accept any bid which is submitted more than 60 days after the date the Secretary advertises for bids under paragraph.

(4) The Secretary shall accept at least one bid which satisfies the requirements of this subsection unless the Secretary has good cause to reject each such bid.

(5) For purposes of this subsection. the term "alternative fuel" means any liquid fuel, other than motor gasoline, consumable by a motor vehicle for propulsion, including gasohol, liquefied methane, liquefied coal, and any liquid hydride.

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. HUGHES. Mr. Chairman, reserving the right to object, I wonder if we could have a copy of the amendment or have it read, one of the two.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California (Mr. DANNEMEYER) that the amendment be considered as read and printed in the RECORD?

Mr. HUGHES. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will report the amendment.

The Clerk concluded the reading of the amendment.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan reserves a point of order.

Mr. DANNEMEYER. Mr. Chairman, the amendment I am proposing here today has one simple purpose: To encourage development of alternative fuels by requiring the Department of Energy to provide a market for those fuels whereby they could be tested. The market would consist of the general-purpose vehicle fleet owned and operated by the Department of Energy (DOE).

For years now, we have been hearing about the need to develop alternative fuel supplies. Subsequently, some of these products, such as gasohol, have come on the market and even more recently, legislation has been passed by the House of Representatives calling for Government price supports for synthetic fuels. Clearly, the need is there, as last spring's gas crunch attested; the question is, How can we get these alternative fuels into production in the shortest time and at the least cost to the hard-pressed American taxpayers?

Those advocating the Government-owned or Government-operated synfuels approach argue that the task is either beyond the financial capability of private enterprise or should be controlled by Government to prevent excess profitmaking. But such thinking is overly simplistic. Aside from the fact that Government intervention in, and control over, our existing domestic energy industry is largely responsible for the shortages we are faced with, it is also a fact that there are any number of firms, some of them either new or small, which have developed, or claim to have developed, new types of fuel and are anxious to try them out, but for one reason or another have no ready market or have a market too small to be cost efficient. Likewise, there are other firms that could accelerate development of their products if they only could sell more of it.

Some will argue, so what. If the product is worthy and the price is right, it will develop, and should develop, without Government interference. But, the fact is, the Federal Government buys a lot of fuel and, by so doing, it intervenes in behalf of—or gives an advantage to, depending on your point of view—whatever supplier it contracts with. Since that is the case, the question is not should the Government help one side or the other but which one on what terms? Carrying this logic one step further, if there is to be a national policy to encourage the production of synthetic or alternative fuels, why not have the Government, through its fuel purchase policy, "tilt" toward alternative, rather than conventional, fuel suppliers? Such a policy would not only be far cheaper than Government owned or operated energy facilities but it would involve a minimum of Government regulation. In fact, the role of Government would be far more what it should be—that of being helpful rather than getting in the way or casting a wet blanket over the whole process.

More specifically, what I am suggesting is that the Department of Energy, since this would be a test program and the Department of Energy is responsible for such testing, be required to solicit bids for alternative fuels as well as for gasoline, and if a supplier of alternative fuels can match or beat the price of gasoline, he be given the contract. Bids would be for 200,000-gallon increments of fuel and all costs—to the Department of Energy—of converting to that fuel would be borne by the supplier. Likewise, any extra maintenance costs would have to be made good by the supplier and the supplier would be further required to put into escrow a sufficient sum of money to lower the costs of reconverting to motor gasoline should he be unable to deliver sufficient quantities of the fuel or should the fuel not work as anticipated.

To make sure that the alternative fuels are going to be produced in this country, bidders would be required to so certify before their bid could be accepted. If more than one bidder appeared, and met the qualifications outlined above, within 60 days of the date the fuel purchase order was put up for bid, the Secretary of the Department of Energy would make the choice between the respective bidders based on the facts outstanding. However, if there was only one bidder who qualified, that bidder would get the contract; the Secretary would not have the option of sticking with motor gasoline unless he could show good cause for not awarding an otherwise qualified bidder that contract.

Were this amendment to be adopted, it would provide, at no cost to the taxpayer, a mechanism to accelerate the development of alternative fuels. For the year ending September 30, 1979, DOE owned and operated 11,441 general purpose vehicles which, during the course of the year, used 9,982,181 gallons of fuel. Roughly 30 percent of this amount was supplied under defense fuel supply contracts, which come under the aegis of the Defense Logistic Agency, and 2 percent was diesel fuel, but that still leaves 6.79 million gallons of gasoline for which substitutes could be found. Even if we pass the 15-percent reduction in usage of gasoline envisioned in section 810 of H.R. 4839, DOE's fuel utilization will still be high enough to permit such an experiment to go forward. Of course, there will be some limitations brought about by distribution factors, some of the vehicles may be thinly spread over a wide area and then not able to get to a fuel supply center while some others might have to be used for long distance travel away from alternate fuel supply centers, but in areas where there are sizable concentrations of DOE vehicles it ought to work. While most of these vehicles are operated by the contractors hired to operate the DOE facility, that should not be too great a problem. At least, the concept should be given a try; at the very worst, either no bidders meet the qualifications, in which case we are no worse off than we are right now, or a bidder cannot deliver on his commitment, in which case there is a bit of inconvenience but no great loss to the taxpayer.

Lest there be any confusion, this is not a subsidy or loan guarantee program. This is, purely and simply, a program that would give producers, or would-be producers, of alternative fuels, a chance to deliver on their claims. If a producer says he can supply an alternative fuel at a price competitive with motor gasoline, then he would have an opportunity, provided he met the other conditions. But, if a bidder could not meet the conditions he would not get the contract or if the condition were not fulfilled once the contract was signed, he would have to make good the cost to the Government of going back to gasoline. In short, it is a "put up or shut up" type proposition which, given the research and development orientation of the Department of Energy, seems entirely appropriate. If we are going to condition DOE's gasoline purchases to reduction of usage, why not also attach the condition that DOE give alternatives a try. It is entirely consistent, in both purpose and method, therefore, I urge adoption of this amendment.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I rise to insist on my point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, the rules of the House require that amendments to legislation shall be germane, first, to the bill, and second, to the portion of the bill to which they are directed.

Mr. Chairman, without addressing at this particular moment whether or not the amendment is germane to the bill, I will address the second point, which is the lack of germaneness of the amendment to the portion of the bill to which it is offered.

Mr. Chairman, if the Chair will observe, the portion of the bill to which the amendment is offered, it can be observed it is a limitation on the use of gasoline by a department. It then is a limitation on funds, which reads as follows:

No funds authorized to be appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to purchase motor gasoline or reimburse any other Federal agency for motor gasoline in an amount which exceeds 85 percent of the amount of the motor gasoline purchase.

In other words, we have here a limitation. The proposal that is offered by my dear friend, the gentleman from California, is one which would set up a rather large program which would require the Secretary of Energy to do a whole series of things, none of which are consistent with or which are relevant to this limitation.

First, to advertise in the Federal Register, to request bids from distributors of alternative fuels produced in the United States for the purchase of such alternative fuels for vehicles owned by the Department of Energy.

Second of all, there is a series of requirements that the Secretary shall require that each distributor who submits such a bid to do a series of things; to provide a quantity of an alternative fuel, which will produce an amount of energy which is not less than the amount of energy produced by 200,000 gallons of motor gasoline.

I would ask the Chair to note that the section with which we are dealing is a limitation on use of gasoline. This is for alternative fuels, which will have an equivalent energy release of 200,000 gallons of gasoline.

Now, whether the gentleman speaks of hydrogen or whether the gentleman speaks of different alcohols or synthetic fuels produced from other sources with which I might not presently be familiar, I am not able to say; but the fuels here are much broader and are not petroleum products necessarily, but are synthetics.

□ 1510

Further, the individual who submits a bid must agree to pay the cost of constructing, operating, and maintaining facilities for storage of alternative fuels insofar as it exceeds the cost of constructing, operating, and maintaining facilities for the storage of motor gasoline; to pay the cost of equipping motor vehicles using such alternative fuels; to deposit in an escrow fund established by the Secretary sufficient funds to pay the cost of retrofitting motor vehicles to consume motor gasoline if the Secretary determines such alternative fuels are adequate; and to pay any amount, as determined by the Secretary, by which any cost of repairing or maintaining motor vehicles equipped to consume such alternative fuels exceeds the cost if such motor vehicles had not been so equipped.

Then it sets up matters relating to the bidding, and it further sets up matters relating to whether the Secretary shall accept bids or not accept bids.

Then it goes on to define the liquid fuel, which it specifically defines as "other than motor gasoline," whereas the section in question deals with gasoline.

So, Mr. Chairman, I point out that on this basis the amendment is not germane to the portion of the bill to which it is directed.

In addition to this, Mr. Chairman, there are other sections relating to synthetics, relating to conservation, and relating to procurement. Those are not the sections in question here, but I would point out, Mr. Chairman, that I am unaware of any portion of the bill to which this would be germane, because, as the Chair would observe, it sets up a very large process for the Department of Energy to procure synthetic fuels. That is something which is not found elsewhere in the legislation.

So, for those reasons, Mr. Chairman, I would urge that the Chair find this matter to be not germane to the legislation before us.

The CHAIRMAN pro tempore. Does the gentleman from California (Mr. DANNEMEYER) wish to be heard on the point of order?

Mr. DANNEMEYER. Yes, I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. DANNEMEYER. Mr. Chairman, section 810 of the committee bill which is before the committee now for its consideration contains a restriction on the use of funds during the existing fiscal year for the purchase of motor gasoline. That is in section 810 of the bill before the committee.

For instance, it provides that the Department of Energy is required to reduce its consumption of gasoline by not less than 15 percent during this 1980 fiscal year.

That is the very thrust of this proposed amendment. It is designed also to reduce the quantity of gasoline that is being consumed by the Department of Energy through the medium of soliciting alternative sources of supply. It is not specific; it just says, "alternative fuels" in the proposed amendment.

It is submitted that the reduction of gasoline by 15 percent which is mandated in the committee bill is consistent with the thrust of the amendment which seeks delaying of the funds for making available alternative fuels.

In a nutshell, Mr. Chairman, there is little difference between reducing the use of gasoline by 15 percent, either by cost or other means, and achieving that reduction of gasoline consumption by the use of alternative fuels.

On that basis, Mr. Chairman, the amendment proposed by the gentleman from California is, I believe, within the scope of section 810 of the committee bill.

The CHAIRMAN pro tempore (Mr. STUDDS). The Chair is prepared to rule.

The Chair will observe that the rules of the House require that the amendment first be germane to the pending portion of the bill to which it is offered.

Title VIII deals with operating funds and personnel expenses of the entire Department of Energy for the fiscal year 1980. The amendment appears to the Chair to be confined to fiscal year 1980 and to constitute an appropriate restriction or direction on how the Department uses its operating funds for the fiscal year in question, and it is, therefore, germane.

The Chair, therefore, overrules the point of order.

Mr. FUQUA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment that has been offered by my friend, the gentleman from California (Mr. DANNEMEYER), not only has imperfections as to its drafting, since it relates to vehicles owned by the Department of Energy, it is my understanding that the Department of Energy uses GSA vehicles and owns no vehicles other than those that may be test vehicles that it owns outright itself. So this amendment probably should be directed to the General Services Administration rather than to the Department of Energy.

In addition, many of the vehicles are located in somewhat remote areas where research facilities are conducted, and, consequently, are not readily available to anything other than the normal sources of fuel.

But, Mr. Chairman, let me get to the heart of the matter. The gentleman from California (Mr. DANNEMEYER) has explained that he has someone who has expressed interest in a liquid hydride, that they can make this material, and that it can be used in the Department of Energy vehicles, even though the Department does not own any.

I might point out that this gentleman is well known to our committee, and he is well known to the other body. He has been heard in a hearing before the other body, and he met with the staff and with members of the Subcommittee of the Committee on Science and Technology, but to this date he has failed to provide any information about the process by which he arrives at this or about the technology. We have offered to provide the testing by the Department of Energy, and he has refused to cooperate with them and provide any money or any information so that they can test this process that he is talking about.

I think what we need to do is to go on with the known fuels that we have and not try to have just a single-purpose fuel from one individual. There have been certain representations made by this individual that have not been proven or that have raised serious questions as to the motivation and as to what the purposes were in trying to develop this material. Certain names have been used in allegations that people could cut corners if certain people would invest in other types of things. I think this amendment is something we should not be addressing ourselves to.

I would much prefer that if this technology has a viable use—and I hope that it does; possibly it does—we can define it and we can examine it under the proper circumstances. Then we can make a report and have the Department of Energy make a report to this Congress. Perhaps then we can proceed to try to incorporate this into some of the alternative fuels we may have.

But, Mr. Chairman, until that time I think it is better that we reject this amendment and wait until we can find further information.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I would like to ask the gentleman in the

well if he knows whether the producer of this particular product has a patent.

Mr. FUQUA. Mr. Chairman, I understand that he has a patent request which is pending, and by that means I thought maybe he might be able to reveal some of his technology to Government people, as others do, so that they may test the product and determine if this is a viable product.

Mr. DANNEMEYER. Mr. Chairman, it is my understanding—and the gentleman can correct me if I am wrong—that the producer or developer of this particular fuel does not have it patented, that it is a proprietary interest, and that the reason he is reluctant to submit it to the Department of Energy for its evaluation is his fear that the proprietary interest which he has developed, all from private funds, would be exploited to his disadvantage. Therefore, all he is asking for is just an order to provide the fuel to see if it will work in an automobile.

Mr. Chairman, I ask the gentleman in the well, how can the Government or how can the taxpayer lose if the gentleman can produce a fuel that would power a car consistent with what gasoline will do?

Mr. FUQUA. Mr. Chairman, I do not think we ought to change all the GSA automobiles so that they can use this fuel when we do not know whether it will work or not.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I am happy to yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, may I say to my friend, the gentleman from California (Mr. DANNEMEYER), that we have extensive programs of research, both in photovoltaics, which is the source of electricity the gentleman is talking about to make hydrogen, and in the preparation of hydrides and the use of hydrogen fuels.

The CHAIRMAN pro tempore. The time of the gentleman from Florida (Mr. FUQUA) has expired.

(On request of Mr. McCORMACK, and by unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. Mr. Chairman, if the gentleman will yield further, we have extensive programs on the preparation of hydrides and on the propulsion of automobiles from hydrogen.

Now, with all due respect, I recognize that it is possible to make hydrogen from this process. We who are acquainted with these technologies and who have been working on them recognize it is possible to make hydrogen from solar energy, using photovoltaic cells. There is nothing new about the technology. We know it is possible to make hydrides and it is possible to run automobiles on the hydrogen from those hydrides.

All these things have been done a number of times and in a number of places. We have ongoing research and development programs in each of these technologies, and we have had success in integrating them.

□ 1520

I think the thing to recognize is that we do have a reasonably well based program based on the state of the art, and that clearly we are not ready yet to start powering automobiles this way, particularly because the hydrogen made this way is very expensive, and any hydrogen must be made from some conventional energy source. The cheapest of them, which happens to be nuclear electricity, still provides a source of hydrogen that is too expensive to be competitive.

There is no doubt about the fact that we are going to have hydrogen-driven cars and airplanes early in the 21st century, but I think it is impetuous of us to try to impose this program on the Department of Energy at this time, and I sincerely request the gentleman from California withdraw his amendment, in the knowledge that we will be going on with these programs in an orderly manner.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from California.

Mr. DANNEMEYER. One of the things which has intrigued the gentleman from California on this subject is: How are taxpayers of this country going to lose if we merely establish a proposal whereby a developer of this fuel will be given an opportunity to bid to see if the fuel that he produces and brings forward will run an automobile? How are the taxpayers going to lose on that?

Mr. FUQUA. Mr. Chairman, let me say to the gentleman that I can bring in 100 new technologies that people have been by to see me or have written me about that have some type of technology that they think may work, and I have some confidence in them. I have confidence that this process may work. But I think it should go through the normal procedure and the process that we have in this government. If not, we will be running like somebody shooting a gun in a chicken yard, in all different directions.

What we are after and what the gentleman from Washington is proposing is that we can have some hearings, try to discuss this matter, and through the normal procedure maybe we can offer the gentleman some help and some hope.

Mr. DANNEMEYER. I thank the gentleman.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to suggest to my colleagues that we do not look seriously and carefully enough at innovative ideas.

I just want to give the committee a little vignette. One pair I know has set up in their back yard an innovative solar heating arrangement. They thought it would be interesting to the Department of Energy. It was too simple. It did not seem to be of real interest, and the Department of Energy could not send anybody to look at it. Well, that is perhaps understandable. Maybe it would be impossible to send an inspector to every back yard.

But then we have another idea, a very complicated device developed by two Ph. D.'s from MIT. I do not know exactly what it was because I am not particularly knowledgeable in that area. What answer did they get from the DOE? "We are not interested in something that looks as though it might be commercially viable. This might be commercially viable. We are not interested. We want to develop back-yard solar energy."

Where do you go in this country to find somebody who is going to take an idea seriously? What kind of ideas do they consider interesting?

If people had behaved this way about Henry Ford, we would not be in automobiles yet. Somebody has to take an interest in people who have not got very much money, who have an idea, an idea that might be useful, and really get busy to see if their idea is workable.

Mr. FUQUA. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentlewoman for yielding.

Mr. Chairman, I will say to the gentlewoman that we have a program within the Department of Energy called appropriate technology, and a small inventors' program. They are trying to help small inventors, as the gentlewoman says, and people who have some excellent ideas they have developed in their own garage or backyard.

Mrs. FENWICK. But look what happens to them. On the one hand they are told that the Department is only interested in backyard stuff and, on the other hand, they are told the idea is too good, "it might be commercially viable, do not bring it to us."

It is easy to say that a given device might be commercially viable, suggesting that they ought to be able to get independent financing; but that kind of money is not moving around any more. The savings of the American people are dropping and dropping. There is not very much loose money.

Mr. HUGHES. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentlewoman for yielding.

Mr. Chairman, I have read the amendment very carefully, and I think it is seriously flawed. It would require the Secretary of Energy to actually advertise for bids for any number of alternative fuel. What standards would you advertise? What would you accept? Much of the technology has not been proven. How do you determine whether it is efficient or effective? We are going to use the fleet of Department of Energy vehicles; or perhaps General Services vehicles, as has been represented by the chairman of the Committee on Science and Technology. There are no standards by which the Secretary of Energy could make an intelligent decision as between competing technologies.

Mrs. FENWICK. I agree. I am not speaking specifically on this. This amendment brought to my attention

something that I feel is a very grave lack in the Department of Energy attitude.

Mr. HUGHES. If the gentlewoman will yield further, I agree with what our colleague, the gentleman from California, wants to do, but I think this misses the target. I would hope that my colleagues would reject the amendment.

Mrs. FENWICK. Mr. Chairman, I hope that this colloquy will serve to put the Department of Energy on notice that you cannot say to one group, "It is too good," and you cannot say to another group, "It is too bad." You have to find some ideas interesting.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask my colleague, the gentleman from California (Mr. DANNEMEYER) a question. I tried to listen to this debate on his amendment, which incidently appears to me to be harmless, but maybe I do not read as carefully as other Members do who seem to oppose it.

My understanding is that the gentleman is not mandating that the Secretary use every one of the 11,000 vehicles of the Department of Energy. Is my figure right? Is it 11,000 vehicles that the Department of Energy has?

Mr. DANNEMEYER. There are 11,441 vehicles owned by the Department of Energy as of September 30, 1979.

Mr. ROUSSELOT. Is the gentleman mandating that a given portion of those vehicles be subject to this experimentation?

Mr. DANNEMEYER. Not at all.

Mr. ROUSSELOT. So it is strictly up to the Secretary; is that correct?

Mr. DANNEMEYER. That is correct. The Secretary would be required to solicit a bid which would then be evaluated as to whether or not the fuel of this alternative source is competitive with gasoline, and if it is a dependable source of supply.

Mr. ROUSSELOT. And those are the only two requirements in opening it up for bid that the Secretary must abide by?

Mr. DANNEMEYER. There are several others that I think redound to the benefit of the taxpayers. The third element is that the provider of the alternative fuel, for instance, must put up the money, estimated to cost $400 per vehicle, to convert cars to run on hydrogen. In addition, he has to provide that he has to put enough money in escrow so that if he does not continue to provide the fuel, if he runs short, the money is there to reconvert the cars back to gasoline. I do not see how the taxpayer can lose.

Mr. ROUSSELOT. Maybe there is some sophisticated reasoning that we did not quite grasp, as our colleagues who oppose this. This seems like a very, very reasonable amendment and does not put an undue burden on the Secretary. Maybe that is why it will not pass—because it is so reasonable.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I want to congratulate the gentleman from California on his amendment.

Mr. Chairman, I introduced a bill recently to promote the use of hydrogen, because I found, in looking at the emphasis that the Department of Energy puts on various alternate sources of energy, that hydrogen is down at the bottom of the pile. In fact, hydrogen research has been reduced from $28 to $18 million. There is a de-emphasis on this source of energy. Of all the supply of energy in the world, hydrogen is at the top, and it is nonpolluting.

It seems to me that we would want to do all we can to promote the use of this source of energy. This is one very good way to do it. I want to compliment the gentleman.

Mr. ROUSSELOT. Mr. Chairman, I think the gentleman from Iowa has made an excellent point. It will indeed force attention on alternative sources of energy in automobiles. I think that this amendment will force proper attention within the DOE. It still leaves the bidding process, and everything else, to the Secretary. I think the gentleman's point is well taken.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I would support the gentleman from California in his amendment. I think there is a misconception here that we may be looking at some exotic fuel that would require radical changeover of motors and Government vehicles. Reading the amendment, I find that this is not the case, that it in fact includes gasohol, which can be burned practically as the automobile is.

I support the gentleman's amendment.

Mr. DANNEMEYER. If the gentleman will yield, the gentleman is correct. Any alternative fuel would be adequate.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague emphasizing the basic thrust of his amendment. It seems very reasonable, and I hope that that is not a strike against the amendment.

□ 1530

Mr. DANNEMEYER. The Department of Energy seems to say, "Our program development for hydrogen fuel for cars is not on line until the year 2000, so please don't bother us before then."

Mr. ROUSSELOT. I thank the gentleman.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I think it is important to understand that there is a misconception that has been flowing through part of the colloquy that has been going on on the floor during recent minutes.

The misconception is that hydrogen is a source of energy. It is not a source of energy. It is simply a transmitter of energy, somewhat as a copper wire is a transmitter of electricity. We must make the hydrogen before we can use it.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(At the request of Mr. McCORMACK and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Washington.

Mr. McCORMACK. Regardless of how we consider the merits of this amendment, I think it is fundamentally important to understand that hydrogen is not a source of energy. It is only a conductor of energy. We must make the hydrogen before we can use it, and we always lose energy when going from making it to using it, because the laws of thermodynamics demand that that is what happens. The most practical method to make hydrogen is to use electrolysis, and electricity may come from any electric source at all; such as hydroelectricity, nuclear energy, coal, solar energy, or whatever.

In all instances it is much more expensive to use hydrogen as a fuel than conventional fuels available to us today. I think we should understand those simple facts.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. ROUSSELOT) has again expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Washington.

Mr. McCORMACK. I should like to point out also that the Subcommittee on Energy Research and Production which I have the responsibility for chairing, received from the administration a request for $2.7 million for the production, storage, transportation, and use of hydrogen for fiscal year 1980. We increased that by $4 million, to a total $6.7 million. We have an aggressive program underway. We are pushing this as rapidly as the technology will allow.

I hope the gentleman will understand these simple facts.

Mr. ROUSSELOT. I appreciate that, but the facts that my colleagues has presented so much to the point do not in any way affect this amendment which merely encourages the Secretary to be involved in advertising in the Federal Register to request bids from distributors of alternative fuels.

Just because the cost of producing hydrogen may presently be very expensive does not mean that the Secretary could not carry on this program to determine if that could be utilized in automobiles.

Mr. McCORMACK. If the gentleman will continue to yield, I do not disagree with his point. I would submit that the orderly method would be to go through the regular research, development, demonstration programs we have.

Mr. ROUSSELOT. But the facts my colleagues has presented do not take away from the thrust of this amendment to encourage the Secretary to utilize whatever vehicles he determines should be used for this kind of experimentation; does it?

Mr. McCORMACK. No, except for the fact I think it is ill-advised as far as timing is concerned.

Mr. ROUSSELOT. The timing is off?

Mr. McCORMACK. Yes.

Mr. ROUSSELOT. Knowing how slow bureaucracy moves, maybe this will be a little extra push.

● Mr. DORNAN. Mr. Chairman, I wish to join my colleagues Mr. ROUSSELOT, and Mr. GRASSLEY in support of the fine amendment offered by my distinguished friend and colleague, Mr. DANNEMEYER.

As I understand the gentleman's amendment, it allows for the Department of Energy to solicit competitive bids on the purchase of alternative fuels, fuels other than gasoline. I think that the gentleman's amendment is a splendid idea; for it will give the Federal Government a clear legislative mandate to consider the purchase of alternative fuel systems. Last year, I asked the representatives of the General Services Administration and the General Accounting Office to examine ways in which the procedures for processing competitive bids on new energy systems could be improved. Apparently, current policies and regulations preclude straight competitive bids on alternative fuels. I think that this amendment will serve to correct this problem.

As a member of the Committee on Science and Technology, I can well appreciate the reservations of my distinguished chairman (Mr. McCORMACK) for whom I entertain the highest respect and admiration. But I also must concede that I am more strongly persuaded by the reasoning of the gentlewoman from New Jersey (Mrs. FENWICK). We cannot simply follow current procedures, and go along with business as usual in the field of energy development and application. We cannot depend upon the good will of the representatives of the agencies or departments of this Government to somehow see us through the current energy crisis. If there is one fundamental lesson that I have learned as a Member of this distinguished body, it is this: There is absolutely no reason to believe that the Federal bureaucracy will by itself respond in new and imaginative ways to cope with this Nation's dangerous energy crisis.

Government has failed. It has failed miserably, from the attempt to regulate natural gas prices to absurd attempts to direct the allocation of oil and gasoline throughout the United States. In spite of this failure, we are being asked by the administration to embark upon a desperate, crash program to develop synthetic fuels, through the good offices of the proposed $88 billion Energy Security Corporation. Notwithstanding the environmentally hazardous nature and the immense cost of such a program, we are being urged to swallow the same old snake oil.

In the meantime, we neglect other, more imaginative means of advancing research and development of new energy resources—whether solar, geothermal, hydrogen, or solar-hydrogen—in and through the private sector. It seems to me that we should act now on the lessons of history. It makes much more sense to rely upon the inventive genius of the private sector and encourage individual entrepreneurs to develop and market alternative fuels through a competitive bidding program, at no extra cost to the taxpayers, than to rely upon yet another massive, inevitably wasteful and incompetent bureaucracy.

I heartily ask for the adoption of the Dannemeyer amendment.●

Mr. WEAVER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think that this debate has opened up one of the most important issues that we face in energy in this country.

I have been most impressed by what both gentlemen from California have said and what the gentlewoman from New Jersey said, the gentlewoman's plea that we stop repressing and suppressing these various energy forms in this country.

I have, I hope, the attention of such distinguished leaders on energy as the gentleman from Washington, the gentleman from Michigan, and the gentleman from Florida and the gentleman from Texas and others. I would like to relate a simple story comparable to that of the gentleman from California (Mr. DANNEMEYER).

In the Northwest we are building thermal plants, the utilities are, at a cost of 40 to 60 mils per kilowatt hour.

I had occasion to visit last week, not a dreamer, not an idealist, not somebody with a method that he did not know anything about, but a man who owns the largest independent lumber company in the United States of America. This is one of the great industrial giants in this country, Roseburg Lumber Co. They presently produce 40 megawatts of electricity in their plant using wood waste.

I asked him, "Could you produce more from the wood that is out in the forest now being burnt as waste up in the forest?"

He said, "I certainly could. I could immediately put 50 megawatts of firm, base load electricity on line."

I would like very much for the gentleman from Washington (Mr. McCORMACK) to listen to this story, because he just said that nuclear energy was the cheapest energy around to produce electricity.

This gentleman, Alan Ford, whose family owns this whole huge lumber combine, who is an expert in producing electricity from wood waste, because they are doing it now and have been for years, said he could produce 50 megawatts—that is enough for a city of 25,000 people—for 20 mils, 22 cents a kilowatt hour, and he could do it tomorrow; but the reason he did not do it is that the utility that serves his area will not buy it from him.

He now produces as much as he needs for his mill operations, but the utilities would not buy it from him except at down power, exactly the situation faced by the constituents of the gentleman from California.

Yet, we build and are building and are going to sell to our consumers in the Northwest 40 to 60 mils per kilowatt hour of electricity, while his wood waste goes wasted in the forest because of the very bureaucratic inertia or whatever it is that refuses to use these other energy sources.

Now, this is why we simply must open up every possible avenue that we have in this Nation to these other energy sources that are going to waste.

The Dannemeyer amendment is certainly a start and certainly should be supported.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to speak in support of this amendment because I believe that it does precisely what I think should be done.

I have in my congressional district two gentlemen, a Dale Pate and a Herb Hansen, from Elgin, who have developed a motor fuel from alcohol and water which, with a very small modification in any motor vehicle, operates in the same way that gasoline does. I know this, because I have seen it demonstrated, and I have operated the automobile with this fuel of 90 percent alcohol and 10 percent water.

The alcohol can be produced from agricultural products, and it can be produced from garbage, from waste material. Garbage is in plentiful supply. The alcohol can be readily and plentifully produced. This would provide a ready and early answer to the gasoline crunch that we are experiencing.

I would like to ask the gentleman from California (Mr. DANNEMEYER), if I do not correctly interpret the amendment that he is proposing here, so that my constituents and others who are able to produce such alternate fuels, would have an opportunity to bid and to see their inventions and their developments come to fruition through widespread use of alternate fuels such as these gentlemen in Elgin, Ill., have developed.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

The gentleman has correctly interpreted the proposed amendment. It does not specify what type of alternative fuel is being talked about. It can be any that the marketplace would produce. I think that is the genius of it.

Mr. McCLORY. I am in strong support of the amendment of the gentleman from California (Mr. DANNEMEYER).

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER).

The question was taken; and on a division—demanded by Mr. FUQUA—there were—ayes 35, noes 17.

So the amendment was agreed to.

□ 1540

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

AMENDMENT OFFERED BY MR. KOSTMAYER

Page 79, insert after line 25, the following:

SMALL BUSINESSES

SEC. 814. (a) In order to carry out a policy that the Department maximize procurements of research and development from small businesses, not less than 25 percent, determined on the basis of value, of research and development projects and services procured by the Department with funds authorized to be appropriated under this Act shall be procured from small businesses, except as provided in subsection (b).

(b) If the Secretary determines that compliance with the 25 percent requirement set forth in subsection (a) is impracticable, the Secretary shall transmit to the Committees on Science and Technology, Interstate and Foreign Commerce, Small Business, Interior and Insular Affairs, and Government Operations of the House of Representatives, and to the Committees on Energy and Natural Resources, Governmental Affairs, and Small Business of the Senate, a report which—

(1) apprises such Committees of the impracticability of compliance with such requirement, and

(2) lists the reasons for such determination of impracticability.

(c) For purposes of this section, the term "small business" shall have the meaning given such term under section 3 of the Small Business Act.

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Chairman, I ask unanimous consent to modify the amendment so as to read in the third line "12 percent" instead of "25 percent."

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Chairman, this is a very modest amendment. It simply would require that 12 percent of the research and development funds of the Department go to small businesses.

Last year the Department of Energy spent a little over $6 billion for research and development, 5.6 percent of that went to small business. I would like to raise that figure to 12 percent.

I recognize that some flexibility is required and, therefore, my amendment would permit the Secretary of Energy to waive this requirement if he felt that it could not be complied with.

Mr. Chairman, this has the support of many small business groups in the country, including the National Federation of Independent Businesses and the Small Business Legislative Council, which is made up of 43 small business groups.

I would like to read one very brief comment from a recent article in the Washington Star which I think makes the point I am trying to make and points out some of the advantages of trying to spread these funds around.

The National Science Foundation concluded, for example, that in the post-World War II period firms with fewer than 1,000 employees were responsible for half of the "most significant new industrial products and processes." Firms with 100 or fewer workers produced 24 percent of such innovations—and developed 24 times more major innovations per R. & D. dollar. Yet these small firms received only 3.5 percent of Federal R. & D. money.

It is my understanding, if I am not incorrect, Mr. Chairman, that my very good friend from Washington (Mr. McCORMACK) is opposed to this and will offer a substitute. I have had the opportunity to look at that substitute. Essentially it is very broad and very general and simply promotes the idea of small business. It eliminates the 12 percent.

If we need to do anything in the Department of Energy it is to get them to be more inventive, to be more resourceful, to direct some of this money to some smaller companies. That is all we are asking. We are asking simply for 12 percent, and we are giving the Secretary of Energy the right to waive that requirement if he sees fit.

If the gentleman from Washington does offer his substitute I will ask for a rollcall vote. I hope it will be rejected and that my amendment will be accepted.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding.

There is already a procedure set up within DOE for getting bids and potential awards on research to small business; is that correct?

Mr. KOSTMAYER. That is correct.

Mr. ROUSSELOT. So it will require no new procedure, just a higher level of activity for small business?

Mr. KOSTMAYER. The gentleman is correct. Last year the Congress passed amendments to the Small Business Act which established a procedure whereby the various agencies of the Government would work with SBA to arrive at targets. According to a GAO report, the Department of Energy, as the gentleman might imagine, has been somewhat negligent. This will spur them on and establish a target.

Mr. ROUSSELOT. If the gentleman will yield further, the procedure is well established and is understood by all who are potential bidders for this kind of research, and it is expected that it will not require any great new bureaucratic effort in order to comply with the 12 percent, meeting that new target?

Mr. KOSTMAYER. The gentleman is correct.

Mr. ROUSSELOT. If the gentleman will yield further, I think his amendment is well taken. There is no doubt about the fact that many of the smaller businesses that would like to be engaged in this kind of research feel rather overwhelmed in their ability to reach out and participate in this because they many times feel the sophistication and skills all rest with the larger corporations of the country.

I compliment the gentleman and I think it is an excellent amendment.

Mr. KOSTMAYER. I thank the gentleman and I urge the adoption of my amendment.

Mr. GRAMM. Mr Chairman, will the gentleman yield?

Mr. KOSTMAYER. I am delighted to yield to the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, I would like to ask the gentleman a question as to whether he has any concern on imposing an artificial constraint whereby if we could order project proposals in terms of potential return that we have got to not take those projects for which money is appropriated that we can afford but instead we have to take some artificial formula and fund 25 percent or use 25 percent of our money on projects that are proposed by small business? What are we trying to do here? Are we trying to promote small business or are we trying to promote energy?

Mr. KOSTMAYER. Perhaps the gentleman from Texas did not hear me when I said that the Secretary of Energy could waive this when he felt that it was not applicable.

Mr. GRAMM. If the gentleman will yield further, it seems to me to impose a constraint at all simply limits our ability to get the maximum energy per buck, which is what we ought to be trying to do.

Mr. KOSTMAYER. I do not think that anybody thinks the Department of Energy is getting the maximum energy per buck. If there is anything wrong with this Department it is that it is not being innovative. The gentlewoman from New Jersey spoke about the garage projects and the backyard projects.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent Mr. KOSTMAYER was allowed to proceed for 2 additional minutes.)

Mr. KOSTMAYER. All this amendment does is establish a target which can be waived, and I think a very modest target. The Governmentwide average figure is about 8 percent.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. Yes, I yield to the gentleman from Oregon.

Mr. WEAVER. I want to compliment the gentleman for his excellent amendment. It will obviously produce more energy. The debate we just previously had shows that it is the small entrepreneur that is going to develop the new and innovative ideas that will produce this energy and these projects should be given to the small, more of them to the small business to do away with the sloth, inertia, suppression, and repression that large industry, committed to previous courses, obviously shows today. We need to bring the small business person into this energy picture, and this is a way to do it.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I am glad to yield to my colleague from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. I must admit that I find many aspects of the gentleman's amendment attractive. I do remember that several months ago I had the opportunity to be in California and I was at the plant producing the only solar photovoltaic cells on a production

line basis. That plant happened to be run by ARCO. It used to be a small business and was absorbed by ARCO. The management there made the point over and over again that before they were absorbed by ARCO they were not able to come up with the capital to pursue their business.

It seems to me that kind of innovation then would be somewhat stymied by the gentleman's amendment. I am a little bit hesitant about just putting an artificial figure in without the kind of flexibility that would permit that kind of operation to go forward.

Mr. KOSTMAYER. I think the gentleman makes a very good point and I think his point is that the small company, before they were absorbed by ARCO, was not getting it simply because they were small. I do not think that is any reason, simply because they were small.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has again expired.

(By unanimous consent Mr. KOSTMAYER was allowed to proceed for 1 additional minute.)

Mr. KOSTMAYER. Mr. Chairman, before this company was absorbed by ARCO they were not getting it; once they were absorbed by ARCO and they were larger, they got it.

I do not think that is a good reason to deny people research and development funds simply because they are not among the largest corporations in the country.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman.

Mr. WEAVER. Mr. Chairman, I would just simply like to respond to the gentleman's excellent point that I talked to the president of the solar division of ARCO when he was here. He said for $10 million he could cut the cost of the silicon by 80 percent if he just had $10 million, and that is half of the cost of a photovoltaic cell, by the way, the silicon. It would be an enormous reduction in cost and he could not get the $10 million.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding further because I think it is well to note that before they were absorbed by ARCO they were getting $20 million of Federal money for their projects, and it is only after they were absorbed by ARCO that they were able to go even further. I think that is the point.

□ 1550

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. LUKEN and by unanimous consent, Mr. KOSTMAYER was allowed to proceed for 2 additional minutes.)

Mr. KOSTMAYER. Mr. Chairman, before yielding to my friend from Ohio, if I might, I yield to the gentleman from Florida to explain a change he has proposed in the amendment.

Mr. FUQUA. Mr. Chairman, I was proposing that we accept the gentleman's amendment with two modifications, as follows:

Following the part where it says, "impracticable," add the words, "in the case of any such project and service." So, it will be on an individual basis rather than a totality that they carry out the purpose of the amendment for the various projects. If we had a synthetic fuel project, they could try to do that on research projects.

Then, in the section 2, after the word "impracticability," add the words: "Nothing in this section precludes the Secretary from proceeding with such project or service upon transmittal of such report."

It would not hold up the project if he determined that it was impractical to do that, but I think it would still make the point that we are very much interested in the project and small business.

Mr. KOSTMAYER. In other words, make a case-by-case judgment rather than a collective judgment.

Mr. FUQUA. Yes.

Mr. KOSTMAYER. I have no objection to that change.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT OFFERED BY MR. KOSTMAYER, AS MODIFIED

Mr. FUQUA. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. FUQUA to the amendment offered by Mr. KOSTMAYER, as modified: "In subsection (b) of the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), following the word 'impracticable,' insert: 'in the case of any such project and service,'. And in subsylvania (Mr. KOSTMAYER), following the word 'impracticability' insert 'Nothing in this section precludes the Secretary from proceeding with such project or service upon transmittal of such report.'"

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman from Pennsylvania agreeing to this change in his amendment. I think it clarifies a problem that I did have with the amendment. We are all very much concerned with small business, and that they participate to the maximum extent possible in the development of our energy resources.

I urge the adoption of the amendment to the amendment offered by the gentleman from Pennsylvania.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I am having trouble following what the amendment does. Would the gentleman care to tell us again?

Mr. FUQUA. It in fact says that it should be on a case-by-case basis for a project or service or an individual basis rather than collectively on each project. If there was a project of a certain type, that there should be 12 percent small business involvement in that R. & D. project rather than the total.

Mr. McCORMACK. Do I understand that if we are letting contracts for fabrication of components for a fusion machine, or a nuclear breeder, 12 percent must go to small business?

Mr. FUQUA. It is impractical, in the language of the amendment.

Mr. McCORMACK. If the gentleman will yield further, it strikes me that requiring this on a project-by-project basis makes the amendment even more damaging than it was before, because in the first instance, as the gentleman from Pennsylvania (Mr. KOSTMAYER) originally proposed his amendment, the requirement was for 12 percent of all DOE expenditures.

Mr. FUQUA. That still is in effect.

Mr. McCORMACK. Then let me proceed to ask the gentleman again what this amendment does.

Mr. FUQUA. Well, it would be on an individual basis. Under the illustration the gentleman used, the fusion project, if the Secretary determined that it was impractical to use 12 percent small business, he has to make that finding to the various committees of the Congress, but the project could go ahead.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield.

Mr. KOSTMAYER. In a given project, when we are talking specifically we ought to make it clear that we are not talking about subcontracting here. We are talking about prime contractors. One of the problems—I want to make it clear for the record—is that some contracts are leased to small business people, but they very often get only what is left over. Our intent and the intent of the amendment is to get 12 percent of the price contracts, 12 percent of the prime contracts to small business—not subcontracts.

Mr. FUQUA. To the extent practicable.

Mr. COURTER. Mr. Chairman, will the gentleman yield for the purpose of my engaging in colloquy with the gentleman from Pennsylvania?

Mr. FUQUA. I yield to the gentleman from New Jersey.

Mr. COURTER. I have a question, with regard to his interpretation of that one word, that word being "impracticable," would the gentleman just for the record, for the history of this particular amendment, indicate to me what is impracticable and what is not impracticable?

Mr. KOSTMAYER. I think that is largely a judgment the Secretary of Energy would have to make. That is a highly technical judgment, and probably would have to be made on a case-by-case basis.

Mr. COURTER. It seems to me that the word really is saying, at his discretion. It seems to me that what the gentleman is trying to do is develop some sort of policy to encourage small corporations that sometimes in fact are more innovative with regard to producing new forms of energy. That is what the gentleman is doing.

Should not the standard be not what is impracticable, but a standard to encourage the effort we can best do in the long-term energy needs of the United States? "Impracticable" to me does not fill the bill.

Mr. KOSTMAYER. I would just say that I certainly concur with what the gentleman from New Jersey has said. Of

course, we would not want to promote something which is not practicable.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I am just wondering why this amendment does not have a minority set-aside and why it is not targeted to apply to areas of high unemployment.

Mr. KOSTMAYER. That is already part of the law.

Mr. HYDE. If we are looking at this from the point of view of social needs, there are senior citizens, junior achievement groups, farmworkers, and many others to be included.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, I think we are missing the point if we just consider this to be a social positon or consider it just for the benefit of small business. I happen to be chairman of the Small Business Subcommittee on Energy Research and Development, and it is our concern not just from the standpoint of encouraging small business or seeing to it that small business prospers, but simply because we need the energy research and development.

The CHAIRMAN pro tempore. The time of the gentleman from Florida has expired.

(At the request of Mr. LUKEN and by unanimous consent, Mr. FUQUA was allowed to proceed for 1 additional minute.)

Mr. LUKEN. So that it is in the interests of producing the innovations and the inventions. Reports have come out of the small business subcommittees which have shown that one-half of all the major inventions in this country and innovations in this country in this century have come from small business. We do not have to take that literally or 100 percent, but it does dramatize the point that we are doing this not just in the name of helping small business, but of producing the kind of innovation and research and development that we actually need, and the big companies with their entangling alliances with the Department of Energy and the Department of Defense are not producing. That is why we need it.

AMENDMENT OFFERED BY MR. M'CORMACK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KOSTMAYER, AS MODIFIED

Mr. McCORMACK. Mr. Chairman, I offer an amendment as a substitute for the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK as a substitute for the amendment offered by Mr. KOSTMAYER, as modified: Insert a new section 802 and renumber accordingly:

SECTION 802. (a) The Secretary shall, (1) assure that small business concerns will have realistic and adequate opportunities to participate in the programs authorized in this Act; and (2) use all authority provided by law to protect trade secrets and other proprietary information submitted by small businesses under this Act and to avoid the unnecessary disclosure of such information.

(b) At least once every six months, or upon request, the Secretary of Energy shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

□ 1600

Mr. McCORMACK. Mr. Chairman, I think it is time, when considering this amendment, that we decide if our purpose is to fund and conduct research and development programs to provide energy technologies for this country; or if our purpose is to run a social action program within the Department of Energy authorization bill. It gets down to just as simple a question as that. If we want to play around and say that incompetent people are going to be given money to do energy research just because we set a quota, then we should accept the Kostmayer amendment.

The Kostmayer amendment says that we will give 12 percent of all the money we spend for energy research and development in photovoltaics, which is a high technology, in fusion research, which is a very high technology, in energy physics, in advanced chemistry, in advanced physics, in nuclear physics, in the fission program, in the breeder program, in the entire synthetic fuels program, in the geothermal program, in the wind program, in battery research, in hydroelectricity, in solar-thermal, in OTEC, in shale oil development, and everything else—that we give 12 percent of $4.5 billion to small companies whether or not they are qualified. That is what the amendment says. Forget the production of energy. Forget about obtaining scientific information. Just give these small companies some money, 12 percent of the $4½ billion. I think that is absurd.

What we are trying to do in this program is to develop energy technologies for this country and to bring the best energy technologies forward to the point where commercialization can realistically occur in the private market. Congressional authorization and funding can bring research, development, and demonstration programs on a concept from the laboratory through the pilot stage and through the demonstration stage and out to where it can be used in the commercial world, and our goal is to do this as efficiently as we can and as quickly as we can, and to get the best scientific and engineering facts that we can.

That is what we are after. To the extent that small businesses can compete, that is fine. I have no objection to that and my amendment says that the Secretary shall assure that small business concerns will have a realistic and adequate opportunity to participate and also to protect proprietary information, and that the Department shall report to us on what it is doing to carry out the purposes of this act. But to say outright that we are going to give 12 percent of this $4.5 billion to companies that qualify under some law—and we have about a dozen definitions of what a small business is—and they are going to get part of that money whether they can do the job or not is totally unrealistic.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. I want to commend the gentleman. I have served on the Small Business Committee since 1960 when I was appointed to that body by John McCormack. There is on the books right this minute a small business set-aside authority that sets aside 12.5 percent of Government contracts for small business. In addition to that, those small businesses are not always small businesses. American Motors is cataloged as a small business, which the gentleman from Pennsylvania (Mr. KOSTMAYER) who offers this amendment should know.

The gentleman should also know that there are certain of these contracts and certain of these businesses that are well beyond the capacity or the ability of any small business in the country to carry forward, and we are dealing with projects and undertakings that require immense expertise, vast resources, and enormous skills, and there is no way that that kind of work can be set aside for small business. I think that if there is something wrong with the question of small business set-asides and small business set-asides in the area of research and development for the Department of Energy, then there is a committee which is constituted with special expertise to handle this matter.

It is called the Small Business Committee. The gentleman from Ohio (Mr. LUKEN), serves on it. He would probably consider the legislation. He has the expertise; he has the subcommittee; he has the staff. I do not think we should try to rewrite that law on the House floor in a DOE authorization bill.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. McCORMACK was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. If the gentleman will yield further, I am satisfied that the gentleman from Ohio (Mr. LUKEN) and the Small Business Committee, ably chaired by the gentleman from Ohio (Mr. SMITH), would not only have the willingness and the ability but the capability of dealing with this matter aggressively and energetically and to see to it that not only are the contracts let but that they are properly oversighted by a committee which has a long history of sympathy and a long history of ability for dealing with these questions. So I would urge that the amendment offered by the gentleman from Washington (Mr. McCORMACK) be adopted and that we go on about the business of the House.

Mr. McCORMACK. I thank the gentleman.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I would be glad to yield to the gentleman from Texas.

Mr. GRAMM. I thank the gentleman

for yielding. I would like to commend the gentleman from Washington (Mr. McCORMACK). I think he has cut through the veneer of politics we are trying to put on top of one of the most important programs this Congress is trying to undertake. I think he has pointed out very clearly why we cannot play politics with this bill, and that is exactly what the Kostmayer amendment is—politics, pure and simple, trying to impose a constraint that makes no economic sense and no scientific sense. I intend to support the substitute amendment and oppose any amendment to it the gentleman might offer, or his amendment, even as amended.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I thank the gentleman for yielding.

Mr. LUKEN. I thank the gentleman for yielding. The gentleman from Washington seems to equate small business with incompetence. We could just as well equate big business with bureaucracy and waste, as we can often equate government with waste, because in any kind of a big operation there is that problem of waste and inefficiency. That is the problem that we are trying to attack. Just as the gentleman is concerned about the vagaries of small business, we are concerned about not only the alliances between big business and big government but the fact that big business in itself has a tendency to be bureaucratic and slothful and inefficient and not productive and, therefore, I think that in order to produce the kind of innovations which the gentleman from Michigan and the gentleman from Washington desire, we have to take some drastic action, not in the name of social action but in the name of producing what we need to produce. That is why we are in favor of it and not in the name of social action.

Mr. McCORMACK. I thank the gentleman. I want to say that I am well aware of the fact that there are some small industries that are high quality industries, such as those that make valves and gauges. They provide an extremely valuable contribution, and they are continuously drawn upon by the Department of Energy and by Department of Energy contractors.

However, they do not come anywhere near 12 percent of the total bill. At the present time, after attempting to involve small business, the Department of Energy has only been able to get up to about 5 percent of its expenditure for small business. The Kostmayer amendment says go to 12 percent, whether or not the small business is qualified. That is what is wrong with the Kostmayer amendment. The substitute that I have offered here to the Members directs the Secretary to assure that small business will be given a realistic opportunity, and that is what we should be trying to do.

AMENDMENT OFFERED BY MR. KOSTMAYER TO THE AMENDMENT OFFERED BY MR. M'CORMACK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KOSTMAYER, AS MODIFIED

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER to the amendment offered by Mr. McCORMACK as a substitute for the amendment offered by Mr. KOSTMAYER, as modified: Page 79, insert after line 25, the following:

SMALL BUSINESSES

SEC. 814. (a) In order to carry out a policy that the Department maximizes procurements of research and development from small businesses, not less than 12 percent, determined on the basis of value, of research and development projects and services procured by the Department with funds authorized to be appropriated under this Act shall be procured from small businesses, except as provided in subsection (b).

(b) If the Secretary determines that compliance with the 12 percent requirement set forth in subsection (a) is impracticable, the Secretary shall transmit to the Committees on Science and Technology, Interstate and Foreign Commerce, Small Business, Interior and Insular Affairs, and Government Operations of the House of Representatives, and to the Committees on Energy and Natural Resources, Governmental Affairs, and Small Business of the Senate, a report which—

(1) apprises such Committees of the impracticability of compliance with such requirement, and

(2) lists the reasons for such determination of impracticability.

(c) For purposes of this section, the term "small business" shall have the meaning given such term under section 3 of the Small Business Act.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

□ 1610

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. DINGELL. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will continue to report the amendment to the substitute amendment.

The Clerk concluded the reading of the amendment to the substitute amendment.

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. DINGELL) insist upon a point of order?

Mr. DINGELL. Mr. Chairman, I do not insist upon my point of order.

Mr. KOSTMAYER. Mr. Chairman, very simply, I have amended the substitute offered by the gentleman from Washington (Mr. McCORMACK) by adding my original amendment as amended by the gentleman from Florida (Mr. FUQUA).

Mr. MITCHELL of Maryland. Will the gentleman yield, Mr. Chairman?

Mr. KOSTMAYER. I yield to the gentleman from Michigan.

Mr. MITCHELL of Maryland. Mr. Chairman, I rise in support of this gentleman's amendment. It is interesting whenever we in the Congress embark on a massive spending effort, which is required, we almost always overlook the matter of the role of small business in that effort.

Mr. Chairman, let me suggest I have been looking at the Department of Energy since its inception and I think it has failed flagrantly in terms of involving small business. It simply has not done that.

By way of illustration I will refer to another agency of Government, Mr. Chairman, the Department of Defense. The Department of Defense insists upon using only the giant businesses to almost a total exclusion of small business. Mr. Chairman, I submit further there is a role for small businesses. They are capable and efficient. They can produce and they can help our country in this energy effort.

Mr. Chairman, the question is raised about the Department of Defense getting but 5 percent out to small business. I am surprised that it is that much.

My figures do not reveal that much. It is the practice, pattern, and policies of our agencies to support the larger businesses and not the smaller ones.

Mr. Chairman, I heard my friend, the gentleman from Michigan (Mr. DINGELL) raise a point about the problem of defining a small business, indicating that American Motors is defined as a small business and I think my colleague, the gentleman from California (Mr. ROUSSELOT) addressed that problem last year. American Motors is not defined as a small business. It is a subsidiary of American Motors which was defined as a small business, so there are limitations imposed.

Mr. Chairman, I like the gentleman's amendment because it says, where it is really impractical to meet the 12-percent goal, then there is a waiver provision, there is an out. The Secretary can come in and say, "Well, look, we really, really tried but we just cannot do it."

Mr. Chairman, it is my argument that without establishing a hard target, there will be no maximum effort on the part of the Department of Energy to help small business. I would urge the total support of this House for the gentleman's amendment.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Florida.

Mr. FUQUA. I appreciate the gentleman yielding. I do not have a copy of the amendment but am I assured by the gentleman it does incorporate the language I suggested to his previous amendment, in this amendment?

Mr. KOSTMAYER. The gentleman from Florida is assured, this substitute as amended by the gentleman from Pennsylvania does include the amendment as offered by the gentleman from Florida.

Mr. LEWIS. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to my friend from California.

Mr. LEWIS. Mr. Chairman, I thank my colleague for yielding.

I would like to commend my colleague for his amendment. At a time when the rate of productivity growth in the United States lags behind most of our competitors in the world economy, and our country is suffering from unemployment, inflation and a large negative balance of payments, it is imperative that we en-

courage productivity in our Nation's most productive sector, that of small business.

Small businesses creates the vast majority of new jobs in our Nation. In fact, studies show that of the major innovations introduced into the marketplace in the past 25 years, small firms were found to produce about 24 times more per R. & D. dollar than large firms, and 4 times as many as medium-sized firms. In this time of fiscal austerity, it is necessary that the Congress realize this and spend its money in the most productive manner.

One of my concerns has been this body's apparent lack of assertiveness in setting criteria for Federal agencies. Our rules and authorizations have been too lax, especially in the area of small business. The agencies know small business is more cost efficient and has a greater per dollar rate of productivity than large firms. However, they continually show a lack of confidence in small firms' ability to produce, by awarding their money to the less effective larger firms. This is not to downgrade the importance of the large company, but it is essential that my colleagues realize the important role played by small business.

It is time we let the agencies know that the Congress is concerned how our tax dollars are located and that we want the most from every R. & D. dollar that is spent. This amendment is an attempt to do this and I urge my colleagues to support it.

I thank the gentleman for yielding.

Mr. KOSTMAYER. Mr. Chairman, I ask unanimous consent that the language offered by the gentleman from Florida (Mr. FUQUA) earlier be considered as part of this amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, what kind of parliamentary request is that, that the language offered formerly be considered part of what is pending now? I mean, if we are going to offer amendments, let us offer them.

The CHAIRMAN pro tempore. The Clerk will report the modification requested by the gentleman from Pennsylvania.

The Clerk read as follows:

In line 11 of the Kostmayer amendment to the substitute McCormack amendment, following the word "impracticable," add the words, "in the case of any such project and service,".

In subsection (b)(2), add at the end the following, "Nothing in this section precludes the secretary from proceeding with such project or service upon transmittal of such report.".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania (Mr. KOSTMAYER)?

Mr. BAUMAN. Mr. Chairman, has that been reduced to writing?

The CHAIRMAN pro tempore. The Clerk read it.

Mr. BAUMAN. Yes, I think the Clerk did an excellent job under the circumstances, but I demand that it be reduced to writing.

The CHAIRMAN pro tempore. The Chair will observe that it appears to the Chair that the Clerk was reading writing.

Mr. BAUMAN. The reading was not written.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania (Mr. KOSTMAYER)?

There was no objection.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. KOSTMAYER was allowed to proceed for 2 additional minutes.)

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, in the Dannemeyer amendment passed just previously, there is a possibility for misunderstanding and I would appreciate an opportunity to clarify the intent of the gentleman who offered the amendment. The amendment says it will produce an amount of energy, which is a certain amount. The problem exists in the fact that alcohol contains somewhat less energy than gasoline when it is mixed with gasoline but as gasohol it produces an equivalent amount of energy. I would like to hear from the author of the amendment. It is my understanding he means for it to consider the amount of energy which is produced from the fuel that is consumed.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from California.

Mr. DANNEMEYER. This is precisely the meaning the gentleman from Iowa should take from the language. We will note on line 14 it specifies that whatever quantity of the alternative fuel that is forthcoming, that quantity shall equal the quantity of energy that is in 200,000 gallons of gasoline. That if the quantity of the alternative fuel could differ, the Btu content of the constituent part of the alternative fuel could differ. It is just that it must meet the total energy count of 200,000 gallons of gas.

Mr. BEDELL. As it is used in a vehicle?

Mr. DANNEMEYER. That is correct.

Mr. BEDELL. I thank the gentleman. I thank the gentleman very much for yielding so we could clarify that matter.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I have served on this committee for a while. I have become convinced in the energy business we have a little thing like we have in the military where President Eisenhower warned us of the military-industrial complex. To some extent we have that same kind of complex involved in the energy field, with the Gulf Oil's and the ARCO's and the Boeing's. I have nothing against that. I just think that a lot of very, very innovative technology comes out of small business and never gets an opportunity in a lot of these very, very large contracts.

Mr. Chairman, I think the amendment of the gentleman from Pennsylvania reflects on the fact that there needs to be a greater focus on that kind of technology without completely eliminating the Boeing's, the ARCO's and the Gulf Oil's.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. KOSTMAYER) has expired.

(At the request of Mr. GLICKMAN and by unanimous consent, Mr. KOSTMAYER was allowed to proceed for 1 additional minute.)

□ 1620

Mr. GLICKMAN. Mr. Chairman, if the gentleman will yield further, I think this amendment gives the Secretary of Energy the kind of flexibility he needs.

The CHAIRMAN pro tempore. Does the gentleman from Pennsylvania yield the floor?

Mr. KOSTMAYER. I do, Mr. Chairman.

Mr. GLICKMAN. Mr. Chairman, this amendment gives a kind of flexibility. There is a cult out there, a group of very large businesses who are getting a large, at least in aggregate numbers, a large percentage of these contracts.

I think that in essence, to try to get a good comprehensive balanced energy policy, we ought to do our best, not so much for social purposes, but as from the gentleman from Ohio (Mr. LUKENS) said, for good sound energy development purposes, insuring that there is balance to these contracts.

So for that reason, I urge adoption of the Kostmayer amendment.

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the Kostmayer amendment to the McCormack substitute.

Mr. Chairman, I want to make clear what we are talking about, and draw a distinction between the amendment to the substitute of the gentleman from Pennsylvania and to the substitute itself that I submitted.

The gentleman from Pennsylvania says that the Department of Energy must grant 12 percent of all its contracts to small business or it must explain why. It must do it if practical, but if impractical, it must explain why.

Now, there are two critically important problems associated with that provision. The first is that we are at about 5 percent today of the DOE contracts with small business.

Most of the projects are ongoing projects, some of them running into hundreds of millions of dollars. What we are saying to them is that, "You go from 5 percent now to 12 percent. In other words, you go from about $200 million to about $500 million and do it right now, or you explain why to the Congress, and what is more, you explain it to the court." We can be certain that under the substitute of the gentleman from Pennsylvania, the moment that some small business is not given a contract, as soon as it loses a contract, it will be running to court and saying, "We are protected. They aren't spending 12 percent for small business. Therefore, they have to

prove to the court that it isn't practical to grant a contract to us."

I want to point out the kind of problems that we build ourselves into in trying to provide social reform, superimpose it on a piece of legislation that is designed to provide energy research for this country. Here we are dealing with huge pieces of ultra-sophisticated equipment for which contracts are already let, and we are saying that, effective with the beginning of this fiscal year, these must be changed.

I want to remind you that the McCormack substitute says that the Secretary shall assure that small business concerns will have realistic and adequate opportunities to participate and to protect them and to report to us; but setting quotas is destructive. Putting limitations on is creating invitations to go to court, and that is destructive.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I would be glad to yield.

Mr. KOSTMAYER. Mr. Chairman, I thank the gentleman for yielding.

I just wanted to say that the gentleman from Florida added language to allow the Secretary to exempt an individual project if he found it was impossible or impractical that 12 percent of the funds necessary to pay for that project could not go to small businesses; so I think that objection has been met.

Second, the Secretary can waive in individual circumstances or in collective circumstances this requirement at any time.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for his point.

I want to remind the gentleman that every time the Secretary tries to do that, he is going to wind up in court, and we will be suffering further delays in our attempts to try to solve our energy problems.

Mr. EMERY. Mr. Chairman, will the gentleman from Washington yield?

Mr. McCORMACK. I would be glad to yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I wonder if the gentleman can tell me what the usual procedure is at this point in time for a small business or any business to win one of these contracts. Does he have to go to a competitive bid and prove that he is able to do it?

Mr. McCORMACK. There are a number of procedures, including competitive bids, including nonsolicited applications, solicited applications; there is a spectrum of mechanisms.

Mr. EMERY. Well, the point I am getting at, as I understand the system, if, in fact, small business has the technology, has the expertise and has the capability to bid on a research and development project or any portion of the project or any components or materials of the project, he is not prohibited from doing it; is that correct?

Mr. McCORMACK. That is correct. Small business has a complete opportunity to compete, but we are dealing in high technology and in many cases the larger corporation will obviously win out, because what we want to do is accomplish a certain goal or gain certain information.

Mr. EMERY. Is there, in fact, a provision in the law now that requires that small businesses have an opportunity to compete on winning a portion of these contracts or on the purchase, and things like that?

Mr. McCORMACK. I am sorry, Mr. Chairman, I cannot hear the gentleman's question.

Will the gentleman restate his question?

Mr. EMERY. Under the present law, is there a provision that either guarantees or requires that small businesses have an opportunity to bid competitively on the projects or on the sale of components or materials for a project?

The CHAIRMAN pro tempore. The time of the gentleman from Washington, (Mr. McCORMACK) has expired.

(At the request of Mr. EMERY and by unanimous consent, Mr. McCORMACK was allowed to proceed for 3 additional minutes.)

Mr. McCORMACK. Mr. Chairman, I think I can answer the question of the gentleman by saying that small businesses are not precluded in bidding on any contract because they are small. I think that answers the gentleman's question.

Mr. EMERY. My concern at this point is that I feel that the wording of the Kostmayer amendment and most of the language that I have seen is sufficiently cumbersome so that it may, in fact, preclude an opportunity for a high technology business, be it large or small, from providing the material and the expertise and the highly technological and complicated material that it might have when the Government actually needs it; but on the other hand, if there is some way that we can provide in the law that small businesses have an equal opportunity to offer their expertise with a reasonable assurance that they are not going to be overlooked, that might be desirable.

Mr. McCORMACK. Mr. Chairman, the gentleman is completely correct.

I think the gentleman's point is well taken. The McCormack substitute says that the Secretary shall assure that small business concerns will have realistic and adequate opportunities to participate in the programs authorized in these acts, and then it says that they shall be protected in their proprietary information and that every 6 months the department will report to us on this.

It seems to me this is the most we can realistically do without tying our own hands.

Mr. EMERY. Mr. Chairman, I feel that the gentleman from Washington has made a very valuable contribution to this debate. I support the language that the gentleman offers, because I feel that it does afford small business a reasonable opportunity to enter into these procedures whereby they may offer their services and have a reasonable opportunity of being accepted, without placing necessary encumbrances on the highly technological research and development programs that the Government is involved in.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for his comments.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the Kostmayer amendment. I oppose it basically because I think the gentleman from Washington has given us a good intermediate step. The gentleman requires the Department of Energy to look at small business proposals. He requires the Department of Energy to give information to this Congress, to the relevant committees, as to the extent to which small businesses are getting contracts, where those contracts are being made; that gives us the facts to assess whether or not small businesses are being treated fairly.

At its very best, the Kostmayer amendment is a quota amendment. It is a quota amendment in the same sense that every other amendment which seeks to set a numerical number in the decisionmaking process is a quota amendment. It simply says that the burden of proof is on the Department of Energy if it does not give a specific quota to businesses that are qualified as small businesses. It seems to me that while I support small business and I view small business in the same vein as the flag and motherhood and apple pie, as everyone else does here, and the farmer, that it is important to remember that we are talking about big dollars. The President is talking about $88 billion for synthetic fuel.

Now, what I think the gentleman from Washington has said far more eloquently than I can say it is that we ought not to be playing politics here.

□ 1630

The gentleman has given us the vehicle to assure that small business is fairly treated, and to be sure the Congress gets information as to what extent they are getting contracts. I think it is very important that we not impose this quota on programs that are vitally important to the energy consumer in this country and indeed to the whole leadership position of the American economy.

So, Mr. Chairman, I urge my colleagues to vote down the Kostmayer amendment and to vote for the substitute offered by the gentleman from Washington (Mr. McCORMACK).

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I am happy to yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, in listening to the debate awhile ago, I think I recall my colleague, the gentleman from Illinois (Mr. HYDE), asking if there were set-asides—and I think he may have done it facetiously—but he received an answer that indicated there were already in the law requirements for set-asides as they relate to minority and unemployment areas.

Would my colleague tell me if that is correct as far as the Department of Energy is concerned?

Mr. GRAMM. I do not know.

Mr. ASHBROOK. Mr. Chairman, some Member at that table responded and said they were already in the law, and that is why I wondered.

The point in asking the question is that I wondered how it is working if that is already in the law now, and if it is causing some problems, probably we should vote this amendment down. But if it is in the law and it is not causing

problems, if the Department of Energy operates under those constraints or those restraints, whatever we want to call them, and they do not cause any problems, then there is nothing we should be concerned about.

Mr. GRAMM. Mr. Chairman, I will reclaim my time, and I wish to reemphasize the point that I made and the gentleman from Washington (Mr. McCormack) made that this should not be considered a social engineering bill; this is a bill to make our Nation more energy-independent and more energy-efficient.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, let me just make a comment along those lines.

I think some pressure has to be put on some of these agencies to go out and contract with small business. I remember some time ago we had some problems with some of the small machine shops in Albuquerque because the laboratories were not being very fair in putting out bids into the local area.

We had a meeting with all the machine shops; there were about 30 or 40 of them. The result was that within a month the amount of business that was going to these small machine shops had increased something like 300 or 400 percent, and it has gone up and it has enhanced the business of the laboratory.

I just think that we have to make some effort to go to the agencies and say, "You are not doing enough. We don't think you are doing enough, and we are going to set some guidelines for you."

Therefore, Mr. Chairman, in this particular instance I am going to have to support the amendment offered by the gentleman.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, I would like to address the points of the gentleman from Texas (Mr. Gramm) on the question that has been developed about the effectiveness of the existing program.

I think actually what the amendment offered by the gentleman from Washington (Mr. McCormack) would do is basically to continue the existing program, and those of us who are in favor of the amendment offered by the gentleman from Pennsylvania (Mr. Kostmayer) believe we have to take more concrete action. We believe that the record shows that we must.

I, as chairman of the Subcommittee on the Impact of Energy Programs, Environment and Safety Requirements, and Government Research on Small Business, asked the General Accounting Office for a report and an investigation, and they went into it in some detail. They reviewed the effectiveness of these efforts, and their conclusion was concentrated on the contracting practices of the Department.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. Gramm) has expired.

(On request of Mr. Luken, and by unanimous consent, Mr. Gramm was allowed to proceed for 3 additional minutes.)

Mr. LUKEN. Mr. Chairman, will the gentleman yield further?

Mr. GRAMM. I am happy to yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, the General Accounting Office reviewed the small business contracting practices in the solar research and development area, and they found problems applicable to the Department's overall effort to encourage small businesses.

They made these points: Department goals for awarding contracts to small businesses appear to be based on incomplete information. Guidance for maximizing small business contract awards is insufficient. Information necessary to monitor and evaluate efforts to maximize small business contract awards is lacking. And finally, the Department's office which is responsible for maximizing participation of small business in department programs lacks the needed independence the Congress mandated.

Mr. Chairman, I think that this will be the inevitable result, that there will be a failure in this area. There will be a failure to carry out the encouragement of the general standards suggested by the gentleman from Washington (Mr. McCormack), and that even though there are outs in this program, as suggested by the gentleman from Pennsylvania (Mr. Kostmayer)—and the quota is not accurate; it is not a complete and hard and fast quota—it will at least strengthen the program and will improve the development of energy in our programs.

Mr. GRAMM. Mr. Chairman, I am reclaiming my time, and I would just like to respond by saying that I do not object to the conclusions that come out of the gentleman's subcommittee in dealing with all those problems. What I object to is that in this program which involves great expenditures and sets standards for the long-term security of the United States, we are playing politics by setting a quota which is designed to carry out social engineering in a program that I feel should be above that.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, I am sorry, but I must disagree with the gentleman. I think we ought to move ahead on this matter of the awarding of contracts and put pressure on the Department to treat the problems of small business more seriously.

Admittedly, the Kostmayer amendment is imperfect, but let us pass it and let us get the attention of the Department of Energy.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, very quickly I should point out that we checked last year to see how well they were trying to accede to some of these contract awards to small business, and it was unbelievable how ineffective they were in trying to see that some of this went to small business.

It appears to me that if we accept the amendment offered by the gentleman from Washington (Mr. McCormack), we are going to be right where we were then. If we are going to go by past experience, at least we had better realize that we are bound to repeat what happened in the past.

Mr. GRAMM. Mr. Chairman, I yield back the balance of my time.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with reluctance and with regret that I rise to oppose the amendment of my good colleague and friend, the gentleman from Pennsylvania (Mr. Kostmayer).

I would like to say a few words first about the kind of projects that we, this Congress, and our committee, have asked the Department of Energy to carry out. Many of these projects are enormous. We, the Congress and the committee, have asked the Department of Energy to come up with synfuel projects, fission projects, fusion projects, very large scale photovoltaic projects, and so forth. We have not, as a Congress put any quotas on who would carry out these projects.

We are all—all of us who are sitting here—in favor of small business. As the gentleman from Texas (Mr. Gramm) said, it is like apple pie, it is like motherhood, and is like the flag and we want to see it flourish. But scientific R. & D. is not amenable to quotas.

We are dealing with energy projects which have been designed and designated by the respective committees involved in promoting energy development in this country. The project mix was not developed for any particular constituency, large or small.

To the extent that we establish a quota of 12 percent, 7 percent higher than the present access of small business to DOE R. & D. and try to stick hard and fast to it so that the Department of Energy and its Secretary are going to spend every other day on Capitol Hill explaining why such and such a project cannot fit into this quota, puts us in for one enormous bureaucratic snafu. We are further bureaucratizing a Department of Energy that is already overbureaucratized, and we are creating a new kind of political hassle which can only stifle productive research and development.

Mr. Chairman, if we are serious about stimulating small business in this U.S. Congress, we would do well to start doing something about the incredible level of regulations that Congress and the bureaucracy are, in increasing amounts, saddling small business with.

We have, of course, in the name of apple pie and motherhood and health and safety, which are all wonderful goals—and none of us disagree with these goals—created a bureaucratic hell for those involved in or wanting to be involved in small business. We have established a climate where small business is becoming an endangered species. If we were serious about helping small business instead of hindering it on the major fronts—and I refer to regulations, taxes, and our inflationary climate—we would do something in this Congress along those lines, and we would then help small business. This amendment promises a

chunk of the DOE pie that really does not exist and will only create greater confusion and havoc in our energy program.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. RITTER. In a moment, after I have finished, I will be glad to yield.

Mr. Chairman, what we are essentially doing here is establishing a new kind of quota system.

I ask, Why do we not begin to have a quota now for those small businesses or those big businesses doing the Government's contracting that have a certain percentage of handicapped or that have a certain percentage of the blind? These are certainly positive social goals. It is simply not relevant to our energy R. & D. programs.

□ 1640

They are tangent to the point of developing liquid fuels in this country, or fusion or, in general developing the domestic American energy that small business needs to survive.

I urge my colleagues in their wisdom and in their strong support of the small business community in this country to support the McCormack substitute.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to my colleague, the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

Mr. Chairman, first of all, this is not a social purpose; this is an energy purpose. The most innovative things done, especially in the area of solar energy, have been done by small companies who then, as they get close to really doing something, find the contracts going to the larger corporations who really have enough venture capital to do their own R. & D. We find, at least in my district, that small solar companies find out that there are grants given to large corporations to reinvent something they have already done.

Second of all, I would view this not as a quota, but as a target which can be waived.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. Ritter) has expired.

(On request of Mr. John L. Burton and by unanimous consent, Mr. Ritter was allowed to proceed for 1 additional minute.)

Mr. JOHN L. BURTON. If the gentleman will yield further, it is not a social purpose. It is an energy-related purpose. In our State and, I am sure, in the State of Florida, in the Midwest and in other areas, in solar energy they are really doing the innovative work because they are not tied to anything, they are not going to burst into atomic energy, they are not going to burst into oil shale. They are going to do the most esoteric stuff, and it is a target that can be waived. I do not think it ties hands.

Mr. RITTER. Let me say, Mr. Chairman, that there is a program in the Energy Development and Applications Subcommittee on which I serve which deals with so-called appropriate technology, which is largely pitched toward small business, the individual inventor and innovator. That program has received substantial increases in budget this year. Last year, in its first and primary year of operation, it could not handle effectively the amount of volume of activity that was going on.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. Ritter) has again expired.

(On request of Mr. Brown of Ohio and by unanimous consent, Mr. Ritter was allowed to proceed for 4 additional minutes.)

Mr. RITTER. In the face of information coming down from the Department that they were just not prepared to deal with the flood of proposals and that they really had not gotten their act together from that first year of operation, we nevertheless felt that stimulating small energy businesses—and, yes, stimulating those kinds of California innovative companies which are just getting off of the ground—we virtually tripled their budget. We did it knowing that there would be increased bureaucratic snafu, but we felt that it was important to move forward. By coming in and simply establishing a quota, which has no real basis we are hurting the overall program. The Department of Energy has sufficient problems with congressional pork barreling. To be forced to, in all of those cases where it, indeed, may be "impracticable," as the language stated, to come back to the Committee on Science and Technology, and have to argue under all kinds of political pressures, the "impracticable," as the language stated, we are further submerging the capability of that Department to begin to get its act together as it is trying to do today.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman in the well is a distinguished metallurgist. He comes from the faculty of Lehigh University and, as I understand, has done research in a number of different scientific fields and now heads, or did, before he came to the Congress, the research operation of that university.

This whole debate has bothered me a good deal. I have an interest in a small business back in Ohio. I know that the Congress frowns on that sort of thing, but it is what I do in real life. I have been a little concerned that we are now turning scientific effort into a social effort here. I am surprised by some of my colleagues on my side of the aisle where I thought there was a sort of standard rejection of the idea of quotas. I am put in mind of the story about the difference between scientists such as the gentleman in the well and economists and politicians. The story goes that, for a scientist, 2 plus 2 equals 4, at least somewhere between 3 and 5 with an allowance for error in Government work; for economists, 2 plus 2 equals either 4 or 22 or 12, if one of your premises is wrong; and for politicians, 2 plus 2 equals whatever the majority votes for it to equal that day.

It seems to me that if we are going to run our energy policy on the basis of whatever the majority votes for it to equal that day, we are not going to help many small businesses by resolving the energy crisis. I know the gentleman in the well is one of the few scientists here, along with the gentleman from Washington, and others, but I cannot think of very many others. Most of us are liberal arts graduates, with a little overlarding in law. But the thing that concerns me is that we are saying we want to solve the energy crisis, a scientific problem, to a great extent, but in order to do it we want to have 12 percent for somebody here and 12 percent for somebody there. Why do we not go it on a geographic basis? Every State should have one-fiftieth of the research projects. The reason we do not is because many institutions in various States, perhaps including the one from which the gentleman in the well comes, are better scientific research institutions than others in the energy field.

I would just say to the gentleman that I think he makes a very persuasive argument as a scientist for sticking to scientific fact and not trying to put these quotas in for where research is done. Who do you want to do your research? Who do you want to do your brain surgery? You do not take your brain surgery to somebody on a quota basis. You do not take your brain work in the scientific area to somebody who, because they meet some kind of a requirement other than scientific skill, would be asked to do the job. We want people to do the job who will solve the job. Of course, we want to help small business, but can we not figure out a way to do it in some area that is a little less technical than this?

Mr. RITTER. We are talking about scientific research and development, and to establish quotas here is something akin to establishing quotas for distribution of the world's food resources simply because it is theoretically just.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. Ritter) has again expired.

(On request of Mr. Emery and by unanimous consent, Mr. Ritter was allowed to proceed for 2 additional minutes.)

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to my good friend and colleague, the gentleman from Maine.

Mr. EMERY. I thank the gentleman for yielding.

Mr. Chairman, I guess I have to agree very much with what our colleague, the gentleman from Ohio (Mr. Brown), mentioned a few minutes ago. I guess the thing that really bothers me is if we are going to talk about the purchase of wrenches or piping or if we are going to talk about services that can be provided as efficiently by small business as anyone else, that is exactly where the contract ought to go, it ought to go to the small businessman, it ought to go to those suppliers closest to the need. It ought to be a project that takes into account the availability of goods and services at the lowest possible rate and takes advantage of the small business

community every time, so far as I am concerned. But if we try to write into the law a provision which talks about research and development activities and try to put a quota on those activities of some percent, then ultimately we are going to get a situation where the best technology and the best minds and the best equipment and the most experience is going to be counted out because of the bureaucratic percentage. I think that is wrong.

If we really want to correct the problem which I think in some cases does exist, we ought to go back and do the job a little differently, that is, to differentiate and distinguish between research and development, high technology versus low technology research and development, and, more importantly, differentiate between the purchase of equipment and services, of goods as opposed to the development of expensive, complicated high-technology devices, all of which seem to be covered under the language that has been offered. I think that is a flaw. I agree with the gentleman's point. I agree with the gentleman from Ohio. I think we ought to defeat this attempt, try to rewrite the law in a different section and try to address the point.

Mr. RITTER. I might add that the gentleman from Maine happens to have a strong background in electrical engineering and has worked with computers professionally.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Pennsylvania.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. RITTER) has again expired.

Mr. WALKER. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania (Mr. RITTER) be allowed to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. GLICKMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. CONTE. Mr. Chairman, this body has mandated that the Department of Energy encourage and accelerate small business participation in this country's energy research and development efforts. However, DOE's actions to date continue to show the same bias in favor of the large corporations and technology firms. The result is that technological innovation has suffered, research money wasted and many creative areas ignored.

In a recently conducted study by GAO, it was determined that while DOE's goals for awarding contracts to small businesses were based on incomplete information, past goals have been too low. DOE has not even begun to develop a goal for small businesses in the coming year.

Small firms have compiled a striking record of innovation and technological leadership. Firms with less than 1,000 employees accounted for almost one-half of major U.S. innovations since 1953. At the same time, the cost for employing research and development scientists and engineers is almost twice as great in firms of over 1,000 employees.

However, while small businesses represent 98 percent of all the businesses in the country, DOE has set a goal of just 15 percent of all DOE contracts for small business procurement.

Mr. Chairman, this country cannot afford to maintain procurement policies that virtually exclude small science and technology-oriented firms, and further stifle the contribution that small business can make to a national energy program. I urge the support of the entire body on this amendment.

Mr. FUQUA. Mr. Chairman, we have been debating this amendment and amendments thereto for way over an hour. We have been very lenient with every Member and we have been very well educated and informed about the merits of the various amendments. I would hope that we could get some resolution and vote.

Mr. Chairman, I ask unanimous consent that all debate on the original Kostmayer amendment and all amendments thereto end in 5 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. SOLOMON. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. FUQUA. Mr. Chairman, I move that all debate on the original Kostmayer amendment and all amendments thereto terminate at 5 o'clock.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

□ 1650

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 30, noes 17.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1700

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 133, answered "present" 1, not voting 47, as follows:

[Roll No. 581]

AYES—252

Addabbo
Akaka
Albosta
Alexander
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Burlison
Burton, John
Burton, Phillip
Byron
Carter
Cavanaugh
Chappell
Clay
Cleveland
Clinger
Conyers
Corman
Cotter
D'Amours
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dodd
Donnelly
Downey
Duncan, Tenn.
Early
Eckhardt
Edgar
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harris
Hawkins
Hefner
Heftel
Hightower
Hollenbeck
Holt
Holtzman
Howard
Hubbard
Huckaby
Hutto
Ichord
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
McCloskey
McCormack
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Quayle
Rahall
Rangel
Reuss
Richmond
Rinaldo
Roe
Rostenkowski
Roth
Roybal
Runnels
Russo
Sabo
Santini
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stewart
Stokes
Studds
Synar
Taylor
Traxler
Trible
Udall
Ullman
Vanik
Vento
Walgren
Watkins
Waxman
Weaver
Weiss
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wolff
Wolpe
Yates
Yatron

ANSWERED "PRESENT"—1

Mitchell, Md.

NOT VOTING—47

Anderson, Ill.
AuCoin
Beard, Tenn.
Biaggi
Boggs
Bolling
Bonker
Brown, Calif.
Carr
Chisholm
Coelho
Collins, Ill.
Conable
Crane, Philip
Diggs
Dixon
Drinan
Duncan, Oreg.
Fazio
Flood
Garcia
Gray
Harsha
Hillis
Holland
Horton
Ireland
Jones, N.C.
Leach, La.
Lee
Lundine
McEwen
Myers, Pa.
Oakar
Pickle
Rodino
Rosenthal
Scheuer
Stark
Steed
Thompson
Treen
Volkmer
Wilson, C. H.
Winn
Wirth
Wydler

□ 1710

Mr. LATTA changed his vote from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

□ 1720

PARLIAMENTARY INQUIRY

Mr. FUQUA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The Chair will advise the Members that there is a reasonably complex situation before the Committee. To attempt to elucidate it, we must have order. The Chair will advise the gentleman from Florida the order in which the questions will be put.

The gentleman from Florida (Mr. FUQUA) will state his parliamentary inquiry.

Mr. FUQUA. Mr. Chairman, prior to the recent vote there was an amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER) to the amendment offered by the gentleman from Washington (Mr. MCCORMACK) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified. Somewhere along the line I had an amendment to the Kostmayer amendment. Could the Chair state the parliamentary situation and the sequence in which the votes will occur?

The CHAIRMAN pro tempore. The Chair will attempt to do so. The Chair will inform the Committee that all time has expired. The order in which the votes will be put is as follows: The first vote will occur on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified. The second vote will occur on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER) to the amendment offered by the gentleman from Washington (Mr. MCCORMACK) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified. The third vote will occur on the amendment offered by the gentleman from Washington (Mr. MCCORMACK) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified and the final vote will be on the original Kostmayer amendment as amended. The Chair will now put the question.

The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified.

The amendment to the amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified, to the amendment offered by the gentleman from Washington (Mr. MCCORMACK) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified, as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KOSTMAYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 220, noes 168, not voting 45, as follows:

[Roll No. 582]

AYES—220

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Applegate
Ashbrook
Ashley
Aspin
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bingham
Blanchard
Boland
Boner
Bonior
Brinkley
Brodhead
Broomfield
Buchanan
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Cavanaugh
Clausen
Clay
Coelho
Conte
Conyers
Corman
Coughlin
D'Amours
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Dicks
Dodd
Donnelly
Dougherty
Downey
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fisher
Fithian
Florio
Ford, Tenn.
Frost
Fuqua
Gaydos
Gephardt
Gilman
Glickman
Gore
Grassley
Gray
Guarini
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hollenbeck
Holtzman
Hopkins
Howard
Hughes
Hutto
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Lewis
Long, Md.
Lujan
Luken
McHugh
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Calif.
Murtha
Myers, Ind.
Neal
Nedzi
O'Brien
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Quayle
Rahall
Rangel
Reuss
Richmond
Rinaldo
Roe
Rostenkowski
Roth
Rousselot
Roybal
Runnels
Russo
Sabo
Santini
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stewart
Stokes
Studds
Stump
Synar
Taylor
Traxler
Trible
Udall
Ullman
Vanik
Vento
Walgren
Watkins
Waxman
Weaver
Weiss
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wolff
Wolpe
Yates
Yatron

NOES—168

Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Atkinson
Badham
Bafalis
Bailey
Barnard
Bethune
Bouquard
Bowen
Breaux
Brooks
Brown, Ohio
Broyhill
Burgener
Burlison
Butler
Carter
Chappell
Cheney
Cleveland
Coleman
Clinger
Collins, Tex.
Corcoran
Cotter
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Devine
Dickinson
Dingell
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Emery
Erdahl
Erlenborn
Fary
Fenwick
Ferraro
Findley
Fish
Foley
Forsythe
Fountain
Frenzel
Giaimo
Gibbons
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Green
Grisham
Gudger
Hall, Tex.
Hammer-schmidt
Hansen
Hefner
Hightower
Hinson
Holt
Hubbard
Huckaby
Hyde
Ireland
Jeffries
Johnson, Calif.
Johnson, Colo.
Kelly
Kemp
Kindness
Lagomarsino
Latta
Leath, Tex.
Lent
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Martin
Mazzoli
Michel
Miller, Ohio
Minish
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Murphy, Pa.
Natcher
Nelson
Nichols
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Quayle
Rahall
Rangel
Reuss
Richmond
Rinaldo
Roe
Rostenkowski
Roth
Rousselot
Roybal
Runnels
Russo
Sabo
Santini
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stewart
Stokes
Studds
Stump
Synar
Taylor
Traxler
Trible
Udall
Ullman
Vanik
Vento
Walgren
Watkins
Waxman
Weaver
Weiss
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wolff
Wolpe
Yates
Yatron

NOT VOTING—45

Anderson, Ill.	Diggs	Lundine
AuCoin	Dixon	Murphy, Ill.
Beard, Tenn.	Drinan	Myers, Pa.
Bevill	Fazio	Oakar
Biaggi	Flippo	Pickle
Boggs	Flood	Rodino
Bolling	Ford, Mich.	Rosenthal
Bonker	Garcia	Stark
Brademas	Harsha	Steed
Brown, Calif.	Hillis	Treen
Carr	Holland	Volkmer
Chisholm	Horton	Wilson, C. H.
Collins, Ill.	Jones, N.C.	Winn
Conable	Leach, La.	Wirth
Crane, Philip	Lee	Wydler

□ 1730

The Clerk announced the following pairs:

On this vote:

Mr. Drinan for, with Mr. Jones of North Carolina against.

Messrs. ULLMAN, DE LA GARZA, EDWARDS of Alabama, and NICHOLS changed their votes from "no" to "aye."

Mr. DANIEL B. CRANE changed his vote from "aye" to "no."

So the amendment, as modified, to the amendment offered as a substitute for the amendment, as modified, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. MCCORMACK) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified, as amended.

□ 1740

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 112, noes 15.

So the amendment offered as a substitute for the amendment, as modified, as amended was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified, as amended.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 101, noes 35.

So the amendment, as modified, as amended, was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title VIII?

Mr. FUQUA. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto close in 20 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, the leadership has consistently told us that the House would conclude its business at certain hours and in the last 2 weeks we have repeatedly been unable to depend upon that commitment.

I am told that there are two amendments, one of which may be accepted, the other may go out on a point of order.

The last experience we had with a minor amendment involved an hour and a half of debate. We just concluded that.

Now, if we are going to be here for another 2 or 3 hours of debate, it could be very difficult.

Mr. FUQUA. Well, Mr. Chairman, let me say to the gentleman that we would at some point like to close the amendments to the bill.

Mr. BAUMAN. Well, but 5:30 has come and gone and we should have risen.

Mr. FUQUA. Once this agreement is reached, it could be the intention for the Committee to rise and reconsider the bill on Tuesday, if that is agreeable with the leadership.

Mr. BAUMAN. If the debate is limited now, we will rise immediately?

Mr. FUQUA. We would rise as soon as we could dispose of the amendments, if that were possible.

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. FUQUA. Mr. Chairman, I move to strike the last word.

I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Chairman, I think all of us realize that every Member has had ample opportunity to offer, to debate, to consider, and to vote upon amendments to this bill. Some 23 amendments have been adopted.

We have been advised by some of the Members that they intend to demand rollcall votes on each of these amendments when we go back into the Whole House.

Now, that is their privilege, if a sufficient number should arise and demand it, and I would not deny that privilege to the House; but obviously, tonight is not the time to do that and tomorrow is Friday and we have given a commitment as to an hour of adjournment and it would be in the nature of breaking good faith with Members if we were to have an interminably long series of votes tomorrow, putting off that period of adjournment when there are other things that are scheduled to come up tomorrow.

For that reason, as suggested by the gentleman from Florida, I think it would serve everybody's purpose, there being only two amendments remaining, one against which a point of order probably lies and the other which probably would be accepted, that we should conclude debate in 20 minutes. It would be our purpose, for that reason, to ask unanimous consent again that debate might be concluded in 20 minutes or 30 minutes, if that is more satisfactory, to any of the Members, so that we could get to the point that this debate would be terminated. We would know what we could do and what we would know would be that we will come back in on Tuesday and all Members may have whatever opportunity they wished to demand rollcall votes and we would have those rollcall votes on Tuesday when all the membership would expect to be present and it would be fair to all Members.

Mr. RHODES. Mr. Chairman, will the gentleman from Florida yield?

Mr. FUQUA. I would be happy to yield to the distinguished minority leader.

Mr. RHODES. Mr. Chairman, it is my understanding that there are only two amendments pending. I wonder why we do not go ahead and dispose of them.

It is my further understanding that one of them may be accepted. I think we would probably make haste faster if we went ahead in the ordinary course of the business of the House and not worry about it.

Mr. FUQUA. Mr. Chairman, I yield to the gentleman from California (Mr. LAGOMARSINO), for the purpose of offering his amendment.

The CHAIRMAN pro tempore. The Chair will advise the gentleman from Florida that the gentleman from California must seek his own time for the purpose of offering an amendment.

Does the gentleman from Florida yield back his time?

Mr. FUQUA. Mr. Chairman, I yield to the majority leader.

Mr. WRIGHT. Mr. Chairman, the reason that it is going to be necessary at some point for us to establish a time certain upon the completion of debate and not an hour, like 6 o'clock or 6:15, but rather a certain number of minutes, is that it would be the purpose of the managers of the bill to rise with the matter unresolved, so that we could come back and we would know that when we came back, then the votes would come.

On the other hand, if we were to report the bill back, having completed action on all amendments and report the bill back to the House, under the rule we would have to begin voting now and there would be no alternative for us, except to stay tonight until we completed action on the entire bill, including all the amendments which lie between this point and final passage.

So, Mr. Chairman, I would ask unanimous consent that all debate on this bill and all amendments thereto may close in 20 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. PEYSER. Mr. Chairman, reserving the right to object, and I would not like to object, but I would like to question something.

I have been waiting on this floor for 4 hours to offer an amendment that I think is critical to this bill. I would just like an assurance that I would have at least 5 minutes to present this amendment.

Now, if there are only two amendments and we are talking about 20 minutes, then there should be the opportunity of 5 minutes and I want an assurance of that.

I do not want to get shut out in 40 seconds.

Mr. FUQUA. Mr. Chairman, I yield to the majority leader.

Mr. WRIGHT. Mr. Chairman, I ask unanimous consent that all debate on this bill and all amendments thereto shall conclude in 20 minutes, with 5 of those minutes reserved for the gentleman from New York (Mr. PEYSER) and 5 reserved for the gentleman from California (Mr. LAGOMARSINO).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: Page 78, after line 9, insert the following new section and renumber subsequent sections accordingly:

LIMITATIONS ON STORAGE OF SPENT NUCLEAR FUEL IN THE TERRITORIES AND POSSESSIONS OF THE UNITED STATES OF AMERICA

SEC. 810. No funds authorized to be appropriated pursuant to this Act may be used for the transportation to or the interim, long-term, or permanent storage of spent nuclear fuel or high-level radioactive waste on any territory or possession of the United States or the Trust Territory of the Pacific Islands unless—

(1) the President submits to the Congress a report on the transfer at least 30 days before such transfer and on a day during which both Houses of the Congress are in session or either or both Houses are not in session because of an adjournment of three days or less to a day certain; or

(2) the President determines that an emergency situation exists with respect to such transfer and that it is in the national interest to make such transfer and the President notifies as soon as possible the Speaker of the House of Representatives and the President of the Senate of such transfer.

The provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

□ 1750

Mr. LAGOMARSINO. Mr. Chairman, this amendment requires the President to submit a report to Congress if he authorizes the transfer of spent nuclear fuel to U.S. territories or insular possessions.

As you may know, a specific island in the Pacific Basin is being considered for the interim storage of spent nuclear fuel. Except for a story that appeared in the Washington Post, however, we in Congress might not yet have known of the proposal. Even the Secretary of the Interior, who is specifically responsible for these territories and possessions, apparently did not know of the proposal.

For this reason, I decided to sponsor this amendment, which specifically requires the President to notify Congress 30 days before authorizing a policy of transferring the spent fuel.

The Congress has a special commitment to U.S. territories and possessions. The residents of the various States have the protection of two Senators, several Representatives, a Governor, and State and local legislators. The inhabitants of the territories have only the Secretary of Interior and the Congress and in some cases, nonvoting delegates. We have a unique and special responsibility for the welfare of those who live in the territories and possessions of the United States, and for the protection of the many uninhabited islands. This amendment fulfills part of the responsibility to these territories.

As I have stated, my primary concern in introducing this amendment is to insure that Congress is kept fully informed of the administration's policy toward the interim or permanent storage of spent nuclear fuel in U.S. territories or insular possessions. The Congress has a unique responsibility to our territories and possessions, and cannot properly fulfill this responsibility without the cooperation of the executive branch.

In drafting this amendment, the transfer of nuclear spent fuel refers to the policy of transferring spent nuclear fuel to U.S. territories or possessions. It is not intended to require the President to submit a report to Congress on every single transfer of spent fuel that might take place. However, it is intended to include any change in the policy of transferring spent nuclear fuel to U.S. territories or possessions. For example, such changes would include, but not be limited to, changes in location, significant changes in quantity, or changes in the source of the spent fuel.

The transfer itself refers to the interim storage of spent nuclear fuel, and is intended to exclude incidental military transfers that might occur.

I urge adoption of the amendment.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, on behalf of the Committee on Interior and Insular Affairs, I would like to indicate that the committee has no objection to this amendment.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I am a little concerned with this amendment. Does this mean that no kind of nuclear fuel can be transferred to any of the territories at any time unless the President declares an emergency? Is that the intent of the amendment?

Mr. LAGOMARSINO. No. No, it is only that if the President is going to transfer spent nuclear fuels to one of the territories, he has to advise Congress 30 days before he does it so we will be aware of that.

Mr. LUJAN. Mr. Chairman, may I ask, does that kind of protection hold true for any particular State? Suppose they want to take it out to California. Notwithstanding the California law, suppose they want to take it to California; does the President then have to give notification?

Mr. LAGOMARSINO. Mr. Chairman, my understanding is that under the present law that is the situation.

In any event, this amendment would not interfere with any law that would relate to the storage of nuclear fuel one way or another on lands other than the ones to which we are referring in the amendment.

Mr. LUJAN. So this is a prohibition against the storage of any nuclear fuels in the territories, so now by this amendment we are limiting storage to the 50 States?

Mr. LAGOMARSINO. No. Mr. Chairman, if I may reclaim my time, it is not a prohibition; it is merely a requirement that the President advise us that he is going to do so.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, the gentleman from California (Mr. LAGOMARSINO) knows of course from his work as ranking minority member of the International Economic Policy and Trade Subcommittee of the important role that multinational storage facilities can play in reducing nonproliferation and security problems. I know the gentleman, who has labored long and hard on behalf of an effective nonproliferation policy, shares with me a concern about the slow pace of our efforts to provide meaningful alternatives to reprocessing. I simply wanted, then, to establish for the record that the gentleman's amendment is not intended to impede serious research and evaluation of promising multinational sites?

Mr. LAGOMARSINO. Mr. Chairman, the gentleman from New York is correct. Multinational storage can provide a secure interim resting place for fuel that might otherwise be prematurely reprocessed and available for explosive devices. I look forward then to an expeditious but careful evaluation of alternative storage sites, and I intend and the gentleman from New York intends to monitor such work closely. My amendment simply assures that the Congress be properly consulted on this matter, so that interests of the Pacific territories can be properly and fully taken into account.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman from California (Mr. LAGOMARSINO) for his statement, and on that basis I support the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, on behalf of the Committee on Interstate and Foreign Commerce, I am happy to support the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 89, noes 11.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will inform the gentleman that he has just counted for a division. A quorum is present.

Mr. BAUMAN. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEYSER: Page 79, after line 25, insert the following new title:

TITLE IX—REPORTS

PETROLEUM SUPPLY REPORTS

SEC. 901. During the period covered by this Authorization, Energy Information Administration shall obtain them from each oil company not later than the third day (excluding Saturdays, Sundays, and legal public holidays as specified in section 6103 of title 5, United States Code) of each calendar month beginning after the date of the enactment of this title a report specifying—

(1) the total refining capacity of such company on the last day of the last previous calendar month;

(2) the percentage of the total refining capacity of such company used during the last previous calendar month;

(3) the estimated total refining capacity of such company during the calendar month during which the report is submitted;

(4) the percentage of such estimated total refining capacity of such company estimated to be used during the calendar month during which the report is submitted;

(5) the amount and location of all crude oil held or stored by such company, or under contract to such company, on the last day of the last previous calendar month;

(6) the estimated amount and location of all crude oil to be held or stored by such company, or under contract to such company, during the calendar month during which the report is submitted;

(7) the inventory of refined petroleum products of such company, by category of products, and the location of such products, on the last day of the last previous calendar month; and

(8) the estimated inventory of refined petroleum products of such company, by category of products and the estimated location of such products, during the calendar month during which the report is submitted.

PUBLISHING AND MAKING PUBLIC REPORTS

SEC. 902. Notwithstanding section 552 of title 5, United States Code (known as the Freedom of Information Act), the Administrator of the Energy Information Administration shall publish, and make available to the public, each report submitted pursuant to section 901 not later than the sixth day (excluding Saturday, Sundays, and legal public holidays as specified in section 6103 of title 5, United States Code) of each calendar month during which such report is submitted.

DEFINITIONS

SEC. 903. For purposes of this title—

(1) the term "oil company" means—

(A) any importer into the United States of any crude oil or refined petroleum product; or

(B) any refiner in the United States; or

(C) any first purchaser of crude oil of more than 150,000 barrels per year who is incorporated in the United States, resides in the United States, or does business in the United States; and

(2) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and all other territories and possessions of the United States.

Mr. PEYSER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will continue to report the amendment.

The Clerk concluded the reading of the amendment.

POINT OF ORDER

Mr. LOEFFLER. Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. LOEFFLER. Mr. Chairman, this amendment is not germane. The amendment imposes new comprehensive mandatory information reporting requirements on oil companies, not the Department of Energy.

The bill which we are considering would merely authorize appropriations for the Department of Energy. The bill does not institute any new requirements directly on individuals.

Number two, Mr. Chairman, the amendment is also nongermane because it permanently changes the purpose, coverage, and extent of the Freedom of Information Act by making the Freedom of Information Act inapplicable to information gathered in reporting pursuant to proposed new comprehensive programs.

For these two reasons, Mr. Chairman, this amendment is not germane and should be ruled out of order.

The CHAIRMAN pro tempore. Does the gentleman from New York (Mr. PEYSER) wish to be heard on the point of order?

Mr. PEYSER. Yes, I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

□ 1800

Mr. PEYSER. Mr. Chairman, I think the gentleman does not know that the amendment does not bring about any new requirement. I believe what he has read is the old amendment, which is the reason we had the amendment read now. It no longer says that it requires the oil companies to report. It simply says that the Energy Information Agency shall obtain the information from the oil companies, which is a perfectly legitimate and germane action to take.

On the question of violation of the Information Act, Mr. Chairman, I think that is something that the Congress is going to have to decide, whether this is appropriate or not, because what this amendment is doing is saying that the information from now on will be obtained by the Department of Energy from the oil companies so the Department of Energy is the source of the information to the Congress and not the American Petroleum Institute. So it would seem to me that this is a totally germane amendment as long as we no longer have the oil companies involved in the opening of this amendment to report, and the Information Act is something that the Members here have to vote on. It certainly is not a question of germaneness, and for that reason I believe the amendment should stand, Mr. Chairman.

The CHAIRMAN pro tempore. Does the gentleman from Ohio (Mr. BROWN) wish to be heard on the point of order?

Mr. BROWN of Ohio. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Ohio (Mr. BROWN) is recognized.

Mr. BROWN of Ohio. Mr. Chairman, there is some confusion at our desk because we are not clear about the precise language of the amendment being offered, since we did not have a copy of the amendment. We have two different copies that have been given to us at different times. But there is another point with reference to germaneness that appears to be in at least one or the other of these, and perhaps both, and that is the requirement in this authorization legislation that goes beyond the calendar year for which the authorization legislation is drawn.

If I read correctly, the first paragraph of the amendment says section 901, and it says the Administrator of the Energy Information Administration shall obtain from each oil company no later than the third day, excluding Saturdays, Sundays and holidays, of each calendar month beginning after the date of the enactment of this title, a report specifying, and leaves no terminal date for which this amendment would be applicable.

Mr. PEYSER. Mr. Chairman, I would ask the Clerk to read the opening again on this, because I think the gentleman is absolutely right in what he is saying. But that is not what the amendment says. If the Clerk would read that opening part, it would answer his question.

The CHAIRMAN pro tempore. Without objection, the first two lines of the amendment will be reread by the Clerk.

There was no objection.

The Clerk read as follows:

SEC. 901. During the period covered by this authorization, the Energy Information Administration shall obtain from each oil company not later than the third day . . .

Mr. BROWN of Ohio. Mr. Chairman, let me just observe that it is very difficult for us to attend to the germaneness problems of the amendments when we are not given the amendment so that we can understand what it is. I would appreciate in the future if the gentleman would follow the proper form.

Mr. PEYSER. Mr. Chairman, I appreciate the problem and I apologize to the gentleman for that inconvenience.

Mr. BROWN of Ohio. Mr. Chairman, the point of order is still appropriate because of the direction of the amendment to the Freedom of Information Act and the modification of that act, which is not a subject of this authorization.

The CHAIRMAN pro tempore (Mr. STUDDS). The Chair is prepared to rule.

The first point made by the gentleman from Texas is mooted by the change in wording, as noted by the gentleman from New York and the gentleman from Ohio, since the amendment addresses conduct of the Department and does not directly regulate the activities of others.

The amendment is prefaced by the words "During the period covered by this authorization * * *"

In the opinion of the Chair, it covers activities of the Department during the fiscal year in question and does not constitute a permanent change in law.

The reference to the Freedom of Information Act does constitute an indirect

waiver of its provisions, but it does not constitute a permanent change in that act. It refers only to public access to information obtained pursuant to section 901, which is a 1-year requirement.

The Chair, therefore, feels that the amendment is germane and overrules the point of order.

The gentleman from New York (Mr. PEYSER) is recognized for 5 minutes in support of his amendment.

Mr. PEYSER. Mr. Chairman, I again apologize for any inconvenience that was brought about by a change in the amendment before the gentleman had an opportunity to see it.

Mr. BROWN of Ohio. If the gentleman will yield, the inconvenience is not here; the inconvenience is for all of the Members in the Chamber because we now have four versions of the amendment as it was reputedly offered.

Mr. PEYSER. I thank the gentleman. I did specifically ask and had the Clerk read that portion of the amendment so that it would be clearly understood, even prior to asking unanimous consent. However, to come to the amendment—because I do not want to take any more time on this than anyone else—it seems to me that this amendment comes to the very heart of every problem we are facing in this country on the oil crisis. The people of this country have not believed the condition that exists in the oil industry in this country for the simple reason that no arm of the Federal Government has been directly responsible for gaining this information. Consequently, the information has been continually provided to us by the American Petroleum Institute, which makes absolutely no sense, plus the fact, Mr. Chairman, as has happened to the gentleman from Michigan, in the committee which he Chairs, when he has requested information from the Department of Energy he has gotten information that is 2 or 3 months old by the time he has received it. I know, incidentally, after talking to the oil companies, that everything I am asking for they can comply with, in fact, they are complying with today, and it just seems to me that we ought to have that information available to the Congress of the United States immediately and not 3 months late.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I have listened with interest and, as I understand it, the gentleman is trying to get information. I am deeply concerned with the time schedule that the gentleman has in his amendment. I have looked at it. The 3-day period and the reporting thing in 6 days seems unreasonable, in that they could not comply with it. Although I am in some sympathy with what we are trying to do to get the proper information, I am deeply concerned that it is an undue restriction, and I have put an amendment at the desk to the gentleman's amendment that would lengthen this time period considerably. I hope that when that amendment is considered that the gentleman will be in favor of it.

Mr. PEYSER. What is the time limit in the gentleman's amendment?

Mr. CAMPBELL. I changed the gentleman's amendment, where the gentleman has the 3d day, to the 10th of the month, and I changed the gentleman's 6 days to 15.

Mr. PEYSER. Mr. Chairman, basically I would have no objection to that if it is a reasonable request and a reasonable time. I think the important thing is that this is going to be the first opportunity that the Members of the House of Representatives are going to have to vote on an issue that says that the oil companies basically have to be responding to the Department of Energy itself to provide the information on a monthly basis that tells them how much oil has been refined, how much crude is on hand, where this is, and by company, so we are no longer in the dark on this entire situation. I trust that this amendment will be passed and accepted.

Mr. FUQUA. Mr. Chairman, I renew my unanimous consent request.

I ask unanimous consent that all debate on the bill and all amendments thereto close in 15 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. FUQUA. Mr. Chairman, I move that all debate on the bill and all amendments thereto conclude in 15 minutes.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 93, noes 36.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 267, noes 107, answered "present" 1, not voting 58, as follows:

[Roll No. 583]

AYES—267

Addabbo
Akaka
Alboeta
Alexander
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bingham
Blanchard
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Carter
Cavanaugh
Chappell
Clay
Cleveland
Clinger
Coelho
Conyers
Corman
Cotter
D'Amours
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
English
Erlel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hinson
Holt
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leath, Tex.
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Luken
McCloskey
McCormack
McHugh
McKay
McKinney
Maguire
Marks
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Motl
Murphy, Pa.
Murtha
Natcher
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Roberts
Roe
Rostenkowski
Roybal
Rudd
Runnels
Russo
Sabo
Santini
Sawyer
Scheuer
Sebelius
Selberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Taylor
Thompson
Trasler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOES—107

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Bereuter
Bethune
Buchanan
Butler
Campbell
Carney
Cheney
Clausen
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Dannemeyer
Deckard
Derwinski
Dornan
Edwards, Calif.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Findley
Fish
Frenzel
Gilman
Gingrich
Goldwater
Gradison
Grassley
Grisham
Guyer
Hammer-schmidt
Hansen
Heckler
Hollenbeck
Hopkins
Hyde
Jacobs
Jeffords
Jeffries
Kelly
Kindness
Kramer
Leach, Iowa
Lent
Levitas
Lewis
Livingston
Loeffler
Lujan
Lungren
McClory
McDade
McDonald
Marriott
Martin
Mathis
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nichols
Paul
Petri
Pursell
Quayle
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Schroeder
Schulze
Sensenbrenner
Shumway
Shuster
Snowe
Solomon
Spence
Stangeland
Stockman
Symms
Tauke
Thomas
Vander Jagt
Walker
Wampler
Williams, Mont.
Young, Fla.

ANSWERED "PRESENT"—1

de la Garza

NOT VOTING—56

Anderson, Ill.	Filippo	Murphy, N.Y.
AuCoin	Flood	Myers, Pa.
Beard, Tenn.	Garcia	Oakar
Bevill	Green	Ottinger
Biaggi	Hagedorn	Pickle
Boggs	Harsha	Rodino
Bolling	Hillis	Rose
Bonker	Holland	Rosenthal
Broomfield	Horton	Satterfield
Brown, Calif.	Jones, N.C.	Stark
Carr	Kemp	Steed
Chisholm	Leach, La.	Treen
Collins, Ill.	Lee	Volkmer
Conable	Lundine	Waxman
Crane, Philip	McEwen	Wilson, C. H.
Diggs	Madigan	Winn
Dixon	Markey	Wirth
Downey	Miller, Calif.	Wydler
Drinan	Moffett	
Fazio	Murphy, Ill.	

□ 1820

So the motion was agreed to.

The result of the vote was announced as above recorded.

● Mr. LIVINGSTON. Mr. Chairman, one critic of last week's vote to decontrol gasoline complained that this Congress was becoming known as the decontrol Congress. I hope he is right, because our economy—and our energy situation—is showing us the results of bureaucratic tampering with market forces. We can try to fool the law of supply and demand, but that is like trying to fool the law of gravity. Sooner or later it catches up with us. In the energy field, it caught up with us in the form of gasoline lines, dependence on OPEC oil, and unpredictable price increases. The tragedy is that so many of us saw it coming. As Nobel Prize winner Milton Friedman states:

> Do you want to produce a shortage of any product? Simply have government fix and enforce a maximum price on the product which is less than the price which would otherwise prevail.

Some of my colleagues claim to champion consumers by advocating controls on crude oil, heating oil, or gasoline. But controls on domestic petroleum products mean shortages of those products. And domestic shortages must be made up by imports—at whatever price the sheiks wish to charge. And when the sheiks—or the shah—have political troubles, the consumer gets the worst of both worlds—skyrocketing prices and gasoline lines.

In the long run, consumers and producers will be better off in an energy market where supplies and prices are determined by the market. Doing away with the DOE gasoline allocation system will be a much more effective move to eliminate gasoline lines than any elaborate rationing plan we can dream up. As a matter of fact, it is now fairly common knowledge that the allocation system—with its constantly changing set-asides, priorities, and base periods—actually caused the gasoline lines. It was the regulations, not the oil companies, which allocated gasoline according to places where the demand existed in 1977 or 1978, instead of where it was needed in the spring of 1979.

Decontrol will mean higher prices—although nothing even approaching the instant $2 per gallon scare stories. As for its inflationary impact, I call your attention to the fact that both Germany and Japan have been paying world market prices for years. And their inflation rates are one-third to one-half of ours. Decontrol of crude oil will also mean millions more barrels per day of crude oil, produced by Americans in America. Decontrol of gasoline will mean that refiners can afford to invest in unleaded refining capacity to alleviate a pending shortage. Decontrol of gasoline means that gasohol and substitute fuels will be more competitive, both in the marketplace and for investment capital. And decontrol will mean real conservation. Consumers conserve when it is in their best economic interest to do so, not because Jimmy Carter or anyone else politely asks them to do so.

In closing, I wish to make one point that is not often heard. And that is that in the energy industry, it is the little guy who really feels the brunt of the bureaucratic maze. The big integrated companies and multinationals can cope. They simply shift their investments overseas. Or they hire swarms of attorneys and accountants to combat the swarms of Government attorneys and accountants. But what about the independent producers who drill 80 to 90 percent of the exploratory wells in this country—the guys who try to run one or two rigs on a shoestring without a 30-man corporate legal staff? Or what about the independent service station dealer who is required to comply with the DOE regulations on calculating ceiling prices, a regulation that has changed more than 100 times since August 19, 1973?

To be sure, decontrol of crude oil and petroleum products is no instant cure for an energy market suffering from decades of Federal manipulation. But we need to give it a chance to work. In the long run, it is our only chance.●

● Mr. DRINAN. Mr. Chairman, I wish to commend the gentleman from Pennsylvania (Mr. KOSTMAYER) and the gentleman from my home State of Massachusetts (Mr. CONTE) for offering this amendment which would require the Energy Department to procure at least 25 percent of research and development projects and services from small businesses.

It is appropriate that small businesses, which often face discriminatory rates by power utilities, be given the opportunity to assist this country in solving its energy problems. And it is only fair that small businesses, which employ 58 percent of our work force and account for 43 percent of our gross national product, be guaranteed access to Department of Energy research, development, and demonstration contracts.

I became aware of the necessity of guaranteeing this access through my sponsorship with the gentleman from Iowa (Mr. BEDELL) and the gentleman from Wisconsin (Mr. REUSS) of H.R. 2447, the Small Business Procurement Reform Act. Standing between a small business and any Federal contract on which it wishes to bid is a mountain of paperwork. Large firms often have large staffs well versed with bid specifications and who have early and complete notification about prospective contracts. The interests of small businesses need to be protected by legislation such as this amendment.

In the 95th Congress I joined with the gentleman from Iowa (Mr. BEDELL) and 85 other Members of the House in sponsoring H.R. 3984, a bill to guarantee a substantial role for small businesses in the development, demonstration, and marketing of solar energy equipment and energy-related inventions. I found that the changing distribution of solar R.D. & D. funds pointed toward favored treatment of large corporations which are already dominating the solar energy field.

The General Accounting Office has found that DOE's structure and function unfortunately results in large corporations being the recipients of most DOE contracts. This amendment would assure that small businesses have a fair share of the remaining contracts.

Finally, Mr. Chairman, I would like to cite a National Science Foundation study that found that small businesses produce 24 times more major innovations per research and development dollar expended than do large firms. This amendment can lead not only to a better investment of Federal R.D. & D. funds, but also to the energy innovations that we desperately need and that small businesses will gladly provide if they are provided adequate funding.●

● Mr. GORE. Mr. Chairman, not many years ago, the idea of controlled nuclear fusion seemed a distant dream, a wish of grand dimensions and little likelihood of success. Today all that is changed. Today we can say with confidence that the work of laboratories around the world—including our own National Laboratory at Oak Ridge—will make possible a day in which many of us will see the lamps which light this Chamber powered by the force which kindles the stars.

Or, rather, we could confidently say so except for one little problem, a problem so foolish in so many ways that it would be funny were the need for a secure and plentiful energy course not so vital for our Nation's future. The problem? We cannot have controlled fusion without helium, and this Nation is squandering its reserves of helium at an alarming rate.

We will need helium to cool the giant lasers and power the magnets which will generate the fields to contain fusion reactions. We will need liquid helium to cool the reacting core and carry the heat from the chamber to the turbines. But our helium reserves are mixed with natural gas. And therein lies our problem.

Helium can be separated from natural gas by a relatively simple procedure, and today nearly 1 billion cubic feet are extracted and sold each year to be used in jobs as diverse as lifting blimps and filling divers' air tanks. But far more helium is extracted and simply vented into the atmosphere because it cannot be sold or not extracted at all and left in the gas stream to dissipate when the gas is burned for fuel. What goes into the atmosphere is lost to us and what remains is a steadily shrinking pool.

By the beginning of the next century

this Nation will have spent more than $15 billion to learn how to build a prototype of a commercial fusion reactor. We will be near the end of the long road toward true energy independence for millenia to come. But at just that time, if we do not change our course, we will be nearing the end of our reserve supply of the helium necessary to let fusion happen. Fifteen billion taxpayer dollars will have been wasted. Worse still, we will have squandered a vital resource, virtually foreclosed a crucial energy technology, and guaranteed the next generation of Americans a power crisis more hopeless and unnecessary than the one we struggle against today.

Beginning with the passage of the Helium Act in 1960, the Federal Government purchased and stockpiled available helium. But in 1973 the Nixon administration quietly terminated the program, calling the termination an economy measure. If ever there was a false economy, this is it.

We can correct that mistake and preserve the possibility of a secure energy future for this Nation. But we must act soon. As many of my colleagues know, the distinguished chairman of the Energy and Power Subcommittee has introduced legislation to establish a Federal helium stockpiling program on a new and sounder basis. I am happy to have the opportunity today to urge my colleagues to join me in support of that effort.

Too often, as we all well know, this House acts only when the crisis is upon us, and too often action taken in the midst of a crisis comes too late to help. Such will be the case with helium. If we wait until the problem has become obvious to all, the solution will be floating unreachable in the atmosphere above our heads. By acting now we can leave the next generation a more secure and stable future. They will not forgive us if we fail.●

Mr. DINGELL. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 82, noes 23.

So the motion was agreed to.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Chairman, how many responded to that division?

The CHAIRMAN pro tempore. One hundred and five.

Mr. BAUMAN. I thank the Chairman.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the Chair, Mr. STUDDS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM FOR FRIDAY, OCTOBER 19, 1979

Mr. MYERS of Indiana. Mr. Speaker, I would ask to address the House for the purpose of inquiring what the program will be tomorrow, and I yield to one of the leadership of the majority side for the purpose of inquiring about the program for tomorrow.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, tomorrow the House will meet at 10 a.m. and take up H.R. 2172, the International Sugar Stabilization Act. It is an open rule, and the rule has already been adopted. It will be for general debate only, general debate of 2 hours. We will not proceed to any consideration of amendments.

□ 1830

The House will consider H.R. 3683, Consolidated Farm and Rural Development Act, with an open rule and 1 hour of debate. We will attempt to finish that bill.

If possible, the House will consider H.R. 2218, Endangered Species Act authorizations. We will consider the rule only.

Following that, we will consider H.R. 4955, supplemental refugee assistance authorization, with an open rule and 1 hour of debate. We will consider the rule only.

Mr. MYERS of Indiana. The program provides that we would adjourn by 3 p.m. The past two Fridays, as we all remember, went into the late hours on Friday evening, which caused many problems for those who were trying to catch planes.

Is there any expectation or possibility that we will go beyond 3 o'clock tomorrow?

Mr. FOLEY. As the majority leader, the gentleman from Texas (Mr. WRIGHT) indicated earlier, it is the intention of the leadership to adhere to the 3 o'clock adjournment on tomorrow.

Mr. MYERS of Indiana. It was the intention to adjourn at 5:30 today, and it is now 6:30. I hope that will be the case, because I think everyone is willing to stay here and work if there is something important, but as the gentleman described the program tomorrow, it does not seem to have anything too pressing.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, can the gentleman tell us when it is the intention to bring up the sugar bill for amendment?

Mr. FOLEY. It is the present intention to bring it up on Tuesday.

Mr. ROUSSELOT. I thank the gentleman.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2727, MODIFYING METHOD OF ESTABLISHING QUOTAS ON IMPORTATION OF CERTAIN MEAT

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96–525), on the resolution (H. Res. 454) providing for the consideration of the bill (H.R. 2727) to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT S. 1030, AUTHORIZING PRESIDENT TO CREATE EMERGENCY PROGRAM TO CONSERVE ENERGY

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96–528) on the resolution (H. Res. 457) waiving certain points of order against the conference report on the Senate bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2313, AMENDING FEDERAL TRADE COMMISSION ACT

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96–527) on the resolution (H. Res. 456) providing for the consideration of the bill (H.R. 2313) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3948, AMENDING FEDERAL AVIATION ACT OF 1958

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96–526) on the resolution (H. Res. 455) providing for the consideration of the bill (H.R. 3948) to amend the Federal Aviation Act of 1958 to eliminate the age limitation presently imposed on certain pilots of aircraft, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2335, PROVIDING FOR RESEARCH, DEVELOPMENT, AND EVALUATION PROGRAM TO DETERMINE FEASIBILITY OF COLLECTING IN SPACE SOLAR ENERGY

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report

(Rept. No. 96–529) on the resolution (H. Res. 458) providing for consideration of the bill (H.R. 2335) to provide for a research, development, and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR PRINTING OF HOUSE DOCUMENT ENTITLED "THE CELLER-KEFAUVER ACT: THE FIRST 27 YEARS"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–530) on the resolution (H. Res. 196) to provide for the printing as a House document of the publication entitled "The Celler-Kefauver Act: The First 27 Years," which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING PRINTING OF PROCEEDINGS INCIDENT TO PRESENTATION OF PORTRAIT OF THE HONORABLE ROBERT N. GIAIMO

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–531) on the resolution (H. Res. 235) to provide for the printing of the proceedings incident to the presentation of a portrait of the Honorable ROBERT N. GIAIMO, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING PRINTING AS HOUSE DOCUMENT STAFF REPORT TO COMMITTEE ON FOREIGN AFFAIRS ENTITLED "THE ASSASSINATION OF REPRESENTATIVE LEO J. RYAN AND THE JONESTOWN, GUYANA TRAGEDY"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–532) on the resolution (H. Res. 349) providing for the printing as a House document of the staff report to the Committee on Foreign Affairs entitled "The Assassination of Representative Leo J. Ryan and the Jonestown, Guyana Tragedy," which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION APPROVING PRINTING OF ADDITIONAL COPIES OF REPORT ACCOMPANYING DEFENSE PRODUCTION ACT AMENDMENT AND EXTENSION

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-533) on the resolution (H. Res. 396) approving the printing of additional copies of the report accompanying the Defense Production Act Amendment and Extension, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING PRINTING OF REPORT OF OFFICIAL VISIT BY SPEAKER'S DELEGATION TO UNION OF SOVIET SOCIALIST REPUBLICS

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–534) on the resolution (H. Res. 397) providing for the printing of the report of the official visit by the Speaker's delegation to the Union of Soviet Socialist Republics, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION APPROVING PRINTING OF ADDITIONAL COPIES OF PUBLICATION ENTITLED "A GUIDELINES HANDBOOK ON FEDERAL LOAN GUARANTEE PROGRAMS"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–535) on the resolution (H. Res. 402) approving the printing of additional copies of the publication entitled "A Guidelines Handbook on Federal Loan Guarantee Programs," which was referred to the House Calendar and ordered to be printed.

REPORT ON CONCURRENT RESOLUTION PROVIDING FOR PRINTING ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "7TH EDITION OF THE IMMIGRATION AND NATIONALITY ACT WITH AMENDMENTS AND NOTES ON RELATED LAWS"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–536) on the concurrent resolution (H. Con. Res. 184) providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws," which was referred to the House Calendar and ordered to be printed.

CO-OP MONTH

(Mr. DASCHLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DASCHLE. Mr. Speaker, in this day when Government programs have lost the confidence of the American people, it is worthwhile to reflect on a program which is an outstanding example of how Government dollars can work to directly benefit people. The Rural Electric Cooperative system is a self-help program which has done exactly what it was expected to do—provide high quality electric service to rural Americans at a price they can afford.

In the mid 1930's, as few as 1 out of every 10 homes in rural America was served with electricity. In fact, in several European countries, barns were served with electricity before millions of rural American families had a light bulb in their homes.

I am pleased that South Dakotans were among the pioneers in the rural electrification movement. President Franklin D. Roosevelt created the Rural Electrification Administration in 1935, and in 1936 the Congress passed the rural electrification program to assist rural Americans in obtaining affordable electrical service by providing low-interest, long-term Government-backed loans. On November 29, 1935 the first South Dakota rural electric cooperative was filed with the Secretary of State in Pierre for the Clay-Union Rural Electric Cooperative by E. J. Manning, Leonard Sudger and K. C. Strong. Six months later they received their first loan from the Rural Electrification Administration, and on October 3, 1937 the first line was energized. They and countless others have spurred the rural electric movement forward in South Dakota and the Nation.

My parents still talk about the day when their farms in Faulk and Edmunds Counties were hooked up by REA. In the thirties when the rural electrification system began, fewer than 10 percent of the rural areas were served with electricity. Now, in South Dakota alone, there are 33 rural electric cooperatives serving 79,000 consumer-members, and nationwide 25 million consumer-members are served by the rural electric systems. The co-ops have shown outstanding success in reaching rural individuals and communities in isolated areas, and I want to take this opportunity to commend the rural electric cooperatives for their outreach.

The most outstanding feature of the rural electric cooperatives is that they provide high quality electric service to the consumer-members at cost. The co-ops are owned and operated by the people they serve, and every consumer-member has a voice in the operation of the co-op through his vote at the annual meeting of his rural electric cooperative.

Just as commendable is the community service and information which rural electrics provide to keep their consumer-members, as well as others in the communities they serve, abreast of the latest developments in the energy field. Programs on winterization and energy conservation benefit us all.

The rural electrics, with their fingers on the pulse of the people, are also a step ahead of the Federal Government in their willingness to pursue alternative means of generating electrical and other forms of energy.

October is co-op month. I join the South Dakota rural electric cooperatives in their observance of co-op month, and commend them for their grassroots involvement which has developed the rural electric systems and continues to make them pioneers in the field of energy service to consumers.

U.S. ARMED FORCES: SILENT PARTNERS IN DISASTER RELIEF

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the combined effects of Hurricanes David and Frederic during August of this year has resulted in a major catastrophe for the island nations of Dominica and the Dominican Republic. The resulting losses in both human and economic terms total several thousand dead and injured, hundreds of thousands homeless and extensive damages exceeding $1 billion.

In response to this catastrophe, which has been described as one of this Century's most devastating hurricane disasters, elements of the United States Army, Air Force, Navy, including the Seabees, Marines and Coast Guard undertook a major humanitarian role in providing disaster relief to the affected Caribbean area. Under adverse conditions they rescued victims, delivered food and medical supplies, repaired vital highways and hospitals and helped restore communications and utilities to the victims of this disaster.

Working hand-in-hand with host countries, these forces use their training and equipment to provide the all important initial relief assistance which enables the more traditional disaster relief agencies to respond. Often arriving on the scene even before the disaster has ended, their heroics should not go unrecognized. To this end, at least one American serviceman gave his life with many others injured in an attempt to airlift emergency aid during hazardous weather.

This important public service aspect of our Nation's defense forces often goes on unnoticed. These men and women are a part of the continuing tradition of this nation's proud history of unselfish humanitarian relief and rescue efforts.

At a time when the United States is seeking to reassure its neighbors and allies throughout the region of our continued commitment and concern, the magnificent contributions of our Armed Forces speak louder than any words. In stark contrast to the recent increase of militarisms by other nations in the area, the United States has once again demonstrated its resolve to protect the independence and viability of our allies in the Caribbean.

I urge my colleagues to join with me in recognition of the invaluable contribution being made by our Armed Forces in disaster assistance and in encouraging their increased participation in the future.

EXECUTIVE ORDER ON COORDINATION OF FEDERAL CONSUMER PROGRAMS

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. HORTON. Mr. Speaker, the creation of an independent consumer agency has long been a goal of mine. I fought hard for such an agency in the 95th Congress and preceding Congresses. My efforts, and those of my colleagues who supported and support the concept, were thwarted by a combination of powerful business lobbying and congressional disinclination to establish another agency. I believed, and continue to believe, that such an agency would greatly enhance the responsiveness of Government agencies to the needs of ordinary citizens.

After the consumer agency bill was defeated last year, President Carter asked his Special Assistant for Consumer Affairs, Esther Peterson, to review agency consumer affairs activities throughout the Government and to develop recommendations for their improvement. Mrs. Peterson convened an 80-member Federal task force to conduct that analysis, and solicited the views of hundreds of consumer, farm, labor, and business groups. On Wednesday, September 26 in a ceremony at the White House, President Carter signed the embodiment of those recommendations: An Executive order to improve the effectiveness, management, and coordination of Federal consumer programs.

In my view, this order is a major step forward. I should add, however, that the order is not—and indeed, is not intended to be—a substitute for an independent consumer agency. Such an agency would have powers that could not be included in the Executive order, such as the authority to seek judicial review of agency actions.

I would like to commend Esther Peterson for her efforts in developing the Executive order, and to ask that Mrs. Peterson's statement at the signing ceremony be placed in the RECORD. The text follows:

REMARKS OF ESTHER PETERSON AT THE SIGNING OF THE EXECUTIVE ORDER ON FEDERAL CONSUMER PROGRAMS

As many of you know, I have been a part of the American consumer movement since its very early days. I have seen it grow in size and influence, and I would like to think that I have contributed to that growth. There is no doubt in my mind, and I'm sure no doubt in yours, that the consumer movement has improved the quality of American life and has helped to reorder our national priorities. All around us we can see evidence of the consumer movement's impact: recalls and bans of dangerous and defective products, a national commitment to preservation of a liveable environment, an increasing accountability of corporations for the social consequences of their actions. A great deal of progress has been made by and because of the consumer movement.

But until April of last year, no President had ever made the consumer interest an explicit and a regular component of White House decision-making. And until today, no President had ever directed Federal agencies to assure that the consumer interest is an integral part of their decision-making.

By issuing the Executive Order on Consumer Affairs, President Carter has given those of us in the consumer movement a tremendous opportunity. He has created a framework for us to use to work with and within the agencies of the Executive Branch on behalf of consumer needs.

I am hopeful that in the years to come, today will be looked upon as something of a turning point in the history of the American consumer movement. For today the consumer interest has been recognized for what we always knew it was, or should be—a vital component in the making of domestic policy. And it has been recognized in the best of ways—in an order that requires agencies to act on that recognition, and that spells out the steps needed to assure that the consumer viewpoint is effectively integrated into the structures and processes of government.

The Order requires each agency to develop a consumer program that includes the following five elements:

First, a professional consumer affairs staff authorized to participate on behalf of consumer interests in the development and review of all agency rules, policies, programs, and legislation;

Second, effective procedures for participation by consumers themselves in the development and review of all agency rules, policies, and programs, including provisions to assure that consumer concerns are adequately analyzed and considered in agency decision-making;

Third, development of informational materials for consumers;

Fourth, consumer affairs training for agency staff members and, where appropriate, technical assistance to consumers and their organizations; and,

Fifth, procedures for systematically investigating and responding to consumer complaints, and for incorporating analysis of those complaints into the development of agency policies.

Standards for each of these elements are briefly set out in the Order.

The head of each agency is required under the Order to designate a senior-level official to work full-time on policy direction and oversight of the agency's consumer affairs activities. The designated official will report directly to the head of the agency, and will advise the agency head of the potential consumer impact of policies under consideration within the agency.

Each agency is to prepare a draft program for complying with the requirements of the Order. These draft consumer programs are to be published in the Federal Register by November 25. After the plans have been revised in light of public comment, they are to be submitted to me for final approval before they go into effect.

Within the next week, I will be sending to the heads of Executive agencies guidelines for the preparation of these consumer programs. The guidelines will indicate in some detail the types of information that must be set forth in the agency consumer programs in order to permit effective review by the public and by my staff.

The Order also requires each agency to submit, as part of its annual budget proposal, a separate statement of the level of funding to be allocated to each of the five major categories of consumer affairs activities identified in the Order. For the first time, consumer affairs expenditures will be broken out of an agency's overall budget proposal, so that the adequacy of these expenditures can be evaluated. I and my staff will review the proposed funding levels for these activities, and will forward our assessments to the Director of the Office of Management and Budget.

The Order will also set into motion the development of a separate job series for consumer affairs personnel, and special programs for their recruitment and training. This will enhance opportunities for professional development and career advancement in the consumer affairs field, and will assure that consumer affairs personnel are accorded the recognition and the opportunities that they deserve.

Finally, the Order creates a Consumer Affairs Council—an interagency body to develop new consumer affairs initiatives and to coordinate government activity under the Order. President Carter has asked me to chair the Council.

This Order is based on the work of an 80-member Federal task force that I convened to analyze consumer affairs activities throughout the government and to develop options for their improvement. The task force consulted with literally hundreds of consumer, labor, farm, and business groups, and with Federal consumer affairs employees. I'd like to thank the members of the task force for their hard work and for the quality of their analysis. I look forward to working with them in the months ahead on the implementation of this Order.

I'd especially like to express my appreciation to the director of the task force, Lee Gray of the consumer affairs office of the Department of Transportation. She did an exceptional job of organizing and running this very large undertaking, and I am grateful to her.

As the President noted in his remarks, this Administration has fought for the creation of an independent consumer agency to represent consumer interests before other agencies and in the courts. This is still one of our priorities. We believe that the Order being issued today would complement an independent consumer agency.

I'd like to say just a few words about how the Order differs from the Ford Consumer Representation Plans issued several years ago. The most fundamental difference is that the Executive Order establishes government-wide standards of performance that agencies must comply with; in many cases this will require substantial changes in agency procedures, and an upgrading and expansion of agency consumer affairs activities. By contrast, the so-called Ford plans were essentially just statements of what agencies were already doing. There are other significant differences as well:

The Executive Order requires that each agency have a senior official working full-time on oversight of consumer affairs activities and reporting directly to the head of the agency; the Ford venture did not require this or any other structural change.

The Order sets up a mechanism for continuous monitoring and evaluation of agency performance; the Ford plans did not.

The Order requires the submission of separate budget data for consumer affairs activities so that the adequacy of expenditures for these activities can be assessed: the Ford plans did not provide for budget reviews.

In short, unlike the Ford plans, the Executive Order is a genuine step, and a major step, toward making government more responsive to consumer needs.●

THIRD DISTRICT OF NEBRASKA FIGHTS TO KEEP ITS DOCTORS

The SPEAKER pro tempore (Mr. ANTHONY). Under a previous order of the House, the gentlewoman from Nebraska (Mrs. SMITH) is recognized for 30 minutes.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise today to bring to the attention of the entire House, a matter of the utmost urgency to many thousands of citizens in the Third District of Nebraska.

Three counties in Nebraska, facing chronic and critical physician shortages, have acquired the services of five foreign doctors to meet their needs. One by one, as their student visa status drew near expiration, these doctors, together with their hospital administrators and the people of the communities, came to me to ask for my assistance that they might be able to stay in the areas and develop a practice. These are not physicians who have made a quick jump to Nebraska to get their hands on a permanent visa. Four of the five are married with children born in the United States. Two of the five have made arrangements to purchase the medical clinic in town, which had been closed since 1977, when the town's last doctor retired. Four of the five have made arrangements to purchase homes in town. All of the five belong to parishes and civic groups. They are well-respected and deeply cared for by the people they wish to serve. Two of the doctors, a husband and wife team, are the only people in town who can communicate with some 50 migrant Nicaraguan workers.

All of these five physicians have been scheduled deportation hearings. Three of the five have been given orders to voluntarily depart by mid-December of this year. The other two, the couple in Rushville, have their hearing set for October 23. The most they can hope for is a 90-day period, at the end of which they, too, will have to depart.

Mr. Speaker, on behalf of these fine communities in my Third District of Nebraska, I have introduced private bills to make it possible for these five physicians to serve these areas where their knowledge and skill are so desperately needed.

I speak of H.R. 1892—for the relief of Dr. and Mrs. Teodoro Ando; H.R. 5068—for the relief of Dr. and Mrs. Samuel K. K. Chung; H.R. 5455—for the relief of Dr. Estela Chan; and H.R. 5456—for the relief of Dr. Rogelio Narvaez and Dr. Perlita Acuna Narvaez.

I am gratified that the distinguished Judiciary Subcommittee on Immigration, Refugees, and International Law, will be holding hearings on these doctors and other meritorious bills at 10 a.m. Wednesday.

If in its wisdom the subcommittee requests a report on my bills from the Department of Justice, a stay of deportation can be issued on the doctor's behalf. In turn, while the report is pending, these doctors can obtain permission from the Immigration and Naturalization Service to begin their practice. I have letters and petitions with thousands of signatures of support from each of these communities, from each of these areas' medical boards and hospital administrators, from professionals in each of these communities, and requests from the State health systems agency and even from the Governor of Nebraska to do all that I can to insure the stay of these fine doctors.

Each of these doctors has a permanent Nebraska medical license—a State in which one must pass all medical exams with a 75 percent, or above, average and which issues no temporary licenses to foreign doctors. All five of these doctors have passed all medical exams and have taken the VQE and are awaiting the results. Of the five, all are certified general practitioners, two are also anesthesiologists, one has trained as a radiologist/urologist, and the fifth has trained in pediatrics and obstetrics/gynecology.

The communities these doctors will serve are not interested in being used as havens by foreign medical graduates to provide them with quick access to a permanent residency visa. These are areas in critical need of quality, primary medical care. There is substantial evidence available to support this claim. To highlight some of the most significant facts regarding these areas, the following statistics have been provided by the Greater Nebraska Health Systems Agency and by HEW—Health Resources Administration. A word of caution should be stated in regard to the designation of an area by HEW, that it is or is not a physician shortage area. The ratio for such designation is at least 3,500 people to every 1 primary care physician. While in New York City, that many people can be found within perhaps a few city blocks, in Nebraska it is quite another story. For example, Cherry County, mentioned below in connection with the doctors. Narvaez, has a population of 6,400 and 3 doctors, thus leaving it with a ratio of about 2,130 to every 1 doctor and therefore, not qualifying it as a physician shortage area. But Cherry County encompasses 6,846 square miles. Thus each of these doctors, theoretically, is responsible for an area encompassing approximately 2,282 square miles. I would hardly call that adequate medical care.

RE H.R. 5068—FOR THE RELIEF OF DR. AND MRS. SAMUEL K. K. CHUNG

According to HEW standards prepared by the Health Resources Administration, Dawes County is neither a physician shortage area, nor medically underserved. However, according to the Health Systems Agency of Nebraska for a population of 10,078, there are seven physicians, one of whom is the physician mentioned above that is considering moving back to Canada to be with his son, and the remaining six physicians are all located in Chadron, Nebr., which has a population of over 6,000 and a 45-bed hospital which is about 30 miles east of Crawford, the community which Dr. Chung would serve.

The town of Crawford, in Dawes County has a population of about 1,300, a 21-bed hospital and a 54-bed nursing home. There is one physician in town, other than the doctor for whom I submitted a private bill, and this current physician is seriously considering leaving the area to return to Canada to live with his son who is severely mentally damaged from the Vietnam war and who cannot obtain a visa to live in the United States. The greater community of Dawes County has an infant mortality rate of 24.13 per every 1,000 live births, 13.8 percent of the population are over 65, and 16.2 percent of the area's families are under the poverty level.

RE H.R. 1892—FOR THE RELIEF OF DR. AND MRS. TEODORO ANDO AND H.R. 5445—FOR THE RELIEF OF DR. ESTELA CHAN

According to HEW standards prepared by the Health Resources Administration, Webster County is a medically underserved area, but not a physician shortage area. However, HEW lists Webster with a population of 4,812 and four physicians. According to the Nebraska Health System Agency, of these four physicians, one is now deceased, one is over 65 and semiretired, and another is Dr. Ando, for whom H.R. 1892 has been submitted.

The town of Red Cloud, in Webster County, has a population of about 1,600, but serves medically a population of about 7,000 because of its 45-bed county hospital. There is also a 54-bed nursing home in town, a complex for the elderly and another nursing home 6 miles outside of town. Other than the two doctors for whom I have submitted private bills, there is one elderly, semiretired physician. Webster County has an infant mortality rate of 41.52 per 1,000 live births, an average age of 41.8 years, 22.7 percent of the population are over 65, and 16.6 percent of the people are under the poverty level. Fifty miles away from Red Cloud is a 195-bed hospital for which these two doctors serve as the only anesthesiologists.

RE H.R. 5456—FOR THE RELIEF OF DR. ROGELIO NARVAEZ AND DR. PERLITA ACUNA NARVAEZ

According to HEW standards prepared by the Health Resources Administration, Sheridan County is medically underserved, but not a physician shortage area. However, HEW lists Sheridan with a population of 6,790 and six physicians. According to the Nebraska Health Systems Agency, of these six, the one listed in Rushville, Dr. Francisco Dozon has moved out of the State, and the other five are in Gordon, a town of approximately 2,200 people and a 40-bed hospital. In addition to Gordon, these five doctors, two of whom serve only as surgeons, provide service to nearby Martin, S. Dak., population about 1,000 and also to Cherry County in Nebraska, located in range country, which has a population of about 6,400 spread out across an area encompassing 6,846 square miles and only three other doctors, all of whom are located at one end of the county in Valentine, Nebr.

The town of Rushville, in Sheridan County, has a population of about 1,100, a 19-bed hospital, a 42-bed nursing home, and serves medically, a community of about 5,000 throughout the county. The husband and wife doctor team for whom I have submitted a private bill are the only doctors in the area. 20 miles away from Rushville is the Pine Ridge Indian Reservation in Wounded Knee, S. Dak. The total population of the reservation is about 15,000. Of these people, about 9,000 travel to Rushville for medical needs, both routine and emergency, because they feel they receive better treatment there than they do from the reservation's own public service hospital. The people of Rushville desperately want a physician. The community raised nearly $40,000 for the services of an American doctor in California, in addition to agreeing to furnish temporary housing, travel expenses, a car, transporting expenses for his property and fees for malpractice insurance, only to be turned down at the last minute.

On October 23, several members of the community are traveling over 350 miles to testify on behalf of the doctors at their deportation hearing in Omaha. They know that a permanent stay is hopeless—they are merely trying to get an extra 30 days. The infant mortality rate in Sheridan is 21.04 per 1,000 live births, there are 18.2 percent of the population over 65, with an average age of 35.2, and 14.3 percent of the population under the poverty level.

In closing, I assure my colleagues that these bills for the medical relief of these communities in my district are of such unquestionable merit that any objective analyses of them would find them deserving of the most substantive and expeditious of actions.

I am confident that the subcommittee will review these bills in a swift and just manner. At such subsequent time as these bills are considered by the full Judiciary Committee and eventually by the whole House, I respectfully urge my colleagues to follow the most sincere and responsible course of action this most honorable of legislative bodies can pursue and pass these bills in the name of justice and mercy, and with humanitarian concern for the people of the Third District.

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RESOLUTION TO PROHIBIT FUNDING OF MR. DIGGS' FOREIGN TRAVEL UNTIL RESOLUTION OF APPEAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 15 minutes.

Mr. SENSENBRENNER. Mr. Speaker, late yesterday the U.S. District Court for the District of Columbia granted permission to the gentleman from Michigan (Mr. DIGGS) to leave the country for a trip, which was reported in the press as a junket, between October 24 and November 12 to European and African countries. I believe that this trip is inappropriate at this time, and I also believe that Mr. DIGGS should not be granted permission to travel abroad at taxpayers' expense while the appeal from his conviction of 29 counts of mail fraud and salary kickbacks is pending.

Today I have introduced a resolution prohibiting the use of contingent funds or other official funds for foreign travel for this gentleman until such time as his appeal is resolved. I would like to see the Members of this House cast a vote for or against this trip. While I recognize that foreign travel is important to give Members of Congress some insight into problems in foreign countries, under these circumstances the trip would be inappropriate. I would hope that the chairman of the House Committee on Foreign Affairs, my colleague, the gentleman from Wisconsin (Mr. ZABLOCKI) would deny the gentleman from Michigan (Mr. DIGGS) permission to travel abroad until such time as the appeal has been resolved either in affirming the conviction or reversing the conviction. If not, I would hope that the House would approve the resolution which I have introduced, because I do believe that it would be important for the integrity of the proceedings of this House that such a trip not occur under these circumstances.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. I want to thank the gentleman for his leadership on this matter because I think when we considered the matter of Mr. DIGGS's expulsion here some weeks ago, one of the reasons given for a censure action rather than the expulsion action was that Mr. DIGGS's case was still under appeal, and the censure of the House is a very serious matter that was undertaken at that point. One of the provisions of that was that the Member was going to continue to serve in his capacities in the House, but I think this goes far beyond that because in this particular case, as I understood the court ruling and would have understood from the press reports, what was being talked about doing was he was going to represent the country in these nations. I think that we have a very serious matter when a man who is under conviction and is appealing a conviction that has not been settled yet is going out of the country to represent us in some nations that evidently have not been visited by an American Representative in some time. So I think the gentleman is absolutely right that at this time this trip seems entirely inappropriate, and I would hope that the House would follow the gentleman's suggestion.

Mr. SENSENBRENNER. I thank the gentleman for his remarks. They are right on target.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding. I would also like to compliment the gentleman for bringing this matter to the attention of this body. I intend to offer a resolution tomorrow which will state that no Member of the House convicted of a felony shall, prior to the completion of his sentence or the successful appeal of his sentence, travel outside the United States at taxpayer expense without the prior approval of the majority of the Members of the House by a recorded vote. The reason I do this is that I have been informed at this moment that the trip which was announced in the newspaper is now not going to take place. A newspaper reporter indicated to my office that the chairman of the committee said that the trip was canceled, but that the gentleman from Michigan

(Mr. DIGGS) has indicated that the trip is not canceled, but merely postponed. It seems to me that during this period of time when we have been discussing the questions of ethics as they were argued on the floor very forcefully and with much emotion yesterday by our Speaker and by others, that it behooves us to consider how the American people really look at this House. The whole question of how we can discipline our Members goes to the power that we have under the Constitution to really uphold the esteem and the integrity of this House. In my judgment, the House was not correct in merely censuring Mr. DIGGS. I thought that the appropriate action was one of expulsion, but the House did not go along with that. However, in voting for censure, I do not believe that Members of this House thought that the offenses for which Mr. DIGGS was convicted and the actions for which he was recommended to be censured by the Committee on Ethics would allow him to therefore go on and represent the United States in other countries.

The other thing is that it appears to me the reason why we have Members go overseas is not only to represent this country, but to gather some experience that will allow that to be utilized in further consideration of legislation in this House, and I would think that when one is under a sentence of 3 years in prison, there is some question about whether that experience would be readily available to the members of the committee when he returned.

We should also be very, very careful to note that we are not dealing here with a situation where one has merely been accused, where the presumption of innocence is appropriate. We are talking about a situation where one has been convicted by a jury of his peers involving the question of the misuse of funds, taxpayers' funds, while in office and as a result of his position in office, and as such once one is convicted and is sentenced, even though one has an appeal pending, the presumption of innocence is no longer appropriate and the doubt is actually in favor of the sentence itself. I think we could do nothing less than bring this to the attention of the Members of this body and to insist that this House go on record on this particular question if in fact the trip is not canceled and would be considered at a later date.

Mr. SENSENBRENNER. I thank the gentleman from California for his statement. The information which he has imparted that the gentleman from Michigan (Mr. DIGGS) has stated that the trip has not been canceled but has merely been postponed indicates very clearly that this House should take action prior to the recess that has been announced for the 2d of November, lest Mr. DIGGS stealthily go off to Africa at taxpayers' expense when the Congress of the United States has been adjourned until January of next year. So I thank the gentleman for his research work. I believe that the resolution which he is proposing to apply to all convicted felons is good legislation, but that does not obviate the necessity for the Members of this House to deal with the trip proposed by the gentleman from Michigan (Mr. DIGGS) either next week or at some time in the future before his appeal is resolved by the U.S. Court of Appeals for the District of Columbia Circuit.

NONFUEL MINERAL POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MARRIOTT) is recognized for 5 minutes.

Mr. MARRIOTT. Mr. Speaker, our Nation is facing a resource crisis potentially more devastating than any that could arise from a shortage of petroleum. The approaching crisis is over nonfuel minerals, and it is the result of the absence of a national nonfuel minerals policy. Of the 32 minerals on which we rely, we import 23 of them by 50 percent or more. The most vital of these resources are cobalt, chromium, and manganese, of which we import over 90 percent. More realistically we import about 100 percent. The absence or restriction of just these three minerals could severely damage our aerospace industry, our communications systems, and our steelmaking and heat-resistant alloys industries. In fact, we heard in committee today, Mr. Speaker, that if the Soviet Union in their efforts in southern Africa would team up with those nations in southern Africa in terms of these three minerals, we could well have the entire Western World shut down in approximately 6 months.

I found it quite appalling that we relied so much on South Africa and the Soviet Union and Rhodesia for these three minerals. In the meanwhile, the Soviet Union imports only six minerals of which but two approach 50 percent. Yet they are wasting no time in positioning themselves to buy great quantities of minerals from our supplies in Southern Africa, the Persian Gulf of metals.

□ 1850

In fact I understand now that the Soviets are in Rhodesia negotiating to buy up minerals of which they already have great supplies. I have also heard, Mr. Speaker, if we continue to push around South Africa and Rhodesia and do nothing in terms of our foreign policy decision with Zaire that we may very well find ourselves in a very precarious position in the next 6 months.

Our chaotic and absurd resource diplomacy toward Rhodesia, Nigeria, and Zaire strongly dictate the need for a national policy. We must immediately begin to reexamine our action in the light of our needs for these essential minerals. If we do not start now with a nonfuel minerals policy by the late 1980's and early 1990's the problem will make the Arab oil embargo of 1973 look like a walk through the park.

I yield back the balance of my time.

KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, on May 30, Federal District Judge John Wood was murdered as he left his San Antonio home to drive to the courthouse. He was the first Federal judge ever murdered. It could have been a crime of insanity, or one committed by someone aggrieved by Judge Wood, or it could have been the deliberate act of criminals who seek to show their contempt for the law, and to prove that they are beyond its reach, as I believe. It was too well planned to have been fortuitous.

No one knows, because the crime has not been solved.

The usual kinds of response have sprung up in the wake of Judge Wood's death. The Federal Bureau of Investigation assigned a number of agents to the case, and accorded it a high priority. Local lawyers banded together to offer a huge cash reward for information leading to the arrest and conviction of the person or persons responsible. A Federal building may be named in his honor. The FBI continues to investigate leads of all kinds, and routinely questions anyone arrested for drug offenses about their possible knowledge of the case.

Unhappily, the investigations have produced no arrests, no charges.

Even more unhappily, there has been no one charged with an earlier assault, a vicious shooting attack against an assistant U.S. attorney, James Kerr. Just as in the attack on Judge Wood, Kerr was assaulted as he left home for work.

Each one of these cases was an assault upon law itself. Each one was an attack that told the prosecutors not to be too diligent, and the judges not to be too severe. No matter how much we might vow that these terroristic tactics will not deter the forces of law, they cannot help but have their effect: the assailants have not, after all, been charged in either case. Every judge, every district attorney in the western judicial district is under Federal marshal protective custody.

No one knows when or whether either of these cases will be resolved. No one knows whether either one of these cases had anything to do with the drug traffic that Kerr was investigating and Wood was hearing cases upon. Most people, though, believe that the drug business had everything to do with each case.

No one knows whether these assaults was connected with a case that Kerr was about to prosecute before Judge Wood; whether they related to something more far reaching than that; or whether the mysterious death in the Bexar County Jail of Sante Bario, a top Drug Enforcement Administration agent who had been arrested on bribery charges, was related in any way. The circumstances in each of these three cases leave much to be explained. Nothing has been explained, and life in the community has returned more or less to normal.

But the impact of the assault on Jim Kerr and the murder of Judge Wood has not faded. Law enforcement remains a joke if it cannot solve cases as flagrant as these. The judicial system remains

open to threats as long as these crimes go unsolved.

It is time, I think, for Congress to evaluate just how these assaults has affected law enforcement, just how they have affected the courts. I do not think we can pretend that the Federal investigative agencies, the Federal prosecutors or the Federal judges do not feel the weight and burden of these unsolved crimes. I do not think we can pretend that the investigators are not frustrated, the prosecutors feeling that it could happen again, and the judges at least touched by the hand of fear.

The House may not be able to solve these crimes; certainly it does not have the resources for that. But it can focus on what has been done so far, on how the situation affects the administration of justice, and on what might be done to better protect those who must prosecute Federal cases and sit in judgment upon them. If we cannot solve these matters, we can at least seek to protect the people whom we have asked to enforce and administer our laws.

With that in mind, I am asking the Committee on Judiciary to review these matters and offer such recommendations as may be fitting and appropriate.

I offer for the RECORD a letter I have today directed to the Honorable ROBERT KASTENMEIER, chairman of the Subcommittee on Courts, Civil Liberties, and Administration of Justice:

WASHINGTON, D.C., *October 18, 1979.*
File Ref.: B8:lgl
Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Washington, D.C.

DEAR MR. CHAIRMAN: I am greatly concerned about the impact of two unresolved crimes in San Antonio upon the functioning of the courts in my area, and the administration of justice, in general.

The first case involves a shooting assault upon Assistant United States Attorney James Kerr, who was shot at by gunmen as he sat in his car. Mr. Kerr's car was shot up considerably, but he escaped serious harm. Mr. Kerr was, and is, responsible for investigation and prosecution of drug offenses in the Western District of Texas, and was at the time of the assault preparing a major case.

The second case involves the murder of U.S. District Judge John Wood. Judge Wood was shot outside his car as he was preparing to leave for the courthouse. As you know, this is the first time in history that a United States Judge has been murdered.

Judge Wood presided over many drug cases, and James Kerr prosecuted many cases before his court. There are many who believe that both assaults were related to drug cases, even though the assaults might not have been related themselves.

Neither case has been closed; no one has been arrested for the assault upon Kerr, or the murder of Wood.

Clearly, these unresolved cases have had their effect upon courts and law enforcement in the Western District of Texas, and perhaps elsewhere as well. Certainly no prosecutor can now feel safe, and judges themselves cannot feel completely free of intimidation. Kerr is under the protection of marshals. Judge Wood had been, before his murder, protected by marshals, but he had asked that the surveillance be dropped. Judges in the Western District now receive protection.

The fact that protection must be extended is intimidating. The fact that neither of these cases has been solved is even more intimidating. The basic processes of law enforcement are very much threatened.

With that in mind, I suggest that it would be appropriate, and I believe it is necessary, for the Congress to examine the effect of these incidents upon law enforcement and the administration of justice. It would be appropriate to determine what might be done that has not already been done to solve these cases. It would be appropriate to determine what might be done, while these cases are open, to assure that no one connected with the investigation, prosecution or adjudication of Federal laws need feel threatened.

Above all, Congress should express its sense of outrage and concern over these matters, and insist that no stone be left unturned in these cases. Terrorism cannot be tolerated; it undermines confidence in government, and in this case threatens the whole basis of law. I hope very much that your Subcommittee will take cognizance of this, and undertake to do everything possible to counter the chilling effect these incidents have had upon all law enforcement, particularly in the Western District of Texas.

With best wishes, I am

Sincerely yours,

HENRY B. GONZALEZ,
Member of Congress.

SEVEN EASY WAYS TO CHARGE BANK CUSTOMERS MORE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, while reading the October 15, 1979, issue of Bank Letter, I came across an interesting insert. Under "Highlights of the American Bankers Association 1979 Annual Convention" there was a presentation made on "A List of Easy Ways to Charge Your Customers More." I can only assume that the Speakers had a very attentive audience.

Here are some of their suggestions:

First. Impose service charges on checking accounts;

Second. Do not pay interest on savings accounts with low balances, and impose service charges on those with excessive withdrawals, excessive withdrawals were defined as more than one or two a month;

Third. Increase charges for nonsufficient fund checks, it was suggested that $8 a bounce might be good;

Fourth. Increase charges for stop payments, $8 looked like a good figure here, too;

Fifth. Impose a service charge for cashing a check for a noncustomer;

Sixth. Charge for reconciling a customer's account; and

Seventh. Impose commitment and computer fees on all loans, computer fees and charges for simply putting the loan on the books. One of the speakers' bank charges $25 for this burden.

I found this to be a very interesting topic for a discussion group. The ABA may have broken new ground in the field of seminars, opening all kinds of possibilities for other professions. For example:

First. The next American Medical Association convention could include "Seven Easy Ways of Performing Unnecessary Surgery";

Second. The American Petroleum Institute could present a discussion entitled "Five Easy Ways to Contrive a Gasoline Shortage";

Third. The National Gas Association could sponsor a seminar on "Six Easy Ways to Withhold Gas from Consumers";

Fourth. And, the American Bar Association could present "Ten Easy Ways to Rip-off Your Client Through Hopeless Litigation."

The possibilities are endless.●

ENERGY CONSERVATION BLOCK GRANTS FOR LOCAL GOVERNMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AUCOIN) is recognized for 5 minutes.

Mr. AUCOIN. Mr. Speaker, all of us are concerned about the energy crisis. And each of us has our own approach to solving our energy problems. If there is any common element to any of those approaches it is that conservation has the greatest potential for reducing our reliance on scarce fossil fuels—and doing so at the least cost. It is our cheapest source of new energy.

One difficulty with the Federal Government's approach to energy conservation is that it relies on the application of a Federal standard in local areas, without the participation of local residents in the development of those standards. More often than not the Federal standards are inappropriate and lack general community acceptance. One need only look at energy conservation standards for federally assisted housing to see the truth in that statement.

It seems to me that the best approach to energy conservation is to rely on local decisionmaking. By doing so, conservation can be achieved through community consensus rather than through Federal mandates.

Because I believe our best hope for conservation lies at the local level, I am introducing today legislation designed to encourage our Nation's communities to develop and implement comprehensive energy conservation plans.

Many Members read in Monday's Washington Post about Portland, Oreg.'s trend-setting efforts to achieve significant energy savings through a multifaceted energy conservation program. I represent Portland and I am proud of the innovative approach it has taken to saving energy. No small part of the credit for that program belongs to Portland's former mayor—and now Secretary of Transportation—Neil Goldschmidt.

The program that Portland has adopted and is preparing to implement would give homeowners 5 years to weatherize their homes. After that, if the homes did not meet city conservation standards, the homes could not be sold. A similar restriction would be applied to multifamily and commercial buildings.

The program also would revise zoning laws to promote higher population density near main public transit routes and

place on the 1980 ballot a 1 cent per gallon gasoline tax to finance traffic flow improvements. In addition the city would provide information to builders and homeowners on solar energy systems and require trash haulers to offer customers without charge the option of separating their recyclable garbage.

The legislation I am introducing would encourage local governments to develop plans similar to Portland's. In addition my legislation would provide grants to cities for the development of proven alternative energy systems such as geothermal projects, industrial cogeneration, solid waste heat recovery and other systems that will conserve scarce fossil fuels.

My legislation—actually two separate bills—would expand HUD's existing authority to provide community development block grants and urban development action grants to eligible communities. One advantage of this approach is that it simplifies administration by providing that new initiatives are implemented through existing federal programs. In addition, energy conservation programs can be directly linked at the local level with other community and economic development programs designed to benefit low-income persons.

Mr. Speaker, let me briefly summarize each of the bills.

The first bill would encourage units of local government to adopt and implement community development energy plans and programs designed to achieve significant energy savings within their jurisdiction. To fulfill this objective, the Secretary of HUD would be authorized to expand the existing community development block grant program and make available to local governments energy conservation block grants. Local governments receiving the energy block grants would be expected to: develop and implement a local energy conservation plan; enact or modify local ordinances, such as building codes and zoning laws, to encourage or mandate conservation; encourage energy conservation improvements in public buildings and provide financial or other assistance to effect energy conserving improvements of residentical structures, primarily for low- and moderate-income tenants and homeowners.

Grants would be awarded to local governments based on funding criteria for the community development block grant program. The structure of entitlement and discretionary applicants would be maintained. However, in allocating funds to local governments, the Secretary would be authorized to take into account the potential energy savings possible as a result of the energy block grant program.

The second bill would establish a new program similar to the urban development action grant program. This program, entitled the energy development and conservation action grant program, would provide grants to local governments to assist in the expansion and development of feasible energy supply or conservation systems of proven technology.

The purpose of this program is to provide capital grants to local governments for alternative energy systems that may be technically feasible, but not yet economically feasible. The grants would provide only that subsidy necessary to lower the capital cost to the point of economic feasibility. This approach recognizes that most alternative energy systems have not developed the cost efficiences that result from widespread use and higher levels of energy output. In addition, alternative energy systems that offset the use of scarce fossil fuels have a social value that may not be reflected in the cost savings from reduced consumption of fossil fuels.

The most exciting aspect of the energy action grant program is that it could provide a vehicle for one or more neighborhoods in a community to cooperatively tap into an alternative energy system. It is not farfetched to imagine that the solid waste collected from residences in one area of town could be hauled a short distance to a neighborhood solid waste heat recovery plant.

The electricity generated by such a plant would provide for some of the energy needs of the neighborhood. Scarce fossil fuels would be saved through solid waste recovery as well as through reduced fuel consumption by trash haulers.

Mr. Speaker, I want to emphasize that I am not offering these proposals in the expectation that they will be adopted by the Congress exactly as written. Instead, I hope that these two proposals will be the catalyst for further discussion.

The bills do embody concepts that are fundamental to the success of any energy conservation program.

It is imperative, for example, that Federal efforts to promote community energy conservation be directed through existing administrative structures. It would be confusing to local governments—and counterproductive for conservation efforts—to require that they deal with yet one more Federal agency for funding of activities that are directly linked with other community development efforts. There is no reason to duplicate in another agency of the Government, the housing and community development expertise that HUD has now. Moreover, HUD is structured to deal with local governments through area and regional offices that are already staffed to handle housing and community development programs.

Another reason for linking the energy conservation programs to community development and housing is that the greatest energy savings will be obtained through improvements in existing residential and commercial buildings. For that reason, it makes sense to tie the energy conservation block grants and action grants to ongoing housing and community development efforts.

By linking inducements for energy conservation plans and programs to the existing community development block grant program, which relies on local decisionmaking, we would also recognize the importance of citizen participation and local decisionmaking in energy conservation efforts. Local control is important. When the Washington Post editorialized not long ago on Portland's innovative program, it noted that the program would not work in every community in the country because a program of that type must have community support. I agree with that statement. Indeed, the Portland program's greatest strength is that it was developed only after a long series of public hearings and is based upon the community consensus that emerged from those hearings.

With the exception of fiscal year 1980, the bills do not call for a specific authorization level. For fiscal 1980, $600 million would be authorized for the energy block grant program and $200 million for the Energy Action Grant program. I would expect that authorization levels for subsequent years would rise with increased demand and proven benefits from the program. However, I want to stress that in determining the appropriate level of funding we must give proper and careful consideration to the impact on the Federal budget, particularly on other housing, community development, and energy programs.

I strongly believe, however, that the benefit from these proposals will be worth a strong funding commitment from the Federal Government. It is estimated that in the energy conservation block grant program, a $2 billion expenditure over 3 years would yield energy savings which are the equivalent of 26.4 million barrels of oil annually after the third year.

Energy savings for the energy action grant program are more difficult to estimate because of the innovative nature of alternative energy projects. Energy savings will be determined on a case-by-case basis.

The resolution of our energy problems requires a grassroots commitment from all Americans. The proposals I am making today move the emphasis of our Federal efforts in that direction. There are many refinements of these proposals that can and should be made. However, the fundamental concepts are sound. I hope they will earn the support of the House next year when it considers the reauthorization of the community development block grant programs and the urban development action grant program.●

'TWAS THE EVE OF THE HEATING SEASON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 10 minutes.

● Mr. WOLFF. Mr. Speaker, I believe this little parody of one of the famous Christmas poems expresses the feelings of many Americans. I know that this is a major concern of the citizens in the Sixth District of New York.

Twas the eve of the heating season,
And all through this land;
Many Americans are worried,
About their home heating demands.

Mr. Speaker, I rise today to again call attention to a very serious situation. Just as soon as the Nation picks itself up from the havoc caused by long lines and high cost of automobile fuel costs, a new cloud of uncertainty appears on the horizon. The dark cloud is caused by the concern

over the price and availability of home heating oil. Even though the President and the administration are confident that adequate supplies will be available. I do not share their sense of optimism.

DOE has taken a number of actions which they feel will guard against supply shortfalls. One of the Department's actions includes establishing 240 million barrel stockpile by the end of October. I am encouraged by this action and the current success of the stockpile effort. More needs done, however, so that no American will have to make the cruel choice of deciding whether to eat or stay warm. Many consumers will again be asked to make sacrifices in their budget as the price of heating oil climbs and when budget's are already strained to the breaking point. The consumer has had enough.

Mr. Speaker, any disruption in supply will have a disastrous effect on the residents in my district as well as the entire State of New York. Approximately 83 percent of the Long Island consumers heat their homes with oil. With this high dependence on heating oil, Long Island is particularly vulnerable to any shortfall.

The State energy office in Albany estimated that for the month of September, the major oil companies reported that supplies to New York were about 8.4 percent below the levels of last year. This, of course, can be attributed to the stockpile target at the primary storage level. Major suppliers have not moved the product into the secondary and tertiary markets.

Not only is there some concern about the availability of oil, many citizens are worried about how much it will cost to heat their homes. The price of heating oil averages about 81 cents a gallon in New York with some areas reporting prices as high as 91 cents. There has been an increase from 41 cents a gallon in July of 1967 to over 81 cents in October of this year. The average statewide price of heating oil has increased 66 percent since last September. A $1 per gallon price for home heating oil is fast becoming a reality.

Distributers have had their share of hardships, for there have been a number of changes in credit arrangements between the distributers and suppliers within New York. Dealers have had to secure additional loans at high interest rates to pay for higher priced oil. Some banks have become increasingly apprehensive about extending credit to dealers. To complicate matters, some suppliers have eliminated early payment discounts, thus forcing prompt payment.

I, along with many of my colleagues, recently addressed this body in an effort to bring attention to an action by Gulf Oil & Refining Co. Gulf Oil planned to eliminate the 1-percent-discount terms for dealers and institute a strictly enforced 10-day payment schedule on all accounts. The dealers were also informed of the termination of seasonal financing program for the 1979–80 heating season. I am pleased to report that this situation has partially been resolved. I call this to the attention of my colleagues, however, as an example of the kind of hardships the oil distributers of my district have faced in obtaining credit.

Frankly, Mr. Speaker, I am very concerned about how this country will fare this winter. I am not as optimistic as the administration in its assessment of the supply situation. Finally, even if there is no substantial shortfall in supply, who will be able to afford to heat their homes with the price rising as it is. To help alleviate the serious consequences of this situation, I urge the Department of Energy to take the following actions to assure that no homes go cold this winter.

First, the Department of Energy should immediately issue regulations that would require refiners to operate at maximum production levels through the end of the heating season. It is within the current authority of the Department to require maximum distillate production. It is not sufficient to end the home heating oil supply buildup program upon the achievement of the 240-million-barrel target. It is imperative that DOE seek a maximization of heating oil supplies, through continued maximum production and distribution to marketers and homeowners.

DOE should also move to immediately require the refiners to start shipping their supplies into the secondary and tertiary ends of the distribution system where the oil can be used to heat homes and not to drive up prices. This action is imperative to New York for much of the heating oil supply is delivered over waterways which freeze during parts of the winter months. I applaud the administration for establishing the 240-million-barrel target. By all indications, this target will be met. It is now time to get the oil into the retail market so that temporary or spot shortfalls do not materialize.

Finally, price controls on middle distillates should be reimposed by the administration. The American people are tired of having their income diminished by higher energy costs while many of the oil companies reap enormous and unjustified profits. I call your attention to a recent Congressional Research Service report on increases in price of distillate fuel. The report concluded that the home heating oil industry had realized large increases in their profit margin during an 8-month survey period. Furthermore, I would like to insert into the RECORD a recent New York Times article concerning the price of heating oil. The article raises some serious questions about the profits of many of the oil companies.

PRICE OF HOME HEATING OIL JUMPED TWICE AS FAST AS THE COST OF CRUDE

(By Matthew L. Wald)

The retail price of home heating oil rose nearly twice as fast as the price of crude oil from January 1977 to May 1979, according to statistics from the Federal Department of Energy. And industry analysts say growing refinery and dealer profit margins are continuing to add heavily to prices.

In contrast to a public perception that increases imposed by oil exporting countries is the overwhelming factor in the rise in home heating oil costs this winter, the figures show that the percentage increase in refinery, wholesale and retail margins was at least as rapid.

The industry has reported sharp rises in profits, but spokesmen say high interest rates and rising costs for labor and other components of production also contributed to a rise in heating oil prices above the increases mandated by the higher costs of crude set by the Organization of Petroleum Exporting Countries.

Spokesmen for the major oil companies were reluctant to provide figures that would show whether their profit margins had changed. They said there were too many factors, including a changing mix of crude oil types and refined products, to allow such a calculation. Other industry sources agreed that the calculation would differ for each refinery, but said the figures did show strong growth in the average profit margin.

INQUIRY BY U.S. PRICE COUNCIL

The refinery profit margins are now the subject of an inquiry by the Council on Wage and Price Stability. According to the council's chairman, Alfred E. Kahn, the panel was found "a fair number" of companies, mainly small refiners, to be out of compliance with the voluntary standard of a 6.5 percent annual growth in profit margin. Earlier this year, Amerada Hess was found to be exceeding the standard, but it has since come back into compliance, according to a spokesman for the council.

The price increases from domestic sources come at a time of growing concern about how the poor will keep warm this winter, and even how some lower-middle-income families will stay out of poverty.

Connecticut has set a special legislative session to deal with the problem, and New York may do the same. Concurrently, Congress is debating special fuel aid, a "windfall profits" tax on oil companies and the reimposition of price controls on oil products. Heating oil controls were ended in June 1976.

Energy Department figures show that the average of a gallon of home heating oil rose 58.1 percent between January 1977 and May 1979, from 40.6 to 64.2 cents, while the cost of the crude oil from which it is made rose 32.3 percent, from $11.64 a barrel to $15.40, with the refiners' margin increasing the most.

CRITICS POINT TO PROFIT MARGIN

Comparable figures for months later than May are not available from the Federal agency, but according to a study by the Congressional Research Service, retail prices for home heating oil rose 50.1 percent (from 53.7 to 81 cents a gallon, on average) while the price of crude oil rose 47.4 percent, from 31.2 to 46 cents a gallon from January to August of this year.

Critics of the oil industry say that the profit motive, not higher costs, is the reason for the greater markups.

"These are businessmen and they're going to make as much money as they possibly can," said Representative Toby Moffett, Democrat of Connecticut, who is chairman of the Energy Subcommittee of the Government Operations Committee. "The fact that this is a necessity people can't do without is not something that is going to affect their behavior."

Representative Moffett, whose proposal to reinstitute price controls on refineries was defeated 2 to 1 in the House on Thursday, said his subcommittee had heard testimony over the last few weeks showing increases in gross refiner margins of up to 100 percent.

Explaining how some factors of the cost increased even faster than crude oil, William Harlow, a spokesman for the Department of Energy, said: "It's not going to be a one-to-one correlation. The rate is going to go up for any kind of product, because of the piping that costs more, the refineries, and the shipping that costs more."

FIGURING THE MATHEMATICS

Mathematically, however, the correlation would be less than one to one unless other factors were increasing as fast or even faster than crude oil. For example, if heating oil was selling for 40 cents a gallon and the cost of crude oil accounted for 60 percent of that, a 30 percent increase in the cost of crude would add only 7.2 cents, or 18 percent.

"What's in there is inflation, higher labor cost and higher fuel cost," said John Buckley of Northeast Petroleum Corporation, a Boston-area fuel oil wholesaler and retailer. "And then I think there's higher profit. That will vary from refiner to refiner, but they're making more money."

Wholesalers and retailers, as well as the major oil companies, are also operating on higher margins, according to the figures. From January 1977 to May 1979, for example, the wholesale margin rose from 8.4 to 12.1 cents a gallon, or 44 percent, according to the Department of Energy figures.

One result is that, according to Government figures, crude oil, which in 1976 accounted for 63.8 percent of the cost of heating oil, accounted for only 58.6 in June.

Industry sources differ as to the reasons for the higher margins. All note that when home heating oil was decontrolled in June 1976, the action allowed the price level to be dictated by market conditions, instead of the Government's reckoning of costs and fair profit margins.

VARIED FACTORS NOTED

But beyond that, the major oil companies say it is not possible to break down the costs of producing home heating oil.

First, they note, crude oil is sold in a variety of different grades, requiring different refining processes. In addition, transportation costs for getting the crude to the refineries differ. Some refiners have relatively cheap long-term contracts, while others must buy on the expensive spot market.

The Government figures are for the composite refiner acquisition cost of crude oil, a weighted average including foreign and domestic sources, including transportation costs to the refinery.

A bigger problem, oil industry representatives say, is apportioning the cost of production between the different products.

"The analogy that's always used is with the cow," said Earl Ross, of the American Petroleum Institute. "What's the cost of the lesser type cuts as against the prime rib?" While the cost of raising the cow may be known, he went on, there is no logical division between the cost of hamburger and the cost of steak.

"There is no generally accepted procedure for allocating total operating and investment costs among the hundreds of coproduced products of a refinery," said an Exxon spokesman. He added, however that the company's American subsidiary, Exxon USA, reported "refining/marketing" profits that were 48 percent lower this year than last.

HOW COMPANIES CAN RECOUP

However, with one of the petroleum products—gasoline—still controlled, there are financial incentives to looking at the costs in certain ways.

"Refiners have been allowed because of the lack of controls to pump more of the costs into middle distillates instead of gasoline, in an effort to recoup more of their investment," said Allan Darrow, public affairs director of the National Oil Jobbers Council. If they feel they are not earning enough on gasoline, he suggested, oil companies can try to make up the difference in a product for which the market is very strong, and on which there are no controls, such as home heating oil.

Some oil companies, however, say that at least part of the increases in margins are eaten up by increases in costs for components of production other than oil. Texaco, for example, listed "rising manufacturing and labor expenses, taxes and inflation."

Interest rates have become a major concern, with many OPEC nations now requiring payment for expensive oil within 30 days, which leaves refiners borrowing money to pay for a tanker-load while it is still at sea.

Interest is also a major concern for wholesalers and retailers, who to purchase the same number of gallons they did last year may have to borrow twice as much money, and at higher interest rates.

"You've gone in one year from 9 percent to 14 percent," said Mr. Buckley of Northwest Petroleum. "We've had to borrow way out of line, disproportionately to earlier years."

Financing one gallon of home heating fuel cost roughly half a penny a month last year he said, but it is now "pushing past a penny a month" because of higher interest rates and product price. "If we buy it in August and sell it in December, that's 5 cents," he said.

Other retailers said that the cost of fuel to run their delivery trucks, the cost of the trucks themselves, and everything else a small business buys, including insurance, labor, and electricity, had risen in costs.

Mr. Speaker, the long term solution to our heating oil problems, of course, depends on the actions taken to solve our entire energy crisis. This includes the development and use of safe alternative sources of energy, production of synthetic fuels, and increased conservation. To provide some stability in the international arena, the oil-importing nations should band together to negotiate from strength with OPEC on the price of oil.

The time has come to act now so that homes do not go cold as we approach "the eve of the heating season."●

TAXATION OF FOREIGN REAL ESTATE INVESTMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 10 minutes.

● Mr. FASCELL. Mr. Speaker, in recent years, we have witnessed increasing numbers of large-scale purchases of American real estate by foreigners. Foreign investors view American real estate as a sound investment and a strong hedge against inflation. American real estate may also offer foreigners predictable annual income, long-term appreciation potential, and overall investment security. In addition, the current tax system provides further incentives for such foreign investment by giving foreigners a significant advantage over Americans in purchasing this Nation's land.

Under current tax law, a foreign investor or corporation is not required to pay capital gains taxes on the gain attributable to appreciated real estate, provided that the investment is not effectively connected with the conduct of American trade or business. The critical test is whether the investment is effectively connected with the conduct of American trade or business. If a foreign investor or corporation were engaged in an American trade or business, then the real estate would be taxable in the United States. As such, the present law allows the foreign investor several ways of reclassifying the real estate gain as not effectively connected with American trade or business, and thus, the profit is exempt from American capital gains taxes. For example, foreign investors engaged in American trade may sell their real estate on an installment basis, postponing real estate payments until subsequent years when the investors are no longer engaged in American trade. A capital gain attributed to the payments received in the years after the sale is treated as not effectively connected with American trade and, therefore, not taxed. In this manner, the present tax law gives an undue tax advantage to foreign investors as compared with Americans.

The tax advantage provided to foreign investors allows them a sizable edge over domestic investors in bidding for American real estate. Foreign investors may buy real estate for more money than an American and still make the same or higher profit. As a result, we may see a continuing trend toward foreign ownership of the most desirable holdings of American real estate.

In addition, the tax advantage encourages a favorable climate for foreign investment in American real estate. Increased demand in the saturated American real estate market pushes up prices at an abnormally high rate, thereby increasing the rate of inflation.

To remove the tax advantage and the associated harmful effects, I am introducing legislation today to close the loopholes in our tax laws. The legislation would impose capital gains taxes on nonresident alien individuals and foreign corporations which sell or exchange real property located in the United States.

This measure goes beyond legislative proposals to tax the sales of foreign-owned rural and farm lands. It applies equal treatment to all real estate, whether office buildings, apartments, shopping centers, factories, undeveloped land, or other property. Agricultural and rural lands comprise only a small portion of the total amount of real estate purchased by foreigners. It is important to note that in Department of Commerce statistics compiled from public sources, only 24 percent of the $360 million spent by foreigners on American real estate in the first half of 1978 involved rural or farmlands. This is but one indication of the considerable size of foreign purchases of real estate not used for agricultural purposes.

This legislation follows the approach advocated by the Department of the Treasury to impose capital gains taxes on foreign sales of all real estate, not just farmlands. The Treasury estimates that taxing the capital gains on the sale of American farmlands alone would raise Treasury revenues by $22 million in 1979. By extending the tax coverage to include all real estate, the Treasury predicts that revenues in 1979 would rise by an additional $120 million to a total of $142 million.

In short, we should recognize that the tax treatment of sales of American real estate is not equitable. Why should a foreign investor be granted a tax advantage

denied to American investors? In addition, removing the current tax advantage would help reduce the rate of inflation and increase Treasury revenues.

I hope that this legislation will receive prompt attention and urge that it be approved as soon as possible. The text of my bill follows:

H.R. 5633

A bill to amend the Internal Revenue Code of 1954 to provide that the nonresident alien individuals and foreign corporations shall be taxed at capital gain rates on gain from the sale or exchange of real property located in the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAXATION OF NONRESIDENT ALIEN INDIVIDUALS AND FOREIGN CORPORATIONS ON GAINS FROM THE SALE OF REAL PROPERTY LOCATED IN THE UNITED STATES.

(a) GAINS FROM SALE OF REAL PROPERTY.—(1) NONRESIDENT ALIEN INDIVIDUALS.—Section 871 of the Internal Revenue Code of 1954 is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) GAINS FROM SALE OR EXCHANGE OF REAL PROPERTY.—In the case of a nonresident alien individual, there shall be treated as gross income which is effectively connected with the conduct of a trade or business within the United States—

"(1) gain from the sale or exchange of real property located in the United States, and

"(2) that portion, in excess of $3,000 for the taxable year, of the gain from the sale or exchange of stock in a corporation, or interest in a partnership, trust, or estate, determined by the Secretary to be properly attributable to—

"(A) the net unrealized appreciation in real property located in the United States which is held by such corporation, partnership, trust, or estate, and

"(B) in the case of the sale or exchange of stock in a corporation, an amount equal to the gain, if any, realized by such corporation on the sale of property described in paragraph (1) which was not recognized by that corporation under section 337.

Any such gain shall be taxable as provided in subsection (b)(1) whether or not such individual is engaged in trade or business within the United States during the taxable year."

(2) FOREIGN CORPORATIONS.—Section 882 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) GAINS FROM SALE OR EXCHANGE OF REAL PROPERTY.—In the case of a foreign corporation, there shall be treated as gross income which is effectively connected with the conduct of a trade or business within the United States—

"(1) gain from the sale or exchange of real property located in the United States, and

"(2) that portion, in excess of $3,000 for the taxable year, of the gain from the sale or exchange of stock in a corporation, or interest in a partnership, trust, or estate, determined by the Secretary to be properly attributable to—

"(A) the net unrealized appreciation in real property located in the United States which is held by such corporation, partnership, trust, or estate, and

"(B) in the case of the sale or exchange of stock in a corporation, an amount equal to the gain, if any, realized by such corporation on the sale of property described in paragraph (1) which was not recognized by that corporation under section 337.

Any such gain shall be taxable as provided in subsection (b)(1) whether or not such corporation is engaged in trade or business within the United States during the taxable year."

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 864(c)(1) of such Code is amended by striking out "section 871(d) or sections 882(d) and (e)" and inserting in lieu thereof "sections 871(d) and (g) and sections 882(d), (e), and (g)".

(B) Paragraph (2) of section 871(a) of such Code is amended by striking out "paragraph (1) or subsection (b)" and inserting in lieu thereof "paragraph (1), subsection (b), or subsection (e)".

(C) Subparagraph (A) of section 871(d)(1) of such Code is amended to read as follows:

"(A) from real property held for the production of income and located in the United States, or from any interest in such real property (other than gains from the sales or exchange of such real property or an interest therein), including (i) rents or royalties from mines, wells, or other natural deposits, and (ii) gains described in section 631(b) or (c), and".

(D) Subparagraph (A) of section 882(d)(1) of such Code is amended to read as follows:

"(A) from real property held for the production of income and located in the United States, or from any interest in such real property (other than gains from the sale or exchange of such real property or an interest therein), including (i) rents or royalties from mines, wells, or other natural deposits, and (ii) gains described in section 631(b) or (c), and".

(b) WITHHOLDING OF TAX.—

(1) NONRESIDENT ALIEN INDIVIDUALS.—The first sentence of subsection (b) of section 1441 (relating to withholding of tax on nonresident aliens) is amended by striking out "or 631(b) or (c)", and inserting in lieu thereof "631(b) or (c), or 871(g)".

(2) FOREIGN CORPORATIONS.—Subsection (a) of section 1442 (relating to withholding of tax on foreign corporations) is amended by inserting "the reference in section 1441 (b) to section 871(g) shall be treated as referring to section 882(g)," after "sections 881(a)(3) and (4),".

SEC. 2. REPORTS BY FOREIGN CORPORATIONS HOLDING REAL PROPERTY IN THE UNITED STATES.

(a) Part III of subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to information returns) is amended by adding at the end thereof the following new subpart:

"Subpart G—Information Concerning Certain Foreign Corporations With Real Property Holdings in the United States

"Sec. 6060A. Annual reports by certain foreign corporations with real property holdings in the United States.

"Every corporation having 20 percent or more of its assets in holdings in real property located in the United States at any time during the taxable year shall file an annual report with the Secretary at such time, in such manner, and setting forth such information relating to such real property as the Secretary may prescribe by regulation."

(b) Section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following subsection:

"(g) INFORMATION REQUIRED WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS WITH REAL PROPERTY HOLDINGS IN THE UNITED STATES.—In the case of a failure to file a report required under section 6060A (relating to annual reports by certain foreign corporations holding real property in the United States) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the corporation failing so to file $10 for each day during which such failure continues. The total amount imposed by this subsection for failure to file an annual report shall not exceed $5,000."

SEC. 3. APPLICABILITY OF TAX TREATIES.

Sections 894 and 7852(d) of the Internal Revenue Code of 1954 shall not apply after the period which begins on the date of the enactment of this Act and ends 5 years after such date with respect to sales and exchanges of real property to which section 871(g) or 882(g) of such Code applies.

SEC. 4. EFFECTIVE DATES.

The amendments made by section 1 shall apply to sales and exchanges of real property on and after the date of the enactment of this Act. The amendments made by section 2 shall apply to taxable years beginning after the date of the enactment of this Act.●

LOCAL GOVERNMENT ENERGY CONSERVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN), is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, today I am introducing a bill titled the Local Government Energy Conservation Act, which would for the first time provide grants directly to local governments to undertake energy conservation activities.

My bill provides $300 million for grants to localities to conserve energy. Any local government could submit an application to the Secretary, who would determine eligibility largely on the basis of the energy conservation potential and the number of people affected. Grants would be made for such conservation activities as establishing a local energy office or a mechanism for coordinating all energy-related activities, retrofitting street lights, generating power for local water sources or fuels, cogeneration of power, devising and implementing innovative heating and cooling systems; energy generated from biomass, wind, and wood stoves.

Under the bill, a central clearinghouse could be established by cities or counties to provide information on energy conservation to citizens including the establishment of an energy office or a citizen's advisory group to coordinate local energy-related activities. Local energy-conservation targets would be established; programs to encourage energy conservation by both local governmental units and the private sector would be promoted.

At present $364 million has been provided to fund energy conservation measures by the States. While some of this money trickles down to local levels there is no broadbased program to provide local jurisdictions with funds to establish their own energy conservation offices. We need to provide localities with the tools to make their own decisions about energy conservation and to implement them. Energy conservation is by

nature a decentralized activity and can often be most effective at the local level.

Many communities have already implemented energy conservation programs. San Diego County enacted the first program in the Nation which required solar water heaters on new residential buildings which are not served by natural gas. Portland, Oreg., requires all homes and businesses to undergo an energy audit and to upgrade their insulation if necessary, and Davis, Calif., has long had a comprehensive plan. As a result, gas consumption in Davis has dropped by 38 percent since 1973 and the amount of electricity used by 14 percent.

Any effective national energy program must provide the tools and resources to all levels of government. While there is much that can be done at the State level, local communities must be thoroughly involved in the effort to save energy. This is what my bill does.

Conservation, clearly the safest, fastest way to reduce oil consumption, has not been given the priority it deserves. With OPEC nations cutting back on oil production and increasing oil prices, we have no time to waste.

I urge prompt adoption of this legislation.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mrs. CHISHOLM (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. BROWN of California (at the request of Mr. WRIGHT), for October 18, 19, and 22, on account of family illness.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PASHAYAN) to revise and extend their remarks and include extraneous material:)

Mr. SENSENBRENNER, for 15 minutes, today.

Mr. MARRIOTT, for 5 minutes, today.

Mr. RITTER, for 5 minutes, today.

(The following Members (at the request of Mr. KOSTMAYER) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. AUCOIN, for 5 minutes, today.

Mr. WOLFF, for 10 minutes, today.

Mr. FASCELL, for 10 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. NELSON, for 20 minutes, on October 22, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BINGHAM, to follow the vote on the Sharp substitute amendment for the Wydler amendment to H.R. 3000 in the Committee of the Whole today.

Mr. CONTE, prior to the vote on the Kostmayer amendment to H.R. 3000 in the Committee of the Whole today.

(The following Members (at the request of Mr. PASHAYAN), and to include extraneous matter:)

Mr. GILMAN.

Mr. GOODLING.

Mr. DANIEL B. CRANE.

Mr. HARSHA.

Mr. ASHBROOK in three instances.

Mr. ABDNOR.

Mr. GRASSLEY in two instances.

Mr. VANDER JAGT.

Mr. LIVINGSTON.

Mr. DORNAN.

Mr. DERWINSKI.

Mr. LAGOMARSINO.

Mr. RITTER.

(The following Members (at the request of Mr. KOSTMAYER) and to include extraneous matter:)

Mr. DANIELSON.

Mr. BROWN of California.

Ms. MIKULSKI.

Mr. PATTERSON in two instances.

Mr. SOLARZ in three instances.

Mr. BENJAMIN.

Mr. AMBRO.

Ms. OAKAR.

Mr. BARNES.

Mr. GORE in two instances.

Mr. FASCELL.

Mr. RODINO in two instances.

Mr. EDGAR in two instances.

Mr. MAZZOLI in two instances.

Mr. MOTTL.

Mr. BEDELL.

Mr. SKELTON.

Mr. UDALL.

Mr. NEAL.

Mr. DINGELL in two instances.

Mr. MURPHY of New York.

Mr. SABO.

Mr. LELAND.

Mr. MINETA.

Mr. GEPHARDT.

Mr. MOFFETT.

Mr. FISHER.

Mr. CONYERS.

Mr. MCDONALD.

Mr. HAWKINS.

Mr. HARRIS.

Mrs. SCHROEDER.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 58 minutes p.m.), the House adjourned until Friday, October 19, 1979, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first, second, and third quarter of calendar year 1979 in connection with foreign travel pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1979 AND SEPTEMBER 1979

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Hon. Alvin Baldus	7/4/79	7/6/79	Ottawa, Can		75.00						75.00
	7/6/79	7/7/79	Toronto, Can		75.00						75.00
	7/7/79	7/9/79	Quebec City		75.00						75.00
	7/9/79	7/9/79									75.00
Total transportation							180.36				180.36
Alan Zepp	7/4/79	7/6/79	Ottawa, Can		75.00						75.00
	7/6/79	7/7/79	Toronto		75.00						75.00
	7/7/79	7/9/79	Quebec City		75.00						75.00
	7/9/79	7/9/79	Montreal		75.00						75.00
Total transportation							255.84				255.84
Committee total					606.00		436.20				1,036.20
George Dunsmore	7/4/79	7/6/79	Ottawa, Can		75.00						75.00
	7/6/79	7/7/79	Toronto, Can		75.00						75.00
	7/7/79	7/9/79	Quebec City		75.00						75.00
	7/9/79	7/9/79	Montreal		75.00						75.00
Total transportation							201.90				201.90
James Swiderski	7/9/79	7/23/79	Rome, Italy	805,350	975.00	847,095.76	1,035.00				2,010.00
Hon. Richard Nolan	7/20/79	7/21/79	Geneva, Switz	313.35	192.00	(Military aircraft)					192.00
Hon. Thomas S. Foley	8/25/79	9/1/79	Peking, China	808.45	525.00	(Presidential aircraft)					525.00
	9/1/79	9/3/79	Hong Kong, PRC	1,198,548	234.00	(Presidential aircraft)					234.00
Hon. Kika de la Garza	9/12/79	9/16/79	Caracas, Ven	Trip assigned by Speaker O'Neill with Interparliamentary Union Group and funded by Union							
Committee total					2,226.00		1,236.90				3,462.90

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Oct. 11, 1979.

THOMAS S. FOLEY, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Hon. Cardiss Collins	8/5/79	8/7/79	Tokyo	42,068	194.00	Transportation provided				42,068	194.00
	8/7/79	8/10/79	Seoul	108,900	225.00	By Air Force carrier				108,900	225.00
	8/10/79	8/12/79	Hong Kong	803.10	156.00					803.10	156.00
	8/12/79	8/15/79	Bangkok	4,594.50	225.00					4,594.50	225.00
	8/15/79	8/18/79	Singapore	481.50	225.00					481.50	225.00
Hon. John Erlenborn	8/25/79	9/1/79	Colombo, Sri Lanka	2,325	150.00		3,451.00			2,325	3,601.00
	9/1/79	9/4/79	Paris, France	1,147.50	270.00					1,147.50	270.00
Committee total					1,445.00		3,451.00				4,896.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Oct. 10, 1979.

JACK BROOKS, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Biaggi, Hon. Mario	5/20	5/24	Switzerland	855.60	500.00		1,509.00				2,009.00
Corrado, Ernest J	4/13	4/21	United Kingdom	299.76	701.00		1,499.60				2,200.60
Corrado, Ernest J	5/26	6/5	Philippines	4,431	600.00		2,319.00				2,919.00
de la Garza, Hon. E	4/15	4/18	Columbia	12,582	300.00		1,369.63				1,669.63
Howell, Martin	5/2	5/4	Mexico	5,118.75	225.00		467.00				692.00
Kitsos, Thomas	4/16	4/18	Switzerland	515.80	300.00		1,677.00				1,977.00
Losch, Ronald	4/13	4/21	Switzerland	1,545.30	900.00		757.00				1,657.00
McCloskey, Hon. Paul	4/11	4/17	Switzerland	1,032.90	600.00		[3] 723.00				1,323.00
Murphy, Hon. John M	6/6	6/7	United Kingdom	47.08	98.87		[4] 605.23				704.10
Murphy, Hon. John M	6/7	6/9	France	1,957.50	450.00		[4] 96.95				546.95
Smith, G. Wayne	4/16	4/18	Switzerland	515.80	300.00		1,677.00				1,977.0
Snyder, Hon. Gene	4/16	4/21	Switzerland	1,030.20	600.00		[5] 1,599.00				2,199.0
Wallace, Sidney	4/13	4/21	United Kingdom	299.76	627.73		1,499.00				2,126.73
Wallace, Sidney	5/25	6/9	United Kingdom	611.76	1,266.34		[6] 708.00				1,974.34
Wyman, Barbara	6/15	6/23	West Germany	168.08	704.00		969.00				1,673.00
Zaunbrecher, Dusty	6/10	6/16	West Germany	144.00	480.00		969.00				1,449.00
Committee total					8,652.94		18,444.41		0		27,097.35

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Returned to State Department unused portion of ticket amounting to $34.

[4] Military transportation.

[5] Traveler traded air ticket for coach class, receiving State Department credit of $842.

[6] Traveler has made written request to State Department for additional $64 representing increased per diem rate for London effective June 1, 1979.

Note: All per diem paid by State Department.

Sept. 15, 1979.

JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries.

ADDENDUM TO REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1979

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
James Pierce Myers	2/13	2/21	Panama		600.00						600.00
Commercial transportation from Washington to Panama							371.00				371.00
Transportation furnished by DOD from Panama to Washington							258.125				258.125
Anthony Raymond	2/13	2/21	Panama		600.00						600.00
Commercial transportation from Washington to Panama							371.00				371.00
Transportation furnished by DOD from Panama to Washington							258.125				258.125
Hon. James M. Hanley	2/15	2/21	Panama		450.00				21.60		471.60
Transportation furnished by DOD							516.25				516.25
Hon. Charles H. Wilson	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD							516.25				516.25
Hon. Patricia Schroeder	2/15	2/21	Panama		450.00						450.00
Commercial transportation from Washington to Panama.							371.00				371.00
Transportation furnished by DOD from Panama to Washington.							258.125				258.125
Hon. Gladys Noon Spellman	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
Hon. Edward J. Derwinski	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
Hon. Tom Corcoran	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
E. David Minton	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25

Footnotes at and of table.

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem[1]: Foreign currency	Per diem[1]: U.S. dollar equivalent or U.S. currency[2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency[2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency[2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency[2]
Robert E. Lockhart	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
Joseph Fisher	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
Ronald McCluskey	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
Nancy K. Desrochers	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
Geraldine Rudolph	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
Warren Gaerin	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
Andrew Feinstein	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
Rosemary Storey	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD.							516.25				516.25
Hon. Gene Taylor	2/15	2/20	Panama		375.00						375.00
Transportation from Washington to Panama furnished by DOD.							258.125				258.125
Commercial transportation from Panama to St. Louis, Mo.							434.63				434.61
Committee total					8,325.00		9,807.63		21.60		18,154.23

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollars equivalent; if U.S. currency is used, enter amount expended.

Oct. 3, 1979.

JAMES M. HANLEY, Chairman.

ADDENDUM TO REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1979

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem[1]: Foreign currency	Per diem[1]: U.S. dollar equivalent or U.S. currency[2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency[2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency[2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency[2]
Local in country expenses for CODEL Lloyd.	5/3	5/7	Mexico			14,525	638.45	6,800	298.90	21,325	937.35
						5,550	243.96			5,550	243.96
Local in country expenses for CODEL Fuqua.	6/6	6/7	England			522.74	1,099.66			522.74	1,099.66
	6/7	6/12	France			12,488.22	2,931.60	7,050	1,654.92	19,538.22	4,586.52
						8,442.82	1,981.88			8,442.82	1,981.88
Committee total							6,895.55		1,953.82		8,849.37

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Oct. 11, 1979.

DON FUQUA, Chairman, Committee on Science and Technology.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem[1]: Foreign currency	Per diem[1]: U.S. dollar equivalent or U.S. currency[2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency[2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency[2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency[2]
Donovan	9/11	9/15	Brussels	12,453	428.00		885.00				
Sletzinger	9/11	9/15	Brussels	12,453	428.00		885.00				
Committee total					856.00		1,770.00				

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Oct. 2, 1979.

DANTE FASCELL, Chairman.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2664. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of various transfers of funds between categories of appropriations to the Department of Defense, pursuant to section 834 of the Department of Defense Appropriation Act, 1979; to the Committee on Appropriations.

2665. A letter from the Secretary of State, transmitting the fourth monthly report on development related to Zimbabwe-Rhodesia; to the Committee on Foreign Affairs.

2666. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Abelardo L. Valdez and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

2667. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the international energy program to be held on October 24 and 25, 1979, in Pittsburgh, Pa.; to the Committee on Interstate and Foreign Commerce.

2668. A letter from the Deputy Assistant

Administrator for Noise Control Programs, U.S. Environmental Protection Agency, transmitting proposed standards limiting the noise levels emitted from garbage trucks; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 5228. A bill to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building" (Rept. No. 96-522). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 5259. A bill to name a certain Federal building in Santa Fe, N. Mex., the "Joseph E. Montoya Federal Building-U.S. Courthouse"; with amendments (Rept. No. 96-523). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4320. A bill to consent to the amended Bear River compact between the States of Utah, Idaho, and Wyoming (Rept. No. 96-524). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 454. Resolution providing for the consideration of H.R. 2727. A bill to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes (Rept. No. 96-525). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 455. Resolution providing for the consideration of H.R. 3948. A bill to amend the Federal Aviation Act of 1958 to eliminate the age limitation presently imposed on certain pilots of aircraft, and for other purposes (Rept. No. 96-526). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 456. Resolution providing for the consideration of H.R. 2313. A bill to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act (Rept. No. 96-527). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 457. Resolution waiving certain points of order against the conference report on S. 1030. A bill to authorize the President to create an emergency program to conserve energy, and for other purposes (Rept. No. 96-528). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 458. Resolution providing for the consideration of H.R. 2335. A bill providing for a research, development, and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes (Rept. No. 96-529). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 196. Resolution providing for the printing as a House document of the publication entitled "The Celler-Kefauver Act: The First 27 Years" (Rept. No. 96-530). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 235. Resolution providing for the printing of the proceedings incident to the presentation of a portrait of Hon. Robert N. Giaimo (Rept. No. 96-531). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 349. Resolution providing for the printing as a House document of the staff report to the Committee on Foreign Affairs entitled "The Assassination of Representative Leo J. Ryan and the Jonestown, Guyana Tragedy" (Rept. No. 96-532). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 396. Resolution approving the printing of additional copies of the report accompanying the Defense Production Act Amendment and Extension (Rept. No. 96-533). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 397. Resolution providing for the printing of the report of the official visit by the Speaker's delegation to the Union of Soviet Socialist Republics (Rept. No. 96-534). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 402. Resolution approving the printing of additional copies of the publication entitled "A Guidelines Handbook on Federal Loan Guarantee Programs" (Rept. No. 96-535). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Concurrent Resolution 184. Concurrent resolution providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws" (Rept. No. 96-536). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Rhode Island:

H.R. 5629. A bill to reduce the disability limitation and to eliminate the time limit imposed by the Vietnam Era Readjustment Assistance Act of 1974 so that more disabled veterans may benefit from affirmative action programs; to the Committee on Veterans' Affairs.

By Mr. BLANCHARD (for himself, Mr. WRIGHT, Mr. BROOMFIELD, Mr. NEDZI, Mr. ANNUNZIO, Mr. GARCIA, Mr. DINGELL, Mr. PURSELL, Mr. FORD of Michigan, Mr. BONIOR of Michigan, Mr. HILLIS, Mr. TRAXLER, Mr. BROOMHEAD, Mr. CONYERS, Mr. DIGGS, Mr. FAUNTROY, and Mr. HAWKINS):

H.R. 5630. A bill to authorize emergency loans and loan guarantees to the Chrysler Corp.; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BRINKLEY:

H.R. 5631. A bill to amend the Internal Revenue Code of 1954 to provide a trade or business deduction to firemen for meals which they eat while at their post of duty overnight; to the Committee on Ways and Means.

By Mr. DAVIS of Michigan:

H.R. 5632. A bill to amend section 5(d) of Public Law 874 to prevent taking into account Federal funds made available under that act in the distribution of State educational funds; to the Committee on Education and Labor.

By Mr. FASCELL:

H.R. 5633. A bill to amend the Internal Revenue Code of 1954 to provide that nonresident alien individuals and foreign corporations shall be taxed at capital gain rates on gain from the sale or exchange of real property located in the United States; to the Committee on Ways and Means.

By Mr. FISHER:

H.R. 5634. A bill to amend the Internal Revenue Code of 1954 to subject foreign investors to the capital gains tax on gain from the sale of real property situated in the United States; to the Committee on Ways and Means.

By Mr. GEPHARDT (for himself, Mr. BROYHILL, Mr. LUKEN, Mr. GRADISON, Mr. JONES of Oklahoma, Mr. CARTER, Mr. HOLLAND, Mr. BROWN of Ohio, Mr. SATTERFIELD, Mr. MARTIN, Mr. GRAMM, Mr. DUNCAN of Tennessee, Mr. SHELBY, Mr. FRENZEL, Mr. SCHULZE, Mr. MOORHEAD of California, Mr. STOCKMAN, Mr. CORCORAN, Mr. MOORE, and Mr. LEE):

H.R. 5635. A bill to establish a national commission on hospital costs, to encourage voluntary efforts to contain hospital costs, to provide for the orderly development of State hospital cost containment programs, to encourage philanthropic support for nonprofit hospitals, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. GIBBONS:

H.R. 5636. A bill to amend the Internal Revenue Code of 1954 to increase the minimum accumulated earnings credit from $150,000 to $200,00; to the Committee on Ways and Means.

By Mr. PREYER:

H.R. 5637. A bill to amend title II of the Social Security Act to provide that a child's entitlement to child's insurance benefits on the wage record of an adopting parent shall terminate upon such child's readoption by his or her natural parent; to the Committee on Ways and Means.

By Mr. STACK:

H.R. 5638. A bill to amend title 5, United States Code, to provide premium pay for employees for time in an on-call status away from their duty posts; to the Committee on Post Office and Civil Service.

By Mr. TRAXLER:

H.R. 5639. A bill to amend the Internal Revenue Code of 1954 to repeal the inclusion in gross income of unemployment compensation added by the Revenue Act of 1978; to the Committee on Ways and Means.

By Mr. AuCOIN:

H.R. 5640. A bill to amend the Housing and Community Development Act of 1974 to provide for grants to be made by the Secretary of Housing and Urban Development to local governmental units and Indian tribes for the development of energy conservation plans and programs; jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

H.R. 5641. A bill to amend the Housing and Community Development Act of 1974 to provide for grants to be made by the Secretary of Housing and Urban Development to cities, urban counties, and Indian tribes for energy development and conservation action; jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

By Mr. CLAY:

H.R. 5642. A bill to amend chapter 79 of title 5 of the United States Code to provide for the application of occupational safety and health standards to the Federal workplace, and for other purposes; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. GORE (for himself, Mr. BOWEN, Mr. DASCHLE, Mr. OTTINGER, Mr. EDGAR, Mr. ICHORD, Mr. WHITLEY, Mr. BURLESON, Mr. KOGOVSEK, Mr. YOUNG of Alaska, Mr. VOLKMER, Mr. CHENEY, Mr. MONTGOMERY, Mr. ANDREWS of North Dakota, Mr. KINDNESS, Mr. LEACH of Iowa, Mr. STANGELAND, Mr. HINSON, Mr. BAUMAN, Mr. LOTT, Mr. CLEVELAND, Mr. WAMPLER, Mr. FOWLER, Mr. GUDGER, Mr. SKELTON, Mr. GINGRICH, and Mr. CHARLES WILSON of Texas):

H.R. 5643. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of cooperative electric and tele-

phone companies; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 5644. A bill to establish a program under which the Secretary of Health, Education, and Welfare, acting through the Social Security Administration and under agreements made with appropriate State agencies, will assist low-income and elderly households in meeting the increased costs of residential fuel, and to amend the Internal Revenue Code of 1954 to provide a middle-income energy tax credit for households which use heating oil; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, and Ways and Means.

By Mr. MAZZOLI:

H.R. 5645. A bill to grant to the Little Sisters of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia; to the Committee on the District of Columbia.

By Mr. PREYER:

H.R. 5646. A bill to amend the Privacy Act to transfer coverage of certain insurance records, to improve information practices in the insurance industry, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Government Operations.

By Mr. QUAYLE:

H.R. 5647. A bill to amend the Internal Revenue Code of 1954 to provide for the economic stimulation of the economy through increased savings and investment; to the Committee on Ways and Means.

By Mr. WOLFF:

H.R. 5648. A bill to establish an interagency task force on suburban development; to the Committee on Government Operations.

By Ms. HOLTZMAN:

H.R. 5649. A bill to establish a program under which the Secretary of Energy shall make grants available to local governmental units to assist them in undertaking energy conservation activities; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H.R. 5650. A bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code in the case of certain contributions of literary, musical, or artistic composition, or similar property; to the Committee on Ways and Means.

Mr. BEDELL (for himself, Mr. McCLOSKEY, Mr. MITCHELL of Maryland, Mr. MARKEY, Mr. OBERSTAR, Mr. LA FALCE, Mr. BARNES, Mr. QUAYLE, Mr. KILDEE, Mr. OTTINGER, Mr. GRADISON, Mr. DRINAN, Mr. STARK, Mr. FRENZEL, Mr. STOKES, Mr. WAXMAN, Mr. McHUGH, Mr. GLICKMAN, Mr. BRODHEAD, Mr. RAHALL, Mr. LELAND, Mr. PEASE, Mr. WOLPE, Mr. WON PAT, Mr. PANETTA, and Mr. DELLUMS):

H. Con. Res. 199. Concurrent resolution expressing the sense of Congress with respect to employment practices in South Africa of U.S. companies doing business in that country; to the Committee on Foreign Affairs.

By Mr. BOLAND:

H. Res. 452. Resolution to provide for the further expenses of investigations and studies to be conducted by the Permanent Select Committee on Intelligence; to the Committee on House Administration.

By Mr. BREAUX (for himself, Mr. MURPHY of New York, Mr. FORSYTHE, Mr. STUDDS, Mr. AuCOIN, Mr. BOWEN, Mr. PRITCHARD, Mr. YOUNG of Alaska, Mr. TREIBLE, and Mr. TREEN):

H. Res. 453. Resolution disapproving the proposed deferral of budget authority for fiscal year 1980 for the promotion and development of fishery products and research pertaining to American fisheries; to the Committee on Appropriations.

By Mr. SENSENBRENNER:

H. Res. 459. Resolution prohibiting use of official funds for expenses of foreign travel by Representative CHARLES C. DIGGS, JR.; to the Committee on House Administration.

By Mr. SMITH of Iowa:

H. Res. 460. Resolution providing for the expenses of the investigation and studies by the Committee on Small Business; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 264: Mr. DORNAN and Mr. GREEN.
H.R. 325: Mrs. HECKLER.
H.R. 801: Mr. HALL of Texas.
H.R. 1000: Mr. KEMP and Mr. LUNGREN.
H.R. 2139: Mr. BRODHEAD.
H.R. 2279: Mr. LENT and Mr. BROOMFIELD.
H.R. 2291: Mr. ATKINSON, Mr. BAILEY, Mr. BEDELL, Mr. DAVIS of Michigan, Mr. DERWINSKI, Mr. GRAY, Mr. KOGOVSEK, Mr. LOWRY, Mr. MADIGAN, Mr. PRICE, Mr. ROYER, Mr. SEBELIUS, Mr. STANGELAND, Mr. TAUKE, Mr. WALGREN, Mr. WALKER, and Mr. WYLIE.
H.R. 2744: Mr. STEED.
H.R. 2763: Ms. OAKAR.
H.R. 3932: Mr. GINGRICH, Mr. THOMAS, Mr. RITTER, Mr. GUYER, Mr. DANIEL B. CRANE, and Mr. EDWARDS of Oklahoma.
H.R. 3958: Mr. CARR.
H.R. 4024: Mr. BLANCHARD.
H.R. 4513: Mr. HAGEDORN and Mr. KINDNESS.
H.R. 4526: Mr. AuCOIN.
H.R. 4563: Mr. ANTHONY and Mr. HAMILTON.
H.R. 4646: Mr. TAYLOR, Mr. PATTERSON, Mr. BLANCHARD, and Mr. HOPKINS.
H.R. 4782: Mr. NICHOLS.
H.R. 4885: Mr. FORSYTHE, Mr. WHITEHURST, Mr. SPENCE, Mr. HINSON, Mr. MICHEL, Mr. LUNGREN, Mr. EMERY, Mr. LIVINGSTON, Mr. WHITTAKER, Mr. SIMON, Mr. MOTTL, Mr. COURTER, Mr. JONES of Oklahoma, Mr. FRENZEL, Mr. BURGENER, Mr. NEAL, Mrs. HOLT, Mr. BLANCHARD, Mr. BEDELL, and Mr. DORNAN.
H.R. 4906: Ms. HOLTZMAN, Mr. MAGUIRE, Mr. MINETA, and Mr. OBERSTAR.
H.R. 5038: Mr. BAILEY.
H.R. 5371: Mr. PETRI, Mr. DUNCAN of Tennessee, Mrs. HOLT, Mr. REGULA, Mr. BENJAMIN, Mr. WHITEHURST, Mr. LUJAN, Mr. ROTH, and Mr. HUBBARD.
H.R. 5420: Mr. GRISHAM, Mr. PASHAYAN, Mr. McCLOSKEY, Mr. FISH, Mr. LEE, Mr. ERLENBORN, Mr. ROYER, Mr. HINSON, Mrs. FENWICK, Mr. PETRI, Mr. KINDNESS, Mr. CLEVELAND, Mr. CAMPBELL, and Mr. MILLER of Ohio.
H.R. 5570: Mr. STUDDS.
H.J. Res. 300: Mr. DOUGHERTY, Mr. ST GERMAIN, Mr. PAUL, Mr. APPLEGATE, and Mr. MURPHY of Pennsylvania.
H.J. Res. 322: Mr. FITHIAN.
H.J. Res. 394: Mr. ROBINSON, Mr. McDONALD, Mr. YOUNG of Alaska, Mr. PHILIP M. CRANE, Mr. GOLDWATER, Mr. WINN, Mr. ROBERT W. DANIEL, JR., Mr. LIVINGSTON, Mr. HINSON, Mr. WHITEHURST, Mr. DANNEMEYER, Mr. LAGOMARSINO, Mr. LOTT, Mr. SPENCE, Mr. COLLINS of Texas, Mr. CAMPBELL, Mr. COURTER, Mr. ROE, Mr. FLOOD, and Mr. STOCKMAN.
H. Res. 218: Mr. BURGENER, Mr. DOUGHERTY, Mr. DERWINSKI, Mrs. FENWICK, Mr. LOEFFLER, Mr. SKELTON, and Mr. THOMAS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2313

By Mr. KEMP:

—Page 26, after line 2, add the following new section:

RESTRICTION OF COMMISSION ACTIONS AGAINST CEREAL MANUFACTURERS

SEC. 305. (a) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Ac (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982 for the purpose of—

(1) continuing any administrative or other proceeding brought by the Federal Trade Commission against the Kellogg Company, General Mills, Incorporated, and the General Foods Corporation which is pending on the date of the enactment of this Act; or

(2) initiating any such proceeding, based upon any allegation of anticompetitive practices, against any such business organization after such date of enactment;

until the Commission carries out a study in accordance with subsection (b)

(b) The Commission, in carrying out the study specified in subsection (a), shall—

(1) examine the economic impact which may result from any proceeding specified in subsection (a) against the Kellogg Company, General Mills, Incorporated, and the General Foods Corporation, including the impact upon—

(A) individuals employed by such business organizations and any labor organizations representing such individuals;

(B) the communities in which such business organizations are located; and

(C) other business organizations, employees, and labor organizations;

(2) study any impact which such proceeding may have upon—

(A) the collective bargaining rights of labor organizations; and

(B) employee wages, pension rights, insurance benefits, and working conditions, and any other contractual rights of employees; and

(3) determine whether any individual employed by the Kellogg Company, General Mills, Incorporated, or the General Foods Corporation who suffers a loss of employment caused by the economic impact resulting from such proceeding would be entitled—

(A) to be provided with new employment by his employer; and

(B) to receive payment or reimbursement for relocation expenses incurred by such individual.

H.R. 3000

By Mr. CAMPBELL:

(To the amendment offered by Mr. PEYSER.)

—Strike out "third" in section 901 and insert "tenth" in lieu thereof; and

In section 902, strike "sixth" and insert "fifteenth" in lieu thereof.

By Mr. COURTER:

(Page and line numbers refer to H.R. 4839.)

—On page 79 at the end of title VIII:

Strike the next to the last word.

Strike out the last three words.

By Mr. STOCKMAN:

(Page and line numbers refer to H.R. 4839.)

—On page 79, at the end of title VIII:

Strike the last word.

Strike the last paragraph.

H.R. 3712

By Mr. GEPHARDT:

—Page 32, beginning in line 15, strike out "single-family".

Page 32, beginning in line 23, strike out "single family owner-occupied residences" and insert "one to four family residences (one unit of which is owner-occupied)".

Page 34, after line 18, insert the following:

(2) STATE HOUSING FINANCE AGENCY OBLIGATIONS AUTHORIZED BY ENABLING LEGISLATION ENACTED AFTER APRIL 25, 1979, AND BEFORE OCTOBER 18, 1979.—

(A) IN GENERAL.—The amendments made by this Act shall not apply to obligations issued by a State housing finance agency pursuant to legislation enacted after April 25, 1979, and before October 18, 1979, which authorized such agency to issue tax-exempt obligations or increased the amount of tax-

exempt obligations which may be issued by such agency.

(B) DOLLAR LIMIT FOR STATE HOUSING FINANCE AGENCIES.—The aggregate amount of obligations which may be issued by State housing finance agencies with respect to any State by reason of subparagraph (A) may not exceed the lesser of—

(i) the aggregate amount authorized by the legislation referred to in subparagraph (A), or

(ii) $100,000,000, reduced by the aggregate amount of obligations which are issued by the housing finance agencies of such State after April 24, 1979, and to which the amendments made by this Act do not apply solely by reason of paragraph (1).

(C) MORTGAGE COMMITMENTS MUST BE MADE BEFORE JANUARY 1, 1981.—Subparagraph (A) shall not apply with respect to any issue by a State housing finance agency unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1981, and such issue meets the requirements of subclause (I) of paragraph (1)(C)(ii).

(3) CERTAIN LOCAL ACTION PURSUANT TO LEGISLATION ENACTED BEFORE OCTOBER 18, 1979.—

(A) IN GENERAL.—For purposes of paragraph (1), if—

(i) on April 25, 1979, legislation was pending in a State legislature authorizing a local governmental unit to issue tax-exempt obligations,

(ii) before October 18, 1979, such legislation was enacted (and any referendum required in connection with the issuance of tax-exempt obligations was held), and

(iii) any action with respect to the issuance of such obligations by the local governing body would have met the requirements of paragraph (1) if such legislation had been in effect (and such referendum had been held) when that action was taken,

then such legislation shall be treated as in effect (and such referendum shall be treated as having been held) at the time when such action was taken.

(B) DOLLAR LIMIT FOR LOCAL GOVERNMENTAL UNITS.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of subparagraph (A) may not exceed the lesser of—

(i) the aggregate amount authorized by the legislation referred to in subparagraph (A), or

(ii) $100,000,000, reduced by the aggregate amount of obligations which are issued by local governmental units with respect to such area after April 24, 1979, and to which the amendments made by this Act do not apply solely by reason of paragraph (1) (determined without regard to the application of subparagraph (A) of this paragraph).

(C) MORTGAGE COMMITMENTS MUST BE MADE BEFORE JANUARY 1, 1981.—Subparagraph (A) shall not apply with respect to any issue by a local governmental unit unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to such owner-financing before January 1, 1981.

(4) TREATMENT OF CERTAIN LEGISLATION ENACTED BEFORE NOVEMBER 18, 1979.—For purposes of paragraphs (2) and (3), any legislation which was passed by at least 1 house of a State legislature before October 18, 1979, and which was enacted before November 18, 1979, shall be treated as enacted before October 18, 1979.

(5) ONGOING LOCAL PROGRAMS FOR REHABILITATION LOANS.—

(A) IN GENERAL.—If before April 25, 1979, a local governmental unit had a qualified rehabilitation loan program, then the amendments made by this Act shall not apply to obligations issued by such governmental unit for qualified loans if substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to qualified loans before January 1, 1981.

(B) LIMITATION.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of subparagraph (A) may not exceed the lesser of—

(i) $10,000,000, or

(ii) the aggregate amount of loans made under the qualified rehabilitation loan program during the period beginning on January 1, 1977, and ending on April 24, 1979.

The limitation established by the preceding sentence shall be reduced by the aggregate amount of obligations (if any) which are issued under the qualified rehabilitation loan program after April 24, 1979, with respect to the same local governmental area and to which the amendments made by this Act do not apply solely by reason of paragraph (1) (as modified by paragraph (3)).

(C) QUALIFIED REHABILITATION LOAN PROGRAM.—For purposes of this paragraph, the term "qualified rehabilitation loan program" means a program for the financing—

(i) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

(ii) only of such items as substantially protect or improve the basic livability of the property.

(D) QUALIFIED LOAN.—For purposes of this paragraph, the term "qualified loan" means the financing—

(i) of alterations, repairs, and improvements on or in connection with an existing 1 to 4 family residence (1 unit of which is owner-occupied) by the owner thereof, but

(ii) only of such items as substantially protect or improve the basic livability of the property.

(E) DOLLAR LIMIT ON QUALIFIED LOANS.—For purposes of this paragraph, a loan shall not be treated as a qualified loan if the financing is in an amount which exceeds $20,000 plus $2,500 for each unit in excess of 1.

(6) OFFICIAL ACTION BY LOCAL GOVERNING BODY WHERE COURT ACTION DETERMINING SCOPE OF AUTHORIZING LEGISLATION WAS PENDING.—For purposes of paragraph (1), if—

(A) before April 25, 1979, a State had enacted a law under which counties were authorized to issue tax-exempt obligations for public purposes,

(B) on such date the question of whether or not that law authorized the issuance of obligations to finance owner-occupied residences was being litigated in a court of competent jurisdiction, and

(C) there is written evidence which was in existence before April 25, 1979, that the governing body of a county in such State had taken action indicating an intent to establish a program for issuing tax-exempt obligations to finance owner-occupied residences, and an appropriate official of the county files with the Secretary of the Treasury or his delegate an affidavit that this was the intent of the governing body on such date,

then such action shall be treated as official action indicating an intent to issue any obligation issued pursuant to such program. In any such case, limitations similar to the limitations of subparagraphs (B)(ii) and (C) of paragraph (3) shall apply, except that "$50 million" shall be substituted for "$100 million" where it appears therein.

Page 34, line 19, strike out "(2)" and insert in lieu thereof "(7)".

Page 36, line 13, strike out "(3)" and insert in lieu thereof "(8)".

Page 37, after line 3, insert the following:

(B) RENTAL HOUSING PROJECTS APPROVED BY SECRETARY OF HUD.—The amendment made by section 3 shall not apply to a project which was in the development stage on April 24, 1979, if—

(i) a plan specifying the number and location of rental units was preliminarily approved by the Secretary of Housing and Urban Development pursuant to section 221(d)(4) or section 232 of the Housing Act on or before such date, and

(ii) fees for processing the project with the Department of Housing and Urban Development and other expenditures for the project had been incurred on or before such date.

Page 37, line 4, strike out "(B)" and insert in lieu thereof "(C)".

Page 37, after line 22, insert the following:

(D) CERTAIN REDEVELOPMENT MORTGAGE BOND FINANCING PROJECTS.—Clause (ii) of subparagraph (C) shall be treated as satisfied if, before April 25, 1979—

(i) the developer of a project acquired the land for such project,

(ii) there was approval by the mayor's advisory committee of a city of a comprehensive proposal (under a State law authorizing tax-exempt obligations for use only in redevelopment areas) for such project, subject to revisions to be made, and

(iii) a revised proposal was submitted to the redevelopment agency and city council containing the revisions.

The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of this subparagraph may not exceed $20,000,000.

By Mr. JACOBS:

—Page 3, strike out line 22 and all that follows down through and including the material between lines 14 and 15 on page 30, and insert in lieu thereof the following:

SEC. 2. MORTGAGE SUBSIDY BONDS; CREDIT FOR CERTAIN MORTGAGE INTEREST AND MORTGAGE INSURANCE AND FIRST-TIME HOME BUYERS.

(a) MORTGAGE SUBSIDY BONDS.—Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) MORTGAGE SUBSIDY BONDS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), any mortgage subsidy bond shall be treated as an obligation not described in subsection (a)(1) or (2).

"(2) MORTGAGE SUBSIDY BOND DEFINED.—For purposes of this subsection, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on (or other owner-financing of) owner-occupied residences.

"(3) EXCEPTION FOR QUALIFIED VETERANS' BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified veterans' mortgage bond.

"(B) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of subparagraph (A), the term 'qualified veterans' mortgage bond' means any obligation—

"(i) which is issued in registered form as part of an issue substantially all the proceeds of which are to be used to provide residences for veterans,

"(ii) the payment of the principal and

interest on which is secured by the general obligation of a State, and

"(iii) which is issued as part of an issue no part of the proceeds of which is to be used to acquire or replace existing mortgages.

"(C) ADVANCE REFUNDING NOT PERMITTED.—An obligation which is issued for the advance refunding of another obligation shall not be treated as a qualified veterans' mortgage bond.

"(D) EXCEPTIONS TO NEW MORTGAGE REQUIREMENT.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation (as defined in section 44D(i)(6)(B)), an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (B)(iii)."

(b) CREDIT FOR CERTAIN MORTGAGE INTEREST AND MORTGAGE INSURANCE FOR FIRST-TIME BUYERS.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44C the following new section:

"SEC. 44D. CERTAIN MORTGAGE INTEREST AND MORTGAGE INSURANCE FOR FIRST-TIME HOME BUYERS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified mortgage interest expenses, plus

"(2) the qualified mortgage insurance expenses.

"(b) QUALIFIED EXPENSES.—For purposes of subsection (a)—

"(1) MORTGAGE INTEREST.—

"(A) IN GENERAL.—The qualified mortgage interest expenses are 10 percent of so much of the mortgage interest expenses paid or incurred by the taxpayer during the taxable year with respect to a qualified residence as does not exceed $2,000

"(B) TARGETED AREA RESIDENCES.—In the case of mortgage interest expenses paid or incurred with respect to a targeted area residence, subparagraph (A) shall be applied by substituting '20 percent' for '10 percent'.

"(2) MORTGAGE INSURANCE.—The qualified mortgage insurance expenses are so much of the mortgage insurance expenses paid or incurred by the taxpayer at the time the mortgage is executed with respect to a qualified residence as does not exceed the lesser of one-half of 1 percent of the loan secured by the mortgage, or $250.

"(3) EXCLUSION OF EXPENSES ATTRIBUTABLE TO LOANS MADE THROUGH TAX-EXEMPT FINANCING.—No mortgage interest expenses or mortgage insurance expenses may be taken into account under this section if such expenses are attributable to a loan the funds for which are provided in whole or in part from the proceeds of any obligation the interest on which is exempt from tax under section 103.

"(4) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) INCOME LIMITATION.—

"(1) IN GENERAL.—If the adjusted gross income of the taxpayer for the taxable year exceeds $20,000 ($10,000 in the case of a married individual filing a separate return), the credit which would (but for this subsection) be allowed by subsection (a) for such year shall be reduced by $1 for each $20 of the adjusted gross income of the taxpayer in excess of $20,000 or $10,000, as the case may be.

"(2) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of any targeted area residence, paragraph (1) shall be applied by substituting '$25,000' for '$20,000' and '$12,500' for '$10,000' each place they appear.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MORTGAGE INTEREST EXPENSES.—The term 'mortgage interest expenses' means expenses for interest on—

"(A) any mortgage loan for the purchase of a qualified residence,

"(B) any qualified home improvement loan, or

"(C) any qualified rehabilitation loan.

"(2) MORTGAGE INSURANCE EXPENSES.—The term 'mortgage insurance expenses' means, with respect to a loan secured by a mortgage on a qualified residence, expenses to insure payment of such loan in the event of the mortgagor's default on such loan.

"(3) QUALIFIED RESIDENCE.—The term 'qualified residence' means a residence with respect to which each mortgagor meets the requirements of subsections (e), (f), and (g).

"(e) RESIDENCE REQUIREMENTS.—A mortgagor meets the requirements of this subsection with respect to a residence for the taxable year only if the residence—

"(1) is a single-family residence,

"(2) is used as the principal residence of the mortgagor, and

"(3) is located in the United States or a possession of the United States.

"(f) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—A mortgagor meets the requirements of this subsection with respect to a residence only if the mortgagor had, at no time during the 3-year period ending on the date the mortgage with respect to such residence is executed, a present ownership interest in any other residence which was a principal residence of such mortgagor. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the credit under subsection (a) is claimed shall not be taken into account.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to—

"(A) any targeted area residence,

"(B) any qualified home improvement loan, and

"(C) any qualified rehabilitation loan.

"(g) PURCHASE PRICE REQUIREMENTS.—

"(1) IN GENERAL.—A mortgagor meets the requirements of this subsection with respect to a residence only if the acquisition cost of such residence does not exceed 80 percent of the average area purchase price applicable to such residence.

"(2) AVERAGE AREA PURCHASE PRICE.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

"(3) SEPARATE APPLICATION TO NEW RESIDENCES AND OLD RESIDENCES.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '80 percent'.

"(5) EXCEPTION FOR QUALIFIED HOME IMPROVEMENT LOANS.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(h) TARGETED AREA RESIDENCES.—

"(1) IN GENERAL.—For purposes of this section, the term 'targeted area residence' means a residence which, at the time the mortgage is executed, is in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) QUALIFIED CENSUS TRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) DATA USED.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) AREA OF CHRONIC ECONOMIC DISTRESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) CRITERIA TO BE USED IN APPROVING STATE DESIGNATIONS.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use for owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(i) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MORTGAGE.—The term 'mortgage' includes any other owner-financing.

"(2) STATE.—The term 'State' includes a possession of the United States and the District of Columbia.

"(3) STATITICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) STANDARD METROPOLITAN STATISTICAL AREA.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.

"(4) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) EXCEPTION.—The term 'acquisition cost' does not include—

"(i) usual and reasonable settlement or financing costs,

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) SPECIAL RULE FOR QUALIFIED REHABILITATION LOANS.—In the case of a qualified rehabilitation loan, for purposes of subsection (g), the term 'acquisition cost' includes the cost of the rehabilitation.

"(5) QUALIFIED HOME IMPROVEMENT LOAN.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed $15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only of such items as substantially protect or improve the basic livability of the property.

"(6) QUALIFIED REHABILITATION LOAN.—

"(A) IN GENERAL.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(i) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) QUALIFIED REHABILITATION.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(7) JOINT OCCUPANCY.—Except as provided in subsection (c), in the case of any qualified residence with respect to which mortgage interest expenses or mortgage insurance expenses (as the case may be) are paid or incurred during any calendar year by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of such expenses paid or incurred during such year by all such individuals with respect to such residence shall be determined by treating all such individuals as one taxpayer whose taxable year is such calendar year, and

"(B) there shall be allowable with respect to such expenses to each of such individuals a credit under subsection (a) for the taxable year in which the calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenses paid or incurred by such individual during such calendar years bears to the aggregate of such expenses paid or incurred by all of such individuals during such calendar year."

(2) TECHNICAL AMENDMENT.—Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(3) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Certain mortgage interest and mortgage insurance for first-time home buyers."

(4) EFFECTIVE DATE.—Notwithstanding section 4, the amendments made by this subsection shall apply to mortgages executed after December 31, 1979, and to taxable years beginning after such date.

Page 33, line 2, strike out "103A(1)(4)" and insert in lieu thereof "103(g)(3)(B)(iii)".

Page 38, line 7, strike out "subsection (p) of section 103A" and insert in lieu thereof "subparagraph (C) of section 103(g)(3)".

Amend the title of the bill so as to read: "A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage subsidy bonds will not be exempt from Federal income tax, and to allow a credit for certain mortgage interest and mortgage insurance for first-time home buyers."

By Mr. JONES of Oklahoma:

—Page 3, strike out line 22 and all that follows down through and including the material between lines 14 and 15 on page 30, and insert in lieu thereof the following:

SEC. 2. MORTGAGE SUBSIDY BONDS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by inserting after section 103 the following new section:

"SEC. 103A. MORTGAGE SUBSIDY BONDS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, any mortgage subsidy bond shall be treated as an obligation not described in subsection (a) (1) or (2) of section 103.

"(b) MORTGAGE SUBSIDY BOND DEFINED.—

"(1) IN GENERAL.—For purposes of this title, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on owner-occupied residences.

"(2) EXCEPTIONS.—The following shall not be treated as mortgage subsidy bonds:

"(A) any qualified mortgage bond; and

"(B) any qualified veterans' mortgage bond.

"(c) QUALIFIED MORTGAGE BOND; QUALIFIED MORTGAGE ISSUE; QUALIFIED VETERANS' MORTGAGE BOND.—

"(1) QUALIFIED MORTGAGE BOND DEFINED.—

"(A) IN GENERAL.—For purposes of this title, the term 'qualified mortgage bond' means an obligation which is issued as part of a qualified mortgage issue.

"(B) Obligation must be issued after June 30, 1981.—No obligation issued before July 1, 1981, may be treated as a qualified mortgage bond.

"(2) QUALIFIED MORTGAGE ISSUE DEFINED.—

"(A) DEFINITION.—For purposes of this title, the term 'qualified mortgage issue' means an issue by a State or political subdivision thereof of 1 or more obligations, but only if—

"(i) all proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences, and

(ii) such issue meets the requirements of subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(B) GOOD FAITH EFFORT TO COMPLY WITH MORTGAGE ELIGIBILITY REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (d), (e), (f), (g), and (h) and paragraphs (4) and (5) of subsection (i) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to satisfy all such requirements before the mortgages were executed,

"(ii) 95 percent or more of the proceeds devoted to owner-financing was devoted to residences with respect to which (at the time the mortgages were executed) all such requirements were met, and

"(iii) any failure to meet the requirements of such subsections and paragraphs is corrected within a reasonable period after such failure is first discovered.

"(C) GOOD FAITH EFFORT TO COMPLY WITH OTHER REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (i), (j), and (k) and paragraphs (1), (2), and (3) of subsection (l) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to satisfy all such requirements, and

"(ii) any failure to meet such requirements is due to inadvertent error after taking reasonable steps to comply with such requirements.

"(3) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of this section, the term 'qualified veterans' mortgage bond' means any obligation—

"(A) which is issued in registered form as part of an issue substantially all of the proceeds of which are to be used to provide residences for veterans,

"(B) the payment of the principal and interest on which is secured by the general obligation of a State, and

"(C) which is part of an issue which meets the requirements of subsection (l)(4).

"(d) RESIDENCE REQUIREMENTS.—

"(1) FOR A RESIDENCE.—A residence meets the requirements of this subsection only if—

"(A) it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and

"(B) it is located within the jurisdiction of the authority issuing the obligation.

"(2) FOR AN ISSUE.—An issue meets the requirements of this subsection only if all of the residences for which owner-financing is provided under the issue meet the requirements of paragraph (1).

"(e) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if each mortgagor to whom financing is provided under the issue had a present ownership interest in a principal residence of such mortgagor at no time during the 3-year period ending on the date the mortgage is executed. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to—

"(A) any financing provided with respect to a targeted area residence,

"(B) any qualified home improvement loan, and

"(C) any qualified rehabilitation loan.

"(f) PURCHASE PRICE REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is to be provided under the issue does not exceed 80 percent of the average area purchase price applicable to such residence.

"(2) AVERAGE AREA PURCHASE PRICE.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is

made (or, if earlier, the date of the purchase of the residence).

"(3) SEPARATE APPLICATION TO NEW RESIDENCES AND OLD RESIDENCES.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '90 percent'.

"(5) EXCEPTION FOR QUALIFIED HOME IMPROVEMENT LOANS.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(g) DOWNPAYMENT REQUIREMENT.—

"(1) 5-PERCENT REQUIREMENT.—An issue meets the requirements of this subsection only if 75 percent or more of the owner-occupied financing provided by the issue (other than qualified home improvement loans and qualified rehabilitation loans) is 95-percent financing.

"(2) 95-PERCENT FINANCING DEFINED.—For purposes of paragraph (1), financing of a residence is 95-percent financing if such financing is 95 percent or more of the acquisition cost of such residence.

"(3) LARGER DOWNPAYMENT PERMITTED IN CASE OF GRADUATED PAYMENT MORTGAGES.—For purposes of determining whether a graduated payment mortgage meets the 95-percent financing requirement of paragraph (1), the percentage of the acquisition cost of the residence which is not required to be financed by the mortgage shall be increased to the lesser of—

"(A) 10 percent of the acquisition cost, or

"(B) the sum of—

"(i) 5 percent of the acquisition cost, plus

"(ii) the excess of—

"(I) the aggregate amount payable before the crossover point under a comparable standard mortgage, over

"(II) the aggregate amount payable before the crossover point under such graduated payment mortgage.

For purposes of the preceding sentence, the crossover point is the first day of the first payment period for which the payment under the graduated payment mortgage is greater than the payment would be under a comparable standard mortgage.

"(h) INCOME REQUIREMENTS.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if—

"(A) at least 50 percent of the owner-financing provided under the issue is provided for mortgagors whose family income is 90 percent or less of the median family income for the statistical area in which the residence is located, and

"(B) all owner-financing provided under the issue is provided for mortgagors whose family income is 115 percent or less of the median family income for the statistical area in which the residence is located.

"(2) DETERMINATION OF FAMILY INCOME.—For purposes of this subsection, the family income of mortgagors, and median family income, shall be determined under regulations prescribed by the Secretary which, to the extent not inconsistent with the purposes of this subsection, shall be consistent with the regulations prescribed under section 8 of the United States Housing Act of 1937.

"(3) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of any targeted area residence, paragraph (1)(B) shall be treated as satisfied if the mortgagor's family income is 140 percent or less of whichever of the following is the greater:

"(A) the median family income for the statistical area in which such residence is located, or

"(B) the statewide median family income for the State in which such residence is located.

"(i) LIMITATION ON AGGREGATE AMOUNT OF QUALIFIED MORTGAGE BONDS ISSUED DURING ANY CALENDAR YEAR.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the aggregate amount of bonds issued pursuant thereto, when added to the aggregate amount of qualified mortgage bonds previously issued by the issuing authority during the calendar year, does not exceed the applicable limit for such authority for such calendar year.

"(2) 5-PERCENT LIMIT.—Except as provided in paragraph (3), the applicable limit for qualified mortgage bonds for any issuing authority for any calendar year shall be 5 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such issuing authority.

"(3) AT LEAST $50,000,000 MAY BE ISSUED IN EACH STATE DURING EACH CALENDAR YEAR.—If, but for this paragraph, the aggregate amount of qualified mortgage bonds which could be issued in any State during any calendar year is less than $50,000,000, the aggregate amount which may be issued by each issuing authority in such State during such calendar year (determined without regard to this paragraph) shall be increased to the amount determined by multiplying such aggregate amount by a fraction—

"(A) the numerator of which is $50,000,000, and

"(B) the denominator of which is the aggregate amount of qualified mortgage bonds which could be issued by all issuing authorities in such State during such year (determined without regard to this paragraph).

"(4) OVERLAPPING JURISDICTIONS.—Except as provided in paragraph (5), if 2 or more governmental units have authority (determined without regard to paragraph (1)) to issue qualified mortgage bonds with respect to residences in the same geographical area, for purposes of this subsection only the unit having jurisdiction over the smallest geographical area shall be treated as having issuing authority with respect to such area unless such unit agrees to surrender part or all of such authority for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

"(5) STATE MAY PROVIDE DIFFERENT FORMULA.—The State may, by law enacted after the date of the enactment of this section, provide a different formula for allocating the 5-percent limitation (and, if applicable, the $50,000,000 limitation) among the governmental units in such State having authority to issue qualified mortgage bonds.

"(6) TRANSITIONAL RULES.—In applying this subsection to any calendar year, there shall not be taken into account any bond which—

"(A) was issued on or before April 24, 1979, or

"(B) by reason of section 4(b) of the Mortgage Subsidy Bond Tax Act of 1979, receives the same tax treatment as bonds issued on or before April 24, 1979.

"(j) PORTION OF LOANS REQUIRED TO BE PLACED IN TARGETED AREAS.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if at least 20 percent of the proceeds of the issue which are devoted to providing owner-financing is made available (with reasonable diligence) for owner-financing on targeted area residences for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences.

"(2) LIMITATION.—Nothing in paragraph (1) shall be treated as requiring the making available of an amount which exceeds 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located in targeted areas within the jurisdiction of the issuing authority.

"(k) REQUIREMENTS RELATED TO ARBITRAGE.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if such issue meets the requirements of paragraphs (2), (3), and (4) of this subsection. Such requirements shall be in addition to the requirements of section 103(c).

"(2) EFFECTIVE RATE OF MORTGAGE INTEREST CANNOT EXCEED BOND YIELD BY MORE THAN 1 PERCENTAGE POINT.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if the excess of—

"(i) the effective rate of interest on the mortgages provided under the issue, over

"(ii) the yield on the issue, is not greater than 1 percentage point.

"(B) EFFECTIVE RATE OF MORTGAGE INTEREST.—

"(i) IN GENERAL.—In determining the effective rate of interest on any mortgage for purposes of this paragraph, there shall be taken into account all fees, charges, and other amounts borne by the mortgagor which are attributable to the mortgage or to the bond issue.

"(ii) SPECIFICATION OF SOME OF THE AMOUNTS TO BE TREATED AS BORNE BY THE MORTGAGOR.—For purposes of clause (i), the following items (among others) shall be treated as borne by the mortgagor:

"(I) all points or similar charges paid by the seller of the property, and

"(II) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of qualified mortgage bonds.

"(iii) SPECIFICATION OF SOME OF THE AMOUNTS TO BE TREATED AS NOT BORNE BY THE MORTGAGOR.—For purposes of clause (i), the following items shall not be taken into account:

"(I) any expected rebate of arbitrage profits, and

"(II) any application fee, survey fee, credit report fee, insurance charge, or similar amount to the extent such amount does not exceed amounts charged in such area in cases where owner-financing is not provided through the use of qualified mortgage bonds.

Subclause (II) shall not apply to origination fees, points, or similar amounts.

"(iv) PREPAYMENT ASSUMPTION.—In determining the effective rate of interest, it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent mortgage maturity experience table published by the Federal Housing Administration for the State (or, if available, the area within the State) in which the residences are located.

"(C) YIELD ON THE ISSUE.—For purposes of this subsection, the yield on the issue shall be determined on the basis of—

"(i) the issue price (within the meaning of section 1232(b)(2)), and

"(ii) an expected maturity for the bonds which is consistent with the assumption required under subparagraph (B)(iv).

"(3) NON-MORTGAGE INVESTMENT REQUIREMENTS.—

"(A) IN GENERAL.—An issue meets the requirements of this paragraph only if—

"(i) at no time during any bond year may the amount invested in non-mortgage investments with a yield higher than the yield on the issue exceed 150 percent of the debt service on the issue for the bond year, and

"(ii) the aggregate amount invested as provided in clause (i) is promptly and appropriately reduced as mortgages are repaid.

"(B) EXCEPTION FOR TEMPORARY PERIODS.—Subparagraph (A) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for mortgages, and

"(ii) temporary investment periods related to debt service.

"(C) DEBT SERVICE DEFINED.—For purposes of subparagraph (A), the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been retired before the beginning of the bond year.

"(4) ARBITRAGE AND INVESTMENT GAINS TO BE USED TO REDUCE COSTS OF OWNER-FINANCING.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the amount earned on all non-mortgage investments (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if the investments were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i),

shall be paid or credited to the mortgagors as rapidly as may be practicable.

"(B) INVESTMENT GAINS AND LOSSES.—For purposes of subparagraph (A), in determining the amount earned on all non-mortgage investments, any gain or loss on the disposition of such investments shall be taken into account.

"(l) OTHER REQUIREMENTS.—

"(1) STATE OPINION THAT ISSUE MEETS FEDERAL REQUIREMENTS.—An issue meets the requirements of this subsection only if a preliminary official statement of such issue has been submitted to a State agency and—

"(A) such agency has, within 30 days after the date of such submission, issued an opinion that such issue meets the requirements of subsections (i) and (j) of this section, or

"(B) 30 days have elapsed since such submission and during such 30-day period the State agency has not issued an opinion that the issue does not meet the requirements of subsections (i) and (j) of this section.

"(2) OBLIGATIONS MUST BE REGISTERED.—An issue meets the requirements of this subsection only if each obligation issued pursuant to such issue is in registered form.

"(3) REQUIREMENT OF MORE THAN 1 LENDER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an issue meets the requirements of this subsection only if the mortgages are originated by 2 or more persons.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if—

"(i) due diligence was exercised in offering an opportunity to participate and not more than 1 person was willing and able to originate the mortgages, or

"(ii) a sound public purpose is served by having 1 person originate all owner-financing provided under the issue.

"(4) MORTGAGES MUST BE NEW MORTGAGES.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if no part of the proceeds of such issue is to be used to acquire or replace existing mortgages.

"(B) EXCEPTIONS.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (A).

"(5) CERTAIN REQUIREMENTS MUST BE MET WHERE MORTGAGE IS ASSUMED.—An issue meets the requirements of this subsection only if a mortgage with respect to which owner-financing has been provided under such issue may be assumed only if the requirements of subsections (d), (e), (f), and (h) are met with respect to such assumption.

"(m) TARGETED AREA RESIDENCES.—

"(1) IN GENERAL.—For purposes of this section, the term 'targeted area residence' means a residence in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) QUALIFIED CENSUS TRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) DATA USED.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) AREA OF CHRONIC ECONOMIC DISTRESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) CRITERIA TO BE USED IN APPROVING STATE DESIGNATIONS.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use of owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(n) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MORTGAGE.—The term 'mortgage' includes any other owner-financing.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes a possession of the United States and the District of Columbia.

"(4) STATISTICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) STANDARD METROPOLITAN STATISTICAL AREA.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.

"(5) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) EXCEPTIONS.—The term 'acquisition cost' does not include—

"(i) usual and reasonable settlement or financing,

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) SPECIAL RULE FOR QUALIFIED REHABILITATION LOANS.—In the case of a qualified rehabilitation loan, for purposes of subsection (f), the term 'acquisition cost' includes the cost of the rehabilitation.

"(6) QUALIFIED HOME IMPROVEMENT LOAN.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed $15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only of such items as substantially protect or improve the basic livability of the property.

"(7) QUALIFIED REHABILITATION LOAN.—

"(A) IN GENERAL.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(i) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) QUALIFIED REHABILITATION.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(8) DETERMINATIONS ON ACTUARIAL BASIS.—All determinations of yield, effective interest rates, and amounts required to be paid or credited to mortgagors under subsection (k)(4)(A) shall be made on an actuarial basis taking into account the present value of money.

"(o) SPECIAL RULE FOR ISSUE USED FOR OWNER-OCCUPIED HOUSING AND RENTAL HOUSING.—In the case of an issue—

"(1) part of the proceeds of which are to be used for mortgages on owner-occupied residences in a manner which meets the requirements of this section, and

"(2) part of the proceeds of which are to be used for rental housing which meets the requirements of section 103(b)(4)(A),

under regulations prescribed by the Secretary, each such part shall be treated as a separate issue.

"(p) ADVANCE REFUNDING OF MORTGAGE

SUBSIDY BONDS NOT PERMITTED.—On and after the date of the enactment of this section, no obligation may be issued for the advance refunding of a mortgage subsidy bond (determined without regard to subsection (b)(2))."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 103 the following new item:

"Sec. 103A. Mortgage subsidy bonds."

H.R. 3947

By Mr. DOUGHERTY:

(To the committee amendment.)

—Strike out subsections (c) and (d) of the matter proposed to be inserted by the committee amendment (page 54, lines 8 through 25) and insert in lieu thereof the following (and redesignate the succeeding subsection accordingly):

(c) No action with respect to the proposed closure or the realignment of Fort Indiantown Gap, Annville, Pennsylvania, or New Cumberland Army Depot, New Cumberland, Pennsylvania shall be taken until the Secretary of the Army has conducted a study of the economic impact on central Pennsylvania of (1) the proposed closure or realignment, as the case may be, of each such military installation, and (2) the recent nuclear accident that occurred at Three Mile Island, Middletown, Pennsylvania.

EXTENSIONS OF REMARKS

JAMES M. CARTER—DISTINGUISHED FEDERAL JUDGE

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. DANIELSON. Mr. Speaker, I bring to your attention and that of our colleagues a significant anniversary in the career of a great public servant which will be observed this afternoon in San Diego, Calif.

It is a great pleasure for me to announce that today, at 3 p.m., the U.S. Court of Appeals for the Ninth Circuit will convene in a special session in the U.S. Courthouse in San Diego to honor Circuit Judge James M. Carter who will be completing 30 years of distinguished service as a Federal judge. Chief Judge James R. Browning of the Ninth Circuit will preside, and there will be several speakers representing the bench, the bar, and the public. I regret that due to our heavy calendar of business here in Washington I cannot personally attend.

Judge Carter has had an outstanding career. Born in Santa Barbara, Calif., on March 11, 1904, he received his early education in the California public schools and graduated from San Fernando High School in 1920. He later received his A.B. degree from Pomona College, attended Harvard Law School for 1 year and graduated from the University of Southern California Law School with the degree of juris doctor in 1927.

He engaged in the general practice of law in Los Angeles following his graduation until July of 1940 when Governor Olson appointed him director of the Department of Motor Vehicles for the State of California. In 1943 he was appointed assistant U.S. attorney in Los Angeles, and was appointed U.S. attorney by President Truman in July of 1946. In October 1949 he was appointed U.S. District Judge by President Truman, and was appointed U.S. Circuit Judge for the Ninth Circuit on December 1, 1967. Judge Carter accepted status as senior U.S. Circuit Judge on September 30, 1971, but has remained active, carrying a substantial caseload since that time. In January 1972, he was appointed as a member of the Temporary Emergency Court of Appeals by the Chief Justice of the United States.

It has been a personal privilege for me to have known Judge Carter for more than 30 years. I first met him in 1948 when I applied for a job as an assistant when he was U.S. attorney in Los Angeles, and I am eternally grateful that he provided me with the opportunity to begin my career at the bar. Judge Carter was a magnificent U.S. attorney; no U.S. attorney's office could have had higher morale than that which prevailed in his office. Under his direction the duties of the office were carried out vigorously and fairly. I clearly remember his commending to his staff of the mandate of Justice Sutherland in his decision in *Berger* v. *United States*, 1935, 295 U.S. 78, 88:

The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

After Judge Carter assumed the bench his role in the administration of justice was changed. Yet I know from personal experience and from numerous comments I have received from those who have handled litigation before him as a judge, and who have been his colleagues on the bench, that he has continued to follow the precepts of fairness and evenhandedness which are so well epitomized in the Berger decision.

Mr. Speaker, I am sure that you, and all of our colleagues, join with me in expressing our thanks to Judge Carter for his many contributions to the administration of justice and wish him health and happiness throughout the rest of his career.●

PEACEFUL MISSOURI COUNTRYSIDE IS A FIRST-STRIKE TARGET

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. SKELTON. Mr. Speaker, the October 14, 1979, Kansas City Star carried a guest editorial that I wrote concerning the importance of civil defense, entitled "Peaceful Missouri Countryside Is a First-Strike Target." I wish to share this article with the Members of this body, which is set forth as follows:

PEACEFUL MISSOURI COUNTRYSIDE IS A FIRST-STRIKE TARGET

(By IKE SKELTON)

Recently, I was asked what is unique, what is different about the 4th Congressional District of Missouri, the district I represent in the United States Congress. My first inclination—when asked such an open-ended question—is to provide an answer from a wealth of delightful images acquired after years of traveling the roads of west-central Missouri.

There are the softly rolling green hills of Lafayette County. The Saline County back roads lined on both sides with 7-foot-high corn—some of the best in the nation. Down in Vernon County on a cold snowy winter's day you can see the stark beauty of a weathered barn against the backdrop of flat land and an early twilight sky.

The people here are special. From the gentle sternness seen in the face of the late President Harry Truman of Independence to the stubborn, intelligent opinions voiced by a Benton County farmer. From the excited laughter of rural and urban people at the Missouri State Fair to the smiles and quiet talk of a small brother and sister playing after school in their front yard in Warrensburg.

These lovely images make west-central Missouri very special. But this area of the state has something which sets it apart from most every place in the world. Western Missouri is a potential holocaust. We have our own terrifying Damoclean sword. It is the 150 Minuteman Intercontinental Ballistic Missiles located throughout Missouri's 4th Congressional District.

They are one of the nine missile fields in America that make up part of our national strategic defense. Experts in Washington agree if there were ever a nuclear assault against the United States, western Missouri would be among the first areas attacked.

An attack would mean that this part of Missouri would be turned from gently rolling hills, small towns and suburban housing into an inferno—a hell on earth.

Here is what the area just east of Independence, south of the Missouri River, north of Lamar and west of the Lake of the Ozarks would look like. There would be 150 huge craters created by an enemy using two one megaton nuclear bombs on each of the missile silos located here.

Each crater would be about as deep as a 35-story building is tall and about one-quarter of a mile wide. The wind created by the nuclear explosion would be approximately 400 miles an hour as far as two miles from where the bomb landed. By comparison, tornadoes are about 200 to 300 miles an hour. Then there is the heat.

Two miles from the point of impact it would still be hot enough to incinerate an unprotected human being. At ground zero,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

people, large and small buildings—everything—would be vaporised. The wind velocity and heat there are impossible to imagine. Remember, these things are happening at only one missile silo. Identical horrors are being repeated 149 other times throughout west-central Missouri.

There is a way to protect thousands of people in this region if we start acting now. The answer is civil defense. Don't laugh. It's true. This relic from the cold war era does have the potential for saving many lives here. But there is one major problem. As protection against nuclear weapons it is currently ineffective, but we can change things. That is why immediate planning is necessary. Although local civil defense officials, who are very professional and dedicated, have been doing a yeoman's task in trying to meet the demands of this problem, the federal government must carry the ball. The ultimate responsibility is with Congress and the White House.

There are about 10 million people (5 percent of the U.S. population) who are in high risk areas similar to the one in west-central Missouri. This generally means people living near missile silos, Strategic Air Command bomber bases and nuclear submarine bases.

There are only two types of effective protection if there is a nuclear strike against western Missouri. Presently we have neither. One is blast shelters. Only these have the potential for withstanding the tremendous force caused by a nuclear explosion. It's the strongest kind of in-place protection known to us. Of course, certain caves would suffice as blast shelters. These types of shelters would be necessary if there were only 15 minutes to one-half hour of warning before an attack. It takes a missile about 30 minutes to get here from the Soviet Union. The second type of protection involves moving people from these high risk areas, if there is enough time, to areas that are not likely to be targets. This second approach is called crisis relocation. It is based on the assumption there would be several days of heightened international tension before a war. This period would give us enough time to evacuate. We would need two or three days.

Blast shelters are very expensive, although a number of countries have been constructing such facilities. They are Switzerland, Sweden and Finland. It would cost about $3 to $4 billion to build blast shelters for the 10 million people in high risk areas.

By comparison, crisis relocation, although it is criticized by many experts, would cost relatively little, with large costs not seen until evacuation actually took place.

So, what are the chances for the people in west-central Missouri having blast shelters or a crisis location plan? The experience in the 1950s was that very few people were willing to construct even flimsy fallout shelters at their expense. Remember, the missiles have been with us in Missouri since the early 1960s and there have been no great efforts to install shelters here. There are other possibilities. One is to offer tax breaks to people who build blast shelters in their homes.

We don't know how successful this would be, although mandatory construction, with partial or full subsidy, has proved a practical approach in a number of European countries for developing shelters in single-family homes, apartments and commercial structures.

As for crisis relocation, there is now a plan on paper for west-central Missouri. I feel crisis relocation has the potential for working, even with its inherent problems. Besides, we may not have an alternative. Blast shelters for the people in western Missouri and the other Americans who also are prime targets may not be politically and financially possible.

I would be surprised if the White House and the Congress were to agree in the near future on a civil defense shelter program that will cost several billion dollars for 10 million people. I've already been presented the argument that the federal government should provide protection of this type for every American and not just a relative few.

Of course, the cost for sheltering every American would be prohibitive.

My position is that the people in western Missouri and other Americans who find themselves under the nuclear gun deserve special protection—either a crisis relocation plan we know will work and/or a shelter plan able to withstand the blast of a nuclear explosion. After all, these people didn't ask to have missiles put in their backyards and yet they well understand the necessity of a strong national defense so they aren't protesting against them.

At the beginning of this article, I said the people of west-central Missouri make this a pleasant and special area of the nation. When you look at what they have done—become sitting ducks for the benefit of 200 million other Americans—I think these uncommon people deserve special attention. Congress and the White House must lead the way and there must be public support.●

THE AGING MORK AND MINDY HAVE FOUND A NEW CAUSE

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, recently the Decatur (Ill.) Herald, which serves a large portion of my district, editorialized on the need for prudence and restraint on the part of those engaged in antinuclear rhetoric and demonstrations.

We have recently witnessed the pitiful antics of the two aging protestors Mork and Mindy (also known as Tom Hayden and Jane Fonda), as they attempt to recapture their youth via mass demonstrations.

The Decatur Herald has put this matter in perspective, and I commend the editorial to my colleagues.

NUCLEAR ISSUE MORE DIFFICULT

With its entourage of rock singers and film stars, the anti-nuclear rallies in New York City and elsewhere seemed almost like the anti-war demonstrations of the 1960s.

Heading the New York parade of stars was actress Jane Fonda and her husband Tom Hayden, once a leader of the anti-war movement and now possessed of political ambitions. Also with them on the New York platform was Ralph Nader.

In some ways, their "war" against nuclear plants is more difficult than the one against the Vietnam war.

All through Vietnam public opinion continued to shift against the war, due partly to the growing number of protests and demonstrations.

But the Vietnam protestors were aided by other factors which may be absent from the nuclear issue.

People were constantly reminded of the war through flickering images on nightly television newscasts, and, more important, by growing casualty rates from the front.

Television news will cover the nuclear protests only as events warrant. As for casualties, even the near disaster at Three Mile Island resulted in no loss of life or even serious injury. How close we came to disaster remains a matter of dispute.

In Vietnam people could see and perceive events and react according to their own sense of values. Seldom was it necessary to become involved in technical questions of military strategy or diplomacy.

A portion of nuclear politics is involved in broad policy questions. Washington University environmentalist Barry Commoner makes a distinction between democratic and undemocratic forms of energy.

For Commoner, nuclear energy, synthetic fuels manufactured from coal and petroleum are essentially undemocratic because their production and distribution is limited to giant corporations.

Solar energy and the production of synthetic fuels from agricultural products are, in Commoner's view, potentially more democratic because production can be spread around to more people. Nearly every farmer, for instance, can build a still to manufacture alcohol for the production of fuel.

But beyond the manner of producing and distributing energy are numerous technical questions which may be beyond the capacity of a protest movement to resolve.

Among signs at the rally in New York was one demanding that the nation turn away from atomic power to safe forms of energy.

But the problem is that all energy carries risks. Coal offers environmental hazards plus high risk of injury and death to miners.

Natural gas poses fewer environmental problems but supplies are frequently short and cost is rising.

Even solar energy could take huge chunks of land for storage ponds and could cut further into land available for agricultural production.

One reason gasohol is popular now is the availability of a surplus of corn and sugar beets. But a continued surplus will depend to an extent on the availability of agricultural land.

As an issue Vietnam could be dramatized and isolated in ways that will prove difficult in dealing with energy.

Vietnam protesters could quite easily say, "Hell no, I won't go" or even "Yankee come home" without having to deal with other matters.

But the question of nuclear energy also involves jobs, other sources of energy, capital formulations, relative safety of different forms of energy, and the like.

Simply demanding that "nukes" be replaced won't create another source of energy. Slogans won't keep people warm no matter how many people show up at a rally.●

COMMENT ON OREGON'S PROJECT RELATING ETHICS TO MEDICAL COSTS

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. DUNCAN of Oregon. Mr. Speaker, on September 18 I inserted as an extension of remarks an article extracted from the American Medical News of September 14. The article, "Oregon Educator Emphasizes Ethics as Basis for Cost-Related Medical Decisions," described an innovative program created, developed and implemented at the University of Oregon Health Sciences Center in Portland, Oreg. The program, designed to teach medical students the true social and ethical costs of medical treatment and hospitalization, is the work of Drs. Joyce Atlee Campbell and Michael T. Mackler. Though inserted in full exactly as it appeared in the AMA's News, the article omitted the names of these two physicians.

I applaud the efforts of all personnel involved in the project at the Health Sciences Center, and especially congratulate Drs. Campbell and Mackler on their creativity and hard work.

OCCUPATIONAL SAFETY FOR FEDERAL EMPLOYEES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. CLAY. Mr. Speaker, today I am introducing the "Federal Employee Occupational Safety and Health Act of 1979." This bill will make available to Federal and postal employees many of the safety and health protections which are already available to employees in the private sector.

When Congress enacted the Occupational Safety and Health Act of 1970, Federal employees were excluded from coverage. In addition, there has been uneven compliance with Executive Order 11807, which details the health and safety obligations of Federal agencies. At Hill Air Force Base in Utah. Federal civilian employees were exposed to dangerous levels of toxic chemicals. At the old Biscayne Postal Facility in Miami, Fla., there is reason to believe that postal employees may have been exposed to unacceptably high levels of cancer-producing asbestos fibers. In Mechanicsburg, Pa., it was reported that a dozen workers at the Defense Supply Depot were exposed to a significant level of PCB, a chemical which produces liver damage, birth defects, and various skin diseases.

Mr. Speaker, these and other examples are some of the reasons why injuries and accidents have risen from 1 among every 23 Federal employees in 1974, to 1 among every 16 Federal employees in 1977. Were it possible to bring the Occupational Safety and Health Act of 1970 to the floor without crippling amendments, I would recommend strengthening its provisions covering Federal employees. Instead, my bill affords Federal employees a safe and healthful work environment by amending title 5 of the U.S. Code. The bill makes the Office of Personnel Management the enforcing authority with responsibility to issue citations for violations of Federal safety and health laws; the Occupational Safety and Health Review Commission is the adjudicatory authority with the right to impose civil sanctions; and judicial review is available to aggrieved parties.

The principle provisions of the Federal Employee Occupational Safety and Health Act of 1979 are as follows:

Covers executive agencies, the Postal Rate Commission, and the U.S. Postal Service.

Requires that each agency maintain a safe and healthful work environment and that each agency and employee comply with Federal safety and health standards.

Authorizes the Office of Personnel Management (OPM) to conduct unannounced inspections and investigations and requires that agencies maintain and make available adequate safety and health records.

Requires that OPM issue citations for violations of Federal safety and health standards and establishes enforcement procedures.

Authorizes the Occupational and Health Review Commission (OSHRC) to impose civil penalties upon agencies for failure to comply with OPM citations.

Provides for court review of OSHRC orders by agencies and OPM and prohibits discharge or discrimination against employees for complaining, testifying, or otherwise asserting rights afforded by this bill.

Authorizes the OPM to take steps to restrain agency conditions which could cause death or serious harm to employees.

Authorizes the OPM to provide training, education, and consultation with agencies and authorizes agencies to conduct preventive health programs for employees.●

RECENT ACTION OF INTERSTATE COMMERCE COMMISSION MAY NOT BE PROPER

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. HARSHA. Mr. Speaker, as you, our colleagues, and I know, section 8 of article I of the U.S. Constitution vests exclusively in the Congress the power to regulate commerce among the several States. Even though we know that fact, recent* actions by the Interstate Commerce Commission have led me to the belief that that Agency does not.

Yesterday, I mailed to each Commissioner of the ICC a letter expressing my concerns about several of their recent actions which I would like to share with you:

OCTOBER 15, 1979.

DEAR COMMISSIONER: I have reviewed the notice of intent to open rulemaking decided by the Commission on September 20, 1979, docketed as Ex Parte No. MC–135, Master Certificates and Permits.

While I have knowledge of the issues involved in the proceeding, I have no desire at this time to express myself in any manner as to the merits of "possibly easing entry requirements in several specialized fields of for-hire motor carrier transportation" or as to "the appropriate relationship between easier entry, and a zone of reasonableness for rates . . ."

I will reserve my expressions on these subjects as they come before the Congress, and that brings me to the primary purpose of this letter.

I was of the opinion that the ICC was aware that the appropriate Committees of the Congress are actively engaged in consideration of legislation relating directly to the issues embraced in Ex Parte No. MC–135. I refer specifically to H.R. 4549, H.R. 4550 and H.R. 4586. To date, the Surface Transportation Subcommittee of the House Public Works and Transportation Committee, of which I am the Ranking Minority Member, has held four days of regional hearings. Additional hearings are scheduled. We are hearing from and will hear from the same categories of witnesses you mention in your notice—shippers, carriers, government agencies, academic and public policy institutions and concerned private citizens.

Thus, I appreciate your unusual action of serving a copy of the notice upon every Member of the Congress. I say "unusual" because a few months ago the ICC indicated to the Congress that it did not desire communications from Members expressing their views on issues pending before the ICC.

I also appreciate the specific remarks of Commissioner Gresham on this issue. He is correct—the questions he raises must be answered by the Congress before the ICC makes any further substantial changes in the areas of entry and ratemaking. Ex Parte No. 297, with its impact on collective ratemaking, obviously falls within the same category as Ex Parte No. MC–135. Commissioner Gresham is also correct when he states "This Commission has no authority beyond that expressly delegated to it by Congress."

I hereby request, in light of the current Congressional review of your delegated authority, that further proceedings in Ex Parte No. MC–135 and Ex Parte 297 be suspended until Congress has clearly set forth the direction the ICC should take in these matters.

Sincerely,

WILLIAM H. HARSHA.●

A SALUTE TO THE SANTA MONICA HOSPITAL MEDICAL CENTER AUXILIARY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. DORNAN. Mr. Speaker, one of the great and unique characteristics of our Nation has been its spirit of voluntarism.

There is one such volunteer organization back in my 27th District of California, which for the past 37 years has been a great asset to the community of Santa Monica, Calif. This organization, the Santa Monica Hospital Medical Auxiliary, founded in 1942, has been working on behalf of the medical center to maintain good public relations in the community, to provide volunteer services for the hospital, to open new financial resources for the hospital, and to promote medical careers among the area's young.

On Thursday, October 25, the 470 members of the auxiliary are going to celebrate a notable event; the raising of a total of $1 million for the medical center. This milestone has been attained by the many diverse fund-raising efforts of the auxiliary, such as a gift shop, thrift shop, art shows, Christmas card sales, and membership dues. This $1 million has been used for the benefit of such departments as radiology, nuclear medicine, cardiology, maternity, and pediatrics.

A hospital stay can be an anxiety provoking experience for some. But the auxiliary also conducts programs which will benefit the patients by making their visits more pleasant, such as teas for expectant parents, flowers on Mother's Day for mothers, prayer booklets, and puppets for the children.

I would like to extend my sincere thanks and congratulations to the medical center auxiliary members for the valuable work they have done over the years. I am sure you have earned the gratitude of the citizens of Santa Monica.●

POSITIVE COMMENTS FROM A CONSTITUENT

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. MITCHELL of New York. Mr. Speaker, occasionally a letter from a constituent deserves wider dissemination and accordingly I place the following in the RECORD:

GFM MACHINES INC.,
October 5, 1979.

Subject: Cuba and SALT II.

HON. DONALD J. MITCHELL,
Rayburn House Office Building,
Washington, D.C.

DEAR DON: I know you like to receive the comments of people in your district. Accordingly, I will present mine regarding the problem of Russian combat troops in Cuba and the SALT II treaty.

First, I believe it is necessary that we recognize that this is 1979 and not 1962. Unfortunately, President Carter did not have the options available to President Kennedy during the Cuban missile crisis. In 1962 the United States had nuclear superiority, unchallenged naval power, as well as unmatched conventional forces. In short, strategic tactical power the Soviets could not match.

Today, the Soviet Union's navy can challenge any task force the United States could send into the area or any other part of the world for that matter. They have a nuclear missile force equal to (if you believe reports from Washington) but more likely superior (if you use more reliable information).

Personally, I was pleased by the development of Russian combat forces in Cuba. An uneasiness about the United States global retreat all over the world has been developing among the American people and our allies for a long time. It appeared that this fact was beginning to dawn on the people in Washington. The presence of Russian combat troops in Cuba presented the possibility to draw the line and that line should have been drawn a long time ago. For once the President had Congress and the American people behind him. The President, it seems, understood this as he stated with strength he would not permit a status quo on the Russian troops issue. Then came his speech in which he chose political expediency and did exactly what he stated he would not do, and accepted a status quo. In addition, he threw the ball which he has consistently shown an inability to handle, into the hands of the Senate by stating that failure to ratify the SALT II treaty would create a crisis much greater than the Russian combat troops in Cuba. His weak responses of sending a few ships into the Caribbean, military units in Florida, renewed surveillance flights over Cuba (which he should have never stopped in the first place) and promise to defend nations in South America, together with beefing up the U.S. forces at Guantanamo are completely inadequate. They are nothing more than cosmetic attempts to save face before the American people and the watching world.

I would like to make known that I am strongly against SALT II in its present form. Contrary to the statements of the President (who needs passage for political reasons) it is not in its present form a proper treaty. Those who back it march down the road of appeasement, and appeasement leads to war. If modern history teaches us anything, it is this undeniable fact.

No one wants war. A statement often made, but not true. From the dawn of history wars have been fought, and they were started by countries that perceived they could only accomplish their objectives by armed conflict. Wars are started and for a purpose.

SALT I was a complete failure. It did not lessen the danger of war, it increased it. SALT II, if ratified in its present form, will further increase the risk of war. Both SALT I and SALT II deal primarily with nuclear ballistic missiles. In my judgment the next war will not be fought with nuclear ballistic missiles. It is further my opinion there will be a war (started by the Soviet Union) sometime between now and 1985. During the last fourteen years I have spent 4½ years in Europe. During that period I have watched the Soviet Union not only building up their conventional armed capability in all areas, but the most efficient industry which exists in the world today to produce that military equipment on a continuing basis. This includes every area . . . land, sea, and air.

Our company represents seven Austrian machine tool builders in the United States and Canada. In addition, I have connections with a great many other machine tool companies in Europe. With few exceptions the tremendous flow of the latest and technically advanced machines sold to the Soviet Union and the Eastern Block countries have been for the production of arms. I have spent hundreds of hours with influential people of the machine tool industry of Europe who supplied these machines. In addition, with the representatives of the Eastern Block countries and the Soviet Union who were in charge of the plants who received this equipment. I have relatives and friends who are continually in the Eastern Block countries and the Soviet Union involved with the negotiations for purchase of this equipment, and then the technical engineering work to establish the equipment in the production plants where the equipment is to be used.

The Soviet Union now has the most powerful military establishment and armed forces the world has ever known. The power of the Soviet Union is tremendous in all areas. This is not news to you. You stated in a recent article in the Herkimer Evening Telegram that the Soviet Union leads the United States in seventeen out of every twenty categories. What you are also, I am sure, aware of (or should be) is that they also have the ability to replace equipment rapidly as it is destroyed in combat. Look back at the Six Day War in the Middle East for a lesson in how fast military equipment of all types is destroyed on both sides in only a limited small war. Today, the United States does not have the conventional military equipment to match the Soviet Union, but even worse, we do not have the capability to produce it on a scale which even starts to approach that of the Soviet Union and Eastern Block countries. These are facts. Doesn't this trouble you? Doesn't it trouble the other members of the Armed Services Committee? If it doesn't, it should. The United States is facing a war we are not prepared to fight, and have no chance of winning.

Let's take a hypothetical situation. The Russians and Warsaw Pact countries invade Western Europe through upper Austria and across the plains of Germany. Based on all the information I have, and from what I have personally observed, it would take them between ten to fourteen days to reach the coast of Spain. Present NATO forces could not stop them. You, of course, counter with the fact I have left out our tremendous nuclear capability for a retaliatory strike against the Soviet Union itself; the so called nuclear umbrella to protect Western Europe. Based on the facts as we know them today the nuclear retaliation as a means of protecting Western Europe is a myth. It does not in reality exist.

Make an honest appraisal. If you were president in such a situation, would you push the button to release our missiles in the full knowledge of the fact that in the return exchange a minimum of 70 million Americans would die immediately, and millions more over a period of time due to radioactive fallout? You know the answer. So do I. Any president would rationalize that national interest would not be served by meeting our commitment to Western Europe. The decision should be easy because the American Government has found lately that meeting our commitments are secondary when it does not serve what is termed the national interest. I don't need to provide examples. You know better than I. However, what you may not know as well as I is the perception of that fact by the people of Western Europe and much of the rest of the world as well. In an emergency would America meet our commitments to defend Western Europe? Ask that question of Europeans. They don't think so.

Our previous Secretary of State doesn't think so by his recent statement to our allies in Europe that they should not depend so heavily on our nuclear umbrella to protect them in the event of an attack on Western Europe by the Soviet Union. What is worse, the Soviet Union's plans are predicated on that belief. In such a situation the nations of Western Europe would have two choices. Complete destruction, or seeking accommodations with the Soviet Union. Europeans are realistic and would accept the latter. A short conventional war, with an advance of only a short distance into Europe, and a settlement of accommodation with Western Europe will leave the Soviet military might intact.

Perhaps our perspectives are different. Your relatives live in the United States. Mine live in upper Austria just a few short miles from borders of three Warsaw Pact countries. I have spent more time in Europe than you have spent in Washington. However, my perspectives are not based on emotions, but rather on sound reasoning.

With Europe neutralized, the Soviet Union could then face the Chinese threat effectively.

The Soviet Union is preparing for war. That preparation began a long time ago. The Cuban missile crisis of 1962 accelerated it. SALT I and détente (a one way street) allowed the Soviet Union the world atmosphere they desired to proceed and accelerate their preparation. I recognize that these are statements no one in the United States wants to hear. Many refuse even when presented with uncontested facts to believe it. Over forty years ago no one wanted to believe Germany was preparing for war with the ultimate objective of world conquest. The parallels between that period and this period (particularly 1938 and 1979) are surprising when reviewed in detail. America and Europe were not perceptive then, and the American Government is even less perceptive now regarding the Soviet threat. The global plan of the Soviet Union is abundantly clear. It is being carried out according to a worked out program and plan. The program may be altered as events demand (example 1962 Cuban missile crisis) but the plan is fixed, firm, and unchanging. Its objective is world domination.

Today, the United States lacks a realistic foreign policy. Without a proper perspective of the Soviet threat there can be no effective foreign policy. We deal with, and react to, the effects and not the cause of the problem. Not since John Foster Dulles' program of massive retaliation have we dealt effectively with the Soviet Union. It was discarded because uninformed and blind political people in Washington called it "brinksmanship". It was. But it was, and is, the only effective way

to deal with the Soviet threat. It was a plausible policy then because America had the military strength to back it up. Today, we are practicing brinksmanship of a different and more dangerous sort. The brinksmanship of appeasement. We have been for years appeasing the Soviet Union by one concession after another. All under the seemingly worthy objective of promoting peace in the world through improved relations with the Soviet Union. Détente and SALT I were fostered under that program. We were reducing tension in the world. Exactly what the Soviet Union's plan required.

While we have honored the spirit of détente and agreements of SALT I, the Soviet Union proceeded at an astonishing rate with their plan for world domination. To accomplish this the first order of priority was unchallenged military superiority in all areas. Today, for all practical purposes, they have accomplished that objective. At the same time they have spread their influence and control over strategic geographical areas throughout the world. And during all these activities they have been probing and testing American resolve. In almost all cases they have tested and found the United States impotent. Seems a little like Nazi Germany's actions preceding World War II. Arms build up, defiance of treaty agreements regarding production armament, testing, and probing in one area after another.

The appeasement of, and concessions made to Hitler in the interest of preserving world peace. World War II could have been prevented by a proper perception of Germany's real objectives, and the will to halt them. That failure resulted in the most destructive war in history; human suffering beyond description and with the irresponsible decisions made at the war's conclusion of which this country must shoulder the major blame, the enslavement of 130 million people. An enslavement that continues today. The stakes are high when you participate in the game of international politics. Next time the freedom threatened will include all free nations unless that threat is properly suppressed. Increasing military spending by 3 percent or 5 percent will not meet the requirements.

The present Cuban crisis is only a rather small incident in the unfolding drama, but it was predictable. The 3,000 combat troops in Cuba are insignificant when viewed in the light of the more important operations of the Soviet Union in Cuba. Soviet submarines of every type (except nuclear powered) equipped with nuclear ballistic missiles have visited Cuban ports for years. Soviet bear bombers in reconnaissance configuration with Russian pilots have been flying intelligence gathering missions in and out of Cuba for years. Russian piloted Migs have been in Cuba for years. Recently the latest type Mig 23's have been sent to Cuba. A large submarine base is under construction in Cuba. Highly sophisticated Soviet equipment in Cuba monitors telephone communications conducted in the United States of all types. Why does the administration and State Department try to explain away this growing Soviet threat only ninety miles from the United States mainland?

The continuing extension of Soviet influence in Angola, the horn of Africa, Afghanistan, and South Yemen, to mention only a few, are other areas where the resolve of the United States has been tested and found wanting. Why? Perhaps Senator Munn's recent statement "There is evidence that we have been tranquilized to the point where U.S. military budgets no longer provide for defense of our national interest" gives an answer. The statement is true, but is extremely lacking in presenting the total picture of the disparity of the United States versus Soviet military capabilities.

My direct question to you as my Congressman in Washington is why has the government failed to have a proper perspective of the developing situation? It has been developing under both Democratic and Republican administrations. Why have, for years, the Soviet intentions been misunderstood? Why has this government allowed a steady decline of our military strength in face of accelerated increases of Soviet military power? Why does the President state to the American people on one day that a status quo in the presence of Soviet combat troops in Cuba will not be permitted, and a few days later completely reverse his stand and state that they present no threat to the United States? Then base this on promises from Soviet government officials of the highest level that those troops will never be used for offensive purposes. Again in a test the Soviets stood firm and the United States backed down. Soviet promises are worthless. You know it, and I know it. Look at the record.

It is apparent that the Soviet threat is not clearly understood in Washington. Our foreign policy is ineffective because it lacks a proper perspective of this Soviet threat. And until this changes, no foreign policy we formulate will be effective. The often heard statement that "nice guys finish first" is not the rule. In almost all the cases when a completely honorable person deals with a completely unscrupulous person, the unscrupulous person comes out ahead. This is not an easy fact to accept, but it is a fact. This is the basic problem with the United States versus the Soviet Union. It is high time we recognized that the Soviet Union is the enemy of the United States and the free world. No amount of good will, concessions, or treaties will change their goals. In the past history of this country this fact would have been understood, squarely faced, and dealt with. What has changed?

A long letter? Yes. But its length should reveal the deep concern of one American in your district.

Very truly yours,

ROBERT W. SELWOOD, *President*.●

BEDELL STATEMENT ON SOUTH AFRICAN RESOLUTION

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. BEDELL. Mr. Speaker, today I am introducing House Concurrent Resolution 199, a refinement of House Concurrent Resolution 139, concerning employment practices of U.S. companies in South Africa.

We have heard much discussion in recent months about the nature and extent of U.S. business involvement in South Africa. Many proposals have been made with the objective of influencing South African policy through the regulation of U.S. business practices in that country.

In debating the alternatives, however, we have sometimes lost sight of the direct impact that working for an American business has on black South African employees themselves. Nonwhite employees of U.S. companies in South Africa continue to labor under discriminatory practices that, in our own country, were outlawed by the Civil Rights Act of 1964. The South African Government has shown little resistance to "private" initiatives by U.S. firms to achieve such basic goals as desegregation of work facilities, equal pay and hiring practices, better training and advancement opportunities for nonwhites, and improvement in the lives of black employees outside the workplace. Yet only 120 of the 280 American businesses in South Africa have agreed to adhere voluntarily to these principles, as embodied in the so-called Sullivan Code.

I am therefore introducing House Concurrent Resolution 199, which conveys the sense of Congress that U.S. businesses in South Africa should refrain from engaging in discriminatory employment practices and that they should pursue the affirmative goals for black employees set forth in the Sullivan Principles. The resolution also urges U.S. companies to recognize black trade unions and to negotiate and conclude agreements with them.

Mr. Speaker, this resolution aims at bringing about improved working conditions and greater opportunities for advancement for nonwhites in South Africa. Just as important, passage of the resolution would communicate to the South African authorities our willingness to support with official U.S. policy the dismantling of apartheid. In this way, perhaps we can promote justice and peaceful change in troubled South Africa.●

HOSPITAL COST CONTROL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. LAGOMARSINO. Mr. Speaker, I submit for the benefit of my colleagues, the following editorial, "Hospital Cost Control," which appeared in the Lompoc Record, October 8.

The editorial follows:

HOSPITAL COST CONTROL

President Carter is pushing very hard for the enactment of hospital cost controls and scored another recent victory in bringing this to the House floor when the Commerce Committee by a slim margin approved the measure.

The bill, H.R. 2626, would allow most private hospitals one year to voluntarily reduce their rate of cost increase to 11.5 percent annually. Hospitals not meeting this target would be subject to federally imposed penalties such as loss of Medicaid and Medicare funds, and a 150 percent excise tax on "excess" revenues.

While we are sympathetic with the concept of controlling escalating hospital costs, we strongly oppose mandatory government regulations as the answer. Under this proposed measure, hospitals would be limited in how much they can increase their prices even if their own costs of doing business increases by a much larger amount. It is logical to believe then that limiting hospital charges would result in decline of care.

Curiously enough this legislation exempts public hospitals which now are increasing costs faster than private hospitals. It exempts, also, salaries of nonsupervisory personnel whose wages account for up to two-thirds of hospital costs.

This move is Carter's first step toward price control throughout the economy.

When will they get the message in Washington that inflation in health care, as in other industries, will decrease only when Congress stops spending more than it takes in? More and expensive government regulation only compounds the problem.●

STATEMENT OF BLACK AND JEWISH ORGANIZATIONS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. HAWKINS. Mr. Speaker, I would like to call to the attention of my colleagues the following statement issued by black and Jewish organizations in the Leadership Conference on Civil Rights.

The statement addresses the recent reporting of a so-called "rift" between American blacks and Jews. While accepting that differences exist between the two communities, the statement reaffirms the commitment of the signatory organizations to continue working together to achieve the shared goals and purposes of the leadership conference to encourage a just and equitable society. Free expression of views is at the heart of our democratic society; coalition politics is the strength of our democratic system. This statement confirms these two tenets.

The statement follows:

JOINT STATEMENT BY BLACK AND JEWISH ORGANIZATIONS IN THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

The undersigned Black and Jewish organizations are deeply concerned over recent reports of a rift between Blacks and Jews. That we have our differences is clear. But to suggest that such differences constitute an irreparable rift is to misunderstand the nature of a coalition and of our relationship.

The essence of our plural democracy is that it encourages every group to express its views on whatever issues it chooses in accordance with its own values and judgment. It is out of such differing values, judgments and priorities that the temper of our society is forged.

A free plural society demands not the elimination of differences but the expression of differing views without rancor, racism or anti-Semitism.

For 30 years we, together with other groups, have worked through the Leadership Conference on Civil Rights in furtherance of its stated purpose: to establish "an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice without regard to race, sex, religion, ethnic origin, handicap or age; and in which every group is accorded an equal opportunity to enter fully into the general life of the society with mutual acceptance and regard for difference."

In pursuit of that goal, as members of the Leadership Conference, we have committed ourselves to support, "as a matter of right—a useful job at a decent wage for all who are employable or who can be made so by training or retraining; income sufficient to provide all others with the essentials for living in dignity and self-respect; decent housing in a decent environment for all; medical care for all in health, sickness and disability; and education to the limit of each person's capacity to benefit from it."

That shared commitment continues undiminished. Our years together have been marked by great advances, great achievements. The work that still must be done is too important to let differences divide us.

SIGNATORIES TO JOINT STATEMENT BY BLACK AND JEWISH ORGANIZATIONS IN THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Richard M. Ballard, National President, Phi Beta Sigma Fraternity, Inc.

Syd Bykofsky, President, United Hebrew Trades.

Marjorie Merlin Cohen, Executive Director, National Council of Jewish Women.

Bishop Charles H. Foggie, Secretary, Board of Bishops, African Methodist Episcopal Zion Church.

Bertram Gold, Executive Director, American Jewish Committee.

Benjamin Hooks, Executive Director, National Association for the Advancement of Colored People.

Vernon Jordan, President, National Urban League.

Aline Kaplan, Executive Director, Hadassah.

Frieda S. Leemon, National President, Pioneer Women.

Theodore R. Mann, Chairman, National Jewish Community Relations, Advisory Council.

Emanuel Muravchik, Executive Director, Jewish Labor Committee.

Bayard Rustin, President, A. Philip Randolph Institute.

S. Garry Oniki, Executive Director, Office for Church in Society-United Church of Christ.

Nathan Perlmutter, Executive Director, Anti-Defamation League of B'nai B'rith.

Nathan Peskin, Executive Director, Workmen's Circle.

William M. Ross, Executive Director, Recruitment and Training Program.

Eleanor R. Schwartz, Executive Director, National Federation of Temple Sisterhoods.

Simon Schwartz, President, United Synagogue of America.

Rabbi Henry Siegman, Executive Director, American Jewish Congress.

Harris B. Stone, National Commander, Jewish War Veterans of the U.S.A.

Inez W. Tinsley, National President, National Association of Colored Women's Clubs.

Rabbi Alexander Schindler, President, Union of American Hebrew Congregations.

Evelyn Wasserstrom, President, B'nai B'rith Women.

Dr. Fredda Witherspoon, National President Iota Phi Lambda Sorority, Inc.

Dorthy Height, President, National Council of Negro Women.

ADDITIONAL SIGNATURES

Janice Kissner, Grand Basileus, Zeta Phi Beta Sorority, Inc.

Rabbi Arthur Lelyveld, President, Synagogue Council of America.

Theodore R. Hagans, President, National Business League.

Walter Hubbard, President, National Office of Black Catholics.●

H.R. 5606

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. SABO. Mr. Speaker, the Railroad Retirement Act of 1974 provides for the disbursement of pension checks on the first day of each month to qualified railroad retirees. For many retirees this check represents the major portion of their monthly income. Financial difficulties arise when the check arrives on a weekend or holiday and banks are not open.

Unlike the social security system which allows for checks to be delivered prior to the first day of the month if such date coincides with a holiday or weekend, the Railroad Retirement Act provides for no such arrangement. A recent example of this problem was Labor Day. Due to the Labor Day holiday, retirees who received their railroad pension checks on Saturday, September 1 of this year had to wait 3 days; until Tuesday, September 4, to cash their checks. Certainly these people had little opportunity to enjoy their Labor Day holiday.

For this reason yesterday I introduced H.R. 5606, a bill to amend the Railroad Retirement Act of 1974 to make monthly annuities payable before the first day of the month when the first day is on a weekend or holiday.●

A TRIBUTE TO A. H. "BILL" GALLARDO, ORANGE COUNTY HISPANIC LEADER

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. PATTERSON. Mr. Speaker, in each community there are a few good people who are known for getting things done. They are the ones you can rely on to roll up their shirt sleeves and dig in to get the job done. For the past 20 years, A. H. "Bill" Gallardo has been one of those people. His involvement in the Hispanic community and his many achievements on behalf of the working person have made him a local legend in Orange County. On November 2, the LULAC Council and the Tiempo Sobre El Tiempo will salute Bill Gallardo for his dedication to the local community and his many accomplishments during his career.

Bill began his career as an apprentice to a plasterer in 1945, and worked throughout the county before becoming a business representative in 1953. He served in that capacity for 18 years before becoming the representative-coordinator for the California Labor Federation of the AFL–CIO.

In addition to his many years of commitment to the union and to working people, Bill has been very involved in the Committee on Political Education, and has earned the reputation of the man most likely to get out the vote. His involvement in voter registration programs, voter education projects, and get-out-the-vote efforts have made him a friend to campaigners in Orange County. His tireless dedication and commitment encouraged others to invest that extra ounce of effort which so often can draw those few critical votes to turn the tide.

Within the Hispanic community, Bill

has been involved with the LULAC Council since 1949, and helped raise the $4,000 that started their first education program. He has been a member of the Amigos Beneficial Club, the Political Association for Spanish Speaking Organizations, and the Latin American Political Education Organization. On the national level he has championed Hispanic rights through his involvement in the Labor Council for Latin American Advancement.

I am delighted to join with the LULAC Council and the Tiempo Sobre El Tiempo in honoring this capable and responsible member of my community. Through his unselfish dedication to both the working people and the Hispanic community he has made a significant contribution to Orange County and made a mark on the lives of many of us. I ask my colleagues to join with me in commending this fine man.●

THE FAILURE OF CHILE TO EXTRADITE THREE INDICTED TERRORISTS TO THE UNITED STATES

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. MOFFETT. Mr. Speaker, many Members have contacted me, and my colleagues Representative HARKIN and Representative GEORGE MILLER requesting further information about our resolution expressing the sense of the House with respect to the failure of the Government of Chile to extradite the three DINA officials indicted for the terrorist murder of Orlando Letelier and Ronni Karpen Moffitt. I would like to have printed in the RECORD the text of this resolution, and to encourage other Members to join as cosponsors:

RESOLUTION

Expressing the sense of the House of Representatives with respect to the failure of the Government of Chile to extradite Manuel Contreras, Armando Fernandez, and Pedro Espinoza to the United States, and to urge the President to take certain actions with respect to Chile.

Whereas the Congress has repeatedly expressed its condemnation of international terrorism;

Whereas the President on several occasions has committed the United States to the strongest possible measures against governments which have condoned acts of international terrorism or which harbor individuals who have committed acts of international terrorism;

Whereas on August 1, 1978, a Federal grand jury indicted General Manuel Contreras, Captain Armando Fernandez, and Colonel Pedro Espinoza, all of whom were members of the Chilean intelligence service, for conspiracy in the 1976 murders of Orlando Letelier and Ronni Karpen Moffitt, and on September 18, 1978, the United States Government filed requests with the Government of Chile for the extradition of those so indicted;

Whereas this act of terrorism on the streets of Washington, D.C., against an American citizen and a United States resident with diplomatic status was a result of action by the Government of Chile;

Whereas Amnesty International, the International Commission of Jurists, the United Nations Human Rights Commission Ad Hoc Working Group on Chile, and the United Nations General Assembly have stated that the regime of Augusto Pinochet has violated basic human rights and political freedoms in Chile since the military coup of 1973 in that country; and

Whereas the Pinochet regime, in refusing to extradite Manuel Contreras, Armando Fernandez, and Pedro Espinoza, is harboring and protecting individuals wanted in the United States to stand trial for acts of international terrorism: Now, therefore, be it

Resolved, That the United States House of Representatives—

(1) expresses its great concern at the refusal of the Government of Chile to extradite Manuel Contreras, Armando Fernandez, and Pedro Espinoza to the United States; and

(2) calls upon the President to take the following actions immediately:

(A) to recall the United States Ambassador to Chile;

(B) to order the application to Chile of all relevant statutes limiting bilateral and multilateral assistance to countries with terrorist governments or countries harboring terrorists;

(C) to prohibit deliveries of defense articles or defense services to Chile pursuant to sales made before the date of enactment of the International Security Assistance and Arms Export Control Act of 1976;

(D) to recall all advisory and other military personnel from Chile;

(E) to prohibit the issuance of United States visas to Chilean military or intelligence personnel or anyone acting under the auspices of Chilean military or intelligence services;

(F) to prohibit any credits or loan guarantees to be granted by the Export-Import Bank with respect to Chile and to prohibit any export licenses required under the Export Administration Act of 1979 to be granted with respect to Chile;

(G) under the authority contained in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), to order the immediate suspension of private bank loans to Chile; and

(H) to demand that the Pinochet regime in Chile restore fully to the people of Chile the rights they had traditionally enjoyed before the military coup of 1973, including the right of the more than 50,000 Chilean exiles to return to their country and the right of the families of more than 650 political prisoners who have disappeared to be informed of the whereabouts of those political prisoners.●

PROFITS ARE FOR EVERYBODY

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. VANDER JAGT. Mr. Speaker, in recent times profit has become a dirty word. It is frequently described as obscene, unconscionable, excessive, and undeserved. But is profit really the boogeyman of our society, the tool of corporate economic oppressors?

To the contrary, profit is the linchpin of our free market economy, the raison d'etre for producing goods and services. Nevertheless, the vast majority of Americans are amazingly ill informed about the role and level of profit in our economy. When asked about the level of profit of corporations on sales volume, the popular response is invariably many times higher than the real level of profit. For example, a recent national survey indicated that the average person's estimate of what an automobile manufacturer makes in profit per sales dollar—37 cents—was almost seven times higher than the profit margin of General Motors, 5.5.

Mr. Speaker, I would like to place in the RECORD a very interesting essay on profits by Barry Crickmer which was printed in the October, 1979 issue of Nation's Business. This article presents an illuminating analysis of profit in terms of philosophy, reality and popular perception:

PROFITS ARE FOR EVERYBODY

(By Barry Crickmer)

Profit. Investors hope for it, economists measure it, pensioners live off it, and politicians run against it. But what is it?

In the business world, profit is what's left of the money a business takes in after all expenses have been paid. It may be stated as before-tax profit—before payment of the 46 percent federal tax on corporate income—or as after-tax profit, which is what most people think of as profit. This money is available for reinvestment in the business or distribution to the owners, when it's taxed again as income.

The most amazing thing about profit is that it exists at all. Consider a typical business: Suppliers exchange their goods, and workers exchange their labor for the company's money; consumers exchange their money for the company's products. These exchanges are voluntary. In every case, both parties to the exchange expect to benefit from it. If there were no mutual benefit, there would be no exchange.

SOMETHING LEFT OVER

After all these mutually beneficial exchanges, the successful business earns a profit—there is something left over. Was it taken from someone? No. Everyone involved has more than he or she started with. So there is something new, something that exists now, but did not exist before.

Profit may be defined more broadly as what remains after the costs of production. By this definition, profit is not limited to capitalist economies. In fact, no economic system could survive without profit.

As the economics commentator of Izvestia once put it:

"The basic difference between the primary economic principles of capitalism and socialism does not mean that under socialism profit is no longer an economic category. As long as commodity-money relations still operate, and they do under socialism, profit is a factor. . . . Lenin insisted that state-owned enterprises operate without loss, that they bring in a profit."

It is not the existence of profit, but rather its generation and disposition that differentiate the two systems.

In the broadest sense, profit is not even limited to the human sphere. Any successful organism must be able to withstand minor interruptions of its productive activity. To do that, it must produce more than it consumes in the act of production. Dispensing with profit would be equivalent to dispensing with life itself.

Sophisticated arguments about profit focus not upon the need for its existence, but on such questions as: Who makes it? Who gets it? Who decides how it will be used?

Profit in a market-regulated capitalist

economy is a signal, an incentive, and a discipline.

As a signal, profit is very honest. It tells potential investors what the consumer wants to buy. It doesn't respond to what some people think other people ought to buy. It doesn't always react to what people say they want to buy.

The signal is tripped only when people are willing to spend money to purchase a product or service.

BIG REWARDS, BIG PROFITS

As an incentive, profit attracts capital to serve the consumer. If consumers are willing to pay well for widgets, people with money to invest will voluntarily put it into widget factories. They do so in hopes of making a high return, but there is no guarantee. Big rewards are nearly always associated with big risks. In the words of a Japanese proverb: "Where profit is, loss is hidden nearby."

Interestingly, in the series of mutually beneficial exchanges leading to profit, all the parties but one know exactly what they will get for what they give. The exception is the investor, who exchanges his capital for the chance to earn a profit.

As a discipline, profit has several functions. First, it attracts competition, which ultimately lowers prices. Where free competition is possible, high profits are always self-limiting.

Second, it keeps investors constantly on the lookout for more productive uses of their capital.

Third, it pressures managers to use resources with maximum efficiency and grades them on their performance.

And finally, lack of profit eliminates businesses that are inefficient or unwilling to satisfy the consumer, freeing what remains of their capital for other purposes.

Few people are aware of how extensively the profit-and-loss system culls business deadwood. Only one new business in three survives through its fourth year. There are about 8,000 formal bankruptcies annually, while many times that number of businesses just quietly disappear. The point is that profit accomplishes something useful when moving in either direction.

Profit totals for all U.S. businesses always seem impressive because ours is a very big economy. Proportionately, however, the amount of national income that goes to business owners is rather small. And the employees' share of the income pie is increasing steadily, at the expense of profit.

This trend seems fortunate for workers, but in the long run it isn't. New jobs come from capital investment. And capital investment comes from profits. It now takes more than $50,000 to create one new industrial job.

Not only is the owners' share of the income pie shrinking, but also it is smaller in absolute terms than it appears to be, thanks to the pernicious effects of inflation.

TAXING AN ILLUSION

Inflation can create an illusion of profit where none exists. Worse yet, the Internal Revenue Service is quite willing to tax the illusion. These paper profits appear because of the effects of inflation on inventory value and depreciation allowances.

Take the case of Acme Widgets. Because of inflation, the cost of making a widget has increased from $1 to $1.10. Since the selling price had been $1.05, Acme must charge more to reflect its higher costs. So the price is raised to $1.15.

At the moment of that price increase, the company had 100,000 widgets in a warehouse, all made at the older, $1-per-unit cost. But now they are worth $1.15 in the marketplace, rather than $1.05. By the stroke of a pen—or more likely a computer—Acme's inventory has grown $10,000 in value.

That $10,000 looks like profit. But can it be treated like profit? Used to expand the business? Distributed to the shareholders? No. Acme's inventory must be restocked as it is sold, and the replacements will be more costly to produce. So the $10,000 is already committed—that is, what's left of it after the IRS exacts its share.

NEXT YEAR'S SEED

The depreciation problem is similar. Plant and equipment wear out or become obsolete and must be replaced. Prudent businesses set aside money to cover these expenses. This money is not taxed, because it represents capital, not profit. It is the seed for next year's crop.

But depreciation allowances for tax purposes are based on original costs, not replacement costs. Due to years of inflation, the replacement cost of a machine is likely to be several times its original cost. Yet only the original cost can be sheltered from taxation.

As a result, says economist George Terborgh of the Machinery & Allied Products Institute, "companies are counting a lot of capital consumption as profit, paying taxes on it and paying out much higher dividends than they think."

In 1978, for example, businesses shelled out $84 billion to the tax man, a full $17 billion more than they would have paid if profits had been adjusted for inflation. Dividends paid to shareholders, at $44.3 billion, appeared to be 41 percent of reported corporate earnings, but were actually 67 percent of adjusted after-tax profits.

On paper, U.S. companies were able to set aside $69 billion in 1978 to finance future growth. When that figure is adjusted for inflation and underdepreciation, the amount retained shrinks to only $26 billion.

Even General Motors Corp., the nation's largest industrial company, is adversely affected by inflation. General Motor's 1978 annual report candidly tells shareholders that, despite a 20 percent gain in sales over the past five years, the corporation's earning power has not increased at all in 1973 dollars. The GM profit margin slid to 5.5 percent of its sales in 1978, compared with 10.3 percent in 1965.

Contrast that 5.5 cents profit with a recent national survey that shows the average person's estimate of what an auto manufacturer makes per sales dollar—37 cents. The public perception of profits is consistently about five times greater than the actual figures. Ironically, when asked to state a so-called fair or reasonable profit, most people pick a figure that is two to three times the actual level of profit.

Why should the typical American care about profit as long as his own job is secure? Because the level of profit is closely related to improvements in the overall standard of living.

America's high standard of living has come from improvements in productivity, that is, from producing more from a given amount of capital and labor.

Such improvements may come from research, which reveals new and better production techniques as well as new and better products, or from the substitution of electrical, chemical, or mechanical energy for human effort.

Capital investment pays for the research and the improved machinery. And profit provides the capital.

Most Americans are painfully aware that their standard of living is not growing as it did in the past. But not many could give the reason: U.S. productivity is not growing as fast as it once did, either.

MARKED SLOWDOWN

From the end of World War II to 1969, productivity increased by about 2.5 percent every year. Since 1969, the gains have slowed until, as the President's 1979 Economic Report notes, "productivity growth in 1978 showed a very marked slowdown from accustomed rates, adding substantially to inflationary pressures and raising fundamental concerns about underlying trends." Behind these concerns is a productivity increase for 1978 of only 0.6 percent.

America's productivity is still the highest in the world, but the lead is diminishing. Most major foreign competitors have had substantially higher rates of productivity growth in recent years.

Why is American productivity growth comparatively poor? Partly because this nation's competitors still have some catching up to do. But more importantly, other countries encourage the use of profit to increase productivity. Many American policies, on the other hand, have the reverse effect.

HIDDEN TAX BURDENS

First, the federal government taxes an investor's return twice—once as income to the corporation and again as income to the investor.

Second, tax incentives to companies to use their profits for research, modernization, and expansion are inadequate. Such incentives are often called loopholes and are resented by those who don't understand their purpose.

And third, the government imposes hidden tax burdens on industries.

That third point deserves expansion. A look at U.S. productivity performance by industry shows that three sectors of the economy—construction, mining, and utilities—have had the slowest growth. Not coincidentally, these sectors have been most affected in recent years by increased federal regulation. In fact, the dip in productivity matches the growth in regulation almost perfectly.

Higher productivity is to a society what a salary increase is to an individual. The gain can be spent for any desirable purpose, or reinvested, without having to cut back on some other budget category.

What happens to productivity depends on what happens to profit—how much of it we are able to generate and how we allocate it.

To increase profit, the risk-and-reward mechanism must operate freely. A market-regulated economy is uniquely designed to harness self-interest to the general interest. Profit is the carrot, and loss is the stick. When each producer tries to maximize his own personal profit, resources are used with optimal efficiency and the total wealth of the society increases at the fastest possible rate. Other systems—depending on moral suasion or government coercion—are spectacularly inefficient by comparison.

Pitting selfishness against selfishness for the good of all is an ingenious device, but many people have trouble understanding or accepting the concept. And yet, the U.S. system of government is based on a similar principle.

At the federal level, the principle is called the division of power. But it goes much deeper than that. American governments at all levels are stabilized by continual, open competition for power. As an astute French observer once remarked: "If one were required to condense into a single statement the basic concept of freedom incorporated in the Constitution, one would say that the guiding idea of the Founding Fathers was to combat evil with evil. They believed that division was a natural fact of life . . ."

ROMANTIC IDEALISTS

And so it is with economics. Selfishness cannot be eliminated, but it can be channeled into socially productive activities. This approach is offensive to romantic idealists who prefer to believe that people, when properly informed, will set aside their own interests in favor of the general interest. This rarely happens. Despite hundreds of years of attempts to make men good, human beings remain a stubborn mixture of virtue and vice. Which is probably why no one has ever

found a better way to increase freedom, wealth, and happiness than a capitalist economy.

"Unfortunately, this point is so poorly understood in America today that we needed to be reminded of it by two guests from abroad," says Richard L. Lesher, president of the Chamber of Commerce of the United States.

When the Egyptian-Israeli peace treaty signing brought the leaders of those nations to Washington, both men, appearing before U.S. Chamber of Commerce audiences, in Washington, D.C., and New York City, appealed to American business to help develop their countries.

"Come and be my partner," said Egyptian President Anwar Sadat.

Israeli Prime Minister Menachem Begin made it plain that his government wants private companies to profit from their investments in Israel. Profit, he said, "is the secret of human progress for all walks of life."●

JUSTICE FOR TAIWAN AND DAY OF RECKONING FOR CARTER'S STATE DEPARTMENT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. ASHBROOK. Mr. Speaker, I am pleased to announce that U.S. District Court Judge Oliver Gasch has ruled that President Carter has violated the Constitution in trying to unilaterally terminate our mutual defense treaty with nationalist China. It is indeed reassuring to know that no President is above the laws of this Nation. I am pleased to be one of the plaintiffs in this suit.

The Carter administration has attempted to circumvent one commitment after another with our close ally and friend Taiwan. Recently it was announced that our treaty relating to air transportation was also in danger of termination. This all out assault on America's close ties with Taiwan has now been shown for what it really is. Mr. Carter is willing to circumvent our own Constitution in order to appease the Communists in China. It is a sad day when the whims of the Communists take precedent over American law. The courageous decision by Judge Gasch is a historic step in the direction of bringing morality back into our foreign policy and bringing America back into the decisionmaking process.

The battle is not over yet. The Justice Department is committed to helping the White House overcome whatever legal hurdles are put in the path of appeasement. It may take a decision from the Supreme Court to finally resolve this matter. At least for now the forces of justice have triumphed with the forceful reaffirmation of the system of checks and balances embodied in our Constitution. In Judge Gasch's own words:

> Treaty termination impacts upon the substantial role of Congress in foreign affairs—especially in the context of a mutual defense pact involving the potential exercise of congressional war powers.

The Judge went on to eloquently state that the ability of a president to terminate a treaty unilaterally would open the "possibility of abuse," and the need for congressional approval of presidential actions involving treaties "lies at the heart of our constitutional system." I hope my colleagues who were so quick to criticize another President's foreign policy actions just a few years ago will join me in welcoming a major decision against the imperial presidency of Mr. Carter.●

FIFTIETH ANNIVERSARY OF ST. GEORGE HELLENIC ORTHODOX CHURCH

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. BENJAMIN. Mr. Speaker, it is my privilege today to congratulate the congregation of the St. George Hellenic Orthodox Church in East Chicago, Ind., in recognition of its 50th anniversary.

The Hellenic Greek Orthodox Community was founded in 1929 in East Chicago. Citizens of Hellenic origin began settling in its Indiana harbor community in 1903. A group of industrious individuals from the Greek community coordinated plans to erect a church. Through their conscientious efforts, construction on the church was completed in 1938. The first parish priest was Reverend Demetriades.

The church is presently under the leadership of Reverend Anthony Kanavos who has been pastor since 1948. Reverend Kanavos and his congregation of 200 Greek Americans are dedicated to preserving the Greek culture, and its ethnic and strong family orientation.

The membership of the church consists of families who put equal amounts of energy into their work to preserve the Hellenic heritage in this country. They are a proud group of people who attend to the word of God and the fellowship of their Greek backgrounds through inspiring services delivered each week by Reverend Kanavos.

The children attend language school 5 days a week and regular Sunday school programs. The native tongue of their parents and grandparents is not lost to the changing times.

The church is associated with the American Hellenic Educational and Progressive Association, an organization dedicated to maintaining the Greek traditions. This kind of dedication has been a part of the Greek citizenry since the first wave of Greek immigrants settled in Florida in 1767.

It is at this time that I ask my fellow colleagues to join me in a heartfelt message of congratulations to the Reverend Kanavos and the membership of the St. George Hellenic Orthodox Church on their 50th anniversary. The dedication to tradition that is so much a part of this church is refreshing and an inspiration to all Americans. The pastor and membership deserve our warmest congratulations and best wishes for a long and continuing service to the Greek-American community and all citizens of northwest Indiana.●

THE ALL-UNIONS COMMITTEE TO SHORTEN THE WORK WEEK

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. CONYERS. Mr. Speaker, on October 23, 24, and 25 the Labor Standards Subcommittee will conduct the first major hearings in 15 years on work time reduction as the means to spread around work and combat unemployment. The hearings will focus on legislation I introduced on February 10, 1979—the Fair Labor Standards Amendments (H.R. 1784)—to eliminate compulsory overtime, raise the overtime rate to double-time, and reduce over a 4-year period the standard workweek to 35 hours.

This legislation has the support of more than 100 major labor organizations, including 20 national and international unions, across the Nation. Two significant national labor conferences in the past few years have been held on the shorter workweek, and generated tremendous support among working people. The national movement afoot to build support for a shorter workweek could not have proceeded as far as it has without the tremendous organizing efforts of the All-Unions Committee to Shorten the Work Week, which is based in Detroit.

Last April the All-Unions Committee National Conference to Shorten the Work Week was keynoted by its president, Frank Runnels, who is also president of Cadillac Local 22, United Auto Workers. Runnels' address was a major document in laying out the reasons for labor advocacy of the shorter workweek, the historical background for this advocacy, and the direction the All-Unions Committee will be taking to mobilize national support for H.R. 1784. I wish to bring to the attention of my colleagues, in preparation for the hearings next week excerpts from the text of Mr. Runnel's remarks.

The excerpts follow:

ADDRESS BY FRANK RUNNELS

Friends: Let me add my own welcome to those of you who have come to Washington today in behalf of the campaign to shorten the work week. Our meeting today marks a new step in that campaign.

In last Wednesday's Detroit news there was an article that tells the story of why we are here today—the headline on page 4 reads: "30,000 Seek 3,000 Ford Jobs," and the story goes like this: "more than 30,000 people have taken applications for the 3,000 jobs at the new Ford Motor Company plant near Batavia, Ohio. Kevin Downey, Ford industrial relations analyst, predicted that there would be 50,000 applications by the end of the week."

That my friends tells a sad story.

While I'm at it, let me quote from another article in the same paper, this time from a column by Carl T. Rowan: unemployment for the nation as a whole showed a modest decline to 5.7 percent in February.

But, the rate of unemployment among black workers increased from 11.2 to 11.9 percent.

What this means, brothers and sisters, is that in the month of February the unemployment rate among black workers was nearly 2½ times the rate of white workers.

Let me ask you: how secure is any worker's job . . . how secure is any strike . . . how

secure is any union . . . how secure is the labor movement as a whole . . .

When 30,000 people line up for 3,000 jobs: or when nearly 350,000 black teenagers are left to drift aimlessly without a job?

How much longer can the labor movement hope to protect the jobs and conditions of its members with this kind of a situation?

Brother Wendell Young is a vice president of the all unions committee to shorten the work week. He is also president of Local 1357 of the Retail Clerks Union in Philadelphia. Brother Young has lost nearly 10,000 jobs in '78.

Brother Edman is president of steelworkers Local 1462 in Youngstown, Ohio. He is also on the steering committee for the all unions committee to shorten the work week. Brother Mann, lost over 5,000 in last year and another 5,000.

How long can the labor movement protect itself in the face of wholesale lay-offs that have gutted membership of locals like 1357 of the Retail Clerks?

How long can we last in the face of plant closures like that threatened by Youngstown Sheet and Tube at their Briar Hill Works in Youngstown, Ohio. I ask you . . . how much longer are we going to sit still for this?

I am sure that you out there could point to hundreds of other areas that tell the same sad, sad story.

Now another set of figures:

In February of this year even if we were to accept the official figure of 5.7% it means that one worker out of the six had no job at all. And, another 25% of the workforce were forced to try to live on the money they earned working less than 35 hours a week.

So, we had 6% of the workforce out of work . . . 25% of the workforce underemployed . . . and that very same time in the month of February, 25% of the workforce . . . nearly 24 million workers . . . were forced to work more than 40 hours a week.

How are we going to deal with this situation?

We who formed the All-Unions Committee to shorten the work week on October 25, 1977, are convinced that there is an answer—a very simple answer:

We say "cut the hours of labor without cutting income until with the number of hours going down and the number of jobs going up, we can eliminate unemployment and provide security, dignity and hope for those who do not and will not have a job under our present system."

I admit that our solution is not all that original. As a matter of fact, it has been with us for a very long time.

The struggle for shorter hours . . . as a way to make life better . . . as a way to obtain a greater share of the increased production made possible by new technology—while at the same time creating new jobs . . . dates from the earliest days of our nation . . . back to 1791 when carpenters in Philadelphia struck to reduce the work day to twelve hours.

It is the same solution as was found by the women in the textile industry in New England . . . by coal miners in Ohio and Pennsylvania . . . by building trades unions in a dozen cities who fought for and won a ten hour day in the first half of the last century.

Our solution is the same as that advocated by the Federation of Organized Trades and Labor Unions in the United States and Canada in 1884.

And that was reaffirmed by Samuel Gompers when he said, and I call your attention to the banners on the wall:

"So long as there is one who seeks employment and cannot find it, the hours of labor are too long."

Our solution is the same solution that lay at the base of the general strike of May 1, 1886 and to the many struggles through the many years between that date and the CIO upsurge that forced enactment of the Fair Labor Standards Act of 1938.

I said that ours was a simple answer but I did not say it was *simplistic*. I did not say that it was going to be simple or easy to achieve.

No, far from it: History shows that no employer, anywhere, has ever given up anything without a struggle.

We need not look back to Hay Market . . . or to the 1919 steel strike, or to the Flint sit-in to see if things have changed.

We only have to look to the great coal strike of 1978 or to the strike by members of Steelworkers Local 88-88 at the Newport News Shipyard to understand the brutal realities of corporate America today.

We only have to look at the last session of Congress or to the present effort of the Carter Administration to impose wage controls to understand that corporate America has got a lot of political clout to back up its ruthless economic might.

In February there were at least eight and three quarter million workers in our country who were either unemployed or underemployed—and I ask you: What greater challenge is there to the labor movement than to give leadership—than to come up with solutions—that will provide those eight and three quarter million jobs?

What greater challenge? What greater obligation does the American labor movement have . . . than to create jobs for eight and three quarter million human beings . . . men and women . . . young and old . . . white, black and brown—who, because they have no jobs, are also without security . . . without dignity—and yes—in all too many instances—without hope?

Consider today's reality where technological change and slow economic growth have combined to perpetuate the stagnation that has marked our nation's job market for a quarter of a century.

Every year we have to create jobs that will provide employment for at least two million young people who enter the work force. We have to provide jobs for some two and a half million workers who are displaced by new machinery and new technology every year. We must find jobs for those who are presently out of work.

When it is all added up, these three things mean that our economy must provide over one hundred thousand jobs every week for the next four years to even approach full employment.

Tell me, how can we do this without a shorter work week with no cut in pay?

We are also not going to fall for any phony propaganda about declines in productivity being the cause of the inflation spiral.

If they want to play the numbers game, let them answer these figures:

In the period from 1955 to 1976, the production work force in manufacturing industries grew by less than three percent. In this same period, production more than doubled.

Let me repeat, in the period from 1955 to 1976, a production workforce that grew by less than three percent was able to more than double production.

You don't have to be a mathematician—you don't need a fancy computer—or even a slide rule—to see that with this type of job erosion, our economy cannot be sustained on a forty hour work week.

Just as sure as you and I are here today, the forty hour system that was established in 1938 has built a wall around all of the jobs in our country—and that wall has locked out nearly nine million people.

As long as that forty hour wall stands, there is no way that we will be able to create the jobs that we must have.

There are no shortcuts—there are no cheap gimmicks—there are no substitutes: the entire labor movement must renew the battle for shorter hours. It is time to tear that old forty hour wall down!!!

It is time the labor movement stops passing meaningless resolutions. It is time we put our time, our strength, our resources . . . and yes, our heart and soul into renewing the movement for shorter hours. This demand is to fight for and win the best measure of economic security for the employed, the unemployed and the under-employed.

We have begun to build that movement and we are here today to build it some more.

The all unions committee to shorten the work week gives all of labor an opportunity to come together in a fighting spirit of solidarity to renew the struggle that has lay dormant for over 40 years.

The idea for an all unions committee to shorten the work week was conceived in mid August, 1977 when nine local union and district and regional officers met in the office of UAW Local 22 in Detroit. We agreed to take the lead in an effort to build a movement to reduce the hours of labor.

We decided to form an organization that would, and I quote from our founding resolution, "help initiate, develop and coordinate a national movement to create jobs by reducing the hours of labor through the process of education, legislation and collective bargaining."

We decided to call a founders meeting and the all unions committee to shorten the work week was founded on October 25, 1977 by labor leaders who represented a quarter of a million workers. From that meeting we went on to bigger and better things.

On April 11, 1978, our organization initiated the first national all unions conference to shorten the work week. Douglas Fraser, President of the United Auto Workers, Albert Fitzgerald, President of the United Electrical Workers, and William Marshall, President of the Michigan State AFL-CIO were guest speakers, along with Conyers as 750 representatives of nearly a million members of 23 international unions launched a national campaign to reduce the work week.

Many will ask why doesn't the established labor movement take on this fight? Then ask: Why do we need a separate organization . . . and how does the all unions committee fit into the picture?

I think we can provide very simple and very straight forward answers to these questions.

The very nature of our labor movement makes an independent organization necessary.

No single union can concentrate its' energies exclusively on the issue of shorter hours.

No single union can coordinate the efforts to build a national movement.

No single union can win a reduction in hours for all workers.

No single union can win legislation to extend a reduction in hours to the unorganized workers of the nation.

I submit to you that the all unions committee to shorten the work week is that organization.

As I said, our purpose is to "help initiate, develop and coordinate a national movement to create jobs by reducing the hours of labor through the process of education . . . legislation and collective bargaining."

What is new . . . what is different about the all unions committee to shorten the work week is that our organization is working to bring together all unions without regard to industry, craft or affiliation.

It is not our intention to tell any union how their program should operate . . . nor is it our intention for this movement to become involved in inner union politics.

Not only is there a need for the all unions committee to shorten the work week, the many precedents for such independent labor organizations.

There was the eight hour league.

There was the CIO, that pooled the resources of several International unions to support and direct campaigns to organize workers in basic industry.

There was the AFL committee for unemployment compensation, that led the campaign for unemployment insurance.

There was the black lung association that initiated campaigns to enact black lung legislation at state and national levels.

We have—we need these organizations today . . . just look around:

Here is the Brown Lung Association.

We have the Coalition of Labor Union Women—we have the Coalition of Black Trade Unionists.

And, since October 25, 1977, there has been the all unions committee to shorten the workweek.

All are based in the labor movement . . . all are independent of the formal trade union structure . . . all came into being in response to specific needs . . . all are necessary . . . all contribute to the strength and to the unity of the labor movement.

Although this is a grassroots organization led primarily by local union officers, we consider it extremely important that we be able to work with the leaders of international unions and with the leaders of other official labor bodies.

The all unions committee is a part of the labor movement . . . but we will not be . . . we will not attempt to become . . . a substitute for any existing labor organization.

Our purpose is to renew the movement for shorter hours.

And let me tell you brothers and sisters: The all unions committee has been about the business of renewing the movement for shorter hours!

Last April we organized the first national all unions conference to shorten the work week in Dearborn and 750 representatives attended that conference.

It was at that conference that Congressman Conyers announced his sponsorship of H.R. 1784.

And at that time, brothers and sisters, there was only one Member of Congress who had both the foresight and the courage to put his name on legislation to reduce the work week to 35 hours . . . raise the penalty for overtime to double time . . . and outlaw compulsory overtime.

Today there are thirteen Members of Congress who are sponsors of H.R. 1784. Like I said the all unions committee has been about the business of renewing the movement for shorter hours!

In the year since that conference in Dearborn five State AFL-CIO conventions have gone on record in support of H.R. 1784.

City Central Labor Councils from Pittsburgh to Baltimore and back to Youngstown, Ohio, and out to Oakland, California, have endorsed H.R. 1784.

The convention of the United Electrical, Radio and Machine Workers endorsed H.R. 1784 and so did the convention of the International Typographical Union.

District 31 of the United Steelworkers of America is solidly behind the campaign to win congressional enactment of H.R. 1784.

The Coalition of Black Trade Unionists at their convention last May in Memphis endorsed H.R. 1784, and so did the convention of District 12 of the Amalgamated Meat Cutters and Butcher workmen.

Thousands of signatures have been collected in shops across the country as rank and filers have worked to back up their demand for a shorter work week.

As I said brothers and sisters the all unions committee has been about the business of renewing the movement for shorter hours.

Legislation to limit the hours of labor, either by outlawing compulsory overtime or imposing a 35- or a 32-hour work week have been introduced in the State Legislatures of New York, Washington, Oregon, Illinois, Wisconsin, and Minnesota, and are in preparation in Ohio, Pennsylvania, Michigan and a number of other States. As I said brother and sisters the all unions committee has been about the business of renewing the movement for shorter hours.

Brothers and sisters one of the nice things about making opening speeches is that one gets the opportunity to be the first to make important announcements.

And I have an important announcement to make:

On October 23, 24 and 25 of this year there will be hearings on H.R. 1784 before the House Subcommittee on Labor Standards which is chaired by Congressman Edward P. Beard of Rhode Island.

As I said, the all unions committee to shorten the work week has been about the business of renewing the movement for shorter hours, and now we have to make a decision: What are we going to do next? This is the question that this meeting must address itself to.

Yes, we are going to meet with representatives of 25 Members of Congress later this afternoon. Yes, the all unions committee will be among those organizations presenting testimony before the Congressman's subcommittee in October.

This work is important and we will present the facts. But, it is not enough just to develop arguments and present facts. We must accept bigger challenges—we must set bigger goals for ourselves.

We have to marshal the troops. We have to take a leaf from Martin Luther King, Jr., who said: "Congress must not only hear our voices—Congress must hear the sound of our feet as well."●

CITIZENS CALL FOR ENERGY ACTION

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. HARRIS. Mr. Speaker, across the Nation today, Americans are protesting the high cost of energy. They are protesting the self-interested international oil companies, and the refusal of this Congress to act responsibly on energy issues. The people are protesting decontrol of oil prices, and the Government's failure to come to grips with a problem individual Americans have to deal with every day. They are protesting the Department of Energy, which through sins of omission and commission, ineptitude and insensitivity, has exacerbated energy shortages and driven prices out of reach of many Americans.

One of the most telling actions today is the planned march of senior citizens on the American Petroleum Institute headquarters. Older Americans, most of whom live on fixed incomes, are among the most vulnerable to energy price increases. They are tired of seeing the slick oil ads on TV, extolling the virtues of the petroleum industry. And they are frightened. They are frightened of the bills that will come this winter because they do not know how they are going to pay them. Though I cannot walk with the senior citizens in front of API today, I support their challenge to the oil lobbyists to justify outrageous prices and outrageous profits.

Here in Congress we have our own challenge. The challenge from the American people to act responsibly. To reimpose controls on petroleum prices. To enact standby rationing authority. To expand support of alternative fuel development. And to produce an energy policy worthy of the American people.

I urge my colleagues to heed the call of the Citizen-Labor Energy Coalition.●

THE NFBPWC SUPPORTS NEW SUSAN B. ANTHONY COIN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Ms. OAKAR. Mr. Speaker, as you are aware, there has been much negative publicity surrounding the new Susan B. Anthony dollar coin. For a change of pace, I wish to submit for the RECORD a press release from the National Federation of Business and Professional Women's Clubs, Inc. urging its 165,000 members to renew their support of the new dollar coin.

Shortly following the oversight hearings on the new dollar coin conducted by the House Subcommittee on Consumer Affairs and General Oversight and Renegotiation the latter part of September, I received among numerous other phone calls, an unsolicited call from the National Federation of Business and Professional Women reacting to the criticism leveled at the new dollar coin. The advocacy of the dollar coin by BPW demonstrates but one arm of the many business and professional concerns who have communicated their absolute endorsement of the coin, not only from the time of conception, but also since its distribution and circulation.

I trust that positive comment exampled by the following, will do much to alleviate many of the problems the coin has experienced. I remain grateful to the National Federation of Business and Professional Women for their efforts in this matter.

The press release follows:

BUSINESS AND PROFESSIONAL WOMEN SUPPORT SUSAN B. ANTHONY DOLLAR COIN

The 165,000 members of the National Federation of Business and Professional Women's Clubs, Inc. (BPW) were urged today to renew their support of the Susan B. Anthony dollar coin.

Julia K. Arri, BPW's national president, of California, issued this statement following criticism leveled at the new dollar coin during hearings conducted last week by the Subcommittee on Consumer Affairs of the House Committee on Banking, Finance and Urban Affairs:

"Women have waited a long time for a coin bearing the resemblance of a real woman. We cannot afford to lose the Susan B. Anthony dollar coin. I am urging each of our 165,000 BPW members to keep this Susan B. Anthony dollar coin in circulation by using it in their professional and personal transactions."

The new coin was hailed as a breakthrough for women, because it was the first time that a portrait of a "real" American woman, rather than a symbolic woman, appeared on the circulating coinage of our Nation.

Since 1935, BPW has steadfastly supported efforts to honor the great American suffragette and was among the first to lend its support for a Susan B. Anthony design to be issued on a dollar coin. Stella B. Hackel, Director of the Mint, applauded BPW's support in an official presentation made at BPW's national convention in Boston last July.●

NAVY LEAGUE OPPOSES DECLINE IN NAVAL POWER

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. ASHBROOK. Mr. Speaker, the Navy League is one of the most respected civilian patriotic groups. It would be natural that the league would be at the forefront of Americans who view the decline in U.S. seapower as a threat to the survival of this country. The Navy League has long sought an adequate Defense Department commitment to a 600-ship Navy as a necessary part of any adequate military preparedness.

The national president of the Navy League, John J. Spittler of Columbus, Ohio, recently wrote a letter to President Carter criticizing proposed fleet reductions and asking the Commander in Chief to "pay more than lip service to the serious needs of the Navy."

That letter is must reading for every American who wants to guard against pre-World War II weakness which found this Nation virtually powerless when confronted by aggressors who moved against the free world. The letter follows:

AN OPEN LETTER TO THE PRESIDENT OF THE UNITED STATES

DEAR PRESIDENT CARTER: Much has been written about your administration's plans for the 1981 defense budget and the ensuing four years. Frankly, the data I have seen and the reports I have read appall and frighten me. For I find it inconceivable that your planners could even remotely consider a budget that comes so close to decimating United States maritime power.

As I understand it, your Pentagon planners would, among other things:

Reduce the Navy's five-year shipbuilding program to 46 ships, fewer than 10 ships a year and some 100 fewer overall than the program sought by your predecessor in office—a program endorsed by you in the first year of your presidency.

Cut aircraft procurement to a level well below the current rate at which the Navy loses aircraft in peacetime operations, even though naval aircraft procurement in the past two years also has been below that level.

Markedly reduce weapons procurement across the board, even though stockpiles of key weapons are lower now than they have been for years.

Call for further civilian personnel reductions that would cripple even further the Navy's ability to maintain and repair its ships and aircraft.

Eliminate all funding for new amphibious assault ships, without which naval sealift and Marine Corps combat capabilities both will be drastically reduced.

Downgrade allocations for research and development, thus continuing a trend begun in your earlier defense budgets.

Slash the production line of one of our most competent aircraft producers so severely that it might well be forced out of business.

Reduce nuclear-submarine construction capability to the point that only one shipyard would be building such ships, and then at a rate only an eighth that of the Soviet Union's building rate.

In short, Mr. President, your planners, presumably operating under your specific instructions, would further reduce the Navy in the very near future to a level under 400 ships—at a time when over 600 are required—thus leaving the United States with a fleet only marginally able, if that, to maintain sustained air operations, far less capable of keeping even the present reduced inventory of ships and aircraft in operation, and allocated fewer resources than at any time in the last half century upon which to rebuild that fleet in time of crisis.

Mr. President, can this possibly be the legacy you wish to leave your country? Do you really want our once-mighty Navy to be second best? In short, does the evidence speak for itself?

You may well attempt to answer those questions, and many others which could be asked, by contending that only minimum-level planning figures are involved. It also is recognized that you have instructed your Secretary of Defense both to ask for an increase in the 1980 defense budget, and to anticipate more funds for the defense portion of the 1981 budget which you will submit to the Congress in January. Mr. President, that is all to the good. But it is not enough.

Will you momentarily reflect on the uses to which the limited additions to the 1980 budget will be spent? For example, the $2.7 billion addition you recently have requested of Congress will serve only: (1) to close the gap between the allowed 6-percent inflation rate and the actual double-digit rate; (2) to counter changes in currency rates caused by the weakened dollar; (3) to pay for the higher fuel costs imposed by OPEC; and (4) to more fully fund maintenance and repair work already planned, and already in the budget.

Those expenditures may pay fully for what you previously have requested, Mr. President, but they won't buy any new hardware. They can't commence the rebuilding process of our naval and military weapons inventory that is so vital to the nation's safety. In fact, they'll do no more than permit the Navy to operate in a more realistic environment, rather than being forced to plan and operate under totally unrealistic funding postulates imposed by planners whose motives become more suspect.

And what will the 1981 budget permit the Navy to do to improve the situation? As nearly as I can interpret the more credible analyses I have read, Mr. President, the 1981 funds you reportedly plan to request will, in the long run, only maintain the Navy at about today's dangerously reduced level. I do understand and appreciate, however, that there were some concessions made affecting the whole 1981–1985 period and mitigating to some extent the worst effects of the earlier defense program guidance given the services last July.

DDG–47s will be built at a more sensible rate of four a year. An experimental destroyer will be continued in the R&D stages—but will not be funded for construction until two years after originally planned. The attack submarine rate will be up slightly, although it still will be below what is required to build the Navy to previously approved and vitally essential force levels. Funding for the much-needed LSD–41 amphibious assault ship will be restored in the later years of the period.

Aircraft production will climb above the rate of loss to attrition, but those aircraft remaining in the Navy's inventory will have to be flown far longer than desirable from either a safety or an operational viewpoint. The business base of one long-time supplier of Navy aircraft will be sustained, so that means he won't be forced to completely shut down. Weapons procurement will be up, thus increasing stockpiles modestly.

But even if those plans do become reality, at the end of the five-year period the Navy still would be barely able even to meet today's commitments, let alone those that will undoubtedly be imposed during the increasingly dangerous years ahead.

Because the fact is, Mr. President, what your budget planners refer to as an "enhanced" shipbuilding program still would be more than 40 ships below what the Chief of Naval Operations submitted to the Chairman of the Senate Armed Services Committee this year as being absolutely necessary if the Navy is even to hope to hold its own on the high seas. Insufficient numbers of aircraft will be built. Weapons stockpiles still might not be enough to carry us through the first stages of a sustained war. Navy manpower will be down, with the shores establishment being manned at only three-quarters of demonstrated need. And the Navy still will be struggling just to stay even with the maintenance and repair backlog, while the major overhaul picture becomes next to impossible.

The defense budget increases you now appear willing to approve will be of minimal help, although they might impress some uninformed voters. But they still are a mighty long way from insuring that five years from now we will have a Navy adequate to carry out the traditional role of securing freedom of the seas.

While our Navy is struggling to maintain bare steerageway, on the other side of the world the Soviet Union is building aircraft carriers and cruisers at an unprecedented rate.

They could have as many as eight carriers in five years. They already have a cruiser at sea with a system as good as our AEGIS radar-and-weapons capability—a capability we won't have in our fleet for at least two more years. As noted, their submarine construction rate is eight times ours. And each year they're operating farther from their home bases on an ever larger scale and with greater effectiveness, competence, and confidence.

Mr. President, no matter what happens to SALT II, no matter whether the Soviet brigade in Cuba stays or goes, the United States still needs an ever more powerful Navy. All the strategic warfare capability imaginable will not protect our waterborne oil lines if they become threatened by Soviet fleet units. Nor will our strategic forces enable is to go to the aid of our allies around the world in confrontations short of nuclear war without further endangering our safety. Nor, finally, will our strategic forces afford assurance to our merchant marine, and those of our allies, that they can sail the seas peacefully and trade where and when they wish without intimidation by a foreign power.

So, as you face the budget decisions immediately ahead, I implore you to pay more than lip service to the terribly serious needs of the Navy. Throughout the country I hear those who, despite the vigorous denials made by your budget planners, are convinced the Navy is deliberately, systematically, and ruthlessly being decimated—against the recommendations of your senior naval and military advisers. When your planners slash naval ship and aircraft procurement plans for the future to the levels here indicated, I cannot but wonder if perhaps those critics aren't right.

Mr. President, when historians write the record of your time in office, you'll not want to be remembered for the methodical sinking of the Navy in which you once served and on which our Nation, and the entire Free World, so strongly depend. But that may well be the most conspicuous mark you leave on the pages of history unless you act now to reverse this suicidal trend. For the mili-

tary reality in today's world is that to be second best is to be dead last!

Sincerely,

J. J. SPITTLER,
National President,
Navy League of the United States.●

MOTHERS, GRANDMOTHERS PREPARE FOR NEW CAREER AT CCB

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Ms. MIKULSKI. Mr. Speaker, I would like to call the attention of my colleagues to an article in the East Baltimore Guide of September 27, 1979 headlined "Mothers, Grandmothers Prepare for New Career at CCB."

As a former instructor at Community College of Baltimore I was delighted to read of the response by East Baltimoreans to the new Harbor Campus. I am particularly pleased to see that so many of my neighbors are taking advantage of this opportunity to extend their own education. Many of the students are women who have raised their families and are now interested in returning to work or entering new careers.

With the increasing complexity of modern society, all of us need the chance to brush up on our skills and to learn new ideas. I believe this article is an excellent example of the value of community education for mature students.

MOTHERS, GRANDMOTHERS PREPARE FOR NEW CAREER AT CCB

(By Dr. Sidney Kobre)

East Baltimore housewives are ambitious to advance themselves in business and professional worlds by getting more college education.

This is the inspiring conclusion I reached the other day while talking to mothers and grandmothers from East and Southeast Baltimore, who were registering for the Fall Semester classes at the Community College of Baltimore.

Homemakers had come early to the Forum in the Bard Building of the Harbor Campus where they received registration assistance from the advisors on duty. These adult students went over the schedule of classes and selected the ones most suitable for their purposes. They sat alongside the young students, just out of school, accustomed to making our schedules and forms. The homemakers got into the swing of registration quickly. CCB has extended its registration to accommodate other East Baltimoreans through next week.

In the registration area I walked over and talked to some of these housewives. They proved the soundness of the long-range view of President Harry Bard and Dr. William V. Lockwood that a college constructed adjacent to East Baltimore and convenient to East Baltimoreans would stimulate the interest of area residents to take college courses.

A variety of cultural and career programs, excellent instructors, well-equipped laboratories plus promotion through word-of-month of satisfied students and graduates, and through the columns of the East Baltimore Guide would make the Harbor Campus, at Lombard Street and Market place, appealing to East and Southeast Baltimoreans.

It seems to be working out that way. One of the East Baltimoreans I talked to was Mrs. Betty Piscor, of 2903 Fait avenue. A mother of six children and some grandchildren, Mrs. Piscor is well-known in East Baltimore for her work with young people at St. Casimir's Church and for her teaching of craft work to many adults.

Left a widow a number of years ago, she reared her sons and daughters nearly all of whom are grown now and have homes and children of their own. Mrs. Piscor has always wanted to do occupational therapy work and has attended the Community College of Baltimore's Harbor Campus and Liberty Campus to prepare for her career.

"This does not involve hospital work, as much as going into the homes of people to help them," she explained. "I have done much craft work and this type of therapy is related closely. I hope to complete my courses of study at CCB by next June."

Mrs. Picor's children were all reared in East Baltimore and went to school there. Veronica, 21, is now attending Towson State University, Ramona is 24, Patrick, 27, Ray, 29, David, 20 and Brenda, 16.

Another East Baltimore homemaker I chatted with, Mrs. Cecilia Poole, of 413 S. Duncan Street, prefers the business world. A graduate of Seton High School, class of 1954, she desires to take a refresher course in secretarial science to prepare a job in a business or industrial concern.

"I like the business world," she said. "I expect to help support my family." This is Mrs. Poole's first year at CCB, where she was directed to attend for career preparation by the Maryland Displaced Homemakers organization, as she is divorced .

I also talked to Mrs. Linda Roth, who was born and went to school in East Baltimore and has many friends there now. She lives at 4111 Shannon Drive in Northeast Baltimore. A mother of two, Kelly 8, and Craig, 12. Mrs. Roth is interested seriously in becoming an accountant. She has worked for the Curtis Bay Towing Company in the business office and is sure that studying accounting will enable her to advance in the business world. An excellent dancer, too, Mrs. Roth is a member of the Polynesian Dance Group, the Aloha Lani, which has performed before a number of East Baltimore organizations.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. McDONALD. Mr. Speaker, due to my congressional schedule I was unavoidably absent late in the afternoon on Friday, October 12, 1979, and missed four votes. While I was paired on each vote missed, I did not receive a live pair on each vote. If I had been present I would have voted as follows:

"Yes" on the amendment to H.R. 2061 that sought to strike the national priority grant program.

"Yes" on the amendment to H.R. 2061 that sought to strike the mini-block program.

"No" on the amendment to H.R. 2061 that extends the coverage of the Public Safety Officers Death Benefits Act administered by the LEAA to rescue squad personnel.

"No" on final passage of H.R. 2061, the Justice System Improvement Act of 1979.●

THE CASE AGAINST THE OIL COMPANIES

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. AMBRO. Mr. Speaker, it has been said in many ways but the axiom that "if we refuse to learn the lessons of history we shall be forced to relieve it" becomes starkly clear in the article by Robert Sherrill, "The Case Against the Oil Companies," published in last Sunday's New York Times Magazine. I commend it to my colleagues, most especially to those who persist in believing, as did Adam Smith, that the free market system applies to the oligopoly that is the petroleum industry and for their edification I reprint it here:

THE CASE AGAINST THE OIL COMPANIES

(By Robert Sherrill)

(NOTE.—Often in the past 50 years, the oil companies have sounded the alarm that the nation's wells were running dry. Each time, says the author, after the companies got what they wanted, the crisis ended. The problem, now as in the past, highlights the public's need for independent information.

Quite frankly, the oil industry has developed the reputation over the years of being a robber, cheating and despoiling the environment.—Frank Ikard, President of American Petroleum Institute, 1971.

Ever since Jimmy Carter arrived in Washington he has been trying to convince the American people that the periodic oil and natural-gas shortages are not contrived deceptions used by the industry to squeeze more profits from consumers. In his first major speeches to the nation in 1977, when he put on a sweater and declared moral war on the energy problem, he said, "I realize that many of you have not believed that we really have an energy problem." He seemed sympathetic. But then, there he was again, during the great gasoline shortage of 1979, back on television, giving his fifth energy speech, still with the same theme. This time he had obviously lost patience. "The energy crisis is real," he said, going up half an octave. "It is worldwide. It is a clear and present danger to our Nation. These are the facts—and we simply must face them."

The address was probably the most impassioned of his political life. Yet neither that plea nor the gas shortage itself seemed to have much effect on public perception. After the speech, 65 percent of the public still thought the current energy shortage was a hoax, according to a New York Times/CBS poll.

It's not hard to understand why the majority of Americans feel the way they do. Over the years, they have been told by many knowledgeable politicians and lay experts that the oil companies are quite capable of duplicity. George P. Shultz, a Secretary of Labor in Richard M. Nixon's Cabinet, who headed a Cabinet Task Force on Oil Import Control, found that "the industry is capable of behaving irrationally . . . and even of contriving an apparent disaster" and of "downward manipulation" of reserve statistics to squeeze more money out of consumers. In 1973, the Federal Trade Commission charged eight of the largest oil companies with conspiring to destroy competition and with conspiring to cheat the public out of billions of dollars by price fixing. The oil companies' lawyers are still in court fighting those charges, but in its sweeping accusations—and in its futility—the case stands as the nagging question of this energy decade. It has

been a decade in which headlines such as "Oil Giants Exploited Energy Shortage, Probers Charge"—a vintage piece from The Washington Star—have appeared almost as regularly as Mobil's ads proclaiming the industry's innocence.

Above all, this has been a decade of *déjà vu*. Opening his famous "obscene profits" investigation in 1974, Senator Henry Jackson delivered a Whitmanesque outburst:

"The American people want to know why the prices of home heating oil and gasoline have doubled when the companies report high inventories of these stocks. . . .

"The American people want to know whether major oil companies are sitting on shut-in wells and hoarding production in hidden tanks and at abandoned service stations. . . .

"The American people want to know why the oil companies are making soaring profits. . . ."

It was an outburst that still seems perfectly contemporary, for the rumors, manipulation and suspicions of 1979—scarcity in the midst of plenty, tankers waiting to unload, charges of hoarding by the companies, hidden supplies, blame on the Middle East—have not changed. It is the *déjà vu* more than anything else that makes Americans now so hard to convince. For more than 50 years, Americans have been confronted with periodic energy "crises," and they have noticed that the only thing certain is that the crisis or prediction of crisis has been accompanied by increased oil prices, concessions from the Government to the major oil companies, expanded oil-company holdings or some combination of these. What follows is an account that might be called Six Crises.

1920: A TASTE OF THE FUTURE

The United States was producing about 65 percent of the world's oil in those days. The Standard Oil companies dominated, but they had few overseas sources. This made them unhappy and restless. Standard wanted to share in the oil of Iraq, then the most productive country in the Middle East. But Iraq was under British control, and the British would not let Standard in.

A propaganda war was called for, and suddenly the American people were plunged into a crisis. On Jan. 1, 1920, the U.S. Geological Survey—drawing its information, as always, from the oil companies—told The New York Times that "the position of the United States in regard to oil can best be characterized as precarious." Dr. George Otis Smith, director of the U.S.G.S., then warned that within the near future "Americans will have to depend on foreign sources or use less oil, or perhaps both." Within weeks, another U.S.G.S. official predicted that "unless our consumption is checked, we shall by 1925 be dependent on foreign oilfields to the extent of . . . possibly as much as 200 million barrels of crude each year, except insofar as the situation may . . . be helped to a slight extent by shale oil. . . . Within perhaps three years, our domestic production will begin to fall off with increasing rapidity, due to the exhaustion of our reserves." Oil industrialists began telling the press that, when America's oil reserves were gone, it would be at the mercy of the British, an ungrateful lot who had been saved by United States oil in World War I and now only waited for a chance to gouge us.

The people were soon given a taste of that merciless future. In some parts of the country, gasoline was sold only in one- or two-gallon lots. In some places, the price more than doubled—to 35 cents, equivalent to more than $1 in today's currency. The magazine Automotive Industries reported rumors of refineries shipping gasoline away from urban centers until the prices went up. There was talk of having to make synthetic gasoline from Kansas wheat. There was even some loose talk of going to war with Britain, if necessary, to get "our" share of the oil supply.

The strategy worked. Seeing the State Department and the Congress militantly carrying the oil companies' flag, and seeing the American public exercised, the British gave in and agreed to join hands with the Americans in Iraq. With that, the crisis ended, almost as suddenly as it had begun.

This was not by any means the first time the oil industry had declared that it was running dry, but it was such a dramatically successful use of the technique as to inspire two British writers, E. H. Davenport and Sidney Russell Cooke, to observe in their book "The Oil Trusts and Anglo-American Relations," published in 1924: "There is this strange habit peculiar to the American oil industry which one should observe in passing. Although it doubles its output roughly every 10 years, it declares every other year that its peak of production has been passed and that its oilfields are well-nigh exhausted. . . . One cannot doubt that the lugubrious prophecies of American oil men are in some way related to the wish for higher prices."

1929–31 "PERFECT PATTERN" OF MONOPOLY

This time, the crisis was created in the name of "conservation." In 1929, the Federal Oil Conservation Board warned that the United States was "exhausting its petroleum reserves at a dangerous rate." It advised bringing in all the foreign oil possible, particularly from South America, and to cut back on production in the United States. The most important foreign source in this hemisphere was in Venezuela, where the dominant American producers were Standard and Gulf—the latter company being controlled, interestingly, by the family of Andrew Mellon, who was then Treasury Secretary and the most influential aide to President Hoover. Gulf and the other international companies wanted a good patriotic excuse for bringing their cheaper oil into this country. Thus the big push to "conserve" our resources.

But then, in 1930, independent oil operators began bringing in the fabulous East Texas field. Here came the legendary Spindletop and subsequent discoveries, some with wells gushing 10,000 barrels daily. The major oil companies had had little to do with the discovery of the East Texas fields. So, the majors, pretending to be horrified at the wildcatters' wasteful production methods, demanded that the government of Texas force the small companies to "conserve"—i.e., sell only as much as the big companies said they should sell. When the small companies refused to knuckle under, the majors gave them a rugged dose of competition by slashing the price they would pay for crude—from nearly $1 a barrel to 10 cents. The resulting economic devastation forced the Texas legislature in 1933 to pass a "market demand" law. Production of oil would thereafter be "prorationed," held down to what the "market" (that is, the major oil-company buyers) desired, and, since Texas was the dominant oil state, the price paid for oil in Texas would pretty well determine the national price. Thereafter, when the majors wanted to create enough scarcity to bolster prices, they simply placed smaller orders and the state prorationing commission ordered lower production. Senate investigators later concluded that the system had been set up not for conservation but rather as part of "a perfect pattern of monopolistic control over oil production . . . and ultimately the price [was] paid by the public."

1947: "AN HONEST MAN IS RARE"

During World War II, Interior Secretary Harold Ickes persuaded President Roosevelt to establish a Government corporation (the Petroleum Reserves Corporation) to buy out the American oil partners—Standard Oil of California and Texaco—in Saudi Arabia. Ickes, who had seen enough profiteering to conclude that "an honest and scrupulous man in the oil business is so rare as to rank as a museum piece," wanted the public to have more control over supplies. The oil companies were powerful enough to kill Ickes' proposal in the cradle; they had ideas of their own for further strengthening their Middle Eastern cartel.

Standard Oil of California and Texaco had controlled the concession in Saudi Arabia since before World War II, but their marketing outlets were not adequate to handle Arabia's bountiful output, so they brought in the great Standard Oil of New Jersey and Mobil as partners. This is the Arabian American Oil Company (Aramco) we know so well today. A domestic arrangement like that would clearly be a violation of America's antitrust laws, and could be expected to encounter fierce public resistance. Again, it was time for an emergency and a storm of gloom.

In 1947, the chief of the Department of State's Petroleum Division flatly stated that "sufficient oil cannot be found in the United States." Two years later, Julius Krug, the Secretary of Interior, said that the "end of the United States oil supply is almost in sight." Giving credence to the gloom, the oil companies claimed shortages and raised prices. But the true character of the "shortages" did not go unnoticed. In 1949, the Senate's Special Small Business Committee observed that, "during the year and a half the committee has been investigating the oil industry, there never has been a real overall shortage. . . . At the time that consumers were feeling the greatest pinch, in January and February 1947, there were 220 million barrels of crude oil in storage, mainly controlled by the larger units, which could have been distributed among independent refiners who were running under capacity."

1959: PUTTING THE LID ON FOREIGN IMPORTS

By now the major companies were making enormous discoveries overseas, but so were some of the more aggressive independent oil men—fellows like J. Paul Getty and William Keck and the Hunts, father and sons. The world, by the mid-50's, was awash with oil, and the development of a freewheeling, truly free-enterprise market suddenly seemed to be a dreaded possibility. The majors had long ago perfected the art of global price fixing by controlling supply. They were not about to send so much cheap foreign oil to the United States—still the world's largest market—that prices would be forced down. But the independent men felt no such restraints. They were wild hares, and the majors feared—rightly—that there were so many independents roaming the globe with their drilling rigs that they couldn't possibly be controlled.

The majors rose to the occasion by proclaiming, and having their friends in Congress and in the Eisenhower Administration also proclaim, the imminence of a national-security crisis. Americans, it seems, were in danger of being subverted by cheap foreign oil. Most of it must be blocked at our shore. The argument went like this: Middle East oil could be produced for one-tenth the cost of domestic oil. So naturally it could be bought for much less. If it were allowed to undercut domestic prices, our oil men couldn't afford to go out and find new oil in American fields, and if they didn't find new oil at home we would increasingly become dependent on foreign oil, and if we became dependent on foreign oil, we would be terribly vulnerable in case of war.

With that patriotic reasoning, Congress inserted a provision into the 1958 Trade Agreement Act to give the President power to set mandatory controls over oil imports. President Eisenhower, whose closest adviser in such matters was Treasury Secretary Robert Anderson, a Texas oil man, lost no time in imposing the controls. Foreign-oil imports were held down to about 12 percent of domestic production, and only the companies with refineries—for the most part, the large

companies—were allowed to import. The larger companies made millions, bringing oil in at a price between $1.25 and $1.50 less per barrel than domestic oil.

Did the import-quota program make the nation more secure in its oil supply? Hardly. One effect was that the independent oil industry began a long slow decline. Another was that it gave the major international companies the excuse they wanted to take most of that wonderfully cheap Middle East oil and develop new markets in Europe. That's where they began building their refineries—not in America. They were doing it, moreover, with indirect subsidies from the American taxpayers.

Opposition to the program became intense in the 60's. Prof. M. A. Adelman, an oil expert at the Massachusetts Institute of Technology, argued, along with others, that keeping foreign oil out was costing American consumers at least $4 billion a year. And Pentagon officials proclaimed that, as far as they were concerned, the oil-import program had not had the slightest thing to do with national security. In 1974, when the program was dead and candor could be indulged in, Z. D. Bonner, president of Gulf Oil Corporation, acknowledged that "oil import controls were used as a price-control mechanism."

1973: "ALL THE SHEIKS' HORSES"

By the mid-1960's, there was so much Middle East oil available that Professor Adelman was predicting that a Middle East oil price "as low as $1 a barrel, though not imminent, has a 50–50 chance of occurring in, say, five years." A dollar a barrel. In February 1969, Fortune magazine writer Gilbert Burck predicted that "barring a great international cartel that will tie up the world of oil as no international organization has ever tied up anything before, everyone in the oil business faces a long series of adjustments. . . . All the sheiks' horses and all the sheiks' men will never put the comfortable old price structure together again. Consumers everywhere should rejoice."

Fortune was not giving the oil industry sufficient credit for ingenuity. A "great international cartel" capable of tying up oil as never before already existed. The Organization of Petroleum Exporting Countries (OPEC) had been formed in 1960. So far it had been dormant. But with a little luck, and the right emergency, perhaps enough lightning could be directed through this monster's body to make it rise and do the major companies some profitable service.

In the early 1970's, the right crisis seemed at hand. The Middle East was in a froth. Arabs and Jews were at each others' throats. Israel's Middle East enemies were talking about using oil as a weapon—and if they did, the major oil companies would be ready to exploit the showdown.

But first the consuming public was softened up with a series of smaller, preparatory crises. Although, in fact, the majors were holding the highest inventory of gasoline they had ever had, they managed to produce a "gasoline shortage" in the spring of 1973 even before the Arab embargo. By June they were warning of a likely shortage of home heating oil the next winter, although, as David Bird wrote in The Times, "the warnings are surprising some people, because the stocks on hand seem to be larger than they were at this time last year."

The shortage, contrived or not, gave the majors an excuse to cut off gasoline supplies to independent wholesalers and discount dealers; about 3,000 went out of business in 1973. Meanwhile, the majors were forcing the price of gasoline up 39 percent, and their profits shot up 63 percent in the first nine months of 1973—with the embargo still to come. When it did come, the majors were ready.

On Oct. 6, 1973, Egypt and Syria invaded Israel. Two days later, the major companies met with representatives of OPEC to begin talking about a new price structure. Bearing in mind that up to this moment OPEC had never in its life shown anything remotely resembling courage, one may justifiably conclude that its new aggressiveness was somehow the result of collaboration with the companies. (As one oil-company executive earlier told Newsweek, "In the Middle East, we carry the enemy flag.") On Oct. 16, OPEC announced a stunning 70 percent increase in prices and the next day declared that the Arab members of OPEC would cut production 5 percent each month "until Israeli withdrawal is completed from the whole Arab territories occupied in June 1967 and the legal rights of the Palestinian people are restored." It also declared that, because of the United States' and the Netherlands' friendship with Israel, those two countries would be cut off completely.

Enterprising reporters, however, found abundant evidence that the Arab embargo did not, in fact, cause any shortages. Libya did not shut off its supplies. Neither did Iraq. Nor Iran. If the Netherlands was being boycotted, what were all those tankers doing out there in the harbor waiting for a berth? Jack Bax, a press aide for the city of Rotterdam, told reporters in January 1974, "Personally, I think the whole thing is a hoax." And if there was a shortage in this country, why were fuel-oil barges backed up along the Ohio River? So much oil was available in the United States that some crafty merchants were buying low-sulfur oil on the Gulf Coast for 21 cents a gallon and shipping it to Europe to resell for 34 cents.

Nevertheless, the market operated as though there were a scarcity, and profits went through the ceiling. Occidental Petroleum Company announced that 1973 earnings were 665 percent higher than those of 1972. Other big companies were not burdened with quite such embarrassingly large percentage increases, but they were doing all right. On Jan. 1, 1974, OPEC raised the price to $11.65 a barrel—five times the price it had been only three years earlier. By the end of 1974, Exxon Corporation, the world's largest oil company, moved to the top of the Fortune 500 list—easily unseating General Motors, which for 40 years had held the premier position. Four other oil companies—Texaco, Mobil, Standard Oil of California and Gulf—joined Exxon in the top seven rankings.

Two weeks ago in The Times, reporter Jeff Gerth shed more light on how the giant Exxon, for example, was able to make the most of the moment. Reporting on a previously unpublicized civil trial in Canada—a Nova Scotia public utility successfully blocked Exxon price increases—Gerth said that "during 1973 and 1974, Exxon documents show, the company disguised increases in its profit margins by backdating them to blend in with price increases tied to OPEC increases. These concealed profit increases appear to contradict broad assurances that Exxon submitted in writing in early 1974 to the Senate Finance Committee that its price increases since 1973 had 'essentially only' covered increased costs."

On its own, OPEC might have remained a motley assembly of whiners, but with the patient instruction of the majors, it had become the industry's friend supreme in raising prices. It had also become the great dramatist, writing the panic script that made oil at any price acceptable to the consumer nations. A few years later, when a reporter at The Washington Star asked James Lee, president of Gulf Oil, if he thought OPEC was a "good thing," he admitted that it had "done us a favor by forcing the price of oil as it did." Carmichael C. Pocock, chairman of Royal Dutch Shell, also conceded that, since OPEC took over the pricing of oil at the production level, "our role is much happier."

Some expert observers believe that OPEC's economic terrorism could have been permanently ended in 1975 if the major companies and our Government had made the effort to do so. The inevitable glut of oil developed by the end of 1974 because the higher prices had curtailed use. As 1975 opened, world oil prices were beginning to sag. OPEC looked shaky. A group of energy specialists brought together by the Brookings Institution predicted in January 1975 that OPEC would likely be crushed by falling prices by 1978.

At that point, the oil companies apparently cut back production. John Blair, former chief economist for the Senate Antitrust and Monopoly Subcommittee, states, in his book "The Control of Oil," that "had it not been for the cutbacks, the market would have been flooded with 'distressed' oil, OPEC would indeed have broken down, and oil prices would have fallen sharply." But if the major oil companies betrayed the consumers, so did our Government officials: most of the top policy makers in the Ford Administration publicly denounced all efforts to drive down world oil prices.

HOUSE RESOLUTION 453

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. BREAUX. Mr. Speaker, on October 5, 1979, the President transmitted a special message to the Congress proposing a deferral of budget authority to promote and develop fishery products and research pertaining to American fisheries in the amount of $2,400,000.

Under the Saltonstall-Kennedy (S-K) Act, an amount equal to 30 percent of the gross receipts from custom duties on fishery products is transferred by the Secretary of Agriculture to the Secretary of Commerce to be used for researching, assessing, managing, and developing American fisheries resources and for developing and increasing markets for fishery products of domestic origin. These funds are supplemental to other funds appropriated to the Secretary for these purposes under the department's general authority.

The amount of funds appropriated under the S-K Act for fiscal year 1980 is $26,679,106. Of this amount, $2,400,000 is proposed for deferral because the Secretary of Commerce has supposedly not yet developed plans for the use of these funds. It is my understanding, however, that presently there are unfunded projects under consideration for marketing, research and development which amount to between $5 and $10 million. It is imperative that these funds which are earmarked for these programs be released and expended for the purposes for which they were intended.

These funds can become available for use at anytime before the end of this fiscal year if either the House or Senate passes a resolution disapproving this deferral. Passage by the House of House Resolution 453 will accomplish this purpose.●

THE ENVIRONMENTAL PROTECTION AGENCY AS A PROPONENT OF BETTER SCIENTIFIC RESEARCH

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. BROWN of California. Mr. Speaker, over the past several years I have watched the Environmental Protection Agency change in its approach to and use of the scientific resources of this country. For good cause, the EPA has been criticized for its many past mistakes in neglecting the science part of their mission, while moving ahead with their regulatory role. As one of the critics, I have regularly urged the EPA to improve its research capabilities, and better utilize the scientific resources of other agencies while developing regulations.

An interview in the October 1979 issue of BioScience confirms an impression I have had about the EPA, which is that they are making progress in this direction. While many other topics of interest to this body are addressed in this article, the points made about science were the ones which most pleased me.

I commend this article to my colleagues.

The article follows:

EPA MUST BE AT FRONTIERS OF SCIENCE, SAYS ADMINISTRATOR COSTLE

Few people would want to change places with Douglas Costle. Except for the commanding view of the Potomac River from his office window in southwest Washington, D.C., being administrator of the Environmental Protection Agency (EPA) has few obvious rewards. Yet Costle, who has been in the hotseat since March 1977, has managed at least to avoid alienating the myriad interest groups watching his every move—environmental activists, industry lobbyists, and members of Congress. This past year has been a difficult one for EPA, with the energy crisis forcing the environmental watchdog into some of its most difficult and controversial decisions regarding ambient air quality standards. In addition, 1979 was the year when such major issues as the long-term health effects of pesticides and delayed leaching of hazardous wastes came to the fore, and all of them have fallen right into EPA's lap.

A former trial lawyer with experience in the Civil Rights Division of the Justice Department, the Economic Development Administration of the Commerce Department, and two San Francisco law firms, Costle, 40, has been in government service for the past 10 years. He was commissioner of the Connecticut Department of Environmental Protection before coming to Washington to join the Congressional Budget Office, where he was assistant director for natural resources. In 1976, he joined the transition team of the newly elected President, Jimmy Carter, and four months later was made head of EPA. No stranger to the executive branch, Costle had first become involved in presidential politics under Richard Nixon, serving as a senior staff associate for environment and natural resources of the President's Advisory Council on Executive Organization in 1970.

Costle has managed in his two-and-a-half years at EPA to take the regulatory bull by the horns. He helped form the Interagency Regulatory Liaison Group, composed of representatives from EPA, the Food and Drug Administration, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission. Costle is also chairman of the U.S. Regulatory Council, which he describes as a governmentwide version of IRLG engaging in "shirt-sleeve trouble-shooting efforts" aimed at overall regulatory reform.

Costle is sensitive to the need for high-quality scientific input into the decisions made at EPA about health and the environment. With the aid of his scientific adviser, Richard Dowd, he has strengthened the role of EPA's 80-member scientific advisory board, which provides information directly to the administrator through its five standing committees and one ad hoc subcommittee. He also has tried to upgrade the standards for R&D at the agency, both intramural and extramural. Costle talked with *BioScience* about some of the difficult issues he's facing now, and the ways in which scientists have been incorporated into the decision-making procedure at the Environmental Protection Agency.

Q. Some environmentalists are worried that President Carter's energy plan will have an adverse impact on the environment, and fear that the Energy Mobilization Board will be able to overrule EPA's action for the sake of obtaining more fuel. Is that likely to happen in the next several years?

A. The basic thrust of the Energy Mobilization Board is to put an otherwise very prolific regulatory process under some sort of self-discipline. For example, the SOHIO [oil-transporting] project in Southern California [begun in 1970 and abandoned by the company last year] needed something on the order of 725 permits. Most of those were state and local, but there were a handful of federal permits as well.

At the present time there's no way to put all parties on a deadline, to force them to make a decision—up or down—within a fixed period of time. The whole purpose of the Energy Mobilization Board is not to wipe away the substance of the protection that these permits may be intending to afford, whether it's occupational safety or health or local zoning or air pollution, but simply to say, "We've got to have a deadline and a time frame within which to make a decision."

Q. What would happen if these decisions are anti-energy and pro-environment?

A. Well, that's always a matter of opinion. My own sense is that the energy-environmental "conflict" is sometimes overplayed. We're convinced, for example, that you can burn a lot more coal in this country and still stay within the fabric of environmental laws and not befoul the air and the water in the process. It will cost a little more, but it's not that we lack the technology. The only issue is: Do we have the political will when we build these things to build them right? Over the past several years, the Congress and the administration have said: Yes, we do have that will. . . .

Q. Many scientists now are saying that it's dangerous to rely on synfuels as a source of energy because they are so polluting. Do you see a potential conflict between the need for energy and the need for a clean environment?

A. Synfuels have to be looked at in two pieces. First are the problems that might be associated with the manufacture of the fuel. There are a variety of processes to convert coal into other fuels, liquids or gases, and some of them are potentially more hazardous than others to worker health. But they're fundamentally no different from today's chemical plants or refineries. It's simply a matter of dealing with some very hazardous substances in the process of conversion. . . .

The fuels themselves, when burned, are not toxic when they are used, and as near as we can tell they do not produce toxic byproducts. There is a longer-range issue here, though, which has to do with the net CO_2 balance—a global atmospheric issue as to whether we're releasing CO_2 faster than the earth's natural systems can reabsorb it, and whether that won't create a "greenhouse effect." There seems to be a coalescing of opinion among scientists that it could be a serious problem, but there is virtually no agreement as to when it will become critical. Very few scientists say there's an imminent threat, but a growing number say that in 40, 50, 60, or 70 years—depending on what assumptions you make, and there's so much debate you can't pick any "correct" assumptions at this juncture—it can become a serious problem. What that tells us basically is that, over the long run, we have to decrease our reliance on fossil fuels. When you look at new energy systems, particularly in the next century, you're looking at inherently more environmentally benign technologies such as solar, controlled thermonuclear, and biomass. The long-run future for energy, over the 40- to 50-year horizon, is pretty promising. The real problem, I think, is to manage the energy transition over the next 40 or 50 years. . . .

Q. So you think of the current sources of energy, then, as rather temporary, and you'd guess that 50 years from now we'll be relying on a whole different set of sources?

A. Essentially, yes. It's a sense of the long-range, global environmental issues that will continue to drive us in that direction. The present synfuel program's impact on the CO_2 problem will be negligible. We won't be building that many plants to make a difference in the overall global climate. If in 20 years we decide to build 15,000 of them around the world, however, then we'll have a problem.

Q. In the areas you deal with, which involve highly technical scientific judgments, you often have to balance scientific opinion against political and social needs. What kind of role do scientists play in the regulatory decision-making process at EPA?

A. The average scientist spends his whole career being trained in the discipline of saying, "Never overstate the evidence." In the face of ambiguity, he must discount the ambiguity and fall back to a position where he can feel very secure that what he's saying flows from the particular facts he's using. The scientific approach essentially says, "Discount all the other things that may be indicators if they are not conclusively, finally established scientific 'facts' on which there is a scientific consensus." That's the process of science. Consensus is a moving thing. You conduct a new study that changes the significance of your earlier evidence, but you're not sure how far you go so you put out your new findings and peers review it. Then they decide your study is kind of interesting so they do another study; over time the consensus slowly moves in effect to catch up with scientific research. But the consensus always lags behind.

The approach of a public health administrator is almost exactly the opposite. As he approaches that ambiguity, being careful not to understate the evidence, he errs on the side of prudence and caution, rather than saying, "I want dead bodies to show [before drawing my conclusions]." Increasingly, that's the kind of world we're going to be living in, particularly if we look at the risks of chemical exposure, especially chronic risks. When you're talking about long-term neurological deterioration, teratogenetic effects, or cancer, you can't afford to wait 25 years for the evidence to pile up.

Q. With this basic difference between a regulator and a scientist, how do you ever bring their two views together? Can you give us an example of how a regulatory standard was arrived at depending largely on the weight of scientific consensus?

A. The recent revision of the ozone standard is a good case in point. When we reviewed the standard beginning in 1977, we had bet-

ter evidence than we had eight years ago when the standard was first set. There was general agreement in the scientific community that the initial standard [0.08 ppm] was in error, because it was based primarily on a single study that had been misread. Subsequent reviews indicated that there had been misreading in that initial data set. We knew, therefore, that we were going to have to make some changes; it's part of our responsibility to set standards in the most objective, scientifically acceptable way we can.

Essentially, then, we approached a new range of data, and we found in the case of ozone a substantial band of uncertainty. One set of studies indicated clear health effects at concentrations of 0.15 ppm, and other studies suggested health impacts at various levels, down to 0.10 ppm. Most scientists we talked to, both outside the agency and inside, agreed that the range was somewhere between 0.10 and 0.15, and if we set a standard within that band we'd be on scientifically defensible ground. The issue then became, "Where in that band do you set the standard?" That was driven essentially by three considerations: first, margin of safety, which informed the way we read some of the more ambivalent evidence; second, what we thought the directional error of the studies was—that is, what additional studies were likely to show; and finally, a very clear predisposition [toward prudence in the face of ambiguous scientific evidence] on the part of the Clean Air Act itself.

Now a scientist who says "I will only go with proven scientific fact" would have set the standard at 0.15, while a public health administrator would say, "But we've got these other studies, and while they're not as unambiguous as some of the studies at the high end of the spectrum, we have to take them into account." We approached that spectrum from the other end, and settled it at 0.12. I feel very comfortable with that, as do the scientists we've polled, including those independent scientists on our science advisory board.

Q. Are scientists able to shift gears when they serve on your science advisory board, or when they work in EPA laboratories, and say, "This might not be something I would state in an academic paper, but I am here to render advice to an agency that has to make political decisions, so I'm willing to be a little less precise"?

A. It's not quite that simple. We ask our scientists to be scientists. We ask members of our science advisory board—approximately 80 nongovernment, outside experts in the variety of fields which we regulate—to give their unbiased, objective, best scientific judgment to help us characterize the evidence so that I, as a policy maker, know what I'm deciding and what the evidence is. My policy judgment is informed, essentially, by a statutory construct—in this case, the Clean Air Act. We try to use the scientists to make sure that we're not loading the deck or reading scientific data with a bias. That's sometimes hard to do, but we've been working very hard the last two years to improve and strengthen the role of outside scientists as evaluators of the data. We don't ask them to set the standards; for the most part, they don't want to do that. They'd rather advise us on what the scientific facts are and what the scientific uncertainties are. Under law, the policy makers have to make the final judgment, as informed as possible.

We've been setting up much stronger peer review systems of the scientific work that's done at EPA, involving outside scientific research institutions to critique the quality of science that we do in-house, and increasingly to provide peer review to critique the quality of science that we contract to be done for us on the outside. We're also strengthening the science advisory board so that they have a clearer opportunity to oversee and to criticise constructively the whole regulatory process and the use of science in that process.

Q. How much research do you do in-house?

A. Our total in research dollars last year was $346 million, and a lot of that was for technology research, probably half of it energy-related. . . . Of that $346 million, we spent about $107 million, or 30 percent, on internal research, and much of it was in the area of validating what other people seemed to be finding. The whole purpose of EPA, when it was established in 1970, was to retain sufficient expertise inside to do the kind of research we need on demand, and to be able adequately to assess the work done outside for its relative utility to us.

Q. In the past, some agencies have been criticized for maintaining both a research program and a regulatory function under one roof. This criticism was especially strong regarding the old Atomic Energy Commission. Do you think there's a potential conflict within EPA in its dual role as both researcher and regulator?

A. Because of the complexity of the regulatory issues we deal with today, I think regulatory agencies that do not have a research capability are in deep trouble. At EPA, we need to have an established relationship with the scientific community and good science, which means we need a mix of in-house and external research going on and a very strong system of peer review of that scientific research for quality control. If we try to regulate the environmental area the way the Interstate Commerce Commission regulates the transportation industry, which is exclusively through the adjudicatory hearing process and cross-examination, we probably wouldn't get very much done. In many instances we are on the frontiers of science, and we need our own scientific capability to lead us in the right direction.

Q. Can't an argument be made that you should rely on the established research agencies for your scientific information?

A. That never really works, because usually what happens is that the research agencies want to research what they find interesting, and the law says we should regulate things that people are concerned about. For the most part, the two areas overlap, but there are some critical areas where they don't necessarily. If a regulatory agency isn't able to commission research in an area where the law is telling it to set a standard, it can't do the job.

Q. Even the researchers who work at EPA want to do what's interesting to them, yet they work here because you need them to conduct certain kinds of studies. How do you keep them happy?

A. We try to create a mix. We think the researchers who work here ought to have an opportunity to pursue promising avenues of interest, but not in the same sense that a wholly independent academic institution can, because we do have certain regulatory questions that we have to be in a position to answer. So there has to be a large "directed" element to our research. We want to avoid the risks of so defining the research that we constrain innovation and the kind of independence that in fact produces breakthroughs and understanding, without just letting them float out there, doing things that have no relevance. Increasingly, Congress is setting fixed time deadlines in making regulatory decisions, and so we have to focus our research dollars on areas of research that will help answer those questions in a way that still preserves and protects the integrity and independence of the individual scientist to carry out his work.

Q. Perhaps your biggest regulatory headache, and the one that is certain to be with you for many years to come, is the disposal of hazardous wastes. In a recent issue of National Wildlife magazine, you were quoted as saying: "We look back on the Middle Ages and say, 'No wonder they had black plague, they used to throw their garbage in the streets.' Now, I just hope that in the year 2025 my grandchildren don't look back on this generation and say, 'No wonder they had problems, look at all the chemicals just carelessly introduced into the environment, uncontrolled.' " How can we go about cleaning up the chemical mess we've created?

A. Hazardous waste is probably one of the most difficult legacies of the chemical revolution. Since World War II, all manner and form of chemicals have been invented, and they're now a very big part of our lives. As a society, we're not about to repeal the chemical revolution—it's brought about some real benefits—but we're just now learning that there may be side effects, in this case delayed side effects, that we're going to have to control.

Air and water pollution were the most conspicuous environmental problems in the early 1970s, when this agency was set up. Hazardous waste disposal, in land particularly, was the least obvious. Everybody knew there were garbage dumps, but nobody realized there might be chemicals going into those dumps, or that there might be dumps like Hooker's [the chemical company responsible for burying the waste-filled drums now leaching from the Love Canal in Niagara Falls, N.Y.] It's a problem that I don't think society has approached with very much common sense. We should have realized as a society a long time ago that, if we have a company manufacturing chemicals, we're going to have wastes, and they're going to end up somewhere. We're now talking about between 50 and 60 million metric tons a year being generated by as many as 300,000 companies.

Q. I've heard it said that less than 20 percent of that is adequately disposed of.

A. That's right; in fact, we think it may even be less than 10 percent. When they designed Love Canal 15 years ago, nobody thought about the problem or even knew what to do with the wastes but simply bury them, and that was acceptable in those times. Today, we can design a landfill for probably about $4 million that could handle what was put there. Look at the price we're paying for not having done that. The state of New York has already spent close to $25 million; there are allegedly $2 billion in claims against the company for personal injury. That's inflation.

Look at the example of kepone here on the James River [in Virginia]. For $250,000, that pesticide could have been manufactured in a facility that would have protected the workers and kept kepone from getting into the James River. That money was not spent, and over $12 million in claims has already been paid out to the workers. It was a small plant, with only a handful of workers, but they were seriously injured in the manufacturing process. So they have $12 million in claims paid already, several million more in pending claims, and the scientists say it would cost from $2 to $8 billion to clean up the James River. That's inflation.

We think that about 80 percent of hazardous waste is disposed of on site, where it's manufactured, which means it can later get into the environment. The other 20 percent may be going to as many as 30,000 different sites. So it's a massive problem that we are only now beginning to get a handle on. I'm afraid that we're going to see increasingly contaminated groundwater as a part of this legacy of past disposal practices that were uncontrolled. We really have three jobs ahead of us:

First, we must impose some regulatory control on how the industry operates in terms of how waste is handled, and there are technologies for handling the waste. We can segregate the waste according to the appropriate technology for dealing with it. Some things should be put in a landfill; other

things probably can only be incinerated; other things can be recovered. We're going to have to break that waste stream down and manage it.

Secondly, we've got to go back and find all the ticking time bombs that the Love Canal situation may represent. That's going to be expensive, and it's going to take time.

Third, we have to deal with the lasting legacy, that is, the contaminated groundwater. Some of it may not be usable; in other instances maybe it can be cleaned before use, but we need technological breakthroughs in terms of drinking water protection. We're finding increasingly that these chemicals are showing up in drinking water, due to contaminated groundwater or surface water. We did a mass spec analysis on Cincinnati's finished drinking water, which had been through their treatment plant. We found over 700 synthetic organic chemicals, albeit in very small amounts, but they're there. Now an average person in Cincinnati drinks a quart of water a day. There's not enough of any of those chemicals to make him immediately sick. But what happens if he's exposed to it for 20 years?

I think it would be prudent to make an investment in technology in order to give us an insurance policy against a future health effect that could be very grave. We're still just learning about the synergistic effect of chemicals, about the independent cancer-causing potential of chemicals. We know even less about other kinds of effects, such as teratogenic or neurological. There's just so much we don't know. What worries me is that the public will assume we know more than we do. . . .

Q. Is the hazardous waste problem the largest job you face in the future?

A. It's going to be a very high priority, probably the highest priority, and probably the most difficult problem we'll be dealing with.

Q. Have you begun any programs to address hazardous wastes?

A. Yes, we're adopting regulations now that will put a basic regulatory infrastructure in place, at the direction of the Congress which includes, also at their direction, a system delineating where that waste is generated and where it's moved and by whom. We can then begin to track it; we'll have a map in our hands. We're beginning to prescribe, in those same regulations, treatment techniques depending on what kind of wastes we're dealing with. We're operating within the limits of knowledge at this point. That knowledge will improve as time goes on, but we have to make a start right now.

We've got a proposal before Congress now for a superfund, which would create a fund for going back and dealing remedially with the legacy of inherited landfills. We're working very hard now to understand the drinking water problem enough to begin to set standards for chemical concentrations in drinking water.

Q. How much is the superfund proposal for?

A. It's for $1.5 billion, essentially to keep a pot of about that size, which would allow us to deal with emergencies as they arise. We have the authority, when we can find the culpable party, to hold him responsible, but if he doesn't have the financial wherewithal, or if he can't be found, that becomes moot. We have a situation now where we're getting leakage in the Susquehanna River [in Pennsylvania] of some pretty toxic chemicals that were just dumped in a mine up there. We don't know who dumped them, and they've begun to leach out. There are a lot of midnight haulers and dumpers, and we're going to have to bring that practice under control by licensing landfills, by requiring standards of operation. That's imposing a regulatory structure in a relatively short period of time on what is a very large, complicated set of existing practices. It will not be easy.—Robin Marantz Henig.●

HOSPITAL COST CONTAINMENT AND REPORTING ACT OF 1979

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. GEPHARDT. Mr. Speaker, with committee consideration of hospital cost containment legislation now complete, the full House probably will act on this measure in the near future. In the ongoing effort to alert Members of Congress to some of the problems embodied in the administration's bill, H.R. 2626, I have joined with my colleagues in a series of letters that discuss the inequality of rigid 4-year controls. We hope that the exposure of these major shortcomings has convinced Members to join the bipartisan effort to defeat this legislation.

Given that hospitals may be swept under the mandatory program unfairly, the problem is exacerbated by the unyielding nature of the controls. We hope that you agree that this type of legislation is unjust and unworkable. When H.R. 2626 comes before the full House, we will offer a bipartisan substitute based on voluntary limits which eliminates the inequities that exist in this regulatory approach, and explores more sensible and effective methods of dealing with this problem. A description of that substitute, referred to as the Hospital Cost Containment and Reporting Act of 1979, follows:

THE HOSPITAL COST CONTAINMENT AND REPORTING ACT OF 1979

I. NATIONAL COMMISSION ON HOSPITAL COSTS

Establishment and membership

The bill establishes a National Commission on Hospital Costs, appointed by the President, composed of 15 members—five representatives of hospital administration, five representatives of entities which reimburse hospitals (including the Administrator, Health Care Financing Administration), five individuals who are independent of both hospitals and reimbursers—each of whom is exceptionally well qualified to assist in the function of the Commission. The President shall first appoint the members within 60 days of enactment, and the Commission will be terminated three years after a majority of the members are appointed.

Duties of the Commission

A. The Commission shall report to the appropriate Committees of Congress and the President, at least annually, on its activities, the implementation of this Act, and on the rate of increase in hospital expenses and on the success of the voluntary efforts of hospitals to meet the voluntary goals for hospital cost containment established by this Act.

B. No later than one year after a majority of the Commission is appointed, the Commission shall submit a report on measures to control health care costs (including changes in third-party reimbursement for hospitals and physicians, payments for drugs and supplies, utilization of health facilities and services, and capital expenditures).

C. Not later than two years after a majority of the Commission is appointed, the Commission shall submit a report regarding long-range strategies to combat rising hospital expenditures with special attention paid to the supply of, and the demand for, health care services.

The "demand" study will emphasize the strengthening of competitive forces, where appropriate, (specifically, the use of deductibles, coinsurance, cost- or risk-sharing, changes in the tax deduction and exclusion from income provisions of the Internal Revenue Code relating to health services, as well as pre-paid health care plans) and the desirability of increasing the use of these and similar methods in both public and private health insurance programs. Also analyzed will be alternative systems (both federally- and state-based) of financing health services, and alternative methods (other than retrospective reimbursement) of paying for health services.

The "supply" study will analyze the impact of capital expenditures on hospital operating expenses and quality and the need for increasing or decreasing both capital expenditures and other factors leading to increases in the intensity of hospital services, particularly advances in medical care technology. The extent of underutilized capacity and the impact of capacity on hospital expenditures and patient utilization will be similarly analyzed.

The feasibility and the efficacy of methods to reduce unneeded capacity will be studied with special attention paid to the costs and benefits of the State Certificate of Need programs required by the Health Plannnig Act and Section 1122 of the Social Security Act. Last, the impact of increases in the supply of professional health personnel, as well as changes in the types of such personnel being trained will be analyzed.

This report will also be required to analyze several other areas of concern regarding hospital costs of which the most important is the costs to hospitals of federal and state regulatory requirements—the report will be required to make recommendations for more cost-effective regulations. Other areas analyzed will include the direct and indirect impact of increases in wages and other employee benefits, increases in energy and utility costs, and the costs to hospitals of serving the medically needy.

II. FEDERAL SUPPORT OF STATE COST CONTAINMENT PROGRAMS

The Secretary will be authorized to make grants to states to assist them in planning, establishing, or operating state hospital cost containment programs. In order to facilitate the widest variety of programs, the state will not be requried to establish a program providing for mandatory approval of hospital rates or budgets in order to be eligible for a Federal grant. Each program must provide adequate assurances to the Secretary that the program will—

1. cover all non-Federal acute-care hospitals in the state other than psychiatric hospitals;

2. provide for an administering body (either public or private) other than the State Medicaid Agency and an advisory council;

3. provide for appropriate coordination with the state's health planning program and with Professional Standards Review Organizations located in the state;

4. not treat as revenue, directly or indirectly, any amount attributable to a philanthropic gift or grant.

If the state program chooses to review and approve prospective budgets or rates for hospitals, then the program must—

1. provide that hospital budgets not disapproved within 150 days following submission will be deemed approved;

2. insure that no hospital will experience

a decrease in its approved budget because it achieved savings in the previous year;

3. provide for an appeals mechanism.

The Secretary may waive any of the requirements (other than the three requirements immediately above applicable to mandatory programs), and must monitor the programs and make recommendations to the states regarding improvements.

Authorizations

For state programs the bill authorizes $10 million for Fiscal Year 1980 and such sums as may be necessary for the two-succeeding fiscal years.

III. VOLUNTARY GOALS FOR HOSPITAL COST CONTAINMENT

The bill establishes a voluntary goal for hospital cost containment for calendar year 1979 and for each succeeding year equal to four percentage points below the rate of increase in total hospital expenses experienced in calendar year 1977. The goal would be adjusted for changes in the rate of inflation measured by the GNP deflator. The National Commission on Hospital Costs would be required to monitor the success of hospitals in meeting the goal each year, and report to the Congress.

IV. ENCOURAGEMENT OF PHILANTHROPIC SUPPORT FOR HOSPITALS

For purposes of determining reasonable costs under Medicare, Medicaid, or Title V, the bill prohibits the deduction from operating costs of revenue from philanthropic sources, or otherwise taking such revenue into account.

The bill also prohibits treating as revenue of a hospital, directly or indirectly, any amount attributable to a philanthropic gift or grant.

V. REGULATORY REFORM

Coordinated audits

The bill provides for common audits of hospitals by Medicare and Medicaid.

V. SWING BEDS

The bill would allow a hospital to use acute-care beds to provide long-term care, and to be reimbursed under Medicare and Medicaid at the average daily rate paid for long-term care by the Medicaid program.●

A SALUTE TO YOUNG LEADERS OF CALIFORNIA'S BLACK COMMUNITY

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. PATTERSON. Mr. Speaker, the California Federation of Black Leadership is an organization of concerned black people in leadership positions who have joined together to define common problems and to seek viable solutions. For 4 years, they have served as a center for political, social, and economic education for black people and have fostered the goal of a comprehensive plan for black progress. During that time, they have achieved many of their objectives and gained the respect and admiration of all those who support the causes of human rights, recognize the dignity of the individual, and value the belief of equal opportunity for all mankind.

This year, the California Federation of Black Leadership is expanding their program. Under the cochairmanship of Joshua White and Leon Berry, they are sponsoring a youth award banquet, an effort to honor black youths who have achieved outstanding recognition in their schools and in their communities. This banquet is an extension of the goals of the federation which include fostering leadership skills in future generations.

Mr. Speaker, I ask my colleagues to join with me in saluting the black youths being honored by the California Federation of Black Leadership. They are to be commended for their individual achievements and encouraged to continue their participation in our society for they clearly have the potential to be the leaders of tomorrow.●

PROTECT CITIZEN'S ROLE: LIMIT PAC'S IN POLITICS

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. HARRIS. Mr. Speaker, one of the most disturbing trends in national politics over the last several years is the proliferation of special interest political action committees and their rapidly expanding influence in elections, and on public policy.

I, like most Members of this body, vigorously encourage individuals of all persuasions to become active in politics—to contribute and to work for the political party, candidate, or cause of their choice. This grassroots involvement is the essence of American participatory democracy.

The flood of PAC money however, is drowning the individual, crowding out the influence that one person can have on politics, and replacing concerned citizen involvement with the overbearing presence of special interest money. These funds flow to congressional campaigns and can dominate elections. Whether we have the guts to admit it or not, the pervasive presence of special interest PAC money is altering the course of public policy.

We must limit the influence of PAC dollars and redirect political debate from narrow issues to a broader consideration of public policy. By passing the Campaign Contributions Reform Act today, we can take a small, but positive step to preserve an important role for the individual in American politics.

There are now nearly 2,000 PAC's in existence—an increase of 300 percent in the last 5 years. In 1978, these PAC's funneled $25 million to House candidates, an increase of 70 percent over 1976. Even more frightening, 162 House candidates received more than half of their campaign funds from political action committees in 1978. This overbearing presence threatens to undermine our grassroots political structure.

Some have referred to this Congress as "the best that money can buy." Sunday's Washington Post carried an article entitled "96th Congress: Where Money Begets Power." That article legitimately points out that we, as Members of Congress, cannot ignore the presence and the power of special interest money.

Under today's laws, newspapers can write stories like the Post article, raising the specter of a direct tie between PAC money and votes on the floor.

Our reputation as individuals, and as a Congress is at stake here. But far more importantly, the ability of Congress to legislate with the confidence of the people is at stake.

We must not continue to permit special interest PAC money to cloud our motivations, encourage speculation by the media, and destroy the grassroots structure of American politics. By passing this bill, we will make it clear that we are responsive to the people—to the public interest—and not to the narrow, self-interested groups that dump millions into political campaigns.

This is a compromise bill. It preserves the legitimate role of organized citizens to present their views and contribute to campaigns, but it limits the role of special interest PAC's to a manageable scale. It preserves the role of individual, and will begin to restore our standing with the American people. It is an important step that we must take. I urge my colleagues to support the Campaign Contribution Reform Act, and to reaffirm their commitment to our open democratic system.●

HYDROGEN FROM COAL

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. GRASSLEY. Mr. Speaker, last month I sponsored H.R. 5399 (Hydrogen Fuel Development and Use Act of 1979) and asked my colleagues for their support of this legislation.

A great deal of discussion is now taking place in Iowa to produce hydrogen from high sulfur content coal for the generation of electricity. I feel this is not only a positive step forward for Iowa, but many other States as well.

The DOE and Jet Propulsion Laboratory sponsored a seminar recently in which preliminary figures were compiled on the cost of producing hydrogen from coal. Because of my keen interest in seeing this legislation go forward, I would like to present these findings to my colleagues and their staffs.

The findings follow:

COST OF HYDROGEN FROM COAL

What is the cost of hydrogen from coal and the parameters used in calculating the cost of hydrogen from coal?

COST

The "first year costs" for a large scale "grass roots type" coal gasification plant are estimated to be $4.07 per million BTU higher heating value (HHV). This translates to 24.8 cents per pound hydrogen, hence 25 cents per pound hydrogen.

PARAMETERS

1. First year cost estimates include depreciations on the total capital requirement, interest, return on equity, taxes, insurance and investment tax credit for the first year of operation. Also included is one year of

labor cost, operation cost, maintenance cost, and coal cost. Not included is the unknowable effects of inflation over the life of the project. If costs inflate at an average of six percent per year while the price charged for hydrogen remains unchanged, then it is necessary to charge $5.47 per million BTU for the product.

2. Total capital requirement for this calculation is $1.66 billion.

3. Finance assumptions are as follows:

75 percent of the capital is financed at 10 percent interest.

Return on the remaining 25 percent equity capital is 15 percent.

Plant depreciation life is 20 years.

Taxable life is 16 years.

Sum of the years digits accelerated depreciation is used with flow-through accounting.

Federal and State income tax is 50 percent.

Property taxes and insurance is 2.7 percent.

Investment tax credit is 10 percent.

4. Under the assumptions given in parameter 3, 13.48 percent of the total capital requirement of $1.66 billion must be returned each year.

5. Labor costs for operation and maintenance is estimated as $12.1 million per year. 435 full-time jobs will be created.

6. Variable operating and maintenance cost such as utilities materials, chemicals, and catalysts are estimated as $31.4 million per year.

7. Twelve million tons of coal are used each year. At an average cost of $22 per ton ($1/MMBTU), the fuel cost is $263.7 million per year.

8. The plant produces 396 billion BTU per day for 330 days of the year (90 percent capacity factor). The annual production of hydrogen fuel is 130.7 million MMBTU/year. 97.36 percent by volume of the product gas is hydrogen, 1.96 percent is methane, .17 percent is argon, and .51 percent is nitrogen. There is less than five parts per million by volume CO, three parts per million by volume CO_2, one part per million by volume H_2S, and two parts per million by volume H_2O.

9. Thirty-five identical gasifiers are used in the plant described. The economics of scale are reached for six or more gasifiers. Therefore, plants roughly ¼ of this size would produce hydrogen at about the same price.

10. The cost of 25 cents per pound is at the plant fence. To compare to gasoline, add distribution costs, taxes, and retailing costs. Pipeline distribution cost average about 6/10 of a cent ($.006) per pound of hydrogen per 100 miles of pipeline. Federal gasoline tax is four cents per gallon of gasoline. State taxes vary and there also exist some local taxes (Utah State tax on gasoline is nine cents per gallon). These estimates predict a comparative cost of hydrogen of roughly 68 cents per gallon before taxes and 81 cents per gallon comparative to gasoline pump price.

11. One gallon of gasoline contains the same energy as 2.25 pounds of hydrogen (LHV). Hydrogen vehicles are more efficient than their gasoline counterparts even after the addition of hydride weight. For example, the U.S. Postal Service Jeep, as converted to hydrogen by Billings, was 15 percent more efficient. If a hydrogen vehicle is 12.5 percent more efficient, then 2.0 pounds of hydrogen will provide the same mileage as one gallon of gasoline.

What are the basic assumptions used in figuring the cost of hydrogen from coal in comparison to the cost of crude oil and/or gasoline and other petroleum products?

COSTS AND OUTPUTS

Capital cost of the plant, $1.66 billion.

Cost of coal, $22/ton or $1/MMBTU.

Hydrogen from coal cost, $4.07/MMBTU (HHV) or $.25/lb. of hydrogen.

Higher heating value plant output, 396 billion BTU/day. (HHV) (4836 MW).

Lower heating value plant output, 335.1 billion BTU/day (LVH).

CRUDE OIL CONSUMPTION*

(Jan.–June 1979)

Imported Crude Oil (43.2%), 8,143,000 Barrels/day.

Domestic Crude Oil (56.8%), 10,717,000 Barrels/day.

Total Crude Consumption, 18,860,000 Barrels/day.

CRUDE OIL PRODUCT BREAKDOWN

One barrel of Crude — 42 gallons—5,800,000 BTU/Barrel of crude

	Volume percent per bbl	BTU/gal
Motor gasoline	44.1	110,000
Distillate (diesel, home heating oil)	21.3	138,690
Residual	11.2	149,690
Jet fuel	5.5	135,000
Ethane	0.1	
Liquid gases	2.3	95,167
Kerosene	1.0	135,000
Petro chemical	4.1	
Special napthas	0.4	124,952
Lubricants	1.3	144,405
Wax	0.1	
Coke	2.5	
Asphalt	3.2	158,000
Road oil	0.1	
Still gas	0.7	
Miscellaneous	0.9	
Total	100.0 by volume	

Source: API (American Petroleum Institute), Washington, D.C., and U.S. Bureau of Mines standard for heating values.

If hydrogen replaced gasoline as a fuel, how long would it take a $1.66 billion plant to pay for itself with the savings between low cost hydrogen and gasoline at $1.00 per gallon?

Assuming $1 per gallon of gasoline	$1.00
Minus 4¢/gal Federal tax, 9¢/gal State tax and 7.9¢/gal retailing cost (per gal)	—0.209
Price of gasoline after distribution (per gal)	0.791
Hydrogen plant annual operation and maintenance	$0.333/million Btu
Annual coal costs	$2.020/million Btu
Cost per pound of hydrogen excluding capital cost of plant	$\frac{\$2.353}{10^6 \text{Btu}} \times \frac{61{,}000 \text{ Btu}}{\text{pound of } H_2} = \$0.144/\text{lb of } H_2$
Assuming distribution costs of 1,000 miles (ave.) by pipeline at $0.006/100 mile/lb. of hydrogen	$0.06/lb
Cost of hydrogen after distribution	$0.204/lb of H_2
Cost of hydrogen per gasoline equivalent (2 lbs. H2=one gallon gasoline, plant capital cost not incl.)	$0.407/gal. gasoline equiv.
Economic savings of hydrogen over gasoline at $1/gal	$0.791 −0.407 = 0.384
Daily output of a $1.66 billion plant	396 billion Btu/day
	61,000 Btu/lb H_2 = 6.492 million lb/day
Translated to equivalent gallons of gasoline	3.245 million gal
Daily savings	3.245 million gal × $.384/gal = $1.246 million/day
Number of days to raise the capital for a $1.66 billion plant	$\frac{1.66\times10^9}{1.246\times10^9} = 1332$ days = 3.65 years

*Source: American Petroleum Institute as reported in U.S. News & World Report.

Conclusion: A $1.66 billion plant will take 3.7 years to pay for itself if the product hydrogen is used as an alternative to gasoline at $1 per gallon.

How many $1.66 billion plants will it take to produce enough hydrogen to replace all the gasoline now made from foreign oil imports?

Volume of gasoline coming from imports: (8,143,000 bbl/day) (42 gal/day) × .441 = 150,820,000 BTU/gal) = 16,590 billion BTU/day.

Daily energy consumption of gasoline from imported oil: (150.82 million gal/day) (110,000 BTU/gal) = 16,590 billion BTU/day.

Number of hydrogen production plants required to replace all gasoline made from imported oil:

$$\frac{16{,}590 \text{ billion Btu/day gasoline}}{335.1 \text{ billion Btu/day hydrogen}} = 49.5 \text{ hydrogen plants}$$

Taking into account all of the major fuels made from crude oil (gasoline, diesel, home heating oil, and jet fuel), how many years of crude oil imports at $20/barrel cost the same capital outlay as would the capital cost of enough coal to hydrogen plants to replace these fuels and eliminate all oil imports?

Imported crude oil: 8,143,000 bbl/day.

Daily cost at $20/barrel: 162,860,000 dollars/day.

BTU product yield from a barrel of crude oil:

	Million Btu
Motor gasoline	(.441)(42)(110,000)=2.037
Distillate (home heating oil and diesel)	(.213)(42)(138,690)=1.241
Jet fuel	(.066)(42)(135,000)= .374
	3.652 million Btu / barrel crude oil

Amount of energy derived from imported crude oil in the product form of motor gasoline, diesel, home heating oil, and jet fuel:

$$3.652 \frac{\text{Million BTU}}{\text{bbl crude oil}} \times 8{,}143{,}000 \text{ bbl/day} = 29.74 \text{ Tera Btu/day}$$

Number of coal to hydrogen plants required to match this fuel energy requirement:

$$\frac{29.74\times10^{12} \text{ Btu/day}}{335.1\times10^{9} \text{ Btu/day}} = 88.75 \text{ hydrogen production plants}$$

Number of years of capital outlay for imported crude oil at $20/barrel equaling the capital requirement of enough hydrogen production plants to replace motor gasoline, diesel, home heating oil, and jet fuel made from imported crude:

$$\frac{(88.75 \text{ plants})\ \$1.66 \text{ billion each}}{(\$162{,}860{,}000/\text{day})\ 365 \text{ days/year}} = 2.48 \text{ years}$$

COMPARISON SUMMARY

A $1.66 billion coal-to-hydrogen plant will require 3.7 years to pay for itself if the product hydrogen is used as an alternative to gasoline at $1.00 per gallon.

Fifty coal-to-hydrogen plants at a cost of $1.66 billion each will produce enough hydrogen to replace all gasoline made from imported crude oil.

Eighty-nine coal-to-hydrogen plants, at a cost of $1.66 billion each, will produce enough hydrogen to replace all the major fuels made from imported oil: motor gasoline, diesel, home heating oil, and jet fuel.

Assuming imported crude oil cost $20 per barrel, the amount of capital used to purchase two and one-half years of imported crude oil would pay for the construction of enough hydrogen plants (89 at a cost of $1.66 billion each) to eliminate imported crude oil.

Expenditures for crude oil imports would pay for hydrogen plants to replace gasoline.

diesel, home heating oil and jet fuel made from imported crude oil in the number of years shown.

(In years)	
Motor gasoline	1.52
Diesel and home heating oil	.73
Jet fuel	.23
Total	2.48

I feel this report offers each of us an opportunity to deduce the cost of coal gasification plants, including hydrogen cost in comparison to gasoline and other crude oil products. It is also possible to estimate the length of time necessary for a hydrogen plant to pay for itself with hypothetical savings from the elimination of foreign oil imports.

I need not remind my colleagues of the OPEC ministers bold statements just this week regarding a new round of increases in foreign oil later this year. If nothing else, those signals should not be taken lightly by this Congress or this country. We should, instead, get our energy policies together and begin to take bold new steps for all mankind. We have crawled long enough.●

TWO THOUSAND EDITIONS OLD

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. MINETA. Mr. Speaker, on October 20, 1979, in Los Angeles, Calif., the Japanese American Citizens League (JACL) will be celebrating the 50th anniversary of its weekly newspaper, the Pacific Citizen. Since 1929, the Pacific Citizen has been the only national Japanese American weekly newspaper which has consistently reported the achievements, contributions, problems, and issues affecting persons of Japanese ancestry.

The editor of Pacific Citizen is Harry Honda, and Harry will be honored this weekend for the 27 years he has been with Pacific Citizen. A native son of Los Angeles, "newspapering" has been Harry Honda's lifelong career that began in 1936, and which was interrupted by military service (1941–45) and college on the GI bill (1946–50). He was on the staff of the English edition of the Shin Nichibei at the time the Pacific Citizen was relocated from Salt Lake City in September, 1952, to Los Angeles, and he was asked to be its editor.

His prewar newspaper career includes working on the English sections of Japanese vernacular newspapers in Los Angeles and San Francisco. Harry is a graduate of Maryknoll School, Belmont High, Los Angeles Junior College, and Loyola University at Los Angeles in political science. He was president of the Downtown Los Angeles JACL in 1951.

I wish to share with my colleagues the following articles written by Harry Honda, entitled "2,000 Editions Old." This article highlights the past 50 years of Pacific Citizen and the goals that have guided its publication under the direction of Harry Honda.

2,000 EDITIONS OLD: THE PACIFIC CITIZEN SUMMARY

(By Harry Honda)

Somewhere in Salt Lake City is a treasure that the Pacific Citizen has left behind when JACL's membership publication was relocated to Los Angeles a quarter century ago. The late Saburo Kido, wartime National president, remembered seeing that treasure—the bound volume of prewar issues—at Headquarters when it was located there. He was banking on it to start writing JACL history in a PC series that was published in 1961-62.

What there is on file are scattered issues—31 out of the 163 published up to the eve of the 1942 Evacuation.

Only known copy of the first edition, a six-page quarto (half tabloid) dated October 15, 1929, survives in the JACL-Japanese American Research Project Collection at the UCLA Library. We borrowed it long enough to have it microfilmed for our files. It was then called the Nikkei Shimin (Japanese American Citizen), edited as a semi-monthly by Iwao Kawakami for the San Francisco New American Citizens League, as that JACL chapter was then called. In an early 1930 edition, it was renamed the Pacific Citizen.

In 1932, Earl Tanbara and Asayo Kuraya assumed the editorial responsibilities when Iwao moved to San Diego. The PC became the "official publication" of the fledgling Japanese American Citizens League during its 1932 national convention at Los Angeles. JACL at this time consisted of 20 chapters representing urban and rural Japanese American concentrations along the west coast.

Between 1933 and 1939, the PC was printed in Seattle at Jimmie Sakamoto's Japanese American Courier plant, while the editorial office was in Sab Kido's law office in San Francisco.

In 1940, with Evelyn Kirimura as editor, the PC was again a San Francisco operation. She turned out the first Holiday Issue of 18 tabloid pages in December. Its front and back pages were printed in red and green ink. Some of the advertisers have continued to extend their best wishes in our last Holiday Issue.

The JACL Convention in 1938 passed a compulsory PC subscription policy, requiring the head of each JACL family to subscribe at 25 cents a year and the chapters to submit $12 per year subsidy either in advertising or as a contribution. The policy was suspended with Evacuation.

The prewar PC was generally a four-page tabloid. Kay Nishida, English editor of the Nichibei in San Francisco, then the dean of Nisei writers, was a regular columnist in the late 1930s. Information on farming, national defense, home-making and job opportunities was featured when more than four pages were published during 1941.

The attack on Pearl Harbor also shut down the presses in Nihonmachi. To overcome this emergency, the PC was mimeographed at National Headquarters, then manned by Mike Masaoka as executive secretary. The PCs were bundled and sent to the chapter to distribute. Holiday Issue plans were washed out, though some of the greetings appeared in the January, 1942, issue which reappeared in printed format.

The first L.A.-edition of the PC came out October 4, 1952.

Our charge was to maintain the high tone of the Tajiri years and place the PC on a self-supporting basis. We begged for indulgence by trying to pack in as much hard news while the editorial "hole" shriveled way to advertising that Tats Kushida had mustered.

The October 17, 1958, issue was memorable in that it was No. 1,000. Two decades will have passed to reach No. 2,000 on July 7, 1978.

The PC has a two-fold operating policy; to represent JACL as a public relations media, and to serve as an educational resource by reporting the achievements, contributions, problems and issues affecting persons of Japanese ancestry. The editorial policy is broad enough to include both JACL-oriented and general news. Space is provided for divergent views to help guide public policy.

As part of the multi-ethnic press in America, the PC stays abreast of major issues facing Japanese Americans. We are still a minority among minorities and we do not forget that. JACL is about to celebrate its 50th year of existence. While much has been accomplished—citizenship for the Issei, immigration bars removed, helping to tell the Japanese American story—but people are fickle, forgetful and factious. Human nature is that way. Hence, the purpose for founding JACL in 1930 is still valid—that persons of Japanese ancestry shall not be denied their freedom and rights because of race, creed or color.●

ARIZONA STATE FUNERAL BOARD AND THE FEDERAL TRADE COMMISSION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. UDALL. Mr. Speaker, I recently received a letter from the Arizona State Board of Funeral Directors and Embalmers concerning the Federal Trade Commission's proposed rule on funeral services. After meeting with representatives from the FTC, the board's members decided to hold a public meeting to discuss the rule and to accept testimony from concerned citizens and groups. As a result of that hearing the board now supports the Commission's position and opposes any efforts to prohibit the Commission from putting it into effect.

I have looked at this issue carefully, for it affects many people in southern Arizona. And I have come to agree with the board and with the FTC that some action is needed to protect consumers for funeral services, who are especially suspectible to fraud and unethical practices. The vast majority of businessmen in the funeral industry are good, upright people, and I can certainly understand their reluctance to accept Federal regulations which they feel are unneeded. But there is a minority in the funeral industry which does engage in questionable practices and those are the firms which will be most affected by the rule. The FTC is involved in controversial actions in several other industries, and perhaps in some the Commission is acting unjustly or has exceeded its authority. But in this area the need for action is proven and I favor the proposed rule.

The letter from the board of funeral directors follows; I commend it to my colleagues' attention:

ARIZONA STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS,
Phoenix, Ariz., October 10, 1979.

Re Support of Federal Trade Commission Funeral Industry Rule.

Hon. MORRIS UDALL,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN UDALL: On September 25, 1979, a delegation of this Board met with representatives of the Federal Trade Commission concerning the progress of the propcsed Commission rule on funeral services disclosure standards and also concerning common enforcement problems in this consumer protection area.

Subsequent to that very productive and informative meeting, this Board held a public meeting on October 9, at which the proposed federal rule was discussed and debated at length. As a result, it is now the consensus of the Board that the Federal Trade Commission should be permitted to promulgate its proposed funeral industry rule in the most expeditious manner feasible.

It is the Board's view that the promulgation of minimum federal standards of fair dealing in this area would greatly facilitate the Board's local enforcement efforts and more effectively protect Arizona consumers from deceptive practices. The following points are called to your attention:

1. Funeral services consumers are uniquely vulnerable to deceptive practices, in part due to their bereaved and depressed mental state and the general lack of public information concerning funeral arrangement transactions.

2. Since the potential for consumer fraud in such "grief transactions" is very great, the demonstrated need exists for active and aggressive coordinated enforcement efforts by federal, state and local consumer fraud agencies in this area.

3. The establishment of minimum fair dealing standards in the funeral industry by the Federal Trade Commission would not inhibit local consumer fraud enforcement but rather would permit local agencies (such as this Board) with limited financial resources to build from such standards and focus on local enforcement problems.

4. It is in the best interest of local consumer fraud enforcement agencies and the funeral industry that the proposed federal rule be finalized most expeditiously to facilitate early coordination of local legal requirements and enforcement programs with the minimum standards and to prevent "dragging out" the rule-making process with the resultant disruption and confusion to business.

In conclusion, the Board welcomes the anticipated assistance of the Federal Trade Commission in protecting funeral services consumers in Arizona, and strongly urges an early resolution of the present uncertainties concerning this vitally needed rule.

Sincerely,
Keith L. Rotterson, George Menke, Ruth R. Ada, Lyle M. Ferguson, Marian Lupu, Msgr. Richard W. O'Keeffe.●

EFFORTS TO COMBAT COOLEY'S ANEMIA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. BARNES. Mr. Speaker, this Saturday, October 20, has been proclaimed Coolev's Anemia Day in the State of Maryland. Gov. Harry Hughes announced this event as part of a nationwide effort to combat the disease.

Cooley's anemia is an inherited blood disease characterized by a diminished production of hemoglobin, the substance in red blood cells which enables them to carry oxygen to the tissues of the body. It is found primarily in children whose ancestors were natives of the Mediterranean area, particularly those of Greek and Italian descent. There is no known cure for Cooley's anemia, and the only effective treatment is frequent blood transfusions. Individuals with the condition rarely live beyond the age of 20.

It is estimated that there are approximately 200,000 individuals in the United States who carry the trait, and at least 2,400 patients are being maintained with the aid of transfusion therapy.

I trust that my colleagues will join with in supporting the continued efforts in Maryland and around the Nation to combat Cooley's anemia.●

FEDERAL ENERGY ASSISTANCE PROGRAMS AND THE POOR

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. SOLARZ. Mr. Speaker, I would like to bring to the attention of my colleagues the remarks recently submitted to the Senate Committee on Labor and Human Resources by Mr. Joseph Langer, of the Metropolitan New York Coordinating Council on Jewish Poverty. This group, of which Mr. Langer is the director of operations, represents major and grassroots Jewish agencies and organizations in advocating the needs of the Jewish poor. They provide a link between the Jewish poor and Government agencies which aid the needy of our Nation, and help to develop programs in neighborhoods with large concentrations of Jewish poor.

As the representative of a district with one of the largest Jewish populations of any congressional district in the country, I commend the Metropolitan New York Coordinating Council on Jewish Poverty for their efforts to help maintain, stabilize and upgrade the social and physical health of many Jewish neighborhoods.

The testmony follows:

FEDERAL ENERGY ASSISTANCE PROGRAMS AND THE POOR

(By Joseph Langer)

Since 1973, the cost of energy has risen drastically. OPEC price increases, continuing double-digit inflation and oil decontrol have made all Americans pay an increasing portion of their budget for the purchase of energy to meet their basic household needs. The future looks dim indeed. Costs will continue to climb at excessive rates.

While the entire population has felt the impact of increasing energy costs, the burden has been experienced extremely by the poor, the elderly, the lower middle class and individuals on fixed incomes. It is estimated that the average low income family will be spending more than 25% of their income on household fuel and utilities this year. In the Northeast, as winter arrives, the price of home heating oil will have risen as much as 100% from last year. This situation will force many low income households to pay more than 40 percent of their income for the purpose of heating their homes. The average homeowner in New York State will have to shell out an extra $500.00 in the period of only a few months. The rentor or co-op owner will receive an equivalent pass-along. The large oil firms have, inexplicably tightened their credit terms recently and many homeowners and landlords will be forced to pay for fuel in advance of delivery.

The poor will be forced into an extreme dilemma during this winter trying to chose between heating their homes and feeding their families.

II

The experiences of Federal energy assistance programs in 1977, 1978 and 1979 have been bleak.

The General Accounting Office in its audit "Meeting Winter Heating Bills for Needy Families: How Should the Federal Program Work" reports that the distribution of funds were not managed well and there was no assurance that families in the greatest need were served by these energy assistance programs.

In the first year program, funds were distributed to States based on the severity of winter, the number of poverty households, and the regional fuel cost.

State plans for identifying priorities and methods of payment were not effectively reviewed and approved within program time constraints. Federal criteria was unclear, with the result that allocations to local projects, towns and cities, varied among States and within States. Eight States designated no specific priority system. Other States adopted a variety of different priorities including services to the elderly only, all eligible recipients on a first come first serve basis, eligible recipients with power disconnects or fuel bills only, and all eligible recipients with specific exclusion and limitations on payments.

There was no provision made for heaters, blankets and other energy costs by many projects. Nor in the case of the elderly, who are known to immediately pay their bills and literally go without food, was there any provision made to look at paid bills, not just utility disconnect notices. No allowances were made for rentors, the bulk of the poor in major urban centers as New York City, to meet fuel costs incubated as pass-alongs by landlords.

As the GAO report concluded, the Community Services Administration could not assure that the local programs were alleviating crisis situations. A great percentage of the Federal appropriation was unspent. During the first year of the program New York City did not spend 1 cent of its funds while Chicago spent $7 million dollars.

III

Unfortunately the proposed Energy Assistance Program and legislation, circulated late this summer by the Administration, perpetuates and incorporates many of the failures of past Federal programs.

States have again been designated as the agency responsible for administration of the program. They are also assigned the task of developing a plan which describes how the program will be implemented within the state and the priorities of those to be serviced. Previous experience teaches us that the states have not completed this delegated task successfully and are not the sensitive vehicles to address the delivery or services to localized poor. We suggest that a more appropriate methodology in assuring that the poor receive energy assistance would be to utilize municipalities as the administrative vehicle which is more in touch with the needs of the local community.

Under the Administration's proposed plan, the bulk of the appropriation will go to SSI recipients, AFDC recipients and food stamp recipients. Assistance to the elderly and poor outside of these categories is unclear. The proposed plan of the State Department of Social Services compiling lists of the "other" poor is unrealistic. Nearly 75 percent of the elderly, for example, who are poor do not receive SSI. There are no provisions to insure that they receive benefits. This plan makes

no provision whatsoever for Outreach to the isolated, undercovered, poor.

The Administration's proposal utilizing poverty levels as eligibility criteria eliminates the bulk of energy hardship cases from receiving benefits. The lower living standard of the Bureau of Labor Statistics is a more realistic measurement device that is geared to individual communities. The BLS measure would provide a much broader eligibility target and much needed assistance to those on fixed incomes and the lower income working poor.

The Administration's plan is geared totally to the homeowner and there are no provisions for the rentor, who is effected by the energy crisis through higher rental costs as a result of pass alongs by landlords. The poor in most urban areas do not own homes but live in apartments. They are paying higher rental costs yet receive no relief. They have to go without the necessities of life but are not considered in this proposed program just as they were systematically eliminated in other programs.

To utilize utility shut off notices as the sole criteria for receiving assistance is circumventing the entire spirit of energy assistance programs. In the case of the poor, and especially the elderly, we know they will deprive themselves of the basics including food in order to meet their utility obligations. Provisions must also be made for space heaters, insulation, blankets, and warm clothing to assist the poor as a result of temperature cutbacks, in staying warm during the winter months.

S. 1724 sponsored by Senators Williams and Javits provides much more realistic approach to assist households which cannot meet the high cost of fuel and other energy related costs. It provides immediate assistance to the poor that is so critical for families this winter.

We suggest that provisions for the many urban poor who are renting apartments be incorporated into the bill. Provisions must be made for rentors with low incomes to meet pass along energy costs.

We commend the Outreach activities stipulated in the bill especially those involving Community Action Agencies, Area Agencies on Aging and other appropriate Agencies in outreach and certification activities.

The experience of the Metropolitan New York Coordinating Council on Jewish Poverty and its affiliated agencies has proven that local community based agencies have an appropriate handle and contact with the isolated poor and are able to deliver services on an expeditious basis eliminating red tape and bureaucracy and provide the most services for the program dollar.

We urge that provisions in S-1724 be made for other than fuel costs including clothes, space heaters and localized insulation to insure that the poor stay warm during the winter months.

The Metropolitan New York Coordinating Council on Jewish Poverty, founded a decade ago, as a coordinating body representing 46 major Jewish organizations, social service agencies and Jewish community councils. The Coordinating Council is the united voice of the Jewish community in serving the needs of the Jewish poor and elderly within their neighborhoods. It is the primary vehicle for assessing local needs, bringing resources to neighborhoods, and acting as the communal advocate and ombudsman for ameliorating the plight of the Jewish poor in the neighborhood they live in.

The Coordinating Council urges that Congress pass appropriate legislation to assist the poor with their increased energy costs as quickly as possible so it will be administratively in place before the winter. We respectfully suggest that our recommendation be incorporated into the pending legislation.

We pray that the prophesy of Congressman Frederick Richmond, quoted in the New York Times, that we will have to see someone die before Congress acts, is false and that this proposed legislation is reported out by the Committee expeditiously.

Thank you.●

CAMBODIAN FAMINE DEMANDS GENEROUS AMERCAN RESPONSE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. SOLARZ. Mr. Speaker, yesterday the Subcommittee on Asian and Pacific Affairs unanimously recommended the enactment of a $35 million disaster relief program. This legislation, which will be taken up by the Foreign Affairs Committee next Wednesday, is to prevent the needless death of over two and a half million Cambodians who will starve to death in the next few months if a large scale international relief effort is not quickly undertaken in that country.

As a member of the Subcommittee on Asia, I have been active in efforts to prevent the unfolding of this further tragedy on the stricken Cambodian population, and in urging the administration to move quickly and compassionately to assist these suffering people.

I would like to enter for the RECORD a copy of an eloquent plea by the major charitable organizations of our country to the Secretary of State. These 13 groups urge a generous and timely response by the American Government to the human disaster which has engulfed Cambodia.

These voluntary organizations have participated valiantly and effectively in other major humanitarian relief efforts—such as the ones undertaken by the international community in Biafra and Bangladesh—where, even under extremely difficult circumstances, not unlike the ones in Cambodia, we were able to fully participate in assisting the beseiged civilian populations.

Mr. Speaker, I hope that this appeal by these voluntary organizations will not go unheeded by the administration and by this Congress.

The material follows:

OCTOBER 1, 1979.

Hon. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: Reports of serious food shortages in certain areas of Cambodia have been a source of concern to us for some months. Recently, it has become apparent that a major international effort will be required if widespread famine affecting millions of Cambodians is to be averted. Independent reports from a variety of recent visitors to the area—including representatives of the press, religious organizations, and international relief agencies—all attest to the urgency of the situation.

On several recent occasions, you have spoken of your hope that the international community act to prevent starvation in Cambodia. We are very much aware of the unusual complexities of assistance to people in a country at war, especially when our government does not recognize any of the conflicting parties as representative of those people. The normal procedures for adequate supervision, control, and monitoring are at once more important and more difficult. We understand that lengthy negotiations between international agencies and various governments in Southeast Asia have now succeeded in establishing arrangements under which relief supplies may be provided, distributed, and monitored. This should remove what we hope will prove the final obstacle to the launching of a major international response.

We are aware that restrictions prohibit any form of U.S. development assistance to Cambodia. However, there are no statutory prohibitions against the use of U.S. Food For Peace (PL-480, Title II) commodities or against the use of Disaster Assistance funds after October 1, 1979. We wish, therefore, to register our strong support for your efforts to encourage an international response to the Cambodian famine fully commensurate with the need. We urge you to pursue all available bilateral and multilateral channels, including private and voluntary organizations, to see that the United States moves quickly and effectively in responding to this crisis. Some of our organizations have already begun our own efforts to respond as an expression of broad public concern.

Sincerely,

The Most Reverend Edwin B. Broderick, Executive Director, Catholic Relief Services/U.S. Catholic Conference, Inc.

Dr. George A. Chauncey, Chairman, Interreligious Taskforce on U.S. Food Policy.

Dr. Bernard A. Confer, Executive Director, Lutheran World Relief.

Stephen Hayes, Director, Office of Peace and Development Education, International Division, Young Men's Christian Association of the U.S.A.

Herbert Katzki, Associate Executive Vice President, American Jewish Joint Distribution Committee.

Dr. Paul F. McCleary, Executive Director, Church World Service.

Rosalie Oakes, Executive, World Relations Unit, National Board of the Young Women's Christian Association of the U.S.A.

Louis Schneider, Executive Secretary, American Friends Service Committee.

Joseph Short, Executive Director, OXFAM-America.

Arthur Simon, Executive Director, Bread for the World.

Edward F. Snyder, Executive Secretary, Friends Committee on National Legislation.

Edgar Stoesz, Associate Executive Secretary, Mennonite Central Committee.●

A BILL TO PRESERVE EQUITABLE IRS TAX TREATMENT OF RURAL COOPERATIVES

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. GORE. Mr. Speaker, electric and telephone cooperatives are the backbone of rural America. Congress helped nurture the growth of co-ops in the 1930's and 1940's in order to improve the quality of life in rural areas. Privately owned utilities brought necessary services to urban areas, but they either could not or would not furnish the needs of rural areas.

The goal of cooperatives is not profit, but reliable service at the lowest price.

This is one of the principal reasons why we have seen co-ops on the forefront of major technological changes and innovative cost-cutting measures.

There are more than 1,000 electric co-ops in this country operating in 46 States. They provide service to 25 million people and cover more than 50 percent of the land area in the united States. Telephone co-ops operate in 30 States and provide telephone service to more than 750,000 people. Co-ops are an indispensable part of rural life and continue to provide opportunities for growth and development.

Unfortunately, it seems that the Internal Revenue Service does not share Congress' enthusiasm for cooperatives. Recent rulings by the IRS have attempted to chip away at their tax exempt status and have placed unnecessary and unreasonable financial burdens on cooperatives.

Today, I am introducing legislation which will preserve equitable IRS tax treatment of rural cooperatives in an effort to keep utility rates at reasonable and affordable rates. The bill would reinstate traditional IRS tax treatment of income from pole rentals and telephone directory advertisements. The bill would alter recent IRS rulings which concluded that income from pole rentals and "yellow page" advertisements were not related to co-op business endeavors and thus not exempt from taxation.

In order to bring service to the greatest number of people at the lowest possible cost, electric, and telephone co-ops have entered into reciprocal agreements to share the cost of their poles.

Joint use minimizes costs and encourages efficient use of rights-of-way. Electric co-ops in many areas were the first to build poles, and thus over the years have received income from telephone co-ops for the rental of the right-of-way. The revenue is not significant in terms of overall cooperative income, and the IRS has traditionally treated pole rentals as business-related income and thus nontaxable.

Late last year, I was informed by Mr. Fred Key, general manager of the Middle Tennessee Electric Membership Cooperative in Murfreesboro, Tenn., that the IRS had shifted its longstanding policy and was going to begin taxing pole rental income. In its letter to Mr. Key, the IRS informed him of a recent technical advisory ruling which concluded that income from pole rentals bears "no substantial causal relationship" to co-op's tax-exempt purpose. Mr. Key estimates that this IRS policy reversal could cost his customers $50,000 next year. This is not a great deal of tax revenue for the IRS, but it is the type of unnecessary cost that forces rates to soar.

The IRS apparently believes that the joint use of poles is not related to the purpose and goals of rural co-ops. This is completely illogical. The purpose of co-ops is to provide wide ranging low-cost service. One means to achieve this is to share the costs of putting up poles. The rental revenue received, say by the electric co-op, is money that the telephone co-op would normally have to spend on putting up its own poles. The revenue is not unrelated to the purpose of the co-op—it is essential to the purpose. Duplication of poles is of course ludicrous, but the IRS ruling seems to be encouraging that practice.

The telephone co-ops are faced with a similar problem with income derived from directory advertisements. The IRS has ruled that income from "yellow page" advertisements is not related to the telephone co-op purpose and, therefore, is taxable.

It would seem fairly obvious that the small amount of income from such advertisements should be used to help offset the costs of printing. Certainly the telephone co-op is not competing with any other business in publishing the yellow pages and it is difficult to argue that yellow pages are unrelated to the business of telephone co-ops. Unfortunately, the IRS does not see it that way.

The bill that I have introduced would alter IRS tax treatment of related business income such as pole rentals and directory advertisements. The legislation would exclude those activities from unrelated business income which are customarily provided by rural telephone and power companies. The bill will insure that the IRS will tax only those activities, for example, investment income, which are properly taxable and unrelated to co-op activities.

Mr. Speaker, I think it is time to put a halt to the IRS campaign against cooperatives.

I applaud IRS efforts to tighten the tax laws, but I am afraid their efforts in this area are totally misguided. The tax revenue from these rulings which the IRS expects to gain from cooperatives is negligible in the aggregate, but it translates into significant costs for the co-ops and frustrates their efforts to meet the needs of their customers.

I hope Congress will move swiftly on this legislation.●

INTRODUCTION OF INTELLIGENCE IDENTITIES PROTECTION ACT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. MAZZOLI. Mr. Speaker, yesterday I joined with the chairman and members of the Intelligence Committee to introduce legislation which is designed to meet head on a particularly troubling and destructive phenomenon—the deliberate disclosure of the names of undercover U.S. intelligence officials.

Such disclosures have been on the increase in recent years, and are coming at a time when an effective intelligence collection capability is perhaps more necessary to the well-being of our Nation than ever before in our history. Needless to say, blowing the covers of intelligence agents can only serve to destroy such a capability.

Not only are lives threatened, but legitimate intelligence collection activities are rendered useless, the careers of dedicated intelligence officers are disrupted, service morale is lowered, and the taxpayer's money is wasted.

Those engaged in publicly identifying undercover intelligence officers claim to be patriotic Americans and contend that their actions are based on the best motives. The sincerity of their motives may well be beyond question. However, the plain fact is, they are wrong. No useful or legitimate purpose whatsoever is served by exposing the identities of undercover intelligence officials engaged in legitimate and useful intelligence activities.

The legislation, the "Intelligence Identities Protection Act," has been carefully crafted to respond to the problem with which we are faced.

It prescribes criminal penalties for the unauthorized disclosure of information that identifies certain undercover U.S. intelligence personnel. If the alleged offender has had authorized access to classified information which identifies undercover intelligence personnel, the penalty would be 10 years imprisonment or a fine of $50,000, or both.

If the offender has had no such access, the penalty would be imprisonment for 1 year or a fine of $10,000, or both. In addition, for this latter category, the Government would have to prove a specific intent to impair or impede the foreign intelligence activities of the United States.

These provisions were not quickly or easily drafted. It is fully recognized that the act would operate to restrict speech and publication and thus will raise first amendment concerns. To that extent, it is unfortunate that we must act at all. But the problems are there and must be dealt with effectively—no matter how much controversy ensues.

To state that the proposed legislation touches on first amendment issues is not to say that such issues cannot be resolved in a manner consistent with our constitutional principles. I trust that by introduction of this bill we will engender a healthy public debate that will focus the attention of our people and the Congress on the disclosure problem and the appropriate remedy.●

IMPORTANT CAUCUS MEETING

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. MOTTL. Mr. Speaker, I urge my Democratic colleagues to attend an important Democratic caucus meeting at 10 a.m. next Tuesday, October 23, at which two significant matters will be before us.

One item of business will be a resolution to put the caucus on record as favoring enactment by Congress of legislation giving the President standby authority to impose wage and price controls. A second matter is election of a Member to fill a vacancy on the Committee on Ways and Means.

Neither of these items can be acted upon unless enough caucus members are present to establish a quorum.

I personally believe that the President should have authority to impose wage and price controls, because inflation is clearly getting out of hand. But regardless of our individual views, if the caucus is to be an effective tool for using our party's substantial House majority to influence national issues, we must take interest in its activities and meetings.

Again, I urge my Democratic friends to attend Tuesday's meeting.●

SARA HAMPTON—WOMAN OF ACHIEVEMENT, 1979–80

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. ANDERSON of California. Mr. Speaker, each year the San Pedro Business and Professional Women's Club recognizes outstanding contributions made in service to the local community by naming a "Woman of Achievement." It is a privilege to bring to the attention of my colleagues the news that Sara Hampton has been selected by her peers to receive this special award this year.

To her many friends in San Pedro and the entire South Bay area, Sara Hampton is known as a person always willing to lend a helping hand. The numerous positions she has held on citizen boards and committees is evidence of her never-ending generosity and concern for others. In the past, she has served as a member of Mayor Tom Bradley's advisory council for the Fort McArthur/cannery project, chairperson for the Wilmington Community Council Advisory Board, and president of the Harbor Area YWCA board of directors.

Her dedication toward positive community work continues as she now holds officer positions in the following organizations and committees: Harbor Area Planning Committee, San Pedro Business and Professional Women's Club, and the West Channel/Cabrillo Beach Recreation Complex Committee. In addition to these heavy responsibilities, she is currently a participating member of the American Red Cross board of directors, the United Way Advisory Council, the Salvation Army Advisory Board and Auxiliary, Los Angelenos, the Department of Motor Vehicle Panel, the L.A. Police Forum, the South Bay Women's Insurance Club, the San Pedro Historical Society, the Harbor Area Ethnic Coalition, the Friday Morning Club, and the San Pedro Coordinating Council.

Sara Hampton has won the respect and admiration of many, not only for her involvement in community affairs, but also for the accomplishments of her professional career as an insurance underwriter. Through her persistence and by her competence, she broke into a field where employment opportunities for professional women are not widespread. Her performance has truly been inspiring.

My wife, Lee, joins me in congratulating Sara Hampton for the recognition she is about to receive. We extend our heartfelt best wishes and appreciation for the contributions she has made to her profession and to the people and community of the South Bay. We also send to her and her brother, George, and sister, Lois, our sincere hopes for a bright and prosperous future.●

HARNEY PEAK WILDERNESS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. ABDNOR. Mr. Speaker, this morning I appeared before the Subcommittee on Public Lands in support of enactment of my bill, H.R. 5301, to designate the Harney Peak Wilderness.

It is my understanding the subcommittee intends to put together a number of the less controversial areas proposed for wilderness designation under the RARE II process and to act relatively quickly to pass the necessary legislation to approve these areas.

I believe the Harney Peak Wilderness is one such area. I hope it will be included in the legislation which is recommended for enactment.

Following is the text of my remarks to the subcommittee:

Mr. Chairman and Members of the Subcommittee, it is a pleasure for me to appear before you today in support of my bill, H.R. 5301, to designate the Harney Peak Wilderness on 10,700 beautiful acres in the Black Hills National Forest in my Congressional district.

In appearing before you, I am fully cognizant that the large majority of my constituency reacts negatively to the very concept of "Wilderness." They perceive the designation in terms of a lock-up of potentially needed resources. They are violently opposed to the continued expansion of the authority of the Federal Government, and they are particularly concerned when such expansion takes the form of increased ownership or control of a basic and precious resource; that is, our land.

On the other hand, my constituents know that I am anything other than a wild-eyed, environmentalist rabble-rouser. While I would acknowledge that we have abused our environment unduly in far too many instances, I truly believe that the worst examples and the large bulk of the cases of such abuses are associated with our urban areas—not rural areas, like South Dakota. As such, I sincerely resent the holier-than-thou attitude many of our urban cousins take in suggesting that they know better than local rural people what should be done with our nation's abundant Federal public lands.

Personally, I am a staunch supporter of multiple-use management of our public lands—not just in some cases or even in most cases, but in virtually every case for which there is not an obvious and compelling reason for a more limited use, such as is provided under the Wilderness designation. In terms of the best interests of my state and rural America in general, I strongly believe the balance of needs is tilted far more toward the developmental side of the scale than toward the preservationist side. Indeed, rural America has a vast abundance of undeveloped resource potential which can and must be realized if our nation is to maintain its standard of living, much less sustain a position of preeminence in the world economy.

Even so, I have absolutely no qualms about recommending wilderness designation to this particular tract of national forest land. I do not regard it as necessarily inconsistent to believe that rural development is receiving too little attention and rural preservation, relatively speaking, too much, and yet to believe that the Harney Peak area in particular should be preserved in its current state of natural beauty—forever. I honestly believe that the large majority of my constituents, who are opposed to wilderness in principle, would take that very position. In fact, I know of no one who has voiced the opinion that the Harney Peak area should not remain unspoiled by the works of man.

Very much to the contrary, there was a great deal of opposition expressed in regard to designation of the so-called Beaver Park area of the Black Hills, which was the initial recommendation of the Forest Service as a potential representation of the Black Hills Ponderosa Pine in the Wilderness System. Due to the degree of local opposition expressed, I suggested and the President agreed in his recommendations to Congress to substitute the Harney Peak area for Beaver Park.

There are a number of unique features which justify inclusion of the 10,700-acre Harney Peak area in the Wilderness System. The area boasts some of the highest elevations east of the Rocky Mountains, ranging from 4,050 to 7,242 feet above sea level. Rolling hills, two lovely mountain lakes, granite walls, and stands of Ponderosa Pine contribute to the splendor and provide habitat, as well as a breathtaking backdrop, for a variety of wildlife. Wildlife which populate the area and add to the wilderness experience of human visitors include Rocky Mountain goats, elk, deer, grouse, turkey, as well as other nongame birds and mammals. ffl

The Harney Peak Wilderness will comprise about one-third of the existing Norbeck Wildlife Preserve, which was created by Congress in 1920. As such, I requested the Department of Agriculture to draft the legislation, which I introduced as H.R. 5301, in such fashion as to address any potential conflicts between the wildlife preserve and wilderness designations. We are assured that the two need not be in conflict, that the wilderness designation will not disrupt management policies necessary for the Norbeck area as a whole, and, finally, that the original intent of Congress to recognize the Norbeck area as a geographically complete unit of nature will be preserved.

The "Norbeck core" area initially considered by the Forest Service under the RARE II process for inclusion in the Wilderness System comprised 9,400 acres. In making their final review of the area prior to furnishing the draft legislation, however, the Forest Service concluded that the 10,700-acre unit to be authorized by H.R. 5301 reflects the logical, natural boundaries, without major addition to the area initially considered.

The name, "Harney Peak Wilderness," has been suggested by the Department of Agriculture and describes the area geographically since its most distinctive feature is Harney Peak. Senator McGovern has suggested the nomenclature, "Black Elk Wilderness," however; and I have written a large number of my constituents on this issue. Until such time as I have a better idea of the will of my constituency, I would request that the Committee maintain the "Harney Peak" nomenclature. If the committee acts and we subsequently tend to favor the "Black Elk" designation, there should be no problem in having it adopted by the Senate.

Again, Mr. Chairman and Members of the Subcommittee, I urge enactment of H.R. 5301, to designate the Harney Peak Wilderness. The 10,700-acre area it would protect is certainly not in any immediate or foreseeable danger of desecration, but its merits for inclusion in the Wilderness System are obvious.

The Subcommittee and my constituency may be assured I will continue to work to achieve a greatly increased degree of development of the vast natural resources of South Dakota, but the conclusion is inescapable that the highest and best use of the Harney Peak Wildernes is now and will continue to be to preserve it in the most natural state possible. That is the aim of H.R. 5301. I am delighted to be associated with this important legislative effort, and I am anxious to see it concluded successfully. The Harney Peak Wilderness will be a credit to the Wilderness System, and it represents a fitting legacy for the future of the Black Hills ecosystem.●

TRIBUTE TO THE 200TH ANNIVERSARY OF THE DEATH OF POLISH PATRIOT GEN. CASIMIR PULASKI

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. DINGELL. Mr. Speaker, on the 200th anniversary of the death of Gen. Casimir Pulaski, I would like to call attention to the growing presence of the Polish spirit.

The courage of Pulaski is well known to all and requires no lengthy recital. His own words best exemplify his spirit—

I came here to sacrifice everything for the independence of America. I wish to live in a free country and I will fight for that country's freedom.

Pulaski was a man of Polish nobility, who gave up a comfortable life and came to the foreign shores of a newly emerging nation to fight for the common cause of liberty. His bravery and valor remain etched in America's early history. Needless to say, the name of Pulaski inspires pride in each and every person of Polish descent.

But, Pulaski does not stand alone in the annals of prominent Poles. Copernicus, Paderewski, Chopin, and Madame Curie are a distinguished few from a long list of famous compatriots. Poles have made an indelible mark in all fields of human endeavor: Business, politics, science, law, medicine, the arts. Moreover, this country has witnessed only recently the respect and love of the American people for yet another Polish visitor—one who came to our shores carrying the message of world peace and brotherhood.

I refer to none other than His Holiness, Pope John Paul II. Pope John Paul is the embodiment of the Polish spirit. His presence is living testimony to the intelligence, industry, charity, humility, and strength of the Polish people.

While the visit of the Pope buoys and rekindles our ethnic pride, it is a poignant reminder of the brotherhood of all mankind. Just as Pulaski gave of his life in battle for those universal principles of human rights, the Pope's appeal is to a universal understanding that we are our brother's keeper and that we must share those bounties that God has so richly bestowed.

The Polish people are proud of who and what they are. Their character and moral fiber have made them a great people. The sufferings of their fathers both here and abroad have been an unforgettable lesson that we must heed the call of those in need and bear responsibility for our fellow man.

We are indeed fortunate to live today in a nation that allows individual and collective expression of pride, self-accomplishment and self-determination. We are also fortunate to have reaped the inheritance of a land blessed with the fruits of plenty.

The Polish people have been responsible for weaving much of the fabric of freedom and progress in this country. They are a compassionate people whose work and labors continue in the greater good of all mankind.

It is my firm belief that the Polish people are the salt of this Earth. But, just as salt is composed of individual grains, our common bonds are no stronger than the virtue of each and every individual who is proud to call himself Polish.●

STARVATION IN CAMBODIA IS STILL AVOIDABLE BUT THE PRESENT EFFORT IS INADEQUATE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. SOLARZ. Mr. Speaker, Dr. Jean Mayer, the distinguished president of Tufts University, the Vice Chairman of the President's Commission on World Hunger, today issued a statement deploring the existing efforts in Cambodian relief as "wholly inadequate—financially, logistically, and diplomatically."

Dr. Mayer who is one of the world's most experienced specialists on famine, was formerly involved in the international relief efforts in Bangladesh and Biafra. He has long been an outspoken critic of the use of hunger as a weapon of war, and he severely criticized both parties in Cambodia for their use of this most awful weapon.

Mr. Speaker, I ask that this summary of Dr. Mayer's remarks today at the Federation of American Scientists Washington office be printed in today's RECORD, so that my colleagues might have the opportunity to review them when they consider what action we must take in the Congress on this crisis of hunger in Cambodia.

STATEMENT ON STARVATION IN CAMBODIA

(By Dr. Jean Mayer)

I call upon every American to personally support the efforts of UNICEF, Oxfam-America and the International Red Cross to feed the starving people of Cambodia. The situation is acute. In addition to the famine, there is a very immediate danger of widespread epidemics that might not be confined to Southeast Asia. UNICEF and the Red Cross have reached a tenuous understanding with the Heng Samrin Government in Phnom Penh that the food and medicine will not go to military units but will be targeted to civilians, in particular the most vulnerable and malnourished. As always in famines, that is the women and young children. Most of the children under five have already died. We may still be able to save some 600,000 between five and nine years old, if we act quickly, and on a massive scale. If we do not, the Khmer nation, the great majority of the people of Cambodia, will be eliminated by starvation.

We are flying in 50–60 tons a day. A ship with 1,500 tons has landed; 6,000 tons are on the way. But it is nowhere near enough.

Initially we need to send in the order of 1,000 tons of food a day. To adequately feed these people we should eventually send about 2,500 tons a day, but at this point we do not have the capacity to distribute this much.

The only way to get adequate food to the area quickly is by ship. We should immediately send to Cambodia grain ships now on the high seas headed for areas that have grain reserves and can wait a few weeks for another shipment, as was done once before in the famine in Bangladesh.

Compared with the Sahelian desert, where we had a very successful relief operation four years ago, it is easy to distribute food in Cambodia. There are roads, whatever their condition. But in addition to more food, there must be the right equipment. Unloading at Phnom Penh is done by hand. We need ships with unloading equipment. We need small boats to take the food up rivers and trucks with the right spare parts so they can be repaired. Cargo planes are still essential, and at some point helicopters will be useful, although in areas where fighting is going on that may be counterproductive at present.

At this point UNICEF, which is in overall charge of relief operations, is getting about 5 percent of the necessary support. For example, our government committed $2 million and $5 million in commodities. We need twenty times that much. Approximately half of that will have to come from the United States.

The President has committed us up to the level of his authority. There is a Congressional ban on direct aid to Cambodia. In addition, there is no money left in Title II, the relief budget of PL 480. But there is plenty left in Title I, allocated to sponsored programs. It is up to Congress to lift the ban and to pass a supplemental appropriation, or to indicate by vote that the necessary funds can be transferred from Title I to Title II. I call upon our representatives and senators to act immediately, in the name of humanity.

The whole responsibility does not rest with the United States. Both sides in the Cambodian conflict have been contemptible in their utter neglect for human life. The international community should assume responsibility in the face of this outrage. If our relations with the Soviet Union and the People's Republic of China mean anything, we can act together in this crisis. The United States should take the initiative in calling an emergency meeting with Russia and China, the Secretary-General of the United Nations and UNICEF, to see to it that enough food and medical supplies get into Cambodia and to the refugees.

The situation is complicated by two facts. The Vietnamese themselves are short of food by as much as 2 million tons. Sending the food by ship rather than overland we can make certain it reaches the refugees. The Thais are producers of rice. We must insure that the relief operations do not make their situation worse. We can do that partly by

buying rice from the Thais for the refugee camps. But if human life means anything in the international community, we must act.

For some years I have been urging an international convention against the use of hunger as a tool of war and for the right of international relief organizations to feed and care for civilian refugees without asking permission of the combatants. At best what we have in Cambodia, after months of horror, is a toleration that each side will not interfere with the other's food shipments.

Situations like that in Cambodia can no longer be tolerated. We have the knowledge to prevent famines, we have the technological means to do so. Man-made famines should never again be permitted to happen. I call upon the nations of the world to take action.●

EDUCATIONAL ASSISTANCE

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. LELAND. Mr. Speaker, I would like to include in the RECORD an article recently published in the October, 1979 edition of Glamour magazine. This article contains valuable sources for information on financial assistance for college or graduate school. I commend Glamour magazine on providing this information to its readers.

Because of our tight money situation and the cutback in available State and Federal educational assistance programs, these resources are invaluable. I hope that my colleagues will distribute this information to their interested constituents.

WHERE TO LOOK FOR EDUCATIONAL ASSISTANCE, ON CAMPUS, ON THE JOB

Whether you need money for college, graduate school, to write a book or produce a film, there are thousands of sources of funding that you may not be aware of. Following are names of organizations and books to turn to.

The Foundation Center publishes Foundation Grants to Individuals, which you can find in your public library or purchase by sending a check or money order for $15 to: The Foundation Center, 888 Seventh Ave., New York N.Y. 10019. Write to them also for a list of the libraries they maintain in over seventy cities which contain useful publications.

Your public or university library is a great source of information. Look in the card catalog under "Grants," "Grantsmanship," "Financial Aid," "Scholarships," "Fundraising." Ask the reference librarian for guidance. Besides the volume mentioned above, look for *Grants and Aid to Individuals in the Arts*, edited by Daniel Millsaps (Washington International Arts Letter Editors, $13.95, paper) and the *Grants Register*, edited by Roland Turner (St. Martin's Press, $26.50). The latter provides information on scholarships, research grants, fellowships, travel grants, competitions and prizes.

The Business and Professional Women's Foundation publishes a helpful booklet, "Financial Aid: Where To Get It, How To Use It." Write to them, enclosing a check or money order for $1, at 2012 Massachusetts Ave. NW., Washington, D.C. 20036. Write also for information on three scholarship programs they administer. Career Advancement Scholarships are awarded to women at least twenty-five years old whose studies have been interrupted and who plan to return to school part-time. Kelly Services Second Career Scholarships support study in business fields for women at least thirty years old who have become displaced homemakers through divorce or the death of their husband. Clairol Loving Care Scholarships provide funds for full-time study in many areas for women over thirty. For all, you must be a U.S. citizen.

For sources of financial aid for graduate and post-graduate science education, consult "A Select List of Major Fellowship Opportunities for U.S. Citizens." Write to: Publications Office, National Science Foundation, Washington, D.C. 20550.

For information on scholarships based on financial need, write: A Student Consumer's Guide, Box 84, Washington, D.C. 20044.●

NOBEL PEACE PRIZE CARRIES AN IMPORTANT MESSAGE

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. EDGAR. Mr. Speaker, I want to take this opportunity to call to the attention of my colleagues the following article on the work of Mother Teresa, winner of the Nobel Prize for peace.

The Order of the Missionaries of Charity, founded by Mother Teresa in 1950, symbolizes better than anything I know the concept of personal sacrifice for the greater good. The Nobel Committee has performed a service by focusing our attention on this concept in a time when individual preoccupation and greed seem to be on the rise.

All of us have an obligation to ourselves, but we all have social obligations as well. Charity may begin at home, but it never should end there.

Mother Teresa is a true inspiration to all of us, but I remind everyone that respect for her work will mean nothing unless all of us identify ways in which we can further her mission of peace and love.

The article follows:

[From the New York Times, Oct. 18, 1979]

STUBBORN FIGHTER FOR THE POOREST OF THE POOR: MOTHER TERESA

(By Judith Cummings)

Ambulance drivers of Calcutta once risked beatings by angry crowds when occasionally they were caught dumping a dying man or woman back on the streets, instead of confronting the futility of overcrowded hospitals. Into this desperation and hopelessness came an Albanian nun, Mother Teresa, to found a mission that gave to thousands something their lives could never promise before, a dignified place to die.

A stubborn fighter who wears the sari of her adopted India, Mother Teresa discovered her calling in helping "the poorest of the poor" and threw herself into the task. She founded a new Roman Catholic order, the Missionaries of Charity.

The outgrowth has been a worldwide network with 158 branches, spread from Papua, New Guinea to the South Bronx. Its mercy missions include medical centers that care for 53,000 lepers in Africa and Asia, schools for destitute children, food centers to distribute rice and powdered milk to families that lack the barest means of survival.

"GOD'S WORK, NOT MINE"

While regarded almost as a saint in India, where her admirers stretch across all religious, caste and ethnic barriers, for years she was little known in the West. But when Pope Paul VI, more than a decade ago, wanted to establish a home for the poor of Rome, the 20,000 nuns there were passed over as he sent a message to the subcontinent for Mother Teresa to take up the challenge. Her efforts won her the first Pope John XXIII Award, and her characteristic reply to such recognition and praise has been that it is "God's work, not mine."

The 1,800 sisters of the order live under a demanding code that requires them to not merely accept their service to the poor but to welcome it.

"The great thing about the poor," Mother Teresa has said, "is that they are not discontented. They don't hate us despite their immense suffering. It is a mystery we cannot understand."

And in the face of India's struggles to deal with a population of 650 million, she has maintained her support of Roman Catholic prohibitions on abortion and birth control.

The people "can have babies whenever they want," she says. "We have helped 30,000 babies in the past three years. We have destroyed nothing."

Agnes Gonxha Bojaxhiu, the daughter of an Albanian grocer and his wife, was born on Aug. 27, 1910, in Skopje, then in the Ottoman Empire and now in Yugoslavia.

By the time she was 12, a pupil in a non-Catholic school but inspired by the guidance of the village priests, she knew she would become a nun. Missionaries from her country were joining in the work of the Sisters of Loretto, an Irish order in India, and at the age of 17 she set sail. She took her first vows May 24, 1928.

The school for the daughters of prosperous families where she taught for 20 years was a sheltered oasis in the squalor of Calcutta, and at the age of 36, while riding a night train to Darjeeling, she received what she recognized as her call. "The message was clear," she once recalled. "I was to leave the convent and help the poor, while living among them."

ORDER BEGAN IN 1950

Her initial request for ex-cloisteration was turned down, but she waited a year and tried again, this time gaining temporary approval from Rome to take a tiny room with a Christian family. Embarking on the teaching of slum children wherever crude shelter was available, she was told by her superiors that her challenge was not only to give a needed service but also to prove that she could attract others to toil in her wake.

The Order of the Missionaries of Charity received canonical sanction Oct. 7, 1950, and Mother Teresa took Indian citizenship.

"I have been told I spoil the poor by my work," the gray-eyed nun has said. "Well, at least one congregation is spoiling the poor, because everyone else is spoiling the rich."●

BUFFALO SCHWABEN VEREIN CELEBRATES 100 YEARS OF SERVICE TO THE WESTERN NEW YORK GERMAN-AMERICAN COMMUNITY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. KEMP. Mr. Speaker, on October 21, 1979, the Buffalo Schwaben Verein, under the capable leadership of its President, Karl Schwartz, celebrates 100 years of dedicated service to the western New York German-American community.

Founded on August 2, 1879 by German immigrants to help other immigrants feel at home in their new country, the group originally named itself the Surtemberger Schwaben Unterstuetzungs Verein. A cultural group as well as a center for assistance for newcomers, the Schwaben Verein nurtured the lively and colorful heritage of these new citizens who came primarily from the Schwabish area of Germany.

One of the most important functions of the Schwaben Verein during the 100 years of its existence has been its program to help its members in times of sickness, unemployment and death. Since its founding, when insurances and government supports in time of need did not exist, the society has given $59,769 in sick benefits to its members, $76,580 to families of deceased members, over $10,000 to western New York charities, and sizeable donations to an orphanage and home for children in Wuertemberg, Germany.

It is a privilege for me to honor the members of the Buffalo Schwaben Verein and its hardworking officers—Karl Schwartz, Ludwig Weber, Robert Wiesenmayer, Ludwig Muerder, and Gottlieb Sterr—as they celebrate a centennial of service to the German-American community of western New York.●

LBJ'S COMMISSIONER OF EDUCATION OPPOSES FEDERAL TESTING LEGISLATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. GOODLING. Mr. Speaker, as you are aware, the Elementary, Secondary, and Vocational Education Subcommittee has scheduled markup for October 24, 1979, on the proposed Federal testing legislation. Numerous persons have contacted me regarding the enormous consequences at stake in this legislation. On October 11, 1979, during one of our hearings, the subcommittee had the good fortune of receiving testimony from Harold Howe, the former Commissioner of Education during the Johnson administration. I am inserting former Commissioner Howe's testimony for the Members' review since his remarks represent a responsible and sober assessment of this legislation. In essence, Mr. Howe noted that:

* * * Two bills before the committee constitute overkill in reaching for solutions to whatever problems exist in the testing field. In my view, the enactment of such legislation is unwarranted and unwise. Although I believe that you have done education a service to open up this subject, I strongly recommend that you not rush into detailed national legislation concerning it.

* * * I am not saying that there are no problems and no abuses in the field of testing, but I do assert that they are not sufficiently serious to warrant legislation which fundamentally alters the nature of institutional freedom for schools and colleges and moves federal authority further toward domination of the educational scene * * *.●

JUVENILE JUSTICE REFORM

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. RODINO. Mr. Speaker, I had the privilege of participating in the second annual conference at the Peter W. Rodino Institute of Criminal Justice Conference of Jersey City State College on October 12th. The topic for this year's conference was "juvenile justice reform, and among those distinguished participants were Attorney General Benjamin Civiletti, New Jersey, Attorney General John Degnan, New Jersey Public Advocate Stanley Van Ness, Prof. Andrew von Hirsch of Rutgers University, School of Criminal Justice, Jerome Miller of the National Center on Institutions and Alternatives, Prof. Alan Dershowitz of Harvard Law School, Allen Breed, Director of the National Institute of Corrections, the Honorable John P. Collins of the Superior Court of Pima County, Tucson, Ariz., the Honorable Bertram Polow of the Appellate Division of Superior Court, Sommerville, N.J., the Honorable Orman W. Ketcham of the National Center for State Courts, Williamsburg, Va.

Mr. Speaker, I believe that Mr. Civiletti's remarks to the conference reflect careful thought and deep insight into the problems confronting our system of juvenile justice, and I would urge my colleagues to read them.

Mr. Speaker, I insert Attorney General Civiletti's remarks at this point in the RECORD as follows:

ADDRESS OF THE HONORABLE BENJAMIN R. CIVILETTI

I am pleased to have the opportunity to address this conference, because the very distinguished people here today are considering a grave subject. It is a self-evident truth that a nation which fails its children cannot long survive. My own association with the Department of Justice in the last several years, commencing with my position as head of the Criminal Division, has convinced me of how critical it is that conferences such as this one be held, that they involve those people who are responsible for the making of the laws and their execution on both a national and local level.

In surveying the current state of affairs, several facts present themselves which, in this International Year of the Child, are sobering indeed.

In 1974, Congress passed the Juvenile Justice and Delinquency Prevention Act, to which I shall return later in my remarks. Section 101(a) of that legislation summarizes the initial findings which motivated the enactment of the Bill and which are as valid, if not more so, today. It reads, in part, as follows:

1. Juveniles account for almost half the arrests for serious crimes throughout the United States today;

2. Understaffed, overcrowded juvenile courts, probation services, and correctional facilities are not able to provide individualized justice or effective help;

3. Present juvenile courts, foster and protective care programs, and shelter facilities are inadequate to meet the needs of the countless, abandoned and dependent children, who, because of this failure to provide effective services, may become delinquents.

The three points covered here, namely the high incidence of juvenile crime, the problems surrounding detention, and the failure of the juvenile justice system itself, are still the major moral and legal issues facing us today. Let me elaborate.

First, we have not only the figure of 50 percent given in the 1974 Act, but a whole host of alarming statistics to support the impression which most of us get that our young people are responsible for a disproportionately high percentage of the crimes which are committed in the United States. To be sure, I think that the picture may be exaggerated to some extent. For example, the 93 percent rise in arrests of juveniles for violent crimes exhibited in the decade from 1967 to 1976 has been slowed considerably, and in the case of some crimes, may actually have been reversed since then. Recent figures show that violent crime arrests account for roughly only 10 percent of all juvenile arrests. Nevertheless, it would be both wrong and foolhardy to take much comfort from these slowing trends.

I would therefore strenuously maintain that, irrespective of what figures you choose to cite, there is a serious and continuing problem to be confronted by prosecutors, judges, and correctional officers with respect to the high incidence of crime committed by adolescents.

The second observation in the 1974 Act concerned the abysmal conditions under which juvenile offenders are incarcerated. Behind this general observation lurk a number of specific ills which cry out for attention.

I need not rehearse here the many difficulties besetting correctional institutions throughout the United States. With respect to juveniles, the difficulties are the most troublesome.

Status offenders are a major part of these difficulties. It should be pointed out that, according to the Children's Defense Fund, 18 percent of the juveniles currently being held in jails in this country have not been accused or convicted of a crime for which an adult would be held criminally accountable. Four percent have not even committed any offense whatsoever.

Although a study done by LEAA has shown that the population of public juvenile facilities has declined somewhat in recent years, it is also estimated that as many as 500,000 juveniles may be admitted to adult facilities each year. There they may be molested, assaulted, or tragically led to take their own lives.

Principally, it is highly probable that any criminal inclinations they have may be heightened and solidified. Add to this the fact that blacks and Hispanics are represented among juvenile criminals far in excess of general population percentages, and it is evident that the systems for detaining problem youths, far from serving the interests of the nation, are likely to undercut them.

The third observation in the 1974 Act was directed at the juvenile justice system itself, at the procedures followed in family courts and other judicial bodies which hear cases involving minors. In the past, it was widely assumed that juvenile delinquency was a social disorder which required appropriate treatment rather than punishment.

The practice of keeping juvenile cases away from regular prosecutorial channels, and entrusting them instead to social workers in a nonadversarial process was largely based on this assessment and outlook. As we now know, however, this system, despite its good intentions, did not work very well. Curiously, it came under attack increasingly from all sides and persuasions. The system was considered overly paternalistic at the expense of some of the basic rights accorded those accused under our legal system. The juvenile justice system seemed to have become another instance of an institution designed to protect a certain class of people which unexpectedly worked against their interest.

As a result, changes began to appear. In the last few years several states have "recriminalized" juvenile delinquency, redefining it as a crime rather than a social disorder. Prosecutors have been given more authority to deal with juvenile cases, and the adult courts are playing a larger role as well. The problem is that the system still lacks uniformity of purpose and outlook and is therefore as unpredictable, if not more so, than it was several years ago. Different states may have procedures which bear no resemblance to each other. Needless to say, it is far from clear that this situation will provide a greater deterrent effect. At any rate, the present lack of predictability and uniformity undermines our ability to inculcate in our youth a respect for justice and the legal system.

These are formidable problems, and perhaps the point which emerges most clearly is that they are not susceptible to facile solutions. We will have to look afresh at our outlook on the legal system and our expectations from our system of criminal justice. We will need to balance the very real needs and rights of society to security, against the interests of the juvenile offenders, which are, in the final analysis, the interest of us all. We will need to come up with programs which can be applied uniformly and consistently, without arbitrariness or caprice. None of this will be easy to accomplish, but it is clear that all attempts at piecemeal or reflex solutions have failed.

Good starts have already been made on many levels. Many local task forces have been formed around the country to consider courses of action in the communities. I am also pleased that private foundations have taken an interest in this field and have provided sorely needed supplements to public funding of projects in delinquency prevention. Most to the point is the 1974 Juvenile Justice and Delinquency Prevention Act, to which I have been referring. That Act created within the LEAA the Office of Juvenile Justice and Delinquency Prevention (OJJDP) which has for five years assisted state and local governments in this area, and done the kind of first class research which is essential for an understanding of the hurdles confronting us. The three year authorization of OJJDP was renewed by amendment of the Act in 1977, and the further renewal will be required next year. In fact, the Department of Justice is proposing a set of amendments to the Act for passage in 1980, which will not only extend the authorization for OJJDP until 1984, but will also facilitate the tackling of the three knotty problems which I have noted.

I would like to share with you my reflections on what should and will be done to improve the current state of affairs, and I will address the problems in reverse order. First, the difficulties resident in the juvenile justice system itself: The OJJDP is committed to develop training programs for judicial and juvenile facilities personnel in order to ensure that the judicial process from start to finish considers carefully the interests of all segments of society and does not lead to the unintended consequences which have plagued the system up until now. Recognizing the validity of many of the criticisms of the juvenile courts, the Justice Department will be doing its part to facilitate dialogue on what our objectives should be, and the development of a system which will accomplish those objectives.

Let me state unequivocally that this is not and should not be a partisan or ideological issue. As a nation, we must come to grips with a process which has not only failed to protect us from disruptive youths, but has hampered us from developing the energies and talents of even the noncriminal juveniles. OJJDP is committed to cooperating with people like you across the country to correct this malady. Better state representation on the National Advisory Committee for Juvenile Justice and Delinquency Prevention, provided by the proposed amendments for 1980, will further this cooperative spirit and will hopefully lead to greater uniformity of philosophy and practice in different regions of the country.

With respect to correctional facilities, there is much to be addressed. OJJDP will do a considerable amount of research to determine whether, and to what extent, racial discrimination operates indirectly in the criminal justice system, so as to account in part for the disproportionate appearance of minority youths in houses of detention. Most important, the Department of Justice will reaffirm its goal of deinstitutionalizing juvenile offenders, particularly status offenders, to the fullest possible degree. Despite some unfortunate local moves to allow the detention of some juveniles in adult prisons, a major objective will be the removal of all juveniles from those institutions, and the diversion of criminal minors, whenever possible, to community-based residences near their homes. An LEAA study has already shown an increase in the number of group homes, shelters, and other noninstitutional settings. These "open" facilities now represent some 40 percent of all juvenile facilities, and that is a very encouraging sign.

A very important provision of the 1980 amendments would clarify Section 223(a)(12)(A), so as to clearly prohibit the placement of juveniles who have not been charged with or adjudicated for offenses that would be criminal if committed by an adult in facilities that are secure or that are used for the lawful custody of adult offenders. This change in the Act should permit states to continue their progress toward full deinstitutionalization of noncriminal juveniles. In those cases where the practices of states and localities are in violation of the law, the Department will take action to enforce its provisions.

Finally, the Department has been actively supporting the passage of S. 10 and H.R. 10 in the United States Congress, which would give standing to the Attorney General to sue state institutions which are not providing inmates with treatment rehabilitation, and sanitary conditions which are their constitutional rights. If enacted, this Bill would do a great deal for the improvement of the lot of juveniles confined to state facilities.

I have deliberately saved for last the most difficult problem of all, which is the unacceptably high incidents of criminal acts by juveniles in the first place. In a sense, all the other problems I have discussed are derivative of this one; yet it is so vast and elusive as to seem nearly insoluable.

Nevertheless, there is much that we can do and much that the Department of Justice can provide leadership for.

The reauthorization of OJJDP proposed in the 1980 amendments will allow that Agency to continue and to expand its research into types of juvenile crimes, including violent assaults, sexual crimes, and drug abuse. Such studies have proved valuable in determining causal links between behavior and other factors, but important as they are, they are unlikely to lead to any solutions by themselves. Nor are attempts to attack isolated parts of the problem likely to be fruitful. We will need a concerted and holistic approach which respects the extremely complex nature of the present crisis.

It will be necessary to reshape even the community-based facilities being advocated for juvenile offenders so as to provide effective education and treatment and thereby lessen the likelihood that correctional facilities will breed repeat offenders. OJJDP stands ready to work with all parties involved to accomplish this goal. Obviously, the control of narcotics trafficking is another crucial element in the attempt to address juvenile crime, and both the Drug Enforcement Administration and the Criminal Division will be actively pursuing that goal.

Above all, however, the assertion of the inviolability of every child's right to quality education will do more than anything else to guarantee that youths will perceive their own stake in society, in its discipline, in its orderliness. Children who need an equal start in life, and who are at the age when perceptions of society and government are formed for a lifetime must be given that fair opportunity.

These are just some of the ways in which we can intelligently and creatively come to grips with the problems of juvenile crime. I am proud that the Justice Department has been taking a leadership role in this field. Twenty-five hundred years ago, in another democracy, Socrates paid his accuser this great compliment: "Of all our political men, he is the only one who seems to me to begin in the right way, with the cultivation of virtue in youth; he is a good husbandsman, and takes care of the shoots first . . . that is the first step; he will afterwards attend to the elder branches; and if he goes on as he has begun, he will be a very great public benefactor."

I am pleased to affirm the commitment of the Justice Department to that concept, to ask you to join in that commitment, and to invite you to call upon our assistance in your efforts.

Thank you.●

COMPARATIVE RISK FOR A MORE BALANCED GOVERNMENT APPROACH TO PROBLEM SOLVING

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. RITTER. Mr. Speaker, our concerns about protecting the environment have had laudable success, but, I fear,

only when narrowly considered. Now we have the advantage of experience and are taking broader looks at the consequences of our corrective environmental actions. Unfortunately, in some cases, the overall results of well-intentioned actions sometimes have had a net harm to the public. Some corrective actions have decreased economic competitiveness, thereby resulting in loss of U.S. jobs in the face of international competition.

These important concerns were the subject of my recent talk on the occasion of the 1,800th meeting of the Philosophical Society of Washington, a 108-year-old scientific society in Washington. I wish to share the gist of my talk with my colleagues.

Let me be more specific with an example from my home district. The Environmental Protection Agency (EPA) mandated a limiting of the overall gaseous emissions from the Bethlehem Steel Corp. plant in Bethlehem, Pa. The limit was administered by the State of Pennsylvania. To help meet certain limits, a contrivance called the "Blue Goose" was built on an oversized railroad car to receive coke from coke ovens and, in the process, to collect and clean the puff of emitted gases.

All of this appears reasonable and beneficial. But when we consider the different costs involved in avoiding these puffs of gas, it turns out that each "Blue Goose" costs $5 to $6 million. Each consumes 1,200 gallons of diesel oil per day for operation. More than a dozen of these will be required. Such huge quantities of heavy construction and of fuels do not simply materialize. On the contrary, the many different adverse effects on public health and safety from manufacturing and fueling this flock of "Blue Geese" might well turn out to be greater than from the puffs of gas they eliminated.

In cases where the cure is more harmful than the ailment, we should reconsider the cure. This is particularly true when we add the economic cost of the cure. "Blue Geese," for example, are costly. These costs can be recovered only in the cost of the steel produced. Not only does this add to inflation by increasing the cost of steel products, but it puts the already-beleaguered U.S. steel producers at a greater price disadvantage compared to imported steel. Loss of production translates into a loss of U.S. jobs.

This is not an isolated example. There are others in my district, just as there are doubtless others in the districts of my colleagues. An example for many of us is the impact of emission controls on motor vehicles, first for automobiles and soon for trucks. A National Academy of Sciences report for the Congress in 1973 estimated the average cost of each catalytic converter to be $233 and to decrease automobile mileage by 25 percent. Some recent scientific studies cast doubt on whether certain emission controls have significantly reduced harm to public health or property. However, there is no doubt about the harm resulting from 25 percent reduced mileage, like the risks from increased petroleum transport, including supertankers, the worsened U.S. balance of trade, and the increased need for petroleum from precarious sources like the Middle East. All of these should enter into our consideration of the net risks from emission controls.

We now have had a good deal of experience with environmental cures. The Nation today has a wealth of trained environmentalists and risk analyzers. What we need to do is to use them to help us make sensible public analyses and comparative risks. These overall comparisons of risks are badly needed and have been neglected for too long. To help correct this, I have introduced a bill, H.R. 4939, to encourage better use of comparative risks by Government. The bill requires that risks from proposed "cures" be compared with the original risks they were meant to address. It also requires comparison between the risks within various groups of alternatives, such as between the various choices of foods, of transportation, and of energy.

In our competitive technological age, the United States must make much better use of comparative risks. It must look beyond just the risks from some present problem without first comparing them with the risks that would flow from the proposed solution itself, and from alternative routes. The Government should make these risk comparisons as a matter of policy as it considers proposed legislative and regulatory actions. I urge the interest of my colleagues in this effort, which will go a long way toward determining what kind of society we will live in in the 1980's and beyond.●

DUST IS UNCONTROLLABLE AND NOT HARMFUL

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. GRASSLEY. Mr. Speaker, as you know, I am deeply concerned that the policymakers and regulation writers at EPA have decided that we in Iowa and those in other agricultural States must now spend money to somehow clean up the dirt on our farms. "Dust is dust" they say, and dust counts as a pollutant whatever the source. They admit that we have no health problem but they are only trying to safeguard our general welfare. This is so, even if we must clean up the dirt on our farms.

I think it is time to put some public focus on this issue—in the House Agriculture Committee, in the Interstate and Foreign Commerce Committee, with my colleagues, with the farming community and with the mayors and county officials of the agricultural areas of this country.

That is why yesterday I introduced a bill which would direct EPA to recognize that dust in Iowa and other agricultural States is a fact of life, that it is not harmful and that it is basically uncontrollable. The rationale behind this legislation is eloquently expressed in an article written by Mr. William Burger, chairman of the Iowa Development Commission. I include a copy of this article in the RECORD at this point:

[From the Des Moines Register, Aug. 3, 1979]

DUST IN IOWA IS A FACT OF LIFE

(By William Burger)

The Environmental Protection Agency's tentative rejection of two key provisions in Iowa's clean-air plan is a classic example of bureaucratic short-sightedness. While clinging to misconceptions about Iowa's rural-oriented economy and the requirement for mandatory pollution control equipment, EPA has lost hold of an indispensable tool—common sense.

Although it conditionally approved Iowa's clean-air plan, EPA rejected the plan's fugitive-dust provision and its lack of legislation requiring "reasonably available control technology" in areas where pollutants must be reduced. The move was ill-conceived.

Since the Clean Air Act amendments of 1977 were passed, requiring states to submit revised implementation plans, EPA has twice gone on record stating that rural fugitive dust requires "special consideration" when incorporated into clean-air plans. EPA has not decided—contrary to some reports—that dust is dust and has to be counted, whatever the source. If anything, EPA has decided not to decide on a singular fugitive-dust policy. But even that remains unclear.

Last April, officials of Iowa's Air Quality Commission and representatives from the Kansas City and Washington, D.C., EPA offices met to discuss the dust issue. EPA officials from both offices stated that their fugitive-dust policy was designed to give states as much latitude as possible in dealing with non-traditional sources of dust. They went a step further, telling Iowa officials that the policy was purposely left vague to allow for case-by-case review.

Iowa's Air Quality Commission proceeded accordingly. Recognizing Iowa's unique character as a farm state, the commission developed an implementation plan that would achieve the primary health standard and realistically recognize the role and character of fugitive dust. The proposed plan has obtained non-partisan endorsement from Iowa's congressional delegation.

Yet, contrary to all previous written and stated policy and common sense, EPA rejected the two key provisions.

Common sense has a large hand in Iowa's fugitive-dust policy for several reasons, the most prominent being that Iowa's industry is already meeting the standards and cleaning up its share of pollutants. Iowa's Department of Environmental Quality's annual report states that, "90 percent of all major industries were in compliance with emission standards, and another 5 percent were on compliance schedules."

If the state's industry is already cleaning up its share, who's going to clean up the fugitive dust EPA wants washed from Iowa's air? The taxpayer will, at a cost of billions.

If EPA's rejection of the fugitive-dust provision goes unchallenged, Iowa cities and counties will be forced to spend enormous sums on "offset" projects designed to reduce sources of dust, such as paving dirt and gravel roads. EPA estimates that 3.95 pounds

of dust are generated for each vehicle-mile traveled on an unpaved road. More than 78,000 miles of Iowa's 112,619 miles of highways are unpaved. Putting concrete on these roadways (assuming one mile of concrete costs about $165,000) would cost Iowa taxpayers more than $13 billion. Asphalt or blacktop wouldn't be much cheaper.

Add to these costs the financial burden of requiring industry to install additional control technology, and you have a severely crippled state economy.

A hint of audacity also underscores EPA's demand for specific legislation to be passed by the Iowa Legislature. Debate should be left up to the elected representatives of Iowa.

The heart of the issue needs to be addressed: Iowa is an agricultural state, with 94 percent of its land devoted to agricultural use. Natural "background" pollutants account for roughly one-third of Iowa's air quality, while cities and industries add approximately another third. The rest is rural fugitive dust, which the wind carriers into urban townships.

Dust in Iowa is a fact of life. It is uncontrollable—a lid can't be put on it, filters can't catch it, and pavement can't be poured over all of it. Farmers, as rescourceful as they are, can't grow corn from concrete.

Iowans and DEQ have developed a clean-air plan that is sound and healthy for Iowa. The state should defend its position vigorously and resist any EPA changes, challenging the federal agency in court, if necessary. Then, at least the issue will be settled in an arena of justice, fairness and, above all, common sense.

I am hopeful that this legislation will help begin to focus debate on this issue right now, before agricultural States find themselves greatly disadvantaged by this unrealistic and wrong headed policy. The EPA already has the authority to change its policy in this area. I suggest they do it before they have to defend it before the representatives of the farm States of the country.●

SISTER CAROLYN LOPEZ OF DENVER; A DISSENTER TO POPE JOHN PAUL II

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mrs. SCHROEDER. Mr. Speaker, the recent visit of Pope John Paul II to the United States was a grand tribute to a fundamental right of all Americans: the freedom of religion. During his visit, the Pope issued declarations of love, equality, and compassion. However, there were also reactionary condemnations of birth control, divorce, abortion, homosexuality, and the exclusion of women from full participation in the Catholic ministry. Just as we honor one's right to worship as he or she chooses, so we must honor the right of those to express dissenting views within their own religion. There are many Catholic women who do not agree with all of the Pope's pronouncements and who have not had an opportunity to express their views.

It is to all Christians that we address a fresh and insistent call to action. It is not enough to recall principles, state intentions, point to crime, injustices, and other prophetic denunciations. These words will lack real weight unless they are accompanied for each individual by the lively awareness of personal responsibility and by effective action.—A letter addressed to Cardinal Maurice Roy, May 1971, Pope Paul VI.

I would like to submit the following letter sent by Sister Carolyn Lopez of Denver, one of the dissenters, to Pope John Paul II explaining her position:

OCTOBER 11, 1979.

DEAR POPE JOHN PAUL II: It is only days since your visit to our United States of America. You came with words of challenge to us. You addressed the ills of our society: discrimination, materialism, the arms race, and irresponsibility to the destitute. You came among us and allowed us to touch you and pray with you. Thank you.

You addressed so well the realities of the world community, but where is the challenge of human rights of the people of God in the Roman Catholic Church? Our Church has emerged from a patriarchy era which no longer exists today as before. Are we to remain a "sexist" institute and call it "ordained?" Where are the faithful to go with talents in management, education, and preaching? No longer can we continue to deny participation to those whose lives are directly affected by major decisions made by Church leaders.

I write to say clearly where I stand and I do not stand alone. I stand in solidarity with all women out of love and concern for the Church. I stand to call the church to repentance for the injustice of sexism and belief that she can change. I stand against oppression in a society where women and children suffer and are denied their rights. I stand against oppression where sexism, racism and classism are interrelated and morally wrong. I stand that the Church may be challenged to address sexist structures and the reinforcement of those structures. I stand to challenge the Church to question the exclusion of women from sacramental ministry, thus limiting our potential for fullness of service. I stand against clericalism that stifles the richness of all God's people to answer the call to minister in the fullness of the Spirit.

Women have nurtured much of the life of the Church over the centuries and so I ask that you consider carefully the potential of women. As Life came to the world through a Woman, so today I believe, in the Spirit of Mary, life can continue to be manifested. The time is ending that women will continue to endure the psychological experience of second-class citizens before God, and be spectators in the balcony of the Church.

"* * * if one member suffers, all the members suffer with it." (I Cor. 12:16) The time has come for the suffering to stop and the healing to begin. I ask that you continue to be a leader for the world and also to our Church. May you lead all your brother priests to embrace all God's people with the conviction that "all are created equal" before the Creator.

Todo es gracias!

Sister CAROLYN LOPEZ, O.L.V.M.●

THE MISSING 30,000

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. HALL. Mr. Speaker, today the Subcommittee on International Organizations, on which I am honored to serve, will hold the last in a series of hearings on the phenomenon of disappearances.

The increasing "disappearances" of real or imagined opponents of repressive regimes is a new and alarming trend in human rights violations. In an article in today's Washington Post, our distinguished subcommittee chairman, DON BONKER, describes this latest challenge to international respect for human rights.

I commend Chairman BONKER's excellent article to the attention of my colleagues:

[From the Washington Post, Oct. 18, 1979]

THE MISSING 30,000

(By DON BONKER)

It is 7 a.m. Five men in civilian clothes burst into a home and seize a 23-year-old man. The chief of the gang tells the young man's mother that her son has been named a subversive by a prisoner under custody and is being taken in for questioning. She is told that she can inquire about her son the following day. But the next day—and a thousand days later—the police deny knowing anything about him.

In another incident, a 31-year-old woman who lives through the terror of imprisonment and returned to tell about it reports: "I was told by my captors I was not detained, nor disappeared. I was just absorbed, kidnapped, sucked up."

Scenes from "Holocaust"? No, these incidents are examples of a new phenomenon in the violation of human rights called the "disappeared person." This brutal and cynical practice is occurring almost daily in a significant number of countries. It is further evidence that the 20th century has not spent itself of horrors.

Though the phenomenon of the "disappeared person" is prevalent worldwide, most documentation comes from South and Central America. At a recent human-rights conference in Chile, the secretary general of Amnesty International estimated that in the last decade some 30,000 Latin Americans have disappeared. The number of documented missing reaches the hundreds in parts of Africa and Asia, as well as in Brazil, Uruguay and Paraguay. These numbers soar to the thousands in Chile and Argentina.

Since the military coups in Chile and Argentina, many thousands have disappeared without a trace after arrest by police, security forces or parapolice. In certain cases, husbands and wives have been taken together, sometimes with their young children.

Tragically, a substantial number of unaccounted-for children have been abducted or have been born in captivity to pregnant kidnap vicitims. No attempts have been made by governments to investigate such disappearances, and these abuses continue unchecked.

After a recent visit to Buenos Aires, V. S. Naipaul wrote: "There is still, for the distinguished or well-known, legal arrest on specific charges. But below that there is no

law. People are taken away and no one is responsible. The army refers inquirers to the police and the police refer them back to the army. A special language has developed: an anxious father might be told that his son's case is 'closed.' No one really knows who does what or why; it is said that anyone can now be made to disappear, for a price."

In Argentina, one does not need to be a terrorist to be arrested, tortured or murdered. It is enough to have belonged to a trade union or a student organization or to have helped persons classified by the military as "subversive." People are simply picked up, some to return as corpses, minus their heads and hands to prevent identification. A few are released and warned not to speak, but most are subjected to brutal conditions in secret camps.

Until recently, little international attention focused on this terrifying violation of human rights. In the last session of the United Nations General Assembly, a resolution was passed asking for intergovernmental cooperation to search and account for the disappeared.

More recently, a subcommission of the United Nations adopted a resolution stating that disappearances continue to occur and that the "dangers involved for such persons warrant urgent reaction." If the situation were to continue, the subcommission recommended, some form of emergency remedy must be applied by the international community.

The House International Organizations Subcommittee will hold today the last in a series of hearings on the phenomenon.

If, as President Carter has said, human rights is the "soul of American foreign policy," then we as a nation steeped in traditions of freedom and justice must respond to the mounting evidence. We must let the word go forth to the relatives of the disappeared, to those locked in secret detention camps and to the exiles around the world that "if you are silenced, we will speak for you." ●

SENATE—*Friday, October 19, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. HOWARD M. METZENBAUM, a Senator from the State of Ohio.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God of men and nations, we come to Thee with thanksgiving for our precious heritage. We know that freedom comes not as an individual attainment but as an obtainment—Thy gift to man as part of his createdness. We know too that individual worth and dignity derive not from the State but from the Creator Spirit and that every man has value because he is an immortal soul with an eternal destiny. Then wilt Thou give us grace and wisdom to comport ourselves according to the high vision of the Founding Fathers? Be with all who serve in the Government keeping our inner life pure and our outer life strong.

Through Him who gave His life for the many. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 19, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWARD M. METZENBAUM, a Senator from the State of Ohio, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. METZENBAUM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LOW INCOME ENERGY ASSISTANCE

Mr. ROBERT C. BYRD. Mr. President, skyrocketing energy prices, coupled with double-digit inflation, are forcing each of us to make difficult choices. Family budgets are strained to the very limit. With winter approaching, the poor and the elderly fear that they will not be able to afford to heat their homes. Faced with the frightening choice between food and heat, many American families are desperately in need of assistance to offset the impact of excessive heating bills and other energy costs.

On October 18, the Senate acted to insure that adequate and immediate funding will be provided for energy assistance for low-income families. In approving an amendment sponsored by the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Massachusetts (Mr. KENNEDY) to the Interior appropriations bill, the Senate expressed a real concern and sensitivity for the plight of a significant portion of this Nation's population. Through the adoption of this amendment, which provides $1.2 billion to the Community Services Administration for assistance to the elderly and certain low-income families for home heating bills, the Senate indicated a commitment to providing for the needs of those most affected by increased energy costs.

On Tuesday, I joined with Senator HUDDLESTON, the distinguished floor manager, in opposing the Javits amendment as originally written. The amendment, as introduced, made transfers from one account to another which we found undesirable.

Subsequently, I was pleased to work with Senators JAVITS and HUDDLESTON to modify the amendment.

The amendment was modified to provide for a direct appropriation, rather than a transfer of funds. I supported adoption of the amendment in that form.

I was pleased to do so. There were a great many other Senators who also, having taken the previous position, joined in supporting the modified version.

According to information recently provided by the Department of Energy, while the Consumer Price Index for the years 1972 to 1978 increased 55.9 percent overall, fuel prices increased 151 percent. In 1978, the average middle-income family spent 10.4 percent of their income on direct expenditures for energy, while low-income families spent more than one-fourth of their income on such expenses. Last year, home heating oil averaged 45 cents a gallon; this year the price is expected to exceed 80 cents a gallon. This means that some families will spend almost 50 percent of their income to heat their homes and drive their cars. As energy prices have far outstripped increases in income for most Americans, these soaring prices mean genuine hardship and sacrifice for many of our citizens.

The funds which the Senate approved, together with the $250 million already approved in the Labor-HEW appropriations bill, will provide energy assistance to those who need it as soon as possible. The Community Services Administration has already issued regulations to get this program moving. This money will allow us to deal with the critical problem which we are about to face, while allowing other committees to develop more permanent assistance programs.

Both the Senate Finance Committee and the Labor and Human Resources Committee are preparing legislation to provide for low-income energy assistance and it is expected that these meas-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ures will be reported shortly. Similar action is also underway in the House.

I share that commitment.

We will not turn our backs on those who will be forced to suffer hardships. This must be our foremost concern.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

STATEMENT BY SENATOR GOLDWATER

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator GOLDWATER regarding the Intelligence Committee's report on SALT II monitoring.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEAK OF CLASSIFIED INFORMATION FROM THE INTELLIGENCE COMMITTEE'S REPORT ON SALT II MONITORING

● Mr. GOLDWATER. Mr. President, this past week brought to light a situation that I had predicted would occur sooner or later. I am, of course, referring to the leak of classified information from the Intelligence Committee's report on SALT II monitoring.

When the issue of monitoring and verification first arose a couple of years ago, I voiced my concern that, as the treaty debate itself became more intense, we would see a massive hemorrhage of classified information. Unfortunately, my fears were borne out and I do not think we have seen the end of it.

The newspaper article which appeared this week was another example of selective leaking by the "SALT-sellers" and the "SALT-shakers" in the never-ending battle of each side to prove their case. In the process of this leaking and counterleaking, not only have those responsible for it brought undue and lasting harm to our national security but, they have also cast a dark shadow of suspicion over the Senate and the Congress as a whole.

There are a lot of things which go on in the name of politics which are legal, ethical, and moral. But in this particular case, I cannot find any way in which these adjectives could apply. First of all the person or persons who leaked this information performed an illegal act, not only under U.S. law, but under the Rules of the Senate and Senate Resolution 400 which establish procedures for the proper handling of classified information. And, believe me, when we get to the bottom of this, the guilty party is going to have to pay the piper. In all of this, however, the thing which saddens and angers me is the unethical and immoral behavior of those people who resort to any means in order to achieve their ends. Whatever anyone may think about the merits of the SALT II treaty, there is never any excuse to endanger our national security by divulging sensitive intelligence sources and methods.

One of the biggest problems facing the Senate right now is to reestablish our reputation for being able to exercise proper handling of classified information. Having been involved in this intelligence oversight business from the very beginning, I can assure my colleagues it has taken a long time to gain the trust of the intelligence community. And, if we brush off this latest incident in a pro forma manner, we will have destroyed a very good working relationship which has been built up over the years. The Senate Select Committee on Intelligence has been extremely careful of how we deal with all of the sensitive information which comes into our possession.

Even when we had disagreements with the intelligence community or among ourselves, they were handled in a very mature, responsible way and we have not taken our disputes to the front steps of the Capitol. We, as a committee have established rigid rules and procedures for the "care and feeding" of the information given to us for use by the Senate. And in this regard, I was gratified to hear that four of my distinguished colleagues recognized the necessary discomforts which we have to live with in order to make use of this material.

If any of us decides not to play by the rules, it is going to have a lasting effect on the reputation of the Senate as well as create a danger to our Nation's security that will not diminish regardless of how many treaties we may or may not ratify.●

WINDFALL PROFITS TAX

Mr. TOWER. Mr. President, my opposition to imposition of a so-called "windfall profits" tax on the domestic oil industry is well known. At just the time when the industry needs all the capital it can get to invest in more domestic exploration and production, the administration and the Congress seem bent on nailing yet another nail in its coffin.

I received recently a petition signed by some 5,000 citizens of Texas and elsewhere calling simply for the Federal Government to let the system of private enterprise work in solving our energy problems, and specifically calling for defeat of the windfall profits tax.

Today, in the Wall Street Journal, the lead editorial expresses with great eloquence the very heart of this issue. I commend this excellent editorial to my colleagues attention and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SCRAP THE "WINDFALL PROFITS" TAX

When Congress passed the Natural Gas Policy Act with its 23 natural gas categories, we thought the lawmakers had reached the limit in unbelievable complexity and bad law—an "unintelligible piece of legislation that will generate tons of regulatory paperwork and litigation." That was before we observed the Senate Finance Committee at work on the oil "windfall profits" tax.

In principle a windfall profits tax is simple enough. First you apply the income tax to profits, and then you apply the windfall profits tax to what is left—a straightforward procedure that ordinary humans can understand. In fact, it's so simple you wouldn't believe what webs of bafflement the Finance Committee can weave with it in practice.

Begin with an ordinary category that people can comprehend—oil producers. Differentiate them into different categories so they can be treated differently. Then do the same thing to oil. And—presto—depending on who they are and what kind of oil they own you can tax them differently.

As the web is now woven domestic oil producers each face a different bite from the tax spider. They may pay a tax of 50%, 60%, 75%, or escape altogether, on a multiplicity of crude oil categories arbitrarily base-priced at six (or more) levels ranging between $7.50 and $17 a barrel. And if that's not enough complexity to feed a jillion lawyers, accountants and bureaucrats, the tax on "upper tier" and "lower tier" oil is variable and changes monthly during the first two years.

Now imagine thousands of producers, independents and multinationals tracking these categories through crude oil gathering, storage and pipeline systems in order to report accurately to their various customers and the IRS the precise amounts of oil in each of the multiple categories that are mixed together in a common stream. Then tell us it is possible for the government to monitor this system for compliance.

The political process has not created a windfall profits tax but what the Independent Petroleum Association calls a "mecca for manipulators seeking to gerrymander categories to beat the tax." It offers greater rewards to people adept at changing oil from higher taxed to lower taxed categories than it does for finding new oil. By creating artificial distinctions that make it profitable to cheat, the tax begets years of scandal, corruption and litigation.

These costs must be set against the revenues raised, and there are other costs as well. One is the cost of removing future energy development from efficient private hands to inefficient government hands. Another is the cost of rending the fabric of property rights by confiscating oil owner's equity. Then there is the cost of the enormous increase in the regulatory burden that comes with the Finance Committee's bill. The "regulatory tax," already running at over $100 billion a year, is a senseless tax that raises costs and discourages output without raising a cent in revenues.

Moreover, by adding to the regulatory morass it will add to the difficulty people already face in going about their business without being vulnerable to the charge that they are violating some law or regulation. It will make it easier for government to bring charges of wrong-doing, making it more costly for private business to resist Washington's will.

When all these costs are taken into account, the cost of this tax is going to be greater than any benefits from the revenues it raises. At this point the best thing that can be done with the tax is to scrap it. Congress should be content with the vast windfalls in additional income tax revenue that it can reap just by decontrolling the price of oil. The Congress's own Joint Committee on Taxation says that simple act alone will bring in $148-275 billion in new revenues over the coming decade. And if that's not enough largess for the proteans on the Hill to rain on their constituents, they can draw on the *$1 trillion* in new tax revenues that the Joint Committee on Taxation forecasts over the next decade from existing tax law.

You can tax an activity to death or you can regulate the life out of it. Before Congress does both to the oil industry, it should back off and take a fresh look at the "windfall profits" tax.

SENATOR JAKE GARN'S OPENING STATEMENT ON SALT BEFORE THE COMMITTEE ON ARMED SERVICES

Mr. TOWER. Mr. President, I would like to draw the attention of my colleagues to the exceptionally thoughtful testimony on the proposed SALT II treaty presented to the Committee on Armed Services on October 17 by Senator JAKE GARN, of Utah.

Senator GARN is recognized among his colleagues as one who has given careful study to the treaty's intricate details, to its fateful implications, and to the wider context in which the treaty must be considered by the Senate in its deliberations. He is a recognized expert in the field of nuclear weapons and verification and a respected analyst of U.S. foreign and defense policies.

In his opening statement to the committee, Senator GARN describes the sobering geopolitical context in which the treaty is being presented to the Senate. He details the inequitable, unverifiable, and destabilizing terms of the treaty as it now stands. And he proposes the types of constructive, binding amendments to the treaty's text which would help assure that it could truly become an instrument of meaningful arms control.

I concur with Senator GARN that the treaty, as presented to the Senate for its advice and consent, is fatally flawed, that it is profoundly inimical to the security interest of the United States and that it is clearly not a viable arms control agreement. I also concur with Senator GARN's warning that we must avoid the temptation to "construct a place of mirrors consisting of SALT III 'hopes,' unilateral 'reservations,' and nonbudget year projections of how much we plan to spend on defense."

Mr. President, the analyses and proposed amendments outlined by Senator GARN represent the concern of many of his colleagues. The amendments he proposes are reasonable, fair, and constructive. They seek equity, verifiability, real arms control, and increased international stability. They represent the types of steps I believe we must take and they deserve the most careful consideration by all Senators in their deliberations on SALT.

If the Soviets agree to such constructive changes, then both the Soviets and we will have achieved a real measure of arms control. Both will be able to save defense expenditures. Relations will be improved. If, on the other hand, the Soviets refuse to move in the direction of such meaningful arms control measures, they will have given a clear signal of their ultimate intentions. We will then have the knowledge, the foresight, and the time to reinvigorate our defenses in such a way that the Soviets will have a real incentive to negotiate a viable treaty. In either case, we will benefit.

Mr. President, I ask unanimous consent that Senator GARN's statement before the Armed Services Committee be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON THE SALT II TREATY BEFORE THE SENATE ARMED SERVICES COMMITTEE

(By Senator JAKE GARN)

Mr. Chairman and Members of the Committee, I thank you for the opportunity to appear before you today. As a former member of this Committee, I know well the heavy responsibility with which this Committee is entrusted in its review of the SALT II Treaty. I also know of the Committee's ability to make a careful and exhaustive study of the issues that come before it. You have already demonstrated in the course of these hearings on SALT that you are committed to serious and detailed analysis of the effects of the SALT treaty on the military posture of the United States. I look forward to studying your analysis and conclusions and am confident that they will be a valuable contribution to the Senate review of this most important issue.

SALT II: A LOSS OF FAITH

The SALT II treaty in its current form is a very disappointing treaty. It is the product of negotiations during a time in which the U.S. was questioning the very premise of our right to world leadership and our willingness to shoulder the responsibilities that such leadership carries with it. It represents a loss of faith by this country in its essential purpose of fostering and preserving freedom for all those who aspire to it. It represents a loss of nerve in the face of the blustering Russian bear. It represents a loss of will to use vigorously our substantial power in support of justice, peace, and western interests. It represents a loss of power brought on by a series of international developments.

These developments have arisen for a variety of reasons, but they combine to threaten seriously the sources of strength from which countries draw their power, such as a healthy growing economy, a reliable and sufficient source of natural resources, the political cohesion both here at home and between the U.S. and our allies that comes from a strong shared understanding of common political values. Our global leadership responsibilities and national security requirements provide the framework that drives our foreign and defense policy. However, in recent years, confusion and disagreement in the U.S. makes one wonder whether the U.S. has such a framework anymore.

Yet, without such a framework, our policies cannot be effective. Clearly, we must have a military ready and capable of fighting to preserve these interests and supported in these goals by Americans and our allies. The Administration seems to hope that events in the world or in the Soviet Union will restrain Soviet aggressive drives. There is no evidence to support such hopes.

Instead, the Soviets have proven their intention to continue in their drive to achieve predominant influence in the world. Though perhaps militarily insignificant that Soviet Combat Brigade in Cuba represents part of an increasing pattern of expanding Soviet military activity.

Perhaps even more significant is the continuing build-up of Soviet and Cuban forces in the Middle East and Africa, especially in the Persian Gulf area. More than 2 billion dollars worth of military equipment has been poured into Ethiopia and South Yemen in the past two years.

Soviet airlift capability into the region has been demonstrated, according to some reports. Saudi Arabia, one of the few remaining nations friendly to the West, is virtually surrounded by Marxist dominated states. Is it any wonder they have been reluctant to support the U.S. promoted Egyptian-Israeli Peace Treaty?

Considering the almost tragic level of dependence of our economy on foreign sources of oil, these developments have far greater political significance than the Soviet Brigade in Cuba, and I do not minimize the significance of that unit. It is past time for us to challenge the political and military adventurism of the Soviet Union. We must resurrect the faith in ourselves as a nation that we seem to have lost.

Vietnam and other events led us to this loss of faith. Many believed that it was the arrogance of American attitudes and power that led us into war, that tempted us to interfere with the governments of small nations, and that created Soviet paranoia and thus the Soviet drive to build a military colossus. In recent years, consequently, there has been a conscious effort on the part of key leadership elements to diminish U.S. power and the healthy self-confidence upon which it rested.

These people believed that the rule of international law would be enough without military power to back it up, that nations should be left to carry on their own struggle for democracy—even when faced with overwhelming power—and that the Soviets will be satisfied with military parity. Theirs has been and is a policy founded on hope—not reality. Events do not support the expectations of the past decade.

However, we have tried their approach. We quit Vietnam, normalized relations with China while shrugging off too quickly our responsibility to the people of Taiwan, undermined our committment to Korea, left the democratic government of Thailand essentially naked, spurned a democratic revolutionary movement in Angola, turned away from democracy in Rhodesia, signed the Helsinki Agreement legitimizing the subjugation of Eastern Europe in the unfulfilled hope that the Soviets would agree to mutual force reductions in Europe, and muttered nervously as our once staunch ally Iran was racked by externally supported religious reactionaries whose commitment to human rights is even less than that demonstrated by the Shah.

We have shown a serious lack of concern for the security and well-being of some of our most loyal allies. I suppose there will be some who say that when the Soviets and Cubans foment instability and revolution in Mexico, that we must not interfere in the "internal" affairs of another nation. This is a convenient oversimplification of reality.

So, we have tried the twin paths of a reduced military posture and detente. At the same time, we have seen the rise of the monopoly power of cartels, the continuous escalation of terrorism and terror states such as Uganda, and constant aggressiveness by Soviet military and political action forces. I suggest that it is time that we change our policy toward the Soviets from one of detente on their terms, to one of determination to cooperate where possible but face down ruthless and morally bereft governments where necessary.

We must move from a stance of listlessness to one of leadership. We should make the commitment now to demand certain standards of global behavior and clear military equality under SALT II, and then we must do what is necessary unilaterally to protect our interests.

As many have stated, we must rebuild our power, but first we must restore our confidence. That can be done by refusing to submit to Soviet scare tactics. We need not be fearful or desperate. The Soviets do not have all the cards in their hand. If we act with purposefulness and vigor, we can cement our alliances and present a formidable lineup which would strengthen our own hand and cause the Soviets to think twice about fomenting trouble; but this lineup of allies and friends will melt away if the U.S. does not provide leadership. Our leadership can best be exhibited by accurately evaluating the SALT II Treaty and

then either amending it where necessary or rejecting it.

Let me turn now to an examination of the case against this SALT II Treaty before us.

THE SALT II TREATY: THE CASE AGAINST

In many statements, the President has strongly defended the emerging SALT II Treaty as equitable, verifiable, separable from the realities of international politics, and successful as an arms control agreement. Some believe all of these assertions, many believe at least one of them. I believe that the President is mistaken on all counts.

After a thorough review of the treaty provisions, the parallel degradation of our intelligence collection capabilities in recent years, the shifting strategic balance, the aggressive Soviet behavior under SALT I, and the failure of this Administration to propose and fund an adequate defense posture, I find myself choosing the difficult but necessary task of proposing amendments or, if they are not accepted, rejection of this treaty. My approach to the proposed SALT II Treaty is in keeping with the traditional role of the Senate in the treaty making process: we must critically examine the case for any treaty presented by the President, and take corrective steps if necessary. This is our Constitutional responsibility. Senator Nunn has stated the case well:

"We have not competed effectively with the Soviet Union in the military arena. Unless we and our allies are prepared to do so, we can expect future arms control agreements with Moscow to do little more than ratify the emerging Soviet military superiority.

"On the other hand, if the free world makes it clear by its actions that it will not allow the Soviets to obtain military superiority, arms control becomes * * * a feasible and sensible element of our national security * * *"

Why do I join him and others in being skeptical about the Administration's programs for national security and its SALT II centerpiece? Let's consider these facts:

First, the Shifting Strategic Balance:

The Soviets spend well over $20 billion a year on strategic forces, while we spend under $10 billion.

The Soviets have about 2,500 strategic nuclear delivery vehicles, the U.S. has about 2,000.

The U.S. has about 9,000 warheads, and the Soviets have about 5,000, but each side will have 12,000–15,000 warheads by 1985.

The Soviets have more than twice as much throw weight and at least three times as much megatonnage as the U.S.

The U.S. technological lead is being reduced.

Second, the Inequities and Imprecisions of SALT II:

The Soviets will significantly increase their throw weight and megatonnage advantage, and will probably have more warheads than the U.S. by 1985 if the nuclear weaponry of the Backfire bomber is counted.

The Soviets are allowed 308 "Heavy" ICBMs; the U.S. is allowed none. These missiles have about as much destructive potential as all U.S. strategic forces.

The Soviets do not have to count some 400 (by 1985) Backfire bombers as part of their strategic forces, while the U.S. must count some 227 B–52s which are mothballed, and 4 B–1 RDT&E aircraft.

The Soviet SS–20 is not counted, even though with a single one-half megaton warhead, instead of the three it normally carries, it would have intercontinental range.

There is no adequate definition of "new missile," heavy bomber or missile launcher in the Treaty, despite efforts to convince us that there is.

There is no specification of the maximum allowable throw weight or launch weight for "light" or "heavy" missiles.

Third, Concerns that are not Treaty Inequities:

The Soviets are reported to have at least 1,000 ICBMs in storage. They may have several thousand.

The Soviets have much "harder" missile silos.

Warhead accuracy for Soviet 5th generation ICBMs is reportedly better than Minuteman III warhead accuracy.

Soviet strategic defensive forces; strategic command, control communications, and intelligence capabilities; and civil defense capabilities are readily acknowledged by most experts as vastly more effective than similar U.S. capabilities.

Fourth, Verification capabilities, Suppression of Information, and Violations of SALT I:

The Soviets are allowed to encrypt any missile telemetry they wish if they claim it is not necessary for treaty verification. I am convinced that by allowing any encryption at all, the verification of SALT is unacceptably compromised.

The loss of sites in Iran for monitoring Soviet ICBM tests has seriously degraded a previously marginal verification capability.

Admiral Turner, the Director of Central Intelligence, has reportedly said it will take five years to recover fully our capabilities to monitor SALT. Even the Administration doesn't claim it will fully recover before 1983.

Secretary of Defense Brown initially said it would take one year to obtain an adequate capability, if we are fortunate. The President, contradicting his two senior advisors, said SALT II will be verifiable "the day it is signed." Both claims rely on hopes, not facts.

Since President Carter has been in the White House, nothing official has been released concerning new Soviet weapons developments; this is contrary to the policy of previous Administrations.

The Carter Administration has only reluctantly fulfilled FOIA (Freedom of Information) requests for information on SALT violations, including construction by the Soviets of new ABM battle management radars.

Since the SALT-selling began, the Administration has unfortunately damaged our intelligence capabilities by leaks of the most sensitive information; this desperate attempt to prove verifiability has damaged our relations with our allies and made verification more difficult.

The Carter Administration has refused to release complete and accurate projections of the Soviet threat or the military balance in the 1980s. (The basic reason is that such projections would show that there is no basis for claims of essential equivalence in the 1980s. Somehow, essential equivalence seems to exist whether or not we have B–1, MX, or Trident II).

The record of the U.S. government in forcing Soviet compliance with the terms of the SALT I accord is abysmal. Since 1972, the Soviet Union has violated both the spirit if not the letter of many provisions of SALT I with almost complete impunity. To date these violations have included:

Deployment of the SS–19, a heavy missile with five times the payload of the weapon it replaces.

Building of the mobile SS–20, an intermediate range ballistic missile with the range-payload capability of an ICBM.

Construction of ballistic missile "launch control silos" which can rapidly be converted into ICBM launchers.

Deployment of anti ballistic missile battle management radars under the guise of early warning radars.

And a host of ABM-related actions, including the possible upgrading of SA–5 air defense missiles to an ABM capability, testing of the SA–5 radar in an Anti-Ballistic Missile mode, development of a mobile, rapidly deployable ABM radar, and development of a tactical ABM system.

Fifth, the separation of SALT II from International Politics:

The effect of this isolation of SALT II is that it undermines the confidence of our Allies by:

Suggesting the decoupling of U.S. strategic nuclear forces from the defense of Europe, although this is denied.

Preventing a rapid redressing of the TNF (theater nuclear force) balance in Europe.

Diverting the Backfire threat against Europe.

Limiting the range of conventional GLCMs and SLCMs and raising serious questions about the U.S. intent to transfer cruise missile technology to our allies in Europe.

The consequences will be:

Lack of their cooperation with the U.S. outside of Europe.

And later, Finlandization of Europe.

Sixth, Soviet Behavior Under SALT I:

The Soviets have emplaced a combat Brigade in Cuba and are rapidly building up the offensive capabilities of the Cuban Armed Forces. This issue, of course, has been much discussed in recent weeks, and I won't go into more detail in this statement.

The Soviets have stalled the talks on Mutual and Balanced Force Reduction (MBFR) in Europe and have delayed other negotiations.

They have supported Cuban mercenaries in Angola, Ethiopia, South Yemen.

They have sponsored invasions of and instability in North Yemen, Zaire, South Vietnam, Cambodia.

They have supported revolution and instability in Iran, Afghanistan, and Zimbabwe-Rhodesia.

They have engaged in a massive buildup of conventional and power projection forces.

They have attempted subversion of the governments of Portugal and Egypt.

They have lent assistance to the terrorist regimes of Libya and Uganda.

They have failed to abide by the Helsinki Accords and have committed grevious actions against the human rights of Soviet citizens.

Finally, SALT II Is Not Arms Control.

Even if the Soviet Union abided by every provision of the SALT II agreement, but ignored the spirit of the accord, it could triple its number of warheads by 1985 (to some 12,000–15,000) and triple the destructiveness of its warheads.

The treaty does little to prevent the introduction of dramatically improved Soviet ICBMs in the early 1980s.

The treaty does not effectively limit warheads; it limits launchers, and even those ineffectively and inequitably.

SALT II AND THE U.S. ROLE IN THE WORLD

SALT II is an instrument of foreign and national security policy. As such, it must be viewed in the context of America's role in the world, and the foreign policy objectives designed to fulfill that role. I would like to turn, then, from the specific terms of SALT II to the relationship between the treaty and the U.S. role in the world.

Like any country, the United States has at least four fundamental objectives: national survival, safety, well-being and ideological and spiritual enhancement. The efforts of nations are generally directed at meeting all four of these goals, but the changing world environment alters their order of importance from time to time.

Other nations have more ambitious goals—the expansion of their power and influence or the creation of an empire or sphere of influence. When confronted by such an adversary, democratic societies are faced with some hard choices—choices which in recent years we have been increasingly reluctant to make.

The end of World War II left the United

States in possession of overwhelming military and economic power. If we had so desired, we could have literally conquered the world. I don't suggest that we should have done so, but we had that capability. No one could have stopped us. But what did we do? We reduced our military power, demobilized our millions of troops, mothballed most of our ships and planes, and returned to a peacetime economy and began to provide vast sums of money to rebuild the shattered economies of friend and foe alike. Even with our reduced strength, we were still the most secure nation in the world; our national survival virtually was guaranteed. Quite naturally, we turned our attention to improving our well-being, and we demonstrated our ideological and spiritual values by helping to rebuild a war-torn world, and by coming to the aid of countries seeking freedom and independence, such as Korea. The United States became a beacon to the world, not only because of its military strength, but because of the inherent humanist values of its society and the emphasis on them.

America was befriended and emulated. But such a place in the world, cannot be taken for granted, as America's people and its leadership seem to have done. It has to be earned daily to be continually justified.

I am one who believes the United States cannot escape the responsibility to lead the world in the search for freedom, self-determination, and lasting peace. There is no question that we have the resources. We must also have the will. As I have already said, I believe that the people of this country have that will, but in our democratic society, it needs to be expressed by the elected leadership. That is what I expect and hope that the Senate will continue to do in this debate on SALT II.

We must chart a course for the American people and then express it through our collective action as we consider the treaty. To the extent that we do this, the Senate will make a statement to the world about the course America will take. The world and its leaders are watching very carefully. They wait to see not only the outcome of this great debate, but what the nature of the debate itself will reveal about the forces at work in our society today. They certainly have every reason to be confused about the internal dynamics of our nation, in view of the vagueness, indecisiveness and contradictions in U.S. foreign policy in recent years. What they see during this debate will determine their view of America's future role in the world.

There are, then, two important reasons the debate on SALT II is so vital to America's future: First, the ultimate outcome will impact our ability to live and prosper in the world. And second, the way we reach that outcome will tell the world what we believe about ourselves, and what we are prepared to do to preserve and share the values and ideals we hold as a nation.

Against this backdrop, I believe the SALT debate must confirm that the United States is prepared to be the leader of the free world. We must demonstrate that we have the resolve to develop and maintain the necessary economic, political, and military strength to fulfill that role, and that we will not be afraid to use that strength to support our allies and friends in their efforts to choose their own course toward freedom.

We must admit that our society has problems, but not allow a preoccupation with them to deter us from our global responsibilities. Nor should we apologize for the strength that the United States has achieved through its free and pluralistic society.

We must make it clear that we recognize the condition of the world we all live in, that there are competing interests and ideologies which may be impossible to reconcile. The world must know that our experience with detente has convinced us that the Soviet Union is still our ideological enemy and potential military adversary.

In short, the SALT debate should affirm that we have placed the national security of the United States and its allies at the head of our fundamental national objectives, even though we know there is no such thing as absolute security in today's world. Not only must we develop and improve our own military capability, we must continue to rely on the strength of our allies. Where we can identify areas of mutual self-interest with our adversaries, we should seek to establish agreements and understandings with them.

But, those agreements must be negotiated by the United States and her allies from a position of strength. They must not be based on weakness or fear of the consequences of failure to reach an agreement. Our obligation to ourselves and to the world is too great to allow that. If we find ourselves adopting this SALT II treaty, or any other agreement, on the basis of fear, then I am afraid that we are already dangerously close to having failed the test of world leadership.

NEW DIRECTIONS FOR U.S. NATIONAL SECURITY STRATEGY

What does all of this mean, for the direction of United States national security strategy? And what, then, does that strategy mean for SALT II?

The national security strategy of the United States must first recognize the military strength of our major adversary, the Soviet Union. Since the time of the Cuban missile crisis, the Soviet Union has been engaged in the most massive arms build-up in the history of the world. It has gone, with the help of SALT I and U.S. unilateral restraint, from a position of inferiority with the United States to a position today where its military strength is more than equal to our own.

The capabilities of its conventional forces in the Warsaw Pact countries is vastly superior to that of the NATO alliance. The impressive technological improvements in Soviet strategic forces have been coupled with a counterforce targeting and damage-limiting doctrine to pose a real and direct threat to our own strategic forces. The near-term vulnerability of our ICBM force is acknowledged by virtually every responsible analyst, including the Administration. The Soviet Union has rejected the concept of Mutual Assured Destruction and its basic assumption that nuclear war is unthinkable.

The Soviets believe it is possible to not only fight and survive a nuclear war, but to win it, and they have designed their military forces and civil defense program accordingly. Our response to this growing Soviet strength must be based on these realities, not on the idealistic hopes of the SALT process which, so far, has provided little reason for confidence.

With or without SALT, our national security policy must be modified along the following lines: We must change our strategic targeting—aiming most of our own weapons at Soviet military targets, instead of at cities; reduce the vulnerability of our ICBM force; develop the technology which will allow us to build defenses against in-coming missiles, both for our own civilian population and our weapons; modernize our bomber force; ensure the survival of effective command, control, communications and intelligence systems under attack; modernize our capacity to conduct limited theater nuclear operations; improve our conventional forces with modest increases in the number of Army and Marine divisions; improve our ability to project our conventional forces by expanding our tactical air and military transport forces; expand military consultation with, and consider increasing military assistance to, our allies and pro-Western governments and parties; and, assist our allies and freedom-loving people in deterring Soviet proxies, such as Cuban forces in Africa, by providing them with funds, arms, training and intelligence.

We must have a vigorous program and ready forces in all areas of our defense posture. The fabric of our military cloak must be a seamless web of capabilities. As Professor Michael Howard of Oxford University said in a recent article in *Foreign Affairs:*

"The maintenance of adequate armed forces in peacetime, and the will to deploy and support them operationally in war, is in fact a symbol of that social unity and political resolve which is as essential an element in nuclear deterrence as any invulnerable second-strike capability."

We can no longer afford to be passive in the world. Our allies and friends need to know that they can rely on the United States for assistance. The Soviet Union must know that we will not stand by idly while it attempts to create a new, world-wide Russian Empire. Winston Churchill said it very well on a visit to the U.S. in 1946:

"From what I have seen of our Russian friends and allies during the war, I am convinced that there is nothing they admire so much as strength, and there is nothing for which they have less respect than for weakness, especially military weakness.

Mr. Churchill went on to say, in essence, that peace could be maintained in the world only if the democracies remained united and strong. The policies I have mentioned would make it possible for the United States and her allies to preserve and protect international peace, through strength.

ESSENTIAL CONDITIONS FOR SALT II

What can we say, then, about SALT II in the context of a new, more active, although not provocative, U.S. national security strategy? I believe such a strategy suggests five basic criteria for acceptance and ratification of a new SALT treaty:

First, the treaty must meet the criteria of equality, stability, and verifiability, and it must arrest the growth of Soviet strategic forces.

Second, we and our allies must be prepared to modernize and improve theater nuclear forces or obtain agreement to equitable arms limitations in this area with the Soviet Union and her allies;

Third, we and our allies must be willing to modernize and expand our conventional forces so as to pose an effective conventional deterrent;

Fourth, we and our allies must be prepared to resist the destabilization of third world nations by Soviet power and proxy forces;

Fifth, we must rebuild our vital intelligence organizations and restore their effectiveness.

If these conditions cannot be met, then SALT II should not be ratified. Instead, we should then seek to restore and maintain strategic nuclear "parity-plus" with the Soviet Union and declare our intent to use strategic nuclear weapons to protect ourselves and our allies.

SALT AND U.S. SECURITY

The SALT process can be of great value to the United States. It should be able to enhance our security in the following ways:

(1) By establishing equal limits on the quantity of nuclear arms—not just the number of launchers—which may be held by the U.S. and the Soviet Union, and in so doing, end the expansion of Soviet strategic forces.

(2) By reducing arms, it will lower the chances of accidental war.

(3) By allowing us to build and develop weapons and forces which may be necessary to deter a potential attack or the use of nuclear coercion against us or our allies, it

will support our alliance structure and discourage the proliferation of nuclear weapons.

(4) By prohibiting or markedly slowing the deployment of weapons systems that would destabilize the strategic balance by giving one side a "first strike" or war-winning capability over the other, it will maintain crisis stability. At the same time, no SALT treaty should restrict our options to meet the threat more than it reduces the growth of that threat.

As difficult as these objectives may be to achieve, we must not weaken our commitment to them. We must remember that the security of the United States is the only reason to participate in the SALT process in the first place. It is not to seek an agreement simply for the sake of having an agreement.

A flawed SALT treaty which would give the Soviet Union low-cost, "politically meaningful" nuclear superiority would be worse than no treaty at all. It would be the foundation for a continuing policy of global expansion by the Soviet Union, and allow it to divert military resources to the build-up of other forces while extending its nuclear umbrella over Western Europe, the Middle East, Africa and the Far East.

The treaty that has been signed by the President is such a flawed treaty. I have already described why I believe: that it is not equitable; that it is not adequately verifiable; that it only masquerades as arms control; and that it does not effectively limit the spread of nuclear weapons.

To accept this treaty, as proposed, would be to turn away from our obligation as a world power to preserve international peace. A treaty which would assist the Soviet Union in achieving a war-winning nuclear capability by the mid-1980s is an even greater threat to peace than an uncontrolled arms race. At least in a race, the outcome is in doubt. I believe that we do not have to choose between either nuclear inferiority or an expensive arms race. We have a third option.

That option is to return to the bargaining table with a renewed commitment to insist on a fair and equitable treaty. Throughout the SALT negotiating process, the Soviet Union has taken firm, immovable positions on every issue critical to its national interests. The United States, in the spirit of detente has accepted the Soviets' position on most major issues. I believe we can reach compromises with the Soviet Union at the negotiating table, but we cannot do it without first drawing the line beyond which we are unwilling to move; beyond which we will not sacrifice our own national interest. Such a demonstration of our steadfast commitment to our own interests is in itself an important deterrent to war.

RESERVATIONS ARE NOT ENOUGH

A demonstration of steadfast commitment to our own interests will not result from attaching reservations to the resolution of ratification where amendments are needed. Such a course would be one of self delusion. The Senate's "interpretation" of the treaty will not carry much weight if the Soviet Union has a different interpretation which is supported by the Administration.

Consequently, I have introduced a resolution, S. Res. 221, which details a comprehensive approach to renegotiation of SALT II. Also, in my recent testimony before the Senate Foreign Relations Committee, I have proposed a number of amendments to the treaty, which I believe represent the minimum degree of improvement necessary for this treaty to be consistent with our national security interests. I ask that the Committee include in the record, following my statement, a copy of the resolution, along with the section-by-section analysis of its key provisions; a copy of the amendments and the explanatory statements which I have offered are attached to my longer statement and I ask that they be included in the RECORD.

I fully understand, of course, that it is not the responsibility of this Committee to consider amendments to the treaty, but I submit this package for your consideration as an illustration of the specific reasons that I find this treaty, as negotiated, to be unacceptable.

REDRESSING THE STRATEGIC IMBALANCE

In my statement before you today I have touched on the question of the dangerous and growing imbalance of strategic arms in favor of the Soviet Union. I recognize this Committee's predominant concern with the question of American military strength, and I am confident that you will continue to act wisely, and in the best interests of national security, in seeking to redress that imbalance, with or without the proposed SALT II Treaty, or even as it may be amended. I know that this Committee will not be deterred from that primary responsibility regardless of the outcome of the debate on SALT II. Much will have to be done in our defense program, as witnesses who have appeared before you already in these hearings have testified. For my part, also regardless of the outcome of SALT II, I expect to actively support the efforts of this Committee to seek the kind of improvements in our defense forces which are necessary if any SALT treaty is to be a viable part of our national security posture.

BACKFIRE AMENDMENT

I propose an amendment to Treaty Article II, Paragraph 3 of the Treaty to make the treaty more equitable and improve the arms control impact of the treaty. This "Backfire amendment" would require counting each Soviet Backfire bomber as three-quarters of a Strategic Nuclear Delivery Vehicle (SNDV) and each U.S. based FB-111 as one-half of an SNDV. These treaty counting rules would match the capabilities of the aircraft.

Now, the Soviets don't really argue for exclusion of the Backfire on the basis of its range. They believe that it should be excluded on the basis of intended use—that is its mission. And, the Soviets tell us that it has a mission as a theater attack system. So, that is the crux of the argument. Are strategic systems to be defined as those that have strategic capabilities or only those which are intended and scheduled for a strategic use?

I believe that we must stick to a definition of strategic which is written in terms of capabilities. To not do so would open up a huge loophole in which both sides would build systems with a strategic reach but disclaim their limitation under any SALT agreements by virtue of the fact that "they do not have a strategic mission".

If the proponents of excluding Backfire really believe in their own case, why have they insisted on a "phony" Backfire letter which alleges to limit Backfire but has no force of international law? Do they suspect the Soviets might use the Backfire in a strategic role after all, only then to use the letter as proof of their efforts to preclude this?

If SALT III is productive, then both sides can consider more refined measures of what is "strategic" and "peripheral" and "theater" and so forth, and weapons can be allocated to the various categories on both a capabilities and mission basis. But we are not at that point yet. By leaving out Backfire the Soviets will have some 2750 SNDVs (2250 plus 500 or so Backfire bombers) to our 2315 (2250 plus 66 FB-111s) by 1985. This will allow them to have more ICBMs, SLBMs, and bombers than the U.S. This is hardly the stuff of which essential equivalence is made.

I therefore urge my colleagues to vote for this amendment, and by so doing perhaps save the U.S. several billions of dollars. If the Soviets were to agree to include Backfire then we would not be encouraged to produce an aircraft equivalent to the Soviet Backfire. Let's find out now whether the Soviets are serious about equity and real arms control.

BACKFIRE AMENDMENT

Amendment to Treaty Article II, Paragraph 3, to require counting each Backfire bomber as three-quarters of a Strategic Nuclear Delivery Vehicle (SNDV) and each U.S. based FB-111 as one-half of an SNDV.

Add the following new subparagraph b and redesignate the other subparagraphs: "(b) also currently for the Soviet Union the Backfire bomber, and for the United States the FB-111. However, owing to their lesser capabilities, the Backfire will count as three-quarters of a Strategic Nuclear Delivery Vehicle (SNDV) and the FB-111 as one-half SNDV."

HEAVY MISSILE AMENDMENTS

I propose two amendments, to Treaty Article IV, Paragraphs 3, and 9, to provide for equity between the Parties in terms of "heavy" ICBMs. The two amendments would have the effect of allowing the U.S. to modify 308 light ICBM silos to a heavy silo configuration and to test and deploy 308 "heavy" (of SS-18 size) ICBMs. They would not require the Soviets to dismantle their "heavy" ICBMs and they would not require that we build any heavy ICBMs.

These amendments do nothing to slow the Soviet buildup of heavy ICBMs, they do nothing to encourage the U.S. to build such missiles, they do not offset our Minuteman ICBM vulnerability and they do not affect any plans for the MX ICBM. So, one might ask what do they accomplish. Are they merely an attempt to kill the treaty with a very reasonable amendment that should have wide support in the Senate? No, the real purpose is to underscore the need, stated by the Administration, that we must maintain essential equivalence with the Soviet Union. This is a fundamental requirement that we all recognize.

These amendments will establish the principle of equality for sublimits, and ensure that the Jackson Amendment to SALT I is not disregarded. If we are not even allowed the option of building heavy ICBMs, I believe many in the world would be right to question the ability or intention of the U.S. to maintain parity with the Soviets. A failure to pass these amendments would expose essential equivalence as the charade that many now suspect it may be. Let's either pass these amendments or tell the American people and the world that we do not intend to maintain essential equivalence.

MODIFICATION OF SILO LAUNCHERS TO HEAVY CONFIGURATION AMENDMENT

Amendment to Treaty Article IV, Paragraph 3, to allow for modifications of 308 U.S. light ICBM silo launchers to a configuration which would allow them to launch SS-18 size ICBMs.

Add the following: "The United States will, however, be allowed to modify light ICBM silo launchers to a configuration which would allow them to launch heavy ICBMs in numbers equal to the number deployed by the Soviet Union.

U.S. HEAVY ICBM TEST AND DEPLOYMENT AMENDMENT

Amendment to Treaty Article IV, Paragraph 9, to allow the U.S. the option of deploying heavy ICBMs of the SS-18 size (in addition to the MX.)

Add the following sentence: "In addition, the U.S. may flight-test and deploy one new-type heavy ICBM."

MPS BASING MODE AMENDMENTS

These amendments would allow the construction of a multiple protective structure basing mode for ICBMs. This may be absolutely essential if we are to ensure the invulnerability of our ICBMs. It is far from clear that the current draft of the SALT II Treaty allows the construction of most types of MPS.

The Carter Administration is arguing that the Soviets have agreed to MPS in principle provided that we provide for adequate verification. This is not clear, and is indeed little more than an assertion by the State Department. Paul Nitze has testified that he does not believe that the current SALT II draft allows the MPS. I believe that the most promising MPS systems are banned by the Treaty and that the only type that may be allowed will be far more costly and less effective as a result of Treaty constraints.

The Soviet Union will have essentially no real verification problem relating to MPS. The U.S. is an open society and the Soviets could verify the number of MX missiles produced without even satellite photography. Yet we are planning to spend enormous sums to obtain a system that is verifiable by national technical means. To make matters worse the Soviets are very unlikely to agree that any system would be verifiable by national technical means. Preventing the deployment of MX is a major Soviet objective and they have every reason to attempt to prevent such a deployment.

The Administration answer to this is that they will ignore Soviet objections and go ahead and deploy the MX. I find this highly unlikely and a rather bad precedent if this policy was implemented. We have no interest in spurring on a race to determine who can interpret arms control agreements in the least restrictive manner.

I have proposed two amendments that would assure U.S. deployment of the MX in an MPS mode and would allow the use of the most cost-effective deployment mode by introducing the opportunity for cooperative verification, including on-site inspection.

MPS BASING MODE AMENDMENT

Amendment to Treaty Article IV, Paragraph 1, to allow for construction of a Multiple Protective Structures or other basing mode for ICBMs.

Add the following to Paragraph 1: "This provision does not prohibit construction of vertical or horizontal shelters, trenches, or hard points that would be essential to ensure the effective invulnerability of ICBMs, so long as each Party provides a means of verification to the other to include if necessary an authorization for non-notice, on-site inspection."

DEFINITION OF MPS AS NON-MOBILE AMENDMENT

Amendment to Protocol Article I, to allow the deployment of MPS ICBM Launchers if satisfactory verification procedures can be established.

Add the following language: "The term mobile shall not be interpreted to mean vertical or horizontal multiple protective structures, trenches or other survivable type basing modes, but shall refer to road and cross-country transporter-erector-launchers systems. If a Party offers to provide satisfactory verification procedures, then the Party may develop and deploy one survivable ICBM basing mode and its associated ICBM."

NONCIRCUMVENTION AMENDMENT

This amendment would assure that the noncircumvention provision of the Treaty will not be used as a wedge by the Soviet Union to disrupt the NATO alliance by preventing cooperation between the United States and our NATO allies in the modernization of European defensive forces. The Soviet Union hopes to undermine the confidence of our allies and stunt the growth of their military capabilities by prohibiting the transfer of essential technology and hardware from the U.S. to our allies. On the one hand our lead in technology is "ballyhooed" as the offsetting strength to Soviet and Warsaw Pact quantity, and then our comparative advantage is traded away.

The meaning of the noncircumvention provision of the SALT II Treaty is almost completely ambiguous in its present form. What it does and does not prohibit could be a subject of endless confrontation unless this provision is clarified by an amendment to the Treaty. The Soviets are certain to object to almost every U.S. technical exchange or weapons transfer program under the noncircumvention amendment. The Soviets recognize that without sophisticated weaponry and communications there is simply no chance that NATO could defend itself against a Soviet attack. Thus, the use of the SALT negotiations to hamper NATO defense planning and cooperation has long been a major objective of the Soviet Union.

NONCIRCUMVENTION AMENDMENT

Amendment to Treaty Article XII, to clarify U.S. ability to assist the NATO alliance in maintaining the Eurostrategic balance.

Add the following to the end of Article XII: "This provision shall not be interpreted so as to prevent either Party from supplying scientists, data, technology, systems or other assistance and cooperation to allies, for the purpose of modernization or force buildup."

VERIFICATION AMENDMENT

I have proposed this amendment because telemetry is vital to the verification of the qualitative aspects of the agreement. Photography or other sources of intelligence are inadequate substitutes. The legitimization of encryption in SALT II allows the Soviets to hide essential design features of their missile systems. No one should seriously believe that the Soviets will abide by U.S. interpretations of what can and cannot be encrypted any more than they abided by U.S. interpretations of SALT I.

Indeed, the Secretary of Defense admits that there is no current agreement on what can and cannot be encrypted and that this issue will be ultimately resolved by the Standing Consultative Commission. Any encryption of telemetry opens the possibility that false or misleading information is being broadcast and the real data is being sent out over encrypted channels.

Senator Glenn observed before this Committee that the current margin of uncertainty on the technical parameters of Soviet missile systems is as large as 50 to 70 percent. To put this in perspective, we must recognize that the Soviet missiles are already three to seven times greater in terms of throw weight and launch weight as U.S. ICBMs. We are literally dealing in potential increments in Soviet capabilities due to cheating that are equal to entire U.S. strategic systems or even all U.S. strategic forces. How, then, can the Carter Administration claim that SALT II is "adequately verifiable?"

Current U.S. capabilities to monitor the critical qualitative terms of SALT II are grossly inadequate. Short term substitutes for the U.S. monitoring sites in Iran have severe limitations and are comparatively easy to counter if the Soviets took intelligence counter-measures. The effectiveness of the proposed U-2 collection depends on active Soviet cooperation, or at least no conscious policy to deny information. The Soviets can almost completely negate the effectiveness of the U-2 collector if they so choose.

There is simply no agreement under SALT II on what constitutes National Technical Means of verification. Administration spokesmen have admitted that the Soviets do not even regard overseas collection bases as National Technical Means of verification. The SALT II agreement, as written, would legitimize the encryption of telemetry. The Secretary of Defense has admitted that "Neither party can unilaterally determine whether denial impedes verification. If questions arise on this issue they will be resolved in the Standing Consultative Commission."

It is not a question of "if." Questions *will* arise and when they do it could take years to settle them if they ever are. The Standing Consultative Commission has been generally ineffective in settling issues unless there has been a clear, unequivocal Soviet violation. The encryption issue clearly would not be such an instance.

We have publicly taken the position that existing levels of encryption have not impeded National Technical Means of verification. We will certainly take the position that most of the fifth generation Soviet ICBMs will be modifications of existing missiles. Otherwise we would have to charge the Soviets with violating SALT II. Yet they can be almost completely different in their technology and existing levels of encryption would significantly hurt our ability to determine their characteristics. We will be caught in a dilemma of our own making. We cannot claim they are new (they might not actually be, by the ineffective SALT II definition) and yet we would be claiming that suddenly we cannot verify the capabilities of "old" Soviet ICBMs.

Any encryption of telemetry will make it easier for the Soviets to broadcast false information on the open channels and deliberately deceive U.S. intelligence analysts. While there is a limit concerning the degree to which this can be exploited, it is clearly possible to go well beyond the Treaty limits either through telemetry denial or the broadcast of false information—even if we regained collection capabilities comparable to what we had prior to the loss of Iran.

I have proposed an amendment that would completely ban the encryption of telemetry and would provide protection for required ground based telemetry collection stations. Without such an amendment it will not be possible to verify SALT II unless one is willing to accept levels of uncertainty that could permit the clandestine deployment of thousands of additional warheads and megatons. This is not what I regard as "adequate verification."

Amendment to Treaty Article XV, Paragraph 2, to prohibit specific forms of interference.

Add the following to Paragraph 2: "In this context, 'National Technical Means' shall be defined as both Party's technical intelligence systems; it shall also include the geographic location necessary for the proper functioning of such systems. Specifically, each side will not encrypt any missile telemetry nor will it seek to pressure nations assisting the verification process, through location of systems of their soil or agreement for overflight rights, to halt such assistance."

(Also, the Second Understanding should be conformed by deletion of all the language of the Second Understanding).

PROHIBITION AGAINST DELIBERATE CONCEALMENT MEASURES AMENDMENT

The President, Secretary of State and Secretary of Defense constantly assure us that there will be no deliberate concealment measures allowed under SALT II. The wording of the SALT II concealment prohibition is identical to the SALT I prohibition. This has not stopped Soviet concealment activities. The Soviet Union has a concealment and deception program under way right now, and this will continue under SALT II.

It has involved, according to official and unofficial reports, various forms of photographic concealment at the ICBM test ranges, ICBM base areas, and submarine construction and maintenance facilities. There have been reports of heavy concealment related to the mobile SS-16 ICBM program and the construction of submarine berth tunnels. The Soviets have been encrypting telemetry.

The word "impede" verification is often interpreted by the U.S. government to mean "prevent" verification, opening a wide range of "legitimate" Soviet concealment activities that are supposedly ineffective in preventing verification.

This proposed amendment is designed to

In addition, they have undertaken

This proposed amendment is designed to prevent the Soviet Union from legitimately engaging in activities that can degrade our verification capabilities without technically violating the current practices exception. We want to assure that the Soviets will not be allowed to complete submarine berthing tunnels, that they will not construct enough aircraft hangers to prevent us from monitoring the number of Backfire bombers deployed, that they will not be allowed to conduct silo loading operations at night or in bad weather so as to prevent U.S. photographic coverage.

Amendment to Article VX, Paragraph 3, to require changes in current practices where necessary to prohibit the use of deliberate concealment measures.

Delete the last sentence of Paragraph 3 and add: "This obligation shall require reasonable changes in current construction, assembly, conversion, and overhaul practices necessary to ensure verification. Where a Party is unwilling to change certain practices because of certain reasons (cost, weather, or others), then that Party must allow for on-site inspection by the other."

GLCM/SLCM RANGE EXTENSION AMENDMENTS

I am proposing two amendments to the Protocol. The amendments would extend the range of both unMIRVed and MIRVed GLCMs and SLCMs that are not limited by the Protocol from 600 to 2500 km. This change is necessary if U.S. cruise missiles are to overcome the disadvantages of Eurasian geography and be able to reach targets in the Soviet Union from Western Europe or contiguous seas.

Immediate deployment of our SLCMs and GLCMs should be allowed under the protocol, because the Soviets already have SLCMs with less than a 600 km range on submarines. These can approach our coasts so as to give these SLCMs strategic target attack capability. Also, they have MRBMs which can strike Western Europe from the Soviet Union with three MIRVs. These do not count under SALT II. For that reason our equivalent systems, the MIRVed GLCMs/SLCMs of less than 2500 km range should not count under SALT II.

GLCM/SLCM RANGE EXTENSION AMENDMENT

Amendment to Protocol Article II, Paragraph 1, to allow the deployment of SLCMs and GLCMs with ranges of up to 2500 km.

Substitute "2500" for "600."

MIRVed GLCM/SLCM RANGE EXTENSION AMENDMENT

Amendment to Protocol Article II, Paragraph 2, to allow flight testing of MIRVed GLCMs and SLCMs with a range of less than 2500 km.

Substitute "2500" for "600".

(Also, conforming changes in the statements and understandings of Protocol Article II will be necessary. This should be done by changing "600" to "2500" wherever it appears.)

PROTOCOL EXTENSION AMENDMENT

Mr. President, I propose an amendment to the Protocol of the SALT II Treaty by adding to the Protocol an Article V. This Protocol Extension Amendment states that the Protocol shall not be extended beyond December 31, 1981 unless the Senate concurs by a two-thirds vote. Moreover, failure to extend the Protocol by either Party will not be grounds for violations or abrogation by the other Party of the provisions of the Treaty.

This issue is of the utmost importance and concern to our allies in Western Europe, particularly in light of the disadvantageous shift in the balance of power that has taken place over the past decade. The Soviets have moved from a position of strategic nuclear inferiority vis-a-vis the United States to that of parity or essential equivalence.

In addition, they have undertaken a marked quantitative and qualitative upgrading of their conventional force capabilities in Europe. And with the deployment of the SS-20, a mobile Intermediate/Medium Range Ballistic Missile with three MIRVed warheads, the Soviet Union has taken a significant step forward in the area of theater nuclear forces.

Our allies are sincerely troubled that SALT II places no restrictions on the deployment of the SS-20, which poses an immediate threat to their security, yet severely limits the range of the ground- and sea-launched cruise missiles. It is often argued that the United States will be free to deploy cruise missiles of unlimited range after the termination of the Protocol. However, it is widely recognized that the Soviets will vigorously attempt to have the restrictions contained in the terms of the Protocol extended beyond December 31, 1981. Our distinguished colleague from Colorado, Senator Hart, on offering clarifying language to the resolution of ratification with respect to this issue of extending the Protocol correctly noted:

"It is vital that the Soviet Union understand that these issues are *not* permanently resolved, and that serious negotiations must continue to seek mutually acceptable answers." It is essential, therefore, that the Senate make explicit as part of the Protocol text the interpretation of the United States government that the Protocol cannot be extended without the concurrence of two-thirds of the Senate.

Mr. President, I urge my colleagues to support this amendment, and thereby assure our allies in Western Europe that our commitment to their security will not be weakened by our desire to achieve bilateral arms control agreements with the Soviet Union.

PROTOCOL EXTENSION AMENDMENT

Amendment to the Protocol by adding a Protocol Article V, to require the approval of two-thirds of the Senate before the Protocol could be extended beyond its termination date of December 31, 1981.

Add the following new article (Article V) to the text of the Protocol: "The Protocol shall not be extended by the U.S. beyond December 31, 1981 unless the Senate concurs by a two-thirds vote. Failure to agree to an extension of the Protocol by either Party will not be ground for violations or abrogation by the other Party of the provisions of the Treaty."

AGREED STATEMENTS AND COMMON UNDERSTANDING AMENDMENT

This amendment proposes the incorporation by reference of the agreed statements and the common understandings in the Treaty. As the Treaty stands now, many of the key terms are not in the Treaty itself, but are in the agreed statements and common understandings. The Soviet Union has not printed these in its version of the Treaty. The proposed amendment assures that there will be no confusion concerning the legal status of these statements and understandings. Without such protection, the Treaty itself is largely without content.

AGREED STATEMENTS AND COMMON UNDERSTANDING AMENDMENT

Amendment by addition of a new Treaty Article XIX (redesignate present Article XIX as Article XX), to provide that the agreed statements and common understandings are considered part of the Treaty.

Add the following:

"ARTICLE XIX

"Each Party agrees that the agreed statements and common understandings, the Joint Memorandum on Data Base, and the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations are an integral and inseparable part of the Treaty."

VISIT TO THE SENATE BY PARLIAMENTARIAN FROM THE UNITED KINGDOM

Mr. TOWER. Mr. President, today we have a very distinguished Parliamentarian from the United Kingdom visiting with us.

It is my pleasure to introduce and to present to the Senate the Honorable Geoffrey Pattie, a Member of Parliament and an Under Secretary of State for Defense in the British Government.

He has the peculiar responsibility of being the civilian chief of the Royal Air Force.

I present Mr. Pattie to the Senate at this time.

[Applause.]

RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes so that Members may welcome our distinguished visitor.

There being no objection, the Senate, at 12:08 p.m., recessed until 12:10; whereupon, the Senate reassembled when called to order by the acting President pro tempore (Mr. METZENBAUM).

ORDER OF BUSINESS

Mr. TOWER. Mr. President, I yield to the distinguished Senator from Utah (Mr. HATCH) the remainder of the time under the control of the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. I thank the distinguished majority leader.

THE GENOCIDE CONVENTION: A LEADING HUMAN RIGHTS TREATY

Mr. PROXMIRE. Mr. President, the past few years have witnessed an increased awareness of the crime of genocide. The now famous television broadcast of the "Holocaust," which was viewed by tens of millions of Americans, coupled with greater media coverage of incidents abroad, have been instrumental in expanding the public's comprehension of this brutal act.

Adding to this higher level of consciousness of genocide is the human rights movement, a movement which we have watched grow to great heights during this decade.

Mr. President, the United States has long been a leader in the push for human rights. We are now at a very important crossroads in this movement. And this body has the opportunity to spearhead this drive through its actions.

One action we can take is the ratification of the Genocide Convention. In ratifying this treaty, the Senate will show its support for outlawing mass slaughter, perhaps the greatest violation of human rights ever seen.

Mr. President, the time for ratification of this important treaty is here. We should wait no longer. Ratifying this

treaty would add even greater impetus to this movement, perhaps more than ever seen before. Our body may hold in its hands the lives of millions of people across the world. Surely, we cannot turn our backs on them.

Mr. President, I urge swift ratification of the Genocide Convention of 1949.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Utah is recognized.

ORDER OF BUSINESS

Mr. HATCH. Mr. President, I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, how much time does the Senator have as the acting minority leader?

The ACTING PRESIDENT pro tempore. Just under 1 minute.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Just over 4 minutes.

ORDER FOR THE RECOGNITION OF SENATOR PROXMIRE ON MONDAY, OCTOBER 22, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. PROXMIRE, on Monday, after the two leaders or their designees have been recognized under the standing order, be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar, beginning with the Department of Agriculture and going through page 2.

Mr. HATCH. Mr. President, the nominations have been cleared on this side of the aisle.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

DEPARTMENT OF AGRICULTURE

The legislative clerk read the nomination of James C. Webster, of South Dakota, to be an Assistant Secretary of Agriculture.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF DEFENSE

The legislative clerk read the nomination of Robert W. Komer, of Virginia, to be Under Secretary of Defense for Policy.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Edward Hidalgo, of the District of Columbia, to be Secretary of the Navy.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

PANAMA CANAL COMMISSION

The legislative clerk read the nomination of Dennis P. McAuliffe, of New Jersey, to be Administrator of the Panama Canal Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The legislative clerk proceeded to read sundry nominations in the U.S. Air Force and in the Army placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the votes by which the nominees were confirmed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(All nominations confirmed today are printed at the end of the Senate proceedings.)

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1157.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1157) entitled "An Act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1980".

SEC. 2. There are authorized to be appropriated for the fiscal year ending September 30, 1980, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following amounts:

(1) For General Administration, including hire of passenger motor vehicles, and miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration: $33,168,000.

(2) For the United States Parole Commission, including the hire of passenger motor vehicles: $5,555,000.

(3) For General Legal Activities, including—

(A) the hire of passenger motor vehicles;

(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;

(C) not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate;

(D) advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529);

(E) pay for necessary accommodations in the District of Columbia for conferences and training activities; and

(F) not to exceed $105,000 which may be transferred from the "Alien Property Funds, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia:

$106,267,000, of which $3,000,000 shall be made available for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(4) For the Antitrust Division, consumer protection and kindred laws: $46,915,000.

(5) For United States Attorneys, Marshals, and Trustees, including—

(A) purchase of firearms and ammunition;

(B) lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(C) supervision of United States prisoners in non-Federal institutions;

(D) bringing to the United States from foreign countries persons charged with crime; and

(E) acquisition, lease, maintenance, and operation of aircraft:

$242,573,000.

(6) For Support of United States Prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a): $25,100,000.

(7) For Fees and Expenses of Witnesses, including expenses, mileage, compensation, and per diems of witnesses in lieu of subsistence, as authorized by law; including advances of public moneys: $27,052,000, but no sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one calendar day.

(8) For the Community Relations Service: $5,423,000.

(9) For the Federal Bureau of Investigation for—

(A) expenses necessary for the detection, investigation, and prosecution of crimes against the United States;

(B) protection of the person of the President of the United States and the person of the Attorney General;

(C) acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies;

(D) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General;

(E) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(F) acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; payment of rewards; and

(G) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157 and 1160), under regulations prescribed by the Secretary of State; and

(H) not to exceed $12,100,000 to counter terrorism in the United States; and

(I) not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for solely on his certificate:

$584,408,000, but, in addition to this amount reimbursement received from the Committee on Appropriations, House of Representatives, and the Committee on Appropriations, United States Senate, for the assignment of investigative and support staff or other assistance may be credited to this amount and none of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall classify the offense of arson as a part I crime in its Uniform Crime Reports.

(10) For the Immigration and Naturalization Service, for expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including—

(A) advance of cash to aliens for meals and lodging while en route;

(B) payment of allowances to aliens, while held in custody under the immigration laws, for work performed;

(C) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies;

(D) payment of rewards;

(E) not to exceed $80,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate;

(F) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(G) acquisition, lease, maintenance, and operation of aircraft;

(H) firearms and ammunition and attendance at firearms matches;

(I) operation, maintenance, remodeling and repair of buildings, and the purchase of equipment incident thereto;

(J) refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money;

(K) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens;

(L) acquisition of land as sites for enforcement fence and construction incident to such fence;

(M) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157, and 1160) under regulations prescribed by the Secretary of State; and

(N) research related to immigration enforcement which shall remain available until expended:

$319,386,000, of which $2,100,000 shall be made available to redesign, update, and maintain the nonimmigrant control system applicable to arrival and departure of aliens in and from the United States, $5,000,000 shall be made available to install fully automated systems for processing and recordkeeping in District offices, and not to exceed $50,000 may be used for the emergency replacement of aircraft upon the certificate of the Attorney General.

(11) For the Drug Enforcement Administration for its activities, including—

(A) hiring and acquiring law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(B) paying in advance for special tests and studies by contract;

(C) paying in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act (21 U.S.C. 873(a)(2));

(D) paying expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate;

(E) paying rewards;

(F) paying for publication of technical and informational material in professional and trade journals; purchase chemicals, apparatus, and scientific equipment;

(G) paying for necessary accommodations in the District of Columbia for conferences and training activities;

(H) acquiring, leasing, maintaining, and operating aircraft;

(I) research related to enforcement and drug control to remain available until expended;

(J) contracting with individuals for personal services abroad, and such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;

(K) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157, and 1160), under regulations prescribed by the Secretary of State; and

(L) paying for firearms and ammunition and attendance at firearms matches:

$202,366,000, including such sums as are authorized by section 709(a) of the Controlled Substances Act (21 U.S.C. 904(a)), for the fiscal year ending September 30, 1980.

(12) For the Federal Prison System: $344,011,000, including the following:

(A)(i) For the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions;

(ii) purchase and hire of law enforcement and passenger motor vehicles;

(iii) compilation of statistics relating to prisoners in Federal penal and correctional institutions;

(iv) assistance to State and local governments to improve their correctional systems;

(v) purchase of firearms and ammunition; medals and other awards;

(vi) payment of rewards;

(vii) purchase and exchange of farm products and livestock;

(viii) construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18 of the United States Code; and

(ix) transfer to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

(B) For Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Control Corporation Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles.

(C)(i) For planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this clause.

(ii) The Attorney General shall take such steps as may be necessary to acquire or to construct, in Los Angeles County, California, a Federal detention facility.

(iii) In addition to any other sums that are authorized to be appropriated by this Act, there are authorized to be appropriated $2,600,000 for planning and site acquisition to carry out clause (ii).

(D) For carrying out the provisions of sections 4351 through 4353 of title 18 of the United States Code, which establishes a National Institute of Corrections, to remain available until expended.

SEC. 3. None of the sums authorized to be appropriated by this Act may be used to pay the compensation of any person employed after the date of the enactment of this Act as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

SEC. 4. (a) Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

(b) Sums authorized to be appropriated by this Act may be used for the purchase of insurance for motor vehicles and aircraft operated in official Government business in foreign countries.

(c) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5 of the United States Code.

(d) Sums authorized to be appropriated by this Act to the Department of Justice may be used for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

(e) Sums authorized to be appropriated by this Act may be used for—

(1) expenses of primary and secondary schooling for dependents of personal stationed outside the continental United States at costs not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

(2) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

(f) There are authorized to be appropriated for the fiscal year ending September 30, 1980, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

(g) Sums authorized to be appropriated for "Salaries and expenses, General Administration", "Salaries and expenses, United States Attorneys, and Marshals", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Bureau of Prisons" may be used for uniforms and allowances as authorized by sections 5901 and 5902 of title 5 of the United States Code.

(h) The first sentence of section 5924(4)(B) of title 5, United States Code, is amended by striking out "or the United States Information Agency," and inserting in lieu thereof the following: ", the International Communications Agency or the Department of Justice."

SEC. 5. Section 5315(19) of title 5 of the United States Code, is amended to read as follows:

"(19) Assistant Attorneys General (10).".

SEC. 6. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until, but not later than, the end of the fiscal year ending September 30, 1980. Any dissemination by the Federal Bureau of Investigation of identification and other records to a financial institution chartered or insured by the Federal Government shall be on a cost reimbursed basis.

SEC. 7. With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521); and

(3) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Associate Director) and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

SEC. 8. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committees on the Judiciary, of the House of Representatives and the Senate, and other appropriate committees, and the ranking Minority members thereof, a minimum of 15 days before—

(1) reprograming of funds in excess of $250,000 or 10 percent, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) reprograming of funds in excess of $500,000 or 2 percent, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted;

(5) creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; and

(7) significant relocation of offices or employees.

SEC. 9. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organization's programs, as determined by priorities set either by the Congress or the Attorney General.

(b) The evaluations shall be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials shall provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, documentation, and cognisant personnel as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives and other appropriate committees.

(e) If the Committee on the Judiciary of either the Senate or the House of Representatives requests the Attorney General to perform an evaluation of the sort described in subsection (a) of this section, the Attorney General shall make the evaluation requested and provide such evaluation to the committee making the request not later than 60 days after the date the request is made, but the committee making the request may extend the time for providing such evaluation.

SEC. 10. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $5,748,770 to improve the quality of medical services within the system.

SEC. 11. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $90,000 to improve the quality of legal services within the system.

SEC. 12. (a) On or before September 1, 1980, the Attorney General shall submit to Congress—

(1) a plan to assure the closure of the United States Penitentiary at Atlanta, Georgia, by September 1, 1984; and

(2) a plan to alter the function of the United States Penitentiary at Leavenworth, Kansas, to that of a modern correctional institution capable of housing not more than 500 prisoners by September 1, 1985.

(b) The plan prepared under this section shall prohibit the use of the United States Penitentiary at Atlanta, Georgia, as a correctional institution by a State or political subdivision after the closure of the institution by the Federal Government.

SEC. 13. (a) In order to create an independent and objective unit—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Immigration and Naturalization Service,

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations, and

(3) to provide a means for keeping the Commissioner of the Immigration and Naturalization Service and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action,

there is hereby established in the Immigration and Naturalization Service of the Department of justice an Office of Inspector General (hereinafter in this section referred to as "the Office").

(b)(1)(A) There shall be at the head of the Office an Inspector General (hereinafter in this section referred to as "the Inspector General") who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to and be under the general supervision of the Commissioner, who shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(B) The President shall first submit to the Senate a nomination for the position of the Inspector General not later than 90 days after the date of the enactment of this Act.

(2) The Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(3) For the purposes of section 7324 of title 5 of the United States Code, the Inspector

General shall not be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(4) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(A) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the Service, and

(B) appoint an Assistant Inspector General for Investigations who shall have the responsibility for the performance of investigative activities relating to such programs and operations.

(e) The following provisions of the Inspector General Act of 1978 (Public Law 95-452) shall apply to the Inspector General, the Office, the Commissioner, and the Service under this section in the same manner as those provisions apply to an Inspector General, an Office, the head of the establishment, and an establishment under such Act:

(1) Section 4 (relating to duties and responsibilities of an Inspector General and the manner in which they are carried out).

(2) Section 5 (relating to reports required to be prepared and furnished by or to an Inspector General and their transmittal and availability).

(3) Section 6 (relating to the authority of an Inspector General and related administrative provisions).

(4) Section 7 (relating to the treatment of employee complaints by an Inspector General).

(d)(1) There shall be transferred to the Office—

(A) the offices of the Service referred to as the "Office of Professional Responsibility", the "Office of Performance Review", and

(B) such other offices or agencies, or functions, powers, or duties thereof, of the Service as the Commissioner may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this section;

except that there shall not be transferred to the Inspector General under subparagraph (B) program operating responsibilities.

(2) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under paragraph (1) are hereby transferred to the Office.

(3) Personnel transferred pursuant to paragraph (2) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(4) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to paragraph (1), such office or agency shall lapse. Any person, who, on the effective date of this section, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

(e) For purposes of this section:

(1) The term "Service" means the Immigration and Naturalization Service.

(2) The term "Department" means the Department of Justice.

(3) The term "Commissioner" means the Commissioner of Immigration and Naturalization.

(f) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(152) Inspector General, Immigration and Naturalization Service".

(g) The provisions of this section and the amendment made by subsection (f) of this section shall take effect on the date of the enactment of this Act.

(h) In addition to any other sums authorized to be appropriated by this Act, there are authorized to be appropriated $376,000 to carry out this section.

SEC. 14. The Attorney General shall make arrangements with an appropriate entity for an independent, comprehensive management analysis of the operations of the Immigration and Naturalization Service for the purpose of making such operations efficient and cost effective. After the completion of such analysis, the Attorney General shall promptly submit a report to the appropriate committees of Congress on the results of such analysis together with any administrative or legislative recommendations of the Attorney General to improve the operations of the Service.

SEC. 15. (a) The Attorney General shall during the fiscal year for which appropriations are authorized by this Act, transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If, during the fiscal year for which appropriations are authorized by this Act, the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

SEC. 16. (a) Section 709(a) of the Controlled Substances Act (21 U.S.C. 904) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1979," the following: "and $202,366,000 for the fiscal year ending September 30, 1980,".

(b)(1) Section 709 of such Act is amended by adding after subsection (b) the following new subsection:

"(c) In carrying out its functions under this title, the Drug Enforcement Administration may pay tort claims, in the manner authorized by section 2672 of title 28, United States Code, when such claims arise in foreign countries in connection with Drug Enforcement Administration operations abroad."

(2) Section 511(d) of such Act (21 U.S.C. 881(d)) is amended by (A) by striking out "All provisions" and inserting in lieu thereof "The provisions", and (B) by striking out "and the award of compensation to informers in respect of such forfeitures".

(c)(1) Paragraph (4) of section 102 of such Act (21 U.S.C. 802(4)) is amended to read as follows:

"(4) The term 'Drug Enforcement Administration' means the Drug Enforcement Administration in the Department of Justice.".

(2) Sections 508 and 516 of such Act (21 U.S.C. 878, 886) are each amended by striking out "Bureau of Narcotics and Dangerous Drugs" each place it occurs and inserting in lieu thereof "Drug Enforcement Administration".

(3) Section 513 of such Act (21 U.S.C. 883) is amended (A) by striking out "Director of the Bureau of Narcotics and Dangerous Drugs" and inserting in lieu thereof "Administrator of the Drug Enforcement Administration", and (B) by striking out "Director may" and inserting in lieu thereof "Administrator may".

SEC. 17. The National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to use funds, and to authorize States to use funds, for programs, projects or events devoted to the international aspects of crime prevention and criminal justice.

(b) Notwithstanding any other provision of law, the State of California is authorized to utilize the proceeds of block grants awarded during fiscal year 1979 or fiscal years previous thereto to fund the 1980 Congress on the Prevention of Crime and Treatment of Offenders.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I move that the Senate disagree to the amendments of the House, that the Senate request a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Acting President pro tempore (Mr. METZENBAUM) appointed Mr. KENNEDY, Mr. METZENBAUM, Mr. BAYH, Mr. BAUCUS, Mr. DECONCINI, Mr. THURMOND, Mr. MATHIAS, Mr. COCHRAN, and Mr. DOLE conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I am ready to yield back the remainder of my time.

Mr. HATCH. Mr. President, I am prepared to yield back the remainder of my time and do so.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to extend beyond 1 p.m. and that Senators may speak therein up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THOMAS ALVA EDISON AND AMERICA'S NEED TO REVITALIZE THE SPIRIT OF INNOVATION

Mr. THURMOND. Mr. President, on Sunday, October 21, we commemorate the 100th anniversary of Thomas Alva Edison's magnificent achievement that gave us the first practical electric light. Edison was a prolific inventor as attested by the record he set and retains for U.S. patents held by a single individual, an almost unbelievable 1,093. His basic scientific discoveries eventually led to the tremendous electronics industry that affects virtually every facet of our lives today. Certainly we in America, and people all around the world, want to express our feeling of gratitude to the memory of this great American inventor.

Mr. President, we would be remiss, however, if we did not, at this centennial time, take a hard look at our current state of innovation in the United States. It is almost disturbing and regrettable to see that America today is rapidly losing its traditional leadership in technological innovation.

An article titled "The Sad State of Innovation" in the October 22, 1979, issue of Time magazine provides some facts and some insights about how new ideas are now being stifled by redtape and corporate timidity. In recent years, the number of patents is down, the rate of spending on research and development is down, and, as a result, growth in productivity is down.

Mr. President, foreign manufacturers are effectively challenging our American industrial production. Our increasingly severe trade deficits are further weakening the dollar.

We in Government must share much of the blame for this innovation recession. High taxes and excessive Government regulations adversely affect our American businesses as they attempt to produce and to trade in domestic and international markets.

Mr. President, surely we must take advantage of every opportunity to correct this situation that is so dramatically suppressing innovation in America. Our concern must extend to the small, the medium, and the large size businesses. It must extend to the individual consumers in today's inflation-ridden economy. It must extend to the overall public interest, particularly as related to our Nation's security.

Mr. President, in order to share this excellent article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SAD STATE OF INNOVATION

Candles and kerosene lamps flickered that Sunday night as the lab assistant connected two wires leading from the bottom of a glass bulb to a set of storage batteries. The pieces of carbonized cotton sewing thread inside the bulb suddenly lighted up. In dozens of earlier experiments, the filament had blazed a few minutes before breaking, but this time it continued to glow. Forty hours later the bulb was still alight, and Thomas Alva Edison boasted to his staff: "If it will burn that number of hours now, I know I can make it burn a hundred." Man had entered the age of electricity.

On Oct. 21 a crowd of scientists, industrialists and other celebrities will gather amid the historic buildings at Greenfield Village in Dearborn, Mich., to commemorate the hundredth anniversary of Edison's banishment of darkness. In Edison's laboratory—disassembled in Menlo Park, N.J., by his good friend Henry Ford, then crated and shipped to Dearborn along with seven railroad cars full of the clay soil on which it sat—the audience will watch a re-enactment of the scene. Madeline Edison Sloane, the inventor's great-granddaughter, will throw the switch that opened a new era. As the German historian Emil Ludwig described the original event, "When Edison snatched up the spark of Prometheus in his little pear-shaped glass bulb, it meant that fire had been discovered for the second time, that mankind had been delivered again from the curse of night."

The centennial of Edison's great achievement comes at a time when American innovative genius, so well personified by Edison, has begun to fade. The nation that produced Robert Fulton, Robert Goddard, Edmund Land and many others now has far fewer folk-hero tinkers. Laments James G. Cook, president of the Thomas Alva Edison Foundation: "Over the past decade, America has been losing its traditional leadership in technological innovation. Our Edison-like spirit of inventiveness seems to be going the way of the gas lamp."

Most of the important indicators are pointing down. The number of patents granted to U.S. citizens dropped from 56,000 in 1971 to 44,482 last year. Spending on research and development, which peaked at 3 percent of GNP in 1964, was only 2.2 percent last year. While the U.S. percentage has been decreasing, West Germany's has averaged 3 percent annually since 1971, and last year increased to 3.2 percent. Japan's has risen from 1.3 percent in 1965 to 1.9 percent in 1977. Says Paul E. Gray, president-elect of the Massachusetts Institute of Technology: "We have lost a certain edge in technological innovation."

Innovation means more than just new air-blown popcorn poppers or home computer games for a society already overrun with gadgets. America's dismal economic record over the past decade largely reflects the decline of research and new product development. Growth in productivity, which measures a worker's output per hour, depends upon new machines and industrial processes that help the worker produce more. While U.S. productivity increased at a rate of 3.1 percent annually from 1955 to 1965, it increased at only 2.3 percent from 1965 to 1973. So far this year, productivity has been declining at an annual rate of more than 3 percent. As the congressional Joint Economic Committee warns, without productivity growth, the American standard of living will decline in the 1980's.

The Yankee dollar's weakness on money markets also reflects decreased innovation. For years high-technology exports such as computers and telecommunications equipment provided a comfortable trade surplus. But since the early 1970's foreign manufacturers have strongly challenged American industrial products, and the U.S. has been suffering increasingly severe trade deficits, thus weakening the dollar. It is all too easy to blame the trade deficit on skyrocketing oil prices, though they are a major cause; Japan, which must import all its oil, has maintained a trade surplus by developing high-technology products and aggressively selling them abroad. A prime example: every one of the million video tape recorders sold in the U.S.—including those marketed under American labels—was developed and made in Japan.

Many scientists and businessmen blame the Government for the innovation recession. M.I.T.'s Gray complains that high taxes on capital gains and excessive Government regulation have discouraged new entrepreneurs. The 1969 increase in capital gains taxes from 25 percent to 49 percent dried up venture money, especially for small companies. From 1969 to 1975 the amount of new capital acquired annually by small firms sank from $1.5 billion to $15 million.

The labyrinth of Government regulation has not only shifted research from new products to the "defensive research" necessary to comply with burgeoning environmental and safety rules, but has also increased the cost of bringing out new developments. Says Chrysler Chairman Lee Iacocca: "I never invent anything any more. Everything I do is to meet a law." In the early 1960's it cost $1 million and took up to five years to bring a drug through the Federal Drug Administration's regulatory mass. It now costs $18 million and can take ten years. As a result, the number of new drugs introduced by U.S. pharmaceutical firms has fallen off 50 percent. Writes British Essayist Henry Fairlie: "The once rambunctious American spirit of innovation and adventurousness is today being paralyzed by the desire to build a risk-free society."

Businessmen must share the opprobrium for stifling innovation. Says Donald Frey, chairman of Bell & Howell:

"The biggest problem in the U.S. is not the lack of inventive capacity but the lack of businessmen willing to take the risk investments." The bottom-line obsession of many managers results in quick payoff investments to retool old products rather than expensive long-term spending to develop new ones. Though Texas Instruments this year will spend $155 million on research, Vice President George Heilmeier admits: "We have become conservative and spend less on basic research."

Some entrepreneurs also complain that corporate giants are indifferent to small projects. Harry J. Bixler, president of Boston's Avco Everett Research Laboratory, contends that new products that promise tidy but unextravagant revenues go unsupported by Big Business even though the initial investment might be low. Says he: "Large companies could care less about the guy who has a $100,000 idea. They'd lose that in the paper-clip account." Such technological triumphs as Xerography and Polaroid film were developed by small innovator-entrepreneurs only after larger firms turned down the ideas.

There are a few bright spots in the otherwise gloomy innovation picture. Last year's reduction in the capital gains tax from 49% to 28% resulted in a flood of new money looking for risky but promising investments. Boston's Route 128 complex of small, high-technology firms and California's Silicon Valley are awash with funds.

Large technology-based firms like IBM and Bell Labs are also sinking megabucks into research. Bell Labs will spend $1 billion on research this year, with large amounts going to develop fiber optics—systems that carry information in rays of light traveling through slender glass fibers rather than in electric currents moving through bulky cables. IBM's research budget this year will be $1.25 billion, and the company has become the first to master the mass production of a silicon memory chip small enough to pass through the eye of a needle yet able to store 64,000 bits of information. Bell & Howell's Frey maintains it is a myth that only small firms can be innovative, adding that only large corporations have the capital and the distribution network to take new products from lab to market.

Even some of the "defensive research" is starting to pay off. Last week the 3M Co. introduced a lithograph printing plate that

tess nonpolluting tap water instead of chemical developers to produce an image. General Motors' new zinc-nickel oxide battery pack—which can be completely recharged 300 times and will power a car for 100 miles—cost $22 million and took ten years to develop, but it has now opened up for the first time the possibility of a practical, mass-produced electric car.

The Government has also begun to recognize its responsibility for the low level of innovation. "Whether intended or not, the Government is inevitably involved in today's innovative process," concedes Richard A. Meserve, policy analyst for the White House Office of Science and Technology Policy. In the past three years President Carter has shifted the balance of federal R. and D. spending, which this year will total $30 billion, toward basic research. Carter this month will also present the results of a 20-month Commerce Department study on innovation. Presidential recommendations are expected to include modifications of patent and antitrust laws to protect inventors and encourage joint developments, tax breaks for small innovative businesses, and the creation of cooperative technology centers to get technical information flowing among business, Government and academe.

No one has yet precisely defined the ingredients necessary for a society to generate innovation. Historian Barbara Tuchman notes that the 12th and 13th centuries enjoyed "one of civilization's great bursts of development," with the introduction of the compass, the spinning wheel and the windmill. Mid-19th century Europe and the U.S. enjoyed similar explosions. But why? Perhaps necessity is indeed the mother of invention, and the demands of the current energy and environmental crises may yet revive the spirit of the Yankee tinkerer.

STATE RESPONSES TO S. 10, THE RIGHTS OF INSTITUTIONALIZED PERSONS

Mr. THURMOND. Mr. President, Senate bill 10 is currently before the Judiciary Committee. This bill would grant standing to the U.S. Attorney General to initiate suit against any State institution which does not comport with his idea of what institutional conditions should be. S. 10 would also authorize the Attorney General to intervene in any suit which has been filed by an inmate or patient of a State institution.

Mr. President, this bill represents a very serious danger to State-Federal relations. While the conditions in some Federal institutions continue to be atrocious, Federal officials assume they can best tell State institutional care professionals how to run State institutions.

It should come as no surprise, then, that State officials are very concerned about the intrusive nature of S. 10. These State officials are concerned about their citizens, and they are fearful that a Federal policy of confrontation, through lawsuits, is going to be more harmful than a policy of cooperation, through consultation and aid. If conditions need to be improved, why should we force the States to waste valuable needed resources in protracted litigation. It is in the best interest of everyone, especially the inmates, to have a coordinated Federal attempt at cooperation with the States, without Federal control.

Over the last several months, I have been in communication with many State Governors and attorneys general and I would like to share with my colleagues the responses from these officials in 29 States. Without exception, the responses which I have received have expressed opposition to the approach authorized by S. 10. I ask unanimous consent that these responses be printed in the RECORD. I hope that my colleagues will review these responses and will check with the officials in their States in order that they will be able to understand the serious problems which would be caused by S. 10.

There being no objection, the responses were ordered to be printed in the RECORD, as follows:

STATE OF ARKANSAS,
Little Rock, Ark., May 21, 1979.

Re S. 10.
Hon. STROM THURMOND,
U.S. Senator, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR THURMOND: This Office has reviewed the referenced bill and agrees with your observation that it may well strain federal-state relationships in the absence of any federal funding to permit states to comply with equitable affirmative relief ordered by federal courts. In addition, since individual plaintiffs may bring actions under present law imposing a lesser burden of proof, the need for this legislation is dubious.

Thank you for giving this Office the opportunity to review and comment upon this measure.

Yours truly,

FRANK H. SPEARS,
Administrative Assistant.

OCTOBER 8, 1979.

Hon. STROM THURMOND,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR THURMOND: I am writing concerning S. 10 which proposes to authorize the Attorney General to institute legal action on behalf of institutionalized persons in cases where such persons are purportedly deprived to rights, privileges or immunities provided by the Constitution or Laws of the United States.

It is important to note that the Justice Department already has adequate authority to act in those cases where it is deemed necessary, and that existing controls and regulations administered by other Federal agencies, vis a vis the Developmental Disabilities Act, Medicaid and Medicare regulations, Education of all Handicapped Children's Act (94-194) provide sufficient protection for residents of state-run institutions.

Furthermore, Connecticut, through its protective services, and advocacy laws, and other statutes protecting the handicapped already has sufficient authority to protect the rights of the institutionalized and it is currently exercising it, as evidenced by recent federal court action initiated by Connecticut's Office of Protection and Advocacy of the Handicapped and Developmentally Disabled Persons in a case concerning the care of mentally retarded persons within this State.

Should the bill be approved by the Committee, I would urge you to consider these existing remedies prior to making a decision on the bill.

With best wishes,
Cordially,

ELLA GRASSO,
Governor.

WILLIAM J. SCOTT,
ATTORNEY GENERAL,
Chicago, Ill., September 26, 1979.

Hon. STROM THURMOND,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR THURMOND: I am responding to your letter of September 14, 1979 to William J. Scott, Attorney General of the State of Illinois. Mr. Scott recently underwent coronary bypass surgery or he would have answered your letter personally. He sends his regrets and has asked me to respond for him.

I agree with your conclusion that S10 would give the United States Department of Justice too much oversight authority with respect to the operations of state institutions. Section 1 of the Act gives the Attorney General of the United States almost unlimited discretion to decide when to inject the United States government into the operations of State facilities. That is not to say that some involvement at some time might not be required because there are instances where the rights, privileges, and immunities secured by the Constitution are being violated, but the Bill as it now stands would give the Attorney General of the United States the independent discretion to make that type of finding. Further, Section 2 of the Act gives the Attorney General of the United States the authority to virtually mandate and require sovereign states to do those actions which the Attorney General of the United States, in his opinion, feels are required when they may not actually be required.

It is difficult for state and local governments to operate institutions in a manner which best serves not only the residents of its institutions but also the taxpayers who are required to support those institutions. Adding yet another federal bureaucratic taskmaster is not the answer and unless S10 is modified it would seem to be a poor Bill in its current posture.

Again, Mr. Scott had desired to answer your inquiry personally but that was impossible and if there is anything more that can be done by this office please contact me at the above address or call me at (312) 793-3117.

Very truly yours,

FRANK M. GRENARD,
Executive Assistant.

DEPARTMENT OF LEGAL AFFAIRS,
OFFICE OF THE ATTORNEY GENERAL, THE CAPITOL,
Tallahassee, Fla., May 14, 1979.

Hon. STROM THURMOND,
U.S. Senator,
Washington, D.C.

Re S. 10 (H.R. 10 in the House of Representatives)

DEAR SENATOR THURMOND: Thank you very much for your letter of May 1, 1979, regarding S. 10 (H.R. 10 in the House of Representatives), which would permit the United States Attorney General to bring suit directly against state prisons and mental institutions to assert violation of federal constitutional rights.

I share your concern for this legislation and am strongly opposed to this proposal. I have previously contacted Florida's senators and governor on this matter and urged their opposition to this bill. For your information, I am enclosing my correspondence to Senator Chiles.

Should you need additional assistance or information, please feel free to call on me.

Sincerely,

JIM SMITH,
Attorney General.

OFFICE OF THE GOVERNOR,
Atlanta, Ga., June 14, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR STROM THURMOND: Thank you for your recent letter sharing with me your concerns regarding S. 10, which addresses the rights of institutionalized persons. It is my understanding that a similar bill has already passed the House.

I am in agreement that the mentally disabled must be assisted in obtaining legal services, and I am confident that Georgia's current statutes make adequate provisions to provide these services. In 1977, I appointed a committee to rewrite our statutes regarding rights of the mentally ill, mentally retarded, alcoholics and drug abusers who may need involuntary commitment and treatment in order to protect themselves as well as others. This committee included attorney advocates for the mentally ill and mentally retarded, citizen interest groups, members of the General Assembly and others. The resulting amendments were enacted in 1978 and received additional "fine tuning" in the 1979 session of the Georgia General Assembly.

In regard to state correctional facilities, I am strongly opposed to giving the United States Department of Justice opportunities for direct intervention into the state correctional system without a formal process addressing specific complaints, and I am opposed to federally established minimum standards for state correctional facilities without input from the states and without benefit of state legislative action.

A national policy to define and protect the constitutional rights of inmates of state and local institutions should only be established in formal consultation with state government.

With kindest regards, I am
Sincerely,

GEORGE BUSBEE.

THE DEPARTMENT OF LAW,
STATE OF GEORGIA,
Atlanta, Ga., May 10, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

Re S. 10

DEAR SENATOR THURMOND: I have received your letter dated May 1, 1979 regarding S. 10, a Bill which is presently pending before the Senate Judiciary Committee. I can assure you that I have similar concerns regarding many aspects of the Bill. I have previously communicated these concerns to various members of Congress, and I shall continue to monitor the situation carefully.

I do appreciate your expression of concern regarding this matter.

Sincerely,

ARTHUR K. BOLTON,
Attorney General.

STATE OF HAWAII,
DEPARTMENT OF THE ATTORNEY GENERAL,
Honolulu, Hawaii, May 18, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: This letter is to acknowledge receipt of your letter of May 1, 1979 relating to bill S. 10 which grants standing for the United States Attorney General to initiate suits against the states on behalf of institutionalized persons. I appreciate your forwarding me your informative comments on the bill.

After an initial review of S. 10, I agree with you that the individual states should have the authority to regulate the operation of its institutions with minimum federal infringement. The State of Hawaii is capable of effectively operating its own institutions. It appears that allowing the United States Attorney General to initiate suits against state institutions may not be the appropriate means of remedying problems that exist in such institutions. Furthermore, there are presently sufficient avenues of relief for an institutionalized person who has any complaints, including filing suit in federal court under 42 USC 1983.

I will keep in mind your comments on S. 10 when I consult with Governor George R. Ariyoshi on this matter. Again, thank you for your sincere efforts in providing me information on this matter.

Very truly yours,

WAYNE MINAMI,
Attorney General.

STATE OF IDAHO,
OFFICE OF THE ATTORNEY GENERAL,
May 14, 1979.

Senator STROM THURMOND,
U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your correspondence concerning Senate Bill 10, sponsored by Senator Birch Bayh of Indiana. This office has already corresponded with the National Association of Attorneys General, indicating our opposition to the bill. However, we feel obliged to personally advise your office that we are in opposition to Senate Bill 10.

A copy of your correspondence with its enclosures, has been forwarded on to the Idaho Governor's Office.

Very truly yours,

MICHAEL E. KENNEDY,
Deputy Attorney General,
Chief, Criminal Justice Division.

OFFICE OF THE GOVERNOR,
Indianapolis, Ind., May 23, 1979.

Hon. STROM THURMOND,
U.S. Senator, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR THURMOND: Having reviewed S. 10, it is my opinion that the bill would permit unnecessary federal control over institutional care at the state level. While it may be true that 10 or 15 years ago, many states were not meeting their obligations to those confined in state institutions, fortunately, that is no longer true.

In the past several years, Indiana, like many other states, has moved affirmatively in this area. Examination of Indiana's mental and correctional institutions would show that significant progress has been made in the provision of care and protection to inmates, as well as in respect for human rights. Where Indiana and other states have fallen short in meeting their responsibilities in the institutional area, advocacy organizations for the various persons confined have shown they can be very effective in their use of the judicial system.

In view of the states' progress in the provision of institutional care and judicial remedies which assure additional progress, S. 10 would be an unnecessary layer of federal intervention in an area already being handled effectively at the state level.

Kindest personal regards,

OTIS R. BOWEN, M.D.,
Governor.

STATE OF KANSAS, OFFICE OF THE ATTORNEY GENERAL,
Topeka, Kans., May 9, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your letter of May 1, 1979, concerning S. 10. At this point I am opposed to passage of such legislation as it appears to pose another bureaucratic problem where there are already legal remedies available. I know of no instance when the Office of Attorney General of Kansas was unwilling to cooperate in fulfilling the duty of caring for the mentally ill. Until a need is shown in this state I cannot support S. 10.

Very truly yours,

ROBERT T. STEPHAN,
Attorney General of Kansas.

STATE OF LOUISIANA,
EXECUTIVE DEPARTMENT,
Baton Rouge, La., May 25, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your letter of May 1, 1979, informing me of S. 10 which would allow the United States Justice Department to initiate suits against the states on behalf of institutionalized persons. As you have noted, this bill raises many questions concerning federal interference in state affairs and promotes conflict rather than cooperation.

I will be contacting the Louisiana Congressional Delegation concerning this legislation and have shared your letter with other state officials. I appreciate your calling this matter to my attention.

Sincerely,

EDWIN EDWARDS.

STATE OF MAINE, DEPARTMENT OF THE ATTORNEY GENERAL,
Augusta, Maine, June 15, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: This is in response to your letter of May 1, 1979, expressing concern over S. 10, a bill to authorize the Justice Department to bring a civil action to enforce the rights of persons residing in state institutions and prisons. My office has followed the course of S. 10 and its companion H.R. 10 and shares your concern with the possible impact of this legislation on the operation of state government.

In 1975 a class action was filed against the State of Maine on behalf of persons residing at Pineland Center, Maine's institution for the mentally retarded. The class as certified by the U.S. District Court included not only current and future residents of Pineland, but also residents who had been released from Pineland Center years ago. The suit was brought initially by Pine Tree Legal Assistance, Inc., of Portland, Maine, but control of the suit was quickly taken over by the Mental Health Law Project, Washington, D.C.

The dual nature of the certified class and dual representation of the class made defense of the suit very difficult. The suit was settled by consent in July 1978, but only after two years of negotiation, and at a cost of several million dollars, including $90,000 in attorney's fees. The negotiations were so protracted and so costly because of dual representation. Pine Tree Legal Assistance and the Mental Health Law Project frequently disagreed on the goals of the lawsuit and on the terms on which the goals could be achieved.

The State of Maine is sensitive to the needs and rights of persons residing in her institutions and prisons. This office believes, however, that persons in institutions and prisons are adequately represented at this time. In fact, Maine's experience as related above suggests the interjection of the Justice Department in institutional litigation may significantly impede the resolution of the issues raised in such litigation by inserting yet another party with a potentially different point of view. That will only aggravate the rather ironic predicament confronting the states, which compels them to expend money to meet litigation costs when that money might otherwise be used to remedy problems in state institutions and prisons.

Thank you for your personal invitation to comment on S. 10 and please be assured of Maine's support for your position.

Very truly yours,

RICHARD S. COHEN,
Attorney General.

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT,
Annapolis, Md., May 24, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Dirksen Building,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for letter of May 1, 1979 concerning S. 10, which would give the United States Department of Justice certain rights of suit on behalf of persons in state institutions.

Maryland is concerned about federal decision making in dealing with areas of state responsibility. Attorney General Sachs is working with the National Association of Attorneys General in an effort to tighten up conditions in which federal intervention might take place, should legislation similar to S. 10 move forward. There are, of course, enormous fiscal implications involved in most initiatives for deinstitutionalization or institutional improvement. Maryland would welcome federal cooperation in this sphere.

I appreciate hearing from you.

Sincerely,

HARRY HUGHES,
Governor.

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, Mich., July 23, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your letter expressing concern regarding the possible enactment of S. 10. I agree with you that we should move toward increasing state-federal cooperation rather than establishing mechanisms that will result in adversary confrontations.

Michigan joins the National Association of Mental Health Program Directors in the position that there is no need for S. 10 and that such legislation will place further burdens on state legal activities, overload already heavy court calendars, and duplicate ongoing legal remedies.

The State of Michigan has established an extensive network of recipient rights offices at all state hospitals and centers for the developmentally disabled for the purpose of ensuring and protecting the rights of recipients of mental health services.

In addition, a specific protection and advocacy system outside the Department of Mental Health has been established for the developmentally disabled with legal expertise available, free of charge, to all developmentally disabled citizens.

I assure you there are sufficient numbers of qualified legal experts available within the state to pursue appropriate legal redress for violations of rights of recipients of mental health services and further involvement by the Justice Department would be redundant.

Legal intrusion by the U.S. Department of Justice will polarize agencies and reduce state and federal agency cooperation compounding the problem of creating better interagency relationships and promoting cooperation.

Warm personal regards.

Sincerely,

WILLIAM G. MILLIKEN,
Governor.

THE CAPITOL,
Jackson, Miss., June 19, 1979.

Hon. STROM THURMOND,
U.S. Senate, State of South Carolina, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your recent letter concerning S. 10.

I have studied this bill carefully and believe this area of State and local concern may best be regulated through State legislation along with the regulations and standards adopted by the various agencies within a State.

The passage of this bill would infringe upon a States rights of self government. The ability of the State to govern its internal affairs should not be carved away any further than has been done in the past. We are willing to work with federal agencies in this area, however the enactment of S. 10 would surely create friction and confrontations between States and federal agencies at a time when cooperation is most needed.

Again, thank you for writing and if I may be of any further assistance, please do not hesitate to contact me.

With kindest personal regards and best wishes, I am

Sincerely your friend,

CLIFF FINCH,
Governor.

ATTORNEY GENERAL OF MISSOURI,
Jefferson City, Mo., May 21, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Russell Building,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your letter regarding the institutions legislation proposed by Senator Birch Bayh. I am deeply alarmed about this incursion of the federal government into the internal administration of state institutions.

I appeared before a House Committee last year regarding this matter and stated my clear objection to this unwarranted infringement of the U.S. Department of Justice.

It should be noted that these matters are all being litigated very frequently in the federal courts and there is no need to have the Justice Department bring additional suits.

I am currently defending a significant number of suits relating to the conditions in virtually every institution in my state that have been brought by legal aid societies, private parties and others. Additional funding for the Justice Department would be a senseless duplication of federal involvement in an area which is already made difficult by the costly litigation which impairs the ability of the states to correct problems which do exist.

Thank you for your concern and your support in this matter.

Most sincerely,

JOHN ASHCROFT,
Attorney General.

STATE OF MONTANA,
Helena, Mont., September 26, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your September 14, 1979 letter concerning S. 10. Following your first letter some months ago, I wrote directly to both Senators Melcher and Baucus to express my own concerns on S. 10. I enclose a copy of my letter.

Very truly yours,

MIKE GREELY,
Attorney General.

JUNE 27, 1979.

Re S. 10.
Senator MAX BAUCUS,
U.S. Senate,
Washington, D.C.

DEAR MAX: I recently learned that the House of Representatives has passed H.R. 10. A corresponding bill, S. 10, is presently pending in the Constitution Subcommittee of the Senate. These bills, which would authorize the Attorney General of the United States to institute civil actions on behalf of the United States to secure the constitutional rights of inmates and patients of state institutions, is of grave concern to the State of Montana and to me as a state Attorney General.

My concerns are not with the spirit or overall intent of the bill, since irrespective of the bill the States are obligated to respect the constitutional and legal rights of their citizens. Rather, my concern is with the onus placed upon the Governor and state Attorney General to formulate an adequate response to institutional conditions or practices found objectionable by the United States Attorney General within a very brief, thirty day period. The bill lacks any requirement that federal aid be made available to assist the States in improving institutional conditions, care and procedures.

Section 2(a) of S. 10 provides that as a prerequisite to bringing any action, the United States Attorney General must certify that "at least thirty days previously" he notified the Governor and state Attorney General of objectionable institutional conditions or practices and supplied them with supporting facts concerning the conditions or practices. Section 2(a)(2) & (3) requires the Attorney General to make a reasonable effort to eliminate the alleged conditions on an informal basis by consulting with both the Governor and Attorney General.

But while the Attorney General must further certify that (in his opinion) state officials have had adequate time to take appropriate action, state officials are in effect given a deadline to formulate a response and plan of action, satisfactory to the Attorney General, within thirty days. Such a short time is unreasonable. The conditions or practices may not be susceptible to instant solution. Formulating a responsive proposal, and then carrying it out, requires investigation, careful planning and coordination among state agencies and officials. It may require additional funds not immediately available, and in some cases an act of the legislature.

The difficult position which a state will face in responding within thirty days is further compounded by the lack of any provision requiring federal assistance to implement responsive measures. In many cases the willingness and desire of state officials to ameliorate objectionable conditions may be stymied by a lack of available funds.

I therefore urge you to recommend and support amendments before the Constitution Subcommittee and on the floor of the Senate which will increase the thirty day notice requirement to at least 120 days and provide for direct federal financial assistance to implement remedial measures agreed to by a state and the Attorney General.

Very truly yours,

MIKE GREELY,
Attorney General.

STATE OF NEBRASKA,
Lincoln, Nebr., May 24, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your letter and information regarding S. 10.

As you may know, the State of Nebraska is currently involved in litigation concerning a State institution for the mentally retarded. The Department of Justice has intervened in the lawsuit. After their intervention, the case changed from one involving patient rights to one challenging the philosophy behind the structure of state institutions.

Although I do not feel it would be appropriate to comment on the specifics of the case, the case has made me aware of problems which enactment of legislation such as S. 10 could cause. Such legislation tends to disrupt cooperation between levels of government and delays solutions to the problems. I oppose S. 10 and heartily support your efforts to defeat it.

With kind regards,

Sincerely,

CHARLES THONE,
Governor.

STATE OF NEBRASKA,
Lincoln, Nebr., May 24, 1979.

Re S. 10.
Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: We received your letter and materials concerning S. 10 and appreciate your interest in this matter.

This office has presented oral and written testimony in opposition to this bill and its predecessor. We have also joined with the Honorable Senator Exon of Nebraska in his opposition to this bill. We have learned through a long bitter struggle that litigation is not the answer to this problem.

If we can be of any assistance in further opposition to this or similar legislation, please let us know.

Very truly yours,

PAUL L. DOUGLAS,
Attorney General.

STATE OF NEW HAMPSHIRE,
Concord, N.H., May 9, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your letter of May 1, 1979 concerning legislation now pending in Congress which would allow the United States to sue states over conditions in state institutions and/or to intervene in pending suits concerning institutional issues.

My office has recently been made painfully aware of many of the problems that may be raised by intervention by the United States. A suit involving the state institution for the retarded is now pending in the United States District Court for the District of New Hampshire, and the Justice Department has moved, and been allowed, to intervene in that case.

On March 28, 1979, I testified against S. 10 before the Subcommittee on the Constitution of the Senate Judiciary Committee concerning our involvement in this case. Although I am certain you have already received one, I am enclosing a copy of my testimony.

My office certainly opposes the legislation in its current form. Please let me know if there is anything I can do to assist you in your opposition to this bill.

Sincerely yours,

THOMAS D. RATH,
Attorney General.

STATE OF NEW MEXICO,
Santa Fe, N.M., May 25, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: I agree that S. 10 constitutes an erroneous approach to securing the rights of persons residing in state institutions.

We, in New Mexico, have made tremendous strides in the last few years in insuring that the rights of our institutionalized citizens are protected. Advocacy groups have established a viable rapport with the Attorney General's office, with other state agencies, and with the judicial system to react quickly when any shortcomings in our institutions are identified. Legal representation is also readily available in any type of commitment to our state facilities. Our State has at least as well-defined an understanding of the needs of its institutionalized citizens as does Washington and our officials are more interested than would be Washington lawyers in meeting the needs of these citizens.

Cooperation between the States and Washington is bound to have demonstrably better results than the confrontation approach which S. 10 would seem to foster.

A copy of this letter is being sent to New Mexico Attorney General, Jeff Bingaman, for his consideration and review.

If I can be of further assistance, please let me know.

Sincerely,

BRUCE KING,
Governor.

STATE OF NORTH CAROLINA,
Raleigh, N.C., May 14, 1979.

Re Senate Bill 10.
Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Last year one of the attorneys in my office researched Senate Bill 1393 which as amended is exactly the same as Senate Bill 10 which was reintroduced by Senator Bayh. It is my opinion that Senate Bill 10 is an unwarranted intrusion into the affairs of the states and was written in the belief that states are incapable of or unconcerned with providing proper care for institutionalized persons in their custody. I think this is a blatant affront to the dignity of the states and directly contrary to the principles of federalism, which is a part of the foundation of our constitutional form of government.

I should think the United States Attorney General would be busy enough in assuring that the constitutional rights of persons in federal custody are not violated and does not need the additional responsibility of overseeing the fifty states. Moreover, in a time when the citizens are demanding a reduction in the size of the bureaucracy, this bill runs counter to the wishes of the taxpayer.

I am enclosing a copy of a letter to Senator Morgan on Senate Bill 1393. This letter was written at my direction and I fully concur with its contents. I am also enclosing a copy of my remarks to the Senate Committee on the Judiciary on the "Civil Rights Improvement Act," which I understand either will be or has already been reintroduced. The comments I made on that bill are in many respects equally applicable to S. 10.

Thank you for giving me this opportunity to comment on this bill. If I can be of further assistance to you in this or any other matter, please do not hesitate to call upon me.

With highest regards, I remain.

Yours truly,

RUFUS L. EDMISTEN,
Attorney General of North Carolina.

STATE OF NORTH DAKOTA,
Bismarck, N. Dak., September 21, 1979.

Hon. STROM THURMOND,
U.S. Senator,
Washington, D.C.

DEAR SENATOR THURMOND: This is in response to your letter of September 14, 1979, in which you alert me to the provisions of S. 10, a Senate bill now pending before the full Judiciary Committee.

As you noted, this bill would interject the United States Department of Justice as an overseer in the operation of state institutions for the mentally ill, retarded or elderly and in the operation of state prisons, including local jails.

The bill sets forth a procedure by which the United States Attorney General may institute civil actions on behalf of persons residing in state institutions, seeking equitable relief when institutionalized persons are allegedly deprived of constitutionally secured rights and the alleged deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of constitutionally protected rights. Such a procedure is an unnecessary and unwarranted extension of federal involvement in the administration of state institutions.

Current federal law authorizes civil actions for redress of deprivation of constitutionally protected rights under color of state law, and awards of attorneys fees to successful litigants. Current federal law also authorizes criminal prosecution in certain cases of deprivation of constitutionally protected rights under color of state law.

I am especially concerned about Subsections 2 (1) and (2) of the bill which requires that upon commencing an action, the United States Attorney General must certify that the governor and the state attorney general of a state have been notified by the United States Attorney General or his designee of the measures which he believes may remedy the alleged conditions which deprive rights, privileges or immunities secured or protected by the Constitution or laws of the United States; and that the governor and state attorney general have been made aware of federal financial or technical assistance available to assist in the correction of such conditions. Apparently if a state, for whatever reason, fails to seek all available federal assistance for state institutions, that state is subject to a lawsuit. The judgment of the Justice Department will thus be imposed on the qualified specialists who are administrators of state institutions.

S. 10 would not provide any greater protection to institutionalized persons than what is currently available. It would simply create another level of federal bureaucracy not nearly as sensitive to the rights of North Dakota citizens who are institutionalized nor as well-equipped to protect those rights as those agencies, officials and individuals now working institutionalized persons.

North Dakota legislators and state officials are acutely aware of their responsibilities to institutionalized persons. The North Dakota Legislature has enacted jail standards legislation which directs the Attorney General to promulgate jail rules and regulations and to enforce those rules and regulations. A legislative interim committee is developing a corrections masterplan and another is studying the special needs of North Dakota's institutions for the mentally retarded. There is no necessity of federal supervision of such efforts.

I oppose S. 10 for all the above reasons.

Sincerely,

ALLEN I. OLSON,
Attorney General.

STATE OF OREGON,
Salem, Oreg., June 4, 1979.

Hon. STROM THURMOND,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: I agree with your opposition to S. 10 relating to the constitutional rights of persons in public institutions.

Court action initiated by the United States Department of Justice is not an effective or appropriate way to assure that citizens in public institutions receive proper care and treatment. There are not sufficient deficiencies in the institutions to warrant intrusion of the Federal Government in an adversarial role into the state's management of its facilities.

Thank you for bringing this bill to my attention. I will let the Oregon Congressional Delegation know that I see no need for S. 10 or H.R. 10, and I will urge them to oppose enactment of this legislation.

Sincerely,

VICTOR ATIYEH,
Governor.

COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, Pa., May 23, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: With respect to your letter of May 1, 1979 to Governor Thorn-

burgh, concerning S. 10, I am forwarding herewith a copy of the letter from Attorney General Biester of Pennsylvania to Attorney General Browning, National Association of Attorneys General.

Thank you for your communication and your concern about S. 10.

Sincerely yours,

J. ANDREW SMYSER,
Deputy Attorney General.

MAY 22, 1979.

Hon. CHAUNCEY H. BROWNING, Jr.,
Attorney General of West Virginia,
Charleston, W. Va.

DEAR PRESIDENT BROWNING: I would like to inform you, for the purpose of any action that NAAG may be taking concerning this matter, that the Pennsylvania Department of Justice is opposed to the legislative proposal contained in S. 10 and H.R. 10, the institutions' bills.

We will be glad to work with NAAG in any effort to attempt to defeat the passage of these bills.

Sincerely yours,

EDWARD G. BIESTER, Jr.,
Attorney General.

STATE OF RHODE ISLAND,
Providence, R.I., May 7, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: This will acknowledge receipt of your letter of May 1, 1979 concerning Senate Bill S-10.

I share with you the concern that enactment of S-10 could present serious problems to state governments which are presently protected against Justice Department suits by the decision in *U.S.* v. *Solomon*. As you know, the National Association of Attorneys General has devoted considerable time to this matter at recent meetings.

Following your suggestion, I have contacted Governor J. Joseph Garrahy and the legislative leadership in Rhode Island requesting a conference to discuss what position this state should take.

I appreciate your concern in this matter. Best wishes.

Very truly yours,

DENNIS J. ROBERTS II,
Attorney General.

STATE OF SOUTH CAROLINA,
April 4, 1979.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I have concluded a review of bill S. 10 pending before your subcommittee, which would authorize the U.S. Attorney General to institute or intervene in actions alleging deprivation of constitutional rights of institutionalized persons. We have a functionally effective ombudsman system in the State of South Carolina, independent State advocacy units, and constantly seek to upgrade facilities and conditions in State institutions. The answer to all problems is not always found in the courts. I strongly urge you and your subcommittee to consider more desirable alternatives to achieving necessary protections for citizens who are institutionalized. I consider S. 10 both unnecessary and undesirable.

RICHARD W. RILEY,
Governor.

STATE OF SOUTH CAROLINA,
Columbia, S.C., March 26, 1979.

Re S. 10.

Hon. BIRCH BAYH,
Dirksen Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: This Office has experienced the conduct of litigation by the U.S. Department of Justice from 1972 until 1978 in the case of *Alexander* v. *Hall*, Civil Action No. 72-209. This was a suit alleging the unconstitutionality of the South Carolina Mental Health commitment laws and also raised issues as to adequacy of treatment for those patients residing at South Carolina State Hospital. The purpose of this letter is to inform you of our opposition to the enactment of S. 10 and H.R. 10 based upon the experiences of this Office in defending *Alexander* v. *Hall*. I recommend that this Subcommittee pay great heed to the April 4, 1978, letter of the National Association of Attorneys General, a position with which this Office wholeheartedly concurs.

The South Carolina experience in the defense of *Alexander* v. *Hall* proved to be extremely costly and time consuming, both for attorneys in this Office and for individuals involved in the treatment of the mentally ill at South Carolina State Hospital. This suit was ultimately dismissed but only after four years of litigation with the Department of Justice.

I feel compelled to add one further alternative to that mentioned by the National Association of Attorneys General in its letter of April 4, 1978. There presently exists in the Department of Health, Education and Welfare extensive regulations governing the appropriate care of individuals in State mental institutions in order for those institutions to receive Medicare and Medicaid funds. A goal of improving the conditions of the mentally ill can be much better served through enforcement of existing regulations by HEW personnel trained in the field rather than through the adversary approach of pitting federal lawyers against state lawyers.

I sincerely hope that this Subcommittee can achieve its goal of the protection of citizens who are less able to protect their own rights without authorizing the indiscriminate initiation of litigation by the Department of Justice. I use the word "indiscriminate" advisedly because, throughout the conduct of this litigation in South Carolina, the Justice Department repeatedly refused to advise this Office or the Court of the standards that were allegedly not being provided to the citizens of this State. Furthermore, the Justice Department refused to acknowledge the existence of detailed standards of adequate treatment set forth in HEW regulations with which all South Carolina State Institutions comply.

Thank you very much for your consideration and interest in this matter.

Very truly yours,

DANIEL R. MCLEOD,
Attorney General.

STATE OF SOUTH DAKOTA,
Pierre, S. Dak., May 18, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: I will be succinct. I am opposed to Senate Bill 10 and hope that it will die in Senate committee. I have informed our senior Senator McGovern of my opposition and have informed, as you requested, the Governor and certain legislators.

You might inform the sponsors of the bill for me that we presently have a board of charities and corrections, a legislature, a governor, a warden, superintendents of various remedial schools, and a host of other people trying to do the very best they can for our institutionalized citizens. I would hope that the committee would remember that those people institutionalized are the sons and daughters, mothers and fathers of people who live in our state and vote for the people responsible for these institutions.

I may point out, Senator Thurmond, with a note of bitter humor, that there are many of us who would like to institutionalize some of the Justice Department lawyers who fly out from Washington to solve all of our problems and then go back home to fight the Civil Service Reform Bill. It may be good for tourism in our state, but it certainly is not good for government.

Respectfully submitted.

MARK V. MEIERHENRY,
Attorney General.

STATE OF TENNESSEE,
Nashhville, Tenn., October 2, 1979.

Senator STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: I have received your letter of September 14, 1979, in reference to S. 10, 96th Congress, 1st Session. I appreciate your interest in the opinions of the States on this matter; and, in view of the fact that I have been following closely the progress of S. 10, I am grateful for the opportunity to express the position of the State of Tennessee. Initially, I am sanguine that the State of Tennessee supports the assumptions underlying the Bill: that institutionalized persons should not be subjected to conditions (egregious, flagrant or otherwise), that would deprive them of rights guaranteed by the Constitution or laws of the United States; and that persons subjected to such conditions are entitled to both equitable and legal relief.

Despite agreement with the above-stated assumptions, this office does not support S. 10. Specifically, it is the opinion of this office that S. 10 ignores many practical problems encountered in meeting the needs of institutionalized persons as well as the potential for state-created rights to provide creative and meaningful solution to the problems. The following briefly outlines our objections to S. 10.

First, it is unclear whether S. 10 applies to only physical conditions, or whether it applies to both physical conditions and other statutory rights such as rights to treatment and education. If S. 10 is intended to apply to the latter situations, it is the opinion of our office that many issues raised by federal statutory and regulatory schemes need to be resolved between the states and the federal agencies involved before the Attorney General of the United States intervenes.

Second, S. 10 renders state constitutional and statutory provisions ineffective, if not insignificant, by providing that all actions be brought in federal court. Specifically, since S. 10 requires a federal forum, the state claims become merely pendant and as you are well aware, federal courts are reluctant to construe state statutory and constitutional provisions more broadly than is necessary to resolve the federal claims. Consequently, many state statutes may be interpreted initially by a federal district court, a situation that is not acceptable to the State of Tennessee. Further, by requiring the Attorney General of the United States to bring actions in federal courts, the state courts are deprived of an opportunity to resolve matters that are of utmost importance to the states.

Third, Section 2 of S. 10 apparently presumes that allegedly unconstitutional institutional conditions can be quickly and simply remediated. Specifically, this section requires as a condition precedent to the initiation of an action that the Attorney General of the United States certify, *inter alia*, the following:

(1) That 30-day notice has been given to the State of the alleged violation.

(2) That reasonable efforts have been made to consult with the State regarding financial, technical or other assistance that could assist in correcting the situation, and

(3) That the appropriate officials had a

reasonable amount of time to take the appropriate action.

The presumption that institutional conditions can be quickly and simply remediated is belied by both the present inability of federal programs to accomplish this end and the difficulties encountered by federal courts in implementing institutional reforms. In fact, it is the experience of this State and the federal courts, that the ultimate solution to institutional reform involves increased and substantial appropriations by the state legislatures and long-term planning by state administrators. In view of the fact that S. 10 ignores past experience that indicates that complex political decisions underlie resolution of the problems associated with institutional conditions, it is unacceptable.

Fourth, S. 10, which creates an adversary relationship between the State and Federal governments, conflicts with the federal statutory programs that rely principally upon the States for implementation. Specifically, in most instances, the states and the federal government are presumed to be working toward the same end. When this presumption is incorrect, the federal statutes usually provide specific mechanisms for problem-solving. It would appear that the resolution of problems existing in regard to implementation of federal statutory rights should be based upon the federal agency responsible for overseeing the program, and not the Attorney General of the United States.

Finally, numerous mechanisms presently exist for the enforcement of the rights of institutionalized persons. These include private causes of action, expressed or implied, as well as mechanisms for problem-solving between the states and the federal government. Further, private actions are encouraged, both by the appropriation of statutory attorney's fees and the appropriation of substantial sums for the representation of institutionalized persons by Legal Services Corporation and other advocacy groups. Given the multitude of existing enforcement mechanisms, it would seem that the federal government could better protect the rights of institutionalized persons by spending federal monies directly upon the identified needs of this population.

In conclusion, while the State of Tennessee supports the principal assumptions underlying S. 10, it does not support the bill itself. The experience of this State has shown that litigation is tremendously expensive, both in terms of time and money. Further, neither the lawsuits in this State, or in other States, have produced immediate resolution of the problems encountered in the provision of institutional services. It is clear that institutional reform requires the infusion of millions of dollars of state and federal money; and to add another enforcement mechanism to the myriad of mechanisms that presently exist is to ignore the real needs in this area. In short, given the existence of numerous legal remedies, the addition of another is not merely wasteful, but patently counter-productive.

I hope that this brief discussion of S. 10 will be of some use to you. If you have further questions regarding this matter, or if I can be of some assistance to you, please contact me.

With kindest regards and best wishes,

Sincerely,

WILLIAM M. LEECH, Jr.,
Attorney General.

COMMONWEALTH OF VIRGINIA,
Richmond, Va., May 7, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR STROM: Thank you for your letter of May 1 and the copy of Senate Bill 10.

I am enclosing a copy of a letter I have written Virginia's Congressional Delegation on this legislation for your information.

I do appreciate your bringing this to my attention however.

With all good wishes, I am

Very truly yours,

JOHN N. DALTON.

APRIL 19, 1979.

Hon. JOSEPH L. FISHER,
Cannon House Office Building,
Washington, D.C.

DEAR JOE: I have been advised that House Bill 10 concerning the rights of the institutionalized has cleared the House Judiciary Committee and is tentatively scheduled to be heard on the floor on April 26, 1979. A similar bill, S 10, has been introduced in the Senate.

I continue in my opposition to the bills as being unnecessary and redundant. I am concerned that the Attorney General may require a large bureaucratic organization to attempt a good faith effort to comply with their provisions, and such an expensive bureaucracy is unnecessary. I also feel that there is now ample provision to ensure a full and fair consideration of alleged violations of an individual's civil rights and that the bills would interpose the Attorney General as some sort of official lawyer for those confined. In brief, I feel there is an ample body of case law already existing to resolve disputes in the courts, and the scales of justice are not unduly tipped in favor of the states. Therefore, the system proposed by these bills are unnecessary, redundant and unduly expensive. I further feel they represent an intrusion into State perogatives.

A copy of a position paper setting forth Virginia's position on the two bills is attached for your use. I hope you seriously consider our position.

With all good wishes, I am

Very truly yours,

JOHN N. DALTON.

STATE OF WASHINGTON,
Olympia, Wash., August 7, 1979.

Hon. STROM THURMOND,
U.S. Senator,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your recent letter and the information regarding the impact of S-10 upon the states.

It is my personal belief that the individual states are much more capable of operating their institutions than is the Justice Department. I do agree with you, however, that there should be a certain amount of cooperation between state and federal agencies in attempting to find remedies for the problems that exist in the institutions throughout the country.

Thank you for taking the time to communicate with me.

Sincerely,

DIXY LEE RAY,
Governor.

STATE OF WASHINGTON,
Olympia, Wash., May 9, 1979.

Hon. STROM THURMOND,
U.S. Senate, Committee on Armed Services,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you very much for your thoughtful letter of May 1, 1979 on S. 10. I am delighted in your understanding of, and opposition to, that proposal.

Both the National Association of Attorneys General and I, as Attorney General of the State of Washington, have opposed the bill and its predecessors as an outrageous violation of the basic precepts of federalism. Our experience in the State of Washington with the Department of Justice has been almost entirely negative. It's interferences with the appropriate determination of state policies of the state itself are simply too numerous to mention.

You have already put your finger on the most important objection to S. 10: The separation of the enforcement authority of such policies as the department may determine to be appropriate from the responsibility of coming up with the money to implement them. I hope that you can persuade your colleagues of the justice of your position and I will continue to oppose the proposal with my own congressional delegation.

Sincerely,

SLADE GORTON,
Attorney General.

STATE OF WYOMING,
Cheyenne, Wyo., July 13, 1979.

Re S. 10, H.R. 10.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: The State of Wyoming, while supporting the objectives of the "Institutions Bill" with regard to fully protecting the rights of institutionalized persons, vehemently objects to the procedure for correction envisioned by the bill. In line with the position announced by the National Association of Attorneys General and the National Association of State Mental Health Program Directors, we believe that there exist far more reasonable alternatives to the litigious solution suggested by this legislation.

The practical programs which the bill raises are overwhelming. It seems possible, for instance, that the Justice Department might prevail in litigation against a political subdivision, resulting in an order that the subdivision take corrective action far beyond its means to accomplish. I am advised that Congressman Kastenmeier's amendment to allow federal financial assistance to the defendant state or subdivision failed to pass, indicating that while the federal government is granted the right to make the initial determination that an egregious condition exists, there is no concommitant duty to lend assistance in any meaningful way.

How the elected representatives of the states can support a bill which suggests a procedure which has cost one state $56,000 to answer one set of interrogatories, when that same amount would probably have corrected the egregious condition, appears to be a sterling example of an exercise in counterproductivity.

This is, after all, a nation of states. It seems as though some of our congressmen forget that they are elected to represent the people of those states, and not to bludgeon them with needless lawsuits.

I sincerely hope that the United States Congress will recognize the pitfalls inherent in this legislation and take proper steps to enact law which puts the federal government and the states on the road to cooperative solution. The disagreements which this state has had with the federal government are well known to all. I believe that these differences are, to a large degree, the result of precipitous action taken by our lawmakers without the regard for the legitimate interests of the several states, and the special conditions which exist in each.

Why not spend the tax dollars of the people of this state to help them, rather than to sue them.

Sincerely yours,

JOHN D. TROUGHTON,
Attorney General.

TIGHT MONEY

Mr. ROBERT C. BYRD. Mr. President, the recent action by the Federal Reserve to tighten credit and allow interest rates to rise has generated considerable reaction.

Some have characterized this belt-tightening as the exact medicine required

to cure inflation and restore confidence in the dollar. Others have warned that this approach will significantly increase unemployment, widen the budget deficit, and plunge the economy into a deep recession.

My reading of the situation is that predictions of either gloom or glee are premature. Before any conclusive judgments can be reached, we will have to determine whether an adequate flow of credit remains available to those engaged in productive business enterprises. Further, we will have to determine whether the tight-end credit policy will jeopardize a reasonable level of nonspeculative consumer purchases.

THE PLAN

Breaking with a long-standing policy of regulating the money supply by controlling interest rates, the Fed has promised to concentrate on controlling the monetary aggregates themselves. In the past, the Fed has attempted to control the demand for money by controlling its price (that is, interest rates). The demand was presumed to ultimately determine the supply. Now the Fed will control the supply of money directly and let interest rates go where they will.

In recent testimony before the Senate Banking Committee, Chairman Volker reiterated the promise to maintain a steady, moderate growth in the money supply as the primary goal of monetary policy.

SHOCK THERAPY

The Fed has argued that, prior to announcement of its plan, a speculative fever had begun to experience significant price increases because of buying pressures, not because of any limits in supply. For example, nonferrous metal prices had increased 40 percent over the prior year at the time of the Fed's announcement. Housing prices were being pushed up by people trying to shelter themselves from inflation, thereby exacerating housing costs.

In short, inflation had created a psychology in which people were disposed to invest in assets which they expected to appreciate—and much of this investing did nothing to increase the level of goods and services in the economy.

To the extent that the Fed's plan to tighten monetary policy serves as "shock therapy," thus breaking the psychology of inflationary expectations, it is welcome. However, it will be welcome only if it results in a moderation in inflation without biting into America's productive capacity.

CONGRESSIONAL OVERSIGHT

Ultimately, to control inflation we must produce more, not less. Attempting to control inflation or protect the dollar by throwing legions of people out of work and shutting down shifts in our factories and mines is a hopeless policy.

While tight money can discourage higher price expectations in some areas, we must recognize that high interest rates will not lessen inflationary pressures in some sectors. Increased energy prices account for about 4 percent of the current 13 percent inflation rate. High interest rates themselves have the inflationary effect of raising the cost of doing business. They increase the costs of buying a home significantly. Prolonged artificially high interest rates may be of short-term benefit to the dollar and a boon to holders of capital, but they will not result in significantly cheaper energy, housing, medical care, or food.

The Congress will be watching closely to ensure that the recession of 1974 and 1975 will not be repeated in 1979 and 1980. We will be watching to see whether the Fed, in casting a net of catch speculative nonproductive investments, is also restricting the flow of credit into vital, productive areas of the economy.

We will watch with concern the impact of this policy on small businesses which depend on credit markets for financing. We will watch its impact on the construction industry which historically is the first sector to feel the shock of tight credit.

The Congress will watch the response of bankers and brokers to the Fed's message of restraint. It is my hope that those who allocate credit will voluntarily avoid nonproductive, purely financial loans. Otherwise, pressures will grow to artificially direct credit through Government action. This is an approach which no one in this country wants. It will be unnecessary if credit markets respond to the Fed's recent action in a responsible manner.

INTERNATIONAL CONSIDERATIONS

High interest rates are generally prescribed as the antidote to troubles with the dollar. It is presumed that by making dollars more attractive to hold—that is, by offering a high return to deposits or investments made in dollars, the dollar will be strengthened.

Therefore, interest rates are driven up to encourage a shift into dollar investments—like U.S. corporate or Government bonds—or at least to discourage movement out of the dollar.

While there is a role for stabilizing short term currency fluctuations artificially high interest rates may have disastrous domestic consequences.

Fundamentally, the dollar's problems are caused by a continued trade deficit that has as its obvious source our continued dependence on foreign oil. Even as our exports have experienced a health rise of about 14 percent during the first 8 months of the year, and even as our per barrel importation of oil has declined somewhat from last year, unrelenting OPEC price increases have resulted in a continuing outpouring of dollars into unreceptive world markets.

In the short run, the only solution to this problem is significant conservation. Gasoline consumption is the only area that can provide the dimension of savings necessary to move our trade account toward balance. High interest rates can be no substitute for the difficult decisions which must be made to achieve conservation of gasoline.

The second fundamental problem of the dollar is its glut on the world market. The evolution of a market of Eurodollars which has been estimated to be between $600 and $800 billion dollars has contributed to this problem. Dollars, once they leave the United States, have been used to create a pool of money for international transactions. Once they leave the United States, they generally do not come back and the pool keeps getting deeper and deeper. Since the United States cannot control the supply of these Eurodollars in the same way it can regulate the supply of money within the country, a system of international cooperation is essential. This system would absorb some dollars and thereby dampen the pressure on the dollar.

The substitution accounts concept which was discussed at the recent International Monetary Fund meeting in Belgrade would provide countries the opportunity to trade in some of their dollars for an international currency, that is, special drawing rights of the IMF. While details on structuring this approach remain to be worked out, it appears to offer a positive alternative to protecting the dollar with high interest rates.

It is my hope, Mr. President, as inflationary pressures begin to moderate and interest rates begin to fall—as they will assuming an adequate growth in the supply of money—the Fed will not intervene to artificially prop up interest rates in the name of defending the dollar. This shortsighted approach can only damage the domestic economy and does not address the long-term solutions required to stabilize our currency.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

BOUNDARY WATERS CANOE AREA

Mr. BOSCHWITZ. Mr. President, I rise today to commend the Senate in passing H.R. 4930, the Interior appropriations bill.

Buried deep in the billions of dollars that are appropriated in this bill can be found $13,891,000 that will have a significant effect on the people and the economy of northeastern Minnesota. These funds are designated to help fulfill the commitment that Congress made last year to the residents of Minnesota regarding the Boundary Waters Canoe Wilderness Area.

The Boundary Waters Canoe Area runs for 110 miles along the Minnesota-Canadian border. A total of 1,075,500 acres, it is the largest unit of the national wilderness preservation system east of the Rocky Mountains and the second largest in the entire system. It is the Nation's only canoe wilderness—a network of streams and short portages which served as the highway of fur traders who followed water routes pioneered by Sioux and Chippewa Indians. It is the most heavily visited unit of the entire system, drawing people from throughout the country—a unique national treasure.

Mr. President, the history of Federal involvement in the BWCA is long and checkered. For almost three-quarters of a century, battles have been fought over what degree of wilderness protection should be given this part of the country. Finally, last year, Congress passed legislation, the Boundary Waters Canoe Area Act (Public Law 95-495), that was

designed to alleviate some of the conflicts that have been characteristic of the management of the area over many, many years. This legislation, Mr. President, contained significant authorization of funds to carry out the purposes of the act.

The funds were to be used for new portages, the funds were to be used to develop the entire area, the funds were to be used, Mr. President, to help many of the people in that area whose businesses and lives were changed because of the changing nature of the wilderness, and what this act did to that wilderness, namely, make it single-use as opposed to the multiuse that had been existing over many, many years.

On April 25 of this year, I testified before the Senate Appropriations Subcommittee on the Interior urging the Congress to fulfill its obligation of funds for the Boundary Waters Canoe Area Wilderness Act. Among other items, the act called for appropriations of funds in the following categories: Resort buy-out, payment of timber sales, damages and restoration work, National Forest Service funds, recreation development and trails construction, and technical and financial assistance to restore outfitters and businesses adjacent to the BWCA. I requested that the act be fully funded—a figure totaling approximately $17 million.

The Interior appropriations bill, Mr. President, contains approximately $14 million to implement Public Law 95-495. While this is not the complete amount that I feel is necessary to carry out the purposes of the BWCA legislation, there is no question in my mind that this is an important first step in resolving the lengthy disputes that have clouded the history of the BWCA over the years. The money included in this bill will not only assist visitors in taking complete advantage of a very beautiful area, Mr. President, but also will involve recreational facilities and also help the surrounding community deal with a situation that many people feel is grossly unfair.

Mr. President, I commend the Senate Appropriations Committee and the full Senate for their actions regarding the funding for the Boundary Waters Canoe Area Wilderness Act. There is no question that this is an essential and crucial step in the overall history of the Boundary Waters Canoe Area, which is one of the truly beautiful parts of the country, and a part of the country that has to be maintained in its natural beauty.

I thank the Chair.

ORDER FOR RECESS UNTIL 2:30 P.M. ON MONDAY, OCTOBER 22, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 2:30 p.m. on Monday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 12:37 p.m. recessed for 30 minutes; whereupon, at 1:07 p.m. the Senate reassembled when called to order by the Presiding Officer (Mr. EXON).

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 1:15 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BOREN).

RECOGNITION OF SENATORS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, will the Chair please state any order for the recognition of a Senator on Monday?

The PRESIDING OFFICER. After the two leaders have been recognized under the standing order, the Senator from Wisconsin (Mr. PROXMIRE) is to be recognized for 15 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that Mr. PERCY be added to be recognized on Monday for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO ROLLCALL VOTES TO OCCUR PRIOR TO 4 P.M., MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that any rollcall votes which are ordered on Monday before 4 p.m. not begin until 4 p.m., with one exception, that being if it is necessary to call the roll on a procedural matter, for example, instructing the Sergeant at Arms to request the attendance of absent Senators or to compel their attendance.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, that statements may be made by Senators who are reluctant to speak, but who may speak if they wish to speak, up to 5 minutes each, and that the period not extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 3923) to amend chapter 25 of title 44, United States Code, to extend for 2 years the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 595) to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BENNETT, Mr. MOLLOHAN, Mr. MCDONALD, Mr. SPENCE, and Mr. EMERY were appointed as managers of the conference on the part of the House.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1911. A bill for the relief of Mrs. Barbara Crisp and her two children, Sean Anthony Crisp and Andrea Leech; to the Committee on the Judiciary.

S. 1912. A bill for the relief of Joseph and Bulletin Levy, husband, wife, and their children Tracy Curtis Levy, Alice Myra Levy, and Stormy Mahauna Levy; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. HAYAKAWA):

S. 1913. A bill to preserve the existing tax status of wine used in the production of distilled spirits; to the Committee on Finance.

By Mr. HAYAKAWA:

S. 1914. A bill to amend the Urban Mass Transportation Act of 1964 by proscribing

certain acts committed against a mass transportation system; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (for himself and Mr. HAYAKAWA):

S. 1913. A bill to preserve the existing tax status of wine used in the production of distilled spirits; to the Committee on Finance.

RESTORATION OF THE WINE TAX TO ALL-IN-BOND PRODUCTS

● Mr. CRANSTON. Mr. President, I am introducing today for myself and my colleague from California (Mr. HAYAKAWA) a bill to redress an unintended and unnecessary consequence of the Trade Agreements Act of 1979.

Section 805(d) of the Trade Act amends section 5001(a) (relating to products containing distilled spirits) of the tax code to provide that "any alcoholic ingredients added to such products, shall be considered and taxed as distilled spirits."

The effect of this language will be to shut off a significant market for California wine and other States' wines produced from Thompson grapes and other table fruits. The wine in question is used by makers of brandies, liqueurs, cordials, and the like in amounts varying from 2.5 percent to 12 percent of volume. The wine has been taxed by Treasury at the wine rate rather than the distilled spirit rate. This significant cost advantage to the producers makes it worth the cost and effort of procuring wine for this use. In California, the wine purchased for this purpose amounts to about 2 million gallons for rectified products and more for brandy.

I am informed that this change in current tax practice is not required by the trade agreements entered into by the Government.

This unintentional consequence was not discovered until the Trade Agreements Act was reported to the floor of the House. Growers of grapes and other fruits suitable for making into wine were faced with an accomplished fact since the bill could not be amended. During the debate the floor manager of the bill, Representative VANIK, conceded that the result was unintended.

The Department of the Treasury concedes in a letter to me, as well as to other members of the California delegation to Congress, that section 805(d) "may affect the previous tax advantage wine had in being used as an ingredient of brandy and specialty products."

The language of the bill has been drafted by the staff of the Joint Committee on Taxation with the assistance of the Department of the Treasury. It restores the advantage, and therefore, the market, to wine as an ingredient in rectified products by allowing a credit against the distilled spirits tax for the amount of alcohol in the product supplied by wine which has been distilled or fortified.

Mr. President, without this legislation there will be no market for wine as an ingredient in rectified products.●

By Mr. HAYAKAWA:

S. 1914. A bill to amend the Urban Mass Transportation Act of 1964 by proscribing certain acts committed against a mass transportation system; to the Committee on Banking, Housing, and Urban Affairs.

URBAN MASS TRANSPORTATION CRIME PREVENTION ACT

● Mr. HAYAKAWA. Mr. President, I am introducing a bill which I have titled, the "Mass Transportation Crime Prevention Act." This act will amend the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.), section 23, a, b, and c, to make it a criminal offense to commit acts of sabotage or vandalism against mass transportation systems.

I became aware of the need for this legislation when I sought a Federal investigation of the sabotage against a mass transportation system in my own State of California. On August 31, I toured the Bay Area Rapid Transit (BART) system facilities at Concord, Calif., to view the damage of reported vandalism to the BART system. The damage went far beyond the reported broken windshields and ripped upholstery. I saw wires that had been cut or pulled from terminals and slashes in the airbags. These airbags act as shock absorbers between the car body and the wheels which run on the tracks. Mr. President, these were not the results of careless acts which cause expensive repairs, these were deliberate acts that were potentially disastrous. The damage which I observed could have caused fires, derailments, or system failures that could result in serious injury or even death. I immediately wrote to Attorney General Civiletti, describing the damage and asking for a Federal investigation of the offenses. The Justice Department agreed to the degree of seriousness, however, they determined that no Federal law had been violated and therefore it is a local problem.

My friends, this is not a California problem, it is a problem of growing national concern. Although BART's labor dispute must and will be resolved at the local level, a very real and ugly threat has surfaced. The havoc caused by deliberate acts of sabotage to a mass transit system can cripple a city and bring its economy virtually to a standstill.

Mass transit can no longer be considered a luxury or an expensive gadget. Public transportation has become a necessity because of our Nation's energy and environmental problems. The President has asked Americans to drive less and adopt the use of public transportation. Congress has enacted legislation to expand mass transportation systems and to encourage more forms of public transportation. The greater our dependence—the greater our vulnerability.

Most cities or transit authorities from cities with populations of more than 50,000 receive Federal assistance for transportation systems. Every rail transit, whether it is rapid transit or light rail receives Federal assistance. Yet we have no laws that protect a mass transit system or to make it a Federal offense to deliberately inflict damage to one.

Mr. President, the problems which I foresee also point out the Federal Government's responsibility to protect public property as well as the lives and safety of those persons we have asked to use these systems.

Under this act any person who willfully damages, disables, derails, destroys, sets fire to, tampers with, or places or causes to be placed any explosive or other destructive substance in, upon, or in proximity to any federally funded mass transportation system shall be fined not more than $10,000, imprisoned for not more than 20 years, or both.

I think this is important legislation and I hope that my colleagues will give it serious and expeditious consideration.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Mass Transportation Crime Prevention Act".

AMENDMENT TO THE URBAN MASS TRANSPORTATION ACT OF 1964

SEC. 2. The Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new section:

"CRIMINAL OFFENSE AGAINST MASS TRANSPORTATION SYSTEM

"SEC. 23. (a) Any person who willfully damages, disables, derails, destroys, sets fire to, tampers with, or places or causes to be placed any explosive or other destructive substance in, upon, or in proximity to any mass transportation system shall be fined not more than $10,000, imprisoned not more than 20 years, or both.

"(b) For the purposes of this section, 'mass transportation system' means any equipment, facility, structure, or property which is used in the operation of mass transportation and with respect to which Federal financial assistance under this Act has been provided.

"(c) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts.".●

ADDITIONAL COSPONSORS

S. 904

At the request of Mr. DANFORTH, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 904, the Federal Assistance Reform and Small Community Act of 1979.

S. 1121

At the request of Mr. HAYAKAWA, the Senator from North Dakota (Mr. BURDICK) and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 1121, a bill to amend the Saccharin Study and Labeling Act.

S. 1383

At the request of Mr. MELCHER, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 1383, the Fuel Energy Conservation Act of 1979.

S. 1647

At the request of Mr. MATSUNAGA, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 1647, a bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order 9066, and for other purposes.

S. 1693

At the request of Mr. MELCHER, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 1693, a bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

S. 1861

At the request of Mr. STONE, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 1861, a bill to amend the Internal Revenue Code of 1954, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96-1

AMENDMENTS NOS. 524 THROUGH 526

(Ordered to be printed and to lie on the table.)

Mr. HATCH, as in executive session, submitted three amendments intended to be proposed by him to the resolution of ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Arms, done at Vienna on June 18, 1979 (Ex. Y, 96-1).

Mr. HATCH. Mr. President, as the Ranking Republican on the Constitution Subcommittee, I have spoken out in the past on the necessity for our Republic to carefully observe the separation of powers in foreign affairs as well as at home. The decision announced the day before yesterday by district court Judge Gasch bears our close examination. I understand that the decision was placed in the RECORD yesterday by Senator GOLDWATER.

But I rise today not to discuss our China policy. I do not wish to embarrass further our President. In the words of the Washington Post this morning, the page 1 story begins—

> President Carter violated the Constitution by unilaterally terminating the United States' mutual defense treaty with Taiwan, a federal judge ruled here yesterday.

The issue today is SALT. I wish to bring to the attention of the Senate some proposals which I am submitting today as unilateral reservations to the resolution of ratification of the SALT II agreements. It is a simple idea—in two parts.

First, the Senate must give its advice and consent to the abrogation of the SALT treaty, should that act become necessary. Without this reservation, the position of the President has been made clear: The president has the sole power to abrogate the treaty under article 19, paragraph 3, of the treaty which states:

> Each party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events the notifying party regards as having jeopardized its supreme interests.

Mr. President, yesterday's court decision has reversed the President's assertion that the Senate is not a "party" to our Mutual Defense Treaty with Taiwan. In light of this, I believe we need language in the resolution of ratification for the SALT treaty stating clearly that the Senate must advise and consent to the abrogation of the treaty by two-thirds of our Members.

There are both constitutional and political issues involved, Mr. President. Would a liberal member of the Senate wish to see a conservative President abrogate the SALT treaty with the Soviet Union in a manner that would be interpreted by Moscow as a hostile act, without any role for the Senate? Would a conservative Senator wish to allow a liberal President to overlook the kind of Soviet treaty violations that former Secretary of Defense Melvin Laird has described with respect to SALT I? Mr. Laird wrote in the December 1977 issue of Reader's Digest that the Soviets had "repeatedly, flagrantly and indeed contemptuously" cheated on the Salt I agreements, yet no action was taken by the Senate at the time. This problem has not disappeared, and I offer for the RECORD an article urging the Senate to read a highly classified report available only to Senators, in our national security reading room in the Capitol. This article leads me to the second part of my proposal.

The second proposed reservation contains provision for the establishment of a Verification Commission to be composed of officials from the executive branch together with Members of the Senate. The Verification Commission would report to the Senate annually on Soviet compliance with SALT agreements. It would have access to the raw intelligence reports relevant to monitoring all SALT agreements. Its annual report to the Senate, under certain circumstances, could become the basis for a decision by the Senate, by a two-thirds vote of our Members, to instruct the President to abrogate the SALT treaty or to take other actions related to Soviet violations of the treaty.

As Senator GOLDWATER made clear in his suit on the Taiwan Treaty abrogation, Congress can instruct the President to abrogate treaties. Indeed, the historical record shows that, far more often than not, the Senate or the whole Congress has exercised power to approve termination of treaties. The first treaties ever declared null and void by the United States were the four French-American treaties of 1778 to 1788, which were canceled by Congress alone. The vote in the Senate was 14 to 5, an indication of the political divisiveness of the issue at the time.

Mr. President, surely no Member of this body would wish to leave it to the President alone to decide how and why to abrogate agreements as vital to our supreme national interest as the SALT agreements. We have seen too many grey area violations by the Soviets of the SALT I treaty to allow the situation to continue. I am delighted to quote the comment of our distinguished chairman of the Foreign Relations Committee on February 6, 1979, when Senator GOLDWATER appeared before that committee to discuss his suit on the Taiwan Defense Treaty. The chairman said:

> Let me say that the treaty in question was ratified by the requisite two-thirds vote of the Senate. The treaty in question contained provisions for its termination, and if, in the future, the Senate should decide that it wants to participate in any decision terminating a treaty, then it would be advisable for the Senate, either by amendment to the treaty or by reservation, to include such a provision expressly in the treaty.

I agree, and a Verification Commission will aid the Senate in carrying out its constitutional responsibility to oversee compliance with treaties, a concern I share as the ranking Republican on the Constitution Subcommittee.

I ask unanimous consent that the article by Evans and Novak, entitled "Verifying the Verification Report," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VERIFYING THE VERIFICATION REPORT

The Senate Intelligence Committee's super-secret report on SALT II verification problems, now under lock and key in a remote corner of Capitol Hill, contradicts the verbal summary delivered to the Senate Foreign Relations Committee by intelligence committee Chairman Birch Bayh.

Sen. Bayh's two days of testimony behind closed doors, according to those present, was "highly selective." Ignoring the bad news and inflating the good, it differed in word and spirit from the 17-page report Bayh's committee prepared for the guidance of the foreign relations panel in considering the new arms limitation treaty.

That report is stamped "secret codeword," a classification reserved for unusually sensitive intelligence matters. The few senators who have followed burdensome security regulations to read the report cannot take the Senate floor to dispute Bayh. With the Senate required to vote on matters removed from public discussion, the few senators who understand what is going on—including some supporters of the SALT process—are frustrated both by the system and what they consider Bayh's manipulation of it.

Bayh's testimony did not make clear to listeners that the "secret codeword" report states unequivocally that the SALT II protocol (lasting to Dec. 31, 1981) cannot be verified. As for the treaty itself, the report downgrades Carter administration statements that monitoring Soviet weapons advances will be all that much easier with the treaty than without it.

"The Soviets could test a new ICBM sys-

tem with a launch weight as much as 20 to 40 percent above the SS19 with less than a 50-percent chance of detection," the report says. This would seem to threaten enforcement of the SALT II provision that the one "new" system permitted by the treaty cannot be larger than the Soviet SS19.

Analyzing what Moscow could do secretly in an effort to "break out" of the treaty's limitations, the report states: "If a covert deployment were attempted, the Soviets could evade detection and identification of the activity for as long as three years, during which some 200 missiles might become operational." So much for claimed monitoring advantages the United States would enjoy by ratifying the treaty; a block of 200 new missiles could change overnight the strategic balance of power.

The importance of Bayh's testimony lies in its impact on fellow senators. They tend to accept the chairman's statements at face value, without recognizing nuances, subtleties or fine print.

That tendency units with problems of dealing with classified information to tie the hands and close the mouths of even the senators most skeptical about verification. The 177-page report is under 24-hour guard in an obscure chamber on the top floor of the Capitol. Admittance is restricted to the 100 senators themselves during normal working hours. No copies may be made; nor may notes on the report be taken out of the room.

Very few senators have read it, but an exception is Sen. John Glenn, a supporter of the SALT process but an informed skeptic on verification. He ripped Bayh's testimony apart in cross-examination during the foreign relations committee hearing. When we asked Glenn to confirm our information about the report, he declined but then put the problem in a nutshell:

"Nothing I have read or heard so far takes care of the verification problem, but I cannot even say why because of the high security classification that has been hung on this whole matter. What we have is euphoria based on official statements."

That euphoria might dissipate if every senator read the report, taking time out of tight schedules to cope with security limitations. They would learn that "the confidence with which we can detect tests of an ICBM with a mobile launcher [prohibited by the protocol] will be low at best."

Although cruise missiles with a ground-launched or sea-launched range of more than 600 kilometers are banned during the three-year protocol, the report warns that "monitoring small changes in air intakes, horisontal and vertical stabilizers, antennae and warhead attachment points could be important SALT II monitoring tasks concerning cruise missile range . . . Monitoring such changes would be extremely difficult."

The report says monitoring pluses from SALT II will be few and far between. As a strong treaty advocate, Bayh naturally dwelled on these. But he sped lightly over the damaging statement that the United States consistently has exaggerated its ability to "monitor Soviet production" of nuclear weapons.

Nobody can forecast the impact of SALT ratification even if every senator were fully aware of these facts. But to accept Bayh's clearly loaded testimony in favor of the treaty is tantamount to voting blind, a condition that someday could return to haunt the Senate.

Mr. HATCH. Mr. President, I ask unanimous consent that the text of the amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 524

"(1) A Commission on Verification shall be established to report annually to the Senate on the degree of compliance that the parties have observed with respect to the terms of the Treaty.

The Commission on Verification shall be composed of four members of the Executive Branch appointed by the President from the Department of State, the Department of Defense, the Central Intelligence Agency and the Defense Intelligence Agency, and five members from the Senate to be selected from the relevant committees on an annual basis.

"(2) If the Senate shall not accept the annual report of the Commission on Verification by two-thirds of the Senators present, the President shall give notice to the Union of Soviet Socialist Republics that extraordinary events have occurred as described in Article XIX, paragraph (3) of the Treaty, and the United Sattes shall withdraw from the Treaty six months later.

AMENDMENT No. 525

"(1) The President of the United States shall not seek to withdraw from this Treaty without the advice and consent of the Senate, provided two-thirds of the Senators present concur according to the Constitution.

AMENDMENT No. 526

Before the period at the end of the resolution of ratification insert a comma and the following: "subject to the reservations which are to be made a part of the instrument of ratification:

"(1) At the time of the consideration of the First Concurrent Budget Resolution, the President shall submit to the Senate an annual comprehensive net assessment of the military balance of power between the United States and the Union of Soviet Socialist Republics. The President shall consult with the Committees on the Budget, Armed Services, Intelligence and Foreign Relations as to the specific indicators of military power to be taken into account. The assessment shall contain a five year projection of the military forces of both parties to the Treaty and shall demonstrate that the military balance of power is no less favorable to the United States than at the time of exchange of the instruments of ratification of this Treaty.

"(2) If the Senate shall not accept the annual comprehensive net assessment of the President by a vote of two-thirds of the Senators present, the President will carry out the procedures of paragraph (3) of Article XIX of the Treaty necessary to withdraw the United States of America from the Treaty.

AMENDMENTS NOS. 527 THROUGH NO. 539

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted 13 amendments intended to be proposed by him to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Arms, done at Vienna on June 18, 1979 (Ex. Y, 96-1).

SALT II: THE NEED FOR AMENDMENTS

● Mr. GARN. Mr. President, I wish to address the need for amendments to the proposed SALT II treaty. I have some introductory remarks and then an explanatory statement preceding each of the amendments which I am now submitting.

SALT II: A LOSS OF FAITH

The SALT II treaty, in its current form, is a very disappointing treaty. It is the product of negotiations during a time in which we were questioning our right to world leadership and our willingness to shoulder the responsibilities of such leadership. It represents a loss of faith by this country in its essential purpose of fostering and preserving freedom for all those who aspire to it. It represents a loss of nerve in the face of the blustering Russian bear. It represents a loss of will to use vigorously our substantial power in support of justice, peace, and Western interests. It represents a loss of power brought on by a series of international developments.

Many believe that it was an arrogance of American attitudes and power that led us into the Vietnam war, that tempted us to interfere with the governments of small nations, and that created Soviet paranoia, and thus the Soviet drive to build a military colossus. In recent years, consequently, there has been a conscious effort on the part of key leaders to diminish U.S. power in favor of a policy of weakness. These people believe that the rule of international law will be enough without military power to back it up, that nations should be left to carry on their own struggle for democracy—even when faced with overwhelming power—and that the Soviets will be satisfied with military parity. Theirs has been and is a policy founded on hope—not reality. Events of the past decade have dashed those hopes.

We have tried their approach. We quit Vietnam, normalized relations with China while shrugging off too quickly our responsibility to the people of Taiwan, undermined our commitment to Korea, left the democratic Government of Thailand essentially naked, spurned a democratic revolutionary movement in Angola, turned away from democracy in Rhodesia, signed the Helsinki agreement legitimizing the subjugation of Eastern Europe in the unfulfilled hope that the Soviets would agree to mutual force reductions in Europe, and watched helplessly as our once staunch ally Iran was racked by externally supported religious reactionaries whose commitment to human rights is even less than that demonstrated by the Shah. We have shown a serious lack of concern for the security and well-being of some of our most loyal allies. I suppose there will be some who say that when the Soviets and Cubans foment instability and revolution in Mexico, that we must not interfere in the "internal" affairs of another nation. This same head-in-the-sand attitude encouraged Hitler to pursue his dreams of global conquest; it will not deter the Kremlin's expansionist policies, either.

So, we have tried the twin paths of a reduced military posture and détente. At the same time, we have seen the rise of the monopoly power of cartels, the continuous escalation of terrorism, the emergence of terror states such as Uganda, and constant aggressiveness by Soviet military and political action forces. I suggest that it is time that we change our policy toward the Soviets from one of détente on their terms, to one of determination to cooperate where possible, where necessary. We must move from a stance of listlessness to one of

leadership. We should make the commitment now to demand certain standards of global behavior and clear military equality under SALT II, and then we must do what is necessary unilaterally to protect our interests.

As many have stated, we must rebuild our power, but first we must restore our confidence. That can be done by refusing to submit to Soviet scare tactics. We need not be fearful or desperate. The Soviets do not have all the cards in their hand. If we act with purposefulness and vigor, we can cement our alliances and present a formidable lineup which would strengthen our own hand and cause the Soviets to think twice about fomenting trouble; but this lineup of allies and friends will melt away if the United States does not provide leadership. Our leadership can best be exhibited by accurately evaluating the SALT II treaty and then either amending it where necessary or rejecting it.

Let me turn now to an examination of the case against this SALT II treaty before us.

In many statements, the President has strongly defended the emerging SALT II treaty as equitable, verifiable, separable from the realties of international politics, and successful as an arms control agreement. Some believe all of these assertions, many believe at least one of them. I believe that the President is mistaken on all counts.

After a thorough review of the treaty provisions, the parallel degradation of our intelligence collection capabilities in recent years, the shifting strategic balance, the aggressive Soviet behavior under SALT I, and the failure of this administration to propose and fund an adequate defense posture, I find myself choosing the difficult but necessary task of proposing amendments to the treaty, or if they are not accepted, urging its rejection. My approach to the proposed SALT II treaty is in keeping with the traditional role of the Senate in the treaty making process: We must examine critically the case for any treaty presented by the President, and take corrective steps if necessary. This is our constitutional responsibility.

The SALT debate should affirm that we have placed the national security of the United States and its allies at the head of our fundamental national objectives, even though we know there is no such thing as absolute security in today's world. Not only must we develop and improve our own military capability, we must continue to rely on the strength of our allies. Where we can identify areas of mutual self-interest with our adversaries, we should seek to establish agreements and understandings. But, those agreements must be negotiated by the United States and her allies from a position of strength. They must not be based on weakness or fear of the consequences of failure to reach an agreement. Our obligation to ourselves and to the world is too great to allow that. If we find ourselves adopting this SALT II treaty, or any other agreement, on the basis of fear, then I am afraid that we are already dangerously close to having failed the test of world leadership.

So, what does this SALT debate mean for the direction of United States national security strategy? And what, then, does that strategy mean for SALT II?

The national security strategy of the United States must first recognize the military strength of our major adversary, the Soviet Union. Since the time of the Cuban missile crisis, the Soviet Union has been engaged in the most massive arms buildup in the history of the world. It has gone, with the help of SALT I and U.S. unilateral restraint, from a position of relative inferiority to a point today where its military strength is more than equal to our own. The capabilities of its conventional forces in the Warsaw Pact countries are vastly superior to those of the NATO alliance. The impressive technological improvements in Soviet strategic forces have been coupled with a counterforce targeting and damage-limiting doctrine to pose a real and direct threat to our own strategic forces. The near-term vulnerability of our ICBM force is acknowledged by virtually every responsible analyst, including the administration. The Soviet Union has rejected the concept of mutual assured destruction and its basic assumption that nuclear war is unthinkable. The Soviets believe it is possible to not only fight and survive a nuclear war, but to win it, and they have designed their military forces and civil defense program accordingly.

Our response to this growing Soviet strength must be based on these realities, not on the idealistic hopes of the SALT process which, so far, has provided little reason for confidence. With or without SALT, our national security policy must be modified along the following lines: We must change our strategic targeting—aiming most of our own weapons at Soviet military targets, instead of at cities; reduce the vulnerability of our ICBM forces; develop the technology which will allow us to build defenses against incoming misiles, both for our own civilian population and our weapons; modernize our bomber forces; insure the survival of effective command, control, communications and intelligence systems; modernize our capacity to conduct limited theater nuclear operations; improve our conventional forces with modest increases in the number of Army and Marine divisions; improve our ability to project our conventional forces by expanding our tactical air and military transport forces; expand military consultation with, and consider increasing military assistance to, our allies and pro-Western governments and parties; and, assist our allies and freedom-loving people in deterring Soviet proxies, such as Cuban forces in Africa, by providing them with funds, arms, training and intelligence. We must have a vigorous program and ready forces in all areas of our defense posture. The fabric of our military cloak must be seamless and tightly knit. As Prof. Michael Howard of Oxford University said in a recent article in Foreign Affairs:

> The maintenance of adequate armed forces in peacetime, and the will to deploy and support them operationally in war, is in fact a symbol of that social unity and political resolve which is as essential an element in nuclear deterrence as any invulnerable second-strike capability.

We can no longer afford to be passive in the world. Our allies and friends need to know that they can rely on the United States for assistance. The Soviet Union must know that we will not stand by idly while it attempts to create a new, worldwide Russian Empire. Winston Churchill said it very well on a visit to the United States in 1946:

> From what I have seen of our Russian friends and allies during the war, I am convinced that there is nothing they admire so much as strength, and there is nothing for which they have less respect than for weakness, especially military weakness.

Mr. Churchill went on to say, in essence, that peace could be maintained in the world only if the democracies remained united and strong. The policies I have mentioned would make it possible for the United States and her allies to preserve and protect international peace through strength.

What can we say, then, about SALT II in the context of a new, more active, although not provocative, U.S. national security strategy? I believe such a strategy suggests five basic criteria for acceptance and ratification of a new SALT treaty:

First, the treaty must meet the criteria of equality, stability, and verifiability, and it must arrest the growth of Soviet strategic forces.

Second, we and our allies must be prepared to modernize and improve theater nuclear forces or obtain agreement to equitable arms limitations in this area with the Soviet Union and her allies;

Third, we and our allies must be willing to modernize and expand our conventional forces so as to pose an effective conventional deterrent;

Fourth, we and our allies must be prepared to resist the destabilization of third world nations by Soviet power and proxy forces;

Fifth, we must rebuild our vital intelligence organizations and restore their effectiveness.

If these conditions cannot be met, then SALT II should not be ratified. Instead, we should seek to restore and maintain strategic nuclear "parity-plus" with the Soviet Union and declare our intent to use strategic nuclear weapons to protect ourselves and our allies.

A flawed SALT treaty which would give the Soviet Union low-cost, "politically meaningful" nuclear superiority would be worse than no treaty at all. It would be the foundation for a continuing policy of global expansion by the Soviet Union, enabling the Kremlin to divert military resources to the build-up of other forces while extending its nuclear umbrella over Western Europe, the Middle East, Africa, and the Far East.

The treaty that has been signed by the President is such a flawed treaty: It is not equitable; it is not adequately verifiable; it only masquerades as arms control; and it does not effectively limit the spread of nuclear weapons.

To accept this treaty, as proposed, would be to turn away from our obliga-

tion as a world power to preserve international peace. A treaty which would assist the Soviet Union in achieving a war-winning nuclear capability by the mid-1980's is an even greater threat to peace than an uncontrolled arms race. At least in a race, the outcome is in doubt. I believe that we do not have to choose between either nuclear inferiority or an expensive arms race. We have a third option.

That option is to return to the bargaining table with a renewed commitment to insist on a fair and equitable treaty. Throughout the SALT negotiating process, the Soviet Union has taken firm, immovable positions on every issue critical to its national interests. The United States, in the spirit of détente, has accepted the Soviets' position on most major issues. I believe we can reach compromises with the Soviet Union at the negotiating table, but we cannot do it without first drawing the line beyond, which we are unwilling to move; beyond which we will not sacrifice our own national interest. Such a demonstration of our steadfast commitment to our own interests would itself be an important deterrent to war.

This important objective, however, cannot be accomplished by simply attaching reservations to the resolution of ratification. While some proposed reservations may be useful in more clearly defining U.S. policies in relation to the treaty, they are unilateral and would not be binding on the Soviet Union. The Senate's "interpretation" of the treaty will not carry much weight if the Soviet Union has a different view, particularly if an administration were unwilling to jeopardize the SALT process by challenging the Kremlin's interpretation. I also believe that administration promises of significant increases in defense spending cannot, by themselves, cure a sick treaty.

Consequently, in my recent testimony before the Senate Foreign Relations and Senate Armed Services Committees, I proposed a number of amendments to the treaty, which I believe represent the minimum degree of improvement necessary if this treaty is to be consistent with our national security interests.

These amendments represent the thoughts and concerns of many Senators. They seek equity, real arms control, crisis stability, and verifiability. They represent a step I believe we must take. If the Soviets agree to these changes, which I believe are reasonable and fair, then both nations will have saved billions of dollars, relations will be improved, and tensions will be relieved. If the Soviets refuse, then we will have been given a clear signal of their ultimate intent. We will then have time to reinvigorate our military forces in such a way that the Soviets will have a real incentive to negotiate a viable treaty. We will benefit in either case.

I believe that amending SALT II is the lowest risk policy in the long run. The security of our Nation and an adequate defense are more important than any single document. Let us admit that we have a problem in our strategic posture and not construct a palace of mirrors consisting of "SALT III hopes," "unilateral reservations," and "uncertain projections" of how much we plan to spend on defense.

I submit these amendments for the Senate's consideration as an illustration of the specific reasons that I find this treaty, as negotiated, to be unacceptable.

Today I have touched on the question of the dangerous and growing imbalance of military power in favor of the Soviet Union. I recognize the Senate's concern with the question of American military strength. I am confident that this body will continue to act in the best interests of national security in seeking to redress that imbalance, with or without the proposed SALT II treaty, or even as it may be amended. I know that the Senate will not be deterred from that primary responsibility, regardless of the outcome of the debate on SALT II. Much will have to be done in our defense program, as witnesses who have appeared before various committees have testified. For my part, regardless of the outcome of SALT II, I expect to actively seek the kind of improvements in our defense forces which are necessary to preserve and enhance our national security as we head into the 21st century.

STATEMENT ON BACKFIRE AMENDMENTS

I propose three amendments that would make the treaty more equitable and improve its arms control impact. These Backfire amendments would require counting each Soviet Backfire bomber as three-quarters of a strategic nuclear delivery vehicle (SNDV) and each U.S. based FB-111 as one-half of an SNDV. The treaty counting rules would match the capabilities of the aircraft.

Now, the Soviets do not really argue for exclusion of the Backfire on the basis of its range. They believe that it should be excluded on the basis of intended use—that is its mission. And, the Soviets tell us that it has a mission as a theater attack system. So, that is the crux of the argument. Are strategic systems to be defined as those that have strategic capabilities or only those which are intended and scheduled for a strategic use?

I believe that we must stick to a definition of strategic which is written in terms of capabilities. To not do so would open up a huge loophole in which both sides would build systems with a strategic reach but disclaim their limitation under any SALT agreements by virtue of the fact that "they do not have a strategic mission."

If the proponents of excluding Backfire really believe in their own case, why have they insisted on a phony Backfire letter which alleges to limit Backfire but has no force of international law? Do they suspect the Soviets might use the Backfire in a strategic role after all, only then to use the letter as proof of their efforts to preclude this?

If SALT III is productive, then both sides can consider more refined measures of what is strategic and peripheral and theater and so forth, and weapons can be allocated to the various categories on both a capabilities and mission basis. But we are not at that point yet. By leaving out Backfire the Soviets would be allowed some 2,750 SNDV's (2,250 plus 500 or so Backfire bombers) to an allowance for the United States of 2,316 SNDV's (2,250 plus 66 FB-111's) by 1985. This will allow them to have more ICBM's, SLBM's, and bombers than the United States. This is hardly the stuff of which essential equivalence is made.

I therefore urge my colleagues to vote for this amendment, and by so doing perhaps save the United States several billions of dollars. If the Soviets were to agree to include Backfire then we would not be encouraged to produce an aircraft equivalent to the Soviet Backfire. Let us find out now whether the Soviets are serious about equity and real arms control.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the amendments, together with accompanying explanatory statements.

There being no objection, the amendments and statements were ordered to be printed in the RECORD, as follows:

BACKFIRE AMENDMENT

AMENDMENT NO. 527

In paragraph 3(a) of Article II, strike out "B-52 and B-1 types" and insert in lieu thereof "B-52, B-1, and FB-111 types".

In paragraph 3(a) of Article II, after "Tupolev-95" insert ", Tu-22M,".

AMENDMENT No. 528

At the end of Article III, add the following:

6. In computing the numerical limitations contained in this Article with respect to strategic offensive arms, each bomber of the type designated by the United States of America as the FB-111 and of the type designated by the Union of Soviet Socialist Republics as the Tu-22M (known to the United States of America as the Backfire) shall count as one-half and three-quarters, respectively, of any other strategic offensive arms counted under this Article.

AMENDMENT No. 529

At the end of Article V, add the following:

7. For purposes of the numerical limitations contained in this Article regarding strategic offensive arms, each bomber of the type—

(A) designated by the United States of America as the FB-111 and equipped for cruise missiles capable of a range in excess of 600 kilometers, and

(B) designated by the Union of Soviet Socialist Republics as the Tu-22M (known to the United States of America as the Backfire) and equipped for cruise missiles capable of a range in excess of 600 kilometers, shall count as one-half and three-quarters, respectively, of any other strategic offensive arms counted under this Article.

STATEMENT ON HEAVY MISSILE AMENDMENTS

I propose two amendments, to Treaty Article IV, Paragraphs 3, and 9, to provide for equity between the Parties in terms of "heavy" ICBMs. The two amendments would have the effect of allowing the U.S. to modify 308 light ICBM silos to a heavy silo configuration and to test and deploy 308 "heavy" (of SS-18 size) ICBMs. They would not require the Soviets to dismantle their "heavy" ICBMs and they would not require that we build any heavy ICBMs.

These amendments do nothing to slow the Soviet buildup of heavy ICBMs, they do nothing to encourage the U.S. to build such missiles, they do not offset our Minuteman ICBM vulnerability and they do not affect any plans for the MX ICBM. So, one might

ask: what do they accomplish. Are they merely an attempt to kill the treaty with a very reasonable amendment that should have wide support in the Senate? No, the real purpose is to underscore the need, stated by the Administration, that we must maintain essential equivalence with the Soviet Union. This is a fundamental requirement that we all recognize.

These amendments will establish the principle of equality for sublimits, and ensure that the Jackson Amendment to SALT I is not disregarded. If we are not even allowed the option of building heavy ICBMs, I believe many in the world would be right to question the ability or intention of the U.S. to maintain parity with the Soviets. A failure to pass these amendments would expose essential equivalence as the charade that many now suspect it may be. Let's either pass these amendments or tell the American people and the world that we do not intend to maintain essential equivalence.

AMENDMENT No. 530

Before the period at the end of paragraph 3 of Article IV, insert a comma and the following: "except that the United States of America may convert into launchers of heavy ICBMs a number of launchers of light ICBMs not to exceed the number necessary to enable the United States of America to deploy as many heavy ICBMs as were deployed by the Union of Soviet Socialist Republics on the date of signature of this Treaty.".

AMENDMENT No. 531

Before the period at the end of paragraph 9 of Article IV, insert the following: "and the United States of America may flight-test and deploy one new type of heavy ICBM".

STATEMENT ON MPS BASING MODE AMENDMENTS

These amendments would allow the construction of a multiple protective structure basing mode for ICBMs. This may be absolutely essential if we are to ensure the invulnerability of our ICBMs. It is far from clear that the current draft of the SALT II Treaty allows the construction of most types of MPS. The Carter Administration is arguing that the Soviets have agreed to MPS in principle provided that we provide for adequate verification. This is not clear, and is indeed little more than an assertion by the State Department. Paul Nitze has testified that he does not believe that the current SALT II draft allows the MPS. I believe that the most promising MPS systems are banned by the Treaty and that the only type that may be allowed will be far more costly and less effective as a result of Treaty constraints.

The Soviet Union will have essentially no real verification problem relating to MPS. The U.S. is an open society and the Soviets could verify the number of MX missiles produced without even satellite photography. Yet we are planning to spend enormous sums to obtain a system that is verifiable by national technical means. To make matters worse the Soviets are very unlikely to agree that any system would be verifiable by national technical means. Preventing the deployment of MX is a major Soviet objective and they have every reason to attempt to prevent such a deployment.

The Administration answer to this is that they will ignore Soviet objections and go ahead and deploy the MX. I find this highly unlikely and a rather bad precedent if this policy was implemented. We have no interest in spurring on a race to determine who can interpret arms control agreements in the least restrictive manner.

I have proposed two amendments that would assure U.S. deployment of the MX in an MPS mode and would allow the use of the most cost-effective deployment mode by introducing the opportunity for cooperative verification, including on-site inspection.

AMENDMENT No. 532

At the end of paragraph 1 of Article IV, add the following: "Nothing in this paragraph prohibits a party from constructing vertical shelters, horizontal shelters or trenches, or other launch sites, which may be hardened, if such sites are not equipped with fixed ICBM launchers and if such Party permits the other Party to verify, including as may be necessary verification by means of on-site inspection without prior notification, that such launch sites are not equipped with fixed ICBM launchers.".

AMENDMENT No. 533

At the end of Article I of the Protocol to the Treaty, add the following: "For purposes of this Article, the term 'mobile ICBM launchers' does not include vertical shelters, horizontal shelters or trenches, or other launch sites, which may be hardened, if such sites are not equipped to launch an intercontinental ballistic missile.".

STATEMENT ON NON-CIRCUMVENTION AMENDMENT

This amendment would assure that the non-circumvention provision of the Treaty will not be used as a wedge by the Soviet Union to disrupt the NATO alliance by preventing cooperation between the United States and our NATO allies in the modernization of European defensive forces. The Soviet Union hopes to undermine the confidence of our allies and stunt the growth of their military capabilities by prohibiting the transfer of essential technology and hardware from the U.S. to our allies. On the one hand our lead in technology is "ballyhooed" as the offsetting strength to Soviet and Warsaw Pact quantity, and then our comparative advantage is traded away.

The meaning of the non-circumvention provision of the SALT II Treaty is almost completely ambiguous in its present form. What it does and does not prohibit could be a subject of endless confrontation unless this provision is clarified by an amendment to the Treaty. The Soviets are certain to object to almost every U.S. technical exchange or weapons transfer program under the non-circumvention amendment. The Soviets recognize that without sophisticated weaponry and communications there is simply no chance that NATO could defend itself against a Soviet attack. Thus, the use of the SALT negotiations to hamper NATO defense planning and cooperation has long been a major objective of the Soviet Union.

AMENDMENT No. 534

At the end of article XI, add the following: "Nothing in this article may be construed as preventing either party from making available scientists, transferring data or technology, or furnishing other assistance to other countries for the purpose of modernization of the armed forces of such countries.".

STATEMENT ON VERIFICATION AMENDMENTS

I have proposed three amendments because telemetry is vital to the verification of the qualitative aspects of the agreement. Photography or other sources of intelligence are inadequate substitutes. The legitimization of encryption in SALT II allows the Soviets to hide essential design features of their missile systems. No one should seriously believe that the Soviets will abide by U.S. interpretations of what can and cannot be encrypted anymore than they abided by U.S. interpretations of SALT I. Indeed, the Secretary of Defense admits that there is no current agreement on what can and cannot be encrypted and that this issue will be ultimately resolved by the Standing Consultative Commission. Any encryption of telemetry opens the possibility that false or misleading information is being broadcast and the real data is being sent out over encrypted channels.

Senator Glenn observed before this Commitee that the current margin of uncertainty on the technical parameters of Soviet missile systems is as large as 50 to 70 percent. To put this in perspective, we must recognize that the Soviet missiles are already three to seven times greater in terms of throw weight and launch weight as U.S. ICBMs. We are literally dealing in potential increments in Soviet capabilities due to cheating that are equal to entire U.S. strategic systems or even all U.S. strategic forces. How, then, can the Carter Administration claim that SALT II is "adequately verifiable?"

Current U.S. capabilities to monitor the critical qualitative terms of SALT II are inadequate, as the Senate Intelligence Committee Report concludes. Short term substitutes for the U.S. monitoring sites in Iran have severe limitations and are comparatively easy to counter if the Soviets took intelligence counter-measures. The effectiveness of the proposed U-2 collection depends on active Soviet cooperation, or at least no conscious policy to deny information. The Soviets can almost completely negate the effectiveness of the U-2 collector if they so choose.

There is simply no agreement under SALT II on what constitutes National Technical Means of verification. Administration spokesmen have admitted that the Soviets do not even regard overseas collection bases as National Technical Means of verification. The SALT II agreement, as written, would legitimize the encryption of telemetry. The Secretary of Defense has admitted that "Neither party can unilaterally determine whether denial impedes verification. If questions arise on this issue they will be resolved in the Standing Consultative Commission."

It is not a question of "if." Questions will arise and when they do it could take years to settle them if they ever are. The Standing Consultative Commission has been generally ineffective in settling issues unless there has been a clear, unequivocal Soviet violation. The encyrption issue clearly would not be such an instance.

We have publicly taken the position that existing levels of encyrption have not impeded National Technical Means of verification. We will certainly take the position that most of the fifth generation Soviet ICBMs will be modifications of existing missiles. Otherwise we would have to charge the Soviets with violating SALT II. Yet they can be almost completely different in their technology and existing levels of encryption would significantly hurt our ability to determine their characteristics. We will be caught in a dilemma of our own making. We cannot claim they are new (they might not actually be, by the ineffective SALT II definition) and yet we would be claiming that suddenly we cannot verify the capabilities of "old" Soviet ICBMs.

Any encryption of telemetry will make it easier for the Soviets to broadcast false information on the open channels and deliberately deceive U.S. intelligence analysts. While there is a limit concerning the degree to which this can be exploited, it is clearly possible to go well beyond the Treaty limits either through telemetry denial or the broadcast of false information—even if we regained collection capabilities comparable to what we had prior to the loss of Iran.

I have proposed an amendment that would completely ban the encryption of telemetry and would provide protection for required ground based telemetry collection stations. Without such an amendment it will not be

possible to verify SALT II unless one is willing to accept levels of uncertainty that could permit the clandestine deployment of thousands of additional warheads and megatons. This is not what I regard as "adequate verification."

AMENDMENT No. 535

At the end of paragraph 1 of Article XV, add the following: "As used in this Article, the phrase 'national technical means' includes the means by which each Party obtains intelligence data, whether within or without its territory, in order to verify compliance with the Treaty.".

At the end of paragraph 2 of Article XV, insert the following: "Interference with the national technical means of verification, within the meaning of this paragraph, includes exerting pressure on any other state which is assisting the national technical means of verification of the other Party for the purpose of halting or curtailing such assistance.".

Amend the first sentence of paragraph 3 of Article XV as follows: "Notwithstanding any other agreement between the Parties, each Party undertakes not to use deliberate concealment measures which impede verification by national technical means of compliance with the provisions of this Treaty, including the encryption of telemetric information transmitted during the testing of a missile.".

STATEMENT ON PROHIBITION AGAINST DELIBERATE CONCEALMENT MEASURES AMENDMENT

The President, Secretary of State and Secretary of Defense constantly assure us that there will be no deliberate concealment measures allowed under SALT II. The wording of the SALT II concealment prohibition is identical to the SALT I prohibition. This has not stopped Soviet concealment activities. The Soviet Union has a concealment and deception program under way right now, and this will continue under SALT II. It has involved, according to official and unofficial reports, various forms of photographic concealment at the ICBM test ranges, ICBM base areas, and submarine construction and maintenance facilities. There have been reports of heavy concealment related to the mobile SS-16 ICBM program and the construction of submarine berth tunnels. The Soviets have been encrypting telemetry.

The word "impede" verification is often interpreted by the U.S. government to mean "prevent" verification, opening a wide range of "legitimate" Soviet concealment activities that are supposedly ineffective in preventing verification.

This proposed amendment is designed to prevent the Soviet Union from legitimately engaging in activities that can degrade our verification capabilities without technically violating the current practices exception. We want to assure that the Soviets will not be allowed to complete submarine berthing tunnels, that they will not construct enough aircraft hangars to prevent us from monitoring the number of Backfire bombers deployed, that they will not be allowed to conduct silo loading operations at night or in bad weather so as to prevent U.S. photographic coverage.

AMENDMENT No. 536

Amend the last sentence of paragraph 3 of Article XV to read as follows: "The obligation contained in the preceding sentence shall require changes in current construction, assembly, conversion, or overhaul practices as may be necessary to ensure verification of compliance with this Treaty, except that if a Party determines that changes in such practices would not be practicable, such Party shall permit on-site inspection of such practices by the other Party.".

STATEMENT ON GLCM/SLCM RANGE EXTENSION AMENDMENTS

I am proposing three amendments to the Protocol. The amendments would extend the range of both unMIRVed and MIRVed GLCMs and SLCMs that are limited by the Protocol from 600 to 2500 km. This change is necessary if U.S. cruise missiles are to overcome the disadvantages of Eurasian geography and be able to reach targets in the Soviet Union from Western Europe or contiguous seas. Immediate deployment of our SLCMs and GLCMs should be allowed under the protocol, because the Soviets already have SLCMs with less than a 600 km. range on submarines. These can approach our coasts so as to give these SLCMs strategic target attack capability. Also, they have MRBMs which can strike Western Europe from the Soviet Union with three MIRVs. These do not count under SALT II. For that reason our equivalent systems, the MIRVed GLCMs/SLCMs of less than 2500 km. range should not count under SALT II.

AMENDMENT No. 537

In paragraph 1 of Article II of the Protocol to the Treaty, strike out "600" and insert in lieu thereof "2500".

In paragraph 2 of Article II of the Protocol to the Treaty, strike out "600" and insert in lieu thereof "2500".

At the end of Article II of the Protocol to the Treaty, add the following:

4. Each reference in the First Agreed Statement, First Common Understanding, Second Common Understanding, Fourth Common Understanding, and Fifth Common Understanding to paragraph 3 of this Article to 600 kilometers shall be deemed to be a reference to 2500 kilometers.

STATEMENT ON PROTOCOL EXTENSION AMENDMENT

Mr. President, I propose a Protocol Extension Amendment to the treaty which states that the Protocol shall not be extended beyond December 31, 1981 unless the Senate concurs by a two-thirds vote. Moreover, failure to extend the Protocol by either Party will not be grounds for violations or abrogation by the other Party of the provisions of the Treaty.

This issue is of the utmost importance and concern to our allies in Western Europe, particularly in light of the disadvantageous shift in the balance of power that has taken place over the past decade. The Soviets have moved from a position of strategic nuclear inferiority vis-a-vis the United States to that of parity or essential equivalence. In addition, they have undertaken a marked quantitative and qualitative upgrading of their conventional force capabilities in Europe. And with the deployment of the SS-20, a mobile Intermediate/Medium Range Ballistic Missile with three MIRVed warheads, the Soviet Union has taken a significant step forward in the area of theater nuclear forces.

Our allies are sincerely troubled that SALT II places no restrictions on the deployment of the SS-20, which poses an immediate threat to their security, yet severely limits the range of the ground- and sea-launched cruise missiles. It is often argued that the United States will be free to deploy cruise missiles of unlimited range after the termination of the Protocol. However, it is widely recognized that the Soviets will vigorously attempt to have the restrictions contained in the terms of the Protocol extended beyond December 31, 1981. Our distinguished colleague from Colorado, Senator Hart, on offering clarifying language to the resolution of ratification with respect to this issue of extending the Protocol correctly noted: "It is vital that the Soviet Union understand that these issues are not permanently resolved, and that serious negotiations must continue to seek mutually acceptable answers." It is essential, therefore, that the Senate make explicit as part of the Protocol text the interpretation of the United States government that the Protocol cannot be extended without the concurrence of two-thirds of the Senate.

I urge my colleagues to support this amendment, and thereby assure our allies in Western Europe that our commitment to their security will not be weakened by our desire to achieve bilateral arms control agreements with the Soviet Union.

AMENDMENT No. 538

At the end of Article XIX, add the following:

4. Notwithstanding the provisions of Article IV of the Protocol to this Treaty, done at Vienna on June 18, 1979, no prohibition or limitation which relates to strategic offensive arms and which is contained in the Protocol shall be in effect between the two Parties after December 31, 1981, unless such prohibition or limitation is contained in a treaty ratified by the President of the United States of America, subject to the advice and consent of the Senate, and such treaty enters into force between the two Parties.

STATEMENT ON AGREED STATEMENTS AND COMMON UNDERSTANDING AMENDMENT

This amendment proposes the incorporation by reference of the agreed statements and the common understandings in the Treaty. As the Treaty stands now, many of the key terms are not in the Treaty itself, but are in the agreed statements and common understandings. The Soviet Union has not printed these in its version of the Treaty. The proposed amendment assures that there will be no confusion concerning the legal status of these statements and understandings. Without such protection, the Treaty itself is largely without content.

AMENDMENT No. 539

Redesignate Article XIX as Article XX.
Insert after Article XVIII the following:

ARTICLE XIX

The agreed statements and common understandings regarding this Treaty, the Memorandum of Understanding Between the United States of America and the Union of Soviet Socialist Republics Regarding the Establishment of a Data Base on the Numbers of Strategic Offensive Arms, and the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms, each signed at Vienna, Austria, on June 18, 1979, shall be considered an integral part of this Treaty.●

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, the Committee on Labor and Human Resources will hold a hearing on S. 1089, the ERISA Simplification Act of 1979. This legislation, similar in intent to portions of S. 209, the ERISA Improvements Act of 1979, is different in its approach toward achieving improvements in the administration of ERISA and reduction of ERISA paperwork. The committee's efforts to attain these goals will be assisted by comments on S. 1089 from witnesses and others in connection with the hearing process.

The hearing will be held on Wednesday, November 7, 1979, in room 4232 of the Dirksen Senate Office Building, beginning at 9:30 a.m.

Requests to testify or present statements for the record should be directed to Steven J. Sacher, special counsel to the committee, 202-224-1097.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate today to mark up the Home Energy Assistance Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LETTER TO SECRETARY OF STATE VANCE

● Mr. BAUCUS. Mr. President, as you know, I believe that it is in North America's mutual interests to increase North American interdependence. The United States, Canada, and Mexico share a wide range of common concerns, and this is as true for our developing economic relationships as it is for the environment. Together, North America can accomplish much more than it can apart, and the challenge that we face together is how we can best promote our mutuality.

This may be necessary, but it will not be easy. A legacy of indifference and neglect have taught our neighbors to question our intentions. They fear for their sovereignty and for their resources, and America's increasing interests in their affairs appears to coincide with America's domestic considerations alone.

I will make no attempt to say that the United States has always done what is correct, but I will argue that it is in America's interests, and in the interests of our neighbors, to promote North American cooperation. I for one, and our neighbors for another, do not seek a Common Market, of energy or trade, but together we recognize the potential for mutual benefit through increased cooperation.

The Flathead River Basin is just one example of how Canada and the United States, working together, can better promote individual and collective interests. As you are aware, the Government of British Columbia is considering the licensing of a coal development in that portion of the Flathead River Basin which falls within Canada.

The implications of this for Montana, where the waters of the Flathead River flow, creating one of the most beautiful lakes in North America, could be severe but for the desires of both sides to insure strict environmental controls. The Governments of both Canada and the United States recognize the necessity of the development of the Flathead River Basin, and on both sides of the border. Our respective governments, however, also recognize that this can be accomplished without adverse environmental effects.

This is an accomplishment which I applaud. It is a credit to our ability to communicate and to cooperate. It is environmentally sound and mutually beneficial. We are supporting one another toward a common goal.

With this in mind, in 1976, I initiated the Flathead River environmental impact study, and since then I have worked in both the House and the Senate to guarantee its appropriations. So far, its accomplishments include quantifying the lake and river ecosystem through both limnological and fisheries studies and developing a baseline of air quality and meterological conditions in the Montana portion of the basin. Complete reports of all data collected will be available by early next year, and the steering committee for the Flathead River Basin study acknowledges the potential mutual benefit of sharing this information with its Canadian counterpart, the Coal Guidelines Committee, established by the Environment and Land Use Secretariate, Government of British Columbia.

An exchange of information such as this has a number of positive implications. Both sides would be reinforcing the precedent of cooperation. Researchers based in Montana, for example, would be aided greatly by the material contained in the stage II report of the Sage Creek coal develepoment, which the Coal Guidelines Steering Committee has undertaken, and which is expected to be completed by early next year.

Accordingly, I wrote this week to the Secretary of State to request his cooperation in arranging a meeting for the purpose of an exchange of information between Canadian and American officials who are concerned with the Flathead River Basin. This should take place in Cranbrook, British Columbia, or in another mutually agreeable location in March 1980.

I urged the Secretary to invite a number of relevant officials, and among these should include: Mr. Thurman Trosper and Mr. Ronald Cooper of the Flathead River Basin study; Lieutenant Governor Schwinden, representing the State of Montana; Regional Administrator Mr. Roger Williams representing the U.S. Environmental Protection Agency; spokesmen for the Government of British Columbia and the Canadian Ministry of the Environment; a spokesman for Glacier National Park; representatives from the American Embassy in Ottawa and the Canadian Embassy in Washington, D.C.

As for the agenda, I recommend the following: First, a review of the status of the studies of the coal development in the Flathead River Basin; second, a briefing as to the status of the Montana Flathead River Basin study; third, agreement in principle for cooperation between all parties to work toward mutually agreed to measures to insure the protection of the Flathead Lake/River system; fourth, discussion as to the utility of establishing permanent liaisons representing the Montana and British Columbian parties studying the Flathead River Basin; fifth, discussion as to the necessity of establishing a regular biannual meeting until proper and mutual environmental safeguards for the Flathead River Basin are established.

The Flathead River Basin is of vital importance to the people of Montana, and it is essential that this Government work closely with Canada to insure its environmental protection.●

SAVING PRIDE AND DIGNITY IN A SMALL KANSAS TOWN

● Mr. DOLE. Mr. President, I would like to call to the attention of my colleagues the actions of a fellow Kansan, and close personal friend, who has successfully defeated the stranglehold of the Federal Government on the small businessman. This man, with the help of his neighbors, organized a collection of concerned individuals committed to saving a most worthwhile community project.

The article from this morning's Washington Post details the actions of this compassionate philanthropist. I wish to submit the article for printing in the RECORD.

The article follows:

SAVING PRIDE AND DIGNITY IN A KANSAS TOWN

By Bill Curry

PHILLIPSBURG, KAN.—Autumn's nighttime chill cut the Kansas air, but inside the old family home of Huck Boyd, the hospitality was warm. There, over a round of bourbon, Boyd, 72 and the publisher of a small-town weekly newspaper, told a story of 10 people and the community in which they live.

It was a story as old as barn raisings, yet it is as current as the milo crop now coming to harvest.

Boyd told of a group of old people who found themselves innocently and abruptly adrift in the threatening crosscurrents of inflation and governmental regulation. He told of how their neighbors, with the communal spirit and resourcefulness that their ancestors brought to the Great Plains, came together to help them.

Along the way, the neighbors kept a handful of elderly people off welfare rolls, found a way to do without federal assistance for some others and saved a lot of pride and dignity as well as tax money.

The dollar savings in this town of 3,500 will, to be sure, got lost and unnoticed in the final few digits of the national debt. Huck Boyd's story, therefore, is most valuable as a counterpoint of hope to the roundelay of national distress sung by America's national leaders—the crisis of confidence, the moral decline, the lack of leaderahip.

McDill Boyd—he acquired his nickname as a trombone-playing boy from his bandleader—began his story with a Monday in August, when Connie Chestnut, manager of the Borum Gentle Care Home, walked into the offices of the Phillips County Review and announced that the Borum home would close on Sept. 1.

Her 13 residents—11 old and 2 retarded—would be homeless.

For 23 years, the Borum Gentle Care Home had provided shelter, food and care for people too infirm to care for themselves yet not so helpless that they needed a nursing home. Just a little something in between.

Here they could tend to the garden or to each other's needs, drive or walk to town, do some chores and then sit down as a family for supper. Maybe even help a little with the cooking.

The family circle has been broken.

"When we started out," says Mrs. C. F. Borum, "we named it the 'Gentle Care Home' because people in their later years need loving care, and we always attempted to provide it."

Now Mrs. Borum herself has reached the later years, and a year ago she turned over to Connie Chestnut her operation.

The home is green asphalt shingle, an old farmhouse moved in from the countryside. There is a cinderblock annex, and room for 15 people. Thirteen lived there Aug. 6, when Connie Chestunt waved the white flag of surrender; the $305 monthly charge no longer covered soaring food and fuel costs, and the expenses and burdens of governmental regulations that, however well intentioned, had somehow gone haywire for Phillipsburg.

Six of the 13 had been able to pay their way; the other seven received basic public assistance plus a $4.19-a-day housing supplement from the federal and state governments. But with the $4.19 suddenly came an oppressive list of federally mandated regulations: the administrator must have a bachelor's degree, residents' every activity must be monitored and recorded daily on complicated charts, and on and on.

It was too much for Connie Chestnut, who was working 85 hours a week trying to do everything and, by all accounts, doing it quite well, without a college degree. She rented the facilities from Mrs. Borum, charged $305 a month, and whatever was left over was her income.

It worked out to about $1 an hour.

So she told her story to Huck Boyd, and in the Review of Aug. 9, he broke the bad news over Phillipsburg. But in the ways of small town newspapering, he was not going to let it end there. Long active in the affairs of the public (he is currently a Republican national committeeman), Huck Boyd began a crusade and publicized it in his own paper.

He wrote in an editorial that day: "Folks who have lived together for a good many years, satisfactorily and in comfort, will be out on the street unless some way can be found to provide them the services they need.

"Do you have any ideas? Some very nice people would appreciate it if you do."

One idea that never did arise was one to let the government solve the problem it had helped to create.

"Can a community like this," Boyd asked in an editorial, "band itself together and take care of its own without government payments and control? With a little help from a lot of people, this can be done, and how nice it would be—for once—to do something for ourselves without asking the government to do it for us."

There were two concerns. If the Borum Gentle Care Home closed, the residents would be forced into more expensive nursing homes, and at taxpayers' cost. Once there, they would be cared for beyond their needs. Said Garner Hale, a First Christian Church elder who is working to save the Borum home, "If you throw 'em into a nursing home, pretty soon that's the only place they can be."

Bob Kendall, chairman of the board of county commissioners, estimated it could cost government up to $50 a day to place the welfare residents in other facilities. Not to mention the people who were able to pay their own at $305 a month, but who would be forced onto welfare when faced with higher rates.

So on Aug. 21, Huck Boyd brought together civic and church leaders at his house. There, he reported two days later, "It was agreed to raise the funds necessary to keep the [Borum place] open as a residential boarding home."

What eventually evolved was a nonprofit corporation to collect donations and to run the home; Connie Chestnut would remain as a salaried employe. The $4.19-a-day state-federal subsidy would be refused, and community contributions, not tax money, accepted instead. "You just go ahead and keep your money," Garner Hale, the elder, would say later of the community attitude toward government. "We'll just go out and keep it going ourselves."

The nonprofit corporation, Concerned Citizens Inc., would help those who couldn't meet the new monthly charge of $400, and a fund-raising goal of $35,000 was set.

That way the home would become self-supporting.

In no time, Concerned Citizens raised $6,600—contributions from local businesses and individuals ranging from $10 to $500. In some cases, church groups redirected their charity from missionary work overseas to alms-giving across town.

"It's time people started doing things themselves instead of sitting around and waiting for a government handout," said Hale, a 57-year-old asphalt chemist at the Co-op refinery here. He made it clear it was not the old folks he saw waiting for the government handout, but the community residents who would let the government pick up the expense.

And so on an October day, five weeks after the Borum home was scheduled to have closed, Karen Tebbs, 30 and retarded, was watering the houseplants there and helping to set the table for lunch.

Erl E. Haskett, born 93 years ago in a sod house in Phillips County, the son of a homesteading couple who grew up to raise oats, wheat, corn and hogs, still had a home.

There was confusion about whether the home would close. "I don't know what I'll do when they kick me out of here," he said.

"Well," said Connie Chestnut, "we hope we don't have to."

In the uncertainty, three residents moved away.

But if all goes well with the fund-raising—it is not completed yet—Haskett won't have to move out.●

A TRIBUTE TO THE CENTENNIAL OF LIGHT

● Mr. WILLIAMS. Mr. President, I would like to call to the attention of my colleagues the commemoration of a great event.

On October 21, 1879, Thomas Alva Edison invented the incandescent light. Using a filament of a carbonized cotton thread in an evacuated glass bulb, Edison watched throughout the day and night as the first electric light bulb burned for nearly 40 hours. The age of electricity had begun.

In just 2 months, Edison was ready to give the first public demonstration of his invention. He illuminated a street in Menlo Park, N.J., placing his bulbs on long wooden poles. With this success, Edison set out to build an entire electrical system, so that he could bring his invention into homes, offices, and factories. "I shall make electric light so cheap that only the rich will be able to burn candles," Edison remarked.

In recognition of this memorable event, a series of activities are planned to celebrate the Centennial of Light. Cities throughout the Nation will commemorate the memory of this remarkable man and his historic feat. These events will serve as a broad recognition of the invention of the electric light, as well as Edison's numerous other accomplishments.

As we celebrate his achievements, we should seek to rekindle the flame of Edison's extraordinary enthusiasm. We must confront contemporary problems with new, creative, and productive ideas. The seemingly insurmountable problems of inflation, energy and productivity will receive added light as we assume Edison's pioneering spirit. Just as his creative genius spawned thousands of other inventions, so too can we receive inspiration for solutions to our modern problems through innovative scientific efforts.

As we pay honor to this great citizen of New Jersey, we should encourage a swell of support for continued technological research and development. In addition, we should strive to revitalize this spirit in today's young men and women, who are the Edison's of tomorrow.●

LET US CHANGE THE WAY WE TALK ABOUT TAXES

● Mr. DOLE. Mr. President, there is more and more discussion of cutting taxes in the near future in order to combat the anticipated deepening recession of the economy. The other day Walter Heller, Chairman of the Council of Economic Advisers under President Kennedy, recommended a payroll tax cut for that purpose. The theory behind most of the tax cut proposals is that a fiscal stimulus—putting more money in the pockets of taxpayers—will do the most good to counter an economic downturn.

Many people have lost confidence in fiscal policy as an instrument to regulate the economy. They say that fiscal measures always come too late to do the job and often aggravate rather than alleviate problems. In addition, fiscal actions are rarely geared to the sectors of the economy where they will do the most good. That is why the notion of targeted tax reduction, designed to encourage stable economic growth, is gaining more and more acceptance. Since broad-based fiscal measures tend to be too blunt an instrument for regulating economic behavior, we need to pay more attention to directing tax policy toward more narrowly defined, achievable goals. The fact that Congress has such difficulty reaching a consensus on fiscal policy makes it imperative that we find more limited measures that have a common ground of support. General tax reduction, and reduction of the size of Government, should be regarded as worthy goals in and of themselves, not merely as temporary fiscal adjustments. Separating out the concepts of targeted fiscal actions and general tax reduction should greatly improve our economic discourse.

What we need over the long term is a tax system and a fiscal policy that encourages stability and allows people to be certain of their tax obligations. Nothing is more destabilizing to economic behavior than continual, abrupt shifts in tax policy. People simply cannot change their behavior fast enough to respond to all the changes in the tax law. While we are planning for the long term, let us eliminate one of the most unfair and confusing aspects of the income tax: taxflation.

Taxflation occurs when people are shifted into higher tax brackets by inflationary rises in their income. When income gains exist only on paper, rather than in real gains in purchasing power, they end up as net losers because they

have to pay higher taxes on that income. The fact that this continues to happen year after year represents an abdication of our responsibility to control tax policy and to take action to adjust tax rates, rather than allow the rates to rise by sleight of hand.

Mr. President, everyone who is talking of tax reduction must talk about taxflation. The Tax Equalization Act, S. 12, would end taxflation by adjusting the income tax bracket, zero bracket amount, and personal exemption according to the rise in the Consumer Price Index. If Congress takes up the matter of cutting taxes, S. 12 is the first measure that must be considered. It would give immediate tax relief, clarify the tax structure, and constitute a good-faith acknowledgement of the Government's duty to be honest with the people. We need to spur investment and foster real sustainable growth, and we need to reduce the size of Government. But we also need to play straight with the public. The Senator from Kansas feels certain that tax equalization is in everyone's interest.●

THE CASE AGAINST OIL COMPANIES

● Mr. METZENBAUM. Mr. President, last summer, when Americans were subjected to long gasoline lines, odd-even rationing, and soaring fuel prices, the oil companies and the Carter administration explained to the American people that our problem was the result of lower exports from Iran.

Later, we learned that this was not quite true—exports from other countries more than made up for the Iranian shortfall.

But no matter.

The American people did not for one moment believe the explanations given to them by the industry and the Government.

"Just wait," they said, "until the companies get the prices where they want them. Then there will be no shortage."

The President of the United States went on nationwide television to inform the people that "the energy crisis is real."

And after his speech, the polls showed that 65 percent of the public continued to believe that the energy shortage was a hoax.

I know that there are those who argue that such public skepticism shows that the American people are not willing to face facts on the subject of energy.

But I believe that it shows just the reverse—that the people of this country have been so often misled and so often manipulated with regard to energy that they properly refuse to take at face value what they are told by industry and by their own Government.

On October 14, the New York Times Magazine published a provocative article by Robert Sherrill that illustrates clearly the reasons why the American people have a sound and rational basis for their skepticism. I ask that the text of this article entitled "The Case Against the Oil Companies," be printed in the RECORD.

The material follows:

THE CASE AGAINST THE OIL COMPANIES

(By Robert Sherrill)

Ever since Jimmy Carter arrived in Washington he has been trying to convince the American people that the periodic oil and natural-gas shortages are not contrived deceptions used by the industry to squeeze more profits from consumers. In his first major speeches to the nation in 1977, when he put on a sweater and declared moral war on the energy problem, he said, "I realize that many of you have not believed that we really have an energy problem." He seemed sympathetic. But then, there he was again, during the great gasoline shortage of 1979, back on television, giving his fifth energy speech, still with the same theme. This time he had obviously lost patience. "The energy crisis is real," he said, going up half an octave. "It is worldwide. It is a clear and present danger to our nation. These are the facts—and we simply must face them."

The address was probably the most impassioned of his political life. Yet neither that plea nor the gas shortage itself seemed to have much effect on public perception. After the speech, 65 percent of the public still thought the current energy shortage was a hoax, according to a New York Times/CBS poll.

It's not hard to understand why the majority of Americans feel the way they do. Over the years, they have been told by many knowledgeable politicians and lay experts that the oil companies are quite capable of duplicity. George P. Shultz, a Secretary of Labor in Richard M. Nixon's Cabinet, who headed a Cabinet Task Force on Oil Import Control, found that "the industry is capable of behaving irrationally . . . and even of contriving an apparent disaster" and of "downward manipulation" of reserve statistics to squeeze more money out of consumers. In 1973, the Federal Trade Commission charged eight of the largest oil companies with conspiring to destroy competition and with conspiring to cheat the public out of billions of dollars by price fixing. The oil companies' lawyers are still in court fighting those charges, but in its sweeping accusations—and in its futility—the case stands as the nagging question of this energy decade. It has been a decade in which headlines such as "Oil Giants Exploited Energy Shortage, Probers Charge"—a vintage piece from The Washington Star—have appeared almost as Mobil's ads proclaiming the industry's innocence.

Above all, this has been a decade of *déjà vu*. Opening his famous "obscence profits" investigation in 1974, Senator Henry Jackson delivered a Whitmanesque outburst:

"The American people want to know why the prices of home heating oil and gasoline have doubled when the companies report high inventories of these stocks.

The American people want to know whether major oil companies are sitting on shut-in wells and hoarding production in hidden tanks and at abandoned service stations.

The American people want to know why the oil companies are making soaring profits. . . ."

It was an outburst that still seems perfectly contemporary, for the rumors, manipulation and suspicions of 1979—scarcity in the midst of plenty, tankers waiting to unload, charges of hoarding by the companies, hidden supplies, blame on the Middle East—have not changed. It is the *déjà vu* more than anything else that makes Americans now so hard to convince. For more than 50 years, Americans have been confronted with periodic energy "crises," and they have noticed that the only thing certain is that the crisis or prediction of crisis has been accompanied by increased oil prices, concessions from the Government to the major oil companies, expanded oil-company holdings or some combination of these. What follows is an account that might be called Six Crises.

1920: A TASTE OF THE FUTURE

The United States was producing about 65 percent of the world's oil in those days. The Standard Oil companies dominated, but they had few overseas sources. This made them unhappy and restless. Standard wanted to share in the oil of Iraq, then the most productive country in the Middle East. But Iraq was under British control, and the British would not let Standard in.

A propaganda war was called for, and suddenly the American people were plunged into a crisis. On Jan. 1, 1920, the U.S. Geological Survey—drawing its information, as always, from the oil companies—told The New York Times that "the position of the United States in regard to oil can best be characterized as precarious." Dr. George Otis Smith, director of the U.S.G.S., then warned that within the near future "Americans will have to depend on foreign sources or use less oil, or perhaps both." Within weeks, another U.S.G.S. official predicted that "unless our consumption is checked, we shall by 1925 be dependent on foreign oilfields to the extent of . . . possibly as much as 200 million barrels of crude each year, except insofar as the situation may . . . be helped to a slight extent by shale oil. . . . Within perhaps three years, our domestic production will begin to fall off with increasing rapidity, due to the exhaustion of our reserves." Oil industrialists began telling the press that, when America's oil reserves were gone, it would be at the mercy of the British, an ungrateful lot who had been saved by United States oil in World War I and now only waited for a chance to gouge us. . . .

The people were soon given a taste of that merciless future. In some parts of the country, gasoline was sold only in one- or two-gallon lots. In some places, the price more than doubled—to 25 cents, equivalent to more than $1 in today's currency. The magazine Automotive Industries reported rumors of refineries shipping gasoline away from urban centers until the prices went up. There was talk of having to make synthetic gasoline from Kansas wheat. There was even some loose talk of going to war with Britain, if necessary, to get "our" share of the oil supply.

The strategy worked. Seeing the State Department and the Congress militantly carrying the oil companies' flag, and seeing the American public exercised, the British gave in and agreed to join hands with the Americans in Iraq. With that, the crisis ended, almost as suddenly as it had begun.

This was not by any means the first time the oil industry had declared that it was running dry, but it was such a dramatically successful use of the technique as to inspire two British writers, E. H. Davenport and Sidney Russell Cooke, to observe in their book "The Oil Trusts and Anglo-American Relations," published in 1924: "There is this strange habit peculiar to the American oil industry which one should observe in passing. Although it doubles its output roughly every 10 years, it declares every other year that its peak of production has been passed and that its oilfields are well-nigh exhausted. . . . One cannot doubt that the lugubrious prophecies of American oil men are in some way related to the wish for higher prices."

1929–31 "PERFECT PATTERN" OF MONOPOLY

This time, the crisis was created in the name of "conservation." In 1929, the Federal Oil Conservation Board warned that the United States was "exhausting its petroleum reserves at a dangerous rate." It advised bringing in all the foreign oil possible, particularly from South America, and to cut back on production in the United States. The most important foreign source

in this hemisphere was in Venezuela, where the dominant American producers were Standard and Gulf—the latter company being controlled, interestingly, by the family of Andrew Mellon, who was then Treasury Secretary and the most influential aide to President Hoover. Gulf and the other international companies wanted a good patriotic excuse for bringing their cheaper oil into this country. Thus the big push to "conserve" our resources.

But then, in 1930, independent oil operators began bringing in the fabulous East Texas field. Here came the legendary Spindletop and subsequent discoveries, some with wells gushing 10,000 barrels daily. The major oil companies had had little to do with the discovery of the East Texas fields. So, the majors, pretending to be horrified at the wildcatters' wasteful production methods, demanded that the government of Texas force the small companies to "conserve"—i.e., sell only as much as the big companies said they should sell. When the small companies refused to knuckle under, the majors gave them a rugged dose of competition by slashing the price they would pay for crude—from nearly $1 a barrel to 10 cents. The resulting economic devastation forced the Texas legislature in 1933 to pass a "market demand" law.

Production of oil would thereafter be "prorationed," held down to what the "market" (that is, the major oil-company buyers) desired, and, since Texas was the dominant oil state, the price paid for oil in Texas would pretty well determine the national price. Thereafter, when the majors wanted to create enough scarcity to bolster prices, they simply placed smaller orders and the state prorationing commission ordered lower production. Senate investigators later concluded that the system had been set up not for conservation but rather as part of "a perfect pattern of monopolistic control over oil production . . . and ultimately the price [was] paid by the public."

1947: AN HONEST MAN IS RARE

During World War II, Interior Secretary Harold Ickes persuaded President Roosevelt to establish a Government corporation (the Petroleum Reserves Corporation to buy out the American oil partners—Standard Oil of California and Texaco—in Saudi Arabia. Ickes, who had seen enough profiteering to conclude that "an honest and scrupulous man in the oil business is so rare as to rank as a museum piece," wanted the public to have more control over supplies. The oil companies were powerful enough to kill Ickes's proposal in the cradle; they had ideas of their own for further strengthening their Middle Eastern cartel.

Standard Oil of California and Texaco had controlled the concession in Saudi Arabia since before World War II, but their marketing outlets were not adequate to handle Arabia's bountiful output, so they brought in the great Standard Oil of New Jersey and Mobil as partners. This is the Arabian American Oil Company (Aramco) we know so well today. A domestic arrangement like that would clearly be a violation of America's antitrust laws, and could be expected to encounter fierce public resistance. Again, it was time for an emergency and a storm of gloom.

In 1947, the chief of the Department of State's Petroleum Division flatly stated that "sufficient oil cannot be found in the United States." Two years later, Julius Krug, the Secretary of Interior, said that the "end of the United States oil supply is almost in sight." Giving credence to the gloom, the oil companies claimed shortages and raised prices. But the true character of the "shortages" did not go unnoticed. In 1949, the Senate's Special Small Business Committee observed that, "during the year and a half the committee has been investigating the oil industry, there never has been a real overall shortage . . . At the time that consumers were feeling the greatest pinch, in January and February 1947, there were 220 million barrels of crude oil in storage, mainly controlled by the larger units, which could have been distributed among independent refiners who were running under capacity."

1959: PUTTING THE LID ON FOREIGN IMPORTS

By now the major companies were making enormous discoveries overseas, but so were some of the more aggressive independent oil men—fellows like J. Paul Getty and William Keck and the Hunts, father and sons. The world, by the mid-50's, was awash with oil, and the development of a freewheeling, truly free-enterprise market suddenly seemed to be a dreaded possibility.

The majors had long ago perfected the art of global price fixing by controlling supply. They were not about to send so much cheap foreign oil to the United States—still the world's largest market—that prices would be forced down. But the independent men felt no such restraints. They were wild hares, and the majors feared—rightly—that there were so many independents roaming the globe with their drilling rigs that they couldn't possibly be controlled.

The majors rose to the occasion by proclaiming, and having their friends in Congress in the Eisenhower Administration also proclaim, the imminence of a national-security crisis. Americans, it seems, were in danger of being subverted by cheap foreign oil. Most of it must be blocked at our shore. The argument went like this: Middle East oil could be produced for one-tenth the cost of domestic oil. So naturally it could be bought for much less. If it were allowed to undercut domestic prices, our oil men couldn't afford to go out and find new oil in American fields, and if they didn't find new oil at home we would increasingly become dependent on foreign oil, and if we became dependent on foreign oil, we would be terribly vulnerable in case of war.

With that patriotic reasoning, Congress inserted a provision into the 1958 Trade Agreement Act to give the President power to set mandatory controls over oil imports. President Eisenhower, whose closest adviser in such matters was Treasury Secretary Robert Anderson, a Texas oil man, lost no time in imposing the controls. Foreign-oil imports were held down to about 12 percent of domestic production, and only the companies with refineries—for the most part, the large companies—were allowed to import. The larger companies made millions, bringing oil in at a price between $1.25 and $1.50 less per barrel than domestic oil.

Did the import-quota program make the nation more secure in its oil supply? Hardly. One effect was that the independent oil industry began a long slow decline. Another was that it gave the major international companies the excuse they wanted to take most of that wonderfully cheap Middle East oil and develop new markets in Europe. That's where they began building their refineries—*not* in America. They were doing it, moreover with indirect subsidies from the American taxpayers.

Prof. M. A. Adelman, an oil expert at the Massachusetts Institute of Technology, argued, along with others, that keeping foreign oil out was costing American consumers at least $4 billion a year. And Pentagon officials proclaimed that, as far as they were concerned, the oil-import program had not had the slightest thing to do with national security. In 1974, when the program was dead and candor could be indulged in, Z. D. Bonner, president of Gulf Oil Corporation, acknowledged that "oil import controls were used as a price-control mechanism."

1973: "ALL THE SHEIKS' HORSES"

By the mid-1960's, there was so much Middle East oil available that Professor Adelman was predicting that a Middle East oil price "as low as $1 a barrel, though not imminent, has a 50-50 chance of occurring in, say, five years." *A dollar a barrel.* In February 1969, Fortune magazine writer Gilbert Burck predicted that "barring a great international cartel that will tie up the world of oil as no international organization has ever tied up anything before, everyone in the oil business faces a long series of adjustments. . . . All the sheiks' horses and all the sheiks' men will never put the comfortable oil price structure together again. Consumers everywhere should rejoice."

Fortune was not giving the oil industry sufficient credit for ingenuity. A "great international cartel" capable of tying up oil as never before already existed. The Organization of Petroleum Exporting Countries (OPEC) had been formed in 1960. So far it had been dormant. But with a little luck, and the right emergency, perhaps enough lightning could be directed through this monster's body to make it rise and do the major companies some profitable service.

In the early 1970's, the right crisis seemed at hand. The Middle East was in a froth. Arabs and Jews were at each others' throats. Israel's Middle East enemies were talking about using oil as a weapon—and if they did, the major oil companies would be ready to exploit the showdown.

But first the consuming public was softened up with a series of smaller, preparatory crises. Although, in fact, the majors were holding the highest inventory of gasoline they had ever had, they managed to produce a "gasoline shortage" in the spring of 1973 even before the Arab embargo. By June they were warning of a likely shortage of home heating oil the next winter, although, as David Bird wrote in The Times, "the warnings are surprising some people, because the stocks on hand seem to be larger than they were at this time last year."

The shortage, contrived or not, gave the majors an excuse to cut off gasoline supplies to independent wholesalers and discount dealers; about 3,000 went out of business in 1973. Meanwhile, the majors were forcing the price of gasoline up 39 percent, and their profits shot up 63 percent in the first nine months of 1973—with the embargo still to come. When it did come, the majors were ready.

On Oct. 6, 1973, Egypt and Syria invaded Israel. Two days later, the major companies met with representatives of OPEC to begin talking about a new price structure. Bearing in mind that up to this moment OPEC had never in its life shown anything remotely resembling courage, one may justifiably conclude that its new aggressiveness was somehow the result of collaboration with the companies. (As one oil-company executive earlier told Newsweek, "In the Middle East, we carry the enemy flag.") On Oct. 16, OPEC announced a stunning 70 percent increase in prices and the next day declared that the Arab members of OPEC would cut production 5 percent each month "until Israeli withdrawal is completed from the whole Arab territories occupied in June 1967 and the legal rights of the Palestinian people are restored." It also declared that, because of the United States' and the Netherlands' friendship with Israel, those two countries would be cut off completely.

Enterprising reporters, however, found abundant evidence that the Arab embargo did not, in fact, cause any shortages. Libya did not shut off its supplies. Neither did Iraq. Nor Iran. If the Netherlands was being boycotted, what were all those tankers doing out there in the harbor waiting for a berth? Jack Bax, a press aide for the city

of Rotterdam, told reporters in January 1974, "Personally, I think the whole thing is a hoax." And if there was a shortage in this country, why were fuel-oil barges backed up along the Ohio River? So much oil was available in the United States that some crafty merchants were buying low-sulfur oil on the Gulf Coast for 21 cents a gallon and shipping it . . .

Nevertheless, the market operated as though there was a scarcity, and profits went through the ceiling. Occidental Petroleum Company announced that 1973 earnings were 665 percent higher than those of 1972. Other big companies were not burdened with quite such embarrassingly large percentage increases, but they were doing all right. On Jan. 1, 1974, OPEC raised the price to $11.65 a barrel—five times the price it had been only three years earlier. By the end of 1974, Exxon Corporation, the world's largest oil company, moved to the top of the Fortune 500 list—easily unseating General Motors, which for 40 years had held the premier position. Four other oil companies—Texaco, Mobil, Standard Oil of California and Gulf—joined Exxon in the top seven rankings.

Two weeks ago in The Times, reporter Jeff Gerth shed more light on how the giant Exxon, for example, was able to make the most of the moment. Reporting on a previously unpublicized civil trial in Canada—a Nova Scotia public utility successfully blocked Exxon price increases—Gerth said that "during 1973 and 1974, Exxon documents show, the company disguised increases in its profit margins by backdating them to blend in with price increases tied to OPEC increases. These concealed profit increases appear to contradict broad assurances that Exxon submitted in writing in early 1974 to the Senate Finance Committee that its price increases since 1973 had 'essentially only' covered increased costs."

On its own, OPEC might have remained a motley assembly of whiners, but with the patient instruction of the majors, it had become the industry's friend supreme in raising prices. It had also became the great dramatist, writing the panic script that made oil at any price acceptable to the consumer nations. A few years later, when a reporter at The Washington Star asked James Lee, president of Gulf Oil, if he thought OPEC was a "good thing," he admitted that it had "done us a favor by forcing the price of oil as it did." Carmichael C. Pocock, chairman of Royal Dutch Shell, also conceded that, since OPEC took over the pricing of oil at the production level, "our role is much happier."

Some expert observers believe that OPEC's economic terrorism could have been permanently ended in 1975 if the major companies and our Government had made the effort to do so. The inevitable glut of oil developed by the end of 1974 because the higher prices had curtailed use. As 1975 opened, world oil prices were beginning to sag. OPEC looked shaky. A group of energy specialists brought together by the Brookings Institution predicted in January 1975 that OPEC would likely be crushed by falling prices by 1978.

At that point, the oil companies apparently cut back production. John Blair, former chief economist for the Senate Antitrust and Monopoly Subcommittee, states, in his book "The Control of Oil," that "had it not been for the cutbacks, the market would have been flooded with 'distressed' oil, OPEC would indeed have broken down, and oil prices would have fallen sharply." But if the major oil comoanies betrayed the consumers, so did our Government officials; most of the top policy makers in the Ford Administration publicly denounced all efforts to drive down world oil prices.

1977: GAS TO BURN

When the Federal Power Commission was ordered in 1938 to set the interstate price of natural gas, there was some disagreement as to whether this meant controlling the price of the gas only after it reached the interstate pipelines or at the well. In 1954, the Federal courts finally ruled that controlling prices in the pipeline would be meaningless unless prices were also controlled from the very beginning, at the wellhead. It ordered the F.P.C. to do so.

Industry, the independent companies as well as the majors, fought back. First, they tried to get Congress—with the encouragement of a stunning outpouring of campaign contributions—to pass a law removing natural gas from all Federal controls. When this failed, industry lawyers tried the Supreme Court, arguing that the lower prices imposed by the F.P.C. were keeping explorers from looking for new gas supplies.

But the industry lost. In 1968 the Supreme Court ruled that the market regulation was fair: there was no evidence that the proconsumer prices were hurting gas exploration. The Court noted that every year, according to industry's own records, more gas was found and added to the reserves than was burned by customers.

It was a striking coincidence, to say the least, that industry reported an increase in its reserves every year until the Supreme Court's adverse decision and a decline every year since then. Now, for the first time in its history, the natural-gas industry began planting dire stories about shortages. To give these warnings substance, some companies fudged on their mandatory reports to the Government. James T. Halverson, director of the Federal Trade Commission's Bureau of Competition, said gas reserves in some areas were underreported by 1,000 percent. Congressional investigators said they found hundreds of wells capped in the Gulf of Mexico. Explorations for new gas plummeted. Beginning in 1971, the industry warned that "next winter" there would be shortages—enough shortages to close some factories and chill some homeowners. There were indeed shortages of a sort, created, as was later discovered, by some companies' hoarding supplies or transferring them from markets where they were desperately needed to markets where they weren't.

Through it all, as Homer Bigard reported in The New York Times, there were still some energy experts who believe the shortage was "a hoax perpetrated by the industry to force the Federal Power Commission to increase the price of natural gas sold in interstate commerce." For whatever reason, the F.P.C. did indeed heap new riches on the natural-gas peddlers; between 1972 and 1976, the price of new gas in interstate commerce was permitted to rise by more than 300 percent.

But the industry wasn't content. It wanted freedom from price regulation altogether, and it thought it saw its big opportunity in the energy package President Carter sent to Congress in 1977. To be sure, Carter took the position at first that he wanted to continue natural-gas price regulation, but it was plain that most of all he wanted to pass an energy bill—in almost any form—and that he would probably accept deregulation if he had to. Industry read the President right. When its friends in Congress, after months of debate, finished butchering the President's program, a bill arrived at the White House that would deregulate new natural gas, after regular annual increases, as of 1985. Carter signed it.

Suddenly there was once again an abundance of natural gas. Virtually overnight it became a surplus commodity. But the crisis had resulted in a slight difference. The price of gas of the average homeowner was now nearly 50 percent higher.

How could so many of these "crises" that turned out not to be crises have been allowed to happen? The most obvious answer is that there was virtually no resistance from the Government. No industry has been so pampered, so indulged in its waywardness, as the oil and gas industry. Every Administration supplies its own example of slavishness. In Nixon's days, the spirit was nicely caught by Interior Secretary Rogers C. B. Morton, assuring a group of oil executives at a White House briefing that they had nothing to fear from the Office of Oil and Gas because "our mission is to serve you, not regulate you. We try to avoid it. . . . I pledge to you that the department is at your service." And in the Carter Administration one could hear the soft symbolic graciousness in former Energy Secretary James Schlesinger's promise to American Petroleum Institute conventioneers that with Carter's help they would see over "the next 20 years, a Golden Age for the industry that will rival, in many respects, the romance of oil of the past."

But there is another crucial reason: the oil industry controls the books. It controls the statistics. No other industry of comparable importance gets to operate with such secrecy. If the Government wants to know how many cars G.M. has in inventory, the Government need only send an agent around to storage lots and count them. But, if it wants to know how much oil and gas Exxon and Mobil, for example, are sitting on, it must ask Exxon and Mobil. Whether or not the statistics it receives are accurate is anybody's guess. (And it may not receive the data it wants, at all; frequently, when the D.O.E. seeks sensitive details that would be really useful, the oil men take the bureaucrats to court and fight for their secrecy—it's a tough way to get the full picture.)

The only experts in how much oil and gas exist in the world, and where, are those who actually sink holes to find out. The U.S. Geological Survey which, from time to time, estimated present and future oil and gas reserves, doesn't do this. Neither does the Department of Energy. These agencies get their information from the industry. Obviously, those in the oil and gas business do drill wells, and they have a great deal of data. But they prefer to keep most of it secret. Rawleigh Warner Jr., chairman of the Mobil Corporation, was quite correct when he wrote in a recent letter to the editors of The Times that this is "a time when facts, and not villains, are badly needed." The reason the public, and many members of Congress, are so willing to make villains of the oil companies is that the oil companies have made it so difficult for anyone to get those facts.

For years, Senator Jackson had been considered one of Congress's half-dozen best-informed members in energy matters. But even he admitted, during his Senate investigation in 1974, that he didn't have the slightest idea what was going on. "We meet here this morning," he said, "in an effort to get the facts about the energy crisis. The facts are—we do not have the facts." For the next four days, he and other members of that subcommittee grilled the oil men, and came away virtually as ignorant as when they started. Senator Jackson ended with the confession that "the one point that this hearing has brought home clearly is our lack of timely, reliable, complete and credible information about the energy industry."

Then he ticked off a stunning list of blind spots: "We do not have reliable current data on primary crude-oil and product stocks, and there is no usable information at all on secondary stocks. Import statistics are covered with confusion and doubt. The wholesale-price statistics of the Federal Government regarding gasoline and fuel oil are not believable or usable. We know almost nothing about the international pricing and investment policies of the companies and the tax benefits they enjoy. . . . We are struggling here. It is the most ludicrous operation in the world when the United

States of America simply does not have the facts to deal with a problem of this magnitude."

That's the chairman of the Senate Energy Committee talking. If he felt ludicrously ignorant, what senator didn't?

In 1977, when the White House was trying to move Congress to vote on the natural-gas bill, Senator John Durkin said the information he was getting from industry and the bureaucracy left him totally baffled as to whether we "are running out of natural gas, or swimming in it. . . . We sit here today like map makers of centuries ago, attempting to chart unseen lands by relying on second-hand information."

He had cause to complain. One official at the Energy Research and Development Administration had just finished a study showing that there would be plenty of affordable natural gas for at least the next 40 years. But since this conflicted with the gloomy forecast currently pushed by industry, the study was killed. The runaround, and the complaints about it, are constant. Representative Bob Eckhardt of Texas, chairman of the House Commerce Subcommittee on Investigations, says, "The Department of Energy relies solely on information it pumps from the companies, and that's one hard pumping job. The information D.O.E. gets is always at least two or three months old. Congress goddamn well isn't going to make sensible decisions concerning problems it's facing right now on information that old. . . . And the preliminary figures may be as much as 10 percent at variance with the facts."

Last August, the Department of Energy cleared the oil industry of charges of hoarding during the summer's gasoline shortage. As investigations go, however, the D.O.E.'s wasn't much, for—once again—it had relied solely on data supplied by the industry and had, moreover, been unable to obtain information relating to industry activities later than May, although the worst shortages occurred in June and July.

The upshot of all this is that when Congress is confronted with such questions as whether to deregulate natural gas or whether to permit the President to decontrol the price of oil, it must base its judgment on only such information as the target industry will release. It gets little help from the U.S. Geological Survey, whose predictions have fluctuated wildly over the years and have often seemed suspiciously like propaganda aimed at supporting the industry's latest crisis. In general, Government officials have racked up an almost perfect record of inaccurate predictions. In 1970, for example, the President's Cabinet group studying imports concluded that if the import-quota system were phased out rapidly, the U.S. and Canadian oil industry (it was fair to think of them as a unit since about 75 percent of Canada's oil was controlled by United States companies) would be so productive that in 1980 it would be able to supply 92 percent of those two nations' needs without rationing and more than 100 percent of their needs with rationing—even if they were cut off from oil, yes, all, Middle Eastern and Latin American imports.

Today, still one year short of the time when that forecast was supposed to apply, the oil industrialists claim America faces a future of dependency and that they are helpless to meet America's demands without importing nearly half its oil from abroad. One might say that the two positions were a bit at variance; indeed, it seems obvious that neither the 1970 statistics nor those of 1979 have much usefulness.

So right at this moment the only genuine crisis we're certain of is a crisis of ignorance. The nation is chronically short of reliable energy data. Should it base its energy policy on, say, the pessimism of a James Schlesinger, who believes we will run out of oil and gas "in 30 or 40 years," or on the optimism of a Russel Long, himself an independent oil man and privy to the innermost councils of the industry, who says "it should be apparent to all that, as long as we have oil producers in this country, we will have oil. The only essential for the next 1,000 years is the oil producer"?

The question of who's right can't be answered so long as industry holds an information monopoly. This is not a hopeless problem. It could be solved most easily by following the suggestion of the A.F.L.-C.I.O. to nationalize the oil and gas industry, thereby coming into the possession of all the industry's secrets in one swoop. A less drastic way to break the monopoly on information would be for the Federal Government to begin financing exploration parties of its own—to get out and drill holes in the ground and find out what is down there, at least in a few key areas.

Although Senator Long hates the idea of the Government's doing such a thing as exploring for oil, he nevertheless admits the soundness of the principle. Borrowed statistics won't get the job done; geological hypotheses based on past experience may be useful but they are still guesswork. Truth lies in the drill bit. As Senator Long once put it. "Until one has explored, there is no reason on earth to assume one acre of land is any better than any other acre of land anywhere on earth."

Most of the unexplored land in the United States is in the Federal domain, so the Government's oil explorers wouldn't have trouble getting permission. And 98 percent of the Federal land has never been explored. A dozen Spindletops may be out there waiting to be found. Or perhaps the nation is truly running dry. We will never know for sure until we find out independently of the oil companies.

A leap in that direction has been proposed by several members of Congress in a variety of bills that would set up a Federal oil and gas corporation either to buy oil directly from other producing nations or explore for (and produce) oil and gas at home, or both. Getting the Government directly into the oil and gas business as a way to escape the stupidity of borrowed data and the market variables imposed by industry is not exactly a new idea. It was proposed in the Senate at least as early as 1920 and it has been cropping up periodically ever since in both houses of Congress.

Enthusiasm for the notion has so far been slight. But sooner or later, having grown sufficiently fed up with whatever crises lie ahead, Congress may decide to create an energy policy based on the substitute for villainy Rawleigh Warner was talking about. To do that, Congress will have to send its own buyers into the marketplace and its own roughnecks into the field.●

THE GOLDWATER MYSTIQUE

● Mr. DOLE. Mr. President, as one who has taken an interest in Presidential politics in recent years, I must say I found yesterday's column by James J. Kilpatrick particularily provocative.

Entitled "The Goldwater Mystique," Mr. Kilpatrick's thoughts on our distinguished colleague, Senator GOLDWATER of Arizona, are worth sharing. Certainly, as one who has always admired Senator GOLDWATER, both as a fine Republican and a true statesman, I find that Mr. Kilpatrick's musings mirror my own thoughts concerning his value to his party and his Nation.

Mr. President, I ask that the article from the October 18, 1979, Washington Star be printed in the RECORD.

The article follows:

THE GOLDWATER MYSTIQUE

The Republicans are having their problems these days, and I have a solution for them: Bring back Barry!

This stroke of inspiration derives from a book fresh from the press, With No Apologies (Morrow, 320 pages, $12.95), a personal and political memoir by the senior senator from Arizona. Hi ho, it sets the old adrenals pumping.

For many of us on the conservative side, Barry Goldwater's presidential campaign of 1964 had the unforgettable exhilaration of a great run on skis. It was downhill all the way, but by God, it was glorious. In the end, we wiped out, Lyndon Johnson swamped our man by 16 million votes; it was 486 to 52 in the Electoral College; we carried only six states—Alabama, Arizona, Georgia, Louisiana, Mississippi and South Carolina.

Eight years later, George McGovern would record a greater disaster for the Democrats, but the debacle of 1964 was the Republicans' Johnstown flood. The survivors emerged from the ruins battered and beaten, but we carried a banner with a great device: In our hearts we knew we were right.

Goldwater's memoir brings it all back, the whole crusade, the splendid futility, the joy of total commitment to a cause that was lost before it began. In the autumn of 1964, less than a year after the assassination of John F. Kennedy, no Republican candidate could have beaten LBJ. The country was not about to embrace a third president in a span of 15 months. Barry Goldwater gave his best effort. He waged a clean and honest campaign against a host of distortions and dirty tricks. Remember the TV commercial of the little girl picking daisies while the atom bomb explodes? Goldwater never had a prayer.

He recalls the campaign.

"In 1964 I addressed myself to the quality of life in the United States. I warned that a continuation of existing policies must inevitably lead to expanding bureaucratic control over the people's lives. I said that continued unbalanced budgets would bring on more inflation and that one day the sheer weight of the national debt would destroy our economy.

"I argued that government was necessary to protect the people from our enemies overseas, to restrain the greedy and the lawless and to provide a civil framework for the growth of commerce and industry. I said that everything else which needed to be done could be better done by the people themselves without government interference."

You will seldom find a better two-paragraph explication of Republican principles than Goldwater here provides. His memoir breathes the fierce, fire-eating spirit of a man who truly has kept principle ahead of politics all his life. When he first ran for the Senate in 1952, he told his beloved Peggy that "We are all required to pay rent for the space we occupy on this earth." His way of paying the rent was to fight in the political arena for the preservation of individual freedom.

At 70, Goldwater is the patriarch of his party. His unflinching integrity—his willingness to take stands that are unpopular but right—has elevated him to a high plateau of affection and respect. Like the English peer whom Dr. Johnson described as "a very good hater," Goldwater cherishes his animosities. He never forgave Sen. Wayne Morse of Oregon for defecting to the Democrats in 1955. He still nurses the pain of William Scranton's vicious anti-Goldwater letter at the GOP convention of 1964. He clings to a justifiable grudge against the media for badly reporting his campaign positions on Social Security, TVA and the use of nuclear weapons.

But the years have softened the iron man. Goldwater has grown old as the curmudgeon with a twinkle in his eye. He has class. And come to think of it: He's only a few months older than Ronald Reagan; he's been around Washington as long as Gerald Ford. At a time in his party's fortunes when John Connally is fighting for acceptance, when Howard Baker, George Bush and Bob Dole have failed to catch fire, perhaps the Grand Old Party could settle upon the Grand Old Man. A legion of the faithful would put on their skis again; in our hearts, we still know he's right.●

MOTHER TERESA OF CALCUTTA AWARDED NOBEL PEACE PRIZE

● Mr. DURENBERGER. Mr. President, I note with pleasure the award of the Nobel Peace Prize to Mother Teresa of Calcutta. This selfless and saintly woman has spent 31 years working quietly to relieve poverty, hunger, disease and destitution among the people of India. Although a native of Albania, Mother Teresa is a citizen of the world whose mission it is to serve humanity, and it is a measure of her greatness that she was selected for the honor of the prize over many other worthy and better known candidates.

Mother Teresa's gift of greatness derives from her commitment to serve humanity not as an abstract mass but rather as a collection of individuals, each with his or her own unique qualities. As she once told author Malcolm Muggeridge, "welfare is for a purpose whereas Christian love is for a person." It is this exaltation of the individual which raises Mother Teresa's work above politics or ideology and lends to it the gift of grace.

It is thus fitting that the Nobel Committee has honored a woman who, in her own way, has contributed to peace, for in her dedication to the dignity of the individual Mother Teresa has given us all an understanding that peace is much more than merely the absence of war. As the committee recognized, peace is served when the welfare of the individual is made the end of action.●

NATIONAL SCHOOL LUNCH WEEK

● Mr. DOLE. Mr. President, this past week was National School Lunch Week and millions of the Nation's students have participated in this weeklong observance.

National School Lunch Week was first proclaimed by the President in 1962 and since that time one week in October of each year has been set aside to observe school meal services and to pay tribute to the over 27 million students, over 68,000 school cafeteria workers and many others who make these feeding programs successful today.

THE IMPORTANCE OF THE SCHOOL LUNCH

The school lunch program, I believe has and will continue to serve a vital function in this Nation's health. Few people would quarrel with the idea that American food habits have significantly changed over the past few decades. However, through the school food program many school children get a well-balanced, well-prepared meal every day. The nutrition education activities and personnel training workshops that have been offered in the past few years have all been designed to improve the student's food selection practices and strengthen the school cafeteria service. In addition, these services also strengthen the goal of improving the American diet.

SENATE RESOLUTION 90

In February of this year, the General Accounting Office testified before the Subcommittee on Nutrition and reported that the Department of Agriculture had "little convincing evidence to support their proposed modifications in the school lunch program." Those modifications were in a form of a $100 million cut in the school lunch program. The GAO also emphasized the lack of program information and evaluation material to justify these cuts and changes. Because the GAO was not alone in making this observation, several significant policy issues were addressed through a resolution introduced by Senator MCGOVERN and myself, Senate Resolution 90.

This resolution is requesting the Secretary of Agriculture to make a study of the programs administered under the National School Lunch Act. This study would include aspects of the school lunch and breakfast programs in regard to costs of the program, income of families participating in the programs, use of the programs for nutritional education, and contributions of the programs to the agriculture economy. This resolution passed the Senate on June 20 and I am hopeful that it will provide this needed information in these programs so that we can effectively evaluate their needs for the future.

On September 17, Senator MCGOVERN and I introduced an amendment to the second concurrent budget resolution which would restore the $100 million previously cut from the school lunch budget, however, that attempt was tabled by a vote of 69 to 18. The attempt to reinstate this funding was based on the need to continue this vital program to its fullest extent and the uncertainty that now exists on the consequences that such a cut will have on the future of the program.

FUTURE OF SCHOOL LUNCH

In light of this budgetary cut, I am sure that the school lunch program will continue to benefit the students in every school across the Nation which participates. I will continue my efforts to see that this program, along with the other feeding programs under child nutrition become more effective in helping to educate and provide good nutrition and eating habits and attain the goal of a more healthy American. In the coming months, the Senate Subcommittee on Nutrition will focus on this area and other areas of nutrition in the effort to secure the best information possible on good nutrition and legislate to make good nutrition available to each and every citizen.●

PRESIDENT FORD AND 1980

Mr. DOLE. Mr. President, I want to speak briefly about a statement made today by former President Gerald Ford about his role in the 1980 Presidential race.

In that statement, President Ford stated clearly that he has made a firm decision not to become an active candidate for the nomination as the Republican Party's Presidential choice. He also said that he has no intention of entering any of the upcoming State primaries, nor will he participate or encourage others to participate on his behalf in the delegate selection process.

Mr. President, Gerald Ford has played an important part in the success of the Republican Party. When I came to Washington in 1961, he had already firmly established himself as a leader and shaper of Republican Party policy. Later, from his position as minority leader in the House, and as Vice President, he ably guided Republican forces, and spoke as a symbol of decency and good for Republicans and Democrats alike. As President of the United States, he led our country through difficult times with dignity and grace. It was my honor to serve as his Vice Presidential running mate in the 1976 elections.

Mr. President, perhaps no one in the United States understands our critical need for leadership better than Gerald Ford. And he believes that the challenges that face this Nation can best be met by the Republican Party.

I appreciate the candor of his remarks today. It is typical of him to speak openly and unequivocally about his intentions, and his statements have served to clear away the cloud of confusion that has surrounded his possible participation in the 1980 Presidential race.

It is my fervent hope and belief that Gerald Ford will continue to be active within our party, and provide guidance and perspective for those Republicans who are currently seeking the Presidency.

HONORS TO SIR ARTHUR LEWIS

Mr. BRADLEY. Mr. President, I would like to honor a man of exceptional intellectual and academic abilities in his field: Sir Arthur Lewis, professor of economics and international affairs at Princeton University, and this year's joint winner of the Nobel Memorial Prize in economic science for his work on the economic problems facing developing nations.

Considered to be one of the leading economists in the world, Sir Arthur has taken a uniquely productive approach to economics by utilizing ideas instead of numbers. People, particularly those in developing nations, are his main concern; poverty and unemployment his nemesis. He is a firm believer that agricultural development is the key to economic well-being of the Third World. It was these characteristics that attracted the Royal Swedish Academy to choose Sir Arthur for the Nobel Prize, making him the first black to win a prize in the science categories. Of course, Martin Luther King, Jr., and Chief Albert Luthuli won Nobel Peace Prizes.

Born on January 23, 1915, on the island of St. Lucia in the British West Indies, he is the author of numerous papers and 11 books, including his most

famous work, "The Theory of Economic Growth," published in 1955. In 1963, he was knighted by Queen Elizabeth II for his services as vice chancellor of the University of the West Indies. It was in that same year that he joined the faculty at Princeton.

In addition to his academic responsibilities, Sir Arthur is a consultant to a number of developing nations, including Jamaica and western Nigeria. He is also currently serving on an advisory council of the NAACP for national economic policy.

Sir Arthur Lewis has led a life full of accomplishment, with the Nobel Prize as its culmination. It is for this reason that I honor him here today on the floor of the U.S. Senate. I think Prof. Burton G. Malkiel, chairman of Princeton's economics department, stated it quite appropriately when he said of Sir Arthur: "He's the perfect counter individual to the maxim that nice guys finish last."

ORDER FOR RECORD TO REMAIN OPEN AND FOR COMMITTEES TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5 o'clock p.m. today to insert statements in the RECORD and introduce bills and resolutions, petitions and memorials, and that committees may have until 6 p.m. today to file committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST FOR COMMITTEE ON FOREIGN RELATIONS TO MEET DURING SENATE SESSIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 23.

Mr. TOWER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 24, 1979.

Mr. TOWER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday of next week.

Mr. TOWER. Mr. President, I object.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday of next week.

Mr. TOWER. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, October 29.

Mr. TOWER. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 30.

Mr. TOWER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Texas has spoken out in good clear speaking voice. I ask unanimous consent that the Committee on Foreign Relations be authorized to meet on Monday, October 22, to mark up the SALT treaty.

Mr. TOWER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, let the record show that each of the requests for the Foreign Relations Committee to meet was for the purpose of holding markup sessions on the SALT II treaty.

Mr. TOWER. I have no objection.

Mr. ROBERT C. BYRD. Mr. President, I renew my request because the Senator from Texas may have suffered pains of conscience. He may be remorseful. He may be ready to go to the mourner's bench. I ask unanimous consent, en bloc, that the Foreign Relations Committee may be authorized to meet during the session of the Senate on all of those days to hold markup sessions on the SALT II treaty.

Mr. TOWER. Mr. President, I object en bloc.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Texas has backslid to the point that I think he is just unsavable.

Mr. TOWER. Mr. President, I have learned that you can never be held accountable for what you do not say, so I shall not respond.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to be able to strike from the RECORD the word "unsavable" and insert in lieu thereof the phrase "past the point of redemption."

Mr. TOWER. I shall not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT ON KRUEGER NOMINATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, as in executive session with respect to the nomination of Mr. Krueger, there be a time limitation on that nomination of 2 hours to be equally divided between Mr. CHURCH and Mr. JAVITS, provided there is no objection from Mr. ZORINSKY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, when I say "no objection," that is, to the time agreement, it is already ordered that the nomination will come up on Monday.

Mr. President, I am now informed that the 2-hour time agreement is agreeable with Mr. ZORINSKY, and so that is that. What is done 'tis done.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I move in accordance with the previous order, that there be sunshine throughout the weekend, including Sunday, and that the Senate stand in recess until the hour of 2:30 o'clock——

Mr. MATSUNAGA addressed the Chair.

ADDITIONAL COSPONSOR

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Senator from Minnesota (Mr. BOSCHWITZ) be added as a cosponsor—I will give the bill number later—a bill by the Senators from Hawaii.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what did the Senator say? What did the Senator ask for?

Mr. MATSUNAGA. That the Senator from Minnesota (Mr. BOSCHWITZ) may be added as a cosponsor of a Senate bill numbered—it is on the telephone, just a minute—S. 1647.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Reserving the right to object, is the Senator from Hawaii sure now?

Mr. MATSUNAGA. I had to leave the telephone in order to keep the majority leader from adjourning.

I thank the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ALMOST HEAVEN

Mr. MATSUNAGA. I might add, Mr. President, that the weather today reminds me very much of Hawaii. If any Member of the Senate has not yet been to Hawaii, I would urge him to go there as soon as possible, before it is too late, because once they have been there, they will at least know what Heaven looks like if they happen to go the other way.

I thank the Senator.

Mr. TOWER. Mr. President, I might note, if any Senator is going there, he better have a great deal of money or a fistfull of credit cards in his jeans.

Mr. ROBERT C. BYRD. Mr. President, I suggest that they stop in West Virginia on the way, the State that is almost Heaven. [Laughter.]

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the orders for the recognition of Senators are completed, the Senate go into executive session to consider the nomination of Mr. Robert Krueger, of Texas, to be Ambassador-at-Large and Coordinator for Mexican Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The conference report on the Defense Department authorization is expected to be called up on Monday. Also, the conference report on the D.C. appropriations bill, H.R.

4560. So there will be rollcall votes on Monday.

Mr. President, also next week, during the early part of the week, I should say, it is hoped that the Senate can proceed, not necessarily in the order stated, to the following measures, among others:

Calendar order No. 352, H.R. 3434, an act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes. There is a time agreement on that bill.

Calendar order No. 379, S. 1873, a bill to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes.

Calendar order No. 387, H.R. 4986, an act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order of withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

So, Mr. President, for the first few days of next week, it looks as though we have a pretty full platter. The conference report on the budget resolution should be coming along.

The Senate will not be coming in until 2:30 on Monday afternoon, which will give the Energy Committee, the Finance Committee, the Foreign Relations Committee, and other committees ample opportunity to work.

Later in the week it is anticipated that Mr. JACKSON's Committee on Energy will be reporting the energy bill. It is anticipated that Mr. LONG's Finance Committee will be writing the report on their tax bill.

The Foreign Relations Committte has been makng excellent progress on the markup of the SALT II treaty.

So it looks like good times are ahead. Rollcall votes will be held daily.

I would anticipate that following next Saturday, the much-despised Saturday sessions may become a reality, may even become a habit for a while. Thanksgiving is fast approaching and Christmas is not far behind. New Year's Day is not too far behind Christmas. Then the second session will begin. I would hope that we would have time off to enjoy the Thanksgiving turkey, for those who like turkey. Those who do not like turkey might eat ham.

In any event, Mr. President, I expect, before the Senate adjourns sine die for this session, we shall have completed action on the energy bill of Mr. JACKSON's committee, the excess profits tax bill, and the treaty. So I have adjusted my schedule to be here the rest of the year and also adjusted my schedule and canceled all engagements that I have made heretofore to be here on January 3, which, under the Constitution, is the day for Congress to reconvene. I have canceled all my engagements, prepared to be here on January 3—be out for New Year's Day, since New Year's Day is hallowed. But it is the intention of the leadership to press on and complete action on the energy measures and the treaty before the new session begins on January 3. If we cannot get it all done by then, we shall be back in on January 4, continuing our work.

I am not absolutely wedded to the necessity of doing the energy legislation. I have said all along we shall do the energy legislation before we do the treaty, but after the Committee on Foreign Relations—I still want to do it that way, but when the Foreign Relations Committee reports the treaty, then I shall consult with the distinguished chairman and the ranking member and we shall see what the circumstances are at that time and we shall govern ourselves accordingly. I shall be taking their advice and doing what I can to cooperate in every way.

Having said all that, let me stress once again the likelihood that there will be Saturday sessions after next Saturday, because we shall have plenty of work to do. I do not see very many smiles as I look around the Chamber.

RECESS UNTIL 2:30 P.M. ON MONDAY, OCTOBER 22, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 2:30 p.m. on Monday next.

The motion was agreed to; and at 2:30 p.m. the Senate recessed until Monday, October 22, 1979, at 2:30 p.m.

NOMINATIONS

Executive nominations received by the Senate October 19, 1979:

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be first lieutenant

Abelard, Clark E., 081-46-3164.
Adair, William G., 421-76-0620.
Addy, Michael, H., 527-13-9773.
Adragna, Vito E., 527-96-6863.
Aguirre, Donald G., 441-48-6837.
Alexander, Donald W., 412-78-4621.
Allen, David S., 436-88-2299.
Ammons, Richard P., 265-93-6363.
Anderson, Everend D., 477-48-7701.
Anderson, Jack L., 089-38-1867.
Anderson, Mark C., 512-56-9029.
Andreen, Michael E., 220-60-5330.
Angel, Edward L., 104-42-0247.
Arey, William H., 173-40-9791.
Arnold, Leslie C., 423-72-8016.
Aydoner, Gani, 143-46-4445.
Babbitt, Peter A., 565-54-5280.
Bacher, Kevin C., 103-42-2511.
Baddorf, William D., 566-86-2342.
Bailey, Philip J., 415-76-4587.
Baker, Clifford B., 463-88-1127.
Baker, Robert G., Jr., 231-68-5933.
Balluch, Eddie E., 514-52-2867.
Barber, Jay R., 302-54-6809.
Barker, Randy D., 544-62-6070.
Barrett, Steven A., 271-54-9000.
Basgall, Vernon J., 573-92-4374.
Bauer, Dale R., 336-50-4962.
Bauer, Ralph H., III, 226-78-2130.
Baxter, Roger M., III, 295-44-1058.
Beasley, George C., Jr., 437-64-7256.
Beaulieu, Donald P., 582-72-8766.
Belanger, John H., 368-56-5602.
Belk, James R., 325-74-8558.
Bell, Kenneth A., 046-50-7571.
Belt, Carol L., 479-58-7445.
Benelli, Allen W., 572-70-2018.
Binder, Edwin H., 210-28-8158.
Birdwell, Terry M., 448-54-4114.
Bivona, Anthony C., 154-38-4477.
Black, Kenneth A., Jr., 464-84-0983.
Blackwell, Jimmie A., 425-86-1087.
Blankenship, Charles W., 417-56-8848.
Blum, Carl T., 542-64-3788.
Bounds, Eugene C., 212-56-1904.
Bramblett, John D., 410-94-3813.
Bray, Dale A., 516-66-2462.
Brewer, Kenneth R., 486-66-7445.
Brooke, Kenneth R., 365-48-4170.
Brooks, Erma C., 214-44-0043.
Brown, Alfred H., Jr., 526-04-6960.
Brown, Dennis D., 451-92-8385.
Brown, Joseph K., 455-02-1460.
Brownell, Ronald E., 568-74-9347.
Browning, David N., 296-54-2960.
Bruderer, Leo L., 518-64-3028.
Bruley, Robert A., Jr., 388-58-3721.
Bryant, John R., 453-04-2544.
Bryant, Michael A., 266-62-9944.
Bucheger, Jerome P., 393-62-9584.
Buhler, Alan L., 544-58-4393.
Bulger, Herbert W., 266-62-4275.
Burns, Steven L., 309-48-7947.
Cain, Kelly A., 325-50-0629.
Cain, Stephen M., 407-80-9756.
Calcote, William R., 432-96-1600.
Canzano, Stephen J., 526-96-0328.
Capulli, John J., Jr., 526-98-1075.
Carson, Bruce M., 003-34-9016.
Cear, James F., Jr., 068-44-4861.
Cerezo, Samuel, 583-14-6045.
Chapman, Michael R., 508-70-4362.
Chatel, Richard E., 262-06-9774.
Chesebrough, David E., 111-42-8169.
Chiasson, John S., 438-90-1634.
Ciocca, Anthony A., 209-40-4468.
Clark, Patrick G., 524-80-2076.
Cochran, Jesse L., 267-96-1234.
Coleman, Allan M., 418-68-8572.
Colyer, Robert R., 451-94-0394.
Combs, Kenneth E., 263-06-2227.
Conte, William A., 120-40-6442.
Contreras, Ricardo A., 571-70-4646.
Cope, Edward T., 182-42-9419.
Copponex, Louis S., Jr., 587-68-8595.
Cord, Patrick A., 450-94-2364.
Cowley, Gregory, 356-40-4824.
Craig, William O., 533-50-1230.
Crane, Jeffrey S., 375-54-3871.
Culp, Anthony M., 409-78-5476.
Culp, Clark T., 214-64-9246.
Daney, Leo E., Jr., 144-44-2330.
Davenport, Alfred M., Jr., 527-74-8271.
Davies, Robert R., 473-66-2390.
Dawson, James J., II, 222-38-4254.
Decker, Larita M., 494-62-6141.
Decker, Richard H., II, 267-92-2248.
Defrank, Stephen M., Jr., 148-46-3715.
Delaski, Mark D., 391-60-7575.
Denney, Craig A., 225-80-6349.
Derrick, Theodore E., III, 249-82-6343.
Deslauriers, Arthur D., 398-58-5066.
Didonato, John, 096-40-7997.
Dillman, Robert D., 462-98-3749.
Donnalley, Gray R., 338-38-5133.
Doolos, John D., 430-86-8631.
Dorn, Ronald L., 262-27-3356.
Druhet, Rogers J., III, 435-68-9305.
Dugas, Keith J., 438-94-1227.
Duns, Scott A., 555-90-1834.
Duprey, Richard J., 010-38-9267.

Durbin, Ronald C., 319-46-3032.
Duron, Henry S., 462-02-8342.
Dyke, Ronald L., 521-58-4596.
Eakle, Jan D., 234-32-6186.
East, Eric L., 490-36-4345.
Eckert, Thomas M., 394-42-7220.
Edmonds, William V., 230-80-0577.
Edwards, David M., 303-58-7478.
Eiting, David C., 293-42-2212.
Ekslund, Karen A., 216-80-3916.
Embry, Dick V., 419-76-5969.
Engelbach, Jean A., 360-40-0933.
Enneck, John C., 203-44-2308.
Essenpreis, Terrence E., 261-25-6435.
Fair, Kevin Z., 441-54-7759.
Falconer, Thomas E., 439-72-1902.
Falvey, Michael J., 039-30-9769.
Fankhauser, Eric W., 536-98-3329.
Fanti, Walter A., 059-44-4477.
Faulk, Charles J., 433-92-5632.
Findley, Clifford E., Jr., 235-32-3398.
Finley, Robert T., 189-40-3254.
Finnern, Michael L., 477-56-5904.
Fiore, David J., 017-42-0853.
Fitzpatrick, Joseph P., 215-52-5841.
Flannigan, William, 523-60-2201.
Foley, Michael F., Jr., 001-42-9268.
Fonden, Robert W., 355-48-8525.
Foraker, Gregory W., 526-13-0468.
Ford, James M., 428-90-0550.
Fowler, Ronald J., 434-62-4304.
Franklin, Benjamin J., 371-50-3591.
Furlough, Thomas L., 585-24-9784.
Gaglio, Joseph P., 079-42-9964.
Gamble, Lawrence W., 571-56-4586.
Garcia, Manuel, Jr., 564-76-0637.
Garner, Walter L., 443-44-3701.
Gartner, Arthur E., Jr., 130-32-7955.
Gibney, Michael P., 457-98-2616.
Gilbride, John J., Jr., 076-38-7397.
Gillespie, William E., 463-98-6973.
Gillis, John W., 384-56-7073.
Gladman, Daniel L., 505-66-3481.
Glaser, Lee, 242-96-1062.
Glastetter, Kenneth R., 343-48-3318.
Glenn, Joseph B., 522-56-4674.
Golden, Carl E., 434-82-0884.
Golding, Donald J., 512-52-2228.
Gomez, Antonio E., 467-94-2864.
Goolsby, Elizabeth, 257-94-9563.
Graff, Patrick W., 529-70-6687.
Gravino, John F., 247-96-2794.
Gray, Nathan E., 301-50-6903.
Green, Zachary M., 445-46-7468.
Gross, Donald W., 037-34-5155.
Hadden, Ronald S., 528-74-6253.
Hale, Michael D., 465-92-4654.
Hale, William C., 308-48-8493.
Haller, Glenn F., 218-42-9118.
Hansen, Eric M., 271-46-8295.
Hanshaw, Michael A., 587-48-2942.
Hanslik, Gerhard M., 523-74-4636.
Hanson, Thomas R., 471-64-6572.
Haren, Kenneth A., 278-54-2733.
Harkenreader, Daniel R., 210-44-2257.
Harriel, Sidney O., Jr., 151-40-2631.
Harris, Chavis W., 228-78-1247.
Harris, John K., 146-36-4416.
Harris, Richard S., 261-08-3896.
Hasley, John E., 072-38-7804.
Hathway, Jeffrey S., 040-46-2456.
Haygood, Ronald L., 466-80-8190.
Haymond, David L., 268-52-1804.
Hays, Johnny R., 435-86-1045.
Heard, Willie M., 433-70-3891.
Hebert, Raymond J., 217-48-6580.
Hemphill, David D., 485-66-0550.
Henson, Kenneth N., 439-54-7259.
Hester, Ellen F., 257-90-3040.
Higgins, David B., 537-48-2684.
Hoaglan, Gale D., 487-54-8226.
Hodges, Claude A., Jr., 229-62-7612.
Holder, James R., 221-38-4938.
Holland, William L., 245-94-4785.
Homeyer, William M., 454-06-6254.
Horne, Jeffery G., 551-90-0705.
Horne, Jerry D., 551-90-0024.
Houk, Michael D., 497-60-7433.
Howard, Philip W., 441-58-5070.
Hoy, Patrick J., 507-60-8714.
Hsu, Peter, 349-44-0521.
Hughes, William H., Jr., 538-54-4721.
Hutchison, Larry D., 261-86-3842.
Jackson, Cecil B., Jr., 464-80-1938.
Jackson, James A., 443-54-4054.
James, William L., 484-52-2111.
Jeffcoat, Thomas M., 534-52-2189.
Jefferson, Kenneth M., 247-98-8919.
Jenny, Steven R., 549-94-0595.
Jobe, James C., 556-90-6875.
Johnson, Edgar E., Jr., 461-92-5953.
Johnson, Mark A., 471-68-9657.
Johnson, Wallace, 247-96-8435.
Johnston, Mark F., 549-96-6997.
Jones, Daniel D., 436-90-0495.
Josayt, Donald R., 326-44-5298.
Karraker, Michael C., 325-46-2095.
Keener, Charles L., II, 232-72-2165.
Keethler, Gregory A., 463-08-0973.
Kehler, John T., 192-42-1262.
Kellner, Terry J., 439-92-5312.
King, Thomas K., 315-58-1973.
Klackle, Mike L., 562-84-8781.
Kleinerts, Dale, 436-88-3679.
Klenke, Dwight A., 237-98-0907.
Koebbe, Terrence A., 286-42-5552.
Koerber, Alan J., 507-68-3134.
Kohn, Allen E., Jr., 379-56-9466.
Krishack, John F., Jr., 316-48-6209.
Krutzler, Werner, 274-54-0272.
Kunz, Jeffrey L., 456-76-6686.
Lambert, Kenneth C., 436-86-6385.
Lancaster, Robert G., 283-48-5327.
Landis, Terry A., 205-44-3367.
Lanzalotti, Gary A., 139-46-1447.
Larkin, Patrick J., 438-92-8243.
Laurenzi, Terry W., 587-54-0021.
Lee, Robert W., 186-42-2938.
Leist, James E., 452-86-2012.
Lents, Ralph M., 534-46-2611.
Leonard, Douglas R., 485-68-5219.
Letica, Michael J., 316-56-7979.
Leu, Gary E., 478-58-7059.
Lewis, Travis E., 238-90-7249.
Lim, Donald, 569-88-6747.
Lippincott, Robert A., 261-68-9727.
Loika, John D., 456-92-8792.
London, John R., III, 248-02-9020.
Lowry, Timothy M., 134-40-8549.
Lucero, Louis D., 529-82-6562.
Lukasek, Duane A., 442-50-5929.
Luszcz, Edward T., Jr., 563-90-2843.
Madden, Edward J., 264-15-5955.
Maers, Robert R., 141-48-5827.
Malcolm, Randall A., 162-46-6274.
Malloy, Christopher E., 556-96-7707.
Mamula, Mark, 206-44-4240.
Manning, Michael A., 332-48-8308.
Manring, Kenneth, 422-74-9328.
Martin, Thomas D., 567-72-3704.
Martinez, Daniel J., 559-94-5064.
Martinez, Louis R., 127-42-155.
Mason, Steven C., 090-44-1084.
Mast, Terry L., 340-44-9305.
Mather, Charles H., 008-42-1837.
Matthews, Michael W., 464-04-5171.
Maxwell, David L., 156-42-2802.
McAllister, John A., 540-50-3705.
McBride, James M., 205-36-4350.
McCall, Terry M., 431-06-3284.
McClelland, John C., III, 225-80-5903.
McDonald, Thomas J., 397-48-2681.
McDonnell, Robert E., 003-34-8540.
McGuinness, Daniel B., 371-56-5564.
McNicholas, Edward F., 194-36-8595.
McNulty, William P., 472-66-4613.
Mealka, Patricia R., 527-96-0014.
Messmer, Barry W., 228-72-1192.
Michel, Bernard E., 312-62-8707.
Miedema, William P., 309-46-5605.
Mikluscak, Andrew M., 194-40-5881.
Miller, Devery S., 215-64-0432.
Miller, Mickey J., 485-70-5520.
Miller, Stanley R., 515-58-4312.
Misuinas, Peter L., 400-80-0150.
Mitchell, David F., 417-74-4713.
Moats, Daniel F., 235-78-9570.
Montague, Jerry J., 245-92-8377.
Montgomery, William L., 553-88-7269.
Moorhouse, Martha K., 003-38-1350.
Morgan, Pat D., 226-66-3941.
Murphy, Henry S., 240-84-7819.
Murphy, Jack J., 466-90-4198.
Murphy, Petrina B., 450-80-0174.
Murray, Robert D., 293-50-8831.
Nalabandian, Jacques, 529-76-5537.
Neeves, Ted H., 226-78-5253.
Negron, Jose A., Jr., 439-90-6202.
Nelson, Michael A., 480-68-7691.
Norman, Gregory L., 472-66-5058.
Nozaki, Paul Y., 575-64-2657.
O'Brien, Michael, 058-33-4518.
O'Connell, Stephen M., 090-46-7733.
O'Connor, Charles E., 060-48-2946.
O'Keefe, Kevin S., 228-74-9074.
Olson, Lois R., 397-54-7135.
Olson, Richard J., 526-15-5900.
O'Malley, Brian C., 483-56-0747.
Omley, George R., 262-86-0623.
Oreschak, John D., 295-44-8174.
Outten, Michael W., 322-40-5786.
Overbey, Michael B., 466-66-7814.
Paige, Harry T., 229-62-4978.
Palm, Steven C., 474-64-8719.
Papa, Daniel T., 465-76-1121.
Papp, Charles E., 293-42-8243.
Parker, David W., 437-92-5091.
Parkinson, David R., 361-94-7128.
Parks, Jonathon W., 448-56-9216.
Parrilla, Ezequiel, Jr., 584-56-1150.
Parrish, Bobby R., 421-62-3513.
Parsley, Duane Harold, 288-52-6166.
Patrick, Robert W., 260-62-7104.
Peddy, John T., 457-90-5739.
Perry, Thomas E., 411-92-6525.
Peterson, Alvin W., 442-48-2124.
Peterson, Joel M., 517-62-5699.
Pettigrew, Albert H., Jr., 587-60-5117.
Phillips, Gregory P., 094-46-5750.
Phillips, Scott R., 563-84-7341.
Pickart, Bruce R., 478-70-7603.
Polakowski, Thomas A., 273-54-6805.
Poland, John R., 230-66-8995.
Powell, Gary D., 369-52-2444.
Power, Gregory H., 089-46-4129.
Proctor, Kenneth C., Jr., 562-53-6661.
Proctor, Stephen G., 020-38-1739.
Pugh, George S., Jr., 328-44-5308.
Pyburn, Ricky J., 476-64-0231.
Quigley, Mark S., 014-44-2290.
Ramm, Otto P., 428-96-2693.
Randle, David L., 563-96-6833.
Raralio, Rudy L., 575-42-4777.
Rathke, Charles R., 449-06-3094.
Ray, Thomas D., 506-70-9320.
Rhodes, Patrick P., 572-84-0429.
Richter, Joseph J., Jr., 262-96-9489.
Riediger, Douglas D., 482-68-7831.
Ripley, Elaine M., 544-54-9423.
Robb, James A., 587-56-8777.
Roberts, Gary L., 042-48-4763.
Robertson, Thomas S., III, 587-98-2151.
Roche, Michael E., 080-38-3299.
Rogers, Marianne R., 555-72-4817.
Rogers, Michael L., 272-52-3261.
Rogerson, James H., 528-82-1064.
Rosa, Raymundo, 583-38-1192.
Rosemann, Walter E., Jr., 498-46-2478.
Ross, William P., 322-44-4562.
Rowland, Frank, 439-90-1380.
Rowland, Wayne B., 509-58-2333.
Rumgay, David A., 288-36-5985.
Ruth, Jimmy W., 462-04-3770.
Rutter, Robert A., 215-60-4461.
Ryan, Charles J., 143-42-7842.
Ryan, Charles J., 028-38-6311.
Sample, Richard C., 295-50-7548.
Sandbothe, James F., 494-52-4457.
Sanders, James D., 449-98-2135.
Santoro, Carmen J., 292-44-4930.
Saydjari, Razi, 391-44-7497.

Schmidt, Thomas D., 225-44-8659.
Schoen, Jeffrey A., 527-08-6284.
Schrader, Robert J., 490-60-8008.
Schreck, Charles F., 500-54-0353.
Schweinfurth, Carl R., 401-80-1939.
Schweizer, Mark G., 449-94-2105.
Sealey, Robbin G., 541-62-8582.
Sears, Robert E., 515-58-6977.
Seckman, Jonathan K., 334-40-6187.
Sedran, Jonathan L., 530-44-2126.
Seed, Richard J., 565-72-8768.
Seem, Dennis A., 228-74-8138.
Selden, Wellington A., Jr., 441-56-5263.
Settle, Robert J., II, 317-60-5961.
Sharpless, Ronald L., 243-84-4988.
Siers, William R., 404-78-4634.
Siler, Stetson M., 341-44-0054.
Simpson, Mark L., 282-54-1169.
Simpson, Roy L., 135-46-3807.
Sims, Gary W., 298-52-3799.
Singel, Kenneth R., 067-40-3378.
Smith, David R., 355-46-9375.
Smith, Herbert R., 420-66-9103.
Smith, Michael J., 223-76-0408.
Smith, Timothy S., 573-88-9434.
Snyder, Larry D., 236-64-7978.
Sorensen, Barry D., 529-66-9184.
Speckels, Arthur W., Jr., 453-04-7292.
Spicer, Walter R., 445-56-1324.
Spray, Dennis F., 261-19-4938.
Stanley, Mark A., 505-72-3237.
Stearns, Bernard M., 022-44-7007.
Steeves, Jon H., 294-42-2527.
Stephens, Mark L., 578-76-9629.
Stephenson, Billy M., 451-96-0538.
Stevens, Robert E., 289-48-2739.
Stewart, Charles R., 223-62-8710.
Stivers, David A., 462-92-1643.
Stotts, Richard H., 314-56-6579.
Stover, Stephen H., 575-68-2284.
Stowe, Russell A., 526-94-7797.
Strasser, Nancy C., 218-62-3835.
Sullivan, Dwight A., 587-68-3704.
Summers, Donald L., Jr., 562-62-2230.
Sumpter, Kenneth W., 448-52-8787.
Sward, Steven H., 349-38-1881.
Swisher, Gary A., 232-88-5503.
Taguba, Virgilio U., 576-60-8567.
Tanji, Frank T., 553-92-8094.
Thomas, Arthur L., 190-40-1549.
Thomas, Charles H., Jr., 235-76-0840.
Thomas, John P., Jr., 290-42-4683.
Thomas, Stephen W., 314-54-4498.
Thompson, Ernest S., III, 312-62-6742.
Thompson, Robert N., 463-98-8275.
Thorn, Jacob G., Jr., 587-82-9446.
Tindall, Michael W., 262-06-4361.
Tipton, Larry L., 236-72-5256.
Tisdale, Paul G., 009-32-1494.
Todd, Elbert D., 244-58-5886.
Tope, Chris L., 585-16-9050.
Towery, James N., 457-80-6337.
Trueman, Harold B., 567-56-8713.
Tucker, Mark B., 547-98-5943.
Turk, Michael C., 249-80-3545.
Turner, Robin L., 387-60-5807.
Tyler, Ward E., III, 549-88-1925.
Vacca, Albert, Jr., 036-34-4796.
Vaccaro, Victor J., 154-44-2243.
Vacek, William J., 471-58-0208.
Vanderven, Bruce E., 156-48-5391.
Vanevery, Steven L., 482-68-7452.
Vaughn, Larry R., 587-78-1333.
Vignetti, John C., 486-72-9937.
Villareal, Jesse C., Jr., 452-68-6837.
Vouk, Richard L., 468-54-8800.
Walker, Algie, Jr., 259-76-3042.
Walker, Charles E., 338-38-9040.
Waller, Earl D., 445-54-9469.
Ward, Robert S., 075-40-8576.
Wasem, Vaughn D., 518-66-3878.
Watters, Michael J., 363-58-8344.
Weathers, James F., 519-60-1147.
Weaver, Steven J., 305-06-9963.
Webb, Sherry D., 465-86-0444.
Wederts, James A., 569-86-5050.
Weir, James M., 500-58-5071.
Welch, David A. W., 454-96-3359.
Welch, Patrick A., 533-56-3064.
Wesselman, William D., 336-44-1803.
Westbrook, Harold E., Jr., 260-86-0903.
Westbrook, Thomas D., 464-88-7312.
Wheeler, Kenneth L., 253-90-6824.
Wheeler, Lonnie B., 519-54-6366.
Widby, Ronald B., 413-90-3688.
Wilder, Jack W., Jr., 107-44-5556.
Wildman, Richard F., 463-84-8574.
Wiley, Miles C., III, 218-58-6906.
Wilkins, Harry H., 506-74-3923.
Willems, Daniel J., 439-92-3664.
Williams, Clarence E. A. L., 233-70-0645.
Williams, Craig W., 467-84-6391.
Williams, Kenneth V., 420-72-1802.
Williams, Richard E., 585-38-1198.
Wilson, Stuart E., 060-44-8520.
Windham, Bryan L., 587-62-2966.
Windt, Donald, 502-64-1072.
Winney, David L., 500-60-0630.
Witcher, Charles C., 254-76-6382.
Withers, John S., 462-78-7478.
Wnuk, Mark R., 180-44-9322.
Wolczek, Roger S., 069-40-2411.
Wolfley, Ross S., 533-54-8618.
Wright, William H., 261-13-1796.
Yanaros, Marcus W., 102-42-3645.
Young, Mickey D., 563-90-0355.
Zapata, Roberto, 480-70-3073.
Zermer, John D., 518-62-0411.
Zerneri, Stuart J., 020-42-1442.
Zlotkowski, Joseph J., 043-40-6091.

To be second lieutenant

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Alsdorf, Mark A., 449-02-8162.
Anstine, Hammond N., III, 579-70-7139.
Anthony, Stephen J., 378-60-1613.
Antoon, Fred A., 030-42-3704.
Arthur, Robert S., 527-11-9507.
Avery, Verne W., 002-42-6032.
Balkham, Dennis A., 457-02-0314.
Balzli, Ralph L., 552-88-3818.
Barb, Robert E., 495-52-3336.
Barnes, David A., 278-52-0192.
Bennett, Robert P., 466-94-2939.
Bintz, Donald G., 393-58-7661.
Brandt, Steven A., 484-70-8513.
Bright, Robert A., 410-88-6909.
Brockman, Ben G., Jr., 255-88-6834.
Buchheit, Edward L., 541-66-1166.
Burris, Paula L., 212-56-4590.
Campbell, Kevin D., 308-62-3483.
Cavendish, Jay C., 299-52-1699.
Chandler, Thomas C., Jr., 249-98-5571.
Collins, James D., 262-11-3962.
Colvin, Roger D., 488-50-3354.
Cool, William L., 264-06-7043.
Corbett, Michael W., 543-66-4653.
Cornelius, Patrick E., 316-58-8074.
Cox, Wesley R., 287-50-0274.
Dahl, David D., 560-86-5405.
Dardzinski, Lawrence A., 103-48-6631.
Deiulio, Edward B., 113-44-9651.
Delaney, Steven E., 222-40-7674.
Dudzik, Michael C., 384-56-8866.
Eberst, William A., 271-50-3136.
Edson, Roger T., 508-64-5027.
Eickhoff, Larry D., 508-68-3234.
Embree, Wayne L., 504-66-0170.
Engle, Dwight E., 511-50-0717.
Faulk, Jerry, 238-90-7263.
Ferreira, Julio F., 136-48-2598.
Fuhrman, Thomas A., 140-50-6124.
Gallaher, Paul D., 319-50-7667.
Geery, James J., 453-98-1158.
Gilbert, Kenneth E., 080-46-8161.
Gillenwaters, Richard L., 247-92-8519.
Gray, Larry S., 551-82-8540.
Griffin, Wendell L., 261-08-7494.
Grosshans, Thomas E., 292-50-4793.
Gruber, Terry M., 515-56-6197.
Grumet, John C., 060-40-2208.
Halliday, Richard H., 045-46-6665.
Hamill, Doris L., 098-38-1905.
Hawley, Woodrow T., 504-66-9498.
Heinz, Val M., 363-62-5326.
Hill, Michael S., 300-52-0935.
Hinnant, Francis G., 250-94-2474.
Hobbes, Robert Q., Jr., 210-44-0431.
Hoffman, Keith W., 442-58-2969.
Hoffsette, Leon M., 494-60-1256.
Holley, Cecil D., 418-74-3406.
Horne, Thomas C., 243-90-3230.
Humes, Thomas M., 157-38-3729.
James, Forrest K., 560-82-3564.
Johnson, Leslie B., 267-21-0680.
Jones, Gordon R., Jr., 477-60-0656.
Jubinski, Stephen, Jr., 572-72-5020.
Kalvin, Michael E., 292-52-4564.
Kenney, Paul A., 277-62-5143.
Kleffaber, Thomas M., 290-44-5400.
Kimbro, Tony M., 422-68-7166.
King, Stanley D., 498-56-3235.
Kline, Randal E., 566-02-3119.
Kohn, Robert M., 557-96-9005.
Krieger, Joseph A., 150-46-8094.
Laurence, Brian S., 457-96-3722.
Laven, Tracy, 523-78-0280.
Lazar, Gerald M., 459-02-4122.
Lester, Rick W., 256-88-5890.
Levy, Edward R., 564-88-1671.
Logan, Chris D., 410-90-6276.
Lokken, Gregory A., 392-58-9198.
Lucci, Carmen A., 291-52-9466.
Lucero, Fred M., 557-68-7460.
Ludolph, Karl H., Jr., 187-40-1838.
Lund, Eric G., 535-58-0657.
Mackey, Glenn A., 557-86-4791.
Martin, Gregory A., 494-54-7761.
McCall, Edward M., II, 453-88-0089.
McCammon, William C., 542-06-2321.
McMeekin, Bryan W., 527-70-9636.
McMillian, John Q., Jr., 411-92-8862.
McNally, James J., 094-46-6585.
Merritt, Ronald L., 431-04-4509.
Meyers, Stephen L., 147-44-2381.
Mitchell, Kenneth E., 352-46-1093.
Montgomery, Michael E., 279-52-1896.
Moore, John P., 450-08-0713.
Moore, Michael J., 152-46-4534.
Moore, Rickey A., 374-56-2213.
Mountcastle, Barry W., 229-92-8831.
Mucklow, Norman E., 278-52-4621.
Murdock, Larry A., 527-86-0371.
Murphy, Christopher F., 017-44-1351.
Murphy, Greg S., 284-54-4511.
Nagel, Kenneth P., 072-46-5644.
Noe, James K., Jr., 576-58-9228.
Nolan, John D. V., 216-68-3784.
Novak, Don M., 517-80-2292.
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Ochinero, William N. 558-78-5002.
OQuinn, Georgann E., 251-88-5867.
Orlowski, Guy M., 395-58-9270.
Parker, Richard L., 527-96-1108.
Pasqual, John A., 216-64-0334.
Pitts, Donald W., 444-54-4475.
Powers, Frank J., 102-44-9407.
Proctor, Gary D., 226-76-2834.
Pryor, Steven K., 447-54-1133.
Pulvino, Robert, 152-44-2598.
Quintana, Edmund D., 425-94-9903.
Reed, Michael A., 533-58-3703.
Reich, Joseph F., 150-48-1481.
Reiss, Raymond C., 076-46-4029.
Richardson, Ronald P., 225-74-7193.
Richwine, George C., 313-50-3633.
Roach, Robert L., 265-88-4214.
Roberts, Robert H., 567-98-5694.
Roberts, Samuel A., III, 464-93-5800.
Rogers, Robin M., 313-50-0573.
Romer, David A., 415-94-1908.
Ruth, John L., 264-06-3213.
Salz, David, 576-68-0959.
Saunders, Michael J., 306-48-2973.
Schott, Joseph C., 365-62-2655.
Schroeder, Bruce A., 540-56-5427.
Scott, Harold A., Jr., 228-62-7130.
Shelor, Charles F., 438-82-7266.
Shinsky, Kevin J., 196-43-8447.
Simmons, Larry J., 261-08-7263.
Sintes, Gary M., 261-25-0017.
Slate, Taylor A., 427-94-4615.
Smith, Kenneth S., Jr., 267-17-9498.

Snavely, Charles E., 228-62-4827.
Spence, Timothy J., 473-58-7714.
Spillman, Keith T., 447-54-1066.
Stauber, James D., 476-66-5511.
Steere, Kenneth W., Jr., 049-40-5776.
Stein, Vicki K., 585-18-9906.
Stevens, Richard A., 190-36-4369.
Stough, James A., 420-74-1619.
Strickland, Bradford B., 256-76-6599.
Tarquinio, James J. M., 163-44-4833.
Theis, William M., 462-34-7794.
Trebon, Gregory L., 571-88-3663.
Trego, Robert J., 480-72-1720.
Troiano, Mark J., 216-54-6363.
Troyer, Tim E., 444-52-6679.
Tschupp, Gregory A., 506-64-6071.
Vanderpoorten, Joseph E., Jr., 559-92-0818.
Vaniaak, James E., 095-48-7500.
Varney, Raymond E., 219-66-7506.
Vercio, Carl P., 505-74-3835.
Walby, Edward A., 553-86-1041.
Walker, John W., 553-25-7610.
Wallis, David R., 561-74-2341.
Walter, Robert P., 209-36-3609.
Watkins, James I., 262-94-4291.
Weir, James A., 307-50-4351.
Weisshaar, David L., 504-66-3753.
Welch, Steven M., 409-92-0321.
White, Bruce K., 454-94-5250.
Wilkins, Bruce G., 278-44-4151.
Wills, Michael S., 345-46-1035.
Wilson, James M., 434-88-5948.
Wright, Mark C., 262-11-4743.
Wright, Thomas B., 506-66-4549.
Zirrolli, Joseph A., 136-44-3864.

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be appointed ensigns in the line or staff corps the U.S. Navy, subject to the qualifications therefor as provided by law:

Brian W. Aamoth
Deborah D. Abney
Joseph Abraham
James C. Ackley
Ronald C. Adamo
Eric V. Adams
Richard C. Adams
Charles C. I. Addington
Joseph E. Aguon
Richard C. Ahlstrom
Frank M. Alchelmann
Richard Alello
Milam W. Aiken
Stephen G. Albers
Martin Alcott
Frederick M. Alexander
William R. Allen
Charles E. Altiser
Philip J. Altiser, Jr.
Michael B. Ameling
Irish O. Ames
Gilbert C. Andersen
Blane K. Anderson
Eldon S. Anderson
Glenn R. Anderson
Keith R. Anderson
Richard H. Andrews
David S. Angood
Frances X. Apicella
Roy I. Apseloff
Richard J. Araiza
Michael F. Ardner
William N. Arens
Michael P. Argo
Brett C. Armstrong
Brian S. R. Armstrong
Chester A. Arnold, Jr.
Gary D. Atkinson
Paul F. Auerbach
Stanley M. Austin
Janet D. Axson
Andrew G. Baan
Katherine M. Badziuch
Barney J. Baker
Darryll P. Baker II
James E. Baker, Jr.
Michael L. Baker
Gil A. Balaoing
Christopher P. Bales
George W. Ballance
Walter F. Bankowski
Diane J. Barber
Gary W. Barber
Daniel R. Barbour
John D. Barbour, Jr.
John M. Barentine
Frederic A. Barg
Kevin R. Barker
Gregory W. Barnes
Michael V. Barnes
Mike Barnett
Edmund W. Barnhart
Ronald S. Barr
Robert H. Barrow, Jr.
Stephen M. Barry
Fritz J. Barth
Dana S. Bartlett
Robert M. Bassett
William G. Bassett
Glenn H. Bates
Keith F. Bates
Thomas R. Bates
John L. Bauer
Lawrence R. Baun
Richard C. Baxley
Edward J. Baxter
Thomas M. Bayley
Robert A. Beach
Scott D. Beach
Walter C. Beach
Mark D. Beatty
Timothy J. Beaty
William L. Bartels II
Mark L. Bebo
Denise L. Bechtol
James A. Beckett, Jr.
Steven W. Beckman
Jerome R. Becnal
Patrick L. Beckman
Jody A. Beer
Clifford F. Beeton
Philip G. Beierl
William J. Belkoski
Stephen B. Bell
Jeffrey M. Bellune
Kevin D. Bemis
Eric T. Bender
Robert C. Benford
John S. Bennett
Daniel A. Berenato
David W. Berg
Thomas A. Berg
Allan J. Berks
Kirk D. Berkhimer
Michael G. Berkin
Patrick J. Berry
Thomas F. Berson
John S. Bethel
William J. Bettis
Larry L. Besold
James R. Biermann
Brian A. Bird
Robert J. Birdwell
Steven C. Bitant
Ann E. Black
Harry V. Black
Max A. Black
John C. Blaha
Kevin L. Blair
Jon J. Blanchard
Kathleen M. Blanton
Stephen R. Bloeis
Elvis E. Blumenstock
Peter C. Boardman
Mark W. Bock
Michael S. Bohn
Michael J. Boling
Bret L. Boman
Michael S. Bonem
Edward M. Bourda
Paul W. Bordley
Bill A. Boudouris
Robert W. Bougher
Robert W. Bowe
Robert O. Bowers
Dennis K. Bowman
Michael B. Boyd
Scott W. Boyer
Stephen T. Bracken
William J. Bradford III
Charles L. Bradley
Scott E. Bradley
Steven L. Bradley
Gregory P. Bradsher
Jerry L. Brady II
John G. Brady
Mark V. Brady
William M. Brady
John F. Brandeau
James R. Brandon, Jr.
Willard L. Brassell III
Richard J. Brennan, Jr.
Stephen M. Brennan
Gerard F. Brenner
Roger C. Brent
Mark R. Breor
Cheryl A. Bricker
Michael C. Brinkmann
Chauncey J. Brinn
Frank L. Britton, Jr.
Michael M. Brogan
Michael F. Brooker
John S. Brookes
Loren L. Brooks
Francis J. Brosnan
David S. Broughton
Adriel Brown
David M. Brown, Jr.
Jerome W. Brown, Jr.
Matthew L. Brown
William A. Brown
Timothy R. Brunker
Daniel L. Brunmeier
Conrad T. Bryan
Jerry W. Bryant, Jr.
John J. Bryant
Mark M. Brzozowski
Douglas B. Buchanan, Jr.
Edward C. Buckner
Charles I. Buschele
Kenneth P. Buell
Geoffrey R. Burke
John N. Burkett
John H. Burnette
Michael W. Burney
John D. Burpo
Raymond D. Burrows
James R. Burton
Mark C. Burton
Scott A. Burton
David R. Busby
Gregory C. Busche
Gregory E. Bush
Kelly D. Bustell
Michael T. Butler
Randall S. Butler
Richard F. Butts, Jr.
Lonnie L. Byers
William C. Byers
Robert C. Cadmus
Michael W. Cady
Gary L. Cain
Powell T. Calhoun II
Clive W. Campbell
Joseph F. Campbell
Peyton V. Campbell
Scott B. Campbell
Glenn E. Cann
Harold F. Cannon, Jr.
Richard G. Capitano
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Horace W. Seymour III
Margaret M. Shannon
Lawrence A. Sharpe, Jr.
Candace Shephard
Donald G. Shepherd
James J. Sheridan
Daniel R. Sherman
Wesley D. Shermman
Richard M. Shields
Gregory A. Shock
Mark G. Schofner
Thomas L. Showalter, Jr.
James J. Sicari
Glenn G. Sigler
Dale E. Sigman
Robert E. Sigrist
Janice M. Silva
Philip C. Silvers
Donald L. Silverthorn
Anthony J. Simeone
Robert W. Simkins
Robert V. Simmons, Jr.
John J. Sims
Peter J. Sinatra, Jr.
Tracy L. Skeels
Michael T. Skinner
William J. Slocumb
James T. Slyfield
Chris W. Small
Joseph Smetana, Jr.
Kornelis Smit
Andrew C. Smith
Charles D. Smith
David E. Smith,
George C. Smith II
James E. Smith II
James W. Smith
Matthew NMN Smith
Michael C. Smith
Paul J. Smith
Ray A. Smith
Richard B. Smith
Richard L. Smith
Robert H. Smith
Scott O. Smith
Winston NMN Smith
Ann L. Smyth
Philip E. Snead
Edward O. Snelgrove
Kenneth S. Socie
Robert G. Soechting
James D. Sohl, Jr.
William S. Sommerhof
Dennis R. Sorensen
William D. Sorfleet
Alan W. Spannagel
Joseph A. Spata
Donald S. Spear
Francis M. Speeder
Joseph C. Spitak
Susan G. Spivey
Mark H. Sprenkle
Duane T. Spurrier
Vincent A. Squitieri
Martha T. Stack
Jonathan H. Stairs
David A. Stanton
Stephen M. St. Denis
Lee A. Stebbins
Stewart E. Steen
John A. Steigers
Chris G. Stein
Frederick A. Steiner
Christopher M. Steinnecker
David M. Stemmler
John K. Stenard
David H. Stenquist
Matt W. Stephenson
John J. Stettler
James Stevens
David J. Stewart
George E. Stickle III
William J. Stillman II
Jesse W. Steinnette, Jr.
Paul E. Stoecker
Steven R. Stokes
Mark H. Stone, Jr.
Michael R. Stone
Robert W. Stone
William T. Stoneman
Robert B. Stoney
Harlan A. Stork
William R. Stoughton
Kenneth A. Stover
Clifford D. Strat
Thomas J. Strei, Jr.
Stacey J. Strickland
Thomas B. Strohl
Mark H. Stroman
Frank H. Stubbs III
Howard L. Stuckey
Kenneth W. Studebaker
Henry B. Stueber
Donald A. Stumbo, Jr.
Raymond J. Sturm
Mark F. Sudol

Lee M. Sugimoto
Barry J. Sullivan
Mark A. Sullivan
William M. Sullivan
Charles G. Summers
Stephen G. Sutch
Robert C. Swanekamp
Ronald E. Swann
Mark W. Swarthout
Andrew P. Swayne
James J. Sweeney
Richard F. Sweeney
Kenneth M. Switay
Richard P. Syliva
Kevin D. Taberski
Robert L. Takacs
Kent E. Talmon
Eric C. Tangen
Bobby H. Tanks
Jeffrey B. Taub
John A. Taylor
Matthew C. Taylor
Michael C. Taylor
Jeffrey A. Teal
Hugh H. Tenhagen
Edward Tenhoeve III
Patrick J. Terry
Joseph E. Thomas, Jr.
Mark S. Thomas
Richard T. Thomas
Thomas J. Thomas
Eric K. Thompson
Daniel B. Thompson
David M. Thompson, Jr.
Edward D. Thompson
Gary C. Thompson
Maryhelene Thompson
Stephen N. Thompson
Dale R. Thrasher, Jr.
John A. Throckmorton
Albert W. Tiedemann III
Michael P. Tillotson
Michael G. Tinman
David W. Titley
Gary M. Ton
Robert C. Torgesen, Jr.
Michael E. Tousley
Schuyler J. Townsend
Joseph J. Trainor
Jonathan T. Treacy
Thomas E. Trepanier
Jerry D. Tribble, Jr.
Raymond F. Tripp
John R. Trotter
Kevin B. Trout
Paul T. Tsutsumi
Richard H. Tuey
Carl R. Turner II
Kenneth L. Turner
William M. Turner
John J. Turonis
Michael P. Tussulo
Charles S. Ude
Kevin J. Udell
Juan C. Ugarte
Valerie F. Uhler
Max W. Underwood
Michael D. Updike
Christopher W. Urban
Robert F. Urso
Jay L. Vadnais
John R. Valle
Claude P. Valliere
Mark A. Vance
Samuel M. Vance
David NMN Vandegrift
Robert J. Vandenberg
Bruce A. Vandenbos
Carl D. Vanderbilt
Brian K. Vanderyacht
Larry F. Vandessel
Benjamin R. Vandiest
Steven E. Vandyk
John F. VanGilder
Charles L. Vangorden, Jr.
Richard H. Vannatta
Han J. Vanoekel
Thomas L. Varney
Clovis B. Vaughn
Daniel L. Vaughn
Lawrence M. Vellucci
James M. Veneziano
Edward F. Veres
James M. Vernon
Stephen M. Vettier
Steven J. Videon
Michael L. Villringer
Steven R. Viscanti
Christopher M. Vitt
Patricia J. Vogler
William H. Wager
Bruce A. Wahadeld
Nora S. Walchessen
Douglas D. Walker
Elmer B. Walker
Wendel V. Walker
Daniel G. Walter
Michael D. Walters
Joel B. Wannebo
William R. Ward
Bruce E. Ware
Patricia F. Warren
Wesley W. Warren
Ricky S. Wasdin
Kelene S. Wassermann
James A. Watson, Jr.
Stephen P. Watson
Thomas A. E. Watson, Jr.
Michael K. Watts
Carl S. Weary
Michael J. Weaver
Karl A. Webb
Richard E. Webb
William M. Weddleton
Edward L. Welkie
Raoul N. Weller
John M. Weir
Ronald E. Weisbrook
Gary T. Weiser
Mitchell M. Welch
Thomas L. Welling
Nolan W. Wells
David J. Welt
Paul W. Werner
Richard K. Werner
Thomas S. Werner
William B. Wesselman
Sheila A. West
Darrel E. Westbrook III
Mark E. Wheeler
Robert F. Wheeler
Cameron S. White
Clifton T. White, Jr.
David D. White
David L. White
Jerald M. White
Marianne NMN White
Patrick J. White
Ernest D. Whitis, Jr.
John D. Whitley
Carl R. Whittaker
Jeffrey B. Whitting
Samuel H. Whitting, Jr.
Frederick J. Whittle
James R. Wholly, Jr.
Dale E. Wickizer
Francis P. Wiegland, Jr.
Michael A. Wienandt
Timothy S. Wiest
Brian Wild
Michael G. Wilds
Robert L. Wilhelm
Douglas D. Wilkerson
Terry M. Wilks
Joe L. William, Jr.
David R. Williams
Kelland D. Williams
Michello D. Williams
Ranell Williams, Jr.
Seth Williams
Stephen B. Williams
Colin W. Williamson
David H. Williamson
Dennis P. Wilson
Jimmy L. Wilson
John G. R. Wilson
Kenneth A. Wilson
Robert K. Wilson
James D. Winberg
Christopher G. Winberry
Djaunnia D. Winfield
Arthur P. Winfrey IV
David F. Winkler
Fred D. Winkler
David J. Winkowski
Thomas J. Winkowski
Robert S. Winneg
Timothy S. Winsky
Dale W. Winstead
Michael S. Winsten
Gregory S. Winter
Theodore I. Winter
Kermit C. Wittenburg
William G. Wnuck

The following-named (U.S. Navy Reserve officers) to be appointed permanent captains in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

John C. Fulmer
Rodolphe A. Grenier
Robert W. Taylor

The following-named (U.S. Navy Reserve officers) to be appointed permanent commanders in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

Richard O. Carstensen
Mario B. Ines
John W. Laing
Boston S. Shima

The following-named (U.S. Navy Reserve officers) to be appointed permanent lieutenant commanders in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

Bruce D. Beck
Daniel E. Boyle, Jr.
Joseph J. Chiaro
Richard T. Harrison
Robert J. Hartzman
Dennis L. Hoover
Andrew J. Kane
Ronald J. Klayton
Michael H. Lake
Eva M. Lisiewicz
Jose D. Lilibre
Bruce P. Machaffie
James F. Means
Theodore F. O'Donnell
Richard B. Peterson
Billy B. Richmond, Jr.
William E. Speed
Edwin R. Willgress, Jr.

The following-named (U.S. Navy Reserve officer) to be appointed a permanent lieutenant commander in the Dental Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

Peter V. Rogers

The following-named temporary chief warrant officer to be appointed a permanent chief warrant officer in the U.S. Navy subject to the qualifications therefor as provided by law:

*Thomas E. Davis III

The following-named (U.S. Navy Reserve officers) to be appointed temporary commanders in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

Ronald J. Klayton
Jose D. Lilibre
Edwin R. Willgress, Jr.
Frances B. Wolf
Douglas A. Wolfe
Kevin P. Wolley
Vincent Woo III
Daniel S. Wood
Roy L. Wood, Jr.
Mark S. Woolley
Japhet P. Woolston
Robert W. Worrell
Robert A. Wosniak
Mark L. Wright
Walter F. Wright III
Raymond K. Wynne
Ann M. Wytzka
Steven W. Yancey
Guy A. Yarter
Phillip T. Yonts
Frank A. Young
Jeffrey S. Young
Vernon D. Young
Joe D. Youngblood
Carl A. Youngdale, Jr.
Sara A. Zak
Bruce D. Zaloski
John Zanoff III
George S. Zeigler
Brett N. Zeitz
Robert A. Zellmann
Robert G. Zielinski
Atis V. Zikmanis
Joseph H. Zilvinskis
Richard C. Zimmer
Christopher T. Zirps
Richard L. Zolman, Jr.

The following-named (U.S. Navy officer) to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

James A. Anthony

The following-named (U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Orr M. Cobb, Jr.
Loren G. Larsen
John G. Meyer
Henry Travers

The following-named (Ex-U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Sidney M. Blair
*Bartholomew T. Hogan
*Robert J. Schultz
*Arthur M. Smith

The following-named (U.S. Navy officer) to be appointed a temporary commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*William R. Garrett

The following-named (U.S. Navy officer) to be appointed a temporary commander in the line, in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*John H. Rizzo

CONFIRMATIONS

Executive nominations confirmed by the Senate, October 19, 1979:

Department of Agriculture

James C. Webster, of South Dakota, to be an Assistant Secretary of Agriculture.

Department of Defense

Robert W. Komer, of Virginia, to be Under Secretary of Defense for Policy.

Edward Hidalgo, of the District of Columbia, to be Secretary of the Navy.

Panama Canal Commission

Dennis P. McAuliffe, of New Jersey, to be Administrator of the Panama Canal Commission.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

In the Air Force

Air Force nominations beginning Douglas A. Abbott, to be lieutenant colonel, and ending Mattie K. Genco, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on October 4, 1979.

In the Army

Army nominations beginning Colbert L. Flanery, to be colonel, and ending Eugenia A. Vineys, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on October 4, 1979.

Army nominations beginning Bruce C. Abbott, to be first lieutenant, and ending Daniel T. Ford, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on October 4, 1979.

*Appointment sent out Ad Interim (during the recess of the Senate). Senate recessed on 3 August 1979–5 September 1979).

HOUSE OF REPRESENTATIVES—*Friday, October 19, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, from whom we have been given the gift of life and all creation, we thank You that You continue to judge and direct us, to forgive us, and to assure us with hope.

We pray for all people with any special need—for the poor and the hungry, for the lonely and forgotten. We acknowledge with joy the ministry of Mother Teresa of India whose devotion to the needy is celebrated by the whole world.

Cause us all to dedicate ourselves to lives of sharing with those in need, for it is in giving that we receive the bounty of life. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GUYER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 309, nays 8, answered "present" 4, not voting 112, as follows:

[Roll No. 584]

YEAS—309

Abdnor
Akaka
Alboeta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bingham
Blanchard
Boner
Bouquard
Bowen
Bredemas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Corman
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dicks
Dodd
Donnelly
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzales
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Hinson
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Pritchard
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lukens
Lungren
McClory
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, N.Y
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Preyer
Price
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Ritter
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Trasler
Trible
Udall
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.

NAYS—8

Jacobs
Jenrette
Lloyd
Lowry
Quayle
Schroeder
Walker
Wilson, Bob

ANSWERED "PRESENT"—4

Forsythe
Minish
Neal
Zablocki

NOT VOTING—112

Addabbo
Ambro
Anderson, Ill.
Anthony
Applegate
Ashley
AuCoin
Barnes
Beard, Tenn.
Bevill
Biaggi
Boggs
Boland
Bolling
Bonior
Bonker
Brown, Calif.
Brown, Ohio
Buchanan
Burton, John
Byron
Carr
Cavanaugh
Chisholm
Cleveland
Collins, Ill.
Conable
Conyers
Cotter
Coughlin
Courter
Crane, Philip
Dellums
Derrick
Dickinson
Diggs
Dingell
Dixon
Dornan
Dougherty
Downey
Duncan, Oreg.
Edwards, Okla.
Evans, Ga.
Fazio
Findley
Flippo
Flood
Ford, Mich.
Ford, Tenn.
Fountain
Garcia
Gibbons
Goodling
Guarini
Harsha
Heftel
Hillis
Holland
Holtzman
Horton
Jones, N.C.
Kogovsek
LaFalce
Leach, La.
Lee
Long, Md.
Lott
Lujan
Lundine
McClosky
McDonald
McEwen
Mathis
Miller, Calif.
Mitchell, Md.
Moffett
Mollohan
Murphy, Ill.
Murphy, N.Y.
Nowak
Oakar
Pepper
Pickle
Rahall
Reuss
Rinaldo
Roberts
Rodino
Rose
Rosenthal
Rousselot
Runnels
Santini
Scheuer
Seiberling
Simon
Spellman
Steed
Stokes
Swift
Treen
Ullman
Van Deerlin
Vander Jagt
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Young, Alaska
Zeferetti

□ 1010

So the Journal was approved.

The result of the vote was announced as above recorded.

FOOD IS TOO HIGH COMPARED TO WHAT?

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I want to remind my persistent Republican colleagues, who maintain a 100-percent negative rating of President Carter, that agriculturally speaking, it was under the immediately previous Republican administrations that we experienced price controls on beef, embargoes on grain exports, and fence row to fence row planting policies that collapsed our markets in 1977. The Soviets were allowed to steal our grain from the farmer, the taxpayer subsidized the sales, and the consumer paid the bill.

Today under the leadership of Secretary of Agriculture Bob Bergland, a new and innovative farmer-owned reserve system has allowed our farmers to participate more fully in the fruits of the market when once again the Soviets are buying. Beef prices today are at fair levels to the producer and no one in this administration is suggesting price controls.

To those who say food is too high, I ask you "Food is too high compared to what?" In 1938, 1 hour of labor would buy 13 pounds of sugar. Today, that hour of labor buys 21 pounds of sugar, 57 percent more.

Even though most farm prices are still too low, we are headed in the right direction.

□ 1020

POINT OF ORDER

Mr. ASHBROOK. Mr. Speaker, I rise to make a point of order.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The SPEAKER pro tempore (Mr. WATKINS). The gentleman from Ohio (Mr. ASHBROOK) will state his point of order.

Mr. ASHBROOK. Mr. Speaker, section 305(d) of Public Law 93-344 states as follows, as far as the Committee on the Budget is concerned, it indicates:

If, at the end of 7 days, excluding Saturdays, Sundays, and legal holidays, after the conferees of both Houses have been appointed to a committee of conference on a concurrent resolution on the budget, the conferees are unable to reach agreement with respect to all matters in disagreement between the two Houses, then the conferees shall submit to their respective Houses, on the first day thereafter on which their House is in session—

(1) a conference report recommending those matters on which they have agreed and reporting in disagreement those matters on which they have not agreed; or

(2) a conference report in disagreement, if the matter in disagreement is an amendment which strikes out the entire text of the concurrent resolution. * * *.

I would raise the point of order that, according to the calendar of the House of Representatives, on October 5, the second concurrent budget was sent to conference, and even under the most liberal interpretation of the days we have been in session since that point, section 305(d) of Public Law 93-344 has not been followed.

The SPEAKER pro tempore. Under the Budget Act, this is a matter that is under the control of the conferees.

Mr. ASHBROOK. Mr. Speaker, I would make a further point of order that the rule says, "shall submit to their respective Houses * * *."

I would indicate that is not discretionary. That is a requirement which has not been met inasmuch as a conference report has not been brought back to the House either in disagreement or agreement. I would raise that point of order at this point.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. Mr. Speaker, I yield to the gentleman from California.

The SPEAKER pro tempore (Mr. WATKINS). The Chair will hear the gentleman from California on the point of order.

Mr. PANETTA. Mr. Speaker, I am a member of that conference. This issue was raised yesterday evening in discussions in the conference. The interpretation of that provision was that we felt if in fact the members of the conference were in disagreement that, therefore, a report should be made to the respective Houses indicating that that was the case.

The fact is that that is not the case, that both sides are moving toward an agreement; and it was the feeling that the intent of that section was to insure that if in fact the parties were moving toward an agreement, that this ought to proceed, and we ought not to be cut off with a report back to the House if in fact we are moving toward agreement.

Today, we have extended it. We are going to be back in conference at 11 o'clock. Should it appear that there is no agreement as to the terms, that, indeed, we would come back to our respective Houses; but that was the feeling and the interpretation of that particular section.

Mr. ASHBROOK. Mr. Speaker, I withdraw my point of order until at least Tuesday then.

AID TO FINANCIALLY AILING HOSPITALS

(Mr. RICHMOND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHMOND. Mr. Speaker, the fate of Brooklyn Jewish Hospital hangs by a slender thread. For the past 2 weeks, I have been working with a bipartisan coalition including New York State officials and Senators JAVITS and MOYNIHAN and Members of the House of Representatives in urging the Carter administration to save the hospital from closing.

While these emergency efforts continue, we in Congress must immediately address ourselves to long-term solutions to the cash flow problems of Brooklyn Jewish and of other public and private nonprofit hospitals in similar straits.

I have introduced legislation (H.R. 3628 and H.R. 3629) which will enable the Federal Government to reimburse financially ailing hospitals whose deficits result from unreimbursed services to illegal aliens and the working poor. I urge my colleagues to join me in cosponsoring this legislation and in pushing for immediate hearings.

Passage of this legislation will stem the continuing hemorrhage of funds experienced by Brooklyn Jewish—a loss of some $6 million annually—which has brought the hospital to the brink of disaster.

This excellent medical facility has, itself, been bleeding and it now faces imminent closure because of its generous provision of essential services to those in need—illegal aliens, the working poor, and others not covered by Blue Cross, medicaid, or medicare. The impact of this hospital's closure on the community would be a staggering, perhaps a fatal shock, because the hospital, with its more than 2,000 employees, is an anchor for the economically deprived Crown Heights/Bedford-Stuyvesant communities.

Mr. Speaker, over the long haul, neither Brooklyn Jewish nor any other hospital, public or private, can continue to carry inordinate amounts of unredeemable patient expenses. The legislation I have introduced will provide the means for hospitals to receive reinbursement for essential services rendered, and again I urge my colleagues to support this legislative effort.

REPUBLICAN TACTICS WASTE TIME AND MONEY

(Ms. FERRARO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FERRARO. Mr. Speaker, I rise today to discuss actions practiced by the minority that delay the legislative process and prevent the House from tackling the important issues of the day.

I refer to the dilatory tactics, currently allowed by House rules, which include the offering of senseless amendments, with no purpose in mind other than to stall the proceedings.

An example is the bill to create a Department of Education. I was opposed to that bill, but it is difficult to justify some of the amendments offered to delay its passage. During its consideration 47 amendments were offered—34 by the minority. Most noteworthy of these were two which would have given the Department the acronyms of "DOPEY" and "DOPE." A rollcall was forced on 1 of these and on 27 other amendments to the bill.

Mr. Speaker, the Rules Committee is considering adopting the practice of designating amendments which may be considered when a bill comes to the floor. This important reform would allow legislation to move through the House quickly with equal opportunity for all parties to express their opinions.

Time and time again, we see polls showing that public esteem for this institution is abysmally low. Perhaps the minority feels they have the luxury of being obstructionist. I hope my colleagues and the American people will begin to hold the minority party accountable for their actions which waste the time of this Congress and, therefore, the money of our constituents.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT, WITH MINORITY OR SEPARATE VIEWS, ON H.R. 5507, TO AMEND THE INTERNAL REVENUE CODE OF 1954

Mr. VANIK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight Friday, October 19, 1979, to file a report, along with any minority or separate views, on H.R. 5507, a bill to amend the Internal Revenue Code of 1954 with respect to the requirement that unemployment benefits be reduced by certain retirement benefits, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT WITH MINORITY OR SEPARATE VIEWS, ON S. 1454, TO AMEND THE ACT OF AUGUST 10, 1956

Mr. VANIK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight Friday, October 19, 1979, to file a report along with any minority or separate views, on S. 1454, to amend the act of

August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5386. An act to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 241) entitled "An act to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. BIDEN, Mr. DECONCINI, Mr. BAUCUS, Mr. HEFLIN, Mr. THURMOND, Mr. LAXALT, Mr. DOLE, and Mr. COCHRAN to be the conferees on the part of the Senate.

The message also announced that the Vice President, pursuant to Public Law 94-228, appointed Mr. RANDOLPH and Mr. HATCH to attend the North Atlantic Assembly, to be held in Ottawa, Canada, October 22 to 27, 1979.

PRESIDENT REAPS POLITICAL GAIN IN WAIVERS OF TERMINATION OF CETA EMPLOYEES IN DETROIT

(Mr. DAVIS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Michigan. Mr. Speaker, 2 weeks ago, the U.S. Department of Labor announced that it was granting 1-year waivers for a number of CETA employees who were faced with termination of their jobs. This termination was due to the 18-month limitation adopted by Congress last year. While the purpose of CETA is to fulfill a temporary training role to help the unemployed find work, the displacement of thousands of workers from their jobs at this time causes severe hardships for both the workers and communities that depend on those workers for the providing of services. It would have been nice if all of those CETA employees faced with termination could have been granted a waiver. However, it was made clear that not all of those people could be exempted and that if CETA administrators did request 100 percent waivers, they ran the risk of receiving none at all.

This was accepted and administrators were forced to make the painful changes of who would be continued for a year and who would be terminated. They believed that all other CETA administrators in the country were faced with the same dilemma. Now, however, there is evidence that the Carter administration decided this was a fine opportunity to reap some political gain. The President would, of course, appreciate the support in next year's elections of the city of Detroit. The city of Detroit would, of course, appreciate retaining as many of their CETA employees as possible. What happens? Detroit ends up with 95 percent of their people facing the 18-month limitation being granted waivers. This compares with an estimated 20 to 25 percent of those people nationwide that received waivers. In the meantime, it appears that the President has picked up some support from Detroit—at the expense of those areas not fortunate enough to carry the political clout of a big city.

□ 1030

MAJORITY OBSTRUCTIONISTS—NOT MINORITY

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, it is said that if you repeat a myth or a lie long enough, after a while it takes on the tinge of truth. So I would like to address the contention that is being made that somehow the minority in this House is obstructing the legislative process by offering too many amendments, a lie that has been repeated too often.

I would call to your attention, for instance, H.R. 3303, the Justice Department authorization bill that this House passed a few days ago. Nineteen amendments were offered by the majority, dragging this on for hours. None were offered by the minority. Thirteen of the amendments were offered by the Members of the committees that were supposed to have had jurisdiction over this legislation.

Yesterday we nearly concluded the energy authorization bill, 40 some amendments, the vast majority from the majority side of the aisle and very few from the minority. This pattern is repeated day after day.

There is obstructionism in this House and it can be found in a muscle-bound majority party that, despite its two-thirds numerical control, seems totally unable to control itself. Instead, it seeks to lay false blame on the minority.

MINORITY AMENDMENTS NOT THE CAUSE OF DELAYS

(Mr. ERLENBORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Speaker, it had not been my intention to speak this morning under the 1-minute rule until I heard the gentlewoman from New York make the comment about the delays caused by the minority and she used as an example the Department of Education bill. The specific example she used was two amendments I offered; one that would change the name to the Department of Public Education, acronym DOPE, the other that would have changed the name to the Department of Public Education and Youth, acronym DOPEY.

Now actually I still believe that those two acronyms very aptly describe the idea of creating a Department of Education.

But let me remind the gentlewoman and those who might have been misled by her comments that those two amendments were the first two amendments offered on the consideration of that bill, and combined, including a record vote, took probably less than 1 hour.

Let me also remind the Members that there is a way under the rules to limit debate, either by unanimous consent or by a motion. What happened last night in this Chamber amply demonstrated that device can be used.

Let me also remind the Members that at no time did anyone ask unanimous consent or move to limit debate during the consideration of the Department of Education bill. It was obvious to all of us that the vast majority of Members hoped they would not ever have to vote for that monstrosity.

HOUSE SHOULD PREVENT REPRESENTATIVE DIGGS' OVERSEAS TRIP

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, late last night the gentleman from California (Mr. LUNGREN) informed this House that the proposed trip to Europe and Africa by our colleague from Michigan (Mr. DIGGS) had not, in fact, been cancelled but had merely been postponed, probably to sometime when Congress was out of session and the heat could not be placed on this proposed trip.

Whether the trip takes place next week, next month, or next year makes no difference on whether we wish to send convicted felons overseas to represent the United States.

Therefore, I believe it incumbent that before this House recesses on November 2, affirmative action be taken prohibiting the use of official funds, whether House funds or Mutual Security Act funds for this trip. I would urge the Committee on House Administration to report out House Resolution 459 which

I introduced yesterday to prevent our colleague from Michigan (Mr. DIGGS) from going overseas representing the United States.

FLOOR OF HOUSE OF REPRESENTATIVES POOR PLACE TO LEGISLATE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, I, too, must respond to the statement that was made by our colleague from New York.

You know, there is a funny thing around here about amendments. Evidently amendments are all right if the leadership wants them, but when the leadership does not want them there is something wrong about offering them.

I see my colleague from California (Mr. BURTON) is ready to address the House. He and I have agreed over the years that the floor of the House is a terribly poor place to legislate.

You know, there is just something wrong about legislating on the floor of the House. It offends all of the democratic principles of our country. Try to sell that foolishness back home and yet that is, in effect, what your Democratic leaders tell us.

One of the things I would remind my friends on the other side of the aisle since my memory goes back a few years, I remember when some of my liberal friends were trying to get votes, one on the Nedzi-Whalen amendment to end the Vietnam war; and, two, on an amendment to vote directly on the draft. There were people on our side of the aisle even though we opposed those amendments, who were working with you and voting against restrictive rules that up to that point made it impossible for you to get a vote on the Nedzi or draft amendments. It is a strange sword that cuts both ways and I think we should worry about how that sword cuts before the rules are changed and the opportunity to offer amendments unduly restricted by your majority leadership.

EARNED INCOME LIMITATION

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, the Committee on Standards of Official Conduct has received several inquiries concerning the effect of the cost-of-living salary increase on the earned income limit in House rule XLVII, as well as the application of that rule to the assignment of income to charity. The following response to these questions is provided for the information of my colleagues.

House rule XLVII limits a Member's outside earned income in a calendar year to 15 percent of the aggregate salary paid to the Member during such calendar year. The cost-of-living adjustment effective October 1 will increase the aggregate salary paid to a Member in 1979 to $58,290.62. Thus, the limit on outside earned income for personal services rendered is $8,743.60. for calendar year 1979. The limit in 1980, based on a salary level of $60,662.50 will be $9,099.38.

Rule XLVII also limits to $1,000 the amount a Member may accept as an honorarium for any single speech or article. Honoraria assigned to a tax-exempt charity is not treated as earned income subject to the limitations in the rule. If a Member chooses to have an honorarium donated to a specific tax-exempt charity selected by the Member, he should direct the paying organization to make the payment directly to the charity. In addition, any honorarium returned by the Member to the payor before the close of the calendar year will not be counted against the earned income limitation.

Any honoraria assigned to a charitable organization should be reported in the Member's annual financial disclosure statement required by the Ethics in Government Act of 1978, with the notation that the income was assigned to charity. It should also be noted that honoraria assigned to charity must be reported by the Member as gross income for tax purposes, and may be deducted as a charitable contribution (see Revenue ruling 79-121).

Any questions concerning the application of House rule XLVII to specific factual situations should be directed to the committee staff on extension 57103.

MINORITY CALL FOR AFFIRMATIVE ACTION OF A DIFFERENT KIND

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, without getting into the specific problem addressed by our good friend from Wisconsin, I am rather shocked to hear this side of the aisle talking about affirmative action. The next thing we know they will be talking about a quota system.

I yield back the balance of my time.

APPOINTMENT OF CONFEREES ON H.R. 595, STRATEGIC AND CRITICAL MATERIALS TRANSACTION AUTHORIZATION ACT OF 1979

Mr. BENNETT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 595) to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? The Chair hears none and, without objection, appoints the following conferees: Messrs. BENNETT, MOAKLEY, McDONALD, SPENCE, and EMERY.

There was no objection.

MOTION OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Speaker, I offer a motion that has to do with the classified material coming before the conference that has just been established by the House. This conference deals with or can and probably will deal with classified materials which are not only of national security interest but also would be damaging in other ways relative to the disposal of certain commodities from the national stockpile.

The Clerk read as follows:

Mr. BENNETT moves, pursuant to rule XXVIII 6(a) of the House rules that the conference committee meetings between the House and the Senate on H.R. 595 be closed to the public at such times as classified national security information is under consideration, *Provided, however*, That any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I believe I have made a sufficient statement except to point out that there are national security matters involved in the national stockpile and it would be in the best interests, when we approach those areas, that we do have a closed meeting. I do not like closed meetings myself, but in this instance I believe it is necessary.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. Under the rules the vote must be taken by the yeas and nays.

Voting will be by electronic device.

The vote was taken by electronic device, and there were—yeas 358, nays 0, not voting 75, as follows:

[Roll No. 585]

YEAS—358

Abdnor	Breaux	de la Garza
Akaka	Brinkley	Deckard
Albosta	Brodhead	Derrick
Alexander	Brooks	Derwinski
Anderson, Calif.	Broomfield	Dingell
Andrews, N.C.	Broyhill	Dodd
Andrews, N. Dak.	Buchanan	Donnelly
Annunzio	Burgener	Dornan
Anthony	Burleson	Drinan
Applegate	Burton, John	Duncan, Tenn.
Archer	Burton, Phillip	Early
Ashbrook	Butler	Eckhardt
Aspin	Byron	Edgar
Atkinson	Campbell	Edwards, Ala.
Badham	Carney	Edwards, Calif.
Bafalis	Carter	Edwards, Okla.
Bailey	Cavanaugh	Emery
Baldus	Chappell	English
Barnard	Clausen	Erdahl
Barnes	Clay	Erlenborn
Bauman	Clinger	Ertel
Beard, R.I.	Coelho	Evans, Del.
Bedell	Coleman	Evans, Ind.
Bellenson	Collins, Tex.	Fary
Benjamin	Conte	Fascell
Bennett	Corcoran	Fenwick
Bereuter	Corman	Ferraro
Bethune	Coughlin	Findley
Bingham	Courter	Fish
Blanchard	Crane, Daniel	Fisher
Bolling	D'Amours	Fithian
Boner	Daniel, Dan	Florio
Bonior	Daniel, R. W.	Foley
Bouquard	Danielson	Ford, Tenn.
Bowen	Dannemeyer	Forsythe
Brademas	Daschle	Fountain
	Davis, Mich.	Fowler
	Davis, S.C.	Frenzel

Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Hefel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lukens
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rallsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sebo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Selberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solars
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla
Young, Mo.
Zablocki

NAYS—0

NOT VOTING—75

Addabbo
Ambro
Anderson, Ill.
Ashley
AuCoin
Beard, Tenn.
Bevill
Biaggi
Boggs
Boland
Bonker
Brown, Calif.
Brown, Ohio
Carr
Cheney
Chisholm
Cleveland
Collins, Ill.
Conable
Conyers
Cotter
Crane, Philip
Dellums
Devine
Dickinson
Dicks
Diggs
Dixon
Dougherty
Downey
Duncan, Oreg.
Evans, Ga.
Fazio
Flippo
Flood
Ford, Mich.
Garcia
Gibbons
Goodling
Hagedorn
Harsha
Holland
Holtzman
Horton
Jones, N.C.
Leach, La.
Long, Md.
Lujan
Lundine
McEwen
Miller, Calif.
Mitchell, Md.
Moffett
Mollohan
Murphy, Ill.
Oakar
Pickle
Rahall
Roberts
Rodino
Rose
Rosenthal
Rousselot
Runnels
Santini
Scheuer
Steed
Treen
Ullman
Van Deerlin
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Zeferetti

□ 1050

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDING CHAPTER 25 OF TITLE 44, UNITED STATES CODE, TO EXTEND FOR 2 YEARS THE AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3923) to amend chapter 25 of title 44, United States Code, to extend for 2 years the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out line 6 and insert "September 30, 1981," and by striking out "for each year".

Amend the title so as to read: "An Act to amend chapter 25 of title 44, United States Code, to extend for one year the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, and I will not object, I reserve that right in order to allow the gentleman from Texas (Mr. BROOKS) the opportunity to explain what has occurred in the other body with respect to H.R. 3923.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, to my distinguished friend, the gentleman from Ohio, I would say that the bill, H.R. 3923, as it was passed by the House, authorized funding for the National Historical Publications and Records Commission for fiscal years 1980 and 1981. Because of purely technical problems relating to Budget Act procedures, the Senate amended the bill to provide authorization for fiscal 1981 only. Appropriations for the Commission's fiscal year 1980 activities have already been passed. Since that is the case, the Senate action and amendments do not substantively affect the House-passed bill.

Mr. KINDNESS. Further reserving the right to object, I would observe that the bill as amended by the Senate carries out the exact intent of the legislation as passed by the House, and I would urge that the unanimous consent request of the gentleman from Texas (Mr. BROOKS) be agreed to.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

INTERNATIONAL SUGAR STABILIZATION ACT OF 1979

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2172) to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2172, with Mr. BUELISON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes; the gentleman from Colorado (Mr. JOHNSON) will be recognized for 30 minutes; the gentleman from Ohio (Mr. VANIK) will be recognized for 30 minutes; and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

□ 1100

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of H.R. 2172, the International Sugar Stabilization Act of 1979. Mr. Chairman, you may recall that last year the Ways and Means Committee and the Agriculture Committee reported out quite different versions of the sugar bill, and the differences were never resolved until the floor debate and vote by the full House.

This year I am happy to report that our two bills are nearly identical. Even before the beginning of the 96th Congress we have worked closely with Chairman FOLEY on a domestic sugar program which would be a fair compromise for all parties concerned. H.R. 2172 is the result of numerous meetings with sugar producers, refiners, and labor groups, extended discussion with the administration, and public hearings by both the Agriculture and Ways and Means Committees.

The bill provides for U.S. implementation of the International Sugar Agreement. It also establishes a domestic sugar program that sets a price for sugar at 15.8 cents per pound beginning October 1, allows for adjustments in that price to reflect changes—but not more than 7 percent per year—in the cost of production. It also provides for direct payments to producers of up to half a cent per pound of sugar, but no more than $50,000 to any one producer. The bill provides wage and employee protections for sugar workers. These protections are significantly better than those which will prevail if no bill is enacted.

The differences between the Agriculture and Ways and Means versions are generally only drafting and technical differences. The substantive differences are limited to the following:

First. In order to insure the long-range success of the International Sugar Stabilization Act of 1979, the Ways and Means bill includes in title I a provision removing the 50-percent ad valorem limitation on import fees for sugar under the section 22 program;

Second. Our bill extends U.S. participation in the ISA for the life of the agreement, which ends in 1982;

Third. Our bill deletes all references to the crop year and starts the program on October 1, 1979;

Fourth. Our bill provides for the administration of the labor provisions by the Department of Labor rather than the U.S. Department of Agriculture; thus the labor provisions will be administered under the general authorities of the Fair Labor Standards Act; and

Fifth. Our bill contains child labor provisions identical to those contained in the old Sugar Act, which are slightly more protective than the Fair Labor Standards Act provisions.

While there are a certain number of changes, there are—to repeat—no major differences between the two committees affecting returns to producers or the price of sugar.

Mr. Chairman, throughout this session, we have heard speeches demanding help against various imported manufactured goods being dumped in the United States, or subsidized by a foreign government. We have heard demands for "fair trade" so that the domestic industry can compete on equal footing. The situation with sugar is no different. The so-called world price of sugar is an artificial price—it is not the cost it takes to produce sugar.

A recent GAO report, which examined the global sugar market, concluded:

> Sugar production and marketing is regulated by more governments and to a greater degree than any other commodity.

If we do not provide some type of sugar program, it will be the U.S. industry alone which will suffer. We are already suffering from the failure to enact a sugar bill. During the past year, after the 95th Congress failed to pass a sugar bill, a number of processors have announced the closing of plants and the layoff of numerous workers. The long list of closings and layoffs is chronicled on pages 5 and 6 of our committee report.

I would also like to emphasize that this bill is not inflationary. The increase in the cost of sugar provided by the price objective is 5.33 percent—a rate far below the rate of inflation. The additional half-cent payment to producers will not increase the cost of sugar to consumers and only costs the Treasury about $40 million in fiscal year 1981. The bill as a whole over the next 3 years is a revenue raiser.

Mr. Chairman, this legislation is designed to provide stability in the sugar market instead of the unpredictable series of price fluctuations we have experienced in recent years. A stable market benefits producer and consumer, the grower and the fieldworker. In the face of massive foreign subsidies and volatile world markets, this bill sets a rational, moderate course for the U.S. sugar market. The International Sugar Agreement is intended to bring some order into the global market, while the domestic sugar program is designed to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry. In the long run, this bill will insure a continued domestic source of supply at reasonable prices for the consumer. I enthusiastically urge its passage.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Chairman, I rise in support of H.R. 2172, the International Sugar Stabilization Act of 1979.

Mr. Chairman, in June of 1974 I was one of the floor managers of a bill which would have extended the life of the old Sugar Act, which I felt then and feel now had served the needs of our country so well. However, the House in its wisdom or, in my opinion, lack of wisdom, voted not to extend the old Sugar Act. In my opinion, we have had nothing but turmoil since that time.

Mr. Chairman, what we have in H.R. 2172 is a modest proposal to protect an industry which is integral to the food industry in this country, especially the bottling, confectionary, and food processing industry. It is my understanding that it is estimated that this bill will cost at most, somewhere between $3 and $4 a year for a family of four in the so-called food cart. On the other hand, Mr. Chairman, we are dependent for at least 50 percent of our sugar on producers in foreign countries. There is a sufficiently small amount of sugar which trades on the free market and if there is a poor production year and the amount of sugar that is offered on the free market is very limited, this has a substantial effect on the cost of sugar to our consumers in the United States. We experienced this in 1974 and 1975 when we failed to pass the Sugar Act, which expired in December of 1974, and prices skyrocketed up to over 60 cents per pound.

Mr. Chairman, this bill is modest in that it would guarantee, through a process of fees and tariffs, a price objective of 15.8 cents per pound for the 1979 crop, escalated through sugar crop year 1981 at 7 percent maximum if the cost of production increases during that period. The fees which will be collected over the life of the bill on the basis of the Congressional Budget Office estimate, are expected to total $1.25 billion.

Mr. Chairman, we know what the problems are, based on our experience with energy and oil, when we must rely on foreign countries to supply us with a vital and scarce product. The General Accounting Office has listed a number of other products which are scarce in this country which we have no choice but to import and which may escalate in price in forthcoming years.

Mr. Chairman, I submit that this is a case where we do have a choice. Rather than place ourselves at the mercy of foreign producers, we should take this modest step to protect our producers in this country who cannot compete with the low wages and other low production costs which foreign producers enjoy. The price objective provisions of this bill will provide sugar support prices of roughly 51 percent of parity, a modest figure when we consider the amount of revenues the legislation will produce.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of Colorado. I yield the gentleman 1 additional minute.

Mr. WAMPLER. Mr. Chairman, I want to emphasize that I have no sugar production in my congressional district. However, I support the chairman of the committee in bringing this bill to the floor because I believe it is reasonable and not excessive.

□ 1110

I agree with others who will speak here today and who will argue that if this bill had been included as a title in the 1977 Farm Act, it would have passed with little question.

Therefore, Mr. Chairman, I support the measure, and I urge other Members to do likewise.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, I thank the subcommittee chairman for letting me proceed outside of my ordinary time and out of order, since I am not on the Committee on Agriculture.

I am somewhat surprised that every time we try to come forth with a sugar program so much is said about the bad things dealing with an agriculture program for sugar. That is very interesting, because we have very similar programs in place already for wheat, for corn, for cotton, for rice, for barley, and for grain sorghum, which all have target price protection loans. In addition to that, tobacco, peanuts, soybeans, oats, and rye all have a loan program.

These programs are regularly brought before this House and regularly passed, and everybody stands up and takes credit for them. Quite possibly, because sugar is coming up by itself, that is different. Maybe a better idea would be to bring it up with the regular farm programs and we would get a lot more votes for it.

We are told sugar should be the only commodity we produce in this country that does not have some sort of Government stabilizing program.

Mr. Chairman, I strongly support this legislation. It is a compromise bill. The administration supports it. It is the result of 2 years of very hard work by this Congress, by consumer groups, by producers, and by everybody involved in the sugar program.

It makes no sense for us to continue to be so totally dependent on cheap foreign sugar which is dumped in this country and dumped here at the cost of preventing our sugar producers from becoming self-sufficient in so important a product.

I am reminded of the fact that as sugar increases in price, users always raise their prices. Do we ever think that if the price to the sugar producer is reduced, large sugar users like the soft drink industry would lower their prices? Of course not. Therein lies the real ripoff as far as consumers are concerned.

Mr. Chairman, this program is a compromise. It gives a solid balance, and it is one that, I think, makes a great deal of sense, just like programs covering all these other commodities I have listed. It makes sense.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Chairman, I rise in strong support of H.R. 2172.

I am a farmer, who formerly grew sugar beets and represent the district with the largest acreage of sugar beets of any other Member, but I am not here just because I represent my sugar growers but I am here representing my sugar growers along with consumers.

This bill perhaps has received more rhetoric and more demogoguery than any other bill of its size and nature. I think that is unfortunate. This legislation is only a very, very modest attempt to insure a viable domestic sugar industry.

There is no doubt in my mind and there should be no doubt in other Member's minds that we need a viable sugar industry since we only produce about 50 percent of our own sugar for domestic consumption. Should we lose any part of that domestic industry, we are going to be subject to the vagaries of a wildly fluctuating world market controlled by foreign suppliers.

This bill will not substantially increase sugar prices, but, rather, it is going to insure stable prices for sugar in the future.

H.R. 2172 really is no different than what we have in antidumping or countervailing duty legislation that is afforded industrial products. It is not legal for a country to dump products here on our markets as far as steel and other products are concerned for less than their cost of production, and it should be illegal for countries to dump sugar on our market at less than its cost of production.

In my district, where we raise sugar beets, we are anticipating completing a crop yield this year of about 14 tons per acre. The price the grower is going to get is about $25 a ton, for a total gross income per acre of about $350, and the cost of production for that acre of sugar beets is approximately $350. This is not even breaking even.

This is a modest attempt to protect a viable domestic industry, and this bill is one that this country can ill afford not to pass.

We can give consumers the insurance they need by maintaining a domestic source for part of our sugar supply—and without gouging their pocketbooks. As Secretary Bergland recently pointed out, H.R. 2172 would set a 1979 crop market price objective of 15.8 cents a pound, and market prices currently are around 15.77 cents. The fact is that enactment of this bill would produce virtually no change in actual raw sugar prices during the coming year. The moderate—no more than 7 percent—increases in minimum prices permitted by the bill during the following 2 years probably are less than we would pay if we scrapped the sugar program and took our chances on the world market.

We cannot get sugar from abroad, over any long period of time and in the quantities we would need without a domestic industry, at prices like the 8 cents a pound you have heard cited as the "world price." The so-called world price is actually a "dumping price" charged for the very small percentage of global production which is not already tied up in one of the many bilateral and multilateral agreements employed by most producers and buyers. Actual production costs in virtually all countries are far above the 8-cent level. We can no more count on a long-term supply of large quantities of sugar at that price than we can depend on the Tooth Fairy to bring us all $10 gold pieces.

Without a program to keep U.S. producers in business, many of them will be forced to stop growing sugar. Then, this country, which already imports half its sugar, will be almost totally dependent on the volatile world sugar market. When that happens, opponents of sugar supports will have to explain to consumers why they backed action which could lead to doubling, tripling or even quadrupling sugar prices. A 1-percent reduction in world supply can increase prices of the small amount of sugar moving in "free" world trade by 30–50 percent; a 10-percent cut in supply can increase prices by 300–400 percent. If you like what OPEC is doing to us on oil, you will love what a potential cartel of tropical sugar exporters could do.

Maintenance of a domestic sugar program is consistent with support for international trade, because imports of raw sugar would continue to increase as domestic consumption increased. But, if we go further and almost totally destroy our domestic production, the results would include destruction of thousands of existing jobs. It is true there are only about 16,000 growers in the United States, but sugar is a labor-intensive industry and there are more than 100,000 jobs involved—approximately equal to the number of jobs which would vanish if Chrysler collapsed. If producers continue to go out of business, as many already have in the past few years, many of those 100,000 sugar industry jobs would disappear.

Talking about jobs, the thread could go beyond sugar growing and beet processing regions. Without a domestic support program in place, the next step could well be an attack on present restraints against imports of foreign sugar in fully refined form. Virtually all foreign sugar now comes in raw form to be processed in refineries in major coastal cities, but this could be replaced by imports of refined sugar from lower-wage areas abroad—and more American jobs would vanish.

We would have hanging over our heads, if domestic production is drastically cut, a real concern about whether we could consistently meet our needs in all years from foreign sources. Some of the countries we would have to depend on are among the world's more politically unstable nations, and there can be no guarantee our consumer economy would not be torn from time to time by the after-effects of political upheaval abroad.

Therefore, I strongly urge the support of this House and a yes vote on H.R. 2172.

Mr. Chairman, I urge my colleagues to support this legislation, pass it out of here, and get on with our other business.

Mr. Chairman, I thank the gentleman from Colorado (Mr. JOHNSON) very much for yielding me this time out of order, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, as the author of the amendment which appears both in the bill of the Committee on Agriculture and the bill of the Committee on Ways and Means concerning gasohol and alcohol fuels, I thought it would be appropriate for me to take the floor and explain to the Members what that section of the bill does.

This section provides a loan guarantee fund from the Commodity Credit Corporation to provide up to $25 million in 2 fiscal years for the building, converting, and modification of alcohol fuels facilities which use sugar cane, sugar beets, corn and related crops as a feedstock.

Many Members have indicated to me that this amount is a pittance for gasohol. Actually, Mr. Chairman, the bill provides that the total amount of loan guarantees could approximate as much as $250 million since the potential government exposure is intended not to exceed 10 percent of the amount guaranteed. Thus, a guarantee fund of $25 million actually means that a total of $250,000,000 of such facilities could be built, converted or modified.

Mr. Chairman, I would make two points here. No. 1, this is the first piece of legislation that will come to the floor of the House this session that will specifically and unequivocally contain loan guarantees for facilities making alcohol for the gasohol industry. Inasmuch as sugar is one of the best feedstocks for gasohol and inasmuch as we have the Brazilian experience to show that alcohol fuels and blends of 10 percent or above, and even at 100 percent, provide a very,

very productive use for motor fuels, I think this particular section of the bill is an important one.

Secondly, I would say to my colleagues that while the bill is quite controversial and the future of the domestic sugar industry is uncertain, it is clear that the production of alcohol from sugar and corn—and that is, of course, alcohol not to be drunk but to be used in motor vehicles—is probably the long-range foundation for the American sugar industry. All we have to do is look at the Brazilian experience, the German experience during the Second World War, and the American experience now to see that alcohol fuels are the only synthetic fuels that are commercial now, and that the alcohol industry should be encouraged by providing capital necessary to build production facilities.

Therefore, Mr. Chairman, I would conclude by saying that this bill does provide up to $250 million in loan guarantees for the production, modification, or conversion of alcohol fuels and gasohol facilities, the feedstock being corn, sugar beets, sugarcane, or related products. That, I think, might very well tend to move this country toward energy independence a bit faster.

While this amendment is not the heart of the sugar legislation, it does provide sugar producers with some long-term promise—not short-term but long-term—of the promise of use for their product. I realize that this bill is very controversial, and Members should not vote for the legislation merely because of this section. But my colleagues should be aware of this provision of the bill.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 4 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Chairman, I rise in opposition to the Sugar Stabilization Act of 1979, H.R. 2172.

The title of the bill is a misnomer. It would do nothing to stabilize the price of sugar. In fact, it would only fuel the flames of inflation that are already wrecking our Nation.

A few months ago, before being muzzled by the administration, inflation fighter Alfred Kahn spoke quite candidly to a nationwide audience. He said, and I quote:

> I wish that it were possible politically in this country to have such a powerful anti-inflation constituency or coalition that raising the support price of sugar from 15 cents to 15.8 cents would be unthinkable and impossible.

Mr. Kahn's remarks did spawn a coalition of consumer groups, the foremost of which is CASH—which stands for "Citizens Against Sugar Hikes." This group, recognizing the heavy burden high sugar prices place on consumers, has been leading the fight against this inflationary bill.

CASH is composed of: American Association of Retired Persons, Common Cause, Community Nutrition Institute, Congress Watch, the Consumer Affairs Committee of the Americans for Democratic Action, Consumer Federation of America and the National Council of Senior Citizens.

Now the AFL-CIO, the United Auto Workers, and the Leadership Conference on Civil Rights has joined CASH in opposing this unthinkable bill. I hope that Mr. Kahn is granted his wish.

Many of us are sympathetic to the plea to save all the farmers of America and to keep America productive in every avenue of production. But we also have the responsibility to balance the concerns of 14,000 sugar producers with the cost and the burdens which protection for them would imply for the average American consumer across the country. Looking at this bill and assessing its impact. On the domestic front, the cost of the bill is $300 million in the first year. The combined direct and indirect costs would be $500 million annually added to the already soaring sugar food price inflation across the country.

□ 1120

The American consumer deserves to be heard in this debate and deserves to win, because the case for an increase in the sugar price objective and the case for this Sugar Act in general is a weak one indeed. But there is another justification for this bill which has been given, and that is the fact that title I of the legislation implements the International Sugar Agreement. This argument also deserves to be examined.

I have researched the International Sugar Agreement, and I have before me a chart which I would like to share with the Members. It illustrates the impact of the International Sugar Agreement as negotiated in Geneva in 1977 on the sugar production quotas allocated to our free world allies and the production capacities and quotas awarded to the nation of Cuba.

When one examines the figures here, the argument can be made that the justification for this bill attributable to title I is also as flawed as the rest of the bill.

[Chart not printed in RECORD.]

Let me explain the figures on this chart. In 1977, a subunit of the United Nations, in which the United States participated, negotiated the so-called International Sugar Agreement. At that time our free world sugar trading allies, as shown by this chart, were exporting these quantities. This chart represents the major exporters, the tonnage of sugar they had sold on the free market, and the allocation they received under the new sugar agreement. In 1977, Brazil sold 2.5 million metric tons to the free world, but their quota was reduced by the agreement, allowing them to sell only 2.35 million metric tons. The result of this was to require that Brazil make a reduction in its export tonnage.

Australia, another friend of the United States and a trading partner, sold 3 million metric tons of sugar in 1977 to the free world, yet their sugar tonnage for free market exports negotiated and agreed to in the agreement was decreased to 2.35 million metric tons.

The CHAIRMAN. The time of the gentlewoman from Massachusetts (Mrs. HECKLER) has expired.

Mr. DE LA GARZA. Mr. Chairman, I yield 30 seconds to the gentlewoman if I might ask a question.

Mr. Chairman, would the gentlewoman name the source of her figures?

Mrs. HECKLER. Yes. I have the source on the chart. The source is a public document which our State Department cannot refute. The source of these figures is the International Sugar Organization Statistical Bulletin, published in July 1979.

To conclude, the Philippines were cut from 2.6 million metric tons to 1.4 million metric tons. Cuba, which sold to the free market only 1.5 million metric tons, was not cut and in fact was increased to 2.5 million metric tons. She also had the opportunity to sell unlimited quantities of sugar to the socialist bloc countries, and she received another extra preferential quota, a quota to sell 650,000 metric tons to Albania, China, North Korea, Vietnam, and Yugoslavia.

Only one conclusion can be drawn. Not only was Cuba awarded a disproportionately large share of the free market sugar exports to the detriment of our free market allies, but Cuba was then given favored treatment in its trade to Socialist and Communist bloc countries.

Cuba was allowed to export unlimited sugar to Socialist countries which did not count against her export quota. Whereas, an export from any other country, including Brazil, Australia, the Philippines, and the Dominican Republic, had to be subtracted from that country's export quota. Again special treatment for Cuba.

Witnesses at the 1977 Geneva Conference have informed me that our free world trading partners made no secret of their displeasure at inequitable cutbacks the free world market was forced to absorb.

From the standpoint of the United States, I would state again the International Sugar Agreement was a poorly negotiated document which the Congress in title I of the bill is now being asked to affirm.

The ISA ratification treaty has not yet been ratified by the U.S. Senate. It is unwise, unnecessary, and premature for Congress to vote for its implementation before ratification.

Proponents of the bill argue that the legislation is necessary to protect American consumers from a sugar cartel. Not true.

Domestic sugar and corn sweeteners account for 70 percent of the Nation's sweeteners—up 10 percent from the 60 percent level of a decade ago. The remaining 30 percent of our sweetener needs are met by imported sugar. Domestic interests are supplying an increasing, rather than decreasing, share of the market.

And, unlike oil which must be extracted where it is found, sugar can be grown in a variety of climates with no special soil requirements. There is no dependence on a small number of sugar producing countries.

In addition, corn sweeteners are fast increasing their share of the overall

sweetener market. In the last 10 years annual corn sweeteners consumption—corn syrup, dextrose, and high fructose corn syrup—has skyrocketed from 17.7 to 33.8 pounds—an increase of 91 percent. Sugar consumption has dropped from 101 to 92.7 pounds—a drop of 8.21 pounds. Passage of H.R. 2172 will accelerate this trend to the detriment of the U.S. sugar industry.

I urge the defeat of H.R. 2172. The bill is inflationary, it is anticonsumer, and it expands the special interest protection of an industry—all to the detriment of the American consumer/taxpayer. This country is already paying too high a price for this single agricultural commodity produced by 14,000 farmers. I draw the line at H.R. 2172 and urge my colleagues to do likewise.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Chairman, like the gentlewoman from Massachusetts (Mrs. HECKLER), I also rise to speak in behalf of the consumer. But I reached an entirely different conclusion than that of the gentlewoman from Massachusetts.

Look what is happening today in the world as far as sugar is concerned. The United States imports approximately 50 percent of its sugar today. The price for sugar today is above the support price called for in this piece of legislation. Today the world is consuming more sugar than it is producing. In the last 3 years, one-third of the sugarmills in the State of Louisiana have had to close their doors. We are losing our domestic sugar industry.

What does this mean? The United States imports its sugar from about 12 countries. Oh, how easy it would be for them to form a cartel. And they will do it, you can book it. If the United States continues to lose its domestic industry at the rate we are, within 2 or 3 years you are going to see sugar at 60 cents or 70 cents instead of the 15 cents that we are talking about today. And who is going to pay? The American consumer is going to pay.

My colleague from Louisiana earlier referred to the fact that the users of sugar, some of them, are opposed to this legislation. It is true, I have become convinced, they like to see these wide swings in the price of sugar. We can remember just a few years ago, early in the 1970's, when the price of sugar skyrocketed. We saw soft drinks go from 10 cents to 35 cents. Sugar is the major cost in soft drinks. Yet the price of sugar fell back down to less than 10 cents but the price of soft drinks did not come down. You arp going to see the consumer paying 75 cents for soft drinks in 2 or 3 years if the American sugar industry continues to crumble without some kind of support legislation under it, and then if there is a surplus of sugar at any time in the future and the market should break again, you are not going to see our soft drinks come down. It has never happened before.

What we need is a stable supply of sugar that allows the producer to earn a reasonable aggregate return on his investment. We are not talking about a bill here that will allow sugar producers to make a killing, to make excess profits.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I would just like to speak briefly about the Cuban issue. I think this is nothing more than a rather obvious attempt to exploit an emotional condition that is prevalent in the United States at this time and to use it to defeat the bill. The Cuban issue has no substance and, as far as I am concerned, it should be disregarded.

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. No, I will not yield at this point. I did not interrupt the gentlewoman, and I do not have time to engage in a debate on that particular subject. I think it is an insubstantial subject and should be disregarded. Anyone who has studied the ISA will know that. We do not have time to go into as great a detail as we would like, so we have to continue on in the brief time that is allowed to each one of us.

Mr. Chairman, instead of repeating the provisions of the bill which have already been outlined, I would like to use my time to emphasize why I think this legislation is important to sugar producers and consumers alike.

A DYING DOMESTIC INDUSTRY

Because the price of sugar has been below the cost of production for several years, it is the farmer who has been subsidizing the consumer—not the other way around. Consumers now pay less for sugar traded in the free market, than it costs farmers to grow it, even in the lowest cost areas of the world.

Such subsidization of consumers has cost U.S. farmers about $244 million just for the 1978/1979 sugar crop, based on the difference between the administration's 1978 price objective for sugar—15 cents per pound, raw value—and the actual farmer cost—about 17 cents per pound, raw value. Consequently, sugar products and processors are under severe economic pressures. As Secretary of Agriculture Bob Bergland pointed out in a letter he sent to numerous Members this week, below-cost prices for sugar have led to a 28-percent decline in U.S. production since 1976. Of 110 domestic processing plants, 30 have closed their doors for good in Colorado, Ohio, Idaho, Utah, Washington, and Louisiana. One-fourth of our domestic capacity to process sugar has been destroyed in the last 3 years.

According to the latest information from the Department of Agriculture, 75 percent of the sugar, beet and cane, produced in the United States is grown by independent growers; that is, family farmers and farmers' cooperatives. One hundred percent of U.S. sugar beet production is grown by independent producers.

Over half of U.S. sugar production is in the form of sugar beets, which are grown by about 13,000 family farmers. Currently, the closest thing to a beet-growing corporation we have is actually a farmers' cooperative of almost 1,700 small Minnesota producers who have pooled their individual production for processing. Known as the American Crystal Sugar Corp., they are considered to be one of the largest and most efficient grower-processors of sugar beets in the United States. Due to low sugar prices, though, they lost $14 million in 1976. Over the last couple of years it has not been unusual for them to report earnings of zero dollars. This year their total long-term debt came to $85 million, of which $15 million represented the cost of complying with mandatory Federal, State, and local environmental protection standards.

Sixty percent of the sugarcane grown in the United States is produced by corporations. To be sure, some of the corporate producers of sugarcane have not suffered such losses. However, it should be pointed out that for some of them substantial portions of their earnings did not proceed from a healthy domestic industry. Instead they reflect Government payments or defaulted Government loans, where in the corporation did not sell sugar to a consumer, but rather forfeited it to the Government. For example, in fiscal year 1978, the single largest producer of raw sugar in the continental United States, the U.S. Sugar Corp., received $9.6 million in price support payments from the Government, which increased its net income for that year by $4.8 million. The payments were part of the administration's ill-advised alternative to the U.S. International Trade Commission's recommendations that restrictions be placed on foreign imports of sugar. H.R. 2172 includes payments with limitations and in such a fashion so as to avoid a repeat of the President's interim payments fiasco.

Another example—the Gulf & Western Corp., defaulted on $16 million worth of Government price support loans in 1977. For the 1978 sugar crop, the Government currently holds $47 million in outstanding price support loans for Gulf & Western. Unless the company can obtain a price in the market high enough to cover the costs of loan redemption—about 16.36 cents per pound—the chances of additional loan defaults are high.

In addition, some corporate growers who represent multinational companies, such as Gulf Western, for example, report their earnings from U.S. sugar production and their foreign sugar growing operations as one combined figure. It is impossible to tell, therefore, whether all those "corporate profits" opponents of H.R. 2172 are so fond of quoting come from Gulf & Western's U.S. production or, say, their plantation in the Dominican Republic.

As of October 5, 1979, the Commodity Credit Corporation held $120.1 million worth of producer forfeited sugar—425,932 tons. Almost 20 percent of 1978 U.S. sugar production remains under loan, totaling $381 million.

WHY IS THE INDUSTRY DYING?

The U.S. sugargrower supplies about 55 percent of U.S. sugar requirements. About 45 percent of U.S. sugar demand is met through imports. Since the expiration of the Sugar Act at the end of 1974, the United States has been forced to seek its sugar imports in the so-called free market of world trade, which represents about one-sixth of world production. The other five-sixths is traded in a "controlled" market under preferential arrangements and long-term agreements between countries, insulating them from the up and down swings in the sugar price supply cycle. Because of the small percentage of world production the free market represents, up and down changes in the sugar cycle can be very acute. In addition, traders in the controlled market often use the free market as a dumping ground for excess sugar beyond the demands of preferential agreements, contributing to surpluses, or as an extra source of sugar to meet preferential commitments, thus contributing to shortages in the free market. Practically speaking, in the absence of any U.S. regulation of sugar imports, the free market sugar price would also set our domestic price.

In response to the 1974 high prices which peaked at 64.5 cents per pound, world sugar production expanded, leading to the present surpluses which have brought world prices down to drastically low levels, below the cost of production worldwide. As the sugar cycle continues, this eventually will lead to reduced world sugar production and higher prices. But by nature this is the slowest part of the sugar cycle. Since our domestic costs of production are generally higher than the estimated world average, U.S. sugar producers would have to wait longer for prices on the world market to eventually swing upward. It is unlikely a majority of our domestic producers could survive financially through this period. Ironically, a collapse of U.S. production would hasten price increases significantly, but U.S. sugargrowers would not be present to experience them.

Higher costs of production for U.S.-grown sugar should not be construed to mean that U.S. producers are not as productive or efficient as their foreign counterparts. Nowhere else in the world is sugar grown more productively acre for acre than in the United States. Hawaii is particularly noted for having the highest yields of sugarcane per acre in the world.

Foreign producers are not necessarily more efficient or productive if their sugar costs less, as many of us erroneously assume. In 1978, for example, 47 percent of our sugar imports came from three countries—the Philippines, the Dominican Republic, and Brazil. All three governments of these countries control sugar production, set prices, and oversee exports. Their sugar yields generally are lower than those in the United States; there are no strict environmental controls and the average sugar worker earns less in a day than his American counterpart earns in half an hour.

This is a far cry from an American farmer cooperative that testified before the committee about the millions of dollars of environmental controls it had to install in its plant. And it is a far cry from the domestic sugar producer who by law must pay his fieldworkers a minimum wage that is higher than the national minimum wage, or pay his equipment operators a minimum wage that is 10 percent higher than the wage he pays his fieldworkers. It is ironic that American consumers are nonetheless eager, even insistent, upon buying imported sugar that is a better bargain, even though it has been grown under environmental and social conditions they would not tolerate at home.

In effect, the Government has created a double standard which penalizes American sugar producers by dulling their capacity to effectively compete with foreign imports. Government regulation or business may yield certain social benefits, but it almost never produces monetary returns. As long as we, the consuming public, insist on such regulation of domestic sugar production—or any other commodity for that matter—we must be willing to accept the economic consequences which may be reflected in higher production costs incurred by farmers in complying with these demands.

In April 1978, the U.S. International Trade Commission reported to the President:

> We have heard testimony from almost every major sugar growers association in the United States. Their testimony highlighted the problems now facing the industry. Costs of production . . . have all gone through a period of severe inflation, and there are signs of further increases . . . domestic producers have little hope of recovering their costs, not to mention any reasonable return on their investment.

THE NEED TO PRESERVE THE DOMESTIC INDUSTRY

We cannot afford not to act. Data on the current world sugar supply situation shows an excess supply of sugar in relation to normal carryover stocks, granted. But it needs to be pointed out, however, that the excess is approximately equal to the annual U.S. domestic production. This means that if domestic producers are forced out of business because of their inability to get a fair price, world supplies will be short of demand and prices will accelerate rapidly. According to Secretary Bergland, within a very short time, Americans could again be paying 60 cents a pound or more for sugar, if no action is taken.

Those who oppose H.R. 2172 say the U.S. sugar industry is not worth saving. But what makes any American business enterprise of value?

The U.S. sugar industry contributes over $10 billion annually to the U.S. economy;

The domestic industry provides over $400 million in income for 200,000 workers;

The domestic industry is the primary source of employment and tax revenues for many small communities across the country as noted by the GAO earlier this year; and

American sugar growers are productive; and the almost $1 billion in sugar they produced last year contributed favorably to our balance of trade;

Sugar producers are not the only American businessmen to face the dilemma of unreasonable competition from imports. In fact, the President and his administration have not hesitated to impose import quotas or fees aimed at helping numerous other American industries to cope with this problem.

For example, in 1977, the administration took action to establish a trigger pricing mechanism that sets minimum prices for imported steel so that such imports are prevented from underselling American steel. Also, the administration initiated long-term plans to rollback imports of nonrubber footwear from Korea and China and imports of Japanese color TV sets. The administration also decided to continue existing restrictions on imports of cotton, cotton products, peanuts, dairy products, and cotton, wool, and man-made fiber textiles and apparel. Import relief largely in the form of antidumping or countervailing duties was imposed by the Government for U.S. manufacturing of dinnerware, ball bearings, melamine—a plastic—swimming pools, parts for paving equipment, pressure sensitive tape, inedible gelatin, scissors and shears, cotton yarn, nuts, bolts, cap screws, handbags and unwrought zinc.

H.R. 2172 lessens to a great extent any recurrence of a precipitous rise in sugar prices through implementation of the International Sugar Argeement and protecting the domestic industry. A price objective of 15.8 cents per pound for the 1979 sugar supply year will raise food prices about eight-tenths of 1 percent in 1980, or $3 for a typical family of four, or 75 cents per person. I do not think that is too great a price to pay for price stability or supply security. Certainly it is a minimal increase if one stops to consider the alternatives should the bill not be enacted.

One final comment—if the domestic sugar beet industry is forced to discontinue operations in the United States because of the collapse of domestic production, the probability of a severe shortage of domestic capacity to supply refined sugar is high. The loss of refining capacity will result in a refined sugar shortage of 2.5 to 3 million tons for consumers. Even taking into account existing and prospective capacity to supply corn sweeteners, this translates into a 16- to 18-percent reduction in available sweetener supplies to meet U.S. annual needs. Because most of the surviving refining capacity is located in the gulf and eastern seaboard, consumers west of the Mississippi River would be affected most severely by this shortage.

□ 1130

Mr. DE LA GARZA. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, I rise in complete support of H.R. 2172, the International Sugar Stabilization Act of

1979. This legislation has been considered very carefully by both the House Agriculture and the Ways and Means Committees, and deserves the support of every Member of the House without amendment.

The domestic sugar industry is an important one. It provides income for over 14,000 sugar beet and cane farmers, and provides employment in sugar refining plants for over 20,000 additional Americans. This industry provides Americans with a commodity that they want, and all that this legislation will do is allow our domestic sugar industry to continue.

This House has considered different forms of sugar legislation in the summer of 1977 and in the closing hours of the 95th Congress last year. Sugar is a very emotional subject for many of my colleagues, and I certainly hope that today they will allow their emotions to be ruled by the facts of the situation.

We produce in the United States only about 50 percent of the sugar that we consume annually. We are dependent on foreign sugar for a large part of our needs, and this legislation does not attempt to change that fact.

We have seen over the past few years terribly low sugar prices that have been far below the current national average cost of production of a little more than 16 cents per pound, and we have suffered the loss of 17 sugar refining factories over the past 3 years, with 4 closing this year alone. We have lost jobs for well over 35,000 people who have been involved in some factor of the production of sugar, and we have done this in the mistaken belief that our consumers would have cheap sugar for years to come.

No one should be forced to sell their goods at prices below the cost of production. We should not expect the American farmer to subsidize the consumers of this Nation. The legislation before us today attempts to provide a reasonable balance between the concerns of the farmer and the consumer by establishing a very fair market price objective of 15.8 cents per pound, which is below the cost of production, plus a one-half-cent-per-pound payment to provide an actual support rate of 16.3 cents per pound, closer to but still not equal to the actual cost of producing sugar.

The cost to the consumers at current market prices will be zero. Spot sugar prices reported this Tuesday had sugar selling at 15.97 cents per pound, nearly two-tenths of a cent higher than the market objective. The cost to the Government is also reduced by the fact that only about three-tenths of a cent will be needed in the form of a payment to achieve the 16.3 cents per pound assured return objective.

In future years, consumers will be protected by a 7-percent limit on how much higher the market price objective can go under the terms of this bill. The consumer is further protected by the involvement that the United States will have with the International Sugar Agreement, which will set a free-market price range of 15 to 19 cents for world sugar prices, and should prices go above 19 cents per pound, producing nations will put more sugar in the marketplace to help hold down sugar prices to what is reasonable.

You have heard many false statements from those who oppose the sugar bill. Let me suggest that those who make those statements either did not study the matter thoroughly, or have a vested interest in keeping sugar prices down—such as large industrial sugar users. You have been told that this program is costing consumers billions of dollars. If we review the matter in terms of the fair price for sugar, that is false. So long as the price is below the cost of production, consumers are getting what has been an unfair bargain.

But you must also keep in mind that as the world price of sugar has risen, and it has, domestic import fees have been reduced by the Secretary of Agriculture several times this year to reflect the higher world price. What has been the effect on consumers? Considering that they were paying what amounted to a fairer price, the cost to the consumer was nothing. What it amounted to was simply changing whether the price of sugar paid for sugar or covered import fees. The key point is that the price of sugar to consumers did not go up.

There is only one real justification for sugar legislation: We want to protect a vital domestic industry from unfair competition. Too many producing countries in the past have dumped their sugar in the United States at fire-sale prices in order to get some return rather than throwing the sugar away at a total loss. The so-called world market has been made up of left-over sugar—sugar that is left over after the producing nations have finished filling their more lucrative contracts in Europe and elsewhere. They make anywhere from 21 to 28 cents per pound on those sugar sales, so when averaging out the total return, they still made a sizable profit.

The result, however, was that American farmers were forced to absorb year after year of losses. Consumers began to believe that those low prices would continue forever. They certainly would not last forever, because just as sugar prices went up on the world market in 1974, they could go up again.

Many of you have heard the argument that we face the possibility of a world sugar cartel, similar to the OPEC cartel. Some of you have tried to ignore the argument by saying that there was virtually no chance of such a cartel being formed. But just last month the Washington Post reported that Brazil and other coffee-producing nations were actually discussing the establishment of a world coffee cartel. Since many of the coffee producing nations also produce sugar, how difficult can it be for an existing cartel to simply add one more item to their controlled list?

It has also been reported that both Brazil and the Philippines—both key sugarcane-producing nations—have publicly stated that they will withhold more of their sugar crop for the production of alcohol fuels. No one has been able to measure the impact of such a decision at this time, but if the key sugar-producing nations in the world are going to withhold their crops, the likelihood of higher world prices is even more significant. Without this bill, our consumers will never have the chance to enjoy the protections of the International Sugar Agreement which for the first time in any commodity agreement actually sets a world ceiling price.

I know that many of you are concerned that consumer and public-interest groups oppose this bill. Frankly, that opposition does not surprise me. These groups have historically opposed farm price support legislation because it means that consumers might have to pay more for their food, and higher prices—regardless of the reason—are bad.

I have already explained the mechanisms built into this legislation in order to protect consumers. The payment of up to one-half cent per pound was included as an additional measure of assistance to consumers. Farmers would prefer receiving a fair price from the market, but are willing to accept the payment authority provided in this bill in order to help limit consumer impact.

There is another factor, however, that I believe is important. I believe that the average consumer does not oppose this bill by any large number. The congressional district I represent produces about 90 percent of all of the sugar beets in the State of Michigan. It includes all five sugar-refining plants in Michigan. But it also includes two large cities, seven General Motors plants which employ about 30,000 people, and thousands of other industrial workers. Each year in my annual questionnaire, I ask whether or not my constituents would support legislation that would allow farmers to recover their cost of production from the marketplace. In this year's questionnaire, 62 percent of those responding in an urban-dominated district said that they would support such legislation.

This bill is eminently fair to all involved—the farmers of this country and the consumers who use sugar. I certainly hope that you will all vote "yes" on final passage, and that you will resist any crippling amendments to this legislation.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of the adoption of H.R. 2172.

The adoption of this legislation will give American consumers one of the best insurance policies they could hope to receive for now and in the future as they strive to provide basic commodities for the family larder at fair and stable prices.

It insures that the domestic sugar industry which provides about 56 percent of our annual sugar needs will remain in business. With this source of supply assured, our consumers would not be at the mercy of the cartel-minded foreign producers who would like to control more of our sugar purchases just as their

counterparts in the OPEC nations do with U.S. purchases of oil.

They could contrive shortages and set prices to gouge us at will. Certainly, our experiences with oil, coffee, and cocoa, where we had to depend on foreign producers, should prompt us to seek ways of avoiding the same kind of dependence as far as sugar is concerned.

What are we talking about with respect to this insurance policy for sugar? We are talking about a market price objective of 15.8 cents per pound for the sugar supply year starting October 1, 1979. This is a fraction of a cent lower than the present price. There has been less than a 6-percent increase in sugar prices over an 18-month period, well under the rate of inflation, and decidedly less than the increase in other consumer goods.

Under the Sugar Stabilization Act, future adjustments in the market for sugar would be limited to 7 percent per year, also well under the rate of inflation.

There are some 14,000 farm families in 18 States growing sugar beets. I am proud to say that more than 1,200 of these families are in the district I represent. They have planted 81,000 acres in sugar beets this year, and under the present price structure, with inflation and all, they do not get their cost of production, and will have to stop producing sugar.

This is an important part of our agricultural economy in Nebraska, just as it is in the other States where sugar beets are produced. This production, plus the processing at four sugar beet plants, adds about $124 million to the economy and provides employment for hundreds of our citizens.

Without a Sugar Stabilization Act, we would forfeit this business to foreign importers, and our economy will suffer accordingly.

I respectfully urge my colleagues to join in providing this insurance policy for American consumers and for a domestic industry that plays an important role in the agricultural economy of the Nation. Vote for the adoption of the Sugar Stabilization Act, H.R. 2172.

□ 1140

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Thank you, Mr. Chairman. I thank the chairman of the committee for graciously giving me the time.

I want to say at the outset this is not a vendetta against the sugar industry or the sugar growers. I am deeply concerned for these men and women whose livelihood is tied into this industry. It is obviously of concern to every member of Congress what happens to these people and what happens to their industry.

However, I do feel that the sugar bill that is proposed today is just not a vehicle that would be acceptable to me, nor to the American public, nor do I trust to this Congress, because it is ignoring the facts that are being faced in the sugar industry today. What it is ignoring is that many of the major sugar producers, the corporate sugar producers have been having some of the best years economically they have ever had.

Because of the time limitations, at this time I will not go through the report I have on U.S. Sugar Corp and Gulf & Western and several others who specifically made profits from growing raw sugar and the programs that exist that help them and we will cover that at a later time. But it is a very positive thing.

I think something that is important that keeps coming up is this question of what sugar cost when the sugar bill was killed and how prices went up.

Very rapidly let me tell my colleagues—and these are U.S. Department of Agriculture figures—in December of 1973 sugar was 11.3 cents a pound. It then went to 12.6, in February to 17, March to 18, April to 19, May to 23, June to 27. It increased over 100 percent while the sugar bill was in force and the sugar bill had not been defeated. Nobody thought the sugar bill would be defeated in 1974, but it was.

The sugar price continued rising for nearly 4 months because the trend was solidly there, but then it reversed and came down and never again has come close to those levels. I think this is important.

The point, incidentally, comes up that the sugar industry is still going to be protected when this sugar bill goes down because the President still has the right of protecting this industry within the present limits today. I am sure he will.

I think the President's position on this is unbelievable, frankly, that he should be talking about inflation and the problems we are having in our country and then be supporting a sugar bill I find beyond belief.

But nevertheless he is, and that becomes his business at this time.

Finally, I would like to say the question of Cuba has come up and I honestly do not think it is a red herring. The American people cannot understand how we in this Congress are considering today giving what will be the strongest stabilizing economic force to the Cuban Government, Fidel Castro's Cuba, who has treated us so well in the last several months. We are giving him a gift and I do not believe the people of this country want that.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Chairman, I would yield to the gentleman from Colorado at this time.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding. I do not want to take too much of his time, but I would like to respond just briefly to the statement made by the previous speaker about multinational corporations and their sugar profits.

Gulf & Western, for example, reports its earnings from U.S. sugar production and their foreign-grown sugar operations as one combined figure, and it is almost impossible to distinguish that its corporate profits come from domestic production or foreign production. I submit that the majority of the profit stems from foreign operations.

We do know this: That domestic producers have to pay sugar workers more in a half hour than foreign workers get all day long. The production of sugar is labor intensive. The cost of production in foreign countries is low because of the low wages that they pay their helpers. One of the reasons our prices are higher in this country is because our sugar producers incur higher production costs, especially higher wages.

Mr. SYMMS. I thank the gentleman very much for that point.

Mr. Chairman, this past January I had the opportunity to visit a Gulf & Western refinery in the Dominican Republic, and I think all one would have to do is go through an Amalgamated plant in Nampa, Idaho, and then go through a Dominican plant of Gulf & Western to see they do not comply with the same set of OSHA standards, the same set of FDA standards, and many other things; their production costs are much less than our costs are here in the United States. So we are comparing apples and oranges when we try to say U.S. producers cannot compete—pricewise—with foreign producers. Most foreign producers simply have a lower cost of production due to those lack of wage, production standards, and other requirements we place on our domestic producers. There is a big difference.

Mr. Chairman, H.R. 2172 is perhaps one of the most misunderstood pieces of legislation the body has seen in some time. The adjectives that pervade the myriad of "Dear Colleague" letters on the subject call the bill beneficial to consumers and producers, inflationary to consumers and producers, a boost to a capital intensive industry, a windfall to refiners, a job saver, and an insurance policy for producers. I have heard myths presented to clear up the issue by shoveling dirt into the quagmire. It is time for this body to squarely face this issue and see it in light of the real issue.

The sugar bill is not a panacea. Its supporters favor it as the best alternative available to them. They are in the position, however, from which bargaining has become untenable, they must accept what this Congress will enact. I could enumerate the problems of this bill, and have on many occasions, but that would just serve to beg the issue.

Because the issue here today, ladies and gentleman, is whether or not we in Congress will favor a domestic market for sugar and all other points of contention are relegated to that central issue.

Many have said the sugar industry in this country is healthy, but they are not. In my own State of Idaho, we have seen good people put out of work because of Congress failure to act responsibly on this issue. The loss of the Utah-Idaho refinery, in Idaho Falls, one of four plants to close, propelled this issue into a state of reality. No longer were we doomsayers when we spoke of the plight of the sugar farmer. For the benefit of the Members, I would like to read some comments from Mr. Art Benning of the only remaining sugar refinery in Idaho.

the Amalgamated Sugar Co., who on June 18, 1979 said:

If something is not done soon the likelihood of my Company operating its four plants in these two states in 1980 will be diminishing. Some farmers are now, early as it is, beginning to form their plans for next year's plantings. At this point I would have to say that our Twin Falls, Idaho, and Nyssa, Oregon plants are coming close to a planned shutdown in 1980 unless legislation of a positive nature can soon be accomplished.

More recently, I received a letter from Harold Tiegs, a sugar beet grower in Nampa, Idaho, who furthered this dialog from the growers standpoint:

We ran 140 acres of beets this year. As of now I got 40 to 50 acres scheduled for next year and that may even be cut at a later time. I was talking to my uncle, (Elmer Tiegs), (who has) been growing about 400 to 500 acres a year, and at this time is not scheduled to have 1 acre of beets next year * * *. My own personal opinion, and it is only mine, I haven't discussed it with other growers, is that it's time to just pull the plug. Let the sugar industry go, find other crops to raise and let the consumer stew in his own juice when other countries control the price of sugar * * *. It is sad when government puts such emphasis on a policy to have cheap food at the expense of the individual who is providing that food.

To me, the need for a domestic market is clear. With the rise in global consumption of sugar, and a virtual stalemate in world sugar production, it is obvious that the only way to insure a reasonable sugar price is to guarantee a domestic sugar market.

Mr. Chairman, I foresee the day, if this legislation is not enacted that the "cheap" sugar presently dumped on our market will dry up, and we will be faced with what amounts to a cartel, formal or informal, of a commodity that we could and have adequately produced for ourselves.

The ultimate answer is to deregulate the sugar industry, because of the myriad of Federal mandates that place our domestic industry at competitive disadvantage with countries that do not face minimum wage and environmental constraints. But until we in Congress accept the responsibility for our actions, the result will be the continued precipitous decline of the American sugar industry, total dependence on erratic supplies of foreign sugar and a massive increase in our trade deficit.

Mr. Chairman, I urge your support of the domestic sugar industry by voting in favor of this admittedly imperfect, but overwhelmingly important legislation.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I rise in support of this legislation. I do so in the full belief and understanding that it is not perfect in every aspect, that it has its limitations, but at the same time I find myself in a basic position of supporting it because of my belief that it is good for the consumers of America.

The district that I represent has zero sugar producers within it. We have 467,000 consumers and I support this bill because I believe it is in the best longrun, interests of my consumers to do so.

I want to interject into the debate some interesting statistics because it is interesting that many of those who oppose this legislation do so under the pretense of being for the consumers of their area. I managed a rural electric cooperative for 9½ years. Looking back, in 1938 when a first-class lineman went to work at Stamford Electric Co-op he earned 72 cents an hour. This 72 cents an hour would purchase 13.8 pounds of sugar in 1938.

Today, at Stamford Electric Cooperative this first-class lineman earns $6.87 an hour. That is 1 hour of work today by the same lineman will purchase 21.6 pounds of sugar at 1979 prices.

I suggest to those who oppose this legislation because of the consumers of their area, especially my colleague from New York who just spoke, that there are many individuals working in New York today earning considerably more than $6.87 an hour for much less dangerous work than climbing a pole and working with dangerous electricity. When we compare these numbers I suggest that really the bottom line issue that we have to address, that is what is basically good for the consumers of America, is to have a competitive domestic sugar industry.

When my colleagues look at this consistent argument we have, that food is too high for the consumers of America, I ask simply: Food is too high compared to what? Compared to what is sugar too high? Certainly not compared to average salary in New York City.

Last year when we had farm profits being bandied about the news media, farm profits were reported up 40 percent. It is interesting to note that the return on investment to agriculture in the United States in 1978 was 3.7 percent.

□ 1150

I ask you, what industry can stay in business with such a low return? What we are asking for our sugar producers today is simply a floor price that will encourage them to continue to produce and feed America cheaper than any other country in the world.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Chairman, I would like to take a moment to respond to some of the statements that have been made about this sugar bill.

I am particularly concerned about the argument that this bill, by allowing U.S. participation in the International Sugar Agreement, will help Fidel Castro's Cuba.

Mr. Chairman, I submit that failure to pass this bill will help Fidel Castro more than passage ever could. Failure to pass this bill will virtually guarantee the destruction of the U.S. beet sugar industry, and it will lead to further erosion in the financial health of the cane sugar industry.

Nothing could help Castro more than killing this bill. With a substantial portion of the U.S. sugar industry out of business, this country would turn to the world market. Even if we did not buy directly from Cuba, we would be drawing on world stocks, thereby bringing upward pressure on world sugar prices. This would help Castro more than our participation in the ISA because Cuba would sell its sugar in that market.

Mr. Chairman, we would increase world sugar prices at the same time we were in the market for that sugar. That means our troubled balance of trade would be pushed further into deficit.

I am not at all satisfied with the bill we will be considering on the floor of the House. However, I must support this bill because I think it is the best bill we can get in this Congress.

I have heard a number of arguments against this bill. While there is some merit in some of the arguments, I think we must consider the following information:

The support level in the sugar bill is almost the same as the current sugar price; therefore, the bill's inflationary impact will be negligible. It is also important to note that foreign producers who compete with U.S. sugar growers are not necessarily more efficient or productive if their sugar costs less as many erroneously assume. Sugar yields among our principal foreign suppliers generally are lower than those in the United States. There are no strict environmental controls in foreign countries and the average foreign sugar worker earns less in a day than this American counterpart earns in half an hour.

On balance, I think the sugar bill will be good for this country over the long term and I support its passage.

Mr. Chairman, in closing let me remind my colleagues of what happened in my congressional district last year. When Congress adjourned without passing a bill, the beet growers in southwestern Kansas got together and decided they could no longer afford to stay in business. They were shipping beets to Rocky Ford, Colo., for processing. Today, the Rocky Ford plant is closed. The farmers are no longer growing beets in southwestern Kansas.

There is still a sugar industry in northwest Kansas. Beet acreage has declined, but the farmers in that area are still hanging in there.

Mr. Chairman, I would like to see those growers there next year, and the year after. Growers in that area do not like this bill, but figure it is better than nothing. If we pass this bill, they may be able to stay in business.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Chairman, there is no way that I can support this legislation as it is presently worded. I strongly oppose the one-half cent payment. This payment must be stricken from the bill. Only then can I wholeheartedly support H.R. 2172.

Much has been made of the "inflationary" impact of this legislation. One

statement that I have had the opportunity to read, states that a rise in the price of sugar from 15 cents to 15.8 cents will cost American consumers $400 to $500 million a year. I want to offer a few statistics of my own. First, Americans consume roughly 100 pounds of sugar per year, per person. Thus, a 1-cent rise in sugar prices will cost the average American roughly $1 a year, just $1. In round terms, the cost of a 1-cent increase in sugar prices will cost under $200 million a year.

The argument will be made that additional costs will be felt through processed items containing sugar. Let me point out that in 1974, when the price that growers were receiving for sugar shot from 12 cents to 65 cents a pound, food and beverage manufacturers raised their prices steeply. However, when the price of sugar dropped, food processors did not lower their prices but continued to raise them. Between June 1975 and December 1978, the price of cookies rose 39 percent, the price of ice cream 26 percent and the price of cola soft drinks 12 percent. All of these increases took place while the price of sugar actually dropped 11 percent.

My colleagues from the east coast have no doubt been made aware of the alleged detrimental effect of this legislation on their cane sugar refineries. Let me point out to you that the bill contains no restrictions on the quantity of raw foreign sugar which a refinery may import. Furthermore, the bill contains restrictions on the importation of refined sugar, a provision highly desired by domestic refiners and refinery workers. The sugar program in effect for the past 2 years, has in no way harmed any refining industry. This legislation would continue the type of program that has maintained the sugar industry for the past 2 years and would not reduce employment levels in refineries or any other level of the sugar industry.

Sugar is a unique commodity. Unlike other staples of the American diet, over 40 percent of the sugar consumed in the United States is imported. Sugar has been for many decades, a vital and important industry, not only in Hawaii, but also in 17 other States. Sugar farmers are not getting rich at the expense of the American consumer. They have consistently lost money over the last several years, and will go out of business entirely without our help. They are not asking for a handout, but a stable market price; one that will assure that supplies meet demands, and one that will assure both consumers and producers are guaranteed a fair price.

To summarize, first, strike the payment provision from the bill. Secondly, pass that version of the bill for the good of both consumers and producers in our country.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Chairman, I rise in support of H.R. 2172 as reported by the House Agriculture Committee. This country through its agricultural policies has been forcing sugar producers off their land or coercing them to grow crops which are already in surplus. This country needs this legislation in order to maintain a viable domestic sugar industry which is not hampered by the wide swings in market prices so detrimental to the producer as well as the consumer.

Take a look at our sugar industry and you will note that sugar beet production is down by 15 percent to 21.9 million tons from the 1978 crop of 25.8 million tons. In my State of Montana, the decline has been fatalistic to many a producer and to the economy of numerous small towns. Montana has seen the decline of harvested acres from 48,500 in 1975; to 46,100 in 1976; 45,000 in 1977; 44,700 in 1978 to only 43,400 in 1979.

In monetary terms, we are talking about severe economic hardship to small rural communities who have come to rely on the symbiotic relationship between the grower and the processor. The Holly Sugar Co. has announced a net loss of $5.7 million for its fiscal year ending March 31, 1979. This translates to a loss of revenue and markets for the local sugar producers who depends on the local processors. Overall, Montana sugarbeet growers contributed $22,579,000 to the State's economy with their crop in 1977. These funds turn over numerous times in the economy and support the local communities economic base.

Yet, these dollars are not what the sugar industry could be contributing to the economy. Through the agricultural policies forced upon the sugar industry we see massive plant closings and growers moving into other endeavors. In the past 3 years 30 percent of the sugar processing facilities in the United States have closed down. History has shown that once a plant has closed, it does not go back into operation. In the beet areas alone, the American Crystal Sugar Co., the Nation's largest processor of beets has announced it is permanently closing its Rocky Ford, Colo., plant while the company of Utah & Idaho, Inc., placed all of its facilities up for sale. U. & I. Inc. is no newcomer to the sugar industry with 90 years of experience in the beet processing field. Holly Sugar Co. and Great Western have also closed plants which have been in operation for years and the Colo-Kan Cooperative have completely ceased operation in the beet industry. This loss in processed domestic sugar has been taken up in part by the 34 percent rise in sugar imports experienced between January and July of 1979 as compared to the same period last year.

It is time we turn around this decline in the domestic sugar industry. We can do this in part by allowing the producer to receive a price for his product in line with the cost of producing that product. According to the U.S. Department of Agriculture, estimated world production costs for sugar range in the neighborhood of 12 to 17 cents per pound. This is the world production price in a world which pays its laborers a good deal less than the American fieldhand receives.

The sugar industry not only contributes a valuable product to our diet, but can be an aid in the energy independence that the Nation is seeking. Jack Anderson in his column in May of this year summed it up very well when he wrote:

Ironically, the depression in the (sugar) industry is occurring at the very time the government is calling on sugar producers to begin making alcohol fuels. Raw sugar is one of the finest possible materials with which to manufacture alcohol fuel, which could help reduce our oil imports.

The bill before us will not cure all the ills of the sugar industry. The price level contained in this legislation is barely enough to keep the most efficient producers in beet farming. And the maximum 7 percent per year increase set out for the 1980–81 and 1981–82 years is far below the costs the farmer will be forced to bear in production and transportation costs. The 7-percent administration guidelines will be enforced for sugar, as well as other crops, yet the price of input factors for production has increased dramatically beyond that. One needs only to look at the surge in energy and transportation costs to realize that the 7 percent will allow the farmer to go broke a little more slowly. As a farmer in my district recently said to me, "We can't do this for a hobby." His sentiments are shared throughout the sugar industry and it is a shame that we should turn our backs on an industry which has served this country well. While I would like to see a stronger bill passed by this body, the administration has not been sympathetic to the plight of the sugar industry.

Therefore, I must urge adoption of H.R. 2172 but I also wish the House would review the plight of the domestic sugar industry and consider a more reasonable increase in the 1980 crop years.

The CHAIRMAN. The gentleman from Colorado (Mr. JOHNSON) has 3 minutes remaining.

□ 1200

Mr. JOHNSON of Colorado. Mr. Chairman, I yield the balance of our time, 3 minutes, to the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Chairman, contrary to a shortsighted consumer position held by many as expressed in the Washington Post lead editorial of September 20, the sugar legislation now before Congress providing a small increase in the wholesale price of sugar is very much needed to insure American consumers against long-run shortages and skyrocketing prices.

The Post took a sweeping but superficial look at pending legislation calling for an increase from 15 to 15.8 cents per pound and chose to ignore the potential long-range effects on domestic markets of scuttling this legislation.

This bill entitled "The International Sugar Stabilization Act" which is now before us provides a 15.8 cent per pound guarantee plus an additional government payment of one-half cent per pound. The

legislation had exhaustive consideration before both the House Agriculture and Ways and Means Committees.

Like oil, 50 percent of our sugar is imported and anyone who has observed the machinations of OPEC over the last 6 years can quickly envision a similar fate for sugar if we do not take timely action. Prices subject to foreign manipulation could rise drastically—not in relatively small increments as provided by this legislation—and supplies could equally be affected.

We would do well to remember the analogous example of metals imports pointed out in an August 23 Post editorial which ironically takes the opposite position. Since the United States quit domestic processing of nickel and now imports more than half of the other 12 basic industrial raw materials, their prices have increased alarmingly. Nickel has shot up 87 percent over the last year; copper up 47 percent; molybdenum up 44 percent; platinum up 59 percent; zinc up 41 percent; and so on.

With a continuation of fatally low prices forcing the domestic industry out of business, the same calamity will likely hit the price of sugar. The current situation places us in danger of becoming totally dependent upon foreign sugar producers.

This year in my own State of Idaho and in the neighboring States of Washington and Utah, the Utah & Idaho Sugar Co. discontinued four processing operations which is driving farmers out of the production of sugar and into other commodities creating overproduction problems and forcing increased dependency on foreign sugar.

No doubt this issue has serious political implications, but, more to the point, defeat of this legislation has serious economic implications for the American consumer who could well be faced with obtaining virtually 100 percent of his sugar from a foreign OPEC-type cartel.

The International Sugar Stabilization Act is necessary to keep the American farmer and processor in business in order to insure the sugar consumer a long-term domestic supply and price.

Mr. Chairman, the bottom line of this debate, as I see it, is whether we want and/or need a domestic sugar industry. If we do, how can we best preserve and maintain it. I firmly believe that a strong domestic sugar industry is vital to our economic and national security.

Remember, the United States is the only major sugar importer without long-term sales agreements with foreign producers. We rely on spot markets, similar to the Rotterdam spot market for oil. It is a good place to buy sugar in time of surplus and a terribly expensive place to buy sugar in time of shortage.

It is naive to assume that the rest of the world will continue to sell sugar to Americans at 50 percent below the cost of production and far below the price paid by consumers in their own nations. If they are so inclined today, it is a certainty they will not if the United States loses its domestic suppliers. The U.S. Department of Agriculture has said:

If the U.S. had produced no sugar in 1978 and relied exclusively on imports for the 10.9 million short tons we consumed, the impact on world prices would have meant a 6.4 million short ton increase in U.S. demand for sugar imports—almost a 50 percent increase in the demand for *world* free sugar. That would have meant an *increase* in the world price of sugar of *several hundred percent* . . . (Emphasis added.)

The best guarantee of reasonable prices and dependable supplies of sugar is a healthy domestic sugar industry. The risk of our losing this industry is great today.

As I previously stated, this year in my own State of Idaho and neighboring States, one company alone closed four processing operations. A like fate came to five Louisiana sugarcane mills and four Puerto Rican mills.

There is major support for this bill among labor unions, small food processors, suppliers and related industries, and major national farm organizations. Opposition to the proposal comes from a handful of giant industrial users, such as soft drink producers and stems from the fact that multinationals can hedge sugar purchases in the volatile world market.

It is important to note that when sugar prices were high in the early seventies the major users of sugar blamed their dramatic price increases on sugar. Interestingly however, these same products did not reflect the lower sugar prices which occurred later.

Nobody is totally happy, but for the good of everyone, including the opposing big interests, we must preserve our domestic sugar industry.

Although H.R. 2172 is by no means a perfect bill, it is all that is now available between survival and destruction of an important industry in this country.

For the wage earners needing a job to put cereal on the table and for the consumer who likes sugar on that cereal, this International Sugar Stabilization Act is necessary. It will keep the American farmer and processor in business in order to insure a long-term domestic supply and a reasonable price. I strongly urge passage of this legislation.

Mr. DE LA GARZA. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, I would just like to make a few points on this legislation: First, this is an industry that through the years, when we had the legislation, kept sugar at a reasonable price, a steady supply, with quotas and working with the friendly nations of the world. Unfortunately, this now has fallen by the wayside, and I do not care who says what or how they say it, the figures are there to prove the need for similar legislation.

Second, we repeatedly hear the word "consumer" here. The farmers of America are the largest consumer group there is. If a sugar mill closes, that means the manufacturers of all the items in the mill, suffer. The farmers are the greatest users of services and supplies and material in the United States. More importantly, though, I think than anything else is the fact that should we not have a sugar industry—and I was shocked to see a major newspaper in the United States say that we do not need a sugar industry and that all the sugar we consume should be brought from abroad—we know what is happening to us with oil. We know what happened with coffee, and if nothing else, but national pride should encourage and prompt us to keep this industry healthy and producing for our American families and commercial users.

Finally, Mr. Chairman, I would like to say that this bill today will not increase the price of sugar. The base that we have of 15.8 cents is below what the world price of sugar is now and all who have quoted different figures should check them, for it appears their remarks were prepared without looking at the prices of the last few days.

The CHAIRMAN. The Chair will advise the House that there is 1 hour of debate remaining, 30 minutes under the management of the gentleman from Oregon (Mr. ULLMAN) and 30 minutes under the management of the gentleman from Minnesota (Mr. FRENZEL). The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, we borrowed some time from the Committee on Agriculture, and at this time I yield 5 minutes to the distinguished chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I know of few occasions in my legislative career when I have had to disagree more dramatically with honored and distinguished colleagues on the facts concerning a piece of legislation than I must today.

We have been told that this bill is somehow going to cost consumers enormous amounts of money. The fact of the matter is that the price of raw sugar in New York yesterday and today was higher than the 15.8 cents price objective called for in the bill—higher. The fact of the matter is that even the New York Times, which opposes the bill, conceded in an editorial last week that it did not really represent any significant consumer cost, but, rather, opposed it on purely symbolic grounds. The fact of the matter is that for a number of years we have had sugar prices at artificially low levels in this country and in the world because only about 1 pound of every 6 that is produced is traded on the so-called free market, and that free market is a notorious amplifier of both surplus and shortage. To the degree that when conditions of supply change as much as 10 percent, price fluctuations can move as much as 300 or 400 percent. The world market is neither a representative nor the real market for sugar because most countries either consume the sugar they produce within their borders or have elaborate sugar programs and trading agreements of their own.

The fact is that this bill is estimated at this point to cost zero—zero in the next sugar year. There is not a scintilla

of truth that there is 1 cent that will accrue to the cost of any consumer because this bill is enacted for the sugar year 1979, which began on October 1.

□ 1210

Furthermore, the bill by its very terms places an absolute maximum of 7 percent annually on increases for the following 2 years of the bill.

Mr. Chairman, where in our present society do we have any guarantees of that kind?

It has been said that this bill, by providing for U.S. participation in the International Sugar Agreement, somehow aids Fidel Castro. If there is any argument more absolutely incorrect or potentially dangerous in terms of our foreign and economic policy, I have not heard it in this Congress, or, I think, any other Congress of which I have been a part. It would be a horrible mistake if this House were to assume that by defeating this bill and preventing implementation of the International Sugar Agreement it would somehow defeat Castro. There are currently about 55 nations, including Cuba, who are participants in the International Sugar Agreement, it would be a disaster for American foreign policy if 54 of those nations, who for a year and a half have been fulfilling their obligations under the ISA were suddenly told that the United States had refused to work with them toward a better opportunity to sell and trade their sugar supplies because we mistakenly thought that to do so would help Fidel Castro.

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I will gladly yield to the gentlewoman in a moment.

Mr. Chairman, we are trying, in the International Sugar Agreement, to not only stabilize sugar prices but to give dozens and dozens of our friends in Central and South America and elsewhere, a chance to improve their trade and to avoid the kind of penetration and instability that Castro-type efforts have brought about in those regions. To suggest that this bill somehow aids Castro and that by defeating the International Sugar Agreement we will suppport American foreign policy flies in the face of the judgment of every single country in the region, of our own Department of State, and of the administration, which is in charge of foreign policy in this country.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, those of us who have followed through the whole debate the enactment of the international sugar policy will know that the Cubans were the ones who tried to scuttle it. Castro did not want an International Sugar Agreement. Those who come into the picture now do not realize this and do not know the facts.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. I yield 2 minutes to the gentleman from Washington (Mr. FOLEY).

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I will yield briefly to the gentlewoman.

Mrs. HECKLER. Mr. Chairman, the facts I presented earlier in terms of the quantities which our free market trading allies were able to produce and sell were taken from the public documents published by the International Sugar Organization.

These facts cannot be refuted and they demonstrate clearly that in every case our free market trading partners were forced to cut back their production of free market exports. At the same time Cuba was given the lion's share not only of the free market export tonnage, despite their history of lesser market sales, but in addition were given unlimited authority to export to the Socialist countries which in their case alone would not be subtracted from the overall tonnage figure. This constitutes preferential treatment to Cuba.

Mr. FOLEY. I do not question the accuracy of the gentlewoman's figures, but I am questioning the interpretation the gentlewoman from Massachusetts puts upon them. If the gentlewoman thinks those countries who sign the International Sugar Agreement did so to help Castro, then I am amazed, and I think she should be amazed by that suggestion. They are doing it to help stabilize the international sugar market in the world and to help their peoples and their economies. Moreover, if anything, this agreement requires restraint on the part of Cuba, which otherwise could dump enormously great amounts of sugar on the world market.

Mr. Chairman, I will also say to the gentlewoman that the fact of the matter is that Cuba has a longstanding special arrangement with the Soviet Union by which the Soviet Union pays Cuba about twice as much as we are talking about in this bill as a form of assistance to Cuba. Thus, Cuba has a very good thing going with the Soviet Union and does not really need the International Sugar Agreement. Dozens of other countries, however, are not in such an enviable position; and it is in the interests of both our foreign policy and the economic development of those 79 nations that this agreement is ratified. I would only like to underscore the fact that both the Department of State and the administration have urged strongly that the International Sugar Agreement is in the interest of our foreign policy, and in the interest of the security of the region of Central and South America. As such, I strongly endorse its ratification.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield briefly?

Mr. FOLEY. I yield to the gentleman from Minnesota.

Mr. FRENZEL. What the gentleman is saying is exactly correct. Whether or not we are in this agreement, the Cubans will do exactly what they want to do. Our being a party to it has no effect. However, it is in our best interests to be a part of the agreement. What the gentleman has stated is exactly the fact.

Mr. Chairman, I thank the gentleman.

Mr. FOLEY. Mr. Chairman, if I may I would like to describe just what the bill involves and what it is designed to do.

H.R. 2172 as reported by the Committee on Agriculture is a fair and balanced bill. It has several objectives. It is intended to: First, assure the economic viability of a domestic sugar-producing industry; second, protect the welfare of consumers and producers by assuring supplies of sugar at fair prices in the United States and in the world market; third, achieve these price and supply objectives through cooperation with sugar producing and consuming countries under the export quota system of the International Sugar Agreement and the operation of a complementary import management program for the U.S. market; and fourth, insure that those who labor in the production of sugar share in the benefits of the bill through improved wages and working conditions.

The differences between the amendments of the Agriculture and Ways and Means Committees are primarily technical in nature, and I anticipate that they will be resolved expeditiously on the floor when the proceedings are under the 5-minute rule.

H.R. 2172 provides a price objective for the year beginning October 1, 1979, of 15.8 cents per pound, raw value, on a New York landed basis. This will not increase the price of sugar one iota. Current prices are at that level and it is anticipated that under existing authority the administration will continue to maintain it at that general level. What H.R. 2172 does is to provide stability to sugar prices. It contains a mechanism through the use of fees and, if necessary, backup quotas under which the domestic price is stabilized with a floor price during the year at the level of the price objective. This stability is important to the survival of the domestic sugar industry. It must be able to plan ahead, to make financial decisions based on a stable market and not subject to sharp changes in prices that could otherwise occur. With this stability, the United States will be able to maintain some element of independence from the otherwise small and volatile world sugar market.

For several years, there has been no fair trade in sugar. Almost every pound of raw or refined sugar which has entered the United States has been dumped or subsidized. At the present time there is a total of approximately 13.4 million short tons of sugar traded in the free world market (about one-sixth of world production). The rest is either consumed in countries where it is produced or traded under long-term fixed price agreements. The United States imports on the average approximately 5 million short tons or approximately 32 percent of the small

amount that makes up the world market. These imports meet roughly 50 percent of demand in the United States which cannot be met by U.S. production.

An additional 9.6 million short tons is expected in international trade but is the subject of bilateral agreements and is unavailable for free trade. Because the amount of sugar traded in the free market is small in comparison to total production and consumption of sugar, small fluctuations in the supply are translated into sharp changes in prices.

For several years, world sugar prices have been at distress levels. As excess stocks of sugar have continued to mount worldwide in the wake of an unbroken series of record crops, increasing amounts of foreign sugar, unable to find a home in the controlled market through trading monopolies, exclusive agreements, and the like, have been exported to the United States. These imports have sharply depressed domestic prices while the costs of production have climbed steadily. As a result, most producers have lost money on every pound of sugarcane and sugar beets they have produced.

Over the next several years, we can expect there to be an upward pressure on prices in the absence of this bill. There is a steady increase in consumption relative to supplies. Brazil and a number of other countries are assigning a certain portion of their sugar production to alcohol for fuels and there are other natural increases in demand that are occurring. For the first time in 5 years consumption is expected to exceed production, thus resulting in a drawdown of sugar stocks.

If H.R. 2172 is not enacted and the domestic sugar industry loses the stability and modicum of support provided by this legislation, it can be expected that the United States would increase its reliance on the world market to possibly one-half of the total supply available for free trading and in times of short supplies to an even greater percentage of the total. The price of sugar would become increasingly more volatile and subject to rapid rises as high or higher than occurred in the period 1974–75.

This instability has already resulted in the closing of a number of processing facilities upon which producers depend, thereby weakening our production capacity both now and for the future and reducing badly needed employment opportunities.

During the past 3 years, domestic sugar production has declined so that 1978–80 production levels are expected to be about 28 percent below those of 1975–76. Furthermore, 30 American sugar processing plants have closed—a loss of one-fourth of our processing capacity and a corresponding loss of jobs in the affected communities.

When the old sugar act expired, there was an acute global shortage which sent sugar prices soaring toward 60 cents a pound and beyond in the winter of 1974 and then a growing surplus caused prices to fall as quickly as they had risen. According to knowledgeable sources, a 1-percent reduction in world supply would result in an increase in cost of between 30 to 50 percent while a 10-percent reduction in supply could be expected to produce an increase in price of between 300 to 400 percent.

The 1979 price objective of 15.8 cents per pound under the bill is the same as current prices of sugar and approximately a 5.5-percent increase above the average price in the last year—far less than the overall rate of inflation during the same period, below the 8- to 11-percent increase in the cost of producing sugar during that year, and well within the President's inflationary guidelines.

H.R. 2172 is a 3 year bill and in the following 2 years; that is, for the 1980 and 1981 sugar supply years the price objective would be adjusted annually based on the same cost of production factors for the sugar crop as provided for other farm commodities under the Food and Agriculture Act of 1977. These include variable costs, machinery ownership costs and general farm overhead costs. There would be a limit on any upward adjustment—a cap of 7 percent each year, unlike the program for other farm commodities where there is no statutory limit. This is well within the wage-price guidelines established under the administration's wage-price program—and about one-half of the current annual inflation rate. I would emphasize that the increase of 7 percent is not automatic—it is a ceiling, the most that the sugar support could rise in any 1 year.

The bill further provides that if the 1979 market average is below 16.3 cents a pound, growers would get a supplemental direct Federal payment, which could in no case exceed one-half cent per pound or a total of $50,000 per producer. If the market price should exceed 15.8 cents per pound the payment would be reduced, and if the market price should attain 16.3 cents per pound there would be no payment at all. Similar payments would be made for the 1980 and 1981 sugar supply years. Since the market price objective is to be supported by import fees and, if necessary, by backup quotas, the farmer payments would be more than offset by Government returns from sugar import fees. The payments must be made solely to producers and are subject to a payment limitation just like the limitation that applies to producer payments for the other farm commodities under the Food and Agriculture Act of 1977.

The USDA estimated in 1978 that the average cost of production in the United States was then about 15.2 cents per pound. However, as reflected in a letter from the Comptroller General to the Ways and Means Committee dated September 1, 1978, and recognized by the Department of Agriculture and others, this estimate was not based on accurate current data regarding the cost of production. The USDA figures were based on Data for the 1961–71 sugarcane crops and the 1976–77 sugar beet crops projected to 1978.

The committee was supplied last year with testimony and data which estimated the average production cost at a higher figure. For example, estimates by the University of Florida and Louisiana State University, based on much more current data than used by USDA were substantially higher than USDA's cost estimates.

Since the Department's estimates were received, inflation has increased the cost of production by at least 7 percent. Thus, even if the Department's figures for 1978 were accurate, the cost of production of the 1979 crop should be approximately 16.3 cents per pound, the assured return provided in H.R. 2172 for 1979. In the committee's view at the present time the average cost of production is undoubtedly at least that amount and probably higher.

The bill is cheap insurance against the kind of shock consumers could get if we fail to learn the 1974–75 lesson and allow the disaster of those years to be repeated. Even if 1974–75 type disruptions come only once in every 10 years, they would still cost consumers more than the maximum possible cost under the pending sugar bill. Defeating the bill would be an open invitation, issued by groups which want to help consumers, to a future raid on our food budgets.

The pending sugar bill represents a compromise. Farmers will have to settle for prices at which not all could cover their cost. Consumers will not, however, have to pay more, in the short run, than they would without legislation, and the net result, in the long run, if we have the sense to avoid the destruction of our sugar industry, will be lower prices and better protection for all consumers.

For every pound of domestic sugar bought, the money remains in this country and benefits the overall economy. If, on the other hand, we permit the collapse of the U.S. sugar industry, our consumers must turn elsewhere, contributing handsomely to the treasuries of other nations, heightening our country's balance of trade deficit, and placing us at the mercy of foreign suppliers.

It is often argued that other countries with cheaper labor costs can produce sugar for much less than can producers in the United States and thus the United States should rely on the world market rather than domestic production for a larger portion of its needs. This simply is not the case. Hawaii is one of the lowest-cost producers of cane sugar in the world and Michigan ranks among the lowest-cost producers of beet sugar in the world. The U.S. sugar producing industry is an efficient industry because on the whole it employs a high level of technological innovation. The trade in the world market does not reflect supply/demand factors but to a large extent is the result of government subsidies and special pricing arrangements.

H.R. 2172 also has real benefits for labor. There appears to be some misunderstanding in this regard which I want to correct. The bill improves on the minimum wage rates required to be paid to field workers engaged in the production of sugar by improving substantially upon the rates provided other workers under the Fair Labor Standards Act. It also contains important new protections for field laborers which are not guaranteed them under current law. For the 1979 sugar supply year H.R. 2172 provides a rate of $3.30 per hour and a premium of 10 percent for equipment operators in

counties where sugar accounts for at least 25 percent of the acreage planted to crops. This is to be contrasted with $3.10 per hour under the Fair Labor Standards Act with no premium whatever for field equipment operators. For the 1980 sugar supply year the basic rate under H.R. 2172 would be increased approximately 7 percent to $3.53, which should be compared with $3.35 under the Fair Labor Standards Act, and for 1981 it would be increased further to approximately $3.78 as compared with $3.35 under the Fair Labor Standards Act.

Title III of the act also establishes for the first time protective measures for farm labor not previously contained in sugar acts. It provides protection for field workers against discriminatory practices by producers and against their being charged excessive amounts for goods, services, board and lodging supplied by their producer employers, as well as assuring that these workers are covered by workmen's compensation. Finally, it makes judicial remedies available in the event of violations of any of the labor provisions.

In the committee's view, the labor provisions of H.R. 2172 should insure fair wages and sound working conditions for sugar field workers. Without this legislation, the administration would have no authority to establish wage rates for sugar workers higher than those contained in the Fair Labor Standards Act—even should the Secretary institute a price-support loan program for sugar under current legislative authority.

I would like at this point to describe briefly some of the details of H.R. 2172 as reported by the Committee on Agriculture.

TITLE I

First. This title provides the President with the necessary authority to implement the International Sugar Agreement (ISA) through December 31, 1981. The agreement would attempt to maintain price within a price range of between 11 and 21 cents a pound and provide protection to both consuming and exporting countries. Title I includes authority to limit the entry of sugar from non-ISA member countries or areas, prohibit the entry of sugar lacking documentation required by the ISA, and require the keeping of relevant records and the making of reports.

TITLE II

First. As I stated earlier, this title seeks to insure the continued survival of the domestic sugar industry by establishing a price objective of 15.8 cents per pound, raw value, for the sugar supply year 1979 (which starts October 1, 1979). The requirement that imported sugar, which constitutes roughly half of U.S. supplies be entered at least at this price will enable domestic producers to obtain the same 15.8 cents for U.S.-grown sugars.

Second. The price objective is required to be adjusted annually for the 1980 and 1981 sugar supply years (but not more than 7 percent each year) based on changes in the same cost of production factors for the sugar crop as provided for other commodities under the Food and Agriculture Act of 1977, including variable costs, machinery ownership costs, and general farm overhead costs.

Third. The price objective is maintained through the imposition of import fees (in addition to existing duties) to insure that over the sugar supply year on the average the price of imported sugar achieves the price objective.

Fourth. After the first 6 months of any sugar supply year, the Secretary must make and publish a determination as to whether or not the price objective would be achieved on the average during the year solely through imposition of special import duties. If the Secretary determines not, quantitative restrictions would be imposed on a global basis as determined necessary to achieve the price objective on the average during the sugar supply year.

Fifth. Finally, title II provides for payments of up to a half cent per pound for each of the sugar supply years 1979 through 1981. The payments must be made solely to producers and are subject to a payment limitation just like the producer payments that apply to other farm commodities; namely, a limitation of $50,000 for each producer for each of the sugar supply years.

TITLE III

First. This title establishes farm labor provisions under which producers of sugarcane and sugar beets must pay field workers $3.30 an hour for the 1979 sugar supply year, and a rate for the 1980 and 1981 sugar supply years which is based on the rate for the previous year increased in an amount proportional to the increase in the assured return for the year.

Second. Field equipment operators are provided a premium of at least 10 percent more than the above rates in counties or parishes where at least 25 percent of the acreage devoted to agricultural commodities is planted to sugarcane or sugar beets. Wage rates for Hawaii and Puerto Rico are provided as required by labor union agreement or Federal or local laws.

Third. Discrimination is prohibited against field workers involved in the production of sugar beets and sugarcane who participate in any wage rate proceeding or investigation under the labor provisions of the act; producers are prohibited from charging field workers for any goods and services furnished an amount in excess of their fair value; and field workers are required to be covered by Workmen's Compensation.

TITLE IV

First. A price support loan program is provided for each of the 1979 through 1981 crops of sugar beets and sugarcane, respectively, at not less than 89 percent of the price objective for the applicable sugar supply year.

Second. Waiver of interest is authorized on outstanding 1977 and 1978 crop loans on sugar beets and sugarcane in order to encourage repayment of such loans so long as a waiver does not unduly affect market prices.

Third. The Secretary is required to conduct cost of production studies on sugarcane, sugar beets, sugar, and other sweeteners.

Fourth. Commodity Credit Corporation is authorized to guarantee loans for facilities for production and marketing of industrial hydrocarbons and alcohols derived in part from sugarcane, sugar beets, corn, or any byproduct derived from the foregoing from a fund of up to $25 million during the 2 fiscal years beginning October 1, 1979.

H.R. 2172 was reported by the Agriculture Committee by a rollcall vote of 29 to 9.

The Congressional Budget Office estimates that in fiscal year 1980 under the Agriculture Committee amendment there will be a reduction in Government outlays of over $36 million because the bill would encourage repayment of existing price support loans. There would be no outlays for Government payments in fiscal year 1980—they would be made in fiscal years 1981, 1982, and 1983 at a cost each year of $51 million. During the same period 1980 to 1983, the Congressional Budget Office estimates that additional revenues to the Treasury resulting from H.R. 2172 would amount to approximately $500 million dollars, more than offsetting any costs incurred by the one-half cent payment.

I would summarize by stating that the bill gives sugar producers the necessary price stability and the minimum support needed to keep them in business. By so doing it also protects consumers and industrial users by assuring them of a dependable supply of domestically grown sugar, thereby protecting them against the volatile international market which proved so destructive of consumers' interests in the period of short supply in 1974–75. It benefits not only the 16,000 sugar producers, but the more than 100,000 persons who work in the production of sugar—one of the most labor intensive agricultural crops, and the millions of sugar consumers in the United States. It has the full endorsement of the President.

I urge the Members to join me in support of the bill.

Mr. ULLMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend the statement of the chairman of the Committee on Agriculture. The gentleman is absolutely right. This bill will not raise the price of sugar. The people who say it will are looking at sugar prices of 2 months ago. The chairman of the Subcommittee on Trade of the Committee on Ways and Means (Mr. VANIK) who has access to the latest figures, will tell you that sugar is already as high or higher than the price objective established in this bill. It will not raise the price. Let us get that behind us once and for all. This bill will not raise the price of sugar.

Then we are asked to respond to the question, Why do we need it if sugar prices are already this high? My response is that the domestic sugar industry must have some stability. That is a common problem in agriculture. I have some sugar producing areas. If the farmers are in doubt about a fluctuating market, they are not going to continue to raise sugar beets. With this kind of stability, they will.

The way the sugar beet industry is organized, your sugar refineries are built in areas where they produce sugar, and they will not stay in business if a sufficient number of farmers do not sign up to produce sugar.

Mr. Chairman, I have a refinery in my district that is going to go out of business if we do not give them some stability. If you allow this to happen, if you allow our domestic industry to go out of business, then, in an unstable world market, the consumers of this country are going to suffer.

Mr. Chairman, I raise the proposition that the consumers of this country have a great stake in the passage of this bill. It will benefit them enormously if you pass this bill, and they are going to be hurt if we fail to pass this bill.

Mr. Chairman, there are various factors in the increase in sugar prices. It relates to gold. It relates to hurricanes in the Caribbean and to other factors. Indeed, as the chairman of the Trade Subcommittee will tell you, this bill will not in any way impact the price of sugar on the domestic marketplace.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I will yield briefly to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I would like to commend the gentleman in the well for the statement he is making and for his support of this measure. I could not agree more with what the gentleman says. He mentioned that one of the sugar beet plants in his district is either shutting down or has shut down. In northwestern Ohio we have had in the past three sugar refineries. Two of them have already shut down. The third one is on the brink. Unless this legislation passes, we can kiss the domestic beet industry goodbye in the United States. We will be faced, as has been pointed out, with an OPEC situation as far as sugar is concerned.

□ 1220

The people who are fearful that this bill might raise prices—and it will not—should be concerned that in the future, if this legislation does not pass, they are going to pay higher prices for sugar if we no longer have a beet industry in the United States to protect us.

Mr. Chairman, several years ago, when the House brought forth sugar legislation, without my support, we defeated the legislation, and at the time the former chairman of the Committee on Agriculture, Mr. Poage, pointed out that if that legislation failed, the price of sugar would go, to use his terminology, "to six bits," and it almost did. It almost did go to six bits.

I just want to point out that this legislation has to pass if we are going to have any stability as far as prices are concerned and if we are going to have any kind of guarantee that we are not going to be subject to the same type of situation in sugar that we now have in oil.

Mr. Chairman, I want to commend the gentleman for his presentation, and I also want to take this opportunity to commend the chairman of the Committee on Agriculture, who has worked long and hard, as well as the other members of the Committee on Agriculture and the members of the Committee on Ways and Means for the leadership they have given us in this area.

Mr. ULLMAN. Mr. Chairman, I thank the gentleman from Ohio (Mr. LATTA) for his contribution, and I certainly concur in his statement.

Let me also address myself to the Cuban issue which has unfortunately been raised by a Member of this body. An attempt to defeat the sugar bill by raising the issue of Cuban participation in the International Sugar Agreement is a very dangerous disservice to American foreign policy and to our relations with nations throughout Central and South America.

I can think of nothing in the world that would make Castro happier than for the United States to embarrass itself by defeating the ISA and once again throwing the sugar markets of the world into turmoil. The defeat of the ISA, which the United States helped to negotiate, would hurt all the exporting nations under the agreement.

Yes, that does include Cuba, and Cuba is a major producer, but it also includes dozens of nations that are friendly to us and whose help we need to curb the spread of Castro aggression in the Western Hemisphere.

The defeat of ISA will play right into Castro's hands. We will be accused of increasing instability and causing economic poverty throughout the Caribbean, thus sowing the seeds of more Castro intervention. We would invite Castro to point to the results of the disastrous sugar prices for those many nations that are living in poverty in Central and South American and throughout the world. That would result from the defeat of this legislation.

U.S. approval and support of the ISA is a sign that we are willing to work with and to help Latin America in stabilizing one of its most important crops. Defeat would be interpreted to indicate that the United States does not understand south-of-the-border problems and it would result in new resentments against the United States.

Mr. Chairman, I contend that this issue is a red herring. It will seriously set back our Latin American foreign policy and do more to aid Castro than any other economic step we could take. It would create fertile ground in those poor countries where sugar is a basic commodity for a Castro kind of operation, and I urge the Members not to buy that kind of a false argument.

Mr. Chairman, I am at this point going to insert a letter which I received from the State Department concerning Cuba's role in the ISA, and I believe this answers the issues raised. The letter is as follows:

DEPARTMENT OF STATE,
Washington, D.C., October 15, 1979.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, House of Representatives.

DEAR MR. CHAIRMAN: In response to your letter of October 11, the Secretary has asked me to express his concern about the involvement of the controversy over Cuba in the debate on the sugar bill. The Administration supports HR 2172, and places a great deal of importance on the International Sugar Agreement. We hope that misconceptions concerning Cuba's position in this Agreement can be corrected.

Cuba is a member of the ISA. It is the world's largest exporter of sugar by far. The benefits which are accorded to Cuba under the ISA are not out of proportion to those received by other member countries. All countries benefit from stable prices. Nonparticipation of the US in the ISA would not materially impair Cuba's export revenue, nor cause a change in policies which we oppose.

The claims that Cuba does receive special benefits cite two issues: the existence of its special arrangements with other socialist countries, and the size of its ISA export quota.

Special trading arrangements among member countries have existed for many years. They have been recognized not only by the present but by past international sugar agreements. Such arrangements include not only Cuba but many other producing and consuming countries. The present Agreement provides that the sugar trade under these arrangements not be included in the individual export quotas. It also contains specific provisions which limit the potential impact of Cuba's arrangements on the world market.

The existence of special arrangements, and the amounts of sugar traded under them, were taken into consideration as part of supply and demand calculations when determining the size of the Agreement's global quota. This quota was decided upon by all countries participating in the negotiations. The share of the global quota which each country obtained was decided solely by the exporters themselves. The quotas received by Cuba was agreed by those countries who now belong to the Agreement.

The size of Cuba's ISA quota is not unusual or inappropriate. Cuba does have the largest quota under the ISA. However, the 1979 quotas of the major three exporting countries, Australia, Brazil, and Cuba are all within 5 per cent of 2 million tons. The quotas are basically consistent with the pattern of exports of these countries over the ten years preceding the negotiations of the ISA.

The International Sugar Agreement was negotiated by the US and over 70 other countries. It is designed to stabilize world prices of sugar at levels which are fair to both producers and consumers. The Administration has sought to make this Agreement the basic instrument of US sugar policy. Because the US imports a large percentage of its annual sugar needs, a stabilized world market can provide the most effective and least costly means of protecting both US consumers and producers.

We would like to take this opportunity to urge Congress to make every effort to expeditiously provide for full US participation in this Agreement.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Chairman, I thank the gentleman for yielding, and I also thank him for inserting in the RECORD the letter from the State Department.

When I made my statement, based on the facts as I showed in that chart, showing the preferential treatment given to Cuba at the expense of the free market

partners and our Western Hemisphere allies who are cut back in production to allow Cuba to expand her production, the State Department heard of my statement and they came to my office. I gave them all my information and my release. But when I asked for their response, they refused to give me any response. I thank the gentleman for providing it, and I look forward to reading it.

I would ask the gentleman this question: Is it not fair to the American people to allow them to know what the facts were in terms of the export tonnage allowed and established by the International Sugar Agreement in which our Nation participated as a partner?

Is it not in the interest of Americans, every American citizen, and is it not their right to have information as to what foreign policy our Government negotiated when we cut back our trading partners who complained bitterly at the time? And I remind the gentleman that the Dominican Republic did not even sign that agreement until they received extra tonnage last year.

Is it not in the American interest to have every citizen realize what our State Department is negotiating in these international conferences? Does not every American citizen have a right to know?

Mr. ULLMAN. Mr. Chairman, let me say in answer to the gentlewoman from Massachusetts (Mrs. HECKLER) that this has been public information for 2 years. It is no hidden information. It has been fully available to the public for 2 years.

The central fact is that we have entered into an International Sugar Agreement which is in the best interests of the sugar markets of the world. We cannot leave a producer out. Every producer of any significant production has to be a party to the agreement.

This has been a tremendous step forward, and it provides stability. It guarantees stability for a lot of those smaller nations, those poorer nations, those nations that would be fertile ground for Castroism if indeed we failed to pass this legislation.

This is not and should not be an issue in this debate, and I am not going to talk about it any further, because it is an extraneous issue. It is one that could do great disservice to the foreign policy of the United States at this critical time when we are making some headway in those Latin American countries.

Mr. Chairman, at a time when our foreign policy in that part of the world is critical, to now pull the rug out from under that kind of an agreement would be a serious mistake for the United States to make.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, in response to the request for information that the gentlewoman from Massachusetts (Mrs. HECKLER) referred to, the letter from the State Department that was mentioned contains this language:

The size of Cuba's ISA quota is not unusual or inappropriate. Cuba does have the largest quota under the ISA. However, the 1979 quotas of the major three exporting countries, Australia, Brazil, and Cuba, are all within five percent of 2,000,000 tons. The quotas are basically consistent with the pattern of exports of these countries over the ten years preceding the negotiations of the ISA.

Mr. Chairman, I know the gentlewoman is concerned about Cuban sugar coming in from Canada, but we expect the Treasury to come down with a ruling any minute concerning dumping practices. I would not be at all surprised that the ruling might eliminate any possibility of Cuban sugar entering the United States.

Mrs. HECKLER. Mr. Chairman, will the gentleman yield further?

Mr. ULLMAN. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Chairman, I would like to state that it is quite clear from the published and printed documents that Cuba received not only preferential treatment in terms of its ability to export without limit to the socialist countries, but she also received the lion's share of the free market. What she exported to the socialist countries did not come under her export tonnage to the free market.

I feel under those circumstances that this issue is not extraneous. This is title I of the bill and deserves to be heard and discussed on this floor.

Mr. Chairman, I will say, in terms of our friendship with our Western allies and the nations of the Western Hemisphere, that we could have done more to gain their friendship if we had allowed them their fair share of the free market which they asked for. They complained because they did not receive their fair share and because we gave preferential treatment to Cuba.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I just want to say in response that I do not support the legislation, but I think on this issue that it is not the strong argument that is suggested. I do not believe the Cuban issue is a factor in this bill.

Mr. ULLMAN. Mr. Chairman, let me conclude by saying again—and this is so evident from looking at the recent trend of sugar prices in New York—that in fact we have had to reduce import fees to hold down the price of sugar. We are now at the end of that line.

□ 1230

The bill will not raise the price of sugar. So do not let anyone convince you that the consumers are hurt by this legislation. In fact, the reverse is true. This will give them the kind of stability that they need; but more importantly, it will allow a domestic sugar industry to survive, and that survival is absolutely essential to consumers of this country.

To argue that consumers in this country are benefited by throwing away a domestic production capacity and relying completely on foreign imports is ridiculous. I urge the Members to vote for a sound piece of legislation and one that will help consumers, one that will keep a very vital segment of our domestic economy going, and one that will also help to preserve and maintain our international relations and good will with nations in the Caribbean, the poorer nations of the world, where we desperately need to move and to establish these better relations.

Mr. FRENZEL. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Louisiana (Mr. MOORE), a member of the Committee on Ways and Means and an ex member of the Committee on Agriculture.

Mr. MOORE. Mr. Chairman, I point out to my colleagues that there is over a majority of the Members of this House who voted for the general farm bill in 1977 in the last Congress. If you were one of those, I would think it logical that you now support this bill, because what we did for other commodities in that 1977 farm bill is considerably more than we are doing for sugar in this bill. I will give the Members examples.

If you look at what percentage of parity this bill does for sugar and compare that to what percent of parity the price-support system provides in the general farm bill for other commodities, you see that we do less for sugar than for any other commodity.

Assuming the full 16.3 cents of this bill as a price support for sugar, that is only 53.5 percent of parity. In the 1977 general farm bill, for wheat we provide 64.5 percent parity, 57.1 percent for corn, 66.7 percent for grain sorghum, 69.4 percent for barley, 55.8 percent for rice, and 57.8 percent for upland cotton. So you can see we have done less for sugar in this bill than many of us have already voted for in the 1977 general farm bill.

In looking at the direct payment, the one-half cent direct payment which is in this bill for sugar, let us compare that to what we did in the 1977 farm bill for other commodities. In the 1977 farm bill, if you convert the deficiency payment measure to pounds, which we had done by the Department of Agriculture, for wheat it is eighty-seven one-hundredths of a cent instead of one-half cent for sugar; for barley it is seventy-three one-hundredths of a cent; for grain sorghum it is fifty-nine one-hundredths of a cent; and for rice seventy-eight one-hundredths of a cent. So you can see that once again we did more for other commodities except corn than we are doing now for sugar.

If you compare the total amount of the deficiency or direct payment that the Treasury can be exposed to pay in this bill for sugar, with that the Treasury is exposed to pay for other commodities, again you see that we do less for sugar than other supported commodities. There is less money coming out of the Treasury for sugar than other commodities: $617 million for wheat, $88 million for corn, $79 million for barley, $180 million for grain sorghum, and $59 million for rice.

Assuming we pay the full one-half cent out of the Treasury for sugar—and we hope that never happens—as-

suming we do that, it will be $40 million, according to the U.S. International Trade Commission, or maybe as much as $51 million, according to the Congressional Budget Office in either instance significantly less than what is paid for other commodities in the 1977 general farm bill.

But there is also something very interesting when you look at this figure of $40 to $51 million for sugar. This bill is a revenue-raising bill by virtue of duties and tariffs that are in this bill imposed on foreign sugar coming into the United States. That means that the sugar bill actually raises more money for the Treasury, something on the order of $217 million per year by 1982, than it is ever going to take out of the Treasury. Therefore, it is a net increase in funds to the Treasury, not a net outflow like the other commodities. No other commodity raises money for the Treasury to pay for the program. This one raises more money for the Treasury than the program will cost.

We have a $50,000 payment limitation for the first time on sugar in this bill—for the first time—which is like the other commodities. In addition to that, in the past the sugar payments have not gone to the farmer under prior programs, but to the processors. But to make sugar like other commodities, in this bill for the first time it goes directly to the sugar farmer, like other commodities. Sugar is also subject to the same cost-of-production escalator for raising the amount of the price support that we put for other commodities in the 1977 general farm bill, except for one big exception. In the 1977 farm bill there is no limit as to how much the price support for those commodities can be increased. There is no limit. Whatever the inflationary cost increase is, that is what the program could be increased by. In this bill we do something to sugar that is not done to any other commodity. We put a 7-percent cap on it. Inflation is running at 13 percent or 14 percent this year, but a sugar farmer cannot get more than a 7-percent increase in this price support program. This limitation is not imposed on any other commodity except sugar.

Therefore, I would conclude by again pointing out that we have actually done far less for the commodity of sugar in this bill than we did 2 years ago in the general farm bill for all of the other commodities. The only reason why this bill has opposition, my colleagues, is because it is all by itself. If we took wheat by itself or corn by itself or rice by itself, they would be in the same political situation as sugar today of not having the security, the political security, of numbers, of being in a bill with all of the other commodities, some of which has got to be in every Member's State or district causing him to support the bill. That is the only reason why this bill has opposition—not because of logic, not because of fair treatment, not because of its provisions; it has opposition only because it is politically all by itself. That is no reason to oppose a badly needed program.

There have been several arguments that have arisen in debate that I do not think have been satisfactorily answered. One was the remark made by the gentleman from New York (Mr. PEYSER) that we should be concerned because of the existence of corporate sugar farms. The USDA prepared an analysis of this for us to use in debate today which shows that 75 percent of all of the sugar produced in this country is produced by individually owned farms. Seventy-five percent. This is nothing to be concerned about, then, but there are a few sugar farms in this country that are large and are corporate owned.

It seems to me that the argument really works in reverse to the way the gentleman from New York intended. If you want to hurt the small family farm, the thing to do then is to not have a sugar program, because his remarks were that the large corporate farms are making money and we know the small family farms are not. Therefore, if you do not have a sugar program, the small farms will surely go out of business and you will leave total U.S. production, what little there may be left, in the hands of a few large sugar corporations. So it seems that the gentleman's argument is somewhat in error.

I urge my colleagues to support this bill of equity to sugar with other commodities and out of a definite need and justification of our family sugar farmers.

Mr. FRENZEL. Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Chairman, I join my colleagues in opposing H.R. 2172, the International Sugar Stabilization Act of 1979.

The bill now before us represents yet another excursion by the Government into the maze of commodity price-support mechanisms. H.R. 2172 will provide a guaranteed return to sugar producers; it will protect the domestic sugar industry from competition and it will force up the price of sugar in both the world and domestic markets. It is Government intervention of the worst kind, and the consumers foot an enormous bill for the benefit of an industry that represents less than 1 percent of the farm community.

At a time of high inflation and soaring food costs, how can we be asked to support a bill that perpetuates a highly inflationary price support program for sugar? The world price of sugar currently is over 12 cents per pound. Under the bill before us the Federal Government steps in to guarantee that the price in the domestic market is at least 15.8 cents for crop year 1979, with a 7-percent increase in that price objective each year thereafter through the life of this legislation. For each 7-percent increase in the price of sugar, the added cost to the consumer is between $250 and $300 million. And yet we are considering this legislation at a time when the Consumer Price Index for food has already risen this year at a 14.7-percent annual rate.

There are other costs to the consumer that are less apparent because they are not reflected in the market price of sugar, but nevertheless are paid for out of the income of consumers. I refer to the costs associated with direct payments, the loan and purchase program, the forgiveness of interest on past loans, as well as the administrative costs associated with the complex and diverse program this bill envisions. All these costs are paid for by the consumer out of taxes. Estimates by Alfred Kahn, Chairman of the Council on Wage and Price Stability, reveal that the current sugar program is costing consumers about $2.6 billion a year. Further calculations indicate that the provisions of H.R. 2172 may add as much as $500 million annually. The tax bill adds even more to this cost, with the direct payments provision alone representing a drain on the Treasury of $50 million each year.

Not only are consumers paying for virtually a guaranteed income, or "assured return," to sugar producers and processors, but they also are paying for a system of noncompetitiveness and inefficiency with respect to the sugar industry. Many producers of sugar beets and sugarcane in the United States can compete effectively on the world market without elaborate and costly Government support. Inefficient producers, however, should be encouraged to improve their competitive position or to change over to some other form of production. H.R. 2172 would elevate inefficient producers to an artificial competitive position both with respect to efficient American producers and foreign producers.

The price support mechanisms contemplated by this bill not only protect the domestic sugar industry from lower priced imported sugar, but through direct payments and the loan and purchase program whose support costs are not reflected in the marketplace, it is protected from domestic producers of corn sweeteners and other competitive sugar substitutes. The corn sweetener industry has expanded greatly since 1974, and much of this expansion has been the direct result of rising sugar prices. It is clear that consumers and users will turn to corn sweeteners and other viable substitutes when the price of sugar becomes too high. The Federal Government, and we as legislators, should be encouraging such natural market forces, rather than interfering in such a way that the price of both sugar and sugar substitutes goes up.

Commodity price support programs now exist, in varing degrees, for numerous agricultural products. None, however, are protected with such a multitiered arrangement as H.R. 2172 contemplates for sugar. This bill protects the U.S. sugar industry from imports as well as guaranteeing them a minimum price in the domestic market. This is done first of all through the implementation of the ISA, but principally through special fees and backup quotas. Then a direct payment of 0.5 cents per pound—with a ceiling of $50,000—guarantees producers an "assured return." In addition, the Federal Government is obligated to make loan and purchase arrangements with those producers who still are unable to sell their sugar for the guaranteed price.

This bill also authorizes the Secretary of Agriculture to forgive interest on certain past loans that were made for noncompetitive sugar.

Worst of all, H.R. 2172 would change the current discretionary sugar price support program to a mandatory program that will be firmly fixed in the statutes. The President and the Secretary of Agriculture will then have lost their ability to review the current economic situation and balance the interests concerned, including the consumer's interest, for the good of the entire country. Of course, a mandatory program for sugar will be extremely difficult to modify or terminate should economic conditions warrant it.

How can this be tolerated? American farmers are the most efficient in the world. Exports of American farm goods are substantial, representing almost 20 percent of total U.S. exports. American farmers can and do compete worldwide. Yet, many elements of the agriculture community are not expected to compete in their home market either with each other or with foreign producers.

H.R. 2172 expands a tradition of protectionism and noncompetitiveness, as well as heavy Government intervention in our agricultural commodities, under the guise of protecting a small domestic industry from subsidized imports and unfair trade practices. The consumer should no longer have to pay for such policies. I urge my colleagues to join me in voting against H.R. 2172.

□ 1240

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. LEDERER).

Mr. LEDERER. Mr. Chairman, I rise in opposition to the sugar bill, H.R. 2172, and I note with interest that I am in good company.

This bill is inflationary and anticonsumer. It is designed to assist around 14,000 sugar producers. Their acreage constitutes less than 1 percent of the Nation's cropland.

On the other hand, it saddles 220 million American consumers with higher sugar prices. This bill cannot protect consumers from higher sugar prices.

I would like to recite the names of some of those organizations opposed to this legislation.

AMONG GROUPS OPPOSED TO THE SUGAR BILL, H.R. 2172

AFL–CIO.
CASH (Citizens Against Sugar Hikes), which includes:
American Association of Retired Persons;
Common Cause;
Community Nutrition Institute;
Congress Watch;
Consumer Affairs Committee, Americans for Democratic Action;
Consumer Federation of America; and
National Council of Senior Citizens.
Independent Bakers Association.
International Longshoremen's Association.
Leadership Conference on Civil Rights.
Sugar Users Group, which includes:
American Bakers Association;
Association for Dressings and Sauces;
Biscuit and Cracker Manufacturers' Association;
Chocolate Manufacturers Association of the United States of America;
Flavor and Extract Manufacturers Association;
International Association of Ice Cream Manufacturers;
National Bakery Supplier Association;
National Food Processors;
National Association of Fruits, Flavors & Syrups, Inc.;
National Preservers' Association, Inc.;
National Restaurant Association;
National Soft Drink Association;
Pickle Packers International, Inc.;
Processed Apples Institute; and
Retail Bakers of America.
Sugar Workers Council of North America.
United Auto Workers.
United Food and Commercial Workers.
United States Cane Sugar Refiners' Association.

It is no accident that all of these organizations are opposed to this bill. The Federal Government's present sugar program is more than adequate. It is costing consumers billions of dollars, and it is showing up in the profits of the sugar producers. They are making millions of dollars. And now they want more.

The fact is, this bill—besides being inflationary and placing a heavy burden on consumers—would damage a vital segment of the domestic sugar industry—the cane sugar refiners.

In the past 10 years, a number of companies have gone out of the cane sugar refining business. Some refineries have been closed and others are operating on a greatly reduced basis. No new refineries have been built.

Thousands of jobs have already been lost. One refinery in Philadelphia laid off 150 people earlier this year. The net effect of this legislation would be to transfer full-time jobs in the cane sugar refining industry to seasonal jobs in the cane and beet sugar processing industry.

And it is not only the jobs in the cane sugar refining industry that would be affected by this bad legislation, but thousands of other allied jobs—the longshoremen, the suppliers, the truckers—all of those who depend upon the cane sugar refining industry for their livelihood.

The problems of the cane sugar refining industry are not attributable to economic reality, but to the inequity of Government regulations. As a result of these Government regulations, sugar imports are smaller today, both in tonnage and as a percent of the total market, than they have been in recent years.

Mr. Chairman, I am greatly concerned about this bill. There are two cane sugar refineries in my district in Philadelphia. I am concerned about those jobs. Our labor does not have the alternatives that these sugar producers do. They can easily shift to more profitable crops. Jobs are not that easy to find.

The sugar producers do not need this bill. This bill is going to benefit a number of large corporations that do not need the help—U.S. Sugar Corp., Gulf & Western, Castle & Cook, and others. And it is going to benefit the rich farmers. This bill is not going to do anything for the little farmer.

Now is the time. Let us put an end to this nifty little piece of special-interest legislation. It will only benefit the privileged few. I urge my colleagues to vote "no" on H.R. 2172.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in strong opposition to H.R. 2172, a blatant attack on the pocketbooks and wallets of the American consumer. All of the debate on the second budget resolution so far has centered around the enormous threat to our economy and to our very way of life that uncontrolled inflation represents. What kind of "Representatives of the people" are we then, if we can one day vote down the budget resolution, because the allegedly too-large deficit it permits will fuel inflation, and the next day turn around, blow a kiss to the sugar farmers and producers, and pass along to consumers a price increase, of at least $180 million—and this is a conservative estimate.

This vote gives us a chance to show the American people whether all of our rhetoric about the danger of inflation and our concern for the American consumer is just rhetoric, or is in fact a real commitment to controlling our economy and providing relief for the hard-pressed consumer. This vote will help to separate the talkers from the doers.

I would be curious to know if there is one Member of this distinguished body who has not, on the floor of this House, spoken of the glories of the free enterprise system, the need to preserve and strengthen it, and of the urgency of reducing Government interference in the economy. I wonder, then, how any Member can vote for legislation that arbitrarily disrupts the free market to a dramatic degree, to benefit the growers and producers of one crop. There are a total of less than 14,000 sugar farmers, out of a total of 2.4 million farms in this country; this is less than 1 percent of the farms in the United States. Alfred Kahn, the President's chief inflation fighter, estimates that at present our Government subsidy program is costing consumers $2.6 billion per year. How much more support do we need to provide? How much more will we bilk the American consumer in order to "sweeten" the lives of a handful of sugar producers?

The world price for sugar is roughly 7½ cents per pound, so the Government is already artificially doubling the price consumers might otherwise have to pay for this most basic substance in many of our foodstuffs. H.R. 2172, would raise the price further this year to 15.8 cents per pound—with additional 7-percent increases projected for each of the next 2 years.

It is time for the Members of this House to stop talking about fighting inflation. It is time for them to act. The gentleman from New York, the gentlelady from Massachusetts, and many others have adduced many reasons why

the sugar bill should be defeated. The key reason is that here and now we must demonstrate that the needs of the American consumer are the paramount concern of Congress. I urge the defeat of H.R. 2172 to prove that we are not all talk and no action when it comes to the needs of the American consumer.

□ 1250

Mr. FRENZEL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from North Dakota (Mr. ANDREWS).

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to my friend from Washington.

Mr. FOLEY. I know the gentleman from Massachusetts (Mr. COSTE) is interested in the accuracy of the information that he gives to the House, as always. He is a distinguished and able Member. His statement that the raw value of sugar is 7.5 cents a pound should be compared with today's price, the world price published in the newspapers throughout the country of 12.44 without, without adding any additional fees or duties.

Mr. ANDREWS of North Dakota. I appreciate my colleague from Washington, the distinguished chairman of the committee, making a part of the rebuttal I was going to make to my friend from Massachusetts.

Instead of speaking as a representative from a beet area, and I do not think this is a case of farmers versus consumers, it certainly should not be, I think that one of the mistakes many of us from agricultural areas make, is talking about the economic needs of our farmers. Our farmers will get along pretty well. They will raise some sunflowers, they will raise some wheat, they will raise some other crop if they are forced out of the sugar beets. They will unfortunately have an economic problem because of the cost of their specialized machinery and their other sugar beet investments.

Rather than the farmers problems, what we ought to be speaking about today is the impact on the Nation, and that has not been addressed adequately. We have heard about the red herring concerning Cuba. It could really be a detriment to our Nation's foreign policy if that rumor, totally nonbased on facts, goes too far. We have heard a lot of talk about sweetheart deals for a small segment of America, but let us talk about arithmetic. Let us take a look at the price structure. Let us talk about how much the consumer pays for sugar in Western countries.

In Europe the price of sugar is about 26 cents a pound. Cuba is selling its sugar for 32 or 33 cents a pound to Russia. That is not bad. We are talking here about 16.5 cents or 16.3 as a sugar price support program in our country so that we can maintain adequate production right here in the United States, production needed here in the United States so that we do not have to pay the millions of dollars to Cuba to buy sugar if we destroy our industry so that we can save this money and buy foreign oil to keep Massachusetts homes warm. We cannot afford to buy that oil to keep those homes in Massachusetts warm if we have to pay Cuba and other nations for sugar after we have destroyed our own sugar industry. That is what we are talking about.

We heard a figure that for every cent a pound that sugar goes up it costs the consumers $250 million. Right now the reason other producers are putting sugar into this country at 13 cents is because they have got a contract to sell their sugar to Europe for 26 cents, and if they overproduce they will dump that in here at whatever the market will bring. When they do not overproduce they are still going to sell their contracted sugar at 26 cents. If we want some, we will have to pay 55 or 60 or 70 cents. We have gone through that and I do not think the American consumers would want to have to go through that once again. That increase of 40 cents would cost consumers $10 billion by that yardstick—and do no one in our country any good.

From the standpoint then of economic impact on our balance of payments, from the standpoint of the long-range dollar benefit of the American consumers, this is a good bill. Some people might have some problems with the direct payment. They may want to take the direct payment out. If that happens, I would hope we can still get the basic bill, because the basic bill will provide an orderly and a continuous sugar industry in this country that will benefit not just the sugar farmers but particularly the consumers and the economy of our Nation as well.

I appreciate the gentleman yielding the time and I urge my colleagues to support this legislation when it is voted on next Wednesday.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. SHANNON) a member of the Subcommittee on Trade.

Mr. SHANNON. Mr. Chairman, I rise in strong opposition to H.R. 2172. It is an avowedly protectionist bill designed to advance the special interests of a small sector of the population at the expense of the majority. It should be rejected.

At the present time, the U.S. Government, through a system of import fees and duties, guarantees that the price of imported raw sugar will not fall below 15 cents per pound. According to testimony given before the Ways and Means Subcommittee on Trade, this price support is already costing consumers in excess of $2 billion. H.R. 2172 will raise that price objective to 15.8 cents a pound through a system of new tariffs and fees. This amount will be permitted to rise 7 percent annually during the life of this bill. At the very least, and I believe this to be a conservative estimate, this will raise the price tag to consumers by a quarter of a billion dollars.

This is a simple case of Congress legislating higher inflation, Alfred Kahn, the Chairman of the Council on Wage and Price Stability, asked that "an embarrassed silence" be noted as his reply to the question of what this bill's inflationary effects would be. And this inflation will hit hardest those Americans who already must spend a large percentage of their income on food. In a year where Congress has already legislated an increase in oil prices, it would be sheer folly for this House to add to the burden of the consumer by voluntarily raising the price of food.

This bill has another onerous effect. It seeks to reward an inefficient and uncompetitive domestic sugar cane and beet industry with protection and subsidies, while it penalizes an efficient and internationally competitive industry, the American refiners of imported raw sugar.

It has been said that America needs a domestic industry. I will not debate this point. The argument has been made time and again by special interest groups looking for government subsidies that their particular industry is crucial to either the security or the well being of this country. I submit that the administration already has ample authority to deal with the sugar problem under existing statutes. Under section 301 of the Agriculture Act of 1949, the Secretary is authorized to provide price supports for beets and cane through loans and purchases. The President may already impose a 50 percent ad valorem duty on imported products which are interfering with the operation of a domestic price support program. Congress has already given much attention to the fewer than 14,000 sugar farmers in the country. I believe it is time for the Congress to begin paying attention to America's 212 million consumers.

Mr. FOLEY once commented on the floor of this House that it was free and expanding trade which has given America her economic greatness and strength. I submit that the United States should do all it can to reassert her position among nations as the most productive and the most efficient. Using protectionist laws to exclude inexpensive foreign raw sugar, using protectionist laws to raise the price of food and to exacerbate inflation, and using protectionist laws to reward an inefficient industry while penalizing an efficient one, is not in the best interests of the United States. I urge this House to reject H.R. 2172.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Colorado (Mr. JOHNSON).

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. Yes; I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, I was intrigued with the remarks of our colleague from Massachusetts. If I remember correctly, it was just a couple or 3 weeks ago that it was the gentleman's amendment that was offered to restrict the export of hides to protect the leather industry and gee, it sounds as though the tune has changed just a little bit. I wonder how the one fits with the other.

Mr. SHANNON. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. No; I do not yield to the gentleman.

I will add to what the gentleman from North Dakota has said in that the administration has taken long-term plans to roll back imports of footwear and textiles which provide protection for the Northeastern section of the country. Those people generally are opposed to this on the grounds of free enterprise and all of that kind of business.

Mr. SHANNON. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. No, I prefer not to yield to the gentleman at this time because of the limited amount of time allotted me.

I would like to address myself to some of the earlier remarks made about efficient producers in the United States and how the inefficient producers are the ones who are going to go broke and efficient producers are going to be allowed to stay in business.

The International Trade Commission did not make this distinction in its report to the President from which I quote:

> We have heard testimony from almost every major sugar growers association in the United States. Their testimony highlighted the problems now facing the industry. Costs of production . . . have all gone through a period of severe inflation, and there are signs of further increases . . . domestic producers have little hope of recovering their costs, not to mention any reasonable return on their investment.

The Trade Commission saw all producers as threatened by escalating costs of production and foreign sugar produced under low wages or subsidized foreign programs.

I would say to my colleagues that is the fact. That is the essence of all of the testimony that was received on the part of the Agriculture Committee.

There is not any fluff in this bill. The sugar industry is a dying industry, as I stated earlier.

One of the reasons, of course, is our governmental domestic requirements of higher prices. We import 47 percent of our sugar from three countries, the Philippines, the Dominican Republic, and Brazil. All three of these governments control sugar production, set prices, and oversee exports. Their sugar yields are lower than those in the United States. They do not have any environmental controls and the average sugar worker earns less in a day than an American worker earns in half an hour.

That is a far cry from the situation that obtained when our American farm co-ops testified that millions of dollars of environmental controls had to be put into the sugar refining plants. It is a far cry from the domestic sugar producer who by law has to pay his fieldworkers a minimum wage higher than the national minimum wage for farmworkers, and he has to pay his equipment operators a minimum wage that is 10 percent higher than the wage that he pays to his fieldworkers.

Those people who come from the northeastern section of the country and are opposed to the bill, and others who are opposed to the bill insist on paying high wages for the sugar workers. That is fine. But then they object to the resultant cost of sugar. That is an inconsistency that I simply cannot accept.

□ 1300

That is an inconsistency that consumers should not want to accept. It is ironic to me that the American consumers are glad, even insist upon, buying foreign imported sugar that they think is a better bargain even though it has been grown under environmental, social, and labor conditions that they would not tolerate in this country.

Mr. FRENZEL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I would first like to speak to the matter that was raised by the chairman of the Ways and Means Committee and the chairman of the Agriculture Committee. That is the matter of the ratification of the International Sugar Agreement.

I think those gentlemen have described the matter accurately. It is a good agreement. It is a necessary part of our foreign policy. And, it is a good and useful part of our agricultural policy. The ISA agreement should be ratified. Whether we are in or we are out makes not one whit of difference as to what Cuba does in international markets. It is simply a case of whether we find it to our advantage to be in that agreement. It certainly is.

Mr. Chairman, although I voted to report to the House H.R. 2172, International Sugar Stabilization Act of 1979, I cannot support the bill in its present form.

Certain provisions of the bill have been, from the beginning, so controversial that a decision on them must lie with the entire body of the House of Representatives. In other words, H.R. 2172 is not a consensus bill, but one where several key decisions still remain to be made. My support for this legislation hinges on how some of these issues are resolved.

My principal objection lies in the use of direct payments as part of any domestic price support program for sugar. H.R. 2172, as it now stands, would implement the International Sugar Agreement (ISA) and in addition would establish a domestic price support program for sugar through the use of special duties on imported sugar, backup quotas, a loan and purchase system, and direct payments. It is the direct payments aspect of the program that I have consistently opposed, and at the proper time, I intend to offer an amendment that would remove this unacceptable provision from the bill.

H.R. 2172, as currently drafted, would permit the Secretary of Agriculture to make direct payments to producers of up to one-half a cent on each pound of sugar, raw value sold by domestic firms. This payment would be in addition to the 15.8 cents, adjusted annually to reflect cost of production increases, at which the price of sugar will be supported through a system of special import fees, backup quotas and a loan and purchase program. Except for the direct payment, the supported price will be achieved in the marketplace. The direct payment, according to CBO will cost $51 million to U.S. general taxpayers.

Although I have been convinced that there is justification for protecting domestic processors from artificially low or widely fluctuating world sugar prices, the degree of protection becomes unconscionable, when in addition to the special duties, backup quotas, and a loan and purchase system, a direct payment program is added. Direct payments are a direct subsidy to the sugar industry. The cost of this subsidy is hidden because it is not incurred in the marketplace. The consumer, therefore, does not have the opportunity to decide whether or not to pay the price of a particular item containing sugar or to buy a substitute instead. Direct payments remove an important market force operating against rising prices—consumer decisionmaking. The consumer most certainly pays the cost of a direct payments program, but indirectly through taxes rather than in the marketplace.

Along with the outright waste and mismanagement associated with any direct payments program, such a payments program, and especially payments made above the "assured return," serves to reduce the competition among domestic producers of sugar and between those producers and producers of substitute sweeteners. Not only is the domestic industry protected from low-priced foreign imports but, through direct payments, they are further protected from competition within the United States among domestic producers of sugar and sugar substitutes. It is Government intervention of the worst kind; it stifles competition and fails to allow market forces to influence price, all to the detriment of the consumer. I seek to prevent the perpetuation in the sugar bill of such an inept, costly, and unwise method of supporting the price of a commodity.

The provision to allow direct payments was included in this legislation in spite of the fact that the House repeatedly has rejected such a Federal subsidy for the sugar industry. Indeed, this body last year was insistent that direct payments not be part of any sugar price support legislation. The fact that even a 1 year direct payments program was included in the House-Senate Conference on last year's bill was the major reason the conference report was rejected. I believe that the mood of the House has not changed.

The direct payments program represents a price support mechanism fraught with economic, administrative, and political problems—a mechanism that should not be perpetuated by ensconcing it in the sugar price support program. Even without the direct payment, H.R. 2172 provides a price support program for sugar that is more generous than the bill the House considered and passed last year. It is more than adequate to serve the needs of our sugar industry given the state of the Nation's economy and the rising inflation rate. I urge that the direct payments provision of H.R. 2172 be rejected.

Direct payments are an administrative nightmare. In 1977, the Agriculture De-

partment administered a direct payments program. According to the GAO, the result was nearly $20 million in questionable payments. If the Department does no worse under this bill, we can expect a dead loss to the taxpayers of about $5 million per year. And that would be in addition to perfectly legal payments for sugar sold above the target price.

My amendment is supported by a variety of groups, including the leaders of some of the country's great unions, the Teamsters, the Longshoremen, the OCAW, and the Grain Millers.

Again, I respectfully urge the passage of my amendment.

Mr. VANIK. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. Mr. Chairman, I will only need 2 minutes because of the adequate and eloquent manner in which my colleague from Minnesota has presented the case for the sugar bill, for the International Sugar Agreement, but in opposition to the payments. I think he has covered the reasons for deleting the payments from the bill very adequately, but I think I should make note that even if one felt that one wanted to help the consumer and somehow take the money out of the Treasury, the payments will not do it.

The payments go to the industrial manufacturer, the producer of Coca Cola, Pepsi Cola, the bakery process, the 70 percent of the sugar market that is used in manufacturing. So, to the extent that we want to help the consumer, what we should be doing is deleting the payment clause and not spending $50 million out of the Treasury, knowing that $35 million of that will go directly to the industrial users.

So, I hope that when the bill comes to final passage and we have an opportunity to vote on Mr. FRENZEL's amendment, that we will delete the payments and pass the bill.

● Mr. VANIK. Mr. Chairman, this is a bill whose time has come and gone. In the last 3 or 4 months, there has been a fundamental change in the world outlook for sugar. The so-called sugar cycle has turned, prices have bottomed out, supplies are coming into line with demand, and for the first time in 6 years, it is expected that the current sugar crop will be smaller than consumption, thus beginning the process of eating away at the enormous surplus of sugar which for so long has depressed world sugar prices. In addition to a fundamental change in the prospects for sugar, there have been some temporary factors which have further boosted prices: Severe hurricanes in the Caribbean, and spillover from the gold fever. But these are minor issues: They do not affect the fact that the fundamentals of sugar trade have changed.

As a result, the price of sugar at shipside in the Caribbean has climbed from about 9 cents at the end of August to 12.44 cents per pound, today. The price may fluctuate. There may be some days in which it is down, but the fundamental upward swing is governing.

For these reasons, the bill before us is obsolete. The urgent need to implement the ISA will soon disappear, because as prices rise, the need to enforce export quotas through the Customs Service will disappear.

In title II, the price objective for the current, 1979 sugar supply year is already being matched or even exceeded, and the President has nearly all the authority he needs to remove fees and tariffs.

In other words, once again the operations of supply and demand are making all the Rube Goldberg devices in this bill unnecessary.

If the bill is unnecessary, why do I bother getting excited about it? Why do I oppose it?

The principle behind this bill is to set a minimum price or floor under sugar. But outside of the ISA, it does nothing to set a maximum price or ceiling that will protect consumers. We are now seeing the price of sugar rise. It is quite possible in several years that the price will be near the 1974 levels of 50 and 60 cents per pound. There will be no relief for the consumer then. Therefore, I do not believe that we should establish the principle or precedent now of sugar legislation which establishes floor protection for producers. Let the market work, without all of this elaborate intervention. Let the sugar producers who are efficient weather the sugar cycle, using the sweet profits of high-priced years to get them through the thin times of the low-priced years.

The fundamental change in the sugar cycle should be a lesson to us all: There are forces in economics which correct extremes in prices. The ability of the United States to affect those forces in a commodity such as sugar is extremely limited. We in the Congress should not waste our time or energy on this issue, but should let the forces of supply and demand work their will.●

Mr. DE LA GARZA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. BURLISON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2172) to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished acting majority leader as to the program for the balance of the week and for next week.

Mr. FOLEY. Mr. Speaker, will the distinguished minority leader yield to me?

Mr. RHODES. I am happy to yield to my good friend, the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

The plan for the House for next week is that we will have on Monday eight suspension bills:

H.R. 2440, Airport and Airway Development Act;

H.R. 2686, TVA amendments;

H.R. 4445, Energy Policy and Conservation Act authorizations;

H.R. 5506, Energy Policy and Conservation Act amendments;

H.R. 826, OSHA provisions for U.S. Postal Service;

H.R. 2584, Federal employee survivor benefit status;

H.R. 4064. State tax exemption for postal vehicles; and

H.R. 507, Trinity River project, California.

All recorded votes are planned to be postponed until Tuesday, October 23. In addition, on Monday there will be H.R. 2218, Endangered Species Act authorizations, under an open rule with 1 hour of debate. The rule will have already been adopted, and we will simply do the 1 hour of debate on that bill.

Then there will be H.R. 4955, supplemental refugee assistance authorizations, under an open rule with 1 hour of debate. We hope by that time both of the rules on these bills will have been adopted, and we will do the general debate on that bill only.

On Tuesday the House will meet at noon, and we will have one suspension, H.R. 4943, New York-New Jersey Port Authority compact.

Recorded votes will be had on suspensions debated Monday, October 22, and Tuesday, October 23. Then we will complete consideration of:

H.R. 3000. DOE authorizations for fiscal year 1980.

H.R. 2172, International Sugar Stabilization Act of 1979, with votes on amendments and the bill. Then we will consider:

H.R. 3947, military construction authorizations under an open rule with 2 hours of debate; and then the—

Conference report on S. 975, intelligence authorizations for fiscal year 1980;

Conference report on S. 428, DOD authorizations, fiscal year 1980; and

Conference report on S. 1030, Emergency Energy Conservation Act of 1979.

For Wednesday, Thursday, and Friday, October 24, 25, and 26, the House will meet at 10 a.m. and consider:

H.R. 3683, Consolidated Farm and Rural Development Act, votes on amendments and bill. Then we will consider—

H.R. 2218, Endangered Species Act authorizations, with votes on amendments and the bill;

H.R. 4955, supplemental refugee assistance authorization, with votes on amendments and the bill;

H.R. 3398, Agriculture Adjustment Act of 1979, subject to a rule being granted;

H.R. 5269, Panama Canal authorizations for fiscal year 1980, under an open rule, with 1 hour of debate;

H.J. Res. 341, Milwaukee Railroad service continuation, under an open rule, with 1 hour of debate;

H.R. 2313, Federal Trade Commission authorization, under a modified open rule, with 1 hour of debate;

H.R. 4167, Milk Price Support Act, under an open rule, with 1 hour of debate;

H.R. 4007, repayment of loans made to State unemployment funds, under a modified rule, with 1 hour of debate; and

H.R. 1885, retirement preference for certain Bureau of Indian Affairs employees, under an open rule, with 1 hour of debate.

The House will adjourn at 3 o'clock on Friday and at 5:30 p.m. on all other days except Wednesday, and this, of course, is subject to the usual rule that conference reports may be brought up at any time and any further program may be announced later.

Mr. RHODES. I thank my friend.

This is the 19th of October, and according to plans announced by the majority leadership on the 2d of November it is planned that the House will go into a series of 3-day recesses with proforma sessions except for certain business which must be transacted, including conference reports and the like. I have already expressed that I am in thorough agreement with that program. The only bother that I have right now is that the Committee on Rules is apparently still meeting and throwing out rules, and the gentleman from Washington (Mr. FOLEY) I am sure all agree with me that whenever a rule has been granted, there is a lot of pressure then on the leadership to bring these bills up upon which rules have been granted. It would be my hope that in addition to the very fine plan which the majority leadership has announced, that before too long it also announces plans for the termination of the work of the Committee on Rules for the rest of this session. I make this as a statement in the hope that before too many days have elapsed the majority leadership can reply.

Mr. FOLEY. If the gentleman will yield further. I am not able to say at this moment what announcement might be made on the Committee on Rules schedule. That is, I think, a matter for discussion with the Committee on Rules leadership itself. But I would also suggest that it is my understanding that the expressed hope of the leadership on this side to begin a period of pro forma sessions in November is not necessarily a commitment to begin those on the 2d of November. There is a desire as soon as possible, subject, as the gentleman knows, to conference reports and appropriation bills in particular, to attempt to schedule such 3-day pro forma sessions. My judgment at the present time is that that is more likely to be a pattern of scheduling in the middle of November to the end of the month, not necessarily from the beginning of the month. But the matter is still being examined by the leadership on this side, subject to the requirements of the schedule.

Mr. RHODES. Of course, what the gentleman from Washington has just said is somewhat of a departure from the communication which came out of the majority whip's office, and there certainly were plenty of reservations in that communication as to future plans. But the indication was quite strong that the pro forma sessions would begin after November 2. If that is not to be the situation, I think that the membership would be very grateful to the majority leadership if any amendments to the plan, even though the plans are still subject to great reservation, could be promulgated and published.

Mr. FOLEY. I will take the distinguished minority leader's suggestion to the leadership. I think, as he has noted, there were some reservations in the majority whip's announcement, and after November 2 does not necessarily imply that those 3-day sessions will begin on November 2 or immediately thereafter. But it is the intention, consistent with the requirements of the schedule, because of the position that we are in with respect to the other body and its current responsibilities with regard to the SALT debates, to attempt to schedule significant periods of pro forma sessions in the month of November. I understand the gentleman's concern about more specific information. I hope that can be provided early next week.

Mr. RHODES. I thank the gentleman.

□ 1320

ADJOURNMENT TO MONDAY, OCTOBER 22, 1979

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday, October 22, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday next be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 241, LAW ENFORCEMENT ASSISTANCE REFORM ACT OF 1979

Mr. GUDGER. Mr. Speaker, on behalf of Mr. RODINO, the chairman of the Committee on the Judiciary, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes, with the House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington? The Chair hears none and, without objection, appoints the following conferees: Messrs. RODINO, KASTENMEIER, DANIELSON, GUDGER, MAZZOLI, HALL of Texas, MCCLORY, ASHBROOK, and HYDE.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I take this time to advise the Members of the House on the intentions of the leadership for the balance of today's schedule.

It is anticipated we will now move to consider the rule on H.R. 4955, the supplemental refugee assistance authorization and then to consider the rule on H.R. 2218, the Endangered Species Act authorization, and finally to consider the rule on H.R. 3683, the Consolidated Farm and Rural Development Act.

Mr. Speaker, if time permits, following the adoption of the above three rules, we would undertake to begin general debate only on the Consolidated Farm and Rural Development Act with the understanding it is the intention to rise by 3 p.m. this afternoon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 4(e) of rule XI, the Chair announces that he will postpone further proceedings today on each resolution or on the previous question thereon, on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all debate has been concluded on each resolution, and after each question to be determined by a "nonrecorded" vote has been disposed of, the Chair will then put the question on each resolution or on the previous question thereon, on which further proceedings were postponed.

PROVIDING FOR CONSIDERATION OF H.R. 4955, SUPPLEMENTAL REFUGEE ASSISTANCE AUTHORIZATIONS

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 418 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 418

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4955) to authorize an additional appropriation of $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981 for migration and refugee assistance, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the con-

sideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Mississippi (Mr. LOTT) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 418 is the rule providing for the consideration of the bill, H.R. 4955, to authorize additional appropriations for migration and refugee assistance for fiscal year 1980 and fiscal year 1981. It is an open rule, providing 1 hour of general debate with the time equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs.

The rule provides for a waiver of section 402(a) of the Congressional Budget Act so that the bill might be considered.

Section 402(a) of the Budget Act prohibits consideration of any bill which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless the bill was reported by May 15, of the preceding fiscal year. Since the bill was not reported on or before May 15, 1979, it would be subject to a point of order for violation of this section of the Budget Act with respect to the fiscal year 1980 authorization.

The Budget Committee has no objection to granting a waiver of section 402 (a) to permit consideration of this bill.

Mr. Speaker, thousands of Southeast Asian refugees have lost their lives in attempting to seek asylum. In response to this crisis a U.N. Conference on Indochinese Refugees was held last July in Geneva and at that time the United States reiterated its pledge to refugee assistance. This bill would provide additional appropriations of $207,290,000 for fiscal year 1980 and $203,610,000 for fiscal year 1981 to enable the United States and the U.N. High Commissioner for Refugees to increase financial support for activities for the care, maintenance, and resettlement of Southeast Asian refugees.

Mr. Speaker, these additional funds are necessary to provide immediate assistance to the many thousands of refugees of Southeast Asia. I would urge my colleagues to support this rule so that we may consider this legislation in the middle of next week.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule providing for the consideration of H.R. 4955, authorizing appropriations for migration and refugee assistance for fiscal year 1980 and 1981. The rule waives section 402(a) of the Congressional Budget Act, which requires that new budget authority be reported by May 15 preceding the beginning of the fiscal year. In a letter from the chairman of the Budget Committee to the chairman of the Rules Committee, the Rules Committee learned that the Budget Committee had voted to support an emergency waiver of section 402(a) due to the emergency nature of the request.

H.R. 4955 authorizes an additional appropriation of $207,290,000 for fiscal year 1980 and $203,610,000 for fiscal year 1981 to be used for refugee assistance and resettlement. These amounts are said to be necessary for the United States to meet its apparent commitment of resettling up to 14,000 Vietnamese refugees per month.

Mr. Speaker, the world was horrorstruck when some Indochina countries announced they would not only repel refugees but also would take those already within their borders and put them out to sea again. Although it is my understanding that the Government of Malaysia has rescinded this threat, they have greatly restricted the number of refugees admitted since the so-called migration began. Malaysia is not alone in this decision, since Thailand, Indonesia, Japan, the Philippines, Singapore, and Macao have limited the entry of refugees for some time. Obviously, with an estimated 60,000 people leaving Vietnam each month, the situation is not a pleasant one.

Americans by nature are humanitarians. I believe this country has carried more than its fair share of the load with billions of dollars of foreign aid through the years to help eradicate suffering throughout the world. America has been considered the "great melting pot," in which cultural differences blended. However, at the present time we simply lack the ability to absorb 14,000 more people each month, or another 168,000 per year. With our economy being strained from many sides, to permit immigration into the United States at this rate will serve only to increase our unemployment rate even beyond the projected 8 percent next year.

So, Mr. Speaker, with uncertainty being the only thing we have in lavish supply and with the possibility of millions of Americans being out of work, I question the wisdom of our so-called commitments to accept so many additional refugees at this time.

In our own area, in the area I represent in Biloxi, Miss., this has already caused problems with the number of refugees that have been settled there. We are expecting more to be coming in. It is causing legal problems, it is causing economic problems. It is just generally causing problems.

Mr. Speaker, I personally think that this legislation is unnecessary. I think that allowing from 7,000 to 14,000 to be the number we allow in this country each month is not in the best interests of America or these people. I think it is going to create problems for them and problems with the communities where they are resettled.

Mr. Speaker, while I have no particular objection to this rule, and I am sure this legislation will just sing through this body, I think it is a mistake and I think that somebody ought to stop and consider the plight of Americans for a change and what this is going to do to them with this additional 7,000 people per month being allowed into the country.

I have no further requests for time.

□ 1330

Mr. Speaker, I have no further requests for time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2218, ENDANGERED SPECIES ACT AUTHORIZATIONS, 1980–82

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 417 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 417

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and amendment made in order by this resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Merchant Marine and Fisheries now printed on page 3, line 3 through page 4, line 2 of the bill, it shall be in order to consider an amendment printed in the Congressional Record of September 20, 1979, by Representative Breaux, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 2218, it shall be in order in the House to move to take from the Speaker's table the bill S. 1143 and to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 2218 as passed by the House.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. FROST. Mr. Speaker, House Resolution 417 is an open rule providing for the consideration of H.R. 2218 which authorizes appropriations for the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982.

The rule provides for 1 hour of general debate with the time to be equally divided and controlled by the chairman

and ranking minority member of the Committee on Merchant Marine and Fisheries. The resolution also makes in order, in lieu of the amendment recommended by the Merchant Marine Committee now printed in the bill, an amendment which was printed in the CONGRESSIONAL RECORD of September 20 by Mr. BREAUX, the chairman of the Fisheries and Wildlife Subcommittee. As introduced, H.R. 2218 was a simple authorization for fiscal years 1980 through 1982. However, the proposed amendments amend several provisions of the Endangered Species Act, and as such, are not germane to the bill as introduced. The resolution provides a waiver of clause 7, rule XVI, the germaneness clause, to allow consideration of these amendments.

Should the House pass H.R. 2218, the resolution will allow the House to consider S. 1143, the Senate's Endangered Species Act authorization. The rule will allow the House to strike all after the enacting clause of the Senate bill and to substitute the language of the House passed bill.

H.R. 2218 authorizes $28.3 million for the activities of the Departments of Interior and Commerce under the Endangered Species Act. Included in the authorization is $600,000 for the activities of the Endangered Species Committee and Review Boards which were created by the 1978 amendments to the act.

Mr. Speaker, House Resolution 417 is a simple open rule which will allow for amendments to the authorization amounts as well as amendments to the amendments proposed by Mr. BREAUX. I would urge my colleagues to adopt this rule so that we may proceed to the consideration of H.R. 2218.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Texas has done an adequate job of describing the rule we have before us. I would therefore like to take a few moments to draw to the attention of my colleagues several of the provisions of H.R. 2218 and the Endangered Species Act in general.

First the bill authorizes appropriations of $25.6 million to the Department of the Interior and $3 million to the Department of Commerce in each of the next 3 fiscal years to carry out their responsibilities under the Endangered Species Act of 1973. This results in a total authorization of $85.8 million over the next 3 years. This is an exceptionally large sum especially when one calls to mind the endless stories of questionable actions taken by the Endangered Species Committee concerning the supposed destruction of the habitat of so-called endangered species.

Furthermore, Mr. Speaker, the Members of this body should be aware of the findings of the GAO in their report of July 2, 1979 entitled, "Endangered Species—A Controversial Issue Needing Resolution." The report first states that the cornerstone of effective implementation of the Endangered Species Act is the process used by the Fish and Wildlife Service to determine which species should be listed as endangered or threatened and which species should be reclassified or removed from the lists. Unfortunately GAO found that FWS had not consistently applied existing policies, procedures, and practices used to list species, nor had they periodically reviewed listed species or established criteria to determine if their status had changed.

To continue, the Endangered Species Act provides that Federal agencies which determine that their projects and programs may affect endangered or threatened species must consult with the Fish and Wildlife Service to resolve any potential conflicts. GAO found that FWS has continually improved the consultation process; however, conflicts involving ongoing and planned projects and programs had not always been identified or resolved promptly. The onerous bureaucracy of the Department of the Interior has again thwarted the attempts and intention of the Congress to serve the best interests of the American people.

Finally, GAO found that further legislative changes to the Endangered Species Act are needed to better balance species protection and economic growth and development. Currently the Endangered Species Act permits the Fish and Wildlife Service to continue to list geographically limited populations of species as endangered or threatened even though they may not be endangered or threatened throughout all or a significant portion of their existing ranges or their overall status are not known. Furthermore, the present act does not make clear whether permanent exemptions are available for all Federal projects and programs. For some projects and programs the lengthy consultation process may have to be initiated and the project stopped each time the affected species is listed and a potential conflict is identified. Currently our Nation is faced with rampant inflation existing side by side with a growing recession. Now is not the time to hinder economic growth and development with poorly drafted and poorly implemented legislation.

It should be noted, Mr. Speaker, that the Committee on Merchant Marine and Fisheries has conducted oversight on the Endangered Species Act using the GAO report as a guide. The chairman of the full committee Mr. MURPHY, and the chairman of the Subcommittee on Fisheries and Wildlife Conservation, Mr. BREAUX, have stated that amendments will be offered to correct the deficiencies I have mentioned. I anxiously await those amendments and urge my colleagues to support them.

In conclusion, Mr. Speaker, I would like to reiterate to the Members of this body the high cost of this legislation and the mismanagement of the act by the bureaucracy. Without doubt the Endangered Species Act is a prime candidate for sunset and legislative veto provisions.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, just by way of explanation for the members of the committee on this rule, let me say first that I, of course, support the rule.

One might say that the procedures under which this legislation is brought to the floor are somewhat unusual. Considering the time restraints under which the House is acting, I think we handled this in a proper manner.

I would like to point out to the Members of the House that the Endangered Species Act has, of course, had a great deal of controversy in years past. In the last Congress the legislation was reauthorized only for a period of something like 18 months, rather than the normal 3-year authorization period.

When our subcommittee began hearings on the Endangered Species Act this year, we started off with the attitude of having some very detailed oversight hearings on the legislation to see if amendments that had been adopted in the last Congress were working in the manner in which this Congress intended them to work. Of course, with a May 15 deadline, it was impossible for our subcommittee and the full committee to adequately have oversight committee hearings and at the same time meet that deadline.

So we made a commitment to the Members of the House that we would go ahead and report out a normal 3-year reauthorization bill with this legislation and then follow that up with extensive oversight hearings. The amendments that are in order under this rule today are a result of those oversight hearings which were 3 days in length and which I think focused in on some of the real concerns that had previously been expressed by Members of the House, including bringing in the General Accounting Office to present to our committee its findings after an extensive study on the workings of the Endangered Species Act.

These amendments which I will be offering are, I think—and the gentleman from New Jersey (Mr. FORSYTHE) can speak for this—supported by the ranking minority member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, and they are also strongly supported by the chairman of the full committee. They, of course, were not voted on by our committee because we had to report out the reauthorization bill prior to the time we were in a position to write the amendments which we are now recommending and which will be offered at an appropriate time when this legislation is brought up.

I think the amendments are good. We needed a waiver of points of order merely because of the fact that they would normally be nongermane in a routine 3-year authorization bill.

Mr. Speaker, this is an open rule. I strongly support the rule, and I urge the Members to support the rule and the legislation.

Mr. DUNCAN of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have not had a chance to read the proposed amendments, but I understand that none of the amendments change in any way the present authorization for projects that are now exempt from the Endangered Species Act. Is that correct?

Mr. BREAUX. Mr. Speaker, I would assure the gentleman that is correct. I would further assure the gentleman that none of the amendments affect Tellico Dam in Tennessee.

Mr. DUNCAN of Tennessee. Mr. Speaker, I thank the gentleman.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 4, rule XI and the Chair's prior announcement, further proceedings on this vote will be postponed.

The point of no quorum is considered withdrawn.

PROVIDING FOR CONSIDERATION OF H.R. 3683, CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 304 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 304

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3683) to amend the Consolidated Farm and Rural Development Act, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 3683, it shall be in order in the House to move to take from the Speaker's table the bill S. 985 and to strike out all after the enacting clause of the said bill and insert in lieu thereof the provisions contained in H.R. 3683 as passed by the House.

□ 1340

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 304 provides for the consideration of H.R. 3683, a bill to amend the Consolidated Farm and Rural Development Act. This resolution provides for an open rule with 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

The resolution also provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment. The resolution waives all points of order against the substitute for failure to comply with the provisions of clause 7, rule XVI, the germaneness rule, and clause 5, rule XXI, appropriations in an authorization bill.

Finally, the resolution provides that after the passage of H.R. 3683, it shall be in order to move to take from the Speaker's table the bill S. 985 and to strike out all after the enacting clause of the bill and insert in lieu thereof the provisions contained in H.R. 3683 as passed by the House.

Mr. Speaker, as reported, H.R. 3683 would authorize lending levels for the fiscal years 1980, 1981, and 1982 for the farm and rural development loan programs. The authorizations would apply only as long as the programs are administered by the Secretary of Agriculture.

Until enactment of the Agricultural Credit Act of 1978, FmHA programs were operated without specific lending levels in the authorizing legislation but with specific loan levels prescribed in appropriations legislation. The Agricultural Credit Act of 1978 requires that the aggregate principal amount of these loans shall not exceed during each three-year period amounts authorized by law. As FmHA programs have grown in scope and size a closer review of them by the legislative committees on a periodic basis is in order so that the committees can increase effective oversight and determine whether any changes are needed. H.R. 3683 represents the first effort of this type under the new law.

H.R. 3683 establishes loan levels for each of the fiscal years 1980 through 1982 for: Real estate loans, farm operating loans, water and sewer facility loans, community facility loans, and business and industrial loans.

Mr. Speaker, I request that we adopt House Resolution 304 so that we may proceed to the consideration of the bill.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I may say that the distinguished gentleman from Connecticut (Mr. DODD) representing, I am sure, a rural congressional district of Connecticut has very adequately described this rule. I do not see any reason for going through it again. I know of no objection to the rule. It is the authorizing legislation for the Farmers Home Administration.

I think the committee, under the leadership of the gentleman from Tennessee (Mr. JONES), has done an outstanding job. The Farmers Home Administration does a very important job for our country, for the farmers of America and, as a result, for the people of this country.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DODD. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all resolutions.

Pursuant to clause 4, rule XI, the Chair will now put the question de novo on the resolution, House Resolution 417, on which further proceedings were postponed.

PROVIDING FOR CONSIDERATION OF H.R. 2218, ENDANGERED SPECIES ACT AUTHORIZATIONS, 1980–82

The SPEAKER pro tempore. The unfinished business is agreeing to the resolution, House Resolution 417.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 320, nays 9, not voting 104, as follows:

[Roll No. 596]

YEAS—320

Abdnor	Bereuter	Coelho
Akaka	Bethune	Coleman
Albosta	Bevill	Collins, Tex.
Ambro	Bingham	Conte
Anderson, Calif.	Blanchard	Corcoran
Andrews, N.C.	Boner	Corman
Andrews, N. Dak.	Bowen	Coughlin
Annunzio	Brademas	Courter
Anthony	Breaux	Crane, Daniel
Applegate	Brinkley	D'Amours
Archer	Brodhead	Daniel, Dan
Ashbrook	Brooks	Daniel, R. W.
Aspin	Broomfield	Danielson
Atkinson	Broyhill	Dannemeyer
Bafalis	Buchanan	Daschle
Bailey	Burlison	Davis, Mich.
Baldus	Burton, Phillip	de la Garza
Barnard	Butler	Deckard
Barnes	Byron	Dellums
Bauman	Campbell	Derrick
Beard, R.I.	Carney	Derwinski
Bedell	Carter	Dingell
Benjamin	Cavanaugh	Dixon
Bennett	Chappell	Dodd
	Clausen	Donnelly
	Clinger	Dornan
Duncan, Tenn.	Kelly	Reuss
Eckhardt	Kemp	Rhodes
Edwards, Ala.	Kildee	Rinaldo
Edwards, Calif.	Kindness	Ritter
Edwards, Okla.	Kramer	Robinson
Emery	LaFalce	Roe
English	Lagomarsino	Rose
Erdahl	Latta	Roth
Erlenborn	Leach, Iowa	Royer
Ertel	Leath, Tex.	Rudd
Evans, Del.	Lederer	Russo
Evans, Ga.	Lee	Sabo
Evans, Ind.	Lehman	Satterfield
Fary	Leland	Sawyer
Fascell	Levitas	Schroeder
Fenwick	Lewis	Schulze
Ferraro	Livingston	Sebelius
Findley	Lloyd	Seiberling
Fisher	Loeffler	Sensenbrenner
Fithian	Long, La.	Shannon
Foley	Lott	Sharp
Ford, Mich.	Luken	Shelby
Ford, Tenn.	Lungren	Shumway
Forsythe	McClory	Shuster
Fountain	McCloskey	Simon
Fowler	McCormack	Skelton
Frenzel	McHugh	Slack
Frost	McKay	Smith, Nebr.
Gaydos	McKinney	Snowe
Gephardt	Madigan	Snyder
Gialmo	Maguire	Solarz
Gilman	Markey	Solomon
Gingrich	Marks	Spellman
Ginn	Marlenee	Spence
Glickman	Marriott	St Germain
Goldwater	Martin	Staggers
Gonzalez	Mathis	Stangeland
Goodling	Matsui	Stanton
Gore	Mattox	Stark
Gradison	Mavroules	Stenholm
Gramm	Mazzoli	Stewart
Grassley	Mica	Stockman
Gray	Mikulski	Stokes
Green	Miller, Ohio	Stratton
Grisham	Mineta	Stump
Guarini	Minish	Swift
Gudger	Mitchell, Md.	Symms
Guyer	Mitchell, N.Y.	Synar
Hall, Ohio	Montgomery	Tauke
Hall, Tex.	Moore	Taylor
Hamilton	Moorhead, Calif.	Thomas
Hammer-schmidt	Mottl	Traxler
Hance	Murphy, N.Y.	Treble
Hanley	Murphy, Pa.	Udall
Hansen	Murtha	Ullman
Harkin	Myers, Ind.	Vander Jagt
Harris	Myers, Pa.	Vanik
Hawkins	Natcher	Vento
Heckler	Neal	Volkmer
Heftel	Nelson	Walgren
Hightower	Nichols	Walker
Hillis	Nowak	Wampler
Hinson	O'Brien	Waxman
Holt	Oberstar	Weaver
Hopkins	Obey	Weiss
Howard	Ottinger	White
Hubbard	Panetta	Whitehurst
Hughes	Pashayan	Whitley
Hutto	Patten	Whittaker
Hyde	Patterson	Whitten
Ichord	Paul	Williams, Mont
Jacobs	Pease	Wolff
Jeffords	Perkins	Wolpe
Jeffries	Petri	Wright
Jenkins	Peyser	Wyatt
Jenrette	Preyer	Wydler
Johnson, Calif.	Price	Wylie
Jones, Okla.	Purwell	Yates
Jones, Tenn.	Rangel	Yatron
Kastenmeier	Ratchford	Young, Alaska
Kazen	Regula	Young, Mo.
		Zablocki

NAYS—9

Bellenson	Burton, John	McDonald
Bonior	Hollenbeck	Stack
Bonker	Lowry	Studds

NOT VOTING—104

Addabbo	Burgener	Dicks
Alexander	Carr	Diggs
Anderson, Ill.	Cheney	Dougherty
Ashley	Chisholm	Downey
AuCoin	Clay	Drinan
Badham	Cleveland	Duncan, Oreg.
Beard, Tenn.	Collins, Ill.	Early
Biaggi	Conable	Edgar
Boggs	Conyers	Fazio
Boland	Cotter	Fish
Bolling	Crane, Philip	Flippo
Bouquard	Davis, S.C.	Flood
Brown, Calif.	Devine	Florio
Brown, Ohio	Dickinson	Fuqua
Garcia	Michel	Rostenkowski
Gibbons	Miller, Calif.	Rousselot
Hagedorn	Moakley	Roybal
Harsha	Moffett	Runnels
Hefner	Mollohan	Santini
Holland	Moorhead, Pa.	Scheuer
Holtzman	Murphy, Ill.	Smith, Iowa
Horton	Nedzi	Steed
Huckaby	Nolan	Thompson
Ireland	Oakar	Treen
Johnson, Colo.	Pepper	Van Deerlin
Jones, N.C.	Pickle	Watkins
Kogovsek	Pritchard	Williams, Ohio
Kostmayer	Quayle	Wilson, Bob
Leach, La.	Quillen	Wilson, C. H.
Lent	Rahall	Wilson, Tex.
Long, Md.	Railsback	Winn
Lujan	Richmond	Wirth
Lundine	Roberts	Young, Fla.
McDade	Rodino	Zeferetti
McEwen	Rosenthal	

□ 1400

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Winn.
Mr. Fazio with Mr. Young of Florida.
Mr. Garcia with Mr. Horton.
Mr. Long of Maryland with Mr. McDade.
Mr. Moffett with Mr. Pritchard.
Mr. Charles H. Wilson of California with Mr. Quayle.
Mr. Van Deerlin with Mr. Railsback.
Mr. Thompson with Mr. Williams of Ohio.
Mr. Steed with Mr. Rousselot.
Mr. Pepper with Mr. Bob Wilson.
Mr. Rodino with Mr. Fish.
Mr. Watkins with Mr. Harsha.
Mr. Rostenkowski with Mr. Burgener.
Mr. Santini with Mr. Devine.
Mr. Flippo with Mr. Beard of Tennessee.
Mr. Early with Mr. Anderson of Illinois.
Mr. Downey with Mr. Badham.
Mr. Roybal with Mr. Brown of Ohio.
Mr. Zeferetti with Mr. Lent.
Mr. Charles Wilson of Texas with Mr. Quillen.
Mr. Moakley with Mr. Lujan.
Mr. Kostmayer with Mr. Dickinson.
Ms. Holtzman with Mr. McEwen.
Mr. Kogovsek with Mr. Hagedorn.
Mr. Gibbons with Mr. Conable.
Mr. Hefner with Mr. Dougherty.
Mr. Lundine with Mr. Cheney.
Mr. Miller of California with Mr. Roberts.
Mr. Ireland with Mr. Cleveland.
Mr. Jones of North Carolina with Mr. Pickle.
Mr. Holland with Mr. Philip M. Crane.
Mr. Dicks with Mr. Rahall.
Mr. Drinan with Mr. Rosenthal.
Mrs. Collins of Illinois with Mr. Richmond.
Mr. Carr with Ms. Oakar.
Mrs. Bouquard with Mr. Nolan.
Mrs. Boggs with Mr. Florio.
Mr. Cotter with Mr. Davis of South Carolina.
Mr. Boland with Mr. Edgar.
Mr. Huckaby with Mr. Fuqua.
Mr. Clay with Mr. Duncan of Oregon.
Mrs. Chisholm with Mr. Brown of California.
Mr. Biaggi with Mr. AuCoin.
Mr. Ashley with Mr. Alexander.
Mr. Conyers with Mr. Mollohan.
Mr. Moorhead of Pennsylvania with Mr. Scheuer.
Mr. Nedzi with Mr. Wirth.
Mr. Murphy of Illinois with Mr. Smith of Iowa.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HIGHER EDUCATION ACT OF 1965 AMENDMENTS

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5386) to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 11, insert:

SEC. 2. No fiscal year 1979 funds may be withheld from a State under subpart 3 of part A of title IV of the Higher Education Act of 1965 because of a failure of a State to meet the requirement of section 415C(b)(4) of that Act based upon the provisions of a State statute enacted prior to October 1, 1978.

Mr. FORD of Michigan (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I take the reservation because many of the Members might wonder what is happening. I strongly support what is happening in this bill, and for a brief explanation I would yield to my colleague from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, under suspension of the rules the House passed H.R. 5386 on Monday. This bill made a technical amendment to the Higher Education Act to insure an equitable distribution of fiscal year 1979 funds under programs authorized by title I.

Yesterday the Senate passed the bill with an additional technical amendment by unanimous consent. The Senate amendment, which was offered by the Senator from Texas (Mr. BENTSEN), makes it possible for the Department of Health, Education, and Welfare to release over $4 million in fiscal year 1979 financial assistance which has been allotted for students in colleges and universities in Texas. The amendment, which I strongly support, provides a 1-year exemption to the requirement in the Higher Education Act that, in order to receive Federal funds from the State student incentive grant program, a State must allow all nonprofit institutions to participate in this program even though the State might have a statute preventing such participation.

This amendment is completely consistent with legislation which will be considered by this body within the next few weeks to reauthorize the Higher Education Act. H.R. 5192 contains a provision which exempts from this requirement to serve all nonprofit institutions any State which has a statute which was enacted before October 1, 1978. Since final passage of this bill is months away, it is necessary to pass this provision so that deserving students can receive needed financial aid for this school year.

I know of no opposition to this pro-

posal which does not provide for any new funds but simply gives HEW authority to release the impounded funds. In fact, I have a copy of a letter from the assistant secretary for education to the commissioner of the Texas Higher Education Authority in which she suggests this solution.

My distinguished colleague from Texas (Mr. PICKLE) deserves special commendation for his diligent efforts to achieve a solution. He has worked closely with both Senator BENTSEN and with me during the past weeks in developing this amendment.

Mr. Speaker, I hope the House can concur in the Senate amendment so that these currently enrolled students can receive the assistance for which they are eligible.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I rise in support of H.R. 5386 as amended by the Senate. As noted by previous speakers, the Senate amendment would, for fiscal year 1979 SSIG allotments, exempt all States from the requirement that all nonprofit institutions of higher education in a State be eligible to participate in the State grant program in order for the State to receive SSIG funds, if that State had a statutory prohibition against the inclusion of nonprofit institutions which was enacted prior to October 1, 1978.

The purpose of the SSIG program, as enacted in the Higher Education Amendments of 1972, was to encourage States which did not have State-funded student financial aid programs for needy students seeking access to a higher education institution, to establish such a program. It also provided an incentive for States with established programs to expand and improve them. The attractive feature of the SSIG program was that there was to be no intrusion into each State's determination of their specific goals and needs in this area.

The program was highly successful in its intent. While there were only 29 States providing such programs in 1972, today every State has established a student aid program.

However, in 1976 an amendment to this act was adopted which deeply concerns me. Under this amendment, an additional qualification was added which required all nonprofit institutions of higher education within each State to be made eligible to participate in the State's program as a condition of participation. A later amendment excluded institutions which were prohibited by State constitutions. However, the Federal definition of "institutions of higher education" remains much broader than Ohio's definition and the definition in many other States.

This intrusion threatens the ability of Ohio and other States to maintain control over the quality of programs in institutions of higher education in their States.

Under this provision, Ohio would be required to include vocational/job training programs, and 1-year hospital programs in such fields as X-ray technology which, by Federal definition, are institutions of higher education. This designation is reserved in Ohio for a specific set of public and independent colleges, all of which offer associate degrees and bachelor's degrees, and hospital nursing programs.

The current law dictates to Ohio how our State funds should be spent through the SSIG program, even though it represents less than 8 percent of the State's program budget.

Ohio recognizes the Federal intent of extending aid to all eligible students pursuing higher educational goals. It supports this intent and can demonstrate its support by the growth of Ohio's program of student financial aid during the past 7 years. Since its inception in 1972, Ohio's grant program has grown from $16 million assisting 36,561 students attending 49 independent colleges, 12 State universities, 20 branches, and 24 public, 2-year colleges to the current $25 million annual level which has been expanded to include hospital schools of nursing with diploma programs. This expansion involves some 53,000 students and 313 eligible institutions.

Part of that growth can be attributed to the SSIG program. However, the eligibility provided in section 415C of the Higher Education Amendments of 1976, as amended, is weakening this joint program. To correct the existing situation and to enhance further development in this State-Federal partnership, I urge your support of H.R. 5386.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan to dispense with the reading of the Senate amendment?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Mr. FOLEY. Mr. Speaker, I move the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3683) to amend the Consolidated Farm and Rural Development Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HARKIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 298, nays 3, not voting 132, as follows:

[Roll No. 587]

YEAS—298

Abdnor	Gilman	Myers, Ind.
Akaka	Gingrich	Myers, Pa.
Ambro	Ginn	Natcher
Anderson, Calif.	Glickman	Neal
Andrews, N.C.	Goldwater	Nelson
Andrews, N. Dak.	Gonzalez	Nichols
Annunzio	Goodling	Nowak
Anthony	Gore	O'Brien
Applegate	Gradison	Oberstar
Archer	Gramm	Obey
Ashbrook	Grassley	Ottinger
Aspin	Gray	Panetta
Atkinson	Green	Pashayan
Bafalis	Grisham	Patten
Bailey	Guarini	Patterson
Baldus	Gudger	Paul
Barnard	Guyer	Pease
Barnes	Hagedorn	Perkins
Bauman	Hall, Ohio	Petri
Beard, R.I.	Hall, Tex.	Peyser
Bedell	Hammer-schmidt	Price
Bellenson	Hance	Pritchard
Benjamin	Hanley	Pursell
Bennett	Hansen	Ratchford
Bereuter	Harkin	Regula
Bethune	Harris	Reuss
Bingham	Hawkins	Rinaldo
Blanchard	Heckler	Ritter
Boner	Heftel	Robinson
Bonior	Hightower	Roe
Bonker	Hollenbeck	Rose
Bowen	Holt	Roth
Brademas	Hopkins	Royer
Brinkley	Howard	Rudd
Brodhead	Hubbard	Russo
Brooks	Hughes	Sabo
Broyhill	Hutto	Satterfield
Buchanan	Hyde	Sawyer
Burton, Phillip	Ichord	Schroeder
Butler	Jacobs	Schulze
Byron	Jeffords	Sebelius
Campbell	Jeffries	Seiberling
Carney	Jenkins	Sensenbrenner
Carter	Jenrette	Shannon
Cavanaugh	Johnson, Calif.	Sharp
Chappell	Jones, Okla.	Shelby
Clausen	Jones, Tenn.	Shumway
Clinger	Kastenmeier	Shuster
Coelho	Kazen	Simon
Coleman	Kelly	Skelton
Corcoran	Kemp	Smith, Nebr.
Corman	Kildee	Snowe
Coughlin	Kogovsek	Snyder
Courter	Kramer	Solarz
Crane, Daniel	LaFalce	Solomon
D'Amours	Leach, Iowa	Spellman
Daniel, Dan	Leath, Tex.	Spence
Daniel, R. W.	Lederer	St Germain
Danielson	Lee	Stack
Dannemeyer	Lehman	Staggers
Daschle	Leland	Stangeland
Davis, Mich.	Lent	Stanton
de la Garza	Levitas	Stark
Deckard	Lewis	Stenholm
Derrick	Livingston	Stockman
Derwinski	Loeffler	Stokes
Dingell	Long, La.	Studds
Dixon	Lott	Stump
Dodd	Lowry	Swift
Donnelly	Luken	Symms
Dornan	McClory	Synar
Duncan, Tenn.	McCloskey	Tauke
Eckhardt	McCormack	Taylor
Edwards, Calif.	McKay	Thomas
Edwards, Okla.	McKinney	Trible
Emery	Madigan	Udall
English	Maguire	Ullman
Erdahl	Markey	Vander Jagt
Erlenborn	Marks	Vanik
Ertel	Marlenee	Vento
Evans, Del.	Marriott	Walgren
Evans, Ga.	Martin	Walker
Fary	Mathis	Wampler
Fascell	Matsui	Weaver
Fenwick	Mattox	White
Ferraro	Mavroules	Whitehurst
Findley	Mazzoli	Whitley
Fisher	Mica	Whittaker
Foley	Mikulski	Whitten
Ford, Mich.	Miller, Ohio	Williams, Mont.
Ford, Tenn.	Minetа	Wolff
Forsythe	Minish	Wolpe
Fountain	Mitchell, N.Y.	Wyatt
Fowler	Montgomery	Wydler
Frenzel	Moore	Wylie
Frost	Moorhead, Calif.	Yates
Gaydos	Murphy, N.Y.	Yatron
Gephardt	Murphy, Pa.	Young, Alaska
Giaimo	Murtha	Young, Mo.
		Zablocki

NAYS—3

Lloyd	McDonald	Mitchell, Md.

NOT VOTING—132

Addabbo	Edgar	Nedzi
Albosta	Edwards, Ala.	Nolan
Alexander	Evans, Ind.	Oakar
Anderson, Ill.	Fazio	Pepper
Ashley	Fish	Pickle
AuCoin	Fithian	Preyer
Badham	Flippo	Quayle
Beard, Tenn.	Flood	Quillen
Bevill	Florio	Rahall
Biaggi	Fuqua	Railsback
Boggs	Garcia	Rangel
Boland	Gibbons	Rhodes
Bolling	Hamilton	Richmond
Bouquard	Harsha	Roberts
Breaux	Hefner	Rodino
Broomfield	Hillis	Rosenthal
Brown, Calif.	Hinson	Rostenkowski
Brown, Ohio	Holland	Rousselot
Burgener	Holtzman	Roybal
Burlison	Horton	Runnels
Burton, John	Huckaby	Santini
Carr	Ireland	Scheuer
Cheney	Johnson, Colo.	Slack
Chisholm	Jones, N.C.	Smith, Iowa
Clay	Kindness	Steed
Cleveland	Kostmayer	Stewart
Collins, Ill.	Lagomarsino	Stratton
Collins, Tex.	Latta	Thompson
Conable	Leach, La.	Traxler
Conte	Long, Md.	Treen
Conyers	Lujan	Van Deerlin
Cotter	Lundine	Volkmer
Crane, Philip	Lungren	Watkins
Davis, S.C.	McDade	Waxman
Dellums	McEwen	Weiss
Devine	McHugh	Williams, Ohio
Dickinson	Michel	Wilson, Bob
Dicks	Miller, Calif.	Wilson, C. H.
Diggs	Moakley	Wilson, Tex.
Dougherty	Moffett	Winn
Downey	Mollohan	Wirth
Drinan	Moorhead, Pa.	Wright
Duncan, Oreg.	Motti	Young, Fla.
Early	Murphy, Ill.	Zeferetti

□ 1410

So the motion was agreed to.

The result of the vote was announced as above recorded.

□ 1420

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3683, with Mr. LEHMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. HOPKINS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, I rise in support of H.R. 3683, as reported by the House Committee on Agriculture. H.R. 3683 amends the Consolidated Farm and Rural Development Act to authorize lending levels for each of the fiscal years 1980, 1981, and 1982 for Farmers Home Administration's farm and rural development loan programs. It also makes a few miscellaneous changes in the substantive provisions of that act.

Until enactment of the Agricultural Credit Act of 1978, FmHA programs were operated without specific lending levels in the authorizing legislation but with specific loan levels prescribed in appropriations legislation. The Agricultural Credit Act of 1978 requires that the aggregate principal amount of these loans shall not exceed during each 3 year period amounts authorized by law. As FmHA programs have grown in scope and size a closer review of them by the legislative committees on a periodic basis is necessary so that the committees can increase effective oversight and determine whether any changes are needed. H.R. 3683 represents the first effort of this type under the new law.

The lending limitations contained in H.R. 3683 are set forth separately for the various categories of loans authorized by Farmers Home Administration. These include the following categories financed from the Agricultural Credit Insurance Fund: farm operating loans, farm real estate loans, farm ownership loans and water development use and conservation loans. The bill also provides that amounts are authorized for emergency loans as necessary to meet needs resulting from natural disaster.

Limitations are established for loans financed by the Rural Development Insurance Fund separately for water and sewer facility loans and industrial development loans. In addition, a requirement is imposed that at least 25 percent of the farm ownership and operating insured loans must be made to limited recourse, low-income borrowers. This program was first established in 1978 and has proved to be of special help to minority farmers and to small farmers, especially the young and beginning farmers.

I want to stress that H.R. 3683 for the first time places statutory limitation on the lending authority of Farmers Home Administration. In the past the authorizing legislation had no such controls on the agency. There were, of course, limits adopted in the appropriation act. The figures in H.R. 3683 are ceilings and do not mandate spending by the agency. The committee is of the opinion that the ceilings are realistic, and not overly generous, but they do take consideration of the anticipated need for credit in rural areas by farmers and rural development projects.

Several other changes were made in the Consolidated Farm and Rural Development Act. The act was amended to clarify FmHA's authority to make farm ownership business and industrial and operating loans for the acquisition, construction, and operation of solar energy systems, including systems for the production of alcohol fuel for use as gasohol. This is an amendment clearly beneficial for the overall economy in view of the current energy crisis and the need to find substitute sources of energy for petroleum and petroleum-based products.

The bill also authorizes Farmers Home Administration to make loans for water and sewer systems and community facilities to communities with populations up to 20,000 people instead of 10,000 as in current law. This helps fill a Federal funding gap that exists between Farmers Home Administration and HUD which serves cities of over 50,000 population.

A final change extends eligibility requirements for FmHA emergency loans to include aliens admitted for permanent residence. Permanent resident aliens are eligible for dozens of Federal programs including social security and medicare, crop insurance and commodity loans. We would now treat them equitably in emergency situations.

Mr. Chairman, H.R. 3683 was ordered reported by a unanimous voice vote of the Committee on Agriculture. I urge the Members to join me in support of this bill. At this time I would like to recognize the distinguished gentleman from Tennessee (Mr. JONES), chairman of the Conservation and Credit Subcommittee, who will explain in greater detail the contents of H.R. 3683.

At this time, Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Subcommittee on Conservation and Credit, the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Mr. Chairman, H.R. 3683, as reported, amends the Consolidated Farm and Rural Development Act to authorize lending levels for the fiscal years 1980, 1981, and 1982 for the Farmers Home Administration farm and rural development loan programs. The authorizations would apply only as long as the programs are administered by the Secretary of Agriculture.

Until enactment of the Agricultural Credit Act of 1978, FmHA programs were operated without specific lending levels in the authorizing legislation but with specific loan levels prescribed in appropriations legislation. The Agricultural Credit Act of 1978 requires that the aggregate principal amount of these loans shall not exceed during each 3-year period amounts authorized by law. As FmHA programs have grown in scope and size a closer review of them by the legislative committees on a periodic basis is in order so that the committees can increase effective oversight and determine whether any changes are needed. H.R. 3683 represents the first effort of this type under the new law.

Authorization levels provided in the legislation are classified according to type or purpose with separate levels provided for insured and guaranteed loans where appropriate. H.R. 3683 authorizes a total of $1.615 billion for the broad classification of real estate loans. This includes $1.5 billion for farm ownership loans of which $1.4 billion would be insured and $0.1 billion would be guaranteed. Twenty-five percent of the farm ownership insured loan funds would be available to low-income limited resource borrowers. Also included in the real estate loan classification is $100 million for water development, use and conservation of which $90 million would be insured and $10 million guaranteed. The two types of loans which would be made from this authorization are: First, soil and water loans to individuals; and second, irrigation or drainage loans to associations. Twenty-five percent of the authorized funds for farm ownership and for water development, use and conservation loans would be transferable at the option of the Secretary between the guaranteed and insured categories.

Included in the overall authorization for real estate loans are $15 million for

recreation loans to individuals and loans to grazing associations.

FmHA operating loans to farmers would have an authorized lending level of $1.2 billion of which $1.15 billion would be for insured and $0.05 billion would be for guaranteed. At least 25 percent of the insured operating loans would be available to low-income limited resource borrowers and 25 percent of the funds would be transferable between the guaranteed and insured categories.

Lending authorization levels are provided for three rural development loan programs. For rural water and sewer facility loans, $1 billion in insured loans would be authorized. For rural community facility loans, $500 million in insured loans would be authorized. For business and industrial loans, $1.5 billion would be authorized of which $100 million would be insured and $1.4 billion would be guaranteed.

Additionally, authorized loan levels are provided in the bill for three rural development loan programs of the $1.5 billion authorized for the business and industrial loan program, $100 million would be for insured and $1.4 billion would be for guaranteed loans. Water and sewer loans are provided an authorized lending level of $1 billion in insured loans for each of the next 3 fiscal years. The community facility loans are authorized at $500 million for insured loans only.

I want to emphasize here that the authorization levels must take into account expected program growth during the next 3 years, and we would not expect to be reaching these figures in fiscal year 1980.

Public hearings on the general farm situation in early 1979 and later specifically on FmHA programs in Oklahoma and Washington, D.C., confirmed for the committee a demand and need for farm financial credit more than that expected by program administrators. Previously, it had been the committee's opinion that the new lending authorities granted FmHA in 1978 coupled with significant farm lending done by the Small Business Administration would have tempered the generally rising demand for additional agricultural credit. Such has not been the case as rapidly escalating land prices and production costs plus low commodity prices in some sectors have put even greater pressures on farmers to borrow in order to stay in business.

We expect that demand for these loans will outreach the authorized levels by 1982 if not before.

Several other changes were made in the Consolidated Farm and Rural Development Act which I will briefly explain.

It addresses the energy shortage by clarifying that loans under the farm ownership, farm operating and business and industrial loan programs for encouraging construction and development of solar energy systems including gasohol on the farm. Clearly, with over 10 percent of the costs of operating a farm attributable to energy inputs, helping farmers develop on-farm alternative energy resources can only help hold down food production costs and our dependence on imported oil.

The bill also authorizes Farmers Home Administration to make loans for water and sewer systems and community facilities to communities with populations up to 20,000 people instead of 10,000 as in current law. This helps fill a Federal funding gap that exists between Farmers Home Administration and HUD which serves cities of over 50,000 population.

A final change extends eligibility requirements for FmHA emergency loans to include aliens admitted for permanent residence. Permanent resident aliens are eligible for dozens of Federal programs including social security and medicare, crop insurance and commodity loans. We would now treat them equitably in emergency situations.

According to a revised cost estimate of CBO, dated June 1, 1979, the costs of this bill, which include the net cost of all interest subsidies as they accrue and any unrecovered defaults, as as follows:

Total estimated costs

[By fiscal years, in millions of dollars]

1980	19
1981	109
1982	216
1983	368
1984	376

At this time, I would close by explaining that this bill is simple, it provides adequate but not generous loan authorization levels for ongoing programs, and I ask that my colleagues support its passage.

Mr. HOPKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3683, a bill to amend the Consolidated Farm and Rural Development Act. This bill would authorize insured and guaranteed loans totaling up to $5.815 billion annually for the next 3 fiscal years. This compares with $3.9 billion in the current fiscal year. Ceilings are set for each loan program, and actual lending levels would still be fixed separately by Congress in annual appropriation bills.

H.R. 3683 represent an important step in the Farmers Home Administration farm and rural development loan programs. Prior to this bill, loan program activity levels were addressed only in appropriation acts. As a result of the need for the legislative committees to make a periodic review of the farmers home programs, the Agricultural Credit Act of 1978 (Public Law 95-334) required the aggregate principal amount of the loans under the farm and rural development programs to be authorized every 3 years beginning October 1, 1979. H.R. 3683 satisfies this requirement.

The Committee on Agriculture felt the authorized loan levels were necessary in order to consider the need for increased Farmers Home Administration loan program activity and to allow for program expansion over the 3-year life of the bill. The need for adequate farm financial credit is evident. Public hearings on the general farm situation and the Farmers Home Administration programs in early 1979 confirmed a demand for farm loans which was greater than previously had been expected. Rapidly escalating land prices have put strong pressure on farmers to borrow in order to stay in business. This legislation is necessary to provide the farmer with that opportunity.

In addition to setting lending limits, H.R. 3683 would also earmark 25 percent of farm ownership and operating loans for low-income, limited-resource borrowers, clarify Farmers Home Administration authority to make loans for nonfossil energy systems, make legally resident aliens eligible for disaster loans, and allow water and sewer loans and community facility loans to be made to towns with populations of up to 20,000 instead of only 10,000. These measures will improve availability of Farmers Home Administration credit to our rural areas.

The program for allocating 25 percent of both farm ownership and operating loans for low income, limited resource borrowers was established in 1978. It has been extremely helpful to the small, the young, and the beginning farmers. Since these people have little capital for operation and little equity to fall back on, there is a need to continue allocation of at least 25 percent of these insured loan funds for this purpose.

In regard to energy, H.R. 3683 makes clear that full authority exists for Farmers Home to make farm ownership and operating loans and business and industrial loans for the acquisition, construction, or operation of solar energy systems and other alternative fuels including gasohol. This is essential for development of alternative energy sources on farms and in rural communities. With over 10 percent of the cost of operating a farm going into energy needs, helping farmers develop on-farm energy resources is of vital importance. Such a measure could help hold down escalating production costs.

H.R. 3683 would make permanent resident aliens eligible for Farmers Home Administration emergency loans. Permanent resident aliens are already eligible for most Government programs. In fairness to those that are agricultural producers, emergency loans also should be extended to them.

Another major feature of the bill would be to allow water and sewer loans and community facility loans to be made to towns with populations of up to 20,000 instead of only 10,000. This change would help to fill a Federal funding gap that now exists in our Nation's rural areas. It will help this small group of communities obtain Federal assistance for community facilities, as hospitals and nursing homes. Increasing the population limitation would make only approximately 1,200 more communities eligible for this assistance.

Of course, it should be recognized that the levels authorized in the bill will not be reached in fiscal 1980; they were established by the committee to account for program growth over the next 3 years. Nevertheless, the overall benefits of this bill should not be underestimated. For example, in my own district, the Sixth District of Kentucky, approximately 200 additional real estate loans worth a total of around $11 million could eventually be provided by the authorized funding levels.

Also, 100 new farm operating loans worth about $20,000 each could be made available. The State of Kentucky could

receive a projected $9 million increase in the business and industrial loan amount received for fiscal year 1979, and 17 towns with populations between 10,000 and 20,000 would be eligible for water and sewer and community facility loans for the first time. This would include the towns of Winchester and Danville in my home district.

Mr. Chairman, enactment of H.R. 3683 will have beneficial effects on the economy without contributing to inflation. It will enhance the economic stability of rural areas by providing credit where credit otherwise would not be readily available. Real estate and operating loans will provide needed funds to farmers while community facility, water and sewer, and other rural development loans will assist in improving the living conditions and economic structure of less populated areas. I urge support of this bill.

□ 1430

Mr. MADIGAN. Mr. Chairman, would the gentleman from Kentucky yield to me?

Mr. HOPKINS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 3683, a bill to amend the Consolidated Farm and Rural Development Act. I want to congratulate the distinguished chairman of the subcommittee, Mr. JONES of Tennessee, for his efforts in bringing this bill to the floor of this body.

Mr. HOPKINS and Mr. THOMAS, two of our new members in the subcommittee, were especially industrious and diligent in attending the subcommittee meetings and in taking an active part in the development of this bill. I believe they deserve our sincere congratulations.

H.R. 3683 represents an important milestone in the Farmers Home Administration (FmHA) farm and rural development loan programs. For the first time, the Agriculture Committee is setting by legislation lending limits for the FmHA loan programs. H.R. 3683 would authorize insured and guaranteed loans for fiscal years 1980, 1981, and 1982. The portions available for insured as well as guaranteed loans are specified. I believe the new loan ceilings will give Congress the opportunity, through the appropriation process, to provide adequate credit to our rural areas through these FmHA programs over the 3-year life of the bill.

I am particularly pleased that the bill makes eligible for FmHA water and sewer and community facility loans communities up to 20,000 population. This change—making only approximately 1,200 more communities eligible for these loans—will help fill a Federal funding gap that exists in this Nation's rural areas. It will substantially help a small group of communities across the country when they have difficulty finding Federal assistance for community facilities, such as hospitals or community-owned nursing homes, or to meet requirements of other Federal acts such as the Clean Air Act with respect to municipally owned powerplants. In many cases they are unable to float bond issues to meet these pressing needs and yet until now they have been too large to qualify for FmHA assistance even though they provide hospital and other services to our rural residents.

I urge support of H.R. 3683.

Mr. COLEMAN. Will the gentleman from Kentucky yield, Mr. Chairman?

Mr. HOPKINS. I yield to the gentleman from Missouri.

Mr. COLEMAN. I also rise in support of the bill and would like to point out that our colleague on the committee, the gentleman from Kansas (Mr. GLICKMAN) introduced language which is contained in the bill which clarifies the use of farmers home loans for use of solar power and use and installation of solar energy collectors. Just last week the Secretary of Agriculture had a portable station out here to be seen and this is one of the contributions that the farmers of the United States can make toward solving our energy problem. I congratulate my colleague, the gentleman from Kansas, for the language which he affixed to the bill and will say in response to the question of what are we doing here in Congress to help solve the energy problem, this is one area where the language is very clear that we will allow the Farmers Home to utilize its resources to help farmers help all of us in helping to solve our Nation's energy supply.

Mr. JONES of Tennessee. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, during the Agriculture Committee consideration of the bill, I offered three amendments, which were adopted, to strengthen loan authority by the Farmers Home Administration for nonfossil fuel energy systems both for onfarm use and for use in rural communities.

Under current law, this loan authority has been interpreted narrowly. The purpose of the amendments is to expand this authority to insure that FmHA applicants have a reasonable opportunity to obtain loans for energy-related projects. With the continuing availability of sufficient energy supply in question, it is essential that adequate lending authority be available to allow development of alternative energy sources in agricultural areas. Clearly, with over 10 percent of the costs of operating a farm attributable to energy inputs, assisting farmers develop onfarm alternative energy resources can only help hold the line on escalating production costs.

One amendment would broaden the scope of projects for which FmHA could provide operating loans. The amendment would assure authority to cover the development, construction, and modification of solar energy systems. Such items that could be included would be loans for stills to produce alcohol for onfarm liquid fuels use, devices to convert agricultural waste to methane for gaseous fuel use, and farm equipment that runs on direct sunlight.

The second amendment would expand authority under the real estate program to include loans for nonfossil fuel systems for farm-related structures. Currently, only residential structures are included.

The final amendment would add language to the Rural Industrialization Assistance program to give rural communities and other applicants from nonurban areas the opportunity to apply for loans which would develop, construct, or modify nonfossil energy systems.

□ 1440

Mr. JONES of Tennessee. Mr. Chairman, I yield such time as he may consume to my friend, the gentleman from South Dakota (Mr. DASCHLE), a member of the subcommittee.

Mr. DASCHLE. Mr. Chairman, I want to associate myself with the remarks made by the gentleman from Kansas (Mr. GLICKMAN). I think those remarks point to one of the main reasons why I think this particular piece of legislation is an outstanding bill and one that certainly deserves the support of the Members of the House of Representatives.

I also want to congratulate the chairman of the subcommittee, the ranking minority member, and certainly the distinguished chairman of the Committee on Agriculture for the work they have done in putting this piece of legislation before the Congress.

There are really two specific reasons why I think this particular piece of legislation is good. The gentleman from Kansas (Mr. GLICKMAN) very appropriately and adequately addressed the first reason, and that refers to the need for the Farmers Home Administration to provide some help in insuring development of alcohol fuels and renewable resources.

There is also another reason, and that goes to a project that was undertaken during the last fiscal year—the project dealing with the limited resource application program. That program has proven to be immensely successful in the Farmers Home Administration, and in this year in this bill we formalize that program and provide that at least 25 percent of the insured farm ownership and operating loans go to those recipients or those applicants who fall into the guidelines of limited resource application.

I think this is an immensely significant and important program, and it certainly is one that I think will prove to be very popular throughout the entire country.

Beyond these two points, the loan volume within the Farmers Home Administration speaks well of their success.

I want to share for a second the statistics on the number of loan applications that have been made. Loan applications in the Farmers Home Administration's ownership program have increased from 30,300 applications nationwide in fiscal year 1977 to 35,000 during fiscal year 1978. At the beginning of fiscal year 1979, the Farmers Home Administration has already experienced a backlog of 18,970 pending applications awaiting funds.

So, Mr. Chairman, this bill allows that successful effort to continue. It is an excellent bill, especially this year with the programs for resource applications

and alcohol fuels. I cannot think of a finer piece of legislation.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I would just like to compliment the gentleman from South Dakota (Mr. DASCHLE), because he was the one member in the committee and the subcommittee who offered the amendment requiring this kind of set-aside for limited resource borrowers, in connection with and in cooperation with the gentleman from Tennessee (Mr. JONES).

It was the gentleman's efforts that enabled and authorized the committee to push ahead with these limited resource efforts. So, Mr. Chairman, I applaud the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Chairman, I thank the gentleman from Kansas (Mr. GLICKMAN) very much, and I want to remind the membership that the chairman of the subcommittee was a cosponsor of that piece of legislation. The gentleman's efforts were very important to insuring that the subcommittee and the full committee accepted that provision in the bill.

Mr. Chairman, I yield back the balance of my time.

Mr. JONES of Tennessee. Mr. Chairman, I have no further requests for time, and I yield myself such time as I may consume.

Mr. Chairman, I want to say that I sincerely thank each member of the subcommittee on both sides of the aisle for the splendid cooperation we had while this bill was being drafted and during the hearings and markup. This cooperative effort enabled us to put together a good Farmers Home Administration bill.

I want to join the gentleman from Kansas, DAN GLICKMAN, and the gentleman from South Dakota, TOM DASCHLE, in their comments on Farmers Home Administration policy and operation. I think we need to emphasize that more work needs to be done in those areas. We have a fine program, and I want to ask again that each Member of this body give full support for this legislation and the excellent Farmers Home Administration program.

With that, Mr. Chairman, since I have no further requests for time, I yield back the balance of my time.

Mr. HOPKINS. Mr. Chairman, I yield such time as he may consume to my distinguished colleague, the gentleman from Kansas (Mr. SEBELIUS), a member of the committee.

Mr. SEBELIUS. Mr. Chairman, I rise in support of this legislation. Like everyone else today, the Farmers Home Administration is feeling the impact of inflation. This has led to a considerable increase in the backlog of people awaiting FmHA loans.

This bill attempts to correct this deficiency by authorizing $1.615 billion for the broad classification of real estate loans. That does not mean we are spending more money. Last year, we increased interest rates charged for many FmHA loan programs. We also changed provisions in the act relating to guaranteed loans which should result in an increased use of this type of loan which is made by lenders at no cost to the Government, so long as borrowers do not default.

This bill also clarifies FmHA loan authority under current law for nonfossil fuel energy systems. With the continuing availability of sufficient energy supply in question, it is essential that sufficient lending authority be available to allow development of alternative energy sources in agricultural areas, not only for onfarm use, but also for use in the Nation's rural communities.

Mr. Chairman, I urge my colleagues to support this bill and thank you for this opportunity to express my views.

● Mr. WAMPLER. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Kentucky (Mr. HOPKINS) and urge support of this bill. In accordance with the Agricultural Credit Act of 1978, Public Law 95-334, H.R. 3683 authorizes funding levels for the Farmers Home Administration loan programs over the next 3 years.

The Farmers Home Administration loan programs play an important role in the economy of our rural areas. Rapid increases in the cost of land and other elements of production have made it necessary for many farmers to borrow in order to stay in business. Adequate credit must be made available to these farmers to foster and encourage the orderly growth and development of rural America. The purpose of the Farmers Home programs is to provide such credit, and this bill insures that the credit will be available.

I would like to point out that the funding levels established by this bill are ceiling levels and will not be reached in fiscal 1980. In establishing these levels, the Agriculture Committee considered expected program growth over the next 3 years. Actual lending levels still would be fixed separately by the Congress in annual appropriations bills.

Mr. Chairman, we must provide the resources to strengthen and improve FmHA ability to deliver its full range of programs for farms and small communities. H.R. 3683 insures that the Farmers Home Administration will have the ability to provide these services, thereby improving the economy and living conditions in rural America. I urge passage of this bill.●

● Mr. ALEXANDER. Mr. Chairman, I rise in support of H.R. 3683, amendments to the Consolidated Farm and Rural Development Act. This legislation will prescribe lending limits for fiscal years 1980, 1981, and 1982 for the Farmers Home Administration loan programs in accordance with the agricultural credit legislation adopted in the last Congress.

The lending levels set in this legislation will meet expected credit needs of the Nation's farmers, particularly at a time when land prices are escalating and production costs are mounting.

H.R. 3683 will authorize $1.615 billion for real estate loans, of which $1.5 billion will be for farm ownership loans, both insured and guaranteed. The bill also authorizes a lending level of $1.2 billion for FmHA operating loans.

This legislation also authorizes lending levels for three rural development programs: $1 billion in insured loans for the rural water and sewer facilities program, $500 million in insured loans for the rural community facilities program, and $1.5 billion for business and industrial loans.

Mr. Chairman, this bill also addresses our energy dilemma by authorizing loan eligibility under the various FmHA programs for encouraging construction and development of solar energy systems, a term whose definition would include intermediate solar energy forms; that is, production of alcohol for fuel purposes from biomass. Inasmuch as 10 percent of the costs of operating a farm are due to energy requirements, helping the family farmer to develop onfarm alternative energy resources will assist in holding down production costs and contribute toward a break in this Nation's dependence on foreign oil.

As a member of the National Alcohol Fuels Commission, I want to compliment the Committee for its recognition of the need to clarify FmHA's role in meeting head on our energy dilemma.

I urge my colleagues to support this bill.●

Mr. HOPKINS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of Tennessee. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DASCHLE) having assumed the chair, Mr. LEHMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3683) to amend the Consolidated Farm and Rural Development Act, had come to no resolution thereon.

GENERAL LEAVE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration, H.R. 3683.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, due to a commitment in my district on October 11, 1979, I was unfortunately unable to be present to vote on the Kostmayer and Moffett amendments to the DOE authorization bill.

Had I been present, I would have voted "yes" on the Kostmayer amendment (rollcall No. 549). I was paired "yes" on the Moffett amendment (rollcall No. 548).

Mr. Speaker, it is quite unfortunate

that the Kostmayer amendment was defeated by a recorded vote of 124 ayes to 243 noes. That amendment sought to have the President use his existing authority to reimpose price controls on home heating fuel and possibly affect a price rollback. The Moffett amendment would have continued price controls on domestic crude oil—leading to lower prices for consumers.

It has become obvious to many of us that the reimposition of price controls is justifiable, especially in view of the fact that the increases in gross refiner margins is up 100 percent. I doubt seriously that these profits are as much the result of higher prices and inflation than they are the direct result of the profit motive of the oil companies. In fact, one may strongly argue that since there are controls on gasoline, the oil companies have conveniently decided to obtain their sought after gross profits by simply tacking on the increased price in a market that has high demands and no controls, such as home heating fuel. I fail to note any consideration whatsoever, on the part of the oil companies toward their customers—both the independent dealers and the American consumer. Their recent attempt to put the independent dealer either in a severe bind by restricting their credit terms and then by holding back on either their allocations or contracts, left much to be desired. The American consumer, in turn, was affected by this because not only did he have difficulty in finding the oil to put in his storage tanks, but when he found it—discovered that he had to pay c.o.d. on a price that was rapidly rising at 1 cent per week.

As a result of all this there is a very real danger that many homes will run the risk of cold furnaces this coming winter. According to a survey I conducted of the independent dealers in my own district, they are running behind at 15 percent on their overall deliveries and feel that, since the major oil companies have been withholding their product from the distribution pipelines in order to meet the President's October deadline of 240 million barrels, there may not be enough time to service everybody if confronted with an early winter. Accordingly, I have been continually urging the DOE to take the necessary steps to insure that the independent dealers are supplied with the heating oil they need, and that the American public be protected by the reimposition of price controls on home heating fuel.

Mr. Speaker, I urge my colleagues to take a closer look at the situation in their own district and to determine whether or not the oil companies are treating their independent dealers and customers with the respect and concern they deserve.

UNITED STATES AND UNITED NATIONS SHOULD CONDEMN COMMUNIST VIETNAM

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, I believe Congress is compelled to speak out forcefully against the oppressive, inhumane policies of the Communist Government of Vietnam being imposed on its people and those of neighboring countries at great human cost. I would call special attention to an excellent editorial in the Washington Post of October 12, 1979, which expresses quite accurately the outrage which most Americans feel about this situation.

While all Americans are concerned about the deplorable plight of the Indochinese refugees, I would suggest that so far we have been focusing too narrowly on the symptoms rather than the cause of this human tragedy.

In the rush to help the refugees, all the would-be rescuers in the international community are avoiding the fundamental cause of the refugee exodus itself.

It is regrettable, after many nations in Southeast Asia have fallen to the Communists, that our people are only now fully comprehending the human tragedy of Communist oppression. Now, however, it has become painfully evident that hundreds of thousands of human beings in Southeast Asia have been killed since the Communist takeover, and that many thousands more are dying in their desperate attempts to flee the same fate.

Yet neither the United States nor the United Nations has stepped forward with a bold and unequivocal condemnation of the diabolical policies of the Communist Government of Vietnam, which have forced so many freedom-loving people to flee their homelands in the face of great danger and uncertainty.

As the Post editorial concluded, the Vietnamese actions "invite and deserve contempt."

We as a nation simply cannot wash our hands of the shocking moral implications represented by these homeless thousands of Indochinese citizens. For by our failure to speak out against this tragedy wrought by totalitarian communism, the United States and the United Nations are in effect condoning this totalitarianism which should be universally condemned.

Our Nation should take the lead by accepting our compelling moral responsibility to condemn and oppose the Vietnamese tyranny.

I am today introducing a concurrent resolution which calls on the President to condemn the Vietnamese Government on behalf of the American people, and to call for a special session of the United Nations General Assembly to consider the imposition of international economic and political sanctions against the Government of Vietnam.

I feel that this Congress should insist on a forthright declaration to the world that the practices of the Vietnamese Government are repugnant to all people who love peace and respect human dignity, and that strict economic and political sanctions are in order.

Failure to do so would make a mockery of our commitment to human rights ideals.

Such an unambiguous declaration will also help restore the United States to its rightful position as a world leader for human freedom and decency.

I include the Washington Post editorial, "Vietnam: Genocide," and the text of the joint resolution at this point in the RECORD:

[From the Washington Post, Oct. 12, 1979]

VIETNAM: GENOCIDE

Quite a country, Vietnam: twice within a year its behavior has drawn upon it well-founded charges of genocide. The first time, charges arose from Hanoi's policy of forcing tens of thousands of its longtime citizens of Chinese ancestry onto the high seas in boats no better than floating coffins. Uncounted thousands died before an international outcry ended at least the most egregious manifestations of that policy.

Having practiced genocide on one ethnic group, Vietnam promptly turned upon another. As part of an evident effort to dominate the whole Indochinese peninsula, Hanoi has put hundreds of thousands of Cambodians—perhaps even millions—under the threat of starvation. These people have been driven from their homes and fields into barren no-man's-lands where all the combatants in the continuing war in Cambodia, but especially the Vietnamese, are using crop destruction and denial tactics to impose their political control.

The international relief agencies have been beseeching Hanoi, which manipulates a puppet regime in Phnom Penh, to let them in to do what they can in a country so devastated anyway by years of violence that, in the best of circumstances, relief would be a spotty thing. But while Hanoi has made gestures of cooperation, it has effectively prevented the agencies from doing more than token service. It seems to be part of Hanoi's plan to use what it calls the "food shortage" to solve what is in its expansionist view a real problem in Cambodia: the presence of Cambodians. Genocide, far from being an incidental product of a political decision, almost seems to be the decision. Vietnam does not appear to want Cambodians to be saved from famine even in the parts of Cambodia that it controls.

Some thousands of hapless Cambodians are now crossing over to adjacent sections of Thailand. The United States is assisting in the international effort to care for that relatively small part of the population for which the Thai option is available. But for the great majority, things are different: extreme malnourishment and rampant malaria are taking a terrible toll. The effect on the general health and the birth rate has been such as to raise the possibility that a next generation of Cambodians will not be born or, if one is, that it will not survive in any numbers or strength.

The Vietnamese may not care about the Cambodians. Do they care about themselves? They are cutting themselves off for years to come from association with people and nations that care about human life. They will end up with no foreigners to turn to except the Russians. They invite and deserve contempt.

H. CON. RES. 201

Concurrent resolution requesting the President to publicly condemn the Government of the Socialist Republic of Vietnam, and to request the United Nations to consider the imposition of sanctions against the Government of the Socialist Republic of Vietnam, for violating the fundamental human rights of the people of Vietnam, Cambodia, and Laos.

Whereas military personnel of the Government of the Socialist Republic of Vietnam have intervened in and occupied territory of Cambodia and Laos, thereby undermining the sovereignty and political stability of those countries;

Whereas the Government of the Socialist Republic of Vietnam has violated and continues to violate the fundamental human

rights of the people of Vietnam, Cambodia, and Laos, causing thousands of people to flee their homes and risk their lives on the high seas to escape inhumane treatment and intolerable economic and political conditions in their homelands;

Whereas it has been the express policy of the United States to stress fundamental human rights in conducting foreign relations;

Whereas the United States annually provides the largest percentage of funds to the United Nations, including the largest contribution made to the refugee assistance program administered by the United Nations; and

Whereas the members of the United Nations, individually and collectively, have failed to address adequately the repugnant actions of the Government of the Socialist Republic of Vietnam: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress request the President to immediately—

(1) publicly condemn the Government of the Socialist Republic of Vietnam for committing grave violations of the fundamental human rights of the people of Vietnam, Cambodia, and Laos, and

(2) formally request that a session of the General Assembly of the United Nations be convened to consider the imposition of international economic and political sanctions against the Government of the Socialist Republic of Vietnam for its inhumane treatment of the people of Vietnam, Cambodia, and Laos

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INFLATION AND MONEY SUPPLY: A TIME OF TESTING

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GEPHARDT. Mr. Speaker, I rise to express my support for the recent actions taken by the Board of Governors of the Federal Reserve System to better control monetary growth. For too long, in my opinion, the Federal Reserve has preached one policy while practicing another by advocating a tight monetary policy while it chased interest rates—even if the chase required an easy monetary policy. Witness the battle between the monetarists and the Keynesians with Arthur Burns and other Chairmen like him giving heavy lipservice to the monetarists while they worked to keep interest rates low as the Keynesians urged.

Now in the face of a crumbling dollar and a shaky international economic situation, the Federal Reserve has changed its emphasis from interest rates to monetary growth targets. No one can tell us what the ultimate results will be. No one knows if the theory espoused by the strict adherents of the monetary school will pass the test of the real world. But one thing is for sure—if we dump this experiment too soon we may never know if it can have a substantial positive economic effect.

The primary critics of the monetary school say the rate of money growth obviously affects inflation and the economy, but so do a lot of other things. That single-cause thinking will result in unacceptably deep recessions and will ultimately threaten the independence of the Federal Reserve System. Monetarists argue that there is a direct link between monetary growth and inflation—that economic behavior will eventually adjust to predictable, steady, consistent monetary growth to bring an end to the "roller coaster" economy after an initial shakedown. Failure to control monetary aggregates has played a role in producing double-digit inflation. I think it is time to test the alternative theory, controlling money supply, as the Chairman of the Board of Governors, Paul A. Volcker, courageously announced last week in New Orleans. His remarks detailing this policy here follow:

A TIME OF TESTING

(By Paul A. Volcker)

It is a very special privilege for me to have the chance to address so many bankers in assembled convention—but, just in case there are any doubts, I did not arrange the Federal Reserve announcements last weekend to honor this occasion.

In fact, those measures were not designed to make your life as bankers easier. Their purpose is rather to deal forcefully and responsibly with the economic and financial situation as we see it: strong inflationary pressures; concern, exaggerated concern in my judgment, that excessive growth in money and credit might be permitted by the Federal Reserve, fueling still more inflation; and an emerging speculative atmosphere and unsettled markets that could only complicate the job of restoring and maintaining orderly economic growth at home and stability in the dollar abroad.

I need not review with you all the trends and developments of recent years that have brought us to this crucial period for economic policy, nor emphasize the relevance of policies beyond the monetary and banking area. The problems and dangers are plain to see. Indeed, in our perhaps understandable preoccupation with what is wrong at the present time and in our doubts about the future, there may be another danger that is not so obvious; a justifiable sense of concern can spill over into a debilitating and unjustifiable sense of impotence and weakness.

The simple fact is that, after months of focusing on our economic problems:

More people are employed than ever before, over 10 million more than five years ago.

An exceptionally long period of expansion has helped encourage and sustain investment despite inhibitions in the tax, regulatory, and inflationary environment.

The Federal budget has come under better control, with spending moving somewhat lower in relation to the size of the economy, and with a substantially reduced deficit over the most recent years.

In the face of unprecedented inflation, and enormous new increases in energy prices, wage trends overall have not appreciably accelerated this year, reflecting, despite some disturbing exceptions, the discipline and good sense of Americans in general in accepting the need for restraint.

Amid the strains imposed by the high price of oil and sometimes turbulent foreign exchange markets, a high degree of international cooperation has been maintained and protectionism has been checked—enabling, among other things, a substantial growth in American exports.

We would, of course, be blind if we failed to recognize that all these achievements, and much more, will be jeopardized by any failure to come to grips with the inflation that has become so pervasive. Monetary policy inevitably has an essential role in the process of restoring stability. The new Federal Reserve actions are a part of that continuing process.

Those measures were specifically designed to provide added assurance that the money supply and bank credit expansion would be kept under firm control. There will be one seemingly technical, but potentially significant, change in procedure in conducting open market operations. More emphasis will be placed on limiting the provision of reserves to the banking system—which ultimately limits the supply of deposits and money—to keep monetary growth within our established targets for this year. We have raised the discount rate—and will manage it more flexibly—so that restraint on bank reserves will not be offset by excessive borrowing from the Federal Reserve Banks. We have placed a special marginal reserve requirement of 8 percent on increases in "managed liabilities" of larger banks (including U.S. agencies and branches of foreign banks) because that source of funds has financed much of the recent buildup in credit expansion. That requirement, admittedly cumbersome by its nature, will be maintained so long as credit expansion is excessive.

None of these actions will prevent moderate growth in money and credit commensurate with the needs of the economy; they are designed to curb excesses that would otherwise spill over into inflation. Let me speak quite directly and frankly to the responsibilities of the banking system and banking leaders in that connection. One of the glories and strengths of our system is that we rely on private markets and dencentralized decisions, responding to market incentives, in pricing and allocating credit. But those decisions do have to be made by all of you individually in your own institutions. In a situation in which there could be greater day-to-day or week-to-week volatility in money market rates—not in itself a matter of great consequence for the economy—pricing of your own loans seems to me more a matter of responsible business judgment than of following a rote formula, related solely to the cost of some small margin of loanable funds. The Board of Governors has particularly stressed its own concern that, in a time of limited resources, banks should take care to avoid financing essentially speculative activity in commodity, gold and foreign exchange markets. Bankers familiar with their own markets can, without doubt, make judgments that none of us in Washington can, or ever could, make about what loans best serve the continuing needs of customers, business and personal, and the country alike. But my general feeling is that this is hardly the time to search out for exotic new lending areas or to finance speculative or purely financial activities that have little to do with the performance of the American economy, and indeed may detract from it.

This is a time of testing—a testing not only of our capacity collectively to reach coherent and intelligent policies, but to stick with them. In approaching this test, the facts do not justify the skepticism, and even cynicism, that is heard on so many sides.

Some would suggest that we, as a nation, lack the discipline to cope with inflation. I simply do ont accept that view.

Second, some would argue that inflation is so bound up with energy prices, sluggish productivity, regulation, and other deep-seated forces that monetary and fiscal policies are impotent. I do not accept that view.

Third, some would stipulate that we face impossible choices between prosperity and inflation. The simple facts of the past, in the United States and elsewhere, refute that view.

Let me take the first point. I do not claim any special expertise in reading public opinion. But the dramatic swelling of national concern about inflation—a concern that seems to transcend economic, social and indeed political philosophies—seems to me unmistakable.

We need not rely on opinion polls or personal impressions. We have been assailed almost daily for months with learned and not so learned analyses about the prospects for a downturn in business activity. I understand the reasons for concern, particularly given the high level of inventory accumulation in recent months. But the Administration and the Congress have united in clearly rejecting the seductive course of budgetary easing and tax reduction in recognition of the ultimately greater threat to stability inherent in the inflationary process. Restrictive monetary policies are never calculated to win popularity contests; yet there has been acceptance of the need for restraint even at rates of interest that are almost outside the range of our historical experience.

Indeed, the Congressional committees responsible for oversight of the Federal Reserve have been among the strongest voices urging that we set forth and adhere to monetary targets, reducing them over the years ahead as an essential part of the effort to restore price stability. I believe we are coming to understand that our only real prospect of early and sustained declines in interest rates lies in coming to grips with inflation. I would note too that the "National Accord" recently reached between the Administration and American labor leadership plainly recognized the threat to full employment, incomes, investment and growth inherent in the inflationary process, and for those reasons gave "top priority" to the "war on inflation."

Of course, the skeptical can suggest that the consensus will buckle and fracture under the first real strains. But in assessing the prospects and policies, let us be clear on one important analytic point. There is clearly a time when, if business activity should recede, some of the outward manifestations of fiscal or monetary policy—the size of the budget deficit or interest rates—will change. Built-in stabilizers in the budget come into play, increasing the deficit temporarily.

When the money supply is brought clearly under control and expectations of inflation dissipate, interest rates will tend to decline, and our recent actions should bring that day sooner, whatever the initial impact on interest rates. Developments of this sort are in no sense inconsistent with maintaining the firm discipline on Federal spending and growth in the money supply that will be required over a long period of time to restore price stability.

Some have raised the question of tax reduction. If earned by sustained spending restraint, well-structured tax reductions—by which I mean changes that would help stimulate investment, cut costs, and offset the effects of inflation in moving people into higher tax brackets—could be welcome at some time in the future. That time has not yet come, nor is it useful now to speculate when it might. What we need to guard against is premature and excessive stimulus, during expansions as well as recessions—and it does seem to me that we have come a long ways, at the very least, toward learning that lesson.

I do not minimize the influence of more structural factors in our inflation—least of all the deplorable performance of productivity and the impact of energy prices, now rising at a rate of 70 to 80 percent a year. The traditional instruments of monetary and fiscal policy can do little directly to influence productivity or the supply of oil.

But let us not lose sight of the fact that inflation not only grows in part out of these factors, but that oil pricing and productivity performance are themselves influenced by the instabilities and uncertainties related to the underlying inflationary process. Attempts to pin all the blame for inflation on factors outside of our control would only doom our efforts to futility.

We can take some comfort from the fact that the rate of inflation in most sectors of the economy is today substantially below the levels so depressingly reported mon after month in the headlines; energy alone has added about 3 percent to the consumer price index in the past three months. As t rate of increase in energy prices subsides—as it should in coming months—the inflation rate as a whole should also decline appreciably. Looked at another way, the im mediate challenge is to avoid imbedding the current rate of inflation in expectations and wage and pricing decisions, before the cur rent bulge in prices subsides. That is not an unrealistic objective, but it is one that will require discipline over the months ahead.

That necessary discipline seems to me challenged by what I think of as the theories of "either/or":

Either we fight inflation or we prevent a recession.

Either we seek a strong and stable dollar internationally or we attend to our problems at home.

Either we do what's good for the long run or we follow short-run expediency.

There was a day when our problems seemed to fall into such convenient analytic compartments. Most economists of my generation have made a career of analyzing so-called "tradeoffs" between inflation and employment, between external and domestic stability, between the long and short-run. But that theorizing has been rooted in certain assumptions—assumptions that are now suspect—about the stability of expectations. When expectations of future inflation are so strong and potentially volatile as they have become, the "tradeoffs" disappear, or they appear in a much different light.

The lesson of the 1970's—here and abroad—simply does not bear out the "either/or" approach.

More inflation has been accompanied not by less, but by more unemployment and lower growth. We have not "traded off" one for the other.

A weak dollar externally aggravates inflation at home, and a weak dollar at home undermines the dollar abroad. Fundamentally, what disturbs Peoria disturbs Zurich.

After years of inflation, the long run has caught up with us. We can no longer blithely assume we can "buy" prosperity with a little more inflation, because the inflation itself is the greater threat to economic stability.

The real message of these lessons seems to me more hopeful than discouraging. Let me state the propositions in a more positive way.

As we turn the corner on prices, upward pressures on wages and other costs—including interest rates—should subside. As confidence in the currency is strengthened, improving conditions in money and capital markets will help support investment activity, and we should have a firmer base for investment planning, improving the outlook for purchasing power and productivity. A stronger dollar at home will bring it renewed strength internationally, and a strong dollar abroad will support our efforts to combat inflation at home. Appeals for moderation in petroleum pricing would have a new force and substance.

I do not delude myself that is yet the world in which we live.

What we can do, and I see no reasonable alternative, is to start the process—to turn the corner—to demonstrate the conviction that we have the wisdom and fortitude to maintain the financial discipline required to cope with inflation. In the process, we must, of course, be mindful of the business situation in the United States—and I count on you to make the lending decisions that distinguish between the support your customers require and the excesses that only aggravate and distract the adjustment process that is underway.

When I accepted this invitation to speak to you, I had a quite different address in mind—one focusing on the so-called "membership" problem and the necessary restructuring of reserve requirements. I decided to forego that theme in light of recent events. But let me note the obvious—that the problems are not unrelated, for they both concern the role and effectiveness of monetary policy and a strong central bank.

The central purpose of the proposed legislation is, after all, to strengthen our ability to conduct monetary policy in all foreseeable circumstances in the years ahead, and to do so in a context of fair and evenhanded treatment of competing depository institutions. That seems to me a practicable, achievable objective in this Congressional session. I am greatly encouraged by the convergence of views among affected institutions—what has seemed so controversial for years now approaches consensus. That in no small part reflects the responsible efforts of the leadership of this Association and individual bankers throughout the country.

In the weeks ahead, I welcome your efforts and your support—together with that of other affected institutions—in seeing this vital piece of legislation move through the Congress in acceptable form.

No industry in America plays a more pivotal role in our overall economic performance than our banks. Current developments underscore the point—but it will be as true in the decades ahead as it is today. The implied responsibilities are heavy. But seldom are we offered the opportunity to meet a major immediate challenge to our prosperity and stability, while at virtually the same time strengthening the base we need for effective policy in the decades ahead. We can afford to do no less than rise to those challenges.

□ 1450

SOVIET PROPAGANDA CAMPAIGN AGAINST NATO—AGAIN

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, for the second time in his administration, the President is being forced to deal with an intense Soviet propaganda campaign against a development central to the defense of Europe and the West. The first time the administration was put to the test, on the neutron weapon controversy, President Carter acquiesced to Soviet pressure and suspended the deployment of the weapon. The effects of the suspension on the alliance have been severe; confidence in America's leadership of the alliance has been shaken so fundamentally, that it is doubtful that the incumbent government in West Germany will ever be able to have complete confidence in the policy of the United States. The nominal rationale offered by President Carter at the time he suspended the neutron weapon deployment—to provide the Soviets with an opportunity to make a suitable arms control concession in Europe—has never materialized. Nevertheless, the President has made no move to deploy the neutron weapon in Europe. Having succeeded in preventing the deployment of the neutron weapon in Europe, the Soviets have now taken aim

at a much larger and more important target; the introducion of long-range theater nuclear systems to Western Europe.

Long-range theater systems have been an essential component of the Soviet theater nuclear posture for more than two decades. The Soviets have deployed more than 600 medium and intermediate range SS-4 and SS-5 missiles in the western regions of the U.S.S.R., particularly in the Byelorussian, Carpathian, and Baltic military districts. In addition, the Tu-16 Badger and the Tu-22 Blinder bombers assigned to Soviet long-range aviation air armies have been deployed in large numbers for nearly two decades; 1,200 of these aircraft are in service with the Soviet LRA and the Soviet naval aviation forces. More recently, the Soviets have initiated a vigorous program to modernize their theater nuclear program including its long-range delivery elements. The multiple warhead SS-20 has already been deployed in numbers exceeding 100 wheeled launchers. The launcher accommodates two missiles, each with three warheads.

Thus, the number of long-range ballistic missile warheads associated with the European theater has been doubled in the past few years. In addition, the Soviet Union achieved favorable terms in SALT II for the Tu-22M Backfire—it is not counted in SALT II as a strategic delivery vehicle—allowing them to produce these aircraft in large numbers for use against European targets. It is often overlooked, but the Backfire is a highly capable aircraft. With a 5,000 pound bomb load, it has a longer range than the B-52D, the mainstay of U.S. conventional heavy bombing in Vietnam. According to Under Secretary of Defense William Perry, the Soviet Union now has 200 Backfire bombers deployed, and may build 30 aircraft per year through 1985 within SALT terms, making it possible for the Soviets to have nearly 400 deployed before SALT II expires in 1985. Because the Backfire has a low-altitude penetration capability, it poses a very significant threat to all of Western Europe due to the inadequacy of NATO's low altitude air defense.

In addition, the Soviet Union has greatly increased the performance and numerical strength of its short-range theater nuclear systems. It has recently deployed a self-propelled 203mm. howitzer with a nuclear capability, in addition to its division level FROG-7 deployments (with a range similar to the U.S. Lance missile, the one destined to carry the neutron warhead), and have augmented deployments of the SCUD-B and SS-12 Scaleboard at the Front and Army level. Three new missiles are now being deployed which will replace the FROG-7, SS-12, and SCUD-B; the SS-21, SS-22, and SS-23.

Soviet tactical aviation—known as Frontal Aviation in Soviet terminology—capable of nuclear weapons delivery has been augmented as well by the rapid introduction of the Su-19 Fencer and the MIG-277 Flogger. These aircraft are far more capable than earlier generation in terms of both their operational range and the payload they can deliver. Today, virtually all of Western Europe can be brought under attack by the Fencer/Flogger force from their bases in East Germany and Poland.

The cumulative effect of this decade-long Soviet effort has been to force the NATO theater nuclear posture into virtual obsolescence. More than half of the NATO nuclear delivery systems have a range of less than 15 kilometers. The only "long" range systems are the 450 mile (ca. 60 km.) range Pershing I ballistic missile, the modest level of F-111 deployments in Western Europe, and the Poseidon class submarines assigned to the Supreme Allied Commander, Europe (SACEUR).

NATO has been placed in the unacceptable posture of having most of its theater nuclear capability placed at risk by long-range Soviet theater nuclear forces, while U.S./NATO theater nuclear deployments for the most part are not capable of attacking long-range Soviet systems. Such an asymmetry has both diplomatic and military effects. It undermines the stability of deterrence by decreasing the ability of NATO to credibly threaten theater nuclear escalation in the event of a Soviet attack, and it places the bulk of NATO's military power under threat of early destruction in the event of war.

These deficiencies have been recognized for some time, and U.S. R. & D. programs have been underway to identify viable means of offsetting them. The best available response is for NATO to improve its own long-range theater nuclear delivery capability. The most promising avenues are a medium range ballistic missile to replace the Pershing I and the introduction of long-range cruise missiles. To this end, the 2,000 km. range Pershing II and a family of ground, sea, and air launched cruise missiles will soon be ready for deployment. A sensitive decision on the deployment of these long-range missiles is scheduled to be made by the NATO nations later this year.

The Soviets clearly understand the import of this decision, and have begun their most extensive propaganda effort in Europe since the neutron weapon controversy. It is obviously in the Soviet interest to prevent the modernization of long-range theater nuclear systems by NATO because they threaten the ability of the Soviets to undermine the security of Europe with Soviet long-range theater nuclear systems. The risk involved in this decision is that the Carter administration may continue its posture of substituting arms control for defense policy, and withdraw its effort to deploy long-range theater systems in exchange for a Soviet expression of interest in "negotiations" about long-range theater systems in SALT III, or perhaps in the mutual and balanced force reduction negotiations.

An equivalent form of U.S. capitulation to Soviet propaganda would be to accept a postponement of a deployment decision as the left wing of some of the NATO governments have suggested.

The urgent need to improve the defense posture of NATO to redress more than a decade of neglect is urgent, and cannot be prudently delayed. The strident Soviet propaganda should be rejected, and a full-scale theater nuclear modernization should proceed including land, sea, and air-based elements. Having carried out such a deployment, the West will have provided far more of an incentive for the Soviet Union to begin to reduce some of its conventional as well as nuclear strength in Europe than any other step we could take.●

CONGRESS NEEDS TIME TO STUDY OPTIONS ON H.R. 3712

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

● Mr. JONES of Oklahoma. Mr. Speaker, in the near future, it is possible that the House will consider H.R. 3712, a bill which impacts on the future availability of tax exempt mortgage bonds for use in time, I may offer a substitute to the committee-passed version of section 2 of H.R. 3712.

During committee consideration of H.R. 3712, I shared the concern of many of my colleagues that the Ways and Means Committee was basically legislating in the dark on the issue of housing policy and tax exempt bonds. This concern was borne out in the chaotic history of this legislation. In the committee bill, there is provision for a study of this entire issue to be conducted by the General Services Administration, the Department of Treasury, and the Department of Housing and Urban Development. The purpose of these studies is to enable the congressional tax writing committees to have a clearer picture of the entire housing subsidy issue, and in particular, the effect of a continued tax-expenditure in the form of tax free bonds. I fully support these studies, and I hope that we will be able to make use of the information they will provide.

My disagreement stems from the relief crafted by the committee for the interim period during which these studies will be conducted. In the committee bill, provision is made for the continued use of mortgage bonds subject to certain limitations. In my view, a wiser course of action would be to allow all those issues currently in the pipeline to proceed, and then to call a moratorium on the further issuance of single-family bonds pending completion of the studies. My substitute does precisely that. It impacts only on single-family bonds not covered by the transition rules, and would halt the further issuance of bonds until July 1, 1981. This will give the Congress time to study the options in a rational manner, and if upon expiration of that date, no further action is deemed necessary, then the committee provisions would take effect. At this time, I would like to call your attention to the text of my amendment which appears in the RECORD of October 18 at page 28837.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 15 minutes.

● Mr. DRINAN. Mr. Speaker, due to a commitment in my congressional district, I was unavoidably absent from the House for a brief period yesterday during consideration of H.R. 3000, a bill to authorize appropriations for the Department of Energy in fiscal year 1980. Had I been present, I would have voted "aye" on rollcall No. 581, to limit debate on the Kostmayer amendment and all amendments thereto; "aye" on rollcall No. 582, the modified Kostmayer amendment to the McCormack substitute; and "aye" on rollcall No. 283, to limit debate on the bill and all amendments thereto.●

JESSE JACKSON AND JOHN CONNALLY ON THE MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 15 minutes.

● Mr. BINGHAM. Mr. Speaker, recent pronouncements on the Middle East by the Reverend Jesse Jackson and by former Texas Governor, John Connally, demonstrate that these two men, so different in other areas, share a common insensitivity to Israel and to recent Jewish history as well as a common ignorance of Middle East realities. It is clear that both of these men are mindful of economic considerations in their newly found discovery of the Middle East and the Palestinian refugee issue. Connally apparently aspires to be the candidate of "big oil" and Jesse Jackson admits that he wants to see Arab oil money flowing to U.S. civil rights organizations, like his own. Neither man says that he wishes to see Israel weakened or harmed, but the fact is that the policies of these men advocate would gravely damage Israel's security and the interests of the United States.

Connally would have Israel withdraw from all the territories she won in 1967 including Israel's capital, Jerusalem. He seems to believe that fanatic Arab rejection of Israel's right to exist would evaporate in return for the Golan and the West Bank. Has Connally forgotten that prior to 1967 all the disputed territories, including East Jerusalem, were under Arab sovereignty and yet there were three Arab onslaughts against Israel designed to erase the country from the map? That is still the goal of the Arafats, Assads, and Quadaffis. Returning Nablus will not appease those whose real goal is to possess or destroy Tel Aviv and Haifa.

John Connally says that the Camp David peace agreement is "without force and effect" and that it has not resulted in movement toward peace. This is a deplorable remark. Here is a peace treaty, hammered out word for word by the President of the United States. It has brought peace between Israel and her most important neighbor after 30 years of war and bloodshed. But John Connally opposes it. Despite his tough reputation, Connally would yield to every demand of the Arab hardliners including the scuttling of the Israel-Egypt peace treaty. This is appalling and will in itself contribute to the hardening of Arab opinion. Arab leaders who might have considered joining in the Camp David process can now point to Connally's remarks as a justification for "rejectionism."

Why should any Arab leader adopt a position that is less pan-Arab than candidate John Connally? Connally has also encouraged Arab linkage of the oil price and supply issues with the Palestinian issue. Connally accepts that linkage as legitimate and in doing so increases U.S. vulnerability to oil blackmail. This certainly does not contribute to this Nation's security nor is it likely to reassure our allies about U.S. resistance to blackmail—on this point I refer my colleagues to a column by George Will, which appeared in the Washington Post for October and which I insert below.

Both Connally and Jackson would have Israel accept the PLO as a legitimate negotiating partner. Jesse Jackson joined Arafat in singing "We Shall Overcome." Is Jackson ignorant of what Arafat seeks to overcome? In the last 3 weeks alone the PLO murdered a religious Jew who was visiting a cemetery on the Mount of Olives; 3 days later the PLO struck in Jerusalem's main shopping area; a young Iranian father, a refugee from the Khomeini regime, was killed. Despite all the rhetoric from Jackson and other Arafat apologists, this is what the PLO is all about. Since 1967 the PLO has murdered 1,200 persons, mostly Israeli civilians. What an outrage to associate the PLO and its record with the nonviolent American civil rights movement. I am grateful that civil rights leaders like Vernon Jordan and Bayard Rustin have condemned this spectacle but the bad taste remains. The words and actions of Jesse Jackson and company come very close to plain old-fashioned antisemitism.

It seems that anti-Israel rhetoric is gaining a new responsibility in certain circles. It is as if certain people were willing to forget recent history and leave Israel defenseless. I believe that the vast majority of Americans will not permit the sellout of an ally and friend like Israel and I shall do everything in my power to see that Israel remains strong and free:

CHARACTERISTICALLY CONNALLY

(By George F. Will)

No one should question John Connally's intelligence, but it is permissible to be uncertain of his wisdom. And it is reasonable to conclude that his campaign is failing to threaten Ronald Reagan.

Connally has now delivered an historic speech, making him the first presidential candidate ever to adopt a thoroughly anti-Israel policy. His policy is extreme, reckless and self-defeating.

Extreme because of its congruence with Arab extremism; it even asserts that Israel (which has been trying to negotiate for 31 years) is the obstacle to negotiations with what Connally calls Israel's "moderate neighbors." (Syria?)

Reckless because it will encourage Arab extremists. (If there is oil pressure directed against the United States during the primaries, remember: Connally made that more likely by blaming Israel in advance.)

Self-defeating because, far from making the nation and John Connally seem strong, his pronouncement makes the nation seem obsequious toward oil sheiks and makes Connally seem frantic about finding something to energize his sputtering campaign.

Connally should be disappointed. He may have the support of 80 percent of the officers of the "Fortune 500" corporations, but they are (to exaggerate just a bit) about 80 percent of his support. In a Field poll in California last spring, Connally was the only Republican candidate who generated more negative than positive impressions. In a recent private poll, targeted at Republicans apt to vote in primaries in the Northeast, 30 percent said they would not vote for Connally under any circumstances.

Connally's veiled references to Reagan's age (Reagan is all of six years older than Connally) and Connally's not-at-all veiled references to Chappaquiddick ("I never drowned anybody") and nasty. Perhaps nasty people deserve a candidate, and the nasty constituency is not negligible. Connally may even become "the thinking person's Agnew," which is, of course, a contradiction in terms.

He enjoys saying, for example, that the Japanese should be made to sit on their docks in their Toyotas watching their Sonys, etc. Jolly fun. But as a hardhat (and an Agnew fan) said in 1971 about the idea of Agnew in the White House, "I don't want a guy there just because he sounds like me shouting my head off over my lunch box."

By playing, with characteristic vehemence, the anti-Israel card, Connally tried to give Republicans a reason to choose between him and Reagan. He did, but not in the way he wanted.

The shrill and slapdash way he presented the issues in the Arab-Israel dispute will broaden and deepen the suspicion that he is too busy to be careful, or too vain to think he needs to be. (His initial call for a 5 percent cut in defense spending was followed by the moral equivalent of "Oops!" and a 180-degree turn.) Also, Connally's pronouncement on Middle East policy suffers in comparison with Reagan's recent foreign policy pronouncements, which are precise and moderate.

See, for example, Reagan's statement on SALT II, prepared with the help of people like Fred Ikle, former director of the Arms Control and Disarmament Agency. Ikle, by the way, is typical of the high-caliber advisers whom Reagan has the wisdom to want and the ability to attract.

Lou Cannon, the unrivaled reporter of Republican politics, summarizes the situation well. There still are just two candidates: Reagan and Stop Reagan. The latter is a multiple personality, and the more multiple it is, the better off Reagan is.

The second stage of Connally's rocket has not ignited, so he is not well-placed to argue that he is more electable than Reagan. Reagan's other rivals are, so far, similarly disadvantaged. Actually, if Reagan can carry California, the electoral-vote arithmetic looks promising for him against Kennedy. And polls indicate he has a better chance than any other Republican has of carrying California. Moreover, he can strengthen himself elsewhere with a shrewd choice of a running mate.

As an experienced executive, Reagan may want a running mate from the legislative branch. Strong in the West and South, Reagan may want a running mate who adds strength against Kennedy in the Midwest. Reagan never has been as dogmatically conservative as some careless or cynical detractors say, and he might underscore the point by picking someone who is liberal, but not as liberal as that person is said to be. Reagan will want someone conspicuously vigorous, yet conspicuously mature.

Consider, for example, the white-haired 57-year-old former chairman of the House Republican Conference, Rep. John Anderson of Illinois.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. YOUNG of Florida (at the request of Mr. RHODES), for today after 11 a.m., on account of official business.

Ms. CHISHOLM (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. BOLAND (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. CHARLES H. WILSON of California (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. COLEMAN) to revise and extend his remarks and include extraneous material:)

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. DASCHLE) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. JONES of Oklahoma, for 5 minutes, today.
Mr. DRINAN, for 15 minutes, today.
Mr. BINGHAM, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks and was granted to:

(The following Members (at the request of Mr. COLLINS of Texas) and to include extraneous matter:)

Mr. COLLINS of Texas in two instances.
Mr. BURGENER.
Mr. MCKINNEY.
Mr. YOUNG of Florida.
Mr. HILLIS.
Mr. MICHEL in two instances.
Mr. PAUL.
Mr. SEBELIUS.
Mr. ASHBROOK in two instances.
Mr. GILMAN in three instances.
Mr. EDWARDS of Oklahoma.
Mr. MCCLOSKEY in three instances.
Mr. LENT.

(The following Members (at the request of Mr. DASCHLE) and to include extraneous matter:)

Mr. MOFFETT.
Mr. HARKIN.
Mr. APPLEGATE.
Mr. SIMON in two instances.
Mr. LUKEN.
Mr. GARCIA.
Mr. GAYDOS.
Mr. KOSTMAYER.
Mr. EDWARDS of California.
Mr. PATTEN.
Mr. NEAL.
Mr. ZABLOCKI.
Mrs. SCHROEDER in two instances.
Mr. STUDDS.

ADJOURNMENT

Mr. DASCHLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until Monday, October 22, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2669. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-107, to amend existing regulations governing the construction of buildings in the District of Columbia to achieve more efficient utilization of energy in new and existing buildings, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2670. A letter from the Secretary of Agriculture, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2671. A letter from the Administrator of General Services, transmitting a followup report on the recommendations contained in the August 1978 report of the Advisory Committee on Federal Pay on the fiscal 1979 pay increase under the Federal statutory pay systems, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2672. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting addenda to the proposed plan for the use and distribution of Yankton Sioux judgment funds in docket No. 332-C-1 before the Indian Claims Commission, previously submitted pursuant to sections 2(a) and 4 of Public Law 93-134 (Executive Communication No. 2550); to the Committee on Interior and Insular Affairs.

2673. A letter from the Under Secretary of Defense (Research and Engineering), transmitting a report on Department of Defense procurement from small and other business firms for October 1978-April 1979, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

2674. A letter from the Comptroller General of the United States, transmitting a report on changes needed in the administration of the overseas food donation program (ID-79-25, October 15, 1979); jointly, to the Committees on Government Operations and Foreign Affairs.

2675. A letter from the Comptroller General of the United States, transmitting a report on Federal agency standards of employee conduct (FPCD-80-8, October 18, 1979); jointly, to the Committees on Government Operations and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 5295. A bill to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test; with amendment (Rept. No. 96-537). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5507. A bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes; with amendments (Rept. No. 96-538). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. S. 1454. A bill to amend the act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code; with amendment (Rept. No. 96-539, pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 5651. A bill to establish by law the position of Chief of the Capitol Police, and for other purposes; to the Committee on House Administration.

By Mr. BAFALIS (for himself and Mr. RANGEL):

H.R. 5652. A bill to amend the Internal Revenue Code of 1954 to treat amounts received on redemption of series E U.S. savings bonds as capital gain; to the Committee on Ways and Means.

By Mr. CAVANAUGH:

H.R. 5653. A bill to waive certain time limitations on the award of a Medal of Honor to Hyman Epstein; to the Committee on Armed Services.

By Mr. KEMP:

H.R. 5654. A bill to amend the Internal Revenue Code of 1954 with respect to the determination of whether scholarships under certain employer-related programs of private foundations will be treated as taxable expenditures under section 4945 of such code; to the Committee on Ways and Means.

By Mr. MCCLOSKEY:

H.R. 5655. A bill to amend the Fishery Conservation and Management Act of 1976; to the Committee on Merchant Marine and Fisheries.

By Mr. MITCHELL of New York:

H.R. 5656. A bill to amend the Federal Aviation Act of 1958 to require operators of commuter service airports to establish air transportation security programs, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MONTGOMERY:

H.R. 5657. A bill to prohibit the use of appropriated funds to lobby members of State legislatures and legislative bodies of political subdivisions; to the Committee on Government Operations.

By Mr. PAUL:

H.R. 5658. A bill to make Federal Reserve notes and U.S. notes redeemable in gold; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5659. A bill to limit the questions that may be asked by the Secretary of Commerce in conducting any enumeration of the population; to the Committee on Post Office and Civil Service.

By Mr. UDALL (for himself, Mr. CLAUSEN, Mr. WIRTH, Mr. SYMMS, Mr. JOHNSON of Colorado, Mr. CHENEY, Mr. CARR, and Mr. BERGLAND):

H.R. 5660. A bill to establish a coordinated, integrated, expedited, and simplified process for decisionmaking in regard to significant nonnuclear energy projects, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. WALKER:

H.R. 5661. A bill to limit foreign assistance to programs relating to food production and nutrition and military assistance; to the Committee on Foreign Affairs.

By Mr. YOUNG of Alaska:

H.R. 5662. A bill to provide for the cession and conveyance to the States of certain federally owned lands and to establish policy, methods, procedures, schedules, and criteria for such transfers; to the Committee on Interior and Insular Affairs.

By Mr. ANNUNZIO (for himself and Mr. MCCLORY):

H.J. Res. 425. Joint resolution recognizing the State of Illinois and the city of Chicago as hosts in 1992 of the official quincentennial celebration of the discovery of America; to the Committee on Post Office and Civil Service.

By Mr. OBERSTAR (for himself and Mr. RHODES):

H.J. Res. 426. Joint resolution authorizing and directing the President to issue a proclamation designating December 3 through 9, 1979, as "National Submarine Week"; to the Committee on Post Office and Civil Service.

By Mr. DERWINSKI (for himself, Mr. ANDREWS of North Dakota, Mr. ANNUNZIO, Mr. ASHBROOK, Mr. BENJAMIN, Mr. BIAGGI, Mr. BLANCHARD, Mr. BONKER, Mr. BROADHEAD, Mr. CARNEY, Mr. CARTER, Mr. CLEVELAND, Mr. COTTER, Mr. DANIEL B. CRANE, Mr. PHILIP M. CRANE, Mr. DONNELLY, Mr. DORNAN, Mr. DOUGHERTY, Mr. EVANS of Delaware, Mr. FARY, Mr. FITHIAN, Mr. FLOOD, Mr. FLORIO, Mr. FORSYTHE, Mr. GIAIMO, Mr. GOLDWATER, Mr. GUYER, Mr. HALL of Ohio, Mr. HANLEY, Mr. HOLLENBECK, Mrs. HOLT, Mr. HOWARD, Mr. HUGHES, Mr. HYDE, Mr. JACOBS, Mr. KEMP, Mr. KOGOVSEK, Mr. LAGOMARSINO, Mr. LEDERER, Mr. LEE, Mr. LENT, Mr. LLOYD, Mr. MCCLORY, Mr. MCDONALD, Mr. MCHUGH, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MONTGOMERY, Mr. MOTTL, Mr. MURPHY of Pennsylvania, Mr. MURPHY of Illinois, Mr. NOWAK, Mr. O'BRIEN, Mr. OTTINGER, Mr. PATTEN, Mr. PEASE, Mr. PEPPER, Mr. PEYSER, Mr. PRITCHARD, Mr. QUAYLE, Mr. ROBINSON, Mr. ROE, Mr. ROUSSELOT, Mr. RUSSO, Mr. SENSENBRENNER, Mr. STANGELAND, Mr. STOKES, Mr. STRATTON, Mr. THOMPSON, Mr. VENTO, Mr. WAXMAN, Mr. BOB WILSON, Mr. YATRON, Mr. YOUNG of Alaska, and Mr. YOUNG of Florida):

H. Con. Res. 200. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain U.S. citizens; to the Committee on Foreign Affairs.

By Mr. RUDD:

H. Con. Res. 201. Concurrent resolution requesting the President to publicly condemn the Government of the Socialist Republic of Vietnam, and to request the United Nations to consider the imposition of sanctions against the Government of the Socialist Republic of Vietnam for violating the fundamental human rights of the people of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. STACK (for himself, Mr. FASCELL, Mr. WILLIAMS of Montana, Mr. ROSENTHAL, Mr. ARCHER, Mr. BROADHEAD, Mrs. FENWICK, Mrs. SCHROEDER, Mr. BONIOR of Michigan, Mr. DOWNEY, Mr. BINGHAM, Mr. MICA, Mr. LEHMAN, Mr. BOWEN, Mr. MOFFETT, Mr. WOLPE, Mr. STUDDS, Mr. PEPPER, Mr. LUKEN, Mr. PHILLIP BURTON, Mr. FROST, Mr. BLANCHARD, Mr. MAVROULES, Mr. BONER of Tennessee, Mr. BARNES, Mr. MOAKLEY, Mr. MAGUIRE, Mr. KEMP, Mr. DRINAN, Mr. CAVANAUGH, Mr. LOWRY, and Mr. DERWINSKI):

H. Con. Res. 202. Concurrent resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel, and for other purposes; to the Committee on Foreign Affairs.

By Mr. LUNGREN:

H. Res. 461. Resolution to amend the rules of the House to prohibit foreign travel by Members convicted of a felony; to the Committee on Standards of Official Conduct.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 262: Mr. EDWARDS of Oklahoma, Mr. ETTEL, Mr. FLOOD, Mr. LEDERER, Mr. LUNGREN, Mr. MURPHY of Pennsylvania, Mr. PASHAYAN, Mr. PAUL, Mr. ROSTENKOWSKI, Mr. TREEN, and Mr. CHARLES WILSON of Texas.

H.R. 2770: Mr. FAZIO and Mr. MARKEY.

H.R. 3612: Mr. WHITEHURST.

H.R. 4325: Mr. ATKINSON, Mr. BEARD of Rhode Island, Mr. D'AMOURS, Mr. DUNCAN of Tennessee, Mr. GILMAN, Mr. GLICKMAN, Mr. MARKEY, Mr. NEAL, Mrs. SPELLMAN, and Mr. WON PAT.

H.R. 4576: Mr. MCDONALD, Mr. CAMPBELL, Mr. WYATT, Mr. BONIOR of Michigan, and Mr. JONES of Oklahoma.

H.R. 5225: Mr. MONTGOMERY, Mr. LEATH of Texas, Mr. MATHIS, and Mr. NEAL.

H.R. 5402: Mr. GUYER.

H.R. 5519: Mr. MCCLOSKEY.

H.J. Res. 225: Mr. CORCORAN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2172

By Mr. FRENZEL:

(Amendment to Vanik amendment (Ways and Means amendments).)

—In lieu of the matter proposed to be stricken and the new language to be inserted as offered by Mr. VANIK with respect to section 202(b), strike out line 4 on page 39 and all that follows through line 12 on page 40 and insert the following:

(b) PROHIBITION ON PAYMENTS.—During supply years 1979 through 1981, the Secretary shall not make payments to, or on behalf of, producers and processors of sugarcane or sugar beets under section 301 of the Agricultural Act of 1949 (7 U.S.C. 1447) or any other provision of law that authorizes payments by the Secretary to achieve price support levels for such commodities.

Page 36, strike out line 11 through line 17, inclusive.

Renumber the succeeding paragrapns of section 201 accordingly.

—In addition to the matter proposed to be inserted with respect to 202(b), on page 39 strike out lines 4 through 14, inclusive, and insert the following:

(b) PAYMENTS.—(1) If the assured return is not achieved in any sugar supply year that begins after September 30, 1979, the Secretary shall make payments under, but subject to the limitations set forth in, this subsection solely to domestic producers of sugarcane and sugar beets. Payment under this subsection to any such producer shall be made only at the rate per pound, raw value (but not more than .50 cents per pound, raw value) that is equal to the amount by which the assured return for the sugar supply year exceeds the greater of—

(A) the average related processor price for such year; or

(B) the price objective for such year.

For purposes of applying this paragraph with respect to any producer of sugarcane or sugar beets for any sugar supply year, the term "average related processor price" means the average price, as determined by the Secretary, in pounds, raw value, that is paid for all sugarcane or sugar beets that are purchased during such year by the commercial processors to whom such producer sells sugarcane or sugar beets during such year. No producer of sugarcane or sugar beets is eligible for payment under this subsection for any sugar supply year during which the average price in pounds, raw value, received by such producer for his crop is equal to, or more than, the assured return for such year.

By Mr. PEYSER:

—Page 33, strike out line 12 and all that follows through line 7, page 36, and renumber the subsequent titles accordingly.

H.R. 2218

By Mr. BREAUX:

(Amendment to the amendment to H.R. 2218 offered by Mr. BREAUX.)

—Page 7, strike out line 12 and all that follows down through and including line 24 on page 11, and insert the following:

"CONVENTION IMPLICATION

"SEC. 8A. (a) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Scientific Authority under the Convention.

"(d) ENDANGERED SPECIES SCIENTIFIC AUTHORITY COMMISSION.—(1) There is hereby established within the U.S. Fish and Wildlife Service the Endangered Species Scientific Authority Commission (hereinafter in this section referred to as the 'Commission').

"(2) The Commission shall be composed of scientifically qualified agency representatives. Each of the following shall designate one such representative from his agency:

"(A) The Secretary of the Interior, whose representative shall be the Chairman.

"(B) The Secretary of Agriculture.

"(C) The Secretary of Commerce.

"(D) The Secretary of Health, Education, and Welfare.

"(E) The Director of the National Science Foundation.

"(F) The Chairman of the Council on Environmental Quality.

"(G) The Secretary of the Smithsonian Institution is invited to designate a representative.

"(3) The Commission shall make recommendations to the Director of the U.S. Fish and Wildlife Service on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention.

"(4) In the discharge of its responsibilities, the Commission shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the governmental and nongovernmental scientific communities, State

agencies responsible for the conservation of wild fauna or flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community and others as appropriate.

"(5) The Secretary shall designate an Executive Secretary for the Commission, and shall provide the necessary staff and administrative support for the Commission.

H.R. 3712

By Mr. BABO:

—Delete on page 12, lines 14 through 25; on page 13, lines 1 through 24; and on page 14, lines 1 through 19.

—Delete on page 12, lines 24 and 25 and on page 13, lines 1 through 6; substitute in its place the following:

(2) PER CAPITA LIMIT.—Except as provided in paragraph (3), the applicable limit for qualified mortgage bonds for all issuing authorities in a State for any calendar year shall be an amount equal to $100 per capita based on the population of the State according to the last preceding Federal or official State census.

Delete on page 14, lines 13 through 19; substitute in its place the following:

(3) STATE MAY PROVIDE FORMULA.—The State may by law provide an allocation of the per capita limitation (and, if applicable, the $50,000,000 limitation) among the governmental units in such State having authority to issue qualified mortgage bonds. In the absence of a State allocation, the limit for qualified mortgage bonds for any issuing authority for any calendar year shall be an amount equal to $100 per capita based on the population residing on land within the taxing jurisdiction of the issuing authority, according to the last preceding Federal or official State census.

H.R. 4085

By Mr. UDALL:

(Amendment in the nature of a substitute).

—Page 1, strike all after the enacting clause and insert:

TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress finds that—

(1) the United States faces a severe energy shortage which has created a national emergency;

(2) this emergency endangers the national economy and the national defense;

(3) temporary measures are necessary to expedite decisionmaking on important energy projects and proposals;

(4) expeditious decisionmaking requires strict compliance with the time schedules and deadlines authorized by, and administered pursuant to, this Act; and

(5) delays in the exercise of the regulatory authorities of Federal, State and local agencies relating to energy projects and proposals may exacerbate the national emergency and may constitute an undue burden on interstate commerce.

(b) The purpose of this Act is to provide for a coordinated, integrated, expedited, and simplified process for making Federal, State, and local agency decisions, and for carrying out other Federal, State, and local actions, which are required in connection with proposed nonnuclear energy projects where it is determined that the projects are of sufficient national interest to warrant such a process.

DEFINITIONS

SEC. 102. As used in this part, the term—

(1) "Agency" means a Federal agency or an agency or instrumentality of a State or local government or of a special governmental authority.

(2) "Agency action" means any decision required to be made, or any other action required to be taken, by any agency with respect to any Priority Energy Project.

(3) "Board" means the Energy Mobilization Board established pursuant to section 201.

(4) "Energy project" means any project or device to be used, or activity to be carried out, by any person in connection with the exploration for, the development, transportation, production, storage, commercialization of, or the conservation or efficiency in the use of, any form of energy. Such term includes any equipment, building, mine, well, rig, pipeline, transmission line, processing project, transportation-related device, manufacturing project, or installation or any combination thereof to be used for such purposes. Such term includes any such project, device, or activity which is to be used or carried out on Federal lands for such purposes and any such project, device, or activity located upon the public lands or which relies substantially upon fuels extracted from the public lands to be used for such purposes.

(5) "Federal agency" means an executive agency as defined in section 105 of title 5 of the United States Code, the departments described in section 102 of such title 5, and the Executive Office of the President.

(6) "Person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any Federal agency, any agency or instrumentality of a State or local government, or a special governmental authority.

(7) "Priority energy project" means an energy project, or a proposed energy project, which is designated pursuant to section 204 of this Act.

(8) "Special governmental authority" means an interstate or regional authority or an Indian tribe.

(9) "State" means any of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE II—PRIORITY PROJECTS

ENERGY MOBILIZATION BOARD; ESTABLISHMENT AND AUTHORITY

SEC. 201. (a) The President is authorized to establish for purposes of this Act an Energy Mobilization Board to consist of five members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated by the President as the Chairman.

(b) Members of the Board, other than the Chairman, shall be entitled to receive compensation at the rate prescribed for level IV of the Executive Schedule. The Chairman shall be entitled to receive compensation at the rate prescribed for level III of the Executive Schedule. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code. The Board shall appoint a General Counsel who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule.

(c)(1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel, not to exceed 60 persons, as he deems necessary to carry out the functions of the Board.

(2) Upon request of the Chairman, the Secretary of Energy or the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

(5) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Department of Energy.

(d)(1) The Board may, for the purpose of carrying out its functions, hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders as may be necessary to carry out its functions under this Act. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this Act. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

(2)(A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(e) Whenever the Board submits to the President or to the Office of Management and Budget any legislative recommendation or testimony, or comments on any legislation prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives.

(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board

shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives fully informed concerning its activities and shall submit an annual report to the Congress at the end of each fiscal year concerning the actions taken or to be taken under this Act. Each such report shall, to the extent possible, contain the information described in section 220(b).

(g)(1) Regulations promulgated under this section shall be submitted to both Houses of Congress on the same day and shall take effect at the expiration of 60 calendar days of continuous session of Congress thereafter unless, before the expiration of such 60-day period, such regulations are disapproved in the same manner as an energy action may be disapproved under section 551 of the Energy Policy and Conservation Act.

(2) In applying the provisions of section 551 of the Energy Policy and Conservation and Policy Act to a regulation under this subsection, any reference in such section 551 to an energy action shall be treated as a reference to a regulation transmitted under this section, subsections (a),(c)(2), and (f)(2)(B), and clauses (i) and (ii) of subsection (f)(5)(B) of such section shall not apply, any reference in such section to 5 days shall be treated as a reference to 15 days, and any reference to a 15-calendar-day period shall be treated as a reference to a 60-calendar-day period.

(3) A regulation transmitted under this section may take effect at any time subsequent to the date specified in paragraph (1) if such subsequent time is set forth in such regulation.

CERTAIN PROJECTS NOT COVERED

SEC. 202. Nothing in this Act shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 203. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this Act. Such procedures and criteria shall require such applications to include such detailed information as the Board deems necessary to—

(1) enable it to make such a designation under this Act;

(2) identify each agency required to make a decision with respect to such project; and

(3) enable it to determine the agency decisions which must be made with respect to such project.

(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

(1) a design proposal for the project;

(2) economic data on the costs and benefits of the project;

(3) the energy to be produced or conserved by the project; and

(4) an analysis of the social, health and safety, and environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, social, health, or safety hazards.

(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate Federal, State, and local agencies, the Governors of affected States, and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs. The Board shall take reasonable steps to notify other interested parties. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit for the Board's consideration written comments concerning whether or not the project should be designated as a Priority Energy Project.

(e) The Board shall keep on file, and make available for public inspection and copying, at the main office of the Board and in such other places as the Board deems appropriate, such portions of any application for designation of a project as a priority energy project as are not matters described in section 552(b) of title 5 of the United States Code.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 204. (a) Not later than forty-five days after expiration of the comment period under section 203(d) with respect to any application under section 203, the Board shall—

(1) issue an order in accordance with this part designating the energy project with respect to which such application was submitted as a priority energy project if it determines that such project is of sufficient national interest for such project to be so designated, or

(2) refuse to issue such an order.

(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the agencies, Governors, and committees referred to in section 203(d) and shall take reasonable steps to notify other interested parties.

(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

(2) the magnitude of any economic and social impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

(3) the extent to which the energy project would make use of renewable energy resources or conserve energy;

(4) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

(5) the time that would normally be required to obtain all necessary agency decisions;

(6) the adverse impacts that would result from—

(i) the designation of the energy project as a priority energy project, or

(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

(7) the extent to which the energy project would impringe upon presently available or future water resources;

(8) the comments received concerning the energy project;

(9) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

(10) the availability of significant economic, environmental, or technical data;

(11) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants;

(12) the magnitude of any adverse environmental impacts associated with the project and the existence of alternatives that would have fewer adverse impacts;

(13) the extent to which the applicant is prepared to complete, or has already completed, the significant actions which the applicant in consultation with the Board anticipates will be identified under section 208 as required from the applicant, including the extent to which financing, insurance, and labor requirements for the project will be available; and

(14) the extent to which the project has been assessed in terms of cost effectiveness and energy efficiency.

Any order designating a project under this section shall contain a statement of the basis on which such designation was made, addressing each of the above criteria.

(d) The Board shall encourage prospective applicants for priority energy projects to file applications for any necessary agency actions with the appropriate agencies as soon as possible in order that any eventual agency action may be expedited. The Board shall consider any failure to file such applications in a timely fashion in making its determination on an application under this section.

(e) Not more than 75 priority energy projects may be designated by the Board, and not more than 30 of such projects may be designated in any one calendar year.

ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

SEC. 203A. (a) Upon request of any State or local agency covered by the project decision schedule for any priority energy project, the head of any Federal agency is authorized to detail, on a reimbursement basis, any of the personnel of such Federal agency to such State or local agency to assist the State or local agency in carrying out its functions with respect to such project.

(b) To the greatest extent practicable, the Board and other Federal agencies may provide assistance authorized by law to State and local agencies to assist such State and local agencies in complying with any project decision schedule.

RELATIONSHIP TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 205. (a) The provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall not apply to any—

(1) determination by the Board under section 204 (relating to designation of a Priority Energy Project);

(2) promulgation or revision of a Project Decision Schedule by the Board under any provision of this Act; or

(3) action by the Board or by any agency under section 211 (relating to streamlining of procedures).

(b) Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 209, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2) of the National Environmental Policy Act of 1969. If the Council determines that a Priority Energy Project will require such a major Federal action, the Council shall promptly designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

(c) Notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by

all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969.

STATE PARTICIPATION

SEC. 206. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State and each Indian Tribe in which any portion of such Project is proposed to be located, and each such Governor and tribe may appoint a nonvoting Member to serve on the Board to participate in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 201(b) shall not apply to any member of the Board appointed under this section.

EXTENSION OF DEADLINES

SEC. 207. The Board may extend the time for receiving comments under section 203 (d), the time for making its determination under section 204 in the case of any application for designation of any energy project as a Priority Energy Project, and the time for agencies to submit information under section 208. Any such extension shall be consistent with the purposes of this Act and shall be for only such period as may be necessary, as determined by the Board.

AGENCIES TO SUBMIT INFORMATION

SEC. 208. Not later than 45 days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any decision with respect to such project or any part thereof, shall transmit to the Board—

(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements legally applicable to such actions and to the making of such decisions;

(2) a tentative schedule for completing such actions and making such decisions and a statement of those procedural changes, if any, the agency proposes to implement pursuant to section 211;

(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions in accordance with such Project Decision Schedule will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

(4) such other information as the Board may require. Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to *ex parte* communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any priority energy project at any time and in any manner requested by the Board.

PROJECT DECISION SCHEDULE

SEC. 209. (a) Upon receipt of the information required to be submitted pursuant to section 208 respecting any Priority Energy Project, the Board shall conduct discussions with affected agencies and the applicant seeking mutual agreement on a practical and expedited Project Decision Schedule for such Project. Such agreements shall be in writing whenever possible. Not later than 45 days after agencies transmit information under section 208 with respect to any Priority Energy Project, the Board shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also recommend concurrent review of applications and joint hearings by State and local agencies.

(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 208 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination.

(2) Whenever the Project Decision Schedule is not consistent with any schedule that would otherwise apply, such Project Decision Schedule shall apply in lieu of the otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

(3) In the case of agency action subject to the Project Decision Schedule, the agency may modify any schedule (other than the Project Decision Schedule) applicable to such action (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule.

(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure complete consideration of all matters concerning such Project under applicable law and to insure adequate participation by interested parties in applicable proceedings.

(c) In consultation with affected agencies and any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for filings by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made.

MODIFICATION OF PROJECT DECISION SCHEDULE

SEC. 210. (a) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time.

(b) No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, taking into account the personnel and funds available to the agency for complying with such Schedule.

(b) No extension of any time period applicable to any action specified on such schedule which is required to be taken by any person other than an agency may be granted unless the Board determines that such person has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule.

STREAMLINING PROCEDURES

SEC. 211. (a) All Federal, State, and local agencies having authority to make any decision with respect to a Priority Energy Project may establish special procedures applicable to such decision if the agency determines such procedures are a necessary means of expediting such decision or of complying with the Project Decision Schedule applicable to such Project and if such special procedures provide for effective participation by interested parties in proceedings relating to the decision. Such special procedures shall be consistent with all requirements governing the agency's actions, except that, notwithstanding any such requirement, any Federal agency may—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such Schedule;

(2) establish requirements applicable to the filing of applications or other information which eliminate unnecessary duplication;

(3) substitute legislative-type hearings in lieu of trial-type hearings, except that in any cases in which—

(A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and

(B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing,

the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing;

(4) conduct proceedings, except where formal hearings are required under paragraph (3)(A) or (B), in which parties may submit written data, views, or arguments and written responses to the data, views, or arguments submitted by other parties, as the agency or the presiding employee may specify and in which oral presentation is limited to brief oral argument;

(5) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision; or

(6) utilize any combination of procedures authorized by this subsection.

(b) The procedures referred to in paragraph (5) may also—

(1) require the presiding employee to submit the record to the agency without a recommended or tentative decision, but with such analysis of the record as the agency may specify; and

(2) permit the agency to omit a tentative or recommended decision if it determines that due and timely execution of its functions so requires.

(c) If the Board finds that those procedures proposed to be used by a Federal agency to make any decision of the agency necessary for compliance with the Project Decision Schedule will not permit the agency to comply with such Schedule, the Board may order the agency to implement any or all of the special procedures described in this section with respect to the decision if the special procedures will provide for effective participation by interested parties in proceedings relating to the decision.

MONITORING OF COMPLIANCE BY BOARD

SEC. 212. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its

determination. Following such notification, the Board shall publish such reasons in the Federal Register. If the Board determines that any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of the Project which is necessary before an agency decision may be made,

has failed or refused to promptly or correctly file such application or petition or take such other action, the Board shall either—

(A) revise such Project Decision Schedule by extending the applicable deadlines by an amount of time equivalent to the delay caused by such person, or

(B) revoke the designation of the project as Priority Energy Project.

AGENCY OBLIGATIONS NOT AFFECTED

SEC. 213. (a) Except as may otherwise be provided pursuant to—

(1) the establishment, modification, or revision of a deadline or timetable under any provision of this Act, or

(2) the establishment of special procedures under section 211.

the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

(b) Except as permitted under the authorities referred to in subsection (a), nothing in this part shall affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law.

(c) Nothing in this part shall be construed to —

(1) affect the basis on which any agency decision is made with respect to such a project, or

(2) affect or influence the outcome of any agency decision.

ENFORCEMENT OF PROJECT DECISION SCHEDULE AGAINST FEDERAL, STATE, OR LOCAL AGENCIES

SEC. 214. (a) If any agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule, the Board may bring an expedited enforcement action in the appropriate United States district court against the agency head or other responsible official.

(b) In any action brought under this subsection, if the court determines that any agency has failed, or is reasonably likely to fail, to comply with a Project Decision Schedule, the court shall order the agency to act in accordance with the Schedule unless subsection (c) applies.

(c)(1) If the court determines that the agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule but that action in accordance with the Project Decision Schedule would not insure adequate consideration of all matters concerning such project under applicable law, would not insure adequate participation by parties in applicable proceedings, would clearly be impractical, or would deny any person due process of law, the court shall instruct the Board to revise the Project Decision Schedule to require the agency to complete consideration of the applicant's request as soon as practicable. Immediately upon receipt from the Board of a certified copy of the revised Project Decision Schedule, the court shall issue an order directing the agency to comply with such Schedule.

(2) The court may order the agency to assign additional personnel to the decision or action, or to utilize any of the special procedures enumerated in section 211.

(3) Upon failure of any agency to meet any deadline included in a compliance schedule imposed by the court, the court shall take such measures as it deems necessary and appropriate, including citation and punishment of the responsible officials for contempt of court.

(d)(1) Upon filing of an action by the Board under this section, the agency and other interested parties shall have 15 days in which to file a written response. Any further filings required by the court shall be prepared within 15 days or less. The court may limit offers of proof to written documents except that the court shall hold at least one hearing concerning such action.

(2) Notwithstanding any other provision of law including any other provision of this Act, any action brought under this section and any appeal therefrom shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at the time, and shall be expedited in every way by such court. No such appeal may be brought after 60 days after a final decision by the lower court.

(e)(1) If any Federal, State, or local agency has failed to make a decision or take action pursuant to a court order issued pursuant to subsection (b) or (c), the President may perform the action or make the decision in lieu of the agency.

(2) The President shall notify an agency that he has determined that the agency has failed to make a decision or perform an action within the time required by such court order and that the President intends to decide in lieu of the agency. If the agency has not acted or decided within 15 days of such notification, the agency shall transmit to the President forthwith all records in the possession of the agency pertinent to that decision or action. The President shall take whatever additional action is necessary to develop an adequate record for a final decision or action.

(3) In any action under this section, whenever the Project Decision Schedule deadline for such action has passed, the Board may file notice with the court stating that the deadline has passed and that the agency has failed to take the action required by the Project Decision Schedule. The Board shall advise the court that the national interest described in section 101 of this Act requires expeditious enforcement of the deadline. If the court fails to act pursuant to subsection (b) or (c) of this section within 120 days of the filing with the court of such notice, the President may act pursuant to paragraphs (1) and (2).

(4) In performing an action under this section in lieu of an agency, the President shall apply the Federal, State, or local law that would have been applied had the Federal, State, or local agency performed the action.

SUSPENSION OF NEW REQUIREMENTS

SEC. 215. (a) Upon an application of any agency or any person acting on behalf of a Priority Energy Project, the Board shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after commencement of construction of any facility which is part of the Project would prevent timely compensation or operation of such facility. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will prevent the timely completion or operation of such facility, the Board is authorized to order the temporary suspension of the application of such requirement to such facility for such time as necessary to allow the facility to comply with the requirement.

(b) No order temporarily suspending the application of any requirement to any facility may be issued under subsection (a) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that the temporary suspension will not create any significant risk to public health or safety.

(c) No order under this section may continue in effect after the last day of the fifth year after such order is originally issued.

(d) No order under this section may modify or impair in any way—

(1) any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) crimes based on common law, or

(D) civil rights laws;

(2) any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) any right or rights of any person arising under the Constitution of the United States;

(4) any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights; or

(5) the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

(e) For the purposes of this section, "commencement of construction" means that the owner or operator of a facility has obtained all necessary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has—

(1) begun or caused to begin, a continuous program of physical onsite construction of the facility including site clearance, grading, dredging, or land filling in preparation for the fabrication, erection, or installation of the building components of the facility, or

(2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time.

For the purpose of this subsection, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether such construction is continuous.

WATER LAW

SEC. 216. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees, or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

JUDICIAL REVIEW

SEC. 217. (a)(1) Action by the Board granting or denying any order designating a proposed energy facility as a Priority Energy Project under section 204 and action by the Board under section 215 suspending the application of any requirement of Federal, State, or local law to any facility shall be subject to judicial review only for failure to comply with any requirement of this Act or for violation of any provision of the Constitution of the United States.

(2) Action by the Board—

(A) establishing, modifying, or revising a Project Decision Schedule under any provision of this Act;

(B) requiring the use of any special procedures under section 211, or

(C) granting or denying any extension under section 212

shall not be subject to judicial review in any proceeding other than an enforcement proceeding brought by the Board against an agency head of other responsible official under section 214 or a proceeding for review of any final agency action to which such Schedule, procedures, or extension applied.

(3) Any action of the Board other than an action described in paragraph (1) or (2) shall not be subject to judicial review except as to the requirements of the Constitution.

(b)(1) Any action referred to in subsection (a) and any action brought in any court of the United States for review of—

(A) any final agency action which is covered by a Project Decision Schedule,

(B) any Presidential decision under section 214(d) may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located, or where the claim arose, and may only be brought within 60 days following the date on which notice is published that such decision or action has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence. Any agency action which is covered by a Project Decision Schedule or any Presidential decision under section 214 shall not be subject to judicial review unless such action is in violation of the Constitution of the United States or in excess of, or falls short of, statutory jurisdiction, authority, or limitations, or short of statutory right.

(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, and issue its decision at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court. In order to expedite the just and complete resolution of issues involved in any such action, a reviewing court may, notwithstanding limitations imposed by any other law or rule of law—

(1) consolidate the action with any other action relating to the same Priority Energy Project which is brought in such court, or

(2) transfer the action to any other United States court of appeals for the purposes of such consolidation.

Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

(c) Nothing in this section shall affect the jurisdiction of the courts of any State or political subdivision thereof except that any agency action respecting which judicial review could have been obtained under this section may be reviewed only as provided in subsection (b).

(d) In issuing a final order in any action for review of any final agency action which is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party, and assess such costs against any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay.

SUPREME COURT REVIEW

SEC. 218. (a) Any party seeking review in the Supreme Court of any judgment or order (including interlocutory judgments or orders) of a circuit court of appeals pursuant to this Act must file a petition for writ of certiorari within 60 days after the decision of the lower court or the appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date.

REGULATIONS

SEC. 219. The Board shall promulgate regulations for carrying out its functions under this Act not later than 60 days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this Act for designation of any project as a Priority Energy Project before promulgation of such regulations.

EXPIRATION OF AUTHORITY

SEC. 220. (a) The Board's authority shall expire seven years after the date of enactment of this Act. Notwithstanding the previous sentence, the provisions of the Act shall continue to be applicable to all energy facilities designated as Priority Energy Projects prior to the expiration of the Board's authority.

(b) Six months prior to the expiration of Board authority as provided in subsection (a) of this section, the Board shall submit to the President and to the Congress a detailed report and recommendations for congressional action which shall include, but not be limited to, the following:

(1) a comprehensive report for the life of the Board on its activities including the functioning of the selection and designation process for Priority Energy Projects; the status of all designated projects; the effectiveness of the Board's actions in expediting the development and construction of energy projects; and any significant delays in the completion of Priority Energy Projects and the causes thereof;

(2) the estimated reduction in barrels of imported oil that may be attributed to Board action, and a comparison of the potential for such reduction with and without such action;

(3) estimated time and funds saved by Federal, State, and local governments, and private sector by minimizing delays, inflation impacts, and other factors which would have increased the time and expense of project completion without Board action;

(4) recommendations as to whether or not the Board should be re-authorized, and recommendations and their justification for any changes that should be made in the authorizing statute to enable the Board to better fulfill the purposes of this act; and

(5) those provisions of Federal, State, and local statutes, regulations, or requirements which in the Board's opinion and through its experience in carrying out the provisions of this act, have contributed most significantly to unnecessary delays in project approval, construction, and operation, and the Board's recommendations for changes in such provisions or for other action to expedite the decisionmaking process, without detracting from the intent and integrity of such statutes or regulations, and which would eliminate the need for such Board.

(c) On or before the date established for the submission of the report of the Board to Congress in subsection (b), the Comptroller General of the United States shall submit to Congress a report evaluating the performance of the Board. The report shall set forth findings and recommendations with respect to the program, and shall include:

(1) an assessment of the effectiveness of the program and the degrees to which the original objectives of the program have been achieved;

(2) an identification of any trends, developments, and emerging conditions which are likely to affect the future nature and extent of the problems or needs which the Board is intended to address;

(3) an assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program;

(4) an assessment of the energy supply, environmental, legal, and social impacts of the Board; and

(5) such additional information as may be requested by Congress.

AUTHORIZATION

SEC. 221. There is authorized to be appropriated to the Board to carry out the provisions of this part not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

EXTENSIONS OF REMARKS

SESQUICENTENNIAL OF THE SISTERS OF CHARITY OF CINCINNATI

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. LUKEN. Mr. Speaker, I know my colleagues will join me in congratulating the Sisters of Charity of Cincinnati as we approach the Sesquicentennial Anniversary of their settlement, October 27.

From the outset, these determined women have been responsive to the needs of the Nation. In 1829, His Holiness Edward Fenwick, the first Catholic Bishop of Cincinnati, became aware that the needs of children in his diocese were not being met. He requested help from the Sisters of Charity in Emmitsburg, Md. Founded by Saint Elizabeth Seton in 1809, the Sisters of Charity were the first community of religious women native to the United States.

The Sisters who arrived in Cincinnati in 1829 were so proud of their unique American heritage that they broke away from the Emmitsburg Order when Emmitsburg became an affiliate of the French Sisters of Charity. In 1852, five Sisters led by Sister Margaret George became a separate congregation, the Sisters of Charity of Cincinnati. Their community grew rapidly, and took on diversified responsibilities over an ever-widening area. Today, the Motherhouse located at Mount St. Joseph on the Ohio serves as the nucleus for an organization which operates in 23 States, Canada, and on four foreign continents.

In the 150 years since the landing in Cincinnati, their Order has witnessed and experienced much. Throughout their reorganization, the Civil War, the Great Depression, two world wars, and the rest of our country's heritage to date, they have been acting in accordance with their motto, which is "The Charity of Christ Urges Us." Clearly, they can claim to be pioneers not only of the earlier frontier, but also of the new frontiers in education, health care, and service to others.

One of their most important functions is keeping our citizens educated. They run adult education programs, schools for the deaf, and special education programs in addition to their excellent schools for primary, secondary, and higher education. They also focus on health care services; for example, they operate the Good Samaritan Hospitals of Cincinnati and Dayton, St. Joseph Hospital in Albuquerque, Penrose Hospital in Colorado Springs, and others. They encourage health maintenance programs, treatment of mental retardation, and speech therapy. Through these and other deeds they seek to make ours a more just society. The needs of the victims of disease, ignorance, oppression and war, are all handled with the competence and compassion which have characterized the works of the Sisters of Charity of Cincinnati.

In their operations throughout the United States, Canada, Africa, Asia, Europe, and South America, they serve God and our Nation by going where they are needed most. The work they do is important not only to me and to my district, but to the State of Ohio, to the United States, and to the world. It is my sincere pleasure to salute the Sisters of Charity of Cincinnati on this special occasion.●

GEORGES BANK LEASE SALE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. STUDDS. Mr. Speaker, as you know, the Department of the Interior plans on November 6 to lease over 660,000 acres of Georges Bank, some of the richest fishing grounds in the world, for offshore oil and gas drilling. Recently, however, it has become clear that the administration is divided as to whether or not this sale should take place. Because I am alarmed at this dissension within the administration's own ranks, and because I do not feel that adequate safeguards to protect the fisheries of this region have been put into place, I have this week requested that the Secretary of the Interior postpone this sale.

Clearly, we in New England have a responsibility to contribute to our national search for new energy sources. However, I feel quite strongly that this search should not be conducted in a manner which jeopardizes the rich fisheries of Georges Bank.

Recently, this position was articulated most eloquently by Bill Smith in an editorial which appeared in the Cape Cod Times. I would recommend it highly to my colleagues as an excellent summary of the concerns now being expressed by New Englanders about this sale.

ENERGY AGAINST FOOD

The opinion expressed in The New York Times lead editorial of two days ago—published above—is probably the prevailing view in our country. But the arguments in that editorial seem to us to be simplistic, and remarkably cavalier.

For instance, can one compare the value of a limited source of energy—of a material which is destined to be used once and go up in smoke—with a carefully husbanded, self-perpetuating food resource? If the two could coexist without one threatening the other, the answer would be easier to come by. But the threat exists and the danger has been proved.

The Times suggests that oil wells and fisheries can exist side by side "off Massachusetts—as they have in the North Sea, the Gulf of Mexico and other waters. Even in the unlikely event of a disastrous blowout . . . the damage to the fishery would be far less than the projected value of the energy."

This could be true, of course, if one is speaking of only of short-term monetary values. But the uncappable, runaway Mexican exploratory well off the Yucatan Peninsula has already devasted the Texas shrimp industries, and the gigantic oil slick is now threatening other fisheries along the Gulf of Mexico's American coastline.

And what is the value of the millions of barrels of oil that have been spreading across the gulf for more than four months? Nothing.

Those who argue for drilling on the Bank, with its circular currents which could contain a spill instead of dispersing it, admit the possibility of damage to the fisheries. The Times contends, however, that the damage would be temporary. It does not tell us what temporary means in this context.

The devastating spill in Buzzards Bay resulting from the grounding of a fuel barge in 1969 has provided scientists with more than a decade of assessing the damage, which was immense. Sections of the bay's shellfish beds are still blighted by the spill, and the end of this infection is not in sight. The bay is enclosed by two land masses. Georges Bank in effect is enclosed by its circular currents. A major spill there could be analogous to the Buzzards Bay spill, both in time and results. "Temporary" is a word we would not have chosen.

The Times tells us that the only species which would be damaged by a spill would be that which is in the act of spawning. This, too, is simplistic, because life in the fisheries is not made up of isolated species. It is an interdependent eco-system, the damaging of which, at any point, upsets the balance throughout the chain. The devastation of a species which provides food for other fish could deplete much of the total fish population, reducing Georges Bank's value as a source of food for man in far greater proportion than the Times suggests.

A point which was not addressed by the editorial is the fairly obvious matter of the weather and the sea conditions in the North Atlantic. The major blow-outs of the wells in Santa Barbara and in the Gulf of Mexico occurred during periods of relative calm in waters which compared, with the Atlantic expanses, are as placid as lakes. We know that the technology of oil production cannot always cope with its machinery. Can we be assured that the danger will not be multiplied by an Atlantic gale?

The Times seems to believe that Georges Bank is a primary site for oil, that drilling there is a reasonable risk. Yet more promising tracts on the Baltimore Canyon produced absolutely nothing. Will perhaps a few producing wells be worth the risks?

It is estimated that the oil which may be there would supply the needs of the United States for little more than a week. This is what is being weighed against the food value of the Bank.

No doubt The New York Times is speaking for the majority—an opinion which would place a vital source of protein in jeopardy for a relatively small amount of oil, to satisfy the short-term needs of a society more expert at consuming energy than conserving it.

It is an opinion with which we disagree.●

RUSSIA'S MINORITY PROBLEM

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. MICHEL. Mr. Speaker, I recently placed in the RECORD an article dealing with what might be called "linguistic imperialism" in the Soviet Union. The article told of efforts of Soviet leaders to have more Soviet citizens—almost half of whom are non-Russian—speak Russian. The article went on to say that there is a sense of urgency among Russian Soviet leaders because they realize that it is possible that the growing non-Russian population of the Soviet Union may well be the cause of future discontent.

I have just come across a new, more detailed examination of the same issue. Writing in Air Force magazine, Harriet Fast Scott points out many fascinating aspects of the growing minority problem in the Soviet Union. She concludes with what I believe is an intriguing question about the future: What if the Soviet non-Russian nationalities take seriously the Kremlin rhetoric about "national liberation" and turn against their Russian masters? Farfetched? Perhaps. But I suggest that the United States examine all of the possibilities of this situation and then create imaginative policies that will help shape the future in ways that benefit the United States and the various Soviet non-Russian national groups.

At this time I would like to insert in the RECORD, "Russia's Growing Minorities Problem" by Harriet Fast Scott from the Air Force magazine, October 1979:

RUSSIA'S GROWING MINORITIES PROBLEM

(By Harriet Fast Scott)

A nation's military stature depends, in large measure, on its military manpower. Although numbers are important, so are education, cohesiveness, morale, cultural background, and related factors.

Military service is compulsory for all young men in the USSR; hence, the Soviet Armed Forces are composed of people from the many nationalities within the Soviet Union. This cultural and linguistic diversity, coupled with almost equally diverse demographic factors relevant to the various ethnic groups, has had, and will continue to have, an impact on Soviet military and economic planning. For example, pronounced fluctuations in the size of the Soviet Armed

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Forces since 1948 are at least in part a reflection of recent demographic trends.

A revised "Law of Universal Military Service" was issued by the Kremlin in 1967. It reduced the age of entry into military service from nineteen to eighteen, and the length of service from three years to two (for seagoing elements of the Navy and Border Guards, service was reduced from four years to three).

The change in length of military service was not a sudden decision. The size of the Soviet Armed Forces has had its ups and downs since the end of World War II when it stood at 11,365,000 men. Only about 6,000,000 were what the Soviets call "active army" or combat troops. The remainder were in supply, communications, transportation, training, and other rear-area services. By 1948, according to official Soviet reports, the Armed Forces were reduced to 2,874,000. However, a buildup rapidly followed, and by 1955 the force had increased to 5,763,000. Soviet strategists have said that this expansion was necessary to keep a balance in the "correlation of forces." The United States was superior in nuclear weapons; therefore, the Soviets had to be stronger in conventional forces.

Between 1955 and 1958, the Soviet Armed Forces were reduced by 2,140,000 because, by 1958, a nuclear balance was being achieved as a result of Soviet success in developing and producing nuclear-armed rockets. In January 1960, Nikita Khrushchev announced that the strength of the Soviet Armed Forces stood at 3,623,000. Further, he said that military manpower would be reduced by another 1,200,000 without detriment to combat capability. With the formation of new rocket troop units, the number of missiles in a nation's operational inventory, not the number of divisions, would be the determining factor in war. Other Soviet spokesmen later stressed that nuclear-armed missiles had brought about a revolution in military affairs.

One of Khrushchev's reasons for reducing military manpower was not detected in the West for several years. He may have been influenced more by the 1959 Soviet census and the demographic trend it revealed than by purely military considerations. In 1961, he unveiled a grandiose twenty-year program of economic development aimed at surpassing the United States by 1980. This would require trained manpower.

The number of nineteen-year-olds, the young men subject to three or four years of military service, peaked in 1958 at about 2,400,000. By 1962, the number had plunged to barely more than 1,000,000. It bottomed out in 1963 at 970,000, increasing to slightly more than 1,000,000 the following year. This dramatic decline in the number of young men reaching induction age was the result of a low birthrate during World War II, or "the Great Patriotic War," as the Soviets call it.

Even with this demographic problem, Khrushchev never cut the size of the Armed Forces as promised. A serious split between the Soviet Union and China in the 1960s gave him cause to worry about the Far Eastern and Central Asian borders. In the West, in an attempt to prop up the East German Communist regime, he ordered construction of the Berlin Wall. A year later, in 1962, he tried to install missiles in Cuba.

By 1968, the Soviet military manpower picture had changed again. There were more than 2,000,000 young men turning nineteen each year and their number could be seen increasing annually until 1980. Military planners now were faced with an embarrassment of riches. Even allowing for deferments, compulsory service of three or four years would mean a military force of well over 6,000,000 men, including officers. There were only two choices: either cut back the number of men called up each year, or reduce the time spent in uniform. In his book, *Military Strategy*, Marshal V. D. Sokolovskiy notes that if the size of the Armed Forces is to remain constant, a greater percentage of men can be trained, and then kept in the reserves, if the training period is shortened. The solution was to reduce the time in service, not the number of men trained.

A second problem arose in the early '60s. Soviet youth finishing school at seventeen or eighteen could barely be trained to work in a factory or on a kolkhoz farm before being called up for military duty. After finishing school and before starting military service, many understandably pursued a Russian version of goofing off. Plant managers grumbled that they could not reach the Party's economic goals because they were too busy trying to train young people just out of school only to lose them for three years when they were called up for military service. The manpower pinch that hit the Armed Forces in 1963 hit the job market three years later when they were discharged. There simply were not enough young workers to fulfill the economic plan.

The manpower problem could be solved by reducing both the period of service and the age of induction by one year. Beginning in 1967, young men went into service at age eighteen, almost immediately after finishing school, and were out by age twenty. Also by 1968, the eighteen-year-old callups who were born after the wartime and early postwar years of deprivation were much more capable physically than had been the nineteen-year-olds a few years previously. The service helped to instill good work habits, gave most of them skills that could be used in civilian life, and matured them. Party Secretary Leonid Brezhnev stated that these two years were not simply for military training; they also were a period of "ideological hardening."

LONG-TERM DEMOGRAPHIC PROBLEMS

The Soviet census of 1959 was the first to be published in the postwar period. One had been taken in 1950, but Stalin wanted to keep secret his manpower weakness. The Soviets now admit that their population was only 178,500,000 in 1950, a drop of 15,500,000 from 1940. The Soviet Union did not match its pre-war population until 1955.

The Kremlin leaders also waited many years before detailing their war losses. They finally revealed that approximately 10,000,000 men were killed or died of wounds, and another 10,000,000 civilians lost their lives. The age pyramid shows the excess of females over males ages fifty and up. The consequences of World War I, and Civil War, and World War II can be seen in the lows for the sixty-to-sixty-four and thirty-five-to-thirty-nine age groups. This ripple effect will continue to affect generations yet unborn. The excess of females over males (ten to 7.7 in 1950; ten to 8.7 in 1979) will not be eliminated until the end of this century.

COMPARISON OF POPULATION, 1940 AND 1979

	1940	1979	Percent increase
U.S.S.R. (as a whole)	194,077,000	262,442,000	35
Russian Fed. SSR	110,098,000	137,552,000	25
Ukrainian SSR	41,340,000	49,757,000	20
Belorussian SSR	9,046,000	9,559,000	6
Uzbek SSR	6,551,000	15,391,000	135
Kazakh SSR	6,148,000	14,685,000	138
Azerbaydzhan SSR	3,274,000	6,028,000	84
Georgian SSR	3,612,000	5,016,000	38
Moldavian SSR	2,468,000	3,948,000	60
Tadzhik SSR	1,525,000	3,801,000	149
Kirgiz SSR	1,528,000	3,529,000	131
Lithuanian SSR	2,925,000	3,398,000	16
Armenian SSR	1,320,000	3,031,000	130
Turkmen SSR	1,392,000	2,759,000	112
Latvian SSR	1,886,000	2,521,000	34
Estonian SSR	1,054,000	1,466,000	39

Another demographic factor may give Moscow planners major problems. The population in Central Asian and Transcaucasian Republics of the USSR is increasing at a rate much faster than in the traditional Slavic areas of the country—the Russian Soviet Federated Socialist Republic (RSFSR), the Ukraine, and Belorussia. Although there has been a substantial increase in the population of the USSR as a whole, the rate of growth has varied by republic and even within some areas of republics. Soviet 1979 census figures, when compared to 1940 figures (Figure 2), indicate the extent of this change.

Current birthrates are an indication of how rapidly this population change is likely to continue. The Tadzhik Republic leads the Soviet Union with a birthrate of 37.1 per 1,000 population. The Uzbek and Turkmen Republics are second and third with 34.5 and 34.4 respectively. In contrast, the Slavic areas have a birthrate of only fifteen per 1,000 population (Figure 3).

The 129,000,000 Great Russians, largest of the approximately 100 nationalities of the Soviet Union, are declining steadily as a percentage of the total population. (The internal passports that are issued to Soviet citizens at age sixteen show the individual's nationality, based on his parentage and unrelated to the republic in which he may live.) In 1970, the Great Russians comprised about fifty-three percent of the USSR's population, but by the year 2000 they will be a minority, when compared to the combined population of the other ethnic groups. The next largest groups are the Ukrainians, numbering 41,000,000 or seventeen percent of the total, and the Belorussians with 9,000,000, or about four percent. The Uzbeks, largest of the non-Slavic nationalities, slightly outnumbered the Belorussians in 1970.

The Transcaucasian Republics of Azerbaydzhan, Armenia, and Georgia also have high birthrates, although not as high as Central Asia (Figure 3). In other words, if one were to take 1,000 Soviet citizens in proportion to their numbers of the total population, it is estimated (since the 1979 census figures have not been completely published as yet) that there would now be 520 Russians, 164 Ukrainians, and thirty-seven Belorussians for a total of 721 Slavic nationalities; and forty-six Uzbeks, twenty-five Kazakhs, eleven Tadzhiks, seven each Turkmen and Kirgis, making a total of ninety-six from Central Asia. Another twenty would be Azerbaydzhanis, seventeen Armenians, and thirteen Georgians, for a total of fifty from the Transcaucasus area. Twenty-one would come from the Baltic nationalities—Estonians, Latvians, and Lithuanians—that were annexed by the Soviet Union during World War II. Other nationalities would constitute the remaining 112 of the hypothetical 1,000, the largest being eleven Moldavians, ten Jews, and twenty-five Tatars.

BIRTHRATE PER 1,000 POPULATION BY UNION REPUBLIC

	1940	1970	1975
U.S.S.R. (as a whole)	31.2	17.4	18.1
Western U.S.S.R.:			
RSFSR	33.0	14.6	15.7
Ukrainian SSR	27.3	15.2	15.1
Belorussian SSR	26.8	16.2	15.7
Moldavian SSR	26.6	19.4	20.7
Baltic Republics:			
Estonian SSR	16.1	15.8	14.9
Latvian SSR	19.3	14.5	14.0
Lithuanian SSR	23.0	14.5	14.0
Transcaucasian Republics:			
Azerbaydzhan SSR	29.4	29.2	25.1
Georgian SSR	27.4	19.2	18.2
Armenian SSR	41.2	22.1	22.4
Central Asian Republics:			
Uzbek SSR	33.8	33.6	34.5
Kirgiz SSR	33.0	30.5	30.4
Tadzhik SSR	30.6	34.8	37.1
Turkmen SSR	36.9	35.2	34.4
Kazakh SSR [1]	40.8	23.4	24.1

[1] Kazakh SSR, because of large migrations into the virgin islands, is now predominantly Russian and is not considered a Central Asian Republic. The birthrate of the remaining Kazakhs is quite high and keeps the republic rate high though not as high as neighboring Uzbekistan, for instance.

CULTURAL AND LINGUISTIC DIVERSITY

Slavic birthrates have declined for a variety of reasons. They are, for example, the most urbanized of the ethnic groups. Housing has been behind demand, and young married couples often face years of living either with in-laws or in a single room without kitchen or bath. Wives are expected to work, and short maternity leaves are the rule. While most married couples plan a family, a single child, or at the most two, is the pattern. The Baltic Republics are much the same, although they have a larger percentage of older people which brings down the birthrate per thousand.

Lumping the Slavic nationalities together does not signify that there are no strong antagonisms among them. Their languages are different, for example, even though they have little difficulty understanding each other. The 1970 census showed that only thirty-six percent of the Ukrainians and forty-nine percent of the Byelorussians claimed to speak Russian fluently. A recent emigré, being interviewed on television after landing at Kennedy International Airport in New York, corrected the reporter who called him a Russian. "I am a Ukrainian," he said very firmly, "not a Russian."

There is even less in common between Great Russians and Central Asians who have a Turkic or Iranian cultural background and are still predominantly rural. Children are considered an asset on the *kolkhozes*. The climate is mild, without the long winters characteristic of most of the country. There is a strong family tradition with youthful marriages.

According to the 1970 census, less than twenty percent of Central Asians claimed to have a good command of the Russian language. In the Transcaucasian Republic's, only thirty percent of the Armenians, twenty percent of the Georgians, and sixteen percent of the Azerbaydzhanis are fluent in Russian. It should be noted, however, that fluency was judged purely on the basis of the response given the census taker.

A higher percentage of young people may have learned Russian, however. In 1964, the Supreme Soviet directed the non-Russian-speaking republics to improve the teaching of Russian to prepare youths for military service. Those who had already finished school and were expected to be called up for service were to study Russian in classes at their place of employment.

During World War II, the Soviet leadership was concerned about the loyalty of many minority groups. Party Secretary Nikita Khrushchev, in his secret speech to the 20th Party Congress in 1956 lifted the lid slightly to disclose what had happened during the war years:

"Thus, already at the end of 1943, when there occurred a permanent breakthrough at the fronts of the Great Patriotic War benefiting the Soviet Union, a decision was taken and executed concerning the deportation of all the Karachai from the lands on which they lived. In the same period, at the end of December 1943, the same lot befell the whole population of the Autonomous Kalmyk Republic. In March 1944 all the Chechen and Ingush people were deported and the Chechen and Ingush Autonomous Republic was liquidated. In April 1944, all Balkars were deported to faraway places from the territory of the Kabardino-Balkar Autonomous Republic and the Republic itself was renamed the Autonomous Kabardin Republic. The Ukrainians avoided meeting this fate only because there were too many of them and there was no place to which to deport them. Otherwise, Stalin would have deported them also."

At the same time, Hitler's invasion of western Soviet territory resulted in moving many factories to Central Asia, along with a great many workers. The Russian population in Kazakhstan became so large that Kazakhs are now a minority in their own republic, which is no longer considered part of Central Asia. In the 1950s, the Kazakhstan area became the site of test ranges and other facilities for the Soviet missile and space programs. Trouble in China in the 1960s increased the military significance of the region still further, and in 1969 the Central Asian Military District was established with headquarters at Alma-Ata, capital of Kazakhstan.

MINORITIES AND THE ARMED FORCES

Higher military schools, which accept kursants (cadets) at ages seventeen to twenty-two for four- or five-year courses, are located throughout Central Asia. For example, Tashkent has a higher combined arms school and a higher tank command school; a higher military automotive command school is located at Samarkand. Entrance requirements for higher military schools are strict, and candidates are required to have a thorough knowledge of the Russian language. There are similar higher military schools in the Transcaucasian republics. The Russian language requirement makes it difficult for a non-Slavic speaking youth to become a regular officer.

By far the majority of the senior Soviet officers are Slavs, primarily Great Russians. There have been a few token generals and marshals from among the Soviet minorities, usually from Georgia or Armenia. There is an effort to recruit the minorities, however, with the most prestigious of the Ground Forces schools—the Moscow Combined Arms School—boasting of the many nationalities among its cadets. Several minority officers have excelled in flying and some have become famous test pilots. Reaching a high command position, however, is another matter.

The lack of minority generals can also be traced to the policy followed from 1917 through World War II of having formations of national units. In the Civil War there were Ukrainian divisions, Byelorussian formations, Latvian, Estonian, and Bashkir regiments and divisions. These were disbanded after the war. In World War II, cavalry divisions were formed from some of the minority groups in which men were noted for their horsemanship. There were also Georgian, Turkestan, Armenian, and Azerbaydzhan mountain rifle divisions. In the middle of the 1950s, the concept of national units was replaced by carefully integrated units comprised of all nationalities. But there was no place for senior minority officers, with limited professional backgrounds, in these new units.

In the early days of Soviet rule, non-Russian political and military leaders had played key roles. Stalin himself was a Georgian and many other Party leaders during the 1920s and 1930s, such as Ordzhonikidze, Mikoyan, and Beria, were non-Russians. Frunze, Triandafillov, Uborevich, Aiksnis, and Trotsky—all major military leaders in the 1920s—were from minority nationalities. In an effort to portray the Soviet Union as a contented multinational state, Soviet leaders have gone to some lengths to glorify war heroes of the various national origins. Local museums display the uniforms of dead heroes, and statues are erected to remind the youth of their glory.

However, during World War II, nine out of ten recipients of the highest Soviet decoration, "Hero of the Soviet Union," were Slavs—Russians, Ukrainians, or Byelorussians—although these nationalities made up only three-quarters of the Soviet population at that time.

IMPACT OF THE CHANGING DEMOGRAPHIC STRUCTURE

By 1984, an estimated one-third of the youth entering the work force and the Soviet Armed Forces will be from non-Slavic areas, primarily Ceneral Asia and the Transcaucasus. The age-group structure shown in Figure 4 will have a considerable impact in the future. In 1970, less than thirty percent of the population of the USSR was under fourteen years of age, but in Central Asia forty-one percent to forty-six percent was in this age group. For the Soviet Union as a whole the fifteen to fifty-nine age group, considered the labor pool, made up about sixty percent of the population. But in Central Asia the labor pool was about the same size as the group under fourteen.

It may be difficult for the Soviet leadership to expand the industrial and agricultural base in these regions to provide jobs for the flood of young people who will be entering the labor pool. Agricultural land is limited, and poor irrigation methods in the past have resulted in leaching thousands of acres. Years of expensive desalinization will be needed before these lands will become productive, if ever. The Transcaucasus areas will have as much difficulty in expanding agriculture and industrial facilities as Central Asia.

In Siberia and the Far East there are many areas to which Kremlin planners would like to move more people. Despite the inducements offered by the Party, from higher pay to extended vacations, few people are willing to establish permanent residence in these regions. The population surplus that will soon exist in Central Asia and the Transcaucasus probably would have no greater desire to live in these harsh climatic areas than do the Slavic groups in the Western part of the USSR.

The changing demographic structure may lead to significant political problems. Many of the people in Central Asia and the Transcaucasus are Moslems. To what degree the Soviet leadership has succeeded in turning the young Moslems away from their religion and way of life is not known. Many of the Moslem nationalities were badly treated throughout the 1930s, and during World War II. With this background of smouldering resentment, a major Moslem revival on the southern borders of the USSR could have an effect on the loyalty of Moslem peoples in the Soviet Union.

With respect to the Armed Forces, the years beginning in 1982 and lasting for the following decade will find the entire Soviet military manpower structure undergoing a drastic change. Of the eighteen-year-olds now eligible for compulsory military service, one out of five is a non-Slav. By 1984, every third Soviet soldier will be a non-Slav. The situation will not begin to change until the year 2000. After the turn of the century there may be a brief period of reversal as the children of the peak years of 1976 and 1978 marry and have children. It is possible, however, that birthrates among some of the non-Slavic nationalities may decline as they become more urbanized.

Another possible problem for the Kremlin may be generated by its support of national-liberation movements and wars. Soviet writing, from the Party Secretary's speeches, the Congresses, and daily newspapers, stress Soviet encouragement of national-liberation struggles in distant areas as a sacred duty of the Soviet people. Today, the Soviet Union remains the world's largest colonial power. If national-liberation movements are good groups outside of the USSR, why are they not also good for the nationalities that have been absorbed by the USSR?

AGE-GROUP STRUCTURE (1970 CENSUS)

[In percent]

	Under 14	15–59	Over 60
U.S.S.R. (as a whole)	29.0	59.2	11.8
Western U.S.S.R.:			
RSFSR	26.5	61.6	11.9
Ukrainian SSR	24.9	61.2	13.9
Belorussian SSR	29.0	57.9	13.1
Moldavian SSR	32.2	58.1	9.7
Baltic Republics:			
Estonian SSR	22.1	61.1	16.8
Latvian SSR	21.6	61.1	17.3
Lithuanian SSR	27.0	58.0	15.0
Transcaucasian Republics:			
Azerbaydzhan SSR	44.1	47.9	8.0
Georgian SSR	30.6	57.5	11.9
Armenian SSR	39.2	52.5	8.3
Central Asian Republics:			
Uzbek SSR	45.1	46.2	8.7
Kirgiz SSR	41.7	49.4	8.9
Tadzhik SSR	46.6	45.9	7.5
Turkmen SSR	44.9	47.9	7.2
Kazakh SSR	37.5	54.2	8.3

MORE ON CAMBODIA

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. SIMON. Mr. Speaker, recently, a group of five representatives of the American Friends Service Committee visited Cambodia. They came away shaken by their view of what appears to be a country on the verge of extinction. We have a tendency to view problems outside of our borders in global terms, often forgetting that we are talking about the lives and futures of millions of people. The political problem in Cambodia is not an easy one and we should continue to do what we can to participate in resolving the internal political problems. While this dialog continues, however, we must not allow the lack of resolution to keep us from providing humanitarian assistance that is so desperately needed. On October 17, James Matlack, a member of the AFSC delegation wrote at length about his journey through Cambodia in the Christian Science Monitor. I am inserting this article in the RECORD, as it makes the case for U.S. action on aid even more imperative. I applaud the President for his recent decision to begin sending U.S. aid to Cambodia and I hope that my colleagues will follow his lead and get the ball moving to ward off the possibe death of millions of people through starvation:

The article follows:

CAMBODIA: A RACE AGAINST TRAGEDY

(NOTE.—There is still time to avert yet another Cambodian tragedy, and the world is responding to the desperate need for food. But already the nation has been devastated by war, tyranny, and famine, as witnessed by an American just back from a visit to the country.)

(By James Matlack)

None of the photographs or stories about current conditions in Cambodia (Kampuchea) fully prepare the visitor to face the reality, the human tragedy encountered there.

It is a shattering experience to travel through a major city with no more population than a country town; to see countless drawn faces of hungry people and malnourished children so weak that they cannot cry; to hear the gentle voices of surviving Cambodians convey repeated tales of horror and suffering, patiently explaining how the immediate members of their family died or disappeared.

Cambodia hardly exists as a functioning nation. Remnants of a devastated people are struggling to reestablish the rudiments of a government and coherent social order even as they face widespread starvation.

As our group of five Americans representing the American Friends Service Committee drove into Phnom Penh from Pochentong Airport last month, we noticed that most buildings looked deserted, many were damaged, and the trickle of people on foot and bicycle seemed to live elsewhere. We passed half a dozen derelict gas stations that looked as if they had been consciously dismantled.

Approaching Phnom Penh, a striking row of high-rise buildings that had been the university were deserted and partially ransacked. Schools and hospitals were closed under Pol Pot. Only a few primary schools have been reopened in the city.

Downtown Phnom Penh was eerie and depressing. We drove through empty canyons of high-rise buildings along broad boulevards with only as many people in view as might be found on a country road. Some families were camping in first-floor rooms but upper floors were untenanted. Whole side streets seemed desolate with trees down and rubbish mounds along the curbs.

The wide plaza in front of the railroad station was vacant every time we passed through it over two days. The central market, which had been a crowded scene of buying and selling before 1975, had only 10 or 12 sellers with meager stocks and no visible customers.

At the old Hotel Royal a dozen cows were grazing on the median strip in front of the building. The hotel itself functioned in skeletal fashion for a few international guests. Water and electricity usually worked but rarely at the same time.

Outside the hotel an impressive marble library next door looked unused, with half the books scattered on the floor. Someone had tried to grow vegetables in part of the otherwise weed-filled front yard. A four-story high school nearby was empty. Several villas were deserted with heavily overgrown trees and plants choking sidewalks and blocking driveways. Some families were living on the second floor of the old Cercle Sportif—the sports club. One of the two largest Catholic churches in the city once stood across the street from the Hotel Royal; now not a stone or foundation block remains on the flat, barren field.

The Cambodian foreign ministry sent two young women to be our interpreter-guides. Their main qualification was prior study of English and French, a fact that they had successfully hidden through years of work as peasants under Pol Pot. Knowledge of a foreign language usually brought a death sentence.

Both women told of experiences common to nearly everyone with whom we talked. They were driven out of the city immediately after the Khmer Rouge victory, forced into the fields to grow rice under the most primitive conditions—heavy labor, one meal and five hours sleep a day, no food for those too ill or too weak to work. Casual or calculated killings were frequent. Whole families would be taken away and bludgeoned to death (bullets were costly) and the blood-soaked clothes brought back for others to wear.

"In our village we lived without hope and waited for death," Mrs. Ek Preney told us. Many of those who survived until last January were killed when they refused to flee with the Pol Pot cadres as the "liberation" forces of Heng Samrin and Vietnamese troops approached.

Our group visited Phnom Penh's sole orphanage. Three months after opening it had 539 children quartered in a former high school. Only 26 of them were five years old or less, compared with 332 in the 11 to 15 bracket—clear indication that the years under Pol Pot had been most lethal to the youngest Cambodians.

The orphanage provided basic medical care and food supplemented by vitamins and milk powder from the United Nations Children's Fund (UNICEF). The kids were often too weak to sit up when they arrived. But most we saw were reasonably healthy and responsive although very thin.

We were briefed by Chau Sa, the staff member who spoke English best and who had been a teacher during the Lon Nol years. Back in April, 1975, Sa had celebrated his son's first birthday—and the next day carried his son and aided his wife as they were driven out of Phnom Penh into the countryside. They walked 90 kilometers in 20 days. After arriving in a rural village in Prey Veng Province he was imprisoned for five months. Most of his associates from the city died but he survived and rejoined his family. For the next three years he worked as a peasant, especially making fertilizer.

His whole village was forced to move halfway across Cambodia to the west in 1978. Many more died on this trek or were later killed by the teen-aged cadre who ruled the lives of the people with absolute power. Whole village groups were executed. Sa told of seeing a killing ground where several thousand persons had been beaten to death. He and his wife survived until liberation but their child did not. Sa was an exception among those we talked to in having his spouse alive. We were given an estimate that 70 percent of the women between 19 and 35 who had been married were now widows.

Walking through the orphanage was both heart-rendering and encouraging. The affection and caring of the staff were abundantly shown. Many children smiled, reached out for our hands, were strong enough to cling to our legs and walk with us. They seemed so small and spindly, however. New arrivals were in more critical condition. Still, they were fortunate in being in one of the few settings receiving direct aid from UNICEF and the Red Cross. At the end of the tour we spoke with the vice-director and learned that her husband, a former university professor, and 11 out of 14 of her immediate family had died during the Pol Pot years.

From a scene of moderate liveliness we went to one of appalling slaughter and stillness.

Toul Sleng had been one of the top French schools in Phnom Penh. After the Pol Pot takeover it became a prison for political suspects, a center for torture and execution. Guides told us that 20,000 people died here. Four high-rise rectangular concrete buildings formed three sides of what had been a spacious lawn and compound. It was now ragged and overgrown.

The first block had high-ranking political prisoners, one to a room. Each had been shackled naked to a bare cot frame. Various devices for beating and torture were on display, as were photographs of the 14 corpses found chained to beds in this wing after the guards had fled.

The second and third blocks had barbed wire mesh over their whole facade. Each former classroom here had been subdivided into many small cells, usually 2 feet 6 inches by 7 feet long, into which ordinary prisoners had been jammed. Absolute silence had been required. There was one meal a day.

The most harrowing displays were in a central section of Toul Sleng. The keepers of this charnel house worked methodically. They kept careful records of names, backgrounds, dates of execution. Thousands of documents were recovered. Some of the lists were enlarged and posted. On Oct. 15, 1977, for example, 418 persons had been killed. The long tallies of those who had perished—professional people, technicians, diplomats, students, persons tainted by foreign exposure—indicated the mad, xenophobic mood of the Pol Pot regime. Students who returned from abroad were consistently killed, not only those who had been in the West but ones coming back from Russia, Cuba, and Vietnam as well.

Along with the lists were photographs. Most of the victims in Toul Sleng had a mugshot. These pictures literally covered whole walls in row upon row of solemn faces. Many in the photographs were Pol Pot cadre rather than Lon Nol technicians or students with foreign contamination. The regime purged and purged in a self-devouring quest for purity or, at least, lack of political opposition.

We saw workshop areas where the prisoners melted down metal artifacts in order to cast busts of Pol Pot. In one room was a pile of ragged prisoner clothing 15 feet high. They led us out in back of the compound to see excavated grave sites with jumbled piles of broken skeletons. The overall experience was for our time nearest to a tour of Auschwitz or Dachau a generation ago.

Among the guides at Toul Sleng was one of the four known survivors. Mr. Ing Pesch escaped in the turmoil of the Vietnamese-backed "liberation" as the last prisoners were marched under guard out of Phnom Penh. The nails on the thumb and middle finger of his right hand had been pulled out. He apologized for not remembering all details because his skull had been beaten so often. The rest of his family were dead.

Another guide had come back from Paris in 1977. He found Phnom Penh frighteningly quiet. The dozen students who returned with him to serve the new nation all perished. He commented that the people preferred socialism but not sadistic killers as leaders. The manager of the prison site, Mrs. Pen En, lost her husband and three children. We left Toul Sleng in stunned silence.

There is no currency in Cambodia. Rice is the medium of exchange. Barter and scavenging are common. For those who work a salary is only the weekly ration of rice, already scant, which must be further reduced to trade for other necessities and to share with family dependents who have no job. Many Cambodians are too weak to do hard physical labor. Most machines and vehicles are broken or unuseable.

In Kampong Speu, a provincial town about 20 miles southwest of Phnom Penh, few vehicles were visible other than bikes and carts. Occasional trucks seemed to serve as buses with a mass of people and freight piled on. Roadside buildings were mostly damaged and derelict. Only a few stands or bike repair shops were evident, except for a more sizable market area at a crossroads. Some rice was planted.

With a local official we drove to what had been the center of town. Eight months earlier the retreating Pol Pot forces had blown up their ammunition stored in the main buildings and leveled the area for a radius of 100 yards. Ragged crates 15 feet deep and muddy mounds covered with fragments of concrete were all that remained. The ground was strewn with howitzer shells and casings, mortar shells, and machine gun and rifle bullets. An old gas station on the perimeter of the blast zone was half blown away by the shock waves. Most structures now were made of thatch.

We drove on to the provincial hospital. It served a population of perhaps 300,000. There were 485 patients but only 200 beds and no medical doctor. Thirteen staff members had some training as nurses. A tour of the hospital showed a total supply of medicines on hand that was less than the office stocks of the average American physican.

Beside the hospital a thatch structure to house orphans had been put up—the only other known orphanage beside the one in Phnom Penh.

On 12 bed frames covered with straw matting were gathered 92 parentless children up to 13 years of age, though none looked larger than an American six-year-old. Sad faces and hollow gazes turned toward me when I entered. The huddled mass of spindly kids were quiet, however. Only one child in the ward cried fitfully, with barely enough energy to make a whimpering noise.

As I left, a mother and child stood in the sunlight. The boy she held had sticklike arms and legs and a distended belly. The otherwise gaunt mother had so large a bulge that we asked if she were preganant. We were told that her stomach was swollen because she had eaten only grass and banana leaves for five days en route to the hospital.

Our last trip through Phnom Penh was as unsettling as the first. No quick adjustment is possible to the scarcity of people in the urban landscape, to the breakdown of all normal systems in a modern city. At the bridge on our way by car out of the city a strict checkpoint was patroled by soldiers. A stream of people walked and biked over the bridge, many carrying scavenged furniture or artifacts or, occasionally, some food from the country. At the far end of the bridge was the largest crowd of people we saw anywhere in the country. They were living in shacks and under tarps waiting to be cleared for entry into the city. The authorities permitted only those with a job or needed skills into Phnom Penh, keeping a growing mass of others at the perimeter.

Route I heading east from Phnom Penh toward Vietnam was tolerable for 20 miles, then became became rough, pitted, potholed, and virtually worn away in some sections. Especially toward the border it had been fought over so often and so little repaired that we slowed almost to a standstill to negotiate one hole after another.

Some people were almost always in view as we drove for six hours to the Vietnamese border but there were few concentrations apart from Phnom Penh, Neak Luong, Kampong Trabak, Svay Rieng, and several villages that seemed well re-established. Some farm animals and modest rice cultivation could be seen at many points along the road but far more land was unplanted even where the old dike lines indicated prior cultivation. Ed Snyder in our delegation had travelled this road 10 years earlier. The contrast from lush, fertile, and busy to its current sparse and battered look was as extreme as the near-emptiness of Phnom Penh compared to its former crowds and bustle.

After two hours we came to the ferry crossing over the Mekong River at Neak Luong. This important transportation center had been bombed by American B-52s in the early 1970s. The heart of the town on the far shore still showed the devastation of the bomb patterns.

We had to wait half an hour for the ferry. A crowd gathered around us. I fell into slow conversation in rustry French with a man who turned out to be the manager of the ferry operation. Although he looked like a tired teen-ager, he was 40 years old and had lived most of his life in Neak Luong. He had been wounded by American bombing. The same terrible tale emerged of his experiences in the Pol Pot years. Driven to rural areas, he had worked in fields and forests, trying to sustain life on a handful of rice a day. Conditions had been "la plus difficile." Many died. The rest of his family was gone, some killed specifically because they held office under the American-backed Lon Nol government.

My companion estimated that 50 percent of the population of the Neak Luong region had died and another 30 percent had disappeared between 1975 and 1979. With soft pleading he explained that they needed food, medicine, seeds, vehicles, everything.●

WHAT IS AHEAD FOR OUR ECONOMY?

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. LENT. Mr. Speaker, I wish to draw the attention of my colleagues to a most thoughtful discussion of our economic and energy problems by Mr. David Rockefeller, chairman of the board of Chase Manhattan Bank. In a wide-ranging interview in the October 22 issue of U.S. News & World Report, Mr. Rockefeller provides us with a most comprehensive and instructive analysis of the reasons for the problems we are facing in our economy—domestic and international—and in the energy field.

I was particularly interested in Mr. Rockefeller's discussion of the weakening position of American business and industry in competing with other industrial nations of the world. His words demonstrate with great clarity and force the great need for more investment in new plants and equipment in the United States. A number of us in the U.S. Congress have been working for legislation to achieve that sort of an investment program. I would hope that this powerful argument from Mr. Rockefeller will encourage the Congress to revise our tax laws to encourage the greater productivity our economy needs so desperately. Such a change would benefit every American.

Mr. Speaker, I urge my colleagues to give careful study to Mr. Rockefeller's views in the full text of the U.S. News & World Report interview below:

RECESSION: "NOT VERY DEEP OR VERY LONG"

(Interview With David Rockefeller)

Q. Mr. Rockefeller, how long and deep do you think the recession will be?

A. On the assumption that we're not going to see another wave of massive oil-price increases—which is a big assumption, but I think is the most likely one—the recession will not need to be vary deep or very long.

The best estimate of our economists is that it should not be as deep as the '74–75 recession, and that by the middle of next year we will be seeing the economy working out of the recession.

Q. Do you see the recession becoming worldwide?

A. Up to this point, the United States has had a slowdown sooner than other parts of the world—most notably Europe and Japan. However, I think the recent round of oil-price increases is beginning to have its effect there, too.

Although the expansionary period in Europe and Japan may continue somewhat longer, in all probability we will see a recession pretty much on a worldwide basis toward the end of this year.

Q. What about the Third World countries, which apparently will be hit the worst by the oil prices?

A. They're going to have some difficult times—particularly the ones that don't have resources that they can sell in world markets at prices that have increased as oil has.

Q. Because of the threat of deeper recession plus our persistent inflation, the dollar has been very shaky lately. How do you see the outlook for it?

A. The strength or weakness of the dollar depends very largely on how people who hold

dollars perceive the country and its management.

Over the past several weeks, the dollar had been under pressure largely because people have been concerned as to whether the government was going to get inflation under control and whether the energy program was going to be a meaningful and successful one.

The recent decisions by the Federal Reserve relating to monetary policy should have an impact in relieving inflation. Implementing an effective energy policy and adopting appropriate fiscal policies are also crucial steps.

Q. Some have been saying that the high price of gold should not be taken as a reflection on the strength of the dollar. Is that an accurate assessment?

A. That's probably too strong a statement. Up until, say, a year ago, the weakness of the dollar could be measured almost in direct proportion to the strength of gold.

The two have become detached to some extent in the last year, partly because a lot of people—especially individuals who have gotten a lot of money in the Middle East in the last several years—have determined that they would like to diversify their holdings and have been buying gold. That isn't unrelated to the perception of the dollar, but it is not quite the same as it was a couple of years ago.

Q. Will the dollar continue as the reserve currency for the world? Or does it face the same fate as sterling, which declined in importance after World War II?

A. The strength of the U.S. economy is still so great that, in my judgment, the dollar will continue to be the leading currency of the world, but not to the same extent as in the past.

One sees a gradual shifting away—diversification on the part of central banks and other holders of large reserves and currencies—a gradual move of some percentage of reserves out of dollars and into, for example, deutsche marks, yen and Swiss francs, particularly. Of course, the International Monetary Fund's Special Drawing Rights—the SDR's—are beginning to play a more significant role, too.

Q. Taking account of the pessimistic view of the dollar, gold, the U.S. in the world, are there any positive signs that U.S. goods will become more competitive?

We still have that capability. But we have done more than anybody else to weaken our competitive position—partly through lack of attention to the strength of the dollar, partly because of all of the government regulations which have added enormously to the cost of doing business, and partly because of our tax and other laws which have not encouraged investment in capital goods, research and development, and greater productivity.

It's shocking that, for the past decade, Japan and Germany have been investing roughly a third of their gross national product in new plant and equipment, and have, as a result, increased their productivity at a very rapid rate.

The United States and the United Kingdom, on the other hand, have been investing less than 20 percent of their GNP during the same period.

Productivity has responded as one might expect and has been almost flat. Clearly, this is one of the most important reasons why U.S. goods are less competitive today than they used to be. It will take time to change that, but it could be changed if we pass laws which stimulate investment.

Q. When you assess reasons for inflation, how much are higher oil prices to blame?

A. When energy costs rise, they inevitably have an impact on the price of virtually everything. That isn't the only cause of inflation, of course.

For one thing, we are trying too much to deal with the problem of distribution of income—distributing income simply by printing more dollars. That helps cause inflation. We need to improve productivity, but the answer is not to just pump out more dollars. The answer is to spend more money on plant and equipment and reduce the costs of production.

Q. How much price gouging is going on? Do you think that is also contributing to inflation?

A. When you say "price gouging," I suppose you mean charging prices which are far in excess of normal profit margins and unjustified by costs.

There must be individual cases where it's happened, but I haven't seen indications of that being a general problem.

Q. Let's take banks. Your critics think that banks are gouging when the prime rate hits, say, 14½ percent while savings accounts pay only 5¼ to 5½. How do you explain that spread?

A. The key thing to remember about the prime rate—which is the lowest rate that we give to our prime customers, who are mostly corporations—is that we have to buy most of the money we lend these customers.

When I joined Chase 33 years ago, 85 percent of our funds came from demand deposits or savings. Today the reverse is true—85 percent of our funds come from bought money, from certificates of deposit which are bought in the market, from federal funds, from Eurodollars. The rates on those public short-term money markets are determined to a large extent by the policies of the Federal Reserve Board.

As you know, since Chairman Paul Volcker came in he has taken a much more aggressive stand on tightening our monetary policy, with the result that short-term interest rates—which are the ones that affect us—have gone up very rapidly.

At one point, we were paying 12.95 percent at the margin—that is, for new funds that we were bringing in to make loans—and charging 13 percent. Clearly, you could not go on that way very long. It was inevitable that the prime rate would go up again, and it did.

As a result of the steps the Fed took on October 6, we have paid an excess of 15 percent at the margin, and the prime increased again.

In point of fact, over the past several years the problem the banks have had is to generate enough earnings so that they could build their capital base in order to make the loans that they needed to make.

Q. Would you favor removal of government ceilings on interest rates on savings deposits?

A. Yes. The argument used in the past was that the savings banks and savings and loan associations couldn't afford to raise the price because they don't get enough in earnings. I have some questions about that.

They're given broader powers to do other things. I don't see why they couldn't afford to pay more, just as the commercial banks do. So, over a period of time, I would be happy to see all of these ceilings and restrictions removed.

Q. Is the very high cost of money going to deepen and lengthen the recession? It's like walking a tightrope, isn't it?

A. You put it very well. It is like walking a tightrope, and, clearly, it can be carried too far. One of the problems is that you never can be quite sure—with a tightrope you know when you've fallen off—but with something like interest rates, the impact on the economy is often delayed 3, 4 or even 6 months. Therefore, you have to be awfully sensitive to timing to know just how far this should go.

One of the things that gives me courage about having Paul Volcker in his present post is that there's no one more knowledgeable about these things than he is.

Q. You mentioned that Volcker was moving aggressively. Is he moving too aggressively?

A. Time will tell. I think his feeling was that the increase in inflationary pressures had been building up so much that, unless one dealt with it quickly and decisively, it would keep on going and would get so much momentum that you would have had to have taken much more serious steps later on.

Q. Money isn't really very tight right now, is it? It's expensive, but it's not scarce—

A. That is a fair statement. In that respect, there is a marked difference between now and 1974 when, through browbeating, the government merely put an effective ceiling on the prime rate. That led to a tremendous flood of borrowing and a very serious credit crunch. I'm sure that it's less costly to the country to allow interest rates to find their natural market level than to artificially place a ceiling on them.

Q. On energy, what does this country have to do to get its house in order?

A. The theory is very simple. We need to curtail consumption and expand production. That's been true for a long time. If we had resorted sooner to the market mechanisms on both sides, we would be a lot better off today than we are. We in this country are still paying less than half of what most countries are for gasoline. Yet we're the wealthiest country in the world.

In my mind, it does not make sense for the government to subsidize, in effect, a rate that is not a market rate for gasoline. If it's determined that there should be some way of assisting people who haven't adequate incomes to pay the higher fuel prices, there are other ways of dealing with that. But I don't think it should be done through arbitrary regulation of the price.

By the same token, I don't think it makes sense to regulate the price of crude oil or natural gas. I was very relieved that the President finally came to that conclusion and announced a program in that direction.

The best proof that this is right is what's happened in natural gas. The very drastic price lid that was on it for so many years was partly removed, and production in the United States has increased.

Q. Does that mean you're willing to accept the boost in prices that oil deregulation will bring?

A. It will have some inflationary effect. But I think that very rapidly it will increase production. At some point, you're going to have to pay that price.

Q. Oil is not the only answer to our long-range problem. What should we do about developing nuclear power?

A. I do not feel we should back off from it. We are not going to be able to avoid a major energy crisis in this country if we do not make substantially more use of both coal and nuclear energy in the next several years.

It's quite clear that we're going to have to continue to use oil and gas on as large a scale as we can, and can afford. But in the interim between now and the time that sources such as solar power can be developed on an economic basis, I see no alternatives to coal and nuclear energy.

I think we should examine the findings of the Kemeny Commission, which is studying the Three Mile Island accident, and take whatever steps to safeguard use of nuclear power that it feels are necessary and desirable, of course.

While there are risks to everything, I think the risks of massive unemployment and massive social unrest that would come from a real shortage of energy are at least as great as the unknown risks of nuclear accidents.

Q. What about rapid development of big synthetic-fuels programs? Are they an answer?

A. I'm sure that there is potential there that ought to be explored. Obviously, a certain amount of lead time is necessary.

Government could assist by eliminating some of the potential red tape associated with "synfuel" development. A private-sector approach seems to me to be the most feasible.

Q. Considering the enormous capital needed for expansion by the oil industry, can it raise this money—particularly with the "windfall profits" tax hanging over its head?

A. I have some grave reservations about the windfall-profits tax, and question whether that really is in the interest of our developing our energy sources in the most efficient way.

I think that, while fully recognizing the importance of maintaining environmental quality, we've got to re-examine the trade-offs between total elimination of air or water pollution and the need for more energy.

One of the things that strikes me is that, typically, in the process of dealing with any of these problems—whether it be air pollution or water pollution, or increasing the number of miles you get from a gallon of gasoline—you can accomplish maybe 80 or 90 percent of what you want to do at a relatively acceptable cost. But to deal with the last 10 or 20 percent would be astronomically expensive.

I don't think we can afford that last little bit, and I don't think that those trade-offs have been examined adequately. This is one of the areas that we have to look into very carefully in the future.

Q. People around the country don't seem to like big oil companies. They think the companies are gouging them. How do you defend the oil companies? What would they do with their profits if there is no windfall-profits tax?

A. In the first place, the very term windfall profits is a bit of a red herring. I don't think anybody really knows what is meant by a windfall profit. If you examine the oil companies' earnings in relation to their capital over the last decade, you'd find that their return on investment has been somewhat lower than the industrial average.

Individual companies, in an individual year, might have had exceptionally high profits. But the average have not been that high. My own feeling has been that the important thing was to make sure that they used the profits to explore for added sources of supply, and to develop new plants and equipment.

One of the shocking things to me is that there hasn't been a major refinery built in the United States for something like 25 or 30 years, because the terms and regulations in this country are so unfavorable for it. Now, if there is a problem, it would not be unreasonable to say that a tax could be applied on funds that were not reinvested for specified purposes.

Q. Would you prevent oil companies from using their earnings to buy a Montgomery Ward or a Chase Bank or a Sears, Roebuck?

A. I don't personally feel there's anything immoral about an oil company diversifying into other areas if it's in the interest of the shareholders. But at the moment, I can understand that it would be unfortunate to have them do it, because it would appear that they were diverting resources that ought to be building the industry.

I do think that the American public has been misled into believing that the oil companies are somehow amassing huge profits that are being siphoned off for some unknown and evil purpose.

It's quite clear that the Securities and Exchange Commission and the modern accounting industry would not permit that to happen. It's not possible for a large corporation to spend money that way.

Q. Back on the subject of gold: Do you think that the U.S. government should sell more of its gold to take advantage of very high prices?

A. My inclination would be to hold back a bit until we see how the market settles down. I did not oppose the Treasury's present system for selling gold when it was originally suggested. But under present conditions, where there is almost an atmosphere of crisis in gold, I'm a little less convinced that it would be good for us to be selling more. It may give a wrong signal to the world.

Q. Was it a mistake for us to try to demonetize gold—try to end its role as a money asset? Should we abandon that effort?

A. I don't think so. The international monetary system has become so complex and so big that to try to tie ourselves to a metal which exists in limited quantities does not make sense.

I don't favor trying to get rid of it immediately from the reserves of the world. But the program that our government and many others have been pursuing for the last several years of gradually de-emphasizing gold as a primary reserve is a sound one, and over time that will happen. This current flurry in the price of gold doesn't really change the fundamentals.●

HMONG REFUGEES IN SOUTHEAST ASIA

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. DOWNEY. Mr. Speaker, during my recent visit with a congressional delegation to the refugee camps of Southeast Asia I had the opportunity to see firsthand the suffering and extreme hardship being endured by the Hmong people in refugee camps in Thailand. These hill tribes were our allies and friends throughout the long conflict in Vietnam. They suffered terrible losses during the war and after U.S. forces withdrew their suffering continued because they were left with the label of being our allies, which has unfortunately become the mark of death and persecution for so many in Southeast Asia. With the spread of warfare and famine in Cambodia pressing closer every day to the Thai border it becomes even more urgent for us to consider the special plight of these special people. In the past week the press has reported allegations of poison gas being used against the fleeing Hmong, and it is further reported that artillery shells fired from inside Cambodia have killed four refugees in a camp across the border in Thailand. The multitude of difficulties faced by these unfortunate people at the present time is difficult to fully comprehend.

I would like to take this opportunity to insert in the RECORD a statement by Mr. Ogden Williams which outlines the background of this problem. Mr. Williams has spent many years in Southeast Asia, he is intimately familiar with the Hmong people, and I believe he sums up the plight of the Hmong refugees in a way that is extremely convincing in that our attention to this problem is asked not on the basis of emotion but on the strong basis of history and fact.

I commend this statement to my colleague's attention:

THE PLIGHT OF THE HMONG REFUGEES

(Unequal treatment of America's closest allies)

1. There are now some 70,000 Hmong refugees among the 300,000 total Indochina refugees in Southeast Asia, or 23% of the total. But they received only 2000 "spaces" out of the 14,000 per month accorded by U.S. Immigration for entry to the United States, or 14%. If the Hmong were treated even on a equal basis with other refugees, they would be accorded about 3200 spaces per month.

2. But the Hmong in fact deserve not only equal treatment, but even preferred treatment. Why?

a. They fought for us. Whereas US troops fought for the South Vietnamese in Vietnam, in northern Laos the process was reversed. We enlisted the Hmong to hold northern Laos and deny it to the North Vietnamese invaders. This the Hmong did for thirteen long years, until our Indochina program collapsed in 1975. The Hmong were left holding the bag, after having *per capita* casualties greater than those of the Soviet Union in World War II.

b. They are being exterminated by the Vietnamese and Pathet Lao armies. For the Hmong, the war did not stop in 1975. Cut off from US arms and food, they have been the victims of a well-documented campaign of extermination by several divisions of Vietnamese regulars and Pathet Lao troops, using heavy artillery, Soviet tanks, captured US and Soviet aircraft and poison gas. Tactics included the systematic destruction of Hmong mountain villages, burning of crops and poisoning of water holes. Hmong attempting to flee to Thailand run a gauntlet of forces assigned to their destruction—men, women and children. All this is documented beyond doubt. Among all the Indochina refugees, including ethnic Chinese from Vietnam who leave because of economic pressures, or Cambodian civilians who are caught between contending armies, only the Hmong are systematically hunted down in a deliberate campaign of extermination.

c. Conditions in the Hmong refugee camps are now the worst of all land refugee groups in Thailand. Overcrowding, disease, malnutrition, enforced idleness, and hopeless delays have caused morale to decline sharply. There have been recent suicides. Many Hmong have been living like this for four years, including many who bear combat wounds suffered while fighting the North Vietnamese communists at our behest. This should be a reproach to the American conscience.

3. Because of the lull in arrivals of "boat people" from Vietnam since the Geneva Conference in June, when Hanoi agreed to "turn off the tap"—at least for the time being—the camp populations of "boat people" have declined sharply. Thus in August '79 some 6792 new boat people arrived from Vietnam, but more than 14,000 were resettled in the US and other countries. In September '79 only 7090 boat people arrived in the refugee camps, while more than 21,000 departed for resettlement. Not so with the Hmong. An average of 2500 new refugees arrived each month, with not more than 2000 departing.

4. Why do the Hmong not receive even equal treatment?

Perhaps most important, because the hinge which squeaks loudest gets oiled first. The Hmong have not received the enormous worldwide media coverage accorded to the "boat people". TV cameras cannot cover Hmong families being shot down in the forests of Laos, or even while swimming the Mekong, even though their bodies float by the Thai police posts. Still less do TV cameras or reporters cover the thousands who die of starvation and battle wounds in the mountains of Laos.

Secondly, even though the Hmong fought under CIA control and funding, the fiction

is maintained that they were not working for the United States since their salaries were "laundered" through official Hmong intermediaries. Thus even those Hmong refugees who have battle scars are classified as having worked "with" the United States—Category 3, not "for" the United States—Category 2. This means that a Laotian chauffeur or typist who worked at a US installation in Laos gets automatic preference over a Hmong combat veteran.

5. How well do the Hmong do when resettled in the U.S.?

While US resettlement agencies have a policy of avoiding any official "ranking" of refugee groups, privately they will confirm that the Hmong are at the top of the list, because of their innate characteristics. These include a willingness to work at any job available rather than go on relief; honesty and directness which are appreciated by US employers; loyalty, and an enormous appetite for education. Hmong communities thrive in places like Minneapolis, California, Washington, D.C. and the Pacific Northwest. Two Hmong kids in the Tacoma school system have been classified at the "genius" level. They have a reputation for talent and ability in school. They also have a tradition of craftsmanship. Hmong as a group are predominantly honest, brave, hardworking, loyal to the United States and passionately opposed to communist totalitarianism. What else should we require of immigrants?

Action required: Take immediate advantage of the current lull in new arrivals of "boat people" to give higher and well-deserved priority to the Hmong, by doubling the "spaces" allocated to them. Right now, the total US entitlement is 14,000 spaces per month. Of these, 8,000 still go to the "boat people", with only 6,000 for all the land refugees—Hmong, Laotian and Cambodian. Of this 6,000, the Hmong now get only 2,000. The "boat people" quota should be reduced to perhaps 5,000, with 2,000 additional spaces going to Hmong and 1,000 to Cambodians or other land refugees. As a target, all verified Hmong combat veterans, and the dependents, should be moved out of the Thai camps where they have lingered for up to four years, and at the earliest practicable time. America should pay her debts.●

MORE FAIR HOUSING BILL BACKERS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. EDWARDS of California. Mr. Speaker, the last 2 days, I have shared with my colleagues a few of the names of Leadership Conference on Civil Rights member organizations committed to passage of the Fair Housing Amendments Act of 1979.

The list continues:

B'nai B'rith Women.

Building and Construction Trades Department—AFL-CIO.

Center for Community Change.

Center for National Policy Review.

Church of the Brethren—World Ministries Commission.

Church Women United.

Citizens Lobby for Freedom and Fair Play.

Communication Workers of America.

Congress of Italian-American Organizations, Inc.

Delta Sigma Theta Sorority.

Division of Homeland Ministries—Christian Church (Disciples of Christ).

Episcopal Church—Public Affairs Office.●

POWER CRISIS

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. GORE. Mr. Speaker, not many years ago, the idea of controlled nuclear fusion seemed a distant dream, a wish of grand dimensions and little likelihood of success. Today all that is changed. Today we can say with confidence that the work of laboratories around the world—including our own National Laboratory at Oak Ridge—will make possible a day in which many of us will see the lamps which light this Chamber powered by the force which kindles the stars.

Or, rather, we could confidently say so except for one little problem, a problem so foolish in so many ways that it would be funny were the need for a secure and plentiful energy course not so vital for our Nation's future. The problem? We cannot have controlled fusion without helium, and this Nation is squandering its reserves of helium at an alarming rate.

We will need helium to cool the giant lasers and power the magnets which will generate the fields to contain fusion reactions. We will need liquid helium to cool the reacting core and carry the heat from the chamber to the turbines. But our helium reserves are mixed with natural gas. And therein lies our problem.

Helium can be separated from natural gas by a relatively simple procedure, and today nearly 1 billion cubic feet are extracted and sold each year to be used in jobs as diverse as lifting blimps and filling divers' air tanks. But far more helium is extracted and simply vented into the atmosphere because it cannot be sold or not extracted at all and left in the gas stream to dissipate when the gas is burned for fuel. What goes into the atmosphere is lost to us and what remains is a steadily shrinking pool.

By the beginning of the next century this Nation will have spent more than $15 billion to learn how to build a prototype of a commercial fusion reactor. We will be near the end of the long road toward true energy independence for millenia to come. But at just that time, if we do not change our course, we will be nearing the end of our reserve supply of the helium necessary to let fusion happen. Fifteen billion taxpayer dollars will have been wasted. Worse still, we will have squandered a vital resource, virtually foreclosed a crucial energy technology, and guaranteed the next generation of Americans a power crisis more hopeless and unnecessary than the one we struggle against today.

Beginning with the passage of the Helium Act of 1960, the Federal Government purchased and stockpiled available helium. But in 1973 the Nixon administration quietly terminated the program, calling the termination an economy measure. If ever there was a false economy, this is it.

We can correct that mistake and preserve the possibility of a secure energy future for this Nation. But we must act soon. As many of my colleagues know, the distinguished chairman of the Energy and Power Subcommittee has introduced legislation to establish a Federal helium stockpiling program on a new and sounder basis. I am happy to have the opportunity today to urge my colleagues to join me in support of that effort.

Too often, as we all well know, this House acts only when the crisis is upon us, and too often action taken in the midst of a crisis comes too late to help. Such will be the case with helium. If we wait until the problem has become obvious to all, the solution will be floating unreachable in the atmosphere above our heads. By acting now we can leave the next generation a more secure and stable future. They will not forgive us if we fail.●

AMY CROFT—OUR CALIFORNIA "SUNSHINE"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. ANDERSON of California. Mr. Speaker, I have been fortunate for many years to count among my friends Amy Croft. Amy has been a "career woman" since long before the term "women's liberation" was coined. She has been a success at most everything she has set her mind to, and she is just one of those people who would also have been a success at those few things that she has not looked into.

Through business, community affairs, and politics, she has certainly had a sustained beneficial effect on life in California. And despite the fact that she is a nonagenarian, she is still active in civic affairs. In a recent letter, Amy told me that, though bedridden during the recent elections, she was active in two of them. And no one who knows Amy should be surprised to learn that they were both winning efforts.

Mr. Speaker, Amy Croft is an amazing woman. Last month, the Palm Desert Post recognized this fact in a rather lengthy article about her. A shorter article could not do her justice. But because "Sunshine," as her father called her, has done so much for the State of California, I wanted to share the article with our colleagues.

AMY CROFT IS THE DESERT'S "SUNSHINE"

(By Mary Higgins)

One Coachella Valley pioneer woman stands out as a dedicated individual with deep beliefs in women's rights. She is not a noisy, demonstrative type of person, marching in parades with signs. Rather she is a individual who quietly goes about the business of setting examples for others to follow. Always sure of her facts, she is never swayed from the goals she has set for civic betterment. Others would do well to study this charming 91-year-old's methods.

Born June 9, 1888 in Columbia, S.C., Amy Ball Croft celebrated her last birthday looking years younger than her actual years. Her keen intellect and wit do not seem to diminish with the passing years. Amy's father had a pet name for her, "Sunshine."

The mercurial quality seems ideally suited to her personality.

The interview with this dynamic little lady was uniquely different in many ways to others in her peer group. She needed no leading questions or prompting as to dates or past events. A constant flow of memories surged about her. It was akin to a deep dive into a pool of nostalgic history.

The Croft home is overflowing with memorabilia, each article a loved token of the past. Rare shells picked up on travels, beautiful antique furniture, scrapbooks of past events (there are 33) figurines in colorful array stand in every available place. The shine of china dwells in harmony with the patina of old silver. Every inch of the wall space is covered with pictures or photographs. The photographs are personal tokens of esteem given to her by famous people, usually in government. Almost all of the photos are of people of the Democratic persuasion. President John Kennedy, John Tunney, Alan Cranston and other notables smile down at you. It is the paramount belief of Amy Croft that the Democratic Party is almost sacred. It is indeed akin to a form of religion with her, her very breath and life.

Amy Croft comes from an interesting and dynamic family. Interest in politics runs in her family. Her grandfather was a United States senator from Kentucky, Richard Burton Carpenter. He also served as a state senator in California for 50 years during the latter part of his life.

Amy's father was George J. Ball, author and conchologist. A runaway horse had thrown him from a buggy, running over him. This was when Amy was two years old, and for the next seven years her father was confined to bed. Amy often took care of her father when her mother was working, and a close bond developed between them. She was not only his part time nurse, but also his confidante and friend. The Ball family had moved from South Carolina to Long Beach when Amy was two. When she was 15 she met and fell in love with John Croft, and married him when she was 16. Of that union five children were born, a boy and four girls. The lineal line now extends to 10 grandchildren, 11 great-grandchildren and 10 great-great-grandchildren. Amy said she hadn't checked the mail that day, and another baby might be added to the list.

Amy Croft has lived alone since the death of her husband in 1955 from a heart attack. He had been an invalid for 10 years. Amy became his inspiration to live, and had been his constant companion and nurse.

The Croft home is a comfortable, rambling, ranch type that once sheltered not only John and Amy but their five children. It was also home to numerous lonely boys who stayed briefly with the family, and were accepted as part of their brood. The home was always a maelstrom of activity, and the needy were never turned away. It was indeed a rare occasion when the Crofts sat down to dinner alone. The Rancho Mirage home has been the place of refuge for Amy for 34 years. She has owned and dwelt in many places in other states as well as California, but this is home.

Amy Croft's mind and heart became entangled in the beauty and quiet of the desert 54 years ago. As an astute real estate woman, she saw the prospects of future development in this great arid land. Just prior to moving to Rancho Mirage the Crofts lived for 24 years in Palm Springs. There they lived under the most primitive conditions in a small, one room cabin. Adequate housing was also almost impossible to get during the early days of Palm Springs. The lucky ones were those having a roof of any description over their heads. Even Nellie Coffman's Desert Inn Hotel and Sanatorium were tent houses during the early days. Therefore when the Crofts heard of a vacant house in Rancho Mirage they immediately took it. The distance to drive to work in Palm Springs meant little to them. They needed a home for their family. The house had been vacant for some time due to legation when the owner died. Vandalism had taken its toll of the property, and the Crofts moved in almost on a caretaker basis. The arrangement was ideal for them. John Croft was a builder and agreed to improve the place in exchange for rent until the courts could decide what to do with the property. Rooms were added, improvements made and a guest house built to accommodate the growing family. When the legal difficulties were resolved, they bought the home. It is still the nucleus for the Croft clan at celebrations and holidays.

Amy Croft tells of an interesting experience that caused her to dedicate her life to the democratic form of government. She was seven years old at the time, and had developed a craving for ice. (To this day she still loves ice.) The old icehouse in Long Beach was a temptation to little Amy and her group of playmates who often slipped off with chunks of purloined ice from the floor. One day the owner saw them and chased them away with loud shouts and salty language. Amy's feelings were hurt, and she ran home to her invalid father. Climbing up on his bed she loudly proclaimed that she hated the ice house owner. "After all," she cried "he was nothing but a bad old Republican!" Amy spat out the word as though it were a filthy epitaph. Her father was amused, and laughed at her whimsical decision. After all, all of the Ball family as well as the Carpenters had always been devoted Republicans. He thought the "Sunshine" would very likely forget and one day become a Republican also. Little did he know the determination of his young daughter. As soon as she was old enough to vote she registered as a Democrat, and has remained one ever since. Today she is one of the most influential Democrats in the Coachella Valley, and has been instrumental in many victories at election time. She also is an important figure statewide.

Amy Croft has so many civic accomplishments that it is impossible to begin to enumerate them all. She has been a part in the formation of many policies, both in local and state politics. Her interests also include educational and cultural fields. Her keen mind found the realm of real estate a challenge early in life. John Croft was a builder and contractor, and the Crofts were a perfect complement to one another, building and selling homes. At one time in her colorful career Amy bought a ranch that was loaded with fig trees. Unassisted (John was working in the desert) she picked and sold the figs, making a neat profit. Then Amy went into the more lucrative business as a restaurant owner. Everything she put her mind to seemed to prosper.

Amy Croft's credits in politics are numerous. She has been a member of the State Central Committee since 1954, a member of the Riverside Democratic Central Committee since 1956, sustaining member of the Democratic National Committee since 1957, vice president of the Riverside Democratic Central Commitee from 1956 to 1959. Mrs. Croft also served as treasurer of the Democratic Central Committee for four years and vice president of the Democratic council from 1956 to 1962.

Perhaps the most noted local civic accomplishment was when Mrs. Croft was a director of Rancho Mirage Chamber of Commerce as chairman of roads and bridges. More than anyone else she was responsible for the decision to build a bridge over the Whitewater Wash at Rio Del Sol Road (now Bob Hope Drive). This diminutive little individual appeared before six members of the Army Corp of Engineers and persuaded them on the necessity of building the bridge over the wash. The occasional floods in that location had necessitated many more miles of travel. It had also caused delays in delivering mail. After Mrs. Croft's impassioned plea for the bridge, the group of engineers were unanimous in their decision to construct a bridge. They were also liberal in their praise, saying that she had done a remarkable job on her homework. Another blow for women's liberation? Hardly—just a streak of light from the remarkable mind of Sunshine.

Amy Croft also led the fight to keep her home when determined people sought the property on a real estate venture. It was proposed that all the homes on Sahara Road be relocated or demolished and be replaced by a high density condominium complex. The fight was a bitter one, but Amy Croft refused to be intimidated. She's a fighter and admits to a bit of a temper. She led the fight against the big monied combine, and they backed down. The Planning Commission refused to grant the request to build the high density complex.

Numerous certificates of merit and plaques for distinguished service to the community are all cherished momentos. There is little that she hasn't received in the way of rewards, all humbly recorded and placed in her home.

Amy Croft, distinguished pioneer citizen will forever live in the memories of all whose life she has touched. Her white hair, gold dress and shoes give her a fitting regal bearing. Indeed she is a queen of power and energy. Small wonder that she received the Rancho Mirage outstanding citizen of the year award in 1972.●

COMMONSENSE ON SOVIET TROOP ISSUE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. SIMON. Mr. Speaker, James Choisser edits the Benton Evening News in my district.

He has a column called "Odds and Ends" in which he gives us his reflections on a great variety of issues.

It frequently contains that rare commodity called commonsense.

He provided that commonsense recently once again in a column on the Soviet troops in Cuba.

I hope my colleagues will read it, and I hope that when it appears in the CONGRESSIONAL RECORD that my colleagues in the Senate particularly will read it.

ODDS AND ENDS

Most of us, I imagine, have the uneasy feeling that someday the United States and Russia might get involved in a real war, rather than the war of words and bluff in which we have been so long engaged.

If that dread day does come, however, I do hope that it is over a more substantial issue than the 2,000 to 3,000 Soviet troops in Cuba.

We have had many manufactured crises in our time, but this would seem to be the most overblown of all. Though it is hateful to say it, it could well be that the entire episode arose from frantic desire of a senator in trouble to assure his re-election. Sen. Frank Church, (D-Idaho) normally a high respected senator, fears that he will not be sent back to Washington because pressure groups ranging from anti-abortionists to the gun lobby, have picked this particular time to join forces against him.

He needed something, so he came up with the revelation that Soviet "combat" troops were in Cuba. Now it would be almost unpatriotic for those voters to oust him.

As was later revealed, these troops had been in Cuba for years. And in all truth, no one had thought it was anything to get particularly excited over. But once they saw Church get all the black ink headlines in newspapers, and appear in full living color over and over on television proclaiming his alarm and demands for action, everyone clamored to get into the spotlight. They could see what it has done for him, and adopted the troop issue to suit their own particular objectives.

All of a sudden viewing with alarm by opponents of the SALT II treaty has nearly torpedoed that diplomatic exchange. Again, SALT II was no particularly big deal, but it was a small step on the way to bringing some sanity into the nuclear arms race which may well end up bankrupting both nations, as well as adding more fuses to those which might be lit in anger some day.

And viewing with alarm by the defense lobby brought demands that the defense budget be increased by huge amounts, while other government functions should be cut back, to build up an arsenal which is already capable of destroying the world many times over. And even President Carter, in re-election trouble himself, joined in reviving a mobile missile system on a racetrack system in western states that he, and most other observers, had dismissed as ludicrous before.

And all because of 2,000 to 3,000 troops in Cuba.

Almost overlooked in the din is that the United States itself also has a sizeable contingent of troops in Cuba, at Guantanamo Bay.

A dispassionate observer might find it more strange that U.S. troops are in Cuba, even though the two nations have no diplomatic relations and whose politicians profess to hate each other, than that Russia, a friend and ally of Cuba, has troops there.

Or, from another point of view, if those troops "90 miles from our shores" as we are told over and over, are reason for such drastic action as some are proposing, then it is passing strange that we find it ungentlemanly of the Russians to express fear of our intentions because we have troops, (more than 2,000 to 3,000 incidentally) in Turkey, for instance. Not 90 miles away, but across the border from Russia.

The day might come when we need to get excited. But, for our own sakes, let the cause be real, not a piddling issue like this one.●

FOREIGN AFFAIRS COMMITTEE STUDY ON SOVIET NEGOTIATING BEHAVIOR RECEIVING WIDE ACCLAIM

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. ZABLOCKI. Mr. Speaker, the controversial style, tactics, and motivations of Soviet negotiators has long been the subject of debate and discussion. In fact, the effect of Soviet negotiating behavior on the SALT II treaty has already figured prominently in the congressional debate on the merits of that agreement.

For these and other reasons, on behalf of the Committee on Foreign Affairs I requested Dr. Joseph G. Whelan, senior specialist in international affairs of the Congressional Research Service, to make a systematic and comprehensive study of Russian negotiating behavior. The Whelan study, released late last month by the committee, analyses Soviet diplomacy in terms of its principal characteristics, trends of continuity and change, and influences contributing to its formation—including the traditional Russian obsession with national security.

Central to the study is its analyses of the implications of the Soviet approach to diplomacy and negotiation for U.S. foreign policy. The study clearly portrays the Soviets as tough, no-nonsense negotiators, but also as negotiators interested in reaching agreement when the issue is important to them. Valuable insights and advice on how to negotiate with the Soviets are provided with hypotheses offered as to the future style and motives of the Soviets.

Mr. Speaker, the highly distinguished and superior scholarly quality of the Whelan study resulted in the decision to make it the first volume of a special studies series on foreign affairs issues the committee plans to undertake periodically. With this in mind, I direct the attention of my colleagues to an article in the October 19 Washington Post by columnist Stephen S. Rosenfeld. Rosenfeld hails the Soviet diplomacy study as the foreign affairs book of all seasons and argues that the study will make a substantial contribution to American diplomacy.

It is my hope the study will do just that and I recommend it to my colleagues. A brief overview of the study's main contributions is succintly provided by Mr. Rosenfeld in the October 19 column and I include it in the RECORD at this point:

THE BOOK ON FOREIGN POLICY

The foreign affairs book of the season—all seasons—comes in a plain brown wrapper from the House Foreign Affairs Committee. It is by a Library of Congress specialist whose name is not quite a household word, Joseph G. Whelan, and it is an absorbing review of the nitty-gritty of Soviet-American diplomacy over the years. Diplomats, politicians and students of the world should rush down to the committee or to the Government Printing Office for a copy.

Whelan assembles in one handy place a broad range of material from memoirs, histories and some recent interviews bearing on the actual conduct of Soviet-American diplomacy since the Bolshevik Revolution. He offers an analytical gloss of his own, but the meat lies in his focus on the actual negotiating process, the tactics on both sides, the business behind the scenes.

The result is like sitting down for a personal chat, one centered on the juiciest parts of their experience, with a good number of the Americans most experienced and knowledgeable in dealing with the Russians over the years. Even to someone who fancies himself reasonably familiar with the period and the literature, "Soviet Diplomacy and Negotiating Behavior: Emerging New Context for U.S. Diplomacy" is an eye-opening treat.

Its price value is to remind us of some simple things that presidents in a hurry, diplomats caught up by personal visions and inattentive citizens tend to forget: there are no shortcuts. The Russians are tough customers and can be dealt with seriously only by serious people. The only questions that lie between the Soviet Union and the United States are tough questions. Beware of medicine men.

There is nothing novel or dramatic about this message, but that is precisely the point. Politics in a democracy puts great pressure on politicians to promise breakthroughs in Soviet-American relations. From time to time, diplomats emerge who seem to mystify diplomacy, to make of it a special process that, in the hands of a special person, can produce almost magical results.

But a close look at the record, such as Whelan provides, can only demystify diplomacy and restore perspective to the ambitions of politicians. It is, or should be, a humbling exercise.

A second lesson emerges from Whelan's book, and it is that there is something in Soviet-American diplomacy called technique. It would not seem necessary to make the point except that it has often been overlooked. In fact, some ways of dealing with the Russians are better than other ways. Some diplomats are better than other diplomats. The cards are the cards, but some people win at poker and some lose.

The odd thing is that there is no real secret, and no real disagreement, about what good technique is in negotiating with the Kremlin: set an achievable goal, prepare well, be firm in pursuit, be patient, yield nothing for free, don't count on good will, and so on. Through Whelan's pages march a long line of American diplomatic practitioners underlining these time-tested rules: Lend Lease and wartime cooperation negotiator John R. Deane (Whelan's favorite), Averell Harriman, Richard Nixon, and so on. Yet these rules are not uniformly respected, even by people who pride themselves on being professionals. Pressure, disorder, excitement, vanity lead good men astray.

Yet—and here is the last lesson I would take from Whelan—the Russians are human, too. A tendency has arisen among Americans to think of the Russians as, in Hal Sonnenfeldt's phrase, "infallible supernegotiators." Their purposefulness, their slyness and secrecy, their very Russian-ness is set against our casualness, openness and American frivolousness.

But the advantage so easily accorded to the Russians is more a measure of our anxiety and misperception than their consistent performance. The record makes plain that Soviet negotiators are capable of poor judgment. It makes plain that over the years Americans have had their share of successes. We are not only obligated but entitled to be of stout heart.

Get Whelan's book. Give it to the college sophomore, the diplomatic negotiator, the restless congressman and the presidential candidate of your choice. Nothing they'll read for a long time will improve American diplomacy more.●

CENTENNIAL OF LIGHT

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. PATTEN. Mr. Speaker, Sunday, October 21, will mark the 100th anniversary of Thomas Alva Edison's invention of the incandescent light. I have a special interest and delight in noting this historic date because Edison's invention and announcement to the world was made in my congressional district in Menlo Park * * * Now Edison, N.J.

At the time, Edison said:

I shall make electric light so cheap that only the rich will be able to burn candles.

In this brief statement, Edison proved that he was not only a pioneer of invention, but also a prophet who could look far into the future and determine what a profound impact one of his inventions would have on future generations.

Edison could have stopped with this single invention, and rested on the laurels of the technology which he perfected. But he did not stop. Not only did he continue inventing and patenting his inventions for nearly 40 years after that, but he followed through on his invention of the first practical incandescent lamp by taking the small bulb to a working electric system. A mere 3 years after the historic date of the invention, Edison threw a switch and energized the first electric light and power system, providing some 85 customers with power to light 400 lamps. I have no doubt that if Edison had stopped at the invention stage, we would have lost the benefit of his genius in putting it to work.

The more I learn about Thomas A. Edison, the more impressed I am, and the prouder I am that so much of his work was done in my own wonderful State of New Jersey.

Mr. Speaker, I honestly believe that if we, today, had just one "Edison" we would be well on the way to energy self-sufficiency and a cure for inflation. The genius of Edison was that he saw things which could be done easier and more efficiently, and set about the task of doing it. Edison brightened all our lives * * * not just through the electric lamp, but through over 1,000 inventions still in use today * * * and through having the foresight and courage to follow through to the end on his ideas.

I agree with the statement of Robert I. Smith, chairman of Public Service Electric and Gas of New Jersey, and presiding officer of the International Committee for the Centennial of Light:

If the Centennial achieves its goal of convincing people that science and technology represent unlimited resources to provide benefits for mankind and if we are able to create a ground-swell of support for technological development, the Centennial will have made a major contribution to our future well-being.

I hope that remembrance of Edison's life and career will encourage a new Edison to step forward in every State of our Nation, so that science and invention will continue to light up our lives.●

SAVING PRIDE AND DIGNITY IN A KANSAS TOWN

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. SEBELIUS. Mr. Speaker, in today's Washington Post, there is a story on the front page concerning the pride and dignity of a small rural community and what the local citizens of Phillipsburg, Kans., are doing to save a home for the elderly.

The writer of the article, Bill Curry, pointed out these self-help efforts serve as a counterpoint of hope to the continuous roundelay of national distress sung by America's national leaders—the crisis of confidence, the moral decline, the lack of leadership.

Mr. Speaker, it is my privilege to represent the community of Phillipsburg in this body. I have often said I have the privilege of representing the very finest citizens our Nation has to offer. Of course, I make that statement with considerable parochial pride, but more to the point, the Post article clearly illustrates that the citizens of Phillipsburg truly believe self-help is best help. In this day and age, where virtually every group, organization or individual seeks assistance from Washington as a personal right, these folks are not making any demands. They seek only the freedom and opportunity to solve their own problems.

The Post article describes in detail the efforts by the community of Phillipsburg to keep the Borum Gentle Care Home in operation without Federal assistance. As an attorney in the neighboring community of Norton, I have had personal experience with this home and its residents.

Mr. Curry's article also points out the community leader most responsible for this effort is the publisher of the Phillipsburg Review, McDill "Huck" Boyd. This effort by Huck Boyd is typical of a man who has been active in behalf of his community, State and Nation in every conceivable field of public service. His accomplishments within the journalistic profession and in behalf of education, mental health, health care in rural areas, rural development and economic opportunity for young people have been truly remarkable. Most important, however, is that Huck Boyd is typical of the kind of community newspaper publishers and editors that we have in Kansas.

Mr. Speaker, I commend the Post article to the attention of my colleagues. We have heard a great deal about what is wrong with America. As the article states, the example of Huck Boyd and the community of Phillipsburg represents what is right with our great country.

The article follows:

SAVING PRIDE AND DIGNITY IN A KANSAS TOWN

(By Bill Curry)

PHILLIPSBURG, KANS.—Autumn's nighttime chill cut the Kansas air, but inside the old family home of Huck Boyd, the hospitality was warm. There, over a round of bourbon, Boyd, 72 and the publisher of a small-town weekly newspaper, told a story of 10 people and the community in which they live.

It was a story as old as barn raisings, yet it is as current as the milo crop now coming to harvest.

Boyd told of a group of old people who found themselves innocently and abruptly adrift in the threatening crosscurrents of inflation and governmental regulation. He told of how their neighbors, with the communal spirit and resourcefulness that their ancestors brought to the Great Plains, came together to help them.

Along the way, the neighbors kept a handful of elderly people off welfare rolls, found a way to do without federal assistance for some others and saved a lot of pride and dignity as well as tax money.

The dollar savings in this town of 3,500 will, to be sure, go lost and unnoticed in the final few digits of the national debt. Huck Boyd's story, therefore, is most valuable as a counterpoint of hope to the roundelay of national distress sung by America's national leaders—the crisis of confidence, the moral decline, the lack of leadership.

McDill Boyd—he acquired his nickname as a trombone-playing boy from his bandleader—began his story with a Monday in August, when Connie Chestnut, manager of the Borum Gentle Care Home, walked into the offices of the Phillips County Review and announced that the Borum home would close on Sept. 1.

Her 13 residents—11 old and 2 retarded—would be homeless.

For 23 years, the Borum Gentle Care Home had provided shelter, food and care for people too infirm to care for themselves yet not so helpless that they needed a nursing home. Just a little something in between.

Here they could tend to the garden or to each other's needs, drive or walk to town, do some chores and then sit down as a family for supper. Maybe even help a little with the cooking.

The family circle has been broken.

"When we started out," says Mrs. C. F. Borum, "we named it the 'Gentle Care Home' because people in their later years need loving care, and we always attempted to provide it."

Now Mrs. Borum herself has reached the later years, and a year ago she turned over to Connie Chestnut her operation.

The home is green asphalt shingle, an old farmhouse moved in from the countryside. There is a cinderblock annex, and room for 15 people. Thirteen lived there Aug. 6, when Connie Chestnut waved the white flag of surrender: the $305 monthly charge no longer covered soaring food and fuel costs, and the expenses and burdens of governmental regulations that, however well intentioned, had somehow gone haywire for Phillipsburg.

Six of the 13 had been able to pay their way; the other seven received basic public assistance plus a $4.19-a-day housing supplement from the federal and state governments. But with the $4.19 suddenly came an oppressive list of federally mandated regulations: the administrator must have a bachelor's degree, residents' every activity must be monitored and recorded daily on complicated charts, and on and on.

It was too much for Connie Chestnut, who was working 85 hours a week trying to do everything and, by all accounts, doing it quite well, without a college degree. She rented the facilities from Mrs. Borum, charged $305 a month, and whatever was left over was her income.

It worked out to about $1 an hour.

So she told her story to Huck Boyd, and in the Review of Aug. 9, he broke the bad news over Phillipsburg. But in the ways of small town newspapering, he was not going to let it end there. Long active in the affairs of the public (he is currently a Republican national committeeman), Huck Boyd began a crusade and publicised it in his own paper.

He wrote in an editorial that day: "Folks who have lived together for a good many years, satisfactorily and in comfort, will be out on the street unless some way can be found to provide them the services they need.

"Do you have any ideas? Some very nice people would appreciate it if you do."

One idea that never did arise was one to let the government solve the problem it had helped to create.

"Can a community like this," Boyd asked in an editorial, "band itself together and take care of its own without government payments and control? With a little help from a lot of people, this can be done, and how nice it would be—for once—to do something for ourselves without asking the government to do it for us."

There were two concerns. If the Borum Gentle Care Home closed, the residents would be forced into more expensive nursing homes, and at taxpayers' cost. Once there, they would be cared for beyond their needs. Said

Garner Hale, a First Christian Church elder who is working to save the Borum home, "If you throw 'em into a nursing home, pretty soon that's the only place they can be."

Bob Kendall, chairman of the board of county commissioners, estimated it could cost government up to $60 a day to place the welfare residents in other facilities. Not to mention the people who were able to pay their own at $305 a month, but who would be forced onto welfare when faced with higher rates.

So on Aug. 21, Huck Boyd brought together civic and church leaders at his house. There, he reported two days later, "it was agreed to raise the funds necessary to keep the [Borum place] open as a residential boarding home."

What eventually evolved was a nonprofit corporation to collect donations and to run the home; Connie Chestnut would remain as a salaried employe. The $4.19-a-day state-federal subsidy would be refused, and community contributions, not tax money, accepted instead. "You just go ahead and keep your money," Garner Hale, the elder, would say later of the community attitude toward government. "We'll just go out and keep it going ourselves."

The nonprofit corporation, Concerned Citizens Inc., would help those who couldn't meet the new monthly charge of $400, and a fund-raising goal of $25,000 was set.

That way the home would become self-supporting.

In no time, Concerned Citizens raised $5,600—contributions from local businesses and individuals ranging from $10 to $500. In some cases, church groups redirected their charity from missionary work overseas to alms-giving across town.

"It's time people started doing things themselves instead of sitting around and waiting for a government handout," said Hale, a 57-year-old asphalt chemist at the Co-op refinery here. He made it clear it was not the old folks he saw waiting for the government handout, but the community residents who would let the government pick up the expense.

And so on an October day, five weeks after the Borum home was scheduled to have closed, Karen Tebbs, 30 and retarded, was watering the houseplants there and helping to set the table for lunch.

Eri E. Haskett, born 93 years ago in a sod house in Phillips County, the son of a homesteading couple who grew up to raise oats, wheat, corn and hogs, still had a home.

There was confusion about whether the home would close. "I don't know what I'll do when they kick me out of here," he said.

"Well," said Connie Chestnut, "we hope we don't have to."

In the uncertainty, three residents moved away.

But if all goes well with the fund-raising—it is not completed yet—Haskett won't have to move out.●

NEW STORM OVER THE TUNA FISHERY

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. BURGENER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

[From the Los Angeles Times, Oct. 3, 1979]

NEW STORM OVER THE TUNA FISHERY

An agency of the Federal Government is far off course in its threat to impose new and arbitrary restrictions on the $2 billion American tuna industry, which employs up to 30,000 workers—most of them in San Pedro and San Diego.

Three years ago, the National Marine Fisheries Service took a census of the porpoise population in the South Pacific tuna fishery, found that certain species were in danger of depletion and set quotas on the number of the mammals that American tuna captains could kill in the nets.

The air-breathing, surface-swimming porpoises accompany schools of yellowfin tuna, and they drown when they are caught in the folds of the huge seines.

We agreed at the time that the limits were justified, although they were, of course, binding only on American-flag seiners, not on foreign vessels that fish the same waters. But the American captains went on strike, insisting that the restrictions would force them to return to port with only half a catch while the competition could remain on the fishing grounds until its holds were full.

The American seiners hung at their moorings for 90 days while the industry argued vainly for higher quotas. But government officials said the quotas could be met if the fleet would invest in new gear and use new maneuvering techniques that would enable most of the porpoises to escape the nets.

The captains finally agreed to do their best, and their best has been beyond all expectations. When the quotas were set, the porpoise kill by American vessels was thought to be as high as 100,000 a year. Through nine nine months of 1979, only 14,274 are known to have died—against this year's quota of 41,510.

One official of the National Marine Fisheries Service concedes that the industry has "done a first-class job of reducing mortality."

But a new storm has struck the fleet. The government now questions the accuracy of its 1976 census, and says a new count shows a much smaller population—one that may compel the government to impose still lower, or even zero, quotas on two of the most common species.

The captains, with good reason, are furious. They say that the more recent census is incomplete and unreliable, and that it disagrees with their own observations. They point to their own good-faith effort to cooperate with the government, and to their considerable investment in new equipment, to reduce the present kill even below allowable levels.

But their pleas have fallen on deaf bureaucratic ears before, and will again if the government decides to use the latest count as the basis for quotas that could be disastrous to the industry. Zero quotas would, in effect, prevent the American fleet from fishing a school of tuna if porpoises also were present, while foreign-flag seiners could harvest the catch.

We recall that three years ago the government had full faith in the accuracy of its porpoise census; otherwise the restrictions would not have been as severe as they were. Now it claims to have greater faith in its latest count.

If the bureaucrats can admit that they were absolutely wrong in 1976, they now have an obligation to prove that they are absolutely right in 1979.

The irony is that the fisheries service does not argue that the porpoise population is declining; to the contrary, it agrees that it is probably on the rise, for which the fleet itself can claim part of the credit. The agency's only contention is that the most recent count shows that the population should be still higher than it is to insure survival.

We have two thoughts. The first is that the second census must remain as suspect as the first until the industry has a full opportunity to challenge it. The second is that the survival of the porpoise ought to be a world concern, as is the protection of the great whales, and that international agreements, not restrictions on the American tuna fleet alone, would be the more appropriate course for this country to consider.●

IT CAN HAPPEN HERE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. ASHBROOK. Mr. Speaker, the United States has considered itself lucky for not having to witness the horror of terrorist groups openly working within its borders. This situation may change all too soon if the White House and this Congress continue to ignore the dangers of having inadequate counterterrorism programs. Lax enforcement of immigration laws and the shackling of the FBI have created fertile ground in this country for the growth of terrorist groups that may well dwarf their Western European counterparts.

This week we experienced some grave reminders that terrorism can strike at will in this Nation. Bombs exploded in the Cook County Building in Chicago and at the Federal customs house in Puerto Rico. Other bombs were found and dismantled at Chicago Republican Headquarters and at the offices of Illinois Citizens for Kennedy. These bombs were the work of the Puerto Rican terrorist group FALN. This group has been active in the United States for many years and has received extensive aid from Cuban Communists. The recent release of the terrorists who shot five Congressmen in this Chamber has helped increase the emotional fervor of this group. It is possible that Mr. Carter's shortsighted release of these unrepentant criminals may begin a new wave of FALN actions in this country.

The rise in the level of violence of the FALN is not the only danger signal on the horizon. There have been a number of incidents where PLO agents have been arrested in the United States. Many of these agents are well-trained terrorists who have had no problem entering the country. Considering that the United States will be hosting the 1980 winter Olympics and the 1984 summer Olympics the presence of FALN and PLO operatives could spell a replay of the tragic scenes in Munich from just a few years ago. American can act now to head off such actions. Through funding of FBI counterterrorism programs and in allowing the FBI to act effectively with a rational charter this Congress may save many innocent lives in the coming years. To further underscore this pressing need I call my colleagues' attention to a recent article on PLO activity in America.

WHO'S WATCHING THE PLO?

On November 27, 1969, two Palestinian terrorists attacked an El Al Airlines office in Athens, Greece, with hand grenades, killing one child and wounding thirteen other persons. The terrorists were arrested, tried and sentenced to fifteen years in prison. Eight months later, the Palestinian Popular Struggle Front (PSF) hijacked an Olympics Airways Boeing 727 and traded its 53 passengers for seven Palestinian terrorists held in Greek jails—among them the two veterans of the Athens attack.

Ten years later, early one Saturday morning in August, a car pulled up to a quiet intersection in the Orange County community of Fountain Valley, and a small but muscular man with curly black hair and a drooping moustache got out. After the car moved on, he cautiously walked down the street, ready to bolt at the first sign of danger. He turned toward one house, but before he could reach the front door six undercover agents from the Los Angeles office of the Immigration and Naturalization Service (INS) jumped out of their unmarked cars and arrested him. At a deportation hearing two days later, Miliidos Fraij Dirkabedian, 32, a Jordanian citizen, admitted to actually being Elias Der-Karabetian, the man who tossed the grenade into the El Al office in Greece ten years earlier.

The Dirkabedian affair, which appeared to be as clean and elegant an anti-terrorist bust as possible, sent chills through the Southern California law enforcement community. Ever since *New West's* story on the PLO in California (*New West*, February 26, 1979) and in anticipation of the 1984 Olympics, the organizations involved in preventing terrorist attacks in this country have been trying to bolster their almost nonexistent antiterrorist defenses. But, rather than proving the effectiveness of these defenses, the Dirkabedian affair exposed a host of alarming weaknesses.

To begin with, Dirkabedian had been in Southern California twice before his arrest—once in September, 1978, and again last April—but no law enforcement agency seemed concerned about it. The only reason he was caught this time was because a person he was allegedly trying to extort money from went to the authorities. Furthermore, of all the agencies that were told who Dirkabedian was and why he was here, only one—the INS—went to any trouble to verify the reports and arrest him. And even though some law enforcement agents suspected that Dirkabedian may have come here as a "fund raiser" for Palestinian terrorist groups, he was shuttled out of the country so fast that there was no opportunity to conduct a thorough investigation of his terrorist affiliations, contacts in the United States and the nature of his mission.

Even more alarming is the realization that Dirkabedian, a convicted international terrorist, could have come here on a sabotage or assassination mission—and nobody would have found out until it was too late. He is not the first Palestinian terrorist to enter this country without alerting our anti-terrorist defenses. Last February, *New West* described other such cases. Last July, Ntisar Al-Wazir, the wife of Abu Jihad (a senior al-Fatah commander), herself a member of the Palestine National Council, attended pro-PLO rallies and meetings in San Jose and Washington, D.C., before the FBI found out that she was here at all.

To be sure, Irish, West German, Iranian, Puerto Rican, Croatian and other terrorists have also entered this country with ease, but recent "declarations of war" on the U.S. by Palestinian terrorist leaders such as George Habash of the Popular Front for the Liberation of Palestine heighten the danger of a PLO hit—and the Dirkabedian affair shows that such attacks can be carried out with relative ease and safety.

To draw the proper conclusions from this incident, the following questions must be answered: How can a convicted terrorist, whose name appears on the "lookout list" of the CIA, FBI, INS and the State Department, get a U.S. visa without alerting the issuing consular office? How did he get past the immigration checks at JFK airport? Why didn't the CIA notify local agencies of his arrival? Once identified and arrested, why was he only investigated for possible terrorist activities—accomplished or only planned?

When *New West* attempted to get answers by reconstructing the events preceding Dirkabedian's arrest, several glaring deficiencies in our antiterrorist defense system became apparent.

Dirkabedian applied for a visitor's visa at the U.S. Embassy in Amman on March 10, 1979. His Jordanian passport, which appeared in good order, identified him as Miliidos Fraij Dirkabedian, born in Jordan on September 12, 1946. His name was checked against the terrorist lookout list as a matter of procedure, but it came out clean. According to State Department spokesman David Nall, the INS lookout file listed him as Elias Der-Karabetian. (It also listed him as: Ilyas Darghabidrian, Elias Barij Bir Garabedyan, and Ilias Der-Karabetian. Press accounts of the 1969 Athens attack give his name as Elias Dergarabedian.) Lookout files are not alphabetical, but are organized in a Soundex system in which similar-sounding consonants are assigned identical numerical values so that similar-sounding names would have the same numerical code. This is meant to overcome minor spelling differences—intentional or accidental. According to Nall, Dirkabedian and Der-Karabetian are just different enough to appear in different sections of the book. But *New West* discovered that the lookout file used by the embassy in Amman was also badly out of date. In 1970, Dirkabedian legally changed his first name from Elias to Miliidos. The change did not appear in the lookout file. Also, although the Jordanian authorities must have known that Dirkabedian and Der-Karabetian were one and the same, neither the Jordanian intelligence agency nor the CIA fed that information into the lookout files.

The failure of the Soundex system to link Dirkabedian and Der-Karabetian also explains how he got past INS inspectors at JFK airport. Since the lookout list does not include pictures of those listed as terrorists, no further checks were made when Dirkabedian entered the U.S.

None of the local, state and federal law enforcement agencies contacted by *New West* were forewarned by the CIA or anybody else of Dirkabedian's arrival. This could mean that the CIA knew about his arrival but was not telling (in which case, why did it not correct the entry in the lookout file?)—or that the CIA itself was using the same outdated lists, which is even more alarming.

Dirkabedian landed at JFK on July 15, and boarded a second flight to California. A week later he showed up unexpectedly at the home of an old friend, a wealthy Jordanian businessman now living in Newport Beach, and demanded $130,000 in an unsecured loan which he said the Newport businessman had promised him. When the businessman—let's call him Ali Hashemi—refused to come up with the money, Dirkabedian casually observed "what a nice home and family" Hashemi had. Hashemi knew all about Dirkabedian's terrorist background and became frightened. He continued to act friendly, and invited Dirkabedian to a family dinner, but soon after he secured the services of private bodyguards.

When Dirkabedian showed up for dinner he was confronted by what he later described as "muscled men" carrying automatic weapons. On Monday morning, July 30, Dirkabedian, displaying supreme confidence, walked into the Fountain Valley Police Department (he was staying with relatives in that community), reported the dinner incident, protested that his life was in danger and asked for police protection. Later that day, Hashemi's bodyguards showed up to offer Dirkabedian a deal—a $13,000 check and a flight to New York on a private Lear jet—as well as a ticket from JFK to Amman. Dirkabedian, suspicious of the offer, refused, and the Fountain Valley cops made sure the bodyguards left him peacefully.

But then a new twist was introduced. Hashemi's private guards told Lieutenant Bill DeNisi of the Fountain Valley police that Dirkabedian was a terrorist who had come here on a phony visa. They told him that they also notified the FBI and the INS. When DeNisi called the FBI's Santa Ana office for advice, he said, "They were interested, but it was like hey, you know, we have no evidence that a federal law was broken, and all that." The INS was more helpful. Later that same day a couple of agents drove down from L.A. and picked Dirkabedian up for questioning. According to one of the investigators involved, they released him because they had no firm proof that he was the terrorist they were told he was.

Unlike the FBI, however, the INS refused to drop the matter. They contacted the State Department and launched a search for verification of Dirkabedian's alias and terrorist activities. By the end of the week, on August 3, the American embassy in Athens managed to obtain Der-Karabetian's arrest records from the Greek authorities and placed them on a plane to New York. At JFK, INS agents placed the documents on a flight to L.A. Shortly before midnight on the evening of Friday, August 3, INS investigators in Los Angeles ran a fingerprint comparison and decided that they had their man.

However, by that time nobody knew where Dirkabedian was. The INS had kept a loose watch on the house he was staying in, but they had not seen him since sometime on Friday. He left the house during the day, but did not come back that evening. The only thing the INS could do was hope he would come back. Six agents were placed in the area and began a long wait. It was 3 A.M. before Dirkabedian returned to the house and was arrested. According to one of the INS agents, Dirkabedian acted as if he knew he shouldn't have returned to the house. Had he acted on his instincts, he still could have gotten away. As it was, five days had passed from the time INS was told who he was to the moment they could do anything about it.

On Monday afternoon, August 6, Dirkabedian was brought before an immigration judge for a deportation hearing. At the hearing, Dirkabedian admitted who he was and readily accepted the deportation ruling. By the time FBI agents got to interrogate him he knew he was going home and refused to answer any of their questions. (When New West checked with the Santa Ana office, none of the three agents there even recalled the name Dirkabedian, or "the Palestinian terrorist who was arrested" in their back yard on August 4.) If Dirkabedian was sent here by the PSF or the PLO, if he had any contacts in the California terrorist underground, if the attempted extortion of Hashemi was part of a PLO fund-raising effort—nobody knows. (Last year, Orange County Palestinians raised $7,200 for the Palestine Arab Fund, a support group for al-Fatah.)

Dirkabedian's behavior is probably the clearest indication of how little the terrorists think of the American defense apparatus. Although he had every reason to believe that his terrorist background is a matter of record he did not even bother to obtain a fake passport under a different name. He changed his name just enough to fool the Soundex system—but appeared confident that the Jordanian government would not turn him over to the Americans. He then came here, demanded police protection and continued to deny his terrorist ties until confronted with documentary evidence at the deportation hearing—and even then appeared assured that the most that could happen to him was that he would be sent home. "He didn't act scared at all," INS attorney William Odencrantz told New West. "He acted as if we were bothering him. He simply acted annoyed, like nothing can happen to him."

The INS has recently doubled the size of its local antisubversive unit to four full-time agents, and the FBI is said to have changed its rotation policy to allow anti-terrorist agents to stay longer on their beats, develop intelligence sources and gain deeper insight into the already well-established terrorist infrastructures here. Let's hope it is not too late. In the last few months, several incidents indicate that Palestinian terrorist organizations, feeling less and less comfortable in Europe, where anti-terrorist measures have proved effective, are shifting their fields of activity to the U.S. There are alarming signs that they are now using this country as a convenient hiding place, staging area or recruiting depot.

Last May, a 27-year-old Israeli Arab, Nabeel Salim Salem, was arrested at Ben Gurion Airport upon returning home after five years in the U.S. According to Israeli reports, Salem was recruited by al-Fatah while staying with his family in the Los Angeles area, and actually traveled to Lebanon to undergo terrorist training before arriving in Israel. A month later, the INS opened deportation proceedings against another Israeli Arab, Elias Ayoub, because, according to the newly formed Committee to Defend the Rights of Elias Ayoub, the INS suspected him of taking part in subversive activities while attending Ohio State University. And on August 21, FBI agents in Chicago arrested 19-year-old Ziyad Abu Eain, who has been accused of planting a bomb in a trash can in a Tiberias, Israel, marketplace last May 14. Two young students were killed in the explosion.

It is quite possible that the PLO is refraining from staging terrorist actions in the United States in the belief that the Carter Administration will forget its bloody record and grant the PLO the political legitimacy it craves. But the fact is that the PLO and its various terrorist allies are also making contingency plans just in case that doesn't happen. Yasser Arafat's al-Fatah, George Habash's PFLP, and other groups have had ample opportunity to test the American defense system and discover its weaknesses.●

INSURING ENOUGH FOR ALL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mrs. SCHROEDER. Mr. Speaker, I would like to submit the following editorial from the October 8 Denver Post as food for thought for my colleagues:

INSURING ENOUGH FOR ALL

Population control, which was a popular cause only a decade ago or less, seems to have lost much of its appeal. Declining U.S. birth rates, for one thing, have created the impression that a reasonable growth rate already has been accomplished, and family-planning efforts everywhere can be relaxed.

In addition, good crops, in most parts of the world have, at least temporarily, held back the specter of widespread hunger. Pictures of starving children don't stare out at us from newspaper pages.

One manifestation of our complacency is congressional reaction to the population-control appropriation for the Agency for International Development (AID). The Carter administration recommended a $215-million expenditure worldwide in the next fiscal year, but the House approved only $195.5 million. And now a Senate committee has recommended cutting that even further, to $183.6 million. This, in the face of inflation, is less than the $185 million the agency is authorized to spend in the current year.

The United States never has experienced serious population pressures within its own borders, and lowered birth rates indicate the problem is unlikely to occur here.

But unwanted population growth—unwanted either by national governments or by parents—remains a time bomb in much of the rest of the world, particularly in the developing nations assisted by AID. Even at the current, slightly reduced birth rates, the world still is called upon to feed about 75 million new mouths every year. That kind of growth obviously means increased demands on limited world resources, and it can't help but impact eventually on the quality of life in the already developed nations.

Population control is a sensitive diplomatic issue in some countries, and U.S. emissaries—on up to the highest level of government—have tended to put it aside of late in favor of other matters.

But it's a problem that shouldn't be ignored in U.S. foreign policy. A mass worldwide famine would be the likely result of continued unplanned population growth. The more fortunate nations such as the United States couldn't continue to live in peace and plenty while the rest of the world starves.●

THE NEED FOR A STRONGER NAVY

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. EDWARDS of Oklahoma. Mr. Speaker, in light of the continuing presence of Russian troops in Cuba and other American foreign policy failures, I cannot help but be aware that our lack of will and resolve in world affairs parallels our decline as a military power.

This recent decline in our military preparedness may have some pretty serious consequences.

Will we be able to protect our political and economic interests around the world? What effect will the state of our military have on our ability to guarantee the delivery of foreign oil to this country?

Maybe we can not force our leaders to have more backbone in a crisis, but the least we can do is give them the backup they may need when dealing with threats or encroachments upon our own security.

An important step toward providing that backup is to build and maintain a stronger Navy.

It used to be that wars could be won or lost on the high seas. Today new weapons and new technologies have put naval forces on a back burner. We are more interested today in spy satellites than in trooo carriers; more concerned about megatonnage than ship maneuvers. But we cannot afford to forget the critical role that the Navy—any Navy—can play in the strategic balance of power.

A good Navy can be used like good chess pieces—ships can be brought closer to the boundaries of an unfriendly nation to show that we mean business; the timely and strategic use of aircraft carriers, destroyers and submarines can play a key role in the give and take of global power.

This is why I have joined other Members of Congress to ask the President to spend more money on an improved and more effective Navy.

The surest way to invite war, and possibly the loss of all the freedoms that we have, is to appear weak militarily and in resolve. The best way to prevent a war is to be strong so no one will be mislead about our own intentions.

The present condition of our Navy deserves priority attention because we are a Nation that depends on ocean-shipping lanes for the delivery of food, oil, and raw materials.

There are a number of steps that our Government should take to return the United States to military readiness, including construction of better quality ships, building nuclear attack submarines at a faster rate, and building more tactical aircraft. We are not even replacing the aircraft that we now lose by accidents. We need land and attack cruise missiles.

A beefed up Navy will cost money, but we should not ask whether or not we can afford it, we cannot afford not to.

Either we pay the tangible cost of strengthening our Navy, or we will pay the intangible cost of losing the geopolitical influence that we need to safeguard our interests.●

HOME HEATING FUEL CRISIS—PART V*

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to continue my review of the home heating fuel crisis.

Despite the fact that the President has announced that the administration reached its target of an inventory of 240 million barrels of heating oil by this month, I am still concerned with the problems of distributing the oil to the independent dealers around the country and, of course, the overwhelming burden being placed on the American public as a result of the almost weekly price hikes on home heating fuel.

As I have stated repeatedly in my past statements, the heaviest burden of this crisis will fall on those low- and fixed-income groups who will be called upon to shell out anywhere from 28 to 49 percent of their income to heat their homes. Many will not be able to meet those bills and there seems to be very little consideration, if any at all, coming from the oil companies which continue to aggravate the problem by adding further price hikes onto home heating fuel in an effort to make up for the profits they could not wring out of the price controlled gasoline market. As a result of the gross profiteering and lack of business ethics being demonstrated by these companies. and the climb of home heat-

*This is the fifth part of a series of reports on our home heating fuel crisis. Report Nos. 1, 2, 3, and 4 appeared in the Congressional Record on September 17 (p. 24942), 9/21 (p. 25779), 9/29 (p. 26956) and 10/12 (p. 28206) respectively.

ing fuel cost to perhaps exceed $1 per gallon at the start of the heating season, I have joined with some of my colleagues in the House in a letter to the President urging him to reimpose price controls on middle distillate fuels. I would like to insert into the RECORD in full, at this point, a copy of that letter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 16, 1979.

DEAR MR. PRESIDENT: We the undersigned urge you to use your authority under existing law to reimpose price and allocation controls on middle distillates.

When controls were lifted from distillates in 1976, the Congress was assured that adequate supplies and real competition would insure equitable prices for American consumers. We believe that neither of those conditions exists today.

The supply situation is extremely fragile. While production rates and inventories have reached historic levels, many distributors are inexplicably facing industry-imposed allocation fractions for the winter months. State and local governments are already preparing for spot shortages and fuel emergencies and whole regions are threatened by the marketing plans of just a few major suppliers. The entire system is vulnerable to the slightest disturbance in the world supply situation.

Most importantly, tight supplies have allowed refiners to sustain prices and profit margins at exhorbitant and unjustified levels. While the cost of oil has increased to all consumers, refiners' profit margins have risen twice as fast, or over 120 percent in the past nine months alone. Whether one uses the industry's own cost estimates or inflation in the cost of doing business, these profit increases have far exceeded any reasonable calculation of costs. If profit margins remain at their current levels, American consumers will pay between $5.2 and $7.4 billion more in higher distillate prices over the next year.

Mr. President, this massive transfer of income will only exacerbate the dual effects of inflation and recession. Our constituents are ready to meet the energy challenge that you have laid before them. But they are unwilling to allow a handful of oil companies to profit at the intolerable expense of the millions of homeowners, renters, truckers, farmers, and shippers of this country.

Mr. President, bold and imaginative action on your part can cut through the delays of the legislative process, and help prevent a crisis of untold human misery and suffering. We believe that the immediate imposition of price and allocation controls will show American consumers that we are sensitive to their burden and compassionate of their plight.

Sincerely,

It is quite obvious that although the overall picture of oil supplies is not entirely one of overabundance, the anticipated shortages and high prices seem to be more the result of our own bad policies and inability to control excessive domestic corporate profits, than the exploitation of the OPEC cartel. Granted, the OPEC cartel has controlled and abused the market, yet much of the abuse appears to be coming from within our own country. In order to give you an idea of how this applies to the home heating fuel situation I have been so concerned with over the past many months, and its direct effect on the elderly and the poor, I would like to insert into the RECORD at this point, in full, an editorial from Sunday's New York Times, Oct. 14, 1979, bearing out the crisis I have been concerned with in its mathematical, and therefore rational, implications.

[The New York Times, Sunday, October 14, 1979]

PRICE OF HOME HEATING OIL JUMPED TWICE AS FAST AS THE COST OF CRUDE

(By Matthew L. Wald)

The retail price of home heating oil rose nearly twice as fast as the price of crude oil from January 1977 to May 1979, according to statistics from the Federal Department of Energy. And industry analysts say growing refinery and dealer profit margins are continuing to add heavily to prices.

In contrast to a public perception that increases imposed by oil exporting countries is the overwhelming factor in the rise in home heating oil costs this winter, the figures show that the percentage increase in refinery, wholesale and retail margins was at least as rapid:

The industry has reported sharp rises in profits, but spokesmen say high interest rates and rising costs for labor and other components of production also contributed to a rise in heating oil prices above the increases mandated by the higher costs of crude set by the Organization of Petroleum Exporting Countries.

Spokesmen for the major oil companies were reluctant to provide figures that would show whether their profit margins had changed. They said there were too many factors, including a changing mix of crude oil types and refined products, to allow such a calculation. Other industry sources agreed that the calculation would differ for each refinery, but said the figures did show strong growth in the average profit margin.

INQUIRY BY U.S. PRICE COUNCIL

The refinery profit margins are now the subject of an inquiry by the Council on Wage and Price Stability. According to the council's chairman, Alfred E. Kahn, the panel has found "a fair number" of companies, mainly small refiners, to be out of compliance with the voluntary standard of a 6.5 percent annual growth in profit margin. Earlier this year, Amerada Hess was found to be exceeding the standard, but it has since come back into compliance, according to a spokesman for the council.

The price increases from domestic sources come at a time of growing concern about how the poor will keep warm this winter, and even how some lower-middle-income families will stay out of poverty.

Connecticut has set a special legislative session to deal with the problem, and New York may do the same. Concurrently, Congress is debating special fuel aid, a "windfall profits" tax on oil companies and the reimposition of price controls on oil products. Heating oil controls were ended in June 1976.

Energy Department figures show that the average price of a gallon of home heating oil rose 58.1 percent between January 1977 and May 1979, from 40.6 to 64.2 cents, while the cost of the crude oil from which it is made rose 32.3 percent; from $11.64 a barrel to $15.40, with the refiners' margin increasing the most.

CRITICS POINTS TO PROFIT MARGIN

Comparable figures for months later than May are not available from the Federal agency, but according to a study by the Congressional Research Service, retail prices for home heating oil rose 50.1 percent (from 53.7 to 61 cents a gallon, on average) while the price of crude oil rose 47.4 percent, from 31.2 to 46 cents a gallon from January to August of this year.

Critics of the oil industry say that the profit motive, not higher costs, is the reason for the greater markups.

"These are businessmen and they're going to make as much money as they possibly can," said Representative Toby Moffett, Democrat of Connecticut, who is chairman of the Energy Subcommittee of the Government Operations Committee. "The fact that this is a necessity people can't do without it not something that is going to affect their behavior."

Representative Moffett, whose proposal to reinstitute price controls on refineries was defeated 2 to 1 in the House on Thursday, said his subcommittee had heard testimony over the last few weeks showing increases in gross refiner margins of up to 100 percent.

Explaining how some factors of the cost increased even faster than crude oil, William Harlow, a spokesman for the Department of Energy, said: "It's not going to be a one-to-one correlation. The rate is going to go up for any kind of product, because of the piping that costs more, the refineries, and the shipping that costs more."

FIGURING THE MATHEMATICS

Mathematically, however, the correlation would be less than one to one unless other factors were increasing as fast or even faster than crude oil. For example, if heating oil was selling for 40 cents a gallon and the cost of crude oil accounted for 60 percent of that, a 30 percent increase in the cost of crude would add only .2 cents, or 18 percent.

"What's in there is inflation, higher labor cost and higher fuel cost," said John Buckley of Northeast Petroleum Corporation, a Boston-area fuel oil wholesaler and retailer. "And then I think there's higher profit. That will vary from refiner to refiner, but they're making more money."

Wholesalers and retailers, as well as the major oil companies, are also operating on higher margins, according to the figures. From January 1977 to May 1979, for example, the wholesale margin rose from 8.4 to 12.1 cents a gallon, or 44 percent, according to the Department of Energy figures.

One result is that, according to Government figures, crude oil, which in 1976 accounted for 63.8 percent of the cost of heating, accounted for only 58.6 in June.

Industry sources differ as to the reasons for the higher margins. All note that when home heating oil was decontrolled in June 1976, the action allowed the price level to be dictated by market conditions, instead of the Government's reckoning of costs and fair profit margins.

VARIED FACTORS NOTED

But beyond that, the major oil companies say it is not possible to break down the costs of producing home heating oil.

First, they note, crude oil is sold in a variety of different grades, requiring different refining processes. In addition, transportation costs for getting the crude to the refineries differ. Some refiners have relatively cheap long-term contracts, while others must buy on the expensive spot market.

The Government figures are for the composite refiner acquisition cost of crude oil, a weighted average including foreign and domestic sources, including transportation costs to the refinery.

A bigger problem, oil industry representatives say, is apportioning the cost of production between the different products.

"The analogy that's always used is with the cow," said Earl Ross, of the American Petroleum Institute. "What's the cost of the lesser type cuts as against the prime rib?" While the cost of raising the cow may be known, he went on, there is no logical division between the cost of hamburger and the cost of steak.

"There is no generally accepted procedure for allocating total operating and investment costs among the hundreds of coproduced products of a refinery," said an Exxon spokesman. He added, however, that the company's American subsidiary, Exxon USA, reported

"refining/marketing" profits that were 48 percent lower this year than last.

HOW COMPANIES CAN RECOUP

However, with one of the petroleum products—gasoline—still controlled, there are financial incentives to looking at the costs in certain ways.

"Refiners have been allowed because of the lack of controls to pump more of the costs into middle distillates instead of gasoline, in an effort to recoup more of their investment," said Allan Darrow, public affairs director of the National Oil Jobbers Council. If they feel they are not earning enough on gasoline, he suggested, oil companies can try to make up the difference in a product for which the market is very strong, and on which there are no controls, such as home heating oil.

Some oil companies, however, say that at least part of the increases in margins are eaten up by increases in costs for components of production other than oil. Texaco, for example, listed "rising manufacturing and labor expenses, taxes and inflation."

Interest rates have become a major concern, with many OPEC nations now requiring payment for expensive oil within 30 days, which leaves refiners borrowing money to pay for a tanker-load while it is still at sea.

Interest is also a major concern for wholesalers and retailers, who to purchase the same number of gallons they did last year may have to borrow twice as much money, and at higher interest rates.

"You've gone in one year from 9 percent to 14 percent," said Mr. Buckley of Northwest Petroleum. "We've had to borrow way out of line, disproportionately to earlier years."

Financing one gallon of home heating fuel cost roughly half a penny a month last year he said, but it is now "pushing past a penny a month" because of higher interest rates and product price. "If we buy it in August and sell it in December, that's 5 cents," he said.

Other retailers said that the cost of fuel to run their delivery trucks, the cost of the trucks themselves, and everything else a small business buys, including insurance, labor, and electricity, had risen in costs.

Mr. Speaker, I urge my colleagues to make this issue a high priority as we approach the winter season so that we can take the necessary steps to insure the safety and rights of our constituents.●

UNRESOLVED FUEL ASSISTANCE PROGRAM

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. HILLIS. Mr. Speaker, with only a few weeks remaining before the House of Representatives adjourns for the year, there is a major issue which must be addressed before we can consider our work complete.

With winter rapidly approaching, it has become readily apparent that millions of Americans will face extreme difficulty in paying their home heating bills. Since last year, the price of heating oil has almost doubled, making it unaffordable to those with low or fixed incomes. However, heating oil is not a luxury item nor is it a purchase which may be deferred. Heating oil is a necessity of life which must be available at affordable rates in order for people to make it through the upcoming winter.

For such people as social security recipients, paying for home heating oil is more than a matter of proper budgeting. It is a mathmatical fact that those whose monthly income is $250 cannot expend $400 per month for heating oil. No amount of budgeting and cutting corners or elimination of the nonessentials can squeeze blood from a turnip. It is encumbent upon the Federal Government to provide assistance to those who cannot afford the exorbitant cost of heating oil or take the responsibility for allowing thousands of unnecessary and avoidable deaths which may occur due to unheated or inadequately heated homes.

The States, of course, must also share in this effort. Many States, such as my home State of Indiana, are ahead of the Federal Government in initiating assistance programs. Indiana's program provides up to $200 in fuel bill credits each heating season to needy elderly as well as disabled citizens who receive SSI benefits. However, $200 is insufficient; it must be supplemented with funds from a Federal program.

Mr. Speaker, we would be negligent of our responsibilities if the House adjourns in November without enacting some type of fuel assistance program. Too many lives are dependent upon timely discharge of fuel assistance legislation to leave this issue unresolved until sometime next year.●

THE MIDDLE DISTILLATE DEBATE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. KOSTMAYER. Mr. Speaker, congressional and public debate on the question of middle distillate price and allocation controls has been greatly informed by the efforts of Robert L. Bamburger and Larry Kumins, analysts in the Environment and Natural Resources Policy Division of the Congressional Research Service. The summary of their report, entitled "The Middle Distillate Pricing and Recontrol Controversy," follows.

Among their central conclusions are the following:

First. If refiner margins remain at August 1979 levels for the next 12 months, consumers will pay an extra $5.7 to $6.2 billion as refiner revenues;

Second. Refiners' net profits over the past 9 months have risen significantly, and

Third. Alternative price control mechanisms based on refiner margins could be effective in controlling the prices consumers will pay this winter.

I recommend the entire study to my colleagues who are concerned about the impact of exhorbitant distillate prices on their constituents. It is certainly the most exhaustive and lucid treatment of the subject to date.

The material follows:

MIDDLE DISTILLATE PRICING AND THE RECONTROL CONTROVERSY

Since their decontrol in Spring 1976, the price of middle distillates have risen sharply. Home heating oil—representing about 30 percent of the nation's 3.6 million barrel per day (mbd) distillate consumption—has risen from about 39 cents per gallon in May 1976, to an estimated 81 cents per gallon this August. This report focuses on the sources of distillate price rises during 1979. It estimates the shares of the price increase accuring to the various sectors of the industry, crude producers, refiners and distributors. A notable rise in margins—particularly those of refiners is noted, and the annualized effect is calculated, assuming they remain at August rates.

Table 1 shows these results. If these margins were to remain at August 1979 levels—instead of January 1979 levels—for the next 12 months, higher margins would accrue at these annual rates:

	Billions
Refiner margins	$5.7–$6.2
Heating oil retailer margins	0.2– 0.5
Diesel retailer margins	0.7– 0.9
	6.6– 7.6

All told—ignoring large crude price changes—Americans would pay an estimated extra $6.6–$7.6 billion in higher distillate prices over the next 12 months if August margins remain at their current levels relative to January's. This means refiners and marketers would realize this amount of higher gross revenues (not necessarily profits) over and above crude costs.

Does this argue toward recontrol? Perhaps. In contrasting motor gasoline prices—which are controlled—with uncontrolled heating oil prices, the study notes that gasoline has risen from 65.3 cents per gallon to 97.3 cents per gallon during the first 8 months of 1979. About 14.8 cents of this 32.0 cents increase is accounted for by higher crude prices, leaving a 16.5 cent per gallon increase in various margins for the controlled product. This is more than the total margin increases for uncontrolled distillates—11.5 to 14.3 cents. It could well be that reapplying the abandoned distillate price control program—which was much the same as gasoline is now—might result in little rollback in selling prices. Central to the question of recontrol is whether it would be worthwhile unless it could be positively shown that the system of controls to be used would realize a significant savings to consumers.

A possible implication which may be drawn is that, if distillate is to be recontrolled, emphasis could be placed on regulating refiners margins—which have doubled so far this year—since this has been the primary source of controllable increase. On the other hand, it can be argued that these higher refiner margins have led to this summer's impressive inventory buildup.

Those considering price controls as a desirable policy alternative might examine methods other than those traditionally employed by FEA and DOE. One alternative discussed is controls on refiner margins. Since this has been the area where the greatest controllable increase has occurred, specific limits on refiner's margins may be more effective in holding price down than reimposition of the now suspended regulatory program. At the same time, controlling margins of the thousands of retailers—whose margins have not increased at a very high rate during 1979—would be avoided. It is argued that by focusing on margins of only about 300 refineries, regulation could be greatly simplified and possibly become a more workable alternative.

It would be, however, infeasible to reimpose any form of price controls strictly on home heating oil alone. Price controls would need to be imposed on all distillates to avoid diversion of product from a controlled sector of the market to more profitable uncontrolled sectors. Similarly, reimposing price controls would imply the reimposition of allocation controls to assure that a product selling below its market clearing price would continue to be available in adequate, historical quantities. However, noting the experiences of this past spring and summer, there seems little reason to hope that the standby allocation controls for middle distillates would be more effective than were the gasoline allocation regulations in easing the impact of a serious product shortage.

TABLE 1.—HEATING OIL PRICE BREAKDOWN, JANUARY VS. AUGUST 1979

[In cents per gallon]

	January 1979	August 1979	Increase
Retail price	53.7	81	27.3
Dealer margin	11.8	13–15	1.2–3.2
Wholesale price	40.9–42.1	66–68	25.1–25.9
Crude price	31.2	46	14.8
Refiners margin	9.7–10.9	20–22	10.3–11.1

Source: January data (noncomputational) from the Department of Energy's, Monthly Energy Review, August data based on Platt's OILGRAM Price Service, communications with DOE officials, and author's computations.●

THE PRESIDENT'S WEAKNESS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. MICHEL. Mr. Speaker, when a responsible and influential newspaper refers to a President's "abject confession of ignorance and impotence," such a charge cannot be dismissed lightly. The Chicago Tribune recently used those words to describe President Carter's suggestion to Chicago citizens as to how they should deal with the Department of Health, Education, and Welfare's (HEW) decision that Chicago schoolchildren need forced busing.

The President's argument goes like this: Officials appointed by him at HEW have decided the Chicago schoolchildren need busing. While he personally believes that "mandatory busing should be minimised," he feels he does not have the power to reverse or even question the decision of the bureaucrats he appointed. The President's solution to the Chicago busing crisis is for Chicago to take the busing dispute to court.

If all of this sounds like some kind of outrageous satire on the Carter Presidency, be assured that it actually happened last week in Chicago. The President of the United States told an audience of outraged citizens that there is nothing he can do about the decision of bureaucrats he appointed and that he truly believes the courts are the best place to solve an educational problem.

During his same visit to the Midwest, President Carter said that he would create a new office in HEW, an Office for Families. I cannot think of anything Government could do that would cause more harm to American families than create yet another bureaucratic empire. But that is what the President seriously suggests.

Mr. Speaker, I find all of this amazing. The President is obviously wholly out of touch with the American people. Indeed, his statements about busing and American families suggest he is ignorant of the political and social realities of our Nation. He is flying about the country, reminding people of all the Federal tax dollars he has so graciously given out, never admitting it is precisely this kind of politics-as-usual he condemned so loudly—and so successfully—in 1976.

If he really believes that he has no power to reverse an HEW decision and if he really believes that American families need a bureaucratic structure to take care of them, his misunderstanding of the high office he holds is even more pronounced than any of us thought it to be.

At this time I insert in the RECORD two editorials from the Chicago Tribune, "President Carter Pays a Visit . . ." and ". . . And Exhibits His Weakness" published on October 17, 1979:

PRESIDENT CARTER PAYS A VISIT

Back in his once-successful role as a candidate, President Carter seems to have lost his old flair for the part. Mr. Carter is following the tradition of handing out well-timed gifts to local officials, reminding audiences of all the favors he has done them, and promising still more wonderful benefits if he is reelected. But to judge from his appearances in the Chicago area Monday and Tuesday, the new Jimmy Carter show is unlikely to get more than lukewarm applause.

Addressing Mayor Byrne's $100-a-plate fund-raiser at McCormick Place, the President claimed credit for creating 8.5 million new jobs over the last 30 months—some 250,000 of them, he said, "right here in the Chicago area." The claim is splendid but vague—the kind of statistical juggling that leaves people saying, "Sure, but what about MY problem?" The specifics he mentioned for Chicago—the granting of a federal waiver allowing the city to keep 3,000 city employes working under a Comprehensive Employment and Training Act grant, the agreement "in principle" to relocate military facilities at O'Hare Airport—were already somewhat stale news and are not, at best, front-page issues.

Mr. Carter's announcement of a new Office for Families in the Department of Health, Education, and Welfare is the kind of news that most people would rather not hear. HEW going into the "Dear Abby" business? Another growth budding on the vast bulk of federal bureaucracy? More minor officials telling people what to do about their private affairs [and presumably drawing up guidelines for conforming with the advice]? Who needs it? Mr. Carter seems to have misunderstood the very message that helped elect him in the first place: We don't need more federal agencies to solve our problems; we need fewer.

On the one issue where he could have taken a strong and constructive stand—HEW's seeming determination to dismantle Chicago's school system to make it fit desegregation formulas—Mr. Carter executed the weakest cop-out we've heard from any chief executive [see the following editorial].

Mr. Carter's campaign strategy so far seems to be the simple and negative one of staying off the hook and doing such political favors as won't make any new enemies. We don't foresee a long run for this show.

. . . AND EXHIBITS HIS WEAKNESS

At President Carter's question and answer session at Thornridge High School, it was inevitable that someone ask him about busing [mandatory busing of public school pupils for desegration]. The President's answer, however, was not what one would expect from the chief executive of the United States. It was an abject confession of ignorance and impotence.

As any ordinary taxpayer on the street might say, President Carter said of the current impasse between the Chicago Board of Education and the Office for Civil Rights of the Department of Health, Education, and Welfare, "My hope is that the present dispute . . . can be solved harmoniously. I don't know where the best place might be to do it." Incredibly, he said that he as President has no authority in the matter.

The best place to solve stubborn problems in which the executive branch of the government of the United States is a principal is in the Oval Office, now occupied by President Carter. The ultimatums sent to the Chicago Board of Education are signed by David S. Tatel, a subordinate of HEW Secretary Patricia Harris, appointed by and holding office at the pleasure of President Carter. And he has no authority?

Obviously trying to say something that everyone would like, President Carter said he personally believed that "mandatory busing ought to be minimized" and that federal legal requirements have "got to be honored." After the long and sorry record that federal courts have made as administrators of public school systems, and after the Supreme Court's draconian decisions in the Dayton and Columbus cases [in which a majority laid on school boards extreme responsibilities for having in the past sacrificed everything to minimizing racial isolation in the schools however it arose], President Carter said, "Don't consider it to be a catastrophe if the case is moved into federal court."

Why not?

As long as school desegregation questions are in the jurisdiction of HEW and the local school board, the possibility of tempering doctrinaire bureaucratic extremism by executive influence or even discipline from the cabinet or presidential level exists. Executive intervention within the executive branch is both possible and appropriate. But the courts and even the Department of Justice are different. For President Carter to welcome the transfer of jurisdiction from HEW to Justice makes sense only if he puts getting distance between his own authority and a troublesome issue above every other consideration.

We have a right to expect the President of the United States to have the strength, confidence, and knowledge to represent the interests of the United States in dealing with other heads of government, many of them ruthless dictators. But we have a President who says that David S. Tatel, rungs below him in the executive branch of government, has authority over the Chicago public schools that the President has no authority to challenge.

President Carter is widely recognized as a weak President. But who knew, until Tuesday morning, that he is that weak?●

DOTTIE WEST

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to honor an outstanding performer who brings joy and music to the hearts of country music fans across the Nation. On October 8, 1979, I was privileged to attend the 13th Annual Country Music Association

Awards at the Grand Ole Opry House in Nashville, Tenn.

It was my privilege to witness Dottie West receive the Vocal Duo of the Year Award with Kenny Rogers. I wanted to share with the Congress and the Nation the background of this outstanding artist.

Dottie West was born in McMinnville, Tenn., October 11, 1932, the daughter of William and Felina (Jones) March. She attended Tennessee Technical College and received a B.A. in music in 1956 made singing debut on WEWS-TV, Cleveland, Ohio, 1965 to 1960. In 1966 Dottie was a singer with the Cross-Country Band. Her performances include the Grand Ole Opry in 1962 to present time, Memphis Symphony Orchestra in 1973, and the Kansas City Symphony from 1961 to 1974. Her television appearances have included the Eddy Arnold Special, Country Hit Parade, Music Country U.S.A., Hee-Haw, the Glen Campbell Show, the Jimmy Dean Show, the Mike Douglas Show, and Good Ole Nashville. Dottie has been a recording artist with Staeday Records from 1959 to 1961 and with RCA since 1962. She received the 1965 Grammy for Female Artist for her song "Here Comes My Baby," was named No. 1 female writer in United States by Billboard magazine in 1974, and was named England's No. 1 female performer in both 1973 and 1974.●

TAKING THE STING OUT OF A LOAN SHARK'S BITE

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. GONZALEZ. Mr. Speaker, I am inserting in the RECORD an article by humorist Art Buchwald that, in its Swiftian prose, points out what the average citizen knows. But somehow those in Congress and in the executive branch continue to go along with the usurious rates of interest which will ultimately destroy economic progress for everyone.

The article follows:

TAKING THE STING OUT OF A LOAN SHARK'S BITE

(By Art Buchwald)

NEW YORK.—One of the results of the new 14½ percent prime rate is that it is now cheaper to borrow money from the Mafia than it is from the Chase Manhattan Bank.

For years the Mafia prided itself on charging the highest interest in town. But thanks to the Federal Reserve actions of the past few months, the loan shark rates have become a bargain.

"Arnold the Adjuster," one of the major loan sharks in New York City, has mixed feelings about this turn of events.

"We naturally are delighted to be able to compete with Bank of America on their terms," he told me, "but the Costra Nostra always prided itself on charging more vigorish (interest) than anybody else. People came to us when the legitimate banks turned them down. Now they're coming to us *before* they go to the banks. If we refuse to loan the money, then they have no choice but to throw themselves on the mercy of the Irving Trust Co."

"I should think you'd be delighted with this state of affairs," I told him.

"We would, except that in the past our loan department has dealt with individuals, and if they couldn't pay we had sure-fire methods of collecting from them. Now the large corporations have heard our rates are cheaper and are coming to us for funds. How do you break the legs of the telephone company if they fail to pay you back?"

"I see the problem," I told him. "It must be difficult to go to IBM and say, 'If we don't get the money by Thursday, you'll never see your grandmother again.' "

"There are other difficulties," Arnold said. "Our main source of loan money came from Mafia families who didnt know what to do with their hidden cash flow. Now they can buy legitimate Treasury notes for higher interest than we are permitted to charge. So they've been withdrawing their deposits to buy bonds, thus drying up our money supply. At the same time they get very angry when the loan shark division doesn't show a profit."

"It must be killing you," I said.

"Loan sharking isn't what it used to be," he told me. "Our costs are going up every day. Our enforcers are demanding more money, the price of baseball bats has gone sky-high, and you have no idea what a bag of cement costs now. We've had to make big cutbacks. Before, if you borrowed more than $5,000 in a week, we gave you a free stolen toaster or TV set. But now you get the money without the gifts, and a lot of people are mad."

"At the same time," I said, "it must make you proud to know that you can undercut the Citibank on what they charge for a loan."

"It does and it doesn't. The Fed has screwed the money market all up. We don't know where we are from one day to the next. The legitimate banks never worried about loan sharks, because they always knew we charged three points more than they did. Now that our rates are lower, they're complaining to the FBI that we're hurting their business. The heat's on because Household Finance just can't stand the competition."

"Why don't you raise your vigorish above that of the banks? Then they won't have anything to gripe about."

"We don't want to drive the country into a recession. Our bookmaking and white slavery divisions depend on a healthy economy."

"We're sending our people down to see the members of the Federal Reserve Board and explain what their tight money policies are doing to the 'under the counter' loan business."

"Do you think they'll listen to reason?" I asked.

"They have to. They have grandmothers too."●

NATIONAL BUSINESS WOMEN'S WEEK

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. APPLEGATE. Mr. Speaker, it is with a great deal of pleasure that I address my colleagues in the House today as next week, October 21 through October 27, has been proclaimed "National Business Women's Week." It is a time that has been set aside for those women in the business world who have contributed so much, not only to their gender, but to the Nation as well.

Not long ago it was difficult, not to mention unlikely, to find a woman in a decisionmaking position in the business community. Times have changed, though, and for the better I might add, because of the involvement of women in all aspects of life today.

In marking this occasion, I believe it is only fitting that the proclamation originally made by President Jimmy Carter be printed in today's RECORD. I am therefore submitting for the RECORD that document:

Whereas working women constitute 43 million of the nation's work force, and are constantly striving to serve their communities, their states and their nation in civic and cultural programs, and

Whereas major goals of business and professional women are to help create better conditions for business women through the study of social, educational, economic and political problems; to help them be of greater service to their community; to further friendship with women throughout the world, and

Whereas all of us are proud of their leadership in these many fields of endeavor,

Now, therefore be it resolved that I, Douglas Applegate, Congressman for the 18th Congressional District of Ohio, do hereby concur with President Jimmy Carter in proclaiming October 21st through October 27th, 1979, National Business Women's Week.●

THE SHAPE OF THINGS TO COME

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. ASHBROOK. Mr. Speaker, there are times when I wonder how Carter administration officials can wake up and face themselves in the mirror. The attempts by this administration to disregard any sense of reality in order to achieve there goals gets more bizarre every day. The entire situation takes on the laughable proportions of a French farce if it were not for the fact that the American taxpayer will once again foot the bill.

The lastest outrage comes from the food stamp program. This last summer we listened to impassioned pleas that unless the food stamp program was increased by $620 million for 2 months, thousands of poor and elderly people would starve. This appeal to the emotions was enough to pursuade the Congress to agree to the bailout. Now lo and behold we are being told that the poor and the elderly will starve unless the Congress increases the program another $2.5 billion. Supposedly the numbers of poor starving people are growing so fast in this Nation that a 43-percent funding increase will be needed or the United States will look like the streets of Calcutta.

Agriculture Secretary Bergland finds the statutory cap on food stamps a great annoyance. This last weekend he addressed the National Conference of Catholic Charities in Kansas City. In that speech he invoked the Pope in order to defend his contention that the Congress and the American taxpayer had no right to stifle his wanton expansion of food stamp eligibility. Pope John Paul deserves better treatment than having his eloquent words twisted into half-

baked rationalizations by an irresponsible bureaucrat.

The food stamp program has become one of the cornerstones for the fraud and abuse that is rampant in the Federal Government. The House Appropriations Committee asserted this summer that over $2.7 billion of food stamp funds are wasted or squandered on fraudulent or dubious recipients. This is an incredible figure. It is the height of arrogance for Bergland to demand a 43-percent increase in the food stamp cap when more than that amount could be achieved if his agency would clean up its act.

Next year's budget battles are evidently already underway. Mr. Bergland's appeal to the emotions might sound compelling to those who buy his brand of rhetoric, but I find the whole act appalling. The American taxpayer has been demanding a stop to wanton destruction of his or her paycheck for years and all they get in return is empty platitudes from shallow minds. The Congress is the only vehicle to hold the Government accountable for spending tax dollars. We must draw the line. This summer we were told that unless we acted immediately the USDA would have to cut back 88 percent of its benefits. To head off such arguments next year I hereby put the USDA on notice. I will do all I can to preserve the paychecks of the American people. The food stamp program is a massive boondoggle that has been proven to waste far more money than Mr. Bergland is requesting for next year. They now have close to a year to eliminate waste and to cut out the freeloaders in the program before they run out of money. The American people have to live within their budgets, Mr. Bergland can too. No employee in his right mind would go to his boss and say that he plans to spend 40 percent more than he is currently making next year so he better get a raise. In effect, that is what Mr. Bergland is demanding and it sounds down right absurd. I throw down the gauntlet to the Secretary. Let him try to pull off this obscene power play and see how far he gets in the Congress next year or at the polls next fall.●

METRO OPERATING SUBSIDIES: THE FEDERAL RESPONSIBILITY

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. McKINNEY. Mr. Speaker, when the House passed H.R. 3951, the National Capital Transportation Amendments of 1979, it also included in its approval that section in the bill which provided for an annual Federal contribution to Metro for rail operating expenses during the final construction phase. This contribution was included in the legislation as a reflection of the special benefits the Federal Government receives from Metro, and the special obligations it has to its continued success.

It is unfortunate that although the administration has given its support to most of the concepts included in the legislation, it is still opposed to the Federal contribution to operating costs called for in the bill.

Apparently there is a misunderstanding regarding local contributions to the operating costs. The administration fears that Federal funds could displace local funds and reduce the incentive to operate the system efficiently. This fear is unfounded, however, as it was never the intent of H.R. 3951 to relieve the local jurisdictions of their current levels of contribution. The Federal contribution is to be applied only to that portion of operating costs associated with mileage being added to the system between 1981 and 1988.

In fact, as Metro is expanded between now and 1988, there will be a significant increase in the local contributions to operating costs even with the Federal contribution. Consequently, there is no concern that current levels of local contributions will diminish.

It is time the administration got aboard this issue of operating costs. As the dominant employer in the region, it makes good sense from both a political and an economic point of view for the Federal Government to contribute to the operating costs of the system. To illustrate the point, the staff of the Committee on the District of Columbia recently contacted the transit authorities of several major cities in order to ascertain whether local employers were providing financial incentives to their employees for using mass transit. The results were interesting and encouraging.

Of the 21 cities contacted, 10 had active programs; all had given such programs consideration; and many of the others planned to implement one eventually. The support identified ranged from administering the sale of transit passes through payroll deductions to paying 100 percent of the cost of transit passes. The subsidies ranged from a low of 7.1 percent to a full 100 percent in some instances. The average subsidy was 53 percent. The cities involved ranged from Los Angeles on the west coast to Boston in the East; and from Minneapolis in the North to Dallas in the South. Many of those offering subsidies to their employees were State and local governments.

When the administration equates Metro with the other transit systems throughout the country, it fails to take into consideration the Federal Government's special obligations to the National Capital area. The Federal Government is the region's major employer and landlord, with over 25 percent of the region's employees being Federal workers, and another 25 to 50 percent having jobs which depend on the Federal presence.

Were the Federal Government to subsidize mass transit for its employees at a rate equal to the city of Kansas City (50 percent) the costs would work out at approximately $52 million per year. This is considerably more than the amounts authorized for operating expenses in the legislation.

Furthermore, it is appropriate to note here that in addition to the heavy local tax burden created by Metro, commuters pay almost 60 percent of the operating costs through the farebox. Metro's policy is to increase fares at a rate equal to the Consumer Price Index. Compare this to the national average farebox contribution which is less than 45 percent of costs. In addition, current Metro ridership already exceeds the ridership of many systems of much greater length.

Mr. Speaker, I feel strongly that there should be a Federal operating subsidy as outlined in H.R. 3951 to represent the substantial benefits the Federal Government reaps from Metro. It is the Federal Government's responsibility, it will continue to be the Federal Government's responsibility, and it is time we accepted that responsibility.●

SEARCHING FOR THE "DISAPPEARED"

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. HARKIN. Mr. Speaker, the House Foreign Affairs Subcommittee on International Organizations has recently held hearings on the subject of the "disappeared"—the tens of thousands of men, women, and children who have vanished at the whim of police state officials. I would like to take this opportunity to commend my colleague, the Honorable DON BONKER from the State of Washington, for his efforts in investigating this tragedy.

For the information of my colleagues in the Congress, I have included here Mr. BONKER's editorial in the October 18 issue of the Washington Post.

THE MISSING 30,000

(By DON BONKER)

It is 7 a.m. Five men in civilian clothes burst into a home and seize a 23-year-old man. The chief of the gang tells the young man's mother that her son has been named a subversive by a prisoner under custody and is being taken in for questioning. She is told that she can inquire about her son the following day. But the next day—and a thousand days later—the police deny knowing anything about him.

In another incident, a 31-year-old woman who lived through the terror of imprisonment and returned to tell about it reports: "I was told by my captors I was not detained, nor disappeared. I was just absorbed, kidnapped, sucked up."

Scenes from "Holocaust"? No, these incidents are examples of a new phenomenon in the violation of human rights called the "disappeared person." This brutal and cynical practice is occurring almost daily in a significant number of countries. It is further evidence that the 20th century has not spent itself of horrors.

Though the phenomenon of the "disappeared person" is prevalent worldwide, most documentation comes from South and Central America. At a recent human-rights conference in Chile, the secretary general of Amnesty International estimated that in the last decade some 30,000 Latin Americans have disappeared. The number of documented missing reaches the hundreds in parts of Africa and Asia, as well as in Brazil, Uruguay and Paraguay. These numbers soar to the thousands in Chile and Argentina.

Since the military coups in Chile and Argentina, many thousands have disappeared without a trace after arrest by police,

security forces or parapolice. In certain cases, husbands and wives have been taken together, sometimes with their young children.

Tragically, a substantial number of unaccounted-for children have been abducted or have been born in captivity to pregnant kidnap victims. No attempts have been made by governments to investigate such disappearances, and these abuses continue unchecked.

After a recent visit to Buenos Aires, V. S. Naipaul wrote: "There is still, for the distinguished or well-known, legal arrest on specific charges. But below that there is no law. People are taken away and no one is responsible. The army refers inquirers to the police and the police refer them back to the army. A special language has developed: an anxious father might be told that his son's case is 'closed.' No one really knows who does what or why; it is said that anyone can now be made to disappear, for a price."

In Argentina, one does not need to be a terrorist to be arrested, tortured or murdered. It is enough to have belonged to a trade union or a student organization or to have helped persons classified by the military as "subversive." People are simply picked up, some to return as corpses, minus their heads and hands to prevent identification. A few are released and warned not to speak, but most are subjected to brutal conditions in secret camps.

Until recently, little international attention focused on this terrifying violation of human rights. In the last session of the United Nations General Assembly, a resolution was passed asking for intergovernmental cooperation to search and account for the disappeared.

More recently, a subcommission of the United Nations adopted a resolution stating that disappearances continue to occur and that the "dangers involved for such persons warrant urgent reaction." If the situation were to continue, the subcommission recommended, some form of emergency remedy must be applied by the international community.

The House International Organizations Subcommittee will hold today the last in a series of hearings on the phenomenon.

If, as President Carter has said, human rights is the "soul of American foreign policy," then we as a nation steeped in traditions of freedom and justice must respond to the mounting evidence. We must let the word go forth to the relatives of the disappeared, to those locked in secret detention camps and to the exiles around the world that "if you are silenced, we will speak for you."●

WILLIE NELSON

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to honor an outstanding performer who brings joy and music to the hearts of country music fans across the Nation. On October 8, 1979, I was privileged to attend the 13th annual Country Music Association Awards at the Grand Ole Opry House in Nashville, Tenn.

It was my privilege to witness Willie Nelson receive the Entertainer of the Year Award. I wanted to share with the Congress and the Nation the background of this outstanding artist.

While Nelson, musician and songwriter, was born in Abbott, Tex., April 30, 1933, attended Baylor University, and served in the U.S. Air Force. He worked as a salesman, announcer, and host on several country music shows on local Texas radio stations, bass player in Ray Price's band, and then formed his own band. Willie has made personal appearances at the Grand Ole Opry and throughout the United States beginning in 1964; recording artist with Atlantic, Columbia, and RCA records. His albums include: "Willie Nelson and His Friends," "Willie Before His Time," "Country Willie," "Here's Willie Nelson," "Red Headed Stranger," "The Troublemaker," "Wanted: The Outlaws," and many others. His film appearances include "Outlaw Blues" in 1977 and "Electric Horseman" in 1979. Willie was named to the Nashville Songwriters Association Hall of Fame in 1973; a recipient of Grammy Award for "Blue Eyes Crying in the Rain" in 1975; a Billboard magazine citation for top album artist in 1976; Country Music Association awards for single "Good Hearted Woman," for his duo with Waylon Jennings, and for his album "Wanted: The Outlaws."●

SUCCESSFUL PROGRAM IN CONNECTICUT

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. MOFFETT. Mr. Speaker, the senior environmental employment program (SEE) is a pilot program operating in the State of Connecticut and in nine others. For its cost, it has been one of the most successful programs in the State of Connecticut's department of environmental protection. Recently a SEE success story in Connecticut was written up in this month's department of environmental protection's citizens' bulletin by Mr. John Waters, senior environmental employee in the department of environmental protection's information unit. I urge my colleagues to review this article to get a flavor of the many good things that can come out of a modest Government program like this.

S.E.E. PROGRAM BENEFITS IDLE ELDERS, ENVIRONMENT

(By John Waters)

This is the story of two urgent problems colliding head-on and producing a happy and useful solution to both. Problem Number One was the fact that hard-working state environmental departments have had to take on so many urgent pollution problems all at once that they have often had to postpone worthwhile projects.

Problem Number Two was the fact that mandatory retirement has left millions of able-bodied and able-minded men and women with no challenging and renumerative work to do—at a time when inflation is eating away the financial security they have provided for old age.

Considering these problems, the U.S. Environmental Protection Agency and the U.S. Administration on Aging (AOA) concluded that Problem Two might become the solution to Problem One, and that Problem One might become the solution to Problem Two. That's how the Senior Environmental Employment Program was born—with AOA putting up $1.1 million a year for a three-year pilot operation in ten states, of which Connecticut is one.

In the fall of 1977, with a $100,000 grant from AOA, Connecticut announced that it was going to hire citizens aged fifty-five or over to work in its Department of Environmental Protection and in the Department of Health Services' Environmental Services Division. More than 200 people applied, of whom nineteen were hired. Five were assigned to water quality programs; four to air compliance; three each to solid waste, open-space acquisition, and information and education; and one to noise control. Starting pay was $3.97 to $5.19 per hour, depending on the job classification. Workers in the program were ultimately limited to thirty-six hours on the job every two weeks.

What kind of people turned up to work gladly for the relatively modest pay? That is the most amazing part of the story. Of the seventeen men and two women, many had held responsible, well-paid positions in business, government, education, and the professions. Some had been honored by trade and professional associations. Some had had secretaries who earned more than they themselves are working for now. So why did they turn up for these jobs, some in fields utterly strange to them?

The answer seems to be that they are people who like to work. They like the sense of accomplishment, whether the stakes are large or small. They like the interplay of human personalities in work situations; and since many of them had retired involuntarily, they rebelled at the idea of spending the rest of their days on the scrap pile. In certain cases, of course, the money was very important, especially where retirement had not been accompanied by a pension plan or where inflation had savaged their retirement savings.

From the standpoints of the Department of Environmental Protection and the Department of Health Services, the presence of these SEE Program workers has made it possible to undertake many supplementary projects that might not have been attempted otherwise. The $100,000 a year federal funding provided these people to the State at minimal cost (only a ten percent match was required).

Earl Carini, Director of Personnel for the DEP, made the following statement about the caliber and performance of the SEE people: "We have found the experience of a lifetime. They learn everything quickly, with little training, and are extremely self-disciplined." The accompanying brief work histories of some SEE Program participants will demonstrate the truth of the light-hearted lyrics below.

GLORY! GLORY TO THE SEE PLAN

(Tune: "Glory Hallelujah")

Our eyes are 20-20 if we keep our glasses on.
Our joints don't ache a bit until the aspirin's all gone.
Our hearts beat with a boogie-beat; we may look pale and wan,
But our brains work on and on.

(Refrain)

Glory! Glory to the SEE Plan!
It proves that work's the best M.D. plan.
So give it all we've got, to show that we can keep SEE Plan marching on.

The SEE Plan is a plan which shouts that seniors aren't defunct.
It shows their skills and insights are too useful to be junked.
It proves the myth of senile sloth is easily debunked,
While we keep working on.

(Refrain)

The SEE Plan helps us seniors do the things that will insure
A world our children's children will inherit clean and pure,
Where lovely scenes we knew when young are certain to endure
When we've gone marching on.

—JOHN P. WATERS.●

FIRST WOMAN KILLED IN AN UNDERGROUND MINE IN THE UNITED STATES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. GAYDOS. Mr. Speaker, I would like to call my colleagues' attention to an article in last Sunday's Pittsburgh Press describing a recent mining tragedy involving the death of the first woman in an underground mine in the United States.

Mrs. Marilyn McCusker had to file a court suit for employment discrimination in order to gain employment in a coal mining company in Centre County, Pa. After winning this battle, she lost another when she died as a result of being buried under tons of collapsing rock while working in the mine. Mrs. McCusker and her husband, like many other Americans, both had to work in order to buy a home and support their family. Her's is a tragic story and her family has suffered a grievous loss.

But accidents such as this continue to plague the mining industry. In order to avoid the tragic loss of working men and women, it is essential that mine safety standards, such as those provided by the Federal Mine Safety and Health Administration be closely adhered to.

Mr. Speaker, at this time I revise and extend my remarks and include this article by Lee Bowman in the October 7, 1979, Pittsburgh Press to be printed in the RECORD.

The article follows:

WOMAN MINER'S DEATH ENDS HOPES OF HOME

(By Lee Bowman)

Marilyn McCusker won her battle for the right to work in a coal mine more than two years ago.

Last week, the victory claimed her life.

She died under tons of rock while running a roof-bolting machine at the Rushton Co. mine near Osceola Hills, Centre County.

She was the first woman to be killed while working in a U.S. underground mine.

Her fight to become a miner was not so much one of women's liberation. It was for a decent wage to support herself and a teenage son, Michael.

Rushton paid almost $90 a day down in the pits—far more than she could make as a nurse's aide at a nursing home.

So the 130-pound woman walked into the mine office back in 1975 and handed her application to Superintendent Blair Richard.

Richard said he refused to hire a woman.

Unruffled, the then Marilyn Williams got an attorney and went to federal court, charging the company with sex discrimination. Three other women joined in the suit.

They eventually won a cash settlement and jobs in August 1977 in an out-of-court settlement.

"She'd put in her application just before I met her," Allan McCusker recalled. They were married the following December.

"She always said the money was in the coal mines. She liked the mines," said her husband, a carpenter.

The McCuskers were building a new house near their home at Coalport, Crawford County, about 20 miles from the mine.

"Marilyn wanted that house a lot," McCusker said, "but for me to build it on my own time, she had to work to help pay for it. I'd just gotten the frame up. She said she'd probably quit once we got it built."

Mrs. McCusker will never see the completion of the new house. She was buried yesterday in Chadwick, N.Y., near her home town in Utica.

"We were just getting ready to take out a loan to complete the new house, so we re-mortgaged our old house," McCusker said. "We had to take out a new insurance policy on Marilyn to go with it.

"We'd just found out last week that the insurance company wouldn't cover her. Her work was too dangerous, they said.

"A coal miner's job is dangerous and that roof bolting job was the most dangerous of all. But she always told everyone that was the job she liked the most."

The Rushton mine is in an experimental program with nine-man crews working without supervision by foremen. Each crew is responsible for its own production pace.

All members of the crew are trained for all jobs in the section, including mining-machine operator and roof bolter. The workers are encouraged to rotate jobs, but seniority still decides who gets what position.

Mrs. McCusker had worked for two months as a roof bolter's assistant in another section while the regular worker was on sick leave.

"She was waiting for something permanent to open up in the production section," Superintendent Richard said. "She'd done most of the jobs in the mine already, even run the mining machine for a time.

"The assistant bolter's job in that section had just opened up and she asked for it. That was only her second day in that section."

Richard still isn't sure how the rock fall that buried Mrs. McCusker occurred. The bolter, Harry Koptchak, standing only a few feet away, escaped injury.

"I have a feeling that if she'd just taken one step back, she would have been safe," he said.

Richard said he still is not at ease with women in the mines, but he's accepted them, even hired more.

At one point, there were eight women working at Rushton. Now, with Mrs. McCusker's death, there are three. Only one of the original four is still there—one quit and another is on pregnancy leave.

"It was called discrimination back then, but there was more to it than met the eye," Richard said. "Still, it was good relations for the company to hire them. Why fight them, I guess.

"Females just don't have the same build or chemistry as men, but I will say, Marilyn McCusker was a steady worker, she had very little time missed.

"In the sophisticated mining of today, with machinery handling the heavy work, I'd say that a female with any stamina can do that roof-bolting job about as well as a man can."

Allan McCusker always knew his wife could handle the heavy work. "She always said the work in the mines was nothing compared to lifting bed patients as a nurse's aide.

"There were always a couple of older guys who resented her working there, but she put them in their place. I always thought she didn't really like it down there, but she insisted she did.

"She wanted that house so much, and the only way we could get it was for her to work. Around here, the money is down in those mines."●

MULTINATIONAL GRAIN COMPANIES

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. SEIBERLING. Mr. Speaker, as president of the Peace Through Law Education Fund, I am offering for insertion in the RECORD remarks of Dan Morgan at the September meeting of the food and population series sponsored by the fund.

Mr. Morgan is a Washington Post reporter and the author of the recently published book "The Merchants of Grain." From 1967 to 1973, he served as a foreign correspondent, based in Europe, where he covered such issues as the Soviet invasion of Czechoslovakia. He has also written for Saturday Review and other magazines, and is a three-time winner of the Front Page Award of the Washington-Baltimore Newspaper Guild.

Mr. Morgan discussed the international grain trade, the role of the powerful grain companies, and the feasibility and ramifications of bartering North American grain for OPEC oil, or of pegging the price of wheat to the price of oil.

The full text of Mr. Morgan's remarks is as follows:

Soon after my book, The Merchants of Grain, came out this summer, I received a letter from a reader. "My dear Dan Morgan," it began. "I have read your book and found great substance in it. I wonder if you would be so kind as to write me your answer to the following question: will civilization as we know it survive the century? Thanks for answering my question." It must be said that not even a journalist and a new author is so vain as to think such an answer is possible. I am not an expert or a policy specialist. I am a reporter and observer, and I hope you will take what I have to say in this spirit.

Before I talk about the international grain trade, I would like to make a few general remarks about multinational companies, the genus to which the big grain houses belong. We live in an era in which multinationals are a central part of the global power structure. A handful of these companies exercise almost total control over many of the resources, including grain, oil, bauxite, copper, rubber, cobalt, tin, lead and zinc, which are vital to the world economy. They provide the technology, organize the extraction processing and marketing of the raw materials and, perhaps most importantly, control the information about the availability of supply, the strength of demand and the price which the traffic will bear.

We know that these companies have a considerable influence on the conduct of U.S. foreign policy. There is nothing particularly sinister about this. The government-corporate connection grew up naturally after World War II, when the U.S. built economic bridges that spanned the world.

In the case of grain, the interests of administrations in power in Washington and the interests of the international grain companies frequently coincided. The political objective from Truman down through Nixon was to dispose of surpluses by promoting grain exports—through export subsidies, through the PL 480 program and through market development techniques that persuaded other countries to consume more and more wheat, feedgrains and soybeans. The huge grain companies became both the vehicle for and the beneficiaries of these

policies. Imports of U.S. grain also bestowed significant benefits on many Third World countries. The grain helped feed growing urban populations, provided an important source of revenue and contributed to domestic stability. It also provided a cushion against hunger and enabled many people in developing countries to improve their diets.

As the volume of grain moving abroad increased, a few big companies invested heavily in storage, transportation, and grain processing not only in the United States but also abroad. To cite one example, Cargill of Minneapolis has grown from a relatively unknown U.S. company to the largest and most far-flung grain companies the world has ever known. Today Cargill is not only the largest grain trader but also the 20th largest processor of food. It has diversified into meat packing, flour milling, shipping, insurance, international finance, the poultry business in South Korea and the Philippines and is, in my opinion, one of the fastest expanding enterprises between the Appalachians and the Rockies.

In the early 1970s Cargill, like many other large grain companies, was in the center of the public's concern about rising food prices and excessive foreign grain trading. First came the 1972 sales of grain to the Russians. These were executed in secrecy by the grain trading firms—although documents since made available by the CIA suggest that government officials had considerably more details about the transactions than they told the public. These and subsequent episodes point up the woefully inadequate control on the grain trade as the U.S. and the world move into a new situation of tight grain supplies. Then came the grain inspection scandals in New Orleans and Koresgate—an episode that was financed in part by commissions generated by the U.S. rice trade.

Congress responded with investigations as questions arose about the secret financial transactions of large corporations in a supposedly open and democratic society. Congress did pass some new laws including the 1977 Foreign Corrupt Practices Act, but policy makers have yet to deal fully with the broader and the far more difficult questions of how to control and adequately supervise multinational companies, including the grain multinationals.

There are curious parallels between the current international grain market and the situation prevailing in the oil markets prior to the time when OPEC imposed its price controls in the early 1970s. Then a handful of countries produced the bulk of the surplus petroleum available for international trade, and a few multinational companies organized the production, processing and marketing of this oil. This is not all that different from what hapepns today in the grain markets. Although a few countries produce a grain surplus, they operate independently and often at odds with each other's policies on pricing and production. There is no wheat cartel and no signs of one on the horizon. In the U.S., the largest wheat exporting country, there are, as yet, no government controls over the grain industry.

Grain is, of course, grown by hundreds of thousands of farmers who produce dozens of different kinds of commodities—hard wheat for bread, soft wheat for biscuits, malting barley, birdseed, corn for starch and corn for high fructose sweeteners. These commodities have highly specialized markets at home and abroad to which they move through an intricate barge, rail and truck transportation system. Some 40 to 50 percent of this grain ultimately funnels through the export terminals of a few big grain firms. Given the small number of these terminals and the very few grain companies handling this trade, it would not be a difficult matter to establish government controls or supervision over the grain exports leaving the country. In the three instances when this was done over the past few years, the trade was easily controlled in Washington by a handful of phone calls.

I personally would be opposed to any attempt by the government to take over the management of grain exports. I am even more strongly opposed to the use of grain as a political weapon. The efforts of the two previous administrations to use food aid as an adjunct of U.S. military and economic policy in Vietnam, Cambodia, Chile and many other countries in the Third World is one of the most dismal chapters in U.S. postwar agricultural history.

But the U.S. with its philosophical commitment to the concept of free trade now confronts a world where almost all countries have come to adopt the Japanese system of government-corporate interlock, in which multinationals are an instrument of foreign policy. It must seriously be questioned how long U.S. multinationals can be allowed to have free rein in pricing U.S. crops around the world.

It is not a question of using grain for political leverage—of "bushel for barrel" diplomacy—but one of hard economic realities. We are nearing the limit of our capacity to produce and export more grain, and everything points to worse strains ahead. As grain exports climb to unprecedented levels this year, transportation breakdowns are beginning to occur in the U.S. interior. I see a time coming when the big producers will have to get together to coordinate their policies on pricing and production—hopefully in cooperation with grain consumers—to assure that the U.S. obtains access to the raw materials it needs in return for the unlimited access it gives to its grain. We can no longer afford to let the multinationals exercise exclusive control over such a vital resource as U.S. grain.●

THE BRITISH GULAG: BRITISH JUSTICE IN THE NORTH OF IRELAND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. GILMAN. Mr. Speaker, I would like to call to my colleagues' attention another case in the continuing series of human rights violations being perpetrated by the British in Northern Ireland in order to keep peace in that part of the world. I am speaking in particular of the case of Sean Chillingworth, a prisoner in Long Kesh Prison, a blanket man in the H-block. We have received numerous reports that conditions in British prisons are foul, and that despite inquiries and accusations by well-respected organizations such as Amnesty International, the British have allowed these conditions to deteriorate.

I visited Northern Ireland last November, and met with many families of prisoners and saw firsthand the conditions under which women prisoners were being held. Their major concern was their classification as "criminals" rather than as political prisoners; a similar complaint, resulting in the blanket protest in Long Kesh Prison, has made the men's lives living hell. Mr. Chillingworth's letter attests to this.

Mr. Speaker, our Government is concerned with human rights around the world, and our pleas for the welfare of prisoners in other nations have led to the release of some of the Soviet dissidents, to the recent release of Jacobo Timerman, of Argentina, and a general easing of poor prison conditions in other nations. And yet, when the Government chooses to ignore the systematic human rights violations committed by Great Britain, we are in effect condoning these violations.

I am enclosing for my colleagues' consideration a letter smuggled out of Long Kesh Prison expressing the sad conditions in that prison. The letter was forwarded to me by Dr. Fred Burns-O'Brien, of the Irish National Caucus.

Dr. Burns-O'Brien met personally with Sean Chillingworth, who was imprisoned on his own coerced statement alone, last November. His letter, and Chillingworth's letter both tell the story of individuals suffering in Britain's deplorable prisons.

The material follows:

IRISH NATIONAL CAUCUS, INC.,
October 15, 1979.

Hon. BEN GILMAN,
U.S. House of Representatives,
Washington, D.C.

DEAR BEN: Last November when we were in Ireland, I visited Sean Chillingworth in Long Kesh. The man was in a deplorable state physically, but in the half hour we had he related to me the conditions and abusive treatment he and his comrades in prison had to endure.

He took a risk telling me because three wardens stood around us listening to him. I cautioned him about the possibility of a beating, but he assured me it made no difference; they would beat him regardless. Before and after each visit, the prisoners are subjected to degrading body cavity searches. These very personal searches are not done very gently.

Mr. Chillingworth has been "convicted" of possession of arms. He was convicted on the basis of a signed statement. The statement was obtained through torture. He was beaten and he and his family threatened before he signed a statement of guilt.

Under English Common Law, duress is never acceptable and duress negates the fundamental principle of law that a man is innocent until proven guilty. There are no juries in Northern Ireland's political courts, coerced evidence is acceptable under special laws, and the rules of evidence have been ignored. Mr. Chillingworth like all the prisoners in H-Block and Long Kesh generally are Judicially innocent. A fair trial is a fiction in Northern Ireland. English Common Law has never applied.

Realizing your interest in political prisoners, I would ask you to put Sean Chillingworth's letter describing his typical day in the Congressional Record. I asked for his views and he took great personal risk in having this letter smuggled out of Long Kesh to me.

Sean Chillingworth's greatest crime is that he believes that his country should be one undivided, a view I share with him. The letter enclosed was retyped as it was written on toilet paper. We in the Irish National Caucus appreciate all you have done for our country and all we know you will do in the future until the Irish People have their political and economic human rights and they are allowed to exercise their right to self-determination, the greatest human right of all.

Sincerely,

DR. FRED BURNS-O'BRIEN.

August 14, 1979.

SEAN CHILLINGWORTH, REPUBLICAN P.O.W.
LONG KESH

This is a duplicate of a letter received from the H-Blocks of Long Kesh, which was written on several sheets of toilet paper:

Each morning I awake in a little 8 foot

by 10 foot cell, and the first thing which comes to mind is the smell, for it is the smell of my own body, a body that has not been washed for the past eighteen months. I try to escape back into sleep for there is comfort and peace there. My mind is a turmoil of many thoughts and doubts, also I do not wish to face the day which lies ahead, but the harsh light which shines from the ceiling gives me no respite.

I open my eyes and gaze on my surroundings. The dirt and the grime. I look on the walls and see my own dirt hanging from them. It has all been put there by my own hands. I try not to dwell too much on this point. It has become a way of life, just like the smell of my body. Somewhere in the distance I can hear voices, and I know that the day is about to begin.

I wonder to myself will I be strong enough to make it through one more day in the H-Blocks of Long Kesh. Living the way I do, my life has become a nightmare, a never ending nightmare. It started when I entered this place, and God alone knows where it shall end. There is one big difference in this nightmare, in a normal nightmare you awake when you get to the really bad part.

In this case, the nightmare starts when you wake up. The mere thought of rising is an effort, but I know I must rise sometime. My bed is a piece of smelly sponge—and two torn blankets to cover me. I get up and feel the damp, the dampness which is there all the time.

I feel it seep through my feet. My hair is matted and ragged, and I know I look a sorry state, but you have stopped worrying about your appearance a long time ago. I hear foot steps and keys, and I know that the breakfast will soon be coming, not much comfort in that thought, for you only get two pieces of hard bread, a few spoonfuls of dry cornflakes and a cup of cold tea, but you must eat it, for it is all you shall get for the next five hours.

It's the first food from the day before when you had your last meal at 4 pm. A long time, but just one of the things which happen in the H-Blocks of Long Kesh. The morning passes slowly, you can hear the birds singing beyond your window, you can hear but not see, for sunlight and a view of the outside world has been blocked out by the erection of a large steel grill across the window.

You think of all the things you would like to do. Read a book, smoke a cigarette, feel the fresh grass beneath your feet, this and many simple thoughts flash through your mind. You try to remember what life was like when you had such things, but after almost two years, they are just a sweet memory! We are being moved to another wing to-day.

You have received word from the man next door. You feel your stomach tighten up, for you know what lies ahead. You try to stay calm, you can hear doors slamming, and voices raised in anger. You pace up and down in your cell, wishing your turn would come to move. Finally, your door opens and you make your way down the long, dark corridor. Fear inside your bowels, you reach the room where the search is done. You are pushed inside.

You see four or five people there. There is a mirror on the floor, you are told to squat over this, you refuse and then you are punched and kicked to the floor. You lose all sense of time. You hear a voice telling you to get up. You lift yourself from the floor and make your way to the cell. You say a silent prayer for at least it's over for the time being. You know it has been much worse on past occasions.

The day is long and you have only yourself and your thoughts to help pass the time. You think of your family and what they would be doing. You know they are worrying about you. They are suffering in a different way. You only see them once a month, for half-an-hour, and you wish the days would pass by quickly, so you can see them again. The time has arrived for the nightly lock-up. It makes little or no difference to the Blanket-Men, for we are locked up twenty four hours a day, but it means at least one more day over. You feel happy that you have made it.

You know it shall not be too long till you can escape once again, escape from the nightmare of the H-Blocks, but you know only too well that the escape is only an illusion, for the morning will come again, over again, the dirt, the smell, the maggots will be there tomorrow.

This is but one day in the life of a Blanket-Man. His only demand is to be treated as a prisoner of war. Britain has chose to treat him like a pig, as can be seen by the conditions in which he lives. All that we ask is that you re-write this letter three or four times. It may well save the life of a Republican P.O.W.

Yours faithfully,

SEAN CHILLINGWORTH.●

TUNA CETACEANS AND HIGHLY MIGRATORY SPECIES

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. McCLOSKEY. Mr. Speaker, I have introduced a bill today which sets out a new U.S. policy for highly migratory species of fish and cetaceans. This policy is consistent with developing international law and our negotiating goals at the Law of the Sea Conference, and should remedy an anomaly in our law which has created international confrontations.

The bill contains four elements. First, it repeals the self-serving exception in our 200-mile fisheries bill which has caused significant international controversy and confrontation since its enactment in 1976. That exception provides that we will not claim management authority over highly migratory species within our 200-mile zone. While biologically justifiable—highly migratory species cannot be managed effectively by one country and should be managed internationally—the exception is viewed as arrogant and self-serving by the rest of the international community since they rightfully recognize that the exception is limited only to tuna and not billfish, cetaceans, or other high migratory species, and thus the exception has exceptions making the biological rationale clearly hypocritical. The international community correctly recognizes that we do not have significant amounts of tuna in our 200-mile zone and the exception was only added to our law to satisfy the powerful tuna lobby. The exception is used to argue that since we do not exert management authority over tuna within our 200-mile zone, no other country can do so and our tuna fleet is not subject to licensing requirements in any other nation's 200-mile zone. This argument is used to justify the U.S. tuna fleet's invasion of other 200-mile zones with consequent international confrontations—most recently with Canada, Costa Rica, and Peru, but also with small friendly island nations such as Fiji and Papua-New Guinea.

Second, the bill replaces the exception with language which reflects developing international law—a country does have jurisdiction over highly migratory species within its 200-mile zone until an international regime for the management of such species is established.

Third, the bill sets out outlines for an effective international management regime for highly migratory species of fish and the outlines of an effective international conservation regime for cetaceans. These regimes clearly recognize the different policies for the management of fish and the conservation of cetaceans. These outlines are consistent with our negotiating goals at the Law of the Sea Conference.

Fourth, the bill requires the Secretary of State to convene an international conference for the establishment of these international regimes and uses the "Pelly amendment"—an embargo of fisheries products—to encourage a successful conclusion of that conference.

I believe this bill will both help to improve our international relationships and also assist in preserving tuna stocks for the benefit of U.S. consumers. With a policy more in line with developing international law, we will be in a better position to shape that development.●

RIDE THE BUS FREE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. YOUNG of Florida. Mr. Speaker, many people are talking about the twin problems of energy and inflation but too few are doing anything about them. I am delighted to report to the House that one civic-minded organization in my district has sponsored an imaginative program to help alleviate both problems.

The program was the "ride the bus free" week sponsored by the Florida Federal Savings and Loan Association, which has its headquarters in St. Petersburg.

The idea for the program grew out of a chance encounter. A woman approached Raleigh Greene, president of the association, and asked: "Why can't you do something about inflation?" Mr. Greene pondered the question and decided that mass transportation offered an opportunity to cut the cost of living for residents in the area and save energy for the Nation.

Florida Federal leased buses of the St. Petersburg Municipal Transit System and the Central Pinellas Transit Authority for the week of September 24 through 30. The buses ran their regular routes at no charge to passengers that week. Florida Federal paid the two transit systems $42,500, the amount of fare revenue they could have anticipated receiving that week.

The combined ridership of the two systems increased by 104,000 during Florida Federal's "ride the bus free" week. This was an increase of 60 percent over the previous week. It has been calculated that 500,000 additional miles were traveled by bus instead of car that week.

There were three benefits of this program. Money was saved by individuals who rode the bus instead of burning $1-a-gallon gasoline in their automobiles. Energy was conserved with an estimated gasoline savings of about 100,000 gallons. And the potential of air pollution was curtailed by the thousands of automobiles that were left home.

Florida Federal's "ride the bus free" program was the first of its kind anywhere in the Nation. If other organizations would consider creating and initiating similar innovative energy-saving ideas, we will lick the energy problem and strengthen our economy as well.●

SHOULD GOVERNMENT BE SUBSIDIZING THE ARTS?

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 19, 1979

● Mr. PAUL. Mr. Speaker, the eloquent Dr. Ernest van den Haag addressed, in a recent Policy Review, the question of whether Government should be subsidizing the arts.

Do the working people of America have any idea of the extent to which they fund the pleasures of the well to do, through such institutions as the Kennedy Center? I do not believe so. If they did, the reaction would be outrage.

I would like to call to my colleagues' attention some excerpts from Dr. van den Haag's excellent essay. His perspective is the one we need to keep in mind, the next time we consider taking from the poor to give to the rich, under the heading of subsidizing the arts.

The excerpts follow:

SHOULD THE GOVERNMENT SUBSIDIZE THE ARTS?

(By Ernest van den Haag)

. . . The government has jumped into the arts with both feet (not an inept metaphor); it has decided that the arts require subsidies and a bureaucracy to administer them. Our government is convinced that everything good ought to be subsidized. Not even sex is an exception; the federal government subsidies courses in sex education. . . . The government always concerns itself with problems—usually by means of subsidies—when a constituency can be discerned or created. Now there is one for the arts. Hence, Presidents, congressmen and senators can acquire cachet and reputations as cultivated and sensitive intellectuals by advocating more federal expenditures on the arts. President Kennedy started much of the rhetoric; President Nixon increased the budgetary appropriations. Ever since, the Federal budget for the arts in all forms has grown by leaps and bounds. Although they deplore high taxes and huge benefits, the Congress and the Executive have been remarkably generous to the arts. . . .

. . . What is the role of the government in the arts? What should it be? Do Americans want their tax money to be spent for the arts by their representatives? Or, would they prefer to decide individually how much money to spend on works of art and on which works? What would happen without government subsidies? . . .

. . . In practice the government's subsidies to art unavoidably become indiscriminate. (This is how the government protects itself against criticism and creates a wide, supportive constituency.) The government cannot actually subsidize art. At best it can and will subsidize a wide range of organizations or persons who claim to be producing art.

Now, a lot of ore has to be mined to get a little gold. One may argue that a lot of subsidy has to be spent on many unworthy artists so that the few worthy artists can be helped. However, there are relevant differences between mining and subsidized art production.

One difference need only be restated. Mining is not subsidized. It pays for itself—the purchasers of the metal pay more than enough for the necessary processes, including the mining of the ore that has to be discarded. Gold mining, thus, is analogous to the private purchase of art or, if you please, the private subsidy given to art producers. It is not analogous to government subsidies. Subsidies suggest that whatever worthwhile art they help produce is not worth enough to the public to persuade it to pay for the whole process, including the worthless art that is being subsidized. Thus, the government compels the taxpayer to do what he does not volunteer to do. I can find no justification for this policy.

There is an even more important difference between mining ore and art production. Payments to the mining industry may lead to more exploration and mining. But they cannot increase the total amount of gold-bearing ore that nature provided. Above all, such payments will not encourage the production of fake or imitation gold since consumers (and even the government) are quite capable of discriminating. Subsidies to art also may lead to more utilization of talent, although they cannot increase the pool of artistic talent provided by nature. But—and this is the decisive difference—a subsidy to art will attract people who would not have become artists without it. Art, unlike gold, is not definable so that the government could exclude subsidies to the untalented. We are forced to subsidize the mining of fool's gold as much as the mining of actual artistic gold, for the government cannot discriminate. The more we subsidize, the larger *the proportion* of fool's gold, of pseudo-art, in the end product being subsidized.

Normally, art production is self-selective. Few people produce art for the sake of money. The main reward is intrinsic—*ars gratia artis*. Artists are willing to risk foregoing income for the sake of self-rewarding achievement however much they hope it will be publicly recognized and become materially rewarding as well. Not that hungry artists are better artists. On the contrary. But the high risk of low income deters those more interested in income than in art and leaves mainly those who are artists for the sake of art, whether or not they are able to produce anything valuable.

Subsidies, however, will increase art production by attracting producers who, without the subsidy, would not have produced—those whose passion for art was not sufficient, without the subsidy, to induce them to risk sacrificing income. Subsidies may actually make it harder for true artists to succeed. Although more money is made available, there also is more competition for it. In this competition, the true artist is likely to be undone by those who, consciously or unconsciously, are interested mainly in money. They will be more worldly-wise, better competitors. After all, they are not distracted by artistic concerns and ambitions.

Lacking original talent, the pseudo artist will be more imaginative and, therefore, more easily understood and more appealing—and more eligible for subsidies. A subsidy to something or somebody actually original and valid is harder to justify than a subsidy to something appealing, unoriginal and, therefore, more easily understood. Those in charge of subsidization will be safer by going with the fashion, not by helping unknowns who create new things.

. . . To speak of subsidizing art is, of course, to use a metaphor. One can only buy specific works of art or help specific artists. Since there are no generally accepted qualifications and no agreement on what or who is meritorious, government organizations must subsidize artists who have already been widely recognized—and need the subsidy least—or distribute their bounty so that every claimant supported by regional taste or by the taste of any major social group gets some. . . . Aesthetically this is counterproductive. Bad art, as does bad money, drives out good.

Government subsidies, finally, are biased in favor of the performing arts. Officials feel they can measure quality by the dubious gauge of popularity; this is easier to do with an orchestra than with a composer. The performing arts also involve far more people—performers, support personnel and the public—than are involved in the lonely act of, say, composing a score or writing a critical essay. Hence, a large constituency. Wherefore, more and more subsidies go to the performing arts. The Metropolitan Opera or the Duluth Philharmonic is subsidized. The further natural bias of subsidies is toward popular performances and expansion of audiences at the expense of quality. It is in this way that political support can be secured.

Much more could be said along these lines. But the idea should be clear by now. (a) There is no good sociopolitical reason for the government to compel taxpayers to subsidize government-selected art; (b) to do so compels all classes to subsidize the middle class; (c) to do so is more likely to harm than to help in the creation of actual, valuable art.

SUBSIDIES TO MUSEUMS

What would happen if the government—local and federal—were to cease supporting the arts? * What would happen to museums and galleries which have come to depend on subsidies?

Museums acquire, preserve and display art both of the past and of the present. (They also engage in scholarly and educational activities incidental to their task.) Since much of the acquisition funds of museums now comes from private donations, government subsidies here are unimportant. Even if museums, left without subsidies, ceased to buy art and use acquisition money for maintenance, there would be no damage. The migration of old art from Europe and Asia into the U.S. and from private into public hands would be slowed. (The prices paid for ancient art would fall.) Since most museums have far more art than they are able to display, no less would be displayed than is now displayed. The egos of museum directors and curators would suffer greatly. But there would be no other damage. Failure to buy modern art would reduce its prices somewhat and its production. Again, no other effects are likely. Art is not produced for museums. Nor should it be. But, let me repeat, most acquisition would continue since funding for this purpose is supplied by private donations.

Preservation of art, old or new, however acquired, is costly. So is the display of art under reasonable conditions. It is this cost, which museums incur unavoidably, that is largely paid for by public subsidies. . . . However, there is no reason why those who are currently gratified by viewing art should compel others to pay for their gratification, no reason for museum visitors to contribute as little as they do now to the upkeep of the museums they visit. People are willing to pay, on the average, fifteen to thirty dollars to attend a Broadway show for two hours. There is no reason to pay less to attend a museum. (Preferred, habitual categories of viewers might be offered low subscription rates.) Would museums survive? Churches have survived by voluntary contributions without government subsidies. Museums could charge admission and expect donations.

* I distinguish tax exemption (not taking money) from support (giving money) and do not oppose the first.

So could opera houses and symphony orchestras. They would survive—although their rate of expansion would be curtailed.

Raising the cost of attendance would thin the ranks of museum visitors (thereby reducing upkeep costs as well as paying a greater proportion of those costs). Lower attendance is regarded as a calamity by pedagogues who feel it necessary to make art available free of charge—even to stuff it down people's throats. Everything else—from bread to concerts—costs money. Why should art be free? There is, of course, no free art any more than there is a free lunch. Museum visits free to the visitor are paid for by taxpayers—largely by people whose incomes are lower than those of most museum visitors. I can see no justification for the shifting of the cost.

Reasonable entrance fees would solve a disturbing problem, deliberately neglected by administrators. Because they like popularity and wide support—which increase their power, their prestige and their subsidies and salaries—administrators pay no head to the problems caused by crowding for those who actually come for the sake of seeing art. The treasures of the past are finite; the number of potential viewers is infinite. In each generation only a few can actually see them. But since museums are costless to visitors, they now attract crowds so big as to make it nearly impossible for any individual to contemplate and experience the art they display. Their popularity defeats much of the serious purpose used to justify subsidizing museums. People are herded through galleries—they willingly trot by paintings driven by boredom and by others—so that everybody can satisfy his curiosity and gratify his sense of accomplishment.

If crowds were thinner, as they would be, if a visit to the museum were to cost as much as attendance at a Broadway show, those who would still go to a museum would be able to enjoy it. They would find the conditions which make possible the aesthetic experience a museum can help them to achieve.

The absence of subsidies would have similar effects on the performing arts. The price of tickets would rise. Attendance would be reduced. Fewer performances would occur if people would not voluntarily pay for all the performances now subsidized. There would be an additional beneficial effect. The wages now paid performing artists and supporting personnel would decrease with the demand for them. I do not see much reason for a subsidy that leads them to earn far more than those from whom the money is taken. This redistribution is as involuntary as it is undesirable.●

SENATE—*Monday, October 22, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 2:30 p.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, Creator of all that is, we thank Thee for the world about us, glorious beyond description. We thank Thee for the world within us, deeper than we can fathom. We thank Thee for the spirit world above us, higher than we can reach. Give us grace and wisdom to be at home in this world of many dimensions. Work Thy will for this Nation by Thy holy Spirit in the President, the Congress, the judiciary, and all whom we have placed in authority over us. In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 22, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AN OUTSTANDING MONUMENT TO AN OUTSTANDING AMERICAN PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I congratulate our distinguished colleague from Massachusetts, Senator KENNEDY, and the Kennedy family and all those responsible for the planning and the building of the John F. Kennedy Memorial Library in Boston, which was dedicated this past weekend. I am confident that this new institution will make genuine contributions, in the years ahead, to our understanding of an especially significant period in modern American history.

I might add that I think that it was appropriate that, in company with an array of other distinguished Americans, President Carter was present to lend his voice to an event honoring the memory of one of his predecessors, who is remembered so fondly by so many Americans for the spirit that he brought to his duties.

John F. Kennedy has become an integral part of the corporate memories that we all share of the early 1960's. His charm, wit, and engaging personality allowed him to inspire his contemporaries to excel in their personal endeavors, and he was thus able, in large measure, to challenge this country, as only a few can in any era, to stretch itself to its full stature in meeting the challenges that faced it. This grasp for excellence was perhaps best represented and rewarded by the triumphs of the American space program that President Kennedy so heartily encouraged and promoted. President Carter accurately paid tribute to the spirit that informed President Kennedy's years in office, when he alluded to "its sense of progress and adventure and, above all, the joy of high purpose, and great achievement."

Mr. President, I know that I speak for millions of our fellow citizens in extending to Senator KENNEDY and his family sincere congratulations on the completion of this project in Boston, and I offer my commendations to the architect and builders of the Kennedy Library, who have captured so well in artistic form, the spirit of an outstanding American President.

A LAMP THAT SHED MORE THAN LIGHT

Mr. ROBERT C. BYRD. Mr. President, Sunday, October 21, marked the 100th anniversary of the invention of the first durable incandescent lamp, by Thomas Alva Edison. Perhaps more than any other single modern device, the incandescent lamp has revolutionized the life of mankind; not only did the electric light bring illumination to darkened homes, businesses, and streets, but the electrical transmission system that eventually enveloped America, and now extends into vast areas of the world, promoted the invention of scores of other electrical devices, machines, and instruments. Edison himself went on to develop the motion picture camera, the fluorescent light, the dictating machine, the fluoroscope, sound movies, and dozens of innovations that have become vital to our economy and way of life. Other inventors and technicians, building on the foundations Edison laid, have adapted his ideas to improve our lives and even, in many instances, to save our lives, with instruments and machines that would have been considered magical or impossible only short generations ago.

Mankind—and Americans in particular—owe Thomas Edison and those scientists and inventors who worked with him at his Menlo Park, N.J., laboratory, a genuine debt of gratitude for the contributions they have made to our civilization. Electricity has become an indispensable part of our way of life, not only helping to dispel the darkness, but

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

also aiding in the amelioration of living conditions to which Thomas Hobbes might have referred as "mean, brutish, and nasty."

But the work of Edison and his team at Menlo Park should hold a greater significance for Americans than is represented by the practical results of their labors. The Edison group epitomized, perhaps as never before or since, the American genius for creative invention and innovation. In the 8 years of its existence, the Menlo Park laboratory produced 420 patented inventions, and by 1879, Edison was averaging 2 new patents a week.

Currently, the United States is facing a number of serious technological challenges, many of which are energy related. Moreover, the need to increase the productivity of American industry and business, suggests that the spirit of inventiveness is just as relevant now as in the past.

Every effort should be made to encourage the full exercise and expression of technical genius and invention in this country. The physical universe has proved to be a veritable treasury of hidden resources that, in recent generations, has surrendered unbelievable wealth to persistent and disciplined research. Perhaps, a genuine answer to the energy crisis is lying at hand, waiting only for the penetrating insights and patience of a latter-day Edison.

I hope, Mr. President, that responsible individuals at all levels of American society—above all, in our schools, in the government, and in business and industry—will be awake to the possibilities for innovation, and will deliberately nurture and promote programs and efforts to find new solutions to old problems, and greater resources to confront current dilemmas. Unfortunately, a certain antitechnological attitude has developed among some segments of the population in recent years, whereby history is rewritten, and the hardships, suffering, and deprivation of the past are overlooked in an effort to attribute to the primitive and arduous life of a century ago, an attraction that our grandparents and great grandparents would have never recognized in their daily struggles. Because life was so hard for them, our forebears reached into the unknown in order to discover ways to make our lives easier and more abundant. In their efforts, they made this the most technologically advanced civilization in the history of the world.

This is a tradition that we must perpetuate. Moreover, in this fashion, we can best insure that America remains in the advance guard of human progress for generations to come. This, it seems to me, is part of the legacy that Thomas Edison fostered, and which is now inherent in the American heritage.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I yield such time as the Senator from Vermont may desire.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

Mr. STAFFORD. I thank the distinguished Senator from Alaska, the acting minority leader, for yielding.

THE INTERNATIONAL PARLIAMENTARY UNION

Mr. STAFFORD. Mr. President, in the 95th Congress, the Senator from Vermont took three special orders to discuss the history, the organization, the purposes, and the meaning of the International Parliamentary Union, an international body of parliamentarians to which the United States has belonged for a great many years. About 80 nations now generally attend the meetings of the International Parliamentary Union.

The most recent meeting of the International Parliamentary Union, with 80 nations in attendance, was held in Caracas, Venezuela, in September.

The history of the organization, which I discussed in the last Congress, of course, has not come to the attention of the Members of the 96th Congress, and with a substantial turnover in Congress since the 95th Congress, especially in the Senate, it seems to me to be desirable to place a new brief history of the International Parliamentary Union in the RECORD at the present time.

It so happens that a very interesting and short history of the 90-year existence of the International Parliamentary Union from 1789 to 1979 was recently published in one of the official documents of the union.

Mr. President, I ask unanimous consent that that brief history be printed in the RECORD.

There being no objection, the history was ordered to be printed in the RECORD, as follows:

THE INTER-PARLIAMENTARY UNION 1889–1979

(By James Douglas)

Few, if any, members of those different Parliaments who were gathered together in the Victorian splendour of the Hotel Continental in Paris at the end of June 1889 could possibly have conceived that ninety years later the inter-parliamentary movement, which they were then launching, would draw together members of eighty Parliaments from every part of the world, and would be an international political organization in its most modern sense. Today, indeed, the IPU still stands as the only worldwide inter-parliamentary body.

The primary aim of those early Conferences was to advance the idea of international arbitration, and the first three resolutions adopted at that session refer specifically to arbitration. In fact the title "Inter-Parliamentary Conference for International Arbitration" was to continue until 1899 when the present nomenclature was adopted.

In those early days at the end of the last century, inter-parliamentary co-operation was based to a great extent on meetings and personal exchanges between men who had a common background of similar political systems based on like principles. As the Conferences became regularized and sessions were held in Paris, London, Brussels, Rome, Budapest and other European capitals, so the organization and administration of the new body were set up. Statutes and Rules were approved, a Secretary General appointed and in 1892 the Conference sat in the Chamber of the Swiss Federal Council.

By the time of the Hague Conference of 1894, at which fifteen Parliaments were represented, a number of organizational questions were finalized and an important step was agreed to in accepting a proposal for a draft convention for a Permanent Court of Arbitration. The draft was adopted a year later at Brussels and later submitted to Governments. The initiative led directly to the convocation of the first world peace conference at The Hague in 1899, which in its turn led to the creation of the Permanent Court of International Justice. The Convention adopted by that conference was based to a large extent on the draft prepared by the Union. It was a significant political achievement and the IPU through its activities had succeeded in exercising considerable influence on Government policies.

This initial success was to be matched some years later in 1904 when, following the St. Louis Conference, an IPU delegation was received in the White House by President Theodore Roosevelt who responded to the requests of the delegation and the terms of the resolution adopted at St. Louis by convening a second world peace conference.

These early successes of the Union are, of course, merely half-forgotten matters of history today, but at that period they demonstrated very clearly the power of Parliaments and parliamentarians acting in concert to influence governmental decisions.

In the early years of the present century the topics discussed at Union sessions had begun to widen in scope and social and economic questions found their way on to conference agendas. Also during this period the IPU was to be structured in a form which has changed but little down the years. This was the plenary Conference, the Council with two members from each Group and the Executive Committee, with a permanent Secretariat to service and advise the various organs. This structure has been preserved with very few changes until the present day.

Until 1909 the seat of the Union's Secretariat had been in Bern with Dr. Gobat, a Swiss member of Parliament, as Secretary General. However, with the appointment of a paid Secretary General, nominated by the Council, in the person of Dr. Lange of Norway, the new secretariat offices, and from that date, one could say the Union's headquarters, were located in Brussels. Later, through the stresses of war, they were transferred to Oslo and later still to Geneva.

It was in that same year, 1909, when the Secretariat went to Brussels that the Council President at the time, Auguste Beernaert, of Belgium, was awarded the Nobel Peace Prize. In fact no fewer than six famous figures in the early life of the Union were to be similarly honoured. They were: Sir William Randal Cremer (United Kingdom) a co-founder of the Union, Frédéric Passy (France) a co-founder of the Union, Albert Gobat (Switzerland), Auguste Beernaert (Belgium), Henri La Fontaine (Belgium) and Fredrik Bajer (Denmark). These six were to be followed by a seventh in 1921 when Dr. Christian Lange (Norway), the Union's Secretary General, was similarly honoured.

By 1912, when for the first time the Secretariat itself organized a conference at the University of Geneva, the resolutions to be considered by the plenary meeting were already being prepared by eight Study Commissions, one of which, interestingly enough, was concerned with aerial warfare. At the time a new wording for the first article of the Union's Statutes was adopted and it is of interest to compare its wording with that of the present text. This early version read as follows:

"The IPU has for its aim to unite in common action the Members of all Parliaments constituted in National Groups in order to bring about the acceptance in their respective countries, either by legislation or by international treaties, of the principle that differences between nations should be settled by arbitration or in other ways either amicable or judicial. Its aim is also the study of other questions of international law and in general of all problems relating to the peaceful relations between nations."

The present text reads:

"The purpose of the Inter-Parliamentary Union is to promote personal contacts between members of all Parliaments, constituted into National Groups, and to unite them in common action to secure and maintain the full participation of their respective States in the firm establishment and development of representative institutions and in the advancement of the work of international peace and cooperation, particularly by supporting the objectives of the United Nations. With this end in view, the Inter-Parliamentary Union shall express its views on all questions of an international character suitable for settlement by parliamentary action and shall make suggestions for the development of parliamentary institutions, with a view to improving the working of those institutions and increasing their prestige."

However, the consolidation and progress which were then being made apace in Union affairs were to be cut short by the outbreak of war in Europe in 1914. Nevertheless, the links which had been forged during twenty-five years of inter-parliamentary collaboration were taken up again with renewed vigour in 1919, at a time when the Union was able to look forward to a bright future working for peace alongside the newly-formed League of Nations. The IPU warmly welcomed the formation of the League and in a decision taken then said that it would do all it could to make the League stronger and more democratic. The text of this decision was transmitted officially to the Council of the new League where it was welcomed as a significant proof of parliamentary co-operation.

Although there were only nine Parliaments represented in the first Council session after the war, membership was soon to grow and by the nineteen twenties the Organization became widely representative, although still primarily European. It was in those years that the Union took up study of diverse social, political and economic problems, and many of the studies undertaken and resolutions adopted mirrored work being done by the League and the International Labour Organization. But there was no loss of impact as many IPU members also represented their respective countries in the councils of the League and ILO. Thus, it can well be appreciated that the IPU was very much in the centre of the international political arena of those times. There was indeed much talk of transforming the IPU into an official arm of the League in much the same way as the link which exists today between the European Parliament and the European Economic Commission. However, despite the fact that both the League and the ILO had appointed official liaison officers to the IPU, no further formal steps were taken and the Union remained completely independent.

In 1925 the IPU was once again to hold its plenary conference in the New World, following the St. Louis meeting of 1904. This time the session was divided between Washington, where a session was held in the Capitol, and Ottawa. Significantly, it was the first time that a large number of Latin American Parliaments had been represented at a Union meeting, no fewer than thirteen having sent delegations. Indeed, towards the end of the twenties the Union was attracting over thirty Parliaments to sessions and delegates very often numbered over four hundred. These figures may seem small by today's standards, but at the time they reflected the importance and prestige of the Organization, which, apart from the League itself, was one of the major international political bodies in existence.

At the beginning of the thirties the Union was faced with the thorny problem of Fascist Italy and Nazi Germany; the first time that a deep political division between members had divided the Organization. The Swiss took a strong stand on the German question and at the 1933 Madrid session the Council adopted a firmly-worded text setting out the Union's views on the rights and freedoms of the representative system. No direct mention of any particular country was made, nor were personalities involved, but nevertheless the decision taken had its effect in both Germany and Italy.

As the thirties drew to a close, IPU meetings tended to reflect the mounting tension in Europe and the Union's fiftieth anniversary was celebrated in Oslo amidst gloomy political prognostications. In fact, the Norwegian Foreign Minister took "while there is life there is hope" as a theme for his speech.

Naturally enough, the second world war brought about complete disruption of inter-parliamentary activities. The Secretary General was isolated in Geneva with his small staff at the Union's headquarters, the President of the Council remained in Belgium and, finally, there was an Acting President at the House of Commons in London. Thus, it was not until the spring of 1946 that any large scale inter-parliamentary activity resumed.

One of the first moves made when IPU meetings started again was to request consultative status for the Union with the United Nations, and this was immediately granted under Category A. This was satisfactory as far as it went, although the Union was never able to make its voice heard directly at the UN on political questions since its accreditation was to the Economic and Social Council.

Partly as a result of the war and partly due to a general broadening of ideas and a more international posture, the Union was to see a large number of new faces at its meetings. At the Rome session in 1949 no fewer than sixteen Parliaments from Asia, Africa and Latin America were represented. As the Union increased the scope of its membership, so it also expanded in another direction. This was through the creation of an autonomous section called the Association of Secretaries General of Parliaments, which was actually brought into being just before the war but which assumed much of its later importance in the immediate post-war years. The purpose of the Association was to bring together Clerks and Secretaries General from widely differing legislatures in order to exchange ideas on the procedures and administration of their national Parliaments, and in addition to make detailed studies of different Constitutions. The Association's journal "Constitutional and Parliamentary Information" is required reading in parliamentary secretariats throughout the world. At present the Association has well over one hundred members from more than fifty countries.

The influx of Third World countries brought about changes in the Organization, for example the word "decolonization" began to make regular appearances on Conference agendas.

However, in the mid-fifties more dramatic events took place when the Soviet Union and other socialist countries of Eastern Europe adhered to the inter-parliamentary movement. These new Groups were to bring new drive and energy to Union debates and they heralded a wind of change in Union affairs. At a stroke the IPU became more representative of world parliamentary opinion and so its decisions and the points of view expressed were more broadly based. Many of the positions adopted by the Union at this time were taken up in advance of similar attitudes adopted by the United Nations on matters of current international concern.

Hand in hand with the new and more representative character of the IPU was the policy adopted in the late fifties of holding sessions regularly outside Western Europe. The first plenary Conference to take place in Eastern Europe in the post-war era was held in Warsaw (and the Executive Committee session after the Conference, in the Kremlin). Conferences were also organized in Thailand, Japan, Brazil (2), Australia and Senegal. The Union was also to return to Japan and Australia in later years. Today the Union, of course, meets regularly in Parliaments throughout the world.

Another significant change at this period when membership was growing rapidly was the fact that many of the newly-formed Groups consisted of Parliaments as a whole, i.e. all members of Parliament were automatically members of the Group. But this in no way hampered the importance of individual contributions to debates. Divergent opinions emanating from members of the same Parliament continued to be heard, thus reflecting different political points of view, and, per se, the value of inter-parliamentary collaboration.

When the Union moved to its new headquarters in the spring of 1965—a lovely eighteenth-century mansion leased to it through the courtesy of the Geneva authorities at a reasonable rent—another step forward was taken in the Organisation's development. This was the establishment of the International Centre for Parliamentary Documentation and its excellent parliamentary library. As its title suggests, one of the primary aims of the Centre is the systematic collection of documentary information on the structure and functioning of legislative assemblies, and to make this information widely available to all those interested in the parliamentary system of government. Concomitant with this essentially reference function is another more positive approach, namely the organization of symposia on current parliamentary problems. The first of these was held in 1965 and three have been held since then. The participants at these symposia include not only members of Parliament but also Secretaries or Clerks of Parliament, academics and specialists in the matters under discussion. Very fruitful exchanges have taken place at these meetings, which do not aim at formulating solutions or recommendations but rather at comparing different points of view and experiences. All these symposia have proved eminently successful and provide a unique international forum within the Union for the full and frank discussion of parliamentary problems.

Another new phase in the life of the Union came in 1971 when, on the basis of a recommendation made by the Council and supported by the Swiss delegation, a headquarters agreement was signed between the IPU and the Swiss Federal authorities. This provided for implicit recognition of the Union as an inter-State organization, and the agreement was on the lines of the agreements previously signed between the Swiss Government and the UN and its Specialised Agencies. This headquarters agreement was of considerable significance, as it gave the Union a presence in Switzerland which it had not enjoyed before.

In recent years the Union has been concerned with a number of new projects and initiatives, and mention has to be made particularly of the following, all of which will have their effect on the future history of the Organization: a programme of technical co-operation aimed at helping the Parliaments of developing countries to improve the technical means at their disposal in formulating legislation (this programme is

being carried out in conjunction with the United Nations Development Programme); study seminars for Secretaries of National Groups; a comparative study of Parliaments throughout the world (the English-language first edition of this remarkable reference manual is already out of print); the stimulation of parliamentary action in line with intergovernmental conferences on European security; and work at the parliamentary level on pollution problems in the Mediterranean.

These are only a few of the varied initiatives taken by the Union in the past few years, but perhaps it might be of interest to draw this historical résumé to a close with a reference to some recent valuable work by the IPU in the field of human rights. A Special Committee has been set up to study complaints received by the Organization regarding the violation of human rights, whether by arbitrary arrest or ill treatment, of members of parliament in various countries of the world. Here the Union has been taking direct, and it may be added successful, action in defence of the rights and privileges of the parliamentarian, and by so doing has been fighting for the preservation and strengthening of the parliamentary system. This is indeed a new activity intimately linked with the aims and objectives of the Organization as they have developed over the years. No further example is needed to show that at ninety years of age the Union is not only in good health but also regenerating itself and flourishing.

Mr. STAFFORD. Mr. President, before I yield the floor to my distinguished acting leader, let me add that the next meeting of the International Parliamentary Union will be in Oslo, Norway, about Eastertime next spring. Although that is quite a ways away, if any Members from the Senate are interested in attending that meeting now would be a good time to start thinking about it.

My office or that of Senator WILLIAMS of New Jersey will be pleased to supply information about the activities that will occur there.

Finally, at an early date the Senator from Vermont will place in the RECORD the resolutions which were adopted in the final plenary session of the International Parliamentary Union at Caracas so that Members of the Senate who wish to can be aware of the subjects that were discussed then, the resolutions that were adopted in connection with them.

I will also place in the RECORD copies of the resolutions which will be discussed in Oslo and later in East Berlin during the fall meeting of the IPU in 1980.

I thank the distinguished acting minority leader for yielding.

ALASKAN ESKIMOS HIT OUTER-SEA OIL SEARCH

Mr. STEVENS. Mr. President, I read with interest two articles which appeared this weekend in national papers concerning Alaska as an energy-producing State. The appearance of these two articles illustrates the complexity of the decisions that Alaskans are facing with respect to developing our natural resources.

The Sunday New York Times article entitled "After Only Two Years, Alaska's Pipeline Proves Its Worth" describes how the pipeline has provided the Nation with 872 million barrels of domestic energy at a time when we are at the mercy of foreign producers.

The Sunday Washington Post article discusses the development of another Alaskan oilfield, the Beaufort Sea, and the concerns that Eskimos have that drilling there might be harmful to their traditional way of life.

I supported actively the construction of the oil pipeline, because the energy was vitally needed and I was convinced it could be built in an environmentally sound manner. As New York Times writer Wallace Turner notes, It took an act of Congress to shove aside the objections of environmentalists.

Today, it is the Interior Department of the United States that is actively and aggressively pursuing the leasing of Beaufort Sea tracts for exploratory drilling. I question whether this is an environmentally sound or wise move. According to the Post article, a U.S. National Oceanic and Atmospheric Administration report indicates that there is little hope that spills could be contained in arctic waters. A spill could significantly damage whale and fish species upon which the Eskimos depend.

Having always been in the forefront in urging this Congress and the President to adopt policies that would allow us to develop our domestic resources, as I mentioned earlier, I seriously question whether the policies that are being pursued now with regard to the Beaufort Sea are wise.

I intend to continue to urge the President and the Interior Department to allow exploration of Alaska's onshore resources where there is technology that is already developed to allow that exploration to go forward in a safe manner. But, Mr. President, nowhere else in the world would the drilling offshore take place when the resident people object so strenuously.

I hope that both the Interior Department and our own State government will listen to the pleas that are coming from the Arctic Slope, from the Eskimo people there, to be careful with the development of the Beaufort Sea.

Mr. President, I ask unanimous consent that these articles be printed in the RECORD at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

ALASKAN ESKIMOS HIT OUTER-SEA OIL SEARCH

(By Lou Cannon)

BARROW, ALASKA.—In the language of the Inupiat Eskimos who inhabit this barren land 300 miles north of the Arctic Circle, there are six words for "ice" and none for "time."

But time is now a major issue for the Eskimos on Alaska's North Slope in what they see as a struggle for survival against the U.S. government and the nation's major oil companies.

The battleground is the ice-clogged Beaufort Sea, one of seven encircling the Arctic Ocean. It is here that the Eskimos are pitting the hunting folklore of their forefathers against modern technology in an attempt to block the search for more Alaskan oil.

The state and federal governments plan to auction 514,000 acres in the Beaufort Sea later this year for oil exploration in a quest to push the search for energy from Prudhoe Bay out into the sea itself.

The oil companies, which are expected to bid handsomely for the leases, are confident about their ability to meet the challenge of an ocean commonly menaced by Arctic storms, huge ice ridges and five-mile-long icebergs.

But the Eskimos, who eke out a subsistence living in the villages of the North Slope and who are backed by a group of dissident scientists, warn of possible environmental disaster if the oil companies are allowed to drill in the sea.

"It's like going to the moon," said Patrick L. Dobey, former chief geologist for the State of Alaska. "There are risks that affect the entire North American continent, and we're not even sure what they can be."

At the outer limit of concern is the fear expressed in a 1978 study of U.S. Arctic policy conducted by the University of Virginia's Center for Oceans Law and Policy. That study contends that spilled oil would flow under the ice, become absorbed in it and, after several years of surface melting and subsurface freezing, reach the surface of the Arctic ice pack. The dark oil then would cause the pack to absorb more sunlight, prompting a melting that could affect the world's climate.

More immediately, the Eskimos worry that oil spills—or even the oil drilling construction itself—will harm or drive away the bowhead whales, seals and fish upon which they depend for their livelihood.

In hearings at Barrow and Kaktovik, villages which oppose the lease sale, older Eskimos talk of islands which disappeared forever under the ice onslaught. They talk of ice override, which happens when a great iceberg strikes an island and the topmost ice continues to move forward. Sometimes the ice shears off the top of an island, as it presumably would do to oil drilling equipment.

While acknowledging the difficulties of drilling in the outer Beaufort, oil company spokesmen say they can use land-drilling technology within the barrier islands three to 15 miles from the Beaufort shore.

Essentially the companies would build huge gravel islands in the shallow sea and extend the land. But Thomas Nabagak, an Eskimo spokesman, tells of one ice movement in 1974 that damaged a building at Bullen Point 30 feet above the waterline and well within the barrier islands.

The testimony of Eskimos is important because much of the relatively little that is known about the behavior of ice in the Beaufort Sea has come from the Eskimos, whose people have hunted and fished in this area for thousands of years.

The Eskimos' testimony has come in painstakingly written affidavits collected by legal services attorney Michael I. Jeffery and submitted in a bundle to hearing officers. The oil companies, in the meantime, flew in experts from the Gulf States to tell about their safety precautions.

The federal-state joint sale of leases for the Beaufort Sea is now scheduled for December. Those waters are owned 70 percent by the state and 20 percent by the federal government. Ownership of the remaining 10 percent is in dispute.

Major oil companies—including Standard Oil of Ohio-British Petroleum (Sophio-BP), Chevron and Atlantic Richfield—want the lease sale to take place now so that oil production can begin in eight to 10 years when the flow from Prudhoe Bay is expected to decline.

Gov. Jay Hammond, a sometimes conservationist, promised in his 1978 re-election campaign that he would move forward on the Beaufort sale.

But the biggest push has come from the Carter administration, whose representatives view Arctic oil and natural gas production as an essential element in the campaign to make the United States energy-self-sufficient.

The oil industry also is pushing for the lease sale without further delay. "Quite

frankly, the political climate is right for it now. Next year at this time we could have a lame-duck president and an organized opposition intent on killing the sale, not just delaying it," said an industry source.

Ice in the Beaufort Sea usually breaks up around the beginning of June. If a blowout occurred in the spring, the oil almost certainly would enter the water and damage the wildlife of the area, one of the major gathering place for North American migratory waterfowl.

If a blowout occurred during winter when the ice was fast, oil industry spokesmen say it would be easier to clean up that a spill on dry land. They acknowledge, however, that cleanup would be difficult in Arctic waters. Many studies—including an environmental impact statement generally supportive of the Beaufort drilling—question whether a cleanup in water could be performed at all. An unpublished draft evaluation by scientists of the U.S. National Oceanic and Atmospheric Administration's outer continental shelf program reached this conclusion:

"We acknowledge that spill control technology is poor at best, nonexistent in moving ice and probably conceptually in stable fast ice capable of supporting cleanup operations."

The panel agreed that any drilling should end by March 31 each year. The oil industry is pushing for a May 31 drilling deadline.

There is a battleground of place as well as time. The North Slope Borough government, which has headquarters in Barrow, and the native-owned Arctic Slope Regional Corp. have endorsed the sale but asked that six conditions be imposed. The most significant would prohibit drilling beyond the barrier islands which separate the outer Beaufort, where depths range up to 60 feet, from the inner shallow sea depth of half this depth.

Eben Hopson, the legendary, mayor of the borough, has been fighting against outer-sea exploration for years, telling anyone who will listen that "nothing will stop the ice out there." The proposed December lease sales contain all of the tracts beyond the barrier islands.

Tim Bradner, a Sohio-BP spokesman who has the respect of the borough government, acknowledged that the industry lacks the technology to drill in the outer waters of the Beaufort. But he said that the only way the oil companies will make the tremendous expenditures needed to create such a technology is if they have leased the land and know they can develop it. Until the technology is completed, drilling will be confined to the shallower waters where on-land techniques can be used, Radner said.

Raymond Neakok, a relatively uneducated Barrow whale hunter, once worked for an oil company as a laborer. Patrick Dobey spent 16 years in a position of trust as a major oil company geologist. They both say that the leasing governments should erect platforms or other structures in the Beaufort without drilling, and leave them there to see what happens to them. Neakok, however, is confident that they would not withstand the Arctic ice for long.

The Eskimos themselves are deeply divided over the impact of the lease sale. Some think their regional corporation has sold them out for future profits. The week after the corporation gave its conditioned endorsement of the sale, elders of the village met in Barrow and opposed it.

But corporation officials believe they have recognized a future made inevitable by the desperate American need for oil and gas.

"We think we have more chance to influence conditions of the sale if we endorse it," said Edward Hopson, the mayor's brother and president of the regional corporation. "One way or the other, there is going to be some drilling out there."

The borough government also has been working against the December sale date to try to influence conditions. The borough's chief tool is a coastal zone management program, copied from California and improved, that would give the Eskimos significant control over the specific areas of oil construction. Whether this zoning will occur in time to accomplish its purposes remains an open question.

Surprisingly, in a state that has been a magnet for environmentalist action, the Beaufort sale has caught conservationists in some disarray.

"All our resources, our best and our brightest, have been poured into the controversy over D-2 (Alaska wilderness) lands," says one prominent environmentalist. "My nightmare is that we will some day have to choose between oil exploration in the Arctic Wildlife Range, which we've pretty well sewed up, and the Beaufort, which we haven't. God help me if it's a choice, but the Beaufort is more vulnerable."

AFTER ONLY 2 YEARS, ALASKA'S PIPELINE PROVES ITS WORTH

(By Wallace Turner)

SAN FRANCISCO.—The Alaska pipeline was authorized in 1973 only after intense Congressional debate. By most measures, the pipeline—which began delivering North Slope oil nearly two years ago—has turned out to be an immensely valuable addition to the national industrial plant. The 800-mile line has delivered 872 million barrels of oil when the United States needed them most.

Last week, Interior Secretary Cecil D. Andrus endorsed a proposal for tidying up distribution difficulties. Mr. Andrus urged President Carter to authorize a route for a new pipeline that would transport excess Alaskan crude from Puget Sound across five states to the Middle West.

Constructed at a cost of $8 billion, the Alaskan pipeline tapped the 10-billion-barrel oil pool that was discovered in 1968 on Alaska's North Slope. The line also will serve other fields that geologists believe exist elsewhere in the Alaskan Arctic.

The line is an engineering marvel, delivering oil in impressive quantities. (It took 42 days for the highly publicized Mexican oil spill in the Gulf of Mexico to release as much oil as the Alaska pipeline delivers in one day.) It traverses miles of frozen soil, crosses the bleak Brooks range and the Yukon River. It functions in blizzard winds of 100 miles an hour at 50 below zero or endless summer days when a sun that never sets runs temperatures up to 90 degrees. Grizzlies wander beneath it, and caribou scratch themselves against its supports.

The line could be built only after Congress shoved aside the objections of environmentalists. Special legislation created a pipeline right of way that was immune from legal attack. Delays, inflation and the complications of doing something that had never been done before caused the line to cost hundreds of millions of dollars more than had been first estimated. The expense was such that when the line began delivering crude to the tankers in late summer 1977 the oil companies that built the pipeline and owned the oil were all hard-pressed financially.

Today, they are not. The pipeline delivers 1.3 million barrels of oil a day—soon to be 1.5 million a day—to Valdez. From there most of the oil goes by tanker to refineries in Washington and California which have been unable to process it all. The West Coast surplus is now shipped through the Panama Canal to Gulf of Mexico and East Coast ports.

This added transportation cost has distressed the oil companies, but until Secretary Andrus's recommendation to President Carter last week the Federal Government had done nothing to help them. Congress refused to let the oil companies sell the excess crude oil to Japan because of possible political repercussions. Prohibition against such exports were part of the Alaska Pipeline Authorization Act. "We sure are not going to change it," said Senator John Melcher, Democrat of Montana, an author of the right of way bill when he was in the House of Representatives.

A LINK TO THE MIDWEST?

But there already is a considerable exporting of profits from the Alaska pipeline and the North Slope fields. The British Government owns 15 percent of the Prudhoe Bay oil production. In 1964-67, British Petroleum, Ltd., was one of the companies which paid a total of $12 million for leases in what became the Prudhoe Bay field. After the field was discovered and its dimensions fixed, it was found that BP's leases covered 53 percent of the oil. The British government owns 51 percent of BP. Nearly ten years ago, BP traded its Prudhoe Bay oil for 52 percent of the stock in Sohio, which was in danger of fading out as an important oil company because it had no reserves. Now Sohio operates as an affiliate of BP. Exxon and Atlantic Richfield are major owners at Prudhoe Bay while Mobil, Phillips, Union and Amerada Hess all have small interests.

Because it has no refineries or service stations in the West, Sohio has suffered most from the need to ship oil to the Gulf of Mexico. It currently moves about 250,000 barrels a day through the canal at an added cost of about $3 a barrel, a spokesman said.

When the Prudhoe Bay field was discovered in 1968, oil sold for $5 a barrel. By the time the pipeline was authorized in 1974, the Organization of Petroleum Exporting Countries shoved the price up to almost $10. Today, the Prudhoe Bay crude brings $20.50 delivered to the refineries in San Francisco Bay. That's a little over $10 billion worth a year which the Alaska pipeline trims off the adverse balance of payments total.

Secretary Andrus's recommendation last week was that President Carter authorize the Northern Tier Pipeline Co. to build a 1,500-mile line to carry about 700,000 barrels of oil a day from a tanker terminal in Puget Sound to a link with other existing pipelines in Clearbrook, Minn. The new line would run across Washington, northern Idaho, Montana, North Dakota and Minnesota to meet lines that connect the East and Gulf coasts with refineries in the Middle West. Along with 500,000 barrels a day of Alaskan oil, it would carry supplies from the Persian Gulf, Indonesia and Africa. These would benefit refineries in the northern tier of states, particularly those around Billings, Mont., that process about 150,0000 barrels of crude a day to supply Montana, upper Idaho, eastern Washington, and parts of Utah and Wyoming. Refineries in the Minneapolis and Chicago area would get the rest.

The Northern Tier line also would distribute oil from new production in Alaska. This summer Atlantic Richfield announced that it was developing the Kuparuk field, which partially overlies the Sadlerochit formation at Prudhoe. Plans are for eventual production of 120,000 barrels a day from the Kuparuk formation, an Atlantic Richfield spokesman said. In December the Alaskan and Federal Governments jointly will sell drilling rights offshore in the Beaufort Sea, which lies next to the Prudhoe Bay field. Oil geologists have described the Beaufort as the most promising area for exploration currently under consideration in the United States.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR PROXMIRE

Mr. ROBERT C. BYRD. Mr. President, I believe I have 3½ minutes remaining

that I would like to yield to Mr. PROXMIRE.

Mr. PROXMIRE. I thank my good friend.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I understand I have 15 minutes on my own, and the additional 3½ minutes just yielded.

PRESIDENT CARTER SHOULD STOP USING FEDERAL SPENDING FOR RENOMINATION AND REELECTION

Mr. PROXMIRE. Mr. President, President Carter deserves credit for many things. He has won a peace agreement in the Middle East which appeared to be absolutely impossible before his intervention. During the many agonizing months of disagreement between Israel and Egypt, the prospects of a peace treaty seemed ridiculous, a laugh. But the President persisted and pulled it off. The result: We not only have the absence of war in the Middle East, but we have a constructive basis for economic progress. Yes; the region is far from the kind of mutual cooperation we enjoy in this hemisphere, but the long-healing process of living together and working together has begun, thanks to President Carter.

Here at home the President's popularity has indeed suffered the consequences any President suffers when the country endures economic travail and the inflation is heartbreaking for millions of Americans. But the economy also now provides more jobs than ever before in our history. We now have the largest proportion of our population working that the country has ever enjoyed under any administration in the 200-year history of the Republic.

I recognize President Carter as an extraordinarily decent man of strong religious convictions. He is intelligent as any fair-minded observer of his press conferences would have to agree.

I say all this first, Mr. President, because what I am about to say is critical, strongly critical, of the President, and I say it with a heavy heart and recognizing that he is not only not the first incumbent President running for reelection to make the mistake he is making, but he has all kinds of company in this transgression I am about to discuss from former Presidents of both parties.

The President of the United States has enormous discretion in holding down or increasing Federal spending, and even more in determining what States and cities will get that spending.

The power of the President over spending and the amount of that spending exceed by many times what it was a few years ago. Consider: Since 1957, Federal spending in our cities has increased from about $2 billion a year to about $85 billion. According to a recent Brookings study, our cities have become overwhelmingly dependent on the Federal Government. Brookings points out that whereas in 1957, the Federal Government provided the cities with $1 for every $100 the cities raised through their own taxation, today the Federal Government contributes in many of our major cities a mammoth 50 percent of what the city raises.

Our cities have become Federal aid junkies.

And the President has immense discretion to bless each city with a spending bonanza or choke them off with a great deal less.

The multi-billion dollar a year public housing program, for instance, makes more than a third of our entire population theoretically eligible, but only about a tenth of the eligibles receive any benefit; and in any one year only about 1 percent of eligible families can move into the program. Who gets the housing? What city? When? That is up to the executive branch. And for that you read: The President.

In recent years we have adopted an urban development action grant program. It provides $675 million a year to the administration to dole out with eligibility standards so broad that any one city may have a 50 to 50 or a 2 in 3 or a 1-in-4 chance of getting assistance in any one year. And who has the immense discretion of deciding who is going to get that $675 million? The executive branch of course. And that means who? With a renomination and reelection coming up that means the President. So the President can nod in any direction he pleases, at any time. What a potential bonanza to a renomination and reelection campaign.

And consider public works. Here again are billions of dollars of expenditures with immense discretion for the President to support, withhold, promptly fund or delay.

Now let us be fair. President Carter is certainly not the first President to play Santa Claus with the taxpayers' money at election time. President Ford did it. President Nixon did it. LBJ did it in spades.

So it may be unfair to criticize President Carter. But this practice is outrageously wasteful. It is conspicuously inflationary. It must stop.

In a year of heartbreaking inflation, it is a sad spectacle to see the President of the United States announce a gush of Federal spending in Florida to be followed by a much broader Niagara of Federal dollars in Iowa, New Hampshire, Illinois, Massachusetts, North Carolina, and on and on down the list.

Recently the President took full credit in New York City for increasing Federal spending in the city by $700 million. A little later he told Chicagoans how grateful they should be to him for increasing Federal spending by $450 million for their city.

With this start the Carter reelection, renomination campaign may cost the taxpayer billions before it is through, and it appears certain to redistribute Federal spending in the billions to critical primary and electoral States from equally eligible and meritorious States that are not regarded as critical in the Carter reelection battle.

The Florida caucuses last week sent a message to the other 49 States:

> If you're smart you'll set up a series of early caucuses and straw polls and the earliest possible primary. That way you can steal all kinds of federal goodies from the rest of the country.

Does it make any sense for the President of the United States to be taking credit for feeding inflation by increasing Federal spending by billions at a time when we are suffering the worst inflation in the Nation's history?

Can anyone doubt that the Chrysler pitch for a three-quarters of a billion bailout is going to be greeted with open arms by the President with a pitch for full credit for his reelection campaign in the States with very heavy Chrysler employment—in the big electoral States of Michigan, Illinois, Missouri, among others?

Some might ask, "What's wrong with this? Is not the President just making a few announcements here and there?" Answer: There is plenty wrong with this. The Florida helicopter training site issue is a case in point.

President Carter may have killed all hopes for a hundred million dollar saving his administration had fought for in the past; and why? He did it to improve his showing in the Florida preliminary straw primary earlier this month.

Consider: For the past 3 years the Department of Defense has attempted to consolidate undergraduate helicopter training at Fort Rucker, Ala., where the Army now conducts its own training program. The Navy training program at Whiting Field, Pensacola, Fla., would be transferred to Alabama.

A series of DOD studies, an internal audit review, and three GAO reports indicate that consolidation would result in a more effective training system, produce better pilots, save money, and increase efficiency.

The Pentagon calculates the savings at $100 million over 5 years. The GAO estimates the savings at $92 million. The Navy would be the only service branch that could possibly be adversely affected. But the Navy has testified that consolidation will provide significantly more effective helicopter pilot training to Navy's students.

In preceding years the House has always voted for consolidation and saving the hundred million. The Senate has opposed it. The Senate position prevailed because the House conferees led by Representative SIKES of Florida did not back the House position. Now Representative SIKES is gone. This year the Alabama senators have made striking progress in turning Senators around to favor the money-saving consolidation. They have worked hard and done a good job. This was the year for the administration to win its long-fought battle for saving money and improving training.

But with victory in its grasp, what happened? Mysteriously the House reversed itself. Instead of supporting cost-cutting consolidation, on the eve of the Florida caucuses the House suddenly opposed taking the helicopter training from Florida. Why?

Consider: The Defense Department, which had previously lobbied hard for consolidation, this time did nothing. The Office of Management and Budget, which had haunted Congress in urging consolidation, this time, with the Florida caucuses in the offing, just got lost. And the

White House appears to have supported a last minute shift away from consolidation by persuading the New York delegation, among others, to reverse their vote.

Florida has reason to confuse the President with Santa Claus, but the rest of us will have to believe in the tooth fairy and Santa Claus too, not to recognize that the taxpayer seems about to take a $100 million bath to help the President in those Florida caucuses.

And that $100 million cost to the taxpayer may be chicken feed compared to what the 1980 Carter renomination and reelection campaign may cost the taxpayer and the inflation-bedeviled consumer before it is through.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an article from the Friday, October 19, issue of the New York Times by Hedrick Smith, head of the New York Times Washington Bureau, spelling out some of the Federal spending connected with the Carter reelection campaign to date.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHITE HOUSE USING GRANTS TO WOO STATES IN CAMPAIGN

(By Hedrick Smith)

WASHINGTON, Oct. 18.—After more than two years of reticence, the Carter Administration is boldly working the politics of incumbency this fall by directing Federal aid to its political allies and timing aid announcements for maximum political impact on states involved in the early stages of the 1980 campaign.

The Florida caucuses last weekend produced a gush of Federal aid into Florida, but they were only the first stream of what White House officials candidly acknowledge is a much broader Niagara of Federal aid being steered toward Iowa, New Hampshire, Illinois, New York, Massachusetts, North Carolina and Minnesota.

In some cases, friendly mayors and governors are getting what Administration officials call "fast turn-around" decisions on their aid applications. In other situations, where they must engage in competition for Federal money, they are getting favored treatment over Republican rivals or disaffected Democrats with comparable aid requests.

"There hasn't been the rush anywhere else that there was in Florida before the caucuses," said one White House official, "But there is greater practical sensitivity to politics. Everybody is more sensitive when they see Iowa, New Hampshire, Illinois on the list of aid requests. I've never had anyone ask me to stop some project to punish someone. It's more, 'Can we do something to help Ed Koch or some other friend of the Administration?' "

While the President is turning to the strengths of incumbency to shore up his reelection prospects, the man regarded as his chief rival for renomination, Senator Edward M. Kennedy, has decided to speed up his timetable for setting up a national campaign committee. [Page A16.]

Another tactic the President is employing is taking more personal credit for Federal programs that have popular appeal. On his visit to New York last month, he made a point of reminding New Yorkers that under his Administration Federal aid to the city had gone up $700 million. Last Monday in Chicago, he was boasting that his Administration has increased Federal help to the Windy City by $450 million.

At a town meeting in Steubenville, Ohio, in September, he took credit for turning around the dismal economic plight of the steel industry with his program of trigger prices and loan guarantees for troubled steel firms. And in Iowa, not long before that, he was disclosing a major program for rural electrical cooperatives, while his aides publicized a specific $13 million loan for the Cornbelt Power Cooperative in Humboldt, Iowa.

The White House has invited several hundred mayors to a special ceremony this Friday to publicize the Administration's urban program. It will mark the second anniversary of the Administration's urban development grant program, which has awarded close to $850 million in grants that have stimulated $5 billion more in private investments aimed ultimately at creating 138,000 permanent new jobs.

But the publicity about such overall programs is being overtaken by politically targeted efforts that underline local programs with direct impact in politically pivotal areas—a $1.1 billion loan guarantee to a rural cooperative in Palatka, Fla., or a package of transit and economical development aid projects for Berlin, N.H., a region where Mr. Carter did extremely well in 1976 and which is more likely to be susceptible to his blandishments than those of Senator Kennedy in 1980.

In states like Iowa, Pennsylvania, Illinois and Michigan, where the Governor is a Republican, Administration officials say they try to route aid to friendly Democratic mayors in Des Moines, Pittsburgh, Chicago and Detroit, or to work through Democratic allies in Congress. "You sort of have to play each state's politics as you find them," said one White House official.

HUMAN RIGHTS IN AMERICA

Mr. PROXMIRE. Mr. President, American society is unusual in that we have melded so many ethnic, racial, and religious backgrounds into one nationality. Perhaps nowhere else in the world can one find a national population so diverse, and yet still unified as a single people.

Another outstanding aspect of this country is the remarkable success of our constitutional government. It has been severely tried over its long history, and yet it has proven to possess the right combination of strength and flexibility to remain viable today. The essential emphasis of this system is its protection of the rights of the individual.

And here I make my point. In the 30 years that the Senate has neglected the Genocide Convention, many arguments against ratification have arisen and subsequently been successfully rebutted. Today, I would like to dispense with one of the most groundless of these—the fear that America could not stand up to the standards of human rights set by this treaty.

To believe in this argument one would have to hold a terribly low opinion of the United States and be blind to its truly distinguished record on human rights. For as I have pointed out, American society is among the most heterogeneous in the world. And yet in spite of that fact, which would seem to present a great obstacle to the peaceful achievement of an open society, we have a tradition of freedom which is enviable in the world.

Far from being a reason to oppose the Genocide Convention, our history of concern for human rights is one of the greatest arguments for ratification. It seems a fitting and natural extension of American moral values for us to embrace this treaty and the principle which it embodies. Our failure to do so for so very many years now seems like a betrayal of these ideals.

I surely have not meant to imply that our record on human rights is perfect. It has its blemishes. But we should be proud of how few blemishes there are, and we should continue to strive to erase them. I suggest that my colleagues would be hard pressed to find a better start than to ratify the Genocide Convention.

HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1980

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4394.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House further insist upon its disagreement to the amendment of the Senate numbered 12 to the bill (H.R. 4394) entitled "An Act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes."

Resolved, That the House disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 27 to the aforesaid bill; and ask a further conference on the disagreeing votes of the two Houses thereon.

Mr. PROXMIRE. I move that the Senate further insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. PROXMIRE, STENNIS, BAYH, HUDDLESTON, LEAHY, SASSER, DURKIN, MAGNUSON, MATHIAS, BELLMON, WEICKER, LAXALT, SCHMITT, and YOUNG conferees on the part of the Senate.

ORDER THAT H.R. 2440, TO REPEAL THE PROHIBITION AGAINST EXPENDING CERTAIN AIRPORT AND AIRWAY DEVELOPMENT ACT FUNDS, BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message from the House of Representatives on H.R. 2440, to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business of not to exceed 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

ORDER VITIATING THE ORDER FOR RECOGNITION OF SENATOR PERCY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. PERCY be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to the consideration of the nomination of Mr. Robert Krueger, of Texas, to be Ambassador at Large and Coordinator for Mexican Affairs.

The clerk will state the nomination.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Robert Krueger, of Texas, to be Ambassador at Large and Coordinator for Mexican Affairs.

The ACTING PRESIDENT pro tempore. Time for debate on this nomination is limited to 2 hours to be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from New York (Mr. JAVITS).

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that Mr. CHURCH will be here shortly and will make a statement. Therefore, I ask unanimous consent that the time on a quorum call, which I will shortly enter, be charged against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And, Mr. President, I ask unanimous consent that the time allocated to Mr. CHURCH be allocated to Mr. BENTSEN, it being my understanding that Mr. CHURCH wishes Mr. BENTSEN to handle the time on this side of the aisle.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, as chairman of the Committee on Foreign Relations, I want the record to show at the outset that I am particularly proud of the thoroughness with which the committee dealt with the nomination of Robert Krueger to be Ambassador at Large and Coordinator for Mexican Affairs.

After receiving the Krueger nomination in June, the committee held two hearings on it—the first with Mr. Krueger himself, and the second with Deputy Secretary of State Warren Christopher. The hearing record, which has been printed and made available to the Senate, makes it abundantly clear, I believe, how much time and attention the members of the committee devoted to this nomination. Indeed, no ambassadorial nomination in recent years has received as extensive a consideration as this one has.

Mr. President, because of the care given to this matter, I feel particularly comfortable with the committee's favorable recommendation to the Senate. Approved by a vote of 9 to 6, this recommendation is one I firmly support.

As the hearing record shows, our relations with Mexico are more complex than those with any other nation in the world. Accordingly, this relationship calls for special coordination at the highest levels in Washington. The position for which Robert Krueger has been nominated is structured to meet this requirement. His confirmation by the Senate would indicate to our great southern neighbor that we are genuinely serious about getting our own house in order with respect to United States-Mexican relations.

Moreover, Mr. President, I support this nomination because of the outstanding qualifications of the nominee, Robert Krueger. His exceptional academic career, as well as his brief but distinguished service in the House of Representatives, mark him as a man capable of fine public service. As Congressman JIM WRIGHT, the able House majority leader, informed the committee at the beginning of its hearings:

> Bob Krueger is equipped by background, by training, and by the attributes of personality, I believe, to perform a truly significant function for us.

Mr. President, I support the administration's decision to upgrade our relations with Mexico and, consistent with this decision, I will vote to confirm Robert Krueger as Ambassador at Large and Coordinator for Mexican Affairs.

I ask unanimous consent that Deputy Secretary of State Warren Christopher's statement, presented to the Senate Foreign Relations Committee on September 24, concerning the Krueger nomination, be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS BY DEPUTY SECRETARY OF STATE WARREN CHRISTOPHER

I appreciate this opportunity to testify today on the nomination of Robert Krueger for the position of Ambassador-at-Large and United States Coordinator for Mexican Affairs. I welcome this chance to support Mr. Krueger's nomination and to explain why the Department of State believes the position to which he is nominated is highly important for a more rational and effective approach to U.S.-Mexican Relations.

Our bilateral relationship with Mexico is quantitatively different from that we have with any other country. More issues span the dividing line between foreign and domestic concerns, more domestic departments and agencies are involved, and more issues directly involve domestic considerations.

Over the past three years we have sought to develop a bilateral mechanism to deal more efficiently with our complex relationship. Early in this Administration, Presidents Carter and Lopez-Portillo established the U.S.-Mexican Consultative Mechanism for this purpose. Following their February meeting, they directed that the Consultative Mechanism be expanded and strengthened. The Mechanism now comprises eight working groups on such difficult matters as energy, trade, finance, industry and development, migration, border issues, law enforcement, and tourism.

Both the development of the Consultative Mechanism and internal efforts within the U.S. Government to arrive at coherent policies toward Mexico have illustrated the need for a Coordinator for Mexican Affairs. This need became dramatically clear last year during the discussions within the Executive Branch to formulate Presidential Review Memorandum 41, which dealt with our relations with Mexico. These discussions involved so many agencies and people that one senior participant commented that whenever Mexico was the topic, a convention rather than a meeting had to be held.

During the discussion of PRM 41, it was agreed that the interests and activities of their separate agencies required better coordination to deal internally with those subjects that the Consultative Mechanism, at the government-to-government level, was intended to resolve. They therefore recommended a "Special U.S. Representative," for Mexican Affairs.

Prior to the President's visit to Mexico last February, this suggestion was further refined to that of a Coordinator for Mexican Affairs. Then, following the visit, Secretary Vance formally recommended the appointment of an Ambassador-at-Large and U.S. Coordinator, who would serve as the U.S. Executive Secretary of the Consultative Mechanism.

The intention underlying the Secretary's recommendation was not to create a second Ambassador to Mexico. Ambassador Lucey has effectively represented U.S. interests, and we do not need a second U.S. spokesman in Mexico City.

Rather, the Coordinator's function would be to develop a coherent, coordinated U.S. policy toward Mexico. He would be responsible for working closely with a high-ranking Mexican official of equal rank and would serve as Chairman of a Special Interagency Group of Cabinet and Sub-Cabinet level officials here in Washington. It is particularly significant that the Mexican Government has recognized a similar need, and Ambassador Andres Rozenthal has since been appointed as Ambassador Krueger's opposite number in Mexico.

The President accepted Secretary Vance's recommendation, and on April 26 nominated Robert Krueger for the position.

Mr. Krueger already has shown his capacity to fill the position for which he has been nominated. With his Mexican counterpart, Ambassador Andres Rozenthal, he has jointly prepared a report on the results of the eight working groups of the Consultative Mechanism, which will be reviewed by Presidents Carter and Lopez-Portillo in Washington later this week. In addition, I have found his advice timely and useful during the final negotiating sessions with the Mexican Government on natural gas.

In summary, the Ambassador-at-Large and U.S. Coordinator is a position that the Administration feels is necessary for improving our bilateral relations with Mexico. Robert Krueger is well qualified to fill the position

and I believe he merits your confidence and your approval.

Mr. CHURCH. Mr. President, the able Senator from Texas (Mr. BENTSEN) is on the floor. It is my understanding he wishes to speak to this nomination. I yield the floor to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. BENTSEN. I thank the distinguished chairman.

Mr. President, I would like to say a few words on behalf of Bob Krueger and the position to which he has been nominated by the President.

Mr. President, this nomination has been pending for months. It was sent to the Senate on June 25 and was the subject of 2 days of hearings by the Committee on Foreign Relations. Few ambassadorial appointments have been so closely and carefully examined by the Senate.

It is also important to understand, Mr. President, that at no time during this lengthy scrutiny has anyone seriously questioned Bob Krueger's integrity, talent, or commitment to public service. I am certain that even those who oppose this nomination would agree with Senator ZORINSKY's characterization of Mr. Krueger:

> From what I have heard, you are highly qualified, articulate, honest, sincere, and many other good things.

As one who has known Bob Krueger for many years and been privileged to serve with him as a member of the Texas congressional delegation, I can personally attest to his ability and outstanding record of accomplishment in the House of Representatives.

So, Mr. President, we are not debating the personality or talent of Bob Krueger today. The only point at issue is whether or not we need the position of Coordinator for Mexican Affairs and whether that post should carry the title of Ambassador at Large.

I agree with the President, the Secretary of State, the Government of Mexico, and the majority of the Committee on Foreign Relations that the position is both necessary and important, and I think Bob Krueger is the right person to fill it.

Some have asked why we need a coordinator, with the rank of ambassador, for Mexican affairs and suggest that such a position would be unique.

I respond that our relations with Mexico are, in fact, unique and call for exceptional efforts on our part. The United States-Mexican border is the only place on this Earth where a fully developed, industrialized nation lives next door, face to face, with a member of the third world. There are nations with which we conduct more trade; there are nations with which we quarrel more; there may be nations of greater strategic or geopolitical importance to us.

But the total context of our relationship with Mexico is unique in its complexity, sensitivity, and all-encompassing nature.

It is a fact that many of the "domestic" actions we take in this country have a direct and immediate impact on our neighbor to the South. Our relationship with Mexico involves water rights, pollution, border sanitation, fishing rights, drug smuggling, tourism, the illegal movement of millions of persons across our border, civil rights, human rights, population control, trade, GSP, border assembly industries, agricultural policy, consultative mechanisms, the whole range of traditional foreign policy concerns, and some very basic questions about the ability of vastly different nations with shared aspirations to live together as neighbors, in peace and prosperity and stability.

If there was ever a bilateral relationship in need of effective coordination—in Washington and in the field—it is our relationship with Mexico. All too often in the past, United States-Mexican relations have suffered from bureaucratic accidents that have their origins in a lack of coordination. I believe and hope the Senate will agree that we need a coordinator with the talent and effectiveness of Bob Krueger. The coordinator must also have the rank of Ambassador and the clout that goes with it if he is to fulfill his important responsibilities.

At a time when our relations with Mexico are particularly sensitive and increasingly important, it would be wrong—it would be counterproductive—for the Senate to reject this nomination.

If there ever were any doubt about it, what are we going to do now that Mexico has gone ahead, believing we knew what we were doing, believing we were going to fill this post, and put in an Ambassador at Large? They have a counterpart to Mr. Krueger. That is Ambassador Andres Rozental.

When President Carter made his last visit with the President of Mexico, the atmosphere was good. It was an informal visit. The exchange was friendly. Progress was made.

The Senate today can help encourage that process by voting in favor of Mr. Krueger's nomination as Ambassador at Large and Coordinator for United States-Mexican relations.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I yield myself as much time as I may require.

Mr. President, we have indeed had 2 days of hearings and they were important hearings, not only with regard to the nomination of Mr. Krueger to be Ambassador at Large, but likewise, with regard to our relationships with Mexico. I certainly agree with my distinguished colleague from Texas (Mr. BENTSEN) that the importance of those relationships cannot be overemphasized. Indeed, a part of the difficulty with the nomination of Mr. Krueger is that it is very difficult to trace why the post has been created and why Mr. Krueger has been selected by the President of the United States to fill it.

This is why the nomination, in fact, received 2 days of scrutiny, much more than we have given to almost any other ambassadorial nomination that I can recall. Let me review the situation, Mr. President.

Presidential Review Memorandum 41 was formulated by the administration in the latter part of last year and circulated, apparently, in the early part of this year.

(Mr. PRYOR assumed the chair.)

Mr. LUGAR. Senator ZORINSKY and I, as chairman and ranking minority member, respectively, of the Western Hemisphere Subcommittee of the Committee on Foreign Relations, have asked repeatedly for access to PRM 41, which is often cited as the rationale for why we should be creating this additional post. Despite these pleas, that request has been denied and, as a matter of fact, the whole committee is, at this point, uncertain of what PRM 41 contains, although I think it is a critical argument that the administration often presents in behalf of doing something more to sustain our relationship with Mexico.

For what is clear, I cite journalistic accounts toward the end of March, one specifically, Mr. President, an article written by Jack Nelson, Washington bureau chief of the Los Angeles Times. It appeared in his paper on March 23, 1979. Mr. Nelson suggests that Patrick Lucey, who has been serving as the Ambassador to Mexico, was about to be replaced and suggested that President Carter had decided to replace him. Furthermore, it goes on to speculate with regard to the relationships of Mr. Lucey and the administration, his effectiveness and his general relationship with the Mexicans. Although the affair is in controversy and, of course, Mr. Lucey has now resigned, there appears to have been substantial activity toward the end of March involving a potential shift of Mr. Lucey back to the homefront.

In the Washington Post of that period, there is a suggestion that Mr. Lucey would be available in Washington with regard to President Carter's reelection campaign. Subsequently, of course, this has not worked out. Mr. Lucey has decided to join the other side, which has complicated affairs and perhaps led to his resignation. For the time being, however, things were thrown into some turmoil as to what to do about Mr. Krueger.

A new post was suggested by the administration—namely, Ambassador at Large, but with respect to a single country—namely, Mexico. This, Mr. President, is unprecedented.

As testimony in the committee pointed out, we have very complex and important relationships in our country with the Soviet Union, for example, with Japan, with Canada, with a good number of countries that are very important to us. Not a single one of these countries has been singled out for the special attention which is to be accorded Mexico. Indeed, Mr. President, as I visited with officials of the Mexican Government, they have found the situation to be somewhat ironic and they have been rather bemused throughout this entire controversy, which they see as purely a question of domestic politics and a matter of the President of the United States working out a personnel problem in his administration.

Be that as it may, Mr. Krueger did go through a board of review on poten-

tial ambassadorial candidates. The results of that review are unknown because they have not been released by anybody. The net effect was that Mr. Krueger was not passed on by that board and Mr. Lucey apparently, for reasons best known to him and the administration, decided to stay in Mexico. Therefore, the nomination to be Ambassador at Large of Mr. Krueger.

I suggest that this is an unusual nomination for still another reason. One of the reasons why Ambassador Lucey had come under some fire is that he did not have a facility with the Spanish language. Unhappily, Mr. Krueger does not have a skill of this variety. He has been learning and testified in front of the committee that he is taking lessons at this time, gaining some competence, and further replied to one of my questions and suggested he would not be in Mexico that much, in any event, that his major efforts would be here in Washington in a coordination, as he suggested, two ends of the bridge, with Lucey in Mexico and Krueger in Washington, somehow coordinating without a clear chain of command, without a clear definition of responsibility.

During the committee hearings, hypothetical questions with regard to the subject matter were raised. Of course, they cannot be clear precisely which Ambassador will carry the ball. The suggestion was that both would get along beautifully and that, in any event, both would report to the President.

As the President is finally, of course, the Commander in Chief, the Ambassadors serve at his pleasure, as representative of our country in the various embassies.

I suggest, Mr. President, it is important to raise in the minds of my colleagues why it is necessary to appoint another Ambassador at Large if, in fact, there is value to having Mr. Krueger coordinate affairs.

Attempts to work out the details of our relationships can surely be done at something less than the Ambassador level.

One of the problems we have faced in the Foreign Relations Committee, in my judgment, has been a desire on the part of the administration to create additional Ambassador at Large positions. In my judgment, that is not required on this occasion.

In a letter to our colleagues, Senator ZORINSKY and I have pointed out that Marshall Shulman, for example, who has dealt in Soviet affairs, very effectively for this administration, does not require the title Ambassador at Large.

As Senator JAVITS pointed out during the committee hearings, Marshall Shulman has clout and authority wherever he sits. Why it is required to start this new post, simply to provide the supposed clout, is clearly not apparent at all.

Mr. President, the argument has been made that a parallel responsibility has been created on the part of the Mexicans in anticipation of Mr. Krueger being confirmed by the Senate and moving on to his responsibilities. But, in fact, Mr. President, Andres Rozental is the Mexican Ambassador to North America. Mexico has no Ambassador at Large positions at all. There is no parallel structure.

In fact, when asked about that during the hearings, Mr. Krueger was asked specifically by Senator GLENN, and I quote:

> Mr. Krueger, it takes two to tango. Who is going to be your counterpart in Mexico? Have the Mexicans agreed that they will have an Ambassador at Large to the United States.
>
> Mr. KRUEGER. Senator Glenn, they have someone with the rank of ambassador who is responsible for all of North America. But I would point out, for example, that the previous Foreign Secretary of Mexico on one occasion, when it was suggested to him that they might create a corresponding position, said, "80 percent of my time as Foreign Secretary is spent dealing with the United States. I don't want to give that up to anyone."

In short, Mr. President, there is an Ambassador to North America and, according to Mr. Krueger in his testimony talking about this parallel position, suggested the Mexican Foreign Secretary additionally to deal with 80 percent of the affairs. This is hardly a corresponding situation to what Mr. Krueger is going to be doing. In fact, it is not clear what Mr. Krueger will be doing if he is confirmed.

Mr. President, let me simply suggest that things have reached a new pass with the resignation of Ambassador Lucey. That situation is now vacant. Clearly, one alternative for the administration would have been to admit a mess has occurred and say that rather than compounding the error and creating an ambassador at large, plunge ahead, bullheaded in this thing without looking right or left, they could have said, in fact, an ambassador at large position would not be required and suggested that Mr. Krueger would be an excellent Ambassador to Mexico, an idea Mr. Krueger himself entertained on a number of occasions, as he pointed out to me in committee.

The administration, however, I presume, is by now entrapped in its own illogic, and certainly is reluctant to give up an argument that always was rather weak.

Mr. President, on the minority side of this question, and the Krueger nomination passed the Foreign Relations Committee by a vote of 9 to 6, the minority did not ask for additional views or additional report of minority views. Rather, we simply asked for the publication of the hearing itself. Colleagues who have read through them certainly notice the argumentation on behalf of this position, and it seems to me would be convinced by the weight of the evidence alone.

But even if they are not, we now have been opening, it seems to me, an opportunity for the administration to make the best of it.

It was suggested during the questioning of the Secretary, Warren Christopher, that in the event the Krueger nomination was turned down, the administration was not necessarily committed to plunging on, although Mr. Christopher pointed out they were not committed to dropping the issue, either.

It simply said words to the effect that never is a long time and it would not make a commitment one way or the other.

But the course of action I would offer my colleagues to follow would be to reject this nomination, not on the basis of the character or the public service or the life of Mr. Krueger, but simply to say to the administration that the creation of a new ambassadorial post is not necessary. It will foul up the works, literally, in terms of our parallel relationships with other countries.

The ambassadorship to Mexico is open. Take another look at that situation and what is required, and conceivably, Mr. Krueger might reemerge in that form.

For the time being, very clearly, this position is not required. I point out, Mr. President, I voted against only two nominations for ambassadorial positions the President has sent over during the entire time I have been in the Senate. I do not take these issues lightly.

It seems to me important to say at this stage that this is one time when it is important for people who are interested in good government to take a stand, simply to call things as they are. In this particular case, in my judgment, it is that we should call for a rejection of this nomination.

Mr. BENTSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BENTSEN. Mr. President, I have been sitting in for the distinguished chairman of the committee until a member of the Foreign Relations Committee came to the floor supporting the majority viewpoint. The distinguished Senator from Maryland is now here and he will be in control of the time, with the acquiescence of the Chair.

The PRESIDING OFFICER. The Senator may delegate the time.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. I will yield time to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. I thank the Senator.

Mr. JAVITS. He may need the time.

Mr. LUGAR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LUGAR. On an informal basis, I was speaking, obviously, in the negative.

I would like at this point to tidy up affairs by asking my distinguished colleague for time on the opposition time.

Mr. JAVITS. Mr. President, what is the parliamentary situation on the division of time?

The PRESIDING OFFICER. The Senator from New York (Mr. JAVITS) does control the time of those in opposition to the nomination.

Mr. JAVITS. I yield the time in opposition to the Senator from Indiana (Mr. LUGAR).

The PRESIDING OFFICER. The Senator may proceed.

Who yields time?

Mr. GLENN. Will the Senator yield me 10 minutes?

Mr. LUGAR. I would be pleased to yield the Senator 10 minutes.

Mr. GLENN. I thank the Senator. I do not think I will need that much time.

Mr. President, I had concerns in the committee when we considered this matter, not against Mr. Krueger per se, as a person. I think he is highly qualified. I have no objection to him at all. I would be happy to vote for him in a regular ambassadorship role.

But what did give me a great deal of concern in the committee was that this is the first time on record that the United States would have an Ambassador at Large to a specific country. All our Ambassadors at Large have been in functional areas, working on specific problems—for example, Dick Clark is handling refugee problems right now—and dealing with many nations, or an Ambassador appointed to an area of the world to deal with an area problem, such as our special representative to the Mideast.

It was brought up in committee that we have so many agencies dealing with Mexico that this new position of some supra ambassadorial nature is now needed. I questioned in committee, and I question today, whether we really need another agency because we have so many other agencies already.

We have many agencies dealing with Japan, with Germany, with the United Kingdom, with many nations around the world, but we do not appoint additional ambassadors to deal with those particular countries. I still question whether we need it in this particular situation.

The President's message dealing with this new position stated as follows:

> Mr. Krueger will be responsible, to the fullest extent permitted by law, for: (1) Development and formulation of United States policy toward Mexico; (2) review and coordination of any and all U.S. Government programs and activities that affect U.S.-Mexican relations, whether directly or indirectly; (3) management of U.S. participation in the working groups established under the U.S.-Mexican Consultative Mechanism, insuring also that any existing overlapping entities are integrated into the process or altered as may be necessary to avoid duplication; (4) advice to myself, the Secretary of State and other Cabinet officers and agency heads and the U.S. Ambassador to Mexico on the effects of contemplated actions by any agency of the government on our relations with Mexico; and (5) initiation of reports and recommendations for appropriate courses of action, including periodic reports to me on major developments and issues.

Mr. President, if that does not read like a description of exactly what our Ambassadors are supposed to be doing in any nation around the world, then I do not know what their mission really is. It appears to me that we are adding one layer of bureaucracy on another.

All our major embassies around the world do have large staffs—United Kingdom, Japan, Canada. Japan has the biggest staff in the world, if I am not mistaken.

Are we now to expect that we will appoint an Ambassador to Japan, separate from Ambassador Mansfield, and set that precedent? The precedent we are setting today, with this Mexican situation, is very far reaching, and I think it goes beyond the appointment just to this particular position.

This was somewhat confusing in our hearings, when I asked Mr. Krueger to whom he would report. He said he would report directly to the Secretary of State. But then, in subsequent testimony, he indicated that Ambassador Lucey normally reports through the Assistant Secretary of State for Latin American Affairs. So, we have a confused situation as to who is senior and who reports to whom in the Cabinet.

I repeat that I think Mr. Krueger is extremely well qualified for this position, if we are to establish this position. I have no quarrel with that. But I do quarrel with whether we are setting a precedent here in establishing a new role of Ambassador at Large, which I find a very disturbing precedent and which I do not want to see continue.

I hope the administration, even at this late date, will update this situation, since Ambassador Lucey, in Mexico, has now resigned, and we do not have an ambassador in Mexico—will not have one very shortly.

So I hope we will do away with the idea of a new ambassadorship, some supra level ambassadorship that is over and above our normal ambassadorship authorities, and withdraw this proposal for this new post, which I feel is not needed, and appoint Mr. Krueger to be Ambassador to Mexico. That is a position for which I think he is preeminently qualified. I would welcome that. I hope we can get the administration to agree to that. I know it is late in the day to make such a proposal.

Then we could get back to the normal position of ambassadors appointed from this country. We appoint them, we back them, we give them authority to speak for this country in the lands to which they are accredited, and we look to them for guidance for policy in matters to deal with that particular nation. We do not establish very confusing lines of authority with some additional ambassadorship level. Our relationships with Mexico are manifold and they get into many different areas, but we can say the same about many other areas in the world.

So I hope the administration will withdraw this appointment. I know we will vote on it shortly, but I urge them to resolve this matter by abandoning the effort to establish a new ambassadorial level, which I feel is not needed and is unnecessary. I will be happy at that point to vote for Mr. Krueger—to support his nomination to be Ambassador to Mexico in his own right and not in some new ambassadorial level.

I thank the Senator for yielding time.

Mr. LUGAR. Mr. President, I yield to the Senator from Nebraska such time as he requires.

Mr. ZORINSKY. I thank the Senator from Indiana.

Mr. President, some 5 months ago, I issued a statement in opposition to the nomination of Robert Krueger to be Ambassador-at-Large and Coordinator for Mexican Affairs. My statement of May 25 reads as follows:

> I don't know Congressman Krueger; I have never met the man; there is nothing personal involved in this at all. In fact, I understand that he is a highly qualified and talented individual.
>
> Rather, my opposition is based on the merits of the issue. The government needs one more ambassador-at-large about the same way the Senate needs a new office building. The fact is that there are already too many people working on our relations with Mexico and this as much as anything else probably accounts for the sad state of the relationship at this time.
>
> But the administration assures us that all of this will change by establishing some new super ambassadorial post and providing Mexico, in effect, with two ambassadors instead of one. This is as patronizing as it is insulting to our friends in Mexico. They can recognize a public relations gesture when they see it and this one has all of the subtlety of a sledgehammer.
>
> The fact is that if the president wants an effective coordinated policy toward Mexico, all he has to do is pass the word down the bureaucratic chain of command that anyone who gets out of line will have to answer to him personally. This is what's required to achieve effective policy coordination, not a new ambassadorial post with someone acting as a special coordinator.
>
> Our friends in Mexico do not need one more empty gesture from the United States. Through the years they have had more than their share of them. Rather, what they need and what we need, too, is the implementation of a policy that evidences mutual respect, mutual trust and genuine concern for the mutual interests of both countries.
>
> The decision to layer U.S./Mexican relations with yet another bureaucratic position falls far short of this goal. I hope the administration will reconsider this decision.

Mr. President, the intervening 5 months, two hearings, and hundreds of words of testimony have not altered my position or made a case for creating this special ambassadorial post.

What is at stake here, Mr. President, is not just the needless proliferation of ambassadorial titles, with the obvious result that the currency of the title is devalued. Nor are we merely insulting our Mexican friends with one more empty gesture, and our taxpayers with another layer of bureaucracy.

What is at stake here is principle and precedent. By this action, by the creation of a special coordinator with ambassadorial rank, we are establishing a precedent for all time. There will never come the day when we will be able to say to the Mexicans that they no longer need two ambassadors. But there will come the day—and I predict many days—when we will be asked again and again to approve yet another special ambassador for this or that country. Every time the going gets tough, this empty, cosmetic solution will be offered up to us, with the reminder: But, you did it for Mexico.

If today we choose expediency over principle, we will not endear ourselves to the Mexicans or to anyone else. I know there are those who think this just is not that important, who believe it is a tempest in a teapot. It is not. Cheap, easy answers have their momentary appeal, but they will not restore integrity to government, and they will not improve relations with Mexico. And in the long run, they will cost us dearly.

Mr. President, at best this is a Catch 22 situation, and at worst, it is an insult to Mexico, to the Senate and to the taxpayers. At its best or at its worst, this nomination richly deserves the Senate's overwhelming rejection.

I yield back my time.

Mr. SARBANES. Mr. President, I yield such time as he may use to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. STEWART. Mr. President, I rise in support of Robert Krueger's nomination as Ambassador at Large and U.S. Coordinator for Mexican Affairs. The relationship between the United States and Mexico, which previous speakers have touched on here today, has increased in complexity in recent years and will continue to do so in the future. Virtually every Department in the executive branch is involved in our special relationship with Mexico. And this aspect of their relationship has been made available not only to members of the Foreign Relations Committee but to other Members of the Senate both in a letter addressed to us by Senator BENTSEN of Texas and also from comments that were addressed to Members of the Senate by Deputy Secretary of State Warren Christopher which he made before the Foreign Relations Committee.

The complexity and special importance of this relationship necessitates greater efficiency and effectiveness in this area. For this reason President Carter has created the position to which Mr. Krueger has been recommended to be confirmed by the Senate. Secretary of State Vance recommended that the President create this position, and the Deputy Secretary of State, as I have indicated earlier, gave a strong endorsement of Mr. Krueger and explained the critical need for this position in testimony before the Foreign Relations Committee.

This position in no way in my opinion detracts from the responsibilities of the U.S. Ambassador to Mexico in Mexico City. Rather, the new Ambassador-at-Large position complements that of the regular Ambassador, giving us greater assurance that all activities of the U.S. Government in Washington will take into account potential impact on United States-Mexican relations.

The Mexican Government has already named an individual with ambassadorial rank to fill a similar position in Mexico, and the Government of Mexico attaches a great deal of importance to this function and to this position.

In this position, Mr. Krueger will chair a Special Interagency Group of Cabinet and sub-Cabinet officials in Washington and work with his Mexican counterpart on such difficult issues as trade, energy, finance, industry and development, migration, border issues, law enforcement, and tourism.

Bob Krueger has been acting in this capacity of Ambassador at Large for a short time, and Deputy Secretary of State Christopher has testified to his good advice and helpful activity during the recent successfully concluded natural gas negotiations with Mexico. I join the President and State Department in believing that this new position is necessary for improving our bilateral relations with Mexico and that Robert Krueger is well qualified to fill the post. I hope that my colleagues will join me in approving Bob Krueger's nomination to this important position.

I thank the Senator from Maryland for his kindness to me.

Mr. LUGAR. Mr. President, I yield time to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the able Senator from Indiana.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Have the yeas and nays been ordered on this nomination?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. President, my distinguished friend from New York, Mr. JAVITS, sometimes offers the observation that we are not children around here. We understand he often says, what is going on.

In the case of this nomination the real question before the Senate is whether we are going to sit silently by and allow the diplomatic service to be converted into a haven for defeated candidates for the U.S. Senate. I raised this question during the hearings when Mr. Christopher appeared in advocacy of the nomination of Mr. Krueger, and the exchange went something like this:

I said: "Mr. Secretary,"—meaning Mr. Christopher—"you said the decision was made in 1978 to create this ambassadorship. Was this after the election of 1978?"

Mr. Christopher replied:

> Senator Helms, I do not relate it to the date of the election. I recall that in the fall of 1978, we were working on what is known as Presidential Review Memorandum No. 41. In the course of that, we felt the need of additional coordination of United States-Mexican relations. I cannot tell you precisely, Senator, when the decision was reached, but it was in the fall of 1978, during the discussion of PRM 41.

Obviously, Mr. President, this post was created to try to unsnarl a snafu that had involved the Ambassador to Mexico and various commitments reportedly made by the administration. I am not unsympathetic to the administration trying to unsnarl one of its snafus even though it does seem to have an inordinate number of them these days. But this nomination is going a little bit far.

I shall vote against the confirmation of Mr. Krueger to be Ambassador at Large and Coordinator for Mexican Affairs. I will not do it, Mr. President, as an intended reflection on Mr. Krueger as a person. I do not know him. I simply agree with Senator LUGAR and others who have said quite forcefully on this floor that the United States just does not need two ambassadorial posts in Mexico. We already have one.

I understand Ambassador Lucey has submitted his resignation. Now the President can replace him with an individual of the President's own choosing. That is the way we should proceed, not play games by creating ambassadorial positions that are not needed.

The United States does not have two ambassadors to any other country in the world. As Senator GLENN has indicated, we do not have two ambassadors to Canada, to Great Britain, or the Soviet Union, France, Germany, or anywhere else.

While I realize that our neighbors to the south are important allies and good friends, Senator ZORINSKY was entirely correct when he said that this kind of shenanigan is actually an insult to the Mexican people. I think they will view it as such.

Let me say again, Mr. President, I do not attack Mr. Krueger as a person. I do not know him. But I do reject this procedure of making the diplomatic service a haven for defeated candidates for the U.S. Senate.

Mr. STEVENS. Mr. President, will the Senator yield there?

Mr. HELMS. Yes, certainly.

Mr. STEVENS. Mr. President, I appreciate what he has just said because that has an impact on this Senator's opinion about the nomination. I, too, have nothing personal involving this, nor even really political. I do not have any ax to grind one way or another about Mr. Krueger.

But the thing that bothers me is, being a Senator from Alaska with Canada in between, if this can happen for Mexico because the Texans want it to happen, and I say that with due respect to my good friend who is on the floor, then how come we cannot work out the same thing? We have not even started as far as the Canadians are concerned. Even worse than that my State is the gateway to Japan. Over 60 percent of our onshore fish processing facilities and over half of our timber operations in Alaska are now owned by Japan. Japanese capital is coming into our State like it is going out of style.

I think the precedent that is involved here, as far as my State is concerned, is horrendous. I urge the Senator to think about it. All those people who come from States that are on the Canadian tier just think about this: If this is the way we are going to have an ambassador to each end of the bridge, so to speak, as I was told, as far as Texas and New Mexico, how about both ends of the Alaskan Highway and how about the jumping off spot for Japan? As a matter of fact, I believe that my State will be the jumping off spot for China before we are through here.

This is a terrible precedent to set, as far as maintaining relationships with our neighbors. It is not just a foreign country. These are our neighbors. I am certain that it is a precedent that we will live to regret should we adopt this procedure of having two ambassadors for any country.

If the President wants Mr. Krueger as an ambassador at large in terms of specific issues that would involve more than one country that would be another matter. But to deal with an ambassador at large concept as a second ambassador for a neighboring country puts such pressure upon those of us who represent the United States fringe to Canada that I think it is abhorrent, and I intend to oppose it, and I urge everyone to think about this in terms of what it does to our relations with our neighbors, and I urge this nomination be managed in some way so it would not be an affront to Mr. Krueger but at least it would be a rejection of the concept that is involved of having two ambassadors for one neighboring country.

I thank the Senator.

Mr. HELMS. Mr. President, I agree with the Senator from Alaska, and I thank the distinguished Senator from Indiana for yielding to me.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, I yield myself such time as I may use.

I challenge anyone in this body to dispute the proposition that we need a coordinator for Mexican-American affairs in the executive branch of Government of the United States.

Now, Deputy Secretary Christopher, when he came before the committee, began his statement with the observation:

> Our bilateral relationship with Mexico is quantitatively different than that with any other country. More issues span the dividing line between foreign and domestic concern, more domestic departments and agencies are involved, and more issues directly involve domestic concerns.
>
> Over the last 3 years, Mr. Chairman, we have sought to develop a bilateral mechanism to deal more efficiently and effectively with our complex relationship with Mexico.

He then went on to discuss that mechanism which we have sought to develop with the Government of Mexico.

Secretary Christopher pointed out that the consultative mechanism which has been established now comprises eight different working groups on such difficult matters as energy, trade, finance, industry, and development, migration, border issues, law enforcement, and tourism.

The very able and distinguished Senator from Texas earlier today, in speaking on this matter, and in the letter, the very thoughtful and forceful letter, which he sent to Members of the Senate, stated, and I quote:

> As one who has been actively involved in U.S.-Mexican relations for many years, I am impressed by the scope and complexity of this unique relationship. Many of our problems with Mexico have their origins in a lack of coordination between the many departments and agencies of our government involved in U.S.-Mexican relations. Actions we take in this country for our own domestic reasons frequently have an unintended but direct impact on our neighbor to the South.

The very able Senator from Texas has headed the American delegation to the United States-Mexican parliamentary conferences for a number of years. He knows the situation intimately and, as he has stated, the nature of the relationship with Mexico is a unique one.

Mr. President, in the last Congress it was my privilege to be the chairman of the Western Hemisphere Subcommittee of the Foreign Relations Committee. In the course of the last Congress we held extensive oversight hearings with respect to U.S. policy toward Latin America. During one of those hearings, the subcommittee had before it four witnesses from four different Departments, Defense, Treasury, Commerce, and Justice. I made the following observations preparatory to asking them a question:

> We have four witnesses here from four different departments, each of whom brings his own perspective to the trends and issues in Latin America.

We had a broader subject there—all of Latin America—but I think the question asked is particularly pertinent to the Mexican situation. I asked these four representatives:

> Is there any consultation that takes place on a regular basis among the departments with respect to U.S. policy? Have the four of you ever met together or your deputies or superiors, as the case may be, to discuss the subject matter?

The response was:

> The four of us have never met together.

They went on to say that any significant issue was dealt with on an ad hoc basis as an interagency matter.

It was and is my own view that this kind of intermeshing of a whole host of policy issues involved in our relationships with Mexico is not adequate to the problems that face us today. They cannot adequately be dealt with on an ad hoc basis, and that is why we have established the consultative mechanism.

Mr. Krueger would function as the executive director of the consultative mechanism, and the real question becomes, should he have in addition the title of ambassador? At least I assume that is the real question. If the real question is do we need a coordinator for Mexican affairs within the executive branch of the American Government, then I think that question should be raised and we should discuss it, or if there is some other question, as I take it the Senator from North Carolina has suggested in his presentation, then that ought to be the subject of discussion.

But if the real question is a question of whether he should have the title of Ambassador, then I think we must focus on the representation made to the committee by the Deputy Secretary of State that it is not only his judgment but that of the Secretary of State, after very careful consideration, that Mr. Krueger or anyone else holding this position could, in fact, function much more effectively if the position carried with it the title of Ambassador; a judgment concurred in by the President.

The real question you must ask is how important is our relationship with Mexico? How much difficulty do you see those relationships as having experience in the past; these difficulties are, I believe, a very important distinction between this situation and the Canadian situation alluded to by the distinguished Senator from Alaska?

I have attended a number of United States-Canadian parliamentarian conferences with the distinguished Senator from Alaska, and the unique thing about our relationships with Canada is that we have, in fact, established an effective and constructive working relationship at the various departmental levels.

Second, I think the complexity of the problems that confront us are not of equal consequence with those that confront us in our relationships with Mexico. The border questions, the migration questions, the trade questions, the whole question now involving energy sources, as we deal with a developing country, those are all very difficult and very complex questions.

We do not have a comparable consultative mechanism established for Canada and do not feel the same need for it. I think everyone saw the establishing of such a mechanism as a very important step forward in the American relationship with Mexico.

I think everyone who has taken the floor, without exception, has attested to Mr. Krueger's abilities and his qualities. I join with the Senator from Texas in saying that he is an extraordinarily able and qualified individual. He was a most valued Member of the House of Representatives. He brings extensive educational qualifications to this position.

He has already done significant and important work over the brief period of time in which he has been acting in this capacity; and he has shown skill, a quality in great demand, and his been productive in the work he has done.

Now, it is true, as the Senator from North Carolina has observed, that he was a defeated candidate for the U.S. Senate. I do not know that such a fact should either qualify or disqualify a person to hold office. I have heard no one here today suggest that Mr. Krueger does not have the qualities that an individual ought to have in order to hold this position.

So the fire and the focus here have been on the position itself, and there I think we have to come back to the bottom-line question about how important we regard our relationship with Mexico. I think this position can serve to help further that relationship. It will not constitute a precedent unless the Senate wishes to make it a precedent. We have it within our power to draw the line where we choose to draw it.

Some who oppose the nomination oppose any ambassador at large; that appears to be their stated position, and one can operate from that premise. Or one can decide each case on its own merits. This case does not establish a precedent unless the Senate chooses to make it a precedent; and I suggest that there is reason enough in the United States-Mexican relationship, the nature of the problems and the uniqueness of that relationship, and in its importance to the United States, to justify establishing this coordinator for that purpose and according the coordinator the rank of ambassador in order to enhance his ability to do the job.

That is the question that is before us. Now, it has been asserted that the Mexicans will sense no slight if this nomination is rejected. I do not know the basis for that assertion. The formation of this position and the evolvement of this process for dealing with United States-Mexican relations is an essential result of the Carter-Portillo talks. It is part of the mechanism we have sought to put into place in order to enhance the consultation between our two countries, and

to insure that the issues that may be in dispute between us obtain the kind of attention and concern in our Government that they ought to be accorded.

The whole range of our Government will be drawn into the consultative process. This does not minimize the importance of the U.S. relationship with other countries to which Senators have referred. But again I suggest to you that none of those relationships encompasses such a broad sweep of policy in our executive department and such concrete problems on a day-to-day basis as the U.S. relationship with Mexico.

During the appearance of the Deputy Secretary before the committee, he was put under some very strong interrogation. He made the point, contrary to some assertions that have been made here today, that this proposal was a carefully thought-out measure on the part of the administration, that it represented a thoughtful judgment on his part and on the part of the Secretary of State as to what was needed. It is my view that it is because the proposal represents such a considered judgment that the administration has been unwilling to take those suggestions which have been made now of "a way out of the situation." It is not a way out of the situation. What it is, is a retreat from the administration's development of a process for strengthening and improving United States-Mexican relationships.

I believe what they have evolved makes sense. As I said at the outset, I feel very strongly that a coordinator is essential, and I am prepared to concur in the view of the Secretary of State that according the ambassadorial rank would enhance his ability to do this job. If we reject this nomination, I think it will have significance beyond—far beyond—what those who are opposed to the nomination have asserted here today will in fact be the case. I think we will rue the day, in terms of the opportunity now before us to develop a constructive and productive relationship between this country and our most important neighbor, Mexico.

I yield to the Senator from California.

Mr. CRANSTON. I concur strongly in the views expressed by the distinguished Senator from Maryland. I speak on this subject, in good part, because of the fact that I come from a border State that deals with Mexico and citizens from Mexico on a day-to-day basis in countless ways. These contacts are totally different, insofar as my State is concerned, from relations with any other country. And while we have States that border Canada and have a close relationship with that nation, I think there are more problems that spill across the border between Mexico and the United States. These problems affect more aspects of our life and our governmental institutions than is true of those on our northern border.

So I rise in support of the nomination of Robert Krueger for the post of Ambassador at Large and Coordinator for Mexican Affairs. In considering this nomination today, I believe the issue before the Senate is not the qualification of the nominee—for I think there is a strong consensus that Bob Krueger is eminently qualified—but rather I believe the main issue which concerns my colleagues is the advisability of establishing the new post of coordinator of Mexican affairs with the rank of Ambassador.

I am convinced that the establishment of such a post is necessary. Indeed, it is long overdue.

Our bilateral relationship with the people and Government of Mexico is unique. We are united by a border of more than 1,800 miles. We are joined by culture, and in the case of more than one-tenth of U.S. citizens, by language. We share rivers and mountain ranges and we work together daily on issues as diverse as pollution and pest control, communications, and transportation.

In the past, our relations with Mexico have suffered from a lack of understanding. The bureaucracy in Washington has tended only to respond to affairs on our bilateral agenda when they have reached the boiling point, a point where solutions satisfactory to both parties are much more difficult to devise. We have seen the results of this lack of understanding in the recent highly publicized confrontations over such issues as energy sales, immigration policy, and oil pollution.

The establishment of a coordinator for Mexican affairs with the rank of ambassador to be based primarily here in Washington would help to isolate such problems and to identify mutually beneficial solutions before tensions increase. Our relations with Mexico are so complex, so diverse, that we require such a senior official here in Washington to guarantee that problems are not buried in the bureaucratic maze and left to simmer. It is noteworthy that the Mexican Government has already taken an analogous step.

I have heard several of my colleagues make the argument that since our relations with many other nations—such as the Soviet Union, China, or Israel—are also complex, there is no reason to establish this type of post just for Mexico. The key point here is that relations with these nations clearly are foreign relations. No matter how complex, these relations usually can be coordinated effectively by the State Department and by our respective embassies.

But our relations with Mexico reach daily beyond the realm of foreign affairs. When our two countries share a river and must work together to control pollution, this is a problem for our Departments of the Interior. When we must work together on energy transportation, and sales, this is a problem for our Departments of Energy and of Transportation. When we must work on pest control, this is a problem of our Departments of Agriculture or of Health, Education, and Welfare.

Too often in the past, such issues have become ensnared in the bureaucracy, with no one of senior rank available in Washington with the time and the sensitivity to resolve them in a prompt manner. This is why we need an ambassador at large for Mexican affairs; we need someone in Washington with the clout and the primary authority to resolve these diverse issues which arises constantly on the bilateral United States-Mexican agenda.

Mr. President, the history of our relations with Mexico is a long and turbulent one. We enjoy deep and enduring ties with the Mexican people, and indeed, nearly 10 percent of our American citizens have come to this country from Mexico.

But too many times in the past, opportunities for greater accord and cooperation between our two countries have been lost because of a lack of understanding by parties at both ends of this relationship. I am confident that the establishment of this new post and the appointment of a talented individual such as Bob Krueger to fill it would be a significant step toward assuring that such opportunities will not be lost in the future.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Indiana.

Mr. LUGAR. If the Senator from Nebraska wishes to proceed, I am happy to yield to him at this point.

Mr. ZORINSKY. I thank the Senator for yielding.

I would like to respond to the comments of my distinguished colleague from Maryland with reference to Mr. Krueger to be Ambassador at Large.

I would like to point out that I agree with Senator SARBANES and his analysis that no one can challenge the need for coordination in Government concerning our foreign relations, not only with the country of Mexico but with many, many other nations throughout this world.

As a matter of fact, just recently, if my memory serves me correctly, we created an ambassador at large position similar to the one we are talking about now. That one was in conjunction with providing services for all the Governors of the 50 States of the United States, and to the mayors of hundreds of cities because of the lack of coordination back here in Washington, D.C.

I opposed that nomination. It was Mr. Beverly Carter who received it. His nomination was confirmed and accepted by this body. But I think that is a distinct admission of the administration and the State Department of their inability to coordinate under the present circumstances that we in the Congress have helped create for them.

I would say that if our State Department is incapable of coordinating our activities then we ought to get rid of the State Department and start all over again.

I think there are Governors within our Nation who will tell you that there is a great lack of coordination in Washington, D.C., concerning the needs of this Nation vis-a-vis the needs of the States of this Nation.

I have talked to some of them, and even though Mr. Carter has been appointed Ambassador at Large to remove all these bureaucratic obstacles, they are still having trouble getting hold of the right people back here in Washington to resolve their problems.

I am sure my colleagues would be less than honest with themselves in maintaining otherwise if any of them had the experience during the diesel fuel crisis of contacting the Department of Agri-

culture, the Department of Transportation, and the Energy Department, and were much surprised to find out that none of these three departments were cooperating with one another to help us solve our own internal domestic problems, let alone the problems concerning other nations.

My esteemed colleague from Maryland brought up the point that he is not too sure that the Mexican officials would look favorably at this juncture on the rejection of this nomination. I would call attention to an article on the front page of the Wall Street Journal not over 2 weeks ago in which a high-ranking Mexican official was quoted as saying two ambassadors are worse than no ambassador at all.

I would hope that my colleagues will look into the precedent-setting nature of this proposal very seriously. I believe the American public will see, and the Mexican Government will see, it is a blatant admission of our inability to do a job with the ambassadorial posts which have been created, and which, in general, have served this Nation well for years and years. In the past, this Nation has enjoyed good relations with countries throughout the world. I suggest that we reevaluate the process as we know it, not correct its defects by adding more bureaucratic entanglements to those we already have.

I yield back the remainder of my time.

Mr. SARBANES. Mr. President, I yield myself such time as I may require.

Mr. President, I listened to the Senator from Nebraska with great interest. I simply put this question to him: Who is to coordinate all of these departments whose activities touch upon Mexico, where the problems are shared? What we are going to get otherwise, as an administrative matter, is ad hoc committees sitting all the time, and if they are to mean anything, they will have an assistant secretary or an under secretary participating—State, Defense, Agriculture, Interior, Justice, Treasury, and on and on.

In that sense, it seems to me we are going to get much greater efficiency with a coordinator who is in a position to harmonize American policy toward Mexico across the whole range of governmental activities.

Second, I would have to have a more authoritative source than the quotation which the Senator has given me from the Wall Street Journal regarding the reaction of the Mexican Government to the rejection here today of this evolving mechanism for future consultation.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the distinguished Senator from Maryland has stated the case of the administration with skill. I appreciate the arguments which he has been making. I believe there are a number of valid arguments which could be made about the complexity of the United States-Mexican relationships and the need for coordinating the elements of our own Government.

The question that many of us in opposition to this nomination have raised is the succession of thoughts that have led to this type of a solution for Mexican-American relationships.

To be very specific, Mr. President, our relationships with Mexico have been complex for a long time. It is not the purpose of this debate today to discuss how well or how poorly the current administration and the previous administrations may have dealt with those problems. Certainly, a case could be made that we should have been doing a great deal better. Most Senators today have argued that we ought to do better, and some have even suggested a way of doing better is to have an ambassador at large whose specific focus is Mexico.

The point I attempted to raise early on in this debate, Mr. President, was: Did the coordinator idea for Mexico arise because our State Department or our President had begun to take a look at how our relationships might be raised with various countries on this Earth? For example, I have not seen an exposition of any study by the State Department on how we are to unravel the difficult relationships with other countries. If there ever was an ad hoc situation, the Mexican situation is it. I am making the suggestion in my argumentation, Mr. President, that it was convenient to think about a coordinator for Mexico at the ambassadorial level about the time it became necessary to straighten our affairs involving Ambassador Patrick Lucey, apparently some promises or pledges to former Congressman Krueger, and a resolution of a whole host of problems that the Presidential Review Memorandum 41 had raised and which have now been disposed of very well.

In short, our relations with Mexico were not going well in March, and the relations of our Ambassador to the Mexicans at least had indifferent success. There are some defenders of Patrick Lucey but a good number of detractors. The coordinator role, I am suggesting, was seized upon by the administration, arguing cogently, as has been argued here today, that we ought to really do better to reorganize our own Government in response to the Mexicans.

Conceivably, a coordinator at the ambassador level, with that sort of clout, could do that job better.

Mr. President, that argument wears very thin when we simply see it plucked out of the whole cloth of foreign diplomacy and the suggestion that, somehow or other, our relationships with Canada, Japan, the Soviet Union, Great Britain and so on, are not as complex. There is still the argument made that because our relations have gone so poorly with Mexico, there is a special case there that is not the case with Canada or other countries with which, presumably, things have been going better. If that argument had been made in the context of many countries, if the Secretary of State or the President or somebody had suggested that somehow our relations with many countries are very complex and we ought to have a whole raft, or at least a few, coordinators to unscramble all this, and one of those coordinators ought to deal with Mexico or Canada in this hemisphere and the others with Euroope and what have you, then this nomination would be more plausible.

Mr. President, I submit that as it stands, the argument is special pleading for one man, one nomination, and one position that is before us. I hope that a special exemption is not to be made at a time when we have not really worked out how we are going to coordinate our Government with all the rest of the relationships that we have. As a matter of fact, we can save ourselves from today creating a governmental position that is not required and I believe there is some evidence from the Mexican testimony that it may not seem very desirable to those we were hoping to please, in a sense.

Mr. President, once again, I call for the rejection of this nomination.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I thank the Senator.

Is our relationship with Mexico unique? You bet it is. Sixty-seven million people, doubling in size in 19 years. Early in the next century there could be more people in Mexico than in the United States, 1,800 miles of contiguous border.

We talk about the number of people the State Department has in Japan or in France. There are more State Department people in Mexico than any other nation in the world. Why? Because of all the complexities of that relationship, because of the potential and importance of a nation that has gone from $600 million worth of trade to $6 billion worth of trade in the past decade. A part of the Third World, but not for long; a major, emerging economic power in this world.

Sensitivity to the Mexicans? How many times have I heard them say, "So far from God, so near to the United States."

How many times have I heard them say, "Living next to the United States is like lying down next to a sleeping elephant. We never know where you are going to move and what you are going to do next and how it is going to affect us."

My distinguished friend from Indiana says United States-Mexican relations were in a bad way in March. That is right. But they are in a much better way now. We have had an interaction of these two Presidents and an informal discussion that has led to a friendlier relationship.

The Mexicans have relied on us. What have they done? They have put in an Ambassador at Large, Andres Rosental. What are we going to say to them? "We have changed our minds. You cannot count on what we are going to do. Our President has no influence in this type of thing, in our relationship with Mexico."

We saw what happened in the Mexican gas deal when we failed to coordinate the work in progress. We saw the Mexicans leave indignant as the deal was blown. How long it took to get that deal back on the track, to see if we could diversify our energy supply in this country?

That type of action is what we are trying to avoid in the future. We are trying to see if we can coordinate these working groups and improve this relationship with Mexico that is so critically important to the United States of America. One of my friends, being facetious, was saying this is a Texas-Mexican deal. That is very flattering, but it is much more than that. We are talking about something

that is of vital importance to the entire United States, we are talking about an emerging economic power in the Northern Hemisphere, one that has enormous geopolitical influence throughout the Third World. It is terribly important that we preserve that relationship and that we coordinate that relationship and avoid some of the mistakes and the lack of coordination that we have had in the past.

I yield to my colleague.

The PRESIDING OFFICER. Who yields time?

Mr. ZORINSKY. Mr. President, I ask the Senator from Indiana if I may have 5 minutes?

Mr. LUGAR. I am happy to yield.

Mr. ZORINSKY. Mr. President, I want to reply once again, only more definitively this time, to the question twice asked by my distinguished colleague, Senator SARBANES of Maryland. The Senator indicated that he did not feel the front-page story of the Wall Street Journal would be sufficient, in his mind, to indicate the feelings of the Mexican Government concerning the appointment of Congressman Krueger to this position. I refer him to the AFP, which is the French Reuters News Service, and which is like our Associated Press or United Press International. Dateline Mexico City, August 25, it is stated:

> Seven political parties, including the governing Institutional Revolutionary Party—
>
> About 80 percent of their governing body belongs to this party—
>
> today requested that Mexico withdraw its approval of U.S. Special Ambassador Robert Krueger.

I wanted specifically to state the date, the time, and the source of this information.

Mr. SARBANES. Mr. President, I yield myself such time as I may need.

I appreciate the Senator from Nebraska's bringing that information before us. Both he and the Senator from Indiana, have made the assertion that the Mexicans will not feel that they have been slighted if this position is rejected and that the effort to develop a new relationship will not have been harmed.

Let us distinguish two or three things. That press story, just quoted by the Senator from Nebraska, appeared after Krueger had indicated some concern about the oilspill situation. By the Senator's own reading of it, it went to the question of Krueger himself. It did not go to the question of whether we need a coordinator, whether he ought to have a rank of ambassador, and whether this position is in furtherance of the United States-Mexican relationship, pursuant to the consultative mechanism which the two Presidents have established after two summit conferences between our two countries. It is my information that the Mexican Government wishes to proceed with this consultative mechanism, that they feel it is in fact addressing the problems between our countries, and that we are making some progress.

I repeat what I said earlier: I do not believe any evidence has been brought to the floor of the Senate which would support the assertion of the two opponents of the nomination that this will not have a negative impact with respect to our relationship with Mexico.

That is the point. Members will have to judge for themselves, but it is my own view that this will in fact have a negative impact with respect to the United States-Mexican relationship; that we have brought that relationship along; that it is improving; and that the consultative mechanism is an important part of it, and that this position which the administration is seeking and pressing for here, will carry it a step farther. I hope the Senate will recognize that when it comes time to vote and that Mr. Krueger and this position will be approved.

Mr. DECONCINI. Mr. President, I intend to vote to confirm the nomination of former Representative Robert Krueger as Ambassador at Large and Coordinator for Mexican Affairs; however, I do so with some serious misgivings.

The position is an important one because it symbolizes, in the eyes of our neighbors to the South and Hispanic Americans in this country, that the administration is anxious to develop a better and closer relationship with Mexico. We have, unfortunately, taken our relationship with Mexico for granted, and we have not invested the time and thought necessary to deal with each other as equals in search of mutually acceptable solutions to a range of shared problems. Thus, I applaud President Carter and his administration for creating this post which, it is my understanding, will assist in coordinating the activities of the myriad Government agencies involved to one degree or another in Mexican affairs.

My misgivings center upon the nominee. Congressman Krueger is an exceptional individual; a man who has achieved much in his brief tenure as a Congressman; and a man of high moral character and insightful intellect. However, as personally attractive as Mr. Krueger may be, I strongly believe that the administration erred in not nominating a Hispanic American for this post. There is certainly no dearth of qualified individuals—I, myself, suggested two prominent Hispanics to the administration.

If this Government is serious about its commitment to improve both our relations with Mexico and to upgrade the role of Hispanic Americans in our society, we must begin by bringing greater numbers of qualified Hispanic Americans into high Government positions. This would have been an ideal opportunity for the President to move in that direction. Thus, I strongly urge him to carefully consider Hispanic Americans for future posts of a policymaking nature.

Because I feel that the relationship we enjoy with Mexico is so vital to our Nation, and particularly the Southwest, I cannot in good conscience vote against Mr. Krueger and thereby vote against the creation of this valuable position. I am, however, disappointed that we have again failed to utilize the valuable resources we have in our own Hispanic community.

Mr. TSONGAS. Mr. President, today the Senate is considering the President's nomination of Robert Krueger to be Ambassador at Large and Coordinator for Mexican Affairs.

As Senators know, this country has a very special relationship with Mexico—one that directly involves virtually every Department in the executive branch. Past relationships have suffered from a lack of coordination and communication between the various agencies and the President has, over the past 3 years, taken a number of steps to increase our efficiency and effectiveness in this area. The creation of an ambassador at large and coordinator position is at the heart of this endeavor.

The Mexican Government has already named an individual with ambassadorial rank to a similar position and attaches a great deal of importance to this function. The recommendation that the United States give this position Ambassador at Large status was made by Secretary of State Vance. The post does not duplicate or take away from the role of our Ambassador to Mexico as our spokesman in Mexico City.

In this new position, Mr. Krueger will chair a special interagency group of Cabinet and sub-Cabinet officials in Washington and work with his Mexican counterpart on such difficult issues as energy, trade, finance, industry and development, migration, border issues, law enforcement, and tourism.

The President's selection of Bob Krueger is an excellent one, and I hope Senators will vote for his confirmation.

● Mr. PRESSLER. Mr. President, I served in the House with Mr. Krueger and I have no objections to him. However, I was informed that this creates two Ambassador posts to Mexico. I disagree. It is better to have one Ambassador who is really in charge than two Also it creates confusion in Mexico as to why we are having two Ambassadors. Thus I voted against Mr. Krueger's nomination even though he is a friend of mine from our days in the House.●

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. I think we are ready to vote.

Mr. LUGAR. Mr. President, I yield back the time of our side.

Mr. SARBANES. I yield back all our time.

The PRESIDING OFFICER. All time having been yielded back, the question is, Will the Senate advise and consent to the nomination of Robert Krueger, of Texas, to be Ambassador at Large and Coordinator for Mexican Affairs?

The yeas and nays having been previously ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Oklahoma (Mr. BOREN), the Senator from Alabama (Mr. HEFLIN), the Senator from New York (Mr. MOYNIHAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), and the Senator from

New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Tennessee (Mr. SASSER) are absent on official business.

I further announce that, if present, and voting, the Senator from Alabama (Mr. STEWART) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Missouri (Mr. DANFORTH) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any Senators not having voted, wishing to now vote?

The result was announced—yeas 48, nays 35, as follows:

[Rollcall Vote No. 366 Ex.]

YEAS—48

Bentsen	Hollings	Morgan
Bradley	Huddleston	Muskie
Bumpers	Inouye	Nelson
Burdick	Jackson	Nunn
Byrd, Robert C.	Javits	Pell
Cannon	Johnston	Percy
Chiles	Kennedy	Proxmire
Church	Leahy	Pryor
Cranston	Levin	Randolph
Culver	Long	Ribicoff
DeConcini	McGovern	Riegle
Durkin	Magnuson	Sarbanes
Eagleton	Mathias	Stennis
Ford	Matsunaga	Stone
Gravel	Melcher	Talmadge
Hart	Metzenbaum	Tsongas

NAYS—35

Armstrong	Goldwater	Schmitt
Bellmon	Heinz	Schweiker
Boschwitz	Helms	Simpson
Byrd, Harry F., Jr.	Humphrey	Stafford
Cochran	Jepsen	Stevens
Cohen	Kassebaum	Thurmond
Domenici	Lavalt	Tower
Durenberger	Lugar	Wallop
Exon	McClure	Warner
Garn	Packwood	Weicker
Glenn	Pressler	Young
	Roth	Zorinsky

NOT VOTING—17

Baker	Danforth	Moynihan
Baucus	Dole	Sasser
Bayh	Hatch	Stevenson
Biden	Hatfield	Stewart
Boren	Hayakawa	Williams
Chafee	Heflin	

So the nomination was confirmed.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR STAFFORD'S STRONG ENDORSEMENT FOR SALT II RATIFICATION

Mr. CRANSTON. Mr. President, on Friday our distinguished colleague from Vermont, Senator STAFFORD, in his weekly radio report back home announced his intention to vote for the SALT II treaty.

Senator STAFFORD's endorsement is of particular significance because of his long service in the Congress and his service in the House on the Armed Services Committee. Additionally, Senator STAFFORD has worked along with me and 22 other Senators since May 1978 in an informal SALT study group. We formed this group to educate ourselves on the complex issues of SALT so that when the treaty is finally submitted to the Senate, we will be better prepared to evaluate its merits.

We have consulted regularly with the top national security officers of our Government—CIA Director Admiral Turner, DOD Secretary Brown, Undersecretary of Defense for Research and Engineering, Dr. Perry, Chairman of the Joint Chiefs of Staff, General Jones, and many others. As a result of this learning process and his examination of the treaty, Senator STAFFORD has come to the following conclusion, with which I fully concur—"We owe it to ourselves and to future generations to produce a good SALT agreement and to ratify it. I think we have that good agreement."

Mr. President, I ask unanimous consent that the full text of Senator STAFFORD's radio report to Vermont on SALT II be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

For SALT II

More than 16 months ago, I joined with a group of my Senate colleagues to begin a bipartican effort to prepare to work for the ratification of a SALT II treaty—provided we agreed that the final product was worthy of approval.

At that time, the treaty was still being negotiated. Neither I nor any other member of the group was committed to any specific language.

What we were all committed to is the proposition that effective arms control is essential to our national security.

What I remain committed to is the proposition that, unless we find a way to control and to reduce armaments, we may sentence all the inhabitants of the world to an existence dominated by tension, terror and the threat of war.

When I joined the group of senators to work on SALT, I said that the key to an acceptable treaty is verification. It was my view then—and it remains my view now—that SALT must stand or fall, most of all, on that issue.

My months of study of all available evidence—including the recent report of the Senate Committee on Intelligence—has convinced me that the SALT II treaty can be verified.

For that reason, I have made up my mind.

Barring any unexpected developments, I shall vote to ratify SALT II.

I have come to that decision because it is my view that rejection of SALT II is not acceptable. It is my view that we will be better off as a nation with a SALT treaty than without it.

For a generation, now, the world has lived with the threat of nuclear holocaust. Ever since the Soviet Union joined the United States in the ability to produce nuclear weapons, both nations—indeed, all the nations of the world—have lived with the threat of destruction by design, miscalculation or accident.

We owe it to ourselves and to future generations to produce a good SALT agreement and to ratify it. I think we have that good agreement.

Failure to approve a good SALT agreement would lead to an accelerated arms race. The Soviet Union would undoubtedly begin new efforts to develop new strategic weapons. We would respond by doing the same.

Each nation would spend more and would be less secure. The more determined and senseless the arms race, the more likely is the prospect that something will go wrong.

And, of course, a continuing arms race would consume more of our energies and resources. It would heighten inflation and demand higher taxes, along with a huge share of national resources better dedicated to our needs at home.

A continuing arms race is, thus, destructive of our domestic policy as well as of our foreign policy. It is, in short, insane.

On the basis of careful study of all the evidence so far available, I have come to the conclusion that the pending SALT treaty is verifiable. That does not mean that every detail can be verified. But, it does mean I am convinced that those parts of the treaty that deal with the ability of our military capacity to survive and that deal with our security are verifiable.

The SALT treaty is worthy of approval on its own merits.

In my view, it is a mistake to link SALT with the brigade of Soviet troops in Cuba, or with Soviet conduct on other parts of the world. We should deal with those problems independent of SALT.

Nor should we link SALT with our own defense spending plans. It is a mistake, in my view, to demand across-the-board increases in defense spending in future years as a trade off for approval of SALT II now.

Just as SALT should be judged on its own merits, future defense spending for each of the services should be judged on individual needs and merits as part of our overall defense structure.

The national security of the United States is the single most vital issue in evaluating the merits of SALT. For many months, I have discussed that issue with the Director of the Central Intelligence Agency, the Secretary of Defense and others with knowledge and responsibility in the field of national security.

I have become convinced SALT II meets the most demanding criteria. Unless new and unexpected information is presented; unless unacceptable reservations are added to the treaty at the last minute, I shall vote for ratification of SALT II.

The future of our nation—perhaps of our planet—may depend on a good SALT II treaty.

Mr. LEAHY. Mr. President, I will speak sometime in the next couple of weeks on the subject of SALT. The statement of my distinguished senior colleague, Senator STAFFORD, which has been placed in the RECORD by the distinguished Senator from California, deserves the attention of the Members of the Senate.

The statement is typical of the senior Senator from Vermont in its conciseness, its directness, its thoroughness. It shows the result of a great deal of thought. It is a statesmanlike statement of principle, and I hope it will be con-

sidered by both the proponents and the opponents of the pending SALT treaties.

THE FUTURE OF U.S. RELATIONS WITH THE CHILEAN DICTATORSHIP

Mr. CRANSTON. Mr. President, the administration is expected to reach a decision shortly regarding the future of U.S. relations with the current Chilean regime. This review of administration policy has been prompted by the recent refusal of the Chilean Government to extradite officials wanted for the murder of Orlando Letelier and Ronni Moffitt. A U.S. grand jury has issued indictments against three members of DINA, the Chilean secret police, for their complicity in the murder of Letelier and Moffitt. The Chilean dictatorship has refused to cooperate with American authorities in bringing these men to justice, and 2 weeks ago the Chilean Supreme Court rejected a final extradition request. Thus, the three accused murderers are now free in the streets of Chile.

The crime of assassination is a despicable one, to be sure. But in this case, it is made all the more despicable by the fact that the crime was apparently perpetrated with the foreknowledge and assistance of the elected officials of a government with whom the United States is attempting to cooperate. It is all the more outrageous that these officials brought their campaign of terrorism against their own people to the streets of our Nation's capital. The American people abhor political terrorism wherever it occurs. But it is especially disturbing to see officials from governments with whom we have civil relations apparently seeking to commit murder in our streets and escape with impunity.

We must guarantee, as the Los Angeles Times recently editorialized, that "the military junta in Chile is made to understand that this is one murder case that will not go away quietly."

I have joined with a number of my colleagues from this body in urging the Carter administration to take the sternest of retaliatory measures against the current Chilean regime. We must send a very clear message to this regime that we will not tolerate such acts. The murder of Orlando Letelier and Ronni Moffit was not simply a crime against the Chilean people or against democracy. It was an affront to human decency as well.

The administration can take a number of specific measures to distance our Government further from the dictatorial regime which currently controls Chile. Among those which I have recommended are the following: First, the United States should immediately terminate all forms of bilateral aid, both symbolic and substantive, to the Chilean regime. Second, the United States should deny visas to Chilean military personnel seeking to visit the United States. Third, the United States should withdraw all nonessential personnel from our embassy in Chile. Fourth, the United States should suspend all guarantees and credits offered to Chile through the Overseas Private Investment Corp. and the Export-Import Bank. Fifth, the United States should instruct our representatives in the various international funding institutions to oppose any assistance to the Chilean regime other than for explicitly humanitarian purposes. And finally, the administration should make clear through all available channels—especially our Chilean embassy staff—that our Government looks with disfavor upon any type of financial assistance to the Chilean dictatorship extended by private U.S. institutions.

Mr. President, at such time as the Chilean regime begins to cooperate with U.S. authorities in bringing the accused murderers of Letelier and Moffit to justice, and when that regime begins to recognise the inviolability of fundamental human rights, the necessity of such harsh measures can be reassessed. In considering such measures, the United States does not seek to punish the Chilean people, with whom Americans have long enjoyed warm relations. We simply seek to demonstrate our unequivocal support for democratic freedoms and common decency. I am encouraged to learn that the Carter administration is prepared to reiterate this unbending support by considering stern action against the Chilean regime.

I ask unanimous consent to have the Los Angeles Times editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

COLD BLOOD ON THE STONE WALL

A few days ago the Supreme Court of Chile ruled, in effect, that officials of the Chilean secret police can plot the murder of a political opponent on American soil and get away with it. The United States strongly protested the decision, and called its ambassador home for "consultations." But the matter should not be dropped there.

In September, 1976, a bomb exploded under the car of Orlando Letelier, Chile's former ambassador to the United States, as he drove along Massachusetts Avenue in Washington. Letelier and an American assistant were killed.

Michael Townley—an American employee of DINA, the Chilean secret police—subsequently admitted placing the bomb under the car, and he testified that the assassination was plotted by high-ranking officials of the Chilean intelligence agency.

A U.S. grand jury returned indictments against Gen. Juan Manuel Contreras, who was the chief of DINA at the time of the murder, and two aides. Washington then sought extradition of the three men from Chile to stand trial in this country.

The Chilean Supreme Court has now made a final decision to deny the extradition request on the grounds that the Townley confession resulted from plea-bargaining, and was thus not reliable evidence. The court found technical reasons for rejecting supporting evidence.

In one sense, the decision was predictable. Chile is run by a military dictatorship, and it is very unlikely that Letelier's murder could have been plotted without the knowledge and approval of the junta.

Chile's courts are supposedly independent. But the case was considered in an intimidating atmosphere created by officially inspired charges that the United States was trying to blacken Chile's international image. A Chilean news magazine that dared to suggest support for the American extradition request was closed down for two months.

In the absence of extradition, the United States would be satisfied if Chilean prosecutors would pick up the evidence and make a credible effort to win convictions in a Chilean court. But of course, the regime has no intention of allowing that to happen.

Many Chileans were outraged at the disclosures a few years ago of direct interference by the U.S. Central Intelligence Agency in their country's internal affairs. Those disclosures were a major factor in the ensuing shakeup of the CIA.

Now we are dealing with a cold-blooded murder that was plotted in Chile and carried out in an American city. The United States has a right to expect a great deal more than the stonewalling that has occurred.

This country provides little foreign aid to Chile, but there are other forms of leverage.

The Chilean economy is heavily dependent on loans and investments from American banks and corporations. The United States obviously has a strong voice in such international lending institutions as the World Bank and Inter-American Development Bank. American trade unions representing dock and maritime workers could, if they chose, cripple Chile's exports to this country by imposing a boycott.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. LEAHY. Mr. President, I submit a report of the committee of conference on H.R. 4580 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4580) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 18, 1979.)

Mr. LEAHY. Mr. President, the conferees on this bill, providing appropriations for the District of Columbia for fiscal year 1980, met on September 18, 1979, and came to an agreement that is substantially the same as the bill passed in the Senate in July. I regret that Congress was unable to call this report up sooner, because we are now into the new fiscal year. While this is the same situation as with many other Federal agencies, in the case of the District of Columbia the bill contains not only Federal funds, but also locally generated revenues. Thus, the District is unable to spend its own tax dollars until Congress acts and the President signs a bill into law.

By way of comparison, the Senate passed bill contained $384.6 million in Federal funds, including a Federal payment of $249 million. The conference agreement contains $373.7 million in Federal funds, including a Federal payment of $238.2 million. For District of Columbia funds, the Senate passed bill contained $1.396 billion while the conference agreement provides $1.384 billion. The conference report has been printed in the CONGRESSIONAL RECORD, and a copy is before each Member today.

At this point, I ask unanimous consent that a table summarizing the conference action be printed in the RECORD. The table compares the conference agreement with the fiscal year 1979 appropriation, the fiscal year 1980 budget estimates, the House passed bill, and the Senate passed bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted 1979	Estimates 1980	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
TITLE I									
TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA									
Salaries and expenses	$7,500,000	$500,000	$500,000	$500,000	$500,000	−$7,000,000			
TITLE II									
DISTRICT OF COLUMBIA									
FEDERAL FUNDS									
Federal payment	250,000,000	317,000,000	191,500,000	249,121,500	238,200,000	−11,800,000	−78,800,000	+46,700,000	−10,921,500
Payment in lieu of reimbursement for water and sewer service to Federal facilities	12,200,000	10,500,000	10,300,000	10,500,000	10,500,000	−1,700,000		+200,000	
Federal payment to retire R. F. K. Stadium bonds	9,900,000					−9,900,000			
Loans for capital investment		159,391,700	125,725,700	125,000,000	125,000,000	+125,000,000	−34,391,700	−725,700	
American Agricultural Movement demonstration expenses	2,565,000					−2,565,000			
Total, Federal funds to District of Columbia	274,665,000	486,891,700	327,525,700	384,621,500	373,700,000	+99,035,000	−113,191,700	+46,174,300	−10,921,500
DISTRICT OF COLUMBIA FUNDS									
Operating Expenses									
Government direction and support	(66,475,000)	(70,983,200)	(67,300,700)	(64,879,000)	(63,456,900)	(−3,018,700)	(−7,526,300)	(−3,942,800)	(−1,422,100)
Economic development and regulation	(14,592,200)	(25,673,700)	(13,810,500)	(16,000,700)	(16,127,000)	(+1,134,700)	(−9,546,700)	(+2,316,100)	(+117,300)
Public safety and justice	(281,[illegible],100)	([illegible],024,500)	(252,247,700)	(256,177,100)	(255,472,[illegible]00)	(+3,500,200)	(−7,552,600)	(+2,224,600)	(−705,500)
Public education system	(308,564,000)	(326,162,300)	(310,596,700)	(317,379,500)	(312,403,500)	(+2,929,500)	(−13,668,500)	(+1,806,800)	(−4,886,300)
Human support services	(335,458,700)	(374,156,500)	(329,110,500)	(350,432,400)	(347,359,500)	(+11,890,800)	(−26,797,400)	(+18,248,900)	(−3,072,900)
Transportation services and assistance	(83,797,900)	(95,717,600)	(91,220,100)	(92,858,600)	(92,084,100)	(+8,286,200)	(−3,633,500)	(+864,000)	(−774,500)
Environmental services and supply	(76,273,200)	(81,519,200)	(77,137,800)	(78,205,100)	(78,297,800)	(+2,024,600)	(−3,221,400)	(+1,160,000)	(−908,300)
Personal services	(34,610,600)	(81,610,600)	(47,354,500)	(58,354,500)	(58,354,500)	(+23,743,900)	(−23,256,100)	(+11,000,000)	
Repayment of loans and interest	(120,400,000)	(121,657,300)	(120,657,300)	(120,457,300)	(120,457,300)	(+57,300)	(−1,200,000)		
Demonstration expenses	(2,565,000)					(−2,565,000)			
Total, operating expenses	(1,335,746,400)	(1,480,505,700)	(1,350,385,200)	(1,395,754,900)	(1,384,102,900)	(+48,356,500)	(−96,402,800)	(+33,707,700)	(−11,652,000)
Capital Outlay									
Capital outlay	(77,215,000)	(176,540,300)	(132,830,200)	(165,355,300)	(157,531,300)	(+80,316,300)	(−19,009,000)	(+24,701,100)	(−7,824,000)
Total, District of Columbia funds	(1,412,961,400)	(1,657,046,000)	(1,483,225,400)	(1,561,110,200)	(1,541,634,200)	(+128,672,800)	(−115,411,800)	(+58,408,800)	(−19,476,000)
RECAPITULATION									
Grand total, new budget (obligational) authority	282,165,000	487,391,700	328,025,700	385,121,500	374,200,000	+92,035,000	−113,191,700	+46,174,300	−10,921,500
Consisting of:									
Temporary Commission on Financial Oversight of the District of Columbia	7,500,000	500,000	500,000	500,000	500,000	−7,000,000			
District of Columbia:									
Federal funds to the District of Columbia	274,665,000	486,891,700	327,525,700	384,621,500	373,700,000	+99,035,000	−113,191,700	+46,174,300	−10,921,500
District of Columbia Funds	(1,412,961,400)	(1,657,046,000)	(1,483,225,400)	(1,561,110,200)	(1,541,634,200)	(+128,672,800)	(−115,411,800)	(+58,408,800)	(−19,476,000)

Mr. LEAHY. Mr. President, from this table it is apparent that the conference agreement is much closer to the Senate-passed bill than the House bill. The primary reason for this situation is that the Senate was able to include an $86.6 million budget amendment that arrived too late for House consideration. The conference agreement reflects approval of nearly all of the budget amendment programs recommended by the Senate. The conference agreement reflects a balanced budget that allows the District of Columbia to proceed with vital new efforts and maintain existing programs at adequate levels.

At this point I would like to briefly highlight the major changes between the Senate passed bill and the conference agreement. With regard to Federal funds, the agreement is $10.9 million under the Senate version. This amount reflects a reduction in the Federal payment made possible by maximizing the city's revenues and at the same time eliminating or cutting back on any noncritical programs.

For District of Columbia funds there are several areas which account for the $11.6 million difference between the Senate passed bill and the conference agreement. The largest difference occurs in the public education system, where the total is $4.9 million under the Senate version of the bill. Most of this reduction falls in the area of public schools.

For years the student population of the District of Columbia school system has been declining. Few schools have been closed, even though many are operating at less than 40-percent capacity. Needed program improvements are being stalled since funding must be made available for basic facility operational costs. Mr. President, the conferees are in total agreement with the Senate position that the school system must face up to the reality of the situation and insist on cost saving improvements. The reductions agreed to in conference will

not adversely impact the quality of services provided to District students, but rather will serve notice to the School Board that some belt tightening is in order.

Another major area of change from the Senate passed bill is that of human support services, primarily the Department of Human Resources. Although $3 million has been trimmed from the Senate level, sufficient resources are available to provide the entire range of health and social services at necessary levels, if good management is practiced and worker productivity is insisted upon. The reduction is not in any one program, but rather a series of smaller reductions which will not severely hinder the delivery of services to the public.

Mr. President, there are several areas of concern in which the conferees agreed with the Senate position that deserve to be mentioned. One of the very difficult problems facing the Appropriations Committee in considering the District of Columbia budget has been timing. The conferees agreed to continue bill language requiring the Mayor to forward budget justifications for the fiscal year 1981 budget no later than February 1, 1980. In addition, before finalizing the budget justification material, the city must consult with the staff on both sides to insure that necessary information is provided. This too has been a problem in the past. Along the same lines, the conferees agreed to the Senate proposed reprograming guidelines with only slight technical changes. It is now abundantly clear what is expected of the city when reprogramings are contemplated. In sum, these directives will make the job of the Appropriations Committee and of the Senate much easier in the future.

Fiscal year 1980 will mark the beginning of full implementation in the District of a comprehensive financial management system. Millions of dollars have been spent on getting everything in place, and new positions to insure smooth operations are necessary. The conferees agreed to the Senate language regarding the duration of employment for these individuals, stressing the fact that they are only temporary. In addition, before hiring individuals the city has been directed to consult with the staff of the Temporary Commission on Financial Oversight. These measures will insure the hiring of well trained personnel only for the time period necessary. The result should be complete takeover of the system by current district employees in a short period of time.

Mr. President, I believe the conference agreement on this bill is a fair one, and I urge its adoption. Although some may view the agreement as a bare-bones budget, I would note that it represents an increase of $128.7 million over the fiscal year 1979 budget in District of Columbia funds, and an increase of $99 million over the fiscal year 1979 budget in Federal funds. Being $115 million below the budget request for District of Columbia funds and $113 million below the request for Federal funds, I see no way one could call this an excessive conference agreement.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. LEAHY. I yield.

Mr. WEICKER. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate consider en bloc the amendments of the House of Representatives to the amendments of the Senate numbered 4, 7, 21, 25, and 27.

The PRESIDING OFFICER. Until such time as the conference report has been disposed of amendments will not be in order.

Mr. LEAHY. I understand.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. LEAHY. Mr. President, at this point I yield to the distinguished minority member of the subcommittee, Senator MATHIAS. Senator MATHIAS worked long and hard on this bill both in the Senate and as a conferee. I say that is not unusual because that his been his course of many, many years.

The District of Columbia Subcommittee was not my first choice on becoming a member either of the Senate or the Appropriations Committee. But I must say that because of Senator MATHIAS' help the chairmanship of that subcommittee has been far more pleasant than it ever could have been otherwise.

It is with pleasure that I yield to my distinguished and senior Member of the Senate, Senator MATHIAS.

Mr. MATHIAS. Mr. President, the eloquence of the Senator from Vermont is equaled only by his charity and generosity. His kind words are very much appreciated.

The fact is, as I am sure Senators know, it due to his untiring efforts that the Senate has before it the conference report on the fiscal year 1980 appropriations bill for the District of Columbia.

I think he deserves our thanks and our congratulations because this is a troublesome piece of legislation. It is a difficult piece of legislation. It is a time consuming piece of legislation. And he deserves a great deal of credit for bringing it to this point.

Of course, I thank him for his thoughtfulness, courtesies, and patience that he has always extended during the consideration of legislation.

Mr. President, I do not think it would serve any very useful purpose for me to reiterate what the chairman has already said about the conference action. It has some good news and some bad news. It has some successes and some items that are less successful.

But there are a couple of points that I think are worth making.

First, the conference agreement, while it is merely $11 million below the Senate-passed bill, is nonetheless $46.1 million above the House-passed bill, and in a period where we are all very conscious of the need to make governmental savings I think this represents how a hard fought appropriations bill will be considered so that only the necessary moneys are spent.

But in making those decisions, in assigning priorities, I was pleased that the conference agreed substantially with my efforts to strengthen the city council, to provide increased funding for the District of Columbia General Hospital, and to provide increased funding for human resources programs.

The fact that we were able to sustain these programs indicates that the Senate was indeed vigorously represented by the distinguished Senator from Vermont.

Mr. President, the conference report before the Senate is one that, as I say, has disappointments in it, but it is a genuine product of the conference process. I believe it deserves the support of the Senate.

Mr. LEAHY. I thank my distinguished colleague. Indeed, we have tried to work out areas, working long and hard with the committee in the House, and I wish to compliment both the chairman and the ranking member of the committee in the other body for their efforts in working with us.

I promised to yield to the distinguished Senator from Connecticut. I yield to him such time as he requires.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from Vermont. I compliment both he and the distinguished Senator from Maryland on bringing forth this compromise effort as it pertains to appropriations for the District of Columbia.

My remarks are neither directed toward the substance of the various appropriations nor toward the policy changes that accompany them. Rather, I would like to address my comments to the abortion language contained in the House amendment on the abortion language. This language in effect, is a replay of the compromise abortion language or, for example, the Magnuson compromise language, that was contained in the continuing appropriations bill, House Joint Resolution 412.

I realize that endorsement of this language was a difficult decision for the Senator from Vermont and the Senator from Maryland. Not wanting to hold up the government of the District of Columbia they endorsed it, just as indeed we have previously been held up on the consideration of the important affairs of this country by the debate over abortion. But I figure this might be the ideal time to start firing the first cannon in opposition to the Hyde language by opposing this compromise language, which takes us one step closer to Hyde. It is past time to start expressing some very blunt opinions on the matter of abortion and the language that is being attached to every bill that comes through the Senate and the House.

First, let me call it, the issue of abortion is the greatest nonissue in the country today, although it is not a nonissue in the Senate and in the House, where a few Senators and Congressmen, obviously with rabbit ears—that is, somewhat sensitive ears—listen to the loud voices of an extremely vocal minority.

As far as the American people are concerned, would they assign to this issue the importance that is assigned to it by virtue of what we in Congress do? They certainly would not.

Were we to go to take a poll on the streets of America, we would not find abortion funding among the first 20 issues of concern to the American people. Yet time and again we in Congress are supposed to halt the entire process of government in order to get some rather strong individual views into the law.

This brings me to my second point. My job as a U.S. Senator is not to take up on the floor of the Senate what somebody is not successful in achieving in the church pulpit on Sunday. Now, my friends who are such sticklers on the separation between church and state as well as on the matter of a literal reading of the Constitution, I ask you: What, in fact, have we been doing the past couple of years? We have, in effect, translated some people's religious beliefs into the law of the land, have we not?

If, indeed, you and the people of America do not want abortion, then go ahead and make it a crime. Make it illegal. Period. But nobody wants to do that. Nobody wants that to come to the floor to debate what is indeed the issue.

(Mr. TSONGAS assumed the chair.)

Mr. WEICKER. Indeed, we as Senators are supposed to abide by the law of the land, which, as expressed by the U.S. Supreme Court in Roe against Wade, is that a criminal abortion statute that excepts from criminality only a life-saving procedure on the mother's behalf without regard to the stage of her pregnancy and other interests violates the due process clause of the Constitution. That is the law of the land.

What we are being asked to do here is to take the law of the land as determined by the Supreme Court and suborn the law to the beliefs of a minority of the citizenry. More importantly, the law is to be suborned to the views of a group of men and women who are sworn to uphold the Constitution of the United States, who have had that trust placed upon them, and now clearly, in my view—and I think in the views of many—are violating it both de jure and de facto.

I have to repeat the distinguished chairman of the Appropriations Committee, the Senator from Washington, and the distinguished chairman of the D.C. Appropriations Subcommittee, are forced into positions of compromise on the abortion language in order not to hold up the process of government in this Nation, in this case of the government of the District of Columbia. Last week, on the continuing appropriations bill, it was the Government of the United States of America that was being held hostage.

This has been as distasteful, I am sure, a task for them as it is for me when confronted with a vote, pro or con, with respect to the District of Columbia.

I am not going to speak much more. I just wanted to start talking about the way a minority of people want to be heard.

These people come to the District of Columbia frightening the hell out of Senators and Congressmen, taking roses and using them as baseball bats. These people act as though the whole Nation wants the Constitution turned upside down, because of their point of view.

I do not think the Government should be turned upside down. I think we ought to have the courage to do our job as the Constitution calls for it to be done.

I repeat, vote out any one of the policies that have in effect been established by the abortion language tacked on to appropriations bill, and that is fair enough.

But do it out front, and put a new crime on the books if that is the will of the American people. Stop sneaking around Robin Hood's barn, turning everybody willy-nilly loose and unable to perform the functions of Government in this Nation.

Do you want to go ahead and change medicare and medicaid? If so, let everybody stand up now, and let us make it very clear as to how we are going to change that. We will eliminate a policy for funding for "medically necessary" procedures. If that is the will of the people, let us do away with that policy. It is not what I would vote for. But it is what is selectively being voted for out here on appropriations bills in furtherance of some people's religious beliefs.

If we want to go ahead and make abortion a crime for everybody, rich and poor alike, let us stand up and vote for that. I do not think there are too many who would like to do that either.

Every time I say it has been well established by the Supreme Court as to what is and is not constitutional, those who disagree say, "Well, sir, we cannot have the Supreme Court running the United States of America."

Who is supposed to run the United States of America? I thought the whole object of our constitutional system was not to simply approve or disapprove what, at the time is nice or bad, right or wrong, but instead to adhere to that which is legal. And abortion is legal in the United States of America. It is legal, and I certainly think there is nobody here who will deny that.

The only obligation I have to any religion in this country is to make sure that all Americans may affirm and reaffirm their beliefs and practice their religion in the way they will. I will insure that the free exercise of religion will not be prohibited. That is the only obligation I have, I took an oath when I took this job that I would fulfill this obligation.

I am not here to translate into the laws of this country the beliefs that any faith might have and that is exactly what is being done on this abortion issue. It is time somebody said it loud and clear from the floor of the United States Senate, and the political consequences be damned. No faith should be able to impose its will upon this country.

Well, as I said, there will be more to say on this in the future. I am not going to sit here until the law is nibbled away and finally we get the Hyde language, and then we sort of drift into this backwards.

Stand up for your beliefs. But more important, stand up for the first amendment:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .

Nobody is doing that, per se. But certainly that is the way our actions may be construed in many, many different areas, for good cause.

I am going to vote against the conference report, not because I do not think it is a good report; I think it is absolutely on target. However, I disagree with the language on abortion.

I can see where we are going. This is the second time around. Slowly, we will get to the original Hyde language, and I will have no part of it.

When you start making exceptions as to when an abortion can be had and when it cannot, and the gray areas that you leave out, have none of you thought about the fact that a mother can have a child which child is known ahead of time to be a child with Down's syndrome? Do you not think that is important in terms of the particular religious faiths of the father and mother, in consultation with each other, to decide about the life of that child, with the type of life the child will have? Are we to say what is right and what is wrong?

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. WEICKER. Yes, I yield to the Senator from New Hampshire.

Mr. LEAHY. Mr. President, much of what the distinguished Senator from Connecticut has said here this afternoon I have said myself in a number of public forums in the State of Vermont over the past weekend, when we were out for 3 days. I have expressed here, one Saturday morning in a colloquy with the distinguished majority leader (Mr. ROBERT C. BYRD), my concern with this issue being raised on appropriations matters and holding various appropriations matters hostage, which is what such action amounts to.

Let us consider the question of abortion, but let us have it as a single issue, by itself, either through a constitutional amendment or through whatever statutory form it might take, but by itself. Then let us vote on it one way or the other, but not go into everything from the defense budget to the HEW budget to the District of Columbia budget or every other backdoor way of going in and out on this particular issue, so that nobody knows whether we are voting on abortion or voting to pay for our armed services abroad.

I mean, let us separate it; I could not agree with the Senator from Connecticut more. Let us have a vote on it as an issue by itself, that is, a vote that will affect the rich and the poor exactly the same, that will affect people from every part of the country the same.

There is no question that the House language on this bill is nibbling away and is moving us closer to the Hyde language, which I have opposed in numerous votes on this floor.

If this were any bill other than the District of Columbia bill, I would recommend, as I have in the past that the Senate stick to its own language. But because it is the District of Columbia bill, we have the other problem that what we are doing is just one more way that we are forcing our will in this hybrid, and I believe outrageous, form of limited home rule. We are forcing our will one more way, directing the fortunes of the District of Columbia in a way that they

have no control of, taking it entirely out of their hands, and I think unreasonably so.

I have, Mr. President, and I shall ask unanimous consent to have printed in the RECORD, a letter from the Mayor of the District of Columbia, who says, among other things:

While we would prefer to have the District's appropriation free of any such restrictions, the language as approved by the House of Representatives is acceptable to us. . . .

In the spirit of compromise, I request that you support the House-approved language and recommend its approval to the Senate.

I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DISTRICT OF COLUMBIA,
Washington, D.C., October 17, 1979.

Hon. PATRICK J. LEAHY,
Chairman, Subcommittee on Appropriations for the District of Columbia, Washington, D.C.

DEAR MR. CHAIRMAN: On Tuesday, October 16, the House of Representatives approved the FY 1980 Appropriations Act for the District of Columbia. This act denies the use of Federal funds for the performance of abortions, except as specifically cited. Federal funds included in the appropriation to which these restrictions would apply are the Federal Payment and funds available under the Revenue Sharing Program.

While we would prefer to have the District's appropriation free of any such restrictions, the language as approved by the House of Representatives is acceptable to us. It will require the earmarking of Federal Payment funds to assure that no prohibited expenditures are made. However, such earmarking is currently required for revenue sharing and will not cause a significant administrative burden for the District.

In the spirit of compromise, I request that you support the House approved language and recommend its approval to the Senate.

Sincerely yours,

MARION S. BARRY, Jr.,
Mayor.

Mr. LEAHY. I can understand the frustration of Mayor Barry. He is trying to do a job, a good job, for his city. He finally has a budget of his own, not one he has inherited from previous administrations, and I think he shares the same kind of frustrations that the Senator from Connecticut and I and everyone else do, in seeing these budgets held up time after time after time on abortion language.

So, while I would much prefer that the Senate's position—the original Senate position of no restrictions whatsoever—be the position adopted by the conference, because I am convinced, as is the Mayor, that that is not the way it is going to be resolved, I therefore move the adoption of the conference report.

The Senator from Connecticut has asked for the yeas and nays on the conference report, and that we then go to the amendments in disagreement. I am perfectly willing to yield back the remainder of my time if the other side is, and proceed to a vote on the conference report.

Mr. WEICKER. Mr. President, I do not intend any sort of a delaying action, but I have a few more comments to make, and then I will sit down.

I think the point that the Senator from Vermont raises is also touched upon very clearly and is of concern also to Mayor Barry: What kind of equality under the law situation do we have in this country by virtue of what it is we are doing here in the legislative process? If the mother is rich, or even moderately affluent, she can have an abortion. If the mother is poor, she cannot. That is the situation as it exists today.

On July 19, I spoke on the floor of this Chamber concerning what was called the Magnuson abortion amendment to H.R. 4389, the Labor-HEW appropriations bill. I said at that time:

I rise in what I can only term as lukewarm support of the Magnuson amendment, and I use the term "lukewarm" very specifically because I feel that the Magnuson amendment is considerably less than the law of the land, and is merely before us as a compromise in hopes of making the best out of a difficult legislative situation.

I was speaking then on statutory language from which we are now being asked to retreat even father. Today, we are being asked to deprive indigent pregnant women of the right to an abortion, in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. In short, we are being asked to agree to cut Federal funding of "medically necessary" abortions.

Mr. President, the language before us is contrary to the law of the land. Again, I must remind my colleagues of what the law of the land is regarding abortion. The law of the land was summarized in Roe against Wade.

A state criminal abortion statute of the current Texas type, that excepts from criminality only a life saving procedure on behalf of the mother, without regard to pregnancy stage and without recognition of the other interests involved, is violative of the Due Process Clause of the Fourteenth Amendment.

Mr. President, those who advocate limiting Federal funding for abortions justify their position on the basis of protecting the fetus through the encouragement of childbirth.

This argument, to be blunt, is spurious. The U.S. Supreme Court decisions in *Roe* v. *Wade*, 410 U.S. 113 (1973) and *Colautti* v. *Franklin*, 99 S. Ct. 675 (1979) settled this issue. As the court in *Zbaraz* v. *Quern*, 46J F.Supp. 1212 (N.D. Ill. 1979) stated:

We do not believe, however, that a state has a legitimate interest in promoting the life of a non-viable fetus in a woman for whom an abortion is medically necessary. This approach, which recognizes that the fetus is being carried within a living, human being, is consistent with Supreme Court decisions which suggests that the interest in the fetus cannot be isolated from the interest in the health of the mother.

The Zbaraz court's discussion of the implications of isolating the fetus from the health of the mother is illuminating. I would like to read this passage for the benefit of my colleagues:

As a consequence of the state's viewing the fetus apart from the mother, the mother may be subjected to considerable risk of severe medical problems, which may even result in her death. . . .

A doctor may not certify a woman as being eligible for a publicly funded abortion except where "the life of the mother would be endangered . . . or . . . where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term . . . ." Most health problems associated with pregnancy would not be covered by this language, and those that would be covered would often not be apparent until the later stages of pregnancy, when an abortion is more dangerous to the mother. At the earlier stages of pregnancy, and even at the later stages, doctors are usually unable to determine the degree of injury which may result from a particular medical condition. The effect of the new criteria, then, will be to increase substantially maternal morbidity and mortality among indigent pregnant women.

We cannot hold that the state has a legitimate interest in preserving the life of a non-viable fetus at the cost of increased maternal morbidity and mortality among indigent pregnant women.

Mr. President, existing law restricting public funding of abortions has been held by a Federal court to be violative of the 14th amendment of the U.S. Constitution by denying equal protection. Yet today we are discussing language which, instead of remedying the constitutional problem, would exacerbate it.

Today, we are being asked to enact legislation which would deny Federal funding to indigent women "in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term." To approve this language will jeopardize the lives of many indigent women.

For example, women with sickle cell disease have a 25-percent probability of going into sickle cell crisis and dying as a result of pregnancy. The normal pregnancy mortality rate is 20 per 100,000. Because of this extraordinarily high mortality rate, abortions for women with sickle cell disease are almost universally acknowledged to be "medically necessary." Yet it simply cannot be known, however careful her care and physician's monitoring, whether a particular patient will go into crisis, or whether the state of her disease will remain unaffected by pregnancy. It would not be proper medical care to wait for such an actual threat before terminating the pregnancy. However, the language limiting Federal funding would require that the mother's life be placed in danger before funds would be made available for a life-saving abortion.

Mr. President, limiting funds for abortions has the same result as limiting the actual right to an abortion insofar as indigent women are concerned. It is unrealistic to believe that an indigent woman can make a valid choice if she knows she will be deprived of the means to effectuate her choice.

What we are doing here is imposing a governmentally ordained morality on an indigent woman. She knows she will not receive funds for an abortion—even if she is facing "severe and long-lasting physical health damage." Yet, if she chooses to follow the state-encouraged morality and bear her children, she will be reimbursed not only for her pre-delivery and delivery expenses but also for her children's post-natal costs, as

well as receiving an increase in her welfare stipend.

Prof. Laurence Tribe, the constitutional scholar from Harvard Law School, has aptly characterized the discussions concerning the viability of a fetus as "unmistakably religious." By denying funds for abortions while providing a significant financial incentive for bearing a child, the Federal Government is interfering with a religious choice. This interference is violative of the first amendment and should be proscribed.

Mr. President, I am vehemently opposed to the House language and strenuously object to it. This language will result in an unconstitutional governmental intrusion into the religious choice of America's indigent pregnant women. Accordingly, I urge my colleagues to insist upon the original Senate language which did not limit funding for abortions.

I am going to continue to object to any further compromise. Indeed, I am going to start the ball going the other way and get back within the spirit and the letter of the Constitution of the United States. Let the preachers do their job on Sunday and I will do mine on Monday through Saturday and we will be a better Nation for it. If the preachers cannot do their job on Sunday, then they ought to go out of business. I am going to make certain that a preacher has the right to stand up in the pulpit on Sunday, but that is all. I will not carry the ball for them on the floor of the Senate. The rest relies on the conviction of purpose, on their morality, on the acceptability of their views in the eyes of their congregation. But it does not rely on the Congress of the United States or subverting the Constitution of the United States.

I would hope that my colleagues now would start to reflect on their oath of office, and to listen the beliefs of this Nation, and the majority of the country. I hope that we will stop getting tied up into knots on what I characterized at the outset as the greatest nonissue in this country.

Mr. MATHIAS. Will the Senator yield?

Mr. WEICKER. I yield.

Mr. MATHIAS. Mr. President, the Senator from Connecticut has been very articulate, indeed he has been very passionate, in the argument he has made to the Senate. I think we should take particular note of the fact that, as he has put it, this is not a bill which goes to the legality of abortion but this is a bill which goes to the funding of abortions for those who cannot afford otherwise to have such operations.

Really, what this is about is that there is a gulf between the affluent and the poor in this respect. That is the problem which is before us here today. We would widen that gulf.

The language in this conference report was contained in the conference report on the continuing resolution. I declined to sign the conference report because I felt this language does widen the gulf between the rich and the poor on this very eloquent and sensitive question. The only difference between that occasion and this, it seems to me, is the fact that this is legislation dealing with the District of Columbia.

The Senator from Vermont has put into the RECORD a letter from the Mayor of the city of Washington. The Mayor of the city of Washington is that local official who is most clearly charged with the execution of the laws of the District of Columbia. He apparently has made the judgment that in the gulf between the affluent and the poor, the rich and those below the poverty line, he can and will do justice to this language. I hope he can achieve a just solution under this language. That is the only circumstance which induces me to take a step here which I refused to do in the continuing resolution, and which I will refuse to do if that matter comes before us again.

Mr. LEAHY. Mr. President, the yeas and nays have been ordered on the conference report. I am willing to yield back the remainder of my time if the Senator from Maryland is prepared to yield back the remainder of his time. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion to adopt the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

I further announce that the Senator from Tennessee (Mr. SASSER) and the Senator from Montana (Mr. BAUCUS) are absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Missouri (Mr. DANFORTH) is absent on official business.

I further announce that, if present and voting, the Senator from Kansas (Mr. DOLE) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The PRESIDING OFFICER. Are there other Senators wishing to vote?

The result was announced—yeas 64, nays 19, as follows:

[Rollcall Vote No. 369 Leg.]

YEAS—64

Bellmon	Cannon	Exon
Bentsen	Chiles	Ford
Boren	Church	Glenn
Boschwitz	Cohen	Gravel
Bradley	Cranston	Hart
Bumpers	Culver	Heinz
Burdick	DeConcini	Hollings
Byrd, Harry F., Jr.	Domenici	Huddleston
Byrd, Robert C.	Durenberger	Inouye
	Eagleton	Jackson
Javits	Morgan	Schmitt
Kassebaum	Muskie	Schweiker
Leahy	Nelson	Simpson
Levin	Nunn	Stafford
Lugar	Pell	Stevens
Magnuson	Percy	Talmadge
Mathias	Proxmire	Tsongas
Matsunaga	Pryor	Wallop
McClure	Randolph	Warner
McGovern	Ribicoff	Williams
Melcher	Riegle	Young
Metzenbaum	Sarbanes	

NAYS—19

Armstrong	Jepsen	Stone
Cochran	Johnston	Thurmond
Durkin	Laxalt	Tower
Garn	Long	Weicker
Goldwater	Packwood	Zorinsky
Helms	Pressler	
Humphrey	Roth	

NOT VOTING—17

Baker	Dole	Moynihan
Baucus	Hatch	Sasser
Bayh	Hatfield	Stennis
Biden	Hayakawa	Stevenson
Chafee	Heflin	Stewart
Danforth	Kennedy	

So the conference report was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $63,456,900.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $16,127,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $5,378,100.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert: None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the government of the District of Columbia whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations or their duly authorized representatives.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert:

SEC. 220. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or

incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate concur in the House amendments to the Senate amendments Nos. 4, 7, 21, 25, and 27.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the request was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I appreciate the consideration of my colleagues, and, as I said before, the help of the ranking minority member.

I certainly want to note also the tremendous help of Mr. James Bond who, in typical fashion, has been an enormous help to us.

Also, of course, our staff members John Gnorski, Betty Hoem, and David Julyan, chief legislative assistant of my staff.

Mr. President, I believe that concludes consideration of the D.C. conference report.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to exceed 30 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on October 19, 1979, he had approved and signed the following act:

S. 817. An act to amend the Act of July 2, 1940, to increase the amount authorized to be appropriated for the Canal Zone Biological Area.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:38 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1825. An act to protect archaeological resources on public lands and Indian lands, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. DECONCINI).

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5386) to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States.

The message further announced that the House insists upon its amendment to the bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. RODINO, Mr. KASTENMEIER, Mr. DANIELSON, Mr. GUDGER, Mr. MAZZOLI, Mr. HALL of Texas, Mr. MCCLORY, Mr. ASHBROOK, and Mr. HYDE were appointed as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. YATES, Mr. MCKAY, Mr. LONG of Maryland, Mr. DUNCAN of Oregon, Mr. MURTHA, Mr. DICKS, Mr. GINN, Mr. WHITTEN, Mr. MCDADE, Mr. REGULA, Mr. BURGENER, and Mr. CONTE were appointed as managers of the conference on the part of the House.

The message further announced that the House has passed the following bill, without amendment:

S. 436. An act to amend section 15(d) of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Valley Authority.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2440. An act to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970.

The message further announced that the House further insists upon its disagreement to the amendment of the Senate numbered 12 to the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes; that the House disagrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 27 to the bill; requests a further conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. TRAXLER, Mr. STOKES, Mr. BEVILL, Mrs. BOGGS, Mr. SABO, Mr. STEWART, Mr. WHITTEN, Mr. COUGHLIN, Mr. MCDADE, Mr. YOUNG of Florida, and Mr. CONTE were appointed managers of the conference on the part of the House.

At 4:20 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the bill (S. 832) to extend the authorization for the Federal Election Commission, with an amendment; that the House insists on its amendment and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. THOMPSON, Mr. NEDZI, Mr. BRADEMAS, Mr. DAVIS of South Carolina, Mr. JOHN L. BURTON, Mr. FAZIO, Mr. OBEY, Mr. FRENZEL, Mr. BADHAM, Mr. GINGRICH, and Mr. CAMPBELL were appointed managers of the conference on the part of the House.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2345. A communication from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize ordering reserve commissioned officers of the Army on active duty (other than for training) to serve on active duty in a grade to which promoted; to the Committee on Armed Services.

EC-2346. A communication from the Acting Secretary of Housing and Urban Development, transmitting, pursuant to law, the fourth annual Community Block Grant report; to the Committee on Banking, Housing, and Urban Affairs.

EC-2347. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report listing required information with respect to contracts negotiated by NASA for the period January 1, 1979 through June 30, 1979; to the Committee on Commerce, Science, and Transportation.

EC-2348. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Electrical Energy Development in the Pacific Southwest," October 16, 1979; to the Committee on Energy and Natural Resources.

EC-2349. A communication from the Deputy Secretary of Energy, transmitting, pursuant to law, a report on the results of Preliminary Energy Audits of Federal Owned and Leased Buildings over 30,000 square feet in accordance with Executive Order 11912, as amended by Executive Order 12003, and Part 3, Title V, of the National Energy Conservation Policy Act (NECPA); to the Committee on Energy and Natural Resources.

EC-2350. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, an announcement of the matching fund water research and development areas of interest for fiscal year 1981 funding consideration; to the Committee on Environment and Public Works.

EC-2351. A communication from the Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting, pursuant to law, reports prepared by the International Bank for Reconstruction and Development (IBRD), the Group of Controllers' evaluation reports, and one report called "special study" prepared by the External Review and Evaluation Office of the IDB; to the Committee on Foreign Relations.

EC-2352. A communication from the Secretary of State, transmitting, pursuant to law, a report on developments related to Zimbabwe-Rhodesia; to the Committee on Foreign Relations.

EC-2353. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC-2354. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Agency Standards of Employee Conduct Need Improvement," October 1, 1979; to the Committee on Governmental Affairs.

EC-2355. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, Act 3-107, "District of Columbia Energy Conservation Code Act of 1979," and report, adopted on September 25, 1979; to the Committee on Governmental Affairs.

EC-2356. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC-2357. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Changes Needed in the Administration of the Overseas Food Donation Program," October 15, 1979; to the Committee on Governmental Affairs.

EC-2358. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of GAO reports for the month of September 1979; to the Committee on Governmental Affairs.

EC-2359. A communication from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a memorandum from the Aberdeen Area Office of the Bureau of Indian Affairs, and a statement from some concerned individuals regarding the proposed plan for the use and distribution of Yankton Sioux judgment funds in Docket 332-C, both dated September 28; to the Select Committee on Indian Affairs.

EC-2360. A communication from the Under Secretary of Defense (Research and Development), transmitting, pursuant to law, a report of DOD Procurement from Small and Other Business Firms for October 1978 through April 1979; to the Select Committee on Small Business.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-481. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 395

"Whereas, an Interagency Task Force appointed by the President of the United States is preparing a report on the political status of the territories of the United States, including Guam, and has forwarded a draft of the report to Guam for review and participation by the people and the government leaders in the final report; and

"Whereas, the final report could prove pivotal in resolving the issue of the political status that Guam shall enjoy for the balance of this century; and

"Whereas, the Legislature appointed a special committee composed of community leaders and senators to determine what, if any, recommendations should be made on the report to the White House Task Force, and the Governor appointed a special committee to prepare recommendations on the draft report; and

"Whereas, the Legislature and the Governor have found that both committees' recommendations contain four essential elements:

"(1) a reaffirmation of the people of Guam's right to self-determination of their form of government;

"(2) the necessity for creation of a Joint Guam-United States Commission to review the impact of all Federal laws and international treaties or agreements on the island and to prevent further application of Federal laws and international treaties or agreements to Guam without her consent;

"(3) the removal of Federal constraints on the economic, political and social development of the island; and

"(4) most importantly—the need for immediate action toward commencing political status talks between representatives of the people of Guam and the United States of America; and

"Whereas, the Legislature and the Governor of Guam jointly endorse both statements as reflective of the views of the people of Guam; now, therefore, be it

"Resolved, that the President of the United States and the Congress of the United States are requested to enact legislation authorizing the President of the United States, with the full support of the Congress, to enter into formal negotiations on Guam's relationship with the United States with authorized representatives of the people of Guam; and be it further

"Resolved, that such talks commence in the near future so that the bonds of friendship and mutual respect existing between Guam and the United States can be strengthened; and be it further

"Resolved, that the Governor and Legislature urge the Congress to adopt House Concurrent Resolution 172, 'Relating to self-determination for the people of Guam', which reaffirms the Congressional commitment to the 'right of Guam to determine her own political future through a peaceful, open and democratic process'; and be it further

"Resolved, that the Legislature and the Governor adopt the statements attached hereto and incorporated by reference, as reflective of the opinions of the people of Guam; and be it further

"Resolved, that local law adopting a formal territorial policy on Guam's aspiration with respect to political status will be adopted; and be it further

"Resolved, that the Speaker and the Governor certify to and the Legislative Secretary and the Lieutenant Governor attest to the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the President Pro Tempore of the United States Senate; to the Speaker of the House of Representatives; to the Secretary of State; to the Secretary of Interior; to the Ambassador of the United States to the United Nations; and to Guam's Washington Delegate."

POM-482. A resolution adopted by the Senate of the State of Massachusetts; to the Committee on Energy and Natural Resources:

"RESOLUTION

"Whereas, the major oil producing companies have predicted that home heating oil costs will increase by at least fifty per cent during the nineteen hundred and seventy-nine-nineteen hundred and eighty heating season; and

"Whereas, home heating oil distributors have tightened their credit policy to dealers; and

"Whereas, the tightened credit policy has resulted in consumers being required to pay cash on delivery for home heating oil; and

"Whereas, many of our citizens, especially the elderly and those on fixed incomes, may be unable to pay on a cash on delivery basis thus creating an extremely serious health and safety hazard for our citizens; now, therefore be it

"Resolved, that the Massachusetts Senate hereby memorializes the Congress of the United States to immediately enact legislation requiring the oil producers and distributors to allow home heating oil dealers thirty days to pay for their supplies; and be it further

"Resolved, that copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the Presiding Officers of both Houses of the United States Congress and to the Members of the Congress from the commonwealth."

POM-483. A resolution adopted by the City Council of the City of Norfolk, Virginia, petitioning the Congress of the United States to continue the general revenue sharing program at the existing funding level; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 1918. An original bill to amend title 10, United States Code, to revise and make uniform the provisions of law relating to appointment, promotion, separation, and retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the grade of commodore admiral in the Navy, to equalize the treatment of male and female commissioned officers, and for other purposes (Rept. No. 96-375).

S. Res. 262. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1918. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Patricia Price Bailey, of the District of Columbia, to be a Federal Trade Commissioner.

(The above nomination from the Committee on Commerce, Science, and Transportation was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify

before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CANNON:

S. 1915. A bill to amend the Act of January 2, 1951, also referred to as the Johnson Act, with respect to bona fide vending machines; to the Committee on Commerce, Science, and Transportation.

By Mr. JAVITS (for himself and Mr. PELL):

S. 1916. A bill to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China; to the Committee on Foreign Relations.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 1917. A bill to expand the scope of the Small Operators Assistance Program in the 1977 Surface Mining and Reclamation Act; to the Committee on Energy and Natural Resources.

By Mr. NUNN (from the Committee on Armed Services):

S. 1918. A bill to amend title 10, United States Code, to revise and make uniform the provisions of law relating to appointment, promotion, separation, and retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the grade of commodore admiral in the Navy, to equalize the treatment of male and female commissioned officers, and for other purposes. Original bill reported and placed on the calendar.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 1919. A bill to authorize implementation of a flood control project at the Ste. Genevieve, Missouri; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself, Mr. SCHMITT, Mr. CANNON, Mr. TOWER, Mr. LAXALT, Mr. HATCH, and Mr. SIMPSON):

S. 1920. A bill to transfer certain range improvement functions to the Secretary of Agriculture; to the Committee on Governmental Affairs.

By Mr. MAGNUSON:

S. 1921. A bill for the relief of Mrs. Felisa Bencio; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. GARN, Mr. MCCLURE, Mr. CANNON, Mr. TOWER, Mr. LAXALT, Mr. HATCH, Mr. SCHMITT, Mr. WALLOP, and Mr. SIMPSON):

S. 1922. A bill relating to appeals involving certain orders of the Secretary of the Interior and the Secretary of Agriculture cancelling permits to graze livestock on public rangelands; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON:

S. 1915. A bill to amend the act of January 2, 1951, also referred to as the Johnson Act, with respect to bona fide vending machines; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, I am introducing a technical amendment to the Johnson Act to provide a specific exemption for bona fide vending machines, their parts and subassemblies. The Johnson Act was passed by the Congress in 1951 to help States enforce their anti-gambling laws by prohibiting the interstate transportation of gambling devices.

In 1962, Congress extended the coverage of the act to include all machines and mechanical devices designed and manufactured primarily for use in connection with gambling. The 1962 amendments also included a specific provision, section 1178, identifying the types of devices which the act did not cover, such as coin-operated pinball machines. The legislative history of the 1951 and 1962 enactments clearly shows that Congress did not intend to include bona fide vending machines under the Johnson Act since they are not designed or manufactured primarily for use in connection with gambling and are not gambling devices within the meaning of the Johnson Act. However, bona fide vending machines were not listed among the exemptions provided by the 1962 amendment because it did not seem necessary to do so at that time.

Manufacturers of vending machines and slot machines have recently developed plans to produce a bona fide vending machine which has the external appearance of a slot machine, but which operates like a vending machine—that is, there is no element of chance in operating the vendor. These vending machines would be used to distribute commemorative medals or medallions of historical interest. For example, medallion vendors could be used at the 1980 Winter Olympics to bring in revenues to support the U.S. Olympic teams.

Because bona fide vending machines are not specifically exempted from the provisions of the Johnson Act, the manufacturers are reluctant to carry out their plans and run the risk of needless litigation.

My proposal would eliminate the existing ambiguity in the law and facilitate the development of the vending machine industry. It is a technical amendment, entirely consistent with the intent of Congress in enacting the Johnson Act and the 1962 amendment. Furthermore, my proposal parallels the exemption for bona fide vending machines provided in the Federal tax statute which imposes an excise tax on coin-operated gaming devices.

Mr. President, I am hpeful the Senate will take favorable action in the near future to clarify the Federal law on this subject.●

By Mr. JAVITS (for himself and Mr. PELL):

S. 1916. A bill to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China; to the Committee on Foreign Relations.

● Mr. JAVITS. Mr. President, I rise today to introduce, together with Senator PELL, a bill that would authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China (PRC). This bill is similar to H.R. 5252 that Congressman BINGHAM has introduced in the House. We are all aware of the potential for U.S. participation—through investment and trade—in the development of the PRC, and an OPIC program there would greatly improve the climate for American investment in China.

This legislation should be viewed in the context of what I understand is the administration's intention to submit to the Congress before the end of the month a trade agreement granting the PRC most-favored-nation (MFN) status. I also understand that the administration, however, intends to delay requesting an extension of the OPIC program into China until next year. I see no reason for any delay in the congressional consideration of an OPIC program. For, taken together with the granting of MFN status to the PRC, the negotiation of a Consular Convention, and an expanded Eximbank program, establishment of an OPIC program for China will permit U.S.-business to compete effectively with businessmen from Europe and Japan who, because their countries have more normalized relations with China, are already very active there.

Mr. President, we read everyday about the international concerns, reflected in the unstable foreign exchange markets, about the inflationary situation in the United States. We should not forget, however, that our balance of trade and especially our export performance is a critical element in the world's confidence in our international economic leadership. While we must dramatically improve our productivity and ability to compete internationally, we in the Government must facilitate the American private sector's search for and ability to penetrate new markets. The PRC is one of those great untapped markets for U.S. exports. The OPIC program will helo increase U.S. exports to the PRC since the investment projects to be supported by OPIC will familiarize the Chinese with U.S. products. For example, more than 60 percent of the initial procurement for projects supported in fiscal 1978 came from U.S. firms with an estimated $670 million worth of additional material and equipment expected in the first 5 years of operation; this multiplier effect, rather than exporting jobs, will create jobs in U.S. export industries and will benefit the U.S. economy and our balance of payments.

This legislation is necessary because, under the Foreign Assistance Act of 1961 of which OPIC legislation is part, there are provisions prohibiting any U.S. assistance to Communist countries (22 U.S.C. 2370(b), (f)). In order for OPIC to operate its program in the PRC, a Presidential or congressional waiver of this provision is needed. A Presidential waiver is inappropriate as it would require a finding that operation of the OPIC program in the PRC is "vital to the security of the United States." Thus, a legislative waiver similar to the one OPIC received in 1971 to operate its program in Yugoslavia and Romania (22 U.S.C. 2199(g)) is required.

OPIC benefits American investors by providing investment incentives to American citizens who wish to invest in PRC. It can provide them with coverage of the perceived political risks of doing business in the PRC; that is, the risks of inconvertibility of currency, expropriation of the investment and damage to investment assets through war, revolution, or insurrection. Without the availability of coverage, it has been OPIC's experience that American investors may decline to invest in a country or may invest only on terms which are less favorable to a developing country; that is, shorter payout period or higher return on capital requirements. OPIC would also be able to provide assistance in financing approved projects in the PRC by offering all-risk guaranties of loans by institutional lenders to the projects or by making direct loans itself. OPIC may provide preinvestment assistance, such as grants or cost-sharing, for feasibility studies and surveys of project possibilities.

Encouragement of U.S. investment in the PRC through the OPIC program benefits the U.S. economy by giving U.S. firms the opportunity to participate in the enormous investment opportunities in the PRC, thereby increasing the ability of the United States to impact upon the PRC and increasing the trade between the two countries.

The OPIC program would also encourage and facilitate the investment of American know-how, capital, and skills in the PRC, which has embarked upon an ambitious program of modernization of its economy. Availability of the OPIC program may permit investors to structure their investments on terms more favorable to the PRC. In addition, the availability of OPIC programs could in many instances be the deciding factor as to whether an investment is made.

While the OPIC program could offer assistance to a full range of investments, because of the new PRC investment law and PRC priorities, it is expected that the bulk of U.S. investments in the PRC will be in the nature of service and management contracts, participation in joint ventures, and production-sharing agreements for energy exploration and development. I understand that investor interest for OPIC assistance, registered with OPIC to date, has generally fallen within these categories.

I would like to remind by colleagues that operation of an OPIC program in the PRC would have no effect upon the OPIC program in Taiwan. Pursuant to a Foreign Relations Committee (FRC) amendment to the Taiwan Relations Act, the United States-Taiwan bilateral agreement covering the OPIC program continues in effect, notwithstanding the transfer of recognition to the PRC. Thus, OPIC is still able to insure and finance developmental projects in Taiwan.

Mr. President, I hope very much that the FRC, to which this bill will be referred and of which I am the ranking minority member, will soon hold hearings on the establishment of an OPIC program in the PRC and its ramifications for U.S. investment and trade in the entire East Asia region.●

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 1917. A bill to expand the scope of the Small Operators Assistance Program in the 1977 Surface Mining and Reclamation Act; to the Committee on Energy and Natural Resources.

● Mr. HUDDLESTON. Mr. President, I am introducing legislation today to expand the scope of the small operators assistance program (SOAP) which was established under section 507(c) of the 1977 Surface Mining Control and Reclamation Act (Public Law 95–87).

As it now stands, though well intentioned, SOAP does not really offer the degree of assistance necessary for qualified small operators who must meet the stringent regulatory requirements of Public Law 95–87 and at the same time remain competitive in the marketplace with large scale producers. Providing financial assistance for the "determination of probable hydrological consequences" is indeed a helpful tool to those operators who mine under 100,000 tons of coal per year, however, it is hardly the type of assistance that can assure the competitive position of the small operator and at the same time dictate even more clearly his intention to meet the necessary environmental standards in Public Law 95–87 and the accompanying regulations promulgated by the Office of Surface Mining (OSM).

My bill would be a step toward achieving both of these highly important goals. Without it I fear the dire predictions of various State officials and mining representatives that the small operator will be forced out of the business or be absorbed as subcontractors to large coal operators, with resultant tighter market controlling of coal prices, may come to fruition in the coming months.

We must avoid this danger for the sake of our environment and in order to maintain a stable, competitive coal marketplace. Making funds available for the purposes I have listed in this legislation: Drilling required observation wells; alternative water supply information; climatological information; vegetation information; fish and wildlife resources information; soil resources information; land use information; mapping requirements; water compliance monitoring; and soil tests; will at least put us on the right track.

Some have said that this program will be costly. I am convinced that without it the costs will be much higher. And, it should be pointed out that there are large amounts of money already available for SOAP in the Abandoned Mine Reclamation Fund that was established in Public Law 95–87. If we can gain a consensus on the need for expanding SOAP I am certain we will be able to adjust the mechanism for the distribution of already available funding for these purposes without appropriating any new funds.

I urge my colleagues to join me in this most important effort.●

By Mr. DOMENICI (for himself, Mr. SCHMITT, Mr. CANNON, Mr. TOWER, Mr. LAXALT, Mr. HATCH, and Mr. SIMPSON):

S. 1920. A bill to transfer certain range improvement functions to the Secretary of Agriculture; to the Committee on Governmental Affairs.

Mr. DOMENICI. Mr. President, the second piece of legislation I am introducing today deals with the management of the range improvement funds as authorized by Congress in Public Law 95–514, the Public Rangelands Improvement Act of 1978, and other legislation.

Range improvements include such items as water development, cattle guards, seeding to reintroduce vegetation, soil erosion projects, fencing, chaining, chemical treatment, and stream modification. These improvements are an integral part of sound range management, and the Congress has recognized this need on various occasions. The Congress has also expressed concern over the wasteful and inefficient manner in which the Bureau of Land Management has spent range improvement funds. For instance, House Report 95–1122 states:

> The committee has become very concerned that administrative costs and paperwork have increasingly cut into the moneys available for physical range improvements. This is especially true with the advent of accelerated range inventories, detailed land use planning, allotment management plans, and the numerous range environmental impact statements that are required pursuant to the 1975 NRDC v. Andrus lawsuit. While the committee appreciates the necessity and usefulness of these documents they cannot, in and of themselves, improve range conditions. What is needed for physical improvement is the wire, fence posts, concrete, seeding, water development, equipment, and labor to implement intensive grazing management systems and construct improvements on the ground . . . Further, although the 80 percent figure includes costs for "project layout, a project design and project supervision", the committee wishes to stress in the strongest possible terms that this component of the "on-the-ground" budget should be kept to the absolute minimum.

Senate Report 95–1237 also addresses this problem, with the following language:

> The requirement that 80 percent of the funds be used for on-the-ground range improvements is based on the desire to focus more money on actual physical improvements to the range, rather than on administrative costs. Although the 80 percent figure includes for "project layout, project design, and project supervision," this component of the on-the-ground budget should be kept to the absolute minimum.

These reports express Congress' general and genuine concern, and are specifically aimed at the new moneys to be appropriated under Public Law 95–514. I believe it would be instructive here to review how the BLM has used those moneys resulting from grazing fee receipts, and earmarked for range improvements.

Recently, the district grazing advisory board from the Roswell, N.M. district requested this information. The BLM informed the board that $1,033,756 was collected from grazing fees, with one-half or $516,878 to be used for range improvements. Of these funds, one-half or $258,439 were to be used for on-the-ground range improvements. Of that amount, $130,939 or 51 percent was spent for project layout, project design and project supervision. Only $127,500 or 49 percent was spent for actual on-the-ground range improvements. In other words, over half of those funds were absorbed by the BLM for administrative costs, and less than half was spent for the actual benefit of the range.

Under the funding formula in Public Law 95-514, 20 percent is automatically written off for administrative costs, with 80 percent supposedly going for on-the-ground improvements. However, the "project layout, project design and project supervision" is included in that 80 percent.

If the BLM continues to absorb these funds as they have in the past, then 51 percent of the remaining 80 percent will be used for project layout, design and enforcement. Then we would have a situation where 20 percent of the funds appropriated would be automatically written off, 41 percent (51 percent of 80 percent) would go for project layout, design and supervision, and only 39 percent (49 percent of 80 percent) would go for actual on-the-ground range improvements. Unbelievably, this means that for each $1 appropriated by the Congress, only 39 cents would be spent for the acquisition of materials and actual construction of range improvements. The BLM will be charging the phenomenal fee of 61 cents out of each dollar for administering the program.

Perhaps it is appropriate now to compare the BLM program with the agricultural conservation program as administered by the Agricultural Stabilization and Conservation Service of the USDA. The ACP program is national in scope and was authorized by the Soil Conservation and Domestic Allotment Act of 1936. The ACP provides cost-share assistance to farmers and ranchers to solve agricultural pollution and resource conservation problems, and is a joint effort by producers and the Government "to restore, protect, and preserve the environment and our basic land resource."

Now, when we review the administration and funding of the agricultural conservation program, we find that there is no automatic administrative writeoff, that 95 cents out of each dollar appropriated goes for actual on-the-ground improvements and that only 5 cents goes to the Soil Conservation Service for engineering and technical assistance. Can you believe the comparison? Funds channeled through the BLM result in a 61-percent administrative writeoff, while funds channeled through the ASCS only have 5 percent absorbed in administration.

Moreover, the ACP has three practices (permanent vegetative cover established, SL1; permanent vegetative cover improvement, SL2; and grazing land protection, SL6) which could be used to improve and protect the Federal rangelands. Therefore, Mr. President, I am today introducing legislation which would transfer the administration of range improvement funds from the Secretary of Interior to the Secretary of Agriculture.

This legislation, I am sure, will be controversial. However, it should serve as a focal point to review current BLM policies. If the BLM continues to misuse their funds, and persists in their wasteful management practices, then Congress should indeed remove this program from their purview and transfer those functions to a different agency.

By Mr. DOMENICI (for himself, Mr. GARN, Mr. MCCLURE, Mr. CANNON, Mr. TOWER, Mr. LAXALT, Mr. HATCH, Mr. SCHMITT, Mr. WALLOP, and Mr. SIMPSON):

S. 1922. A bill relating to appeals involving certain orders of the Secretary of the Interior and the Secretary of Agriculture cancelling permits to graze livestock on public rangelands; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, the decade of the seventies has seen mounting tension and controversies concerning the management and use of public trust lands. The most recent problems have centered around the filing of environmental impact statements, brought about by the out-of-court settlement in the Natural Resources Defense Council versus Morton case. As a result of this suit, the Department of the Interior agreed to prepare 145 site-specific environmental impact statements assessing the possible impacts of grazing on lands administered by the Bureau of Land Management. All of these statements are to be completed by the end of fiscal year 1988.

In New Mexico, 14 such statements will be prepared, with three already having been published. Each statement contains a proposed action, which is to be implemented and is supposedly based on data within the environmental impact statement.

The proposed action in the Rio Puerco E.I.S. affects 134 ranch units and would result in the loss of 6,154 animal-unit months of grazing, and an annual dollar reduction to the economy of $43,080. The document also speculates that several of the ranchers will be forced out of business. I might add that the economic impact figures are out of date, as current live cattle prices would more than double the annual reductions in income.

The proposed action in the Draft East Socorro statement will affect 102 ranch operators and would result in the loss of 51,331 animal unit months of grazing, and an annual loss of $527,520. In addition, the area would lose 15 jobs, and 6 small ranch operators would be driven completely out of business.

The proposed action in the Draft East Roswell statement would affect 184 allotments, and would result in the loss of 15,744 animal unit months of grazing and an annual net loss in income of $1.1 million dollars. Moreover, ranch income would drop by 50 percent during the 80's, 75 people would lose their jobs and between 50 and 60 ranches would have to seek outside employment to supplement their incomes.

Now, looking at the total picture of the three statements, we are talking about: A total loss of 123,259 animal unit months of grazing; total loss of $1.7 million dollars in annual income; and over ninety persons losing their jobs.

Mr. President, even though only 3 of the 14 environmental impact statements in New Mexico were published, the severity of the economic and cultural consequences of these statements warranted the attention of Congress. As a result, I chaired hearings by the Subcommittee on Parks, Recreation and Renewable Resources on August 6, 1979 in Las Cruces, N. Mex.

During the course of these hearings, the committee received testimony from the Bureau of Land Management, the Governor's office, the State land office, livestock associations, environmentalists, State legislators, financial and lending institutions, the Governor of Acoma Pueblo, county and municipal officials, permittees from each EIS area, and the range improvement task force at New Mexico State University.

As a result of the diversity of the individuals and groups presenting testimony to the committee, many ideas and varied opinions were heard. However, there did seem to be a general consensus concerning two issues.

First, there was the effect of these drastic cuts on financing ranch operations. Each ranching unit has a fixed cost of operation, which includes such items as equipment, labor, and land payments. The result, then, is fixed costs remaining constant while total income for the unit is reduced in direct proportion to the cuts in carrying capacity. This is, of course, a formula for economic disaster. Lending institutions will reexamine their ranch loans, and there will be a tightening of equity capital, a shortening of repayment terms, and the resulting liquidation of many independent ranch operators.

Furthermore, the value or marketability of these units will decline as carrying capabilities are cut, since the financing or refinancing of a ranch is based upon the carrying capacity and production income which provides the necessary cash flow for repayment of investment. Moreover, most of these ranch operations contain private and State lands, as well as the Federal lands. As the value of the entire unit declines, so does the value of the private and State lands within that unit.

Second, many reservations were expressed concerning the scientific validity of the EIS's. This is of grave importance, especially given the economic consequences previously mentioned. The academicians and professional range scientists raised serious questions in reference to the methodology used in gathering the data for these statements, and the conclusions drawn therefrom. Perhaps this was most succinctly expressed by Dr. Jerry G. Schickedanz, of New Mexico State University, who testified as follows:

> The Range Improvement Task Force has provided the BLM with information from a scientific basis concerning the validity of the inventories as they relate to carrying capacity. We are very concerned with the BLM projecting precise carrying capacities from a one-year inventory on the resource. Calculations of stocking rates by methods used in the EIS's involve independent estimates each associated with a certain degree of error on cover, composition, proper use factors, forage acreage requirements, and production estimates. Any validity of end results is probably coincidental. True grazing capacity can only be determined by stocking with an estimated number of animals and documenting the range trend. No inventory method will give a precise initial stocking rate such as the BLM is trying to use. True carrying capacity can only be determined through actual use records, utilization records, determining condition, and watching the trend up to ten years.

> The impact statements that are presently being released are better in terms of information gathered than the Challis EIS, which was to be the prototype, but are still inadequate. We still are concerned whether the impact statements are truly identifying the alternatives, or are a process of adjudication and not looking at the impacts of livestock grazing, or have been designed to answer the court case and are not an accurate assessment of the range resource.

Needless to say, the controversy surrounding the validity of these documents has created a great deal of resistance by the permittees and the general public in reference to the implementation of the proposed actions. Many, including myself, are sympathetic toward the BLM, because of the court-ordered time constraints placed upon them for the preparation of the EIS's. No one, however, including myself, is willing to accept the economic and cultural consequences of the proposed actions which are based upon highly questionable interpretations of faulty data.

The BLM, I believe, has finally recognized the many inaccuracies and shortcomings of these documents, and the spinoff effects this has had on the way the public views their agency. The BLM is in the process of developing policy to implement section 8 of the Public Rangelands Improvement Act of 1978. Section 8 of Public Law 95-514 instructs the Secretary of the Interior to enter into "careful and considered consultation, cooperation and coordination" with the permittees, the district grazing advisory boards, and the State land office, when developing intensive grazing management systems. Much to their credit, the BLM is proposing to include the target groups in all seven phases of their grazing program, from preplanning to documentation. If finalized and implemented as proposed, the BLM deserves our appreciation and applause for this positive and progressive action.

The BLM has taken positive action on the one hand to comply with the intent of Congress to improve their image with the public, to involve the public lands users and the States in their planning process, and to provide more flexibility to their district managers in implementing the decision documents resulting from the EIS's; on the other hand, they have issued a proposed rulemaking which has enraged the permittees and the State land offices and will permit the flexibility of their district managers.

Mr. President, the proposed rulemaking to which I refer was published in volume 44, No. 147, of the Federal Register. The pertinent section of the proposed regulations would amend section 4160.3, paragraph (c), of the Code of Federal Regulations to read as follows:

> (c) The final decision shall provide for a period of 30 days after receipt for filing an appeal. An appeal shall suspend the effects of a final decision from which it is taken, and an applicant having a grazing preference who was granted grazing use in the preceding year, may continue to make that use pending final action on the appeal, unless the decision appealed was made effective by the authorized officer in accordance with the following:
>
> Decisions affecting livestock grazing use which are issued to all the affected permittees/lessees upon the completion of the resource inventory, land use planning, and environment impact statements, shall be put in full force and effect on the date specified in the decision and pending decision on appeal except the decision may, on written approval of the Director, provide otherwise. All other decisions may be put in full force and effect on a specified date and pending decision on appeal, if found by the authorized officer to be required for the orderly administration of the public rangelands or for the protection of resource values.

The important point to remember here is that under the current regulations, the district managers are provided the discretion to determine whether or not a final decision should be put into full force and effect pending appeal. Under the proposed regulations, where EIS's have been completed, this discretion is revoked. The intent of the Department of the Interior is made clear in an August 7 letter to the Honorable Bruce King, Governor of New Mexico, from Secretary of Interior Cecil Andrus in which Secretary Andrus states:

> The present regulations provide discretion for placing decisions in full force and effect as required for orderly administration of the range or protection of other resource values. The proposed change would require decisions that follow the completion of resource inventories, land use planning, and an EIS be placed in full force and effect. Exceptions to this requirement may be granted by the Director of the BLM, but these are expected to be infrequent.

This reversal of the administrative appeals process is unwarranted and unfair, has a chilling effect on local and State input into the decisionmaking process, and would further alienate permittees, other public lands users and the nearby communities. If the purpose of these regulations was to sever those ties of cooperation which BLM field personnel are trying to repair, they could not have been drafted more appropriately. Stated plainly, this would be a policy which considers permittees guilty until proven innocent.

The correct approach would be to do the exact opposite. Let us remember that the vast majority of these allotments contain private and State lands, intermingled Federal lands. Each final decision has the same impact on private and State lands as it does on the Federal domain. The Congress should guard the right of the private landowner and the States to an appeals hearing, especially given the enormity of the economic consequences which may result from final decisions based on the environmental impact statements. The burden of proof should lie with the Federal agency, while the benefit of the doubt should be extended to our citizenry.

Mr. President, today I am introducing legislation to protect the equity of the administrative appeals process. Briefly, the bill states that in any instance where a grazing permit or lease is modified as the result of a court-ordered environmental impact statement, that this decision shall be stayed until such time as the permittee has exhausted his or her administrative remedies.

While there are many controversies and problems surrounding Federal land management policies, the particular problem addressed in this bill warrants the immediate attention of my colleagues in the Congress.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, in any case in which a court ordered environmental impact statement results in an order by the Secretary of the Interior or the Secretary of Agriculture the effect of which cancels, suspends, or modifies, in whole or in part, a permit or lease for grazing domestic livestock on the public rangelands, such order shall be stayed by the appropriate Secretary for such period as may be necessary to enable the lessee and permittee to appeal such order and exhaust all of his or her administrative remedies under applicable laws and regulations.

(b) The Secretary of the Interior and the Secretary of Agriculture shall issue such regulations as may be necessary to carry out the provisions of this Act.

Sec. 2. As used in this Act, the term "court ordered environmental impact statement" shall have the same meaning as that provided by section 3 (g) of the Public Rangelands Improvement Act of 1978, as amended (43 U.S.C. 1902 (g)).

ADDITIONAL COSPONSORS

S. 51

At the request of Mr. BENTSEN, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 51, the Regulatory Budget Act of 1979.

S. 246

At the request of Mr. BENTSEN, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code of 1954 to encourage greater individual savings.

S. 344

At the request of Mr. STAFFORD, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 344, the Federal Highway Beautification Assistance Act of 1979.

S. 442

At the request of Mr. EAGLETON, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 442, a bill for the relief of Isaac N. Hulver of Kansas City, Mo.

S. 531

At the request of Mr. BENTSEN, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 531, a bill to allow State-inspected meat plants to sell their product to federally inspected meat plants, which could then sell it in interstate commerce after further processing.

S. 742

At the request of Mr. GLENN, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 742, the Nuclear Waste Management Reorganization Act of 1979.

S. 1090, S. 1091, AND S. 1092

At the request of Mr. TALMADGE, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1090, S. 1091, and S. 1092, bills to amend the Employee Retirement Income Security Act and the Internal Revenue Code relating to church plans.

S. 1411

At the request of Mr. CHILES, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 1411, a bill to improve the economy and efficiency of the Government and the private sector by improving Federal information management.

S. 1435

At the request of Mr. NELSON, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1435, the Capital Cost Recovery Act.

S. 1583

At the request of Mr. RIEGLE, the Senator from Missouri (Mr. EAGLETON) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1583, a bill to amend the Motor Vehicle Information and Cost Savings Act.

S. 1587

At the request of Mr. MCCLURE, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1587, a bill to provide economic incentives for the production of alcohol fuels and for the construction and operation of alcohol fuel production facilities; to establish a system to assure a constant supply of stocks for the operation of such production facilities; to encourage and promote alcohol fuels, alcohol fuel blends, and related research, and for other purposes.

S. 1631

At the request of Mr. RANDOLPH, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 1631, the Fish Restoration Act of 1979.

S. 1792

At the request of Mr. MCGOVERN, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 1792, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

S. 1825

At the request of Mr. NELSON, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1825, a bill to adjust the estate tax reforms of 1976 for inflation which has occurred in the past 3 years.

SENATE JOINT RESOLUTION 107

At the request of Mr. RIBICOFF, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of Senate Joint Resolution 107, authorizing and requesting the President to issue proclamations designating the weeks of January 21 through January 27, 1979, and January 20 through January 26, 1980, as "Junior Achievement Week."

AMENDMENT NO. 525

At the request of Mr. MCCLURE, the Senator from North Carolina (Mr. HELMS) and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of amendment No. 523 intended to be proposed to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

SENATE CONCURRENT RESOLUTION 45—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING PRINTING OF THE "HANDBOOK FOR SMALL BUSINESS"

Mr. NELSON submitted the following concurrent resolution, which was referred to the Committee on Rules and Administration:

S. CON. RES. 45

Resolved by the Senate (the House of Representatives concurring), That a revised edition of Senate Document Numbered 91-45, entitled "Handbook for Small Business," explaining programs of Federal departments, agencies, offices, and commissions of benefit to small business and operating pursuant to various statutes enacted by the Congress, shall be printed with illustrations as a Senate document; and that there shall be printed six thousand additional copies of such document, which shall be for the use of the Senate Select Committee on Small Business.

SENATE RESOLUTION 262—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. NUNN, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 262

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1918, a bill to amend title 10, United States Code, to revise and make uniform the provisions of law relating to appointment, promotion, separation, and retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the grade of commodore admiral in the Navy, to equalize the treatment of male and female commissioned officers, and for other purposes.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1918, as reported by the Committee on Armed Services.

SENATE RESOLUTION 263—SUBMISSION OF A RESOLUTION WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. JACKSON submitted the following resolution, which was referred to the Committee on the Budget:

S. RES. 263

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 493, a bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto. Such waiver is necessary because the five Committees with referrals of this bill were unable to report the measure prior to the May 15 deadline due to business related to other issues. The committee intends to offer an amendment to S. 493 postponing the authorization of appropriations until fiscal year 1981 in order to comply with section 402(a) of the Act.

AMENDMENTS SUBMITTED FOR PRINTING

DEEP SEABED MINERAL RESOURCES ACT—S. 493

AMENDMENT NO. 540

(Ordered to be printed and to lie on the table.)

Mr. MATSUNAGA submitted an amendment intended to be proposed by him to S. 493, a bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes.

● Mr. MATSUNAGA. Mr. President, I am today submitting for printing an amendment to S. 493, the Deep Seabed Mineral Resources Act. The amendment is in the nature of a substitute and represents the efforts of the staffs of the five committees to which S. 493 was referred. It is my expectation that the text of this amendment will be considered as original text for the purpose of amendment pursuant to a unanimous consent agreement now being worked out between the committees. I ask unanimous consent that a list describing all of the changes in the original text be printed in the RECORD. This list is keyed to the page and line numbers of the bill as reported by the Committee on Environment and Public Works, the last committee to report the bill (Rept. No. 96-360).

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Page 4, line 9, and 10, Sec. 2(a)(2): Energy amendment.

Page 9, line 23, Sec. 3(b)(2): Energy amendment.

Page 11, lines 3 to 13, Sec. 4(2): Energy amendment.

Page 11, line 14 to page 12, line 22, Sec. 4(3): Energy amendment, with Commerce amendment defining "controlling interest", and conforming subsection designations.

Page 14 lines 3 to 6, Sec. 4(13): Commerce amendment on definition of Administrator and conforming changes throughout the bill.

Page 15, line 17, Sec. 101(a)(2): Commerce amendment.

Page 16, line 9, Sec. 101(a)(2)(D): Commerce amendment.

Page 17, lines 1 to 11, Sec. 101(b): Energy amendment.

Page 20, line 24 to page 21, line 2, Sec. 101(c)(1)(D): Foreign Relations amendment.

Page 21, lines 17 to 18, Sec. 101(c)(2): Foreign Relations amendment.

Page 22, line 4, Sec. 101(c)(2): Commerce amendment.

Page 22, line 8 to 10, Sec. 102(c)(3): Commerce amendment.

Page 22, lines 11 to 13, Sec. 102(c)(3): Foreign Relations amendment.

Page 23, lines 20 and 21, Sec. 103(a)(2)(A): Commerce amendment.

Page 24, line 4, Sec. 103(a)(2)(B): Commerce amendment.

Page 24, line 14 to 15, Sec. 103(a)(2)(c): Energy amendment.

Page 25, line 24 to page 26, line 3, Sec. 103(a)(2)(D): Commerce amendment.

Page 26, line 24, Sec. 103(c)(1): Commerce amendment.

Page 30, line 10 to page 31, line 8, Sec. 103(f): Commerce amendment.

Page 35, lines 20 to 22, Sec. 105(b)(2): Energy amendment.

Page 36, lines 14 to 20, Sec. 105(b)(2): Commerce amendment.

Page 37, lines 5 and 6, Sec. 105(c): Commerce amendment.

Page 37, line 20 to page 38, line 4, Sec. 105(c): Commerce amendment.

Page 45, lines 1 and 2, Sec. 107(b): Energy amendment.

Page 45, lines 4 to 7, Sec. 108(a): Commerce amendment and conforming redesignations of subsequent subsections.

Page 46, lines 4 to 7, Sec. 108(c): Energy amendment.

Page 46, line 9 to page 48, line 2, Sec. 109(a): Energy amendment.

Page 49, line 15, Sec. 109(c): Commerce amendment.

Page 50, line 5, Sec. 109(c)(1)(C): Commerce amendment.

Page 50, line 7 and 8, Sec. 109(c)(2): Commerce amendment.

Page 52, line 15, new Sec. 109(f): Environment and Public Works amendment.

Page 55, line 24 to page 56, line 17, Sec. 113(c): Energy amendment.

Page 57, lines 10, 11 and line 22, Sec. 114: Commerce amendment.

Page 59, lines 5 to 10, Sec. 116(a): Energy amendment.

Page 60, line 2, Sec. 116(b)(1)(A): Commerce amendment.

Page 64, line 11, Sec. 201(1)(A): Commerce amendment.

Page 64, line 12, to page 65, line 12, Sec. 201(1)(B): Foreign Relations amendment.

Page 66, line 5, Sec. 201(3)(B): Commerce amendment.

Page 66, line 18 to page 67, line 5 and page 67, lines 17 to 21: Foreign Relations amendment.

Page 71, line 1, Sec. 302(b): Energy amendment.

Page 79, line 24 to page 80, line 19, Sec. 401(c): Commerce amendment.

Page 81, line 25, Sec. 403: Strike "for fiscal year 1980." and substitute "beginning in fiscal year 1981." ●

SOCIAL SERVICES AND CHILD WELFARE AMENDMENTS OF 1979—H.R. 3434

AMENDMENT NO. 541

(Ordered to be printed and to lie on the table.)

Mr. LEVIN (for himself, Mr. DECONCINI, Mr. RIEGLE, and Mr. HATFIELD) submitted an amendment intended to be proposed by them, jointly, to H.R. 3434, an act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business has scheduled a hearing for October 31 and November 1, on national innovation policy and small business.

The hearings will be conducted jointly with the House Small Business Committee, the Senate Commerce Committee, and the House Service and Technology Committee on October 31, and the two House committees on November 1.

The hearing will begin at 9:30 a.m. in room 1202, Dirksen Senate Office Building on October 31, and at 9:30 a.m. in room 2318, Rayburn House Office Building on November 1. For any questions regarding the hearing please contact the committee at 224-5175.●

SUBCOMMITTEE ON THE HANDICAPPED

● Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped, I announce that our subcommittee has scheduled hearings on the implementation of Public Law 95-602, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. The hearings will be held on Tuesday, November 6, 1979, in room 4232, Dirksen Senate Office Building, and Wednesday, November 7, 1979, in room 457, Russell Senate Office Building, starting at 9:30 a.m.

Persons wishing to testify should contact Mrs. Patria Forsythe, staff director, Subcommittee on the Handicapped, room 10-B, Russell Senate Office Building, (202) 224-9075.●

AUTHORITY FOR COMMITTEES TO MEET

Mr. ROBERT C. BYRD. Mr. President, I make the following unanimous-consent requests that have been cleared with the minority, and may I say the distinguished acting Republican leader (Mr. STEVENS) is aware that I am making these requests:

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, October 23, 1979, beginning at 3 p.m., to hold a hearing on the nomination of John Gentry as Under Secretary of Labor.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet during the session of the Senate on Wednesday, October 24, to consider pending judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet during the session of the Senate on Thursday, October 25, to hold a hearing on S. 1612, the FBI Charter Act of 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION

Mr. LEAHY. Mr. President, I ask unanimous consent that the transportation Subcommittee of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, October 25, 1979, to hold a hearing on truck weights and sizes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND THE HUMANITIES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and the Humanities of the Committee on Labor and Human Resources be authorized to meet during the sessions of the Senate on Tuesday and Thursday, October 23 and 25, to hold hearings on reauthorization of the Higher Education Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Water Resources Subcommittee on Environment and Public Works be authorized to meet during the sessions of the Senate on Tuesday, October 23, 1979 and Wednesday, October 24, 1979 to hold markup sessions on the Water Resources Development Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate on Tuesday, October 23, 1979, and Wednesday, October 24, 1979, to hold markup sessions on energy conservation provisions and other unfinished provisions to S. 932.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the sessions of the Senate on Tuesday, October 23, 1979, Wednesday, October 24, 1979, Thursday, October 25, 1979, and Friday, October 26, 1979, beginning at 2 p.m. to hold markup sessions on disability legislation and crude oil legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ISRAEL: A GENUINE STRATEGIC ASSET

● Mr. SCHWEIKER. Mr. President, the critical importance of the Mideast to American global interests should be obvious. Yet the policies of our Government continue the gradual erosion of our power and influence in the region. Our concern with stabilizing the superpower balance in nuclear forces often obscures our appreciation of the extent to which strategic equilibrium is affected by regional power configurations. And in the Mideast, where chronic instability keeps Soviet penetration and threatens the oil resources vital to Western economies, our long-term strategic interests require above all a secure and viable Israel.

Indeed, it is only by fully understanding Israel's geopolitical significance that the United States can successfully begin

to counter Moscow's regional designs on territories and communities essential to our well-being. Israel serves as both a deterrent to radical Arab hegemony in the area and as a military offset to Soviet infiltration.

In the process of implementing a peace agreement with her most militarily potent Arab neighbor, Israel has assumed major security risks by relinquishing control of the strategic Sinai buffer zone, and has undertaken difficult negotiations aimed at achieving Palestinian autonomy. Perhaps most importantly, as former California Gov. Ronald Reagan has cogently observed, "Israel has the democratic will, national cohesion, technological capacity, and military fiber to stand forth as America's trusted ally" in a volatile region notable for its shifting political allegiances.

As such, Israel's security cannot be held hostage to the immediate whims of domestic politics. To do so would be to overlook, if not potentially compromise, our own security interest in a stable Mideast power balance.

Unfortunately, the perceived political dividends of superficially appealing opportunities often overrule diplomatic wisdom. Some candidates, for example, have suggested that Israel withdraw to the 1967 boundaries, thus greatly reducing her defense-in-depth to possible attacks, and accede to the creation of an independent Palestinian state on the West Bank and Gaza Strip, a prospect which would further increase Israel's vulnerability to hostile elements.

While willing to negotiate peace with all Arab States, Israel cannot reasonably be expected to accept undue risks without fundamental changes in certain objective conditions and in the attitudes of those who have traditionally opposed her existence. Moreover, it would be the height of irresponsibility to risk weakening our most crucial remaining regional strategic asset.

If, in the final analysis, administration policies or the comprehensive proposals outlined by political aspirants would have the effect of undermining Israeli security requirements—for which no outside "guarantee" can substitute—then, as Governor Reagan concludes, "the tasks of Kremlin planners dealing with the Middle East would be enormously eased and a determined barrier to Soviet expansionism in the region would have been withdrawn." Should this ever occur, the present cost of oil will pale in comparison to the price in security the West would be forced to pay.

Mr. President, I believe my colleagues on both sides of the aisle might appreciate the opportunity to review in its entirety the highly responsible approach laid out by Governor Reagan recently in the Washington Post and I ask that his article be printed in the RECORD, following my remarks.

The article follows:

[From the Washington Post, Aug. 15, 1979]

RECOGNIZING THE ISRAELI ASSET

(By Ronald Reagan)

Stripped of rhetoric, the paramount American interest in the Middle East is to prevent the region from falling under the domination of the Soviet Union. Were Moscow, or even its radical allies in the region, allowed to establish dominance or acquire a stranglehold on the West's sources of petroleum, either at the wellhead or at various oil route chokepoints, the economies of the major industrial states would be jeopardized and the capacity of NATO and Japan to resist Soviet pressure would be dangerously impaired. Indeed, any American government which allowed oil supplies to its allies to be placed in question would almost certainly invite the neutralization of Western Europe and Japan, the encirclement of China, and—eventually—its own isolation.

The critical importance of the Middle East to American global interests should be obvious, and yet the policies of our government continue the gradual erosion of our influence and power in the region. Today, the Soviet Union is capitalizing on a vast military buildup by raising the level of risk in accordance with its perception of the strategic balance. The Soviet fleet now has the run of the Mediterranean, free access to the Indian Ocean and the Persian Gulf, and is extending its global reach.

This assertion of Soviet military power at both ends of the Middle East is evident in their string of bases and naval facilities in Iraq, Syria, South Yemen, Ethiopia and Libya. The armies of all these countries are largely dependent on Soviet equipment. The recent turmoil in Iran, Afghanistan, and Turkey—all bordering upon the Soviet Union—is ominous. Each of these non-Arab states is crucial to the balance of power between the Soviet Union and the West, and in each case chaos means a gain for the Kremlin and a deficit for American interests.

Meanwhile, the U.S. record is one of understatement and miscalculation regarding the extent of Soviet capabilities and Soviet interest in affecting or controlling the flow of oil from the Middle East, in base rights and in defense pacts. Swayed by the misleading abstraction of "détente," our policymakers have yet to achieve a clear understanding of the Soviet role in the region. Moscow's objectives and intentions continue to be viewed as opportunistic and not as an integral part of a major effort to alter the global balance of power.

The Iranian debacle is the most recent example of the extent to which U.S. indecision and ignorance of the challenge we face in the region obscure the true stakes. Continued instability fueled by our policies provides important opportunities to the Soviets to expand their sphere of influence and to deny or control oil resources vital to the Western economies. Meanwhile, those leaders in the area who have cast their fate with the United States now seriously question our political judgment and our ability and willingness to back our friends and to withstand threats to their survival. These developments, coupled with Breshnev's unilateral public warning not to intervene in Iran, would indicate that the Soviet Union—not the United States—is poised to fill the power void left "East of Suez" by the British.

The Carter administration has yet to grasp that in this region conflict and tension are endemic, a condition traceable largely to the fragmented sectarian nature of Middle Eastern society. For example, territorial disputes among Arab states are persistent; ethnic and religious rivalries abound; conservative and radical attitudes regarding social change are continuously in conflict. The recent tragedy of the Lebanese civil war and the border war between the two Yemens earlier this year are two cases in point. Thus, the more critical issues dividing Arab states actually have little to do with Israel, even though the Jewish state has served as a convenient polemical rallying point in internal Arab conflicts.

The existence of Israel has served as a convenience for the Soviet Union as well, but Russian aims for control over the entire region existed long before Israel's birth in 1948. Without this bastion of liberal democracy in the heart of the area, the Kremlin would be confined to supporting militant regimes against pro-American conservative governments which would not be able to divert the attention and energies of the radicals away from themselves by using the "lightning rod" of the "Zionist State." Moreover, our own position would be weaker without the political and military assets Israel provides. Yet, American policy-makers downgrade Israel's geopolitical importance as a stabilizing force, as a deterrent to radical hegemony and as a military offset to the Soviet Union.

The fall of Iran has increased Israel's value as perhaps the only remaining strategic asset in the region on which the United States can truly rely; other pro-Western states in the region, especially Saudi Arabia and the smaller Gulf kingdoms, are weak and vulnerable. Israel's strength derives from the reality that her affinity with the West is not dependent on the survival of an autocratic or capricious ruler. Israel has the democratic will, national cohesion, technological capacity and military fiber to stand forth as America's trusted ally.

With a democratic political system like our own we need have no fear of Israel's political stability or of the rise of a radical, anti-American leadership at her helm. Her intelligence services provide critical guidance to ongoing regional development, the technical know-how of her specialists could be used to service American equipment in a crisis, and her facilities and airfields could provide a secure point of access if required at a moment of emergency. Further, Soviet planners must constantly take into account the effective dominance of the Israeli forces and especially its air force, over critical zones of access and transit in the region. In a moment of crisis the knowledge that their air force can create a zone of danger and uncertainty to the U.S.S.R. must greatly restrict Soviet options and thereby facilitate the tasks of American planners.

Specific Arab states such as Egypt—friendly to us at a particular moment—may be well able and prepared to take a front-line position in defense of Western security interests. To the extent that one or more can participate, so much the better; but such secondary links cannot substitute for a strong Israel in the ever-turbulent Middle East.

Therefore, it is foolhardy to risk weakening our most critical remaining regional strategic asset. Yet, if administration policies should serve to weaken Israel either through building the basis for a radical Palestinian state on her borders or through providing her with insufficient military assistance, the tasks of Kremlin planners dealing with the Middle East would be enormously eased and a determined barrier to Soviet expansionism in the region would have been withdrawn.

Only by full appreciation of the critical role the State of Israel plays in our strategic calculus can we build the foundation for thwarting Moscow's designs on territories and resources vital to our security and our national well-being.●

DIET AND HEALTH OVERSIGHT

● Mr. McGOVERN. Mr. President, my experience in chairing first the Select Committee on Nutrition and Human Needs, and now the Nutrition Subcommittee of the Committee on Agriculture, Nutrition, and Forestry has led me to value greatly the function of congressional oversight. In the last 2 weeks, 3 years of investigation on the relationship between nutrition and health were reported in a series of articles and editorials in the Washington Post, the Washington Star, and the New York Times. The catalyst for the news coverage was the third hearing in 3 years on the relationship of diet to cancer. Beyond the importance for the American public of the diet and health message, the news coverage reflects the vital role of congressional oversight in furthering public policy. I ask that the following articles and editorials be printed in the RECORD.

The material follows:

[From the New York Times, Oct. 3, 1979]

CANCER AGENCY HEAD ADVISES DIET CHANGES

(By Jane E. Brody)

WASHINGTON, October 2.—The director of the National Cancer Institute, citing "incomplete evidence" linking diet to cancer, advised Americans today to eat less fat, drink less alcohol, eat more fiber and avoid being overweight to reduce their risk of the diseases.

In issuing these "prudent interim principles," the director, Dr. Arthur Upton, broke rank with current and past directors of the National Institutes of Health, who have maintained that scientific evidence was not yet convincing enough to warrant overall dietary changes to prevent major diseases. No such advice about diets to prevent heart disease, for example, has come from the National Heart, Lung and Blood Institute, despite recommendations from numerous other groups to eat less fats and cholesterol.

Dr. Upton emphasized that "the exact role that diet plays" in causing cancer was still unclear but that currently available evidence warranted the adoption of nutritional guidelines pending the outcome of studies under way. Scientists have estimated that as many as half of human cancers are diet-related.

Dr. Upton offered the advice at a hearing of the Senate's Nutrition Subcommittee, where leading scientists attacked the National Institutes of Health for failing to give adequate support to nutrition research. The scientists said that the institutes' peer review system gave favor to basic research proposals and spurned clinical and population studies so important to unraveling the complex interrelationships between nutrition and disease.

ADVICE IN 1977 REPORT

In 1977 the subcommittee, then the Senate Select Committee on Nutrition headed by Senator George McGovern, Democrat of South Dakota, issued a controversial report, "Dietary Goals for the United States." It advised Americans to eat less fat, sugar and salt and more foods containing starches and fiber to protect themselves from such debilitating health problems as heart disease, cancer and diabetes.

Senator McGovern has continued to hold hearings to assess the status of nutrition research.

The dietary goals report touched off opposition from affected industries, primarily the producers of meat, eggs and dairy products, who contended that the recommendations were not supported by research. It also stimulated Congressional and research interest in nutrition and inspired Joseph A. Califano Jr., when he was Secretary of Health, Education and Welfare, to issue a Surgeon General's report on diet and disease prevention.

The report, which might be compared to the Surgeon General's report on smoking in 1964, was released in July without publicity and has received very little attention. It linked the typical American diet, which is high in fat, sugar, cholesterol and salt and is low in fiber, to the nation's high rates of heart disease, tooth decay, high blood pressure and cancer of the colon. It suggested that Americans eat more whole grains, fruits and vegetables, less red meat and relatively more fish, poultry and dried peas and beans.

EMPHASIS ON OVERALL DIET

Thus, the impact of Dr. Upton's recommendations comes more from their source than their content. They focus on the importance of the overall structure of the diet to cancer risk, rather than emphasizing exposure to possible cancercausing contaminants. He made the following points:

Excess weight should be avoided. Lean animals are less likely to get cancer than heavier ones, and among women obesity has been linked to an increased risk of cancer of the breast and the endometrium, or lining of the uterus.

A high intake of fats, both saturated and unsaturated, should be avoided. High-fat diets have been associated with cancers of the breast and colon and may promote the growth of other cancers as well. Dr. Upton recommended a reduction in the portion of fat in average caloric intake, from 40 percent to about 30 percent, which is what the Dietary Goals report had urged.

Intake of dietary fibers should be "generous" to reduce the risk of colon cancer. Whole-grain breads and cereals and fresh fruits and vegetables are good sources of fiber.

Only moderate amounts of alcohol—one, at most two, drinks a day—should be consumed. Heavy drinking is associated with a high risk of cancers of the esophagus, mouth, throat, larynx and liver.

Diet should be well balanced, including "ample fresh fruits and vegetables," to provide adequate vitamins and minerals. Studies in animals and patients suggest that vitamins A and C have anti-cancer properties, and zinc, selenium and iron may also play such a role.

ROLE OF ADDITIVES

Dr. Upton also noted the possibility that food additives and contaminants, including saccharine, nitrites and chemicals formed in cooking may increase the risk of cancer and that other additives, namely the preservatives BHA and BHT, may help prevent cancer. But he made no recommendations regarding consumption of these substances.

Since the Dietary Goals report, the Government has more than tripled the amount it spends on research into human nutrition, from $50 million to $170 million a year. There are now 143 research projects on cancer and nutrition supported by the National Cancer Institute, as against 100 last year, Dr. Upton said.

Nonetheless, Dr. Barry Commoner, director of the Center for the Biology of Natural Systems at Washington University in St. Louis, testified that the system by which applications for research grants are approved and financed needed a complete overhaul. He criticized the "secrecy" of the peer review process and said that most reviewers had little or no understanding of or appreciation for nutrition-related research. He suggested that the findings of individual reviewers be made public so that if bias and ignorance exist they might be exposed.

Dr. Stanley J. Dudrick, Chairman of the Department of Surgery at the University of Texas Medical School at Houston, told the subcommittee that in some cases reviewer committees who voted on nutrition research applications had no member who was "qualified sufficiently in nutrition to evaluate the proposal fairly."

"IVORY TOWER" ATTITUDE

Dr. Dudrick added that it was time to change the "ivory tower" attitude that something as deceptively obvious and apparently simple to understand as nutrition was not important or worthy of attention or research dollars.

Dr. George Bray, professor of medicine at the University of California at Los Angeles, said that the peer review system did not necessarily finance the kinds of nutrition research of greatest concern to taxpayers. He applauded Senator McGovern's announced intention to seek an audit of peer review by the General Accounting Office.

The Senator noted that, despite the Cancer Institute's solicitation of research proposals on cancer and the diet, last year only 10 of the 85 research applications submitted were given high enough priority by peer review to get funds.

[From the Washington Post, Oct. 6, 1979]

CANCER AND DIET

This week, the prestigious magazine Science declared that "careful study of foods and effects of cooking" offers "probably the best hope for reducing cancer incidence." While that statement is bound to cause controversy among the experts, it is indisputably evidence of a profound shift in the scientific consensus.

During the middle 1960s, the prevailing theory held that most cancers were caused by viruses. A decade later, opinion had swung to favor "environmental" causes of cancer. Over the years, however, the difficulty of sorting out the myriad factors in the total human environment led cancer researchers to concentrate more and more on clearly defined substances, any of which, acting alone, can induce cancer: pesticides, asbestos, vinyl chloride, tobacco smoke and so forth. Gradually, the broader concept of environment, meaning the social and cultural as well as the chemical environment, got lost from the picture. This, a growing number of scientists now believe, led to a misplaced emphasis on the role of chemicals and a serious lack of attention to those substances that affect everyone daily—in particular, the diet.

Sorting out which foods—acting alone or in concert—may be carcinogenic is going to be a monumentally difficult task, requiring decades. Research capabilities are already overwhelmed by the job of testing the more than 50,000 chemicals now in the marketplace, and cannot even begin to keep up with the 1,000 or so new chemicals introduced each year. The possible role of elements of the diet opens up virtually a whole new field of research. Not only may thousands of substances have to be tested, but scientists must also learn how each substance is metabolized by the human body.

So what's for dinner—tonight? What are people supposed to do? It is easy to understand that one should avoid breathing vinyl chloride fumes or drinking chemically contaminated water. But you can hardly stop eating indefinitely. The only answer is to act on the basis of the best available knowledge, even if it is incomplete and quite general. The tentative guidelines announced by the National Cancer Institute this week are therefore an important and welcome contribution. The NCI's recommendations—which it calls "prudent interim principles"—are, in capsule form, to eat more fiber from cereals, fruit and vegetables, less fats (including unsaturated fats) from both meat and dairy products, only moderate amounts of alcohol and fewer total calories.

Some scientists have critised the NCI for acting in the presence of so much uncertainty, and indeed 20 years from now these guidelines may appear primitive, even laughable. But in the meantime, the NCI has performed a valuable service in presenting to the public the best of what little is known. It would be good personal policy to listen.

[From the New York Times, Oct. 7, 1979]

A THINKING MAN'S DIET

Dr. Arthur Upton, the director of the National Cancer Institute, stuck his neck out the other day and offered some dietary tips to

reduce the risk of cancer: Don't gain excessive weight. Eat less fat. Eat a lot of fiber. Drink only moderate amounts of alcohol—one or two drinks a day.

The recommendations are causing controversy among nutritionists who believe there are only tenuous data to support them, and among industries whose products might be adversely affected. But a health-conscious public wants authoritative advice now, not years hence when all the studies are complete. Dr. Upton's informed judgment, though necessarily "tentative" and "prudent," is a welcome addition to the many less reliable voices offering nutritional guidance.

Few would quarrel with the notion that it is wise to keep body weight under control and go easy on alcohol. But the link between diet and cancer is far less well established than that between smoking and cancer or between diet and heart disease. Some nutritionists remain uncertain of the role of fat in causing, for example, breast cancer, and the role of fiber in preventing colon cancer. They say it is too early, on the available evidence, to issue pronouncements designed to alter national eating habits. There are certainly risks in such prescriptions. If the advice turns out to be wrong and has to be retracted, some businesses may have been unjustly damaged and the credibility of science and government will decline. Bad advice could even hurt. Cardiologists have been warning for years that saturated fats increase the risk of heart disease. Many people therefore switched to unsaturated fats. Now Dr. Upton says that unsaturated fats produce cancer in rats, and he advises Americans to eat less of both kinds of fat.

Clearly, there is much still to be learned about diet and disease. But Dr. Upton believes it is time to make "a modest beginning" in applying the knowledge in hand. His advice reflects the dominant scientific view—and it is sensibly cautious. It is hard to see how it can cause harm—and it is likely, if heeded, to do substantial good.

This country seems to suffer an almost neurotic fatalism about cancer. It is widely believed that carcinogens lurk everywhere in the environment and that little can be done to avoid them. But cancers are related to personal habits, such as smoking, drinking and eating certain foods, which anybody can change. Dr. Upton's interim recommendations can help the prudent citizen find himself.

[From the Washington Star, Oct. 11, 1979]

DISEASE AND DIET

It has long been suspected that a good diet lessens the risk of getting cancer, but this homely thesis came close to getting official endorsement last week: the director of the National Cancer Institute issued some "prudent interim principles" on the subject, urging Americans to consider better diets as an aid to cancer prevention.

Dr. Arthur Upton was quick to add that "no direct cause-effect relationship has been observed for nutrition and cancer in humans." But he said that "tentative inferences" are possible, although "in general, ordinary foods have not been studied thoroughly for carcinogens."

There is nothing new in belief that high-fiber, low-fat diets are to be preferred to starchy, sugary ones. The theory is familiar to any American who watches television commercials in which a family virtuously eats a high-fiber breakfast with the calm assurance that it is "better."

In 1977, the Senate Select Committee on Nutrition, chaired by Sen. George McGovern, issued a controversial report, "Dietary Goals for the United States," which suggested that diet reduced—or increased—the risk of a number of serious diseases. And last July, a Surgeon General's report on "health promotion and disease prevention" again suggested that fatty, fiber-free diets contributed to a high national incidence of hypertension, cancer, heart disease and even tooth decay.

What is new is the involvement, at least in a semi-official role, of the National Cancer Institute. Senator McGovern quite properly called the statement a "precedent-setting act."

The chief of nation's cancer agency has not only endorsed a dietary theory, but specifically proposed such things as reducing fat consumption from 40 per cent (the estimated American average) to between 20 and 30 per cent of total calories. (The widely-held theory, Dr. Upton noted, is that "fat in the diet has a 'promotional' effect on the development of cancer.")

Dr. Upton knows he is stepping into controversy. Obviously, dairy producers are not going to be pleased at having so official a spokesman as Dr. Upton oppose, even unofficially, a high intake of fats, saturated or not. And it is a vulnerable position, as Dr. Upton would be the first to agree, because so many variables are at work. Those variables include the natural contaminants of certain foods; or additives and food substitutes, such as nitrites and saccharin, which have been cited as possible cancer-causing agents.

Still, even in the absence of conclusive evidence, it may be argued that the evidence supporting what Dr. Upton calls his "tentative" dietary proposals almost approach the status of evidence on smoking several years before the 1964 Surgeon General's report. Almost. While studies have shown correlations between cancer and dietary habits in certain groups, such as migrant populations and American Mormons, the evidence is still more suggestive than conclusive.

A careful analysis of the effects of various diets on great numbers of Americans is needed. On urging such intensive research, Senator McGovern's subcommittee and others are right. Although some scientists assert that diet contributes to as much as 50 percent of human cancers, only 4 percent of the federal health dollar is specifically used for prevention-related activities.

Meanwhile, just as many sensible folk suspected, long before 1964, that cigarettes were not very good for you, many now suspect that diets with a high proportion of starch and sugar are not healthful, either.

When that suspicion is voiced by such a source as Dr. Upton, who told The Star's Cristine Russell that "the institute has not attempted this sort of thing before," it may persuade many more Americans to take note of what they eat. Which, even in the absence of direct evidence of a cause-effect relationship of diet to cancer, is a good idea.

[From the Washington Post, Oct. 9, 1979]

A SLICE FOR NUTRITION RESEARCH

(By Daniel S. Greenberg)

The government's mandarins of the medical sciences went to Capitol Hill last week to proclaim that they are terribly keen for nutrition research and that they are even drumbeating on the nation's campuses to find qualified takers for their money.

True, and welcome, but it leaves unanswered, why the world's greatest biomedical research enterprise, the $3-billion-a-year National Institutes of Health, is a late arrival in seriously looking into the obviously important relationship between diet and health. NIH, after all, has long claimed exemption from political intrusions on the grounds that science is best navigated by the collective wisdom of the scientific community. Provide the money, leave us alone, and we'll produce for the good of society—so goes the traditional appeal of basic science, which is the main business of NIH.

Given the Nobel-certified scientific success associated with this credo, dissenters risk being labeled quacks and cranks or disgruntled grant rejectees. And let's face it: the critics of the system for dispensing research money do, indeed, include ample numbers of modern-day alchemists, perpetual-motion engineers and psychokinetic metalbenders.

However, in looking for NIH's suddenly developed affection for nutrition research—the National Cancer Institute alone says its spending on nutrition research has gone from $18 million to $32 million in two years—we can ignore the crank fringe; instead, let's take note of some disturbing testimony that was offered by orthodox scientists at hearings Oct. 2 before the Agriculture subcommittee on nutrition chaired by Sen. George McGovern (D–S.D.)

More than anything else, it has been McGovern's insistent prodding that has stirred NIH first to examine and then to acknowledge its neglect of nutrition research, and to progress from inflating its claims of nutrition spending to actually putting substantial money into the subject. Two years ago, for example, NIH claimed it was spending $85 million a year on nutrition research, but when the Congressional Office of Technology Assessment went over the NIH list, it reported that less than $5 million met NIH's own definition of nutrition research.

The testimony given to McGovern strongly charged that the NIH decisionmaking system which depends on the evaluation of research applications by panels of outside experts—is so dominated by traditionally defined scientific specialties that it cannot cope with a cross-disciplinary field like nutrition research. That was the core of the testimony given by Dr. Stanley J. Dudrick, professor of surgery and chairman of the department of surgery at the Hermann Hospital and the University of Texas Medical School in Houston. While praising the changes that have begun to occur under Donald Frederickson, director of NIH, and Arthur Upton, director of the Cancer Institute, Dudrick said that the prevailing system of peer review for dispensing research money "has failed dismally in my experience in the evaluation and support of nutrition research."

Referring to his own experience on the advisory board that the Cancer Institute established to guide nutrition research, Dudrick said, " I know from bitter firsthand experience that from the first day we convened, the majority of the members of the board appeared to be more concerned with diverting even the small amount of funds at our disposal back toward their own interests or those of their colleagues rather than supporting novel nutrition research projects of clinical relevance and importance. After engaging in a series of meetings in which a "you scratch my back and I'll scratch yours" attitude prevailed," the surgeon continued, "a set of guidelines and priorities emerged which doomed to failure any meaningful thrust in the area of diet, nutrition and cancer."

The presence of a senatorial champion on the relatively obscure issue of how a government agency decides to award research money has made a difference on nutrition research, as is evident from the funds that are now going into this field, as well as the Cancer Institute's issuance—reluctant though it was—of what it considers to be the best available advice concerning cancer and nutrition.

But still to be accounted for is science's continuing devotion to the traditional peer-review system, a money-dispensing ritual that the managers of American basic science portray as indispensable for high-quality research. However, left to itself, the peer-review system failed on nutrition research.

Which, of course, leaves a question: how well is it performing in areas that have not

had the good fortune to attract the skeptical interest of an influential legislator?

[From the Washington Post, Oct. 2, 1979]

INCHING TOWARD A CURE FOR CANCER

(By Daniel S. Greenberg)

Statistics now being processed at the National Cancer Institute portend new and wrenching strains in the long-quiescent but potentially volatile politics of cancer.

Preliminary analysis of these numbers indicate that the so-called war on cancer, now in its seventh year, has failed to produce any sharp increase in the survival rates for the most common types of cancer. Nonetheless, the institute's newly collected data show that therapeutic progress is slowly but steadily being achieved. The gains are, so to speak, in inches rather than in the miles that were expected in 1970, when Congress, egged on by the cancer lobby, resolved that cancer should be cured by 1976 "as an appropriate commemoration" of the nation's bicentennial.

Since then, not only has the disease eluded the "magic bullet" approach, but the incidence of cancer has actually increased—despite the self-serving nonsense issued by apologists for industrial pollution. As Dr. Marvin A. Schneiderman, for many years the institute's chief of statistics, told Congress earlier this year, "Even when the smoking-related lung cancers are removed from the incidence data, there were still increases in incidence from 1969 to 1976."

Thus, the grim news is that there's more of it, while the rate of successful treatment is getting better, if only at a discouragingly slow pace. In comparisons of five-year survival rates for cancers initially diagnosed in 1960–63 and 1970–73, the institute's latest figures show that survival rates for breast cancer are up, from 63 percent to 68 percent; even for highly intractable lung cancer, there has been a slight improvement, from 8 percent to 10 percent; for cancer of the rectum, survival figures are up from 39 to 45 percent.

A flock of statistical qualifications and cautions accompanies these preliminary findings: the figures are for whites (those for blacks, who generally suffer higher cancer incidence and mortality rates, are yet to be processed); these are total figures and fail to distinguish disease stage or treatment; and, finally, when the latest figures are viewed against a baseline more recent than 1960–63, improvements persist, but they are smaller. Even so, two of the institute's senior biostatisticians, Earl S. Pollack and Max H. Myers, feel that the favorable changes are unusually large and are not due to analytical oversights or statistical quirks.

What these statistics mean, then, is that the foolishly promised blitz against cancer has still not materialized and that, until that unforeseeable time when the biological mechanisms of cancer are understood, we had better reconcile ourselves to a medical equivalent of trench warfare. The difficulty, however, is that just when the U.S. government ought to be settling in for a long and costly haul, a thoughtless disarray is becoming evident in the politics of cancer.

After years of financial forced-feeding, the budget of the cancer institute has abruptly leveled off—actually gone down in inflation-eroded purchasing power—at the very time that the institute's programs around the country are hungrier than ever for support. The president, who, not without justification, is skeptical toward grandiose research projects, said in his science-policy message early this year that "as we have learned from the emphasis on cancer over the last decade, advances depend on new discoveries whose rate cannot be predicted." From which he concluded that the cancer institute could get on without even a cost-of-living budget increase—a decision that Congress amended to allow for a bit of a rise in spending.

The reality, however, is that the promise-filled war on cancer is now the victim of false expectations. The "new discoveries" to which Carter referred carry the suggestion of the great scientific breakthroughs that were foreseen in the early 1970s, if only the money were made available. Regrettably, there have been very few breakthroughs, and none of them, so far as is known, of general therapeutic value. Meanwhile, with the government's cancer-research spending more or less in the doldrums—even $1 billion a year doesn't go far in this line of research—various sectors of the cancer industry are intensifying their squabbles for shares. Thus, academic basic researchers bitterly complain about the share that's dished out in industrial contracts—to the detriment, they insist, of university-based science. And the doctors who study the effects of new drugs say that clinical research is being short-changed. Meanwhile, after repeated blasts from Congress, the cancer institute is at last moving into the long-neglected field of preventive research. This is a welcome development, but it means that an already stretched budget will have to be stretched even more.

Humanity and sound medical strategy now call for putting this program on a long-term, steady financial basis that fully recognizes that inch-by-inch success is the best that we can hope for at present.

The delayed arrival of a miracle ought not to be a reason for disavowing the importance of small gains. Also, cancer budgets and strategies ought to be kept out of national politics. Let it be recalled that the present National Cancer Program was conceived against a 1971 competition between Richard Nixon and Edward Kennedy over who would become the national champion of cancer research. And at one point, when a "NASA for cancer" was being touted, a supportive plea from Ann Landers produced a letter barrage that remains legendary on Capitol Hill. That bad idea was defeated, but not by much.●

THE CONSTITUTION

● Mr. LUGAR. Mr. President, throughout my career in public service, I have been encouraged by the increasing awareness of young people in the ideals and freedom set forth by our Founding Fathers. I am reassured that the future will be secure as evidenced by this patriotic outlook.

I was privileged to receive a copy of a speech given by David Dersch of Muncie, Ind., to the annual meeting of the Sons of the American Revolution in San Diego, Calif., on June 23, 1979. I recommend David's speech to the attention of my colleagues as further grounds for optimism about the future of our Nation.

Mr. President, I ask that the text of David's excellent speech be printed in the RECORD.

The speech follows:

THE CLIMAX OF THE REVOLUTION

This evening, I would propose a question to you patriots of America: What was the climax of the American Revolution? When did the Revolution actually end? Any schoolboy can tell you that the "shot heard 'round the world" was first fired at Lexington in 1775, and that we became independent on July 4, 1776. But far fewer know or even realize that the war lasted for six long years after this until October of 1781, when Cornwallis surrendered at Yorktown. But think with me a moment. Does the end of fighting truly signify the end of the Revolution in regard to its ideas and principles? What exactly was the culmination of the Revolutionary War?

I would suggest to you that the climax of the Revolution is the Constitution of the United States. Why do I believe this? There are several reasons. But before I justify my statement, this question must first be considered: When is any revolution over?

To answer it: A revolution should not be considered finished and successful until three conditions are met:

1. A workable government is formed.
2. The welfare of the common man is improved.
3. The country is stabilized, and another revolution is not in the near future.

Very rarely in modern times do we find a successful revolution because very rarely are these three conditions met. The recent uprisings in Africa and the Middle East are good examples. These uprisings are not revolutions of ideals and principles, but simply the display of power by one group over another. The general welfare of the people is not enhanced. Lives are lost, and one outrageous outburst often leads to another. Therefore, these revolutions cannot be termed successful.

However, the United States' Revolution was successful, and the Constitution was the capstone of that revolution. We can readily see how the Constitution fulfilled the three requirements of a successful revolution. First of all, it formed a working government. The constitution republic has endured and worked for 200 years, and it will continue to do so today, if it is used.

The second requirement for a successful revolution, that idea of an improved state for the people, has been established by the Constitution in several ways. The first ten amendments, called the Bill of Rights, guaranteed to American citizens personal liberties which were almost unheard of at that time. These noble ideas of freedom of speech, worship, press, public assembly, and the right to bear arms are the very principles for which men even today give their lives. Not only this, but the Constitution also promotes the Free Enterprise System, which has allowed our country, you and me, to enjoy a standard of living unparalleled in any other place in the world. But most important, the Constitution provides for a government which is to be in submission to the people, and not the people in submission to the government. This underlying truth though often neglected by the politicians and the bureaucrats of our day was the motivating factor behind the whole Revolution itself.

The third reason why I believe that the Constitution is the end point of the Revolution is that it stabilized our country. After it was written, there were no future uprisings on the horizon.

This brings me to my fourth point. The Constitution is the combined effort of 55 of the greatest political minds ever assembled on the continent of North America. The men who composed it were educated . . . 25 had attended college; 34 were lawyers. They had been personally involved in government, so they knew how it functioned . . . 42 were members of the Continental Congress; 46 had been elected to their state legislatures. These men were the leaders of the day. From their ranks would come the future leaders of the new government . . . 2 Presidents; 5 Supreme Court Justices; 14 Congressmen; and 19 Senators. These were the most brilliant men of their day. These were our Founding Fathers.

In conclusion, to summarize the reasons why I feel that the Constitution successfully completed the Revolution are these four points:

1. It formed a workable government.
2. It improved the welfare of the common man.

3. It prevented future revolutions by stabilizing our country.

4. It was written and endorsed by the great statesmen of the day.

The Constitution of the United States is the greatest political document ever composed by man. It is something that each and every American should stand up for today and be proud of today. It is the high point, the climax of the American Revolution.●

RETIREMENT OF GEORGE J. BURGER, JR., NATIONAL FEDERATION OF INDEPENDENT BUSINESS VETERAN

● Mr. NELSON. Mr. President, I would like to call to the attention of the Senate the retirement from the small business arena of George J. Burger, Jr., director of the National Federation of Independent Business' Federal legislative affairs program.

At the time Mr. Burger joined NFIB, in 1947, there were less than 75,000 members. As he prepares for his well earned retirement, NFIB is now 585,000 members strong. His success in helping to mold a lobbying organization known for its integrity, knowledge, and effectiveness has contributed in no small measure to that record of phenomenal membership growth. NFIB, I am informed, presently is the Nation's single, largest small business organization.

The centerpiece of the program that Mr. Burger has fostered and directed so well is the Mandate. A unique publication in the legislative world, the Mandate is used not only to inform members about legislative activities, but to point out positions of Senators and Congressmen on topical issues. I understand that the results of these Mandate polls form the action agenda for NFIB, and many small businesspersons use these Mandates as tools when contacting their Representatives.

However, successfully implementing the positions attained by the Mandate polls has been the true measure of Mr. Burger's acomplishments. A few areas in which Mr. Burger has played a key role are:

Establishment of the House and Senate Small Business Committees as permanent standing, legislative committees;

Creation of the Small Business Administration, first on a temporary basis and later as a permanent agency;

The initial 7-percent investment tax credit;

Preservation of the Robinson-Patman Act against strong opposition;

Measures limiting bank holding companies;

Enactment of Keogh-type retirement programs;

Stronger penalties for antitrust violations, and strengthening of antimerger statutes.

The Nation's climate for small businesses to be started, to grow, and to thrive from one generation to the next is the better because of George J. Burger, Jr.

We can all agree that he is a true guardian of small business. We shall miss him.●

THE PLIGHT OF THE CAMBODIAN PEOPLE

● Mr. JEPSEN. Mr. President, recent history is littered with unbelievable accounts of the consequences which result from man's inhumanity to man. The holocaust experienced by the Jews at the hands of the Germans. The desperate cry of the disease-ridden, hunger-crazed populations of Biafra and Bangladesh. And most recently, the tragic and brutal accounts of the "boat people" struggling to survive on the open seas.

In each instance the human conscience was shocked beyond belief. Most of the world community generally responded with sympathy and compassion and helped to alleviate the suffering. True to American tradition, the American people took the lead and offered generous amounts of food, clothing, and medical assistance. And in the process it all became part of America's consciousness.

Mr. President, the current plight of the Cambodian people has the potential to become the greatest human tragedy of the century. Unless the world community makes massive efforts to supply food and medical aid to the Cambodians, there is the distinct possibility that in the not too distant future, the Cambodian people, as a people, will die—will just cease to exist. As a world leader, it is incumbent upon this great Nation to commit its time and resources to solving the world's present holocaust.

The Cambodian people are facing imminent extinction from disease and starvation. They are crying for life. The world, for the most part, is uninvolved. The reports from within Cambodia tell of walking skeletons, rampant disease, shriveled and bloated children and the ghastly results of pervasive hunger and malnutrition.

On August 23 the Washington Post quoted a Western official returning from Phnom Penh:

> Nothing approaches the desolation * * * the disease, starvation, orphans * * * it is all incomprehensible. I have seen nothing like it before, not Bangladesh, not anything.

Jacques Beaumont, a UNICEF Official interviewed in Phnom Penh by Newsweek magazine was quoted:

> Not famine in a few weeks' or months' time. Famine is here and now. Unless, somehow, there is an airlift of some 600 tons of rice a day beginning now and lasting several months, the Cambodian people will die.

Finally, a pediatrician in a Phnom Penh hospital, Dr. Nouth Sauoeun, commented for the Far Eastern Economic Review that:

> If the magic wand of international aid does not come to our help quickly, we are finished.

Although precise facts surrounding the situation are difficult to obtain, reliable estimates are possible, and they are chilling.

Almost no food is being grown or produced in the entire country. Only about 5 percent of the rice paddies appear to be in cultivation—and people have been eating seedlings in order to stay alive.

Most people are living on about 4.5 ounces of rice per day—less than one-third of the average quota in Southeast Asia.

Eighty percent of the children are suffering from the severest form of malnutrition.

The ravages of war and the excesses of the recently overthrown Pol Pot regime have left the populace with virtually no transportation, communication system, telephone, books, medical supplies, machines, and other aspects of modern civilization.

There are only 55 doctors in the entire country—out of more than 500 practicing before the Pol Pot regime came to power in 1975—and only a few hospitals. A substantial proportion of the educated people living in Cambodia before 1975—doctors, teachers, engineers, and other professionals—were killed between 1975 and 1979.

The population has been reduced from more than 8 million in 1970 to between 4 and 5 million at present—a reduction of 40–50 percent.

Only 20–30 percent of the remaining adult population is male. Most of the adult females are widows.

There is only 1 birth for every 10 deaths.

In the next 6 months, the situation threatens to grow much worse. The main rice crop, due to be harvested in December is virtually nonexistent. Within the past few weeks, the Heng Samrin government—which, supported by the Vietnamese Army, controls most of Cambodia—has launched a major new military offensive to destroy what remains of Pol Pots' forces. The renewed fighting threatens not only to wipe out most of the meager rice crops that remain; but also could disrupt the famine relief efforts presently being negotiated.

Estimates are that unless massive aid begins to arrive in Cambodia almost immediately, as many as 2½ million people, or more, face death from starvation.

These facts, horrible as they are, cannot adequately portray the depth of the agony suffered by the hundreds of thousands of people condemned to a slow, painful death from disease and starvation. And despite our willingness to admit to the truth of the matter and despite our willingness to be helpful, determining the nature and scope of the assistance this country and others can provide will be difficult.

Physical, as well as political obstacles stand in the way of any effort to alleviate the suffering of the Cambodian people. The years of war have taken a mighty toll. Cambodia has been decimated.

Roads on which to transport food and medical supplies are few and far between. Those that do exist have fallen into disrepair. Bridges that provide the means to reach the people in the countryside are damaged substantially.

Even if an adequate transportation network did exist, cars and trucks, the fuel to run them and the spare parts to repair them are scarce. To add to the problem, many Cambodians are so weak from sickness or hunger, that they are literally unable to load or unload the packages or supplies, much less repair

roads and bridges, or even move from one community to another.

Probably the most serious challenge facing any effort to mount a massive humanitarian aid campaign for Cambodians, however, is the confusing web of political alliances, partisan politics, and regional fears that exist.

Despite all of the gross violations of human rights of which it stands accused, the Pol Pot regime is nevertheless supported as the "legitimate government of Cambodia" by China; is officially recognized by the United Nations; and, in varying degrees, is tacitly encouraged in its fight against the Vietnam-backed Samrin government by many of Cambodia's Southeast Asian neighbors.

The Soviet Union and her allies, on the other hand, support the Heng Samrin government which does not appear to be substantially in control of Cambodia.

The United States has accorded diplomatic recognition to neither side, yet recently voted in the United Nations to allow Pol Pot to claim Cambodia's seat in the General Assembly.

The United Nations is unable to provide aid to a government which it does not recognize as legitimate (Heng Samrin), or to a government which has not requested aid (Pol Pot).

All of this wreaks havoc with attempts to obtain international aid. The United States must be cautious lest aid be diverted from the Cambodian people to feed the Vietnamese Army, or to further the military efforts of one side or the other. The Soviet Union wants no part of an aid effort that might fall into the hands of Pol Pot's forces. China's attitude is similar, only in reverse; it does not want aid to fall to the Heng Samrin regime.

Mr. President, despite major impediments some relief efforts have gotten under way. UNICEF and the International Committee of the Red Cross, the Catholic Relief Services, the Church World Service, and Christian Conference of Asia, and the Oxford Committee for Famine Relief (OXFAM) have committed their resources to the distribution of food, medicine, and other necessities to the people of Cambodia. In addition to these projects a number of additional efforts have been mounted by other religious groups and nonsectarian voluntary agencies such as the International Rescue Committee, the United Nations High Commissioner for Refugees, the Mennonite Central Committee, the American Friends Service Committee, and Refugees International.

However, when one closely analyzes the relief efforts which have been underway in recent months, as against the most expert projections about what is needed to save the Cambodian people, one comes face to face with the incredible gulf between what has been done—and what must be done to save 2½ million people from starvation.

Most experts in international relief efforts agree that between $100 million and $200 million will be needed within the next 6 months to help stave off the starvation of the Cambodian people. To date, it appears that only a few million dollars have been raised, allocated, or expended.

In the next 6 months the situation threatens to grow intolerably worse. A small rice crop, normally harvested in October, will yield only a tiny fraction of its normal output. The main rice crop, due to be harvested in December and January, is virtually nonexistent. Now that the Heng Samrin forces have renewed their military offensive against Pol Pot's army, there is the threat that the fighting will not only destroy many of the meager crops which remain but will undoubtedly wreak havoc with the relief efforts that are now underway.

Mr. President, the world community, as well as the United States, must awaken to the idea that 2½ million Cambodians—men, women, and children—must not be allowed to die of starvation—politics or no politics. The only remaining question then is what alternatives are available to us?

A number of directions, proposals, and ideas for alleviating the human suffering in Cambodia are currently being discussed by representatives of international relief organizations, Members of Congress, U.S. State Department officials, United Nations personnel, church leaders, businessmen, and concerned citizens. The nature and degree of the assistance to be provided must be agreed upon as soon as possible. Whether or not we ultimately decide to lift the congressional ban on direct U.S. aid to Cambodia, increase contributions to food-for-peace (Public Law 480, title II) program and the international disaster assistance program, or increase U.S. aid to international agencies and programs such as UNICEF, the International Committee of the Red Cross, and so forth, is not as important as acting expeditiously no matter which course of action we choose. Time is of the essence.

Any effort to aid the Cambodian people must include, however, a major public education campaign and a campaign directed at world opinion.

The American people have been relatively sympathetic to the plight of the "boat people", largely because there has been an extensive coverage of their plight in the media. The enormity of the catastrophe that faces the Cambodian people has yet to penetrate either the American psyche or this country's mass media. Given the realities of the electronic age, it appears inevitable that this issue must first become a media priority before it makes its way into the consciousness of Americans generally.

Cambodia must become an instantly recognisable name in the same way as the "Holocaust" became part of America's consciousness, if we are to help avert the destruction of that nation. Pressure must be focused on Hanoi, Peking, Moscow, Cambodia's neighbors, the U.N., and so forth, to become actively involved in a famine relief effort and/or making it easier for relief channels to be established. Nothing less than the obliteration of a human community is at stake, and the public must learn about it as quickly and as completely as possible. As the Washington Post editorialized on August 10 "neither Hanoi nor Peking is likely to be totally impervious to the united force of world opinion."

Last we must remain accountable for our efforts. Compassion and basic human nature dictate to us that we must get involved. But we must also keep in mind that our objective is to help the Cambodian people, not the totalitarian Communist regimes that are responsible for creating the pathetic state of affairs in Cambodia and who are currently battling for absolute control of that country.

Mr. President, Cambodia has experienced a decade of war, violent revolutionary upheaval, almost unparalled assaults on modern civilization, a destruction of virtually its entire culture, religion, and social structure, the loss of half of its population, and now, unless help comes soon, a famine which will kill more than 2 million of its people.

The political and physical obstacles to massive relief are really overwhelming, and the solutions are incredibly complex. But a few million people are literally crying for life. We must not ignore their cries.●

DOMINGO LAINO OF PARAGUAY

● Mr. CHURCH. Mr. President, I call to the attention of my colleagues the situation of Dr. Domingo Laino of Paraguay. I know Dr. Laino personally. He is a highly respected economist, a former member of the Paraguayan Congress and a leader of the democratic opposition in Paraguay.

As an opponent of the Stroessner government, Dr. Laino is no stranger to the unprincipled police practices of the Stroessner regime. Last year, for example, following a visit to Washington, this distinguished Paraguayan citizen was arrested within hours after returning home. He was picked up by the police and charged with treason with "soliciting foreign intervention" because of critical statements he made about the Stroessner government while in the United States. Fortunately, the charges were subsequently dropped—in large part because of international protests.

Now for the second time in 15 months, Dr. Domingo Laino is again the victim of repression. The origins of this most recent incident date back to a September 12 meeting of opposition political leaders in Brazil, where Dr. Laino again criticised the Paraguayan Government. Upon returning home 3 days later, he was picked up by government security agents. Five days later, he was transported to the interior for an indefinite period of confinement under Paraguay's state of siege provisions.

Mr. President, to date the Stroessner government has pressed no formal charges against Dr. Laino. However, Senators should be aware that in Paraguay "insulting the President" is considered a crime—a crime which can result in a 6-year prison term.

This particular use of the law was commonly employed by Stroessner in the 1950's and 1960's. Not surprisingly, it was directed at perceived political opponents. But the practice appeared to have fallen into disuse in recent years. Its reappear-

ance is deplorable, to say the least. If this law is used today against someone as prominent as Dr. Laino, it is even more likely to be used tomorrow against lesser known citizens of Paraguay.

Mr. President, my concern in this matter is both personal and general. It is a concern about human rights and individual liberties. It is a concern which has already been voiced by other members of Congress, the administration and various individuals.

In this particular case, Dr. Laino has again been subjected to the arbitrary and repressive actions of his government which apparently finds any criticism intolerable. One can only wonder why a government of such long standing would feel so threatened—unless of course the criticism were based on the legitimate grievances of the people of Paraguay.

But then there is much in Paraguay which is open to criticism. Regard for political liberties is negligible. The citizens of Paraguay have been subjected to state of siege conditions for the past 30 years. Thus, the rights guaranteed by the Constitution—including freedom of expression, assembly and association, protection against arbitrary detention and arrest, and the right not to be subjected to search without a warrant—have been illusory at best. At any time, these rights can be suspended or abridged. Curiously, on "election days," the state of siege is lifted for a 24-hour period. But these elections are known to be riddled with fraud and manipulation. Indeed, the President amended the 1967 Constitution to permit himself to be "reelected."

Looking at the other side of the ledger, Mr. President, I recognize that in the State Department's opinion, there have been some human rights improvements in recent years. According to a Department spokesman, nearly 600 political prisoners have been released over the last 2 years. The Department also reports that since 1978 there have been no confirmed reports concerning the death, torture or disappearance of any Paraguayan citizen because of Government action. The number of political prisoners has declined to around five—a figure which includes Dr. Laino.

But for all of us who treasure human rights and political freedom, the Government of Paraguay should know that even five political prisoners is five too many. Accordingly, the arrest of Dr. Laino is clearly a step backward. Let the Stroessner government understand that such a step is no more acceptable today than it was yesterday.●

TAX BURDEN SHOWS NEED FOR STRUCTURAL REFORM

● Mr. DOLE. Mr. President, the Census Bureau has released a report that dramatizes the rise in overall tax liability in recent years. According to the Census Bureau report, taxes collected by all levels of government in the United States increased by 59.4 percent between 1971 and 1977. Over a 6-year period the tax burden became half again as large as it had been. Revenues from corporate and individual income taxes grew by 70.6 percent. The rise in income tax revenues came from the rise in personal and corporate income and from the fact that people moved into higher tax brackets, paying a larger share of their rising income in taxes.

These figures demonstrate why our citizens are looking for tax relief and why the rates of productivity and savings are down. We all know that progressive income tax rates are designed to distribute the tax burden toward those citizens who are best able to pay. For that reason, we expect that a rise in real income will increase the rate of tax that the taxpayer must pay. The real problem arises when the effective tax rate increases even though there has been no increase in the taxpayer's real income. This phenomenon occurs when inflation raises the nominal income level, although the taxpayer's purchasing power has not risen. The progressive income tax does not differentiate between growth in real income and growth in nominal income.

It is easy to see that the tax burden is too high, but it is less easy to determine how to moderate that burden in ways that will advance the cause of equitable treatment of taxpayers and encourage greater rates of savings and productivity. An across-the-board, nontargeted reduction in tax rates does not meet the challenge responsibly, for we need to know where to reduce taxes and to what degree.

Mr. President, the fairest and most responsible thing we can do is to adjust taxes to eliminate the penalty for keeping up with inflation. If we are going to undertake tax reform, this is where we ought to begin. The reason is that the inflation tax penalty—taxflation—destroys the advantage of marginal income gains, thereby discouraging productivity gains. Taxflation also discourages savings by reducing disposable income. Finally, and most importantly, the inflation tax penalty hurts people in proportion to their position on the scale of progressive taxation, but it hits the lower income levels hardest because the width of the tax brackets is much less at the bottom of the scale. The case for eliminating taxflation is indeed compelling.

Fortunately, a remedy for taxflation is at hand. The Tax Equalization Act, S. 12, would end the inflation tax penalty. It would do so by requiring annual adjustment of the tax brackets, zero bracket amount, and personal exemption according to the rise in the Consumer Price Index for the previous fiscal year. By adopting this procedure, we can guarantee that the progressive income tax will be fairly and predictably geared to levels of real income. The progressive income tax will then operate as intended. Alternative approaches to eliminating taxflation do not have the same virtues. Periodic tax cuts are often hostage to political haggling, and they do not benefit all taxpayers in proportion to the taxflation penalty they suffer. The problem is built into the tax system, and it requires a structural reform for its correction.

Mr. President, the Senator from Kansas believes the Tax Equalization Act is the appropriate place to begin reforming taxes. I have introduced S. 12 for that purpose, and I hope that my colleagues will give this legislation their prompt attention.●

AMERICAN MILITARY STRENGTH

● Mr. DECONCINI. Mr. President, during the 34th semiannual conference of the Arizona Emergency Services Association conferees drafted two resolutions demonstrating their commitment to American military strength. I have been asked to bring these resolutions to the attention of my colleagues and, thus, ask that they be printed in the RECORD.

The resolutions follow:

A RESOLUTION URGING THE GOVERNMENT OF UNITED STATES TO GIVE PRIORITY TO CREATING A SUPERIOR MILITARY ESTABLISHMENT

Whereas, the Soviet Union has shown by its spoken and written statements and by its actions that it intends to achieve world hegemony; and

Whereas, the forces of the Soviet Union appear capable of carrying on wars over extended periods at any level of intensity; and

Whereas, the Warsaw Pack countries are ahead of NATO in several important respects, particularly in chemical warfare and electronic warfare; and

Whereas, the forces of the United States are not being strengthened on an overall basis in a manner that would guarantee the survival of the nation; and

Whereas, the devastating power of the Soviet nuclear-tipped missiles is greater than the devastating power of the United States missiles at the present time and, according to present plans, the Soviets will have a far greater advantage in the mid-1980s; and

Whereas, the United States is far more dependent than the Soviet Union on access to major air and sea lanes, not only to acquire critical raw materials and engage in other peaceful pursuits, but also to protect our vital interests; and

Whereas, the Soviet Union has far greater capability than does the United States for Chemical Warfare and, apparently, intends to use it; and

Whereas, there is much uneasiness throughout the nation concerning the state of our defenses; it is, therefore,

Resolved by the Arizona Emergency Services Association, at its 34th Semiannual Conference, at Phoenix, Arizona on August 30, 1979;

That the Government of the United States should make its first priority the creation of a military establishment that is clearly and obviously superior to any other in the world.

A RESOLUTION URGING THE SENATE OF THE UNITED STATES TO TAKE COGNIZANCE OF DISASTROUS EFFECTS WHICH WOULD RESULT FROM RATIFICATION OF THE SALT II TREATY

Whereas, the overall effect of the SALT I Treaty was to create an arms race with the Soviet Union doing most of the running; and

Whereas, the SALT II Treaty prohibits the United States from setting up ABM launching systems for protecting our cities with the result that the United States has no such launchers and the Soviet Union has over 1,000; and

Whereas, the SALT II Treaty allows each country an equal number of missiles, it actually allows the Soviet Union to keep its 308 huge 10-warhead SS-18s while the United States has no equivalent missiles nor will it have according to present American building plans, so that by 1985 the Soviet Union could have a lead of more than 3 to 1 in the total number of megatons of nuclear explosives; and

Whereas, in general, the SALT II Treaty limits launchers rather than number of missiles, thus the actual number of missiles can be easily concealed; and

Whereas, with respect to Intercontinental bombers, the SALT II Treaty allows the United States only the B-1 of which none has been deployed and on which construction has been stopped, and the B-52 bombers which are old and of which as many as a third might require a year's work to make them operational; and

Whereas, the Soviet Backfire Bomber is not counted as an Intercontinental bomber, although it has sufficient range to reach Cuba or Central American Countries or could be refueled aloft; and

Whereas, the SALT II Treaty limits all cruise missiles to a maximum range of 350 miles, such missiles launched from Russian submarines near our coasts could easily strike heavily populated and extensive industrialized areas, our submarine launched missiles could not reach similar Soviet areas because most of them are too far from the coasts; and

Whereas, the SALT II Treaty gives no consideration to the very large Soviet capability for waging chemical warfare and their large stores of deadly gases while the United States has very little by comparison; and

Whereas, verification of Soviet armament production is considered unverifiable in some instance by many authorities; and

Whereas, there is a strong doubt that the United States could or would do anything significant if a violation of the Treaty were detected; it is therefore,

Resolved by the Arizona Emergency Service Association, at its 34th Semiannual Conference, at Phoenix, Arizona, on August 30, 1979:

That if the Senate of the United States ratifies the SALT II Treaty, it will lock this nation permanently into an inferior status and eventually bring its survival into question, and furthermore, it will have failed in its Constitutional duty to provide for the common defense.

TOM BERREY,
Secretary.●

TESTIMONY OF SENATOR NELSON BEFORE THE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. LEAHY. Mr. President, this morning the Subcommittee on Taxation and Debt Management held a hearing on capital formation and reform of the U.S. business depreciation system. The issue of capital formation is of great consequence to our Nation. We must recreate the productivity that made the United States a leader of the free world's economy. But in order to increase our industrial productivity and competitiveness, billions of dollars of investment capital are necessary.

Senator NELSON was the lead off witness at today's hearing. In his testimony, Senator NELSON points out appropriately that the largest source of investment capital available to U.S. businesses are depreciation deductions. However, he also states that our current depreciation system is totally outdated and in need of a complete overhaul.

Senator NELSON has been in the forefront of the depreciation reform effort for the past 5 years and is the principal sponsor of the Capital Cost Recovery Act, S. 1435, a bill I am also pleased to cosponsor.

I commend Senator NELSON's insightful testimony to my colleagues and I ask that it be printed in the RECORD.

The testimony follows:

TESTIMONY OF U.S. SENATOR GAYLORD NELSON

Mr. Chairman, I appreciate the opportunity to discuss with this subcommittee S. 1435, a bill I introduced earlier this year along with Senators BENTSEN, PACKWOOD, and CHAFEE. This measure would allow businesses to write off investments in structures over 10 years, equipment in five years, and vehicles in three years. It is cosponsored by 36 Senators, including a majority of this Committee.

One of the most pressing problems besetting American industry today is the matter of capital formation, the process of raising cash to maintain and expand the productive capacity of the U.S. economy, its machinery, tooling, plant and transport equipment.

We need to take a whole new look at how to increase the productivity and efficiency of American industry and the depreciation system is the right place to start.

The need for investment capital—to promote productivity growth and enhance job opportunities, to combat inflation and protect U.S. competitiveness in the international market—is staggering. Leading economists have estimated that the U.S. private sector will require $4 to $5 trillion over the next ten years for new equipment and machinery to generate new jobs and increase productivity. Almost half of these funds will be needed simply to replace and maintain the capital already invested. The question is where to get the money.

Traditionally, there are four methods by which industry raises essential investment capital: depreciation deductions, re-investment of profits, borrowing and new equity capital. Depreciation deductions are by far the largest source of money available to businesses for modernization, accounting for over $112 billion per year.

In recent years businesses have had great difficulty raising equity capital at reasonable costs. The prime interest rate is currently a record 14.5 percent. And, that means interest rates on borrowed funds are becoming more and more prohibitive.

What can American industry do to raise new capital for new plant construction, new jobs and increased productivity? Treasury Secretary Bill Miller has said repeatedly that accelerating depreciation deductions would be the most cost-effective way to rebuild America's industrial efficiency and competitiveness.

The Capital Cost Recovery Act would be the biggest change in the U.S. business tax system in the past 25 years. The potential tax cuts and revenue loss to the Treasury could exceed the recent reductions in corporate income taxes, capital gains taxes and estate taxes put together.

At the same time, the bill contains an entirely new concept which the congress has never dealt with before—a ten year write-off for investments in buildings. We are familiar with proposals for more rapid depreciation deductions involving equipment and machinery. For example, last year I introduced legislation which would have permitted business to write-off up to $100,000 of machinery and equipment purchased each year, using a 3-year straight-line depreciation method. But the proposal involving buildings is a unique idea which requires careful consideration. As I stated when I introduced the bill:

However, I have one major reservation concerning this proposal. And that involves the 10-year writeoff for commercial buildings. I shall reserve final judgment on this provision until additional statistics are available.

The purpose of introducing this measure today is to place the concept before the Congress. We urgently need an in depth reevaluation of our whole capital recovery system. Hearings must be held on this proposal as well as other depreciation reform bills that have been introduced earlier this year in order to examine the views of business groups, and economists and to get the revenue costs in precise terms.

Today's hearing will give us the opportunity to examine the experts.

Also to be examined is the distributive effect on various sizes of businesses and availability of capital, particularly to the nation's smaller businesses.

There is no question that our current depreciation system must be changed. Indeed, there are several compelling reasons for significant alterations to it.

First, the system is unbelievably complex, particularly for small businesses. This is the main reason why small businesses use a straight-line 10-year depreciation method for their assets, even if they are entitled to more rapid recovery methods. These businesses must contend with the tax code's complicated asset depreciation range (ADR) system, 132 different asset classes and 107 pages of regulations to determine the useful life of equipment. As a result, less than 1 percent of the Nation's businesses use the ADR system.

Second, inflation during the last few years has compounded the problem. With spiraling inflation, businesses are being squeezed two ways. First, the money they are getting back in deductions is worth less each year. And second, by the time a business has recovered the cost of its investment, the replacement equipment it must buy invariably costs far more. The result of this squeeze is that capital which should be recovered, renewed, and expanded is instead being swallowed up. The greatest deterrent to inflation is improved productivity.

Third, there simply is not enough investment money available to meet industry's needs. Equity capital is expensive to raise. Interest rates on borrowed funds are prohibitive. And industry simply cannot generate enough cash internally because of our outdated depreciation system. Industry is unable to modernize plant facilities and replace worn out machinery. This causes rising production costs, declining productivity, loss of jobs and a lowering of our standard of living. The situation threatens a lasting capital crisis that will have a severe impact on the U.S. economy.

Yet, the period of capital recovery in the United States is one of the longest among all Western industrial nations.

For example, Great Britain allows businesses to recover 100 percent of their investments in machinery and equipment in 1 year while Canada allows a full cost recovery over 2 years.

The ability to recover capital over a realistic period has a direct bearing on the ability of the nation's businesses to furnish goods and services to their communities, to provide new jobs, and to keep prices down through vigorous competition.

The Capital Cost Recovery Act is a step in the right direction which deserves serious consideration. It will help to increase our productivity and offset wage increases, thereby restraining price increases. It will infuse billions of dollars into the economy by allowing all businesses to recover their investments in depreciable assets twice as fast as under current law.●

MOROCCO

● Mr. MCGOVERN. Mr. President, in a remote corner of northwest Africa, a little known desert war is being waged in the Western Sahara that raises serious foreign policy dilemmas for the United States. Two recent press accounts have

focused on this question which I would like to print in the RECORD at the conclusion of my statement. The first is an article in the Washington Post which spells out the complexities on both sides of this issue. The second is an editorial in the New York Times which convincingly argues against U.S. involvement.

Both the Congress and the administration have recently debated the question in depth and a final decision will soon be made by the President. The nub of the policy dilemma seems to hang on whether or not the United States should sell arms to Morocco for use in the Sahara.

Supporters of King Hassan feel that the United States needs to support a friend in trouble, despite the fact that Morocco's claim of sovereignty in the Western Sahara goes against the weight of international opinion. Others, like myself, are troubled by the dangers inherent in a policy based on blindly supporting a friend in a military engagement in which we have no vital interests at stake.

I sincerely hope that the President's decision on the Sahara will be based on more than a vague sense of "doing something" and more on a serious examination of what is in the broader foreign policy interests of the United States. I would recommend that we look at this question from a wider context than a mere arms sales question. We should continue to remain neutral and support the principle of self-determination—in deed as well as in word.

In addition, we should press for a negotiated settlement to this conflict and provide meaningful assistance to Morocco for its real economic needs. Above all, we should avoid direct military involvement in a controversy that has all the makings of a losing proposition, both for Morocco and, in my judgment, for anyone who plunges into the fray with her. As a friend, we should help Morocco extract herself from this quagmire, not sink into it with her in the name of Western solidarity.

The two articles follow:

[From the Washington Post, Oct. 18, 1979]

CARTER ADVISERS SPLIT ON MOROCCO ARMS DEBATE

(By William Branigin)

Key members of a top U.S. policy-making body are urging President Carter to approve the sale of new American weaponry to Morocco to help King Hassan II fight insurgents who are waging a desert war for control of the disputed Western Sahara.

According to administration sources, a Cabinet-level Policy Review Committee wound up a session Tuesday sharply split over proposals to meet Hassan's request for armed OV10 Bronco reconnaissance planes and Cobra helicopter gunships to combat guerrillas of the Algerian-backed Polisario Front. The guerrillas have carried out several attacks in recent months against targets in Morocco.

The sources, said however, that there was a consensus not to recommend sending U.S. experts to train Moroccans in counterinsurgency techniques, a proposal made in Washington as part of a list of options.

The policy debate basically revolves around the question of how far the United States should go in trying to prop up Hassan, a pro-American monarch whose damaging war with the Polisario guerrillas risks undermining him domestically and putting him on the path of the deposed shah of Iran.

Government sources said members of the policy committee—representatives from the Central Intelligence Agency, the National Security Council, the Joint Chiefs of Staff and the Defense and State departments—were unable to agree on a single recommendation and are to present option papers to the president, who will decide the administration's policy on the issue. A decision to sell King Hassan the arms he wants could face objections in Congress, sources said.

If adopted, a policy to meet the king's requests would mark a departure by the United States from its carefully maintained neutrality in the dispute over the sparsely populated but mineral-rich Western Sahara.

In any case, recommendations at the meeting by representatives of the National Security Council, the Pentagon and the joint chiefs to sell Morocco weapons provides a key indication of administration leanings on an issue that poses a foreign policy dilemma and has created divisions within the government.

The State Department and its subsidiary body, the Arms Control and Disarmament Agency, are reticent about the sales, the sources said. The sources said CIA's position tends to buttress arguments against the sales.

The proposed arms sales are intended to show support for a longtime ally and to demonstrate to other countries, notably Saudi Arabia, that the United States will stand by its friends, sources said.

On the other hand, the sales would risk damaging U.S. relations with Algeria, an important OPEC member which supplies 9 percent of U.S. oil imports, the sources said. The sales also could alienate countries in the Organization of African Unity, which voted at a recent meeting in favor of self-determination for the Western Sahara despite Moroccan objections.

The policy dilemma is similar in some respects to that faced by the administration when another longtime U.S. friend, the shah of Iran, was fighting to stay in power last winter. Repeated statements of strong U.S. support for the shah contributed to anti-American feeling in Iran and left Washington with little influence there when he was overthrown.

The administration faced a similar quandary when Sandinista guerrillas began to make gains against the Nicaraguan government of Anastasio Somoza. Some analysts believe Washington may run up against such dilemmas in other countries where the durability of pro-American leaders is in question, notably in Zaire and the Philippines and perhaps eventually in Saudi Arabia.

In the present policy debate, the CIA is understood to take the position that the new U.S. weaponry would do King Hassan little good, because his main military problems cannot be solved by equipment. Fearing a coup attempt amid signs of increasing disaffection in the Moroccan military, the king has mired himself in a losing battle by limiting communications among his commanders and thus reducing flexibility in moving his forces, the sources said.

This also is understood to be the view of the State Department's African section.

National security adviser Zbigniew Brzezinski and the State Department's Near East bureau are said to favor the sales to Morocco, emphasizing their alarm over Polisario guerrilla raids into Moroccan territory.

Currently the U.S. policy is to sell Morocco some weapons, such as air defense systems and transport helicopters, but not equipment particularly suited for use in the Western Sahara. Washington previously sold Morocco F5 fighter aircraft, which have been employed recently in the desert war despite an agreement limiting their use to internal defense.

The disputed 105,000-square-mile territory, previously called the Spanish Sahara, was ceded by Spain to Morocco and Mauritania in 1975. But the Polisario Front, which claims to represent the territory's 80,000 inhabitants, soon launched a guerrilla war aimed at acquiring independence for the region.

Mauritania, its economy badly hurt by the war, signed a peace agreement with the guerrillas in August, relinquishing its claim to the southern third of the Western Sahara. Morocco, which had held the northern two-thirds, then extended its claim to the entire territory in a move that made its already overextended forces and supply lines more stretched and vulnerable than ever.

In addition to its phosphate riches, the Western Sahara is believed by some experts to contain oil shale and the world's largest reserves of uranium. Morocco, which already ranks as the world's largest exporter of phosphates, is eager to become a producer of the potentially more valuable energy source.

Alarmed by the intensifying Polisario attacks on Morocco and King Hassan's increasingly precarious domestic position as the war drained his economy, the Carter administration told Congress in July that it wanted to change its policy on arms sales to Morocco. The Senate Foreign Relations Committee approved easing the restrictions by a narrow majority, but did not make clear what specific weapons it would agree could be sold.

In the House, significant opposition to a change in arms sales policy was expressed. Some congressional opponents cited improving relations with Algeria, noting that American firms have won more than $6 billion in contracts there since the early 1970s and that the Algiers government has taken positions opposed to the Soviets on several issues.

Opponents of the proposal to sell Hassan the equipment he wants have said there are other ways to show support for him than to identify the United States with an issue that appears likely to rebound against Washington in the future and alienate other U.S. friends in Africa.

[From the New York Times, Oct. 16, 1979]

NO ARMS FOR MOROCCO'S WAR

King Hassan II of Morocco, long an ally of the United States, has gotten himself into trouble by trying to annex the former Spanish Sahara. Guerrillas of the Polisario Front, backed by Algeria, have thwarted the expansion, driven the King's Mauritanian ally from the war and attacked Morocco itself. Fearing that a compromise would destroy him politically, the King is trying instead to get American military aid. Officials of the Carter Administration are now weighing the request.

A 19-year-old aid agreement authorizes American arms for use inside Morocco but not beyond its internationally recognized borders. King Hassan argues that this limitation is now moot because guerrillas are striking inside his country. But he himself has extended the war by seizing a new piece of Saharan territory formerly claimed by Mauritania.

King Hassan is a valuable friend who often provides important support for American policies in the Middle East and Africa—when that support serves common interests. Two years ago, for example, the King helped persuade President Sadat to set out on the road to Jerusalem. Since then, however, he has withheld support for the Egyptian-Israeli peace treaty.

By any comparable calculation of interest, the United States should stay out of his conflict. No American interest is at stake. To aid the King would be to encourage an unwise policy—one that has diminished his influence in Africa. It would needlessly antagonize Algeria, reversing recent American progress in improving relations there and forfeiting the opportunity to move closer to a

more pragmatic new regime. It would also undermine the effort of the Organization of African Unity, including Nigeria and Tanzania and such pro-Western states as the Sudan and Liberia, to promote a cease-fire and referendum in the disputed territory.

After the Iranian debacle, the Carter Administration has been looking for opportunities to show that it knows how to stand by old friends. The Sahara is the wrong place for such a demonstration. Morocco's claim to the territory is not internationally recognized. Its own security is not at stake. There is no clear evidence of direct Soviet assistance to the Polisario guerrillas.

Instead of encouraging King Hassan to crawl further out on a military limb, the United States should join others in promoting a face-saving compromise. That will be difficult enough. Abandoning America's neutrality would make it impossible.●

HANDGUN POLITICS

● Mr. RIBICOFF. Mr. President, a provocative article entitled "Handgun Politics" appeared in a recent issue of the New England Journal of Medicine.

The author of this article, Daniel S. Greenberg, points out the important connection between health care and handgun control. Greenberg concludes his article by writing:

The medical profession, which regularly must deal with the ruin caused by guns, should help our political leaders understand that handgun control is an important health measure.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

HANDGUN POLITICS

(By Daniel S. Greenberg)

Legislation to control handguns is not usually included in the lists of health-related matters before the Congress. But that's where it belongs, because handguns now annually kill nearly 10,000 people in this country, seriously injure scores of thousands, and greatly contribute to making homicide the leading cause of death among teen-agers and young adults. If some rogue bacillus produced this damage, it would easily, and rationally, come under the jurisdiction of an institute at Bethesda; meanwhile, legislators and presidents would proffer their support for a medical victory, rather than indulge in rhetorical arcrobatics to explain mixed feelings about the offending microbe.

The handgun issue, however, long ago eluded rationality on the legislative scene—from which follows that its revival in this Congress, by Senator Edward Kennedy (D-Mass.), is generally regarded as futile. Regrettably, that is probably an accurate assessment, since, in the best of seasons, handgun control is a shunned issue in the capital, and this is not the best of seasons. Single-issue interest groups are currently rampaging across the political landscape, and with the peculiarities of the 1980 elections straining all of Washington's powers of divination, handgun control is regarded—even by some supporters—as a perilous overload on the political circuits.

As the conventional wisdom has it, those favoring handgun control are widely diffused among the general population, poorly organized, if at all, and not especially fired up about the issue. On the other side, however, is the National Rifle Association, which, in the generally accepted view of handgun politics, is so highly effective in rounding up votes for easy gun owning that any candidate who crosses the NRA is incurring a serious handicap. Electoral folklore, for example, has it that support for gun control legislation contributed to the political demises of senators Joe Tydings of Maryland and Joe Clark of Pennsylvania.

Furthermore, though candidate Jimmy Carter unequivocally committed himself to handgun control, he, too, having sniffed the political winds in Washington, has concluded that prudence calls for staying away from the issue, regardless of the promises that he made about the durability of his promises. Thus, candidate Carter said: "I favor registration of handguns, a ban on the sale of cheap handguns, reasonable licensing provisions, including a waiting period, and prohibition of ownership by anyone convicted of a crime involving a gun, and those not mentally competent." Last April, however, when asked at a press conference to account for the long delay in sending Congress an Administration proposal for handgun control, he replied, "I think to pursue it aggressively in the Congress would be a mistake."

The effect, then, is that prophecy and political folklore combine to create a consensus that holds that a sure way to abort a political career is to embrace the cause of handgun control.

There is a good deal of evidence, however, that strongly suggests that this is nonsense, that the much-feared NRA does not possess the vote-getting power that it claims, and that, if anything, the constituency for handgun control holds a big majority on this issue—but so far has lacked the sort of political leadership about which we've been hearing much talk lately from the White House.

Not often noted in discussions of handgun control are the masses of public-opinion surveys—stretching back two decades—clearly showing that the American public overwhelmingly favors the types of controls that Mr. Carter supported during his campaign.

For example, the George Gallup Organization, in 1959, asked: "Would you favor or oppose a law that would require a person to obtain a police permit before he or she could buy a gun?" Seventy-five percent replied in favor.

A 1975 CBS News Poll asked: "Would you favor or oppose a nationwide law requiring all handguns to be registered?" Those in favor totaled 78 per cent.

Bringing the surveys right up to date, just this June, the ABC News—Harris Survey, polling 1496 adults nationwide by telephone, asked: "Do you favor or oppose federal laws which control the sale of guns, such as making all persons register all gun purchases no matter where the purchases are made?" Seventy-two per cent replied that they favored that proposition.

A similar question, concerning federal registration of all handguns, found 78 percent in favor.

From these various polls it seems reasonable to conclude that a solid majority of the American people have long been uncomfortable with this nation's unique practice of permitting just about anyone the opportunity to possess a handgun. And, in conjunction with those concerns, the voters are not opposed to the idea of trying to deal with the problem through the regulation of sales and possession.

When politicians are asked about these survey results, they usually reply that what's to be feared is that the NRA and its allies make up in passion what they lack in numbers, and that while the pollsters may find that a majority supports handgun control, the surveys are not predictive of what actually happens on election day.

In view of the many crosscurrents of feelings, traditions, and conflicting issues that swirl about the electoral process, it is difficult to isolate any one item as decisive in determining an outcome—even an issue that was so violently exploited as was abortion in the last election. Lots of factors are at work, and if any variable is of overwhelming importance, it is probably incumbency, since the in's, with few exceptions, tend to hang on as long as they want the office. But, to the extent that it is possible to dig deeper into the myths and realities of handgun policies, I think it is worth trying, and, for this purpose, it is useful to note some observations by Louis Harris, the pollster. Harris is an ardent public supporter of handgun control, so the element of advocacy is certainly there; but he is also one of the most careful and devoted observers of public opinion on this subject, and therefore, his views merit attention.

Referring to a set of complex survey questions aimed at measuring the intensity of feelings on gun control, Harris concludes that "there are far more people in this country who would vote against a candidate who opposes gun control than there are who would vote against a candidate who favors such controls.

"Overall," he continues, "23 per cent of the entire adult population say they would vote against someone who is opposed to handgun control. By contrast, no more than 7 per cent would vote against a candidate who favors such handgun registration. This means that those who oppose gun control are taking more than three times as much political risks by their stand than are those who favor gun control."

Harris then goes on to conclude: "If Congress were to pass legislation controlling handguns, and those who voted for it were willing to make their vote a major issue in their campaigns, it is likely that the issue would help rather than hinder such candidates. Certainly, such proponents would be able to point to the determined efforts of the NRA and other anti-gun control groups to unseat them over this issue. But if those favoring gun control were not prepared to make it one of the dominant issues in their campaigns, then the field would be left to the NRA, and the will of the majority could be thwarted once again."

Harris' perception of political advantage in the advocacy of handgun controls may well be supported by his survey findings, but the legislative record indicates that Congress has a deep fear of the issue—and that it has managed it in a fashion to minimize the need for members to go on record for or against.

Thus, in 1974, after Senator John Stennis (D-Miss.) was seriously wounded in a street robbery, the Senate, which could do no less in such circumstances, passed some amendments to the highly porous 1968 Gun Control Act. (This act, inspired by the deaths of Martin Luther King and Robert Kennedy, is so riddled with loopholes that handgun sales have actually increased since its passage; it is estimated that over 50 million handguns are privately owned in the U.S., and that at the present pace of manufacture and sales, we'll hit the 100-million mark by the turn of the century.) As it turns out, the Senate was not about to remake the rules on handguns, because, as everyone expected, the House simply failed to take up the bill.

In 1976, the House Judiciary Committee passed a reasonably strict control bill, but the House Rules Committee saw to it that the bill never got to the floor. Meanwhile, over in the Senate, a comparable bill remained stuck in committee.

Mr. Carter's strong campaign pledge brought joy to the gun-control lobbies in Washington, but, after the President became acquainted with the issue his fervor for gun-control rapidly receded. Thus, the National Council to Control Handguns (810 18th St. Nw., Washington, DC 20006) was advised early in the Carter Administration by Hamilton Jordan that "The President's program in this area will be worked out with the Department of Justice. . . . I am sure you will find that the Administration's efforts in the area

of gun control [are] in the direction in which your organization advocates."

Not long afterwards, Griffin Bell, appearing before Senator Kennedy for confirmation as Attorney General, expressed support for handgun control, saying that "we need to get a national policy on this." That was over two years ago, and Mr. Bell, of course, has since returned to private life, with a national policy on handguns no closer than it was when he took office.

The peculiar American madness of permitting virtually unrestricted commerce in cheap, easily hidden, lethal weapons has been with us so long that, barring personal or professional acquaintanceship with a gun-produced tragedy, few people even bother to take notice of this unique and bizarre bit of Americana. The daily handgun toll in the U.S. exceeds the yearly toll in most industrialized countries; in the bloodiest years of the Vietnam War (1966–1972), 42,300 American soldiers died in combat; during that same period, handgun fatalities on the homefront totaled some 52,000. The failure of the 1968 Gun Control Act was outlined in 1978 in a dismaying report by the General Accounting Office, which found that "Annual domestic production of handguns almost tripled from 1965 to 1976. During this time, the role of firearms in violent crime has also continued to increase. Further, in those 12 years, the firearm murder rate has almost doubled, the firearm robbery rate is estimated to have more than doubled, while the firearms aggravated assault rate has almost tripled."

In response to the old argument that if the impulse is there, a weapon of one sort or another will be found, the GAO states, "Statistically, it is almost impossible to conclude that the relationship between firearms and murder is purely coincidental. That is, weapon choice does indeed influence whether death will occur from an attack, and the availability of firearms is particularly significant in determining the total murder rate."

The deficiencies of the 1968 Gun Control Act are so glaring as to make that legislation look like a gun-promoter's joke on the citizenry. For example, the act prohibits the importation of "non-sporting" handguns, but permits the importation of parts—which are then assembled for domestic sale. Though the act requires that a form be filled out to purchase a gun, there is no required verification procedure.

Even with all that existing firepower loose in the country, however, it does seem that tight gun-control laws do work. A 1973 Treasury Department study found that New York City's restrictions on handgun sales were so effective that 96 percent of such weapons used in crimes were obtained from outside the state. It has also been found that recently purchased guns predominate in crime use—thus casting some doubt on the argument that it's too late for the U.S. to control this menace.

Louis Harris' assessment of the politics of handgun control does invite attention to the question of whether mythology, rather than electoral reality, has been destructively dominating this issue. The medical profession, which regularly must deal with the ruin caused by guns, should help our political leaders understand that handgun control is an important health measure.●

ORDER FOR RECOGNITION OF SENATOR TSONGAS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. TSONGAS be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 4249, SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 4249, Calendar No. 348, the Surface Transportation Assistance Act of 1978, is made the pending business before the Senate, there be a time agreement thereon as follows:

Thirty minutes on the bill, to be equally divided between Mr. BENTSEN and Mr. PRESSLER; 30 minutes on amendments; 1 hour on an amendment by Mr. WEICKER on the Highway Trust Fund; 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous consent agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 4249 (Order No. 348), an act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes, debate on any amendment (except an amendment to be offered by the Senator from Connecticut (Mr. WEICKER) on the Highway Trust Fund on which there shall be 1 hour; shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 30 minutes, to be equally divided and controlled, respectively, by the Senator from Texas (Mr. BENTSEN) and the Senator from S. Dakota (Mr. PRESSLER): *Provided*, That the said Senators, or either of them may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

EXPENDITURE OF DISCRETIONARY FUNDS, AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2440.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read twice by its title.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by its title, and the Senate will proceed to its consideration.

UP AMENDMENT NO. 660

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I move to strike out all after the enacting clause of the House bill and insert the language of S. 413 as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Aviation Safety and Noise Abatement Act of 1979".

TITLE I

SEC. 101. For purposes of this title—

(1) the term "airport" means any air carrier airport whose projects for airport development are eligible for terminal development costs under section 20(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720(b));

(2) the term "airport operator" means any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport; and

(3) the term "Secretary" means the Secretary of Transportation.

SEC. 102. Not later than the last day of the twelfth month which begins after the date of enactment of this Act, the Secretary, after consultation with such Federal, State, and interstate agencies as he deems appropriate, shall by regulation—

(1) establish a single system of measuring noise to be uniformly applied in measuring the noise at airports and the areas surrounding such airports;

(2) establish a single system for determining the impact of noise upon individuals which results from the operations of an airport and which includes, but is not limited to, noise intensity, duration, frequency, and time of occurrence; and

(3) identify land uses which are normally compatible with various impacts of noise on individuals.

SEC. 103. (a)(1) After the effective date of the regulations promulgated in accordance with section 102 of this title, any airport operator of an airport may submit to the Secretary a noise impact map which sets forth, in accordance with the regulations promulgated pursuant to section 102, the noncompatible uses in each area of the map, as of the date of submission of such map, a description of the projected aircraft operations at such airport during 1985, and the ways, if any, in which such operations will affect such map.

(2) If, after the submission to the Secretary of a noise impact map under paragraph (1), any change in the operation of an airport would create any substantial new noncompatible use in any area surrounding such airport, the operator of such airport shall submit a revised noise impact map showing such new noncompatible use.

(b)(1) Section 11 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended by renumbering paragraphs (6) through (21), and all references thereto, as paragraphs (7) through (22), respectively, and by adding immediately after paragraph (5) the following new paragraph:

"(6) 'Airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise impact map and related information pursuant to section 103 of the Aviation Safety and Noise Abatement Act of 1979, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of such Act.".

(2)(A) Section 13(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713) is amended by—

(i) inserting "(1)" immediately before the first sentence thereof; and

(ii) adding at the end thereof the following new paragraph:

"(2) In order to promote the development of an effective noise compatibility program, for fiscal years beginning after September 30, 1979, the Secretary may make grants of funds for airport noise compatibility planning to sponsors of those air carrier airports whose projects for airport development are eligible for terminal development costs under section 20(b) of this title.".

(B) Section 13(b) of such Act is amended to read as follows:

"(b) AMOUNT AND LIMITATION OF GRANTS.—(1) The award of grants under subsection (a)(1) of this section is subject to the following limitations:

"(A) The total funds obligated for grants under subsection (a)(1) of this section may not exceed $150,000,000, and the amount obligated in any one fiscal year may not exceed $15,000,000.

"(B) The United States share of any airport master planning grant under this section shall be that per centum for which a project for airport development at that airport would be eligible under section 17 of this Act. In the case of any airport system planning grant under this section, the United States share shall be 75 percent.

"(C) No more than 10 percent of the funds made available under subsection (a)(1) of this section in any fiscal year may be allocated for projects within a single State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

"(2)(A) The total funds obligated for grants under subsection (a)(2) of this section may not exceed $15,000,000.

"(B) The United States share of any airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 17 of this Act.".

SEC. 104. (a) Any airport operator who has submitted a noise impact map and the related information pursuant to section 103(a)(1) may, after consultation with the officials of any public agencies and planning agencies in the area surrounding such airport, the Federal officials having local responsibility for such airport, and any air carriers using such airport, submit a noise compatibility program to the Secretary. Such program shall set forth the measures which such operator has taken or proposes for the reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the area covered by the noise impact map submitted by such operator. Such measures may include, but are not limited to—

(1) the implementation of any preferential runway system;

(2) the implementation of any restriction on the use of such airport by any type or class of aircraft based on the noise characteristics of such aircraft;

(3) the construction of single family residences, condominiums, apartment buildings, and other barriers and acoustical shielding, including the soundproofing of buildings;

(4) the use of flight procedures to control the operation of aircraft to reduce the impact of noise in the area surrounding the airport; and

(5) acquisition of land and interests therein, including, but not limited to, air rights, easements, and development rights, so as to assure the use of property for purposes which are compatible with airport operations.

(b) The Secretary may disapprove any program or part thereof submitted to him pursuant to subsection (a) (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) within 180 days after it is received by him. The Secretary may disapprove such program or part thereof (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) if the measures to be undertaken in carrying out such program create an undue burden on interstate or foreign commerce or are not reasonably consistent with obtaining the goal of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses or if the program does not provide for its revision made necessary by any revised noise impact map submitted under section 103(a)(2) of this title. Failure of the Secretary to disapprove such program (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) within such time period shall be deemed to be an approval of such program. With respect to any part of such program which relates to such flight procedures, the Secretary shall provide such part of such program to the Administrator of the Federal Aviation Administration who shall either approve or disapprove such part of such program.

(c)(1) The Secretary is authorized to incur obligations to make grants under this Act from funds made available under subsection (d) of this section for any project to carry out a noise compatibility program or parts thereof not disapproved under subsection (b) of this section. Grants under this Act may be made to operators of airports submitting noise compatibility programs. Such airport operator may in turn agree to make the grant available to public agencies in the area surrounding such airports if the Secretary determines such agencies have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. The Federal share of any project for which a grant is made under this subsection shall be 80 percent of the cost of the project. All of the provisions of the Airport and Airway Development Act of 1970 applicable to grants made under that Act (except section 17 of those provisions relating to apportionment) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1970 is inconsistent with, or unnecessary to carry out, the purposes of this Act.

(2) The Secretary, further, is authorized under this section to make grants to operators of airports for any project to carry out a noise compatibility program developed prior to the enactment of this Act or the promulgation of its implementing regulations if the Secretary determines that such prior program is substantially consistent with the purposes of reducing existing uses and preventing the introduction of additional noncompatible uses and that the purposes of this Act would be furthered by prompt implementation of such program.

(d) The Secretary may obligate for expenditure out of the Airport and Airway Trust Fund not to exceed $75,000,000 for the fiscal year ending September 30, 1980, for making grants under subsection (c) of this section.

SEC. 105. The Secretary, acting through the Administrator of the Federal Aviation Administration, after consultation with the officials of any public agencies or planning agencies in the area surrounding such airport, shall prepare and publish a noise impact map and a noise compatibility program for the airport established by the Act of June 29, 1940 (54 Stat. 686), and the airport the construction of which was authorized by the Act of September 7, 1950 (64 Stat. 770). Such map and program shall be prepared and published in accordance with the requirements of this Act no later than 1 year after the effective date of the regulations promulgated in accordance with section 102 of this Act.

SEC. 106. No part of any noise impact map or related information submitted to, or prepared by, the Secretary and no part of the list of land uses identified by the Secretary as land uses which are normally compatible with various impacts of noise on individuals shall be admitted as evidence, or used for any other purpose, in any suit or action seeking damages or other relief for the noise that results from the operation of an airport.

SEC. 107. No person who acquires property or an interest therein after the date of enactment of this Act in an area surrounding an airport with respect to which a noise impact map has been submitted under section 103 of this title shall be entitled to recover damages with respect to the noise attributable to such airport if such person had actual or constructive knowledge of the existence of such noise impact map unless, in addition to any other elements for recovery of damages, such person can show that—

(1) a significant change in the type or frequency of aircraft operations at the airport; or

(2) a significant change in the airport layout; or

(3) a significant change in the flight patterns; or

(4) a significant increase in nighttime operations;

occurred after the date of the acquisition of such property or interest therein and that the damages for which recovery is sought have resulted from any such change or increase.

SEC. 108. The Secretary shall study (1) airport noise compatibility planning carried out with grants made under section 13 of the Airport and Airway Development Act of 1970, and (2) airport noise compatibility programs carried out with grants made under this title, to determine to what extent such planning and programs are achieving the goals of reducing existing noncompatible uses of land around airports and preventing the introduction of new noncompatible uses around airports. Not later than January 1, 1981, the Secretary shall submit a report to Congress setting forth the determinations made pursuant to such studies together with legislative recommendations, if any, which the Secretary determines necessary.

TITLE II

SEC. 201. (a) Paragraph (3) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by striking out "$525,000,000 for fiscal year 1980." and inserting in lieu thereof "$512,000,000 for fiscal year 1980.".

(b) Paragraph (4) of subsection (a) of section 14 of the Airport and Airway Develop-

ment Act of 1970 is amended by striking out "$85,000,000 for fiscal year 1980." and inserting in lieu thereof "$98,000,000 for fiscal year 1980.".

(c) The last sentence of paragraph (2) of subsection (b) of section 14 of the Airport and Airway Development Act of 1970 is hereby repealed.

(d) Subsection (e) of section 14 of the Airport and Airway Development Act of 1970 is amended by adding at the end thereof the following new sentence: "If in fiscal year 1980, or in any subsequent fiscal year, the total amount obligated under subsection (c) of this section in such fiscal year is less than the minimum amount made available for obligation under such subsection for such fiscal year, the amount available for obligation or expenditure as determined under the preceding sentence of this subsection shall be reduced by an amount equal to the difference between the amount made available under subsection (c) for such fiscal year and the total amount obligated under such subsection (c) for such fiscal year.".

(e) Subsection (f) of section 14 of the Airport and Airway Development Act of 1970 is amended by adding a new paragraph (4) to read as follows:

"(4) No provision of law, except for a statute hereafter enacted which expressly limits the application of this paragraph (4), shall impair the authority of the Secretary to obligate by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for appproved airport development projects pursuant to paragraph (5) of subsection 15(a), in addition to the minimum amounts authorized for that fiscal year by subsections (a)(3) and (a)(4) of this section.".

(f) Subsection (e) of section 14 of the Airport and Airways Development Act of 1970 is amended by—

(1) inserting immediately before the period at the end of the third sentence the following: ", except that for fiscal year 1980 an additional $250,000,000 may be appropriated from the unexpended balance of the Airport and Airway Trust Fund"; and

(2) inserting immediately before the words "may not exceed" in the fourth sentence the following: "(other than amounts appropriated in fiscal year 1980 from the unexpended balance of the Airport and Airway Trust Fund)".

(g) Subsections (a), (c), and (d) of section 14 of the Airport and Airway Development Act of 1970 are amended by inserting the phrase "or more than" immediately after the words "not less than" each time those words aopear therein.

SEC. 202. (a) Paragraph (4) of subsection (a) of section 15 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715(a)(4)) is amended by striking out "and minus $15,000,000 in the case of each of the fiscal years 1977 through 1980," and inserting in lieu thereof "and minus $15,000,000 in the case of fiscal years 1977 through 1979, and minus $30,000,000 in the case of fiscal year 1980,".

(b) Paragraph (4) of subsection (a) of section 15 of the Airport and Airway Development Act of 1970 is further amended by striking out "and $15,000,000 of the amount made available for each of the other fiscal years" and inserting in lieu thereof "$15,000,000 of the amount made available for each of the fiscal years 1977 through 1979, and $20,000,000 of the amount made available for fiscal year 1980".

SEC. 203. Paragraph (2)(A) of subsection (a) of section 17 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717(a)(2)(A)) is amended by striking out "and shall be 80 per centum of the allowable project costs in the case of grants from funds for fiscal years 1979 and 1980," and inserting in lieu thereof "shall be 90 percent of the allowable project costs in the case of grants from funds for fiscal year 1979, and may not exceed 90 percent of the allowable project costs in the case of grants from funds for fiscal year 1980,".

SEC. 204. Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970, as amended (49 U.S.C. 1742(f)(1)(A)) is amended by striking out all after "1976" and inserting in lieu thereof "or of the Aviation Safety and Noise Abatement Act of 1979 (as such Acts were in effect on the date of enactment of the Aviation Safety and Noise Abatement Act of 1979);".

SEC. 205. Subsection (c) of section 16 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1716(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project at an existing airport without requiring the preparation of an environmental impact statement for such project if:

"(i) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for 'stage 2' aircraft in 14 CFR 36.1 to be replaced by aircraft operations involving aircraft that do comply with such standards;

"(ii) the project complies with all other statutory and administrative requirements imposed under this Act.".

TITLE III

DEFINITIONS

SEC. 301. For purposes of this title—

(1) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft (A) which (i) has a maximum certified takeoff weight of 75,000 pounds or more, and (ii) in the case of an aircraft registered in the United States, has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423), and (B) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977;

(2) the term "retrofit" means the alteration of the engine or the engine nacelles of an aircraft with sound absorbent materials for the purpose of noise reduction; and

(3) the term "Secretary" means the Secretary of Transportation.

COMPLIANCE FOR INTERNATIONAL CARRIERS

SEC. 302. (a) If, by January 1, 1980, the International Civil Aviation Organization (hereafter referred to as "ICAO") does not reach an agreement (1) which adopts the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, or (2) on noise standards and an international schedule for compliance with ICAO Noise Standards (annex 16) which are reasonably compatible with the standards set forth in such regulations issued by the Secretary (14 CFR part 36), the Secretary, acting through the Administrator, shall commence a rulemaking to require all air carriers and foreign air carriers engaging in foreign air transportation to comply with the noise standards set forth in such regulations (14 CFR part 36) or with ICAO Noise Standards (annex 16) which are reasonably compatible with the standards set forth in such regulations issued by the Secretary (14 CFR part 36) during the 5-year period thereafter, at a phased rate of compliance similar to that in effect for aircraft registered in the United States. The requirement applied to air carriers engaging in foreign air transportation shall not be more stringent than those applied to foreign air carriers. Such rulemaking shall be concluded within 120 days.

(b) If, prior to January 1, 1980, the International Civil Aviation Organization reaches an agreement on noise standards that complies with clause (a)(1) or (a)(2) of this section, the Secretary, acting through the Administrator of the Federal Aviation Administration, shall immediately commence a rulemaking to require all air carriers and foreign air carriers engaging in foreign air transportation to comply with the noise standards set forth in such agreement at a phased rate of compliance similar to that in effect for aircraft registered in the United States. The requirement applied to air carriers engaging in foreign air transportation shall not be more stringent than those applied to foreign air carriers. Such rulemaking shall be concluded within 120 days.

LIMITED WAIVER AUTHORITY

SEC. 303. Notwithstanding any other provision of law, the Secretary is authorized to allow any noncomplying aircraft to be operated beyond the date by which such aircraft is to be in compliance with noise standards applicable to it in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, by waiving the application of such regulations to such aircraft for such period beyond such date of compliance as he determines reasonable to permit compliance. No such waiver shall be granted except upon application of the operator of the noncomplying aircraft and a finding by the Secretary that such operator has made a good faith effort to comply with such regulations and that there is good cause for failure of such operator to comply with such regulations as applicable to such noncomplying aircraft. For the purpose of this section, the term "good cause" shall include the following:

(1) Any case where the supplier is unable to furnish or make available to such operator in a timely manner the necessary engine retrofit kits, replacement engines, or replacement aircraft.

(2) Any case in which the failure to grant a waiver would otherwise create burdens on an individual operator which are unreasonable in comparison to the burdens imposed on other operators of noncomplying aircraft.

(3) Any other circumstances the Secretary deems appropriate.

NEW TECHNOLOGY AIRCRAFT INCENTIVE

SEC. 304. The Secretary shall provide a waiver for the operation of any noncomplying aircraft beyond January 1, 1985, if (1) the operator has a plan for the replacement of such noncomplying aircraft which has been approved by the Secretary pursuant to regulations issued by the Secretary (14 CFR part 91), (2)(A) with respect to any two-or-three engine noncomplying aircraft, the operator has entered into a binding contract by January 1, 1983, or (B) with respect to a four-engine noncomplying aircraft, the operator has entered into a binding contract by January 1, 1985, for a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator, on March 2, 1978 (F.R. Vol. 43, p. 8722 et seq.), and (3) the Secretary determines that such replacement aircraft will be in service within a reasonable period of time after such operators enters into the binding contract.

DOMESTIC NOISE ABATEMENT CHARGE

SEC. 305. Notwithstanding any other provision of law, the Civil Aeronautics Board

may, under the rules of section 308, authorize or require any operator to impose a noise abatement charge for that portion of the transportation of any person subject to the tax imposed by subsection (a) or (b) of section 4261 of the Internal Revenue Code of 1954 and any property subject to the tax imposed by section 4271(a) of the Internal Revenue Code of 1954. The charge shall not exceed an amount in excess of 2 percent of all other rates, fares, or charges for that portion of such transportation (excluding all Federal and State taxes).

INTERNATIONAL NOISE ABATEMENT CHARGE

SEC. 306. When all air carriers and foreign air carriers engaging in foreign air transportation are required by regulations of the Secretary to comply with noise standards pursuant to section 302 of this title, the Civil Aeronautics Board may, under the rules of section 308, authorize or require—

(1) any operator to an aircraft which is used for the carriage of persons for compensation or hire to impose a noise abatement charge in addition to any other lawful fare or charge, for the transportation of any person by air, if such transportation begins in any State or in the District of Columbia, and any portion is not taxable under subsection (a) or (b) of section 4261 of the Internal Revenue Code of 1954. The charges shall not exceed—

(A) $2 for transportation of persons to foreign contiguous territory or adjacent islands, or between the continental United States and the States of Alaska and Hawaii, or between the States of Alaska and Hawaii; or

(B) $10 for the transportation of persons not described in subparagraph (A); and

(2) any operator of an aircraft which is used for the carriage of property for compensation or hire to impose, in the case of foreign air transportation of property by air which begins in any State or in the District of Columbia, a noise abatement charge in addition to any other lawful rate or charge. The rate or charge shall not exceed 5 percent of all other such rates or charges for such transportation (excluding all Federal and State taxes) but not to exceed a maximum of $2.25 per 100 pounds of cargo.

USE OF NOISE ABATEMENT CHARGE REVENUES

SEC. 307. As long as the fleet of any operator is not fully in compliance with all applicable Federal noise abatement regulations, the noise abatement charges collected by that operator shall be retained and utilized by it only to bring its aircraft fleet into compliance with all applicable Federal noise abatement regulations.

IMPOSITION, MODIFICATION, AND TERMINATION OF NOISE ABATEMENT CHARGES

SEC. 308. (a) The Civil Aeronautics Board is hereby authorized to impose, increase, decrease, otherwise modify, or terminate any noise abatement charge the imposition of which is authorized by section 305 or 306. The imposition of, or an increase in, a noise abatement charge may be authorized or required by the Board only upon the request in writing of an operator of a noncomplying aircraft and upon the recommendation of the Secretary of Transportation. In exercising its authority to decrease or terminate any such charge, the Board may act upon its own motion or in response to a recommendation of the Secretary of Transportation: *Provided*, That the Board shall review each charge at least once a year to determine whether it would be appropriate to continue. In making any recommendation with respect to the imposition or termination of, or an increase or decrease in, a noise abatement charge, the Secretary of Transportation shall include with his recommendation a report with respect to the effect of the requested noise abatement charge action by the Board.

(b) Any report submitted to the Board by the Secretary in support of a recommendation for noise abatement charge action by the Board shall include an evaluation of—

(1) the financial condition of each operator;

(2) the progress and good faith efforts of each operator toward the bringing of noncomplying aircraft into noise regulation compliance;

(3) the state of production of "stage 3" aircraft (as defined in 14 CFR 36.1(f)); and

(4) whether the requested imposition or termination of, or an increase or decrease in, the noise abatement charges, or the failure to impose, increase, decrease, or terminate the noise abatement charges as requested, will produce excessive profits for each operator.

(c) In exercising its authority under this title to authorize or require the imposition of noise abatement charges or to increase, decrease, or terminate such charges, the Board shall comply with the requirements of section 553 of title 5, United States Code, to the greatest extent possible consistent with completing the proceeding within 90 days after the date on which notice is given under subsection (b) of that section. The Board shall complete any such proceeding within 90 days after the date of such notice. The final rule adopted by the Board may adopt, modify, or reject the recommendations of the Secretary.

(d) In making its determinations, the Board shall consider, among other things:

(1) the need for the operators to raise sufficient capital to meet the requirements for compliance with all Federal noise abatement regulations;

(2) the desirability of encouraging the development and use of the most advanced technology available for reducing noise levels;

(3) with respect to the imposition of noise abatement charges authorized or required under section 306, or an increase or decrease in, or the termination of, such charges, the views of the Department of State;

(4) the intent of Congress that noise abatement charges be imposed only if operators fail to achieve an actual 5 percent corporate rate of return on investment unless the Board finds such charges are otherwise not in the public interest; and

(5) any report or recommendations submitted to the Board by the Secretary of Transportation.

(e) The final rule shall be submitted to both Houses of Congress and shall take effect 60 days thereafter unless either House disapproves, by simple majority vote, the implementation of the rule within 30 legislative days from the date of submission to the Congress.

TERMINATION OF CHARGES

SEC. 309. Notwithstanding any other provision of this title, any noise abatement charge imposed under section 305 shall cease to be in effect on the day after the last day of the 60th month which begins after the date of enactment of this Act. Notwithstanding any other provision of this title, any noise abatement charges imposed under section 306 shall cease to be in effect on the day after the last day of the 120th month which begins after the date of enactment of this Act.

COMPLIANCE REGULATIONS

SEC. 310. Any aircraft that exceeds the noise standards prescribed for such aircraft in 14 CFR part 36, as such regulations were in effect on January 1, 1977, by no more than 5 effective perceived noise decibels at each of the 3 measuring points specified in (c) 36.3 of 14 CFR Part 36, shall be deemed to be in compliance with such regulations and with section 611 of the Federal Aviation Act of 1958, as amended.

TITLE IV

SEC. 401. Not later than 90 days after the date of enactment of this Act, and each January 31 thereafter, until implementation of collision avoidance systems in the national air traffic control system, the Secretary of Transportation shall submit to the Congress a report on the status of the development of such systems. Such reports shall set forth proposed timetables for the implementation of such systems. The Secretary of Transportation's report shall include proposals for any legislation needed to implement such systems.

SEC. 402. Section 1112 of the Federal Aviation Act of 1958 is amended to read as follows:

"SEC. 1112. (a) No part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one State, shall be subject to the income tax laws of any State or subdivision thereof other than the State or subdivision thereof of such employee's residence.

"(b) For the purposes of this section the term 'State' also means the District of Columbia and any of the possessions of the United States; and the term 'Compensation' shall mean all moneys received for services rendered by the employee in the performance of his duties and shall include wages and salary.".

SEC. 403. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading "TITLE XI—MISCELLANEOUS" is amended by striking the item designated as "Sec. 1112" and inserting in lieu thereof:

"Sec. 1112. Exemption of certain compensation of employees for income tax purposes for other than State or subdivision of residence.".

TITLE V

SEC. 501. (a) The Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator") shall, within 90 days after the date of enactment of this Act, promulgate regulations for airports operated by the Administration to regulate the access to public areas by individuals or by religious and nonprofit organizations (as defined in section 501(c)(3) of the Internal Revenue Code of 1954) for the purpose of soliciting funds or distributing materials.

(b) In promulgating regulations under this section the Administrator shall consider requiring any individual or organization described in subsection (a) to submit an application for a permit to engage in the soliciting of funds or the distribution of materials. In considering such an application the Administrator may require that—

(1) a responsible individual representative of the applicant shall be designated to represent the organization,

(2) each individual participating in any solicitation or distribution will display a proper identification approved by the Administrator,

(3) the number of individuals engaged in any solicitation or distribution at any one time shall not exceed a reasonable number, in keeping with the need for free movement in and operation of the airports as provided for by the permit,

(4) the solicitation or distribution be confined to limited areas and times, and

(5) no individual or organization which holds a permit under this section shall be permitted to—

(A) use sound amplification or display signs (other than signs approved by the Administrator);

(B) intentionally interfere with users of the airport;

(C) engage in the use of indecent or obscene remarks or conduct; or

(D) engage in the use of loud, threatening, or abusive language intended to coerce, intimidate or disturb the peace.

(c)(1) The Administrator shall consider requiring that a copy of a permit (if such is

required) be conspicuously posted in the area in which any solicitation or distribution is permitted.

(2) The Administrator shall consider whether revocation of approval for any permit if required and approved under this section should occur for any violation of any rule or regulation promulgated hereunder.

(d) Regulations intended to be promulgated under this section shall be submitted to Congress within 30 days after the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2440) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment to the title and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Amend the title to read: An act to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, to provide assistance to aircraft operators to aid them in complying with noise standards, and for other purposes.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate insist on its amendments to H.R. 2440, request a conference with the House of Representatives on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. CANNON, Mr. LONG, Mr. INOUYE, Mr. EXON, Mr. PACKWOOD, Mrs. KASSEBAUM, and Mr. GOLDWATER conferees on the part of the Senate.

ORDER FOR RECESS UNTIL 1:30 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 1:30 p.m. tomorrow.

THE PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EAGLETON, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1037.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police officers, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

(The amendment of the House is printed in the RECORD of September 24, 1979, beginning at page 25931.)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EAGLETON, I move that the Senate disagree to the amendment of the House of Representatives and request the conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. RIBICOFF, Mr. EAGLETON, Mr. LEVIN, Mr. MATHIAS, and Mr. STEVENS conferees on the part of the Senate.

GO TO COLLEGE AND GO BROKE

Mr. PELL. Mr. President, I call to the attention of my colleagues a thoughtful and provocative article by John C. Sawhill, then president of New York University and currently Deputy Secretary of the Department of Energy, which appeared in the most recent issue of Leaders. Entitled "Go to College and Go Broke," the article confronts the painful truth that a student who has earned a college degree can no longer be assured that it is the key to a higher paying professional job. This is especially true in a number of industrially less developed countries, where unemployment is high. But it is increasingly becoming true in the United States.

In this country we have, through a number of Federal student aid programs, almost solved the problem of access to college for any student capable of benefiting from higher education who is willing to do the work. However, I am concerned that we have given little attention to the quality of the education such students receive. As my Subcommittee on Education, Arts, and Humanities has held hearings on reauthorization of the Higher Education Act, I have pressed witnesses for suggestions on what can be done to improve educational quality. To date, we have received few suggestions.

As Dr. Sawhill points out, we must assure that higher education is not only of high quality, but that it is also viewed as more than an inevitable ticket to a higher paying job. It must enrich the quality of each individual's life.

I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GO TO COLLEGE AND GO BROKE

(By John C. Sawhill)

Colleges and universities in the industrialized societies of Europe and America have recently been hit with the bad news that the dollar value of academic degrees is falling. In the past five years, researchers have produced sophisticated evidence demonstrating that, unlike in decades past, the lifetime earnings of the average college graduate—be he the holder of a B.A. or some more advanced degree—can no longer be expected to be double or triple those of people who ended their schooling with high school. According to present predictions, many college graduates can look forward to employment well below their capacity, at jobs that do not require a college education at all.

This fact calls into question the entire purpose of higher education, particularly as that education itself becomes more expensive. The reasoning is simple: Higher education is an investment in the good life, in future economic security and material well-being. It is an asset which is expected to pay dividends; as these dividends decrease in proportion to the investment, the attractiveness of education to the consumer diminishes. Decreased enrollments are assured by the fact that a college education will have less to offer by way of material rewards.

BAD NEWS TRICKLING IN

The bad news has been trickling in for some time. Any given issue of a periodical devoted to higher education is sure to feature at least one lugubrious article detailing the unhappy news. "Too Many Students, Too Few Jobs—Antipodean Version of an Old Story" reads a dispatch from Australia, where a lid has recently been placed on college enrollments, at least in part out of a fear that too many students are finding their career expectations falsified. "Graduate Job Prospects Remain Gloomy" is the word from the Netherlands, where a recent report on rising unemployment among B.A. and M.A. degree holders predicted that by 1990 the supply of graduates will exceed demand by at least 40 percent.

In countries which are industrially less developed and where unemployment is generally high, the problem of degrees that don't convert into prestige jobs and high salaries is longstanding and politically worrisome. The chronically disaffected students of Mexico, for instance, have recently called on that country's political leaders to set up an adequate national employment plan, primarily to ensure jobs for themselves. Egypt, which has the highest concentration of university students in the Middle East, has already done this: Every university graduate is guaranteed a job, which, however, indifferently paid, will put the graduate economically well ahead of his non-degreed neighbors. The result has been an enormously swollen, governmental bureaucracy which, however, is considered preferable to an unemployed intelligentsia.

In India and Pakistan, the oversupply of impeccably educated university graduates holding down humble and inconsequential clerical posts has been a spectre that has long haunted not only the politicians of those countries, but also sensitive visitors from abroad who are shocked to discover that their baggage handlers hold doctorates of philosophy from the University of Punjab.

The experience of places like India, Pakistan, and Mexico is not reassuring to European and American educators, who fear that it may soon be replicated in their own countries, although naturally on a lesser scale. We hear, almost daily, about some bright and deserving young scholar of Slavic languages, music theory or medieval history who is working in the Post Office. Students, of course, hear about it too, and hastily switch their majors from art history to business management in a headlong scramble away from the liberal arts—currently the least

marketable and most vulnerable of undergraduate studies.

In many cases, university officials are unnecessarily panicked by the projected dollar depreciation of degrees. I doubt that it will cause young people to abandon colleges in droves. Thus far, the striking fact is that in those nations whose governments do not tightly control university entrance places by imposing sharp quotas— and to a remarkable extent even in countries like the Soviet Union, where stringent attempts are made to adjust college places to manpower needs—the demand for higher education has not eased at all. On the contrary, more and more students crowd into the already overcrowded facilities, and competition for already scarce jobs becomes even more intense. This, however, is also not a pleasing scenario: Cutthroat competition for mediocre jobs among highly qualified and educated young people could produce serious social malaise, anger, and worse.

A TENACIOUS AND DIFFICULT MYTH

Worldwide, the myth that higher education will usher in a better, fuller, and more prosperous life seems particularly tenacious and difficult to dispel. It certainly has a long pedigree, dating back to at least to Erasmus and gathering new strength during the Enlightenment. Perhaps then, it is, like most enduring myths, rooted in reality. Or has it now become obsolete?

I think not. Higher education will, I am confident, continue to be the key to a better life, though perhaps in a way more *qualitatively* different than before. It is true that as more and more people acquire degrees, the presentation of a diploma will no longer be enough to ensure a good job and high pay. Even so, by no means is it a wholly bad thing that some of the crasser dollars-and-cents reasons for attending college are disappearing. I hope it may even lead to a rediscovery of the fundamental worth and pleasure of learning. An education is not something that automatically confers on one a large share of pie. Its worth in inherent.

I can foresee several kinds of adaptations that colleges and universities will have to make in the years ahead.

IMPORTANT AND NECESSARY STEPS

First, and especially in the third-world countries where there is a surplus of highly educated people who lack the technological, agrarian and paramedical skills their societies need, a new emphasis must be placed on these areas. Persons already holding degrees in fields where jobs are scarce should be offered the chance to supplement their liberal arts strengths with technical knowledge. They will be better technicians for their prior humanistic backgrounds, better social planners and wiser decision makers.

Second, in order to improve and redirect educational resources, a new emphasis must be placed on skills. Attempts are now being made in many parts of the world, including such European countries as Ireland, which has a glut of liberal arts graduates, to upgrade technical education and enhance its prestige. I also see no reason why persons who will eventually work at technical careers should not have prior grounding in the liberal arts.

It is, after all, for our skills that we are known, and for our skills that we are hired. And this applies to liberal arts graduates as much as to doctors or electrical engineers. But the skills conferred by a liberal arts education too often go unrecognized. They include, or should include, the abilities to research complex problems, to read rapidly, to digest and analyze large amounts of written material, the ability to perform computations and to make trade-offs between social, economic, and other kinds of goals.

Corporate leaders often complain of young college graduates who have prestigious degrees in business administration, but who lack the ability to communicate fluently, both orally and in writing. They cannot defend a position, sift the evidence of experts, or reconcile the demands of efficiency, equity, and innovation. These are all skills that are a liberal arts education can bestow.

Finally, there is already a move to "delink" jobs and degrees, in particular, first-level higher degrees such as the B.A. In the future, professional training may have to be undertaken before, after, or alongside liberal arts study. There is no reason to mourn this, especially as adult education or continuous education expands, providing (along with a lot of pseuda-educational dross) more and more opportunities for lifelong study of the kind that supports or complements career development. The notion that education is something which must be, so to speak, swallowed in one gulp between the ages of 18 and 22 is one which is rapidly fading. Indeed, as more and more people change jobs and careers one or more times during their working lives, the idea that all education and career preparation must be completed by the age of 22 becomes increasingly preposterous.

If large numbers of university and college graduates cannot find jobs, it is a problem of grave concern to political and economic leaders. But let's add that if a large number of any group within society are jobless, it becomes a pressing social problem. The notion that people have a right to decent jobs and livelihoods applies to all people, regardless of their respective educational backgrounds.

Colleges and universities must not twist their purpose and curricula out of shape in order to enhance someone's short-term job prospects. To distort or abandon education—particularly the liberal arts education—in the name of social utility, competitive advantage in the job market, or some other chimerical form of relevence is, I believe, shortsighted and ultimately disastrous for free societies.

REPRESSION IN CZECHOSLOVAKIA

Mr. PELL. Mr. President, in August, the Washington Post published an article of mine entitled "Celebrating Helsinki," on Czechoslovak repression against 10 members of Charter 77 and on the harsh new legal code in East Germany.

There are now reports that the scope and timing of the Czechoslovak acts against the Chartists have angered Soviet President Brezhnev, who does not want further sources of antagonism with the United States while SALT is still pending. Such uncertainty on tactics has resulted in numerous delays of the Chartists' trial.

According to the latest reports, the Czechoslovak authorities have decided to stage two separate trials. The 10 dissidents face the charge of "subversion"—that is how the Czechoslovak Government defines the human rights work of the Chartists. On October 22, Jiri Dienstbier, Vaclav Havel, Peter Uhl, Otta Bednarova, and Dana Nemcova will stand trial for 5 days. The trial of the remaining five Chartists has yet to be scheduled.

Although the East German authorities have not seen fit to rescind their repressive new legal code, they have released from prison two prominent dissidents, Rudolf Bahro and Nico Huebner, early. Both men and their families are now in the West.

In the U.S.S.R., the Moscow Helsinki Group announced at a press conference that it fears a repetition of the wave of arrests which took place in 1977. Members of the group have been given official warnings to stop their "subversive" activities, while others have been subject to house searches and job dismissals. The international outcry at the fate of various Soviet dissidents has not deterred the Soviets from arresting more members of the Soviet Helsinki groups in Armenia and the Ukraine. There has also been a recent rash of trials of workers involved in organizing independent labor unions.

As the Helsinki signatories begin to prepare for the 1980 Madrid Review Conference, we must note such violations of the Helsinki Accords. In this connection, the Commission on Security and Cooperation in Europe—of which I am the cochairman—is keeping track of the pluses and minuses in the human rights records of the 35 countries which signed the Final Act at Helsinki. This record should prove invaluable as the Commission and the Department of State prepare for the Madrid Conference.

SOVIET IMPRISONMENT OF RAOUL WALLENBERG

Mr. PELL. Mr. President, I have long been interested in the case of Raoul Wallenberg, the gallant Swedish diplomat who rescued so many Hungarian Jews during World War II, only to be kidnaped by Soviet soldiers when they conquered Budapest.

Since that time, for all intents and purposes, he disappeared into the Soviet prison maw. The Soviet Government has denied repeatedly that he is alive in spite of the fact that there are many, many reports concerning him from a variety of people who were his neighbors in Soviet prisons.

This is, I believe, a human rights question that should be resolved. The Soviets have been asked repeatedly for fuller information concerning Raoul Wallenberg and, most important, to give him his freedom if, as many of us believe, he is alive.

In this connection I commend to my colleagues the speech delivered by the Swedish Ambassador to Canada, Per Anger, a few days ago in the Mansfield Room, just off the Senate floor.

I ask unanimous consent that the text of this speech be printed in full at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY PER ANGER

Senator Moynihan, distinguished Members of the Congress, ladies and gentlemen: I am very honoured to be here today and I wish to express special thanks to Dr. Strauss and the Swedish-American Cultural Union for having invited me to talk to you on a subject which is very close to my heart, namely the Raoul-Wallenberg-affair. It is close to my heart because Wallenberg became a very close friend of mine and because I had the great privilege of cooperating with him during his rescue operations for the Hungarian Jews during the war.

For most people in the world of today, the mention of Hungary has evoked pictures of the revolution in October 1956, Russia's intervention and escaping refugees. The tendency to remember more vividly later

events is of course natural and I feel that very strongly myself being involved also at that time in Vienna for the work for the Hungarian refugees. But one should never forget that the communist horrors were preceded towards the end of World War II by the terrible and ruthless actions undertaken by the German and Hungarian Nazis with the purpose to exterminate around 800,000 Hungarian Jews. Their plight was recently called to public attention by the film Holocaust.

The fatal date for the Hungarian Jews was to be March 19, 1944, the day when the Germans occupied Hungary to force her to fight more whole-heartedly on the eastfront against the Russians and to solve, once and for all, the Jewish question, to use the German terminology. To assist the Hungarians in this task, Eichmann and his group arrived in Hungary. New regulations concerning the Jews were introduced which were a premonition of things to come. Step by step the Jewish population in Hungary was deprived of all civil rights. It was prescribed that all Jews should wear a yellow star on their breasts. Omission was punished with imprisonment or death penalty. I will never forget how on one morning in March, 1944, when walking to my office in Budapest, I found every third or fourth person I met in the street wearing that yellow star on his breast as a sign of belonging to a race doomed by the Nazis to perish. This was the first sign which after the Nazi occupation of Hungary indicated what was going to happen to the Hungarian Jews. Some of the people I met tried for a while to hide the star with a parcel or a handbag, but it was at the risk of severe punishment. Others were too proud to be seen out-of-doors, and others wore them with the resignation of thousands of years of suffering. When I witnessed this, I thought that never had humanity sunk deeper in shame and dishonour, but this was only the first step. The property of the Jews was confiscated, and they were not allowed to have any professions. They were forbidden to visit restaurants and cinemas. They were not allowed to sit in the parks nor to ride in automobiles and trains. They were little by little concentrated in special houses or camps bearing the same yellow star. They were not allowed to be out-of-doors. Their suffering worsened day by day in a perpetual crescendo. Finally, ghettos were established which was the last step before the deportation to the gas chambers in Auswitsch and Birkenau.

In the beginning of the summer all the 600,000 Jews living in the Hungarian countryside were liquidated. Eye witnesses, who came to the Embassy, gave authentic descriptions of what happened in the different parts of Hungary.

The deportation of the around 200,000 Jews in Budapest had not yet started and the neutral embassies were besieged by masses of Jews who anticipated what was going to happen and pled for help. The reception room in our Embassy, where I was working as a young attaché at that time, was crowded with people seeking help and they were standing in line far out in the street. Our chances of helping were, however, very slim. From the strictly legal point of view, the Embassy could not take action except for Swedish citizens and the citizens of those countries whose interests Sweden was protecting during the war. Nevertheless, something had to be done, and quickly, for every day the plight of the Jews worsened. In the beginning we issued temporary passports—really a travel document which under certain circumstances could be given to persons other than Swedish citizens. Now we gave those documents to persons with special connection with Sweden, either a family connection or business transactions. The temporary passports actually didn't offer any protection in the beginning, but eventually the Embassy, after negotiations with the Hungarian authorities, was successful in arranging to have the holders of such passports treated as Swedish citizens who were not forced to wear the yellow star. In this way they were able to avoid interment and deportation. In order to keep the value of the passports from diminishing through inflation, we were forced to limit the number of them. Instead we had to think up other solutions.

We started to issue certificates for those Jews who had applied for Swedish citizenship or for those who had been granted Swedish entry visas declaring those people to be under our protection till they were able to leave for Sweden. A completely illegal document but we were encouraged by the fact that the generally uneducated Nazi-functionaries were often impressed by the certificates and thus refrained from arresting the holder.

We were working day and night to help. But we were only a handful of people at the Embassy and we also had other tasks to perform. We therefore asked for more staff from Stockholm. That request coincided with the negotiations in Stockholm between the Ministry for Foreign Affairs on one hand and the American War Refugee Board, World Jewish Congress and the American Embassy on the other hand concerning sending a Swede to Budpaest to start a rescue-action for the Hungarian Jews.

This task was entrusted to Raoul Wallenberg. He belonged to the well-known Wallenberg banking family. After graduating as an architect in the United States he became a businessman in Stockholm with much of his business in Hungary.

Nobody could be better suited for the task than Raoul Wallenberg. He was a most able negotiator and organizer, unconventional, inventive and courageous. He was talented in languages and he knew Hungary. At heart he was a great idealist and a very warm person.

Wallenberg was given full diplomatic status by the Swedish Government and was appointed First Secretary to the Swedish Embassy in Budapest. I received him there when he arrived in July 1944. His equipment was somewhat unusual for a diplomat. He wore a windbreaker, a rucksack, a sleeping bag and a revolver. "The revolver is only to give me courage," he said in his usual joking manner.

I gave him a briefing of the situation and showed him the different certificates we had issued. It was then he got the idea to change them into what was called protection passports in the Swedish colours with the three crowns as emblem and signed by the Ambassador, a document which was going to save thousands of Jews.

Wallenberg now took over the relief-work for the Jews and his activities were mainly financed by War Refugee Board in Washington which transferred to him large sums of money through the US Embassy in Stockholm. A special division of the Embassy was founded with Wallenberg as chief and with primarily voluntary Jewish personnel. His work expanded as time went by. Several offices were established in different parts of the city and his staff consisted of approx. 400 persons.

After difficult negotiations, Wallenberg reached an agreement with the Hungarian Government that the holders of the protection Passports should not be deported. They were allowed to live in special houses which the Embassy rented on the Pest-side in Budapest—the so called Sweden Houses pending the departure for Sweden. The number of passports which were approved by the Hungarian authorities was 5,000.

The departure for Sweden became, however, an illusion as the Germans refused to permit transit through Germany.

As time went on, more and more Jews were transferred to these houses without the knowledge of the authorities. The total number of Jews saved in this manner was soon doubled, or approx. 10,000–15,000 persons. Even other foreign embassies—the Swiss, Spanish, Portuguese and the Pope's representative followed our example and issued the same kind of documents, so soon the total number of holders of these passports was close to 50,000.

On the 10th of October 1944 the Hungarian Nazis with German help overthrew the Government, which, although pro-German, was much too moderate in their opinion. After this happened, the increasing persecution of the Jews simply defied description. At night we could hear the shots from machine-guns, when the Jews, after having been robbed of even their clothes, were shot and thrown into the Danube. But the Russian armies were approaching, and in order to liquidate as many Jews as possible in the time that remained, the Nazis adopted a method which broke all records as far as cruelty and unmerciful treatment was concerned. Thousands of persons were seized where they were, women in high-heeled shoes and men without overcoats, and were made to walk 150 miles to Hegyeshalom, the outpost at the Hungarian-Austrian border. This solved, for the Nazis, the problem of transportation. It took over a week to cover this distance in the bitter cold and snow, without food and shelter and rest. It was very difficult for the Embassy to take any measures to rescue these people. Only if any of them had Swedish "protection passports" was it a chance to have them returned to Budapest.

One of the first days in December, Wallenberg and I drove along the road where the Jews were marching. We passed these miserable throngs of people, who looked more dead than alive. Ashen-faced, they stumbled along, driven by the blows of the soldiers' rifle butts. Many fell during the march, and the road was lined with corpses. Our automobile was loaded with food, which we distributed despite orders not to, but it was only a small help. At Hegyeshalom we saw the survivors turned over to a German SS-officer who counted them as if they were cattle. The Hungarian officer got a receipt that everything was in order. Before they were turned over, we succeeded in saving some who had Swedish "protection passports" and some by sheer bluff.

It now became increasingly difficult for the Embassy to continue its work. Almost every day armed Hungarian Nazis pushed their way into offices and premises which were under the Embassy's protection, robbed the supplies and tried to remove the personnel. We were on the alert day and night, and time after time we had to band together in order to protect ourselves from the attacks of the Nazis. Most of the time we were able to bluff and threaten them into leaving.

At the Embassy we knew that time was running out on us. Would we be able to hold on until the Russians came? How many times did we ask ourselves that question?

The Swedish Government had at this time given us a free hand to decide if we would prefer to leave Hungary or stay on. We knew, however, pretty well that the longer we stayed fighting for the people under our protection the smaller the chances would be for the Nazis to get time to liquidate them. According to the information we had, the Nazis had planned to blow up the Sweden Houses where all the thousands of people under Swedish protection were accommodated, at the same moment we left the country. So our decision was to fulfil our duty and say on.

What happened then is a long and harrowing story which would take too long to

go into. At Christmas, 1944, the Embassy was attacked by the Hungarian Nazis, but we all managed to escape in one way or another and were forced to live underground for a couple of months during which time the town was violently bombed and attacked by the Russians. After heavy fighting in the streets the Soviet troops finally conquered the town and most of the Jews under our protection, as well as we ourselves, managed to survive. The members of our Embassy were first interned for a couple of months by the Soviets and then transported on a long way home to Sweden via the Soviet Union. With one exception though, Raoul Wallenberg.

The last time I saw Wallenberg in Budapest was on the 10th of January, 1945. He came for a short visit and I remember reminding him once again of the extremely dangerous position he was in, and advised him to move over with us on the Buda-side, his offices being on the Pest-side. The Hungarian Nazis were especially at this point hunting for him, and he risked great danger in continuing his charity work. But he turned a deaf ear to this. I remember that on this occasion we were out on a special mission together. We had the impression that the bombs rained on us during the journey. We had to stop our car constantly because the road was blocked by dead people, horses, trees and demolished houses, but Raoul Wallenberg never flinched in the face of danger. I asked him if he wasn't frightened. "It is gruesome sometimes", he said, "but for me there is no other choice. I have taken this responsibility upon myself, and I could never return to Stockholm unless I knew that I had done everything in human power to save as many miserable people as possible." And he did everything. He was indefatigable in saving Jews from deportation. How many did he actually save? On that question is difficult to give a clear cut answer. I witnessed when he stopped the deportation of in all many thousands at the railway stations, at the Sweden Houses and during the deathmarches to the Austrian border. The Nazis were often taken by surprise by his firm action. Officially he acted for the holders of Swedish protective passports but through bluff he managed to save many others at the same time. To reach his goal he used all means. He bribed the Nazis, he threatened them, he flattered them. But his greatest contribution was not through this kind of personal interference. It was as negotiator he reached the greatest results. He was the driving force behind not only our agreement with the Nazis about their acceptance of the protection passports but also behind the other embassies similar arrangements.

But he didn't only save 15,000 holders of those passports living in the Sweden Houses. He went further. The last days before the Soviets were to attack Budapest the Hungarian Nazis, the so called Arrow Cross people had decided to massmurder the 70,000 Jews who were confined to the general ghetto in the city. Wallenberg learned about the plans and sent a message to the German general named Schmidthuber to stop the attack on the ghetto. Otherwise Wallenberg would see to it that Schmidthuber would be hanged as war criminal after the war and the General stopped the action. The mere presence of Wallenberg was enough to put a restrain on the Nazi-actions. He became as one author puts it "the observing eye of the world who constantly held the Nazis responsible for their crimes".

Now the question you ask is—What happened to Wallenberg?

The Russians informed the Swedish Government on January 17, 1945, that they had found Wallenberg and that he was under their protection, but on the Swedish repeated inquiries why he didn't return to Sweden like the other members of the Embassy, including myself, we only received evasive answers. Not until 1947 did we get a more definite reply saying that Wallenberg was not in the Soviet Union and that he was unknown to the authorities there.

A few years afterwards, however, we managed through returning prisoners of war, to trace Wallenberg to the Lubjanka-prison in Moskow. The Swedish Government's request to the Soviet authorities to release him was however met in 1956 with the answer that he died in that prison in 1947. But it didn't take long thereafter till new witnesses reported about contacts with Wallenberg in other prisons in the Soviet Union and so it has been going on for all the years. The Soviets have always denied the truth of these witnesses and constantly referred to the answer once given that Wallenberg died in 1947. As late as in 1978 a Polish Jew—Kalinsky—who spent many years in Soviet prisons, told us that Wallenberg had been seen in different prisons in the fifties, sixties and seventies. Another witness, a Soviet Jew—Kaplan—has stated that as late as 1975 he met a Swede in the Botyrka-prison outside Moscow who had been in Russian prison for more than 30 years and who could be no other than Wallenberg. The Swedish Government has looked very seriously into the matter but its interventions in Moskow in January and August this year have been met with the same negative answers, namely that the Soviets have nothing more to add to their previous statements that Wallenberg is dead.

Now, why did the Soviets imprison Wallenberg?

Well, one theory is that they suspected him to be a spy. First of all it wasn't to his credit to have helped the Jews. That was only a pretext, they thought, for something else. He had received American money, he was consequently an American spy. That the Americans and the Russians had been allies during the war was of no importance in the atmosphere of the beginning cold war.

The Russians suspicions increased when Wallenberg moreover declared that he intended to stay in Hungary after the war to support the Jews to get settled after their sufferings and to form an organisation with that purpose and so Wallenberg was brought to the Lubjanka-prison in Moskow.

He was questioned and tortured, but the Russians couldn't get the important information from him they wanted because he was no spy. The Russians in their suspiciousness might still not believe that they arrested an innocent man.

Wallenberg's fate has preoccupied the Swedes during all these years and we now share our concern with strong groups all over the world, in this country, in Britain, in Canada, in Israel and so forth.

It has become a question of decency, a legitimate claim to learn what happened to a man who on an official Swedish mission saved tens of thousands of lives and if he is still alive, which we believe, to get him back to Sweden.

We Swedes have the right to demand this and so have all those he saved as well as all men in this world who are fighting for human rights.

Thank you.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I believe that after the two leaders or their designees have been recognized on tomorrow, Mr. TSONGAS will be recognized for not to exceed 15 minutes. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, the Senate will take up the Department of Defense conference report on tomorrow, S. 428, and any other matters that may be cleared in the meantime.

RECESS UNTIL 1:30 P.M. TOMORROW

Mr. PELL. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 1:30 p.m. tomorrow.

The motion was agreed to; and 5:57 p.m. the Senate recessed until tomorrow, Tuesday, October 23, 1979, at 1:30 p.m.

NOMINATIONS

Executive nominations received by the Senate October 22, 1979:

UNITED NATIONS

William J. vanden Heuvel, of New York, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

NATIONAL TRANSPORTATION SAFETY BOARD

George Herbert Patrick Bursley, of Maryland, to be a member of the National Transportation Safety Board for the term expiring December 31, 1984 (reappointment).

CONFIRMATION

Executive nomination confirmed by the Senate October 22, 1979:

DEPARTMENT OF STATE

Robert Krueger, of Texas, to be Ambassador at Large and Coordinator for Mexican Affairs.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, October 22, 1979*

The House met at 12 o'clock noon.

Rev. Edward G. Latch, D.D., former Chaplain of the House of Representatives, offered the following prayer:

They that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run and not be weary; they shall walk and not faint.—Isaiah 40: 31.

Almighty God, in whose presence our anxious spirits are quieted, our tense minds become rested, and our worried souls find peace, we wait upon You in this moment of prayer seeking a renewal of our strength, a restoration of our patience, and a reawakening of our faith.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

In these times of trial and trouble, during these periods of stress and strain, we need the guidance of Your spirit and the power of Your presence. Give them to us as we pray that we may lead our people and our Nation in the paths of peace with liberty and justice for all.

Bless all who work under the dome of this Capitol. May Your spirit dwell richly in their hearts as they carry their responsibilities, do their duties, and direct the affairs of our beloved land. With the faith of our Founding Fathers may we fly the flag of freedom, of peace, and of justice forever and ever and ever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments a bill of the House of the following title:

H.R. 4930. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4930) entitled "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes," disagreed to by the House; requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ROBERT C. BYRD, Mr. HOLLINGS, Mr. BAYH, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. DURKIN, Mr. STEVENS, Mr. YOUNG, Mr. HATFIELD, Mr. BELLMON, Mr. MCCLURE, and Mr. LAXALT to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1157) entitled "An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. METZENBAUM, Mr. BAYH, Mr. BAUCUS, Mr. DECONCINI, Mr. THURMOND, Mr. MATHIAS, Mr. COCHRAN, and Mr. DOLE to be the conferees on the part of the Senate.

OVERINFLATION IS BEING CAUSED BY EXCESS GOVERNMENT SPENDING

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, I would like to call to the attention of this body the fact that inflation in this country is still running rampant, and this unbearable overinflation is caused by excess Government spending.

Over the last 6 years this Congress has been on a hell-bent-for-leather spending spree that has almost doubled the Federal budget in just 6 years and increased the national debt by more than 80 percent in that same 6-year period; and we wonder what in the world we were doing in the other 196 years of the history of this Congress and this country.

Mr. Speaker, in the beginning of the year when this Congress enacted the first concurrent budget resolution, which establishes a ceiling, we brought in a deficit of only $22 billion. By that resolution we were able to cut the annual deficit by about $9 billion.

All of the Members of the Congress rushed home and told their constituents what a fantastic job they were doing by cutting the deficit. They were going to deal with overinflation that is breaking the backs of the American people. What happened? Just 2 months later, we came back in, and we adopt the final continuing budget resolution, which does away with the cuts that we made; and we increased it back up to almost $30 billion.

Mr. Speaker, we are not dealing with overinflation that is breaking the backs of the American people. The Congress is continuing to print what I call counterfeit money thereby adding fuel to the fire of rampant inflation.

When oh when will this Congress ever learn to be fiscally responsible. I guess it will not until the American voters elect a Republican majority to this House.

CONGRESSIONAL PAY RAISES SHOULD BE DEFERRED UNTIL NEW SESSION OF CONGRESS

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute.)

Mr. O'BRIEN. Mr. Speaker, no matter how you feel about the recent cost-of-living adjustment or how you voted on the legislation, I think that after what we have experienced in the past few weeks you will agree with me that the system by which we receive these periodic increases should be changed. As the law stands now, we are responsible, indirectly or directly, for every raise in pay that we may receive annually through the appropriations process.

During the sometimes heated debate that took place while this matter was considered, the chairman of the House Committee on Post Office and Civil Service, the gentleman from New York, gave the cogent argument that this is something that should be handled legislatively and not through the appropriations process. I readily agree. Accordingly, I am introducing a bill that would defer all congressional pay raises and cost-of-living adjustments until the beginning of the Congress that follows the increase. As I stated several times during the debates on the subject, I do not believe that we should take it upon ourselves to adjust our own pay during the term for which we were elected.

By deferring any raises that we are accorded under present law, we would allow the employers of each Member, his constituency, to have a say in the matter. I also believe that this action will defuse what we have all come to realize is a very volatile issue. With the passage of this legislation we can put behind us the turmoil that we have just experienced and effectively lay to rest any concern that the "donnybrook" of 2 weeks ago will be an annual exercise. I urge the support of my colleagues for this bill and invite all Members to join me in cosponsoring this legislation.

SECRETARY'S DELICATE PALATE LED TO INDIGESTIBLE ADMINISTRATIVE ACTION

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, it must be reassuring to the restaurant owners of America to know that a genuine gourmet heads the Department of the Interior, but it is a situation not without complications.

The Secretary's delicate palate led to an indigestible administrative action. He still is swallowing hard following his sudden about face on the job status of a Department scientist. The scientist committed a culinary gaffe when he had the temerity to protest the offering of rattlesnake meat at one of the Secretary's favorite restaurants.

It was an excessive penalty which in all likelihood would have been overturned under provisions of the 1978 Civil Service Reform Act.

Although the Secretary beat a hasty retreat in this serpentine saga, he was not routed. The restaurant owners know they have a friend. They view him as a man of decisive action, a man who thinks earnestly about his dinner. They know they can prepare menus which feature noodle deerburger casserole, grouse a la caraway, smothered squirrel, fried muskrat, opossum and chestnuts, and barbecued beaver. If one of those items happens to run afoul of the endangered species list, the Secretary probably will grant one of his favorite restaurants an exemption.

PRINTING AS HOUSE DOCUMENT PROCEEDINGS OF WORKSHOP ON CONGRESSIONAL OVERSIGHT

Mr. WRIGHT. Mr. Speaker, I send to the desk a resolution (H. Res. 462) authorizing the printing as a House document of the transcript of the proceedings of the Workshop on Congressional Oversight, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 462

Resolved, That the transcript of the proceedings of the Workshop on Congressional Oversight shall be printed as a House document. In addition to the usual number, there shall be printed for the use of the House such number of copies of the transcript as does not exceed a cost of $1,200.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b)(1) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

All such rollcall votes if postponed, will be taken on Tuesday, October 23, 1979.

AIRPORT AND AIRWAY DEVELOPMENT ACT

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of paragraph (2) of subsection (b) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is hereby repealed.

SEC. 2. Paragraph (4) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out "$85,000,000 for fiscal year 1980." and inserting in lieu thereof "$98,000,000 for fiscal year 1980.".

SEC. 3. Notwithstanding any automatic market entry provision of the Airline Deregulation Act of 1978, or any other provision of law, no common carrier operating in interstate commerce may perform regularly scheduled commercial flights in interstate commerce into or from a satellite airport lying within 20 miles of a major regional airport where the major airport is operated under the direction of a regional airport board and where the satellite airport is operated under the direction of a municipality and where the proprietors of such satellite airport and such regional airport board have determined that the public interest and aviation safety of the region are best served by closing said satellite airport to all commercial interstate traffic.

SEC. 4. Part II of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 31. Notwithstanding any other provision of this title, no airport development project involving the construction or extension of any runway may be approved by the Secretary at any general aviation airport located astride a line separating two counties within a single State if, before the submission of such project to the Secretary, such project has not been approved by the governing body of any village incorporated under the laws of that State which is located entirely within five miles of the nearest boundary of such airport.".

SEC. 5. (a) Paragraph (1) of section 902(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(l)(1)) is amended to read as follows:

"(1) With respect to any aircraft in, or intended for operation in air transportation or intrastate air transportation, whoever—

"(A) while aboard, or while attempting to board such aircraft has on or about his person or his property a concealed deadly or dangerous weapon which is, or could be, accessible to such person in flight;

"(B) has placed, attempted to place, or attempted to have placed a loaded firearm aboard such aircraft in baggage or other property which is not accessible to passengers in flight; or

"(C) has on or about his person, or who placed, attempted to place, or attempted to have placed aboard such aircraft any bomb or similar explosive or incendiary device;

shall be fined not more than $1,000 or imprisoned not more than one year, or both.".

(b) Paragraph (3) of section 902(l) of the Federal Aviation Act of 1958 is amended—

(A) by striking out "This subsection" and by inserting in lieu thereof "Paragraph (1)(A) of this subsection";

(B) by inserting "officers or employees of" before "the Federal Government"; and

(C) by inserting "(other than loaded firearms)" after "persons transporting weapons".

(c) Section 902(l) of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of this subsection—

"(A) the term 'firearm' means any starter gun and any weapon which is designed to or has been converted to expel any projectile by the action of an explosive; and

"(B) the term 'loaded firearm' means any firearm which has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip of such firearm.".

The SPEAKER. Is a second demanded?

Mr. SNYDER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California (Mr. JOHNSON) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. JOHNSON).

□ 1210

Mr. JOHNSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2440 authorizes important airport development programs which will insure the continued development of a safe airport system to handle the increased traffic resulting from airline deregulation.

The 5-year airport development program which we authorized in the Airport and Airway Development Act of 1976 included approximately $207 million in discretionary funding programs for fiscal year 1980. However, the 1976 act prohibited——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ZABLOCKI). The Chair would like to state there will be no disburbance in the gallery. You are the guests of the House. We wish you would act accordingly.

The gentleman from California.

Mr. JOHNSON of California. However, the 1976 act prohibited release of the fiscal year 1980 discretionary funds until additional legislation was passed. The purpose of this requirement was to insure that there would be an interim review of a major portion of the ADAP program before it expired. The Public Works Committee has conducted this review and has concluded that full funding of the 1980 discretionary programs is essential to permit needed development at airports of all sizes, including air carrier airports, commuter service airports, reliever airports, and general aviation airports.

Our committee report directs that at least $25 million of the authorized funds be spent for airport development at commuter service airports. At least this level of funding is needed in view of the expanding role of commuter airlines and commuter service airports following airline deregulation.

H.R. 2440 also authorizes an additional $13 million from the Airport and Airway Trust Fund for the development of general aviation airports. This authorization will play an important role in furthering aviation safety. Following the tragic midair collison in San Diego in September 1978, the FAA Administrator announced a new program which will provide an additional $13 million in fiscal year 1980 for development of reliever airports in congested metropolitan areas. The San Diego collision occurred because the reliever airport in the area was not equipped for instrument takeoffs and landings, and general aviation pilots were required to practice these maneuvers at the air carrier airports. The FAA program to upgrade reliever airports will help prevent another tragedy.

The committee wholeheartedly supports the FAA's program. However, to be sure that the added funding for reliever airports does not prevent needed development at other airports, we have authorized an additional $13 million for development at general aviation airports.

The committee's motion to suspend also includes a committee amendment with three parts:

Part 1 of the amendment deals with interstate air service at satellite airports in certain situations. Upon completion of this statement, I will yield to the distinguished majority leader who will elaborate on the background and purpose of this part of the amendment.

Part 2 of the amendment prohibits further development of any general aviation airports which are located astride a line separating two counties unless the governing body of any village that is located within 5 miles of such airport grants its approval.

Part 3 of the amendment adds a provision to the Federal Aviation Act establishing criminal penalties for placing loaded firearms in baggage checked on airlines. This provision will help prevent a recurrence of the tragedy in which an airline baggage handler was killed when a loaded firearm in checked baggage accidentally went off. This provision was included in the antiterrorism bill recently reported by the Public Works

Committee. It is supported by the airlines, airline labor groups, and the Federal Aviation Administration. No objections to this provision have been raised.

Mr. Speaker, H.R. 2440 will make a major contribution to the development of a safe airport system for the 1980's. I urge my colleagues to join me in passing this needed legislation.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we have heard, adoption of H.R. 2440 is essential to assure that full funding is provided for the airport development aid program (ADAP) in fiscal year 1980. The money which will be authorized by this legislation is commonly referred to as the discretionary fund since it is distributed to various airports at the discretion of the Secretary of DOT. If this measure is enacted, approximately $150 million will be distributed to airports serving certificated carriers, $25 million to commuter service airports, $28 million for reliever airports, and $17 million to general aviation airports, for a total of $220 million. This amount represents approximately one-third of the total amount which will be spent in fiscal year 1980 to assure that all of our Nation's airports will continue to provide the highest degree of safety in air transportation. Obviously, since both commercial and general aviation traffic is rapidly increasing as a result of airline deregulation and other factors, the fiscal year 1980 discretionary authorization is crucial.

This will insure that money is provided to carry out such important safety projects as runway extension and construction, the installation of approach, runway and taxiway lighting, the lighting and marking of airport hazards, and the purchase of essential security equipment required by the FAA to prevent hijacking and other crimes against civil aviation.

Of particular significance in this legislation, Mr. Speaker, is the increased minimum funding levels which the Public Works and Transportation Committee intends be spent for commuter service airports and reliever airports as specified in the committee's report. As many of my colleagues are aware, the need for increased funding at these airports is paramount. The San Diego midair collision of last year was a tragic example of what can result when general aviation and air carrier aircraft are compelled to use the same airport because adequate reliever airports do not exist. The FAA has responded to this situation by announcing its intent to spend an additional $13 million for reliever airports in fiscal year 1980—for a total of $28 million. This additional amount will come out of the moneys authorized for general aviation airports. However, to assure that this does not adversely affect other general aviation airports, H.R. 2440 increases the total general aviation airport authorization by $13 million from $85 million to $98 million. Because of the urgent need to both improve facilities at existing relievers and develop new airports, it is absolutely essential that the FAA obligate all of this money authorized in fiscal year 1980.

In addition, H.R. 2440 contemplates that in obligating these discretionary funds, the FAA will increase the minimum amount for commuter service airports from $15 to $25 million. Such an increase is required primarily because commuter air carriers, in the year since passage of the Airline Deregulation Act, have been rapidly expanding into markets previously served by certificated carriers. Unfortunately, we have found that many airports which serve commuters are not adequate to meet the demands of increased commuter traffic and will be hard-pressed to provide an equivalent level of safety to that provided by airports serving the certificated carriers. Since commuter service will continue to grow by leaps and bounds in the months and years ahead, it is imperative that we assure that this growth is accomplished in a safe and orderly manner.

The committee amendment to H.R. 2440 corrects one of the deficiencies in existing law requiring that communities located within 5 miles of certain general aviation airports approve all applications for Federal funds involving the construction of new runways or the improvement of existing runways. It would apply only to those general aviation airports which are physically located in more than one political subdivision and insures that citizens of both such subdivisions have a voice in deciding whether aircraft operations should be increased. It should be pointed out that this provision was contained in last year's airport and aircraft noise reduction bill (H.R. 8729), which passed the House on September 14, 1978, and in this session's Aviation Safety and Noise Reduction Act (H.R. 3942) which was reported out of the Committee on Public Works and Transportation on May 13, 1979.

The committee amendment to H.R. 2440 also contains a prohibition against interstate commercial aircraft operations into satellite airports located within 20 miles of a major regional airport where the airport operators of both airports have determined that the public interest is best served by closing the satellite airport to such operations.

Finally, the committee amendment to H.R. 2440 provides for a criminal penalty for anyone placing a loaded firearm in checked airline baggage. There have been instances in which airline employees have been killed or seriously injured when loaded firearms discharged while baggage was being handled. By providing for a maximum penalty of 1 year imprisonment and a $1,000 fine, it is hoped that this section will serve to prevent such tragedies from occurring in the future. This provision was also included in H.R. 2441, a bill to combat international terrorism, which was reported by the Committee on Public Works and Transportation on September 11, 1979.

Mr. Speaker, when Congress passed the 1976 amendments to the Airport and Airway Development Act, it included a provision which necessitated that a thorough evaluation of this program be conducted before any discretionary funds could be authorized for use in fiscal year 1980. Having participated in this evaluation as ranking minority member of the Subcommittee on Aviation, I have found that there is a most urgent need for these funds to be spent. As the effects of airline deregulation continue to spur increased traffic at our Nation's airports, the Congress faces a challenge to assure that safety is not compromised and that the traveling public will continue to have confidence in our air transportation system as the safest in the world. While our committee is now considering legislation to continue the airport and airway program for the fiscal years 1981–85, it is important that Congress enact H.R. 2440 so that needed improvements for our Nation's airports can continue to be made in the year ahead.

I urge my colleagues to join with me in supporting H.R. 2440.

Mr. JOHNSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I thank the gentleman from California for yielding. I take this time simply to comment briefly in regard to one amendment that is being offered to this bill in the form of a committee amendment.

This amendment has been made necessary by an unfortunate ruling of the Civil Aeronautics Board under which that agency determined that in adopting the Airline Deregulation Act of 1978, Congress had foresworn any right of any local community to determine what kinds of flights should land at which airports. Obviously we did not intend that. In the case before the Civil Aeronautics Board, Southwest Airlines was permitted to bring interstate flights into Love Field, which had been closed by the city of Dallas, which owns Love Field. Under the plan of the Regional Airport Development Board it had been determined that all interstate flights serving the Dallas-Fort Worth market should enter at Dallas-Fort Worth airport. And it was described as potentially unsafe by the Regional Administrator of the FAA for interstate traffic to mingle with local small passenger traffic at Love Field.

Notwithstanding all of that, the Civil Aeronautics Board decreed that Congress had intended in the passage of the Airline Deregulation Act, under the automatic market entry provision, to allow any airline to land anywhere its owners decided it should and take on passengers in interstate travel. This would have undone 20 years of hard and arduous work, culminating in a $600 million investment by the citizens of Fort Worth and Dallas.

So this amendment simply declares that Congress does not intend to authorize passenger commercial traffic in interstate commerce to come into Love Field, Tex.

We do not wish Southwest Airlines any harm at all. I wish them well. I hope they have a good future, but I just feel they have the responsibility, if they serve interstate traffic, to land where all of the others have agreed to land, at Dallas-Fort Worth Airport.

Mr. FARY. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. FARY. Mr. Speaker, as the gentleman knows, I am primarily concerned in the revitalization of Midway Airport. This language is a bit confusing to me. The gentleman is referring to section 3. I would like to ask the gentleman from Texas (Mr. WRIGHT): is it his intent that this amendment should not apply to the airports at Chicago, O'Hare, Chicago Midway, or Chicago Meigs Field?

Mr. WRIGHT. The gentleman from Illinois is exactly correct. It is my intention, and in a clear reading of the language, this amendment does not apply and should not apply to either Chicago O'Hare, Chicago Midway, or Chicago Meigs Field. From the exact wording of the amendment itself, it is not applicable to those airports, as they are all administered by the same municipality, the city of Chicago, rather than by separate authority, and because the city of Chicago, according to my understanding, desires for interstate flights to be landed at both O'Hare and at Midway, and I am not certain about Meigs Field.

Mr. FARY. If the gentleman will yield further, this amendment will not in any way eliminate Midway as a satellite or a reliever airport, will it?

Mr. WRIGHT. Under no circumstances would it have that effect. It would simply eliminate scheduled commercial interstate flights at Love Field, Tex. That is the only situation to which the language presently applies.

Mr. FARY. W.ll the gentleman yield further?

Mr. WRIGHT. I yield to my friend from Illinois.

□ 1220

Mr. FARY. Then, in other words, it will not prevent interstate traffic to move in and out of Midway Airport, Chicago?

Mr. WRIGHT. That is exactly right. This amendment would not prohibit interstate traffic moving into Midway at Chicago. The people of Chicago want interstate traffic at Midway; the city of Chicago, which owns the airport, wants interstate traffic.

The people of the Fort Worth-Dallas Regional Airport Authority and the city of Dallas have decided that they do not want interstate traffic at Love Field. Spokesmen and consultants for the FAA have declared that it is unsafe. In the interest of the safety of our region this amendment is applicable to Love Field and to Dallas-Fort Worth Airport.

Mr. FARY. I thank the gentleman.

Mr. Speaker, I thank the gentleman from Texas (Mr. WRIGHT) for yielding to me. As a member of the Aviation Subcommittee of the Committee on Public Works and Transportation I feel it is very important for me to state for the record that the committee amendment before the House, section 3 of H.R. 2440, is meant to apply solely to Love Field and Dallas-Fort Worth airports. The committee accepted this amendment solely to correct a long-standing misinterpretation of congressional intent by the Civil Aeronautics Board.

In pointing out for the record that this is not in any way meant to apply to Chicago's airports, I am merely trying to make certain that the CAB does not misinterpret any of the terms used in the amendment to the detriment of the Chicago area where, in fact, the Congress has been trying to encourage reliever or satellite airport service from Midway field.

Mr. DERWINSKI. Mr. Speaker, will the gentleman from Texas yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, as I understand it, the gentleman's amendment has as its intent to cover this unique situation involving the safety of this field in Dallas, and is not intended to present any new regulatory problems for any flights that otherwise might be intended for Chicago's Midway Airport?

Mr. WRIGHT. The gentleman is absolutely right. The only way in which this could apply to Chicago's Midway Airport would be in case some airline wanted to fly from Chicago into Love Field. That would be prohibited. It would not inhibit them if they wanted to fly from Chicago's Midway into Dallas-Fort Worth Airport.

Mr. DERWINSKI. There is nothing in the amendment that would interfere with the granting or establishment of scheduled flights between Dallas-Fort Worth Airport and Midway or any other airport?

Mr. WRIGHT. That is exactly correct. That is exactly correct.

Mr. DERWINSKI. I thank the gentleman.

Mr. WRIGHT. Mr. Speaker, this simply reinstates what was said very clearly on this floor by Members on both sides of the aisle, Democrat and Republican Members, both sides of the Committee on Public Works and Transportation, when the airline deregulation bill was under consideration last year. There was colloquy on the floor that established the fact that it was not our intention—not our intention—to open Love Field to interstate traffic, but quite the reverse, to keep it closed in the interests of safety and protecting the rights of the local authorities and the interests of the local citizenry.

Notwithstanding that and notwithstanding the advice of the chief counsel of the Committee on Public Works and Transportation and the legal counsel of the Department of Transportation, the Civil Aeronautics Board nevertheless decided that it knew more than Congress did on what Congress intended. That is what made this language necessary.

Mr. Speaker, I appreciate the indulgence and support of the Members.

Mr. SNYDER. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Speaker, I thank the gentleman for yielding. I ask for this time to ask the chairman of the committee a question.

My question is, is the oversight subcommittee of the gentleman's committee doing anything on investigating the loss of service to small communities in this Nation because of deregulation? I find, in talking to my colleagues, that cities of under 500,000 population have lost service as a result of deregulation. My own community has lost service. Congresswoman BOUQUARD of Chattanooga has informed me that Eastern Airlines has pulled out. Senator BYRD of West Virginia recently made a speech on the floor about the loss of service in Charleston, W. Va.

We find that out at National Airport these airlines have so many slots, and instead of running to Nashville or Memphis they go to Chicago or some other large city. I do not think that was the intent of the Deregulation Act when it was passed. I wonder if the chairman would be kind enough to expound on that.

Mr. JOHNSON of California. Mr. Speaker, if the gentleman will yield, I would say that we are going into this both with the investigating subcommittee and the Subcommittee on Aviation. This is not only happening in the middle part of the United States, but it is very prevalent in our own State where one of the largest airline carriers, United, is slated to leave the San Joaquin Valley of California. We are very concerned about this. We have been holding hearings.

Our subcommittee on investigations and review and our subcommittee on aviation are both going into this. We are going to do everything we can to bring about a better situation than we are faced with now.

Mr. DUNCAN of Tennessee. I think it is a very serious problem at this time, because I think a lot of us, if we knew what was going to happen, would not have voted for dergulation to begin with. Just this past week in my home town, United discontinued a flight from Knoxville into Pittsburgh. Now, one has to go to Atlanta to go to Pittsburgh. Not many people want to go to Atlanta.

Mr. JOHNSON of California. We are going to take care of that, I can assure the gentleman.

Mr. DUNCAN of Tennessee. I thank the gentleman.

Mr. JOHNSON of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, one section of the bill we are currently considering is something I have been actively involved in. This section amends the Federal Aviation Act to provide strong criminal penalties for carrying a loaded firearm in checked airline baggage.

Before any of you scratch your heads and wonder why we are legislating something that is seemingly commonsense, let me recount the story of Stephen Killian, an employee of Frontier Airlines. On Thanksgiving eve 1976, Killian, a baggage handler, was routinely transferring baggage to another flight at Denver's Stapleton International Airport. One bag, however, contained a loaded gun which went off, killing him instantly. Because of the absence of State or Federal criminal penalties and the weak civil fines attached to carrying loaded weapons in baggage, the owner of the gun walked away scot-free.

If this was just an isolated incident, the urgency of passing this legislation would not be so important. The fact is,

however, that carrying loaded weapons in baggage is more common than many would like to admit. FAA statistics show that, in 1978, 51 loaded weapons were found in checked baggage. The majority of these incidents were in the Rocky Mountain Region, which is understandable given the hunting enthusiasm in the region. The first 6 months of this year produced 29 more loaded weapons.

During the past 3 years, the FAA recorded 15 incidents where weapons actually discharged, including the fatal one in Denver. One injury was reported in St. Louis in 1978 and a gun went off in Seattle in 1975, producing a hole in the aircraft. It is time, then, that we act to protect airline employees and passengers from the poor judgment of others. It is sad when we have to codify commonsense. It is even sadder, though, to have to do this as an afterthought to an incident where commonsense was not used.

The language of the bill makes it impossible for a gun to go off, accidentally or otherwise. A firearm will be considered loaded if a cartridge, a detonator or powder is found in the chamber, magazine, cylinder, or clip of the weapon. Keeping ammunition completely separate from the firearm is the best way I know of to keep it from going off. This is no burden on a gun owner, collector or dealer carrying firearms while traveling. Gun clubs and organizations, as a safety measure, teach the practice of carrying ammunition outside the firearm when it is not in use.

Since the focus is on prevention, implementation of the provision would be easy. Imposing notices displayed at ticket counters would make gun toters think twice and then step out of line to empty their guns. In addition, anyone who issues hunting licenses or permits, or sells guns and ammunition, could easily inform their customers about the new law.

A vote for this bill and this provision is something that will make a lot of people on both sides of the airline ticket counter breathe easier. I urge you to give it your support.

Mr. JOHNSON of California. Mr. Speaker, I have no further requests for time.

Mr. SNYDER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. ZABLOCKI). The question is on the motion offered by the gentleman from California (Mr. JOHNSON) that the House suspend the rules and pass the bill, H.R. 2440, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed, H.R. 2440.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1230

TENNESSEE VALLEY AUTHORITY BONDS

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2686) to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority.

The Clerk read as follows:

H.R. 2686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of subsection (a) of section 15d of the Tennessee Valley Authority Act of 1933, as amended, is amended by striking out "$15,000,000,000" and inserting in lieu thereof "$30,000,000,000".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. JOHNSON) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to commend the chairman of the Subcommittee on Water Resources, the gentleman from Texas (Mr. ROBERTS), for the fine job he has done in bringing this bill to the floor. I also wish to extend my appreciation to the ranking minority member of the subcommittee, the gentleman from California (Mr. CLAUSEN) and the ranking minority member of the full Committee on Public Works and Transportation, the gentleman from Ohio (Mr. HARSHA), for the excellent cooperation and assistance they have given in the consideration of this legislation. I want to take a minute here to commend two Members, the gentleman from Alabama (Mr. FLIPPO), representing the majority, and the gentleman from Kentucky (Mr. SNYDER) who were responsible for bringing this bill out and putting it into shape to bring to the floor of the House. They can take the major credit for working this out and bringing it here on suspension today.

Mr. Speaker, I rise in support of H.R. 2686, a bill to increase the bonding authority of the Tennessee Valley Authority from $15 to $30 billion.

I wish to commend the chairman of the Subcommittee on Water Resources for the fine job he has done in bringing this bill to the floor. I also wish to extend my appreciation to the ranking minority member of the subcommittee, the gentleman from California, Mr. DON H. CLAUSEN, and the ranking minority member of the full committee, the gentleman from Ohio (Mr. HARSHA), for the excellent cooperation and assistance they have lent in the consideration of this legislation. I am particularly pleased that the subcommittee and the full committee were able to resolve the issue of the possibility of TVA's expansion of its service area by agreeing to committee report language stating our understanding that no such extension could be achieved under the provision of the Public Utilities Regulatory Policies Act. The report language which was agreed to is as follows:

Section 15d was added to the TVA act in 1959. It placed the TVA power program on a self-financing basis and confined TVA's area of electric service to the boundary specified in section 15d(a). During hearings, questions were raised about the extent to which the Federal Agency Regulatory Commission (FERC) might have authority under the Public Utilities Regulatory Policies Act (PURPA) to direct TVA to take actions contrary to the prohibitions of 15d(a). The chairman of FERC testified that FERC, under PURPA, has no authority to direct TVA to take any action which would be contrary to any of the provisions of section 15d(a) of the TVA Act. This testimony was concurred in by representatives of the private power companies and by TVA's Board of Directors. In now acting on H.R. 2686 to increase TVA's debt authority under section 15d, the committee adopts this clarification of PURPA as being so limited by section 15d of the TVA Act."

The Tennessee Valley Authority was established as an independent Federal Corporation in 1933. It was given a broad charter to improve the public welfare and the well-being of the people of the Tennessee Valley region. Over the years TVA has more than fulfilled its promise and its responsibilities. It has provided assistance in the areas of flood control, navigation, recreation, economic development, fertilizer development, and agricultural assistance, to name but a few of its achievements. It is perhaps primarily known for its role in the generation of electricity for the region. TVA supplies power for an area of about 80,000 square miles containing nearly 7 million people. Its power program, since 1959, is on a self-sustaining basis. Capital investments in electric generating facilities are financed through the issuance of bonds which are not obligations of or guaranteed by the United States. The bonds are repaid with revenues obtained from the sale of power. The present limit on TVA bonding authority is $15 billion. The increase in this bonding authority provided by H.R. 2686 will enable the construction of generating facilities necessary to meet the needs of the region through the 1990's.

Mr. Speaker, this legislation is needed to enable the Tennessee Valley Authority to meet the anticipated needs of the region it has served so well. It will not result in any cost to the Federal Government. I strongly urge its enactment.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2686 which will increase the debt ceiling imposed by Congress on the amount of bonds which may be issued by the Tennessee Valley Authority. The gentleman from California (Mr. JOHNSON) has already explained very ably the purpose of this legislation and I would like to underscore some of the points in his statement.

As the gentleman from California noted, Congress has imposed a limita-

tion on the debt which TVA may incur in order to obtain capital to improve and strengthen its power system. While Congress maintains control of the TVA program through the limitation procedure, there are no congressionally appropriated funds required for the power program bonds. This procedure was established by the 1959 TVA Self-Financing Act which states that bonds issued by TVA are not obligations of, nor is the principal and interest guaranteed by, the United States. Since the 1959 act, Congress has periodically raised the debt ceiling posed on the Tennessee Valley Authority to reflect the Corporation's need to obtain capital to construct new facilities for the generation of power to meet the growing needs of its service area. Earlier this year, the administration forwarded to Congress a request to increase the current ceiling in order to allow TVA to adequately plan for the economic growth of its service area.

Mr. Speaker, I endorse this request and note that this legislation has a broad base for support, including the utilities which surround the Tennessee Valley Authority. During the hearings by the Committee on Public Works and Transportation a panel of utility representatives stated their support for the increase in the TVA debt ceiling.

However, one issue which was successfully resolved and which might have prevented favorable consideration of H.R. 2686, was whether the Public Utility Regulatory Policies Act of 1978 had in any way impacted on the limitation contained in section 15d(a) of the 1959 TVA Act, which prohibited TVA from marketing power directly or indirectly outside the boundary established in the 1959 act. The concern was raised that under sections 210 and 211 of the PURPA the Federal Energy Regulatory Commission might undertake to compel actions which would have the effect of expanding TVA's power operation contrary to provisions of the 1959 act and to the detriment of the utilities serving adjacent regions.

As a result of those concerns the committee invited the chairman of the Federal Energy Regulatory Commission, the Honorable Charles B. Curtis, to testify before the Subcommittee on Water Resources and present the views of the Commission with respect to this question. I think at this point in the RECORD it would be appropriate to quote from the testimony of Mr. Curtis in order to clarify the relationship between the Public Utility Regulatory Policies Act and section 15d(a) of the 1959 TVA Act. In response to the concerns of the utilities that PURPA might indirectly make possible, through order of the Commission, expansion of the service area of TVA in certain instances, Mr. Curtis stated and I quote:

I do not believe that the Commission has been given the authority in the Public Utility Regulatory Policies Act to mandate TVA to establish a relationship through interconnection and sale and delivery with an entity other than those entities described in the last paragraph of section 15d, i.e., the named entities and those who had pre-existing arrangements on July 1, 1957, the so-called "grandfathered" entities.

Mr. Curtis went on to state:

. . . I do not believe that the Commission, on its own motion, or on application, could compel, on the exercise of sections 210 or 211 powers which were given to us under the Public Utility Regulatory Policies Act, could compel TVA to take actions which would have the result of TVA becoming a source of power supply outside the area for which the corporation or its distributors were the primary source of power on July 1, 1957.

Further, Chairman Curtis expressed the conclusion of the Commission that—

I do not believe we have been equipped with authority to compel TVA to do anything which they could not have done on their own volition. I am confident that we have not been equipped with the authority to compel TVA to violate the limitation on expanding their market or disturbing the competitive balance.

Mr. Curtis further stated that he felt the Commission would benefit by an explanation by the Public Works Committee as to the relationship of PURPA to the section 15d prohibitions, nothing that the committee report would be considered guidance to the Commission. Accordingly, the committee in its report has included the following language which is intended to remove this question once and for all. The statement is as follows:

Section 15d was added to the TVA Act in 1959. It placed the TVA power program on a self-financing basis and confined TVA's area of electric service to the boundary specified in section 15d(a). During hearings, questions were raised about the extent to which the Federal Energy Regulatory Commission (FERC) might have authority under the Public Utility Regulatory Policies Act (PURPA) to direct TVA to take actions contrary to the prohibitions of 15d(a). The Chairman of FERC testified that FERC, under PURPA, has no authority to direct TVA to take any action which would be contrary to any of the provisions of section 15d(a) of the TVA Act. This testimony was concurred in by representatives of the private power companies and by TVA's Board of Directors. In now acting on H.R. 2686 to increase TVA's debt authority under section 15d, the Committee adopts this clarification of PURPA as being so limited by section 15d of the TVA Act.

Finally, Mr. Speaker, it should be noted here that TVA's Board of Directors concurred in the statements of Chairman Curtis with respect to the absence of effect of PURPA on section 15d of the 1959 TVA Self-Financing Act. Additionally, the Board of Directors has adopted as a formal rule and placed in the Federal Register notice of this action which reaffirms the boundary described in section 15d(a) and TVA's continuing adherence to that requirement, and the formal conclusion of the TVA Board of Directors that the Federal Energy Regulatory Commission does not have authority to order TVA to take any actions which would be contrary to any of the provisions of the 1959 TVA Act. I would like at this point in the RECORD to insert the TVA Board's regulation:

Statement of the policy: The Board of Directors of the Tennessee Valley Authority adopted the following Statement of Policy on September 20, 1979, as a rule and regulation under the Tennessee Valley Authority Act of 1933, 48 Stat. 58, as amended, 16 U.S.C. 831–831dd (1976):

TVA has heretofore stated and now deems it appropriate to reaffirm that its policy and practice will be to confine its area of electric service to the boundary as fixed by Section 15d(a) of the TVA Act and adopts as its construction of Section 15d(a) of the TVA Act that the Federal Energy Regulatory Commission does not have authority to order TVA to engage in any power arrangements which would be contrary to any of the provisions of Section 15d(a) of the TVA Act.

Dated: October 4, 1979.

W. F. WILLIS,
General Manager.

Mr. Speaker, I believe that with this expression it is clear that the boundary established by the 1959 TVA Self-Financing Act has not been in any way weakened by the enactment of the Public Utility Regulatory Policies Act; nor is the Commission in the PURPA empowered to direct TVA to take any action of any kind which TVA is prohibited, under the provisions of the 1959 TVA Act, from taking on its own volition.

Mr. Speaker, this one issue threatened the successful passage of the increase in the debt ceiling requested by TVA. Recognizing the seriousness of that probability, I think it would be appropriate to compliment the chairman of the full committee, the gentleman from California (Mr. JOHNSON), the ranking minority member, Mr. HARSHA, the chairman of the Subcommittee on Water Resources, the gentleman from Texas (Mr. ROBERTS), the gentleman from California (Mr. CLAUSEN), ranking minority member of the Water Resources Subcommittee, and Congressman FLIPPO for their efforts to bring about the clarification which is reflected in the committee report as I have expressed in these comments. Without their diligence in this respect, it appeared doubtful that we would be bringing this bill to the floor today.

Mr. Speaker, I would like to recommend favorable consideration of H.R. 2686 by my colleagues as a legislative initiative which allows the Tennessee Valley Authority to proceed with the capital improvement program necessary to provide reliable power to the Tennessee Valley Authority service area. This legislation imposes no cost on the Federal treasury which is a remarkable statement about a piece of legislation brought before this body and I urge adoption by my colleagues.

Mr. JOHNSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. FLIPPO).

Mr. FLIPPO. Mr. Speaker, H.R. 2686 is a simple, straightforward measure with one purpose: To provide to the Tennessee Valley Authority, a Federal corporation, the authority for borrowing that will be entirely backed up by revenues from users of TVA electric power. No tax revenues will be involved. The revenues that make it possible for TVA to issue the bonds come from the people who buy electricity.

We are not being asked to authorize additional obligations for the Federal Government. We are being asked to up-

date—as has been done on something resembling a 5-year cycle—TVA's authority to borrow money to construct the power facilities necessary to meet electric power needs in the Tennessee Valley region.

The TVA power system has been self-financed since 1959, when Congress converted the financing of TVA power system capital needs from appropriations to revenue bonds guaranteed only by TVA ratepayers and not the Federal Government. The Congress also set a limit on the amount of bonds which can be outstanding. It set a limit, rather than the open-ended authority a private corporation would have, to require TVA's periodic return to Congress for review of its operations and readjustment of that limit. Load growth, to meet the needs of a growing economy, has required TVA to borrow large sums of capital.

Congress last granted an increase in TVA borrowing authority—of $10 billion—in the 94th Congress. If you remove the effects of inflation, the requested increase of $15 billion is roughly equivalent of $10 billion in 1975 dollars, an amount identical to the increase Congress granted in 1975.

The increased funds are necessary for growth within the TVA region. TVA has strictly adhered to the congressional mandate that electric service be limited to the specific area set forth in the 1959 self-financing amendment to the TVA Act.

The responsibility to meet future demands for electric energy is particularly acute in the Tennessee Valley. Compared to other regions, TVA's energy supply depends less on gas and oil and more on electricity from domestic coal and uranium. Sixty-eight percent of all energy sold by TVA is consumed in the commercial and industrial sector. In a very real sense, TVA is the lifeline of the region's economy.

TVA is planning for a prosperous future—a future of strong regional economic growth, electric rates that are no longer a part of double-digit inflation and a new era in which energy is recognized as a vital national resource that is used, but used wisely. A prosperous future assumes a growing demand for electric energy, and TVA must be prepared to meet this demand as it arises with a financially sound and effective power system. How well TVA responds to the energy needs of the Tennessee Valley in the decades ahead is largely determined by the wise and prudent use of all its financial, physical, and human resources. That requires flexibility in planning and financing to meet changing needs.

As a federally owned corporation, TVA has a special, congressionally mandated responsibility to supply the electric energy needs of the region at the lowest feasible cost to the consumer.

Given Congress direction that the power system be self-financed, an increase in the borrowing authority is the only option that permits TVA dependably to provide for the future power needs of the region and to do so at the lowest feasible cost to consumers.

Without additional borrowing authority, construction of new generating facilities needed in the 1990's and a large part of the costs to complete power system facilities now under construction could be financed only from revenue from power sales. Completion of current projects through revenue financing would require an increase in power costs to consumers of about 33 percent. This would cost consumers about $1 billion a year over the next 10 years. Moreover, the financing of additional capacity for the 1990's would require further rate increases, beginning perhaps in the mid-1990's. To raise capital through rate increases rather than borrowing would be highly inflationary, contrary to the Nation's interests and contrary to the mandate of the TVA Act.

The time required for the planning, design, engineering, construction, and licensing of large central generation plants has reached the span of 10 to 12 years, thus requiring the 1980–85—the period for which H.R. 2686 is intended to provide authority—commitments for new capacity shown by load growth studies to be needed in 1990–95.

In examining the future power needs of the region, TVA is looking at a range of alternatives. From this analysis, TVA derived a reasonable basis for proceeding with planning for additional generating facilities subject to changes in the plan as economic and other conditions develop. A "reasonable basis" means that TVA must plan for any contingency that appears likely to happen. In projecting future power needs over the next 20 years, TVA selected the forecast which projected annual growth rates in electricity consumption of 4.6 percent between 1978 and 1990 and 3.8 percent from 1990 to the year 2000. It assumes a high level of economic growth as represented by employment within the TVA region, a moderate amount of substitution of electricity for natural gas, electricity prices increasing no faster than inflation, and TVA's implementing aggressive conservation programs in its service area.

For the TVA Board to make the long-term commitments shown to be necessary by the load-growth studies, it should have on hand at the time it does so the authority to borrow the dollars which ultimately will be required to pay for those facilities.

In conclusion, I reiterate, TVA is not asking the Federal Government for money. TVA is asking for the authority to move forward with plans for the future and the ability to borrow money on TVA's own credit to carry out those plans. The timing of this planning and the capability to act in a timely manner is crucial. Decisions must be made today which will determine the region's power supply for 10 to 15 years hence. This authority is not simply for TVA. In a real sense, it is for the nearly 7 million people of the Tennessee Valley region who depend on TVA for the electricity that supplies their homes and directly or indirectly makes possible most of their jobs.

TVA has demonstrated the wisdom of the self-financing amendment of 1959, as relief to the taxpayers from their burden of support for TVA and as assurance to the valley of a reliable source of power supply. I urge approval of H.R. 2686, which has the bipartisan support of the members from the service area.

I also want to thank the gentleman from California, Chairman BOB JOHNSON, the gentleman from Texas, Chairman RAY ROBERTS, from California, Mr. DON CLAUSEN, for the support and encouragement they have provided for this legislation. None of these they have provided for this legislation. None of these gentlemen is from the TVA service area but their dedication to the improvement of the entire country has motivated them in this legislation and in the other matters which come before the House Public Works and Transportation Committee. I express the gratitude of the people of the Tennessee Valley area for their great help in assuring that this important region of the country has adequate supplies of electric power.

□ 1240

Mr. SNYDER. Mr. Speaker, I want to commend the gentleman from Alabama for his eloquent dissertation on behalf of the Tennessee Valley Authority.

Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Speaker, as a cosponsor of the bill before us, I rise to express my support.

Today we are considering legislation that is very important to my State, the region, and the Nation. The Tennessee Valley Authority is requesting that its borrowing authority be increased by $15 billion, so that its self-financed electric power system may continue its successful operation for years to come.

I hasten to point out to my budget-conscious colleagues that we are not considering additional outlays. This increased authority merely allows TVA to borrow for the purpose of operating the TVA power program mandated by the Congress in 1959. Under this program, the TVA power system is paid for entirely by the consumers of TVA power.

To keep pace with the growing demands made on the system, additional construction is made possible by the sale of taxable, AAA rated bonds to the public.

In addition, the Federal dollars originally appropriated to develop the system, are being repaid to the Government under the terms set forth in the 1959 Self-Financing Act. This amounts to $20 million a year, to which can be further added another $75 million a year from TVA consumers in a payment to the Treasury equal to the present cost of money to the Government multiplied by the balance of the appropriations investment.

In the 80,000 square mile area it serves, the Tennessee Valley Authority alone has the responsibility to supply its customers with the electric power they require at the lowest possible cost. Given this obligation, and the requirements I have noted, it is necessary on occasion for the borrowing authority to be increased. This is the third time in this decade that TVA has asked for an increase—an unfortunate testimony perhaps to our inflationary times.

In any event, however, this action is necessary and prudent, and I urge my colleagues to support the bill.

Mr. JOHNSON of California. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Mr. Speaker, I rise today in support of H.R. 2686. I think all of my colleagues recognize that inflation has had a major impact on the ability of all utilities and corporations to continue capital improvement projects. The Tennessee Valley Authority has not been spared those impacts. The major difference is that TVA does have a ceiling on the amount of funds they can borrow to finance the expansion and modernization of its power generating system. We are asking today that the $15 billion ceiling under which TVA now operates be raised to $30 billion.

This increase in borrowing authority is needed as TVA goes about the job of fulfilling the requirements of its charter—to develop the Tennessee River Valley, to provide flood control protection, and to develop electric power generation. The TVA has met these mandates in the past and is continuing to do so. The Authority has in various planning stages projects that will improve its power generation system so that it will meet the needs and demands of the future. This increased borrowing authority will be necessary to meet the future needs.

Let me also add that TVA is accepting the challenge of the President in attempting to be a model for the development of energy alternatives and energy conservation programs.

Of course, these types of proposals require large capital investments.

In closing, Mr. Speaker, let me add that TVA has meant a great deal to residents throughout its service area. Its development of the Tennessee Valley has improved the quality of life for all in the area. TVA has not been without its problems but it has responded in a grand manner to its mandated goals. I would hope that my colleagues would support this legislation so that continued improvements in the seven-State region making up the Tennessee Valley will continue to grow and develop.

Mr. SNYDER. Mr. Speaker, I have no further requests for time.

Mr. JOHNSON of California. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. JOHNSON) that the House suspend the rules and pass the bill, H.R. 2686.

The question was taken.

Mr. BUTLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 436) to amend section 15 (d) of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Valley Authority.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of subsection (a) of section 15(d) of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831n-4), is amended by striking out "$15,000,000,000" and inserting in lieu thereof "$30,000,000,000".

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2686) was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2686, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ENERGY POLICY AND CONSERVATION ACT AUTHORIZATIONS

Mr. OTTINGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4445) to amend the Energy Policy and Conservation Act to authorize certain appropriations for energy conservation programs for schools and hospitals, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TWO-YEAR EXTENSION; TRANSCRIPTS

SECTION 1. (a) Subsection (c)(4) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(4)) is amended by adding at the end thereof the following: "Such access to any transcript that is required to be kept for any meeting shall be provided as soon as practicable (but not later than 14 days) after that meeting.".

(b) Subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "October 31, 1979" and inserting in lieu thereof "October 31, 1981".

REPORT

SEC. 2. The Secretary of Energy, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Federal Trade Commission, shall prepare and submit to the appropriate committees of Congress, a report concerning the actions taken by them to carry out the provisions of section 252 of the Energy Policy and Conservation Act. Such report shall examine and discuss—

(1) the extent to which all, or part, of any meeting held in accordance with section 252(c) of such Act to carry out a voluntary agreement or to develop or carry out a plan of action should be open to interested persons in furtherance of the provisions of section 252(c)(1)(A) of such Act;

(2) the policies and procedures followed by the appropriate Federal agencies in reviewing and making public or withholding from the public all, or part, of any transcript of any meeting held to develop or carry out a voluntary agreement or plan of action under section 252 and in permitting persons, other than citizens of the United States, to review such transcripts prior to any public disclosure thereof;

(3) the extent to which the classification of all, or part, of such transcripts should be carried out by one agency;

(4) the adequacy of actions by the responsibe Federal agencies in insuring that the standards and procedures required by section 252 are fully implemented and enforced, including the monitoring of the program concerning any anticompetitive effects, and the number of personnel, and the amount of funds, assigned by each such agency to carry out such standards and procedures;

(5) the actions taken, or to be taken, to improve the reporting of energy supply data under the international energy program and to reconcile such reporting with similar reporting that is conducted by the Department of Energy;

(6) the actions taken, or planned, to improve the reporting required by section 252(i); and

(7) other actions under such section.

The Secretary of Energy shall transmit such report to such Committees within 180 days after the date of the enactment of this Act and shall make such report available to the public.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. OTTINGER) will be recognized for 20 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us, H.R. 4445, extends certain provisions of the Energy Policy and Conservation Act (EPCA) for 2 years. Under existing law, the provisions will expire at the end of this month.

The provisions provide a limited antitrust defense to companies with respect to their participation in voluntary agreements to carry out the International Energy Program. This bill was reported unanimously by the committee and is noncontroversial. Legislation extending the provisions until June 30, 1980, passed the Senate last week.

The International Energy Program was established by an agreement signed in 1975 by 18 consuming nations. The purpose of the agreement was to foster cooperation among the consuming nations so that they could act collectively to match the collective power of the oil-producing OPEC nations. The agreement includes provisions relating to con-

servation, stockpiling, and oil sharing. The purpose of the oil sharing agreement is to evenly share any shortages among all of the member nations. The effects of a selective embargo of any country could be mitigated by the sharing.

The international agreement itself is not being extended by this legislation. The agreement was an executive agreement, and the EPCA provisions clearly state they do not constitute endorsement or ratification by Congress. The provisions merely permit oil companies to participate in actions to carry out the agreement, but only under a rigid set of procedures. Oil company participation in the program is needed primarily for two reasons: First, they provide information to the International Energy Agency, and second, they are developing procedures to allocate oil during emergencies pursuant to orders by the International Energy Agency.

The oil companies' participation in the program could theoretically make the companies liable under antitrust laws, since they must meet and may, at times, be required to discuss matters which affect competition. Thus, in order to permit the participation, the law provides a limited immunity, provided that the activities are conducted pursuant to specified procedures.

The law contains a variety of procedural safeguards. For example, the voluntary agreement had to be approved by the Attorney General. All meetings of the companies are attended by Federal employees and verbatim transcripts must be made. Notice of meetings and agendas must be published. Most importantly, the antitrust immunity is only a defense to lawsuits and is limited solely to the activities under the voluntary agreement.

Because of these safeguards, the Justice Department and Federal Trade Commission support the extension of the provisions. Similarly, the Energy and State Departments also support an extension. All of the agencies supported an extension until January 19, 1986 when the international agreement expires.

The committee, however, had a number of reservations about the program and decided it was unwise to extend the provisions for longer than 2 years. The committee also added a provision which requires the Department of Energy, in consultation with the other responsible agencies, to report on a number of matters of particular concern.

The committee report discusses these concerns in detail. In brief, they relate to three major areas. First, there are concerns over the excessive secrecy involved. Despite the intent of EPCA to maximize openness of meetings and availability of transcripts, the program has operated almost exclusively through narrow exceptions in the law which permit secrecy. Second, the committee was concerned that there was inadequate supervision of the program. Third, the committee expressed concerns over weaknesses in the International Energy Agency's data system.

In adopting amendments to limit the extension to 2 years and requiring a report on the program's operations, the committee has committed itself to a thorough review of the program over the coming year. The committee has not adopted the Senate decision to extend the program for just 8 months. The Senate bill extends the program until June 30, 1980, which is a busy time for the House which will be considering appropriations bills. The committee extended the program until October 31, 1981. This date is also nearer to the expiration of other EPCA provisions, which is September 30, 1981.

The Department of Energy budget was predicated on a continuation of this program and, therefore, the authorizations and appropriations will be sufficient to fund this program. No additional funds will be required.

The committee has also reported a bill, H.R. 5506, which extends the same provisions only through December 31, 1979. That bill will come up next on the Suspension Calendar. It may not be possible to work out differences between the House and Senate bills relating to a longer term extension before the provisions of existing law expire on October 31, 1979. Passage of this short-term extension may therefore be necessary to provide additional time to work out longer term legislation.

□ 1250

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Commerce Committee action on this noncontroversial measure. H.R. 4445 would extend the antitrust immunity provisions in the Energy Policy and Conservation Act which permit U.S. oil companies to participate in the activities of the International Energy Agency.

U.S. oil company participation is essential to insure the successful operation of the IEA emergency allocation system. The 34 IEA designated oil companies provide information to IEA which permits the organization to monitor the world crude oil supply situation.

It is virtually certain that without the antitrust defense provided for in section 252 of EPCA, the U.S. oil companies would not provide the proprietary information to the IEA which is necessary for an accurate analysis of the international supply situation.

This same information is critical to the determination of national allocation rights and obligations should the international oil allocation system be triggered by a 7 percent shortfall in member countries' base period consumption. Moreover, although the ultimate responsibility for these international emergency allocation activities rests with the IEA, the 34 reporting companies will be called upon to play an indispensable role in the physical redistribution of crude oil supplies. This participation is voluntary, and must not be jeopardized.

Although the administration requested a more than 6-year extension of these antitrust provisions, H.R. 4445 provides only a 2-year extension. This bill also requires that the Secretary of Energy in consultation with the Departments of State and Justice and the FTC, prepare an extensive report for the Congress. This report must address the effectiveness of these Departments' participation and procedures with respect to IEA meetings. In this way, the Congress will have the opportunity to evaluate whether additional safeguards need to be written into the law. I believe that the 2-year extension gives an appropriate period of time in which to carefully consider whether any amendments may be necessary. Therefore, I urge my colleagues to give their unanimous support in passing this bill.

● Mr. GORE. Mr. Speaker, in 1974 the United States became a signatory to the international energy program, and 1 year later our multinational oil companies were given an antitrust immunity to carry out the provisions of the program. Today we are to consider whether our oil industry should be given an extension of that antitrust immunity.

The authority granted in this bill, H.R. 4445, gives the oil industry a defense to activities which, if conducted in the United States, would be considered illegal. Such sweeping authority should only be given when a careful balancing test demonstrates that the benefits of the program greatly outweigh the dangers. To date the program has met with little success despite the potential for aggressive action by the 18-member nations.

Failure to enact this bill might not kill IEP, but it would cripple it psychologically if not practically. Thus I support this bill because it authorizes only a limited extension of the immunity and because I feel it is premature to dismantle the IEA. However, I hope this legislation will put DOE, the FTC, the Department of Justice, and the State Department on notice that Congress is very dissatisfied with the performance of the IEA.

The objectives of the international energy program are to increase oil stockpiles, to share oil in the event of an embargo, and to reduce energy demand. At best, the IEP agreements have had no effect on U.S. energy policy. The demand constraint targets of 5 percent set by the member nations were highly touted but will have little practical effect. The U.S. participation in the oil stockpiling agreement has essentially been mooted by the Saudis' announcement that the United States can expect severe penalties if it continues to purchase oil for the strategic petroleum reserve. And, while the effectiveness of the oil-sharing agreement has yet to be tested, it cannot possibly offer any benefits to the United States. Of course there may be foreign policy reasons why we would want to share oil in the event of a major embargo. However, the oil-sharing agreement has been developed by the oil industry and not IEA; the Agency's supervisory role is perfunctory at best.

I am deeply concerned about a number of other aspects of the program—for example, the secrecy of the IEA meetings, the delayed availability of heavily edited

meeting transcripts, the lack of Federal supervision, and the IEA information deficiencies.

To safeguard against possible anticompetitive effects at oil industry meetings, the Energy Production and Conservation Act (EPCA) required meetings to be open to the public unless DOE authorized them to be closed in limited situations. To date, not one oil company meeting has been open to the public. Certainly some meetings present truly sensitive issues which would justify a closed meeting, but, with its failure to open any meetings, DOE seems to have made a mockery out of this provision.

EPCA requires verbatim transcripts of all possible meetings, yet the State Department has successfully frustrated that goal in two ways. First, the State Department has been exceedingly slow in declassifying the transcripts. Second, when the transcripts have been made public, they have been rendered incomprehensible by State's policy of deleting all statements by foreign oil companies. A subcommittee review of the full transcripts demonstrated that few of the deletions could be supported on security grounds. One public interest group filed a Freedom of Information Act request to determine why the answer to the question—"What time is lunch?"—was deleted. After a lengthy battle, the group was relieved to know that lunch was held at 1:30. This practice of deleting meaningless information must end if the public is to be able to make any sense out of the transcripts.

It is also clear that the Federal agencies involved in supervising U.S. participation in the program have given this very low priority. The required reports of the FTC and the Department of Justice have been incomplete, and the Department of Energy gives no indication that the program is being properly supervised. For example, I asked DOE Assistant Secretary Harry Bergold about Exxon's decision this winter to allocate worldwide oil supplies based on consumption. He knew nothing about this despite the fact that the oil sharing program is one of the primary functions of IEA.

IEA could play a valuable information-gathering role, yet its performance to date has been totally ineffective. In February of this year the Subcommittee on Energy and Power noted that oil import figures submitted by the IEA were contradicted by DOE and Customs' import figures. Later DOE adjusted IEA figures downward to conform to DOE figures. This prompted former Secretary Schlesinger to characterize IEA data as "based mostly on hope."

During subcommittee consideration of this bill, I offered an amendment which would require the four Federal agencies involved in monitoring IEA to address specifically the concerns I have been discussing. The distinguished chairman of the Subcommittee, Mr. DINGELL, has agreed to further oversight hearings to make certain that the IEA supervisory role is improved. In the meantime, I believe a limited 2-year antitrust immunity extension can be justified.

To date, only the oil industry appears to have benefited from the international energy program. If this record is not improved, Congress should carefully review the wisdom of continued U.S. participation in IEA.●

Mr. OTTINGER. Mr. Speaker, I have no further requests for time.

Mr. MOORHEAD of California. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. OTTINGER) that the House suspend the rules and pass the bill, H.R. 4445, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Energy Policy and Conservation Act to extend for 2 years certain authorities relating to the international energy program, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1871) to extend the existing antitrust exemption for oil companies that participate in the agreement of an international energy program, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 252(j) of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6272(j)) is amended by striking out "October 31, 1979" and inserting in lieu thereof "June 30, 1980"

MOTION OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OTTINGER moves to strike out all after the enacting clause of the Senate bill, S. 1871, and to insert in lieu thereof the provisions of H.R. 4445, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Energy Policy and Conservation Act to extend for 2 years to certain authorities relating to the international energy program, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill, H.R. 4445, was laid on the table.

GENERAL LEAVE

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4445, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1300

APPOINTMENT OF CONFEREES ON H.R. 4394, HOUSING AND URBAN DEVELOPMENT — INDEPENDENT AGENCIES APPROPRIATIONS, 1980

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendments thereto, further insist on disagreement to the amendment of the Senate numbered 12, and disagree to the amendment of the Senate to the amendment of the House to Senate amendment numbered 27, and request a further conference with the Senate on the disagreeing votes of the two Houses.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. MOORHEAD of California. Mr. Speaker, reserving the right to object, may I ask the gentleman, has the ranking minority member of the committee agreed to this request?

Mr. BOLAND. Mr. Speaker, if the gentleman will yield, the ranking Republican member, the gentleman from Pennsylvania (Mr. COUGHLIN), has been notified, and he has agreed to the request.

Mr. MOORHEAD of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none, and, without objection, appoints the following conferees: Messrs. BOLAND, TRAXLER, STOKES, and BEVILL, Mrs. BOGGS, and Messrs. SABO, STEWART, WHITTEN, COUGHLIN, MCDADE, YOUNG of Florida, and CONTE.

There was no objection.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

Mr. OTTINGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5506) to amend the Energy Policy and Conservation Act to extend for two months certain authorities relating to the international energy program.

The Clerk read as follows:

H.R. 5506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "October 31, 1979" and inserting in lieu thereof "December 31, 1979".

The SPEAKER pro tempore. Pursuant the rule, a second is not required on this motion.

The gentleman from New York (Mr. OTTINGER) will be recognized for 20 minutes and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill (H.R. 5506) is a 2-month extension of the same EPCA provisions which were extended for 2 years in H.R. 4445, the bill we just passed.

The reason for passing this bill is solely to provide additional time to enact the longer term legislation just passed. Under existing law, these EPCA provisions will expire at the end of this month. As a precaution against the possibility that the two Houses may be unable to reach agreement on a longer term extension by the end of this month, the committee reported this bill.

It is noncontroversial and consistent with the previous passage of H.R. 4445, which provided the 2-year extension.

I urge the passage of this legislation so that the program can continue whether or not agreement on a longer term extension can be reached by the end of the month.

Mr. GORE. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Speaker, I would just like to say very briefly to my colleagues that the committee has committed itself to extensive oversight on this antitrust exemption during the coming year. There are many troubling problems that are involved with this legislation, but the only responsible action at this point is to extend the exemption for a limited period of time until we have an opportunity to look into this in the kind of detail it deserves.

Mr. Speaker, I support this legislation, and I encourage all Members to vote for it.

Mr. OTTINGER. Mr. Speaker, I thank my colleague, the gentleman from Tennessee (Mr. GORE). I would like to say I agree with him completely.

I am probably the member of the committee who has had the most reservations about providing this exemption. The exemption has been limited. We have required a detailed report from the Departments with respect to the secrecy aspects and other aspects which concern us, and I am satisfied, as is the gentleman, that the only responsible thing for us to do is to provide this extension.

Mr. MOORHEAD of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5506. This bill is necessary in order to provide a 2-month extension of the antitrust immunity provisions contained in section 252 of the Energy Policy and Conservation Act. These immunity provisions are essential to the continued participation in the International Energy Agency by U.S. oil companies that are among the 34 IEA designated reporting companies.

The current immunity provisions in section 252 expire at the end of this month. I therefore urge my colleagues to unanimously accept this bill so that these immunity provisions will not expire before this body and the Senate can reach agreement on a more substantial extension.

Mr. OTTINGER. Mr. Speaker, I have no further requests for time.

Mr. MOORHEAD of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. OTTINGER) that the House suspend the rules and pass the bill, H.R. 5506.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

OSHA PROVISIONS FOR U.S. POSTAL SERVICE

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 826) to amend title 39, United States Code, to provide that the U.S. Postal Service shall be subject to certain provisions of the Occupational Safety and Health Act of 1970.

The Clerk read as follows:

H.R. 826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 410(b)(7) of title 39, United States Code, is amended to read as follows:

"(7) all provisions of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and any amendments to such Act which may be made from time to time, except that the provisions of section 17(e) of such Act (29 U.S.C. 666(e)) and the provisions of section 19 of such Act (29 U.S.C. 668) shall not apply to the Postal Service; and".

SEC. 2. Section 410 of title 39, United States Code, is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

"(d) For purposes of subsection (b)(7) of this section and for purposes of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Postal Service shall be considered to be—

"(1) a person, as such term is defined in section 3(4) of such Act (29 U.S.C. 652(4)); and

"(2) an employer, as such term is defined in section 3(5) of such Act (29 U.S.C. 652(5)).".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri (Mr. CLAY) will be recognized for 20 minutes and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 826, a bill introduced by my colleague, CHARLES WILSON of California, to bring the U.S. Postal Service under the same safety and health obligations as private sector employers. The bill permits the Occupational Safety and Health Administration (OSHA) of the Department of Labor to inspect and survey postal facilities and to enforce Federal safety and health laws.

Under existing law, representatives of OSHA may inspect postal facilities only at the invitation of the U.S. Postal Service (USPS). Public Law 94-82 gave the Postmaster General the statutory responsibility to establish and to maintain an effective and comprehensive occupational safety and health program for the U.S. Postal Service. Notwithstanding this legislative mandate, the committee learned that the Postal Service, the second largest employer in the United States, has the highest accident and injury rate of all Federal agencies. The total number of injuries and illnesses reported by the Postal Service for 1977 was 62,966 (34.4 percent) out of 182,790 injuries and illnesses reported for the entire Federal work force.

During fiscal year 1977, for example, the rate of lost workday injuries and illnesses within the Postal Service exceeded that rate within the Federal Government by almost 150 percent. In addition, 55 percent of all lost workdays due to accidents and injuries in the Federal Government were attributable to the Postal Service.

The Postal Service has established a pattern of disregarding, neglecting, and minimizing allegations of unsafe working conditions. In Miami, Fla., the Postal Service has minimized employees' allegations of cancer-producing asbestos fibers in work areas. In New York, at the Morgan Postal Facility, the Postal Service neglected allegations of unsafe conditions which were eventually rectified only after, in my capacity as the subcommittee chairman, I arranged for an OSHA inspection. Throughout postal facilities, postal inspectors, who are responsible for preserving the sanctity of the mail, are subjected to unsafe conditions in their work areas.

Because OSHA representatives may inspect postal facilities only upon the invitation of the Postal Service, the Postal Service is not motivated to improve safety and health conditions. Private employers however are subject to unannounced safety and health inspections and surveys by OSHA. Enactment of H.R. 826 would remove the special status enjoyed by the Postal Service and would subject them to the same safety and health standards as the private sector.

The need for this legislation is overwhelmingly apparent and the committee has concluded that the enactment of

H.R. 826 will have no significant inflationary impact on the national economy and no new authorization is provided by this bill.

I urge my colleagues to support passage of H.R. 826.

□ 1310

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while the need for this bill is questionable, its real weakness is that it is highly punitive rather than corrective. There is absolutely nothing in this bill that would improve the efficiency of the U.S. Postal Service. It will do nothing to facilitate the flow of first-class mail, registered letters, or parcel post.

What this bill does do is unleash a legion of Occupational Safety and Health Administration inspectors on the U.S. Postal Service. Perhaps it is poetic justice to have OSHA harass the Postal Service the same way it has badgered private industry, but that is small consolation for a Government entity which has been winning its battle to provide the mail-using public with the best service in the world.

Ever since the enactment of the Occupational Safety and Health Act of 1970, its harsh and irrelevant rules and regulations have had a sharp financial impact on private business. The same outlook is predictable for the Postal Service. If additional improvements to existing postal facilities are required as a result of OSHA inspections or extensive litigation, the only recourse the Postal Service has is to increase postal rates, and that means the mail-using public must pick up the bill.

Based on the current OSHA monitoring experience, the Congressional Budget Office has estimated that approximately 10 percent of the 40,000 postal facilities would be inspected annually. Based on a CBO estimate of 1½ inspections a week, an estimated 57 additional inspectors and compliance officers would be required. Salary benefits and overhead of these additional employees would be $2.2 million for fiscal year 1980.

The Postal Service, in turn would have to hire additional attorneys to process the continuing litigation which would undoubtedly result from OSHA inspections.

Under existing law, OSHA representatives may inspect and survey postal facilities only at the invitation of the Postal Service. The Postal Service has no objection to unannounced inspections, but it is puzzled as to why it has been singled out for special treatment. The Department of Labor has been working on a proposed revision of an Executive Order which would authorize OSHA to make inspections and reviews of Federal agencies without obtaining approval or waiting for an invitation.

Of more concern to the Postal Service and the taxpayers is the section of the bill dealing with penalties for noncompliance. The bill provides for mandatory or discretionary civil penalties for violations of Department of Labor health and safety standards, rules or orders and for penalties up to $10,000 a violation and $1,000 a day for failure to correct violations.

Aside from the additional costs involved, there are procedural considerations. Under the bill, there is complex machinery for assessing penalties. The Department of Labor first issues a citation. If the employer contests the citation, the Department must present a case for finding a violation before an Administrative Law Judge of the Occupations Safety and Health Review Commission.

OSHA specifically provides that the Department of Labor may represent itself in litigation, but the Attorney General has the authority to control that litigation. Under the Postal Reorganization Act, the Department of Justice represents the Postal Service unless the Attorney General agrees to let the Postal Service represent itself. With this bill, it is conceivable the Justice Department would bear dual responsibility in litigation.

Finally, this legislation comes at a time when even union spokesmen admit that Postmaster General Bolger and his deputy are committed to improving safety, and acknowledge that progress is being made. For fiscal year 1979, the Postal Service reported a reduction of 4.78 percent in accidents per 100 employees and 9.7 percent in lost workday frequency when compared to the same period last year.

With its penchant for petty fogging, OSHA should not be given a hunting license in an agency which has been making meaningful progress.

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 826, a bill to make applicable to the U.S. Postal Service those provisions of the Occupational Safety and Health Act of 1970 which are applicable to private sector employers.

I am pleased to support this legislation since it will serve to provide a safer and healthier work environment for the Postal Service employees. I am positive this will reduce job-related injuries and illnesses thus providing a more efficient Postal Service.

I truly support this bill and urge you to vote for it.●

Mr. CLAY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and pass the bill, H.R. 826.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill, H.R. 826, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri.

There was no objection.

STATE TAX EXEMPTION FOR POSTAL VEHICLES

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4064) to amend title 39, United States Code, to provide that owners of motor vehicles leased by the U.S. Postal Service shall be exempt from the payment of State taxes and fees on those vehicles.

The Clerk read as follows:

H.R. 4064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 50 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 5008. Exemption of owners of motor vehicles leased by the Postal Service from State taxation

"(a) The owner of any motor vehicle leased exclusively by the Postal Service for the sole purpose of transporting mail or carrying out any other activity under this title shall, during the term of such lease, be exempt from the payment of any tax or fee (including any registration or licensing fee) imposed by any State or political subdivision of a State with respect to such motor vehicle.

"(b) For purposes of this section, the term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails.".

(b) The table of sections for chapter 50 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"5008. Exemption of owners of motor vehicles leased by the Postal Service from State taxation.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri (Mr. CLAY) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, H.R. 4064 provides that owners of motor vehicles which are leased by the U.S. Postal Service solely and exclusively for its own use shall be exempt from the payment of State and local taxes and fees.

The bill would amend chapter 50 of title 39, United States Code by adding a new section 5008 which would provide that the owner of any motor vehicle leased by the Postal Service for the purpose of transporting mail or for any other purpose shall, during the term of the lease, be exempt from the payment of any tax or fee imposed by any State or political subdivision. Upon the expiration of such lease, the vehicle would be subject to all applicable State and local taxes and fees.

It has been reported that 15 to 20 percent of the price which the Postal Service pays for the leasing of a vehicle is to cover the costs of licenses, tags, inspections and fees. While a number of States already waive these fees for owners of such vehicles, enactment of H.R. 4064 would make this practice uniform across the Nation. It has been estimated that the exemption of leased vehicles from taxes and fees could result in a savings

to the Postal Service of about $1.6 million annually.

H.R. 4064 provides an exemption only for those vehicles which are leased solely and exclusively for the use of the Postal Service. All such leased vehicles, whether owned by an individual or by a corporation, would be subject to the provisions of this bill.

The committee believes that, because this bill could reduce the cost of leasing the vehicles to the Postal Service, enactment of H.R. 4064 would result in significant savings to the Postal Service.

I ask my colleagues to support this legislation.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if the National Lampoon gets around to making awards for the "worst legislation" of 1979, this bill should be the odds-on favorite to win the nomination. It is special interest legislation which ignores a longstanding principle and in the process poses a serious threat to the traditional relationship between the Federal Government and the States.

What this bill does is tell States, as well as localities, that they may not impose any fee for tax—and that would include a registration or licensing fee—on the owners of vehicles which are leased for use by the U.S. Postal Service.

To enact H.R. 4064 would be to serve notice to the Nation's Governors, mayors and other local officials that they are to have absolutely no discretion on the imposition of a particular tax or fee which up until now has been regarded as a State or local prerogative. It is easy to understand why this bill has caused wonderment among State tax administrators who already have their hands full trying to keep abreast of exemptions which add to the complexity of collecting State sales taxes.

This legislation also is in direct conflict with a longstanding principle. A State does not lose its authority to tax private property simply because that property is temporarily made available to the Federal Government under a contract.

Proponents of H.R. 4064 have come up with an off-the-wall estimate that the exemption of leased vehicles from taxes and fees would result in annual savings of $1.6 million. The Congressional Budget Office has pointed out that the Postal Service does not pay these fees directly, and that the fees are not directly identified in the bids for the leases. The CBO also has said there is no guarantee that any tax saving realized by the lessors would be passed along to the Postal Service. There is a distinct possibility the tax savings would be added to the lessors' margin of profit.

H.R. 4064 also flaunts any pretense at equity by limiting the exemption to lessors or vehicles to the Postal Service. Owners of vehicles leased to other agencies of the Federal Government would not qualify for the tax break provided in this legislation.

The Postal Service currently leases 26,802 vehicles. Most of the vehicles are passenger-type automobiles which are used on city delivery routes. Of the total number of vehicles leased by the Postal Service, 13,703 are leased commercially while 13,099 are leased from postal employees. Presumably, the vast majority of employee-leased vehicles also are used for personal family needs and recreation when not in use for the delivery of mail. Under the language in H.R. 4064, these particular vehicles would qualify for the exemption.

In opposing this bill, the Postal Service said:

> In our opinion, the limited exemption proposed by H.R. 4064 is not a justified Federal restriction in an area generally committed to State discretion. In narrowing State taxation authority, it raises important issues of Federal-State relations.

The Postal Service went on to say that—

> As a matter of effective postal administration, we need to be governed by rules that, insofar as possible, are perceived as fair by all parties with whom the Postal Service must deal, including our employees, lessors and contractors, as well as State and local authorities.

There is absolutely no justification for imposing another limitation on the tax options of the Nation's political subdivisions. The bill sets a dangerous precedent which could escalate into an administrative and financial nightmare for Governors, county executives, mayors, and other local officials.

Mr. Speaker, I have no further requests for time.

Mr. CLAY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and pass the bill, H.R. 4064.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill, H.R. 4064, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

STATUS OF CERTAIN DEPENDENTS FOR FEDERAL EMPLOYEE SURVIVOR BENEFITS

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2584) to amend title 5, United States Code, to provide survivor benefits to certain dependent children, as amended.

The Clerk read as follows:

H.R. 2584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8341(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by inserting after paragraph (2) the following new paragraph:

"(3) 'dependent', in the case of any child, means that the employee or Member involved was, at the time of the employee or Member's death, either living with or contributing to the support of such child, as determined in accordance with such regulations as the Office of Personnel Management shall prescribe; and"; and

(3) by redesignating paragraph (3) as paragraph (4), and in paragraph (4) (as redesignated) by—

(A) inserting "dependent" after "unmarried" each place it appears in subparagraphs (A), (B), and (C); and

(B) striking out "who lived with the employee or Member in a regular parent-child relationship" where it appears in subparagraph (A)(ii).

SEC. 2. Section 8901 of title 5, United States Code, is amended—

(1) in paragraph (5), by—

(A) inserting "dependent" after "unmarried" each place it appears therein; and

(B) striking out "who lives with the employee or annuitant in a regular parent-child relationship" where it appears in subparagraph (B);

(2) by striking out "and" at the end of paragraph (7);

(3) by striking out the period at the end of paragraph (8) and inserting ", and" in lieu thereof; and

(4) by inserting after paragraph (8) the following new paragraph:

"(9) 'dependent,' in the case of any child, means that the employee or annuitant involved is either living with or contributing to the support of such child, as determined in accordance with such regulations as the Office shall prescribe.".

SEC. 3. The amendments made by this Act shall take effect on the date of the enactment of this Act, except that no benefits under chapter 89 of title 5, United States Code, made available by reason of such amendments shall be payable for any period before October 1, 1979.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. CORCORAN) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, introduced at the request of the administration, will correct an inequity suffered by a select group of children through no fault of their own, an inequity that the Federal courts have declared unconstitutional. It concerns eligibility requirements for Civil Service survivor benefits.

Mr. Speaker, current law provides support for dependents of deceased Federal employees and retirees. However, the definition of "child" in the Civil Service Retirement and Health Benefits laws provides benefits and coverage only to the acknowledged illegitimate child who "lives with" the Federal employee "in a regular parent-child relationship." Benefits can be denied an illegitimate child who was not living with the Federal employee at the time of death, even when that child was receiving full-support contributions from the nonresident parent.

This statute, then, designed to pay benefits to dependent children, actually and conclusively denies survivor benefits to some dependent illegitimate children.

Several recent Federal court decisions—specifically, Proctor against the United States and Jenkins against the United States—have declared the "living with" requirement in the civil service retirement law unconstitutional. This is in light of Supreme Court rulings that laws designed to pay benefits to dependent children may not deny benefits to some dependent children without allowing them an opportunity to prove their dependency.

Let me emphasize that the law currently provides survivor benefits to dependent children, legitimate and illegitimate. But it is defective, according to the courts, in its exclusion of that specific subgroup of illegitimate children—who were not "living with" the employee or retiree at the time of death.

So you see, Mr. Speaker, this is corrective legislation only. It will make the law conform to what Federal courts have already ruled, no more and no less. The bill amends section 8341 of title 5 by striking from the definition of a recognized natural child the words "who lived with the employee or Member in a regular parent-child relationship." In other words, it removes the discriminatory language.

The bill also amends section 8901 of title 5 regarding health insurance to provide conformity in the definition of "member of the family." These changes allow all illegitimate children to prove actual dependency if they did not live with their deceased parent at the time of death. Only those illegitimate children who neither lived with nor received support from the civil servant are not considered dependent children.

Mr. Speaker, while the committee recognizes the need for administrative agencies to draw arbitrary lines to lessen administrative problems, we cannot permit the creation of "an inpenetrable barrier that works to shield otherwise invidious discrimination." The committee believes that the current law, while it is designed to pay benefits to dependent children, actually and conclusively denies survivor benefits to some illegitimate children for no substantive reason. Because of this, and in light of the court decisions in the Proctor and Jenkins cases, we believe the law should be changed. We wish to call to the attention of our colleagues the fact that the Congressional Budget Office foresees no significant cost over the next 5 years resulting from passage of this legislation. The committee urges passage of this bill and I respectfully call upon my colleagues to support it.

□ 1320

Mr. CORCORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 2584, provides that illegitimate children of civil service employees will be eligible to receive survivor's benefits if they were dependent on the employee for support during the employee's lifetime. Under present law, an illegitimate child of a civil service employee must be living with that employee prior to his or her death in order to be eligible to receive survivors' benefits. The courts have held that this is an unconstitutional violation of the rights of dependent children.

Thus, the Office of Personnel Management is already providing benefits to illegitimate children in accordance with court decisions and H.R. 2584 simply puts into the statutes standards already being applied administratively in line with these court decisions. It provides that illegitimate children who lived with or were dependent on employees for support will have a right to survivors' benefits.

Because of the need for this legislation, I cannot oppose it, but do want to express my opposition to the principles embodied in the court decisions that have necessitated this legislation. I feel the court decisions are most unfortunate. They have set a very poor and costly precedent for the future handling of pension funds. In addition, these decisions are a blow to the sanctity and stability of the most fundamental institution in our society—the family.

Thank you for your consideration, Mr. Speaker.

Mr. Speaker, I have no further requests for time.

Mrs. SPELLMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous matter on the bill, H.R. 2584, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill, H.R. 2584, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children.".

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4930, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. YATES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois? The Chair hears none and, without objection, appoints the following conferees: Messrs. YATES, MCKAY, LONG of Maryland, DUNCAN of Oregon, MURTHA, DICKS, GINN, WHITTEN, MCDADE, REGULA, BURGENER, and CONTE.

There was no objection.

TRINITY RIVER PROJECT, CALIFORNIA

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 507) to authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to design, construct, operate, and maintain, or to contract with the State of California for the design, construction, operation, or maintenance of, a sand dredging system on the Trinity River immediately downstream from Grass Valley Creek, a tributary of the Trinity River, and a debris dam and associated facilities on Grass Valley Creek, in Trinity County, California, in general conformity to the plan of development described and set forth in the Grass Valley Creek Sediment Control Study, April 1976, prepared for the Trinity River Basin Fish and Wildlife Task Force: *Provided,* That any such contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 2. The contract authorized by section 1 of this Act shall provide that the State of California, on a dollar-for-dollar basis, will match the funds provided by the Bureau of Reclamation for constructing, operating, and maintaining the sand dredging system.

SEC. 3. There is authorized to be appropriated for fiscal year 1981 and thereafter, to remain available until expended the sum of $3,500,000 (April 1978 price levels) plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such sums as may be required for the Federal share of operation and maintenance. All costs incurred pursuant to this Act shall be nonreimbursable and nonreturnable. No funds shall be expended hereunder until the Board of Supervisors of Trinity County adopts adequate timber road and subdivision standards to protect the Grass Valley Creek watershed, and until an agreement has been executed with the State of California which shall provide that the State of California, on a dollar-for-dollar basis, will match the funds provided by the Bureau of Reclamation for constructing, operating, and maintaining the sand dredging system.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. WEAVER) will be recognized for 20 minutes, and the

gentleman from New Mexico (Mr. LUJAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 507 would authorize the Secretary of the Interior, acting through the Bureau of Reclamation or by contract with the State of California, to design, construct, operate and maintain a sand dredging system on the Trinity River immediately downstream from Grass Valley Creek, and a debris dam and associated facilities on Grass Valley Creek in Trinity County, Calif.

In 1955, Congress enacted legislation to develop the Trinity River Division of the Central Valley project. The major feature of the project is the Trinity Dam, a 537 foot high earth fill structure which controls run off from the upper Trinity River basin. After completion of the Trinity River division, the sediment carrying capacity of the Trinity River was reduced from 200,000 cubic yards to 10,000 cubic yards because of the decreased volume of water released into the Trinity River. As a result, sand-sized sediment accumulated in the once deep pools and spawning areas of the Trinity River.

Historically, the Trinity River has been known as one of the finest fishing areas and areas of scenic beauty in California. By the late 1960's, however, the Trinity River fishery and habitat had shown a marked deterioration. Since construction of the Trinity Dam, the decline in the Trinity River has affected the King Salmon, Silver Salmon, and Steelhead. Conservative estimates show a decline of 90 percent for all three species.

In 1974, the Trinity River Basin Fish and Wildlife Task Force was formed. In 1976, Congress authorized special funding for the task force to begin investigations to define and correct the fish and wildlife problems in the Trinity River and develop a program of restorative actions, the task force is composed of representatives of 13 county, State, and Federal agencies. In a report made in April 1978, the task force concluded that the best long-term solution to Trinity River sedimentation problems is a combination of watershed management, construction of Buckhorn Mountain Reservoir on Grass Valley Creek, and sand dredging directly from Trinity River.

Approximately two-thirds of the sand which degrades fishery habitat in the Trinity River is produced by the Grass Valley watershed. Construction of a debris dam on Grass Valley Creek will control sedimentation problems on the creek.

As introduced, H.R. 507 would authorize the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, to design, construct, operate, and maintain, or to contract with the State of California for the design, construction, operation, or maintenance of a sand dredging systems on the Trinity River immediately downstream from Grass Valley Creek, and a debris dam and associated facilities on Grass Valley Creek in Trinity County, Calif.

H.R. 507 provides that the State of California shall match, on a dollar-for-dollar basis, the funds provided by the Bureau of Reclamation for constructing, operating, and maintaining the sand dredging system.

Mr. Speaker, H.R. 507, as amended by the Committee on Interior and Insular Affairs, authorizes to be appropriated for the necessary works in the Trinity River Basin $3.5 million, April 1978 prices, plus or minus such amounts as may be justified by ordinary fluctuations in construction costs.

The Department of the Interior recommended further study. However, the committee decided that the Trinity River Basin Fish and Wildlife Task Force study had been thorough and had adequately examined all alternative suggestions for rectifying the problems in the basin which I have described. The committee estimated that the additional study suggested by the Department could result in a cost increase for the project which would be as much as 40 percent. It was the judgment of the committee that the work, which is so badly needed, should proceed as rapidly as possible.

Finally, Mr. Speaker, I might mention that I know of no opposition to enactment of H.R. 507 other than the Department of the Interior's desire to modify the bill to provide only for a study. The bill has the support of the State of California and a number of environmental organizations, including the National Wildlife Federation.

Mr. Speaker, I urge the House to support the motion to suspend the rules and pass the bill H.R. 507.

□ 1330

Mr. LUJAN. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, I concur with the remarks of the gentleman from Oregon (Mr. WEAVER) and urge my colleagues to support this bill.

At no time during our hearings did we hear objections from anyone connected with or affected by this project. The administration, as expected where any Western water project is concerned, opposed construction but asked for money to make some more studies. On the surface, they would have you believe that we are rushing into this project without adequate preparation and study. But let us take a look at that.

As the gentleman from Oregon pointed out, a task force was formed in 1974—5 years ago—to study the Trinity River problem. That task force was composed of experts from 13 Federal, State and county agencies, including the U.S. Fish and Wildlife Service and the Bureau of Reclamation. In April of last year the task force completed its study and submitted a very detailed and exhaustive report, defining the problems, exploring the alternative solutions and recommending a comprehensive porgram to eliminate the silting problem and restore the fisheries. This bill responds directly to that report by authorizing $3.5 million for construction, to be cost-shared, 50-50, by the State of California.

The administration wanted us to authorize a study that would cost $435,000, to be conducted by the Bureau of Reclamation, which already has participated in the comprehensive study completed by the task force. The Bureau told us the study could not be started until 1981 and that it would take about 2 years to complete.

The Bureau further estimated that after the study is completed, an additional 18 months would be required for review and processing. So what the administration is proposing is that we add some 40 percent to the cost of the project and delay it by at least 6 years. And in the meantime, the salmon and steelhead fisheries, which have already declined by 90 percent, would be dead.

I urge my colleagues to reject such a shortsighted and costly approach and approve this bill while there is still time to save both the river and the fishery.

Mr. WEAVER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I thank the gentleman from Oregon and want to take this time to thank the Committee on Interior and Insular Affairs and the Subcommittee on Water and Power Resources for handling this bill in the way they have and bringing it to the House this early in the session. It is a very badly needed project and everyone seems to be in support of it. We know of no real opposition.

Mr. Speaker, H.R. 507 would authorize the design, construction, operation, and maintenance of a sand dredging system on the Trinity River, Calif., and a debris dam and associated facilities on Grass Valley Creek, Trinity County, Calif.

The Secretary of the Interior would be authorized to perform the work through the Bureau of Reclamation or by contract with the State of California.

The bill would authorize for fiscal 1981 and thereafter $3.5 million (April 1978 price levels) for construction costs, and such sums as may be required for operation and maintenance costs.

Expenditure of funds is made contingent upon agreement by California to share half the costs of constructing, operating, and maintaining the sand dredging system on the Trinity River; and upon adoption by the county board of supervisors of adequate timber road and subdivisions standards to protect the Grass Valley Creek watershed.

Provision is made for cost indexing of the authorized amount to allow for fluctuations in construction costs.

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, of course, is badly needed. The damage to the Trinity River is there and can be seen.

But I want to point out to the House that in the State of California, and I am sure in my home State of Oregon, the statistics are much the same. Once we had 6,000 miles of spawning stream. Today we have 300. Therefore, instead of in the future coming in to repair the damage that we have done in the past, as we are with this bill, it is absolutely essential we do so today, we should consider what we do to our lands before we wreak the damage that will cause such repair.

The logging practices on some of these mountains, of course, has so weakened the soils that they now wash down into

our watershed. Though logging practices are much improved, we still should move with caution in logging on some of the watersheds so that we do protect the streams and our rivers and the fish and wildlife habitats.

Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill, H.R. 507, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

CONGRESS IS AND HAS BEEN ACTING ON PROBLEMS WITH TITLE III OF THE HIGHER EDUCATION ACT

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, I note with great interest two recent articles, first in the Washington Star and then in the Washington Post, pertaining to the administration of the title III program of the higher education legislation. Title III is designed to provide help and assistance to developing institutions. It has been heavily used for the traditional black institutions and to fund other institutions in post-secondary education that can be described as developing institutions.

In February the GAO released a report pointing up certain deficiencies and problems in that title III program. When the report was issued the Subcommittee on Postsecondary Education, of which I am the ranking minority member, conducted hearings, explored the issues that had been raised. The department then instituted certain reforms into the program.

In addition to this, in the higher education legislation that will soon be considered by the full House and was recently reported out by the Education and Labor Committee, we wrote further reforms into the proposed law. I report this to the House this date, Mr. Speaker, because the newspaper articles were written as if this were a new story and as if the matter had not been attended to. I want to make plain that we are very much aware in the relevant legislative committees of the problems with title III and we are trying to act on them.

ENDANGERED SPECIES ACT AUTHORIZATIONS

Mr. BOWEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. BOWEN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2218, with Mr. FASCELL, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Mississippi (Mr. BOWEN) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2218. This bill authorizes appropriations to carry out the Endangered Species Act through fiscal year 1982. The bill authorizes $25.6 million to the Department of the Interior and $3 million to the Department of Commerce in each of the next 3 years. This authorization level is identical to that approved last year.

The Endangered Species Act has just completed a difficult 3 years. The act has been subjected to considerable disrepute since the January 1977 decision of the Sixth Circuit Court of Appeals in the snail darter case. To some extent the act warranted the public attention that it received. As originally constructed, the act was inflexible—it did not adequately provide for a mechanism to balance economic and environmental interests.

The 1978 Amendments to the Endangered Species Act changed all of this, however. The 1978 amendments significantly altered the structure of the act by establishing a procedure to balance the interest in conserving endangered species against other legitimate national concerns. The amendments created a seven-member committee, composed of Federal and State representatives, to resolve conflicts between endangered species and development activities. The membership of this committee was carefully balanced to insure that both environmental and developmental concerns are adequately represented. The committee includes the Secretary of Army, the Secretary of Agriculture, the Chairman of the Council of Economic Advisers, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Administrator of the National Oceanic and Atmospheric Administration, and a representative of the Governor of the affected State.

To date this committee has considered two exemption applications. Their record is one and one. It granted an exemption to the Grayrocks Reservoir project in Wyoming which will provide cooling water to a coal-fired electric generating facility, and it voted unanimously to deny an exemption for the Tellico project in Tennessee. Both Houses of Congress, however, recently passed an amendment to the water appropriations bill which essentially negates the decision of the committee in the case of Tellico. A third application is currently proceeding through the exemption process.

All of the evidence thus far indicates that the exemption process is working—that it does insure that economic and environmental concerns are adequately balanced under the Endangered Species Act. I am committed to following the implementation of the 1978 amendments closely to insure that they do work. If further modifications in the act are necessary, we will propose them to the House.

I should point out that in most instances of conflict between an endangered species and some development activity a solution can be developed without ever resorting to the exemption process. The conclusive evidence developed during the course of our oversight hearings this year and last year indicates that the vast majority of the conflicts have been successfully resolved in the consultation process. The consultation process simply involves formal and informal discussions between the developing agency and the wildlife agency to moderate or eliminate the adverse effects of the project.

In some cases minor adjustments to the project can avoid the adverse impact, in other instances, the combination of transplant efforts and active conservation measures effectively eliminates any danger to the species.

Despite the success of the consultation process thus far, we know that it cannot succeed in resolving all problems. That is why the creation of a "safety valve" in the act through the exemption process was such an important addition to the statute.

The 1978 amendments accomplished much more, however, than just creating a safety valve in the act. The amendments also required a number of other important changes in the endangered species program which are designed to insure that the program is run in the manner that Congress intended. The act now requires the preparation of economic impact statements on proposed critical habitat designations, the regular review of the status of all species on the list, and improved notice to all individuals and communities potentially affected by a proposed listing.

Congress has taken a long, hard, and sometime painful look at the Endangered Species Act. The Subcommittee on Fisheries and Wildlife Conservation and the Environment conducted 8 days of oversight hearings on the act last year.

We held 3 more days of hearings this year. The General Accounting Office investigated the operation of the endangered species program. The committee

has evaluated the GAO report. In short, the administration of the endangered species program has been analyzed in excruciating detail. I daresay that the endangered species program has received more scrutiny over the last 3 years than any other Federal program.

There have been problems. We are all aware of them. The General Accounting Office has documented some serious management deficiencies. The failure to prioritize listing and recovery actions, inadequate attention to delisting or reclassifying species, and the failure to utilize the best scientific evidence available. I believe that the Department of the Interior has already made real progress in addressing these deficiencies. The amendments that I intend to offer to the bill will make sure that the Department does correct those portions of the program criticized by the GAO.

All of the Members of the House are painfully aware of the so-called failures of the Endangered Species Act—the seemingly never-ending conflict between the snail darter and the Tellico Dam. What most Members are not aware of are the successes of the program.

The endangered species program is barely 10 years old. And yet in that time this country has made real progress toward reversing the alarming rate of species extinction in this country and around the world. The American alligator in my district probably typifies better than any other example, the real environmental and yes, economic value of the Endangered Species Act.

The American alligator was listed as an endangered species several years ago. Frankly, it was listed because no one governmental entity had paid sufficient attention to the species to insure that the populations did not suffer from overutilization and loss of habitat. Before long, the alligator, which is a considerable economic resource in parts of my district, began to be reduced to low levels.

The State of Louisiana recognized what was happening to the alligator and supported placing the alligator on the list. That action, combined with a sophisticated recovery program conducted by the State of Louisiana, has brought the alligator back to a point where it is no longer not only not endangered—it is not even threatened in many portions of its range.

The State and the Department now predict that there may be as many as 1 million alligators in the Southeastern United States. There are so many alligators in my district that we have considered registering them to vote.

Now alligators may not be a particularly lovely creature but they do play an important role in the ecology of the Louisiana marsh. Aside from man himself, alligators are the top predator in the marsh. More importantly, alligators are an important economic resource in parts of my district. Assuming we can convince the Federal Government to allow us to export alligator hides, trappers in my district will be able to receive $20 per foot for top quality alligator hides. These alligators will be harvested under one of the most stringently regulated wildlife conservation programs in the country. These regulations will insure that the alligator populations remain at very high levels.

I have gone on at length about the American alligator to emphasize the positive side of the Endangered Species Act. There is a very real and legitimate need for this program. There is a continuing problem of a loss of habitat for wildlife in this country. The Endangered Species Act attempts to slow this loss or at least moderate it.

As I have indicated, I have an amendment which I intend to offer to H.R. 2218. This amendment proposes a number of technical and clarifying amendments to the bill to resolve some of the concerns raised by the General Accounting Office and others since the enactment of the 1978 amendments.

The most significant portion of this amendment is intended to restore some semblance of order and accountability to U.S. trade policy in endangered and threatened wildlife. There is no order and accountability under the existing legal framework.

My amendment addresses an issue entirely separate and apart from the domestic controversies, such as Tellico Dam. The amendment is necessary because the system for carrying out our obligations under the Convention on International Trade in Endangered Flora and Fauna has completely broken down and needs to be restored to working order. The situation is so acute that earlier this year the two Government agencies responsible for implementing the Endangered Species Convention published mutually exclusive and contradictory regulations.

My amendment simply makes the agency which is partly responsible for carrying out obligations under the convention accountable to the Secretary of the Interior. This agency, the Endangered Species Scientific Authority, is currently composed of representatives of seven different agencies. They are accountable to no one—not even the President. In fact, the agency representatives are not even accountable to the agency that they have been presumably appointed to represent.

Some of the Members may have heard allegations that the Breaux amendment abolishes the Scientific Authority, or violates the Endangered Species Convention. Nothing could be more false. I intend to describe this amendment in more detail at the time that it is offered.

The Endangered Species Act is a good, sound conservation program. The act needed amendments last year to make it more flexible and reasonable. It is now time to give the 1978 amendments a chance to work. I urge your support for the authorization of appropriations for this program.

□ 1340

Mr. FORSYTHE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, with the adoption of the Endangered Species Act of 1973, this Nation embarked upon a national policy of conserving and restoring those species of fish and wildlife which have moved to the brink of extinction. Since the enactment of this legislation, 199 species of U.S. wildlife and 467 foreign species have been listed as endangered. The act requires that the Secretary of the Interior or the Secretary of Commerce, as appropriate, establish a program to insure the recovery of listed species and, therefore, their eventual removal from the endangered list.

Since 1973, considerable progress has been made in protecting threatened and endangered species. In 1973, there were 49 whooping cranes in the wild—there are now 84. In the same period the Aleutian Canada Goose population has increased from 700 to 1,500. The populations of many species which were declining, such as the bald eagle and the peregrine falcon, have now been stabilized.

We have also had a number of disappointments. Despite the best efforts of the Federal agencies involved and of the concerned public, the California condor population continues its slow decline, decreasing from 40 in 1973 to less than 30 today. The red wolf is now probably extinct in the wild, although initial experiments at reintroduction have given some reason for optimism.

In the last few years, substantial questions have been raised regarding the need to balance endangered species conservation with man's demands for increased food, energy, and housing. These concerns led to the passage, in 1978, of a series of amendments which established an Endangered Species Committee to resolve conflicts which arise when a proposed project threatens the habitat or the continued existence of an endangered species.

In the last year, however, we have found several problems associated with the way the 1978 amendments are working. For example, the rights of a permit or license applicant to seek an exemption under the act are not fully protected under the 1978 amendments. There is some confusion in the legislative history as to whether a project exemption is permanent when newly listed species are found in the project area. Also, the emergency rulemaking period is too short to permit compliance with the act's procedural safeguards in the listing of species. To remedy these and other issues, Chairman BREAUX will be offering a series of amendments.

The legislation before you today provides funds to the Department of Commerce and the Department of the Interior for their endangered species conservation program and to the Endangered Species Committee. Because of the progress which has been made in the conservation of endangered species and the balance which has been, and which will be, introduced into the act, I urge the adoption of H.R. 2218 with the amendments which will be offered by the chairman of the subcommittee.

Mr. BREAUX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Endangered Species Act we bring to the floor today is a result of 3 days of extensive oversight given in this Congress to determine whether the Endangered Species Act was operating in the manner and under the way in

which this Congress intended it to. As the previous speakers have indicated, we made extensive changes to the Endangered Species Act in the last Congress. This committee felt that the first thing we should do in this Congress was to pay particular attention to determine whether the bill and the amendments we passed in the last Congress were operating in the proper manner.

As a result, we reported a bill out of our committee, both the subcommittee and the full committee, as a straight reauthorization bill for 3 years. We then followed that report out with 3 days of oversight hearings, bringing in the General Accounting Office, bringing in others who had particular expertise in the Endangered Species Act. They pointed out some defects in the Endangered Species Act, and as a result of those hearings the committee felt that it was proper that we should make what I would call minor and technical changes.

As the gentleman from New Jersey (Mr. FORSYTHE) indicated, I will be offering on the floor a series of amendments en bloc which we feel do address the defects that were pointed out as a result of our oversight hearings.

□ 1350

One of the amendments in particular is a little more controversial than the others, but I think that we have struck a balance and reached a compromise with all of those who are concerned about the matter in which the endangered species scientific authority was operating. I think it is a good and a balanced amendment. Basically that amendment brings the scientific authority in the Department of the Interior as is the imagined authority in the Endangered Species Act.

We felt as a committee—I feel as chairman of the subcommittee in particular—that that type of operation is absolutely essential and correct because we found after our oversight hearings the scientific authority really was responsible and answerable to no one within our government. It was not in the Department of the Interior; it was not in the executive branch; it was not under the authority of Congress. It was out by itself in a manner in which no other agency in our government is operating. This amendment, along with others, will bring the scientific authority under the Department of the Interior and allow the Department of the Interior to supervise its actions while at the same time preserving the integrity of the scientific authority and allowing them to do the job that they are guaranteed to do under the Endangered Species International Covenants, to which the United States is a signatory. It gives them no more authority nor any less authority than they receive under the International Treaty on Endangered Species.

Mr. Chairman, I think that this is a balanced bill. I think we have addressed the concerns of some of the Members of Congress who have appeared before our committee who spoke very eloquently on the matter, in which they thought we could improve on the 1979 act. I think this bill is that product and merits the support of all of our colleagues.

Mr. Chairman, I reserve the remainder of my time.

Mr. FORSYTHE. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I want to commend and concur in the remarks of the gentleman from Louisiana (Mr. BREAUX) and the gentleman from New Jersey (Mr. FORSYTHE), but I would also like to point out, Mr. Chairman, that there may be another endangered species that we might consider adding to this list. I spoke earlier in this morning's session about rampant inflation which is breaking the backs of the American people, inflation caused by irresponsible spending by the U.S. Congress. Maybe the time has come when we ought to consider the human animal as an endangered species and particularly those human animals that are known as the American taxpayers. Every year there are more and more people who, in one form or another, are financially dependent on the Federal Government, while at the same time the number of taxpayers is becoming less and less. Perhaps if we added the "American taxpayer" to the endangered species list, it might make the Congress just a little more fiscally responsible when spending the taxpayers' money.

Mr. BREAUX. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota, a member of the committee (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the chairman for yielding.

Mr. Chairman, I commend our chairman for his splendid work, devoting countless hours to the hearings in great depth which this committee has held both in the 95th Congress and in the 96th Congress, exploring all of the many complicated aspects of the Endangered Species Act. I believe that this legislation should be supported because this committee has acted responsibly last year and again this year in curing some of the defects of the Endangered Species Act which resulted in apparently irreconcilable controversies over the years. We now have a mechanism in place by which controversy can be resolved early in the process of developing our major water resources and other public works projects. That is a monumental advance. It will preserve the integrity of the Endangered Species Act. It will help preserve the species to which this legislation is committed, to preserve those whose existence is endangered by a change in habitat brought about by the Nation's economic advance. The legislation that we have authored in this bill will continue the Endangered Species Act for another 3 years, thereby keeping it under constant control of the Congress, under the watchful eye of the committees charged with the responsibility for this legislation. It is a responsible way to approach this matter. There is now a forum for the Endangered Species Act, a forum for the resolution of conflict, which has not been available in the past. It will preserve the future of those wildlife whose very existence has been threatened, some of which have come close to extinction; and it will also make it possible for the Congress, for the Department of the Interior and other agencies of government to address themselves in a responsible fashion to the basic human, socioeconomic needs of this country. I urge the passage of this legislation.

Mr. FORSYTHE. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

Mr. BREAUX. Mr. Chairman, I yield myself such time as I may consume.

I would just like as a final comment to commend and thank the chairman of the full Committee on Merchant Marine and Fisheries, the gentleman from New York (Mr. MURPHY), for his work and cooperation and assistance to the subcommittee as we moved forward with our oversight hearings and reporting this bill to the floor.

● Mr. MURPHY of New York. Mr. Chairman, H.R. 2218 would authorize appropriations to carry out the Endangered Species Act through fiscal year 1982. The bill authorizes $28.6 million per year to the Department of the Interior and Commerce over the next 3 fiscal years to operate the endangered species program.

The endangered species program has been enveloped in controversy over the recent past. We believe that a large part of that controversy is now behind us. Last year the Merchant Marine and Fisheries Committee drafted an amendment to the act which added much-needed flexibility to the statute. Under these amendments any project can be considered for an exemption from the requirements of the act by a seven-member committee. This committee is composed of representatives of several Federal agencies as well as a representative of the State involved. The membership of this committee has been carefully balanced to represent both environmental and developmental concerns.

Although the 1978 amendments were developed after extensive hearings and markup sessions in the Merchant Marine and Fisheries Committee, several Members of the House expressed concerns last year that the House be given an opportunity to review the Endangered Species Act again in the 96th Congress after the General Accounting Office completed their review of the administration of the act.

We have kept the pledge that we made to these members and the House last year. The General Accounting Office report has been completed and oversight hearings on that report have been conducted. The Department of the Interior has initiated steps to correct nearly all of the deficiencies cited by the GAO report.

The GAO and the administration have also suggested several legislative changes to clarify some of the provisions in the 1978 amendments. We have developed several amendments incorporating many of these suggestions.

We believe that the amendments adopted last year are working. The committee is following their implementation closely to make sure that they do work. The amendments addressed the chief deficiency of the act—the absence of any mechanism to balance the legitimate interest in conserving endangered species

and the equally important national interest in continued economic growth.

As I have indicated, the 1978 amendments addressed this problem by the creation of a special high-level committee to resolve disputes when they do occur. The amendments did several other important things as well.

The 1978 amendments, for the first time, require the consideration of the economic impact of designating critical habitat. This represents a significant change in the statute, and is aimed at informing local communities of the potential impact of a critical habitat designation.

The 1978 amendments also required several important changes in the notice procedures in the act. The committee discovered last year that all too often the listing of endangered species occurred in a regulatory vacuum. Regulatory proposals were published in the Federal Register and seldom anywhere else. Obviously, notice in the Federal Register does not constitute sufficient notice to individuals and communities that could be potentially impacted by an endangered species listing.

The 1978 amendments addressed this problem by requiring actual notice of critical habitat proposals to units of local government as well as publication in the local newspapers. The amendments also mandate public meetings in the local area on proposals to designate critical habitat.

We believe that all of these changes will serve to provide more local input into the endangered species decisionmaking process. We also believe that these changes will also enhance better understanding of the endangered species program throughout the country. Although the conflicts that have developed under the program are well known and have been widely publicized, these conflicts represent the exception rather than the rule. The undisputed evidence presented to the committee in our oversight hearings suggests that the vast majority of endangered species conflicts can be effectively resolved in the consultation process—without resorting to the courts or to the newly created exemption process. As this fact becomes more understood and acknowledged the fear of the endangered species program will diminish.

The Endangered Species Act is good, sound, and very necessary environmental legislation. I do not believe that any of us here would like to see the bald eagle, the grizzly bear, or the gray wolf vanish. The Endangered Species Act is, in many instances, the only thing that stands between many of these species and extinction. Obviously, the act as originally written failed to recognize that all too often this Nation is forced to make difficult choices—and the survival of endangered species is one of those difficult choices that has to be made. The amendments adopted last year kept the basic strength and structure of the act, but established a system within which the difficult conflict between habitat preservation and development can be resolved.●

● Mr. BEARD of Tennessee. Mr. Chairman, I rise in support of the entire package of committee amendments, and wish to compliment the subcommittee chairman, Mr. BREAUX, for the close attention to detail in these particular amendments.

On balance, I feel that the Congress passed reasonable, workable amendments to the act last year. It is, of course, too early to determine whether the exemption procedures of the Endangered Species Committee will operate as the Congress intended. However, other changes in the 1978 amendments are certainly improvements. These include increased public participation in the listing process, the consideration of economic impact in determination of critical habitat, and the performance of biological assessments prior to new construction starts.

From my point of view, with the addition of a few changes to the act, as proposed by the committee, I think we can all afford to allow the endangered species program to operate for a few more years before we would need to consider any further amendments.

As Members of the House will recall, one of my amendments adopted last year called for an 18-month reauthorization of the act, so that the Congress would be assured an opportunity to examine a then-promised General Accounting Office report on the endangered species program before passing a 3-year reauthorization.

As GAO witnesses pointed out in recent hearings before Mr. BREAUX's subcommittee, the Fish and Wildlife Service's administration of the act has left substantial room for improvement. Recently, after examining the GAO report myself, I introduced H.R. 4841, a bill which I think would correct most of the problems addressed by GAO.

Virtually all of this bill is contained within the committee amendments to this reauthorization.

Those provisions of my bill which were adopted by the committee include, first, instructions to the Secretary to establish procedures to insure efficient and effective management of resources available for administration of the act. GAO found that the Fish and Wildlife Service had never developed guidelines to insure that the most basic of functions are carried out. For instance, GAO found that the Service had received 154 petitions to list or delist species, through June 30, 1978. Yet, only 59 percent of these had ever been recorded as received. The New Melones cave harvestmen listing petition was one of those apparently not logged in as "received." The Service told GAO they did not want to act on this petition, for fear of creating another "Tellico incident." The development of guidelines would correct this situation, as well as insure that the Service develops specific criteria for judging the "substantiality" of petitions to list or delist species.

Guidelines would also be created for a priority ranking system to insure that species facing a high degree of threat receive expeditious review for listing. The Service recognizes the need for a priority system to select species for review and listing, and to allocate its limited staff and funds. In spite of this awareness, the Service has developed six priority systems through fiscal year 1978, but Service officials were not able to agree until recently on implementation of any particular system.

A priority system for the development and implementation of recovery plans is also needed. Service funds have not been allocated toward recovery of species based on the degree of threat to the species. There are numerous instances where the Service has purchased land for recovery of low priority species. Furthermore, the Service cannot determine the effectiveness of recovery plans because they are not adequately monitored or evaluated. The Service recently announced the approval of a revised set of guidelines, which includes a priority system. I understand the Service has also implemented systems for ranking priorities of species for listing and logging petitions. However, I believe that the Congress should mandate these systems under law, to insure that their operation continues.

The second major concern that I had was over clarifying the intent of my "one-time permanent exemption" amendment, which the Congress adopted last year. My intent in offering the amendment was to insure that once a project has undergone a biological assessment and has received an exemption, it would be impossible to halt the project by finding any additional "endangered species."

I think that everyone would agree that projects begun before enactment of the 1978 amendments should be eligible for permanent exemptions if biological assessments are done first. However, opinions differ over what constitutes a "one-time permanent exemption." My intent was to apply the permanent exemption to the project in question. The Senate, on the other hand, in its reauthorization this year has chosen to apply the exemption to individual listed species that are in conflict with a project. Frankly, I think that the Senate's interpretation is illogical. Under the 1978 amendments, projects receive exemptions. There is no process for exempting species from anything.

I think that the amendment adopted by the committee this year with regard to the "one-time permanent exemption" issue serves to provide additional assurances both to developers and environmentalists, although I do not feel that the committee goes far enough in this area. Any exemption for completion of a project would be based upon a biological assessment which would include listed and proposed species, alike.

Environmentalists would be assured that exemptions are granted only after the most thorough of biological assessments is completed, and that all listed or proposed endangered life forms are considered in the exemption process. On the other hand, project managers should be assured that once a project goes through the exemption process, it could not be halted by future listing under the Endangered Species Act. Although the committee does not go this far, the committee amendment should serve to minimize the potential for conflict, to

the extent that biological assessments are conducted in a thorough fashion before any exemptions are granted.

Finally, I had expressed concern during the committee's reauthorization hearings that a Senate reauthorization provision that extends the Secretary's "emergency listing" authority from 120 days, under present law, to 1 year is unnecessary and presents potential for further abuse of this law. Fish and Wildlife Service officials have testified that they intend to use this provision extensively in the future. Therefore, I believe that we should approach this issue with caution. The Senate's position on this is not well founded, and I would hope that the House conferees will take these observations into serious consideration during the conference.

Mr. Chairman, because of the high degree of controversy surrounding last year's debate, I believe that continued congressional oversight, and the adoption of the committee's amendments to perfect the act will serve to protect it.●

Mr. BREAUX. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. ZABLOCKI, having assumed the chair, Mr. FLIPPO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, had come to no resolution thereon.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 2218.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AUTHORIZING ADDITIONAL APPROPRIATIONS FOR MIGRATION AND REFUGEE ASSISTANCE

Mr. FASCELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4955) to authorize an additional appropriation of $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981 for migration and refugee assistance.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4955, with Mr. PEYSER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida (Mr. FASCELL) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida, Mr. FASCELL.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I want to commend the distinguished chairman of the subcommittee, the gentleman from Florida (Mr. FASCELL), and the ranking minority member of the subcommittee, the gentleman from Alabama (Mr. BUCHANAN), for their untiring efforts on behalf of this legislation.

Mr. Chairman, I rise in support of the bill H.R. 4955, authorizing appropriations for fiscal years 1980 and 1981 for migration and refugee assistance.

At the outset, I want to commend the distinguished chairman, Mr. FASCELL, and ranking minority member, Mr. BUCHANAN, of the Subcommittee on International Operations for their efforts on behalf of this legislation.

I will not go into the specific details underlying this additional executive branch request as that will be ably done by the chairman of the subcommittee.

I do, however, want to emphasize two points concerning the urgent need and justification for this legislation.

First, the Indochinese refugee situation has significantly worsened since Congress approved the initial executive branch request. During the period from January through July 1979, the numbers of Indochinese "boat" and "land" refugees soared increasing the total Indochinese refugee camp population to over 375,000 as of August 1, 1979.

Although camp populations in the first-asylum countries have decreased somewhat due to the increased absorption rate pledged by the United States and other countries at the July Refugee Conference in Geneva and refugees arriving by boat have temporarily declined as a result of weather conditions and the moratorium announced by Vietnam, the situation remains extremely serious. The numbers of Cambodian refugees fleeing famine conditions and the Vietnamese offensive in their country have dramatically increased in recent days and the possible recurrence of the Sino-Vietnamese border conflict could again force large numbers of ethnic Chinese in Vietnam to flee.

With respect to the ominous situation in Cambodia, the Committee on Foreign Affairs will mark up legislation this coming Wednesday designed to permit increased U.S. participation in the Cambodian famine relief program now underway under the direction of the childrens' fund and the International Red Cross.

The second point I would like to make concerning this legislation is that the United States is not shouldering the Indochinese refugee burden alone. At the Geneva Indochinese Refugee Conference held last July, some 37 nations pledged themselves to accept resettlement of 123,500 refugees by June 30, 1980. These pledges are in additon to the monthly rate of 14,000 pledged by the United States.

With respect to the costs of care and maintenance of the refugees residing in camps, Japan agreed at the Conference to finance 50 percent of the Indochinese program of the U.N. High Commissioner for refugees thus enabling the United States to reduce its percentage of contributions for this effort.

Finally, Mr. Chairman, I would note that the appropriation of the funds authorized in this bill for fiscal year 1980 is contained in both the House and Senate versions of this year's foreign assistance appropriations bill and that the fiscal year 1980 amount is assumed under the second budget resolution now in conference.

I urge the adoption of the bill.

Mr. FASCELL. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, I rise in support of H.R. 4955, a bill to authorize urgently needed additional appropriations for migration and refugee assistance in the amount of $207,290,000 for fiscal year 1980 and $203,610,000 for fiscal year 1981. This request was submitted as a Presidential budget amendment for refugee assistance sent to Congress July 25. The budget amendment results from a commitment made by the United States at the Geneva Conference on Refugees July 20 and 21, to request funds from the Congress to meet the current Indochinese refugee crisis. The U.S. response is part of a concerted worldwide effort which includes substantial contributions by our allies and others. Japan, for example, pledged to finance 50 percent of the UNHCR's Indochina program.

In recent months, the numbers of Indochinese "boat" and "land" refugees have skyrocketed. Estimates placed the number of Indochinese refugees in UNHCR camps at 375,000. This figure is 270,000 higher than the estimate made at the time the original fiscal year 1980 budget was being proposed.

As a part of our effort, the United States has pledged to resettle 14,000 refugees per month. This represents a doubling of our commitment to resettle refugees from that area, thus requiring additional funds. In this area too, other countries have volunteered substantially increased numbers of resettlement opportunities. In fact, the final pledged total is 260,000 which is more than twice the number estimated by the UNHCR in May of this year.

The funds in this legislation will provide assistance to the U.N. High Commissioner for Refugees, and for the creation of a much needed new refugee processing center in Southeast Asia ($84 million) and reimbursement to the Department of Defense for the use of U.S. Navy ships and planes to rescue refugees stranded in the South China Sea ($17 million). A final $105 million will finance transportation, documentation, and reception and placement grants for the additional 7,000 refugees per month being resettled in the United States.

Both the full House and Senate have

approved the appropriations for the full amounts authorized by H.R. 4955 in actions taken earlier on the foreign assistance appropriations bill.

Vietnam and its Communist puppet allies elsewhere in Southeast Asia, through their outrageous actions against their own citizens have flung a challenge in the faces of men and women of good will around the world. The Geneva Conference demonstrated the determination of the non-Communist countries to act quickly and generously to relieve the hardship and suffering of those forced to flee their homelands. Since the United States was the prime mover behind the Geneva Conference on Refugees, as well as the world leader in refugee assistance, I urge my colleagues to approve this authorization.

□ 1400

Mr. BUCHANAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish to associate myself with the remarks of our distinguished subcommittee chairman, Mr. FASCELL.

There is a very urgent need for these funds. They will help to fill the commitment which the United States made earlier this year in Geneva to increase the number of refugees coming into the United States from Vietnam.

As the gentleman from Florida has noted, this body is already on record in support of appropriating these funds for fiscal 1980 and the other body has followed our lead.

We cannot escape the fact that the United States has had a special relationship with the people of Vietnam. Many of those who are coming to the United States worked for the U.S. Government or for American companies in Vietnam. Many others have relatives in the United States. Many would die without our assistance.

While our country is leading in the number of refugees it is accepting, we are also leading in the effort to obtain permanent resettlement homes for other refugees outside the United States.

Through this legislation, we will also provide assistance to countries which are our allies, such as Thailand, which is being inundated not only with hundreds of thousands of Vietnamese refugees, but many thousands of starving Cambodians as well.

I certainly share the concern of those who say that we cannot and should not take all of the refugees of the world. But, I sincerely believe that in a country with the wealth, size, and resources of our own, we should provide the assistance it is in our power and ability to do.

In fact, we are taking actions to insure that incoming refugees will not be settled in locations with high concentrations of refugees.

Some $42 million of the funds in this bill will go to such voluntary agencies as the U.S. Catholic Conference, Church World Service, and the Lutheran Immigration Service to assist with the resettlement problems here.

The Government of the Socialist Republic of Vietnam has turned its back on its own people in a cruel and inhumane manner, continuing the sad saga of repression in Indochina, one of the great tragedies of our times.

As the world's greatest advocate for human rights, the United States can and should open her heart and her doors to these desperate victims of Communist repression.

Their hope, their chance for freedom, indeed, their very lives are in our hands.

Mr. Chairman, I reserve the balance of my time.

Mr. FASCELL. Mr. Chairman, I have no further requests for time.

Mr. BUCHANAN. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I rise to ask several questions of the gentleman from Alabama and the gentleman from Florida if I could, because the subject of immigration for the State of Texas is No. 1. Everyone down there has ideas on who should be admitted and everyone is very much concerned with it. I do not know what the situation is throughout America but in the city of Dallas they tell me we have 5,000 immigration cases each month, which means over 50,000 cases a year. If you take that for the State of Texas that means we are having about 250,000 people who want to be immigrants into this country.

Mr. Chairman, we are turning many of these people down. Very few of them are getting in.

I asked the staff in our office why they were spending so much time on immigration cases. They tell me people keep coming in for followup reports. All of these applicants keep saying they want in, they have relatives, they have deserving situations; from all over the world.

Yet, what we are doing here, Mr. Chairman, is, coming in and giving priorities.

When I was home I was told we were providing Vietnam preference because we have a guilt complex. I do not have a guilt complex. I did not think we should have been in Vietnam and the whole situation was the most unfortunate chapter, I believe, in our foreign affairs development. However, we have to think in terms of what is fair today to the country and what is fair to the world. Are we treating equally all of the people in the world, are we giving everyone a fair shake?

Mr. Chairman, in this instance we are not giving all races a fair shake. We are giving preferential treatment to one group from one country.

Mr. Chairman, we are not the only country in this world. What happened to all the other countries around the world taking their fair share? In the committee report here you stated how many have gone to these different countries.

Let us start with Japan. Up until June 30, 1979, Japan had accepted 51.

Let us take another one, Italy: 256.

Take Germany: 3,735.

Take England: 2,841.

Brazil. As big as Brazil is they have the land space to take them all. Brazil has taken in the big total of 37.

Mr. Chairman, what have we done? The United States up until June 30, 1979, has taken in 210,000 people. Two hundred ten thousand people.

The question I wanted to ask first is, when we have already taken in 210,000 people, what is our share? What is wrong with the rest of the world assuming their responsibility?

I would ask the gentleman from Florida if he could tell us how we arrived at us assuming the burden for the world?

Mr. FASCELL. Well, I will tell the gentleman from Texas, whose State has taken about 8 percent of the total Indochinese refugees, that the gentleman does not have any kind of problem compared with what I have in just one town.

Mr. COLLINS of Texas. I understand the gentleman from Miami has many problems with immigrants wanting to live in Florida.

Mr. FASCELL. We all have problems.

I cannot say what the United States can do to make any other country assume some kind of international commitment.

□ 1410

I can say this, though, that before we went to the Geneva Conference and without the leadership and the activity of the United States, the situation would have been worse for the people who were involved. Regardless whose fault it might have been or how we look at it, I do not think anybody anywhere can be comfortable with the fact that people in Southeast Asia are being treated with less dignity than animals, that they are dying at sea because they cannot stay in their homes and they had nowhere else to go. That is a blot on humanity.

Now, how that stirs the gentleman's soul or the gentleman's fellow Texans' souls I am sure is as strong as it stirs the soul of everybody else in the United States.

Of course, we cannot take everybody in the whole world. The gentleman from Texas knows that. Our immigration policy is such that we have to restrict numbers. It is very, very difficult, because I do not have to tell the gentleman that the so-called undocumented aliens who are in this country far exceed the problems that are presented by the Indochinese refugees.

Suffice it to say this, as far as we know, that the number of sponsors in this country outstrips the number of refugees who are ready to come in. And the refugees who are being admitted under the Indochinese program are those who have families here, those who assisted us during the Vietnamese conflict and those who are so closely allied with us that their lives are in danger from the Communists. Whether we like it or not, we do have certain responsibilities to these people.

If we had not had the Geneva Conference, I will say to the gentleman from Texas, the commitments the gentleman pointed to, which seem dismally small, would not have been even that significant. I might also add that Australia and France are doing more for Indochinese refugees, on a per capita basis, than is the United States—and those countries are considerably smaller than we are.

Mr. COLLINS of Texas. Well, now, we have already taken in 210,000. Let us look at the fact that every year, just in my State, and the gentleman from Florida happens to be in the State that is under the most pressure perhaps, of any State in the Union, where so many people are wanting to come in.

How does this Southeast Asia group get special priority? There are people starving all over the world. There are deserving people. They are relatives of people who live here now.

Mr. FASCELL. The gentleman knows the answer to that. There was a special determination made as a matter of national policy, similar to our commitment to Hungarian refugees, and to Cuban refugees, and now with the Vietnamese, and because of the fact that the United States feels a special relationship to these people.

Mr. COLLINS of Texas. Do we have any requirements about who comes in?

In other words, our troops were over there. Do we ask whether they were our allies, whether or not they had some relationship to the United States? Why would they get the priority over people from Mexico, as an example?

Mr. FASCELL. Well, depending on who you talk to and depending on where you live and probably the gentleman from Texas and those from California know more about this than I do, there is an estimate of somewhere between 3 million and 12 million so-called undocumented aliens now from Mexico. I do not think Mexicans have any problem getting in, from what I can hear; so I do not really think that is the problem. Suffice it to say the answer to the gentleman is "Yes," these refugees do bear a relationship to the United States and our involvement in Vietnam.

Mr. COLLINS of Texas. Mr. Chairman, I thank the gentleman from Florida.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I think the concerns the gentleman has expressed are shared by many American citizens. I know a number of our colleagues have been hearing from home the sort of concerns which have been expressed from the gentleman's congressional district. There are areas that have special problems in the area of immigration, such as Miami and certain States, like Texas, that have a special situation with immigration from Mexico, legal or otherwise.

Let me say in response to the gentleman, first of all, we do have a special relationship to Vietnam, however mistaken it may have been. I agree with the gentleman, I think our whole involvement in Vietnam is one of the greatest tragedies of American history.

I have to confess to a part of that responsibility, because I voted for that money to appropriate those funds to keep our war effort alive.

I never endorsed the policies we pursued while there, and other policies might have helped to bring about a better outcome; but it was a terrible tragedy in American history.

The fact of the matter is that many of these very people do have, out of that involvement, definite connections with this country, and in some cases a reason for leaving pertaining to their relationship to this country and the hostility of the current government toward everyone who has been connected with our country.

The order of priorities for Indochinese refugees coming into this country are: first of all, do they have immediate relatives in the United States?;

Second, did they work for the U.S. Government or an American company;

Third, do they have other relatives who are U.S. residents; and finally, is this a special humanitarian case, where somebody's life, for example, is at stake?

These are the categories of people that are supposed to be included as the priorities for those who are taken into this country.

I would say further that these are desperate people, more desperate, perhaps, than most other refugees are or have been in the world. In many cases their very lives depend on someone taking them. The fact is that this country is simply the best that there is in the world.

The gentleman is himself a man of Christian sentiment and character. I know that the gentleman understands the strong tradition in our country of reaching out to people who are in desperate need, of meeting the victims of disaster and of repression. These are clearly victims of a very special and terrible kind of Communist repression. If we do not help them, we are trying to lead the world to help us help them and they are doing better than they have been; but "if gold doth rust, what will iron do?"

The fact is because we are the best, we are the ones that have to take the lead.

The CHAIRMAN. The time of the gentleman from Texas (Mr. COLLINS) has expired.

Mr. BUCHANAN. Mr. Chairman, I yield 3 additional minutes to the gentleman.

Mr. COLLINS of Texas. Mr. Chairman, I appreciate what my brother has said. I share the gentleman's strong belief in Jesus Christ and our responsibility in the name of Christ to our brothers throughout the world; but we have also a Christian responsibility to treat everybody in the world equally.

What I cannot understand is how this one group, because we must carry it a step further, as we have a responsibility for starving people everywhere, why did Australia just take 14,000 under the new resettlement and the United States take 168,888? Australia is a sparsely settled country and we are crowded.

I do not understand it. Who worked on this international board and determined these quotas?

Mr. BUCHANAN. The truth is, I think we did the best we could to get others to do more than they had been doing. Although there were no quotas and we could not force other countries to do more, there was some response.

I agree with the gentleman, others could do a good deal more than they are doing; but the fact is that this is a nation of immigrants. Almost all of us somewhere back in the history of our families started out as immigrants. This country has accomplished some wonderful things with these different cultures and peoples that have come together to form and enrich this mosaic, as well as the melting pot that is our country.

I think that many of these people have a contribution to make to our country, too. Certainly if they do not make it here, they are going to have a very hard time getting into other countries.

I would recommend that the gentleman be put on our next group to go to negotiate in this international forum for others to do more, because the gentleman is a very effective advocate. I would like to have the gentleman on my side, because I agree, others should do more.

In the meantime, I think this is what we must do.

As to the basic equities, I want to assure the gentleman that we have major refugee legislation coming before us soon to be considered by this committee and which has just been considered by the Committee on the Judiciary.

□ 1420

Mr. Chairman, we will have an opportunity to deal with the equities in that legislation that will be before the House this year.

Mr. COLLINS of Texas. Mr. Chairman, I thank the gentleman from Alabama (Mr. BUCHANAN), and I thank the gentleman from Florida (Mr. FASCELL), who is chairman of the subcommittee, for their enlightened and very constructive comments.

● Mr. DERWINSKI. Mr. Chairman, I rise to speak on behalf of H.R. 4955. This measure is in response to one of the greatest human tragedies in recent memory, and there seems no adequate language to express the dimensions of this catastrophe. No one likes to have to spend money for this kind of situation. It is however something we cannot ignore. When the Vietnamese Government deliberately sets out to reorganize its society by eliminating an entire ethnic population, it is simply more evidence that totalitarianism has taken firm root in Indochina. There are presently at least 375,000 Indochinese refugees in camps throughout Southeast Asia.

It is probable that a million persons have fled their homeland in Indochina. We have no way of knowing an even grislier figure—the number of those who drowned in the South China Sea.

The American people have responded to this challenge. They have opened their communities to over 200,000 Indochinese refugees already, most of whom have been resettled at the expense of nongovernmental organizations—churches, charities, and private families. Costs have gone up and it has become a necessity to increase the amount per refugee for resettlement assistance. We must recognize the impact such individuals have on local communities in additional requirements upon schools and social services. This legislation provides the resettlement dollars necessary, and some help for health screening at the local level.

It is in our tradition to respond to

need. Many of us are descended from people who came here for freedom. And in this instance, where we had unsuccessfully sought to protect people from the ravages of communism, we have a special kind of responsibility.

I do not believe, I must note, that we have the sole responsibility for this task of providing new homes for the refugee flood. I commend the efforts of our administration for the efforts they have made to get other nations to carry more of the load of support and resettlement. We must continue to press those two initiatives.

In the meantime, however, whatever happens with regard to new departures from Vietnam and Laos, and new streams of Khmers fleeing the war in Cambodia, we have little choice in my view, but to shoulder our share of responsibility, for humanitarian reasons, for those persons already in camps around the South China Sea—from Hong Kong to the Philippines to Thailand to Malaysia to Indonesia. Life in those camps is at best one of dull despair, brightened only by the prospect of resettlement somewhere in countries where the refugees need not fear a government of the sort they left behind.

Unfortunately, resettlement thus far has lagged behind the arrival of fresh refugees. Only by the action we are here supporting, repeated many times in other countries, can we stabilize the situation in Southeast Asia.

I urge my colleagues to support this measure. It is at this point the least we can do to keep the Vietnamese from endangering the nations of ASEAN, who are the last, best hope for a stable and moderate Southeast Asia. And most important, it is the least we can do for a people who have been caught in circumstances far beyond their control.●

Mr. FASCELL. Mr. Chairman, I have no further requests for time.

Mr. BUCHANAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ZABLOCKI) having assumed the chair, Mr. PRYSER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4955) to authorize an additional appropriation of $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981 for migration and refugee assistance, had come to no resolution thereon.

OF RABBITS AND RUNNING . . .

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 30 minutes.

Mr. NELSON. Mr. Speaker, I want to talk to you about a danger to our country which I am beginning to see in the rising negativism and cynicism toward Government—and in the constant desecration of the Presidency from the pundits of America—the national media and some Members of Congress.

Walter Annenberg, the Philadelphia publisher who served as President Nixon's Ambassador to Great Britain, recently expressed his concern in an article in TV Guide.

He noted the rising criticism of the Presidency in general, and President Carter in particular, and said:

> We would be well-advised to remember that he's the only President we have.

Annenberg then quoted Don Marquis' literary approach to the troubles of the Presidency:

> There is bound to be a certain amount of trouble running any country . . .
>
> If you are President, the trouble happens to you . . .
>
> But if you are a tyrant, you can arrange things so that most of the trouble happens to other people . . .

Annenberg attributes the President's troubles to the "me first" philosophy in what has sometimes been called the "me decade" in America. Others have pointed out the rising tide of "single issue politics" in the country.

I do not know whether we Americans are putting "me" first more than we have done so in the past. But a number of educators quoted in a recent article in the Christian Science Monitor think we are.

The head of one school said she was astounded by the complete self absorption of her seniors. So much so, that she was thinking of requiring a half year of public service before each student was allowed to graduate.

Other teachers noted the increasing self centeredness of very young children in nursery schools and day care centers.

Self awareness is important, of course, for growth and a clear sense of identity. But it need not develop, as it seems to be doing, according to these educators—it need not develop into an attitude of self-indulgence, self-gratification, and just plain selfishness.

Those of us in public life certainly can testify to the rise of self-interest, one-issue politics. We see it in our mail, in our conversations with our constituents, and even in the form of threats.

For example, one of my colleagues told me recently that a teachers group in his district threatened him with political retaliation unless he voted for the Department of Education bill. They told him they would find someone to run against him and raise money for an opponent to defeat him next year.

This is an outstanding Member of Congress. Everything he has done in the Congress for his country and for his district is discounted by this one-issue mentality—which judges him, not on his whole record, but on this one vote.

There are many such issues today: The Panama Canal, abortion, busing, nuclear power, ERA, gun control, and many others.

These are legitimate issues on which people might and do disagree vigorously. But none of them is the most important thing in the world to the total exclusion of others.

But, unfortunately, there are many people who feel that the one issue they are interested in, the one thing they feel strongly about, is the only thing that matters. And they feel that, if they cannot get their way, they can get even. And they now have the tools—computerized mailings and mailing lists and instant media attention for their cause.

Members of Congress are not exempt from this attitude. A few are one-issue Members. And if the President or anyone else does not see our national priorities their way, those Congressmen retaliate with hostility, carping, and criticism.

They rejoice when the press makes a big deal out of the President's encounter with a swimming rabbit or when he shows fatigue during a footrace.

I regret to say, there are some Members of the Congress, on both sides of the aisle, who are angry at the President, or disappointed in what he has done on their pet issues, who give only little thought to the country's need for an effective, functioning President and Commander in Chief.

The same thing is reflected in the national media.

There is an irresponsibility and flippancy in too much of the national reporting on the President and on the national issues with which he must deal day after day. There is a tendency to zero in on the titilating and the dramatic, the sideshow and the freak, rather than on the often complex, often overwhelming, often perplexing issues—of the economy, of national defense, of social disorder and decay, of the big, complicated questions and problems we face in the country today.

The network TV news shows all too often are in competition to shock and surprise their viewers—to keep the audience interest at a high point—and the ratings dominate the news programs just as they do other forms of TV entertainment.

I think this tendency in network news may have been aggravated by the Vietnam war, which became a nightly media spectacular, a nightly horror show, and then again aggravated by Watergate.

The selection process of the news lends itself to playing the news as drama. It also gives rein to the national prejudices of news people. You may remember how many of the national media people were offended by the personality and "Texas manners" of President Johnson. They missed few opportunities to play them up. On the other hand, they loved the handsome and graceful President Kennedy's wit and sophistication, and their news treatment reflected their feeling that he was one of their own.

Working national media people also know that promotions and salary increases tend to go to the reporter who digs up a story with a lot of "human interest." That usually means scandal, sex corruption, drugs, conflict between well-known personalities, and all the rest.

Every President has been subjected to just and unjust criticism. And from George Washington down to the present, Presidents have felt that they were being treated unfairly by the Congress and the press.

So there is a tendency to say it is all part of the game, all part of our system of democracy and free speech, and it will all come out right in the end.

But it has not always come out right.

Presidents have been seriously weakened in the past by constant carping in the media and in the Congress. And the Nation has suffered because of it.

The failure of the United States to join the League of Nations.

The inability of Roosevelt to get the Nation's Armed Forces ready for the war he saw coming.

The inability of America to effectively wage a war in Vietnam.

All of these might have turned out differently if our Presidential leadership had not been weakened:

By the sustained attack on President Wilson in the Senate concerning the League of Nations.

By the overwhelming hostility of publishers to "That Man in the White House" in the years just before World War II.

By the love affair the TV cameras had with anti-Vietnam war demonstrators—as legitimate and sincere as some of those demonstrations were.

We can properly criticize a President when we disagree with his policies. We can vote against him in the Congress or at the polls. But we should not forget that the office of the President, the institution of the Presidency, is essential to the functioning of our democratic society. It is the place where the hard decisions affecting our society and our security have to be made if we are to survive and prosper.

A strong Presidency is essential in a constitutional sense as a balance to the power of the remaining branches of Government—the legislative (Congress) and the judicial (Supreme Court). Each are separate and must remain near equal to maintain the balance of power envisioned by the framers of our Constitution.

We should judge the President, any President, on his total performance on the important issues—on what he does on the budget, on what he does on energy, on what he does on national defense, and all the rest.

But we should not stand idle or remain silent when it appears that he is being badgered and discredited in a circus atmosphere. A President may be replaced on the basis of his Presidential performance. But he should not be pulled down by rabbits and running.

He is, after all, as Walter Annenberg has reminded us, the only President we have.

When his energy policy fails, we all are threatened by the cold.

When his foreign policy fails, we all are less secure.

When the Presidency fails, all of America suffers. We should not let this be inflicted on America trivially. We should hope and work for the success of this great political institution.

We must turn around the negativism and cynicism and be positive about America. We have a lot to be thankful for. And what is wrong in America, it can be made right.

America, America—God shed His grace on thee. And crown thy good with brotherhood, from sea to shining sea.

□ 1430

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. NELSON. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman in the well for his eloquent and courageous statement on a timely subject. There are not many in this body who would dare to question the national media, particularly that coverage of the White House and the events in this city. But what the gentleman has called our attention to is a matter of great concern to all of us because we have reached the point when it has become exceedingly difficult for anyone to effectively lead this country when we have seen so much cynicism and abuse of the office and the person who occupies that office, to a point where it is held up to ridicule, not only within this country, but worldwide.

I know that the gentleman does not speak out of partisan fervor but he is concerned about the institution and about the office that is supposed to represent the national leadership in this country. If we cannot put aside politics and the kind of negative reporting that accompanies that particular office 2 or 3 years while the person who occupies it attempts to lead this country, then I think we have reached a point where we have seen a paralysis within the White House and within the executive branch of the Government.

We have an adversary relationship, I think, between Members of this body and of the national press as it relates to the White House, and I do not think the gentleman questions for a moment the necessity of that relationship in our political system. But we have seen a point where we have taken it much too far, and we have made it so difficult for anyone to confront the issues and to represent national leadership of the scope and intensity that is necessary to provide the leadership to solve the problems that we may look back at this point of our history and well conclude that we ourselves have been responsible for the inhibitions that have been placed upon the leadership in that office.

I might also add that in the gentleman's reference to other Presidents who have so well served this country, probably the one individual who was most abused and ridiculed while he occupied the position of President has now turned out to be the greatest President of all, and that is Abraham Lincoln. I think what we are witnessing today is a person who is attempting to confront the issues courageously and openly, the result of which has brought him a great deal of criticism. But each time we look back into history, the President who was most courageous in confronting those issues has always been one who was most controversial and the one who has ranked the lowest in the polls. But if we find a President who did not confront the issues and was only attempting to do what was popular and he has been very high in the polls, then he rates very low in history.

□ 1440

So I would much rather have a President who would confront the issues, risking the lower popularity polls, but tries to do, in his conscience, what is right for the country. I believe that we have in office today a person who exemplifies those qualities. I want to commend once again the gentleman for his straightforward and courageous statement.

Mr. NELSON. I appreciate the gentleman's remarks most eloquently stated. He and I have talked about this issue for some time, and our comments are made in a nonpartisan manner; directed at an institution, the office of the Presidency.

I wonder sometimes if Americans have not come to expect too much of the particular man who holds that office as a trustee at any given point in time, be he Democrat or Republican.

I am concerned that in the rising of those expectations and then the concentration by the media and some political leaders on the trivial matters, if we have not started moving to a desecration of the Presidency so that it ceases to function as a near-equal separate branch of Government. And that is the concern that I address and that is the concern that my good friend from Washington shares with me.

I thank the gentleman for his statement.

HOW TO INVITE ANOTHER MAJOR GAS CRISIS—REIMPOSE GASOLINE CONTROLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

● Mr. KEMP. Mr. Speaker, from time to time a Member of the House presents a thoroughly sensible proposal for consideration. Usually, in the excitement of the moment, the House fails to adopt it. Imagine the astonishment, therefore, when Mr. COURTER of New Jersey proposed last Friday to end the Department of Energy's disastrous gasoline regulation program—a sensible plan if ever there was one—and had his amendment promptly adopted by this House.

Now we are being asked to restore the 3,000 pages of DOE regulations which caused the gasoline shortages of last summer. Mr. Speaker, a vote to restore DOE price and allocation regulations on gasoline is a vote to bring back those long gasoline lines at the first hint of the slightest disruption in crude oil supply. It is a vote for another gasoline allocation fiasco, in which a 4-percent shortfall in world crude oil supplies could be transformed into selective gas shortages of 25 and 30 percent at the gas pump.

Deregulation of gasoline has been recommended by virtually every major study of energy policy undertaken in the past 6 years, and by the editorial boards of newspapers across the country. DOE officials themselves admit they cannot efficiently regulate the gasoline market, and that their allocation system "exacerbated" last summer's shortages. The ad-

ministration's chief inflation fighter, Alfred Kahn, speaks of "the spectacle of the Department of Energy chasing gasoline and diesel fuel shortages all across the country and trying to solve them by continually modifying its allocations—and leaving new shortages in its wake."

Virtually no one today disputes that the only reason the United States, unlike all other countries, had gasoline lines is because only the United States, unlike all other countries, had the DOE's gasoline allocation program. The only serious allegation raised against Mr. COURTER's successful amendment is that gasoline prices would rise if DOE regulation ends. This is a rather weak reed to lean on, considering the fact that gasoline prices have risen 60 percent this year, when gas prices were supposedly controlled. In fact, the entire DOE gasoline allocation and price system is designed not to protect consumers, but to preserve the market shares of existing suppliers and retailers. All product price increases are passed directly on to consumers—only in addition, the regulations raise prices above what they would otherwise be by suppressing competition among dealers. The price of gasoline is not determined by Federal regulation, but by the availability of gasoline and the demand for it.

How can we seriously consider supporting these allocation controls after our catastrophic experience with the allocation system last summer? Have we forgotten the agony, frustration, and inconveniences of last summer's gasoline lines? That there were severe shortages in New York, Los Angeles, and Washington, D.C., but not in Detroit, Cleveland, or Lake Placid? That there were long gas lines in the United States, but nowhere else in the world? Have we forgotten the serious harm done to thousands of small businesses, tourist and resort centers?

Mr. Speaker, we must not forget that there would have been no crisis at all if the market forces had been allowed to direct the available gasoline to the places where it was needed most.

Before we vote again on the DOE allocation regulations, I ask that all my colleagues take a closer look at just how these regulations "handled" the 4-percent shortfall in Iranian oil imports last summer. Here is what happened:

Oil production in Iran was interrupted last winter for 69 days, and resumed at somewhat lower levels than before. After market adjustments to the disruption, including increased production elsewhere in the world, America's share of crude oil supplies was reduced by 700,000 to 800,000 barrels a day, or about 4 percent. This much of the crisis is "real" but relatively minor and temporary.

Under something called the O'Leary rule, the Department of Energy directed American companies to refuse to bid for oil on the world spot market at more than $5 above the OPEC contract price of about $15 a barrel. This was supposed to hold down the price of oil. Because the American companies largely complied with this rule, the American crude oil shortage roughly doubled, from 4 to 8 percent; yet the spot price for oil still hit $37 a barrel.

Deputy Energy Secretary John O'Leary, after whom the O'Leary rule was named, now asserts the rule "may have cut world prices by $2 a barrel" below what it would have been. In other words, by deliberately increasing the American shortage, we saved the rest of the world $2 a barrel on the oil it did buy.

Next, the Department of Energy directed American refiners to divert enough of available crude oil from gasoline refining to manufacture 240,000 barrels of "middle distillate," more than normal every day until October. The DOE explained this was necessary to build up heating oil inventories to a higher than normal level for the winter.

The supply of crude oil available during the Iranian crisis was also reduced by the Department of Energy's administration of the strategic petroleum reserve, which was authorized by Congress back in 1975 for use in just such an oil shortage.

Now, except for military reasons, this kind of a reserve does not make much sense. It amounts to pumping oil from below ground in the Middle East in order to pump it back into the ground in this country. At the same time, enormous oil supplies already below ground in this country cannot be pumped because the price at the wellhead is controlled far below the price we pay to ship the oil from the Middle East.

Be that as it may, the DOE's Strategic Petroleum Reserve Office was supposed to have 250 million barrels of oil on hand by now, stockpiled in abandoned Louisiana salt mines. That would make up for nearly a year of an Iranian-sized oil shortage. At the time it stopped pumping oil into the ground a few months ago, the Department of Energy had only stockpiled 73 billion barrels, which made it two-thirds behind schedule. Still, that would have been enough to cover the temporary crisis.

Unfortunately, the Department of Energy has provided no way to recover the oil once it was buried. There will not be even emergency pumps in place for at least several more months. The only tangible result of this stockpile has been to bid up the world price of oil.

Once gasoline is produced, every gallon must be allocated according to Department of Energy regulations. This is where an 8-percent nationwide shortage of gasoline—compared with 1978—ballooned into localized shortages of 20 to 25 percent while gasoline stood uselessly idle elsewhere.

DOE regulations required that oil companies set aside fuel to meet 100 percent of the needs of emergency services such as ambulances, police cars and firetrucks, and enough diesel fuel to meet 100 percent of the needs of farmers. The oil companies reserved an amount equal to consumption a year ago—plus an estimate for growth—for these high-priority users. Another 3 percent was set aside for the call of State government, to be distributed in hardship cases. The remaining gasoline was allocated equally among all dealers.

As the oil companies squeezed their allocations to dealers, from an unlimited amount in normal times, to 100 percent of the previous year, then down to 90 percent and 80 percent, the cries of outrage from station owners and their customers became louder and louder. People began to fight for slices of a shrinking pie.

California received a volume of gasoline equal to 93 percent of the fuel consumed during the previous year; for the Nation as a whole the figure was 92 percent. But those percentages seemed unbelievable to service station dealers who were getting only 85 percent of their 1978 shipments. New York's official allocation was 93 percent of last year's supplies, but that dwindled to 80 percent at the corner filling station. In Washington, D.C., the disparity was even greater. The DOE claimed the area was receiving 90 percent of its 1978 allocation, but at the retail gas pump, the percentage was 75 to 78 percent.

To complicate matters further, DOE regulations were out of step with the size and location of motorists' demand for gasoline. This will always be the case with an allocation system. No matter what "base period" the DOE chooses to allocate gasoline sales, freezing the network at one point in time will always create dislocations. Once each refining company determines its retail allocation fraction, every outlet gets the same percentage of its previous year's supply. So in the short run, stations with rapidly growing gasoline demand are faced with a shortfall while stations with stagnant or declining demand may not see a decline in supply at all. This is the primary reason why southern California—with booming economic growth and gasoline demand—got hit with gaslines earliest and hardest.

The DOE's allocation system became even more disruptive when worried motorists began to alter their driving patterns. During June, long distance travel down the freeways to resort, mountain, and beach areas was drastically reduced by 15 to 30 percent. But under the allocation system the gas kept flowing to these areas—even if the traffic did not. As a result, excess gasoline was trapped in storage facilities in the countryside when it was desperately needed in the city. Under a free market system, these imbalances would have been evened out quickly by brokers; under the allocation system such supply shifts were illegal.

But the clincher is that the DOE regulations actually contributed to higher prices. Under DOE regulations, if the market will not bear the full price permitted by regulation, a dealer may "bank" the difference, and raise prices in the future. The period from early 1974 to late 1978 was such a time, since world oil supplies exceeded demand. With the Iranian oil crisis, however, the DOE allocation rules removed all incentive for dealers to compete in holding down prices. Once their allocation was used up, dealers were prevented in effect from scrounging for more gasoline to offer their customers in competition with other dealers. Instead of competing with longer station hours or lower prices, dealers shortened hours and raised price to the full extent of their price "banks." Moreover, regulations permit refiners to add part of the cost of refining gasoline

to the prices of uncontrolled products, primarily home heating oil.

And so we ended up with a major gasoline crisis last summer, compliments of the Department of Energy's allocation and pricing regulations. An embarrassed DOE has since modified some of the more obviously flawed regulations, but the stultifying controls are still in place. The only way to avoid another DOE-engineered fiasco is to get the DOE out of the business of regulating gasoline.

Mr. Speaker, I call upon my colleagues to ratify their sensible judgment in passing the Courter amendment. At that time, the House voted to prevent a major gasoline disaster, for an end to gasoline lines, an end to subsidized gasoline consumption at the expense of heating oil prices, and an end to the 3,000 pages of DOE redtape that are strangling the gasoline market. The House made the right decision; it should not be changed.●

REMARKS OF THE HONORABLE AL ULLMAN ON TAX RESTRUCTURING ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, under the special order granted me today, I am pleased to provide information to my colleagues in the House and to those who read the CONGRESSIONAL RECORD on the very significant tax restructuring bill which I have today introduced, H.R. 5665. I have simultaneously announced public hearings to begin on this bill and on alternative proposals to restructure the Federal income tax system in the light of the imperative need to face up to the critical problem of persistently escalating inflation, to encourage capital formation and to increase savings, investment, and productivity in the private sector, and to provide important tax relief for individuals and businesses.

I am including at this point a series of documents which describe the proposal which I have introduced, and I am likewise including the press release which I issued today announcing the public hearings by the Committee on Ways and Means on this very important subject to begin on Wednesday, November 7, 1979:

STATEMENT BY REPRESENTATIVE AL ULLMAN UPON INTRODUCTION OF H.R. 5665, THE "TAX RESTRUCTURING ACT OF 1979"

We all share a deep foreboding that our way of life is eroding; that the ingenuity and the competitive spirit that established America's economic leadership is lagging.

The signs of economic weakness are widely visible. Inflation—our most dreadful enemy—is quietly stealing control of our vital choices. Running higher than 12 per cent, it seems all but immune to traditional economic remedies.

We've suffered two significant recessions over the last decade, yet inflation seems to have emerged stronger from each. Sending prime interest rates above 14 per cent attacks inflation in some sectors of the economy—at the very real risk of sending the entire country into a prolonged recession. A balanced budget by itself won't solve inflation.

Productivity—the measure of economic efficiency—is declining. Much of the drop is explained by our national fear of spiraling inflation and the race to consume rather than save and invest. Without economic certainty and the incentives to expand, the private sector will continue to lose its technological and competitive edge.

Interest rates are perilously high, and rising. Our trade balance is deep in the red. The reckless price of gold reflects the weakness of the dollar. Public debt is at an all time high, yet is far outdistanced by consumer and corporate debt.

These symptoms of decay—especially inflation—cannot be treated on the surface. They must be fought at the source.

I have come to the conclusion that the only way we can get to the source is to restructure the tax system—now.

In recent years we have improved standards of tax fairness and equity. We have accommodated shifting economic and social demands. But the fundamental structure of the system—heavy reliance on income and payroll taxes—has become muscle bound and unresponsive to recent economic trends.

We don't have to look much beyond the ends of our noses to see that traditional responses—the "quick fix" tax cut, shotgunning tax credits, indexing—no longer carry much punch. By now we've learned that chipping away at the tax code won't solve today's economic troubles.

Income and payroll taxes—forced up by inflation—are discouraging employment and investment. The nation is pushed to spend, rather than save. As confidence in our tax system erodes, so does the tax base.

This drift comes at a time when our capital needs for energy products, transportation, environmental quality and research and development have never been greater.

Restructuring the tax system must begin by rolling back social security tax by a third—from 6.65 per cent to 4.5 per cent. We must cut personal income taxes to counter the impact of inflation. And that includes major expansion of the earned income tax credit for the poor and the retirement tax credit for the elderly.

If business is to survive, let alone prosper, we've got to expand incentives for capital formation. A 10 percentage point cut in the top corporate tax rate (from 46 per cent to 36 per cent), depreciation reform, reducing the maximum personal tax rate to 50 per cent, special treatment of personal savings income, and dividend reinvestment must all be components of a broad tax proposal.

Brought to bear at once, these incentives represent the largest adjustment in U.S. taxation since 1913. Combined, their effect on investment, saving, capital formation, and exports would be massive. These tax cuts amount to $130 billion a year, beginning in 1981.

There are three ways of paying for a plan of this magnitude: cut spending by $130 billion, run up the deficit another $130 billion, or create an alternative source of revenue.

No reasonably informed American believes that spending can be reduced enough to compensate for such enormous tax cuts without creating severe economic and social disruption.

Likewise, to finance these tax changes with additional debt—or the promise of "feedback"—would be political arrogance. Washington has received the taxpayer's message. We understand the national demand for fiscal discipline and a balanced budget.

The remaining option is a replacement tax that raises one dollar for every dollar lost through these tax cuts. In my judgment, the best alternative available—one that would both allow deep tax cuts and directly confront our critical economic imbalance—is a broad-based consumption tax. In short, an Americanized version of the value added tax (VAT).

A value added tax is a novelty in this country. It stirs many prejudices and cliches. But I think the trade off for tax cuts justifies the proposal.

The goal we must keep in focus is the need to shift income from consumption to savings and investment—within the framework of a balanced budget. No painless formula exists. Any new economic course demands short term adjustment—and imbalance. The crucial question that we must address is whether we are willing to make a short term investment for a long term gain.

What is a value added tax?

A value added tax is a tax on consumer goods and services. It is a flat tax—a 10 percent tax—that falls every time the item passes from one firm to another on the way to the final market place. At every step, the tax is collected and sent to the government. Using a system of rebates on taxes paid along the line, the cumulative tax at the retail level cannot exceed 10 percent.

The VAT is not a new tax concept. It is used by most of our competitors in the free world—countries that are surpassing us in economic growth.

Many attack VAT as a "national sales tax." A sales tax is imposed only once—at the retail level. If the final seller does not collect the tax, the revenue is lost. A VAT, by contrast, is collected all along the way. It is more efficient than a sales tax, and, consequently, minimizes economic distortion. But, like all taxes on business, the value added tax is ultimately paid by the consumer.

A tax on consumption would give us an even flow of tax revenue. Today's boom and bust cycles have turned tax receipts into a guessing game. Every time we sink into recession, tax revenues fall off because more workers are out of jobs—and, at the same time, federal spending increases to pay for higher insurance protection. A value added tax would be paid all the time—by all the people. And the effect on economic certainty and stability would be dramatic.

The VAT in my bill is virtually a tax without loopholes. Everyone would pay—including those engaged in the "underground" economy. Those who spend more would pay more. Although those with limited budgets typically would pay proportionally more than those with large incomes, a VAT can be shaped into a fair tax—certainly less regressive than the payroll tax, which nearly everyone now pays.

We have made every effort to lessen the individual burden of the tax. The Americanized VAT would place a lower tax rate—five per cent—on vital human necessities like food, housing, and medical costs. Mass transportation, tuition, and charities would pay no net VAT. Income and social security tax reductions will make up much of the lost purchasing power.

We cannot make everyone "whole." The price of combating the real causes of our economic crisis is high. In the long run, the rate of inflation will come down and productivity will climb—and we will share the benefits. In the meantime, we must begin to share the cost of those future benefits.

A VAT would also help improve our trade posture by putting American workers and manufacturers on a more equal footing with our trading partners. Unlike payroll and income taxes the VAT could be rebated to manufacturers when products are exported and could be imposed on imported goods. Such border taxes are now levied in most other free world countries, and helps to explain our current unfavorable trade balance.

A VAT would have a one-time inflationary impact. However, retail prices would rise less than 10 per cent because of offsetting payroll and income tax cuts—and a strong surge of

market competition. And the consumer would also benefit from the same cuts in his own taxes. In the long run, the benefits bought with a value added tax—payroll and income tax cuts, savings and investment incentives—will give us the economic muscle to control inflation and restore productivity growth.

The value added tax is a new approach for most Americans. It will draw sharp debate, as must all new concepts for massive change. But our economy today hangs in the balance. We've got to move this country off dead center. The question ultimately comes down to our willingness to pay the freight charge.

The choices are few. An American value added tax is not the easiest answer—but it is the most realistic.

I trust the bill I introduce today will intensify national focus on our economic weaknesses—and ultimately lead to a dramatic shift in our tax laws. Only then can we convince the world that America is determined to retain its leadership on the strength of a productive and stable economy.

To that end, I have scheduled full Committee hearings—beginning November 7—on the full scope of economic trends, their meaning, and what can be done to set a new course in tax policy. It is not my intention to make the value added tax the focal point of these hearings—only a serious option.

CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES PUBLIC HEARINGS ON "TAX RESTRUCTING ACT OF 1979" AND ON ALTERNATIVE PROPOSALS TO RESTRUCTURE THE FEDERAL INCOME TAX SYSTEM

The Honorable Al Ullman (D., Oregon), Chairman of the Committee on Ways and Means, U.S. House of Representatives, today announced that he has introduced H.R. 5665, the "Tax Restructuring Act of 1979", a bill that would provide substantial reductions in individual income taxes, corporate income taxes and social security taxes in order to promote economic growth, stability and productivity. In order to preserve fiscal and budgetary discipline, the bill provides that these reductions would be funded by the imposition of a new Federal value added tax (VAT) to be applied at each stage of business activity on an added value basis. The Chairman simultaneously announced public hearings on his bill and on alternative proposals to revitalize the economy and to restructure the Federal tax system, beginning Wednesday, November 7, 1979.

In announcing these hearings, Chairman Ullman stressed that the tax reductions and the value added tax should be viewed as a total package. He emphasized that the package is designed to be revenue neutral, with the new VAT serving as a replacement tax for certain existing revenue sources, not an additional tax. The Chairman stated that witnesses will be expected to state their position and recommendations on the entire package—not just on selected parts of the bill.

The purpose of these hearings is to reexamine the basic Federal tax structure in light of the imperative need to face up to the critical problem of persistently escalating inflation, to encourage capital formation and to increase savings, investment, and productivity in the private sector, and to provide important tax relief for individuals and businesses.

A brief summary of Chairman Ullman's bill is attached to this notice. A more detailed summary will also be available in the Committee office.

The hearings will begin on Wednesday, November 7, 1979, at 10:00 a.m. each day and will be held in Room 1100 Longworth House Office Building, the Main Committee Hearing Room.

The leadoff witness on Wednesday, November 7 will be the Honorable L. William Miller, Secretary of the Treasury, to be followed on Thursday, November 8 by other Administration witnesses and by the Honorable Paul A. Volcker, Chairman of the Federal Reserve Board. On Wednesday, November 14 and Thursday, November 15, the Committee will hear several panels of invited expert witnesses. The Committee will then begin testimony from Members of Congress and the general public who have requested to be heard on Tuesday, November 27.

Please note that these hearings are subject to interruption for conference committee meetings on urgent legislation, such as the oil windfall profits tax.

Those persons who wish to appear and testify must indicate at the time of their request to be heard the subject matter they wish to address. As stated above, all witnesses who appear will be expected to present their views and position on the Chairman's total package, as well as on other subjects they may address. Requests to be heard must be received by the Committee not later than the close of business Friday, November 9, 1979, and should be submitted in writing to John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, Room 1102, Longworth House Office Building, Washington, D.C. 20515 (202-225-3625). Notification to those scheduled to appear will be made as soon as possible after the filing deadline.

The limited time available to the Committee and the anticipated volume of requests to be heard require that all persons and organizations having a common position make every effort to designate one spokesman to represent them in order for the Committee to hear as many points of view as possible. Time for oral presentations will be strictly limited with the understanding that a more detailed statement can be submitted for the Committee's review and for inclusion in the printed record of the hearings. This will afford more time for interrogation of the witnesses by the Members of the Committee. If it becomes necessary, the staff of the Committee will group the witnesses into panels to expedite the hearings and will establish time limitations for each panelist. In addition, the staff may group witnesses by subject, as appropriate. Multiple appearance by witnesses will not be permitted. It will not be possible to change the date of the scheduled appearance once that date has been assigned—either the witness or a designated substitute for him must appear on that date or forego the opportunity to be heard in person. Organizations and persons scheduled to be heard are urged to notify the Committee office immediately of any change of the witness or cancellation of a scheduled appearance.

Following is an outline of the procedure to be followed by organizations and individuals who may either want to appear and testify during these hearings or file a written statement for inclusion in the printed record of the proceedings.

All requests to be heard must contain the following information:

1. The name of the witness, his title, address, firm affiliation and/or organization he will represent.

2. If appearing in an individual capacity, a list of any clients at whose request or in whose employ the witness appears.

3. A topical outline and a summary of comments and recommendations.

The above information should also be incorporated in the prepared statements to be presented in person as well as those statements filed for the printed record of the hearings.

Public witnesses will be required to submit 75 copies of their prepared statements to the full Committee office, room 1102 Longworth House Office Building, 72 hours in advance of their scheduled appearance. Invited expert witnesses are urged to abide by this requirement also. For those who wish to file a written statement for the record of the hearings, five (5) copies are required for this purpose and will be accepted throughout the entire course of the hearings. An additional supply of statements for either a personal appearance or for the printed record may be furnished to the full Committee office for distribution to the press and public.

BRIEF SUMMARY OF THE TAX RESTRUCTURING ACT OF 1979

The bill would restructure our tax system to promote investment and productivity growth. Total tax reductions would equal $130 billion on a calendar year 1981 basis. Net proceeds from the value added tax imposed by the bill would also equal $130 billion.

TAX REDUCTIONS

Social security—$52 billion

A 2.15-percentage point reduction on the employee and employer rates, with comparable reduction for the self-employed.

Individual income—$50 billion

Rate reductions of $42 billion concentrated on midde income taxpayers.

A 50-percent maximum rate.

Earned income credit increased to a maximum of $750; childless couples made eligible.

Tax credit for elderly made refundable.

Increased AFDC payments.

Special savings accounts into which individuals could contribute $1,000 per year; earnings on account not taxable until withdrawn.

Individual Retirement Account (IRA) limit increased to $2,000 per year.

New Limited Individual Retirement Accounts; $1,000 a year limit for those not qualified for IRAs.

Dividend reinvestment plans for up to $1,500 per year.

Business income—$28 billion

Corporate rate cuts; maximum rate reduced to 36 percent; lower bracket rates reduced to 15, 20, 25, and 30 percent, and brackets widened to $40,000 each.

Liberalize depreciation by increasing the Asset Depreciation Range (ADR) variance to 40 percent above and below the ADR class lives; small businesses would be allowed to use ADR lives and the variance without being subject to complicated regulations.

Liberalize the investment tax credit by applying the full credit to assets with lives of five years or more; 60 percent of the full credit would apply to assets with three- and four-year lives.

VALUE ADDED TAX

The bill would impose the VAT at each stage of the production and distribution process, including the retail stage. The tax would generally be 10 percent of the value of property or services and would be included in the price which a business charges its customers. Each business in the production and distribution chain would receive a credit for the VAT previously paid on its purchases of property and services from other businesses (including purchases of plant and equipment). Thus, each business would pay a net tax equal to 10 percent of the value it adds to the product, and the total tax paid with respect to sales to consumers would be 10 percent of the retail value of the product.

To avoid narrowing the VAT base, special rules or special tax rates have been limited except where considered absolutely essential. Food, medical care, and residential housing would be taxed at only a five-percent rate at the retail level. Transactions of charities, public and private nonprofit educational institutions, mass transit, and nonretail sales by farmers and fishermen have been given a zero tax rate, which means there would be no tax but the taxpayer would receive applicable VAT credits. Governments and nonprofit organizations other than charities have been exempted from the VAT; they would pay no tax and get no credit. The bill provides special rules for real property, interest transactions, and insurance companies. Also, businesses which have sales of property and services below $10,000 per year could elect to be exempt from the VAT.

The VAT would be imposed on imports. Exports have been zero rated to permit a rebate of VAT previously paid for goods and services associated with the export. This "border tax adjustment" will permit American exporters to compete more effectively with foreign businesses.

Revenue estimates of Tax Restructuring Act of 1979

[In billions of dollars]

	Calendar 1981
Social security (2.15 percent rollback; i.e., to 4.50 percent):	
Employee	25
Employer	25
Self-employed	2
Subtotal	52
Individual:	
Rate reductions	42
Earned income credit, AFDC and credit for elderly	5
Lira and savings deferral	2
Dividend reinvestment	1
Subtotal	50
Business:	
Rate reductions	22
ADR and investment credit	6
Subtotal	28
Total tax reductions	130
Value added tax receipts	[1] 130

[1] This estimate for VAT receipts is net of the $10 billion required to cover increased costs of Federal purchases from the private sector and $6 billion of increased payments resulting from indexed benefit programs such as Social Security. The gross receipts from VAT would be $148 billion.

Source: Joint Committee on Taxation, October 18, 1979.

I. TAX RATE REDUCTIONS

A. Individual income tax reductions and other adjustments

1. Individual Rate Reductions (Secs. 101(a), (d), and (e) of the Bill)

The bill would provide $42 billion of individual income tax rate reductions beginning in 1981. The present law top marginal rate of 70 percent would be reduced to 50 percent, and the present law bottom rate of 14 percent would be reduced to 10 percent. The number of brackets would be reduced from 15 under present law to 8.

These rate reductions would increase savings and productivity (1) by reducing the top rate to 50 percent for investment income, thus taxing such income at the same rates as personal service income, and (2) by granting substantial rate reductions to lower-and middle-income families to help offset their value added tax. This substitution of a value added tax for individual income taxes would discourage consumption at the same time it encourages personal savings.

Under present law, capital gains are taxed at a maximum rate of 28 percent. However, because 60 percent of capital gains are excluded from taxation under present law (thus taxing 40 percent of capital gains), the reduction of the top marginal ordinary income bracket from 70 percent to 50 percent will result in a reduction of the top bracket for capital gains from 28 percent to 20 percent.

Also, because the top marginal rate of 50 percent would apply to all ordinary income, the present law provision for a 50-percent maximum tax on earned income would no longer be necessary and thus would be repealed.

2. Increase in Zero Bracket Amount (Sec. 101(b) of the Bill)

Under present law, single taxpayers and heads of households pay no tax on the first $2,300 of taxable income, and married persons filing joint returns pay no tax on the first $3,400 of taxable income. Beginning in 1981, the bill would raise these "zero bracket amounts" to $2,600 and $4,000, respectively. (The zero bracket amount, formerly referred to as the standard deduction, is taken in lieu of itemizing deductions.)

3. Expansion of Earned Income Tax Credit (Sec. 102 of the Bill)

Under present law, certain taxpayers are entitled to a refundable earned income credit. The amount of the credit is 10 percent of the first $5,000 of earned income, but it may not exceed $500. The maximum credit of $500 phases out at $10,000 of earned income or adjusted gross income.

Under the bill, the amount of the earned income credit would be increased to 15 percent of the first $5,000 of earned income, but it may not exceed $750. The maximum credit of $750 would not phase out until $12,000 of earned income or adjusted gross income.

Under present law, a taxpayer is not eligible for the earned income credit unless the taxpayer has a dependent child. Under the bill, married couples who have no children and file a joint return would be eligible for the credit.

4. Tax Credit for the Elderly Made Refundable (Sec. 103 of the Bill)

Certain taxpayers over age 65 are entitled to a nonrefundable "credit for the elderly." The bill would make the credit for the elderly refundable beginning in 1981. Thus, the amount of the credit could exceed the taxpayer's tax liability, in which case the elderly person would receive a refund in the amount of the excess. The base of the credit would be reduced by the amount of SSI (Supplemental Security Income) benefits received.

5. Adjustment in AFDC Payment Levels (Sec 104 of the Bill)

Under present law, States make payments to certain poor families under AFDC (Aid to Families with Dependent Children) programs. The bill would require the States to adjust their payment standards to reflect changes in the cost of living between September 30, 1980, and July 1, 1981. The adjustments would have to be made by October 1, 1981.

B. Social security tax reductions (secs. 111-112 of the bill)

Under present law, the combined employment tax rates for social security and hospital insurance are scheduled to increase in 1981 (1) to 6.65 percent for both employers and employees, and (2) to 9.30 percent for self-employed individuals. In addition, further rate increases are scheduled for years after 1981.

Under the bill, the scheduled employment rates for 1981 and for future years would be reduced (1) by 2.15 percentage points for both employers and employees, and (2) by 3.015 percentage points for self-employed individuals. Thus, the reduced 1981 rates would be 4.5 percent and 6.285 percent, respectively. These rate reductions would be spread pro rata among the three social security trust funds. Thus, in 1981, the OASI (old age and survivors insurance) rate would be 3.06 percent, the DI (disability insurance) rate would be 0.56 percent, and the HI (health insurance) rate would be 0.88 percent.

The reduction in employment tax rates beginning in 1981 would not affect any increases in those rates scheduled under present law to take effect after 1981, nor would it affect the amount of income subject to social security taxes (the social security taxable wage base).

Under this bill, the employment tax reductions would be funded directly from value added tax receipts and not from the general income tax revenues.

C. Corporate tax rate reductions (sec. 121 of the bill)

Under present law, the top corporate income tax rate is 48 percent. In addition, present law provides a graduated rate on the first $100,000 of corporate taxable income. Rates on this income are 17, 20, 30, and 40 percent with each rate bracket consisting of $25,000 of taxable income. In addition, the corporate capital gains rate generally is 28 percent.

Under the bill, beginning in 1981, the top corporate income tax rate would be lowered to 36 percent. In addition, graduated rates would be applied to the first $160,000 of corporate taxable income. Rates on this income would be 15, 20, 25, and 30 percent with each rate bracket consisting of $40,000 of taxable income. In addition, the corporate capital gains rate would be lowered to 22 percent.

II. CAPITAL FORMATION TAX PROVISIONS

A. Individual savings incentives

1. Tax-Deferred Savings Accounts (Sec. 201 of the Bill)

Under present law, interest on savings accounts is taxed currently. Beginning in 1981, the bill would allow an individual to contribute up to $1,000 a year in cash to a tax-deferred savings account. The tax-deferred savings account would have to be maintained by a financial institution, such as a bank, a building and loan association, or a credit union. The funds in the account could be invested in assets other than life insurance contracts.

Generally, the earnings on qualified contributions could build up without being subject to tax each year. When an amount is paid out of the account, that amount would be includible in the individual's gross income to the extent of untaxed earnings on the account. An amount paid out of a tax-deferred savings account could be rolled over tax-free to another such account within 60 days of the distribution. However, an individual would only be permitted one rollover a year. The account would not be transferrable except in the case of death or divorce, and the account would be required to be terminated within five years after the death of the saver.

Under this provision, each family member could contribute up to $1,000 a year to a tax-deferred savings account as long as a separate account is maintained for that individual family member.

2. Dividend Reinvestment Plans (sec. 202 of the bill)

Under present law, if a shareholder elects to receive a dividend in the form of a corporation's stock rather than in cash, the value of the stock distributed is taxable as a dividend. However, individuals are allowed to exclude from gross income $100 of dividends received from domestic corporations ($200 in the case of joint returns).

Under the bill, a domestic corporation would be allowed to establish a plan under which individual shareholders who choose to receive a dividend in the form of common stock rather than cash or other property may elect to exclude up to $1,500 per year ($3,000 in the case of a joint return) of the stock dividends from income. This provision would apply to distributions after December

31, 1980, in taxable years ending after that date.

To qualify, the stock would have to be newly issued common stock, designated by the corporation to qualify for this purpose. The number of shares to be issued would have to be determined by reference to a value not less than 95 percent nor more than 105 percent of the stock's value on the distribution date. Generally, stock would not qualify where the corporation has repurchased any of its stock within one year before or after the distribution date.

Stock received as a qualified dividend would have a zero basis, so that when the stock is later sold the full amount of the sales proceeds would be taxable. In general, proceeds from the sale of such stock would be taxed as capital gains. However, where the stock is sold within one year after distribution, any gain would be treated as ordinary income. In addition, where shares of stock of the distributing corporation are sold by the taxpayer any time after the record date for the dividend and before a date one year after the dividend distribution date, the sale would be treated as a sale of the qualified dividend stock. These rules are designed to prevent the immediate resale of stock without the recognition of ordinary income which would have resulted in the case of a taxable dividend.

Shareholders eligible for this special treatment would be individuals other than (1) trusts, (2) estates, and (3) persons holding five percent or more of value or voting power of the distributing corporation.

3. Liberalization of Retirement Savings Provisions (sec. 203 of the bill)

Under present law, an individual is not permitted to make a deductible contribution to an IRA (an individual retirement account, individual retirement annuity or retirement bond) for a taxable year if the individual is an active participant, during any part of the year, in a tax-qualified retirement plan, a tax-sheltered annuity, or a governmental plan. Individuals who are not active participants are entitled to make deductible IRA contributions subject to certain limitations provided they have not attained age 70½. The limitation on the deduction for a taxable year is generally the lesser of 15 percent of compensation includible in gross income for the year or $1,500. The $1,500 contribution limit is increased to $1,750 for a year if (1) the contribution is equally divided between an individual and the spouse of the individual, (2) the spouse has no compensation includible in gross income for the year, and (3) the spouse is not an active participant in a tax-qualified plan, etc.

Many qualified plans provide for mandatory or voluntary employee contributions in addition to employer contributions. Employee contributions to a qualified plan are not deductible. Income earned on an employee's contributions to a qualified plan is generally not taxed prior to the time the income is distributed or made available to the employee or the employee's beneficiary.

The bill would increase the maximum annual deduction for contributions to an IRA from $1,500 to $2,000, beginning in 1981. The bill would repeal the provision under present law which allows an individual to increase the $1,500 to $1,750 in the case of a spousal IRA.

In addition, under the bill, an active participant in a tax-qualified plan, etc., could make a deductible contribution of up to $1,000 to that plan or to an IRA. In the case of mandatory employee contributions to a plan, the deductible amount would be limited to $100. The new deduction rules would not apply to individuals who are self-employed or to individuals who are shareholder-employees.

B. Depreciation and investment tax credit provisions

1. Depreciation Revision Generally; ADR System (sec. 211 of the bill)

The bill would increase the asset depreciation range under the Asset Depreciation Range (ADR) system from the present 20 percent above or below the ADR class lives to 40 percent above or below the ADR class lives and would provide that salvage value could be ignored under the revised ADR system of depreciation. These provisions would be effective for taxable years beginning after December 31, 1980.

The bill also directs the Secretary of the Treasury to prescribe new regulations under the ADR system which are simpler than the existing regulations and which are designed to eliminate unnecessary conditions and other complexities. The new regulations are to be prescribed within 12 months after the date of enactment.

2. Simplified Depreciation for Small Business (sec. 212 of the bill)

Under present law, a taxpayer is permitted to use the useful lives permitted under ADR, and the reduction in such lives by reason of the ADR variance, only if he elects to have the rules of the ADR system apply.

The bill would provide that a small business may use any useful life allowed by the ADR system (including the ADR variance) for any asset or assets for which useful lives are prescribed under the ADR system without making an election to have the complexities of the ADR system apply.

For purposes of this provision, a taxpayer is a "small business" only if (1) the aggregate adjusted bases of small business depreciable assets held by the taxpayer as of the beginning of the taxable year do not exceed $500,000, and (2) the aggregate bases of small business depreciable assets placed in service by the taxpayer during the taxable year do not exceed $250,000. The "small business depreciable property" which is relevant in determining whether a taxpayer qualifies under these dollar limitations includes only depreciable personal property for which useful lives are prescribed under the ADR system.

3. Useful Life Requirements for Investment Tax Credit (sec. 213 of the bill and sec. 46 (c)(2) of the Code)

Under present law, if an otherwise eligible asset has a useful life of at least seven years, 100 percent of the basis of the asset qualifies for the investment credit; if the useful life is five or six years, 66⅔ percent of the basis is eligible for the investment credit; and if the useful life is three or four years, 33⅓ percent of the basis is eligible for investment credit. The useful life used for depreciation purposes is generally the useful life that applies for investment credit purposes.

The bill would shorten to five years the useful life that is required for the full basis of an asset to qualify for the investment credit and provides that 60 percent of the basis of an asset is eligible for the investment credit if its useful life is at least three years but less than five years. (A conforming amendment is made to the rules relating to the required useful life of assets with respect to which an investment credit may be claimed for progress expenditures.)

This section of the bill is intended not only to increase the portion of the basis of certain assets which qualifies for the investment credit, but also to reduce the disparity in investment credit when a taxpayer selects a shorter life (such as a useful life obtained by use of the maximum ADR variance) rather than a longer life (such as the ADR midpoint life) for depreciation purposes.

III. VALUE ADDED TAX

A. General provisions (sec. 301 of the bill)

1. Imposition of Value Added Tax

The bill would impose a value added tax (VAT) on sales of property and services at each stage of the production and distribution process, including the retail stage. The tax would generally be 10 percent of the value of property or services sold and would be included in the price which a business charges its customers. Each business in the production and distribution chain would receive a credit for the VAT previously paid by it on purchases of property and services from other businesses. Thus, businesses would generally pay a net tax equal to 10 percent of the value they add to products and services sold. The total tax paid with respect to a scale to a consumer would be 10 percent of the retail value of the property or services.

2. Taxable Transaction

The bill would define "taxable transaction" as the sale of property in the United States, the performance of a service in the United States, and the importing of property into the United States by a taxable person in a commercial-type transaction.

The term "sale of property" would not be restricted to the sale of property in the usual sense. It would also include (1) the exchange of property, (2) the transfer of property to an employee as compensation, (3) the permanent transfer of business property to an owner of the business, (4) gifts of business property, and (5) certain transactions of governments and tax-exempt organizations.

The term "performance of services" would include certain transactions in addition to the performance of personal services for a fee. These other transactions would include (1) permitting the use of property, (2) the exchange of services, (3) the granting of a right to the performance of services or to reimbursement (including the granting of warranties, insurance, and similar items), (4) the making of a covenant not to compete or a similar agreement, (5) the use of business property or services by an owner of the business, (6) gifts of business services, and (7) certain transactions of governments and tax-exempt organizations. However, the "performance of services" would not include an employee's performance of services for his employer.

Under the bill, "commercial-type transaction" would mean a transaction engaged in by a corporation (other than a subchapter S corporation) or by any person engaged in a business. The sale or leasing of real property and the importing of property would also be treated as a commercial-type transaction and would be subject to the VAT, even if engaged in by a consumer and not by a corporation or a person engaged in a business. Importing of articles by a consumer which would be free of duty under the personal exemptions under the United States Tariff Schedules would not be subject to the VAT.

The bill would define "taxable person" as a person engaged in a business or in a commercial-type transaction. Business would include a trade as well as an activity regularly carried on for profit. Governments and tax-exempt organizations would also be taxable persons in certain circumstances.

Under the bill, the sale of property would generally be treated as occurring in the United States if delivery of the property takes place in the United States. In the case of real property, the sale would be deemed to occur where the real property is located.

Services would be treated as occurring where the services are performed. If services are performed both inside and outside the United States, the sevices would be deemed performed entirely inside the United States if 50 percent or more of the services are performed in the United States. Otherwise, the services would be treated as performed entirely outside the United States.

The bill would define "property" to mean any tangible property.

3. Taxable Amount

Generally, the taxable amount on which the VAT would be imposed would be the price charged for property or services. This would include charges for transportation and other items payable to the seller. The taxable amount would not, however, include any interest or carrying charges. In an exchange of property or services, the taxable amount would be the fair market value of the property or services exchanged by the taxable person (determined as if the taxable person had sold the property or services to the other party to the exchange).

In the case of imports, the bill provides that the taxable amount would generally be the customs value plus customs and any other duties which may be imposed. If there is no customs value, the taxable amount would be the fair market value of the property.

The bill provides a special rule for the determination of the taxable amount in the case of sales of certain used consumer goods. When a taxable person acquires used property from a consumer for resale, the taxable amount on the resale would be the difference between the selling price and the taxable person's acquisition cost of the used property.

4. Five-Percent Rate of Tax for Food, Housing, and Medical Care

Under the bill, a five-percent rate of VAT, rather than the standard 10-percent rate, would be imposed on (1) the retail sale of food and nonalcoholic beverages for human consumption, (2) the sale and rental of residential real property for use by the purchaser or tenant as a principal residence, and (3) medical care.

5. Zero Rating for Farmers and Fishermen, Mass Transit, Section 501(c)(3) Organizations, Educational Activities of Governmental Entities, Exports, and Interest

Under the bill, the rate of tax which would be imposed on certain transactions would be zero. Thus, no tax would be imposed on (1) nonretail sales of farmers and fishermen, (2) mass transit in urbanized areas, (3) transactions engaged in by an organization described in section 501(c)(3) of the Code other than as part of an unrelated business, (4) educational activities of governmental entities, (5) exports, and (6) interest.

6. Credit Against VAT

A taxable person would generally be permitted to take a credit (VAT credit) for the VAT paid by its suppliers on its purchases of property and services. The VAT credit would be allowable only with respect to property and services used for taxable transactions in the business. If such property or services are used partly in the business and partly for other purposes or partly for taxable transactions and partly for other transactions, the amount of VAT credit which could be taken would have to be determined on the basis of an allocation.

The VAT credit would first be applied to reduce the VAT liability for a taxable period. If the amount of the credit exceeds the amount of tax for the taxable period, the excess would be treated as an overpayment of tax and would be refundable.

7. Administrative Provisions

a. Liability for VAT and invoicing

Under the bill, liability for the VAT would be imposed on the seller of property or services. In addition to paying the VAT, the seller would be required to provide a tax invoice (setting forth the amount of VAT imposed on the sale and certain other information) to the purchaser if the seller has reason to believe that the purchaser is a taxable person. The invoice would have to be furnished no later than 15 business days after the "tax point."

Generally, a purchaser would not be allowed to claim a VAT credit with respect to a transaction unless it has received a tax invoice in which it is named as purchaser.

b. Small business exemption

The bill would permit certain businesses, the aggregate taxable transactions of which are and are expected to continue to be below a certain level, to elect not to be treated as a taxable person except with respect to imports and housing. If the election is made by the small business, no tax would be collected on its sales and no credit would be permitted for VAT paid on its purchases. In addition, a recapture of previously allowed credit would be required on property held by the business at the time of the election.

A person could elect to be exempt under the bill's provisions if its taxable transactions do not exceed $10,000 for a calendar year and can reasonably be expected not to exceed $10,000 for the next calendar year. The election, however, would terminate on the first day of the second month following any calendar quarter in that next year if the following has occurred:

(1) aggregate taxable transactions for the calendar quarter exceed $3,500, in the case of the first calendar quarter; or

(2) aggregate taxable transactions for the first two calendar quarters exceed $6,000, in the case of the second calendar quarter; or

(3) aggregate taxable transactions for the first three calendar quarters exceed $8,500, in the case of the third calendar quarter.

c. Time for filing return and claiming credit

The bill would require a taxable person to file a VAT return during the first month following the close of each taxable period. A taxable period for this purpose would generally be a calendar month.

The return would reflect the VAT due on taxable transactions with a "tax point" in the period as well as the VAT credit allowed for the period. When the VAT due exceeds the VAT credit, payment of the difference would accompany the return. If the VAT credit exceeds the VAT due, the excess would be treated as an overpayment of VAT, and the return would be treated as a claim for a refund.

The term "tax point" would be used to describe when a taxable transaction takes place for purposes of the requirement that a taxable person furnish a tax invoice. For a sale of property or services, the determination of the tax point would depend on whether the taxable person keeps its books on the cash basis or on the accrual basis for Federal income tax purposes. In the case of a cash basis taxpayer, the tax point would be the date the taxable person receives payment for the sale. In the case of an accrual basis taxpayer, the tax point would be the earlier of the date the taxable person (1) should accrue income or loss with respect to the sale, or (2) receives payment for the sale. For an importation, the tax point would be the date the imported property is entered for consumption in the United States.

A VAT credit with respect to a purchase transaction would be allowed for a taxable period only if certain conditions were met. The taxable person would be required to have (1) paid or accrued (depending on its method of accounting for Federal income tax purposes) the VAT as part of the purchase price, and (2) received a tax invoice from the seller with respect to the transaction. The VAT credit would generally be allowed for the first taxable period in which both of these conditions were satisfied.

d. Treatment of related businesses, etc.

The bill would allow a taxable person to elect to treat itself and all related businesses as one taxable person for VAT purposes. A related business would encompass any business under common control with the taxable person under the more than 50-percent control test described in section 52(b) of the Code. However, for purposes of applying the small business exemption, all businesses under common control would be treated as one business.

The bill would also allow a taxable person to elect to treat any of its divisions as a separate taxable person.

e. Treasury notification and regulations

The bill would require a taxable person to notify the Internal Revenue Service if certain events occurred. These reportable events would be developed by regulations and would encompass a change in the form of a business, or any other change which could affect VAT liability, VAT credit, or VAT administration with respect to the business.

The bill would also give the Secretary of the Treasury broad authority to write regulations with respect to the VAT.

8. Special Rules and Treatment of Certain Transactions

a. Corporation with income tax rules

Under the bill, a taxable person's basis in property for Federal income tax purposes would not include the portion of the purchase price of the property which represents creditable VAT.

b. Sale of property and incidental services; sale of services and incidental property

Under the bill, a sale of property together with incidental related services would be treated as a single transaction constituting a sale of property, rather than as separate sales of property and services. Also, a sale of services together with an incidental transfer of property would be treated as a single transaction constituting a sale of services, rather than as separate sales of services and property.

c. Authority to zero rate de minimi transactions

The bill would provide that, under regulations, an otherwise taxable transaction would be zero rated if (1) the amount involved is negligible, or (2) the VAT revenue from taxing that type of transaction would not be sufficient to justify resulting administrative and compliance costs.

d. Importing

Under the bill, the importer of property would be treated as both the seller and purchaser of the property at the point of importation. Thus, the importer would be both liable for VAT and eligible for a VAT credit with respect to the import.

e. Subchapter S corporation not treated as a corporation

Under the bill, a subchapter S corporation (Code sec. 1371(b)) would not be treated as a corporation for VAT purposes. Accordingly, it would not automatically be considered engaged in business. Thus, as in the case of a noncorporate entity, the determination of whether it is engaged in business and is hence a taxable person would have to be made on the basis of relevant facts and circumstances.

f. Personal use by owner of business property or services

Under the bill, the use of business property or services by an owner of a business would be treated as a taxable transaction. In the

case of services or a permanent use of property, the amount subject to tax would be the fair market value of the services or property. In the case of a temporary use of property, the amount subject to tax would be the fair rental value of the property. Property or services are considered business property or services if their sale by the taxable person would be a taxable transaction. Under the bill, an owner of a business generally means a sole proprietor, partner, or shareholder, as well as certain related family members determined under Code section 267(c)(4).

g. Gift of business property or services

Under the bill, a gift by a business of any business property or services would be treated as a taxable transaction. The taxable amount in the case of such a gift would generally be fair market value. However, where the gift permits the temporary use of business property, the taxable amount would be the fair rental value of the property.

h. Special rule for dispositions of nonbusiness real property

Under the bill, where real property is sold by a person who is not otherwise a taxable person, the person would become taxable with respect to the sale. However, in contrast to most sales transactions, the VAT would not be imposed on the selling price, but would be imposed only on the excess of the selling price over the seller's adjudicated cost for the property. For this purpose, the selling price would be calculated exclusively of VAT. The seller's adjusted cost would be his basis in the property increased by certain expenditures properly chargeable to capital account. However, the seller's adjudicated cost would not include basis or expenditures due to amounts incurred in periods before January 1, 1981.

i. Special rule for insurance contracts

Under the bill, sales of insurance would be subject to the VAT. The value added of an insuror is represented by the excess of premiums collected over claims paid. Thus, the VAT would not be imposed on premiums at the rate of 10 percent because this would result in taxing an insuror on an amount greater than its value added. In addition, amounts representing savings should not be taxed because the VAT is designed to tax consumption. Accordingly, the bill would impose the VAT only on the difference between the portion of a premium attributable to insurance coverage and the actuarial cost of the coverage.

j. Taxable transactions for governmental entities; exempt organizations

The bill would generally exempt governmental entities from the application of the VAT. An exception would be made for sales by governments for which separate charges are made. Such charges would be subject to the VAT. In the case of charges for education, however, the rate of tax would be zero. Governments would be permitted a VAT credit only on purchases relating to taxable sales, including zero-rated sales.

Charities described in section 501(c)(3) of the Code would be zero rated for all of their sales, except those engaged in as part of an unrelated trade or business (Code sec. 513). Thus, they would be eligible for the VAT credit on their purchases.

Under the bill, an exempt organization not described in section 501(c)(3) of the Code would generally be exempt from the application of the VAT. However, sales by such organizations would be taxable if made for a charge. The organizations would be permitted a VAT credit only on purchases relating to taxable sales.

B. Effective date (sec. 302 of the bill)

Under the bill, the VAT would apply to transactions occurring after December 31, 1980.●

HUNT FOR WOOD ASSASSINS GOING NOWHERE FAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

● Mr. GONZALEZ. Mr. Speaker, I have spoken out a number of times on the brutal murder of Federal District Judge John Wood and I am placing in the RECORD an article from the San Antonio Express-News that reaffirms my concerns with regard to the investigation surrounding this assassination, and the need for a congressional probe into the matter.

HUNT FOR WOOD ASSASSINS GOING NOWHERE FAST

(By Paul Thompson)

Last week's lurid media spectacular highlighting a parade of federal grand jury witnesses, many of them fulltime career wrongos, seems to have accomplished little or nothing.

It ended with the box score in South Texas' dope war precisely the same: one liquidated federal judge, a spooked federal prosecutor out of town in virtual hiding, and no hard facts on who killed the one and shot to kill the other.

The local FBI, to be honest, would have to announce at this point it hasn't the faintest notion who gunned down U.S. District Judge John Wood last May 29 and may never nail the assassin.

There's a bit of data on the shoot'emup gang that loosed a hail of bullets at Assistant U.S. Attorney James Kerr some weeks earlier, but no real case to put in front of a judge or jury.

In the vacuum, the feds last week adopted what amounts to a last-ditch desperation measure—making an investigative body out of the federal grand jury.

Instead of presenting a bill of particulars against one or more suspects, they in effect asked jurors, "Help us dig up some facts!"

Thus it was that convicted hit man Charles Harrelson, New England mob figure Salvatore Michael Caruana and a long string of additional witnesses, most of them equally malodorous, were paraded in and out of the grand jury room.

The forlorn hope was that some of them would refuse to testify or testify falsely, after which—to avoid doing federal time for contempt of court or perjury—they might make a "deal" with the feds in exchange for information on who killed Wood and shot at Kerr.

To judge from pervasive gloom in federal law enforcement circles when this grotesque fishing expedition had ended Friday evening, it was a long shot that missed.

In a word, no catch, no noticeable nibble.

Now sources in the U.S. attorney's office talk of an encore, of another procession shortly down the line of the same kind of witnesses to give the same kind of testimony.

The inescapable implication is that the FBI has drawn a total blank after taking all the tire tracks, showing all the mug shots and interviewing all the suspects and snitches it can think of, and today has nothing left to do now but sit around and wait for a lucky break.

Given its record and its responsibility, the FBI can hardly come out and say as much. Instead the same old "UP" communiques will continue unaltered, "We're making good progress and the Wood-Kerr criminals will be apprehended in due course."

But at this juncture, hardly anyone on the inside believes it.

The Wood case in particular rates as almost impossible to crack, barring a deathbed confession or some other sort of freak happening like a convicted con ready to trade out and sing for his freedom.

Even then, an inconclusive swearing match could ensue. Whoever killed Wood had to be a pretty smart dude operating without an audience. If he had a helper or helpers in this arch crime, what reason would they have to talk? A person not involved claiming someone "told me he did it" might turn out in the end to be shooting off a legal blank.

All in all, a grim prognosis.

Meanwhile, U.S. Rep. Henry B. Gonzalez calls for a congressional probe on how the demoralizing horror of the Wood-Kerr attacks is affecting the federal judiciary as a whole.

He doesn't mean calling in judges to ask, "Are you scared?" since the faintest-hearted among them would surely say no to that one.

Like any good lawmaker, HBG wants to know how, if at all, the recent terroristic acts have impacted on narcotics racketeers brought before the federal bar of justice across this land.

Are sentences handed down as stiff as before? Today, tomorrow and on a continuing basis? Or has the chilling unspoken underworld message, "Go easy, Your Honor, you could be next!" resulted in softer treatment for cold-eyed and confident takeover hoods of the multibillion-dollar narcotics traffic.●

A SALUTE TO NATIONAL SCHOOL LUNCH WEEK

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, the national school lunch program has grown steadily over the past 33 years. There are now close to 27 million children receiving nutritious school lunches in over 94,000 schools and institutions across the country. In recognition of this great contribution to our Nation's children, President Carter extolled the program and proclaimed last week—the week of October 14—as National School Lunch Week.

But at the same time President Carter is also recommending that the school lunch program be cut by approximately $262 million for fiscal year 1980. And, he is recommending additional cuts in certain other child nutrition programs that would represent an overall cut of 17 percent in the 1980 child nutrition budget.

It seems ironic to me that the President is so generous in words when extolling the merits of the school lunch program this week, yet is so harsh in action in proposing such drastic cutbacks in the programs. Clearly, these cutbacks would have a crippling impact on the programs' effectiveness and on the health of schoolchildren.

But putting aside the President's glaring inconsistency for the moment, I would like to discuss the lunch program on its own merits. It is far too seldom that we can salute a program that is achieving such success in so many areas of the country. To my way of thinking,

it is especially important that during this period of uncertainty we look upon the contributions that the school lunch program has made and we hold these up as symbols of the strength of purpose and prosperity that we still share as a nation.

During the postwar years, the school lunch program was initially conceived of as a means of feeding schoolchildren while utilizing surplus commodities. Since that time, the focus of the program has changed dramatically. Although it is still playing a significant role as a farm support program, more and more, the school lunch program is becoming the vehicle by which children are learning the importance of good nutrition to their mental and physical development.

The growth of the program has stimulated a new-found interest in the field of nutrition on the part of adults as well. A number of schools have now integrated nutrition education into their curriculum and the school cafeteria is fast becoming a learning laboratory for not only the students, but also their parents and teachers.

The school lunch program has also acted as a springboard for a number of other child nutrition programs such as the school breakfast program and the supplemental food program for women, infants, and children (WIC). These programs continue to reinforce the tenet of the lunch program by further aiding in the promoting of good nutrition.

Our future rests with our children and the school lunch program is a modest investment when considering that our children are our most precious resource. Therefore, I believe we should all salute the success of that program and thank the thousands and thousands of dedicated lunchroom workers and administrators who have given their all to make this program such a success. I also believe we in Congress should renew our commitment to assuring a sound financial basis for their efforts.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BURGENER (at the request of Mr. RHODES), for an indefinite period, on account of a death in the family.

Mr. MCEWEN (at the request of Mr. RHODES), for the period of October 22 through October 26, on account of attending the North Atlantic Assembly.

Mrs. COLLINS of Illinois (at the request of Mr. WRIGHT), for today, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. NELSON, to extend the period of time for his special order today to 30 minutes.

(The following Members (at the request of Mr. COURTER) to revise and extend their remarks and include extraneous material:)

Mr. KEMP for 20 minutes, today.

(The following Members (at the request of Mr. NELSON) to revise and extend their remarks and include extraneous material:)

Mr. ULLMAN, for 5 minutes today.

Mr. GONZALEZ, for 15 minutes today.

Mr. ANNUNZIO, for 5 minutes today.

Mr. WEAVER, for 10 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COURTER) and to include extraneous matter:)

Mr. CHENEY.

Mr. DERWINSKI in two instances.

Mr. WILLIAMS of Ohio.

Mr. BAUMAN in 10 instances.

Mr. MCCLORY in two instances.

Mr. GREEN.

Mr. LUNGREN.

(The following Members (at the request of Mr. NELSON) and to include extraneous matter:)

Mrs. SCHROEDER in two instances.

Mr. BARNES in two instances.

Mr. GARCIA in three instances.

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. RODINO.

Mr. JOHN L. BURTON.

Mr. DRINAN.

Mr. MILLER of California.

Mr. DINGELL.

Mr. FUQUA.

Mr. JONES of Oklahoma.

Mr. DANIELSON.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1825. An act to protect archeological resources on public lands and Indian lands, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 18, 1979, present to the President, for his approval a bill of the House of the following title:

H.R. 3173. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1980, and for other purposes.

ADJOURNMENT

Mr. BONKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 43 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 23, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2676. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting a summary of revenues derived from recovered materials during fiscal year 1978, pursuant to section 612 of Public Law 93-552; to the Committee on Armed Services.

2677. A letter from the Acting Secretary of Housing and Urban Development, transmitting the fourth annual community development block grant report, pursuant to section 113 of the Housing and Community Development Act of 1974, as amended; to the Committee on Banking, Finance and Urban Affairs.

2678. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the Department of the Navy, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2679. A letter from the Assistant Secretary of the Interior for Policy, Budget, and Administration; transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2680. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during September 1979, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

2681. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

2682. A letter from the Deputy Secretary of Energy, transmitting a report on the results of preliminary energy audits of federally owned and leased buildings with over 30,000 square feet, pursuant to section 547 (a) of Public Law 95-619; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SCHROEDER: Committee on Post Office and Civil Service. H.R. 5138. A bill to authorize certain appropriations to the Office of Personnel Management, the Merit Systems Protection Board, the Special Coun-

sal of the Merit Systems Protection Board, and the Federal Labor Relations Authority; with amendments (Rept. 96–540). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Tennessee:

H.R. 5663. A bill to amend the Internal Revenue Code of 1954 and the Energy Tax Act of 1978 to provide increased incentives for the utilization of energy sources other than oil and gas; to the Committee on Ways and Means.

By Mr. BEREUTER (for himself, Mrs. SMITH of Nebraska, and Mr. SEBELIUS):

H.R. 5664. A bill to authorize the establishment of the Trails West National Historical Park in the State of Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ULLMAN:

H.R. 5665. A bill to restructure the Federal tax system; to the Committee on Ways and Means.

By Mr. DERWINSKI (for himself, Mr. MURPHY of Illinois, Mr. ALBOSTA, Mr. BARNES, Mr. BEDELL, Mr. BINGHAM, Mr. BOWEN, Mr. BROOMFIELD, Mr. CHAPPELL, Mr. DOUGHERTY, Mr. EDWARDS of Oklahoma, Mrs. FENWICK, Mr. FINDLEY, Mr. GILMAN, Mr. GOLDWATER, Mr. GOODLING, Mr. HOWARD, Mr. HYDE, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. LEHMAN, Mr. LUNGREN, Mr. MAZZOLI, Mr. MCCLOSKEY, Mr. MCDONALD, Mr. MITCHELL of New York, Mr. NEDZI, Mr. OTTINGER, Mr. PRITCHARD, Mr. SCHEUER, Mr. SPENCE, Mr. VENTO, Mr. WHITEHURST, Mr. WOLFF, and Mr. WYDLER):

H.R. 5666. A bill to provide for death gratuities for the survivors of certain Central Intelligence Agency employees; to the Permanent Select Committee on Intelligence.

By Mr. MCDADE:

H.R. 5667. A bill to amend the Home Owners' Loan Act of 1933 to permit savings and loan associations to make and invest in reverse annuity mortgages to the extent permitted by the Federal Home Loan Bank Board; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. MILLER of California:

H.R. 5668. A bill to authorize the Secretary of the Interior to engage in feasibility studies of certain potential water resource and water quality developments in Contra Costa County, Calif., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PERKINS (for himself, Mr. STAGGERS, and Mr. CARTER):

H.R. 5669. A bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to require specified electric powerplants to convert back to the use of coal as its primary energy source; to the Committee on Interstate and Foreign Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4380: Mr. DORNAN.
H.R. 4381: Mr. DORNAN.
H.R. 5140: Mr. STAGGERS.
H.R. 5200: Mr. ROYBAL.
H.R. 5533: Mr. WHITEHURST, Mr. BROYHILL, Mr. HYDE, Mr. MARRIOTT, Mr. PAUL, Mr. BURGENER, Mr. WHITLEY, Mr. SEBELIUS, Mr. SENSENBRENNER, Mr. BUTLER, and Mr. CLEVELAND.

PETITIONS, ETC.

Under clause 1 of rule XXII,

211. The SPEAKER presented a petition of the City Council, Norfolk, Va., relative to general revenue sharing, which was referred to the Committee on Government Operations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2218

By Mr. YOUNG of Alaska:

—Page 3, after line 2, insert the following new section 3 and renumber subsequent sections accordingly:

"SEC. 3. Section 3(8) of the Endangered Species Act of 1973 is amended by striking the words 'mollusk, crustacean, arthropod or other invertebrate,'."

H.R. 4985

By Mr. CORCORAN:

—On page 26, after line 11, insert:

"(4) 'Department' means the Department of Energy.";

In line 12, strike out "(4)" and insert in its place "(5)"; and

In line 22, strike out "(5)" and insert in its place "(6)".

On page 29, in line 1, strike out "(6)" and insert in its place "(7)";

In line 7, strike out "(7)" and insert in its place "(8)";

After line 9, insert:

"(9) 'Secretary' means the Secretary of Energy.";

In line 10, strike out "(8)" and insert in its place "(10)";

In line 12, strike out "(9)" and insert in its place "(11)"; and

Strike out lines 18 through 20, inclusive, and insert in their place the following:

"SEC. 174. (a) There is hereby established within the Department an independent regulatory commission to be known as the Energy Mobilization Board.

"(b) The Board shall be composed of five members appointed by the President, by and".

On page 30, in line 3, strike out "(b)" and insert in its place "(c)";

In line 18, strike out "(c)" and insert in its place "(d)"; and

Strike out lines 22 through 25, inclusive, and insert in their place the following:

"(2) the Secretary shall provide to the Board such support and facilities as the Board determines it needs to carry out its functions.".

On page 31, strike out lines 4 through 7, inclusive, and insert in their place the following:

"(4) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department."; and

In line 8, strike out "(d)" and insert in its place "(e)".

On page 32, strike out lines 20 and 21, and insert in their place the following:

"(f) In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Board and include a statement by the Board (1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Board. Whenever the Board submits to the Secretary, the President, or the Office of Management and Budget, any legislative recom-".

On page 33, in line 4, strike out "(f)" and insert in its place "(g)"; and

After line 19, insert the following:

"(h) For the purposes of chapter 9 of title 5, United States Code, the Board shall be deemed to be an independent regulatory agency.".

(To the amendment by Mr. UDALL in the nature of a substitute.)

—In section 102, after paragraph (3), insert:

"(4) 'Department' means the Department of Energy."; redesignate paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively; after paragraph (7), insert:

"(9) 'Secretary' means the Secretary of Energy."; and redesignate paragraphs (8) and (9) as paragraphs (10) and (11), respectively.

In section 201, strike out subsection (a) and insert in its place the following:

"(a) There is hereby established within the Department an independent regulatory commission to be known as the Energy Mobilization Board.

"(b) The Board shall be composed of five members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated by the President as the Chairman.";

Redesignate subsection (b) as subsection (c);

Redesignate subsection (c) as subsection (d), and in that subsection—

Strike out paragraph (2) and insert in its place:

"(2) The Secretary shall provide to the Board such support and facilities as the Board determines it needs to carry out its functions.";

Strike out paragraph (4); and

Redesignate paragraph (5) as paragraph (4), and in that paragraph, strike out "of the Department of Energy" and insert in its place: "of any other part of the Department";

Redesignate subsection (d) as subsection (e);

Redesignate subsection (e) as subsection (f), and in that subsection, strike out "Whenever the Board submits to the President or to the Office of Management and Budget" and insert in its place the following:

"In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Board and include a statement by the Board (1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Board. Whenever the Board submits to the Secretary, the President, or the Office of Management and Budget,";

Redesignate subsections (f) and (g) as subsections (g) and (h), respectively; and

After subsection (g), insert the following:

"(i) For the purposes of chapter 9 of title 5, United States Code, the Board shall be deemed to be an independent regulatory agency.".

EXTENSIONS OF REMARKS

THANKS DOROTHY BATES

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. FUQUA. Mr. Speaker, when I came to Congress in 1963, the first stirrings were being heard in the legislative branch about the need for better internally produced information on science-related issues. I like to think that the element of interest displayed toward filling that need by one of the subcommittees on which I served—Science, Research, and Development—helped bring about the formation of the Science Policy Research Division in the Library's Congressional Research Service.

The formation, in 1964, and the production of that Division are clearly acknowledged today as a congressional "plus" of the highest order—and one of the main reasons has been Dorothy Bates.

Mrs. Bates is retiring at the end of this month. Those of us who have worked with and beside her for many years, who have benefited from her competence, thoroughness, organizational ability, and that happy combination of high intelligence and commonsense, will miss her—both as a professional and a friend. She will not be replaced. The Dorothy Bates of this world do not get replaced—only substituted for.

As a specialist in science and technology in the Science Policy Research Division, Mrs. Bates has played a critical role in supporting the Congress by providing information and in-depth policy analysis. She has been instrumental in shaping the Division within the Congressional Research Service, and she has trained and inspired other SPRD staff members through the medium of fine scholarship and managerial skill. And she is noted for her appreciation of detail, precedent, and the importance of history, as well as her understanding of the complexity of policy formulation in the legislative arena and in the interactions between the executive and the legislature.

Mrs. Bates began her career with the Congressional Research Service in 1953, when it was called the Legislative Reference Service. Over the years, we have been especially grateful for the analytical support she provided on many major issues of legislative deliberation—such as: Rewriting the charter of the National Science Foundation in 1968, overseeing the science advisory apparatus in the White House on a continuing basis, reviewing programs and organization of the National Bureau of Standards, collating information on the funding and utilization of all Federal science and technology activities, assessing the pros and cons of the centralization of Federal science activities, and providing essential data for the development of the technology assessment concept.

Mrs. Bates played a critical role for our committee as we developed the National Science Policy Act of 1976 which created a science and technology advisory office in the Executive Office of the President. President Ford recognized Mrs. Bates' role in the enactment of that law when he invited her to the White House signing of the act on May 11, 1976. This statute, which for the first time established a national science policy, is the embodiment of legislative efforts to give such policy the stature it deserves as an essential element to the achievement of our national goals.

Mr. Speaker, not only our committee but most of the committees of the House and Senate owe much to having had Dorothy Bates' talents available to them for a quarter of a century. It has been our very good fortune. We wish her all the best as she turns to new ventures and fresh challenges in the days ahead.●

PROVIDE DEATH GRATUITY TO SURVIVORS OF CERTAIN CIA EMPLOYEES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. DERWINSKI. Mr. Speaker, I am introducing this bill today with my congressional neighbor and colleague, MORGAN MURPHY, along with 33 other cosponsors.

This bill authorizes the payment of one year's salary to the surviving dependents of an agency employee killed overseas as a result of "hostile or terrorist activity * * * or in connection with an intelligence activity having a substantial element of risk."

Employees of the Central Intelligence Agency often serve in hazardous circumstances, circumstances that are becoming more hazardous all the time. These employees are especially attractive targets for terrorists and extremist organizations.

We all hope that nothing is ever paid out under this proposed legislation. Prompt passage, however, would be an important confirmation to our loyal and courageous intelligence employees in the field that they are supported by the Congress and the American people.

The efforts of these people, who daily sacrifice the comforts of home in the service of their country, are vital to our welfare. I propose this measure to provide for their families' welfare should tragedy strike. We should be anxious to do so.

The State Department already has this benefit; the CIA should too. The Office of Management and Budget has advised that there is no objection to presentation of this proposed legislation from the standpoint of the administration's program.

Join me in a concrete measure of support for our intelligence employees abroad. It has symbolic value as well which will not be lost on them.●

GUN CONTROL STATISTICS

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. JONES of Oklahoma. Mr. Speaker, the continuing debate on the issue of curbing the illegal use of firearms often leads to overstatement and simplification of very complex issues. Rhetoric and "easy answers" flow freely, but the simple truth is that basic human emotions cannot easily be contained by the passage of a law.

In my view, there is no excuse for the use of firearms in the commission of a crime. It is for this reason that I have supported efforts to enact harsh penalties for individuals who use firearms for criminal purposes. At the same time, I seriously question that confiscation of guns from law-abiding individuals will produce the results intended by advocates of this approach. It is for this reason that I have opposed efforts to over regulate or control guns used by the vast majority of our citizens for lawful purposes.

In an effort to add to the ongoing debate, I commend to my colleagues the following editorial which appeared in the Tulsa Tribune. In my view, this news article points out the need for all elected officials to think twice before accepting the statistics and allegations of certain groups lobbying for wide-sweeping changes in our current gun laws.

THE HANDGUN DEAD

"An epidemic of handgun death is sweeping the nation," claims Handgun Control, Inc., a group that is lobbying for stronger federal laws to stop the proliferation of firearms.

As evidence of the epidemic, the organization sends along a "roll of handgun dead" for August, more than 700 victims. The names make the list more personal, but one member of the roll stands out more than the others: Eugene Bemo of Jenks.

Bemo was shot to death last month; Handgun Control got that part right. However, Bemo was shot when he grabbed the barrel of a Jenks police investigator's *shotgun* and it discharged during a scuffle over control of the weapon. Had the weapon been a pistol, Bemo still wouldn't have qualified for the list, unless Handgun Control has it in mind to disarm police officers too.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

CONSUMER EQUITY; REGULATION OF THE FUNERAL INDUSTRY

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. GREEN. Mr. Speaker, when the average American buys a home or a car, the individual assesses his or her needs, shops around, and then purchases the item which he or she determines will provide the best value for the money. Since homes and cars are continually used and can be resold, the individual enjoys a return on the investment.

After the purchase of these items, a funeral is the third largest expenditure made by the average American family. It is obviously an expenditure which people rarely have time to consider, and is open to consumer fraud. Under present law, the individual cannot obtain presale itemized price information on funeral items, cannot obtain an overall cost estimate over the phone, and cannot even require that his or her consent be obtained before the loved one is embalmed. Consequently, what is already a tragic situation becomes even more devastating. A funeral represents a tremendous emotional loss; must it represent an economic loss as well?

I urge my colleagues to cast their votes in favor of regulation of the funeral industry when the House considers H.R. 2313, the FTC Improvements Act of 1979. In an article entitled, "A Requiem for Funeral-Industry Reform? Perhaps" on October 6, 1979, the Philadelphia Inquirer addressed this issue. Because of the importance of this issue and the need to rectify the current abuses to consumers, I call it to the attention of my colleagues:

A REQUIEM FOR FUNERAL-INDUSTRY REFORM? PERHAPS

(By Jane Bryant Quinn)

The long-awaited reform of the funeral industry, undertaken by the Federal Trade Commission (FTC), is expected to take effect around the end of the year. But funeral directors and their supporters in Congress have mounted a last-ditch effort to bury the proposed rules.

The funeral industry's potent weapon: the annual bill authorizing the continuation of the FTC and providing money for its operation. Feeling runs high in Congress against a number of the commission's activities, among them proposed rules injecting more consumer-protection into the sale of used cars, hearing aids, insulation and eyeglasses, as well as funerals. The affected industries have banded together to try to bring the FTC to heel.

The House Appropriations Committee recently voted to prevent the FTC from spending any money on "new activities" or issuing the final version of new trade rules for at least the next 45 days. Previously, an appropriations subcommittee blatantly voted not to fund the FTC unless it killed a number of pending rules, including the one reforming the funeral industry.

The FTC believes that it has enough votes in the Senate to over-rule any mischief done by the House. At this writing, though, the outcome is unknown.

Rep. Martin Russo (D., Ill.) is leading the fight against funeral reform. He says that the FTC is prejudiced against the funeral industry, that the industry didn't have enough of a chance to establish its case, that various FTC procedures were illegal and that the rules will add $30 million to $40 million to the cost of funerals.

The FTC absolutely rejects those cost estimates as inflated. The price of regulation, it says, will be only the minor one of writing up formal price lists and revising the contracts consumers sign. The FTC will provide standard forms for funeral homes. Further, Americans can be expected to save unknown millions in overcharges.

The FTC determined a few years ago that the average full-scale funeral costs $2,400. If consumers could decline those elements of the package price that they don't want—such as limousines or use of the viewing room—they could save money. More price competition would also improve their ability to learn about immediate burial (costing $425 to $500, immediate cremation ($250–$300) and cremation after a funeral service ($650–$800).

The proposed funeral-industry rules have been six years in the making. After hearings in six cities, the FTC concluded that:

People who arrange funerals are particularly vulnerable to high-pressure sales, because of their sorrow, guilt and poor information about funeral costs.

Many funeral directors refuse to itemize costs or provide price information over the phone.

Some funeral directors falsely say that the state requires embalming or that bodies are better off in burial vaults.

The funeral industry hinders price competition.

The new rules, if allowed to take effect, will:

Prohibit embalming without express permission.

Prohibit requiring a casket for cremation.

Require disclosure of any fees or rebates that the funeral home gets for ordering flowers and other outside items that the consumer might more inexpensively order himself.

Prohibit misleading consumers as to legal or cemetery requirements.

Forbid false claims about the preservative or protective value of embalming, caskets, burial vaults and other merchandise.

Require that itemized price information be given by phone, that services be separately priced and that consumers be charged only for those services they expressly want.

Prohibit any attempts by funeral directors or trade associations to restrict price advertising or prevent the growth of low-cost alternatives to the traditional funeral.●

TIMONIUM STUDENTS VISIT CAPITOL

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. LONG of Maryland. Mr. Speaker, I want to make welcome 209 students and teachers who are visiting the Capitol today from the Dulaney Senior High School in Timonium, Md. My constituents are taking a course entitled, "Citizenship, the Constitution, and Public Issues." They are here to see firsthand how Congress works and to gain understanding of the legislative process. Each student will observe floor activity in the House and Senate and attend committee meetings. I appreciate this opportunity to meet with the seniors of Dulaney High School and am certain that their day here will be interesting and informative.●

HELPING POOR TO PAY FOR HEAT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. DOWNEY. Mr. Speaker, I would like to bring to the attention of my colleagues a letter I received from Mr. Daniel Shortall, a constituent of mine. Mr. Shortall is a senior citizen. He has suggested an excellent way to help alleviate the hardships that many lower income people face as a result of the current energy situation.

The text of the letter follows.

DEER PARK, N.Y.,
Aug. 30, 1979.

Hon. THOMAS J. DOWNEY,
Cannon House Office Building,
Washington, D.C.

CONGRESSMAN DOWNEY: I am a senior citizen most concerned with the inflationary spiral which is effecting all age groups. My July increase in Social Security payments has already become a myth due to the ever increasing cost for food, heating oil and gasoline. I have curtailed the use of my old car by fifty percent as a means of saving energy as a concerned citizen, plus the fact of the high cost for gasoline.

There is much talk of a possible cash grant for low income people if the proposed "Windfall Profit Tax" is enacted into law. I believe some type of relief and assistance should be given to people who are struggling to pay for the bare necessities of life. However, I don't think any cash grants would be a solution to this problem.

I am enclosing an article printed in the Newsday's edition of Thurs. 8/29/79 submitted by a Mr. Robert L. Horn which echos my sentiments as a really sensible solution to the problem. I sincerely hope that you and many other Congressmen give this idea some serious thought. It could cut the consumption of #2 heating oil by about 33½% as conservation is the basic key to the oil problem as it exists today.

Yours truly,

DANIEL SHORTALL.

HELPING POOR TO PAY FOR HEAT

Regarding President Carter's proposal to give billions of dollars to the poor to help them pay for higher energy costs: The goal of helping the poor is a good one. However, it is his method that irks me.

The money that Carter wants to funnel to the poor, through his proposed "windfall profit tax," would, under his proposal, go right back to the same folks who are ripping us off with higher prices in the first place: Big Oil.

Instead, I propose that money be used to increase the energy efficiency of existing residences and heating systems—beginning with that of poorer folks. This would have the effect of helping the poor by not only reducing their heating costs, but by also reducing their energy requirements.

Rather than only increasing the profits of the energy corporations, we would create many new jobs in insulating, etc., while cutting our use of oil, helping us to become less oil-dependent.●

THE UNFINISHED BUSINESS OF ROBERT KENNEDY

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. JOHN L. BURTON. Mr. Speaker, Saturday I had the privilege of attending the opening of the John F. Kennedy Library in Boston.

It was an inspiring event for all who were present.

Both President Carter and Senator KENNEDY eloquently spoke of President Kennedy's heritage, but for me the address of Joseph Kennedy II, entitled "The Unfinished Business of Robert Kennedy" was very special.

I believe the entire membership of the House will find the speech an impressive message from the younger generation:

STATEMENT OF JOSEPH KENNEDY II

President Carter, Mrs. Carter, friends of the Kennedy family:

I speak for my mother, my brothers and sisters, when I say that it is good that my father's papers will rest here. And it is good that those who come to this library will have a chance to learn of some of my father's activities and his hopes and his struggles.

This is a relatively young country still trying to get a sense of itself, what we really believe in and how we want to live our lives.

Buildings such as this awaken our memories and bring us closer to a part of our history. But no building, however impressive in its design and dramatic in its location, however significant and valuable its papers and books and photographs and films, is meant to make a new history.

And so today, as I stand here and think of my father and what his life was all about, I have to admit myself that there is only one kind of completely satisfactory memorial to him and he himself was trying to do his share to build it—a better, a much better America.

An America where the phrase "equal justice under the law" is not only engraved on a Washington, D.C., building, but is a living reality for millions of ordinary men, women and children all over this land.

An America where no one anywhere goes hungry or suffers malnutrition, where no one anywhere lives in rural shacks and shanties or broken-down gutted slum tenements, where no one anywhere is the captive of disease and yet unable to obtain proper medical care, where no one anywhere is denied his or her dignity as a human being by virtue of race, sex or background.

My father died waging a struggle. As I have grown up I've come to appreciate what that struggle was about:

It was about migrant farm workers living, still living, in wretched circumstances so that others of us might eat good fruit and vegetables.

It was about miners doing their hard work still in terribly unsafe mines and soon enough being ravaged by black lung disease.

It was about tenant farmers, thousands of them, still laboring long and hard and ending up with nothing at all to show for it.

It was about Indians here on this land first, and still too many are hurt, manipulated, betrayed people.

It was about black people and Chicanos whose labors, my father never forgot, helped to build this country.

It was about Eskimos and the families of the hollows of eastern Kentucky and West Virginia.

And yes, it was about ordinary working families of this country—no matter their skin color or origin—men and women putting their time in on this earth, sweating it out at work, doing the best they know how at home and in the neighborhood, making no big deal out of life or themselves and too often getting a raw deal from those who think of themselves as their betters, their leaders.

Month after month, year after year, until his last breath my father did his best to try to understand and reach out and respond to those people.

He traveled restlessly the length and breadth of this nation during the troubled 1960s anxious to get the facts, but anxious as well to give voice to the aspirations of millions of Americans who are not so much voiceless as unheard in those influential places a comparative handful of people dominate.

One day it may be different here and it may be different in the other countries my father visited, but only if more of us learned to acquire what my father called "moral courage."

He used that expression back in 1966. He was in South Africa and he made clear where his heart lay there.

Even as he knew how easy it is for many of us here at home who are lucky, who are well off and able to ride through the ups and downs of business cycles, to sit back and worry about no one but ourselves, our own small and sometimes smug and sometimes self-important world, now over a decade later we pause to remember him.

But I hope in so doing, we will remember the millions all over the world who have also died—died for want of food, for want of medicine, died in a desperate effort to secure their political freedom or to secure a decent measure of social and economic justice.

I hope and pray that my generation of Americans will do their share to redeem those deaths, will summon the "moral courage" my father referred to and with it work to bring about the decent and just world he so much wanted to see in his lifetime.

But if we are to realize that world, is it enough to talk in generalities however pleasant sounding or ought we to be actively taking on what the Bible called "the principalities and powers?" And who is connecting inflation to those "principalities and powers" that operate this country?

We all know that inflation bears down hardest on the poor. Now we are being told by the chairman of the Federal Reserve Board that, and I quote: "The standard of living of the average American has to decline if inflation is to be reduced."

Well, what about the standard of living of the people on the boards of oil companies? Yes indeed we need to conserve, we need to consume less, by all means. But that means all of us, not just the privileged few, excuse me, including the privileged few.

I think of the giant oil corporations that are squeezing us so hard all the time. And who's stopping them?

I think of the big coal companies, many owned by oil companies, who are responsible for mine accidents, mine injuries, polluted streams and terrible life-taking floods. And who's stopping them?

I think of the agri-businesses that rake in the dough and give precious little in wages to the migrants who harvest crops. And who's stopping them?

Until we are strong enough as a nation to look at these concentrations of wealth and power and to make that kind of business the people's business, then we have a long way to go, both ethically and politically.

The sooner we face down the vested interests, the better it will be for plain, ordinary, far too vulnerable Americans. I know my father gave those vested interests a critical look during the 1960's and I hope the rest of us keep our eyes open during the 1980's, lest many of us be picked bone-clean.

Finally, I'd like to leave us with these words of my father spoken in South Africa 13 years ago:

"The future does not belong to those who are content with today, apathetic towards common problems and their fellow man alike, timid and fearful in the face of new ideas and bold projects.

"Rather, it will belong to those who can blend vision, reason and courage in a personal commitment to the ideals and great enterprises of American society."

Thank you.●

TRIBUTE TO PETE GABRIEL

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. WILLIAMS of Ohio. Mr. Speaker, when an area is as hard hit economically as my own Mahoning Valley in Ohio, such an area often assumes an attitude of defeat. Only the spirit and efforts of community residents can prevent that attitude, and that is certainly true of my own community. Among the boosters of the Warren-Youngstown area in Ohio, none is more enthusiastic than Pete Gabriel, a WKBN Youngstown radio personality.

Mr. Gabriel is not only a first-rate disk jockey, but also a man of optimism and energy. An example of his determination was seen last March in Youngstown when Pete decided that what the city needed was a St. Patrick's Day parade. With typical verve he announced that there would be a parade if he had to march in it alone.

The result was one of the biggest parades in Youngstown in years, a parade that rivaled the Bicentennial parade in 1976. It is expected that the parade will be an annual event.

But beyond this specific instance, there is another effect of Pete Gabriel's community spirit. Representatives of several ethnic groups turned out to work for the parade. Communities other than Youngstown sent representatives to participate, one of them a community from western Pennsylvania. Local community leaders got involved. An air of cooperation and civic pride pervaded the celebration. On a sunny March day with temperatures hovering at freezing, one of the largest crowds in a long time cheered the results.

Others in our community, of course, have been area boosters. But I wish to thank Pete Gabriel, the WKBN staff and management, for reaching out to stir up the necessary community awareness and support. From then until now, Pete Gabriel has continued to focus on what is right in our valley, and to remind his listeners of the value of share community endeavors. Such promotion helps us to learn from where we have been, to look realistically at where we are, and better still, to look expectantly to where we are going.●

HOLOCAUST IN CAMBODIA

[From the Boston Globe, Sept. 22, 1979]

quality was terminated by the greatest

HOLOCAUST IN CAMBODIA

HON. ROBERT F. DRINAN
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. DRINAN. Mr. Speaker, I bring to the attention of my colleagues an article written by John Pilger of the Daily Mirror of London, and printed in the Boston Globe on September 22, 1979. Mr. Pilger's vivid description of the terrible killings that have occurred in Cambodia in this decade merits our consideration as we examine the current plight of the Cambodian people.

John Pilger describes Cambodia as once a "gentle and graceful" country that is now little more than a wasteland. At least one third of the population have been brutally slaughtered; cities and towns have been evacuated; lands stripped; and normal standards of fundamental human right have been abandoned. Those who have managed to survive face starvation unless the food and medical aid that is urgently needed is received soon.

I traveled to Indochina last August as part of a delegation of House Members led by our colleague, Congressman ROSENTHAL. As a result of our factfinding mission, the delegation commented on the famine that now plagues Cambadia in its report recommendations. The report concludes:

The United States should seek creation of an internationally sponsored and monitored food relief effort in Cambodia in order to prevent a famine which could trigger a massive exodus of new refugees. Such a relief program should be made available to all needy Cambodians and not through the auspices of any political regime.

The administrative apparatus for this relief effort has now been formed, and through the offices of UNICEF and the International Committee for the Red Cross, aid is now arriving. Oxfam has also been extremely active in mobilizing food for shipment to the deepwater port of Kompong Sum.

The United States and the entire international community must assume responsibility for the famine that confronts Cambodia. Our relief efforts must not be viewed as a political act of support for one regime or another. Starvation in Cambodia is a matter of humanitarian concern that demands a humanitarian response.

It is my hope that the Foreign Affairs Committee and the full House will act expeditiously to approve legislation to authorize a special program of humanitarian assistance for the people of Cambodia, to be carried out by public and private international agencies.

Each day we delay our decision on this matter, the famine situation deteriorates in Cambodia. With nearly 3 million lives at stake, we can hardly afford to wait any longer.

The article on Cambodia which appeared in the Boston Globe follows:

[From the Boston Globe, Sept. 22, 1979]

HOLOCAUST IN CAMBODIA: KHMER ROUGE CARRIED OUT SYSTEMATIC SLAUGHTER OF POPULACE

PENOM PENH, CAMBODIA.—The plane flies low, following the Mekong river west from Vietnam. Once over Cambodia, what we see below us silences everybody on board.

There is nobody, no movement, not even an animal, as if the great population of Asia stopped at the border. Whole towns and villages on the river bank stand empty, the doors of houses flapping open, cars on their sides, mangled bicycles in a heap, chairs and beds in the street.

Next to tangled power lines there is the lone shadow of a child, lying or sitting. It does not move.

The endless landscape of Southeast Asia, the patchwork of rice paddies and fields, is barely discernible; nothing appears to grow except the forest and the tall, wild grass.

On the rim of large towns this grass will follow straight lines, as if planned; it is fertilized, we later see, by human compost, by the remains of tens of thousands of men, women and children who have been killed.

Cambodia, which I remember as the most gentle and graceful land in all of Asia, a land whose peace in a region of unrelenting war was unique, all but vanished from the headlines four and a half years ago; and what has happened here since has no parallel in modern times.

That may sound a sweeping claim, but it is true. Coming here is like happening on something unimaginable; a human catastrophe and crime without a measure. For even Hitler's demonry did not involve the enslavement of the entire population and the systematic slaughter of all those "touched and corrupted by the 20th century."

Nor did Stalin's terror include the banning of all learning, all books, all arts, all music and song, and the abolition of the family and all expressions of joy, love and grief, and the destruction of all machines.

All that has happened in Cambodia.

Out of a world-renowned royal ballet of some 500 dancers, a few dozen survive. Before 1975 there were 550 Cambodia doctors; there are now 48.

The statistics are numbing. Cambodia's population in 1975 was roughly seven million. Today, between a million and a half and three million people are "missing," presumed dead.

As we make our final approach into the deserted airport at Phnom Penh, the capital, there is a pyramid of cars, ambulances and fire engines, and refrigerators, washing machines, hair dryers, generators, typewriters, as if an army of Luddites has tried to sweep them back in time.

After April 17, 1975, anybody who had owned these things, anybody who had lived in a city or town, was under virtual sentence of death. Anybody with education or a modern skill was killed if his or her identity was revealed: doctors, teachers, technicians, skilled workers, even schoolchildren—anybody who knew foreigners.

The images are numbing. An emaciated child walks alone down the center of a main boulevard that once was filled with traffic in a capital city that held two and a half million people; gangs of children scavenge in the garbage. They are mostly orphans, either infants or more than 5 years old; few of those born during the period of terror appear to have survived.

Young adults are equally difficult to find; a generation had gone. Indeed, this is now a nation of mostly children, isolated from the world and facing starvation.

Who did this? How could it happen?

In the spring of 1970, Cambodia's tranquility was terminated by the greatest saturation bombing in history.

This was the secret war launched by Richard Nixon and Secretary of State Henry A. Kissinger in violation of American constitutional law and in defiance of Congress. Pilots were sworn to secrecy and their operational logs were falsified or destroyed. For three years the American public knew nothing about it.

By 1973 the equivalent, in tons of bombs, of five Hiroshimas had fallen on neutral Cambodia.

The military aim was the destruction of a mythical Vietcong base in Cambodia. President Nixon's aim was to show the Vietnamese communists how "tough" he could be: a policy he once described as the "Madman Theory of War."

The Madman Theory of War threw Cambodia into turmoil; the delicate balance of Royalists; Republicans and Communists of varying shades was destroyed and Prince Sihanouk, the peacock, jazz-loving ruler who had preserved this balance, was overthrown by the military.

In the forests, a small group of fanatics, whom the Prince had called the Khmer Rouge and who were inspired by the manic Red Guards of China's "cultural revolution" in the 1960s, intensified their revolution.

The declared 1975 "Year Zero," the beginning of the end of the modern world. The ideological aim of their revolution was to create a "pure" rural society, "classless and glorious," similar to that of the Khmer empire of the 10th century. Because there were so few of them—they represented probably no more than 10 percent of the people—this meant controlling the population by enslaving it and reducing it by half.

Their leaders were at first anonymous, deferring constantly to "The Angkar," or "the organization," whose Orwellian "wisdom" justified everything, including mass bloodletting. But one man, calling himself Pol Pot, emerged at the head.

Little was and is known about him, except that he was one of a group of Cambodians who learned their politics in anarchist circles in Paris in the late 1940s. He claims to have been a Buddhist priest and a teacher; in fact, he came from a wealthy family, and his dreams of a classless society ended with himself; Mao was his hero, and he was to be Cambodia's Mao, an Asian pharaoh.

At 7:30 on the morning of April 17, 1975, the Khmer Rouge entered the capital. At 1 p.m., they ordered the city to be abandoned.

There were to be no exceptions. The hospitals were emptied at gunpoint; doctors were forced to stop in mid-operation. Dying patients were wheeled into the streets in their beds.

The hemorrhage of people lasted two days and two nights. When the Vietnamese army drove into Phnom Penh last January, ending four and a half years of terror, they found the city almost exactly as it had been abandoned on the first day of "Year Zero."

It is a haunting unforgettable sight. In the silent, airless humidity, it is like entering a city without people, as if in the wake of a nuclear war which spared only the buildings.

Houses, flats, office-blocks, the university, schools, hotels are deserted and open, as they were left when more than two million people were marched away at gunpoint, most of them to their death.

Cambodia once was a land teeming with saffron-robed monks. I have not seen one, anyone found at prayer was automatically killed.

Past the evaporated cathedral walk a man and a boy, striding with a rhythm of fear that all the survivors have. The boy is 15 and looks nine, and he is starving.

His father balances a load on his head and

an arm on his son's shoulder. He is blind and terribly scarred with smallpox.

He is a carpenter and his name is Khim Kon. "This boy," he says, patting his son, "Is my only one left. Because we came from the city we were classified 'new people,' and we had to work from 3 in the morning until 11 at night—the children, too. My wife and three other boys are all dead."

"How did you lose your sight?" I ask him. "I was always blind in one eye," he replies. "When my family began to die, I cried, so they took out the other eye with a whip."

My notebook is filled with similar horrific stories, which come directly from simple people who have no reason to lie; I have yet to find a family that has not been decimated.

The barbarism was not always random. It was also highly organized, with its chief aim to reduce the population to less than two million; to a single generation untainted by the old life.

The rules were explicit. People would live in collective farms, in straw-roofed barracks without walls, so that they could be watched all the time. They would be fed according to how "productive" they were, and this usually meant a tin of rice—the size of a small Nescafe tin—twice a week.

Only the camp "controller" could sanction marriage and husband and wife were permitted to meet only once a month.

As the price of extra food and life, young boys were recruited as spies and listened from the rafters for laughter or sorrow. Anybody falling asleep during a midnight "ideological" lecture was denied a week's rations, or killed. Even the word itself—sleep—was banned, from Year Zero there would be only "rest."

Much of the work was mindless. While many fields and paddies fell fallow, forests were cleared for "strategic" reasons. The Khmer Rouge leaders were obsessed with the prospect of a Vietnamese invasion.

In a valley nearby the ancient temples of Angkor Wat in western Cambodia, one of the wonders of the world, there is a ribbon of tall grass that gives way to trenches that have been recently excavated. They are crammed with skeletons, with evidence of terrible head wounds, the hammer being the most common instrument of death. So far, the remains of 9000 people have been found here.

During the past three week: I have seen many sights like this, and at times we have felt like those who, in 1945, came upon Auschwitz.

I visited a school that was renamed the "Tuol Sleng extermination center." Like Auschwitz, it has a fence of double barbed wire. Like the victims of Auschwitz, many of the prisoners were brought by train, 150 to a carriage, and the weak seldom survived.

It was run by a gestapo called "821" which was divided into an "interrogation unit" and a "torture and massacre unit." In the former classrooms, where people were mutilated on iron beds, their blood and tufts of their hair are on the floor: so much of it.

Between December 1975 and June 1977, some 12,000 people died slow deaths here; a fact easy to confirm because the killers, like the Nazis, were pedantic in their sadism. They photographed people before and after they were killed.

They recorded their names, ages, even their height and weight. And, like at Auschwitz, there is a room filled to the ceiling with their clothes and shoes, many of them children's.

When the Vietnamese army discovered this place, they found among the corpses eight survivors, including four children and a month-old baby. Eam Chan was a sculptor and Van Nath was a painter, and they survived because they were put to work making busts and painting heroic pictures of Pol Pot.

That is the news from Cambodia, delayed for 4½ years.

In the words of one of the few relief officials here, "we have just six months to save three million people."

A generation ago, while the civilized world still reeled in disgust at Auschwitz, the United Nations was formed "so that this might never happen again."

It has happened again.●

WATER IMPROVEMENTS FOR CONTRA COSTA COUNTY

HON. GEORGE MILLER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. MILLER of California. Mr. Speaker, I am today introducing legislation to authorize feasibility studies for several critical projects which could provide significant improvement in the water quality for over a quarter of a million residents of Contra Costa County, Calif. In addition, these projects would provide additional storage capacity which could be utilized both for the protection of water quality in the vital Sacramento-San Joaquin Delta and for customers in other portions of California.

The first of these studies would focus on the relocation of the intake of the Contra Costa County Water District's canal. The Contra Costa Water District was the first contractor for water from the Federal Central Valley project. It takes water out of the delta at two points—Mallard Slough, and Rock Slough. It is this latter point which is most heavily utilized during low-flow periods when the water at Mallard Slough is unsuitable for human consumption.

Over the years, however, the vulnerability of even the Rock Slough site has become evident. It had been thought that the site was a secure one in all but dry years, when salt water intrusion from San Francisco Bay jeopardizes this source of water for homes and industries. But recent events illustrate the inadequacy of Rock Slough. Water quality at the Rock Slough intake has been inferior to water district-State water project criteria of 100 milligram per liter chloride every day since late July. The chloride level has been approaching the 250 milligram per liter standard, which is the maximum considered safe for human consumption. Since September 7, that level has been in excess of 200 milligram per liter, which is considered hazardous for certain people. Fears of pollution in addition to chlorides has been growing, too. The relocation of this intake to a more secure location in the vicinity of the Clifton Court Forebay may substantially reduce, or eliminate, the vulnerability of the present intake point. This relocation has been discussed for several years, and the State of California and the Contra Costa Water District have been engaged in discussions recently concerning this possible relocation. The Bureau of Reclamation has been represented in some of these discussions, but Federal participation is limited by the lack of authorization for the preparation of a feasibility study. This bill would authorize that overdue participation.

Over 10 years ago, the Bureau prepared a feasibility study of the proposed Kellogg Reservoir in southeast Contra Costa County. The study recommended construction of the facility in order "to meet water quality standards of the United States Public Health Service for municipal supplies." Despite the favorable review, the Kellogg unit was never authorized for construction, partly because the adoption of high water quality guarantees by the State Water Resources Control Board, in D-1379, appeared to satisfy the concerns of Contra Costa water users. However, the abandonment of those standards last year, with the promulgation of D-1485, once again leaves the Contra Costa users unprotected. It would, therefore, be wise to consider again the potential value of the Kellogg unit for a variety of delta protection and water service functions. This bill would authorize the updating of the 1968 feasibility report.

The last project which would be studied under the terms of this legislation is the proposed 950,000 acre feet Los Vaqueros Reservoir, which would be situated just to the west of the proposed Kellogg unit. The facility was only vaguely considered in the 1968 study under the name of the Los Medanos unit. Since that time, the State of California has also studied the Los Vaqueros site, which could provide valuable water supplies for delta and bay quality control, and for export to other water service customers.

It is understandable that many in the delta and bay areas share my own concern that the relocation of the intake not reduce the commitment of either the State or the Federal Government to assure adequate water quality for the bay and delta. It must be understood, of course, that this legislation authorizes only the study of these projects and not their actual construction. Moreover, my bill would mandate that specific attention be paid during the course of the studies to the potential impacts of each of these projects on delta and bay water quality and that the Secretary of the Interior recommend ways to prevent the deterioration of water quality. If the studies indicate that we would lose the ability to assure essential protection for these areas, then we could not move ahead with the projects, unless those adverse impacts were totally removed. It must be recognized, by both State and Federal water policymakers and legislators, that we cannot approve of any future water projects in California which would jeopardize the essential water quality of the delta and the bay.

It should be noted that the State of California and the Department of the Interior are continuing their work on an agreement for the coordinated operation of the State and Federal water projects. We anticipate not only agreement on this plan, but the enactment of legislation within the next year to reauthorize the Central Valley project to more clearly establish its salinity repulsion and delta

protection responsibilities. Kellogg and Los Vaqueros will provide the CVP with greater capacity for that function, as well as assure Contra Costa County residents sufficient water of good quality for our municipal and industrial needs.

Those knowledgeable about the looming crisis in water supply in the West will acknowledge the need to produce additional supplies while, at the same time, averting serious environmental damages, and excessive subsidized costs which have plagued shortsighted water policy for years. The projects which would be studied as a result of the bill I have introduced today would meet that criteria, assuring an adequate supply of high quality water for municipal and industrial use, as well as supplemental yield for environmental control and irrigation purposes. I am hopeful that these studies will be undertaken expeditiously, and that if they prove as beneficial as we hope, we will move toward project authorization in the near future.

The text of the bill follows:

H.R. —

A bill to authorize the Secretary of the Interior to engage in feasibility studies of certain potential water resource and water quality developments in Contra Costa County, California, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following potential water resource developments:

(a) the relocation of the intake of the Contra Costa County Water District canal from Rock Slough to the vicinity of the Clifton Court Forebay, in Contra Costa County, California; and

(b) the Los Vaqueros Dam, pump-generating plant, and related features at a site approximately eight miles west of the Clifton Court Forebay, in Contra Costa County, California.

SEC. 2. The Secretary of the Interior is authorized to review and revise, as may be necessary, the feasibility study of the Kellogg unit, Central Valley project, Contra Costa County, California.

SEC. 3. In preparing the studies and review authorized in this Act, the Secretary of the Interior shall fully describe all potential beneficial or detrimental impacts resulting from the construction or operation of the projects under study. The Secretary shall further make recommendations to the Congress for assuring that neither the construction nor the operation of any such project results in the deterioration of the water quality and ecology of the Sacramento-San Joaquin Delta or the San Francisco Bay estuarine system.●

NUCLEAR MISHAPS: A HISTORY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mrs. SCHROEDER. Mr. Speaker, as a participant in the public information project on the little-known history of atomic accidents, I am today offering the following excerpt from Leo Goodman's catalog of mishaps involving nuclear materials:

ATOMIC ACCIDENT NO. 17—1951: CONTAMINATION OF LAB LEAKING PO AND BE, AMES, IOWA

A university became involved with a Po 210 radiation source that leaked while being handled in a physics laboratory. The extent of the leak was not fully realized at once, with the result that radioactive contamination was spread within the laboratory and to varying degrees throughout the building. In addition, personnel working in the building carried contamination from the building to their automobiles and homes and, to a minor degree, contaminated other areas they visited. Radiological assistance was requested from the appropriate AEC office, which responded, together with U.S. Public Health Service radiation-protection experts, to monitor the incident and to advise university officials on how to deal with the situation. Assistance was provided until all contamination had been discovered and emergency decontamination of the building and other places in the community had been completed. The exposure of personnel was held to a minimum, and it was determined that the university employee with the highest exposure did not receive an injurious amount of radiation. A policy of prompt reporting of the facts to the local press, and therefore to the community, was followed, and public concern was not aroused. The situation was kept completely under control without any disturbance.

Source: Nuclear Safety, volume 4, No. 1, September 1962, page 85.●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 5507, RELATING TO THE TREATMENT OF RETIREMENT BENEFITS UNDER FEDERAL UNEMPLOYMENT INSURANCE LAW

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. ULLMAN. Mr. Speaker, on October 17, 1979, the Committee on Ways and Means ordered favorably reported to the House H.R. 5507, relating to the treatment of retirement benefits under Federal unemployment insurance law. This bill would require States to reduce a person's unemployment insurance benefits by the amount of certain pensions or retirement payments received by the individual, and also limits the time in which a person can collect extended unemployment compensation benefits.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for the consideration of H.R. 5507 on the floor of the House. The Committee on Ways and Means has specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First. Committee amendments, which would not be subject to amendment;

Second. One hour of general debate, to be equally divided;

Third. Waiving all necessary points of order; and

Fourth. One motion to recommit, with or without instructions.

The committee report is expected to be filed Friday, October 19, 1979, and we will request to be heard before the Committee on Rules as expeditiously as possible.●

S. I. NEWHOUSE CENTER FOR LAW AND JUSTICE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. RODINO. Mr. Speaker, last Wednesday, October 17, I was present at the dedication of a magnificent new educational facility at Rutgers University, the S. I. Newhouse Center for Law and Justice.

There were several reasons for my profound pleasure at participating in the ceremony.

First, Rutgers is my alma mater, and the new center is on its campus in Newark, the location of my home and my congressional district.

The dedication ceremony attracted an impressive group of national and local leaders. Mr. Justice William Brennan of the U.S. Supreme Court was the principal speaker. The gathering of almost 1,000 people also heard from Irving R. Kaufman, chief judge of the Second Circuit Court of Appeals in New York; Rutgers University President Edward J. Bloustein; T. Edward Hollander, chancellor of the New Jersey State Department of Higher Education; Cynthia Neal, president of the Rutgers Law School student body; and Newark Mayor Kenneth Gibson. Senator HARRISON A. WILLIAMS of New Jersey and I were also privileged to speak.

The legal and educational leaders looked to the future in dedication of the new center, and also honored the past life, career, and contributions of the man for whom it is named. S. I. Newhouse, the son of immigrants to America, built an organization of successful, editorially independent newspapers dedicated to service to their communities and to the noblest principles of justice. In my remarks, I emphasized the debt of gratitude of the people of New Jersey to Samuel I. Newhouse and to the Newark Star Ledger, the flagship newspaper of his organization.

The theme which linked the comments of most of the speakers was the relationship of the press and the law. That theme was appropriate in light of Mr. Newhouse's devotion to the constitutional principles of a free press and a just legal system. The eloquent statements of the speakers left me with confidence that regardless of the difficult problems which arise between the first and the sixth amendments to the Constitution, freedom of the press and the principles governing trials in criminal cases will continue to compliment each other to uphold the strength and health of our democratic society.

Mr. Justice Brennan's address on this theme was the valuable high point of the dedication of the S. I. Newhouse Center for Law and Justice. I insert the full text of his thoughtful, brilliant address in the RECORD:

ADDRESS BY WILLIAM J. BRENNAN, JR.

My presence here today at the dedication of the Samuel I. Newhouse Law Center is something of a coming home. I was born in Newark. I grew up and was educated in this City. My father was Director of Public Safety for 13 years during the time Newark was governed by a 5-member City Commission. But I also have particular ties to this building. I practiced law in Newark and the American Insurance Company, of which I was a Director for some years, was one of my firms' clients. So as Director and counsel I spent many hours and days in this building over a good many years. You will appreciate then why there is special meaning for me in its rebirth as the Samuel I. Newhouse Law Center to stand, as the University observes, "as a symbol of the growth and redevelopment of the City, expressing faith and confidence in Newark and its role as an important hub for higher education in New Jersey."

This marvelous Center is made possible by the Samuel I. Newhouse Foundation. We were all deeply distressed by the recent death of Mr. Newhouse. Mr. Newhouse was one of the legendary figures of American Newspapers; he was the founder of the Newhouse chain, the flagship of which is Newark's own *Star Ledger*. It is eminently appropriate that Mr. Newhouse, who did so much to facilitate communication across the tribal barrers that divide our society, should have been instrumental in providing the facilities that will foster similar communication among the various departments of legal education.

Although I am unabashedly local and take a partisan's pride in the Newhouse Law Center, I also see in this institution lessons of a more national scope. The exchange of perspectives, after all, the fruitful commingling of disparate ideas, is a process that is dear to the First Amendment. This Center brings together two institutions which, because of their concern with this process, have the protection of the First Amendment. The Amendment extends a particular solicitude toward the "academic freedom" necessary for the conduct of a University; and the free operation of the press has long been regarded as a bulwark of First Amendment liberties.

The productive cooperation of the press and the academy illustrated by the creation of this Law Center is particularly gratifying because it demonstrates so clearly the awareness of a shared enterprise: without the informed citizenry that is the product of a free press, the University would lack the informed audience necessary to receive and support its research; while without the education and scholarship offered by the University, the press would lack the guidance, the informed perspective, so necessary for the meaningful reporting of events.

I must confess that I view this exemplary cooperation with something approaching envy, for present attitudes of the press toward the Supreme Court strongly suggest the complete absence of an enterprise shared by the press and the Supreme Court. Surely there is reason for that doubt when a respected and influential newspaper labels the Court's work of last Term "a virtual disaster," and others charge that the Court has engaged in a "relentless assault" on the press, that it is "dismantling" the First Amendment. The press, of course, has in the past disagreed with rulings of the Court, but I detect in the present controversy a new and disturbing note of acrimony, almost bitterness. This is a serious and significant development, and worth a few moments reflection.

I begin with the premise that there exists a fundamental and necessary interdependence of the Court and the press. The press needs the Court, if only for the simple reason that the Court is the ultimate guardian of the constitutional rights that support the press. And the Court has a concomitant need for the press, because through the press the Court receives the tacit and accumulated experience of the Nation, and—because the judgments of the Court ought also to instruct and to inspire—the Court needs the medium of the press to fulfill this task.

This partnership of the Court and the press is not unique; it is merely exemplary of the function that the press serves in our society. As money is to the economy, so the press is to our political culture: it is the medium of circulation. It is the currency through which the knowledge of recent events is exchanged; the coin by which *public* discussion may be purchased.

This analogy, of course, cannot be pressed too far. Unlike a medium of circulation, which receives the passive valuation of others, the press is active, shaping and defining the very arena in which events assume their public character. In this the press performs a tripartite role. It chooses which events it will publicize; it disseminates, to a greater or lesser extent, selected information about these events; and it adopts toward these events attitudes which are often instrumental in forming public opinion.

These functions are of manifest importance for the political life of the Nation. A democracy depends upon the existence of a *public* life and culture, and in a country of some 220 millions, this would scarcely be possible without the press. I believe now, and have always believed, that, insofar as the First Amendment shields the wellsprings of our democracy, it also provides protection for the press in the exercise of these functions, for, as I said in an opinion for the Court many years ago: the guarantees of the First Amendment "are not for the benefit of the press so much as for the benefit of all of us. A broadly defined freedom of the press assures the maintenance of our political system and an open society." *Time, Inc.* v. *Hill*, 385 U.S. 374, 389 (1967).

In recent years the press has taken vigorous exception to decisions of the Court circumscribing the protections the First Amendment extends to the press in the exercise of these functions. I have dissented from many of these opinions as hampering, if not shackling the press' performance of its crucial role in helping maintain our open society, and have no intention of standing here today to defend them. And I of course fully support the right and duty of the press to express its dissatisfaction with opinions of the Court with which it disagrees. I am concerned, however, that in the heat of the controversy the press may be misapprehending the fundamental issues at stake, and may consequently fail in its important task of illuminating these issues for the Court and the public.

The violence of the controversy cannot be explained merely by the fact that the Court has ruled adversely to the press' interests. While the argument that the ability of the press to function has suffered grievous and unjustified damage may have merit in some cases, in others the vehemence of the press' reaction has been out of all proportion to the injury suffered. The source of the press' particular bitterness can, I believe, be identified. It stems from the confusion of two distinct models of the role of the press in our society that claim the protection of the First Amendment.

Under one model—which I call the "speech" model—the press requires and is accorded the absolute protection of the First Amendment. In the other model—I call it the "structural" model—the press' interests may conflict with other societal interests and adjustment of the conflict on occasion favors the competing claim.

The "speech" model is familiar. It is as comfortable as a pair of old shoes, and the press, in its present conflict with the Court, most often slips into the language and rhetorical stance with which this model is associated even when only the "structural" model is at issue. According to this traditional "speech" model, the primary purpose of the First Amendment is more or less absolutely to prohibit any interference with freedom of expression. The press is seen as the public spokesman *par excellence*. Indeed, this model sometimes depicts the press as simply a collection of individuals who wish to speak out and broadly disseminate their views. This model draws its considerable power—I emphasize—from the abiding commitment we all feel to the right of self-expression, and, so far as it goes, this model commands the widest consensus. In the past two years, for example, the Court has twice unanimously struck down state statutes which prohibited the press from speaking out on certain subjects, and the Court has firmly rejected judicial attempts to muzzle press publication through prior restraints. The "speech" model thus readily lends itself to the heady rhetoric of absolutism.

The "speech" model, however, has its limitations. It is a mistake to suppose that the First Amendment protects *only* self-expression, only the right to speak out. I believe that the First Amendment in addition fosters the values of democratic self-government. In the words of Professor Zechariah Chafee, "[t]he First Amendment protects . . . a social interest in the attainment of truth, so that the country may not only adopt the wisest course of action but carry it out the wisest way." Free Speech in the United States 33 (1946). The Amendment therefore also forbids the government from interfering with the communicative processes through which we citizens exercise and prepare to exercise our rights of self-government. The individual right to speak out, even millions of such rights aggregated together, will not sufficiently protect these social interests. It is in recognition of this fact that the Court has referred to "the circulation of information to which *the public is entitled* in virtue of the constitutional guarantees." *Grosjean* v. *American Press Co.*, 297 U.S. 233, 250 (1936) (emphasis supplied).

Another way of saying this is that the First Amendment protects the structure of communications necessary for the existence of our democracy. This insight suggests the second model to describe the role of the press in our society. This second model is structural in nature. It focuses on the relationship of the press to the communicative functions required by our democratic beliefs. To the extent the press makes these functions possible, this model requires that it receive the protection of the First Amendment. A good example is the press' role in providing and circulating the information necessary for informed public discussion. To the extent the press, or, for that matter, to the extent that any institution uniquely performs this role, it should receive unique First Amendment protection.

This "structural" model of the press has several important implications. It significantly extends the umbrella of the press' constitutional protections. The press is not only shielded when it speaks out, but when

it performs all the myriad tasks necessary for it to gather and disseminate the news. As you can easily see, the stretch of this protection is theoretically endless. Any imposition of any kind on the press will in some measure affect its ability to perform protected functions. Therefore this model requires a Court to weigh the effects of the imposition against the social interests which are served by the imposition. This inquiry is impersonal, almost sociological in nature. But it does not fit comfortably with the absolutist rhetoric associated with the first model of the press I have discussed. For here, I repeat, the Court must weigh the effects of the imposition inhibiting press access against the social interests served by the imposition.

The decisions that have aroused the sharpest controversy between the Court and the press have been those decisions in which the Court has tried to wrestle with the constitutional implications of this structural model of the press. For example, the reporters in *Branzburg* v. *Hayes*, 408 U.S. 665 (1972), argued that if they were compelled to reveal confidential sources or notes before a Grand Jury, their ability to gather the news would be impaired. The case did not involve any substantive restrictions on press publications. The contention of the press was simply that reporters must be excused from duties imposed on all other citizens because the fulfillment of those duties would impair the press' ability to support the structure of communications protected by the First Amendment. In its decision, the Court acknowledged that First Amendment interests were involved in the process of news gathering, but concluded that these interests were outweighed by society's interest in the enforcement of the criminal law.

Similarly, in *Zurcher* v. *Stanford Daily*, 436 U.S. 547 (1978), a student newspaper contended that its offices could not be searched, as is usually the case, upon the issuance of a valid search warrant, but that a subpoena which would give the newspaper the opportunity to contest the search in advance was necessary. Again, the issue was not any restriction on what the newspaper could actually say, but rather whether special procedures were necessary to protect the press' ability to gather and publish the news. Once again, the Court held that whatever First Amendment interests were implicated were outweighed by society's interest in law enforcement.

Both these cases struck vehement, if not violent, reactions from the press. About *Zurcher*, for example, the President of the American Newspaper Publishers Association stated that the opinion "puts a sledge hammer in the hands of those who would batter the American people's First Amendment rights." 44 Vital Speeches 722 (1978). Unfortunately, the resulting controversy generated more heat than light, and the reason, I think, is that the press, in order to strengthen its rhetorical position, insisted on treating these cases exactly as if they involved only the traditional model of the press as public spokesman. The Washington Star, for example, argued that "it matters all too little whether abridgment takes the obvious forms of suppression and censorship, or the casual rummaging of a newspaper office on a search warrant." 6/3/78, p. A-8.

Of course, as I have been trying to make clear, it matters a great deal whether the press is abridged because restrictions are imposed on what it may say, or whether the press is abridged because its ability to gather the news or otherwise perform communicative functions necessary for a democracy is impaired. The two different situations stem from two distinct constitutional models of the press in our society, and require two distinct forms of analysis. The strong, absolutist rhetoric appropriate to the first model is only obfuscatory with respect to the second. The tendency of the press to confuse these two models has, in my opinion, been at the root of much of the recent acrimony in press-Court relations. The press has reacted as if its role as a public spokesman were being restricted, and, as a consequence, it has on occasion over-reacted.

Perhaps the clearest example is the recent case of *Herbert* v. *Lando*. The *Herbert* case was a lineal descendent of the decision of *New York Times Co.* v. *Sullivan*, 375 U. S. 254 (1964). *Sullivan* held that a public official could not successfully sue a media defendant for libel unless he could demonstrate that the alleged defamatory publication was issued with "actual malice," that is with knowing or reckless disregard of the truth. Subsequent decisions extended this holding to public figures, like Colonel Herbert, and made clear that actual malice turned on the media defendant's "subjective awareness of probable falsity." *Gertz* v. *Robert Welch, Inc.*, 418 U. S. 232, 334 n. 6 (1974). The theory of *Sullivan* was that if the media were liable for large damage judgments for the publication of false defamatory information, the resulting inhibitions might undermine the robust public discussion so essential to a democracy. If a journalist knew that he was publishing defamatory falsehood, however, the First Amendment would offer him no protection.

The *Herbert* case raised the question whether a public-figure plaintiff could in discovery ask a defendant journalist about his state of mind when publishing the alleged defamatory falsehood. Now it is clear that a journalist's state of mind is relevant to his "subjective awareness of probable falsity," and thus to the issue of actual malice. And traditionally a plaintiff is entitled to discovery on all relevant issues. Privileges are rare and strictly construed. Nevertheless, the press argued that it could not perform its functions under the First Amendment unless special "editorial" privilege were created to shield it from such inquiries.

The Court rejected this argument, and the result was a virtually unprecedented outpouring of scathing criticism. See Marquis Childs, The CBS Case: Reasons for Resentment, Washington Post, 5-1-79, A-19. The decision was labeled "judicial Agnewism," Washington Star, 4-20-79, p. A-10, and a "legal nightmare," The Birmingham News, 4-19-79, p. 12. One paper said that the decision was an example of the Court following "its anti-press course into what can only be called an Orwellian domain," The Miami Herald, 4-20-79, p. 6-A, while the managing editor of the St. Louis Post-Dispatch stated that the opinion "has the potential of totally inhibiting the press to a degree seldom seen outside a dictatorial or fascist country." The Birmingham News, 4-19-79, p. 10.

I dissented in part in *Herbert*, but I can say with some degree of confidence that the decision deserved a more considered response on the part of the press than it received. The injury done the press was simply not of the magnitude to justify the resulting firestorm of acrimonious criticism. In its rush to cudgel the Court, the press acted as if the decision imposed restrictions on what the press could say, as though the actual malice standard of *Sullivan* were overruled. In fact two newspapers actually erroneously characterized the opinion as holding that truth would no longer be an absolute defense to libel suits, The Times-Picayune (New Orleans), 4-20-79, § 1, p. 16; The Birmingham News, 4-19-79, p. 12, while several others appeared to read the opinion as reverting to the old common-law definition of "malice" as ill will. See Tom Wicker, A Chilling Court, N.Y. Times, 4-20-79, P. A-31; The Star Ledger, 4-20-79, p. 26; The Atlanta Constitution, 4-19-79, 4-A; The Oregonian, 4-19-79, B-6. Putting aside, however, such unfortunate examples of inaccurate reporting, the deepest source of the press' outrage was I think well captured by William Leonard, president of CBS news. Mr. Leonard said that *Herbert* denied constitutional protection to "the journalist's most precious possession—his mind, his thoughts and his editorial judgment." N.Y. Times 4-19-79, p. B-11.

I understand and sympathize with Mr. Leonard's concern. Being asked about one's state of mind can be a demeaning and unpleasant experience. Nevertheless, the inquiry into a defendant's state of mind, into his intent, is one of the most common procedures in the law. Almost all crimes require that some element of the defendant's intent be established, as do all intentional torts, such as trespass, assault, or conversion. State of mind can also be relevant to questions of fraud, mistake, and recklessness. And, in the area of libel, it would scarcely be fair to say that a plaintiff can only recover if he establishes intentional falsehood and at the same time to say that he cannot inquire into a defendant's intentions.

But in its outrage against the *Herbert* decision, the press unfortunately misapprehended the role model of the press involved. To it the decision was simply a "George Orwellian invasion of the mind," Los Angeles Times, 4-19-79, § I, p. 16, which meant, as Jack Landau, director of the Reporters Committee for Freedom of the Press put it, that "the press will soon have lost the last constitutional shred of its editorial privacy and independence from the government." The Times-Picayune, 4-20-79, § I, p. 18. The true role model involved can be ignored, however, only on the assumption that a journalist's state of mind is somehow special, and cannot be impinged for any purpose. It is important to note that this assumption gathers its rhetorical basis from the model of the press as public spokesman. For when a citizen speaks publically he *is* special, and, with only rare and stringent exceptions, what he says cannot be restricted for any purpose. But, as I have made clear, this is not the model of the press at issue in *Herbert*. The decision does not affect the actual malice standard set out in *Sullivan*. Instead the question raised by *Herbert* is whether the press' ability to perform the communicative functions required by our democratic society would be significantly impaired if an editorial privilege were not created.

Note that this is a difficult and factual question, and one that cannot be illuminated by sharp or sensational rhetoric. In my view reporters will not cease to publish because they are later asked about their state of mind. On the other hand, predecisional communications among editors may well be curtailed if they may later be used as evidence in libel suits. Since a democracy requires an informed and accurate press, and since predecisional editorial communications contribute to informed and accurate editorial judgments, I would have held that such communications should receive a qualified privilege. I say a *qualified* privilege because even the executive privilege bestowed upon the President of the United States so that he may receive the informed and unimpeded advice of his aides, is, as the case of *United States* v. *Nixon*, 418 U.S. 683 (1974), makes clear, a qualified privilege.

A majority of my colleagues rejected my position because it believed that the accuracy of resulting publications would not be impaired if predecisional editorial communications were revealed. This is a matter of judgment, about which reasonable men may differ. It is also, at least in form, an empirical question, upon which the lessons of later experience may be persuasively brought to bear. If the press wishes to play a part in this process, it must carefully distinguish the

basis on which its constitutional claim is based, and it must tailor its arguments and its rhetoric accordingly. This may involve a certain loss of innocence, a certain recognition that the press, like other institutions, must accommodate a variety of important social interests. But the sad complexity of our society makes this inevitable, and there is no alternative but a shrill and impotent isolation.

These are hard words, but there is much at stake, not the least of which is the ability of the press to resume its sure voice as a reliable conscience of this Nation. Last Term there were decisions of the Supreme Court justifying far more concern than *Herbert* v. *Lando* and about which the press was uniquely qualified to speak. Yet the credibility of the press was impaired by the excesses of its reactions to *Lando*. An example is the case of *Gannett Co., Inc.* v. *DePasquale*, in which the Court, in a 5-4 vote, held that members of the public had no constitutional right under the Sixth and Fourteenth Amendments to attend pretrial hearings in a criminal case.

Gannett involves the Sixth rather than the First Amendment and so does not fit into either of the two models I have sketched out. The case concerns the right of the public, not merely of the press, and at its heart is interpretation of the kind of government we have set for ourselves in our Constitution. The question is whether that government will be visible to the people, who are its authors. *Gannett* holds that judges, as officers of that government, may in certain circumstances remove themselves from public view and perhaps also holds that they can make this decision without even considering the interests of the people. I believe that the Framers did not conceive such a government, and that they had in mind the truth precisely captured several generations later by Lord Acton: "Everything secret degenerates, even the administration of justice."

Any damage by the Court's decision in *Gannett* can of course be undone through legislative enactments, should a concerned citizenry so demand. The clear voice of the press, however, is an essential part of any such enterprise, especially about a subject that bears so closely on press' business. The press did, I am happy to note, intelligently and searchingly criticize the *Gannett* decision. It was distinctly noted that the decision was "much more than another controversial 'press case,'" but was in fact "a decision about the relationship of the public to the judicial process." N.Y. Times, 7-4-79, p. A-8. The point I wish to stress however, is that the impact of the press' quite correct reaction was undercut by the unjustified violence of its previous responses to *Herbert* v. *Lando* and other such cases involving the structural model of the press. This fact was cogently noted by Anthony Lewis in his column in the New York Times:

"The press . . . should forswear absolutes. The reiterated claim of recent years that its freedom has no limits has done the press no good. If the press began recognizing that these are difficult issues involving more than one interest, it could more effectively criticize the facile simplicities of a Gannett decision." 7-5-79.

I think Mr. Lewis is correct. And I say this with some urgency, for the integrity of the press must be preserved, not only for cases like *Gannett*, where the press puts forward the claims of the public, but even for cases like *Zurcher*, where the press puts forward its own structural claims. For the application of the First Amendment is far from certain in the as yet uncharted domains foreshadowed by the structural model of the press. The Court needs help in scouting these dim areas in which the shield of the Amendment is put forward not to guard the personal right to speak, but to protect social functions of impersonal dimensions. The press can and must assist the Court in mustering proper legal conclusions from the accumulated experience of the Nation. But the press can be of assistance only if bitterness does not cloud its vision, nor self-righteousness its judgment.

The dedication of the Samuel I. Newhouse Law Center, however, is an occasion for hope. The Center stands as a symbol of conciliation between the press and the law. It gives one reason to trust that the shared enterprise of the press and the Court will once again resume, even if it is to be expressed through the traditional form of healthy and productive disagreement.●

KEEP FTC REGULATION OF THE FUNERAL INDUSTRY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. BARNES. Mr. Speaker, the Washington Post in an editorial this morning criticized an amendment which will be offered to the Federal Trade Commission Improvements Act of 1979 (H.R. 2313) to end regulation of the funeral industry. This amendment is an anticonsumer measure and has no place in the bill. It should be resoundingly defeated.

I submit the editorial for the information of my colleagues and urge them to carefully examine this issue before we vote. The editorial follows:

THE FUNERAL INDUSTRY'S SLEEPER

Some enterprising members of Congress joined with the funeral industry last week to arrange a package deal. Their offer, accepted by the House Rules Committee, is to give new life to the Federal Trade Commission while ending its authority to regulate the funeral business. As part of an agreement to move the FTC bill, the committee members cleared it under a rule permitting only three amendments—the worst of which would specifically exempt the funeral industry from FTC regulation. The funeral amendment is not only bad special-interest legislation, but a poor approach to any general curbing of the FTC's regulatory powers as well.

The bill already contains another unfortunate provision designed to clip the commission's wings. It would allow either house to overturn any industrywide trade rule that the FTC adopts. In the past, the Senate opposed this one-house veto. It should do so again. But House members as well should resist this new attempt by the funeral industry to gain special insulation against regulation.

To support deregulation of certain industries, or to oppose certain unnecessary intrusions by the FTC—and we have done both—is different from voting to exempt the funeral business from scrutiny of its practices. The rule of thumb should be to deregulate in those areas where the buying public can reasonably be expected to be knowledgeable.

But that has not been the demonstrated case in this industry. A funeral is, for most people, their third most expensive consumer purchase (after home and car), yet half the population has had to arrange for a funeral only once, and a quarter of the population has never had to buy one. The public needs protection against misrepresentations and other shoddy merchandising practices. The degree of regulation is subject to debate—but an absolute ban on any regulation is bad business indeed.●

WATER REUSE PROJECT UNDERWAY IN DENVER

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mrs. SCHROEDER. Mr. Speaker, I would like to share an article from the October 21 Denver Post, "Denver's Alchemy: Sewage to Usable Water," with my colleagues. The article discusses a promising experiment now underway in Denver—an experiment which may ultimately supply 100 million gallons of water per day for Denver from recycled sewage.

I have been actively involved in furthering the project for the past few years and am glad that it is finally getting off the drawing board. The reuse of sewage effluent holds great promise for providing ample water not only for the arid West, but also for such places as Nassau County, N.Y.; Sarasota, Fla.; and Virginia Beach, Va.

The article follows:

DENVER'S ALCHEMY: SEWAGE TO USABLE WATER

(By J. Sebastian Sinisi)

One hundred million more gallons of water per day for Denver from recycled sewage?

Entirely possible—but not in the near future.

With the Denver Water Department, professors Daniel Linstedt and Edwin Bennet at the Colorado University Civil Engineering Department in Boulder have worked on precisely such a project since 1970.

The program's goal is to deliver potable water of at least the quality that now flows from any tap in Denver. After more than eight years of development, the project now is past the pilot-plant demonstration stage.

Now that lawn-watering restrictions are lifted for 1979, not until next June—when circle-square-diamond days again appear on the calendar—will we be reminded graphically of water's scarcity in the area.

Compared with Colorado's 14 inches' annual rainfall, the state of Georgia gets an average 49 inches—which may be related to official Washington's apparent attitude toward water in the West.

This notwithstanding federal financing has accounted for about a third of the $21.6 million funding for the experimental water re-use research project quietly conducted by the Denver Water Department.

The project plant is scheduled to be built on a 23-acre site near the Denver municipal waste-water treatment facility at E. 58th Avenue and York Street, near Interstate 270. According to Denver Water Board engineers Stephen Work and Michael Rothberg, it represents the first planned effort in the nation to increase the drinking water supply by re-using waste-water effluent. Three other such plants now exist world-wide—two of them in South Africa.

According to Work, federal funding for this project represents the largest single Environmental Protection Agency grant ever extended for a program of this type.

Coordinated through the Civil Engineering Department at CU, the program recycles the water in sewage effluent. According to Lindstedt, the demonstration project is now "very close" to being capable of expanding to a 100

million gallon-per day operation—using technology availab.e now. This would mean a 20 percent increase over the Denver Water Department's present 500 million gallon-per day water treatment capacity.

Neither total takes into account an initial 125 mgd (million gallons daily) expected from the Foothills Complex treatment plant—which may be expanded, in 125 mgd stages, to a full capacity of 500 mgd.

Don't, however, count on watering your lawn whenever you like next summer. Or in 1981 or the year after that.

Welcome as an added 100 mgd would be for water-pinched Denver, the reality could take 15 years or more for full implementation—despite the fact that the necessary technology is here, now.

Most of the lag will be the result of medical-effects tests that will take years to assess.

Long-term projection or not, few observers close to the water situation in the region doubt that Denver will need the added capacity as we approach the year 2000. A 1975 study done by the Denver Water Board for the Denver Council of Governments projects around metropolitan Denver shortly after 2000—with a corresponding need for a third more water.

By 2000, the Water Board estimates it will be supplying water to 1,150,000 customers—or 50 percent of an estimated metro-Denver population of 2.3 million. The department now serves about 900,000, or 60 percent of the area's 1975 population of 1.5 million.

Metro Denver now uses an average of close to 200 million gallons of water daily—though, on a peak day last August, consumption hit a record 474 million gallons. Without the every-third-day watering restrictions, the board maintains, demand that day would have been 529 million gallons—or nearly 6 percent greater than the current maximum capacity.

Against this backdrop of present and future needs, Linstedt and Bennet, in Boulder, have been developing the water re-use program, with the Water Board, since 1970. "Cooperative agreement" funding from the EPA and forerunner agencies helped, too.

There is nothing astoundingly new about the technology involved. Most of it has been available at least 15 years. The innovative aspect is in how the various components are put together.

In any case, a good number of foreign countries and U.S. communities with present or projected water-shortage concerns—Orange County, California, and Nassau County, New York, among them—are watching developments in the program with more than casual interest.

Other communities that have been in touch with the Water Board concerning this project range from Dallas to Sarasota, Fla., to Virginia Beach, Va.

The technical processes involved—carbon adsorption, lime precipitation and reverse osmosis—sound formidable, but really aren't. They are linked in a flow process designed to remove three major categories of contaminants in municipal-collection waste water (also known as sewage), with a goal of producing high-quality drinking water that is very low in mineral content.

Thus, with technology that has been used for nearly 15 years by the Public Utilities District in South Lake Tahoe, California, organic contaminants are removed by carbon adsorption, which involves charcoal filters. Reverse osmosis comes into play at this stage, as well. Here, water passes through an extremely fine membrane of cellulose acetate, leaving contaminants behind.

"The pore sizes we're dealing with there are so small," explains Bennet, "that they can filter a single molecule. It's more complex than a simple sieve. Actually, it's a barrier that water is forced through."

Next, inorganic material is attacked. With a lime-precipitation stage that removes salts. By now, the water is free of suspended solids, salts and organic material. It now is ready for an ion-exchange process that is very similar to what happens when water softeners are added in hard-water regions of the country.

In ion-exchange, ammonia is removed in a process that exchanges ordinary table salt for ammonia.

The microorganisms, viruses and bacteria that make up the third major contaminant category are then dealt with through use of ozone and chlorine dioxide. The latter represents a new technical application said to avoid some of the problems associated with use of chlorine alone as a disinfectant.

At one point, the project had more modest goals and only aimed at supplying water of industrial-use quality. A Water Board marketing study of industrial users, however, found the demand not as great as expected. Moreover, industrial facilities were too dispersed to make the project worthwhile on an industrial-water basis alone. So, about five years ago, the project's focus shifted to supplying drinking quality water.

"This project will do nothing for Denver's short-term water supply," noted Work. "Right now, its purpose is to demonstrate that this technology can be used consistently and reliably." Even so, with many U.S. communities—facing future water depletion—thinking about some form of water recycling, the program's implications are enormous. The implications are, in fact, far reaching enough to have drawn the interest of foreign countries like Japan, Israel, Poland, Australia, Arab nations and the U.S.S.R., according to the Water Board Reclamation Engineer Mike Rothberg.

Work and Rothberg are both products of CU's engineering department.

Initial design work for the 100 mgd plant now is complete, Rothberg said. Building it should take two years, followed by six months of "fine-tuning" testing. Health research will take several more years—creating a total project length—from the design stage to the end of EPA "cooperative contract"—of eight years.

Meanwhile, the Denver water re-use program will continue moving quietly along, as it has for nearly a decade. With many interested parties watching.●

DR. HENRY R. SHEAR RECEIVES THE DISTINGUISHED ALUMNUS AWARD

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. DANIELSON. Mr. Speaker, Dr. Henry R. Shear of Los Angeles, a distinguished practitioner who brings great credit to the medical profession, has received the Distinguished Alumnus Award from the Chicago Medical School Alumni Association. He is highly deserving of this honor because of the many ways in which he has contributed to his profession, aided students in our medical schools, advanced education in the health sciences and for the many other contributions he has made over the years to help alleviate human suffering.

Henry Shear, in his capacity as an orthopedic surgeon practicing his profession in the Los Angeles area, has worked extensively in the area of spinal injuries and has invented several devices designed to aid paraplegics.

I have been proud to call him my friend for many years. He is a veteran of World War II, having served as a surgeon with our U.S. forces in Europe. Following the war, he spent 5 years in a similar capacity with the Veterans' Administration.

Dr. Shear, who is eminently deserving of this Distinguished Alumnus Award, has been the recipient of many honors received in the past, testifying to his compassion and great medical skills. Included among them is the "Honor for Service Award" from the southern California chapter of the Chicago Medical School Alumni Association, and the award made to him from the University of Missouri for his studies and report on "Histological Diagnosis of Spinal Lesions."

Mr. Speaker and my colleagues in the House, it is with great pleasure that I bring to your attention this most recent honor accorded Dr. Henry Shear, an outstanding medical doctor who has never forgotten the true meaning of the Hippocratic Oath. I know that you all join me in saluting Henry Shear for this well-deserved award, and in wishing him success in all his future endeavors.●

THE COST OF GASOLINE DECONTROL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. DINGELL. Mr. Speaker, 2 weeks ago the House approved an amendment for the decontrol of gasoline. This amendment has the potential to cost the consumers of the United States billions of dollars. I urge my colleagues to reconsider their vote and to reject the amendment.

Although there is disagreement over the amount of the immediate increase in gasoline prices which would result from decontrol, the growing disparity between spot and contract prices for gasoline indicates that there is a tight market in gasoline. If we remove price controls from gasoline, the price of gasoline could immediately increase to spot market price levels. This would increase gasoline prices by 15 to 20 cents per gallon. The price increases would raise the rate of inflation by 1.5 percent to 2 percent.

Regardless of the immediate effect, the more important effect is the increased vulnerability of the domestic economy to future shortages. With reports of production decreases in various OPEC countries, future shortages are a distinct possibility. Many analysts believe that the short-term elasticity of demand for gasoline is approximately 0.1 (For a compendium of estimates see: Kraft, J. and Rodekohr, M., "Regional Demand for Gasoline: A Temporal Cross-Section Specification", Journal of Regional Science. Vol. 18, No. 1, 1978, p. 53.) This means that as little as a 5-percent shortfall in gasoline would increase the price of gasoline by 50 percent over the first year. With the current price of gasoline a $1 gallon, the price would rise by 50 cents per gallon. As a result the oil industry would increase its annual revenue by $50 billion. The rate of inflation would increase by 5 percent and real growth would decline by 2 percent. The staggering magnitude of the effect on the economy for such a small shortfall in gasoline illustrates the unacceptability of the decontrol of gasoline.

I trust my colleagues will join with me and reject the amendment to decontrol gasoline.●

BROOKE ARMY MEDICAL CENTER

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. GONZALEZ. Mr. Speaker, on September 27, during the debate on the Department of Defense appropriations bill, an amendment was accepted by the House, which I strongly supported, to add funds to restore the graduate medical education programs of the Army.

One of the facilities that would have been affected if the funds had not been restored is Brooke Army Medical Center in San Antonio. During debate on this amendment, I pointed out the importance of this center and I am inserting in the RECORD a recent newsclipping that details the fine service that they are offering our military personnel.

I thought this article would be of particular interest to those Members who voted to support the amendment.

The article follows:

MARINES FROM JAPAN REACH SAN ANTONIO FOR BURN TREATMENT

SAN ANTONIO.—Two U.S. Air Force hospital planes landed here Sunday with 38 Marines burned in a freak fire at their base in Japan last Friday.

However, Lance Cpl. Thomas J. Breunig of St. Paul, Minn., died of his burns en route, the Air Force announced.

The Marines were to undergo treatment at the Institute of Surgical Research, better known as the Brooke Army Medical Center.

The first C-141 Starlifter carried 17 of the injured. Six were evacuated via helicopter to Brooke six miles away; the others were taken on ambulance buses, all but one on stretchers. Their conditions ranged from satisfactory to critical. The 21 aboard the second plane landed about an hour later.

Brooke officials said this is the largest number of patients to be admitted at one time since the Vietnam war.

The flights from Yokota Air Base in Japan lasted just longer than 12½ hours and came through Elmendorf AFB in Alaska and Travis AFB in California.

Seventeen "very serious" and 21 "serious to very serious" cases were aboard the jets. Two could not be taken because they were "to critical" to be moved, a military spokesman said, and two already had died from burns.

In all, 73 Marines and three Japanese suffered burns when winds and rains from Typhoon Tip damaged a 5,000-gallon rubber fuel container, and gasoline poured out, burst into flames and sent a river of fire through a Marine barracks area at the Mount Fuji base, 90 miles southwest of Tokyo.

Lance Cpl. L. C. Malveaux of Beaumont was identified as one of the two Marines who died, but the military declined to identify the other.

Thirty-one of the burned Marines were treated and released, as were two Japanese. A Japanese woman employee of the camp remained hospitalized.

Burn teams from the Texas medical center arrived Saturday to treat and prepare movement of the injured from the hospital at the U.S. Air Force Base at Yokota.

Authorities said the wind and rain collapsed an earthen retaining wall and caused the storage contained to spill its contents down a slope into the barracks area at the base, a joint U.S.-Japanese training center.

A senior officer said the gasoline was ignited by a kerosene stove and streamed through the aged metal-and-wood Quonset huts.

Some Marines escaped through the doors and windows, but others were trapped in the flaming building.

The Marines all were enlisted men and members of a "battalion landing team" based at Okinawa, and were on a training exercise in the camp at the foot of 12,000-foot Mount Fuji, an extinct volcano sacred to the Japanese.

About 1,200 Marines, including personnel permanently assigned there, were at the camp when the typhoon passed through Friday. Nationwide, it was the most damaging storm of its kind in 13 years, Japanese news agencies said, and caused at least 28 deaths.

U.S. authorities flew in medical teams from Okinawa, Clark Air Force Base in the Philippines and the San Antonio medical center, known for pioneering research in the treatment of burn cases.●

POPE JOHN PAUL II'S REMARKABLE VISIT

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. BAUMAN. Mr. Speaker, Pope John Paul II's tour of the United States was special in more senses than just the historic. It was the first such extended visit to the United States by a pontiff, and he captured the hearts and imaginations of Americans as few leaders have in recent memory.

His message and his person were met by both the people and the media with unaccustomed warmth. His appeal springs in part from his own obvious love of humanity, and it was gratifying to see how Americans took him into their hearts.

Most of all, though, this dynamic Pope touched us all with a special, genuine sense of ancient truths and ancient faith. This above all was the reminder of conscience that John Paul II brought so endearingly to America, and that we embraced.

I include two editorials from weekly newspapers in Marylands First Congressional District, each of which touches upon this very special leader's meaning for Americans in communities across these United States. I commend the editors, Hurtt Deringer, of the Kent County News, and Clark Samuel, of the Cecil Democrat, for their views.

The articles follow:

THE ANCIENT TRUTHS

Pope John Paul II.

In an age without giants and in a time when mass media (television) plays for the lowest common denominator and transmits its message into the broad base of the social cone, the Pope swept through with the majesty and greatness of a giant.

Churchill, DeGaulle, Eisenhower, MacArthur, Gandhi, Nehru, Adenauer—the giants of World War II and the post-War era—have been laid to rest. We have been without giants.

The visit renewed the Christians' faith that the moral teachings of the church are our strength in the era of popular culture, materialism and the consumer society.

The Pope is an anachronism by today's progressive standards. He stands as an individual and yet also as an egalitarean, pluralist, humanist.

During his visit here he came down on the side of the traditionalist and on the solid side of the old truths. Although he was conservative in religious thought, he brought a message to all—conservative, progressive and liberal.

Many Americans were confused by his message, but that "is probably because America is the first man-made nation in the world."

David Thomson has written in America in the Dark: Hollywood and the Gift of Unreality, " . . . it is an invented place where imagined ideals were invoked as a structure for reality.

"It is the product of artifice, not nature . . .

"Whether one regards America now as Eden or a Poisonville, it is still a country concocted from man's imagination."

The late Walter Lippmann probably described why Americans were so drawn to the Pope then somewhat confused by his message.

Lippmann wrote:

"The modern man is an emigrant in a revolutionary society and inherits a protestant tradition. He must be guided by his conscience. But when he searches his conscience, he finds no fixed point outside of it by which he can take his bearings. He does not really believe that there is such a point, because he himself has moved about too fast to fix any point long enough in his mind. For the sense of authority is not established by argument. It is acquired by deep familiarity and indurated association. The ancient authorities were blended with the ancient landmarks, with field and vineyards and patriarchal trees, with ancient houses and chests full of heirlooms, with churchyards near at hand and their ancestral graves, with old men who remembered wise sayings they had heard from wise old men. In that kind of setting it is natural to believe that the great truths are known and the big questions settled, and to feel that the dead themselves are still alive and are watching over the ancient faith."

Pope John Paul II exuded that ancient faith.

For a moment the noise of television was diminished and the media worked as it should—as a mirror for high culture.

Meanwhile, the true capital of the nation was returned to Washington, D.C., not Las Vegas, or Hollywood, or L.A.—the Meccas of popular culture and mass entertainment.

It was an elevated and a hallowed time—and Americans were better for it.

VISIT OF THE POPE

Crime, politics and recession were relegated to the back pages last week as American newspapers and other media devoted its best efforts to reporting and commenting upon the visit to our shores by Pope John Paul II.

Wherever he traveled—New York, Philadelphia, Des Moines, Chicago, Washington—this unusually gifted modern man, chosen by his

peers to lead the multitudes embracing the

accounts for about 1 percentage point of the

inflation for almost 15 years, the American

peers to lead the multitudes embracing the Catholic faith, inspired millions of other faiths as he proclaimed the truths that should govern the daily existence of every living soul.

Efforts of the O'Hair woman to halt the ceremonies on the Mall in Washington were dismissed by a judge who saw the speciousness of an effort to deny the right of free speech to a visiting head of state who is also the spiritual leader of a mighty church, to address a multitude of Americans standing on their very own property.

We wonder where the O'Hair woman was with her stupid objections when the Rev. Martin Luther King used the very same forum in our nation's capital to plead for peace, equality and love for one another—the same message of Pope John Paul in the very same place?

In these dangerous times when we hardly know which way to turn, the reassuring presence and the words of a truly holy man come as a call for courage to face the uncertainties and dangers that must lie ahead for us all.

America welcomes the Pope with open arms and his love for humanity transcended other sects and religious forms . . . The Pope did not preach Catholicism to the millions in America who saw or heard him. His message was a simple one—brotherly love. God knows how the world yearns for that elusive element of grace and happiness.●

INFLATION ANSWERS KNOWN; THEY LIE WITHIN OURSELVES

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. McCLORY. Mr. Speaker, while President Carter and other members of his administration continue to recognize inflation as the No. 1 public issue, they consistently ignore the policies which are essential to adopt if the battle against inflation is to be won.

In a timely and thoughtful editorial which appeared in the Sunday Courier News, a Copley newspaper in Elgin, Ill., in my congressional district, the problem of inflation is carefully analyzed and the answers to the problem are succinctly set forth.

Mr. Speaker, I am attaching this editorial with the hope that the President and his advisors will take careful note of it and that we may move speedily toward adoption of those policies and programs which can lead us back to a sound economy and to a stable dollar:

INFLATION ANSWERS KNOWN; THEY LIE WITHIN OURSELVES

Previously, in his State of the Union addresses, President Carter has voiced his support of sound economic doctrine and correctly called for restraints in government spending as the best strategy to combat inflation.

But the president's handle on inflation seems now to be as unsteady as the dollar. During his Washington press conference the other day, Mr. Carter said a major factor in the soaring inflation rate is the rising cost of energy, which he said is beyond his control because the price of imported oil is set by OPEC.

President Carter knows better than this. He's begging the issue. He knows as well as Nobel Laureate Milton Friedman that energy accounts for about 1 percentage point of the current inflation rate. And he knows that, whereas the United States still produces about 50 percent of its petroleum needs, Germany and Japan, which must import practically all of their oil, have kept their inflation rates at less than half of ours by sound fiscal management.

Indeed, the Arab oil producers and some U.S. economists argue persuasively that much of OPEC's price increase is dictated by the continuing devaluation of the dollar through inflation generated entirely by Washington's profligate policies.

And if it were true, as Mr. Carter says, that increasing OPEC prices have accounted for a major and uncontrollable portion of the inflation rate, what purpose would be served by the drastic medicine that the Federal Reserve Board has prescribed for the feverish economy?

A 1.4-percent inflation-rate jump last month—a red hot 16.8-percent annual rate—and gyrating gold prices, a sure thermometer of the dollar's ills, finally prompted the Fed to decree unanimously an increase to a record 12 percent from 11 percent in the discount rate on loans to member banks. Even more significant, the Fed increased the reserve cash required for member banks, which will have the therapeutic effect of soaking up some of the surplus dollars that federal deficits and expanded money supply have turned loose.

The results have been dramatic: New York banks increased their prime lending rate to 14.5 percent, the highest in history, and, in response, the New York stock market dived 27 points on Tuesday for the worst drop since the 1974 recession.

There were some affirmative developments as expected: The dollar rose and otherwise stabilized on foreign exchanges. Moreover, the general perception and expectation of inflation that Mr. Carter referred to in his news conference seems to have been dampened.

The top domestic issue now is whether the Fed, the Congress, and the Carter administration have the stomach to ride out the recession that the new tighter money policy invites. Two developments officials and politicians have feared more than rising prices have been falling prices and rising unemployment.

Controlling inflation has become the top domestic issue because inflation, by insidious and destructive degree, has become the worst, and in fact the most dangerous, domestic problem this country now faces. It exceeds even our energy challenge, the solution of which will depend in large part on how inflation is managed.

The President and all of us should be grateful that the answer to our inflation threat lies with ourselves and not OPEC. And, fortunately, there is no mystery about what we must do. The nation's leading economists generally agree that:

We must hold the federal budget in balance. But this will not itself suffice unless we reduce government spending in relation to our gross national product.

We must increase our productivity growth, which has declined this year and in the last decade has been one of the lowest among the industrialized nations. If we increase the supply of goods and services in favorable ratio to the dollars that chase them, we can enjoy price stability again.

We must change the tax laws to permit U.S. industry, now increasingly obsolete, to modernize and become competitive on world markets.

We must lift the burden of questionable government regulations from the backs of business and individuals.

We must encourage mass savings and capital accumulation by exempting invested savings and interest from income taxes.

Having suffered the ravages of unchecked inflation for almost 15 years, the American people would accept and even welcome a stringent antidote such as that prescribed. Then and then only will government printing presses cease covering overdrafts on the U.S. Treasury that debase the currency and devour the nation's economy as well as its spirit.●

ANTI-AMERICAN SANDINISTAS SEEN IN THE CUBAN MOLD

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. BAUMAN. Mr. Speaker, it seems that our worst fears about the fledgling revolutionary government in Nicaragua are being confirmed daily. The question of the Sandinistas' ties with Cuba and their decidedly pro-Communist stance is no longer an academic one: They have translated it into a gagged press, rigged elections, and terrorists in ranking positions.

In spite of hearty evidence of this anti-American posture at the time, this Congress insisted on giving $8.5 million to this newborn Communist country that defines its goal as true socialism. I am afraid that we have ample precedent for the movement of Nicaragua's Government, and very close at hand, too. Cuba and Fidel Castro are the pronounced models for these Sandinistas.

I include at this point two cogent articles on the Sandinista government's anti-American alinement, as written by the syndicated columnist John D. Lofton, Jr.:

THE SANDINISTAS: PRO-COMMUNIST, ANTI-AMERICAN TERRORISTS (PART I)

(By John D. Lofton, Jr.)

WASHINGTON, D.C.—Testifying earlier this month in support of a proposal to give $8.5 million worth of relief and rehabilitation aid to the new government of Nicaragua, Deputy Secretary of State Warren Christopher told the House Subcommittee on Foreign Operations that this government's orientation has been "generally moderate and pluralistic," that its leadership is "very diverse," and the situation in Nicaragua "remains fluid." While it's true that Sandinista guerrilla leaders do wield "significant influence" in Nicaragua, says Christopher, "lines of authority within the government are still unclear and there is still considerable administrative confusion."

Well, now: There is indeed a lack of clarity and considerable confusion regarding what's going on in Nicaragua. But it is in the highest echelons of our government, not in the government of Nicaragua.

Item: The Sandinista guerrillas are clearly in charge of the government of Nicaragua and are "definitely running the show," according to what I am told on background by a spokesman for the assistant secretary of state for inter-American affairs. In fact, Lambert Heyniger, public affairs advisor for the State Department's Office for Combatting Terrorism, tells me: "There is no question in our minds that the Sandinistas, in their earlier period, did carry out terrorist activities."

One of the terrorist activities to which Heyniger is alluding occurred in August of last year when 25 armed Sandinistas, disguised as National Guardsmen, took over the Nicaraguan National Palace and held hostage almost the entire legislative assembly, as well as some 1,500 ordinary citizens. When I ask if the Sandinistas are still considered to be terrorists. Heyniger ducks this question, saying that, since they now constitute the government of Nicaragua, this is a political question and must be answered by the State Department's geographic bureau—the Office of Inter-American Affairs. So I ask. Well, says my anonymous spokesman friend, the Sandinistas are a "rebel or outlaw force," but he resists calling them terrorists.

Item: The Sandinistas themselves are not reticent about their involvement in terrorism. In an interview last month with the Kuwaiti news service Al-Watan, Sandinsita representative Jorge Mandi was asked about his group's relations with the Palestinian revolution. He replied:

"There is a longstanding blood unity between us and the Palestinians. Many of the units belonging to the Sandinista movement were at Palestinian revolution bases in Jordan. In the early '70s. Nicaraguan and Palestinian blood was spilled together in Amman and in other places during the Black September battles. As an example of our cooperation with the Palestinian revolution, a number of our comrades took part in the operation to divert four planes which the Popular Front for the Liberation of Palestine seized and landed at a desert airfield in Jordan. One of our comrades was also wounded in another hijack operation in which Layla Khalid was involved. She was in command of the operation and our comrades helped her carry it out."

In this latter incident, a TWA flight and a Swissair flight were hijacked to an abandoned RAF station in Jordan, a Pan Am flight was hijacked to Cairo and blown up. Khalid and Sandinista member Patrick Arguello attempted to capture an El Al flight as it took off from Heathrow Airport in London. Arguello was killed by security guards and Khalid was captured and turned over to the British, who released her to gain release of hostages held in Jordan.

Writing from Buenos Aires in mid-August, Los Angeles Times reporter David Belnap reports that Mario Firmenich, leader of Argentina's terrorist-guerrilla organization, the Montoneros, has turned up in Managua, Nicaragua, where he announced that his group "had given financial and medical help" to the Sandinistas to the tune of half a million dollars. Belnap says this money came from a long series of terorist holdups, extortions and kidnappings that, over the past six years, netted the Montoneros an estimated $100 million.

Item: Speaking earlier this month to the so-called non-aligned summit conference in Cuba, Sandinista leader Daniel Ortega Saavedra spelled out his organization's foreign policy in detail, and it is anything but moderate. It is blatantly anti-American and pro-communist. He praised Castro, denounced Zionism as racism, called the "liberation process" in Grenada, Iran and Kampuches (Cambodia) "beautiful victories," demanded U.S. withdrawal from the Guantanamo base in Cuba and an end to the "criminal" U.S. blockade of Cuba, hailed the terrorists seeking to overthrow the government of Zimbabwe-Rhodesia, and supported the removal of all American troops from South Korea. Saavedra also identified himself with the "heroic struggle of the Vietnamese people," condemned the Israeli occupation of Arab lands, and urged that the PLO be recognized as the legitimate representative of the Palestinian people.

There's more, much more, information on the record about the Sandinistas since they seized power in Nicaragua two months ago. Stay tuned. I'll tell you about it in my next and final column in this series on the Sandinistas.

NICARAGUA'S SANDINISTAS: MORE LIKE FIDEL EVERY DAY (PART II)

(By John D. Lofton, Jr.)

WASHINGTON, D.C.—Our government, in the form of Deputy Secretary of State Warren Christopher, says that the new Sandinista guerrilla-terrorist-run government in Nicaragua has been "generally moderate and pluralistic" and the situation there "remains fluid." But there are ominous signs that the new leaders in Nicaragua are moving the country in the direction of a one-party state, a la Cuba under Fidel Castro

Item: In an interview with an East German news service last month, Dr. Sergio Ramires, a member of Nicaragua's ruling junta, said that one of the most important results in the revolutionary progress so far is the speedy reorganization of administration. "Even in the most remote villages there have been set up Sandinist Defense Committees which substantially influence the democratization of the country through the participation of popular power in local and national decisions," said Ramires.

A report by the Cuban news agency Prela quotes Commander Victor Tirando Lopez, a member of the Sandinist National Liberation Front's Joint National Directorate, as saying that, to defend the revolution, organizations like the Sandinist Defense Committee "will reach all the masses, and will be created in every street, block, district municipality, department and at the national level."

Now, what is alarming is that this organization process is exactly like the one that followed Fidel Castro's takeover in Cuba. From their beginnings in September 1960, the "chief purpose" of the Cuban Committees for the Defense of the Revolution was "repression," and they provided "a way to organize and mobilize support and increase the government's powers of coercion," according to Jorge Dominguez, Harvard assistant professor of government, in his book "Cuba: Order and Revolution."

Indeed, in Nicaragua there are people who are worried about the similarities between what happened in Cuba and what's happening now in Nicaragua. Writing from Managua, the capital of Nicaragua, for The Washington Post, reporter Charles Krause quotes the previously mentioned Lopez as saying that the Sandinist Defense Committees would serve as the "eyes and ears of the revolution." Noting that this remark sent shivers through the upper classes and deeply troubled some diplomatic observers because this sounds suspiciously like the kind of groups organized by Castro in Cuba. Krause quotes a non-Sandinista member of the ruling junta as saying that these committees "should not have a police or surveillance role as such."

Yet, Krause points out, an operating manual distributed to the defense committees specifically calls for the organization of just such subgroups to report "enemies of the revolution." A section of the manual called "surveillance and security" instructs committee leaders to form subcommittees because "each of us . . . must observe suspicious elements in the neighborhoods, find out where they hide arms, where elements of the Somoza militia meet, and, above all, communicate this (preferably in writing) to the neighborhood command."

A Nicaraguan business leader is quoted as saying about the defense committees: "It is their potential that worries us. The structure is there for identifying and watching anyone who disagrees with the Sandinista front, even if that person played a prominent role in fighting against Somoza." One Sandinista veteran, who is second in command at a defense committee in one neighborhood, told Post reporter Krause: "We are in the first phase of the revolution now, a phase which is necessary. But our goal is true socialism," which he defined as similar to the systems in Cuba and the Soviet Union.

Item: Although the ruling Sandinistas have paid lip-service to democracy and vowed to hold elections three or four years, they have denounced a rival party, the Sandinist Social Democratic Party. An official Sandinista statement has blasted the PSDS, noting that "there is only one organization that has maintained and defended the precious legacy of our people at the expense of its own blood: the FSLN"—the ruling Sandinistas, the National Joint Directorate of the Sandinist Liberation Front. One of the things the PSDS had proposed was "a true democracy with free, just and honest elections so that the people, after this transition government, can determine at the polls the system they prefer." The ruling Sandinistas statement sharply criticizes the PSDS for its "attempt to tarnish the political and military image of Sandinism."

Item: Finally, the Sandinistas say they have restored press freedom in Nicaragua. But this is not so. No newspapers or broadcast outlets linked to Somoza have been allowed to resume operation. And a section of the Sandinista press law says the news media must "take precautions to defend the gains of the revolution." Violators of this law can be charged by the government of "any citizen who feels offended."

In April 1977, the Carter administration cut off economic and military aid to Somoza "until it becomes clear" that the human rights situation has improved. Now, however, the administration is recommending that the United States give $8.5 million worth of relief and rehabilitation aid to the new Nicaraguan government, even though the human rights situation there is terrible. This is a double standard.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 23, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 24

8:00 a.m.

Agriculture, Nutrition, and Forestry

Rural Development Subcommittee

To hold oversight hearings to review the implementation of rural transportation programs and how they affect the quality of life in rural and small urban areas in America.

324 Russell Building

Energy and Natural Resources
Business meeting, to resume consideration of S. 9, 222, and H.R. 39, bills designating certain public lands in the State of Alaska for protection of their resource values under permanent Federal ownership and management.
3110 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordination program in weather modification within the Department of Commerce.
235 Russell Building

Conferees
On H.R. 4387, making appropriations for fiscal year ending September 30, 1980, for Agriculture, Rural Development, and Related Agencies programs.
H-140 Capitol

*Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

*Select on Small Business
To hold hearings to examine the Small Business Administration and the Farmers Home Administration loans and loan guarantees to industrialized cattle, hog, poultry, and dairy operations.
6226 Dirksen Building

10:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold a closed business meeting to discuss and consider pending calendar business.
212 Russell Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
Business meeting, to reconsider the energy related assistance to low-income persons provisions of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Foreign Relations
Business meeting, to continue markup of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.)
4221 Dirksen Building

Select on Indian Affairs
Business meeting, to mark up S. 668, to allow the Cow Creek Band of the Umpqua Indians of Oregon to file a claim with the U.S. Court of Claims for alleged failure of the United States to fulfill treaty obligations; H.J. Res. 199, to correct a land description as contained in P.L. 95-498; providing that certain public lands be held by the United States in trust for the Santa Ana Pueblo Indians; S. 1682, to authorize a 99-year lease of restricted land owned by Indians in Chelan County, Wash.; and S. 916, to improve and expand the educational opportunities available to native Hawaiians.
5110 Dirksen Building

10:30 a.m.
*Labor and Human Resources
To continue oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training, and educational programs.
4232 Dirksen Building

2:00 p.m.
Environment and Public Works
Water Resources Subcommittee
To continue consideration of S. 730, to provide for the study, advance engineering and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the U.S. and trust territories.
4200 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

OCTOBER 25

8:00 a.m.
Energy and Natural Resources
Business meeting, to continue consideration of S. 9, 222, and H.R. 39, bills designating certain public lands in the State of Alaska for protection of their resource values under permanent Federal ownership and management.
3110 Dirksen Building

8:30 a.m.
*Veterans' Affairs
To hold joint oversight hearings with the House Committee on Veterans' Affairs on admission policies to Veterans' Administration's medical care facilities.
345 Cannon Building

9:00 a.m.
Commerce, Science, and Transportation
Business meeting, to mark up S. 1648, authorizing funds through fiscal year 1985 for airport development aid programs under the Airport Airway Act.
235 Russell Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold oversight hearings on the activities of the Drug Enforcement Administration, Department of Justice.
1318 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on S. 1383, 1439, and 1689, bills to establish on an emergency basis uniform weight and length limits for trucks using the National System of Interstate and Defense Highways to help conserve currently limited supplies of diesel fuel.
4200 Dirksen Building

*Finance
Business meeting, to consider H.R. 3464 and 3236, bills to remove certain work disincentives for the disabled recipients of supplemental security income benefits.
2221 Dirksen Building

Foreign Relations
Business meeting, to continue markup of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
To hold oversight hearings on recent organizational changes within the Department of Energy.
3302 Dirksen Building

Judiciary
To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

Joint Economic
To hold hearings to explore the economic efficiencies of the small business sector.
210 Cannon Building

10:30 a.m.
Appropriations
Business meeting, to markup H.R. 4440, making appropriations for fiscal year 1980 for the Department of Transportation, and H.R. 5350, making appropriations for fiscal year 1980 for the Department of Defense.
S-128, Capitol

*Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 1215, to establish a uniform Federal policy for the management and utilization of Government-sponsored inventions in order to encourage private industry participation in Federal research and development programs.
318 Russell Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2226 Dirksen Building

2:30 p.m.
*Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

OCTOBER 26

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.
235 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

*Finance
To continue consideration of H.R. 3464 and 3236, bills to remove certain work disincentives for the disabled recipients of supplemental security income benefits.
2221 Dirksen Building

Foreign Relations
To hold hearings on proposals for the reform of the United Nations.
4221 Dirksen Building

Joint Economic
To resume hearings on the Consumer Price Index figures and inflationary trends.
Room to be announced.

OCTOBER 29

8:00 a.m.
*Veterans' Affairs
To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.
5110 Dirksen Building

9:30 a.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To hold hearings on S. 1335 and 1336, bills to establish a program of financial assistance to improve the energy efficiency of residential heating systems.
3110 Dirksen Building

10:00 a.m.
Governmental Affairs
Civil Service and General Services Subcommittee
To resume hearings on the use of consultant services by the Federal Government.
1318 Dirksen Building

Select on Indian Affairs
To hold hearings on the nomination of William E. Hallett, of Colorado, to be Commissioner of Indian Affairs.
1202 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Joint Economic
To hold hearings in observance of the 50th anniversary of the beginning of the Great Depression of 1929, focusing on the causes and effects of depression.
318 Russell Building

OCTOBER 30

10:00 a.m.
*Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
6226 Dirksen Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry, on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
6226 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

OCTOBER 31

9:30 a.m.
Commerce, Science, and Transportation
To hold joint oversight hearings with the Select Committee on Small Business and the House Committees on Small Business and Science and Technology to review proposed techniques in the field of industrial development.
1202 Dirksen Building

Select on Small Business
To hold joint oversight hearings with the Committee on Commerce, Science, and Transportation and the House Committee on Science and Technology to review proposed techniques in the field of industrial development.
1202 Dirksen Building

Select on Small Business
To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessibility of information released by such services.
424 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Rules and Administration
To hold hearings on S. 392 and 597, bills to assure access for the elderly and handicapped to polling and registration locations for Federal elections; and other legislative and administrative business.
301 Russell Building

Joint Economic
To resume hearings on the economic impact of racial discrimination on minority communities.
210 Cannon Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 246, 1488, and 1846, bills to allow taxpayers to exclude interest income earned from a savings account from gross income; S. 1638, to permit owners of new businesses to write off their initial expenditures; S. 1703, to provide a tax exclusion from personal income earned abroad from charitable services; S. 541, to provide that the election to use the alternate valuation date may be made on an estate tax return that is filed late; S. 999, to exempt taxpayers who file late tax payments from interest penalties; S. 555, to permit the owners of independent local newspapers to make tax deductible contributions to trusts established for the eventual payment of estate tax; and S. 1543, to defer current Federal income tax on dividends reinvested in original issue stock of a company.
2221 Dirksen Building

NOVEMBER 1

9:30 a.m.
Select on Small Business
To continue hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessibility of information released by such services.
424 Russell Building

NOVEMBER 2

9:30 a.m.
Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

NOVEMBER 6

9:00 a.m.
Agriculture, Nutrition and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To hold oversight hearings to examine the current operations of the Farmers Home Administration, focusing on recent problems relating to the outstanding debt to the agency and personnel problems associated with loan supervisions and counseling; also to examine the implementation of the guaranteed agricultural loan programs and the economic disaster loan program; and to review the installation of a management information system at the agency.
324 Russell Building

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To resume hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
3302 Dirksen Building

Select on Small Business
To resume hearings to examine the economic outlook for the small business.
424 Russell Building

NOVEMBER 7

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
1318 Dirksen Building

Labor and Human Resources
To hold hearings on S. 1089, to revise the reporting and recordkeeping requirements under the Employee Retirement Income Security Act (ERISA) and to enforce the IRS Code requirement with respect to pension plans.
4232 Dirksen Building

NOVEMBER 14

9:30 a.m.
*Commerce, Science, and Transportation
To resume oversight hearings to review proposed techniques in the field of industrial development.
235 Russell Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights; the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

NOVEMBER 15

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

Government Affairs
Intergovernmental Relations Subcommittee
To resume oversight hearings to examine the scope of the general revenue sharing policy.
3302 Dirksen Building

NOVEMBER 16

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Eliminaston of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th

Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

NOVEMBER 20

9:30 a.m.

•Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.
5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee

To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of the U.S. maritime policy.
235 Russell Building

CANCELLATIONS

OCTOBER 22

9:30 a.m.

Judiciary
Constitution

Business meeting, to consider S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.
155 Russell Building

SENATE—*Tuesday, October 23, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 1:30 p.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Reverend Dr. George D. Kelsey, professor emeritus, Drew University Theological School, Madison, N.J., offered the following prayer:

Let us pray.

O God, Thou who art the source of all truth and goodness, and the giver of all wisdom; as we take up the tasks and responsibilities of this day, clarify our minds and purify our hearts so that the freedom which we seek may be Thy freedom, the justice which we seek may be Thy justice, and the peace which we seek may be Thy peace.

We thank Thee that Thou dost give life through love and the common bond of the family. From the very beginning of our lives, Thou dost teach us that we are made for each other, and that life is a continuous expression of dependence, mutuality, love, and communication.

Protect us from harm within us and without us; from the evil that is in ourselves; and from the evil in the world around us.

Keep us constantly close to Thee and under Thy guidance that we may grow from day to day in humility, patience, self denial, justice, courage, the spirit of wisdom and understanding, and the spirit of knowledge and goodness. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 23, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to reserve the remainder of my time for the moment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

MS. EVELYN JOHNSON

Mr. BAKER. Mr. President, today the Federal Aviation Administration is honoring Ms. Evelyn Johnson of Morristown, Tenn., who has been selected as the Flight Instructor of the Year in a nationwide competition sponsored by more than 30 general aviation companies and organizations in cooperation with the FAA. I have been fortunate to have known "Ms. Evelyn" for many years, and it is with many pleasant memories that I recall her having given me the check ride for my private pilot's license.

Ms. Evelyn, a former schoolteacher with degrees from both Tennessee Wesleyan College and the University of Tennessee, learned to fly in the early 1940's and became a full-time flight instructor in 1947. In over 30 years, she has logged more than 35,000 total flight hours and has trained more than 3,000 pilots—actually, she says she stopped counting her students several years ago. Among her other certificates and ratings, she holds an airline transport pilot's license; was the 20th woman licensed to fly helicopters; and only the 4th to receive a helicopter instructor's rating.

Ms. Johnson is an outstanding citizen not just for her own expertise but for her civic and professional involvement, as well. She has been active in promoting aviation safety, serving on the FAA's Women's Advisory Committee on Aviation from 1973 to 1976; as a counselor in the agency's accident prevention program; and holds the rank of lieutenant colonel in the Civil Air Patrol. In 1958, she received the Carnegie Medal for pulling a pilot out of a crashed and burning helicopter—that pilot is now an FAA test pilot. Her many other honors include election to the board of directors of the National Association of Flight Instructors, the first and only woman to hold such a post; offices and activities in the Ninety-Nines and Whirly Girls; and Flight Instructor of the Year for the State of Tennessee in 1973.

I wish to pay personal tribute to this outstanding lady for her innumerable accomplishments and contributions to literally thousands of individuals, both directly and indirectly. We all owe her a debt for her unselfish efforts toward and dedication to better aviation safety; and I am both proud and honored to congratulate Evelyn Johnson as she accepts this much deserved award—Flight Instructor of the Year.

Mr. President, I have no further need for my time under the standing order and I have no requests for time. So I am prepared to yield it back.

Mr. ROBERT C. BYRD. Mr. President, before I yield back my time, does the Senator from Massachusetts need any additional time than the 10 minutes which are his under the order?

Mr. TSONGAS. No.

• This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. ROBERT C. BYRD. Then I yield back my time.

Mr. BAKER. I yield my time back.

RECOGNITION OF SENATOR TSONGAS

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Massachusetts.

NOBEL LAUREATES

Mr. TSONGAS. Mr. President, in a series of recent announcements, the Royal Academy of Sciences in Stockholm has revealed the names of the distinguished scientists and humanists to receive the coveted Nobel Prize. I was delighted to learn that four of the seven Nobel laureates in the sciences are Americans, and that three of those seven live and work in Massachusetts. That fact is testimony to the excellence of the Commonwealth's institutions of higher learning.

Sheldon Glashow and Steven Weinberg, physicists at Harvard University are corecipients of the Nobel Prize in physics, and physicist Allan MacLeod Cormack of Tufts University is corecipient of the Nobel Prize in physiology and medicine. As Senator from Massachusetts, I applaud Professors Glashow, Weinberg, and Cormack for their extraordinary contributions to the sciences and for greatly increasing our knowledge of the nature of man and the universe.

Mr. President, I ask unanimous consent that the profiles of these outstanding men that recently appeared in the Boston Globe be printed in the RECORD.

There being no objection, the profiles were ordered to be printed in the RECORD, as follows:

SHELDON GLASHOW: HE GOES FOR JUGULAR

(By Robert Cooke)

As a physicist, Sheldon Glashow is known for being able to skip the details and go to the heart of the matter—to go for the jugular.

"Shelly was originally more casual, more fun, and when he would think about physics he wouldn't get himself immersed in the details," an acquaintance said.

Glashow, 46, a physicist at Harvard University, was named a corecipient of the 1979 Nobel Prize in Physics today by the Royal Academy of Sciences in Stockholm.

Corecipients of the $193,000 prize are Harvard's Prof. Steven Weinberg and Pakastani scientist Prof. Abdus Salam.

In the citation issued by the Swedish academy, the three prize winners were said to have provided an important step forward in the search for an underlying, fundamental unity in the four forces that seem to be at play in the universe. Since their ideas were formulated, experiments on huge atomic accelerators have seemed to be confirming what they predicted step by step.

"Glashow likes to try to think about the basic ideas and not worry so much whether the figures are right to the last decimal point," a friend at MIT said. "But to call him casual would perhaps be misleading. He is concerned with the ideas, and he wouldn't let himself get distracted; he was always concentrating on the jugular."

Another MIT professor, mathematician Daniel J. Kleitman, commented that "I've known both of them (Glashow and Weinberg) since about 1960. I was their classmate at Cornell University. Then Shelly and I went to Harvard while Steve went off to Princeton." (Weinberg later returned to Harvard.)

Kleitman said he and Glashow went on to study for a year at the famous Nils Bohr Institute in Copenhagen, Denmark, after finishing their Ph.D. degrees at Harvard.

Glashow said at a news conference at Harvard's science center today that he began his theoretical work that led to the Nobel Prize when he was in Copenhagen in 1961.

He, as well as Weinberg, said that the basic goal has been "to try and understand nature."

After returning from Europe, Glashow was hired as a research fellow at the California Institute of Technology. He later moved north to Stanford University, and then became an associate professor of physics at the University of California, Berkeley. Glashow joined the Harvard faculty in 1966 and became professor of physics in 1967.

"Shelly has a wonderful sense of humor," Kleitman's wife, Karen, added. "His mind is not bound by any boundaries. He's a real free thinker. He comes up with wonderful stuff, and all the deep stuff makes him laugh."

Mrs. Kleitman is Glashow's sister-in-law.

Despite this seemingly frivolous sense of humor, and a reputation for being something of a practical joker, Glashow is also seen as a very deep, very complicated person who is in love with life.

In addition to physics, he's interested in music—playing the flute—and likes good wines, good cigars, and elegant foods. He and his wife, Joan, travel frequently, especially when Glashow attends special physics symposia in places such as Colorado, Switzerland and Italy.

Glashow, a native of New York City, lives with his wife, Joan, in Brookline with their four children, Jason, 12; Jordan, 10; Brian, 5, and Rebecca, 4.

Asked what he might do with his share of the prize money, Glashow said that for starters he'll consider having his Brookline house painted.

STEVEN WEINBERG: TWO OFFICERS, TWO INTERESTS

(By Robert Cooke)

Friends say Steven Weinberg is serious even when he laughs.

"Steve is very intense, he exudes a very serious aspect. He tends to project an intellectual attitude even when he laughs," a former colleague at MIT said.

Weinberg, 46, Harvard University's Higgins Professor of Physics, maintains two offices in Cambridge, one on the main campus, the other at the Harvard-Smithsonian Center for Astrophysics.

These dual offices testify to his dual interests in physics: the science of the very small—sub-atomic particles—and the science of the very large, the universe itself.

Because of these interests and because of seminal work done toward understanding the basic forces of nature—Weinberg was named a corecipient today of the 1979 Nobel Prize in Physics. Also named recipients of the $193,000 prize were Harvard's Prof. Sheldon Glashow, who has been a life-long acquaintance and schoolmate of Weinberg's, and Prof. Abdus Salam, a Pakistani who works in London and Trieste.

"Steve has been very, very serious about physics from way back," the friend said. When Weinberg came up with his Nobel Prize-winning theory in the late 1960s, he is recalled as saying "this is the first thing I've ever done that I think is a major contribution."

Weinberg, at a news conference held in Harvard's science center after the prize was announced, quipped that "winning a Nobel Prize is a great way to start the week."

His wife, Louise, added that the money from the prize will be spent on "luxuries such as food, shelter, etc."

Other friends and colleagues commented that Weinberg has made many important contributions to physics, and has written important books dealing with physics. One recent book, The First Three Minutes, was written for interested laymen, sold well and has been translated into many different languages. The book is a theoretical description of what happened in the first three minutes after the Big Bang, the cataclysm in which the universe was born.

Weinberg, like Glashow, is a graduate of the Bronx High School of Science in New York. He and Glashow both went on to Cornell University, in Ithaca, N.Y., to study physics, graduating in the class of 1954.

After Cornell, however, Weinberg went off to do graduate work at Princeton University. He taught at Columbia University, then at MIT and joined the Harvard faculty in 1973.

Weinberg lives in Cambridge with his wife, Louise, and daughter, Elizabeth. His wife, a lawyer, is a faculty member at Suffolk University, teaching law.

"MODEST, PLEASANT" BUT HE WINS NOBEL

(By Robert Cooke)

Allan MacLeod Cormack—named winner of a Nobel Prize today for his work in computer-assisted X-ray techniques—is known among colleagues and friends at Tufts University and Harvard University as:

One tough teacher, a no-nonsense professor who demands and expects top performance from his students.

A man with a sense of humor, who cracks jokes of his own and is ready to laugh at the jokes of others.

A modest man who rarely mentions the importance of his work to colleagues.

A man with wide-ranging interests that include music, history, archeology and sailing.

Cormack, 55, today was named along with Godfrey Newbold Hounsfield, 60, an English physicist, as co-winner of this year's Nobel Prize in physiology and medicine.

Cormack and Hounsfield were recognized for their work in the field of tomography, a new X-ray technique that makes it easier to visualize parts of the body for diagnosis.

Cormack's colleagues at Tufts and Harvard were elated when asked about the award this morning.

Said Robert Guertin, a physicist: "It's a damn nice thing; terrific!"

Guertin added that Cormack "is an incredibly pleasant guy, one of the most modest individuals I know. For example, I was almost totally unaware of this work (which won the Nobel Prize) for years. He never even brought the subject up as being anything of significance. Only indirectly was I able to learn that it's pretty important stuff."

Cormack, a native of Johannesburg, South Africa, now lives with his wife, Barbara, in Winchester. They have three children: Margaret, 27, Jean, 23, and Robert, 15. Jean is a senior at Tufts University.

The son of an engineer, Cormack earned degrees in physics at the University of Cape Town, South Africa, and at Cambridge University in England.

Cormack has never been known as one of the leading researchers in physics. Instead, he has tended to look for "weak points in the fabric of experimental physics" and try to plug the gaps, said Andreas M. Koehler of Harvard.

Another Tufts physicist, Jack Schnepp, said Cormack "has pretty much been (a loner). He doesn't strike me as a person who's driven. He never talks very much about his work in medical physics." On that he

certainly has worked mostly alone. He's a rather calm fellow. He isn't someone who is in the lab from morning till midnight thinking about his work all the time."

A physicist who trained under Cormack as a graduate student at Tufts, Robert Schneider, recalled that his professor "has a very great respect for accuracy and precision. He is good at the statistical evaluation of data."

"I was working with him in the area of nuclear physics—which is his main interest," Schneider said, "but he was still interested in the project for which he was awarded the Nobel Prize."

Schneider, who now works with Harvard's 160-million-volt cyclotron as a research associate, noted that he once helped Cormack with an experiment that dealt with his prize-winning work.

"I didn't know at the time what it was for. It was just an experiment we ran one night, and to me it was just a job."

HOPE FOR PEACE IN ZIMBABWE

Mr. TSONGAS. Mr. President, I think it is appropriate that the Senate recognize the encouraging progress made last week at the Rhodesia Constitutional Conference in London. After 38 days of difficult negotiations, the three parties at the conference have agreed on a new constitution. Although major obstacles remain, the conferees have engineered a major breakthrough. The hopes for peace are brighter than ever before.

Peace, Mr. President, is what the people of Zimbabwe-Rhodesia desperately need and deserve. The war has raged now for over 5 years, with each year bringing ever more devastating destruction and loss of life. Casualties now run as high as 100 human beings per day. This is indeed a brutal war. The longer it continues, the more deeply the seeds of hate are sown.

For all of us who seek a swift settlement and an end to the war, the London conference holds out hope and now encouragement. The conferees still must face the arduous task of agreeing on transitional arrangements. No one expects an easy resolution on such issues as control over the military, the composition of the transitional authority, or the disposition of guerrilla forces and the Rhodesian Army. But one major bridge has been crossed. All agree on the constitution—with no reservations. There is momentum. There is hope.

Not so long ago, I am sad to note, this distinguished body, the Senate, gave up hope for a negotiated settlement. This Chamber was the scene of impatience, pessimism, and flawed judgment. Earlier this year the Senate voted twice to lift economic sanctions against Rhodesia. I can still hear the echoes of the speeches now, "The hour is late!" came the warning. "Act now!" they intoned. The appeal was clear and the course direct—"The United States must take sides in Rhodesia-Zimbabwe!"

There were others, including myself, who called for patience and restraint. We said that the internal settlement regime of Bishop Muzorewa was built on shaky ground. The Constitution, we said, was a deeply flamed document preserving minority rule. No lasting settlement could be erected on such a weak foundation. U.S. support for that regime would prolong the conflict and provoke outside intervention. It was imperative, we advised, to stay clear of unnecessary entanglements.

We lost. The Senate distinguished itself by being the only legislative body in the world to vote for an immediate lifting of economic sanctions. The House, the so-called lower body, vigorously opposed us. The British did not follow us. Our European allies ignored us. The world knew what we failed to understand—support for minority rule in Southern Africa is a one-way ticket to disaster. The only intelligent course for the West is to stay out of the conflict and work toward a negotiated all parties solution.

We rejected that advice, and in light of the recent developments in London. I think that most of us should be a bit red faced today. Back in June, we short-changed the hopes for peace. We acted in haste. The Senate rushed headlong past those who were working for a negotiated settlement. Today we stand corrected and, I think, wiser from our experience. We will not act impulsively again on the sanctions issue. We will measure the implications carefully.

Mr. President, we have not seen the last of this issue. The Senate will have opportunities to reexamine the question of economic sanctions against Rhodesia. It is my fervent hope that the next opportunity will follow the successful conclusion of the London conference. After all the conferees agree on the transition arrangements, I will be among the first to urge that the United States join with the international community in the removal of economic sanctions.

Before that moment arrives, the Senate must exercise caution and use cool judgment. There may be attempts to subvert the work of peace. There may be calls for a quick fix. They must be resisted.

Let us remember what is at stake in southern Africa. The combatants are poised on the brink of a much wider war. The South Africans have announced they may intervene in Rhodesia. Black African States are interested in defending the neighboring States of Zambia and Mozambique from Rhodesian raids. The Soviets are in the wings, hoping that the United States will upset the African balance and make the way clear for major Soviet involvement.

This is a delicate situation. The flash point flickers dangerously near.

Our first responsibility is to douse the sparks and work for peace. The Senate has a role to play. It is not a dramatic role. It is not a central role. We must simply stand aside and give peace a chance.

Mr. President, I ask unanimous consent that the article on the London conference in Friday's Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GUERRILLAS AGREE TO RHODESIA PLAN OFFERED BY BRITAIN

(By Jay Ross)

LONDON, October 18.—The Patriotic Front guerrillas today withdrew their objections to a British-proposed constitution for an independent Zimbabwe-Rhodesia, giving the six-week-old settlement conference its first substantial negotiating success.

Guerrilla leaders Robert Mugabe and Joshua Nkomo told British Foreign Secretary Lord Carrington that there was no need for further discussion of the consittution if the conference, which also includes the rival Salisbury government, could agree on transitional arrangements leading to independence.

Since their reservations to the constitution have been dropped, the conference can move to tripartite discussions of the more difficult problems of working out interim arrangements leading to legal independence.

Britain started separate talks Tuesday on the transition with Zimbabwe-Rhodesian Prime Minister Abel Muzorewa, who has accepted the constitution. It was a move that threatened a breakdown of the conference, which is regarded as the last reasonable chance to settle the 14-year-old dispute peacefully.

Both sides were at pains not to claim that the other had given in to reach an agreement on a formula to solve the key remaining constitutional issue—compensation for expropriation of white-owned land.

There appeared to be elements of "give" on both sides, although perhaps more from the guerrillas.

Mugabe and Nkomo told Carrington in a 15-minute meeting that "there will not be need to revert to discussion on the constitution" if they are satisfied with the transitional arrangements that are worked out.

Thus, they gave Carrington the key word he had wanted—"will." Previously, they had been willing only to say that it "may" not be necessary to reopen constitutional talks, and that had not been enough for the foreign minister.

Carrington, however, also gave some ground as the Front did not specifically say that it agreed to or accepted the constitution. On Monday, Carrington froze the Front out of the transitional talks until the guerrillas could accept the constitution "without ambiguity."

Instead, Carrington chose to interpret today's Patriotic Front statement to mean acceptance. He welcomed the statement and added that he "looks forward to beginning discussion of the transitional arrangements in plenary session."

The question of acceptance has great significance to the Front, which maintains there can be only one agreement at the end of the conference.

It fears that if the conference breaks down over the transitional issues—still a distinct possibility—the British and Muzorewa still might implement the constitution and hold elections in hopes of getting wide international acceptance on the ground that the Front had signed off on the charter.

The purpose of the conference, which Britain is sponsoring as the legal colonial power in Zimbabwe-Rhodesia, is to bring about agreement on a constitution and the transitional issues including elections, disposition of the warring military forces and a cease-fire.

This would then lead to international recognition of the resulting independent government and to the lifting of economic sanctions imposed as a result of the white minority's illegal declaration of independence in 1965.

The London conference is the ninth major effort to solve the problem that has boiled over into a bloody war between the Salisbury government and guerrillas in which more than 20,000 people have been killed.

It was apparent that today's break-through in the first conference meeting attended by the guerrillas in a week came as a result of pressure exerted on both the Patriotic Front and Britain from a variety of sources, mainly over the land compensation issue.

Leaders of several Commonwealth and African nations criticised Carrington's conduct of the conference and warned him that there could be no acceptable solution without the Patriotic Front.

At the same time, the five "front line" states neighboring Zimbabwe-Rhodesia that support the guerrillas urged a moderate approach by their clients. The "front-line" states are Mozambique, Zambia, Tanzania, Botswana and Angola.

It was noteworthy that today's agreement came just one day after a "front line" summit in Tanzania that supported the Front on the land issue but took a significantly conciliatory approach, urging that the conference "move to the next crucial stage." The guerrillas are under pressure to settle from their supporters, particularly Zambia and Mozambique which have been attacked repeatedly by Zimbabwe-Rhodesian forces.

Last week Carrington made the proposal on the land issue that the guerrillas accepted today. He offered vague promises of financial assistance in a multinational grouping to help an independent Zimbabwe government pay for land expropriated from whites as required under the British-proposed constitution.

About 6,000 white farmers control most of the best land in the country and it is estimated that it could cost more than $500 million to buy out most of the farmers in order to carry out a land reform program.

When the talks broke off Monday, the Front, citing the overriding importance of the land issue, said it was seeking "clarifications" from various governments about contributions to a land compensation plan.

Today, the guerrillas said in their statement, "We have now obtained assurances that depending on a successful outcome of the conference, Britain, the United States and other countries will participate in a multinational financial donor effort to assist in land, agricultural and economic development programs.

"These assurances go a long way in allaying the great concern we have over the whole land question arising from the great need our people have for land and our commitment to satisfy that need when in government."

Since the breakoff of the talks, the United States signalled its willingness to participate in an assistance effort. No money figures have been cited.

Britain and the United States are reluctant to give details on what has been offered because of failures of similar past efforts to bail out the whites. British sources said, however, that there had been no contacts with the Front on the issue since last Thursday and "there was nothing to add" to Carrington's statement then on the subject.

The three parties are to meet Friday morning to begin joint discussion of the transition to independence starting with elections.

Analysts are unanimous that the transitional issues will be much harder to settle than the constitution, which took 36 days to resolve.

Mr. TSONGAS. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Mississippi.

DEFENSE AUTHORIZATIONS, 1980—CONFERENCE REPORT

Mr. STENNIS. Mr. President, on legislative business for today, we have a conference report on S. 428, the Defense Authorization Act of 1980. I submit that report of the committee of conference on S. 428 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 17, 1979.)

Mr. STENNIS. Mr. President, that bill has been fully gone over by the conferees and all matters worked out and agreed on.

There has been a matter brought to my attention by the Senator from North Carolina regarding a technical point about one of the amendments. I, therefore, move, Mr. President, that that conference report be sent back to conference for further consideration by the conferees.

I will gladly yield now to the Senator from North Carolina with whom I have repeatedly conferred, and where he was at all times in a spirit of cooperation.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank my friend from Mississippi.

As he has indicated, he and I have discussed a possible point of order that could have been made in connection with this conference report. As always, the distinguished Senator from Mississippi, the chairman of the Armed Services Committee, is most cooperative.

Mr. President, I had contemplated making a point of order against further consideration of the conference report on grounds that the conferees have exceeded their authority. It was not an action that I relished. The distinguished managers of the bill know of my affection for them, and my intense interest in the future security of our Nation, and my conviction that this bill is a pledge for that security.

But the issue of lifting sanctions against Zimbabwe-Rhodesia is also a matter which is of utmost concern for our national security. When dealing with a bill such as the defense authorization bill, it is difficult to make relative judgements as to which element of the bill is more important to our national security. The bill, for example, authorizes the construction of a new aircraft carrier. But then we are faced with the fact that we cannot build this new carrier unless we have an ample supply of strategic materials, such as chrome. And we all know that sanctions prevent us from obtaining chromium from the principal place of origin; namely, Zimbabwe-Rhodesia.

Now when the distinguished conferees considered this matter in conference, they took note of the issue; the report addresses the question of access to strategic materials in a general way. Furthermore, at the time the conferees discussed this matter—nearly 4 weeks ago—negotiations at the London Conference on the future of Rhodesia were at a critical stage. There was perhaps some reticence to take an action that might have upset the negotiations.

But now that objection is no longer valid. As we saw in last week's papers, both sides in the Rhodesian talks have accepted the constitution proposed by the British. The substantive issues have been settled, and all that remains is the question of implementation.

This was confirmed in a letter which was hand delivered to me from Prime Minister Thatcher late Thursday afternoon.

I hope the Senators on the floor and those who may be listening by way of the amplifying system in their offices will be attentive to what Mrs. Thatcher had to say in her letter to me. Mrs. Thatcher wrote:

DEAR SENATOR HELMS: I was grateful for your letter of 12 September about Rhodesia.

My letter to her, incidentally, was hand-delivered by my aides in London:

I am sorry not to have replied earlier, but I thought that before doing so it would be best to wait to judge the progress made in the Constitutional Conference.

That, of course, is what we all have been waiting for, what I believe the distinguished conferees were waiting for. But now Mrs. Thatcher feels that it is proper to judge the progress. She continues:

As you know, I want to see sanctions against Rhodesia lifted as soon as possible.

Note that she says, "as soon as possible."

She continues:

I am now confident that the Conference in which we are engaged will help us to achieve this aim. We regard adequate safeguards for the white minority as an essential part of the independence Constitution. We have provided for this in the constitutional proposals we have put forward. (I enclose a copy). As you will know, Bishop Muzorewa has announced his acceptance in principle of our constitutional proposals.

So apparently, Mrs. Thatcher believes that the Conference is going to succeed, and she notes the willingness of Prime Minister Muzorewa to accept the constitutional proposals. I continue to quote:

What Rhodesians need above all is a settlement which will bring them international acceptance. They are looking to the Conference to achieve this: it would provide the strongest encouragement to them to remain in the country.

Mr. President, I believe that the time has come to provide Rhodesians with at least a modicum of international acceptance for having made so many difficult concessions at this point. It is important to reward them. Furthermore, Mrs. Thatcher is determined not to allow the Patriotic Front to have a veto over a fair settlement. She says:

But we are determined to bring about a solution which will bring Rhodesia to legal independence and enable us and others to lift sanctions with the widest possible international acceptance. I am confident that we are making progress in that direction.

Warm regards,

Yours sincerely,

MARGARET THATCHER.

Mr. President, the letter from Mrs. Thatcher has arrived at a crucial time in our deliberations. I think that she is telling us that the Conference is going to succeed. Now I am aware that the Byrd amendment, as originally passed by the Senate, covered all trade with Rhodesia. It may be that the conferees might want to reconsider their action on the Byrd amendment. It may be that they do not want to go quite as far as the Byrd amendment goes. It may be that the Byrd amendment could be restricted to the question of strategic materials only, not all trade. That would be a reasonable compromise, since it would provide international reassurances to the Rhodesians, while at the same time protecting U.S. national security. It might even enable us to build that carrier once the bill becomes law.

Mr. President, although the State Department has been downgrading the importance of chromium to our developed economy, a recent study by the National Research Council, which has studied the matter solely from a scientific point of view, has come to quite opposite conclusions, and I ask unanimous consent that the study be printed at this point in the RECORD, together with Mrs. Thatcher's letter.

There being no objection, the letter and report were ordered to be printed in the RECORD, as follows:

THE PRIME MINISTER,
10 Downing Street.

Senator JESSE HELMS,

DEAR SENATOR HELMS: I was grateful for your letter of 12 September about Rhodesia. I am sorry not to have replied earlier, but I thought that before doing so it would be best to wait to judge the progress made in the Constitutional Conference.

As you know, I want to see sanctions against Rhodesia lifted as soon as possible. I am now confident that the Conference in which we are engaged will help us to achieve this aim. We regard adequate safeguards for the white minority as an essential part of the independence Constitution. We have provided for this in the constitutional proposals we have put forward. (I enclose a copy.) As you well know, Bishop Muzorewa has announced his acceptance in principle of our constitutional proposals.

What Rhodesians need above all is a settlement which will bring them international acceptance. They are looking to the Conference to achieve this: it would provide the strongest encouragement to them to remain in the country. We shall not allow anyone to exercise a veto over a settlement we believe to be fair and reasonable. But we are determined to bring about a solution which will bring Rhodesia to legal independence and enable us and others to lift sanctions with the widest possible international acceptance. I am confident that we are making progress in that direction.

Warm regards.

Yours sincerely,

MARGARET THATCHER.

CONTINGENCY PLANS FOR CHROMIUM UTILIZATION

CHAPTER 1: SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Chromium is an element that imparts unique properties to the material to which it is added. While it is an important ingredient in many commodities, it is irreplaceable in stainless steels and high-temperature-resisting superalloys, two classes of materials that are vital to the technological well-being of the nation. Currently, there are no chromium-free substitutes that can be used in these critical applications nor are any such substitutes likely to be developed in the foreseeable future.

The United States is completely dependent on imported chromium and known commercial deposits are located in only a few countries. The Committee could not identify any technological responses that would eliminate completely U.S. vulnerability to a long-term disruption of chromium imports. Accordingly, contingency plans for chromium utilization are assessed, assuming the worst possible supply situation, that is, a total embargo on all foreign sources of chromium ore and ferrochromium. These contingency plans stem from a technical perspective and the study does not propose measures for coping with chromium contingencies by legal, political, or financial means.

1.1 General conclusions and recommendations:

1.1.1 Conclusions.—These general conclusions and recommendations present the Committee's findings regarding the degree to which the United States can reduce its dependence on imported chromium and recommended programs that might lead to reduction of that dependency.

1. Although important segments of U.S. industry are vitally dependent on chromium, insufficient effort has been made to develop substitutes for or to conserve, reclaim, or recycle chromium-containing materials. Consequently, a drastic curtailment of chromium supply would have serious short- and long-term effects.

2. Known chromium reserves are estimated at about 5 billion short tons and are expected to last for several centuries. On the basis of the currently known information, the quantity and location of proven and potential reserves are such that, at the current rate of consumption, the geographic concentration of chromium deposits will increase: within 25 to 75 years, the world will depend completely upon South African and Rhodesian deposits.

3. U.S. chromium deposits are small and virtually no prospects exist for the discovery of any significant new U.S. deposits. There is little evidence to suggest the existence of significant chromium deposits outside of those geographic areas presently known. The discovery of additional deposits in producing regions with limited known reserves (e.g., the USSR and Turkey or elsewhere) would be beneficial in maintaining the few alternate sources of supply that currently exist, even if the new deposits were not developed initially.

4. No substitutes exist or are likely to be developed for chromium in the high-strength steels, high-temperature metals, and corrosion-resisting alloys that are essential in the manufacture of jet engines, petrochemical and power plant equipment, and various other critical products. It is highly unlikely that corrosion-resisting or high-strength alloy steels without chromium will be developed for such critical applications, although chromium-free substitutes could be used for decorative stainless steels, automotive trim, flatware, refractories, and some chemicals.

5. Current U.S. chromium consumption could be reduced potentially up to one-third within about five years without creating major economic dislocations by using available technology to substitute alternative materials or processes, to recover and recycle waste chromium, and to design for greater chromium efficiency.

6. A major chromium-conserving research program has the potential of reducing U.S. chromium consumption an additional one-third within 10 years but could involve economic penalties (or disruptions) in some areas.

7. Even if the above measures are taken, however, essential or unsubstitutable U.S. chromium consumption is expected to be at least 180,000 short tons per year (approximately 6 percent of 1975 world chromium production), on the average, in the foreseeable future.

8. Sudden mandatory chromium conservation programs would result in severe economic dislocations even if all needed development work were completed in advance.

9. Chromium conservation is an ineffective response to short-term (about five years) shortages. Moreover, unilateral changes in U.S. consumption will have very little impact on long-term world conditions but would create severe economic penalties for the nation.

10. Conventional stockpiling can provide short-term protection (five years) against chromium shortages; however, the continued use of chromium in easily collected functional products (e.g., hub caps, flatware, and coins) may provide a more cost-effective stockpile for the types of shortages the United States is likely to encounter during the remainder of this century.

11. The criticality of chromium to U.S. industry generally is not appreciated, and this lack of awareness works against the development of long lead-time technologies, stockpiles, or international agreements necessary to avoid supply interruptions.

12. The optimum response to the nation's increasing vulnerability to a disruption of the chromium supply probably would involve a combination of three approaches: some form of stockpiling to provide short-term (about five years) protection, conservation measures to produce medium-term (five to ten years) protection by reducing the consumption rate and thereby extending the life of the stockpile, and exploration for new deposits to provide long-term (more than ten years) protection against a total disruption of supply from existing sources.

1.1.2 Recommendations.—

1. The criticality of U.S. dependence on foreign chromium should be publicized widely in conjunction with the intention to institute a program to decrease U.S. vulnerability to chromium requirements.

2. A basic research program aimed at developing substitutes for chromium in stainless steels and high-temperature, oxidation-resisting alloys should be initiated. Although this is a long-term program with little chance for early success, it is the only technical possibility for eliminating U.S. vulnerability to a long-term chromium embargo.

3. The search for new chromium deposits outside of current producing areas should be supported with adequate incentives, particularly on the North American continent.

4. Research into chromium conservation and recycling technology should be pursued vigorously, but only price and the marketplace should be used to control consumption. Detailed examination of this interaction will require further study.

5. A study should be initiated to develop innovative methods for stockpiling chromium to provide up to five years protection against a cessation of supply and improved methods for ensuring that the content of the stockpile is matched properly to changing U.S. needs.

6. The combination of approaches—stockpiling, conservation, and exploration—should be explored as a strategy in addressing the chromium problem.

7. A thorough technoeconomic follow-on study (including cost-benefit analyses) should be undertaken to assess the substitution potential of chromium-containing alloys.

1.2 Specific conclusions and recommendations:

These specific conclusions and recommendations represent the Committee's most attractive approaches for reducing U.S. chromium consumption. However, as indicated earlier, these recommendations will not eliminate U.S. dependence on imported chromium but could reduce by two thirds the quantity of chromium that otherwise would have been consumed. It should be noted that implementing the recommendations would involve considerable time, money, and effort from development of the alloys through various aspects of metallurgical processing such as heat treatment, fabrication, and testing.

Mr. HELMS. Mr. President, just as a matter of suggestion—and, of course, it has no effect beyond whatever extent that the conferees may want to consider it—I am going to hand to my friend from Mississippi copies of suggested compromise amendments which I have drafted. I ask unanimous consent that the text of each of these amendments be printed in the RECORD at this point.

Mr. TSONGAS addressed the Chair.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the texts were ordered to be printed in the RECORD, as follows:

AMENDMENTS

SEC. 103. In order to insure the unimpeded procurement of weapons and efficient conduct of national defense research and development with the funds authorized herein to be appropriated, taking into account the expense, availability, and quality of strategic and critical materials used in such weapons and research and development, the Strategic and Critical Materials Stock Piling Act (60 Stat. 596; 50 U.S.C. 98–98h–1) is amended by adding at the end thereof the following:

"SEC. 11. Notwithstanding any other provision of law, on and after November 15, 1979, the President shall facilitate the importation into the United States of materials determined to be strategic and critical pursuant to the provisions of this Act by permitting trade in lawful goods between the United States and Zimbabwe-Rhodesia."

Mr. HELMS. I would say again to my friend from Mississippi that I deeply appreciate his cooperation in this matter and his patience with me. I think he knows that the Senator from North Carolina has always vigorously supported a strong national defense, and I will never want to do anything to impede the progress of this legislation. I thank the distinguished Senator for his patience and cooperation.

Mr. STENNIS. Mr. President, I appreciate the attitude of the Senator from North Carolina, and certainly I will pursue the matters he has spoken of, the matters he has put in the RECORD, and the suggestions that he has, and I know the great good faith in which they are presented.

It is an important matter. Now we are in the last days of the legislative session for this year, and the appropriation bill is right around the corner. I notice the chairman of the Appropriations Committee is here. He is behind me to get that authorization bill out, and we will do the very best we can. I appreciate very much the sentiment and the cooperation of the Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator.

Mr. STENNIS. Mr. President, the Senator from Texas (Mr. TOWER) has arrived on the floor. He is the ranking minority member of our committee, and I would beg him to take the floor, and I hope he does, to make a motion that this matter be taken back to conference. The Senator from North Carolina has stated his position for the RECORD.

Mr. TOWER. Mr. President, if the Senator from Mississippi will yield——

Mr. STENNIS. I am glad to yield to the Senator.

The ACTING PRESIDENT pro tempore. The Chair has to interrupt the Senator from Texas for just a moment, with my apology. It is the understanding of the Chair that the Senator from Mississippi has moved to recommit the measure to the conference; is that correct?

Mr. STENNIS. That is correct, yes; and I was recognized in my own right, as I understood.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Texas.

Mr. TOWER. Mr. President, it is my understanding that the thrust of this motion is to recommit the conference report to deal only with the matter of the Rhodesian-Zimbabwe sanction provision in the bill, which was dropped in conference, and there was substituted therefor language of generic nature which simply expressed the sense of the Congress that there should be no impediment to the importation of strategic material.

Understanding that that is the matter that the conference would deal with, that all other matters that have been agreed to in conference will stand and we will not reopen those, I would like to say that I support the motion of the distinguished chairman of the committee wholeheartedly, and hope the Senate will act in an expeditious manner. I believe we can go to conference very soon, and have a conference report back to the Senate shortly. I would not like to see us delay the vital business of authorization of the defense appropriations any longer than is absolutely necessary to deal with this matter.

So with that understanding, I offer my support to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I certainly thank the Senator, and I am glad to yield to the Senator from Massachusetts, if I may, Mr. President; I believe he has a point or two.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. TSONGAS. I thank the Chair and I thank the Senator from Mississippi.

Mr. President, I wonder whether the Senator from Mississippi fully realizes how important the role he has played is in the whole issue of Zimbabwe-Rhodesia. It is somewhat ironic that it would be his committee, in dealing with the situation, that should have been the instrument that would have provided the opportunity for a peaceful settlement of the Zimbabwe-Rhodesia issue.

Although Mrs. Thatcher, Lord Carrington, and others will be recorded as the ones who brought peace if it happens, I think the Senate should know it was the action of this committee that really would have determined that this action was possible. I commend the distinguished chairman and the entire conference committee for giving this opportunity for peace a chance. Although certainly one does not expect the chairman to follow the issues in Africa as much as some of the rest of us, I would like to say to the Senator from Mississippi that we are indebted to him for his willingness to listen to the arguments made, and for having responded accordingly. I commend him for that action.

Just two other points, Mr. President. I do not want the RECORD to reflect an impression that Mrs. Thatcher is arguing that sanctions be lifted today against Rhodesia, and I am sure that is not what the Senator from North Carolina was suggesting.

Second, I would like to submit to the Senator from Mississippi and the Senator from Texas language that they might consider in terms of the reconvening of the conference, which I think would achieve the same result as what they came up with before, but would be specific enough to avoid the point of order which was raised earlier.

Again I commend the Senator from Mississippi for the role that he has played in helping all the thousands of people that may hereafter live in Zimbabwe-Rhodesia and not be consumed in the conflict. They owe him a great deal of gratitude.

I thank the Chair.

Mr. STENNIS. Mr. President, we really thank the Senator very much for his kind words and the real help the Senator has given in his consideration of all phases of this matter.

Mr. President, that completes my pres-

entation. There does not seem to be any opposition to the motion.

Mr. HUMPHREY. Mr. President, I would like to thank the distinguished chairman of the Senate Armed Services Committee for the hard work and leadership he exerted in connection with the fiscal year 1980 defense authorization both in committee and in conference with the House. As a freshman Senator, I have been honored to be associated with Senator STENNIS and other members of the committee on this important bill which allows the country to move forward with the funding of many crucial DOD programs.

I am encouraged that the conference has authorized the procurement of 14 new ships in the budget as well as the conversion of 1 LPH to a light carrier. Over the past decade, the U.S. Navy has experienced a 23-percent reduction in manpower; a 50-percent reduction in ships; and a 31-percent reduction in aircraft. Total tonnage in the U.S. Navy has been reduced by 22 percent. At the same time, a reduction in operating funds and a quantum jump in the cost of fuel have forced a reduction in training. Consequently, the readiness and preparedness of our naval forces—while admirable given the circumstances—are not what they should be.

Ironically, the drawdown in U.S. naval forces has been accompanied by a decline in U.S. bases overseas—a decline which makes it even more difficult for the Navy to carry out its missions with fewer ships.

Over the last 20 years, the United States has seen its overseas naval and air bases decline in actual numbers from 150 to approximately 30. During the same time period, the Soviets have increased their facility arrangements abroad to a point where they are roughly equal to the United States.

The deterioration of U.S. basing structure has been particularly acute in the western Pacific in the wake of U.S. disengagement from Southeast Asia. But we also see widening cracks developing in our basing structure in the Mediterranean where even our allies are making more demands and placing more restrictions on our access to bases on their soil. Admiral Moorer—former Chairman of the Joint Chiefs—has argued that these cracks have reached the point where the effective projection of U.S. power to the Middle East and in support of NATO's southern flank is subject to growing doubt. The erosion of our basing structure in the Indian Ocean, over the last few years, also makes it increasingly difficult for the United States to project seapower into this vital oil rich and highly unstable area that has been come to be known as the "Arc of Crisis."

The rundown in U.S. Naval Forces has been taking place against the backdrop of heightened Soviet interest in projecting military power at sea. Soviet interest in seapower was prompted, in large part, by the Cuban missile crisis and the skillful way the United States demonstrated the utility of naval forces in controlling crisis in the nuclear era. Soviet Admiral Gorskhov's book "Sea Power of the State" provides valuable insights on how the Soviets view naval forces. Gorskhov argues in his book that, and I quote—

> All contemporary great powers are Maritime States . . . Among the many factors which characterize the economic and military might of our country, an ever increasing role is assumed by its sea power, which expresses the real ability of the State to employ effectively the world's oceans in the interest of the buildings of communism.

A decade ago, Mr. President, the Soviet Union essentially had a coastal navy. Today, as the result of an ambitious shipbuilding program, the Soviet Navy has a blue water capability and is currently projecting its influence in areas of crucial strategic importance to the United States and its NATO allies.

Soviet Naval deployments regularly visit and are usually stationed in the Mediterranean, the Pacific, and the oil rich Indian Ocean/Persian Gulf region.

Soviet strategy in these areas is aimed at denying the United States the ability to control those points and sea lanes of communication which are vital to a successful war fighting capability. In addition, the Soviets are projecting naval power to our very doorsteps.

The Soviet Union has been making regular port calls in the Caribbean since 1969 and in the early 1970's went so far as to attempt to construct a submarine base in Cuba.

After strong U.S. protest, the Soviets stopped short of introducing their own subs to Cuba but it has been revealed recently that the Soviets are supplying Cuba attack submarines which are based at Cienfuegos.

Mr. President, the Naval procurement programs authorized by the conference are a step in the right direction, but it does not begin to compare to the Soviet Union's shipbuilding effort. The Defense Authorization Conference Report presently before us, for example, authorizes the construction of one Trident submarine and two attack submarines. The Soviets, Mr. President, are constructing 10 submarines a year. We fought very hard to authorize one carrier. The Soviet plans call for the construction of 10 Kiev class carriers over the next decade. The Soviets build six large ASW ships a year. We have authorized one Aegis destroyer and six guided missile frigates which will be built over the next several years.

The Soviets, according to Paul Nitze, are aiming for a future fleet size of 745 ships. We are barely keeping the status quo, at a time when our Navy is actually being asked to assume greater responsibilities in the Persian Gulf, and now in the Caribbean and Latin America.

I fully support the conferees' decision to authorize the *Nimitz* nuclear power carrier, and I welcome reports from the White House that the President has decided not to veto the bill in reaction to our decision on the *Nimitz*.

The *Nimitz* is needed to meet the challenge of Soviet sea power. The *Nimitz* is vastly superior to the *Kennedy* class carrier sought by the administration.

While a conventional carrier would cost less, the nuclear carrier offers strategic and tactical advantages.

The advantages of a nuclear carrier include:

The capacity for 50 percent more aircraft ammunition, although it is true both carriers could carry the same number of aircraft;

Much greater independence of its logistics and capacity for more sustained operations; and

The general advantages of nuclear power in wartime, such as sustained speed and endurance.

It makes little sense to intentionally build a ship which will be operating in the 21st century and make it dependent on oil—a costly, dwindling and nonrenewable resource. A ship dependent on oil could, over a 30-year-life-cycle, consume 15 million barrels of oil, which is enough to supply New Hampshire for 2 years.

Mr. President, 80 percent of the free world's proven oil reserves are held by OPEC countries and we cannot be assured that we will have access to that oil in the years ahead, especially in wartime.

I also fully support the conferees' decision to build two rather than one nuclear attack submarine. In order to meet the Soviet threat in the North Atlantic and the Pacific sea lanes and forward areas, a minimum force level of 90 attack submarines has been set as the national goal. To reach this goal—within an acceptable times period—we have to produce at least 3.6 attack submarines a year. Even by authorizing two submarines, we are still not moving at a fast enough pace.

The constitutional responsibility of the Congress requires it to provide adequately for our Nation's defense. We need these submarines, and the conferees reacted responsibly in authorizing them.

The 688 is the best submarine of its class in the world today. It has met or exceeded all of its performance goals. The attack submarine, Mr. President, represents the most effective weapon for killing an enemy submarine and may be the only survivable U.S. naval platform in forward areas for engaging Russian forces.

In addition, nuclear powered attack submarines are about 20 percent less expensive than the larger *Los Angeles* class submarines currently in service.

I am pleased, Mr. President, that the committee recognized the importance of the Naval Reserve and decided not to accept the President's recommendations and authorized an 87,000 manpower strength for the Reserve. It should be noted that 26 Senators, including myself, urged the Senate Armed Services Committee to oppose the administration's plan to cut the Naval Reserve.

The Naval Reserve enhances the credibility of our security guarantee to NATO. I wholeheartedly support Admiral Hayward's commitment to a strong Naval Reserve, and his pledge to improve training and obtain more modern equipment for Naval Reservists so they can more effectively carry out their responsibilities. I also support his argument in favor of the one navy concept. The Naval Reserve is a vital element of the Navy's total fighting posture. The Naval Reserve, along with our other service reserves, underpins our strategy of flexible response.

Mr. President, we must stop the downward trend in our Naval Forces. Naval power is the only military instrument that can be brought to bear effectively during peacetime to project military power and influence abroad. Ironically, the Navy has suffered cutbacks in its service fleet at a time when it has been repeatedly called upon to guard our interests worldwide.

In 1978, the President deployed a destroyer force to the Horn of Africa in reaction to Cuba and Soviet involvement in that volatile area. Later that same year, the aircraft carrier *Kittyhawk* was deployed to the Indian Ocean in reaction to the troublesome events which eventually led to the downfall of the Shah's rule in Iran. Today, the 7th Fleet has been assigned the additional task of keeping a vigilant eye on the sealanes of communication from the oil rich and highly vulnerable Persian Gulf to the East and Japan. Most recently, the President—faced with a crisis in Cuba—has considered a stepped-up U.S. naval presence in the Caribbean without the adequate resources to carry out this and the many other missions assigned to the Navy.

The Navy is being asked to do all this, and it is our responsibility, Mr. President, to give the Navy the tools it needs to perform these duties.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to recommit the conference report.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GOLDWATER. Mr. President, will the majority leader yield me 2 minutes?

Mr. ROBERT C. BYRD. If the Senator will first allow me to propound a unanimous-consent request.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the consideration of routine morning business of not to exceed 15 minutes, with Senators allowed to speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Arizona.

SENATOR GOLDWATER SUPPORTS AN EARLY VOTE TO UPHOLD THE DISTRICT COURTS DECISION REQUIRING LEGISLATIVE APPROVAL TO TERMINATE THE MUTUAL DEFENSE TREATY WITH TAIWAN

Mr. GOLDWATER. Mr. President, the distinguished majority leader has consulted me regarding his wish to obtain an early legislative vote which would clearly authorize President Carter to terminate the defense treaty between the United States and Taiwan. We are still discussing the exact nature of such a vote, but I wish to assure my friend from West Virginia that I will cooperate with him, to the best of my ability, in reaching a final vote at the earliest possible time.

Mr. President, a vote by the Senate or Congress to authorize Presidential action is what I have been seeking all along. In fact, that is the very heart of my lawsuit.

On many occasions, I have suggested to the President and high administration officials that all the President need do in order to implement this aspect of his foreign policy initiatives toward the People's Republic of China is to send us a proper request.

For my part, I am ready to act upon that request almost immediately, without any need for time-consuming debate or delay.

I am keeping an open mind on how I will vote on such a request until I see the actual text of what we will be voting on, but I might even vote for the proposal if it is drafted in accordance with the Constitution.

The whole point of this matter, Mr. President, is that the President of the United States is not an emperor. He does not possess all the powers of the National Government in the making of foreign policy. The President alone is not the entire Nation of the United States.

We are a government of divided and checked powers. The President cannot make a law on his own and he cannot repeal a law by himself. The President cannot make a treaty on his own and neither can he terminate a treaty unilaterally.

The argument has been raised on behalf of the Executive that the Constitution is silent on how to repeal a treaty. But I might remind my colleagues, the Constitution also is completely silent on how a treaty is amended. It is totally silent on how an act of Congress, a statute, is terminated.

Yet it is obvious that the same authority exercised in making a law or a treaty is necessary for the repeal of that law or treaty.

Now, if we hold a vote in the Senate or Congress to ratify what the President has done concerning the Taiwan Defense Treaty, our action will carry out the requirement of the Constitution for joint participation by both the President and legislature in terminating a treaty. If this vote is to occur in the Senate alone, however, I am convinced it requires a two-thirds vote of the Senators present. This is the same constitutional majority that was used in making a treaty.

If the President chooses to seek merely a simple majority vote in Congress, then it will satisfy the Constitution for both Houses of Congress to approve the requested authority. It takes only a simple majority of both Houses, acting together with the President, to repeal any law of the land; and it is obvious this same majority is sufficient to terminate a treaty.

Therefore, the option is up to the President; he can either seek a two-thirds vote in the Senate alone or he may request a simple majority of each House of Congress.

Whatever route he chooses, I announce here and now my full willingness to cooperate with President Carter, the majority leader, and any others who wish to pursue this legislative authority to a speedy and final solution.

In closing, Mr. President, I would like to bring my colleagues up to date on the status of the lawsuit which I and 25 other Members of Congress have filed regarding treaty termination. The U.S. Court of Appeals in the District of Columbia has just this morning granted the schedule for court proceedings suggested by my lawyers. This schedule is as follows:

First. The executive branch must by Thursday, October 25, file a complete set with each judge of all papers that were filed by both sides in the district court.

Second. On this Thursday, my lawyers will also file with each judge copies of the legislative materials involved in the lawsuit, such as the Senate hearings on treaty termination and the Taiwan Relations Act.

Third. The first briefs by both sides will be filed simultaneously on Monday, November 5, which is less than 2 weeks from today.

Fourth. The reply briefs will be filed simultaneously by each side on Thursday, November 8.

Fifth. The full court will sit on Tuesday, November 13, in open session to hear oral arguments in the case.

This timetable is a reasonable one. There can be a speedy disposition of the case in court if the Senate or Congress does not vote on the matter beforehand. If the President is truly interested in carrying out his foreign policy, instead of expanding his power, he will send to the Congress the request for legislative authority that I have suggested.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority leader and with other Senators, Mr. PROXMIRE and others.

Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 387.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts of depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally

insured credit unions to maintain share draft accounts, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Depository Institutions Deregulation Act of 1979".

TITLE I—PAYMENT OF INTEREST ON DEPOSIT ACCOUNTS

SEC. 101. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a(i)) is amended by striking out the matter in the first sentence before the first proviso and inserting in lieu thereof the following: "No member bank shall, directly or indirectly, by any device whatsoever, pay any interest on any deposit which is payable on demand, and a demand deposit shall not include a negotiable order of withdrawal account:".

(b) The first sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b(j)) is amended to read as follows: "The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest which may be paid by member banks on time and savings deposits.".

(c) The first section of the Federal Reserve Act (12 U.S.C. 221) is amended by adding at the end thereof the following new paragraphs:

"The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(6) any insured institution as defined in section 408 of the National Housing Act.

"The term 'negotiable order of withdrawal account' means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.

"The term 'share draft account' means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.".

SEC. 102. (a) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end thereof the following new subsections:

"(r) The term 'depository institution' means—

"(1) any insured bank as defined in this section;

"(2) any mutual savings bank as defined in this section;

"(3) any savings bank as defined in this section;

"(4) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(5) any insured institution as defined in section 408 of the National Housing Act.

"(s) The term 'negotiable order of withdrawal account' means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such deposit or account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.".

(b) The first sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows: "The Board of Directors shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks (including insured mutual savings banks) and for such purpose it may define the term 'demand deposit', except that the term as so defined shall not include negotiable order of withdrawal accounts; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, or by regulation of the Board of Governors of the Federal Reserve System.".

(c) The second sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows: "The Board of Directors may from time to time, after consulting with the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest or dividends that may be paid by insured nonmember banks (including insured mutual savings banks) on time and savings deposits.".

SEC. 103. Section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by striking out the first sentence and inserting in lieu thereof the following: "The Board may from time to time, after consulting with the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, prescribe rules governing the payment and advertisement of interest or dividends on deposits, shares, or withdrawable accounts, including limitations on the rates of interest or dividends on deposits or shares that may be paid by members, other than those the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act, by institutions which are insured institutions as defined in section 408 of the National Housing Act, and by nonmember building and loan, savings and loan, and homestead associations, and cooperative banks.".

SEC. 104. (a) Section 2 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462) is amended by adding at the end thereof the following new subsections:

"(e) The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any member as defined in this section; and

"(5) any insured institution as defined in section 408 of the National Housing Act.

"(f) The term 'negotiable order of withdrawal account' means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such deposit or account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.".

(b) Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "The preceding sentence does not apply to negotiable order of withdrawal accounts, except that a Federal savings and loan association which is located in California may permit withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties only during periods when State-chartered savings and loan associations located in California are authorized to permit such withdrawals.".

SEC. 105. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by inserting before the semicolon at the end of paragraph (5) the following: ", and such term also includes a share draft account";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(10) the term 'share draft account' means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious philanthropic, charitable, educational, or other similar purpose and not for profit.".

(b) Section 107(6) of such Act is amended by inserting before the semicolon at the end thereof the following: ", and to issue, deal in, and accept as orders of withdrawal against shares, share drafts".

(c) Section 117 of such Act is amended by adding at the end thereof the following: "The maximum rate of dividends payable

on share draft accounts shall be determined by the Board after consultation with the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board.".

SEC. 106 (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.".

(c) Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "This section does not prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board.".

SEC. 107. (a) The limitations on the maximum rates of interest or dividends for each category of deposits (including time and savings deposits) shares, or withdrawable accounts which were established pursuant to the provisions of law which are referred to in section 7 of the Act of September 21, 1966, shall remain in effect in accordance with the provisions of the amendments made by this title.

(b)(1) Except as provided in paragraph (2) the limitations on the maximum rates of interest or dividends referred to in subsection (a) and the limitations on the maximum rates of interest or dividends on negotiable order of withdrawal accounts established pursuant to this Act shall be increased by at least one-half of a percentage point on January 1, 1982, and on each succeeding January 1 through January 1, 1989, subject to section 102 of Public Law 94-200.

(2) If the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, it may postpone or reduce an increase required by this subsection. When the Board makes such determination and postpones or reduces an increase, it shall report to the Congress the reasons for such action.

(c) During the period beginning on January 1, 1982, and ending on July 1, 1989, no new category of deposits or accounts may be approved by the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration Board if the maximum rate of interest or dividends payable thereon is not at least equal to the maximum rate applicable to deposits or accounts of comparable maturities then in effect.

(d) Whenever the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, determines that it is economically feasible or desirable to accelerate the increases in the maximum rates of interest and dividends as provided in subsection (b)(1), the Board of Governors shall report such determination to the Congress.

(e) The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce the minimum denomination of all certificates of deposit to not more than $1,000 as soon as feasible and in any event within two years after the date of enactment of this Act, except that if the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, it may postpone the reduction required by this subsection. When the Board makes such determination and postpones a reduction, it shall report to the Congress the reasons for such action.

(f) As used in this section, section 108, section 109, and section 305 the term—

(1) "depository institution" means—

(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(D) any member as defined in this section;

(E) any insured institution as defined in section 408 of the National Housing Act; and

(F) any insured credit union as defined in section 101(7) of the Federal Credit Union Act;

(2) "negotiable order of withdrawal account" means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit; and

(3) "share draft account" means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.

SEC. 108. On or after January 1, 1990, the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, may prescribe limitations on the maximum rates of interest or dividends on deposits or accounts which may be paid by depository institutions only upon a finding that an extreme economic emergency exists and such action is necessary to maintain the economic viability of depository institutions. Any such finding shall be described in detail in a prompt report to the Congress. In no case shall any limitation prescribed under this section remain in effect for more than one year.

SEC. 109. The Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board shall report to the Congress annually after the date of enactment of this Act on the economic viability of depository institutions. Each report shall contain such recommendations for legislation or other actions necessary to maintain the economic viability of depository institutions, and specifically shall contain recommendations as to whether the removal of any differential between the rate paid on deposits by banks and thrifts will negatively affect the housing finance market and the viability of the thrift industry. Each report shall also contain recommendations for encouraging savings and for equitable treatment of small savers, recommendations to ensure a steady and adequate flow of funds to thrift institutions and the housing market, and findings concerning disintermediation of savings deposits from insured banks and insured thrift institutions to uninsured money market innovators paying market rates to savers.

SEC. 110. (a) Effective January 1, 1990, section 19(j) of the Federal Reserve Act, section 18(g) (except the first sentence) of the Federal Deposit Insurance Act, and section 5B (a) of the Federal Home Loan Bank Act are repealed.

(b) Effective January 1, 1990, section 102 of Public Law 94-200 is repealed.

(c) Section 2 of Public Law 93-100 is repealed.

(d) Section 7 of Public Law 89-597 is repealed.

TITLE II—RESERVE REQUIREMENTS

SEC. 201. (a) Section 19(b) of the Federal Reserve Act is amended—

(1) by inserting "(other than its negotiable order of withdrawal accounts and savings deposits subject to automatic transfers)" after "deposits" where it first appears; and

(2) by adding at the end thereof the following: "Each depository institution shall maintain reserves against its savings deposits subject to automatic transfer and negotiable order of withdrawal and share draft accounts in such ratios as shall be determined by the Board. The reserve ratios for such accounts shall be uniform for all depository institutions and shall be set at a ratio which is not less than 3 per centum nor more than 23 per centum, as determined by the Board.".

(b) Section 19(c) of such Act is amended—

(1) by striking out "subsection" and inserting in lieu thereof "subsections";

(2) by inserting "(except with respect to negotiable order of withdrawal accounts and savings deposits subject to automatic transfer)" after "(b)"; and

(3) by adding at the end thereof the foi-

lowing: "Reserves held by any depository institution against its negotiable order of withdrawal accounts, savings deposits subject to automatic transfer, and its share draft accounts shall be in the form of—

"(1) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, or to the extent the Board may by regulation permit, in the form of vault cash, except that the extent permitted shall be identical for all depository institutions; and

"(2) balances maintained by a nonmember depository institution in a member bank, nonmember depository institution, or the National Credit Union Central Liquidity Facility, or in a Federal Home Loan Bank, except that such member bank, nonmember depository institution, Facility, or Federal Home Loan Bank shall maintain such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances which are received by a member bank from another depository institution and which are used to satisfy the reserve requirements imposed on such depository institution by this section shall not be subject to the reserve requirements of this section imposed on such member bank and shall not be subject to assessment imposed on such member bank pursuant to section 7 of the Federal Deposit Insurance Act.

Every depository institution which maintains reserves pursuant to this section shall make reports concerning its deposit liabilities and required reserves at such times and in such manner and form as the Board may require.".

(c) The required reserves imposed pursuant to the amendments made by subsection (a) against the negotiable order of withdrawal accounts, savings deposits subject to automatic transfer, or share draft accounts on the effective date of this Act for any depository institution which is not a member of the Federal Reserve System on July 1, 1979, shall be reduced by 75 per centum during the first year after the date of enactment of this Act, 50 per centum during the second year, and 25 per centum during the third year.

SEC. 202. The first sentence of section 13 of the Federal Reserve Act (12 U.S.C. 342) is amended by inserting after "may receive from any nonmember bank or trust company", the following: "or, subject to approval by the Board of Governors and the Federal Home Loan Bank Board or the Federal Credit Union Administration Board, as appropriate, by regulation or otherwise, from any Federal Home Loan Bank or member thereof or from any credit union or from the National Credit Union Central Liquidity Facility".

TITLE III—MISCELLANEOUS

SEC. 301. Section 5(c)(4) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(E) CONSUMER LOANS AND CERTAIN SECURITIES.—An association may make unsecured loans for personal, family, or household purposes, and may invest in, sell, or hold commercial paper, corporate debt securities, and bankers acceptances, as defined and approved by the Board, but the aggregate amount of such loans and investments at any time may not exceed 10 per centum of the assets of the association.".

SEC. 302. Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by inserting the following new paragraph after paragraph (5) and renumbering subsequent paragraphs accordingly:

"(6) REAL ESTATE LOANS MADE BY NATIONAL BANKS.—Notwithstanding any of the foregoing provisions of this section, an association shall be permitted to invest in, sell, or otherwise deal in loans or investments secured by liens on residential real estate to the same extent and in the same manner and amounts without limitation as national banks pursuant to the provisions of section 24 of the Federal Reserve Act.".

SEC. 303. Section 5(b) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(3) An association may, if permitted by the Board and subject to such regulations as the Board may prescribe, act as a trustee, executor, administrator, guardian, or in any other fiduciary capacity.".

SEC. 304. Section 5 of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(n) TRUST POWERS.—

"(1) AUTHORITY OF BOARD.—The Board is authorized and empowered to grant by special permit to an association applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with associations are permitted to act under the laws of the State in which the association is located.

"(2) GRANT AND EXERCISE OF POWERS DEEMED NOT IN CONTRAVENTION OF STATE OR LOCAL LAW.—Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with associations, the granting to and the exercise of such powers by associations shall not be deemed to be in contravention of State or local law within the meaning of this section.

"(3) SEGREGATION OF FIDUCIARY AND GENERAL ASSETS: SEPARATE BOOKS AND RECORDS; ACCESS OF STATE BANKING AUTHORITIES TO REPORTS OF EXAMINATIONS, BOOKS, RECORDS, AND ASSETS.—Associations exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. The State banking authorities may have access to reports of examination made by the Board insofar as such reports relate to the trust department of such association but nothing in this section shall be construed as authorizing the State banking authorities to examine the books, records, and assets of such associations.

"(4) PROHIBITED OPERATIONS: SEPARATE INVESTMENT ACCOUNTS; COLLATERAL FOR CERTAIN FUNDS USED IN CONDUCT OF BUSINESS.—No association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Board.

"(5) LIEN AND CLAIM UPON BANK FAILURE.—In the event of the failure of such association the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

"(6) DEPOSITS OF SECURITIES FOR PROTECTION OF PRIVATE OR COURT TRUSTS; EXECUTION OF AND EXEMPTION FROM BOND.—Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, associations so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Associations shall have power to execute such bond when so required by the laws of the State.

"(7) OFFICIALS' OATH OR AFFIDAVIT.—In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

"(8) LOANS OF TRUST FUNDS TO OFFICERS AND EMPLOYEES PROHIBITED; PENALTIES.—It shall be unlawful for any association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than $5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court.

"(9) CONSIDERATIONS DETERMINATIVE OF GRANT OR DENIAL OF APPLICATIONS; MINIMUM CAPITAL AND SURPLUS FOR ISSUANCE OF PERMIT.—In passing upon applications for permission to exercise the powers enumerated in this section, the Board may take into consideration the amount of capital and surplus of the applying association, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to it proper, and may grant or refuse the application accordingly: *Provided*, That no permit shall be issued to any association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

"(10) SURRENDER OF AUTHORIZATION; BOARD RESOLUTION; BOARD CERTIFICATION; ACTIVITIES AFFECTED; REGULATIONS.—Any association desiring to surrender its right to exercise the powers granted under this section, in order to relieve itself of the necessity of complying with the requirements of this section, or to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, or for any other purpose, may file with the Board a certified copy of a resolution of its board of directors signifying such desire. Upon receipt of such resolution, the Board, after satisfying itself that such association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, under court, private or other appointments previously accepted under authority of this section, may in its discretion, issue to such association a certificate certifying that such association is no longer authorized to exercise the powers granted by this section. Upon the issuance of such a certificate by the Board, such association (A) shall no longer be subject to the provisions of this section or the regulations of the Board made pursuant thereto, (B) shall be entitled to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, and (C) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section. The Board is authorized and empowered to promulgate such regulations as it may deem necessary to enforce compliance with the provisions of this subsection and the proper exercise of the trust powers granted by this section.".

SEC. 305. (a)(1) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is—

(A) secured by a first lien on residential real property;

(B) made after the date of enactment of this Act; and

(C) described in section 527(b) of the National Housing Act, except that the limitation described in section 527(b)(1) that the property must be designed principally for the occupancy of from one to four families shall not apply, and for the purpose of this section, the term "lender" in section 527(b)(2)(A) of the National Housing Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act.

(2) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by a depository institution.

(b) The provisions of subsection (a)(1) shall apply to loans, mortgages, and advances made in any State unless and until the State adopts a provision of law (within two years after the date of the enactment of this Act) limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance.

TITLE IV—COMPTROLLER OF THE CURRENCY HOUSEKEEPING AMENDMENTS

PART A—NATIONAL BANKING LAWS

SEC. 401. (a) Section 5137 of the Revised Statutes (12 U.S.C. 29) is amended—

(1) by inserting before the period at the end of the last paragraph thereof the following: "except as otherwise provided in this section"; and

(2) by adding at the end thereof the following new paragraph:

"For real estate in the possession of a national banking association upon application, the Comptroller of the Currency may approve the possession of any such real estate by such association for a period longer than five years, but not to exceed an additional five years, if (1) the association has made a good faith attempt to dispose of the real estate within the five-year period, or (2) disposal within the five-year period would be detrimental to the association. Upon a showing of clearly extenuating circumstances and a highly probable detriment to the association and subject to such conditions and limitations as the Comptroller of the Currency may prescribe, such association may expend such funds for the development and improvement of such real estate as are reasonably calculated to enable such association to recover its total investment.".

(b) Section 4 of the Bank Holding Company Act of 1956 is amended by adding at the end of paragraph (a) the following: "Notwithstanding any other provision of this Act, the period ending December 31, 1980, referred to in paragraph (2) above, may be extended by the Board of Governors to December 31, 1982, but only for the divestiture by a bank holding company of real estate or interests in real estate lawfully acquired for investment or development. In making its decision whether to grant such extension, the Board shall consider whether the company has made a good faith effort to divest such interests and whether such extension is necessary to avert substantial loss to the company.".

SEC. 402. The first sentence of subsection (a) of section 302 of the Act entitled "An Act to provide relief in the existing national emergency in banking, and for other purposes", approved March 9, 1933 (12 U.S.C. 51b), is amended by striking out "at a rate not exceeding 6 per centum per annum".

SEC. 403. The third sentence of section 345 of the Banking Act of 1935 (12 U.S.C. 51b-1) is amended by striking out "at a rate not exceeding six per centum per annum".

SEC. 404. Section 1 of the Act of September 28, 1962 (76 Stat. 668; 12 U.S.C. 92a), is amended by adding at the end thereof the following new subsection:

"(k) In addition to the authority conferred by other law, if, in the opinion of the Comptroller of the Currency, a national banking association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this section or otherwise fails or has failed to comply with the requirements of this section, the Comptroller may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this section. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association. Such hearing shall be conducted in accordance with the provisions of subsection (h) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), and subject to judicial review as therein provided, and shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or later date is set by the Comptroller at the request of any association so served. Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Comptroller shall find that any allegation specified in the notice of charges has been established, the Comptroller may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this section, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination. A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Comptroller or a reviewing court.".

SEC. 405. Section 4 of the Act of March 9, 1933 (48 Stat. 2; 12 U.S.C. 95), is amended—

(1) by inserting "(a)" after "SEC. 4."; and

(2) by adding at the end thereof the following:

"(b) In the event of natural calamity, riot, insurrection, war, or other emergency conditions occurring in any State whether caused by acts of nature or of man, the Comptroller of the Currency may designate by proclamation any day a legal holiday for the national banking associations located in that State. In the event that the emergency conditions affect only part of a State, the Comptroller of the Currency may designate the part so affected and may proclaim a legal holiday for the national banking associations located in that affected part. In the event that a State or a State official authorized by law designates any day as a legal holiday for either emergency or ceremonial reasons for all banks chartered by that State to do business within that State, that same day shall be a legal holiday for all national banking associations chartered to do business within that State unless the Comptroller of the Currency shall by written order permit all national banking associations located in that State to remain open. For the purposes of this subsection the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory, dependency, or insular possession of the United States.".

SEC. 406. The second sentence of subsection (b) of section 2 of the Act of August 17, 1950 (64 Stat. 456; 12 U.S.C. 214a), is amended by striking out the word "unanimous" and inserting in lieu thereof the word "majority".

SEC. 407. Chapter 9 of title VII of the Revised Statutes (12 U.S.C. 1 et seq.) is amended by inserting immediately following section 327 a new section 327A to read as follows:

"SEC. 327A. The Comptroller of the Currency may delegate any powers vested in the office by law.".

SEC. 408. Chapter 4 of title LXII of the Revised Statutes (12 U.S.C. 21 et seq.) is amended by inserting immediately following section 5239 a new section 5239A to read as follows:

"SEC. 5239A. Except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to another regulatory agency, the Comptroller of the Currency is authorized to prescribe rules and regulations to carry out the responsibilities of the office under the Financial Institutions Supervisory Act of 1966.".

SEC. 409. (a) Section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by striking out the first two sentences and inserting in lieu thereof the following: "The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall appoint examiners who shall examine every national bank as often as the Comptroller shall deem necessary.".

(b) Section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency, upon the request of the Board of Governors of the Federal Reserve System, is authorized to assign examiners appointed under this section to examine foreign operations of State member banks.".

SEC. 410. Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the second sentence and inserting in lieu thereof the following: "Every director must own in his or her own right either (1) shares of the capital stock of the association of which he or she is a director the aggregate par value of which is not less than $1,000, or (2) an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841). If the capital of the bank does not exceed $25,000, every director must own in his or her own right either (1) shares of such capital stock the aggregate par value of which is not less than $500, or (2) an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).".

SEC. 411. Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by inserting before the period at the end thereof the following: ": *Pro-*

vided further, That, notwithstanding any other provision of this paragraph, the association may, purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than 5 per centum of any class of voting securities of such bank".

SEC. 412. Section 5169 of the Revised Statutes is amended by adding at the end thereof the following: "Notwithstanding the provisions of the preceding sentence, a national banking association the operations of which are limited as provided in the preceding sentence shall be deemed an additional bank within the contemplation of section 3 of the Bank Holding Company Act of 1956.".

PART B—TERMINATIONS OF NATIONAL BANK CLOSED RECEIVERSHIP FUND

PURPOSE

SEC. 421. The purpose of this part is to terminate the closed receivership fund by—

(1) providing final notice of availability of liquidating dividends to creditors of national banks closed on or before January 22, 1934;

(2) barring rights of creditors to collect liquidating dividends from the Comptroller after a reasonable period of time following such final notice; and

(3) refunding to the Comptroller the principal amount of such fund and any income earned thereon.

DEFINITIONS

SEC. 422. As used in this part—

(1) the term "closed receivership fund" means the aggregation of undisbursed liquidating dividends from national banks closed on or before January 22, 1934, held by the Comptroller in his capacity as successor to receivers of those banks;

(2) the term "Comptroller" means the Comptroller of the Currency;

(3) the term "claimant" means a depositor or other creditor who asserts a claim against a closed national bank for a liquidating dividend; and

(4) the term "liquidating dividend" means an amount of money in the closed receivership fund determined by a receiver of a closed national bank or by the Comptroller to be owed by that bank to a depositor or other creditor.

TERMINATION OF CLOSED RECEIVERSHIP FUND

SEC. 423. (a) The Comptroller shall publish notice once a week for four weeks in the Federal Register that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the closed receivership fund shall be barred after twelve months following the last date of publication of such notice.

(b) The Comptroller shall pay the principal amount of a liquidating dividend, exclusive of any income earned thereon, to a claimant presenting a valid claim, if the claimant applies to collect within twelve months following the last date notice is published.

(c) If a creditor shall fail to apply to collect a liquidating dividend within twelve months after the last date notice is published, all rights of the claimant against the closed receivership fund with respect to the liquidating dividend shall be barred.

(d) The principal amount of any liquidating dividends (1) for which claims have not been asserted within twelve months following the last date notice is published or (2) for which the Comptroller has determined a valid claim has not been submitted shall, together with any income earned on liquidating dividends and other moneys, if any, remaining in the closed receivership fund, be covered into the general funds of the Comptroller of the Currency.

TITLE V—TRUTH IN LENDING SIMPLIFICATION

SHORT TITLE

SEC. 501. This title may be cited as the "Truth in Lending Simplification and Reform Act".

DEFINITIONS

SEC. 502. (a) Section 103(f) of the Truth in Lending Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required; and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the foregoing, a person who regularly arranges for the extension of consumer credit, which is payable in more than four installments or for which the payment of a finance charge is or may be required, from persons who are not creditors is a creditor, and in the case of an open end credit plan involving a credit card the card issuer and any person who honors the credit card offers a discount which is a finance charge are creditors."; and

(2) by redesignating the references to sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(9), and 127(b)(11) in the next succeeding sentence as references to sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(8), and 127(b)(10), respectively.

(b) The first sentence of section 103(g) of the Truth in Lending Act is amended to read as follows: "The term 'credit sale' refers to any sale in which the seller is a creditor.".

EXEMPTED TRANSACTIONS

SEC. 503. (a) Section 103(h) of the Truth in Lending Act is amended by striking out "household, or agricultural" and inserting in lieu thereof "or household".

(b) Section 103 of the Truth in Lending Act is amended by redesignating subsection (s) as subsection (x), and by inserting a new subsection (s) as follows:

"(s) The term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming, and the term 'agricultural products' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.".

(c) Section 104 of the Truth in Lending Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.";

(2) by amending paragraph (3) to read as follows:

"(3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer, in which the total amount financed exceeds $25,000."; and

(3) by striking out paragraph (5).

OPEN END CREDIT PLAN

SEC. 504. Section 103(l) of the Truth in Lending Act is amended to read as follows:

"(l) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.".

MODEL FORMS

SEC. 505. Section 105 of the Truth in Lending Act is amended by inserting "(a)" before "The", and by adding at the end thereof the following:

"(b) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by creditors of data processing or similar automated equipment. Nothing in this title may be construed to require a creditor to use any such model form or clause prescribed by the Board under this section. A creditor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor does not affect the substance, clarity, or meaningful sequence of the disclosure.

"(c) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

"(d) Any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure different from that previously required by this chapter, chapter 4, or chapter 5, or regulation of the Board promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Board may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors to adjust their forms to accommodation new requirements or shorten the length of time for creditors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the foregoing, any creditor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.".

COMPONENTS OF FINANCE CHARGE

SEC. 506. (a) Section 106(a) of the Truth in Lending Act is amended by striking out ", including any of the following types of charges which are applicable" and inserting in lieu thereof the following: ". The finance

charge does not include charges of a type payable in a comparable cash transaction. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable".

(b) Section 106(d) of the Truth in Lending Act is amended by striking out paragraphs (3) and (4).

ACCURACY OF ANNUAL PERCENTAGE RATE

SEC. 507. (a) Subsection (c) of section 107 of the Truth in Lending Act is amended to read as follows:

"(c) The disclosure of an annual percentage rate is accurate for the purpose of this title if the rate disclosed is within a tolerance not greater than one-eighth of 1 per centum more or less than the actual rate or rounded to the nearest one-fourth of 1 per centum. The Board may allow a greater tolerance to simplify compliance where irregular payments are involved.".

(b) Subsection (e) of section 107 of the Truth in Lending Act is amended by striking out "(c) or".

(c) Subsection (f) of section 107 of the Truth in Lending Act is repealed.

RESTITUTION

SEC. 508. Section 108 of the Truth in Lending Act is amended by adding at the end thereof the following:

"(e)(1) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c), in cases where an annual percentage rate or finance charge was inaccurately disclosed, shall notify the creditor of such disclosure error and is authorized in accordance with the provisions of this subsection to require the creditor to make an adjustment to the account of the person to whom credit was extended, to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(2) Each agency shall require such an adjustment when it determines that such disclosure error resulted from (A) a clear and consistent pattern or practice of violations, (B) gross negligence, or (C) a willful violation which was intended to mislead the person to whom the credit was extended. In the case of other such disclosure errors, each agency may require such an adjustment.

"(3) Notwithstanding the above paragraph (2), no adjustment shall be ordered (A) if it would have a significantly adverse impact upon the safety or soundness of the creditor, but in any such case, the agency may require a partial adjustment in an amount which does not have such an impact, (B) if the amount of the adjustment would be less than $1, except that if more than one year has elapsed since the date of the violation, the agency may require that such amount be paid into the Treasury of the United States, or (C) except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in the case of an open-end credit plan, more than two years after the violation, or in the case of any other extension of credit, after the later of (i) the expiration of the life of the credit extension, or (ii) two years after the agreement to extent credit was consummated.

"(4)(A) Notwithstanding any other provision of this section, an adjustment under this subsection may be required by an agency referred to in subsection (a) or (c) only by an order issued in accordance with cease and desist procedures provided by the provision of law referred to in such subsections.

"(B) In the case of an agency which is not authorized to conduct cease and desist proceedings, such an order may be issued after an agency hearing on the record conducted at least thirty but not more than sixty days after notice of the alleged violation is served on the creditor. Such a hearing shall be deemed to be a hearing which is subject to the provisions of section 8(h) of the Federal Deposit Insurance Act and shall be subject to judicial review as provided therein.

"(5) Except as otherwise specifically provided in this subsection and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments for errors in any requirements under this title, except with regard to the requirements of section 165.

"(6) A creditor shall not be subject to an order to make an adjustment, if within sixty days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedues, the creditor notifies the person concerned of the error and adjusts the account so as to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(7) The provisions of this subsection do not apply to any loan or extension of credit consummated prior to October 28, 1974.".

EFFECT ON OTHER LAWS

SEC. 509. Section 111(a) of the Truth in Lending Act is amended to read as follows:

"(a)(1) This title does not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether such inconsistencies exist. If the Board determines that a State-required disclosure is inconsistent, creditors located in that State may not make disclosures using the inconsistent term or form, and shall incur no liability under the law of that State for a good faith failure to use such term or form, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(2) The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether any disclosure required under the law of any State is substantially the same in meaning as a disclosure required under this title. If the Board determines that a State-required disclosure is substantially the same in meaning as a disclosure required by this title, then creditors located in that State may make such disclosure in compliance with such State law in lieu of the disclosure required by this title, except that the annual percentage rate and finance charge must always be disclosed as required by section 122.".

ANNUAL REPORTS

SEC. 510. (a) Section 114 of the Truth in Lending Act is amended by striking out "Not later than January 3 of each year after 1969" and inserting in lieu thereof "Each year".

(b) Section 18(f)(5) of the Federal Trade Commission Act (15 U.S.C. 58a(f)(5)) is amended by striking out "not later than March 15".

(c) Section 707 of the Equal Credit Opportunity Act is amended by striking out "Not later than February 1 of each year after 1976" and inserting in lieu thereof "Each year".

GENERAL DISCLOSURE REQUIREMENTS

SEC. 511. Sections 121 and 122 of the Truth in Lending Act are amended to read as follows:

"§ 121. General requirement of disclosure

"(a) Subject to subsection (b), a creditor or lessor shall disclose to the person who is obligated on a consumer lease or a consumer credit transaction the information required under this title. In a transaction involving more than one obligor, a creditor or lessor, except in a transaction under section 128, need not disclose to more than one of them if the one given disclosure is a primary obligor.

"(b) If a transaction involves one creditor as defined in section 103(f), or one lessor as defined in section 181(3), that creditor or lessor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures. The Board shall by regulation specify which creditor or lessor must make the disclosures.

"(c) The Board may provide by regulation that any portion of the information required to be disclosed by this title may be given in the form of estimates where the provider of such information is not in a position to know exact information.

"(d) The Board shall determine whether tolerances for numerical disclosures other than the annual percentage rate are necessary to facilitate compliance with this title, and if it determines that such tolerances are necessary to facilitate compliance, it shall by regulation permit disclosures within such tolerances.

"§ 122. Form of disclosure; additional information

"(a) Information required by this title shall be disclosed clearly and conspicuously, in accordance with regulations of the Board. The terms 'annual percentage rate' and 'finance charge' shall be disclosed more conspicuously than other terms, data, or information provided in connection with a transaction, except information relating to the identity of the creditor. Regulations of the Board need not require that disclosures pursuant to this title be made in the order set forth in this title and, except as otherwise provided, may permit the use of terminology different from that employed in this title if it conveys substantially the same meaning.

"(b) Any creditor may supply additional information or explanation with any disclosures required under chapter 4 and, except as provided in section 128(b)(1), under this chapter.".

RESCISSION

SEC. 512. (a)(1) Subsection (a) of section 125 of the Truth in Lending Act is amended to read as follows:

"(a) Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.".

(2) Section 108 of such Act, as amended

by section 3(b), is amended by adding at the end thereof the following:

"(v) The term 'material disclosures' means the disclosure, as required by this title, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amount of payments, and the due dates or periods of payments scheduled to repay the indebtedness.".

(3) Subsection (b) of section 125 of the Truth in Lending Act is amended by striking out "ten" in the second and final sentences thereof, and inserting in lieu thereof "20".

(4) Subsection (b) of section 125 of the Truth in Lending Act is amended by adding at the end thereof the following new sentence: "The procedures prescribed by this subsection shall apply except when otherwise ordered by a court.".

(5) Subsection (c) of section 125 of the Truth in Lending Act is amended by inserting "information, forms, and" after "whom".

(6) Section 125 of the Truth in Lending Act is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e) This section does not apply to (1) a residential mortgage transaction as defined in section 103(u); (2) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property; (3) a transaction in which an agency of a State is the creditor; or (4) advances under a preexisting open end credit plan if a security interest has already been retained or acquired and such advances are in accordance with a previously established credit limit for that plan.

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the information and forms required under this section or any other disclosures required under this chapter have not been delivered to the obligor, except that if (1) any agency empowered to enforce the provisions of this title institutes a proceeding to enforce the provisions of this section within three years after the date of consummation of the transaction, (2) such agency finds a violation of section 125, and (3) the obligor's right to rescind is based in whole or in part on any matter involved in such proceeding, then the obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the earlier sale of the property, or upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

"(g) In any action in which it is determined that a creditor has violated this section, in addition to rescission the court may award relief under section 130 for violations of this title not relating to the right to rescind.".

(b) Section 103 of the Truth in Lending Act is amended—

(1) by redesignating subsection (t) as subsection (w); and

(2) by inserting after subsection (s) the following:

"(t) The term 'dwelling' means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

"(u) The term 'residential mortgage transaction' is one in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of that dwelling.".

OPEN END DISCLOSURES

SEC. 513. (a) Section 127(a) of the Truth in Lending Act is amended—

(1) by adding at the end of paragraph (1) thereof the following new sentence: "If no such time period is provided, the creditor shall disclose that fact.";

(2) by striking out paragraph (5), and redesignating paragraphs (6), 7), and (8) as paragraphs (5), (6), and (7), respectively; and

(3) by amending redesignated paragraphs (5) and (6) to read as follows:

"(5) Identification of other charges which may be imposed as part of the plan, and their method of computation, in accordance with regulations of the Board.

"(6) In cases where the credit is or will be secured, a statement that a security interest has been or will be taken in (A) the property purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.".

(b) Section 127(b)(2) of such Act is amended to read as follows:

"(2) The amount and date of each extension of credit during the period, and a brief identification, on or accompanying the statement of each extension of credit in a form prescribed by the Board sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161. In lieu of complying with the foregoing requirements, in the case of any transaction in which the creditor and seller are the same person, as defined by the Board, and that person's open end plan has fewer than 15,000 acounts, the creditor may elect to provide only the amount and date of each extension of credit during the period and the seller's name and location where the transaction took place if (A) a brief identification of the transaction has been previously furnished, and (B) the creditor responds to and treats any injury for clarification or documentation as a billing error and an erroneously billed amount under section 161.".

(c) Section 127(b) of the Truth in Lending Act is amended by striking out paragraph (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(d) Redesignated paragraph (7) of section 127(a) of the Truth in Lending Act is amended by striking out "each of two billing cycles per year, at semiannual intervals" and inserting in lieu thereof "one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months".

(e) Subsection (c) of section 127 of the Truth in Lending Act is repealed.

(f) Section 143 of the Truth in Lending Act is amended by striking out "or the appropriate rate determined under section 127(a)(5)".

(g) Section 161(a) of the Truth in Lending Act is amended by redesignating the references to sections 127(b)(11) and 127(a)(8) as references to sections 127(b)(10) and 127(a)(7), respectively.

OTHER THAN OPEN END DISCLOSURE

SEC. 514. (a) Subsection (a) of section 128 of the Truth in Lending Act is amended to read as follows:

"(a) For each consumer credit transaction other than under an open end consumer credit plan, the creditor shall disclose each of the following items, to the extent applicable:

"(1) The identity of the creditor required to make disclosure.

"(2) The 'amount financed', using that term, which shall be the amount of credit of which the consumer has actual use. This amount shall be computed as follows, but the computations need not be disclosed and shall not be disclosed with the disclosure conspicuously segregated in accordance with subsection (b)(1):

"(A) take the principal amount of the loan or the cash price less downpayment and trade-in;

"(B) add any charges which are not part of the finance charge or of the principal amount of the loan and which are financed by the consumer, including the cost of any items excluded from the finance charge pursuant to section 106;

"(C) subtract any charges which are part of the finance charge but which will be paid by the consumer at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit; and

"(D) subtract any required deposit balance, in accordance with regulations of the Board.

"(3) The 'finance charge', not itemized, using that term.

"(4) The finance charge expressed as an 'annual percentage rate', using that term. This shall not be required if the amount financed does not exceed $75 and the finance charge does not exceed $5, or if the amount financed exceeds $75 and the finance charge does not exceed $7.50.

"(5) The sum of the amount financed, any required deposit balance, and the finance charge, which shall be termed the 'total of payments'.

"(6) The number, amount, and due dates or period of payments scheduled to repay the total of payments.

"(7) In a sale of property or services in which the seller is the creditor required to disclose pursuant to section 121(b), the 'total sale price', using that term, which shall be the total of the cash price of the property or services, additional charges, and the finance charge.

"(8) Descriptive explanations of the terms 'amount financed', 'finance charge', 'annual percentage rate', 'total of payments', and 'total sale price' as specified by the Board. The descriptive explanation of 'total sale price' shall include reference to the amount of the downpayment.

"(9) Where the credit is secured, a statement that a security interest has been taken in (A) the property which is purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.

"(10) Any dollar charge or percentage amount which may be imposed by a creditor solely on account of a late payment, other than a deferral or extension charge.

"(11) A statement indicating whether or not the consumer is entitled to a rebate or credit, or is subject to a penalty, if the obligation is refinanced or prepaid in full pursuant to acceleration or otherwise.

"(12) A statement that the consumer should refer to the appropriate contract document for any information it provides about nonpayment, default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties.

"(13) In any residential mortgage transaction, a statement whether a subsequent purchaser or assignee of the consumer may assume the debt obligation on its original terms and conditions.".

(b) Section 128(b) of such Act is amended to read as follows:

"(b)(1) Except as otherwise provided in this chapter, the disclosures required under subsection (a) shall be made before the

credit is extended. Except for the disclosures required by subsection (a)(1) of this section, all disclosures required under subsection (a) and any disclosure provided for in subsection (b), (c), or (d) of section 106 shall be conspicuously segregated from all other terms, data, or information provided in connection with a transaction, including any computations or itemization.

"(2) In the case of a residential mortgage transaction, as defined in section 103(u), which is also subject to the Real Estate Settlement Procedures Act, good faith estimates of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before the credit is extended, or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. If the disclosure statement furnished within three days of the written application contains an annual percentage rate which is subsequently rendered inaccurate within the meaning of section 107(c), the creditor shall furnish another statement at the time of settlement or consummation.".

(c) Section 128(c) of the Truth in Lending Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "deferred payment price" and inserting in lieu thereof "total sale price"; and

(3) by adding at the end thereof the following new paragraph:

"(2) If a creditor receives a request for a loan by mail or telephone without personal solicitation and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due.".

(d)(1) Section 129 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 129 and inserting in lieu thereof:

(e)(1) Section 126 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 126 and inserting in lieu thereof:

"126. [Repealed].".

(f)(1) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 128 and inserting in lieu thereof:

"128. Consumer credit not under open end credit plans.".

(2) The caption of section 128 of such Act is amended by striking out "Sales" and inserting in lieu thereof "Consumer credit".

CIVIL LIABILITY

SEC. 515. (a) Section 130 of the Truth in Lending Act is amended—

(1) by striking out "in such action" in subsection (a)(2)(B) and inserting in lieu thereof "under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same creditor";

(2) in subsection (a)(3), by inserting "or in any action in which a person is determined to have a right of rescission under section 125" after "liability";

(3) by amending subsections (b), (c), and (d) to read as follows:

"(b) A creditor or assignee has no liability under this section or section 106 or section 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if within sixty days after discovering an error, whether pursuant to a final written examination report or notice issued under section 108(c)(1) or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section or the receipt of written notice of the error from the obligor, the creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(c) A creditor or assignee may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors, but an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

"(d) When there are multiple obligors in a consumer credit transaction or consumer lease, there shall be no more than one recovery of damages under subsection (a)(2) for a violation of this title.";

(4) by adding at the end of subsection (e) the following new sentence: "This subsection does not bar a person from asserting a violation of this title in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.";

(5) by inserting ", section 108(b), section 108(c), section 108(e)," after "this section" in subsection (f);

(6) by adding the following new sentence at the end of subsection (g): "This subsection does not bar any remedy permitted by section 125."; and

(7) by amending subsection (h) to read as follows:

"(h) A person may not take any action to offset any amount for which a creditor or assignee is potentially liable to such person under subsection (a)(2) against any amount owing by such person, unless the amount of the creditor's or assignee's liability under this title has been determined by judgment of a court of competent jurisdiction in an action of which such person was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action to collect amounts owed by the consumer brought by a person liable under this title.".

(b) Section 130(a) of the Truth in Lending Act is amended—

(1) by inserting ", including any requirement under section 125," immediately after "this chapter"; and

(2) by adding at the end thereof the following: "In connection with the disclosures referred to in section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of section 127(a) or of paragraph (4), (5), (6), (7), (8), (9), or (10) of section 127(b) or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in section 127(a) or any of those paragraphs of section 127(b). In connection with the disclosures referred to in section 128, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of paragraph (2), (3), (4), (5), (6), or (9) of section 128 (a), or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in any of those paragraphs of section 128(a). With respect to any failure to make disclosures required under this chapter or chapter 4 or 5 of this title, liability shall be imposed only upon the creditor required to make disclosure, except as provided in section 131.".

LIABILITY OF ASSIGNEES

SEC. 516. (a) Section 131 of the Truth in Lending Act is amended to read as follows:

"§ 131. Liability of assignees

"(a) Except as otherwise specifically provided in this title, any civil action for a violation of this title or proceeding under section 108 which may be brought against a creditor may be maintained against any assignee of that creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, violations apparent on the face of the disclosure statement include, but are not limited to (1) disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) disclosures not made in the terminology required by this title.

"(b) Except as provided in section 125(c), in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgement of receipt by a person to whom a statement is required to be given pursuant to this title shall be conclusive proof of the delivery thereof and, except as provided in subsection (a), of compliance with this chapter. This section does not affect the rights of the obligor in any action against the original creditor.

"(c) Any consumer who has the right to rescind a transaction under section 125 may rescind the transaction as against any assignee of the obligation, regardless of whether such assignee is a creditor under this title.".

(b) Section 115 of the Truth in Lending Act is repealed.

(c)(1) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 115 and inserting in lieu thereof:

"115. [Repealed].".

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 131 and inserting in lieu thereof:

"131. Liability of assignees.".

LIABILITY OF CREDIT CARDHOLDER

SEC. 517. Section 133(a) of the Truth in Lending Act is amended to read as follows:

"(a) A cardholder shall be liable for the unauthorized use of a credit card only if the card is an accepted credit card, the liability is not in excess of $50, the card issuer gives adequate notice to the cardholder of the potential liability, the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided on the face or reverse side of the statement required by section 127(b) or on a separate notice accompanying such statement, the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has occurred or may occur as

the result of loss, theft, or otherwise, and the issuer has provided a method whereby the user of such card can be identified as the person authorized to use it. For the purpose of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.".

DISSEMINATION OF ANNUAL PERCENTAGE RATES

SEC. 518. (a) Chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following new section:

"§ 136. Dissemination of annual percentage rates

"(a) The Board shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Board, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Board is authorized to require creditors in such areas to furnish information necessary for the Board to collect, publish, and disseminate such information.

"(b) The Board is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsection (a) and to furnish financial assistance in support thereof.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"136. Dissemination of annual percentage rates.".

CREDIT ADVERTISING

SEC. 519. (a) Section 143 of the Truth in Lending Act is amended to read as follows:

"§ 143. Advertising of open end credit plans

"No advertising to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

"(1) Any minimum or fixed amount which could be imposed.

"(2) Where periodic rates may be used to compute the finance charge, the periodic rates expressed as annual percentage rates.

"(3) Any other term that the Board may by regulation require to be disclosed.".

(b) Section 144 of the Truth in Lending Act is amended by striking out paragraphs (1) through (4) of subsection (d) thereof, and inserting in lieu thereof the following:

"(1) The downpayment, if any.

"(2) The terms of repayment.

"(3) The rate of the finance charge expressed as an annual percentage rate.".

CORRECTION OF BILLING ERRORS

SEC. 520. (a) Section 161(b) of the Truth in Lending Act is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

"(6) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.".

(b) Section 161(c) of such Act is amended by inserting after "account" the first time it is used a comma and the following: "which may include finance charges on amounts in dispute,".

CREDIT BALANCES

SEC. 521. (a) Section 165 of the Truth in Lending Act is amended to read as follows:

"§ 165. Treatment of credit balances

"Whenever a credit balance in excess of $1 is created in connection with a consumer credit transaction through (1) transmittal of funds to a creditor in excess of the total balance due on an account; (2) rebates of unearned finance charges or insurance premiums; or (3) amounts otherwise owed to or held for the benefit of an obligor, the creditor shall:

"(A) credit the amount of the credit balance to the consumer's account;

"(B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and

"(C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, but no further action is required in any case where the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.".

(b) The table of sections of chapter 4 of the Truth in Lending Act is amended by striking out item 165 and inserting in lieu thereof:

"165. Treatment of credit balances.".

GOVERNMENT EXEMPTION

SEC. 522. (a) Section 113 of the Truth in Lending Act is amended to read as follows:

"§ 113. Effect on governmental agencies

"(a) Any department or agency of the United States which administers a credit program in which it extends, insures, or guarantees consumer credit and in which it provides instruments to a creditor which contains any disclosures required by this title shall, prior to the issuance or continued use of such instruments, consult with the Board to assure that such instruments comply with this title.

"(b) No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision.

"(c) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under this title where the violation results from the use of an instrument required by any such department or agency.

"(d) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under the laws of any State (other than laws determined under section 111 to be inconsistent with this title) for any technical or procedural failure, such as a failure to use a specific form, to make information available at a specific place on an instrument, or to use a specific typeface, as required by State law, which is caused by the use of an instrument required to be used by such department or agency.".

(b) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 113 and inserting in lieu thereof:

"113. Effect on governmental agencies.".

ORAL DISCLOSURES

SEC. 423. (a) Section 146 of the Truth in Lending Act is amended to read as follows:

"§ 146. Use of annual percentage rate in oral disclosures

"In responding orally to any inquiry about the cost of credit, a creditor, regardless of the method used to compute finance charges, shall state rates only in terms of the annual percentage rate, except that in the case of an open end credit plan, the periodic rate also may be stated and, in the case of an other than open end credit plan where a major component of the finance charge consists of interest computed at a simple annual rate, the simple annual rate also may be stated. The Board may, by regulation, modify the requirements of this section or provide an exception from this section for a transaction or class of transactions for which the creditor cannot determine in advance the applicable annual percentage rate.".

(b) The table of sections of chapter 3 of the Truth in Lending Act is amended by striking out item 146 and inserting in lieu thereof:

"146. Use of annual percentage rate in oral disclosures.".

EFFECTIVE DATE

SEC. 524. The amendments made by this title shall take effect upon the expiration of two years after the date of enactment of this Act. All regulations, forms, and clauses required to be prescribed under the amendments made by this title shall be promulgated at least one year prior to such effective date. Notwithstanding the foregoing, any creditor may comply with the amendments made by this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.

TITLE VI—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

SEC. 601. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located,".

SEC. 602. The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by adding at the end thereof the following:

"SEC. 26. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after

the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 603. Title IV of the National Housing Act (12 U.S.C. 1724–1730(f)) is amended by adding at the end thereof the following:

"SEC. 414. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than the years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

SEC. 604. Section 306 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661), is amended by adding at the end thereof the following:

"(i)(1) In order to facilitate the orderly and necessary flow of long-term loans and equity funds to small business concerns, as defined in the Small Business Act, if the maximum interest rate permitted by the Small Business Administration exceeds the rate a small business investment company would be permitted to charge in the absence of this subsection, such small business investment company may in the case of business loans in the amount of $25,000 or more, not withstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the small business investment company is located.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such small business investment company would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the small business investment company taking or receiving such interest.".

SEC. 605. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates, if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 606. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 607. The amendments made by this title shall apply to any loan made in any State after the date of enactment of this title, but prior to January 1, 1981.

TITLE VII—APPLICABILITY OF STATE USURY CEILINGS TO CERTAIN OBLIGATIONS ISSUED BY BANKS AND AFFILIATES

SEC. 701. Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by adding at the end thereof the following new subsection:

"(2) No member bank affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.".

SEC. 702. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

"(2) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.".

SEC. 703. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by adding at the end thereof the following new subsection:

"(f) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.".

SEC. 704. The amendments made by this title shall apply to any deposit made or obligation issued in any State after the date of enactment of this title, but prior to January 1, 1981.

TITLE VIII—LIMITATION

SEC. 801. The provisions of titles VI and VII apply only in those States having a constitutional provision which provides that all contracts for a greater rate of interest than 10 per centum per annum shall be void, as to principal and interest.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, H.R. 4986, as reported by the Banking Committee, is landmark legislation which will deregulate our financial institutions, making them more competitive in the future and enabling them to better serve the public interest.

The thrust of H.R. 4986 is on deregulation and enhanced competition between financial institutions. Currently, our financial institutions are so overly compartmentalized and fenced off from competition from one another that they are inhibited from fulfilling their public interest purposes.

For example, thrift institutions cannot offer checking accounts, consumer loans or trust services. They cannot, therefore, offer the homeowner all of the services he needs. The homeowner, therefore, finds it more convenient to place his funds at

commercial banks. To compensate for this defect, the regulators have had to gerrymander a rate control structure that gives thrifts a differential advantage in what they can pay on deposits over what commercial banks are permitted to pay and interest rate controls in general have been pegged at below market rates for most savers.

Perhaps the worst aspect of interest rate controls, or regulation Q as they are known in the marketplace, are that they are inflationary because they reward consumption and discourage saving.

I want to stress that. How ridiculous can you get when you have a Federal law that makes it a crime to pay the small saver more than 5.25 percent by the commercial banks and more than 5.5 percent for the thrifts? Of course, what that does is discourage savings. It means the little guy is hurt. It means that you have to have $10,000, in many cases, in order to get anything close to the market rate.

There is very little incentive these days for saving money if you get a 5 percent return when the inflation rate is 15 percent and when there is nobody who expects the inflation rate to be as low as 5 percent by the end of next year. Under those circumstances, of course, the incentive to save for the overwhelming majority of American people is sharply diminished.

At the same time, regulation Q has failed because it has not prevented a collapse of the housing industry in periods of tight money except when the regulation is applied in a blatantly discriminatory way against small savers.

Mr. President, it is clear that the time has come to update our financial institutions and to make them more responsive to the public interest.

H.R. 4986 as reported by the Banking Committee will do the job that needs to be done now.

Let me spend a couple of minutes indicating the details of this bill, because it is a comprehensive bill. It does have a number of varied positions.

First, it provides the authority for commercial banks, Federal savings and loan associations, and Federal credit unions to offer the equivalent of interest-bearing checking accounts to individuals and nonprofit organizations.

Oh, how long have all of us been concerned about the fact that when we have $1,000, $1,500, $2,000 in a checking account, it sits there with no interest? That means that, these days, we are losing money and plenty of it, as the months pass. This would end that.

Such interest bearing checking accounts are referred to as NOW accounts—negotiable order of withdrawal accounts—at banks and thrifts, and share draft accounts at credit unions. Since NOW accounts and share draft accounts are transaction accounts—that is, can be used to pay bills by drawing a check on the accounts—and are part of the money supply, they are subjected to the reserve requirements of the Federal Reserve Board.

Second, interest rate ceilings on time and savings deposit, commonly referred to as regulation Q, are phased out over a 10-year period.

So we do not have that ceiling I spoke about earlier if this bill is enacted into law. No longer will we make it a crime to pay a market rate of interest to a saver—at least, after time passes. Current regulation Q authority is extended for 10 years. The bill directs that rate ceilings must rise by at least one-half of 1 percent each year from the 3d to the 10th year unless the increase is postponed or reduced by the Federal Reserve under the standards set forth in the legislation. At the end of the 10-year period, all interest rate control authority expires subject to standby authority lodged in the Federal Reserve under specified economic conditions.

Third, the regulatory agencies are required to provide greater equity to small savers by reducing the $10,000 minimum denominations—that is one of the other discriminations now. As I say, if you are a person with $10,000, and only a small proportion of the American people have anything like that in cash—only about 1 out of 20—if you have that, of course, you can go into the market. You can buy a certificate of deposit and you can make a 10 percent, 11 percent, 12 percent return. Otherwise, you are cut out. You cannot buy it. This would end that discrimination, too; not only the discrimination against the small saver who has a passbook account, but also the small saver who would like to buy a certificate but cannot afford it because he only has $1,000 or $2,000 or $3,000 or $4,000 and not $10,000.

What this would do would be to provide that the regulatory agencies permit people to purchase certificates of deposit with $1,000 within 2 years unless the Federal Reserve finds that economic conditions or the viability of thrift institutions, necessitates postponement. Any postponement must be reported to the Congress, and we have to have the reasons for it.

Fourth, Federal savings and loan associations are authorized to hold 10 percent of their assets in consumer loans, commercial paper, corporate debt securities or bankers acceptances; to offer personal trust services; and to make mortgage loans competitively with national banks.

Many people attack that, saying we are homogenizing the banking industry and we are not permitting the housing services to be as preeminent as they have been in the past. I call the attention of the Senate to the fact that this is a limited power but, nevertheless, an important one. It permits the savings and loans to get into consumer loans in a modest way, 10 percent; also into commercial paper, corporate debt securities, and so forth.

It enables them to offer personal trust services, which they cannot do now, so if you want to have something like full service by your savings institution, you cannot do it.

Fifth, several miscellaneous matters are provided for, including Comptroller of the Currency housekeeping amendments; the text of the Truth-In-Lending Simplification Act, which was passed earlier but have not been able to get through the House. One of the great problems with the truth-in-lending bill—I am the author of that bill. Paul Douglas did all the work on it, but I was able to carry it through to success in 1968. This is a bill which I think has served a useful purpose. The difficulty is that truth in lending has become so complicated that borrowers get confused when they go to borrow money and they are presented with a truth-in-lending statement but they do not know what to do with it.

It is a burden on the lender to have to fill it out. So this abbreviates, simplifies, provides all ingredients necessary for a borrower to understand what the true annual rate is and what the true finance charge will be if he borrows money.

Also, another very controversial, but I think vital provision, exemption from State usury limitations on residential mortgage loans for specified lenders unless the State reenacts ceilings within 2 years.

We have a situation now where the rate is getting so high that many banks and savings and loans simply cannot offer mortgages or they violate the statute. In some cases, it is imbedded in the Constitution; in others, it is very difficult for the legislature to meet and act on it.

This gives them a chance to start again.

Also, a temporary exemption from State usury limits applicable to business and agricultural loans in Arkansas.

On September 11, 1979 the House passed H.R. 4986 by a 367-to-39 vote. The House bill, called the Consumer Checking Account Equity Act of 1978, authorizes banks, thrifts and credit unions to offer consumers the functional equivalent of interest bearing checking accounts nationwide.

In other words, that is a NOW account bill. It provides for NOW accounts, checking accounts on demand deposit nationwide.

Mr. President, the House passed bill is incomplete because it does not address the gut issues of survival of thrift institutions and their commitment to housing over the long haul.

On June 14, 1979 Senator CRANSTON and I introduced a broad financial reform bill designed to meet head on the problems confronting our financial institutions. This bill (S. 1347) was referred to the Banking Committee. All interested parties were given the opportunity to testify. The legislation entitled the "Depository Institutions Deregulation Act," included the recommendations of the administration as contained in President Carter's message to the Congress on May 22, 1979. S. 1347 provided for a gradual lifting of rate ceilings on time and savings deposits; authorized banks, thrift institutions, and credit unions to offer the equivalent of interest-bearing checking accounts; extended new lending powers to Federal savings and loan associations; and exempted residential mortgage loans from State usury statutes.

Obviously, a great deal of that bill is included in this bill.

H.R. 4986 as reported by the committee embodies S. 1347 and was reported in lieu of S. 1347 by striking out the House version of H.R. 4986 and inserting in lieu thereof S. 1347.

The background of H.R. 4986 is as follows:

The President established an Inter-Agency Task Force on Deposit Interest Rate Controls and Housing Credit in 1978 to examine the function and effectiveness of the system of deposit interest rate controls and to recommend changes in that system if warranted. The members of the task force were the Department of the Treasury, the Department of Housing and Urban Affairs, the Office of the Special Assistant to the President for Consumer Affairs, the Office of Management and Budget, the Council of Economic Advisors, and the White House Domestic Policy Staff. The participating regulatory agencies were: the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administration, and the Comptroller of the Currency. The task force concluded in its report to the President that:

First, regulation Q does not prevent disintermediation and the consequent curtailment of funds for housing finance;

Second, regulation Q is unfair to small savers; and

Third, regulation Q is responsible for inefficiencies in the marketplace.

Following the receipt of the task force recommendations, on May 22, 1979, the President asked Congress to:

First phase out regulation Q—which we do in this bill—during a transition period during which all deposit interest rate ceilings would be permitted to rise in an orderly manner with regulatory flexibility to delay increases if economic conditions warranted or the safety and soundness of depository institutions was threatened.

Mr. President, I might point out that that recommendation and this legislation is anti-inflationary in the best sense because there is nothing we can do that would be more helpful in overcoming inflation than encourage saving on the part of people and discourage consumption. Certainly, at this stage.

As I say, there are justice and equity arguments involved here, too. But how ridiculous it is that we have a savings rate lower than almost any developed country in the world and we have an investment problem because people are not investing. One of the reasons, of course, is that we have this kind of situation where savers and investors are not given adequate rewards, particularly small savers.

Second, provide variable rate mortgage authority to Federal savings and loan associations to improve earnings and the ability to pay depositors market rates;

Third, permit Federal savings and loan associations to invest up to 10 percent of their assets in consumer loans; and

Fourth, permit all insured depository institutions, including savings and loan associations to offer interest bearing transaction (or checking accounts) to individuals.

H.R. 4986, as amended by the committee, embodies the recommendations of the President and the Inter-Agency Task Force on regulation Q.

I shall give a little history. In 1975 the Senate passed a similar measure updating our financial institutions. That legislation was not considered by the House. In the last Congress, the Banking Committee reported another financial institutions bill to the Senate; but that bill did not become law. But, Mr. President, everything that has happened since 1975 confirms that the Banking Committee is correct in pursuing the goal of financial reform. And reform is particularly needed now.

Regulation Q fixing the maximum rate of interest that may be paid on deposits by financial institutions was enacted in its present form in 1966 as a temporary measure. Even in 1966 the passage of interest rate controls were recognized to be discriminatory against the small saver.

What was enacted as a temporary measure in 1966 has become a semi-permanent feature of the financial institutions landscape. Regulation Q has been extended 11 times since 1966.

It was a temporary measure, extended 11 times since 1966, for 13 years has been the law of the land—and it was intended to be only temporary.

By now, however, it has become abundantly clear that rate ceilings have not been effective in shielding housing during periods of tight money. Instead they discriminate against small savers, encouraging the flow of funds to unregulated intermediaries, discourage savings and contribute to inflation.

The present structure cannot fulfill the temporary mandate given in 1966 to regulation Q to provide an even flow of funds into housing. Regulation Q addressed only fund flows between commercial banks and thrift institutions. Market forces have made this intramural war irrelevant. Savings alternatives such as the so-called money market funds, which are uninsured and offer the small saver a market rate of return on savings, have grown enormously, at the expense of insured financial institutions. Market innovators such as retailers have indicated their intent to market commercial paper in small saver denominations. It is thus clear that regulation Q and its mandate of below-market rates to small savers is driving money out of the financial system, out of housing, and into noninsured intermediaries. Regulation Q's original purpose, temporary as it was, has been overrun by events in the marketplace.

That is the answer to those who say that if we take out this differential that provides an advantage for savings and loan institutions, if we eliminate the cap that holds down the interest that can be paid savers, housing will be hurt.

The fact is that it is awfully hard to beat that marketplace, and that many people are withdrawing their funds now, particularly all those who have the big savings. The 10 percent of the people who have a whale of a lot of money no longer put it into savings and loans. Instead, they put it into those other investments to get 10-percent, 15-percent returns.

So housing is not being helped by this.

What this bill does is try to bring the financial institutions and the savings and loans into a recognition that the marketplace has changed.

When we have a 5-percent savings rate, a 15-percent inflation rate, and a 14½-percent prime rate, it is obvious the market just will not permit that and that any saver with any brains who has enough money will move his funds and move them out of housing.

Regulation Q is also out of keeping with the times because it is inflationary. Because regulation Q prevents savers from earning a fair rate of return, saving has become an unrewarding economic experience. Inflation eats away at savings and erodes savings as a store of economic value. Unfairly low returns on savings discourage savings and encourage current consumption. This is the wrong economic policy at a time when inflation is our No. 1 economic problem. Regulation Q fuels inflation by encouraging spending. It therefore should come as no surprise that the United States has one of the lowest savings rates of the industrialized world. Regulation Q discourages savings and thus discourages capital formation and increases in productivity.

I should say it discourages increases in productivity.

Regulation Q has become a prescription for economic disaster. That is why the committee believes a statutory 10-year timetable for phasing out regulation Q is in the best interest of the thrift industry—not only in the best interest of the saver, but in the best interest of the industry itself.

I wish we could phase it out today, but if we did, the adjustments would be extraordinarily difficult. It puts all institutions on notice that change is inevitable—that savers are eventually going to realize a market rate of return and that plans must be made today for competing in the future. Clinging to the regulation Q ceilings will simply regulate the thrift industry into extinction.

The provisions of the bill effectively phase out regulation Q in 10 years. Current regulation Q authority is extended for 2 years.

Beginning on January 1, 1982, and on each succeeding January 1 through January 1, 1989, and subject to Public Law 94-200, the ceilings of maximum rates of interest on each category of deposits established under regulation Q must be increased by at least one-half of 1 percent each year. The ceiling on each category of deposits is therefore mandated to increase by at least 4 percent during the 10-year period.

However, if the Board of Governors of the Federal Reserve System in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the National Credit Union Administration, determines that it is economically feasible or desirable to accelerate the mandated increases in the ceilings during the 10-year period, it must report such determination to Congress. New cate-

gories of deposits created by these regulatory agencies during the 10-year period shall be at least equal to the ceiling rate applicable on accounts of comparable maturities.

On January 1, 1980—in about 10 years—all regulation Q authority expires. The bill, however, contains standby authority under which the Federal Reserve may reimpose rate controls for one year if an extreme economic emergency exists and such action is necessary to maintain the economic viability of depository institutions. Any such finding must be reported promptly to the Congress in detail.

This legislation thus provides an orderly statutory program to phase out regulation Q. The 10-year period appears long enough to enable thrift institutions to put their new powers into operation so that they can maintain their viability in a market rate environment.

The legislation authorizes Federal savings and loan associations to provide consumers with virtually all of their household borrowing needs. So that the savers, the persons interested in banking services, can patronize a savings and loan as in many cases they prefer to patronize a bank now, because the bank has more convenient services.

Thrifts have historically functioned as depositories and home mortgage lenders. But the home mortgage borrower has had to go elsewhere to other types of financial institutions to obtain a checking account, make a consumer loan, and obtain trust services. The inability to offer the consumer such services has handicapped savings and loan associations in competition with other depository institutions which offer the consumer convenient one-stop financial services across the board. As a result, in periods of tight money, savings and loan associations suffer from fund outflows even though the rates they pay on deposits are competitive.

This legislation gives Federal savings and loans the ability to compete for the savings dollar while remaining housing oriented. They are authorized by the legislation to offer checking accounts and to hold 10 percent of their assets in consumer loans, commercial paper, corporate debt securities and bank acceptances. These powers should enable thrifts to become one-stop family financial centers making them more competitive and giving them the earnings they need to pay market rates to depositors.

This legislation also gives Federal savings and loan associations the ability to offer trust services on the same basis as national banks and with the same protections against insider abuse. The FHLBB is expected by regulation to tailor permissible trust powers to those that enhance the ability of thrifts to offer complete financial service to the consumer.

At the present time, insured financial institutions, for the most part, are forbidden to pay the consumer interest on demand balances kept in a checking account even though it may be economically feasible and more efficient to do so.

Federal law prohibits insured commercial banks from paying interest on demand deposits. Federal law prohibits Federal savings and loan associations and credit unions from offering checking accounts.

In order to provide the consumer with a more competitive and efficient service, the regulatory authorities last year by regulation permitted financial institutions to offer interest bearing checking account type services nationwide. The bank regulatory agencies permitted insured banks to offer the consumer automatic transfer service from savings accounts to checking accounts (ATS); the FHLBB permitted Federal savings and loan associations to allow consumers to make savings deposits and withdrawals from off-premises remote electronic service units in some cases located in various retail stores. The National Credit Union Administration authorized Federal credit unions the power to offer interest bearing checking accounts. These accounts are called share draft accounts and are equivalent to the NOW accounts offered by banks and thrifts.

Recently the U.S. Court of Appeals for the District of Columbia ruled that the regulatory agencies had no authority to authorize these consumer services. The court mandated that all institutions offering these services must stop doing so by January 1, 1980. If the court decision is allowed to go into effect—this bill, of course, would meet the decision—millions of consumers who desire these services will be cut off. Worse yet, if credit unions are forbidden to offer share draft checking accounts they stand to loose hundreds of millions of dollars in deposits which may adversely affect the liquidity of credit unions. So the credit unions and the financial institutions generally have a very deep and real interest in seeing that this legislation is enacted. If it is not enacted by the first of the year, they will be in very serious trouble.

There is no good public policy reason in the world why interest bearing checking accounts should not be authorized for banks, thrifts, and credit unions in the context of financial reform.

Section 302 of the bill provides that federally chartered savings and loan associations may, under an amendment to section 5(c) of the Home Owners Loan Act (12 U.S.C. 1464), invest in or sell or otherwise deal in loans or investments secured by liens on residential real estate to the same extent and in the same manner and amounts without limitation as national banks can pursuant to the provisions of section 24 of the Federal Reserve Act (12 U.S.C. 371).

The committee's purpose in approving this provision is to enable Federal associations to make residential real estate loans in a manner which provides the greatest flexibility and which eliminates needless and overly technical distinctions between residential real estate lending authority and regulations of Federal savings associations and national banks. Thus, by applying section 24 to Federal savings and loan associations, such institutions would be able to undertake more creative and less rigid approaches to residential real estate lending now available only to national banks. For example, while most loans by Federal savings associations cannot exceed an 80-percent loan-to-value ratio and a $60,000 aggregate limit, banks may make loans on up to 90 percent of appraised value for improved real estate and, most significantly without dollar limitations.

The committee believes that the added lending flexibility provided under section 302 is required in order to permit Federal savings and loan associations to bolster their earnings capabilities and thus be in a position to pay higher rates of interest to their savers as provided for under section 107 of the bill. The committee wishes to emphasize that all of the new lending powers accorded Federal savings and loan associations are linked to the phaseout of the regulation Q ceilings and must be considered as a total package.

That is why it is important for us to act on this bill at this time, in this comprehensive way.

The administration also recommended that thrift institutions be given the authority to offer variable rate mortgages to consumers in connection with the phasing out of regulation Q. This legislation does not contain VRM authority because it is not needed. The FHLBB has already taken administrative action to authorize variable rate mortgages nationwide with consumer safeguards. I would oppose as unconscionable variable rate mortgage authority for thrifts if not coupled with a phaseout of regulation Q and the consequent ability of thrift institutions to offer market rates of return to savers. Unless regulation Q is lifted, thrifts will be in the position of being able to increase the rates of return on mortgages while the Government keeps a tight clamp on the rates they pay depositors. Such a situation would result in unconscionable windfalls to thrifts. However, in the context of a phaseout of regulation Q and market rates to savers, variable rate mortgages with consumer safeguards are not objectionable.

For too long, savers have been required to subsidize borrowers. The administrations study on deposit interest rate ceilings and housing credit cited evidence showing that "income levels of households that are savers and borrowers are very different, with deposits being more important in the wealth portfolio of lower income households than in other income households. Mortgage borrowers, on the other hand, were primarily from higher income groups."

Regulation Q has become a Government control program which requires lower income savers to subsidize wealthier borrowers. Does anyone doubt that this policy is bankrupt in current economic circumstances?

Hobart Rowen, the distinguished economic commentator of the Washington Post, recently stated in his column:

> The U.S. government, to encourage home ownership, has for the entire post-World War II period manipulated tax rates and interest-rate ceilings to encourage the building industry at the expense of the saver. Homeowners not only get the benefit of lower mortgage rates than they should have paid, but receive interest-rate deductions on their taxes as well. Savers took it in the neck.

Mr. President, it is time for Congress to focus on the saver. Regulation Q policy is distorting our economy. Savers should not be required to subsidize borrowers or to spend their money today because if they save it until next year it will buy less. Regulation Q is destroying incentives to save while rewarding current consumption.

Mr. President, this legislation encompasses the recommendations made by President Carter in May to the Congress to strengthen thrift institutions and to augment their earning powers so that they can pay market rates to savers while maintaining their commitment to housing.

This legislation also contains provisions which will alleviate the situations in many States whereby low usury mortgage lending limits are inhibiting the flow of funds into home mortgage lending. H.R. 4986 as reported preempts State usury limits on home mortgage loans but allows the States to reimpose such limits within a 2-year time period. This is not a preemption by fiat but makes a reasonable accommodation consistent with our Federal system.

Mr. President, H.R. 4986 as reported does the job that needs to be done now to update our financial system and to allow our financial institutions the hope to face the future. I hope and trust that the Senate will see the future, and I commend this bill to my colleagues for passage.

Mr. President, let me indicate the support for this bill. It is supported by the administration. It is supported by the American Bankers Association. It is supported by the credit unions. It is supported by a number of different savers' groups who testified before our committee. It is supported by the National Savings and Loan League. It is supported by the Gray Panthers, which is one of the outstanding savings groups. It is supported by the American Association of Retired Persons, by the Federal Reserve Board, by the Comptroller of the Currency, by the Home Loan Bank Board, and by the National Credit Union Administration.

I hope that we can act on this bill. I realize it is controversial, and I recognize that Senator MORGAN, among others, has some very strong feelings on the bill and expects to express those as he has already expressed them extremely well.

Mr. President, I ask unanimous consent that the following staff members of the Banking Committee be accorded the privilege of the floor during consideration of H.R. 4986. They are: Ken McLean, Lindy Marinaccio, Steve Roberts, Steve Rhode, John Quinn, Carolyn Jordan, Howard Menell, Dan Wall, Tony Cluff, John Collins, Beth Climo, and Linda Zemke.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. MORGAN. Mr. President, as always, I am reluctant to rise to oppose my distinguished chairman, on whose committee I have served for nearly 5 years now, and for whose judgment I have a great deal of respect, and even more respect for his courage because he does not hesitate to stand up for those things he believes in.

But, Mr. President, I do not believe my chairman could be more wrong than he is on this bill. The bill is entitled "The Depository Institutions Deregulation Act." But I honestly think it should be entitled "The Depository Institutions Abolition Act," because I believe the ramifications of this bill are so far-reaching that the effects could very well be the destruction of some of the finest financial institutions that have ever served this Nation.

I have not hesitated to point out my respect for the savings and loan associations of this land since I have been in the Senate, and my admiration for the role they have played not only in providing a place for savings for the small saver as well as the larger entities, but just as importantly for the role they have played in making available the financing for the purchase and construction of homes in this country.

If my memory serves me correctly, about 60 percent of all the homes in American have been financed by the savings and loan associations. I have heard figures as high as 80 percent, but I know that about 60 percent is certainly within reason. A great portion of the remaining homes have been financed indirectly or directly by the Federal Government.

I predict, Mr. President, if this bill is passed, in the future the only financing that will be available for home ownership will be that provided by the Federal Government. As a matter of fact, already one of the cointroducers of this bill has recognized the possibility of what could happen to the thrift institutions, if the bill is passed, and I am told he is prepared to offer an amendment to provide another bailout by the Federal Government of the savings and loans that would be caught in dire circumstances in the event this bill is passed.

Mr. President, there are a number of kinds of financial institutions in America. Commercial banks have a very important role to play. They engage in financing businesses and industry, and in consumer loans. But through the years the savings and loans have dealt primarily with home loans. They have been structured almost solely for that purpose.

Why we now feel the necessity to homogenize all of the financial institutions in this country into one kind of financial institution I do not know. I realize that this bill in itself will not completely homogenize them, but when the then Secretary of the Treasury, Mr. Blumenthal, was testifying on behalf of this bill before the Banking Committee, I asked him on a number of occasions to please describe for the committee the characteristics that would distinguish thrift institutions from commercial banks if this bill passed.

On at least two occasions he could not do it, or he did not do it. All he said on both occasions was, "Well, Senator, the characteristics, the difference between the thrift institutions and the commercial banks would be much narrower." That is exactly what this bill would do, make it narrower.

I am going to go more into detail later on in the day or the night or the week or whenever the time occurs about all the ramifications; but essentially what this bill would do is to give the savings and loans checking accounts, just put them into the checking account business. They call them NOW accounts, negotiable order of withdrawal accounts. But just put it down in your book that for all practical purposes it is a checking account.

Most of the savings and loans in the country do not want checking accounts. The U.S. Savings and Loan League, which is the largest savings and loan trade association, does not want them. My chairman said the National Savings and Loan League favored them. I do not know how many members it has, but it is something like 200 or 300, a small number. I will come back to that.

The bill proposes to make savings and loans resemble a bank by giving them checking account authority.

All right. What else happens? The bill would give them the authority to lend as high as 10 percent of their assets in consumer loans, that is, to finance automobiles, refrigerators, household furniture, and so forth.

Well, everybody knows what the purpose of that is. You make higher earnings when you finance an automobile. You go down to a local bank and try to finance a car that is 2 or 3 years old, and you will end up paying an extremely high annual rate of interest. But savings and loans are going to have to do that. They are going to have to be given authority to make more money than they can make on home loans if you are going to homogenize the savings and loans and thrift institutions and make them act like banks, because another provision in this bill abolishes the interest differential called regulation Q.

As the chairman pointed out, since 1966 the law has provided that thrift institutions could pay up to a quarter percent higher interest than commercial banks could pay on passbook savings. The reason for that, of course, was because savings and loans have been restricted in their investment portfolio. They have been designed to finance homes in order to make home loans available to the average person in this country at a reasonable rate. But now this bill would phase out that interest differential over a period of up to 10 years and, well, if they are going to phase it out, and if they are going to have to compete with that commercial bank down on the corner that is charging 12,

15, 20 percent interest or even higher on consumer loans, then they are going to have to have the authority to invest in other kinds of loans other than home loans in order to earn enough money to compete for the savings.

But what they are going to find, Mr. President, is that they cannot get along with 10 percent consumer loans. First of all, they are not geared up to handle consumer loans. They have been in the home loan business, the real estate loan business, and to gear up to get into the consumer finance business, which is the most lucrative of financial businesses, they are going to have to go to a great deal of expense, and that is still not going to be sufficient. So we will be right back here within a year—and I will predict within a year—we will be back saying, "Oh, the limitation of 10 percent on consumer loans is just too restrictive, so we ought to let them go on up to 25 percent" or to 50 percent, and they are going to have to do that if they are to be able to attract money into their institutions.

So what are we going to do? If this bill is passed, those savings and loans that are able to survive—and I predict there will be a very small percentage that will survive in their present form—will be engaged more in consumer loans than any other type of investment.

Where are the young couple going to get a loan to build a home? They are going to have to come with their hands in front of them begging for another Federal program to finance home loans.

So I say this bill has dire consequences, and every Member of the Senate and every Senator's staff listening to this colloquy or debate, if you want to call it a debate today, ought to look at their mail. Do not take this issue lightly. We have all been involved in the SALT debates and the SALT hearings. We have been involved in the budgetary process, and to be right honest with you I am afraid too many of my colleagues do not even realize the ramifications of this bill.

I have been living with this or some similar bill since 1975, but I have to confess to the Senator that it was only last night in my apartment that I sat down with a great stack of mail on the subject to read it, because I had not had time to read it before. So I am saying that it is an important bill.

Now, what is going to happen to these savings and loan institutions if this bill is passed because of the lowering of the minimum money market certificate requirement from $10,000 down to $1,000? I will tell you what it is going to do. It is going to force most small savings and loan institutions in this country into a position that they are going to have to merge with the giants, or they are going to be taken over by the banks, and some of them will convert into stock savings and loan institutions.

I agree with my chairman, and I commend his for his efforts to prevent that, but apparently both of us have failed, because one of the largest savings and loan's in Raleigh, N.C., has now converted to a stock savings and loan institution, and I predict that if this bill is passed, that stock savings and loan institutions will be taken over by one of the large banks of the State or some other large corporate entity within a year or two.

Why? Because they have been making home loans over the years at fixed rates of interest. Many of the loans in the portfolios of almost every savings and loan institution in this country today were made at 6 percent. As a matter of fact, the loan that I have on the first home that I built and I have just moved out of was at 6 percent. To tell you the truth, the interest rate is so attractive that I hate to pay it off. I have been putting it off, because of that 6 percent rate. Why, the same savings and loan institution is paying me more interest on money that I have got there than I am paying them on money I have borrowed from them.

So I am making money by having the loan. Well, a vast majority of their portfolio is in loans made at from 6 percent to 8 percent. They have to earn some money in order to see these low-interest loans out. Well, already, since the money market certificates have become so prevalent in the last few months, even in large amounts of money, large portions of the savings have been drawn into the higher-interest-paying certificates, to the extent that today many savings and loan institutions are operating on such a narrow margin that they can hardly survive and pay their expenses.

If we lower the money market certificate level down to a thousand dollars for a 2-year period, and the flow of the savings goes at a greater rate than at the present time from passbook savings to that type, then there is no way that the present savings and loan institutions will be able to pay that high interest when they have got most of their investment in home loans at 6 percent to 8 percent.

That is what the Senator from California (Mr. CRANSTON) recognizes, and he is one of the introducers of this bill. That is why I understand he already has an amendment prepared that says, "Oh, well, we will let HUD or Farmers Home or the Federal Government bail out these savings and loan institutions and save them from going bankrupt by buying these low interest loans."

You know, everything nowadays has to be a bail-out, a bail-out by the Federal Government. Sometime ago, when it first came out that Chrysler Corp. was in dire circumstances, I said to myself and to many of my constituents, "I will not be a party to bailing out Chrysler Corp. with a free enterprise system we ought to have a free market, or we ought not to pretend we have."

I say that especially, unless workers, dealers, the company, and others are willing to make sacrifices. But lo and behold, Mr. President, I find that now, with the various Government agencies, there are not many types of businesses in this country that have not been bailed out by Farmers Home or HUD or somebody else in the Federal structure. I have been dealing with Farmers Home as a member of Senator PROXMIRE's Banking, Housing, and Urban Affairs Committee for some time. I am privileged to be chairman of the Subcommittee on Rural Housing and Development. I have been concerned about the large loans that they have been making to substantial businesses in my State.

I thought Farmers Home was designed to protect the lower-income people, to help the small farmer get a farm, to help the rural people get a house. But lo and behold, I saw come across my desk one day a $2 million loan made to a business in my area that I thought was one of the biggest, wealthiest businesses in my State except those listed on the New York Stock Exchange. I know that business was worth several million dollars, and here that business was being bailed out by Farmers Home. So I got a printout of all the businesses in North Carolina that had been helped by Farmers Home, and I was astounded.

Then a couple of Sunday nights ago I saw the program on the CBS network called "60 Minutes," which reported that Farmers Home was bailing out farmers out in California, including one man who said his net worth was $17 million, and, because there was a disaster, we had bailed him out to the tune of $8 million.

That has nothing to do with this except to point out the kind of thinking, the state of mind of many of our colleagues who say, every time any problem comes along, "Let's bail them out."

(Mr. BOREN assumed the chair.)

Mr. STEWART. Mr. President, will the Senator yield for a question?

Mr. MORGAN. I am happy to yield to my friend from Alabama (Mr. STEWART).

Mr. STEWART. I would like to ask a question of the Senator, if I may, at this time with regard to title II of this bill, which has to do with reserve requirements.

It is my understanding that the provisions of title II of this legislation with regard to reserve requirements apply to those accounts that are authorized by this legislation. I have some other concerns, but let me just ask that as the first question of the Senator from North Carolina, if that is in fact the case.

Mr. MORGAN. That is my understanding, that the Federal Reserve would be permitted to require reserves of both member institutions and nonmember institutions if they use these accounts.

Mr. STEWART. All right. Now, if the Senator will yield further for another question which I would like to ask: As the Senator knows, we are considering now in the Banking, Housing, and Urban Affairs Committee another bill which has to do with reserve requirements. Does the Senator understand this legislation in any way to impact with regard to nonmember banks of the Federal Reserve—talking about this legislation, now—on any requirement that perhaps could be invoked other than those dealing with the accounts that are set forth under this legislation? Does the Senator understand what I am talking about? If not, I will rephrase it.

Mr. MORGAN. Let me see if I understand the question correctly. Well, first we agree that it does affect member institutions and nonmember institutions alike for some purposes. It is my understanding that it would affect them only to the extent that these NOW accounts

or transactional accounts might be utilized.

Mr. STEWART. All right. As the Senator knows, the Senator from Alabama has not been here but a short period of time, and I do not want to put myself in the posture or position—and frankly I do not want to put other members of the Banking, Housing, and Urban Affairs Committee in that posture or position, or other Members of the Senate in that posture or position.

Let us just say as a hypothetical fact that the Senate might pass this legislation. Would it be possible, under title II of this bill, to add to that, as a part of the conference activity, S. 85 or its companion bill in the House with regard to reserve requirements being required of nonmember banks on a different basis, and in connection with something other than the transactional accounts that are required under this legislation?

Would that be possible in the conference committee if this language remained in the bill, without markup, without consideration by the committee of that legislation, other than what we have done so far?

Mr. MORGAN. Since there seems to be no other Member on the floor, let me see if I can put what we are talking about in perspective. Senate bill 85, as I understand it, is the bill which would authorize the Federal Reserve to require of member banks and nonmember banks—not necessarily limited to this bill—certain reserve requirements, and that is a bill, which as I understand it, addresses the same issue that three Chairmen of the Federal Reserve Board have been concerned with. It is a substantial departure from the present law.

Mr. STEWART. The Senator is correct about that. That is what I am concerned about.

Mr. MORGAN. I do not mean to filibuster, but, as I say, no one seems to want to take the floor away from me.

It is a substantial departure. It has great ramifications with regard to the dual banking system which has contributed so much to the financial and fiscal affairs of this country. Therefore, it is a very important issue.

I think maybe it might be possible that if we pass this bill, which has this one little provision in it which was described earlier, which would allow the Federal Reserve to require reserves of these institutions, if they exercise NOW account prerogatives, it is possible that the provisions of S. 85 could be attached in conference, and, as a matter of fact, we have heard rumors that it might be.

So what we might be doing is acting upon one of the most important and controversial issues which has been before the Banking Committee, in my service on it, as sort of a collateral issue on a different type of bill.

Mr. STEWART. If the Senator will yield for a further comment at this point, I do not mean to make disparaging remarks to those who are moving this legislation, and would not attribute that possibility to those people, but I think that matter ought to be considered by the Banking Committee and by the Senate as a whole. I would like to have a colloquy with the manager of the bill at the appropriate time, that this not take place in the conference committee. I hope it has not been suggested in any way that it would or that that possibility would exist.

I plan to join the Senator from North Carolina in discussing this on the floor. I do not feel this is the proper way for dealing with that far-reaching question, and I do not feel it is the proper approach to take with regard to resolving that matter because it deprives the members of the Banking Committee from the activity which they should have in both the House and Senate committees in marking up that legislation. I would hope that is not what is about to happen. I would certainly like to help the Senator from North Carolina in preventing that from happening.

Mr. MORGAN. I thank my distinguished colleague for his comments. I am always grateful for support, especially at a time when I seem to have so little. So it is even more welcome now than before.

The Senator makes a good point, and, again, I hope that members of the staffs of my colleagues were listening and will take note of that point because, if Senators will read the summary of this legislation in the committee report, it could be so easily overlooked.

I will read the only reference made to this very important principle, this very important requirement, in the summary. Let me hasten to point out that in the body of the report there is a discussion of it, but we all know of the thousands of bills which come before this Senate. Sometimes we have to rely on the summary alone to formulate a judgment.

If someone reads just one point of the section, section (1), it states:

(1) Authority is provided for commercial banks, Federal savings and loan associations, and Federal credit unions to offer the equivalent of interest bearing checking accounts to individuals and nonprofit organizations. Such interest bearing checking accounts are referred to as NOW accounts (negotiable order or withdrawal accounts) at banks and thrifts, and share draft accounts at credit unions. Since NOW accounts and share draft accounts are transaction accounts and are part of the money supply, they are subject to the reserve requirements of the Federal Reserve Board.

That is all that is alluded to in the summary about this very important point the Senator was talking about, and which establishes a principle which has been debated by three different chairmen of the Federal Reserve Board.

In that connection, I want to read a letter from the Chairman of the Federal Reserve Board which we received just today, and which acknowledges this fact. He writes the letter to the Chairman in opposition to my amendment which would delete that section, but, I think, nevertheless his letter points out the fact that it has been pending:

DEAR CHAIRMAN PROXMIRE: Thank you for your letter of October 18 which requests the Board's views on an amendment which may be offered to H.R. 4986 which would delete the reserve requirement provision of the bill to the effect that the Board could only apply reserve requirements to ATS and NOW accounts at member banks.

He is alluding to my amendment:

The Board strongly opposes such an amendment. As you know, the Federal Reserve has been facing a serious and accelerating loss of members. This membership attrition is related directly to the inequitable reserve burden that member banks presently carry. We have been actively seeking a legislative solution to this problem for more than 3 years.

They have been working on it for 3 years, but all of a sudden they want to slide it in on a bill that at first blush has no relation to it.

He goes on to say:

I have a certain degree of sympathy for the argument made by Senator Morgan that this reserve issue be settled in the context of legislation which addresses all aspects of the Fed membership problem. The Federal Reserve under three Chairmen has been seeking such legislation, and we will continue to seek it. However, in the interim period, the Congress should not adopt legislative measures which would only exasperate the serious membership problem we are facing which already is eroding the precision with which we can implement monetary policy while creating serious competitive inequities within the financial system.

Mr. President, I ask unanimous consent that the entire letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
Washington, D.C., Oct. 23, 1979.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN PROXMIRE: Thank you for your letter of October 18 which requests the Board's views on an amendment which may be offered to H.R. 4986 which would delete the reserve requirement provisions of the bill to the effect that the Board could only apply reserve requirements to ATS and NOW accounts at member banks. The Board strongly opposes such an amendment.

As you know, the Federal Reserve has been facing a serious and accelerating loss of members. This membership attrition is related directly to the inequitable reserve burden that member banks presently carry. We have been actively seeking a legislative solution to this problem for more than three years.

The amendment which may be offered would aggravate the problem.

The bill which is under consideration by the U.S. Senate looks to authorize a new service for most of our nation's financial depository institutions. In turn, the amendment looks to impose a reserve requirement burden on only a limited category of institutions which would be authorized to offer the new service—namely, banks that are members of the Federal Reserve. If such an additional burden is imposed on member banks only, the already considerable pressures to leave the Federal Reserve System would be increased for many of our nation's banks.

I have a certain degree of sympathy for the argument made by Senator Morgan that this reserve issue be settled in the context of legislation which addresses all aspects of the Fed membership problem. The Federal Reserve under three Chairmen has been seeking such legislation, and we will continue to seek it. However, in the interim period the Congress should not adopt legislative measures which would only exacerbate the serious membership problem we are facing which already is eroding the precision with which

we can implement monetary policy while creating serious competitive inequities within the financial system.

I hope that the Senate will not adopt this amendment and maintain the wording of the bill as reported out of the Senate Banking Committee which requires that NOW accounts, share draft accounts and ATS accounts at all depository institutions be subject to uniform reserve requirements set by the Board of Governors of the Federal Reserve. Ultimately, I continue to hope that the reserve requirement matter can be settled in the context of broader legislation, but I also trust the matter will not be further aggravated by failure to keep the reserve requirement provisions of H.R. 4986.

Sincerely,

PAUL H. VOLCKER,
Chairman.

Mr. MORGAN. What Chairman Volcker is saying is that they have been working on this legislation for 3 years and that three different chairmen have worked on it. If it is so controversial that they have not been able to get it passed in this Senate in 3 years with such eminent people as Dr. Arthur Burns, one of the Nation's most distinguished economists, and Mr. Bill Miller, who is now the Secretary of the Treasury, who was Chairman of the Federal Reserve Board, plus our present Federal Reserve Board Chairman, Paul Volcker, if they have not been able to get this issue successfully addressed in 3 years, to me that is a pretty good indication that it ought not come by as sort of a rider on a bill such as this one.

I thank the distinguished Senator for bringing the matter up.

Perhaps I ought to address that further at the present time.

Let me follow on this same subject. Permit me to read to the Senate portions of a letter from the executive vice president and the economist of the Conference of State Bank Supervisors.

Let me hasten to point out that these are public officials. These are not bank officials; these are State banking commissioners. Here is what he says about reserve requirements:

Title II of this bill would establish authority for the Federal Reserve Board to set reserve requirements in all depository institutions offering negotiable orders of withdrawal and share draft accounts. The Fed would be able to determine the form in which such reserves would be held and where they would be held.

The whole issue of whether the Federal Reserve Board should have such sweeping authority over nonmember institutions is now before the Senate Banking Committee in H.R. 7, S. 85 as amended, and S. 353, and hearings are scheduled to be held September 26–27 on this highly controversial subject. To attempt to circumvent the so-called Fed membership issue as dealt with in detail in the above three bills, and to resolve the reserve-setting issue as it applies to NOW accounts and to share drafts at credit unions is highly inappropriate. It represents nothing more than a side door approach to achieve in a piecemeal fashion an objective which has been unattainable through other legislative measures designed to deal specifically with the broad question of whether or not optional affiliation with the Fed for reserve-setting purposes should be retained for commercial banks, relative to all types of deposits. The House-passed bill, H.R. 7, after long and bitter debate in the House Banking Committee, and to a lesser degree on the House floor, would retain such optional affiliation unless and until deposits subject to the Fed's control dropped below 67½% of all insured commercial bank deposits. The Conference of State Bank Supervisors is strongly supportive of the optional affiliation aspects of the House-passed bill, but believes the 67½% "trigger" provisions should be eliminated.

The Conference urges the Committee to eliminate the reserve-setting provisions of Title II of S. 1347—

Which is the bill we are talking about—

and to focus on this complex issue within the context of those bills scheduled to be heard before this Committee on September 26 and 27, 1979.

This letter was written back in September.

So it is an issue that is attached, as an executive officer of the Conference of State Supervisors indicated, sort of in a backdoor fashion.

Mr. President, there are some other troublesome provisions of this bill. We have talked generally about NOW accounts. We talked a little bit about regulation Q, which is so important and so vital, I think, to the thrift institutions of America. Now we have talked about the reserve requirements, which comes in as a sort of backdoor account. Now I want to go a little more into the NOW account proposition.

First of all, let me say again that we are addressing some very, very important issues which, if enacted into law, will have such far-reaching effect as to change the basic nature of our financial institutions. As our chairman so ably pointed out, in 1975, the Senate passed the Financial Institutions Reform Act of 1975, which was a comprehensive financial institutions reform bill, one that, again, I did not agree with because I thought it was looking toward homogenization of all financial institutions and, for that reason, I voted against it, both in the committee and on the floor.

But, notwithstanding my opposition to it, I have to say, as someone else has said in a report, that it was not an enactment as a result of piecemeal legislation; it came as a result of some thoughtful and longtime study by the administration itself and by Congress, as I recall. But I do not think anyone has really considered the ramifications of this present bill. As a matter of fact, I understand that a subcommittee chairman of the Banking Committee, in a letter to our chairman, expressed very strong concern. Let me read that letter to you.

Mr. ST GERMAIN, who is chairman of the Subcommittee on Financial Institutions of the House of Representatives, wrote this letter to my chairman and to Senator CRANSTON, the introducers of the bill, on October 17, expressing his concern, the same kind of concern that I am expressing. I think maybe I can best put it to the Senate by reading his letter verbatim:

DEAR SENATORS PROXMIRE AND CRANSTON: As you know, the Supreme Court on Monday declined to review the Appelate Court's decision outlawing share drafts, automatic transfers of funds, and remote service units. It is now certain that these consumer accounts will cease to exist on January 1 unless the Congress takes action by that date.

On September 11, the House on a 367 to 39 vote passed legislation specifically authorizing the share drafts for credit unions, the NOW accounts for banks and thrift institutions, and the remote service units for savings and loan associations.

With the court deadline bearing down on us—

Which is January 1 of next year.

we in the House had hoped that the Senate would take speedy action to deal with these issues so that we could assure financial institutions and their millions of customers that interest-bearing checking accounts would continue. Your Committee has decided to bury these issues in a large package of financial measures which reach far beyond anything that has yet been considered in the House. Many of the issues constitute a major restructuring of financial institutions and a sharp increase in powers, particularly for savings and loan associations.

While these issues and many others in the Senate bill may well be meritorious, the current Congress has not held hearings on most of the questions. I would be most reluctant to ask my Colleagues to make decisions on such far-reaching issues without extensive hearings at which a variety of witnesses could be given the opportunity to testify.

In addition, I am fearful that we would face serious parliamentary problems in the House should we attempt a conference and return with the wide-ranging issues contained in your reported bill. Such a development could end hopes for extending the share draft and NOW account programs.

I have repeatedly assured my Colleagues in the Subcommittee, the full Committee and on the House floor that we were dealing with the share draft-NOW account issue and not using this as a stalking horse for other issues. A substantial number of the votes for the legislation and for expeditious movement through the House were based on this firm and often repeated commitment. Many Members would feel betrayed if we attempted to return to the House with a thick package of measures dealing with fundamental changes in financial structure.

I do not question for a moment the motives or the sincerity of your Committee in putting together its legislative package and at this point am in no position to make judgments on the merits of the various issues. I am speaking very frankly from a standpoint of legislative realities and I am convinced that these realities require a speedy resolution of the share draft-NOW account question.

I do hope that the situation will develop where the Senate can deal with this share draft-NOW issue on its own merits without involving it in a volatile set of financial issues that are certain to require more thorough consideration than they have been given to date.

Sincerely,

FERNAND J. ST GERMAIN,
Chairman.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. MORGAN. I would welcome a brief respite.

Mr. PROXMIRE. The Senator is right. The chairman of the subcommittee in the House, Congressman ST GERMAIN, did write to Senator CRANSTON and myself and we responded to him the next day.

I would like to read part of that letter, not the whole letter, and then I will have the entire letter printed in the RECORD.

This is what I responded, in part:

Thank you for your letter of October 17 regarding the Depository Institutions Deregulation Act as reported by the Senate Committee on Banking, Housing, and Urban Affairs. This bill authorizes nationwide NOW accounts, extends new powers to savings and loan associations and provides for a gradual phase-out of Regulation Q. You indicate your reluctance to ask the House to approve the measure in the Senate bill beyond NOW accounts until your Subcommittee has had the opportunity to hold "extensive hearings".

One would have to search long and hard to uncover another issue that has been studied or considered more by both Houses of Congress, year in and year out consistently during the past 13 years, than Regulation Q. I think the time for study by both Houses is over and Congress should act on Regulation Q this year.

In June of 1976, the Committee on Banking, Currency and Housing of the House of Representatives issued its study on Financial Institutions and the Nation's Economy (the "FINE" study). The Discussion Principals of the FINE submitted by yourself and Chairman Reuss, issued for the purpose of encouraging the fullest possible participation in House deliberations, called for elimination of Regulation Q as follows:

"All Regulation Q ceiling rates and the prohibition against paying interest on demand deposits would be removed by the direction of the Federal Depository Institutions Commission, according to a schedule which would avoid injury to the depository institutions affected and to the flow of capital necessary for housing and accompanied by a method of continuing to attract deposits in a period of rising interest rates. In no event would these ceilings and prohibitions exist later than five years after the date of enactment of this proposed legislation.

"There should be no promise of final review of this action before the ceilings are eliminated, because unless institutions are sure of the demise of ceiling rates, they will not engage in the portfolio adjustments necessary to allow them to survive in a world without ceilings on deposit rates. The Federal Depository Institutions Commission, in consultation with the Federal Reserve Board and the Federal Home Loan Bank Board, would have standby authority to reimpose interest rate ceilings, subject to Congressional review, should this be required by and financial emergency."

The action of the Senate Banking Committee in phasing out Regulation Q is consistent with the Principles of the FINE study with the exception that the FINE Principles called for a phase out of Regulation Q in five years while the Senate bill calls for a ten year phase out in the interest of an orderly transition to a market rate environment.

So the House has considered it. They studied it. They recommended it. We are simply responding by providing a more conservative and gradual phase out of what they requested.

Mr. President, I ask unanimous consent that my response to Congressman ST GERMAIN be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 18, 1979.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions Supervision, Regulation and Insurance, Washington, D.C.

DEAR CONGRESSMAN ST GERMAIN: Thank you for your letter of October 17 regarding the Depository Institutions Deregulation Act as reported by the Senate Committee on Banking, Housing and Urban Affairs. This bill authorizes nationwide NOW accounts, extends new powers to savings and loan associations and provides for a gradual phase-out of Regulation Q. You indicate your reluctance to ask the House to approve the measure in the Senate bill beyond NOW accounts until your Subcommittee has had the opportunity to hold "extensive hearings".

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"There should be no promise of final review of this action before the ceilings are eliminated, because unless institutions are sure of the demise of ceiling rates, they will not engage in the portfolio adjustments necessary to allow them to survive in a world without ceilings on deposit rates. The Federal Depository Institutions Commission, in consultation with the Federal Reserve Board and the Federal Home Loan Bank Board, would have standby authority to reimpose interest rate ceilings, subject to Congressional review, should this be required by any financial emergency."

The action of the Senate Banking Committee in phasing out Regulation Q is consistent with the Principles of the FINE study with the exception that the FINE Principles called for a phase out of Regulation Q in five years while the Senate bill calls for a ten year phase out in the interest of an orderly transition to a market rate environment.

Consistent with an ordery phase-out of Regulation Q, the Senate bill also confers new powers upon savings and loan associations in order to enhance their ability to compete without deposit rate controls. Expanded powers for thrift institutions were also endorsed by the FINE study.

The House version of H.R. 4986, goes beyond merely providing a solution to the Court's deadline of January 1, 1980 for commercial bank automatic transfer services, savings and loan remote service units and credit union share drafts. The provision of nationwide NOW account authority for all financial institutions as contained in the House passed H.R. 4986, raises issues of competitive equality among financial institutions that go far beyond addressing the court decision and cuts across the full range of competitive issues addressed in the Senate bill. I support interest bearing checking account authority for all financial institutions. But consideration of that issue on a piece-meal basis will potentially create severe imbalances in our financial system that will not best serve the economy.

As you know in the last Congress, the Senate accepted a number of provisions in the Financial Institutions Regulatory Act which had not been included in a Senate bill. I would hope that the same spirit of discussion and open-minded approach will prevail this year in any conference between the House and the Senate on H.R. 4986.

I think it is particularly appropriate for House members to keep an open mind this year when the record is crystal clear that Regulation Q is inflationary and discriminatory to the small saver. I think it would be most unfortunate if the House were to adopt a frozen posture even before conference which excluded any consideration of the unfair treatment that the regulatory system has accorded the small saver and the need to provide stability to thrift institutions.

Comity necessitates that the House respond to the efforts of the Senate in a spirit of good faith. The public interest will be best served by your leadership in the House to ensure that financial reform, which has been the subject of extensive consideration by both Houses of Congress over the years, is not frustrated once again. The needs of the economy, the small saver and the continued viability of thrift institutions demand that the Congress move ahead on the issues.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

Mr. MORGAN. My distinguished chairman makes my point in my case much stronger than I have been able to because he points out in his letter that this issue has been considered for 13-plus years.

If it has been in the mill and studied for 15 years, it seems to me that urgency is not so great that we have to enact it in the last remaining closing weeks of this session when most of our colleagues are busy studying SALT, or the Armed Services conference committee report, or other pressing issues.

In addition, I say to my chairman that should the Senate enact this bill, which I hope they will not, and hope they would not enact it over my objection, although similar things have been done before, that if the attitude of the housing conference members in the House, indicates the obstinacy of the distinguished body on the other side of the Capitol, I would suspect we would not get any kind of agreement this year, and what would happen is that the credit unions, which have been assured that share drafts would continue, would be left caught with the court decision, and we would have no action.

So what I would like to see my chairman agree to, and I want to offer this a little later on, is to let us take the amendment that the Senator from Indiana (Mr. LUGAR) and I offered in the committee, which simply would authorize the present powers now being exercised by these institutions, and then let us go into this measure again next year.

For instance, the Federal Reserve——

Mr. PROXMIRE. Will the Senator yield before he gets to that?

Mr. MORGAN. Surely.

Mr. PROXMIRE. I think the Senator confirms the position I have taken. He agrees this issue has been studied, studied, and studied by the House and by the Senate. He agrees we have gone over and over this for, as I say, 13 years. The House has proposed to act on it before.

Now, the difference is—and there is a difference—we have 13 percent inflation, and that makes that regulation Q, which enforces a top limit of 5¼ percent for banks and 5½ percent for savings and loans grossly unfair and utterly unfair.

If there ever was an urgency for action, it is now, when inflation is the No. 1 problem and when encouraging savings is so vital and important. That is the urgency.

Mr. MORGAN. My chairman makes another very good point which I intended to make.

First, let me say that I do not really agree that it has been studied 13 years. I have not been here that long.

But I do agree we studied similar issues in 1975.

But the Senator does make a point in that the economic situation of our Nation is entirely different today from what it has been at any time in the past.

No time in my lifetime, or certainly no time in my memory, have we ever had interest rates as high as they are today.

I was told by an executive officer of a savings and loan in North Carolina when I called this morning that the Home Loan Bank Board was paying 16.2 percent on time deposits.

I am not sure of all the ramifications of this bill. But what I am saying is that we ought to take a look at this bill in the light of the present economic crisis and circumstances. Is this the right time to eliminate regulation Q or even to move toward it?

Mr. PROXMIRE. The answer to that is, "Absolutely, yes." Certainly, when interest rates are this high, it is clearer than under any other circumstances. That is what makes the case.

Mr. MORGAN. That is what makes the case against it because—what is that word?

Mr. PROXMIRE. Disintermediation.

We have it right now.

Mr. MORGAN. We have, and it will increase.

As a matter of fact, the Senator's own cosponsor of this bill admits if this bill passes, we will have to have a bailout amendment to let the Federal Government come in and save all of these valuable community institutions. Most of them are mutuals, not profit institutions. All of these community institutions that men and women have given years of their lives to try to promote in the service of their communities are going to have to either go broke, be merged, or bailed out by the Federal Government.

Mr. PROXMIRE. Well, the institutions are most concerned about this, the mutuals, and they will argue for this bailout whether this bill passes or not. They will keep pitching and pleading for it whether this bill is passed or not.

It is our position this bill will assist the savings and loans. That is why some of the people are strongly for it. They have made it very clear they feel this is vital. If they do not get some kind of action, they will be in far more serious problems.

Mr. MORGAN. I would be interested in talking to some of them because I read my mail last night, and I have had mail from all over the country. As a matter of fact, a great many of them were from California, the home State of the Senator's cosponsor.

I find almost no support in the savings and loans. Nobody has been crying out for NOW accounts or for checking accounts in the savings institutions, to my knowledge, except in the New England States. NOW accounts started, as the Senator knows, somewhere in Massachusetts and New Hampshire. Former Senator McIntyre was a great advocate of it. But even the savings and loan officials from Massachusetts and New Hampshire who testified before our committee said that they favored NOW accounts only on the condition that they retain the interest differential.

What I have been saying to the savings and loan people all over the country is, "You can't have your cake and eat it too." I think that is evident from this bill. In other words, you cannot expect to have a slight advantage over the banks if you are going to compete directly with the banks.

We talk about a banking lobby. I hate to use the word "lobby," because the words "special interest" have a bad connotation. The Southern Baptists—I am a Southern Baptist—have a full-time lobbyist in Washington. The Catholic Church has a lobbyist. The bankers have a lobbyist. They are all entitled to be heard.

But if you put the savings and loan institutions into the banking business, you can rest assured that the banking community of America is not going to stand by idly and say, "You can have your cake and eat it, too. You can offer checking accounts, you can engage in consumer loans, you can engage in trust work, and we also are going to let you have a slight advantage over us."

I asked the savings and loan executives from the New England States if they would favor NOW accounts if they were to lose regulation Q, and they said, "No."

I am a strong advocate of savings and loan institutions, but I do not think they should have an unfair advantage. I have said to them, "If you get the NOW accounts, don't look to me to vote to give you a differential or a slight advantage over the banks."

Mr. President, let us take a look at a little of the history as to how NOW accounts started.

It became a competitive situation in the New England States. I do not recall the exact sequence, but one of the States permitted the savings and loan institutions to offer checking accounts in order to enable them to attract business. This immediately resulted in the banks countering by saying, "All right, we will pay interest on the checking accounts," which always seemed sort of a foolish proposition to me.

It is an interesting argument that the little person with a checking account should be able to earn some money on that checking account. That sounds good. But, first of all, anybody who has enough money in a checking account where they should earn interest is more than likely to have it in a savings account in a bank or savings and loan institution or somewhere else where they will be paid interest.

Any businessman or any other person who has a substantial amount of money in a checking account on which interest is not paid is simply not interested in the interest or is not a good businessman.

We in Government cannot be Big Brother to everybody.

It is said, "How about the person who does not have that much money—the social security recipients who are going to deposit their checks in the bank every month, and it stays there a short period of time while they pay their bills? That person should get some interest."

That is a good and plausible argument. But banks and savings and loan institutions are not Government institutions. They are not eleemosynary institutions or charitable institutions. They are profitmaking institutions. They are owned by the stockholders, and somebody has to pay the workers and somebody has to pay some dividends.

So if the banks have to pay interest on a checking account—and this is where they have received a great deal of their money to invest—they will have to make up for that loss of revenue somewhere else. How are they going to do it? I will tell you how they did it in New England. They began to charge more for the services of the small checking account customer.

The argument that it is going to benefit the small saver is ludicruos.

I will read an excerpt or two from the statement of the Independent Bankers Association:

> The New England experience has demonstrated that when NOW accounts lose their effectiveness in expanding market share they are more realistically priced and the free NOW account is abandoned. As more and more depository institutions begin to price NOW accounts on the basis of costs and pass these costs on in the form of service charges, the cost of these accounts to low balance, high activity customers will far exceed the interest earned.

What they are saying is that if financial institutions will have to pay interest on the checking account, they will have to charge that social security recipient more for cashing his checks.

Two years ago, an independent study showed that the breakeven level was about $2,200. In other words, for a bank to handle a checking account and pay interest on it, and still service that account, there would have to be a minimum balance of about $2,200.

That means anybody who has $2,200 or more in the bank and wants interest on it simply has to transfer it to a savings account.

So the result will be that a lot of small people, such as the social security recipients, such as the people who work in a weekly salary basis, who, frankly, use the services of the bank as a convenience to them, will pay for those services. It is going to benefit the people with the large accounts, who have the know-how, the intelligence, and the resources to invest anyway.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. HARRY F. BYRD, JR. The Senator from North Carolina is making a very able presentation of his analysis of this matter.

I have one question. If I read the bill correctly, I notice that it applies to 49 States but not to the State of California. As one who is not a member of the Banking Committee, I wonder why this proposal would apply to 49 States but not to the State of California.

Mr. MORGAN. I thank the distinguished Senator from Virginia for making a very interesting observation.

One of the two sponsors of this bill was the Senator from California (Mr. CRANSTON). I admire him for it; because, after he looked into it, he found out it was not such a good idea. He decided that it was not such a good idea: "Maybe it is all right for the rest of the Nation, but it should not apply to my home State."

One of the reasons why I am trying to engage in a little extended debate on this issue is that I believe if more of my colleagues would take the same hard look at this that the Senator from California did, they would want to exempt the entire Nation by deleting the bill.

Frankly, I question the constitutionality of that provision. I am going to offer an amendment later in the week that simply would extend share draft accounts and the present transactional accounts that were outlawed by the court, hoping that then we will look at this matter next year.

If that should fail, I am going to offer another amendment which I believe is also meritorious, and it would provide that these NOW accounts and transactional accounts could not be used by a Federal institution or a State institution in any State unless the laws of that State permit the State-chartered institutions to do it.

You remember that under the McFadden Act, at the present time nationally chartered banks in a State cannot engage in branch banking unless the laws of that State permit branch banking. That gives, I think, due credit to the federalist system of Government which Thomas Jefferson talked so much about and I think we should look at as a model. In other words, if New York, Maine, New Jersey, and New Hampshire want to offer NOW accounts, then let them do it. But do not force them on Virginia, North Carolina, and California unless the duly elected legislature of that State thinks that it would be in the best interests of the public.

So, the distinguished Senator points out a very interesting point, which I think adds weight to what I have been trying to say.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield, it seems to the Senator from Virginia if one of the principal authors of the bill feels that his State should not be involved, I just wonder whether some of the rest of us should give consideration, also, as to whether our State should be involved. I do not know. I have not reached any conclusion on this legislation at all. But I think it is rather interesting that the committee reporting out this legislation would have eliminated one State out of the 50 States from its provisions.

Mr. MORGAN. I hope that fact would be persuasive for my colleague and he would be inclined to join me in opposition to this bill.

But let us go back to the NOW accounts and see——

Mr. PROXMIRE. Mr. President, will the Senator yield a little further on that?

Mr. MORGAN. I am happy to.

Mr. PROXMIRE. I wish to point out to the distinguished Senator a very interesting contradiction because the Senator is right. The Senator from California did ask that California be excluded and as a member of the committee and so forth, we accommodated him. It is interesting that this appears not to be the unanimous view in California by any means.

I have here a letter from a Mr. Fletcher who is the President of the Home Federal Savings and Loan Association of San Diego, and he says this:

> As the President of the sixth largest Savings and Loan Association in California, I urge you to take a leadership role in convincing your colleagues that California should not be excluded, and our depositors should have the same privileges as the other forty-nine states for NOW accounts.

He ran an ad: "Congress may give all Americans the opportunity to earn interest on checking at their savings and loan * * * except California."

So we feel we should have consistent, coherent legislation, not just a copout in which we say we will leave it up to the States to decide this. After all, we do have a degree of national responsibility. We recognize that we have a dual banking system and we should have that and we respect it. But at the same time to say that these problems are a little too tough for us and we will duck them, let the State decide it, seems to me does not make sense.

We have the only section of the country, the only section that has tried NOW accounts. What is their reaction in New England? What is their feeling about NOW accounts? They like them and think everybody else ought to have them.

Mr. MORGAN. Provided they can have their cake and eat it too. Provided they can have them and also keep the interest differential, I say to my colleague on the Banking Committee.

Mr. PROXMIRE. We face that over this bill. They still want it.

Mr. MORGAN. That was not my recollection of the testimony of the savings and loan executives before our Banking Committee. I remember asking one of them distinctly, "If you have to make a decision between NOW accounts and phaseout or abolition of the Regulation Q, do you want NOW accounts?" And my recollection is the answer was "no."

Mr. PROXMIRE. Of course, any institution is going to want every advantage it can get. They are not going to kiss away an advantage like that that gives them a leg up on the banks. They are going to want that differential and are going to ask for it, plead for it, just as the American Bankers Association takes the other view and says that is wrong and unfair.

We have to make the decision. So it seems to me we take an equitable, reasonable position and say, "All right, we will phase it out over a period of years and give the savings and loan associations certain moderate limited powers so that the adjustment will not be as difficult."

Mr. MORGAN. I say to my distinguished chairman I read that letter—the same letter I guess that was addressed to all Senators—last night, and it is the only letter from California that I had taking that position. All the rest of them were against NOW's.

Then of course we have to take the position, also, that this is a representative democracy and that the Senator from California was duly elected to represent the consensus of the people of California in the Senate, and apparently that is what he thinks the consensus is.

Let us look at NOW accounts. Let us see. Does it have the appealing argument for the small depositor that is often made?

I shall read now from a statement made by Mr. ANNUNZIO, a Representative from Illinois, that was inserted in the RECORD on October 17 of this year at RECORD page H9327. I shall read it in its entirety because I think he pretty well makes a good case.

> Mr. Speaker, on September 11, 1979, when my colleagues overwhelmingly passed legislation to permit nationwide NOW accounts (negotiable orders of withdrawal), I warned that this legislation was the biggest consumer rip-off to come down the pike in a long time. Nobody listened. Now, the General Accounting Office (GAO) has issued a report which supports me on this issue.
>
> NOW accounts are accounts only for the wealthy. GAO states that—
>
> "Depositors who can meet and maintain the minimum balance requirements can indeed benefit from transfer fund plans. However, those who cannot do so would fare better with regular checking and savings accounts."
>
> What are these minimum balance requirements? They range from $200 to $5,000. In fact, the average balance in a New York State NOW account is $7,000. How many people in your district have $7,000 to put into a checking account?
>
> There are some 35 million checking account customers in this country with balances of less than $200. NOW accounts will do nothing for them, and will probably hurt them in the long run. The interest paid on NOW accounts will have to come from somewhere, and it will most likely be from higher interest paid on loans and other bank services. Those charges will be borne by the small depositor while the rich guys happily collect interest on their consumer-oriented NOW accounts.
>
> Both in the subcommittee, and again in the full Banking Committee, I offered an amendment which would have made NOW accounts available to those with a minimum deposit of $100. Both times it was defeated.
>
> But, not only does the GAO agree with me that NOW accounts will not benefit the little guy, they also state that shopping around for the best NOW account isn't a simple matter.
>
> Banks which offer NOW accounts are reluctant to advertise the conditions in simple language, and for good reason. Who wants to advertise a sham? GAO researchers noted that they could not get all the facts they needed to analyze the costs and benefits of the new NOW accounts from bank advertisements. Additional phone calls to bank officers were necessary to answer such basic questions as:
>
> How is the interest compounded? How is the minimum balance compounded? How do

service charges change when the depositor meets or fails to meet minimum balance requirements? This is basic information and it is being withheld.

The less sophisticated consumer will undoubtedly be duped into opening a NOW account which promises wealth from checking accounts. While profit-hungry financial institutions cackle with delight as they rake in new-found profit from NOW account service charges, their secretaries will be writing letters to 367 Members of the House of Representatives thanking them for their support on this issue.

Let us go further and read from the statement of the independent bankers. The independent bankers are more or less the community bankers or locally owned banks and, of course, there are some large ones, but most of them are the small, hometown bankers, and let me read again from their statement to our committee.

How well the majority of consumers will fare under S. 1347 will depend in large measure on how much of the cost of interest-earning checking accounts commercial banks can absorb. The experience of New England banks with NOW accounts demonstrates that banks cannot both pay 5 percent interest and offer free checking on NOW accounts with average balances under $3,000 and still make a profit.

They cite their authority as Paul Anderson in an article entitled "Cost and Profitability of Bank Functions" appearing in the New England Economic Review, the March-April 1979 issue, at page 49. The independent bankers say:

It seems obvious that banks would ultimately be forced to make explicit charges for checking account services against accounts with average balances under $3,000 if S. 1347 became law.

Who is going to be hurt? The small wage earner, the social security recipient, the retiree who draws relatively small amounts of money and who uses the services of banks as a matter of convenience. The cost for handling checks and many other things is going to go up, and they are the ones who are going to have to pay for it.

Mr. President, I will come back to NOW accounts later on, but I would point out that Mr. Ralph Kimball, the assistant vice president and economist of the Federal Reserve Bank of Boston, wrote an article entitled "Commercial Bank Profitability In New England, A Comparative Study," the one I just quoted from. In his introduction he said:

Since 1970 profit margins have declined by 50 percent at New England commercial banks and by 25 percent at commercial banks in the rest of the country

That gives you some indication of what is happening and what the effect of NOW accounts is in New England.

(Mr. BRADLEY assumed the chair.)

Mr. MORGAN. Mr. President, I will come back and deal more specifically with NOW accounts a little later on, but there are some other provisions of this bill I would like to address.

Mr. President, I want to talk about another issue briefly before the day is out because I want to make sure this matter is clearly known. This is another provision in this bill which seems to be time and time again coming before Congress, and that is the preemption of State laws and constitutional provisions.

This bill exempts all banks from State usury limitations on residential mortgage loans for specific lenders unless the State reenacts the ceilings within 2 years. We have done this in other bills, but let us examine what we are talking about.

Under our Federal system of government, the legislators of a given State are much closer to the people than we are here in Washington. That was the argument time and time again of James Madison and Thomas Jefferson as they argued for a Federalist system of government. What happened? We have left it to the States to determine what, in their best judgment, would be in the best interests of the people of their States with regard to usury laws.

You and I know that what might be entirely appropriate as a limitation on usury or interest or earnings in New York City would be entirely too high in rural North Carolina or Arkansas or California. Therefore, we have left it to the States because they ought to know best what is good for the people of their States and the economy and interest of their States.

The question of usury has been a difficult subject since biblical days. The Scriptures talk about usury. Some States have handled it one way and others have felt so strongly about it that they were not even willing to entrust this question to the legislature. They put it in their constitutions. They said:

We, the people who are going to vote on this constitution, feel so strongly about usury laws that we do not even want to trust it to our elected representatives.

Arkansas is one of those. It does have a 10 percent usury law factor in there. Other States, like my own, have done it by legislation, by statute, and it has been changed from time to time.

Well, what this bill would do would be to say:

You people in Arkansas or North Carolina really do not know best what is good for your own people; we here in Washington know better what is good for your own people than you do, and we are going to take away from you your right to determine this issue.

Well now, it has been argued here on the floor of the Senate that these are difficult times. Usury laws are restrictive because interest has gone so high. That is a question which has been debated across the country for a long time, and certainly as early as 5 years ago in Arkansas, because I was there, and I spoke to the Bankers Association, and they were debating it then. What happened? The people in Arkansas—the legislature said to the people in Arkansas:

We think you ought to consider increasing this 10 percent usury law because it is hampering commerce and trade.

They submitted it to the people of Arkansas for a vote. The people in Arkansas voted it down and said, "No, we want to keep it."

Now, in one fell swoop we say we want to suspend all of those laws.

I hope some time we will recognize that the States do have some prerogatives, that they are closer to the people, and if they make mistakes they can correct them.

We had a great Governor in North Carolina at the turn of the century, Charles B. Aycock, who campaigned in the State on the basis of local government—not State government, but county and city government—and he used to have the saying that the government should be so close to the people that if the shoe hurt, the citizens could get some relief.

I believe that is true in this case, and I will offer an amendment at the appropriate time to eliminate the usury preemption.

I had one letter from Arkansas that said, "We are against this." The letter was from the Automobile Dealers Association, saying, "We are against this preemption because it applies only to homeowners; you ought to apply it to us, too."

My reply to those gentlemen was, "If it is too tight, if it is cramping your business, then go to your people down there and get it changed." I just do not think we, here in Washington, are capable of deciding what is good and what is best for everyone. I just do not think that we are capable of deciding here, in this Senate Chamber and the House Chamber, what is better for the people of the States.

I have told this story many times. The first year I was here, I was sitting in the chair presiding and a debate was going on between two of our distinguished colleagues, the Senator from Minnesota (Mr. MONDALE) and the Senator from Oregon (Mr. PACKWOOD) on day-care center regulations.

Mr. PACKWOOD told a very subtle but revealing story. He asked the Senator from Minnesota what made him think that the people here in Washington were more concerned about the children in Oregon than his people in Oregon were.

He asked, "What makes you think that we here in Washington know better what is good for the children in Oregon than the people there do?"

He said, "You know, you remind me of the priest in my hometown and the Presbyterian minister." The story was very subtle. He said the minister was a very staid individual, wore his high collar on Sunday morning in the pulpit and delivered a fine sermon, but he said you did not see him any more until the next Sunday because he stayed in his study in meditation. But he said the priest was a very gregarious and outgoing sort of fellow, and there was nothing that happened in the community that he was not a part of. He coached little league baseball; he coached football; if anything was happening in the Rotary Club he was right there.

But he said they met one day on the street, and the priest said to the minister, he said, "Reverend, you know, we do things differently. We have different styles, but there is no reason why we cannot be friends. You do things your way, and I will do things mine."

The minister cleared his throat and said, "Yes," he said, "you do things your way, and I will do things His."

That is a very subtle story, but I think sometimes we here in Washington think we have been annointed to prescribe and legislate for the people of this whole Nation.

Mr. President, I have dealt with labor unions of this country for a long time. It might surprise some of the union leaders on the national level to hear that I think a great deal of them and some of the things in their programs and their resources. Over many years in the State legislature, I suspect I supported as much of their progressive legislation as any Member, and we worked hand-in-hand for 6 years when I was attorney general as a consumer advocate, because that is where I thought the emphasis should be.

I have not voted the union label in Washington, because I think, here again, that the State is where such matters should be handled. But the unions have been the leaders in progressive legislation in the States and many times at the Federal level, working for the betterment of their members as well as the rank and file of the people.

I was tremendously impressed by the testimony of Mr. Henry B. Schechter, who is the director of the AFL-CIO Department of Urban Affairs here in Washington, when he testified back in July on this very bill that we are talking about. I commend his entire statement to my colleagues.

But I want to read what he had to say about interest. He said:

Interest payments have absorbed an increasing portion of the national income over the past few decades; this trend makes the economy more inflation-prone and it supports great disparities in income distribution that add to economic imbalance. The AFL-CIO maintains its support of the usury laws and urges disapproval of Subsection 303(2)(1).

We also urge disapproval of 303(2)(2) which would prohibit any State law limiting the rate of interest that may be paid on a deposit. As indicated in earlier discussion of the proposed phase-out of Reg Q, higher savings interest rates are likely to produce net gains for large, generally high-income savers, and net losses for low-income consumers with small savings. In addition, there is inherent a policy of economic defeatism in the underlying supposition that this economy will be operating at such an inflationary rate, that passbook account and certificate of deposit rates would exceed state usury ceilings.

And he goes on to talk further about that.

Mr. President, I have discussed several portions of this bill, not altogether in a logical sequence, but I have been discussing them one way or another. Now I want to talk about some amendments specifically that I am going to offer, because I think it is important that our colleagues know what proposals I do propose to offer in the next few days.

First, I will offer an amendment in the nature of a substitute which would authorize automatic transfers of funds between savings and checking accounts at commercial banks, credit union share drafts, and savings and loan associations remote service units. These are, of course, the instruments declared illegal by a Federal court earlier this year in a decision which the Supreme Court declined to review last week. In September by an overwhelming vote of 367 to 39, the House of Representatives authorized these instruments in legislation which also provided for nationwide negotiable order-of-withdrawal (NOW) accounts. While I do not agree with the proposal for NOW accounts, I do believe it is clear that the Congress must act prior to the Court-imposed deadline of January 1, 1981, to authorize these other financial services.

H.R. 4986—which is actually the House bill we are discussing here, though I have frequently alluded to it as S. 1347—H.R. 4986 as reported by the Senate Committee on Banking, Housing, and Urban Affairs, however, goes far beyond the authorization of these services and provides for a number of controversial and far-reaching changes affecting our Nation's system of financial institutions.

As I pointed out, the full ramifications of many of these changes are simply impossible to predict at this point. Given the tremendous uncertainty about the state of our economy at this time, I believe it would be terribly unwise to proceed with such far-reaching changes now.

Moreover, the chairman of the Subcommittee on Financial Institutions of the House Banking Committee has spelled out the attitude of the House quite clearly and strongly.

I read this letter earlier, and at the risk of being repetitious I want to read a reference to it in my prepared statement, which I have indicated I intended to read.

In a letter to committee Chairman PROXMIRE and Financial Institutions Subcommittee Chairman CRANSTON, which has been made available to the Senate, Representative ST GERMAIN has said that "your committee has decided to bury these issues" (transaction accounts) "in a large package of financial measures which reach far beyond anything that has yet been considered in the House. Many of the issues," he says, "constitute a major restructuring of financial institutions and a sharp increase in powers, especially for savings and loan associations." Noting that expeditious passage of a transaction account bill in the House was achieved with a solid commitment that such a bill would not become a stalking horse for other issues, Representative ST GERMAIN notes that "many Members would feel betrayed if we attempted to return to the House with a thick package of measures dealing with fundamental changes in financial structure." He for one, he says, "would be most reluctant to ask" his "colleagues to make decisions on such far-reaching issues without extensive hearings at which a variety of witnesses could be given the opportunity to testify."

At this point, Mr. President, I might inject that the Fine Study, which my distinguished chairman referred to in earlier remarks, never passed the House and did not even get to the floor.

I believe it would be wiser for the Senate to agree to a bill much more in line with that passed by the House of Representatives. Senator LUGAR and I moved to substitute the text of the amendment I intend to offer during the Banking Committee markup. That motion was defeated by a recorded vote of 8 to 7. I believe this indicates substantial uneasiness and difference of opinion within the Banking Committee as to the wisdom of proceeding with H.R. 4986 as it now stands, and I urge the Senate to agree to a limited substitute.

Second, while I do not favor NOW accounts, I will offer an amendment if my first amendment is defeated, to permit States to decide whether to offer NOW accounts. Senator CRANSTON, a chief sponsor of the original bill, moved to exempt the savings and loan associations of California from NOW account authority, citing their strong opposition to NOW accounts. The bill contains that exemption. I believe it would be far preferable to allow each State to decide for itself whether NOW accounts are desirable. My amendment would allow them for federally charted S. & L.'s and commercial banks only during periods when NOW accounts were authorized for similar State-chartered institutions by action of each State legislature.

As I pointed out early in my discourse, this is a procedure which is now followed by the banking laws for branch banks. That is, a nationally or federally chartered bank cannot offer or cannot maintain branch banks in any State unless the laws of that State permit the State-chartered institutions to do so. This has contributed to the effective dual system of banks in this country for a long, long period of time, and I think it could be well extended in this area if we are going to proceed to NOW accounts.

Third, I will offer an amendment to strike title II of the bill which gives the Federal Reserve authority to require reserves of nonmember depository institutions. I believe this is unwise, and feel that this controversial issue would be better resolved within the context of specific Federal Reserve membership legislation which is now pending and about which I have spoken at length.

Fourth, I intend to offer an amendment to strike the preemption of State usury laws contained in the bill. As I said a few moments ago, I am philosophically opposed to the Federal preemption of State laws except in rare instances in which an overriding national interest can be clearly demonstrated. But in the field of usury laws I see no reason to negate the long-standing tradition of State authority. As the Conference of State Bank Supervisors has noted, States are in a superior position to deal with situations unique to their respective regions. The imposition of a national usury norm would, in the long run, be less responsive and less appropriate for States than would measures designed by their respective State legislatures. Reflective of State concern in this matter is the fact that during the period from 1975 to 1979, 28 States liberalized their usury ceilings on individual or corporate loans in efforts to meet changing economic conditions. During this same period, 15 States exempted from their usury ceilings FHA and/or VA loans.

Moreover, I cite from the hearing record of the Banking Committee the strong opposition expressed by the AFL-CIO to the Federal preemption of State usury laws. The AFL-CIO witness noted that there is an "inherent policy of economic defeatism in the underlying supposition that this economy will be operating at such an inflationary rate, that passbook account and certificate of deposit rates would exceed State usury ceilings." To enact a Federal preemption of State usury laws and ceilings would, said the AFL-CIO, "sanction and invite a self-fulfilling prophecy of high interest rates and their inflationary impact."

Fifth, I am deeply concerned about the impact of the proposed reduction in the minimum denomination of money market certificates contained in the bill. The bill mandates the reduction of the minimum denomination from $10,000 to at least $1,000 within 2 years unless postponed by the Federal Reserve under the standards set forth in the bill. I believe that such a reduction would prove disastrous for the thrift industry, with predictable results for the availability of housing finance.

The portfolios of the bulk of savings and loan associations consist largely of mortgages made at far lower interest rates—6, 7, 8, or 9 percent. I would suggest the vast majority are 6 to 8. There is no way that their earnings can be adequate to pay market interest rates on savings in the form of $1,000 denominations. It seems clear that if institutions are going to have to offer these certificates in $1,000 denominations, that they are going to have to charge more for the services they offer and the money they lend. I believe this works against the interest of the average citizen generally, and will be especially damaging to housing finance.

As the AFL-CIO pointed out before our committee, "Higher money costs borne by depository institutions paying higher rates on savings would be reflected in their loan interest rates." The majority of consumers would suffer an overall economic loss.

Moreover, I think it should be pointed out that the Banking Committee has acted to adopt this provision of the bill with very little real evidence as to its impact.

I have some substantial figures with regard to this, and tomorrow or Thursday during the debate I will go into them at great length.

I predict, however, that its impact will prove disastrous to the earnings of savings and loans, and disastrous for the home buying and consuming public. I intend to move to strike this section.

I am deeply concerned about the entire thrust of this far-reaching bill, which I see as leading to an inevitable blurring of the traditional distinctions which have defined our system of financial institutions. I stress my earlier statement that the Nation would be far better served if the Congress were to enact a bill much more narrow in scope, and then take a look at the ramifications of this bill in the light of the present economic circumstances.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I think the distinguished Senator from North Carolina has made a very fine presentation, a very thoughtful presentation. He has obviously done a great deal of work on this legislation. Unfortunately, when we have legislation that deals with financial institutions, many Senators regard it as complex and remote from their immediate interests. It does not have the emotional content that other legislation has. In this case, I think the Senator from North Carolina has done more digging and more investigating, made more cogent arguments than I have heard in a long, long time on legislation of this kind. He deserves great credit for it.

I say that, of course, knowing, and I think he will recognize the fact, that I do disagree with him substantially. I should like to indicate some of the respects in which I do disagree.

The essential purpose of this legislation is to allow thrift institutions to prosper and remain viable while continuing to serve their traditional home mortgage market. In other words, the purpose of the legislation is to keep thrift institutions operating; not to hurt them, but to help them, and also make it possible for the housing industry to be able to survive in a very, very difficult, complicated, high-interest environment and high-inflation environment.

Every month recently, we have read that thrift institutions are experiencing outflow of funds. Just this morning, for example, the Washington Star pointed out that in September, savings banks' net deposit outflows totaled a billion dollars—almost a record—for 1 month. We all know that outflow is going to continue. It would be astonishing if it were not greater still in October, the present month. It is going to continue for some time unless we take action.

The Nation's thrift industry and the home mortgage markets cannot long cope with these deposit outflows without disastrous effects.

The economic reality is that Regulation Q is forcing thrifts to lose deposits because market innovators pay depositors more than thrifts can pay. If Regulation Q is not abolished and thrifts are given powers to enhance their earning capability—which we do in this bill—the thrift industry will run into heavy trouble. These economic realities will not go away with wishful thinking or theories about keeping thrift institutions simon-pure.

The fact is that thrifts need to pay market rates to depositors and to be able to earn returns so that they will remain viable.

This legislation does just that and meets the needs of thrifts.

First, it phases out regulation Q over a period long enough to allow thrifts to incorporate their new earning powers paying the rate of interest which they would find it necessary to pay to get deposits and to keep operating. It phases that out over a period long enough to allow thrifts to incorporate their new earning powers which we provide them.

Second, thrifts are accorded variable rate mortgages which they did not have before, as a matter of law, at least, checking accounts, consumer loans, trust powers and enhanced real estate lending authority.

Mr. President, these new powers should enable thrifts to remain viable in a market environment. I fear that if this bill is not passed the thrift industry will be in for hard times because the market forces that necessitate change will not go away.

It is too bad that we have a changing world sometimes, but we do have it. We have to adjust to it. This bill is an attempt to do that.

One additional matter I wish to address is the reserve provisions of title II, which the Senator from North Carolina indicated that he would try to strike with an amendment. There has been some discussion of that this afternoon.

I point out to the Members of the Senate that title II is not the Federal Reserve membership bill. Title II merely recognizes that for new powers granted to all financial institutions, equal reserves should be applied to all of them on the basis of competitive equality.

The House may very well introduce an amendment to this bill; it may introduce H.R. 7, the membership bill that passed the House, as an amendment. They can do that anyway when we send it over, regardless of the form in which we send it. Even if Senator MORGAN succeeds in every one of his amendments, we could still end up with the House adding the membership provision. From my conversations with Chairman REUSS, that is precisely what he intends to do. But that has nothing to do with the provisions we have in title II. That title merely recognizes that for new powers granted to all financial institutions, equal reserves should be granted to all of them on the basis of competitive equality and fairness. I do not know what could be fairer than that.

Title II is, therefore, a limited provision designed to meet the needs of placing reserves on new transaction accounts granted in this bill and is not a solution to the Federal Reserve membership issue.

I may point out to the Senate that once before, in 1975, the Senate passed a financial reform bill authorizing NOW accounts for all financial institutions and placed reserves on all of these accounts.

We did it before. A Senator who wants to be consistent will vote for it again, because that is what we are offering now, very similar legislation to what we passed in 1975. At that time, we placed reserves on all these accounts. At that time, the Senate voted to place reserves on these accounts. We are simply providing for the same measure of equality and fairness that we did at that time. So, H.R. 4986, as reported to the Senate, is consistent with what the Senate has done previously.

Also, the distinguished Senator from

North Carolina has mentioned the mail and indicated that there is considerable opposition to various parts of this bill. Mr. President, my mail has run overwhelmingly in favor of phasing out regulation Q and reducing the money market certificate to $1,000. The mail has been consistent from all parts of the country, particularly from my own State of Wisconsin, of course, which is the heaviest mail I get, supporting that position. Our State is a very typical State.

Consumers favor NOW accounts. Savers favor phasing out regulation Q.

The only mail I have in opposition to this bill is from some—not many, but some—savings and loans, although I should point out that many savings and loans support the legislation.

So, on the mail, on the basis of popular response, just in support of this bill, as I pointed out earlier, the number of institutions and groups supporting this legislation, I think, is very impressive. The constituents favor this bill, those who have studied this and are most responsible for our financial institutions favor the bill. Those who are most clearly affected by the legislation favor it. Of course, that is why the Banking Committee has acted favorably on it and why I hope that we can act on this legislation in the next few days.

Mr. President, I yield the floor.

Mr. MORGAN. Mr. President, just a word with regard to the Federal Reserve power. This provision in this bill does go further than the present law provides in other Federal Reserve legislation.

As I understand the law, and I think I understand it correctly, the Federal Reserve does not now have the power to require reserves on checking accounts or transactional accounts for nonmember banks.

But this bill would grant not only the Federal Reserve that power on nonmember banks, but also do it to nonmember thrift institutions if they participate in NOW accounts or transactional accounts.

So, in effect, this establishes the very principle that Chairman Volcker says they have been debating and arguing for 3 years and have not been able to get it resolved in this Congress.

Therefore, I argue that it should not come in the back door as an amendment to this bill.

Mr. President, as I mentioned earlier, I will move to strike at the appropriate time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABOLISH WAGE AND PRICE CONTROLS

Mr. HELMS. Mr. President, my friend Albert B. Fay, former Ambassador to Trinidad, Tobago, recently sent me a copy of an article that appeared in Business Week entitled "How to Achieve an American Miracle." I found it quite instructive.

The author of the article, C. Jackson Grayson, Jr., advocates scrapping wage and price controls in favor of a free market economy.

Mr. Grayson speaks from a position of expertise regarding wage and price controls. From 1971 to 1973 he was chairman of the Price Commission, charged with directing phase II of President Nixon's wage-price program. From this vantage point, Mr. Grayson observed the workings of wage and price controls and their effect on the economy.

Allow me to quote briefly from Mr. Grayson's article. He says:

> Economically, controls are a disaster. I saw this firsthand. After an initial appearance of gains, the inevitable erosion and inefficiencies began. No matter how good our intentions, how hard we worked, what models we employed, or how ingeniously we designed the regulations, the controls could never handle as efficiently or as effectively the millions of decisions made daily in the marketplace to adjust to the changing conditions of supply and demand. The controls did not reduce shortages or inflation. They increased both.

The inescapable conclusion is that wage and price controls do not work. They may provide short-term relief, but in the long run they have disasterous economic consequences. In advocating a return to the free market system, Mr. Grayson has proposed a solution to our economic woes. As Ambassador Fay writes, we should "give this daring idea some real consideration."

Mr. President, I urge Senators to read this article, and to contemplate its message. I ask unanimous consent that the article "How to Achieve an American Miracle" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, July 16, 1979]

HOW TO ACHIEVE AN AMERICAN MIRACLE

(By C. Jackson Grayson, Jr.)

The most frightening aspect of the current gasoline crunch is not the long lines. Nor the price. Nor OPEC. It is not even the shootouts at the service stations.

It's the almost total absence of serious consideration and open support by businessmen, politicians, and economists for a return to the market system to ration demand and increase supplies.

The answer to our problems has to be complete decontrol—decontrol not only of oil, but also of gasoline—and elimination of the price and wage "guidelines" program along with it: a complete dismantling of the increasingly complicated, inefficient, inequitable, and unworkable machinery of energy and wage-price controls.

I recommend this not from blind ideological faith in the market system, but from (1) a reading of the history of the failures of wage-price and allocation controls for over 40 centuries, (2) an observation of the current failures of energy and wage-price guidelines, and (3) my own personal experience in directing controls, during Phase II of President Nixon's wage-price program.

The gasoline situation is a good example. The President blames Congress and scolds the public. The Congress blames the President and lectures the oil companies. Endless and fruitless disputes, investigations, and hearings drain the nation's energies to find out who's to blame: "Is there a shortage? Where is the gasoline?"

At the gas pumps there are hired guards, shootings, thefts, and scams. Hundreds of thousands of hours are spent nonproductively in long lines when the nation's productivity growth is already alarmingly low. New allocation schemes are cooked up almost daily: odd-even days, numbered windshield stickers, minimum purchase amounts, state conservation quotas, coupons. Such controls organize and prolong shortages. And in the process the poor, those with low incomes, and the weak are hurt the most.

BACK TO A MARKET ECONOMY

A good account of the history of controls is chronicled in a recent book by Robert L. Schuettinger and Eamonn F. Butler, *Forty Centuries of Wage and Price Controls* (The Heritage Foundation, Washington, D.C., 1979). It is tragicomic that 40 centuries of price and wage controls and governmentally directed allocation systems for such commodities as flour, corn, wheat, and housing show a record of repeated failures.

Not only do the guidelines violate the basic economic laws of supply and demand, they also violate the basic political laws of consensus, power, and equity. The program has no power base, no real support by business or organized labor, and it is rife with inequities. The program is not fading fast—it is dead. No scraping, painting over, or review is going to change it from being bad law, bad economics, and bad politics.

"We have to continue," says Barry Bosworth, director of the Council on Wage & Price Stability. "There is no alternative."

Yes there is. I offer these recommendations:

Remove all price and allocation controls over gasoline and other fuels.

Remove all wage and price controls.

Abolish the Council on Wage & Price Stability.

Return to a market economy.

A "political impossibility," the conventional wisdom runs. It can't be done. Congress, the President, and the public would never stand for it. Believing this, many businessmen and legislators fail to fight for a return to the market system. Instead, they remain silent or concentrate on compromises and accept what Representative Al Ullman calls "the political equation." That's a mistake, both economically and politically.

Economically, controls are a disaster. As chairman of the Price Commission during Phase II (1971–73), I saw this firsthand. After an initial appearance of gains, the inevitable erosion and inefficiencies began. No matter how good our intentions, how hard we worked, what models we employed, or how ingeniously we designed the regulations, the controls could never handle as efficiently or as effectively the millions of decisions made daily in the marketplace to adjust to the changing conditions of supply and demand. The controls did not reduce shortages or inflation. They increased both.

POLITICAL COURAGE

Bad economics is also bad politics. A very recent example is Britain. Margaret Thatcher rode to power on pledges to reduce much of the governmental economic management, to decontrol prices and wages, and to revive the market system.

The classic example, of course, is West Germany. In July, 1948, virtually all economic controls were removed, including price and wage controls. The Allied powers, then in control, were fearful that it would lead to greater inflation, unemployment, political instability, and more problems for the poor. The bold move was controversial even among those closest to its architect, the economist (later Chancellor) Ludwig Erhard.

The fears proved unfounded. There was higher employment, higher real wages, rising productivity, a disappearance of black markets, an abundance of goods in the shops, and—after an initial spurt in prices—a great reduction in inflation. Apathy and despair turned to hope and energy.

In truth, the "economic miracles" that have followed decontrol were not miracles. They were no more than an end to the economic paralysis and disorder caused by the control mechanisms and a return to the market economy.

President Carter speaks of the need for "political courage" in facing these problems. It's time for an act of political courage that makes both political and economic sense: decontrol.

EVERETT DENNIS JACKSON: A SPECIAL KIND OF AMERICAN

Mr. HELMS. Mr. President, all of us ought to give thought to a remarkable American, Mr. Everett Dennis Jackson, whose courage and unshakable convictions were described in a recent article by Philip C. Clarke, of the American Security Council.

Mr. Jackson, on his own motion, undertook a heroic mission to investigate for himself reports of Soviet missile installations hidden in Cuba.

After a harrowing ordeal, Mr. Jackson was eventually captured and imprisoned by Fidel Castro's forces. His faith in America and in our democratic system withstood both torture and blandishments on the part of his ruthless, and at times, sadistic captors.

America is fortunate that men such as Everett Dennis Jackson still exist. If the time comes when this is not the case, then America will no longer be the country we know and love today.

Mr. President, in order to share Mr. Clarke's article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SPECIAL KIND OF AMERICAN

Everett Dennis Jackson would be the last person in the world to admit that he's someone special. Yet, this unassuming, quiet-spoken American, all but forgotten as a prisoner in the dungeons of Castro's Cuba for 12 agonizing years, emerged a few weeks ago unbroken and as defiantly anti-Communist as ever.

It was four das after Christmas, 1967, when Jackson, a 27-year-old ex-Army paratrooper from Miami, flew his tiny Taylor-Craft under the Cuban radar and bailed out in the darkness. His self-appointed mission: To photograph suspected Soviet missile bases in western Cuba and somehow make his way back to the United States. He carried press credentials from a California newspaper that wanted to publish his story—if he returned.

Three earlier attempts had been aborted. In one effort, three exiled Cuban colleagues had been killed. This time, Jackson was on his own.

At an American Security Council news media briefing in Washington October 11, Jackson described what happened:

"Realizing at last that I meant to keep trying, the CIA had a go-between brief me and supply me with some updated U-2 reconnaissance photos of two areas in western Cuba they suspected might contain Soviet missile sites.

"Against their advice, I took along an M-1 carbine and some ammunition for self defense. Unluckily, I was spotted by a Communist patrol boat. After 24 hours of hide-and-seek in a marshy area, and a narrow escape from quicksand, I was captured."

After 13 months of solitary confinement broken only by hours of grueling interrogation, Jackson went before a military tribunal on charges of espionage and smuggling arms to "counter-revolutionaries." The prosecutor asked for the death penalty.

As customary in such cases, a Swiss embassy representative attended the trial as an observer, and a brief summary, dated April 30, 1969, was delivered to the State Department. After his release last September, Jackson tried to obtain a copy of the report but was told it could not be found. Determined to prove that at his trial he had not implicated the CIA or had been involved in arms-smuggling, Jackson finally obtained the missing report from Swiss authorities.

Among other things, the trial report revealed that Jackson, though facing possible execution, coolly stood his ground. Once, when the Communist prosecutor demanded to know by what right he, Jackson, had entered Cuba without permission, the accused American shot back: "By the same right that Cubans without Bolivian consent are carrying on subversive warfare in Bolivia!"

Toward the end of the 2½ hour trial, Jackson told the tribunal: "I am an anti-Communist and you are Communists. Between the two ideologies there is a line and I crossed that line."

Awed, perhaps, by this bold and unyielding American, the court, instead of ordering Jackson executed, sentenced him to 30 years at hard labor.

Over the years in the dungeons of La Cabaña in Havana, many of Jackson's Cuban fellow prisoners were led away to die by firing squad within earshot of his cell. Others hanged themselves, or went insane, Jackson himself had his jaw broken by a sadistic guard.

Refusing offers of better treatment if he would join the "Plan," the Communists' indoctrination regime for political prisoners, Jackson never knuckled under. When he was told last September that he and three other Americans would be exchanged for four Puerto Rican nationalists serving life terms in the U.S. for shooting up the House of Representatives and trying to kill President Truman, Jackson told his Cuban captors that he would refuse to be traded for such would-be murderers.

"Listen, Jackson," he was told by the prison commandante, "we're going to deport you from Cuba even if we have to drag you out in chains!"

We asked Jackson if he would do it all over again. "Yes," he replied, "if I thought I had a chance to come up with the evidence that Soviet missiles are still in Cuba. In 1967, my CIA contact admitted that if they could not detect Soviet missiles going into Cuba in 1962, how could they tell for sure they were all taken out after the 1962 crisis."

To Jackson, now 39, it's more than a wild and improbable adventure. "I have a son and two daughters by a previous marriage, and one grandchild, and a country that I love. I'd do anything I could to help protect them."

Rash and foolhardy as his obsession over Cuba might seem, it is nonetheless reassuring in these "laid-back" times of "who cares" to know that there remain a few Americans like Everett Dennis Jackson.

HOLOCAUST IN CAMBODIA

Mr. PROXMIRE. Mr. President, my subject is genocide. For more than a decade, I have discussed this issue daily in an appeal for the ratification of the Genocide Convention. I have spoken with reference to technical arguments about the treaty, with reference to the Holocaust of the Nazi era, and with reference to lesser but nonetheless ominous violations of human rights which were occurring at the time. Today, I speak out on genocide not as a nightmare from the past or as a threat for the future, but instead as an accomplished fact of today's world.

I speak of Cambodia. For more than 4 years after its takeover by the Khmer Rouge in 1975, we heard almost nothing from this small Asian nation. Our only reports were horrific tales of savagery and murder told by desperate refugees; it was difficult to tell what was actually happening there. Now, we are discovering that the truth is far worse than anyone could have imagined. The Cambodian nation, over these last few short years, has fallen victim to genocide.

As Western journalists enter the country for the first time in years, our knowledge of what has actually occurred in Cambodia is still incomplete. However, what has been reported indicates that the now deposed Pol Pot regime undertook a calculated and horribly efficient program to eliminate half of the men, women, and children in the country. This was a butchery as brutal and senseless as the Holocaust of 40 years ago.

The horror of this attempted destruction of a whole people has not ended; the final chapters are being written at this moment. Millions of Cambodia's survivors, in that scarred country and across the border in overburdened Thailand, face certain starvation over the next 6 months unless an unprecedented international relief effort is undertaken immediately. At the same time, however, warfare between the Vietnamese invaders and the remnants of the old regime continues and makes any distribution of aid in Cambodia virtually impossible. I am hoping that my colleagues have grasped the immensity of the human disaster which has overtaken Cambodia.

I note, incidentally, that three of our distinguished colleagues from this body are in Cambodia now inspecting this tragic situation, and that indicates to us how immediate and serious the genocide problem is at this very instant.

Finally, as I have done for so long in the past and will continue to do for as long as it is necessary, I call on the Senate to ratify the Genocide Convention. Our continued silence on this issue, in light of the destruction of the Cambodian people, is a terrible one indeed.

Mr. President, I yield the floor.

UTAH LEADS THE NATION

Mr. HATCH. Mr. President, earlier this year I engaged in a small debate with my colleague and friend from Indiana, Senator LUGAR, over the attendance figures at college basketball games. At that time I offered the opinion that the basketball fans of Utah had led the Nation in average attendance at major

college basketball games. Senator LUGAR pointed out that the four major schools of his State had averaged a "few" fans more per game and later I learned in Sports Illustrated that the State of Kentucky was in fact first in that category.

While I may have been somewhat chagrined to find that I had erred, I still felt that the fans of Utah were the finest in the Nation. I also resolved that I would do a little more checking on the situation. I have since received data that supports my claim of attendance. In an article appearing in the October 5, 1979 issue of the campus paper of Brigham Young University, the Daily Universe, it points out that the State of Utah did indeed lead the nation in attendance per capita:

As a State, Utah leads the nation in per capita attendance. Judged on a per capita ratio, Utah is ranked first in the nation with an amazing 1.74—that is, 728,805 total attendance compared to its population of 1,268,000 (1977 census). In other words, a ratio of 1.74 to 1.00 between population and total basketball attendance New Mexico was second among the states last year with a 2.34 per capita rating.

Mr. President, that same article explains that BYU has sold out its season tickets for basketball, thus we should improve on an already superior rating. I ask unanimous consent that the above mentioned article be printed in the RECORD so that my colleagues, especially my friend from Indiana, can read it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MARRIOTT CENTER SOLD OUT

In a move that was as unseasonal as it was unprecedented, officials at BYU this week posted a "sold out" sign for season tickets to the Cougars 1979–80 home basketball games.

"To the best of my knowledge," reported special events manager Scott Williams, "this is the first time we've sold out the Marriott Center on a season ticket basis. Certainly this is the earliest we've had to hang out the 'sold out' shingle."

Since the Marriott Center seats 22,700, the advance sale means the Cougars should have a full house, or near-full house, at most of the 15 home games on the BYU schedule this season.

While this is bad news for those fans who may have waited too long to purchase season tickets, there is faint hope for the future. According to BYU ticket manager LaRae Hawkins, there will be a few games this year when the visiting team—clubs like Baylor and Alaska—won't be claiming their ticket allotments. These are the tickets, she said, that will be going on sale Nov. 1.

In breaking down the ticket allotment, officials said 6,700 are reserved for students, 3,000 are designated for sale to faculty and staff, and approximately 300 are allocated to the visiting schools. Everything else is sold on a season basis.

"We moved 1,100 on what we call a 'super season' rate," pointed out Williams. "But these are not renewable on a season basis. If the fans want to renew them, they will have to come in before the deadline next year and purchase from those seating sections where they are renewable."

"In my way of thinking," said BYU athletic director Glen Tuckett, "the early sell-out is a compliment to the fine coaches and players who brought a WAC championship to BYU last year. We want as many people as possible to have an opportunity to see their exciting brand of basketball."

Head Coach Frank Arnold had a similar reaction: "I've always felt BYU basketball fans were among the best—if not the best—in the country, and this confirms my feelings. We are really grateful for their enthusiasm and support."

For Williams and Hawkins, the sellout wasn't that much of a surprise. Last year, when the Cougars were battling their way to the conference championship, BYU averaged 19,048 fans for 14 home games. The season average for 1978–79 was second only to Kentucky in highest average per game in the nation. Kentucky led the nation with 23,403 per game, and New Mexico was third (16,641) behind BYU.

NCAA figures also revealed the Western Athletic Conference ranked third last year in overall attendance; an average of more than 10,000 fans per game for the eight member schools. Overall, the WAC drew more than 1,000,000 fans for the fifth year in a row.

As a state, Utah leads the nation in per capita attendance. Judged on a per capita ratio, Utah is ranked first in the nation with an amazing 1.74—that is, 728,805 total attendance compared to its population of 1,268,000 (1977 census). In other words, a ratio of 1.74 to 1.00 between population and total basketball attendance. New Mexico was second among the states last year with a 2.34 per capita rating.

And what about average attendance at the Utah schools?

Last year the four major Utah schools—BYU, Utah, Utah State and Weber State—averaged 8,377 fans per game, more than 2,000 ahead of second place New Mexico.

1980 SKI-A-THON

Mr. HATCH. Mr. President, today the 10 members of the 1980 "Ski-a-thon" team will leave Salt Lake City, Utah to continue on their remarkable cross country trek from Los Angeles to Lake Placid, N.Y. This endeavor to raise funds for our American athletes to participate in the 1980 winter Olympic games is worthy of the Congress' attention and commendation.

Jointly sponsored by the U.S. Ski Association, the U.S. Ski Team, the U.S. Ski Educational Foundation, the XIII Winter Olympic Games Organizing Committee, and the National Ski Patrol System, the cross country "Ski-a-thon" team began in Los Angeles on September 20 and is scheduled to end in Lake Placid on January 25, 1980. The team will be using "roller skis" when there is no snow in order to make Lake Placid before the Olympics.

The effort has been made to both raise money for the Olympics and to dramatize the Nation's support for our competitors at the games this winter. One of the primary goals of the "Ski-a-thon" is to invite the enthusiasm of every citizen for the games. The marathon expedition will take the "Ski-a-thon" team through 298 communities in the States of California, Nevada, Utah, Wyoming, Nebraska, Iowa, Illinois, Indiana, Ohio, Pennsylvania, and New York, a distance of 3,631 miles.

Mr. President, the Board of Supervisors of Los Angeles County, as well as Mayor Tom Bradley on behalf of the city of Los Angeles, have extended best wishes and commendation to the sponsors, patrons, and participants in "Ski-a-thon" in formal resolutions. I would like to join with the many citizens celebrating this endeavor and give to the skiers my utmost support for their project. I am grateful for the diligence and initiative shown by these Americans to promote a nationwide spirit of pride and patriotism.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Juan M. Perez-Gimenez, of Puerto Rico, to be U.S. District Judge for the District of Puerto Rico, which was referred to the Committee on the Judiciary.

TRADE WITH THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT—PM 126

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

Pursuant to section 402(c)(2) of the Trade Act of 1974 (hereinafter, "the Act"), I shall issue today an Executive Order waiving the application of subsections (a) and (b) of section 402 of the Act with respect to the People's Republic of China.

I wish to report to the Congress that I have determined that the requirements of section 402(c)(2)(A) and (B) of the Act have been satisfied.

JIMMY CARTER.

The WHITE HOUSE, *October 23, 1979.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 1:33 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 436. An act to amend section 15(d) of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be insured by the Tennessee Valley Authority;

H.R. 3923. An act to amend chapter 25 of title 44, United States Code, to extend for one year the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes;

H.R. 4580. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes; and

H.R. 5386. An act to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such Act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States.

The enrolled bills were subsequently signed by the President pro tempore.

The message also announced that the House has passed the following bill, with

amendments in which it requests the concurrence of the Senate:

S. 1871. An act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3354) to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STRATTON, Mr. MOLLOHAN, Mr. DAN DANIEL, Mr. BEARD of Tennessee, and Mr. ROBERT W. DANIEL, JR., were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 507. An act to authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes;

H.R. 826. An act to amend title 39, United States Code, to provide that the United States Postal Service shall be subject to certain provisions of the Occupational Safety and Health Act of 1970;

H.R. 2584. An act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children.

H.R. 4064. An act to amend title 39, United States Code, to provide that owners of motor vehicles leased by the United States Postal Service shall be exempt from the payment of State taxes and fees on those vehicles; and

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for two months certain authorities relating to the international energy program.

At 2:13 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. RODINO, Mr. BROOKS, Mr. KASTENMEIER, Mr. EDWARDS of California, Mr. SEIBERLING, Mr. DANIELSON, Mr. DRINAN, Ms. HOLTZMAN, Mr. MCCLORY, Mr. RAILSBACK, Mr. FISH, and Mr. HYDE were appointed as managers of the conference on the part of the House.

The message also announced that the House further insists upon its amendment to the resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982; requests a further conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. GIAIMO, Mr. ASHLEY, Mr. STOKES, Mr. SIMON, Mr. MINETA, Mr. JONES of Oklahoma, Mr. SOLARZ, Mr. WIRTH, Mr. PANETTA, Mr. NELSON, Mr. GRAY, Mr. LATTA, Mr. CONABLE, Mr. REGULA, Mr. SHUSTER, and Mr. FRENZEL were appointed managers of the conference on the part of the House.

At 3:22 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has agreed to the concurrent resolution (S. Con. Res. 44) correcting the enrollment of S. 1030, without amendment.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 507. An act to authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 826. An act to amend title 39, United States Code, to provide that the U.S. Postal Service shall be subject to certain provisions of the Occupational Safety and Health Act of 1970; to the Committee on Governmental Affairs.

H.R. 2584. An act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children; to the Committee on Governmental Affairs.

H.R. 4064. An act to amend title 39, United States Code, to provide that owners of motor vehicles leased by the United States Postal Service shall be exempt from the payment of State taxes and fees on those vehicles; to the Committee on Governmental Affairs.

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program; to the Committee on Energy and Natural Resources.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2361. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a report on the transfer of certain funds appropriated to the Department of Defense; to the Committee on Appropriations.

EC-2362. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize training of personnel of the armed forces of NATO member countries; to the Committee on Armed Services.

EC-2363. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the National Marine Fisheries Services for calendar year 1978; to the Committee on Commerce, Science, and Transportation.

EC-2364. A communication from the Secretary of the Interior, transmitting, pursuant to law, an application from the Gulf Oil Co. for repayment of gas royalties due to an approved pipeline transportation allowance; to the Committee on Energy and Natural Resources.

EC-2365. A communication from the Under Secretary of the Interior, transmitting, pursuant to law, notice on leasing systems for oil and gas lease sale No. 58A, Gulf of Mexico, scheduled to be held on November 27, 1979; to the Committee on Energy and Natural Resources.

EC-2366. A communication from the Acting Assistant Secretary of the Interior, transmitting, a correction in the transmittal letter and a revised copy of the previously submitted draft of proposed legislation to provide for additional authorization for appropriations for the Tinicum National Environmental Center; to the Committee on Environment and Public Works.

EC-2367. A communication from the President of the United States, transmitting, pursuant to law, a copy of a proclamation extending nondiscriminatory treatment to the products of the People's Republic of China; to the Committee on Finance.

EC-2368. A communication from the Assistant Secretary of the Interior for Policy, Budget, and Administration, transmitting, pursuant to law, a proposed new system of records for the Assistant Secretary of the Interior for Indian Affairs, for implementing the Privacy Act; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 23, 1979, he presented to the President of the United States the following enrolled bill:

S. 436. An act to amend section 15(d) of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Valley Authority.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

SECOND CONGRESSIONAL BUDGET RESOLUTION—CONFERENCE REPORT

Mr. MUSKIE, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 36) revising the congressional budget for the United States Government for the fiscal years 1980, 1981, and 1982 (Rept. No. 96-376).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 1923. A bill to amend the act of November 8, 1978 (92 Stat. 3095) to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico; to the Committee on Energy and Natural Resources.

S. 1924. A bill to establish the Salinas National Monument in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WILLIAMS:

S. 1925. A bill to amend the Internal Revenue Code of 1954 to stimulate savings of income for retirement, and for other purposes; to the Committee on Finance.

By Mr. McGOVERN:

S. 1926. A bill to provide price support for producers of sunflower seeds through loans and purchases by the Secretary of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

S. 1927. A bill to amend the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to require

that the label on each loaf of bread disclose the cost to the manufacturer of the farm product ingredients; to the Committee on Commerce, Science, and Transportation.

By Mr. PROXMIRE:

S. 1928. A bill to provide safeguards for consumers in the areas of credit, banking, and insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 1929. A bill to safeguard the privacy of electronic fund transfers by consumers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 1923. A bill to amend the act of November 8, 1978 (92 Stat. 3095), to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico; to the Committee on Energy and Natural Resources.

CIBOLA NATIONAL FOREST

Mr. DOMENICI. Mr. President, today I am introducing a bill which pertains to the Cibola National Forest, adjacent to Albuquerque, N. Mex. I am introducing this bill on behalf of myself and Senator SCHMITT.

Mr. President, this bill pertains to land in the Cibola National Forest adjacent to Albuquerque and contains two tracts of land of about 30,700 acres. The lands are located in the Sandia Mountains and lie along the western face of the mountains overlooking Albuquerque.

The outstanding scenic beauty found in the Sandias has long been recognized by the public. Rugged cliffs and pinnacles of light-colored granite provide not only a test of the mountain climber's skill, but also a scenic grandeur that is always present but ever changing with the afternoon light.

The Forest Service has protected this area in the past by placing primary emphasis on scenic beauty in many areas. For example, the entire west face of the Sandias has for several years been within a special management unit with actions directed at maintaining and enhancing the scenic values of the land. The Forest Service has done an excellent job in assuring that actions which would detract from the scenic beauty are not allowed.

The people in New Mexico appreciate the fine job the Forest Service has done in managing these lands. However, they would like the added protection wilderness designation would provide the area.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of November 8, 1978 (92 Stat. 3096) is amended by adding the following new subsection at the end thereof:

"(c) In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890) and section 2(g) of the Endangered American Wilderness Act of 1978 (92 Stat. 42), the western exterior boundary of the Sandia Mountain Wilderness is extended to a line beginning at the closing corner between section 35 and 36 of township 11 north, range 4 east, on the south boundary of the Elena Gallegos Grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 3,160 feet; thence north 4,125 feet; thence north 42 degrees east, 4,480 feet; thence north 1,710 feet; thence west 3,235 feet; thence north 19 degrees west, 2,350 feet; thence west 1,400 feet; thence north 3,820 feet to a point on the north boundary of such grant; thence south 81 degrees 30 minutes east, 150 feet along the boundary of such grant to the 7½ mile corner. Such boundary will enclose approximately 6,423 acres of the lands in the grant as it is described in section 1 of this Act. Such lands, upon acquisition by the United States, will be administered as a part of the Sandia Mountain Wilderness.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 1924. A bill to establish the Salinas National Monument in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

SALINAS NATIONAL MONUMENT

Mr. DOMENICI. Mr. President, also today I am introducing a bill on behalf of myself and Senator SCHMITT, to establish the Salinas National Monument by combining Gran Quivira National Monument and two State monuments, Abo and Quarai in New Mexico.

The National Park Service conducted an investigation to determine the suitability and feasibility of operating Abo, Quarai, and Gran Quivira as a three-unit monument under a single managing agency in 1974. The study indicated that factors were favorable for the establishment of Salinas National Monument and proposed that it be administered and operated as a part of the National Park System.

In 1909, President William H. Taft set aside the Gran Quivira National Monument to protect and preserve the ruins of prehistoric Indian pueblos and associated 17th century Franciscan Spanish mission ruins. This monument consists of 610.94 acres under Federal ownership and there are 21 pueblo mounds, 10 kivas, and 2 church complexes which require preservation and protection.

In 1933, Abo became a State monument under the administration of the Museum of New Mexico. Only the church and convento of Abo have been excavated. The mission has been partially restored and stabilized. Other archeological resources include three large house mounds, one small house mound, numerous pictographs and petroglyphs, several field houses and portions of a prehistoric trail. This unit would be accepted from the State by donation and an additional 350 acres of private land would be acquired to restore the integrity of the historical scene and to encompass additional ruins, petroglyphs, and pictographs in the area, as well as provide land for development.

In 1935 the Quarai State Monument was established under the administration of the Museum of New Mexico. There are two mission churches and conventos, nine Indian house mounds, pitroglyphs, ruins of an early Spanish corral, and remnants of a historic dam.

In 1974 the State legislature passed Senate bill 19, and the act was signed by the Governor enabling the State to cede jurisdiction of Quarai and Abo State Monuments to the National Park Service for inclusion in the Salinas National Monument upon presentation by the Park Service of an approved development plan.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to set apart and preserve for the benefit and enjoyment of the American people the ruins of prehistoric Indian pueblos and associated 17th century Franciscan Spanish mission ruins, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, or by purchase with donated or appropriated funds, or otherwise, four hundred and sixty-six acres of land in the State of New Mexico which, in addition to the lands now comprising Gran Quivira National Monument, shall be designated as the Salinas National Monument.

(b) Gran Quivera National Monument is hereby abolished, and any funds available for purposes of the monument shall be available for purposes of the Salinas National Monument.

SEC. 2. The Secretary shall administer, protect, and develop the national monument in accordance with the provisions of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. WILLIAMS:

S. 1925. A bill to amend the Internal Revenue Code of 1954 to stimulate savings of income for retirement, and for other purposes; to the Committee on Finance.

SAVINGS OF INCOME FOR RETIREMENT ACT

● Mr. WILLIAMS. Mr. President, today I am introducing legislation to stimulate increased savings of income in retirement arrangements (SIRA). Under the bill, American workers will be encouraged to supplement their retirement income through tax deductible savings, which in turn will contribute greatly to more capital formation.

The SIRA concept of my bill involves two significant changes in Federal tax law. First, it would increase the deductible limits for Keogh plans and individual retirement accounts (IRA's). Second, it would permit an individual who is already covered by a tax-qualified retirement plan to claim a tax deduction for his or her own contribution to that plan or to an IRA.

Over the years, I have been concerned about the ability of private sector pension arrangements, in combination with the Social Security System, to supply sufficient retirement income. The enactment of pension reform legislation—ERISA—in 1974 was a major step forward in providing assurance that private

sector employer- and union-sponsored pension plans would achieve this objective.

In 1974, recognizing that private sector pension plan coverage was by no means universal, Congress authorized IRA's, providing for the first time favorable tax treatment for retirement income savings by workers who are not covered by plans. IRA's have proven to be popular among these workers, with over 2 million individuals now saving almost $2.5 billion per year in individual and spousal retirement accounts, annuities, and bonds.

ERISA set the deductible limit for IRA contributions at the lesser of $1,500 or 15 percent of annual compensation. With the exception of the 1976 change which raised the dollar limit to $1,750 in the case of an IRA covering both the income earner and his or her nonincome earning spouse, the deductible limits for IRA's have not been changed since 1974.

For an employee earning sufficient compensation to contribute $1,500 each year to an IRA for 30 to 35 years, and assuming reasonable interest earnings on the contributions, the resulting pension at age 65, when combined with social security benefits, was deemed sufficient in 1974 to provide decent retirement income.

But, unusually high rates of inflation since 1974 and the outlook of continuing relatively high inflation in the years to come will seriously erode the value of the pension that can be provided with contributions limited to $1,500 per year.

According to the Consumer Price Index, the cost of living has risen over 40 percent since January 1, 1975. Even if inflation can be moderated somewhat in the coming years, the buying power of a pension in the year 2010 that is based on 35 years of contributions at the $1,500 per year rate will be pathetically inadequate.

Inflation has the same effects for Keogh plan participants. The raising of Keogh deductible limts 10 percent/$2,500 to 15 percent/$7,500 in 1974 was long overdue, but unless the Keogh limits are also indexed, future Keogh plan retirees will suffer a loss in ultimate retirement income security that is the same, in relative terms, as the loss that will be suffered by IRA pensioners.

Also, in order to retain the incentive for establishment of Keogh plans where IRA's are available, there must continue to be a gap between the maximum Keogh plan deduction and the maximum IRA deduction.

Therefore, my bill proposes two changes in the IRA and Keogh deductible limits.

First, an immediate increase in both the dollar and percentage limits to reflect most of the inflation that has taken place since 1974. For taxable years beginning during 1980, the IRA limit would be the lesser of 20 percent of compensation or $2,000, and the Keogh limit would be the lesser of 20 percent of compensation or $10,000.

Second, beginning in 1981, the dollar limit for IRA's would be linked to the CPI so that additional inflation does not erode IRA pension values. Then, when the inflation-adjusted IRA dollar limit reaches $5,000, the Keogh dollar limit would also become indexed. Thus, the maximum Keogh deductible limit would always be twice as large as the maximum IRA deductible limit.

The second part of the SIRA concept in my bill focuses on workers who are covered by employer-sponsored plans but who are in occupations involving transient employment, such as engineers and scientists, or who are covered by plans in which the benefit levels provided by employer contributions are low.

Workers in both situations may wish to set aside a portion of current income for retirement, but present law gives them little incentive to do so. Existing tax rules prohibit contributions to an IRA by individuals who are active participants in tax-qualified plans and contributions made to plans by covered employees are not tax deductible.

To eliminate this inequity and to encourage plan participants to augment the contributions that are being made by their employers, my bill provides a deduction for taxable years beginning in 1980 of up to $1,000 or 10 percent of annual earned income, whichever is less, for contributions made by a plan participant to his or her plans or to an IRA. For taxable years beginning during calendar years after 1980, the dollar limit will be indexed.

Except for the indexing feature, this provision in the bill is identical to section 203 of the "ERISA Improvemens Act of 1979," S. 209, which was approved by the Committee on Labor and Human Resources last May and is now pending before the Finance Committee.

But, since the introduction of S. 209, I have concluded that merely providing a new deduction for contributions by plan participants to their plans or to IRA's is not sufficient. If private sector arrangements are to supply sufficient retirement income to future retirees, the Keogh and IRA deductible limits must also be raised and adjusted so that inflation does not completely erode pensions provided by IRA's and Keogh plans.

These changes are important for additional reasons. The personal savings rate in the United States, expressed as a percentage of disposable income, has dropped to an alarmingly low level. In the United States, the rate was about 5 percent in 1977. This compares to a 20-percent rate in Japan; 15 percent in France; and about 10 percent in West Germany and the United Kingdom.

The reasons for the drop in the savings rate are not surprising. From an economic standpoint, Americans find few reasons to save.

High inflation rates make the real, after tax return on savings accounts at commercial banks and thrift institutions negative by a substantial margin.

Consumers are also inclined to buy on credit since the interest charges are often tax deductible and repayments are made in depreciated dollars.

In view of these trends, it is no wonder that Americans have lost their interest in saving money in traditional ways. Elsewhere in the world, governments actively promote personal savings. According to the Wall Street Journal—

Frenchmen get generous tax breaks on their savings account interest, and the German Government stimulates savings by offering a cash bonus to savers of up to about $100 in each year.

And, in sharp contrast to the inflationary pressure to consume felt by most Americans, in Europe "deepening fears of inflation seem, oddly, to encourage savings."

The decline in the savings rate carries an ominous warning of a lower rate of investment and the associated slow growth in productivity. As a result, capital formation will suffer and the prospects for a full economic recovery will be impeded.

I believe my colleagues are well aware of the importance of developing policies to stimulate individuals to save. Such policies will combat inflation, make long-term investment capital more readily available, and create a steady stream of funds to our depository institutions for commercial and housing loans.

A number of ideas are being studied to reduce the negative impact on savings and investments. Liberalizing depreciation to accelerate the rate at which investments can be charged off is one; another is augmenting the pool of investment funds by eliminating double taxation of corporate dividends.

The Banking Committee has already taken action this year to eliminate the regulation Q ceiling on interest rates, removing a particularly inequitable burden on small savers.

It seems obvious that our tax laws will have to be changed to encourage saving. The current tax structure discourages saving since it immediately taxes individual income before the decision to save or consume is made.

Numerous bills have been introduced to provide a tax incentive for savings at depository institutions. Generally, these bills fall into several categories—provide a tax exclusion on interest earned, offer tax-planning opportunities through deferral arrangements, or shelter savings for specific purposes such as a down-payment on a home or college education.

I believe the wisest approach is to broaden the tax deductions and deferrals permitted for retirement-oriented savings—IRA and Keogh plans.

Since we already have experience with these tax deferral programs—successful experience, I might add—I believe it is both logical and practical to defer tax liability on long-term savings commitments. Thus, the legislation I am introducing today would defer—and not forgive—a tax liability by moving the personal income tax system in the direction of encouraging higher levels of personal saving through a supplemental individual retirement arrangement.

Unlike most proposed incentives for savers which allow deductions for interest earned on savings balances, the SIRA proposal would allow deductions only for long-term savings. As with IRA's, the preferential tax treatment would be allowed only when the contributor allows the accumulated funds to remain in the plan until the age of 59½. Withdrawals prior to that time would be subject to a substantial tax penalty.

Mr. President, the savings of income for Retirement Act of 1979 will serve two purposes. First, it will enable working Americans to supplement their incomes during retirement by saving now. Second, it will promote additional, long-term saving to stimulate capital formation, shore-up depository institutions and help to assure an adequate flow of mortgage credit.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1925

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings of Income for Retirement Act".

SEC. 2. INCREASE IN AMOUNT OF INDIVIDUAL RETIREMENT SAVINGS DEDUCTION.

(a) RETIREMENT SAVINGS FOR INDIVIDUALS.—Section 219 of the Internal Revenue Code of 1954 (relating to retirement savings) is amended—

(1) by striking out "15 percent" in subsection (b)(1) and inserting in lieu thereof "20 percent",

(2) by striking out "$1,500" in subsection (b)(1) and inserting in lieu thereof "the deductible amount described in subsection (c)(6)", and

(3) by adding at the end of subsection (c) the following new paragraph:

"(6) DEDUCTIBLE AMOUNT.—For purposes of subsection (b)(1)—

"(A) TAXABLE YEARS BEGINNING IN 1980.—The deductible amount for taxable years beginning in 1980 is $2,000.

"(B) TAXABLE YEARS BEGINNING AFTER 1980.—The deductible amount for taxable years beginning in calendar years after 1980 is an amount, determined and published by the Secretary, which bears the same ratio to $2,000 as the Consumer Price Index for the 12-month period ending on September 30th of the preceding calendar year bears to the Consumer Price Index for the 12-month period ending on September 30, 1979. For purposes of this subparagraph, the term 'Consumer Price Index' means the average over a 12-month period of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics of the Department of Labor.".

(b) RETIREMENT SAVINGS FOR MARRIED INDIVIDUALS.—Section 220 of such Code (relating to retirement savings for certain married individuals) is amended—

(1) by striking out "15 percent" in subsection (b)(1)(B) and inserting in lieu thereof "20 percent",

(2) by striking out "$1,750" in subsection (b)(1)(C) and inserting in lieu thereof "the deductible amount described in subsection (c)(7)", and

(3) by adding at the end of subsection (c) the following new paragraph:

"(6) DEDUCTIBLE AMOUNT.—For purposes of subsection (b)(1)(C)—

"(A) TAXABLE YEAR BEGINNING IN 1980.—The deductible amount for taxable years beginning in 1980 is $2,400.

"(B) TAXABLE YEARS BEGINNING AFTER 1980.—The deductible amount for taxable years beginning in calendar years after 1980 is an amount determined and published by the Secretary which bears the same ratio to $2,400 as the Consumer Price Index (within the meaning of section 219(c)(6)(B)) for the 12-month period ending on September 30 of the preceding calendar year bears to the Consumer Price Index for the 12-month period ending on September 30, 1979.".

(c) CONFORMING CHANGES.—

(1) Section 408 of such Code (relating to individual retirement accounts) is amended—

(A) by striking out "$1,500" in subsections (a)(1), (b)(2), (b)(5), and (j) and by inserting in lieu thereof "the deductible amount described in section 219 (c)(6)", and

(B) by striking out "$1,750" in subsection (d)(5)(A) and inserting in lieu thereof "the deductible amount described in section 220 (c)(7)".

(2) Section 409 of such Code (relating to retirement bonds) is amended by striking out "$1,500" in subsection (a)(4) and inserting in lieu thereof "the deductible amount described in section 219 (c)(6)".

SEC. 3. INCREASE IN AMOUNT OF OWNER-EMPLOYEE RETIREMENT PLAN DEDUCTION.

(a) IN GENERAL.—Subsection (e) of section 404 of the Internal Revenue Code of 1954 (relating to special limitations for self-employed individuals) is amended—

(1) by striking out $7,500" in paragraphs (1) and (2) and inserting in lieu thereof "the deductible amount described in paragraph (5)",

(2) by striking out "15 percent" in paragraphs (1) and (2) and inserting in lieu thereof "20 percent", and

(3) by adding at the end of such subsection the following new paragraph:

"(5) DEDUCTIBLE AMOUNT.—For purposes of paragraphs (1) and (2)—

"(A) IN GENERAL.—Except as provided by subparagraph (B), the deductible amount for taxable years beginning after December 31, 1979, is $10,000.

"(B) ADJUSTMENT FOR INFLATION.—The deductible amount for taxable years beginning more than 12 months after the first calendar year for which the deductible amount under section 219 (c)(6) (relating to deductible amount for individual retirement savings) first exceeds $4,999 (hereinafter referred to as the $5,000 IRA year) is an amount, determined and published by the Secretary, which bears the same ratio to $10,000 as the Consumer Price Index (within the meaning of section 219 (c)(6)(B)) for the 12-month period ending on September 30 of the preceding calendar year bears to the Consumer Price Index (within the meaning of such section) for the 12-month period ending on September 30 of the $5,000 IRA year.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 401 is amended by striking out "$7,500" and inserting in lieu thereof "the deductible amount described in section 404 (e)(5) which is in effect for the taxable year with respect to which the determination is being made".

(2) Subparagraph (B) of section 401 (j)(3) of such Code (relating to defined benefit plans providing benefits for self-employed individuals and shareholder-employees) is amended—

(A) by striking out "and" at the end of clause (iii),

(B) by striking out the period at the end of clause (iv) and inserting in lieu thereof a comma and the word "and", and

(C) by adding at the end thereof the following new clause:

"(v) when appropriate, in the case of periods beginning after December 31, 1980, for adjustments in the applicable percentages based on changes in the deductible amount described in section 404(e)(5).".

(3) subsection (j) of section 408 is amended by striking out "$7,500" and inserting in lieu thereof "the deductible amount described in section 404(e)(5)".

SEC. 4. DEDUCTION FOR CERTAIN EMPLOYEE RETIREMENT SAVINGS AND CONTRIBUTIONS.

(a) IN GENERAL.—

(1) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"SEC. 221. DEDUCTION FOR CERTAIN EMPLOYEE RETIREMENT SAVINGS CONTRIBUTIONS.

"(a) DEDUCTION ALLOWED.—In the case of an eligible employee, described in subsection (c), there is allowed as a deduction amounts paid in cash for a taxable year by such individual for the benefit of himself—

"(1) to a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(2) to an annuity plan described in section 403(a),

"(3) to a qualified bond purchase plan described in section 405(a),

"(4) to an individual retirement account described in section 408(a), individual retirement annuity described in section 408 (b), or for a retirement bond described in section 409, or

"(5) to a group retirement trust maintained by a labor organization described in section 501(c)(5) which is financed exclusively by assessments of individuals who are members of such labor organization, which was established prior to January 1, 1974, and in which the assessments paid to the trust by any participant are 100 percent nonforfeitable.

"(b) LIMITATION AND RESTRICTION.—

"(1) MAXIMUM DEDUCTION.—The amount allowable as a deduction under subsection (a) to an eligible employee for any taxable year may not exceed an amount equal to 10 percent of the compensation includible in his gross income for such taxable year, or the deductible amount described in paragraph (6), whichever is less.

"(2) ADDITIONAL LIMITATION.—No deduction is allowed for any amount paid to an account, annuity, or for a bond described in paragraph (4) of subsection (a) except to the extent of the excess of the amount determined under paragraph (1) over any amount paid by the eligible employee to a plan or trust described in paragraph (1), (2), (3) or (5) of subsection (a).

"(3) ALTERNATIVE DEDUCTION.—No deduction is allowed under subsection (a) for the taxable year if the individual claims the deduction allowed by section 219 or 220 for the taxable year.

"(4) EXCEPTION WHERE PLAN IS DISCRIMINATORY.—No deduction is allowed under subsection (a) for a highly compensated participant (as defined in subsection (c)(7)) unless the employer certifies in accordance with regulations prescribed by the Secretary that the plan satisfies the discrimination standards in subsection (c)(6).

"(5) EXCEPTION RESPECTING CERTAIN PLANS.—No deduction is allowed under subsection (a) for any amount paid by a participant to a plan described in paragraph (1), (2) or (3) of subsection (a) which was not in existence on January 1, 1978 (or to a successor to such a plan) if, under the terms of such plan (or successor plan), employee contributions are mandatory or employer contributions are not made unless contributions are made by employees.

"(6) DEDUCTIBLE AMOUNT.—For purposes of paragraph (1)—

"(A) TAXABLE YEARS BEGINNING IN 1980.—The deductible amount for taxable years beginning in 1980 is $1,000.

"(B) TAXABLE YEARS BEGINNING AFTER 1980.—The deductible amount for taxable years beginning in calendar years after 1980

is an amount, determined and published by the Secretary, which bears the same ratio to $1,000 as the Consumer Price Index for the 12-month period ending on September 30 of the preceding calendar year bears to the Consumer Price Index for the 12-month period ending on September 30, 1979. For purposes of this subparagraph, the term 'Consumer Price Index' means the average over a 12-month period of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics of the Department of Labor.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) ELIGIBLE EMPLOYEE.—For purposes of this section, the term 'eligible employee' shall mean an individual who is an employee without regard to section 401(c)(1) or is a member of a labor organization referred to in subparagraph (D) and who is an active participant for any part of the taxable year in—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a),

"(C) a qualified bond purchase plan described in section 405(a), or

"(D) a group retirement trust maintained by a labor organization described in section 501(c)(5) which is financed exclusively by assessments of individuals who are members of such labor organization, which was established prior to January 1, 1974, and in which the assessments paid to the trust by any participant are 100 percent nonforfeitable, but not if such plan is established or maintained by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

"(2) REPORTS.—The Secretary shall promulgate regulations which prescribe the time and manner in which reports shall be filed by an employer receiving contributions deductible under this section and by any eligible employee making any such deductible contribution.

"(3) RECONTRIBUTED AMOUNTS.—No deduction shall be allowed under this section with respect to a rollover contribution described in section 402(a)(5), 402(a)(6), 402(a)(7), 403(a)(4), 403(a)(5), 403(b)(8), 408(d)(3), or 409(b)(3)(C).

"(4) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no deduction shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which are properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(5) MARRIED INDIVIDUALS.—In the case of an individual who is married (as determined under section 143), the maximum deduction under subsection (b) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

"(6) DISCRIMINATION STANDARDS.—

'(A) A plan satisfies the discrimination standards if the actual deferral percentage for highly compensated participants (as defined in paragraph (7)) for a plan year bears a relationship to the actual deferral percentage for all other participants for such plan year which meets either of the following tests:

"(i) The actual deferral percentage for the group of highly compensated participants is not more than the actual deferral percentage of all other participants multiplied by 1.5.

"(ii) The excess of the actual deferral percentage for the group of highly compensated participants over that of all other participants is not more than 3 percentage points, and the actual deferral percentage for the group of highly compensated participants is not more than the actual deferral percentage of all other participants multiplied by 2.5.

"(B) For purposes of subparagraph (A), the actual deferral percentage for a specified group of participants for a plan year shall be the average of the ratios (calcuated separately for each participant in such group) of—

"(i) the amount deducted on behalf of each participant for such plan year, to

"(ii) the participant's total compensation for such plan year.

For purposes of the preceding sentence, the amount deducted on behalf of a highly compensated participant shall be determined without regard to the exception in subsection (b)(4).

"(7) HIGHLY COMPENSATED PARTICIPANT.—For purposes of this section, the term 'highly compensated participant' means any participant who is more highly compensated than two-thirds of all participants but only if such participant's compensation for a plan year equals or exceeds the salary of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS-12. No individual who participates during a plan year only in a group retirement trust described in subsection (a)(5) shall be considered a highly compensated participant for such year.".

(2) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Section 62 of such Code (defining adjusted gross income) is amended by inserting after paragraph (14) the following new paragraph:

"(15) DEDUCTION FOR CERTAIN CONTRIBUTIONS.—The deduction allowed by section 221 (relating to certain employee retirement savings contributions).".

(b) TAX TREATMENT OF CERTAIN DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—Subpart A of part I of subchapter D of chapter 1 of such Code (relating to retirement plans) is amended by inserting after subsection (1) of section 414 the following new subsection:

"(m) DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—For purposes of this title, other than for purposes of sections 401(a)(4) and (5), 404, 410(b), 411, and 412, any amount which an employer is required to report pursuant to regulations promulgated under subsection (c)(2) of section 221, with respect to an amount paid by an eligible employee, as defined in subsection (c)(1) of section 221, as an employee retirement savings contribution, shall be treated as an employer contribution.".

(c) CONFORMING AMENDMENTS.—

(1) So much of section 72(f) of such Code as precedes paragraph (1) thereof is amended to read as follows:

"(f) SPECIAL RULES FOR COMPUTING EMPLOYEE'S CONTRIBUTIONS.—In computing, for purposes of subsection (c)(1)(A), the aggregate amount of premiums or other consideration paid for the contract, for purposes of subsection (d)(1), the consideration for the contract contributed by the employee, and for purposes of subsection (e)(1)(B), the aggregate premiums or other consideration paid, amounts which an employer is required to report, pursuant to regulations promulgated under subsection (c)(2) of section 221, with respect to an amount paid by an eligible employee, as defined in subsection (c)(1) of section 221, as a retirement savings employee contribution shall be excluded, and amounts contributed by the employer shall be included, but only to the extent that—".

(2) Section 414(h) of such Code (relating to tax treatment of certain contributions) is amended by inserting after "any amount contributed" the following: "other than an amount described in subsection (m)".

(3) So much of section 4973(b) of such Code as follows paragraph (1)(A) thereof is amended to read as follows:

"(B) the amount allowable as a deduction under section 219, 220, or 221 for such contributions, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),

"(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and

"(C) the excess (if any) of the maximum amount allowable as a deduction under section 219, 220, or 221 for the taxable year over the amount contributed (determined without regard to sections 219(c)(5) and 220(c)(6)) to the accounts or for the annuities or bonds for the taxable year.

For purposes of this subsection, any contribution which is distributed from the individual retirement account, individual retirement annuity, or bond in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed.".

SEC. 5. EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 1979.●

By Mr. McGOVERN:

S. 1926. A bill to provide price support for producers of sunflower seeds through loans and purchases by the Secretary of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

SUNFLOWER SEED SUPPORT ACTION OF 1979

● Mr. McGOVERN. Mr. President, I send to the desk for appropriate reference a simple yet necessary piece of agricultural legislation. The legislation I propose would authorize the Secretary of Agriculture to establish loan rates for sunflower seeds.

Long viewed as a specialty crop at the Department of Agriculture, the once lowly sunflower has emerged in recent years as an important cash crop in the Upper Great Plains and elsewhere throughout the country. Indeed, in many areas, farmers are opting to plant sunflowers on land that would normally be sown to wheat. The sunflower is cheap to plant, easy to care for, extremely drought resistant, and has high yields of seed oil and feed residue from the crushed product.

Four years ago North Dakota farmers planted 600,000 acres of sunflowers. In 1979 this figure had grown to 3.46 million acres. In 1976 Minnesota farmers planted 200,000 acres of sunflowers. This year the figure rose to 1.4 million.

In my own State, farmers will harvest 612,000 acres of sunflower seeds this year. Four years ago there was not sufficient interest in sunflowers for the South Dakota State Crop and Livestock Reporting Service to forecast planting and production.

The bill I proposed would give the Secretary the authority to set a loan rate on sunflower seeds based on their equivalency to soybean oil and crushed residue of soybeans. Soybeans are a recognized product and provide Americans and foreign buyers with a good source of protein. Indications are that sunflowers can compliment soybean production without infringing on that important commodity. Presently the loan rate on soybeans is $4.50 a bushel. Though the commodity has a market value well above the loan, the fact that there is a loan gives soybeans a recognition and stability not enjoyed by the so-called specialty crops.

Sunflower seeds have now come of age. The product deserves the recognition of becoming included in the family of supported commodities.

Mr. President, I ask unanimous consent that an explanation of the bill and its text be printed in the RECORD.

There being no objection, the bill and explanation were ordered to be printed in the RECORD, as follows:

S. 1926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective only with respect to the 1980 and 1981 crops of sunflower seeds, section 201 of the Agricultural Act of 1949 is amended by—

(1) in the first sentence, inserting "sunflower seeds," after "soybeans,"; and

(2) in subsection (e), inserting "(1)" after the subsection designation and adding at the end thereof a new paragraph (2) as follows:

"(2) The Secretary shall make available to producers loans and purchases on each of the 1980 and 1981 crops of sunflower seeds at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for soybeans, taking into consideration the yield of seed oil and the feed value of crushed sunflower seeds in relation to soybeans: *Provided,* That, notwithstanding the provisions of section 1001 of the Food and Agriculture Act of 1977, the Secretary shall not require a set-aside of sunflower seed acreage as a condition of eligibility for price support for any commodity supported under the provisions of this Act.".

EXPLANATION OF BILL

The bill amends the Agricultural Act of 1949 to provide price support to producers for the 1980 and 1981 crops of sunflower seeds through loans and purchases by the Secretary of Agriculture.

The bill adds a new provision to title II of the Agricultural Act of 1949, which provides for price support programs for "designated nonbasic agricultural commodities" (soybeans, honey, milk, sugar beets, and sugarcane), to include sunflower seeds under title II as follows: Section 201(e) of title II now provides for price support loans and purchases for the 1978 through 1981 crops of soybeans; the bill adds a provision at the end of section 201(e) to require the Secretary of Agriculture to make price support loans and purchases on each of the 1980 and 1981 crops of sunflower seeds available to producers.

The Secretary would be required to make the loans and purchases on sunflower seeds available at such level as the Secretary determined was fair and reasonable in relation to the level that loans and purchases are made available for soybeans, taking into consideration the yield of seed oil and the feed value of crushed sunflower seeds in relation to soybeans.

The bill also provides that, notwithstanding the provisions of section 1001 of the Food and Agriculture Act of 1977, the Secretary may not require a set-aside of sunflower seed acreage as a condition of eligibility for price support for any commodity supported under the 1949 Act. (Section 1001 gives the Secretary authority, whenever a set-aside is in effect for wheat, feed grains, upland cotton, or rice during the 1978 through 1981 crop years, to require a set-aside of normally planted acreage. In these situations, the Secretary has the authority to require (as a condition of eligibility for price support loans and purchases) that acreage normally planted to crops designated by the Secretary be reduced by the acreage of the set-aside for wheat, feed grains, upland cotton, or rice).●

By Mr. McGOVERN:

S. 1927. A bill to amend the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to require that the label on each loaf of bread disclose the cost to the manufacturer of the farm product ingredients; to the Committee on Commerce, Science, and Transportation.

BREAD LABELING ACT

● Mr. McGOVERN. Mr. President, I am today introducing a bill which I believe will promote a better understanding of the relationship between farm prices and retail food costs by requiring that the farm value of the ingredients in a loaf of bread be shown on the wrapper.

It is a fact that wheat represents only about 4 cents of the retail price of a 1-pound loaf of bread; however, when farmers begin to receive a price for their wheat that nearly approximates their cost of production and maybe offers a profit, we too often hear cries that exports be halted to prevent an increase in the domestic price of bread.

Wheat exports are vital to our national economy, and our farmers could not continue to grow the quantity and quality of wheat they now produce if the opportunity to sell in world markets was eliminated or restricted. The U.S. market utilizes only one-third of the Nation's annual wheat output, and exports are vital to maintaining our productive capacity.

Since 1972 the farm price of wheat in a loaf of bread has increased 1.9 cents, according to the U.S. Department of Agriculture, while bread prices have increased 16.5 cents. A 25-percent increase in wheat prices would add less to the cost of a loaf of bread than would a 4-percent increase in the processing and distribution costs for the product.

Moreover, the farm price for wheat must increase at least $1 per bushel to justify a 1.2-cent increase in a 1-pound loaf of bread. A bushel yields about 70 loaves of bread.

I believe that the consumer should have the opportunity to know the value of the raw farm products in bread, and this bill would accomplish this aim by making the information available on the wrapper. This information is currently available, and it can be added to the bread label without any increase in the price of a loaf of bread.

Mr. President, for the purposes of illustration I ask unanimous consent that a table prepared by the Department of Agriculture showing the price of wheat and the net farm value of the wheat ingredient in a 1-pound loaf of bread, together with the text of the bill, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bread Labeling Act."

SEC. 2. The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), is amended by adding thereto a new title V as follows:

"SEC. 501. When used in this title,

(a) The term "Secretary" means the Secretary of Agriculture;

(b) The term "interstate commerce" means commerce between any State or Territory of the United States, or the District of Columbia, and any place outside thereof; or between points within the same State or Territory, or the District of Columbia, but through any place outside thereof; or within any territory or the District of Columbia;

(c) The term "label" means a display of written, printed or graphic matter upon the immediate container of a loaf of bread.

"SEC. 502. Every loaf of bread in packaged form distributed in interstate commerce shall bear a label specifying (in cents per pound) the cost of the manufacturer, based upon its average costs for the previous marketing year, of the farm products which comprise the ingredients of the bread. Such label shall appear in a uniform location on the package and shall appear in conspicuous and easily legible type in distinct contrast with other matters on the package.

"SEC. 503. No person shall sell, transport, offer for sale or transportation, or receive for transportation, in interstate commerce, any loaf of bread in packaged form which is not labeled in accordance with the requirements of section 3 of this Act and the regulations promulgated thereunder.

"SEC. 504. Whenever it appears that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of this Act or any regulation issued under this Act, the Attorney General, at the request of the Secretary, may bring an action in the appropriate district court of the United States or the appropriate United States court of any territory of the United States to enjoin such act or practice, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Attorney General any such court may also issue mandatory injunctions commanding any person to comply with any regulation of the Secretary under this Act.

"SEC. 505. (a) Any person who knowingly violates a provision of this Act or any regulation promulgated thereunder shall be liable to the United States for a civil penalty of not more than $1,000 for each violation. The amount of such civil penalty shall be assessed by the Secretary by written order, after notice and opportunity for a hearing.

(b) Any person against whom a violation is found and a civil penalty assessed under this section may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty assessed, as provided in section 2112 of title 28, United States Code. The finding of the Secretary shall be set aside if found to be unsupported by substantial evidence.

(c) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States or appropriate United States court of any territory of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"SEC. 506. The Secretary is authorized to

prescribe such regulations as deemed necessary to carry out the purposes of this Act.

"SEC. 507. There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this Act."

BREAD FACTS

A bushel of wheat provides flour for about 69 one-pound loaves of white bread.

A change of $1 per bushel in the price of wheat affects the net farm value of the wheat ingredients in a one-pound loaf of white bread about 1.2 cents ($1 divided by 69 minus the value of millfeed byproducts). That is, if the farm price of wheat increases $1 per bushel, the net cost of the wheat ingredients in a one-pound loaf of bread increases about 1.2 cents.

A 25 percent increase in wheat prices would add less to the cost of a loaf of bread than would a 4 percent increase in the processing and distribution costs in a loaf of bread.

In June 1972, the month before the sale of wheat to the Soviet Union, bread prices averaged 24.7 cents for a one-pound loaf and the net farm value of the wheat ingredients in a loaf was 2.6 cents. In June 1979, bread prices averaged 41.2 cents a pound, while the net farm value of the wheat ingredients was 4.5 cents. In other words, the farm price of wheat in the price of bread increased 1.9 cents since 1972—but bread prices went up 16.5 cents.

Here is a comparison of wheat, flour, and bread prices over that time span:

	U.S. average farm price per bushel of wheat	Net farm value of wheat ingredients in 1 lb bread[1] (cents)	Average wholesale price per 100 lbs of flour[2]	Average retail price for a 1-lb loaf of white bread (cents)
June 1972	$1.33	2.6	$5.77	24.7
June 1973	2.43	3.9	7.87	26.4
June 1974	3.57	4.5	10.48	34.7
June 1975	2.92	3.6	8.96	35.6
June 1976	3.46	4.2	9.75	35.6
June 1977	2.03	2.2	6.22	35.3
June 1978	2.62	3.4	7.89	37.8
June 1979	3.72	4.5	9.43	41.2

[1] Farm value is the payment to farmers for 0.867 lb of wheat needed to produce flour for a pound of white bread, minus an allowance for the value of millfeed byproducts. Farm value is calculated from a 10-State average of prices received by farmers for Hard Winter and Spring Wheat. Farm value for June 1972 and 1973 is based on the price of wheat plus the cost to millers of a 75-cent per bushel marketing certificate.

[2] Weighted average wholesale price for bread-type flour in Kansas City, Minneapolis, and Buffalo.

This is what has happened to the "spread"—the difference between the average retail price of a one-pound loaf of white bread and the net farm value of the wheat ingredients in a loaf of bread—from June 1972 to June 1979:

Spread

	Cents
June 1972	22.1
June 1973	22.5
June 1974	30.1
June 1975	32.0
June 1976	31.4
June 1977	33.1
June 1978	34.4
June 1979	37.5

A special U.S. Department of Agriculture study in 1977 showed that the net farm value of the wheat in a loaf of white bread accounted for 2.7 cents of the 35.5 cent average cost of a one-pound loaf of white bread that year.

The 1977 study showed that the net farm value of the wheat in a one-pound loaf of white bread represented about 8 percent of the retail cost of bread. Here are the major costs in the one-pound loaf costing 35.5 cents in 1977:

Item	Cents	Percent
Net farm value of wheat	2.7	7.6
Net farm value of other ingredients	1.8	5.1
Wheat and flour milling and transportation	1.9	5.4
Bread baking and distribution to stores	26.0	73.2
Labor	12.7	35.7
Profit	1.8	5.1
Advertising	.7	2.0
Packaging	2.5	7.0
Depreciation	.8	2.2
Business taxes	.2	.6
Rent	.1	.3
Energy	.5	1.4
Repairs	.2	.6
Interest	.1	.3
Other	6.4	18.0
Retailing	3.1	8.7
Total	35.5	100.0

By Mr. PROXMIRE:

S. 1928. A bill to provide safeguards for consumers in the areas of credit, banking, and insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 1929. A bill to safeguard the privacy of electronic fund transfers by consumers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary, jointly, by unanimous consent.

FAIR FINANCIAL INFORMATION PRACTICES ACT OF 1979 AND PRIVACY OF ELECTRONICS FUND TRANSFERS ACT OF 1979

Mr. PROXMIRE. Mr. President, I am today introducing two bills which seek to strike a balance between the tremendous threat to personal privacy posed by the incredible growth of our computerized information technology and the needs of business and government for the legitimate exchange of information relating to individuals.

Both pieces of legislation, "The Fair Financial Information Practices Act" and "The Privacy of Electronic Fund Transfers Act of 1979", are part of President Carter's privacy initiative to implement the recommendations of the Privacy Protection Study Commission.

The enactment of this comprehensive legislation will strengthen existing privacy legislation and provide significant new safeguards for the citizens of this Nation in the areas of credit, banking, and insurance records. Upon their enactment by the Congress, we will have taken a significant step toward a consistent national policy for the protection of individual privacy.

In 1970, I sponsored the original Fair Credit Reporting Act. This legislation was a major effort forward in insuring accurate and timely credit reporting, as well as protecting consumers from unfair credit reporting practices. Unfortunately, however, the act contains numerous glaring defects and loopholes, most of which resulted from the many compromises which had to be made to get the bill enacted. While the act's deficiencies have been the subject of many law review and other articles, nowhere have these deficiencies been more ably described than in the landmark report of the Federal Privacy Protection Study Commission issued in 1977.

Using adjectives like "self-defeating," "deficient," "unfair," and "burdensome," the Commission cataloged the numerous the numerous areas where the FCRA falls grievously short of fairness to the consumer. The credit reporting industry's usual refrain that the act works just fine is simply demolished by the Commission's study. Opponents to legislation to erect privacy safeguards for personal information have counseled delay, over the past 4 years, on the grounds that we should await the recommendations of the Privacy Commission. Let us delay no further.

I am very pleased that Title I of the Fair Financial Information Practices Act entitled "The Privacy Protection Amendment of 1979" will plug many of these loopholes and eliminate the most serious deficiencies in the Fair Credit Reporting Act.

Among those improvements will be the right of consumers, for the first time, to actually see and copy their credit reports, increased rights to challenge and correct credit reports for inaccuracy or incompleteness, and a prohibition against "pretext" interviews.

Title II, entitled the "Fair Credit Information Practices Act" will extend privacy safeguards to major grantors of consumers credit—banks and other depository institutions, finance companies and credit card issuers. The Privacy Commission Study documented how the highly personal information stored and generated by these credit grantors can be converted into a detailed diary of an individual's activity and how extremely harmful this information can become if it is inaccurate or revealed to unauthorized parties.

This title requires credit grantors to inform individuals about their information collection and disclosure practices, and to follow the practices described in the notice.

It will also provide that individuals be informed by a credit grantor of both the reasons for any adverse decision made about them and the items of information used to support the decision.

Title III, the "Fair Authorization Information Practices Act," will establish a privacy policy for the burgeoning service industry which authorizes credit card purchases and provides check guarantees. Authorization services rely heavily on personal information supplied to them by banks, creditors and other sources. Tremendous embarassment and inconvenience can befall a consumer if this information is inaccurate or misleading.

This title will insure that independent authorization services maintain reasonable procedures to assure the accuracy of the information they collect and report. It will also establish procedures to speed the correction of inaccurate information maintained by these authorization services.

Title IV, the "Fair Debit Information Practices Act" will establish a privacy policy to safeguard the checking and savings accounts in depository institutions.

This proposal would require depository institutions to notify individuals of their recordkeeping practices and to follow the practices set forth in that notice.

Title V, the "Fair Insurance Information Practices Act," will extend a

number of privacy safeguards to a tremendous amount of personal and often highly sensitive information collected and held by the insurance industry.

Consumers will be afforded the right to see, copy and dispute the accuracy of information lodged in their insurance records. Insurers will be required to inform customers of their information collection and disclosure procedures. Insurers will be limited to the disclosed practices. Pretext interviews will be prohibited.

A very important provision would afford consumers the right, upon request, to learn the specific reason for an adverse decision relating to insurance coverage. The Equal Credit Opportunity Act already imposes a similar requirement upon creditors. The Federal Reserve Board has found that very beneficial results have accrued to both creditors and consumers alike, as a result of the disclosure of the specific reasons for an adverse decision. A survey by the staff of the Reserve Board has indicated that a considerable percentage of consumers who were initially rejected for credit were finally granted credit after subsequently supplying the creditor with additional information.

The second bill, the "Privacy of Electronic Fund Transfers Act of 1978" develops a framework for the protection of the communication of electronic fund transfers. In essence, this bill seeks to protect the privacy of electronic fund transfers in transit in much the same way as telephone calls and letters are currently protected.

Privacy is simply too valuable a right to be bargained away irretrievably for an insurance policy or a line of credit. I believe the best guarantee of that right is full access by consumers to all information maintained on file about them and that the information is correct and complete. At the same time, we must be realistic to recognize that creditors, insurers and others have a legitimate right to enough information to make their business decisions and that we cannot impose undue costs and burdens.

I am happy to sponsor this legislation because I believe it will meet these requirements that are necessary.

I send the legislation to the desk for appropriate reference.

The PRESIDING OFFICER. The bills will be received and appropriately referred.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Wisconsin (Mr. PROXMIRE), relative to safeguarding the privacy of electronic fund transfers by consumers, be jointly referred to the Committees on Banking, Housing, and Urban Affairs and Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 43

At the request of Mr. HATCH, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 43, the National Ski Patrol System Recognition Act.

S. 94

At the request of Mr. BENTSEN, the Senator from North Dakota (Mr. BURDICK), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Montana (Mr. MELCHER), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 94, a bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses and for other purposes.

S. 1179

At the request of Mr. BAYH, the Senator from Tennessee (Mr. SASSER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Indiana (Mr. LUGAR), the Senator from Utah (Mr. HATCH), the Senator from Illinois (Mr. PERCY), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 1179, a bill to incorporate the Gold Star Wives.

S. 1203

At the request of Mr. BAYH, the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1275

At the request of Mr. BAYH, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1275, a bill to provide for tariff reclassification of cold finished steel bars.

S. 1579

At the request of Mr. BOREN, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 1579, the Family Welfare Demonstration Program Act.

SENATE CONCURRENT RESOLUTION 46—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE $1 BILL AND THE $1 COIN

Mr. HELMS submitted the following concurrent resolution, which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 46

Whereas the currency system of the United States has been administered so as to provide supplies of currency in various denominations in response to the demand of the American people;

Whereas it has been the policy of the Federal Reserve System to issue notes to its member banks in such quantities as those member banks require to meet public demand;

Whereas the Congress has supported continuance of this policy during the course of its oversight responsibilities and in specific legislation;

Whereas the American people have indicated their desire to continue to use the one-dollar bill; and

Whereas the Coinage Act of 1965 directs the Secretary of the Treasury to only provide coins authorized by law in "such quantities as he determines to be necessary to meet national needs": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) no action shall be taken which would lead to the withdrawal of the one-dollar bill from circulation until such time as the Congress authorizes such withdrawal;

(2) no action shall be taken which attempts artificially to stimulate the demand for the one-dollar coin or require its use; and

(3) the production of various coins by the United States mint shall be in such quantities as may be necessary to meet national needs, as reflected in public demand.

THE DOLLAR COIN—LET THE PEOPLE DECIDE

Mr. HELMS. Mr. President, the fate of the new $1 coin, bearing the likeness of Susan B. Anthony, is being debated, with the Treasury Department on one side and almost everyone else on the other.

I am convinced, however, that there should not be a great difference of opinion on what public policy should be in this regard. I believe that there is an approach on which there should be general approval.

Mr. President, the dollar coins should be made available to people—if they want them. But dollar bills or "notes" should remain available. And, the Treasury Department and the Federal Reserve System should refrain from pushing either down anyone's throat. Let there be freedom of choice.

The arguments go something like this: The Treasury Department imagines that replacing dollar bills with longlasting dollar coins will save taxpayer money. Their public relations package also says that if you drop a dollar coin, you can hear it, but you cannot hear a dropped bill. That piece of wisdom alone tells us something.

Other arguments relate to machine handling.

The arguments of those skeptical of the new coin are these:

First, the size of the coin is too close to that of a quarter and is easily mistaken;

Second, the coin is of questionable esthetics (some say it is ugly as sin);

Third, and most importantly, no one is particularly dissatisfied with the dollar bill.

The Treasury, apparently without a substantive marketing test, but with congressional approval, is in the process of producing a half a billion of these coins in hopes that people want them. They do not.

The coin has inspired about as much demand as a sale of secondhand pet rocks.

Mr. President, everyone has a favorite story of trying to pass one of the coins, or mistakenly using it as a quarter, or of people simply refusing to accept it. In fact, there are stores that have erected signs saying "We refuse to accept dollar coins."

The response from the Federal Government has been twofold. First, the Treasury Department and the Federal Reserve each has allocated $300,000 to fund a public relations effort. Under Secretary of the Treasury Bette Anderson testified that, "We realize the need for

an intense educational effort." In other words, a propaganda blitz aimed at taxpayers—paid for by the taxpayers. That is what is allegedly needed.

If the public cannot be brainwashed into buying this numismatic Edsel, then the G-men are ready to strongarm us. If they have their way, the $1 bill will not be produced any longer. Instead of supplying currency according to the demands of the economy, the Government threatens us with Hobson's choice.

On September 13, Federal Reserve Board Gov. Philip Caldwell suggested that early 1980 would be the right time to stop production of the dollar bill. A study released by the Treasury Department of a "working document" recommended the phaseout of the dollar bill. In addition, a Federal Reserve Board study commissioned from the University of Michigan concluded that the dollar bills would have to be withdrawn from circulation in order for the new dollar coin to achieve its full potential.

Now this may be typical of bureaucrats everywhere in the world, but certainly it is true of American bureaucrats: When confronted with a decision between controls and no controls; between freedom of choice and coercion; between the marketplace and Government dictum, the bureaucrats will choose the latter every time. In this case, instead of saying, "Well, I guess the dollar coin isn't something that people want, let's put it on the shelf for a while," they are saying, "Well, if people won't go along with us, we'll make 'em go along."

There are proposals offered which would scrap the Susan B. Anthony dollar coins. I think that such proposals would have political problems because the advocates of the dollar coin are not about to do a complete turnaround.

In addition, there are proposals which would require the continued production of the dollar bill come what may. Obviously, Treasury would prefer more flexibility.

I propose putting the case strictly where it belongs—in the hands of the American consumer. I propose a resolution which would direct the Treasury to provide such dollar coins as may be warranted by public demand, but to take no major action to affect that demand. The resolution also directs the Treasury to provide dollar bills until such time as the demand for them dwindles and Congress approves the elimination of the dollar bill.

In other words, I believe we should stick to the policy of providing currency in denominations which are desired by the financial system of the Nation. Today, if people are using and demanding more 10 dollar bills, banks which are cognizant of this need order more 10 dollar bills from their regional Federal Reserve banks. The Federal Reserve System then communicates the need to the Bureau of Printing and Engraving which fills the need.

This resolution states that this policy, which Congress has tacitly endorsed dozens of times over the years, should be maintained. If banks find a need for dollar bills, the Federal Reserve System should continue to supply that need.

Mr. TSONGAS. Mr. President, let me jump at this opportunity to associate myself with the remarks of the Senator from North Carolina. I do not often have that opportunity. So I think I had better take advantage of it while I can.

AMENDMENTS SUBMITTED FOR PRINTING

DEPOSITORY INSTITUTIONS DEREGULATION ACT—H.R. 4986

AMENDMENTS NOS. 542 THROUGH 546

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted five amendments, intended to be proposed by him to H.R. 4986, an act to amend the Federal Reserve Act, to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

Mr. MORGAN. Mr. President, when H.R. 4986, the Depository Institutions Deregulation Act, comes before the Senate, I intend to offer several amendments.

I will offer an amendment in the nature of a substitute, which would authorize automatic transfers of funds between savings and checking accounts at commercial banks, credit union share drafts, and savings and loan association remote service units. These are, of course, the instruments declared illegal by a Federal court earlier this year in a decision which the Supreme Court declined to review last week. In September, by an overwhelming vote of 367 to 39, the House of Representatives authorized these instruments in legislation which also provided for nationwide negotiable order-of-withdrawal (NOW) accounts. While I do not agree with the proposal for NOW accounts, I do believe it is clear that the Congress must act prior to the court-imposed deadline of January 1, 1981, to authorize these other financial services.

H.R. 4986 as reported by the Senate Committee on Banking, Housing, and Urban Affairs, however, goes far beyond the authorization of these services and provides for a number of controversial and far-reaching changes affecting our Nation's system of financial institutions. The full ramifications of many of these changes are simply impossible to predict at this point. Given the tremendous uncertainty about the state of our economy at this time, I believe it would be terribly unwise to proceed with such far-reaching changes now.

Moreover, the chairman of the Subcommittee on Financial Institutions of the House Banking Committee has spelled out the attitude of the House quite clearly and strongly. In a letter to committee Chairman PROXMIRE and Financial Institutions Subcommittee Chairman CRANSTON, which has been made available to the Senate, Representative ST GERMAIN has said that "your committee has decided to bury these issues" (transaction accounts) "in a large package of financial measures which reach far beyond anything that has yet been considered in the House." "Many of the issues," he says, "constitute a major restructuring of financial institutions and a sharp increase in powers, especially for savings and loan associations." Noting that expeditious passage of a transaction account bill in the House was achieved with a solid commitment that such a bill would not become a stalking horse for other issues, Representative ST GERMAIN notes that "many Members would feel betrayed if we attempted to return to the House with a thick package of measures dealing with fundamental changes in financial structure." He for one, he says, "would be most reluctant to ask" his "colleagues to make decisions on such far-reaching issues without extensive hearings at which a variety of witnesses could be given the opportunity to testify."

I believe it would be wiser for the Senate to agree to a bill much more in line with that passed by the House of Representatives. Senator LUGAR and I moved to substitute the text of the amendment I intend to offer during the Banking Committee markup. That motion was defeated by a recorded vote of 8 to 7. I believe this indicates substantial uneasiness and difference of opinion within the Banking Committee as to the wisdom of proceeding with H.R. 4986 as it now stands, and I urge the Senate to agree to a limited substitute.

Second, while I do not favor NOW accounts, I will offer an amendment to permit States to decide whether to offer NOW accounts. Senator CRANSTON, a chief sponsor of the original bill, moved to exempt the savings and loan associations of California from NOW account authority, citing their strong opposition to NOW accounts. The bill contains that exemption. I believe it would be far preferable to allow each State to decide for itself whether NOW accounts are desirable. My amendment would allow them for federally chartered savings and loans and commercial banks only during periods when NOW accounts were authorized for similar State chartered institutions by action of each State legislature.

Third, I will offer an amendment to strike title II of the bill which gives the Federal Reserve authority to require reserves of nonmember depository institutions. I believe this is unwise, and feel that this controversial issue would be better resolved within the context of specific Federal Reserve membership legislation.

Fourth, I intend to offer an amendment to strike the preemption of State usury laws contained in the bill. I am philosophically opposed to the Federal preemption of State laws except in rare instances in which an overriding national interest can be clearly demonstrated. But in the field of usury laws I see no reason to negate the long-standing tradition of State authority. As the conference of State bank supervisors has noted, States are in a superior position to deal with situations unique to their respective regions. The imposition of a national usury norm would, in the long

run, be less responsive and less appropriate for States than would measures designed by their respective State legislatures. Reflective of State concern in this matter is the fact that during the period from 1975 to 1979, 28 States liberalized their usury ceilings on individual or corporate loans in efforts to meet changing economic conditions. During this same period, 15 States exempted from their usury ceilings FHA and/or VA loans.

Moreover, I cite from the hearing record of the Banking Committee the strong opposition expressed by the AFL-CIO to the Federal preemption of State usury laws. The AFL-CIO witness noted that there is an "inherent policy of economic defeatism in the underlying supposition that this economy will be operating at such an inflationary rate, that passbook account and certificate of deposit rates would exceed State usury ceilings." To enact a Federal preemption of State usury laws and ceilings would, said the AFL-CIO, "sanction and invite a self-fulfilling prophecy of high interest rates and their inflationary impact."

Fifth, I am deeply concerned about the impact of the proposed reduction in the minimum denomination of money market certificates contained in the bill. The bill mandates the reduction of the minimum denomination from $10,000 to at least $1,000 within 2 years unless postponed by the Federal Reserve under the standards set forth in the bill. I believe that such a reduction would prove disastrous for the thrift industry, with predictable results for the availability of housing finance.

The portfolios of the bulk of savings and loan associations consist largely of mortgages made at far lower interest rates—6, 7, 8, or 9 percent. There is no way that their earnings can be adequate to pay market interest rates on savings in the form of $1,000 denominations. It seems clear that if institutions are going to have to offer these certificates in $1,000 denominations, that they are going to have to charge more for the services they offer and the money they lend. I believe this works against the interest of the average citizen generally, and will be especially damaging to housing finance.

As the AFL-CIO pointed out before our committee—

> Higher money costs borne by depository institutions paying higher rates on savings would be reflected in their loan interest rates.

The majority of consumers would suffer an overall economic loss.

Moreover, I think it should be pointed out that the Banking Committee has acted to adopt this provision of the bill with very little real evidence as to its impact. I predict, however, that its impact will prove disastrous to the earnings of savings and loans, and disastrous for the home buying and consuming public. I intend to move to strike this section.

I am deeply concerned about the entire thrust of this far-reaching bill, which I see as leading to an inevitable blurring of the traditional distinctions which have defined our system of financial institutions. I stress my earlier statement that the Nation would be far better served if the Congress were to enact a bill much more narrow in scope.

I submit several amendments and ask unanimous consent that they be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 542

Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 2. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.".

SEC. 3. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "This section does not prohibit the establishment of remote service units by associations in accordance with regulations prescribed by the Board.".

SEC. 4. (a) Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended by striking out "or share certificate" each place it appears therein and inserting in lieu thereof ", share certificate, or share draft deposit".

(b) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by striking out "credit unions serving" and all that follows through the end thereof and inserting in lieu thereof "credit unions serving predominately low-income members (as defined by the Board) payments on—

"(A) shares which may be issued at varying dividend rates;

"(B) share certificates which may be issued at varying dividend rates and maturities; and

"(C) share draft deposits authorized under section 205(f);

subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Board.".

(c) Section 116 of the Federal Credit Union Act (12 U.S.C. 1762) is amended by adding at the end thereof the following new subsection:

"(c) Each Federal credit union shall maintain reserves against its share deposits as defined by the Board in amounts not less than such percentages of its aggregate amount of such deposits as may be prescribed by the Board, after consultation with the Board of Governors of the Federal Reserve System. Reserves held by Federal credit unions to meet the requirements of the subsection shall be in a form specified by rules and regulations prescribed by the Board.".

(d) Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended—

(1) in the first sentence—

(A) by striking out "and" the second place it appears therein and inserting in lieu thereof a comma; and

(B) by inserting ", and at different rates on different types of share draft deposits" before the period at the end thereof; and

(2) in the second sentence, by striking out "and share certificates" and inserting in lieu thereof ", share certificates, and share draft deposits".

(e) Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following new subsection:

"(f)(1) Every insured credit union is authorized to receive share draft deposits in accordance with rules and regulations prescribed by the Board. Except as provided in paragraph (2), an insured credit union may pay dividends on share draft deposits and may permit the owner of such share draft deposit to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to accounts which consist solely of share draft deposits in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

SEC. 5. The amendments made by this Act shall take effect on December 31, 1979.

AMENDMENT No. 543

Beginning on page 12, line 25, through page 13, line 1, strike out "which is located in California".

On page 13, line 4, strike out "California" and insert in lieu thereof "the same State".

On page 13, between lines 5 and 6, insert the following:

(c) Section 19(i) of the Federal Reserve Act is amended by adding at the end thereof the following: "Notwithstanding the foregoing, a national bank may permit withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties only during periods when State-chartered banks located in the same State are authorized to permit such withdrawals.".

AMENDMENT No. 544

Beginning on page 21, strike all which follows through page 24, line 20.

AMENDMENT No. 545

Beginning on page 31, line 17, strike all which follows through page 32, line 20.

AMENDMENT No. 546

Beginning on page 17, line 20, strike all which follows through page 18, line 10.

SALT II TREATY—EX. Y, 96-1

AMENDMENTS NOS. 547 THROUGH 549

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted three reservations intended to be proposed by him to the resolution of ratification of the Treaty Between the United States of America and the Soviet Socialist Republics on the Limitation of Strategic Arms, done at Vienna on June 18, 1979 (Ex. Y, 96-1).

Mr. HATCH. Mr. President, on October 19 I submitted three reservations to the resolution of ratification of the SALT treaty. Today I offer three more. All share the same theme. They clarify the circumstances under which this Nation would withdraw from that treaty. Treaty termination is a hostile act, Mr. President, and as the ranking Republican on the Constitution Subcommittee, I urge the Senate to consider carefully and with precision exactly what would trigger a decision to terminate the SALT agreements. None of us wants to face another 5 years of Soviet quasi-violations and cheating at the margins. It is only fair to put the Soviet leadership on notice in advance about what the Senate will tolerate. We cannot leave the entire matter at the discretion of the President alone.

Quite frankly, I have not yet made up my own mind about the terms of the treaty itself. And I will be closely watching the efforts of those Senators, who are seeking to change the terms of the treaty text in favor of the United States in order to win with a few votes on the Senate floor what our negotiators could not win in Geneva in 7 years of painstaking discussion. These Senators have focused their attention on the treaty text. In my view, it is the treaty context that is more important. In what context will we observe this treaty? A favorable context may well justify a bad treaty. Even the best treaty can be dangerous in some contexts.

Mr. President, my amendment calling for an annual comprehensive net assessment to be submitted to the President owes an intellectual debt to Senator DOLE and Senator NUNN. The Senator from Kansas has already called for a net assessment, and Senator BELLMON of Oklahoma has called for a major review of our national security policy before the treaty is considered. My suggestion is to combine these ideas and to link them to the treaty on an annual basis. Only in this way, I believe, will the request of the Senator from Georgia, to review the President's 5-year projections of defense programs be meaningful. Without some binding link between our defense programs and the treaty, it serves little purpose in October 1979 to preview the highlights of defense planning for the next few years. Such plans can and will be changed during the life of the treaty, and the President can make a strong claim that some flexibility is necessary. How then can the Senate be assured that the context of the treaty will serve our national interests—if we are unable to change the text of the treaty? Today, I propose four ways.

First, the requirement for annual approval by the Senate of a comprehensive net assessment of both Soviet and American military power will provide a mandatory annual forum for a review of our defense spending plans in the context of the SALT process and of new Soviet programs that—we can be sure—will emerge only after the treaty comes into effect. In this way, Senator NUNN and others will be able to check in 1981, 1982, 1983, and 1984 whether that 5-year defense plan that they reviewed back in 1979 is still adequate and is still being pursued satisfactorily. If not, one-third of the Senate will be able to terminate the treaty under article 19.

Second, Mr. President, we can tie the level of defense spending to the treaty in the same way. That is, we can clarify the terms of the preamble of the treaty which, I understand were a matter of firm insistence by the Soviet negotiators. Those terms are that the treaty is "guided by the principle of equality and equal security." This is a wonderful principle, I suppose, but it must be understood in light of the much larger levels of Soviet defense spending that have been in effect for the last 15 years. When it comes to relative levels of defense spending, Mr. President, it seems that some parties to SALT are more equal than others. That is why I have proposed in my reservation that our rate of increase in real defense spending must keep pace with that of the other party or else the treaty will be terminated. Of course, one Congress cannot bind another to spend a certain amount on defense. That is not my intention. Rather, the Senate should review the context of the treaty on an annual basis and decide whether our national interest will be served by continuing it.

Mr. President, my third reservation today addresses the context of the treaty in a more specific way. The administration has assured us that the Backfire bomber threat has been taken care of by the letter presented to the President at Vienna in June. I believe this matter of the Backfire to be important enough that an ambiguity in that letter should be clarified to the Soviet Union before the exchange of the instrument of ratification, namely, the issue of mid-air refueling. The letter seems to prohibit mid-air refueling of the Backfire, yet public photographs show the Backfire with refueling probes. Several press accounts have asserted that Backfires have mid-air-refueling probes and, perhaps more significantly, the Backfire pilots may have been practicing in-flight refueling. If this is true, Mr. President, there is cause for concern that the SALT treaty has been violated before it has been ratified. I hope this is not the case, and my reservation calls upon the President to notify the Soviet Government before the treaty comes into force that the establishment of an in-flight refueling program for the Backfire will constitute "extraordinary events" as described in article 19 of the treaty and will make necessary the withdrawal of the United States with the treaty.

We will be hearing a great deal more about the Backfire in the weeks ahead since many find it difficult to understand how a bomber with a range less than our own B-52D can be excluded from the treaty while 80 B-52D aircraft are included. Of course, we are allowed to refuel.

I hope the Soviets do not have this in mind as well.

My fourth reservation, Mr. President, was written after I read the report of the National Security Council submitted to the Select Committee on Intelligence which describes Soviet compliance with SALT I. I deeply regret that some parts of this report have found their way into the press, and if there is no objection, I offer this article by Evans and Novak entitled "A Selective Pattern of Cheating." The records show that most Senators have not yet read the full report, and I assure them that the Evans and Novak article is not the full story. Every Senator should read this report by the National Security Council staff aid in charge of verification issues before considering my reservation which requires the President to inform the Senate before meetings of the Standing Consultative Commission of any intention to disclose classified sources and methods of our national technical means of verification, past disclosures notwithstanding. At this point, Mr. President, I think I have said all I can about this subject in open session. Thank you.

I ask unanimous consent that these three reservations be printed in the RECORD at this point.

There being no objection, the reservations were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 547

Before the period at the end of the resolution of ratification insert a comma and the following: "subject to the reservations which are to be made a part of the instrument of ratification:

"(1) At least sixty days prior to any meeting of the Standing Consultative Commission, the President shall notify the Senate of his intention to disclose classified sources and methods of national technical means of verification to the Union of Soviet Socialist Republics. The President shall certify to the Senate Select Committee on Intelligence that such disclosures will be in the national interest, past disclosures not withstanding.

"(2) The Senate shall consider the matter in accordance with the applicable provisions of Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

AMENDMENT No. 548

Before the period at the end of the resolution of ratification insert a comma and the following: "subject to the reservations which are to be made a part of the instrument of ratification:

"(1) The rate of increase in defense spending of the parties shall be equal for the life of the Treaty.

"(2) During the life of the Treaty, if the United States of America shall fail to match the rate of increase in defense spending of the Union of Soviet Socialist Republics (at present, approximately 4 percent to 5 percent above inflation) according to the annual estimates of the Central Intelligence Agency, the President will carry out the procedures of paragraph (3) of Article XIX of the Treaty necessary to withdraw the United States of America from the Treaty.

AMENDMENT No. 549

Before the period at the end of the resolution of ratification insert a comma and the following: "subject to the reservations which are to be made a part of the instrument of ratification:

"(1) Before the exchange of the instrument of ratification, the President of the United States shall notify the Union of Soviet Socialist Republics that the establishment of an in-flight refueling program for the Backfire Bomber shall constitute extraordinary events making necessary the withdrawal of the United States from the Treaty in accordance with Article XIX, paragraph (3).

DEPOSITORY INSTITUTIONS DEREGULATION ACT—H.R. 4986

AMENDMENT NO. 550

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to H.R. 4986, an act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

AMENDMENT NO. 551

(Ordered to be printed and to lie on the table.)

Mr. DOLE (for himself, Mr. ARMSTRONG, Mr. LUGAR, Mr. HEINZ, and Mr. COCHRAN) submitted an amendment intended to be proposed by them, jointly, to H.R. 4986, supra.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978—H.R. 4249

AMENDMENT NO. 552

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to H.R. 4249, an act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

● Mr. WEICKER. Mr. President, I submit an amendment to H.R. 4249, a bill amending the Surface Transportation Assistance Act of 1978, and I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 552

On page 1, between lines 2 and 3, insert the following:

TITLE I—SURFACE TRANSPORTATION AMENDMENTS

On page 11, after line 5, insert the following:

TITLE II—AMENDMENTS TO TITLE 23, UNITED STATES CODE DEFINITIONS

DEFINITIONS

SEC. 201. Section 101(a) of title 23 of the United States Code is amended as follows:

(1) The first sentence of the definition of "construction" is amended by (A) adding after "highway" the words "or public transportation project"; (B) adding between "rehabilitation," and "acquisition of rights-of-way", the following: "maintenance,"; and (C) adding before the period at the end a comma and the following: "and the acquisition of necessary facilities and equipment for a public transportation project, and may include costs of operating such public transportation".

(2) The definition of "county" is amended by deleting the word "highways" and substituting in each place it occurs the word "transportation".

(3) Following the definition of "county" add the following definition:

"The term 'designated recipient' means the State agency or local public body designated pursuant to section 150.".

(4) The definition of "maintenance" is amended by inserting before the period at the end thereof the following: "or public transportation system including all structures, facilities and equipment necessary for the safe and efficient utilization of such systems".

(5) The definition of "project" is amended by (A) adding after the word "highway" as first used in the definition, the words "or public transportation system", and (B) deleting the last four words of the definition, and substituting in lieu thereof the words "such a system so constructed, and in the case of assistance for the operation of a public transportation system, the term 'project' shall apply to the conditions set forth by the Secretary for the use of such funds".

(6) The definition of "project agreement" is amended by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient".

(7) The definition of "State funds" is amended by deleting the last two words of the definition, and substituting in lieu thereof the words "agency empowered by State law to expend such funds".

(8) The definition of "Federal-aid secondary system" is repealed.

(9) Following the definition of "Federal-aid system", add the following definition:

"The term 'Federal-aid small urban and rural system' means the Federal-aid system described in subsection (b) of section 103 of this title.

(10) Following the definition of "urban area," add the following definitions:

"The term 'mass transportation' means transportation by bus, or rail or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis.

"The term 'public paratransit' means those forms of collective passenger transportation, as defined by the the Secretary, which provide shared-ride service to the general public or special categories of users on a regular and predictable basis and which do not necessarily operate on fixed schedules or over prescribed routes.

"The term 'public transportation' means either mass transportation or public paratransit, or both.

"The term 'routes' means the geographical location of highways, or public transportation operations.".

AMENDMENT OF SECTION 103

SEC. 202. Section 103 of title 23 of the United States Code is amended to read as follows:

"SEC. 103. FEDERAL-AID SYSTEMS.

"(a) For the purposes of this title, the four Federal-aid systems, the Primary system, the Small Urban and Rural system, the Urban system, and the Interstate System, are established and continued pursuant to the provisions of this section, and in the case of the Small Urban and Rural system, in accordance with section 133 of this title.

"(b)(1) The Federal-aid primary system shall consist of an adequate system of connected main highways, selected or designated by each State through its State highway department, subject to the approval of the Secretary as provided by subsection (f) of this section. This system shall not exceed 7 per centum of the total highway mileage of such State, exclusive of mileage within national forests, Indian, or other Federal reservations, and within urban areas, as shown by the records of the State highway department on November 9, 1921. Whenever provision has been made by any State for the completion and maintenance of 90 per centum of its Federal-aid primary system, as originally designated, said State through its State highway department by and with the approval of the Secretary is authorized to increase the mileage of its Federal-aid primary system by additional mileage equal to not more than 1 per centum of the total mileage of said State as shown by the records on November 9, 1921. Thereafter, it may make like 1 per centum increases in the mileage of its Federal-aid primary system whenever provision has been made for the completion and maintenance of 90 per centum of the entire system, including the additional mileage previously authorized. This system may be located both in rural and urban areas. The mileage limitations in this paragraph shall not apply to the District of Columbia, Hawaii, Alaska, or Puerto Rico.

"(2) After June 30, 1976, the Federal-aid primary system shall consist of an adequate system of connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be designated by each State acting through its State highway department and where appropriate, shall be in accordance with the planning process pursuant to section 134 of this title, subject to the approval of the Secretary as provided by subsection (f) of this section. Funds apportioned to each State for the primary system may be expended for any project on the Urban system or on the Small Urban and Rural system to the extent that such apportionment is attributable to urbanized areas, and small urban and rural areas, respectively.

"(c) The Federal-aid Small Urban and Rural system shall consist of those routes designated in section 133.

"(d) The Federal-aid urban system shall be located in each urbanized area and shall consist of transportation projects therein other than highway projects on the Interstate System.

"(e)(1) The Interstate System shall be designated within the United States, including the District of Columbia, and, except as provided in paragraphs (2) and (3) of this subsection, it shall not exceed forty-one thousand miles in total extent. It shall be so located as to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers, to serve the national defense, and to the greatest extent possible, to connect at suitable border points with routes of continental importance in the Dominion of Canada and the Republic of Mexico. The routes of this system, to the greatest extent possible, shall be selected by joint action of the Governor of each State and the adjoining States, subject to the approval by the Secretary as provided in subsection (f) of this section. This system may be located in both rural and urban areas.

"(2) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System of five hundred miles, to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the request of a Governor and the local governments concerned, the Secretary may withdraw his or her approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance wih this title if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road served by such route or portion thereof and the additional mileage authorized by the first

sentence of this paragraph shall be available for the designation of Interstate routes or portions thereof as provided in this subsection. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph except that the cost to the United States of the aggregate of all mileage designated under the third sentence of this paragraph shall not exceed the cost to the United States of the aggregate of all mileage approval which is withdrawn under the second sentence of this paragraph, such costs shall be that as of the date of withdrawal as determined in accordance with subsection (1) of this section. In considering routes or portions thereof to be added to the Interstate System under the third sentence of this paragraph, the Secretary shall, in consultation with the States and local governments concerned, give preference, along with due regard for Interstate highway type needs on a nationwide basis, to routes or portions thereof in States in which the Secretary has heretofore or hereafter withdrawn his or her approval of other routes or portions thereof.

"(3) In addition to the mileage authorized by paragraphs (1) and (2) of this subsection, there is hereby authorized additional mileage of not to exceed 1,500 miles for the designation of routes in the same manner as set forth in paragraph (1), in order to improve the efficiency and service of the Interstate System to better accomplish the purposes of that system.

"(4) Upon the joint request of a Governor and the local governments concerned, the Secretary may withdraw his or her approval of any route or portion thereof on the Interstate System which is within an urbanized area or which passes through and connects urbanized areas within a State and which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his or her approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as determined in accordance with subsection (1) of this section, shall be available to the Secretary to incur obligations for the Federal share of either public transportation projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any transportation assistance program under this title or the Urban Mass Transportation Act of 1964, or both, which will serve the urbanized area and the connecting nonurbanized area corridor from which the Interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located. Upon the joint request of the Governor and local governments concerned, the Secretary may approve substitute projects for other areas within the State. Approval of the plans, specifications and estimates for such project by the Secretary shall constitute a contractive obligation of the Federal Government to pay the Federal share of such project as provided in this paragraph. The Federal share of obligations incurred after September 30, 1980, for substitute projects shall be that provided in section 120(c) of this title. There are hereby authorized to be appropriated out of the general fund of the Treasury such sums as are necessary for public transportation projects substituted pursuant to this paragraph. The sums available for obligation under this paragraph shall remain available until obligated. Obligations incurred after the date of enactment of this sentence under this paragraph for highway or public transportation projects substituted as a consequence of withdrawals made after May 5, 1976, shall come from sums apportioned to the State under section 104(b)(2)(A) of this title. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. After the date of enactment of this sentence, the Secretary may not redesignate any mileage as part of the Interstate System as a consequence of any withdrawal made pursuant to this paragraph.

"(f) The Secretary shall have authority to approve in whole or in part the Federal-aid Small Urban and Rural system, the Federal-aid Urban system, the Federal-aid Primary system and the Interstate System, as when such system or portions thereof are designated, or to require modification or revisions thereof. No Federal-aid system or portion thereof shall be eligible for projects in which Federal funds participate until approved by the Secretary.

"(g) The Secretary on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest. This subsection shall not be applicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

"(h) Notwithstanding subsections (e)(2) and (g) of this section, in any case where a segment of the Interstate System was designated part of such system on June 1, 1973, and is entirely within the boundaries of an incorporated city and such city enters into an agreement with the Secretary to pay all non-Federal costs of construction of such segment, such segment shall be constructed.

"(i) In determining the cost of an Interstate route or portion thereof for which withdrawal is applied for under paragraphs (2) and (4) of subsection (e) of this section, the Secretary shall use as a base cost for such determination the estimated cost of construction of such route or portion thereof at the latest stage of approval by the Secretary, or the date of approval of each substitute project under paragraph (4) of subsection (e) of this section, whichever is later. Such cost shall then be increased or decreased in accordance with the increase or decrease in construction materials and labor to construct such substitute project in the local market where the project is located. Additionally the Secretary shall take into account in his or her determination of cost, changes in the route or portion thereof which would have been necessary to meet Federal approval if the withdrawn project had been completed. Any Governor or designated recipient dissatisfied with the cost revision approved by the Secretary may appeal such decision in the manner provided for in subsection (g) of section 134 of this title.

"(j)(1) By September 30, 1986, all routes or portions thereof on the Interstate System (for which the Secretary finds that sufficient Interstate authorizations are available) must be completed or under contract for construction and construction must have commenced unless such failure to be under construction is due to court order. Immediately after such date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof of such system not complying with this paragraph.

"(2) Any Interstate route or portion thereof or any highway or public transportation project substituted pursuant to subsection (e) of section 103 of this title which is: (A) under construction but not completed, (B) not under construction due to court order, or (C) not under construction because of insufficient Interstate authorizations, shall, on September 30, 1986, become a separate and individual project for which authorizations and appropriations shall be made separately from funds provided under this title. After September 30, 1986, no apportionments shall be made to the States for the Interstate System pursuant to section 104(b)(2)(A)."

AMENDMENTS TO SECTION 104

SEC. 203. Section 104 of title 23 of the United States Code is amended—

(1) by deleting paragraphs (2) and (4) of subsection (b), and redesignating the remaining subsections and cross references accordingly;

(2) by deleting the words "State highway departments" in redesignated paragraph (2)(A), and substituting in lieu thereof the word "Governor";

(3) by adding the following after the last sentence of such paragraph: "After the date of enactment of this sentence the Secretary shall revise the method of apportionment contained in this paragraph by including the cost of completion of any highway or public transportation project, substituted pursuant to subsection (d) of section 103 of this title, as part of the estimate of the cost of completing the then designated Interstate System.";

(4) by deleting the words "State highway departments" in subsection (e) and substituting in lieu thereof the word "Governors"; and

(5) by amending subsection (f) to read as follows:

"(f) On October 1 of each fiscal year, the Secretary shall set aside 2 per centum of the funds to be apportioned under this section which shall be available for the purposes of section 234 of the Highway and Public Transportation Improvement Act of 1979 relating to transportation planning, except that, for the funds apportioned under (b)(2)(A) of this section, the Secretary shall set aside and make available this per centum of such funds on October 1 of the year preceding the fiscal year for which authorized.".

AMENDMENT OF SECTION 105

SEC. 204. Section 105 of title 23 of the United States Code is amended to read as follows:

"SEC. 105. PROGRAMS.

"As soon as practicable after the apportionments have been made under sections 104, 133 and 151 of this title, or appropriations have been made under the Urban Mass Transportation Act of 1964, the Governor of any State, or the designated planning organization, whichever is appropriate, shall

submit to the Secretary, for his or her approval, a single program of proposed projects comprised of projects to be funded under either of such Acts, for the utilization of funds apportioned or appropriated. The Secretary shall act upon programs submitted to him or her as soon as practicable after the same have been submitted, and may approve a program in whole or in part.

"(b) Except as provided in subsection (c) of this section, in approving programs for projects, the Secretary shall require that such projects be selected in accordance with the planning process required pursuant to section 134 of this title and section 8 of the Urban Mass Transportation Act of 1964.

"(c) Notwithstanding subsection (b) of this section, the Secretary may approve projects under this section which he or she finds are eligible for emergency relief under the provisions of section 125 of this title.

"(d) In approving programs for projects under this section, the Secretary shall require that such programs of projects have been selected by the planning organizations designated pursuant to section 134 of this title and section 8 of the Urban Mass Transportation Act of 1964.

"(e) In approving programs for projects the Secretary shall require the Governors and designated planning organizations to give priority to the reconstruction of highways which have been shown to be hazardous to the public.

"(f) In approving programs for projects under this chapter, the Secretary may give priority of approval to, and expedite the construction of, projects that are recommended as important to the national defense by the Secretary of Defense, or other officials authorized by the President to make such recommendations.

"(g) In approving programs for projects on the Federal-aid systems pursuant to this chapter, the Secretary shall give priority to those projects which incorporate improved standards and features with safety benefits.

"(h) In preparing programs to submit in accordance with subsection (a) of this section, the Governors and designated planning organizations shall give consideration to projects providing direct and convenient public access to public airports and public ports for water transportation, and in approving such programs the Secretary shall give consideration to such projects.

"(i) In approving programs for projects under this section, the Secretary should give preference to those projects, implementation of which will result in the savings of energy resources, as such projects are identified in the plan submitted pursuant to section 134 of this title. Further priority shall also be given to projects falling within the provisions of section 146 of this title.".

AMENDMENTS TO SECTION 106

SEC. 205. (a) Section 106(a) of title 23 of the United States Code is amended by deleting "Except as provided in section 117 of this title, the State highway department," and substituting in lieu thereof "The Governor or designated recipient".

(b) Section 106(c) of such title is amended by deleting the word "highway" and substituting in lieu thereof the word "system".

AMENDMENT TO SECTION 107

SEC. 206. Section 107(c) of title 23 of the United States Code is amended by deleting the words "State highway department" and substituting in lieu thereof the words "appropriate agency".

AMENDMENTS TO SECTION 108

SEC. 207. (a) Section 108 of title 23 of the United States Code is amended by deleting the words "State highway department" wherever apearing therein, and substituting in lieu thereof the words "designated recipient", and by deleting the word "highway" from the phrase "Federal-aid highway system" wherever appearing therein.

(b) Subsection (c)(2) of such section is amended by deleting the words "of highways".

(c) Subsection (c)(3) of such section is amended by deleting the words "of a highway".

AMENDMENTS TO SECTION 109

SEC. 208. Section 109 of title 23 of the United States Code is amended—

(1) in subsection (a), by deleting the phrase "on any Federal-aid system";

(2) in subsection (c), by deleting the words "Projects on the Federal-aid secondary system in which Federal funds participate" and inserting in lieu thereof the words "Small Urban and Rural projects"; and

(3) by deleting subsection (h) and inserting in lieu thereof the following:

"(h) In furtherance of the national transportation policy expressed in section 134 (a), not later than January 1, 1980, the Secretary after consultation with appropriate Federal and States officials, shall promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project under this title or the Urban Mass Transportation Act of 1964 have been minimized in developing such project, and that the final decisions on the project are made in the best overall public interest taking into consideration the need for fast, safe, and efficient transportation, public services, and the costs and benefits of eliminating or minimizing such adverse effects and the following:

"(1) air, noise and water pollution;

"(2) destruction or disruption of manmade and natural resources, aesthetic values, important historical and cultural assets, and community cohesion;

"(3) adverse housing effects and tax and property value loss, particularly within the inner city;

"(4) injurious displacement of people, business and farms;

"(5) excess energy consumption and vehicle miles travelled;

"(6) ill health and traffic accidents; and

"(7) disruption of the integrity of existing farm units and the practical use of prime agricultural land.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications and estimates are approved by the Secretary after the issuance of such guidelines. Until such guidelines are in force, the guidelines previously issued pursuant to this subsection shall remain in force.";

(4) in subsection (i) by inserting "(1)" after "(i)", by deleting the word "highway" wherever it appears, and by deleting the last sentence and adding the following paragraph:

"(2) Not later than January 1, 1980, the Secretary, acting jointly with the Administrator of the Environmental Protection Agency shall review and revise the standards issued pursuant to paragraph (1) of this subsection. After revising such standards the Secretary shall not approve plans and specifications for any proposed project on any Federal-aid system or financed by the Urban Mass Transportation Act of 1964, as amended, unless he determines that such plans and specifications insure compliance with such standards. The Secretary and the Administrator shall issue, at the same time and in the same manner as authorized above, regulations to achieve those standards by retrofitting or otherwise reducing noise levels on existing transportation facilities that have received Federal funds at any time, from either this title or the Urban Mass Transportation Act of 1964, as amended. Any area which fails to meet the standards issued pursuant to this subsection must take all reasonable steps to retrofit or otherwise reduce noise levels of those facilities which violate such standards. Any such area shall use at least 5 per centum of the funds apportioned to it under sections 104(b) and 133 (a) of this title for the purpose of retrofitting such facilities as were financed under this title. Any such area shall also use at least 5 per centum of the funds apportioned to it under the Urban Mass Transportation Act of 1964, as amended, for the purpose of retrofitting such facilities as were financed under that Act.";

(5) by deleting subsection (j) and inserting in lieu thereof the following:

"(j) Not later than January 1, 1980, the Secretary and the Administrator of the Environmental Protection Agency, acting jointly, shall issue regulations to assure that projects constructed pursuant to this title and the Urban Mass Transportation Act of 1964, are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended. The Secretary shall not approve any project, any program of projects submitted pursuant to section 105 of this title or any plan to certify any planning process under section 134 of this title unless he finds, in consultation with the Administrator of the Environmental Protection Agency, that such project, program of projects, plan or planning process does not (1) exacerbate any existing violations of National Ambient Air Quality Standards, (2) contribute to a violation of National Ambient Air Quality Standards for a pollutant for which no concentrations in violation of the standard have been measured, (3) delay attainment of National Ambient Air Quality Standards, (4) interfere with maintenance of National Ambient Air Quality Standards, once the standards are attained, or (5) omit any appropriate portions of implementation plans promulgated under section 110 of the Clean Air Act, as amended, including transportation control measures.";

(6) adding at the end thereof the following new subsections:

"(o) In furtherance of the national transportation policy expressed in section 134(a), the Secretary shall not approve any project for which funds have been apportioned under this title or appropriated pursuant to the Urban Mass Transportation Act of 1964 unless he finds that all reasonable alternatives capable of meeting the transportation needs, as such needs are identified in the appropriate plans required by section 134 of this title, have been considered and that the proposed project is one which can feasibly meet such transportation need while eliminating or best minimizing such adverse effects as the following:

"(1) air, noise and water pollution;

"(2) destruction or disruption of manmade and natural resources, aesthetic values, important historical and cultural assets, and community cohesion;

"(3) adverse housing effects and tax and property value loss, particularly within the inner city;

"(4) injurious displacement of people, business and farms;

"(5) excess energy consumption and vehicle miles traveled;

"(6) ill health and traffic accidents; and

"(7) disruption of the integrity of existing farm units and the practical use of prime agricultural land.

"(p) The Secretary shall not approve any project under this title which increases the vehicular or weight-bearing capacity of any highway unless it meets all requirements and provisions of the National Environmental Policy Act of 1969.".

AMENDMENTS TO SECTION 110

SEC. 209. (a) Subsection (a) of section 110 of title 23 of the United States Code is amended by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient".

(b) Subsection (b) of such section is amended by deleting the words "highway department".

AMENDMENT TO SECTION 111

SEC. 210. Section 111 of title 23 of the United States Code is amended by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipients".

AMENDMENT TO SECTION 112

SEC. 211. (a) Subsection (a) of section 112 of title 23 of the United States Code is amended by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient".

(b) Subsection (e) of such section is repealed.

AMENDMENTS TO SECTION 113

SEC. 212. (a) Subsection (a) of section 113 of title 23 of the United States Code is amended by deleting the words "highway" and "the primary and secondary, as well as their extensions in urban areas, and the Interstate System,".

(b) Subsection (b) of such section is amended by deleting the words "high department" and substituting in lieu thereof the words "designated recipient".

AMENDMENT TO SECTION 114

SEC. 213. Section 114 of title 23 of the United States Code is amended by—

(1) deleting the words "highways or portions of highways" and substituting in lieu thereof the word "project";

(2) deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient"; and

(3) deleting "Except as provided in section 117 of this title such" and inserting in lieu thereof "Such".

AMENDMENT TO SECTION 116

SEC. 214. Section 116 of title 23 of the United States Code is amended—

(1) in subsection (a) by deleting the words "State highway department" and inserting in lieu thereof the words "designated recipient";

(2) in subsection (b) by deleting the words "State highway department" and "highway department" and substituting in lieu thereof the words "designated recipient";

(3) in subsection (c) by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient";

(4) in subsection (d) by deleting the words "State highway departments" the first time such words appear in such subsection, and substituting in lieu thereof the word "Governors", and deleting the words "State highway departments" the second time such words appear in such subsection, and substituting thereof the words "designated recipient"; and

(5) in subsection (e) by deleting the words "State highway departments" and substituting in lieu thereof the words "designated recipients".

REPEAL OF SECTION 117

SEC. 215. Section 117 of title 23 of the United States Code is repealed.

AMENDMENTS TO SECTION 118

SEC. 216. Section 118 of title 23 of the United States Code is amended—

(1) by deleting the words "State highway department" in subsection (a) and substituting in lieu thereof the word "Governors"; and

(2) by deleting the words "three years" in subsection (b), and substituting in lieu thereof the words "two years".

AMENDMENTS TO SECTION 120

SEC. 217. Section 120 of title 23 of the United States Code is amended—

(1) in subsection (a)—

(A) by deleting "(d)", and substituting in lieu thereof "(c)";

(B) by deleting the words "with primary, secondary, or urban funds, on the Federal-aid primary system, the Federal-aid secondary system and the Federal-aid urban system", and substituting in lieu thereof the words "under this title"; and

(C) by deleting the words "highway construction" and substituting in lieu thereof the word "transportation";

(2) in subsection (f)—

(A) by deleting the word "highway"; and

(B) by deleting the next to the last sentence;

(3) in subsection (g), by deleting the words "States highway department" and substituting in lieu thereof the word "Governor"; and

(4) by adding the following new subsection:

"(l) Funds allocated in any year for a Federal-aid system may be used for the purposes of operating a public transportation system in accordance with the provisions of section 5(f) of the Urban Mass Transportation Act of 1964, as amended.".

AMENDMENTS TO SECTION 121

SEC. 218. Section 121 of title 23 of the United States Code is amended—

(1) by deleting the word "State" and substituting in lieu thereof the words "designated recipient"; and

(2) by deleting the words "State highway department" and substituting in lieu thereof the word "Governor".

AMENDMENTS TO SECTION 122

SEC. 219. Section 122 of title 23 of the United States Code is amended—

(1) by adding after "primary," the words "small urban and rural, urban";

(2) by deleting "or extension of any of the Federal-aid highway systems in urban areas,";

(3) by deleting "Federal-aid primary system" and substituting in lieu thereof the words "Federal-aid primary small urban and rural, and urban systems"; and

(4) by deleting "or extensions of any of the Federal-aid highway systems in urban areas".

AMENDMENTS TO SECTION 123

SEC. 220. Section 123 of title 23 of the United States Code is amended—

(1) by deleting the word "secondary" and substituting in lieu thereof "small urban and rural, or urban"; and

(2) by deleting the words "including extensions thereof within urban areas".

AMENDMENT TO SECTION 124

SEC. 221. Section 124 of title 23 of the United States Code is amended by deleting the words "State" and "State highway department", and substituting in lieu thereof the words "designated recipient".

AMENDMENT TO SECTION 125

SEC. 222. Section 125 (b) and (c) of such Code is amended by deleting "highway" in the term "Federal-aid highway system" wherever appearing therein.

AMENDMENT TO SECTION 128

SEC. 223. Section 128 of title 23 of the United States Code is amended by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient".

AMENDMENT TO SECTION 129

SEC. 224. Section 129 of title 23 of the United States Code is amended by adding at the end thereof the following subsection:

"(j) Notwithstanding any provision of this title to the contrary, any State or designated recipient may impose tolls on any highway for the purpose of managing peak load demand of vehicular traffic. No funds from such tolls may be used for highway purposes, excepting such amounts which may be used for the operation and maintenance of such toll facilities.".

SMALL URBAN AND RURAL TRANSPORTATION ASSISTANCE

SEC. 225. (a) Title 23 of the United States Code is amended by inserting after section 132 a new section as follows:

"SEC. 133. SMALL URBAN AND RURAL TRANSPORTATION ASSISTANCE.

"(a) On October 1 of each fiscal year the Secretary, after making the deduction authorized by subsection (g) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure for small urban and rural transportation assistance for that fiscal year to the States in the following manner:

"One-fourth in the ratio which the area of each State bears to the total area of all the States; one-half in the ratio which the population of small urban and rural areas of each State bears to the total population of small urban and rural areas of all the States as shown by the latest available Federal census; and one-fourth in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bears to the total mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in all the States at the close of the next preceding calendar year, as shown by a certificate of the Postmaster General.

"(b) Sums apportioned under this section shall be available for obligation for a period of two years following the close of the fiscal year for which such sums are apportioned, and any amounts so apportioned remaining unobligated at the end of such period shall lapse.

"(c) The Secretary may approve as a project in small urban and rural areas any public transportation project, including operating assistance, which would be eligible for Federal financing assistance under the provisions of the Urban Mass Transportation Act of 1964, as amended, or any highway project, other than projects on the Federal-aid primary or Interstate System. Financial assistance provided under this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may determine to be necessary or appropriate for the purposes of this section. For public transportation projects such terms, conditions, requirements, and provisions shall be similar to those applicable to grants under sections 3 and 5 of the Urban Mass Transportation Act of 1964, as amended, insofar as the Secretary may deem them appropriate.

"(d)(1) The Federal share payable on account of any highway project financed with sums apportioned under this section shall be that provided in section 120 (a) of this title.

"(2) The Federal share payable on account of any public transportation project, other than operating assistance, financed with sums apportioned under this section shall not exceed 80 per centum of the net project cost as defined in section 4 (a) of the Urban Mass Transportation Act of 1964, as amended. The Federal share payable on account of any public transportation operating assistance project financed with sums apportioned under this section shall not exceed 33⅓ per centum of the total eligible operating expenses incurred in the operation of public transportation services assisted under this section. The Highway Trust Fund shall be reimbursed from the general funds of the Treasury for any sums expended pursuant to this section for any operating assistance project.

"(e) At least 10 per centum of the sums apportioned under this section to each State shall be used for public transportation projects as set forth in subsection (c) of this

section: *Provided*, That, upon application by the State the Secretary may waive such requirement if the Secretary finds that a lower level of public transportation assistance is warranted by the transportation needs of the small urban and rural areas of such State.

"(f) The State may distribute funds to eligible recipients within the State to carry out the purposes of this section. Eligible recipients may include State agencies, local public bodies and agencies thereof (including counties and Indian tribes), nonprofit organizations, and operators of public transportation services.

"(g) On October 1 of each fiscal year, the Secretary shall set aside and make available 2 per centum of the sums authorized to be appropriated for expenditure for small urban and rural transportation assistance for that fiscal year, for carrying out the purposes of section 134 of the Highway and Public Transportation Improvement Act of 1979 relating to transportation planning.".

(b) Sections 155 and 219 of title 23 of the United States Code and section 147 of the Federal-Aid Highway Act of 1973, as amended, are repealed.

(c) The analysis of chapter 1 of title 23, United States Code, is amended by deleting "133. Repealed." and inserting in lieu thereof "133. Small urban and rural transportation assistance.", by deleting "155. Access highways to public recreation areas on certain lakes.", and inserting in lieu thereof "155. Repealed.", and by deleting "219. Safer off-system roads.", and inserting in lieu thereof "219. Repealed.".

AMENDMENT OF SECTION 134

SEC. 226. (a) Section 134 of title 23 of the United States Code is amended to read as follows:

"SEC. 134. TRANSPORTATION PLANNING.

"(a) It is declared to be the national transportation policy to encourage and promote the development of transportation systems embracing various modes of transportation that will serve the States and local communities efficiently and effectively in a manner which will minimize air, noise and water pollution; destruction or disruption of man-made and natural resources, aesthetic values, important historical and cultural assets and community cohesion; adverse housing effects and tax and property value loss, particularly within the inner city; injurious displacement of people, business and farms; excess energy consumption and vehicle miles travelled; and disruption of the integrity of existing farm units and the practical use of prime agricultural land. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of long-range and five-year, statewide and urbanized area transportation plans, as well as programs of projects based on such plans. Before approving, in whole or in part, a plan, or a program of projects, the Secretary shall find that it is formulated on the basis of and reasonably addresses transportation needs and that it affirmatively uses transportation to achieve other national and local objectives while minimizing those adverse effects of transportation development identified in this section and identifies those specific elements of the plan, or program of projects, which would eliminate or best minimize such adverse effects. Such plans shall be the result of a planning process which includes an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation resources and to meet needs for new transportation facilities. Such planning process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive.

"(b) The Secretary shall not approve under section 105 of this title any program of projects unless he or she finds that such projects are based on a plan, approved in accordance with the provisions of this section, and a continuing, comprehensive transportation planning process carried on cooperatively by States and local communities in conformance with the policies and objectives stated in this section.

"(c) After September 30, 1980, a State or designated recipient shall be eligible to receive its apportionments pursuant to the Urban Mass Transportation Act of 1964, only if it has a comprehensive long-range and five-year transportation plan that has been approved by the Secretary. Such plans shall be reapproved by the same procedure whenever a plan has been significantly changed since its previous approval or reapproval. When reapproving a five-year plan, the Secretary may reapprove the long-range plan if he or she finds that they are consistent with each other. The Secretary shall not approve any plan for any State or urbanized area unless he finds that (1) such plans are in accordance with a continuing, comprehensive, and cooperative transportation planning process and (2) all reasonable measures to permit, encourage, and assist public participation in such continuing, comprehensive, and cooperative transportation planning process have been taken. The Secretary, in cooperation with the States and urbanized areas, shall develop and publish regulations specifying minimum guidelines for public participation in such processes, which shall include hearings held at least annually, at which there will be a review of the transportation planning process, plans, and programs of projects, and opportunity provided for the consideration of various alternatives to the plan under consideration. No transportation project may be constructed in any urbanized area of fifty thousand population or more unless the responsible public officials of such area in which the project is located have been consulted and their views considered with respect to the corridor, the location, and the design of the project.

"(d) The States and urbanized areas shall each submit a single program of projects with respect to both this title and the Urban Mass Transportation Act of 1964. Such program of projects shall be approved in accordance with section 105 of this title. The Secretary shall not, however, approve a program of projects, unless (1) the urbanized area, or after October 1, 1980, the statewide planning process on which such program of projects is based is being carried on in conformance with the objectives and provisions of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

"(e) The Secretary shall approve State and urbanized area plans in whole or in part, but shall not approve any plan which fails to reasonably meet transportation needs and—

"(1) provide that the State and urbanized area administering agencies will make such reports to the Secretary in such form and containing such information as may reasonably be necessary to enable the Secretary to perform his or her duties under this title and the Urban Mass Transportation Act of 1964, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

"(2) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State or designated recipients under this title or the Urban Mass Transportation Act of 1964;

"(3) provide for the expenditure of adequate amounts of such State's apportionment for each fiscal year under this title and appropriations under the Urban Mass Transportation Act of 1964 for the maintenance of the planning process;

"(4) provide for the development, maintenance, and operation of transportation facilities responsive to the needs of such State and its communities, and in determining compliance with this paragraph, the Secretary shall (A) require the State or designated planning organization to show how the plan reflects the needs of, and is coordinated with, community development plans in urbanized areas, and (B) rely on representations from the appropriate State, Federal and local agencies having responsibilities and jurisdiction in the areas of housing and community development as to the impact such plan will have on housing and community development;

"(5) demonstrate compliance with applicable State and Federal environmental laws, and in determining compliance with this paragraph, the Secretary shall rely on representations from the appropriate State and Federal agencies charged by law with responsibility for protecting environmental quality as to the impact the plan will have upon such State and Federal environmental protection programs;

"(6) demonstrate compliance with applicable State and Federal energy conservation programs, and in determining compliance with this paragraph, the Secretary shall rely on representations from the appropriate State and Federal agencies charged by law with the responsibility to implement programs to conserve energy as to the impact the plan will have upon such State and Federal energy conservation programs; and

"(7) provide an analysis of the impact such plan will have on the social, environmental, and economic well being of the State, or area covered by the plan, and such steps as will be taken to minimize adverse social, environmental and economic effects on such State or area.

The Secretary shall advise the State or designate planning organization of the reasons for not approving a plan or a program of projects. Approval by the Secretary of any plan or program of projects under this section shall not prevent the Secretary from subsequently disapproving any individual transportation project pursuant to the provisions of this title or the Urban Mass Transportation Act of 1964, or other Federal law, including but not limited to the National Environmental Policy Act of 1969 and section 4 (f) of the Department of Transportation Act.

"(f) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State or local agency administering a State or urbanized area plan approved under this title, finds that—

"(1) the State or urbanized area plan has been so changed that it no longer complies with the provisions of this title or the Urban Mass Transportation Act of 1964; or

"(2) in the administration of the plan there is a failure to comply substantially with any such provisions; the Secretary shall notify such State or designated recipients that no further payments will be made to the State or designated recipients under this title or the Urban Mass Transportation Act of 1964 (or, at his or her discretion, that further payments to the State or designated recipient will be limited to projects under, or portions of, the State or urbanized area plan not affected by such failure), until he or she is satisfied that there will no longer be any failure to comply. Until the Secretary is so satisfied, no further payments may be made to such State or designated recipient (or payments shall be limited to projects under, or portions of, the State or urbanized area plan not affected by such failure).

"(g) Any Governor or designated planning organization dissatisfied with a final action of the Secretary under this section may appeal to the United States court of appeals for the circuit in which the State or urbanized area is located by filing a petition

with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or any officer designated by him or her for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he or she based his or her action, as provided in section 2112 of title 28. Upon the filing of such petition the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside the order. The findings of the Secretary as to the facts, if supported by substantial evidence, including representations or findings by other Federal agencies acting in accordance with the provisions of subsection (e) of this section, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his or her previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence and the representations or findings of other Federal and State agencies acting in accordance with the provisions of subsection (e) of this section. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to the review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"(h) The Secretary may define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary may by regulation designate, for administrative and planning purposes as a critical transportation region or a critical transportation corridor each of those areas which he or she determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with the purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary may, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and may provide assistance including financial assistance to such bodies. Nothing in title 23, United States Code, or the Urban Mass Transportation Act shall preclude two or more States or contiguous urbanized areas from coordinating or acting jointly in the preparation and execution of their individual or joint transportation plans, as appropriate, as developed under this section, or from acting under such laws on a regional rather than a State basis. Such regional cooperation and joint activity is to be encouraged. There is authorized to be appropriated out of any money in the Treasury not otherwise appropriated, not to exceed $500,000 to carry out this subsection.".

(b) The analysis of title 23 of the United States Code is amended by striking out "134. Transportation planning in certain urban areas.", and inserting in lieu thereof "134. Transportation planning.".

AMENDMENT TO SECTION 141

SEC. 227. Section 141(b) of title 23 of the United States Code is amended by deleting "Federal-aid secondary system" and substituting in lieu thereof "Federal-aid small urban and rural system".

AMENDMENT OF SECTION 142

SEC. 228. Section 142 of title 23 of the United States Code is amended to read as follows:

"SEC. 142. PUBLIC TRANSPORTATION.

"(a) To encourage the development, improvement, and use of public transportation systems, the Secretary may approve as a project that can be financed under this title, or the Urban Mass Transportation Act of 1964, as amended, the construction of exclusive or preferential bus lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities to serve bus and other public transportation passengers. If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility (including compensation to any person for operating the facility). The Secretary may also approve as such a project exclusive or preferential bus, truck, and emergency vehicle routes or lanes. Projects constructed under the previous sentence shall not be subject to the third sentence of section 109 (b) of this title. Sums apportioned under sections 104 (b) and 133(a) shall be available to finance the cost of projects under this subsection.

"(b) The establishment of routes and schedules of such public transportation systems shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title, and the Urban Mass Transportation Act of 1964.

"(c) (1) For all purposes of this title, a project authorized by subsection (a) of this section shall be deemed to be a highway project.

"(2) Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a) of this section and such projects shall be subject to, and governed in accordance with, all provisions of this title applicable to projects financed from this title except to the extent determined inconsistent by the Secretary.

"(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided in section 120 of this title.

"(d) In any case where sufficient land exists within the publicly acquired rights-of-way of any Federal-aid highway to accommodate needed rail or non-highway public mass transportation facilities and where this can be accomplished without impairing automotive safety or future highway improvements, the Secretary may authorize a State to make such land and rights-of-way available without charge to a publicly owned transit authority for such purposes wherever he may deem that the public interest will be served thereby.

"(e) Funds available for expenditure to carry out the purposes of subsection (a) shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"(f) In providing funds for public mass transportation projects under this title, the Secretary shall, to the maximum extent possible, provide that rules and regulations issued concerning the use of such funds for public mass transportation projects be the same as those issued pursuant to the Urban Mass Transportation Act of 1964. In complying with this section, the Secretary shall insure that projects for which funding is sought under this title comply with the following sections of the Urban Mass Transportation Act of 1964—

"(1) the third and fifth sentences of section 3(a)(1), relating to the use of Federal funds;

"(2) section 3(e), relating to the acquisition of privately owned facilities;

"(3) section 3(f), relating to the use of buses for charter operations;

"(4) section 3(g), relating to the use of buses for schoolbus operations;

"(5) sections 5(e) and 5(f), relating to the source of local funds used to match Federal funds for projects involving the payment of operating expenses;

"(6) section 5(k)(2), relating to projects where the source of non-Federal funds derives from more than one jurisdiction;

"(7) section 5(m) and section 108 of the National Mass Transportation Assistance Act of 1974, relating to the charging of fares for the elderly and handicapped;

"(8) section 5(n)(2), relating to the application of chapter 15 of title 5, United States Code, to nonsupervisory employees of federally aided mass transportation systems;

"(9) section 12(b), relating to contracts entered into by means other than competitive bidding;

"(10) section 12(d), relating to the powers of the Secretary to regulate the mode of operation of mass transportation facilities, but this provision shall not apply to the use of funds apportioned under this title for the payment of operating expenses;

"(11) section 13(c), relating to standards for labor;

"(12) section 15, relating to financial reporting systems; and

"(13) section 16, relating to the planning and design of facilities to meet the needs of the elderly and handicapped.".

AMENDMENT TO SECTION 144

SEC. 229. Section 144 of title 23 of the United States Code is amended by adding at the end thereof the following new subsection:

"(n) The Secretary shall not approve any project under this section to replace or rehabilitate a bridge to exceed the traffic carrying capacity of the road adjacent to the bridge. The preceding sentence shall not apply to bridge rehabilitation or reconstruction undertaken to provide bridge capacity for farm implements and vehicles used for the cultivation of land or trucks carrying agricultural products from farm to market.".

REPEAL OF SECTION 148

SEC. 230. Section 148 of title 23 of the United States Code, including the reference thereto in the analysis of such title, is repealed.

AMENDMENT OF SECTION 150

SEC. 231. Section 150 of title 23 of the United States Code is amended to read as follows:

"SEC. 150. ALLOCATION OF URBAN SYSTEM FUNDS.

"(a) The funds apportioned to any State under section 104(b)(4) of this title which are attributable to an urbanized area having a population of 50,000 or more shall be allocated among such urbanized areas within such State for projects in programs approved under section 105 of this title in the ratio that the population within each such urbanized area bears to the population of all such urbanized areas, or parts thereof within such State. In the expenditure of funds allocated under the preceding sentence, fair and equitable treatment shall be accorded incorporated municipalities of 200,000 or more population within urbanized areas. The funds apportioned to any State under section 133 of this title which are attributable to urban areas of more than 5,000 but less than 50,000 population within such State for projects in programs approved under section 105 of this title, shall be allocated in accordance with a fair and equitable formula developed by the State in consultation with local elected officials and approved by the Secretary.

"(b) Notwithstanding any contrary provision of this title, the funds that would otherwise be apportioned to any State under section 104(b)(3) of this title on or after October 1, 1980, that are attributable to an urbanized area of 200,000 population or more shall be apportioned to the recipient or recipients jointly designated by the Governor and local elected officials of the urbanized area, to receive and disburse such funds. Expenditure of such funds shall be subject to all the requirements of this title, and where appropriate the Urban Mass Transportation Act of 1964, except that with regard to such funds the designated recipient shall have the responsibility and authority vested in the State by this title and must have adequate powers and be suitably equipped and organized to discharge the duties required by this section and demonstrate the capacity to administer the programs for which it is the designated recipient, to the satisfaction of the Secretary. Nothing in this section is intended to preclude the State from being a designated recipient if agreed to by the Governor and appropriate local elected officials.

"(c) Funds allocated to an urbanized area under the provisions of this section may, upon approval of the local elected officials of the area and the Secretary, be transferred to the allocation of another such urbanized area in the State or to the State for use in any urbanized area.".

AMENDMENTS TO SECTION 217

SEC. 232. Section 217 of title 23 of the United States Code is amended—

(1) by deleting subsection (a) and inserting in lieu thereof:

"(a) To encourage energy conservation and the multiple use of transportation rights-of-way including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways for recreational and commuting purposes in urban areas, or to connect such areas with national, State or local parks, seashores or recreational areas, the States and designated recipients may, as a Federal-aid project or in conjunction with other Federal-aid projects, construct new or improved bicycle lanes, either in conjunction with or on existing highway lanes or shoulders, or bicycle paths, traffic control devices, shelters and parking or support facilities designed and/or regulated to serve bicycles and persons using bicycles, and pedestrian walkways. Such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes, and be in conformance with section 134 of this title.";

(2) in subsection (d), by inserting after "(d)" the following: "The Secretary shall establish by regulation, construction standards for bicycle projects to ensure that they have safe and adequate surface conditions, widths, sight distances and lighting, realistic design speeds, and grades reasonably negotiable on a bicycle."; and

(3) by deleting subsection (e), and inserting in lieu thereof:

"(e) The Secretary is authorized to make grants to States and designated recipients to achieve the purposes of this section on such terms and conditions he or she may require. To the extent that they are consistent with the purposes of this section, the provisions of chapter 1 of this title shall apply to such project and grants. There is hereby authorized to be appropriated $45,000,000 per year for fiscal years 1981, 1982 and 1983 for these purposes.".

AMENDMENT TO SECTION 302

SEC. 233. (a) Section 302 of title 23 of the United States Code is amended—

(1) by deleting the title and substituting in lieu thereof: "State highway and transportation department."; and

(2) by inserting at the end thereof the following new subsection:

"(c) After September 30, 1980, any State desiring to avail itself of the benefits of this title or the Urban Mass Transportation Act of 1964, as amended, shall have a single State transportation agency, which shall have adequate powers and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title and the Urban Mass Transportation Act of 1964, as amended, as well as the authority for the development of multi-modal tranportation programs planning and policy generally in such State. After October 1, 1981, the provisions of subsections (a) and (b) of this section shall apply to such State transportation agencies.".

(b) The analysis of such title is amended by striking out: "302. State highway department." and inserting in lieu thereof: "302. State highway and transportation departments.".

CONSOLIDATED PLANNING

SEC. 234. (a) In accordance with this section, the Secretary shall make grants to States and in urbanized areas, to planning organizations designated in accordance with the requirements of section 8 of the Urban Mass Transportation Act of 1964, as amended, and section 134 of title 23, United States Code, for projects for the development of transportation plans and programs required by such sections; and to make grants and contracts for activities eligible under section 8(j) of the Urban Mass Transportation Act of 1964, as amended. Grants under this section shall be from funds made available under section 4(f) of the Urban Mass Transportation Act of 1964 and section 104(f) and section 133(g) of title 23, United States Code.

(b) The Federal share of such projects under this section shall not exceed 80 per centum thereof unless the Secretary determines that the interests of the Federal program would be best served without matching funds. The Secretary shall designate for use in the States, 90 per centum of the funds available to carry out the purposes of this section in the ratio which each State's total apportionment of funds under sections 4(f) of the Urban Mass Transportation Act of 1964 and section 104(f) and section 133(g) of title 23, United States Code, bears to the total of all such apportionments to all States, except that no State shall be designated less than one-half of one per centum of the amount apportioned. Funds not distributed by formula will be retained by the Secretary for use on a discretionary basis.

(c) The amount of funds designated for a State pursuant to the formula established under subsection (b) of this section that are attributable to an urbanized area of fifty thousand or more population shall be made available by the Secretary to the planning organization designated in accordance with the provisions of section 134 of title 23, United States Code, and section 8(b)(3) of the Urban Mass Transportation Act of 1964, as amended.

SHORT TITLE

SEC. 235. This title may be cited as the "Highway and Transportation Improvement Act of 1979".

TITLE III—TERMINATION OF HIGHWAY TRUST FUND TERMINATION

SEC. 301. Effective after September 30, 1980—

(1) the Highway Trust Fund is terminated and the amount in such Fund, including any obligations held in such Fund, shall be covered into the general fund of the Treasury;

(2) any outstanding appropriations from, or obligations of, such Trust Fund shall be paid from such general fund;

(3) any authorizations for appropriations to be made from such Trust Fund shall be considered to be authorizations for appropriations from such general fund; and

(4) section 209 of the Highway Revenue Act of 1956 is repealed.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce that the Subcommittee on Taxation and Debt Management of the Senate Committee on Finance will hold a hearing on Wednesday, October 31, 1979, on miscellaneous tax bills.

The hearing will begin at 2:30 p.m. in room 2221 of the Dirksen Senate Office Building.

The following pieces of legislation will be considered:

S. 246, sponsored by Senator BENTSEN. The bill would permit taxpayers to exclude from gross income up to $500—$1,000 in the case of a joint return—of interest income earned from a savings account.

S. 1488, sponsored by Senator NELSON. This bill would provide an exclusion from gross income for interest earned from a savings account but only for that amount of interest that exceeds the amount earned the previous year. Up to $500—$1,000 in the case of a joint return—is the maximum amount excludable.

S. 1846, sponsored by Senator TALMADGE. This bill would raise the dividend exclusion contained in present law from $100 to $250 and permits the exclusion to apply to interest from savings accounts.

S. 1638, sponsored by Senator ROTH. The bill would provide an election for a business to treat startup expenses as deferred expenses to be amortized over a 60-month period. Revenue estimates are not available at this time. The measure would benefit taxpayers beginning a new business.

S. 1703, sponsored by Senators CHAFEE, COCHRAN, MATSUNAGA, MOYNIHAN, JEPSEN, RIBICOFF, BOREN, and LONG. This bill would amend section 911 of the Internal Revenue Code to permit American employees of charitable organizations the option of using the $20,000 income tax exclusion now available only to corporate employees working in remote camps. Revenue estimates on this measure are not available at this time. The measure will benefit employees of charitable organizations who are working abroad.

S. 541, sponsored by Senators BAKER and SASSER. This bill would permit executors of an estate to elect the alternate valuation date—6 months after decedent's death—for estate assets even

though the estate tax return is filed after the due date. This measure would have negligible revenue effect. Although only one estate has been identified as benefiting from this measure, the amendment would benefit any estate that wanted to elect the alternate valuation date but was not permitted to do so because the estate tax return had already been filed.

S. 999, sponsored by Senators BENTSEN and COCHRAN. This bill would exempt taxpayers who make late payments of tax from penalties, provided the failure to make payment was due to reasonable cause and not willful neglect. It is estimated that this measure will reduce revenues by $14 million in fiscal year 1980 and by $25 million thereafter. This measure would benefit any taxpayer making a late payment of tax due to reasonable cause.

S. 555, sponsored by Senators MORGAN, BAKER, SASSER, PERCY, INOUYE, SCHMITT, MATHIAS, RIEGLE, MCGOVERN, FORD, COHEN, PELL, HELMS, PRESSLER, DURKIN, COCHRAN, LEVIN, and STEWART. The bill would permit the owners of independent local newspapers to make tax deductible contributions to trusts established for the eventual payment of estate tax. It is estimated that this measure would reduce revenues by $10 million per year. The measure would benefit owners of independent local newspapers.

S. 1543, sponsored by Senators NELSON and BENTSEN. This bill would defer current Federal income tax on dividends reinvested in original issue stock of a company. This bill would primarily benefit any stockholder receiving dividends from a company.

Requests to testify. Persons desiring to testify during this hearing must make their requests to testify to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than the close of business on Wednesday, October 24, 1979.

Witnesses will be notified as soon as possible after this date as to when they are scheduled to appear. If for some reason the witness is unable to appear at the time scheduled, he may file a written statement for the record in lieu of the personal appearance.

Consolidated testimony. The subcommittee strongly urges all witnesses who have a common position or the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the subcommittee. This procedure will enable the subcommittee to receive a wider expression of views than it might otherwise obtain. Further, all witnesses should exert a maximum effort to coordinate their statements.

Persons not scheduled to make an oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed RECORD of the hearing. These written statements should be submitted to Michael Stern, staff director, Senate Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, not later than Friday, November 23, 1979.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, this announcement will advise of the cancellation of the hearing which had been scheduled by the Subcommittee on Energy Regulation of the Committee on Energy and Natural Resources on October 29, 1979, at 9:30 a.m. in room 3110 Dirksen Senate Office Building, on S. 1335, the Residential Furnace Improvement and Cost Savings Act of 1979, and on S. 1336, the Residential Energy Audit Act of 1979.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution of the Committee on the Judiciary, will hold a hearing on the proposed amendments to the Constitution to balance the Federal budget on November 1, 1979, at 9:30 a.m. in room 6226, Dirksen Senate Office Building.

Anyone wishing to submit testimony for the record, should contact Linda Rogers-Kingsbury of the Subcommittee on the Constitution, 102-B Russell Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce that the Subcommittee on Taxation and Debt Management of the Senate Committee on Finance will hold a hearing on Friday, November 2, 1979, on S. 1691, a bill to create an appellate court with exclusive jurisdiction over all Federal civil tax appeals. This bill has been referred to the Committee on Finance for consideration until not later than December 31, 1979. Senator MAX BAUCUS will chair this hearing.

The hearing will begin at 2:30 p.m., in room 2221 of the Dirksen Senate Office Building.

Requests to testify. Persons desiring to testify during this hearing must make their requests to testify to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than the close of business on Thursday, October 25, 1979.

Witnesses will be notified as soon as possible after this date as to when they are scheduled to appear. If for some reason the witness is unable to appear at the time scheduled, he may file a written statement for the record in lieu of the personal appearance.

Consolidated testimony. The subcommittee strongly urges all witnesses who have a common position or the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the subcommittee. This procedure will enable the subcommittee to receive a wider expression of views than it might otherwise obtain. Further, all witnesses should exert a maximum effort to coordinate their statements.

Written statements. Persons not scheduled to make an oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. These written statements should be submitted to Michael Stern, staff director, Senate Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, not later than Friday, November 16, 1979.

The Subcommittee on Taxation and Debt Management of the Senate Committee on Finance will hold a hearing on Wednesday, November 7, 1979, on the Technical Corrections Act of 1979.

The hearing will begin at 2:30 p.m. in room 2221 of the Dirksen Senate Office Building.

The bill, which the House of Representatives passed on July 18, 1979, contains technical, clerical, conforming, and clarifying amendments to provisions enacted by the Revenue Act of 1978 and other 1978 tax legislation.

Testimony is invited both on the bill as passed by the House of Representatives and on any proposed additions to or deletions from that bill. It is recommended, however, that witnesses who only wish to support provisions now contained in the House bill limit their testimony to the submission of written statements.

It is also recommended that written and oral statements deal both with the merits of the issue involved and with the question of whether it is or is not a technical rather than a policy change.

Witnesses who desire to make oral statements at the hearing should submit a written request to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on November 1, 1979.

Written testimony submitted by witnesses not making oral statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five copies by November 14, 1979, to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science and Transportation be authorized to meet during the session of the Senate on Thursday, October 25, 1979, to hold a hearing on S. 1215, the Science Technology Research and Development Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON RURAL DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Rural Development Subcommittee of the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the session of the Senate on Wednesday, October 24, 1979, to hold a hearing on rural transportation problems.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Monday, October 29, 1979, to hold a hearing on S. 1905, the Milwaukee Railroad legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IMPROVED FOOD SERVICE WITH COST SAVINGS

● Mr. CHURCH. Mr. President, in the October edition of a Capitol Hill newspaper, an article appeared entitled "The Senate Food Service is Going Uptown." by Beverly Moss. The article details the changes that have been made with the food service available to the Senate and its employees. As chairman of the Foreign Relations Committee, I can personally comment on Mr. Jay Treadwell's ability to match food with the occasion. I think it is worth noting that he has improved quality while decreasing the dollar cost. My congratulations to Mr. Treadwell and to Mr. White, the Architect of the Capitol, who supervises the food service.

Mr. President, I ask that the following article appearing in the October 10 edition of the Hill Rag be printed in the RECORD.

The article follows:

THE SENATE FOOD SERVICE IS GOING UPTOWN!

(By Beverly Moss)

Long gone are the days when the "dugout," a diminutive dingy, depressing cafeteria in the basement of the Russell Senate Office Building—closed down in 1971 because of a tuberculosis scare rumored to have originated in their creepy-crawly infested kitchen—was the closest place a busy Senate staffer could go for a quick bite of over-peppered chili or beef ragoo (sic). (Senate staffers were not the only ones to partake of dug-out grub, for the late Senator Carl Hayden of Arizona was seen there almost every noon hour, and he never left without leaving a 10¢ tip for the "busboy"—so maybe it wasn't all that bad!)

A walk through the underground tunnel brings you to the Dirksen north and south cafeterias—where the decor is pinkish and brighter, but the menu is basically the same as the dug-out—poor enough to send the solons and their staffs to the Monocle or Club II for some decent food.

1972—exit the dug-out; enter "Plastic Palace"—a sobriquet so given because not only are the seats and tables a modish mixture of aqua and orange vinyl, but the eating utensils are—you guessed it—Plastic! (Disposable forks don't carry TB germs.) The fare at Plastic Palace is pretty perfunctory—hamburgers, grilled cheese sandwiches, and the like—but the walls are clean, the furniture is bright and cheerful, and they offer a $1.35 salad bar, so at last the diet-conscious Capitol Hill employee can opt for something more exotic than cottage cheese or brown bags. In addition to having a vending machine packed with sandwiches, yogurt, fruit, etc., picnic box lunches are also made up for the many sun-worshippers that congregate in the park across the street at lunchtime. Choice of sandwich or taco, fruit and beverage for approximately $1.50.

THE FRENCH GARDEN

Before the beautiful Washington fall days give way to winter, the Rag decided to meet a friend for lunch in the French Garden, a bucolic spot incongruously located right in the middle of the Russell Senate Office Building—in the courtyard just off the first floor. A long table was set up on the grass, buffet style. At one end of the table cool pitchers of iced tea, punch and a pineapple/orange concoction were offered, followed by two types of salad (the chef variety and a tempting fruit salad). These were followed by an assortment of cheeses, sold by the ounce. The selection included blocks of cheddar, swiss, provolone, gouda, monterey jack and bel paese, accompanied by bread or crackers. Assorted fresh fruits, attractively arranged in bowls came next in the process, a perfect conclusion to a light lunch . . . unless of course you, like us, are cookie freaks, in which case you would have elected to devour one (or more) of the enormous homemade chocolate chip cookies peeking out of a basket at the end of the table.

Picnic tables and benches in the courtyard are scarce, and unless you mind sharing a table with another group, bring a towel and have a picnic on the grass.

Lunch al fresco in the French Garden—a delightful way to break up a long day in a stuffy office. The French Garden is open, weather permitting, from 11:30 to 2:00.

BREAKFAST BONANZA

You deserve a break today! Get your day off to a good start—eat breakfast! You've heard it all—but who has time to cook in the am—or even to stop at McDonalds? If your office happens to be in the Senate, you can eat your morning meal in style.

The Dirksen south cafeteria opens at 7:00 with a Breakfast Bonanza. The cafeteria line begins with a mouth-watering assortment of seasonal fruit—fresh strawberries, blueberries and melon chunks, today—mix and match, all that your bowl can hold for 75c. Further down the line are eggs, fat sausage links, bacon, pancakes, fried apples, hot cereals, and more.

On a good day you can even feast on freshly-baked croissants, brioche or muffins, depending on Ewald, the pastry chef's whim. Dry cereals are offered and attractively displayed in glass jars—but pass them up for they look as if they had their origin in a Post grapenuts box! For the not so voracious appetite, you can still pick up the old breakfast standby—a cup of coffee and a doughnut to go! Breakfast Bonanza at Dirksen—7:00 am to 10:00 am.

PETER RABBIT'S GARDEN LETTUCE PATCH

On one August recess day, when the weather was too oppressive to venture outdoors for lunch, the RAG's nose sniffed out "Peter Rabbit's Garden Lettuce Patch" operating in the Dirksen north cafeteria. To eat there or take out, the buffet-style salad bar offered a selection of salad greens, raw vegetables, fruits (canned and fresh), cheeses, cold cuts and various salad combinations such as three-bean and potato. The greens were fresh and crisp, the fruit so-so, and the cold cuts looked like they were leaning towards limp. The finished product however turned out to be a satisfying, if not stimulating, lunch—with a minimum of bother.

One problem at the "Patch" was the cash register, where the cashier could not decide how much to charge for our selection. Within one week, three different Senate staffers purchased identical plates consisting of "Lettuce Patch Salad", cottage cheese and fruit. They were charged, respectively $1.65, $1.95, and $2.25. Peter Rabbit won't have a successful operation if he can't get his lettuce straight.

Peter Rabbit's Garden Lettuce Patch—Dirksen north cafeteria. 11:00 to 2:00. (Usually open when Senate is in recess.)

Senate offices are heralded each week with "The Senate Gastronome", another Treadwell invention which is actually a one-page newsletter listing the week's menus for the staff cafeteria and Senate dining rooms. Treadwell has had a wealth of exciting food ideas from South of the Border Week, which featured Mexican food such as enchiladas, fried bananas, burritos and tamales—to The Buffet of the States, with dishes such as Boston Bluefish Florentine, Green Mountain Lime-Baked Chicken and Georgia Deep-Fried Spare Ribs. And in between time, occasionally a table (known as Shirley's Corner, and run by Shirley Felix, manager of the Dirksen carry-out) pops up in a corner of the Dirksen south cafeteria, laden alternately with surprises such as do-it-yourself sundaes (an outrageous success), pizza by the slice, "Quickie Steamship Yum-Yum Roast Beef", or take-with bakery goods backed by Ewald such as Peach Crunch, pound cakes, pies, etc.

The first professional in the history of the United States Senate to take over operations of food services for that exalted body, Treadwell spent twelve years as Food Service Director of Pan Am after graduating from Cornell's School of Hotel and Restaurant Administration. So he arrives at his current position eminently qualified to plan menus for the most exclusive club in the country! The elusive Mr. Treadwell, under instructions from the Architect of the Capitol (who oversees the Senate restaurant operation), refused to be interviewed.

It was learned, however, from sources close to the Food Director (My goodness! Is this a restaurant review or the latest form of investigative reporting—Cafeteriagate?!) that he was hired by the Senate in 1975 to increase the volume of food served and to cut out waste and inefficiency. He oversees 200 staff workers, many of whom precede him in the Senate restaurant business, and with whom he appears to have the greatest rapport. Indeed, Senate Restaurant personnel as a whole have had a noticeably friendlier and more outgoing attitude since Jay Treadwell arrived on the scene. And another first—he managed, it is rumored, to bring a deficit operating figure of $239,000 in 1975 to the first break-even year (1978) in recent Senate history. Perhaps, before this year is over, the Senate food service will be operating entirely in the black.

A GUIDE ON WHERE TO EAT IN THE SENATE

Inner Sanctum (Capital.)—For senators only. Sealed off behind massive double doors, the rooms are a retreat from outside. Standard fare. Speedy service.

Senators' Dining Room (Capital).—For senators, their guests, or those with a pass or letter from a Senator. A large room seating 150. Arm chairs, tablecloths, linen napkins and silver.

Senators' Dining Room No. 2 (G-211 Dirksen).—Limited to senators, senate aides, and the public with passes. Cosy room seating about 80. Regular menu, plus a super salad bar.

Small Family Dining Room (Capitol).—Senate staff and their guests. Seats 40. Small space which has been transformed into an intimate continental dining room.

Cafeterias.—Two major operations located in the basement of the Dirksen Building. Pinkish plastic decor. Senators rarely eat here, but tourists may overhear gossip from talkative Senate staffers and agency bureaucrats. North Cafeteria reserved for Senate staff; South Cafeteria open to public except between 12-1:30 p.m., when it is also reserved for staff.

French Gardens located in courtyard off first floor of Russell Building.—Serves cheese

by the ounce and light lunch. Open 11:30 am–2 pm (weather permitting).

Snack Bar (Capitol Basement).—provides carry out or eat in fast food. Recently renovated.

Dirksen Carry Out (Adjunct to Dirksen South Cafeteria) Fast Food.—Specials offered daily. Perenial best seller is frosen yogurt, which Treadwell calls "frozurt". Open from 7:30 am to 7:00 pm.

Coffee Shop (Plastic Palace) (Russell Building, basement) plastic coffee shop decor.—Cafeteria style fast food, vending machines, microwave oven for re-heating, carry out "box lunches." ●

LET US EQUALIZE TAXES BEFORE JUMPING INTO THE VAT

● Mr. DOLE. Mr. President, yesterday the distinguished chairman of the House Ways and Means Committee, Representative AL ULLMAN, proposed a major restructuring of our tax system. The Congressman from Oregon would introduce a 10-percent value added tax (VAT) to finance reductions in social security, income, and corporate taxes, and tax incentives to encourage capital investment. The thrust of the proposal would be to shift taxation toward consumption and away from income.

The chairman of the Ways and Means Committee deserves much credit for attempting to rethink our tax policies in light of the problems we have experienced lately in managing the economy. His proposals deserve thoughtful and thorough consideration, and alternative approaches to reforming the tax structure will receive close attention during the coming year. The Senator from Kansas does not propose to undertake a detailed analysis of the Ullman plan at this time, but a few general points seem to be in order.

The danger of relying on a VAT is that it gives the Government another excuse to raise the overall tax burden on its citizens. The Ullman plan does not provide for an overall reduction of taxation or Government spending, but would simply shift the tax burden. Without a clamp on Government spending, an overall restraint on the role the Government plays in the economy, we run the risk that the tax burden will continue to grow and inhibit sustainable growth in the private sector. We seem to be learning that growth by inflation is not the answer, and we cannot afford to forget that a bloated Federal Government tends to spur inflation and restrain the private sector. For this reason, the VAT approach should be examined with care to see whether it can promise real tax relief in the long run or whether it will just contribute that much more to the growth of Government.

To the extent that VAT revenues would be used to reduce the income tax burden, the VAT could help us solve one of the major problems of the progressive income tax system—taxflation. However, the VAT alone would not go far enough toward eliminating this tax penalty. Taxflation occurs when taxpayers earn higher nominal incomes because of inflation, although they are doing little more than keeping up with prices. The fixed dollar amounts used in the tax tables mean that higher nominal income brings a higher rate of tax. All income growth is treated as though it were growth in real income. The consequence is that periodic tax cuts do not really cut taxes and serve only to redistribute the tax burden. With few exceptions, tax measures to stimulate the economy have merely restored the status quo.

Mr. President, this is where tax reform is most urgently needed, and it should receive top priority if we are to consider restructuring the tax system. I have introduced the Tax Equalization Act, S. 12, which would end taxflation altogether, not merely moderate its impact. The Tax Equalization Act would correct the tax tables each year according to the rise in the Consumer Price Index. Tax rates would correspond to real income levels, and tax cuts would be real tax cuts. Tax equalization would not provide a cushion against inflation; it would just make the tax tables honest and understandable.

As we begin debating the merits of various proposals, let us agree that ending taxflation must be on our agenda whatever other measures we may take. Tax equalization is the least we can do for the American taxpayer, but it is also the most direct and meaningful form of tax relief that we can provide.●

DECLINING PRODUCTIVITY IN THE UNITED STATES

● Mr. GRAVEL. Mr. President, a brilliant student of economics is currently visiting lecturer at George Washington University. His name is Chikara Higashi and he has recently authored a piece in the September 10, 1979 edition of "Look Japan." In this article Mr. Higashi discusses the declining productivity in the United States and compares our current economic situation with that of Japan. He analyzes productivity problems at three levels—individual, managerial, and policy. He points out, correctly I believe, that the United States is lacking in all three areas and as a result our economic productivity has been declining. His article suggests that we have failed to sufficiently motivate the American worker because we have not brought him into the decision-making process and involved him in his job with more than a salary. He points out that American industry often seeks efficiency at the expense of effectiveness, and he recognizes the failure of policymakers to plan effectively for the future of the United States in international trade.

I believe that this article is well worth considering, for from it we may derive some suggestions as to how to improve our economic position in the world. I hope that my colleagues will give serious thought to the issues raised by this article and to that end ask that it be printed in the RECORD.

The article follows:

DECLINING PRODUCTIVITY IN UNITED STATES

(By Chikara Higashi)

Productivity is declining in various sectors in the U.S. While output is decreasing, total employment keeps increasing. This indicates that more people are currently producing less than in the past. This is symptomatic of the ailing U.S. economy. Thus, it is not surprising that inflation is rampant domestically, and the dollar vulnerable internationally. How serious is the situation, and what are the causes and remedies of this horrendous problem?

According to the Bureau of Labor Statistics of the U.S. Department of Labor, the U.S. manufacturing productivity increased only 2.5 percent in 1978 over 1977. This compares with 8.3 percent in Japan, 4.9 percent in France, 4.2 percent in Canada, 3.7 percent in W. Germany, 2.9 percent in Italy, and 1.8 percent in the United Kingdom. Among the seven industrialized nations, only the U.K. showed a lower rate of increase than the U.S. For the 10 years through 1977, the U.S. manufacturing productivity increased 26.1 percent compared with 99.2 percent in Japan, 71.7 percent in France, 69.0 percent in W. Germany, 67.8 percent in Italy, 46.1 percent in Canada, and 26.5 percent in the U.K. The increase in the U.S. productivity was the lowest among the seven. In 1979, productivity in the private business sector declined 3.8 percent in the second quarter at a seasonably adjusted annual rate, the second decline in a row and the largest decline since the first quarter of 1974.

W. L. Givens compared the productivity in motorcycle manufacturing between the U.S. and Japan during his interview with Fortune's W. Bowen. According to Givens, typical U.S. and European manufacturing facilities produce between 20,000 and 50,000 units annually, with output per worker ranging between 10 and 30 units per year. Japanese facilities produce from 300,000 up to two million units per year, with output per worker between 150 and 300 units, roughly ten times American and European productivity. This is an extreme case, but he states that "already the average Japanese worker in industry produces more than his American counterpart, and the gap is widening in favor of Japan" (Fortune, June 18, 1979).

The causes of this problem are multiple. Economists would attribute the lower productivity to the lack of investment in new innovative technology. Tax incentives, government loans and subsidies may be used to encourage such an investment. Businessmen and liberal public administrators would blame the ramifications of government rules and regulations. Professors in international marketing would discover global-based marketing induces economies of scale and accordingly higher productivity. Educators would put emphasis on education. Behaviorists would stress the importance of the work motivation. The integration of all these different approaches is most important. The following provides analyses at three different levels: individual, managerial and economic policy.

At individual levels, discipline and intelligence are the two major factors relevant to productivity. Discipline is closely interrelated with culture. By and large, the Japanese seem traditionally more disciplined to work than their American counterpart, at least in the middle and lower echelons of organizations. One of the cultural differences is in the concept of time. "Time is money" is true to practically all Americans, but not so much to the Japanese. For example: In the U.S., a repairman of, say, a color television set charges by the time he has spent. If one takes a television set to a less competent repairman, the bill is higher to that extent. If it is not repaired, one still has to pay for it, sometimes more than the set's original price. There is a rationale for this: If a repairman works at all, he should be paid. This however is based on a too naive assumption that every repairman's one hours costs the same. Only the job done is paid. Until a defeat is fixed, there is no charge. In this way, the individual workers cannot escape taking responsibility for both productivity and quality controls.

Another factor at the individual level is

education and intelligence among the average people. According to E. F. Vogel, the inability to read and write is virtually absent in Japan. In the U.S., post-graduate schools produce more than 800 Ph.D.s in economics alone every year, yet 20 percent of the people are left illiterate due to inadequacy of earlier education. They can hardly read a job manual properly. This indicates one of the U.S. characteristics: a highly educated, well motivated, and handsomely paid manager has to manage illiterate, unmotivated and poorly paid workers. No matter how sophisticated the managerial skills may be, motivating people is much more difficult in this system. The U.S. industrial structure seems, therefore, vulnerable at the very foundation. Workers often say, "I have worked up to my salary, the manager should take all the responsibility because they are paid for that." In Japan, the workers may be more motivated and the quality may be more pervasively controlled at individual workers' levels primarily because egalitarianism prevails in education, salaries, and human relations between superiors and subordinates causing less hostility and fewer feelings of isolation.

At managerial levels, the conventional U.S. management tends to seek efficiency too much at the sacrifice of effectiveness. Professionalism, or job specialization, seems problematic if it goes too far. For instance, the more divided work is, the more difficult in principle it is to integrate or coordinate. Another problem is that excessive professionalism leads nonprofessionals to irresponsibility, or even to hostility. Professional expertise and professional schools feed each other with the result of more and more division of labor and a widening gap of emotion between the professional and those excluded from professional society.

This tendency often tends to dehumanize work relations. In successful Japanese-managed operations in the U.S., such as Sony at San Diego, YKK at Macon, Georgia and Kikkoman at Wisconsin, the American workers commonly say that the Japanese management cares about the people as well as the products. Behaviorists have discovered that human factors are much more critical in motivating people than other incentives. The U.S. conventional management style is too much efficiency-oriented and neglects human factors, hence, resulting in a loss of effectiveness.

Decision-making style is also often relevant to productivity. The Japanese consensual, bottom-up decision-making looks slow, but the consensual process makes implementation much faster because many people are ready to go. In the U.S., the manager, usually commanding and decisive, makes a decision in less time. However, implementation does not necessarily follow smoothly because the autocratic type of decision-making does not involve very many people in the decision-making process and accordingly reduces the degree of cooperation by the people required in implementation. Life-time employment systems also have the advantage that labor can more easily accept innovative technology since they do not have to worry about the loss of jobs.

At economic policy levels, the U.S. may be the only country that does not have industrial sector planning. The Department of Commerce provides U.S. businesses with excellent information on international markets but does not design an industrial sector plan. No other government branch does either. The President's Council of Economic Advisers may forecast, analyze, and advise about economic growth, inflation and unemployment, but it hardly functions as coordinator of sectoral planning. As a result, American economic policy has concentrated on the adjustment of demand through stimulative or restrictive monetary and fiscal policies; these have made possible the continuous expansion of American consumption and sustained economic growth.

In short, the U.S. economy has prospered unprecedently, the citizens have been able to consume abundantly, the unemployment has been most of the time relatively low throughout the post-war period. Most of these are the result of the government's expansion-oriented economic policies. However, a bad side of these Keynesian policies is that they inevitably bring forth virulent, chronic inflation. As inflation is almost constantly present, it develops into stagflation when the economy is in recession. Thus, prosperity seems to have been illusory to some extent. Underlying problems have been long accumulating. Affluent consumption has meant low savings. Too many dollars were printed resulting in devaluations. Lack of government industrial sector planning, together with protectionism, discourages upgrading of the U.S. industrial structure. In an industrialized country, common sense shows that wages keep increasing and individuals' work hours tend to decline. Therefore, unless technology-oriented industries replace labor-intensive ones, productivity in the aggregate of the economy as a whole will simply decline.

The Americans traditionally dislike government interference in free enterprise areas. The lack of industrial sector planning, which may interfere with resource allocation, may reflect this philosophy. The fact is, however, that the government sector's share in G.N.P. is 50% bigger in the U.S. than in Japan. Former Treasury Secretary W. Simon wrote in his A Time for Truth, "Washington was talking about one quarter of that national income. That meant in effect that we all would be working from January to the end of March only to turn our total income over to the federal government . . . Government at all levels had become this nation's biggest employer . . . One out of every six working people was employed by a federal, state, or local government."

Simon gave many examples of regulations that damage productivity. For instance, the 1973 automobile was subjected to 44 different government standards and regulations involving about 780 different tests of equipment. These cost General Motors $1.3 billion.

Accordingly, a real problem is that despite the government's pervasive interference and regulations, there is no positive, cohesive plan to designate the nation's priority industries and to give effective incentives to higher-technology-oriented industries. Protectionism is, in fact, the equivalent of helping allocate resources to lower-technology industries. Even if the U.S. succeeds in imposing voluntary restrictions (e.g. textiles) or import quotas (e.g. steel) on Japanese products, she will continue to encounter the challenges by many newly industrializing countries. The fundamental solution is to enhance the productivity of U.S. industries. Only this would be ultimately rewarded as an overall, fundamental, and long-term solution to inflation, trade imbalances and unemployment.

UNANNOUNCED SEARCH OF AN ATTORNEY'S OFFICE

● Mr. BAYH. Mr. President, in 1978 the Supreme Court ruled that police armed with a warrant could forcibly and without notice search a person's home or office for evidence of a crime, even if that person was in no way suspected of being involved in the crime. In the particular facts of Stanford Daily against Zurcher police forced their way into the pressroom of a college newspaper and rummaged through the paper's files, trying to find photographs taken during a demonstration which would show additional suspects. The Supreme Court made clear, however, that it was not only press which was subject to such unannounced searches—no innocent third parties were protected by the fourth amendment.

Shortly after the opinion in Stanford Daily, I introduced legislation to protect the privacy of all persons not implicated in a crime under investigation, newsmen, lawyers, doctors, businessmen, and just ordinary citizens, and in September of this year a similar bill, S. 1790, was introduced. In the 95th Congress, 4 days of hearings were held to explore the ramifications of the Stanford Daily decision. At that time, witnesses predicted that although law enforcement authorities had traditionally respected the "subpoena-first" rule in the past, in the wake of Stanford Daily they would begin to take advantage of the High Court's ruling and avail themselves of the easier course in collecting evidence, feeling free to enter third parties' premises without regard to intrusions on privacy. These prophecies have begun to come true. In California, there has been a growing number of unannounced searches not only of newsrooms but also of phychiatrists' and lawyers' offices. Last Thursday's Washington Post reported another incident, this time in Oregon. Mr. President, if there is no objection I would like to print the following article in the RECORD:

OREGON JUDGE ORDERS POLICE TO RETURN LAWYER'S PAPERS

(By Phil Cogswell)

PORTLAND, OREG., Oct. 17.—A judge today ordered the return of documents seized from a lawyer's client file last week by Portland police.

Presiding Multnomah County District Court Judge Philip T. Abraham ruled the seizure violated the traditional protection accorded attorney-client communications.

The Oct. 10 police action, made under the authority of a search warrant issued by another district judge, had brought an immediate challenge from the American Civil Liberties Union, representing lawyer Milton Steward. It also drew expressions of concern from the Oregon State Bar over what bar officials said was an intrusion into the attorney-client privilege.

More than 1,000 pages of documents were seized in connection with an embezzlement investigation involving one of Stewart's clients. Two lawyers sharing offices with Stewart have said they will seek dismissal of charges against clients in a pair of related cases because police looked through their files during the search.

Abraham's ruling came after a three-day hearing, during which officers indicated they had led District Court Judge Thomas Moultrie to believe Stewart would not object to the seizure if a search warrant was obtained. Stewart said he had expected to be served instead with a subpoena for the documents, which he could then challenge in court.

Officers also said that Stewart suggested he would turn over the documents.

ACLU lawyers claimed in the hearing that police misled Moultrie when they obtained the search warrant from him by claiming, in effect, that no attorney-client privilege was involved.

Abraham, however, said an affidavit supporting the search warrant was so general that "it permitted exactly what occurred. It would permit rummaging through files that

very well may have been protected by the attorney-client relationship."

ACLU officials have said they are considering further legal action for damages against officers over the incident. Meanwhile, an attorney for the city of Portland said an appeal of Abraham's order was possible.

Abraham on Friday had taken the documents into his custody pending a decision on the request that they be returned, but testimony during this week's hearing raised the possibility that some of them had already been copied by officers.

ACLU officials said they did not know of another case where police had taken documents from a lawyer's client file.

Stephen House, one of three lawyers cooperating with the ACLU, termed Abraham's ruling "a resounding victory."

However, Tom Gordon, representing the city, said the seized material was valuable as evidence and should not be released until the police had studied it. He said the police had a right to the information.

Abraham, however, said the affidavit supporting the search warrant was invalid because it did not show probable cause for believing a crime had been committed or that the evidence would be in Stewart's office. He noted that an affidavit for a search warrant, not yet executed, involving bank records in the same case, was much more specific than the one involving the lawyer's office.

Stewart said the judge's ruling was a decision that "citizens must be free to consult an attorney in confidence. That wouldn't be possible if police were allowed to obtain lawyer-client files in which those confidences are contained." ●

A NEW INDUSTRIAL STRATEGY—AN ADDRESS BY ASSISTANT SECRETARY JASINOWSKI

● Mr. STEVENSON. Mr. President, rethinking the fundamental economic principles that guide this country is long overdue. It is refreshing and encouraging to discover this point of view expressed in a recent address by the Honorable Jerry J. Jasinowski, Assistant Secretary of Commerce for Policy, before the Semiconductor Industry Association. Mr. Jasinowski correctly points out that the economic assumptions of the 1960's are no longer valid in today's interdependent and highly competitive world. I commend Mr. Jasinowski's address "A New Industrial Strategy" to my colleagues. I ask that Mr. Jasinowski's remarks be printed in the RECORD.

The remarks follows:

A NEW INDUSTRIAL STRATEGY

INTRODUCTION

Our economy has experienced some slowdown in economic growth during the last two quarters and the prospect is that this will continue into the early part of 1980. Many commentators claim that we are in a recession, arguing for new economic stimulus measures.

Although attractive in a superficial way, particularly as we enter an election year, I would argue against this course of action for three reasons:

First, I expect the recession to be moderate with economic growth bouncing back in the second half of 1980;

Second, efforts to ameliorate this recession by finetuning the economy may only serve to fuel inflationary expectations. We will ratchet up the rate of inflation without achieving any genuine economic progress; and

Third, our fundamental economic problems of slow growth, waning productivity, and persistent high inflation can only be solved over the longer run.

There is no quick fix to the economic problems we face. Rapid changes in the shape of the U.S. and world economy have created altogether new forces to contend with. Economic policy tools that were once appropriate are no longer adequate.

We are, in my opinion, entering a new era in the management of economic affairs in this country. We must come to grips with the economic change that is occurring, think anew about our economic policies, and set forth an economic strategy appropriate to the realities of the 1980's.

Throughout the post-World War II period, we were all Keynesians more or less. Our economic policies were based on the broadly held consensus that government's primary economic responsibility was one of controlling the level of total spending, or aggregate demand, in the economy. We felt that by manipulating government expenditures, taxes, and the size of the deficit, or by altering credit through the Federal Reserve, the level of total demand driving the business cycle could be managed so that steady growth and high employment could be achieved. Underlying our Keynesian policies was the assumption that the supply of labor, materials, and productive capacity would all respond to meet the level of demand.

Now we must admit openly that conscious management of demand is a necessary, but not sufficient condition for addressing the problems of the 1970's and 1980's. Increasingly, those problems revolve around our ability to supply the goods and services necessary to satisfy overall demand at stable prices. The source of our problems lies not in the Nation's ability to consume, but with our capacity to produce.

The challenge of the 1980's, in order to address the deficiencies of economic policy and to cope with the paramount problem of inflation, is to focus on the supply side of the economy. Attention to the supply side, I would argue, means shifting from a preoccupation with the ebb and flow of the business cycle, to a searching analysis of the effect of economic policies on the long-term structure, performance, and growth of sectors and industries. In that sense, I believe supply side policies are essentially economic growth and industrial policies.

Supply side policies are preeminently industrial policies because such a large proportion of the goods and services produced by the economy come from our industrial sectors. Although I recognize that the dividing line between industrial and general business is blurred, I am referring here to manufacturing, construction, mining, utilities, transportation, and communications. Taken together, these sectors produce almost half of our private sector GNP, and represent the heart of our economy with respect to economic growth, productivity, jobs, and trade.

THE NEW ECONOMIC REALITIES

I mentioned earlier that rapid changes in the U.S. and the world economy have posed new problems for us. Shortages in both resources and capital, increased international competition and a marked increase in the demands we place on our economic system have all contributed to the need for a supply side industrial policy. Let me review some of the more noteworthy changes.

1. Supply constraints. Supply shortages, most notably energy, already constrain growth, add to inflation, and reduce the margin of freedom for both government and private enterprise actions. As we move into an era of increased scarcity, we can expect additional shortages in water, arable land, lumber, and basic metals. We must begin to recognize the real limitations posed by finite natural resources and adjust our policies accordingly to create far stronger incentives for achieving two seemingly contradictory objectives: adequate supply as well as conservation.

2. Capital formation. The shortages we are beginning to see in natural resources are also reflected in our capital stock.

The stock of fixed capital has grown at a much slower rate than the labor force, dropping from a 4.4 percent growth rate in the late 60's and early 70's to 1.9 percent in the period 1973–1976.

Compared to our major trading partners, U.S. investment as a proportion of GNP is lower than all of the major European countries, including the U.K. As an even more dramatic comparison, investment accounts for roughly 14 percent of our GNP, compared to 26 percent in Japan.

3. International trade competition. The decline of the dollar is the most obvious symptom of the erosion of American leadership in international trade. Our massive trade deficits, though partly owing to OPEC, are also the result of the growing economic strength of our trading partners. As you in the semiconductor industry are well aware, we face aggressive export competition from trading partners who have not hesitated to intervene in their economies through industrial policies, often in the form of export subsidies, with the aim of improving their trade balance. The Multilateral Trade Agreements attempt to eliminate these subsidies and curb the spread of unfair trade practices which distort international competition. We must move vigorously to implement them.

4. International interdependence. The mounting interdependence in the world economy has had a profound effect on our domestic economy. Increasingly, our domestic policy options are constrained by our foreign economic policies as well as those of other governments. We have seen how attempts to support the value of the dollar abroad can have a pronounced effect on our domestic interest rates. Similarly steps taken by the Japanese or German governments to support research and development in their semiconductor industries can pose serious competitive problems for our domestic manufacturers. We must find ways to meet this increased international interdependency without leaving our domestic economy and our domestic industries hostage to the economic policies of foreign governments.

5. Regulations. We must begin to regard our regulatory goals as no more sacred than industrial growth and development goals. Government regulations have an enormous impact on the structure and performance of American industry because they mandate investments which compete for the use of private capital. These regulations will not disappear. Whether reasonable or capricious, most of them stand as important statements of public concern for health, safety, and environmental quality. But regulations are at the same time haphazard in their cumulative effect on industrial structure and productivity. The effects of the growth of regulation in the 60's and 70's pose supply side problems for the 1980's which necessitate a thorough reexamination of our regulatory goals.

6. Excessive demands. Finally, the demands of various government policies have reached the point where they place too great a burden on the economy. For years we have talked about national priorities. Now we are at the point where we must choose among them. Our real economic growth has declined from an annual rate of 4 percent in the 1960's to about 3 percent in the 1970's. Similarly, our productivity growth has declined from a 3 percent annual rate in the period 1948–1973 to 1 percent per year since 1974. Given the size of our economic pie, our efforts to achieve quality of life improvements, higher living standards, higher defense spending, and other social and economic objectives exceed what our industrial machine can provide. Order must be given to our competing national objectives; hard choices are before us, like it or not.

POLICY DIRECTIONS FOR THE 1980'S

These dramatic new realities press upon us the need to change and to alter our fundamental assumptions concerning government and business roles in the formulation of domestic and international policies. We cannot rely on old policy tools; we must shift our approach and our policies to a new concern with the supply side of the economy.

In proposing such a radical change in our policy perspective, there is at least some burden on me to outline the specific directions which would be involved in a supply side industrial policy strategy. As a first step, let me suggest the following:

1. Controlling government expenditures. We must maintain stringent controls on Federal spending in order to provide the resources for future economic growth. Our goal is to reduce the share of Federal spending in GNP to 21 percent by FY 1982. We must continue to seek further reductions thereafter.

2. Reducing specific government burdens on industry. We must reduce the specific legislative, regulatory, and administrative actions that only increase costs and prices, without providing commensurate benefits. We must examine the effect of our regulatory policies on individual industries. If environmental regulations, for example, inhibit our development of alternative energy supplies, we must reexamine the relative costs of both a cleaner environment and a fuel-sufficient economy and adjust our policy mix accordingly. We must control the proliferation of Federal regulations and work toward the establishment of a regulatory budget which would provide a comprehensive accounting of the costs regulations impose upon the American people.

3. Tax policy. We must systematically move our tax policies in directions that will stimulate productive investment and long-term growth. Accordingly, as budget resources become available, business taxes should be cut in order both to modernize industrial capacity and to enhance existing technologies. On the consumer side, we must insure that our tax actions are supply-side oriented, in the sense of reducing inflation at the same time we augment incomes.

4. Technology and innovation. Hand-in-hand with a rethinking of our tax and regulatory policies must come a revamping of our policies towards industrial innovation. You in the semiconductor industry are perhaps more aware than anyone else of the impact of government policy on the innovative process, whether through its investment in R&D spending, its procurement policies or its procedures governing the patent system. You are also quite obviously aware of the deficiencies of existing policies regarding technology and innovation. Perhaps here more than anywhere else there is a need for government policies geared to the specific technological problems of individual industries. Industrial innovation is, in my mind, the policy frontier of the 1980's. Business as well as government must work to expand that frontier.

5. Human capital. Increased investment in physical capital must be accompanied by increased investment in human capital on the part of both the public and private sectors. Of particular importance within an industrial policy framework is the need to identify long-term growth sectors and their future employment opportunities. Public and private policy initiatives can then be used to direct labor towards future job opportunities in these areas. Similarly, we must develop adequate training programs to insure a supply of skilled workers in areas where shortages are likely to create bottlenecks and wage pressures.

We must approach the human capital problem systematically, and education policy is a key element in this approach. In the past, education policy has been divorced from our overall economic planning. With recent demographic changes portending employee shortages in the 1980's, however, systematic programs in the education field will be crucial tools in our overall policy mix.

6. Energy. The need to encourage conservation, increase energy production, allocate supplies among alternative uses and reduce our dependence on foreign oil all comprise the frequently-stated goals of government energy policy for the 1980's. What is not so frequently stated, however, is the crucial role that the market mechanism—not government—must play in meeting these very disparate goals. It is my firm belief that our energy problems are so complex and so interrelated that the market mechanism itself is far better suited to sort them out than government policy intervention. Clearly, there is a role for government in energy policy, particularly in sharing risks involved in developing new domestic energy sources such as synthetic fuels and solar energy.

7. Market structure. We must also encourage increased competition and efficiency in the operations of markets. In one sense, our attention to market structure has comprised the single, explicit component of America's industrial policy to date. Our antitrust policies have been the keystone of the government's long-term approach to industry. The new realities of the 1980's, however, compel a reexamination of our traditional posture towards market structure. We may, for example, need to amend our view of antitrust in order to encourage the industrial cooperation required by competition in high-technology and high-growth world markets.

8. International trade. We must expand our commitment to trade through more vigorous public and private export promotion activities. The domestic policies I have outlined will go far in strengthening American industry and preparing it for the international marketplace. As I indicated earlier, the MTN should insure fair access for American goods to world markets. The key element will not be government policy, however, but business' willingness to take advantage of the improved conditions and new opportunities. The market place will work to the extent that American businessmen use it, compete in it, and blanket the world with their products. Business, not government, will sell America's goods.

THE CHALLENGES OF INDUSTRIAL POLICY

I have outlined the elements which I feel are critical to a successful industrial policy. Moving towards such a policy, however, is not without its challenges. Adopting the kinds of policy measures I have outlined will require no less than a major rethinking of some of our most fundamental attitudes about the relationship of business and government. We are at a turning point in the conduct of economic affairs in this country, and some difficult decisions are before us.

As we face the economic challenges of the 1980's, it seems to me that there are three different approaches business and government can take in the management of our economic affairs:

1. we can plead for a pure free market approach;

2. we can continue our present policies, which I would characterize as "muddling through"; or

3. we can opt for the kind of cooperative arrangements between business and government which are at the heart of the industrial policies we have been discussing today.

I believe it is naive to consider the first option. Our economy has simply become too complex, and the role of government has become so important in insuring our national goals that a return to the unfettered functioning of the free market is not possible. Government is here to stay. Business does, however, have a major part to play in defining government's role in the economy.

Our present policy of muddling through is a form of accommodation in the business-government relationship. It is clear that our current government policies already influence industries in a variety of ways, whether through tax incentives, subsidies, credit assistance, tariff barriers, or regulation. Practically none of our industries is exempt from some form of government support or regulation, and thus in a sense we already have industrial policies. But these policies have failed to address our fundamental economic problems because the components of these current industrial policies have been, to a large degree, ad hoc, defensive, shortsighted, and lacking in any unifying conceptual framework. Our industrial policymaking to date has been largely reactive in nature. We seek to solve immediate problems without analyzing the long-term consequences of our policy actions. Often, we fail to consider the repercussions of these actions on other sectors of the economy. To be blunt, we have in fact muddled through in a disorganized and contradictory manner.

There are those who would argue, including some in the business community, that muddling through is the best course of action. In their view, such policies allow for a multitude of compromises among a vast array of competing interests. The resulting "contradictions" are, from this perspective, the essence of economic policy in a democratic society.

I cannot accept this view. I do not think this Nation can afford a muddling relationship between government and industry. We must make a choice, and that choice must be to define a new relationship in the form of an industrial policy based on cooperative arrangements between business and government. These cooperative arrangements can take two forms:

In the past, cooperative arrangements have for the most part focused on the problems of our weaker industries. Industrial policies in the form of loan guarantees and trade adjustment assistance, for example, have been used in a reactive way to prop up declining industries, often with the goal of protecting jobs. Although this type of defensive action has a role in our policy mix, it must be approached cautiously and used sparingly.

I think we must place our emphasis on a more positive kind of industrial policy, one which I would describe as a policy of "supporting the winners." Rather than reacting to events, we should develop policies which anticipate future developments. We should concentrate our limited resources where they can do the most good. Wherever possible, our economic policies should be centered not on our declining sectors, but rather on the growth sectors of our economy.

CONCLUSION

Much of the responsibility for formulating such policies falls on government, but businesses must also share the burden by virtue of their unique insights, information, and experience. Moreover, it is business which must in the end get the job done. And that job is no less than restoring America to a position of world economic prominence.

Together, business and government must examine to what extent government has retarded development and where the role of government can be reduced. Deregulation is a prominent example. At the same time, we must determine those areas where government involvement is needed to promote economic growth and industrial development.

No national consensus exists on the need for a coherent industrial policy. This is true because such an industrial policy has

never been presented as a reasonable alternative to our existing policies. A national consensus does exist, however, on the inadequacy of our present economic practices. The time is right for a change in policy direction.

Yet no matter how pressing the need, no new public policy framework can emerge without a constituency. The business community must form a core of industrial policy advocates, primarily because the private sector knows firsthand both the potentialities and pitfalls of government actions which affect the supply side of the economy.

You in the semiconductor industry have already articulated the need for industrial policies to face the economic challenges your industry faces in the 1980's. It is my hope that other industries would do likewise. Government may not be able to agree to all the solutions that you are seeking. But it is only through this kind of productive business-government partnership that a true industrial policy can emerge.●

ENERGY MOBILIZATION BOARD

● Mr. BAYH. Mr. President, the Senate recently adopted legislation providing for creation of an Energy Mobilization Board to expedite regulatory decisionmaking on key energy projects. While I have some concern about a few of the provisions in the measure approved by the Senate, I believe that establishing the Board is important for avoiding regulatory delays often associated with duplicative, uncoordinated or unnecessarily prolonged Federal, State, and local regulatory proceedings that affect critical energy projects.

None of us needs to look very far, Mr. President, to find examples of delays resulting from agency sluggishness that have cost this Nation dearly. One such example is the Alaska natural gas pipeline. While each year we increase our dependence on foreign oil, the vast quantities of gas which have been discovered on Alaska's North Slope, and could be backing out foreign oil, still have not been made available to the Lower 48. This delay is partially due to the slowness of Federal agencies making the decisions necessary to get this pipeline underway.

When the Alaska gas pipeline route was approved in 1977, we expected that natural gas would begin arriving in Chicago through the southern legs of this system, by 1980. We are not even going to come close, Mr. President, and the American people cannot afford to wait much longer. Consider the costs of this delay. In financial terms, delays add about $1 billion a year to the cost of the pipeline. Even more serious is the fact that we are not using this domestic gas to back out 200 million barrels of oil a day that could be displaced by substituting Alaskan gas for foreign oil.

In this specific instance, I have tried to speed the Departments of Energy and Interior along by requesting that language be included in both the Interior and Public Works appropriations bills, directing the Departments of Interior and Energy to place the highest priority on getting this project cleared.

Another clear example of costly regulatory delay, Mr. President, is the difficulty project sponsors have had in launching an efficient transportation system to bring excess Alaskan crude oil from the west coast to the northern tier, Midwest States, and mid-Atlantic States where oil supplies are critically needed. We are all familiar with the regulatory problems that contributed to the demise of the Sohio west-east pipeline proposal.

With this case in mind, the Congress last year directed the Secretary of the Interior to study various proposals for a west-east crude oil pipeline and to recommend to the President which, if any, proposal should be subjected to expedited Federal permitting procedures. A west-east pipeline could enable us to displace at least 400,000 barrels of foreign oil a day within a few years if projects are not sabotaged by regulatory delay.

Earlier this month, I was joined by 34 colleagues in letters to the President and the Secretary endorsing one of these proposals, the northern tier project. I was quite pleased that last week Secretary Andrus recommended expedited permitting for this project and hope the President will accept the Secretary's recommendation.

Mr. President, these are two cases where the Congress specifically intervened to spur Federal agencies to act on energy projects. The Energy Mobilization Board legislation was fashioned to assure that critical energy projects get priority treatment as a matter of Government policy and not just when Congress intervenes in a specific instance after prolonged delay.

The Energy Mobilization Board is meant to reduce regulatory lag on energy projects by consolidating procedures for licensing and permitting energy projects, setting deadlines for Federal, State, and local project consideration and coordinating decisions made by diverse agencies on the same project. In order to speed project consideration, the Board will be able to designate certain projects "fast track" or priority projects and set deadlines for completion of project-related Federal, State, and local decisions.

Mr. President, two facets of S. 1308, as reported to the Senate by the Energy Committee, concerned me. The first of these involved the Board's ability to substitute its own decision for a Federal, State, or local agency's decision if any of these units failed to meet an EMB deadline. The second provision was the so-called grandfather clause, which permitted the Board to waive statutory requirements enacted after a project on fast track was under construction.

Because of these concerns, I supported a substitute bill to S. 1308, offered by Senators MUSKIE and RIBICOFF, which would have provided for a court injunction to enforce Board deadlines—instead of permitting the Board to act in lieu of Federal, State, or local agencies—and prohibited any waiver of statutory requirements even if enacted after a project was initiated.

Unfortunately, a majority of my colleagues did not support this alternative to S. 1308. A second Muskie amendment, which I supported, striking the Board's authority to make decisions for Federal, State, or local agencies missing deadlines, was also defeated. However, the Senate did compromise on the "grandfather clause" permitting a veto by the Environmental Protection Agency or Secretary of the Interior—with Presidential concurrence—of any Board waiver of a law passed after initiation of a project.

Mr. President, as is frequently the case, I voted for final passage of S. 1308 with some reservations. I was particularly concerned with the provisions in the bill permitting the EMB to substitute its own decisions for those of other agencies normally charged with statutory responsibilities—especially State and local agencies—when they failed to meet Board deadlines.

However, since the bill in no way weakened State and local authority, but just gave the Board the ability to set time limits on agency decisionmaking, in the end I decided that the benefits associated with this type of discipline outweighed the possible drawbacks. As the distinguished floor manager of the bill Senator JOHNSTON argued, there is nothing in this legislation which gives the Board the authority to make decisions for State and local agencies. The legislation only requires that State and local agency decisions and be made on a timely basis.

Mr. President, there is no doubt that our Nation's well-being is inextricably tied to a reduction of dependence on foreign oil. The action of one foreign leader, or one act of sabotage in an oilfield or refinery thousands of miles from our shores, can disrupt our society and bring us to our knees, as last winter's developments in Iran pointed out once again. In the face of this reality, we must discipline ourselves to make decisions more quickly and efficiently. I am hopeful the Energy Mobilization Board would contribute to this goal by expediting decisions about energy projects without sacrificing the health, safety, and environmental safeguards we have built up over the years.

In particular, I was gratified that the Senate adopted an amendment sponsored by Senators RANDOLPH, HUDDLESTON, and myself, automatically granting fast track treatment for the conversion of oil- and gas-fired utilities and industrial facilities to coal—one of the few options available to us to cut down significantly on oil consumption in the near future, before development of alternative energy sources can make the difference.

I hope the House of Representatives will act on this legislation in the near future, sending the bill to the President for his signature.●

THE NEES PLAN

● Mr. PELL. Mr. President, the New England Electric System announced recently a new, innovative, and forward-looking plan to meet the power needs of its customers during the next 15 years.

The NEES plan is particularly noteworthy because it represents a significant departure from previous plans, not only

of the New England Electric System, but of electric utilities generally.

Instead of emphasis on expanding the use of electric power, the emphasis is on conservation and more efficient use of electricity.

Instead of planning on the use of expensive imported oil to fuel generating plants, the plan calls for conversion to coal, investment in finding and developing offshore oil and gas, developing small-scale hydroelectric generating plants, and use of both wood fuels and windpower to help meet future electric generating needs.

Although nuclear generating plants remain an element in the system's plans for the future, it is clear that NEES has no intention of relying either exclusively or too heavily on nuclear power in the future.

At present the New England Electric System relies upon imported oil to meet 73 percent of its total petroleum requirements. Under the NEES plan that dependency on imported oil will be reduced to 10 percent.

Mr. President, during debates in the Senate on national energy policy, the Senate has often heard arguments by myself and other New England Senators calling for special consideration of the problems of the Northeast because of the region's very heavy reliance on oil and particularly on imported oil. I believe special consideration is warranted and justified.

But, because the economic life of our region and the welfare of its residents is at stake, New Englanders also know that we must work hard to free ourselves from the reliance on imported oil which developed during years of cheap foreign oil.

Business, government, and individual citizens have taken up this challenge. A recent study by the New England Regional Commission shows that New England leads the Nation in energy conservation. Between 1973 and 1977, while the rest of the Nation was increasing its use of middle distillate fuels by 6.4 percent, New England reduced its consumption by 4.5 percent.

The new 15-year plan by NEES is another indication that New England is ready to do its part in the national effort to reduce our dependency on imported oil.

I would hope, Mr. President, that other utilities will take note of the NEES plan and make similar efforts to recognize the realities of the new era of expensive energy.

Mr. President, I ask that an article from the Providence, R.I., Journal outlining the New England Electric System's 15-year plan, and an editorial from the same paper commenting on the plan be printed in the RECORD.

The articles follow:

N.E. ELECTRIC OFFERS 15-YEAR PLAN TO SAVE AND DEVELOP ENERGY

(By Daniel Hackett and Joseph L. Goodrich)

PROVIDENCE.—With its efforts to build twin nuclear generators in Charlestown floundering, the New England Electric System today announced it will spend $335 million over the next 15 years to promote energy conservation, develop hydro-electric and other alternate energy sources, and intensify its search for offshore oil and natural gas deposits.

The New England Electric System is the parent company of the Narragansett Electric Co.

The key to the 15-year plan will be stemming the growth in demand for electricity.

Another major goal will be to reduce drastically the use of foreign oil by converting some generating plants to coal and by increasing the electric system's investment in the search for new oil and natural gas.

Although the plan announced today does not depend on construction of the proposed Charlestown generating stations, Narragansett president Edward E. Mulligan said the New England Electric System has not abandoned its plans to build atomic plants there.

Mulligan added that efforts to acquire the Charlestown land for the proposed nuclear plant which will continue to be part of the company's contingency plan, although he did say that success of the 15-year plan announced today could postpone its need until the mid-1990's.

To accomplish a reduction in the growth of demand for electricity, Narragansett Electric says it will offer to send experts to the homes and businesses of each of its 265,000 customers to advise them how they can save energy through such measures as better insulation.

Other conservation measures planned include special off-peak electrical rates for those who use solar systems to augment their conventional heating and cooling systems.

By reducing the annual increase in peak demand from the 3.1 percent per year predicted without a massive conservation effort, Mulligan said, the New England Electric System will be able to reduce its need for new electricity generating stations during the next decade and a half from 1,200 megawatts to 200 megawatts.

New England Electric said it plans to obtain 100 of the 200 megawatts in new electricity it will need within 15 years by:

Building small hydro-electric plants with a total capacity of 15 megawatts, and buying another 15 megawatts from hydro generators owned by others.

Building a 25-megawatt plant which will generate electricity by burning solid waste, and buying another 25 megawatts from solid waste generators owned by others.

Building a 15-megawatt generating plant which will burn wood.

Buying 5 megawatts of electricity from wind generators, either owned by others or to be built by the electric companies.

Even if its electricity conservation program succeeds, that will leave Narragansett Electric and its partners in the New England system needing 100 megawatts of new generating power.

"For the remaining 100 megawatts," Mulligan said today, "our analysis indicates that nuclear power is the superior choice. However, we also are investigating other options including the possibility of further imports of electricity from Canada."

UTILITY PLAN THAT FITS ENERGY CONSERVATION

The plan of the New England Electric System for a substantial reduction in the growth of energy use in its area is a dramatic about-face from its previous course.

While it was driving hard for acceptance of the Charlestown site for twin nuclear reactors, with a total capacity of 2.3 million kilowatts, NEES was not interested in cutting the demand for electric power. It was concerned about substituting nuclear power for the increasingly expensive oil-fired power stations that have been the mainstay of New England for 30 years.

Now Charlestown is on a back burner, to say the least—the General Services Administration having decided against selling the site to NEES, and a court overturn of the decision looking less than promising. The power company, which serves a large part of Massachusetts as well as most of Rhode Island, has charted a new course of promoting conservation, "load management," use of alternate sources, even importing electricity from Canada.

When it comes up with a new estimate of the growth of peak demand—1.9 percent compared with 3.1 percent a year previously projected through 1995—the power company recognizes the impact of the overall energy situation in slowing growth. But it also has made a calculated guess of how much improvement in energy efficiency can be expected in the 15-year period. Obviously, such improvement depends on the cooperation of the power companies, government, industry and individual citizens.

NEES seems to be taking seriously all the suggestions for better insulation of homes and other buildings, the restructuring of rates to encourage the off-peak use of electricity and to keep peak loads down. It even proposes to develop small hydro-electric plants and to buy power from other plants owned by industries—perhaps from cogeneration of power along with heat for large plants and industrial processing. And it is not turning up its nose at power generated by giant new windmills.

But neither does the new plan turn its back on the nuclear power already on line or in the construction process in New England. The region now draws a third of its power from nuclear plants. In addition, NEES is basing its estimates for the next 15 years on getting at least 500,000 kilowatts from new nuclear projects. These include two reactors at the controversial Seabrook, N.H., site, Pilgrim 2 at Plymouth, Mass., and Millstone 3 in Connecticut. The latter two are in the hearing process and the proposal stage, respectively. All of these reactors are rated at 1,150,000 kilowatts. Even a growth rate of 1.9 percent a year requires a lot of new power in the next decade and a half when applied to all of New England.

Back of all this rethinking of NEES plans looms the rising cost of oil, especially the Middle East oil that fuels the boilers of the East Coast; and the predicted shrinkage in the world oil supply. But even if the use of oil for power generation in New England is cut drastically, that does not mean automatic reductions in electricity rates for customers of NEES or other utilities. The nuclear plants now being built or that may be built in the future are going to be expensive. Coal, where it replaces oil, will be more expensive than in the past. Conservation measures, too, will have their price.

Still, the NEES plan, as it was presented this week, does try to come to grips with the recommendations of many energy experts for cutting overall energy demand in this country. It does try to deal with the problem of escalating oil prices. It does seek alternatives. The power firm has set its course in the right direction. Resourcefulness and innovation can help it to keep on that course. Public understanding and approval will be essential.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance

notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 16, 1979.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 16, 1979.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an East Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH P. VON MARBOD,
Acting Director,
Defense Security Assistance Agency.●

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for 1 minute to consider the nomination of Patricia Price Bailey to be a Federal Trade Commissioner.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not, the purpose of the reservation is to tell the majority leader that Mrs. Bailey is cleared on our calendar and we are delighted to proceed to her consideration and confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

FEDERAL TRADE COMMISSION

The assistant legislative clerk read the nomination of Patricia Price Bailey, of the District of Columbia, to be a Federal Trade Commissioner.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislation business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST FOR COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 24, 1979 beginning at 2 p.m. to hold a markup session on the SALT II treaty.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I have instructions to object. I object.

The PRESIDING OFFICER. Objection is heard.

RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Messrs. RIEGLE, EAGLETON, LEVIN, and TOWER be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO CONSIDERATION OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978, H.R. 4249, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following morning business on tomorrow the Senate proceed to the consideration of Calendar order No. 348, H.R. 4249, an act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, by virtue of the Senate coming in at 12 noon tomorrow the Foreign Relations Committee will be able to meet until 2 p.m. if it so desires. Am I not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there is a time agreement on that measure. So I anticipate that the Senate will complete action on that bill tomorrow with possibly some rollcall votes in relation thereto. In the meantime, the pending measure, H.R. 4986, will be temporarily set aside.

RECESS

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the order entered earlier, that the Senate stand in recess until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:09 p.m. the Senate recessed until Wednesday, October 24, 1979, at 12 noon.

NOMINATION

Executive nomination received by the Senate October 23, 1979:

THE JUDICIARY

Juan M. Perez-Gimenez, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico, vice a new position created by Public Law 95-486, approved October 20, 1978.

CONFIRMATION

Executive nomination confirmed by the Senate October 23, 1979:

FEDERAL TRADE COMMISSION

Patricia Price Bailey, of the District of Columbia, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1973.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, October 23, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The eternal God is your dwelling place, and underneath are the everlasting arms.—Deuteronomy 33: 27.

O Lord, we pray for a feeling of confidence in our lives and in the lives of those we love. Give us the calming sense of destiny and the assurance of Your providence as we face the concerns of life. Remind us, O Lord, that Your power and presence have been with people from the beginning of time. May that presence, together with the renewing reality of Your daily forgiveness, cause us to anticipate the future, trusting in You and Your goodness to us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On October 19, 1979:

H.R. 929. An act for the relief of Eun Kyung Cho and Hei Kyung Cho;

H.R. 946. An act for the relief of Maria Estela Sims;

H.R. 1153. An act for the relief of Nyoman Rahmawati;

H.R. 1163. An act for the relief of Gladys Venicia Cruz-Sanchez;

H.R. 1486. An act for the relief of Dang Petersen;

H.R. 1628. An act for the relief of Susan Katherine Adamski;

H.R. 2098. An act for the relief of Antonio Rivera Aristizabal;

H.R. 3142. An act for the relief of Michael Carl Brown;

H.R. 3146. An act for the relief of Patrick A. and Wayne L. Thomas; and

H.R. 3218. An act for the relief of Rebecca Sevilla DeJesus.

On October 22, 1979:

H.R. 1753. An act for the relief of Sergio and Javier Arredondo.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4580) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes," and that the Senate agreed to the House amendments to the Senate amendments numbered 4, 7, 21, 25, and 27 to the foregoing bill.

The message also announced that the Senate further insists on its amendment numbered 12, and insists on its amendment to the House amendment to the Senate amendment numbered 27, agreed to a further conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. STENNIS, Mr. BAYH, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. DURKIN, Mr. MAGNUSON, Mr. MATHIAS, Mr. BELLMON, Mr. WEICKER, Mr. LAXALT, Mr. SCHMITT, and Mr. YOUNG to be conferees on the part of the Senate, to the bill, H.R. 4394 entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1037) entitled "An act to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIBICOFF, Mr. EAGLETON, Mr. LEVIN, Mr. MATHIAS, and Mr. STEVENS to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2440) entitled "An act to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. LONG, Mr. INOUYE, Mr. EXON, Mr. PACKWOOD, Mrs. KASSEBAUM, and Mr. GOLDWATER to be the conferees on the part of the Senate.

UNITED STATES-U.S.S.R. MILITARY BALANCE—MYTHS AND FACTS VI

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, no aspect of the Soviet Union's increasing conventional military power has received more attention in the Congress than its naval forces. Newly designed Russian ships and submarines outnumber our own, and some alarmists charge that the U.S. Navy is being scuttled.

In fact, the Soviet Navy is no match for our own. Consider the following:

Our Navy is significantly larger than the Russians' in number of major surface ships, total tonnage, and average tonnage per ship.

The U.S. Navy has 13 large attack aircraft carriers, while the Soviets have none. Each of these carriers can deliver more munitions on land and sea or in the air than the entire Soviet surface fleet of ships which displace 1,000 tons or more.

While the size of the Soviet Navy is expected to decrease during the next 5 to 10 years, the U.S. Navy is planning to have a 10-percent larger force.

Our Navy works closely with 4 large, modern allied navies with some 600 ships, while the Soviets have only meager backup from Poland and East Germany.

Our ships are newer, while the Russians have a serious block obsolescence problem—half their major surface ships were constructed over 20 years ago.

The U.S. Navy has over 100,000 more sailors, whose skills and training are far superior to their Russian counterparts.

We have 15 times as many marines, and our amphibious ships can lift 4 times as many troops into battle.

U.S. ships are at sea and on station for much longer periods than Soviet ships, maintaining much higher levels of training and readiness.

RESIGNATION AS MEMBER OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, COMMITTEE ON SMALL BUSINESS, AND SELECT COMMITTEE ON THE OUTER CONTINENTAL SHELF

The SPEAKER laid before the House the following resignation as a member of the Committee on Interstate and Foreign Commerce, Committee on Small Business, and Select Committee on the Outer Continental Shelf:

OCTOBER 23, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives.

DEAR MR. SPEAKER: I hereby resign from the following committees of the House: Committee on Interstate and Foreign Commerce; Committee on Small Business; and Select Committee on the Outer Continental Shelf.

Very truly yours,

MARTY RUSSO.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

DESIGNATING MEMBERSHIP ON STANDING COMMITTEE OF THE HOUSE

Mr. FOLEY. Mr. Speaker, as chairman of the Democratic Caucus and by authority of the Democratic Caucus, I offer

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

a privileged resolution (H. Res. 463) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 463

Resolved, That the following-named Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Ways and Means: MARTIN A. RUSSO, Illinois.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO HAVE UNTIL MIDNIGHT, WEDNESDAY, OCTOBER 24, 1979, TO FILE CONFERENCE REPORT ON H.R. 4387 AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. WHITTEN. Mr Speaker, I ask unanimous consent that the managers may have until midnight Wednesday, October 24, 1979, to file a conference report on the bill (H.R. 4387) making appropriations for the Department of Agriculture, rural development, and related agencies for the fiscal year ending September 30, 1980.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MAKING IN ORDER ON FRIDAY, OCTOBER 26, 1979, CONSIDERATION OF CONFERENCE REPORT ON H.R. 4387, DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it be in order on Friday, October 26, 1979, to consider the conference report on the bill (H.R. 4387) making appropriations for the Department of Agriculture, rural development, and related agencies for the fiscal year ending September 30, 1980.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3354, NAVAL PETROLEUM AND OIL SHALE RESERVES AUTHORIZATION ACT FOR FISCAL YEAR 1980

Mr. STRATTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3354) to authorize appropriations for fiscal year 1980 for the conservation, exploration, development, and use of the naval petroleum reserves and the naval oil shale reserves, and for other purposes, with the Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. STRATTON, MOLLOHAN, DAN DANIEL, BEARD of Tennessee, and ROBERT W. DANIEL, JR.

PERMISSION TO FILE FURTHER CONFERENCE REPORT ON H.R. 4394, HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS, 1980

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a further conference report on the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 20, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MAKING IN ORDER ON WEDNESDAY, OCTOBER 24, 1979, OR ANY DAY THEREAFTER, CONSIDERATION OF THE FURTHER CONFERENCE REPORT ON H.R. 4394, HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS, 1980

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that it shall be in order on Wednesday, October 24, 1979, or any day thereafter, to call up for consideration the further conference report on the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HOUSE RESPONDS TO ENERGY CHALLENGE

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, the gas lines in the spring of this year highlighted the need for a comprehensive energy policy to make use of existing and emerging technologies. The Congress responded to the challenge by offering a variety of proposals to develop alternative sources of energy. I think a significant step in this direction was taken when we in this House passed H.R. 3930 to initiate a $3 billion program to develop a synthetic fuels industry with a national production goal of 500,000 barrels per day of crude oil equivalent by 1985, and 2 million barrels per day by 1990.

I rise today to commend the efforts of the leadership for its timely response to the needs of this country and also to urge the Members of both the House and Senate to work together to develop a viable program to make America self-sufficient in energy in the future. I realize the differences that exist between House and Senate versions, but I feel that we can and must come up with a program that will let the American people know we are serious about solving our Nation's energy problems.

GOOD MAN IN A CRISIS

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VAN DEERLIN. Mr. Speaker, several weeks ago a member of Jim Malloy's staff, Leo Inglesby, stepped into an emergency situation and administered cardiopulmonary resuscitation to a fallen officer of the House. Yesterday, Leo again showed his mettle in a crisis by tackling an intruder on the House floor.

Though, as it turns out, the individual was not dangerous, no one could know this beforehand. At the moment when chaos reigned, Leo remained alert and calm, using the minimum of force to restrain him.

It is not odd for lightning to strike once—nor for someone to demonstrate quick thinking and fast action once. But when it happens twice, it is clear the individual is someone special.

Leo Inglesby is certainly that. Mr. Speaker, I am sure all Members will join in offering him our congratulations on a job well done.

□ 1210

DISPARITY IN FORMULA FOR DISTRIBUTING 221 CSA FUNDS

(Mr. DASCHLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DASCHLE. Mr. Speaker, I would like to address the disparity in which local initiative 221 CSA funds are now distributed.

This formula was devised in past years when States, such as my home State of South Dakota, had not as yet begun to participate in the local initiative program. This formula has thus penalized States such as South Dakota for late entry into the program. The current formula is consequently inequitable and discriminatory.

South Dakota ranks 49th among the States in per capita personal income, at a level of $4,796 annually, yet South Dakota is consistently underfunded in relation to the other States of the country in terms of 221 local initiative funding.

I ask my colleagues why under this current formula the State of South Dakota should receive only $6.58 per poor person, while the District of Columbia receives $61.23 per poor person? I might add that this situation is further aggravated whenever additional local fund moneys are available from CSA which are also distributed according to this same formula.

The following table further illustrates the divergence of funding above the statutory minimum:

State	Personal income per capita 1976	Rank in region VIII	Rank among 50 States	Percent of funding above statutory minimum
Colorado	$6,503	1	15	25
Montana	5,600	3	34	10
North Dakota	5,400	5	41	1
South Dakota	4,796	6	49	1
Utah	5,482	4	36	25
Wyoming	6,723	2	13	13

Mr. Speaker, I find this formula intolerable and hope that my colleagues in North and South Dakota and throughout the region will pursue this inequity and comment to the Director of CSA to have this situation rectified.

CONGRESSMAN ANDERSON OF CALIFORNIA ON OIL COMPANY PROFITS AND U.S. NEEDS

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. ANDERSON of California. Mr. Speaker, Exxon profits for this quarter have increased 120 percent from the third quarter of last year, to $1.14 billion. Atlantic Richfield profits are up 45 percent, Standard Oil of Indiana is showing a 49-percent-profit increase. The oil giants are not doing badly.

But the American people could be doing better.

Reports tell us that for the first 9 months this year, Exxon's return on capital invested was at a healthy annual rate of 15.3 percent, up from 11.6 percent last year. Similarly, return of stockholders' investment was up from 13 to 18.5 percent.

Americans are paying more, much more, for gasoline and home heating oil.

And the Senate is still considering what is sometimes called a windfall profits tax.

The American people need this tax, and they need the tax to be a meaningful one. They need some of those additional dollars they are paying for gasoline as a result of decontrol to go for mass transit, so that less of their paychecks will go for gasoline in the future. They need some of those dollars to go for research and development of alternate energy sources so we will be independent from foreign nations for the resources we need to power America.

The Nation needs this tax to help reduce our balance-of-payments deficit, improve the value of the dollar, and fight inflation.

We need to make the Nation's financial statement look as good as the oil companies'.

THE LATE RENE GAGNON, UNSUNG HERO OF WORLD WAR II

(Mr. DUNCAN of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN of Tennessee. Mr. Speaker, I want to bring to the attention of the House the recent death of one of the unknown heroes of World War II. I am speaking of the late Mr. Rene Gagnon of Hooksett, N.H. Mr. Gagnon was one of the figures represented in the world famous statue of the raising of the American flag at Iwo Jima. The raising of the flag atop Mount Suribachi on February 23, 1945, signified the turning point in the Allied effort to win the war in the Pacific. It was truly one of the proud moments in American history.

Mr. Gagnon was one of the last two living participants that took part in that historic event, and the purpose of my brief remarks is to call attention to his contribution and achievement: Individual effort exercised in the team spirit by Mr. Gagnon and his only surviving comrade in the Iwo Jima flag raising, Mr. John Bradley of Wisconsin. Such heroism made it possible for us to prevail in the war.

I salute Mr. Gagnon and all of the others whose sacrifices made possible the preservation of this form of government and our way of life.

□ 1220

A COVERUP IN THE TITLE III DEVELOPING INSTITUTIONS PROGRAM

(Mr. TAUKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUKE. Mr. Speaker, there appears to be a coverup at HEW.

Recently, I discovered that title III funds which are awarded to developing educational institutions are being arbitrarily awarded in apparent disregard of the recommendations of the panel of grant application readers.

Last week, I called a respected and normally very cooperative employee of the Office of Education to obtain more information about the way in which the title III program is being run. The employee was nervous, afraid to talk. The employee noted that HEW employees are no longer permitted to talk to Members of Congress or their staffs. Suddenly, there was a strange silence on the other end of the phone, and then the employee said, "And I don't think you want to talk to me because this phone is probably tapped."

The conversation was very brief. No longer could this friend of honest government talk to me about the title III program. Patricia Harris, the new Secretary of HEW, on August 16, sent out a memo to all Department employees ordering them to have no contact whatsoever with any Member of Congress unless it is first cleared through the watchdog Assistant Secretary for Legislation.

This unwarranted edict is a direct attempt by Secretary Harris to subvert the protection of the "whistle blower legislation" which Congress passed to afford protection to honest Government employees who come forward with evidence of corruption in the bureaucracy. In the past, such employees were often fired. Since Secretary Harris can no longer fire those who would root out dishonesty and favoritism in her Department, she has taken the Draconian measure of forbidding all HEW employees to talk to any Member of Congress. The result is a coverup in the title III developing institutions program.

I am today asking President Carter to rescind Secretary Harris' order and to urge all Government employees with evidence of wrongdoing to step forward without fear of reprisal.

ALMONDS AND EEC ENLARGEMENT

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker, agricultural exports are extremely important to the U.S. balance of payments. Agricultural exports are projected to amount to $32 billion this fiscal year, an increase of 17 percent. Only this favorable agriculture picture has enabled the United States to contend as well as it has with the problem of costly oil imports.

In California we contributed significantly to this total by exporting $2.4 billion of agricultural products in calendar year 1978. Almonds, a product important to my district, will contribute approximately $0.5 billion in exports this year. Of that $0.5 billion, $0.25 billion will go to the European Economic Community.

The EEC currently maintains a 7-percent duty on almond imports. Our negotiators tried unsuccessfully to eliminate this duty during the multilateral trade negotiations. This was a major disappointment to the almond industry in California. My State of California and Spain are world's largest producers of almonds. It is crucial that negotiations to eliminate this duty be resumed immediately since Spain will soon begin negotiations to become a member of the EEC. As a member, Spain would also have the advantage of not being subjected to the 7-percent duty, thereby making it extremely difficult for California almond growers to compete effectively in the world market.

Mr. Speaker, in the interest of a stronger U.S. economy, I would urge the administration to proceed aggressively in negotiations aimed at elimination of the EEC's import duty on almonds.

A MAJORITY OF TWO-THIRDS OUGHT TO HAVE THE RIGHT TO OFFER AMENDMENTS

(Mr. BAUMAN asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, once again I rise to defend the rights of the Democratic majority in this House of Representatives. As the Speaker well knows, recently there has been consideration by the Committee on Rules and by the majority party leadership of reporting out rules that would absolutely forbid any but the select few to offer amendments to bills. This grieves me a great deal. I think a majority of two-thirds ought to have the right to offer amendments. In fact, we have even heard the fiction and propaganda that it is the minority that is keeping bills from being considered by offering too many amendments.

I call the Members' attention to H.R. 3000, the energy authorization bill, that has been considered in this House lo these many months—October 11, 12, 16, and 18—with most of the amendments offered, some 67 different amendments, coming from members of the committee, 52 of them from the majority side and 15 measly little amendments from the minority side. That is better than 2 to 1; better than 3 to 1. Who is obstructing this House by amendments?

Rise up, Democrats! Protect your rights! I warn you, the Speaker may take them away.

ONE OF FIRST MAJOR ACTS OF COMMITTEE ON COMMITTEES ACCEPTED BY REPUBLICAN CONFERENCE

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, one of the first major acts by the newly created Committee on Committees was a recommendation that Members can only serve on a limited number of subcommittees and that subcommittees be reduced. I am happy to report to the Members that in accordance with the Rules of the House the Republican conference took this up this morning and approved the recommendation of the Committee on Committees. We hope that the majority follows suit.

This is an important step in the reduction of staff members in the Congress, hopefully the first of many steps to reduce the cost of Government, and set an example for all agencies at the Federal level.

I repeat, I hope the Democrat majority in their caucus approves the recommendation of the Committee on Committees; then, with their 2-to-1 majority amends the House rules to comply.

EXECUTIVE ORDER WAIVING APPLICATION OF SUBSECTIONS (a) AND (b) OF SECTION 402 OF THE TRADE ACT OF 1974 WITH RESPECT TO THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Ways and Means:

To the Congress of the United States:

Pursuant to section 402(c)(2) of the Trade Act of 1974, (hereinafter, "the Act") I shall issue today an Executive Order waiving the application of subsections (a) and (b) of section 402 of the Act with respect to the People's Republic of China.

I wish to report to the Congress that I have determined that the requirements of section 402(c)(2) (A) and (B) of the Act have been satisfied.

JIMMY CARTER.

THE WHITE HOUSE, *October 23, 1979.*

CONFERENCE REPORT ON SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1980

Mr. GIAIMO submitted the following conference report and statement on the Senate concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982:

CONFERENCE REPORT (H. REPT No. 96-541)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 36) revising the congressional budget for the United States Government for the fiscal years 1980, 1981, and 1982, having met, after full and free conference, have been unable to agree at this time.

ROBERT N. GIAIMO,
THOMAS L. ASHLEY,
LOUIS STOKES,
PAUL SIMON,
NORMAN Y. MINETA,
JAMES R. JONES,
STEPHEN SOLARZ,
TIMOTHY E. WIRTH,
LEON E. PANETTA,
BILL NELSON,
WILLIAM H. GRAY III,
DELBERT L. LATTA,
BARBER B. CONABLE,
RALPH REGULA,
BILL FRENZEL,
BUD SHUSTER,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
LAWTON CHILES,
JOE BIDEN,
BENNETT JOHNSTON,
HENRY BELLMON,
PETE V. DOMENICI,
BOB PACKWOOD,
WM. ARMSTRONG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 36) revising the congressional budget for the United States Government for the fiscal years 1980, 1981, and 1982, report that they have been unable to agree at this time.

Therefore, the managers on the part of the House and Senate, pursuant to Section 305 of the Budget Act are making this report. Section 305 requires the managers to submit this report in disagreement since 7 days have passed since the appointment of conferees and complete agreement has not been reached. The managers intend to seek authorization for a further conference in order to resolve the matters in disagreement.

ROBERT N. GIAIMO,
THOMAS L. ASHLEY,
LOUIS STOKES,
PAUL SIMON,
NORMAN Y. MINETA,
JAMES R. JONES,
STEPHEN SOLARZ,
TIMOTHY E. WIRTH,
LEON E. PANETTA,
BILL NELSON,
WILLIAM H. GRAY III,
DELBERT L. LATTA,
BARBER B. CONABLE,
RALPH REGULA,
BILL FRENZEL,
BUD SHUSTER,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
LAWTON CHILES,
JOE BIDEN,
BENNETT JOHNSTON,
HENRY BELLMON,
PETE V. DOMENICI,
BOB PACKWOOD,
WM. ARMSTRONG,
Managers on the Part of the Senate.

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. ASHBROOK. Mr. Speaker, I reserve the right to object for the purpose of yielding to my colleague, the gentleman from Connecticut (Mr. GIAIMO), who may have a comment or two to make. I think my colleague, after all of this hard work, deserves the right to tell the Members exactly what is transpiring.

Mr. GIAIMO. Mr. Speaker, if the gentleman will yield, what is transpiring is that we have been in conference for 10 days, since a week ago last Tuesday. We have narrowed many of the issues. We have several issues left upon which to reach agreement: The issue of defense, the issue of education and training, income security, and the matter of revenues. As the gentleman knows, the Budget Act provides that if we do not arrive at either agreement or disagreement within 7 days, we have to report back to our respective Houses that fact, that we are in disagreement. So that is what we are doing now. It does not mean that we are deadlocked; it means that we have to ask permission of the House to be reconstituted to be named as a new conference committee, if you will, so that we can go back and try to complete the work of the conference.

Mr. ASHBROOK. I thank my colleague. Mr. Speaker, further reserving the right to object, I do not believe that any of us feel that the conferees should not be reconstituted or that the conference should not go on. There are many problems. I think some of us would point out that the Budget Act, brought in with such great expectations, has not really worked out as well as heralded or as well as we all would have liked. I am certainly not pointing my finger at my friend, the gentleman from Connecticut (Mr.

GIAIMO), because I know he spent the best part of his life during the last several years in Congress trying to make it work. But there are certain problems involved. I do not know whether we are looking in the future to a third concurrent resolution, maybe a fourth concurrent resolution, but it does seem that in this area, as in areas of appropriations, we do have problems meeting deadlines. I merely wanted to point that out, at the same time complimenting my colleague, the gentleman from Connecticut (Mr. GIAIMO), who is endeavoring to work this out with the Senate within the structure of laws set out by this body.

□ 1230

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. Under my reservation, I would yield to my colleague from California.

Mr. ROUSSELOT. Mr. Speaker, can the gentleman from Connecticut (Mr. GIAIMO) tell us what are the basic areas of disagreement?

Mr. GIAIMO. I thought I had just done so but I will be happy to repeat them.

In the area of national defense there is still a disagreement between us and the Senate.

In function 270 which deals with energy there is a disagreement which we think can be resolved.

We are also in disagreement in the education and training function, in the income security function, and in revenue.

Let me say we are very close, in my opinion, to reaching agreement and compromises on the amounts of money necessary for the budget in these areas.

Mr. Speaker, there are also other areas of disagreement where I very much doubt we will be able to reach agreement, such as the issue of reconciliation or the issue of a ceiling on the Committee on Appropriations. On the various breakdowns of the budget and the various functions, I think with several days more work and application we probably can reach agreement.

Mr. ROUSSELOT. I thank the chairman of the Committee on the Budget.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read the conference report.

(For conference report, see prior proceedings of today's RECORD.)

The SPEAKER. The Clerk will read the House amendment to Senate Concurrent Resolution 36.

The Clerk read the House amendment as follows:

Strike out all after the resolving clause, and insert: That the Congress hereby determines and declares, pursuant to section 310 (a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $519,250,000,000, and the amount by which the aggregate level of Federal revenues should be increased is $5,050,000,000;

(2) the appropriate level of total new budget authority is $631,807,000,000;

(3) the appropriate level of total budget outlays is $548,175,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $28,925,000,000; and

(5) the appropriate level of the public debt is $885,825,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $55,825,000,000.

SEC. 2. The Congress reaffirms its commitment to find a way to relate accurately the outlays of off-budget Federal entities to the budget. The Congress recognizes that by law the outlays of off-budget Federal entities are not reflected in the budget totals, and that in fiscal year 1980, off-budget outlays (and, hence, the off-budget deficit) are estimated to be $16,000,000,000.

SEC. 3. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $138,156,000,000;
(B) Outlays, $128,587,000,000.
(2) International Affairs (150):
(A) New budget authority, $12,593,000,000;
(B) Outlays, $8,522,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,833,000,000;
(B) Outlays, $5,662,000,000.
(4) Energy (270):
(A) New budget authority, $36,266,000,000;
(B) Outlays, $8,801,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $12,525,000,000;
(B) Outlays, $11,926,000,000.
(6) Agriculture (350):
(A) New budget authority, $4,963,000,000;
(B) Outlays, $2,542,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $6,778,000,000;
(B) Outlays, $2,828,000,000.
(8) Transportation (400):
(A) New budget authority, $19,610,000,000;
(B) Outlays, $18,651,000,000.
(9) Community and Regional Development (450):
(A) New budget authority $8,991,000,000;
(B) Outlays, $8,289,000,000.
(10) Education, Training, Employment and Social Services (500):
(A) New budget authority, $31,391,000,000;
(B) Outlays, $31,371,000,000.
(11) Health (550):
(A) New budget authority, $58,767,000,000;
(B) Outlays, $54,715,000,000.
(12) Income Security (600):
(A) New budget authority, $217,650,000,000;
(B) Outlays, $188,795,000,000.
(13) Veterans Benefits and Services (700):
(A) New budget authority, $21,607,000,000;
(B) Outlays, $20,851,000,000.
(14) Administration of Justice (750):
(A) New budget authority, $4,269,000,000;
(B) Outlays, $4,468,000,000.
(15) General Government (800):
(A) New budget authority, $4,484,000,000;
(B) Outlays, $4,301,000,000.
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,076,000,000;
(B) Outlays, $9,075,000,000.
(17) Interest (900):
(A) New budget authority, $58,038,000,000;
(B) Outlays, $58,038,000,000.
(18) Allowances (920):
(A) New budget authority, $462,000,000;
(B) Outlays, $453,000,000.
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$19,700,000,000;
(B) Outlays, —$19,700,000,000.

SEC. 4. The Congress projects the following budget aggregates for fiscal years 1981–1982, based on the policies assumed in sections 1 and 3—

(1) the level of Federal revenues is as follows:
Fiscal year 1981: $605,200,000,000;
Fiscal year 1982: $704,000,000,000;
(2) the level of total new budget authority is as follows:
Fiscal year 1981: $666,450,000,000;
Fiscal year 1982: $728,402,000,000;
(3) the level of total budget outlays is as follows:
Fiscal year 1981: $603,477,000,000;
Fiscal year 1982: $655,096,000,000;
(4) the amount of surplus in the budget is as follows:
Fiscal year 1981: $1,723,000,000;
Fiscal year 1982: $48,902,000,000;
(5) the level of the public debt is as follows:
Fiscal year 1981: $916,175,000,000;
Fiscal year 1982: $907,700,000,000.

SEC. 5. In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

Within a reasonable period of time after March 15, 1980, the Budget Committee of the House of Representatives shall submit to the House such recommendations as it considers appropriate based on such reports.

MOTION OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GIAIMO moves that the House insist on its amendment to the Senate concurrent resolution (S. Con. Res. 36) revising the congressional budget for the United States Government for the fiscal years 1980, 1981, and 1982 and request a further conference with the Senate thereon.

The motion was agreed to.

A motion to reconsider was laid upon the table.

APPOINTMENT OF CONFEREES ON SENATE CONCURRENT RESOLUTION 36

The SPEAKER. The Chair appoints the following conferees: Messrs. GIAIMO, ASHLEY, STOKES, SIMON, MINETA, JONES of Oklahoma, SOLARZ, WIRTH, PANETTA, NELSON, GRAY, LATTA, CONABLE, REGULA, SHUSTER, and FRENZEL.

APPOINTMENT OF CONFEREES ON S. 1157, DEPARTMENT OF JUSTICE AUTHORIZATION, 1980

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for the fiscal year 1980, and for other purposes, with the House amendment thereto, insist on the House amendment, and agrees to the conference asked by the Senate.

The SPEAKER. Is there objection to

the request of the gentleman from Cali-

which may include appropriate and reason-

the locations and the nature and scope of

the request of the gentleman from California? The Chair hears none and appoints the following conferees: Messrs. RODINO, BROOKS, KASTENMEIER, EDWARDS of California, SEIBERLING, DANIELSON, DRINAN, Ms. HOLTZMAN, Messrs. MCCLORY, RAILSBACK, FISH, and HYDE.

NEW YORK-NEW JERSEY PORT AUTHORITY COMPACT

Mr. DANIELSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4943) granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects, as amended.

The Clerk read as follows:

H.R. 4943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to an agreement or compact amendatory of and supplemental to the Compact between the States of New York and New Jersey creating the Port of New York District and establishing the Port of New York Authority which agreement or compact has been agreed to by such States effective August 24, 1978, and is substantially as follows:

"SECTION 1. The states of New York and New Jersey hereby find and determine:

"a. that to prevent further deterioration of the economy of the port district and thereby to promote, preserve and protect trade and commerce in and through the port of New York district as defined in the compact between the two states dated April thirty, nineteen hundred twenty-one (hereinafter called the port district), it is the policy of each of the two states actively to promote, attract, encourage and develop economically sound commerce and industry through governmental action;

"b. that in order to preserve and protect the position of the port of New York as the nation's leading gateway for world commerce, it is incumbent on the states of New York and New Jersey to make every effort to insure that the port receives its rightful share of interstate and international commerce generated by the manufacturing, industrial, trade and commercial segments of the economy of the nation and of the port district;

"c. That since nineteen hundred fifty the number of available jobs in the port district, particularly within the older central cities thereof, has decreased, thereby resulting in the underutilization of available land and other resources, the erosion of the port district's tax bases and a rate of unemployment substantially in excess of the national average;

"d. that in order to preserve the port district from further economic deterioration, adequate industrial development projects and facilities must be provided, preserved and maintained to attract and retain industry within the port district;

"e. that a number of new industrial development projects and facilities should be organized into industrial parks or districts;

"f. that the construction of such industrial parks or districts shall conform to the policies of the two states with respect to affirmative action and equal employment opportunities;

"g. that providing port district industrial development projects and facilities is in the public interest and involves the exercise of public and essential governmental functions which may include appropriate and reasonable limitations on competition and which must be performed by the two states, or any municipality, public authority, agency or commission of either state and by a joint agency of the two states to accomplish the purposes of this act;

"h. that it is an objective of the two states, acting through the port authority, to facilitate reemployment of residents of the older cities through job training programs and employment opportunity priorities in connection with industrial development parks in their respective cities;

"i. that the acquisition and the use by such joint agency of abandoned, undeveloped or underutilized land or land owned by governmental entities within the port district for the generation of jobs and to reduce the hazards of unemployment would promote, preserve and protect the industry, trade and commerce of the port district, and will materially assist in preserving for the two states and the people thereof the material and other benefits of a prosperous port community;

"j. that the collection, disposal and utilization of refuse, solid waste or waste resulting from other treatment processes is an activity of concern to all citizens within the port district, that the health, safety and general welfare of the citizens within the port district require efficient and reasonable collection and disposal services and efficient utilization of such refuse, solid waste or waste resulting from other treatment processes with adequate consideration given to regional planning and coordination, and, therefore, that the construction and operation of any port district industrial development project and facility should conform to the environmental and solid waste disposal standards and state and county plans therefor in the state in which such project or facility is located;

"k. that the dedication by the municipalities of the port district of refuse, solid waste or waste resulting from other treatment processes to resource recovery to permit the generation of lower priced energy and the recovery of useful materials, together with the commitment by such municipalities to pay fees to permit the delivery and removal after processing of such refuse or solid waste at rates and for periods of time at least sufficient to assure the continued furnishing of such lower priced energy and material is in the public interest and would be a major incentive for the attraction and retention of industry within the port district;

"l. that the port authority of New York and New Jersey (hereinafter called the port authority), which was created by agreement of the two states as a joint agent for the development of terminal, transportation and other facilities of commerce of the port district and for the promotion and protection of the commerce of the port, is a proper agency to act in their behalf (either directly or by any subsidiary corporation) to finance and effectuate such industrial development projects and facilities;

"m. that it is desirable for the port authority, after consultation with the governing body of each municipality and within the city of New York the appropriate community board or boards and elsewhere another government entity or entities designated by such municipality in which industrial development projects or facilities are proposed to be located and with other persons, including but not limited to private real estate developers, to prepare and adopt a master plan providing for the development of such industrial development projects and facilities in the port district, which plan shall give consideration to the extent of unemployment and the general economic conditions of the respective portions of the port district and shall include among other things the locations and the nature and scope of such projects and facilities as may be included in the plan;

"n. that the undertaking of such industrial development projects and facilities by the port authority has the single object of and is part of a unified plan to aid in preserving the economic well-being of the port district and is found and determined to be in the public interest;

"o. that no such port district industrial development projects and facilities are to be constructed if the sole intent of the construction thereof would be the removal of an industrial or manufacturing plant of an occupant of such projects and facilities from one location to another location or in the abandonment of one or more plants or facilities of such occupant, unless such port district industrial development projects and facilities are reasonably necessary to discourage such occupant from removing such plant or facility to a location outside the port district or are reasonably necessary to preserve the competitive position of such project occupant in its industry;

"p. that no such port district industrial development projects or facilities are to be constructed unless and until the port authority has entered into an agreement or agreements with the municipality in which any such project or facility is to be located with respect to payments in lieu of real estate taxes and the location, nature and scope of any project or facility;

"q. that, subject to entering into said agreement or agreements, the port authority should have the ability to acquire, lease, vacate, clear and otherwise develop abandoned, undeveloped or underutilized property or property owned by governmental entities within the port district and to finance and construct industrial development projects and facilities.

"§ 2. The following terms as used in this act shall have the following meanings:

"a. 'Bonds' shall mean bonds, notes, securities or other obligations or evidences of indebtedness;

"b. 'Effectuation' of any project or facility or part of any such project or facility shall include but not be limited to its establishment, acquisition, construction, development, maintenance, operation, improvement (by way of betterments, additions or otherwise) and rehabilitation by the port authority or any other person and the provision of funds therefor through the issuance of obligations, the making or granting of loans or otherwise;

"c. 'General reserve fund statutes' shall mean chapter forty-eight of the laws of New York of nineteen hundred thirty-one as amended, and chapter five of the laws of New Jersey of nineteen hundred thirty-one as amended, and 'general reserve fund' shall mean the general reserve fund of the port authority authorized by said statutes;

"d. 'Governing body' shall mean the board or body vested with the general legislative powers of the municipality in which an industrial development project or facility will be financed or effectuated pursuant to this act;

"e. 'Industrial development project or facility' or 'port district industrial development project or facility' shall mean any equipment, improvement, structure or facility or any land, and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property, located within the New York portion of the port district or within a municipality in the New Jersey portion of the port district which qualified for state aid under the provisions of P.L., 1971, C. 64 as most recently supplemented by P.L., 1978, C. 14 or which may hereafter qualify for such aid, including, but not limited to, machinery, equipment and other facilities

deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be considered suitable by the port authority for manufacturing, research, non-retail commercial or industrial purposes within an industrial park, or for purposes of warehousing or consumer and supporting services directly related to any of the foregoing or to any other port authority project or facility; and which may also include or be an industrial pollution control facility or a resource recovery facility, provided that no such industrial development project or facility may include or be a facility used for the storage of chemicals, fuel or liquified natural gas unless incidental to the effectuation of such industrial development project or facility;

"f. 'Industrial pollution control facility' shall mean any equipment, improvement, structure or facility or any land, and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property, located within the port district, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in the opinion of the port authority in connection therewith, or incidental thereto, whether or not now in existence or under construction, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of industrial, manufacturing, warehousing, commercial and research facilities, including, but not limited to any air pollution control facility, noise abatement facility, water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site, provided that no such industrial pollution control facility may include or be used as a site for organic landfill or be of a character or nature generally furnished or supplied by any other governmental entity where such industrial pollution control facility is located without the consent of such government entity;

"g. 'Municipality' means a city, county, town or village all or any part of which is located within the New York portion of the port district, or a city, county, town, borough or township all or any part of which is located within the New Jersey portion of the port district;

"h. 'Person' means any person, including individuals, firms, partnerships, associations, societies, trusts, public utilities, public or private corporatons, or other legal entities, including public or governmental bodies, which may include the port authority, as well as natural persons. 'Person' shall include the plural as well as the singular;

"i. 'Port authority' shall include the port authority and any subsidiary corporation now or hereafter incorporated for any of the purposes of this act; provided, however, as used in sections 4 and 5 of this act it shall not include any such subsidiary corporation;

"j. 'Purposes of this act' shall mean the effectuation of industrial development projects and facilities and of each project or facility constituting a portion thereof and of each part of each project or facility, and purposes incidental thereto;

"k. 'Real property' shall mean lands, structures, franchises and interests in land, including air space and air rights, waters, lands under water, wetlands and riparian rights, and any and all things and rights included within the said term, and includes not only fees simple absolute but also any and all lesser interests, including but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and leins thereon by way of judgments, mortgages or otherwise;

"l. 'Resource recovery facility' shall mean any equipment, improvement, structure or facility or any land, and any building, structure, facility or other improvement thereon, or any combination thereof and all real and personal property located within the port district, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in the opinion of the port authority in connection therewith, or incidental thereto, whether or not now in existence or under construction, for the disposal or refuse or other solid wastes or wastes resulting from other treatment processes and for the recovery and sale or use of energy and other resources from such refuse or other solid waste or wastes resulting from other treatment processes, provided that no such resource recovery facility may include or be used as a site for organic landfill;

"m. 'Surplus revenues' from any facility shall mean the balance of the revenues from such facility (including but not limited to the revenues of any subsidiary corporation incorporated for any of the purposes of this act) remaining at any time currently in the hands of the port authority after the deduction of the current expenses of the operation and maintenance thereof, including a proportion of the general expenses of the port authority as it shall deem properly chargeable thereto, which general expenses shall include but not be limited to the expense of protecting and promoting the commerce of the port district, and after the deduction of any amounts which the port authority may or shall be obligated or may or shall have obligated itself to pay to or set aside out of the current revenues therefrom for the benefit of the holders of any bonds legal for investment asdefined in the general reserve fund statutes;

"n. 'Surplus revenues of port district industrial development projects or facilities' shall mean the surplus revenues of all industrial development projects or facilities effectuated pursuant to the terms of this act.

"§ 3. (a) In furtherance of the aforesaid findings and determinations, in partial effectuation of and supplemental to the comprehensive plan heretofore adopted by the two said states for the development of the said port district, and subject to the preparation and adoption of the plan authorized in paragraph (b) of this section three and the execution of an agreement or agreements authorized by sections eleven and twelve hereof, the port authority is hereby authorized, empowered and directed to establish, acquire, construct, effectuate, develop, own, lease, maintain, operate, improve, rehabilitate, sell, transfer and mortgage projects or facilities herein referred to as port district industrial development projects or facilities as defined in this act.

"The port authority is hereby authorized and empowered to establish, levy and collect such rentals, fares, fees and other charges as it may deem necessary, proper or desirable in connection with any facility or part of any facility constituting a portion of any port district industrial development project or facility and to issue bonds for any of the purposes of this act and to provide for payment thereof, with interest thereon, and for the amortization and retirement of such bonds, and to secure all or any portion of such bonds by a pledge of such rentals, fares, fees, charges and other revenues or any part thereon (including but not limited to the revenues of any subsidiary corporation incorporated for any of the purposes of this act) and to secure all or any portion of such bonds by mortgages upon any property held or to be held by the port authority for any of the purposes of this act, and for any of the purposes of this act to exercise all appropriate powers heretofore or hereafter delegated to it by the states of New York and New Jersey, including, but not limited to, those expressly set forth in this act. The surplus revenues of port district industrial development projects or facilities may be pledged in whole or in part as hereinafter provided.

"(b) The port authority is hereby authorized to initiate studies and prepare and adopt a master plan providing for the development of port district industrial development projects and facilities which shall include the location of such projects and facilities as may be included in the plan and shall to the maximum extent practicable include inter alia a general description of each of such projects and facilities, the land use requirements necessary therefor, and estimates of project costs, of project employment potential and of a schedule for commencement of each such project. Prior to adopting such master plan, the port authority shall give written notice to, afford a reasonable opportunity for comment, consult with and consider any recommendation made by the governing body of municipalities and within the city of New York the appropriate community board or boards and elsewhere another governmental entity or entities designated by such municipality in which industrial development projects or facilities are proposed to be located and with such other persons, including but not limited to private real estate developers, which in the opinion of the port authority is either necessary or desirable. The master plan shall include the port authority's estimate of the revenues to be derived by municipalities from each such industrial development project or facility and also a description of the proposed additional arrangements with municipalities necessary or desirable for each such project or facility. The port authority may modify or change any part of such plan in the same form and manner as provided for the adoption of such original plan. At the time the port authority authorizes any industrial development project or facility, the port authority shall include with such authorization a statement as to the status of each project included in such master plan and any amendment thereof.

"(c) No industrial development project proposed to be located within the city of New York may be included in such master plan unless and until the mayor of the city of New York requests the port authority to conduct a comprehensive study of the feasibility of the effectuation of one or more industrial development projects or any parts thereof (including resource recovery or industrial pollution control facilities) in such city, which request shall specify the borough in which such comprehensive study is to take place; provided, however, that the president of any borough in which an industrial development project or facility is proposed to be located may within sixty days of receipt of notice of such request, and after consulting with and considering any recommendation made by the local borough improvement board, notify the port authority not to include any proposed industrial development project or facility within that county in such feasibility study. Any such request by the mayor of the city of New York may specify the facilities to be included in such industrial park project.

"§ 4. The moneys in the general reserve fund may be pledged in whole or in part by the port authority as security for or applied by it to the repayment with interest of any moneys which it may raise upon bonds issued or incurred by it from time to time for any of the purposes of this act or upon bonds secured in whole or in part by the

pledge of the revenues from any industrial development project or facility or any portion thereof or upon bonds both so issued or incurred and so secured; and the moneys in said general reserve fund may be applied by the port authority to the fulfillment of any other undertakings which it may assume to or for the benefit of the holders of any such bonds.

"Subject to prior liens and pledges (and to the obligation of the port authority to apply revenues to the maintenance of its general reserve fund in the amount prescribed by the general reserve fund statutes), the revenues from facilities established, constructed, acquired or otherwise effectuated through the issuance or sale of bonds of the port authority secured in whole or in part by a pledge of its general reserve fund or any portion thereof may be pledged in whole or in part as security for or applied by it to any of the purposes of this act, including the repayment with interest of any moneys which it may raise upon bonds issued or incurred from time to time for any of the purposes of this act or upon bonds secured in whole or in part by the pledge of the revenues of the port authority from any industrial development project or facility or any portion thereof or upon bonds both so issued or incurred and so secured; and said revenues may be applied by the port authority to the fulfillment of any other undertakings which it may assume to or for the benefit of the holders of such bonds.

"§ 5. In all cases where the port authority has raised or shall hereafter raise moneys for any of the purposes of this act by the issue and sale of bonds which are secured in whole or in part by a pledge of the general reserve fund or any portion thereof, the surplus revenues from industrial development projects or facilities financed in whole or in part out of the proceeds of such bonds and the surplus revenues from any other port authority facility the surplus revenues of which at such time may be payable into the general reserve fund shall be pooled and applied by the port authority to the establishment and maintenance of the general reserve fund in an amount equal to one-tenth of the par value of all bonds legal for investment, as defined in the general reserve fund statutes, issued by the port authority and currently outstanding, including such bonds issued for any of the purposes of this act; and all such moneys in said general reserve fund may be pledged and applied in the manner provided in the general reserve fund statutes.

"In the event that any time the balance of moneys theretofore paid into the general reserve fund and not applied therefrom shall exceed an amount equal to one-tenth of the par value of all bonds upon the principal amount of which the amount of the general reserve fund is calculated, by reason of the retirement of bonds issued or incurred from time to time for any of the purposes of this act the par value of which had therefore been included in the computation of said amount of the general reserve fund, then the port authority may pledge or apply such excess for and only for the purposes for which it is authorized by the general reserve fund statutes to pledge the moneys in the general reserve fund and such pledge may be made in advance of the time when such excess may occur.

"§ 6. The two states covenant and agree with each other and with the holders of any bonds issued by the port authority for the purposes of this act, that so long as any of such bonds remain outstanding and unpaid and the holders thereof shall not have given their consent as provided in their contract with the port authority, the two states will not diminish or impair the power of the port authority to establish, levy and collect rentals, fares, fees or other charges in connection with industrial development projects or facilities or any other facility owned or operated by the port authority the revenues of which have been or shall be pledged in whole or in part as security for such bonds (directly or indirectly, or through the medium of the general reserve fund or otherwise), or to determine the quantity, quality, frequency or nature of any services provided by the port authority in connection with the operation of each project or facility. This section shall not affect or diminish the provisions of section twelve of this act.

"§ 7. The port authority is authorized and empowered to co-operate with the states of New York and New Jersey, with any municipality thereof, with any person, with the federal government and with any agency, public authority or commission of any one or more of the foregoing, or with any one or more of them, for and in connection with the acquisition, clearance, replanning, rehabilitation, reconstruction or redevelopment of any industrial development project or facility or of any other area forming part of any industrial development project or facility for the purpose of renewal and improvement of said area and for any of the purposes of this act, and to enter into an agreement or agreements (and from time to time to enter into agreements amending or supplementing the same) with any such person, municipality, commission, public authority or agency and with the states of New York and New Jersey and with the federal government, or with any one or more of them, for or relating to such purposes, including but not limited to agreements with respect to the dedication by the municipalities of the port district of refuse, solid waste or waste resulting from other treatment processes to resource recovery to permit the generation of lower priced energy and the recovery of useful materials; with respect to a commitment by such municipalities to pay fees to permit the delivery and removal after processing of such refuse or solid waste at rates and for periods of time at least sufficient to assure the continued availability of such energy and recovered materials; with respect to financial assistance, loans and grants pursuant to any federal law now in effect or hereinafter enacted which would provide such financial assistance, loans and grants in connection with any of the purposes of this act, provided, that if either state shall have or adopt general legislation governing applications for such federal aid by municipalities, public authorities, agencies or commissions of such state or the receipt or disbursement of such federal aid by or on behalf of such municipalities, public authorities, agencies or commissions, then such legislation shall at the option of such state apply to applications by the port authority for such federal aid in connection with an industrial development project or facility located in such state and to the receipt and disbursement of such federal aid by or on behalf of the port authority, in the same manner and to the same extent as other municipalities, public authorities, agencies or commissions of such state; and, with respect to occupancy of space in any industrial development project or facility. The port authority is hereby authorized and empowered to apply for and accept financial assistance, loans and grants for such purposes under federal, state or local laws, and to make application directly to the proper officials or agencies for and receive federal, state or local loans or grants in aid of any of the purposes of this act. Nothing contained in this act shall be construed to limit or impair the power of the governor of New Jersey to review the actions of the commissioners of the port authority as provided for in chapter seven hundred of the laws of New York of nineteen hundred twenty-seven, as amended, and in chapter three hundred thirty-three of the laws of New Jersey of nineteen hundred twenty-seven, as amended, or to authorize the port authority to commence the effectuation of any industrial development project or facility unless and until the municipality in which such project or facility is to be located has consented to the commencement of such effectuation, with such consent to be provided for in the agreement authorized by section 11 or section 12 hereof. The port authority is authorized and empowered to enter into an agreement or agreements (and from time to time to enter into agreements amending or supplementing the same) with any public authority, agency or commission of either or both states to provide for the effectuation of any of the purposes of this act through a subsidiary corporation owned jointly by the port authority and any such public authority, agency or commission, and any such public authority, agency or commission is authorized and empowered to enter into such agreement or agreements with the port authority.

"§ 8. Notwithstanding any contrary provision of law, general, special or local, either state and any municipality thereof and any commission, public authority or agency of either or both of said two states is authorized and empowered to cooperate with the port authority and to enter into an agreement or agreements (and from time to time to enter into agreements amending or supplementing the same) with the port authority or with any other person for and in connection with or relating to the acquisition, clearance, replanning, rehabilitation, reconstruction, redevelopment, sale, transfer or mortgage of any industrial development project or facility or of any other area forming part of any industrial development project or facility for the purpose of renewal and improvement of said area as aforesaid or for any of the other purposes of this act, including but not limited to the dedication by the municipalities of the port district of refuse, solid waste or waste resulting from other treatment processes to resource recovery to permit the generation of lower priced energy and the recovery of useful materials and a commitment by such municipalities to pay fees to permit the delivery and removal after processing of such refuse or solid waste at rates and for periods of time at least sufficient to assure the continued availability of such energy and recovered materials, upon such reasonable terms and conditions as may be determined by such state, municipality, public authority, agency or commission and the port authority. Such agreement may, without limiting the generality of the foregoing, further include consent to the use by the port authority or any other person of any real property owned or to be acquired by said state, municipality, public authority, agency or commission and consent to the use by such state, municipality, public authority, agency or commission of any real property owned or to be acquired by the port authority or by any other person which in either case is necessary, convenient or desirable in the opinion of the port authority for any of the purposes of this act, including such real property, improved or unimproved, as has already been devoted to or has been or has to be acquired for urban renewal or other public use, and as an incident to such consent such state, municipality, public authority, agency or commission may grant, convey, lease or otherwise transfer any such real property to the port authority or to any other person and the port authority may grant, convey, lease or otherwise transfer any such real property to such state, municipality, public authority, agency, commission or any other person for such term and upon such conditions as may be agreed upon. If real property of such state, municipality, public authority, agency or commission be leased to the port authority or to any other person for any of the purposes of this act,

such state, municipality, public authority, agency or commission may consent to the port authority or any other person having the right to mortgage the fee of such property and thus enable the port authority or such other person to give as security for its bond or bonds a lien upon the land and improvements, but such states, municipality, public authority, agency or commission by consenting to the execution by the port authority or such other person of a mortgage upon the leased property shall not thereby assume and such consent shall not be construed as imposing upon such state, municipality, public authority, agency or commission any liability upon the bond or bonds secured by the mortgage. In connection with any of the purposes of this act, either state and any municipality thereof, any commission, public authority or agency of either or both of said two states, the port authority and any other person are empowered to enter into any other agreement or agreements (and from time to time to enter into agreements amending or supplementing same) which may provide inter alia for the establishment of prices or rates, a requirement that any person sell, lease or purchase any commodity or service from any other person, or any other similar arrangement.

"Nothing contained in this section shall impair or diminish the powers vested in either state or in any municipality, public authority, agency or commission to acquire, clear, replan, reconstruct, rehabilitate or redevelop abandoned, undeveloped or underutilized land and the powers herein granted to either state or any municipality, public authority, agency or commission shall be construed to be in aid of and not in limitation or in derogation of any such powers heretofore or hereafter conferred upon or granted to such state, municipality, public authority, agency or commission.

"Nothing contained in this act shall be construed to authorize the port authority to acquire, by condemnation or the exercise of the right of eminent domain, property now or hereafter vested in or held by either state or by any municipality, public authority, agency or commission without the authority or consent by such state, municipality, public authority, agency or commission, provided that the state under whose laws such public authority, agency or commission has been created may authorize by appropriate legislation the port authority to acquire any such property vested in or held by any such public authority, agency or commission by condemnation or the exercise of the right of eminent domain without such authority or consent; nor shall anything herein impair or invalidate in any way any bonded indebtedness of either state or any such municipality, public authority, agency or commission, nor impair the provisions of law regulating the payment into sinking funds of revenues derived from such property, or dedicating the revenues derived from such property to a specific purpose.

"The port authority, subject to the express authority or consent of any such state, municipality, public authority, agency or commission, is hereby authorized and empowered to acquire from any such state or municipality, or from any other public authority, agency or commission having jurisdiction in the premises, by agreement therewith, and such state or municipality, public authority, agency or commission, notwithstanding any contrary provision of law, is hereby authorized and empowered to grant and convey, upon reasonable terms and conditions, any real property which may be necessary, convenient or desirable for any of the purposes of this act, including such real property as has already been devoted to a public use.

"Notwithstanding any inconsistent provision of this section or act or any compact or general or special law, the port authority may not acquire any park lands for industrial development projects or facilities unless each such conveyance of such land is specifically authorized by the legislature of the state wherein the land is located.

"Any consent by a municipality shall be given and the terms, conditions and execution by a municipality of any agreement, deed, lease, conveyance or other instrument pursuant to this section or any other section of this act shall be authorized in the manner provided in article twenty-two of the compact of April thirty, nineteen hundred twenty-one between the two states creating the port authority, except that as to towns in the State of New York, such consent shall be authorized in the manner provided in the town law and as to counties in the state of New Jersey, such consent shall be authorized in the manner provided in New Jersey statutes annotated, forty: one-one, et seq. Any consent by either state shall be effective if given, and the terms and conditions and execution of any agreement, deed, lease, conveyance or other instrument pursuant to this section or any other section of this act shall be effective if authorized by the governor of such state. Any consent by a public authority, agency or commission shall be effective if given by such public authority, agency or commission.

§ 9. The states of New York and New Jersey hereby consent to suits, actions or proceedings by any municipality, public authority, agency or commission against the port authority upon, in connection with or arising out of any agreement, or any amendment thereof, entered into for any of the purposes of this act, as follows:

"a. for judgments, orders or decrees restraining or enjoining the port authority from transferring title to real property to other persons in cases where it has agreed with said municipality, public authority, agency, or commission for transfer of such title to the municipality, public authority agency or commission; and

"b. for judgments, orders or decrees restraining or enjoining the port authority from committing or continuing to commit other breaches of such agreement or any amendment thereof; provided, that such judgment, order or decree shall not be entered except upon two days' prior written notice to the port authority of the proposed entry thereof; and provided further that upon appeal taken by the port authority from such judgment, order or decree the service of the notice of appeal shall perfect the appeal and stay the execution of such judgment, order or decree appealed from without an undertaking or other security.

"Nothing herein contained shall be deemed to revoke, rescind or affect any consent to suits, actions, or proceedings against the port authority heretofore given by the two said states in chapter three hundred one of the laws of New York of nineteen hundred fifty and chapter two hundred four of the laws of New Jersey of nineteen hundred fifty-one.

"§10. The effectuation of industrial development projects or facilities or any such projects or facilities constituting a portion of any industrial development project or facility, are and will be in all respects for the benefit of the people of the states of New York and New Jersey, for the increase of their commerce and prosperity and for the improvement of their health and living conditions; and the port authority and any subsidiary corporation incorporated for any of the purposes of this act shall be regarded as performing an essential governmental function in undertaking the effectuation thereof, and in carrying out the provisions of law relating thereto.

"§ 11. The port authority shall be required to pay no taxes or assessments upon any of the property acquired and used by it for any of the purposes of this act or upon any deed, mortgage or other instrument affecting such property or upon the recording of any such instrument. However, to the end that no taxing jurisdiction shall suffer undue loss of taxes and assessments by reason of the acquisition and ownership of property by the port authority for any of the purposes of this act, the port authority is hereby authorized and empowered, in its discretion, to enter into a voluntary agreement or agreements with any city, town, township or village whereby the port authority will undertake to pay in lieu of taxes a fair and reasonable sum, if any, or sums annually in connection with any real property acquired and owned by the port authority for any of the purposes of this act and to provide for the payment as a rental or additional rental charge by any person occupying any portion of any industrial development project or facility either as lessee, vendee or otherwise of such reasonable sum, if any, or sums as hereinafter provided. Such sums in connection with any real property acquired and owned by the port authority for any of the purposes of this act shall not be more than the sum last paid as taxes upon such real property prior to the time of its acquisition by the port authority; provided, however, that in connection with any portion of any industrial development project or facility, which is owned by the port authority or another governmental entity and improved pursuant to this act with buildings, structures or improvements greater in value than the buildings, structures or improvements in existence at the time of its acquisition, development or improvement by the port authority, any person occupying such portion of such industrial development project or facility either as lessee, vendee or otherwise shall, as long as title thereto shall remain in the port authority or in another governmental entity, pay as a rental or additional rental charge an amount in lieu of taxes, if any, not in excess of the taxes on such improvements and on personal property, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property during the period for which such payment is made; provided further, however, that neither the port authority nor any of its projects, facilities, properties, monies or bonds and notes shall be obligated, liable or subject to lien of any kind whatsoever for the enforcement, collection or payment thereof. Each such city, town, township or village is hereby authorized and empowered to enter into such agreement or agreements with the port authority which agreement or agreements may also include provisions with respect to the joint review of categories of tenants proposed as occupants for industrial development projects or facilities with the cities, towns, townships or villages in which they are proposed to be located, and to accept the payment or payments which the port authority is hereby authorized and empowered to make or which are paid by a person occupying any such portion of such industrial development project or facility as rental or as additional rental in lieu of taxes, and the sums so received by such city, town, township or village shall be devoted to purposes to which taxes may be applied in all affected taxing jurisdictions unless and until otherwise directed by law of the state in which such city, town, township or village is located. At least ten days prior to the authorization by the port authority of any agreement provided for in this section eleven, the port authority shall notify the chief executive officer of each city in the port district within which an industrial development project or facility has been included in the master plan provided for in paragraph (b) of section three hereof of the proposed authorization of such agree-

ment, shall seek their comments and shall include with such authorization any comments received from such city. The port authority shall not sell or lease substantially all of an industrial development project or facility to a proposed purchaser or lessee without the prior approval by the municipality wherein the project or facility is located of such purchaser or lessee.

"§ 12. Except as otherwise specifically provided, all details of the effectuation, including but not limited to details of financing, leasing, rentals, fees and other charges, rates, contracts and service, of industrial development projects or facilities by the port authority shall be within its sole discretion and its decision in connection with any and all matters concerning industrial development projects or facilities shall be controlling and conclusive; provided that the construction and operation of any such project or facility shall conform to the environmental and solid waste disposal standards and any state and county plans therefor in the state in which such project or facility is located. At least ninety days prior to the authorization by the port authority of the first contract for the construction of any industrial development project or facility, the port authority shall transmit to the governor of the state in which such project or facility is to be located a statement as to the conformance of such industrial development project or facility with such environmental and solid waste disposal standards and any state and county plans therefor, and shall consult with such governor or his designee with respect thereto. The port authority and the city, town, township or village in which any industrial development project or facility is to be located and for whose benefit such project or facility is undertaken are hereby authorized and empowered to enter into an agreement or agreements to provide which local laws, resolutions, ordinances, rules and regulations, if any, of such city, town, township or village affecting any industrial development project or facility shall apply to such project or facility. All other existing local laws, resolutions, ordinances or rules and regulations not provided for in such agreement shall be applicable to such industrial development projects or facilities. All such local laws, resolutions, ordinances or rules and regulations enacted after the date of such agreement or agreements shall not be applicable to such projects or facilities unless made applicable by such agreement or agreements or any modification or modifications thereto.

"So long as any facility constituting a portion of any industrial development project or facility shall be owned, controlled or operated by the port authority, no public authority, agency, commission or municipality of either or both of the two states shall have jurisdiction over such project or facility nor shall any such public authority, agency, commission or municipality have any jurisdiction over the terms or method of effectuation of all or any portion thereof by the port authority including but not limited to the transfer of all or any portion thereof to or by the port authority; provided, however, the port authority is authorized and empowered to submit to the jurisdiction over such project or facility of either state or any department thereof or any such public authority, agency, commission or municipality when the exercise of such jurisdiction is necessary for the administration or implementation of federal environmental or solid waste disposal legislation by either state.

"Nothing in this act shall be deemed to prevent the port authority from establishing, acquiring, owning, leasing, constructing, effectuating, developing, maintaining, operating, rehabilitating, improving, selling, transferring or mortgaging all or any portion of any industrial development project or facility through wholly owned subsidiary corporations of the port authority or subsidiary corporations owned by the port authority jointly with any public authority, agency or commission of either or both of the two states or from transferring to or from any such corporations any moneys, real property or other property for any of the purposes of this act. If the port authority shall determine from time to time to form such a subsidiary corporation it shall do so by executing and filing with the secretary of state of the State of New York and the secretary of state of the State of New Jersey a certificate of incorporation, which may be amended from time to time by similar filing, which shall set forth the name of such subsidiary corporation, its duration, the location of its principal office, any joint owners thereof, and the purposes of the incorporation which shall be one or more of the purposes of establishing, acquiring, owning, leasing, constructing, effectuating, developing, maintaining, operating, rehabilitating, improving, selling, transferring or mortgaging all or any portion of any industrial development project or facility. The directors of such subsidiary corporation shall be the same persons holding the offices of commissioners of the port authority together with persons representing any joint owner thereof as provided for in the agreement in connection with the incorporation thereof. Such subsidiary corporation shall have all the powers vested in the port authority itself for the purposes of this act except that it shall not have the power to contract indebtedness. Such subsidiary corporation and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the port authority and of the port authority's property, functions and activities. Such subsidiary corporation shall be subject to the restrictions and limitations to which the port authority may be subject, including, but not limited to the requirement that no action taken at any meeting of the board of directors of such subsidiary corporation shall have force or effect until the governors of the two states shall have an opportunity, in the same manner and within the same time as now or hereafter provided by law for approval or veto of actions taken at any meeting of the port authority itself, to approve or veto such action. Such subsidiary corporation shall be subject to suit in accordance with section nine of this act and chapter three hundred one of the laws of New York of nineteen hundred fifty and chapter two hundred four of the laws of New Jersey of nineteen hundred fifty-one as if such subsidiary corporation were the port authority itself. Such subsidiary corporation may be a participating employer under the New York retirement and social security law or any similar law of either state and the employees of any such subsidiary corporation, except those who are also employees of the port authority, shall not be deemed employees of the port authority.

"Whenever any state, municipality, commission, public authority, agency, officer, department, board or division is authorized and empowered for any of the purposes of this act to co-operate and enter into agreements with the port authority or to grant any consent to the port authority or to grant, convey, lease or otherwise transfer any property to the port authority or to execute any document, such state, municipality, commission, public authority, agency, officer, department, board or division shall have the same authorization and power for any of such purposes to co-operate and enter into agreements with such subsidiary corporation and to grant consents to such subsidiary corporation and to grant, convey, lease or otherwise transfer property to such subsidiary corporation and to execute documents for such subsidiary corporation.

"§ 13. The bonds issued by the port authority to provide funds for any of the purposes of this act are hereby made securities in which all state and municipal officers and bodies of both states, all trust companies and banks other than savings banks, all building and loan associations, savings and loan associations, investment companies and other persons carrying on a commercial banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever (other than savings banks), who are now or may hereafter be authorized by either state to invest in bonds of such state, may properly and legally invest any funds, including capital, belonging to them or within their control, and said bonds are hereby made securities which may properly and legally be deposited with and shall be received by any state or municipal officer or agency of either state for any purpose for which the deposit of bonds of such state is now or may hereafter be authorized. The bonds issued by the port authority to provide funds for any of the purposes of this act as security for which the general reserve fund shall have been pledged in whole or in part are hereby made securities in which all savings banks also may properly and legally invest any funds including capital, belonging to them or within their control.

"§ 14. Subsequent to and subject to the execution of the agreement or agreements authorized by sections eleven and twelve hereof for the projects and facilities and at the locations specified therein, if the port authority shall find it necessary, convenient or desirable to acquire from time to time any real property or any property other than real property (including but not limited to contract rights and other tangible or intangible personal property), for any of the purposes of this act whether for immediate or future use (including temporary construction, rehabilitation or improvement), the port authority may find and determine that such property, whether a fee simple absolute or a lesser interest, is required for a public use, and upon such determination the said property shall be and shall be deemed to be required for such public use until otherwise determined by the port authority, and such determination shall not be affected by the fact that such property has theretofore been taken for and is then devoted to a public use; but the public use in the hands of or under the control of the port authority shall be deemed superior to the public use in the hands of any other person, association or corporation.

"The port authority may acquire and is hereby authorized so to acquire from time to time, for any of the purposes of this act, such property, whether a fee simple absolute or a lesser estate, by condemnation (including the exercise of the right or eminent domain) under and pursuant to the provisions of the eminent domain procedure law of the state of New York in the case of property located in or having its situs in such state, and chapter three hundred sixty-one of the laws in New Jersey of nineteen hundred seventy-one, in the case of property located in or having its situs in such state, or, at the option of the port authority, as provided in section fifteen of chapter forty-three of the laws of New Jersey of nineteen hundred forty-seven, as amended, in the case of property located in or having its situs in such state, or pursuant to such other and alternate procedure as may be provided by law of the state in which such property is located or has its situs; and all of said statutes for the acquisition of real property shall, for any of the purposes of this act, be applied also to the acquisition of other property authorized by this section, except that such provisions as pertain to surveys, diagrams, maps, plans or profiles, assessed valuation, lis pendens, service of

notice and papers, filing in the office of the clerk in which the real property affected is situated and such other provisions as by their nature cannot be applicable to property other than real property, shall not be applicable to the acquisition of such other property. In the event that any property other than real property is acquired for any of the purposes of this act under this section then, with respect to such other property, notice of such proceeding and all subsequent notices or court processes shall be served upon the owners of such other property and upon the port authority by personal service or by registered or certified mail, except as may be otherwise directed by the court.

"The port authority is hereby authorized and empowered, in its discretion, from time to time to combine any property which is to be acquired as aforesaid by condemnation for any of the purposes of this act for acquisition in a single action or proceeding notwithstanding that part of the property so to be acquired is personal property or mixed real and personal property or may be owned by more than one owner.

"The owner of any property acquired by condemnation or the exercise of the right of eminent domain for any of the purposes of this act shall not be awarded for such property any increment above the just compensation required by the constitutions of the United States and of the state or states in which the property is located or has its situs by reason of any circumstances whatsoever.

"Nothing herein contained shall be construed to prevent the port authority from bringing any proceedings to remove a cloud on title or such other proceedings as it may, in its discretion, deem proper and necessary, or from acquiring any such property by negotiation or purchase.

"Where a person entitled to an award in the proceedings for the acquisition of property by condemnation or the right of eminent domain for any of the purposes of this act remains in possession of such property after the time of the vesting of title in the port authority, the reasonable value of this use and occupancy of such property subsequent to such time, as fixed by agreement or by the court in such proceedings or by any court of competent jurisdiction, shall be a lien against such award, subject only to liens of record at the time of the vesting of title in the port authority.

"§ 15. The port authority and its duly authorized agents, and all persons acting under its authority and by its direction, may enter in the daytime into and upon any real property for the purpose of making such surveys, diagrams, maps, plans, soundings or borings as the port authority may deem necessary, convenient or desirable for any of the purposes of this act.

"§ 16. Any declarations contained herein with respect to the governmental nature and public purpose of any industrial development project or facility and to the exemption of any industrial development project or facility property and instruments relating thereto from taxation and to the discretion of the port authority with respect to said projects or facilities shall not be construed to imply that other port authority facilities, property and operations are not of a governmental nature or do not serve public purposes, or that they are subject to taxation, or that the determinations of the port authority with respect thereto are not conclusive. The powers hereby vested in the port authority and in any subsidiary corporation incorporated for any of the purposes of this act (including but not limited to the power to acquire real property by condemnation or the exercise of the right of eminent domain) shall be continuing powers and no exercise thereof by the port authority or a subsidiary corporation incorporated for any of the purposes of this act shall be deemed to exhaust them or any of them.

"§ 17. This section and the preceding sections hereof constitute an agreement between the states of New York and New Jersey supplementary to the compact between the two states dated April thirtieth, nineteen hundred twenty-one and amendatory thereof, and shall be liberally construed to effectuate the purposes of said compact and of the comprehensive plan heretofore adopted by the two states, and the powers granted to the port authority shall be construed to be in aid of and not in limitation of in derogation of any other powers, heretofore conferred upon or granted to the port authority.".

SEC. 2. Nothing contained in said agreement or compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of said agreement.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. DANIELSON) will be recognized for 20 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in keeping with the provisions of article I, section 10, clause 3, of the Constitution of the United States, the bill, H.R. 4943 grants the consent of Congress to the compact entered into between the States of New York and New Jersey in June, July, and August of 1978. The compact referred to in the bill provides for the financing and development of industrial development projects, and for related resource recovery facilities by the Port Authority of New York and New Jersey.

This compact between New York and New Jersey was agreed to by those States in 1978. The bill restates the provisions of the compact as entered into by both States and as approved by their legislatures. The compact was passed by the New York State Assembly and the New York State Senate on June 22, 1978, and was approved by the Governor of New York on July 25, 1978. The New Jersey General Assembly passed the compact on June 26, 1978, and the New Jersey Senate on July 27, 1978. It was approved by the Governor of New Jersey on August 24, 1978.

The compact contained in the bill supplements the compact between the States of New York and New Jersey creating the Port of New York District and establishing the Port Authority of New York and New Jersey consented to by the act of August 23, 1921. The 1921 compact between the States of New York and New Jersey created the Port of New York District and established the Port Authority of New York and New Jersey. Its implementation led to the comprehensive development of the Port of New York.

The industrial development projects contemplated under the compact now before us include resource recovery facilities and are designed to attract and retain industry within the bi-State Port of New York District. The resource recovery facilities I have just referred to would involve the collection, disposal, and utilization of refuse. It is contemplated that this activity would provide a major incentive for the attraction and retention of industry through the generation of lower priced energy and the recovery of useful materials.

The area of the port district includes those portions of northern New Jersey and metropolitan New York which are within a 25-mile radius of the Statue of Liberty.

The projects are intended to have the further beneficial effect of reducing unemployment in the area. On the basis of studies, the States concluded that such projects are necessary because in the last three decades the number of available jobs in the port district has decreased. This has been particularly true in the older central cities in the portions of New Jersey and New York included in the district and has contributed to an under utilization of available land and other resources, the erosion of tax bases and a rate of unemployment substantially in excess of the national average.

The port authority contemplates the development of moderate-size industrial parks on inner-city sites. This development of well-planned, secure, attractive, and economical industrial parks could be assisted by real estate tax abatements and, as has been noted, the possibility of lower cost energy.

The port authority has advised the committee that in planning for this program, the port authority has not contemplated receiving any special Federal assistance, although as provided under otherwise applicable laws, the port authority could establish its eligibility under those laws for available Federal aid under existing programs.

The compact's provision for industrial development projects was prompted by a desire by the State of New Jersey and New York to retain the substantial industrial base of both States which now exists within the port district and by a further desire to induce new manufacturing establishments to locate within it. As expressed in the compact, the industrial projects would involve a cooperative program which would draw upon State and local resources and, where qualified, resources available under laws administered by Federal Government. In effect the States have selected the port authority as the responsible agency to focus these resources and administer the program.

The Committee on the Judiciary has recommended that the amended bill be considered favorably. The amendments are technical in nature and merely correct printing errors in the bill. Accordingly, I recommend the approval of the bill.

Before concluding, Mr. Speaker, I would like to point out that the subcommittee has contacted the appropriate

offices of the Government of the United States as well as the New York and New Jersey Port Authority and has been assured there are no respects whatever in which this compact would in any manner conflict with existing Federal laws or the rights of the Federal Government.

□ 1240

In addition, the subcommittee has contacted each and every member of the New York and New Jersey delegations to the Congress, bipartisan, on both sides of the aisle, and has invited their comments. Without exception, all comments received have been favorable.

I might add that the gentlewoman from New York (Ms. HOLTZMAN) did have some questions concerning the bill, but I have been assured by the gentlewoman that she has worked them out with the responsible authorities of the Port Authority to her satisfaction.

Mr. Speaker, I know of no objection to the bill and urge it be adopted.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have no objection to this bill, but at one time I was concerned about the priorities of the port authority. In 1922 when the port authority was created, as part of its original master plan, it undertook to study the problem of rail freight access to the metropolitan area and to New York City and to construct a rail freight tunnel across the Hudson. New York City is not linked directly across the Hudson to the continental United States; instead you have to go 150 miles up the Hudson and cross over near Albany to bring freight by rail in and out of the city of New York. This detour of 300 miles can cause serious delays in rail shipment; it undermines the economy of New York and makes our port less attractive than it could be. Because the port authority is coming to the Congress to ask for help in the creation of new industrial parks to improve the economy of the port region (although these are industrial parks that at present stand half vacant), I thought it was important to ask the port authority why it was not fulfilling the terms of its original master plan and why it was paying virtually no attention to the issue of lack of rail freight access to New York City and to the Port of New York.

I am very pleased that as a result of my concern the port authority has now agreed to undertake a study to be finished, it is hoped and anticipated, by February 1, of the economic impact on the Port of New York of the construction of a tunnel across the Hudson River for the purposes of rail freight; and I want to thank the gentleman from California, Mr. DANIELSON, for his cooperation in this regard.

In formulating and urging this study and in my meetings with the port authority about this matter I was joined by a coalition of business and environmental groups including the New York Chamber of Commerce, Citizens Union Foundation, the Sierra Club, and the Regional Plan Association. A full description of the study agreed to by the port authority and a copy of the agreement follow.

I thank the gentleman for yielding.

STUDY TO DEVELOP ESTIMATES OF MARKET POTENTIAL FOR PROPOSED CROSS HARBOR RAIL FREIGHT TUNNEL

The basic objective of the study will be to develop estimates of the volume of freight which could be expected to move via the proposed tunnel in the period from 1990 and beyond. It is assumed that the tunnel would be located across Upper New York Bay, linking Conrail lines in Jersey City and the Bay Ridge line in Brooklyn, unless there is a mutually acceptable change in the near future. The freight flow could consist of: (a) traffic diverted from existing rail freight services over competitive routes, (b) diversion from existing truck freight flows, (c) diversion of commodity movements by water, (d) normal growth in freight traffic generated by the region between the present and 2000, and new freight flows generated by the new facility. Both freight moving to and from the New York-Northeastern New Jersey Metropolitan Region and freight moving through the region to and from points in New England will be included.

The freight volume estimates which will be generated will be based on two opposite basic assumptions: (1) Current restrictions in the rail route from the south via the Baltimore Tunnel will continue, and (2) that such restriction will be eliminated permitting unrestricted movement of TOFC and large size rail cars over the entire route from Washington to New York and New England.

Out of these estimates of freight flows through the proposed tunnel, the study will also develop revenue estimates for the tunnel. A further output of the study will be information concerning whatever reductions in truck traffic might result from the construction of the new tunnel, and finally, the impact on freight flows over existing rail routes as well as on proposed route improvements such as the removal of restrictions on the present rail route from Selkirk, New York to New York City and Long Island.

An Advisory Committee will be constituted which will meet twice during the conduct of the study to advise, to review study progress and to examine relevant materials on request. The Advisory Committee will include representatives of the New York Chamber of Commerce, Sierra Club, Citizens Union, Regional Plan Association, New York City Office of Economic Development, New York State Department of Transportation, and any other mutually acceptable organization or persons.

The actual study, which we will endeavor to complete by the end of February 1980, will require extensive work by Port Authority staff and may also involve the employment of a consultant to assist in the assembling of data required and the development of the freight diversion and generation models. The study will consist of the following components:

TASK I

It will be necessary to obtain data on existing freight flows into and out of the New York region and to and from New England by rail, truck, and possibly water. Certain information is available on this subject at present but a substantial effort will be necessary to overcome the gaps which presently exist in this knowledge. This will involve extensive contacts with existing carriers, shippers and receivers.

TASK II

Determine the competitive characteristics of existing services and routes provided by both railroads and trucks in order to identify those segments of existing freight flows which would represent potential traffic for a new tunnel. This will include the identification of the costs, elapsed times, reliability and standard of the services provided over these routes by existing carriers.

TASK III

Forecasts of the region's and New England's future growth as a freight generator or consumer will be made in order to estimate the region total freight market as it is expected to exist in the period 1990 and beyond. This will involve forecasts of employment in industries located in specific areas in the region as well as estimates of future population growth. These estimates will be made both with and without a new tunnel in order to develop projections of the possible future generative force of a new tunnel on the region's growth and consequent freight volumes.

TASK IV

Estimate diversions of present freight traffic flows from existing routes to a new route via the proposed tunnel. This will include traffic diverted from both existing rail services and truck services. It will require the use of a diversion model which would use simulated rail and truck networks on both the proposed new route via a tunnel and whatever improvements are planned in existing rail or truck services and routes by 2000. It will also measure effect of increased fuel costs on the trucking industry.

TASK V

A forecast of freight volumes for 1990 and beyond for the route via a new tunnel will be constructed using the information developed in Tasks 1 through 4. The forecast will include both freight moving to and from the New York-Northeastern New Jersey Metropolitan Region and freight moving through the region to and from New England points. Total forecast volumes will consist of freight diverted from existing and proposed rail services, freight diverted from existing and proposed truck routes, any additional freight resulting from the region's and New England's growth to 2000, and freight generated by the existence of the new route.

TASK VI

Estimates will be developed of the decrease in truck movements and the consequent reduction in highway wear in the region as well as any changes in rail freight flows on competing routes which would result from a new tunnel.

TASK VII

The forecast of future freight volumes through a new tunnel will be translated into estimates of freight transportation revenues available to defray the costs of constructing and operating a new tunnel. An effort will be made to express these revenues both in terms of revenues to the carriers and to the tunnel operator.

TASK VIII

Economic impacts of new tunnel on the region will be determined. Included will be effect on employment, on personal and business income, on industry location and on tax revenues.

OCTOBER 5, 1979.

Hon. ELIZABETH HOLTZMAN,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSWOMAN HOLTZMAN: This is to confirm our conversation that the Port Authority will undertake a study to assess the extent and nature of the market which might utilize a suggested rail freight tunnel providing direct access to New York City from New Jersey and the South. We expect that this study can be completed by the end of February.

Upon completion of this review, and depending upon the results, all the groups and agencies affected by such a project should sit down together and determine whether a more detailed engineering feasibility study of the tunnel makes sense, and how a feasibility study would be funded. If the results of the study are promising, and recognizing the Port Authority's responsibility for aiding the economic growth of the port, I will work with you and other concerned groups to secure appropriate funding for such an engineering feasibility study.

Sincerely,

PETER C. GOLDMARK, Jr.,
Executive Director.

Mr. DANIELSON. Mr. Speaker, I thank the gentlewoman for her contribution.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the honorable gentleman from New Jersey, Mr. PETER RODINO.

Mr. RODINO. Mr. Speaker, I urge the approval of H.R. 4943 which grants the consent of Congress to a compact agreed to by the States of New York and New Jersey on August 24, 1978, providing for participation by the Port Authority of New York and New Jersey in a program of industrial park development.

Under this compact the industrial park projects, including resource recovery facilities by the port authority, are intended to attract and retain industry for the central cities within the bi-State Port of New York District, an area in northern New Jersey and metropolitan New York which is located approximately within a 25-mile radius of the Statue of Liberty. The construction and operation of industrial parks are also expected to assist in reducing unemployment in the region's inner cities.

In the last 3 decades the number of available jobs in the port district has decreased, resulting in the under utilization of available land and other resources, the erosion of tax bases and a rate of unemployment substantially in excess of the national average. This has been particularly true in the older central cities of the region such as Newark, Jersey City, and New York City.

I believe that the two States in entering into this compact have wisely provided for the development of well planned, secure, attractive, and economical industrial parks. I understand that this effort will be assisted by available real estate tax abatements and the possibility of lower cost energy derived from resource recovery. The development of these parks is also intended to assist in reducing the rate of unemployment among inner-city residents and encourage further development of similar inner-city programs.

I am advised that pursuant to the compact as expressed in the laws of both States, the principal features of the industrial parks to be developed by the port authority would include:

First. An area of approximately 100 acres or more, capable of being prepared and marketed for occupancy by industry.

Second. An environment that overcomes the disadvantages that central city locations have been perceived to hold for manufacturing plants.

Third. A level of security for people and property that assures safety for tenants and satisfies insurers.

Fourth. Reasonable real estate costs, including any necessary tax abatement.

Fifth. Training programs for the region's abundant pools of unskilled and semiskilled labor.

Sixth. Good transportation access, with off-street parking and loading.

Seventh. Industrial park management with strong financing capabilities, continuity and the ability to buffer tenants from complicated or burdensome public administrative processes.

Eighth. Lower cost energy not now available throughout the region, and which may be provided through resource recovery systems (that is systems in which municipal solid waste is the basis for both the recovery of reuseable materials and the generation of electricity and steam through environmentally sound incineration).

The port authority forecasts a combined public and private investment of approximately a billion dollars over 10 years and hopes that if successful the program will encourage the private sector and other public agencies to invest additional funds in the inner cities. Today's energy crisis makes viability of the established inner cities more important than ever before. In this connection I would note, as has been stated in the letter from the Congressional Budget Office which is part of the report accompanying this bill, the enactment of this bill will result in no additional cost to the Federal Government.

Clearly the approval of this agreement between the States of New Jersey and New York will enable these States through the New York-New Jersey Port Authority to initiate the work to create the industrial development projects authorized under the interstate compact.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation would grant the consent of Congress to an interstate compact between the States of New York and New Jersey, pursuant to the compact clause of the U.S. Constitution (art. I, sec. 10, cl. 3). This compact is, in reality, and amendment or supplement to the already existing compact which created the Port Authority of New York and New Jersey. The initial compact was approved in August, 1921 during the 67th Congress (42 Stat. 174). The purpose of this supplementary legislation is to grant unquestioned authority to the two States to engage in cooperative efforts to finance and implement industrial development projects, including resource facilities leading to energy for municipal waste.

H.R. 4943 was introduced by Judiciary Committee Chairman PETER RODINO, with the cosponsorship of numerous members of the New York and New Jersey delegations. I am pleased to be counted among the cosponsors of this measure.

The agreement between New York and New Jersey contained in the bill has been adopted by the legislatures of both states. The bill restates the provisions of the compact as entered into by both states and as approved by their Legislatures. The compact was passed by the New York State Assembly and the New York Senate on June 22, 1978, and was approved by the Governor of New York on July 25, 1978 (Ch. 651, Laws of N.Y. 1978). The New Jersey General Assembly passed the compact on June 26, 1978, and the New Jersey Senate on July 27, 1978. It was approved by the Governor of New Jersey on August 24, 1978 (Ch. 110, Laws of N.J. 1978).

In the early 1960's, when the port authority undertook the construction and development of the World Trade Center, it did so without specific congressional consent. Litigation developed challenging the validity of the World Trade Center project, citing the lack of congressional consent. While the litigation was unsuccessful, it nevertheless served to seriously delay the project. The New York Court of Appeals rejected the argument that specific congressional consent was necessary, emphasizing that terms of the original consent "expressly contemplated" such additional cooperative bi-State efforts in furtherance of port purposes. *Courtesy Candwich Shop. v. Port Authority*, 12 N.Y. 2d, 379, 391 (1963). The New York Port Authority, therefore, is exercising caution in seeking express authority with regard to the industrial development projects, so that similar delays cannot occur. I urge the House to suspend the rules and pass H.R. 4943.

Mr. Speaker, I have no requests for time.

Mr. DANIELSON. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the bill, H.R. 4943, as amended.

The question was taken.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 412, nays 0, answered "present" 1, not voting 20, as follows:

[Roll No. 588]

YEAS—412

Abdnor	Archer	Bedell
Addabbo	Ashbrook	Bellenson
Akaka	Ashley	Benjamin
Albosta	Aspin	Bennett
Alexander	Atkinson	Bereuter
Ambro	AuCoin	Bethune
Anderson, Calif.	Badham	Bevill
	Bailey	Biaggi
Andrews, N.C.	Baldus	Bingham
Andrews, N. Dak.	Barnard	Blanchard
	Barnes	Boggs
Annunzio	Bauman	Boland
Anthony	Beard, R.I.	Bolling
Applegate	Beard, Tenn.	Boner

Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Sancini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAY—0

ANSWERED "PRESENT"—1

Conyers

NOT VOTING—20

Anderson, Ill.
Bafalis
Burgener
Clausen
Cleveland
Conte
Davis, S.C.
Diggs
Duncan, Oreg.
Evans, Ga.
Flood
Leach, La.
Levitas
Lundine
McDonald
Rahall
Rangel
Scheuer
Wilson, Tex.
Winn

□ 1300

The Clerk announced the following pairs:

On this vote:

Mr. Rangel and Mr. Rahall for, with Mr. McDonald against.

Until further notice:

Mr. Scheuer with Mr. Anderson of Illinois.
Mr. Charles Wilson of Texas with Mr. Winn.
Mr. Diggs with Mr. Cleveland.
Mr. Leach of Louisiana with Mr. Conte.
Mr. Davis of South Carolina with Mr. Clausen.
Mr. Evans of Georgia with Mr. Burgener.
Mr. Flood with Mr. Lundine.
Mr. Duncan of Oregon with Mr. Levitas.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EMERGENCY ENERGY CONSERVATION ACT OF 1979

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 457 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 457

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, and all points of order against said conference report for failure to comply with the provisions of clause 3, rule XXVIII are hereby waived.

The SPEAKER. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 457 is a very simple rule and, to my knowledge, an uncontroversial one. It provides for routine consideration of the conference report on the bill S. 1030, the Emergency Energy Conservation Act, and grants a waiver of points of order against the legislation under clause 3, rule XXVIII of the House. Clause 3, of rule XXVIII provides that the contents of a conference report must be limited to the scope of the differences between the House and Senate positions.

There are four provisions where scope waivers may be needed. The first concerns the procedures for legislative review of a fuel rationing plan. Members will recall that the House voted to subject the implementation of any rationing plan to a one-House congressional veto. The Senate position, which was that of current law, provides for two-House approval as a standby plan, plus a one-House veto over the plan's actual implementation. The conference report provides for congressional disapproval of a standby plan upon passage of a joint resolution which would be subject to the President's veto. There is further provision for a one-House veto of the President's decision to implement.

The second area where a scope problem may exist is the language clarifying Governors' rights to include in State conservation plans provisions permitting persons affected by any measure in the State plan to use alternate means of conservation.

The third item is additional language in the conference report stating that, in the setting of conservation targets by the President, judicial relief is limited to the issuance of a final injunction. No temporary restraining order may be issued.

Finally, the conferees made explicit the authorization of funds for developing conservation and rationing programs mandated under the bill.

As the Members of the House can see, the waiver granted we believe is largely technical, since the provisions in question are clarifications or elaborations of items contained in either the House or Senate versions of S. 1030.

Mr. Speaker, House Resolution 457 is a good rule granting a totally appropriate waiver and I urge my colleagues to adopt it.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California (Mr. BEILENSON) has explained the provisions of the rule to make the conference report in order. I know of no major controversy on the conference report. It has much bipartisan support. The Senate has already passed it by a tremendous majority, and with the conference report coming to the floor of the House I would like to point out to the Members that it is somewhat of a watered down version of what we passed in the House.

Truly, it retains the provisions for a 20-percent shortfall before the gasoline rationing plan can go into effect. But the formula for anticipating such a

shortfall has been changed. So, therefore, if two houses should approve the gasoline rationing plan could go into effect with a much smaller shortfall.

Mr. Speaker, I know of no objection to the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1310

Mr. DINGELL. Mr. Speaker, pursuant to the rule just adopted, I call up the conference report on the Senate bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MINISH). Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 12, 1979).

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. BROWN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 1030, the Emergency Energy Conservation Act of 1979. The conference report was approved last week in the Senate by a vote of 77 to 18.

The conference report consists primarily of two major provisions—one dealing with rationing and the other with conservation. There are additional provisions relating to matters such as studies, thermostat controls, and minimum fuel purchases. It is significant that all of the House and Senate conferees have signed the report which represents a fair blending of the House and Senate bills. The provisions are described in the statement of the managers accompanying the legislation as well as in the House report accompanying S. 1030, but I would like to briefly discuss the provisions of the conference substitute.

The legislation is an important step in providing the President and the States the necessary authority to plan for energy emergencies and the authority to exercise standby powers when necessary.

Only the House bill dealt with rationing. The House bill amended the procedure in existing law for approving and implementing rationing. Under existing law, a rationing plan must first be approved by both Houses of Congress to become a standby authority. The President's decision to implement rationing is then subject to a one-House veto. The House bill removed the first step by eliminating the two-House approval, but retained the one-House veto at implementation. Although the Senate conferees generally agreed with the House concern that a rationing plan be developed soon, and that it not be easily disapproved prior to its implementation, they insisted that the plan be subjected to some congressional review when it is first developed. Thus, the conference substitute permits the plan to be put in standby status unless both Houses enact a joint resolution of disapproval which is, of course, subject to Presidential veto. The decision to implement rationing would still be subject to a one-House veto, as is the case under existing law.

The House bill also established a "trigger" of 20 percent before rationing could be implemented. This trigger has been retained, with some modification to make clear that the 20-percent shortfall is related to the difference between anticipated supplies of gasoline and middle distillates and the anticipated demand for those products. It was also recognized that the calculation of the shortfall is highly judgmental, and that the President's determination of the shortage should not be reviewable. Indeed, a decision by the Congress not to veto the President's decision to ration will indicate congressional approval of the President's determination of the 20-percent shortfall as well as the decision to ration. However, the conferees were concerned that a lower threshold may be required. Therefore, the conference substitute permits rationing at a lower level of shortfall, but only if both Houses of Congress pass resolutions of approval.

The conference substitute also retains the various conditions in the House bill placed upon the plan, as well as the requirement for progress reports.

With respect to the conservation program, the two bills were similar. The conference agreement permits the President to establish conservation targets for States, if he makes a finding of an energy emergency. The States would then be required to develop plans to meet the target. If a State fails to meet its target, a Federal conservation plan could be imposed, subject to certain conditions. During consideration of the various conservation contingency plans, the Governors of various States indicated that they would prefer to assume the responsibility for conservation, rather than letting the Federal Government enforce plans which might be incompatible with their particular needs. This legislation provides the States just such an opportunity, but they must now bear a substantial responsibility. We cannot tolerate unnecessary delays in the development of effective conservation contingency plans by either the States or the Federal Government.

It is important to note that the legislation is designed to deal with emergencies. It is not a bill designed to assist long-term conservation programs. The conference substitute clearly makes this point. Since it is a bill designed for emergency situations it grants broad, but carefully drawn, authorities to the President to deal with such contingencies. Throughout the legislation we have made clear that the President has broad discretion which is generally not reviewable or is subject only to limited review. For example, the legislation limits the scope of judicial review. States are permitted to institute lawsuits, but only under very carefully prescribed conditions described in the legislation. Temporary injunctions in certain circumstances are specifically precluded, and it is expected that because the legislation is designed to deal with emergencies that such injunctions would not likely be granted in other cases as well. The judicial review provision is, despite some suggestions to the contrary, the exclusive provision.

The House bill also contained a provision which required the Federal building temperature plan to permit businesses to achieve a comparable savings through alternate means. This provision which was an amendment offered by my colleague from Ohio, Congressman WYLIE, has been retained, but modified to insure that the alternative conservation plans can be enforced. As adopted by the House, the provision would have permitted many businesses to decide to ignore the temperature regulations merely by claiming to be conserving by alternate means. Under the conference substitute, businesses may conserve by alternate means, but only under conditions which insure that such conservation is in fact taking place. The first condition is that a State or locality must first develop a "comparable program" and be exempted from the Federal rules.

Second, that comparable program may include provisions for approving alternative plans by individuals and businesses which indicate exactly the conservation steps they intend to take. The important factor is that the alternative plans must be enforceable and effective. The same concept of alternate compliance is also embodied in the conservative portion of the legislation.

The House provision relating to minimum automobile fuel purchases is retained, as is the provision exempting certain out-of-State vehicles from odd/even purchase rules. Studies contained in the House bill are retained in a modified form.

In summary, the conference agreement represents a fair compromise of the House and Senate bills. Important provisions of the House bill have been retained, and the legislation is an important step in making the country more prepared to deal with energy emergencies.

I would like to take this opportunity to commend my fellow House conferees, including my colleague and ranking minority member of the Subcommittee on Energy and Power, Congressman BROWN of Ohio. I would also commend the Senate conferees, particularly the chairman of the conference, Senator JOHNSTON, and his Republican cosponsor of S. 1030, Senator DOMENICI. I would also commend the House and Senate staffs for their work on the conference.

Finally, I would like to commend the

cosponsors of H.R. 4283, the conservation bill which was embodied in the House-passed version of S. 1030. I would note that although the "sticker plan" for reduced automobile use is not explicitly mentioned in the conference report, as it was in H.R. 4283, it remains a permissible conservation plan to be used to achieve State conservation targets.

Finally, I again emphasize that the temperature amendment which was offered by our good friend from Ohio (Mr. WYLIE), who behaved in this whole matter in a most statesmanlike and gentlemanly fashion and for which I wish to commend him has as I have indicated been resolved in a constructive way. I observe that under the conference substitute, businesses may conserve by alternate means, but only under conditions which assure such conservation in fact taking place and enforced. This, I believe, reflects the intentions of the author of the regulation and I commend him for the basic idea.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding and appreciate his kind complimentary remarks.

I would like to say that I would return the compliment of the gentleman and thank him for the gentlemanly way in which he approached this amendment, and may I especially thank the gentleman from Ohio (Mr. BROWN), and the gentleman from Michigan (Mr. STOCKMAN), who were also very workmanlike in this regard. It was a pleasure to work with them. Their support was most helpful.

The thermostat control amendment as reported is agreeable to me, I might say, and my amendment was offered on the House floor in the interest of conservation, recognizing regional differences.

In Ohio, we have hot temperatures in the summer with high humidity and cold temperatures in the winter with high humidity. My amendment was indeed offered in a spirit of saving energy. I think that setting thermostats at 78 degrees in Ohio and some other States is not practical.

It has caused a burden on restaurant businessmen and retail owners. I do think that the language in the conference report retains the original concept of my amendment, which was to provide an alternate plan to conserve energy in those areas of the country which do not use oil to produce electricity; and Ohio is one of those.

The original idea, of course, of standby conservation plan No. 2 was to conserve oil.

I know the restaurant people and the retail merchants say they can live with this amendment. I would like to say that I appreciate the spirit in which the gentleman from Michigan (Mr. DINGELL) recognized our problem. I, again, express my sincere thanks to the gentleman from Michigan (Mr. DINGELL), to the gentleman from Ohio (Mr. BROWN), to the gentleman from Michigan (Mr. STOCKMAN), and to the gentleman from Connecticut (Mr. MOFFETT) for aiding me in getting this amendment adopted by the conference committee.

I thank the gentleman for yielding.

Mr. DINGELL. I thank the gentleman. I do commend him for the very statesmanlike fashion in which he approached this problem. It has been a pleasure to work with the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

I have listened very carefully to the description of the gentleman from Michigan (Mr. DINGELL) on this conference report on rationing.

As I recall, we had any number of days of debate on this issue on the floor at great length, and the conference report as the gentleman has described it has two congressional vetoes; one when the plan is made, and one when it takes effect. It has a 20-percent shortfall as the trigger. It contains some of the version of the Wylie thermostat amendment.

Those were all of the things that the gentleman from Michigan (Mr. DINGELL) was opposed to.

Why did we debate this bill for days and days on the floor when the bill that came back is exactly what most of us in the House wanted, and the gentleman opposed? Did we not waste a lot of time?

Mr. DINGELL. I thank the gentleman.

As the gentleman well knows, we do a great many things around here which we are not greatly enthused about. I am sure the gentleman from Maryland (Mr. BAUMAN) has had the same experience from time to time himself. I note that the final version is quite different from the version on which we had several amendments. It does not provide for a one-House veto of the plan.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I wish to commend the ranking member of the Interstate and Foreign Commerce Committee (Mr. DINGELL), the Chairman of the Energy and Power Subcommitte (Mr. MOFFETT), and its ranking minority member (Mr. BROWN) for their efforts in trying to arrive at a consensus on this emergency energy measure.

Mr. Speaker, when this emergency energy bill was initially debated in the House, I opposed it, and offered a motion to recommit it. The main reason—but not the only reason—that I opposed it was that it failed to include a reasonable safeguard against a President's prescription of an unreasonable standby gasoline rationing plan.

The congressional veto plan that I offered, and that was originally adopted but later removed from the bill, would have provided for congressional input by way of a one-House veto of any standby rationing authority.

I regret that the Senate did not insist that their conferees adopt this plan. But a moral victory has been won—this conference report concedes that Congress itself ought to retain the right to reject an improper or badly thought-out rationing plan. The proposed two-House veto—which would then in turn be subject to a Presidential veto, which could be overridden by a two-thirds vote—is a replication of the process one must go through to have any law enacted.

It is heartening that some semblance of my proposal for a meaningful congressional veto was adopted and I wish to thank the conferees for agreeing to it, although I wish they had been a little more flexible.

I just wanted to clarify the congressional veto that is now incorporated in the bill.

Am I correct that both Houses will have 30 days in which to consider the bill and can by resolution of this approval send it back to the President?

Mr. DINGELL. There are two sets of vetoes. The first is the veto of the plan when it comes up here. That is subject to veto by joint resolution by both Houses functioning generally under the EPCA process under the time limit of 30 days; and it does take affirmative action by both Houses.

□ 1320

In connection with the actual implementation, that is subject to the one-House veto as has always been the case under EPCA. That is on a 15-day time limit.

Mr. GILMAN. If the gentleman would yield further, I am pleased that the gentleman now agrees to both of these vetoes. As I recall, at the time we suggested both vetoes there was a great deal of opposition to that. I would have liked to have seen a lot more flexibility in the congressional approval. However, I am pleased that this portion at least was incorporated so that the Congress has an opportunity to make a determination.

Mr. DINGELL. I thank the gentleman and I hope he will now support the proposal.

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report accompanying S. 1030. Although I voted against final passage of S. 1030 when it was on the House floor, and am still dissatisfied with some of the provisions contained in this legislation, I am nonetheless supporting it because I feel that it is the best legislation possible given the two bills which went to conference.

Mr. Speaker, the conference report now provides for congressional review of any motor fuel rationing plan which the administration may devise, the concept espoused by BEN GILMAN of New York. Although this review takes the form of a two-House veto, it still provides for a degree of congressional input that was absent in the House-passed bill after the House reversed itself on approval of the Gilman amendment.

Most importantly, however, the House was able to retain the trigger mechanism originally contained in the House legislation. As the bill is now written, before an approved rationing plan can be imposed, the President must find that a 20-percent shortfall of gasoline and middle distillate exists or is likely to exist for at least 30 days, and neither house has disapproved the President's proposal to implement the plan. Between zero and 20 percent shortfall, both Houses must approve implementation of the previously approved plan.

The most important provisions of this conference report concern emergency conservation authority. These provisions also trouble me more than any others contained in this bill. As the bill is now written, the President may establish energy conservation targets for any fuel which the President finds that an energy supply emergency exists. These targets must be related to the actual shortage and must be uniform throughout the Nation.

Within 45 days after the establishment of a target, each State must submit a plan to reduce consumption of the particular fuel in short supply to meet its target.

If the President finds that an approved plan is not achieving its target, he may impose a Federal mandatory conservation plan, provided he determines that the shortfall within the State for the energy source involved is at least 8 percent. The targets and any mandatory Federal measures can remain in effect for no more than 12 months without a finding by the President that the energy supply emergency continues to exist.

Two amendments which were offered by the minority and which were accepted by the House are contained in the conference report although they have been modified somewhat. The Wylie amendment was retained by the conference committee and provides that in the case of any plan which would regulate building temperatures, any State or local government may submit a comparable plan which will permit affected buildings within that State or locality to conserve at least as much energy by alternative means.

Another minority amendment, which I offered, has been modified to permit any State or local agency to submit as part of its proposed plan to the President a mechanism for allowing affected persons to receive an exemption from the plan if they can demonstrate comparable savings by alternative means. Both the Wylie amendment and this provision offer States, localities, and affected persons, including businesses, within those States much needed flexibility in meeting any federally established energy conservation target.

The most troublesome aspect of this conference report is that there is little protection against the President's arbitrarily declaring that an energy supply emergency exists with respect to any energy source. However, it is the intent of the conferees that this authority to establish targets not be used in other than severe supply disruptions. The conferees did not intend that this authority be used in a situation similar to the one that presently exists. I assure my colleagues that if the President attempts to use this authority in an arbitrary or unreasonable manner, I will be one of the first to try to repeal this provision or to limit the funds available for these purposes.

I can summarize the intent of this bill in one sentence: It is an emergency program to coordinate emergency energy conservation during periods of severe energy shortages.

Mr. Speaker, the conference substitute, which we will adopt today, contains a provision which provides an expedited procedure for States to seek review over the rather broad authorities granted by this legislation to the President and to the Secretary of Energy. This expedited judicial relief section subtracts nothing from the normal rights of the States, but adds a "fast-track" so that the rights of the States can be determined without unduly delaying an emergency program in energy conservation.

This legislation grants a great deal of power to the President and to the Secretary of Energy over the consumption of energy in each State during an emergency. There may well be conflicts, justifiable ones, between the Federal and State governments over the establishment of emergency targets, over the performance of State emergency plans, and over the approval of those plans. There must be quick and thorough judicial review. Only in the case of the establishment of targets, which starts, this emergency program and obligates the States to devise emergency plans, is the judicial review limited—and only limited in the sort of injunctive relief available at that time.

This judicial review section seeks to provide an avenue for the States to obtain prompt review over the determinations of the President and the Secretary of Energy. The State legislatures will have no ability to check these powers, nor will the Congress. So this judicial review section, offered by the gentleman from Maryland (Mr. BAUMAN) and consolidated in conference, is intended to quicken the ability of the States to seek adjudication, not, of course, to limit the judicial avenues of the States.

I might say in conclusion, Mr. Speaker, that the three Republican conferees, Mr. BROYHILL of North Carolina, Mr. STOCKMAN of Michigan, and myself have all supported the final conference version and have signed off on the conference report. I think the spirit of cooperation which motivates us to do that again springs from the fact that we do have a continuing energy shortage, and probably will have for many years to come. We do face severe tightening, as the years go by, of our fossil fuel sources and unless we get under way fairly shortly with synthetic programs and programs to develop exotic energy sources, we will find that this country is enthralled to those people who now supply us much of our energy from abroad, the OPEC nations.

For that reason I think it behooves us to undertake conservation in this country. It also behooves us to be prepared for emergencies because of the national security aspects of the situation. We must be ready to deal with any emergency supply disruption, particularly as it applies to our transportation industry and the use of motor gasoline, and our home heating industry with the use of distillates.

It is for that reason that I have subdued my own basic objections to the overweaning power of the Federal Government in the hope that we can have conservation plans and rationing plans that are sensible, that will deal with our problem as it should be dealt with in the future and which will also succeed in saving us energy in the situation in which we find ourselves now facing the possibility at any moment of shortages of a severe nature.

It is because I understand that the conference bill protects the States and localities from undue Federal involvements, offers States an additional avenue of judicial review to those already provided under other acts and the Constitution, and that it offers individuals and businesses an opportunity to become involved through their own alternative programs of conservation, that I support this conference report.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I am happy to yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, I would like to say as one member of the conference committee that it was a pleasure working with the gentleman and the other Republican conferees on this matter. In fact, it was almost fun, entertaining.

I would like to congratulate the gentleman on the conciliatory approach he took in the conference. I hope this will lead to many more instances of cooperation between the majority and the minority.

Mr. BROWN of Ohio. I appreciate the gentleman's remarks. I might say to my colleagues on the majority side, and also say to some of my colleagues on the minority side who are going to face additional difficult votes in this whole energy area, notably in the fast track legislation and elsewhere, that it is really with a spirit of conciliation that I approach this particular piece of legislation.

□ 1330

I would hope that we will, as a Congress, share this spirit without regard to party affiliation in the future. I know that the gentleman from Connecticut (Mr. MOFFETT)—and I do appreciate his kind remarks—has been a very valued member of our Subcommittee on Energy and Power, and has worked very hard on trying to address in particular the conservation aspects.

As we have worked through these problems together, we have to come to a general agreement that we must have both production and conservation, production in the domestic sense and conservation in the domestic sense, because of the finite nature of our energy resources. We literally must try to educate the general public to the problems that we face and see if we can come to a truly national

agreement, rather than to some agreement that has partisan overtones.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I will be glad to yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding. I would just like to congratulate again everyone on the conference committee for the spirit of cooperation and the gentlemanly attitude which was displayed to me on my thermostat amendment—and that is the basis for me to relate to the conference and how it went.

It seems to me as though that the open and cooperative attitude which was displayed to me indicates that we can in this Congress accomplish something on energy and accomplish something on anything that is very important to the country if we really put our minds to it. Mr. DINGELL, the chairman of the subcommittee, Mr. BROWN of Ohio, Mr. STOCKMAN, Mr. MOFFETT and others were very careful to keep me informed of the deliberations of the conference with respect to my amendment and all made significant contributions to this significant amendment.

Again, I want to say how very much I appreciate that.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for his comment. I want to compliment him. There is a significant amount of the amendment offered by the gentleman from Ohio (Mr. WYLIE) in this legislation. I think he can be proud of his contribution to the consideration of the bill.

I would say the same thing for the gentleman from New York (Mr. GILMAN). His legislative input, on the critical subject of congressional review, is clearly put into this bill. His mark on this bill.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Speaker, I thank the gentleman for yielding. I would like to make the comment that I am not a member of the committee, but I have watched its process concerning gasoline rationing and conservation all year long as a new Member. It seems to me that, to give it a little perspective, we did the right thing back earlier in the year by defeating a gas rationing proposal that come to the floor. Then the gentleman from Connecticut devised a sticker plan which I think gave a new dimension to the debates, and I think got us all thinking about conservation at the State and local levels. We were breaking away from the notion that Central Government can do all things for us.

I think that was very helpful in the course of this whole process. Then, we came to another time in the summer when the House considered conservation measures, delegating to State and local governments the authority to conserve at that level, and the process went on. Some of us at that time felt it proper to go ahead and vote for the measure, and then when it went to conference the debate continued.

Now, we are considering the conference report, and I think it is a good bill. I would like to commend the members of the committee for their long and arduous work which I think has brought us a reasonably good piece of legislation.

Mr. BROWN of Ohio. I thank the gentleman. He was one of the leaders who defeated the original badly designed and inequitable rationing plan the President devised. I think, literally, by making that important but difficult decision to disapprove the previous plan, we have brought to this body, and to the other body, a more rational view of this whole problem.

I must say that I appreciate the gentleman's firm leadership at that time, and I appreciate the gentleman from Connecticut (Mr. MOFFETT) and his proposals on the rationing plan. We are past the point when we can deal casually with these things, or where we can just say "no" to ideas. We have the obligation of originating these ideas, as the gentleman from Connecticut did, when we feel that the idea that has been presented to us is poor. I think we have the opportunity and the obligation in this body to try to bring these ideas into a forum and knock off the rough edges. Voting down the last rationing plan has, it turns out, enabled us to advance this Nation's emergency energy preparations.

Mr. BETHUNE. I just want to make the point that after this long and arduous process we now have a gasoline rationing mechanism mixed with conservation features. The new bill insures that rationing will be used only as a last resort. I think that is the position it should be in.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I will be happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding. I too want to commend the gentleman from Ohio, the distinguished ranking minority member of the Subcommittee on Energy and Power, Mr. BROWN, for his efforts in bringing this concensus by way of this conference report back to the floor. I too want to thank him for preserving a congressional approval thereby making certain that Congress does have an input with respect to any emergency rationing proposal by the President, and for making the implementation of such a Presidential plan subject to a congressional veto.

While there are many items in this conference report that many of us cannot agree upon, most of us do recognize that this emergency measure is of extreme importance to the entire Nation and it is for these reasons that I commend the gentleman for his efforts.

Mr. BROWN of Ohio. I thank the gentleman, and wish to return that commendation to him because, as I said to the gentleman from my State of Ohio (Mr. WYLIE), there is a great deal of the gentleman's amendment in this bill, and it was not in there when we came out of the House with the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. ASHBROOK. Mr. Speaker, I rise in opposition to this unwarranted attack on the American economic system. This Congress wisely defeated this irrational approach back in May. Only through arm twisting and some placating amendments was this proposal brought back from the dead and passed in July. The report we have before us may be an improvement over what this House voted on in May and in July, but the main concept of eliminating the market system in favor of a bunch of unknown bureaucrats is as insulting to America today as it was when it was defeated in May. While many of the good amendments I supported here in the House were accepted in conference. The net result is still a rationing bill.

I know many of my colleagues are concerned that shortages may occur this winter. A number of OPEC countries have announced production cutbacks and price increases. Today's news about Exxon profits adds additional concerns. However, I wish to remind my colleagues that every major development in energy began as a private initiative. This should make us pause before moving to scrap the only system that has provided goods and services in this Nation during peacetime. What has the Federal Government done for America regarding energy? It has dumped mountains of regulation and redtape on top of an already overburdened market sector. It has frustrated the development of coal and nuclear energy. It has spent more time placating special interests and bureaucrats than in solving our energy needs. This is the real issue we are voting on today. Do we, as a Congress, endorse the incompetence of the Federal Government or do we continue to put our faith in the hands of the one system of distribution that made this Nation the leading world power of the 20th century?

The American public is like a small town in the midst of a drought during the last century. In those earlier times rainmakers would tour drought regions with all sorts of cannons, smoke devices, and noise makers to put on a good show in trying to bring about a cloud burst. Sometimes these flim flam artists lucked out and a rain storm occurred, most of the time they collected their money and stole away in the middle of the night before the townspeople realized they had been taken. The rainmakers persisted in the face of their blatant fraud through the 1930's dust bowl for people never wanted to give up hope that they could pay for their salvation.

Today we have a new breed of rainmakers. These Government officials want us to disregard the natural forces of the marketplace in favor of the modern equivalents of the old noisemakers and smoke bombs. Every now and then an energy breakthrough occurs and these rainmakers are right there to take the undeserved credit in order to keep their shams alive. Energy has become a major issue, as well it should. But it has also become vogue to have every major official and politician become a rainmaker. Last week we saw how one major subsidy package after another was created with tax dollars to assist some new miracle cure for our energy woes. It is very easy

to tell voters that they have nothing to fear because this new pilot project or that new fuel resources will solve every need if given enough tax money and enough years to develop. It is more difficult to state that the entire system has been stacked against innovation and change and that only through removing restrictions and allowing the creative force of the market to hold sway will long-range solutions actually be achieved.

It is really frightening to think that the grantsmanship mentality is the only process most people understand. It seems that bidding for attention in the marketplace is disreputable, but wheeling and dealing for Federal contracts is honorable. The question is which is better for society, to have the private investor and consumer decide what is best for themselves, or to abdicate the responsibility to some mindless and faceless entity in the booming energy bureaucracy. It is the same thing with this rationing bill. Most people seem to better comprehend some special exemption or some revised deadline for Government action that is a small part of the bill than to understand the fundamental assault this proposal makes on our economic system and our system of government. As I have stated earlier, it is not a lack of government, but a lack of freedom that has been the root of our energy woes. While promoting more government through ill conceived rationing plans and sexy sounding pilot programs may make better news, advocating more freedom and placing our hopes on our ability to innovate makes better policy.

Mr. MOFFETT. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I first want to say that all of us in the conference committee, on both sides of the aisle, would like to extend our appreciation and admiration to the gentleman from Michigan (Mr. DINGELL) for his leadership of this matter. He has served in the House much longer than many of us who accompanied him in the conference committee. Yet he was patient with us, and I think he did some educating and training along the way. I think the product is a good one.

Mr. Speaker, I also want to give special praise to the gentleman from Texas (Mr. GRAMM); although he was not a conferee per se, I think it is safe to say that his presence was felt in the conference committee room, because he had been a moving force in the development of this legislation. I think through the efforts of Mr. GRAMM and Mr. STOCKMAN and Mr. GILMAN and others on the Republican side, many of us who at one time talked rather casually about imposing rationing, came to the conclusion that indeed rationing should be a last resort, as the gentleman from Arkansas has so correctly stated.

This bill embodies that principle and that theme. While it changes somewhat the trigger mechanism itself, it certainly strengthens congressional involvement in a way that Mr. GILMAN and others have suggested.

A second important theme that is embodied in the conference report is that, although Congress must play a role, it does not put Congress in the position of being an obstructionist force. It does give the proper respect and the proper degree of authority and responsibility to the Chief Executive. It is our hope, of course, that he will exercise that power in a prudent and effective, but not in an arbitrary manner. That is the same feeling that, of course, Mr. BROWN of Ohio expressed so articulately.

Third, the bill embodies the notion that we must have tough conservation. There is no escaping that fact, and I do appreciate the kind remarks of the gentleman from Arkansas with respect to my sticker plan that was debated for a great deal of time on the House floor.

□ 1340

In offering that proposal for a 1-day-of-the-week off-the-road-with-your-car sticker plan, it was my intention to spark debate and also to have the no-drive plan remain as an option for the States, and it remains as just such an option.

None of us want a situation where major inconveniences are imposed on the American public; but by the same token I do not think there is a person in this body who cannot envision a time when we might be forced to impose major inconveniences on the public. There is talk already of another gasoline shortage. The President may have to act, to determine that a severe shortage is imminent, set conservation targets, and urge and prod the individual States to achieve significant conservation.

In fact, I think it should be said today—and I hope that none of my colleagues would disagree with this—that it would be a good idea for the Governors to begin immediately determining how they would put their own plans together. In fact, the conference report itself on page 13 states:

> Each State is encouraged to submit to the Secretary a State emergency conservation plan as soon as possible after the date of the enactment of this Act and in advance of such publication of any such target. The Secretary may tentatively approve such a plan in accordance with the provisions of this section.

It is my hope, and I am sure the hope of others here, that we would be in touch with our Governors and encourage them to take that first step, in trying to develop plans that could be submitted to the Department of Energy.

Hopefully, this will be the first in a series of steps toward achieving meaningful conservation. I think if we do enact this legislation—and we assume the President will sign it—we will be on the way to doing something that I think is important, and that is having a meaningful conservation component in our energy policy.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MOFFETT. Mr. Speaker, I yield myself 2 additional minutes.

I think it is clear now that the decontrol debate in this Congress is all but over, and for that reason it is going to be important that we pay more than lip-service to conservation. Many who have said they are for decontrol have stated that we must have conservation as well. Now is the time to show that we mean what we say, and I think what the gentleman from Ohio (Mr. BROWN) and the gentleman from Michigan (Mr. STOCKMAN) and others who have been decontrol advocates have indicated is that we need conservation.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding. I think the gentleman has stated it absolutely correctly and with a degree of challenge absolutely appropriate to the circumstances. I would agree that decontrol and the regulation of price is over. I think we will see the price go up, regrettably. No one is pleased with that. It will force people to conserve in a painful way. Nobody can argue with that. I think it is absolutely necessary for all of us to undertake that with a degree of patriotism, if that is not the wrong word to use. I think it is the right word to use because conservation, as the gentleman has pointed out in his arguments on the floor of the House, is a way to produce energy for us. In other words, the gallon of gasoline we save is a gallon of gasoline that we have to use later, that somebody has to use. Ultimately we are going to run out of all of these fossil fuels. We will have to find new methods, and we may have to take some tough steps in our traditional beliefs. I appreciate the gentleman's leadership in the conservation area. I appreciate his leadership in devising a plan. I think that was extremely helpful in this whole debate. Whether or not the plan is the right answer is not the point. The gentleman provided the leadership, and that is the point, because it is on that sort of tough arguments that we have in this body that we eventually come to some consensus that leads us, hopefully, to a resolution of the problem.

Mr. MOFFETT. I thank the gentleman for his kind words.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Indiana.

Mr. SHARP. I thank the gentleman for yielding.

Mr. Speaker, our country must be better prepared to deal with energy emergencies in the future. This bill will help us to do that. I believe that effective planning now by our State and local governments, by all sectors of our economy, can certainly help to minimize the problems that a cutback in future supplies can bring. It can also help us to see to it that all Americans are treated as fairly as is possible during a shortage. It is equally important, Mr. Speaker, for us to recognize that if the United States is able to quickly curb its energy appetite during a short-term crisis, we will be able to reduce the power of the OPEC cartel or of anyone else to dramatically push prices higher and higher during such a crisis. Mr. Speaker, it is critical we move forward on this issue. We clearly must have the kind of planning, the kind of preparation, that can make a difference for our future.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time. I

would like to take just 1 minute to compliment the gentleman from Michigan (Mr. DINGELL) who is the chairman of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, and also compliment the gentleman from Texas (Mr. GRAMM). As was noted, there is a good piece of thinking of the gentleman from Michigan (Mr. DINGELL) and his legislative approach in this piece of legislation. Had it not been for his insistence, the trigger mechanism of a 20-percent shortfall would not be in the legislative language of this bill. One need not compliment the gentleman from Michigan (Mr. DINGELL) too extensively because he has proven year after year, and in legislative accomplishment after legislative accomplishment, his ability to bring, sometimes with a little screaming and shouting, sometimes with tears, and sometimes with a bloody nose here and there, a consensus to this body and to the other body for the right result. I think in this case we have a good example of that. I must say that there were some tense moments as we fought this one out on the floor of the House, but now all of that is forgotten in the euphoria of other legislative accomplishment by the gentleman from Michigan. So with that compliment and with the kind words of the gentleman from Connecticut, perhaps we are ready for the vote.

● Mr. EDGAR. Mr. Speaker, I rise in support of the conference report on S. 1030, the Emergency Energy Conservation Act of 1979.

There are some aspects of the conference report which concern me, however. For instance, I have reservations about the provision which permits States or local governments to allow building owners to utilize alternative plans for saving the same amount of energy as would be conserved through thermostat restrictions. In my opinion, alternate conservation plans would be utilized together with, and not in place of, thermostat restrictions.

More significantly, I am concerned about the provisions which give Congress two opportunities to veto a gasoline rationing plan—once after the President submits the standby plan to Congress, and again when he announces his intention to implement it upon demonstrated need. In light of our record of decimating gasoline rationing plans because of self-interested bickering and special interest group pressures, I have some fear that this country may never have a standby rationing plan which can be quickly implemented during an emergency fuel shortage.

Notwithstanding these objections, I will vote to approve the Emergency Energy Conservation Act. I believe it is in the national interest to do so. It is my sincere hope that the President will submit to Congress a responsible and equitable rationing plan and that Congress will resist vetoing it. On balance, the legislation is a valuable and necessary tool for helping our country meet future energy crises.●

Mr. MOFFETT. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOFFETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 301, nays 112, not voting 20, as follows:

[Roll No. 589]

YEAS—301

Addabbo, Akaka, Alboita, Alexander, Andrews, N.C., Annunzio, Anthony, Ashley, Aspin, AuCoin, Bailey, Baldus, Barnard, Barnes, Beard, R.I., Beard, Tenn., Bedell, Beilenson, Benjamin, Bennett, Bereuter, Bethune, Bevill, Bingham, Blanchard, Boggs, Boland, Bolling, Boner, Bonior, Bonker, Bouquard, Bowen, Brademas, Brinkley, Brodhead, Brooks, Broomfield, Brown, Calif., Brown, Ohio, Broyhill, Buchanan, Burlison, Burton, Phillip, Butler, Byron, Carney, Carr, Carter, Cavanaugh, Chisholm, Clay, Clinger, Coleman, Conable, Conte, Conyers, Corman, Cotter, Coughlin, Courter, Danielson, Daschle, Davis, S.C., Dellums, Derrick, Dicks, Dingell, Dixon, Dodd, Donnelly, Dornan, Dougherty, Downey, Drinan, Duncan, Tenn., Early, Eckhardt, Edgar, Edwards, Ala., Edwards, Calif., Emery, English, Erlenborn, Ertel, Evans, Del., Evans, Ga., Fary, Fascell, Fazio, Fenwick, Ferraro, Fish, Fisher, Fithian, Flippo, Florio, Foley, Ford, Mich., Ford, Tenn., Fountain, Fowler, Frost, Fuqua, Garcia, Gephardt, Gilmo, Gibbons, Gilman, Gingrich, Ginn, Glickman, Gonzalez, Goodling, Gore, Gramm, Gray, Green, Grisham, Guarini, Gudger, Hall, Ohio, Hall, Tex., Hamilton, Hammer-schmidt, Hance, Hanley, Harkin, Harris, Hawkins, Heckler, Hefner, Heftel, Hightower, Hinson, Holland, Hollenbeck, Holtzman, Hopkins, Howard, Hubbard, Hughes, Hutto, Hyde, Ireland, Jeffords, Jenrette, Johnson, Calif., Jones, N.C., Jones, Okla., Jones, Tenn., Kastenmeier, Kazen, Kildee, Kogovsek, Kostmayer, LaFalce, Leach, Iowa, Leath, Tex., Lederer, Lee, Lehman, Lent, Levitas, Livingston, Lloyd, Long, La., Lott, Lowry, Luken, McClory, McCloskey, McCormack, McDade, McEwen, McHugh, McKinney, Maguire, Markey, Marks, Martin, Mathis, Matsui, Mavroules, Mazzoli, Mica, Mikulski, Miller, Calif., Mineta, Minish, Mitchell, Md., Mitchell, N.Y., Moakley, Moffett, Mollohan, Montgomery, Moorhead, Pa., Murphy, Ill., Murphy, N.Y., Murphy, Pa., Murtha, Myers, Pa., Natcher, Neal, Nedzi, Nelson, Nichols, Nolan, Nowak, Oakar, Oberstar, Obey, Ottinger, Panetta, Patten, Patterson, Pease, Pepper, Perkins, Petri, Peyser, Pickle, Preyer, Price, Pritchard, Pursell, Quillen, Rangel, Ratchford, Regula, Reuss, Richmond, Rinaldo, Ritter, Rodino, Roe, Rose, Rosenthal, Rostenkowski, Roth, Roybal, Russo, Sabo, Schulze, Seiberling, Shannon, Sharp, Shelby, Simon, Skelton, Slack, Snowe, Snyder, Solarz, Solomon, Spellman, St Germain, Stack, Staggers, Stangeland, Stanton, Steed, Stenholm, Stewart, Stockman, Stokes, Stratton, Studds, Swift, Synar, Tauke, Thompson, Traxler, Treen, Trible, Udall, Ullman, Van Deerlin, Vanik, Vento, Volkmer, Walgren, Wampler, Watkins, Waxman, Weaver, Weiss, White, Whitley, Whitten, Wilson, Tex., Wirth, Wolff, Wolpe, Wright, Wydler, Wylie, Yates, Young, Mo., Zablocki, Zeferetti

NAYS—112

Abdnor, Ambro, Anderson, Calif., Andrews, N. Dak., Applegate, Archer, Ashbrook, Atkinson, Badham, Bafalis, Bauman, Breaux, Burton, John, Campbell, Chappell, Cheney, Collins, Ill., Collins, Tex., Corcoran, Crane, Daniel, Crane, Philip, D'Amours, Daniel, Dan, Daniel, R. W., Dannemeyer, Davis, Mich., de la Garza, Deckard, Derwinski, Devine, Dickinson, Edwards, Okla., Erdahl, Evans, Ind., Findley, Forsythe, Frenzel, Gaydos, Goldwater, Gradison, Grassley, Guyer, Hagedorn, Hansen, Harsha, Hillis, Holt, Horton, Huckaby, Ichord, Jacobs, Jeffries, Johnson, Colo., Kelly, Kemp, Kindness, Kramer, Lagomarsino, Latta, Lewis, Loeffler, Long, Md., Lujan, Lungren, McDonald, McKay, Madigan, Marlenee, Marriott, Mattox, Michel, Miller, Ohio, Moore, Moorhead, Calif., Mottl, Myers, Ind., O'Brien, Pashayan, Paul, Quayle, Rallsback, Rhodes, Roberts, Robinson, Rousselot, Rudd, Runnels, Satterfield, Sawyer, Schroeder, Sebelius, Sensenbrenner, Shumway, Shuster, Smith, Iowa, Smith, Nebr., Spence, Stump, Symms, Taylor, Thomas, Vander Jagt, Walker, Whitehurst, Whittaker, Williams, Mont., Williams, Ohio, Wilson, Bob, Wyatt, Yatron, Young, Alaska, Young, Fla.

NOT VOTING—20

Anderson, Ill., Biaggi, Burgener, Clausen, Cleveland, Coelho, Diggs, Duncan, Oreg., Flood, Jenkins, Leach, La., Leland, Lundine, Rahall, Royer, Santini, Scheuer, Stark, Wilson, C. H., Winn

□ 1400

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Anderson of Illinois.
Mr. Rahall with Mr. Royer.
Mr. Charles H. Wilson of California with Mr. Winn.
Mr. Santini with Mr. Cleveland.
Mr. Stark with Mr. Burgener.
Mr. Duncan of Oregon with Mr. Clausen.
Mr. Flood with Mr. Coelho.
Mr. Lundine with Mr. Diggs.
Mr. Jenkins with Mr. Scheuer.
Mr. Leach of Louisiana with Mr. Leland.

Messrs. HINSON, LEACH of Iowa, and LIVINGSTON changed their votes from "nay" to "yea."

Mr. WHITEHURST and Mr. BREAUX changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CORRECTING THE ENROLLMENT OF S. 1030, EMERGENCY ENERGY CONSERVATION ACT OF 1979

Mr. DINGELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 44) making technical and conforming changes in the enrollment of the Senate bill, S. 1030.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 44

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, the Secretary of the Senate shall make the following corrections:

In the table of contents insert, at the appropriate place, "SEC. 215. Reports".

In section 101 strike out "(a) FINDINGS.—".

In section 103(b)(1) strike out "42 U.S.C. 6361(e)" and insert in lieu thereof "42 U.S.C. 6261(e)".

In section 103(b)(2)(C) insert between the words "other" and "pursuant" the word "than".

In section 103(c)(1) strike out "42 U.S.C. 6361(f)" and insert in lieu thereof "42 U.S.C. 6261(f)".

In section 103(c)(2) strike out "42 U.S.C. 6361" and insert in lieu thereof "42 U.S.C. 6263".

In section 105(b)(1) strike out "42 U.S.C. 6261(d)(2)" and insert in lieu thereof "42 U.S.C. 6263(d)(2)".

In section 105(b)(2) strike out "42 U.S.C. 6261(d)(3)(A)" and insert in lieu thereof "42 U.S.C. 6263(d)(3)(A)".

In section 105(b)(3) strike out "42 U.S.C. 6261" and insert in lieu thereof "42 U.S.C. 6263".

In section 105(b)(4) strike out "42 U.S.C. 6261" and insert in lieu thereof "42 U.S.C. 6263".

In section 301 strike out "(a)".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to sit tomorrow when the House is acting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us why in the middle of the very important legislation that I understand will be on the floor tomorrow that we need this permission?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, I do not believe we will be in session very long, but we are trying to finish action on the coal slurry legislation.

Mr. ROUSSELOT. The coal slurry legislation?

Mr. UDALL. Yes.

Mr. ROUSSELOT. The gentleman feels that members of that committee can be away from the House floor during all this important legislation we will have tomorrow?

Mr. UDALL. It looks like if we handle it right, there will be very little we will miss on the House floor.

Mr. ROUSSELOT. The gentleman is saying they just cannot get it all done before we meet?

Mr. UDALL. That is the picture I get.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman assure us no other legislation will be taken up?

Mr. UDALL. It is just this one bill that we are anxious to finish.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, our distinguished full committee chairman must appear I think it is before another committee, I believe the Committee on Rules, I am not certain. We have three bills, two of which were passed out of my subcommittee without dissent.

I gather I will be chairing deliberations of the full committee in the absence of our good colleague, the gentleman from Arizona. We anticipate the meeting will be quite brief.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for all those assurances.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona (Mr. UDALL)?

There was no objection.

INTERNATIONAL SUGAR STABILIZATION ACT OF 1979

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2172) to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

□ 1420

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2172, with Mr. BURLISON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, October 19, 1979, all time for general debate on the bill had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Sugar Stabilization Act of 1979".

Mr. VANIK. Mr. Chairman, I have an amendment to title I.

The CHAIRMAN. The Chair will advise the gentleman from Ohio (Mr. VANIK) that we have not reached that point in the bill as yet.

Are there any amendments to section 1?

Mr. PEYSER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at the opening of consideration of this bill for amendment today, let me state that in the initial discussion of this bill there have been so many questions raised about this legislation, both during debate and during the long period this bill has had in coming through both the Committee on Ways and Means and the Committee on Agriculture, that frankly, I am surprised that we are really considering this bill today on the floor. But it is here, and we start with the section that many have termed as a unique bill to aid the Cuban Government and a sugar agreement that is of very questionable nature.

I know and the gentlemen who are members of the committee know that I have an amendment printed in the RECORD at this time to strike title I. The gentlewoman from Massachusetts (Mrs. HECKLER) has spoken very clearly on this issue concerning title I and her thoughts on it.

I would say at this time, Mr. Chairman, that as far as the efforts to amend this bill are concerned, while frankly I would like to separate the International Sugar Agreement from this bill by offering an amendment simply to strike it and let the International Sugar Agreement stand on its own rather than be tied to this bill, there have been indications that this might be misunderstood, and that if we offer this and improve the bill, that might enhance the bill itself, since there are also other amendments to be offered to the bill today that would enhance and make this bill a better bill if they were passed.

Obviously, one thing I do not want to do is to improve this bill. This being the only opportunity I have to talk to title I and the International Sugar Agreement,

I am taking this opportunity now to say that I object to the International Sugar Agreement.

PARLIAMENTARY INQUIRY

Mr. FOLEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FOLEY. Mr. Chairman, I will ask, have we reached title I of the bill yet? Are we now considering title I of the bill?

The CHAIRMAN. The Chair will state to the gentleman that we are now considering section 1.

Mr. FOLEY. We have not yet reached title I?

The CHAIRMAN. We have not yet reached title I.

Mr. FOLEY. Mr. Chairman, I would point out that the gentleman from New York (Mr. PEYSER) is directing himself to title I. I do not think we have yet reached that point.

The CHAIRMAN. The gentleman will proceed.

Mr. PEYSER. Mr. Chairman, I thank the committee chairman for calling that to my attention, but I am not offering an amendment, as I indicated, to title I at this time. However, I do think the entire question of title I and our ability to consider the International Sugar Agreement as a separate agreement, along with the other amendments that will be offered to this bill and that are being offered to "improve"—or so it is called—the bill, have to be considered by the membership very carefully so they will understand that if we overimprove the entire bill, we may then be reporting it out to the Senate, where the chairman of the Senate Finance Committee (Mr. LONG), the chairman of the Senate Foreign Affairs Committee (Mr. CHURCH), and Senator DOLE are all committed to put back the very things that are going to be suggested that we eliminate on the floor of this House.

So, Mr. Chairman, I am merely taking this opening time for the moment to caution the Members on each one of these amendments that come up to look at them carefully and decide what the overall impact will be on this legislation.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. There being no amendments to section 1, the Clerk will designate section 2.

Section 2 reads as follows:

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and the term "entry" means the entry, or withdrawal from warehouse, for such consumption.

(2) The term "person" has the same meaning as is given to such term in section 1 of title 1 of the United States Code.

(3) The term "Secretary" means the Secretary of Agriculture.

(4) The term "TSUS" means the Tariff Schedules of the United States (19 U.S.C. 1202).

(5) The term "United States", when used in a geographical context, means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

The CHAIRMAN. Are there any amendments to section 2?

There being none, the Clerk will designate title I.

Title I reads as follows:

TITLE I—INTERNATIONAL SUGAR AGREEMENT, 1977

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) The term "Agreement" means the International Sugar Agreement, 1977, signed at New York City on December 9, 1977.

(2) The term "sugar" has the same meaning as is given to such term in paragraph (12) of Article 2 of the Agreement

SEC. 102. IMPLEMENTATION OF AGREEMENT

On and after the entering into force of the Agreement with respect to the United States, and for such period before January 1, 1982, as the Agreement remains in force, the President may, in order to carry out and enforce the provisions of the Agreement—

(1) regulate the entry of sugar by appropriate means, including, but not limited to—

(A) the imposition of limitations on the entry of sugar which is the product of foreign countries, territories, or areas not members of the International Sugar Organization, and

(B) the prohibition of the entry of any shipment or quantity of sugar not accompanied by a valid certificate of contribution or such other documentation as may be required under the Agreement;

(2) require of appropriate persons the keeping of such records, statistics, and other information, and the submission of such reports, relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as he may from time to time prescribe; and

(3) take such other action, and issue and enforce such rules or regulations, as he may consider necessary or appropriate in order to implement the rights and obligations of the United States under the Agreement.

SEC. 103. DELEGATION OF POWERS AND DUTIES.

The President may exercise any power or duty conferred on him by this title through such agencies or offices of the United States as he shall designate. Such agencies or offices shall issue such regulations as they determine are necessary to implement this title.

SEC. 104. CRIMINAL OFFENSES.

Any person who—

(1) knowingly fails to keep any information, or to submit any report, required under section 102;

(2) submits any report under section 102 knowing that the report or any part thereof is false; or

(3) knowingly violates any rule or regulation issued to carry out this title;

is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $1,000.

SEC. 105. REPORT TO CONGRESS.

The President shall submit to Congress, on or before April 1 of each year, a report on the operation and effect of the Agreement during the immediately preceding year. Unless otherwise published on a regular basis by an agency of the United States, the report shall contain, but not be limited to—

(1) information with respect to world and domestic sugar demand, supplies, and prices during the year concerned;

(2) projections with respect to world and domestic sugar demand, supplies, and prices; and

(3) a summary of the international and domestic actions taken during the year concerned under the Agreement and under domestic legislation to protect the interests of United States consumers and producers of sugar.

AMENDMENTS OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. VANIK: Page 33, line 25, strike out "1982," and insert "1983.".

Page 36, between lines 7 and 8 insert the following:

SEC. 106. PRESIDENTIAL FEE AUTHORITY ON SUGAR

The first paragraph of section 22(b) of the Agricultural Adjustment Act (7 U.S.C. 624 (b)) is amended by striking out the period at the end of the second proviso thereto and inserting in lieu thereof the folowing: ": *And provided further*, That any fee imposed upon any sugar, syrup, or molasses provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States (19 U.S.C. 1202) shall not be subject to the 50 per centum ad valorem limitation.".

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Chairman, these amendments were adopted by the Subcommittee on Trade of the Committee on Ways and Means and were reported out by the full committee.

The first amendment enables the United States to fulfill its obligations under the International Sugar Agreement for the year 1982, which is through the full life of the ISA.

The version of the Committee on Agriculture, on the other hand, terminates the executive branch's authority to implement the ISA at the end of 1981, a year before the ISA is due to expire. We believe we can more effectively support the ISA if we authorize implementation powers for the remaining life of the agreement.

The second amendment of the Committee on Ways and Means makes a permanent amendment to the section 22 program allowing the President greater flexibility in the setting of import duties on sugar.

Mr. Chairman, I urge the adoption of these amendments.

Mrs. HECKLER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-three Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1420

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. FOLEY. Mr. Chairman, I demand

a division of the question on the amendments.

The CHAIRMAN. The question will be divided.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, speaking for our side and the Committee on Agriculture, we would be happy to accept the first portion of the amendments as read.

The CHAIRMAN. The question is on the first part of the divided question.

The first part of the divided question was agreed to.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regrettably must take a different position with respect to the second portion of the question, which would eliminate the 50-percent ad valorem limit currently imposed by section 22. I would hope, however, that since the first part of the gentleman's amendment was accepted, he would agree that the second part could be reverently rejected by the committee.

Mr. VANIK. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Chairman, I had originally proposed the elimination of the 50-percent ad valorem limitation, with the thought that I might offer an amendment providing for passage of just title I as a self-contained sugar bill. I no longer intend to offer that amendment, primarily because I do not want to give the other body a vehicle on which they could load up a lot of other sweetening amendments.

Second, the removal of the limitation is no longer necessary because of the change in the long-range sugar outlook and the rapid increase in world prices in the last 2 months.

Since the Committee on Agriculture objects to this amendment, I have no objection to its deletion.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, the minority on the Committee on Ways and Means has no objection to the withdrawal of the amendment if the gentleman chooses to do so.

Mr. VANIK. Mr. Chairman, I ask unanimous consent to withdraw the second part of the amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are there further amendments to title I?

Mrs. HECKLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, although I do not intend to offer an amendment to this section or to this bill, because I think it should be defeated on both domestic and international grounds, I take this time to clarify some of the issues that have become the center of focus in the debate and to clear up some obvious misconceptions affecting the discussion today.

First of all, I think it is important to realize that those of us who oppose the sugar subsidy legislation are not doing so exclusively because of the International Sugar Agreement. Our main objection to this bill is the consumer impact which we have spelled out consistently. We consider this bill to be a ripoff by giant domestic sugar producers—a ripoff of the American consumers—who are already on the ropes, thanks to other selfish interests bent on driving the consumers down.

I hope the House will recognize the bill for what it is: bad public policy. Bad for the present and worse for the future. Consumers would continue to bear the brunt of the bill. They are now paying $2.6 billion annually in artificially high sugar prices. The Congress would be legislating inflation. And, with more than 75 percent of the sugar consumed in the United States annually found in processed foods rather than in the staple products, consumers would be prevented from venting their frustration by refusing to buy sugar.

However, beyond our consumer objection, many of us who are against this legislation also have grave misgivings about the International Sugar Agreement and the abdication of responsibility by the House in the legislative process on this bill.

In effect, title I of this bill is the incorporation by reference of the International Sugar Agreement.

□ 1430

But this agreement has not yet been ratified by the other body. In fact, the International Sugar Agreement was sent to the Senate on January 25, 1978. Almost two legislative sessions have expired without having this agreement handled, dispatched, or disposed of by the Senate.

Therefore, in passing the implementing phase of the Sugar Stabilization Act, we are busily painting the cabin of the vessel while the other body, at its own leisurely pace, may well move toward scuttling the keel.

This is not the right way to run the ship of state or legislate for it.

Voices are raised, saying that the question of the International Sugar Agreement and its obvious benefits to Communist countries, particularly Castro's Cuba, are not an issue that is in question.

The issue of the sugar agreement is called a "red herring" being dragged across the trail.

Well, if it is a herring, it is definitely a "red herring."

We should not ignore the vital and legitimate questions of what will result from the agreement, which has not yet been ratified, and which we are incorporating by reference into this bill.

We should not sweep the proposals and the issues under the rug; anyone familiar with housekeeping knows how hard it is to get spilled sugar out of the carpet.

Much is made of a letter from the Assistant Secretary of State for Congressional Relations, J. Brian Atwood, to our distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

This letter hardly meets the objections that I and other Members have raised. It is just another depressing episode in the dreary sequence of the administration's failure to communicate directly and effectively with this Congress, if at all.

My own efforts to communicate with the Department of State on the subject of the International Sugar Agreement were either ignored or rebuffed.

This letter, which has been submitted to the record by the gentleman from Oregon (Mr. ULLMAN), is, in my judgment, another pat on the head for the Congress. The letter says, "We know best. Don't ask any questions, but if you must, we will give you nice, glib answers which simply restate as declaratory sentences the language of the questions themselves."

I say, thanks, but no thanks. These answers are brought to us by the same people who allowed the Soviet military presence in Cuba to turn into an international fiasco, making the United States look ridiculous in the eyes of the world.

In my opinion, the State Department is not doing any better on the subject of Cuban windfalls resulting from the International Sugar Agreement than it has done on the problem of Cuba becoming a Russian military base 90 miles off Florida.

It is not doing any better than it did on the question of how a small and economically troubled country can export violence and revolution throughout the Third World.

I think at this point the Foggy Bottom diplomats have had too many "Cuba Libres" with their afternoon tea.

The facts are that despite the careful selection of isolated and admitted facts in Mr. Atwood's letter, he does not refute the two basic propositions, first, that Cuba's benefit over the prevailing situation in the international sugar market is greater than that of any other country, and second, that Cuba's special arrangements with other Socialist countries will be permitted by the International Sugar Agreement to materially benefit Cuba and other Soviet bloc nations at the expense of the non-Communist world.

The CHAIRMAN. The time of the gentlewoman from Massachusetts (Mrs. HECKLER) has expired.

(At the request of Mr. PEYSER and by unanimous consent Mrs. HECKLER was allowed to proceed for 2 additional minutes.)

Mrs. HECKLER. The State Department says that what is being done is a stabilization of sugar prices by the International Sugar Agreement. I think that what is being stabilized is business as usual at the State Department, the business of treating the Congress as a necessary nuisance to be tolerated and the American people as uninformed puppets to be talked down to.

Mr. Chairman, if we aprove this legis-

lation it will not be just another sorry victory for special interests over the general welfare, but damaging evidence of the State Department's ignorance of the best interests of our country and of our friends.

Mr. PEYSER. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentleman from New York.

Mr. PEYSER. I want to thank the gentlewoman for very clearly bringing forth the issue on the International Sugar Agreement. I would certainly be most supportive of an effort to strike this agreement, but I also agree very much with the gentlewoman's decision to leave this agreement as part of the bill, because every effort to improve this bill may be an effort to pass the final bill, which we must defeat.

I thank the gentlewoman for her decision on this.

Mrs. HECKLER. I would like to say to the gentleman, I appreciate his kind words. He has shared with me the leadership in opposing this legislation. I am delighted we have also joined in opposing any amendment to strike title I.

I should also like to say the chart I have before all of us indicates in the blue bars the free market share of our allies: Brazil, Australia, and the Philippines. During the free-market period that this chart represents, the year 1977 in which the agreement was negotiated, the free-market countries were cut back in the amount of sugar they were allowed to export.

Cuba, despite its 1977 production of 1.5 million metric tons sold to the free market, got the lion's share of the free market export tonnage, as well as special arrangements to allowing unlimited exports to a block of Socialist countries, plus a guarantee of 650,000 tons to be sent to Albania, China, North Korea, Vietnam, and Yugoslavia, neither to be taken out of the market tonnage that Cuba was assigned for free market trade.

The other countries could ship their sugar to the Socialist countries or free world countries, but any exports would be taken out of their quota. With Cuba, whatever they shipped to Socialist countries was not to be subtracted from the total quota.

The CHAIRMAN. The time of the gentlewoman from Massachusetts (Mrs. HECKLER) has again expired.

(At the request of Mr. HUCKABY and by unanimous consent, Mrs. HECKLER was allowed to proceed for 2 additional minutes.)

Mr. HUCKABY. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentlewoman for yielding.

I wanted to ask the gentlewoman if the gentlewoman is concerned with regard to these export quotas on the part of Cuba and Russia having something to do with this device enabling these Communist nations to receive hard currency that they might not otherwise be able to get, since about the only thing Cuba exports in any quantity at all is sugar, so that they can then be in better shape to enhance their ability to spread chaos and military intervention throughout the world? Is that the gentlewoman's concern.

Mrs. HECKLER. I definitely agree that the gentleman has raised one of the major concerns here, that this agreement allowed Cuba to have a lion's share of the free-market tonnage as well as special arrangements with the Socialist and Communist world which were not to be subtracted from her quotas. This situation gave Cuba a windfall which she could then use for her own domestic policies and for her military misadventures in other parts of the world.

Mr. HUCKABY. I thank the gentlewoman for the explanation.

Mr. KELLY. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentlewoman for yielding.

I do not dispute her figures. I would simply like to ask, absent the International Sugar Agreement, is there any limitation on the amount of sugar that Cuba can sell to the free world or Communist nations?

Mrs. HECKLER. Certainly not. There is no limitation on its sales to the black Socialist countries. The significance of this chart indicates that the United Nations and its subunit which negotiated the sugar agreement not only guaranteed to Cuba what was already available to her, but allowed as well the lion's share of export tonnage to the free nations of the world.

If the other nations had the same opportunity to export unlimited sugar to Socialist countries, the amount that they exported would have to be subtracted from the white bars, which was the free market export tonnage. Cuba got preferential treatment in every way.

The CHAIRMAN. The time of the gentlewoman from Massachusetts (Mrs. HECKLER) has expired.

(At the request of Mr. MOORE and by unanimous consent, Mrs. HECKLER was allowed to proceed for 1 additional minute.)

Mr. MOORE. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentlewoman for yielding.

Does not the International Sugar Agreement provide limitations and obligations on Cuba, which it does not have now, such as restrictive export quota accumulation and release of special stocks, limit on market stocks, supply assurances and statistical recording requirements?

Mrs. HECKLER. I would agree with the gentleman that certain new requirements were imposed on Cuba as a result of the agreement, but these are fairly minor in comparison to the hundreds of millions of dollars Cuba was assured by its export tonnage quota in the International Sugar Agreement.

Cuba was limited in minor and bureaucratic provisions, but at the same time she was given the opportunity to take the lion's share of the free market and an unlimited hold on exports to the Socialist block countries plus a special quota to Albania, China, North Korea, Vietnam, and Yugoslavia.

□ 1440

Mr. MOORE. Is the gentlewoman also aware that right now, without the International Sugar Agreement, that Cuban-refined sugar is coming into the United States at the present time?

The CHAIRMAN. The time of the gentlewoman from Massachusetts has expired.

(At the request of Mr. MOORE and by unanimous consent Mrs. HECKLER was allowed to proceed for 30 additional seconds.)

Mrs. HECKLER. I would like to say for the gentleman that, in fact, it is the feeling of many of those who were present at Geneva—and my information does not come from statistical bulletins alone but from expert eyewitnesses who were there that not only is Cuban sugar traveling all over the world, but this special arrangement with the Socialist countries is a means whereby Cuba is able to export more than her 2.5-million-metric-ton share to the free market without having any notice taken of the subject.

Mr. MOORE. If the gentlewoman will yield further, the point I am making is that Refined Syrups & Sugars Corp. of New York is bringing in Canadian sugar right now with no sugar agreement.

The CHAIRMAN. The time of the gentlewoman from Massachusetts has again expired.

Mr. FOLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, unfortunately there has been introduced into this debate an extremely emotional and, I think, regrettable suggestion that this International Sugar Agreement, signed by some 57 countries, is in some strange way a covert form of assistance or special treatment for Cuba. Nothing could be further from the truth.

As the gentleman from Louisiana (Mr. MOORE) has just pointed out, Cuba has undertaken, by becoming a signatory to the International Sugar Agreement, the same restrictions on its exports as every other country that has signed that agreement.

The gentlewoman from Massachusetts has indicated that somehow Cuba has been given something over and above what other exporting countries have and that in order to provide this extra others have been disadvantaged. This is an interesting conclusion. The gentlewoman is suggesting that these countries have been negotiated out of some benefit that, as exporting countries, they would otherwise have. The fact of the matter is that they, and they alone, negotiated the agreements on export quotas. To assume that those other countries were denying their own ability to export in order to be generous to Cuba implies that they do not know or are incapable of defending their own interests. The gentlewoman from Massachusetts

apparently feels she and others know better what the interests of Brazil, Australia, and the Philippines are than they do themselves. That is a suggestion I have some difficulty in accepting.

All the major exporters accepted the quota of Cuba as fair. As a matter of fact, the Philippines voluntarily reduced its export level beyond what was necessary by awarding 100,000 tons of its own quota to Cuba.

The gentlewoman is suggesting that 1977 was the base year on which the Cuban and other quotas were determined. That is what the figures in her charts are based on. That, in fact, is not technically correct. The individual quotas were based on production and export performance over the 10-year period from 1966 to 1976. The 1977 figures she cites were not even available when the ISA was negotiated in 1977. Additionally, Cuba had an extraordinarily short year in 1977, which suits the purpose of suggesting that its quota is unusually high.

Another point I would like to make is that Cuba is by no means alone in having special arrangements beyond the ISA. In fact, many, many other nations have such special sugar arrangements, and they are neither large nor Socialist-camp countries. Barbados, Belize, Cuba, Jamaica, St. Kitts-Nevis-Anguilla, Trinidad and Tobago, Guyana, Malawi, Mauritius, Swaziland, and Fiji all have special arrangements recognized under the International Sugar Agreement. There is nothing unusual about that and there is nothing that the International Sugar Agreement or anything else can do to affect the bilateral trade that Cuba has with the Soviet Union.

Indeed, it is this bilateral trade with the Soviet Union rather than the ISA that provides special benefits for Cuba. The lion's share of Cuba's sugar exports are bartered with the Soviet Union for other goods such as oil. Converted to dollar values, this barter trade is equivalent to about 40 cents a pound that the Russians pay for Cuban sugar. That is where the subsidy is and it is totally independent of the International Sugar Agreement. Moreover, because Cuba ships such an insignificant amount in free trade, the fate of the ISA is inconsequential to it.

In addition, a further problem is created by the fact that the United States not only played a major part in bringing the agreement into being but is a signatory of the agreement itself and in doing so joined with 56 other countries who have either formally ratified the ISA or given notice of their agreement to proceed with its principal provisions. Many of these nations have been withholding excess exports from the market at great expense, as required, since January of 1978 in anticipation of U.S. ratification. And now the suggestion is here that we, the United States, should refuse to give the authorities necessary for our full participation, telling the other sovereign countries who undertook this cooperative effort with us in the best of faith, that we have decided that they are incapable of knowing their own interests, that their judgment is faulty, because the agreement might somehow benefit Cuba. Nothing we could do would help Cuba more than that single action alone—telling those countries that we have decided that irrespective of how it may help them we are going to wreck the entire agreement because it might also help Cuba in the bargain. I think Cuba would be handed an incomparable propaganda tool that it could use throughout Central and South America and Africa to attack and ridicule the United States for signing an agreement in concert with these countries and then turning around, on the grounds of totally misinformed evidence of Cuban treatment, to reject the accord.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. I would hope that the question the gentlewoman from Massachusetts has already described herself as a red herring will not be allowed to divert the Committee of the Whole House from the real issues here. Title I deals with the International Sugar Agreement. It is a subject that I would hope we would not distort or belabor with emotional reactions against Cuba.

I am no friend of the Cuban Government, nor, I suppose, is anybody in this room. The truth of the matter is that there are no special benefits to Cuba. In fact, quite the contrary is true. There are restrictions and obligations that Cuba would not otherwise have. Additionally, to deny all of those other countries that have joined in this agreement the ability to share in its benefits would, indeed, be handing the Cubans a propaganda machine and an enormous propaganda tool with which to beat the United States all over Central, South America, and Africa. I devoutly hope that this committee will not allow that.

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Chairman, I would just say that the term "red herring" came from the gentleman's earlier remarks, and I said if it is a herring, it is certainly a red one.

I think the point has to be made that special arrangements, which I mentioned, do exist for other countries. But in the case of the free market countries, the sugar that is exported under the special arrangements must be subtracted from the quota the country received under the agreement, whereas Cuba does not have that requirement upon her. It is an additional arrangement which allows her additional tonnage.

I would just like to ask the gentleman, it seems very strange to me that this legislation seeks to implement the International Sugar Agreement. Where the other body has not yet ratified the document. That, in my judgment, is putting the cart before the horse. If this agreement is so essential—and I personally think the bill should be defeated for domestic reasons, and have so stated many times—but if this International Sugar Agreement is so desirable and essential, why is it that it has been languishing in the Senate Foreign Affairs Committee for over a year and one half, and why is it that the other body has not sensed the urgency of agreeing to this measure?

Mr. FOLEY. I will be glad to answer the gentlewoman's question. It is my understanding that the Members of the other body felt it essential that we have a united program, with both international and domestic aspects.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(At the request of Mr. FRENZEL and by unanimous consent Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Washington, the chairman of the Agriculture Committee, has stated the case exactly. Whether the United States is in or out of the International Sugar Agreement makes no difference at all to whatever arrangements Cuba has within that agreement. So not all of our tears can scarcely erase a single line of that particular agreement.

The International Sugar Agreement is good foreign policy, it is good agricultural policy. Despite the beauty of the gentlewoman's charts and the brilliance of her rhetoric, her point is irrelevant.

□ 1450

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman for yielding. I want to concur in his remarks. I think it should be pointed out that the chart is technically correct, but for this year it is incorrect in actual production by a half million tons on the amount of sugar Cuba is allowed to export. That is because the price remained below 14.5 cents.

The countries are entitled to larger production figures. The gentlewoman has given us the largest figures allowable, but as a practical matter, Cuba is allowed to export only 2 million tons this year.

Mr. FOLEY. I thank the gentleman. I would like to point out that these quotas are subject to review in March 1980, so that all participating exporter countries can decide whether adjustments are needed in their own tonnages and in Cuba's. This, again, is done by the exporting countries alone, who are obviously those with the greatest interest in the fairness that the gentlewoman from Massachusetts is so anxious to have recognized.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(At the request of Mr. JOHNSON of Colorado and by unanimous consent, Mr.

FOLEY was allowed to proceed for 2 additional minutes.)

Mr. JOHNSON of Colorado. The mechanism under the ISA allows the exporting countries to readjust their quotas. They obviously intend to do that. I would like to point out that the gentlewoman, when she testified before the Rules Committee on July 31, was opposed to this present bill but she testified in favor of passing the International Sugar Agreement. What has occurred between July 31 and the present time to cause her to change her mind and attack the bill on the grounds of ISA I do not know, but that was her position on July 31.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, a moment ago I just pointed out that the International Sugar Agreement does in fact place limitations on the amount of sugar Cuba can export. Without the agreement, is it not the chairman's agreement that there is absolutely no limitation on the amount of sugar Cuba can export?

Mr. FOLEY. That is correct.

Mr. MOORE. Furthermore, there is absolutely nothing in this bill or in the International Sugar Agreement that gives Cuba the right to export sugar to the United States?

Mr. FOLEY. Absolutely not.

Mr. MOORE. Right now, as a matter of fact, sugar is coming into the United States from Cuba via the back door, which we think this bill will help prevent.

Mr. FOLEY. The gentleman is correct.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I thank the chairman of the committee.

I never did hear the chairman's answer with regard to the gentlewoman's question with regard to the extent of other countries that have special arrangements. Is not the amount that they ship out under these special arrangements deducted by the quota authorized them under the International Sugar Agreement?

Mr. FOLEY. To the best of my knowledge while the special agreements were looked at for all participating countries in setting export tonnages and are recognized by the ISA, they are in no case charged against any country's ISA export tonnage. The purpose of the ISA is only to stabilize prices on the free market, which is the market from which the United States and a number of other consuming nations buy their sugar.

Mr. KELLY. But the gentleman is not able to answer that directly?

Mr. FOLEY. I answer it, to the best of my knowledge the answer is "No."

Mr. KELLY. Then, does the size of these special arrangements with respect to any producing country in the world approach anything like the 4.4 million metric tons that is afforded Cuba?

Mr. FOLEY. Individually and in terms of overall tonnage, the answer is "No." Cuba is the largest sugar exporter in the world.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(At the request of Mr. KELLY and by unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. In terms of special arrangement exports as a percentage of their total exports, however, the answer is yes.

Mr. KELLY. Will the gentleman yield for a further question?

Mr. FOLEY. Certainly.

Mr. KELLY. I understand that Russia is the largest producer of sugar in the world, and Cuba is the largest producer of cane sugar. Am I correct?

Mr. FOLEY. The gentleman is correct. What I said is that Cuba is the largest exporter of sugar, either cane or beet, in the world.

Mr. KELLY. I did not intend to dispute that, but I just wanted to put in that additional fact.

The situation is that Russia also is not an exporter, yet it has an export quota under the ISA arrangement. Is that true?

Mr. FOLEY. The Soviet Union has an extremely small export quota, yes. In addition, these exports go to Soviet bloc countries.

Mr. KELLY. So, although they do not have enough sugar, what they are going to be able to do is bring the Cuban sugar in the back door, send Russian sugar out the front door, still have what they need and be able to get hard currency from our markets. This has something to do with, when they hang us, they will use a rope sold by the free enterprise system.

Mr. FOLEY. I do not agree at all with either the gentleman's judgment on Russian intentions or what will occur. For example, the Soviet Union is usually the largest wheat producer in the world; yet, it is also one of the largest importers of wheat. It is a very large country, and very often they are not able to meet their own demands.

Mr. KELLY. Importing Cuban sugar will enable them to do that. In other words, the quotas are supposed to limit the growth of sugar, the quantity of sugar in the world market in order to avoid a complete collapse of prices, and by simply using this device Cuba can grow more.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(By unanimous consent Mr. FOLEY was allowed to proceed for 1 additional minute.)

Mr. FOLEY. These countries have limited themselves in terms of both overall and individual exports as a means of collective effort at maintaining a price stability in a range from 11 to 21 cents.

Without the International Sugar Agreement, there is nothing to stop the Soviet Union from exporting all the sugar it wants to, then to increase its sugar imports from Cuba and dump it all over the world. There is no restriction on their activities.

Every country that signed the ISA has undertaken, as the gentleman from Louisiana has pointed out again and again, certain obligations, certain responsibilities, and restrictions. In the absence of an agreement they would be totally free of such restraints. So, I cannot imagine how it is anything but an advantage to responsible international sugar marketing that all countries support the International Sugar Agreement.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield again?

Mr. FOLEY. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. While we are dealing in this minutia, the Soviet Union is entitled to 500,000 tons of export, which is small compared to the 17.5 million tons traded in the free market.

The CHAIRMAN. There appearing to be no amendments to title I, the Clerk will designate title II.

Title II reads as follows:

TITLE II—IMPORT RESTRICTIONS ON SUGAR

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) The term "assured return" means—

(A) for the 1979 sugar supply year, 16.3 cents per pound, raw value; and

(B) for each sugar supply year beginning after September 30, 1979, the price objective for such sugar supply year plus .50 cents per pound, raw value.

(2) The term "average daily price for United States raw sugar imports" means the average of the daily market prices (excluding any special import duty imposed under this title) for sugar in pounds, raw value, as determined by the Secretary.

(3) The term "price objective" means the price set forth in, or determined under, section 202(a).

(4) The term "quantitative restriction" means the total quantity of any sugar or sugar-containing product produced in all foreign countries, territories, or areas that may be entered, without regard to source, in any sugar supply year or supply year quarter.

(5) The term "raw value" has the same meaning as is given to such term in headnote 1 to subpart A of part 10 of schedule 1 of the TSUS.

(6) The term "sugar" means any sugar, sirup, and molasses provided for in items 155.20 and 155.30 of the TSUS. The term "raw sugar" means sugar to be further refined or improved in quality. The term "refined sugar" means sugar not to be further refined or improved in quality.

(7) The term "sugar supply year" means the 12-month period beginning on October 1 of each calendar year with each such year being designated by the year in which the beginning date occurs, except that (other than as used in sections 202(a) (3) and (4)) the 1978 sugar supply year shall begin July 1, 1979, and end September 30, 1979.

(8) The term "supply year quarter" means any of the 3-month periods beginning on October 1, January 1, April 1, or July 1 of any sugar supply year.

SEC. 202. PRICE OBJECTIVES AND PAYMENTS TO ACHIEVE ASSURED RETURN.

(a) PRICE OBJECTIVES.—(1) The price objective for the 1978 sugar supply year is 15 cents per pound, raw value.

(2) The price objective for the 1979 sugar supply year is 15.8 cents per pound, raw value.

(3) The price objective for each sugar supply year beginning after September 30, 1980 (hereinafter in this paragraph referred to as the "computation year") is the price objective for the sugar supply year that immediately precedes the computation year adjusted (but not to a price that is more than 107 percent of the price objective of such immediately preceding sugar supply year) to reflect the percent change between the average farm cost of production for—

(A) the 2 sugar supply years immediately preceding the computation year, and

(B) the 2 sugar supply years immediately preceding the sugar supply year that immediately precedes the computation year.

(4) For purposes of paragraph (3), the average farm cost of production for each sugar supply year shall be determined by the Secretary on the basis of such information as the Secretary finds to be necessary or appropriate for the purposes, and shall be limited to the—

(A) variable cost,

(B) machinery ownership cost, and

(C) general farm overhead cost,

allocated to the crop involved on the basis of the proportion of the value of the total production derived from such crop.

(b) PAYMENTS.—(1) If the assured return is not achieved in any sugar supply year that begins after September 30, 1979, the Secretary shall make payments (subject to the limitations set forth in this subsection) solely to domestic producers of sugarcane and sugar beets at the rate per pound, raw value (but not more than .50 cents per pound, raw value), equal to the amount by which the assured return for such year exceeds the greater of—

(A) the average daily price for United States raw sugar imports during such year; or

(B) the price objective for such year.

(2) Notwithstanding any other provision of this Act, the total amount which any person engaged in the production of sugarcane or sugar beets shall be entitled to receive as a result of payments made under this section shall not exceed $50,000. The term "payments" shall not include loans or purchases. The term "person" as used in this paragraph shall have the same meaning as provided in regulations issued by the Secretary under section 101 of the Food and Agriculture Act of 1977, except as the Secretary may determine necessary to assure a fair and reasonable application of the limitation to persons engaged in the production of sugarcane and sugar beets.

(3)(A) This subsection shall take effect October 1, 1979. The Secretary shall make payments authorized under this subsection through the Commodity Credit Corporation.

(B) During sugar supply years 1978 through 1981, the Secretary may not make payments to, or on behalf of, producers and processors of sugarcane or sugar beets under section 301 of the Agricultural Act of 1949 (7 U.S.C. 1447) or any other provision of law (other than this subsection) that authorizes payments by the Secretary to achieve price support levels for such commodities.

(c) TIME OF PRICE OBJECTIVE AND ASSURED RETURN DETERMINATIONS.—The Secretary shall determine the price objective under subsection (a), and the assured return, for each sugar supply year occurring after September 30, 1980, not later than July 31 of the year in which such sugar supply year begins and on the basis of the best information available at the time. The Secretary shall immediately announce each such determination and promptly thereafter publish it in the Federal Register, but may not thereafter adjust any such determination.

(d) AVERAGE DAILY PRICES.—(1) The Secretary shall determine on a continuing basis the average daily price for United States raw sugar imports and shall monitor the prices of sugar and sugar-containing products in the import trade of the United States.

(2) The Secretary shall publish the determinations made under paragraph (1) in the Federal Register on such periodic basis as he deems appropriate.

SEC. 203. SPECIAL IMPORT DUTIES.

(a) ON SUGAR.—(1) There is imposed on raw sugar entered during any supply year quarter a special import duty that shall be in the amount by which the average daily price for United States raw sugar imports during the 20 consecutive market days immediately preceding the 15th day of the month before the first month of such supply year quarter is less than the price objective that applies for such quarter. There is imposed on refined sugar entered during any supply year quarter such special import duty as the Secretary determines necessary to assure that the price objective for the year shall be achieved.

(2) The Secretary shall undertake a continuing review of the effects of the special import duties imposed under paragraph (1). The amount of such duty on raw sugar in effect for any supply year quarter shall be—

(A) decreased by .50 cents per pound, raw value, if the Secretary determines that the sum of—

(i) the average daily price of United States raw sugar imports for any period of 10 consecutive market days within such supply year quarter; and

(ii) the amount of such duty exceeds the price objective for that quarter by more than .50 cents; and

(B) increased by .50 cents per pound, raw value, if the Secretary determines that the sum of—

(i) the average daily price of United States raw sugar imports for any period of 10 consecutive market days within such supply year quarter; and

(ii) the amount of such duty is less than the price objective for that quarter by more than .50 cents.

The special import duty on refined sugar shall be adjusted at the time changes are made in the special import duty for raw sugar in such amount as necessary to assure that the price objective for the year is achieved.

(3) Notwithstanding the foregoing provisions of this section, if at any time during the sugar supply year the Secretary determines that the special import duties provided for under paragraphs (1) and (2) will not assure that the price objective will be achieved on the average during the supply year, the Secretary shall determine the amount of such adjustments in the special import duties as are necessary to achieve such result. The Secretary may provide for such adjustments in the special import duties determined for the 1978 sugar supply year as the Secretary determines necessary to provide an orderly transition to the program for the 1979 sugar supply year.

(4)(A) The Secretary shall determine and announce the amount of the special import duty imposed under paragraph (1) for each supply year quarter, and shall certify such amount to the President, before the close of the 11th day before the first day of that supply year quarter: *Provided*, That if the date of enactment of this Act is after June 15, 1979, the Secretary shall announce and certify any special import duty for the supply year quarter commencing on July 1, 1979, 5 days after the date of enactment of this Act to be effective on the date as provided in section 204.

(B) The Secretary shall announce any special import duty adjustment required to be made under paragraph (2), and shall certify such adjustment to the President, before the close of the 3d market day after the last day of the period of 10 consecutive market days on which the adjustment determination is based.

(C) The Secretary shall announce any special import duty adjustment required to be made under paragraph (3), and shall certify such adjustment to the President before the close of the 3d market day after determining its amount.

(5) This subsection shall apply with respect to the supply year quarter that begins July 1, 1979, and to each supply year quarter thereafter.

(b) ON SUGAR-CONTAINING PRODUCTS.—(1) The President may—

(A) after receiving a recommendation from the Secretary under paragraph (2), and subject to subsection (c), impose a special import duty on the sugar content of such sugar-containing products and in such amounts, as the President considers to be necessary to assure that the price objective for such sugar supply year will be achieved; and

(B) after receiving a recommendation from the Secretary under paragraph (3), make such adjustments with respect to any special import duty imposed under subparagraph (A) that the President considers necessary to achieve the price objective for the sugar supply year concerned.

(2) If at any time during any sugar supply year after September 30, 1979, the Secretary considers that the imposition of a special import duty on the sugar content of any sugar-containing product is necessary to assure that the average daily price for United States raw sugar imports will result in the price objective for such sugar supply year being achieved, the Secretary shall recommend to the President that the President impose such special import duties under paragraph (1)(A) on the entry of such sugar-containing products as the Secretary deems appropriate.

(3) The Secretary shall review, on a supply year quarter basis, the effect of all special import duties imposed under paragraph (1)(A). On the basis of such review, the Secretary may recommend to the President such adjustments with respect to the amount of any such duty, or with respect to sugar-containing products to which any such duty should be extended or removed, as the Secretary determines to be necessary to achieve the price objective for the sugar supply year concerned.

(4) Each recommendation made by the Secretary to the President under this subsection shall be promptly published by the Secretary in the Federal Register.

(c) SPECIAL RULES FOR SUGAR-CONTAINING PRODUCTS.—If the President has reason to believe that the sugar-containing product, to which any recommendation made by the Secretary under subsection (b)(2) applies, will adversely affect, or is adversely affecting, the achievement of the price objective during the sugar supply year concerned, the President may not impose any special import duty under subsection (b)(1)(A) on the sugar content of such product before—

(1) requesting the United States International Trade Commission to undertake an investigation to determine whether, and to what extent, the entry of such product is adversely affecting the achievement of the price objective; and

(2) taking into consideration the results of such investigation;

except that, if the Secretary in any recommendation made under subsection (b)(2) also advises the President that a condition exists with respect to the sugar-containing product concerned that requires emergency treatment, the President may immediately impose a special import duty under subsection (b)(1)(A) pending the receipt and consideration by him of the results of the investigation requested under paragraph (1). The United States International Trade Commission shall submit to the President a report on any investigation requested by him

under this subsection within 60 days after the date of such request.

SEC. 204. PROCLAIMING OF SPECIAL IMPORT DUTIES.

(a) AUTHORITY.—The President shall proclaim, under the authority of the headnotes to subpart A of part 10 of schedule 1 of the TSUS, the special import duties, and the adjustments thereto, that are required to be imposed, or that may be imposed at his discretion, under section 203.

(b) SPECIAL PROVISIONS RELATING TO PROCLAMATIONS.—(1) The special import duty certified to the President under section 203 (a)(1) shall be proclaimed by the President not later than the 5th day before the first day of the supply year quarter in which such duty applies: Provided, That if the date of enactment of this Act is after June 15, 1979, the President shall proclaim any special import duty certified under section 203(a)(1) for the supply year quarter commencing on July 1, 1979, not later than the 5th market day after the date of enactment of this Act to be effective on the date of proclamation or July 1, 1979, whichever is later.

(2) Any special import duty adjustment certified to the President under section 203 (a)(2) shall be proclaimed by the President not later than the close of the 5th market day after the last day of the period of 10 consecutive market days on which the adjustment determination is based.

(3) Any special import duty adjustment certified to the President under section 203 (a)(3) shall be proclaimed by the President not later than the close of the 5th market day after the adjustment determination is made by the Secretary.

SEC. 205. QUANTITATIVE RESTRICTIONS ON IMPORTED SUGAR AND SUGAR-CONTAINING PRODUCTS.

(a) IMPOSITION.—At the end of the first 6 months of each sugar supply year beginning with the 1979 sugar supply year, the Secretary shall determine whether the price objective for that year will be achieved on an average basis by the special import duties in effect during that year and publish such determination in the Federal Register, together with a statement of factors which entered into the determination. If the Secretary determines that the price objective for that year will not be achieved on an average basis by the special import duties in effect during that year, the Secretary shall certify to the President such quantitative restrictions on the total amount of sugar and sugar-containing products which may be entered during the balance of that sugar supply year as the Secretary determines to be necessary to achieve, in conjunction with the special import duties imposed during the supply year concerned, the price objective for the year on an average basis. Any quantitative restrictions certified to the President shall be proclaimed by the President not later than the close of the 5th market day after the determination of the Secretary.

(b) REVIEW.—If any quantitative restrictions are in effect under this section, the Secretary shall review, from time to time, the effect of such restrictions and shall certify to the President such adjustments in the restrictions as the Secretary determines are required to achieve the relevant annual market price objective. The President shall proclaim the adjustments in quantitative restrictions as certified by the Secretary, not later than the close of the 5th market day after the determination of the Secretary, with a statement of the factors which entered into such determination.

(c) GLOBAL RESTRICTION.—Any quantitative restriction imposed under subsection (a) shall be administered as a global quantitative restriction imposed in terms of raw values.

SEC. 206. PROHIBITED ACTS.

(a) CERTAIN IMPORTS AND EXPORTS.—No person may—

(1) bring or import into the Virgin Islands in any sugar supply year for consumption in such islands, any sugar in excess of 100 pounds if such sugar was produced from sugarcane or sugar beets grown outside the United States; or

(2) export to any foreign country any sugar entered under any quantitative restriction imposed under section 205.

(b) CIVIL PENALTY.—Any person who knowingly violates, knowingly attempts to violate, or knowingly participates or aids in the violation of subsection (a) shall forfeit to the United States the sum equal to three times the market value of the time of the commission of any such act, of that quantity of sugar involved in the violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

SEC. 207. EXEMPT ARTICLES OF SUGAR.

(a) DESCRIPTION OF ARTICLES.—This title does not apply with respect to any sugar or sugar-containing product—

(1) of any aggregate value not exceeding $25 in any one shipment, if entered as samples for the taking of orders, for the personal use of the importer, or for research;

(2) entered for the production of alcohol other than any alcohol or resulting byproduct for human food consumption;

(3) entered for the production of yeast, citric acid, or monosodium glutamate; or

(4) any sugar entered for the production of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar as a sweetener in human food consumption.

(b) RULES AND REGULATIONS.—The Secretary of the Treasury shall issue such rules and regulations as may be appropriate to implement this section.

SEC. 208. CERTAIN EXPORTATIONS OF SUGAR.

Sugar entered under a bond, established under rules promulgated by the Secretary of the Treasury, for the purpose of subsequently exporting an equivalent quantity of sugar as such, or in manufactured articles, shall not be considered to be sugar entering the United States for purposes of section 205. Sugar exported under the provisions of sections 309 and 313 of the Tariff Act of 1930 (19 U.S.C. 1309 and 1313) shall be considered to be an exportation within the meaning of this section.

SEC. 209. SUSPENSION OF TITLE.

If the President finds that a national economic or other emergency exists with respect to sugar, the President may by proclamation suspend the operation of this title, and headnote 2(b) to subpart A of part 10 of schedule 1 of the TSUS to the extent that it applies with respect to this title, until such time as the President finds and proclaims that such emergency no longer exists. The Secretary shall make such investigations, and prepare such reports, as the President may require for purposes of carrying out this section.

SEC. 210. REGULATIONS.

The Secretary shall issue such rules and regulations as he determines to be appropriate to carry out his functions and duties under this title. The knowing violation of any rule or regulation issued by the Secretary under this section upon conviction is punishable by a fine of not more than $1,000 for each such violation.

SEC. 211. AMENDMENTS TO TSUS.

The headnotes to subpart A of part 10 of schedule 1 of the TSUS are amended—

(1) by amending headnote 1 to read as follows:

"1. For the purposes of this subpart—

"(i) the term 'degree', as used in the 'Rates of Duty' columns of this subpart, means sugar degree as determined by polariscopic test;

"(ii) the term 'total sugars' means the sum of the sucrose and reducing or invert sugars contained in any grade or type of sugars, sirups, and molasses; and

"(iii) the term 'raw value' means the equivalent of such articles in terms of ordinary commercial raw sugar testing 96 degrees by polariscope as determined in accordance with regulations issued by the Secretary of the Treasury. The principal grades and types of sugar shall be translated into terms of raw value in the following manner:

"(A) For sugar described in item 155.20, by multiplying the number of pounds thereof by the greater of 0.93, or 1.07 less 0.0175 for each degree of polarization under 100 degrees (and fractions of a degree in proportion).

"(B) For sugar described in item 155.30, by multiplying the number of pounds of the total sugars thereof by 1.07.

"(C) The Secretary of the Treasury shall establish methods for translating sugar into terms of raw value for any special grade or type of sugar for which he determines that the raw value cannot be measured adequately under the above provisions.".

(2) by amending headnote 2 by inserting "(a)" immediately after "2.", and by adding at the end thereof the following:

"(b) In addition to the authority of the President under section 201 of the Trade Expansion Act of 1962 (19 U.S.C. 1821) to proclaim modifications of the rates of duty and quotas on imports of sugars, sirups, and molasses provided for in items 155.20 and 155.30, the President shall, for purposes of carrying out, and subject to, title II of the International Sugar Stabilization Act of 1979, proclaim special import duties on—

"(i) imports of any such sugars, sirups, and molasses; and

"(ii) the content of any such sugars, sirups, and molasses in imported products containing such sugars, sirups, and molasses.

Any special import duty proclaimed under this subdivision on the entry of any article is deemed to have given due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade, shall be in addition to any other duty imposed by law on such entry and may not be made the subject of any preferential concession under any law or international obligation of the United States."; and

(3) by amending headnote 3 by striking out "For purposes of this headnote," and all that follows thereafter.

SEC. 212. TERMINATION OF AUTHORITY UNDER TITLE.

No special import duty or quantitative restriction may be imposed, and no direct payment may be made, under this title with respect to any sugar supply year after the 1981 sugar supply year.

AMENDMENTS OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, on behalf of the Ways and Means Committee, I offer technical amendments.

The Clerk read as follows:

Amendments offered by Mr. VANIK: Page 37, line 18, strike out "occurs," and all that follows thereafter down through line 21 and insert "occurs.".

Page 38, strike out lines 4, 5, and 6 and insert the following:
the 1979 sugar supply year is 15.8 cents per pound, raw value.

Page 38, line 7, strike out "(3)" and insert "(2)".

Page 38, line 20, strike out "(4)" and insert "(3)".

Page 43, line 1, strike out "The Secretary" and all that follows thereafter down through line 5.

Page 44, line 2, strike out "July 1, 1979," and insert "October 1, 1979,".

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Chairman, basically, the first bloc of amendments simply makes changes in printing style and phraseology, which we believe will help make the title a little easier to administer.

The second bloc of amendments is one which was successfully offered by the gentleman from Minnesota (Mr. FRENZEL) in the committee and which dropped references to the 1978 sugar supply year. Since this sugar supply year terminated at the end of September, it is obviously not a factor in this legislation, and the deletion of references to it simply eliminates some obsolete language. Other technical amendments included in this package provide that if the bill is enacted after the start of a new sugar supply year quarter—that is after October 1—which is now the case—then the various duty levels, and so forth, will be effective 5 days after enactment.

I urge adoption of this package of technical amendments.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, we have examined these technical amendments on this side. As far as the Committee on Agriculture is concerned, we have no objection to the amendments.

Mr. VANIK. I thank the gentleman.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, we have no objection to the technical amendments.

Mr. VANIK. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. VANIK).

The amendments were agreed to.

Mr. McCORMACK. Mr. Chairman, I move to strike the last word.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will be happy to yield to the gentleman from Minnesota.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Mr. Chairman, is the Vanik amendment now pending?

The CHAIRMAN. The Vanik amendment has been agreed to.

□ 1500

Mr. McCORMACK. Mr. Chairman, I rise in support of H.R. 2172, the sugar bill. I would describe it as a consumer protection act. I want to congratulate the chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY) and the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN) for bringing this bill before the House.

Those Members who do not know much about the Fourth Congressional District of Washington State may wonder why I am interested in sugar or sugar legislation, but the fact is that the largest sugar refinery in the world is located near Moses Lake in the Fourth Congressional District of eastern Washington, an area which I represent. In addition to that, another large sugar refinery is located in Toppenish, Wash., in the Fourth Congressional District. The largest sugar refinery in the world is closed, Mr. Chairman. It is not operating because it cannot be operated at a profit with the present price of sugar in this country. The sugar beets for these refineries are provided by hundreds of farmers operating modest size irrigated farms in the Columbia Basin and the Yakima Valley, and the farmers who have been producing beets to make sugar for the people of the United States are now forced to turn to other crops; and the people of the United States are the losers.

Of course, I have been troubled by the fact that these sugar refineries are closed; not only because it presents an economic problem for the people of the Columbia Basin and the Yakima Valley, but also because it makes the consumers of this country vulnerable to the international sugar market. I had intended, Mr. Chairman, to offer an amendment to increase both the market price objective and the direct payment to guarantee an assured return to the farmers, to increase the market price objective of this bill from 15.8 cents a pound and the direct payment from one-half cent a pound. However, I have been persuaded not to offer my amendment. Accordingly, I take this time to emphasize to my colleagues that this legislation, setting these market price objectives, is necessary to keep our domestic sugar beet farmers in operation. Indeed, the prices in the bill may be too low already, and the allowable inflationary rate is probably too low already. So make no mistake about it, this legislation is not dealing in the abstract. The fact is that the refineries are closed in this country because we do not have a sugar program. Every single consumer in the United States, is vulnerable to the vagaries of the international sugar market because we are not producing enough of our own sugar. H.R. 2172 is a consumer protection bill which would stabilize the sugar market and the sugar economy in this country, and I urge my colleagues to support the legislation.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding.

One point that the gentleman overlooks that it seems to me is important in this total picture is, I have just gotten some figures from the Reclamation Bureau records, and it turns out that seven western States in the last 5 years with beet growers—and this is dealing with western beet sugar producers—have received $200 million, in this last 5-year period, of Federal support in irrigation, watering of their land to produce beet sugar. I think that this is a worthwhile and admirable thing that we are doing; however I do want to make the point that an average of $40 million a year has been spent on water irrigation—Federal money—for beet growers, including the State of Washington.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. McCORMACK was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. I thank the gentleman for his comments. I should like to point out that the irrigation programs of the West are, of course, among the best investments of any Federal dollars that we spend, and that these desert areas of the West, which were totally unproductive in the past where one generation of farmers after another broke their backs and went completely bankrupt; these irrigated farms are now among the most beautiful productive areas for healthy American families that we have in this country. They are not only producing sugar beets; they are producing corn and hay and beans and potatoes and cattle and row crops and wheat and many other crops for the benefit of the people of this country. The amount of money we have spent to irrigate these areas of the West is a pittance compared to what is being returned to the Treasury from these areas, and I can assure the gentleman that there is a tremendous benefit to the people of this country from these irrigation programs.

Mr. PEYSER. Will the gentleman yield further?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. PEYSER. I think it is important that the gentleman recognize I did not say I oppose the moneys that were being spent here because I do support them, but I think it is important that we know that the beet sugar producers have received this kind of Federal support and are receiving it, and I support it. But I think we should not let the public be under the impression that these are people who have been isolated from the Federal Government support programs, because they have not.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from New York (Mr. PEYSER) has the greatest ability to bring into debate extraneous material that is totally irrelevant. The reclamation projects in the West are

paid back by the users over a 50-year period, and the projects which the Federal Government has financed have been used for such a wide variety in addition to what the gentleman has already stated that this has nothing to do with the question of whether or not this bill should be passed.

I concur with what the gentleman said about the closing of mills. I would also like to point out that sugar mills have closed in Colorado, Idaho, Utah, and Louisiana in addition to the State of Washington.

Mr. McCORMACK. I thank the gentleman for his comments, and I agree with him. In conclusion, I should observe that the investment in the irrigation of the West is the best way we could possibly invest our money, and this legislative program for our sugar producers will benefit all consumers in this country.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: Page 39, strike out line 15 and all that follows thereafter down through line 2 on page 40 and insert the following:

(2) (A) Notwithstanding any other provision of this Act, the total amount which any person engaged in the production of sugarcane or sugar beets shall be entitled to receive as a result of payments made under this section shall not exceed $50,000.

(B) As used in this paragraph—

(i) The term "payments" does not include loans or purchases.

(ii) The term "person" has the same meaning as provided in regulations issued by the Secretary under section 101 of the Food and Agriculture Act of 1977, except as the Secretary may determine necessary to assure a fair and reasonable application of the limitation under subparagraph (A) to persons engaged in the production of sugarcane and sugar beets.

Page 41, line 7, after "(1)" insert "(A)".

Page 41, strike out line 14 and insert the following:

(B) There is imposed on refined sugar entered during any supply

Page 41, strike out lines 18, 19, and 20 and insert the following:

(C) The Secretary shall undertake a continuing review of the effects of the special import duties imposed under this paragraph.

(2) (A) The amount of the special import duty imposed under paragraph (1) (A) on raw sugar in effect

Page 42, lines 1 and 10, strike out the semicolon and insert a comma.

Page 42, lines 3 and 12, insert a comma after "duty".

Page 42, strike out lines 15 through 18, inclusive, and insert the following:

(B) The special import duty imposed under paragraph (1) (B) on refined sugar shall be adjusted, at the time adjustments are made under subparagraph (A) to the special import duty on raw sugar, in such amount as is necessary to assure that the price objective for the year is achieved.

Page 42, line 7, strike out "duty" and insert "duties".

Page 43, line 9, strike out "amount" and insert "amounts".

Page 43, line 10, strike out ": *Provided*," and all that follows thereafter down through line 15 and insert "; except that if the date of the enactment of this Act occurs after the first day of a supply year quarter to which this subsection applies, the Secretary shall announce and certify any special import duty for that quarter before the close of the fifth day after such date of enactment.".

Page 46, lines 24 and 25, strike out "The special import duty certified to the President under section 203(a) (1)" and insert "Any special import duty under section 203(a) (1) that is certified to the President".

Page 47, line 2, strike out ": *Provided*," and all that follows down through line 8 and insert "; except that if the date of the enactment of this Act occurs after the first day of a supply year quarter to which such section applies, the President shall proclaim any special import duty certified under such section for such quarter not later than the fifth market day after such date of enactment.".

Page 47, lines 9 and 10, strike out "certified to the President under section 203(a) (2)" and insert "under section 203(a) (2) that is certified to the President".

Page 47, lines 14 and 15, strike out "certified to the President under section 203(a) (3)" and insert "under section 203(a) (3) that is certified to the President".

Page 54, line 8, insert "the" before "purposes".

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Chairman, I would like to advise my colleagues that this amendment provides for better phraseology and eliminates obsolete referrals to the 1978 sugar year which expired last September 30. I urge adoption of the amendment.

AMENDMENT OFFERED BY MR. FRENZEL TO THE AMENDMENT OFFERED BY MR. VANIK

Mr. FRENZEL. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL to the amendment offered by Mr. VANIK: In lieu of the matter proposed to be stricken and the new language to be inserted as offered by Mr. VANIK with respect to section 202(b), strike out line 4 on page 39 and all that follows through line 12 on page 40 and insert the following:

(b) PROHIBITION ON PAYMENTS.—During the supply years 1979 through 1981, the Secretary shall not make payments to, or on behalf of, producers and processors of sugar cane or sugar beets under section 301 of the Agriculture Act of 1949 (7 USC 1447) or any other provision of law that authorizes payments by the Secretary to achieve price support levels for such commodities.

Page 36, strike out line 11 through line 17, inclusive.

Renumber the succeeding paragraphs of section 201 accordingly.

Mr. FRENZEL. Mr. Chairman, my amendment would prohibit direct payments from being used in any way to achieve price support levels for sugar during the period of time the price support program established in H.R. 2172 is in effect.

Members of this Committee will remember that last year the House on two different occasions expressed its opposition to direct payments. As a matter of fact, when the conference report came back from the Senate, the House rejected the conference report for the principal reason that it contained a direct payment to sugar producers.

In my judgment, it will be very difficult to pass a bill again this year with a direct payment in it. Therefore, I offer this amendment to eliminate the payments, and, perhaps, to make it easier to pass the bill.

The use of direct payments would advance sugar into the growing ranks of agricultural commodities subject to every sort of government involvement. As we are all aware, the record of the Federal Government in such matters has been a dismal one, indeed.

Direct payments are a direct subsidy to the sugar industry. Many of us in this body have consistently fought such a subsidization because it protects inefficiency. It hides the cost of sugar from the consumer. It promotes a noncompetitive atmosphere in both domestic and world markets, and it causes trade and other market distortions that in the long run are detrimental to everyone concerned.

□ 1510

We have a recent example of a direct payments program for the 1977 crop year. That record was more dismal than usual and Congress was sufficiently disillusioned so that it replaced that interim program with a system of loans and purchases now in effect.

In March of this year GAO released a report on questionable payments which concluded:

The administration of the sugar price-support program has resulted in . . . questionable payments of about $26.9 million.

Those questionable payments resulted from methods of calculating regional market prices, from payments made on ineligible sugar, and to a variety of problems in the promulgation and administration of the payment program regulations.

Especially in the cases of payments made for ineligible sugar, both administrative laxity and maneuverings by the industry to make ineligible sugar appear to be eligible contributed to the overpayments.

In addition, people who can sell their sugar at a high price under this bill can legally qualify for the full amount of the direct payment even though the total amount received by the producer is above the assured return in this bill.

Even without the direct payments, even if my amendment is successful, the bill now before us will be more generous than the bill we considered and passed last year. Even though inflation has undoubtedly caused the figures which would have been effective under that bill to rise somewhat, they would not be above the price objectives, even after the effect of my amendment as projected for H.R. 2172.

Also, unlike last year's bill, this bill continues wide range of support features. It continues the loan and purchase program with interest forgiveness in addition to the special fees, backup quotas, and direct payments. All in all, H.R. 2172 is considerably more generous than the sugar bill approved last year, not approved, incidentally, by an overwhelming margin.

As I mentioned in my general remarks last week, I further object to the use of direct payments because they destroy what few normal market forces remain when a price-support program is established for a commodity like sugar. Direct payments are not reflected in the

marketplace, they are hidden in the tax system. As a consequence, consumers lose an important pressure point on prices: The ability to decide when the price of sugar is too high and when to go to competitive forms and substitutes.

Since 1974 sugar substitutes have become more and more competitive. Direct payments, however, tend to equalize the price of sugar and sugar substitutes, with the consumers paying, through their taxes, for the artificially improved competitive position of raw sugar.

Direct payments are an ineffective and market-distorting method of supporting the price of sugar or of any commodity. We should not include it in this legislation. I urge my colleagues to support my amendment.

Mr. Chairman, I would conclude by saying there would be some who would like to get the bill passed who will want to vote against this amendment. In my judgment, that is likely to be a mistake because if this amendment is not adopted I think there is a fair chance that the bill itself will fail.

My amendment is supported by a wide range of consumer groups and unions, unusual bedfellows for me, but whose support is gratefully accepted.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ALBOSTA and by unanimous consent, Mr. FRENZEL was allowed to proceed for 2 additional minutes.)

Mr. FRENZEL. I yield to the gentleman from Michigan.

Mr. ALBOSTA. Mr. Chairman, I would like to ask the gentleman if he thinks the American farmer is going to produce sugar, continue to produce it without an incentive program or the incentive part of this bill.

Mr. FRENZEL. In my judgment, the direct payment is the principal offending element of this bill. Without direct payments, there are other supports for the farmer which I think he needs.

I would remind the gentleman I voted for this bill in subcommittee, I voted for it in committee, I would like to see a sugar program. I think all sugar programs are distorted, but we have to have one. I agree that the gentleman's constituents need some protection. I do not agree they need direct payments.

I yield to the gentleman.

Mr. ALBOSTA. If the farmer does not get that protection and he does not grow the sugar beets or does not grow the sugar cane, then the factories cannot operate. Would that not be so? The incentive program is put into this bill to encourage the farmer to stay in the sugar business in the interim period of the next 3, 4, or 5 years until the Philippine Islands, Brazil, all the other countries that are world exporters are into the alcohol business and using their own sugar at which time there will be a depletion in the amount of sugar that will be distributed around the world. Certainly that is going to bring the price up. If we do not do something to keep them in business now, how are you going to get them back in business then?

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution but I must say I have told the gentleman before I do not object to protection. I do object to direct payments, particularly when they are laid upon another range of protective devices which ought to be satisfactory or, if they are not, they should be increased. It is the direct payment to which I object, not the support which the gentleman seeks to have for his producers.

I yield to the gentleman from Michigan.

Mr. ALBOSTA. I want to go on record and say I am in favor of these direct payments simply because I believe we have a perishable commodity in sugar beets. We cannot store them as beets as such, you have to process them into sugar, and that it would be in the best interests of the consumer and the country to have them there to continue the sugar production.

Mr. PEYSER. Mr. Chairman, I make a point of order a quorum is not present.

The CHAIRMAN. The gentleman from New York is advised that his point of order is not in order at this time.

Mr. MOORE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I urge my colleagues to vote down the Frenzel amendment as we did in the Subcommittee on Trade and the full Committee on Ways and Means. If we are against direct payments on a philosophical basis, as evidently the gentleman from Minnesota who offered this amendment is, that is a good philosophical point, but this is not the time to debate it. We are talking about whether or not the sugar industry is to remain a viable agricultural industry in this country. We have direct payments now in the 1977 general farm bill for almost every commodity you can name. We should debate the philosophical merits and demerits of payments when all the farm programs are up for consideration in 1981, not now concerning only one.

The interesting thing is, with the exception of corn, the amount of the direct payment, the total amount that comes from the Treasury and the rate of the direct payment is higher for every one of those other commodities than what we propose here for sugar. We are talking about only up to a half-cent-a-pound direct payment that might cost the Treasury somewhere between $40 million and $50 million a year. For such commodities as wheat you are talking about a much higher direct payment of eighty-seven hundredths of a cent instead of a half cent and $617 million a year. All others are higher than sugar as well.

Mr. Chairman, the philosophical argument is one we really should not consider at this point. The sugar industry cannot basically stay in business without this half-cent direct payment. The farmers do not want it. They did not come in here and ask for it. What they asked for was a 16.3-cent-per-pound price support as we are proposing in this bill, one-half cent of which turns out to be a direct payment. They did not want the half-cent direct payment. They wanted it all to come out of the marketplace. The administration imposed that upon us by telling us that, if the direct payment is not in the bill, they would veto a 16.3-cent price support. The farmers had no choice and we do not now.

Now, Mr. Chairman, it is unfair to take out this half-cent payment and give the sugar farmers less price support than they need to stay in business. Without the Frenzel amendment, I point out that sugar has less price support as a percent of parity of any commodity that gets any kind of price support or any kind of protection today in our law.

At 16.3 cents per pound which includes the half-cent direct payment, that amounts to 53.5 percent of parity, the lowest for any commodity. Milk is the highest with 80 percent and the rest range somewhere in between. If we accept the Frenzel amendment and we reduce this amount of price support to American sugar from 16.3 cents—take away the half cent—down to 15.8-cents per pound, you are then at 51.8 percent of parity. Almost 2 full percentage points below what is anticipated in the bill and 4 full percentage points below what we give for the lowest other commodity, rice, and there is no reason for that. The sugar industry is in trouble, the sugar industry needs help. In Louisiana, the 16.3-cents a pound will not keep anyone but the most efficient in business, as our cost of production runs somewhere between 17.5 and 18 cents a pound.

□ 1520

It is just simply not fair to take away this price support on this commodity at this time when we give it for so many other commodities in a greater amount and at a greater rate.

Now, one last thing of interest about price supports and direct payments. The fact is that the other commodities that we give direct price support payments from the Treasury do not do anything to put money in the Treasury. In this case, this bill, by virtue of duties and tariffs on foreign imported sugar will raise a minimum of about $217 million a year, four times the amount that will be paid out of the Treasury in terms of price support for sugar.

Now, all the other commodities are getting price support. They are getting it in a higher amount, at a higher rate and a higher charge to the Treasury and they contribute nothing to the Treasury.

In this bill, sugar is producing more money than it pays out and getting less back in terms of price support than any commodity on the books.

Sugar deserves this. Sugar is going to go out of business without it.

While I respect the arguments of my colleague, the gentleman from Minnesota, this is no time for a philosophical argument. We are talking about the realities of staying in business and being at least on a subpar support basis with the other agricultural commodities.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I certainly yield to my colleague, the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, I thank the gentleman for yielding.

I want to commend the gentleman for his efforts in the Committee on Ways and Means in bringing this legislation to the floor.

I particularly want to underscore one of the points that the gentleman makes and that is that the sugar farmers and producers did not want this payment, this half-cent payment. What they really wanted, of course, years ago, was a continuation of the Sugar Act which had given us price stability for many, many years. What they want today is to control the flow of imported sugar, so that we can achieve a decent price. The half-cent payment was a concession, in effect, to the administration in order to get the bill through.

I can tell you that the producers in my district definitely did not want that particular approach, but we must have it. The amendment, of course, must be defeated.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. MOORE) has expired.

(At the request of Mr. FRENZEL, and by unanimous consent, Mr. MOORE was allowed to proceed for 2 additional minutes.)

Mr. MOORE. Mr. Chairman, I thank the gentleman for securing this time for me and I do intend to yield to the gentleman.

I first want to thank my colleague, the gentleman from Louisiana (Mr. TREEN) for his comments. There has been no one in the Congress who has fought longer and harder and been in this battle more times than the gentleman has and the gentleman's support for sugar is something I think that is well noted in the CONGRESSIONAL RECORD of this body.

I would also point out one additional factor that is in this bill and that is there is built in it the highest minimum wage in Federal law, something that is not there for any other agricultural commodity. Nobody is complaining about that. We want to see people who work in the sugarcane fields to be well paid or better paid than other industries, if at all possible; but it is awfully cruel to take sugarcane farmers that are losing money and take away the half-cent direct payment which this amendment does, but leaves in the bill these labor provisions which nobody else in the country is saddled with, but we have saddled sugar production with. That is something else that ought to be noted in the debate on this amendment.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

I myself yield to no one in my affection and admiration of the two gentlemen from Louisiana. However, the gentleman in the well indicated that this program was going to pay for itself on fees. Is it not true that those fees are added to the cost of sugar and, in fact, paid for by the consumers who buy the sugar?

Mr. MOORE. Yes, it is, and I submit that that is where the price support ought to be paid, as opposed to from the Treasury. Any price support, I think, ought to be paid for by the users of that commodity.

Mr. FRENZEL. Mr. Chairman, if the gentleman will yield further, I agree with the gentleman. Price support ought to be paid by users, not by general taxpayers. But the money does not come from foreigners or from God. It comes out of the pockets of consumers. I just wanted to set that straight in the record.

Mr. MOORE. As any duty or any tariff does, that is correct.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman.

Mr. TREEN. Mr. Chairman, will the gentleman yield further?

Mr. MOORE. I yield to my colleague from Louisiana.

Mr. TREEN. Of course, it will be paid for by the consumer. All costs are paid for by the consumer; but if we want to protect the consumers of this country against spiraling high prices, we will see to it that we keep at least a domestic production that will provide us with 50 percent of our needs, and that is what this bill is all about.

Mr. NOLAN. Mr. Chairman, I move to strike the requisite number of words.

I want to rise in opposition to the Frenzel amendment. As the gentleman from Minnesota (Mr. FRENZEL) knows, we have a cooperative of some 300 sugar beet producers in our own State of Minnesota that has been teetering between bankruptcy and survival for almost 3 years now because of the severely depressed sugar prices. This kind of support is going to be vital if they are going to have an opportunity to survive.

Now, for those who are not familiar with this issue and watching the debate in their offices on television, it should be known that this payment program represents a substantial change in the payment program: In the past there was absolutely no payment limitations. Under this payment program, there is a $50,000 payment limitation and also a stipulation that the payments go directly to the producers.

Under the old programs, payments used to go to some of the largest corporations in America, large sugar corporations, in amounts of tens of millions of dollars.

Under this program the way it is written by the committee, those big corporations will be subject to the same $50,000 payment limitation as one of the family farm sugar beet producers out in Minnesota. Of course, they do not like that. That is one of the reasons why those large corporations would like to see the Frenzel amendment passed, because this is an attempt to give aid directly to the smaller family farmers, without at the same time giving huge windfalls to the very, very large corporations.

While I have the floor, I want also to make it clear so that everybody understands that the domestic sugar industry is in very, very serious trouble and without the kind of support that is contained in this bill, more and more sugar beet producers are going to go out of sugar beet production and that means more and more of their processing plants and cooperatives are going to go out of business. We will then become more and more dependent upon imported sugar, which, yes, at this point in time is very, very cheap; but I ask everyone in this Chamber, particularly my liberal colleagues whom I have worked with on so many projects here over the years to recognize that sugar coming into this country from the Third World is cheap for a very, very specific reason. It is paid for out of the hunger and the malnutrition and the starvation of the people in those countries. The sugar that is grown in the developing world is more often than not owned by very wealthy families or government corporations or a combination of the two. They take the most valuable and productive land in those countries, and instead of growing fresh fruits and vegetables and grains and cereals to feed the starving and the hungry masses in those countries, they are growing sugar to export to the United States. If we want sugar in this country, that is fine; but we ought to have the decency and the good sense to be willing to pay for it ourselves and not ask little children and hungry, starving people around the world to pay for it. That is the least that we can do.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. NOLAN. Yes, I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the sugar industry and the processors that are teetering on the edge of bankruptcy are in Minnesota, as I understood the gentleman; and if that then be the case, was it not the same gentleman that added the labor provision that is going to add to the cost of operation and production in terms of millions of dollars that will be passed on to the consumer that are also suffering, and if the industry was in such bad shape why would we run up the cost of production, as a part of trying to save the industry?

Mr. NOLAN. Mr. Chairman, the gentleman raises a good question. The fact is that the plants are already in bankruptcy or are nearing bankruptcy or have already gone out of business because of bankruptcy, not just in Minnesota, but in the far West, the far South, the Southwest, the Southeast, and all over the country.

I point out Minnesota only because it is probably one of the most modern and most efficient plants, one of the newest plants anywhere in the world. The plant is owned and supported by some of the most efficient producers anywhere in the world and they are having trouble surviving because they cannot compete with countries that produce sugar while paying their people $1 and $2 a day to produce that sugar.

Yes, I was an author and a sponsor and a worker on that committee for the highest wage and the best labor provisions that we could possibly get; but you know what, it does not hurt the Minnesota producers one bit. Do you know why? Because they have a tradition of paying their labor decent wages and giving them good salaries and good benefits. Unfortunately, there are some sections of the country that do not have that kind of tradition; so those people suffer, and that is why we come in here and fight for good labor provisions.

□ 1530

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. NOLAN) has expired.

(On request of Mr. KELLY, and by unanimous consent, Mr. NOLAN was allowed to proceed for 2 additional minutes.)

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. NOLAN. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I find myself in a strange agreement with the gentleman for entirely different reasons. I also hope that the Frenzel amendment is defeated.

But on the point concerning labor, on which I think the gentleman is absolutely correct, there are parts of this country where we have had slave labor. I am on the Subcommittee on Trade of the Committee on Ways and Means, and we have heard from people who work in the fields, in many instances very young people, at extremely low labor rates. There is just no question about that.

I am not really concerned about driving up the cost of labor because if driving up the cost means we are going to pay someone who works their tail off in cane fields a living wage, that should be one of the costs we have to pass on to consumers.

What I want to focus on is one of the gentleman's functional points, and that is that the price of sugar is supported by the slave labor rates paid in other countries, and that unless we have a domestic market, we will somehow be dependent upon foreign sources of sugar as we are for oil and for other strategic materials.

I want to ask the gentleman this—and the gentleman and I are close friends—and I want the gentleman to honestly tell me the answer: Under this bill, do we not really support the price and are we really paying to have an inefficient domestic sugar industry?

Not only is the world price of sugar less, but the fact is that we are dependent as a Nation on other countries for bananas and cocoa, although we do not feel that a banana cartel is growing to prevent the United States from getting bananas. There are at least 100 countries in the world that produce sugar.

Mr. Chairman, will the gentleman respond on those points?

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. NOLAN. Mr. Chairman, I will respond to the question of the gentleman from New York (Mr. DOWNEY) first.

The fact is that we are not supporting an inefficient industry. That is why I used the Minnesota example. It has some of the most modern and most efficient plants anywhere in the world. Perhaps the major difference is that they pay decent wages to their employees.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. NOLAN) has again expired.

(On request of Mr. DOWNEY, and by unanimous consent, Mr. NOLAN was allowed to proceed for 2 additional minutes.)

Mr. NOLAN. Mr. Chairman, if I may proceed, let me say that instead of paying a dollar a day for labor, in Minnesota, producers are paying in the neighborhood of $6 an hour. So the so-called economists say that it is relatively inefficient compared to the sugar producer in other countries because they can produce it for 3 or 4 cents cheaper. But the reason why we are considered inefficient is because we are paying decent salaries to our laborers.

The other point that is raised about the foreign producers, a point that I did not raise here yet, is the fact that because foreign sugar is controlled and in the hands of such a few people and a few governments, it is very, very volatile and easily manipulated. There is nothing to guarantee anybody here in this country that if we phase out our domestic industry, as we are doing, to take advantage of this cheap sugar, that we will have an adequate sugar supply, and there is nothing to protect us against those very, very few people deciding to withhold their sugar and raise their prices to some of the unbelievable levels that they did reach immediately after we did away with the last sugar act.

So, Mr. Chairman, we could easily be looking at sugar priced at a dollar a pound.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. NOLAN. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, my concern, I will state to my friend, the gentleman from Minnesota, is that what we are talking about here is a theory of comparative economic advantage.

It is a little tough to go in front of Minnesota farmers or cane producers in the South and say to them, "It is pretty clear to us that we are just not going to be able to compete, with certain exceptions, with other countries in international sugar prices."

This is the question we have to ask ourselves, those of us from the Northeast who are paying the prices. I will tell the gentleman that I wanted Alfred Kahn to come before the committee and talk about the inflationary aspects of this issue, but he refused to do it. He refused to do it because he knew it was inflationary.

We will just have to stand four square and confront the fact that producing as much sugar as we do in this country is no longer economically feasible without a big raid on the Treasury. We should let the marketplace dictate the price.

Mr. KELLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am sure that I must not have understood, but I thought I heard the gentleman from New York say that he did not care that the American people are suffering due to inflation, and that it is all right for this Congress, in order to win favor with the workers and to buy votes, to just mandate an increase in wages.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I will yield in just a moment.

Mr. Chairman, the incongruity of this is that the American people are suffering because of inflation, and this Congress should care.

Then, in addition to that, the argument is that we should try to do something to help save the jobs of the American sugar workers. Well, it seems a little strange that the American sugar workers are losing these jobs because the industry is not competitive, and so what we are going to do now is increase the cost of production at the expense of the consumer and then be treated to a suggestion by a Member of this Congress that he really does not care about the consumer—never mind the mule, just load the wagon; just heap it on the American people. I think that they have had about enough of this good stuff and would like to see an end to it.

Mr. Chairman, I would be happy to yield to the gentleman because I think this is the same gentleman I was talking about.

Mr. DOWNEY. Mr. Chairman, one would never know that from what the gentleman from Florida said.

I would just tell the gentleman that he was right the first time: he did not understand.

Mr. KELLY. Good. Well, I think the record will speak for itself. I have not seen anything to indicate that the gentleman had any concern except for labor.

It is all just labor, just up the ante on labor, adjust the cost of labor, and then we have industry after industry in the United States that is becoming noncompetitive because this Congress is taking this very kind of attitude.

So, Mr. Chairman, I say right now that there is no salvation for the United States or for its industry except for the people in the United States to be competitive in the world, and this is no time to be heaping inflation on the American people.

We have all got troubles; it is not just the workers in the cane fields, it is every American. Our basic security and our ability to compete in the world are threatened by inflation, and it is this very kind of inflationary action that is causing it—this contempt for the security and the welfare of the United States.

Mr. Chairman, I yield back the balance of my time.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Frenzel amendment.

Mr. Chairman, I support the amendment to strike the direct payment provision.

I oppose the half cent direct payment program, which will cost the Treasury about $50 million per year. As the GAO notes, this type of program is hard to administer and subject to overpayments and errors. In addition, the half cent payment, on top of the price objective, is far too generous.

The assured return of 16.3 cents, which will probably be escalated about 7 percent per year, is unnecessarily high and should be reduced. No one knows for sure what the cost of producing sugar is, but we do know that estimates of the cost of producing sugar—which were generally about 15 cents last year and

must be about 16 cents this year—includes a value for land.

For example, the average cost of sugar production for the just completed 1978 crop year is considered to be 15 to 15.2 cents. According to the Agriculture Department, this estimate "implicitly assumes that everyone just recently bought their land and paid a high interest on it. * * *" The USDA testified:

> If the acquisition cost is used in calculating cost of production, it would lower the cost of production at least cent a pound, maybe a cent and a half.

The assured return figure is set too high. It guarantees many producers an unreasonable profit on land that in many cases has long been paid—and this charge for land severely and unnecessarily inflates the support level.

The 16.3 cent figure, which by 1981 will probably have risen to 18.6 cents, becomes a guarantee figure. For all too many producers, this figure will include some guarantee of profit, management contribution, or return to land. Yet there are no requirements in this bill that domestic producers limit production. Our other farm programs are not designed to insure or guarantee a profit regardless of production—and yet this one does.

The sugar industry is a cyclical industry. Everyone in it knows that there will be lean years, such as the last several. But there will also be years of enormous profit.

In 1974, when the world price of sugar went up to about 60 cents, the domestic producers raised their price to the same levels. The existence of a domestic industry did not provide any consumer protection—an argument which is often claimed by the proponents of this bill. And when prices rose to 60 percent producers made fantastic profits. The International Trade Commission has calculated that in Hawaii, for example, in 1973, the industry's profits were about $42 million. In 1974, however, they skyrocketed to $428 million. In 1975, they were still high at $83 million. While the last 3 years have been lean years, the cycle is now turning and they will again make millions in profits on high-priced sugar. But why are they—and the rest of the efficient sugar producers around the Nation—being guaranteed a minimum—and profitable—price now, when the consumer is never given maximum price protection in years of shortages? It is a sweet one-way street for the grower. It is only fair to demand that supports be set at a lower level in recognition of the highly profitable years available to this industry.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. VANIK) has expired.

(By unanimous consent, Mr. VANIK was allowed to proceed for 2 additional minutes.)

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out to the gentleman that the chart closest to him only goes to 1972, but the chart further over goes back during the period of time of the sugar program, the old sugar program. It goes back to 1948. Look at the stable sugar prices we had during that entire period of time until we removed the old sugar program in 1974. We had no program any more. That is when the prices skyrocketed because the sugar industry in this country and everyone in the world felt—the market companies felt that way also—that they could withhold sugar, and it would destroy our domestic sugar industry.

Mr. VANIK. The point still stands that in this period when sugar prices escalated the sugar bill did not help the consumer one iota.

Mr. ALBOSTA. If the gentleman will yield on that point, I would like to point out that sugar during that period of time did maintain positive, stable prices for the domestic sugar in this country, and that chart shows it.

Mr. Chairman, I brought some charts in here today that are probably the biggest charts this House has seen, at least since I have been here.

The reason that they are here is very obvious. We must look back through history to find out what happened 5 years ago when we did not have a sugar program and when the world supply of sugar dropped off.

Let us take a look at this orange line right here. That orange line shows us that in 1973 sugar supplies started to be depleted and sugar prices started climbing. If this chart was big enough to reach up, it would have to go three times higher than it is right now, because the price only goes to 22 cents a pound. That was during the period when there was a shortfall in the supply of sugar in the United States and in the rest of the world.

Who had to pay that bill? The American consumers had to pay the bill. They are the ones who had to pay the cost of having a short supply in the world, simply because we import 50 percent of the sugar that we use here domestically. It does not make any sense to lose our industry in this country, knowing that the same thing is happening right now.

Let us take a look at what is happening. In fact, I called in today to find out what the sugar market is for the No. 12 and No. 11 contracts. The No. 12 contract, which is the quoted contract used here in this country, is up over 16 cents a pound. I remind the Members that that is more than the figure that is in this bill. This bill has a 15.8-cent-a-pound price in it, and the market is already above that.

What is happening to the rest of the sugar in the world? It was at 8 cents, first it was at 7 cents, then 8 cents, and then it was 9 cents. Where is it now?

I checked on that figure just a few hours ago, and right now it is 14.32 cents a pound. That is from Merrill Lynch, and I am sure that it is quite accurate.

□ 1540

The same exact thing that happened back in 1973 is now happening again. So for 50 percent of our sugar we are going to have to pay more money.

What happened with the price of products, those things that we use for sugar? The pop companies raised their price, the bakeries raised their price. All of them went up. How many of them came back down? Simply when this sugar went to 65 cents a pound, they had to have more money in order to put the sugar in that particular product, and so they raised the price of that product way up. I think it is very evident that it has not come down. Today you can go to buy a bottle of pop, and pay as much as 50 cents for it. It used to be 10 cents. Back in 1973 you could buy it for 10 cents, but that company had to raise that price simply because it cost more for sugar and this product went way up.

I want to talk a little bit more about what is happening in the rest of the world. I read an article just last week that the Philippine Islands intend to use sugar for the production of alcohol. I think the gentlewoman from Massachusetts pointed out in her charts that the Philippine Islands was one of the countries that was importing huge amounts of sugar in the world market. The gentlewoman was right. But what happens when they start using that product at home? What happens when you lose 10 percent of the total production in the world market of sugar? It goes up 50 or 60 percent in price. And what happens when Brazil, another big country and huge exporter of sugar, starts using all of that sugar at home? It simply means that the world supply of sugar is going to go down and we are going back to the same situation.

My question to the Members is: Should not the United States also be making alcohol out of sugar, and should we not be encouraging our sugar industry in this country to be producing more sugar and not going out of business, because it is one of the best raw products that there is for the production of alcohol?

This bill also has the production-of-alcohol clause in it that would lend money that would create a whole cycle of expenditures of $250 million for that production.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. ALBOSTA) has expired.

(By unanimous consent, Mr. ALBOSTA was allowed to proceed for 1 additional minute.)

Mr. ALBOSTA. Mr. Chairman, just to summarize this, I think that I would want to point out to every Member that it makes just good commonsense to keep a viable domestic sugar industry in this country. If we do not do that, we are going to be in the same situation that we are in with the cartel of the OPEC countries that controls the price of our oil. The small amount of money that we are talking about in this bill would be almost nil compared to what the cost is to the consumer when that price went up to 65 cents a pound. I think it is the responsibility of the Government to do that.

□ 1550

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I would be happy to yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I appreciate the gentleman's yielding, because the figures I have show the cost of sugar on the international market in 1974, and it was very stable, from 21 cents to 23 cents, up until June when the Sugar Act failed. Following the failure of the act in June, it went to 25 cents in July; in August, 31 cents; September, 34 cents; October, 39 cents; and November, 57 cents.

The gentleman from Michigan is correct. The prices were stable up until the time that the act actually failed, and at that point the prices went up.

Mr. VANIK. The act will not save the consumer anything or protect him.

Mr. HEFTEL. Mr. Chairman, I rise in support of the amendment.

I think almost all of the subject matter has or will be covered, but I think that it is important that we ask ourselves where will the $50 million go that leaves the Treasury in terms of payments directly to producers? Will is in fact go to the benefit of the consumer? The answer is no.

Seventy percent of the sugar production ends up in industrial production such as Coca-Cola, Pepsi-Cola, 7-Up, and baked goods. We do not have to kid ourselves and think there is a chance that the price of those products to the consumer will go down if the cost of sugar goes down.

We simply cannot benefit the consumer by using the direct-payment approach, be it a half cent, be it a quarter of a cent, or be it a nickel.

The best way to benefit the consumer is to maintain a stable price for sugar, to maintain a domestic industry.

It is unfortunate that the President has determined that 16.3 is what the price should be, but that he wants a half-cent payment inherent within it. I do not think that we have to abide by that judgment. I think we can let the bill go if we want the 16.3 and let the President veto if he wants to; but a Coca-Cola bill does not make any sense at this time for the benefit of the people or the President, as a matter of fact.

I would hope that we would support and pass the Frenzel amendment and then determine whatever the price, whether it should be 15.8, 16, or 16.3, as the case may be.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman for yielding.

My colleagues comes from Hawaii, which is a very strong sugar-producing State. We have discussed this bill in the past.

Would the gentleman agree basically the industrial users, the people who are using imported sugar, really do not care if this bill passes or not and probably would prefer it not pass so they could buy foreign sugar at a cheaper price and not have to worry with buying domestic sugar at a supported price at 15.8 or 16.3?

Mr. HEFTEL. I think the best thing we can do is allow the marketplace to bring that price to maintain domestic industry.

Mr. MOORE. I am talking about the industrial users the gentleman mentioned a moment ago.

Mr. HEFTEL. If they have to pay a combination of 16.3 or 15.8, as the case may be, because of the half cent they would rather have the 15.8. If they are buying on the foreign market at a lower price, then, of course, they will prefer that; but we can control that through our own tariff system.

Mr. MOORE. I agree that they would probably like the cheaper price of foreign sugar, and they have shown an affinity for that in the past, and opposition to this bill as late as the last time they testified before one of our committees.

Mr. HEFTEL. The industrial users would be willing to let the foreign market take over if the price of sugar gave them a higher profit.

Mr. MOORE. In debate on this bill, I believe the gentleman debated in debate and made the point that the direct payment was a thing particularly onerous, or I think the gentleman's colleague from Hawaii (Mr. AKAKA) did, particularly onerous to the Hawaiian sugar industry, that the payment limitation is the problem.

Would the direct payment be acceptable to the gentleman if there was no payment limitation on it?

Mr. HEFTEL. I could not be inconsistent in good judgment and good legislation and say I am opposed to the payment with a cap but I support it without. I have to oppose it in principle with or without the cap.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. The gentleman is to be commended for taking that position. I want to concur completely with the gentleman's position in that, if the 16.3 cents per pound for sugar production is adequate as reasoned by the President, then the consumer ought to pay that cost and not the American taxpayers, and the perverse logic that this administration has that anything more than 15.8 cents in the way of a market price support and then subsidizes the rest by the taxpayers is ludicrous.

So I also have to rise in support of the Frenzel amendment to strike the half-cent payment. I would join my friend from Hawaii in supporting a half-cent higher price market objective to be paid for by the consumer. That is the only reasonable way to proceed with this legislation.

Mr. STOCKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if some of the Members of the House are confused on this amendment, let me suggest a simple formula to resolve their doubt.

Flip a coin on the Frenzel amendment and then vote "no" on final passage, regardless of the outcome; because the fact is this amendment involves nothing more than an intramural debate about which pocket to fleece, the tax pocket via direct payments; and the gentleman from Minnesota (Mr. FRENZEL), is against that, and I commend him for it; or the consumer expense pocket via higher price supports and tariff levels.

I would suggest to the House that the important matter here is that in the final analysis it really does not matter which pocket you fleece, because either way, the American economy and the consumer taxpayers will end up paying up to $4 billion extra for sugar over the next 4 or 5 years and for absolutely no good reason.

Now, the simple, unvarnished purpose of this bill is to prevent low-cost foreign imported sugar from gaining a larger share of the U.S. market and thereby assure that every last acre, every plow, every harvesting machine and every processing plant now devoted to domestic sugar production remains profitable and competitive under the artificial protection of a high-tariff umbrella. Thus, the fundamental issue that this legislation poses to the House is very simple.

What does the American economy, or what do the great bulk of American consumers get from this billion-dollar insurance program designed to prop up the domestic sugar industry?

The answer, the only one that I can detect as I read the propaganda for this bill, is that in the spirit of the Halloween season upon us, the American consumer will get some protection from various international hobgoblins that are said to lurk in the world sugar market.

Of course, the most ferocious of these hobgoblins is an OPEC sugar cartel, something which we are told will spring up sphinx-like if the U.S. production base erodes even marginally.

The problem is that cartels can fix artificially high prices if, and only if, they can drastically curtail production or control production. The odds of that happening in the world sugar market are about of the same order as of eradicating ragweed.

Sugar is grown in 83 countries. It is exported by 47. It is produced in regions from Norway to Australia. It can be grown in practically every climate, topography and soil imaginable, and more importantly, since we are referencing the argument to OPEC, unlike the case of oil, in which it took mother nature 100 million years to lay down 60 percent of the world's reserves in a narrow strip of sand around the Persian Gulf, sugar production can be increased dramatically in a matter of 1, 2, or 3 years in dozens of regions around the world.

In response to these high prices that we have heard about in 1974 and 1975, for instance, U.S. acreage of sugar acreage alone expanded 27 percent within the course of less than two growing seasons.

□ 1600

In short, the point is a sugar cartel cannot be created because there are too many producers to begin with and artificially high prices cannot be sustained for any reasonable period of time because the production response is too elastic.

The second benefit we are supposed to get, the consumer, the American economy is supposed to get for this very high insurance premium we are being asked to pay, is protection from an unstable

market and, as we heard a moment ago, from the threat that without a sugar program prices might skyrocket through the ceiling and reach 60 cents a pound again or even $1 a pound.

I think the point here is very simple. Beware of price fixers bearing gifts of market stability and consumer protection. As a matter of fact, I would suggest we amend that old story about the three greatest lies to include: First, "My check is in the mail"; second, "This will only hurt a second"; and third, "My plan will protect you from high prices."

The fact is all price fixing, all market rigging schemes are designed to stabilize the price, of course. Even Mr. Yamani says he is ravaging our economy today to spare us from an even worse fate tomorrow.

But these price fixing, stabilizing schemes are not designed to minimize costs to consumers. They are not designed to maximize production efficiency.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent Mr. STOCKMAN was allowed to proceed for 4 additional minutes.)

Mr. STOCKMAN. No, they are designed to protect market shares, profits, and lessen competitive discipline in the industry involved.

Let me refer to this 60-cent price we had in 1975 and we have been warned will happen again if we do not have a sugar program. The main thing to say about that is that it lasted for a grand total of 5 weeks, and that is the honest to goodness fact.

In the entire last decade the world price of sugar exceeded 60 cents a pound for the grand total of 35 days. As a matter of fact, during the entire last decade the price of world sugar exceeded 30 cents a pound for only 7 months.

The point I am trying to make here very simply is yes, you had a very short period of instability in the market when the futures price was bid up, when Congress refused to extend the old program, but the underlying fundamentals of the industry and the world market are such that there is endemic excess production capacity or potential for sugar production in the world and that is going to hold the sugar price in the future much closer to the 12 or 15 cents per pound level that it is at today than the 16 to 20 cents provided for in this bill, and most certainly than the horror stories of 60 cents or $1 per pound sugar that is being warned about by its backers.

I want to talk about the third consumer benefit that we are supposed to get from this bill; namely, protection of our economy and our consumers from the stupidity of foreign producers who insist on dumping sugar on our market below the cost of production. Since dumping is a form of income transfer of what we call foreign aid, I am wondering just who the countries are, what foreign principalities really engage in this over a sustained period of time. The fact is there has not been any evidence presented to show that.

We keep hearing about how the price in France or Denmark or Japan is 40 or 50 cents a pound but those are net importers, not exporters. The reason the price is so high internally is they support their domestic industry at that very high level. If we want to talk about dumping we have to look at the net exporters, the Philippines, Brazil, Mexico, South Africa. Their internal prices are the same as the world price. They sell both on the spot market and long-term contract market. The long-term contracts, for the most part, except for the convention, are tied to the future price and spot market price of sugar. The fact is there is a workable world sugar market out there that is not subject to the influence of all these hobgoblins we hear about.

What we have before us is a proposal that merely is aimed at a few thousand marginal producers, a very small slice of American agriculture, that do not want to have to adjust or move acreage into some other productive endeavor.

I would just remind the committee in the last 4 years, and this is an astounding figure, but in the last 4 years we have seen an expansion of the production of sunflowers from 400,000 acres to 4 million acres which came out of something that was being produced there before that was not as profitable. That expansion in 4 years is twice all of the acreage we have in sugar in the entire country.

So what the choice here today really is is not between pro-producer or anti-consumer, the choice really is find a progressive economic policy that recognizes that our resources are our acreage, our capital, our labor has to shift as market conditions change, or a reactionary policy that is going to freeze in every acre, every investment in labor and capital that we have in the economy today, and drive up barriers to foreign imports in order to allegedly help the national economy and the consumers.

Mr. MOORE. Will the gentleman yield?

Mr. STOCKMAN. I will be happy to yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman from Michigan for yielding. He makes a very eloquent argument and I have great respect for the position he takes and his argument.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. MOORE and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. MOORE. If the gentleman will yield further, although the argument is tailored toward sugar, would not the gentleman make the same argument toward any price support program for agricultural commodities he is making now?

Mr. STOCKMAN. Yes; and I have in the past.

Mr. MOORE. And would it not also be fair to say that essentially the gentleman sees no redeeming quality, assuming the debate has been accurate, that sugar farmers cannot exist at the 10- or 11-cent world price in the United States, assuming they cannot produce for that, the gentleman sees no redeeming quality in maintaining them in business when we can, in fact, buy that sugar from a foreign market at 10 or 11 cents?

Mr. STOCKMAN. I think we should buy it at the lowest cost, whether domestic or foreign. The fact is the world market is now up to 15 cents. I think there is a substantial part of our industry that can produce and compete and make a profit over the cycle at that level. But we do have some in very high cost production areas or regions who cannot. But the fact is we have a constant process of adjustment, of acreage and of crops and of investment in our economy, and we have to encourage that, we cannot freeze in every acre that is planted to sugar today. If we did that, we would not have half the prosperity, efficiency, or level of wealth in our agricultural economy we have today.

Mr. MOORE. I understand that, but my question is, for those who cannot compete, at that point the gentleman sees no redeeming quality, economically speaking, in maintaining them in production by virtue of a price support program such as this?

Mr. STOCKMAN. I think it is a disservice to them and obviously a disservice to the entire economy.

Let me just add one point. I would say to the gentleman I grew up in a county that planted strawberries from hedgerow to hedgerow 20 years ago and if you go back there today you cannot find a strawberry sundae. But that does not mean our area is an economic wasteland. We are growing grapes and soybeans and lots of other crops, and the farmers are better off today than they ever were growing strawberries 20 years ago.

Mr. MOORE. Will the gentleman yield further?

Mr. STOCKMAN. I yield to the gentleman.

Mr. MOORE. I think the gentleman has been very honest and I think his economic arguments are always based on solid economic theory as far as he understands it, and facts, but I think the point ought to be made, and I think he just answered the question very honestly: First, he is against farm programs; and second, he sees no redeeming grace in saving the American sugar industry.

I think we ought to realize that is implicit in the gentleman's argument.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. DOWNEY and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 1 additional minute.)

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from New York.

Mr. DOWNEY. The gentleman realizes we do not always agree on issues. But I want to congratulate the gentleman on one of the most succinct and carefully argued presentations that I have had the privilege to hear on this floor. The gentleman is right, it is not pleasant to hear because it rubs politically the wrong way, both in his party and my party; but the fact is that there is a world market, and the sooner we recognize it and let the

marketplace come to bear, the better off we will be as taxpayers and also as consumers. I thank the gentleman for a fine statement.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I am happy to yield.

Mr. KELLY. I want to commend the gentleman for a very fine statement and presentation, and I want to ask him is it not also a truth that the ability of American agriculture to produce sweeteners from corn is a very important factor in the equation that was not mentioned by the gentleman; that the American consumer can continue on a lot better now than he could a few years ago if sugar supplies are reduced because of the advances that have been made in the corn sweetener industry?

Mr. STOCKMAN. I think the gentleman is precisely right. I do not think we have to worry about a dollar per pound or 60 cents per pound sugar.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. FRENZEL and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. FRENZEL. Will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman.

Mr. FRENZEL. I would say to the gentleman he has been discoursing on the proposition for over 10 minutes. I wonder if he has flipped his coin yet.

Mr. STOCKMAN. I am going to support the gentleman's amendment.

Mr. FRENZEL. I thank the gentleman.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I am happy to yield.

Mr. MOFFETT. Mr. Chairman, I would like to associate myself with the gentleman's remarks and say that we have worked together a great deal on energy problems. There is some analogy and the gentleman brought in the cartel argument and I think devastated that argument, which should be done.

I am not nearly as concerned about high sugar prices as I am high oil prices, but I think we are both concerned about inflation, and I have heard an awful lot today from Members who are sincerely interested in seeing the sugar bill passed, that, yet, it will be inflationary, but only for a little while.

All of us do have our inflationary votes. There is not a Member in the House that does not cast a vote that is inflationary from time to time, but for those who have voted for oil price decontrol and who will vote for the sugar bill, and so on and so forth, it is a big dose of inflation that we simply cannot turn away from.

□ 1610

I congratulate the gentleman for his opposition to the bill and join him in that effort. I regret not being able to be with some of my friends who are for the bill.

Mr. STOCKMAN. I thank the gentleman.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I would like to join in congratulating the gentleman from Michigan on a very eloquent statement, but I think, as Mr. MOORE of Louisiana pointed out, the gentleman from Michigan believes that there should be no farm price support programs of any kind. His attack on the sugar program is no different than the attack he would make on corn or wheat or milk or any other product.

I find it interesting that some of my friends who are now congratulating him, accept his very succinct and classic economic theory that the Government should not interfere in any respect in any economic matters to protect jobs or protect industries or protect commodities. The gentleman believes the free market ought to make these determinations, and in the long run I think the gentleman believes that actually jobs that are lost here or there or elsewhere, in the infinite wisdom of the marketplace, will be picked up and replaced later. It is a classic and honorable and objective—within its framework—but I would not hesitate a moment to point out to some of my friends who do not seem to approve of Government intervention in sugar, that they found such Government intervention not a difficult shoe to wear—if I may make a pun—when it comes to their own regions of the country.

It is also surprising to me that some of the people here who are nodding in approval are, in fact, very much concerned with a particular segment of the sugar industry, the refining of imported sugar. For let us be honest about it, the cane refiners are one of the major opponents of this legislation. What they appear to overlook, however, is that if we carry the gentleman's thoughts and philosophy to their logical conclusion and put them into practice, we should not have any protection against the importation of unlimited quantities of refined sugar either. If our object here it to let the market work its will and to pursue the cheapest sources of sugar for our consumers, why stop at merely abandoning our domestic sugar growers, those who work in the fields, and in the processing of U.S.-produced sugar in favor of their foreign competitors? Why make a point of going to countries who pay their workers slave-labor wages in search of cut-rate raw sugar only to turn around and pay U.S. wages for refining it? Why not just bring in cheap refined sugar from abroad and kill off the thousands of workers who refine foreign sugar while we are about it?

This question of payments, which the gentleman diverted us from with his interesting approach to foreign trade interests, is something I would like to return to. We have in the bill provision for a payment of up to one-half cent per pound to make up the difference between the price objective and the assured return of 16.3 cents a pound. Is that an unreasonable payment? Well, in the first place, as Mr. Moore and others have pointed out, we have used the same approach in farm bill after farm bill to provide some income security to farmers without demanding that it all come from the marketplace.

One can argue endlessly as to whether it is better to have a 16.3-cent price objective or a 15.8-cent price objective with a half-cent payment. I for one would be perfectly happy to have the entire 16.3 cents or higher from the market because I believe that it is both reasonable and justified. Yet, in the interest of limiting consumer impact, the bill provides for a market price objective of 15.8 cents. Last year, it was the Department of Agriculture's best guess, based on outdated information, that it cost on average at least 15.2 cents a pound to produce sugar in the United States. During the intervening year, moreover, production costs have escalated by 11 to 14 percent or better. Unless one wants to join with the gentleman from Michigan in wiping out that industry, one cannot help but acknowledge that we must have some kind of price support for sugar that at least begins to approach the true cost of production.

The gentleman from Ohio (Mr. VANIK) suggests that that figure is inflated because it deals with land at current values. As a matter of fact, it deals with land on the basis of cash rents, share rents, and current values figuring capitalization of that land at a 7-percent interest rate. Obviously we have a 7-percent interest rate today. We all know just how inflationary and inflated that 7-percent figure is. If we were to even begin to approach the current rate, the actual cost of production figures would be much higher.

Second, the Department's estimate of production costs treats machinery in terms of depreciation or acquisition value rather than replacement costs. Thus, in point of fact, the formula used to compute the cost of production is too low. If we were to take 15.2 cents and adjust it by the real rate of inflation over the past year, we would certainly get a figure substantially above 16.3 cents as the average cost of producing a pound of sugar in this country; and, thus, this payment is well justified. If anything, it is inadequate. Yet, it is what the administration will support and, for that very reason, what we strongly urge here today.

Although one can come out on either side of the issue of payments as a concept, I do not believe that anyone can justly oppose this particular provision on the grounds that it is excessive. Furthermore, as has already been stated, payments to any one grower can neither exceed one-half cent per pound nor a total of $50,000; and the total cost of this provision for all growers will not exceed $50 million.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. We are estimating revenues from duties and fees to be somewhere between $250 and $500 million a year in the period from 1980 to 1983. Consequently, it is a question of whether the revenues are to be 5 or 10 times the amount of the total payments. I know that I need not remind any of my colleagues that it is very seldom that the Government has any program that returns 5 to 10 percent more to the Treasury than it pays out, let alone 5 to 10 times more.

I hope that Members who have some doubts about this bill will take another fact into consideration; that is, sugar operations are dying around the country. In Washington, Colorado, Louisiana, and many other States' sugar plants in impressive numbers have already closed or are in the process of closing. They are not doing this for demonstration purposes to focus attention on what they want, but because they cannot afford to process sugar at the current rates.

It has been suggested by the gentleman from Michigan that those who want to see this bill passed would have us believe in the imaginary threat of some sugar OPEC. Nothing in my remarks has suggested any such thing. Editorials such as the New York Times' recent offering have made the assertion, which I cannot fault, that sugar will always be available to us. Unfortunately, what they blithely fail to address is at what price. I am convinced that prices will be substantially higher.

If the United States, which now imports one-third of all the world's sugar available for free trade, is forced through the loss of substantial domestic production into even greater dependence on the already small world market, the result is inevitable. We will see sugar prices increase faster and soar higher than they otherwise would in times of normal to short supply because the restriction of the market will occur earlier.

In talking about consumer costs, it must be remembered that in just 1 year, 1974–75, consumers paid billions of additional dollars for the sugar they use. While prices were not long in the 60-cent range, but, rather, at 50 cents, 40 cents, or lower for much of the time, the average price of sugar in that 1-year period was nevertheless 30 cents per pound. That is a price variation between 1973–74 and 1974–75 of 20 cents per pound. Moreover, the 30-cent average price for 1974–75 is about twice what we are asking in this bill. H.R. 2172 would have to operate for 15 years, or until crop year 1993–94, to reach a price objective that is 20 cents above present levels.

It is maintained by some that, in essence, what we are dealing with here is a consumer issue. Interestingly enough, however, the facts do not appear to bear this out. The landed price of sugar in this country is now about 13 cents a pound, exclusive of duties or fees. Additionally, headnote duties take this price to around 16 cents. Under the circumstances and in line with the administration's current commitment to support the price of raw sugar at 15 cents, all import fees have been dropped. Furthermore, there are indications that with or without this bill, the price will be supported at 15.8 cents a pound. As a consequence, there is no evidence that the passage of H.R. 2172 will add so much as one-tenth of a cent to the cost of sugar in the United States over and above what the existing program and prevailing market conditions provide.

Finally, as sugar prices move up, and there is every indication that they will, we will probably see a situation in which not even the payments are made because under the provisions of the bill, as prices climb above 15.8 cents, payments are reduced accordingly.

□ 1620

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding. I do not want to prolong the debate; I think we have been on this subject for quite some time now. But I would like to endorse what the chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY), has said. The cost of production in most places runs a little bit higher than 17 cents, and the 16.3 cent assured return in this bill is inadequate at best. Those who have heard the testimony from around the country know that is the case. Twenty-five percent of our domestic processing capacity has been dismantled in the last few years. About that much of production has been dismantled and gone to other areas. If this half-cent payment is stricken, we are just adding the coup de grace to a dying industry as it is.

I thank the gentleman for yielding, and I hope his position prevails.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Louisiana.

Mr. MOORE. I appreciate the gentleman's yielding. I would simply add that maybe the gentleman from Michigan is correct that maybe there will never be an OPEC in sugar. I can think back 15 or 16 years ago there were some 15 or 16 oil countries operating in those countries. Nobody ever thought we would have the situation we have today. We had American companies operating there, and we felt secure. Now we know that is not the case and we are paying the price every day for that mistake. We are learning in the Trade Subcommittee of the Committee on Ways and Means there is now a Bogata group forming a cartel of coffee producers trying to jack up their prices. We are trying to deal with that now.

In 1975 the OPEC oil companies tried to form an OPEC in sugar and failed. I hope that they continue to fail, as the gentleman from Michigan assures us they will. But somehow or other, I am not just so sure we are not going to enter into an era of no cartels in the future, when we see them coming.

Mr. FOLEY. It is very difficult to predict what might happen in commodities in the future. We do not need to presume an OPEC in sugar to justify this legislation.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Michigan.

Mr. STOCKMAN. I thank the gentleman for yielding. I appreciate the difficult task the gentleman has juggling all of these commodity groups trying to be fair about everything. I certainly commend him, because we could get some far greater excesses than we have. But the gentleman stated there is not going to be even a half-cent increase in the domestic price if this program is not adopted. Why is there, then, this frenetic effort to adopt it if it is not going to lead to any different outcome in terms of the market price in terms of this country?

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOLEY. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington (Mr. FOLEY)?

Mr. FRENZEL. Reserving the right to object, Mr. Chairman, I shall not object, but I did simply want to observe that we seem to be getting down near the end, and I hope the debate will not go on forever.

I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington (Mr. FOLEY)?

There was no objection.

Mr. FOLEY. I share the gentleman's concern. The reason why the bill is important is that it provides for the implementation of the International Sugar Agreement, for special labor rates, guarantees and protections, and for additional mechanisms to maintain prices in the event we have another crisis which causes world sugar prices to drop drastically. Passage of this bill, through the signals it gives the domestic industry and through participation in the ISA, would help to limit the inreceases expected in world sugar prices over the next 2 to 3 years. The latter is something I think the gentleman would favor.

Mr. PEYSER. I move to strike the requisite number of words, Mr. Chairman.

Mr. Chairman, I will try to stay within the scope of the gentleman's amendment. There are many other things I would like to say on the sugar bill. Many of them have been said by Members on both sides. We are faced with a very unusual situation with the amendment offered by the gentleman from Minnesota (Mr. FRENZEL) at this time. My friend, the gentleman from Michigan, indicated it was a flip of the coin and then vote against the sugar bill at the end of the whole debate. While I certainly support voting against the sugar bill at the end of the debate regardless of what happens, we are faced with a situation where many of us obviously say that anything that cuts away this kind of really wasteful expenditures for the sugar producer of today, such as this half-cent-per-pound payment, certainly ought to be out of this bill.

On the other hand, if we make that step and say it is going to go, we just made a very substantial improvement in this bill. It is a concern of many of us that if we do this, some who were sitting on the fence might say, we have knocked the half-cent a pound out; therefore let us pass the bill. It is for this reason I am going to oppose my friend, the gentleman from Minnesota (Mr. FRENZEL), on this particular vote and vote against his amendment in the hope that many other Members who have the same concern will also vote against this amendment. I gathered, as I listened to the chairman of the committee and the ranking minority Member talk, that they are both going to vote against this amendment also, perhaps for different reasons than I would approach it, but, nevertheless, they are going to vote against it, as are many other Members. I think it is essential because of the claims that sugar growers need this to survive that I quote from an excerpt from a speech by a gentleman, Mr. Gravelles, who is the President of the American Sugar Cane League, on September 28, 1979:

> We have had some loss of acreage in Louisiana. Some of it has been lost to other crops, but some has been to commercial and industrial development. However, I think that we can survive whether we have legislation or not. I think we proved that by staying in business for the past five years.
>
> Regardless of what President Carter, or the Congress of the United States does, I know that these people in Louisiana have the fortitude and the determination to stay in the Louisiana sugar business. Louisiana sugar is going to stay here for a long, long time.

I think he is absolutely correct. We have been listening to the threats for years about how everybody was going to collapse and the sugar business was going to fold.

I also want to remind the Members that a large majority of the sugar is handled—and this is not only in the refining but in the ownership of land—by companies like the U.S. Sugar Corp., Holly Sugar, Great Western Sugar, Spreckles Sugar, Florida Cane, Gulf & Western, Sterling, Alexander & Baldwin, AM-FAC, Castle & Cook, I.U. International, Dole, Michigan, and many other corporate entities who are today making money in the sugar business, and they own or lease sugar land as well as refine. Why should we enhance this gift of a half a cent a pound? We probably should not. Why should we have the sugar bill? We should not have the sugar bill.

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. I thank the gentleman for yielding. I would just like to state to my distinguished colleague that not only do I thoroughly agree with his opinion on the bill and with his strategy on the amendment, but I think there are inherent deficiencies in the bill. The question is whether this bill is going to be a burden to the consumer as well as to the taxpayer. In any case, I think we are going to see the price of sugar increase. It is a total misnomer to say that this is a sugar stabilization act. I personally feel if we in this House make any improvement in sweetening the pot for the other body and the legislation is then passed, then we will see a really astronomical sugar bill returned to us in the form of a conference report. Consequently, for that reason and because the amendment might improve the bill and make it more acceptable to the other body, I believe that the gentleman's strategy is the correct one.

Mr. PEYSER. I thank the gentlewoman.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman for yielding. Regardless of the gentleman's motive, I appreciate his indication of a vote on this amendment. I simply take issue with him on the comment that this bill will help the corporate farms. If I understand the gentleman's argument, the corporate farms do not need the bill; they are making money now. It is the noncorporate farms who need this bill. Seventy-five percent of the sugar is produced by noncorporate farms, and that is why we are trying to help.

Mr. PEYSER. The largest producers and owners of sugar land and of productive sugar land are the corporate farmers today. One of the things I would like to mention to the gentleman is that one of the major sugar corporations today has entered into leasing arrangements with individual farmers, so we have the individual farm that may have 400 or 500 acres that is under contract to the sugar corporations, and we are one way or the other supporting the corporate producer with this kind of legislation, and I do not think it is necessary.

Mr. MOORE. Will the gentleman yield further?

Mr. PEYSER. I yield to the gentleman from Louisiana.

Mr. MOORE. According to the USDA, I have to differ with the gentleman's comments. Seventy-five percent of the sugar produced by tonnage is produced by noncorporate farms. We can go down any State the gentleman would like. We have the figures for each and every State. The biggest corporate producers are Gulf & Western, which has 20 percent of Florida, and U.S. Sugar, which has 30 percent of Florida, and the rest are all independents.

Mr. PEYSER. Mr. Chairman, I trust we will defeat the Frenzel amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL) to the amendment offered by the gentleman from Ohio (Mr. VANIK).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 212, answered "present" 1, not voting 20, as follows:

[Roll No. 590]

AYES—200

Addabbo
Akaka
Ambro
Applegate
Archer
Ashbrook
Aspin
Atkinson
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Bethune
Bingham
Boner
Bouquard
Brademas
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carter
Clay
Clinger
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Davis, S.C.
Deckard
Dellums
Derwinski
Devine
Dixon
Dornan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
Erlenborn
Evans, Del.
Evans, Ind.
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Ford, Mich.
Forsythe
Fowler
Frenzel
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hamilton
Hammer-schmidt
Harris
Harsha
Hefner
Heftel
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hughes
Ichord
Jacobs
Jeffords
Jeffries
Kastenmeier
Kelly
Kemp
Kindness
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Lee
Lehman
Leland
Lent
Long, Md.
Lujan
Luken
Lungren
McClory
McCloskey
McDonald
McEwen
McHugh
McKinney
Madigan
Maguire
Marks
Mattox
Mazzoli
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Moffett
Moorhead, Calif.
Mottl
Myers, Ind.
Nedzi
Nowak
O'Brien
Oakar
Ottinger
Patterson
Paul
Pease
Petri
Quayle
Railsback
Ratchford
Regula
Reuss
Ritter
Roe
Rosenthal
Roth
Royer
Runnels
Russo
Santini
Seiberling
Sensenbrenner
Sharp
Smith, Iowa
Snowe
Snyder
Solarz
Solomon
Stack
Stanton
Stark
Stockman
Stokes
Stratton
Synar
Tauke
Thompson
Trible
Udall
Vanik
Walgren
Walker
Waxman
Weaver
Wilson, C. H.
Wolff
Wyatt
Wydler
Wylie
Yates
Young, Fla.
Young, Mo.
Zeferetti

NOES—212

Abdnor
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
AuCoin
Badham
Bafalis
Bailey
Baldus
Beard, Tenn.
Bellenson
Bereuter
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Bonior
Bowen
Breaux
Brooks
Brown, Calif.
Burlison
Butler
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Coelho
Coleman
Conte
Corman
Daniel, Dan
Danielson
Daschle
Davis, Mich.
de la Garza
Derrick
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Eckhardt
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ga.
Fary
Fazio
Flippo
Foley
Ford, Tenn.

Fountain	Marlenee	Satterfield
Frost	Marriott	Sawyer
Fuqua	Mathis	Schroeder
Garcia	Matsui	Sebelius
Giaimo	Mavroules	Shannon
Gonzalez	Mica	Shelby
Gramm	Mineta	Shumway
Gray	Minish	Shuster
Guarini	Mitchell, N.Y.	Simon
Gudger	Moakley	Skelton
Hall, Ohio	Mollohan	Slack
Hall, Tex.	Montgomery	Smith, Nebr.
Hance	Moore	Spellman
Hanley	Moorhead, Pa.	Spence
Hansen	Murphy, Ill.	Stangeland
Harkin	Murphy, N.Y.	Steed
Hawkins	Murphy, Pa.	Stenholm
Heckler	Murtha	Stewart
Hightower	Myers, Pa.	Studds
Holland	Natcher	Stump
Howard	Neal	Swift
Hubbard	Nelson	Symms
Huckaby	Nichols	Taylor
Hutto	Nolan	Thomas
Ireland	Oberstar	Traxler
Jeffries	Obey	Treen
Johnson, Calif.	Panetta	Ullman
Johnson, Colo.	Pashayan	Van Deerlin
Jones, N.C.	Patten	Vander Jagt
Jones, Okla.	Pepper	Vento
Jones, Tenn.	Perkins	Volkmer
Kazen	Peyser	Wampler
Kildee	Pickle	Watkins
Kogovsek	Preyer	Weiss
Kramer	Price	White
Latta	Pritchard	Whitehurst
Leath, Tex.	Pursell	Whitley
Lederer	Quillen	Whittaker
Levitas	Rangel	Whitten
Lewis	Richmond	Williams, Mont.
Livingston	Rinaldo	Wilson, Bob
Lloyd	Roberts	Wilson, Tex.
Loeffler	Robinson	Wirth
Long, La.	Rodino	Wolpe
Lott	Rose	Wright
Lowry	Rostenkowski	Yatron
McCormack	Rousselot	Young, Alaska
McDade	Roybal	Zablocki
McKay	Rudd	
Markey	Sabo	

ANSWERED "PRESENT"—1

St Germain

NOT VOTING—20

Anderson, Ill.	Flood	Rhodes
Bonker	Hyde	Scheuer
Burgener	Jenkins	Schulze
Clausen	Leach, La.	Staggers
Cleveland	Lundine	Williams, Ohio
Diggs	Martin	Winn
Duncan, Oreg.	Rahall	

□ 1640

Ms. MIKULSKI, Messrs. OTTINGER, NEDZI, WEAVER, WAXMAN, CONYERS, RUSSO, WALGREN, AND BUCHANAN changed their votes from "no" to "aye"

Messrs. SAWYER, LATTA, OTTINGER, AND RICHMOND changed their votes from "aye" to "no."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1650

AMENDMENT OFFERED BY MR. FRENZEL TO THE AMENDMENT OFFERED BY MR. VANIK

Mr. FRENZEL. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will report the amendment to the amendment.

Mr. FRENZEL. Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The amendment to the amendment reads as follows:

Amendment offered by Mr. FRENZEL to the amendment offered by Mr. VANIK: In addition to the matter proposed to be inserted with respect to 202(b), on page 39 strike out lines 4 through 14, inclusive, and insert the following:

(b) PAYMENTS.—(1) If the assured return is not achieved in any sugar supply year that begins after September 30, 1979, the Secretary shall make payments under, but subject to the limitations set forth in, this subsection solely to domestic producers of sugarcane and sugar beets. Payment under this subsection to any such producer shall be made only at the rate per pound, raw value (but not more than 0.50 cents per pound, raw value) that is equal to the amount by which the assured return for the sugar supply year exceeds the greater of—

(A) the average related processor price for such year; or

(B) the price objective for such year.

For purposes of applying this paragraph with respect to any producer of sugarcane or sugar beets for any sugar supply year, the term "average related processor price" means the average price, as determined by the Secretary, in pounds, raw value, that is paid for all sugarcane or sugar beets that are purchased during such year by the commercial processors to whom such producer sells sugarcane or sugar beets during such year. No producer of sugarcane or sugar beets is eligible for payment under this subsection for any sugar supply year during which the average price in pounds, raw value, received by such producer for his crop is equal to, or more than, the assured return for such year.

Mr. FRENZEL. Mr. Chairman, the previous amendment has been defeated, and the committee has preferred to retain direct payments as a part of the remedy for achieving an assured return in sugar. I am offering this amendment, which will prevent payments from being made above the assured return level.

In other words, this amendment that I have offered would limit the amount of the direct payment so that the sum of the direct payment and the actual selling price of sugar does not exceed the support level, that is, the assured return.

Mr. Chairman, under the 1977 payment program, many payments were made above the support level. The sponsors of this bill have told us that it is not their intention to provide any more than the assured rate of return. This amendment would provide that they could not, through the direct payment, pay more than the assured rate of return, and I believe that is the intention of this bill.

The bill's language provides that when the average daily price of sugar equals the assured return, no payments will be made, and implicit in that language is the intention of the price support program to support the price of sugar up to the specified level. However, administrative practice under the 1977 interim program dictates that payments above the assured rate of return can and will be made under the provisions of this bill.

In 1977, 38 of the 77 participants in the payments program received payments above the support price. Those payments amounted to nearly $21 million. In the case of 10 of these firms the sugar was sold at a price higher than the support level, and yet the direct payments were made anyway.

Mr. Chairman, I have only 5 minutes to make my speech. The members of the committee have 5 minutes to listen, but apparently they have finished their job long before I have.

Mr. Chairman, I am trying to describe the 1977 experience in which payments were made over the support level to 38 of the 77 participants. In addition to money derived from the firms' marketing efforts at what was the support level or higher, 10 of these firms received $3.6 million in additional Federal payments which they really did not need under the program. The payments above the support level are some kind of a reward paid out of the Treasury by the taxpayers to producers for doing only what they should be doing out of self-interest and sound policy. I believe that any amount of money involved that is received by the growers above the assured return should be the result of marketing initiatives and not the result of a payment by the Government.

The General Accounting Office recommended this kind of an amendment in its report of 1979. It said, and I quote: "Payments should be limited such that the sum of the Government payment and the selling price received in any particular period does not exceed the support level."

Mr. Chairman, that is all this amendment tries to do. I would hope that it would be supported enthusiastically. However, it failed in committee because the Department of Agriculture said it was inconvenient, it somehow places an administrative burden on the Department; and they felt obliged to give away the taxpayers' money, even though the support level had already been achieved. I would hope the House would help to straighten out both the bill and the Department of Agriculture.

Mr. Chairman, to sum up, I think my amendment simply does what the authors of the bill intended. As nearly as I can figure, the only opposition to it is by the Department on administrative grounds.

I think we ought to have a little more respect for the taxpayers, and I would hope that the Members would support the amendment, which would prevent payments resulting in a total return to the producers above the assured price.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I must say to my good friend, the gentleman from Minnesota, that I have not the slightest idea of the effect of his amendment. The noise in the Chamber has been such that none of us could really hear the gentleman.

Could the gentleman give us in a succinct sentence the effect of the amendment?

Mr. FRENZEL. Yes. Mr. Chairman, in previous sugar programs, particularly in

1977, there has been a situation where we had an assured price, the producer sold at that price, and the producer still got a direct payment on top of it. This amendment would say that the combination of the price that he got and the direct payment will never exceed the assured price; that is, if he sells his sugar in the marketplace at the assured price, then he will not get the direct payment.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

(On request of Mr. FINDLEY, and by unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. FINDLEY. Mr. Chairman, will the gentleman yield further?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I am impressed with the gentleman's amendment. It seems to me to be a very sensible idea.

Can the gentleman state whether the administration has had a look at the amendment. Is it administratively feasible?

Mr. FRENZEL. Mr. Chairman, in the committee the Department of Agriculture said that they would have great difficulty with it, and that is the reason the committee rejected the amendment.

I have tried to give the Department of Agriculture as much flexibility as anybody, except perhaps in relation to what the Chrysler Corp. would need, and if the Department of Agriculture cannot administer my amendment, perhaps we need a new Agriculture Department.

□ 1700

The Agriculture Department still objects to my amendment on administrative grounds. I believe that their objections are unfounded. I would hope that the gentleman would not be influenced by it.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I support the gentleman's amendment, notwithstanding the testimony of the Agriculture Department and, surely, they can find a way to see to it that undeserving companies do not benefit from the system.

Mr. FRENZEL. I thank the gentleman.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the difficulty that this amendment presents is one that I know is compounded by the fact that it is extraordinarily technical.

Without disrespect to the distinguished gentleman who offered it, I would suggest that it is an elaborate cure for a relatively minor problem, which will create so many administrative, supervisory, and bureaucratic reporting requirements that the costs of Government enforcement alone will be far beyond any conceivable monetary benefit to be gained. Rather than saving the taxpayers money, it would add greatly to the costs of the program. In addition, because of technical problems in the sugar market, it may actually lead to higher direct payments than would otherwise occur.

Every farm program payment, be it for wheat, corn, rice, cotton, or whatever, is based upon average market prices rather than requiring a determination of what each individual producer actually sold his product for. It has worked out well in the existing farm programs.

Far from simplifying or correcting the problems of the earlier sugar payments program put into place by the administration, as the gentleman suggests, it would in all likelihood have quite the opposite effect.

A number of producers are also sugar processors. These processor/producers will be eligible to receive payments under the act on their own production. Adoption of this amendment may invite and/or encourage collusion and fraud between sellers and buyers of sugar. Under the current language of H.R. 2172, a payment would be made to all producers equal to the difference between the assured return and the average market price for raw sugar. If this amendment were to be adopted, there could be a strong disincentive to individual processor/producers to obtain a high market price on their entire production, inasmuch as the processor would know that even if he sells for a lower price the payment would help make him whole.

Adoption of this amendment would require the Department to establish an extensive reporting system in order to obtain the average related processor price. Although payments under the Department's interim 1977 crop payment program were based on the average price received by all processors nationwide as opposed to the average related processor price, considerable difficulties were experienced in developing and utilizing such data. For example, conversion of the price received for refined beet sugar to a raw sugar price equivalent is quite nebulous and controversial. It would be much simpler to use the New York quoted price for raw sugar as the basis for all payments made under this act. To base payments on the average related processor price would require another needless and burdensome report to be filled out and mailed to Washington. It would increase the Department's administrative costs greatly.

Further, adoption of this amendment would not be in the best interest of the Government. The domestic market price quoted by the New York Coffee and Sugar Exchange is believed to be a reliable indication of the price of both foreign and domestic raw sugar. The price for domestic raw sugar is rarely, if ever, higher than the New York price. In many cases, the New York price is discounted to domestic processors for stevedoring or other allowances. Therefore, in all likelihood, the payment rate to producers would be higher if payments are based on the average related processor price. The system currently contained in section 202(b) will surely reduce Treasury outlays associated with the proposed sugar program.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I concur in what the gentleman says, and I would just like to add that you are imposing a tremendous burden on the average producer. The average farmer would have to go through a reporting process that I do not think any Member would want. This is a mischievous amendment and it should be defeated.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, I would also point out that this amendment was offered and defeated in the Subcommittee on Trade, and at that time the U.S. Department of Agriculture testified that it would be an administrative nightmare, they did not know how in the world they would handle this and, as the gentleman said, they have handled every other commodity the way we do sugar in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL) to the amendment offered by the gentleman from Ohio (Mr. VANIK).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 18, noes 62.

So the amendment to the amendment was rejected.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Vanik amendment, it should be noted, is a technical amendment on which there is no objection, and at least speaking for this side, we hope that it will be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title II? If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—FARM LABOR PROVISIONS

SEC. 301. WAGE STANDARDS.

(a) IN GENERAL.—Every producer of sugar beets and sugarcane for sugar shall pay to each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane wages as follows:

(1) When employed on a time basis, the rates per hour shall be not less than the following:

(A) In all areas, except Hawaii and Puerto Rico, $3 for work performed during the 1978 sugar supply year beginning 30 days after the date of enactment of this Act, $3.30 for the 1979 sugar supply year, and in each of the 1980 and 1981 sugar supply years the rate for the sugar supply year previous to the year for which the determination is made increased by an amount directly proportional to the amount by which the assured return determined under title II of this Act for the year for which the wage determination is made exceeds the assured return for the last previous sugar supply year. Rates for field equipment operators in counties or parishes where at least 25 percent of the acreage devoted to the production of agricultural commodities is planted to

sugarcane or sugar beets shall be not less than 10 percent more than the above rates.

(B) In Hawaii and Puerto Rico, as required by labor union agreement or Federal or local law.

(2) When employed on a piecework basis, the rates shall be not less than the rates for the 1978 crop as published in the Federal Register of January 10, 1978 (42 F.R. 1476), increased each sugar supply year beginning October 1979 in the same proportion as the hourly rates are increased under paragraph (1) of this subsection.

(b) VIOLATION OF WAGE STANDARDS.—Any producter who fails to pay the wages provided for in subsection (a) of this section shall be liable to the employee or employees affected in the amount of their unpaid wages and in an additional equal amount as liquidated damages. An action to recover such liability may be maintained against any producer in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to any plaintiff, allow a reasonable attorney's fee to be paid by the defendant, and costs of such action.

(c) ADMINISTRATION.—(1) The Secretary is authorized to supervise the payment of the unpaid wages owing to any employee or employees under this section, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid wages and an additional amount as liquidated damages. Any hearing on a claim for unpaid wages shall be conducted by an attorney designated by the General Counsel of the Department of Agriculture from among the attorneys employed in the Office of the General Counsel of that Department, and the decision of such attorney shall be issued promptly thereafter, to the extent possible within 30 days after the conclusion of the hearing. Within 30 days after the issuance of such decision, any person who is adversely affected by such decision may obtain a review of such decision by filing a petition with the judicial officer appointed by the Secretary pursuant to section 3105 of title 5, United States Code. Any person who is adversely affected by a decision of the judicial officer hereunder may obtain judicial review of such decision by filing a complaint, within 30 days after such decision, with the United States district court for the district in which such person resides. Upon the filing of the complaint, the court shall have jurisdiction to affirm, set aside, or modify the decision of the judicial officer, and the findings of the judicial officer as to the facts, if supported by substantial evidence, shall be final and conclusive.

(2) The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid wages and an equal amount as liquidated damages and to restrain further delay in the payment of unpaid wages owing to an employee. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this paragraph, unless such action is dismissed without prejudice on motion of the Secretary. Any sums thus recovered by the Secretary on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be covered into the Treasury of the United States as miscellaneous receipts.

(d) STATUTE OF LIMITATIONS.—Any action commenced to enforce any cause of action for unpaid wages, or liquidated damages, may be commenced within 2 years after the cause of action accrued, and every such action shall be forever barred unless commenced within 2 years after the cause of action accrued, except that a cause of action arising from a willful violation may be commenced within 3 years after the cause of action accrued.

(e) EMPLOYEE PROTECTION.—(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act;

(B) testified or is about to testify in any such proceeding; or

(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

(2) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 180 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(3)(A) Upon receipt of a complaint filed under paragraph (2), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint filed under paragrapph (2), the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expense (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(4)(A) Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States district court for the district in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) Whenever a person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

(6)(A) Any person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(7) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

(f) EXCESSIVE CHARGES PROHIBITED.—All producers of sugar beets and sugarcane are hereby prohibited from charging, or permitting to be charged, directly or indirectly, persons employed on the farm in the production, cultivation, or harvesting of sugar beets and sugarcane during the period beginning 30 days after the date of enactment of this Act until the end of the 1981 sugar supply year, any amount in excess of the reasonable cost for the furnishing to any such person of goods, services, board, lodging, or other facilities customarily furnished to employees engaged in the production, cultivation, or harvesting of sugar beets or sugarcane in the area. The Secretary may determine the reasonable cost of such goods, services, board, lodging, or other facilities for defined classes of employees and in defined areas, based on the average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value.

(g) COMPENSATION INSURANCE.—The Secretary shall issue such regulations as the Secretary deems necessary to assure that the producer shall furnish each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane workmen's compensation insurance during the time so employed in the period beginning 30 days after the date of enactment of this Act until the end of the 1981 sugar supply year. Such insurance coverage shall be deemed adequate if it meets the requirements of the law in States in which such insurance is mandatory, or if it meets such standards as are established by law in States in which such insurance is not mandatory.

(h) INVESTIGATIONS.—Investigations of possible violations of provisions of this section shall be conducted by the Office of the Inspector General of the Department of Agriculture. The Inspector General may enter and

inspect such places and such records, question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this title or which may aid in the enforcement of the provisions of this title. Every producer subject to the provisions of this title shall keep and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him for such periods of time and shall make such reports as the Secretary may prescribe by regulation as necessary or appropriate for the enforcement of this title.

(i) CIVIL PENALTY.—Any person who violates the provisions of subsection (f), (g), or (h), or any regulation with respect thereto, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

(1) deducted from any sums owing by the United States to the person charged; or

(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, and regulations promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties.

(j) RULES AND REGULATIONS.—The Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out the provisions of this title. Any person who knowingly violates any such rule or regulation is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $1,000.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: Page 54, strike out line 15 and all that follows thereafter down through line 8 of page 65 and insert the following:

TITLE III—FARM LABOR PROVISIONS

SEC. 301. DEFINITIONS.

For purposes of this title—

(1) The phrase "effective period of this title" means the period beginning on the 30th day after the date of the enactment of this Act and ending at the close of the 1981 sugar supply year.

(2) The term "FLSA" means the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(3) The term "producer" means a producer of sugar beets or sugarcane for sugar.

(4) The term "Secretary" means the Secretary of Labor.

(5) The term "sugar supply year" has the same meaning as is given to such term in section 201(8).

SEC. 302. WAGE STANDARDS.

(a) RATES.—There shall be paid to persons employed on the farm in the production, cultivation, or harvesting of sugar beets for sugar and sugarcane wages at the following rates:

(1) When employed on a time basis, the rates per hour shall be not less than the following:

(A) In all areas, except Hawaii and Puerto Rico—

(i) $3.30 for the 1979 sugar supply year; and

(ii) in each of the 1980 and 1981 sugar supply years, the minimum rate required to be paid under this paragraph during the immediately preceding sugar supply year increased by an amount directly proportional to the amount by which the assured return determined under title II for the year for which the rate is being determined under this clause exceeds the assured return for the immediately preceding sugar supply year.

The rates for field equipment operators in counties or parishes where at least 25 percent of the acreage devoted to the production of agricultural commodities is planted to sugarcane or sugar beets shall be not less than 10 percent more than the rate referred to in the preceding sentence for the sugar supply year concerned.

(B) In Hawaii and Puerto Rico, the rates required by labor union agreement or Federal or local law.

(2) When employed on a piecework basis, the rates shall be not less than the rates for the 1978 crop as published in the Federal Register of January 10, 1978 (42 F.R. 1476), increased for each sugar supply year beginning after September 30, 1979, in the same proportion as the hourly rates are increased under paragraph (1) of this subsection.

(b) VIOLATIONS.—Any violation of this section, or of any rule or regulation issued to carry out this section, is a violation of section 6 of the FLSA and of paragraph (1) or (2), as applicable, of section 15(a) of the FLSA. In applying this section, the statute of limitations for actions brought under section 6 of the FLSA shall apply to actions brought with respect to violations that are deemed under this subsection to be violations of such section 6.

SEC. 303. EXCESSIVE CHARGES PROHIBITED.

(a) PROHIBITIONS.—No producer may charge, or permit to be charged, directly or indirectly, to any person employed during the effective period of this title on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane any amount in excess of the reasonable cost, as determined by the Secretary, for the furnishing to such person any goods, services, board, lodging, or other facilities customarily furnished to employees engaged in the production, cultivation, or harvesting of sugar beets or sugarcane in the area concerned. The Secretary may determine the fair value of such goods, services, board, lodging, or other facilities for defined classes of employees and in defined areas, based on the average cost to the producer or to groups of producers similarly situated, the average value to groups of employes, or any other appropriate measure of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of the actual measure of cost in determining whether excessive charges have been made.

(b) REASONABLE COST AND FAIR VALUE.—For purposes of this section, the terms "reasonable cost" and "fair value" shall have the same respective meanings as are applied with respect to such terms by the Secretary for purposes of administering section 3(m) of the FLSA.

(c) VIOLATIONS.—For violations of this section and penalties, see section 309.

SEC. 304. CHILD LABOR.

(a) LIMITATIONS ON EMPLOYMENT.—(1) During the effective period of this title, no individual who is under 14 years of age may be employed or permitted to work on the farm, whether for gain to such individual or any other person, in the production, cultivation, or harvesting of a crop of sugar beets or sugarcane; unless that individual is a member of the immediate family of a person who was the legal owner of not less than 40 percent of the crop at the time such work was performed.

(2) During the effective period of this title, no individual who has attained age 14 but has not attained age 16 may be employed or permitted to do work described in paragraph (1), whether for gain to such individual or any other person, for a period of more than eight hours in any one day; unless that individual is a member of the immediate family of a person who was the legal owner of not less than 40 percent of the crop at the time such work was performed.

(b) VIOLATIONS.—Any violation of this section, or any rule or regulation issued to carry out this section, is a violation of sections 12 and 15(a)(4) of the FLSA.

SEC. 305. EMPLOYEE PROTECTION.

(a) IN GENERAL.—No person may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or the Secretary or any person acting pursuant to a request of the employee) has—

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced, a proceeding seeking compliance with any provision of this title;

(2) testified, or is about to testify, in any such proceeding; or

(3) assisted or participated, or is about to assist or participate, in any manner in any such proceeding or in any other action to carry out the purposes of this title.

(b) COMPLAINTS.—(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within 180 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary—

(i) shall order the person who committed such violation to (I) take affirmative action to abate the violation, and (II) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment; and

(ii) may order such person to provide compensatory damages to the complainant.

If an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expense (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(c) REVIEW OF ORDERS.—(1) Any person adversely affected or aggrieved by an order issued under subsection (b)(2) may obtain review of the order in the United States district court for the district in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days from the issuance of the Secretary's order. Review shall be in conformity with chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

(d) COMPLIANCE.—(1) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

(2) Any person on whose behalf an order was issued under subsection (b)(2) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(3) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(e) VIOLATIONS.—Any violation of this section, or any rule or regulation issued to carry out this section, is a violation of section 15 (a)(3) of the FLSA.

(f) EXCLUSIVENESS OF REMEDIES.—The remedies provided for in this section shall apply in lieu of any remedy provided for in section 16(b) or 17 of the FLSA.

SEC. 306. COMPENSATION INSURANCE.

(a) REQUIRED INSURANCE.—Producers shall furnish workers' compensation insurance to persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane during the time so employed during the effective period of this title. Such insurance coverage shall be deemed adequate if it meets the requirements of the law in States in which such insurance is mandatory, or if it meets such standards as are established by law in States in which such insurance is not mandatory.

(b) VIOLATIONS.—For violations of this section and penalties, see section 309.

SEC. 307. REMEDIES AND ENFORCEMENT.

(a) FOR FLSA VIOLATIONS.—Except as provided in section 305(f), all powers, remedies, and procedures under the FLSA available to the Secretary or to any aggrieved employee, as the case may be, are available with respect to any act the commission of which is deemed under this title to be a violation of the FLSA.

(b) RESTRAINT OF CERTAIN VIOLATIONS.—The Secretary may seek to restrain, pursuant to section 17 of the FLSA, any violation of sections 303 and 306, and for such purpose the jurisdiction of the United States district courts under section 17 is hereby extended to include any such violation.

(c) ENFORCEMENT POWERS.—For purposes of enforcing the provisions of this title, the Secretary may utilize the powers specified in—

(1) section 9 of the FLSA to compel the attendance of witnesses and the production of books, papers, and documents at hearings and investigations necessary for the enforcement of this title;

(2) section 11(a) of the FLSA to carry out investigations, gather data, and make entries, inspections, and inquiries regarding wages, hours, and other conditions and practices of employment engaged in by any employer subject to this title or to any order issued by the Secretary under this title; and

(3) section 11(b) of the FLSA to use the services of State and local agencies in carrying out the Secretary's duties under this title.

SEC. 308. RECORDS.

(a) IN GENERAL.—Each producer subject to this title shall—

(1) make, keep, and preserve such records of persons employed, and of the wages, hours, and other conditions and practices of employment maintained;

(2) preserve the records referred to in paragraph (1) for such time; and

(3) make available to the Secretary such reports based on such records;

as the Secretary shall by regulation require as being necessary or appropriate for the enforcement of this title.

(b) VIOLATIONS.—Any violation of this section, or of any rule or regulation issued to carry out this section, is a violation of sections 11(c) and 15(a)(5) of the FLSA.

SEC. 309. VIOLATIONS OF SECTIONS 303 AND 306 AND PENALTIES.

(a) CIVIL PENALTIES.—Any person who violates section 303 or 306, or any rule or regulation issued to carry out either of such sections, is liable to the United States for a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

(1) deducted from any sums owing by the United States to the person charged; or

(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5 of the United States Code and regulations issued by the Secretary.

(b) CRIMINAL PENALTIES.—(1) Except as provided in paragraph (2), any person who willfully violates section 303 or 306, or any rule or regulation issued to carry out either of such sections, is guilty of an offense and upon conviction thereof is punishable by a fine or not more than $10,000, or imprisonment for not more than 6 months, or both.

(2) No person may be imprisoned under paragraph (1) except for the violation of either section 303 or 306, or any rule or regulation issued to carry out such section, committed after the conviction of such person for a prior offense under paragraph (1).

SEC. 310. REGULATIONS.

The Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out the provisions of this title.

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Chairman, while this amendment appears to be a substantial rewrite of the Agriculture Committee bill, I believe that, in its economic impact on sugar workers and its obligation on producers, it is equivalent to the Agriculture Committee version, with one exception.

Also, this is not the identical version of the amendment adopted by the Ways and Means Committee, but it is a technical rewriting of that version developed by the staffs of our two committees and the Department of Labor. It is nearly identical to the Ways and Means version contained on pages 96 to 106 of H.R. 2172, but it makes certain corrections and clarifications.

Mr. Chairman, the Agriculture Committee version of title III is basically a melding of the special labor provisions of the old labor sugar acts, along with some of the enforcement provisions contained in the Fair Labor Standards Act of 1938, as amended.

The Agriculture Committee version provides for the administration by the Department of Agriculture. The administration urged, however, that the bill be amended to provide for the enforcement of title III by the Department of Labor. The Ways and Means Committee considered this request and adopted that proposal as an amendment by the gentleman from New York (Mr. DOWNEY). As a part of the change in administering agency, it was made clear that the provisions of the FLSA would be used to enforce the title.

Second, the administration requested that the child labor provisions be included in the bill identical to those which were in the old Sugar Act.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, the amendment offered by the gentleman from Ohio essentially incorporates the Ways and Means Committee version of the labor provisions of this act. The principal differences, I believe, are that under the Ways and Means Committee version the administration of the act would be in the Department of Labor rather than in the Department of Agriculture, and that certain slightly more stringent rules against the use of child labor would be involved; is that correct?

Mr. VANIK. That is correct.

Mr. FOLEY. Mr. Chairman, speaking at least for myself, if for no others, I would have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. KELLY

Mr. KELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire of the gentleman, to what title does the gentleman's amendment apply?

Mr. KELLY. Title III.

The CHAIRMAN. Title III?

Mr. KELLY. Yes, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KELLY: On page 54, commencing with line 15, strike out all that follows through page 65, line 8.

The CHAIRMAN. The Chair will advise the gentleman from Florida (Mr. KELLY) that, having adopted an amendment striking title III and inserting new language, the gentleman's amendment to strike the title is not in order.

Mr. KELLY. Mr. Chairman, would the Chair repeat the ruling? I was not able to hear it.

The CHAIRMAN. The Vanik amendment rewrote title III in its entirety and was adopted. In view of that, the gentleman's amendment to title III to strike the title is not in order.

Mr. KELLY. Mr. Chairman, my amendment is aimed at the substitute title because other than the administration of it, the substance is the same. For that reason, I ask unanimous consent that my amendment be permitted to be directed to the Vanik amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. HUCKABY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will designate title IV.

□ 1710

The CHAIRMAN. The Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. DEFINITION.

As used in this title, the term "sugar" has the same meaning as is given to such term in section 201(6).

SEC. 402. JURISDICTION OF COURTS.

The several district courts of the United States are hereby vested with jurisdiction specially to enforce, and to prevent and restrain any person from violating, the provisions of this Act or of any order or regulation made or issued pursuant thereto including, among other things, the restraint of withholding payments of minimum wages found by the court to be due employees under title III of this Act. If and when the Attorney General shall so request, it shall be the duty of the several district attorneys of the United States, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties, fees, and forfeitures provided for in this Act. The remedies provided for in this Act shall be in addition to, and not exclusive of, any of the remedies or penalties existing at law or in equity.

SEC. 403. INFORMATION, SURVEYS, INVESTIGATIONS, ETC.

(a) INFORMATION TO SECRETARY.—All persons engaged in the manufacturing, marketing, transportation or industrial use of sugar and other sweeteners, including those not derived from sugar beets or sugarcane, and having information which the Secretary deems necessary to enable him to administer titles I and II, shall, upon the request of the Secretary, furnish him with such information.

(b) SURVEYS, INVESTIGATIONS, AND RESEARCH.—The Secretary from time to time shall conduct such surveys, investigations, and research as the Secretary deems necessary regarding the manufacturing, marketing, transportation, or industrial use of sugar and other sweeteners.

(c) COST OF PRODUCTION STUDIES.—The Secretary shall conduct such studies on the cost of producing sugarcane, sugar beets, sugar, and other sweeteners as are deemed necessary by the Secretary.

(d) SUBPENAS.—The Secretary may subpena the production of such records, books, papers, and other documents that he determines to be necessary to carry out this section.

(e) CONFIDENTIALITY.—All information that is required to be furnished to the Secretary under this section and that relates to the separate operations of the person providing the information shall be kept confidential by all officers and employees of the Department of Agriculture: *Provided*, That such information shall be made available by the Secretary, upon request, to the Comptroller General or his delegates or employees who shall keep such information confidential.

(f) CRIMINAL PENALTY.—Any person who willfully fails or refuses to furnish the Secretary with information requested by him for purposes of carrying out this section, or furnishes false information in response to such request knowing the information to be false, is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $2,000.

SEC. 404. INVESTMENTS BY OFFICIALS PROHIBITED.

No person may, while acting in any official capacity in the administration of this Act, invest or speculate in sugar, contracts relating thereto, or the stock or membership interest of any association or corporation engaged in the production or manufacturing of sugar. Any person who violates this section is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $10,000 or imprisonment of not more than 2 years, or both.

SEC. 405. PRICE SUPPORT PROGRAM FOR SUGAR BEETS AND SUGARCANE.

(a) PRICE SUPPORT UNTIL SEPTEMBER 30, 1979.—Nothing contained in this Act shall affect (1) the application of section 201(f) of the Agricultural Act of 1949 with respect to the 1978 crop of sugar beets and sugarcane nor, (2) except as provided in section 202(b)(3) of this Act, the authority of the Secretary to provide price support under title III of the Agricultural Act of 1949 on the 1979 crop of sugar beets and sugarcane after the date of enactment of this Act until September 30, 1979.

(b) PRICE SUPPORT BEGINNING OCTOBER 1, 1979.—Effective beginning October 1, 1979, with respect to the 1979 through 1981 crops of sugar beets and sugarcane, section 201 of the Agricultural Act of 1949, as amended, is amended by—

(1) striking out in the first sentence "honey, and milk" and inserting in lieu thereof the following: "honey, milk, sugar beets, and sugarcane"; and

(2) adding at the end thereof a new subsection (g) as follows:

"(g) In order to assist in achieving the objectives of the International Sugar Stabilization Act of 1979, the price of each of the 1979 through 1981 crops of sugar beets and sugarcane, respectively, shall be supported through loans on or purchases of the processed products thereof at such level, not less than 89 percent of the price objective for sugar for the applicable sugar supply year determined under that Act, as the Secretary determines will meet such objectives."

(c) WAIVER OF INTEREST ON 1977 AND 1978 CROP PRICE SUPPORT LOANS.—Notwithstanding any other provision of law, the Secretary may waive a portion of the interest due on outstanding loans obtained from the Commodity Credit Corporation with respect to sugar produced from the 1977 and 1978 crops of sugar beets and sugarcane at such times and in such amounts as the Secretary determines necessary to encourage the repayment of such loans; except that such waiver authority shall be exercised in such a manner as not to affect unduly the market prices for sugar.

SEC. 406. COMMODITY CREDIT CORPORATION.

The authority vested in the Secretary under this Act shall be administered through the Commodity Credit Corporation.

SEC. 407. LOAN GUARANTEES FOR CONSTRUCTION, CONVERSION, OR MODIFICATION OF FACILITIES FOR INDUSTRIAL HYDROCARBON AND ALCOHOLS PRODUCTION.

The Commodity Credit Corporation may provide loan guarantees for construction, conversion, or modification of facilities for the production and marketing of industrial hydrocarbons and alcohols derived at least in part from sugarcane, sugar beets, or any byproduct derived therefrom, corn or any byproduct derived therefrom, or any other commodities covered under this Act, from a guarantee fund of up to $25,000,000 during the 2 fiscal years beginning October 1, 1979, but not to exceed the amount of special import duties collected under authority of this Act in such period.

That this Act may be cited as the "International Sugar Stabilization Act of 1979".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and the term "entry" means the entry, or withdrawal from warehouse, for such consumption.

(2) The term "person" has the same meaning as is given to such term in section 1 of title 1 of the United States Code.

(3) The terms "TSUS" means the Tariff Schedules of the United States (19 U.S.C. 1202).

(4) The term "United States", when used in a geographical context, means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

TITLE I—INTERNATIONAL SUGAR AGREEMENT, 1977

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) The term "Agreement" means the International Sugar Agreement, 1977, signed at New York City on December 9, 1977.

(2) The term "sugar" has the same meaning as is given to such term in paragraph (12) of Article 2 of the Agreement.

SEC. 102. IMPLEMENTATION OF AGREEMENT.

On and after the entering into force of the Agreement with respect to the United States, and for such period before January 1, 1983, as the Agreement remains in force, the President may, in order to carry out and enforce the provisions of the Agreement—

(1) regulate the entry of sugar by appropriate means, including, but not limited to—

(A) the imposition of limitations on the entry of sugar which is the product of foreign countries, territories, or areas not members of the International Sugar Organization, and

(B) the prohibition of the entry of any shipment or quantity of sugar not accompanied by a valid certificate of contribution or such other documentation as may be required under the Agreement;

(2) require of appropriate persons the keeping of such records, statistics, and other information, and the submission of such reports, relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as he may from time to time prescribe; and

(3) take such other action, and issue and enforce such rules or regulations, as he may consider necessary or appropriate in order to implement the rights and obligations of the United States under the Agreement.

SEC. 103. DELEGATION OF POWERS AND DUTIES.

The President may exercise any power or duty conferred on him by this title through such agencies or offices of the United States as he shall designate. Such agencies or offices shall issue such regulations as they determine are necessary to implement this title.

SEC. 104. CRIMINAL OFFENSES.

Any person who—

(1) knowingly fails to keep any information, or to submit any report, required under section 102;

(2) submits any report under section 102 knowing that the report or any part thereof is false; or

(3) knowingly violates any rule or regulation issued to carry out this title;

is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $1,000.

SEC. 105. REPORT TO CONGRESS.

The President shall submit to Congress, on or before April 1 of each year, a report on the operation and effect of the Agreement during the immediately preceding year. Unless otherwise published on a regular basis by an agency of the United States, the report shall contain, but not be limited to—

(1) information with respect to world and domestic sugar demand, supplies, and prices during the year concerned;

(2) projections with respect to world and domestic sugar demand, supplies, and prices; and

(3) a summary of the international and domestic actions taken during the year concerned under the Agreement and under domestic legislation to protect the interests of United States consumers and producers of sugar.

SEC. 106. PRESIDENTIAL FEE AUTHORITY ON SUGAR.

The first paragraph of section 22(b) of the Agricultural Adjustment Act (7 U.S.C. 624(b)) is amended by striking out the period at the end of the second proviso thereto and inserting in lieu thereof the following: "*: And provided further*, That any fee imposed upon any sugar, sirup, or molasses provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States (19 U.S.C. 1202) shall not be subject to the 50 per centum ad valorem limitation.".

TITLE II—IMPORT RESTRICTIONS ON SUGAR

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) The term "assured return" means—

(A) for the 1979 sugar supply year, 16.3 cents per pound, raw value; and

(B) for each sugar supply year beginning after September 30, 1980, the price objective for such sugar supply year plus .50 cents per pound raw value.

(2) The term "average daily price for United States raw sugar imports" means the average of the daily market prices (excluding any special import duty imposed under this title) for sugar in pounds, raw value, as determined by the Secretary.

(3) The term "price objective" means the price set forth in, or determined under, section 202(a).

(4) The term "quantitative restriction" means the total quantity of any sugar or sugar-containing product produced in all foreign countries, territories, or areas that may be entered, without regard to source, in any sugar supply year or supply year quarter.

(5) The term "raw value" has the same meaning as is given to such term in headnote 1 to subpart A of part 10 schedule 1 of the TSUS.

(6) The term "Secretary" means the Secretary of Agriculture.

(7) The term "sugar" means any sugar, sirup, and molasses provided for in items 155.20 and 155.30 of the TSUS. The term "raw sugar" means sugar to be further refined or improved in quality. The term "refined sugar" means sugar not to be further refined or improved in quality.

(8) The term "sugar supply year" means the 12-month period beginning on October 1 of each calendar year with each such year being designated by the year in which the beginning date occurs.

(9) The term "supply year quarter" means any of the 3-month periods beginning on October 1, January 1, April 1, or July 1 of any sugar supply year.

SEC. 202. PRICE OBJECTIVES AND PAYMENTS TO ACHIEVE ASSURED RETURN.

(a) PRICE OBJECTIVES.—(1) The price objective for the 1979 sugar supply year is 15.8 cents per pound, raw value.

(2) The price objective for each sugar supply year beginning after September 30, 1980 (hereinafter in this paragraph referred to as the "computation year") is the price objective for the sugar supply year that immediately precedes the computation year adjusted (but not to a price that is more than 107 percent of the price objective of such immediately preceding sugar supply year) to reflect the percent change between the average farm cost of production for—

(A) the 2 sugar supply years immediately preceding the computation year, and

(B) the 2 sugar supply years immediately preceding the sugar supply year that immediately precedes the computation year.

(3) For purposes of paragraph (2), the average farm cost of production for each sugar supply year shall be determined by the Secretary on the basis of such information as the Secretary finds to be necessary or appropriate for the purpose, and shall be limited to the—

(A) variable cost,

(B) machinery ownership cost, and

(C) general farm overhead cost,

allocated to the crop involved on the basis of the proportion of the value of the total production derived from such crop.

(b) PAYMENTS.—If the assured return is not achieved in any sugar supply year that begins after September 30, 1979, the Secretary shall make payments (subject to the limitations set forth in this subsection) solely to domestic producers of sugarcane and sugar beets at the rate per pound, raw value (but not more than .50 cents per pound, raw value), equal to the amount by which the assured return for such year exceeds the greater of—

(A) the average daily price for United States raw sugar imports during such year; or

(B) the price objective for such year.

(2) (A) Notwithstanding any other provision of this Act, the total amount which any person engaged in the production of sugarcane or sugar beets shall be entitled to receive as a result of payments made under this section shall not exceed $50,000.

(B) As used in this paragraph—

(i) The term "payments" does not include loans or purchases.

(ii) The term "person" has the same meaning as provided in regulations issued by the Secretary under section 101 of the Food and Agriculture Act of 1977, except as the Secretary may determine necessary to assure a fair and reasonable application of the limitation under subparagraph (A) to persons engaged in the production of sugarcane and sugar beets.

(3) (A) This subsection shall take effect October 1, 1979. The Secretary shall make payments authorized under this subsection through the Commodity Credit Corporation.

(B) During sugar supply years 1978 through 1981, the Secretary may not make payments to, or on behalf of, producers and processors of sugarcane or sugar beets under section 301 of the Agricultural Act of 1949 (7 U.S.C. 1447) or any other provision of law (other than this subsection) that authorizes payments by the Secretary to achieve price support levels for such commodities.

(c) TIME OF PRICE OBJECTIVE AND ASSURED RETURN DETERMINATIONS.—The Secretary shall determine the price objective under subsection (a), and the assured return, for each sugar supply year occurring after September 30, 1980, not later than July 31 of the year in which such sugar supply year begins and on the basis of the best information available at the time. The Secretary shall immediately announce each such determination and promptly thereafter publish it in the Federal Register, but may not thereafter adjust any such determination.

(d) AVERAGE DAILY PRICES.—(1) The Secretary shall determine on a continuing basis the average daily price for United States raw sugar imports and shall monitor the prices of sugar and sugar-containing products in the import trade of the United States.

(2) The Secretary shall publish the determinations made under paragraph (1) on such periodic basis as he deems appropriate.

SEC. 203. SPECIAL IMPORT DUTIES

(a) ON SUGAR.—(1) (A) There is imposed on raw sugar entered during any supply year quarter a special import duty that shall be in the amount by which the average daily price for United States raw sugar imports during the 20 consecutive market days immediately preceding the 15th day of the month before the first month of such supply year quarter is less than the price objective that applies for such quarter.

(B) There is imposed on refined sugar entered during any supply year quarter such special import duty as the Secretary determines necessary to assure that the price objective for the year shall be achieved.

(C) The Secretary shall undertake a continuing review of the effects of the special import duties imposed under this paragraph.

(2) (A) The amount of the special import duty imposed under paragraph (1) (A) on raw sugar in effect for any supply year quarter shall be—

(i) decreased by .50 cents per pound, raw value, if the Secretary determines that the sum of—

(I) the average daily price of United States raw sugar imports for any period of 10 consecutive market days within such supply year quarter, and

(II) the amount of such duty, exceeds the price objective for that quarter by more than .50 cents; and

(ii) increased by .50 cents per pound, raw value, if the Secretary determines that the sum of—

(I) the average daily price of United States raw sugar imports for any period of 10 consecutive market days within such supply year quarter, and

(II) the amount of such duty,

is less than the price objective for that quarter by more than .50 cents.

(B) The special import duty imposed under paragraph (1) (B) on refined sugar shall be adjusted, at the time adjustments are made under subparagraph (A) to the special import duty on raw sugar, in such amount as is necessary to assure that the price objective for the year is achieved.

(3) Notwithstanding the foregoing provisions of this section, if at any time during the sugar supply year the Secretary determines that either or both of the special import duties provided for under paragraph (1) (whether adjusted under paragraph (2)) will not assure that the price objective will be achieved on the average during the supply year, the Secretary shall determine the amount of such adjustment in either or both of such duties as is necessary to achieve such result.

(4) (A) The Secretary shall determine and announce the amount of the special import duties imposed under paragraph (1) for each supply year quarter, and shall certify such amounts to the President, before the close of the 11th day before the first day of that supply year quarter; except that if the date of the enactment of this Act occurs after the first day of a supply year quarter to which this subsection applies, the Secretary shall announce and certify any special import duty for that quarter before the close of the 5th day after such date of enactment.

(B) The Secretary shall announce any special import duty adjustment required to be made under paragraph (2), and shall certify such adjustment to the President, before the close of the third market day after the last day of the period of 10 consecutive market days on which the adjustment determination is based.

(C) The Secretary shall announce any special import duty adjustment required to be made under paragraph (3), and shall certify such adjustment to the President before the close of the third market day after determining its amount.

(5) This subsection shall apply with respect to the supply year quarter that begins October 1, 1979, and to each supply year quarter thereafter.

(b) ON SUGAR-CONTAINING PRODUCTS.—(1) The President may—

(A) after receiving a recommendation from the Secretary under paragraph (2), and subject to subsection (c), impose a special import duty on the sugar content of such sugar-containing products and in such amounts, as the President considers to be necessary to assure that the price objective for such sugar supply year will be achieved; and

(B) after receiving a recommendation from the Secretary under paragraph (3), make such adjustments with respect to any special import duty imposed under subparagraph (A) that the President considers necessary to achieve the price objective for the sugar supply year concerned.

(2) If at any time during any sugar supply year after September 30, 1979, the Secretary considers that the imposition of a special import duty on the sugar content of any sugar-containing product is necessary to assure that the average daily price for United States raw sugar imports will result in the price objective for such sugar supply year being achieved, the Secretary shall recommend to the President that the President impose such special import duties under paragraph (1) (A) on the entry of such sugar-containing products as the Secretary deems appropriate.

(3) The Secretary shall review, on a supply year quarter basis, the effect of all special import duties imposed under paragraph (1) (A). On the basis of such review, the Secretary may recommend to the President such adjustments with respect to the amount of any such duty, or with respect to sugar-containing products to which any such duty should be extended or removed, as the Secretary determines to be necessary to achieve the price objective for the sugar supply year concerned.

(4) Each recommendation made by the Secretary to the President under this subsection shall be promptly published by the Secretary in the Federal Register.

(c) SPECIAL RULES FOR SUGAR-CONTAINING PRODUCTS.—If the President has reason to believe that the sugar-containing product, to which any recommendation made by the Secretary under subsection (b) (2) applies, will adversely affect, or is adversely affecting, the achievement of the price objective during the sugar supply year concerned, the President may not impose any special import duty under subsection (b) (1) (A) on the sugar content of such product before—

(1) requesting the United States International Trade Commission to undertake an investigation to determine whether, and to what extent, the entry of such product is adversely affecting the achievement of the price objective; and

(2) taking into consideration the results of such investigation;

except that, if the Secretary in any recommendation made under subsection (b) (2) also advises the President that a condition exists with respect to the sugar-containing product concerned that requires emergency treatment, the President may immediately impose a special import duty under subsection (b) (1) (A) pending the receipt and consideration by him of the results of the investigation requested under paragraph (1). The United States International Trade Commission shall submit to the President a report on any investigation requested by him under this subsection within 60 days after the date of such request.

SEC. 204. PROCLAIMING OF SPECIAL IMPORT DUTIES

(a) AUTHORITY.—The President shall proclaim, under the authority of the headnotes to subpart A of part 10 of schedule 1 of the TSUS, the special import duties, and the adjustments thereto, that are required to be imposed, or that may be imposed at his discretion, under section 203.

(b) SPECIAL PROVISIONS RELATING TO PROCLAMATIONS.—(1) Any special import duty under section 203(a) (1) certified to the President shall be proclaimed by the President not later than the 5th day before the first day of the supply year quarter in which such duty applies; except that if the date of the enactment of this Act occurs after the first day of a supply year quarter to which such section applies, the Secretary shall proclaim any special import duty certified under such section for such quarter not later than the 5th market day after such date of enactment.

(2) Any special import duty adjustment under section 203(a) (2) certified to the President shall be proclaimed by the President not later than the close of the 5th market day after the last day of the period of 10 consecutive market days on which the adjustment determination is based.

(3) Any special import duty adjustment under section 203(a) (3) certified to the President shall be proclaimed by the President not later than the close of the 5th market day after the adjustment determination is made by the Secretary.

SEC. 205. QUANTITATIVE RESTRICTIONS ON IMPORTED SUGAR AND SUGAR-CONTAINING PRODUCTS.

(a) IMPOSITIONS.—At the end of the first 6 months of each sugar supply year beginning with the 1979 sugar supply year, the Secretary shall determine whether the price objective for that year will be achieved on an average basis by the special import duties in effect during that year and publish such determination in the Federal Register, together with a statement of factors which entered into the determination. If the Secretary determines that the price objective for that year will not be achieved on an average basis by the special import duties in effect during that year, the Secretary shall certify to the President such quantitative restrictions on the total amount of sugar and sugar-containing products which may be entered during the balance of that sugar supply year as the Secretary determines to be necessary to achieve, in conjunction with the special import duties imposed during the supply year concerned, the price objective for the year on an average basis. Any quantitative restrictions certified to the President shall be proclaimed by the President not later than the close of the 5th market day after the determination of the Secretary.

(b) REVIEW.—If any quantitative restrictions are in effect under this section, the Secretary shall review, from time to time, the effect of such restrictions and shall certify to the President such adjustments in the restrictions as the Secretary determines are required to achieve the relevant annual market price objective. The President shall proclaim the adjustments in quantitative restrictions as certified by the Secretary, not later than the close of the 5th market day after the determination of the Secretary, with a statement of the factors which entered into such determination.

(c) GLOBAL RESTRICTION.—Any quantitative restriction imposed under subsection (a) shall be administered as a global quantitative restriction imposed in terms of raw values.

SEC. 206. PROHIBITED ACTS.

(a) CERTAIN IMPORTS AND EXPORTS.—No person may—

(1) bring or import into the Virgin Islands in any sugar supply year for consumption in such islands, any sugar in excess of 100 pounds if such sugar was produced from sugarcane or sugar beets grown outside the United States; or

(2) export to any foreign country any sugar entered under any quantitative restriction imposed under section 205.

(b) CIVIL PENALTY.—Any person who knowingly violates, knowingly attempts to violate, or knowingly participates or aids in the violation of subsection (a) shall forfeit to the United States the sum equal to three times the market value at the time of the commission of any such act, of that quantity of sugar involved in the violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

SEC. 207. EXEMPT ARTICLES OF SUGAR.

(a) DESCRIPTION OF ARTICLES.—This title does not apply with respect to any sugar or sugar-containing product—

(1) of any aggregate value not exceeding $25 in any one shipment, if entered as samples for the taking of orders, for the personal use of the importer, or for research;

(2) entered for the production of alcohol other than any alcohol or resulting byproduct for human food consumption;

(3) entered for the production of yeast, citric acid, or monosodium glutamate; or

(4) any sugar entered for the production of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar as a sweetener in human food consumption.

(b) RULES AND REGULATIONS.—The Secretary of the Treasury shall issue such rules and regulations as may be appropriate to implement this section.

SEC. 208. CERTAIN EXPORTATIONS OF SUGAR.

Sugar entered under a bond, established under rules promulgated by the Secretary of the Treasury, for the purpose of subsequently exporting an equivalent quantity of sugar as

such, or in manufactured articles, shall not be considered to be sugar entering the United States for purposes of section 205. Sugar exported under the provisions of sections 309 and 313 of the Tariff Act of 1930 (19 U.S.C. 1309 and 1313) shall be considered to be an exportation within the meaning of this section.

SEC. 209. SUSPENSION OF TITLE.

If the President finds that a national economic or other emergency exists with respect to sugar, the President may by proclamation suspend the operation of this title, and headnote 2(b) to subpart A of part 10 of schedule 1 of the TSUS to the extent that it applies with respect to this title, until such time as the President finds and proclaims that such emergency no longer exists. The Secretary shall make such investigations, and prepare such reports, as the President may require for purposes of carrying out this section.

SEC. 210. REGULATIONS.

The Secretary shall issue such rules and regulations as he determines to be appropriate to carry out his functions and duties under this title. The knowing violation of any rule or regulation issued by the Secretary under this section upon conviction is punishable by a fine of not more than $1,000 for each such violation.

SEC. 211. AMENDMENTS TO TSUS.

The headnotes to subpart A of part 10 of schedule 1 of the TSUS are amended—

(1) by amending headnote 1 to read as follows: "1. For the purposes of this subpart—

"(i) the term 'degree', as used in the 'Rates of Duty' columns of this subpart, means sugar degree as determined by polariscopic test;

"(ii) the term 'total sugars' means the sum of the sucrose and reducing or invert sugars contained in any grade or type of sugars, sirups, and molasses; and

"(iii) the term 'raw value' means the equivalent of such articles in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury. The principal grades and types of sugar shall be translated into terms of raw value in the following manner:

"(A) For sugar described in item 115.20, by multiplying the number of pounds thereof by the greater of 0.93, or 1.07 less 0.0175 for each degree of polarization under 100 degrees (and fractions of a degree in proportion).

"(B) For sugar described in item 155.30, by multiplying the number of pounds of the total sugars thereof by 1.07.

"(C) The Secretary of the Treasury shall establish methods for translating sugar into terms of raw value for any special grade or type of sugar for which he determines that the raw value cannot be measured adequately under the above provisions.";

(2) by amending headnote 2 by inserting "(a)" immediately after "2.", and by adding at the end thereof the following:

"(b) In addition to the authority of the President under section 201 of the Trade Expansion Act of 1962 (19 U.S.C. 1821) to proclaim modifications of the rates of duty and quotas on imports of sugars, sirups, and molasses provided for in items 155.20 and 155.30, the President shall, for purposes of carrying out, and subject to, title II of the International Sugar Stabilization Act of 1979, proclaim special import duties on—

"(i) imports of any such sugars, sirups, and molasses; and

"(ii) the content of any such sugars, sirups, and molasses in imported products containing such sugars, sirups, and molasses. Any special import duty proclaimed under this subdivision on the entry of any article is deemed to have given due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade, shall be in addition to any other duty imposed by law on such entry and may not be made the subject of any preferential concession under any law or international obligation of the United States."; and

(3) by amending headnote 3 by striking out "For the purposes of this headnote," and all that follows thereafter.

SEC. 212. TERMINATION OF AUTHORITY UNDER TITLE.

No special import duty or quantitative restriction may be imposed, and no direct payment may be made, under this title with respect to any sugar supply year after the 1981 sugar supply year.

TITLE III—FARM LABOR PROVISIONS

SEC. 301. WAGE STANDARDS.

(a) IN GENERAL.—Every producer of sugar beets and sugarcane for sugar shall pay to each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane wages as follows:

(1) When employed on a time basis, the rates per hour shall be not less than the following:

(A) In all areas, except Hawaii and Puerto Rico, $3 for work performed during the 1978 sugar supply year beginning 30 days after the date of enactment of this act, $3.30 for the 1979 sugar supply year, and in each of the 1980 and 1981 sugar supply years the rate for the sugar supply year previous to the year for which the determination is made increased by an amount directly proportional to the amount by which the assured return determined under title II of this act for the year for which the wage determination is made exceeds the assured return for the last previous sugar supply year. Rates for field equipment operators in counties or parishes where at least 25 percent of the acreage devoted to the production of agricultural commodities is planted to sugarcane or sugar beets shall be not less than 10 percent more than the above rates.

(B) In Hawaii and Puerto Rico, as required by labor union agreement or Federal or local law.

(2) When employed on a piecework basis, the rates shall be not less than the rates for the 1978 crop as published in the Federal Register of January 10, 1978 (42 F.R. 1476), increased each sugar supply year beginning October 1979 in the same proportion as the hourly rates are increased under paragraph (1) of this subsection.

(b) VIOLATION OF WAGE STANDARDS.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary") or an aggrieved employee may seek compliance with this section in accordance with the powers, remedies, and procedures provided for in sections 9, 11, 15 (except subsection (a)(3) thereof), 16, and 17 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209, 211, 215, 216, and 217). Amounts owing to a person as a result of a violation of subsection (a) shall be deemed to be unpaid minimum wages or unpaid overtime compensation for purposes of sections 16 and 17 of such act of 1938.

(c) STATUTE OF LIMITATIONS.—Any action commenced to enforce any cause of action for unpaid wages, or liquidated damages may be commenced within 2 years after the cause of action accrued, and every such action shall be forever barred unless commenced within two years after the cause of action accrued, except that a cause of action arising from a willful violation may be commenced within three years after the cause of action accrued.

(d) EMPLOYEE PROTECTION.—(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or the Secretary or any person acting pursuant to a request of the employee) has—

(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding seeking compliance with subsection (a);

(B) testified or is about to testify in any such proceeding; or

(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this section.

(2) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 180 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(3)(A) Upon receipt of a complaint filed under paragraph (2), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint filed under paragraph (2), the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expense (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(4)(A) Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States district court for the district in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) Whenever a person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions

brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

(6)(A) Any person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(7) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

(e) EXCESSIVE CHARGES PROHIBITED.—Wages required to be paid under subsection (a) shall be treated as wages for the purposes of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)).

(f) COMPENSATION INSURANCE.—(1) The Secretary shall issue such regulations as the Secretary deems necessary to assure that the producer shall furnish each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane workmen's compensation insurance during the time so employed in the period beginning 30 days after the date of enactment of this Act until the end of the 1981 sugar supply year. Such insurance coverage shall be deemed adequate if it meets the requirements of the law in States in which such insurance is mandatory, or if it meets such standards as are established by law in States in which such insurance is not mandatory.

(2) Any person who violates the provisions of paragraph (1) or any regulation with respect thereto, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

(1) deducted from any sums owing by the United States to the person charged; or

(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, and regulations promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties.

(g) CHILD LABOR.—No child labor under the age of fourteen years shall be employed or permitted to work on the farm, whether for gain to such child or any other person, in the production, cultivation, or harvesting of a crop of sugar beets or sugarcane, from which the sugar was recovered, except a member of the immediate family of a person who was the legal owner of not less than 40 percent of the crop at the time such work was performed; and no child between the ages of fourteen and sixteen years may be employed or permitted to do such work, whether for gain to such child or any person, for a period longer than eight hours in any one day, except a member of the immediate family of a person who was the legal owner of not less than 40 percent of the crop at the time such work was performed. A violation of this subsection shall be treated as a violation of section 12 of the Fair Labor Standards Act of 1938 (29 U.S.C. 212).

(h) INVESTIGATIONS.—Investigations of possible violations of provisions of this section shall be conducted by the Wage and Hour Division of the Department of Labor.

(i) RULES AND REGULATIONS.—The Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out the provisions of this title.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. DEFINITIONS.

As used in this title—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "sugar" has the same meaning as is given to such term in section 201 (7).

SEC. 402. JURISDICTION OF COURTS.

The several district courts of the United States are hereby vested with jurisdiction specially to enforce, and to prevent and restrain any persons from violating, the provisions of this Act or of any order or regulation made or issued pursuant thereto including, among other things, the restraint of withholding payments of minimum wages found by the court to be due employees under title III of this Act. If and when the Attorney General shall so request, it shall be the duty of the several district attorneys of the United States, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties, fees, and forfeitures provided for in this Act. The remedies provided for in this Act shall be in addition to, and not exclusive of, any of the remedies or penalties existing at law or in equity.

SEC. 403. INFORMATION, SURVEYS, INVESTIGATIONS, ETC.

(a) INFORMATION TO SECRETARY.—All persons engaged in the manufacturing, marketing, transportation, or industrial use of sugar and other sweeteners, including those not derived from sugar beets or sugarcane, and having information which the Secretary deems necessary to enable him to administer titles I and II, shall, upon the request of the Secretary, furnish him with such information.

(b) SURVEYS, INVESTIGATIONS, AND RESEARCH.—The Secretary from time to time shall conduct such surveys, investigations, and research as the Secretary deems necessary regarding the manufacturing, marketing, transportation, or industrial use of sugar and other sweeteners.

(c) COST OF PRODUCTIONS STUDIES.—The Secretary shall conduct such studies on the cost of producing sugarcane, sugar beets, sugar, and other sweeteners as are deemed necessary by the Secretary.

(d) SUBPENAS.—The Secretary may subpena the production of such records, books, papers, and other documents that he determines to be necessary to carry out this section.

(e) CONFIDENTIALITY.—All information that is required to be furnished to the Secretary under this section and that relates to the separate operations of the person providing the information shall be kept confidential by all officers and employees of the Department of Agriculture; except that such information shall be made available by the Secretary, upon request, to the Comptroller General or his delegates or employees who shall keep such information confidential.

(f) CRIMINAL PENALTY.—Any person who willfully fails or refuses to furnish the Secretary with information requested by him for purposes of carrying out this section, or furnishes false information in response to such request knowing the information to be false, is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $2,000.

SEC. 404. INVESTMENTS BY OFFICIALS PROHIBITED.

No person may, while acting in any official capacity in the administration of this Act, invest or speculate in sugar, contracts relating thereto, or the stock or membership interest of any association or corporation engaged in the production or manufacturing of sugar. Any person who violates this section is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $10,000 or imprisonment of not more than 2 years, or both.

SEC. 405. PRICE SUPPORT PROGRAM FOR SUGAR BEETS AND SUGARCANE.

(a) PRICE SUPPORT UNTIL SEPTEMBER 30, 1979.—Nothing contained in this Act shall affect (1) the application of section 201(f) of the Agricultural Act of 1949 with respect to the 1978 crop of sugar beets and sugarcane nor, (2) except as provided in section 202(b)(3) of this Act, the authority of the Secretary to provide price support under title III of the Agricultural Act of 1949 on the 1979 crop of sugar beets and sugarcane after the date of enactment of this Act until September 30, 1979.

(b) PRICE SUPPORT BEGINNING OCTOBER 1, 1979.—Effective beginning October 1, 1979 section 201 of the Agricultural Act of 1949 is amended by—

(1) striking out "honey, and milk" in the sentence appearing before subsection (a) and inserting in lieu thereof the following: "honey, milk, sugar beets, and sugarcane"; and

(2) adding at the end thereof a new subsection (g) as follows:

"(g) In order to assist in achieving the objectives of the International Sugar Stabilization Act of 1979, the price of sugar beets and sugarcane processed during each of the 1979 through 1981 sugar supply years shall be supported through loans on or purchases of the processed products thereof at such level, not less than 89 percent of the price objective for sugar for the applicable sugar supply year determined under that Act, as the Secretary determines will meet such objectives.".

(c) WAIVER OF INTEREST ON 1977 AND 1978 CROP PRICE SUPPORT LOANS.—Notwithstanding any other provision of law, the Secretary may waive a portion of the interest due on outstanding loans obtained from the Commodity Credit Corporation with respect to sugar produced from the 1977 and 1978 crops of sugar beets and sugarcane at such times and in such amounts as the Secretary determines necessary to encourage the repayment of such loans; except that such waiver authority shall be exercised in such a manner as not to affect unduly the market prices for sugar.

SEC. 406. COMMODITY CREDIT CORPORATION.

The authority vested in the Secretary under this Act shall be administered through the Commodity Credit Corporation.

SEC. 407. LOAN GUARANTEES FOR CONSTRUCTION, CONVERSION, OR MODIFICATION OF FACILITIES FOR INDUSTRIAL HYDROCARBON AND ALCOHOLS PRODUCTION.

The Commodity Credit Corporation may provide loan guarantees for construction, conversion, or modification of facilities for the production and marketing of industrial hydrocarbons and alcohols derived at least in part from sugarcane, sugar beets, or any byproduct derived therefrom, or any other commodity covered under this Act, or from corn or any byproduct derived therefrom, from a guarantee fund of up to $25,000,000 during the 2 fiscal years beginning October 1, 1979, but not to exceed the amount of special import duties collected under authority of this Act in such period.

Mr. VANIK. Mr. Chairman, I ask unanimous consent that I be permitted to return to section 2, and titles I, II,

and IV, in order to offer conforming amendments made necessary by the passage of the Committee on Ways and Means version of title III.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENTS OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. VANIK: Page 33, strike out lines 4 and 5.

Page 33, line 6, strike out "(4)" and insert "(3)".

Page 33, line 8, strike out "(5)" and insert "(4)".

Page 37, between lines 8 and 9, insert the following:

(6) The term "Secretary" means the Secretary of Agriculture.

Page 37, lines 9, 15, and 22, redesignate paragraphs (6), (7), and (8) of section 201 of the bill as paragraphs (7), (8), and (9), respectively.

Page 65, strike out lines 11 and 12 and insert the following:

As used in this title—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "sugar" has the same meaning as is given to such term in section 201 (7).

Page 65, strike out lines 17 through 20, inclusive, and insert the following:

sions of titles I, and II, and IV, and of any order, rule, or regulation issued to carry out any of such titles. If and

Page 65, strike out line 25 and line 1 on page 66 and insert the following: "provided for in any of such titles. The remedies provided for in titles I, and II, and IV are in addition to, and not exclusive of, any of the".

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Chairman, these amendments simply provide technical conformity throughout the other titles in the bill and do not make any substantive change.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Washington.

Mr. FOLEY. I agree entirely with the gentleman's description. I think the amendments need to be adopted and should be adopted by the committee.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. VANIK).

The amendments were agreed to.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I understand it, we are on the last title of the bill, and we will soon be voting on it. Because the committee has declined to remove the direct payments, I would respectfully suggest that Members of the House will now want to vote against the bill.

It is true we need a Sugar Act, but unfortunately, the sponsors of this act have gone too far in asking for direct payments along with an assured price objective. They are protected by loans. They are protected by interest forgiveness. They are protected by quotas. They are protected by assured prices, and the additional protection of a direct payment is more than our taxpayers and our consumers should have to stand on this bill.

With the direct payments, we will now have a distorted market. We will have inefficient producers being asked to stay in the business. This House has also rejected an amendment which makes it perfectly legal for people to sell at higher than the assured price and still get the direct payment.

So if we vote for this bill, we will be giving a gift of $51 million, of which, if we look at the track record of the Department of Agriculture, we can absolutely depend on at least 10 percent being misspent and spent incorrectly or illegally.

So, in my judgment, Mr. Chairman, and with great regret, I have to state that I think we have no choice other than to turn down this bill.

I yield back the balance of my time.

Mr. KELLY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not want to shock any of the Members of Congress, but we have a problem in this country about inflation, and I knew one could never tell it by the way we conduct our business, but it is just the living truth.

Every time I go home, people mention it to me. Have any of the Members heard this same thing?

It would seem they have not.

Mr. Chairman, Alfred Kahn is the Nation's leading inflation fighter. He is the Chairman of the Council on Wage and Price Stability, very important in fighting inflation.

When he was before the Committee on Banking, Finance and Urban Affairs, on October 10 of this year, on oversight hearings, he was asked this question: "Do you favor the increase in the minimum wage that is going to take place in January?"

His answer was: "I don't think there is any doubt that in itself an increase in the minimum wage is inflationary."

Now, Mr. Chairman, I would like to point out to the Members of the House that in January there is going to be an increase in the minimum wage of 7 percent, just a little bit less than 7 percent, and Alfred Kahn said that was going to be inflationary; but the bill, this sugar bill that we are ready to vote on, provides not for a little less than 7, but a little more than a 25-percent increase in the minimum wage.

I am sure that the people, the American people who are out there struggling to try and pay for all of the nonsense that has been passed by this Congress, will be certainly pleased to hear that.

We are talking about the sugarcane workers and all these people having a hard time. The American people are having a hard time, and there is no way on Earth that any Member of this House can justify heaping more just unmitigated inflation on the American people.

If we have a sugar industry that is not competitive because production costs are too high, then increasing production costs are going to do nothing but to drive that industry further and further into the hole.

Deliberately increasing the costs of production by this bill is incredible.

This bill, with the special minimum wage and the labor provision that it contains, constitutes a danger to every labor intensive portion of American agriculture, and especially the citrus and vegetable growers, because American agriculture has got to be competitive with world production; and if it is not, we are then going to succumb to foreign competition.

Mr. Chairman, this bill is anti-American industry. It is anti the American workers, and it is inflationary; and it should not be a part of the law.

Mr. Chairman, the farm labor forces simply told the sugar industry if you want this subsidy you say you need to survive foreign competition, then we want more money.

This is a funny position when it had been argued all through the committee consideration that the reason for passing the bill was to save jobs for American workers.

Every product produced in the United States and protected by a tariff could be held up to this extortion. I refuse to submit, on principle and because of the threat to all agriculture, especially such industries as citrus and winter vegetables.

Mr. PEYSER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a lot of Members with a great deal of feeling and sincerity have addressed themselves to this bill on both sides.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I thank the gentleman for yielding.

I oppose this bill in the form in which it was submitted. We have done nothing in the course of the committee's action to improve it. I think this is a bill whose time has come and gone. The increase in world prices of sugar make it unnecessary. I feel constrained to vote against a price-basing situation where we provide no inducement to the consumer where there is no protection for the consumer.

Under these circumstances, I expect to cast my vote against this legislation.

□ 1720

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to my friend the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I have listened to hearings on sugar price supports, discussions in the Trade Subcommittee and debates in the full Ways and Means Committee, and now arguments on the floor for sugar price supports. The more discussion and debate I hear on this subject the more I become convinced of the transparent absurdity of the issue.

Sugar has been made out to be an apogee of American agriculture, a sort

of tin god among the crops, deserving of special reverence and extraordinary treatment, whatever the cost to the taxpayer. We have been told that a vote for sugar is a vote for the American farmer, despite the fact that no more than 1 percent of the farmers in this country grow cane or sugar beets. If I were among the other 99 percent of American farmers I might be hesitant to allow the sugar growers to speak for me.

We have been told that this is the small farmers' issue, despite the fact that by far the major production of sugar in the United States comes from huge agricultural corporations, which would have been a dream come true for any colonial plantation planter out of another century. We have listened to these modern-day plantation owners complain of impending bankruptcy unless Uncle Sam extends further price supports to them for every pound of sugar they produce. They have made these cries for special treatment despite the fact that the largest of the sugar growing corporations. U.S. Sugar, in April of this year informed their stockholders that their profits were up more than $7 million, a 148-percent increase in earnings over the same period in 1978. The stockholders were pleased to see their dividend raised from $1.20 to $2.98 per share, and I am sure they will be even more pleased if the Congress approves higher price supports to "bail out" U.S. Sugar and her sister corporation growers.

We have also been told, in statements heavy with menace and foreboding, that the United States must continue to indulge the sugar industry for strategic reasons. As a congressional adviser on SALT, I have some understanding of strategic affairs, and I have yet to hear sugar mentioned prominently by our Nation's strategic planners. However, the strategic arguments of the sugar industry are deserving of closer analysis. We have heard sugar compared to oil and listened to vague portents of an insidious Third World sugar cartel lurking in the wings—an OSEC following in the successful footsteps of the OPEC cartelers. This sort of threat might have more impact if the sugar growing nations of the Third World were not already having difficulty in disposing of their excess supplies of the commodity.

Furthermore, it does not take into consideration the economic rationale by which developing countries operate. Sugar is the main item of export for a number of nations in the southern hemisphere, and as such it is their primary source of foreign income with which to purchase the equipment and technology, much of it from the United States, needed for development. If they did organize a sugar cartel and did embargo the American market or raise their prices and force the United States to turn more toward our domestic corn sweeteners, they would suffer much more than we. Sugar is not oil. The two are not comparable in any sense in the context of cartels and embargos.

We all know what happens to the American economy when even a fraction of our oil supplies are suddenly cut off, but what effect would a reduction or threatened reduction in our sugar supplies have on our country. It would certainly not be pleasant. Consumers would be drinking their coffee black, and they would have fewer Hostess Twinkies and probably a shortfall in Coca-Cola supplies—Coke being the largest single user of sugar in the United States. But to the American consumer who has weathered gas lines and brownouts and odd-even rationing this would not be an insurmountable difficulty. In the extremely unlikely event of a sugar cartel arising and instituting an embargo it would be the industries which use sugar that would have the most to lose. It should be remembered that these user industries are the strongest opponents of sugar price supports.

We have also heard that sugar growers are actually doing a favor to the American consumer by accepting price supports and maintaining domestic production of a commodity so essential to the American diet. Most nutritionists would point out that sugar is far too essential to the American diet, but that is another issue. I am not convinced that consumers in this country are anxious to pay, as the President's Economic Adviser Alfred Kahn has estimated, as much as $500 million for every penny added to the sugar price support system. With the current level of price supports the United States produces domestically 70 percent of all the sweeteners used in this country. The idea of an OPEC-style sugar cartel is nothing more than a strawman, set up by those seeking higher price supports in order to be knocked down again. American consumers are very fond of coffee, cocoa, and bananas, yet we do not grow any of these commodities. Should we be thinking about a potential threat from the banana cartel that may be forming somewhere in the jungles of the Third World?

Mr. PEYSER. I thank the gentleman.

I felt for many of the Members it would be interesting to know around the country those who have formally opposed this legislation. They are:

AFL-CIO, American Bakers Assn., American Assn. of Retired Persons, Assn. for Dressings and Sauces, Biscuit and Cracker Mfgrs. Assn., Chocolate Mfgrs. Assn., Common Cause, Community Nutrition Institute, Congress Watch, Consumer Affairs Committee, ADA, Consumer Federation of America, Flavor and Extract Mfgrs. Assn., Independent Bakers Assn., Int. Assn. of Ice Cream Mfgrs., Int. Longshoremen's Assn., Leadership Council on Civil Rights, Natl. Council of Senior Citizens, Natl. Bakery Supplier Assn., Natl. Food Processors, Natl. Assn. of Fruits, Flavors and Syrups, Natl. Preservers' Assn., Natl. Restaurant Assn., Natl. Soft Drink Assn., Pickle Packers Institute, Processed Apple Institute, Retail Bakers of America, Sugar Workers Council of North America, United Auto Workers, United Food and Commercial Workers, and U.S. Cane Sugar Refiners' Assn.

I just wanted to give the Members a feeling for the types of organizations who are opposing this legislation.

Mr. Chairman, we have worked long and hard on this bill. Hopefully the majority will recognize that this is a bad bill, it is a bill that should be defeated, it is a bill that can show the American people this Congress is concerned about the inflationary process. Let us vote no and get this bill back so someone else can work on it.

Mr. FOLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know the shouts of "vote" are coming from Members who are anxious to proceed.

I think it is important that when we do vote, on this bill, either for or against it, that judgment be made on the basis of some relevance to the facts. Question: Is the bill inflationary? Does providing for a 15.8-cent price objective, plus a half a cent payment when it is clear that even the Department of Agriculture feels this combined return only just begins to meet the actual cost of production for American sugar producers make it inflationary?

Is it inflationary when, as a matter of fact, prices this year with or without this bill, will be that high? Or that price increases in the next 2 years are limited to 7 percent, well within the inflationary guidelines?

It is said by some Members that it provides, too high a minimum wage. However at the same time it is being opposed by the AFL-CIO because the minimum wage is not high enough. The fact is that sugar legislation first brought minimum wages to agriculture long before the Wage and Hour Act was ever enacted. One of the effects of this bill would be to provide substantially higher minimum wages to unrepresented, mostly black sugar workers, than provided all other categories of workers under the Fair Labor Standard Act and a premium over and above that to many machinery operators.

I find it difficult to understand why my great friends in the AFL-CIO, who have done so much over the years to advance the interests of organized and unorganized workers, would now deny these unorganized sugar workers the benefit of higher wages and other unprecedented protection, such as workmen's compensation purely on the grounds that they are not enough. They may not need it in Hawaii because Hawaii is unionized. They may not need it in Florida because Florida generally already pays higher wage rates. But they do need it in other areas.

We are enacting the provisions of the International Sugar Act, an agreement that the United States and 56 other countries have joined together in. The purpose of this agreement is to try and maintain a stable price for sugar, enhance trade, and help developing countries be less dependent on aid.

This bill has been criticized from left and right with more inaccuracies, more exaggeration, and less understanding or basis in fact than any of the other agricultural bills I have ever been associated with. Frankly, it does less for sugar as a commodity, than most agricultural programs do. Yet somehow it attracts this purely emotional opposition from every quarter of the House.

In reality, it is a moderate bill. It is so moderate that even if it passes much of our sugar production is probably going to be lost. As already pointed out, there are plants closed today in Idaho, in Washington, in Colorado, Louisiana, and

elsewhere, and more will close even if the bill is passed. It is going to cost the consumer little if any additional charge. Although providing for increases in the price support and wage provisions for the next 2 years, it holds these increases to a maximum of 7 percent per year. What it does provide is some assurance that part of our industry will survive, and real benefits to workers who need the support of this bill and the support of this House.

It deals with an important international agreement that the United States should be proud to implement and take part in.

I hope the Members of this House will seriously consider these facts when they vote in a few minutes. This bill is a bill of moderation. It is a bill that has been attacked unwisely by ill-informed groups who, although well-intended, are looking at different problems on a different set of circumstances than those that exist today in the sugar market. When we conclude debate on the question and come to the House with a bill this moderate in an attempt to provide assistance not only to sugar growers but to the hardest working and least represented workers in our country. I hope Members will not make their decisions on the superficial, emotional harangues, that have sometimes marked this debate but, rather, on the basis of hard evidence and objective fact.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I will be glad to yield to my colleague from Oregon.

Mr. ULLMAN. Mr. Chairman, I want to commend the gentleman.

I have sat with the gentleman in many sessions, session after session, trying to work out a very, very difficult issue. The gentleman is absolutely right. This is an industry in America that is very important that is going down the drain if we do not do something about stabilizing the price. This is a moderate bill, it is in the best interests of the consumers of this country, it is in the best interests of the country, and I urge the Members to vote for the bill.

● Mr. BINGHAM. Mr. Chairman, after careful assessment of this legislation—the International Sugar Stabilization Act of 1979—upon American consumers generally, and particularly upon the New York City region, I have concluded that I must vote against H.R. 2172.

I make that decision with some reluctance because the legislation contains authorization for U.S. participation in the International Sugar Agreement, which I support. I have noted today, however, a statement by the Secretary of Agriculture that the administration would submit International Sugar Agreement implementing legislation to the Congress separately if this bill is defeated. I think this is a wise decision. There is no reason that the International Sugar Agreement authorization must be combined with the domestic sugar program contained in this bill. Some of these domestic provisions are, in my view, ill-advised, particularly from the consumers' point of view. The possibility of separating the International Sugar Agreement from them allows Members of this House to judge the proposed domestic program contained in this legislation on its own merits.

The United States' failure to participate in the International Sugar Agreement has held up the implementation of that agreement since 1977, and has severely upset and depressed the world sugar market to the detriment of some friendly nations, like the Dominican Republic which I recently visited. The Dominican Republic and some other nations have faithfully supplied the United States with sugar at reasonable prices through thick and thin over many years. They are now being severely hurt economically by low international sugar prices stemming in part from uncertainty about what the United States is going to do with its own sugar policies and programs. It is high time we put our own sugar policy into place and endorsed the International Sugar Agreement.

Participation in the International Sugar Agreement is in the interest of the United States and the American consumer because that agreement helps to keep world sugar prices at a stable and moderate level, which in turn, helps assure a world supply that meets the needs not only of the United States but of the rest of the world. This is done through a system of sugar stockpiles and export quotas which are used to offset any undesirable swings in prices or supplies.

Mr. Chairman, I voted for the Frenzel amendment that would delete the provision for direct subsidy payments to U.S. sugar producers of up to one-half cent per pound, with a limit of $50,000 per producer. All such direct payments do is subsidize and protect some domestic sugar producers from other domestic sugar producers—the less efficient domestic producers from the more efficient domestic producers. It is bad enough that we may have to subsidize our domestic sugar industry indirectly through guaranteed floor prices. Protecting our less efficient domestic sugar producers is even less defensible.

With or without the Frenzel amendment, this legislation unfortunately would have a most damaging effect upon the sugar refining industry—and particularly that portion of the industry located in the New York City region which I represent. Most New York City refineries are dependent upon and competitive only when there is a supply of foreign cane at somewhat lower prices than domestically produced sugar. The floor price of 15.8 cents a pound contained in this bill include a healthy profit for domestic sugar producers and refiners. But if New York City refineries have to buy foreign cane at that price—as they would under this bill—they would no longer be able to compete with domestic producers and refineries using domestic sugar sources such as beets and corn. This would have a most serious damaging effect on industry and employment in New York City, and I do not see why New York City should have to pay this added price to protect U.S. domestic sugar producers.

Strenuous opposition to this bill has been registered by a number of national organizations for which I have the greatest respect. These organizations are convinced that H.R. 2172 would add to the burdens of inflation on the American consumer. Accordingly I shall vote against H.R. 2172.●

● Mr. HARRIS. Mr. Chairman, I wish to rise in opposition to the International Sugar Stabilization Act of 1979. This legislation is designed to serve a small segment of the agribusiness—less than 1 percent are involved in sugar production—at the expense of literally millions of consumers. It will add significantly to skyrocketing prices in the food industry, where the inflation rate currently stands at 17 percent. The price supports as proposed in this bill will add as much as a half a billion dollars to the consumer grocery bill in the first year alone. Built-in cost escalators will allow the price to adjust to rising production costs—promoting inefficiency. Some sugar producers want to convince us that a penny or two added to the price of sugar will have little effect on the individual consumer; but we must keep in mind that this increase will drive up the price of every item containing sugar—the overall effect on senior citizens and others on fixed incomes will be particularly damaging. The Congressional Budget Office estimates that each 1 cent increase in the price of sugar adds $250 to $300 million directly to the consumer food budget and $150 to $200 million indirectly by affecting prices of items produced with sugar. This bill calls for raising the price some 3 cents a pound over the next 3 years.

On top of these price supports, the sugar industry will benefit from a direct subsidy which will cost the Treasury $50 million a year. The sugar program already costs consumers the sum of $2.6 billion a year to artificially boost the price of sugar.

Before we vote to raise the consumer grocery bill, I think we need to carefully examine exactly who will benefit from this measure. Clearly, those producers currently receiving large profits and operating efficiently are going to gain the most from raising the price of sugar. The Nation's largest sugar producer, U.S. Sugar Corp., is already earning 148 percent more for the first 6 months of this year than in the same period last year. The Government and consumers should not be in the business of subsidizing industry profits. Make no mistake, price supports serve to protect producers when world prices fall, and are designed by the sugar industy lobbyists to allow them to reap windfall profits when prices take unexpected upswings. There is no protection for consumers from wild variations in prices. Past sugar programs have not held down the price of sugar—from 1963 to 1974, sugar prices soared under various sugar agreements. Under the most recent sugar legislation, prices have increased 40 percent since 1977.

The sugar producers claim they need this legislation to slow the trend toward dependence on cheaper imported sugar. However, over the last 4 years, the amount of sugar imported has held steady at 44 percent—an alarming trend toward imported sugar in this figure. During the last year domestic cane sugar

production—our largest source of domestic sugar—has shown a 5.1-percent increase. Production would not be expanding if it were not profitable.

Many of the problems in the sugar industry are a result of its own failure to read the market properly. Domestic production greatly expanded in 1974–75 during wide fluctuations in world sugar prices. In their attempts to take advantage of this, our sugar producers over expanded to the point that supplies now far exceed consumption. We cannot ask consumers to foot the bill for the industries own errors and inefficiency. This bill will allow inefficient operations to proliferate and thrive at the expense of family grocery bills.

If the Congress is serious about holding the line on inflation, then it should reject this bill as a direct attack on the consumer pocketbook. This legislation provides no protection from rising prices, on the contrary it will simply help boost them upward.●

● Mr. CHENEY. Mr. Chairman, I hope the House will pass the pending sugar bill, H.R. 2172. It is vitally important to sugar producers in this country, including beet growers in Wyoming and other Western States.

Without this legislation, there is a good chance a number of processing plants would shut down in the face of the uncertainty that would prevail. And once those plants are closed, the sugar producers who depend on them for a market would be doomed. We cannot allow this chain of events to occur. It would hurt not only those producers directly affected, but also their employees, the communities whose economies they support, and consumers throughout this Nation, who would find themselves that much more dependent on foreign sources of sugar.

This legislation is a compromise, as are most bills. It is not the bill I would have preferred to see us pass. It is not the bill the sugar producers preferred. And it is not the bill desired by consumer groups. It is the result of various compromises that had to be made in order to reach an agreement, and in order to fend off a Presidential veto.

I would have preferred that we consider the bill introduced by my colleague from Colorado, Congressman JOHNSON, to stabilize domestic sugar prices by regulating imports. Quotas and tariffs would have been employed in such a way as to protect and nurture a domestic industry. There would have been no subsidy payments to anyone under the Johnson bill.

But the Johnson bill was not approved by the Agriculture and Ways and Means Committees. H.R. 2172 was, and while it is not perfect, it would provide a minimum level of stability for the domestic industry—enough to prevent the demise of processing facilities and of many producing operations until prices improve.

The pending bill calls for a market price objective of 15.8 cents per pound for the 1979 supply year. This would be adjusted annually to reflect changes in production costs. It also provides for direct payments to producers, subject to a $50,000 ceiling, if producers are unable to achieve the price objective plus one-half cent per pound. And the bill would call for import quotas and/or duties if necessary to maintain the price objective.

The bill also requires sugar beet and cane producers to pay their workers a specified minimum wage and provides for loan guarantees for gasohol facilities.

Mr. Chairman, this country imports nearly half of the sugar required to meet domestic consumption levels. It is easy to see that if we fail to enact a reasonable program to protect our own producers, we will become increasingly dependent on foreign countries for sugar. We cannot afford to do that. We must enact the pending bill, in the absence of an opportunity to consider other alternatives.

Sugar beet growers in my State of Wyoming have expressed their strong support for this measure. I urge my colleagues to approve it.●

● Mr. CORRADA. Mr. Chairman, on March 6 of this year, I testified before the Committee on Agriculture in support of H.R. 2172, the International Sugar Stabilization Act of 1979, which I had cosponsored. It is imperative that we continue a steady supply of domestic sugar, and that we stabilize prices. We cannot simply write off an industry which continues to supply the majority of the sugar we consume, and employs thousands. In my district alone, over 23,000 people are involved in the production of sugar in all its phases. Although we have managed to slightly increase our production, and the Government-owned sugar corporation has reduced its deficit by $10 million in 2 years, we are still in a critical situation.

As the committee report points out, while Congress continues to debate this bill, four mills have closed in Puerto Rico. A 15.8 cents price objective is a minimum for the 1979 sugar supply year. Those who shortsightedly refuse to lend a helping hand now, because it may mean paying a few extra pennies, may find themselves in the near future bemoaning the foreign cartels which will inflict an "energy" crisis of another nature. Although I urge my colleagues to support the bill, I must take strong exception to the committee provision limiting to $50,000 the amount any producer can receive for any sugar supply year under the half a cent payment provision, regardless of level of production. This serves to severely limit the participation of larger growers, who precisely have been on the increase as the small farmer falls victim to increasing costs of production and diminishing returns.●

● Mr. MOAKLEY. Mr. Chairman, I rise in strong opposition to the International Sugar Stabilization Act which will, if passed, add to the food cost burdens of sugar consumers across America.

At a time when we are trying to bring inflation under control (the food inflation rate is already 17.7 percent), I believe it is unwise to pass legislation that will benefit fewer than 1 percent of all American farmers at a cost to consumers of $3 billion per year. With approximately 14,000 sugar producers in the United States, this amounts to over $200,000 per farm.

The American consumer will have no protection from this proposed price hike, even if consumption is decreased, because 75 percent of all sugar consumed in the United States is included in processed foods. Furthermore, this legislation has included built-in cost escalators that will continue to contribute to food price increases over the next 3 years.

Currently, domestically produced sweeteners, both corn and sugar, account for approximately 70 percent of the sweetener consumed in the Nation despite the fact the world price for sugar is around 7.6 cents per pound, as compared to the U.S. supported price of 15 cents per pound. H.R. 2172 would raise the price support level to 15.8 cents in the market price of sugar.

If we are going to seriously work to decrease inflation, all groups must do their part. Increasing sugar prices to benefit a select few will only pass the pains of inflation along to the consumer. I believe we can begin to slow inflation, and defeating H.R. 2172 is a step in the right direction.●

● Mr. FAZIO. Mr. Chairman, the attack on H.R. 2172, the International Sugar Stabilization Act of 1979, relies generally on the notion that the bill is inflationary and will cause consumers to suffer unnecessarily. A corollary is that the consumers and the Treasury will be expending large sums for the benefit of a few who do not need help, that is, farmers and sugar companies.

I sympathize with the consumer perspective on most issues. Certainly no one in this body wants to be known as someone who does not respond instantly to the threat of inflation. However, in this instance, I feel those who are opposed to the Sugar Stabilization Act are allowing themselves and their constituencies to be distracted by the red flag that the word "inflation" here constitutes. I am afraid that for the best of motives they are in the long run harming greatly the very consumers they would like to represent. They are being shortsighted; they are being penny wise and pound foolish. They seek to represent interests who do not understand how or why farmers produce, and even more important, who do not really understand that the farmer's problem will soon enough turn up to be their own problem.

The basic fact of the matter is that there is a surplus on the world sugar market and that this surplus is being dumped in the United States for prices much lower than the cost of anyone's production. This foreign sugar is subsidized; that is why its price is low. The foreign prices are not low because of relative foreign efficiency. To pass this bill would not be to subsidize American inefficiency.

The Department of Agriculture has established that the world will respond to the excess in supply by cutting production over the next few years. Prices will climb. To the extent that we fail to establish an international stabilization program we will be victims of an unregulated supply that is constituted by the highly volatile margin one-sixth of total production of what producing countries export in excess of their own consumption and their long-term contracts. The

United States gets slightly under half its sugar from this variable margin of world surplus. This share is 32 percent of the total margin. It is difficult to see how consumers or anyone would profit by dependency on this supply, for when the foreign curtailments occur they will occur first on the margin.

What will happen prior to this development if we lack a domestic price program? We will continue to witness a decline in domestic production. In districts such as mine, this means the loss of refineries and of jobs. This is not a temporary sort of loss. It is structural. Farmers must put out substantial capital investment for particular crops. It is difficult for farmers to change cropping patterns quickly, so it is not likely that they will rebound quickly. They will continue to slowly abandon sugar. Especially important is the loss of refineries to receive whatever the farmers produce. Numerous domestically oriented refineries in the Western United States have already shut down. This decline in processing facilities is largely responsible for a steady decline in acreage. Unless we arrest the trend by establishing a better domestic price program we are going to have a crippled domestic industry.

In terms of international political economics, the OPEC situation is analogous to what has been taking place with sugar. Obviously there is no commodity quite as important as energy supplies. However, the trends at work with sugar and the consequence are parallel: Foreign supply manipulated with the effect of suppressing domestic production, which means a long-term reliance on economic and political forces we are not in a position to influence. Again, it is difficult to see how consumers, including industry, would profit from this situation.

The Sugar Stabilization Act here before us handles these problems fairly and effectively. It thereby protects not only the long-term well-being of farmers, but also of consumers. Besides setting fair wages for sugar field workers, the bill would implement the International Sugar Agreement—ISA—to stabilise the world ebb and flow of this volatile commodity. Were we not to ratify this agreement—vigorously sought by the United States—we would invite the release onto the international market of stockpiles already accumulated by foreign producers under the terms of the agreement. We would guarantee the perpetual inability which would soon harm us.

By establishing a domestic price support program the bill takes care of the other half of the problem, protecting the United States' ability to maintain the home industry. The act provides only the bare minimum of support needed to avert collapse of the industry. It is not by any stretch of the imagination excessive. It is important for Members to realize that the figure of 15.8 cents per pound already represents a compromise far below the 17 cents the industry could really use.

How much will the bill really cost the consumers? Figures that sound enormous are being used to describe its alledgedly enormous inflationary impact. The fact of the matter is the price increases called for in the bill represent a theoretical maximum of about 80 cents per consumer per year. In reality, further, the current New York raw price is already the same as the objective the bill sets, 15.8 cents a pound, and therefore there will be little impact on what prevails. Increases in the bill are limited to 7 percent in sugar production year 1980 and 6 percent the year after that. Obviously these increases are far below the rate of inflation. They are well within the President's anti-inflation guidelines. They are also below projected increases for nonsugar sweeteners, use of which is increasing and will continue to increase when and if domestic sugar continues to become less available. In other words, the sugar industry would not be keeping pace with inflation, and its financial weaknesses will result in higher costs for the substitutes that will become more available.

It is easy to say any cost increase, even one limited to only half of inflation, is itself inflationary. It is easy to say that any Government-induced increase in prices is subsidized abuse of all consumers. All of us represent consumers; only a few represent farmers, and fewer still sugar farmers. But the sugar producers must live with inflation too, and at this point they are falling seriously behind. Further, the Congress needs to look beyond its immediate constituencies, beyond easy and simplistic prescriptions, to the truth. The truth is that we will all be worse off, regardless of constituencies, if this bill does not pass.●

● Mr. ALBOSTA. Mr. Speaker, I rise in strong support of H.R. 2172, the Sugar Stabilization Act of 1979 and in support of title II as reported by the Agriculture Committee.

Congress today has a unique opportunity to enact a program for sugar production which will prevent runaway sugar prices and increased dependence on foreign sugar in future years. It may be hard for some Members to believe but 5 years ago this fall, sugar prices were rising to 65 cents per pound causing cries of outrage from consumer and industrial users of sugar.

I have in my hand over 2 dozen articles describing the furor that took place in this country as sugar prices went through the roof. A worldwide shortage of sugar existed and the affects were felt by all.

Now, 5 years later, after sugar prices have come way down and then gone up again, as the charts on both sides indicate, we have a chance to enact a reasonable program which will insure that America can produce its own supply of this important commodity for years to come. The market price objective in this bill is higher than what the price of raw sugar sells for today in New York.

While it is attacked for being inflationary by some Members, this bill will not cost the U.S. Government any money in fiscal year 1980.

While it is attacked for being anticompetitive by some Members, this bill will stop the dumping of subsidized foreign sugar on the U.S. market.

The chart to my right shows U.S. sugar prices from 1972 to 1979. It also shows what the market price objective would have been under the sugar program that expired in 1974. That program's market price objective would be 18.3 cents per pound today. H.R. 2172 sets a market price objective of only 15.8 cents per pound.

The chart to my left details world sugar prices from 1948 to 1979. As the chart so clearly indicates, sugar prices went through the roof in 1974—hitting a peak price of 65.5 cents per pound after the sugar program expired.

Both of these charts based on statistics from the Agriculture Department graphically illustrate what has and what can happen to sugar prices unless H.R. 2172 is passed.

By the way, while the price of sugar has come down from 65.5 cents per pound in 1974, the price of foods such as soft drinks have not been lessened at all.

Mr. Speaker, the United States is now at least 50 percent dependant on imported foreign sugar. Because of the continuing scarcity and high price of oil, countries such as the Philippines and Brazil are converting more of their sugar crop to the production of gasohol. This will further squeeze the world supply of sugar in years to come. Unless we act now to pass H.R. 2172, more farmers will turn from growing sugar beets and cane and toward other crops. Once this occurs, the factories now used to refine the sugar will close up and the trained skilled work force will move to other industries. These factories will not reopen when we need their production later on.

If we do not pass H.R. 2172, America will lose her ability to become self-sufficent in sugar production and become instead prey to foreign cartels. If you like what OPEC is doing to us with oil, you will really enjoy what foreign sugar producers will do in the future when supplies become tight as in 1974.

In conclusion, I make a plea for foresight and common sense that this distinguished House has used before in seeing the urgency of passing the Sugar Stabilization Act of 1970 to the benefit of consumers, industrial users and producers alike.

Thank you.●

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BURLISON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2172) to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in

the domestic sugar industry, and for other purposes, pursuant to House Resolution 393, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1730

MOTION TO RECOMMIT OFFERED BY MRS. HECKLER

Mrs. HECKLER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentlewoman opposed to the bill?

Mrs. HECKLER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. HECKLER moves to recommit the bill, H.R. 2172, to the Committee on Agriculture.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 158, nays 249, not voting 26, as follows:

[Roll No. 501]

YEAS—158

Abdnor
Alboata
Alexander
Andrews, N.C.
Andrews, N. Dak.
Anthony
AuCoin
Badham
Bafalis
Baldus
Bedell
Bennett
Bereuter
Blanchard
Boggs
Boling
Bonior
Bowen
Breaux
Brown, Calif.
Broyhill
Burlison
Butler
Carr
Carter
Cavanaugh
Chappell
Cheney
Coelho
Coleman
Corman
Daniel, Dan
Daschle
de la Garza
Derrick
Devine
Dicks
English
Erdahl
Evans, Ind.
Fazio
Fithian
Flippo
Foley
Fountain
Frost
Fuqua
Glickman
Gore
Grassley
Gudger
Hance
Hansen
Harkin
Harsha
Hightower
Hillis
Hinson
Holland
Huckaby
Hutto
Ichord
Ireland
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kildee
Kogovsek
Kramer
Latta
Leath, Tex.
Lewis
Livingston
Loeffler
Long, La.
Lott
Lowry
McCormack
McKay
Marlenee
Marriott
Mathis
Matsui
Mica
Michel
Mineta
Montgomery
Moore
Moorhead, Pa.
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nolan
Oberstar
Obey
Panetta
Pashayan
Pepper
Preyer
Pritchard
Quillen
Rhodes
Roberts
Robinson
Rose
Rousselot
Royer
Rudd
Sabo
Satterfield
Sawyer
Schroeder
Sebelius
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stangeland
Steed
Stenholm
Stump
Swift
Symms
Tauke
Taylor
Thomas
Traxler
Treen
Ullman
Vander Jagt
Vento
Volkmer
Wampler
Watkins
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Zablocki

NAYS—249

Addabbo
Akaka
Ambro
Anderson, Calif.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Bellenson
Benjamin
Bethune
Devill
Biaggi
Bingham
Boland
Boner
Bouquard
Bradenas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Buchanan
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Chisholm
Clay
Clinger
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derwinski
Dickinson
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Penwick
Ferraro
Findley
Fish
Fisher
Florio
Ford, Tenn.
Forsythe
Fowler
Frenzel
Garcia
Gaydos
Gephardt
Gialmo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Gray
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hanley
Harris
Hawkins
Heckler
Heftel
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Hughes
Jacobs
Kastenmeier
Kazen
Kelly
Kemp
Kindness
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lloyd
Long, Md.
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McHugh
McKinney
Madigan
Maguire
Marks
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Nichols
Nowak
O'Brien
Oakar
Ottinger
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Price
Pursell
Quayle
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roe
Rosenthal
Roth
Roybal
Runnels
Russo
Santini
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Slack
Snowe
Solarz
Solomon
Spellman
St Germain
Stack
Stanton
Stark
Stewart
Stockman
Stokes
Stratton
Studds
Synar
Thompson
Trible
Udall
Van Deerlin
Vanik
Walgren
Walker
Waxman
Weaver
Weiss
Whitehurst
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NOT VOTING—26

Anderson, Ill.
Beard, Tenn.
Bonker
Burgener
Clausen
Cleveland
Crane, Philip
Diggs
Duncan, Oreg.
Evans, Ga.
Flood
Ford, Mich.
Hefner
Hyde
Jenkins
Leach, La.
Markey
Martin
Rahall
Rodino
Rostenkowski
Scheuer
Staggers
Williams, Ohio
Winn
Young, Alaska

□ 1740

The Clerk announced the following pairs:

Mr. Scheuer with Mr. Anderson of Illinois.
Mr. Rostenkowski with Mr. Burgener.
Mr. Rodino with Mr. Beard of Tennessee.
Mr. Markey with Mr. Philip M. Crane.
Mr. Evans of Georgia with Mr. Cleveland.
Mr. Rahall with Mr. Williams of Ohio.
Mr. Jenkins with Mr. Hyde.
Mr. Hefner with Mr. Winn.
Mr. Ford of Michigan with Mr. Martin.
Mr. Duncan of Oregon with Mr. Young of Alaska.
Mr. Bonker with Mr. Clausen.
Mr. Diggs with Mr. Flood.

Mr. RITTER changed his vote from "yea" to "nay."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 2172, just considered.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

THE DEFEAT OF THE SUGAR BILL WILL CAUSE GREAT UNCERTAINTY

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, the defeat of the sugar bill will cause great uncertainty among many friendly nations concerning the status of the International Sugar Agreement.

During the next few days, I would like to discuss the situation with members of my committee and with representatives of the Department of State.

It is possible that if the Senate is considering proceeding with ratification of the ISA, that we would again be willing to consider implementing legislation—but as the vote in the House has just shown, such implementing legislation would have to be limited to just the provisions in title I of H.R. 2172 as reported by the Agriculture Committee.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding. I think the gentleman's sug-

gestion is a wise one. I think the ISA is important for this country and for our relations with the rest of the world. I would hope that the gentleman would go forward with his suggestion.

Mr. VANIK. I thank the gentleman.

Mr. Speaker, I yield back the remainder of my time.

APPOINTMENT OF CONFEREES ON S. 1037, DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill, S. 1037 an act to establish an actuarially sound basis for financing retirement benefits for police officers, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, with the House amendments thereto, insist on the House amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears one, and appoints the following conferees: Messrs. DELLUMS, FAUNTROY, MAZZOLI, MCKINNEY, and MARKS.

APPOINTMENT OF CONFEREES ON H.R. 3824, AMENDING THE DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATIONAL ACT

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3824) to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. DELLUMS, FAUNTROY, and MCKINNEY.

□ 1750

PERMISSION TO FILE CONFERENCE REPORT ON S. 428, DEFENSE DEPARTMENT AUTHORIZATIONS, 1980

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on S. 428, the Department of Defense authorization bill for fiscal year 1980.

The SPEAKER pro tempore (Mr. FARY). Is there objection to the request of the gentleman from Michigan (Mr. NEDZI)?

There was no objection.

HOME ENERGY TAX RELIEF ACT OF 1979

(Mr. McHUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McHUGH. As we all know, Mr. Speaker, winter is rapidly approaching. In some areas of the Northeast and Midwest, including some parts of my district, it has already arrived. Yet, to date Congress has not come to grips with the most pressing problem many Americans face as winter approaches, the burden of rising home energy costs.

Mr. Speaker, we must not fail to act while some of our people may have to choose between heating their homes and feeding their families. For this reason, I am introducing legislation this afternoon which would provide some relief from these energy costs.

The only meaningful way of providing help quickly is by reducing the amount of taxes people pay, thus increasing the amount of resources available to help meet these rising costs. The measure that I am introducing today would provide such tax relief to low- and middle-income households.

Under this proposal, a household with an adjusted gross income of $15,000 or less would be entitled to a refundable tax credit of $300 if the household employs oil or kersosene as its principal heating source. This credit would be reduced by $20 for each additional $1,000 of income above $15,000, and would not be available to those earning $30,000 or more.

A household with an adjusted gross income of $15,000 or less would be entitled to a refundable tax credit of $150 if it employed any other fuel for heating or cooling. This credit would also phase out at $30,000, with the amount of the credit being reduced $10 for each additional $1,000 of income over $15,000.

As you know, Mr. Speaker, prices for all fuels have been rising and that is why my bill is designed to provide some help in meeting the increased costs associated with all fuels. On the other hand, since the price of home heating oil and kerosene have risen especially dramatically in recent months, my bill would provide special help to households that employ these fuels.

The tax credit provided for in this bill would be available to those who rent as well as to homeowners because it is clear that everyone pays the cost of heating their principal residence in one form or another. Similarly, the bill would apply to housing cooperatives and condominiums.

As I said, Mr. Speaker, the first step in helping the American people to cope with rising home energy costs is by providing them with some relief from the taxes they presently pay. Commendable as this may be as a first step, however, there are many individuals and families who will not be able to wait for help until they file their income tax returns.

These people need help now, and my bill provides two ways in which a household could take advantage of the tax credit immediately.

First, a wage earner in the household could increase the number of deductions claimed, thus receiving an immediate boost in real disposable income as a result of a reduction in the amount of Federal taxes withheld.

Alternatively, the household could file a simple form with the Internal Revenue Service. That form would include its projections of income and fuel expenses for the taxable year. Based upon that information, the IRS would then determine the amount of tax credit that the household was likely to be eligible for when it filed its income tax return the following year.

IRS would then establish an account on behalf of the household from which its fuel distributor could be reimbursed for the value of fuel delivered to the household.

If the amount reimbursed to a supplier exceeded the actual amount of the credit for which the household was later found to be eligible, the household would reimburse the IRS when it filed its income tax return. Alternatively, the household would be able to claim any excess credit as a tax refund.

Eligibility for this immediate assistance under title II of the bill would depend upon family size and income. For example, a family of four with an income of less than $11,725 would be able to establish such an account and have fuel bills charged against it.

Mr. Speaker, this is an important piece of legislation designed to meet a very real and compelling problem. For the benefit of my colleagues, I am attaching at the end of my remarks a series of questions and answers that explain the bill more fully.

I hope that the appropriate committees will give this bill their most serious consideration. As I said at the beginning, winter is rapidly closing in on us. It could be a very cold winter indeed for the American people unless we act now to deal with this issue:

QUESTIONS AND ANSWERS ON THE HOME ENERGY TAX RELIEF ACT OF 1979

Q. How does the legislation help people cope with rising energy prices?

A. The legislation establishes a tax credit for households based on the household's adjusted gross income level and the type of fuel used to heat or cool the principal residence. The tax credit is refundable, that is, it would be available as a cash payment even if the household had no income tax obligation.

Q. What types of housing qualify for the tax credit?

A. All types qualify including owners, renters, condominium owners and those in cooperative arrangements.

Q. How much tax relief is available?

A. For households using oil or kerosene, a maximum of $300 is available. For households using other fuels, a maximum of $150 is available.

Q. Is everyone eligible for the maximum credit?

A. No. If a household's adjusted gross income is $15,000 or less, it is entitled to the maximum credit. When a household's adjusted gross income exceeds $15,000, the credit is reduced. For households using oil or kerosene, the credit is reduced $20 for each $1,000 by which the household's adjusted gross income exceeds $15,000. For households using other fuels, the credit is reduced $10 for each $1,000 by which the household's adjusted gross income exceeds $15,000. Both credits phase out at the $30,000 adjusted gross income level.

Q. Does a household have to wait to receive the credit until it files its income tax return at the end of the year?

A. No. There are two ways for households to receive the credit in advance of filing an income tax return.

(1) A household may have a wage earner claim extra deductions from paychecks in order to reduce withholding of taxes.

(2) A household may have the Internal Revenue Service establish an account from which its supplier of fuel may receive direct reimbursements for fuel delivered to the household.

Q. How does the account relate to the tax credits which are established?

A. The account is simply a mechanism by which certain households may receive the benefit of the tax credit so that prompt reimbursement can be made to suppliers of fuel delivered this winter. The amount of reimbursements to a supplier cannot exceed the amount of the tax credit to which a household would be entitled.

Q. May all households have an account established?

A. No. A household may have an account established only if the household's adjusted gross income is less than 175 percent of the poverty line and fuel is purchased directly from a supplier. For example, a household of four with an adjusted gross income less than $11,725 would be eligible.

Q. How would the account work?

A. A household would apply to the Internal Revenue Service for certification of eligibility and the amount of assistance to which it is entitled. The household would also designate its supplier of principal fuel. Both the supplier and the household would be promptly notified by the IRS of the certification. The supplier would then apply for direct reimbursement for fuel delivered to the household. Supplier reimbursements could not exceed the amount of tax credit to which the household would be entitled.

Q. How long would the tax credits and the accounts be available?

A. They would be available for 1979 through 1983.

KIRKLAND AND MARSHALL DISPEL FICTIONS ON DAVIS-BACON

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, historians enjoy reminding us that Abraham Lincoln used to say that "You can fool some of the people all of the time, and all of the people some of the time, but you can't fool all of the people all of the time." Fortunately for us today, Mr. Lincoln's observation remains the truth.

I refer today specifically to the fooling that has been done over the years regarding the administration of the Davis-Bacon Act, which calls for the payment, on government contracts, of the prevailing wage rate. I repeat, the prevailing wage rate. Supporters of the act have long argued that indeed, the wage rate determined by the Department of Labor has been the prevailing rate, and not, in fact, as critics of the act have argued, a nearby union rate, which is not called for under the act.

During this year, two major figures in American labor today, the Secretary of Labor, and the leading candidate for the presidency of the AFL–CIO, Mr. Lane Kirkland, have finally decided to stop fooling the people, and have decided to publicly state that wages paid on Davis-Bacon projects really are the union rates. Their comments received little attention in the press. I therefore include, for the consideration of my colleagues, the statements from these two highly regarded individuals. Mr. Marshall's statement is from the third edition of his Labor Economics text, published in 1976, the year before he took public office. The Kirkland statement is from the text of a speech he gave in January of 1978 at an international conference at Davos, Switzerland:

Mr. Marshall said:

In addition, flexible minima are provided by federal law in certain circumstances. Under the 1931 Davis-Bacon Act, the Secretary of Labor establishes minimum prevailing rates for contractors engaged in federal construction work costing $5,000 or more. In practice, these minima have been union rates and therefore have been useful to the building trades unions in preventing nonunion wage competition below these minima. The Walsh-Healey (Public Contracts) Act of 1936, among other things (for example, regulation of overtime pay, child labor, the use of convict labor, and certain safety and sanitation limitations) permits the Secretary of Labor to establish minimum wages on government contracts of over $10,000. Generally these prevailing minima are above those established on an industry basis. Like the Davis-Bacon, the Walsh-Healey minima thus help unions by preventing competition below the levels established by the Secretary of Labor. Unions complain, however, that these minima do not include "prevailing benefits" and advocate changes to correct this omission.

Mr. Kirkland's statement:

Our unions are obligated by law to represent everyone employed in a bargaining unit regardless of whether or not they are members. The AFL–CIO negotiated with the President and the Congress the minimum wage legislation which established the wage and hours of millions of workers in America who do not belong to unions. Prevailing wage legislation, affecting federal, state and local contracts for construction or procurement further extend the application of union wages.

Mr. Speaker, we are indeed fortunate that Mr. Kirkland and Secretary Marshall have joined us in denouncing the great problem that makes Davis-Bacon totally unmanageable. The determination that a prevailing wage is a union wage, where a project is a distance from the unionized area, has the effect of barring local contractors from bidding on a project, and instead, brings in outside contractors who can afford the wage determinations. That in effect depresses the local economy, which is exactly the problem that Davis-Bacon was meant to remedy, and not to cause.

I thank both of these gentlemen for their candid comments on Davis-Bacon, and invite them in the future, to continue this frankness so that we may, for once and for all, remove from the books this unfortunate piece of legislation.

My colleague from Illinois (Mr. ERLENBORN) and I have jointly introduced H.R. 1931, a bill to repeal the Davis-Bacon Act. I would hope that my colleagues would see fit to join us in support of this measure.

RETAINING THE DOLLAR BILL

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, I am today introducing a concurrent resolution to express the sense of Congress that the $1 bill should not be retired arbitrarily and that the new $1 coin should be produced in such number as is warranted by public demand.

This resolution is being introduced concurrently in the other body by the senior Senator from North Carolina (Mr. HELMS).

Just a little over a year ago, this House voted to introduce a new $1 coin to replace the Eisenhower dollar. The new coin is smaller and lighter in weight, because it was the feeling of the Treasury and others that this would contribute to an acceptability that the larger coin does not have. The motive for this new coin was the savings to be realized as fewer dollar bills were needed.

A key question, therefore, was whether the new coin would be accepted by the public. Regrettably, this key question was lost sight of in the spirited debate over who should be pictured on the coin. We were warned at the time, especially by our colleague, the gentleman from Delaware (Mr. EVANS), that we were taking an awful chance by introducing the new coin without any reliable research to determine probable acceptability, or to determine what kind and extent of marketing efforts might be needed to encourage consumer acceptance.

As we are all now painfully aware, the coin has proven so far a flop. My own observation is that this coin has fared even worse than the unlamented $2 bill, because I never heard of anyone offering to fight rather than accept a $2 bill, whereas there are numerous reports of

consumers becoming positively violent when offered the new $1 coin in change.

One would suppose that a rational response on the part of the Treasury would be to mount a well-conceived marketing program for the coin, perhaps in the interim helping out the situation by encouraging acceptance of the less-controversial $2 bill.

Here and there, however, the idea has arisen that the new coin should be imposed by fiat on the American consumer by withdrawal of its only real alternative, the dollar bill. This idea is in accord with the long-standing principle that if government makes a mistake it should make someone else bear the cost.

Rereading the proceedings last year on the new dollar coin, I have come to the strong conclusion that no one in Congress, either in this body or the other, contemplated enforced circulation of any particular piece of currency. Here I quote from the remarks of the prime sponsor of the dollar coin bill in the House, our colleague from Ohio (Ms. OAKAR), when she said:

> First of all, this coin does not replace the dollar bill. . . . This coin replaces the cumbersome, heavy Eisenhower dollar coin. It does not replace the dollar bill, and that should be made very, very clear.

Later on, she further said and again I quote:

> We are not asking the consumer to do anything less on this issue than we would ask them to in the case of food, clothing, soap, or what have you. Use the product and let us know how you like it.

We do not need any marketing surveys now to tell us the answer. The consumer has used the new dollar coin and doesn't like it one bit. Now it is reasonable to try to change that attitude by advertising the advantages of the dollar coin, and enlisting the aid of retailers and banks to help in that advertising. But it is not reasonable to stuff the coin down the consumer's throat and override his judgment of what he finds convenient and desirable.

My resolution seeks to continue the policy we have had in this country ever since the establishment of the Federal Reserve system of supplying whatever demand the public has for different types of coins and currency. There can be no question that the public has shown its whole-hearted desire to continue use of the dollar bill for the time being. Whatever the merits or deficiencies of the people's judgment, it is our job to see to it that their convenience is served in this matter, even while we may be seeking to persuade them differently. To do otherwise is to overturn a long-standing policy that has served the country well, a policy that seeks to promote efficiency in commerce, and convenience for the consumer by accommodating individual requirements for coin and currency.

I invite our colleagues to join me in sponsoring a resolution to continue this policy, the text of this resolution follows.

H. CON. RES. 253

Whereas the currency system of the United States has been administered so as to provide supplies of currency in various denominations in response to the demand of the American people;

Whereas it has been the policy of the Federal Reserve System to issue notes to its member banks in such quantities as those member banks require to meet public demand;

Whereas the Congress has supported continuance of this policy during the course of its oversight responsibilities and in specific legislation;

Whereas the American people have indicated their desire to continue to use the one-dollar bill; and

Whereas the Coinage Act of 1965 directs the Secretary of the Treasury to only provide coins authorized by law in "such quantities as he determines to be necessary to meet national needs": Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) no action shall be taken which would lead to the withdrawal of the one-dollar bill from circulation until such time as the Congress authorizes such withdrawal;

(2) no action shall be taken which attempts artificially to stimulate the demand for the one-dollar coin or require its use; and

(3) the production of various coins by the United States mint shall be in such quantities as may be necessary to meet national needs, as reflected in public demand.

AMENDMENT OF SAFE DRINKING WATER ACT NEEDED TO FORCE EPA SCIENTIFIC STUDIES

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McCLORY. Mr. Speaker, the Safe Drinking Water Act enacted into law in 1974 is being interpreted by the Environmental Protection Agency in a manner which is having extremely adverse and unjustifiable affects on a number of communities in my congressional district.

Section 1412 of that act empowers the Federal EPA to establish a standard for contaminants in drinking water which "may have an adverse effect on the health of persons." Relying on this language, the Federal EPA has designated a standard for barium in community water supplies at one part per million.

In my congressional district barium ions in excess of that standard are found naturally in the water supplies from some community water wells—particularly from the deeper wells which provide most of the water for domestic purposes.

Mr. Speaker, according to my investigations and on the basis of reliable scientific data which has come to my attention, there is no justification for such a standard. Indeed, such a standard could not be imposed except under the very loose or flexible language of the Safe Drinking Water Act. The Federal EPA does not know and has been unable to provide any recognized scientific data to establish that barium ions found naturally in community water supplies poses any danger to human health. Accordingly, one of the amendments which I am proposing to the Safe Drinking Water Act would require EPA to establish that a contaminant in drinking water must "pose a substantial health hazard"—before the EPA may establish a standard with which affected communities would have to comply.

Mr. Speaker, I am also introducing an alternative proposal which would compel the Federal EPA to conduct a comprehensive study on the health effects from barium, barium ions, radium or any combination thereof in community water supply systems before promulgating any standards or regulations which would compel compliance with any such standard.

Under this amendment, the Federal EPA would be required to conduct or arrange for scientific studies by contract or otherwise, including particularly scientific data derived from tests on animals and based upon epidemiological data. Mr. Speaker, under this amendment, which seems entirely equitable and essential, the Federal EPA would be required to defer any drinking water standards relating to these elements until such scientific studies and epidemiological programs are completed.

Mr. Speaker, I hope that the Subcommittee on Health and the Environment of the Interstate and Foreign Commerce Committee, to whom I expect these bills to be referred, may conduct prompt and informative hearings following which the basic Safe Drinking Water Act may be appropriately amended to serve the need which has resulted from the Federal EPA's misinterpretation of the law which we enacted in 1974 and under which the EPA seems determined to act notwithstanding the inadequacy of any scientific or epidemiological data upon which to base its regulations. Copies of these two bills are attached for the further information of my colleagues.

H.R. 5675

A bill to amend the Safe Drinking Water Act to change the requirements for establishing national primary drinking water regulations, to require the Environmental Protection Agency to conduct a study of the health effects of barium and radium in drinking water, to suspend the standards for barium and radium pending the completion of the study, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 1401(1)(B) of the Public Health Service Act is amended by striking out "may have any adverse effect on the health of persons" and inserting in lieu thereof "pose a substantial health hazard".

(b) Section 1412(b)(1)(A)(ii) of such Act is amended by striking out "may have an adverse effect on the health of persons" and inserting in lieu thereof "pose a substantial health hazard".

(c) Section 1412(b)(1)(B) of such Act is amended—

(1) in the first sentence, by striking out "may have any adverse effect on the health of persons" and inserting in lieu thereof "pose a substantial health hazard".

(2) in the second sentence, by striking out "known" and all that follows through the period and inserting in lieu thereof "unreasonable risk to the health of persons occurs"; and

(3) in the third sentence, by striking out "may have any adverse effect on the health of persons" and inserting in lieu thereof "pose a substantial health hazard".

(d) The amendments made by this section shall apply only to primary drinking water regulations (whether interim or revised) under title XIV of the Public Health Service Act which are promulgated, revised, or amended after November 1, 1979. Following completion of the study under subsection (e), the Administrator of the Environmental Protection Agency shall promulgate in accordance with section 1412 of such Act (as amended by subsection (c) of this Act), a revised national primary drinking water regulation for barium and barium ions and a revised national primary drinking water regulation for radium.

(e)(1) The Administrator of the Environmental Protection Agency shall conduct a comprehensive study of any health effects which result from barium, barium ion, or radium, or from any combination thereof, in concentrations greater than the maximum contaminant level specified under the national interim primary drinking water regulations promulgated under section 1412 of title XIV of the Public Health Service Act. Such study may be based upon data derived from animals and upon epidemiological data. For purposes of conducting such study, the Administrator may enter into contracts or other arrangements with appropriate persons or organizations in accordance with applicable law.

(2) A report containing the results of the study conducted under this subsection shall be submitted to the Congress as promptly as practicable.

(3) Following the date of the enactment of this Act—

(A) no national interim primary drinking water regulation promulgated under section 1412 of the Public Health Service Act with respect to barium or barium ions shall apply to any drinking water system which serves an area in which barium from natural (other than man-made) sources occurs in concentrations greater than the maximum contaminant level specified for such contaminant under the national interim primary drinking water regulations promulgated under section 1412 of such Act; and

(B) no national interim primary drinking water regulation promulgated under section 1412 of the Public Health Service Act with respect to radium shall apply to any drinking water system which serves an area in which radium from natural (other than man-made) sources occurs in concentrations greater than the maximum contaminant level specified for radium under the national interim primary drinking water regulations promulgated under section 1412 of such Act. Until completion of the study required under this section, no revised national primary drinking water regulation under section 1412 of the Public Health Service Act relating to barium or barium ions shall apply to any area described in paragraph (1) and no revised national primary drinking water regulation under such Act relating to radium shall apply to any area described in paragraph (2).

H.R. 5676

A bill to amend the Safe Drinking Water Act to provide for a study of the health effects of barium and radium in drinking water and to suspend the national interim primary drinking water standards for such contaminants pending the completion of such study and the promulgation of new standards for such contaminant

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Administrator of the Environmental Protection Agency shall conduct a comprehensive study of any health effects which result from barium, barium ion, or radium, or from any combination thereof, in concentrations greater than the maximum contaminant level specified under the national interim primary drinking water regulations promulgated under section 1412 of title XIV of the Public Health Service Act. Such study may be based upon data derived from animals and upon epidemiological data. For purposes of conducting such study, the Administrator may enter into contracts or other arrangements with appropriate persons or organizations in accordance with applicable law.

(b) A report containing the results of the study conducted under subsection (a) shall be submitted to the Congress as promptly as practicable.

(c) Following the date of the enactment of this Act—

(1) no national interim primary drinking water regulation promulgated under section 1412 of the Public Health Service Act with respect to barium or barium ions shall apply to any drinking water system which serves an area in which barium from natural (other than man-made) sources occurs in concentrations greater than the maximum contaminant level specified for such contaminant under the national interim primary drinking water regulations promulgated under section 1412 of such Act; and

(2) no national interim primary drinking water regulation promulgated under section 1412 of the Public Health Service Act with respect to radium shall apply to any drinking water system which serves an area in which radium from natural (other than man-made) sources occurs in concentrations greater than the maximum contaminant level specified for radium under the national interim primary drinking water regulations promulgated under section 1412 of such Act. Until completion of the study required under this Act, no revised national primary drinking water regulation under section 1412 of the Public Health Service Act relating to barium or barium ions shall apply to any area described in paragraph (1) and no revised national primary drinking water regulation under such Act relating to radium shall apply to any area described in paragraph (2).

ANOTHER BAD PRECEDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLOMON) is recognized for 60 minutes.

Mr. SOLOMON. Mr. Speaker, the Carter administration has labored to give the impression its China policy goal has been the establishment of relations with the People's Republic of China.

Billed by the administration as necessary sacrifices in the pursuit of this goal were diplomatic relations with Taiwan, the abrogation of our mutual defense treaty, and the moratorium on arms sales to Taiwan.

But now that diplomatic, cultural, and economic ties have been developed with the Communists, the administration is continuing its pressure against our ally, Taiwan, the Republic of China.

The latest push came in September when the administration announced the intention to terminate the 1946 Air Transport Agreement with Taiwan.

An "informal, unofficial understanding" is the only alternative being offered and, if Taiwan refuses to accept this dictated policy reversal, it will be left with no agreement at all. All or nothing. This action has very serious implications, one being the administration's continued efforts to circumvent Congress.

I am reminded that during debates on the Taiwan Relations Act, administration spokesmen repeatedly assured Congress the President's efforts to abrogate the mutual defense treaty did not represent a precedent.

I offer as examples of the promises made during that period, the words of President Carter himself.

During his December directive outlining his intentions, President Carter stated:

> Existing international agreements in force between the United States and Taiwan shall continue in force.

Also, Deputy Secretary of State Christopher promised the Senate Foreign Relations Committee, "We have moved to assure that, with the exception of the mutual defense treaty and related agreements, our many treaties and agreements with Taiwan—there are more than 55 in all—will remain in force."

Christopher further assured that, with regard to aviation arrangements—Taiwan would be viewed as "a valid treaty partner for the purpose of important treaties, such as aviation arrangements and nuclear supply arrangements, which now exist."

Despite administration assurances, Congress provided for the continuation of "all treaties and other international agreements between the United States and Taiwan" in section 4(c) of the Taiwan Relations Act.

And so, the very spirit of the Taiwan Relations Act has been compromised.

This effort, which was taken without consultation with Congress, represents yet another effort to expand the power of the Executive over Congress and seems blatant in view of Judge Gasch's ruling that the President does not have power to abrogate the mutual defense treaty without the consent of Congress.

And what is the administration's reaction to this obvious conflict in policy?

Assistant Secretary of State Holbrooke replied to questioning from Senator JAVITS that this action was necessary in order to improve relations with Peking.

Mr. Speaker, I question that reasoning. Furthermore, I question the President's judgment in taking such an action.

It is a well documented fact that despite the optimistic outlooks promoted by the State Department regarding long-range trade possibilities with the Peo-

ple's Republic of China, trade with Taiwan is seven times the size of our trade with the PRC.

No wonder American businessmen with established businesses in Taiwan are alarmed by this Presidential action.

In a letter to President Carter, Robert Parker, president of the American Chamber of Commerce in Taiwan, stated:

We do not accept the contention that replacing a treaty with an "informal, unofficial arrangement" is only a change in form and not in substance.

This concern related not only to the aviation treaty, but to other important commercial agreements with Taiwan including the vital treaty of friendship, commerce and navigation.

The House Foreign Affairs Committee met earlier today to consider this very symbolic and serious precedent-setting act by the administration.

I have requested this special order and invited comment to focus attention on what I consider an unnecessary and impractical act.

As I stated in my opening remarks—diplomatic, economic, and cultural ties have already been established.

We are not faced with an either/or choice. The present Air Transport Agreement could be amended, if necessary.

Congress, the American people, and our allies have been misled.

We should not allow the administration to continue to risk U.S. credibility and world opinion.

I would now like to submit for your consideration an article entitled "Deception on Taiwan" by the noted syndicated columnist M. Stanton Evans, which makes clear the deception which riddles the Carter foreign policy.

And on behalf of Senator BARRY GOLDWATER I want to personally thank all of the Members of this House who joined me as an intervenor in the successful Goldwater suit against the administration that proves once and for all that Congress is an equal branch of Government and that no President (present or future) can abrogate or break a treaty without the approval of Congress.

DECEPTION ON TAIWAN

(By M. Stanton Evans)

Deception has always been a major factor in dealings among nations, but the Carter Administration is lifting the practice to new heights.

This is an administration, it should be recalled, that came to power on the strength of promises concerning honesty and openness in government. Yet its 30-odd months in office have equaled or surpassed existing records for misleading statements in the realm of foreign policy. Panama, Red trade, and the recent calamity in Nicaragua are just a few examples (that have been cited in this space).

The distinguishing feature in this pattern of deception is that the people being misled are not foreign adversaries, but the American public. In the typical case Panama, the SALT accords—the U.S. voter is given certain assurances concerning some proposed intiative of the Carter regime. But once the policy is in place, or subjected to closer scrutiny, it turns out the assurance is mistaken.

A recent example is President Carter's abrogation of our mutual defense treaty with Taiwan—the action being challenged in the courts, so far successfully, by Sen. Barry Goldwater (R-Ariz.). The attempted termination of this treaty stirred widespread misgivings, not only because of its intrinsic importance, but because it was feared a precedent was in the making. We have more than 50 other treaties and agreements with Taiwan, and if these were shredded in similar fashion the impact on Free China could be disastrous.

When this possibility was mentioned in the Taiwan debate, administration spokesmen were emphatic in denying that any such thing could or would happen. What was in prospect, they said, was only the abrogation of the defense treaty, and nothing more. No precedent was being established. The other agreements would remain intact. This was stated over and over again by administration spokesmen.

Thus in his directive on the subject last December, President Carter asserted that "existing international agreements in force between the United States and Taiwan shall continue in force." In February, Deputy Secretary of State Warren Christopher told the Senate Foreign Relations Committee, "We have moved to assure that, with the exception of the mutual defense treaty and related agreements, our many treaties and agreements with Taiwan—there are more than 55 in all—will remain in force."

Christopher went so far as to emphasize certain agreements with Taiwan that would remain intact. He referred to the fact that, under the administration's proposed new policy, Taiwan would be treated as "a valid treaty partner for the purpose of important treaties, such as aviation arrangements, nuclear supply arrangements, which now exist." Other administration witnesses testified to the same effect.

Given these elaborate assurances, imagine the surprise of various senators and congressmen the other day when they discovered the Carter regime was setting out to do precisely what it said it wouldn't—severing other arrangements with Taiwan. The agreement the administration is now trying to do away with is the air transport pact of 1946—one of the agreements specifically singled out by Christopher by which the United States and Free China have reciprocal aviation landing rights. The Carter administration wants such an arrangement with Red China, and to get it is trying to renounce the agreement with Taiwan.

To date, the administration has made no effort to reconcile the obvious conflict between this action and its previous statements on the subject. Assistant Secretary of State Richard Holbrooke was questioned on the matter by Sen. Jacob Javits (R-NY), and proceeded to explain that such a move was necessary to improve relations with Peking. No explanation of the previous false assurances was provided. Senator Goldwater and other lawmakers, however, are setting out to find one. Here's hoping they're successful.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this special order on the Republic of China Air Transport Agreement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. SOLOMON)?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, let me first congratulate the gentleman from New York for taking this time today to discuss United States 1946 agreement with Taiwan. I would like to add my voice in opposition to the administration's announced intentions to terminate the 1946 Air Transport Agreement with the Republic of China. Such an action by the President would be untimely, disloyal, and against the best interests of American people and the people of Taiwan.

Only last week, a Federal district court declared, in a suit in which I was a plaintiff, that President Carter had unconstitutionally terminated the mutual defense treaty with Taiwan. The administration, in a desperate attempt to show "decisive action" and "make history" by recognizing the People's Republic of China, illegally attempted to circumvent Congress and unilaterally end our mutual defense pact with Taiwan.

That treaty provides that the United States would come to the defense of Taiwan if it should be attacked by mainland China. Understandably, the Communist Chinese—who still voice every intention of "unifying" Taiwan with mainland China—demanded an end to the treaty protecting Taiwan. Mr. Carter, anxious to please the Communist Chinese, went along.

And he went further. He assured Congress that we would somehow insure Taiwan's continued security. He assured Congress that this treaty was the only formal agreement which would be terminated. Our 55 other agreements would remain in force.

The President, who once told us that he would never lie to us, made these pledges in order to mollify Members of Congress and gain their assent to the Taiwan Relations Act. He succeeded. Earlier this year, Congress approved the Taiwan Relations Act, thereby relegating Taiwan to a "twilight zone" existence. It is there, but it is not there. We do not recognize it. We have no defense treaty, but we do have some 55 other treaties and agreements with that nation.

Section 4(c) of the Taiwan Relations Act provides for the continuation of "all treaties and other international agreements" between the United States and Taiwan. But barely had the ink dried on the Presdent's signature to that act, than he turned around and expressed his desire to transform our official treaties and agreements with Taiwan into "informal, unofficial understandings." The first victim of this process is to be the 1946 Air Transport Agreement.

How gullible are we to be? How far shall we acede in the duplicitous plans of the administration to apease the totalitarian regime on mainland China? Shall we be led by the nose to reduce Taiwan to a helpless nonentity, ripe for the plucking by mainland China?

I would hope that there is more honor and courage in this House than to allow that to happen.

The President's promises were promises of expediency. It is clear that his pledges to maintain our ties with Taiwan were made only to insure the passage of the Taiwan Relations Act. We must not now merely nod our heads in agreement as he seeks to break those promises. The President must be held to his word, and to the words of the Taiwan Relations Act, itself.

We have already gone much further than necessary to please the mainland Chinese. We must go no further.

It is particularly foolish at this time to proceed with the administration's plans to "derecognize" the Republic of China. Need I remind you that the very foundation of the President's China policy has been weakened by the Federal court's decision last week. If the abrogation of the defense treaty was illegal, and I believe it was, then the priority concern of Congress will ultimately be a debate and vote on the future of that treaty. Since the President intends to end the treaty by January 1, 1980, this matter must soon be decided.

A victory in Congress by the friends of the Republic of China, a free, prosperous, democratic nation, would probably force the President back to the negotiating table with the People's Republic of China to reconsider the state of our formal relations.

That is a rather basic agreement to work out. Before President Carter tries to weaken our ties with Taiwan any further, he should wait to see what the state of our relations with the PRC will be, if, indeed, there are to be any formal relations. It is my hope that if negotiations are reopened the President will prove to be a tougher negotiator than he has been in the past. The independent survival of the Republic of China, a sovereign nation, can be and should be assured.

It is the duty of this Congress to see that the President is not allowed to further dismantle our relations with Taiwan. His desire to present Congress with a fait accompli must be thwarted.

Congress must say "no" to the administration's plans to terminate the 1946 Air Transport Agreement.

Mr. SOLOMON. I yield to the gentleman from Georgia (Mr. MCDONALD).

Mr. MCDONALD. I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of the determined efforts of the gentleman from New York (Mr. SOLOMON) to stop the Department of State move to terminate our 1946 Air Transport Agreement with the Republic of China. I have already joined him in communicating to the distinguished chairman of the House Foreign Affairs Committee my concern over this matter. It is my hope that this issue can be resolved either with or without hearings.

The Congress needs to know if this effort by the Department of State to replace this 1946 agreement with an "informal, unofficial agreement" is just precursor of a number of such actions? It is my strong view that we cannot afford to insult further the Republic of China. Taiwan is a key trading partner of ours and will continue to be so for many years.

Communist China will not become a major trading partner of ours for years to come, if ever. Even the most optimistic estimates have already fallen flat on that score. One would also hope that the Department of State, after the recent decision by Judge Gasch, would proceed with a little more caution, or is that too much to hope for? Is it too much to hope for that we treat a longtime ally almost as well as we treat a Communist country sworn to destroy our way of life? It should be obvious to everyone that only Red China's sagging economy and her fear of the Soviet Union guide her present policy toward the United States, not her love of capitalism.

In my view, the Congress needs to search out the motivation for this move by the Department of State. Has Peking asked the United States to do this, and if so, why? If it is not done, what is the effect of maintaining the status quo? We need these and many more answers before further antagonizing one of the few friends this Nation still has in the world.

Mr. SOLOMON. I thank the gentleman from Georgia for his remarks.

I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank my colleague for yielding.

Mr. Speaker, last week the Nationalist Republic of China celebrated its 68th year of existence. Considering the policies of the present administration it will take much effort and commitment for this valiant nation to prosper for another 68 years. I find it unbelievable how President Carter and his legions of appearers have made the isolation of the Nationalist Republic a cornerstone of their foreign policy of surrender. The issue we have before us today is the termination of a major bilateral agreement between this Nation and the Nationalist Republic. This agreement has been a standing commitment since 1946. Obviously, this President is only interested in honoring those accords that please Peking and the Kremlin. I can find no other rationale for the pattern of international corruption President Carter has brought to America's moral and legal commitments.

I am pleased to note that the U.S. district court agrees that Mr. Carter's actions relating to Taiwan are in direct violation of American law. It is indeed refreshing to have a Federal judge read the Constitution before making a legal decision. While the Constitution does not explicitly outline the role of Congress in the treaty termination process, Judge Oliver Gasch was perceptive enough to understand the fundamentals of American Government and the implicit role the Congress has in deciding foreign policy. The arrogant statements from the State Department and the White House implying that U.S. constitutional law should adapt to their opportunism is just one more sad chapter in the bizarre saga of this administration.

We also know that this administration has a number of proposals waiting in the wings to toss the Nationalist Government further into diplomatic oblivion. This summer Secretary Krebs negotiated a most-favored-nation agreement. The administration has been holding off presenting this document to the Congress for fear that the time is not right to push such a measure. It will only be a matter of time, however, before this insidious proposal is before us. Other measures will soon follow. The administration knows it cannot push appeasement too fast or America might catch on to what it is doing. It is sickening to think that the Oval Office is spending more time and money trying to circumvent American public opinion than it does trying to solve the Nation's problems. Thankfully, all public opinion polls are showing that time is running out on this pack of political hooligans. I only hope that they are driven out of office before they totally trash America's name in the world.

Unfortunately Taiwan has more to worry about than the unfaithfulness of Mr. Carter. The presence of over 12,000 Soviet troops on Shikotan and two other disputed islands North of Japan represent a major threat to the region. This division level force is complete with SAM missiles and Hind assault helicopters. These very aggressive Soviet moves underscore the need for America to honor its commitments to its Pacific allies. If we continue to back down in the face of communist browbeating and continue to discharge our obligations in this region we will find ourselves without any influence in a vitally important part of the globe. If we are really serious in being the leader of the free world we must be serious in fighting Communist aggression. A strong tie with Nationalist China is the only way we can draw the line to thwart both Peking and Moscow.

Sometimes I really wonder whose side Mr. Carter and company is on. I have received word that a new agreement has been reached between the United States and Communist China for the shipment of a General Electric Landsat-D ground system to that nation. The Landsat-D will tie China into the Landsat weather satellite network. This system includes the Digital WAC-11/780 computer. This computer is an advanced model that can process 70 to 80 million operations a second. It is far more advanced than the Cyber-76 computer recently denied to the Soviets because of its potential strategic use. Mr. Vance only recently stated that the United States would not sell any military equipment to the Red Chinese, now I find out he is letting the same end runs happen for China as is happening for the Soviets. What this administration does not understand is that the only reason the Communists in China

do not pose as serious a strategic threat to the United States as the Communists in the Soviet Union is that they do not have the same weapons capability. If backroom technology transfers like this one keep going on it will not be long before America faces a Chinese menace as great as the existing Soviet one.

The Chinese computer deal and the Soviet troops movements are just two of the compelling reasons that this Congress should take a stand for our friend and ally on Taiwan. This administration has demonstrated that it is incapable of acting on behalf of the free world or on behalf of this Nation.

The circumventing of the trust of this Congress, this Nation, and this one ally, should prove beyond any doubt that this embarrassment we call a Presidency needs to end. It is the duty of the Congress to continue to expose Mr. Carter's lies and deceit as long as this man is darkening the Oval Office.

Mr. SOLOMON. I thank the gentleman from Ohio. I most certainly concur in his remarks.

I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I want to join in complimenting the gentleman for bringing this special order and I associate myself with the gentleman's remarks today, and I think largely as a result of the urging of the gentleman in the well, the Committee on Foreign Affairs held the first of what promises to be several hearings on the subject of this special order.

We heard testimony from American business people in Taiwan on the subject matter. The chairman of the Committee on Foreign Affairs (Mr. ZABLOCKI) made it very plain to the committee and to those in attendance that he intended to follow through on his oversight responsibility under the Taiwan Relations Act. He and practically all of us expressed great concern about what appears to be going on.

I think the time to stop the kind of shenanigans that appear to be going on is right now, before it gets started.

□ 1800

We should let the White House and the State Department know that we are on to what it appears they are doing and that we do not like it, that it is not in accord, not only with the Taiwan Relations Act passed by the Congress and signed by the President, but with all the statements that were made at the time, the assurances we were given about the 54 treaties that would not be affected by the new relationship with the Peoples Republic of China; so again I want to thank the gentleman for taking this special order. I think it will serve a very useful purpose.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from California.

I would just like to point out that one of the people that testified before the Committee on Foreign Relations today happened to be one of those people that the gentleman from Ohio (Mr. ASHBROOK), myself and others met with in Taiwan, when they stated their extreme alarm over what would happen if we went ahead with the President's plans at that time.

● Mr. SYMMS. Mr. Speaker, I wish to thank my colleague from New York (Mr. SOLOMON) for organizing this special order today regarding the United States-Republic of China. Air Transport Agreement. I am real proud of the job the gentleman from New York is doing here in the Congress.

I am extremely concerned about information I have received regarding attempts by the Carter administration to terminate the 1946 Air Transport Agreement between the United States and the Republic of China on Taiwan and replace that agreement with an unofficial accord.

Any attempt by the administration to terminate treaties between the United States and Taiwan which were in effect prior to December 31, 1978, with the exception of the Mutual Defense Treaty, would be a violation of the Taiwan Relations Act as enacted into law on April 10, 1979. According to section 4(c) of the act:

> For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law."

And it now appears that the President's actions in attempting to unilaterally abrogate the Mutual Defense Treaty have raised serious constitutional questions.

There is substantial testimony both in the House Foreign Affairs Committee and the Senate Foreign Relations Committee hearings discussing the status of the other 55 treaties with Taiwan which would remain in effect despite normalization of relations with the People's Republic of China. In hearings conducted by the House Foreign Affairs Committee on February 7 and 8 of this year, Deputy Secretary of State Warren Christopher stated:

> First, we have moved to assure that with the exception of the Mutual Defense Treaty and related agreements, our many treaties and other agreements with Taiwan—more than 55 in all—will remain in force.

I think it is important that the Congress look into this administration proposal. This matter is a concern to many Members who worked closely with the Foreign Affairs Committee on the provisions of the Taiwan Relations Act to insure continued strong security and commercial relations with the Republic of China on Taiwan. If any changes are to be made concerning the status of the treaties between the United States and Taiwan, the Congress, by law, must effect those changes.

I know that Congressman ZABLOCKI, the distinguished chairman of the Foreign Affairs Committee, will be investigating this matter as he made it quite clear in oversight hearings on the Taiwan Relations Act today that he will not allow the administration to circumvent the Congress.

I urge the Members to stand behind the provisions of the Taiwan Relations Act so that any changes or modifications which need to be made in regard to agreements between the United States and Taiwan will be made with the consent of the Congress.

I wish to thank Mr. SOLOMON again for all of his efforts in this regard, and I hope that other Members will make their views known on this subject to the Foreign Affairs Committee.●

Mr. RUDD. Mr. Speaker, I commend the gentleman from New York (Mr. SOLOMON) for bringing to the attention of the Congress and the American people the administration's latest effort to shortchange our friends in Taiwan.

First, after a 25-year period of alliance, the President ended official relations and unilaterally canceled our Nation's mutual defense treaty with the Republic of China without any measure of consultation with Congress.

I am pleased to be one of the parties to the Goldwater suit which challenges the President's authority to abrogate a treaty without consultation with the legislative branch. It is our contention that treaties, which constitutionally require Senate approval, also require Senate approval for termination.

The administration also placed a moratorium on new sales of vital military equipment to Taiwan, contradicting the President's statements that derecognition would not result in lessening U.S. commitment to the security of Taiwan against the Communist Chinese on the mainland.

Now, it comes to light that the administration is planning to act again—and once more without prior consultation with Congress.

The State Department apparently has given notice to the Republic of China that the United States intends to terminate the Air Transport Agreement between this country and Taiwan—a treaty which has existed since 1946.

It seems particularly inappropriate for the State Department to proceed in this manner following the historic ruling last week by Judge Oliver Gasch which overturned the President's ability to terminate the United States-Taiwan Mutual Defense Treaty without congressional advice and consent.

While the administration will undoubtedly appeal that decision, in the interim, it would seem that the President is on tenuous ground to continue advocating unilateral terminations.

To make matters worse, this latest unilateral act is in direct contradiction

to the administration's promises and in violation of the Taiwan Relations Act, which specifically provides for the continuation in force of "all treaties and other international agreements" between Taiwan and the United States.

During testimony before the Senate Foreign Relations Committee, Deputy Secretary of State Warren Christopher stated—

> We moved to assure that with the exception of the Mutual Defense Treaty and related agreements, our many treaties with Taiwan—more than 55 in all—will remain in force.

Despite this promise and specific statutory prohibition, the State Department has nonetheless proposed the replacement of the air transport agreement with an informal arrangement.

The exact impact of this semantic distinction is not clear, but it appears to be yet another effort to downgrade our relations with Taiwan.

One trend is becoming increasingly obvious. Congress cannot be certain that the administration will voluntarily abide by its promise to uphold the remaining 58 treaties with the Republic of China.

The status of these treaties and indeed of our Nation's moral commitment to Taiwan is placed in grave jeopardy by the administration's latest act of deceit.

The House Committee on Foreign Affairs has been hearing testimony on this important subject today. Hopefully, the committee will express to the administration strong congressional disapproval of these continued unilateral actions. Failing that, the full House must act to demonstrate our insistence that we be fully involved.

SOME GOOD ADVICE ON SOCIAL SECURITY REFORM: A TAX ROLLBACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, in a few weeks the Social Security Advisory Council, the federally appointed panel of businessmen, labor leaders, and the public at-large, will recommend that Congress rescind most or all of the scheduled 1981 increase in the social security payroll tax. The planned hike in the tax to 6.65 percent from the present 6.13 percent level will only pinch the pockets of the average worker even more. With inflation taking a bigger and bigger bite out of our paychecks, a rollback of the tax increase would be a welcome relief.

The staggering deficit in the social security trust fund poses a serious threat to the treasury. The promise of benefits without a corresponding contribution to the system places us on a direct course for default when the chips are cashed in. Raising taxes, as this Congress has done, is something I have opposed, not only because of its effect on an overburdened taxpayer, but on the principle of prudent public policy. With the rising cost of living, the demand for liberalizing benefits is bound to land on the congressional doorstep. So how are we going to provide for the social security of our senior citizens? By raising taxes again? We are kidding ourselves to think that we can close the gap between paid-in contributions and paid-out benefits in the system. A broader scale of reform is needed, one which goes beyond a rollback of the payroll tax. It is up to Congress to come to grips with this reality and enact meaningful reform. Proposals on the order of those advocated by our colleague, Mr. CONABLE of New York, are an excellent place to start.

In the meantime, though, the advice of advisory council should receive our favorable seal of approval. I very much hope to be at the vanguard of the effort to undo the tax program of the 95th Congress, and examine the viable reform measures which do not impose such a strain on the pocketbook of the taxpayer.●

SUBCOMMITTEE ON MONOPOLIES AND COMMERCIAL LAW TO HOLD HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I wish to announce that the Subcommittee on Monopolies and Commercial Law will hold one day of public hearings on October 24, 1979, to consider H.R. 3567, H.R. 3573 and other similar bills to amend the antitrust laws for the purposes of establishing a different standard for determining the legality of exclusive territorial and customer restrictions in the soft drink bottling industry.

The hearing will be held in room 2141, Rayburn House Office Building, and will commence at 9:30 a.m. Testimony on these proposals will be received from the Department of Justice, and independent soft drink bottlers.●

STATEMENT BY CONGRESSMAN CHARLES A. VANIK ON INTRODUCTION OF HOUSE CONCURRENT RESOLUTION TO APPROVE THE EXTENSION OF NONDISCRIMINATORY (MFN) TREATMENT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, today the President submitted to the House and the Senate the bilateral commercial agreement signed on July 7 by representatives of the United States and the People's Republic of China, a proclamation extending nondiscriminatory—most-favored-nation—treatment to the products of the PRC, and an Executive order waiving the application of the freedom of emigration requirements under section 402 of the Trade Act of 1974 with respect to the PRC.

As provided under section 405(c) of the Trade Act, the United States-China trade agreement and the proclamation extending MFN treatment to imports from the PRC shall take effect only if both Houses of Congress adopt the concurrent resolution approving the extension of MFN treatment within 60 legislative days. As chairman of the Subcommittee on Trade, I am announcing the beginning of public hearings to be held November 1 and 2 to consider this latest significant step toward normalization of United States-China political and economic relations. Additional hearing dates will be announced as needed.

Because of my tremendous concern about Soviet reaction to People's Republic of China preference on MFN treatment and the impact it can have on the current high level of Soviet emigration, I had hoped that we could face both issues at the same time and treat the two countries in an even-handed manner. However, the current SALT controversy and the Cuban issue have obscured the situation. Therefore, we should not hold up consideration of MFN for the People's Republic of China because of the current status of the Soviet issue.

It is my sincere hope that before Congress concludes its action on consideration of MFN for China, an administration recommendation may be forthcoming for MFN for the Soviet Union and that the Soviets may assist in this matter by continuing a high level of emigration and by making substantial progress on the release of long-standing emigration applicants and prisoners of conscience.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MAGUIRE) is recognized for 5 minutes.

● Mr. MAGUIRE. Mr. Speaker, I fully supported, endorsed and intended to vote for the Veterans Rehabilitation and Education Amendments of 1979. I am listed in rollcall vote No. 568 as voting "present," which was a mistake on my part due to the fact that the vote came as the first item of the day rather than the usual quorum call.●

UNITED STATES-CHINA TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AUCOIN) is recognized for 5 minutes.

● Mr. AUCOIN. Mr. Speaker, today, the President sent to the Congress for approval the trade agreement between the

United States and the People's Republic of China. I rise in support of that agreement and to urge my colleagues to approve it without delay.

This treaty, which signals the end of a 30-year trade hiatus with the People's Republic of China, is a great opportunity for our international trade community. It comes at a time when our trade deficit has reached record levels, when American firms are being outbid in the international marketplace, and when our competitiveness abroad is being eroded daily.

As such, I endorse this agreement and pledge all of my efforts on behalf of its approval. At the same time, however, I think it is appropriate for us to review the requirements of the law that this and most other agreements with nonmarket countries must meet to secure most-favored-nation status and Eximbank credits.

Section 402 of the Trade Act of 1974 now restricts the extension of trade benefits to a nonmarket country, unless it exhibits a satisfactory emigration policy. Specifically, it is required to submit assurances to the United States that it adheres to a liberal emigration policy as a prerequisite for receiving either trade credits or MFN. This is a tall order for any sovereign nation and any nation that is a trading "partner" with us.

While I applaud the goal of this provision in attempting to promote free emigration around the world, I question not only its effectiveness but whether this kind of law is becoming of us as a mature, sophisticated trading nation.

It assumes that American goods, American products, and American technology is so overwhelmingly superior, the other nations of the world have no place else to shop. It assumes a leverage on Eastern bloc nations that does not exist. Perhaps there was a time when the United States held such a commanding position in world trade. But if it were ever true, it is manifestly not true today.

As my colleagues know, I have long been an advocate of expanded trade with the PRC, from the days even before recognition. My interest grows out of an active role in the House Subcommittee on International Trade where in the last session of Congress I authored an amendment that would have exempted the People's Republic of China from section 402 of the Trade Act, opening credits from the Eximbank for sales to China. My purpose in introducing the amendment was to signal the Chinese our interest in normalizing relations and enable U.S. businessmen to enter more forcefully blossoming Chinese markets.

This year, I have pursued this concern and proposed legislation to modify section 402 of the Trade Act for all nonmarket countries. My proposal addresses the whole framework of our trading relations with these countries, seeking to make this provision of the law not only a more effective trade tool but also a more effective tool of our international human rights policy. Instead of demanding assurances from a country that it will adhere to certain emigration standards, my legislation empowers the President to determine that granting a waiver to section 402 and granting MFN and Eximbank credits would "lead substantially to achievement of the free emigration objectives" we all seek.

In sum, it removes the onerous requirements unbecoming of trade partners while strengthening the linkage between trade and free emigration. It remains true to the intent of section 402 but strengthens its practical effect. It extends a carrot, not a stick.

While I firmly believe that there will be no stability in our trading relations with nonmarket countries and no effective leverage in human rights until this legislation is passed, I also believe we must move ahead as changes are being considered.

Mr. Speaker, let me say again that this agreement has my full support and let me underscore its importance to us.

Last year, our trade deficit was more than $30 billion; and currently, it is running at a rate of $24 billion, only a slight improvement. Moreover, between 1957 and 1977, our share of worldwide exports dropped from 21 percent to less than 12 percent.

This decline has important implication for our domestic economy. Currently, about 14 percent—$1 out of every $7—of all U.S. goods produced are exported. Moreover, better than one out of every nine Americans employed in manufacturing are producing goods for export. Almost as important, however, is the estimate that for every additional $1 billion in international trade that we generate, more than 40,000 jobs are created and another $2 billion added to the gross national product.

But even these figures belie the very important role that export trade plays as one of the great growth sectors of our economy. Between 1960 and 1970, U.S. exports in current dollars increase annually at 8.5 percent. But between 1970 and 1975—just half the time—they grew at a rate of 18.7 percent. When we realize that only 30,000 firms, or less than 10 percent of all manufacturing concerns in the country are responsible for this growth, the potential for American trade assumes dramatic proportions.

Since relations between the United States and the People's Republic of China were normalized last January, there has been much speculation about the vast market opening up in the East and what it will do for American exports and our trade deficit. While our optimism about the prospects for the China market is justified, we must recognize that it is not the cure-all for our international trade woes and the treaty will not reverse our long decline overnight. But it will help.

According to the Department of Commerce projections, U.S. exports to China are expected to rise between 35 and 70 percent this year alone to $1.1 to $1.4 billion. The long-range prospects, while subject to many factors, could reach $3.5 billion in 1985 with imports at $1.5 billion. Even with downward revision of these figures to accommodate the changing modernization targets of the Chinese, this is hardly a market we can ignore.

Beyond the potential of the China market itself, we must also recognize that there are other benefits to be derived from ratifying this agreement. One of them is stability in our important Pacific rim trade.

In 1977, U.S. trade with Pacific rim countries—China and her neighbors bordering on the Pacific Ocean—surpassed our trade with Europe for the first time. Today, Pacific trade equals 25 percent of the U.S. total. An approved trade pact with the People's Republic of China will not only encourage this vital flow of American goods and services, it will enhance the climate for American investment in the Pacific region. Expanded trade will bring expanded shipping and air cargo routes and further help to stimulate this exchange.

In conclusion, Mr. Speaker, let me reiterate my strong support for this agreement and pledge my efforts on behalf of its approval. I remind my colleagues of the importance of this pact to American interests in the Pacific and to American trade. It is a sound treaty and should be approved.●

MAJOR DIFFERENCES AMONG HOUSE ENERGY MOBILIZATION BOARD BILLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, the House is scheduled to consider, in the near future, several proposals to create an Energy Mobilization Board. The purpose of the Board is to reduce redtape, streamline the permitting process, and help to get priority energy projects into operation.

There are three major proposals which will come before the Congress: A version reported by the Commerce Committee, a version reported by the Interior Committee, and the Udall-Clausen-Wirth substitute.

As the following side-by-side comparison of the major provisions of each version clearly shows, the Udall-Clausen-Wirth substitute grants the Board more authority to act on its own and to enforce decisions. Thus, there is no need for an unprecedented expansion of Federal powers to override Federal, State, and local law, as was recommended by the Commerce Committee.

I hope my colleagues will take a close look at these three alternatives. The Udall-Clausen-Wirth substitute will enable energy decisions to be made in an expeditious manner; it will do so within the confines of our federalist system of government, and it will not result in years of constitutional litigation—as would the Commerce Committee bill. When this legislation comes before us, I urge the adoption of the Udall-Clausen-Wirth substitute.

MAJOR DIFFERENCES AMONG HOUSE ENERGY MOBILIZATION BOARD BILLS

INTERIOR COMMITTEE	UDALL-CLAUSEN-WIRTH BILL	COMMERCE COMMITTEE
	1. Decision timetables	
EMB can set binding timetables only for Federal agencies, and then only if not in conflict with a statutory requirement. Presidential waiver of such a time requirement subject to one-House veto.	After attempting to reach mutual agreement with agencies, EMB sets binding timetable for all Federal, State, and local agencies. This takes precedence over timetables in other laws or regulations.	After consulation with agencies, EMB sets timetable for all Federal, State, and local agencies. This takes precedence over timetables in other laws or regulations.
	2. Streamlining procedures	
EMB has no authority to streamline procedures.	On its own authority, EMB can order Federal agencies to streamline a specific list of procedures—hearing consolidation, et cetera. State and local agencies may be ordered by court to employ streamline list if they miss or are likely to miss a deadline.	EMB has no authority to streamline procedures. If procedures are an impediment, EMB may recommend waiver of Federal, State, or local law to President. Requires Presidential approval and one-House congressional veto.
	3. Environmental Impact Statement (EIS)	
No power to require a single, consolidated EIS.	EMB can require single, consolidated Federal EIS.	No power to require a single, consolidated EIS.
	4. Enforcement of deadlines	
President makes decision for Federal agency which misses deadline. No enforcement authority over State and local agency timetables.	Expedited court actions to force Federal, State, and local agency compliance with deadlines; suit may be brought if deadline is missed or likely to be missed. President makes decision if agency violates court order or court fails to act 120 days after deadline passes.	EMB may recommend waiver of Federal, State, or local law at any time before an agency makes a decision; waiver is not related to missed deadline or likelihood of missed deadline. Presidential approval and one-House veto required.
	5. New requirements (grandfathering)	
No provision addressing new requirements enacted after construction of a priority energy project begins.	EMB may suspend new requirements for up to five years if it finds requirement would, (1) delay timely completion, or operation, of project and, (2) suspension poses no threat to public health or safety. Findings and decision reviewable by court.	EMB may permanently waive any new requirement if it judges requirements may be impediment to "implementation" of project. Subject to Presidential approval and one-House veto; findings and decision not reviewable by court, except for constitutional violations.
	6. Judicial review of EMB actions	
All EMB actions reviewable—priority designation immediately, others after agency decisions are made. EMB required to comply with provisions of bill.	(1) Designation of priority projects and suspension of new requirements subject to immediate, expedited court review. (2) Decision deadlines and procedural streamlining reviewable only when EMB brings court enforcement action or when a final agency decision is challenged under another statute. (3) In these cases, courts can hold EMB to the requirements of this act and the Constitution. (4) All other Board decisions reviewable only for constitutional violations; due process, et cetera.	All decisions of EMB are reviewable only on constitutional grounds. Court may not consider whether EMB complied with requirements of this act in designating projects, establishing timetables, waiving laws, or any other action, except that prohibition on waiving certain specific laws may be enforced.
	7. Number of priority energy projects	
24 at any one time, with no more than six designated by EMB per year.	75 total, with no more than 20 designated by EMB per year.	No limit.
	8. Waiver of Federal, State and local law	
No such provisions.	Not necessary.	EMB may recommend waiver of any Federal, State, or local law it considers an impediment to project development, even if it is not related to delays in agency decision-making. Subject to Presidential approval and one-House veto.

LEGISLATION TO AMEND DISASTER RELIEF ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BENJAMIN) is recognized for 5 minutes.

● Mr. BENJAMIN. Mr. Speaker, on January 24, 1979, I introduced H.R. 1320, to amend the Disaster Relief Act of 1974. This legislation was designed to avert further undue hardships from being inflicted on disaster stricken areas, as a result of the Federal Emergency Management Agency (FEMA, formerly the Federal Disaster Assistance Administration, FDAA) current policy which states that Federal aid begins at 12:01 on the day of the President's declaration of an emergency.

This penalizes communities who meet the challenge of the emergency with speed and efficiency by declaring work completed prior to the President's declaration ineligible for Federal reimbursement. Through timely action of many communities, enough snow is removed to mitigate the threat to public health and safety but depleted their budgets and exhausted their capacity to conduct normal snow-related services for the remainder of the winter.

This inequity is a result of FEMA guidelines, not the Disaster Assistance Act of 1974. The Congress intended to provide assistance during an emergency and did not intend to set up an artificial and arbitrary scheme for measuring the onset of the emergency.

In August, GAO issued their report highlighting instances where FEMA's implementation of the act may create inequities, in addition to the declaration-reimbursement relationship. The GAO also reported that abuse of Federal funds ●

is occurring through the reimbursement of expenses which would otherwise have occurred or are unacceptable for reimbursement for other reasons.

FEMA has responded to the GAO's accusation of Federal fund abuse by reducing their percentage of reimbursement to 50 percent (formerly 66 percent in 1979, and 75 percent in 1978). I do not believe that this is a responsible method for eliminating abuses of reimbursement.

The legislation I introduce today would establish a two-thirds maximum reimbursement level, except in the case where the President determines the community to have no legally available funds to incur the remaining one-third costs, and then 100 percent reimbursement is possible.

In an attempt to minimize the abuse of reimbursement, I also propose that it be specifically stated in an amendment to the Disaster Act that costs that would otherwise have been incurred may not be subject for reimbursement.

Regarding the procedures for declaring an emergency, the legislation states that FEMA may not take into account the past history of reimbursement for an area. FEMA is also required to develop standards for snowstorm conditions (including, but not limited to, amount of snowfall, temperature, and wind velocity) under which an emergency or a major disaster will be declared. This does not prohibit the President from making such a declaration if all the conditions are not present, but merely provides a minimum guideline for each area of the United States to be used when determining if an emergency or disaster should be declared.

This legislation also requires States which normally receive heavy snowfall to develop and maintain an adequate snow preparedness plan in order for the State to qualify for the annual $25,000 disaster plan maintenance grant.

The bill I am introducing today would make clear the intent of Congress that emergency assistance is available for the duration of the emergency or major disaster, regardless of the day on which the President declares the existence of the emergency. The President's declaration is inevitably delayed until a State has been able to compile the necessary information from its local communities and to transmit its request. The more serious the emergency, the more likely the compilation of data will be delayed because officials must deal with immediate threats to life and property before red-tape.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, on October 12, I was forced to miss two votes due to the fact that the House adjourned later than the announced time of 3 p.m. and I had previous commitments in my district that could not be altered.

On the Sensenbrenner amendment (rollcall No. 564) to delete the mini-block LEAA grant program, I would have voted, "nay."

On the Neal amendment (rollcall No. 566) to insure that rescue squad personnel are covered by the Public Safety Officers Death Benefits Act, I would have voted, "aye."

On October 18, I was absent for a vote on a procedural motion to limit debate on the Department of Energy Authorization, H.R. 3000 (rollcall No. 583). I would have voted, "aye."●

CONCERN EXPRESSED OVER THREAT TO REMOVE FTC'S JURISDICTION OVER FUNERAL INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SCHEUER) is recognized for 5 minutes.

● Mr. SCHEUER. Mr. Speaker, the threat to remove FTC's jurisdiction over the funeral industry is of great concern throughout the Nation. Editorials supporting the FTC's rule appeared across the country last year and more are appearing now.

I have today received a letter from the National Council of the Churches of Christ in the U.S.A. highly critical of the attempt to abort the Federal Trade Commission's rule. It is consistent with other mail I have received.

For the benefit of our colleagues and other readers of the RECORD, I am inserting herewith the text of the letter from the National Council of the Churches of Christ in the U.S.A. and urge all our colleagues to consider it at the time they are formulating their position on this issue:

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.,
New York, N.Y., October 19, 1979.

Hon. JAMES H. SCHEUER,
U.S House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE SCHEUER: It is my understanding that when the House considers the authorization bill for the Federal Trade Commission shortly, an amendment will be offered which would, in effect, kill the Proposed Trade Regulation Rule governing funeral industry practices. I write to urge your strong opposition to any such amendment.

Historically the church has been involved in assisting persons in dealing with death crises and in giving continung support during time of grief. Therefore, we believe it is appropriate for us to speak to issues related to body disposition methods and options.

The Ecumenical Task Force on Death Education, Ministry to the Grieving, and Funeral Pre-Planning (representing the Commissions on Stewardship and Family Ministries and Human Sexuality of the National Council of Churches) has concluded that the Proposed Trade Regulation Rule is in the best interest of the consumer. We raise support at several specific points:

1. We believe the Proposed Trade Regulation Rule affirms the effectiveness of a free market system. The integrity of our economy is greatly dependent upon disclosure of information related to merchandise and services offered for sale. The consumer is due this disclosure from the funeral industry.

2. We believe a purchase as significant as that of a funeral and burial, which is the third most costly purchase an average family makes, deserves serious consumer protection attention.

3. We believe the consumer should easily be able to purchase body disposition merchandise and services which are commensurate with low and/or fixed incomes without experiencing either implicit or explicit pressure to conform to a costly standard funeral service package. The proposed Trade Regulation Rule encourages this possibility.

4. We believe the consumer should have convenient access to legal requirements related to body disposition methods during negotiation with a representative of the funeral service industry. Disclosure of such legal requirements will have the effect of exposing operative myths and subtleties which, in many cases, have contributed to the consumer's assumption that the costly standard funeral service package is the expected means of body disposition.

5. We believe the Proposed Trade Regulation Rule affirms the integrity of the consumer by making it easier for him/her to exercise informed decision-making power regarding body disposition choices.

We commend the F.T.C. staff for the work done in the area of funeral industry practices, and urge the Congress to acknowledge and support that work by providing the funds necessary to promulgate and enforce the funeral rule.

Sincerely yours,
REV. G. WILLIAM SHEEK,
Director, Commission on Family Ministries and Human Sexuality, Division of Education and Ministry, National Council of Churches.●

INTRODUCTION OF FISHERIES DEVELOPMENT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. WON PAT) is recognized for 5 minutes.

● Mr. WON PAT. Mr. Speaker, in an effort to become more economically self-sufficient, Guam, American Samoa, and the Northern Mariana Islands have tried over the years to develop the marine resources in their surrounding seas. they have been unsuccessful largely because of the existing prohibition against the use of foreign-built vessels in the American fisheries.

The prohibition prevents local residents and business concerns from resorting to foreign-built and U.S.-owned vessels to develop the fishing industry in these areas. Local residents must either resort to U.S.-built fishing vessels which are considerably more expensive and foreign-built vessels, or sit back and allow foreign-flag and foreign-owned vessels to land fish caught on the high seas. In the former situation, the cost makes the purchase of U.S.-built vessels economically unfeasible; and in the latter, local residents themselves are not involved in the development of the industry and any fishing must occur outside the 200-mile fishery conservation zone around these islands.

The bill I am introducing today lifts the prohibition with respect to foreign-built vessels owned by citizens or nationals of the United States who are residents of Guam, American Samoa, and the Northern Mariana Islands, and entitles such vessels to employment in the fisheries within the territorial seas surrounding these islands and in that limited portion of the fishery conservation zone that is contiguous to the territorial seas of these islands. However, such vessels must still be eligible for registry pursuant to 46 U.S.C. 11 before they can be used in the fisheries.

A recent draft of an interagency territorial policy review task force report pinpoints the contradictory manner in which the documentation laws contribute to the wide gap between the perceived potential and the actual development of commercial fishing in these islands and suggests that amendments to existing laws may be warranted. My bill responds to this suggestion.●

NUCLEAR ENERGY ESSENTIAL TO NATIONAL SECURITY

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, from my first association with the development of nuclear energy, which started over 33 years ago, I have considered it essential to our welfare and national security. Of course time has proven this to be a fact. Our development of nuclear energy for the military is now the basis of our national security. The use of nuclear energy for the generation of electricity for use in all sectors of our economy unfortunately is still not accepted in some quarters as essential to our future welfare and national security. This is an area which must receive additional attention.

Mr. John T. Conway, president of the American Nuclear Energy Council, recently gave an address in which he outlined the facts and relation of nuclear energy to the security of the United States. Mr. Conway is highly qualified to speak on this subject. He is both a lawyer and engineer. He has had a great deal of experience in the national security area as former executive director of the Joint Committee on Atomic Energy and as an executive of the Consolidated Edison Co. With these qualifications his utterances on the subject should receive the attention of all of us with responsibilities in the field of national security. For this purpose, I am including the text of his address at this point in the RECORD.

The October 11 remarks of Mr. Conway follow:

NUCLEAR ENERGY—ESSENTIAL TO THE SECURITY OF THE UNITED STATES

(Remarks by John T. Conway, President, American Nuclear Energy Council, Before the Society of Former Special Agents of the FBI, Inc., Homecoming II Convention, Sheraton Park Hotel, Oct. 11, 1979)

Nearly 35 years have passed since the end of World War II. It is hard for some of us to realize, but one must be 40 years of age or older today to have any personal recollection of the announcement by the United States that we had developed an awesome weapon—one of which had destroyed a single Japanese City—Hiroshima, to be followed by Nagasaki and then the subsequent Japanese surrender.

There are those today who are most vocal in their criticism of the United States for having developed and used the atomic bomb in World War II. The overwhelming majority of these critics did not participate in nor suffer through the long war years, that culminated with the final victory of the Allies over the Axis powers. They give no recognition to the fact that more people were killed and injured in Tokyo by chemical fire bombs than by the atom bomb in Hiroshima—nor do they recognize the fact that our war with Japan was brought to an abrupt halt by the atom bomb, thus saving millions of casualties both for Japan and the United States.

Many of you here today who were in the armed services during World War II, particularly those assigned to amphibious forces, remember the training and planning for the invasion of Japan. Knowledgeable authorities in both the Japanese and American governments have attested to the expected casualties, had such an invasion been required. These same authorities have also attested that the demonstrated use by the United States of the atom bomb gave the Japanese government the justification for surrendering without the necessity of fighting the war to a bitter end on their own shores.

During the cold-war period that followed World War II, the United States' lead in nuclear weapons constituted a protective umbrella for our European NATO allies—a deterrent to Soviet military pressures. In addition, the development of our nuclear submarine and surface Navy, under the dynamic leadership of Admiral Hyman G. Rickover, helped assure the security of the Western World. Unfortunately, of late, we have not been funding our Navy at the levels necessary to maintain superiority, and the Soviet Navy has been gaining on us.

Important as it is to our national security, my discussion today, however, is not directed to the military uses of nuclear power, but rather to the civilian side of the atom, and why it is essential to our national security.

As all of you know, our country has become heavily dependent on the OPEC Nations for a significant amount of our petroleum needs. Approximately one-half of all the oil being used today in the United States is imported from overseas.

In October, 1973, just prior to when the Arabs declared an embargo on oil to the United States, we were importing six million barrels of oil per day. During the period the embargo continued, 1973–1974, the effect of the shortage of oil in our economy was quite severe; many factories and schools were closed and many people were put out of work. The danger to our economy occasioned by our dependence on foreign sources for so much of our oil supply was made quite apparent, and the government, at that time, initiated and highly publicized what was called "Project Independence." The public was led to believe we had embarked on a major effort to significantly cut back on our importation of foreign oil.

How successful have we been in Project Independence? In the five years that have elapsed since Project Independence was announced, we have not decreased our dependence on foreign supplies whatsoever, but instead, have become even more dependent upon the OPEC Nations for what constitutes the lifeblood of our economy. No longer are we importing six million barrels of oil per day, but, instead, we now depend upon the OPEC Nations for 8.5 million barrels of oil every single day.

Prior to the 1973–1974 Yom Kippur War, which precipitated an Arab embargo on the United States and other Pro-Israel Nations, we were paying $2 to $4 per barrel for imported oil, depending upon the grade. Today the price for that same oil is $22 to $24 per barrel and much more on the spot market. The United States' annual bill for imported oil in 1971 was $3.6 billion. Last year, $42 billion flowed out of our Nation to foreign nations to pay for the fuel we were required to import.

The United States last year ran an annual deficit of $30 billion in our foreign trade, primarily the result of the tremendous increase in the amount and price we are paying for our oil imports, and this is the basic reason the American dollar has been dropping in value throughout the world and for our galloping inflation.

Yet we know that we have not seen the end of the OPEC price increases. The cartel of oil exporting countries has made it abundantly clear that additional price increases can be expected. Our neighbors to the north—the Canadians, and our neighbors to the South—the Mexicans—have both taken the position that exportation of oil and natural gas from their nation will be at prices not less than the world market prices, and they are not inclined to deplete their natural resources to meet the United States' energy needs.

As serious as the rapid escalation in the price of imported oil is, even more serious in the near-term is the distinct possibility of a serious curtailment in the supply of foreign oil to the United States.

47.6 percent of all the oil being imported by the Western World originates in the Persian Gulf. Up until this past year, we looked primarily to Iran to maintain stability in this area, and when the Shah lost control of his country, this resulted not only in the curtailment of Iranian oil supplies to the Western World, but a major unsettling of the balance of power in that strategically important area of the world.

Soviet pressures on Saudia Arabia through Soviet-dominated South Yemen and Afghanistan, not to mention latent Moslem religious anti-Christian passions, coupled with strong pro-Arab, anti-Isreal sympathies make the entire area a most unreliable supplier of oil, for not only the United States, but the entire Western World. Any day we could wake up to find a major curtailment or complete cut-off of Persian Gulf oil with serious consequences to not only the United States, but the entire Western World.

In his last major address as Secretary of Energy on August 16, 1979, James R. Schlesinger, former Director of the CIA, pointed out the serious dangers we face from our dependence upon the Persian Gulf and the growing Soviet control of that area. As he observed—

"Soviet control of the oil tap in the Middle East would mean the end of the world as we have known it since 1945 and of the association of free nations."

At a meeting in Vienna last week (October 3, 1979), the President of the Organization of Petroleum Exporting Countries, Mana Saeed al Otaiba, warned—

"If there is another world war, it will be over petroleum."

Rene Ortiz, OPEC Secretary General, at the same meeting, declared—

"What has happened in 1979 is only an anticipation of the energy crisis of the mid-1980's."

As demonstrated in the 1973–74 embargo and the 1979 loss of Iranian oil supplies, we will have major dislocations in our economy resulting from the sudden loss of oil from the Persian Gulf unless we move rapidly to minimize our dependence on overseas oil supplies by active exploration and development of new U.S. oil supplies and substitution of other indigenous fuels, coupled with practical conservation efforts. Notwithstanding all the propaganda and exaggerated claims by advocates of solar power, even with a major research and development program,

solar power cannot make any major contribution to the energy needs of our Nation within the next decade. The only practical indigenous fuels that can make major contributions are coal and nuclear power. In his speech of August 16, Dr. Schlesinger warned the Nation:

"Quite bluntly, unless we achieve the greater use of coal and nuclear power—over the next decade, this society may just not make it."

He went on to say:

"The dilemma is quite clear. We must make greater use of coal and nuclear power, with the technologies available today, or alternatively, we face reduced economic growth and rising levels of unemployment."

The need for nuclear energy was recognized at the Bonn Economic Summit Conference in July, 1978, when President Carter and other leaders of the Western World issued the following Declaration:

"The further development of nuclear energy is indispensable, and the slippage in the execution of nuclear power programmes must be reversed."

This position was reaffirmed at the June, 1979 Economic Summit Conference in Tokyo in the following communique:

"Without the expansion of nuclear power generation capacity in the coming decades, economic growth and higher employment will be hard to achieve. This must be done under conditions guaranteeing our people's safety. We will cooperate to this end. The International Atomic Energy Agency can play a key role in this regard. We reaffirm the understanding reached at the Bonn summit with respect to the reliable supply of nuclear fuel and minimizing the risk of nuclear proliferation."

How capable is nuclear energy in helping to alleviate the dependence upon overseas oil by our Nation?

Nuclear power came of age in the Post World War II period as the Nation simultaneously emerged from a deep depression and a victorious war in a rapidly expanding economic prosperity. Demand for electricity was doubling every ten years, and the newly discovered scientific knowledge that the atom could be split to provide tremendous amounts of energy gave expectations for its use in electric generation.

The 1946 McMann Act turned over to civilian control what previously had been a tightly held classified military project. Yet it was not until the Atomic Energy Act of 1954 that anyone in the United States, other than the federal government, was authorized to construct or own a nuclear reactor to produce electricity. The 1954 Act, for the first time, permitted a utility to apply for a construction permit or an operating license for a nuclear power reactor.

Compared with fossil-generated or hydroelectric power, electric energy from nuclear power is still really in its infancy. The first construction permit issued by the Atomic Energy Commission was in 1955 to the Consolidated Edison Company of New York, for Indian Point No. 1, a 265-megawatt unit which went into operation in 1962. A smaller 5-megawatt nuclear, plant, owned and operated by General Electric, that tied into the Pacific Gas and Electric System, received the first operating license from the AEC in 1957.

Today, twenty-five years after the passage of the Atomic Energy Act of 1954, and 22 years after the issuance of the first operating license, we have 70 reactors operating in the United States, with a total of 51,000 megawatts of installed capacity. The existing generating capacity of operating reactors in the United States today is greater than the entire installed electric generating capacity in the United States in 1946, the beginning of the post World War II period.

Last year, 13 percent of all the electricity used by the people of the United States came from nuclear power, at an estimated savings of $3 billion to the consumers. At today's fuel costs, electricity generated by nuclear power is ½ to ⅓ the cost of electricity generated by coal or oil.

Construction permits have been issued for an additional 92 nuclear reactors, totaling 106,000 additional megawatts of electric capacity, of which 37 were under operating license review prior to Three Mile Island. If one totals all reactors operating and under construction, it comes to 162, with an electric capacity of 151,000 megawatts. That represents three times the entire electric generating capacity existing in the United States at the end of World War II.

An average 1000-megawatt nuclear plant will save approximately 10 million barrels of residual oil per year, if substituted for an equivalent sized oil-fired plant. That 10 million barrels of residual oil saved, could be processed into 252 million gallons of gasoline. While nuclear power cannot be used directly to fuel our present automobiles and trucks, it can, by substituting for oil-fired electric generation, release many millions of barrels of residual oil that could be processed into billions of gallons of gasoline to relieve future shortages. If the automobile industry successfully develops an economical electric car, nuclear power will more directly relieve our gasoline shortage problems.

Notwithstanding what has been accomplished in the past two decades, even prior to Three Mile Island, strong opposition was developing among some groups to nuclear power. Since Three Mile Island, opposition has grown even more vocal. The Ralph Naders and Jane Fondas are using the nuclear power issue as a mechanism to change our system of government. They are not only against nuclear power, but they are against all centralized methods of electric production, including the generation of electricity by central-station coal-fired plants and major dam construction to provide hydroelectric generation.

Increasing intervention by environmentalists and other so-called groups in regulatory review processes, including judicial appeals through all levels of our judicial system, has caused major delays in the construction and operation of electric generating facilities of all types—fossil, hydro and nuclear, not to mention the severe impact on the cost of these projects, ultimately to be paid for by the consumers. When opposing new coal-fired plants, the opponents cite the dangers to the public from airborne pollutants emanating from the plant. In opposing large-scale hydro electric facilities, the opponents use the threat of endangering species such as the Snale Darter in Tennessee. When it comes to nuclear, they attempt to identify nuclear power with nuclear weapons and radiation dangers—this despite the fact that uranium used in the nuclear power plants in the United States is different from what is used in a nuclear bomb and cannot explode, and the fact that one receives more radiation from working in Grand Central Station than living adjacent to a nuclear plant.

The maximum exposure any individual could have received from the Three Mile Island accident has been calculated by HEW, EPA and NRC experts to be 88 millirems and to have received that dose, an individual would have had to remain continuously out of doors without any clothes on twenty-four hours a day, for several weeks. This is less than we all average each year from natural background and far less radiation than a person receives from one minute under a fluoroscope. There are places in Grand Central Station in New York where the annual exposure from the building itself exceeds 500 milirem per year.

An objective evaluation of the safety of nuclear power—as was done in 1978 by the American Medical Association—will find it safer than alternative methods of producing electricity. To date, no member of the public nor any employee of a utility company has been fatally injured because of nuclear power. This is not to say, however, that we will never have a nuclear fatality because there are risks associated with it.

But even with the Three Mile Island accident, nuclear power has demonstrated in 400 reactor-years of operation that the risks associated with it are minimal compared with other risks the public faces. In the past two decades, one million persons have been killed in automobile accidents, not to mention the greater numbers who have sustaining disabling injuries. Commercial air travel—safer than automobile—accounts for 100–200 deaths each year, and the use of electricity results in 1,000 accidental deaths per year.

We as individuals and as a Nation, have accepted these risks because we desire the benefits, and, of course, we strive to improve the safety record. Civilian nuclear power facilities have yet to injure, let alone kill, a single member of the public. No other industry has a better safety record.

I do not want to minimize the legitimacy of the fear engendered among the people living near Three Mile Island during the early days of TMI when they were led to believe they might have to evacuate their homes. The sanctity of the home has always been paramount in our country, descendant from the English Common Law when even the King had to request permission to enter the home of the lowest peasant. The accident at Three Mile Island threatened for a time to violate the sanctity of many homes, and understandably, the people affected resented that threatened intrusion.

But it turned out that TMI did not require any evacuation of the nearby area—yet during this same period of time, thousands were forced to flee their homes in Mississippi and other states because man-made levees and restraining walls were not adequate to contain rampaging floods; 47 persons were killed, thousands injured and 6,700 homes destroyed in one day by tornados in northern Texas.

Also—

On April 8, 1979, at a time when it had been determined that no evacuation was required by the Three Mile Island accident, 4,500 to 5,500 persons had to be evacuated from a 300 square mile area of Florida because a freight train carrying harmful chemicals had derailed. A Civil Defense official was contemplating evacuating 7,000 more persons if a wind-shift were to occur.

On February 22, 1978, in Waverly, Tennessee, 2,000 people had to be evacuated when a railroad car exploded after a derailment. Fifteen persons were killed and 48 persons were injured by that explosion.

On December 28, 1977, 800 people in a ten-mile radius had to be evacuated due to a chemical explosion after a train derailment in Goldonna, Louisiana. Over $2 million property damage resulted in that accident which took place at the main street-crossing of that town.

The Department of Transportation records reveal that in a seven-year period, 1971 through 1977, there were 130 derailments or vehicle accidents that resulted in high property damage and/or evacuation of persons due to hazardous chemicals. The 130 accidents resulted in 75 deaths, 1049 injuries and property damage just under $43 million. Of the 130 accidents in that seven-year period, 41 required evacuation of people.

I mention this because a great deal of discussion is taking place today with respect to evacuation plans in states where nuclear power plants are located. Under the guise of advocating public preparedness, opponents of nuclear power are demanding annual exercises where the population actually would be evacuated out to a given distance. If they were rational in their demand, they would require the same for every town and village through which a railroad passes or through which toxic chemicals are transported by vehicle.

From any objective and rational point of view, the future of nuclear power in the United States should be assured. Surely, it must be clear that the dangers to our economy and our national defense are immensely greater if we renounce nuclear power than if we continued to exploit its beneficial uses in the generation of electric energy. The threat to our environment is greater if we deny ourselves nuclear power.

Yet there is a movement—an unfortunate movement—in our country and in other western nations that would have us give up the benefits of our industrial development. It is a movement personified in the Amory Lovins, Jane Fondas and Ralph Naders—made up of people who refuse to recognize the energy needs of our people and the practical means of meeting those needs. They preach a strange gospel that would have us renounce not only nuclear power but all large-scale power plant facilities and have us depend upon small individual solar units in what they describe as more labor-intensive economy.

Llewellyn King, publisher of Energy Daily—who I have often quoted on this point best sums up these people as follows:

"Those of us who have tried to codify and understand the nature of the nuclear opposition have gradually come to the conclusion that we are dealing with what amounts to a new class of American society, one that is unfettered by fear of shortages, privation or disaster. It is a class whose traumas have been external and national and not personal. It is a class of men and women who, paradoxically, are seeking to hobble the American economic machine when they themselves are the products of its bounty: well-fed, well-housed, and well-educated—a class that has been brought up in a cocoon of personal well-being in the comfort of a good home, the security of good schools and the luxury of university education. Their class perception of American society is of a good thing gone wrong; of venal capitalism astride the stallion of technology violating the wholesomeness of America."

Nuclear power by itself will not solve all our future energy problems. Together with increased use of indigenous coal and careful conservation it will help to relieve us from ever increasing dependence upon foreign oil sources, particularly if our Nation moves forward energetically in developing the Breeder reactor.

If we have learned anything from the 1973–1974 Yom Kippur War which resulted in an Arab oil embargo on us and our friends, if we have learned anything from the actions of the OPEC cartel in their oil price increases, and if we have learned anything from recent statements by Canadian and Mexican political leaders to limit future oil and other energy supplies to the United States, we should know that it is critical to our Nation's economic viability and national security that we develop, to the greatest extent possible, energy independence.

It would be imprudent for this Nation to declare a moratorium on nuclear power. Nuclear power has a safety record second to none. When compared with other alternatives today, and for the foreseeable future, nuclear power, if not fettered and burdened with additional and unnecessary handicaps—be they technical or political—can and will serve this Nation well. Nuclear plants can be and are being operated safely today to the economic advantage of our citizens. We have the technical knowledge to safely dispose of radioactive waste—over 90 percent of which presently is the result of our military program. It is more a political issue than a public safety problem.

The Harris Polls continue to show that the majority of Americans recognize the need for nuclear power and support the construction of nuclear reactor plants. It is a small but active and vocal group, led by Jane Fonda and Ralph Nader and others who try to make it appear that the American public is against nuclear power in order to influence political actions.

It is imperative that those of us who recognize how essential nuclear power is to the United States in solving our energy crisis make our views known at the federal, state and local levels, by communicating our views to our representatives. If we do not, they will become more and more intimidated by the Naders and Fondas and our economic stability and national security will be severely compromised by default.●

THE VISION OF ADMIRAL RICKOVER

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, Admiral Rickover made a public statement over 22 years ago on "Energy Resources and Our Future" which reveal the outstanding vision of this great patriot. When Admiral Rickover made this statement before the Minnesota State Medical Association in St. Paul on May 14, 1957, the importance of adequate energy supplies for our Nation was virtually unknown to the public. Admiral Rickover, on the other hand, on this date delivered a learned and now proven analysis of the problem we and the rest of the world face without adequate planning for energy needs. I highly commend his statement which I include at the close of these remarks.

The May 14, 1957, remarks of Admiral Rickover follow:

ENERGY RESOURCES AND OUR FUTURE

I am honored to be here tonight, though it is no easy thing, I assure you, for a layman to face up to an audience of physicians. A single one of you, sitting behind his desk, can be quite formidable.

My speech has no medical connotations. This may be a relief to you after the solid professional fare you have been absorbing. I should like to discuss a matter which will, I hope, be of interest to you as responsible citizens: the significance of energy resources in the shaping of our future.

We live in what historians may some day call the Fossil Fuel Age. Today coal, oil, and natural gas supply 93 percent of the world's energy; water power accounts for only 1 percent; and the labor of men and domestic animals the remaining 6 percent. This is a startling reversal of corresponding figures for 1850—only a century ago. Then fossil fuels supplied 5 percent of the world's energy, and men and animals 94 percent. Five sixths of all the coal, oil, and gas consumed since the beginning of the Fossil Fuel Age has been burned up in the last 55 years.

These fuels have been known to man for more than 3,000 years. In parts of China, coal was used for domestic heating and cooking, and natural gas for lighting as early as 1000 B.C. The Babylonians burned asphalt a thousand years earlier. But these early uses were sporadic and of no economic significance. Fossil fuels did not become a major source of energy until machines running on coal, gas, or oil were invented. Wood, for example, was the most important fuel until 1860 when it was replaced by coal; coal, in turn, has only recently been surpassed by oil in this country.

Once in full swing, fossil fuel consumption has accelerated at phenomenal rates. All the fossil fuels used before 1900 would not last five years at today's rates of consumption.

Nowhere are these rates higher and growing faster than in the United States. Our country, with only 6 percent of the world's population, uses one third of the world's total energy input; this proportion would be even greater except that we use energy more efficiently than other countries. Each American has at his disposal, each year, energy equivalent to that obtainable from eight tons of coal. This is six times the world's per capita energy consumption. Though not quite so spectacular, corresponding figures for other highly industrialized countries also show above average consumption figures. The United Kingdom, for example, uses more than three times as much energy as the world average.

With high energy consumption goes a high standard of living. Thus the enormous fossil energy which we in this country control feeds machines which make each of us master of an army of mechanical slaves. Man's muscle power is rated at 35 watts continuously, or one twentieth horsepower. Machines therefore furnish every American industrial worker with energy equivalent to that of 244 men, while at least 2,000 men push his automobile along the road, and his family is supplied with 33 faithful household helpers. Each locomotive engineer controls energy equivalent to that of 100,000 men; each jet pilot of 700,000 men. Truly, the humblest American enjoys the services of more slaves than were once owned by the richest nobles, and lives better than most ancient kings. In retrospect, and despite wars, revolutions, and disasters, the hundred years just gone by may well seem like a Golden Age.

Whether this Golden Age will continue depends entirely upon our ability to keep energy supplies in balance with the needs of our growing population. Before I go into this question, let me review briefly the role of energy resources in the rise and fall of civilizations.

Possession of surplus energy is, of course, a requisite for any kind of civilization, for if man possesses merely the energy of his own muscles, he must expend all his strength—mental and physical—to obtain the bare necessities of life.

Surplus energy provides the material foundation for civilized living—a comfortable and tasteful home instead of a bare shelter; attractive clothing instead of mere covering to keep warm; appetizing food instead of anything that suffices to appease hunger. It provides the freedom from toil without which there can be no art, music, literature, or learning. There is no need to belabor the point. What lifted man—one of the weaker mammals—above the animal world was that he could devise, with his brain, ways to increase the energy at his disposal, and use the leisure so gained to cultivate his mind and spirit. Where man must rely solely on the energy of his own body, he can sustain only the most meager existence.

Man's first step on the ladder of civilization dates from his discovery of fire and his domestication of animals. With these energy resources he was able to build a pastoral culture. To move upward to an agricultural civilization he needed more energy. In the past this was found in the labor of dependent members of large patriarchal families, augmented by slaves obtained through purchase or as war booty. There are some backward communities which to this day depend on this type of energy.

Slave labor was necessary for the city states and the empires of antiquity; they frequently had slave populations larger than their free citizenry. As long as slaves were abundant and no moral censure at-

tached to their ownership, incentives to search for alternative sources of energy were lacking; this may well have been the single most important reason why engineering advanced very little in ancient times.

A reduction of per capita energy consumption has always in the past led to a decline in civilization and a reversion to a more primitive way of life. For example, exhaustion of wood fuel is believed to have been the primary reason for the fall of Mayan Civilization on this continent and of the decline of once flourishing civilizations in Asia. India and China once had large forests as did much of the Middle East. Deforestation not only lessened the energy base but had a further disastrous effect: lacking plant cover, soil washed away, and with soil erosion the nutritional base was reduced as well.

Another cause of declining civilization comes with pressure of population on available land. A point is reached where the land can no longer support both the people and their domestic animals. Horses and mules disappear first, finally even the versatile water buffalo is displaced by man who is two and one half times as efficient an energy converter as are draft animals. It must always be remembered that while domestic animals and agricultural machines increase productivity per man, maximum productivity per acre is achieved only by intensive manual cultivation.

It is a sobering thought that the impoverished people of Asia, who today seldom go to sleep with their hunger completely satisfied, were once far more civilized and lived much better than the people of the West. And not so very long ago, either. It was the stories brought back by Marco Polo of the marvelous civilization in China which turned Europe's eyes to the riches of the East, and induced adventurous sailors to brave the high seas in their small vessels searching for a direct route to the fabulous Orient. The "wealth of the Indies" is a phrase still used, but whatever wealth may be there it certainly is not evident in the life of the people today.

Asia failed to keep technological pace with the needs of her growing populations and sank into such poverty that in many places man has become again the primary source of energy, since other energy converters have become too expensive. This must be obvious to the most casual observer. What this means is quite simply a reversion to a more primitive stage of civilization with all that it implies for human dignity and happiness.

Anyone who has watched a sweating Chinese coolie strain at his heavily laden wheelbarrow, creaking along a cobblestone road, or who has flinched as he drives past an endless procession of human beasts of burden moving to market in Java—the slender women bent under mountainous loads heaped on their heads—anyone who has so seen statistics translated into flesh and bone, realizes the degradation of man's stature when his muscle power becomes the only energy source he can afford. Civilization must wither when human beings are so degraded.

On the other hand, in societies where slavery represented a major source of energy, its abolition had the immediate effect of reducing energy consumption with consequent decline in civilization. Thus when this time-honored institution came under moral censure by Christianity, Western civilization declined until other sources of energy could be found. Slavery is incompatible with Christian belief in the worth of the humblest individual as a child of God. As Christianity spread through the Roman Empire and masters freed their slaves—in obedience to the teaching of the Church—the energy base of Roman civilization crumbled. This, some historians believe, may have been a major factor in the decline of Rome and the temporary reversion to a more primitive way of life during the Dark Ages. Slavery gradually disappeared throughout the Western world, except in its milder form of serfdom. That it was revived a thousand years later merely shows man's ability to strifle his conscience—at least for a while—when his economic needs are great. Eventually, even the needs of overseas plantation economies did not suffice to keep alive a practice so deeply repugnant to Western man's deepest convictions.

It may well be that it was unwillingness to depend on slave labor for their energy needs which turned the minds of medieval Europeans to search for alternate sources of energy, thus sparking the Power Revolution of the Middle Ages which, in turn, paved the way for the Industrial Revolution of the 19th Century. When slavery disappeared in the West engineering advanced. Men began to harness the power of nature by utilizing water and wind as energy sources. The sailing ship, in particular, which replaced the slave-driven galley of antiquity, was vastly improved by medieval shipbuilders and became the first machine enabling man to control large amounts of inanimate energy.

The next important high-energy converter used by Europeans was gun powder—an energy source far superior to the muscular strength of the strongest bowman or lancer. With ships that could navigate the high seas and arms that could outfire any hand weapon, Europe was now powerful enough to preempt for herself the vast empty areas of the Western Hemisphere into which she poured her surplus populations to build new nations of European stock. With these ships and arms she also gained political control over populous areas in Africa and Asia from which she drew the raw materials needed to speed her industrialization, thus complementing her naval and military dominance with economic and commercial supremacy.

When a low-energy society comes in contact with a high-energy society, the advantage always lies with the latter. The Europeans not only achieved standards of living vastly higher than those of the rest of the world, but they did this while their population was growing at rates far surpassing those of other peoples. In fact, they doubled their share of total world population in the short span of three centuries. From one sixth in 1650, the people of European stock increased to almost one third of the total world population by 1950.

Meanwhile much of the rest of the world did not even keep energy sources in balance with population growth. Per capita energy consumption actually diminished in large areas. It is this difference in energy consumption which has resulted in an ever widening gap between the one third minority who live in high-energy countries and the two thirds majority who live in low-energy areas.

These so-called underdeveloped countries are now finding it far more difficult to catch up with the fortunate minority than it was for Europe to initiate transition from low-energy to high-energy consumption. For one thing, their ratio of land to people is much less favorable; for another, they have no outlet for surplus populations to ease the transition since all the empty spaces have already been taken over by people of European stock.

Almost all of today's low-energy countries have a population density so great that it perpetuates dependence on intensive manual agriculture which alone can yield barely enough food for their people. They do not have enough acreage, per capita, to justify using domestic animals or farm machinery, although better seeds, better soil management, and better hand tools could bring some improvement. A very large part of their working population must nevertheless remain on the land, and this limits the amount of surplus energy that can be produced. Most of these countries must choose between using this small energy surplus to raise their very low standard of living or postpone present rewards for the sake of future gain by investing the surplus in new industries. The choice is difficult because there is no guarantee that today's denial may not prove to have been in vain. This is so because of the rapidity with which public health measures have reduced mortality rates, resulting in population growth as high or even higher than that of the high-energy nations. Theirs is a bitter choice; it accounts for much of their anti-Western feeling and may well portend a prolonged period of world instability.

How closely energy consumption is related to standards of living may be illustrated by the example of India. Despite intelligent and sustained efforts made since independence, India's per capita income is still only 20 cents daily; her infant mortality is four times ours; and the life expectance of her people is less than one half that of the industrialized countries of the West. These are ultimate consequences of India's very low energy consumption: one fourteenth of world average; one eightieth of ours.

Ominous, too, is the fact that while world food production increased 9 percent in the six years from 1945–51, world population increased by 12 percent. Not only is world population increasing faster than world food production, but, unfortunately, increases in food production tend to occur in the already well-fed, high-energy countries rather than in the undernourished, low-energy countries where food is most lacking.

I think no further elaboration is needed to demonstrate the significance of energy resources for our own future. Our civilization rests upon a technological base which requires enormous quantities of fossil fuels. What assurance do we then have that our energy needs will continue to be supplied by fossil fuels? The answer is—in the long run—none.

The earth is finite. Fossil fuels are not renewable. In this respect our energy base differs from that of all earlier civilizations. They could have maintained their energy supply by careful cultivation. We cannot. Fuel that has been burned is gone forever. Fuel is even more evanescent than metals. Metals, too, are non-renewable resources threatened with ultimate extinction, but something can be salvaged from scrap. Fuel leaves no scrap and there is nothing man can do to rebuild exhausted fossil fuel reserves. They were created by solar energy 500 million years ago and took eons to grow to their present volume.

In the face of the basic fact that fossil fuel reserves are finite, the exact length of time these reserves will last is important in only one respect: the longer they last, the more time do we have to invent ways of living off renewable or substitute energy sources and to adjust our economy to the vast changes which we can expect from such a shift.

Fossil fuels resemble capital in the bank. A prudent and responsible parent will use his capital sparingly is order to pass on to his children as much as possible of his inheritance. A selfish and irresponsible parent will squander it in riotous living and care not one with how his offspring will fare.

Engineers whose work familiarizes them with energy statistics; farseeing industrialists who know that energy is the principal factor which must enter into all planning for the future; responsible governments who realize that the well-being of their citizens and the political power of their countries depend on adequate energy supplies—all these have begun to be concerned about energy resources. In this country, especially,

many studies have been made in the last few years, seeking to discover accurate information on fossil fuel reserves and foreseeable fuel needs.

Statistics involving the human factor are, of course, never exact. The size of usable reserves depends on the ability of engineers to improve the efficiency of fuel extraction and use. It also depends on discovery of new methods to obtain energy from inferior resources at costs which can be borne without unduly depressing the standard of living. Estimates of future needs, in turn, rely heavily on population figures which must always allow for a large element of uncertainty, particularly as man reaches a point where he is more and more able to control his own way of life.

Current estimates of fossil fuel reserves vary to an astonishing degree. In part this is because the results differ greatly if cost of extraction is disregarded or if in calculating how long reserves will last, population growth is not taken into consideration; or, equally important, not enough weight is given to increased fuel consumption required to process inferior or substitute metals. We are rapidly approaching the time when exhaustion of better grade metals will force us to turn to poorer grades requiring in most cases greater expenditure of energy per unit of metal.

But the most significant distinction between optimistic and pessimistic fuel reserve statistics is that the optimists generally speak of the immediate future—the next twenty-five years or so—while the pessimists think in terms of a century from now. A century or even two is a short span in the history of a great people. It seems sensible to me to take a long view, even if this involves facing unpleasant facts.

For it is an unpleasant fact that according to our best estimates, total fossil fuel reserves recoverable at not over twice today's unit cost, are likely to run out at some time between the years 2000 and 2050, if present standards of living and population growth rates are taken into account. Oil and natural gas will disappear first, coal last. There will be coal left in the earth, of course. But it will be so difficult to mine that energy costs would rise to economically intolerable heights, so that it would then become necessary either to discover new energy sources or to lower standards of living drastically.

For more than one hundred years we have stoked ever growing numbers of machines with coal; for fifty years we have pumped gas and oil into our factories, cars, trucks, tractors, ships, planes, and homes without giving a thought to the future. Occasionally the voice of a Cassandra has been raised only to be quickly silenced when a lucky discovery revised estimates of our oil reserves upward, or a new coal field was found in some remote spot. Fewer such lucky discoveries can be expected in the future, especially in industrialized countries where extensive mapping of resources has been done. Yet the popularizers of scientific news would have us believe that there is no cause for anxiety, that reserves will last thousands of years, and that before they run out science will have produced miracles. Our past history and security have given us the sentimental belief that the things we fear will never really happen—that everything turns out right in the end. But, prudent men will reject these tranquilizers and prefer to face the facts so that they can plan intelligently for the needs of their posterity.

Looking into the future, from the mid-20th Century, we cannot feel overly confident that present high standards of living will of a certainty continue through the next century and beyond. Fossil fuel costs will soon definitely begin to rise as the best and most accessible reserves are exhausted, and more effort will be required to obtain the same energy from remaining reserves. It is likely also that liquid fuel synthesized from coal will be more expensive. Can we feel certain that when economically recoverable fossil fuels are gone science will have learned how to maintain a high standard of living on renewable energy sources?

I believe it would be wise to assume that the principal renewable fuel sources which we can expect to tap before fossil reserves run out will supply only 7 to 15 percent of future energy needs. The five most important of these renewable sources are wood fuel, farm wastes, wind, water power, and solar heat.

Wood fuel and farm wastes are dubious as substitutes because of growing food requirements to be anticipated. Land is more likely to be used for food production than for tree crops; farm wastes may be more urgently needed to fertilize the soil than to fuel machines.

Wind and water power can furnish only a very small percentage of our energy needs. Moreover, as with solar energy, expensive structures would be required, making use of land and metals which will also be in short supply. Nor would anything we know today justify putting too much reliance on solar energy though it will probably prove feasible for home heating in favorable localities and for cooking in hot countries which lack wood, such as India.

More promising is the outlook for nuclear fuels. These are not, properly speaking, renewable energy sources, at least not in the present state of technology, but their capacity to "breed" and the very high energy output from small quantities of fissionable material, as well as the fact that such materials are relatively abundant, do seem to put nuclear fuels into a separate category from exhaustible fossil fuels. The disposal of radioactive wastes from nuclear power plants is, however, a problem which must be solved before there can be any widespread use of nuclear power.

Another limit in the use of nuclear power is that we do not know today how to employ it otherwise than in large units to produce electricity or to supply heating. Because of its inherent characteristics, nuclear fuel cannot be used directly in small machines, such as cars, trucks, or tractors. It is doubtful that it could in the foreseeable future furnish economical fuel for civilian airplanes or ships, except very large ones. Rather than nuclear locomotives, it might prove advantageous to move trains by electricity produced in nuclear central stations. We are only at the beginning of nuclear technology, so it is difficult to predict what we may expect.

Transportation—the lifeblood of all technically advanced civilizations—seems to be assured, once we have borne the initial high cost of electrifying railroads and replacing buses with streetcars or interurban electric trains. But, unless science can perform the miracle of synthesizing automobile fuel from some energy source as yet unknown or unless trolley wires power electric automobiles on all streets and highways, it will be wise to face up to the possibility of the ultimate disappearance of automobiles, trucks, buses, and tractors. Before all the oil is gone and hydrogenation of coal for synthetic liquid fuel has come to an end, the cost of automotive fuel may have risen to a point where private cars will be too expensive to run and public transportation again becomes a profitable business.

Today the automobile is the most uneconomical user of energy. Its efficiency is 5 percent compared with 23 percent for the Diesel-electric railway. It is the most ravenous devourer of fossil fuels, accounting for over half of the total oil consumption in this country. And the oil we use in the United States in one year took nature about 14 million years to create. Curiously, the automobile, which is the greatest single cause of the rapid exhaustion of oil reserves, may eventually be the first fuel consumer to suffer. Reduction in automotive use would necessitate an extraordinarily costly reorganization of the pattern of living in industrialized nations, particularly in the United States. It would seem prudent to bear this in mind in future planning of cities and industrial locations.

Our present known reserves of fissionable materials are many times as large as our net economically recoverable reserves of coal. A point will be reached before this century is over when fossil fuel costs will have risen high enough to make nuclear fuels economically competitive. Before that time comes we shall have to make great efforts to raise our entire body of engineering and scientific knowledge to a higher plateau. We must also induce many more young Americans to become metallurgical and nuclear engineers. Else we shall not have the knowledge or the people to build and run the nuclear power plants which ultimately may have to furnish the major part of our energy needs. If we start to plan now, we may be able to achieve the requisite level of scientific and engineering knowledge before our fossil fuel reserves give out, but the margin of safety is not large. This is also based on the assumption that atomic war can be avoided and that population growth will not exceed that now calculated by demographic experts.

War, of course, cancels all man's expectations. Even growing world tension just short of war could have far-reaching effects. In this country it might, on the one hand, lead to greater conservation of domestic fuels, to increased oil imports, and to an acceleration in scientific research which might turn up unexpected new energy sources. On the other hand, the resulting armaments race would deplete metal reserves more rapidly, hastening the day when inferior metals must be utilized with consequent greater expenditure of energy. Underdeveloped nations with fossil fuel deposits might be coerced into withholding them from the free world or may themselves decide to retain them for their own future use. The effect on Europe, which depends on coal and oil imports, would be disastrous and we would have to share our own supplies or lose our allies.

Barring atomic war or unexpected changes in the population curve, we can count on an increase in world population from two and one half billion today to four billion in the year 2000; six to eight billion by 2050. The United States is expected to quadruple its population during the 20th Century—from 75 million in 1900 to 300 million in 2000—and to reach at least 375 million in 2050. This would almost exactly equal India's present population which she supports on just a little under half of our land area.

It is an awesome thing to contemplate a graph of world population growth from prehistoric times—tens of thousands of years ago—to the day after tomorrow—let us say the year 2000 A.D. If we visualize the population curve as a road which starts at sea level and rises in proportion as world population increases, we should see it stretching endlessly, almost level, for 99 percent of the time that man has inhabited the earth. In 6000 B.C., when recorded history begins, the road is running at a height of about 70 feet above sea level, which corresponds to a population of 10 million. Seven thousand years later—in 1000 A.D.—the road has reached an elevation of 1,600 feet; the gradation now becomes steeper, and 600 years later the road is 2,900 feet high. During the short span of the next 400 years—from 1600 to 2000—it suddenly turns sharply upward at an almost perpen-

dicular inclination and goes straight up to an elevation of 29,000 feet—the height of Mt. Everest, the world's tallest mountain.

In the 8,000 years from the beginning of history to the year 2000 A.D. world population will have grown from 10 million to 4 billion, with 90 percent of the growth taking place during the last 5 percent of that period, in 400 years. It took the first 3,000 years of recorded history to accomplish the first doubling of population, 100 years for the last doubling, but the next doubling will require only 50 years. Calculations give us the astonishing estimate that one out of every 20 human beings born into this world is alive today.

The rapidity of population growth has not given us enough time to readjust our thinking. Not much more than a century ago our country—the very spot on which I now stand—was a wilderness in which a pioneer could find complete freedom from men and from government. If things became too crowded—if he saw his neighbor's chimney smoke—he could, and often did, pack up and move west. We began life in 1776 as a nation of less than four million people, spread over a vast continent, with seemingly inexhaustible riches of nature all about. We conserved what was scarce—human labor—and squandered what seemed abundant—natural resources—and we are still doing the same today.

Much of the wilderness which nurtured what is most dynamic in the American character has now been buried under cities, factories, and suburban developments where each picture window looks out on nothing more inspiring than the neighbor's back yard with the smoke of his fire in the wire basket clearly visible.

Life in crowded communities cannot be the same as life on the frontier. We are no longer free, as was the pioneer, to work for our own immediate needs regardless of the future. We are no longer as independent of men and of government as were Americans two or three generations ago. An ever larger share of what we earn must go to solve problems caused by crowded living—bigger governments; bigger city, state, and federal budgets to pay for more public services. Merely to supply us with enough water and to carry away our waste products gets daily more difficult and expensive. More laws and law enforcement agencies are needed to regulate human relations in urban industrial communities and on crowded highways than in the America of Thomas Jefferson.

Certainly no one likes taxes, but we must become reconciled to larger taxes in the larger America of tomorrow.

I suggest that this is a good time to think soberly about our responsibilities to our descendents—those who will ring out the Fossile Fuel Age. Our greatest responsibility, as parents and as citizens, is to give America's youngsters the best possible education. We need the best teachers and enough of them to prepare our young people for a future immeasurably more complex than the present, and calling for ever larger numbers of competent and highly trained men and women. This means that we must not delay building more schools, colleges, and playgrounds. It means that we must reconcile ourselves to continuing higher taxes to build up and maintain at decent salaries a greatly enlarged corps of much better trained teachers, even at the cost of denying ourselves such momentary pleasures as buying a bigger new car, or a TV set, or household gadget. We should find—I believe—that these small self-denials would be far more than offset by the benefits they would buy for tomorrow's America. We might even—if we wanted—give a break to these youngsters by cutting fuel and metal consumption a little here and there so as to provide a safer margin for the necessary adjustments which eventually must be made in a world without fossil fuels.

One final thought I should like to leave with you. High-energy consumption has always been a prerequisite of political power. The tendency is for political power to be concentrated in an ever smaller number of countries. Ultimately, the nation which controls the largest energy resources will become dominant. If we give thought to the problem of energy resources, if we act wisely and in time to conserve what we have and prepare well for necessary future changes, we shall insure this dominant position for our own country.●

GREED OF OUR NATION'S OIL INDUSTRY

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, last week we had one of the earliest snowstorms ever in the Northeast, a chilling portent of what we may face this winter. Just 1 day after this foretaste, the House, by a large majority, voted down an amendment designed to keep heating oil prices affordable this winter.

The majority argued that such a measure would disrupt the normal marketplace and create heating oil shortages. This viewpoint flies in the face of all information available to the House on what has been occurring with heating oil prices.

Quite frankly, the high cost of heating oil is not the result of normal market factors, but is a direct reflection of the greed of our Nation's domestic oil industry. It is a fact, which cannot be countered by oil industry propaganda and slick advertisements, that, if the Department of Energy had not forced the oil giants to increase refining of heating oil products this summer, we would be in a far worse position than we are today. It is a fact, thoroughly documented by the Subcommittee on Antitrust and Restraint of Trade, that the oil companies used this opportunity to keep supplies at the refiner level and not distribute them in a normal fashion to jobbers and individual homes. It is a fact that, during the time of the year when heating oil is normally at its lowest price, there was a 50-percent jump in the cost of heating oil. It is a fact that, of the 27 cents a gallon increase in the price of heating oil, 12 cents was increased profit taking. It is also a fact that this 12 cents is added to the 10 cents a gallon already received by big oil profits on heating oil.

Again, it is a fact that 12 cents is very close to the 14.8 cents a gallon we are forced to pay OPEC in increased oil costs. Not only does 25 percent of every dollar paid to the oil companies for heating oil go to big oil profits, but it is clear that our own domestic oil firms are turning the screws on consumers as badly as is OPEC.

Despite this information, last week's vote in the House was decisively against continued controls on heating oil. This is particularly understandable when we realize that only 18 States consume significant amounts of heating oil and many Members of Congress were not overly concerned or even informed on this particular issue since it did not affect their region or State. However, what is distressing is that many of the votes against this amendment were cast from States reliant on heating oil, where Members were informed.

I am sure some of these Members had very legitimate reasons for opposing this price amendment or were unavailable for the vote, but I am equally sure some Members cast their vote in the negative out of some philosophical feeling that price controls undermine the marketplace principles of capitalism. To those individuals, I would like to say that you are wrong. There is no normal marketplace and true competitive interaction among the oil companies nor among the OPEC nations. The refining and distribution of heating oil is done under near monopolistic conditions.

The oil industry has said, in effect, we will give you heating oil, not as much as you want and not when you want it, but enough to struggle through.

For that privilege you will pay through the nose. By failing to do anything about it, we have capitulated to their demands and surrendered to their terms. The result is that some of our citizens will have to make a choice this winter between eating and heating.

New York State, unlike some others I can think of, is not owned and controlled by big oil. Our citizens did not send us to Washington to continue policies that strip them of their hard-earned money and impose upon them the inflationary burden that comes with unconscionable price gouging by oil companies. I hope in the future, when such issues are considered, we will remember who sent us here and who we work for.●

CONFERENCE REPORT ON H.R. 4394

Mr. BOLAND submitted the following conference report and statement on the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 96-542)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate numbered 12 and 27 to the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes, having met, after further full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 12.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,807,500,000"; and the Senate agree to the same.

EDWARD P. BOLAND,
BOB TRAXLER,
LOUIS STOKES,
TOM BEVILL,
LINDY (MRS. HALE) BOGGS
MARTIN OLAV SABO,
BENNETT M. STEWART,
JAMIE L. WHITTEN,
LARRY COUGHLIN,
JOSEPH M. MCDADE,
C. W. BILL YOUNG,
SILVIO O. CONTE,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN C. STENNIS,
BIRCH BAYH,
WALTER D. HUDDLESTON,
PATRICK J. LEAHY,
JIM SASSER,
JOHN A. DURKIN,
WARREN G. MAGNUSON,
CHARLES MCC. MATHIAS, JR.,
HENRY BELLMON,
LOWELL P. WEICKER, JR.,
PAUL LAXALT,
HARRISON SCHMITT,
MILTON YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report:

TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Amendment No. 12: Deletes language proposed by the Senate appropriating $3,000,000 for the livable cities program.

TITLE II—INDEPENDENT AGENCIES

National Aeronautics and Space Administration

Amendment No. 27: Appropriates $3,807,500,000 for research and development, instead of $3,799,500,000 as proposed by the House and $3,822,500,000 as proposed by the Senate. The conferees agree to the recommendations contained in the report of the House with the following changes:

+$3,000,000 for the variable cycle engine program, and

+$5,000,000 for advanced rotorcraft technology.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for 1980 follows:

New budget (obligational) authority, fiscal year 1979	$70,040,207,000
Budget estimates of new (obligational) authority, fiscal year 1980	[1] 72,815,238,750
House bill, fiscal year 1980	71,963,475,000
Senate bill, fiscal year 1980	71,930,247,000
Conference agreement	71,842,684,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979	+1,802,477,000
Budget estimates of new (obligational) authority, fiscal year 1980	−972,554,750
House bill, fiscal year 1980	−120,791,000
Senate bill, fiscal year 1980	−87,563,000

[1] Includes $92,492,000 of budget estimates not considered by the House.

EDWARD P. BOLAND,
BOB TRAXLER,
LOUIS STOKES,
TOM BEVILL,
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MARTIN OLAV SABO,
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JAMIE L. WHITTEN,
LARRY COUGHLIN,
JOSEPH M. MCDADE,
C. W. BILL YOUNG,
SILVIO O. CONTE,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN C. STENNIS,
BIRCH BAYH,
WALTER D. HUDDLESTON,
PATRICK J. LEAHY,
JIM SASSER,
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HENRY BELLMON,
LOWELL P. WEICKER, JR.,
PAUL LAXALT,
HARRISON SCHMITT,
MILTON YOUNG,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 428

Mr. PRICE submitted the following conference report and statement on the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 96-546)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Department of Defense Authorization Act, 1980".

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1980 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,002,600,000; for the Navy and the Marine Corps, $4,534,900,000; for the Air Force, $7,842,240,000.

MISSILES

For missiles: for the Army, $1,202,900,000; for the Navy, $1,575,100,000; for the Marine Corps, $20,500,000; for the Air Force, $2,263,800,000.

NAVAL VESSELS

For naval vessels: for the Navy, $6,706,800,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,679,000,000; for the Marine Corps, $13,000,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $336,800,000.

OTHER WEAPONS

For other weapons: for the Army, $170,500,000; for the Navy, $153,000,000; for the Marine Corps, $25,200,000.

REPORT ON B-52 AIRCRAFT MODIFICATION PROGRAM

SEC. 102. Of the amount authorized to be appropriated under section 101 for procurement of aircraft for the Air Force, $431,900,000 is authorized for the procurement of avionics and cruise missile integration for the B-52 aircraft modification program subject to the condition that the Secretary of Defense provide to the Congress at the earliest possible date, and not later than November 30, 1979, a report on—

(1) all uncertainties in the effectiveness of the B-52 aircraft as a cruise missile carrier over the next decade, including any degradation of defense penetration capabilities of the B-52 aircraft which could result from possible air defense advances by the Soviet Union; and

(2) the requirement for maintaining the defense penetration capability of the B-52 aircraft and the options available during the next decade to maintain such capability.

AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTION TO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) FOR NATO

SEC. 103. There is authorized to be appropriated for fiscal year 1980 the sum of $243,100,000 to be available only for contribution by the United States of its share of the cost for such fiscal year of the acquisition by the North Atlantic Treaty Organization of the Airborne Early Warning and Control System (AWACS).

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 104. (a) During fiscal year 1980, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;
(B) quality assurance;
(C) codification;
(D) inspection;
(E) contract administration;
(F) acceptance testing;
(G) certification services; and
(H) planning, programming, and management services;

(2) waive any surcharge for administrative services otherwise chargeable; and

(3) in connection with the NATO E-3A Co-

operative Programme for fiscal year 1980, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

(b) Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1980 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,866,461,000, of which $3,000,000 is authorized only for the performance and completion of a feasibility demonstration of launching Heliborne Missiles (HELLFIRE) from UH-60 helicopters.

For the Navy (including the Marine Corps), $4,542,992,000, of which (1) $60,000,000 is authorized only for the continued research, development, test, and evaluation of the 3,000-ton prototype Surface Effect Ship (SES), and (2) $30,000,000 is authorized only for joint Navy/Air Force full-scale engineering development of the Air-to-Ground Standoff Missile system which is to be available for production on or before December 31, 1984.

For the Air Force, $4,994,046,000, of which (1) $670,000,000 is authorized only for the concurrent full-scale engineering development of the missile basing mode known as the Multiple Protective Structure (MPS) system and the MX missile, as provided in section 202 of the Department of Defense Supplemental Appropriation Authorization Act, 1979 (Public Law 96-29), and (2) $30,000,000 is authorized only for the research, development, test, and evaluation required for competitive hardware demonstration of the Strategic Weapons Launcher and a derivative of a military aircraft or a commercial aircraft, in order to establish not later than September 30, 1981, the utility of these aircraft as cruise missile carriers.

For the Defense Agencies, $1,110,618,000, of which $42,500,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

REPORT ON NEW BASING MODE FOR INTERCONTINENTAL BALLISTIC MISSILES

SEC. 202. The Secretary of Defense shall submit to the Congress in writing, not later than March 1, 1980, a report evaluating in detail the ability of the basing mode for land-based intercontinental ballistic missiles known as the Multiple Protective Structure (MPS) system to survive foreseeable attempts by the Soviet Union to neutralize such system.

RESTRICTION ON THE USE OF FUNDS FOR DEVELOPMENT OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM

SEC 203. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

TITLE III—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 301. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1980, as follows:

(1) The Army, 776,700.
(2) The Navy, 528,000.
(3) The Marine Corps, 189,000.
(4) The Air Force, 558,000.

AUTHORIZED STRENGTHS OF RESERVE GENERAL AND FLAG OFFICERS

SEC. 302. (a) Section 3218 of title 10, United States Code, is amended by striking out "and those serving in the National Guard Bureau" and inserting in lieu thereof "those serving in the National Guard Bureau, and those counted under section 3202 of this title".

(b) Section 5457(a) of such title is amended by inserting after "rear admiral" a comma and "exclusive of those counted under section 5442 of this title,".

(c) Section 5458(a) of such title is amended by inserting after "combined" a comma and "exclusive of those counted under section 5443 of this title,".

(d) Section 8218 of such title is amended by striking out "and those serving in the National Guard Bureau" and inserting in lieu thereof "those serving in the National Guard Bureau, and those counted under section 8202 of this title".

ANNUAL OFFICER GRADE DISTRIBUTION REPORT AND PROMOTION PLAN TO BE INCLUDED AS PART OF THE ANNUAL MANPOWER REQUIREMENTS REPORT RATHER THAN AS A SEPARATE REPORT

SEC. 303. (a)(1) Section 686 of title 10, United States Code, providing for an annual officer grade distribution report, is repealed.

(2) The table of sections at the beginning of chapter 39 of such title is amended by striking out the item relating to section 686.

(b) Paragraph (3) of section 138(c) of such title, providing for an annual manpower requirements report, is amended to read as follows:

"(3)(A) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the annual active duty end strength level for each component of the armed forces for the next fiscal year and the annual civilian personnel end strength level for each component of the Department of Defense for the next fiscal year, and shall include in that report justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time. The justification and explanation shall specify in detail for all military forces (including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit) the—

"(i) unit mission and capability;

"(ii) strategy which the unit supports; and

"(iii) area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

"(B) The Secretary of Defense shall also include in the report required under subparagraph (A) a detailed discussion of—

"(i) the manpower required for support and overhead functions within the armed forces and the Department of Defense;

"(ii) the relationship of the manpower required for support and overhead functions to the primary combat missions and support policies; and

"(iii) the manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions.

"(C) In such report, the Secretary of Defense shall also identify, define, and group by mission and by region the types of military bases, installations, and facilities and shall provide an explanation and justification of the relationship between this base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce such costs.

"(D) The Secretary of Defense shall also include in such report with respect to each armed force under the jurisdiction of the Secretary of a military department—

"(i) the estimated requirements in members on active duty during the next fiscal year;

"(ii) the estimated number of commissioned officers in each grade on active duty and to be promoted during the next fiscal year; and

"(iii) an analysis of the distribution by grade of commissioned officers on active duty at the time the report is prepared.".

TITLE IV—RESERVE FORCES

AUTHORIZATION OF STRENGTHS

SEC. 401. (a) For fiscal year 1980, the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 355,700.
(2) The Army Reserve, 197,400.
(3) The Naval Reserve, 87,000.
(4) The Marine Corps Reserve, 33,600.
(5) The Air National Guard of the United States, 92,500.
(6) The Air Force Reserve, 57,300.
(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths prescribed by subsection (a), the reserve components of the Armed Forces are authorized, as of September 30, 1980, the following number of Reserves to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 6,244.
(2) The Army Reserve, 4,288.
(3) The Naval Reserve, 707.
(4) The Marine Corps Reserve, 67.
(5) The Air National Guard of the United States, 1,560.
(6) The Air Force Reserve, 681.

(c) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

AMENDMENTS TO SELECTED RESERVE EDUCATIONAL ASSISTANCE PROGRAM

SEC. 402. (a) Section 2131(b)(1) of title 10, United States Code, is amended by striking out "50 percent" and inserting in lieu thereof "100 percent".

(b) Section 2133(b) of such title is amended to read as follows:

"(b)(1) A member who fails to participate satisfactorily in training with his unit, if he is a member of a unit, during a term of enlistment for which the member entered into an agreement under section 2132(a)(4) of this title shall refund an amount computed under paragraph (2) unless the failure to participate in training was due to reasons beyond the control of the member. Any refund by a member under this section shall not affect the period of obligation of such member to serve as a Reserve.

"(2) The amount of any refund under paragraph (1) shall be the amount equal to the product of—

"(A) the number of months of obligated service remaining during that term of enlistment divided by the total number of months of obligated service of that term of enlistment; and

"(B) the total amount of educational assistance provided to the member under section 2131 of this title.".

(c) The amendments made by this section shall apply only to individuals enlisting in the Reserves after September 30, 1979.

DISCRETIONARY AUTHORITY OF SECRETARY CONCERNED TO RETAIN CERTAIN RESERVE OFFICERS ON ACTIVE DUTY UNTIL AGE 60

SEC. 403. (a) Section 3855 of title 10, United States Code, is amended by inserting "Veterinary Corps," after "Dental Corps,".

(b) Section 8855 of such title is amended by inserting "veterinary officer," after "dental officer,".

REPEAL OF AUTHORITY FOR ADDITIONAL PAY FOR PERFORMANCE OF ADMINISTRATIVE FUNCTIONS BY OFFICERS OF THE NATIONAL GUARD AND RESERVE COMPONENTS

SEC. 404. (a)(1) Section 309 of title 37, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking out the item relating to section 309.

(b) The amendments made by this section shall apply only with respect to administrative functions performed after September 30, 1980.

TITLE V—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 501. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1980, of 963,600.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program, and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

(e) During fiscal year 1980, the Secretary of Defense shall manage the manpower resources of the Department of Defense in a manner that will insure that those functions of the Department of Defense involving maintenance, construction, engineering acquisition, or repair activities will be provided civilian manpower resources sufficient to fulfill the work requirements for which funds have been appropriated on a schedule consistent with the requirements of national security and military readiness.

TITLE VI—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOANS

SEC. 601. (a) For fiscal year 1980, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 54,865.
(2) The Navy, 61,913.
(3) The Marine Corps, 22,618.
(4) The Air Force, 43,249.
(5) The Army National Guard of the United States, 7,985.
(6) The Army Reserve, 4,772.
(7) The Naval Reserve, 906.
(8) The Marine Corps Reserve, 3,156.
(9) The Air National Guard of the United States, 1,958.
(10) The Air Force Reserve, 1,276.

(b) In addition to the number authorized for the Army, the Army National Guard of the United States, and the Army Reserve in subsection (a), such components are authorized military training student loads of not less than the following numbers to be utilized solely for one station unit training:

(1) The Army, 19,603.
(2) The Army National Guard of the United States, 6,631.
(3) The Army Reserve, 1,556.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) for fiscal year 1980 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

TITLE VII—CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There is authorized to be appropriated for fiscal year 1980 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) the sum of $106,800,000.

INCREASE IN AMOUNTS THAT MAY BE APPROPRIATED FOR CONTRIBUTIONS TO STATES FOR PERSONNEL AND ADMINISTRATIVE EXPENSES

SEC. 702. The last proviso of section 406 of the Civil Defense Act of 1950 (50 U.S.C. App. 2260) is amended by striking out everything after the last semicolon and inserting in lieu thereof "and appropriations for contributions to the States for personnel and administrative expenses under section 205 shall not exceed $40,000,000 per annum.".

TITLE VIII—GENERAL PROVISIONS

AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE

SEC. 801. (a) Section 802 of title 10, United States Code (article 2 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before "The" at the beginning of such section; and

(2) by adding at the end thereof the following new subsections:

"(b) The voluntary enlistment of any person who has the capacity to understand the significance of enlisting in the armed forces shall be valid for purposes of jurisdiction under subsection (a) of this section and a change of status from civilian to member of the armed forces shall be effective upon the taking of the oath of enlistment.

"(c) Notwithstanding any other provision of law, a person serving with an armed force who—

"(1) submitted voluntary to military authority;

"(2) met the mental competency and minimum age qualifications of sections 504 and 505 of this title at the time of voluntary submission to military authority;

"(3) received military pay or allowances; and

"(4) performed military duties;

is subject to this chapter until such person's active service has been terminated in accordance with law or regulations promulgated by the Secretary concerned.".

(b) Section 836(a) of such title (article 36(a) of the Uniform Code of Military Justice) is amended by striking out "The procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals" and inserting in lieu thereof "Pretrial, trial, and post-trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial, military commissions and other military tribunals, and procedures for courts of inquiry,".

WAIVER OF APPLICABILITY OF OMB CIRCULAR A-76 TO CONTRACTING OUT OF CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

SEC. 802. (a) Except as provided in subsection (b), neither the implementing instructions for, nor the provisions of, Office of Management and Budget Circular A-76 (issued on August 30, 1967, and reissued on October 16, 1976, June 13, 1977, and March 29, 1979) shall control or be used for policy guidance for the obligation or expenditure of any funds which under section 138(a)(2) of title 10, United States Code, are required to be specifically authorized by law.

(b) Funds which under section 138(a)(2) of title 10, United States Code, are required to be specifically authorized by law may be obligated or expended for operation or support of installations or equipment used for research and development (including maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft and ships) in compliance with the implementing instructions for and the provisions of such Office of Management and Budget Circular.

(c) No law enacted after the date of the enactment of this Act shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.

AMENDMENTS RELATING TO THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

SEC. 803. (a) Section 2112(b) of title 10, United States Code, is amended by adding at the end thereof the following new sen-

tance: "In so prescribing the number of persons to be graduated from the University, the Secretary of Defense shall, upon recommendation of the Board of Regents, institute actions necessary to ensure the maximum number of first-year enrollments in the University consistent with the academic capacity of the University and the needs of the uniformed services for medical personnel."

(b) Section 2114(b) of such title is amended by striking out "uniform" in the first sentence of such section and inserting in lieu thereof "uniformed".

(c)(1) The first two sentences of section 2115 of such title are amended to read as follows: "The Secretary of Defense may allow not more than 20 percent of the graduates of each class at the University to perform civilian Federal service for not less than seven years following the completion of their professional education in lieu of active duty in a uniformed service if the needs of the uniformed services do not require that such graduates perform active duty in a uniformed service and as long as the Secretary of Defense does not recall such persons to active duty in the uniformed services. Such persons who execute an agreement in writing to perform such civilian Federal service may be released from active duty following the completion of their professional education.".

(2) The section heading of such section is amended to read as follows:

"§ 2115. Graduates: limitation on number permitted to perform civilian Federal service".

(3) The item relating to section 2115 in the table of sections at the beginning of chapter 104 of such title is amended to read as follows:

"2115. Graduates: limitation on number permitted to perform civilian Federal service.".

AMENDMENTS RELATING TO COMPENSATION OF HEALTH PROFESSIONALS

SEC. 804. (a) Section 2121(d) of title 10, United States Code, relating to stipends for members of the Armed Forces Health Professions Scholarship program, is amended to read as follows:

"(d) Except when serving on active duty pursuant to subsection (c), a member of the program shall be entitled to a stipend at the rate in effect under paragraph (1)(B) of section 751(g) of the Public Health Service Act (42 U.S.C. 294t(g)) for students in the National Health Service Corps Scholarship program.".

(b) Section 313(a) of title 37, United States Code, relating to special pay for medical officers who execute active duty agreements, is amended—

(1) by striking out clause (4) and redesignating clauses (5) and (6) as clauses (4) and (5), respectively; and

(2) by inserting after the first sentence of such subsection the following new sentence: "However, while serving an active duty obligation resulting from a medical education program leading to appointment or designation as a medical officer, such an officer shall be paid $9,000 (rather than an amount determined under the preceding sentence) for each year of the active duty agreement.".

(c) The amendments made by this section shall take effect on October 1, 1979.

SIX-YEAR SERVICE OBLIGATION FOR PERSONS ENLISTING AFTER AGE 24

SEC. 805. (a) Section 511(d) of title 10, United States Code, is amended—

(1) by striking out "who is under 26 years of age,"; and

(2) by striking out the comma after "in an armed force".

(b) Section 561 of such title is amended by striking out "before his twenty-sixth birthday".

(c) The amendments made by this section shall apply only to individuals who become members of an Armed Force after the date of the enactment of this Act.

RESTRICTION ON CONVERTING PERFORMANCE OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS FROM DEPARTMENT OF DEFENSE PERSONNEL TO PRIVATE CONTRACTORS

SEC. 806. (a) During fiscal year 1980, no commercial or industrial type function of the Department of Defense that on the date of the enactment of this Act is being performed by Department of Defense personnel may be converted to performance by a private contractor—

(1) to circumvent any civilian personnel ceiling; and

(2) unless the Secretary of Defense shall provide to the Congress in a timely manner—

(A) notification of any decision to study such commercial or industrial type function for possible performance by a private contractor, together with a certification that the government in-house cost calculation for the function is based on an estimate of the most efficient and cost effective organization for in-house performance;

(B) if a decision is made to convert to contract performance, upon completing the study described in subparagraph (A) and before contracting for the performance of such function by a private contractor, a report showing—

(i) the potential economic effect on employees affected, and the potential economic effect on the local community and Federal Government if more than 50 employees are involved, of contracting for performance of such function;

(ii) the effect of contracting for performance of such function on the military mission of such function; and

(iii) the amount of the bid accepted for the performance of such function by the private contractor whose bid is accepted and the cost of performance of such function by Department of Defense personnel, together with costs and expenditures which the Government will incur because of the contract.

(b) The Secretary of Defense shall submit a written report to the Congress by February 1, 1980, describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors during fiscal year 1979. The Secretary shall also include in such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense personnel and the percentage of such functions that will be performed by private contractors during fiscal year 1980.

ADVANCE PAYMENT OF STATION HOUSING ALLOWANCES FOR MEMBERS OF THE UNIFORMED SERVICES ASSIGNED OVERSEAS

SEC. 807. (a) Section 405 of title 37, United States Code, relating to allowances for members on duty outside the United States or in Alaska or Hawaii, is amended by inserting after the third sentence in such section the following new sentence: "A station housing allowance prescribed under this section may be paid in advance.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

ANNUAL REPORT ON NATO READINESS

SEC. 808. (a) Each year the Secretary of Defense shall assess, and make findings with respect to, the readiness status of the military forces of the North Atlantic Treaty Organization and shall submit a report of such assessment and findings to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives on the same date that the President transmits to the Congress the Budget. The first such report shall be submitted on the date the Budget for fiscal year 1981 is transmitted.

(b) The annual assessment by the Secretary of Defense under subsection (a) shall include the assessment and findings of the Secretary of Defense with respect to—

(1) deficiencies in the readiness of the North Atlantic Treaty Organization (including an analysis of such deficiencies in each member nation of the North Atlantic Treaty Organization) with respect to—

(A) war reserve stocks;

(B) command control, and communications systems (including the susceptibility of such systems to degradation by potential overt activities of the Warsaw Pact);

(C) electronic warfare capabilities;

(D) offensive and defensive chemical warfare capabilities;

(E) air defense capabilities (including ground and air systems and the integration of ground systems with air systems);

(F) armor and anti-armor capabilities;

(G) firepower capabilities;

(H) forward deployed units and the proximity of such units to assigned general defensive positions;

(I) the availability of ammunition;

(J) the availability, responsiveness, and overall effectiveness of reserve forces;

(K) airlift capabilities to meet reinforcement and resupply requirements;

(L) the ability to protect, cross-service, and stage air assets from allied air fields;

(M) the maritime force capabilities (including sealift, minelaying, and minesweeping capabilities);

(N) logistical support arrangements (including the availability of ports, air fields, transportation, and host nation support);

(O) training (including the availability of the facilities and equipment needed to conduct realistic operational exercises); and

(P) the compatibility of operational doctrine and procedures among armed forces of the member nations;

(2) planned corrections in the identified readiness deficiencies of the United States with respect to the North Atlantic Treaty Organization and that portion of the Budget transmitted to the Congress by the President on the date such report is transmitted which is allocated for such corrections; and

(3) commitments made by other member nations of the North Atlantic Treaty Organization to correct readiness deficiencies of such nations (including any deficiencies of such nations in the items listed in paragraph (1)) and an identification of particular improvements to be made in readiness by weapons system, program, or activity.

QUARTERLY SELECTED ACQUISITION REPORTS TO CONGRESS

SEC. 809. Section 811(a) of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 89 Stat. 539) is amended to read as follows:

"(a) Beginning with the quarter ending December 31, 1979, the Secretary of Defense shall submit quarterly to the Congress written selected acquisition reports for those major defense systems which are estimated to require a total cumulative financing for research, development, test, and evaluation in excess of $75,000,000 or a cumulative production investment in excess of $300,000,000. The report for the quarter ending on December 31 of any fiscal year shall be submitted within 20 days after the President transmits the Budget to the Congress for the following fiscal year, and the reports for the other three quarters of any fiscal year shall be submitted within 30 days after the end of the quarter. If a preliminary report is submitted for any quarter, then the final report for such quarter shall be submitted to the Congress within 15 days after the submission of such preliminary report.".

AUTHORIZATION OF APPROPRIATIONS FOR ASSISTANCE FOR 1980 OLYMPIC WINTER GAMES

SEC. 810. There is authorized to be appropriated to the Secretary of Defense for fiscal year 1980 an amount not to exceed $10,000,000 for the purpose of providing assistance for the 1980 Olympic winter games, as authorized by section 816(a) of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 92 Stat. 1636). Ex-

cept for funds used for pay and nontravel related allowances of members of the Armed Forces, no funds may be obligated or expended for the purpose of carrying out such section unless specifically appropriated for such purpose. The costs for pay and nontravel related allowances of members of the Armed Forces may not be charged to appropriations made pursuant to this authorization.

PRESIDENTIAL RECOMMENDATIONS FOR SELECTIVE SERVICE REFORM

SEC. 811. (a) The President shall prepare and transmit to the Congress a plan for a fair and equitable reform of the existing law providing for registration and induction of persons for training and service in the Armed Forces. Such plan shall include recommendations with respect to—

(1) the desirability and feasibility of resuming registration under the Military Selective Service Act as in existence on the date of the enactment of this Act;

(2) the desirability and feasibility of establishing a method of automatically registering persons under the Military Selective Service Act through a centralized, automated system using existing records, together with a discussion of the impact of such method, or of alternative methods of establishing such a registration system, on privacy rights under the Constitution and under statutes protecting such rights (including section 552a of title 5, United States Code, commonly referred to as the "Privacy Act") and any proposal for reform of such Privacy Act or other statutes, relevant court decisions relating to Selective Service procedures, and the impact of such alternative methods on other constitutional issues;

(3) the desirability of the enactment of authority for the President to induct persons registered under such Act for training and service in the Armed Forces during any period with respect to which the President determines that such authority is required in the interest of the national defense;

(4) whether women should be subject to registration under such Act and to induction for training and service in the Armed Forces under such Act;

(5) the desirability and feasibility of providing authority for the President to induct persons into the Individual Ready Reserve;

(6) whether persons registered under such Act should also be immediately classified and examined or whether classification and examination of registrants should be subject to the discretion of the President;

(7) such changes in the organization and operation of the Selective Service System as the President determines are necessary to enable the Selective Service System to meet the personnel requirements of the Armed Forces during a mobilization in a more efficient and expeditious manner than is presently possible;

(8) the desirability, in the interest of preserving discipline and morale in the Armed Forces, of establishing a national youth service program permitting volunteer work, for either public or private public service agencies, as an alternative to military service;

(9) such other changes in existing law relating to registration, classification, selection, and induction as the President considers appropriate; and

(10) other possible procedures that could be established to enable the Armed Forces to meet their personnel requirements.

(b) The President shall transmit with the plan required by subsection (a) proposals for such legislation as may be necessary to implement the plan and to revise and modernize the Military Selective Service Act.

(c) The plan required by subsection (a), together with the proposed legislation required by subsection (b), shall be transmitted to the Congress not later than January 15, 1980, or the end of the three-month period beginning on the date of the enactment of this Act, whichever is later.

PRESERVATION OF SELECTIVE SERVICE SYSTEM AS AN INDEPENDENT AGENCY

SEC. 812. Section 1 of the Military Selective Service Act (50 U.S.C. App. 451) is amended by adding at the end thereof the following new subsection:

"(f) The Congress further declares that the Selective Service System should remain administratively independent of any other agency, including the Department of Defense.".

STUDY OF TITAN II MISSILE SYSTEMS

SEC. 813. The Secretary of the Air Force shall conduct an investigation of Titan II missile systems located within the United States to assess the physical condition of those facilities and components thereof as well as relevant maintenance procedures. Not later than 180 days after the date of the enactment of this Act, the findings of that investigation, along with recommendations for any needed physical or procedural improvements to protect the public safety (including the safety of military personnel assigned to those systems) shall be reported to the Committees on Armed Services of the Senate and House of Representatives.

LIMITATION ON OVERSEAS TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS

SEC. 814. Section 406 of title 37, United States Code, relating to travel and transportation allowances for dependents, is amended—

(1) by striking out "A" at the beginning of subsection (a) of such section and inserting in lieu thereof "Except as provided in subsection (i) of this section, a";

(2) by striking out "In" at the beginning of subsection (h) of such section and inserting in lieu thereof "Except as provided in subsection (i) of this section, in"; and

(3) by adding at the end of such section the following new subsection:

"(i)(1) After September 30, 1980, and except as provided in paragraph (3) of this subsection, the allowance and transportation authorized by subsection (a) and subsection (h) of this section for travel and transportation of dependents may not be provided with respect to travel and transportation of any dependent of a member of the Army, Navy, Air Force, or Marine Corps from any place inside the United States to any place outside the United States, or from any place outside the United States to any place inside the United States, during any period in which the number of dependents accompanying members of the Army, Navy, Air Force, and Marine Corps who are stationed outside the United States and who are authorized by the Secretary concerned to receive such allowance or transportation for dependents exceeds 325,000.

"(2)(A) The Secretary of Defense shall allocate among the three military departments the limitation established by paragraph (1) with respect to the total number of dependents who may be accompanying members of the Army, Navy, Air Force, and Marine Corps stationed overseas who are entitled under subsection (a) or (h) to travel and transportation for dependents before the allowance for such travel and transportation is suspended under such paragraph.

"(B) The Secretary of each military department, in his discretion, shall administer the limitation on the number of dependents who may be provided travel and transportation under subsections (a) and (h) allocated to his military department under subparagraph (A) in such manner as the Secretary considers to be fair and in the best interest of the United States.

"(3) Paragraph (1) does not prohibit the provision of travel and transportation under subsection (a) or subsection (h) of this section for travel and transportation of dependents from a place outside the United States to a place inside the United States if the travel and transportation of such dependents to such place outside the United States was authorized under subsection (a) or subsection (h) of this section at the time of the travel and transportation of such dependents to such place outside the United States.".

PURCHASES OF GASOHOL AS A FUEL FOR MOTOR VEHICLES

SEC. 815. To the maximum extent feasible and consistent with overall defense needs and sound vehicle management practices, as determined by the Secretary of Defense, the Department of Defense is authorized and directed to enter into contracts by competitive bid, subject to appropriations, for the purchase of domestically produced alcohol or alcohol-gasoline blends containing at least 10 percent domestically produced alcohol for use in motor vehicles owned or operated by the Department of Defense.

EXTENSION OF PERIOD FOR CERTAIN RESERVISTS TO ELECT COVERAGE UNDER SURVIVOR BENEFIT PLAN

SEC. 816. Section 208 of the Uniformed Services Survivors' Benefits Amendments of 1978 (Public Law 95-397; 10 U.S.C. 1447 note) is amended—

(1) by striking out "the end of the nine-month period beginning on the effective date of this title" and inserting in lieu thereof "January 1, 1980"; and

(2) by striking out "at the end of the one-year period beginning on the effective date of this title" and inserting in lieu thereof "on March 31, 1980".

EXTENSION OF PERIOD FOR REDUCTION IN NUMBER OF SENIOR-GRADE CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE

SEC. 817. Paragraphs (1) and (2) of section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (10 U.S.C. 131 note), are amended to read as follows:

"(1) After October 1, 1980, the total number of commissioned officers on active duty in the Army, Air Force, and Marine Corps above the grade of colonel, and on active duty in the Navy above the grade of captain, may not exceed 1,073.

"(2) After September 30, 1981, the total number of civilian employees of the Department of Defense in grades GS-13 through GS-18 (including positions authorized under section 1581 of title 10, United States Code) may not exceed the number equal to the number of such employees employed by the Department of Defense on July 30, 1977, reduced by the same percentage as the percentage by which the total number of commissioned officers on active duty in the Army, Air Force, and Marine Corps above the grade of colonel, and on active duty in the Navy above the grade of captain, is reduced below 1,141 during the period beginning on October 1, 1977, and ending on September 30, 1980.".

SENSE OF CONGRESS CONCERNING IMPORTATION OF STRATEGIC AND CRITICAL MATERIALS FROM ZIMBABWE-RHODESIA

SEC. 818. It is the sense of the Congress that the United States should have unlimited access to strategic and critical materials which are vital to the defense and security of the United States and that every effort should be made to remove artificial impediments against the importation of such materials into the United States from Zimbabwe-Rhodesia.

REPORTING REQUIREMENT REGARDING SALARIES OF OFFICERS OF FEDERAL CONTRACT RESEARCH CENTERS

SEC. 819. (a)(1) Chapter 139 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2359. Salaries of officers of Federal contract research centers: reports to Congress

"The Secretary of Defense shall notify the Congress not later than January 31 of each year of any officer or employee of a Federal contract research center the amount of whose compensation paid out of Federal funds during the preceding calendar year exceeded the annual rate of basic pay authorized (without regard to any limitation on the payment of such pay) for level II of the Executive Schedule under section 5313 of title 5 on the last day of such year. Such notification shall include a detailed statement of the reasons for the payment of such amount of compensation to each such officer or employee.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2359. Salaries of officers of Federal contract research centers: reports to Congress.".

(b) The first notification under section 2359 of title 10, United States Code, as added by subsection (a), shall be made not later than January 31, 1980.

(c) Section 407 of Public Law 91–121 (83 Stat. 208; 10 U.S.C. 2358 note) is repealed.

TECHNICAL AMENDMENTS TO TITLES 5 AND 10, UNITED STATES CODE, TO REFLECT CHANGES MADE BY THE DEPARTMENT OF DEFENSE REORGANIZATION ORDER OF MARCH 7, 1978

SEC. 820. (a) Section 136(a) of title 10, United States Code, relating to the Assistant Secretaries of Defense, is amended by striking out "nine" and inserting in lieu thereof "seven".

(b) Section 3013 of such title, relating to the Under Secretary and Assistant Secretaries of the Army, is amended by striking out "five" and inserting in lieu thereof "four".

(c) Section 5034(a) of such title, relating to the Assistant Secretaries of the Navy, is amended by striking out "four" and inserting in lieu thereof "three".

(d) Section 8013 of such title, relating to the Under Secretary and Assistant Secretaries of the Air Force, is amended by striking out "four" and inserting in lieu thereof "three".

(e)(1) Paragraphs (13), (14), (15), and (16) of section 5315 of title 5, United States Code, relating to positions at level IV of the Executive Schedule, are amended to read as follows:

"(13) Assistant Secretaries of Defense (7).

"(14) Assistant Secretaries of the Air Force (3).

"(15) Assistant Secretaries of the Army (4).

"(16) Assistant Secretaries of the Navy (3).".

(2) Paragraph (96) of section 5316 of such title, relating to positions at level V of the Executive Schedule, is amended to read as follows:

"(96) Deputy Under Secretaries of Defense for Research and Engineering, Department of Defense (4).".

CORRECTION OF ERRONEOUS SECTION DESIGNATION

SEC. 821. (a) The last section in chapter 49 of title 10, United States Code, relating to military unions (as added by Public Law 95–610; 92 Stat. 3085), is redesignated as section 975.

(b) The item relating to such section in the table of sections at the beginning of such chapter is amended by striking out "975" and inserting in lieu thereof "976".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL S. STRATTON,
RICHARD ICHORD,
LUCIEN N. NEDZI,
CHAS. H. WILSON,
RICHARD C. WHITE,
BILL NICHOLS,
BOB WILSON,
WILLIAM L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE,
ED BEARD,

When difference regarding intelligence related activities are under consideration only:

BILL D. BURLISON,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
EDWARD P. BOLAND,
J. K. ROBINSON,

Managers on the Part of the House.

JOHN C. STENNIS,
H. M. JACKSON,
HARRY F. BYRD, JR.,
SAM NUNN,
JOHN CULVER,
GARY HART,
JOHN TOWER,
STROM THURMOND,
JOHN WARNER,
GORDON HUMPHREY,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—PROCUREMENT

AIRCRAFT

ARMY

C–12 (Huron)

The budget, as submitted, contained no request for C–12A aircraft. The House added $22.5 million for 20 C–12A aircraft. The Senate bill contained no authorization for C–12A's.

Conferees reached an agreement to authorize $13.7 million for 10 C–12A aircraft.

AH–1S (Cobra-Tow) helicopter

This aircraft was not requested in the fiscal year 1980 budget. However, the House amendment contained $66.3 million for procurement and $1.7 million for spare parts for 34 helicopters for the National Guard.

The Senate bill did not authorize any AH–1S's.

The conferees agreed to authorize 15 AH–1S helicopters in the amount of $29.5 million plus $500,000 for spares.

Modification of aircraft (Guardrail V)

In the fiscal year 1980 Defense Department request of $2.4 million for modifying the RU–21 aircraft there were no funds for the new Guardrail V system. The House amendment contained $14.9 million for this modification, including $12.5 million for Guardrail V. The Senate bill contained $2.4 million for the RU–21 modification.

The Senate recedes.

NAVY

A–6E (Intruder)

The budget submission included a request for $56.7 million to procure airframe, avionics and engine peculiar ground support and $12.4 million for spares for the A–6E aircraft. No aircraft procurement was requested. The Senate bill added $88.9 million to the $56.7 million request, for a total of $145.6 million, to procure six aircraft in fiscal year 1980. The House amendment authorized the amount requested. The conferees agreed to an authorization of $145.6 million to procure six aircraft in fiscal year 1980.

The House recedes.

F–14A (Tomcat)

The budget request was for $464.7 million for 24 aircraft plus $115.7 million for advance procurement for 24 aircraft in fiscal year 1981. In addition, $58.0 million was requested for spares and repair parts for 24 aircraft.

The Senate bill approved authorization in the amounts requested. The House amendment provided authorization of $640.2 million to procure 36 aircraft in fiscal year 1980, $157.2 million to provide long-lead items for the procurement of 36 aircraft in fiscal year 1981, and $76.1 million for spares and repair parts.

The conferees agreed to authorization of $569.5 million to procure 30 aircraft in fiscal year 1980, $126.5 million for long-lead procurement for 30 aircraft in fiscal year 1981, and $67.0 million for spares and repair parts for 30 aircraft.

F/A–18 (Hornet)

The Senate bill provided for authorization of $926.1 million to procure 25 aircraft (plus spares for 10 aircraft above the request) in fiscal year 1980 and $91.5 million for advance procurement for 48 aircraft in fiscal year 1981. The House amendment provided for authorizations of $955.4 million for 30 aircraft in fiscal year 1980 and $147.9 million for the advance procurement for 72 aircraft in fiscal year 1981. The Senate bill authorized $60.7 million for spares and repair parts while the House amendment provided for $109.3 million.

The conferees agreed to authorization of $890.0 million to procure 25 aircraft in fiscal year 1980 and $130.1 million which will provide for the procurement of long-lead items for 72 aircraft in fiscal year 1981. The conferees also agreed to an authorization of $96.8 million for spares and repair parts.

The conferees further agreed to the following statement concerning the use of advance procurement funds for the F/A–18 which could not be included as bill language under the rules of the House.

Authorization for advance procurement of items and services for F/A–18 aircraft

Of the amount authorized to be appropriated under section 101 for the procurement of aircraft for the Navy and Marine Corps,

$130,100,000 shall be available only for the advance procurement of long-lead items for 72 F/A–18 aircraft during fiscal year 1981, and the Secretary of Defense shall contract for items and services required for such advance procurement on a termination liability basis.

This method of contracting and budgeting reduces the funding needed prior to the procurement authorization of full funding of the aircraft, and more accurately represents the manufacturing effort actually incurred during the advance procurement period.

The House recedes.

P–3C (Orion)

The budget request was for $259.6 million to procure 12 aircraft in fiscal year 1980 plus $58.3 million for advance procurement items for 12 aircraft in fiscal year 1981. The Senate bill approved the amount requested for procurement in fiscal year 1980 and reduced the amount requested for advance procurement by $16 million, providing an authorization of $42.3 million. The House amendment authorized the amounts requested.

The conferees agreed to a net reduction in P–3C procurement of $12.3 million of which $4.0 million is apportioned to the procurement of fiscal year 1980 aircraft and $8.3 million is apportioned to advance procurement for fiscal year 1981. Authorizations of $255.6 million and $50.0 million, respectively, are approved.

C–9B (Skytrain)

No authorization was requested for C–9B procurement in fiscal year 1980. The Senate bill contained no authorization. The House amendment provided authorization of $73.8 million to procure five aircraft and $7.4 million for spares and repair parts.

The conferees agreed to authorize $29.5 million for two aircraft and $1.5 million for spares and repair parts.

Modification of aircraft (Navy)

The budget request included $781.4 million for the modification of Navy aircraft. The Senate bill provided an authorization of $781.1 million, a reduction of $300,000 relating to modifications of the C–9B aircraft. The House amendment provided for a general reduction of $100.0 million and an authorization of $681.4 million.

The conferees agreed to authorize $726.1 million for Navy aircraft modifications.

AIR FORCE

A–7K (Corsair)

There were no A–7K aircraft requested in the fiscal year 1980 Air Force budget; however, the House amendment contained an addition of $135.5 million in authorization for the procurement of 12 A–7K two-place trainer aircraft for the Air National Guard. This amount included $123.35 million for procurement. $3.65 million in advance procurement and $8.5 million in spares. The Senate bill contained $149.2 million for the same 12 A–7K aircraft.

Conferees agreed to authorize $123.35 million for 12 A–7K's and $8.5 million for spares. The $3.65 million in advance procurement contained in the House bill was deleted.

E–3A (airborne warning and control system (AWACS))

Although the Senate authorized three E–3A Airborne Warning and Control System (AWACS) aircraft requested for fiscal year 1980, it deleted $68 million requested for advance procurement for three AWACS planned in fiscal year 1981. The House amendment contained the $68 million requested in advance procurement as well as authorization of the three E–3A's requested.

During conference, the Senate conferees pointed out that the AWACS program had been restructured and the Air Force planned to buy only two E–3A's in fiscal year 1981, two in fiscal year 1982 and two in fiscal year 1983 instead of three aircraft in fiscal year 1981 and three in fiscal year 1982. Therefore, only $55 million would be needed for advance procurement authorization for fiscal year 1981 and the conferees agreed to that amount.

C–130H (Hercules)

The Air Force budget submission did not contain a request for C–130H aircraft. The House added $77.22 million for procurement of eight aircraft and $2.47 million for spares for a total authorization of $79.69 million. The Senate bill contained a total of $79.0 million for eight C–130H aircraft.

The conferees agreed to $79.69 million in authorization, as provided in the House amendment, for eight C–130H aircraft and spares.

The Senate recedes.

Modification of aircraft

The budget request contained $1,575.1 million for the modification of Air Force aircraft. The Senate bill provided an authorization of $1,590.1 million, with the addition of $15 million for reengining the KC–135 tanker aircraft. The House amendment provided an authorization of $1,495.1 million, a net reduction of $80.0 million after the addition of $67.0 million for EF–111 electronic countermeasures modification and $15.0 million for reengining the KC–135 aircraft and the imposition of a general reduction of $182.0 million.

The conferees agreed to authorization of $1,637.9 million for Air Force aircraft modifications including the addition of $15.0 million for KC–135 reengining and $47.8 million for EF–111 electronic countermeasures modifications.

General reduction

The House amendment reduced the authorization for the Air Force aircraft modification account by $182 million as a general reduction. The Senate bill made no similar reduction.

The conferees agreed to a general reduction in the aircraft procurement account of $100 million to be distributed at the discretion of the Air Force with the exception that *no* reduction is to be taken against the KC–135 reengining modification account.

MISSILES

ARMY

Hawk

The House amendment authorized $71.9 million for procurement of 397 Hawk missiles and replacement rocket motors. The Senate bill authorized $36.5 million for procurement of 197 missiles.

The House recedes.

Roland

The House amendment authorized no funds for procurement of the Roland missile system. The Senate bill authorized $283.3 million for procurement of 18 fire units and 410 missiles.

The House recedes.

Patriot

The House amendment authorized $396 million for procurement of 5 fire units and 155 missiles. The Senate bill authorized $426 million.

The Senate recedes.

Stinger

The House amendment authorized $106 million for procurement of 3,200 missiles. The Senate bill authorized $81 million for procurement of 2,400 missiles.

The House recedes.

TOW

The House amendment authorized $28.7 million for procurement of 6,260 missiles. The Senate bill authorized $13 million for procurement of 2,060 missiles.

The Senate recedes.

Pershing IA

The House amendment authorized no funds for procurement of Pershing IA missiles. The Senate bill authorized $70.6 million.

The Senate recedes.

Chaparral modifications

The House amendment authorized $20.1 million for Chaparral modifications, including $12 million to expedite the fielding of the Forward Looking Infrared (FLIR) modifications. The Senate bill authorized $16.1 million.

The Senate recedes.

Hawk modifications

The House amendment authorized $103.3 million for Hawk modifications. The Senate bill authorized $44.1 million.

The conferees agreed to authorize $64.9 million for Hawk modifications, including $26.7 million to complete procurement of the tracker adjunct system; $4 million for procurement of passive decoy sets; and $10 million for Hawk mobility improvements.

Spares and repair parts

The House amendment authorized $128.9 million for missile spares and repair parts. The Senate bill authorized $117.5 million.

The House recedes.

Defense acquisition radar

The House amendment authorized $29.7 million for procurement of 9 Defense Acquisition Radars. The Senate bill contained no authorization for this radar.

The Senate recedes.

Other financing

The House amendment reduced the fiscal year 1980 missile request by $65 million based upon the assumption that termination of the Roland program would make this amount in the fiscal year 1979 Roland appropriation available for financing the 1980 Army missile program.

The Senate bill contained no such financing adjustment, since the Senate bill continued the authorization for the Roland.

The conferees agreed to continue the procurement of the Roland system, and therefore, the House recedes.

NAVY

BGM–109 Tomahawk

The Department of Defense requested no authorization for procurement of either the land-attack or anti-ship versions of the Tomahawk missile. An authorization of $3.3 million was requested for long-lead items for 24 anti-ship missiles to be procured in fiscal year 1981.

The Senate bill authorized $19.4 million for the procurement of six land-attack missiles in fiscal year 1980 and approved the $3.3 million requested for long-lead items.

The House amendment provided $19.3 million for the procurement of six anti-ship missiles and $19.4 million for six land-attack missiles in fiscal year 1980. The House amendment also included authorizations of $3.3 million for long-lead items for 24 anti-ship and $7.4 million for 24 land-attack missiles to be procured in fiscal year 1981. In addition, $11.2 million was authorized for Tomahawk missile support.

The conferees agreed to an authorization of $19.4 million for the procurement of three anti-ship and three land-attack missiles in fiscal year 1980 and an authorization of $10.7 million for long-lead items for 24 missiles of each version in fiscal year 1981. The conferees urge the Department of Defense to preserve an initial operating capability for the land-attack and anti-ship Tomahawk in 1982.

The House recedes.

AIM–7F/M (Sparrow), AIM–9L/M (Sidewinder), AIM–54A/C (Phoenix)

The budget request contained $64.2 million to procure 240 AIM–7F and AIM–7M Sparrow missiles. The Senate bill provided an authorization of $48.9 million to procure 120 AIM–7M missiles. The House amendment approved the amount and numbers of missiles requested. The conferees agreed to an

authorization of $64.3 million for the Sparrow missile procurement program as requested.

The budget request contained $21.3 million to procure 320 AIM–9L and AIM–9M Sidewinder missiles. The Senate bill provided an authorization of $16.3 million for 160 AIM–9M missiles. The House amendment approved the amount and numbers of missiles requested. The conferees agreed to an authorization of $21.3 million for the Sidewinder missile procurement program as requested.

The budget request contained $101.4 million to procure 180 AIM–54A and AIM–54C missiles. The Senate bill provided an authorization of $89.3 million for 60 AIM–54C missiles. The House amendment approved the amount and numbers of missiles requested. The conferees agreed to an authorization of $101.4 million for the Phoenix missile procurement program as requested.

The Senate recedes.

AIR FORCE

Ground launched cruise missile (GLCM)

The budget request contained $25.0 million for the Ground Launched Cruise Missile (GLCM) procurement program. The Senate bill approved the amount requested for procurement. The house amendment approved $8.2 million for GLCM procurement and transferred $16.8 million to the Air Force research, development, test and evaluation account. The conferees agreed to adopt the House position.

The Senate recedes.

AIM–7F/M (Sparrow)

The budget request contained $144.2 million for 1,320 AIM–7F and improved AIM–7M Sparrow missiles. The Senate bill authorized $84.5 million for 660 AIM–7M missiles. The House amendment authorized the amount and numbers of missiles requested. The conferees agreed to an authorization of $124.2 million for the AIM–7F/M Sparrow missile procurement program.

AIM–9L/M (Sidewinder)

The budget request contained $86.8 million for 2,050 AIM–9L and improved AIM–9M Sidewinder missiles. The Senate bill authorized $71.8 million for 1,025 AIM–9M missiles. The House amendment authorized the amount and numbers of missiles requested. The conferees agreed to an authorization of $86.8 million for the Sidewinder missiles procurement program as requested.

The Senate recedes.

Other missile support

The budget request contained $599.6 million for other missile support. The Senate bill authorized $611.6 million for these programs. The House amendment authorized $596.6 million. The conferees agreed to an authorization of $611.6 million.

The House recedes.

NAVAL VESSELS

The House amendment authorized a shipbuilding program totaling $6,790.4 million. The Senate approved a shipbuilding program totaling $5,791.6 million.

The conferees agreed on a compromise shipbuilding program totaling $6,706.8 million as follows:

Authorization (number)	*Millions*
SSN–688 class attack submarine (2)	$809.6
CVN repeat *Nimitz* class nuclear powered carrier (1)	2,094.0
TAGOS ocean surveillance ships (3)	104.0
Outfitting	82.7
Escalation on prior year programs	97.7
LSD–41 long lead funding	41.0
LPH conversion (1)	49.5
Financing adjustment, DDG–2 conversion	—55.0
Financing adjustment, SSN nuclear submarine	—21.2
Programs not in dispute	3,504.5
Total, Naval vessels, Navy	6,706.8

The conference agreement relating to major areas of difference is further discussed below.

SSN—688 nuclear attack submarine

The House amendment authorized $831.5 million for two SSN–688 nuclear attack submarines.

The Senate bill authorized $429.6 million for one SSN–688 nuclear attack submarine. The Senate bill also contained authorization for long lead funding for another SSN–688 submarine.

The conference agreement provides $809.6 million for two SSN–688 attack submarines and advanced procurement for future submarines.

CVN Nimitz nuclear-powered aircraft carrier

A major difference in conference was the propulsion system for a new aircraft carrier. The Senate bill authorized $1,760 million for a *Kennedy* class conventionally powered carrier.

The House amendment contained $2,094 million for a *Nimitz* class nuclear-powered aircraft carrier.

The conferees agreed on the nuclear-powered ship.

LSD–41 landing ship dock

Advance procurement for the Landing Ship Dock (LSD–41) was a conference item due to a difference of $500,000 between the amounts authorized by the House and Senate. The Senate receded to the House figure, authorizing $41 million in fiscal year 1980 for procurement of long lead items associated with procurement of the lead ship of this class. The decision of the managers to adopt the lower figure is a financial adjustment and implies no lessening of congressional support for this program. The conferees strongly endorse the report language adopted by both the Senate Armed Services Committee (S. Rept. 96–197) and the House Armed Services Committee (H. Rept. 96–166) which called for construction of the first LSD–41 in fiscal year 1981, leading to an expeditious replacement of the LSD–28 class ships now approaching block obsolescence.

LPH conversion

The Senate bill authorized $49.5 million for conversion of one LPH amphibious assault ship to a light carrier.

The House amendment provided no authorization for this purpose.

The conferees noted Navy testimony that antisubmarine warfare and mine countermeasure platforms are inadequate. The conferees agreed that priority should be given to addressing these serious shortages and that the Navy must move more rapidly toward providing air-capable platforms.

Conversion of one LPH assault ship to a light carrier is authorized at the cost of $49.5 million. A light carrier will add to the Navy's at-sea air capability and complement existing fleet carriers. It can be converted to undertake a variety of missions such as antisubmarine warfare, mine countermeasures operations and amphibious assault.

Before any actual conversion is undertaken, the Secretary of the Navy shall report to the Committees on Armed Services of the House and Senate on the cost and details of the conversion, and the advantages and disadvantages of the proposed conversion, in sufficient detail to allow the committees to review and further evaluate the conversion. The conversion shall not be undertaken until the expiration of a period of thirty days of continuous session of Congress following the submission of the Secretary's report.

TAGOS ocean surveillance ships

The House amendment provided $104 million for three TAGOS ocean surveillance ships.

The Senate bill authorized no funds for these ships.

The Senate recedes.

Financing adjustment

Section 106 of the House amendment authorized financing adjustment of $55 million for an additional SSN–688 nuclear attack submarine from unobligated funds previously appropriated for the DDG–2 destroyer modernization program.

The Senate bill authorized financing adjustments of $76.2 million.

The House recedes.

TRACKED COMBAT VEHICLES, ARMY

Fighting vehicle systems

The House amendment authorized $225.4 million for procurement of 208 fighting vehicles and $2 million for a cost reduction study. The Senate bill authorized $225.4 million for the fighting vehicle systems and directed a cost reduction study but authorized no funds for such study.

The conferees agreed to authorize $226.4 million for fighting vehicle systems, including $1 million for a cost reduction study.

The cost reduction study should be conducted cooperatively by the Army and the Office of the Secretary of Defense to explore all promising manufacturing options (to include competitive procurement), rates of production and manufacturing techniques.

The House and Senate Armed Services Committee reports directed the results of this study be submitted to the Armed Services Committees by December 31, 1979. However, since additional time may be required to insure a quality study effort, the Army should submit the study to the Armed Services Committees of the House and Senate by April 1, 1980.

Combat engineer vehicle

The House amendment authorized $51.5 million for procurement of 56 combat engineer vehicles (CEV's). The Senate bill authorized no CEV's.

The Senate recedes.

M60A3 tank production

The House amendment authorized $216.8 million for procurement of 251 M60A3 tanks.

The Senate bill authorized no new M60A3 tank production.

The conferees agreed to authorize $55 million for procurement of 64 new M60A3 tanks.

XM–1 tank

The House amendment authorized $576.9 million for procurement of 352 XM–1 tanks. The Senate bill authorized $562.7 million for procurement of the same number of tanks.

The Senate recedes.

M60 modifications

The House amendment authorized $117.4 million for M60 tank modifications. The Senate bill authorized $177.4 million, including $60 million for conversion of an additional 251 tanks from the M60A1 to the M60A3 configuration.

The conferees agreed to authorize $162 million for M60 tank modifications including $44.6 million for conversion of an additional 187 M60A1 tanks to the M60A3 configuration.

Spares and repair parts

The House amendment authorized $140.4 million for tracked combat vehicle spares and repair parts. The Senate bill authorized $106.2 million.

The Senate recedes.

Depot maintenance facilities

The House amendment authorized $20.1 million for depot maintenance facilities. The Senate bill authorized $6.6 million.

The Senate recedes.

TORPEDOES, NAVY

Torpedo MK–48

The Senate bill authorized $121.7 million for 144 MK–48 torpedoes.

The House amendment provided $46.6 million only for continuing testing and engineering support of previously approved MK–48 torpedo programs.

The House recedes.

Torpedo MK–48 modifications

The Senate bill authorized $5.3 million for MK–48 torpedo modifications.

The House amendment provided for $10.8 million for MK–48 torpedo modifications.

The House recedes.

OTHER WEAPONS

ARMY

M198 howitzer

The House amendment authorized $54.7 million for procurement of 208 M198 howitzers. The Senate bill authorized $28.8 million for procurement of 107 M198 howitzers.

The House recedes.

NAVY

MK–15 close-in weapon systems (CIWS)

The Senate bill authorized $109.4 million for 61 CIWS gun units.

The House amendment provided for $114.4 million for 61 CIWS units.

The House recedes.

MARINE CORPS

M198 howitzer

The House amendment authorized $15 million for procurement of 55 M198 howitzers. The Senate bill authorized $21.5 million for procurement of 80 M198 howitzers.

The House recedes.

Report on B–52 modification program (sec. 102)

Section 103 of the House amendment to the Senate bill directed that the Secretary of Defense provide to the Congress at the earliest possible date a report on all uncertainties in the effectiveness of the B–52 aircraft as a cruise missile carrier including the requirement for maintaining the defense penetration capability of the B–52 and the options available during the next decade to maintain such capability.

The report was required to be submitted no later than September 30, 1979.

The conferees agreed that a study and report on the effectiveness of the B–52 as a cruise missile carrier and as a penetrating bomber over the next decade would be helpful in arriving at decisions regarding strategic aircraft during the next several years. The conferees agreed to extend the reporting date to no later than November 30, 1979.

The Senate recedes with an amendment.

E–3A NATO airborne early warning and control system (AWACS) (sec. 103)

The budget request contained $250.2 million in the Air Force aircraft procurement account for the NATO Airborne Early Warning and Control System (AWACS) program. The Senate bill authorized $243.1 million for the NATO AWACS within the Air Force aircraft procurement account and prohibited the reprogramming of funds appropriated for that purpose. The Senate also denied $7.1 million of the amount requested, since this amount was proposed to pay the costs of administrative expenses not properly included in a defense procurement act.

The House amendment authorized the amount requested in a separate section and contained no provision regarding reprogramming of funds.

The conferees agreed to authorize $243.1 million for the NATO AWACS program in a separate section which provides that the funds authorized to be appropriated shall be available only for the United States' contribution of its share of the cost of this program for fiscal year 1980.

Authority provided Secretary of Defense in connection with the NATO airborne warning and control system (AWACS) program (sec. 104)

With the fiscal year 1980 budget submission, the President requested special legislation authorizing the Secretary of Defense to take necessary actions to implement an international agreement signed in December 1978 for the procurement of the NATO AWACS. The Senate bill and the House amendment differed in the following respects as to the legislation approved for this purpose.

The Senate bill authorized the Secretary of Defense to assume contingent liability for losses resulting from the gross negligence of U.S. contracting officers. The House amendment provided that the authority granted the Secretary in this section be limited to the extent provided in appropriations acts as required by the Congressional Budget Act of 1974. The conferees agreed to accept the additional authority provided in the Senate bill and also to accept the requirement for implementing appropriations legislation contained in the House amendment.

Restriction on obligation of aircraft modification funds

Section 102 of the House amendment to the Senate bill provided that the amounts authorized to be appropriated for the modification of aircraft shall be available only for aircraft modification and that none of the funds specified could be obligated or expended for any other purpose.

The Senate bill contained no similar provision.

After considerable discussion, the conferees agreed to delete the House provision. The Department of Defense is directed to submit a full accounting, by program, of the obligations and expenditures of funds authorized to be appropriated for aircraft modifications to the Committees on Armed Services of the Senate and House of Representatives concurrently with the submission of the budget request for fiscal year 1981 and subsequent years.

The House recedes.

Structural soundness of the KC–10A advanced tanker cargo aircraft (ATCA)

Section 103 of the Senate bill contained language providing that no funds authorized to be appropriated for the KC–10A Advanced Tanker Cargo Aircraft (ATCA) may be obligated until the Federal Aviation Administration had reinstated the type certification for the commercial operation of the DC–10 aircraft and until the Secretary of Defense notifies the Congress that the KC–10 aircraft is structurally sound.

The House amendments contained no similar provision.

The conferees agreed to delete the Senate provision since the Federal Aviation Administration rescinded the grounding orders relating to the DC–10 aircraft on July 13, 1979.

The Senate recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

GENERAL

The Department of Defense requested authorization of $13,541,441,000 for the fiscal year 1980 Research, Development, Test and Evaluation appropriations. The following table summarizes the Senate and House modifications to the Research and Development budget request:

R.D.T. & E. SUMMARY

[In thousands of dollars]

	Request	House	Senate	Conference
Army	2,927,000	2,772,422	2,933,800	2,866,461
Navy [1]	4,489,341	4,569,544	4,524,396	4,542,992
Air Force	5,005,100	4,940,265	4,994,100	4,994,046
Defense agencies	1,086,600	1,064,118	1,076,600	1,068,118
Director, Test and Evaluation	33,400	42,500	33,400	42,500
Total, R.D.T. & E	13,541,441	13,388,649	13,562,396	13,514,117

[1] Includes $5,341,000 in special foreign currency.

As shown, the conferees agreed on a total of $13,514,117,000 which is $27,324,000 less than the amount requested for fiscal year 1980.

The details of the differences between the Senate bill and the House amendment and the positions adopted by the conferees are reflected in the following tables:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION—FISCAL YEAR 1980

[In thousands of dollars]

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
	ARMY					
101	Defense research sciences	118,680	110,335	118,680	+8,345	114,000
102	Missile technology	29,350	27,850	29,350	+1,500	27,850
103	Communication-electronics	13,291	8,000	13,291	+5,291	10,500
104	Recovery from injury (A813)	4,957	3,465	4,957	+1,492	4,500
105	Test, measurement, and diagnostic equipment technology	700	0	700	+700	0
106	Medical systems in chemical defense	1,850	3,600	1,850	−1,710	3,600

Table continues.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION—FISCAL YEAR 1980—Continued

[In thousands of dollars]

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
107	Military energy technology	2, 635	0	2, 635	+2, 635	1, 000
108	Very high speed integrated circuits	12, 000	0	12, 000	+12, 000	0
109	Terminal homing systems	9, 500	0	9, 500	+9, 500	9, 500
110	Advanced land mobility system concepts (D188)	15, 936	1, 560	15, 936	+14, 376	15, 936
111	Advanced technology demonstration of test, measurement, diagnostic equipment	700	0	700	+700	0
112	Night vision advanced development (DK70)	14, 017	11, 863	14, 017	+2, 154	14, 017
113	Advanced development of automatic test equipment and systems	2, 800	0	2, 800	+2, 800	1, 400
114	Fuels and lubricants (advanced development)	600	600	3, 600	+3, 000	2, 000
115	Ballistic missile defense advanced technology	113, 668	120, 855	113, 668	−7, 187	120, 855
116	Ballistic missile defense systems technology program	114, 784	120, 840	114, 784	−6, 056	120, 840
117	Surface-to-surface missile rocket system (D216)	72, 250	69, 250	72, 250	+3, 000	70, 250
118	Assault breaker	9, 200	3, 000	9, 200	+6, 200	9, 200
119	Antitank guided missile (ATGM) improvements	12, 000	0	12, 000	+12, 000	12, 000
120	Field artillery cannon system (D285)	3, 306	2, 306	3, 306	+1, 000	2, 306
121	Special purpose detectors	3, 000	0	3, 000	+3, 000	0
122	Tactical operations system (TOS)	36, 482	0	36, 482	+36, 482	[1] 0
123	Command and control	18, 590	0	18, 590	+18, 590	9, 000
124	Aircraft avionics	756	0	756	+756	0
125	CH-47 modernization	23, 146	20, 146	23, 146	+3, 000	22, 500
126	Roland	11, 299	0	11, 299	+11, 299	11, 299
127	Heliborne missile—Hellfire	58, 000	61, 000	58, 000	−3, 000	61, 000
128	Fire and forget—Hellfire	15, 000	0	15, 000	+15, 000	0
129	Countermine and barriers (D300)	4, 593	3, 393	4, 593	+1, 200	3, 393
130	Tank systems	31, 569	49, 569	63, 369	+13, 800	49, 569
131	High mobility weapons carrier	2, 500	0	2, 500	+2, 500	2, 500
132	Cavalry fighting vehicle (CFV) XM3	331	0	331	+331	0
133	Tank gun cooperative development	51, 890	39, 390	47, 490	+8, 100	43, 090
134	Tactical data system interoperability (D324)	6, 984	4, 984	6, 984	+2, 000	4, 984
135	Family of military engineer construction equipment (FAMECE)	25	0	25	+25	0
136	Battlefield systems integration	3, 300	0	3, 300	+3, 300	0
137	Chaparral	6, 052	10, 052	6, 052	−4, 000	10, 052
138	Standoff target acquisition systems	66, 460	66, 460	52, 960	−13, 500	66, 460
139	Mechanized infantry vehicle	0	0	3, 000	+3, 000	0
140	Classified programs	34, 946	27, 546	32, 946	+5, 400	27, 546
141	U.S. Army Training and Doctrine Command (TRADOC) studies and analyses	2, 300	2, 200	2, 300	+100	2, 200
142	Theater nuclear force survivability (TNF/S) analysis	2, 480	0	2, 480	+2, 480	0
143	Technical information activities	4, 890	3, 915	4, 890	+975	3, 915
144	TRADOC operational testing	26, 935	26, 935	24, 935	−2, 000	24, 935
145	OTEA operational testing	12, 613	12, 613	11, 613	−1, 000	11, 613
146	Programwide activities	52, 210	52, 210	49, 210	−3, 000	49, 210
147	Viper	3, 000	18, 100	3, 000	−15, 100	18, 100
148	Advanced diesel engine development					14, 200
	Other, Army	1, 895, 385	1, 890, 385	1, 890, 385		1, 890, 385
	Total	2, 927, 000	2, 772, 422	2, 933, 900	+161, 478	2, 866, 461

[In thousands of dollars]

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
	NAVY					
201	Defense research sciences	204, 716	191, 000	204, 716	+13, 716	198, 000
202	Command and control technology	26, 870	30, 870	26, 870	−4, 000	26, 870
203	Energy and environmental protection technology	11, 686	2, 400	11, 686	+9, 286	3, 000
204	Very high speed integrated circuits	10, 430	0	10, 430	+10, 430	0
205	Avionics	10, 396	12, 896	10, 396	−2, 500	11, 896
206	Antiradiation missile (ARM) system technology	3, 513	0	3, 513	+3, 513	1, 500
207	Air-to-air missile technology demonstration	6, 883	0	6, 883	+6, 883	[1] 0
208	Advanced air launched air-to-surface missile system (W0627)	6, 956	3, 915	6, 956	+3, 041	3, 915
209	Surface launched munitions	5, 618	8, 618	5, 618	−3, 000	5, 618
210	Laser countermeasures/counter countermeasures	3, 010	0	3, 010	+3, 010	0
211	Environmental protection	5, 053	3, 000	5, 053	−2, 053	3, 000
212	Manufacturing technology	5, 500	0	5, 500	+5, 500	0
213	Surface electromagnetic/optical systems (X0665)	10, 114	3, 359	10, 114	+6, 755	[1] 3, 359
214	Laser communications study	0	0	2, 000	+2, 000	0
215	Extremely low frequency (ELF) communications	13, 494	0	6, 750	+6, 750	6, 750
216	Trident missile system	40, 640	0	40, 640	+40, 640	25, 640
217	High speed collision avoidance and navigation system	1, 429	2, 429	1, 429	−1, 000	1, 429
218	Air launched/ship launched antiship missile Harpoon	7, 970	0	7, 970	+7, 970	[1] 0
219	Modular glide weapon improvement program	9, 317	2, 000	9, 317	+7, 317	2, 000
220	Maritime patrol aircraft (MPA) program	4, 024	0	4, 024	+4, 024	0
221	Vertical/short takeoff and landing (V/STOL) aircraft development	16, 779	0	14, 779	+14, 779	3, 000
222	NATO identification system	2, 000	0	2, 000	+2, 000	0
223	Medium range air-to-ground standoff weapon	15, 844	30, 844	9, 644	−21, 200	30, 000
224	Air control	2, 521	0	2, 521	+2, 521	1, 250
225	Advanced identification techniques (AIT)	3, 595	0	3, 595	+3, 595	0
226	Hydrofoil craft (advanced)	442	0	442	+442	442
227	Landing vehicle assault (LVA)	17, 797	14, 115	17, 797	+3, 682	14, 115
228	Navy energy program (advanced)	17, 180	6, 100	17, 180	+11, 080	8, 000
229	Avionics development (W0572)	5, 881	4, 072	5, 881	+1, 809	4, 072
230	Airborne tactical signal exploitation	2, 000	0	1, 000	+1, 000	0
231	Area air defense (S0854)	25, 307	15, 067	11, 907	−3, 150	15, 057
232	Air-to-air missile (AAM) systems engineering	44, 711	32, 000	44, 711	+12, 711	32, 000
233	Close-in weapon system (Phalanx)	2, 114	1, 000	2, 114	+1, 114	1, 500
234	NATO Seasparrow	5, 091	2, 000	4, 191	+2, 191	4, 191
235	Computer systems engineering development	1, 126	0	1, 126	+1, 126	0
236	Point defense improvements	2, 121	0	2, 121	+2, 121	[1] 0
237	Joint Army/Navy guided projectile	22, 072	25, 072	22, 072	−3, 000	22, 072
238	Gun systems improvement (S0178)	15, 170	11, 870	15, 170	+3, 300	15, 170
239	Navy energy program (engineering)	9, 015	4, 000	9, 015	+5, 015	5, 000
240	AV-8B+	0	0	5, 000	+5, 000	5, 000
241	Surface effect ship	0	100, 000	0	−100, 000	60, 000
242	Major caliber lightweight gun	0	32, 000	0	−32, 000	1, 000
243	Submarine ASW standoff weapon	8, 049	8, 049	0	−8, 049	7, 000
244	Advanced ASW target	11, 104	11, 104	5, 000	−6, 104	5, 000
245	Submarine tactical warfare system	42, 782	42, 782	38, 612	−4, 170	38, 612
246	SSN X	10, 000	10, 000	0	−10, 000	5, 000
247	Radar surveillance equipment (advanced)	13, 375	13, 375	4, 575	−8, 800	7, 500
248	Combat system architecture	10, 000	10, 000	8, 800	−1, 200	8, 800
249	Combat system integration	12, 054	12, 054	8, 054	−4, 000	8, 054
250	Combat system engineering development site	44, 818	44, 818	41, 818	−3, 000	44, 818
251	5-in rolling frame missile	19, 051	19, 051	18, 051	−1, 000	19, 051

Footnotes at end of table.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION—FISCAL YEAR 1980—Continued

[In thousands of dollars]

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
252	Radar surveillance equipment	14, 993	14, 993	7, 993	−7, 000	7, 993
253	A-6 squadron	3, 446	3, 446	2, 246	−1, 200	2, 446
254	Tactical information system	17, 819	17, 819	14, 519	−3, 300	14, 519
255	Advanced design submarine nuclear propulsion plant	7, 854	7, 854	0	−7, 854	5, 000
256	Ship development (advanced)	14, 219	14, 219	12, 419	−1, 800	27, 419
257	Ship development (engineering)	63, 953	63, 953	54, 953	−9, 000	58, 953
258	Penguin	9, 284	9, 284	0	−9, 284	8, 500
259	Marine ground combat supporting arms	1, 554	1, 554	6, 554	+5, 000	6, 554
260	Light carrier design	0	0	25, 000	+25, 000	10, 000
261	SEAMOD	0	0	8, 000	+8, 000	8, 000
262	APRAPS	0	0	3, 100	+3, 100	3, 100
263	Advanced target systems development	1, 037	0	1, 037	+1, 037	0
264	Aerial target fund	7, 447	0	7, 447	+7, 447	5, 500
265	Surface warfare training device	23, 691	3, 940	10, 000	+6, 060	16, 000
266	International R.D.T. & E	1, 316	621	1, 316	+695	1, 316
267	Test and evaluation support	191, 516	191, 516	184, 516	−7, 000	187, 516
268	Navy studies and analyses (reduction)		−12, 000		+12, 000	[1] −12, 000
269	Advanced computer technology					12, 000
270	30 mm gun pod					2, 000
	Financing adjustment from fiscal year 1979:					
	ELF communications			−13, 250	−13, 250	−20, 000
	Surface effect ship			−44, 000	−44, 000	0
	Other, Navy	3, 361, 594	3, 542, 495	3, 542, 495		3, 542, 495
	Total [2]	4, 489, 341	4, 569, 544	4, 524, 396	−45, 148	4, 542, 9920
	AIR FORCE					
301	Defense research sciences	113, 184	107, 000	113, 184	+6, 184	110, 000
302	Aerospace avionics	63, 200	55, 200	63, 200	+8, 000	55, 200
303	Training and simulation technology	11, 400	10, 500	11, 400	+900	10, 400
304	Personnel utilization technology	4, 800	4, 500	4, 800	+300	4, 500
305	Advanced simulator technology	0	2, 000	0	−2, 000	2, 000
306	Advanced computer technology	2, 700	4, 700	2, 700	−2, 000	4, 700
307	Advanced drone/remotely piloted vehicles development (2233)	5, 500	3, 500	5, 500	+2, 000	3, 500
308	Advanced avionics for aircraft	12, 000	12, 000	8, 300	−3, 700	12, 000
309	Cruise missile carrier aircraft	30, 000	0	30, 000	+30, 000	30, 000
310	Penetrating manned bomber	5, 000	0	5, 000	+5, 000	0
311	Strategic bomber enhancement	12, 800	0	12, 800	+12, 800	0
312	AN/ALQ-161 defensive avionics system	0	15, 000	0	−15, 000	0
313	Strategic weapons launcher/AMST competitive flyoff	0	30, 000	0	−30, 000	0
314	Missile surveillance technology	21, 800	4, 400	21, 800	+17, 400	4, 400
315	Minuteman squadrons	30, 300	40, 300	30, 300	−10, 000	40, 300
316	Postattack command and control system (E-4)(2212)	25, 500	24, 500	25, 500	+1, 000	24, 500
317	PARCS range extension	5, 000	0	5, 000	+5, 000	0
318	WWMCCS ADP/E-4	800	0	8, 000	+800	0
319	Air Force satellite communication system	78, 600	19, 200	60, 600	+41, 400	19, 200
320	Bomber penetration evaluation	54, 900	54, 900	30, 000	−24, 900	54, 900
321	SAC communications	18, 000	18, 000	12, 000	−6, 000	18, 000
322	Combat aircraft technology (2600)	8, 000	2, 000	8, 000	+6, 000	2, 000
323	Enforcer aircraft	0	6, 000	0	−6, 000	6, 000
324	Theater ballistic missile	4, 000	0	4, 000	+4, 000	2, 000
325	Engine model derivative program	26, 000	39, 300	26, 000	−13, 300	39, 300
326	FAC-X	1, 000	0	1, 000	+1, 000	1, 000
327	Ground launched cruise missile	44, 100	60, 900	44, 100	−16, 800	60, 900
328	Low level laser guided bomb	12, 000	8, 000	12, 000	+4, 000	8, 000
329	Common NATO munitions (2539; 2641)	16, 700	2, 200	12, 900	+10, 600	7, 200
330	Reconnaissance equipment (2057, 2368)	20, 400	4, 900	20, 400	+15, 500	4, 900
331	Precision location strike system (PLSS)	24, 900	70, 200	0	−70, 200	[1] 15, 00
332	Combat rescue replacement helicopter	500	0	500	+500	0
333	F-4 squadrons	500	2, 000	500	−1, 500	2, 000
334	30-mm gun pod	0	7, 000	0	−7, 000	0
335	Advanced attack weapon	35, 800	35, 800	34, 800	−1, 000	34, 800
336	Pave mover	6, 700	6, 700	4, 000	−2, 700	6, 700
337	Close air support system	54, 000	54, 000	60, 000	+6, 000	60, 000
338	Advanced communication system	12, 000	12, 000	6, 000	−6, 000	12, 000
339	Aircom	500	0	500	+500	0
340	Special activities	353, 139	368, 239	467, 739	+99, 500	440, 739
341	Development planning	2, 100	1, 100	2, 100	+1, 000	1, 100
342	Next generation trainer aircraft	1, 900	0	1, 900	+1, 900	1, 900
343	Management headquarters, research and development	19, 751	17, 800	17, 751	−49	17, 751
344	Productivity, reliability, availability and maintainability (PRAM)	7, 900	3, 000	5, 900	+2, 900	5, 900
345	Public affairs	300	0	300	+300	300
346	General reduction			−12, 500	−12, 500	−12, 500
347	Very high-speed integrated circuits					30, 430
348	Advanced warning systems					12, 000
349	Night attack aircraft	12, 800	12, 800	12, 800	0	25, 300
	Other, Air Force	3, 852, 626	3, 820, 626	3, 820, 626		3, 820, 626
	Total	5, 005, 100	4, 940, 265	4, 994, 100	+53, 835	4, 994, 046

[In thousands of dollars]

Item No.	Program element	Budget request, fiscal year 1980	House authorization	Senate authorization	Change from House	Conference
	DEFENSE AGENCIES					
401	Foreign weapons evaluation (OSD/JCS)	9, 100	0	9, 100	+9, 100	0
402	Technical support (OSD/OJCS)	19, 982	10, 000	19, 982	+9, 982	14, 000
403	Laser communication experiment (DARPA)	0	5, 000	0	−5, 000	5, 000
404	Classified program (NSA)	1, 200	0	1, 200	+1, 200	0
405	WWMCCS ADP (DCA)	4, 694	2, 614	4, 694	+2, 080	2, 614
406	WWMCCS system engineering (DCA)	34, 166	29, 046	24, 166	−4, 880	29, 046
407	Director, test, and evaluation	33, 400	42, 500	33, 400	−9, 100	42, 500
	Other, defense agencies	1, 017, 458	1, 017, 458	1, 017, 458		1, 017, 458
	Total	1, 120, 000	1, 106, 618	1, 110, 000	+3, 382	1, 110, 618

[1] Without prejudice.

[2] Includes $5,341,000 in special foreign currency.

ARMY

Advanced diesel technology engine

The Senate bill authorized $14.2 million for development of a diesel engine within the XM-1 tank development program. The House amendment did not include authorization for diesel-engine development. The conferees agreed to an authorization of $14.2 million in a new program, Advanced Diesel Technology Engine.

The conferees intend that this authorization be directed toward completing advanced technology work on the AVCR-1360 diesel engine by building two new engines and rebuilding two existing engines and to conduct design, test, and durability improvements on those engines.

This program should follow the proposals the Under Secretary of Defense made to the House and Senate Committees in May of 1979 and would include modification of two prototype test vehicles to accept the AVCR-1360 engine with modified controls, cooling systems, and to include automotive testing. The program would also include Army field tests, lab tests, and program support for the above-mentioned effort.

Anti-tank guided missile

The Senate bill authorized $12 million for the Anti-Tank Guided Missile program as requested by the Department of Defense. The House amendment did not include authorization for this program.

The conferees authorized $12 million for continued support of technology, rather than a structured development program, in view of the inability of the Department of the Army to propose a specific program. The technology supported should be selected for its potential to improve anti-tank weapon operational effectiveness. Weapon lethality and reducing exposure of missile-launching troops should be emphasized. The Army should also use funds provided in this program to explore interoperability and standardization of anti-armor weapons within NATO.

In order to reduce confusion over the Army's requirements and plans, work performed during fiscal year 1980 should be structured to complete a comprehensive plan for an expedited development program so that the Congress can act on a specific proposal in the fiscal year 1981 budget request.

Tactical operations system (TOS)

The Army requested $36.5 million for the Tactical Operations Systems. The Senate bill authorized the full amount. The House amendment did not authorize any funds. The Senate receded to the House. The conferees support the concept of the TOS but not the program as presented by the Army. The conferees, therefore, deleted the request for authorization without prejudice.

Tank gun cooperative development

The Senate bill authorized $47.49 million of the $51.89 million requested for the Tank Gun Cooperative Development program. The House amendment authorized $39.39 million. The conferees agreed to authorize $43.09 million.

The authorization of $43.09 million approved by the conferees is $8.8 million below that requested. The reduction is the amount identified by the Army as excess to the authorization required for fiscal year 1980.

The Senate insisted on providing authorization of $3.7 million for continued development of an interim round for the 120-mm smooth bore gun, and the House receded.

Terminal homing systems

The Senate bill authorized the full Army request of $9.5 million to initiate development of the 8-inch anti-radiation projectile.

The House amendment deleted the entire request.

The House action was based on the Army's plan to develop an entirely new 8-inch guided projectile with an anti-radiation seeker without consideration of previous Navy efforts that resulted in the successful development of an 8-inch guided projectile.

Subsequent to passage of the House amendment and Senate bill, the Army advised the Committees on Armed Services that an investigation of the Navy's 8-inch guided projectile resulted in the selection of the Navy's projectile body for the anti-radiation projectile. Consequently, the House receded to the Senate position with the understanding that the Army will proceed with the Navy 8-inch guided projectile body.

Theater nuclear force survivability analysis

The Senate bill authorized $2.48 million as requested for the Theater Nuclear Force Survivability Analysis program. The House amendment denied all authorization.

The conferees denied Army authorization for this program with the understanding that theater nuclear force survivability analysis may be continued in programs approved for Department of Defense agencies, including the Defense Nuclear Agency.

NAVY

Advanced computer technology

The Senate bill authorized the Navy request for $26.87 million and $1.126 million for the Command and Control Technology and Computer Systems Engineering Development programs, respectively.

The House amendment authorized $30.87 million, an addition of $4 million to the Navy request for Command and Control Technology and deleted the entire request of $1.126 million for the Computer Systems Engineering Development program.

The conferees authorized $26.87 million for the Command and Control Technology program but provided no authorization for the Computer Systems Engineering Development program. In addition, the conferees agreed that funds are required for continued development during fiscal year 1980 for advanced computers.

The conferees established a new program element, Advanced Computer Technology, with an accompanying authorization of $12 million of which $7 million is for the large-scale integrated circuit (LSI) 43/44 project and $5 million for the Advanced S-1 computer project. The $5 million for the S-1 is in addition to the $1.5 million authorization requested and approved for this project under the Command and Control Technology program. The authorization of the LSI 43/44 is predicated on the availability of funds for the S-1 project.

Light carrier design

The conferees authorize $10 million in R&D funding for continued design work on a Light Carrier. The conferees expect the Navy to move as rapidly as possible to develop a Light Carrier design to the point where a Light Carrier can be authorized. These funds may not be applied to any purpose other than Light Carrier design without a reprogramming action.

Surface electro-magnetic/optical system (project X0665)

The Senate bill authorized the full Navy request for $10.114 million which included $6.755 million for the continued development and testing of an infrared search tracker (IRST) system.

The House amendment deleted the $6.755 million requested for this project. Last year, the conferees, in the joint explanatory statement accompanying the conference report on H.R. 10929, conveyed to the Navy the necessity for technology exploitation that culminates in an operationally deployable system. The basis for this concern emanated from the Navy's long-term research and development investment in infrared systems with no substantive deployment of hardware in the fleet. The conferees agreed that the authorization for the IRST project be deleted without prejudice. In the event the Navy continues this project during fiscal year 1980, the conferees expect that a shipboard implementation plan for infrared systems including IRST and forward-looking infrared (FLIR) be provided in conjunction with the fiscal year 1981 budget submission.

Trident II

The Senate bill authorized the full Navy request for $40.64 million for the Trident II missile system.

The House amendment deleted the entire request in the absence of a requirement for the Trident II missile, or a description of the Trident II system alternatives, and on the basis of the high cost of the system considering other Navy requirements for funds.

The conferees agreed to an authorization of $25.64 million for the improved accuracy program, tradeoff studies and concept design of the Trident II missile.

The conferees requested that the Secretary of Defense provide to the Committees on Armed Services by March 1, 1980, a report on the requirement for the missile, the design alternatives of the total missile system, its affordability—that is, how the program will be funded within the constraints of the Navy budget—and a management plan for competing the development and production of the missile system components and integration.

AIR FORCE

Bomber penetration evaluation

The Air Force requested $54.9 million to continue evaluation of the B-1 as a penetrating bomber. The House authorized the full amount; the Senate authorized $30 million. The Senate receded to the House. The conferees agreed that this would be the final authorization for the Research, Development, Test and Evaluation for the B-1 as a penetrating bomber unless the Department of Defense could demonstrate that such testing was part of an approved program to deploy a penetrating bomber. The future requirement to test the effects of electromagnetic pulse on the B-1 should be funded in the aircraft survivability program.

Common NATO munitions/night-attack program

The Air Force requested $16.7 million for the Common NATO Munitions program which included $12.5 million for the Airborne Tracker Laser Illuminator System (ATLIS II) project. The Senate bill authorized $12.8 million which included $12.5 million for the ATLIS II project. This authorization was predicated upon a reduction of $12.5 million from the overall Air Force research and development account.

The House amendment deleted the request for authorization for the ATLIS II program.

The conferees agreed on the requirement for a Laser Designator capability for the F-16 aircraft.

The conferees, therefore, agreed to authorize $12.5 million under the Air Force Night-Attack System program element for the purpose of a competition for the selection of a laser designator-equipped pod for the F-16 and other aircraft.

The conferees are concerned over the proliferation of the electro-optical pods and request that the Air Force, Army, and Navy provide a coordinated report to the Congress, as part of the fiscal year 1981 budget submission, on a plan to reduce the types of pods being developed and procured for the three services in order to achieve maximum commonality.

Missile surveillance technology

The Senate bill authorized $21.8 million as requested for the Missile Surveillance Technology program and the House amendment authorized $4.4 million.

The conferees agreed to a reduction of $17.4 million in the authorization requested for the Missile Surveillance Technology program and provided authorization of $12 million to initiate a new program titled Advanced Warning Systems. The conferees also agreed to authorize $4.4 million for the Missile Surveillance Technology program to allow continuation of the infrared background measurements program.

The conferees have been advised that prior to January 1980, Defense Systems Acquisition Review Council meetings will be convened to address the requirement to improve or replace the Defense Support Program system and which new technologies should be pursued if a requirement is established. This authorization is provided to give the Department of Defense the funding flexibility required to make a decision and present schedule and cost estimates for a new warning satellite program to Congress, if such a program is required.

All appropriations provided through this authorization are to be used only for continuing base technology efforts until the requirement, the system characteristics and the technologies to be incorporated in a new warning satellite have been established and presented to Congress by the Secretary of Defense. The funds authorized are intended to be used to maintain all feasible technical options that might be used in the new system.

The M-X missile

The House amendment in section 201(1) identified $670 million only for concurrent full-scale engineering development of the Multiple Protective Structure (MPS) basing system and the M-X missile. The Senate bill contained no such provision.

The Senate recedes.

Section 202 of the House amendment required the Secretary of Defense to submit a report to Congress by March 1, 1980, evaluating the ability of the MPS missile basing to survive attempts by the Soviet Union to neutralize such a system. The Senate bill section 202 authorized appropriations of $670 million for research and development of the M-X missile and required the President and the Secretary of Defense to report no later than October 1, 1979, on the final characteristics of the missile system. The Senate bill further stated that if a final basing system chosen was other than a land-based system, the President or his designee would be required to certify to Congress that a land-based system is not in the best interest of national security and that the approved basing system is either militarily more effective than any land-based system or less costly and equally or more militarily effective than any land-based system. Additionally, the Senate bill stipulated that no funds may be expended for the program for 60 days after receipt of such a report unless both Houses passed a resolution of approval within that period.

In view of the President's decision and his report to Congress on the selection of a M-X basing mode subsequent to Senate action on the bill, the Senate agreed with the House position to include the House language in section 202.

Precision location strike system (PLSS)

The Air Force requested $24.9 million for the development of a PLSS for detection and location of enemy air defense radars. The House authorized $70.2 million; the Senate deleted the entire amount.

The conferees agreed to authorize $15.0 million, the reduction made without prejudice, with the direction that no funds are to be obligated or expended until a report on the restructured program is submitted to the Congress by the Secretary of Defense.

DEFENSE AGENCIES

Blue/green laser communications

The Senate bill authorized $2 million for a joint office of Naval Research and Defense Advanced Research Projects Agency (DARPA) analysis of the potential of blue-green laser technology for communicating with patrolling submarines. The House amendment authorized $5 million for DARPA to initiate a feasibility demonstration.

The conferees agreed to authorize $5 million for DARPA to be used for both the feasibility demonstration and a review of the potential of this technology. The conferees ask that a report be submitted by March 1, 1980, that defines the cost, risk, schedule and capability of an operational system.

Technical support OSD/OJCS

The Senate bill authorized $19.982 million as requested by the Department of Defense, and the House amendment authorized $10 million. The conferees agreed to authorize $14 million of which $2.5 million is to be used specifically by the Under Secretary of Defense for Research and Engineering to establish a list of "Military Critical Technologies." This list is to be provided to the Secretary of Commerce in compliance with the Export Administration Act of 1979.

Very high-speed integrated circuits

The Senate bill authorized $12.0 million for the Army, $10.43 million for the Navy, and $8.0 million for the Air Force to begin development of very high-speed integrated circuits. The House amendment provided no authorization for this work. The conferees agreed to authorize the full amount requested.

In approving the authorization for $30.43 million, the conferees established a new program line in the Air Force titled Very High-Speed Integrated Circuits. Management of this tri-service program, including funding control, is to be executed by the Under Secretary of Defense for Research and Engineering.

The conferees concurred in the concerns of the House and approved authorization for this program with the following understanding:

The export of the technology developed in this program would be controlled where applicable by the International Traffic in Arms Regulations until the state-of-the-art for such technology progresses to the point where national security permits its transfer to other controls for export.

The contracts awarded for this program must include the clauses contained in amendment number 0003 dated September 24, 1979, to the Request for Proposals issued for this program on June 22, 1979. These clauses provide the Government the option of having licenses granted so that the technology developed under this program can be used in practice by the Department of Defense and its contractors as needed for future programs.

World wide military command and control system (WWMCCS)

The Defense Communications Agency requested authorization of $4.694 million for the WWMCCS Automatic Data Processing—Joint Technical Support Activities (ADP-JTSA) program and $34.166 million for the WWMCCS System Engineering Program. The Senate bill authorized the full request for the WWMCCS ADP-JTSA but levied an undistributed reduction of $10 million against the WWMCCS System Engineering Program. The House amendment reduced the WWMCCS ADP-JTSA program request by $2.08 million and the WWMCCS System Engineering program by $5.12 million.

The conferees accepted the House authorization levels but agreed to provide the Department of Defense the flexibility to apply the reduction across the full set of Defense Communication Agency WWMCCS activities.

The reports accompanying the Senate bill and the House amendment, both expressed concern about the WWMCCS program. The Senate report requested that the Department of Defense undertake a critical review of all strategic surveillance, warning and command and control programs and submit a report on its findings by January 15, 1980. The House report requested that the Department of Defense present an integrated plan with the fiscal year 1981 budget submission that clearly indicated what type of ADP capability is required by the various commands for their command and control functions and how the Defense Department plans to modernize both the computer hardware and software elements of the WWMCCS in support of these requirements.

The conferees agreed to the authorization with the understanding that the Department of Defense will address the concerns expressed in both reports.

Advanced self-protection system

Section 201 of the House amendment provided that $13.19 million be authorized only for the joint Navy/Air Force development of a common electronic self-protection system for integration into, but not limited to, the Navy F-18 and Air Force F-16 aircraft.

The Senate bill did not contain any such provision.

The conferees agreed with the intent of section 201 of the House amendment, but concluded that specific language was not required in the law and, therefore, the House recedes. It is the clear intent of the conferees of both Houses that the joint Navy/Air Force development of a common electronic self-protection system should go forward.

TITLE III—ACTIVE FORCES

Active duty military strengths in the Senate bill and House amendment differed by a total of 10,100. The conferees' agreement is summarized in the following table:

	House	Senate	Conference
Army	780, 337	776, 700	776, 700
Navy	529, 002	524, 000	528, 000
Marine Corps	189, 000	189, 000	189, 000
Air Force	558, 761	557, 300	558, 000
Total	2, 057, 100	2, 047, 000	2, 051, 700

The conference agreement is 4,700 above the Senate position and 5,400 below the House. The changes from the Administration request are in the Army, for which the conference agreement is 2,700 above the Administration request in order to accommodate the President's decision to defer troop withdrawals from Korea in fiscal year 1980, and in the Air Force.

Double counting of reserve general officers (sec. 302)

The House amendment contained a provision (sec. 804) that amends current law to provide that a Marine Corps reserve general officer who is serving on extended active duty—and charged against the active duty ceiling—will not be charged against the reserve general officer strength while so serving.

The Senate bill (sec. 303) amends current law in a similar manner but extends the amendment to include all services.

Officer grade distribution reporting requirement (sec. 303)

Current law requires each of the Service Secretaries to submit an officer grade distribution report and promotion plan to Congress by April 30 of each year. Section 304 of the Senate bill required that this information be included as part of the Manpower Requirements Report rather than as separate reports.

No similar provision was contained in the House amendment.

The House recedes.

TITLE IV—RESERVE FORCES

Section 401(b) of the bill contains the authorization for the number of reservists on full-time active duty for the purpose of organizing, administering, recruiting, instructing and training the Reserve components. The House and Senate differed on the strength for such full-time active duty Reserve personnel in the Naval Reserve. The Senate increased the Administration request by 1,500 personnel for a total of 1,707. The House amendment had authorized 207, the amount requested. The conferees agreed to an increase of 500 (bringing the total in the bill to 707). The additional full-time support personnel should be used in a test program involving high-priority missions of the Naval Reserve or to offset deficiencies in critical skills in the active Navy.

The conferees expect the Naval Reserve to be provided full-time support consistent with the average strength of 87,000.

The conferees believe that critical types of units with important capabilities such as deployment-related units, aviation, ship and aircraft maintenance, intelligence and other highly professional skills should be retained in the force structure consistent with modernization programs and that 17 Reserve Naval Mobile Construction Battalions should be retained.

There were no other differences between the Senate bill and the House amendment on Reserve component strengths.

Amendments to the reserve educational assistance program (sec. 402)

Section 402 of the House amendment amended the current Reserve Educational Assistance Program (section 2131(b)–2135 of title 10, United States Code.) The House amendment increases from 50 to 100 percent the reimbursement for a year's education expenses, although still limited to the existing limit of $500 per year. The recoupment provision of the Reserve Educational Assistance Program is revised in order to take into account the amount of time a participant serves satisfactorily in the Selected Reserve in computing the amount to be refunded.

The Senate recedes.

Retention of reserve veterinary officers to age 60 (sec. 403)

Section 403 of the House amendment granted permissive authority to the Secretary of the Army and the Secretary of the Air Force to retain reserve veterinary officers to age 60 under the same conditions as reserve officers of other health professions and chaplains.

No similar provision was included in the Senate bill.

The Senate recedes.

Administrative duty pay (sec. 404)

The Senate bill contained a provision (sec. 402) that would terminate the authority to pay Administrative Duty Pay to reserve and national guard commanders for performing administrative functions.

The House amendment contained no similar provision.

The House conferees expressed concern that unilateral action at this time terminating this authority would have an adverse impact on these individuals who spend significant time above and beyond their normal paid drill periods performing administrative tasks. However, the House conferees agreed payment is no longer functional and eventually should be terminated.

In order to minimize the impact of this termination, the conferees agreed to an amendment delaying for one year termination of this authority and request the Secretary of Defense to submit a report evaluating possible changes to the overall Reserve Compensation System by December 31, 1980.

The House recedes with amendment.

TITLE V—CIVILIAN PERSONNEL

For fiscal year 1980, the Department of Defense requested an end strength of 985,100. The House authorized a Department-wide end strength of 986,292. The Senate authorized a civilian end strength for each of the services totaling 980,900. The conferees agreed to provide for an overall Department of Defense-wide authorization for civilian personnel of 983,600—a reduction of 1,500 from the Administration request. The conferees agreed that in allocating civilian manpower spaces in fiscal year 1980, the Department of Defense should follow the specific recommendations made by the respective committees concerning increases for Naval Air Rework Facilities and for medical support activities. In accommodating the reduction, the Department of Defense should include a reduction in support personnel for dependent activities overseas and give consideration to the areas addressed in the reports of the House and Senate Committees on Armed Services concerning civilian personnel.

CIVILIAN MANPOWER FOR MAINTENANCE-RELATED ACTIVITIES

The Senate bill contained a section which provides that the Secretary of Defense shall manage manpower resources in a manner that will insure that activities engaged in maintenance, construction, engineering acquisition, or repair are provided sufficient civilian manpower to perform the work for which funds have been appropriated.

The House recedes.

INTELLIGENCE ANALYSIS

The conferees agree on the need to improve intelligence analysis capabilities. The conferees strongly recommend that the services set a goal for fiscal year 1980 of increasing the number of production analysts in the intelligence community by 300 active duty military in the military services and Defense Intelligence Agency, and a related increase of 100 civilians for the Army and 100 civilians for the Defense Intelligence Agency. The United States must continue to invest in high technology systems for intelligence collection, but it must not neglect the need to train and maintain an adequate number of expert analysts to give meaning to the intelligence data collected. These increases should provide additional top quality line analysts and are specifically not to be used for other intelligence activities.

TITLE VI—MILITARY TRAINING STUDENT LOADS

The Senate bill and the House amendment differed on military training student loads for the Army, Army National Guard, and Army Reserve.

The Senate bill specifically authorized a portion of the requested student loads for utilization solely for One Station Unit Training.

The House amendment, although containing the same numbers overall, authorized these training loads without any specific allocation for One Station Unit Training.

The House recedes.

TRAINING LOAD ADJUSTMENTS

The Senate bill contained a provision requiring the Secretary of Defense to adjust the military training student loads in order to be consistent with the manpower strengths authorized in Titles III, IV, and V of this act. The House amendment contained no such provision.

The House recedes.

SCHOLARSHIPS FOR MILITARY JUNIOR COLLEGES

The conferees agreed to endorse the language of the Senate report which recommends that 30 of the additional two-year R.O.T.C. scholarships requested by the Army for fiscal year 1980 be allocated to military junior colleges.

TITLE VII—CIVIL DEFENSE

The House provided $138 million for civil defense. The Senate authorized $106.8 million. The House recedes.

The House version also contained a five-year authorization for civil defense. The multi-year authorizations included a provision containing a new civil defense policy statement and related program elements. The Senate conferees were unable to accept the House provisions for a series of specific authorizations totaling $989.9 million over a five-year period for civil defense operations without any hearings having been held on the nature of the programs that would be funded by such authorizations. The House recedes.

However, the conferees do agree that civil defense is a vital and necessary part of a sound deterrent posture, and therefore, recommend to the appropriate executive agencies that earnest efforts be made over the next five years to increase the commitment to and effectiveness of the nation's civil defense, with funding each successive year at a level that reflects both the inflation rate and the Soviet threat.

The House amendment contains a provision to eliminate various limitations on appropriations for personnel and administrative expenses, student travel, radiological instrument procurement and personal equipment for state and local civil defense workers. The Senate bill contains a provision that increases the limitation on appropriations for personnel and administrative expenses from $35 million to $40 million and retains the existing limitations on other activities. The House recedes.

The Senate amendment to the Federal Civil Defense Act establishing a Federal-State matching requirement for the construction of emergency operations centers was not agreed to. The Senate recedes.

TITLE VIII—GENERAL PROVISIONS

Amendments to the Uniform Code of Military Justice to improve military discipline (sec. 801)

The Senate bill contained a provision (sec. 801) intended to improve military discipline by limiting the right of an accused to raise defects in the enlistment process to defeat court-martial jurisdiction, and to clarify the President's authority to issue a manual of procedure not only for trial procedures, but pre-trial and post-trial procedures as well.

The House amendment has no similar provision.

The House recedes.

The House conferees were reluctant to take a step which might be misinterpreted as providing further encouragement to an already serious recruiting malpractice problem. However, it is inappropriate to address the issue of malpractice in a court-martial proceeding.

The conferees agree that the current management technique of using recruiting quotas has increased the likelihood of recruiting malpractice. The Secretary of Defense is urged to review the management of recruiting in the military services and to consider an alternative approach to the current quota system.

The conferees have also agreed that a more effective administrative process to permit

enlistees to raise questions of the validity of their enlistment is necessary. The conferees expect the Secretaries of each of the services to establish an administrative process that will provide each enlistee a voluntary opportunity to raise any improper matters in his or her enlistment, as well as permit service management to uncover recruiting malpractice. The general framework of this process shall permit an enlistee at the end of his basic training period, or at a similarly appropriate point, the opportunity to raise such matters.

The service secretaries shall report back to each of the Committees on Armed Services by December 31, 1979 on the process that will be established to uncover recruiting malpractice.

Waiver of OMB Circular A–76 for contracting out of certain research and development activities (sec. 802)

Section 801 of the House amendment contained a provision exempting most research and development (R&D) activities from the application of Office of Management and Budget (OMB) Circular A–76. This circular establishes the policies and procedures to be used by executive branch departments for implementing the general policy that the Government will rely on competitive private enterprise where practicable to supply the products and services it needs. Only those support activities for R&D which are more structured in nature, such as facility and equipment maintenance, are excluded from the prohibition contained in the House provision.

The Senate bill had no similar provision.

The Senate recedes.

Uniformed Services University of the Health Sciences (sec. 803)

Section 802 of the House amendment requires that the Secretary of Defense take actions to insure the Uniformed Services University of the Health Sciences operates at full capacity, upon recommendations of the Board of Regents and consistent with academic capabilities. It also makes a technical correction (changes "uniform" to "uniformed") and clarifies original Congressional intent to allow up to 20% of graduates to serve in civilian Federal service in lieu of military service by clarifying the language to indicate that authority is *permissive* in nature.

No similar provision was included in the Senate bill.

The Senate recedes.

Stipend increase for health professions scholarship program (sec. 804(a))

The House amendment contained a provision (sec. 806(a)) that would increase the stipend for the Health Professions Scholarship Program participants to the same level as that received by participants in the National Health Service Corps Scholarship Program—administered by the Department of Health, Education, and Welfare—($453 per month) and provide for annual adjustments thereafter at the same time and in the same amount as the HEW stipend.

The Senate bill contained a provision (sec. 807) that would adjust the current stipend ($400 per month) in the future.

The Senate recedes.

Special pay for medical officers during periods of obligation (sec. 804(b))

The House amendment contained a provision (sec. 806(b)) that provides $9,000 per year to military physicians who are not in internship or residency training but who are serving their initial active duty obligation.

No similar provision was included in the Senate bill.

The Senate recedes.

Six-year military service obligation for persons enlisting after age 26 (sec. 805)

The House amendment contained a provision that extends the 6-year statutory military obligation to all enlistees by terminating the exception for enlistees age 26 and over. The Senate bill contained no similar provision.

The Senate recedes.

Restrictions on contracting out (sec. 806)

The Senate bill declared that it was United States policy that the provisions of the Office of Management and Budget Circular A–76 prohibiting the use of private contractors to avoid personnel or salary limitations and prohibiting personnel actions in violation of Civil Service personnel regulations are binding on the Department of Defense. Further, commercial or industrial type functions being performed by Department of Defense personnel at Davis-Monthan Air Force Base on January 1, 1979, may be contracted out to a private contractor only if such action does not affect technical skills necessary to critical military capabilities, mobilization capabilities, or accountability in the Department of Defense.

The Senate bill also required an annual report by the Secretary of Defense on conversion of commercial or industrial type functions to performance by private contract for the year preceding the fiscal year in which the report is provided and an estimate of such conversion for the fiscal year in which the report is provided.

The House amendment contained language that provides that no commercial or industrial type function may be converted from performance by Department of Defense personnel to performance by private contractor to circumvent a civilian personnel ceiling or unless the Secretary of Defense—

(1) Notifies the Congress of a decision to study a function for conversion;

(2) Submits a report showing the economic impact of such a conversion on the community, the employees affected, and the military mission or function; and

(3) Notifies the Congress of a final decision to convert a function to performance by private contractor, and submits the amount of the bid accepted and the cost of performance by government personnel, together with all other costs and expenditures the government could incur by such conversion.

The House amendment also provided that no funds may be obligated or expended for a contract after a decision to convert until the appropriate congressional committees have had 30 legislative days to review the decision.

The conferees agreed on language similar in most respects to that contained in the House amendment without the requirement for the 30 legislative day delay before obligation of funds can occur and with the requirement for an annual report of such conversions as contained in the Senate bill.

Advanced housing allowance (sec. 807)

Section 807 of the House amendment authorized the Department of Defense to make advanced payments of the overseas housing allowance.

No similar provision was included in the Senate bill.

The Senate recedes.

Annual report of NATO readiness (sec. 808)

This section of the House amendment required the Secretary of Defense to assess annually and report to the Congress on the readiness status of the military forces of the North Atlantic Treaty Organization (NATO), including an annual assessment of deficiencies, a reporting of planned corrections in the identified readiness deficiencies and the portion of the budget which is allocated for such corrections, and a reporting of commitments made by other member nations to correct their readiness deficiencies. There was no similar provision in the Senate bill.

The conferees agreed that the Secretary of Defense should also include within the required report an assessment of the readiness status and deficiencies relating to NATO tactical and theater nuclear capabilities.

The Senate recedes.

Selected acquisition reports (sec. 809)

Both the Senate bill (sec. 804) and the House amendment (sec. 809) contained provisions requiring quarterly selected acquisition reports to the Congress. Both provisions contained essentially the same language and the technical differences were resolved by the conferees.

Assistance to the 1980 Winter Olympic Games (sec. 810)

Both the Senate bill (sec. 805) and the House amendment (sec. 810) authorized an amount not to exceed $10 million for providing assistance under certain conditions to the 1980 Winter Olympic Games.

The Senate provision required specific appropriations to carry out the provisions of the section. The House provision had a similar requirement but excluded pay and nontravel related allowances.

The Senate recedes.

Presidential recommendations for Selective Service (sec. 811)

The House amendment contains a requirement for the President to provide a report on his recommendations for reform of the Selective Service System. The Senate bill contains no similar provision.

The Senate recedes with an amendment.

The President's recommendations with regard to the feasibility of establishing a registration plan through a centralized automated system should specifically address court decisions with respect to the requirement for issuing induction orders in the proper "order of call," as well as those dealing with conscientious objectors, classification procedures, and other relevant court decisions.

Both the House and Senate Committee on Armed Services have made a detailed review of the plan presented with the President's fiscal year 1980 budget for registration and induction under the Selective Service System following mobilization. Both committees have concluded that this ambitious plan will not work and that peacetime registration is needed. If the President intends to rely on this or some other post-mobilization registration plan as the foundation of our mobilization capacity at time of emergency, then the report called for in section 811 should also address the extent of testing of the plan that will be done, the acquisition schedule, and capability of computers, and other necessary equipment, the extent of agreements with state election officials or other non-Federal agencies, the schedule for training Federal and non-Federal personnel who would be involved in registration, and the likelihood that induction orders issued under such a plan would survive potential court challenges.

Preservation of the Selective Service System as an independent agency (sec. 812)

The House amendment contained a provision (sec. 813) that expresses the Congress' view that the Selective Service System should remain an independent agency. The Senate bill contains no similar provision.

The Senate recedes.

Study of Titan II (sec. 813)

Section 814 of the House amendment requested a study of the physical condition of Titan II facilities and maintenance pro-

cedures. Findings and recommendations of the studies were to be furnished to the Committees on Armed Services and to the Members representing the districts in which Titan facilities are located within 180 days of enactment.

No such provision was included in the Senate bill.

The Senate recedes with an amendment deleting the requirement that the studies be furnished to the Members representing the districts in which Titan facilities are located.

Junior enlisted dependents (sec. 814)

The Senate bill contained a provision (Sec. 302) that would have allowed reimbursement for travel and transportation of dependents only to service members above the pay grade of E-4 who have over two years of service in an effort to reduce the number of dependents overseas. This provision would be less favorable to junior enlisted personnel than current law.

The House amendment contained a provision (Sec. 814) that would have prohibited the Service Secretaries concerned from differentiating among members (or dependents of members) on the basis of a member's grade, rank, rating or years of service, with respect to these benefits. This provision would be more favorable to junior enlisted personnel then current law.

The conferees, after lengthy discussion, agreed to drop both provisions from the bill (in effect retaining current law) and to include a provision mandating the Secretaries to undertake a program to reduce the total number of dependents including the use of discretionary authority in the granting of travel entitlements by prohibiting payment after September 30, 1980, of travel and transportation benefits to members assigned overseas when the total number of dependents authorized to be overseas and entitled to receive travel allowances exceeds 325,000. This level would represent a reduction of about 10,000 in the current number of so-called command sponsored dependents and addresses, in part, the intent of the provision contained in the Senate bill.

The House conferees reluctantly dropped the language contained in the House amendment with the understanding that the language of the conference report leaves the implementation of any restrictions resulting from the ceiling to the discretion of the Service Secretaries concerned. It is the intent of the conferees that the Service Secretaries implement any restrictions on travel entitlements fairly and in a manner in the best interest of the United States. The conferees agreed that junior enlisted members should not bear the unilateral burden of restrictions in travel entitlements or in reductions of dependents overseas, but that the Secretary in his discretion can consider such factors as age, size of family, length of service, number of overseas tours and overall morale of the service in implementing travel restrictions.

The conferees unanimously expressed concern with the current capability to evacuate the dependent population from overseas during a period of hostilities. In view of this concern, the Secretary of Defense, by March 31, 1980, is requested to submit and certify as to its effectiveness to the Committees on Armed Services of the Senate and House of Representatives, an evacuation plan for military dependents in Europe. This plan should address not only the dependents of U.S. service members, but also the impact of the other noncombatant U.S. citizens who would be competing for the limited evacuation resources during a time of extreme emergency, including the potential impact of the requirement to evacuate combat casualties.

Gasohol (sec. 815)

The House amendment contained a provision designed to encourage the use of alcohol and alcohol-blends as a fuel in military motor vehicles.

The Senate bill contained no such provision.

The Senate recedes.

Extension of cut-off for electing coverage under the reserve survivor benefit plan (sec. 816)

The House amendment contained a provision (sec. 819) that would extend the cut-off date for electing into the Reserve Survivor Benefit Program for 6 months, from September 30, 1979, to March 31, 1980.

No similar provision was included in the Senate bill.

Public Law 95-397 modified the Survivor Benefit Plan to permit reservists who have completed 20 years of satisfactory service to provide survivor benefit coverage in the event they die before reaching age 60. Those reservists who had already completed 20 years of service by October 1, 1978, were given until September 30, 1979, to elect coverage before age 60.

The Senate recedes.

Extension in time period for reductions in high grade civilians (sec. 817)

The House amendment contained a provision (sec. 820) that would extend for one year the period of time during which reductions in high grade civilians (GS-13 and above) mandated under Public Law 95-79 are required.

No similar provision was included in the Senate bill.

Enactment of the Civil Service Reform Act resulted in certain restrictions on reducing the grades of high grade civilians. The conferees agree that this extension is granted only for this reason and that further extensions of the required reduction will not be considered.

The Senate recedes.

Sense of Congress expression concerning importation of strategic and critical materials from Zimbabwe-Rhodesia (sec. 818)

The Senate bill contained a provision to amend the Strategic and Critical Materials Stock Piling Act to require the cessation of restrictions on importation of strategic materials from Zimbabwe-Rhodesia and further to lift all trade sanctions against that country. Subsequent to the passage of the bill in the Senate, Congressional action was taken on other legislation providing procedures for ending sanctions against Rhodesia and the House conferees, therefore, declined to yield.

The conferees agreed, however, on a new section 818 expressing the sense of Congress that the United States should have unlimited access to strategic and critical materials which are vital to the defense of the United States and that every effort should be made to remove artificial impediments to the importation of such materials from Zimbabwe-Rhodesia.

Requirement for reporting salaries of officers of Federal Contract Research Centers (sec. 819)

Section 806 of the Senate bill directs that the Secretary of Defense report to Congress annually on all employees of Federal Contract Research Centers whose salaries are in excess of that paid to Government employees at the pay grade of level II of the Executive Schedule and the reasons for their salaries being above that amount. This reporting requirement would begin September 30, 1979, according to the Senate bill.

The House amendment had no similar provision.

The conferees agreed to include the provision in the conference report but changed the date establishing the reporting requirement to January 31, 1980.

The House recedes with an amendment.

Technical amendments to Defense reorganization order (sec. 820)

The House amendment makes technical amendments to several sections of titles 5 and 10, United States Code, to reflect changes made by the Department of Defense reorganization order of March 7, 1978.

The Senate recedes.

Correction of erroneous section designation on prohibition against military unions (sec. 821)

The House amendment corrects an erroneous section designation in title 10, United States Code.

The Senate recedes.

Extension of Polaris program

Section 903 of the Senate bill contained language which would prohibit the deactivation of any Polaris submarines prior to one year following the enactment of this legislation.

The House amendment provides no such provision.

The Senate recedes

Limitation on reduction of forces at Guantanamo Bay

Section 811 of the House amendment contained a provision to prohibit the use of any funds authorized by the bill for reduction of personnel support or equipment levels at Guantanamo Bay, Cuba, or reducing military function supported by Guantanamo Bay.

No such provision was included in the Senate bill.

The House recedes

Pay of administrators and instructors in Junior ROTC

Senate bill contained a provision (sec. 809) that would require the Department o' Defense to reimburse schools with Junior ROTC units for 60 percent (vice 50 percent) of the difference between the salary of administrators and instructors and military retired pay.

No similar provision was included in the House amendment.

The House conferees indicated that no problem is apparent in recruiting personnel, no programs have been terminated based on financial conditions, and no complaints have been received from the schools.

The Senate recedes.

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RICHARD ICHORD,
LUCIEN N. NEDZI,
CHAS. H. WILSON,
RICHARD C. WHITE,
BILL NICHOLS,
BOB WILSON,
WILLIAM L. DICKINSON,
G. WILLIAM WHITEHURST
FLOYD SPENCE,
ED BEARD,

When difference regarding intelligence related activities are under consideration only:

BILL D. BURLISON,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
EDWARD P. BOLAND,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,

Managers on the Part of the House

JOHN C. STENNIS,
H. M. JACKSON,
HARRY F. BYRD, Jr.,
SAM NUNN,
JOHN CULVER,
GARY HART,
JOHN TOWER,
STROM THURMOND,
JOHN WARNER,
GORDON HUMPHREY,

Managers on the Part of the Senat

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLEVELAND (at the request of Mr. RHODES), for October 22 and 23, on account of a death in the family.

Mr. SCHEUER (at the request of Mr. WRIGHT), for the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROTH) to revise and extend their remarks and include extraneous material:)

Mr. SOLOMON, for 60 minutes, today.
Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. FROST) to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. MAGUIRE, for 5 minutes, today.
Mr. AUCOIN, for 5 minutes, today.
Mr. REUSS, for 5 minutes, today.
Mr. WIRTH, for 5 minutes, today.
Mr. BENJAMIN, for 5 minutes, today.
Mr. OTTINGER, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.
Mr. WON PAT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. HOLTZMAN to insert extraneous material at the end of her comments on H.R. 4943.

Mr. ASHBROOK, to revise and extend following the statement of Mr. BROWN of Ohio on Senate 1030 today.

The following Members (at the request of Mr. ROTH), and to include extraneous matter:)

Mr. YOUNG of Alaska.
Mr. WILLIAMS of Ohio in two instances.
Mr. ASHBROOK in three instances.
Mr. MCCLORY.
Mrs. HOLT.
Mr. BEARD of Tennessee.
Mr. CONTE.
Mr. WYDLER.
Mr. KEMP.
Mr. BETHUNE.
Mr. DEVINE.
Mr. QUAYLE.
Mr. MICHEL.

(The following Members (at the request of Mr. FROST), and to include extraneous material:)

Mr. MURPHY of New York.
Mr. STARK in two instances.
Mr. WRIGHT.
Mr. GUARINI.
Mr. STACK.
Mr. KILDEE.
Mr. CONYERS.
Mr. PANETTA in two instances.
Mr. FORD of Michigan in two instances.
Mr. MOAKLEY in two instances.
Mr. EDGAR.
Mr. ADDABBO.
Mr. STEWART in two instances.
Mr. BRODHEAD.
Mr. PATTERSON.
Mr. MAVROULES.
Mr. FOUNTAIN.
Mr. SIMON.
Mr. CHARLES H. WILSON of California.
Mr. OTTINGER.
Mr. GARCIA.
Mr. MINETA.
Mr. DINGELL.
Mr. AMBRO.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 436. An act to amend section 15(d) of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Valley Authority; and

S. 1030. An act to establish an emergency program for the conservation of energy and to provide for a standby rationing plan for motor fuel.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3923. An act to amend chapter 25 of title 44, United States Code, to extend for 1 year the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes;

H.R. 4580. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes; and

H.R. 5386. An act to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 22, 1979, present to the President, for his approval, a bill of the House of the following title:

H.R. 1825. To protect archaeological resources on public lands and Indian lands, and for other purposes.

ADJOURNMENT

Mr. MINETA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock) and 7 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 24, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2683. A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize training of personnel of the armed forces of NATO member countries; to the Committee on Armed Services.

2684. A letter from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize ordering reserve commissioned officers of the Army on active duty (other than for training) to serve on active duty in a grade to which promoted; to the Committee on Armed Services.

2685. A letter from the Secretary of the Interior, transmitting notice of the proposed refund of $28,898.05 in excess gas royalty payments to the Gulf Oil Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

2686. A letter from the Deputy Assistant Secretary of the Interior, transmitting an announcement of the matching fund water research and development areas of interest for fiscal year 1981 funding consideration, pursuant to section 411 of the Water Research and Development Act of 1978; to the Committee on Interior and Insular Affairs.

2687. A letter from the Acting Assistant Secretary of the Interior, transmitting a revised draft of proposed legislation, previously submitted, to provide for additional authorization for appropriations for the Tinicum National Environmental Center; to the Committee on Merchant Marine and Fisheries.

2688. A letter from the Secretary of Commerce; transmitting the annual report of the National Marine Fisheries Service for calendar year 1978, pursuant to section 9(a) of the Fish and Wildlife Act of 1956, as amended; to the Committee on Merchant Marine and Fisheries.

2689. A letter from the Deputy General Counsel of the Army (Military and Civil Affairs), transmitting a report on the investigation of allegations of mismanagement and prohibited personnel practices at Aberdeen Proving Ground, Md., pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

2690. A communication from the President of the United States, transmitting a proclamation extending nondiscriminatory trade treatment to the products of the People's Republic of China, together with related reports, pursuant to section 407 of the Trade Act of 1974 (H. Doc. No. 96-209); to the Committee on Ways and Means and ordered to be printed.

2691. A letter from the Comptroller General of the United States, transmitting a report on ways the Western Area Power Administration should implement conservation practices and commercialization of solar and wind technology in its marketing area (EMD-79-73, October 16, 1979); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASTENMEIER: Committee on the Judiciary. S. 423. A bill to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for

the resolution of consumer controversies, and for other purposes; with amendments (Rept. No. 96-492 pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. GIAIMO: Committee of conference. Conference report on Senate Concurrent Resolution 36. In disagreement (Rept. No. 96-541). Ordered to be printed.

Mr. BOLAND: Committee of conference. Conference report on H.R. 4394 (Rept. No. 96-542). Ordered to be printed.

Mr. GARCIA: Committee on Post Office and Civil Service. H.R. 5461. A bill to designate the birthday of Martin Luther King, Jr., a legal public holiday; with amendments (Rept. No. 96-543). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5262. A bill to amend the act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d); with amendments (Rept. No. 96-544). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5505. A bill to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes; with amendment (Rept. No. 96-545). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee of conference. Conference report on S. 428 (Rept. No. 96-546). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAFALIS:

H.R. 5670. A bill to amend the Wild and Scenic Rivers Act to designate a certain portion of the St. Lucie River in Florida for potential addition to the Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. BENJAMIN:

H.R. 5671. A bill to amend the Disaster Relief Act of 1974 to provide for improvements in the operation and scope of snow emergency declaration procedures and reimbursement policies; to the Committee on Public Works and Transportation.

By Mr. FISHER:

H.R. 5672. A bill to provide that adjustments in the rates of pay for Members of Congress shall be considered in a manner separate from that for other employees and officials of the legislative, executive, and judicial branches of Government, and to provide that such adjustments in the rates to pay for Members of Congress shall take effect at the beginning of the Congress following the Congress in which they are approved and then only if approved by a concurrent resolution of the Congress; to the Committee on Post Office and Civil Service.

By Mr. FORD of Michigan (for himself, Mr. THOMPSON, Mr. CLAY, and Mr. CHARLES H. WILSON of California):

H.R. 5673. A bill to authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GIAIMO:

H.R. 5674. A bill to rescind certain budget authority contained in the message of the President of October 1, 1979 (H. Doc. 96-198) transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. MCCLORY:

H.R. 5675. A bill to amend the Safe Drinking Water Act to change the requirements for establishing national primary drinking water regulations, to require the Environmental Protection Agency to conduct a study of the health effects of barium and radium in drinking water, to suspend the standards for barium and radium pending the completion of the study, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 5676. A bill to amend the Safe Drinking Water Act to provide for a study of the health effects of barium and radium in drinking water and to suspend the national interim primary drinking water standards for such contaminants pending the completion of such study and the promulgation of new standards for such contaminants; to the Committee on Interstate and Foreign Commerce.

By Mr. MCDADE:

H.R. 5677. A bill to amend the Internal Revenue Code of 1954 to provide an additional $750 exemption for certain volunteer firemen; to the Committee on Ways and Means.

By Mr. MCHUGH:

H.R. 5678. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for low and middle income taxpayers for amounts paid for the primary fuel used in their principal residences, and to establish a program under which the Secretary of the Treasury makes advance payments of such credit to suppliers of fuel to be so used; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MURPHY of New York (for himself, Mr. BREAUX, Mr. MCCLOSKEY, Mr. FORSYTHE, and Mr. EDGAR):

H.R. 5679. A bill to provide for additional authorization for appropriations for the Tinicum National Environmental Center; to the Committee on Merchant Marine and Fisheries.

By Mrs. CHISHOLM:

H.R. 5680. A bill to amend the Higher Education Act of 1965 to strengthen and improve the student loan programs so as to assure the availability of funds to students to attend the institution of higher education of their choice, to strengthen the procedures for the repayment of such loans, and for other purposes; to the Committee on Education and Labor.

By Mr. WON PAT:

H.R. 5681. A bill to entitle foreign-built vessels registered to certain U.S. citizens and nationals pursuant to section 4132 of the Revised Statutes for employment in the fisheries within the territorial seas of American Samoa, Guam, and the Northern Mariana Islands and within that portion of the fishery conservation zone contiguous to the territorial seas of American Samoa, Guam, and the Northern Mariana Islands; to the Committee on Merchant Marine and Fisheries.

By Mr. HAMMERSCHMIDT:

H.R. 5682. A bill to extend for 4 fiscal years the authorization of appropriations for the State and Local Fiscal Assistance Act of 1972; to the Committee on Government Operations.

By Mr. MINETA (for himself, Mr. GIAIMO, Mr. GEPHARDT, Mr. NELSON, Mr. CONABLE, and Mrs. HOLT):

H.R. 5683. A bill to amend the Congressional Budget Act of 1974 to establish procedures for setting targets and ceilings, in the congressional budget process, for loans and loan guarantees under Federal credit programs; to the Committee on Rules.

By Mr. UDALL (by request):

H.R. 5684. A bill limiting use of project water for production of excess crops; to the Committee on Interior and Insular Affairs.

By Mr. NATCHER:

H.J. Res. 427. Joint resolution making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes; to the Committee on Appropriations.

By Mr. BIAGGI:

H.J. Res. 428. Joint resolution designating December 1979 as "National Child Abuse Prevention Month"; to the Committee on Post Office and Civil Service.

By Mrs. HOLT:

H.J. Res. 429. Joint resolution prohibiting the offering of floor amendments to continuing resolutions; to the Committee on Rules.

By Mr. HANSEN:

H. Con. Res. 203. Concurrent resolution expressing the sense of the Congress that the $1 bill should remain in circulation and the $1 coin should be produced in such volume as demand warrants; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ULLMAN (designated by the majority leader) and Mr. CONABLE (designated by the minority leader) (both by request):

H. Con. Res. 204. Concurrent resolution approving the extension of nondiscriminatory treatment to the products of the People's Republic of China; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

316. The SPEAKER presented a memorial of the Legislature of the Territory of Guam, relative to the Presidential Task Force Report on Economic Development, Federal Assistance, Coordination of Federal Grants, Federal Organization and Federal Presence; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAFALIS:

H.R. 5685. A bill for the relief of Earl Tyler; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON:

H.R. 5686. A bill for the relief of Mario U. Mentuano; to the Committee on the Judiciary.

By Mr. HARRIS:

H.R. 5687. A bill for the relief of Michael G. Macdonald; to the Committee on the Judiciary.

By Mr. PEASE:

H.R. 5688. A bill to provide for the conveyance of certain surplus property of the National Aeronautics and Space Administration located in Erie County, Ohio, to the individuals from whom the United States acquired the property; to the Committee on Government Operations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1078: Mr. KOGOVSEK.
H.R. 1644: Mr. ANTHONY and Mr. SAWYER.
H.R. 2191: Mr. EDGAR.
H.R. 2364: Mr. LEACH of Iowa.
H.R. 3105: Mr. BAFALIS, Mr. CORCORAN, Mr. FRENZEL, Mr. GRAMM, Mr. ROUSSELOT, Mr. STANGELAND, Mr. YATRON, and Mr. CARNEY.
H.R. 3106: Mr. ROE, Mr. CARTER, Mr. GOLDWATER, Mr. DUNCAN of Tennessee and Mr. FROST.
H.R. 3685: Mr. MOLLOHAN and Mr. VOLKMER.
H.R. 3718: Mr. BAILEY and Mr. FINDLEY.
H.R. 3981: Mr. BUCHANAN and Mr. HOWARD.
H.R. 4156: Mr. EVANS of the Virgin Islands.
H.R. 4471: Mr. JEFFRIES, Mr. EDWARDS of Oklahoma, Mr. QUILLEN, and Mr. MCCLOSKEY.
H.R. 4561: Mr. WOLPE.

H.R. 4842: Mr. COUGHLIN, Mr. OBERSTAR, and Mr. CAVANAUGH.
H.R. 5200: Mr. BAILEY.
H.R. 5225: Mr. BADHAM, Mr. ENGLISH, Mr. CORCORAN, and Mr. ROUSSELOT.
H.R. 5278: Mr. FAZIO.
H.R. 5282: Mr. BEVILL, Mr. CORRADA, Mr. HUGHES, and Mr. LAGOMARSINO.
H.R. 5327: Mr. LAGOMARSINO, Mr. COLLINS of Texas, Mr. WHITEHURST, Mr. SPENCE, Mr. KINDNESS, Mr. BUTLER, Mr. HUGHES, Mr. GRADISON, Mr. BUCHANAN, Mr. WYATT, Mr. KEMP, Mr. KILDEE, Mr. STANTON, Mr. DEVINE, Mr. BROYHILL, and Mr. WON PAT.
H.R. 5341: Mr. GIBBONS.
H.R. 5440: Mr. LIVINGSTON, Mr. RUDD, Mr. MAZZOLI, Mr. DOUGHERTY, and Mr. MCDONALD.
H.R. 5443: Mr. SEIBERLING and Mr. DOUGHERTY.
H.J. Res. 68: Mr. JEFFORDS.
H.J. Res. 343: Mr. ERDAHL, Mrs. SPELLMAN, Mr. HALL of Ohio, Mrs. HECKLER, and Mr. BUCHANAN.
H.J. Res. 372: Mr. MOFFETT, Mr. BLANCHARD, Mr. ROE, Mr. GREEN, Mr. AMBRO, Mr. PASHAYAN, Mr. YATES, Mr. ROSENTHAL, Mr. WEISS, Mr. DOUGHERTY, Mr. STOKES, and Mr. WOLFF.
H.J. Res. 382: Mr. ABDNOR, Mr. BETHUNE, Mr. ALEXANDER, Mr. DE LA GARZA, Mr. HOLLAND, Mr. BEREUTER, Mr. BROWN of Ohio, Mr. EVANS of Delaware, Mr. SEBELIUS, Mr. HALL of Texas, Mr. MCCLOSKEY, Mr. FUQUA, Mr. KEMP, Mr. KINDNESS, Mr. ERDAHL, Mr. LAGOMARSINO, Mr. COLEMAN, Mr. PRICE, Mr. STOCKMAN, Mr. WALGREN, Mr. LEACH of Louisiana, Mr. JOHNSON of Colorado, Mr. FAZIO, Mr. COELHO, Mr. MATHIS, Mr. DODD, Mr. WHITTEN, Mr. JEFFORDS, Mr. FRENZEL, Mr. GINN, Mr. LOTT, Mr. KASTENMEIER, Mr. JOHNSON of California, Mr. BAFALIS, Mr. WINN, Mr. ROE, Mr. MURPHY of New York, Mr. SPENCE, Mr PINDLEY, Mr. KRAMER, Mr. MADIGAN, Mr. EVANS of the Virgin Islands, Mr. WAMPLER, Mr. LOEFFLER, Mr. WHITTAKER, Mr. NEAL, Mr. MCHUGH, Mr. HUTTO, Mr. GUYER, and Mr. HANCE.
H. Con. Res. 122: Mr. BONIOR of Michigan, Mr. SCHEUER, and Mr. MURPHY of New York.
H. Con. Res. 151: Mr. ABDNOR, Mr. ANNUNZIO Mr. BADHAM, Mr. BEARD of Tennessee, Mr. BEILENSON, Mr. BENJAMIN, Mr. BEREUTER, Mr. BETHUNE, Mr. BURGENER, Mr. JOHN L. BURTON, Mr. CAMPBELL, Mr. CARTER, Mr. CHENEY, Mr. CLAUSEN, Mr. CLINGER, Mr. COELHO, Mr. COUGHLIN, Mr. COURTER, Mr. DANIEL B. CRANE, Mr. PHILIP M. CRANE, Mr. DANNEMEYER, Mr. DASCHLE, Mr. DELLUMS, Mr. DORNAN, Mr. DOUGHERTY, Mr. ECKHARDT, Mr. ERDAHL, Mr. EVANS of the Virgin Islands, Mr. FAZIO, Ms. FERRARO, Mr. FUQUA, Mr. GINGRICH, Mr. GOODLING, Mr. GORE, Mr. GRASSLEY, Mr. GRISHAM, Mr. GUYER, Mr. HALL of Texas, Mr. HINSON, Mr. HUCKABY, Mr. HYDE, Mr. JEFFRIES, Mr. JOHNSON of California, Mr. JOHNSON of Colorado, Mr. JONES of Tennessee, Mr. KEMP, Mr. KOGOVSEK, Mr. KRAMER, Mr. LAGOMARSINO, Mr. LATTA, Mr. LEE, Mr. LELAND, Mr. LEWIS, Mr. LLOYD, Mr. LOTT, Mr. LUJAN, Mr. MARRIOTT, Mr. MATSUI, Mr. MCCLORY, Mr. MCCLOSKEY, Mr. MCKAY, Mr. MILLER of California, Mr. MINETA, Mr. MOORHEAD of California, Mr. MOTTL, Mr. MYERS of Indiana, Mr. NATCHER, Mr. PANETTA, Mr. PATTEN, Mr. PATTERSON, Mr. PEPPER, Mr. PETRI, Mr. PEYSER, Mr. QUILLEN, Mr. RITTER, Mr. ROBINSON, Mr. ROUSSELOT, Mr. ROYBAL, Mr. ROYER, Mr. RUDD, Mr. SAWYER, Mrs. SCHROEDER, Mr. SHUMWAY, Mrs. SMITH of Nebraska, Mrs. SNOWE, Mr. SOLARZ, Mr. SOLOMON, Mrs. SPELLMAN, Mr. STACK, Mr. STANGELAND, Mr. STENHOLM, Mr. STOCKMAN, Mr. SYMMS, Mr. TAUKE, Mr. TEISLE, Mr. VANDER JAGT, Mr. WALKER, Mr. WAMPLER, Mr. WAXMAN, Mr. WEAVER, Mr. WHITEHURST, Mr. WHITTAKER, Mr. BOB WILSON, Mr. CHARLES WILSON of Texas, Mr. CHARLES H. WILSON of California, Mr. WOLPE, Mr. YOUNG of Florida, and Mr. YOUNG of Alaska.
H. Con. Res. 202: Mrs. HECKLER, Mr. DODD, Mr. SOLARZ, Mr. AMBRO, Mr. EDWARDS of California, Mr. YATES, Mr. FRENZEL, Mr. LENT, Mr. OBERSTAR, Mr. LONG of Maryland, Mr. FISH, Mr. MARKEY, Mr. EVANS of the Virgin Islands, Mr. SKELTON, Mr. OTTINGER, Mr. STARK, Mr. DONNELLY, Mr. KILDEE, Mr. WAXMAN, Mr. ALBOSTA, Mr. THOMPSON, Mrs. SPELLMAN, Mr. BEILENSON, Mr. PEYSER, Mr. AUCOIN, Mr. LAGOMARSINO, Mr. CARNEY, Mr. GRADISON, Mr. MATHIS, Mr. MURPHY of Pennsylvania, Ms. HOLTZMAN, Mr. GILMAN, Mr. ROE, Mr. FOWLER, Ms. FERRARO, Mr. CHARLES WILSON of Texas, Mr. GREEN, Mr. MITCHELL of Maryland, Mr. ADDABBO, Mr. SOLOMON, Mr. BIAGGI, Mr. MARKS, and Mr. WOLFF.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

S. 212. By the SPEAKER: Petition of the Executive Director, American Public Works Association, relative to resolutions and policy statements of the association for 1979; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2608

By Mr. SEIBERLING:

—On page 12, line 18, strike "by October 1, 1979" and insert in lieu thereof: "within 90 days of enactment of this legislation".

H.R. 4904

By Mr. JEFFORDS:

—On page 109, after line 2, insert the following new subsection (c):

"(c) Notwithstanding any other provision of law, the Secretary of Agriculture, at the request of the governor, in accordance with arrangements entered into with the Secretary of Health, Education, and Welfare, shall pay each household—

"(1) of which every member is either over sixty-five or is eligible for grants to the blind or disabled in Guam, Puerto Rico, and the Virgin Islands;

"(2) which is eligible to participate in the food stamp program; and

"(3) which is not entitled to a payment under section 1619 of the Social Security Act;

an amount equal to the value of a coupon allotment to which the household is entitled under the Food Stamp Act of 1977. For the purposes of section 8(b) of the Food Stamp Act of 1977 pertaining to benefits provided being excluded as income or resources under other laws, an amount paid under this subsection shall be treated as the value of the coupon allotment. In the administration of such Act, a household which receives payments under this subsection for any month shall not be issued a coupon allotment for such month. Payments under this subsection shall be made at such time or times as the Secretary of Agriculture determines by rule and shall be designated (on any voucher or other record of payment) as 'Nutritional Supplement.'"

H.R. 5297

By Mr. SEIBERLING:

—On page 7, line 18 and 19, strike "by October 1, 1979" and insert in lieu thereof: "within 90 days of enactment of this legislation".

EXTENSIONS OF REMARKS

MORE ON ACTION: FROM SOCIAL SERVICE TO SOCIAL ACTIVISM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

• Mr. ASHBROOK. Mr. Speaker, it is no secret that I am not among the admirers of Sam Brown or his Action agency. During hearings before the Education and Labor Committee earlier this year, M. R. Kramer and I raised several questions about the administration of the program, particularly the widespread allegations about political activism under Mr. Brown's leadership. Many of our questions were glossed over by those who want to look the other way. Many remain unanswered.

The Republican Study Committee has published in its bulletin of this week, an excellent study of the ACTION agency and some of its activities. Although the agency has won reauthorization, I intend to closely monitor the program. We all know that you can not teach an old dog new tricks and I think this column tells us why.

I urge my colleagues to read it.

ACTION'S PACE IS SLOWED; SHOULD BE EVEN SLOWER

Despite claims by agency officials that alleged illegal activities have been curtailed, ACTION staffers still manage to get into trouble by extending their activities beyond the legal scope of their job descriptions. Unfortunately, state and local officials have more of an idea of what goes on than we do here in Washington.

A small Arkansas paper, the Southern Standard, recently ran a story about a VISTA volunteer in Clark County who is paid through the state ACTION office and is assigned to an ACORN group as a community organizer. As has been noted in past Bulletin issues, ACORN was originally started in Arkansas by a former member of the National Welfare Rights Organization; ACORN activities have always been oriented toward assisting the poor, and whenever possible ACORN has encouraged the poor to work through the political arena to achieve change. The state ACTION director is looking into alleged illegal activities by the VISTA worker, but no action has yet been taken. However, he said he was aware of the allegations of the illegal activities but did nothing until a group of local Clark County officials demanded some answers. City manager of Arkadelphia Hugo Blass said after the meeting with the ACTION official, "From my personal viewpoint, and personal edification, I asked one basic question which is, by what authority does the federal government disperse federal monies as payroll to support groups who at times seem to go against the Democratic order of the right to choose and vote on matters? What activities are sanctioned under the Domestic Volunteer Service Act of 1973 under Section 403-b? It would appear that there is a conflict between the act and certain behavior of groups sponsored by the federal govern-

• This "bullet" symbol identifies statements or inserti ons which are not spoken by the Member on the floor.

ment." It would appear as though Clark County officials are not too happy with VISTA's involvement with the ACORN group.

Earlier this month, ACTION won reauthorization, but not before receiving scathing criticism on some of the programs. Republican critics defeated funding for a new urban volunteers program. The national grants program narrowly survived, but received reduced funding. This program was one of Sam Brown's babies, instituted to bypass the normal VISTA route for disseminating funds; rather than go through regional offices, the money was given directly to national antipoverty groups to support volunteers. The House of Representatives also adopted amendments to restrict political involvement of volunteers and to make VISTA projects subject to the approval of local officials. Governors already have the jurisdiction to veto projects in their states, and with final passage of this amendment, local officials will have a say at their level about the plans and activities of VISTA programs.

The short life of ACTION (created by the Nixon administration) has evolved in an interesting fashion; the direction of the agency seems to have moved from service to social activism. The service-oriented concept advocated by the Nixon administration has been shoved aside, and agency head Sam Brown argues that the (federally-supported) volunteers should concentrate on helping the poor and powerless learn to help themselves by acquiring political clout to defend their economic interests.

Hopefully, local officials, such as the ones in Arkansas, will be able to veto objectionable VISTA projects in the future, if they choose to do so. With this power, perhaps only then will the majority in Congress see that not all the VISTA projects are welcomed into communities with proverbial open arms. With new evidence that is bound to crop up in the future, maybe ACTION will eventually be whittled away to the non-controversial operation it should be today.

NEGATIVE IMAGES IN SOUTH BRONX

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 1979

● Mr. GARCIA. Mr. Speaker, all too often negative images are presented of the South Bronx, completely ignoring any attempts by residents themselves to improve their living conditions. I am particularly pleased when the media seeks to bring attention to concerned individuals fighting to keep the South Bronx alive. The following article which appeared in New York magazine, on October 15, 1979, is an excellent example of people who care in my community:

MIRACLE ON A MEAN STREET: HOW A SLUM BUILDING WAS SAVED

(By Gelvin Stevenson)

"Nearly everyone was moving out, but I decided to stay and fight," says Luis Juarbe, the superintendent of 481 Wales Avenue, a five-story walk-up in the South Bronx. Mr. Juarbe has lived there for nineteen years, and his father used to be super in the adjacent building. He's never wanted to move. Many of his friends had fled when their buildings began the slide to abandonment, but not Luis Juarbe.

His warm and friendly manner belies the combative spirit and perseverance that lie below. When surgery for a chipped bone in his elbow resulted in a paralyzed left arm, Juarbe set to work on it. "It's a lot better now," he says. "I've rehabilitated it."

He has also helped to rehabilitate 471–481 Wales Avenue. In the fall of 1977, the two connected buildings near Hunts Point, with 100 apartments between them, were teetering on the brink of abandonment. Fire had gutted the street-level bodega, pipes were leaking, and the boilers were in disrepair. Services were minimal, security nonexistent. Locks on mailboxes were broken, doors to vacant apartments were left open, stairs were crumbling, hallways were dark and dingy with dirty flaking paint, and tenants were leaving in droves.

Today the buildings show new life. The bodega is open and active again. Many once vacant apartments are full again; apartments still vacant are sealed. The worst leaks have been fixed, the front hallways sport fresh paint, there are new mailboxes, the boilers work, the leaky boiler pipes have been replaced, and eight-foot fences protect the entrances to the buildings.

Had it not been fought for, 471–481 Wales Avenue would undoubtedly have been destroyed by one of the 28 purposely set fires that eat away at the city every day. Over half of all arson fires occur in abandoned buildings, and many of the rest take place in buildings that are becoming abandoned.

When a landlord wants to torch an occupied building, he typically starts with a small roof fire. He wants people to be able to get out—murder is to be avoided. The tenants in the damaged top-floor apartments move out, and then strippers remove and sell fixtures and plumbing exposed by the fire. A second fire may be set to ease the job of extracting pipes. Fires and flooding due to the broken pipes help to empty two or three more floors. One more fire is often necessary to get the remaining tenants to flee. Tenants have even been known to set fire to their own places at this point to escape a firetrap and get priority relocation in public housing. At any rate, it is just a matter of time until such a building has entirely gone up in smoke. This fate was averted at 471–481 Wales Avenue, and the buildings have become an example of how the city can help prevent arson by stopping abandonment and stabilizing the neighborhood.

"It started this way," says Luis Juarbe, from the easy chair in his second-floor apartment. "In the fall of 1975 Charles Garcia knocked on the door and said, 'I represent Key Properties, Inc. We're the new landlord.'"

Tenants were at first pleased by this change because the situation under the former landlady had been deteriorating rapidly. But their relief was short-lived, for the deterioration continued. "Once I told Garcia I needed a new sink," Juarbe recalls, "and he told me to take one out of an empty apartment."

Nearly every week the boiler ran out of oil. Even with electric heaters, tenants were shivering. A group of tenants were promised improvements after they visited the landlord's office, but the promises were never kept.

In early 1977 squatters began moving into the unsealed vacant apartments left by tenants who had fled. Homeless drug dealers took over several apartments to be near a primary market, Samuel Gompers Vocational High School, right across the street. They decorated the halls with graffiti, like KOOL SEX and CINDY IS A JOY, and brought a dangerous atmosphere with them. Tenants complained to the landlord unavailingly.

Slow deterioration almost gave way to instant destruction late one August night in 1977 when a fire broke out in the bodega on the ground floor of 481. Flames and neighbors' screams woke everyone in the building and all the tenants had time to throw on some clothes and flee to safety. The fire was extinguished quickly, no one was hurt, and the damage was confined to the bodega, which was destroyed.

The smoke cloud from the fire in the bodega had a silver lining—it alerted Joe White to the building's plight. A police officer assigned to the arson squad, Joe White had grown up at 481 Wales Avenue and lived there for 22 years after his mother brought him to New York from Puerto Rico in 1941.

"When I heard about the fire in the bodega, I decided to investigate," White says. "People rumored that it might have been set, so I snooped around. But that was all hearsay, and the Fire Department later declared it non-suspicious—an electrical fire."

White took the tenant leaders to a meeting of the 40th Precinct Community Council, "but help from them would have taken a lot of time, and the tenants needed help immediately." So White called Nicholas Borg, then director of the Mayor's Arson Task Force, a committee set up to coordinate the arson-prevention efforts of city agencies.

"It was a classic case of a building about to become another arson statistic," recalls Borg. "In November 1977 only about 60 percent of the 100 units at 471–481 Wales Avenue were occupied, no repairs were being made, there was no heat, and it was emptying fast.

"After Joe White called me, I took a look at the buildings and decided we could do something," Borg continues, "People were leaving like crazy, and I knew there would be fires if we couldn't stop the process."

Borg's strategy began with keeping the buildings occupied. In early November Borg and White met on their own time with tenants at a church just up the block. It was a familiar place for Joe White: He had been baptized and married there. Seventy tenants heard these articulate and forceful city officials ask them to stay put. And Borg promised heat and hot water if they would stay.

This was not to be a simple matter. First the city had to gain legal control over the buildings. According to Harold Shultz, who handled the litigation for the Department of Housing Preservation and Development (HPD), this is possible whenever there are "conditions dangerous to life, health, and safety in a building." At the request of the Mayor's Arson Task Force—and with a lot of pushing from Nick Borg—several city agencies inspected the buildings. The place was "crawling with inspectors," recalls Luis Juarbe. "One inspector told me he had been an inspector for eleven years and this was the first time he'd been in the field. He asked me who I knew."

At the court proceeding leading to takeover, on November 23, 1977, housing officials, who rarely if ever appear in Housing Court, testified about housing-code violations, and Fire Department officials testified about fire hazards. The police balked, however. They said they didn't know anything about real estate and had no business testifying. Judge Anne Targum agreed, nevertheless, that conditions were dangerous and appointed HPD as the city's "7A administrator." It is Article 7A of the state real-estate law that allows the Housing Court to turn deteriorating buildings over to a responsible operator. Under 7A, repairs and operating expenses are generally paid for from rental income; no city funds are committed. One of HPD's first acts was, at the tenants' request, to offer Luis Juarbe the job of superintendent of 481. He accepted, and soon thereafter Juarbe's friend Freddie Ortiz moved in as the super of 471. A plumber, Ortiz saved at least 50 percent on numerous plumbing jobs. He is no longer super, but he still does plumbing for both buildings. Squatters still occupied several apartments when Juarbe became super, and after one of them scribbled graffiti on the lobby wall he had just painted, Juarbe nailed the doors to the squatters' apartments shut. The two people he accidentally locked in broke a window and escaped.

They have not been back. Two months after Juarbe had taken care of business, a city marshal came to nail a dispossess notice to the door of one of the apartments. Luis Juarbe patiently explained that the apartment was now empty. And in April, five months after the super had solved the problem, two police officers knocked on his door. They were answering the original tenant complaint about squatters, from long before the takeover.

As soon as the buildings were in the city's hands, Borg set to work mobilizing city resources. Heat and security were vital. HPD's Emergency Repair Program repaired the boiler and provided oil. All of the vacant apartments were boarded up, and their entrances were wired with alarms by fire marshals, who set up an around-the-clock monitoring operation in a fifth-floor apartment—on a wall of which someone had scrawled Cristo Te Ama.

Police officers were staked out around the building from 4 p.m. to midnight every day, and fire marshals covered the other two shifts. Police made themselves conspicuous on the streets—they wanted to prevent, not capture. But that created problems.

"It was costing us nearly $800 per day in police and marshal manpower," say Borg. "There had to be a better way." So he requested that HPD install a fence around the building. For about $4,000 it would provide the security tenants needed, and it would pay for itself in saved manpower costs in less than a week. But Borg hadn't counted on the city's inimitable way of doing things. HPD's Office of Evaluation and Compliance had to approve the situation. The Technical Department had to draw up specifications and working drawings and let bids. Once a contract was finally awarded and signed, it took two months for the fence to be erected. The time lost cost the city well over $50,000 in salaries and overtime for police and fire marshals at 471–481 Wales Avenue—all for a $4,000 fence.

The unusually heavy snows of winter 1978 weren't the only thing that held up the work. "Contractors don't always act as if time is of the essence," explains Carl Callender, former assistant commissioner of evaluation and compliance. "That's partly because the city has historically taken months to pay them."

Before the fence was completed, the police had gone; much of the slack was taken up by fire marshals. The police didn't like the stakeout and complained of being treated like "rent-a-cops." According to Joe White, "The first month had been crucial, and the building was now secure." Nick Borg disagreed but had no authority over the police. So the Police Department pulled its men off the job.

Under its new administration, 471–481 Wales Avenue has been filling up rapidly, and tenants have been working together in a spirit of collective self-reliance. Residents paint, plaster, and help with plumbing for low wages. They feel 471 and 481 are their buildings.

Not that frustration has been eliminated. In mid-1978 there was a desperate shortage of materials. Tenants had to wait several weeks for repairs on a water pipe which was leaking and about to break. Juarbe and Ortiz noted bitterly that a building two blocks away had been taken over by the city in what is called 309 receivership, meaning that additional city funds could be invested in repairs. "So why can't we get the materials we need?"

Harold Shultz, the HPD counsel who worked on 471–481 Wales Avenue, says that the 309 Receivership Program takes weeks to institute and would have taken effect too late for the building. But no one explained that to the tenants at Wales Avenue.

Eventually the city did provide some help when a program to lend seed money to such buildings went into effect. With Judge Targum's approval, a $10,000 loan was made last fall to fix the roofs and the top-floor apartments, put in some new bathrooms, do tile work, and upgrade the boiler. With that work completed, the remaining apartments will soon be occupied. Apartments are being snatched up as soon as they are available, as tenants from worse buildings want to move into one "on its way up." A postal worker with two children moved into a five-room apartment after she, her uncle (who lives on the first floor), her children, and some friends first fixed the large holes in the walls.

The buildings are currently three-quarters occupied and are paying all their operating expenses. Money owed the city for fuel and repairs proffered during the first two winters has been repaid and sufficient funds are on hand to pay the coming winter's fuel bills.

Without the efforts of Luis Juarbe, Nicholas Borg, Joe White, and many other people, the city would have spent a lot of money and perhaps firemen's lives putting out fires. Relocating tenants would have cost the city dearly. Demolition would have cost tens of thousands of dollars. Rehabilitation of a fully burned-out hulk would probably have cost $4 million in city and federal funds. That makes 471–481 Wales Avenue quite a saving—it took only a few thousand dollars' worth of effort, not counting the fiasco with the fence.

A viable tenant organization, to screen prospective tenants, has yet to be set up at 471–481. Mirriam Juarbe, Luis' wife, explains that the large influx of tenants has made things difficult because most newcomers don't appreciate the struggles the building has been through. "We need an organizer," says Luis Juarbe.

Last December—a little over a year after the buildings were put into the 7A program—the tenants held a meeting in the basement of 481 to hear Carl Callender tell them what the city expected of them and what they could expect of the city. He told the 27 tenants gathered that the city would gradually turn the management of the buildings over to the tenants. But the tenants had to show that they were ready to take on the responsibility. Callender asked how many wanted to be part of an association making decisions about the buildings. Only half raised their hands. Mirriam Juarbe repeated the question in Spanish, and the rest of the hands went up.

Callender also explained the management courses the city offers to tenants. At the first such course meeting, a spokeswoman for Con Ed, scheduled to speak on how to clean your refrigerator and stove, of all things, failed to appear, but the tenants' hopes are high that the quality of such offerings will improve.

Callender didn't leave without giving the tenants the credit they deserved. "This is a successful test," he said. "It has proven something to a lot of city officials."

In response, George Juarbe, Luis's brother, proclaimed that "It proves some people want to live like people. You've just got to help them out. The people care." ●

FISHERY PRODUCTS GAIN IN WORLD MARKETS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, as the world food problems become more and more intense, the utilization of the world's fishery products is becoming more and more important. The world is beginning to fully appreciate the necessity of seafood in their diet.

World trade in fishery products continued to show impressive gains in 1978. The United States also showed impressive increases in these world trade statistics. The United States has risen to second place, behind Canada, in the world exporting market of fishery products. These U.S. exports have vastly contributed to the fact that Japan is now the leading importer of fishery products.

Japan imports great quantities of fishery products from the United States, and more specifically, the State of Alaska. This is due to the fact that Alaska is the largest producer of seafood products in the country. Alaska's success can be directly attributed to the passage of the Fishery Conservation and Management Act of 1976, and the enforcement of the 200-mile limit.

The fishing industry in Alaska is alive and well. However, at this point, there are many other species that should be utilized for the world's diet. What is now necessary are sound management proposals for the harvesting and marketing of these species. As the world becomes more in tune with the hunger problem, the producing of such species is imperative.

With the establishment of seafood products in the world's diet and with sound management proposals for underutilized species, Alaska and the rest of the United States can continue to excel in the world's fishery products markets. The United States must be made aware of the fishery product potential that lies within its borders. It must realize the worth of that potential, and then it must manage and produce that potential in an intelligent and sound manner.●

CHRIST THE KING PARISH TO CELEBRATE ITS GOLDEN ANNIVERSARY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. KILDEE. Mr. Speaker, it is with pleasure that I bring to the attention of the Congress the golden anniversary observance this weekend in Flint, Mich., of Christ the King Catholic Church. The observance will include special recognition of the Reverend Norman A. DuKette, the founder of Christ the King Parish and who now is retired from the active ministry.

Christ the King Parish was founded in October 1929 by Father DuKette, who had been sent from Detroit to minister to the black Catholics of the Flint area. In that first Mass, held in the former St. Joseph Catholic Church on Flint's north side, only four persons attended.

Father DuKette soon moved the parish to the south side of Flint, where he celebrated Mass in homes and an old Methodist parsonage. It was not until the 1940's that the parish obtained a permanent home by purchasing a home on Clifford Street, and later it purchased a former National Youth Administration

building and had it moved to Seymour Street where it was divided, with half being used as a rectory and half as a church. This building was razed in 1969 because of highway construction, and the former Bishop of Lansing announced that Christ the King Parish would be disbanded and its members absorbed by other parishes. But the parishoners of Christ the King Church wanted to keep their parish alive, and their wishes finally were agreed to by the Diocese of Lansing and they were allowed to keep their identity. Construction was begun in 1969 on the present Christ the King Church, with Mass being held in the basement of the rectory until money could be raised to build the church. Father DuKette retired at the age of 80 in 1970, and was succeeded by Rev. Michael Matarazzo, who continued Father DuKette's and the parish's dream of having their church building completed. The church was completed in 1972, and in 1978 Father Matarazzo was transferred to Sacred Heart Parish, also in Flint, and succeeded by the present pastor, Rev. Lawrence Parkhurst.

Christ the King Parish now has 66 families. The Very Rev. Kenneth M. Povish, Bishop of Lansing, will celebrate the parish's Golden Anniversary Mass at noon on October 28, 1979, and Father DuKette will be presented with the "Gold Medal of Merit" award from the Knights of Peter Claver afterward. I am pleased and proud to provide this brief sketch of the parish's history, which speaks to the courage and perseverance of a large number of devoted and dedicated priests and parishoners in establishing and building an active and healthy parish.●

ANOTHER ASSAULT ON THE AMERICAN FAMILY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. ASHBROOK. Mr. Speaker, since Jimmy Carter came to the White House, we have witnessed a continuing assault on the American family. First it was the Department of Education, an agency which will replace parents and local authorities with Washington bureaucrats and social engineers from the NEA mold. Then it was the IRS proposal to deny tax-exempt status to private schools throughout the country. Fortunately, many of us in Congress concerned about this blatant attack were able to block it. Unfortunately, we had no such luck with the Department of Education.

Now the President has insulted the concept of the family once more with a proposal which would create an Office of Families within HEW. Apparently, Mr. Carter does not find parents capable of coping with the rigors of family life. His solution, of course, is to bring the Federal Government into the home. This is preposterous.

The pro-family forces in this Nation should stay on their toes. At the rate the Carter administration is going, it would not be long before he moves a bureaucrat into every living room. On October 18, the Cincinnati Enquirer published an excellent editorial condemning this ridiculous proposal. My colleagues would do well by reading this column:

FAMILY POLICY—CARTER'S REPUGNANT PROPOSAL

"President Carter has become an unfortunate parody of himself.

"His newest proposal to make good his promise of a government 'as full of love as the American people themselves'—an Office of Families in the Department of Health, Education and Welfare—is morally repugnant to those who genuinely care about the sanctity of the American family.

"The President's notion is absurd on its face. 'Many families have been strained to the breaking point by social and economic forces beyond their control,' the President said in Kansas City the other day. 'Some indeed have broken.' What he failed to say is that it is government taxation and government inflation that have created the 'economic forces beyond' the control of most American families.

"The American family is too important to the very fabric of this society to let it become the plaything of a liberal, activist bureaucracy, a porkbarreling Congress, a judiciary out of touch with mainstream America, and an executive in desperate search of re-election.

"Who can resist the temptation to suggest that the Office of Families (OOF) could become the moral equivalent of OSHA, the Occupational Safety and Health Administration, or of EEOC, the Equal Employment Opportunity Commission. Would we have unannounced, unwarranted investigators peering into the kitchens, the parlors, the family rooms and the bedrooms of American homes? Do we have an equal number of male and female children here? Is love adequately distributed amongst all the members of the family? Did you wash behind your ears? Have you spent 20 hours this week filling out the proper government forms, in triplicate? Is this family represented by counsel?

"If we have learned our lessons from Washington, it is that whenever government finds the excuse, it grows bigger on its own momentum. This is one more example in that vein. And we would have Mr. Carter to thank."●

TRIBUTE TO WYSU

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. WILLIAMS of Ohio. Mr. Speaker, today is a very special day in Ohio's 19th Congressional District, the district I represent. Today, Tuesday, October 23, 1979, is the 10th anniversary of WYSU-FM, a fine arts radio station operated on the campus of Youngstown State University.

It was 10 years ago today that WYSU began to offer residents of northeastern Ohio and western Pennsylvania a dramatic alternative to the programing available on commercial radio stations in that area. For the first time, a local station began offering shows featuring symphony music, national public affairs, and even book reviews.

Since its beginning 10 years ago, WYSU has provided the residents in its listening area with cultural programing that is unequaled. Truly, WYSU has been a boon to the listeners in the 19th Congressional District.

Special credit for WYSU's success must go to: Dr. John Coffelt, president of Youngstown State University; Stephen Grcevich, director of telecommunications at YSU; and Donald Elser, chairman of the YSU speech and drama department at YSU when WYSU first went on the air.

I take this opportunity, Mr. Speaker, to pay tribute to those three gentleman and to the entire staff of WYSU for a job well done.

I know those three and the staff would be the first to point out that they could not have made WYSU successful without the help of many others. So, I also salute the YSU board of trustees and the community advisory committee for their tireless efforts to make WYSU the tremendous station it is today.

In closing, Mr. Speaker, I wish WYSU good luck and Godspeed in whatever the future may bring. Fine arts programing is an alternative which can only bring good things to the residents of northeastern Ohio and western Pennsylvania.●

WEST GERMANY'S CHALLENGE TO THE UNITED STATES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. SIMON. Mr. Speaker, over the weekend I tried to catch up on some of my reading and came across the article, "The German Challenge to American Conservatives" by Morton Kondracke which appeared in the New Republic recently.

The article is perhaps mistitled because it is a challenge both to American conservatives and American liberals.

What Germany has done is to adopt social policies that are more liberal than those of the United States, but it has adopted economic policies which are more conservative. Frankly, that is precisely the kind of medicine I believe our Nation needs.

I am not suggesting that everything the Germans have done in their country can be repeated in ours, but I believe we can learn some valuable lessons.

I hope my colleagues will read this article by Morton Kondracke.

THE GERMAN CHALLENGE TO AMERICAN CONSERVATIVES

(By Morton Kondracke)

BONN.—Especially if it's Kennedy versus Reagan in 1980, we are likely to have one of the most ideological presidential elections of the century in the U.S. next year. The conservatives already are saying that what America needs is big tax cuts, more incentives for business investment, balanced budgets, reduced government intervention in the economy, less social spending, more defense, reduction of union power, and fewer environmental controls.

Beyond these specific targets, the conservatives (the neoconservatives, particularly) are gearing up for combat over principles. Adopting the gospels of Friedrich Hayek and Milton Friedman, they are arguing (as *Commentary* put it in a recent symposium) that there is an "inescapable connection between capitalism and democracy" and that there is "something intrinsic in socialism which exposes it ineluctably to the 'totalitarian temptation.'" Even though "socialism" is the

last label U.S. liberals would pin on their program—even "social democracy" is too politically risqué—there is no mistaking that the Republicans intend to suggest that conservative economic nostrums are essential to the preservation of our way of life, and that the humane social goals identified with Democrats threaten to produce stagnation, decline, and ultimately a loss of freedom itself.

But visiting West Germany makes one wonder about this equation. Why isn't it possible to have it both ways? Why can't the U.S. have a generous welfare state, national health insurance, free university education, adequate welfare, a clean environment, strong unions, and also a healthy, productive, competitive economy, low inflation, and a strong currency? After all, Germany has all of it.

Germany is the living disproof of conservative claims that high taxation, government involvement in the economy, and generous welfare state programs are necessarily the undoing of economic well-being and democracy. From a total wreckage after World War II, West Germany has developed (with U.S. help, of course) into a country whose prosperity matches our own. Its per capita income in 1977 was $8,410, compared to $8,670 in the U.S. By this year, Germany may have even passed us. Its inflation rate, of course, is much lower than ours, five percent instead of 13.5 percent. The German growth rate in recent years has been lower than ours, on the average, but it also has been steadier. During the world recession of the mid-1970s, the U.S. gross national product declined 2.1 percent in 1974 and 3.75 percent in 1975, but Germany had negative growth—minus two percent—only in 1975. Right now the German growth rate is four percent, while our economy is shrinking again.

What else do conservatives value as evidence of economic virtue? A strong currency? The German mark is one of the strongest in the world. Productivity rates? Germany's output per worker is growing at three percent a year. Ours is falling. Capital formation? Per capita, the German level is 34 percent better than ours. High-quality industrial products? Anyone who's looked at VWs, BMWs, and Audis knows they're better than Pintos, Chryslers, and Oldsmobiles. Exports to the U.S. have remained brisk, even at the huge prices that the sagging dollar makes us pay for them.

And yet consider what Germany does for its people. A German worker who loses a job gets 68 percent of his or her last year's income in unemployment benefits for a year, and 58 percent after that for three years. These benefits are lost if a worker turns down an "appropriate" new job offer. If a worker can't find anything in his or her own field, the government will pay for retraining. Germany has national health insurance that's obligatory for all low-income workers and also covers retirees and the unemployed. Moderate-income workers can join voluntarily, up to a certain income. The upper middle class has to take out private insurance. Every employee can claim full pay from his or her employer for up to six weeks' sickness per year, after which health insurance pays benefits for up to 78 weeks at up to 85 percent of regular pay.

All workers are covered by pension insurance. And here, retirees can actually survive on the benefits, which are indexed to rise with average wages in the labor market and with inflation. Germany also provides child allowances to every family—$30 a month for the first child, $60 for the second, and $120 for each additional child. There is more assistance available for the chronically dependent. Germans say that social stigma does attach to being on unemployment aid for more than a year, but, legally speaking, "social basket" benefits are available as a matter of right. The disparagement US welfare bureaucrats show recipients doesn't apply here. There are far fewer welfare bureaucrats and their duties do not include midnight raids to catch a man in the house or the mass cheat-purgings that characterize the US system.

On top of all this, education is all free, including college tuition. And Germany also has a nationalized passenger railway system which doesn't make a profit but, unlike Amtrak, is still required to serve out-of-the-way towns and villages.

All this costs money, of course. Pension insurance costs 18 percent of a worker's pay, of which the worker and the employer each pay half. Health insurance costs about 11 percent, again paid half-and-half. All told, about 45 percent of the average worker's income goes to pay taxes, pensions, and insurance. In 1976, "welfare" payments represented 28.6 percent of Germany's gross national product, as against 19.2 percent in the US. And the crowning reproof to American conservatives is this: though Germany's economy is more stable, productive, and non-inflationary than ours, government expenditures represent 41.3 percent of GNP, as opposed to 32.6 percent in the United States. Clearly government spending and programs to make life more humane do not have to cripple a country and sap its vital juices.

Nor could anyone claim that Germany is not a democracy. In October 1980, it will hold a federal election just as free, and free-swinging, as ours. The conservative Christian Democratic Union, led by Bavaria's Franz Josef Strauss, probably will charge that pensions are too expensive, that health care costs are rising alarmingly (they are, in spite of cost-containment provisions built into the insurance system), that taxes are too high and business investment is too low. The inflation rate of five percent is scandalous by German standards. The social democratic government of Chancellor Helmut Schmidt is expected to stay in power by pointing to Germany's prosperity and stability. But both the Christian Democrats and the Social Democrats accept the basic principles of a market economy tempered by generous social programs. According to US conservative dogma, having 41.3 percent of GNP in the public sector ought to spell the beginning of ruin and the onset of despotism. In Germany, though, it spells health and democracy—social democracy.

How is it possible? The flip thing to say is that Germans are Germans: they work harder, follow the rules, click their heels, and produce. There is something in this. But the Germans seem to be getting less "German" all the time. Certainly this is true of young people. If you plucked one teenager from a street in Hamburg and another from Chicago and put them side by side, you could not tell the difference in appearance; and probably there wouldn't be much difference in their lifestyle either. The Germans on the average take more time off work than Americans do. Ninety-seven percent of all workers over 35 years old get paid vacations of four weeks or more. Seventy-three percent get four and a half weeks or more. It isn't possible to say whether the Germans work harder than Americans when they're at work, though employers and government officials doubt it.

In other respects, too, Germans seem to be getting Americanized. They are less formal with each other and with visitors than they used to be. Young people and workers, especially, use the familiar "du" on short acquaintance these days, instead of stiffly calling each other "sie" forever. Once Germans never walked across the street against red lights. Now even old ladies to it. German cities still are much cleaner than ours, but parks are starting to get trashy enough that burghers complain. Germans also are distressed that the trains don't run precisely on time anymore.

There are serious explanations for Germany's ability to afford a social democracy and be productive too. And if the German example undermines the debating points of American conservatives, it also should give pause to American liberals. Probably the most important single factor in Germany's economic success is that its population and government regard inflation as a scourge worse than any except war. American liberals historically have pooh-poohed inflation as a conservative bogeyman (except when it becomes a political issue, of course). But Germany regards it as the social and economic cancer that it really is. If liberals want America to enjoy Germany's social benefits, they will also have to give conservatives their due and find a way to cut inflation. American labor unions, especially, will have to swallow hard.

Germany's social democracy is more advanced than ours, but its management of the economy is more conservative. Germany hasn't rejected Keynesian economics. The government intervenes in the economy to temper fluctuations in the business cycle. It cuts taxes in slow-growth times, loosens credit, spends on public works, and goes into budget deficit to stimulate the economy, just as ours does. But unlike ours, the German government reverses course when times are good. It doesn't respond to political or bureaucratic pressure to keep counter-cyclical programs in force beyond their time. It doesn't create bureaucracies as big as ours (900 people manage the German housing program, as against 16,000 at HUD), and the political pressures are all in the opposite direction from ours.

It would be politically unthinkable for a German chancellor to do what Richard Nixon did in 1972: superheat the economy to insure full employment in an election year, while imposing wage and price controls to hold down inflation. Right now in Germany, Chancellor Schmidt is running a budget surplus in order to reduce the public debts accumulated in deficit years that followed the mid-1970s recession and also in order to reduce inflation. With a US recession coming on, there is talk of cutting taxes in Germany next year to ease the impact here. But Schmidt has asserted he won't do the politically popular thing until after next October's election. Of course, the really popular thing to do in Germany is to resist stimulative (and potentially inflationary) tax cuts. There is just a world of difference between economic politics as practiced in Germany and in the US.

History explains the difference between the German and American attitudes toward economics. Americans remember the Great Depression as their worst time of suffering, and the New Deal as the beginning of social salvation. Without a real "social basket," we still—liberals especially—regard recession and its resulting unemployment as the most terrible economic danger. In Germany social insurance began in the 1880s under Bismarck. The Germans' worst historical memories are of the ruinous inflations of the 1920s and the postwar 1940s. From 1955 to 1970, Germany let its inflation rate go above 3.5 percent only once, and the all-time high, after the great OPEC oil gouge of 1974, was seven percent.

As a result, Germany is not plagued by the inflation psychology that prevails now in the United States. Americans think it's senseless to save money because, with inflation in double digits, savings will be worth less tomorrow than they are today. So we spend, but the Germans don't. Though their per capita income is just as high as ours, Germany's consumption rate is 66 percent of that in the U.S. On the average, Germans have far fewer TV sets, cars, and telephones than we do. The money that doesn't go for taxes goes for savings. The German savings rate is 15 percent of income, double ours. This money is available for capital investment, which increases productivity, which increases the competitive strength of the

economy, which makes for a stronger currency, which makes for cheaper imports, which contributes to lower inflation. Germany is in a virtuous cycle of price stability, whereas we are in a vicious one of inflation. It's no wonder that Schmidt balked when the Carter administration tried to get Germany to inflate its economy in 1977 to serve as the "locomotive" to pull along weaker economies in Europe. In Germany's interest, he was dead right to refuse to drive a train to nowhere.

Also, unlike the US, which discourages savings through ceilings on bank deposit interest rates, the German government offers incentives to save. Bank interest is untaxed up to a sizable amount, and the government offers matching funds to people who commit themselves to buying a house. The government also gives matching money to small savers who have their money in the stock market. There is nothing like the American's level of consumer credit buying in Germany.

Corporate profits are taxed at 56 percent in Germany, nominally higher than in the US, but profits are not double-taxed. An investor pays tax on his dividend income, above a certain level, but the corporation isn't taxed on distributed profits. As in the US, Germany has an investment tax credit. Government gives grants and loans for corporate expansion and also helps out companies in trouble. High-income Germans are taxed at a maximum of 56 percent, a lower rate than in the US.

Besides an anti-inflation, pro-investment, productivity psychology, the other most important contributor to Germany's economic strength is labor union restraint. German labor and management view themselves as "social partners." The unions are as dedicated as management and government to holding down inflation on the theory that—as a labor ministry official said—"You don't slaughter the cow that gives you milk." As a matter of policy, the unions tailor wage demands to productivity, predicted growth rates, and inflation, rather than aiming to take what they can get.

Since 1973 the German Labor Federation has even dropped the objective of redistributing national wealth from capital to workers. Anticipating a 10 percent inflation rate in 1974, the unions asked for and got increases of 10 percent to 13 percent. When inflation actually rose only to seven or eight percent, the unions honestly felt they had gotten more than their fair share. "We haven't given back the extra we got in 1974," a union official said, "but we made the unspoken concession to moderate our demands. We understand the need of industry for profits to reinvest. The profit rate had fallen continuously since 1970. We accepted the fact that they needed a re-creation period, so we dropped our redistribution demands in 1973. What happened in 1974 was an accident. These are things we don't talk about. It's unspoken, but we knew that profits had to go up faster, and so we kept back a bit. Profits have been back up since 1975, more than increases for the workers, and we're back to the same distribution (of income) as in 1972; we say, 'now, it's enough.'"

An American or British labor leader who exhibited such concern about the welfare of corporate capital might be tried of treason. "I know we're considered tame in England and the US," this union official said, "but you have to understand the psychology here. We're not against industry. We're with it." It will please conservatives to know that Germany not only has picturebook unions, but that the federal law forbids the closed shop and that there is no statutory minimum wage. Unionists say, though, that workers never are paid less than the prevailing union contract wage for similar work.

A lot has been written about the German union-participation device, *mitbestimmung* (co-determination), as a contributor to labor stability, but it's overrated. In big corporations, unions by law hold half the seats on the board of directors, and they probably get more information about company finances than American unions do. In practice, though, the union bloc always gets outvoted in board meetings. Unionists say that co-determination leads more to conflict than to cooperation, and that it also puts a strain on union leaders to represent diligently their members and the company at the same time.

Real union power and industrial democracy in Germany reside in plant-level work councils, elected by employees, which must be consulted on work rules, hours, layoffs, and automation. They do not have veto power, but can take a company to labor court in a dispute. The councils' powers of obstruction are great enough that management has an incentive to negotiate rather than fight. Big layoffs are rare in German industry. In a recession, the preferred custom is to put employees on shorter weeks. They receive partial unemployment compensation.

To adapt to German practice, U.S. unions would have to strike less and drop their demands for protection against foreign competition and "runaway plants." Strikes are illegal except during contract bargaining, and they also are unpopular. From 1960 to 1975, Germany lost only 6.8 million worker days in strikes, compared to 63 million in France and 155 million in Britain. A labor ministry official said that greater union cooperativeness in Germany, as compared with the U.S., was matched by the fact that "our industry is not constantly looking for a 'sunbelt' to move to in order to be free of unions." Of course it would be useless for firms to move within Germany to escape unions—they are everywhere—but there is nothing to keep capital from going abroad to find cheaper labor and better currency exchange rates. Volkswagen, for example, has opened plants in Pennsylvania and Brazil, and labor's man on Volkswagen's board even voted for it because it made economic sense for the company. The unions do not lobby for laws to keep imports out or capital in. "We can't be protectionist," said a union official. "Germany lives on exports and we have to welcome imports. America shouldn't be protectionist either, because we'd have to take revenge, and it would bring the collapse of the world economy, as in the 1920s and 1930s."

According to this union official, Germany is now exporting more capital than is coming in. "Jobs are down and industry is shrinking," he said. "You can be angry about it, but what can you do about the weather?" Germany now has 800,000 unemployed workers and is not growing fast enough to provide employment for all of the 100,000 new workers entering the labor market each year. Unemployment insurance, though, takes much of the pain out of joblessness, and unionists figure unemployment will decline radically in the 1980s, when the effects of below-zero growth population begin to shrink the labor force. In the late 1980s, in fact, Germany should be suffering from a labor shortage. That will require new importing of foreign workers.

There are no energy price controls here. When OPEC raises prices, they go up correspondingly at the gas pump. Gasoline now costs $2.30 a gallon here. The Germans stubbornly refuse to establish speed limits on the intercity autobahns. But they have absorbed energy price increases without ruinous inflation and without gas lines. Per capita energy consumption in Germany is just over half what it is in the US. "If we see a house with all its lights on," a German diplomat said, "we say to each other, 'that's where the Americans live.'"

The comfortable, non-inflationary German lifestyle depends on several advantages that the US doesn't have. For one, Germany spends just 3.5 percent of its GNP on defense, whereas the US spends six percent. The Germans have promised, along with the US and the rest of NATO, to raise defense expenditures by three percent annually for the next five years; but in holding down inflation this year, they will fall short of their pledge. This obviously isn't fair, and some honest Germans will admit the fact. Also, the German economy doesn't bear the weight of large, chronically depressed minority groups, although two million foreign workers and their families—Turks especially—are beginning to present a poverty problem.

Germany's prosperous society is rather dull. As a US expert said, "The Germans have about reached the limits of the welfare state. They haven't overdone it, as in Britain and Sweden. They haven't pushed for too much welfare and redistribution of income. They've kept up productivity. They've got it nice, and they'll probably keep it. Slow growth, a high standard of living—a happy, satisfied, stagnant country."

It's fine for the Germans. They've given the world and themselves all too much excitement for more than a century. With our penchant for growth, our need to provide an escape from poverty for blacks and other poor people, and our role as the guarantor of the free world's freedom, we obviously can't adopt the contemporary German model completely. But Germany demonstrates that we don't have to adopt conservative writ and abandon the welfare state in order to be productive and powerful. The principle of German social democracy is adaptable. Germany is able to keep inflation low and productivity high precisely because its citizens are protected by a social net. At the same time, social benefits can be kept generous because that economy is productive and non-inflationary. The US, if it wants to, can have it both ways too.●

THE INTERNATIONAL YEAR OF THE CHILD

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. CHARLES H. WILSON of California. Mr. Speaker, the United Nations has declared 1979 as the International Year of the Child. In that spirit I would like to take this opportunity to congratulate one family who is extremely deserving of recognition for their abiding concern for needy children.

During the past 25 years, Maurice Kraines and his family have built Kraco Enterprises into one of the Nation's largest manufacturers of autosound equipment and automotive accessories, with annual sales exceeding $100 million and employing more than 500 people at their facility at Compton, Calif.

Throughout the growth of his business, Kraines and his sons Larry and Steve, who serve as the company president and vice president, respectively, have gone to great lengths to lend a hand to organizations dedicated to children in need of assistance.

Following the tragic kidnapping of 26 schoolchildren and their bus driver in Chowchilla, Calif., the Kraines family donated 24 CB radios and antennas to the Chowchilla school district to help provide protection for the children through easier communication on buses in the future.

The Kraines have also been involved with the education of the physically

handicapped through their donations of CB equipment to Widney High School in Los Angeles. The school officials use the equipment to help alleviate nuero and physical related speech handicaps among young people. The Kraines are hoping that their contribution will evolve into a nationwide program designed to benefit the speech handicapped.

Furthermore, earlier this year, a plea was made by Headstart officials in Ross County, Ohio, to the Kraines to donate whatever CB equipment they could spare to install in the Headstart vans. The Kraines immediately responded by supplying enough complete CB equipment to cover all seven vans of the Ross County Headstart program.

I would like to express my own personal thanks to the Kraines for their generous deeds and I hope that their actions will serve as an example for all of us in commemorating this, the Year of the Child.●

A TRIBUTE TO THE LATE FRANK FRANCONERI UPON HIS POSTHUMOUS INDUCTION INTO THE NEW JERSEY BOXING HALL OF FAME

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. GUARINI. Mr. Speaker, I would like to share with my colleagues the posthumous induction into the New Jersey Boxing Hall of Fame of a courageous man from my district.

The New Jersey Boxing Hall of Fame is an organization dedicated to recognizing those worthy individuals who have been involved in the sport of boxing in the Garden State.

We have all admired the great international champions who have participated in this sport; a sport made famous by the remarkable strength, skill, and courage of the fighters. But, the New Jersey Boxing Hall of Fame recognizes not only the great, but the "near great," as well.

In my area, there were many club fighters who did not make it to the top in the minds of all sports fans, but they did, indeed make it to the top in the hearts of the neighborhoods from which they came. The pugilists we speak of were indeed generous men, often to the point of hurting themselves. They inspired many young people in the necessity of physical fitness and in the value of clean living.

It is with this view in mind that I wish to pay tribute to those who were recently inducted into my State's boxing hall of fame: Wallace Cross, Ernie Durando, Johnny Nelson, Charley Trader Horn, Vince Martinez, Clarence "Champ" Snell, and Abe J. Greene, commissioner. And, of course, the posthumous inductees: Frank Franconeri, Jimmy Krug, and Phil Krug.

Today, I wish to pay special tribute to one of the posthumous inductees who was born and raised in the city of Bayonne, a city that is in my district. I believe my feelings can best be expressed by the following article concerning this Bayonne neighborhood "world champion," a man who helped to raise money for various charities by taking part in numerous exhibition bouts.

The article in the 11th annual induction dinner program of the New Jersey Boxing Hall of Fame, held October 14, 1979, is as follows:

THE FRANCONERI STORY

Frankie was born September 28, 1923, in the city of Bayonne, New Jersey, the son of the late John and Angelina Franconeri, and at the early age of 14 started to fight as an amateur and in the next year, 1937 he won the 112 pound Junior Hudson Dispatch Golden Gloves title. He repeated the following year by winning the 112 pound Open class championship. He then went on to win the 118 pound Diamond Belt and the AAU 118 pound Golden Gloves championship in New York City and after an unblemished amateur career he turned pro in 1941 beating men like Lou Maxwell, Charley Smith, Freddie Hermann, Leo Lebrun, Eladio Colon and Barney Campbell.

In the year 1942, Frankie was to meet boys like: Lulu Costantino, Willie Pep, Phil Terranova, all ranked fighters, besides men as: Charley Cabey Lewis, Harold Gibson, Gus Levine, Lou Alter, Augie LaPara, Clint Miller and many other featherweight contenders of that era. A great little campaigner Frankie gave the fans many a thrill with his aggressive slam bang style of fighting.

After his retirement in 1946 he went to work for the Pennsylvania Railroad and after his many years with the railroad, he retired and went to work with the youth of Bayonne, where he spent the years helping various Charity Benefit Boxing Shows, boxing numerous exhibition bouts, and on June 5, 1972 at the age of 48 years old The Champ passed away, a victim of a heart attack. Ironically, Frankie was to box an exhibition bout with the former featherweight great Freddie Russo that same night, but fate took its toll. The New Jersey Boxing Hall of Fame is honored to have on its scrolls the name of Frank Franconeri and may God be with him wherever he is battling now. Rest in Peace . . . "Frankie."

Frank Franconeri loved Bayonne and its people and Bayonne loved Frankie. It has been written "to live in the hearts of those you love is not to die." This indeed applies to this young man and this tribute that you are joining me in today.●

OFFICE ON FAMILIES

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mrs. HOLT. Mr. Speaker, President Carter has invented a new sinkhole in which to dump tax dollars and a new agency to intervene in people's lives. I refer to his recent announcement establishing an Office on Families in HEW.

And what would this new thing do? Here is the definition offered by HEW to a member of my staff:

Its purpose basically would be to advocate on behalf of the family and coordinate program policy that impacts on family life to serve as a focus for the integration of policy relating to the family and assume limited relevant research and analysis functions.

Under the best of circumstances, this new creation will just waste tax dollars making worthless studies and writing reports with meaningless language, as per the example quoted above. In the worst case scenario, it will take itself seriously and attempt to shape public attitudes and create public policy on family life. In other words, it might actually attempt to do something with family life.

I can imagine a totalitarian government having an Office on Families. I can imagine a totalitarian government having a Department of Education to exercise mind-bending control over every school.

But we are not a totalitarian society, are we?●

CROSS BURNING—SYMBOL OF HATE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. BIAGGI. Mr. Speaker, as a young boy, I remember symbols. A symbol which evoked fear and terror to me was the sight of burning crosses. As I grew older, this same symbol as well as the sight of white hooded men marching in the streets evoked anger. In recent weeks I have noted with great alarm and anger the reappearance of this symbol of evil cross burnings. This is a symbol which reminds us of eras in our Nation's history which would be better left forgotten.

Burning crosses, white hoods—are manifestations of a reprehensible organization, the Ku Klux Klan. For blacks and other groups in this Nation the KKK represents one thing—hate.

It was just under 20 years ago when this Nation's collective conscience was shocked by the actions and reactions to the civil rights movement as led by Dr. Martin Luther King. Millions of Americans on national television saw a dedicated man and a similarly dedicated band of nonviolent followers—seeking basic civil, human, and political rights—encounter hate and violence at every juncture by those who practiced the doctrine of white supremacy.

Yet our Nation reacted properly to this travesty. The catalyst provided by Dr. King led to the enactment of landmark laws such as the 1964 Civil Rights Act and the 1965 Voting Rights Act. These were testimonials to an enlightened America—a Nation which had a fault exposed and sought to correct it. The civil rights advances made in the 1960's have been carried into and expanded in the 1970's and opportunities for education and employment are present for all minorities as never before.

A society is measured by its progression, not its regression. The recent rash of cross burnings on lawns in New York and the sudden reappearance of the Ku Klux Klan on the streets of Alabama are signs of regression. The KKK, like the American Nazi Party seek to abuse the rights and privileges afforded by the first amendment freedom of speech and expression clauses. Their message is a message of hate—it is a message whose impact corresponds in intensity and impact with yelling fire in a crowded theater.

I express my fervent and deep-rooted condemnation of any efforts to refuel the fires of hate and prejudice against black Americans or any Americans for that matter. Let us close the door on these activities and continue to work for a society where all men who are created equal are treated as equals by their society.●

WATER RESOURCES CONGRESS

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. BREAUX. Mr. Speaker, I am pleased today to extend to the CONGRESSIONAL RECORD recent testimony of Dr. Vernon Behrhorst, chairman of the board of the Water Resources Congress.

Given the close relationship of water and energy resources in this country, I feel that Dr. Behrhorst's remarks on how we can better implement water resource development projects should be of particular interest to my colleagues.

WATER RESOURCES CONGRESS

TESTIMONY OF VERNON BEHRHORST

Water Resources Council Hearing on Proposed Rules for Principles and Standards and Planning Manual, St. Louis, Mo., July 24, 1979.

"The Water Resources Congress is a nationwide organization dedicated to the continuous development of water resources for America's future. We believe adequacy of our nation's water supply, for present and future uses, is a necessary ingredient for full employment and economic opportunity for the American people." This is a direct quote from the first paragraph of Water Resources Congress' platform and is the basis of my comments to the Council today.

Water Resources Congress has been working closely with the Council in its efforts to implement the President's water policy initiatives. We are indeed grateful for the confidence you have placed in Water Resources Congress by requesting us to assist you. Our suggestions and comments may not always be in accord with the President's policy proposals, however, we mean them to be constructive and trust that they will be received in this spirit. Water Resources Congress is including detailed comments and suggestions in our report containing the comments of other organizations you have asked us to contact on the Council's behalf.

Today, I am here to urge you to undertake an additional step, a complete revision of the Principles and Standards to make them supportive of rather than detract from our efforts to develop the water resources which are absolutely necessary to achieve our national goals—energy self-sufficiency in particular.

Several weeks ago when our Water Policy Study Committee met to consider your proposed rules, the committee members felt that it is essential that the Council be impressed with the urgency of redirecting the thrust of the Principles and Standards to serve as an instrument for achieving our national goals. Therefore, they asked me to come here today to make this special appeal to you. We recognize that the Council cannot do this on its own. However, we urge you to carry our message back to Washington. I assure you that we will do our part to see that the President and the Congress get the message from other sources.

The President, ten days ago, promised the people of the United States future energy security through a bold, broad program of alternate energy development in the next decade. I am here to tell you that this can happen only if there is a parallel and just as aggressive effort to develop the essential water resources that will be required to achieve this goal, a goal which is priority number one. On this one, we all agree with the President. Energy and water are inseparable.

When we look at the President's energy message we see that almost every new source of energy proposed requires tremendous quantities of water—water that is largely not now available for such use. I say "now" because the total quantity of water we have is sufficient and we have the technical ability and the domestic financial capability to bring together the necessary resources, including water, to achieve this national goal or energy security. But we have no comparable water policy objective.

I must be candid with you. The proposed Principles and Standards and the accompanying manual, which will be the rule-book for managing our water resources, if adopted, will not, I repeat, will not serve as a useful instrument for achieving this national goal. I regret that I must say the contrary. They will restrict our ability to achieve this goal, not enhance it.

I am using the goal of "energy security" and the provision of ample water to achieve this goal as an example. There are others, and there are questions we must ask concerning how water contributes to achieving these goals. Are we to provide sufficient water to maintain our world market in agricultural products? Are we to provide municipal water for future generations of Americans? Are we to provide water for American industry and to protect employment? Are we to provide water to sustain our total economy? Are we to provide water for a healthy and aesthetically pleasing environment? Are we to provide water to meet other social objectives?

If we answer "yes" to these questions, then we are well on the road to establishing a national water policy embodying goals which must be defined before Principles and Standards are established for achieving these goals. Water Resources Congress respectfully suggests and is recommending to the Council that we do not rush into promulgating new Principles and Standards for the sake of meeting a timetable but do not effectively contribute to achieving national goals. Let's keep our present system intact until we define our goals and weigh every policy proposal with respect to its value in attaining these goals.

If we are critical of the proposed revisions to the Principles and Standards, and for that matter the existing Principles and Standards, which I am, I owe you our reasons for being critical. Details are contained in our written statement, but here I wish to give some general comments.

I could elaborate on "Congressional intent" with respect to the Principles and Standards. This serves little purpose as you are more aware than I of the differences between what is transpiring and what Congressional intent is perceived to be.

However, it is quite obvious, particularly since there have been very clear signals from the Congress, that there must be a meeting of the minds upon what needs to be done to reconcile Section 209 of the Rivers and Harbors and Flood Control Act of 1970, the Principles and Standards published on September 10, 1973, and the revisions that are now being proposed at the direction of the President.

This meeting of the minds, when it takes place, must take into consideration changes that have taken place in the United States since 1973, particularly our national stance of a country with assumed unlimited resources, particularly energy, to one highly dependent upon foreign sources of energy.

The proposed revision of the P&S to include conservation and non-structural alternatives is indeed a laudable undertaking. We agree on the desirability to conserve physical quantities of water, particularly in the drier areas of our nation. Likewise, we agree on the economies inherent in non-structural alternatives to dams, pumps, channels, levees, etc. However, a reasonable consensus must be reached on the definition of "conservation" before conservation measures can be implemented. This certainly has not been done.

With regard to non-structural alternatives there are great disparities of opinions as to their place in water resources management. The insistence that there is always a non-structural alternative, other than do nothing, is an unrealistic requirement. Louisiana, where I come from, is approximately one-half flood plain, and three-fourths of our people and economic activity are in this flood plain. We have struggled with this physical limitation for several centuries and are still looking for viable non-structural alternatives.

The chairman of the Council has admitted that the task force on non-structural measures has been unable to come forth with reasonable recommendations of non-structural alternatives and has engaged the services of four experts to draft a new report. This is additional evidence that implementation of the revisions of the P&S should be postponed.

Let me turn briefly to the present P&S National Economic Development account. When removing the "green book", Senate Document 97, and other pertinent publications from my library shelf to prepare this statement, I counted twelve scholarly volumes which deal with economic justification for water projects—and there are others that I do not have.

Here we have twelve different views from twelve experts on what constitutes a valid economic justification for projects. This alone is sufficient evidence to question the propriety of giving so much weight to a B/C ratio, especially since under the present P&S trade-offs must be made with environmental factors which can only be vaguely quantified. A B/C has many weaknesses. However, I do not recommend totally discarding it, but let's use it along with other appropriate measures.

Section II, C. of Senate Document 97 explicitly states, "Well-being of all the people shall be the overriding determinant in considering the best use of water and related land resources." I doubt very seriously that we can conjure up an economic, and certainly not an environmental, justification for supplying the right amount of water at the right place at the right time to meet the President's goal of "energy security". The "well-being of all the people" must be the primary principle adhered to in pursuing this goal.

Water Resources Congress firmly believes that we must first determine the direction we are going to go in utilizing our water resources to achieve national goals, energy and otherwise. At the present time we are trying to build a road without first deciding where we want it to go. No wonder we can't agree on a best route. Instead of spending valuable time reaching a consensus on a national water policy we have been directed to prepare new formulae containing new numbers for project evaluation without first deciding what the numbers are intended to accomplish.

In closing, it will be to our benefit to reflect upon the comments made at the last meeting of the Water Management Subcommittee of the National Governors' Association by Senator Domenici when he met with us to explain his and Senator Moynahan's cost-sharing legislation. Members of the Council were present, and I was there representing Governor Edwards, who, for your information concurs in the statement I am making today.

Senator Domenici emphatically stated that a major reason for proposing a block-grant method based upon priorities established by the governors of the various states for authorizing and funding water projects is the frustration encountered by members of the Congress, frustration over the present method for economic justification of water projects. We may not agree which method is best, but we must take heed of Senator Domenici's frustration which is shared by myself and many others.

To those who have expressed a similar frustration I believe we can add the names unofficially of a large number of water organizations which recently have joined together to form a coalition supporting continuous development of our water resources. I say unofficially because no formal action could be taken as the coalition is in the formative stage. However, last week at the organizational meeting of the Steering Committee, revision of the P&S was agreed upon as one of the major issues to be considered by the coalition. As chairman of the American Water Coalition, the name we have chosen, I pledge our full cooperation to the Council.

On behalf of the members of Water Resources Congress I extend to the Council, in particular the members of the staff, our commendation for a job well done within the scope of your restricted directive and the almost impossible time frame within which you had to perform your task. Let us now join together in developing a national water policy which can be the keystone for "the continuous development of water resources for America's future".●

THE BRITISH MOVE OUT SMARTLY ON NUCLEAR POWER

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. WYDLER. Mr. Speaker, with our own administration still trapped in indecisiveness on energy technology options it is refreshing to see the strong position that the British Government is taking on nuclear power.

As the Washington Post mentioned this week, Mrs. Thatcher's government is pushing an ambitious program across all fronts in nuclear development.

Prime Minister Margaret Thatcher's government is planning a major expansion of British nuclear energy program designed to produce as much as half the country's electricity through nuclear power by the 1990s.

Although no formal decisions or announcements are expected for several weeks, both Thatcher and her energy Secretary, David Howell, have made clear their commitment to nuclear energy expansion in public speeches and private discussions.

At last week's Conservation Party Convention at Blackpool, Howell said he favored greatly expanding Britain's nuclear generating capacity and was taking urgent steps to help gear up the country's nuclear construction industry to build many more reactors.

Although Britain now gets enough oil and gas from the North Sea to meet all its energy needs, it prefers to sell more than half of it to other nations to gain more revenue. It currently expects its North Sea reserves to have mostly run down by the end of the century.

Britain now has 11 major nuclear reactors generating electricity with three more under construction, according to government energy officials, as well as a number of research and other specialized reactors supplying small amounts of power. It also has a prototype fast breeder reactor that produces plutonium.

I think it is important to note that the British energy policy is based on an objective perception of the real risk and benefits of various energy options not from visceral feelings that cannot be defended by scientific fact.

The British Health and Safety Commission issued a report last year which is particularly useful in understanding the basis on which they are making energy decisions. This report is entitled "The Hazards of Conventional Sources of Energy" and is an excellent document. I have included the following excerpts for the benefit of my colleagues.

It is worth noting the fact that as in the United States, the health and safety implications of nuclear power have been better studied in Britain than for any other conventional source of energy.

An assessment of the complete health and safety implications of an entire industry is an exceedingly complex and time-consuming task. It has been carried out in varying degrees of detail for most of the component parts of the nuclear industry, but only very recently has attention been directed towards the possibility of carrying out similar assessments in other industries or in relation to conventional sources of energy. It is tempting to suggest that if such assessments were carried out for conventional sources of energy, a direct comparison could be made with the work already done in relation to nuclear sources. But this is to overlook some of the considerable complexities of the problem of meaningful comparison.

In all countries with a well-developed nuclear industry, the work started as a government enterprise, in which money and resources for health and safety studies, if not unlimited, were at least freely available. In addition, the consequences of ionising radiation were fairly well understood even twenty years ago, and to this has been added the increasing experience available from such studies as those on the survivors of the weapons' explosions at Hiroshima and Nagasaki. There is, perhaps, less understanding of the possible health effects of conventional energy sources largely because detailed studies have not been thought necessary.

Against this background, the process of health and safety assessment in the nuclear industry has developed along characteristic, and possibly unique, lines. In particular, the level of protection achieved has been so high that there has been no real possibility of there being sufficient effects on the health, either of the workforce or, *a fortiori*, of members of the general public to provide information on the consequences of the exposures to radiation and radioactive materials. Assessments of possible effects have therefore been based on a cautious extrapolation from levels of radiation dose known to produce effects in man, down to those which actually occur in practice. In the case of members of the public, this extrapolation involves factors in excess of a thousand. These very small exposures are indeed much less than the variations in the natural exposure to background radiation.

The British have some very interesting points to make on the risk of coal burning for electricity if one consider the entire fuel cycle. I would recommend that the Governor of my own State read this section of the report very carefully.

Coal mining has been undertaken in Britain for many years. In the past it has had a history of accidents and disasters resulting in large numbers of deaths. However, since the creation of the NCB the accident rate has fallen progressively. By its nature mining takes place in a hostile environment. In the past, explosions of flammable gas and coal dust resulted in a number of disasters and despite the progress achieved in recent years fatal accidents from falls of ground still occur. In addition, like any industrial activity involving tools, machinery, transport, conveyors, electricity, explosives and other materials, mining carries with it the risk of conventional industrial accidents. In 1975, sixty-four persons were killed from a workforce of about 250,000 in the coal mining industry. There were approximately ten times as many serious accidents (586), and 100 times more accidents resulting in absence from work for more than three days (53,896).[7] However, as previously acknowledged (para 11), the three-day accident is not necessarily a good indicator of safety performance since many factors affect the length of absence from work.

There is, in addition, the possibility of a major accident occurring. In the past these were most frequently associated with explosions of flammable gas or coal dust. Since the last war there have been disasters at Whitehaven (1947—104 deaths) and Easington (1951—eighty-three deaths). In recent years improved methods of control have been introduced and while it is still possible to conceive of a large scale disaster, it must be acknowledged that the chance of such an event is now remote.

There has not been sufficient time, in preparing this paper, to present a detailed study of the relationship of the way in which the primary energy source is used. However, by a close examination, in the case of coal, of those sites actually supplying coal to generating stations, the National Coal Board estimates that it is possible to allocate to the electricity generating cycle twenty-six deaths in 1975 which arose from coal mined for that purpose.

Mining causes its own health hazards, of which pneumoconiosis is the best known. From information supplied by the National Coal Board[8] it appears that in the three years 1974, 1975 and 1976, 2.3 percent of the miners x-rayed then, had a compensable degree of pneumoconiosis, mainly in the older age groups. Over the last few years some 600 men have been diagnosed each year by Pneumoconiosis Medical Panels and awarded compensation for coalworkers' pneumoconiosis. A substantial proportion were examiners. Since pneumoconiosis is caused by exposure to dust over a long period, these figures are not a good guide to the health conditions of mining as it is today; pneumoconiosis diagnosed today reflects the dust conditions of a few decades past. Although the problem of respirable dust control has been increased by the mechanisation of mining, especially in the 1960s, dust control techniques and other protective measures have been developed and have resulted in an overall reduction in the levels of exposure to airborne dust. The regular chest x-ray surveys carried out at collieries indicate that there is a distinct trend of improvement in the last few years. Nevertheless it is not to be expected that pneumoconiosis will be eliminated in the near future. Certifications will continue to number several hundreds per year, although decreasing, and deaths associated with pneumoconiosis will, because of the large number of men already with pneumoconiosis, remain a substantial problem for some time to come.

The British Health and Safety Com-

mission has made a carefully qualified attempt to assess comparative risk of primary energy sources per unit of power generated. I think this is a particularly striking array of data and the results are very much like we heard in our Science and Technology Committee hearings on nuclear waste management, nuclear powerplant safety, and low-level radiation.

An attempt has been made in Table 3 to build up a comparative picture of the deaths due to accidents associated with the production of electricity from various fuels. Because of the uncertainties, health effects have not been tabulated. It should be noted that in these comparisons we deal with routine risks only. We have not included any estimate for the effects of severe rare accidents. We recognise that in the nuclear field in particular—and to an increasing extent in respect of other industrial activities—public concern centres on such events. Their possibility has a major influence on the regulatory control of hazards and may influence policy decisions. The inclusion of severe but very rare events in the consideration of any one of the energy sources discussed would certainly invalidate the comparisons for any year in which an event occurred, and even, perhaps, for a decade. But the probability of these events is so small that they would have no significant effect on the long-term averages. In the long run, most deaths in industry are caused by events each affecting only a small number of individuals.

TABLE 3.—ESTIMATED NUMBER OF DEATHS DUE TO ACCIDENTS PER GWY[1] OF ELECTRICAL ENERGY SENT OUT[2]

Primary energy source and operation	Deaths/GWy sent out—Deaths caused by accidents
Coal:[3]	
Extraction	[4] 1–4
Transport	[5] 0–2
Generation	[6] 0–2
Total	1–8
Oil and gas:	
Extraction	[7] 0–3
Transport	([8] [9])
Generation	([8] [10])
Total	0–3
Nuclear:	
Extraction (United States)	[11] 0–1
Transport	([9])
Generation and reprocessing	[12] 0–15
Total	0–25

[1] Gigawatt years (giga = 10^9).

[2] Based on average electricity supplied from stations for years 1972–74 reproduced in table 71, "Digest of United Kingdom Energy Statistics 1975," which shows relative outputs for nuclear, oil-fired and other steam raising plants (of which the vast majority are coal-fired).

[3] Based on underground mining figures only. Opencast fatalities are not included. (They would have an insignificant effect on the final figures.)

[4] Based on an assumed figure of 26 deaths in mining coal for power stations (cf. par. 27).

[5] Based on estimated number of deaths attributable to the movement of coal by rail not including accidents to the public (cf. par. 44). Figures for deaths due to the movement of coal by road considered insignificant.

[6] Based on number of deaths to CEGB employees 1970–77. Information supplied by CEGB.

[7] Based on figures for fatal injuries in exploration and production in the United States published in the 46th Annual Review of Fatal Injuries report to the American Petroleum Institute. It is appreciated that the bulk of the fuel oil used in United Kingdom power stations is from the Middle East where accident performance may differ sharply from that of the United States. Figures for the Middle East are not available and we have therefore used the American figures as the only available indicator. Making allowances for the lower fuel oil consumption of the United Kingdom we have arrived at a figure of approximately 2 deaths per annum in overseas oil fields attributable to the production of oil for United Kingdom. To these we have added the figures for deaths in the North Sea oil extraction industry published by the Department of Energy. This gives an approximate figure of 12 deaths per annum.

[8] Insignificant.

[9] Cf. par. 43 and 44. We have been unable to obtain figures for deaths due to the shipping of oil from overseas oil producing countries.

[10] None reported.

[11] Based on figures from United States uranium mining reproduced in USAEC Wash 1224 Comparative Risk—Cost—Benefit study of alternative sources of electrical energy. It is appreciated that the United States is not the primary supplier of uranium for United Kingdom power stations. Again we have used these figures as they are the only ones readily available.

[12] Based on information supplied to CEGB (see footnote 7 above) and by British Nuclear Fuels Limited for accidental deaths of employees 1970–77. None of these deaths was due to radiation effects.

Sources: The sources of these figures and the necessary reservations about their accuracy and appropriateness are discussed in pars. 82 to 84.●

SEPARATION OF PAY FOR HIGH-LEVEL GOVERNMENT OFFICIALS FROM PAY FOR MEMBERS OF CONGRESS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. FISHER. Mr. Speaker, I am introducing today a bill to provide that adjustments in the rates of pay for Members of Congress shall be considered separately from the adjustments for other Federal employees and judges. The bill also provides that adjustments in Members' pay shall take effect at the beginning of the Congress after the one in which they are approved, after an election has taken place.

By providing separate procedures for pay adjustments for Members of Congress and for other employees, the bill makes it possible for Members to turn down or reduce a pay adjustment for themselves while allowing the employees to get the full adjustment. In addition, the effective date of any adjustment for Members would be deferred until after the next election. This would allow an opportunity for the Members' constituents to vote on his record, including his stand on pay issues, before he could get the new rate of pay.

I think that both the separation and the deferral are needed changes in the pay adjustment procedure. Because the pay rates for high Government officials have been linked to the rates for Members of Congress, the officials have been denied pay increases every time that Members have decided against raises for themselves. The people who make the highest level decisions in our Government have had only two pay adjustments since 1969, a period that has seen high inflation and annual raises for the majority of Federal workers. A situation like this is not conducive to effective government. My proposal, by breaking the pay linkage, offers a way out of this problem.

The provisions of my bill affect both of the pay adjustment procedures—the quadriennial adjustment in base pay and the annual adjustment for comparability.

BASIC RATES OF PAY

The base pay for Members of Congress, Federal judges, Cabinet officers, other agency heads, and other high-level positions in the three branches of Government are based on recommendations by a commission of private citizens, the Commission on Executive, Legislative, and Judicial Salaries, established every 4 years by the President. The President makes his recommendations on the pay rates after he has received the Commissions' report.

Under new procedures adopted in 1977 for the quadriennial adjustments, pay rates for each of the personnel categories will be considered separately by Congress. This procedure will be used for the first time in 1981. Each House of Congress is required to take a separate rollcall vote on the adjustment for each category. This procedure permits Congress to reject its own raise without blocking the other raises.

The proposal I am introducing further changes the procedure for the quadriennal raises as they apply to Members of Congress. In addition to the separate rollcall vote, the effective date of the raise for Members would be deferred until the beginning of the succeeding Congress.

ANNUAL ADJUSTMENTS TO PAY

The Comparability Pay Act of 1970 establishes procedures for adjusting Federal employee pay every year. In 1975 Congress amended the law so that Members of Congress and high-ranking officials would get the same annual adjustment that is given to other Federal employees. This procedure has only been followed once, in 1975. In subsequent years, Congress has rejected the annual raise for itself and the high ranking officials by refusing to appropriate funds for the raises. The basic law has not been amended; instead, the matter has been handled each year in the appropriations legislation.

The proposal I am introducing would establish a separate procedure for annual adjustments for Members of Congress. A rollcall vote on the adjustment would be required, for Members' pay only, and the effective date would be deferred until the beginning of the succeeding Congress. This proposal leaves in place the 1975 law providing for automatic annual adjustments for high-level officials. Congress could still use the appropriations process to block these raises. The advantage of the change I am proposing is that it focuses attention and requires a separate vote on Members' pay. A similar vote is not required on adjustments for other categories of employees.

In conclusion, Mr. Speaker, I urge the speedy consideration and passage of this bill to separate consideration of pay for Members of Congress from the pay for high-level Federal employees.●

A CALL FOR FREEDOM FROM THE BALTIC NATIONS

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. MOAKLEY. Mr. Speaker, recently a group of 45 citizens from Latvia, Lithuania, and Estonia demanded self-determination for their captive nations on the grounds they were illegally annexed under the 1939 Nonaggression Pact between the Soviet Union and Nazi Germany.

I commend this effort for these brave people have demonstrated the popular yearning for independence that still exists in these three countries despite years of Soviet military occupation. The Soviet Union should live up to the deal it made 40 years ago and allow the majority will to determine the future course of the Baltic nations.

We, in the Congress, must do all we can to support and encourage efforts that seek to return fundamental rights and freedoms to the people of Lithuania, Latvia, and Estonia. I am proud to be a cosponsor of House Concurrent Resolutiono 147 which expresses the sense of Congress and urges the end of Soviet domination.●

TRIBUTE TO EDWARD ROSINSKI

HON. EDWARD J. STACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. STACK. Mr. Speaker, in view of this Nation's critical energy situation, I would like to bring to the attention of my colleagues in the Congress, a man who has made major contributions in the field of energy through his revolutionary inventions.

Mr. Edward Rosinski will be honored Saturday, September 29, 1979, by the Polish American Club of Fort Lauderdale, Fla., at Whiting Hall in Sunrise, Fla., in recognition of his dynamic discovery of the zeolite catalyst which made it possible to refine 50 percent more gasoline at the refinery.

Essentially, all of Mr. Rosinski's inventions involve studies in the catalytic field where he engaged in the synthesis and development of new and improved catalysts. Since 1965, he has been a leader in catalyst research, and has made many important contributions to reforming catalysts, amorphous TCC cracking catalysts, and hydrocracking catalysts.

Mr. Rosinski has previously been honored on many occasions for his discoveries. The New Jersey Council for Research and Development has presented him with its annual Outstanding Patent Award. A report he helped to prepare, "Acidic Crystalline Aluminosilicates—New Superactive, Super-Selective Cracking Catalyst," was selected as 1 of the 12 most important papers published in industrial and engineering chemistry during its 64-year history.

In March 1979, Mr. Rosinski was inducted as the 38th member of the National Inventors Hall of Fame in Arlington, Va.

Membershio in the National Inventors Hall of Fame is restricted to the elite of those who have chosen to devote their lives to this creative and difficult career, which has, over the course of centuries, improved the quality of life of all mankind. He is now publicly acclaimed as a peer among a group of historic figures whose fame will last until the end of time. These include Thomas Edison, Alexander Graham Bell, Louis Pasteur, and the Wright brothers, all of whom are members of the National Inventors Hall of Fame.

As a further tribute to his record of achievement, it is fitting that a copy of this segment of the CONGRESSIONAL RECORD be presented to Mr. Rosinski upon the occasion of the testimonial to him by the Polish American Club at Whiting Hall in Sunrise, Fla., on Saturday, September 29, 1979.●

AMNESTY INTERNATIONAL REPORT SAYS ULSTER CHILDREN VICTIMS OF ABUSE BY BRITISH TROOPS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. BIAGGI. Mr. Speaker, as chairman of the 130 member Ad Hoc Congressional Committee for Irish Affairs, I have a profound concern about the impact of years of civil strife on the residents of Northern Ireland. Nowhere is my concern stronger than with respect to the children of Ulster—many of whom have spent their entire lives in an environment of war and oppression.

My concerns were recently heightened with the release of a report by the Nobel Peace Prize winning organization Amnesty International entitled Children. The report details those nations where children are victims of human rights violations including detention, separation from family and physical abuse. On page 15 of the report a reference is made to Northern Ireland.

There have been reports of young people being assaulted by security forces in Northern Ireland. In August 1977, 13 year old Brian McCabe was reported to have been beaten on the head, back and legs by British soldiers on the street before being taken into custody for questioning. He later stated that while in custody he had been punched and had his head banged against a wall.

A 13 year old girl who was alone when British soldiers broke into our home has since suffered from blackouts and insomnia after they placed the barrel of an automatic weapon against her head and abused her.

We hear much about the violence in Ireland but we only seem to hear about one side of the coin. My condemnation of violence encompasses both the civilian violence which gains the headlines and also the institutional violence such as that depicted in the Amnesty report. It is this institutional violence which serves as an incentive for other violence.

When we pledge our efforts to peace and justice for Ireland we must do so with a clear eye on the plight of children in Ulster under the existing status quo. The harsh reality of warfare is only compounded by the ever present factor of economic and social discrimination. It is a sad state of affairs.

We are about to close on the year long international observance of the International Year of the Child. The Amnesty International report serves to graphically depict the horrors that children endure in certain nations of this world. Unfortunately, Northern Ireland is one of those nations.

There has always been a compelling need to work for peace and justice for Ireland. However, it becomes even more urgent when we consider the conditions of children in the North. I hope that political initiatives of a meaningful nature will be forthcoming from the Thatcher and Lynch governments of Great Britain and Ireland respectively. I pledge my continued efforts to assist in the peace process.●

PENNY WISE, POUND FOOLISH

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. PANETTA. Mr. Speaker, on September 14, 1979, during House consideration of the Defense authorization bill for fiscal year 1980, I offered an amendment to equalize pay and benefits for former members of the Philippine Scouts, who fought and died alongside American soldiers during World War II. The House rejected my amendment on a division vote of 8 to 11.

Word of this defeat, naturally, reached the Philippines. I recently received a letter from Mr. Antonio M. Allego, editor of the New Record, concerning my amendment and the House's refusal to provide equal pay for equal risk for the veterans of the Philippine Scouts. Mr. Allego wrote an editorial for the September 29, 1979, edition of the New Record on the House action. I commend the editorial to the attention of my colleagues and reprint it below for their convenience.

The editorial follows:

PENNY-WISE, POUND-FOOLISH

It is beyond cavil that Americans and Filipinos fought side by side in defending the Philippines at the onset of World War II in the Pacific. Since then, in fact, their combined heroism has been portrayed in different ways as the epicenter of an earth-shaking event.

From such chronicles, one would infer that the heroes of Bataan and Corregidor, American or Filipino, dead or alive, are now getting their just reward—and be wrong. After the war, a line was drawn to separate the two groups of combatants. This line took the form of unequal benefits: less for the Filipinos, more for their quandam comrades-in-arms. Indeed, those of the Philippine Scouts get only one-half of the benefits received by their American counterparts.

The inequality is decidedly unfair, a mistake, one running counter to the American tradition of magnanimity. And it was indubitably on this score that Rep. Leon Panetta (D-California) introduced an amendment to the law involved so as to rectify the mistake. The other day the House of Representatives, Congress of the United States, rejected Panetta's bill providing for that amendment.

Rep. Bill Nichols (D-Alabama) reportedly led the opposition to the measure, which would have entailed an annual appropriation of nine million dollars, postulating that "passage of the amendment would establish a precedent that would lead to a similar request from Filipinos who served in the navy."

The argument is definitely specious. Nine million dollars a year is measly for unmatched gallantry in action. Even plus another nine million dollars for those who served in the navy, the sum would still be measly. And apropos of this, Rep. Nichols would do well to remind himself of the hundreds of millions of good American dollars given annually as economic or military assistance to certain backward countries in Africa and Asia whose self-appointed, corrupt, and grasping leaders probably thank Uncle Sam under their breath as they pocket most of the money.—A.M.A.●

OVERTIME AND WORKWEEK REDUCTION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. CONYERS. Mr. Speaker, the Full Employment and Balanced Growth Act of 1978 mandates the reduction in the unemployment rate of persons 20 years and older to 3 percent by 1983. Among the policies that have to be examined to implement this mandate is the reduction in worktime, the curbing of overtime work, and worksharing. Legislation that I and 12 other Members have introduced—the Fair Labor Standards Amendments of 1979, H.R. 1784—to abolish compulsory overtime, raise the overtime rate of pay to double time, and reduce the standard workweek to 35 hours over a 4-year period will be the focus of hearings before the Labor Standards Subcommittee on October 23, 24, and 25. These hearings represent the first major congressional examination in 15 years of worktime reduction as a means to combat unemployment.

In October 1978, the National Commission for Manpower Policy held a conference on worktime and employment that explored a number of the issues that will be dealt with in the hearings. Its chairman, Dr. Eli Ginsburg of Columbia University, as well as a number of participants, including Dr. Wassily Leontieff of New York University, and Dr. John Owen of Wayne State University, will be testifying at the hearings. As a way to inform my colleagues on the substance of the upcoming hearings, I am including excerpts from papers delivered at the Work Time and Employment Conference. The first by John Zalusky of the AFL–CIO research department explains the need for changes in existing law on overtime; the second selection by Dr. Wassily Leontieff explains why worktime reduction is necessary to counteract technological unemployment; the third by Janice Hedges of the Bureau of Labor Statistics provides data on recent trends in worktime and preferences for leisure time; and the fourth selection by Fred Best of the Department of Labor comments on public preferences for leisure time and worksharing.

The papers follow:

JOHN L. ZALUSKY, AFL–CIO RESEARCH DEPARTMENT

At the outset, the AFL–CIO views the consistently high unemployment now being experienced by America and inflation as major concerns. To the unemployed, being without a job is devastating, while to most others inflation is an aggravation or social discomfort. Looking at the issue of unemployment, we find it particularly distasteful to have workers required by their employers to work overtime while others are unemployed.

This occurs because it is cheaper to schedule overtime than to build inventory or hire new workers. The result is distressing. The 40-year-old public policy of a 40-hour workweek enforced by a time-and-one-half overtime penalty has been slowly eroded by the exclusion from overtime premium requirements the cost of fringe benefits.

We believe that increasing the overtime premium from time-and-one-half to double time will increase the number of jobs and decrease unwarranted overtime. In the same sense, reducing the workweek is another approach that we think is needed to expand employment opportunities. However, both changing the required overtime premium to the point where it is an effective limit on regularly scheduled overtime and decreasing the workweek along with other economic and social policies are necessary to put millions of Americans back to work. Then they too can enjoy the dignity and stature of having a decent job.

The principal thrust of the paper under discussion here is the relationship between jobs and increasing the overtime premium from time-and-one-half to double time. We are not terribly surprised with the outcome; that is, the number of jobs that would be created is substantially less than if we totally prohibited work in excess of 40 hours per week or whatever the public policy might be.

Concerns with the paper are with its public relations slant against increasing the overtime premium, the way the results will be understood, and some of the data used.

The writers of the paper seem to overlook the fundamental purpose behind the overtime premium. The purpose was to discourage regularly scheduled overtime; and in 1938 when fringe benefits were slightly less than 5 percent of total compensation, there is no doubt that it did discourage regularly scheduled overtime. Thus, the issue here is something more than economics; it is the implementation of a social policy through an overtime premium operating as a tax on the employer to discourage the use of overtime.

The authors here seem to take issue with the basic premise by arguing that an increase in the overtime premium would be inflationary, decrease demand, etc. The method is one of setting up a straw man to be knocked down with an economic model. Of course, there are economic costs of discouraging regularly scheduled overtime.

The authors rather subtly introduced the issue by relating U.S. Chamber of Commerce fringe benefit data to the idea of doubling the overtime premium. In 1953 the Chamber of Commerce reported fringe benefits amounted to 16.8 percent of payroll, and in 1975, 36.1 percent of payroll. Without going into the quality of the Chamber's statistical sample and other problems, the impression created is that doubling the overtime premium about matches the increase in fringe benefit costs. But the Fair Labor Standards Act time-and-one-half overtime premium was adopted in 1938, not 1953, when fringe benefits were less than 5 percent of total compensation. The overtime premium pay has remained unchanged as a ratio since 1938, although fringe benefits as a percentage of payroll have increased as a ratio seven times.

It would be useful to know just how high the overtime premium would have to be to maximize adherence to the legislated public policy of a 40-hour workweek. It is clear that time-and-one-half doesn't do the job when fringe benefits are approximately 35 percent of total compensation than it did in 1938 when fringe benefits were but 5 percent of total compensation. Thus, it should be no surprise to anyone that simply doubling the overtime premium will not do the job. From a public policy point of view, it would be much more instructive to have the same type of analysis on double time, triple time, and other ratios.

It has been the experience of many who deal in labor relations that many labor contracts presently provide triple time payments for work on holidays; that is, double time plus pay for the holiday. Very few workers are asked to work on these premium days and work is rarely scheduled on these holidays for economic as well as social reasons. Thus, to be an effective deterrent to regularly scheduled overtime, it may well be that the overtime premium should be more than double time.

WASSILY LEONTIEF, NEW YORK UNIVERSITY

Professor Wachter and Professor Perloff came to the conclusion that a mandatory reduction of working hours cannot make a significant contribution to solving or even mitigating the unemployment problem either in the short or in the long run. After a careful inspection of past statistical records, they arrive at that conclusion, as do the authors of other papers prepared for this symposium, on the basis of a partial analysis involving a detailed examination of the present operation of the labor markets with particular emphasis on the supply conditions interpreted in terms of the behavior of individual households.

Without questioning the factual basis or the logic of their arguments, I feel that the problem of unemployment cannot be adequately posed, not to say solved, without an examination of the basic structural characteristics of the modern industrial economy, of the position that labor occupies within that structure and, in particular, without a systematic analysis of the decisive change in that position brought about by the inexorable forces of technological change; a factor hardly mentioned to my surprise, in this or any of the other contributions to this symposium.

It is technological change that made possible the progressive reduction of the length of the work week from 70 hours to less than 40 over a period of some sixty years. It was technological innovation that caused workers in the English textile mills to rebel a hundred and fifty years ago and it will be technological change, and the way our society will respond to its challenge, that will determine the position that labor will occupy in our economy and our society in the future.

Machinery can replace manpower by carrying out tasks that formerly were performed by labor and new tasks that labor cannot perform at all. If the average productivity of labor is defined as the total output divided by the number of workers or the number of labor hours required along with all the other inputs—to produce that output, we can say that technological progress increases the average productivity of labor. But what does it really mean?

The steady downward trend in working hours referred to by Mr. Wachter at the beginning of his paper and analyzed in greater detail by Mr. Owen, indeed can be explained as resulting from a combination of two factors, one of them being the steady rise in potential per capita income brought about by technological advance, the other, by the decision of the average working family to consume a steadily rising portion of that income in the form of an increasing number of leisure hours. But what about the future? The curve of weekly and annual working hours as shown in these papers flatten out while technological progress goes on and the productivity of labor as defined above continues to rise. Under the vanes of cyclical fluctuations of the employment figures, one can still discern a continued trend toward or, as in the present time, primarily involuntary leisure hours, days, months and even years. Because of definitional disagreements and statistical difficulties, a sharp line between the two cannot be easily drawn. I submit that, nevertheless, all this is a sign of a slow but persistent trend toward technological unemployment.

JANICE N. HEDGES, BUREAU OF LABOR STATISTICS

John Owen's broad-ranging paper provides an excellent introduction to this conference. Rather than responding point by point, I will make some general observations, then cite a few findings from a forthcoming BLS report.

First, I suggest that analyses of hours of work that are very long term, although valuable, may be somewhat less informative than analyses of the shorter term. Over time the data base changes, the methodology changes. Such problems are familiar to researchers. Further complicating the analysis of long term trends in worktime are changes in the nature of hours reductions, illustrated by the shift since the 1940's toward larger blocks of time off rather than decreases in weekly hours. In addition, the magnitude of reductions possible from the very long workweeks that prevailed at the turn of the century obscures smaller but very real reductions from the workweeks of the 1940's.

Second, we should be mindful that an analysis of the hours worked by any one demographic group—even one that makes up 57 percent of the total—is not a proxy for all workers. If we abstract from sex, age, race, marital status, occupation, and industry—or even concentrate unduly on a single group—we are in danger of overlooking real changes. Although the workweek of the nonstudent male population that John Owen uses has remained remarkably constant for many years, hours have declined for other groups.

To illustrate, since 1968 average hours of employees who usually work full time in serve occupations have declined—from about 45.7 to 43.4 hours for men and from 41.5 to 39.9 hours for women. These reductions carry added weight because of the more rapid employment increases in these occupations than for the all-occupation total. The average hours for all men aged 20–24 years and 25–34 years who are on full-time schedules also have shortened in the same period. If this should reflect different and enduring preferences for leisure versus income between the newer entrants to the labor force and those who entered before the mid-1960's, the impact on hours could become pronounced over time.

Overall, in fact, hours worked have declined in recent years, partly because of continuing changes in the nature of jobs and the characteristics of the workforce, and partly as a result of economic factors. Since May 1968, average hours of all wage and salary employees have decreased from 39.1 hours to 38.4 hours. Over the same period, average hours of employees on full-time schedules also have declined slightly, from 43.0 to 42.6 hours. When these figures, for employees who were at work during the reference week of the survey, are adjusted for employees who were absent for any reason, we find an additional slight decline.

A look at trends in the distribution of workers by hours at work gives us further insight. Among the more significant changes since 1968 is a decrease of several percentage points in the proportion of workers at work 41 to 48 hours. The decline occurs, incidentally, for men as well as for women. While there is a tendency to think of hours declining from the standard 40-hour workweek, a 40-hour week would have represented a substantial reduction for one-fourth of all nonagricultural employees in May 1978.

Third, I suggest that our most common measure of work-time—weekly hours—should be supplemented with a measure of annual hours. The growing levy of vacations, holidays, and personal days on work-hours is reducing the relevance of weekly hours as the universal measure of worktime. Flexitime systems that provide workers with the opportunity to mix shorter weeks with longer weeks, schedules that call for shift workers to work weeks of different lengths, and floating holidays (already granted by three-fifths of the firms in a recent survey by the Bureau of National Affairs) will make further inroads on the primacy of weekly hours.

Similar reasons no doubt have prompted the United Automobile Workers, a leader among labor unions in negotiating reductions in worktime, to adopt a measure of annual hours. (Incidentally, their recent report shows a decline in full-time straight-time annual hours for auto workers of about 100 hours, or 6 percent, since 1967.)

I will not attempt to forecast future trends nor to isolate from the numerous factors that John Owen cites, those that will be most influential. However, one factor that may be particularly interesting to watch is a change in tastes. Analysis of data from the Current Population Survey for a forthcoming study on worktime reveals a finding that ties in with scattered reports of workers opting for fewer hours even at the cost of a smaller paycheck: namely, a marked increase since 1968 in the proportion of wage and salary workers on vacation who take a week off at their own expense. These individuals apparently are acting out their preferences for a little more leisure and a little less money without waiting for changes in the wage-hour contracts between the suppliers and demanders of labor. This finding suggests that the pressures for fewer hours of work may be greater than shown by the current major data series on hours worked.

FRED BEST, U.S. DEPARTMENT OF LABOR

POLICY IMPLICATIONS OF WORK TIME PREFERENCES

If it is true that substantial portions of today's work force are willing to forego current and potential earnings for more free time, there are important policy implications that Kalachek's paper has not addressed.

First, observed indications of desire for more free time at the cost of earnings may indicate realignments of goals within our society that require time rather than money. Most particularly, the rise of women workers and dual earner families may be fostering circumstances in which family units find it desirable, and occasionally necessary, for the men to reduce work time in order to share family responsibilities. Correspondingly, women may continue to increase their labor force participation, but work less than what we now consider to be "full-time." Similarly, older persons faced with a need for income to supplement pensions and the sense of social participation that comes with work may seek less than full-time work. At the same time, younger students and unmarried populations may likewise prefer options for part-time or part-year employment to pursue studies or personal goals. Finally, the handicapped may require shorter than normal work hours, and many adults may require time to pursue training which they missed in their youth. Without belaboring the point, the desire for more free time evidenced by the previously cited survey may reflect new social conditions which justify changes in current public and institutional policies in order to allow increased work time options.

Second, the likely desire for more leisure on the part of a significant minority of workers might be tapped to combat unemployment. Specifically, creative use of social policy could establish options that allow the labor market to better optimize the allocation of work time available at any given point in time. Let me illustrate this potential with an admittedly speculative computation: If ways could be found to encourage or allow 25 percent of our labor force to "voluntarily" forego an average of 6 percent of their earnings for free time, and two-thirds of that foregone time became jobs for the unemployed, we could create one million new jobs while simultaneously meeting the needs of those desiring more time away from their jobs. This is certainly not "the" solution to our unemployment problem, but it could be a contribution that happily serves other social purposes as well.●

MISHAPS INVOLVING NUCLEAR MATERIALS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. STARK. Mr. Speaker, as a participant in the public information project on the little known history of atomic accidents, I am today introducing the following excerpt from Leo Goodman's catalog of mishaps involving nuclear materials:

EXCERPT

Source: HW-23352 (Rev.) "Study of Atmospheric Contamination in the Melt Plant Building." April 4, 1952, pages 73–74.

All processes connected with the remelting of uranium, uranium oxide recovery, rod-handling, and related activities in the Melt Plant Building are contributors to atmospheric contamination, most of them to a major degree. The oxide, U_3O_8, which forms rapidly on uranium metal surfaces, whether in storage or during handling, is easily dislodged as dust to contaminate the atmosphere or to deposit on floors, ledges, and other surfaces. Friction on uranium metal surfaces, either by some machining process or by incidental contact with some other solid surface, causes ignition of the metal, particularly of small pieces. The fume produced by burning of uranium is also U_3O_8.

* * * * *

. . . During the period of the study, the dust and fume created by these processes exposed regular workers at the remelt processes to atmospheric concentrations that, when weighted to consider the lengths of exposure, were 40 to 78 times the maximum permissible exposure level. Rod-handling exposed personnel to weighted concentrations that were 2½ times the permissible exposure.

Particles of U_3O_8 dust and fume in the air are small, 90 percent by weight being less than 10μ in diameter. This 90 percent fraction is respirable and can remain air-borne for long periods, so that concentrations above the maximum permissible are found throughout a normal workday. Owing to plant traffic,

vibration, and air turbulence, particles that do deposit on floors and other surfaces become readily redispersed into the air.

Exhaust ventilation for control of dust- and fume-producing operations is present in the furnace room, in the burnout room, at the oxidizing furnace, and at the rod straightener. Furnace room ventilation is effective, but is offset by the lack of adequate control elsewhere. Machining and grinding operations in the shop and part of the oxide-handling operations are without ventilation control.

General ventilation, induced partly by mechanical and partly by natural causes, results in an intermixing of the atmosphere of various plant processes and also causes contamination in non-production areas.●

THE HOUSE SHOULD RESTORE CONTROLS ON GASOLINE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. DINGELL. Mr. Speaker, our colleagues are well aware of my opposition to the recent vote on the amendment to the Department of Energy authorization for fiscal year 1980, H.R. 3000, when the House adopted by only a 3-vote margin, 191 to 188, the provision by our colleague from New JERSEY (Mr. COURTER) which in effect would result in sudden decontrol of gasoline prices and allocation regulations.

This vote must be reversed and that is my intention when we again consider H.R. 3000. My earlier remarks against the amendment are in the CONGRESSIONAL RECORD of October 12, 1979, pages 28089–28095. I also refer my colleagues to the CONGRESSIONAL RECORD of October 17, 1979, pages 28679–28680, "Gasoline Decontrol Vote Should Be Reversed," which I inserted.

Several of our colleagues and various organizations are working to overturn the gasoline decontrol vote and I am inserting at this point the communication of October 16, 1979, from the National Congress of Petroleum Retailers Inc. which urges the House to "hold gasoline allocation and price controls in place." I commend this information to the attention of our colleagues.

The communication follows:

NATIONAL CONGRESS OF PETROLEUM RETAILERS INC.,
Washington, D.C., Oct. 16, 1979.

Hon. JOHN D. DINGELL,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: We urgently request you do all you can to persuade your colleagues to hold gasoline allocation and price controls in place until supply is adequate to meet demand or some legislative provision is made to assure a fair opportunity for the survival of the nation's remaining 140,000 independent branded and unbranded retail dealers.

The regulations are grossly unfair in their present form. Nevertheless, thousands of retail dealers who are otherwise efficient in their operations are in business today only because the refiners and resellers cannot cut off their supply of product. Decontrol in a period of short supply as we are now in will bring about the premature closing down of another 50,000 dealers.

Without the pricing restraints on refiners and resellers consumers will suffer greatly from even higher prices. Refiner and reseller net profits will soar.

Decontrol of gasoline under present circumstances will aid and assist refiners and resellers in taking over the retail market. Fewer gasoline outlets will mean lines and longer lines at the remaining outlets.

Thank you for whatever you can do to hold controls in place at this time.

Sincerely,

JOSEPH J. GRISH,
Acting President.●

SMALL SAVERS INCENTIVE LEGISLATION INTRODUCED

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. QUAYLE. Mr. Speaker, I have introduced H.R. 5647, the Small Savers Incentive Act of 1979, to encourage Americans to renew their interest in the savings habit. It is alarming to find that today's inflationary cycle coupled with the current tax system are combining to discourage passbook savings accounts.

During the last quarter of 1978, commercial banks experienced the largest quarterly net outflow of savings deposits ever reported. In April of this year, savings and loan associations experienced the largest savings outflow recorded during any previous April. Savings at commercial banks during the first two quarters of 1979 were 6.4 percent below savings for the comparable 1978 period. Since January, State-chartered mutual savings banks have lost more than $2 billion in deposits.

These are depressing statistics because they reveal that, first, inflation is eating away the ability of many people to save; second, the only people who still have money in passbook savings accounts are those who cannot afford any other type of investment; third, many are electing to spend their money rather than let it depreciate in a savings account.

At the same time the reduced savings means that funds for housing and other investment capital are drying up.

It is time to give a tax incentive to savers. Such an incentive will be a capital formation device which will generate investment capital and put downward pressure on soaring mortgage interest rates.

As things now stand, tax typically trims a 5.5 percent interest rate to below 4 percent, so that when inflation is running at 13 percent, the small saver's account loses purchasing power at an annual pace of 9 percent.

Under H.R. 5647, an individual could exclude from his taxable income up to $500 in interest or dividends each year, provided that $400 or more of that amount is left in the savings account for further investment, or in the case of dividends, used to purchase more stock. Married couples could receive up to $1,000 in tax-free interest, as long as they left $800 or more in the account. This provision guarantees that, while the individual enjoys a tax break on his savings, the money is made available to the capital formation market.

This legislation would apply to interest earned in all thrift institutions including commercial banks, savings and loans, and credit unions.

Mr. Speaker, the United States is the only major western industrial nation which does not provide a significant tax incentive for its savers. Germany, Great Britain, and Japan all provide tax incentives for savings.

Americans are presently saving at a new, all-time low, 4.5 percent of their after-tax income, as compared to 12.7 percent in Germany, 14.4 percent in England, 18.2 percent in France, and 20.4 percent in Japan.

Given proper incentive, small savers will start saving again which will dampen the fires of inflation and create necessary capital formation funds. It is important that Congress act expeditiously on this legislation.●

USE OF CERTIFIED MAIL SERVICE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. FORD of Michigan. Mr. Speaker, today, together with Mr. THOMPSON, Mr. CLAY, and Mr. CHARLES H. WILSON of California, I have introduced a bill to allow the National Labor Relations Board to use certified mail service for the transmission and delivery of agency mail in lieu of the registered mail service which is now mandated by section 11 (4) of the National Labor Relations Act. The bill remedies an omission made in 1960 when the Certified Mail Act of 1960 amended 56 provisions of law and allowed various agencies to employ the newly created certified mail service.

As a result of this omission, the NLRB is forced to use the more expensive registered mail unnecessarily. The Board makes about 150,000 registered mailings a year that contain no material of intrinsic value, which registered mail is designed to protect. By using certified mail the Board will save more than $300,000 a year in postal costs, at a time when its retiring Republican General Counsel indicates that the scarcity of the Board's financial resources is limiting its activities.

The bill we have introduced is a purely technical amendment to end the anomalous treatment of the NLRB. The Postal Service and the Office of Management and Budget have no objection whatsoever to the bill. In addition, the AFL-CIO, the Chamber of Commerce and the Labor Law Section of the ABA have all expressed support for it.

We hope every Member of Congress will join with us and these groups to support this needed, logical, and noncontroversial addition to the types of mail service available to the NLRB.●

OUR DECLINING ECONOMY

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. BEARD of Tennessee. Mr. Speaker, in the many contacts I have had with my constituents over the last several months, it is clear that concern about energy shares the No. 1 spot with concern about our declining economy.

To date, we have heard a lot of rhetoric about who is responsible for the current energy crisis and the blame has been laid alternately on OPEC, the big oil companies, the Department of Energy, and the wastefulness of the American people—depending upon who is doing the blaming.

The fact is, because of the enormous complexity of the world energy situation, we may never be able to identify who the real culprit is—if indeed there is a single culprit.

In the meantime, the rhetoric goes on and our energy problems get worse. The fact is we are more dependent than ever on oil—particularly foreign oil—as an energy source, and our Government's only response so far has been to offer a program of standby rationing along with a complicated set of still-vague proposals that would firmly entrench the Federal Government in every phase of our Nation's energy industry.

A standby rationing program is necessary in extreme emergencies. But standby programs have a way of becoming permanent national policy, and none of these programs does anything to encourage active conservation. They only acknowledge our inability to meet our energy needs.

Rather than wasting our rhetoric figuring out who is responsible for the oil shortages we are experiencing with increasing frequency, we ought to be concentrating on reducing our dependency on oil.

And what the Government ought to be doing, I think, is offering incentives to individuals and businesses to conserve energy by investing in alternate energy technologies. These incentives ought to be in the form of tax credits to reward individuals and businesses who make the extra effort to help reduce our dependence on oil—both foreign and domestic—as an energy source.

The use of alternate technologies can have an important impact on our efforts to reduce our unacceptably high consumption of imported oil. Many alternate technologies are generally currently available for wide scale use. However, according to recent studies by Harvard University, by our own Government and by private institutions involved in the energy industry, substantive tax incentives can greatly increase the rate at which our society makes these energy investments.

Although loan and grant programs can also enhance use of new energy technology, meaningful tax incentives are an important way to encourage families and businesses all over the country to invest in America's energy future.

Legislation first introduced last year made some inroads in this area by establishing tax incentives to encourage increased use of solar, wind, geothermal, hydroelectric, and biomass energy; industrial cogeneration, residential conservation, and alcohol fuel.

The problem is that these tax incentives did not go far enough to make it attractive to most American families and businesses to consider investing in these alternate technologies.

For this reason, I am introducing legislation that will greatly increase the tax credits now available for some of these technologies and will add other technologies to the list.

In summary, my bill would provide the following:

Fifty percent tax credits available more quickly than currently for individuals who invest in solar, wind, geothermal and other conservation technologies.

Fifty percent tax credits for businesses investing in solar, wind, geothermal, hydroelectric, biomass and ocean-thermal energy conversion equipment.

More flexible Federal tax exemptions and credits for use of alcohol fuels.

Improvement of the provisions of the Energy Tax Act of 1978 relating to individual and business conservation, solar, wind and geothermal energy; tax credits for cogeneration and for individual and business use of heat pumps and energy efficient electric motors.

Extension of all tax credit provisions from 1981 to the year 2000 to encourage both individuals and businesses to invest now in the long-range future.

I do not share the view of this administration that the same Government who brought us last summer's gas lines and tangled web of allocations will prove competent to manage the allocation of our energy resources on a permanent basis.

Nor do I share the view that total Government management of our resources is necessary as the last remaining solution to our energy problems.

I do share the view, however, that active conservation is necessary to reduce our dependence on both foreign and domestic oil as an energy source.

When provided with incentives, Americans have always risen to the challenges that have faced them throughout their history through the free enterprise system.

To date, inflation and the relatively high cost of alternate energy technologies have prevented many American families from investing in these technologies.

My legislation will make it possible for many more American families to take up the challenge of reducing our dependence on both foreign and domestic oil by rewarding them for their conservation efforts with substantial tax credits.

Only when we make alternate technologies widely available, affordable and competitive with oil in the marketplace can we, as consumers, have any control over the price of that oil in the marketplace and over the price of our utilities in the future.●

NATIONAL HEALTH INSURANCE OPPOSITION

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. DEVINE. Mr. Speaker, not all retired persons have been snowed by the alleged virtue of national health insurance. I received a letter last month from a constituent, Mr. B. P. Kang, setting forth specifically his views in opposition to national health insurance, even though he had been urged by the American Association of Retired Persons to support it.

I have Mr. Kang's permission to publish his letter in the CONGRESSIONAL RECORD and hope that all Members will take the opportunity to read it.

COLUMBUS, OHIO,
September 14, 1979.

Hon. SAMUEL L. DEVINE,
U.S. House of Representatives
Washington, D.C.

DEAR MR. DEVINE: Recently I was urged by an organization which I belong to, the American Association of Retried Persons, to ask members of my Congressional Delegation to promote National Health Insurance Legislation and to support it when it comes up before the Senate and the House for action. As a senior citizen I should comply with the request wholeheartedly, but after careful consideration and deep and soul searching thinking and with good conscience I must, on the contrary, ask you to oppose that proposition. The reasons are as follows:

1. It may destroy initiatives of the Medical Profession and make it an assembly line practice.

2. It will encourage the abuse of Medical Care by the public.

3. It will create a monstrous Federal Bureaucracy larger and more difficult to manage than the Social Security, Medicare, and general Social Welfare combined.

4. It will brew dissatisfaction and complaints of bias and inequality. There is no way to prove impartiality.

5. It will overload the middle class taxpayers on their already too heavy a tax burden. It has been a common belief and a well publicized supposition that the poor pays no tax and the rich escapes taxation through numerous loopholes, whence it leaves the middle class hard working citizens to hold the bag.

6. The very rich and rich can and probably will receive better health care by slipping something under the table, whence it will enhance bribery even in the here-to-fore upright Medical Profession. The poor may assume that they receive equal treatment but in reality it might be proven rather deceitful.

The system is workable only in a Socialist Society where private possession of wealth is prohibited and all professions, medical experts included, are always under the nose of the ruling authority.

The proposition sounds excellent on the surface, but actually it is good only for the chronic parasites. Those who favor it are pitifully deceived, failing to recognize that it is only a colorful platform for some ambitious politicians. Who are going to pay for it? Santa Claus does not live here. I feel sure you will exercise your best judgment and hopefully you will examine my views on this matter.

Very respectfully,

B. P. KANG.●

OMNIBUS MARITIME LEGISLATION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. EDGAR. Mr. Speaker, I would like to include in the RECORD the testimony of Mr. Peter Hepp, president of Sun Ship, Inc., of Chester, Pa., as given before the Merchant Marine Subcommittee on October 16. Mr. Hepp comments with some expertise on the omnibus maritime legislation before that subcommittee, as embodied in H.R. 4769. As an expert on the shipbuilding industry, Mr. Hepp provides excellent insight into the financial problems and needs of the shipbuilding industry of today. I believe his analysis of H.R. 4769 should be read by all of us who will be called upon to consider and vote on this important legislation.

The testimony follows:

STATEMENT BY PETER S. HEPP

Thank you, Mr. Chairman. My name is Peter Hepp, and I am President of Sun Ship, Inc., of Chester, Pennsylvania. Sun Ship has been building vessels since 1916. During World War II it was one of the largest shipyards in the world; today we have over 4,000 employees and are growing. We are located in an area of chronic high unemployment, and our annual sales are between $200 and $300 million.

As part of our industry comments on H.R. 4769, I have been asked to address the question of construction differential subsidies. Let me begin by saying how CDS affects Sun. Today we have orders to build 8 ships worth close to $500 million. We hope to have two more soon worth over $300 million. These orders should provide work for us for about 3½ years. All of these ships are in one way or another government assisted. Without CDS and the Jones Act, our yard would close; our jobs would be lost; and our community would experience economic depression.

I am new to the process of giving testimony before Congress, so I began my preparation by reviewing statements that you have heard previously on the omnibus maritime legislation. I was struck by how fragmented the comments have been. It is almost as if the testimony was dissecting the American shipbuilding industry into its component parts—capital investment, management, union rules, production approaches and so forth.

This approach is understandable—analysis has been the tool generally accepted to explain observations in all fields of science and human interaction. That is, we tend to break down the thing under examination, looking for the effect of the parts on the whole.

Today we are beginning to recognize that this analytic method does not tell the full story. We are learning that many complex systems cannot be explained satisfactorily through subdivision, because the whole loses its unique identity when pulled apart. The human body is an excellent example—people see, the eye by itself cannot.

The failure to see shipbuilding as a whole may explain some of the difficulties we have had in locating and explaining its problems. Shipbuilding is a complex system to set in a greater system—a supra system—our national culture.

Viewed in this context, the differences between U.S. and foreign shipyards, particularly those of Japan and the Third World, can be explained by observing that their national cultures have established goals and objectives different from our own. These goals and objectives have, in turn, resulted in vastly different uses of labor, capital and management in each country's shipbuilding industry. Japanese see their industry as a necessary adjunct to their overwhelming dependence on imports and exports as well as one of the most important users of Japanese steel. Koreans look upon their shipbuilding industry as an earner of foreign exchange and an important step on the road to industrialization.

How do these attitudes abroad compare with American views of its shipbuilding industry? The approach of Japan and Korea seems so strange to us that our first reaction might well be, "it could never happen here." But it has: In 1940 there were about 100,000 shipyard workers in the United States—not even as many as today. World War II changed our goals and the importance of the shipbuilding industry to those goals.

Within three years, the industry had grown to nearly 1.4 million workers and was a major factor in winning the war. The supra system in which the yards operated—government, individual companies, management, workers, suppliers, capital sources, and so on—responded to the new goals to meet the new challenge.

Today, American shipyards employ 163,000 workers directly and another 490,000 earn their livelihoods in associated industries. This number of jobs in any industry would, of course, be important to our national economy. But shipyard jobs are important not only for their quantity but also for their special character. For the most part, shipyards hire unskilled laborers, whose ability to enter other industries is severely limited. We train these workers to be electricians, plumbers, welders and in the great variety of other skills needed to build a ship. Shipbuilding is not easy work, and much of it takes place outdoors. Thus, once they have learned a skill, our employees tend to move to other jobs, and the process begins again. Thus, shipyards are constantly upgrading the ability of the workers they employ and of the work force as a whole. At Sun Ship each year, 35 percent of our work force moves on. We "main stream" 600 workers a year.

This characteristic of shipyard employment is especially important to minority workers. Shipyards provide on-the-job training for these workers in numbers that are simply not available elsewhere. For example, 30 percent of Sun Ship's employees are minority and female workers.

This then is my view of the American shipbuilding industry as it exists in relation to our supra-system. Others might view things differently. What is important, however, is that we look at the whole and not its pieces.

My thesis is very simple: no amount of tinkering with elements of the U.S. shipyard system—be it union rules, series production, management talent, or capital formation—will have the impact as will a clear determination of the national goals we wish the industry to achieve. I would argue that we should set the same goals as the major shipbuilding countries—the importance of the industry is worthy of such treatment. But as long as those goals are not established, it is wrong—totally wrong—to judge the performance of the U.S. industry by the same criteria we use for the Japans and Koreas of the shipbuilding world.

Mr. Chairman, the U.S. shipbuilding system is exactly what our society has asked of it—no more, no less.

We feel that H.R. 4769 was drafted without proper consideration of the shipbuilding industry in our national culture. Instead, there seems to have been undue concern with short term factors, many of which are of transient importance.

The current worldwide overcapacity has led other countries to increase their ship construction subsidies. Artificial markets have been created to keep workers on the jobs, even if every ship is built at a loss. The net result is that foreign ships are undoubted bargains today. But the world market is going to turn around. (Figure 1) simply because we are considering maritime legislation at the low ebb in the market, we are not entitled to ignore this fact. Let me discuss world supply, prices and CDS.

Foreign ship prices bear little relationship to costs. Indeed, in the face of worldwide inflation and increased costs, foreign shipyards have reduced their prices. How did they do it? Because they have received substantial government subsidies, which were adjusted upwards as demand declined. Thus, as demonstrated by figure 2, foreign ship prices track demand—as the world market shrinks, foreign yards battle to preserve their sales by cutting prices; government subsidies make this tactic possible. These subsidies, intended to get their yards past the present trough in the market, will be phased out as ship orders increase and foreign ship prices will climb again.

The fact that world prices for ships are not related to costs also has an important implication for the payment of CDS to American yards. U.S. shipbuilding prices are directly related to costs. (Figure 3 shows this relationship by comparing ship prices to the U.S. inflation index over the last several years.) But CDS represents the difference between U.S. and foreign shipbuilding prices, not costs. As shown by figure 4, in periods of high demand, foreign yards have raised their prices substantially above those justified by cost factors alone. During that same period, CDS rates fell, showing that U.S. yards did not increase their prices enough to hold CDS at the legal limits. That is, American price increases reflected only increased costs and not the tight market situation, a clear benefit for U.S. buyers. This history strongly suggests that CDS cannot accurately be appraised by considering solely the cost differences between U.S. and foreign production; market factors are of even greater importance. In fact, marad negotiates cost with the shipyard based on historical performance data and productivity analysis. To this cost is added a profit allowance which under marad policy never exceeds 10 percent. A legal ceiling on CDS is unwarranted, since U.S. yards cannot skew their prices to maximize subsidies.

Foreign ships will not always be cheaper. As ship orders increase, so will their prices. Foreign government subsidies, intended to get their yards past the present trough in the market, will be phased out. The phenomenon of ridiculously low prices for foreign construction will disappear.

We prohibit "dumping" of foreign television sets and steel: It seems to us, Mr. Chairman, that the American commercial shipbuilding industry should and must have available to it the same weapons.

It is not beyond our control to share in the economic benefit that other nations derive from trade with the United States. Every day we rely more and more on foreign countries, especially in the third world, to supply our raw materials. I recognize that we must export the dollars or goods necessary to buy these commodities; but, Mr. Chairman and members of the committee, how can we stand idly by and even support legislation which creates programs which would export our water transportation jobs as well? We applaud the fact that the bilateral approach envisaged in H.R. 4769 recognizes this point and seeks to right the present imbalance.

As I have said, Mr. Chairman, the performance of the U.S. shipbuilding industry can

only be judged in the context of the goals our country has set for the industry.

If the Congress finds that our national objectives provide only marginal need for American shipyards, no detail work will change the overall result. However, if our national goals are different—if the shipyard industry is asked to continue to train unskilled workers; if we are asked to continue to provide an industrial base to build and maintain our navy; and, if we are asked to provide an alternative to reliance on foreign yards for American water transportation—we can do, will do and look forward to doing those jobs, too.●

IRVING KLEIN: A MAN OF ACHIEVEMENT AND PURPOSE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. AMBRO. Mr. Speaker, on Saturday, November 17, the Eastern Long Island Division of the United Jewish Appeal—Federation of Jewish Philanthropies will honor Mr. Irving Klein at its annual inaugural dinner. Never has a more deserving individual been chosen to receive this honor.

An active participant in the United Jewish Appeal for the past 20 years, he has been a member of the Eastern Long Island cabinet, past chairman of the special gifts and cash committee, and he is currently the chairman of project renewal. A resident of the town of Huntington for the past 20 years, Irving Klein has been involved—usually in a leadership capacity—in just about every worthwhile community endeavor ranging from the presidency of Temple Beth El, to the board of the Huntington Arts Council, the Children's Oncology Society of New York, and Melville House, to name just a few. When a group of underprivileged teenagers needed a bus to travel to the Nation's Capital to explore college entrance prospects, Irving Klein provided the bus; when the Huntington program for retarded youngsters needed refreshments for its Special Olympics, Irving Klein provided the food. I could go on with many more similar examples. If it is worthwhile, if it is good for the community and its residents, you can expect to find Irving Klein involved. He is never too busy, and he never just "gave at the office."

Webster defines a philanthropist as one who practices "goodwill to fellowmen; especially an active effort to promote human welfare * * *" from the French and Greek roots meaning "loving mankind." Surely that description fits Irving Klein. The word I prefer, however, is "mensh," from the German meaning person, or human being. However, the word conveys a special sense of respect, dignity, and approbation far beyond that. As Leo Rosten so aptly explains in his book "The Joys of Yiddish," " 'The finest thing you can say about a man is that he is a mensh!' * * * To be a mensh has nothing to do with success, wealth, status . . . The key to being 'a real mensh' is nothing less than—character: rectitude, dignity, a sense of what is right * * *." Those, Mr. Speaker, are the most accurate words that I could ever use to describe Irving Klein.●

HOME HEATING OIL

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. MOAKLEY. Mr. Speaker, I wish to voice my serious concern over the spiraling and unwarranted increases in the price of home heating oil. House bill, H.R. 5389, of which I am a cosponsor, recognizes this problem and attempts to resolve it.

The proposed legislation mandates a rollback and freeze of the price of home heating oil to January 1, 1979 levels. Such a move would reduce heating oil prices from the current 81 cents per gallon to 51 cents per gallon, a substantial savings. Indeed, my colleague, ROBERT ROE of New Jersey, the original sponsor of this bill, has estimated that the bill would save the average home heating oil user $500 this winter.

Since the first of the year, the price of home heating oil has leaped by an astounding 60 percent. Furthermore, probable increases in the price this winter could raise it to an unthinkable $1 per gallon. True, a fraction of this increase is justifiable due to the exorbitant price increases this year by the Organization of Petroleum Exporting Countries. However, OPEC's profiteering clearly cannot explain why, that in the past 9 months oil refiner's profit margins have nearly doubled. This "price gouging" is inexcusable; H.R. 5389 would provide an effective remedy for this situation.

I am particularly concerned over the gravity of this situation because of the acute problems it poses for my district, and Massachusetts in general. As I am sure you are all well aware of, Massachusetts is critically dependent on home heating oil. Refiners cannot continue to raise their prices arbitrarily. Steps must be taken now to protect homeowners who use home heating oil. If the present price spiral continues unabated, the impact would be devastating for homeowners trying to cope with double digit inflation; while the consequences for people living on fixed incomes would be even worse. The susceptibility of Massachusetts to harsh winter serves to heighten the problem. I am not one for tampering with the free enterprise system, but the monopolistic prices cannot be tolerated.

Mr. Speaker, I cannot emphasize enough the importance of passing this legislation. I fully support this bill and will do everything in my power to see it enacted.

The material follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 28, 1979.

DEAR COLLEAGUE: As we all well realize, there is the strong possibility of a national emergency this winter unless something is done quickly to abate the steady, unwarranted increases in home heating oil prices.

There can no longer be any doubt that the refiner level profits on home heating oil are much higher than they should be.

To correct that situation, I have introduced legislation, H.R. 5389, that would both roll back and freeze the price of home heating oil to January 1, 1979 levels. It would force heating oil prices to be reduced from the current 81 cents per gallon average to the 51 cents a gallon it was selling for last January. Heating oil distributors' profits would not be affected by the roll back.

It has been estimated my bill would save the average homeowner who uses heating oil $500 on this bill this winter.

Department of Energy (DOE) studies have shown that the refiners are making unfair profits in the sale of home heating oil. The "Wall Street Journal" recently noted:

. . . refiners, both independent and those owned by large oil companies, in the past nine months have roughly doubled the cents-per-gallon spread between their selling price and their crude oil costs. In the coming months, these increases will cost consumers hundreds of dollars in higher fuel bills.

I have enclosed the entire "Wall Street Journal" article for your information.

There is increasing talk of $1 a gallon heating oil by the end of this year. That price would be devastating to the middle income wage earner trying to cope with double digit inflation. And those living on fixed incomes, such as the elderly and poor, might have to make a decision this year whether to buy food or to purchase heating oil for their homes. Steady hikes in home heating prices are also making it very difficult for municipalities around the nation to prepare budgets for fuel purchases next year.

My bill would also place similar controls on diesel fuel prices.

If you would like to join my efforts to roll back and freeze heating oil prices to reasonable and fair levels by co-sponsoring H.R. 5389, please call Ken Rinzler at 5-5751.

Thank you.

Sincerely,

ROBERT A. ROE,
Member of Congress.

REFINERS ARE SUSPECTED OF USING HEATING OIL TO WARM THEIR PROFITS

(By John R. Emshwiller)

Earlier this year, drivers were waiting in long lines at filling stations and muttering oaths about the oil companies. Then the catch phrase was "windfall profits." Now it is the turn of homeowners, and the charge increasingly being made is "price gouging."

The price of home-heating oil has climbed by 60 percent to an average of about 80 cents a gallon since the beginning of the year, and many believe the price could go even higher when the heating season begins. Although the oil companies were largely prevented from increasing their profit margins on gasoline because of price controls, there is some evidence that the oil companies have been pushing up their profit margins in the uncontrolled heating-oil market.

Although part of the unprecedented rise in heating-oil prices can certainly be traced to the big increases in crude-oil prices this year by the Organization of Petroleum Exporting Countries, some of the explanation is apparently to be found closer to home. For example, data gathered by the federal government and by industry sources show that refiners, both independent and those owned by large oil companies, in the past nine months have roughly doubled the cents-per-gallon spread between their selling price and their crude-oil costs. In the coming months, these increases will cost consumers hundreds of millions of dollars in higher fuel bills.

CARTER'S CALL

President Carter voiced the growing anxiety over these soaring prices on Wednesday when, before an audience in Hartford, Conn., he called on 27 major oil companies to follow the recent lead of Texaco Inc. and freeze their prices of home-heating oil at current levels during the winter. Energy Secretary Charles Duncan said yesterday that he plans to meet with major refiners next week to ask them to hold down voluntarily their heating-oil prices. Reached for comment, some companies said they will attempt to hold down further increases but are unable to make any firm promises (see story on page 4).

The oil companies deny the charges of price gouging and say that their higher margins are due to higher refinery operating costs and that their policies are justified. But one oil-company source concedes that the higher margins "do indicate increased profits in the business."

Both Congress and the Department of Energy are investigating the price increases. Rep. Toby Moffett, Democrat of Connecticut, who heads one congressional subcommittee looking into heating-oil prices, asserts that the refiners are reaping "tremendous" profit margins on the fuel. Like others, Mr. Moffett is pushing for reimposition of federal price controls on heating oil, which were lifted in 1976.

Oil company officials are clearly worried about the growing attention their heating-oil prices are getting. "It is politically a very sensitive issue. The specter of new controls is a real threat," says a senior executive at a major oil company.

WILL PRICE REACH $1?

The threat could grow rapidly if, as some expect, heating-oil prices climb even higher. Although prices have risen rapidly in recent years, from about 35 cents a gallon in 1974 to about 49 cents last year, the jumps in the past months have dwarfed anything that has come before. Now some industry observers are saying the price could approach an average of $1 a gallon this winter.

However, one problem that does seem to be off the oil companies' backs is that of supply: With a little luck, the roughly 16 million American homes that depend on heating oil will have enough fuel this winter. In itself, the prospect of sufficient heating-oil supplies is a major improvement over the outlook just three months ago when heating-oil inventories were perilously low and there was widespread fear of a severe shortage this winter.

Inventory levels have improved rapidly since then, thanks partly to increased supplies of foreign crude oil. Most observers now believe that in the absence of an unusually hard winter or some major new upheaval in world oil production, stocks will be adequate.

Most of the attention now has shifted to prices, particularly the pricing practices of the big oil companies. As with many questions in the oil industry, comprehensive, up-to-date information is scarce and firm conclusions are hard to come by. But it does seem clear that the refiners' margins have been going up.

11-CENT MARGIN

The Energy Department's statistics for May, the latest month available, show that the average margin between a refiner's selling price and his average crude-oil cost to be a little over 11 cents a gallon, compared with 7.6 cents in January and 6 cents in May, 1978.

In the three months since May, industry experts believe that this margin has continued to increase as the refiners' selling price has gone up by about 14 cents to about 66 cents a gallon. Some industry people believe that the margin is now about 16 cents a gallon. Each penny increase in heating-oil prices produces about $200 million annually in added revenues.

Because the costs of buying petroleum and of running refineries have been increasing, some increase in the refiners' cents-per-gallon margin has been necessary just to stay even. But the refiners appear to be steadily pushing up that margin as a percentage of their selling price. If the margin is indeed about 16 cents a gallon, that would represent about 24 percent of the refiners' 66-cent selling price. But Energy Department figures show that in January the margin was about 10 percent of the selling price, and last September it was only about 15 percent.

On top of the refiners' new wholesale price, wholesalers and dealers appear to be adding about 14 cents, bringing the retail price to its current 80-cent-a-gallon level.

The Energy Department is now trying to assess the refiners' operating costs. Last week Deputy Secretary John O'Leary told a congressional hearing that although the evidence is weak, "we see a prima facie case that (profit) margins have gone up. But we don't know what has been happening to operating costs of refiners."

The oil companies' pricing moves on heating oil come at a time when the industry hardly needs added reasons to be disliked by the public. Some contend that the industry is behaving arrogantly. "They used the panic about possible supply shortages as a smokescreen to jack up prices," charges one large heating-oil dealer.

But oil-company officials say that their heating-oil prices are fair and that the rising margins really aren't their fault. "There are just an awful lot of people trying to buy it, and the market is bidding the price up. It doesn't have anything to do with gouging," says Robert W. Baldwin, president of Gulf Oil Corp's refining and marketing operations.

There also is some belief that the biggest price jumps already have been made and that the picture will improve as supplies grow. Observers believe that the current economic downturn and the high price of oil will soften demand and hold down further price increases. Many regular buyers of heating-oil contracts with delivery dates in the months ahead aren't buying them at the current prices, according to Vincent Sgro, editor of Oil Buyers' Guide, an industry publication. "They feel prices are stabilizing or coming down," he says.

Political pressure also may prevent further price increases in heating oil in coming months. Oil companies are strongly opposed to the reimposition of federal price contris and may take some pains to avoid confrontation. "As a businessman I'm pleased about rising margins, but they can't continue to go up. There are absolutely political considerations," says one senior oil-company executive.

The sensitivity to this problem is heightened by President Carter's reelection bid. His first major primary test is scheduled for what will almost certainly be a cold February day in New Hampshire, where about 80 percent of homes use heating oil. Although the administration officially opposes reinstituting price controls "the companies are playing with fire," says a federal energy regulator. "It's very easy to imagine a politically weak President Carter, facing crucial primary elections in the Northeast, slapping a price ceiling on heating oil if prices keep rising."

At the beginning of this year, the revolution in Iran and the upheaval in world oil markets had seriously depleted the nation's heating-oil inventories, and the Carter administration made rebuilding these stocks a top energy priority. In May, with inventories still far below year-earlier levels, Energy Department officials asked 32 of the nation's largest refiners to increase stocks of distillates, which include home-heating oil, to about 240 million barrels by early October. That would be about 3 percent higher than the average levels for October over the past four years.

Refiners have been rapidly building their stocks in recent weeks, and as of Sept. 7 they had accumulated over 200 million barrels, slightly ahead of a year earlier. Although they apparently won't meet the October goal, it's widely felt that the stocks will be adequate by the time the cold weather arrives.

There is some concern, though, that enough oil won't be in the right place at the right time. In the push to build up their inventories, refiners have restricted sales to heating-oil dealers. As a result, retailers and their customers have less oil on hand than a year ago. "If the winter hits in late October or early November, enough oil might not be at homes," says Allan Darrow of the National Oil Jobbers Council, a trade group representing heating-oil dealers.

But for most people the problem will not be getting the oil, but paying for it. State and federal officials are looking at a variety of aid programs, including possible low-interest loans to middle-income households to help stretch out the payments for fuel.

Industry observers say that credit terms on heating-oil payments have been tightening throughout the distribution system. That could be a further constraint on middle-income budgets as people find they are being expected to pay their higher fuel bills faster than ever before.

But most of the worry focuses on the nation's poor. Studies last winter indicated that many low-income households were paying up to 40 percent of their incomes trying to stay warm. With the prospect of an even bigger bite being taken by this winter's heating costs, most observers believe large-scale federal aid is essential.

The President has asked Congress to allocate $400 million in assistance for the poor this winter, with an additional $1.2 billion if the "windfall" tax on oil-company profits is passed. Even if financial aid is approved there are worries about whether it will be enough or whether it will reach people in time to prevent a serious crisis. In the past, aid efforts have become bogged down in administrative delays and the money often didn't reach those in need until after the heating season.

"Thousands of people's lives are in jeopardy and we have already waited too long to avoid some human tragedies. Now we must move as quickly as possible to minimize the number," says Anthony Maggiore, an anti-poverty official in Milwaukee who is head of an advisory group to the Energy Department on the energy problems of the poor.●

DR. FAYE B. EAGLES: CHIROPRACTOR OF THE YEAR

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. FOUNTAIN. Mr. Speaker, Dr. Faye B. Eagles, a longtime personal friend and constituent from Rocky Mount, N.C., has been named national Chiropractor of the Year by the American Chiropractic Association. The award was made last June at the association's annual convention in Seattle, Wash.

Faye's career in the health and chiropractic fields is filled with a long list of "firsts." She was the first woman president of the North Carolina Chiropractic Association. She was the first doctor of chiropractic to serve on the North Carolina Commission for Health Services. She is the first North Carolinian—and the first woman in the Nation—to receive the ACA's Chiropractor of the Year Award.

In addition to her professional activities, Faye has long been active in countless civic and community endeavors in her hometown.

Mr. Speaker, I congratulate Faye Eagles on her award and on her many professional and civic accomplishments. I know that my colleagues in the House join me in wishing her all the best in her future endeavors.●

HOLDING THE PAC'S IN CHECK

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. FISHER. Mr. Speaker, like others of my colleagues I have been listening to this debate on setting limits on Political Action Committee (PAC) contributions to campaigns of candidates for election to the House of Representatives. The arguments made pro and con have been enlightening. As always with the difficult issues that come to us for decision, there is no perfect option, no totally right course to take.

If limits on PAC contributions are not established, the rapid increase of such contributions over the last few years points clearly to a situation in which PAC's—including business, labor, and others—will dominate in election financing. The phrase, "awash in a sea of special interest money", will turn out to be accurate.

On the other hand, very severe limits, or even outright prohibition, will largely preclude individuals from participating in financing campaigns by contributing as groups, the members of which have similar concerns.

Clearly, a balance is needed. The real issue, it seems to me, is to find a sensible compromise. That, of course, is what democratic, representative government is all about. Several elements in this whole issue are important.

First, Political Action Committees are desirable on the national scene. Most of them are genuine, grassroots organizations. They are not sub rosa, subversive, or sub-anything else. They do increase both political awareness and political participation. As long as the general public knows who they are and how they operate, protection against most abuses will be adequate.

Second, PAC's have already reached a scale of activities that threatens responsible government. In the last House election quite a few candidates received half or more of their contributions from PAC's frequently with most of it coming from PAC's located outside their congressional districts. Furthermore, in many instances PAC contributions are made to particular candidates chosen by a single or a small number of PAC officials. Also subtle, or sometimes not so subtle, pressures are brought to bear on employees or members to contribute blind, so to speak, without knowing how their money will be used.

Third, no matter how you slice it, House Members will give, or will be tempted to give, some degree of preference to campaign contributors, especially those giving large amounts, in their consideration of legislation. And even if they are not tempted to do this, many persons will think the worst, that Members of Congress will be influenced unduly by their big contributors, that they will dance to the tune of the special interests.

Finally, the practical way to deal with this problem is to establish reasonable limits on PAC campaign contributions. I would greatly prefer much lower limits than those the House voted for, which are $6,000 from any single PAC and $70,000 from all PAC's. In each of my own campaigns I have pledged from the beginning to abide by lower limits by far than the House has agreed to. But the $6,000 and $70,000 were the lowest that could win approval; therefore, I voted for these limits. The principle has now been established that the House will put a brake on special interest dominance of elections. I hope the limits can be lowered further in the future.

IMPORTANCE OF BLACK AND JEWISH COMMITMENTS TO COMMON GOALS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. OTTINGER. Mr. Speaker, I would like to call to the attention of my colleagues a joint statement by black and Jewish organizations in the Leadership Conference on Civil Rights. Now that the smoke is finally clearing from the "rift" between the black and Jewish communities, we can get back to working toward achieving our mutual goals. The inflated rhetoric and excessive media coverage which followed the resignation of Andrew Young was neither constructive nor beneficial for promoting the interests of either the black or Jewish communities.

Blacks and Jews have long worked and fought together in Congress and across the country to realize common victories. Let us not lose sight of our common agendas and commitments to civil rights, full employment, decent housing, and equal opportunities for all. Let us not forget the consistent black support for Israel and the funds and armaments it needs for survival. Let us get back to addressing the real problems at hand. This important statement confirms our continual alliance and commitment to the achievement of our common goals. The text of the joint statement by black and Jewish organizations in the Leadership Conference on Civil Rights and list of its signers follow:

JOINT STATEMENT BY BLACK AND JEWISH ORGANIZATIONS IN THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

The undersigned Black and Jewish organizations are deeply concerned over recent reports of a rift between Blacks and Jews. That we have our differences is clear. But to suggest that such differences constitute an irreparable rift is to misunderstand the nature of a coalition and of our relationship.

The essence of our plural democracy is that it encourages every group to express its views on whatever issues it chooses in accordance with its own values and judgment. It is out of such differing values, judgments and priorities that the temper of our society is forged.

A free plural society demands not the elimination of differences but the expression of differing views without rancor, racism or anti-Semitism.

For 30 years we, together with other groups, have worked through the Leadership Conference on Civil Rights in furtherance of its stated purpose: to establish "an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice without regard to race, sex, religion, ethnic origin, handicap or age; and in which every group is accorded an equal opportunity to enter fully into the general life of the society with mutual acceptance and regard for difference."

In pursuit of that goal, as members of the Leadership Conference, we have committed ourselves to support, "as a matter of right—a useful job at a decent wage for all who are employable or who can be made so by training or retraining; income sufficient to provide all others with the essentials for living in dignity and self-respect; decent housing in a decent environment for all; medical care for all in health, sickness and disability; and education to the limit of each person's capacity to benefit from it."

That shared commitment continues undiminished. Our years together have been marked by great advances, great achievements. The work that still must be done is too important to let differences divide us.

SIGNATORIES TO JOINT STATEMENT BY BLACK AND JEWISH ORGANIZATIONS IN THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Richard M. Ballard, National President, Phi Beta Sigma Fraternity, Inc.

Syd Bykofsky, President, United Hebrew Trades.

Marjorie Merlin Cohen, Executive Director, National Council of Jewish Women.

Bishop Charles H. Foggie, Secretary, Board of Bishops, African Methodist Episcopal Zion Church.

Bertram Gold, Executive Director, American Jewish Committee.

Benjamin Hooks, Executive Director, National Association for the Advancement of Colored People.

Vernon Jordan, President, National Urban League.

Aline Kaplan, Executive Director, Hadassah.

Frieda S. Leemon, National President, Pioneer Women.

Theodore R. Mann, Chairman, National Jewish Community Relations Advisory Council.

Emanuel Muravchik, Executive Director, Jewish Labor Committee.

Bayard Rustin, President, A. Philip Randolph Institute.

S. Garry Oniki, Executive Director, Office for Church in Society—United Church of Christ.

Nathan Perlmutter, Executive Director, Anti-Defamation League of B'Nai B'Rith.

Nathan Peskin, Executive Director, Workmen's Circle.

William M. Ross, Executive Director, Recruitment & Training Program.

Eleanor R. Schwartz, Executive Director, National Federal of Temple Sisterhoods.

Simon Schwartz, President, United Synagogue of America.

Rabbi Henry Siegman, Executive Director, American Jewish Congress.

Harris B. Stone, National Commander, Jewish War Veterans of the U.S.A.

Inez W. Tinsley, National President, National Association of Colored Women's Clubs.

Rabbi Alexander Schindler, President, Union of American Hebrew Congregations.

Evelyn Wasserstrom, President, B'Nai B'Rith Women.

Dr. Fredda Witherspoon, National President, Iota Phi Lambda Sorority, Inc.

Dorothy Height, President, National Council of Negro Women.

Janice Kissner, Grand Basileus, Zeta Phi Beta Sorority, Inc.

Rabbi Arthur Lelyveld, President, Synagogue Council of America.

Theodore R. Hagans, President, National Business League.

Walter Hubbard, President, National Office of Black Catholics.●

MEDICAL TECHNOLOGY AND GOVERNMENT REGULATIONS

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. ADDABBO. Mr. Speaker, many of us in Congress are concerned over the growth of Government regulations. President Carter, in his campaign, reiterated this mutual concern and promised to cut the Government redtape. This is particularly evident in the health field where HEW rules and regulations often conflict with the development and utilization of new medical technology.

I wish to submit the following column by Harry Schwartz, a most venerable writer, which appeared in the New York Times on October 12, 1979, and which so aptly illustrates a Catch-22 situation.

The article follows:

COSTS CUTS NEVER GET A NOBEL

(By Harry Schwartz)

The Nobel Prize Committee yesterday delivered a major blow against the bureaucrats in Washington who would like to halt, or even to reverse, the current technological revolution in United States medicine.

By awarding the Nobel Prize in Medicine to scientists who developed the much-maligned CAT-scanner, the committee in effect issued a public rebuke to those who have been working hard to minimize the use of CAT-scanners in the United States.

Developed earlier in this decade, the CAT-scanner—the name for the apparatus that does computerized axial tomography—is probably the most important advance in medical diagnosis since the original discovery of X-rays, at the turn of the century.

By combining X-rays with a computer, the CAT-scanner can quickly supply a physician with a clear and complete picture of a slice of the human body at any level from head to foot.

This is the quickest and most painless way to check whether there is a cancer, a blood clot or some other physical pathology in some part of the body, particularly in the brain.

One might easily think that Government officials would welcome a major improvement in medicine's diagnostic capability.

But cost containment is now the top priority in Washington's approach to medicine.

So the advent of the CAT-scanner has been greeted with the enthusiasm that would be accorded to the bubonic plague.

Using Government regulations having the force of law, as well as exhortation and other forms of pressure, the bureaucrats have been trying to discourage or prevent hospitals and doctors from getting these machines.

The reason is that CAT-scanners are expensive and that their use may increase medical costs.

A prominent university representative of this point of view recently suffered an unpleasant personal backlash from this economy campaign.

The professor's spouse suffered a stroke and for several weeks went into and out of a coma. Physicians needed a CAT scan of this patient's brain to determine the extent of the stroke's damage, but there was no CAT-scanner in the community. So, to the professor's distress, the semi-comatose spouse had to be transported carefully 15 miles to another town having such a machine and then back home again. The professor, friends report, is now much less sure of the wisdom of radically restricting CAT-scanner availability.

All this suggests that one way to bring realism to the making of health policy is to require top officials in Washington to get their care in the most economical fashion.

President Carter has been fighting to keep medical costs down since he entered the White House, but his personal medical care is so extensive and costly that, as the nation learned a few weeks ago, his personal physician even participates at his side when he runs in a foot race.

The President and other makers of health policy are great advocates of so-called Health Maintenance Organizations (H.M.O.'s).

Federal law now provides for millions of dollars in subsidies for these groups while requiring that employers must offer H.M.O. membership to their workers where these organizations exist.

But it is curious that neither President Carter nor apparently most of the key figures in Washington belong to H.M.O.'s personally, and thus do not have to suffer the inconveniences that H.M.O. customers must often put up with.

Washington's largest H.M.O., the 110,000-member Group Health Association, told The Washington Post recently that the Association deliberately delays appointment for members wanting to see doctors. Thus, a woman wanting to check a lump in her throat to see if it is cancerous is now waiting 10 weeks to see an Association physician. Until recently, this H.M.O.'s members have had to wait more than 12 weeks for routine gynecology and obstetrics appointments. It's all done in the sacred name of cutting costs in a system that puts little or no value on easing the patient's anxiety quickly.

One doubts that Rosalynn Carter would want to wait 10 or 12 weeks to check some lumps in her breast. Mrs. Carter some time ago, it may be remembered, went to a Government hospital for a check-up. And when some breast lumps were found, she had those lumps immediately biopsied and checked by a pathologist who, fortunately, found them harmless—all in a few hours.

Why then is her husband in favor of a medical system for the rest of us that makes comparable, rapid and convenient treatment of a patient impossible?

The Nobel committee has now implicitly asked why Federal bureaucrats want to deny or to impede access by millions of Americans to the greatest medical diagnostic advance of this generation. If health care is a right, why not the best?●

PAKISTAN'S NUCLEAR PROGRAM

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. STARK. Mr. Speaker, on September 6, 1979, on page 23432 of the CONGRESSIONAL RECORD I made a statement concerning nuclear proliferation and Pakistan's nuclear program. I included with my remarks a news item, "Pakistan: the Quest for Atomic Bomb," written by Don Oberdorfer of the Washington Post.

The Pakistani Ambassador to the United States, His Excellency Sultan Muhammad Khan has written to me concerning the Oberdorfer article and at this point I would like to place the Ambassador's letter in the RECORD:

EMBASSY OF PAKISTAN,
Washington, D.C., September 21, 1979.

Hon. FORTNEY STARK,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STARK: I have seen your statement on nuclear proliferation made in the House of Representatives on September 5. The Government of Pakistan fully shares your concern about its dangers. You may have gathered as much during your recent visit along with your other colleagues, to my country.

The problem of nuclear proliferation, as you have very rightly said, transcends national boundaries. It demands a global solution. It is this realization which has prompted Pakistan to propose, inter-alia, that concerned governments outline non-discriminatory measures to resolve this issue.

However, articles like one by Mr. Oberdorfer which you have entered in the Congressional Record, present a sensational and fictionalized picture of Pakistan's nuclear programme and create the impression that Pakistan is the epitomy of the world's nuclear problems. Such perceptions can only deflect attention from the gravity and complexity of the proliferation problem and vitiate the broader approach that you have advocated in your statement. Allow me to clear the misconceptions about Pakistan's nuclear programme which the Oberdorfer article has tended to promote.

Pakistan has no intention of acquiring or developing nuclear weapons. Pakistan's entire nuclear programme is geared to the peaceful uses of nuclear energy. The programme is essentially oriented to gaining access to nuclear technology which would best help us to meet the energy shortage arising out of increasingly costly and undependable supply of conventional fuels.

Pakistan has already accepted the most stringent international safeguards yet devised on its planned reprocessing plant as well as on the Karachi nuclear power reactor, and it is prepared to accept similar safeguards and international insuection on its other nuclear facilities on a non-discriminatory basis.

Pakistan's commitment to non-proliferation is second to none and antedates the U.S. concern and campaign on this issue. Allegations of Libyan and Arab financial help to manufacture an "Islamic Bomb" are absolutely false. Pakistan in pursuing its peaceful nuclear programme on a basis of self-reliance. Pakistan does not have any intention to emulate the nuclear weapons capability of any other country in the region. Pakistan has already proposed and is prepared to make a joint declaration with India and other states in South Asia to renounce the acquisition or manufacture of nuclear weapons. Pakistan's deep and abiding interest in the prevention of nuclear proliferation has been demonstrated by its attempts to establish a nuclear-weapons-free zone in South Asia. Pakistan has striven hard to seek effective security guarantees for the non-nuclear-weapons states so that they are rid of the fear of a nuclear threat or attack.

These are some of the basic features of Pakistan's nuclear programme, which I might add paranthetically, is far less developed than that of many other developing countries and about which the media is maintaining a benign silence. In the interest of fair play you might wish to insert these views in the Congressional record also.

In case you have any questions, I will be available to answer them at your convenience.

Yours sincerely,
SULTAN MUHAMMAD KHAN.

Mr. Speaker, the Ambassador's statement that, "Pakistan has no intention of acquiring or developing nuclear weapons," is one that I welcome. But I welcome it without illusions, for my recent trip to Pakistan and impressions I have gained, lead me to the conclusion that the Pakistani effort can lead and is leading to nuclear weapons. I hope that I am wrong. I would very much like to be proven wrong and the best way to do this is to open the Pakistani facility to qualified experts who could tell the world without fear of contradiction what was going on there.

Mr. Speaker, I am also introducing with this statement a news item from the Sunday, September 23, 1979, New York Times. Written by Seymour Topping, it provides additional information about the nuclear program of the Pakistani Government. It makes clear that the Government of President Mohammed Zia ul-Haq is extremely sensitive to any arrangements that single out the Pakistani nuclear program for special attention and handling. Mr. Speaker, I understand and sympathize with these sensitivities. Yet the problem remains that we are asked to take the word of the Pakistani Ambassador to the United States and the President of Pakistan that "Pakistan is not making a bomb," while there is strong evidence that indicates otherwise.

Mr. Speaker, I would hope we could find a way to confirm the Pakistani assertions. I certainly would lend myself to any proposal that could provide a definitive answer to this most serious question. But we need more than unverified statements by Pakistani spokesmen. Without more, we must continue our policies that deny some U.S. aid to Pakistan.

Two days of high level United States-Pakistani talks focusing on the nuclear issue were recently completed. News reports indicate that there was no progress. I include two of these reports and a Washington Post editorial, "The Fallout From India's Bomb," at the conclusion of my remarks. All three items reinforce my own conclusions.

The articles follow:

[From the New York Times, Sept. 23, 1979]

ZIA DENIES PAKISTAN BUILDS NUCLEAR BOMB AND URGES U.S. TO RESUME AID

(By Seymour Topping)

RAWALPINDI, PAKISTAN.—President Zia ul-Haq denied today that Pakistan intended to make a nuclear bomb and said that he had appealed to President Carter to review the policy that resulted in a cutoff of American aid.

There have been reports that the Pakistan Defense Production Board is building a uranium enrichment plant at Kahuta, 25 miles southeast of Islamabad, that would utilize the gas centrifuge system.

The Carter Administration, expressing fear that weapons-grade uranium would be produced and give Pakistan the capability of exploding a nuclear device in three to five years, suspended aid to Pakistan in March.

"Pakistan is not making a bomb," General Zia said in an interview. "Pakistan is not in a position to make a bomb and has no intention of making a bomb."

The President did confirm reports that his country had embarked on a program of producing enriched uranium. "Pakistan is close to it, if we have not already acquired" the technology of making enriched uranium, he said.

ENERGY IS CALLED THE REASON

Insisting that Pakistan's projected plant would not produce weapons-grade uranium, General Zia said his nation's nuclear program was designed to create an urgently needed source of energy. "If we do not get an alternative source of energy, Pakistan will choke in the next few years," he said.

Pakistan, already heavily in debt, will spend an estimated $950 million this year to import oil. The general bitterly complained about the devastating effect that the steady rise in oil prices was having on developing countries.

The President was interviewed in the residence reserved for the Chief of Staff, where General Zia has chosen to live. The heavily guarded white-walled compound is in Rawalpindi, about 15 miles from Islamabad, the capital. It is only a short distance from the city jail in which Zulfikar Ali Bhutto, the former Prime Minister, was hanged five months ago. It was Mr. Bhutto, who declared after India's nuclear test explosion in 1974 that Pakistanis would "eat leaves of grass" to match India's achievement.

GENERAL DECLARED MARTIAL LAW

Seated on a couch before an exquisitely carved table on which tea was served, the 55-year-old officer, dressed in brown traditional sherwani button-up tonic and loose white shalwar trousers, spoke in a confident and relaxed manner. The general deposed Mr. Bhutto in July 1977, after the nation was caught up in violent political turmoil, and declared martial law pending national elections.

General Zia said he intended to go forward with national elections on Nov. 17 although some of the political parties, notably Mr. Bhutto's Pakistan People's Party, were resisting registration, which requires them to hold internal elections, make public their rules and submit finances to an audit. He said that he doubted that elected officials would want to retain a soldier like himself as president.

General Zia said that he had written to President Carter, at the suggestion of American officials, renewing assurances about the nature of Pakistan's nuclear program and said he was hoping for a review of American policy. He remarked that he had received a "nice reply" from President Carter saying that his letter was under study.

Under United States law, the Government is required to suspend aid if it becomes convinced that a nonnuclear recipient is actively seeking to acquire the technology to build atomic weapons.

Pakistan has received very little of the $40 million in economic aid budgeted for this year. And promised food shipments were cut in half after the country had a good harvest.

The Carter Administration recently set up an interagency task force under the direction of Gerard C. Smith of the State Department to frame alternatives for curbing or slowing Pakistan's program.

INDIAN REACTION IS FEARED

American officials say acquisition of nuclear weapons by Pakistan would impel India to begin a weapons development program and heighten danger of war on the subcontinent. The Indians have pledged to refrain from weapons production but they have become restive over Pakistan's nuclear progress.

General Zia, calling for a "fresh look," said there was no need for the worldwide pressure that the United States was exerting on Pakistan. He accused the United States of pressing the consortium of nations that extended credits to Pakistan to desist from further loans and from the rescheduling of current debts.

While some members of the consortium, such as West Germany and Japan, have indicated willingness to reschedule the debts, the United States, which is owed about $3 billion of the $5 billion, has resisted such a move, contending that the danger of default is still about six months away.

The President said that no Pakistani Government could compromise on the nuclear issue under United States pressure. "We do feel the pinch in a very hard way, but our sacrifice will have to be made unless, of course, the United States sees what is the reality," he said.

MATTER OF NATIONAL PRESTIGE

Western diplomats in Islamabad agree with General Zia that no Pakistan Government could buckle on the nuclear issue and survive. The nuclear program has gone too far and become a matter of national prestige and commitment.

The general vehemently rejected as "fiction" speculation that he was conspiring with Col. Muammar el-Qaddafi, the Libyan revolutionary leader, to develop nuclear weapons that would be made available to the Palestine Liberation Organization for use against Israel.

He said it was unfounded speculation of this kind that had created the atmosphere of distrust, emotionalism and irrationality that opened a gap between the United States and Pakistan.

The general complained of American assistance to India in its nuclear program, cited West German supplying of a nuclear-fuel reprocessing plant to Brazil and tolerance of the acquisition of nuclear weapons by South Africa and Israel. He said he knew, and that the United States also knew, "the exact number of nuclear devices and weaponry" possessed by Israel.

A MINIATURE PROGRAM

Discussing Pakistan's nuclear program, the general said: "It is a model, modest, a miniature program for enriching uranium. We need this technology in the event that we will not be able to get a reprocessing plant that would convert uranium to plutonium for use in the few breeder reactors which we will need to be able to close our energy gap. We need enriched uranium to run the light-weight reactors of modern technology."

The general said Pakistan was "nowhere near" acquiring the technology that would involve taking "the little bit of enriched

uranium to run a plant, convert it into weapons grade, then into metal, making a device, a trigger mechanism, a delivery system and then exploding it."

General Zia said he still hoped to get a reprocessing plant from France and was still negotiating with President Valery Giscard d'Estaing. Pakistan is ready to agree to all safeguards, he said, including the posting of French inspectors at the facilities if necessary.

In March 1976, Pakistan signed an agreement with France for a reprocessing plant. After many of the designs had been delivered, but not the most vital equipment, France canceled the contract in August 1978 when the United States protested that the plutonium could be used for the manufacture of weapons.

While the Indians have expressed anxiety about Pakistan's nuclear program, General Zia said that relations with New Delhi had improved and that there was "a lot of good will" despite the continuing dispute over divided Kashmir.

The general was less sanguine about relations with Afghanistan since the fall of President Noor Mohammad Taraki. He said that he had succeeded in Havana in opening discussions with President Taraki on problems between the two countries and that they had parted with "tremendous good will." He described the successor, Hafizullah Amin, as a "hard-liner" and said he was afraid that he would prove unrealistic.

ASYLUM FOR AFGHAN REFUGEES

Pakistan has become a refuge for 193,000 Afghan tribesmen who have fled the civil war. In private talks, the Pakistanis have declined demands of the Communist regime in Kabul that the border be closed to the dissident tribesmen, who it charges have used Pakistan as a base to carry on their struggle against the Soviet-supported Afghan Government.

The Pakistanis have declined to attempt to close the rugged border on humanitarian grounds and also cited the fact that the Kabul regime still refuses to recognize the existing border, drawn by the British as the Durand Line. The Afghan Government has pushed since 1953 for the creation of a "Pushtunistan state" embracing Pathan tribesmen on both sides of border. Kabul has claimed vast areas of Pakistan's North-West Frontier Province west of the Indus River as part of such a state.

There is some uneasiness that the Kabul regime, if it succeeds in consolidating its position, will renew, with Soviet support, its demands for a Pushtunistan state and bring heavy pressure on Pakistan's western border.

[From the Washington Post, Oct. 21, 1979]

THE FALLOUT FROM INDIA'S BOMB

India's explosion of a "peaceful nuclear device" in 1974 shocked the founding members of the nuclear club into recognizing that the policies they had adopted to prevent the spread of nuclear weapons were not working. For the first time, they saw the intimate connection that exists between some of the materials and technologies needed to run a commercial nuclear power system and those necessary to make a bomb. India had diverted a research reactor supplied by Canada and material known as heavy water exported by the United States, both intended for peaceful purposes, to make its bomb. Accordingly, the nuclear nations joined in efforts to place more controls over nuclear exports, especially those connected to weapons technology.

These efforts were the silver lining of the Indian mushroom cloud, but in one sense they came too late. The message had already gotten across that exploding a nuclear weapon, far from inflicting political costs, had in India's case actually enhanced its prestige. The United States, for one, never protested the misuse of its heavy water, at the time or later. Correcting that mistake—and trying to ensure that any other nation contemplating a nuclear explosion understood in advance that the political costs would be heavy—has been the underlying purpose of all that has been done in the name of nonproliferation since.

But recent events in South Asia threaten to unravel a good deal of what has been accomplished in non-proliferation in the past few years. Pakistan, India's longtime adversary, is building a clandestine plant, the purpose of which is almost certainly to make the highly enriched uranium necessary for atomic weapons. All diplomatic efforts to alter Pakistan's course have so far failed. Across the border, equally determined negotiations to convince India to accept international safeguards on all its peaceful nuclear facilities have also broken down. An export license for nuclear fuel for India is pending before the Nuclear Regulatory Commission, and, under law, it should not be approved unless there is reason to believe that the safeguards negotiations will succeed.

Especially in light of recent upheavals in Iran and Afghanistan, there are compelling reasons for the United States to preserve functional, if not warm, relations with both India and Pakistan. But it is increasingly doubtful whether Washington has the leverage to induce either of them to change its nuclear course. The United States may therefore have nothing left to do but to ensure that whatever nuclear developments it cannot control in South Asia do minimal damage to its other non-proliferation objectives.

At the least, this means that further nuclear shipments for India not be approved without a specific quid pro quo, and that a maximum effort be made to agree *in advance* with our European allies on the steps that would be taken if Pakistan were to test a nuclear weapon. To be taken by surprise once is human, twice is unforgivable.

[From the New York Times, Oct. 19, 1979]

U.S.-PAKISTAN TALKS INCONCLUSIVE

WASHINGTON.—The United States and Pakistan ended two days of intensive high-level discussions yesterday without resolving serious differences about the Pakistani nuclear program, which, Washington fears, may include the development of nuclear weapons.

"There were no specific decisions taken nor were they anticipated, since these talks are part of the continuing dialogue between the United States and Pakistan," said a State Department statement issued after the talks, between Secretary of State Cyrus R. Vance and the Acting Foreign Minister of Pakistan, Agha Shahi.

Mr. Shahi told reporters that he believed he had allayed some of the American fears that Pakistan was engaged in making nuclear weapons, but he said that some differences remained with regard to the "orientation" of the program. "We have repeatedly assured the United States side that its intent and purpose is entirely peaceful," he added.

PLUTONIUM POTENTIAL DISCERNED

Carter Administration officials have said that a plant the Pakistanis are building near Islamabad will eventually be capable of producing plutonium of the grade required for nuclear weapons. The United States cut off aid to Pakistan except food shipments in April because of its refusal to provide what are regarded here as adequate assurances about its nuclear intentions.

Asked about press reports from Pakistan that work on the plant had halted, Mr. Shahi said that the reports were "based on incomplete and inaccurate information" or on speculation.

Another major difference developed during Mr. Shahi's visit when President Mohammed Zia ul-Haq, saying he foresaw adverse effects, announced an indefinite postponement of elections he had promised for November as well as a crackdown on opposition leaders and the press. Hodding Carter 3d, the State Department spokesman, said yesterday that the United States was deeply disappointed by the Pakistani leader's actions and had conveyed its feelings to his Government. Mr. Shahi said that the actions were not discussed at the meetings here.

[From the Washington Post, Oct. 20, 1979]

EFFORT TO BLOCK PAKISTAN FROM A-BOMB FALTERING

(By Don Oberdorfer)

Two days of bilateral discussions here have left U.S. officials less optimistic than ever about heading off Pakistan's drive for an atomic weapons capability.

The talks between Secretary of State Cyrus R. Vance and Pakistani foreign affairs adviser Agha Shahi, as well as recent intelligence reports, have also left U.S. officials less certain than before that a Pakistani nuclear explosion is at least two years away.

A Pakistani atomic test would be a grave setback for efforts by the United States, Soviet Union and other technologically advanced countries to curb the spread of nuclear weapons. Such an explosion would be certain to spur Pakistan's neighbor and rival, India to undertake new atomic weapons development projects and could encourage other Third World Countries to seek atomic arms, according to officials.

Shahi, who is his country's senior diplomat, reportedly told members of Congress following the meetings here that President Mohammed Zia ul-Haq would be willing to give the United States a "no explosion" pledge during the life of his current government.

According to Rep. Lester Wolff (D-N.Y.), chairman of the House Foreign Affairs Committee's subcommittee on Asian and Pacific Affairs, Shahi also made it clear, however, that Zia could not tie the hands of a future Pakistani government. Shahi told the U.S. lawmakers that Secretary Vance and other high American officials have been seeking a longterm commitment that there will be no explosion.

After a lengthy Capital Hill meeting with Shahi, Wolff also quoted him as saying that Pakistan is willing to place all its nuclear facilities under international safeguards and inspections, but only if India does the same. So far India has refused and shown no current sign of changing its mind.

Rep. Jonathan Bingham (D-N.Y.), who also met with Shahi, said that "a very serious situation is developing . . . due to the apparent determination of Pakistan to develop a nuclear weapons capability," Bingham called for intensive U.S. diplomatic efforts to seek a regional arrangement of nuclear weapons restraint involving both Pakistan and India.

Although the U.S.-Pakistani talks at the State Department were described by participants as more candid than ever before, Shahi apparently cast little light on whatever secret planning exists in Islamabad about the highly enriched uranium plant being built nearby.

The Pakistanis suggested, according to one account, that no decision on an atomic test was likely for at least six months to a year. Previously, most U.S. officials had been confident that a Pakistani explosion is at least two to five years away.

A recent U.S. intelligence report quoted a Pakistani who is privy to inside information as saying that "we have the material" to make a bomb. Even though some U.S. officials speculate that the statement may have been made for political effect, it has generated concern in official circles.

The United States is seeking "reliable assurances" that Pakistan will not produce or acquire nuclear weapons or aid any other country in doing so. Under a U.S. nonproliferation law, such assurances must be obtained before Washington can resume economic or military aid, which was cut off last April after confirmation of reports of the clandestinely assembled Pakistani plant to make weapons-grade uranium.●

OIL AND GAS LEASE SALE ON GEORGES BANK

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. MAVROULES. Mr. Speaker, Georges Bank, located on the Continental Shelf off our eastern coast, is the world's richest source of fish and has been a major source of this Nation's protein for the past 350 years. Despite this, the Department of the Interior has announced plans to proceed with oil and gas lease sale No. 42 on Georges Bank on November 6. As that day approaches, I become increasingly fearful of the potentially grave consequence of this ill-conceived decision.

Let me assure you that this is not simply a local issue that will affect only the livelihood of the fishermen and fish processors in my district; it is an issue of national proportions. In the headlong attempt to exploit every possible energy resource, in the great rush to satisfy the immediate energy demands of our economy, we are losing our perspective on the most important need this world will ever face: The need to feed its growing populations.

Currently, Georges Bank provides this country with 17 percent of its fish. The demand continues to increase—in the last 10 years it has risen 20 percent per capita and doubled since 1950. Much more importantly, however, our need for fish protein is expanding rapidly. Fish—and primarily those spawned and caught on Georges Bank—can provide the world with a most rich and efficient source of protein for generations to come—but only if we choose to protect those spawning grounds and leave them intact.

On the other hand, the amounts of oil and gas extracted from lease sale No. 42 is estimated at 123 million barrels of oil and 870 billion cubic feet of natural gas—an energy potential that is equivalent to about 16 days of U.S. energy demand. It appears that in an effort to supply the United States with a nominal amount of energy, the Federal Government is willing to risk the destruction of a major, renewable source of food for the world.

Gross concern and opposition, both in the public sector and within the Government, exists with regard to this lease sale. It stems from the realization that the Federal Government has not adequately addressed the environmental issues surrounding the drilling. The details of an agreement reached by the Departments of Interior and Commerce, which was intended to protect the fish and breeding grounds of Georges Bank, has been announced—and I assure you the agreement is simply not adequate. This is most clearly demonstrated by the pronounced opposition of NOAA Administrator Richard Frank to the lease sale, as well as the reluctance of the Environmental Protection Agency to participate in a monitoring biological task force. Additionally, no meaningful provision has been made to deal effectively with the issue of disposal of drill cuttings and muds or the reinjection of formation waters. No nonbiased, effective mechanism has been developed to report objectively on pollution control efforts related to the drilling.

The residents of my district are united in their belief that it is not the appropriate time to go forward with the lease sale. As they have poignantly stated—the oil on Georges Bank will keep, so let it be—until a time when we have both the integrity and the knowledge to drill safely, allowing Georges Bank and its marine life the respect and protections we owe them.

In my opinion, the risks we are about to take are clearly not justified—the fish are an eternally renewable resource, the oil is obviously finite. With effective conservation efforts, I am confident that we could save more oil and gas than could ever be removed from Georges Bank—so let us move together in that direction.

There is still time to postpone the lease sale and I implore Secretary Andrus and President Carter to do so.●

FAIRNESS FOR CALIFORNIA FISHERMEN

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. PANETTA. Mr. Speaker, a week ago today, I presented testimony before the Subcommittee on Fisheries, Wildlife Conservation and the Environment on behalf of H.R. 4638, the Fairness for California Fishermen Act, which would amend the law to create a separate California Fisheries Management Council. I would like to once again thank Chairman JOHN BREAUX for holding hearings on this matter. I would like to share my testimony with you as well as mention some of the organizations that have expressed support for the creation of a separate California Fisheries Management Council: The California State Legislature; the Marine Conservation League, the Del Norte Municipal League, the United Fishermen's Organization of Southern California, Inc.; Western Fishboat Owners Association; the California Seafood Institute; the Board of Supervisors of Del Norte County; and, the Sportfishing Association of California.

TESTIMONY BEFORE THE SUBCOMMITTEE ON FISHERIES, WILDLIFE CONSERVATION, AND THE ENVIRONMENT

(By Representative LEON E. PANETTA)

Mr. Chairman: I'm grateful for this opportunity to present testimony on H.R. 4638, the Fairness for California Fishermen Act. As you know, this measure would amend the Fisheries Conservation and Management Act of 1976 to create a new California Pacific Fisheries Management Council. I'm pleased to have with me today, Mr. Zeke Grader, Executive Director of the Pacific Coast Federation of Fisherman's Associations, who would be happy to assist in providing answers to whatever questions you and the members of the Subcommittee may have following my testimony.

I think that all of us participating in these hearings agree about the basic importance of having a national policy and program to protect our fishery resources. Clearly, the fishing industry is vital to our economy. We must work, therefore, toward the conservation and management of our fishery resources to insure that this industry remains strong. The contribution of the members of this committee to the establishment of sound fishery conservation practices is immensely important to our country's future. I commend you for your dedicated efforts.

The one aspect of the present Fisheries Conservation and Management Act that is of particular concern to me and to the Fishermen of California, is representation and participation in the management process through the fisheries management councils. As you well know, these councils are charged with the responsibility of developing management plans for various species of fish to prevent overfishing and depletion of our resources. This is a necessary and worthwhile task that depends in great measure for its success upon the cooperation of fishermen. There are few classes of individuals in my experience who are more concerned about or more directly affected by the long-term preservation of our fishery resources than our fishermen. It is vitally important, therefore, that fishermen are intimately involved in the process of developing fishery management plans.

In California there has been a growing sense among fishermen since the creation of the Pacific Marine Fisheries Management Council that their voice is not being heard. That sense has led me to propose the creation of a separate fisheries management council to have the responsibility of developing management plans for California fisheries. Of course, this new council would be obliged to cooperate as much as possible with its neighbors in developing management plans for common species. The essential advantage of this approach, however, is the greater degree of cooperation and harmony in implementing the management plans that would result from a fairer representation in their development.

There are many other reasons to support the creation of a California Fisheries Management Council, in addition to the need for fair representation. The state of California has over 1000 miles of coastal water with more fisheries in the conservation zone than the other Pacific Council states combined. In fact, of the nation's seven management councils, California alone has about the same or more coastal area than both the New England and the Mid-Atlantic Councils combined. The magnitude of California's fishing industry is perhaps best reflected by the fact that its landings exceed one billion pounds annually.

It is the issue of representation, however, that stands out as the primary reason why Congress should create the new council I propose. California's disproportionately small representation on the present Pacific Management Council is clear. Not only are Oregon and Washington represented on the Alaska Marine Fisheries Management Councils, they along with Idaho have 80% of the votes on the present Pacific Management Council. California, with well over half the fishery resources of the present council, has only

three voting members on the fifteen member council. In light of these facts, it is no wonder that our fishermen feel that Oregon and Washington fishing interests are controlling California's resources. In addition, California finds itself a potential victim of local factions in other states that seek injunctive relief for their grievances. The very real threat of California's fishing season being cut short by court order resulting from a dispute to which California is not a party further adds to our fishermen's feelings of distress.

Earlier this year, the House passed under suspension of the rules a three year reauthorization of the Fishery Conservation and Management Act. This measure called for the expansion of the voting membership on the Pacific Fisheries Management Council from 13 to 15. In addition, the committee specifically recommended that the two new voting members represent commercial fishing interests. I commend my colleagues for offering this reform because I believe it reflects a recognition of the present Pacific Fisheries Management Council's inability to do the job. There simply must be greater representation, which I believe should be accomplished through the creation of a new management council for California.

The California State Legislature recently passed a resolution urging Congress to create the very council I propose in my legislation. In addition, numerous city councils and county boards of supervisors across California have joined in support of my bill. I urge you, therefore, in the interest of fairness for California fishermen to recommend passage of H.R. 4638.

In closing, I'd like to once again thank the Chairman and members of the subcommittee for giving me the opportunity to testify on this matter. The fact that these hearings are being held and that you are giving consideration to my proposal, is a source of encouragement to California fishermen who have truly felt left in the cold by the federal government. I think all of us want the Fishery Conservation and Management Act to work. I think we also want it to be fair. That is why I'm seeking passage of my legislation. I hope that you will support this measure for the reasons I've outlined here today and for the reasons expressed by others who have testified on its behalf.●

THE NEED FOR MORTGAGE REVENUE BOND FINANCING

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. PATTERSON. Mr. Speaker, I would like to share with my colleagues today why I believe Congressmen GEPHARDT and FRENZEL's proposed amendment to H.R. 3712 is critical in terms of furthering our goals of providing more affordable housing for low- and moderate-income people. This is particularly true in high cost housing areas like Orange County, Calif.

A headline in the local section of the Los Angeles Times last week was "Demand for Homes Hits All Time High." The article went on to cite some critical facts. The vacancy rate in Orange County is less than 3.2 percent which is a record low level. As a result, the price tags on new and used housing continues to climb. The current median resale price of homes is $112,000 with the average price of a new home jumping to $138,000. From June 1978 to June 1979, there was a 62-percent drop in homes priced under $90,000, that were available on the market.

This has created a situation where Orange County is desperately trying to hold onto its industrial base. The influx of new industry has markedly slowed and existing industry is having severe problems convincing employees to relocate to Orange County due to high housing prices. Wage earners with moderate and low incomes are being forced to live in surrounding communities and make commutes of 100 miles a day and further.

As a direct result of this contribution to air pollution, the Environmental Protection Agency has placed a moratorium on sewer hookups until the county develops an affordable housing program that will provide homes for people that work in Orange County to live in Orange County.

This lack of affordable housing is also placing an unfair economic burden on surrounding counties such as Los Angeles, Riverside, and San Bernardino. The people being forced into these areas places increased pressure on government services and creates a need for such things as new schools, and so forth. Also of great concern, is the fact that with increasing commuter costs, low- and moderate-income people will not be able to afford to continue the long commutes. Thus this could potentially mean increased unemployment in Los Angeles, San Bernardino, and Riverside while Orange County's industrial base deteriorates due to lack of an adequate labor pool.

Without dwelling on all of the problems a lack of affordable housing can create, one that directly impacts the Federal Government is the lack of ability to occupy the General Services Agency's huge complex located in southern Orange County due to the complete lack of affordable housing.

The Orange County Board of Supervisors has recognized the lack of affordable housing and has taken positive steps toward solving it. On March 7, 1979, the board directed the preparation of an inclusionary housing program to assure the development of affordable housing. The program was developed by a series of workshops involving over 40 interest groups. The program recommendations were approved by the board of supervisors in November, 1978. Very briefly, the program requires that 25 percent of all new housing development be affordable by families with incomes of less than 120 percent of the median income. The report also recommended density bonuses to allow more intensive use of land and the use of housing revenue bonds to provide low interest mortgages to reduce finance costs and directed studies to determine ways to reduce approval process time and cost inspection delays.

On November 1, 1978, a report was submitted to the board of supervisors proposing the use of tax exempt revenue bonds to establish a low- and moderate-income loan program. Then the board ordered a feasibility study for a $200 million bond issue. After indepth study and extensive legal research, a report was submitted to the board of supervisors recommending the $200 million bond issue.

On April 3, 1979, the board of supervisors approved the recommended approach to establishing the revenue bond program and authorized the issuance of a request for proposals from underwriters for a $200 million housing revenue bond program. On August 14, an underwriter was selected and the county is now carrying out preliminary work to enable issuance of the bonds as soon as possible after the legislative issues are resolved.

To focus again briefly on the need, the HUD defined median income, family of 4, for Orange County is approximately $20,000, and the county's inclusionary housing program directs that not less than 25 percent of all new housing developments will be affordable. This 25 percent is further targeted with 40 percent of the 25 percent affordable housing to families with incomes less than 80 percent of the median, 40 percent for less than 100 percent of the median, and 20 percent of the 25 percent for family incomes of less than 120 percent of the median.

Houses affordable to these income ranges are not feasible unless all elements of housing costs are addressed. The county is doing many things to aid in reducing land and construction costs, yet without the ability to lower financing costs there appears to be little hope of homeownership for moderate and especially low-income families. It will take 2,000 affordable units per year to meet the requirements of the inclusionary housing program. This is not close to meeting the current need for affordable housing in Orange County.

Obviously, the county has worked a long time on this bond issue and I firmly believe the need is well established.

The Gephardt-Frenzel amendment will allow Orange County to proceed with a mortgage revenue bond issue that will help considerably to provide low- and moderate-income housing so desperately needed. I urge my colleagues to join me in supporting the Gephardt-Frenzel amendment to H.R. 3712.●

NO CAPITAL GAINS TAX RELIEF FOR FOREIGN INVESTORS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. FISHER. Mr. Speaker, I have recently introduced legislation which I believe is important in terms of tax equity, tax relief and social policy. This bill, H.R. 5634, would extend the tax on capital gains to the sale of real property within the United States by nonresident

aliens and foreign corporations. This would include both farmland and nonfarm related real estate. It would also cover the capital gain in excess of $3,000 derived from the sale of stock in a corporation where the gain is attributable to real estate holdings of that corporation. It is estimated by the Treasury that extension of the capital gains tax in this manner would increase Federal revenues by $142 million in 1979. Furthermore, it is reasonable to estimate that this amount will increase 10 percent each year over the next few years.

Currently, nonresident aliens or foreign corporations can effectively avoid capital gains taxation on the sale of real property within the United States in a number of ways. First, if the real property is not connected with the conduct of a trade or business within the United States and if the nonresident alien is not within the United States for more than 183 days during the year of sale, then the sale of property will not result in any capital gains tax liability being incurred by the owner. Second, under some circumstances such as the treaty with the Netherlands Antilles, these individuals and corporations may avoid paying a capital gains tax by electing to be taxed as a "passive investor" engaged in a U.S. business. As such, the passive investor would be liable for a tax of 30 percent of the property's gross income earned during the year of sale, but would escape all capital gains taxes which would be associated with that sale. As a practical matter, many of these individuals and corporations are able to manage their transactions so that they pay little or no tax in the year of sale. For example, if the property is sold on January 1, then there will be little if any income on which to pay 30 percent and the capital gains tax will be avoided at the same time.

Similar techniques can be used to avoid the payment of capital gains taxes on the sale of personal property. However, taxation of the sale of these assets would encounter substantially more administrative difficulties due to the ease with which they could be removed, or claim to have been removed, from the United States prior to the sale, thereby eliminating any reasonable basis upon which the United States could levy a tax on the transaction.

As a matter of tax equity, the present state of the law is unjustifiable. Since the Congress has made a decision that capital gains should be subject to a tax, then the gains should be taxed regardless of the status of the taxpayer. The tax should not depend on whether an individual is an American or an Arabian. Rather, it should be determined solely by looking at whether the sale of real estate resulted in a gain to the seller of the property. The legislation which I have introduced would assure that we keep our focus on this central issue.

Furthermore, H.R. 5634 will bring an end to the current situation in which residents of the United States are, in effect, subsidizing nonresident aliens and foreign corporations by paying increased taxes to make up for the fact that these individuals and corporations are not paying any capital gains taxes at all. We all realize that if we want to raise a certain amount of revenue, then each taxpayer has less of a burden if the tax extends to a wider base. This legislation will extend that tax base to include nonresident aliens and foreign corporations. In doing so, it contributes to easing the pressures for higher taxes on residents of the United States and domestic corporations. And it must be remembered, that in most cases this contributes to tax relief on the State as well as the Federal level because most of the States which have income taxes largely accept the tax base as determined by the Federal tax laws.

Finally, I believe we must ask whether the current law reflects wise social policy. For a number of reasons, I do not believe that it does. First, while there may have been a need to develop incentives to encourage foreign investment in the United States many years ago, times have changed. The devaluation of the dollar and the continuing stability of our political system already provide substantial incentives for foreign investment. Further incentives at the expense of the average taxpayer are simply not justified.

Second, since under current law a nonresident alien or foreign corporation can avoid paying capital gains taxes on the sale of real estate, they can pay more for property than could a resident or domestic corporation and still over the long run receive the same rate of return on their investment. A recent Department of Agriculture study shows that because of these tax incentives the nonresident alien or foreign corporation can pay 12 percent to 15 percent more for land than could a U.S. individual or corporation and still receive the same net return.

Third, at a time when many Americans are feeling beleaguered by events abroad and frustrated at our own dependence on the outcome of those events, the increasing purchase of real estate in the United States by nonresident aliens and foreign corporations is having a demoralizing effect. According to a report by the General Accounting Office which examined the sale of farmland and timberland in 10 States between January 1977 and June 1978, nonresident aliens and foreign corporations acquired approximately 515,000 acres or 4 percent of the total. More recent evidence gathered by the Department of Agriculture indicates that the pace of acquisition has increased since that time. Now, admittedly, these numbers are small when compared to all of the available real estate in the United States. Nevertheless, however small these figures are at the present time, they are a further indication to many Americans that if the present trend continues, we will soon be at the mercy of outside economic pressures. In addition, some time in the future we may risk having important sectors of our economy under the influence, if not the control, of foreign investors.

For these reasons, Mr Speaker, I urge my colleagues to give this legislation their serious consideration and support.●

THE FEDERAL CREDIT PROGRAM CONTROL ACT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. MINETA. Mr. Speaker, today I am introducing a bill—the Federal Credit Program Control Act—to enable the Congress to set targets and ceilings in its concurrent resolutions on the budget for direct lending by the Federal Government and Federal guarantees of private borrowing for a fiscal year. I am very pleased that Congressman GEPHARDT, Congressman NELSON, Congressman CONABLE, and Congresswoman HOLT have joined me in cosponsoring this legislation. I am particularly pleased that the chairman of the Budget Committee, Congressman GIAIMO has also agreed to cosponsor this legislation.

Mr. Speaker, events in the last several weeks have underscored the importance that credit programs have come to play in the Federal Government's total program of assistance to various elements of the economy and population. For instance:

Recently, the Chrysler Corp. asked the Federal Government to guarantee $1.2 billion in loans to assist it in regaining financial soundness.

The President's post-Camp David energy program proposed both direct and indirect credit assistance—loans and loan guarantees—in the amount of $88 billion to finance synthetic fuel plants designed to reduce the Nation's dependence on imported oil.

The Economic Development Administration of the Commerce Department and the Farmers Home Administration of the Agriculture Department recently combined to guarantee $150 million in loans to Wheeling-Pittsburgh Steel Corp. for new capital facilities and pollution control equipment, provoking a lawsuit from one of its competitors that had privately financed such improvements.

For fiscal year 1980, new loans by the Federal Government, including loans by off-budget entities, and new loans guaranteed by the Federal Government will total an estimated $107.4 billion. The total of outstanding direct loans and guaranteed loans will reach an estimated $391.4 billion by the end of fiscal year 1980.

While plans for direct and guaranteed loans under individual Federal credit programs are reviewed each year during the budget process, there is no systematic mechanism in either the Congress or the executive branch for reviewing the total volume of Federal credit activity.

In a sense, Mr. Speaker, we are in the same position today with respect to Federal credit programs that we were in 5 years ago with respect to direct expenditures: We are unable to set targets

and ceilings on the total volume of credit being allocated by the Federal Government. It is perhaps not a coincidence that Federal credit programs have grown faster than direct expenditures since the implementation of the Congressional Budget Act. New direct loans and new loans guaranteed, both on- and off-budget, have grown 70 percent over fiscal years 1976–80 while direct expenditures have grown only 45 percent, based on estimates in the President's 1980 budget.

The President is preparing to implement in the fiscal year 1981 budget some of the Federal credit program controls that were promised in the fiscal years 1979 and 1980 budget. Specifically, the President will propose in his fiscal 1981 budget limitations on commitments for gross direct lending and gross loans guaranteed for inclusion in the appropriations language for each direct or guaranteed loan program. The information on credit programs in the budget and appendix will be expanded, and OMB will begin requiring updates of credit estimates as part of a credit control tracking system.

Thus, the President will present to the Congress in his 1981 budget the basic elements needed for the Congress to begin controlling Federal credit programs. The Federal Credit Program Control Act picks up where the President's proposals leave off: It will provide a statutory basis for a credit program control system within the framework of the existing congressional budget process.

Basically, this is a simple bill. At its heart are amendments to titles III and IV of the Congressional Budget Act of 1974. Title I "piggybacks" the provisions for setting targets and ceilings for direct and guaranteed loans onto the provisions establishing the first and second concurrent budget resolutions. Title II contains minor amendments to the Budget and Accounting Act of 1921 to require inclusion of data on Federal credit programs in the President's budget.

Mr. Speaker, I do not wish to pretend to my colleagues that this bill is the answer to all questions about Federal credit programs. In fact, this bill may raise more questions than it answers. It is time, however, Mr. Speaker, for the Congress to begin considering these issues. I urge my colleagues to give careful consideration to the Federal Credit Program Control Act.●

DR. ARTHUR W. MEEK'S OUTSTANDING CAREER

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. FORD of Michigan. Mr. Speaker, I would like to call the attention of my colleagues to the outstanding career of one of my constituents, Dr. Arthur W. Meek, now director of the Madonna academic performance program at Madonna College, in Livonia, Mich.

In recognition of Dr. Meek's achievements, the board of education in the Inkster School District has voted to conduct a special tribute in his honor, launching American Education Week activities in the school district. The tribute will be held on Sunday, November 11, at the Milton School.

Dr. Meek, now 68 years old, has devoted his entire adult life to the education of young people.

A native of Springfield, Ill., he earned a bachelor's degree in 1931 at Illinois College, and a master's degree in 1932 at the University of Illinois. He began his teaching career in 1932 in the Vandalia, Mo., public school, serving first as teacher, then as principal, at Vandalia and then at Mounds, Ill.

His educational career was interrupted by World War II, when he served as a lieutenant in the Army Quartermaster Corps, including a tour in the European theater of operations.

After the war, he returned to civilian life as head of the music department for the Inkster Public Schools, for 9 years. In 1956, he became an elementary school principal, then business administrator from 1959 to 1965. He was acting superintendent from 1965 to 1967, and assistant superintendent from 1967 to 1975.

In 1976, he began his career with Madonna College, first as assistant professor, then as director of student teaching. He took over his current duties in 1978.

In addition to his educational duties, Dr. Meek has compiled an enviable record in professional and civic activities.

He is past president of the Wayne County School Business Association and of the Wayne County State/Federal Coordinators, and is active in a dozen other education-oriented groups.

At the community level, he has served on the Inkster Mayor's Committee on Drug Abuse, the Inkster Youth and Manpower Commission, the Inkster City Charter Revision Committee, the Ad Hoc Committee on Community Educational Needs, and on the Area 7 Advisory Board for the Wayne County Community College. He is an active member of St. James United Methodist Church, the St. Andrew A.M.E. Church, the Inkster YWCA, and the Veterans of Foreign Wars.

Among the many honors bestowed upon him over the years are:

Michigan Teacher of the Year Award (1952); Outstanding Service Awards from the Michigan Association of School Business Officials (1969 and 1974); Outstanding Educators of America Award (1970); Behavioral Research Laboratories Merit Award (1973); Wayne County Community College Recognition Award (1974, 1975, and 1976); Distinguished Service Award, Neighborhood Education Authority, Michigan Department of Education (1975); Oakmulgee-Dunbar Alumni Award, Michigan Teacher of the Year (1979); and the President's Cabinet Lumen Award, Madonna College (1979).

I think this brief outline, Mr. Speaker, will give some idea of the tremendous achievements by Dr. Meek over his years of service, and indicates why he has been chosen by the Inkster Board of Education to be honored as a major feature of American Education Week in Inkster.

I know that you and all our colleagues join in extending our congratulations to Dr. Meek, and our best wishes for continued success in his life's work.●

THE SUGAR BILL

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. BETHUNE. Mr. Speaker, I take this occasion to place in the RECORD a commonsense editorial which appeared in the Wall Street Journal October 23. It is a succinct statement with which I agree.

THE SUGAR BILL

The House is set to vote this week on an income transfer program to 15,000 sugar farmers. The sugar lobby claims the subsidy is needed to save the farmers from massive losses and to save the American consumer from a foreign sugar cartel.

We are suspicious of both arguments. If sugar is unprofitable, why do producers insist on growing it? There are alternative crops. Since 1960 acreage devoted to soybeans has expanded by 250% as a result of farmers rotating out of less profitable crops. And since 1974 sunflower acreage has increased 1,000% in response to strong worldwide demand for high-protein vegetable oil. Moving from crops that don't pay to those that do is what creates wealth and raises productivity in the agricultural sector.

Of course, most any crop has marginal producers that are caught out on the downside. But it wasn't that long ago that consumers were boycotting sugar because its price soared through the roof. If price floors to protect marginal producers on the downturn are "fair," consumerists can make the same claim for price ceilings to protect consumers on the upturn. The sugar lobby should think about whose foot gets in the door with theirs, before their subsidy scheme turns into the sugar price control board.

As for the argument that we must establish an income transfer program for high-cost domestic producers or find ourselves at the mercy of a sugar OPEC, Congressman Dave Stockman (R., Mich.) points out that sugar is produced in almost every climate, topography, and growing condition found in the world.

It is easy to rapidly increase sugar beet production which accounts for 60% of U.S. sugar production. "When prices rose in 1974 and 1975," says Rep. Stockman, "U.S. acreage soared by 27%; in Idaho, acreage planted in 1975 was up a whopping 80% over the previous year." The top five sugar producing nations account for less than a third of world output. If they tried to rig an artificially high price, the output response in the rest of the world would drive down the price.

The danger to the consumer is in the sugar bill itself. It would allow ever higher import tariffs to support domestic price rises of 7% a year. By 1983 consumers could find themselves with 34% higher sugar prices costing them an extra $4.2 billion a year.

But the main problem with the bill is the economic philosophy behind it: every row and furrow of domestic sugar must be kept in production regardless of supply, demand and competitive conditions. No economy can remain dynamic and be successful when owners are paid for not moving their

labor and capital resources into more productive and profitable areas. Subsidies can't prevent economic change. By offering a reward for standing pat, they just make the economy unable to adapt to new opportunities for growth and progress.●

DAN ROSTENKOWSKI WRITES ON SYNFUELS

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. WRIGHT. Mr. Speaker, while the gas lines have disappeared, the need for concrete steps to forestall future emergencies of that kind is still with us. Fortunately, the Senate is nearing completion of its amendments to the House-passed synthetic fuels bill, and the House soon will take up legislation to expedite energy projects which are in the national interest. Before Congress adjourns this year there is every likelihood that these measures will be enacted.

If this does occur, it will be because of the stalwart support of Members who have refused to be misled by arguments that our energy needs can be met wholly by conservation. There is no doubt that we must use a whole array of measures, including both conservation and synthetic fuels, if we are going to reduce our dependence on unreliable and foreign sources of oil. No one measure can fill the need.

Yesterday our colleague, Congressman DAN ROSTENKOWSKI, made an eloquent case for both synthetic fuels and conservation in an op-ed article appearing in the Chicago Sun-Times. His article responded, in part, to a recent Sun-Times editorial calling for a slowdown of synfuels legislation.

The article by Mr. ROSTENKOWSKI follows:

LET'S GET PERKING AGAIN ON SYNFUEL BILL . . .

(By DAN ROSTENKOWSKI)

A short time ago Americans faced a summer of long gasoline lines. They wanted action, and they got it. A bill known as H.R. 3930, which launches a synthetic fuels industry, passed the House in nearly record time. It was hailed as a declaration of energy independence, signaling America's revolt against undependable and capricious foreign oil sources.

This is true in both a symbolic and real sense. For the gasoline lines not only brought out our anger and frustration, but also caused us to consider some facts that didn't seem important until recently:

Americans pay more than $60 billion a year to OPEC for oil.

Americans import nearly half of the oil that runs our cars and industries, warms our homes and moves our military.

Our dependence has a high-risk factor as well as a high price. Synfuels will not provide a fast, cheap or total solution. Nothing will. But they can help us break away from an unhealthy national dependency.

Unfortunately, the surge of interest in this alternate energy initiative appears to have been short-lived. Constituents no longer are having trouble buying gas, so some legislators are reluctant to take the firm, decisive steps necessary to establish a national energy plan. A few recent editorials, one in The Sun-Times, called for a slowdown on synfuels legislation. Before energy initiatives slow down to a complete halt, let's look at what propelled H.R. 3930 in the first place.

Synthetic fuels can provide home-grown sources of energy. They would be produced from our own resources: coal, tar sands, shale, solid wastes and grains. These are sources we can control. Perhaps just as important, the initiative, ingenuity and technology would be of the American variety.

Synfuels aren't new, nor are they untested. They simply weren't important when oil was $3 a barrel. Our own state of Illinois could be the linchpin in an ecologically sound coal gasification-liquefaction program. Illinois ranks first in the nation in bituminous coal reserves, and four of the eight best regions for coal gasification plants are in Illinois.

Lyle Sendlein, a coal expert at Southern Illinois University, has said: "Bituminous coal is an environmental pollutant when it's burned, but when it undergoes gasification and liquefaction, as it would in the synthetic fuel process, hazardous sulphurs can be removed." South Africa, which has produced synthetic oil from coal since the 1950s, reports zero discharge of pollutants into streams and rivers.

Synfuels need government backing. Current legislation allows for any number of manageable ways for government to invest in production: for example, through loan guarantees and contract purchases.

The energy equation has two sides—supply and demand. The synfuels bill is the beginning of a logical and less risky way to handle supply. Demand is another question. Americans have shown a great willingness for Congress to increase fuel supplies, but less willingness to curtail their demands. So Congress which reflects the will of the people, has been reluctant to move in conservation. Clearly, we can change our life-styles. We just don't want to. But we cannot continue our familiar and comfortable ways.

I have received countless letters about energy from citizens. The message is usually the same: Keep fuel prices down and prevent gas lines. But are people willing to do without overheated homes, vacations by auto or the convenience of driving to work? Perhaps Congress would be more receptive to legislation to ensure conservation if it heard from people who are willing to take these steps.

Few of us want to reduce our energy use. That requires courage and sacrifice. But these are qualities the American people always have delivered in times of crisis. The halcyon days of cheap energy are over. We will have to ask ourselves what we are willing to forgo to be energy self-reliant.

Albert Einstein, whose centennial we celebrate this year, once asked why the science that makes life so much easier for us has brought so little happiness. He said the answer was simple: "Because we have not yet learned to make sensible use of it."

The development of synfuels is yet another application of science. We must use it to increase our energy supply, but we will have to learn to use it sensibly.●

EFFECTS OF FOOD STAMP ACT OF 1977

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. BRODHEAD. Mr. Speaker, I want to share with my colleagues the views of Dr. John Dempsey, Director of the Michigan Department of Social Services, on the Food Stamp Act of 1977. Dr. Dempsey describes how he perceives the 1977 changes to have affected recipients of food stamps, case workers, and the State-Federal partnership in this program.

REMARKS BY JOHN DEMPSEY AT THE NATIONAL FOOD STAMP CONFERENCE

I have been asked to speak to this conference from the perspective of a state administrator on the subject "happiness is . . .". I am not precisely certain what the program committee had in mind, but I assume that what they have asked me to do is to answer the question as to whether states and state agencies are any happier under the new Food Stamp program and its accompanying regulations than we were under the old. If that is the charge, I will attempt to address it.

I must begin, however, with a personal comment. A couple of years ago at a national meeting of welfare administrators I heard Ed Maher, the Director of the Department in the State of Connecticut, assert that he had been in the welfare business for 25 years, and it was his experience that nothing had ever gone right. I have only been in this business for about four and a half years and I have found very little that really has gone right. Because we are not in an easy business, it's not by any standard a happy business; at the same time it is possible to point out that in certain areas conditions are better than in others, and that at certain times things seem to go somewhat better than at other times. So, although we can't address the subject from a totally objective point of view, it is possible to make some comparative judgments. This I shall try to do.

The Food Stamp Act passed by Congress in 1977 was, of course, the result of a tremendous amount of work over a very long period of time. It was a virtual reworking of the long-existing Food Stamp program. As such, it presented many difficulties, not only to the state agencies that administer the program, but to the Department of Agriculture itself, and particularly to the Food and Nutrition Service of the Department of Agriculture. It has not been easy moving from the passage of the act to the implementation of the program, but on the whole its been, I think, a very successful experience.

When Congress acted in the latter part of 1977, it was attempting, in my judgment and in the words of the Act, to establish and achieve three somewhat different goals. First, it was the intent of Congress to assure maximum participation in the Food Stamp program by the lowest income American households. Secondly, Congress desired to make the administration of the program more clear and, to the maximum extent possible, much more simple. Finally, and somewhat contradictorily, it was congressional intent to minimize the opportunity for fraud, and therefore, reduce fraud waste and error in the program. These goals are clearly established in the statute. The problem, of course, is that at times, these goals conflict with one another, and in attempting to attain one goal at a particular time as compared to another, it may be that not all three goals can be mutually satisfied.

Nevertheless, in attempting to address the subject of the experience which states have had as we have gone forward to implement the 1977 Act, I do believe that on the whole the experience has been better than prior experiences. In order to demonstrate this I would suggest we look at the program from three different standpoints: from the points of view of the households who participate, the workers who administer the program, as well as the state administration responsible for it.

First, are the households receiving Food Stamps happier today than they were under the old program. The answer clearly is yes.

It did take a long time to get the program implemented, as the Food and Nutrition Service and USDA struggled with the task of preparing adequate regulations in this very very difficult area. And perhaps the task could have been accelerated. Yet, statistical evidence at least, as well as the anecdotal knowledge that I have suggests that on the whole Food Stamp recipients are much more satisfied with the current program.

I can demonstrate this by pointing out, for example, that my State, Michigan, today has the largest Food Stamp caseload ever.

In August of 1978, there were, throughout my State, 204,000 households receiving Food Stamps. By August 1979, a year later, this number had increased to 261,040 households. In August of 1978, 579,000 Michigan citizens participated in the Food Stamp program. By August of 1979, this had grown to 687,000. So an additional 108,000 people in Michigan, 57,000 families, were receiving Food Stamps in August 1978, as compared to a year earlier.

The net effect of this is a 28% increase throughout Michigan of certified households participating in the program over the last twelve months. In Wayne County alone participation has gone up 30% in one year, as might be expected since that's where many of our poor are concentrated, yet participation has increased rather uniformly across the State.

Families are also better off. In August, 1978 the average household coupon allotment was $56.62. Twelve months later, August, 1979, this had increased to $71.16, an increase of 26%, well above the level of inflation and the result is good for the entire state. Right now the food stamp program is bringing into Michigan approximately $18.5 million a month provided to low income families for the purchase of food. A little less than half of this—$8.3 million—is provided to households in Wayne County alone. Thus for the State of Michigan well over $200 million in food purchasing power is being made available through the new program to eligible families in Michigan; this is a substantial increase over the total dollars coming into the State under the old program. So my conclusion is that it is quite clear that families are more happy with the current program, partially because they receive more money, and partially because more of them are participating.

Anecdotal information also suggests that the individual food stamp households are the ones who are happiest about the elimination of the purchase requirement. It's true that many families and individuals did not fully understand initially why they receive fewer coupons than they did when they had to put up their own money to purchase the coupons but, caught on quickly. It's quite clear now that they are happy with the idea that they don't have to pay for the stamps. Participation has dramatically increased throughout the State of Michigan, and elsewhere in the country, because the poor no longer have to come up with the cash at a given point in time. This is good, and clearly was the intent of Congress.

This inevitably makes it easier for people to participate, and is the major reason for the expansion of participation. In December 1978, for example, of the certified households in Michigan 82.6% actually participated. In August, 1979, eight months later, the participation rate of certified households had increased to 96.7%. Thus, fewer than 4% of the families who are certified now decline to participate, and this increased participation certainly must be clearly related to the elimination of the purchase requirement.

Thus it is evident that the first objective of the food stamp act, namely to increase participation by lowest income households, clearly is being achieved. I think both Congress and the Department of Agriculture are to be commended for this happy result.

We now get to our second area: the attitude of the workers who must administer these programs. Only rarely is any worker in any welfare agency really content. Nevertheless, given the terrible difficulties which face the average worker in a line agency administering the food stamp and other income assistance programs, it is clear, in my judgment, that workers are much happier with the new program than they were with the program that it replaced. This stems from the fact that the new program has simplified policy across a number of difficult areas, and that such practices as standard deductions have eased the lot of the worker to a significant degree.

Also, workers much more clearly understand what is expected of them and what is expected of the food stamp household. As a result, they are doing a better job. We could quarrel as to whether the new program is easier to administer than the o.d program but it certainly is clear that it is easier for the worker to do his or her job because he or she knows what to do; therefore, the program is better administered. So, the second objective of the act, namely simplification and standardization, to the maximum extent possible, is being achieved to a significant degree. I believe that even more could be done to simplify administration and to lessen the problem of the front line worker, if the Department of Agriculture and the Department of Health, Education and Welfare would be able to move further forward in standardization of program requirements across the two departments, and I know that this is underway and I hope that it will continue. The welfare reform bill recently reported out by the Ways and Means Committee will help significantly here, if it becomes law.

The third group we must consider are the State Administrators, and this means much more than the directors of the 50 State programs. As I talk with other administrators, and as I reflect upon my own experience, I think it is fair to say that there is much more of a spirit of understanding and appreciation between the Department of Agriculture and the Food and Nutrition Service than used to be the case. I am not going to relate this to any person or any particular National Administration, but I must assert that in the past couple of years I have personally witnessed a substantial improvement in the atmosphere which exists in the relations between state administrators and the Food and Nutrition Service of the Department of Agriculture.

I think that we communicated much better with each other (than we used to) as we discussed the development of the final regulations. I think that FNS listened much more closely to state administration in the past couple of years than they ever did before. And this, too, has been good.

Evidence of this new attitude, this new condition, was provided by our successful conversion to the new program. We can say either that FNS gave us more authority and more flexibility, or that they interfered with us less than had been the case in the past. However, we express it, it is clear that there is a new attitude, an improved attitude that might be described as one of much more mutual trust than used to be the case. In the conversion process itself the food and nutrition service allowed states to accomplish the task of conversion without constantly demanding detailed time consuming activity reports or without insisting as they had frequently done in the past on mandatory prior approval of all specific conversion activities. By working much more cooperatively than used to be the case, we collectively achieved more successful conversion than could have been done under any other circumstances. USDA and FNS facilitated state efforts by remaining silent in certain circumstances where I'm sure they were tempted to speak up, by trusting the states, by allowing us to move forward. The result is that together we did accomplish a most difficult administrative task quickly, and quite cleanly.

The issuance and accountability issues in the new program also are good from the standpoint of state administrators. The once-a-month issuance of the authorization to purchase cards and the simultaneous elimination of the purchase requirement greatly simplifies the reconciliation activities of state programs. We also have reduced administrative costs as a result of fewer mailings and reduced transactions counts. The issuance process has been simplified, accountability has been more clearly assigned, and the result has been an improved program.

We in Michigan particularly are grateful for the right to undertake mail issuance of food coupons. We have successfully done this in only four of Michigan's counties on a pilot basis, but that pilot has been so successful that we are expanding mail issuance to other communities as quickly as is possible. In the not too distant future this will be the prevailing form of distribution in the rural, less-populated communities of Michigan. This has substantial benefits: it reduces administrative costs; it simplifies the reporting of program activity; and it simplifies the delivery of program benefits. Recipients seem happier, workers seem happier, and as a state administrator I am obviously much happier. I look forward to the day when mail issuance is the norm rather than the exception as it still remains.

So summing up to this point I would say that we are much happier with the new program than we used to be with the old. I hasten to add that that doesn't mean that we're completely happy or that we're as happy as we think we deserve to be; but it does mean that things are much better than they were just three years ago or even two years ago. For this I commend all those concerned. My life is easier than it used to be, at least as far as Food Stamps are concerned.

I'd like to add a few comments about some possible future events that might disturb or alter our present state of relative sublimity.

First, from the standpoint of food stamp households: While they are not extremely familiar with the details, the fact that Congress has expanded benefits and has recently done some other things particularly for the aged, presents a conflict between the level of food stamp benefits and the congressionally-estimated cap on dollar spending. It is again conceivable that the question of rateable reductions may come up again in the current fiscal year. I need not say to anyone here that rateable reduction would be a most unhappy experience. I know that neither USDA nor its FNS want to contemplate such a possibility and certainly states and families do not. Therefore, I believe it is imperative that we unite our voices and urge Congress to act promptly so that the uneasy and strained period of last August not be repeated in the coming August. Congress must face its responsibilities.

Disadvantaged households do not control the availability of resources to them, and if they are suddenly faced with a rateable reduction of benefits the simple fact is they would all eat less, and less well. They do not have resources which they can switch to make up for a reduction in food stamp benefits, if such should occur. Consequently, it's unthinkable that a rateable reduction might be necessary; since it's unthinkable, it's impossible that it again be seriously contemplated. Congress must face this issue and they must face it very soon.

A second issue that must be addressed is the proposal to cash out food stamp benefits. I know that several significant and

powerful members of Congress favor cashout. And to be honest I must say on occasion I have favored it too. Yet I find myself in an ambivalent position. Because I believe that the average person should be free, to the maximum extent, to control resources and to plan his or her own expenditure activities, it is difficult for me to oppose the cash-out of food stamps. At the same time I recognize that there are real benefits in the existence of the food stamp coupon. Coupon allotments do provide an informal budgeting of resources which enable individuals to eat better than would be the case otherwise. Most of us, for example, participate in some wage-withholding provision, either the purchase of savings bonds, or having money directly deducted from our pay check and go into a savings program, or something else, simply because it's a form of external discipline even though self-generated which enables us to plan and conduct ourselves more intelligently. Food stamps have a similar consequence. If food stamps were cashed out than clearly a problem would ensue for many, because the discipline which the food stamp represents would be removed, and the money which replaced the coupon would be available for other use and possibly for abuse.

The money might go for frivolity, or for other needs that are equally urgent, but the result is that if Food Stamps were replaced by cash, it's quite clear that some people would have nutritional needs that would not be met as well today. Consequently, we in Michigan, on balance, come down against the cashing out of Food Stamps.

I also would like to advocate increased federal financial commitment to nutrition education for Food Stamp households. Such a program exists today, but access to it is most limited, and it should be broadened. It is not insulting to say that few American households really understand the principles of good nutrition. The popularity of paperbacks on this subject illustrate that many people would like to know more about proper nutrition. Low income households, just as higher income households, have the problem. Broader access to nutrition education would be beneficial to all Americans and certainly is appropriate for low income households.

From the standpoint of workers, a couple of extra comments are appropriate. The restoration of medical deductions and excess shelter adjustments for the aged is something that I believe almost all workers approve. It may complicate their job just a little, but my firm impression is that workers never understood why these were removed from the program. In our conversion process in Michigan we received substantial input from workers who criticized the lack of medical deductions for the aged and disabled. One thing that should clearly be understood by all citizens is that the prime purpose in professional life of the welfare agency worker is to make it possible for people to live a little bit better. The restoration of the medical deductions and the excess shelter deductions certainly will make it possible for the elderly to live a little bit better, and this we all applaud.

Not quite so happy, however, are workers, with the whole question of restitution and claims determinations. The simple fact is that the laws of Congress do require reimbursement for erroneous payments, but a lack of strong reimbursement policy in the program naturally discouraged workers from diverting much time to fraud investigation. What's the point of determining fraud and trying to move against it when the fact is that nothing is going to happen. The changes in P.L. 96-58 may have solved this problem, at least in part, because it is clear now that there are penalties that can be applied, and this makes fraud investigation worth pursuing. We are pleased that the Department of Agriculture did support the 1979 amendments which provide a much stronger reimbursement policy, and I commend USDA and FNS for that.

From the particular standpoint of state administrations, there are a few issues I should raise also. First of all, we do appreciate the fact that there is some enhanced funding for specific activities. We appreciate the fact that the Department of Agriculture and the Food and Nutrition Service now clearly realize that they share responsibility for some of the less than acceptable results of the Food Stamp program. Frankly, going back about three years, I must say that I felt that there was almost a state of war between the Food and Nutrition Services and the State administrations.

It was almost as though they wanted us to fail so they could prove their superiority. And given that attitude, at times they helped promote failure. I believe now that this attitude is gone. We have talked a good deal in this country about a federal-state partnership, in fact ever since 1787. A few years ago I saw no such attitude in the Food Stamp program. Today, I not only see it, but I experience it regularly. Relations between myself and my Regional Administrator and the administrator of the Food and Nutrition Service and up through the hierarchy, are much better than they used to be, and for this I am grateful.

I am concerned as a state administrator about the issue of quality control. I certainly applaud the congressional and USDA intent to provide benefits with a minimum of verification. But, that minimum verification naturally has resulted in some households taking advantage of the situation. Food Stamp recipients and welfare recipients are not unlike the vast majority of us. At times we are all tempted to chisel a little bit. If one were to add up the total amount of religious and charitable deductions listed on the 1040's of all American citizens, I suspect we'd discover that the churches and charities in America are doing incredibly well.

The fact is that they don't always get everything people say they give them. So it's not surprising that some Food Stamp recipients misstate the facts occasionally. This we understand, this we accept, even though we lament it. But now to be told in QC requirements that we must look beyond eligibility decisions and that QC will verify things which workers are not allowed to even question not only will cause further problems, but it will injure the integrity of the program. The simple fact is that the program is not fraught with waste and error and fraud, and those politicians who imply that it is are not doing anyone a real service.

A couple of weeks ago the Internal Revenue Service, in a widely distributed press release, announced that a current review of the Income Tax Program indicated that about 12% of the income of American citizens was simply not being reported. The result of this, IRS said, was that there was a loss of federal revenue of as much as 19 to 22 billion dollars. Well, if 12% of the income earning American public fails to report it, that's a fraud, or waste, or error rate of over 10%. When we look at the very poor, and we discover that administrative errors and fraud and honest mistakes add up to less than 10%, I think we must say that the Food Stamp Program, and the ADC program are run at least as well as the income tax program. But that is not the public perception. So anything that causes our programs to look error ridden, or fraud dominated, is dangerous, and for that reason I am not happy with all of the QC requirements that have recently been announced.

However, the support which has been given by the Department of Agriculture and the Food and Nutrition Service for enhanced funding for investigation as well as their current support for the 1979 amendments that allow states to retain 50% of collections do demonstrate a real commitment on the part of the Department of Agriculture to share responsibility as well as success. This is a helpful note. It will lead, if enacted, to substantial improvement in the collection activities of most of the states, and to a better administered program.

I do think, however, as we get to the question of more and more attention to errors, we have to be careful about how an error is described. I urge the Department of Agriculture and FNS to be cautious about defining things as mistakes when they may not be. One of the biggest problems we have faced in the whole ADC error rate program is the confusion between a technical error and a real error. The intent of Congress and the intent of the QC program is to make sure that the appropriate amount of benefits are provided to eligible recipients. When a client fails to fill out a line on a form accurately, through inadvertence or ignorance, when a worker fails to process a piece of paper in a timely manner, when someone in another agency fails to send back to the social services agency a required piece of paper, when any of these things happen, a technical error may result. Technical errors may make up as much as one third of the errors in the ADC and Food Stamp programs. But the central fact is that appropriate benefits are paid to people who are eligible and that's the intent of Congress. So as we move forward, I think we have to be very careful to clarify what is really an error, and what is really improper participation.

If we can separate program technicalities from accurate coupon allotment determination we will be able to realisticly evaluate our program performance. This would allow state agencies and USDA to jointly focus our activities in areas where they will have the greatest impact. I also would suggest that in the Food Stamp program we have a separate identification of client error so that we can intelligently assess and discuss state agency responsibility for mistakes in this program.

Now, let me conclude. From the standpoint of the most important people of all, those who receive Food Stamps, I think the current Food Stamp program is a quantum leap ahead of the old one. From the standpoint of the workers who must administer this undoubtedly and admittedly complicated program, I believe we are better off today than we were just a couple of years ago. From the standpoint of State administrators, I particularly would like to say that things have gotten better. I hope they will continue to get better.

Finally, I must conclude by paying a special expression of appreciation to the person who is most responsible for the good things that have happened, and I refer of course to USDA Assistant Secretary, Carol Foreman. Prior to the time I first met Mrs. Foreman, I had heard many things about her; some of them were awesome, others were merely frightening. With the limited contact that I have had with her, I have come to respect her most highly. She is a competent, tough, but humane professional and I am personally grateful for the way in which she has led the Department of Agriculture as this new program went forward. I also would like to pay a special tribute to Bob Greenstine, the Administrator of the Food and Nutrition Service. I have found Bob always willing to talk and willing to call things very candidly. I never have the feeling that he is a pushover, and will lie down and let anyone walk over him. Neither do I feel that he is a blind obstructionist. It's a pleasure to work with him and Mrs. Foreman, and their associates. Also, I am personally grateful for the understanding and compassion displayed by Mon-

ros Woods, my Regional Administrator, even as he holds my feet to the fire. On behalf of Michigan, and on behalf of all of you I would like to express our thanks to them.

Thank you very much.●

ALDERMAN BOBBY EVANS IS SHRINE'S ILLUSTRIOUS POTENTATE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. McCLORY. Mr. Speaker, some of our citizens come to public notice because of a single successful activity such as public service, athletics, or by reason of their civic and community contributions in the areas where we live. In the case of Alderman Bobby Evans of Waukegan, Ill., in my congressional district, excellence has characterized his activities in all of these—and most notably in his significant attainments in the Order of the Shrine.

Alderman Bobby Evans, born Robert Baxter Evans, the son of former Alderman and Mrs. Raymond Evans, began life in Waukegan in 1940. He was educated at the Happy Day Nursery School under the guidance of the late and distinguished Anna Perry Thomas, and in the grammar school and high school in Waukegan. In his high school years he twice became the Illinois State high school wrestling champion. Alderman Bobby Evans continued his education at Northern Illinois University. After college he worked for more than 10 years at Johns-Manville Co. in Waukegan. Finally, in 1969 he established an insurance agency to represent the United Insurance Company of America where he continues to serve with great success.

Mr. Speaker, since 1970, Bobby Evans has served as alderman for Waukegan's first ward where he has gained popularity and respect as an outspoken leader in behalf of the people of his area, and where he fights hard in support of the more disadvantaged and handicapped citizens of the community.

Mr. Speaker, it is particularly with respect to Alderman Bobby Evans' service in the shrine that I take the floor today. For on Saturday, November 10, Bobby Evans will be honored as the Illustrious Potentate of the Nobles of Shawall Temple No. 165 Aesonoms. In the course of rising to the high office as the Illustrious Potentate of this organization, Bobby Evans became a 33d degree Mason in 1977, and attained other positions of leadership and prominence in this esteemed organization.

Mr. Speaker, while I am unable to be personally present to honor Bobby Evans on the occasion of the 14th Annual Potentates Ball, I want to call to the attention of my colleagues this distinguished citizen of my district, and to take this means to express congratulations and good wishes to Bobby Evans and to his lovely and devoted wife, Trudy. Certainly, Bobby Evans is an exemplary citizen of our Nation who has earned the respect and praise of his peers. It is entirely fitting that he should be honored for having attained this high office in the Shrine.●

INTRODUCTION OF H.R. 5679

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. MURPHY of New York. Mr. Speaker, on October 16, 1979, the Secretary of the Interior forwarded to the Congress Executive Communication 2659 proposing legislation to provide for additional authorization for the Tinicum National Environmental Center.

Following is a brief explanation of the need for and background of this legislation, which was included in the communication submitted by the Department of the Interior:

The Tinicum National Environmental Center was established by enactment of Public Law 92-326. That Act directed the Secretary of the Interior to create a refuge and environmental center consisting of some 1,200 acres of land and water in the southwest corner of Philadelphia at the confluence of Darby Creek with the Delaware River. Historically, the marsh comprised several thousand acres of important feeding and nesting area for large numbers of waterfowl and other wildlife. The needs of an expanding urban area of some four million people resulted in conversion of the marsh to serve industry, filling the marsh for roadbeds and homesites and use of the marsh for the disposal of waste. By 1960, only 900 acres of the marsh remained, only 200 acres of which remained in a condition resembling their natural state.

In early 1969 Tinicum Marsh became the center of a controversy over whether to construct Interstate 95 and a large scale dump fill project or preserve the last remnants of a tidal marsh ecosystem. Local interests had long sought protection for Tinicum Marsh. The Tinicum Wildlife Preserve was established in 1955 through the efforts of the Philadelphia Conservationists, Inc. The Preserve, plus a 70 acre parcel acquired by transfer from the Corps of Engineers to the Fish and Wildlife Service (hereinafter referred to as the "Service") and administered by the City of Philadelphia under cooperative agreement, represented one of the largest city-operated wildlife sanctuaries in the United States in the 1960's. Recognizing the significance of the Tinicum Marsh estuary, the Department of the Interior refused permission of a highway right-of-way through the federally owned refuge lands. Subsequent litigation halted expansion of the dump. Then in June of 1972 Congress assured preservation of the Marsh by authorizing establishment of the Tinicum National Environmental Center.

Tinicum's greatest asset is its potential for an urban wildlife habitat. As an environmental center it will offer an opportunity for wildlife interpretation, education and high quality outdoor recreation. In its present condition, many different migratory bird species use Tinicum Marsh. A total of 119 different species of waterfowl and wading birds have been recorded in the Tinicum area. White-tail deer are occasional visitors; mink, weasel, otter, fox, muskrat, raccoon and skunk are found in the marshes and edge areas. Ten species of fish have been recorded and there is considerable fishing for crappie, carp and bullheads among others. With rehabilitation of the marsh, conditions for wildlife will naturally improve and we expect a greater diversity of wildlife and greater numbers of the species presently using the marsh.

The Act establishing the Center has been amended in both the 94th and the 95th Congresses. In each instance the boundaries of the Center were enlarged and the authorizations for appropriations increased. Our proposed legislation would increase the authorization for the Tinicum Environmental Center in Philadelphia to $11 million for acquisition.

The Service previously estimated that approximately $6.6 million would be required for land acquisition. These estimates were made in the initial stages of the planning process. That process has now been substantially completed and the revised estimates are that approximately $11 million will be needed for acquisition.

Twelve tracts consisting of 527 acres, with an estimated value of $6.2 million, remain to be purchased. Of this amount, $1.8 million is currently available and $3.5 million is requested in the fiscal year 1980 budget, leaving a balance to be appropriated in future years of $.9 million. Several of these tracts of land were not included in the Service's original concept plan, but have been added because the planning process revealed the necessity of acquiring additional buffer lands. The addition of these lands and the escalating land values are responsible for the revised acquisition estimates.

Our proposal would also authorize $4,000,000 for the construction of environmental educational center facilities. Under this authorization, we anticipate building an environmental educational center to serve the many people in the Philadelphia area and a visitor contact station.

We are also requesting an authorization for "such sums as may be necessary for other development projects on the Center". The estimates of the development costs are undergoing rapid changes and we are currently unable to provide reliable estimates as to what development costs are likely to be. Much of the development money will be needed to restore the habitat. Much of this will be needed to stabilize the Folcroft Landfill area, which is currently the cause of rather severe leachate pollution, and this is the area where estimates are currently the least reliable. Thus, we have requested an authorization of "such sums" until such time as we can provide reliable cost estimates.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT HERBST,
Assistant Secretary.

Enclosure.

A copy of the draft bill proposed for introduction in the October 16 communication follows:

H.R. 5679

A bill to provide for additional authorization for appropriations for the Tinicum National Environment Center

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 30, 1972, entitled "An Act to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of Pennsylvania, and for other purposes" (86 Stat. 391; U.S.C. 668dd, note) as amended, is further amended by adding the following subsection (c) to section 7:

"(c) Beginning with fiscal year 1980, there are authorized to be appropriated, in addi-

tion to the appropriations authorized under subsections (a) and (b), $4,400,000 to complete the acquisition of the Environmental Center, $4,000,000 for construction of environmental educational center facilities, and such sums as may be necessary to carry out other development projects on the Center.".

Mr. Speaker, on October 22, 1979, the Secretary of the Interior forwarded to the Congress an Executive communication correcting certain errors in the October 16 communication and proposing revised legislation concerning the Tinicum National Environmental Center.

A copy of the Executive communication follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 22, 1979.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On October 16, 1979, this Department transmitted to you proposed legislation which would provide for additional authorization for appropriations for the Tinicum National Environmental Center. The purpose of this letter is to correct an error in our transmittal letter and to submit to you a revised draft bill.

The encosed draft bill corrects some technical problems in the draft bill which was previously sent to you. Also, the third paragraph on page 2 of our transmittal letter should be deleted. We are unable at this time to verify the accuracy of some of the figures in that paragraph.

We apologize for any confusion these revisions may have caused. We would appreciate your substituting our revised draft bill for the one previously sent and correcting our transmittal letter as suggested above.

Sincerely,

RICHARD J. MYSHAK,
Acting Assistant Secretary.

Enclosure.

A copy of the revised draft bill, as introduced in the form of H.R. 5679, follows:

H.R. 5679

A bill to provide for additional authorization for appropriations for the Tinicum National Environmental Center

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 7 of the Act of June 30, 1972, entitled "An Act to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of Pennsylvania, and for other purposes" (86 Stat. 391; U.S.C. 668dd, note) as amended, is further amended to read as follows:

"SEC. 7. There are authorized to be appropriated, $11,000,000 for acquisition of the Tinicum Environmental Center, $4,000,000 for construction of environmental educational center facilities, and such sums as may be necessary to carry out other development projects on the Center.".●

SATELLITES FOR PEACE RECEIVE MORE ATTENTION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. BROWN of California. Mr. Speaker, the national debate over the SALT II treaty has highlighted the essential role of satellite systems on gathering information to aid the search for world peace. The technology is now available to increase significantly the contributions of satellite sensing and communication capabilities to a peaceful world order.

I refer in particular to the utilization of satellite technology in the creation of an unclassified global information system, to be shared and operated on a cooperative international basis. Such a system has great potential for enhancing international stability through its military intelligence capabilities and would benefit all nations by the acquisition and sharing of information concerning global resources and environmental conditions.

Mr. Speaker, it is most appropriate that the United States, the originator of much of the technology of satellite communication, should take the lead in this initiative. I hope that Congress and the administration will give serious attention to the possibility of using our space resources for the furtherance of international stability and equity.

At this time I insert in the RECORD two articles which I commend to my colleagues on the uses of satellite technology for peace. The first is from a recent issue of the Washington Post; the second, from a recent issue of the Air Force Times. These two articles convey the points I have been trying to make more completely.

The articles follow:

[From the Washington Post, Sept. 30, 1979]

SATELLITES FOR PEACE: AN IDEA WHOSE TIME HAS COME?

(By William Greider)

As the arms-control strategy known as SALT gradually slides toward collapse this autumn, important statesmen begin to resemble priests of a dying religion. They repeat all of the right prayers but the liturgy no longer seems convincing.

Some of us who were agnostics all along thought it would take at least a decade to reach this point when neither left nor right, hawks nor doves, can still look reverently upon this treaty-making process. Hawks think SALT leaves us weak and vulnerable. Doves are beginning to understand that SALT propels the arms race as much as it harnesses it. Any grand strategy which can be easily routed by a light cavalry brigade—those Russians in Cuba with their 40 tanks—must not be so grand.

This perception, I think, is now widely shared in Washington regardless of whether SALT II eventually does get ratified. The theory of serial superpower treaties with the Russians is a lot less promising than Nixon and Kissinger, Ford and Carter led us to suppose. The high priests of diplomacy will be traumatized by this, but the rest of us may see an opportunity in disaster—a chance to think new thoughts which fit world realities better than SALT.

Sen. Adlai Stevenson of Illinois, who is so serious about his work that newspapers usually describe him as dull, has the germ of an historic idea—a concept of international relations that actually looks forward and tries to address the interdependent world of the future, instead of the superpower past. The idea is simple enough, but it requires a fresh perspective to grasp its full potential. So, naturally, very few in Washington are ready to take it seriously.

"The SALT process is inadequate," the senator was saying the other day. "It may be collapsing of its own weight. It can't control weapons systems faster than technology can develop them."

Stevenson wants to build another international structure alongside the Soviet-U.S. arms negotiations—a global information system, shared and operated cooperatively by all nations. It would use space satellites and the technological wizardry of modern intelligence agencies for peace-keeping as well as to aid human endeavors, from agriculture to mineral exploration.

The senator is uniquely positioned to see the potential for he is chairman of the Senate Space Committee, overseer of NASA's plans for the 1980s, and also chairman of the intelligence subcommittee which keeps tabs on the CIA and other clandestine agencies. These NASA space satellites have become ho-hum to most citizens, just as NASA became a public bore after the moon landings, but a new generation of devices can now do extraordinary things in monitoring the surfaces of earth—from identifying crop blights and impending drought to locating the most promising target ground for oil drilling, for mineral extraction, for human development of many kinds.

Coupled with the CIA's sophistication in photo-reconnaisance analysis, this new era of space could produce stunningly direct benefits for everyone, rich and poor, big and small.

As the Bible tells us, mankind will go on making war of one kind or another until the last millennium and space satellites aren't going to change that. But a shared intelligence system does offer another means of early-warning alarms when one country starts massing troops on a border or a superpower opens a new submarine base or a nation's industrial capacity is shifted in a menacing direction. It would not make pacifists out of rogues—but it would pin down the rogues in the international forums with hard evidence.

Stevenson is offering his own version of an idea which has been pushed for years by a dogged team of peace seekers. Howard Kurtz and his late wife Harriet, who incorporated themselves as global thinkers under the arresting title of War Control Planners. Mostly they are ignored. But those skeptics who threw away the Kurtzes' material on a "global information cooperative" might want to fish it out of the wastebasket now that a mainstream figure like Adlai Stevenson has picked up the concept.

"It's not theoretical," Stevenson said. "It's so concrete I can't talk about it."

Anyone who understands how the world has changed in the last 20 years, the complicated and fragile interdependence of trading nations and supranational corporations, can see immediately how a cooperatively operated international system might contribute to stability and equity. Those who don't yet understand the new global conditions ought to read Robert Samuelson's recent tour of the horizon in the National Journal. Samuelson, who is not given to hot-blooded opinions, trembles a bit for our future.

In diplomatic terms, a shared satellite system might create, for the first time in this century, a daily practicality to that old and somewhat tattered vision of world cooperation—the theme that created the League of Nations and then the United Nations, neither of which lived up to the cotton-candy promises of world fellowship. The world, I think, has learned that you can't get from here to there by solemn resolutions. It has to be done, if it ever will be done, a step at a time, in the most practical terms—serving real human necessities, not lofty sentiment. It could be hardware, not hot air, which brings nations together, cooperating in mutual self-interest.

What would happen to the Cold War? The

Cold War will continue surely, for a long time. If for no other reason, it continues because our leaders and the Soviet leaders believe in it so fervently. Two mucle-bound empires contending for the world's loyalties, mainly through the stockpiling of mega-death weapons and occasionally by military adventure, cannot simply stop their competition by a declaration of amity. The historic pull is much stronger than any treaty. The Cold War will not end until it seems increasingly irrelevant, even to the most opaque diplomats, theirs and ours.

In the SALT debate, a great many people assume that if the Russians are for it, it must be bad for America.

One of the most attractive features of Stevenson's concept of a global system is that it doesn't require a blessing at the summit from the Russians. Americans can make it happen with the Soviets or without them. One assumes that the Soviet Union and other closed societies will be at least unenthusiastic and perhaps hostile to the idea. In the same sense, a global space cooperative tests the sincerity of America's own proclamations. We have been saying we are for "open skies" since the days of Eisenhower; now we have the practical means to fulfill that objective in a way that would help each independent nation to develop itself and also to protect itself.

Like any important idea, this one creates some hard arguments. The civil space program, for instance, is chilled by the notion of marrying up on some international scale with military intelligence—fearful that it would be devoured. No one, for that matter, would advocate that the United States dismantle its own intelligence systems; it would continue to operate alongside the world system.

The United States, as the leader in space and intelligence, would naturally be "giving away" more technological secrets than others, but one of the new realities is that other nations already grasp this potential of remote sensing and are pursuing it aggresively—France, Japan, the European Space Agency and, of course, the Soviet. The question is not whether global systems will be developed—they will be—but whether nations will compete with one another at extraordinary costs, developing hardware of conflicting design, or whether they will pool their efforts insuring equitable participation for those poor nations who can't afford their own rockets.

But, as Stevenson sees it, the basic question is whether American leaders in the 1980s have the imagination to grasp untested ideas and take the plunge into the future. He is not hopeful. Last summer, he sold this idea at a U.N. conference in Vienna, officially endorsed by the State Department. But he isn't kidding himself about the meaning of that commitment, which is no more than a polite nod. Most of our statesmen don't understand this idea or care about it. Some who begin to grasp the concept are scared by it.

"It has to be negotiated," Stevenson said, "and it will only be negotiated if the United States takes the lead. . . . The obstacle is the inability of the United States to think in large global terms. Launching an Apollo program today is inconceivable. Today we debate reorganization and zero-based budgeting."

I think the serious senator has a point. Small minds will tremble if the SALT process collapses. Others will see an opportunity and reach for new ideas.

[From the Air Force Times, Oct. 22, 1979]

POOLING TECHNOLOGY FOR PEACE

(By Bruce Callander)

Unless they've stopped teaching history the way they used to, every half-grown school boy should know about the Battle of New Orleans.

It was the last big fight in the War of 1812. The British attacked American forces there and took a bloody beating—2000 dead vs. only 71 for the U.S. forces. The victory helped propel the American general, Andrew Jackson, to national prominence and, eventually, into the White House.

The irony of the story is that the battle was fought on Jan. 1, 1815, a week after the Treaty of Ghent had been signed in Belgium, ending the war.

Communications were such in those days that word of Jackson's victory reached Washington before word of the peace treaty.

Teachers who can woo their students away from the colorful exploits of Andy Jackson and his troops use the incident to illustrate the progress made in communications technology in the last century and a half.

The battle never would have happened, they point out, if they had had communications satellites at the time. But Comsat was not available, of course. Nor was international radio (1901) or the trans-Atlantic cable (1866).

It was, in short, an instance in which technology (had it been in hand) might have prevented bloodshed.

This is an interesting point to ponder, because, more often, the complaint is that the fruits of peaceful technology are turned to uses of war.

People old enough to remember the post-WW II debate over nuclear technology will recall, for example, the classic question: Is this the beginning of a new era in the progress of mankind (nuclear energy, atomic medicine, controlled power for mining, etc.), or the end of civilization as we know it (the A-bomb)?

In the case of nuclear energy, as it turned out, the concern seems to have centered of late more on the hazards of peaceful uses than on the potential for global destruction. But that's a little off the point of this discussion.

What is to the point is the question of whether present and future technology can be used as well for the prevention of future wars as for fighting them.

One modern example of an attempt in that direction, of course, is the White House "hot line" with Moscow. If the analogy is not stretched too far, the system might be seen as an effort to head off the possibility of our fighting another Battle of New Orleans by mistake—because somebody did not get the word.

Now, jumping from the hot line to more complex technology, consider the relatively recent development of satellites.

Militarily, they already are used extensively for intelligence gathering. They may have weapons potential already in various degrees of development by different nations.

Lately, an additional role has been seen for the orbiting vehicles: that of monitoring compliance with the SALT agreements.

In this role, satellites would (1) assure that neither party was sneaking in weapons banned by the agreement and equally important, (2) reduce the chances of either party's making a dangerous move because it merely suspected that the other was up to something. This second function would be similar to that of the hot line, in that the aim would be to prevent a fatal mistake from growing out of simple ignorance.

The trouble with this particular application of technology to the search for peace is that many people do not believe technology can meet the need. Many others believe it can defeat the intent of disarmament.

Those who trust too little question whether it is possible to keep the opposition honest by means of inspection based heavily on satellite observation.

Those with more faith in technology fear that one or the other of the parties may use it to develop arsenals more deadly than the ones outlawed.

Both to those who fear disarmament and to those who favor it, the promised benefits of SALT II seem to be evaporating.

On both sides, however, there presumably is a desire to reduce world tension and find some means to a peace which can be trusted.

And because Americans have been nurtured for generations with the notion that "know-how" can satisfy most human needs, we can't shake the notion that there must be some way of using our technology toward better ends. As we have come to say of any difficult problem, "If we can put a man on the moon . . ."

A number of people have been saying for years that there is another approach to the problem. One is Howard Kurtz, a former AF pilot who heads a group called War Control Planners. Kurtz and his late wife, Harriet, developed the concept of a "global information complex," which has been discussed in these pages a number of times.

Kurtz has preached his gospel of peace through technology for years with little apparent effect. But he has caught the ears of a number of well-placed persons, some of whom seem to be giving the idea a second look—if for no other reason than that nothing else is working.

One such ear is that of Sen. Adlai Stevenson (D-Ill.), who has gone public in his support of a plan based substantially on the Kurtz approach.

The idea is almost impossible to oversimplify. The meat of it is this:

That world technology, including satellites, be pooled to exploit its most promising capabilities for the general good—to explore for natural resources, to increase crop yields, to preserve the environment, to warn of coming natural disasters and aid recovery from them, etc.

That, in cooperating, no nation would have to give up its own defense establishment until it felt secure that others were doing the same. In this respect, the same information-sharing concept developed to improve the human condition would be used to help to assure compliance with any future arms limitations that might be worked out.

That the U.S., birthplace of so much technology, is the logical place to launch the new concept and possibly the logical place to base a center for the development and application of the technology.

Those are the main elements of a scheme to exploit the technology developed largely for defense, business, entertainment and convenience and give it the added missions of keeping the peace and serving the more basic needs of humanity.

If Kurtz has been written off by many as a gentle dreamer, Stevenson and some others of like mind cannot be. The senator is chairman of the Senate subcommittee on Science, Technology and Space. He states his doubts about the SALT pact publicly and he is not alone in the Senate as a skeptic. He may find less company as he pursues his alternative plan, but Kurtz sees almost mystical forces moving to make conditions ripe for it.

He may be right.

After all, if you count the invention of the wheel, human technology had been progressing for tens of centuries when Andy Jackson was tangling with the British at New Orleans. If it had advanced only 50 years faster, word could have been passed through the Atlantic cable that the two nations already were at peace, and the fight might have been called off before it started.

Stevenson's view apparently is that the technology which might prevent a far greater conflict already is at hand or within reasonable reach. The possibilities are, he thinks, at least worth looking into.●

GEORGE CHAMPION'S LASTING CONTRIBUTIONS TO NEW YORK AND OUR NATION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. KEMP. Mr. Speaker, in the normal course of things, it is difficult to find any consistent relationship between human achievement and human modesty. There are those whose slight modesty is matched only by their achievements; those whose otherwise considerable accomplishments are somehow diminished by their own elaborate recounting; and still others who have a great deal to be modest about. It is rare, though, to find someone whose great modesty masks equally great accomplishments. George Champion, who retired recently as chairman of New York's Economic Development Council, belongs in this rarest category.

During his 40 years in banking, his talent and innovative work resulted in his universal recognition as one of the world's foremost bankers and a man of unparalleled integrity, respect, and leadership.

In the 1960's, George Champion became our country's leading spokesman on pioneering responsibilities of business in a changing social and economic environment. His articulation for greater business and corporate involvement in the solving of social problems established patterns which improved the quality of life for New York and all Americans.

His capacity for leadership—he served as chairman and chief executive officer of the New York Chamber of Commerce and Industry at the same time as he chaired New York's EDC—have been, and remain, prodigious.

Mr. Speaker, I suspect George Champion will consider it no favor for me, his friend, to single him out for a tribute. But I am compelled to believe it would be a shame if the people of both our State of New York and our Nation remained unaware of his lasting contributions to their lives and future generations.

Additionally, I would like to share with them and my colleagues an editorial on his life and public service which recently appeared in the New York Daily News.

The article follows:

A REAL CHAMPION

George Champion retired recently as chairman of the Economic Development Council in typical Champion style—without fuss or bother or ceremony, and without the public plaudits that are his due.

It is not too much to say that Champion made the EDC what it is today, a dynamic force for progress in New York City. He was one of EDC's founding fathers, and its chairman for 10 years after a distinguished career with Chase Manhattan.

Among the notable public services EDC performed under Champion's direction, none was more valuable than the series of extended studies it made of municipal agencies to improve effectiveness and efficiency. This invaluable work was carried out at no cost to the city by experts on loan from EDC members.

For Champion, the EDC was a labor of love. He cared deeply about New York, and gave freely of his time, talent and energy to make it a better city. He earned the heartfelt gratitude of all its people.●

DINING WITH FIDEL

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. MICHEL. Mr. Speaker, when Fidel Castro recently came to this country he dined with representatives of the major media. As they were dining a man named Huber Matos was enduring another night of unjust imprisonment in one of Fidel Castro's jails. He had endured almost 7,300 such nights in prison—20 years.

What was his crime? What terrible atrocity did the man commit to deserve such a fate? After all, Albert Speer, Hitler's assistant, received 20 years imprisonment for his crimes against humanity. Surely Matos must have done something horrible to deserve an equal fate.

But incredible enough, Matos did not commit a crime. Twenty years ago he resigned his military post in the Cuban revolution, led by Fidel Castro, in protest against Communist influence in Cuba. For that demonstration of courage and independence he spent over 7,000 days and nights as a prisoner of Castro. For 2 years Castro forced Matos to live without clothes. For 7 years Castro did not let Matos communicate with his family.

Let us think of that for a moment, Mr. Speaker. Can we imagine what it would be like to be a prisoner, in those conditions, for not just a week, not a month, not a year—but for 20 years? For 7,300 days and nights? And all because you protested Communist domination.

Mr. Speaker, it was not reported if Castro, as the wine and champagne flowed, told the media elite that he regretted his inhumanity toward Matos and his family. I doubt it. The good wine, the civilized conversation, the excellent food, the wit, the ambience at this dinner must have made Castro forget for a time about Huber Matos. After all, one can only think of one thing at a time.

I bring the Matos case to your attention because the New York Times reported that Huber Matos was set free at 7 a.m., October 21, 1979, exactly 20 years to the day after he was arrested on charges of high treason. Castro has had his revenge.

I hope the media elite invite Huber Matos to dinner. He will have a different story to tell them. The story may interfere with their digestion. For 20 years they have almost totally ignored Huber Matos. Surely they owe him a touch of indigestion as he briefs them on the hospitality their former dinner companion shows to those who fall into his power.

It is my hope that California Governor Jerry Brown who favors recognition of Castro's tyranny attends the dinner.

At this point I wish to insert in the RECORD, "Matos Is Freed in Cuba After 20 Years in Prison" from the New York Times, October 22, 1979.

MATOS IS FREED IN CUBA AFTER 20 YEARS IN PRISON

SAN JOSE, COSTA RICA, October 21.—Huber Matos, perhaps the most prominent political prisoner left in Cuba, was set free at 7 A.M. today in Havana, exactly 20 years after he was arrested on charges of treason for having resigned his military post in protest against growing Communist influence in Cuba.

His son, Huber Matos Jr., said his father had breakfast this morning in Havana with Oscar Vargas Bello, the Costa Rican Counsel, and planned to come to Costa Rica this evening with his father, Rugelio Matos, 94 years old, and his sister, Salustina.

Mr. Matos, a teacher who joined Mr. Castro's guerrillas and became a commander in the Cuban rebel army, resigned as military governor of Camaguey Province on Oct. 19, 1959. He was arrested two days later.

Mr. Matos steadfastly maintained his innocence and his loyalty to the Cuban revolution. He refused to accept any indoctrination program while kept in prison conditions under which he lived without clothes for two years and was kept incommunicado from his family for seven years.●

RESOLUTION FOR PROTECTION OF UNDOCUMENTED RESIDENTS FOR 1980 CENSUS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 1979

● Mr. GARCIA. Mr. Speaker, last week I joined with my colleague, Congresswoman HOLTZMAN, to cosponsor a joint resolution (H.J. Res. 422), to protect undocumented residents from deportation or any other form of Government reprisals as a result of their participation in the 1980 census.

Although title 13 of the Federal Code provides adequate protection to individuals, indeed, it is illegal to release any census data, punishable by $5,000 fine or 5 years in jail, the problem has been that the administration has not been forceful in publicizing the fact that census information is absolutely confidential.

Some type of public, demonstrative act perhaps in the form of a proclamation or pledge from this country's chief legal officer, the Attorney General, as well as from the President, is required.

This is not an amnesty issue, however a legislative affirmation is required to prod the administration into publicly declaring that individual census records are protected against Federal encroachment.

This is a particularly sensitive issue in the case of undocumented residents and minority people. I have held census hearings all across the country, from San Diego to Puerto Rico, as well as in seven other cities.

The Subcommittee on Census and Population, which I chair, has an addi-

tional six hearings scheduled before the end of the year.

I have maintained throughout all these hearings, that in order to prevent another serious undercount as occurred in 1970, there must be some reaffirmation for not only the undocumented people, but for all those individuals who fear Government abuse of census information by providing them with a sense of security that can only be achieved by a guarantee from the highest source of administrative and judicial authority in this country.

This bill will go a long way toward alleviating the fear and distrust many people may have about the census. I urge quick action on this measure so that we can put this message out before the census begins next year.●

SENATE—*Wednesday, October 24, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. BILL BRADLEY, a Senator from the State of New Jersey.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, by whom we are brought into this world, who knows us better than we know ourselves, let Thy spirit enter every heart bringing forgiveness, freedom and faith. We come to Thee weighted by solemn duties and heavy responsibilities praying for strength and wisdom sufficient to serve the present age. We lay before Thee our frequent disappointments, our frustrated hopes, our vexed spirits, our petty irritations, asking for Thy healing and renewing grace. Help us as we labor with Thee for the coming commonwealth of God where man's worth is reckoned higher than the things he fashions, where science serves not destruction but preservation and political action promotes peace. Remove all that obstructs the reign of Thy spirit. Enthrone Thyself King of Kings and Lord of Lords over all men and all nations.

In the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 24, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL BRADLEY, a Senator from the State of New Jersey, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BRADLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FAMINE RELIEF IN CAMBODIA

Mr. ROBERT C. BYRD. Mr. President, we are all aware of the frightful situation that is emerging in Cambodia—tens of thousands, and perhaps hundreds of thousands, of people are on the brink of death due to famine. The situation is critical and the need for action is imperative.

A number of proposals for the relief of the Cambodian people are being considered in Congress. President Carter has pledged the administration's support for food relief.

I thought it was important that the Senate have a first-hand report on this situation. I appointed Senator SASSER and Senator BAUCUS who, along with Senator DANFORTH, compose a bipartisan group that has gone to Thailand. This group will go to Phnom Penh, Cambodia today from Thailand. They will be the first American officials to visit Cambodia since 1975. Their aim is to help open a "land bridge" for convoys of food supplies between Thailand and Cambodia. I hope that their mission is a success, and I look forward to their report on their return.

The Cambodian situation is a disaster, all the more tragic because it is a man-made disaster, not a natural disaster. But whatever the source of the problem, the suffering of the people is the same—and our humanitarian support should be no less generous than if we were responding to the victims of a hurricane or flood.

A strong, positive, and rapid response to this situation is not a political act. Aid for famine relief in Cambodia is the helping hand that we Americans have traditionally extended to those who need help. In the wake of World War I and World War II, American food relief went to ravaged Europe, to nations that were both former allies and former adversaries. In the spirit of this tradition, I hope that Cambodian famine relief will continue to enjoy the support of the Senate.

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. RIEGLE. I wish to commend the majority leader for taking this initiative in sending this group of Senators on this assignment. I think this is a vitally important initiative, and I think it is an act of leadership which deserves support.

I hope our colleagues have a safe and productive trip, and I applaud them for undertaking this assignment at the Senator's request.

Mr. ROBERT C. BYRD. I thank my distinguished friend from Michigan. I am sure that Senators SASSER, BAUCUS, and DANFORTH will welcome the expressions of sentiment that have been so ably presented by the distinguished Senator from Michigan. I appreciate his support for the mission.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The majority leader has 6 minutes left.

Mr. ROBERT C. BYRD. I thank the Chair.

I will yield my time to any Senator who wishes it.

Mr. RIEGLE. Perhaps we both would wish time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield the remainder of my time to Mr. RIEGLE, who has an order, I believe, and if he then wishes to yield part of it to the Senator from Virginia, my namesake and "cuzzen," HARRY F. BYRD, JR., he may do so.

Mr. RIEGLE. I appreciate the majority leader's yielding his time.

Would the Senator from Virginia want to take some of the time now and, if so, how much would he want?

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Michigan be willing to yield 3 minutes now?

Mr. RIEGLE. Yes, indeed.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. RIEGLE. I yield 3 minutes to the Senator from Virginia.

HUBER MATOS

Mr. HARRY F. BYRD, JR. Mr. President, at 2 a.m. on Monday, October 22, Huber Matos gained freedom in Costa Rica after 20 years in prison in Cuba. Huber Matos, a former major in the Castro revolutionary army, is now 60 years old. Twenty years ago, at the age of 40, he resigned as military governor of Camaguey Province in Cuba to protest the betrayal of the Cuban revolution to communism and Russian domination. He was immediately tried for treason and imprisoned under the most inhumane conditions.

Yet, Huber Matos has triumphed over his captors. His great courage and indomitable spirit have prevailed over the worst that the Cuban Communists could bring against him in physical and psychological violence.

This man's will, his mental integrity, and intrepid fidelity to principle are, I believe, outstanding representations of the best potential of man for spiritual greatness under adversity.

There are still others who are political prisoners of the Cuban dictator, Castro. There are still hundreds suffering the most inhumane conditions of imprisonment because of their belief in freedom and in God. There is still an entire population immediately off our shores from whom freedom has been stolen and for whom the future appears to hold nothing but repression and foreign domination.

But there is hope for Cuba and for the Cuban people so long as brave men like Huber Matos seek freedom and refuse the blandishments and the threats of dictators.

Huber Matos is the true hero of the Cuban revolution. By his example, freedom will someday be brought to his homeland.

That little island of Cuba, Mr. President, is a fine place with warmhearted, friendly, wonderful people. I spent much time there 20 years ago, right after Fidel Castro came to power.

I was there as a newspaper correspondent, and watched how the revolution changed from the idealism exemplified by Huber Matos in its early days to one which came under Soviet domination, brought to that plight by Castro who proclaimed himself a dedicated Marxist within 2 years after assuming power and promising freedom from the corruption of former President Batista.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from today's New York Times entitled "Freed Cuban Tells of Years Spent in 'Concrete Boxes' Underground."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FREED CUBAN TELLS OF YEARS SPENT IN "CONCRETE BOXES" UNDERGROUND

(By Jo Thomas)

SAN JOSE, COSTA RICA, Oct. 23.—Outside, the afternoon rain was falling on the orchids and the rose gardens, but the man who once spent a year underground in a concrete closet did not pause to remark on them. Huber Matos, perhaps the best known of Cuba's political prisoners, needed first to speak of the world he knew for 20 years, a world of isolation, punishment and endurance.

"I am certain," he said in an interview here today, "they had a plan to annihilate me slowly, so that my death could be achieved without the necessity of giving me the death sentence."

He was kept in isolation for 16 years, he said, "incarcerated in the worst places of each jail."

ACCUSED OF TREASON BY CASTRO

Mr. Matos had been arrested Oct. 21, 1959, charged by his former comrade, Fidel Castro, with treason for resigning his post as military governor of Camagüey Province over the growing influence of Communists in the Government.

He said that before his trial he was kept in a cell that had been constructed by blocking off what had once been a slit in the thick wall of the Spanish fortress El Morro. It was slightly more than three feet wide, dark and airless.

He was there when, two months before his trial, Mr. Castro asked the people of Havana to show support for his death by a show of hands. It was there, too, that he learned of the disappearance of his fellow military commander, Camilo Cienfuegos, within a week of Mr. Matos's arrest.

"Camilo was an admirable commander and a good friend of mine from the first time we met," Mr. Matos said. "I think there was a current of reciprocal sympathy. At the end of the war, we remained excellent friends and we talked on several occasions of the problem of Communist infiltration.

"In spite of his public criticism of my conduct, I was certain Camilo didn't consider me a traitor. With his death went my hope that my upcoming trial would not be a farce."

After his conviction, Mr. Matos said, he was taken to a prison on the Isle of Pines, where he remained for six and a half years, two of which he spent living in two holes.

"In the last year," he said, "I was in a concrete box some two and a half meters wide and three feet long. No one in the prison knew of my location. It was in the bottom of a passageway constructed in such a way that I could never see the light of day in all the time they had me there."

Mr. Matos, who paused often to choke back his emotions, said that in May, 1966, he was taken from the Isle of Pines to La Cabaña Prison in Havana, placed in a dark punishment cell and stripped. "It was so dirty," he said, "I cleaned the wall with the moisture from my breath. I gave myself a bronchial infection."

IN AN UNDERGROUND CELL

On July 1, 1966, Mr. Matos said, he was taken to the prison's Gallery 53, which was also underground, where he and 12 fellow prisoners lived next to the kitchen. "The air was full of smoke," he said. "It was very, very humid." There he stayed for five years.

When his mother died and was buried near the family home in Yara, in Oriente Province, he said he had hoped he would be allowed to visit her grave. But even this, he said, was not permitted.

"When I had four days to complete my sentence," he said, "on the afternoon of Oct. 17, a colonel came to my cell and asked me to accompany him to the prison office."

In the office, he said, were a number of officers who said they wanted to take him to the Department of State Security to ask him several questions connected with his release.

"I told them that if there were any questions that they could talk to me in the prison office," Mr. Matos said, adding that he was familiar with the arrangements usually made for people who were being released from prison.

He said he was taken from the prison office by force. "They taped my mouth and threw me on the floor of the car and put their feet on my face and on my chest." Then they sent word on their shortwave radio that the prisoner was rebelling.

RECOGNITION OF THE ACTING MINORITY LEADER

Mr. RIEGLE. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. RIEGLE. How much of the majority leader's time is available to me now, in addition to my 15-minute special order?

The ACTING PRESIDENT pro tempore. The Senator has 2½ additional minutes.

Mr. RIEGLE. I thank the Chair.

The ACTING PRESIDENT pro tempore. Will the Senator suspend? Under the standing order, the Chair recognizes the minority leadership.

Mr. STEVENS. Mr. President, I will be pleased to take the minority leader's time after the Senator from Michigan has completed his statement. There is no problem about that, if it is agreeable with the majority leader. I ask unanimous consent that the minority leader's time be available after the Senator from Michigan has completed his statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIEGLE. Let me say that I appreciate the courtesy of the Senator from Alaska, but one thing I should indicate is that there are two other Senators, the Senator from Michigan (Mr. LEVIN) and the Senator from Missouri (Mr. EAGLETON), who have 15-minute special orders on the same subject, the Chrysler issue, that will follow mine.

Mr. STEVENS. I realize that, and also, following that is Senator TOWER, though I think he will not take his time. So I will be happy to use my time after the three Senators have concluded their colloquy.

Mr. RIEGLE. I appreciate the Senator's courtesy.

S. 1937—CHRYSLER EMERGENCY LOAN GUARANTEE ACT

Mr. RIEGLE. Mr. President, today I am introducing the Chrysler Emergency

Loan Guarantee Act with a number of cosponsors.

This bill would provide carefully controlled financial assistance to the Chrysler Corp. I am gratified that several distinguished Senators are joining me as cosponsors today. They include Senators LEVIN, NELSON, BAYH, DANFORTH, EAGLETON, MATHIAS, and MCGOVERN.

I intend to introduce the bill late this afternoon, and that list may grow, because there are other Senators who have indicated a great interest in this issue, and I here and now invite all other Senators to consider becoming original cosponsors, and welcome their support and participation.

The bill would further the national interest, first, by modernizing major U.S. factories and converting them to the production of fuel efficient automobiles; second, by preventing a loss of jobs by hundreds of thousands of American workers and a substantial loss of business by thousands of firms; third, by averting a damaging shock to the U.S. economy in a period of growing uncertainty and instability; fourth, by avoiding long-term economic devastation in several large regions and numerous small communities across the country; fifth, by protecting Federal, State, and local governments from huge losses in revenues and increases in expenditures; and sixth by improving our balance of payments and strengthening the value of the dollar.

Mr. President, for several months now I have been studying the situation of the Chrysler Corp. in great detail. I have consulted financial analysts, legal experts, public officials, automotive executives, car dealers, and autoworkers from many parts of the country. Ever since Chrysler's financial plight came to light in the public, there has been a continuing debate in the press over whether aid to Chrysler was indeed appropriate. We have seen numerous pros and cons stated on the issue by some of our most learned economic and business leaders. What is so troubling about this debate, however, is the fact that we as a country have never been faced with a problem like the present Chrysler situation. In terms of size and potential adverse economic impact—there has never been a problem like Chrysler. We really do not know what might happen if Chrysler went bankrupt. We know the effects would be bad, but we cannot be totally sure when or where the economic trouble would stop.

Through my study of this problem, it has become increasingly clear to me that Federal financial assistance is not only justified, it is needed; it is needed urgently; and it is in the national interest.

PROVISIONS OF THE BILL

Mr. President, the bill I am introducing today would provide loan guarantees to meet the financial needs of the Chrysler Corp. through a tightly controlled program that would target benefits on national objectives and protect the interests of taxpayers.

My bill would create a tripartite board composed of the Secretary of the Treasury as chairman, and the Secretaries of the Departments of Labor and Commerce. The board would have the authority to guarantee loans to the corporation within the guidelines established by the legislation.

Before providing assistance to Chrysler, the board would have to find that the company has an actual need for loans, that failure to meet this need would adversely affect the economy or employment in the United States or any major region of the United States, that credit is not otherwise available, and that the lender would not make the loans without a Government guarantee.

Guaranteed loans could extend for up to 10 years and bear interest at rates controlled by the board. The board could impose guarantee fees and design other arrangements to compensate the taxpayers for any administrative expenses or risks incurred by the guarantee.

The bill would protect the Government's interest by requiring the full collateralization of any guaranteed loan, the suspension of payments to stockholders and certain lenders, the audit of Chrysler records by GAO and the imposition of other stringent protections. The board could require appropriate managerial and financial reforms of Chrysler before guaranteeing any loan. Moreover, the board would be authorized to take actions necessary to insure that unguaranteed lenders and other parties maintain their current levels of support to the corporation.

The board's authority to extend guarantees would terminate on December 31, 1983. A ceiling on outstanding loan guarantees would be established after the issue of suitable assistance levels is studied in banking committee hearings.

The bill would provide $250 million or 25 percent of the guarantee aid through an employee stock ownership plan (ESOP). ESOP's have been championed by several distinguished Senators including the majority leader, Senator BYRD, by the chairman of the Finance Committee, Senator LONG, and by my colleague on the Banking Committee, Senator STEWART who, recently, announced his intention to introduce employee stock ownership as an amendment to any bill that would involve financial assistance to Chrysler.

A recent study sponsored by Senator LONG of 72 ESOP companies showed that in the 3 years after adoption of the ESOP, sales increased by an average of 72 percent, jobs increased 38 percent, sales per employee increased 25 percent, pretax profits increased 157 percent, and Federal taxes paid increased 150 percent.

These are compelling statistics which I believe demonstrate that employee stock ownership plans may offer a route by which we can move imaginatively to assist Chrysler.

AN HISTORIC CHALLENGE TO AMERICAN INDUSTRY

Mr. President, I believe that this bill provides a prudent response to the financial problems of the Chrysler Corp. The Senate's decision on this bill is part of our Nation's response to a much larger and unprecedented economic challenge.

An industrial evolution is underway, Mr. President. Between 1978 and 1984, American automobile manufacturers are scheduled to spend the vast sum of $80 billion for new plant and equipment. That amounts annually to a 25-percent real increase in spending over the average of the preceding 7 years. This figure does not include additional, massive increases in spending for research and development. That high level of spending will continue in good years and in bad because federally mandated standards must be met.

We are witnessing nothing less than the sudden obsolescence and replacement of a major segment of the Nation's industrial base. This unprecedented level of spending must be made if American workers are to produce the fuel efficient cars for which there is a growing demand.

The United States must rapidly make an extraordinary transition from an era of cheap and abundant gasoline and oil supply into an era of scarce and expensive gasoline and oil.

By contrast, the national policies of our major trading partners have long encouraged the development of energy efficient products and production techniques. Moreover, their governments have lent significant support to their own auto companies and other industries by assisting with technological development, providing generous tax credits, imposing protective measures against import competition and maintaining a general climate of cooperation between Government and industry. Until recently, they had to provide this support in order to catch up with American auto makers. These foreign governments concentrated on the small car market and as gasoline became more costly have been able to carve out a 25-percent share of the U.S. auto market. It is now apparent that standard size autos are going to be obsolete and more jobs will be lost to foreign auto makers if we do not improve the level of cooperation between Government and industry.

Now, Mr. President, of course this burden of industrial conversion falls—and must fall—largely on the Nation's private industry and capital markets. I am confident that the private sector has sufficient resources, vigor, and imagination to meet the bulk of the challenge.

However, those of us in Government must understand the stress that is being imposed on industry, and be prepared to respond when the strains threaten to bring down a major component of our capacity and shatter the lives and livelihoods of hundreds of thousands of our fellow citizens. That is what is at stake in Chrysler.

The past failings of Chrysler's former management may have been serious and many. But the Government also bears responsibility for the corporation's present crisis, not only because of our current energy situation but the lack of a coherent national energy strategy and policy. Even those Senators who most strongly favor regulation of the auto industry must admit that hundreds of millions of dollars were drained unnecessarily from the auto firms by Federal decisions such as those to mandate ignition interlock systems and to prohibit joint

development ventures to meet Federal standards. These are decisions we cannot undo. The capital which was required by those Federal policy decisions is capital which is spent and gone. In fact, as long as a year and a half ago, regulators decided to ignore clear warnings of an impending financial crisis at Chrysler and chose to do nothing to help avoid it.

Mr. BAYH. Will the Senator yield for 30 seconds? I know he is under a time constraint.

Mr. RIEGLE. I yield.

Mr. BAYH. I compliment the Senator from Michigan for the important role he is playing on the Banking and Currency Committee and the leadership he is providing in this area. I feel fortunate with him and the junior Senator from Michigan in a problem that confronts the whole country and not just the State of Michigan and the State of Indiana, though we happen to be No. 1 and No. 2.

This is something that will have an effect on the whole country. I think the way the Senator from Michigan is approaching this will help solve the problem and get us out of this in a way to have a minimum amount of risk to the country. I associate myself with his remarks.

Mr. President, the bill offered today by Senators RIEGLE and LEVIN, of which I am a cosponsor, represents an attempt to draw from the best thinking which has been put forward to find a solution to Chrysler's dilemma.

I think it imperative that steps be taken promptly. The impact of a bankruptcy proceeding on Chrysler was described in hearings before the Senate Banking Committee as at best uncertain, but quite possibly disastrous.

The impact on the State of Indiana of a Chrysler shutdown is hardly in doubt. Nearly 15,000 Chrysler employees would be out of work and Indiana would lose $1 billion annually in direct wages and purchases from Chrysler alone and perhaps another $2 billion in indirect losses from jobs which are dependent on Chrysler wages and purchases.

Two cities in Indiana would be hit with an even more devastating impact than the closing would have in Detroit. Fourteen percent of the work force in Kokomo is directly employed by Chrysler and nearly 12 percent of the work force in New Castle, Ind. The Booz, Allen & Hamilton, Inc. report submitted to the Treasury indicates that one-third to 40 percent of all jobs in these two cities are related to Chrysler's business. The entire economy surrounding these cities already feels the impact of the uncertainty caused just by the possibility of a shutdown. Indianapolis and Michigan City would also be substantially affected.

The cost to the Federal Government of a Chrysler failure would not just be in the millions of dollars, it would be in billions of dollars of lost revenues and increased expenditures. This bill is an effort to prevent that loss by guaranteeing loans that financial institutions acting separately would not otherwise make.

Mr. President, I hope that the Congress will act promptly. The Booz, Allen & Hamilton report also warns that Chrysler's funding needs could increase if there are any major delays in obtaining adequate funds. I think this bill represents an attempt to develop a reasonable solution to this problem. I feel certain that as the Banking Committee takes this bill under consideration, it will further develop and refine this legislation. I look forward to working with all the parties involved including Chrysler Corp., the United Auto Workers, and my distinguished colleagues on the Senate Banking Committee.

Mr. RIEGLE. Mr. President, I thank the Senator for his comments and the great help he has given to the efforts to solve this problem.

Mr. President, there are a number of precedents to which we can look.

PRECEDENTS

Fortunately, the Federal Government has considerable experience in providing assistance to important forms of economic activity. And we can build on that experience.

Congress has already recognized a national interest in helping major domestic industries compete in changing international markets. The fiscal 1978 State-Justice Appropriation Act, for example, authorized EDA to provide up to $550 million in loan guarantees for steel companies. Three objectives were identified. Steel companies would be helped to modernize so that they "could better face foreign competition," to "meet Government mandated environmental standards," and to retain jobs in the U.S. steel industry. All three items relate directly as well, to the auto industry.

Since early 1978, five firms have received a total of $364.6 million in loan guarantees under the program. EDA is considering requests for an additional $160 million to other firms. The administration estimates that the approved guarantees would retain a total of some 54,000 American jobs. It should be noted that Chrysler buys steel from U.S. producers.

The steel industry program is extending about $6,800 in loan guarantees per job retained. Since a Chrysler collapse would cause a loss of 200,000 to 600,000 jobs, $6,800 in loan guarantees per job would justify $1.4 billion to $4.1 billion in guaranteed loans for Chrysler.

The Federal Government has extended financial assistance to thousands of private borrowers for a multitude of purposes. Over $7 billion in loan guarantees is currently outstanding for international security and development assistance. The Agriculture Department now has $54 billion in loan guarantees to help finance investment in farms, rural housing, and rural electric facilities. The Commerce Department has over $7 billion in outstanding guarantees to finance shipbuilding and numerous other American industries. HEW has over $1 million of guarantees outstanding to finance medical facilities. Railroads have about $300 million. New York City has about $700 million. The Small Business Administration has guarantees of over $11 billion. All in all, the Federal Government now has a total of some $240 billion in outstanding loan guarantees. In view of this loan, a loan guarantee to the Chrysler Corp. breaks little, if any, new ground.

In 1971 Congress established the Emergency Loan Guarantee Board to assist major firms when a temporary financial crisis could result in a business failure which would adversely affect the economy of the Nation. Under that legislation the Lockheed Corp. received $250 million in loan guarantees which helped the firm avoid financial collapse and disruption of critical production.

Even though there are many differences between Lockheed and Chrysler, the Lockheed experience has helped us to develop the capacity to provide prudent assistance to major industrial corporations in temporary difficulty.

In the auto industry itself, the Federal Government has helped out American Motors with a wide variety of measures, including tax breaks, exemptions from mandated standards, and Government purchases of AMC vehicles.

Despite all this activity, governmental assistance to American industry has been undertaken in a sporadic, piecemeal, and uncoordinated way. The relationship between Government and industry in this country has too often been marked by a lack of understanding, by mutual suspicion and by hostility.

Many countries have stolen the march on us by developing what they call cooperative programs of "industrial policy" that have facilitated capital formation and contributed to the growth of productivity.

The problems of the Chrysler Corp. should be viewed within this larger context. And I am hopeful that the debate surrounding this issue will be conducted in that way.

TIGHT LIMITS AND CONTROLS

Let me emphasize, Mr. President, that this bill would not authorize a "bailout" in which the Federal Government steps in to prop up a failing company and permit it to continue inefficient operations.

I am convinced that there are very positive signs that Chrysler can be an efficient, vigorous manufacturer. But difficult adjustments must be made by everyone involved. This bill does not relieve the pressure for reforms. On the contrary, it gives those reforms a chance.

Any assistance must be tightly controlled and targeted on the national objectives of providing modern factories, maintaining the productive employment of American workers, and avoiding massive regional economic dislocations. Windfall gains to stockholders and lenders should be minimized. This bill would authorize the Board to be innovative in achieving those objectives.

The Federal Government should not provide aid alone, but should lead others—including suppliers, dealers, management, workers, banks, and State and local governments—to take risks and play a large role in making Chrysler successful again. That leadership is urgently needed, and this bill provides a framework for it.

BANKRUPTCY IS NO SOLUTION

Some have denied there is a need for Federal response to the problems of Chrysler.

Mr. President, the suggestion that a difficult national problem will solve itself always has a seductive appeal. Never-

theless, I am convinced that as Senators

400,000 engines of which there is a severe

losses in nearly all segments of the

theless, I am convinced that as Senators consider this complex industry, they will come to agree that the counsel of inaction is simplistic, unworkable, and dangerous to the Nation.

Some have put forth the notion that bankruptcy would buy time to speedily reorganize, consolidate, and operate Chrysler on a smaller scale as a viable company. Such thinking is not logical in the case of the auto industry.

Chrysler requires the flow of $40 million in cash per day to maintain operations. It depends daily on a fragile network of commitments by suppliers, dealers, banks, customers, and others. Ronald Trost, one of the country's leading experts on bankruptcy, testified before the Banking Committee that a declaration of bankruptcy would send an immediate and devastating shock throughout the entire Chrysler system. And it would trigger hundreds of bitter lawsuits that could last for up to 5 years.

In the meantime, Chrysler's dealership network would fall apart within 5 weeks because few would want to buy a car that lacks a guaranteed warranty, that carries no assurance that spare parts or service will be available, and that has almost no resale value. Banks would stop credit for dealer floor plans and dealer bankruptcies would spread like wildfire.

The supplier network could crumble just as quickly. There could be a supplier panic. They will have to insist on payment on delivery or even in advance, adding some $1.8 billion to Chrysler's cash needs. Many will stop shipping and attempt to turn elsewhere for business. Many suppliers will be forced out of business. It would only take the failure of a few critical suppliers to bring nearly all Chrysler production to a halt.

Reorganization through bankruptcy will mean only one thing and that is liquidation. Those who think otherwise do not recognize the organic nature of this company. One plant cannot function unless the others do. Consequently, trying to solve the problems of Chrysler through bankruptcy would be precisely the wrong course of action. It cannot remain alive on a piecemeal basis.

For the Congress to rely on bankruptcy would be a failure to respond. And we would have to live with and pay for the consequences of that failure for years to come.

FAILURE WOULD WEAKEN U.S. ABILITY TO COMPETE IN INTERNATIONAL MARKETS

Mr. President, let me enumerate some of the consequences of a Chrysler failure.

First, the failure would deprive the United States of productive capacity we will need to compete effectively in the world automobile markets. Chrysler is a major part of our industrial base. It was the 10th largest industrial company in America in 1978, with annual sales of about $12 billion.

The corporation is investing some $1.1 billion to convert its plants to the production of new fuel efficient cars. Over $187 million is being spent to install a state of the art production line for four cylinder engines at its facilities in Trenton, Mich. That line will begin operations in January and will be able to produce 400,000 engines of which there is a severe world shortage. Another $85 million is being spent to convert the Jefferson Avenue assembly plant in Detroit for the production of a new front wheel drive car that will become available in August 1980. Similar capital improvements costing $85 million are underway at the Newark, Del., plant.

By next summer Chrysler's Kokomo, Ind., plant will have the capacity to produce annually an additional 425,000 automatic transaxles for front wheel drive cars after an investment of $190 million. This is one of the very few such U.S. plants that can manufacture these needed components.

The company's new process gear plant will have the capacity—which, by the way, is unique in the United States—to produce 250,000 5-speed front wheel drive transaxles.

Another $190 million in new tooling is being installed at all Chrysler stamping plants to provide better, higher utilization facilities.

The financial collapse of Chrysler would bring this capital investment program to a screeching halt. The Nation would lose much of the benefits of the years of planning and the hundreds of millions of dollars of investment that have already gone into these facilities.

Some have glibly asserted that other auto firms will quickly step in to continue these facilities in operation. That totally overlooks the highly specialized nature of these production lines and the difficulty of converting them. Even if other companies eventually do decide to purchase some of the facilities, a minimum of 2, and probably 3 years would be required to retool the plants to different specifications.

Moreover, if foreign companies take advantage of some bargain plants, only the lower skilled jobs would tend to remain in the United States. Critical work related to the design of products and manufacturing processes would move overseas.

Because of the current domestic shortage of capacity to produce small cars, a significant part of Chrysler's market share would be taken over by imports so that our balance of payments would worsen, the dollar would weaken once again, and American jobs would be transferred abroad.

These losses would have far-reaching consequences for U.S. jobs and the U.S. balance of payments. This year we will spend some $7 billion more on imports of motor vehicles and parts than we earn from their export. Chrysler's potential contribution to the subcompact market should make substantial inroads in the 25 percent of the domestic market now held by imports. This will help domestic employment, it will improve our balance of payments, and it will raise the international value of the dollar. In so doing, it will help to combat the substantial part of our inflation that has been caused by higher import costs due to the depreciating dollar. If we let Chrysler go under, exactly the opposite will happen.

ECONOMIC IMPACT OF A CHRYSLER FAILURE

Second, Mr. President, a failure would cause tremendous job and production losses in nearly all segments of the economy.

Let us work through a scenario of what might happen in the event of a Chrysler collapse:

Chrysler directly employs 140,000 workers: its suppliers employ an additional 180,000 in Chrysler related work. Chrysler dealers and others employ 100,000. All of these jobs would be threatened.

Once these income losses are felt, there will be sharply reduced consumer spending by the unemployed workers. Also Chrysler will have to cancel its capital spending program. Both of these factors will send additional shockwaves throughout the economy adding, by modest estimates, another 200,000 to the unemployment rolls. Therefore, if Chrysler were to go under in the next few months, total employment could fall by as much as 600,000 in 1980 and this could mean an increase in the national unemployment rate of 0.6 percentage points.

A Chrysler shutdown would cause tremendous economic losses for the minority population since Chrysler is a major employer of black and Hispanic workers. In testimony before the Banking Committee, S. Martin Taylor, director of the Michigan Employment Security Commission, estimated that the black unemployment rate, which now stands at 13.8 percent in Detroit, would increase to about 25 percent. Nationally, it is estimated that 1 percent of total black income is derived from Chrysler. That income is in jeopardy, and it is income the black economy cannot afford to lose.

In the recession of 1974–75, unemployment in Detroit rose by 188,000 and the city's unemployment rate increased by 9 percentage points. A Chrysler shutdown would exceed those disastrous conditions except this time the disaster would be permanent.

Unemployment would also rise significantly in many other States, including Delaware, Illinois, Indiana, Missouri, and Ohio to name but a few.

Claims that these workers would be absorbed smoothly by other employers fly in the face of past experience with much smaller corporate failures. In light of the current recession and the regional dislocations that would result from a Chrysler collapse, these claims are cruel and irresponsible. A Chrysler collapse would certainly deepen and lengthen the period of recession and economic uncertainty that has already begun. What scares me most is that we really do not know where and how the trouble would stop. It would be reckless to assume there would be a modest impact.

SEVERE REGIONAL DISLOCATIONS

Third, a Chrysler collapse would bring depression conditions in many regions across this country. The effects on Detroit, St. Louis, and several other areas have been extensively described in the press.

The regional effects on unemployment would be substantial. In his Banking Committee testimony, S. Martin Taylor noted that a Chrysler shutdown would eliminate 3.5 percent of all manufacturing jobs in St. Louis, 13.6 percent in Kokomo, Ind., 11.7 percent in New Castle, Ind., and 9.5 percent in the Detroit metropolitan area. Mr. Taylor went on to say that:

> Chrysler . . . represents a significant portion of the total employment in those areas, and if there was a total shutdown of the corporation . . . the prospects for re-employment would be tough.

The reasons cited by Mr. Taylor are the generally slow growth of the manufacturing sector in the country, and the location of Chrysler facilities in the older industrial cities that have experienced the slowest job growth, particularly in the manufacturing sector, and in smaller communities such as Kokomo where Chrysler provides a high percentage of total employment.

What are we going to do with these displaced workers? Even if they were relocated, it is doubtful whether they could find jobs without massive retraining efforts because Ford and GM do not appear to need this work force and because further inroads will be made by foreign automakers.

My distinguished colleague, Senator TSONGAS, has movingly described to the Banking Committee the long-term economic, social, and psychological consequences that resulted from the loss of a large number of firms in Lawrence, Mass., 30 years ago. The effects are still being felt. Other Senators also know firsthand that we are playing with dynamite if we underestimate the consequences of a do-nothing policy.

I have studied the impact of a Chrysler failure on automotive suppliers. Some 20,000 firms sell goods and services to Chrysler. I think many Senators will be surprised to discover the importance of Chrysler to numerous small communities within their States. In many instances these suppliers are the major employer for a whole town.

Chrysler is less vertically integrated than Ford and GM and therefore relies heavily on its many suppliers. Consequently, a reduction in employment at Chrysler carries with it a loss of business and employment for a vast number of other firms. Because the other major auto companies are vertically integrated, many of Chrysler's suppliers would have nowhere else to turn for business.

Mr. President, much of the discussion of the past and present inefficiencies of Chrysler overlook a vital fact. It is that a Chrysler failure will bring down in its wake many small firms that are efficient, technologically advanced, innovative, aggressive, and vital elements of our economy.

A Chrysler failure would do further damage to regional economies because of its serious impact on the solvency of the Federal/State unemployment compensation system.

The unemployment compensation system still has not recovered from the impact of the 1974–75 recession, the deepest and longest since the Great Depression of the 1930's. During that recession, State unemployment insurance programs proved unable to maintain benefit payments without massive Federal loans and/or cost-raising increases in employer payroll taxes. As a result, the outstanding indebtedness of the States to the Federal Government still stands at more than $5 billion, with Illinois, Massachusetts, Michigan, New Jersey, New York, and Pennsylvania alone having a collective trust fund debt of $4.1 billion.

The inability of States to repay these outstanding debts caused both Federal and State unemployment insurance taxes to be raised substantially. Under present law, employer payroll tax increases are mandated if a State is unable to repay its loans. These increased employer-based payroll taxes, together with escalating social security taxes, add significantly to labor costs. They will raise the prices of goods and services. They will further undermine the competitive ability of businesses within the affected States, even if they are unrelated to Chrysler.

HUGE BUDGETARY COSTS OF DOING NOTHING

Fourth, Mr. President, if Congress stands idly by and lets Chrysler collapse, the costs to the Federal, State, and local taxpayers would be so high that they would dwarf any costs related to a prudent program of financial assistance.

The 1980 job loss would translate into a reduction in GNP of some $18 to $20 billion. As a consequence Federal tax revenues would be reduced at least $4.5 billion, not to mention the tax losses at the State and local levels. In addition, transfer outlays for unemployment compensation, welfare, and food stamps all will have to rise, at an additional budget cost of at least $1 billion.

The Banking Committee has heard testimony from the Pension Benefit Guarantee Corp. that existing Federal loan pension guarantees cover a shortfall of about $1 billion. If we do not act to prevent Chrysler's collapse, well over 100,000 vested and unvested workers will find themselves dependent on an insufficient pension fund, and the Federal Government will be obligated by law, under the Employee Retirement Income Security Act of 1974, to contribute almost a billion dollars to cover the existing pension guarantees.

Thousands of federally insured home mortgages would be threatened with default and HUD would incur costs reaching hundreds of millions of dollars. Costs totaling $90 to $120 million are projected for the Detroit area alone.

Many promising economic and community development projects for which Federal funds and guarantees have been committed would also be endangered.

At a bare minimum, the total Federal budget loss would be $6 billion, with a more likely total of some $10 billion. Additional billions of dollars in losses would be suffered by State and local governments. Viewed from this perspective, possible Federal loan guarantees in the amounts that have been suggested as necessary would be cheap at the price.

CONCLUSION

Mr. President, I look forward to a thorough debate on this bill and the issues it addresses.

I am confident that a careful examination of the evidence will indicate that Chrysler can become profitable again if it receives assistance sufficient to finance the investments needed to modernize its facilities, increase its ability to supply the small car market, and ride out the recession. I have outlined the costs of a failure above, and they are enormous. When weighed against the benefits and probability of success, it seems clear that such assistance is justified. Assistance to Chrysler would maintain the company's capital spending program and thereby greatly enhance the value of its facilities to the Nation and provide important industrial capacity to meet foreign small car competition. Even if those modernized facilities would ultimately be taken over by foreign companies, the jobs provided would be American jobs.

Just 14 years ago Chrysler was a growing, vibrant company with an almost 20 percent market share. I can foresee this happening again given the new leadership in the company, Government assistance through this crucial period, and starting with a 10-percent market share base.

I urge my colleagues to support this bill.

Let me now emphasize certain facts that are important for anyone within the sound of my voice to consider. In the United States today we have a tremendous problem in our balance of payments deficit. The leading item in our deficit is, of course, oil. But what most people do not realize is that the second worst item in our balance of payments deficit today is the area of motor vehicles.

Last year, the United States ran a deficit of $7 billion in the trade account for motor vehicles, most of it in the form of foreign imports from Japan, West Germany, and other trading partners. There is absolutely no reason why this country should find itself in such an adverse trade position. But we are going to stay that way and it is going to get worse unless we understand the need to modernize our own national motor vehicle industry and to do it within the tough and costly constraints that our own Government has imposed with respect to mandated standards in the three areas I mentioned earlier.

There is a profound balance of payments effect.

In terms of jobs, if Chrysler were to go into bankruptcy today we are talking about the loss of up to 600,000 jobs across the United States, a reduction in GNP for the first year that can total $20 billion.

We are talking about increases to the Federal deficit that could run, in the first year alone, as high as $10 billion. It is easy to identify at a minimum a loss in tax revenues if Chrysler were to go into default of $4.5 billion to the Federal Government which would directly increase the Federal deficit.

In addition to that, in recent Senate hearings we have already identified an additional pension guarantee loss to the Federal Government in excess of $1 billion; an increase in Federal and State unemployment compensation cost of at least $1 billion, not to mention all the tax losses to State and local units of government.

When we take those dollar costs and we look beyond that to the wreckage that will occur in the lives of tens of thousands of people across the United States, many of them in my State of Michigan and in other States in the Midwest but ultimately all across the Nation, it makes no sense whatsoever for the United States to turn its back and inflict a wound on itself that is going to have these kinds of tremendously adverse effects on our whole country.

It is estimated that the increase in the unemployment rate nationally would be six-tenths of 1 percent. Coming at a time when we are in the midst of a recession, this development makes no sense whatsoever.

Some have suggested that bankruptcy may be an answer to this problem. That is errant nonsense. We had in our hearings expert testimony from probably the No. 1 bankruptcy expert in the United States who has been handling these kinds of problems for the last two decades.

He testified without any equivocation that Chrysler could conceivably be tied up in the courts for as long as 5 years trying to sort out the equities if we were to allow a bankruptcy to take place. So that is not something that we ought to recognize as not a viable strategy from a going concern point of view.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Missouri is recognized.

AID TO CHRYSLER—AN ECONOMIC NECESSITY

Mr. EAGLETON. Mr. President, I am pleased to join my colleague from Michigan in submitting legislation to assist the financially troubled Chrysler Corp. Senator RIEGLE has been outstanding in his leadership on this important problem.

The issue of aid to Chrysler already has provoked much heated discussion and frenetic news coverage. Undoubtedly, the coming debate will stimulate new clouds of rhetorical smoke. But I hope that, as the debate unfolds, my colleagues will keep a few salient facts in mind.

We must remember that Chrysler Corp. is not just its president. It is not just 12 people sitting on a board of directors. Chrysler is a network of manufacturing and dealer facilities employing more than 300,000 people across our country. Chrysler represents nearly $8 billion in purchases and additional hundreds of thousands of jobs for Chrysler suppliers. Chrysler means nearly $4 billion in payrolls invested in our Nation's banks and spent in our Nation's retail stores each year by Chrysler employees.

As these figures indicate, a Chrysler shutdown would have a devastating impact on all Americans. A study for the Congressional Budget Office predicts that a Chrysler failure would put as many as 600,000 people out of work and cause the loss of $19.3 billion in personal income through 1981. Many of those lost jobs would be permanently exported overseas.

A further consequence of a Chrysler collapse would be the continued concentration of American automobile production and sales in the hands of the two giant manufacturers, General Motors and Ford. These two companies now control 67 percent of all U.S. auto sales; in the event of a Chrysler failure, that figure would be likely to increase to 75 percent.

As any student of elementary economics knows, concentration in an industry is fundamentally incompatible with vigorous competition. American consumers would pay a heavy price for that lack of competition in the future.

Many have said that the Government should not help Chrysler because there is no place in our economic system for Government assistance to private enterprise. But even the briefest survey of recent history shows a wide variety of instances in which the Federal Government has provided loan guarantees, and even direct Federal loans, to businesses when the benefits of such assistance were judged to outweigh the cost to the Government. The Lockheed Corp. was brought back to financial health through a program of loan guarantees which cost the American taxpayers absolutely nothing. More recently, the steel industry received a total of $365 million in loan guarantees to safeguard jobs and help meet the costs of environmental regulation. The American people have assisted the shipbuilding and maritime industries with a total of more than $5 billion in loan guarantees.

So the issue is not whether the Government ever should intervene to assist private industry, or whether we would set a dangerous precedent by doing so in the Chrysler case. Clearly, such intervention already is more commonplace than most of us realize. And, clearly, the precedents in this area already have been set. The issue, then, is whether the benefits in this particular case outweigh the potential costs. On this basis, a Chrysler loan guarantee is solidly justified. Assistance to Chrysler would save far more jobs with less risk to the Government than either the steel or shipbuilding assistance programs.

The bill we are introducing today does not amount to unwarranted public interference in the private sector. It does not amount to a public takeover of Chrysler. It does provide for short-term relief, in the form of loan guarantees to be issued through 1983. It does provide for tight public control over those loan guarantees. It does safeguard the taxpayers' interests, by giving the public prioritized collateral rights to Chrysler's assets.

Far from being a pernicious influence in the free market, our Chrysler proposal represents a form of occasional Government help which may be an essential tonic to keep the free market functioning smoothly.

Mr. RIEGLE. Mr. President, let me just say of the Senator from Missouri, who has given tremendous leadership to this issue, as has Senator LEVIN, of my State, as far as Senator EAGLETON is concerned he has really worked with great effort and over a long period of time to try to bring this problem into focus and to try to help bring about a prudent, a measured, and a sound response to what is clearly a strategic national issue.

I wish to praise him for that effort and to acknowledge it at this time.

Mr. EAGLETON. Mr. President, I thank my colleague very much. He has in fact been the leader on this issue from its earliest inception. But for the attention that he has focused upon it, the matter would be in very deplorable shape.

Mr. President, I ask unanimous consent that any time I have remaining I be permitted to yield to the distinguished senior Senator from Michigan.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I again thank the Senator from Missouri for his kind comments, and for generously yielding his remaining time to me. I will not consume all of that time. I note my colleague from Michigan is ready to present his remarks. I will conclude my statement so that Senator LEVIN may proceed.

Let me say again to those who are here and might be listening that I hope that people who have a concern about this problem will take the time to study the evidence that we have assembled so far. The statement I am making today in its full detail, I think, lays out the key aspects of this problem. I hope that my colleagues will seriously consider becoming cosponsors today. If that is not a course of action which they wish to follow, then I ask them to keep an open mind on this issue until we have had the chance to commence full hearing in the Senate Banking Committee and to establish clearly the dollar figure that seems appropriate in the Chrysler case.

I emphasize again that what we are proposing here is not a bailout of Chrysler. It is, in fact, something very different from that. What we are talking about here is a program of loan guarantees, very tightly written, very tightly controlled. It will enable this company to get through a most difficult financial period and to get back on its feet so that it can function in a profitable position and so that it can modernize the tremendous number of facilities that Chrysler has which are vital to our own ability to produce the kind of cars that are needed in the future; and to put us on a stronger footing in dealing with foreign competition.

We have to bear in mind that the Chrysler Corp. is the 10th largest corporation in the country. Its sales last year were close to $13 billion. So the sheer size of the auto industry as a whole, something close to 20 percent of our national economy, and therefore, the size of the third largest auto company is essential for us to understand so that we can see why the economic shock waves would be so devastating to the country as a whole.

The other day, someone said that Chrysler was the first automobile company to experience this problem. I want to make sure for the record that everyone understands that that is not the case. The first company to get into serious financial difficulty, partly due to the pressure of Government regulations and standards, was the American Motors Co. The Federal Government responded and, I think, properly so, by providing relief in a number of forms: Tax credits, special purchasing arrangements through GSA, relief from certain emission standards, relief from antitrust requirements that allowed them to buy technology from other companies rather than have to spend to create the technology on their own. These were useful steps because American Motors has since gotten on a strong financial footing. It is today a profitable company that has resumed paying dividends and has kept those jobs in place in our society. As I say, I supported those initiatives and I would do so again.

Chrysler now comes along in an equivlent situation, not first, but second. That is why I think it is important that those who might want to target Chrysler for criticism ought to think very carefully about that because, as I say, we have today numerous other examples. We have the Lockheed case in a different industry; we have the American Motors example in the automobile industry. We have the recent EDA loan guarantees in the steel industry, which is immediately adjacent to automobiles and which provides a lot of its product to the automobile industry.

We presently have outstanding at the Federal level $240 billion worth of loan guarantees for every conceivable item under the Sun, ranking from shipbuilding to FHA mortgages, to a host of programs in the field of agriculture, the steel loans that I have just mentioned, and so forth. So any suggestion that, somehow, the Chrysler situation breaks new ground is just not true. It breaks no new ground at all.

Having said that, I want to make it also very clear that I want the U.S. Government to participate only on a basis that lays down tough, hard, fair conditions that fully protect the interests of the taxpayers. That is exactly what our bill would do.

Finally, let me say this: For some time now, the Treasury Department, in behalf of the administration and the Chrysler Corp. have been talking and working together to try to arrive at a formula of help for Chrysler that the administration could sponsor and send to the Congress. Unfortunately, those discussions have not yet reached a conclusion and of course, here we are, moving into new financial circumstances with new monetary policies and the high interest rates; the uncertainty in the capital goods industries with a recession setting in. So every day that passes is a costly day. As a matter of fact, the Booz-Allen study on Chrysler, just revealed, indicates that if action had been taken 6 months ago to assist Chrysler, less money would have been needed than is needed today. It went on to say that if we wait another 6 months, more money will be needed in the future than would be needed if action were taken now.

In addition to that, we are coming down to the end of this legislative session, so time is of the essence for us to respond. With this bill today, we put the issue on the table legislatively. I am prepared to wait a matter of a few more days for the Treasury Department and Chrysler, hopefully, to have a meeting of minds with respect to a specific proposal. I have reason to believe that will happen, and it ought to happen.

But if, for any reason, it should fail to take place within the constraints of the time pressure that we are under now, in the waning days of this session of Congress, I am going to seek formal hearings in the Senate Banking Committee. Then we shall have to act on an independent basis to try to develop our own judgment about a dollar figure to seek, a loan guarantee figure. I have every reason to believe the Senator from Wisconsin, the chairman of the Committee on Banking, my friend, will take a reasonable view toward conducting hearings on a problem as urgent as this one.

I know he has made it clear that he does not favor loan guarantees in the Chrysler situation; at least, that is his current position. But I know that, in the past, with respect to the New York City loan guarantees, where he also was opposed to loan guarantees, he was eminently fair as a chairman and moved on a timely basis, allowed the committee to act on the issue with hearings, with markup, and with action. The will of the committee was freely expressed despite his position to the contrary. I respect that past history on the New York issue and others. I trust we shall see the same in the Chrysler case. I have no reason to think we shall not.

In any event, we are at the place where action must take place now in the executive branch. I would be delighted to see the Treasury Department come forward in a short time with a specific proposal. I shall be delighted to work with them as we have done all along up to this point.

We have a companion bill moving forward in the House, with some slight differences, introduced by Congressman BLANCHARD and a number of other cosponsors, which we hope to see in conference before this session ends, along with a bill that can come through the Senate based on the legislation that we have introduced today.

As I say, my full statement goes into much greater detail. I should like to ask those who have a sincere and deep interest in this issue to take the time to look at the detail, because I think it will answer many of your questions.

I also say that if anyone else has further questions that they would like to go into, I am available at any time and my staff is available to sit down and discuss this matter and provide information. If additional facts are needed, we are prepared to seek those facts and make them available to whoever might need them.

Mr. President, I know my colleague from Michigan (Mr. LEVIN) who has given great leadership and effort to this cause, is here and has a special order. I should like, at this point, to reserve the remainder of my time and ask that he be recognized if he would like to speak.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for not to exceed 15 minutes.

Mr. LEVIN. I thank the Chair.

Mr. President, I am delighted to join with Senator RIEGLE and the other cosponsors of this bill in introducing legislation to assist Chrysler Corp., and to save the Treasury, the taxpayers, and the economy from the severe impact of a Chrysler failure. In doing so, I want to pay a special tribute to my colleague and friend, the senior Senator from Michigan, for the extensive effort he has put into this project. I know he has spent literally hundreds of hours discussing the issues with leading authorities, studying materials associated with previous governmental action of this type, and thinking through the larger philosophic and economic issues associated with this problem. The bill he has drafted for introduction today reflects that work and it is one that I am delighted to support.

There are some obvious facts which I think need to me acknowledged from the outset. I, of course, have a particular bias as I approach this situation: My home State of Michigan would be the State most heavily affected by a Chrysler collapse. The city of Detroit would be devastated by a Chrysler collapse. And to that extent, I am probably not the most objective judge of this situation. But I do not think that geographic considerations have warped my judgment or influenced my thinking to the extent of making me abandon some basic principles and perspectives which I believe are widely shared in the Congress and which I believe compel us to assist Chrysler.

First, I believe in the fundamental free market structure of the American economy. And I also believe that Federal assistance to Chrysler does not damage or modify the basic framework of a free market as we know it and practice it today.

Long ago, we made the decision that Government should intervene in the marketplace in order to assure the safety of the people and the well-being of the Nation. That decision led to the creation of the Small Business Administration, the passage of the Economic Development Act and a host of other similar programs and agencies devoted to helping business enterprise.

Chrysler's request might, at first, appear to set a precedent if one looks only at the size of the request—but, if one examines the basic nature of the request, there is no precedent established, there is no violation of the free market as we know it, and there is no violence done to the notion that the private and public sectors ought to work together to achieve mutually supportive goals.

Second, I believe that we, as a Nation, are wiser and stronger if we act to prevent disaster than if we simply react to it. If we refuse to assist Chrysler, or if we sit back and fail to make any decision, we will be paying for it for years to come. The dimensions of a Chrysler failure are hard to fathom because they are so massive. A whole series of studies suggests that the cost to the GNP would approach 1 percent within the first year; unemployment would increase by 0.5 percent with areas like Detroit and St. Louis being particularly hard hit; direct costs to the Federal Government pension insurance program would exceed $1 billion;

and the costs to Federal and State treasuries in the form of unemployment compensation and welfare would cost billions more.

And these, Mr. President, are not only short-term effects. These are effects which will continue for years to come. The Chrysler work force will not be easily integrated into the economy because of the existing slack demand in the auto industry and because of the geographic location of Chrysler facilities.

If we allow Chrysler to fail, we allow the economy and the employees to fail for a prolonged period of time. And during that time, we will all bear the economic and psychic scars created by a self-inflicted wound. And the wound will not be restricted to Chrysler. The impact of a failure of this magnitude will not be felt only in the auto industry. With Secretary of the Treasury Miller telling us recently that we have yet to feel the full impact of the current recession, one would be foolish to believe that there will not be a massive spillover from Chrysler to the general economy. So, Mr. President, a failure to aid Chrysler will cost us. It will cost us now and in the future. It will cost us in terms of economic and human growth.

Third, I believe that, when the Government moves into the private sector, it should minimize the risk. I think this bill accomplishes that goal by securing our guarantees and giving the Government guaranteed loan priority standing among creditors.

We should also see to it that Government assistance is complemented by other interested parties. I believe that we are all aware that negotiations are underway with the UAW and with banks and with State governments and with local governments. Those negotiations are designed to bring all of them into the plan. The problem has been that they all want to see the Federal Government make its commitment first since they know that no action on their part—without Federal assistance—will be adequate.

By the same token, the Federal Government has held back, in part because they have not seen action from the other affected parties. This game of "who will bell the cat" must end. We have before us legislation which makes clear there will be a Federal Government commitment while leaving plenty of room for the commitments of other interested parties. Once the broad framework of the commitment has been established, we can move to assure the widest possible participation from other parties. But that participation is less likely and less strong until there is a signal from Washington, even if that signal is conditioned on others doing their share.

Any investment by the Government should also have a high probability of success. In this case, we need to be assured, to the extent that we can be, that a guarantee of the nature being proposed will in fact be sufficient. The amount of the guarantee seems to me to be the issue which is most open to debate, and that issue will need to be resolved in committee and on the floor. Based on what I have read and based on the discussions I have had with knowledgeable industry observers, I believe that Chrysler can succeed, that their goals can be achieved, that they can return to a profitable and competitive posture in the industry.

That cannot occur if they are forced into reorganization in bankruptcy; that cannot occur if they are forced to restrict their product lines; that cannot occur if they are denied Government assistance. But it can occur if we seek to help as well as regulate. It can occur if we act instead of delay. And it can occur if we are but willing to recognize our obligations. When we have done so in the past—as we have with Lockheed and with American Motors and with the steel industry and with literally thousands of other businesses—the results have been satisfactory.

Any investment must recognize that the motive is to help workers. Several members will address the issue of employee stock ownership as an element of any Federal plan. I am inclined to support such an effort and this bill recognizes the desirability of it. Once we have had an opportunity to hear from the Treasury, from the company, and from the UAW and other unions, I am hopeful that we will have a firmer sense of precisely how such a proposal would operate and precisely how it would contribute to the success of this venture.

Mr. President, I hope that all Members will keep an open mind on this subject. I am confident that, as this legislation moves through the committee process, a hearing record will be developed which will answer questions and remove doubts.

And I urge my colleagues, no matter what their position on the merits of the issue, to cooperate in expediting the consideration of this legislation and other bills associated with it. I know full well that there are pressing issues before the Senate. But I also know that many of those issues will be around for years to come—Chrysler may not be unless we act and act soon.

Obviously, I care about getting this legislation passed. But I also care about getting this legislation considered. I am more than willing to abide by the will of the Senate—I just want to be sure that the Senate gets an opportunity to express that will in a timely fashion.

In this regard, I hope the Treasury Department will expedite its decision and get moving. They say they want to help. I am frankly less than satisfied with the strength or speed of the signals emanating from the Treasury. I am less than enthralled with their leadership, with their apparent decision to wait and see what others would do before they made a firm commitment to act and with their setting an arbitrary ceiling on the level of Federal involvement even before they saw Chrysler's detailed statement of their needs and intentions.

I hope Treasury will reconsider that arbitrary ceiling in light of the Booz-Allen report which shows that the needs are greater than was estimated a few months ago.

In conclusion, Mr. President, I again want to commend my colleague from Michigan for his extraordinary leadership in this matter.

Mr. President, I suggest the absence of a quorum.

Mr. RIEGLE. Mr. President, if the Senator will withhold that, I am about to yield back the remainder of my time.

I commend Senator LEVIN for an excellent statement. I again acknowledge the tremendous leadership he has given in this issue. I thank him for his kind words and echo his appeal to all our colleagues to keep an open mind on this issue and to give us a chance, in the weeks ahead, to get a full factual record out on the table, so that we can make careful and prudent decisions as to what the problem requires. I think it is something we are in a position to lay out in a way that will satisfy all Members of the Senate, and we look forward to that opportunity.

I yield back the remainder of my time.

● Mr. NELSON. Mr. President, I am pleased to cosponsor the Chrysler Emergency Loan Guarantee Act. I consider temporary aid to Chrysler to be vital to the national interest. At present, we have two choices. We can either do nothing and let Chrysler slide into certain bankruptcy or we can provide the loan guarantees which will allow Chrysler to survive and prosper in the future.

Given our economy's precarious condition, I do not see that we really have a choice. Mr. President, let us consider the following facts. Chrysler employs approximately 300,000 people directly in the United States and employs hundreds of thousands more indirectly through its suppliers and dealers. A CBO study has estimated that a Chrysler bankruptcy would put 600,000 people out of work and cause a loss of $19.3 billion in aggregate personal income by the end of 1981.

Wisconsin's stake in Chrysler's survival is less apparent than that of Michigan, Missouri, or Indiana, but it is, nonetheless, substantial. Chrysler has six facilities in Wisconsin, employing 950 people; 4,581 people in Wisconsin work on Chrysler parts for supplying firms. And Wisconsin's 167 Chrysler dealers employ 2,441 persons.

Mr. President, this legislation has been carefully and sensibly drafted. It would create a Board composed of the Secretaries of the Treasury, Labor, and Commerce with the authority to guarantee loans to Chrysler upon its certification of the necessity of such loans. The Board's loan guarantees could extend for up to 10 years at rates of interest to be controlled by the Board.

The bill would require that all Government loan guarantees be fully collateralized and provide for a variety of administrative safeguards to protect the taxpayers' interests. The board's authority extend guarantees would expire in 1983. The bill provides no ceiling on loan guarantees but it is my assumption that the hearing process will disclose what constitutes a proper ceiling level. The bill provides that $250 million or 25 percent of the loan guarantee will be provided through an employee stock ownership

plan. The ESOP concept is one that I support and one that I believe has much to contribute to a Chrysler revival.

Mr. President, most of the opposition to loan guarantees for Chrysler has been premised on the belief that failing corporations ought not to receive public support. The survival of free enterprise, it is alleged, depends upon letting mismanaged companies go broke. With all respect to those who hold this view, it is too simplistic. We do not live in a pristine capitalist economy. We live in a complex, interrelated mixed economy where a business failure of this magnitude could and would have catastrophic "ripple" effects. It also matters to me that Chrysler employs tens of thousands of black workers in its Detroit plants and that if those people were to lose their jobs no amount of poverty programs could return them to their present economic level.

Further, it ought to be noted that loan guarantees are given all the time by the Government with minimal publicity and no measurable damage to the free enterprise system. The shipbuilding industry has been so assisted and the steel industry recently got a $365-million loan guarantee to help with antipollution costs. The Lockheed loan guarantee saved a company and the Government never lost a nickel. Proposals for loan guarantees ought to be weighed on an individual basis, not ritualistically condemned.

I have confidence in Chrysler's new management team, headed by chairman Lee Iacocca. Chrysler's most recent sales figures are promising. Guaranteeing loans for Chrysler is an investment in the future. It is an investment in continuing competition in the automobile industry. And it is an investment in self-sufficiency for hundreds of thousands of American workers. It is, I have concluded, a worthwhile step to take.●

● Mr. MATHIAS. Mr. President, today I join my distinguished colleague from Michigan (Mr. RIEGLE) as a cosponsor of his bill to provide a program of assistance to Chrysler Corp. The provision of the bill that I find most appealing is the mandatory employee stock ownership plan, which I think will help solve Chrysler's long-run productivity problems.

Today, the New York Times published a letter on this subject from Senators LONG, BYRD of West Virginia, NELSON, GRAVEL, STEWART, and myself, and Congressmen KOSTMAYER and MCHUGH. I ask unanimous consent that the text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 24, 1979]

IF CHRYSLER WORKERS WERE CHRYSLER STOCKHOLDERS

To the Editor:

The Chrysler Corporation has recently been in the news with its request for financial assistance from the Federal Government. Such a request raises an array of issues, one of which we would like to address.

A chief difficulty currently facing American industry is the steady decline in productivity. In the second quarter of this year, U.S. nonfarming businesses suffered the sharpest drop in productivity since the Federal Government started keeping such figures, in 1947. Although this problem is not as severe in the automobile industry as in other sectors of the economy, it has become so great a national problem that we feel it is an issue which must be kept in mind whenever the American taxpayer is asked to assist a financially troubled company.

If American business is to be competitive, we must find a way to reverse productivity's downward spiral. During the decade of 1967 to 1977, the United States was tied with Great Britain for the lowest productivity gains of any major industrial nation in the Western world.

If a beleaguered American corporation is to be offered Federal assistance in any form, the form that assistance takes should be one that directly addresses this productivity issue. Over the past several years, we have begun to accumulate evidence indicating that employee stock ownership may offer a solution to this troublesome problem.

Employee stock ownership may offer a route by which we can move imaginatively to reverse productivity's decline. For example, a recent survey by the Senate Finance Committee of almost 100 companies with employee stock ownership plans indicates that in the average three-year period since the adoption of such a plan, as opposed to an average corporate age of 24 years, the responding companies:

Realized a 72 percent increase in sales.

Realized a 37 percent increase in number of employees.

Realized a 157 percent increase in profits.

The merit of employee stock ownership can be easily summarized: Ownership counts. It seems to summon up a common determination to succeed. It creates a climate wherein a unity of interest and incentive can emerge. If a company succeeds, its success is widely shared. And its eventual success or failure is placed in the hands of those upon whom it's success or failure will largely depend. Certainly the U.S. economy can only be made stronger by providing the American worker with an opportunity to own the tools and equipment with which he works.

In 1970, the United States guaranteed a $250 million loan by a group of banks to Lockheed Aircraft Corporation. This step was taken to assure the continued viability of Lockheed. At that time, Lockheed directly and indirectly employed almost 400,000 individuals; had we not guaranteed these loans, these jobs could have potentially been lost.

Today, Lockheed is a thriving corporation, these loans have been repaid and the Federal Government actually realized a profit because we received a fee for guaranteeing the loans. Had we required that Lockheed establish an employee stock ownership plan as part of its Federal assistance and contribute an amount of stock to the plan equal to $10 million, today that stock would be worth about $100 million.

This is not meant to indicate at this time that each of the signatories to this letter either supports or opposes the granting of Federal assistance to the Chrysler Corporation. We do feel, however, that, should aid be offered, it should only be offered in such a way as to create an opportunity for a solution to this difficult productivity issue. Employee stock ownership seems to offer such an opportunity.●

RECOGNITION OF ASSISTANT MINORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant minority leader is recognized.

ORDER FOR RECOGNITION OF SENATOR TOWER VACATED

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the recognition of Senator TOWER be vacated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LINKAGE BETWEEN NATO REQUIREMENTS AND SALT II

Mr. STEVENS. Mr. President, I invite the attention of the Senate to an editorial in the Washington Star today entitled "Mr. Breshnev and NATO." I believe this editorial wisely urges that any linkage between the NATO decision on stationing our new nuclear missiles on European soil and the ratification of the SALT agreement be discouraged. A linkage would be very dangerous, and I think it is the kind of question that should be pursued seriously and cogently, as I believe this editorial does.

I am going to join a group of Senators who will be traveling to Ottawa this weekend to meet with parliamentarians from various European nations. Undoubtedly, they will express their opinions, as they did at the NATO parliamentary meeting in Portugal last year, concerning the necessity for action on SALT.

I hope we do not run into a situation in which the consent that is necessary for us to modernize the NATO forces, as this editorial points out, in order to offset existing Soviet bloc military strength, will be conditioned upon our approval of a SALT II treaty that some of us think is defective in its current status.

I note in this morning's New York Times that Senator NUNN has expressed a similar concern over the question of linkage as that to that expressed by the editorial in the Star.

Mr. President, I ask unanimous consent that the editorial from the Star and the article from the New York Times, setting forth Senator NUNN's concern over the linkage of the SALT II treaty with the decision on the part of the NATO countries as to whether to allow us to deploy nuclear missiles in Western Europe be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, some of us live in areas where we are able to observe constantly the actions of the Soviets. That is true, obviously, for the Floridians. It is even more true for those of us from my area of the country, Alaska, and from the point of view of our Canadian neighbors.

I find it very interesting, as I pointed out to the press before the Senate convened today, that the 5,500-mile limit, or minimum, for a missile to be classified as an ICBM came from a determination of the distance between Murmansk and Maine. It is very interesting that what is an ICBM for SALT I and SALT II is viewed only from the point of view of what can strike the Atlantic Coast of the United States from Russia. It has no application whatsoever to the situation of

the deployment of SS-20's in Siberia, so far as their ability to reach Alaska and Canada is concerned, or the ability of missiles such as SS-20's, which are not included in SALT II, to reach all the North American air defense facilities that are located in Alaska and Canada. Nor does it take into account the fact, as was pointed out to me this morning, that Hawaii is closer to Peking than it is to Washington, D.C.

I think it is high time that those people who are involved in negotiating treaties with the United States, in terms of the balance of our forces vis-a-vis the Russian bloc, take into account the fact that we have two coasts, that we have a total United States land mass that must be protected by our defense capability, and that this is not a strategic arms limitation treaty solely for the North American Atlantic Alliance. This is true for the concept of defense of not only of the NATO countries but also of the United States as a whole.

I, for one, hope that our friends and allies in the NATO countries do not tell us that their consent to locate cruise missiles in Europe is going to be conditioned upon the approval of SALT. If that occurs, I predict the deterioration of the NATO alliance rather quickly; because I do not believe that we can condition our ability to defend our European neighbors upon agreeing to a treaty in a form we do not find acceptable.

I hope they can bear with us as we go through the process of debate and change of this SALT II agreement.

EXHIBIT 1

NUNN WARNS AGAINST TYING ARMS PACT TO MISSILES

WASHINGTON, Oct. 23.—Senator Sam Nunn, Democrat of Georgia, said today that attempts by the Carter Administration and leaders of allied governments to link Senate approval of the strategic arms treaty with a decision to deploy medium-range missiles in Western Europe could "shake the very foundations of the alliance."

In an interview, Senator Nunn, an influential member of the Armed Services Committee, strongly criticized statements by President Carter and other senior officials warning that a failure to affirm the new arms accord would lead to a political crisis within the North Atlantic Treaty Organization.

The Senator challenged assertions on both sides of the Atlantic that a failure by the Senate to approve the arms treaty might lead allied governments to reject an American plan for stationing a new generation of nuclear missiles in Europe.

"If the Europeans are concerned about their own security," he said, "the modernization of theater nuclear forces will go on regardless of what happens to the SALT treaty."

Senator Nunn said that the alliance's failure to approve the Administration's plan for stationing new missiles in Europe could lead to a review of the American role in NATO.

Several Administration officials said that the Senator's position could interfere with the delicate diplomatic campaign now being waged to get NATO governments to approve a plan for stationing missiles on their territory.

In hearings today before the Senate Armed Services Committee, Secretary of Defense Harold Brown said that four different NATO governments recently told the Administration that failure to approve the arms treaty would damage chances for gaining approval of the Administration's proposal on stationing missiles.

MR. BREZHNEV AND NATO

Soviet President Leonid Brezhnev is in the midst of an uncommonly overt effort to crack the unity of the North Atlantic Treaty Organization on the need for modernization. The Russian leader has written to European heads of government to press his offer of an insignificant Soviet pullback from East Germany if NATO drops a plan for medium-range nuclear missiles. The allies are supposed to decide on the question next month.

The latest Brezhnev pitch is the same as it was in his initial announcement. He seeks, in part, to convince the Western Europeans that they would be safer from attack without the new missiles deployed, and particularly without having them on their soil. His argument cannot be reconciled with the premise of NATO—that the Soviet bloc's military strength requires a credible defensive posture by the West. The 572 new warheads, mostly on cruise missiles, would not put NATO ahead but would merely offset Soviet missiles already aimed westward. If relative weakness were the way to inspire benign treatment by Moscow, then NATO need never have been formed in the first place.

As clear as the choice for the Western allies appears to be, the Brezhnev bid is troublesome. Several of the NATO countries already have qualms about having nuclear missile bases within their borders. (The West Germans don't want to be the only hosts for the new missiles.) Some leftist political parties in the West can be expected to seize on any anti-nuclear issue, as they did with the scrapped plan for the neutron warhead. The Brezhnev gesture may seem to provide a sequel, at least in the thinking of edgy government officials.

A complication in the U.S.-European discussion of the question is the insistence of a number of NATO allies on linking their backing of the new missiles with the ratification of the SALT II treaty by the Senate. The military logic of this linkage is elusive. If SALT II fails, that will make it all the more urgent to keep up NATO's defenses. The opposite result, rationalized as despair over a breakdown of American leadership, would be a dangerous exercise in defeatism. Its significance would not be lost on Moscow.

Again, the chink in the West's armor is political, with the rhetoric of detente overshadowing hard security considerations in the democratic give and take. The Carter administration is trying to make the best of a tricky situation by using the NATO allies' threat of no-missiles-without-SALT as an argument for ratification. We hope the dubious connection between the two issues can be broken if events require.

The NATO allies would be wise to ignore both the U.S. Senate debate and the calculated offer of Mr. Brezhnev in considering the need for modernization. The pertinent considerations are contained in the array of NATO and Warsaw Pact forces, in which thoughtful observers see growing peril for the West. If there are to be mutual reductions of forces in Europe, these will come as a result of tough-minded negotiations from strength—not from a Brezhnev campaign to split NATO.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Will the Senator withhold that request?

Mr. STEVENS. I do withhold it.

Mr. President, a parliamentary inquiry: Upon the completion of my time, will that trigger the order for routine morning business?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. Then, I withhold the request, and I yield back my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

Is there morning business?

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

VERMONT SENATOR'S SPEECH HERALDED McCARTHY'S END

Mr. LEAHY. Mr. President, I know that many of my colleagues are admirers of former U.S. Senator Ralph Flanders of Vermont, and many knew Senator Flanders when he was alive.

Recently an excellent article was written about Senator Flanders by one of Vermont's best newspaper writers, Barney Crosier.

I wish to share it with my friends and colleagues, as Senator Flanders is one of the greatest Senators Vermont has ever sent to this body. Certainly, he will rank with Senator Justin Morrill among the finest Vermonters to have the privilege to serve in the Senate.

At a time when most were afraid to speak up against excessive McCarthyism, Senator Flanders spoke out loud and clear. The courage of his act was demonstrated by the fact that he was initially joined by only one other New Englander, Senator Margaret Chase Smith from Maine.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Rutland Herald, Aug. 26, 1979]

VERMONT SENATOR'S SPEECH HERALDED McCARTHY'S END

(By Barney Crosier)

SPRINGFIELD.—A forum in the First Congregational Church in Springfield 25 years ago has been tagged as a turning point in the nation's post-World War II torment over "McCarthyism."

For it was that forum that spurred the late U.S. Sen. Ralph E. Flanders of Springfield into action . . . the one that ended with the censure of the senator responsible for the sickness dividing the nation.

It was a meeting of the "First Friday Forum"—gathering on the first Friday of every month—and at least 100 people were out to hear Flanders, home from Washington for the weekend, speak about the nation's problems.

"I don't recall that he mentioned McCarthy (the late U.S. Sen. Joseph R. McCarthy, R-Wis.) during his speech," said Springfield podiatrist Dr. Walter G. Wetherhead recently.

But people at the meeting hit Flanders with a barrage of criticism about McCarthy's

activities as chairman of the Senate Permanent Investigations Subcommittee.

It was a national and international issue—McCarthy's bulldozing tactics in his drive to ferret Communists out of every nook and cranny of American governmental and civilian institutions.

He had, as Flanders remarked later, divided the nation in a time when unity was of paramount importance.

Said Flanders in June, "Race is set against race, party against party, religion against religion, neighbor against neighbor, and child against parent."

That statement was made three months after the forum in the Congregational Church and almost as long after Flanders delivered his first speech against McCarthy March 9, 1954. It was a Tuesday.

That first speech shook the nation back to reality and gave moderate people a chance to reflect on just what the Wisconsin senator was doing. It brought accolades from people across the breadth of the continent, including the comment by then-President Dwight D. Eisenhower that Flanders had performed "a real service" in the speech that was heard by no more than a dozen senators.

Flanders appeared at the church forum March 5, and Elizabeth French of Springfield, his secretary at the time, believes it was the crowd's criticism of McCarthy that led to the Vermont senator's decision that the hour was at hand for a public statement on the matter.

She said Flanders handed her his handwritten draft of the speech Monday morning, March 8, in Washington. She had it typewritten for his delivery the next day.

French said she didn't know the exact details of his decision-making as far as the speech was concerned, but feels there is no doubt about the impact of the church forum.

"They tackled him, and he went home and wrote the speech on yellow foolscap. He handed it to me for typing Monday morning."

Ruefully, she added, "I typed it and destroyed the original. I've always regretted it."

Neither French nor Wetherhead believes that the First Friday Forum changed Flanders' thinking on the subject of McCarthy and his tactics in the search for communists in and out of government.

"I just have a feeling," said French, "that this group stimulated his action."

Wetherhead noted, "The whole McCarthy attitude was completely foreign to Senator Flanders' thinking."

The Springfield podiatrist, who had attended the Friday forums since returning home from World War II, added, "I don't think our comments did any more than galvanize his thinking into action."

The Vermont senator might also have been "galvanized to action" by other signs of the times—letters to editors, the avalanche of critical questions by Australians when he and Mrs. Flanders visited that nation in 1953, and comments by students at Antioch College where the senator and his wife spent a week in residence in October of 1953.

(Helen H. Brown, a Salisbury woman, wrote a letter to the editor of the Rutland Herald on March 3, 1954, calling on Flanders and his colleague, U.S. Sen. George D. Aiken, R-Vt., to challenge McCarthy. The letter said the country's atmosphere reminded her of the mood in Germany that allowed Hitler to gain control of the government.)

In his autobiography, Senator From Vermont, published by Little, Brown & Co. in 1961, Flanders wrote of the image McCarthy was creating for the nation. He told of his "valued contacts with individual students" at Antioch when he was working on his book Letter to a Generation.

While there is no doubt the "contacts" gave him insight into the younger generation's worry about McCarthy, he mentioned the division of the nation more specifically in his comments about the visit to Australia.

Flanders said he was subjected to "persistent" questioning by the press in Melbourne where "the same question appeared and reappeared at luncheons, dinners and informal meetings."

The senator continued in his memoirs, "At last it became clear that the impression was gaining ground that an American brand of Nazism was in the process of formation.

"Of course this was absurd, as I tried to explain, but there were some things I couldn't explain—even to myself."

THE M'CARTHY IMAGE

He went on to mention a vitriolic attack by McCarthy on another senator some years previous, the "fascination or fear in which the Wisconsin senator was held" and the tactics used in probing for subversive elements in the American society.

Flanders reported in his book that the Australian trip made him realize that "in the outside world, McCarthy was the United States and the United States was McCarthy."

His next statement shows that Flanders had decided, while visiting Australia, that something had to be done.

"The conviction grew," he stated, "that something had to be done about this, even if I had to do it myself."

Thus, his mind was made up, but it apparently took the First Friday Forum in Springfield to tell him that action couldn't be delayed.

Interesting to note are the feelings of the late senator's family about his leading role in what proved to be a historic turning point for the nation.

In the Flanders' autobiography, there is a reference to a hurried call made by his son, James F. Flanders, to the senator following a speech at Middlebury College where, it seemed to some anti-McCarthy people, the senator was too tolerant of the Wisconsin lawmaker.

The younger Flanders recalled that episode and the call to his father, who assured him that he wasn't getting "soft" on McCarthy, but had only acknowledged a possible changing of McCarthy's attitude.

James Flanders said his father drafted his speeches in his own handwriting on yellow legal papers: "The speech about McCarthy donning his warpaint—I know he wrote that by hand in the book room at Smiley Manse."

Smiley Manse was the Flanders' big brick house on Cherry Hill in Springfield.

"He would set himself up in the book corner with his dictionary and book of quotations," said the son, who at the time was at the Massachusetts Institute of Technology doing advanced work on guidance control of military aircraft and missiles.

HAWKISH IN RETROSPECT

While most people—especially when looking back 25 years—think of Flanders as a "progressive" or even "liberal" senator, his son pointed out that he would have been considered a "hawk" by current standards. He was exceptionally worried about communist encroachment on undeveloped nations around the world.

But he was, historically, a man necessary to the time in which he lived—a time described in Congress and the Nation, 1945-1964, published by Congressional Quarterly Inc., as torn by a single question: "Is communism in the United States a political movement, or is it a treasonable conspiracy?"

It continued, "To advocates of the conspiracy viewpoint, restrictions on communistic activities and inquiries into communistic beliefs and associations were a necessary adjunct to stiffer sabotage and espionage laws.

"To those who looked on communism as a political movement, such restrictions and inquiries were seen as unconstitutional. Passions ran high on both sides of the issue."

Those passionate feelings were best exemplified in the public statements of McCarthy himself, and that is probably why he was a hero to so many, even though frightening, or sickening, to others.

"Joe McCarthy really censured himself," recalled former U.S. Sen. George D. Aiken at his home in Putney recently.

Aiken noted that the Wisconsin senator had one of the best lawyers available, Everett Bennett Williams, to help him prepare "a good speech" that was delivered by McCarthy from the floor during the debate on his censure.

"He finished it and then went into a distribe," Aiken added.

"No, I didn't talk with Ralph (Flanders) about it. He went ahead fully on his own, and there was nothing left for the rest of us to do but censure him."

Aiken said McCarthy was "a nice guy to meet, but I think he had troubles he couldn't help.

"Joe made it impossible for the rest of us to support him," Aiken concluded.

The Putney octogenarian noted during the discussion that he read and signed the "Declaration of Conscience" by then-Sen. Margaret Chase Smith, R-Maine. It was a fair-play document originated by Smith at the height of the McCarthy uproar.

The fact that Flanders played the leading role in censuring McCarthy is a source of pride for his daughter, Elizabeth Ballard of Norwich, and she believes her husband, William Ballard, might have had some influence on the senator two days after the First Friday Forum in Springfield.

Flanders went to visit his daughter and her husband in Norwich Saturday night and stayed through Sunday. There was some talk Sunday about the McCarthy matter.

"My husband was needling him about why he didn't do something about it," said Mrs. Ballard.

Two days later the Vermont senator was in the limelight after delivering his initial speech in his challenge to the Wisconsin lawmaker.

THE HEARING ROOM

But Mrs. Ballard remembers more clearly the day of her father's censure speech. It was prior to that speech that Flanders went into McCarthy's hearing room and handed the Wisconsin senator a written notice of what he (Flanders) intended to do.

McCarthy was angered by Flanders' appearance at the hearing and had officers escort the Vermonter—with a smile—from the room. Flanders then went to the Senate floor to deliver the speech that proved to be the turning point for McCarthy and McCarthyism.

The senator's daughter had friends in for coffee that day. They were Australians who she had invited to meet her sister, Nancy Ballvet, who was just back from a year in Australia.

While the guests were there, Dilys Laing of Norwich telephoned Ballard to tell her of the big television news concerning Flanders appearance at McCarthy's hearing and then offering the censure motion.

"My Australian friend said, 'You must be awfully proud of your father,'" Mrs. Ballard recalled.

The Norwich woman is still proud of the role he played in what turned out to be only the fourth censure of a senator since the nation was founded.

What did the senator say March 9, 1954, that gave so many Americans new hope?

To keep the moment in perspective, it should be remembered that McCarthy's tactics in the hearings before his investigative committee were of a nature that amazed his Senate colleagues, alarmed moderate people and frightened anybody called before the committee.

It was a time when he was digging "communists" out of the U.S. Department of State, the U.S. Army, Harvard University,

labor unions, the press and, during the hot summer of 1954, out of the White House itself.

BETTER SILENT THAN PINK

There were few who dared challenge him because to do so would gain the challenger a "pink" label. He could immediately be branded a "fellow traveler"—sympathetic with the Communist Party if not a member.

Though some Democrats had jabbed away at McCarthy, few Republicans had said a word in opposition. An exception is a speech March 2, 1954, in which Republican National Chairman Leonard W. Hall criticized the McCarthy tactics.

By that date, 2,427 "security risks" had been removed from the federal government's payroll and McCarthy said 90 percent of them were "subversive."

The day following Hall's statement, Eisenhower objected during a press conference to "a disregard for the standards of fair play" in congressional probes.

It was March 5 when McCarthy called off the $2-million slander suit he had brought against then-Sen. William Benton, D-Conn. The Connecticut senator, in 1951, accused McCarthy of perjury, fraud and deceit in his campaign against people he called "subversive."

On March 7, two days after the church forum, Flanders told the Rutland Herald in an interview that McCarthy "has gone past his usefulness" and that something should be done to curb the Wisconsin senator's activities.

That same day, Democratic National Chairman Stephen Mitchell was charging Eisenhower with responsibility for McCarthy's actions, and Adlai Stevenson, who had lost to Eisenhower in the presidential election of 1952, branded the Republican Party "half-McCarthy and half-Ike."

FLANDERS SPEAKS

Into the breach, unheralded, stepped Vermont's junior senator.

Speaking to a handful of senators Tuesday morning, Flanders deplored the fact that McCarthy was in New York and couldn't hear the speech.

He then offered the thought that the Wisconsin man "puzzles some of us," and wondered with which party McCarthy was affiliated.

Flanders charged the Red-hunting senator with splitting the Republican Party and the nation, taking attention away from the important business of the day—containing communism around the world.

The Springfield man—a high school graduate who had become president of two machine tool firms, a member of the Federal Reserve Bank of Boston and of former President Franklin D. Roosevelt's War Production Board—compared McCarthy to a woman who takes over someone else's home and starts looking for dirt.

Flanders admitted there is usually a lot of noise on such occasions, but said he has "never seen nor heard anything to match the dust and racket of this particular job of housecleaning."

He added, "Is the necessary housecleaning the great task before the United States, or do we face far more dangerous problems . . .?"

Flanders said McCarthy's headline-grabbing ventures were diverting the nation's attention from Korea, Indochina, Italy, France and England—lands that were in need of this country's attention and help as they fought to maintain their governments in the face of communist challenges.

He said the attack was coming from outside the country, not from within, and he warned his colleagues, "Look out, Senators, and see what is creeping upon us."

It was a time when containment of the communist ideology was this country's popular cry, and Flanders chastised McCarthy for not paying heed to what the Vermonter felt was the real danger.

"He dons his war paint. He goes into his war dance. He emits his war whoops.

"He goes forth to battle and proudly returns with the scalp of a pink Army dentist (Maj. Irving Peress, a Camp Kilmer, N.J., Army dentist investigated by McCarthy's committee) . . .

"If we cannot view the larger scene and the real danger, let him return to his housecleaning . . . but let him not so work as to conceal mortal danger in which our country finds itself from the external enemies of mankind."

THE REACTION

The speech was a sensation, and the next day Vonda Bergman reported to the Herald that Flanders was unable to appear on the Senate floor because of the flood of telephone calls and telegrams, said to run 6-1 in his support.

One message called his speech "a fine example of Vermont courage, humor and decency," while another told him, "Your remarks brought a breath of clean, fresh air from the Green Mountains."

Two Senate colleagues, John Sherman Cooper, R-Ky, and Herbert Lehman, D-N.Y., were among those who heaped praise on the Vermont senator.

The editor of a national publication said: "It was one of the few recent indications that the Republican Party on Capitol Hill is not wholly devoid of courageous moral leadership."

And the Rutland Herald allowed editorially that "the effect of the speech was to hearten that vast majority of Americans who hate communism but who also revere the Constitution."

But Flanders hadn't finished the task.

It was June 1, 1954, when he addressed the Senate on "the colossal innocence of the junior Senator from Wisconsin."

Comparing McCarthy to "Dennis the Menace" of cartoon fame, the Vermonter delivered a scathing address in which he lambasted the Wisconsin man for dividing the nation.

"In every country in which communism has taken over," he reminded the Senate, "the beginning has been a successful campaign of division and confusion."

He marveled at the way the Soviet Union was winning military successes in Asia without risking its own resources or men, and said this nation was witnessing "another example of economy of effort . . . in the conquest of this country for communism."

He added, "One of the characteristic elements of communist and fascist tyranny is at hand as citizens are set to spy upon each other.

"Were the junior Senator from Wisconsin in the pay of the communists, he could not have done a better job for them.

"This is colossal innocence, indeed."

During his speech, Flanders noted McCarthy's attacks upon some American Jews, and the Wisconsin man called the speech "a vicious and dishonest thing."

MOVE TO CENSURE

It was 10 days later that Flanders launched his move through which the Senate eventually—on Dec. 2, 1954—condemned McCarthy. The Vermonter's grounds for the proposed censure were based primarily on McCarthy's refusal to cooperate with the elections subcommittee investigating Sen. Benton's charges of fraud and deceit.

Flanders maintained "it is surely clear" that McCarthy treated the members of the subcommittee "with contempt."

The Vermonter said "it is no defense to call the charges a smear"—which McCarthy had done—because a smear is easily handled.

"There is this about a smear," he intoned. "It can be removed by a dry-cleaning process which involves a vigorous application of the truth. That process the Senator was unwilling to apply."

Getting at the truth apparently meant a lot to Flanders. His monument bears the inscription, "Ye Shall Know the Truth And The Truth Shall Set You Free."

The dictum dominates the spot where he was buried the spring after his death on Feb. 19, 1970, at the age of 80. His widow, Helen Hartness Flanders, died May 23, 1972, and is buried beside him.

In that censure speech of June 11, 1954, Flanders asked specifically that McCarthy be stripped of his chairmanship of the Committee on Government Operations and of any of its subcommittees.

Showing that he would give McCarthy one last chance, Flanders told the Senate he wanted his motion to "lie on the table until sufficient time has been given for the Senator from Wisconsin to purge himself of contempt."

Speaking at the commencement ceremony at the Georgia Institute of Technology in Atlanta three days later, Flanders explained his actions succinctly with the charge that the Wisconsin senator was following "a course that leads to fascism."

A BITTER SUMMER

It was a long, bitter summer that followed, with campaigns for the mid-term Congressional elections in full swing and McCarthy charging the Democrats with "20 years of treason."

The so-called "Communist Control Act of 1954" was passed that year as the Democratic Party's answer to McCarthy's charges.

The Wisconsin anti-communist crusader had attacked Dr. Nathan Pusey, president of Harvard University, for refusing to fire a professor who had used the Fifth Amendment of the Constitution to back his refusal to testify at one of McCarthy's hearings.

He had also had a run-in with Brig. Gen. Ralph W. Zwicker over the general's refusal to reveal the names of officers who had ordered the honorable discharge of Peress, for whom McCarthy wanted a court martial.

The subcommittee chairman told Zwicker he was "not fit to wear the uniform."

The Army-McCarthy hearings earlier had consumed 35 days during which as many as 20 million viewers, a huge audience for that day, watched the drama.

McCarthy referred to his own censure hearing in 1954 as "a lynch party." He called the select committee the "unwitting handmaiden" and "involuntary agent" of the Communist Party.

The hearings—not as spectacular as McCarthy's productions on communist infiltration of the Army or Department of State—ended with a committee recommendation for censure. The report was made public Sept. 27, the day before Flanders' 74th birthday.

The Senate was called into special session after the Nov. 2 elections (Republican Joseph B. Johnson was elected governor of Vermont, but Democrats took control of both Houses in Washington) and spent two weeks debating the McCarthy censure motion.

M'CARTHY CONDEMNED

When it was finally approved on a 67-22 vote, it used the word "condemn" rather than "censure," so many felt it was not actually a "censure."

However, old hands in the Senate pointed out that the historical word for a censure was "condemn," and the Rutland Herald reported it as both a censure and condemnation.

The body condemned McCarthy for obstructing the constitutional processes of the Senate by refusing to cooperate with the committee investigating Sen. Benton's allegations of fraud and deceit.

It also condemned him for referring to the select committee as a "handmaiden of communism."

Republicans in the Senate were split 22-22

on the issue, but Democrats stood solidly in favor of taking the Wisconsin lawmaker off his lofty perch.

The day of the big decision, McCarthy told news reporters he would go back to his task of "digging out communists," but he never again held the power that had catapulted him to fame, or infamy, in the years after World War II.

Generally, the period of McCarthyism, described by the Herald editorially as "a reign of terror," ended when the Senate approved Flanders' censure move.

In the years that followed, many of the hastily drawn and approved anti-communism laws were repealed or allowed to die quiet deaths without enforcement.

McCarthy himself died in 1957, a victim of the effects of alcoholism.

The Vermont senator concluded, "Joe McCarthy was indeed a man to be pitied.

"The burden he bore was that of a deep inferiority complex. For this, he found relief in bullying witnesses, slurring associates and garnering headlines

"In the pursuit of headlines he had a masterly success, and the bullying and slurring provided acceptable journalistic material.

"The press of our country must share in the blame for this unfortunate period in our history."

Whatever blame the press might bear for highlighting the McCarthy antics, it also gave a big play to Flanders' move to cut the Wisconsin man down to size

And however dull some forums may be, the First Friday Forum can take at least some of the credit for inspiring the Vermonter to do what he had long known he had to do under the moral law he so often extolled.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SCHEDULE FOR THE REMAINDER OF THE SESSION

Mr. MOYNIHAN. Mr. President, I wish to take this quiet moment in the Senate's day to comment on our proceedings and schedule for the remainder of this session. Our beloved majority leader addressed himself to this matter, and it has been reported in the press that, in keeping with his concern that we do our business with dispatch, there is the possibility that we will take up the SALT treaty on a double-track basis; under this arrangement we would, perhaps, deal with the remaining appropriation bills and the windfall profits tax, as it is called, in the morning, and deal with the treaty in the afternoon.

I would like to urge on the majority leader the thought that this would not best serve the interests of either legislation. The Committee on Finance of the Senate has all but completed its work on a windfall profits tax. It can be sent to the floor very shortly, where it will be a matter of intense debate and, very likely, will require invocation of cloture. But it can be disposed of before we turn to SALT.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If the Senator will suspend, time for morning business has expired.

EXTENSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the morning business period be extended for 10 minutes, and that a Senator may speak up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. The majority leader is most gracious.

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize me?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. MOYNIHAN. I yield.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator that rumors are rife, they fly as the clouds fly in the month of March.

We hear all kinds of things, and we dream all kinds of dreams, and we see all kinds of visions. But up to now I have had no clear modus operandi in mind. Oh, yes, I think of double tracks and multiple tracks, and I think I will run this ahead of that and that ahead of this, but I really have not come down to any definite approach.

I have said from the beginning that we would do the energy legislation before we do the treaty, and that is the way I would like to do it. It is still the way I would like to see us approach this whole matter.

I have said just recently that I might run the treaty in ahead of the energy matter, but, if I might, I would term it as thinking out loud, speculation on my part, and I am entirely flexible.

What I want to do is to do the right thing at the right time by the Senate, and sometimes I do not know what the right thing is at the right time until I reach the situation and see what the circumstances and conditions have become.

Certainly the Senator may be assured that I will take his counsel into consideration, his viewpoint, but I simply want to say that there is nothing etched in stone up to this point.

Mr. MOYNIHAN. The majority leader has never been anything but gracious in that respect. He rarely thinks of anything save what is good for the Senate, and his judgment, in my mind, has been impeccable in these matters.

I would offer him this one simple thought: There is a not unfamiliar imbalance between the amount of public attention that will be paid to an issue and the issue's importance. The energy legislation will be intensely controversial and there will be pressures on us from everywhere to make up our minds this way or that way. The SALT treaty, while of incomparably greater importance, does not have in the Nation an economic and consumer constituency that will press us. We will have to make up our minds on this floor based on our experiences and judgments.

It would be such a great shame if SALT came up before this other legislation, and caused us to be surrounded by people saying, "Hurry and make up your minds" about the most important issue mankind faces so we can get to the question of stripper oil.

That would distort our priorities, and I know the Senator would never want to do that.

I simply wanted to ask—and the Senator will have my total cooperation in this—if we could consider first our other legislation and then move to this majestically and preeminently important issue and take our time to consider and resolve it.

That is all I wish to say and I am happy the Senator has given me the opportunity to speak.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I have found the Senator's comments to be beneficial and helpful to me. The Finance Committee is moving toward reporting the excess profits tax measure, the obituary of which has been written over and over again. The choir has been assembled from time to time, the grave plot has been marked out, and the monument has already been prepared on numerous occasions.

But I, as is somewhat characteristic, I guess, of some of us West Virginia hills people, have said, "Well, I don't believe it is time yet for the obituary to be written." The Finance Committee is moving, and Senator Jackson's Energy Committee is rapidly developing the peroration to its energy bill.

Right today, if either of those bills were on the calendar and we could get agreement to proceed to them, we would have them up right now. Right next week, if they were on the calendar, we would have either of them called up. But it takes time, and I believe the time the committee spends on that legislation will prove to have been time well spent, because it will probably, in the long run, be time saved.

Those committees are attempting to resolve the problems in the committees rather than here on the Senate floor, and I compliment the committees.

I close by saying that once the measures come to the calendar and we can get clearance to proceed with them, I want to do just that. I agree with the distinguished Senator from New York that energy legislation is uppermost—after all, that constitutes at least 4 percent of the inflation rate, as I understand it——

Mr. MOYNIHAN. Yes.

Mr. ROBERT C. BYRD. And as long as the American people do not really believe there is an energy problem they can do something about, and continue to spend $85 billion a year for energy, which is $65 for every minute since John the Baptist came walking out of the wilderness, we are going to continue to have a serious inflationary problem and a serious energy problem.

But I thank the Senator. He has made a serious and timely observation, one with which I agree and which I want to follow, but one on which I want to retain some flexibility, depending on how the situation develops, so that I may then be able to make the judgment based on the circumstances at the time.

At the moment we cannot take any one of the three measures up, because they are not on the calendar; but at the time we get something on the calendar the Senator's observation, I daresay, will probably be the right approach to follow.

Mr. MOYNIHAN. I thank the majority leader.

KARL EARL MUNDT

Mr. PRESSLER. Mr. President, Senator Karl E. Mundt passed away in August of 1974. Inasmuch as the Senate was in recess at the time of the anniversary of his death, I want to take this opportunity to call to the attention of my colleagues some contributions of this illustrious American, the late Republican Senator who was born in Humboldt, S. Dak., my hometown, and the man who held the Senate seat which I now occupy. In the swift passage of time in this age of accelerated living, it is easy to overlook the significant impact others have had upon us and upon our country.

For me, a remembrance of Karl E. Mundt comes with ease. For most of my life, I had the good fortune to virtually live in the shadow of this great man. Like dozens of other youngsters, we lived in the town where he was born. We grew up only 27 miles from where Karl and his wife, Mary, later lived in their South Dakota home of Madison.

That Karl Mundt's life and service were inspirational to individuals such as myself begs the point. I think many young men and women who had the opportunity to grow up in South Dakota and be exposed to leaders such as Karl Mundt found the calling to public service careers to be particularly attractive because of the enthusiasm, leadership, and genuine affection for people that he brought to his life work in politics and Government.

In recalling the life and times of Karl Mundt briefly, as I do today, it is impossible to overlook the visionary capacity of this man and what his concepts have meant or could have meant to the three constituent areas of service to which he dedicated himself—his State, our Nation, and the world—each distinct but all interwoven into the common fabric we call mankind.

The century in which we now live has found mankind physically, and sometimes uncomfortably, closer together than perhaps anyone could possibly have foreseen when it began in 1900 when Karl Mundt was born. World War II represented the turning point for nearly everyone alive at that time. We came to recognize that no longer did oceans and space divide us but that they are links of togetherness in which the seas and skies served as our bridges of communication, travel, and economic livelihood.

Karl Mundt was in the vanguard of those recognizing that we had come into a new era. He believed that if we as a free Nation were to survive in a world of continuing great progress and achievement—but one also posing increasing threats to our liberty—we would need to extend ourselves and our concepts worldwide.

Some of his ideas bore great fruit. Others remain merely as reminders of what we might or should have done. He called for the Voice of America to be part of a permanent informational institution (USIA) to promote freedom. He recommended international student exchanges to open to other peoples the richness of our ideas and the diversity of our lifestyles. He collaborated with our other Senator at the time, Francis Case, with Milt Young, and other Midwest colleagues in urging establishment of our first food for peace program, then known as Public Law 480.

He pushed for expansion of our efforts to tell the story of America through a "Vision of America," which would have utilized our space satellite technology to beam television to remote areas of the world.

He urged development of a Freedom Academy not only to promote throughout the world the ideals which have encouraged the growth of liberty in our Nation but to develop an understanding of and a capability to respond to the encroachments of communism in psychological and economic warfare throughout the world.

His foresight was equally keen with respect to our Nation and South Dakota and the need to husband our precious resources. Long before ecology became the watchword for many in the struggle to preserve and enhance our environment, Karl Mundt was promoting soil and water conservation, watersheds, wetlands preservation and development, and explaining the importance of wildlife and nature as vital ingredients to a sound, productive, and happy social order.

The well-known living symbol of endangered wildlife species, the whooping crane, is preserved because Karl Mundt was one of those individuals 15 years ago who said creatures such as the crane and the black-footed ferret belong to our world.

Much of the Federal energy research conducted on the utilization of agriculture products for conversion to grain alcohol found its inception in Mundt proposals more than two decades ago.

Nearly 10 years earlier than the first "energy crisis" of this decade, Senator Mundt was moving Federal and coal industry interests toward the establishment of an experimental plant in South Dakota to convert lignite coal to pipeline gas.

He likewise viewed offshoots of our space program as holding tremendous potential for natural resource activity and promoted the establishment of a data center to utilize information obtained from satellites through various imagery techniques in the Earth resources observational satellite (EROS) program.

The 34 years of congressional and nearly five decades of public service by Karl Mundt stands, of course, as its own monument. It would be impossible for me to fully catalog his accomplishments and I have touched on only a few.

Any remembrance by me, or by anyone else, cannot strengthen or diminish that record. And that is as it should be.

History does the reckoning. We note it, respond to it. And, if we enjoy the good fortune that was Karl Mundt's, we may have some impact upon how that history unfolds in a world that Karl Mundt often described "as the one and only place in which we have to live and die, but a place which also provides the opportunity for us to make it just a bit better by the time we leave than when we came in."

Karl Mundt's objective to make life "a bit better" than we found it is a worthy legacy for each of us. Our effort to emulate this concept is, perhaps, the finest remembrance of all for Senator Mundt and his many contributions.

I want to thank Mr. Roger Haugo, of Sioux Falls, S. Dak., the son of a close friend of Karl Mundt, for his contribution to these remarks. He and his father, Erling Haugo, knew firsthand the many fine acts of Karl Mundt that left this world a finer place than he found it.

The Mundt Library and Foundation in Madison, S. Dak., has done an excellent job of maintaining his records and even displaying a replica of his Senate office. Senator Mundt's widow, Mary Mundt, resides in Washington, D.C., where the Senator spent his last days.

Mr. President, I am honored to be able to submit the statements of several distinguished Americans who were closely associated with Senator Mundt. Other Senators who worked with Senator Mundt will submit separate comments.

Mr. RANDOLPH. Mr. President, I am pleased to join the able Senator from South Dakota (Mr. PRESSLER) in a tribute to the memory of the late Senator Karl Mundt of South Dakota, on the fifth anniversary of his death.

It was my honor to serve with Karl both in the House of Representatives and in the Senate. Although we frequently were on opposite sides of the political fence, our mutual respect for convictions held and constituencies served formed a close bond of friendship.

Karl Mundt began his career as a teacher in a small college, as did I. He came to the Congress as a representative of a poor, rural State during the years of the Great Depression, as did I. Karl's continuing interest in public speaking and in writing paralleled my own interest.

I recall that we appeared together on many forums, many podiums, many seminars. In fact, our mutual interests resulted in the production of an unheralded tape recording entitled, "Your Voice Is Your Fortune," which I unabashedly recommend to my colleagues. Karl and I taught leadership training together as instructors in the Dale Carnegie course.

These personal remembrances of mutual affection serve to enhance my recollection of his role as a leader of his party, a servant of his people, and as a major force in domestic and political affairs. He made constructive and lasting contributions, through his performance and example, to the betterment of mankind. His legislative efforts on behalf of the citizens of South Dakota and of the Nation will be long remembered. Our Republic suffered a grievous loss on his passing, for he chose to devote his considerable abilities to the services of America.

It is my personal privilege to join in marking the enduring presence in these legislative Halls of the departed Senator from South Dakota, Karl Earl Mundt.

Mr. YOUNG. Mr. President, I am pleased to have this opportunity to join with my good friend, the junior Senator from South Dakota, Mr. PRESSLER, to express a few thoughts about the late Senator Karl Mundt.

Karl Mundt was one of the best U.S. Senators of my time and a very good friend. He served much of his life in the House and then in the Senate. In both bodies, he became a highly respected, effective legislator. Karl was a very gifted speaker and one who never was reluctant to become involved in a debate.

One of the central issues following World War II was Communist infiltration in the Government. Much of it was understandable, as we were partners of Communist Russia during World War II and many of our people carried that partnership too far. During his early years in this Senate, Karl Mundt was deeply involved in the investigation of Communists in Government.

Karl Mundt was a conservative and deeply interested in the solvency of our Government and our national security. He left a deep imprint on much of the legislation which was enacted by Congress during his time.

I became closely associated with him on agriculture legislation when both of us served on the Senate Committee on Agriculture and Forestry. His views on agriculture matters were always much the same as my own. He was very close to the farmers of South Dakota and that is one of the major reasons he was elected in South Dakota for so many years.

I was very pleased to be closely associated with Senator Mundt on the Appropriations Committee. In fact, I had only one notch more in seniority than he did.

Karl Mundt was a strong supporter of the Pick-Sloan plan for the Missouri River Basin. This plan made possible all our great reservoirs and huge hydroelectric power generating systems from these dams. These dams provided flood control, not only for our area, but even more importantly, in the lower areas of the Missouri River and on into the Mississippi River. Navigation was another beneficiary of this program. No one was a more ardent supporter or did more to make this possible than the late Senator Karl Mundt.

There is so much that could be said about Karl Mundt with whom I was so closely associated and especially in politics. Like him, I was a Republican and we campaigned together many times.

Mr. President, in paying tribute to Karl Mundt, one also has to include his wife, Mary, who was constantly at his side. Mary was his great inspiration and helpmate. She is a farm girl and not only was knowledgeable on farm matters but on a wide range of subjects. She always exhibited the same conservative trend of thinking as Karl. Mrs. Young and I wish only the best for Mary.

Mr. THURMOND. Mr. President, on the fifth year of the death of Senator Karl Mundt, I want to take this opportunity to remind my colleagues of what a fine man he was.

I knew Karl Mundt for many years. He was a close friend and a trusted colleague.

He was an individualist, an independent thinker, and one who put his country above his party.

His firm commitment to America earned him the respect of Senators from both parties, and his overriding sense of responsibility for its welfare are reflected in the sound positions he took.

He was a friend of the farmer and one who was concerned about his fellow man.

He advocated constitutional reform of the electoral system and favored the district plan.

Karl Mundt favored a balanced budget, less Government spending, and a strong defense. In other words, he stood for things that are essential to America's well-being.

Karl Mundt was jovial and had a delightful personality. He was an inspiration to be around and was fortunate to have had a devoted and loving wife.

Mr. PRESSLER. Mr. President, I ask unanimous consent to have printed in the RECORD the fine comments of our former Representative from the Second District of South Dakota, Mr. E. Y. Berry, who served in the House from 1951 to 1971, and worked closely with the late Senator Karl E. Mundt.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY E. Y. BERRY

Senator Karl E. Mundt was, in my judgment, the greatest statesman that South Dakota has ever produced.

I say this not only as an old friend but as a fellow worker. Karl was not only an outstanding American but also an outstanding politician. He loved politics and he loved to win, but, while winning, he played the game fairly and hard. Because his political knowledge and political savvy were well recognized, he was frequently called upon to work in national campaigns.

It was my great privilege to have known Karl Mundt well. For more than 20 years, we worked together and campaigned together and for more than 10 of those years, we lived in adjoining apartments in Washington. I therefore saw at close range his tireless energy.

Karl was unique. Although he walked and worked among the great and the near great, he never, for one moment, forgot South Dakota. His efforts were geared primarily toward the state he loved and, in his quiet, unassuming way, he did more for his state than any other man has ever been able to do. South Dakotans will never forget Karl E. Mundt.

Mr. PRESSLER. Mr. President, I am pleased to share the remembrances of Mr. Robert L. McCaughey, executive director, the Karl E. Mundt Historical and Educational Foundation, Dakota State College, Madison, S. Dak. Mr. McCaughey served as administrative assistant to the late Senator Mundt from 1957 to 1972.

During these years, Mr. McCaughey provided excellent service not only to Senator Mundt, but to the State of South Dakota and to the Nation as well. We are grateful to him for this and the fine remarks he has prepared concerning Senator Mundt.

Mr. President, I ask unanimous consent that a copy of these remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF MR. ROBERT L. MCCAUGHEY

I appreciate the opportunity offered to me by Senator Pressler to set forth some of my memories of Senator Karl E. Mundt. Serving on his staff for over a quarter of a century was an educational, challenging and fulfilling experience for me and the others who were selected by him to participate with him in his Senatorial Career.

Senator Mundt was a very amiable, even tempered individual. He tried to be a friend to all people. He never displayed any animosity towards a person—in fact, he went out of his way to try and convince people that he wanted to be their friend.

Senator Mundt loved South Dakota. The history of South Dakota intrigued and challenged his probing mind. He respected the people of South Dakota and all they stood for. In his eyes, they epitomized that character of determination and greatness which built this great nation he so loved.

For those reasons—as an advocate of communication, be it oral or written—he maintained constant contact with South Dakotans either through a newsletter which reached over 80,000 homes or via the airwave, as he did a weekly fifteen minute television and radio show which was used by most of the stations in South Dakota. He also set a goal of visiting every county at least once each year. He believed that through these visitations with his constituents he learned more about their needs and their problems and could best represent their views in the United States Senate. He also demanded that the top echelon of his staff return home annually and renew their acquaintances with old and new friends so they too, could bring to the Washington office the South Dakota viewpoint.

The Washington office to Senator Mundt was a South Dakota Island in our Nation's Capitol. His staff was all from South Dakota. They were from all areas of the state so that a visitor from home could be met by and visit with a "friend from home". All office orientation was towards the personal touch for his South Dakota constituents.

Senator Mundt was a very compassionate man, with a sincere interest in each individual as a person. He was interested in families, the children or the grandparents. It was the same with his staff. He enjoyed being with them and participating in social activities with them. I know that on occasions he and Mary returned to Washington to spend Christmas or New Years at our home and with our friends, since we usually had several staff people present with their families on those occasions. I have seen him participate with the youngsters of the families in various games for hours on end on such occasions. Perhaps it was because the Mundt's had no children of their own that injected into his life style this seeking of companionship with our children. He followed their schooling, their illnesses and their accomplishments.

As a United States Senator, he was very thorough and very demanding. Senator Mundt operated the office through his staff in a continuing search for information on legislation, problems to be solved in South Dakota, and in preparation for new ideas which he hoped to inject into the legislative process or into the South Dakota picture which would enhance the quality of life in South Dakota.

As his Administrative Assistant, he advised and counseled that with staff resources and their occupation with constituent problems and certain types of legislative activities, that a network of expertise be developed that we

could call on to develop needed proposals. As a result of this process we developed a working relationship with Stanford University, Penn State University, Georgetown University, American Enterprise Institute, and several other "think tanks". Because of this build-up of such a source of expertise, the Senator was able to participate in many activities and to be knowledgeable on many subjects. He always demanded that our information or research be summarized on one or two typed pages with the in-depth material attached for his reading. Because of his continuing thirst for information we kept very long hours in the office. Most evenings were spent reading or discussing various subjects for his information. He did not attend many social functions as he believed he could better utilize his time preparing himself for the work of the Senate.

On Sunday afternoon he read all the newspapers from South Dakota. We received every weekly paper and every daily paper in the office and he scanned them all. He also used Sunday afternoon and evening to type memos to staff members on projects he wanted them to implement. He would also use Sunday to talk on the phone with friends in various areas of South Dakota, maintaining a constant feel of the pulse of South Dakota thinking.

The Senator worked with the staff in preparing responses to all communications received in the office. Each morning he and I would discuss the mail received and would indicate through memos to the appropriate staff member the information to be searched out for preparation of a response to the letter writer. The staff member would have a draft response approved before it was typed for final approval and the Senator's signature which he personally affixed to each letter. He liked to append handwritten notes to various letters. Another one of his ways of maintaining personal contact with the "folks back home".

Senator Mundt was a continuing student of government He continuously studied the constitution and referred to it in his speeches and his probing during committee sessions. In his opinion it was a sacred document for good government with the flexibility built in to meet the needs of changing times. He did not believe in amending it frivolously. His perception for his work in the United States Senate was built around constitutional interpretations.

In addition to his belief in building on the foundation of our constitution, he also was a student of the rules under which Congress operates. He was fully informed on parliamentary procedure which he used to the fullest advantage. In fact, a copy of the Senate Rules was on his desk on the Senate floor and also his desk in the office for ready reference.

Every morning he perused the Congressional Record fully informing himself of previous day debate and activities he might have missed. He called committee staff personnel to the office to brief him on activities within those committee's meetings he did not attend. With service on three major committees it was just impossible to be in attendance of all at the same time. Even so, through briefings he maintained a complete knowledge of all committee functions and deliberations.

I recite these personal probes for information to try to explain his wide use of his personal staff to keep him informed and also the committee staff personnel. His communication with people and his ability to retain knowledge imparted to him made it possible for him to be an influencing factor in debates and in the shaping of legislation or committee reports.

The Senator was not a great introducer of bills. It was his belief that most goals could be accomplished through amendments to those bills which must be considered each year to meet government housekeeping needs. He also was a staunch opponent of government growth—which new legislation continually foisted on people. He certainly has been proven right in his philosophy as is now being supported by the American public's antipathy to our bulging bureaucracy.

While most people viewed the Senator as a conservative there were many of us on his staff who viewed him as a man attuned to changing times with his basic philosophy as flexible as the constitution. A man who went to Congress as an isolationist and yet later helped formulate the legislation to implement the Truman Doctrine and our foreign aid programs. A man dedicated to the growth of the Free Enterprise System and an unfettered business climate in which to operate, but also recognizing as our society became more complex and intertwined, that we all must live and abide by certain guidelines. He was a man dedicated to balanced budgets and reduced appropriations for government, but once the decision made wanted his share for his constituents. His urgings to the staff were that "Congress will bake the pie, then we must get a big piece of that pie for South Dakota".

Senator Mundt was a "horse trader". He always cautioned us as staff to work closely with other Senate staff people as he did with other Senators. We were to help them with their problems, knowing that in return we could depend on their assistance in our needs for projects or legislative proposals. Cooperation, trust, and faith in people were his watchwords. Dividends to his state flowed from that understanding of his friends and his co-workers.

Senator Karl Mundt loved his service in the United States House of Representatives and the Senate. I have heard him say on many occasions that he would work without pay in his job because he liked it and the challenges it posed. He liked people. I have pointed out his constant communications with his constituents, seeking their advice but also conveying to them what he was doing so they would be informed. Because of this personal contact and communication he felt he was better prepared to do his job and his constituents were more enlightened supporters when it came time for them to do their job on election day.

Mr. McGOVERN. Mr. President, I am pleased to note that my colleague, Senator PRESSLER, and other Senators have commented today on the significance of the career of the late Senator Karl Mundt. Karl Mundt and I were once political rivals. We were members of opposing political parties. But we were also friends and colleagues in the U.S. Senate. Indeed, we cooperated on many matters of concern to the people of South Dakota. We maintained a warm and friendly relationship during all the years that we served together in the Senate.

I still miss the eloquent voice, the sharp wit and the obvious love for public service which Karl Mundt represented in the Senate. I am pleased to salute him now as a colleague whom I remember with affection and appreciation. I also send my warm greetings and good wishes to his lifetime partner and my friend—Mary Mundt.

RECESS FOR 10 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, at 1:25 p.m. the Senate took a recess for 10 minutes; whereupon, at 1:35 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. STEWART).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired. Morning business is closed.

SURFACE TRANSPORTATION ASSISTANCE ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 4249, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4249) to amend title XXIII of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with amendments as follows:

On page 6, beginning with line 18, insert the following:

(b) Notwithstanding any other provision of law discretionary bridge funds authorized under section 144(g) of title 23, United States Code, for fiscal year 1980 may be transferred to a State's apportionment under section 104(b)(6) of title 23, United States Code, to repay funds obligated under section 104(b)(6) of title 23, United States Code, between June 1 and July 31, 1979, for bridge projects which are eligible for funding by virtue of the amendment in subsection (a) of this section.

On page 10, beginning with line 5, insert the following:

SEC. 18. Section 119(b) of title 23, United States Code, is amended by deleting the date "October 1st" in the second sentence and inserting in lieu thereof the date "January 1st", and by deleting "funds apportioned to such State for that fiscal year" in the third sentence and inserting in lieu thereof "next apportionment of funds to such State".

SEC. 19. Section 125(b) of title 23, United States Code, is amended by inserting at the end of the first sentence the following new sentence: "Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on the Federal-aid highway systems, including the Interstate System."

SEC. 20. (a) Section 170(b) of the Surface Transportation Act of 1978 is amended by striking "one year" and inserting in lieu thereof "eighteen months";

(b) Section 170(i) is amended to read as follows:

"(1) There is hereby authorized to be appropriated, to remain available until expended, to the Commission not to exceed $3,000,000 to carry out the purposes of this section.".

SEC. 21. Section 161(f) of the Federal-Aid Highway Act of 1973, Public Law 93-87, is amended by inserting after "managed" the following: "and maintained".

The PRESIDING OFFICER. Debate on this bill is limited to 30 minutes to be equally divided and controlled by the Senator from Texas (Mr. BENTSEN) and the Senator from South Dakota (Mr. PRESSLER), with 30 minutes on any amendment except on an amendment by the Senator from Connecticut (Mr. WEICKER) on the highway trust fund on which there shall be 1 hour, and with

20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. PRESSLER. Mr. President, I suggest the absence of a quorum until the Senator from Texas (Mr. BENTSEN) arrives in the Chamber, and I ask that the time be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BENTSEN. Mr. President, I yield such time as I may need to myself.

Mr. President, today the Senate has before it H.R. 4249, a bill to amend the Surface Transportation Systems Act of 1978.

On November 6, 1978, the Surface Transportation Systems Act of 1978 was enacted. This measure was of broad scope in meeting the transportation problems facing this Nation. For the first time, one bill authorized funds for the Federal-aid highway program, urban mass transit programs, and highway safety. This was a large undertaking because amendments to the various statutes were complicated. The Committee on Environment and Public Works recognized that the implementation of the act should be monitored to determine if problems arose.

During the committee's hearings with the Department of Transportation on its fiscal year 1980 budget request, the problem areas in the implementation were explored. These matters were carefully pursued over the next several months and led to the House passage of H.R. 4249. Subsequently, the Committee on Environment and Public Works carefully reviewed all of the 17 provisions contained in H.R. 4249 and now recommends them to the Senate.

In addition to those provisions contained in H.R. 4249, as referred to the Senate, the reported bill contains five new provisions.

First, the bill amends the discretionary bridge program addressing a problem of small State apportionments and eligibility for discretionary bridge funding.

Second, the bill is amended with regard to the interstate resurfacing provision involving State certification of an adequate maintenance program. Currently, the law requires certification of October 1; however, this is the day for apportioning funds for the interstate system. Consequently, in the event of difficulties regarding certification, the entire system can be distorted. The committee amendment would change the October 1 date to January 1 and would provide that the penalty associated with the certification process shall apply to the next apportionment to the State. This was a technical change which will allow the program to function as intended in providing a meaningful and timely penalty for failure to have an adequate interstate maintenance program.

The third amendment addresses a problem with the Emergency Relief Fund. Under current law, a ferryboat may be purchased with funds available under the emergency relief program when it is to be used as a substitute for highway service. However, the program will not provide funds to operate the ferry if revenues from tolls do not cover all operating expenses. This amendment would allow funds to be utilized in that manner.

Mr. President, clearly what we are talking about are generally technical amendments. After we have passed a major piece of legislation that had a substantial effect on highway transportation in this country, now, in effect, we are taking care of some of the inconsistencies and the technical problems that arose.

The fourth amendment changes the time for reporting in the authorization for the National Alcohol Fuels Commission. The extension of the reporting date of 1 year is necessary to provide a reasonable length of time for a complete and thorough study. With the extension of the Commission beyond 1 year, it was also necessary to make the appropriations available until extended. The committee believes the Alcohol Fuels Commission to be of value in addressing our critical energy problem. It must have the ability to study the issues and deliver a comprehensive report. It must have the time to do it.

The fifth amendment addresses a highway which is being constructed in West Virginia. The amendment clarifies the responsible agency charged with maintaining this route as the Department of Agriculture, through the Forest Service. With respect to this maintenance requirement for the Highland Scenic Highway, it is the intent of the committee that the language of the amendment not preclude a cooperative agreement between the Forest Service and the State of West Virginia with respect to maintenance.

I urge my Senate colleagues to act favorably on the passage of H.R. 4249 to allow for the continued good operation of the Federal aid highway program and to provide the appropriate technical modifications to the Surface Transportation Systems Act of 1978.

I want to take this opportunity to thank the chairman of the full committee (Mr. RANDOLPH), the ranking minority member of the full committee (Mr. STAFFORD), and the ranking minority member of the Subcommittee on Transportation (Mr. PRESSLER), for their assistance and cooperation during consideration of H.R. 4249 by the Committee on Environment and Public Works.

Mr. President, I reserve the remainder of my time.

Mr. PRESSLER. Mr. President, I rise in support of H.R. 4249, reported by the Senate Environment and Public Works Committee. This bill contains a number of technical amendments to the Surface Transportation Assistance Act of 1978. The 1978 Highway Act was comprehensive legislation undertaken to address a large number of transportation issues. Understandably, during the time since passage of the act, situations have arisen which were not envisioned and portions have surfaced which need clarification and corrections. I believe H.R. 4249 addresses the problems which have been raised since the 1978 act was passed.

The Senate Committee on Environment and Public Works carefully examined the provisions included in H.R. 4249 by the House Committee on Public Works and Transportation and concurred with those provisions. In addition, the committee added five other provisions.

I want to focus specifically on one of these provisions which I believe is particularly important. The National Alcohol Fuels Commission was authorized by the Surface Transportation Assistance Act of 1978 to investigate the potential for alcohol fuels as an energy resource. I believe exploring alternative energy sources must be one of the highest priorities of our country at this time. The National Alcohol Fuels Commission has an important role to play in exploring those alternatives and should have sufficient time and resources to fulfill their mandate. H.R. 4249 will assure that the Commission has sufficient time and funding.

I want to add that gasohol, ethanol, and methanol and their development are of great importance. I think it is very important that adequate time for thorough study of this issue by the Alcohol Fuels Commission should be provided by this bill.

Indeed, during consideration, I raised a question as to whether the Commission was adequately funded and learned it had been included in the bill at the request of Senator BAYH, who is to be commended for his efforts in this area. I am pleased that an extension of time is granted the Commission by H.R. 4249. I appreciate the opportunity to be floor manager of a bill that acknowledges the importance of the National Alcohol Fuels Commission and assures adequate time for the Commission to complete its vital work.

I want to take this opportunity to thank the chairman of the Subcommittee on Transportation (Mr. BENTSEN) and the chairman and ranking member of the full committee (Mr. RANDOLPH and Mr. STAFFORD) for their assistance and cooperation during consideration of H.R. 4249 by the Committee on Environment and Public Works.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask the minority manager of the bill (Mr. PRESSLER) if he will yield me such time as I may require off the bill?

Mr. PRESSLER. I yield.

Mr. STAFFORD. Mr. President, I want to add my support for H.R. 4249, technical amendments to the Surface Transportation Assistance Act of 1978.

As ranking member of the Senate Environment and Public Works Committee, I have been involved in the development of highway legislation for some time. The Surface Transportation and Assist-

ance Act of 1978 for the first time authorized funds for the Federal-aid highway program, urban mass transit program and highway safety all in one bill. It was agreed at that time that this legislation should be closely monitored after enactment into law, and changes should be made as soon as possible which would contribute to the effectiveness of this legislation. H.R. 4249 makes these changes.

During consideration of the 1978 Highway Act, we recognized the tremendous need for bridge replacement and rehabilitation throughout the country, and greatly expanded the Federal funds available for this purpose. In addition, a provision was included which sets aside $200 million each year to be used at the discretion of the Secretary of DOT for funding high priority bridge replacement and rehabilitation projects provided certain criteria are met.

The committee has included a provision in H.R. 4249 which would allow a bridge project costing less than $10 million, as is now required, to be eligible provided the cost of the project is at least twice the State's regular bridge fund apportionment.

While this provision does not benefit my own State, I can easily understand the concerns of a small State, because Vermont too is experiencing difficulties in keeping up with maintaining bridges in a safe condition. Recently members of my staff met with the Lake Champlain Bridge Commission regarding the Rouses Point Bridge which spans Lake Champlain from Rouses Point, N.Y., to Alburg, Vt. This bridge was completed in 1937 and now is badly in need of replacement. The two States are in the process of working out an agreement which would make the Rouses Point Bridge eligible for discretionary bridge funds. I believe the replacement of this bridge should have high priority and am pleased that New York and Vermont are working together so this bridge will be eligible for discretionary funds.

My distinguished colleague from Vermont (Mr. LEAHY) and the distinguished Senators from New York (Mr. MOYNIHAN and Mr. JAVITS) also support the replacement of the Rouses Point Bridge.

Mr. President, I want to thank the chairman of the full committee (Mr. RANDOLPH), and the chairman and ranking member of the Subcommittee on Transportation (Mr. BENTSEN and Mr. PRESSLER) for their leadership during consideration and preparation of H.R. 4249.

I thank the distinguished minority manager of the bill for yielding.

Mr. LEAHY. Mr. President, I would like to add a few words to those of my fellow Senator from Vermont, Mr. STAFFORD, with regard to the Rouses Point Bridge.

As he mentioned, a joint Vermont/New York commission has already met to find a way to replace the bridge, which was built in 1937. Senator STAFFORD and I met recently with the Vermont members of the commission and will be working with them to find assistance from the Federal level. I agree with Senator STAFFORD that the Secretary's discretionary fund may be an appropriate funding source for this important project. There is only one other bridge over Lake Champlain, and the Rouses Point Bridge provides a key link between the northern portion of the two States. We are hoping to start a replacement as quickly as possible, since delay will only mean higher costs in the future. I am pleased to see my State of Vermont and the State of New York cooperating so well, and hope that we will be able to find a solution to replacing the bridge at Rouses Point.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Thirteen minutes and forty-nine seconds remain.

Mr. BENTSEN. Under those circumstances, I yield half that time to the distinguished chairman of the committee and we will renegotiate if that is not enough.

Mr. RANDOLPH. Mr. President, that is adequate.

Mr. President, I am very appreciative of the chairman of our Transportation Subcommittee, the distinguished and able Senator from Texas (Mr. BENTSEN). I am also very gratified to see a newer member of our committee, the Senator from South Dakota (Mr. PRESSLER), handling the highway legislation for the minority.

In the committee we have never really thought of Democrats or Republicans. We have worked together. Frankly, the ratio within the Environment and Public Works Committee of 8 to 6 is the closest ratio between the parties of any of the committees operating in the Senate.

I wish to express my thanks to the ranking minority member of the full committee (Mr. STAFFORD) for the continued cooperation he gives, not to me alone, but that he gives to all members of the committee in the development of meaningful legislation.

Mr. President, Senate Members are considering a measure reported by the Environment and Public Works Committee. This legislation provides technical and clarifying corrections to certain sections of the 1978 Surface Transportation Act. The bill also contains other provisions clarifying ambiguities in existing programs authorized by title 23 of the United States Code.

The primary amendment contained in this legislation covers the discretionary bridge program as authorized by section 124 of the 1978 Highway Act. That program was created to allow those States which had expensive bridges across major bodies of water to apply for funding when their State's regular apportionment was not sufficient to cover the cost of the bridge. The program was designed to cover those bridges costing more than $10 million.

There has been very little funding for the States under the apportionments and we have not had sufficient moneys with which to cover the particular important bridges.

Small States with expensive bridges costing less than $10 million were severely impacted by this $10 million limitation. The amendment contained in this legislation directs that discretionary funds be available for bridges costing less than $10 million if the cost of the bridge is at least twice the State's regular annual apportionment. This amount corrects an oversight in the 1978 act which, frankly, discriminated against smaller States.

In this discretionary category several worthwhile projects have been brought to the attention of the committee which appear to be logically eligible for programing during fiscal year 1980. These are the Sampit River Bridge on Route 17 in Georgetown County, S.C.; the F. J. Torras Causeway Bridge in Glynn County, Ga.; the Barron Collier Bridge on Route 41 in Charlotte County, Fla.; and the South River Bridge on Route 2 in Anne Arundel County, Md.

Mr. President, I commend this bill to my colleagues. I believe the committee report adequately explains the reason for this measure and I urge its adoption.

Mr. President, I believe that the Committee on Environment and Public Works through its Subcommittee on Transportation is doing a service to the country, particularly to the smaller States in connection with these clarifying amendments.

I thank the Senator very much.

Mr. THURMOND. Mr. President, I rise to make a few brief remarks regarding a specific project in my State of South Carolina that I am hopeful can be funded under the discretionary bridge replacement program, which is addressed by section 8 of the pending bill, H.R. 4249. This project is the Sampit River Bridge on U.S. Route 17 in Georgetown County, S.C.

By way of background, Mr. President, I would point out that U.S. Highway 17 is a major north-south highway corridor along the east coast. Portions of this highway in Georgetown and Charleston Counties of South Carolina are now in the process of being expanded from two to four traffic lanes in order to accommodate the heavier traffic. Improvements on both the north and south banks of the Sampit River have been virtually completed, but the two sections cannot be permanently joined until a new bridge across this river is constructed. Furthermore, in order to provide access to the Georgetown Harbor by oceangoing tugs, it is necessary that this bridge be some 60 feet in height above the water, which I understand in effect disqualifies this project for funding under the regular Federal-aid highway construction program. Hence, it is necessary for Congress to designate this project as a candidate for funding under the special bridge replacement program provided for in section 124 of the 1978 Surface Transportation Assistance Act.

Mr. President, I am pleased that the House Committee Report No. 96-288, accompanying H.R. 4249, on page 6 of the report, has named the Sampit River Bridge as a likely candidate for the discretionary funding program. Earlier this year, I urged that the Senate Committee on Environment and Public Works similarly designate the Sampit Bridge as a logical project for funding under this

special program. I am pleased that the distinguished chairman of the committee, Senator RANDOLPH—who I might note is the principal architect of this discretionary bridge replacement program—has indicated in his opening statement that the Senate committee concurs in the selection of this project as one which should be funded under this program. I wish to take this opportunity to thank Senator RANDOLPH and the other members of the committee for their kind consideration in this matter.

Mr. President, completion of this new bridge over the Sampit River is most important to the economy of South Carolina and the Nation. It will remove a bottleneck in the flow of traffic along this heavily traveled, north-south corridor, while also allowing oceangoing vessels access to the Port of Georgetown, which will in turn be a boon to industrial development in the area. With the selection of this project as one that should be funded by the Federal Highway Administration in the current fiscal year, I am hopeful that this critical surface transportation improvement will soon be a reality.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Does the Senator have an amendment?

Mr. BAYH. Yes.

The PRESIDING OFFICER. Until the committee amendments have been disposed of, floor amendments are not in order.

Mr. BENTSEN. If there are no objections from the minority at this time, I would move adoption of the committee amendments en bloc.

Is there any objection?

If not, Mr. President, I move adoption of the committee amendments en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 661

(Purpose: To authorize the repayment of certain Federal-aid highway funds by the State of Indiana, and for other purposes)

Mr. BAYH. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for himself and Mr. LUGAR, proposes an unprinted amendment numbered 661.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 5, insert the following:

TITLE II—AUTHORIZATION OF REPAYMENT

SEC. 201. (a) That the State of Indiana (hereinafter referred to as the "State"), acting by and through the Indiana State Highway Commission, and the Indiana Toll Road Commission (hereinafter referred to as the "commission") shall be free of all restrictions with respect to the issuance of bonds or other obligations constituting a lien against the East-West Toll Road in northern Indiana (Interstate Route 80/90) (hereinafter referred to as the "toll road") or payable out of revenues derived from the toll road and with respect to the imposition, collection, and use of tolls and other charges on the toll road contained in title 23, United States Code, or in any regulation or agreement under such title upon—

(1) repayment to the Treasurer of the United States of the sum of $1,936,894, which is the amount of Federal-aid highway funds received for the construction of the interchanges connecting the toll road with—

(A) Interstate Route 69 in Steuben County, Indiana;

(B) Interstate Route 80 in Lake County, Indiana; and

(C) Interstate Route 65 in Lake County, Indiana; and

(2) issuance of new bonds by the commission at such time and in such principal amount as will provide bond proceeds available for payment of costs of construction and acquisition of right of way not less than the amount required to undertake and complete the required construction and the required acquisition of right of way, as defined in the subparagraphs (D) and (E) of this paragraph, such issuance to be made subject to a trust indenture which will be binding on the commission and will provide—

(A) that the required construction and required acquisition of right of way will be performed and that the funds from the bond proceeds will be allocated sufficient to perform the required construction and the required acquisition of right of way before any other commitment of the bond proceeds (other than the refunding of outstanding bonds and payment of costs of issuance) is made;

(B) that any revenues from the toll road, and any proceeds of the bond issued in connection with the toll road shall, after payment of the costs of issuance, be used only (i) for payment of the costs, direct and indect, of the required construction and the required acquisition of right of way; (ii) for the payment of the costs, direct and indirect, of the operation, maintenance, repair, and improvement of the toll road, including the construction of lane additions and the construction or modification of, and acquisition of right of way for interchanges; (iii) for the debt service, payment, and refunding of outstanding bonds, the proceeds of which were used for the construction of the toll road or any improvement thereto or for the refunding of such bonds; and (iv) for the payment to be made under paragraph 1 of this Act and for the repayment to the State out of the proceeds of the sale of such new bonds of amounts required to be paid by the commission to the State under the provisions of title 8, article 15, chapter 2, section 20 of the Indiana Code of 1971, as amended to the date of enactment of this Act;

(C) that the commission will promptly commence acquisition of rights of way and preparation of final plans and specifications for the required construction and that it will commence the required construction on or before December 31, 1981, and that the commission will promptly begin acquiring all the required acquisition of right of way and will commence acquiring such rights of way on or before December 31, 1981;

(D) that the term "required construction" shall mean and include the following, all given equal priority:

(i) construction of a new interchange at Indiana State Highway 912 South (Cline Avenue) in Lake County, Indiana, and

(ii) construction of a new interchange at Mishawaka in St. Joseph County, Indiana, between mileposts 080 and 085 of the toll road after consultation with the executive authority of the county of St. Joseph and the executive authority of the ctiy of Mishawaka, Indiana, and

(iii) construction of a new interchange in Elkhart County, Indiana, located between mileposts 095 and 102 of the toll road after consultation with the executive authority of the County of Elkhart, and

(iv) construction of a new interchange at Willow Creek Road in Porter County, Indiana, and

(v) construction of a new interchange at Indiana State Highway 912 North (Cline Avenue) in Lake County, Indiana, and

(vi) construction of a new interchange at Indiana Highway 58 (Broadway) in Lake County, Indiana, and

(vii) completion of construction of a new interchange at United States Highway 31 by pass in St. Joseph County, Indiana, located at milepost 072 of the toll road.

(E) that the term "required acquisition of right-of-way" shall mean and include the following:

(i) acquisition of right-of-way at State Road 149 in Porter County, Indiana, sufficient for placement of a future interchange as construction funds (other than proceeds of the bonds issued in connection with the trust indenture provided herein) become available and after consultation with the executive authority of the county of Porter, and

(ii) acquisition of right-of-way at United States Highway 20 in LaPorte County, Indiana, sufficient for placement of a future interchange as construction funds (other than proceeds of the bonds issued in connection with the trust indenture provided for herein) become available and after consultation with the executive authority of the county of LaPorte.

The amount repaid to the United States under this Act shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)." Such repayment shall be credited to the unprograned balance of the Federal-aid highway funds of the same class last apportioned to the State of Indiana. The amount so credited shall be in addition to all other funds then apportioned to the State of Indiana and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

Mr. BAYH. Mr. President, before proceeding on this amendment which I am pleased to introduce for myself and my distinguished junior colleague (Mr. LUGAR), I would like to express my deep appreciation to the distinguished Senator from Texas who has done such a yeoman's job on this particular legislation.

I had the good fortune several years ago to have the same responsibility and have a good understanding of the cross currents imposed on someone in that position. I know of no Member of this body who has fulfilled a similar responsibility in a more laudatory manner. Not only has he done a fantastic job from a legislative standpoint, but he is one of this body's most patient creatures. He is always willing to listen to the concerns expressed by other Members of this body. This, in the final analysis, might make his job more complicated. My colleague from Texas and I feel, however, that it fits, in a broader sense, into representing our own States.

I am indebted to him, as are the people of Indiana, for his patience and his willingness to help us resolve the specific problems that exist in Indiana.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. BENTSEN. Mr. President, I have listened to the very kind remarks of the distinguished Senator from Indiana, who served so ably on this committee and

chaired this particular subcommittee. I want it fully understood that I had agreed to the equity of his amendment before he made those generous remarks. I appreciate them. But the merit of his amendment speaks for itself. It is a good amendment.

Mr. BAYH. Mr. President, I appreciate the Senator's reminding us of the chronology. But any of us who know the Senator from Texas know that it takes more than flattery to persuade him of the merit of a given proposition.

I reiterate what I said: Sometimes, when an issue is a close call and it could go one way or the other, some of us are tempted to say, "Well, it would be quicker to dispose of it this way." The Senator from Texas is not one of those. He is willing to listen. If it makes sense for a State or a locality he is willing to listen, even though it might be a little inconvenient.

The Senator from Texas serves in the environs of the man who chairs the full committee and whose camaraderie permeates that committee and extends to all of us who have had a chance to serve on the Public Works Committee. I think that kind of experience is one that serves us well in the Senate.

I also express my appreciation to the Senator from South Dakota for the role he has played in reporting this bill out of committee.

I particularly thank the Senator from Texas for the complimentary remarks he made with respect to the effort to try to get the National Alcohol Fuels Commission moving. I feel it is important to get the country moving toward ending its dependence on foreign oil imports. Development of alcohol fuels offers a method of accomplishing this goal.

Mr. President, the amendment I am offering today to H.R. 4249, the Surface Transportation Assistance Act, will enable the Indiana toll road to continue to collect tolls even after their bonds have been retired. This amendment has the overwhelming support of my constituents in northern Indiana as well as the bipartisan support of all Republican as well as Democratic members of the Indiana congressional delegation.

The Indiana east-west toll road was completed in 1956. The proceeds from the sale of $280 million worth of revenue bonds, issued by the Indiana Toll Road Commission, financed the 157-mile road across northern Indiana. The road is a key link in the highway system between the Midwest and east coast.

The number of people traveling on the toll road annually has increased dramatically each year. In 1960, 10 million toll transactions occurred, 1,233,000 of which were commercial users. In 1978, 16 million transactions occurred with approximately 3 million of these commercial users. This 60-percent increase also brought a boost in income. In 1960 toll receipts of $12,379,000 were generated which included $4 million from commercial vehicle users. By 1978, total receipts had more than doubled to $27,493,000 of which $15,502,000 was from commercial users.

The strategic location of the road has made it one of heavily traveled roads in the Midwest for many out-of-State travelers as well as providing a first-class highway for Hoosiers. In fact, its popularity means that the 40-year bonds issued for its construction will be paid off earlier than had been expected. It is very possible the current bonds will be retired in the mid-1980's.

It has become clear to the majority of Hoosiers that it is to our State's benefit to extend collection of the tolls. I took a poll of the residents of the 11 northern counties in Indiana, through which the toll road passes, and the results reflect clear public preference. Those people who live near the road and use it most often want the tolls continued. They fully realize that if the tolls are lifted, and the responsibility for operating the road is given to the Indiana Highway Commission, the quality of the road will be downgraded severely. Of the 20,540 people who responded to the poll, 16,990 want to continue the tolls, and only 3,550 do not. This is a 5-to-1 margin in favor of the tolls.

The amendment I am offering today is necessary to allow the road to continue as a toll road. The Indiana Toll Road Commission entered into agreements in 1961, 1962, and 1963 to interchange certain portions of the new Interstate Highway System with the Indiana toll road and to designate the toll road as part of the system. These three agreements, or tripartites, provided for a total of $2 million in Federal funds to be used toward construction of the Angola, Gary East, and Burns Harbor interchanges and are still in effect. As required by United States Code, section 129, the agreement contains a covenant that the tolls would be stopped when the outstanding bonds were retired and that no additional bonds would be issued. Therefore, unless these tripartites are nullified, the toll road must become a free road. Upon repayment of the $1,936,894 in Federal funds the tripartite agreements become null and tolls could continue to be collected.

My amendment enables bonds to again be sold, the proceeds of which would be used to perform construction, operation, maintenance, repair, and improvement of the toll road. Of particular importance, the bill authorizes the construction of nine additional interchanges with construction to commence before December 31, 1981.

The overwhelming success of the toll road can be attributed to many factors, but in large measure stems from the fine condition in which the road is kept. When one compares this road to others in Indiana it's superiority is clear. Northern Indiana also receives a large quantity of snow annually. The tolls are used to keep the road open almost constantly during bad weather conditions even though other roads in the State are frequently forced to close during storms due to a shortage of manpower and equipment.

Without a change on the Federal level, the responsibility for operating the Indiana east-west highway would fall to the Indiana Highway Commission. Unfortunately, this commission does not have sufficient funds to maintain the high quality of the toll road. It has cost the toll road commission approximately $8 to $10 million annually to keep the road in first-class condition. This figure represents 12 percent of the highway commission's annual maintenance budget and 6 percent of its total budget. Therefore, the quality of the east-west highway would suffer, as would that of other Hoosier roads which share the total budget of the commission, if the State became responsible for its upkeep. I have long been concerned with the quality of the roads in Indiana. Chuckholes of great proportion are found everywhere in the State and create hazardous driving conditions as well as being responsible for high repair costs. One would expect regular users of the toll road to want it available at no cost, but their experience with other Indiana roads has made it evident that in order to have good driving conditions it is necessary to pay the toll. And it is worth this extra money to them.

In addition, it is imperative that additional access be provided along this 157-mile stretch. Currently only 11 interchanges provide access within the State of Indiana, with two terminal connections at the Illinois and Ohio State lines. This means that an average of 12 miles can be driven before a driver has an opportunity to leave the toll road. In many instances the exits are more unevenly spaced than that. During a time when fuel costs are soaring, every bit of gasoline which is wasted hurts us all.

Construction of additional interchanges, to allow much easier access and departure from the road, would put a stop to unnecessary driving. However, such construction cannot be undertaken without a substantial investment of funds which the State of Indiana cannot possibly provide. Additional interchanges are estimated to cost an average of $7.5 million each and the State of Indiana does not anticipate having sufficient revenue for this purpose until approximately 1990. The importance to the communities in the traffic zone cannot be overemphasized. The additional business these interchanges will provide can do much to revitalize some cities, such as Gary, whose downtown areas are in need of a shot in the arm.

The nine interchanges authorized in the bill will be located as follows: Three in Lake County, two in Porter County, one in La Porte County, two in St. Joseph County, and one in Elkhardt County.

I urge my colleagues to accept this amendment which will greatly benefit the citizens of northern Indiana as well as the many travelers who cross our beautiful Hoosier State.

Mr. LUGAR. Mr. President, I deeply appreciate the efforts of my colleague Senator BAYH, as well as the tremendous cooperation and support we have received from Senator BENTSEN; Senator PRESSLER; the chairman of the committee, Senator RANDOLPH; and the ranking minority member, Senator STAFFORD.

This is a moment of concern for our constituents in Indiana, and I am pleased to join my colleague, Senator BAYH, in support of this amendment to the Surface Transportation Assistance Act to authorize repayment of approximately

$2 million by the State of Indiana to the Federal Government and to release the State from certain tripartite agreements concluded with the Federal Government in the early 1960's. Release of Indiana from these agreements will allow the State to continue the collection of tolls on the Indiana toll road in order to operate and maintain the toll road and to make necessary improvements to bring the road up to interstate highway standards.

The Indiana East-West Toll Road, which was completed in 1956, was constructed with the proceeds of a bond sale. In the early 1960's, the State of Indiana and the toll road commission entered into a tripartite agreement with the Federal Government to obtain Federal funds to construct access roads to toll road entrances. Under 23 U.S.C. 129, the agreements contained a requirement that the tolls be rescinded when the bonds are retired, and that no additional bonds be issued. Indiana statutes do not contain requirements for removal of tolls.

The bonds were to be amortized over a period not to exceed 40 years. However, if revenues and expenses continue at the present level, the bonds should be retired about 10 years ahead of schedule. If the amendment is passed, the repayment of the approximately $2 million granted under the agreements will release the toll road commission from any obligation to make the road toll free. The toll road commission will then be free to issue new bonds.

Permitting the continuation of tolls and issuance of new bonds is essential to the maintenance and improvement of the toll road. If the road is allowed to go toll free at this time, the State highway commission will be forced to assume responsibility for the toll road. The highway commission simply does not have the revenue to operate, maintain, and improve it sufficiently. Thus, Indiana will be forced, through lack of funds, to forego much-needed improvement and additional planned interchanges for the toll road.

For instance, it is estimated that costs of maintaining the toll road run about $8,000,000 to $10,000,000 per year. These figures represent 12 percent of the State highway commission's annual maintenance budget and 6 percent of its total annual budget. Moreover, the toll road commission now spends about $25,000 each year to maintain a single mile of the highway, while the State highway commission is spending only $10,700 a year to maintain 1 mile of interstate highway.

In addition, Indiana would have to forgo the construction of seven to nine new interchanges presently planned by the toll road commission, and described in our amendment. A congressionally mandated study of the toll road released by Wilbur Smith Associates in April 1979 estimates that these interchanges, as well as improvements such as repairing bridges, widening roads, and renovating and adding toll facilities, will cost over $250,000,000. Revenues for the additional interchanges would not be available from the State highway commission until 1990, at the earliest. However, in the event that Indiana is freed from the Tripartite Agreement, the toll commission plans a 30-year bond issue that will provide $151,819,000 for improvements and additions and immediate construction of these new interchanges which will make the road accessible to more Indiana citizens and bring the road up to interstate standards.

This legislation is designed to maintain the toll road in the most practical and efficient way, and to extend the use of the road to greater numbers of Indiana citizens. Citizens in northern Indiana appear to overwhelmingly favor continuation of these tolls for this purpose, and I am, therefore, happy to support this legislation.

Mr. BENTSEN. Mr. President, the minority manager and I have discussed this amendment with the Senators from Indiana, and as far as the majority is concerned, we have no objection.

It is a good amendment. It shows, once again, that we can adapt to local conditions and do what the people of an area want. The Senators are ably representing their constituents.

I thank Senator BAYH again for his generous comments to me. When he talks about the camaraderie of this committee, I agree with him; it is true. But I think much of the camaraderie comes from the chairman of the full committee, Senator RANDOLPH, and his example, which leads to decisions being made in our committee with a minimum of partisanship, and that is the way it should be. I am delighted to serve under his very able leadership in that committee.

I have no objection to the amendment, and I urge its adoption.

The PRESIDING OFFICER. Is all time on the amendment yielded back?

Mr. PRESSLER. Mr. President, we concur in accepting the amendment.

Mr. BAYH. I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 662

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER (Mr. CULVER). The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 662.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, after line 5, insert the following:

SEC. . Section 204(h) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding at the end thereof a new paragraph to read as follows:

"(3) Notwithstanding any other provision of this title, where a State assumes or has assumed, pursuant to an agreement entered into under section 274b. of the Atomic Energy Act of 1954, authority over any activity which results in the production of byproduct material as defined in section 11e.(2) of that Act, the Commission shall not, until the date three years after the date of enactment of this Act, have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated. If, upon expiration of the three-year interim, a State has not entered into such an agreement with respect to byproduct material as defined in section 11e.(2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material."

(b) Section 204(h) (1) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended to read:

"SEC. 204(h)(1). On or before the date three years after the date of enactment of this Act, notwithstanding any provision of this title, any State may exercise any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to Section 274 of the Atomic Energy Act of 1954, as amended) respecting (a) byproduct material, as defined in section 11e.(2) of the Atomic Energy Act of 1954, or (b) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the enactment of this Act; provided, however, that nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under 275 of the Atomic Energy Act of 1954 as may be necessary to implement title I of this Act."

(c) The last sentence of section 83 a. of the Atomic Energy Act of 1954, as amended, is amended to read:

"Any license in effect on the effective date of this section and subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination."

(d) Section 204(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding at the end thereof a new paragraph to read as follows:

"(2) This subsection shall be effective on the date three years after the date of enactment of this Act.".

(e) Section 83(b)(1)(A) of the Atomic Energy Act of 1954, as amended, is amended by—

(1) striking all that follows: transferred to—" down through "Unless" and inserting in lieu thereof the following"

"(1) the United States, or

(ii) the State in which such land is located, at the option of such State, unless", and

(2) striking "section 84 b." and inserting in lieu thereof "section 61 of this Act".

Mr. DOMENICI. Mr. President, I ask unanimous consent that it be in order to consider the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. Mr. President, will the Senator restate the question?

Mr. DOMENICI. That it be in order to consider the amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, this amendment to H.R. 4249 would make certain technical changes in Public Law 95-604, the Uranium Mill Tailings Radiation Control Act of 1978.

These changes are to title 2 of that act as title 2 addresses the authority of the Nuclear Regulatory Commission and the agreement States to license and regulate uranium mills and milltailings. Specifically, NRC was given immediate authority to regulate uranium milltailings in States which do not elect to regulate uranium mills and milltailings under the agreement States program. Significant new substantive and procedural require-

ments were also imposed on the agreement States by that act. In recognition of the fact, the agreement States were given a period of 3 years to impose their regulatory programs to meet the new requirements. At the end of the period, an agreement State which failed to fully satisfy the new requirement would lose its regulatory authority and NRC would assume licensing responsibility.

Mr. President, on April 26 of this year, the principal authors of the regulatory portion of the Uranium Mill Tailings Radiation Control Act wrote the Nuclear Regulatory Commission on this subject. That letter expressed their concern that certain possible ambiguities in the wording of the statute might be interpreted to conflict with the statutory intent which I have described. On May 30, the Commission advised the Subcommittee on Nuclear Regulation that in the view of a majority of the Commission, the Mill Tailings Act, as presently written, could not be interpreted to meet this intent. At the same time, the Commission proposed legislation to correct these ambiguities and to bring the language of the statute into accord with our intent. Those proposed changes, which are supported by the full Commission, are incorporated into my amendment.

Mr. President unless these changes are enacted swiftly the Commission will be required to exercise dual licensing jurisdiction in the agreement States of the 3-year interim period. This would result in needless and costly duplication, and would be disruptive of the spirit of cooperation and support which has been carefully developed between NRC and the agreement States. This amendment would eliminate that problem and insure that the implementation of the act's important improvements will proceed in an orderly and expeditious manner.

Mr. President these technical clarifying changes to the Uranium Mill Tailings Act were already adopted by the Senate as amendments to the NRC authorization bill for fiscal year 1980, S. 562, on July 16 of this year. However, the House has so far failed to act on that legislation, and there are indications that the House may not consider that legislation until some time next year. In view of the need to enact these clarifying changes promptly, I would urge that they be adopted as an amendment to H.R. 4249.

Mr. President, I ask unanimous consent that the April 26 letter from the principal authors of the legislation to NRC, the May 30 letter from NRC to the Environment and Public Works Committee, a June 8, 1979, letter from the Governor of the State of New Mexico to me regarding this legislation, and a section-by-section analysis of the amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., April 26, 1979.

Hon. JOSEPH HENDRIE,
Chairman, Nuclear Regulatory Commission, Washington, D.C.

DEAR CHAIRMAN HENDRIE: During your testimony last month on the NRC fiscal year 1980 budget request before the Senate Environment and Public Works Committee and the House Interior and Insular Affairs and Interstate and Foreign Commerce Committees, you referred to potential problems in implementing Public Law 95-604, the Uranium Mill Tailings Radiation Control Act of 1978.

Specifically, you mentioned that there may exist some uncertainty based upon the language of the statute regarding the date by which the Agreement States must meet the new requirements in the statute and the need for the Commission to exercise within the Agreement States its new licensing authority for uranium mill tailings. At that time, you indicated the Commission's continued support for the three year grace period in making these requirements effective, but expressed the view that any intrepretation of the present statutory language on these points would likely lead to litigation.

It is our view that these questions should be resolved promptly, in accordance with the intent of the Congress, and in a manner which will not cause disruptions in the ongoing regulatory programs and activities of NRC and the Agreement States. In that regard, we are concerned that the statute might be interpreted to require the Agreement States to immediately meet the new requirements of the Act in all cases or to require the duplicate licensing by NRC of all uranium mills and mill tailings in the Agreement States. Such interpretations, in our view, would be contrary to the intent of Congress and would discourage rather than encourage the Agreement States from making every effort to meet the new requirements of the Act as early as possible.

As the principal authors of the legislation in the House and the Senate, we are confident the Congress intended for NRC to exercise authority over mill tailings in the Non-Agreement States immediately, and intended to provide for a period of up to three years for Agreement States which license uranium milling operations or mill tailings to meet the new requirements of the statute. During this three year period, an Agreement State could continue its licensing activities under previously existing authority. New standards and requirements would be applicable to the maximum extent practicable, and NRC is expected to make every effort to encourage and assist the States in upgrading their licensing programs to meet the new requirements as early as possible.

The Congress did not intend for NRC to immediately exercise licensing authority within Agreement States which were exercising authority over uranium milling operations or mill tailings on the date of enactment. At the expiration of the three year interim period, however, NRC would exercise its authority in any State which did not then have in effect a licensing program satisfying all of the applicable new standards and requirements.

If the Commission would benefit in future enforcement of this intent and interpretation from clarifying legislation, we would be happy to provide our assistance.

Truly,

JENNINGS RANDOLPH, *Senator.*
GARY HART, *Senator.*
PETE V. DOMENICI, *Senator.*
JOHN D. DINGELL, *Congressman.*
MORRIS K. UDALL, *Congressman.*
ROBERT E. BAUMAN, *Congressman.*

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, D.C., May 30, 1979.

Hon. GARY HART,
Chairman, Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Nuclear Regulatory Commission would like to request your support for legislation to resolve questions arising from the effective date provisions of the Uranium Mill Tailings Radiation Control Act of 1978 enacted by the last Congress. The Commission received a letter dated April 26, 1979 and signed by the principal authors of this legislation in both the Senate and House of Representatives which expressed the intent of the drafters regarding the date on which licensing authority and procedural requirements under the Act would become effective with respect to the Commission and affected State governments. The letter supports the position that existing authority of Agreement States to license uranium mills and to control mill tailings should not be disrupted during the three-year interim period following enactment and that during this period the NRC should not be required to exert concurrent licensing authority over tailings produced in milling activities regulated by the Agreement States.

The Commission is mindful of and sympathetic with these views. Nonetheless, after a careful analysis of the language of the 1978 Act, a majority of Commissioners have concluded that without amendments to the Act the NRC is required to license tailings at Agreement State-regulated uranium mills during the three-year period before the Act permits renegotiated agreements to become effective. Pursuant to this decision as to the meaning of the Act, implementing regulations and associated arrangements are now being prepared.

Enclosed with this letter is a draft of statutory language and a section-by-section analysis which would accomplish the intent of the principal authors of the legislation, as expressed in the April 26, 1979 letter. All Commissioners agree that such clarifying language is desirable. Some additional clarification which the Commission believes necessary are also included and are described in the section-by-section analysis. The Commission believes that prompt enactment of this legislation is necessary to assure that the intent expressed by the authors of the Act may be carried out during the remainder of the three-year interim period.

Sincerely,

JOSEPH M. HENDRIE.

JUNE 8, 1979.

Re Certain Requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA).

Hon. PETE DOMENICI,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR PETE DOMENICI: The State of New Mexico needs your assistance in a matter of utmost importance concerning the status of New Mexico's uranium mill licensing program as an Agreement State under Section 274 of the Atomic Energy Act of 1954, as amended, for the following reasons:

(a) On May 17, 1979, the NRC Commissioners, by a 3 to 2 vote interpreted the language of the UMTRCA of 1978 as authority to assume immediately licensing of uranium mill tailings in all states and to issue a general license for existing mill tailings in all states. These general licensees would be subject to remedial action orders of the Commission, if the Commission decides such orders are needed.

(b) The split Commission vote indicates confusion in interpreting the UMTRCA of

November 8, 1978. The Commission's decision ignores the language of Section 204(h)(1) which states:

"On or before the date three years after the date of the enactment of this Act, notwithstanding any amendment made by this title, any State may exercise any authority under State law respecting byproduct material, as defined in section 11e(2) of the Atomic Energy Act of 1954, *in the same manner and to the same extent, as permitted before the enactment of this Act.*" (Emphasis added.)

New Mexico, under the 1954 Atomic Energy Act and the State's Radiation Protection Act, has exercised complete and sole authority in the issuing of licenses for uranium mills and their tailings since May 1, 1974. The decision of the NRC to impose dual jurisdiction immediately over the licensing of uranium mill tailings is not in accordance with the UMTRCA provision quoted above, the UMTRCA as a whole, or the 1954 Atomic Energy Act.

(c) The May 17, 1979, Commission decision also runs counter to the intent of UMTRCA's primary Congressional sponsors as indicated by the attached letter signed by Senators Randolph, Hart and Domenici and Congressmen Dingell, Udall and Bauman.

(d) The Commission has not adopted a formal order, rule, or regulation concerning this matter. In other words, the Commission has not taken any formal action pursuant to procedures which allow public comment and a clear route of appeal through the courts.

(e) Since May 17th, the NRC staff has been actively putting into operation the "interim" policy of "a." above, by contacting a New Mexico mill applicant and instructing the applicant to forward its New Mexico application to Oak Ridge National Laboratory (ORNL) so that ORNL can prepare an Environmental Impact Statement.

In view of the above activity on the part of NRC, we are now faced with an unworkable situation in attempting to operate an efficient and effective mill licensing program in New Mexico. New Mexico has always considred the mill and tailings as inseparable and therefore issues one license for both activities as a prudent regulatory control of radioactive material. The State's concern with regulatory overlap caused by concurrent licensing over uranium mill tailings include the following:

(a) Dual licensing by both NRC and New Mexico of mill tailings will be unworkable since no one will be in control and the applicant will be caught in an impossible situation. Only one regulatory body can be responsible for efficient and effective regulation.

(b) Dual licensing by regulatory bodies is contrary to Congressional and Administration policies for non-duplication of regulatory activities and is an unnecessary cost to the taxpayers.

(c) Interference with and encroachment on the regulatory program of New Mexico by NRC may weaken the Agreement State Program which in the past has been exemplary example of Federal-State cooperation.

(d) Preparation of an Environmental Impact Statement by the NRC (actually done by a national lab) is a long and expensive process and will delay even further the licensing process. This is counter to the Administration's policy of expediting regulatory reviews; and in practice offers no substantial improvement over the environmental review conducted currently by New Mexico.

To prevent further encroachment on the regulatory program of the State of New Mexico, and mitigate the untoward effects that stem from the recent Commission action. I urge your assistance in swift passage of remedial legislation designed to correct this intolerable situation.

I would also like to explore with you any other methods you may suggest to resolve this pressing issue.

Sincerely,

BRUCE KING,
Governor.

SECTION-BY-SECTION ANALYSIS

A product of the hectic final days of the 95th Congress, the Uranium Mill Tailings Radiation Control Act of 1978 contains certain provisions regarding dates of effectiveness which, if left to stand, may be subject to differing legal interpretation. Specifically, two questions of immediate concern have arisen regarding the timing of State and NRC implementation of title II of the Act:

(1) Do both the States and the Federal Government have authority to license uranium mill tailings (i.e., exercise concurrent licensing jurisdiction) for the three years following enactment of the Uranium Mill Tailings Radiation Control Act?

(2) Are the requirements of new section 274o of the Atomic Energy Act pertaining to procedures to be followed by Agreement States in issuing source material licenses for uranium mills immediately effective?

These questions have arisen because one section of the Uranium Mill Tailings Radiation Control Act (section 208) makes the provisions of the regulatory program in title II of the Act immediately effective unless otherwise specified, and another section of the Act (section 204(h)(1)) delays the effectiveness of certain provisions of the Act regarding State authorities for three years after the date of enactment. Accordingly, the Nuclear Regulatory Commission has proposed amendments to clarify the effective dates of title II.

These amendments generally provide a three-year interim period before the requirements in title II of the Uranium Mill Tailings Radiation Control Act (Mill Tailings Act) apply to milling operations and tailings licensed by Agreement States.

In non-Agreement States, the NRC would have immediate authority to implement the regulatory program in title II. Although section 204(h)(1) preserves prior State authority for three years, in case of conflict between Federal and State law, the Federal would prevail.

One of the provisions in title II (section 208) adds a new section 275 to the Atomic Energy Act of 1954. Section 275 authorizes certain Environmental Protection Agency standards which are, under section 108(a)(2) of the Mill Tailings Act, a prerequisite to the remedial actions authorized in title I. Thus it is stressed that these clarifying amendments are not intended to prevent the Administrator of the Environmental Protection Agency or the Nuclear Regulatory Commission from taking such action under section 275 of the Atomic Energy Act as may be necessary to implement title I of the Mill Tailings Act.

Sec. 1. During the three years following enactment of the Mill Tailings Act, section 1 prohibits the NRC from exercising duplicative authority over tailings produced in activities licensed by Agreement States unless the agreement is terminated within that period. The EPA and NRC may, however, take such action under 275 of the Atomic Energy Act as may be necessary to implement title I of the Mill Tailings Act.

Sec. 2. This section makes the provision in section 204(h)(1) of the Mill Tailings Act preserving State authority over tailings and wastes for the three-year interim conform to the new requirements of the Mill Tailings Act which apply to both byproduct material and milling operations that result in the tailings and wastes now defined as byproduct material. As enacted, section 204(h)(1) mentions only byproduct material specifically, although the regulatory program generally covers both milling and tailings. As amended, this section explicitly covers both byproduct material and milling operations and applies also to States that enter into agreements during the three-year interim.

Further provision is made so that EPA and NRC may take such action under section 275 of the Atomic Energy Act of 1954 (as added by the Mill Tailings Act) as may be necessary to implement the remedial action program in title I of the Mill Tailings Act immediately.

Sec. 3. As originally enacted, section 83 of the Atomic Energy Act of 1954 may be subject to various interpretations regarding its timing. Its provisions are not, under section 202(b) of the Mill Tailings Act, to become effective until three years from their date of enactment. Nonetheless, section 83a (as added by section 202 of the Mill Tailings Act) states that licenses in effect on the date of enactment of this section must comply with 83a (1) and (2) upon their renewal or termination, whichever first occurs. Conceivably this renewal or termination could take place during the three-year period in which section 83 is not supposed to be effective. The sentence as amended applies section 83a only to licenses that are renewed or terminated after the effective date of section 83.

Moreover, it might be argued that a loophole was left for licenses issued after the date of enactment but before the effective date of section 83. It could be argued that such licenses would not be covered by section 83a. As amended, the section applies the requirements of section 83a to any license in effect on the effective date of section 83.

Sec. 4. This section amends section 204(c) of the Mill Tailings Act to make it clear that the new Agreement State responsibilities regarding tailings and milling operations in new section 274o of the Atomic Energy Act are not effective until three years after the enactment of the Mill Tailings Act. The States are, however, encouraged to implement the new standards and requirements of the Mill Tailings Act to the maximum extent practicable.

Mr. DOMENICI. Mr. President, this bill is not going to get through the House of Representatives for some time, and we are concerned that undue delay will render the intent of that provision inoperative because the Federal Government and the States will be for 3 additional years involved in a process that is extremely duplicative and inoperative.

We, therefore, ask that this amendment be adopted and taken to conference.

If it offers any delay, I say to my good friend from Texas, certainly we would not expect him to cause any delays in his bill. It should go to the same committee that the bill we are considering today. Therefore, I ask that the Senate adopt it, that our good conferees take it and see if we can make it law before the year is out so that the goals of the amendment to the Nuclear Regulatory Commission bill with reference to this area will become law this year.

Mr. BENTSEN. Mr. President, I yield myself such time as I may need.

I say to my distinguished friend from New Mexico that traditionally we do not want to get involved in the jurisdiction of another committee, but it is my understanding that the leadership of the committee, the majority and minority, is not objecting to our considering this particular amendment and that the

amendment was part of the legislation that already passed the Senate. In trying to expedite the determination of what he seeks I will not object to it being attached to this particular piece of legislation with the understanding that we are subject to what the House of Representatives does on the question of germaneness once it gets over there.

But we are pleased from the standpoint of the majority to cooperate on this and if he has that kind of success with the minority he should be in good standing.

Mr. DOMENICI. I thank my good friend from Texas. He states it exactly correct. This passed the Senate with no opposition. Those who supported it then, minority and majority, from the Public Works Committee indicate no objection to this process. If it offers any jurisdictional problems, I am saying now that I certainly would encourage him to expedite his bill and, if that means dropping this amendment, that is satisfactory with us.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New Mexico yield back?

Mr. DOMENICI. I yield back my time.

Mr. BENTSEN. Mr. President, I urge passage of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 663

(Purpose: To abolish the Highway Trust Fund)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 663:

On page 1, between lines 2 and 3, insert the following:

TITLE I—SURFACE TRANSPORTATION AMENDMENTS

On page 11, after line 5, insert the following:

TITLE II—TERMINATION OF HIGHWAY TRUST FUND TERMINATION

Sec. 201. Effective after September 30, 1980—

(1) the Highway Trust Fund is terminated and the amount in such Fund, including any obligations held in such Fund, shall be covered into the general fund of the Treasury;

(2) any outstanding appropriations from, or obligations of, such Trust Fund shall be paid from such general fund;

(3) any authorizations for appropriations to be made from such Trust Fund shall be considered to be authorizations for appropriations from such general fund; and

(4) section 209 of the Highway Revenue Act of 1956 is repealed.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, the amendment I am offering today takes us right to the heart of this country's energy problem: We consume too much gasoline. Our total commitment to the automobile and to highways has left us with no choice for the future. Today mobility means the automobile. Tomorrow that luxury will not exist.

Today's amendment is designed to reduce our consumption of gasoline by abolishing the highway trust fund effective September 30, 1980. Federal gasoline and other user taxes that support the fund would remain in place, but revenues derived would flow into the general fund of the Treasury. Thus, funding levels for the revised transportation programs would be analyzed and set by Congress through the normal authorization and appropriations process. This legislation represents my continued commitment to remove the existing bias toward highway construction in Federal transportation programs and to create a balanced transportation system in the United States.

Mr. President, since the highway trust fund was created 23 years ago, the needs of our society have dramatically changed. In 1956, energy was plentiful and cheap. Today, energy availability is one of the crucial problems facing this Nation. Our heavy reliance on insecure foreign-sourced oil threatens our national security, creates economic turmoil, and fuels inflation. The highway trust fund has helped to exacerbate this problem. By acting as an automatic pilot for highway construction, where expenditures were based on trust fund revenues regardless of demonstrated needs, we have created the best highways and the worst overall transportation system in the modern world. This unequal and fragmented approach to transportation funding has led to a society dominated by the automobile. More than four out of every five American families own cars today and 90 percent of all urban travel is by car or truck.

I recognize the importance of having a a good highway system both at the interstate and intrastate levels; I know that our country basically runs on tires. But have we not already built the greatest highway system in the world? Presently our Interstate Highway System comprises over 39,000 miles of superhighways; we have more than 900,000 miles of other Federal-aid roads, not to mention the State and local roadway system, and we have spent over $104 billion from the fund alone. Enough is enough. It is well understood that more roads generate more cars and more traffic, and cars are one of the biggest categories of petroleum consumers.

We all know the facts: Transportation is the largest single end use of energy consumption in the country. Currently, 52.6 percent of our total energy use is for transportation with 39.5 percent of that going into automobile gasoline tanks. The Federal Government, through the development and implementation of its transportation programs, has had an enormous impact on the yearly waste of millions of gallons of gasoline. Today, mobility means the automobile—no real choice exists for most of the American public.

Mr. President, it is time for the Congress of the United States, through the implementation of policy and programs, to lead this Nation out of the grasp of OPEC and toward measures of conservation and eventual energy independence. If we really want to do something about the energy problems facing this country today, if we really want to reduce our level of gasoline consumption, and if we really want to improve our environment at the same time, we should abolish the highway trust fund and spend a good deal of the substantial funds raised by these excise taxes to finance more energy-efficient transportation.

With the long gasoline lines of just a few months ago it is obvious that alternatives to private automobile travel must be found. And yet the existence of the highway trust fund prohibits balanced transportation planning. Because of the fund, Federal transportation programs provide approximately 97 cents of each dollar for highways. Broken down into separate categories, the transportation dollar actually dictates transportation priorities to the States and cities. Local officials see money in our specific category of the existing highway code and then build a road that fits the Federal guidelines, rather than building what they need.

We, as a responsive legislative body, need to weigh our many national needs and seek a better balance in the use of limited financial resources. We must create a mechanism that allows States and local units to be more responsive to the changing transportation needs of our society.

Mr. President, I imagine this is about the seventh or eighth time in the last 7 to 8 years that I proposed the legislation to eliminate the highway trust fund and to give balance to our transportation system in this Nation.

The proposition has either been buried in committee, defeated on the floor, or has lost in conference. It has never seen the light of day.

The year is 1979, and I hope we will look at this proposition in terms of the year 1979 and the vastly changing world around us and more particularly the changing circumstances of energy as it relates to our Nation.

I do not see, Mr. President, how we are going to rid ourselves of the reliance on OPEC both as to supply and as to price until certain basic reevaluations take place in this country and until certain hard-nut decisions are made and acted upon.

When it came to the business of conservation measures on this floor, the Senate said no. It said no by a vote of 93 to 7 to fuel stamps in 1977 and it said no by a vote of 79 to 10 just a few months ago.

I have noticed that there seems to be some great elation in the country about the fact that the President has been given some sort of a standby rationing authority. I think it should be made

clear through my friends in the media, since the impression has been conveyed by them, that the President has such authority but that the authority he has is meaningless. Not until there is a 20-percent shortfall—you only had 4 to 5 percent during the Iranian oil cutoff and look what happened—only then can he invoke it. Even then Congress has two shots at him.

Senator METZENBAUM and I sat out here and argued for a minimal type of conservation measure the other day dealing with the efficiency of small electric motors. All it was were some suggested guidelines by the year 1983. It passed by four votes.

I am not going to get myself into a lather belaboring what should by now be the obvious. Until we get into place some effective conservation measures there is no way to solve our energy problems—the price will continue to soar and supply will be unstable.

Apparently the price is not high enough and the gasoline lines have not been long enough or frequent enough to bring us to this conclusion. But we will come to it. Instead of accomplishing conservation in a small but meaningful way and in a way that does not discombobulate everybody's life we are going to come to a point where we are literally going to be tossed bodily out of our automobile.

Why do I make these comments as I relate now to the highway trust fund. I think we all agree that any energy program has to encompass the following: Conservation in the terms of diminishing our use of gasoline; additional supplies of energy both in the traditional sense of the fossil fuels, which hopefully will be realized through deregulation and decontrol; and additional supplies whether they come from the development of the exotics, solar energy, geothermal, fuel cell, gasification, and so forth. None of the exotics are going to come on stream until the year 2000 and beyond in sufficient amount to give us that kind of a handle on our energy problems. Conservation, as I have already pointed out to Senators, has not been accomplished.

So now we come to the third part of any solution which is alternate forms of transportation.

For all intents and purposes, since the end of World War II the Federal Government has spent probably on an average of 96 cents of every transportation dollar on the highways or more specifically on the automobile, with roughly a penny or two going to rails and another penny to airplanes.

So if we have the greatest highway system in the world it is because we paid for it, and we are paying for it. If we have no rail systems, we have no bus systems, it is because we have spent nothing on them.

We might be able to continue in this kind of dream world were it not for people 12,000 miles away who have made it clear there is going to have to be some alteration in our thinking, that no longer can it be the automobile society that has existed since the end of World War II.

It seems to me that the responsible reaction by Congress then is to anticipate what will occur, to anticipate and to start providing the alternate methods of moving about this Nation either by rail, intercity bus, or mass transit. We know it is going to come. The only thing to be decided is as to whether we will plan for that eventuality or we will allow it to come over the top of us and behind us before we start to make adequate provision for it.

Again I think I know what the answer is going to be. Two years ago I sat here or stood here on the floor of the Senate and I decried the gas rationing by price that was going on in this country, and I said we had better make provision for our poor, our elderly, and our fixed income people, and to get a better system of rationing plan. That was 2 years ago, to prepare for that day when prices were going to get so high that large elements of our society would not be able to afford their utility bills.

It was accepted in the compromise version but lost in conference. Here we are 2 years later scrambling around with a crisis intervention program, trying to make sure that the disadvantaged in our society are not going to freeze this winter when we could have planned for it 2 years ago.

There is no way that Americans are going to be able to continue to drive the way they have during the past 20 years, and you ought to say so. You ought to tell your constituents that as much as 40 percent of every barrel of oil goes to gasoline. Do you think that is going to be able to continue? I do not think so. How else are they going to move about?

This is the same U.S. Senate that just before the Fourth of July recess, when the President proposed his plan to cut back 40 percent on Amtrak, sat here with 1977 statistics and said, "These statistics justify a 40 percent cutback," when even on that very same day you could not get hold of Amtrak to make a reservation. Every train was 105 and 110 percent full. We were going to go ahead and act on 1977 statistics.

Do you think a few things have changed since 1977? Do you think a few things have changed since 1956 when the highway trust fund went into being? All this amendment does is to take highway trust fund moneys and put them into the general fund of the Treasury, and then—I hate to bring this to the attention of my colleagues—it forces each one of us to start assigning transportation priorities and making choices, doing our homework here on the floor as to what is needed.

We cannot excuse the fact that we are ill prepared with all new forms of transportation by saying "It is the highway trust fund. We do not have matters of judgment on this score."

My amendment does not eliminate the money for highways. It will still be there, but State by State, locality by locality, it will have us making judgments as to what is needed to move about this country of ours.

To give your constituents the impression that 1979 in terms of transportation mobility and need is the same as 1956 is a total abandonment of the trust placed on each one of our heads.

Twenty-three years ago this trust fund began, and we are stuck with a transportation policy of 23 years ago. It is like an automatic pilot. We have overflown the destination hundreds of times in many of our States. It does not make any difference, we will just keep on going and going and going, and not because of any national need, not because of any change in priorities, but because of vested interests, because of the highway lobby, which is one of the most powerful in this Nation's Capital, and they would far rather deal with a trust fund than 100 freely elected Representatives of the people, who have to use their heads.

The need for highways still exists in almost all sections of the country, both in the primary and secondary roads. Nobody is going to argue against it.

On the other hand, neither can anyone else argue against the enormous need for a decent passenger rail system, intercity, in the United States, for decent bus service in our various States and cities, and mass transit facilities.

The argument is going to be presented, "Well, then, let us have a unified transportation trust fund or a mass transit transportation trust fund. We already have the airport trust fund."

I say "No" to all trust funds. It is no different from any other national need, but it should be judged as to its circumstances and as to its time by that particular group of Representatives of the people.

How in heaven's name in the year 1979, with a crisis that confronts this country, can we come forth with the same old stuff? How?

Am I correct when I read the report that they did not even have hearings on this bill this year? Is that correct, no hearings were even held? No hearings held, no votes in the committee, nothing. It just goes on and on and on. The world changes, but the highway trust fund does not. The world changes but the U.S. Senate does not. Then we wonder why our dependence on oil continues to soar, why the price continues to soar, and why the supply is in jeopardy.

There is no mystery, Mr. President. We are not doing our job.

We are not doing it on conservation. We are not doing it on alternate forms of transportation. All we like to do is dream up new energy mobilization boards, synthetic fuels corporations—everything to get away from the fact that the lifestyle in this Nation is going to have to change. The automobile no longer can dominate our lives, unless your constituents would prefer having an automobile to having a job, unless they would prefer having an automobile to a sound dollar, unless they would prefer having an automobile to the very many services that are so essential to the well-being of their families and their neighbors.

It becomes clear, more so as every day goes by: The inflation we are in is an energy inflation. The recession we are going into might as well be called an "ener-cession"—an "ener-cession," resulting from failure to respond to the challenge that is laid down to us. I heard the critics of the President's energy plan

when they said, "Where are the provisions for mass transit and alternate forms of transportation?" That was a good question when asked, and is still a good question, and will be a good question tomorrow, I am sure, after the vote is over, and the month after that and the year after.

I would hope that at least we would show some sensitivity to this changing world around us, to our increasingly impoverished circumstances, and agree that there are more important things than the automobile and the highways, and agree that new occasions demand new responses—not 30-year-old responses, but new responses.

I urge the adoption of my amendment.

Mr. BENTSEN. I yield myself such time as I may need.

Mr. President, I have enjoyed the rhetoric of the Senator from Connecticut, as I always do, but he has some problems with the facts. When he talks about the committee not having hearings, of course we did not have hearings. We are dealing with technical amendments. We are dealing with a certification date, determining whether it is done on October 1 or January 1. We are talking about the question of ferries and subsidizing tolls for emergency use ferries. I have read the list of amendments, and they are technical amendments. They have been considered by the staff, they have been considered by the members of this committee. When the Senator talks about trying to change this kind of bill by bringing something that he says would drastically change the highway program, he is right; it would drastically change the highway program.

He says it is an idea that is 30 years old; no changes over 30 years—automatic pilot, full steam ahead, no deviation.

Not so. And the Senator had a good deal to do with what we have changed, as he well knows. We have changed how urban funds can be used; we have provided the flexibility to use funds for bus lanes, to turn in urban interstate projects for mass transit authorizations. We have changed this particular piece of legislation, and we will continue to change it.

This idea of his is not a new one. It is something like a biennial blossoming. As I recall, it has been considered a number of times. In 1972 there were 18 votes for it, in 1973, 23 votes for it, in 1975, 22 votes for it, in 1978, 10 votes for it. Yes; 100 Senators considered it, they sure did, and they said it was a bad idea, and they said that the trust fund was working, and it was something that we ought to continue.

The trust fund is not something that spurs spending; the trust fund, in effect, has put a cap on spending. He cited some figures of 97 percent of the transportation dollar going to the highways. Who paid for it? It is a user tax; the people that use the highways pay for them. That is where the money came from.

Then the Senator talks about railroads. Sure, I am for railroads, and I think we need railroads. But we have to understand where we build those railroads. They have to be built along concentrations of population, along corridors. I am delighted that the Senator from Connecticut has those concentrations of population in Connecticut. Across vast parts of my State I do not have it. Nor does the Senator from West Virginia. The present Presiding Officer (Mr. CULVER) does not have it.

But the Senator who is sitting in the chair as Presiding Officer is one who is interested in bridges, and understands the dangers of bridges that need reconstruction, widening, and strengthening, and the number of fatalities we have had as a result of bridges failing. Where does the money for bridge repair come from? The highway trust fund. The Senator from Iowa wishes it could have been more, and I understand that, because we have thousands and thousands of bridges across this country that do not meet safe standards, and we are a long way from finishing that job.

Abolish the highway trust fund? Well, you gut the Federal-aid highway program. That is what you do; you put the whole Interstate System in jeopardy. It is just as simple as that.

As far as I am concerned, the highway trust fund has two rare attributes: First, it is a Government program that works, and second, it does not spend more money than it collects. There are sure not many of those. But this one, the highway trust fund, is that kind of a program.

For two decades, it has provided the means to build an Interstate Highway System that is of enormous significance to the citizens across our country.

What do you think the transportation problems would be in this country if we did not have the Interstate System, if we did not have an Interstate System that provided an economical kind of transfer of goods across this country, instead of some of the tortuous trails that we have had to traverse in years past?

The Senator from Connecticut suggests that we continue to collect the funds, that we put them in the general revenues. Well, now, what does that mean? Does it mean he wants to cut the amount of funds that are going to highways? If he does not mean that, then why bother to change it from the highway trust fund to general revenues?

The cost of maintaining highways is going up with inflation, escalating all the time. The demand for funds is constantly increasing. But the money that is going into the highway trust fund is leveling off. It has plateaued. I frankly believe that we have seen the peak in gasoline usage in this country, in spite of the increase in population, in spite of the fact that we have more automobiles every year. It has peaked, it has leveled, and it will probably go down. The reason is that we have mandated better mileage in our automobiles. The manufacturers are building cars that today give you 35 percent better mileage than they did just 4 years ago in this country, and they are going to have to do a lot more. Just a few moments ago I was talking with someone who was telling me that one manufacturer, Volkswagen, is coming out with an automobile that, 2 years from now, will give you 75 miles to the gallon, with a diesel engine. I hope they do, and that American manufacturers will beat them to it.

We had expenditures of $8.5 billion in fiscal year 1979. To those people who think there is fat in that fund, that we have billions of dollars sloshing around in the coffers begging to be spent, I say it is not so. It is not the case.

This committee and this Senator have resisted efforts to mandate new and higher levels of expenditures for our highways. Last year the Senate conferees reduced the House-passed funding levels by nearly $16 billion over 4 years—reduced them. When the Senator talks about lobbies, now, does he think that is something that is popular with them, that this so-called powerful lobby he was talking about was pushing this Senator to reduce funding, that they wanted it reduced by $16 billion? Certainly not.

In the future, we are going to see this highway trust fund under continued pressure.

Another argument we hear is that our highways are inherently inefficient, that they increase our dependency on imported energy. Well, that is just not necessarily the case, Mr. President. We had the committee make a study of the most efficient means of transporting people around cities and we found that the most energy efficient modes were vans and buses, and those modes depend on the interstate and other highway systems. In addition we have seen that only a limited number of metropolitan areas have the population density to support nonhighway mass transportation.

In most areas of this country, mass transportation must take the form of multipassenger motor vehicles that utilize the regional road and highway network.

The argument that the Federal highway program is inflexible and unresponsive to our current needs is also without merit. For 6 years, that program has been characterized by its flexibility.

I spoke a moment ago how we can use these funds for the purchase of buses, construction of bus lines, fringe parking, and all the rest.

With the approval of the Secretary of Transportation, urban areas can substitute a mass transit project for an unwanted interstate segment. The list goes on and on.

Mr. President, if you scrap the highway trust fund as proposed by the Senator from Connecticut, there will no longer be any certainty that adequate funds will be available to complete and maintain the vital arteries of highways across this country. Highway-related projects have long leadtimes, and the ability to enter into those obligations without waiting for appropriations allows the State agencies to plan their programs far in advance and make the necessary financial arrangements. To abolish the trust fund would be to replace a proven, effective program with uncertainty we can ill afford.

There is an old saying, "If it ain't broke, don't try to fix it." And this one ain't broke; it is working.

I do not pretend that the trust fund is sacrosanct, that it cannot be improved. We have made an honest effort to make the fund flexible and responsive to current needs, and we are going to continue that effort. When we do the highway bill next year, I would be pleased to take a very close look at any proposal to improve the system my distinguished friend from Connecticut wants to present to the committee and give it full consideration at that time. But that is the time we ought to consider a major piece of legislation such as he is now proposing to us.

Let me also point out that the trust fund is not a spur to highway spending. Historically, highway needs have generally far exceeded revenue generated by the fund—but we have made it a practice not to provide authorizations that exceed revenues. In this important respect the fund has acted as a cap—not a spur—on highway spending.

Mr. President, this amendment is clearly inappropriate. It suggests a fundamental change in transportation policy that has been carefully considered and soundly rejected by the Senate.

Remember once again this is a technical bill, and what the Senator from Connecticut has proposed is a major, drastic change in a program which is working. I urge my colleagues to defeat this amendment.

I reserve the remainder of my time.

Mr. RANDOLPH. Mr. President, could I inquire—I was away from the Chamber for a few minutes—what is the status now of the pending amendment offered by the able Senator from Connecticut (Mr. WEICKER)?

The PRESIDING OFFICER. The Chair will state that under this amendment 1 hour has been allocated equally divided with 30 minutes to the Senator from Texas and the Senator from Connecticut. The Senator from Connecticut has now used 17 minutes of his 30 minutes, and the Senator from Texas has used 12 minutes of his time.

Mr. BENTSEN. Mr. President, I yield such time as our distinguished chairman (Mr. RANDOLPH) may require.

Mr. RANDOLPH. I hope that Senators will reject the amendment to terminate the highway trust fund offered by the able Senator from Connecticut (Mr. WEICKER). I stress the fact that the trust fund has proved a valuable and flexible asset in meeting the highway needs of the Nation for more than 20 years.

It has afforded financing for the greatest public works program ever undertaken by any country in any age—the construction of the Interstate Highway System. It serves people. We recognize that this task is not yet completed. This is not the time to terminate the existence of the mechanism which has been responsible for the monumental accomplishment already achieved in this program.

We must also remember that the priority accorded interstate construction—a justified priority, I add—has obscured a number of other pressing highway needs. I speak of such needs as bridge replacement and rehabilitation, roadway resurfacing and repair and highway safety. We should not, I emphasize, terminate a financing source which has proven itself equal to the task of addressing needs of the magnitude of our Highway Transportation System.

Mr. President, I urge the rejection of this amendment for another important reason. The bill, H.R. 4249, now under consideration, makes technical amendments and addresses special needs, to last year's Highway Act.

The errors in the Senator's comments are many. They have been repeated year after year. Members here, and in the House of Representatives, have recorded their votes in favor of the highway trust fund.

Mr. President, I do not have a desire to reiterate what has been said year after year, although the chairman of our Transportation Subcommittee is correct in saying that this is not the appropriate measure to which to offer the amendment.

The Senator from Connecticut has every right to offer it, but this is a bill that is clarifying, which takes care of technical situations, and what we call pressing needs in certain parts of the country. However, I am ready to go to a rollcall vote rather than to take additional time.

Mr. President, I will say that the continued errors in the argument of my colleague are as evident today as they have been in the past. The response to those arguments frankly has been the best evidence of the Senate's belief that the highway trust fund is the instrumentality for more than 20 years which has brought into being in this country the greatest public works program in the history of any country in any part of the world. The Interstate program has been a people's program. It has served the people. The products of the farm, the factory, the mill and the mine are moving over this network of roads in this country, as well as those people who go from their homes to the mines of West Virginia or into the pursuits of day-by-day gainful employment in every State of this Union, including Connecticut.

I would welcome, as I say, although I am not the one who should say that, a rollcall vote on the amendment.

Mr. BENTSEN. Mr. President, there is one in the U.S. Senate who has done more work on the bill pertaining to a modern highway system across this country than the Senator from West Virginia. I applaud him for it.

I will say to my distinguished friend from Connecticut that, once again, this is not the first time that I have had a major piece of legislation which is technical and someone wanted to attach other amendments to it. I want to say that I will be glad to listen to his proposal in the next year, and after I have given him a fair trial, I will do my best to defeat his proposal.

Mr. RANDOLPH. Mr. President, will the Senator yield 60 seconds to me?

Mr. BENTSEN. I will be delighted to yield such time as the distinguished chairman desires.

Mr. RANDOLPH. I appreciate my colleague's yielding. I had a predecessor in this body, Senator Matthew Mansfield Neely. On one occasion he looked at his friend across the aisle and said, "If he was in need, I would climb the highest mountain to be by his side, I would swim the widest river to bring assistance to him, I would trudge through the snows of winter to help him, I would walk through the searing sands if I could be of assistance. Having said all this, the amendment he offers I cannot support."

He paid compliments to his friend as a friend, but the logic of the amendment he could not endorse.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, the distinguished Senator from West Virginia speaks as one who has the votes in his pocket. I have no doubt he is going to prevail here on the floor, no doubt at all. I only hope that it is within my lifetime to correct this. My position is established.

Mr. BENTSEN. I wish the Senator such a long lifetime.

[Laughter].

Mr. WEICKER. Now let me respond to some of the facts which have been put forth in the debate. The distinguished Senator from Texas has said that the trust fund is a cap. He knows well, as well as I do, that it is not a cap. The Congressional Budget Office estimates that anticipated receipts will not cover authorized spending levels over the next 3 to 4 years. The trust fund is operating with a $7 billion deficit in 1978. The trust fund revenues are leveling off, but the expenditures, as he has indicated, are increasing. It is possible that general funds will have to be used.

It is not a cap. He might have many arguments on his side, but he should not use that one.

Point No. 2: He asked the question, Does the Senator from Connecticut intend to cut highway funds? Yes, yes. Everybody thinks there is going to be a resolution of the energy crisis without any change in anything at all, that we can drive as much as we drove; that in the application of a transportation system, the highway is still going to be No. 1 and in its same relative position to other forms of transportation; that we can continue to embody or embrace those programs which do not give us additional production to the fossil fuel.

The Senator from Texas knows full well I mentioned additional production of fossil fuels as being essential to our getting out of the energy crisis. I point out to my distinguished colleague that I was the only New England Senator—the only one, and have been since 1973–74, for 5 years—to vote for decontrol and deregulation, so much so that I am called by my opponents in New England the third Senator from Texas. Texas hardly needs a third Senator.

What we do need is additional production, along with the conservation I mentioned, along with the alternate forms of transportation. That decontrol position is unpopular in New England, as I am sure my mandatory conservation position and my highway position is unpopular in Texas. But, Mr. President, it is those unpopular decisions that are going to get us out of the crisis we are in. And until they are made, there is no getting out. That is the problem.

Even the President is tied hand and foot by the unwillingness of Congress to make the unpopular decisions. I am no

fan of President Carter's, but do I think he deserves more support on the power that is given to him to get us out of this energy problem? I sure do and I have supported him on those points.

If you ask the people of the State of Connecticut what are our priorities right now in that small State, they would answer, "We need more bus systems, we need more rail service." This does not mean to say we do not have some highway needs, but they have become minimized as the Interstate System has been completed in some States. That is not the case in all States. What I am asking for is an option, locale by locale, to meet the circumstances of that area, and certainly more specifically, the circumstances that confront us as a Nation.

The Senator from Texas mentioned the fact that rail transportation is just good for those areas of heavy population concentration. That used to be the case; it is no longer. How many have heard Senator MELCHER from Montana stand up here and plead for Amtrak funds for his State, which, on a ridership basis up to now, would not justify additional rail service or the maintenance of the rail service that was there? But with people not being in their automobiles in Montana, they also have to get around.

I do not care if there is only one Senator. It has nothing to do with whether it is 1, 10, or 100,000; if people cannot move and cannot get into their automobiles something should be done.

Yes, I supported the Senator from Montana, as I would Texas, Iowa, wherever, in seeing to it that their constituents are protected from a crisis which is not regional in its nature but, rather, national.

Lastly, the business of its being a user tax. I pay it, as everybody does when we buy a gallon of gasoline. I am not necessarily paying that tax to build another highway; I am paying that tax so I can move—so I can move, however that occurs. Do you think the people who are sitting there in the world's greatest parking lot, on Long Island, bumper to bumper, for 2 hours, do you think that is what they want? Or do they want more efficient rail systems running between Manhattan and the Island? They want to move, however that is best accomplished. That is what we are paying our taxes toward.

How many of us have flown over sections of this country, and all of a sudden see a highway going to nowhere and ending? That is what I can see with this automatic pilot. This legislative automatic pilot is going to keep on spitting out those highways, even though there are going to be no cars on them. As you fly across this country, you are going to see stretch after stretch of concrete, ending nowhere with nothing on it. There will be the final testimony to the legislative wisdom of the U.S. Senate.

Mr. BENTSEN. Mr. President, I have a great respect for the Senator from Connecticut and his deep concern, and that is why I overlook his lapses in logic when he gets to something like the highway trust fund. I accept his prejudice in this regard, but I cannot agree with him.

When he talks about long-distance trains for passengers and how effective they are, I find that a little difficult one to accept, too. Anybody who tries to get on a train and go from New York to Los Angeles is trying to entertain his grandchildren. There cannot really be any economic reason for that. You can get all the people that take a passenger train for those long distances three airplane tickets and buy the railroad buffs a free Lionel train set, and the taxpayer would be better off. Once again, there are places for passenger trains, but the places are where you either have population corridors or you have reasonably close population centers to take care of.

As to what the Senator said about the deficit in the trust fund, let us be sure we understand what we are talking about. At the present time, the trust fund has a $12.5 billion surplus and we are trying to stretch that out. That is why we held down these expenditures this time, because we can see some of the problems that are forthcoming in the way of decreasing revenues coming from cars that give better gasoline mileage, so people are paying less and less into the highway trust fund as these years pass on.

We have brought forth what we think is a minimum program, needed for the modernization of our highways, for rebuilding the bridges that are not safe in this country, for trying to build safer roads to have the lives of our people. The program that we agreed on last year, after long and lengthy debate, after long and lengthy hearings, as a sound one for this country of ours brought about substantial changes in the utilization of the trust fund. I ask my colleagues not to do violence to that now on a technical amendments bill that did not, in any way, anticipate this kind of major legislation.

I urge the defeat of the amendment.

Mr. WEICKER. Mr. President, I intend to yield back the remainder of my time after just two comments—one question and one comment.

First of all, the Senator from Texas asked the question, where would we be if we did not have this system, this highway trust fund? I will tell you where we would be: We probably would be where we were right after World War II, when we had no highways, and we would be where we are right now in the year 1979, where we have no rails. That is where we would be and where we are.

The question I ask the Senator from Texas—I have to lay my traps out in front of me here. I realize it is going to be several years before the correctness of my position is borne out.

I estimate that you fellows—by that I mean the committee, the distinguished Senator from West Virginia, and the distinguished Senator from Texas—are going to have to go for general fund moneys to balance things out sometime in the near future.

I wonder if the distinguished Senator from Texas would like to comment: At such time as any portion of this fund has to be supplemented by general funds, would that be the proper time, then, will we then have crossed the line to the elimination of the highway trust fund, therefore sending up the whole issue each year for legislative determination, rather than just some small part of it, which is asking for supplementary funding?

Mr. BENTSEN. I say to my distinguished friend, when that time comes—if it comes, and it may well—when we have problems with having adequate funds in the highway trust fund, I would not anticipate at that time going to general revenue. At that time, I would anticipate that we would increase the user tax to take care of it and that the users would continue to pay for the highway system in this country.

I know that is not going to be in the next year or two, but I have previously proposed that and I anticipate that I shall propose that again.

SAVE THE HIGHWAYS

● Mr. HUMPHREY. Mr. President, I rise in opposition to Senator WEICKER's amendment to abolish the highway trust fund and divert revenues to the general fund of the Treasury. This action would result in the diminishment of our Nation's highway program, and highways remain the crucial link binding my State of New Hampshire.

The highway trust fund has been a model Federal program which has been of great benefit to New Hampshire. We must not suddenly turn our back on such a model program.

In addition, this program is still urgently needed. Recently, the Federal Highway Administration released some startling figures stating that:

Nearly half of the Nation's 1.9 million miles of paved roads are rated "very poor" or "fair";

Nine percent of all paved roads are beyond repair and must be rebuilt;

Approximately 105,500 of our 563,500 bridges are listed as needing repair or replacement. Allowing our Nation's highways to fall into disrepair will result in increased accidents, leading to increased injuries and deaths, and to the destruction of property.

As the distinguished Senator from Connecticut knows, it is the motor fuel tax that supplies the majority of funds for our highway program. The program has been hit especially hard by inflation, since the Federal tax is fixed in cents per gallon of gasoline sold and does not increase with the inflation rate. There has been no increase in the 4-cent Federal gasoline tax since 1959, thereby reducing the buying power of the funds available. Another cause of decreased revenues for the trust fund is the increased fuel efficiency of vehicles which tends to erode the total dollars available.

At the same time, there is concern regarding the condition of our Interstate System. Some of it is over 20 years old and badly in need of repairs.

These facts make it necessary that we do not suddenly change course in our Nation's highway program. This Nation relies on its highways as an essential means of transportation.●

Mr. WEICKER. Mr. President, I am prepared to yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I am

prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The question then occurs on the amendment of the Senator from Connecticut. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. LONG), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Tennessee (Mr. SASSER) are absent on official business.

I also announce that the Senator from Alaska (Mr. GRAVEL) is absent because of illness.

I further announce that, if present and voting, the Senator from Montana (Mr. BAUCUS), the Senator from Nevada (Mr. CANNON) and the Senator from Alaska (Mr. GRAVEL) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH) is absent on official business.

The PRESIDING OFFICER (Mr. PRYOR). Are there Senators in the Chamber desiring to vote?

The result was announced—yeas 9, nays 82, as follows:

[Rollcall Vote No. 370 Leg.]

YEAS—9

Chafee	Kennedy	Proxmire
Cranston	Pell	Tsongas
Javits	Percy	Weicker

NAYS—82

Armstrong	Goldwater	Nelson
Baker	Hart	Nunn
Bayh	Hatch	Packwood
Bellmon	Hatfield	Pressler
Bentsen	Hayakawa	Pryor
Boren	Heflin	Randolph
Boschwitz	Heinz	Ribicoff
Bradley	Helms	Riegle
Bumpers	Hollings	Roth
Burdick	Humphrey	Sarbanes
Byrd, Harry F., Jr.	Inouye	Schmitt
	Jackson	Schweiker
Byrd, Robert C.	Jepsen	Simpson
Chiles	Johnston	Stafford
Church	Kassebaum	Stennis
Cochran	Laxalt	Stevens
Cohen	Leahy	Stevenson
Culver	Levin	Stewart
DeConcini	Lugar	Stone
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Durenberger	Matsunaga	Tower
Durkin	McClure	Wallop
Eagleton	McGovern	Warner
Exon	Melcher	Williams
Ford	Metzenbaum	Young
Garn	Moynihan	Zorinsky
Glenn	Muskie	

NOT VOTING—9

Baucus	Danforth	Long
Biden	Gravel	Morgan
Cannon	Huddleston	Sasser

So the amendment (UP No. 663) was rejected.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I commend the chairman of the Transportation Subcommittee, Mr. BENTSEN, for holding hearings and reporting H.R. 4249, which addresses some of the problems in the implementation of the Surface Transportation Assistance Act of 1978.

Under this law, the Secretary of Transportation had the authority to select three States in which to conduct access control demonstration projects. One of the States selected was Arkansas. Arkansas officials, in addition to officials from the other two States, have been engaged in a battle with the Federal Highway Administration over the Federal-State shares. Arkansas State officials assumed, quite naturally, that the $3.3 million project would be completely funded by the Federal Government as other demonstration projects have been.

The Federal Highway Administration took the position that Congress intended for projects to be funded on a 75 to 25 percent matching basis. The committee report states clearly that the conferees on the Surface Transportation Act intended that the funds for the access control projects were to be obligated on the same basis as other demonstration projects, namely 100 percent federally funded. This should eliminate the confusion on this program and permit the States to proceed.

I urge expeditious action by the Senate on this legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROTH. Mr. President, I commend the committee, especially the chairman and ranking member of the full committee and their staffs for their personal efforts in addressing the critical bridge replacement needs of States such as Delaware in these technical amendments.

In addition, I commend the chairman of the subcommittee, who represents the great State of Texas, for his understanding and support for a solution to this small-State problem. I also commend the ranking member of the subcommittee who represents the great State of South Dakota for his concern for the balanced bridge needs of States like his and my own.

These technical amendments would correct an oversight in the 1978 act which has had a severe impact on the critical bridge replacement needs of States such as Delaware.

Last year the Environment and Public Works Committee under the leadership of the chairman and ranking member established the $200 million discretionary bridge program. This program addresses the critical needs of States to be able to fund high-cost bridge projects which cannot be funded in reasonable time under the regular bridge replacement program. Although not included in the Senate-passed version of the act, a provision was added in conference making only bridge projects costing $10 million or more eligible for funding from the discretionary bridge fund.

However, many vital bridge projects which impact entire regional transportation networks cost many times the annual allocations of certain States, such as Delaware, under the regular bridge replacement program—but cannot be funded because the projects cost less than $10 million. These States are in a real bind when it comes to funding these bridge projects.

One such project is the Augustine Bridge, a vital, high-cost, high-traffic volume arterial link in the civic and commercial heart of metropolitan Wilmington, Del. Replacing this bridge, which has been closed as unsafe since May, 1978, will cost over $6 million. But the $10 million minimum removes this project and other high-cost, high-traffic volume bridges costing less than $10 million from eligibility for the discretionary bridge program. The $10 million minimum also acts as an incentive to States to inflate the costs of their bridge projects in order to meet the minimum.

Last year when I brought the Augustine Bridge problem to the attention of the committee as well as the House Commerce and Transportation Committee, their response was swift and responsible. In December 1978, I wrote the chairman and ranking member about the oversight in the 1978 act, and in January of this year I and the other members of the Delaware congressional delegation introduced S. 258, legislation to correct this oversight. At that time the committee immediately began considering correcting the Augustine Bridge problem as part of these technical amendments.

Section 8 of this bill would correct this oversight by also making eligible for the discretionary bridge fund those projects costing at least twice the annual allocation to a State under the regular bridge program. In addition, section 8 would permit Delaware, which has previously transferred urban system moneys to its bridge replacement program in order to fund the Augustine Bridge project not eligible under the discretionary bridge program, to transfer those moneys back to its sorely needed urban system projects when the bridge project becomes eligible under section 8. This language prevents the anomaly of a State "robbing Peter"—its urban system projects—"to pay Paul"—its bridge project made eligible under the discretionary fund.

I have a couple of questions for the chairman concerning the committee's intentions to solve this Augustine Bridge problem once and for all under section 8. First, by making the Augustine Bridge eligible for the discretionary program under section 8, is it not the committee's intention that the Augustine Bridge is a bridge which has come to the committee's attention as a logical choice for high priority assistance by the Secretary of Transportation under the discretionary program?

Mr. RANDOLPH. Yes, the Senator from Delaware is correct. The committee intends that the Augustine Bridge funding problem should be solved once and

for all, and that the bridge is a logical choice for high-priority funding in the discretionary program in fiscal year 1980.

Mr. ROTH. I also understand section 8 directs the Federal Highway Administration to permit Delaware to transfer back urban system moneys to urban system projects where the Augustine Bridge has been funded as a stopgap measure under the State's urban system allocation. Is that the intention of the committee in approving section 8(b)?

Mr. RANDOLPH. Yes, it is. The committee believes that the Augustine Bridge should be considered quickly for funding when it becomes eligible under the discretionary program. Section 8(b) contains language which the Federal Highway Administration has stated would expedite their administrative obligations in considering the bridge for funding.

Mr. LEVIN. Mr. President, as I was campaigning for the Senate seat last year I came across a situation in Bay City, Mich., that should be corrected. Bay City has an established downtown district; this is attributable in large part to the preservation and character of the old buildings and street patterns in that area. Unfortunately, one of the bridges in downtown Bay City collapsed a few years ago. Bay City residents sought funds for its reconstruction. Some wanted to replace it in its same form—a two-lane bridge—in order to maintain the businesses and residences at both ends of the bridge. They were told by DOT, however, that if a study of probable future traffic needs showed a four-lane bridge was needed, they could have Federal money only for a four-lane bridge.

Many people in Bay City say that will result in the destruction of several blocks of small businesses and over 60 homes that were at both ends of the former bridge. Some Bay City residents did not want that; they just wanted their two-lane bridge restored so the businesses and residences could be preserved. The collapsed bridge has not been replaced. I am at a loss to understand why the Federal Government has to force communities to follow inflexible Federal concepts of what is good for them. I believe that the residents of Bay City know more about the needs and desires of their community and should be allowed the option to replace their bridge with a two-lane bridge, if that is their desire under these circumstances.

DOT says their conduct is controlled by law—23 U.S.C. 109—pertaining to standards for Federal highway assistance. That law states:

(a) The Secretary shall not approve plans and specifications for proposed projects on any Federal-aid system if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

Senator RANDOLPH, as chairman of the Senate Environment and Public Works Committee and as author of this particular statutory language, I ask your assistance in clarifying this language for me, DOT and the residents of Bay City. Does this section permit approval of only those projects and in particular, funds for the reconstruction of a bridge, which are estimated to meet probable future traffic needs or is that just one of several factors which the Secretary of DOT must consider. Should not the Secretary also weigh the effect of such construction on the local community and the impact of a wider bridge on existing businesses and neighborhoods?

Mr. RANDOLPH. Senator LEVIN, the assessment of future traffic needs of a proposed highway project is only one item to be considered by the Secretary in making a decision to approve a plan or specifications. Where other factors exist that outweigh the probable future traffic needs, the Secretary shall consider them and act accordingly. This means that where, as in Bay City, the preservation of the character of a business district is of great importance and value, and the local community supports the construction of a bridge which statistically may not meet projected future traffic needs, the Secretary may approve the plans and specifications for such a project. I agree with you, Senator, that the Federal Government should not ignore existing business and residential patterns and needs when funding a replacement bridge.

Mr. LEVIN. Thank you for this clarification.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from South Dakota yield back the remainder of his time?

Mr. PRESSLER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4249), as amended, was passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BOSCHWITZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there will be one more conference report brought up yet this afternoon. Votes will occur on any or all of them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the moment there be a period for the transaction of routine morning business not to extend beyond 15 minutes, and Senators may speak up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAPANESE UNFAIR TRADE PRACTICES HURT AMERICAN RICE FARMERS

Mr. LONG. Mr. President, in 1979, the Government of Japan has initiated a program to dispose of nearly 5 million metric tons of surplus rice over the next 5 years. This program consists of massive export subsidies that allow Japanese rice to be sold at prices and on terms much more favorable than those of American rice, displacing sales of U.S. rice in foreign markets.

I am very troubled by this unfair trade practice of the Government of Japan. All of the countries that are parties to the agreements initiated at the conclusion of the Multilateral Trade Negotiations in Geneva early this year have pledged themselves to the elimination of just such practices as this. Subsidized exports distort world trade, create uncertainty, and invite retaliation. Where this Government can act to eliminate them, I believe it is our duty to do so.

Mr. President, the Government of Japan pays its farmers up to five times the world price for rice. The consumption of rice in Japan is on the decline. Normally, market factors would force producers of a commodity for which demand is declining to diversify, and to plant other crops. While it is said that the policy of the Japanese Government is to discourage rice production, these artificially inflated prices obviously have the opposite effect.

If the Japanese Government wants to buy surplus rice, and to make sure it will have more rice than can be consumed in Japan, that is the Government's own business. What is not purely a Japanese affair, however, is the impact of the exportation of that rice on the sales of other exporters of rice.

When Japanese rice is sold for export, it is sold at or under the world price. The loss is absorbed by the Government of Japan. That loss, Mr. President, is an export subsidy, just as surely and clearly as if it were a cash grant to farmers who export their crops.

Japan has during this year been selling large quantities of rice to Korea. Korea is a traditional commercial purchaser of American rice, grown by American farmers whose Government is not paying 80 percent of its cost. Japan has been selling even larger quantities to Indonesia. In 1976 and 1977, Japan did not sell a single grain of rice in Indonesia. In 1978, they sold 100,000 tons. So far, in 1979, since the beginning of the subsidy program, they have sold nearly half a million tons.

Mr. President, Indonesia is one of the largest purchasers of American rice under Public Law 480, and has lately

bought small quantities for cash. There is strong evidence that Indonesia could become a significant commercial purchaser of U.S. rice very soon. But that assumes that we are competing with other exporting countries who are not engaging in unfair export subsidization. Japan has been unfairly subsidizing its rice export, and Louisiana rice farmers should not have to pay the price for this unfair foreign trade practice.

Japan has also been offering grants and concessional sales of rice to other countries, including Bangladesh, Tanzania, and Sierra Leone. There have been rumors of negotiations for sales to Peru. I do not oppose any legitimate form of food aid that will feed the hungry. But the Japanese seem to think that by selling rice on concessional and not commercial terms, they get around their obligation to avoid subsidizing primary products.

In November of this year, negotiators from the Department of Agriculture will be meeting with their Japanese counterparts in Tokyo. I think it is very important not only to America's rice growers and processors but to our overall trading relations with Japan, that the American negotiators take a firm position on the propriety and legality of the Japanese subsidy practices.

We should insist on four points. First, Japanese sales pursuant to their announced surplus food disposal program during the current fiscal year, which ends in March 1980, should be limited to those already carried out or subject only to ministerial ratification in Japan. They predicted at the beginning of the year that they would sell 200,000 tons. Current transactions alone may total the quadruple of that figure. Any additional sales during the fiscal year ending on March 31, 1980, should be on a strictly commercial basis.

Second, the Japanese should agree to true consultations with the United States before concluding sales under the rice disposal program to any actual or potential market for American rice, as required by the FAO surplus food disposal principles.

Third, the Government of Japan should bear the burden of proving that any concessional sale is to a buyer who could otherwise not purchase rice. This would mean that the market for subsidized Japanese rice will be a pure addition to what otherwise would be the world export market in the country.

Finally, the Japanese should be required to sell rice at prices that do not make subsidized rice cheaper than unsubsidized rice. This, after all, is the evil of government subsidies—about which there was agreement in Geneva.

Mr. President, the November negotiations are among the first trade talks between this country and Japan since the multilateral trade negotiations concluded. The United States should state clearly and emphatically that we mean to adhere to the obligations contained in the Geneva agreements, and that we expect our trading partners to do likewise.

Mr. CRANSTON. Mr. President, I associate myself with the remarks of the Senator from Louisiana. California rice growers as well are put in jeopardy by the Japanese Government's subsidy practices, which are in violation of the spirit of the Geneva agreements.

Mr. President, I am sympathetic with the plight of a government faced with overproduction of a commodity. But when export is adopted as a solution to domestic surplus problems, other nations' interests must be considered. Japan should not attempt to solve domestic problems by trampling on the rights of American traders who seek only to compete for foreign markets on equal terms.

I agree with the Senator from Louisiana when he says that it is important for the United States not to acquiesce—or even to be seen as acquiescing—in a weakening of the principles of the new Geneva accords. Rice is an important export crop in California, but even more important is the principle involved. Massive domestic subsidies are an unfair method of obtaining advantages in the world market. The United States has joined with Japan in agreeing to avoid their use. If we protest firmly and loudly now, not only will we prevent the threat of serious harm to our rice industry, but we will go far toward preventing the spread of unfair trade practices in the future.

Mr. PRYOR. Mr. President, as I listened to the statements of the Senator from Louisiana and the Senator from California, I found myself wondering whether the points they have proposed go far enough. It is, after all, possible that in the context of international negotiations, the Japanese will simply not agree to consult with us, or to raise their prices, or to do the other things we should ask. Or, it is possible that they will agree to do those things, but that the practical effect will not be very great. It is possible that the Japanese may agree to consult with us and then still sell subsidized rice that displaces exports from the United States.

I believe that a remedy already exists in American law to combat the very type of abuse that the Japanese are engaging in right now. Mr. President, that remedy can be found in title III of the Trade Act of 1974, as amended by the Trade Agreements Act signed into law just a few months ago.

Title III is very clear. Whenever the President determines that a country is engaging in policies inconsistent with a trade agreement, or otherwise unjustifiable, unreasonable, or discriminatory, or that burden or restrict U.S. commerce, he can order the imposition of trade sanctions. These can include quotas, withdrawal of concessions, or special import duties.

Mr. President, I am not even certain that the impropriety of what the Japanese are doing is determined only by the Geneva agreements. I think that, even apart from those agreements, subsidizing exports that can interfere with sales from the United States would be an unreasonable practice under section 301. But the Geneva text makes this absolutely clear. A subsidy may not be granted on a primary product if it gives the exporting nation "more than an equitable share of world export trade in such product." "An equitable share" is defined in historical terms. The Japanese are new to the export trade in rice. Almost any significant sales of subsidized rice creates more than "an equitable share" for Japan.

Mr. President, I fully agree that the Japanese practices must be stopped. I agree also that representations should be made during the Tokyo negotiations. I simply wonder whether those diplomatic efforts will be enough. Considering the harm threatened to rice farmers in my State, I want to be certain.

Mr. JOHNSTON. Mr. President, the remedy proposed by the Senator from Arkansas is a harsh one. I am not saying that there is not ample justification for invoking it. I believe that there is. Nor am I suggesting that the Senator is proposing retaliation against Japanese imports lightly. I agree that the seriousness of the threat to our rice producers is more than sufficient to make a section 301 determination appropriate.

I do think, however, that the American rice industry would want to give our negotiators every opportunity to negotiate a successful resolution without resorting to an action under title III. And I think a successful resolution can be reached, if our representatives in Tokyo make it clear that the Japanese export subsidy program is unacceptable.

Mr. President, the program is obviously unacceptable. For the Government of Japan to sell rice for export at a quarter of the price of purchasing that very same rice from domestic producers is to grant a subsidy. Without that subsidy, Japanese producers would have to absorb losses themselves, or diversify, or do any of the other things market forces require of an inefficient industry.

In the early part of this year, the Japanese Government was paying producers over $1,400 per ton, and exporting at $225 to $275 per ton. Mr. President, that is unfair to American and other rice exporters. It is in our power to stop it, if we act decisively.

Mr. President, I understand that the U.S. rice industry has already prepared a complaint under section 301 of the Trade Act. Whether that complaint will be filed is a question now in the hands of the Government of Japan. For my part, I have no doubt that the complaint would succeed. But I think all of us prefer that the industry not be forced to file it.

Mr. COCHRAN. Mr. President, Mississippi has but recently entered the growing ranks of rice-exporting States. I want to add my voice to those of my colleagues who have called upon the Government of Japan to cease its unfair competition with rice producers in the United States.

American rice farmers are not seeking any kind of special concession or favor. They are asking only to be allowed to compete on equal terms with their counterparts in Japan, just as they now compete with exporters from other nations.

Mr. President, I favor the approach taken by the junior Senator from Louisiana. I agree with him that, were a complaint filed by the U.S. rice industry under section 301 of the Trade Act of 1974, the President would be authorized to order retaliation against im-

ports from Japan into this country. I, too, believe that the seriousness of the threat to the American industry and to American trade policy in general more than justifies this extraordinary relief.

Like the Senator, however, I also hope that it will be possible to resolve this matter at the diplomatic level. I cannot accept the view that the Japanese will voluntarily assume a posture so clearly unacceptable under the terms of the agreements they signed in Geneva.

Mr. President, the multilateral trade negotiations resulted in what history may record as a great and irreversible step toward commercial détente among the trading nations of the world. A great many sensible measures were agreed upon, and many rational principles were enunciated. We believe in the results of the Tokyo round. We must insist that other nations which accepted obligations under those agreements live up to them. This is of vital interest to American rice producers in the short run, and to all Americans concerned with international trade.

JACK PERLMUTTER

Mr. THURMOND. Mr. President, Jack Perlmutter, a gifted Washingtonian, has established himself as a prominent American artist.

Mr. Perlmutter has become well known in South Carolina where he was artist-in-residence at the Gibbes Art Gallery in Charleston and the Museum School of Art in Greenville. Additionally he has displayed his works in a one-man show at my alma mater of Clemson University.

Currently, Mr. Perlmutter is a contributing editor to Art Voices/South, a new magazine which concentrates on southern artists and art activities in the South.

Also he is a professor of art and chairman of the graphics department at the Corcoran Gallery School of Art and is a highly respected artist.

Much of Mr. Perlmutter's art may be seen throughout Washington. One fine work is a painting which is now hanging in the National Air and Space Museum.

His art has been seen by countless people from across the country and has contributed greatly to our artistic heritage.

FEDERAL DISTRICT COURT DECISION ON TERMINATION OF MUTUAL DEFENSE TREATY WITH TAIWAN

Mr. THURMOND. Mr. President, I rise today in recognition of the recent decision by Judge Gasch that President Carter violated the Constitution by unilaterally terminating the U.S. Mutual Defense Treaty with Taiwan.

As 1 of 25 plaintiffs in the lawsuit in which Judge Gasch made his ruling, I have taken the position that the Framers of the Constitution prohibited the President from terminating treaties unilaterally without the advice and consent of Congress. I continue to take that position and I am delighted that a Federal judge has upheld that interpretation of the Constitution as correct.

It is my understanding that the Justice Department, acting for the President, plans to appeal the district court's ruling. I hope the appellate courts will see the wisdom of Judge Gasch's decision and uphold it. By so doing, the Federal courts will be following sound principles of constitutional law, thereby recognizing the proper role of Congress in the conduct of U.S. foreign policy.

AWARD TO SENATOR ROBERT MORGAN OF NORTH CAROLINA

Mr. THURMOND. Mr. President, recently it was a personal pleasure and great privilege to be included with a group of members of the Non-Commissioned Officers Association of the U.S.A. (NCOA) to present a special award to my colleague and friend, Senator ROBERT MORGAN of North Carolina.

A very handsome plaque named the "NCOA Vanguard Award," and especially designed for the occasion, was given to Senator MORGAN for his dedication and loyalty to the noncommissioned and petty officers corps of the U.S. Armed Forces.

Among the many contributions he has made on behalf of this gallant corps—the backbone of our military services—NCOA cited two of his bills and his interest in the uniformed recruiter.

One bill, already enacted into law, authorizes the first sergeants major of the Marine Corps to recalculate their retired pay, the same as provided later for their successors in all branches of the services. The second bill calls for equal per diem payments for officer and enlisted personnel.

The third citation in the award is of great importance to the NCO and Petty Officer Corps. It is concerned that many recruiters are being unjustly charged with irresponsible recruiting practices when, in reality, the system is at fault. Senator MORGAN intends to see that these recruiters are fairly treated.

I was pleased, of course, to see the NCOA make this award to such a distinguished legislator. What made it better was my being invited to assist in the presentation.

Again, I commend the NCOA for its excellent service to the enlisted personnel of our Armed Forces, and I congratulate Senator MORGAN for being honored by this association of 180,000 men and women of the Army, Navy, Marine Corps, Air Force, and Coast Guard.

INCREASING WEAKNESS OF U.S. NAVY

Mr. THURMOND. Mr. President, a powerful letter has been written to President Carter by the National President of the Navy League of the United States, J. J. Spittler, regarding the increasing weakness of the U.S. Navy.

President Spittler has rendered a fine service to our Nation by calling upon the administration to redress the serious shortage of ships in our Navy. He urges prompt action "to reverse this suicidal trend."

Mr. President. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AN OPEN LETTER TO THE PRESIDENT OF THE UNITED STATES

DEAR PRESIDENT CARTER: Much has been written about your administration's plans for the 1981 defense budget and the ensuing four years. Frankly, the data I have seen and the reports I have read appall and frighten me. For I find it inconceivable that your planners could even remotely consider a budget that comes so close to decimating United States maritime power.

As I understand it, your Pentagon planners would, among other things:

Reduce the Navy's five-year shipbuilding program to 46 ships, fewer than 10 ships a year and some 100 fewer overall than the program sought by your predecessor in office—a program endorsed by you in the first year of your presidency.

Cut aircraft procurement to a level well below the current rate at which the Navy loses aircraft in peacetime operations, even though naval aircraft procurement in the past two years also has been below that level.

Markedly reduce weapons procurement across the board, even though stockpiles of key weapons are lower now than they have been for years.

Call for further civilian personnel reductions that would cripple even further the Navy's ability to maintain and repair its ships and aircraft.

Eliminate all funding for new amphibious assault ships, without which naval sealift and Marine Corps combat capabilities both will be drastically reduced.

Downgrade allocations for research and development, thus continuing a trend begun in your earlier defense budgets.

Slash the production line of one of our most competent aircraft producers so severely that it might well be forced out of business.

Reduce nuclear-submarine construction capability to the point that only one shipyard would be building such ships, and then at a rate only an eighth that of the Soviet Union's building rate.

In short, Mr. President, your planners, presumably operating under your specific instructions, would further reduce the Navy in the very near future to a level under 400 ships—at a time when over 600 are required—thus leaving the United States with a fleet only marginally able, if that, to maintain sustained air operations, far less capable of keeping even the present reduced inventory of ships and aircraft in operation, and allocated fewer resources than at any time in the last half century upon which to rebuild that fleet in time of crisis.

Mr. President, can this possibly be the legacy you wish to leave your country? Do you really want our once-mighty Navy to be second best? In short, does the evidence speak for itself?

You may well attempt to answer those questions, and many others which could be asked, by contending that only minimum-level planning figures are involved. It also is recognized that you have instructed your Secretary of Defense both to ask for an increase in the 1980 defense budget, and to anticipate more funds for the defense portion of the 1981 budget which you will submit to the Congress in January. Mr. President, that is all to the good. But it is not enough.

Will you momentarily reflect on the uses to which the limited additions to the 1980 budget will be spent? For example, the $2.7 billion addition you recently have requested of Congress will serve only: (1) to close the gap between the allowed 6 percent inflation rate and the actual double-digit rate; (2) to counter changes in currency rates caused by the weakened dollar; (3) to pay for the higher fuel costs imposed by OPEC; and (4) to more fully fund maintenance and repair work already planned, and already in the budget.

Those expenditures may pay fully for what you previously have requested, Mr. President, but they won't buy any new hardware. They can't commence the rebuilding process of our naval and military weapons inventory that is so vital to the nation's safety. In fact, they'll do no more than permit the Navy to operate in a more realistic environment, rather than being forced to plan and operate under totally unrealistic funding postulates imposed by planners whose motives become more suspect.

And what will the 1981 budget permit the Navy to do to improve the situation? As nearly as I can interpret the more credible analyses I have read, Mr. President, the 1981 funds you reportedly plan to request will, in the long run, only maintain the Navy at about today's dangerously reduced level. I do understand and appreciate, however, that there were some concessions made affecting the whole 1981–1985 period and mitigating to some extent the worst effects of the earlier defense program guidance given the services last July.

DDG-47s will be built at a more sensible rate of four a year. An experimental destroyer will be continued in the R&D stages—but will not be funded for construction until two years after originally planned. The attack submarine rate will be up slightly, although it still will be below what is required to build the Navy to previously approved and vitally essential force levels. Funding for the much-needed LSD-41 amphibious assault ship will be restored in the later years of the period.

Aircraft production will climb above the rate of loss to attrition, but those aircraft remaining in the Navy's inventory will have to be flown far longer than desirable from either a safety or an operational viewpoint. The business base of one long-time supplier of Navy aircraft will be sustained, so that means he won't be forced to completely shut down. Weapons procurement will be up, thus increasing stockpiles modestly.

But even if those plans do become reality, at the end of the five-year period the Navy still would be barely able even to meet *today's* commitments, let alone those that will undoubtedly be imposed during the increasingly dangerous years ahead.

Because the fact is, Mr. President, what your budget planners refer to as an "enhanced" shipbuilding program still would be more than 40 ships below what the Chief of Naval Operations submitted to the Chairman of the Senate Armed Services Committee this year as being *absolutely necessary* if the Navy is even to hope to hold its own on the high seas. Insufficient numbers of aircraft will be built. Weapons stockpiles still might not be enough to carry us through the first stages of a sustained war. Navy manpower will be down, with the shore establishment being manned at only three-quarters of demonstrated need. And the Navy still will be struggling just to stay even with the maintenance and repair backlog, while the major overhaul picture becomes next to impossible.

The defense budget increases you now appear willing to approve will be of minimal help, although they might impress some uninformed voters. But they still are a mighty long way from insuring that five years from now we will have a Navy adequate to carry out the traditional role of securing freedom of the seas.

While our Navy is struggling to maintain bare steerageway, on the other side of the world the Soviet Union is building aircraft carriers and cruisers at an unprecedented rate.

They could have as many as eight carriers in five years. They already have a cruiser at sea with a system as good as our AEGIS radar-and-weapons capability—a capability we won't have in our fleet for at least two more years. As noted, their submarine construction rate is eight times ours. And each year they're operating farther from their home bases on an ever larger scale and with greater effectiveness, competence, and confidence.

Mr. President, no matter what happens to SALT II, no matter whether the Soviet brigade in Cuba stays or goes, the United States still needs an ever more powerful Navy. All the strategic warfare capability imaginable will not protect our waterborne oil lines if they become threatened by Soviet fleet units. Nor will our strategic forces enable us to go to the aid of our allies around the world in confrontations short of nuclear war without further endangering our safety. Nor, finally, will our strategic forces afford assurance to our merchant marine, and those of our allies, that they can sail the seas peacefully and trade where and when they wish without intimidation by a foreign power.

So, as you face the budget decisions immediately ahead, I implore you to pay more than lip service to the terribly serious needs of the Navy. Throughout the country I hear those who, despite the vigorous denials made by your budget planners, are convinced the Navy is deliberately, systematically, and ruthlessly being decimated—against the recommendations of your senior naval and military advisers. When your planners slash naval ship and aircraft procurement plans for the future to the levels here indicated, I cannot but wonder if perhaps those critics aren't right.

Mr. President, when historians write the record of your time in office, you'll not want to be remembered for the methodical sinking of the Navy in which you once served and on which our nation, and the entire Free World, so strongly depend. But that may well be the most conspicuous mark you leave on the pages of history unless you act now to reverse this suicidal trend. For the military reality in today's world is that to be second best is to be dead last!

Sincerely,

J. J. SPITTLER,
National President, Navy League of the United States.

THE PORT OF PROVIDENCE BEGINS CONTAINER SHIPPING SERVICE AND PROMOTES INCREASED TRADE

Mr. CHAFEE. Mr. President, last Friday marked an important event in the area of international trade for Rhode Island.

I am pleased to announce that on Friday, October 19, the first container barge left the Port of Providence loaded with Rhode Island and New England exports, via the Port of New York. This signaled the commencement of a new weekly container shipping service between Providence and New York, that will connect the Port of Providence with modern containerized ports throughout the world.

Almost all major ports deal in containerized cargo because it is safer, faster, and more economical. Shipments made in containers reduce damage and pilferage. They can be loaded and unloaded in just hours, while bulk cargo could take days to be transferred to and from ships. This means extra dock costs and lost time to shippers.

Containers can be placed on wheeled chasis and easily hauled by trucks or trains to their ultimate destination.

Friday's maiden voyage will have several significant ramifications for New England trade.

First, New England businesses will now be able to save time and expense by utilizing a New England port that has access to every ship serving New York. The feeder service between Manhattan and Rhode Island is part of the same steamship line that ships exports and imports through New York port. The only cost to New England firms is an overland freight charge from Providence.

Second, the use of container shipping is a first for Rhode Island, and represents the first step for the Port of Providence in becoming a major east coast container port.

Plans to rehabilitate the Port of Providence to make it a full container terminal are already underway. Port, city, and State officials are pursuing Economic Development Administration matching loan programs, engineering firms have completed the necessary preliminary studies on dock refurbishment, and private operators of the container barges are negotiating for the sale of a large permanent container crane.

Third, exporting will be made easier and more economical for companies, especially smaller ones, that have previously believed that shipping through New York presented many obstacles. Companies from Rhode Island, Connecticut, and southern Massachusetts can now watch their packages being loaded on the container barges in Providence.

This is an opportunity that Rhode Island has so desperately needed to help promote trade. As a member of the Senate Export Caucus and of the Finance Subcommittee on International Trade, I am especially happy to note that the first container shipment was an export shipment of New England products. The barge contained Rhode Island manufactured products from such prominent companies as Bostitch, makers of industrial fasteners and power tools, and Avid Corp., which produces acoustical and audiovisual equipment. In addition, there were containers with other New England products, from firms such as the Norton Co., in Worcester, that were handled by Rhode Island freight forwarders.

Put simply, this type of port development stimulates exports; and Rhode Island, New England, and the Nation all stand to benefit from it.

Having sponsored a Providence conference this past May on expanding the Rhode Island export market, I am convinced that there is not a product made in Rhode Island that cannot be sold abroad, whether it is jewelry, skateboards, looms, or prosciutto ham. But it is unfortunate to think that of Rhode Island's total production of manufactured goods, less than 6 percent are exported.

I do want the world to "Discover Rhode Island," as our State motto says, and the maiden voyage of this container barge is a great step in that direction.

Congratulations are in order to the Mayor of the city of Providence, Vincent A. Cianci, Jr., and to the shipping and business communities for their commitment to this endeavor. Mayor Cianci has been instrumental in fostering this service.

I extend a very special note of appre-

ciation to the port director, Mr. Eugene Neary, whose dedicated efforts have helped to turn one of the State's most important dreams into a reality. I commend Mr. Neary for a job well done and wish him and the Port much continued SUCCESS.

Thanks to the work of the Mayor and of Mr. Neary, Providence is on its way to becoming a major port.

Mr. President, I ask unanimous consent that the following two articles on the Port of Providence be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Providence Journal, Sept. 12, 1979]

SHIPPING LINES GIVE CONTAINER IDEA REALITY

PROVIDENCE.—Five steamship lines serving nearly every major port in the world have agreed to provide container service to the Port of Providence using the McAllister barge feeder service, it was disclosed last night at a meeting of the local World Trade Club.

Mayor Vincent A. Cianci Jr. told more than 100 members attending the dinner at the Holiday Inn that the first barge of the McAllister firm is scheduled to arrive at the port Oct. 18. He said McAllister bargers will arrive every Thursday from New York and return those evenings.

The mayor also said that the private operators of the container terminal that will open next month have found a large container crane in Rotterdam and are negotiating its purchase. If all goes well, the Port of Providence could have a permanent, heavy-duty container crane in operation at Berth 6, within four months, Cianci said.

Last night's announcements indicated that the container terminal plans are becoming reality and that the new service has elicited interest among shippers. The attendance at the meeting was the largest in several years, and shippers asked a number of questions about the technical aspects of the container operation.

"Everybody at the Port of Providence is enthusiastic," said Port Director Eugene Neary. "The adrenaline is flowing."

The five steamship lines will offer bills of lading directly to Providence, giving shippers the ability to send containerized cargo directly here from almost anywhere. Until now, most area companies have shipped goods or ordered materials through New York or Boston and trucked containers from those ports.

Most shippers prefer containerized cargo because it cuts down pilferage and damage. Containers, which can be placed on wheeled chassis, can be easily hauled by trucks to their ultimate destination.

The steamship lines involved are Atlantic Container Lines, Evergreen, Sea Train, Dart and Farrell. They are expected to maintain an inventory of containers and wheeled chassis at the port for use by shippers.

Providence's container terminal is expected to break the near-monopoly held on New England container shipping by the Port of Boston. Cianci, noting a Massport representative's presence in the audience last night, said, "We're out to be as big or bigger than the Port of Boston."

Providence will collect a fee of $16 per container and other fees. The initial container terminal here will involve two mobile cranes operating at Berth 2 and about three acres of storage area.

The McAllister firm expects to handle initially about 100 containers, each 20 or 40 feet long, per barge. Port officials have estimated that about 7,500 containers will go through the new terminal in the first 12 months.

Much of last night's program involved Cianci trying to sell shippers on the idea of using the new Providence container terminal.

"When you go to other ports, it's a three- or four-day effort to find your container," he said. "At Providence, it's a matter of hours. You can't justify to me driving to New York or Boston when you can drive your truck down 95 to get better service here at a lower price with no labor problems."

Cianci noted that McAllister, and any other container shipping service that comes in, has been guaranteed a berth every time one of its ships arrives.

A McAllister representative at the meeting said it was too early to say how large the firm's first cargo would be. He expects that exports will exceed imports because of "the enthusiasm in Providence."

"We have no qualms about this service working," he said.

[From the New England Business magazine, Sept. 16, 1979]

PROVIDENCE CONTAINER PORT GAINS MOMENTUM

A baby taking its first halting steps, the Port of Providence is slowly inching toward its goal of beginning container operations.

Providence, one of New England's largest importers of bulk cargo, and several other coastal communities for almost two years have enviously eyed the virtual container-monopoly held by the Port of Boston. But lack of land, money and a 9-to-1 imports-to-exports ratio have been the hurdles.

Now Providence seems finally to have found its stride. Late last year Mayor Vincent A. Cianci Jr. announced that private developer David Friedman, president of PM Industries which includes Port Providence Warehousing Inc., had agreed to provide the land for storage, and the money to buy cranes and other container terminal equipment. John J. Orr, who runs the local stevedore operation, is to run the container terminal in partnership with Friedman.

Recently Cianci disclosed that McAllister Brothers, the largest carrier of containers into Boston, has agreed to bring in one barge a week of up to 200 containers, beginning October 1.

It was a breakthrough for Friedman, owner of a series of warehouses and a preparation service for imported cars brought through the port. He has been wooing steamship lines for almost a year.

In the original announcement last November, Cianci said one line had agreed to bring in 25,000 tons of containers a week through the port. But port insiders were skeptical, as that amount equaled the container traffic going through Boston's Moran terminal, an 8-year-old operation. When no container ships appeared as promised, Cianci's political opponents dismissed the container proposal as a preelection stunt. But port sources indicated that the mayor did indeed have a steamship line in hand, only to see it back out.

The mayor and Friedman have had trouble attracting shippers or steamship lines, partly because of the import-export imbalance, they acknowledge. Ships don't want to come in full and leave without a cargo. But they say privately that another reason is Massport, which runs the Port of Boston.

Several Port of Boston employees last year indicated that a Providence container terminal could hurt their business. "A Providence container port could do a hell of a job on us," one said.

"Those guys in Boston have been turning the screws," said one Friedman staffer. He said shipping lines have indicated fears that if they take some of their business to Providence, they could end up with problems in Boston.

McAllister, which ships more than half of the containers going into Boston, apparently intends to circumvent this. The plan is to solicit shippers to send their containers coming overseas to New York, where they will be transferred to a barge bound for Providence.

McAllister's general manager admitted in a recent interview that the company did not have any shipping lined up. But Cianci said the city is embarking on a big sales push to get companies in Rhode Island and nearby Massachusetts and Connecticut to ship through Providence.

"We've had a number of firms say they would prefer to go through Providence, if it only had a container facility," Cianci said, citing American Tourister, which makes luggage in Warren, R.I.

Sidal Aluminum, a New Jersey firm which began shipping aluminum through Providence about six months ago, indicated recently that it would love to ship the cargo in containers for better protection.

But Lawrence Carrera, a vice president in Friedman's firm, said it has been a vicious circle. The shippers want to see commitments by steamship lines first, and the steamship lines won't come in unless they are guaranteed enough business to make it profitable. And neither side will become enthusiastic until they see cranes up and container ships coming in.

So Friedman plans to provide two mobile cranes and five acres of backland for storing 20 to 40-foot-long containers on wheeled chassis. By contrast, Boston containers are stacked for storage, in order to fit them all on a relatively short supply of land, 23 acres.

Friedman said he is willing to commit 50 acres to the container terminal, if the traffic develops, and eventually plans to install two heavy-duty container cranes.

The question now is whether McAllister can make a go of it in Providence, and whether a once-sleepy municipal wharf will become a major East Coast container port, bringing badly-needed revenue to the city.

FAIR FINANCIAL INFORMATION PRACTICES ACT AND PRIVACY OF ELECTRONIC FUND TRANSFERS ACT OF 1979

Mr. TSONGAS. Mr. President, I commend Senator PROXMIRE for yesterday introducing the Fair Financial Information Practices Act and the Privacy of Electronic Fund Transfers Act of 1979.

This legislation, which represents the commitment of the administration to implement many of the recommendations of the Privacy Protection Study Commission, attempts to balance the legitimate needs of business for the efficient exchange of personal information in our society while safeguarding personal privacy.

We are well aware of the technological advances in the communication and storage of information over the past few decades which have contributed greatly to the economy and well-being of our Nation, nonetheless we must also recognize that these same technological advances represent a potential threat to one of the most valued of our rights—the right of privacy.

Yesterday's standards are no longer adequate to deal with the enormous threat to the privacy of individuals represented by the fact that these technological advances have made detailed personal information readily available from the records that business collects. The threat of economic harm to the individual resulting from incomplete or inaccurate data is no less significant.

The Privacy Protection Study Commission recognized the need to move beyond our patchwork legislation and establish a national privacy policy formulated under consistent guidelines applicable to all segments of society.

These two measures are a major step toward that goal. Our task will not have been completed, however, until we have resolved the issue of Government access to our personal records retained by businesses such as creditors and insurers.

We expect the administration to present a further proposal, before the end of this year, dealing with access by Government agents to our personal records held by creditors and insurers. I would agree with the Privacy Commission that safeguards against unwarranted intrusion into our personal records by the Government is a very critical element in this important issue.

Over 80 years ago, a longtime resident of the State of Massachusetts, destined to become one of the most distinguished Justices of the U.S. Supreme Court, Louis Brandeis, declared that "the right to be let alone" is the right most valued by civilized man.

I am hopeful that consideration by the Congress of these measures as well as the issue of Government access will result in a national privacy policy that will finally provide adequate privacy safeguards for the individual.

I am supportive of Senator PROXMIRE's bill subject to whatever modification would seem to be reasonable following our hearings.

SATELLITE COMMUNICATIONS AND NATIONAL SECURITY

Mr. PRESSLER. Mr. President, I am being given the "runaround" by the White House in trying to get an answer to some hard questions on satellite security questions.

I have expressed my concern over the need for national policy to address the problem of increased vulnerability of our communications systems to outside interference.

Advances in communications technology are concentrating greater percentages of our communications services on satellites. To facilitate public and industrial use of satellites, the Federal Communications Commission ruled on Thursday, October 18 to make licensing of Earth receiver stations optional. This decision heralds the explosion of satellite transmission.

While I welcome the increased services to rural and urban areas that will be provided by satellite technology, the concentration of our communications on a few satellites requires policy to address national security questions raised by these developments.

On two occasions I have written the President to urge action and to inquire about specific steps that have been taken in this area.

On both occasions, the response that I received from the White House offered nothing but superficial treatment of my concerns and gave no indication of consideration of the problem within the administration.

I express my deep alarm at this unresponsiveness.

I ask unanimous consent that my originating letter of October 10 and the October 19 reply from the White House be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 10, 1979.

Hon. JIMMY CARTER,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In April, 1979 I wrote to you to express my deep concern over questions of national security raised by developing commercial satellite technology. Having found no study of this issue, I asked what attention has been given this problem by our federal agencies.

With increased use of satellite facilities for broadcasting, our control over information transmitted to the American public is significantly reduced. Proposals for direct satellite-to-home television broadcast are being enthusiastically promoted by private companies, promising new and improved communications services. I have been informed by the Federal Communications Commission that there is nothing in present technology to prevent deliberate misuse or interference from an external source. Even when monitored by a station, there have been cases involving the broadcast of incorrect information for some time before the mistake was detected.

In the hands of unfriendly sources, a foreign satellite could broadcast false information for a period of time which would threaten our national security under certain circumstances. Although this is an extreme example, the vulnerability of our central broadcast facilities to interference or subversion poses a national security problem that requires immediate attention.

The National Association of Broadcasters has expressed concern that broadcasting satellites could present a vulnerable target to aggressors in time of war or when actions to disrupt the United States communications system are contemplated. In the event that developing technology results in the concentration of all national television broadcast communications on a relatively small number of satellites, these facilities could be easily destroyed, moved, or jammed, leaving no adequate backup system for emergency communications.

Comments regarding communications security made Department of Defense officials at Senate hearings on 1978 appropriations support this concern. Statements made at those hearings emphasize the need to protect important communications links. Security measures are used by the Department to "protect command and control communications from unauthorized access, exploitation of commands or information, and attempts at communication deception." Although the Department's communications security program includes all resources devoted to the protection of U.S. telecommunications against exploitation by foreign intelligence, it does not address problems involved in commercial operations.

Earlier responses to my letter of April 10 contained no information regarding the development of communications and defense policy to address this national security problem. I respectfully request a report of efforts underway in the National Telecommunications and Information Administration, the Department of Defense, and other agencies and departments concerned with national communications and security to ensure adequate protection of our communications facilities.

I urge your support for these efforts and thank you for your consideration of this serious matter.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

THE WHITE HOUSE,
Washington, D.C., October 19, 1979.

HON. LARRY PRESSLER,
U.S. Senate,
Washington, D.C.

DEAR LARRY: The President asked me to acknowledge his receipt of your letter of October 10 regarding national security and commercial satellite telecommunications. He has been apprised of your request for a report on efforts underway to protect U.S. communications facilities.

The President appreciates your comments and your concern. He has asked me to share your letter with several of his advisers, so that they might be aware of your views. A further response should be forthcoming.

Sincerely,

FRANK MOORE,
Assistant to the President for Congressional Liaison.

BIG OIL PROTEST DAY

Mr. HATCH. Mr. President, it is regrettable that many Americans were manipulated by the media presentation of "Big Oil Protest Day" October 17, sponsored by a letterhead group calling itself the Citizens' Labor Energy Coalition.

Americans are properly concerned with the price of petroleum products, which has risen precipitately this year. But the group's so-called program is no way to improve the situation. And the media's exaggerated attention to this nonevent was shocking.

The coalition's announced objectives were: First, a rollback of oil and natural gas prices and reimposition of price controls; second, an investigation into what it termed "phony" shortages, presumably manipulated by the oil companies; and third, establishment of a taxpayer-owned energy corporation. But many concerned Americans who carried placards in the protest obviously failed to consider the real consequences of the plan.

Briefly stated, a rollback of oil and gas prices, with controls reimposed, would lessen the incentives both for people to conserve energy and for domestic producers to accelerate exploration for new energy resources. The matter of phony shortages had already been laid to rest by the Department of Energy and the General Accounting Office, both of which determined on the basis of independent studies that the shortages were real. Nor is there any need for a taxpayer-owned energy corporation as long as there is aggressive competition among a vast number of domestic companies which produce, refine and market petroleum and petroleum products.

What is much more disturbing than the misguided zeal of the protest's leaders is the fact that, with today's communications technology, it is possible to mislead an entire nation by creating an event out of a nonevent. The "Big Oil Protest Day" was a case in point.

Though its sponsors, through a vigorous advance publicity campaign, predicted a massive turnout in about 20 cities around the country, only small groups of people actually showed up. At an earlier time in our history—before the mass impact of television—the protest would have been deemed a failure or it would have been ignored altogether.

Not so today. Because of the advance

publicity, TV networks scheduled coverage, not only of the nonexistent crowds, but also by multiple interviews with the protest leaders. Many of them were interviewed at length and given rich opportunities to state the protest's goals again and again.

By sheer repetition, these goals began to take on the aura of validity. By imputation, the relatively small number of demonstrators became a symbol for what the sponsors claimed to be a much larger group of passive adherents. By inference, the viewing public began to think an event had really taken place.

When a nonevent can take on the semblance of a mass protest—can almost take on a life of its own—it is time for us to reconsider how well the media are serving the public. It is time, as well, to examine the real motives of those who organize such media events. Indeed, such an examination by the media could be far more productive than the coverage of phantom rallies.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:29 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1030. An act to establish an emergency program for the conservation of energy and to provide for a standby rationing plan for motor fuel.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. BRADLEY).

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3824) to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. DELLUMS, Mr. FAUNTROY, and Mr. MCKINNEY were appointed as managers of the conference on the part of the House.

The message further announced that the House insists upon its amendment to the bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. DELLUMS, Mr. FAUNTROY, Mr. MARSOLI, Mr. MCKINNEY, and Mr. MARKS were appointed as managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

At 1:55 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 975) to authorize appropriations for fiscal year 1980 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4943. An act granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects.

ENROLLED BILL SIGNED

At 4:15 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bill:

S. 975. An act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the United States Government for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the United States Government, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 4943. An act granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 24, 1979, he presented to the President of the United States the following enrolled bill:

S. 1030. An act to establish an emergency program for the conservation of energy and to provide for a standby rationing plan for motor fuel.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

John N. Gentry, of Virginia, to be Under Secretary of Labor.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report the following nominations: Gen. James E. Hill, USAF (age 57), for appointment to the grade of general on the retired list, and Maj. Gen. Kelly Howard Burke, USAF, to be lieutenant general. I ask that these two nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN:

S. 1930. A bill to provide for death gratuities for the survivors of certain Central Intelligence Agency employees; to the Select Committee on Intelligence.

By Mr. THURMOND:

S. 1931. A bill for the relief of Ching-Yau Cheng and Mei-Wa Tam Cheng, his wife; to the Committee on the Judiciary.

S. 1932. A bill for the relief of Ching-Kee Cheng and Wun-Mun Wong Cheng, his wife; tions; to the committee on the Judiciary.

By Mr. CHAFEE:

S. 1933. A bill to amend title XVI of the Social Security Act to increase the amount of the supplemental security income benefit payable to individuals in certain institutions; to the Committee on Finance.

By Mr. BRADLEY:

S. 1934. A bill to provide for authorization of a price support loan program for municipal solid waste to energy systems; to the Committee on Energy and Natural Resources.

By Mr. McGOVERN:

S. 1935. A bill to revise provisions of title 49, United States Code, which discourage contract ratemaking by railroad shippers; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. RIBICOFF, Mr. STEVENSON, Mr. MATSUNAGA, and Mr. TSONGAS):

S. 1936. A bill to ban the importation, manufacture, sale, and transfer of Saturday Night Specials, to improve the effectiveness of chapter 44 of title 18, United States Code, relating to gun control, to promote more effective management of certain law enforcement functions of the executive branch by transferring functions of the Secretary of the Treasury under chapter 44 of title 18, United States Code, relating to gun control to the Attorney General, a ban possession, shipment, transportation, and receipt of all firearms by felons, to provide relief for victims of handgun crimes, and for other purposes; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. LEVIN, Mr. BAYH, Mr. DANFORTH, Mr. EAGLETON, Mr. NELSON, Mr. MATHIAS, and Mr. MCGOVERN):

S. 1937. A bill to authorize emergency loan guarantees to the Chrysler Corporation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GLENN (for himself and Mr. RIBICOFF):

S. 1938. A bill to ensure adequate protection of workers, the general public, and the environment from harmful radiation exposure, to establish mechanisms for effective coordination among the various Federal agencies involved in radiation protection activities, to develop a coordinated radiation research program, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BAKER:

S. 1939. A bill to amend title 28 of the United States Code to provide that certain judicial pleadings in the Commonwealth of Puerto Rico may be conducted in the Spanish language, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 1930. A bill to provide for death gratuities for the survivors of certain Central Intelligence Agency employees; to the Select Committee on Intelligence.

INTELLIGENCE OFFICERS BENEFITS

● Mr. BENTSEN. Mr. President, today I introduce legislation to provide for the payment of 1 year's salary to the surviving dependents of CIA employees who are killed overseas as a result of hostile or terrorist acts, or in connection with intelligence activity having a substantial degree of risk.

We live in a time of global instability and danger. We face aggressive, provocative, and dangerous behavior by adversaries who are bent on the destruction of those very freedoms we Americans take for granted. Around the world we are faced with serious threats to American interests and serious dangers to American security.

It is absolutely essential that our Nation have intelligence information that is timely and accurate. We must have strong ground personnel to obtain information that is only available through on-the-spot analysis.

Mr. President, our intelligence officers perform the most difficult work under dangerous and often deadly circumstances. Their mission is vital to our national security, vital to protecting our national interests, and vital to the Western alliance.

These people who so courageously serve our country are vulnerable to foreign enemies, terrorists, and a small band of disgruntled former intelligence employees who have undertaken a reckless effort to destroy our intelligence capability and endanger our security.

We have seen a station chief in Athens, Greece, Richard Welch, murdered shortly after his identity had been revealed.

I have introduced S. 191, which would provide criminal punishment for former Government employees who reveal the identities of acting intelligence officers. I am confident that this bill can be enacted in the current Congress, and I will do everything that I can to see that it is. At the same time, we can never eliminate the great dangers facing our personnel overseas.

The bill I introduce today will provide assistance to the widows and children of CIA employees who are killed overseas as a result of hostile or terrorist acts, or in connection with intelligence activities with a substantial degree of risk. Benefits such as this are already available to employees of the State Department killed under similar circumstances and death benefits are also provided by the Federal Government to public safety officers in this country.

This bill would provide benefits to dependents of those who so courageously serve our country. We owe it to them for the risks they take on our behalf.

This bill has recently been introduced by Representative DERWINSKI and others on the House side, and like them, I hope that benefits are never paid out. I hope there would be no deaths resulting from dangerous intelligence work. Nevertheless, in the dangerous world we live in it is possible, and this bill is necessary.

Also, I would add, it is fair, it is just, it is a clear statement of support of intelligence officers who serve this Nation at great personal risk, and I would hope it will be given swift approval by Congress. I urge my colleagues to join me in supporting S. 191, and the bill I introduce today.●

By Mr. CHAFEE:

S. 1933. A bill to amend title XVI of the Social Security Act to increase the amount of the supplemental security income benefit payable to individuals in certain institutions; to the Committee on the Judiciary.

PERSONAL NEEDS ALLOWANCES FOR SSI RECIPIENTS

Mr. CHAFEE. Mr. President, I am today introducing a bill which provides for an increase in the personal needs allowance for SSI beneficiaries in medical facilities.

Mr. President, when the supplemental security income program was enacted by Congress in 1972, it contained the provision that when an aged, blind, or disabled person eligible for SSI benefits becomes an inmate of a hospital, extended care facility, nursing home, or intermediate care facility receiving medicaid support, such individuals' benefit would be reduced to $25 a month to cover basic personal needs. Although the medicaid program supports the major institutional costs, including shelter and medical care, for such individuals, this $25 monthly personal needs allowance is expected to cover all other incidental personal expenses.

These are truly the forgotten people. It has been 7 years since this provision was enacted, and even though social security and SSI benefits have been increased to account for growing inflation, this personal needs allowance has remained the same. The same allowance also applies to social security beneficiaries who are in medicaid institutions, and even though their benefits have increased, they do not receive personally a share of this increase.

This meager amount can hardly be expected to cover the everyday needs of institutionalized persons, such as clothing and personal necessities, much less the cost of such small luxuries as a magazine or transportation for an occasional visit outside the facility.

My bill would increase this personal needs allowance to $30 a month for SSI recipients. This is a very modest, long overdue increase for our institutionalized aged, blind and disabled citizens.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1933

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clauses (i) and (ii) of section 1611 (e) (1) (B) of the Social Security Act are each amended by striking out "$300" and inserting in lieu thereof in each instance "$360".

(b) Clause (iii) of section 1611(e) (1) (B) of such Act is amended by striking out "$600" and inserting in lieu thereof "$720".

(C) The amendments made by this section shall be effective with respect to benefits payable on or after the first day of the first month that begins more than 60 days after the date of the enactment of this Act.

By Mr. BRADLEY:

S. 1934. A bill to provide for authorization of a price support loan program for municipal solid waste to energy systems; to the Committee on Energy and Natural Resources.

MUNICIPAL SOLID WASTE TO ENERGY ACT OF 1979

Mr. BRADLEY. Mr. President, I introduce for appropriate reference a bill to provide financial incentives to municipal solid waste to energy systems.

In the past decade, resource recovery in the United States has evidenced the potential to play a major role in providing sections of the country with an alternative source of energy derived from urban waste. Today, there are seven large resource recovery facilities in operation, extracting energy from waste. Those plants have a combined daily design ton capacity of 5,800 tons. Small-scale commercial systems now in operation represent another 500 TPD in capacity. Four more plants with a combined ton-per-day capacity of 6,200 tons are in an advanced stage of start-up.

Recovery technology has crossed the threshold of technological feasibility and the Federal Government should now turn its attention to the widespread commercialization of urban waste to energy conversion systems. The systems in place today demonstrate that several technologies for both small and large scale systems can provide effective, reliable, and affordable means for recovering useful energy from waste while simultaneously solving the serious waste disposal problems of many local governments.

Yet the potential for resource recovery to make a significant contribution to the Nation's energy goals by substituting recovered energy products for increasingly scarce and expensive fossil fuels has barely been tapped. The capacity in place today will process less than 3 percent of the Nation's waste stream in 1980. The Nation continues to discard the energy equivalent of 200 million barrels of oil

annually by landfilling and dumping solid waste. Although resource recovery offers the dual attractions of both economically disposing of waste and producing energy, the implementation of a project involves the commitment of large amounts of capital and is a complex and time consuming task. Successful implementation requires securing a reliable and sufficient supply of solid waste as a feedstock; obtaining the long-term contractual commitment of an energy buyer who is suitably located and whose energy requirements can be technically satisfied at an economically attractive price; and selecting a technology which can reliably produce a product to the buyer's specifications, reduce the volume of waste for ultimate landfilling to stipulated levels, and operate in conformance with various Federal and State environmental regulations.

In addition to the above-mentioned considerations, as a business venture involved in the sale of energy or fuel resource recovery projects must also meet competitive constraints in the local marketplace. Specifically, a substitute fuel must be produced for sale at a more advantageous price to the buyer than the fuel it displaces. Furthermore, the disposal of waste must be at a price that is competitive with the cost of landfill disposal.

The sale of a recovered energy product in a local market drives the economics of a resource recovery project and the price acquired for that energy product is the crucial ingredient in determining commercial feasibility. The capital, operating, and maintenance costs of a project must be balanced by energy revenues and disposal (tip) fees. Insufficient energy revenues in the early years of project operation can delay or defeat the implementation of a project. This is so because implementation occurs in a political context where local public officials have strong incentives to choose the least costly near term disposal alternatives, even where long run economics may argue for another choice.

Although resource recovery facilities have been demonstrated to be economic ventures in some areas of the country, there are situations where the price that can be obtained in the local market for the fuel substitute produced by the resource recovery project is too expensive in the short term to allow immediate implementation. For example, a resource recovery project producing energy to displace regulated natural gas may be competing against a fuel price of $1.50 to $2.00 per million Btu, while a project displacing oil is competing against a fuel price of $3.70 per MMBtu. While this gap presently exists, escalation in the price of gas and other fossil fuels which are substitutes for oil will close that gap over time.

Resource recovery projects typically have escalator clauses in their contracts with their energy buyers which have the effect of increasing revenues as the market price of the displaced fuel rises. Thus, using reasonable assumptions about escalation, these projects will be economically attractive over their useful life. This does not, however, solve the immediate problem of the local public official who sees a tip fee for disposal that may be significantly higher than the cost of landfill disposal in the early years of project operation. (Revenues from the energy stream of a recovery facility are governed by the cost of competing fuels; whereas, the disposal (tip) fee is ultimately governed by localized political considerations; that is, what the citizenry will tolerate.)

The local official may delay a decision to go forward with project implementation where the tip fee is not competitive with landfill disposal and where the cost for the energy produced is not competitive with existing fuels. As a consequence, a potentially valuable source of energy will continue to be buried in the ground.

In many respects urban waste to energy conversion systems can be compared to solar hot water and solar flat plate collector heating systems. If judged on a life cycle cost basis (where competing fossil fuels are expected to increase in cost) those alternative energy systems using renewable resources, will be competitive over time.

National policy should encourage displacement/conservation of higher quality fossil fuels including especially oil wherever possible by accelerating development of alternative energy resources even where local energy market conditions pose barriers. A short-term price support loan program can shift forward to the present energy revenues in early years which would normally not be realized until later years through the effects of fuel escalation. This enables a project to show a lower "tip" fee in early years, and appear more attractive to local decisionmakers.

PROGRAM DESCRIPTION

The price support loan program for urban waste to energy systems proposed by this legislation is premised on a national policy to encourage substitution of alternative fuels for scarce fossil fuels. A resource recovery project may receive a payment from the Federal Government for the recovered energy it produces. The payment will only extend for a 7-year period, on the assumption that the disparity between the price of energy that can be produced for a waste-to-energy facility and the price of conventional fossil fuels will have largely disappeared.

It is not, however, an open ended subsidy which would undermine the incentives that now exist in the resource recovery marketplace for creating economically and technically sound projects. The program is designed so that only those projects which are fundamentally economic over their life cycle will be supported. It is important that the introduction of Federal subsidies into the resource recovery marketplace not have the effect of discouraging waste to energy systems vendors from assuming the risks for the satisfactory performance of their technology, nor should they inadvertently relax the responsibilities of project sponsors for establishing secure markets for the sale of the energy product they produce on the basis of good faith buyer/seller negotiations. The program should also encourage the implementation of projects on an accelerated basis.

In order to achieve the objectives stated immediately above, the bill which I am introducing incorporates the following specific points:

1. LOAN PAYBACK

The program is designed as a loan paid out to the project over a 7-year term and limited specifically to a payment for only that energy or fuel which is actually produced. Beginning in the eighth year and over the balance of the project amortization period, or 15 years (whichever is less), the cumulative amount of the loan must be repaid at an interest rate not to exceed 5 percent. Since most resource recovery projects are financed with revenue bond issues, and since the market for revenue bonds demands adequate coverage of economic risks, the effect of this provision is to force a careful economic analysis to assure that only those projects which can reasonably expect repayment of the loan will be financed. Thus, the availability of a Federal subsidy will not tend to result in simply more costly projects.

2. PRODUCTION AND SALE OF ENERGY

Loan payments to the project are contingent upon the production and sale of an energy product to a buyer. Payment is made on a per million Btu basis for only that amount of recovered energy which is produced and used internally or sold by the project. Thus, a project has strong incentives to make sure it has a secure deal with its energy buyer and to that assure the technology it selects can reliably produce the anticipated amount of energy product. Because the program is premised on energy production, it should not encourage high risk, unreliable technology where proven technology is available. Furthermore, by limiting the Federal incentive to the production of energy the risk to the system vendor and the local municipality is not removed.

3. CAP ON LOAN PAYMENT

The program establishes a ceiling of $2 per million Btu on the amount of the per unit price differential which is the basis for the loan payment. This limitation is intended to discourage use of the program in cases where the prices of the displaced fuel is unrealistically low, which would, in turn, create economic difficulties with the repayment provision. The $2.00 cap approximates the spread between the current cost of low sulfur oil and reasonably good quality coal.

4. FIXED SUPPORT PRICE

Since the purpose of this program is to accelerate development of an alternative energy resource, it is important that the program design not induce delay. The standard support price which establishes the basis of the per unit subsidy a project receives is set by regulation on the basis of the price of oil at the beginning of the program and does not change thereafter, even though the actual market price of oil can be expected to increase. This encourages a project to proceed with implementation sooner rather than later, since the price support differential will narrow as a consequence of escalation in the price of the fuels displaced.

5. SUNSET PROVISION

The program is designed so that all payments for support will cease as of December 31, 1994. This recognizes that the original gap between the standard support price and local market prices will have largely disappeared by that time. It also encourages projects toward rapid implementation, otherwise the 7-year term of their loan payment will be cut short.

6. ARMS LENGTH NEGOTIATIONS

The intention of the price support loan is to improve the economics of the project. It should not simply be passed through as a price discount to the energy buyer. Since the recovered energy produced by a project is always sold at some discount to the buyer, to make it attractive versus the competitive fuel, there is a tendency on the part of the energy buyer to bargain for a higher discount where a price support is involved in the project. This is counteracted by a provision in the Bradley amendment that bases the per unit price support on the differential between the buyer's actual fuel costs, which must be documented, and the standard support price. Increasing the discount given to the buyer for the energy from a resource recovery facility cannot increase the amount of the subsidy.

7. FACILITATE PRIVATE FINANCING

The rigorous requirements of revenue bond financing could be an impediment to the utilization of the program if the effect of terminating the price support payment in year 7 were to cause a sudden increase in the fees (particularly the tip fee) which must be the sources of revenue for covering debt service, operation and maintenance costs, as well as repayment of the cumulative amount of the price support.

If the parties to the financing question the ability of the project to realistically obtain this revenue once price supports are terminated then tax exempt revenue bond financing might not be possible. There are several program provisions which deal with this problem.

The per unit amount of a price support to a project declines in equal decrements over a 7-year period, to zero. This is the only basis on which the unit amount of the price support can change. It is not influenced by the price behavior of the displaced fuel, once the price support agreement has been made. This steady trend is important in terms of the integrity of project financing agreements under revenue bond financing, which must anticipate the eventual elimination of the subsidy and identify in bond indenture agreements what other revenues (either energy or tip fees) will provide debt service coverage.

Second, the term of the repayment to the Federal Government for the price support disbursements is spread over a 15-year period and, in negotiating a price support agreement, the Secretary has the flexibility to set a repayment schedule that takes into account the needs of the project in terms of the time at which its fuel escalation clause will generate the revenues needed for repayment.

8. SPECIAL PROVISION TO DISPLACE OIL IMPORTS

The bill also recognizes that it is in the national interest to reduce use of imported oil. Therefore a special price support is made available to a project which displaces the use of oil. Notwithstanding the provisions of the program, which base the price support on the difference between the price of oil and the price of displaced fuel, a project displacing oil will receive a special support payment. It is set at the level of 80 cents a million Btu in the first year to be reduced in accordance with the mechanics of the program which otherwise remain the same in all other respects. This provides a special economic incentive to projects that displace oil.

9. PROGRAM FINANCING

A total authorization of $196,000,000 is proposed to support this program which will trigger the investment to bring 20,000 to 30,000 tons-per-day of garbage processed to a useful form of energy over the life of the program.

I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of these remarks.

Finally, I want to emphasize that I consider this proposal to be a first draft. I am hopeful that as the Senate considers the question of Federal involvement in the development of alternative energy resources that my colleagues will consider the proposal in that package of legislation that will provide this country with alternative sources of energy and that interested parties will provide comments and criticism that will help fashion an acceptable bill that will benefit and stimulate the widespread use of municipal solid waste—garbage—as a useful source of energy.

There being no objection, the bill WAS ordered to be printed in the RECORD, as follows:

S. 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Municipal Solid Waste to Energy Act of 1979".

FINDINGS

SEC. 2. The Congress hereby finds that—

(a) embedded in the municipal solid waste stream is a store of energy and energy intensive materials which can be recovered and used and, as a consequence, conserve increasingly scarce and expensive supplies of higher quality fossil fuels;

(b) a commitment to develop this energy resource on a priority basis can potentially produce the equivalent of 149 million barrels of oil annually by 1990 with an approximate dollar value at prevailing world market energy prices of three billion dollars annually, and can reduce the unfavorable impact of oil imports on the balance of payments by an equivalent magnitude;

(c) the volume of discarded material in the municipal solid waste stream is increasing and the agencies of State and local governments with municipal solid waste management responsibilities confront growing problems in disposing of this waste in environmentally sound and economically acceptable ways;

(d) the technologies to convert waste to energy and recover valuable materials have demonstrated commercial feasibility to a degree that has warranted significant public and private investment in developing resource recovery projects;

(e) further improvements in the development of economical, commercially demonstrated resource recovery technology for the primary purpose of energy production will represent a significant innovation in the state-of-the-art and will present the opportunity to develop export markets for this technology; and,

(f) the implementation of resource recovery projects is a demanding, time consuming, and costly process, imposing significant burdens on project sponsors and participants that often frustrate or delay a successful outcome of the project.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) the term "standard support price" means, that price set by the Secretary which reflects the most costly conventional fossil fuel used in not less than 10 per centum of the industrial and commercial boilers in the United States with a nameplate capacity of 20,000,000 Btu's per hour. *Provided*, That in no event shall the standard support price be less than the average cost per million Btu value over the preceding three months of imported 0.7-per centum sulfur No. 6 fuel oil free on board in New York Harbor; and, *Provided further*, That the Secretary shall determine the standard support price within six months of the enactment of this section. Such price shall be set on a cost per million of Btu value basis.

(b) the term "adjusted support price" means that price which is determined by multiplying the standard support price by such price support factors as are determined by the Secretary. The adjusted support price shall be applicable where electricity or steam produced by a resource recovery project is sold to any user.

(c) the term "price support factor" means those factors which take into account any operating efficiencies, other cost savings and any other economic benefits realized in producing such electricity or steam as determined by the Secretary pursuant to published regulations.

ESTABLISHMENT OF A PRICE SUPPORT LOAN PROGRAM

SEC. 4. (a) The Secretary of Energy (hereinafter referred to as "Secretary") may enter into price support loan agreements with the owner or operator of a resource recovery project pursuant to the terms of which quarterly disbursements to such participant shall be made in an amount calculated by multiplying the quantity (measured in millions of Btu's) of recovered fuel products or electricity or steam produced by the resource recovery facility by the support price as determined with reference to:

(1)(A) in the case of recovered fuel products except as provided in subparagraph (B), the lesser of—

(i) the difference between the standard support price and the average cost of fuel per million British thermal units ("Btu's") value during the previous four fiscal quarters to the customer purchasing recovered fuel products from the resource recovery project, or

(ii) $2.00 per million Btu value; or

(B) Notwithstanding the above, in the case where a recovered fuel product displaces the use of oil, the amount of price support shall be the difference between the customer's actual cost of oil and the standard support price plus $0.80 per million Btu value; or

(2)(A) in the case of recovered electricity or steam except as provided in paragraph (B), the lesser of—

(i) the difference between the adjusted support price, and the average cost per

million Btu value during the previous four

million Btu value during the previous four fiscal quarters for electricity or steam purchased by the customer on a cost per million Btu basis, or

(ii) $3.00 per million Btu value times any price support factor established by the Secretary; or

(B) Notwithstanding the above, in the case where a recovered electricity or steam product displaces the use of oil, the amount of price support shall be the difference between the customer's actual cost of oil and the standard support price plus $0.80 per million Btu value.

(b) The value of the price support determined pursuant to subsection (a) shall be reduced each fiscal quarter beginning with the fifth consecutive fiscal quarter during which the resource recovery project has maintained commercial operation at substantially the level for which it is designed and, *Provided that:* The value of such price support shall be zero by the end of the twenty-eighth fiscal quarter as measured from the first of the four consecutive fiscal quarters referenced above.

(c) The amount of disbursements made pursuant to this section and which remains outstanding at the end of the twenty-eight consecutive fiscal quarters during which this price support program is utilized by any project shall bear interest at a reasonable rate determined by the Secretary, in consultation with the Secretary of the Treasury, but in no case shall such interest rate exceed five percent and, *Provided that:* Such interest shall not begin to accrue until the final disbursement has been made.

(d) The terms of the agreement between the Secretary and the owner or operator of the project shall require full repayment of the cumulative total of the amounts disbursed by the Secretary thereunder, *Provided that:* Such repayment shall commence at a date no later than one year after the date of the last disbursement by the Secretary and shall be completed no later than the earlier of fifteen years after such date or the time at which the indebtedness incurred to acquire the resource recovery project has been repaid, and shall provide for a repayment schedule as mutually agreed upon by the Secretary and the owner or operator of the project, after taking into account the impact of the timing and amount of annual repayment on the economic stability of the project and the integrity of the financing agreements.

(e) Price support operations undertaken by the Secretary pursuant to this section are hereby expressly limited to the use and sale of recovered fuel products and recovered electricity or steam produced by a resource recovery project and shall not extend to the sale of other recovered materials produced by such products.

(f) Notwithstanding any other provision of this section, the Secretary shall have no authority to disburse amounts pursuant to any price support loan agreement made under this section after December 31, 1994.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. For purposes of carrying out the provisions of this section, the amounts of $36,000,000 are authorized to be appropriated for the fiscal year 1980; $67,000,000 are authorized to be appropriated for fiscal year 1981; $93,000,000 are authorized to be appropriated for fiscal year 1982.

Mr. McGOVERN:

S. 1935. A bill to revise provisions of title 49, United States Code, which discourage contract ratemaking by railroad shippers; to the Committee on Commerce, Science, and Transportation.

IMPROVING RAIL INDUSTRY PERFORMANCE

● Mr. McGOVERN. Mr. President, after chairing a series of Joint Economic Subcommittee hearings for more than a year, I am convinced that railroad shippers and railroads themselves, through mutually beneficial contract agreements, can clear away the morass of confusion and alarm surrounding the prospect of reduced economic regulation of the rail industry.

Accordingly, I have today introduced the Railroad Contract Act of 1979.

The thrust of the bill is to promote voluntarily reached rail service contracts between shippers and railroads regarding rates and performance by clearly establishing as a matter of law that such contracts are legal.

In my judgment, this legislation may constitute the best step taken to bring the rail industry in line with the objectives of national energy and transportation policies by opening the way for railroads and shippers to establish the most efficient means of utilizing the national rail system.

Under this legislation it would be a matter of national policy to encourage shippers and railroads to engage in contract negotiations free of the often counterproductive Interstate Commerce Commission regulatory intervention that now frequently shapes ratemaking proceedings.

The premise of the legislation is that rail shippers and the railroads, more than any Government entity, know best what their requirements and problems are, and how they can be resolved. If given the opportunity afforded by this bill, railroads and shippers will be free to initiate economic regulatory reform without having to wait on or be restricted by cumbersome and unsatisfactory standards and criteria to be established by the ICC.

Rail service contracts hold out inherent benefits to both the railroads themselves and to shippers. Contracts permit railroads to know with certainty over the long run what demands shippers will make and how much they will pay for such service. Railroads thus can more efficiently schedule and utilize equipment and personnel. Shippers, in return for guaranteeing minimum service payment, will be assured of far greater service adequacy.

Mr. President, I want to emphasize that, although the bill encourages free contract bargaining by shippers and the rail industry, it nevertheless retains presently existing common carrier service obligations for all noncontract shippers. Beyond that, it keeps in place all presently existing prohibitions against discriminatory, prejudicial, or otherwise abusive practices that have or could victimize shippers.

Moreover, the bill provides that similarly situated shippers, such as grain shippers, are entitled to enter into similar rail contracts in order to assure competitive equity.

All contracts freely negotiated by shippers and railroads would be subject to ICC approval only for purposes of determining whether the requirements of such agreements would result in reduced service to noncontract shippers.

No railroad would be permitted to take locomotives and freight cars away from noncontract shippers or reduce their service in other ways in order to fulfill the terms of a contract.

To this end, the bill requires that the ICC, immediately following enactment, undertake a nationwide survey of the freight car and locomotive fleet of all railroads so that it can determine whether the size of various fleets is adequate to the demands placed on them and whether individual contracts will interfere with noncontract service.

To further protect shipper interests and for the benefit of all interested parties, the bill would establish within the ICC an information retrieval system on rail contract ratemaking. This provision directs the ICC to make nonconfidential summaries of contracts available to inform shippers and others of the provisions of various contracts and developing trends in the rail service contracts area as a whole.

Moreover, the legislation encourages shippers who are being poorly served by one railroad to seek ICC approval allowing a competing railroad to provide truck service to that rail line. Thus, noncontract shippers, especially those shippers who must rely heavily on rail transport, will have added bargaining leverage to obtain adequate service.

Mr. President, we long ago passed the point where the rail industry ceased to be the dominant transportation mode of the Nation, yet Government regulatory policy continues to hamstring the ability of our seriously weakened rail system to effectively compete with trucks and barges.

By allowing railroads and shippers free rein to dedicate specified amounts of rolling stock to stated routes and schedules in return for shipper guarantee for payment for specified service, we will have done much to modernize marketplace for railroads and rail shippers.

Mr. President, I ask unanimous consent to have the text of the Railroad Contract Act of 1979 printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Railroad Contract Act of 1979".

SEC. 2. (a) Chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VI—RAILROAD CONTRACT RATES

"§ 10791. Exemption from common carrier obligation

"(a) A rail carrier may enter into a contract with a shipper for transportation at rates and conditions of service agreed on by such rail carrier and shipper. Such contracts shall not be construed as adversely affecting the common carrier obligation of such rail carrier if such contracts do not prejudice service to non-contract shippers.

"(b) The Commission may not, after approving a contract entered into between a rail carrier and a shipper in accordance with subsection (a), take any action under subchapter II of chapter 111 which would interfere with the performance of such contract.

"(c) In reviewing and approving contracts under subsection (a) the Commission shall consider only the effect upon service to non-

contract shippers. A contract entered into under this section shall be considered approved unless the Commission, in consultation with appropriate Federal departments, agencies, and instrumentalities, determines within thirty days after receipt of such contract that such contract will prejudice service to non-contract shippers. For the purposes of review and approval of contracts under this section the Commission shall only require the submission of such contract information it determines necessary to fulfill the purposes of this section and section 10792(2).

"§ 10792. Railroad contract rate advisory service

"The Commission shall establish a railroad contract rate Advisory Service. The Advisory Service shall—

"(1) be responsible for the initial review and approval of all contracts entered into under section 10791;

"(2) compile and disseminate to interested parties non-confidential summaries of the provisions of individual contracts information relating to the provisions of contracts entered into under section 10791 with regard to various goods, items, and commodities covered by such contracts; and

"(3) provide the Commission and interested parties with advice regarding contracts described in section 10791.

"§ 10793. Directed contract service

"(a) The Commission shall, not later than thirty days after the date of enactment of this Act, promulgate standards and criteria to be used by the Commission and carriers in determining similarities between shippers for the purpose of offering contracts to such shippers pursuant to subsection (b).

"(b) Any carrier which enters into a contract pursuant to section 10791 shall enter into good faith contract negotiations with shippers who are similarly situated pursuant to findings of the Commission in section 10793 upon application by such shipper. If a contract is not agreed to within ninety days after such shipper applies to the carrier to begin contract negotiations the Commission may direct the carrier to enter into an agreement which is determined reasonable and equitable."

(b) The index for chapter 107 is amended by inserting the following after 10786:

"Subchapter VI—Railroad Contract Rates

"Sec.

"10791. Exemption from common carrier obligation.

"10792. Railroad contract advisory service.

"10793. Directed contract service.".

SEC. 3. (a) Subchapter II of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 11129. Survey of rail capacity

"The Commission shall immediately after the date of enactment of this section commence a survey of the rail service capacity of the nation's railroads. Such survey shall be periodically updated and shall be used by the Commission in making determinations under sections 10791 and for such other purposes as the Commission may determine.".

(b) The index for chapter 111 is amended by inserting the following after 11128:

"11129. Survey of rail capacity.".

SEC. 4. Section 11344 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) A rail carrier, or a person controlled by or affiliated with a rail carrier may apply for approval of a transaction which involves motor carrier transportation to serve inadequately served shippers located on another railroad. Such application shall be approved by the Commission if the shippers demonstrate present evidence of impaired rail service which results in the serious failure of the railroad serving the shippers to meet the rail equipment or transportation schedules of shippers or to seriously fail to otherwise provide adequate normal rail servcies required by shippers and which shippers would reasonably expect the railroad to provide. The Commission shall approve or disapprove applications under this subsection within thirty days after receipt of such application. The Commission shall approve applications which are not protested by interested parties within thirty days following receipt of such application.●

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. RIBICOFF, Mr. STEVENSON, Mr. MATSUNAGA, and Mr. TSONGAS):

S. 1936. A bill to ban the importation, manufacture, sale, and transfer of Saturday night specials, to improve the effectiveness of chapter 44 of title 18, United States Code, relating to gun control, to promote more effective management of certain law enforcement functions of the executive branch by transferring functions of the Secretary of the Treasury under chapter 44 of title 18, United States Code, relating to gun control to the Attorney General, to ban possession, shipment, transportation, and receipt of all firearms by felons, to provide relief for victims of handgun crimes, and for other purposes; to the Committee on the Judiciary.

HANDGUN CRIME CONTROL ACT OF 1979

Mr. KENNEDY. Mr. President, on behalf of Senators JAVITS, WILLIAMS, RIBICOFF, STEVENSON, MATSUNAGA, TSONGAS, and myself, I introduce the Handgun Crime Control Act of 1979 to curb the senseless killings caused by the proliferating use of handguns in America.

Handgun shootings can occur any place, and injure or kill anyone. There are no geographical limits. Handgun killings and woundings occur in the east, south, north, and west. Hundreds of thousands of American families suffer each year from the scourge of handgun violence.

During the Vietnam war the number of American civilians murdered by handguns here at home in the United States was larger than the number of American soldiers killed in combat in Indochina.

The Vietnam war is over. Yet our handgun war continues to escalate, fueled daily by the easy availability of handguns. Conservative estimates suggest that there are now 50 million handguns in civilian hands. Each year, we add nearly 2 million additional handguns to that arsenal. At the current rate of production and sales, over 100 million handguns will be in civilian hands by the year 2000.

America today is an armed society—armed against our neighbors, armed against our families, armed against ourselves. Our society has become captive to the fear of crime and violence. Fearing for their safety, residents on the block and in local neighborhoods purchase handguns to defend themselves. But rarely are these handguns used for self-defense. Instead, they become the quick solution to a heated family argument. Instead, they are stolen by a criminal and used to commit new crimes against society. They fall into the hands of children who harm themselves—often fatally.

The last time the Congress faced up to the handgun problem was in 1968. But the past decade's unprecedented wave of handgun crime and violence demonstrates that there are flagrant loopholes in the existing law that must be closed.

Every year, another quarter million citizens are killed, wounded or threatened with handguns. Every year, every month, every day, every hour, many of our constituents are added to the toll of handgun victims.

The American people want strong handgun control laws. Every responsible public opinion poll reports that handgun owners are willing to accept common sense controls on handguns. But Congress is stymied by a narrow segment of gun owners who, through intense lobbying and political intimidation, block the Government from dealing with this national problem.

The Handgun Crime Control Act of 1979 seeks to address the concerns of the handgun industry, handgun sellers, handgun owners and the millions of Americans who want us to do something about handgun crime.

The Attorney General, Benjamin Civiletti, has today released the annual FBI crime report, which shows an increase of 5.2 percent in violent crime during 1978. According to the report, handguns were used in 49 percent of the murders in the United States in 1978. The Attorney General had earlier stated that violent crime increased by 13 percent during the first half of 1979. So the rise in violent crime goes on unchecked.

My colleagues are aware that hundreds of bills have been introduced in recent years on the gun problem. They run the entire gamut: From a total ban on handguns, to the total repeal of the Nation's current gun laws. My proposal today, the Handgun Crime Control Act of 1979, seeks to find common ground between law-abiding, responsible handgun owners and those Americans who do not own or wish to own handguns the majority of Americans who favor handgun controls.

Let me first state what this legislation will not do.

The legislation does not apply to long guns—that is, rifles or shotguns. It does not restrict hunting in any way. It is not a foot-in-the-door piece of legislation that will lead in the future to confiscation of sporting weapons.

The bill is not retroactive. No law-abiding citizen must do anything to retain possession of a handgun. The bill does not confiscate any handgun. The bill does not jeopardize anyone's right to legitimately buy or use a handgun. The bill does not limit pistol clubs.

Instead, the bill is carefully designed to reduce handgun crime. It will achieve this goal by stopping the commerce in Saturday night specials through a ban on the manufacture, importation, assembly, sale, transfer, and distribution of these easily concealable weapons of violence.

In 1968, Congress wisely prohibited the importation of these nonsporting weapons. But Congress left a loophole larger

than the law. We failed to stop the importation of parts for these cheap handguns and their domestic assembly. The proposed legislation applies basically the same criteria currently used on imports to all domestic manufacture and sales.

The legislation also establishes a broad-based, independent commission to examine the handgun marketplace and determine within 1 year whether the criteria should be revised. Such factors as the handgun's concealability, sporting value, and criminal potential would be carefully weighed. Congress would consider the final recommendations of this panel.

The bill would also reduce handgun crime by attacking the illegal traffic in handguns. The first step is to assure that all handgun transactions are in compliance with existing Federal laws.

A reasonable regulatory procedure must be established to insure that a handgun purchaser does not have a criminal record, a history of mental illness, or drug addiction, is at least 21 years of age, and is properly identifiable.

A Federal procedure is established which a purchaser must follow unless the State in which the purchase is made has a comparable law. The bill requires the purchaser to appear before a licensed dealer and provide appropriate data. The dealer will then verify this information with law enforcement authorities. The purchaser is subject to a maximum 21-day waiting period before delivery. If the purchaser has previously complied with a State procedure, similar to the Federal process, he need only show the handgun dealer a valid State license in order to complete the purchase.

This preclearance procedure will cover the sale of every handgun, including all secondary transfers. Individuals who are not dealers will have to conduct the transfer through a licensed dealer.

The legislation also encourages States to adopt license-to-carry laws, modeled after the successful Bartley-Fox law in the State of Massachusetts. A recent study of the impact of this law shows a dramatic reduction in the number of gun deaths and gun assaults. The law requires a person to have a license to carry a handgun outside his home or place of business. Failure to abide by the law carries a mandatory jail term.

Why is a person carrying a concealed handgun on the street to begin with? If there is a legitimate need to carry that handgun, the individual will take the responsible step of securing a license. To encourage States to pass a license-to-carry law, the legislation will allow anyone possessing a valid license to purchase a handgun through Interstate Commerce.

These procedures are fair to those who wish to purchase handguns. Yet they will also help restrict the availability and use of handguns by the criminal.

In addition to procedures governing the sale of handguns, we must also increase the responsibility and accountability of licensed handgun manufacturers, handgun importers, handgun dealers, and handgun owners.

We have all heard the arguments about the establishment and cost of a large Federal bureaucracy created to supervise handgun control efforts. The proposed legislation creates no such bureaucracy. It does not call for a Government-run, centralized registration system. However, those who engage in the handgun business or maintain handgun ownership must recognize the serious consequences caused by misuse of these handguns.

To allay the fears of handgun owners and yet facilitate handgun tracing, the maintenance of handgun information is made the responsibility of the handgun industry itself.

Each licensed handgun manufacturer or importer will be ultimately responsible for keeping track of the disposition of all handguns introduced into commerce. They will be required to maintain records by serial number of all handguns produced, imported, received, sold, transferred, maintained in inventory, destroyed, lost, or stolen. They will receive periodic reports from all dealers with whom they do business on transactions involving the manufacturer's or importer's handguns. Manufacturers and importers will also conduct periodic audits of handgun dealers to insure the accuracy of records received from dealers.

Periodically, these manufacturers and importers will submit summary data, without serial numbers or individual names, to the Federal agency overseeing the law.

Through this accounting mechanism within the handgun industry, a partnership against handgun crime will be established. Tracing a stolen handgun will become as quick and easy as tracing a stolen automobile. At the same time, handgun manufacturers and importers will be able to notify owners of any defect or potential problem. And Federal agencies and the industry will be able to identify illegal handgun commerce.

The legislation also requires the theft, loss, or disappearance of any handgun to be reported to the appropriate law enforcement authority. Studies have consistently shown that stolen handguns constitute a major source of weapons for the criminal. Besides aiding in law enforcement efforts, such reporting will allow the police to restore the lost or stolen property to the legitimate owner or business.

Handgun owners will also be prohibited from loaning or renting their handguns to anyone, except for use in their presence or on their premises. Again, this provision seeks to deter the misuse of these weapons.

To underline the emphasis on handgun commerce as opposed to long gun commerce, a separate commercial licensing scheme is established for handguns. Higher commercial handgun fees are included.

Handgun dealers are also required to take appropriate security precautions to protect their place of business.

The legislation also contains provisions to limit the opportunities for illegal traffic in handguns. Pawnbrokers, because of a long history of abuse, are prohibited from dealing in handguns. There is a limit on the number of handguns one can buy. In a given year, a dealer may not sell more than three handguns to one person, unless special permission is obtained for sales to handgun collectors or other legitimate users. This provision is aimed at curtailing the existing practice whereby blackmarketeers have been able to make large-scale purchases of handguns in States with ineffective laws, and then resell them in States with tighter handgun control laws.

The Handgun Crime Control Act of 1979 also seeks to remedy the situation arising from the 1971 Supreme Court decision in *U.S.* v. *Bass* (404 U.S. 336). The Court significantly restricted the Federal Government's ability to prosecute felons for possession of handguns. The Court ruled that the Gun Control Act of 1968 did not indicate a clear legislative intent to proscribe possession, unless a specific impact on commerce was caused by the act of possession involved in the prosecution. This legislation states clearly that possession of handguns by felons does in fact burden Interstate Commerce, and that an impact on commerce by individual acts of possession need not be proved.

We have also heard the argument that we must punish the handgun criminal and other misusers of handguns. This legislation will do that as well. The penalty section of the legislation is aimed at deterring handgun crime, by imposing strict punishment for crimes involving handguns, and improving the effectiveness of handgun laws by clearly establishing the legal liability for noncompliance.

Under the bill, a mandatory jail term will be imposed on those who use or carry a handgun during the commission of a Federal felony. The bill also encourages States to adopt a mandatory 6-months term of imprisonment for persons found guilty of carrying a handgun outside their home or place of business, without a valid State license to do so.

Besides insuring that criminals go to jail, we must put teeth into the law as it relates to other citizens. If a handgun owner or commercial licensee fails to report a theft or loss of a handgun, and it is subsequently used in the commission of a felony, the owner or licensee will be subject to a fine. In addition, a commercial licensee or handgun owner will be civilly liable to the victims if he illegally sells or transfers a handgun to another person who then uses that handgun in the course of a crime.

We must also do a better job of enforcing the laws already on the books. I strongly believe that we must have better enforcement of existing laws. To that end, all aspects of the administration and enforcement of Federal gun laws—except tax collection—would be transferred by the bill from the Treasury Department to the Department of Justice, in order to enable the Department of Justice to develop a greater concentration and focus on handgun crime.

Finally, the legislation seeks to aid the innocent victims of handgun violence. The bill provides for a victim compensation program consisting of Federal grants to support federally approved State programs for personal injury and death resulting from handguns.

The time has come for this Nation to

enact responsible legislation to end the plague of handgun crimes. Together, the President, the Congress, the handgun industry, handgun owners, and handgun victims can enact an effective handgun control law that is fair to all concerned.

I ask unanimous consent to have printed in the RECORD the full text of the Handgun Crime Control Act of 1979 and accompanying materials.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Handgun Crime Control Act of 1979".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress finds and declares—

(1) that easily concealable handguns are used in a substantial percentage of the criminal offenses committed with handguns;

(2) that easily concealable handguns have no sporting purpose and constitute a serious threat to general law enforcement, to the public safety, and to the integrity of State and local firearms control laws;

(3) that the existing ban on importation of easily concealable handguns has been effectively subverted by the importation of parts and the domestic assembly, manufacture, and sale of the weapons the Congress banned from importation;

(4) that public opinion polls have consistently indicated that a substantial majority of the American public as well as a substantial majority of American handgun owners favor the introduction of more effective handgun controls;

(5) that legitimate purposes for handgun ownership will not be impeded by the regulation of illegal traffic in handguns to ensure that commerce in handguns is responsible and accountable;

(6) that the receipt or possession of firearms and ammunition by persons barred by Federal law from such receipt or possession constitutes—

(A) a burden on commerce within and among States; and

(B) a threat to the domestic tranquility;

(7) that it is necessary to provide (A) a new organizational structure for improved performance, coordination, and evaluation of firearms control functions at the Federal level, and (B) more effective coordination between Federal, State, and local governmental agencies in an effort to assist States and localities in improving interstate and local regulation of illicit handgun traffic;

(8) that a person obtaining a Federal license to import, manufacture, or deal in firearms should be an importer, manufacturer, or dealer operating not only within the Federal laws but also within State and local laws;

(9) that the burden on commerce caused by illegal possession of handguns by felons and by persons barred from possession of handguns by Federal, State, or local law requires an increased obligation on the transferor of handguns and on law enforcement agencies to assure that there is no sale or transfer of a handgun to a person not authorized to possess it;

(10) that the fees for licenses for handguns importers, manufacturers, and dealers must be determined according to the cost of administering and enforcing the provisions established for regulating the commerce in handguns; and

(11) that the innocent victims of handgun crime have been forgotten and ignored and should be compensated for the harm they suffer as a result of handgun violence.

TITLE I—AMENDMENTS TO CHAPTER 44 TITLE 18, UNITED STATES CODE, GUN CONTROL

DEFINITIONS

SEC. 101. (a) Section 921 (a) (11) of title 18, United States Code, is amended to read as follows:

"(11) The term 'dealer' means any person who is (A) engaged in business as an ammunition retailer, (B) engaged in business as a gunsmith, (C) engaged in business as a firearms dealer, or (D) a pawnbroker whose business includes the taking or receiving by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money. The term 'licensed dealer' means any dealer who is licensed under the provisions of this chapter.";

(b) Section 921 (a) of such title is amended—

(1) by redesignating paragraphs (12), (13), (14), (15), (16), (17), (18), (19), and (20) as paragraphs (19), (20), (21), (22), (23), (24), (25), (26), and (27), respectively; and

(2) by adding after paragraph (11) the following new paragraphs:

"(12) The term 'ammunition retailer' means any person who is not otherwise a dealer and who is engaged in the business of selling ammunition at retail, other than ammunition for destructive devices.

"(13) The term 'gunsmith' means any person who is not otherwise a dealer and who is engaged in the business of repairing firearms or making or fitting special barrels, stocks, or trigger mechanisms to firearms.

"(14) The term 'firearms dealer' means any person who is engaged in the business of selling firearms or ammunition at wholesale or retail.

"(15) The term 'handgun' means a firearm which has a short stock and which is designed to be held and fired by the use of a single hand. The term also includes any combination of parts from which a handgun can be assembled.

"(16) The term 'handgun model' means a handgun of a particular design, specification, and designation.

"(17) The term 'pistol' means a handgun having a chamber or chambers as an integral part or parts of, or permanently alined with, the bore or bores.

"(18) The term 'revolver' means a handgun having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates the cylinder to bring the next cartridge in line with the barrel for firing.".

(c) Section 921(19) (as redesignated by clause (1) of subsection (b)) is amended to read as follows:

"(19) The term 'pawnbroker' means any person whose business or occupation includes the taking or receiving by way of pledge or pawn, of personal property as security for the payment or repayment of money.".

(d) Section 921(25) (as redesignated by clause (1) of subsection (b)) is amended to read as follows:

"(25) 'Department' means the Department of Justice;".

UNLAWFUL ACTS

SEC. 102. (a) Section 922(a)(1) of title 18, United States Code, is amended by inserting after "manufacturing" a comma and the following: "repairing".

(b) Section 922(a)(2)(A) of such title is amended—

(1) by inserting after "replacement firearm" a comma and the following: "other than a handgun model which has not been approved by the Attorney General under section 923A,"; and

(2) by inserting after "customizing" a semicolon and the following: "except that an individual may not mail a handgun model which has not been approved by the Attorney General under section 923A, except for the purpose of modification pursuant to subsection (d)(3)".

(c) Section 922(a)(3) of such title is amended by striking out "and (C)" and inserting in lieu thereof "(C) shall not apply to the transportation or receipt of a handgun pursuant to section 922A(a), and (D)".

(d)(1) Section 922(a)(5) of such title is amended by striking out "resides in any State other than that in which the transferor resides (or other than that" and inserting in lieu thereof "does not reside in the State in which the transferor resides (or does not reside in the State".

(2) Section 922(a)(5) of such title is further amended by striking out "and" at the end of clause (A) and by inserting before the period a comma and the following: "(C) the loan or rental of a handgun, other than a handgun model which has not been approved by the Attorney General under section 923A of this chapter, to any person for temporary use for lawful sporting purposes within the premises or in the presence of the transferor, and (D) the transfer, transportation, or delivery of a handgun pursuant to section 922A(a)(3)".

(e) Section 922(b)(2) of such title is amended by inserting after "other disposition" a comma and the following: "or the place of residence of the purchaser,".

(f) Section 922(b)(3) of such title is amended by redesignating clause (C) as clause (D) and by inserting after clause (B) the following: "and (C) shall not apply to the loan or rental of a handgun, other than a handgun model which has not been approved by the Attorney General under section 923A of this chapter, to any person for temporary use for lawful sporting purposes within the premises or in the presence of the transferor".

(g) Section 922(c) of such title is amended—

(1) by inserting after the words "may sell a firearm" a comma and the following: "other than a handgun,"; and

(2) by deleting ", in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle," in subsection (c)(1).

(h)(1) Section 922(d) of such title is repealed.

(2) Section 922(h) of such title is repealed.

(i) Section 922 of such title is amended—

(1) by redesignating subsections (e) and (f) as subsections (j) and (k), respectively;

(2) by redesignating subsection (g) as subsection (f);

(3) by redesignating subsections (i), (j), (k), (l), and (m) as subsections (l), (m), (n), (o), and (p), respectively; and

(4) by inserting after subsection (c) the following new subsections:

"(d)(1) It shall be unlawful for any licensed manufacturer, licensed importer, licensed dealer, or licensed collector to manufacture, assemble, sell, deliver, or transfer any handgun, other than a curio or relic, in the United States unless the handgun model has been approved by the Attorney General pursuant to section 923A of this chapter.

"(2) It shall be unlawful for any person other than a licensed manufacturer, licensed importer, licensed dealer, or licensed collector to sell or transfer any handgun, other than a curio or relic, in the United States unless that person knows or has reasonable cause to believe that the handgun model has been approved by the Attorney General pursuant to section 923A of this chapter.

"(3)(A) This subsection shall not preclude an individual from mailing a handgun model which has not been approved by the Attorney General pursuant to section 923A of this chapter which he owns in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, or licensed dealer for the sole purpose of modifying the

handgun to comply with the standards of a handgun model approved under section 923A of this chapter, if such person first wraps the handgun in a package for mailing and does not remove the handgun from his residence or business premises prior to informing the local law enforcement authorities that he intends to do so.

"(B) This subsection does not apply to the manufacture, sale, delivery, or other transfer of a handgun to the Attorney General for testing and analysis by the Attorney General or a research organization designated by him.

"(e) It shall be unlawful for any person to modify a handgun if the handgun model was previously approved by the Attorney General under section 923A of this chapter if as a result of the modification the handgun no longer meets the standards of a handgun model approved under section 923A.".

(j) Section 922(f)(3) of such Act, as redesignated by subsection (h) of this section, is amended—

(1) by deleting "drug (as defined in section 201 (v) of the Federal Food, Drug, and Cosmetic Act)" and inserting in lieu thereof "substance"; and

(2) by deleting "(as defined in section 4731 (a) of the Internal Revenue Code of 1954); or" and inserting in lieu thereof "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);".

(k) Clause (4) of section 922 (f) of such title (as redesignated by subsection (h) of this section) and the matter following such clause (4) are amended to read as follows:

"(4) who has been adjudicated as mentally incompetent or has been committed to a mental institution; or

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who having been a citizen of the United States has renounced his citizenship;

to possess, ship, transport, or receive any firearm or ammunition. It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person is a person described in clause (1), (2), (3), (4), (5), (6), or (7) of this subsection.".

(l) Section 922 of such title is further amended by inserting after subsection (f) (as redesignated by subsection (h) of this section) the following new subsections:

"(g) It shall be unlawful for any person—

"(1) who, while being employed by an employer who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition under clause (1), (2), (3), (4), (5), (6), or (7) of subsection (f), and

"(2) who, knowing or having reason to believe such an employer is a person described in clause (1), (2), (3), (4), (5), (6), or (7) of subsection (f),

to possess, transport or receive any firearm or ammunition in the course of such employment unless the Attorney General waives the prohibition under this subsection with respect to such a person pursuant to such uniform procedures as the Attorney General prescribes.

"(h) It shall be unlawful for any person to ship or transport any firearm or ammunition in interstate or foreign commerce if such shipment or transportation is in violation of a State law in a place to which or through which the firearm was shipped or transported or of an ordinance applicable at the place of sale, delivery, or other disposition.

"(i) (1) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or transfer three or more handguns to the same person, other than another licensed importer, licensed manufacturer, licensed dealer, or licensed collector, in a period of three hundred sixty-five days or less, unless the transferee has obtained prior approval of the purchase from the Attorney General, pursuant to regulations promulgated by the Attorney General.

"(2) It shall be unlawful for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to purchase or receive three or more handguns in a period of three hundred sixty-five days or less, unless the person has obtained prior approval of the purchase from the Attorney General pursuant to regulations promulgated by the Attorney General.".

(m) Section 922 of such title is further amended by adding at the end thereof the following new subsection:

"(q) It shall be unlawful for any person, including a licensed importer, manufacturer, dealer or collector, who has knowledge of the loss, theft, or disappearance of a handgun in his possession or control to fail to report the loss, theft or disappearance to the chief law enforcement officer of the place where the handgun was kept, within twenty-four hours after discovering the loss, theft, or disappearance, and to the Attorney General within five days after discovering the loss, theft, or disappearance. Each such report shall contain (1) the serial number, (2) the model, (3) the caliber, (4) the manufacturer of the handgun, (5) the date and place of theft, loss or disappearance, and (6) a complete statement of facts and circumstances surrounding the theft, loss or disappearance.".

TRANSFER OF HANDGUNS

SEC. 103. (a) Chapter 44 of title 18, United Sates Code, is amended by inserting after section 922 the following new section:

"§ 922A. Transfer of handguns

"(a) In any case not otherwise prohibited by this chapter, a person in lawful possession of a license or permit to carry handguns issued under a State licensing or permit granting program which has been approved by the Attorney General pursuant to subsection (c), may purchase or receive a handgun in any State only if such purchase or receipt would not be in violation of any State or local laws applicable at the place of transfer, and if—

"(1) the transferee appears in person at the business premises of a licensed dealer in handguns, and if—

"(A) the transferee has shown the licensed dealer his license or permit to carry handguns and the licensed dealer has verified the current validity of that license or permit to carry and has stamped on such permit or license the date of transfer or purchase. The licensed dealer shall maintain a record of the permit or license number of the transferee, the expiration date of the license, the date of the purchase or transfer, and the serial number of the handgun purchased or transferred; or

"(B) the transferee provides identification sufficient to establish, under regulations prescribed by the Attorney General, reasonable grounds to believe that the individual described on the permit or license is the transferee, and the dealer reasonably believes that the individual described on the permit or license is the transferee; or

"(2) in the event of a transfer by a transferor other than a licensed importer, manufacturer, dealer or collector, to a transferee other than a licensed importer, manufacturer, dealer or collector, the transferee has supplied the transferor with a certificate that establishes the current validity of the license or permit and that was obtained from a local law enforcement agency or licensed dealer in handguns in a form and in a manner prescribed by the Attorney General; and upon completion of the transfer, the transferor has reported the transfer on a form to be provided by the Attorney General to a licensed dealer who shall maintain a record of that transfer pursuant to this subsection.

The licensed dealer shall maintain a record of the permit or license number of the transferee, the expiration date of the license, the date of the purchase or transfer, and the serial number of the handgun purchased or transferred for the purpose of clause (2)(A).

"(b) In any case not otherwise prohibited by this chapter, a person in lawful possession of a license or permit to purchase handguns issued under a State licensing or permit-granting program which has been approved by the Attorney General pursuant to subsection (d), may purchase or receive a handgun in that State, only if such purchase or receipt would not be in violation of any local laws applicable at the place of transfer, and if—

"(1) the transferee appears in person at the business premises of a licensed dealer in handguns and if—

"(A) the transferee has shown the licensed dealer his license or permit to purchase handguns and the licensed dealer has verified the current validity of that license or permit to purchase and has stamped on such permit or license the date of transfer or purchase. The licensed dealer shall maintain a record of the permit or license number of the transferee, the expiration date of the license, the date of the purchase or transfer, and the serial number of the handgun purchased or transferred;

"(B) the transferee provides identification sufficient to establish, under regulations prescribed by the Attorney General, reasonable grounds to believe that the individual described on the permit or license is the transferee, and the dealer reasonably believes that the individual described on the permit or license is the transferee; or

"(2) in the event of a transfer by a transferor other than a licensed importer, manufacturer, dealer or collector, to a transferee other than a licensed importer, manufacturer, dealer or collector, the transferee has supplied the transferor with a certificate that establishes the current validity of the license or permit and that was obtained from a local law enforcement agency or licensed dealer in handguns in a form and in a manner prescribed by the Attorney General; and upon completion of the transfer, the transferor has reported the transfer on a form to be provided by the Attorney General to a licensed dealer who shall maintain a record of that transfer in the same manner as for transfers under subsection (a) (2) of this section.

"(c) The Attorney General shall review State laws providing for licenses or permits to carry handguns. The Attorney General shall certify any such law as approved under this section if the law contains provisions to assure that—

"(1) a license or permit to carry is issued only after (A) positive determination of the identity of the applicant; (B) an examination of pertinent local, State, and Federal records; (C) a determination that the applicant has not been convicted of, and is not currently charged with an offense punishable by imprisonment for one year or more; and (D) the application and examination reveal no other grounds for disqualification to possess a handgun under Federal or State law;

"(2) the license or permit to carry to be issued provides, on its face, a photograph or other reliable means of determining that an individual possessing the permit or license is the individual to whom it was issued;

"(3) each license or permit to carry issued to an individual is cancelled upon the holder becoming ineligible to have a license or permit, and for the purpose of this clause a license or permit shall be deemed cancelled

if the State issues at least monthly, to the Department and to all licensed dealers within the State, a list of cancelled license or permit numbers;

"(4) the license or permit to carry a handgun is only issued to an individual if that individual would not be prohibited from purchasing and carrying a handgun under the local law applicable at his place of residence;

"(5) the license or permit to carry a handgun is effectively nonalterable or the State law punishes the alteration thereof;

"(6) the State maintains a record of the names of individuals who have been issued a license or permit to carry a handgun;

"(7) the license or permit to carry a handgun is only issued to individuals with a legitimate need to carry a handgun outside their residence or place of business, including, but not limited to—

"(A) law enforcement personnel;

"(B) licensed security guards;

"(C) individuals who meet standards of demonstrated need for the use of handguns for protection of their person or property;

"(D) individuals who meet standards of demonstrated need for the use of handguns for legitimate sporting purposes; and

"(E) individuals who, for a limited period of time, must transport a handgun in their possession through or within the State;

"(8) the State periodically reviews the need of an individual for a license or permit to carry so that any license or permit to carry may be cancelled when the need no longer exists; and

"(9) the State provides a mandatory penalty of imprisonment for a term of at least six months for all individuals who are found guilty of carrying a handgun outside of their residence or place of business without a license or permit to carry a handgun.

The Attorney General shall publish monthly a composite list of cancelled license or permit numbers, by State, for all States submitting lists under clause (3) of this subsection.

"(d) The Attorney General shall review State laws providing for licenses or permits to purchase handguns. The Attorney General shall certify any such law as approved under this section if the law contains provisions to assure that—

"(1) a license or permit to purchase is issued only after (A) positive determination of the identity of the applicant; (B) an examination of pertinent local, State, and Federal records; (C) a determination that the applicant has not been convicted of, and is not currently charged with an offense punishable by imprisonment for one year or more; and (D) the application and examination reveal no other grounds for disqualification to possess a handgun under Federal or State law;

"(2) the license or permit to purchase to be issued provides, on its face, a photograph or other reliable means of determining that an individual possessing the permit or license is the individual to whom it was issued;

"(3) each license or permit to purchase a handgun issued to an individual—

"(A) allows the licensee or permittee to carry the handgun outside of his residence or place of business for not more than twenty-four hours from the date he actually receives the handgun from the transferor, but only if the handgun is carried in nonfunctional form;

"(B) expires within two years, with renewal predicated on a redetermination of the holder's eligibility;

"(C) is cancelled upon the holder becoming ineligible to have a license or permit, and for the purpose of this subclause a license or permit shall be deeemd cancelled if the State issues, at least monthly, to the Department and to all licensed dealers within the State, a list of individuals whose licenses or permits are cancelled;

"(4) the license or permit to purchase a handgun is only issued to an individual if that individual would not be prohibited from purchasing a handgun under the local law applicable at his place of residence;

"(5) the license or permit to purchase a handgun is effectively nonalterable or the State law punishes the alteration thereof; and

"(6) the State maintains a record of the names of individuals who have been issued a license or permit to purchase a handgun.

The Attorney General shall publish monthly a composite list of cancelled licenses or permits, by State, for all States submitting lists under clause (3)(C) of this subsection.

"(e) In any case not otherwise prohibited by this chapter, and, except as provided in subsections (a) and (b), a licensed dealer in handguns or other person may sell, deliver, or otherwise transfer a handgun to another person in the State of residence of that person (other than a licensed importer, manufacturer, or dealer) only if the transferee appears in person at the business premises of a licensed dealer in handguns and if—

"(1) the transferee submits to the dealer a sworn statement on a form prescribed by the Attorney General which states—

"(A) his name, and his residence;

"(B) that his receipt, purchase or possession of the handgun will not be in violation of Federal law, or of a State or local law applicable to his place of residence and that he does not intend to resell or transfer the handgun to a person who is barred from purchasing, owning or possessing it by Federal, State, or local law applicable to the place of the residence of the transferee;

"(C) the title, name, and address of the chief law enforcement officer of the place of the transferee's residence;

"(2) a State or local law applicable at the place of the residence of the transferee requires that an individual must have a permit or license to own, carry, purchase, or possess the handgun, a true copy of such permit or license shall be attached to the sworn statement, and any other information required to be supplied to purchase, acquire, possess, own, or carry a handgun under such State or local law shall also be attached to the sworn statement;

"(3) the transferee provides identification sufficient to establish, under regulations prescribed by the Attorney General, reasonable grounds to believe that the individual named on the sworn statement is the transferee, and that the residence of the transferee is at the address stated in his sworn statement;

"(4) the dealer has, prior to delivery of the handgun, forwarded immediately by registered or certified mail (return receipt requested), to the chief law enforcement officer of the place of residence of the transferee and to the Federal Bureau of Investigation a copy of the sworn statement (with the attached copy of any State license or permit), in a form prescribed by the Attorney General, for the purpose of—

"(A) notifying such officer of the proposed transaction, and permitting such officer to check the identity and record of the transferee, and to determine and report to the dealer whether ownership or possession of the handgun by the transferee would be in violation of Federal law or of State or local law of the residence of the transferee;

"(B) permitting an identity and record check by the Federal Bureau of Investigation which shall, within fifteen days of receipt of the sworn statement from the dealer, transmit to the dealer a report whether the transferee is prohibited by law from receiving a handgun; and

"(5) the dealer—

"(A) has received the report of the Federal Bureau of Investigation;

"(B) has received the report of the chief law enforcement officer of the place of residence of the transferee, or has received a return receipt evidencing delivery of the statement to the chief law enforcement officer, or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Postal Service regulations, or 21 days have elapsed after the licensee submitted the sworn statement of the transferee and the licensee has not been advised that the transferee is prohibited by law from receiving a handgun; and

"(C) has not received a report from the Federal Bureau of Investigation or from the chief law enforcement officer that the transferee is prohibited from shipping, possessing, transporting or receiving a handgun under subsection (f) of section 922, or that the transferee is less than twenty-one years of age, or that the receipt, purchase, or possession of the handgun by the transferee would be a violation of State or local law applicable at the place of residence.

A copy of the sworn statement, a copy of any State license or permit to purchase or carry, and a copy of any notification to the Federal Bureau of Investigation and the appropriate chief law enforcement officer, together with the report received from the Federal Bureau of Investigation and the law enforcement officer under this subsection, shall be retained by the licensee as part of the records required to be kept under section 923(g).

"(f) In the case of a transfer of a handgun by a transferor, other than a licensed dealer in handguns, to a transferee, other than a licensed importer, manufacturer, dealer, or collector, and except as provided in subsections (a) and (b), the transferor shall not transfer the handgun unless he has received from the transferee or from a licensed dealer in handguns a written certification on a form provided by the Attorney General, that the dealer has followed the procedure required under subsection (e). Upon completion of the transfer, the transferor shall notify the dealer, on a form provided as part of the certificate, that the transfer has taken place. The dealer shall maintain a separate record of the serial numbers of handguns involved in transfers reported to him under this section.

"(g) The provisions of this section shall not apply to loans or rentals of handguns at legitimate shooting ranges for use on the premises for periods of less than twelve hours and under conditions prescribed by regulation.

"(h) A licensed dealer in handguns who arranges for the transfer of a handgun between nonlicensees shall be entitled to charge the transferee a fee to be determined by the Attorney General but not to exceed $10 per transaction.

"(i) Nothing in this section shall be construed to permit an individual to carry a handgun in any State if such a carrying is illegal in that State.".

(b) The analysis of chapter 44 of such title is amended by inserting after item "922" the following new item:

"922A. Transfer of handguns.".

LICENSING

SEC. 104. (a) Section 923(a)(1) of title 18, United States Code, is amended—

(1) by redesignating clauses (B) and (C) as clauses (C) and (D), respectively;

(2) by adding after clause (A) the following new clause:

"(B) of handguns, a fee of $5,000 per year;"; and

(3) by inserting in clause (C), as redesignated by this subsection, "or handguns" after "destructive devices".

(b) Section 923(a)(2) of such title is amended—

(1) by deleting the word "or" at the end of clause (A);

(2) by redesignating clause (B) as clause (C);

(3) by inserting after clause (A) the following new clause:

"(B) of handguns, a fee of $5,000 per year; or"; and

(4) by inserting "or handguns" after "destructive devices" the first time they appear in clause (C), as redesignated by this subsection.

(c) Section 923(a)(3) of such title is amended—

(1) by redesignating clauses (B) and (C) as clauses (E) and (F), respectively;

(2) by adding after clause (A) the following new clauses:

"(B) in handguns, a fee of $500 per year;

"(C) in ammunition for handguns that is not also used in rifles, a fee of $100 per year;";

"(D) who is a gunsmith, a fee of $100 per year;"; and

(3) by inserting "or handguns" after "destructive devices" each time the term appears in clauses (E) and (F), as redesignated by this subsection.

(d) Section 923(a) of such title is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, the license fees paid pursuant to this section shall be used by the Attorney General for the administration and enforcement of the provisions of this chapter.".

(e) Section 923(c) of such title is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following:

"(2) A pawnbroker may not be licensed as a dealer in handguns or handgun ammunition, and a handgun dealer or dealer in handgun ammunition may not conduct his business from the premises of a pawnbroker.".

(f)(1) The matter preceding clause (A) of section 923(d)(1) of such title is amended to read as follows:

"(1) Any application submitted under subsection (a) or (b) of this section shall be approved if the Attorney General finds that—".

(2) Section 923(d)(1)(B) of such title is amended to read as follows:

"(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association)—

"(i) is not prohibited from possessing, transporting, shipping, or receiving firearms or ammunition under section 922 (f) or (g) of this chapter;

"(ii) is not prohibited by the law of the State or by the relevant ordinance of his place of business from conducting the business of transporting, shipping, receiving, selling, transferring, owning, or possessing the firearms or ammuntion to which the license would apply; and

"(iii) certifies he will not employ individuals in his licensed business who are prohibited from possessing, transporting, shipping or receiving firearms or ammunition under section 922(f).".

(3) Section 923(d)(1)(E)(i) of such title is amended by inserting before the comma the following: "and such premises are appropriate nonmobile premises protected by such adequate security devices as the Attorney General shall by regulation prescribe;".

(g) Section 923(d)(2) of such title is amended by deleting "forty-five" and inserting in lieu thereof "ninety".

(h) Section 923(e) of such title is amended to read as follows:

"(e) The Attorney General may, after notice and opportunity for hearing, suspend or revoke any license issued under this section, or may subject the licensee to a civil penalty not to exceed $10,000 per violation, if the holder of such license has violated any provision of this chapter or any rule or regulation prescribed by the Attorney General under this chapter. The Attorney General may at any time compromise, mitigate, or remit the liability with respect to such violation. The Attorney General's action under this subsection may be reviewed only as provided in subsection (f) of this section.".

(i) Section 923(f) of such title is amended to read as follows:

"(f)(1) Any person whose application for a license is denied and any holder of a license which is suspended or revoked or who is assessed a civil penalty shall receive a written notice from the Attorney General stating specifically the ground upon which the application was denied or upon which the license was suspended or revoked or the civil penalty assessed. Any notice of a suspension or revocation of a license shall be given to the holder of such license before the effective date of the suspension or revocation.

"(2) If the Attorney General denies an application for, or suspends or revokes a license, or assesses a civil penalty, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial, suspension, revocation, or assessment. In the case of a suspension or revocation of a license, the Attorney General shall upon the request of the holder of the license stay the effective date of the suspension or revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

"(3) If after a hearing held under paragraph (2) the Attorney General decides not to reverse his decision to deny an application or suspend or revoke a license or assess a civil penalty, the Attorney General shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a judicial review of such denial, suspension, revocation, or assessment. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding. If the court decides that the Attorney General was not authorized to deny the application or to suspend or revoke the license or to assess the civil penalty, the court shall order the Attorney General to take such action as may be necessary to comply with the judgment of the court.".

(j) Section 923(g) of such title is amended to read as follows:

"(g)(1) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms and ammunition at such place, for such period, and in such form as the Attorney General may by regulations prescribe.

"(2) Each licensed importer and licensed manufacturer shall for each handgun imported, received or manufactured by such importer or manufacturer, maintain accurate records kept according to the serial number of each such handgun for 10 years from the date of each disposition, of (A) the disposition of each such handgun whether through sale, transfer, destruction, loss, theft, or other means, (B) the date of such disposition, and (C) in addition for each sale or transfer of each such handgun including subsequent transfers reported by a licensed dealer under subsection (b) of section 922A, of the model, the name and address of the transferor, and the name and address or license number of the transferee.

"(3) Each licensed dealer in handguns shall, for each handgun received or transferred by or through him under section 922A, maintain accurate records kept according to the serial number of each such handgun, of (A) the disposition of each such handgun, whether through sale, transfer, trade-in, destruction, loss, theft, or other means, (B) the date of such disposition, and (C) in addition for each sale or transfer of such handgun, of the model, the name and address of the transferor, and the name and address or license number of the transferee. Each such dealer shall monthly transfer such records to the importer or manufacturer whose serial number appears on the handgun.

"(4) Each licensed importer and licensed manufacturer shall, pursuant to such regulations as the Attorney General shall prescribe, conduct periodic audits of the records received from licensed dealers under paragraph (3) of this subsection to ensure the accuracy of such records.

"(5) In the event that a licensed importer, manufacturer, dealer or collector loses his license, sells or transfers his business to another person or corporation, dies, or in any other way ceases doing business as a licensed importer, manufacturer, dealer or collector, he shall transfer, or cause to be transferred, to the subsequent purchaser or transferee of the business, or in the event that there is no subsequent purchaser or transferee of the business, to the Department, the records maintained under this section. All reports under subsection (b) from dealers with respect to transfers of handguns with serial numbers associated with an importer or manufacturer who has ceased doing business, shall be sent to the subsequent purchaser or transferee of the business, or in the event that there is no subsequent purchaser or transferee of the business, to the Department.

"(6)(A) All licensed importers, licensed manufacturers, licensed dealers, and licensed collectors shall make such records available for inspection at all reasonable times, and shall submit to the Attorney General such regular reports and information with respect to such records as he shall by regulations prescribe, including, but not limited to, quarterly reports, kept according to handgun size and model, summarizing the disposition of all handguns transferred by or through that licensed importer, licensed manufacturer, licensed dealer or licensed collector. No such regular reports shall contain the name or address of any non-commercial licensee.

"(B) The Attorney General may enter during business hours the premises (including places of storage) of any firearms or ammunition importer, manufacturer, dealer, or collector for the purpose of inspecting or examining (i) any records or documents required to be kept by such importer, manufacturer, dealer, or collector under the provisions of this chapter or regulations issued under this chapter, and (ii) any firearms or ammunition kept or stored by such importer, manufacturer, dealer, or collector at such premises. Upon the request of a State or any political subdivision thereof, the Attorney General may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition.".

(k) Section 923 (i) of such title is amended by inserting at the end thereof the following: "The Attorney General shall approve for each licensed importer and manufacturer a serial number code unique to that importer or manufacturer.".

EASILY CONCEALABLE HANDGUNS ILLEGAL

SEC. 105. (a) Chapter 44 of title 18 is amended by inserting after section 923 the following new section:

"§ 923A. Easily concealable handguns

"(a)(1) The Attorney General shall approve for manufacture, assembly, importation, sale, or transfer any handgun model if he has caused to be evaluated and tested representative samples of such handgun model, and has found that such handgun model satisfies the criteria established pursuant to subsection (b) of this section and made effective pursuant to subsection (c) of this section.

"(2) The Attorney General is authorized to make exceptions to the handgun criteria for handguns particularly appropriate for use for law enforcement purposes by law enforcement authorities. The Attorney General may by regulation approve the manufacture and sale of limited quantities of such handgun models only to law enforcement authorities that have a demonstrated need to use such handguns for law enforcement purposes. Such handgun models shall not be sold or resold to any other individuals.

"(b)(1) The Attorney General shall appoint a Handgun Criteria Commission for the purpose of developing criteria by which handgun models may be evaluated according to the frame size and other factors as may be appropriate to determine whether such handgun models are easily concealable, are handguns with potential for criminal use or are handguns particularly suitable for sporting purposes.

"(2) The Commission shall be comprised of 15 members from among individuals who are representative of—

"(A) the handgun industry, including at least two handgun ballistics experts;

"(B) law enforcement personnel and members of the Armed Forces; and

"(C) citizens groups and the general public.

"(3)(A) The Commission shall within one year from the date of enactment of the Handgun Crime Control Act of 1979 submit to the Attorney General a report setting forth the criteria established pursuant to subsection (b)(1) of this section. The Attorney General shall within thirty days after the submission of the report publish the proposed criteria in the Federal Register, together with notice for an opportunity to comment on the criteria. The Attorney General shall publish the final criteria in the Federal Register within sixty days after the period for public comment has ended.

"(B) Every two years thereafter the Commission shall evaluate the effectiveness of the then existing criteria. If the Commission determines that handguns that satisfy such criteria are significantly involved in handgun crime, the Commission shall submit to the Attorney General a report recommending appropriate revisions of such criteria. The Attorney General shall prepare revised final criteria pursuant to the procedures set forth in subsection (b)(3)(A) of this section. Until such revised final criteria become effective pursuant to subsection (c) of this section, the Attorney General shall apply the existing final criteria.

"(4) (A) Any vacancy in the Commission shall not effect its powers but shall be filled in the same manner in which the original appointment was made.

"(B) Eight members shall constitute a quorum, but a lesser number may conduct hearings. The chairman of the Commission shall be selected from among the members by the members of the Commission.

"(5) The Commission may, in carrying out the provisions of this chapter, sit and act at such times and places, hold such hearings, take such testimony, require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, administer oaths, and have such printing and binding done, as the Commission deems advisable.

"(6)(A) Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by him and shall be served by any person designated by the Chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

"(B) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances of witnesses so summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

"(C) Any person who willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify, or to produce any evidence in obedience to any subpena duly issued under authority of this section shall be fined not more than $500, or imprisoned for not more than six months, or both. Upon the certification by the Chairman of the Commission of the facts concerning any such willful disobedience by any person to the United States Attorney for any judicial district in which such person resides or is found, such Attorney shall proceed by information for the prosecution of such person for such offense.

"(7) The Commission may acquire directly from the head of any department, agency, instrumentality, or other authority of the executive branch of the Government available information which the Commission determines useful in the discharge of its functions. Each department, agency, instrumentality, or other authority of the executive branch of the Government shall cooperate with the Commission and, to the extent permitted by law, furnish all information requested by the Commission.

"(8) Subject to such rules and regulations as may be adopted by the Commission, the Chairman is authorized to—

"(A) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title;

"(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals;

"(C) enter into agreements with the General Services Administration for procurement of necessary financial administrative services, for which payment shall be made by reimbursement from the funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services; and

"(D) enter into contracts with Federal, State, and local public agencies, private business concerns, institutions, and other organizations for the conduct of research which the Commission determines to be necessary.

"(9)(A) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

"(B) Members of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate fixed by the President but not in excess of the duty rate prescribed for GS-18 under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

"(10) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(c)(1) All final criteria established by the Attorney General under subsection (b)(3)(A) of this section shall be transmitted to the Congress. Such criteria shall become effective at the end of the first period of 60 calendar days of continuous session of Congress after the date on which such criteria are transmitted to the Congress unless, between the date of transmittal and the end of the 60-day period, either House passes a resolution stating in substance that the House does not favor the criteria submitted under this section.

"(2) The provisions of section 908 and sections 910 through 912 of title 5, United States Code, shall apply to any resolution considered under this subsection. For the purpose of the preceding sentence of this paragraph—

"(A) all references in such sections to 'reorganization plan' shall be treated as referring to criteria submitted under section 923A of title 18, United States Code,

"(B) all references in such section to 'resolution' shall be treated as referring to a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the ——— does not favor ——— of the criteria submitted under section 923A of title 18, United States Code, transmitted to the Congress by the President on ———, 19—.', the first blank therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled, and

"(C) all references to the Committee on Governmental Affairs and the Committee on Government Operations shall be treated as referring to the Committee on the Judiciary.

"(d) Prior to the time that the criteria established pursuant to subsection (b)(3)(A) of this section become effective pursuant to subsection (c) of this section, the Attorney General shall, within 120 days after the date of enactment of the Handgun Crime Control Act of 1979, cause to be evaluated and tested representative samples of all handgun models in manufacture on or after October 22, 1968, or, in the event of handgun models manufactured after the date of enactment, within 120 days after the date of manufacture. The Attorney General shall approve for manufacture, assembly, importation, sale, or transfer any handgun model if he has found that—

"(1) in the case of a pistol, the handgun model meets the requirements of subsection (e); and

"(2) in the case of a revolver, the handgun model meets the requirements of subsection (f).

"(e) In the case of a pistol, the handgun model meets the requirements of subsection (d)(1) if the handgun model—

"(1) has a positive manually operated safety device, or a safety device equal or superior to the manually operated safety device,

"(2) has a combined length and height of not less than ten inches with the height (measured from the top of the weapons, excluding sights, at a right-angle measurement to the line of the bore, to the bottom of the frame, excluding magazine extensions or releases) being at least four inches and the length (measured from the muzzle, parallel to the line of the bore, to the back of the part of the weapon that is farthest to the rear of the weapon) being at least six inches, and

"(3) attains a total of at least seventy-five points under the following criteria:

"(A) OVERALL LENGTH.—One point for each one-fourth inch over six inches;

"(B) FRAME CONSTRUCTION.—(i) fifteen points if made of steel having an ultimate tensile strength of at least fifty-five thousand pounds per square inch, and (ii) twenty points if made of high tensile strength alloy having an ultimate tensile strength of at least fifty-five thousand pounds per square inch;

"(C) PISTOL WEIGHT.—One point for each ounce, with the pistol unloaded and the magazine in place;

"(D) CALIBER.—(i) zero points if the pistol accepts only caliber .22 rimfire short, or metric equivalent, or caliber .25 ACP (Automatic Colt Pistol), or metric equivalent ammunition, (ii) three points if the pistol accepts either caliber .22 rimfire long rifle, or metric equivalent, ammunition or any ammunition within the range delimited by caliber .32 ACP (Automatic Colt Pistol), or metric equivalent, and caliber .380 ACP (Automatic Colt Pistol), or metric equivalent, (iii) 10 points if the pistol accepts caliber 9x19 millimeter (also known as Luger or Parabellum) ammunition or ammunition of an equivalent or greater projectile diameter or ammunition of equivalent or greater power loading, and (iv) in the case of ammunition not falling within one of the classes enumerated in division (i) through (iii) of this subparagraph, such numbers of points not greater than ten (following the classification schedule of this subparagraph (D) as nearly as practicable) as the Attorney General shall determine appropriate to the suitability for sporting purposes of handgun models designed for such ammunition;

"(E) SAFETY FEATURES.—(i) five points if the pistol has a locked breech mechanism, (ii) five points if the pistol has a loaded chamber indicator, (iii) three points if the pistol has a grip safety, (iv) five points if the pistol has a magazine safety, and (v) ten points if the pistol has a firing pin block or lock; and

"(F) MISCELLANEOUS EQUIPMENT.—(i) two points if the pistol has an external hammer, (ii) ten points if the pistol has a double-action firing mechanism, (iii) five points if the pistol has a drift adjustable target sight, (iv) ten points if the pistol has a click adjustable target sight, (v) five points if the pistol has target grips, and (vi) two points if the pistol has a target trigger.

"(f) In the case of a revolver, the handgun model meets the requirements of subsection (d)(2) if the handgun model—

"(1) has an overall frame (with conventional grips) length of four and one-half inches (measured from the end of the frame nearest the muzzle, parallel to the line of the bore of the back of the part of the weapon that is farthest to the rear of the weapon);

"(2) has a barrel length (measured from the muzzle to the cylinder face) of at least four inches;

"(3) has a safety device which, either (A) by automatic operation in the case of a double action firing mechanism or (B) by automatic or manual operation in the case of a single-action firing mechanism, causes the hammer or transfer bar to retract to a point where the firing pin or other firing mechanism does not rest upon the primer of the cartridge, and which once activiated, is capable of withstanding the impact of a weight equal to the weight of the revolver, dropped a total of five times from a height of thirty-six inches above the rear of the hammer spur onto the rear of the hammer spur with the revolver in a position such that the line of the barrel is perpendicular to the place of the horizon, or (C) which is determined to be equal or superior to those listed above; and

"(4) attains a total of at least forty-five points under the following criteria:

"(A) BARREL LENGTH.—one-half point for each one-fourth inch that the barrel is longer than four inches;

"(B) FRAME CONSTRUCTION.—(i) fifteen points if made of steel having an ultimate tensile strength of at least fifty-five thousand pounds per square inch, and (ii) twenty points if made of high tensile strength alloy having an ultimate tensile strength of at least fifty-five thousand pounds per square inch;

"(C) REVOLVER WEIGHT.—one point for each ounce with the revolver unloaded;

"(D) CALIBER.—(i) zero points if the revolver accepts only caliber .22 rimfire short, or metric equivalent, or caliber .25 ACP (Automatic Colt Pistol), or metric equivalent, (ii) three points if the revolver accepts caliber .22 rimfire long rifle, or metric equivalent, or ammunition in the range between caliber .30, or metric equivalent, and caliber .38 S&W (Smith & Wesson), or metric equivalent, (iii) four points if the revolver accepts caliber .38 Special (Smith & Wesson Special), or metric equivalent, (iv) five points if the revolver accepts caliber .357 Magnum, or metric equivalent, ammunition or ammunition of an equivalent or greater projectile diameter or ammunition of equivalent or greater power loading, and (v) in the case of ammunition not falling within one of the classes enumerated in divisions (i) through (iv) of this subparagraph such number of points not greater than five (following the classification schedule of this subparagraph (D) as nearly as practicable) as the Attorney General shall determine appropriate to the suitability for sporting purposes of handgun models designed for such ammunition; and

"(E) MISCELLANEOUS EQUIPMENT.—(i) five points if the revolver has either drift or click adjustable target sights, (ii) five points if the revolver has target grips, and (iii) five points if the revolver has a target hammer and a target trigger.

"(g)(1) The Attorney General shall give written notification of the results of evaluation and testing conducted pursuant to subsection (1) of this section to the licensed manufacturer, licensed importer, licensed dealer, or licensed collector who submitted a sample of a handgun model for such evaluation and testing. If any handgun model fails to meet the standards for approval, the notification of the Attorney General shall state specifically the reasons for such finding.

"(2) Any licensed manufacturer, licensed importer, licensed dealer, or licensed collector who submitted to the Attorney General for testing a handgun model that is subsequently found not in compliance with the criteria established under this section shall have ten days from receipt of notification of noncompliance within which to submit in writing specific objections to such finding and a request for retesting such model, together with a justification therefor. Upon receipt of such a request the Attorney General shall if he determines that sufficient justification for retesting exists, promptly arrange for retesting and notify the aggrieved party of the results. If the Attorney General determines that retesting is not warranted, the Attorney General shall promptly notify the aggrieved party of his determination. If upon retesting the finding of the Attorney General remains adverse, or if the Attorney General finds that retesting is not warranted, the aggrieved party may within sixty days after the date of the notice of the Attorney General of such finding file a petition in the United States district court in the district in which the aggrieved party resides or has his principal place of business in order to obtain judicial review of such finding. Such review shall be in accordance with the provisions of section 706 of title 5, United States Code.

"(h) The Attorney General shall publish in the Federal Register at least semiannually a list of handgun models which have been tested and the results of the tests. Any handgun model—

"(1) not in manufacture on or after October 22, 1968; and

"(2) which has not been tested or for which the test results have not been published;

shall be deemed to be approved under this section until notice of the disapproval of the handgun model has been published in the Federal Register. The list shall also be included with the published ordinances required under section 921(a)(26) to be furnished to each licensee under this chapter.

"(i) Within 120 days after the final handgun criteria become effective pursuant to subsection (c) of this section, the Attorney General shall cause to be tested and evaluated representative samples of all handgun models in existence on or after October 22, 1968. The Attorney General shall cause to be tested and evaluated representative samples of any handgun models manufactured or imported any time thereafter, within 120 days after the date of manufacture or importation of such models.".

(b) The analysis of chapter 44 of such title is amended by inserting after item "923" the following new item:

"923A. Easily concealable handguns.".

PENALTIES

SEC. 106. (a) The first sentence of section 924(a) of title 18, United States Code, is amended by adding after the words "violates any provision of this chapter" a comma and the following: "other than subsection (g) or (q) of section 922 or, in the case of the transfer of a handgun between nonlicensees, section 922A,".

(b) Section 924(a) of such title is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2)(A) Whoever violates section 922(g) of this chapter shall be fined not more than $1,000, or imprisoned not more than one year, or both.

"(B) Whoever, being an individual who is not a licensee, violates section 922(q) of this chapter, shall—

"(i) for the first offense, be fined not more than $500, and

"(ii) for the second and subsequent offenses be fined not more than $1,000 or imprisoned not more than six months, or both.

"(C) Whoever violates section 922(q) of this chapter if the handgun, the loss or theft of which such person fails to report under section 922(q) is used in the commission of an offense punishable by imprisonment for not more than one year, such person shall be fined not more than $5,000 or imprisoned not more than one year, or both. If there is a transfer of a handgun between non-licensees in violation of section 922A, the transferor and transferee shall each be liable to a civil pentalty of $100, except that (i) if the handgun transferred in violation of section 922A by a non-licensee is used by the transferee, in the commission of an offense punishable by imprisonment for more than one year, the transferor shall be fined not more than $1,000 or imprisoned not more than six months; or (ii) if the unlicensed transfer is, in fact, an unlicensed dealer in handguns, the dealer shall be subject to the penalties applicable to any other violation of this chapter.".

(c) Section 925(c) of such title is amended to read as follows:

"(c) Whoever—

"(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

"(2) carries a firearm during the commission of any felony for which he may be prosecuted in a court of the United States, shall, in addition to the punishment provided for the commission of such felony, be sentenced

to a term of imprisonment of not less than one year nor more than ten years in the case of the first offense, and to a term of imprisonment of not less than two nor more than twenty-five years for a second or subsequent offense. Nothwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony nor shall the defendant be eligible for parole for a term specified by the court for at least one year for a first offense and at least two years for a subsequent offense, unless the court finds that, at the time of the offense—

"(A) the defendant was less than eighteen years old;

"(B) the mental capacity of the defendant was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(C) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(D) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another person, and the participation of the defendant was relatively minor.".

(d) Section 924 of such title is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d) Any person including any licensed importer, licensed manufacturer, licensed dealer, or licensed collector who negligently sells, transfers, or delivers a handgun in violation of the provisions of this chapter shall be civilly liable for the death or injury suffered by an individual as a result of the use of the handgun by the transferee in the commission of an offense that causes death or personal injury to that individual.".

EXCEPTIONS; RELIEF FROM DISABILITIES

SEC. 107. (a)(1) Section 925(a)(2) of title 18, United States Code, is amended by inserting after "firearms" a comma and the following: "other than a handgun of a model which has not been approved by the Attorney General pursuant to section 923A of this chapter,".

(2) Section 925(a)(2) of such title is further amended by inserting after "may receive a firearm" a comma and the following: "other than a handgun of a model which has not been approved by the Attorney General pursuant to section 923A of this chapter".

(3) Section 925(a)(4) of such title is amended by inserting after "of any firearm" a comma and the following: "other than a handgun of a model which has not been approved by the Attorney General pursuant to section 923A of this chapter,".

(b)(1) Section 925(c) of such title is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) Any individual who, having been adjudicated as mentally incompetent, or who, having been committed to a mental institution, subsequently has been adjudicated by a court or other lawful authority to have been restored to mental competency, if such court or other lawful authority specifically finds that the individual is no longer suffering from a mental disorder and that the possession of a firearm by the individual would not pose a danger to the individual or to the safety of another individual, shall be relieved from the disabilities imposed by this chapter with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred because of such adjudication or commitment.".

(2) Section 925(c)(1) of such title, as redesignated by this section, is amended by inserting after "National Firearms Act" the following: "or of a State or local law which relates to the importation, manufacture, sale, or transfer, of a firearm".

(c) Section 925(d)(3) of such title is amended to read as follows:

"(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954; is not a surplus military firearm; is generally recognized as particularly suitable for sporting purposes; and, if a handgun, the model has been approved by the Attorney General pursuant to section 923A of this chapter; or".

RULES AND REGULATIONS

SEC. 108. (a) Section 926 of title 18, United States Code, is amended—

(1) by deleting "and" at the end of paragraph (1);

(2) by deleting the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and";

(3) by adding after paragraph (2) the following new paragraph:

"(3) regulations precluding multiple sales or transfers of handguns under section 922(1) to persons who do not demonstrate to the satisfaction of the Attorney General that such purchase or transfer is for lawful purposes, as defined in the regulations.".

(b) Such section 926 is further amended by inserting "(a)" before "The" the first time it appears and by adding at the end thereof the following new subsection:

"(b) Any officer or employee of the Department who is designated by the Attorney General to carry out the provisions of this chapter is authorized to administer such oaths or affirmations as may be necessary for the enforcement of this chapter and any other provision of law or regulation administered by the Bureau.".

COMPENSATION FOR VICTIMS OF HANDGUN CRIME

SEC. 109. (a) Chapter 44 of title 18, United States Code, is amended—

(1) by inserting immediately after the section analysis of the chapter the following:

"Subchapter I—FIREARMS GENERALLY"; and

(2) by adding after section 928 the following new subchapter:

"Subchapter II—COMPENSATION OF VICTIMS OF HANDGUN CRIME

"Sec.
"941. Program authorized; amount of payment.
"942. Eligibility; application.
"943. Payments.
"944. Reports.
"945. Administration.
"946. Advisory Committee on Victims of Handgun Crime.
"947. Definitions.
"948. Authorization of appropriations.

"§ 941. Program authorized; amount of payment

"(a) Subject to the availability of amounts appropriated for any fiscal year, the Attorney General shall make an annual grant for each fiscal year and may make supplemental grants for compensation of victims of handgun crime to each State program that qualifies under section 942.

"(b) Except as provided in section 943 (a), the grants made to a qualifying State program under this subchapter for any fiscal year shall equal—

"(1) 100 percent of the cost, as determined by the Attorney General, of paying compensation for personal injury or death for such fiscal year for which the determination is made for qualifying crimes that are described in section 947(8)(B); and

"(2) 25 percent of the cost, as determined by the Attorney General, of paying compensation for personal injury or death for such fiscal year for qualifying crimes that are described in section 947(8)(A).

"(c) The Attorney General shall not have the power to modify the disposition of any individual claim that has been processed by any State program.

"§ 942. Eligibility; application

"(a) (1) A State program for the compensation of victims of handgun crime qualifies for grants under this subchapter if the Attorney General finds that such program is in effect in such State on a statewide basis during any part of the Federal fiscal year for which grants are to be made and if such program meets the criteria set forth in paragraphs (2) through (10) of this subsection.

"(2) The program offers—

"(A) compensation for personal injury to any individual who suffers personal injury that is the result of a handgun crime; and

"(B) compensation for death to any surviving dependent of any individual whose death is the result of a handgun crime.

"(3) The program offers the right to a hearing with administrative or judicial review to aggrieved claimants.

"(4) The program requires as a condition for compensation that claimants cooperate with appropriate law enforcement authorities with respect to the handgun crime for which compensation is sought.

"(5) The program does not have a limitation based on the financial means of the victim or any surviving dependent.

"(6) There is in effect in the State a requirement that appropriate law enforcement agencies and officials exercise reasonable care to insure that victims of a handgun crime are informed of—

"(A) the existence of a State program of compensation for injuries sustained by victims; and

"(B) the procedure for applying for compensation under that program.

"(7) There is in effect in the State a law or rule that the State is subrogated to any claim the victim, or a dependent of the victim, has against the perpetrator of the handgun crime for personal injury or death resulting from the handgun crime, to the extent of any money paid to the victim or dependent by the program.

"(8) There is in effect in the State a law or rule that, in addition to or in lieu of any other penalty, a perpetrator of a crime may be required to make restitution to any victim or victim's surviving dependent for that crime.

"(9) The program does not require any claimant to seek or accept any benefit in the nature of welfare unless such claimant was receiving such benefits prior to the occurrence of the handgun crime that gave rise to the claim.

"(10) The program requires denial or reduction of a claim if the victim or claimant contributed to the infliction of the death or injury with respect to which the claim is made.

"(11) The program does not require as a precondition to payment that any person be apprehended, prosecuted, or convicted of the handgun crime that gave rise to the claim.

"(b) A State desiring to receive payments to carry out a State program under this section shall submit an application to the Attorney General at such time and in such form and containing or accompanied by such information as the Attorney General shall by regulation prescribe.

"(c) If a State has a crime victim compensation program in effect on the effective date of this subchapter which does not otherwise qualify under subsection (a), such program shall be deemed qualified for grants under this subchapter until the day after the close of the first regular session of the State legislature that begins after the effective date of

this subchapter. Thereafter, only programs which comply with the requirements of subsection (a) shall be eligible for grants under this subchapter.

"§ 943. Payments

"(a) In computing the annual cost of a qualifying State program for the purpose of establishing the amount of Federal grants under section 941(b), there shall be excluded from such cost any amount for administrative expenses incurred in carrying out the program, any amount for which the program has received proceeds pursuant to section 942(a)(7), and any amount representing State compensation awards—

"(1) for pain and suffering;

"(2) for property loss;

"(3) to the extent the amount of any award to a victim, or the aggregate amount of any awards to the surviving dependents of a victim with respect to such victim, exceeds $35,000;

"(4) to any claimant who has received or who is entitled to receive compensation for personal injury or death from any source, other than from a compensation program assisted under this subchapter or from the perpetrator of the handgun crime, an amount not to exceed the amount of that compensation;

"(5) to any claimant other than a claimant 62 years of age or older whose award would be for an amount less than $100 or for lost earnings or loss of support computed on the basis of less than five work days;

"(6) to the extent the amount of any award for loss of earnings to a victim, or the aggregate amount of any awards for loss of support to the surviving dependents of a victim with respect to such victim, exceeds $200 per week per individual;

"(7) to any claimant who failed to file a claim under the State program within one year after the occurrence of the handgun crime, unless good cause for such failure to file has been found by the appropriate State agency; and

"(8) to any claimant who failed to report the handgun crime to law enforcement authorities within seventy-two hours after the occurrence of that handgun crime, unless good cause for such failure to report has been found by the appropriate State agency.

"(b) Grants under this subchapter may be made in advance or by way of reimbursement.

"§ 944. Reports

"Not later than one hundred and thirty-five days after the end of each fiscal year in which grants were made to State programs under this subchapter, the Attorney General shall submit a report to the Senate Committee on the Judiciary and the House Committee on the Judiciary. The report shall include—

"(1) with regard to each qualifying State program—

"(A) the number of individuals compensated;

"(B) a statistical presentation of—

"(i) the kinds and corresponding amounts of loss compensated;

"(ii) the range in the monetary value of claims awarded;

"(iii) the reasons for denial of claims; and

"(iv) the types of crimes that resulted in claims;

"(C) a description of the administrative mechanisms and procedures used in processing claims, including claims for emergency assistance if the program provides for such assistance.

"(D) the time required to process claims, including claims for emergency assistance if the program provides for such assistance:

"(E) efforts made to publicize the program;

"(F) administrative expenses; and

"(G) the number of handgun crimes described in section 942(7)(B) which were compensated; and

"(2) with regard to the activities of the Attorney General in carrying out the provisions of this subchapter—

"(A) an itemized statement of grants and expenditures;

"(B) copies of all rules promulgated pursuant to section 945(b)(2); and

"(C) projected expenditures for the Federal fiscal year in which the report is required to be submitted.

"§ 945. Administration

"(a) The Attorney General shall administer the provisions of this subchapter. The Attorney General shall not delegate primary responsibility for administering any provision of this subchapter unless such delegation is made to an individual who is compensated at a rate provided under the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code.

"(b) For the purpose of carrying out the provisions of this subchapter, the Attorney General is authorized to—

"(1) promulgate such rules, regulations, and procedures as are necessary to carry out the provisions of this section, including rules and regulations regarding the data to be kept by State programs receiving funds under this section and the manner in which these data shall be reported to the Attorney General; and

"(2) approve in whole or in part, or deny, any application for an annual or supplemental grant under this subchapter.

"§ 946. Advisory committee on victims of handgun crime

"(a) There is established an Advisory Committee on victims of Handgun Crime to be composed of nine members appointed by the President. The President shall appoint seven of the members of the Committee from among individuals who are officials of State programs that qualify under this subchapter.

"(b) The Committee shall advise the Attorney General with respect to the administration of this subchapter and generally on policies relating to the compensation of victims of handgun crimes.

"(c)(1) The Committee shall select its own chairman and vice chairman and shall meet at the call of the chairman but not less than two times a year.

"(2)(A) The term of office for each member of the Committee shall be one year.

"(B) The Committee shall make such interim reports as it deems advisable and an annual report of its findings and recommendations (including recommendations for changes in the provisions of this subchhapter) to the Attorney General each year. The Attorney General shall transmit each such report to the President for transmittal to the Congress, together with his comments and recommendations.

"(C) A vacancy in the Committee shall not affect its activities and five members thereof shall constitute a quorum. The Attorney General shall be an ex officio member of the Committee.

"(d) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of the term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(e)(1) Members of the Committee who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed with travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Committee.

"(2) Members of the Committee not otherwise employed by the Federal Government shall receive compensation at a rate fixed by the President but not in excess of the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Committee and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Committee.

"(f) The Attorney General shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities.

"§ 947. Definitions

"As used in this subchapter—

"(1) The term 'administrative expenses' includes any fee awarded by the State agency administering a State compensation program to any claimants attorney, if such fee is paid in addition to, and not out of, the amount of compensation awarded to such claimant.

"(2) The term 'claim' means a written request to a State compensation program for compensation for personal injury or death made by or on behalf of a victim, or any surviving dependent of a victim, of a handgun crime.

"(3) The term 'compensation for death' means compensation for loss that is the result of death caused by a handgun crime, including—

"(A) all appropriate and reasonable expenses necessarily incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the appropriate State agency;

"(B) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation; and

"(C) loss of past and anticipated future earnings.

"(4) The term 'dependent' means, with respect to any State compensation program, any dependent as defined by such State for purposes of such program.

(5) The term "compensation for personal injury" means compensation for loss that is the result of personal injury caused by a qualifying crime, including—

(A) all appropriate and reasonable expenses necessarily incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the State;

(B) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation; and

(C) loss of past and anticipated future earnings;

"(6) The term 'personal injury' means, with respect to any State compensation program, personal injury occurring in such State as defined by that State for the purposes of such program.

"(7) The term 'property loss' does not include expenses incurred for medical, dental, surgical, or prosthetic services and devices.

"(8) The term 'handgun crime' means any act or omission by which the victim's injury or death is caused, in whole or in part, by a handgun, and such act or omission—

"(A) is criminally punishable under any statute of a State and that such State designates as appropriate for compensation under its program;

"(B) would be a handgun crime under subparagraph (A) except for the fact that such act or omission is subject to exclusive Federal jurisdiction.

"(9) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands or the Trust Territory of the Pacific Islands.

"§ 948. Authorization of appropriations

"(a) There is authorized to be appropriated for each fiscal year beginning after September 30, 1979, an amount equal to 25 per centum of all receipts of the Federal Government attributable to the payment of penalties under section 924 of this chapter, for the fiscal year preceding the fiscal year for which the determination is made, to be available for payments under this subchapter.

"(b) There are authorized to be appropriated for each fiscal year beginning after September 30, 1979, such additional sums as may be necessary for payments under this subchapter.".

(b) The chapter analysis of part I of such title 18 is amended by inserting after item "44" the following:

"I. Firearms generally 921
"II. Compensation of victims of handgun crime ..... 941".

TITLE II—GUN CONTROL FUNCTIONS TRANSFERRED TO ATTORNEY GENERAL

TRANSFER OF FUNCTIONS

SEC. 201. (a) There are transferred to the Attorney General, and the Attorney General shall perform, all functions of the Secretary of the Treasury under chapter 44 of title 18, United States Code, commonly known as the Gun Control Act of 1968.

(b) Within one hundred and eighty days after the effective date of this section, the President may transfer to the Department any function of any other agency or office, or part of any agency or office, in the executive branch of the United States Government if the President determines that such function relates primarily to functions transferred to the Department by this section.

(c)(1) Subchapter I of chapter 44 of such title 18, as redesignated by section 109(a), is amended by striking out "the Secretary" whenever it appears in such subchapter and inserting in lieu thereof "the Attorney General".

(2) Section 103 of the Gun Control Act of 1968 is amended by striking out "the Secretary of the Treasury" and inserting in lieu thereof "the Attorney General".

ESTABLISHMENT OF THE FIREARMS SAFETY AND ABUSE CONTROL ADMINISTRATION

SEC. 202. (a) There is established within the Department of Justice the Firearms Safety and Abuse Control Administration. The Administration shall be headed by an Administrator appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be under the supervision and direction of the Attorney General.

(b) The functions of the Attorney General under chapter 44 of title 18, United States Code, and under this Act shall be administered through the Administration.

ANNUAL REPORT

SEC. 203. (a) The Attorney General shall prepare and transmit to the Congress as part of the annual report of the Department of Justice a report on the activities of the Administration.

(b) Each such report shall include a description of the effective use of the resources of the Federal, State, and local law enforcement agencies in controlling illicit handgun traffic, the extent of intergovernmental cooperation in controlling such traffic, a detailed summary of the activities of the Administration, an assessment and evaluation of specific programs of Federal, State, and local law enforcement agencies to reduce illicit handgun traffic, a description of the nature, extent, and effect of Federal, State, and local law enforcement agency intelligence operations relating to illicit handgun traffic, and such recommendations, including recommendations for additional legislation, as the Attorney General deems appropriate.

TRANSFER OF OFFICES AND PERSONNEL

SEC. 204. (a) All personnel, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of section 101, are transferred to the Attorney General.

(b)(1) Except as provided in paragraph (2) of this subsection, personnel engaged in functions transferred under this Act shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(2) The transfer of personnel pursuant to subsection (a) shall be without reduction in classification or compensation for one year after such transfer.

SAVINGS PROVISIONS

SEC. 205. (a) All orders, determinations, rules, regulations, contracts, certificates, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this title, by (A) any agency or office, or part thereof, any functions of which are transferred by this title, or (B) any court of competent jurisdiction; and

(2) which are in effect at the time this title takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Attorney General, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this title shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this title; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the agency or office, or part thereof, before which they are pending at the time of such transfer. In either case orders shall be in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revealed by the Attorney General, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this title shall not affect suits commenced prior to the date this section takes effect; and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this title, shall abate by reason of the enactment of this title. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this title, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this title. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this title takes effect, any agency or office, or officer thereof in his official capacity, is a party to a suit, and under this title any functions of such agency, office, or part thereof, or officer is transferred to the Attorney General, then such suit shall be continued by the Attorney General (except in the case of a suit not involving functions transferred to the Attorney General, in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this title).

(d) With respect to any function transferred by this title and exercised after the effective date of this title, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the Department or officer in which such function is vested pursuant to this title.

(e) Orders and actions of the Attorney General in the exercise of functions transferred under this title shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceeding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this title shall apply to the exercise of such function by the Attorney General.

(f) In the exercise of the functions transferred under this title, the Attorney General shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and his actions in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DEFINITIONS

SEC. 206. As used in this title—

(1) "Department" means the Department of Justice; and

(2) "function" includes power and duty.

COMPENSATION OF ADMINISTRATOR

SEC. 207. Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(70) Administrator, Firearms Safety and Abuse Control Administration, Department of Justice.".

TITLE III—MISCELLANEOUS PROVISIONS

EXPLOSIVE MATERIALS; UNLAWFUL ACTS

SEC. 301. (a) Section 842(d)(5) of title 18, United States Code, is amended—

(1) by deleting "(as defined in section 4761 of the Internal Revenue Code of 1954)";

(2) by deleting "drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act)" and inserting in lieu thereof "substance";

(3) by deleting "(as defined in section 4721 (a) of the Internal Revenue Code of 1954); or" and inserting in lieu thereof "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)"; and

(4) by striking out "or" at the end of such section.

(b) Section 842(d)(6) of such title is amended to read as follows:

"(6) has been adjudicated as mentally incompetent or has been committed to a mental institution; or

"(7) being an alien, is illegally or unlawfully in the United States.".

(c) Section 842(i)(3) of such title is amended—

(1) by deleting "drug (as defined in section 4761 of the Internal Revenue Code of 1954)";

(2) by deleting "drug (as defined in section

201(v) of the Federal Food, Drug, and Cosmetic Act)" and inserting in lieu thereof "substance";

(3) by deleting "(as defined in section 4731 (a) of the Internal Revenue Code of 1954); or" and inserting in lieu thereof "as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)"; and

(4) by striking out "or" at the end of such section.

(d) Section 842(i)(4) of such title is amended to read as follows:

"(4) who has been adjudicated as mentally incompetent or has been committed to a mental institution; or

"(5) who, being an alien, is illegally or unlawfully in the United States;".

EXPLOSIVE MATERIALS; LICENSING

SEC. 302. (a) Section 843(c) of title 18, United States Code, is amended by deleting "forty-five" and inserting in lieu thereof "ninety".

(b) Section 843(d) of such title is amended to read as follows:

"(d)(1) The Attorney General may revoke a license or permit issued under this chapter if the person holding the license or permit is ineligible to acquire explosive materials under section 842(d).

"(2) A person who has a license or permit issued under this section and who violates a provision of this section or a rule or regulation prescribed by the Attorney General under this chapter, shall be subject to a civil penalty, to be imposed by the Attorney General, of not to exceed $10,000 for each violation, or to suspension or revocation of his license or permit, or to both the civil penalty and revocation or suspension. The Attorney General may at any time compromise, mitigate, or remit such penalties. An action of the Attorney General under this subsection is subject to review only as provided in subsection (e) of this section.".

(c) Section 843(e) of such title is amended to read as follows:

"(e)(1) Any person whose application is denied or whose license or permit is suspended or revoked or who is assessed a civil penalty shall receive a written notice from the Attorney General stating the specific grounds upon which such denial, suspension, revocation, or civil penalty is based. Any notice of a suspension or revocation of a license or permit shall be given to the holder of such license or permit prior to or concurrent with the effective date of the suspension or revocation.

"(2) If the Attorney General denies any application for, or suspends or revokes, a license or permit, or assesses a civil penalty, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial, suspension, revocation, or assessment. In the case of a suspension or revocation, the Attorney General may upon a request of the aggrieved party stay the effective date of the suspension or revocation. A hearing under this section shall be at a location convenient to the aggrieved party. The Attorney General shall give written notice of his decision to the aggrieved party within a reasonable time after the hearing. The aggrieved party may, within sixty days after receipt of the written decision of the Attorney General file a petition with the United States court of appeals for the district in which he resides or has his principal place of business for a judicial review of such denial, suspension, revocation, or assessment pursuant to sections 701 through 706 of title 5, United States Code.".

NONMAILABLE FIREARMS

SEC. 303. Section 1715 of title 18, United States Code, is amended—

(1) by adding after the words "Such articles" in the second sentence the words ", other than handguns whose transfer is restricted under section 922(d),"; and

(2) by adding after the second sentence the following new sentence: "The Postal Service shall promulgate regulations, subject to approval of the Attorney General, consistent with section 922(d) of this title, concerning conveyance in the mails of handguns subject to that section for the United States or any department or agency thereof, or to any State, department, agency, or political subdivision thereof.".

STUDY OF EFFECTIVENESS OF CRIME CONTROL LAWS

SEC. 304. The Advisory Commission on Intergovernmental Relations established by the Act entitled "An Act to establish an Advisory Commission on Intergovernmental Relations", approved September 24, 1959, in consultation with the United States Conference of Mayors and the National League of Cities, and representatives of Federal, State, and local law enforcement agencies shall investigate, analyze, and report within six months of the enactment of the Act upon (1) intergovernmental problems involved in controlling illicit handgun traffic, and (2) the effectiveness of the Omnibus Crime Control and Safe Streets Act of 1968 and chapter 44 of title 18, United States Code, and particularly the requirements for licensing of manufacturers, importers, and dealers.

REPEALER

SEC. 305. Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. Appendix 1202–1203) is hereby repealed.

EFFECTIVE DATE

SEC. 306. This Act and the amendments made by this Act shall become effective 120 days after the date of enactment, except that—

(1) the amendments to section 922(a)(2)(A) of chapter 44 shall not preclude the return, within 30 days of the effective date, to the person from whom it was received, of a handgun of a model not approved by the Attorney General under section 923A which was transferred to the licensed importer, licensed manufacturer, licensed dealer, or licensed collector before the effective date of the Act;

(2) sections 102(j), 301(a), 301(c), and 305 shall take effect on the date of enactment of this Act;

(3) a valid license issued pursuant to section 923 of title 18, United States Code, shall be valid until it expires according to its terms unless it is sooner suspended, revoked, or terminated pursuant to applicable provisions of law; and

(4) the first publication of the list required under section 923A(g) shall be made on or before the expiration of the 60-day period following the date of enactment of this Act.

SUMMARY OF THE HANDGUN CRIME CONTROL ACT OF 1979

A. Purpose of the act:

1. Reduced handgun crime by banning all commerce in "Saturday Night Specials."

2. Reduce handgun crime by effective enforcement of existing law as to who may or may not legally acquire a handgun.

3. Reduce handgun crime, and the illegal handgun traffic it feeds on, by requiring that the handgun industry be responsible and accountable for the products from which they profit.

4. Reduce handgun crime by requiring that handgun owners be responsible and accountable for handgun possession, care, use and ultimate disposition.

5. Reduce handgun crime through imposition of stiffer penalties, mandatory sentencing and civil liability.

6. Reduce handgun crime by strengthening our Federal regulatory apparatus for administering and enforcing handgun control laws.

7. Aid the innocent victims of handgun crime.

B. Focus of the act:

1. Reduction of handgun crime through the control of handguns only. This legislation does not affect commerce, possession or use of long guns (e.g. rifles, shotguns) in any way.

2. Prospective only—legislation does not require legal handgun owners to take any specific action to maintain ownership of existing handguns.

3. Establishes standards of responsibility and accountability for handgun ownership and commerce commensurate with the hazardous nature of handguns.

4. Emphasizes enforcement of existing law and verification of existing eligibility criteria for those who wish to acquire or carry handguns.

SECTION-BY-SECTION ANALYSIS OF THE HANDGUN CRIME CONTROL ACT OF 1979

Section 1:

This is the title of the bill and emphasizes that the legislation is designed to combat handgun crime by: banning the importation, manufacture, sale and transfer of "Saturday Night Specials"; improving the effectiveness of the 1968 Gun Control Act; promoting better enforcement of gun laws; and aiding the victims of handgun crime.

Section 2: Congressional findings:

1. "Easily concealable handguns" have no sporting purpose and are used in a large percentage of criminal offenses.

2. The existing ban on the importation of "easily concealable handguns" has been effectively undermined by the importation of their parts, and their domestic assembly.

3. The public, including the majority of handgun owners, favors effective handgun control.

4. That legitimate handgun ownership should not be impeded by these controls.

5. To more effectively enforce gun laws, the authority for handgun regulation, should be transferred from the Treasury Department to the Justice Department.

6. There is a need for stronger controls on the handgun industry to combat illegal traffic in handguns.

7. Receipt of firearms by persons barred from possession burdens interstate commerce. This finding is a response to the Supreme Court ruling in U.S. v. Bass, 404 U.S. 336, 1971, which restricted the government's ability to prosecute felons in possession of firearms.

8. Federal licensing provisions for firearms' manufacturers, importers and dealers do not preempt state and local laws.

9. Fees for federal commercial licensees should be determined according to the cost of administration and enforcement of the law.

10. That innocent victims of handgun crime should be compensated.

Section 101: Amends section 921—Definitions sections:

Adds and changes definitions to fit with the new regulatory scheme. Terms defined are: "dealer," "licensed dealer," "ammunition retailer," "gunsmith," "firearms dealer," "handgun," "handgun model," "pistol," "revolver," "pawnbroker," and "Department." "Handgun" is defined to include its parts. "Department" is defined as the Department of Justice, as authority is shifted from the Secretary of the Treasury to the Attorney General.

Section 102: Unlawful acts:

Under current Federal law (18, U.S.C. Section 922):

A. 1. Only a federally licensed individual can engage in the business of importing, manufacturing or selling firearms and ammunition.

2. The commercial licensee cannot ship firearms or ammunition to a non-licensee except:

The commercial licensee can return a firearm or a replacement firearm to a non-licensee.

A non-licensee can mail a firearm to a commercial licensee for repair or customizing.

A commercial licensee can ship to military or law enforcement personnel who are allowed to receive firearms through the mails.

3. The law applies to the United States and its territories, including the District of Columbia and the Commonwealth of Puerto Rico.

4. A non-licensee cannot transport into or receive in the state where he resides, a firearm obtained in another state.

5. A non-licensee cannot transfer a firearm to an individual from another state except to:

Carry out a bequest

Temporarily loan the individual a firearm for a sporting purpose.

6. No one can make a misrepresentation or present false identification in connection with obtaining a firearm from a licensee.

B. A commercial licensee cannot transfer:

1. A rifle, a shotgun or their ammunition to an individual younger than 18 years old; or a handgun (i.e., a revolver or pistol) and its ammunition to an individual younger than 21 years of age.

2. A firearm to an individual in the state, where purchase would be illegal under the state law, at the place of sale or delivery.

3. A firearm to an individual who does not reside in the state of the commercial licensee except:

This does not apply to the sale of a rifle or a shotgun to an individual from a contiguous state, if that sale would not violate the law of both states.

Does not apply to the temporary loan or rental of a firearm to an individual for a lawful sporting purpose.

Does not apply to replacing a stolen, lost or inoperative rifle and shotgun which is being used for hunting, or in a match or contest.

4. A destructive device, machinegun, short-barrelled shotgun or rifle, to anyone except those specifically authorized.

5. A firearm or ammunition to any person unless the commercial licensee notes in his records the name, age and place of residence of that person.

C. A commercial licensee may transfer a firearm to an individual who does not appear in person if that individual provides a sworn statement; notice is made to law enforcement authorities; there is a seven-day delay before delivery of the firearm; and appropriate records are maintained by the licensee.

D. A commercial licensee cannot transfer a firearm to any person that he has reason to believe is a: felon (under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year); is a fugitive from justice, an unlawful drug user or addict; a mental defective.

E–F. Sets requirements for mailing firearms.

G–H. Those prohibited from purchasing a firearm may not transport a firearm in interstate commerce.

I. It is illegal to transport stolen firearms.

J. It is illegal to receive stolen firearms.

K. It is illegal to transport or receive firearms with the serial number removed or altered.

L. It is illegal for an individual to import firearms unless duly licensed.

M. It is illegal for a licensee to keep false records.

This legislation amends Section 922 to focus on unlawful acts involving handguns, particularly "easily concealable handguns."

1. It restricts certain activities with "easily concealable handguns" such as repairing, renting or mailing such handguns.

2. No handgun may be loaned or rented to another person for temporary use for lawful sporting purposes, unless it is done in the presence of the owner, or on the premises of the owner.

3. A commercial licensee may not sell or deliver a handgun to any person if that sale or delivery is in violation of the law, in the place of residence of the purchaser.

4. A commercial licensee may not sell a handgun to any person who does not appear in person at the commercial licensee's place of business.

5. Bans the manufacture, sale or transfer of "easily concealable hundguns," except those classified as curios or relics by the Secretary of the Treasury under the 1968 Gun Control Act.

A non-licensee may only transfer a handgun if that individual knows or has reasonable cause to believe that the handgun is not an "easily concealable handgun."

An individual may mail an "easily concealable handgun" to a commercial licensee for modification to meet the legal standards for handguns, if that individual notifies the local law enforcement agency of his intentions prior to mailing the handgun.

6. Prohibits the modification of a handgun if, as a result of such modification, the handgun falls under the "easily concealable handgun" definition.

7. Prohibits felons, fugitives from justice, drug users, mental defectives, illegal aliens, those who have been dishonorably discharged from the Armed Forces, and those who have renounced their citizenship, from possessing, transporting or receiving firearms in interstate commerce.

8. Prohibits an employee from possessing, transporting or receiving any firearm in the course of his employment if the employer is prohibited by law from such activity.

9. Unlawful to ship or transport a firearm if such shipment violates the law of the state to which or through which the gun is shipped, or an ordinance applicable at the place of sale, delivery or other disposition.

10. A commercial licensee may not sell to one person, and one person may not purchase, more than three handguns in one year without the special approval of the Attorney General.

11. It is unlawful for any person to fail to report the theft, loss or disappearance of a handgun to the chief law enforcement officer of the place where the handgun was kept, within 24 hours after discovering the loss, theft or disappearance. It is also to be reported to the Attorney General within 5 days. Each report is to contain the serial number, model, caliber, manufacturer of the handgun, date and the place of theft, loss or disappearance, and a complete statement of facts and circumstances surrounding the theft, loss or disappearance.

Section 103: Transfer of Handguns:

This section sets out special provisions for the transfer of handguns, except in the situations where both parties are commercial licensees, i.e., licensed importers, manufacturers or dealers. The system for transfers provides alternative procedures which require a check on the eligibility of the purchaser to receive the handgun.

1. Any purchaser with a valid state license-to-carry a handgun, which is issued under a state licensing system that meets certain minimum Federal criteria, may purchase a handgun in any state by: the purchaser appears in person at the licensed dealer's premises and (1) shows the dealer the license; (2) the dealer verifies its validity; (3) the purchaser provides sufficient identification to the dealer for him to reasonably believe the individual described on the license is the purchaser; and (4) the dealer maintains specified records of the transaction.

In the event of a transfer occurring between two non-commercial licensees, the would-be-purchaser must provide the seller with a certificate that establishes the current validity of the state license-to-carry. This certificate must be obtained from the local law enforcement agency or a licensed dealer in handguns in a form prescribed by the Attorney General. Upon completion of the transfer, the seller must forward a prescribed form to a licensed dealer for recordkeeping.

2. A purchaser with a valid state license to purchase, which is issued under a state licensing program approved by the Attorney General, may purchase or receive a handgun in that state if:

The purchaser appears in person at the licensed dealer's premises and (1) shows the dealer the license; (2) the dealer verifies its validity; (3) the purchaser provides sufficient identification to the dealer for him to reasonably believe the individual described on the license is the purchaser; and (4) the dealer maintains specified records of the transaction.

In the event of a transfer between two non-licensees the purchaser must provide the seller with a certificate which establishes the validity of the license-to-purchase from a local law enforcement agency, or a licensed dealer in handguns on a form prescribed by the Attorney General. Upon completion of the transfer, the seller reports the transaction to a licensed dealer in a form prescribed by the Attorney General.

Under procedure, the Attorney General must approve state license-to-carry laws. The standards for approval require the following minimum provisions:

(1) Prior to issuing the license-to-carry, the state must perform an identity and record check and determine that the individual is not barred from possessing a handgun under Federal or state law.

(2) The license-to-carry provides a means of establishing the identification of the license (e.g. photograph).

(3) The state shall issue at least monthly to the Department of Justice and to all licensed dealers within the state, a list of cancelled license numbers.

(4) The license-to-carry may only be issued if a person would not be prohibited from purchasing or carrying a handgun under the law at his place of residence.

(5) The state license-to-carry is non-alterable.

(6) The states maintain a record of the names of individuals who have been issued a license-to-carry.

(7) The license-to-carry is only issued to individuals with a legitimate need to carry a handgun outside their residence or place of business.

(8) The state maintains a record of licensees and periodically reviews peoples' eligibility for licenses-to-carry.

(9) The state provides for a mandatory penalty of six months imprisonment for those found guilty of carrying a handgun outside of their residence/business without a license-to-carry.

As to procedure (2), the Attorney will use the following standards in approving a state's license-to-purchase program:

(1) The license-to-purchase is only issued after verifying the identity of the individual and determining that he is not barred by local, state or Federal law from possessing a handgun.

(2) The license-to-purchase provides a photograph or other evidence to verify identity of holder.

(3) Each license-to-purchase allows the individual to carry the handgun in a non-functional basis outside his home or place of business not more than 24 hours from the date of receipt.

The license expires within two years and must be renewed by redetermining the holder's eligibility. Each month the state provides the Attorney General and the dealers in that state with a list of cancelled licenses.

(4) The license-to-purchase is issued to an individual if he is not barred from purchase under the local law of his place of residence.

(5) The state license-to-purchase is non-alterable.

(6) The state maintains a record of the names of individuals who have been issued a license-to-purchase.

Under both procedures, states submit a list to the Attorney General of cancelled licenses which are sent to dealers for reference, to determine validity of licenses.

3 Unless the purchaser has a valid state license-to-carry or a valid state license-to-purchase, he must undergo a record and identity check. He must appear in person at the business premises of a licensed dealer:

He must submit a sworn statement stating his name and residence; that his purchase will not be in violation of Federal, state, or local law applicable to his place of residence; that he does not intend to resell it to an individual barred from ownership. The statement must also set forth the title, name and address of the chief law enforcement officer of the purchaser's place of residence.

The purchaser must attach a true copy of any permit required to purchase, own, and carry a handgun in his place of residence.

The purchaser must provide sufficient identification to verify his identity.

The dealer, prior to delivery, must forward to the chief law enforcement officer of the purchaser's residence and to the FBI a copy of the sworn statement.

The dealer must wait 21 days for the verification reports from the law enforcement agency and the FBI. The FBI is required to respond in 15 days. These reports are to be maintained by the dealer.

If, after 21 days, the FBI report has been received, and the dealer has received no indication that the purchase is prohibited, the dealer may transfer the handgun even if the local police fail to respond in 21 days.

In the event of a transfer between two non-licensees, the seller may not transfer the handgun unless he has received from the purchaser or licensed dealer a written certification that the dealer has followed the verification procedure set forth above. Upon completion of the transfer, the seller shall notify the dealer that the transfer has taken place.

The provisions of this section shall not apply to loans of rentals of handguns at legitimate shooting ranges. A licensed dealer who arranges for the transfer of handguns between non-licensees shall be entitled to a fee of not more than $10.

Section 104: Licensing:

1. This section deals with various commercial licenses and raises fees to support administration and enforcement efforts. The section also provides for several types of licenses for several types of dealers, e.g., gunsmiths (dealers only involved in the repair of handguns), or ammunition dealers, for whom a lower license fee is required.

a. The fee for dealers in handguns is raised from $10 to $500. The fee for manufacturers of handguns is raised from $50 to $5,000; and the fee for importers of handguns is raised from $50 to $5,000.

b. Conditions for commercial licenses:

(1) Present law requires that the applicant be over 21; not prohibited from possessing a handgun under the law; not have willfully violated any of the provisions of the chapter; not provided false information on his application; and have appropriate business premises.

(2) The legislation sets forth the following additional requirements:

A. Commercial licensees must be doing business in compliance with state and local laws.

B. Commercial licensees must take appropriate security precautions to prevent thefts.

C. Commercial licensee must certify that he will not employ individuals in his licensed business who are prohibited from possessing, transporting, shipping or receiving firearms under the law.

D. Procedures for denial, suspension and revocation of licenses, and allows fines in addition to extreme penalty of license revocation.

E. Provides for a system of private, decentralized record maintenance through the commercial network:

Licensed importers, manufacturers, dealers and collectors must keep records of the importation, production, shipment, receipt, sale, or other disposition of all firearms and ammunition as prescribed by the Attorney General.

Licensed importers and manufacturers must keep records by serial number, of each handgun he imports, receives or manufactures for a period of ten years from the date of disposition. These records shall include: the disposition of the handgun, whether it was sold, transferred, destroyed, lost or stolen; the date of the disposition; and for subsequent sales and transfers reported by licensed dealers, the name and address of the transferor, and the name, address or license number of the transferee.

Licensed dealers must keep by serial number a record of each handgun received or transferred by or through them. The record shall include: whether the disposition was through sale, transfer, trade-in, destruction, loss, theft, or other means; the date of such disposition; and for each sale or transfer of that handgun, the model, the name and address of the transferor, and the name and address or license number of the transferee. Each dealer shall monthly transfer such records to the importer or manufacturer whose serial number appears on the handgun.

Each licensed importer and licensed manufacturer shall conduct periodic audits of the records received from licensed dealers to ensure their accuracy.

In the event the licensee sells or transfers his business, the appropriate records are to be transferred to the new owner. If the licensee ceases business, the records are sent to the Department of Justice.

All licensees shall make their records available for inspection by the Attorney General. They shall submit quarterly reports kept according to handgun size and model, but not including the name and address of any noncommercial licensee, to the Attorney General, summarizing the disposition of all handguns transferred by or through that licensee.

Section 105: Easily Concealable Handguns Illegal:

The Attorney General shall approve for manufacture, assembly, importation, sale or transfer any handgun model which satisfies the criteria established by the Handgun Concealability Criteria Commission.

As recommended by the Commission, the Attorney General shall determine handgun models particularly appropriate for law enforcement authorities. By regulation, he can approve certain quantities for manufacture, available only to these authorities.

The Handgun Criteria Commission will be appointed by the Attorney General to evaluate handguns according to frame size and other factors, to determine such handgun models that are easily concealable, are handguns with potential for criminal use and are handguns particularly suitable for sporting purposes, for criminal use, or are particularly suitable for sporting purposes.

The Commission will have 15 members who are representative of the handgun industry, the law enforcement community, the Armed Forces, citizen groups and the general public. Within one year, the Commission will submit to the Attorney General a report setting forth the proposed criteria. The Attorney General within 30 days of receiving the report shall publish the proposed criteria in the Federal Register for comment. Every two years thereafter the Commission shall evaluate the effectiveness of the criteria and shall revise them if necessary.

The criteria established by the Commission shall be transmitted to the Congress. They will become effective at the end of 60 calendar days from the day they are sent to the Congress, unless either House passes a resolution stating in substance that the House does not favor the criteria submitted.

Prior to the time that the criteria established by the Attorney General becomes effective, he shall approve within 120 days the manufacture, assembly, importation, sale or transfer, any handgun model that:

For a pistol: Has a positive manually operated safety device; a combined length and height of not less than ten inches. The height being at least four inches and the length six inches. Must attain a total of at least 75 points under the criteria of overall length, frame construction, weight, caliber, safety features and miscellaneous equipment.

For a revolver: Must have an overall frame length of four and one-half inches; a barrel length of at least four inches; has a safety device; attains a total of 45 points under the criteria of barrel length, frame construction, weight, caliber, and miscellaneous equipment.

This measure sets forth procedures for testing and evaluating handguns to determine whether they satisfy the aforementioned standards; and provides for an opportunity for retesting or review of any adverse findings. The Attorney General is also obligated to publish a list of approved handguns in the Federal Register.

Section 106: Penalties:

Present law provides criminal penalties for violation of the gun control laws, and transporting a firearm with intent to commit a felony. Using or carrying a firearm during the commission of a felony is punishable as a separate offense, and for the second offense, a mandatory imprisonment is required.

Under this legislation:

(1) A person who possesses, ships, transports or receives firearms or ammunition, while employed by an employer who he has reason to know is prohibited from possessing, shipping, transporting or receiving firearms or ammunition, faces up to a $100 fine and imprisonment of not more than one year or both.

(2) If an individual fails to report a theft or loss of a handgun: on the first offense he will face a fine of not more than $500; for the second and subsequent offenses he shall be fined not more than $1000, or imprisoned not more than six months or both.

(3) If the individual fails to report a theft or loss of a handgun, and it is subsequently used in a felony, the individual faces a fine up to $5000 or being imprisoned not more than one year or both.

(4) An illegal transfer between non-licensees make each liable to a civil penalty of $100. If the transferee subsequently uses the handgun in the commission of a felony the transferor shall be fined not more than $1000 or imprisoned not more than six months.

(5) If someone uses or carries a firearm in the commission of a felony, he will receive a mandatory sentence of 1–10 years for the first offense; and 2–25 years for the second offense.

(6) Any person will be civilly liable to a handgun victim if he negligently sells a handgun to a person in violation of the provision of the act, and that person then uses the handgun in a crime against that victim.

Section 9: Relief from Disabilities:

This section contains some technical amendments and a provision permitting those who have been found to be mentally ill to purchase handguns once their health has been restored.

Section 10: Rules and Regulations:

This section deals with the Attorney General's authority to prescribe rules and regulations. It contains technical amendments and adds a specific power for agents to administer such oaths as are necessary in the enforcement of firearms laws.

Section 11: Compensation for Victims of Handgun Crime:

This section outlines a system to provide Federal grants to support federally approved state programs for compensation for personal injury and death of victims of handgun crime. Funding is derived from regular appropriations. An Advisory Committee on Victims of Handgun Crime is appointed by the President to advise the Attorney General on policies relating to the compensation of victims of handgun crimes.

Section 12: Transfer of Functions:

All functions relating to the gun control act now performed by the Secretary of the Treasury are transferred to the Attorney General.

There is established in the Department of Justice the Firearms Safety and Abuse Control Administration. It will be headed by an administrator appointed by the President and confirmed by the Senate. The Attorney General will report annually to the Congress on the activities of this agency, the impact of the firearms laws and recommendations for new legislation.

Section 13: This section slightly alters the current explosives provisions in order to update the language concerning drug users to conform with the Controlled Substances Act.

Section 14: This section revises the provisions dealing with explosives' license holders. It extends to 90 days the time the Attorney General has to approve or disapprove a license application and it permits the Justice Department to impose civil fines or suspensions on licensed dealers for violations of explosives regulations.

Section 15: Technical amendments to the postal regulations.

Section 16: This repeals part of the existing gun control laws which are made redundant by the provisions to this bill.

Section 17: This section contains the effective dates of the legislation.

Mr. JAVITS. Mr. President, I join with Senator KENNEDY in the introduction today of the Handgun Crime Control Act of 1979. The need for Federal handgun legislation has long been clear to me. New York has one of the toughest gun control laws in the Nation. But over 90 percent of handguns used in New York City come from out of State. Only when we have strong Federal legislation, that effectively bans cheap Saturday Night Specials, and provides for improved recordkeeping for the estimated 50 million handguns in circulation, will we be able to control this pernicious traffic.

Every year, 250,000 citizens are assaulted with handguns. Of these, 9,000 are murdered. Handguns, which are easily obtainable and for which so often no one is accountable, are responsible for an average of 24 deaths a day.

Recently an ABC News-Louis Harris poll was released revealing that a 78 percent to 20 percent majority of the American people favor a "Federal law requiring that all handguns people own be registered by Federal authorities." Results also show an almost equally strong majority (76 to 20) favor control of the sale of handguns.

The Handgun Crime Control Act of 1979 is legislation that respects the views of the majority of the people in this Nation, rather than of a well-organized minority.

The bill attempts to reduce handgun crime in several ways. All commerce in Saturday Night Specials is banned. The bill closes an important loophole in the 1968 Gun Control Act by also banning commerce in parts for Saturday Night Specials.

Senator KENNEDY has a detailed analysis of the legislation in his statement. I believe that the stricter controls on the transfer of handguns, the new requirements on obtaining commercial handgun licenses, and the increased penalties, civil liabilities and mandatory sentencing provisions will lead to more effective regulation. The innovative victim compensation program is also worthy of support.

Mr. President, crime statistics are appalling. Polls show that the American people recognize the need to control the increasing rates of murder, aggravated assaults, and armed robberies through Federal handgun legislation. It is clear that the time has come for Congress to have the political courage to fight for what is right and for what the people want. I urge support of the Handgun Crime Control Act of 1979.

Mr. President, it is amazing that we have not yet even now gone to effective gun control in view of the dreadful record of homicides in this country, especially in the major cities. I urge my colleagues to support the Handgun Crime Control Act of 1979.

● Mr. STEVENSON. Mr. President, I join Senator KENNEDY in sponsoring the Handgun Crime Control Act of 1979, a bill designed to reduce handgun violence in the United States.

The fear of crime in America is first and foremost a fear of violence. And the principal instrument of violent crime in the United States is the handgun.

In 1967, 5,700 murders, approximately 37 percent of the total number of homicides in the United States, were committed with handguns. By 1973, the number of handgun murders had almost doubled, with the percentage of murders attributable to the use of handguns rising from 37 to 53 percent. In 1978, handguns accounted for more than 9,500 deaths in the United States, 49 percent of the total number of homicides in that year.

It is time to protect the lives—of citizens and of policemen—that handguns endanger. Our present gun laws are too limited and too inconsistent to be effective. Since control of handguns is impossible in any jurisdiction if they remain uncontrolled in another, effective national laws are the only satisfactory solution to the plague of handgun violence. I believe that the bill introduced today is a workable and practical means of curbing the increasing numbers of crimes and deaths involving the use of handguns, and I urge its passage.●

● Mr. MATSUNAGA. Mr. President, I am very pleased to join the distinguished chairman of the Judiciary Committee, the Senator from Massachusetts (Mr. KENNEDY), in introducing the proposed Handgun Crime Control Act of 1979. I wish to commend the Senator from Massachusetts for his tireless efforts in formulating this bill which I believe represents a reasonable and effective approach to solving the serious problem of handgun crime in the United States.

Mr. President, I need not recite the results of numerous national opinion polls which clearly indicate that crime across the Nation is one of the greatest domestic concerns of a majority of Americans today. I am sure that all Senators are fully aware of public opinion on crime nationally and within their own States. However, I would like to take a moment to speak about the crime situation in my home State of Hawaii.

Mr. President, the people of Hawaii have told me through cards, letters, and opinion polls, that crime to them is of grave concern, perhaps a domestic concern equal to that of inflation. I might emphasize that we in Hawaii have never had a crime problem similar to comparable areas on the mainland. Nevertheless, we have been experiencing steady and alarming increases in both violent crimes and nonviolent crimes over the last several years.

From 1975 to 1978, robberies were up in Hawaii by 40 percent; aggravated assaults were up by 13.5 percent; burglaries were up by 10 percent; larceny was up by 30.6 percent; motor vehicle thefts were up by 13 percent; and forcible rapes were up by 7.9 percent. More recently, the State of Hawaii's criminal justice statistical analysis center issued a report which found that in the first 6 months of this year, murders in Hawaii were up 44 percent; robberies were up 11 percent; forcible rapes were up 6.7 percent; and in some parts of Hawaii, aggravated assaults were up 45.5 percent and robberies were up a whopping 85.7 percent.

Needless to say, Mr. President, these are alarming statistics to a State whose economy is dependent, to a certain extent, on a healthy tourism industry.

Like other States, Hawaii has moved rapidly over the last several years to stem this spiraling increase in crimes. One of the most significant steps which was taken by Hawaii's State legislature was the enactment in 1975 of a handgun control law banning the ownership of cheap, nonsporting, concealable handguns, better known as Saturday Night Specials. Our State legislature determined that these types of handguns, which are designed to serve no other function than to kill human beings at close range, account for a disproportionate number of the weapons used in violent crime in Hawaii.

As in so many other areas, my State of Hawaii was far ahead of many other States in recognizing that there is a clear correlation between the sheer availability of inexpensive, concealable handguns and the number of violent crimes committed in this country each year. By limiting the availability of Saturday Night Specials, the State of Hawaii was attempting to reduce significantly handgun violence in the islands.

Unfortunately, Mr. President, it is generally agreed in our State that Hawaii's Saturday Night Special law has not resulted in significant reductions in handgun crime. One of the reasons for this failure is, and I believe this is one of the most important and effective arguments for the enactment of a national handgun control law, that effective handgun control cannot be achieved through purely State and local initia-

tives. This was a finding of the House Judiciary Committee in its report on H.R. 11193, the proposed Federal Firearms Act of 1976. The House committee stated in its report that its investigative record "clearly demonstrates that handgun commerce is extremely fluid, respects no jurisdictional boundaries, and, as such, escapes the reach of individual States and political subdivisions." I am afraid to say that as long as a large pool of substandard, concealable handguns is available at low cost and easy access on the mainland, these types of weapons will find their way to Hawaii.

Mr. President, the Senator from Massachusetts has described vividly how handgun crime in the United States has grown to near epidemic proportions in the past two decades. In order to reduce handgun crime, the Congress must move now to ban all commerce in substandard, concealable handguns, tighten existing controls on the transfer of handguns, and generally strengthen the enforcement of our gun control laws. In my judgment, the proposed Handgun Crime Control Act of 1979, being introduced today by the Senator from Massachusetts, will accomplish these goals in a moderate, reasonable, and effective manner, which all sides of the gun control issue will be able to support.

The bill being introduced today is certainly not a combination of hastily conceived ideas; Senators should make no mistake about that. Many of the provisions contained in this legislation were taken from the handgun control bill reported in 1976 by the House Judiciary Committee. That bill was the subject of extensive hearings and investigation by the House Judiciary Subcommittee on Crime. It was a clean bill which was drafted after the subcommittee had reviewed hundreds of proposals, including a handgun control bill recommended by President Gerald Ford, and received hours of testimony from a broad range of witnesses.

I am sure that the distinguished chairman of the Judiciary Committee (Mr. KENNEDY) intends to review the proposed Handgun Crime Control Act in a similar manner to make certain that the approaches taken in the bill will achieve the goal of maximizing the reduction of handgun violence and be both reasonable and responsive to other legitimate needs of our citizens in terms of firearms.

The proposed Handgun Control Act makes the following provisions:

First, it bans the manufacture and importation of, and all commerce in Saturday night specials. The factoring criteria contained in the bill, which will be used to determine if a handgun is substandard, is the same language which was approved by the House Judiciary Committee in 1976.

Second, the bill will reduce handgun crime by imposing stricter, though simpler, controls on the legitimate commerce in handguns through an improved handgun transfer system requiring law enforcement verification of all prospective handgun transferees' eligibility. Importantly, under this section of the bill, a 21-day waiting period is established to allow a law enforcement check of a handgun purchaser for felony convictions or other circumstances which would, under existing law, disqualify that person for ownership of a firearm. Establishing this so-called cooling off period will close a loophole in the Gun Control Act of 1968 which allows purchasers to take immediate possession of weapons and does not require a background check of such individuals. It is hoped that with the enactment of this section, fewer handguns will be sold to persons with criminal records or who are otherwise unqualified to own such a weapon, and the number and frequency of casual crimes—crimes in which a perpetrator purchases a handgun immediately prior to committing a crime—will be reduced.

Third, the bill improves upon the procedures established in the Gun Control Act of 1968 to control commercial gun traffic by imposing stricter requirements for acquiring a commercial handgun license, and imposing businesslike recordkeeping procedures and high standards of responsibility and accountability at all levels of the handgun industry.

Fourth, the bill encourages States to enact laws limiting the carrying of handguns in public to legitimate citizens authorized to do so, and requires that handgun owners be responsible and accountable for the possession, care, use, and ultimate disposition of handguns.

Fifth, the bill will deter handgun crime by imposing stricter punishment for crimes involving handguns, and improving the effectiveness of handgun control regulations by increasing legal liability of individuals for noncompliance with license-to-carry laws.

Sixth, the bill includes a section, based on S. 190, the proposed Victims of Crime Act of 1979, of which I am a cosponsor, which provides a victim compensation program consisting of Federal grants to State programs for compensation for personal injury and death of victims of handgun crime.

I strongly believe, Mr. President, that it is in the best interest of the American people to strictly limit the availability of inexpensive, nonsporting, concealable handguns. I am convinced that the legislation Senator KENNEDY is introducing today would not place undue restrictions on honest citizens with respect to the acquisition, possession, or use of handguns for recreational or other lawful purposes. It is, indeed, important to note that this legislation would not impose any national system of gun registration or licensing. The bill, on the contrary, goes to great lengths to encourage State licensing systems to minimize Federal involvement. Enactment of the Kennedy bill, which would restrict the availability of substandard, nonsporting handguns, would, in my estimation, be a giant step forward in our fight against crime in this Nation. It would also sharply reduce the number of handgun deaths which occur in the United States each year.

Mr. President, I urge my colleagues to give this important bill thoughtful and favorable consideration.●

● Mr. TSONGAS. Mr. President, the right of the American people to keep and bear arms is fundamental. It is part of the Bill of Rights, and I could not support any bill that infringed on this basic right. Thus in 1976 I opposed a Massachusetts ballot initiative which would have banned the possession, ownership, or sale of all handguns. I thought it unconstitutional, and so did a majority of voters in Massachusetts.

But even before article I, the Constitution includes among its purposes to "insure domestic tranquility, provide for the common defense, [and] promote the general welfare * * *" When ideals clash in our democracy, we are challenged to find practical approaches that do not compromise the principles involved. The chronic, mushrooming destructive power of handgun crime in America is such a challenge.

Handguns now kill nearly 10,000 people in this Nation each year. They are a prime accomplice in the pathetic fact that homicide is the leading cause of death among black teenagers and young adults. They represent a relentless threat to individual citizens and to society as a whole. We have every right to take prudent measures in our common defense.

Mr. President, the Handgun Crime Control Act of 1979 is a reasonable, constitutional program to reduce the violent consequences of the free and easy handgun trade in this country. It applies standards of responsibility and accountability to the handgun market that are finally appropriate to the lethal nature of these weapons. It stresses more effective enforcement of existing laws. The legislation does nothing—absolutely nothing—that impairs the use of long guns such as rifles and shotguns. On the other hand, it would end our do-nothing attitude toward a huge loophole in 1968 gun legislation by banning finally the importation of Saturday Night Special parts.

Mr. President, I commend Senator KENNEDY for this comprehensive, balanced bill, which I am proud to cosponsor. I respectfully urge my distinguished colleagues to follow the vast majority of Americans in supporting such legislation.●

By Mr. RIEGLE (for himself, Mr. LEVIN, Mr. BAYH, Mr. DANFORTH, Mr. EAGLETON, Mr. NELSON, Mr. MATHIAS, and Mr. MCGOVERN):

S. 1937. A bill to authorize emergency loan guarantees to the Chrysler Corp.; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. RIEGLE when he introduced the bill appear earlier in today's proceedings.)

By Mr. GLENN (for himself and Mr. RIBICOFF):

S. 1938. A bill to insure adequate protection of workers, the general public, and the environment from harmful radiation exposure, to establish mechanisms for effective coordination among the various Federal agencies involved in radiation protection activities, to develop a coordinated radiation research program, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL RADIATION PROTECTION MANAGEMENT ACT OF 1979

● Mr. GLENN. Mr. President, I am pleased to introduce today, with the cosponsorship of the imminent chairman of the Governmental Affairs Committee (Senator RIBICOFF), the Federal Radiation Protection Management Act of 1979. This bill seeks to bring order to a chaotic situation that cannot be allowed to remain chaotic any longer. More than 20 Federal agencies are currently engaged in activities involving radiation protection and/or research. The demise of the old Federal Radiation Council 1970, despite the transfer of some of its authorities to EPA, has resulted in a serious erosion of interagency coordination in this area. The lack of focus or leadership of the Federal program places the health and safety of the American people in needless jeopardy. This bill seeks to provide the focus and leadership presently lacking in the Federal program.

While the consciousness of the public to the radiation exposure problem has been raised significantly in the past year, particularly in the aftermath of the Three Mile Island accident, the questions, the problems and the concerns go well beyond Three Mile Island. In fact, the major source of radiation exposure to the general population in the United States is through diagnostic medical procedures. If we look at man-made sources of radiation exposure we find that the average American receives more than 90 percent of such exposure from this source. It is also important to understand that there is an element of radiation exposure that we can do nothing about.

Every person is exposed to a certain level of background radiation from the Earth's atmosphere and its soil. There are wide variations in this exposure from an average yearly dose of about 45 millirems for persons living in the Washington, D.C. area to about 128 millirems a year for persons living in the area of Leadville, Colo.

There is now sufficient evidence in the medical literature to conclude that a concerted effort must be made to eliminate unnecessary exposure of the population to radiation. To do so requires that we increase our attention to issues such as the overuse of medical X-rays, the licensing and inspection of all radiological equipment, the undertraining of radiological personnel, the licensing of institutions providing such training, the use of radioactive materials in consumer products, the validity of current radiation dose limitations for persons in certain occupations and the adequacy of the public education program regarding radiation protection. The latter point cannot be overemphasized.

People in this country want to know what radiation is and what it can do to them. They want to know how well protected they are from the ill-effects of radiation and how they might be better protected. They are turning to the Federal Government with these questions—and they have a right to some good answers.

The answers to these questions depend upon thorough research, reasoned findings and intelligent implementation of policy. Some of the best minds in the United States are working on radiation research and protection. The problem is not a lack of talent in dealing with these questions; the problem is that Federal agency jurisdictions in this area are overlapping and fragmented.

The Environmental Protection Agency, for example, has the responsibility for setting overall exposure standards. But the question of how these standards are to be translated in terms of the licensing and inspection of equipment as well as the training and licensing of radiologic personnel is left to other agencies or to the States. The National Institutes of Health is the chief health research organization of the U.S. Government, but most of the research in ionizing radiation is funded and managed by the Department of Energy.

The question of overlapping and fragmented jurisdiction by Federal agencies was addressed by an interagency task force established last year by President Carter. The Government Affairs Subcommittee on Energy, Nuclear Proliferation and Federal Services, of which I am chairman, explored the report of this interagency task force in hearings earlier this year.

I believe, after careful study of the recommendations made by the task force and by the former Secretary of HEW, that the bill I am introducing today, the Federal Radiation Protection Management Act, will significantly improve the organization of the Federal Government's efforts in radiation research and protection.

Its thrust is simple; it sets up two councils, one dealing with radiation protection and the other with radiation research, that bring together the many Federal departments and agencies involved in these matters.

The first, the Federal Radiation Protection Council, would be chaired by the Administrator of the Environmental Protection Agency, or his designee; EPA is the Federal agency most directly involved with health protection standards. This Council would provide advice and guidance on radiation protection standards, review the various agencies' authorities over radiation-related matters and recommend any necessary changes in those authorities, identify the agencies' research needs, help develop public education programs on radiation health and safety, and review State and local radiation control programs. After 1 year, it would submit a report and recommendations dealing with Federal radiation protection legislation.

The second group, the Federal Conference on Research into the Biological Effects of Ionizing Radiation, would have as its chairman the director of the National Institutes of Health; that organization's mission, more than any other Federal agency's, is health-related research. The conference would advise on the development of radiation research projects; issue an annual comprehensive Federal agenda on radiation health effects research; make various recommendations regarding the conduct of that research and the dissemination of its results; and assist in the development of public education programs. It would also review agency radiation research requests according to several criteria in order to decide whether each proposed project has scientific merit and, if so, whether the requesting agency is the right group to do it. It would also issue a report noting the inadequacies of Federal research and recommending legislative changes.

Mr. President, the organizational changes that would follow enactment of this bill would help fill the gap of leadership and coordination that has been missing from the Federal program in radiation protection. The bill presents an opportunity to not only increase government efficiency in this area, but to provide a mechanism for raising the level of protection for the public against unnecessary radiation exposure.●

● Mr. RIBICOFF. Mr. President, I am pleased to join with Senator GLENN in introducing the Federal Radiation Protection Management Act of 1979.

The effectiveness of Federal programs to protect the public from radiation hazards is clearly a matter of widespread concern. At present, radiation health and safety is a particularly complex and varied field, involving a large number of Federal departments, commissions, and agencies. The public rightfully expects an orchestrated Federal approach to these hazards.

Responsibility is now scattered and uneven, resulting in jurisdictional disputes and regulatory confusion. Too many agencies are charged with administering too many laws. And nobody has the clear ability to overview the total situation, or the power to guide and coordinate that dispersed authority. As a result coordination is not always systematic, the extent of the risk is not fully understood, and some potentially significant hazards are not subject to any Federal controls at all.

I am deeply concerned about this matter. And the Governmental Affairs Committee, over the past several years, has been actively involved in studying this problem, and finding ways to better coordinate Federal radiation protection activities.

In December 1977, pursuant to Senate Resolution 71, the committee published volume V of our "Study on Federal Regulation," which discussed the need for more effective coordination of radiation programs. Thereafter, in April 1978, the opinion of a wide range of informed groups and individuals in the private sector was solicited on the study's findings. The comments were very helpful to the development of this legislation. In early May of this year, the committee held hearings on the institutional recommendations of the HEW task force on radiation protection. At that time we heard from a number of witnesses on the problems in this area. This bill is a product of those efforts.

Thus, we have approached this difficult and complex area with deliberate

care. The proposals contained in the bill we introduce today have already been the subject of thorough consideration. I believe these proposals are a workable solution to the organizational confusion that now plagues this important area of Federal regulation.●

ADDITIONAL COSPONSORS

S. 1465

At the request of Mr. TALMADGE, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1465, the Farm Credit Act Amendments of 1979.

S. 1792

At the request of Mr. MCGOVERN, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 1792, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

S. 1922

At the request of Mr. DOMENICI, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 1922, a bill relating to appeals to certain orders canceling permits to graze livestock on public rangelands.

AMENDMENT NO. 523

At the request of Mr. MCCLURE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of amendment No. 523 intended to be proposed to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

SENATE CONCURRENT RESOLUTION 47—SUBMISSION OF A CONCURRENT RESOLUTION TO APPROVE THE EXTENSION OF NONDISCRIMINATORY TREATMENT WITH RESPECT TO THE PRODUCTS OF CHINA

Mr. RIBICOFF (by request) submitted the following concurrent resolution, which was referred to the Committee on Finance:

S. CON. RES. 47

Resolved by the Senate (the House of Representatives concurring), That the Congress approves the extension of nondiscriminatory treatment with respect to the products of the People's Republic of China transmitted by the President to the Congress on October 23, 1979.

Mr. RIBICOFF. Mr. President, under the statutes, when MFN is sought for any country, the majority leader is responsible to introduce the legislation or he can request that another Member of this body do so.

The majority leader (Mr. ROBERT C. BYRD) has requested me accordingly to submit a concurrent resolution, and I now do so.

Hearings on this concurrent resolution will be held on November 6 by the Subcommittee of International Trade of the Finance Committee.

The PRESIDING OFFICER. Without objection, the resolution will be received and appropriately referred.

SENATE RESOLUTION 264—SUBMISSION OF A RESOLUTION RELATING TO EXCESS PROFITS OF MAJOR OIL COMPANIES

Mr. DURKIN submitted the following resolution, which was referred to the Committee on the Judiciary and the Committee on Rules and Administration, jointly, by unanimous consent:

S. RES. 264

Resolved, That—

SECTION 1. (a) There is hereby established a select committee of the Senate to be known as the Select Committee on Petroleum Corporation Activities, to conduct an investigation and inquiry of the extent to which illegal, improper, and unethical activities are engaged in by domestic and multinational petroleum corporations individually or in combination with others, and to determine whether in its judgment any occurrences which may be revealed by the investigation and inquiry indicate the necessity or desirability of the enactment of congressional legislation to safeguard the nation's economic, environmental, and social welfare.

(b)(1) The select committee created by this resolution (hereinafter referred to as the "select committee") shall be composed of fifteen members as follows: (a) two members from the Committee on Appropriations; (b) two members from the Committee on Commerce, Science, and Transportation; (c) seven members from the Committee on Energy and Natural Resources; (d) two members from the Committee on the Judiciary; (e) two members to be appointed from the Senate at large: (2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate. Four of the members appointed under clause (E) of paragraph (1) shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and three shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(3) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(c) No Senator may serve on the select committee for more than eight years of continuous service, exclusive of service by any Senator on such committee during the Ninety-sixth Congress.

(d) At the beginning of each Congress, the Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are from the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of Rule XXV of the Standing Rules of the Senate.

(e) For the purposes of paragraph 6(a) rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the select committee shall not be taken into account.

SEC. 2. That the select committee is authorized and directed to do everything necessary or appropriate to make the investigations and studies specified in section 1(a). Without abridging or limiting in any way the authority conferred upon the select committee by the preceding sentence, the Senate further expressly authorizes and directs the select committee to make a complete investigation and study of the activities of any and all persons or groups of persons or organizations of any kind which have any tendency to reveal the full facts in respect to the following matters or questions: (1) Whether major oil corporations have accrued profits through illegal or unethical means; (2) whether major oil corporations acting individually or collectively, have acted to manipulate and adversely affect the market; (3) whether major oil companies have created unstable and inequitable petroleum products supply conditions; (4) whether major oil corporations have engaged in anticompetitive monopolistic practices in violation of U.S. antitrust law; (5) whether domestic oil corporations have willfully contributed to creating adverse inflationary conditions in the economy; (6) whether major oil corporations have illegally or unethically manipulated Federal Government activities; (7) whether any of the existing laws of the United States are inadequate, either in their provisions or manner of enforcement to safeguard the economic and environmental stability and well being of the Nation.

SEC. 3. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters requiring the attention of the Senate or such other committee or committees. (b) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

SEC. 4. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditure from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of consultants or organizations thereof, in accordance with the provisions of section 202 (1) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses. (c) Subpoenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoena.

SEC. 5. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringements on the privacy of any person or persons.

SEC. 6. For the period from the date this resolution is agreed to through September 31, 1980, the expenses of the select committee under this resolution shall not exceed $450,000, of which amount not to exceed $30,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(1) of the Legislative Reorganization Act of 1946. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 7. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

Mr. DURKIN. Mr. President, in the wake of the major multinational oil companies' recent announcement of exorbitant third quarter profits, I am submitting today a resolution which calls for a special Senate Select Committee to investigate the preposterous profits unfairly earned by the major oil companies at the expense of the hard-working American consumer.

The major oil conglomerates' rise in third quarter profits over last year borders on the criminal. Conoco reaped a rise in profits of 134 percent over the same period last year.

AMOCO was up 49 percent.

ARCO was up 45 percent.

Occidental Oil Co. earned excessive profits of almost 1,000 percent—a tenfold increase.

Gulf enjoyed record profits, up 97 percent from last year.

And Exxon, the world's largest oil company, saw their profits rise 118 percent to well over a billion dollars.

Even as these staggering profits were announced, Clifton C. Garvin, Jr., Exxon's chairman, dared to claim that marketing earnings in the United States, "continue to be depressed, as they have been throughout 1979."

The Senate cannot allow this cavalier attitude and the obscene profits on the part of the major oil companies to stand unchallenged.

We will never get today's 15 percent inflation rate under control while we have runaway energy costs and bloated oil profits. The highly scandalous and inflation fueling activities of the major oil companies certainly rival, if not exceed, the scope of the Watergate scandal.

The major oil companies raked in these outrageous profits while people in New Hampshire, New England, and throughout the Nation were trapped in gas lines and forced to pay prohibitively high gasoline prices of over a dollar a gallon. We have since learned that these long lines and high prices were caused by the artificially low supplies created by the oil companies. At the same time the major oil companies also withheld home heating oil from the small business supplier and the hard-working homeowner which has caused the price of home heating oil to climb beyond the means of the average consumer.

A full investigation by a Senate Select Committee, similar to the Senate Watergate Investigation is absolutely necessary. It will go a long way to bring out all the facts and insure that the major multinational oil companies do not continue to reap unjust profits at the expense of those who can least afford it.

I urge my Senate colleagues to join with me today in standing up to the major multinational oil companies. The oil companies have called the shots for too long. It is high time that the American public, the elderly, the handicapped, and low- to moderate-income families receive their full representation here in Washington. A Senate Select Committee to investigate the oil companies preposterous profits is an essential step in that direction.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution submitted by the Senator from New Hampshire (Mr. DURKIN) be referred jointly to the Committee on the Judiciary and the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SERVICES AND CHILD WELFARE AMENDMENTS OF 1979—H.R. 3434

AMENDMENT NO. 553

(Ordered to be printed and to lie on the table.)

Mr. LEVIN (for himself, Mr. DECONCINI, Mr. RIEGLE, and Mr. HATFIELD) submitted an amendment intended to be proposed by them, jointly, to H.R. 3434, an act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

INDIVIDUAL SAVINGS ACT OF 1979—S. 1488

AMENDMENT NO. 554

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment intended to be proposed by him to S. 1488, a bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income.

● Mr. NELSON. Mr. President, earlier this year I introduced S. 1488, the Individual Savings Act of 1979. I would now like to offer a technical amendment to the bill which; first, corrects a typographical error; and second, clarifies the types of accounts from which interest received would be excluded from taxation.

Mr. President, I ask unanimous consent that this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 554

On page 2, line 8, insert "(other than interest or dividends on a money market certificate or on an account for which the rate of interest is negotiable)" after "accounts".

On page 3, line 5, strike out "$100" and insert "$500".●

HANDGUN CRIME CONTROL ACT OF 1979—S. 1936

AMENDMENT NO. 555

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. MCCLURE (for himself, Mr. HELMS, and Mr. MELCHER) submitted an amendment intended to be proposed by them, jointly, to S. 1936, a bill to ban the importation, manufacture, sale, and transfer of "Saturday Night Specials," to improve the effectiveness of chapter 44 of title 18, United States Code, relating to gun control, to promote more effective management of certain law enforcement functions of the executive branch by transferring functions of the Secretary of the Treasury under chapter 44 of title 18, United States Code, relating to gun control to the Attorney General, to ban possession, shipment, transportation, and receipt of all firearms by felons, to provide relief for victims of handgun crimes, and for other purposes.

Mr. MCCLURE. Mr. President, I am today submitting an amendment to the handgun crime control bill of 1979 designed to bring about a fair and effective answer to the problem of criminal misuse of fire arms. By any standard the Gun Control Act of 1968 has failed to halt the increase in violent crimes which plagues our country. The reason for that failure, I suggest, is that the Gun Control Act of 1968 is fundamentally misdirected. It burdens the law-abiding citizen who obtains firearms through legal channels while affecting not at all the criminal who long before 1968 was barred from legally possessing guns.

It is easy to erect obstacles to those who want to buy firearms for hunting or target practice or defense of their home and family. These people want to obey the law. But these people have nothing whatever to do with the crime problem. Yet, they, not the professional criminal, are the victim of gun control laws. So I propose that we redirect Federal gun laws to deter this criminal behavior without infringing on the traditional right of law-abiding Americans to keep and bear arms. To do this I offer this amendment which simply repeals a law that has failed, the Gun Control Act of 1968.

I introduced a similar bill, S. 38, on the first day of the 96th Congress as well as during the 95th Congress, and was

pleased to see that the principles behind these bills made significant gains. During consideration of the criminal code reform legislation, the Senate adopted several amendments I offered to refine the mandatory sentencing provisions and strengthen the rights of law-abiding gun owners. Congress also cut the budget of the Bureau of Alcohol, Tobacco, and Firearms and blocked their plan to impose national registration of firearms transactions. We voted to continue the civilian marksmanship program and forced the withdrawal of a nominee with extreme antigun views to head the LEAA.

These victories were made possible by the vigilance of millions of Americans who were willing to make their voices heard in defense of traditional American values, and their rights as granted under the second amendment to the Constitution of the United States.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 555

Strike all after the words "That this Act may be cited as the "Handgun Crime Control Act of 1979," and insert in lieu thereof the following new section:

"Sec. 2. Chapter 44 of Title 18 of the United States Code nown as the "Gun Control Act of 1968", is hereby and the same is repealed."

DEPOSITORY INSTITUTIONS DEREGULATION ACT—H.R. 4986

AMENDMENT NO. 556

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to H.R. 4986, an act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

● Mr. MORGAN. Mr. President, I submit an amendment and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

Mr. President, H.R. 4986, the Depository Institutions Deregulation Act, as reported by the Senate Banking Committee, phases out the interest rate differential contained in regulation Q over a period of 10 years. The amendment I am introducing would substitute for that provision in the bill, a formula to tie the differential directly to the commitment of a financial institution to housing finance. Specifically, the amendment makes rate control permanent and provides a differential for all financial institutions—banks, credit unions, mutual savings banks, and savings and loan associations—provided that such institutions have and maintain at least 60 percent of their entire loan portfolio in residential real estate. Included within the definition of residential real estate are home improvement loans, and loans for mobile homes. This amendment recognizes the need of long-term lenders to attract savings while extending credit over protracted terms. The amendment provides an incentive for all financial institutions to engage in this important area of lending activity, that of making homeownership possible.

On two other amendments which I have previously introduced, Mr. President, I ask unanimous consent that two letters discussing these amendments be printed in the RECORD.

First is a letter from Hon. Otis R. Bowen, M.D., Governor of Indiana and chairman of the National Governors Association. Governor Bowen writes on behalf of the NGA in support of my amendment to strike title II of H.R. 4986. Title II would give the Federal Reserve authority to require reserves of nonmember financial institutions. Governor Bowen writes that this "complex and controversial matter * * * should not be handled in a piecemeal fashion through H.R. 4986," and states that the NGA supports my amendment "because the granting of such authority to the Fed would constitute an unwarranted preemption of State authority in an area that we believe properly belongs to the States."

A second letter from Hon. Jay Janis, Chairman of the Federal Home Loan Bank Board, is addressed to Senator CRANSTON, and a copy has been made available to me. Chairman Janis warns that a lowering of the minimum denomination on money market certificates to $1,000 would have a "highly adverse" effect on the earnings of thrift institutions, and would be particularly "devastating" on S. & L.'s in the Boston and New York Federal Home Loan Bank districts. I urge my colleagues to give careful attention to both these letters.

There being no objection, the amendment and letters were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 556

Beginning on page 15, line 24, strike the entirety of Sections 107, 108, 109, and 110, through page 21, line 20, and substitute in lieu thereof the following:

Section 107(a) Strike paragraph 7 of Public Law 89-597.

Section 107(b) Strike section 102 of Public Law 92-200 and substitute in lieu thereof the following:

"An interest rate differential of at least ¼ per centum may be paid on any category of deposits or accounts of a bank, the deposits of which are insured by the Federal Deposit Insurance Corporation, and savings and loan, building and loan or homestead association (including cooperative banks), the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation, any mutual bank as defined in § 3f of the Federal Deposit Insurance Act or any credit union, the accounts of which are insured by the National Credit Union Share Insurance Fund, provided that such institutions shall have and maintain loan portfolios in which sixty per cent of such loans are comprised of loans secured by liens of single family residential real estate, mobile home loans or home improvement loans."

NATIONAL GOVERNORS' ASSOCIATION,
October 23, 1979.

Re H.R. 4986—Depository Institutions Deregulation Act of 1979.

Hon. HOWARD W. MORGAN,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR MORGAN: This is to advise you of the strong support of the National Governors' Association for the amendment you plan to offer on the floor of the Senate to delete Title II of H.R. 4986, the Depository Institutions Deregulation Act of 1979.

Title II of H.R. 4986 would grant the Federal Reserve Board (Fed) compulsory reserve-setting authority over nonmember banks and other state-chartered depository institutions with respect to their Negotiable Orders of Withdrawal (NOW) accounts and share drafts. This Title should be stricken from the bill. Whether or not the Fed should have compulsory reserve-setting authority over state-chartered nonmember commercial banks and over other depository institutions not now affiliated with the Fed is currently being considered by the Senate Banking Committee in several bills (S. 85, H.R. 7, and S. 353) designed specifically to deal with this complex and highly controversial matter. It should not be handled in a piecemeal fashion through H.R. 4986.

NGA also opposes Title II of H.R. 4986 because the granting of such authority to the Fed would constitute an unwarranted preemption of state authority in an area that we believe properly belongs to the states.

The National Governors' Association greatly appreciates your efforts on this matter.

Kindest personal regards,

OTIS R. BOWEN, M.D.,
Governor.

FEDERAL HOME LOAN BANK BOARD,
October 23, 1979.

Hon. ALAN D. CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: In response to your request, we have analyzed the impact of implementing the provision of S. 1347 that could lead to a lowering of the minimum denomination on money market certificates to $1,000.

We estimate the percentage of passbook accounts of S&Ls would decrease to 16 percent of total accounts by the second quarter of 1980 if the minimum denomination were lowered. This compares to 24 percent without any such change. In addition, there would be an attrition of maturing long-maturity certificates into higher rate MMCs so that there would also be a reduction in long-term certificates as a percentage of total accounts.

The results on earnings would be highly adverse. A reduction in the minimum denomination of MMCs to $1,000 is estimated to result in a rate of return on assets of 0.14 of 1 percent by the second half of 1980 compared to 0.34 of 1 percent if this action were not taken. Even the latter rate of return would be the lowest that S&Ls have experienced in the post-World War II period and compares with 0.82 of 1 percent in 1978. With the MMC at $10,000, S&Ls would be experiencing severe earnings problems, particularly in light of the recent Fed actions, and would imply about 20 percent of all S&Ls having a negative income. With the even lower rate of return on assets implied by the $1,000 minimum denomination, we estimate that 37 percent of S&Ls would have a negative income during the second half of 1980.

The impact on S&Ls in the Boston and New York Federal Home Loan Bank districts would be more devastating. These associations have a higher proportion of their savings accounts in passbook accounts and already suffer from low profitability. A reduction in the minimum denomination on MMCs would, in the second half of 1980, produce a loss of 0.23 of 1 percent on assets for S&Ls in the Boston district, with over 57 percent of S&Ls having a negative income. It would produce a loss of 0.25 percent of 1 percent on assets in the New York district, with over 52 percent of S&Ls in this district having a negative income. The impact on mutual savings banks, concentrated in the Northeast, would be particularly devastating.

I thought you might be interested in an analysis of the effect of the $1,000 provision done by Home Savings and Loan Association in California, the country's largest savings institution. Using conservative estimates, their analysis indicates a cost increase of 70 basis points in 1980 if the provision were adopted. This represents a substantial decrease in income for this institution, on the order of 75 percent.

Over the long run, we remain committed to a phasing-out of rate control. I stated this in my support of S. 1347, which, at that time, did not include the provision to reduce the minimum denomination. However, any such phasing-out, including a reduction in the minimum denomination on MMCs, must take account of the extremely difficult financial environment facing thrifts.

The information contained in this analysis was obtained before the recent Fed actions. If data had been available, the results would have been even more devastating.

Sincerely,

JAY JANIS.●

AMENDMENT NO. 557

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON (for himself, Mr. PERCY, Mr. TSONGAS, Mr. LUGAR, Mr. MORGAN, Mr. MOYNIHAN, Mr. JAVITS, Mr. LEVIN, and Mr. DURENBERGER) submitted an amendment intended to be proposed by them to H.R. 4986, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON CONSUMER AFFAIRS

Mr. TSONGAS. Mr. President, I wish to announce that the Subcommittee on Consumer Affairs of the Committee on Banking, Housing, and Urban Affairs has scheduled oversight hearings on the Truth-In-Lending enforcement activities of the Federal financial regulatory agencies. The hearings will be held on Wednesday, October 31 and Thursday, November 1 at 10 a.m. in room 5302 of the Dirksen Senate Office Building. If you have any questions regarding the hearings, please contact the subcommittee at 224-7391.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Committee on Energy and Natural Resources on the nominations of the following:

Dr. Ruth M. Davis of Maryland to be an Assistant Secretary of Energy (Resource Applications).

Dr. William W. Lewis of the District of Columbia to be an Assistant Secretary of Energy (Policy and Evaluation).

Charles B. Curtis Esq. of Maryland to be reappointed as a member of the Federal Energy Regulatory Commission.

The hearing is scheduled for Wednesday, October 31, beginning at 8 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510. For further information regarding the hearing, you may wish to contact Jessie Mackenzie of the committee staff on extension 47147.●

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, the Committee on Labor and Human Resources will hold a hearing on S. 1089, the "ERISA Simplification Act of 1979." This legislation, similar in intent to portions of S. 209, the "ERISA Improvements Act of 1979," is different in its approach toward achieving improvements Act of 1979," is different in its approach towards achieving improvements in the administration of ERISA and reduction of ERISA paperwork. The committee's efforts to attain these goals will be assisted by comments on S. 1089 from witnesses and others in connection with the hearing process.

The hearing will be held on Wednesday, November 7, 1979, in room 4232 of the Dirksen Senate Office Building, beginning at 9:30 a.m.

Requests to testify or present statements for the record should be directed to Steven J. Sacher, special counsel to the committee, (202) 224-1097.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a hearing on the SALT II treaty and protocol.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT

THE RHODESIAN CONFLICT

● Mr. HAYAKAWA. Mr. President, the Rhodesian conflict is at a critical turning point. If there is any hope left for a peaceful solution to this tragic war, it lies in the London Conference now being held under the auspices of the British Government. The Carter administration's policy toward Rhodesia has unfortunately equated conditions in Rhodesia with those formerly encountered in the American South. Quite to the contrary, the Rhodesian conflict is not simply one of majority rule. It cannot be regarded as analogous to the American civil rights movement with its slogans of "black power; one man—one vote; white vs. black." It is rather a more complex problem, that is deeply based on tribal warfare and conflicting loyalties.

The new black majority government of Zimbabwe-Rhodesia is being threatened not only by a massive guerrilla war, but by these traditional tribal divisions dating back to 19th century battles between the Matabele and the Mashona, and the animosities left over these clashes.

As one ponders the future of this unfortunate country, dangers as well as opportunities come to mind. Among the former, tribalism may continue to play a detrimental risk by preventing a peaceful settlement and the return of prosperity. In this context, I want to call the attention of my colleagues to an article appearing in the Salisbury Herald, Friday. October 5, 1979, recounting of clashes between the tribal forces supporting the leaders of the Patriotic Front.

The article indicates that a prevailing view of the Rhodesian conflict is inaccurate. This view holds that the Patriotic Front is effectively united by common ideology. Actually hostility based on tribal differences is paramount. The aforementioned article deserves the attention of my colleagues and I hereby request that it be printed in the RECORD.

The article follows:

PF "GOT THE HELL IN"

ZANLA terrorists loyal to Robert Mugabe and the ZIPRA forces of Joshua Nkomo appear set for a major confrontation to settle long-simmering tribal differences.

Senior security men say there is growing evidence of a dramatic escalation of fighting between the two groups, mainly in south and south-west Matabeleland—a traditional ZAPU stronghold—where ZANLA is seeking ascendancy.

Instances that have come to light:

ZANLA leaders are instructing their troops to seek out and destroy ZIPRA forces.

ZIPRA terrorists are encouraging sympathetic tribespeople to report any ZANLA presence in their areas to the security forces.

ZANLA are increasingly resorting to beatings, torture and murder to win support.

ZIPRA is pledged to a no-holds-barred war against the ZANLA "enemy".

The information was gleaned from captured terrorists and others who have surrendered—all of whom had been in interfaction clashes—and from captured documents.

It is difficult to assess accurately the full extent of the conflict because contacts between the rival groups often occur in remote areas or sparsely populated tribal trust lands. Both sides mop up after clashes, burying their dead and removing the injured.

"They have obviously got the hell in with each other and are giving it a full go" a security forces spokesman said. He confirmed the number of clashes was escalating.

ZANLA's determination to gain supremacy is indicated by the number of men moved into southern Matabeleland, where it is now numerically superior.

CAMPAIGN

There is evidence that the campaign is being directed by ZANLA's hierarchy, and intelligence sources indicate that on September 15, Rex Tichafa, a senior member of the Mozambique War Council, was drafted into the Tuli area to plan an intensified war against ZIPRA strongholds.

Documents captured by security forces also provide proof of top-line involvement.

ZANLA terrorists who have surrendered indicated this week that since entering the country they had been involved in more contacts with ZIPRA than with security forces.

One, Chida Moyo, was in 10 clashes with ZIPRA in the Kezi and Gwanda areas from February to May. Six ZIPRA and five ZANLA men died. Seven ZANLA terrorists were wounded.

He said his group had been constantly subjected to surprise attacks by ZIPRA acting on information supplied by the locals.

"Some of the engagements were short. In others we stayed and fought. The attacks

known since last spring from our own intel-

only a first installment, compared to the

were mostly initiated by ZIPRA. We only attacked for revenge."

Robert Mbunkunye (29), entered the country in April.

"I joined a group that had been operating here for some time. They told me they had been in numerous skirmishes with ZIPRA.

"Before giving myself up, I was involved in two fights with them. We were told to fight ZIPRA. They were considered the enemy as much as the security forces."

Cheetah (25), was involved in two contacts with ZIPRA in the Gwanda area in May and July. Both were attacks on ZANLA base camps.

He said tribal differences were the main cause of the inter-faction fighting.

"We don't like them. They do not like us."

A ZANLA terrorist, captured this year, said that in April his group was involved in a clash with ZIPRA, in which one ZANLA terrorist was killed.

In June, they discovered two ZIPRA terrorists in a kraal which they surrounded. They opened fire, killing the ZIPRA terrorists.

Another captured ZANLA man said time was spent trying to persuade tribesmen to support ZANLA and forget traditional loyalty to ZIPRA.

In May, his group went to an area to investigate a clash between ZANLA and ZIPRA. Several ZAPU supporters, thought to have given information to ZIPRA, were executed.

A Police patrol in the Gwanda area was recently preceded by a ZIPRA group telling locals to give the Police information about ZANLA.

And there have been instances where locals, frightened to divulge information to security forces for fear of retribution by ZANLA have been beaten by ZIPRA.

The feed-back has resulted in intensified contact between ZANLA and the security forces and spiralling ZANLA casualties.

ZANLA, frustrated in efforts to win locals on their side, has now resorted to a reign of terror to gain support.

On September 26, at the Benfer Estates in the Umzingwane farming area about 30km from Beitbridge, terrorists took 40 men, women and children from a farm compound. Those who did not escape were ordered to strip.

One of the men, Davison Moyo, said: "They told us to lie on the ground. The terrorists set fire to plastic fertiliser bags and dropped them on the men's private parts. I was badly burned. The pain was very bad.

"The people should hate them for what they did to us."

One young mother, Marabuni Muleya, was ordered to leave her child behind when she was taken.

She said: "They were bad to us. They set fire to the women's clothing after they had stripped and dropped it on their bodies. One woman was held down by the terrorists. They forced a burning stick into her genitals"

The woman said the terrorists told them they should not work on the farm but return to the tribal trust lands to grow food for ZANLA.

TORTURED

Captured documents compiled by ZANLA indicated that on August 8, in the Gwanda area, a 22-year-old woman, Selina, was tortured to give information about ZIPRA.

The documents said: "She told the comrades of some masses who were working hand in hand with ZIPRA. The comrades accused Selina's brother of being a member of ZIPRA and that she had moved her home into an area where ZIPRA operated.

"She was sentenced to death. The comrades killed her by beating her with stones."

Another document records that on August 7, again in the Gwanda area, a tribesman, Alias (32), married with children, was accused of being a sell-out. He was tortured.

He was accused of sending his son to inform ZIPRA that ZANLA was in the area.

"He was sentenced to death. There were 14 people in the village when the comrades stoned Alias to death. The action shocked the masses, who ran away."●

SENATOR KENNEDY ADDRESSES THE HUMAN CRISIS IN CAMBODIA

● Mr. McGOVERN. Mr. President, there is a growing consensus in Congress and in the Nation that the United States must play a major role in the international humanitarian relief effort now underway in Cambodia. We must act to deliver food to the hungry and medicines for the victims of disease and epidemics. And we must use our diplomatic leverage to help lessen the basic political tensions which are the cause of the enormous human crisis which threatens the survival of the Cambodian people. No one in America has done more to help form this consensus and to bring these problems to our attention than Senator KENNEDY. In an address this morning at Georgetown University, Senator KENNEDY gave a realistic and eloquent description of this major tradegy. He called for a six-point program of action which I endorse and fully support. Mr. President, Senator KENNEDY has combined the best aspects of America's humanitarian traditions with the need for creative diplomacy. I know I speak for all my colleagues by recognizing the Massachusetts Senator for his excellent proposals and for his strong moral concern.

I ask that the Senator's remarks, entitled "The Human Crisis in Cambodia," be printed in the RECORD for the benefit of my colleagues.

The text of the speech follows:

ADDRESS OF SENATOR EDWARD M. KENNEDY

I welcome this opportunity to address the graduate students of Georgetown University. Under the leadership of Father Healy, Georgetown is known throughout the world for its excellence in learning and its commitment to the basic moral values of our world society.

My subject today is a massive human tragedy that is taking place half way around the world in an area the size of Missouri, the tragedy that is engulfing the people of Cambodia. I know that many of you here today are deeply concerned about that tragedy. I command Georgetown's own involvement in the growing world-wide effort to alleviate the suffering.

Georgetown students are now on their way to Indochina to work with the voluntary agencies, to bring some measure of comfort and assistance to the enormous number of starving and homeless refugees who need our help. By their unselfish work, the students are also bringing credit to this university, demonstrating again the meaning of the truth that individuals and institutions can make a difference if they care enough to get involved.

Help for Cambodia from individuals and voluntary groups is critical at this time. But so is help from governments, including the government of the United States.

I come here today deeply troubled by the past indifference of our nation and our government to the tragedy in Cambodia. Archibald MacLeish has written:

"When the fact is disassociated from the feel of the fact in the minds of an entire people and in the common mind of a civilization—that people—that civilization—is in danger."

The people of this nation and the leaders of this nation must begin to feel the genuine horror that is the daily existence of millions of Cambodians. The awesome scale of the present suffering alone should be cause enough for America's concern. Our basic decency and humanitarian instincts as a nation are being tested. We cannot stand mute in the face of a calamity of such unspeakable proportions, a tragedy of death and human misery greater than any the world has known since the days of the holocaust.

But there is an additional reason for America's concern. Cambodia is on our conscience. This nation cannot wash its hands of the people of that land. Of course, the Cambodian tragedy has been compounded many times over by domestic tyrants and foreign invaders in recent years. Whatever the ultimate verdict of history may be on the degree of responsibility the United States must bear for the present tragedy in Cambodia, we cannot escape the moral consequences of our actions during the Vietnam War, which helped to launch the descent into hell of that once beautiful and peaceful land.

It is said that Cambodia is fast becoming a country without children. Infants and young children are dying in Cambodia today, dying from starvation and disease, dying from causes that could easily be prevented if only the world would care.

What can we tell our own children about the deaths? What can we tell ourselves? That the world looked the other way to this holocaust of the 1970's, as it did to another holocaust of the 1940's? That diplomats delayed while children died? That governments could not agree on simple steps to launch the missions of relief?

Unless more is done, and done now, millions of men, women and children may die. The very existence of the Cambodian people may be extinguished.

Already, the nation has lost nearly half its population from the ravages of war and the barbarity of the Pol Pot regime. Now, Cambodia faces famine and the relentless spread of disease among its remaining people.

We have known the statistics for many months. The figures are among the worst the world has ever seen. From the field reports our Senate Judiciary Committee has received, it is clear that three and a half million Cambodians now face severe starvation. Over half of them will die in the next few months unless we act.

Over 250,000 sick and starving refugees have fled into Thailand to escape the famine and the violence. Relief workers along the border predict this number will soon be doubled as the famine spreads.

In the few camps and towns that can be seen across the border, 300 Cambodians are now dying every day.

Voluntary agency and international relief officials report that acute famine exists in northeastern and central Cambodia. They report the entire country is on the move in a fearful and frenzied search for food. Roads are clogged with starving people, vainly seeking food, wandering toward their certain death.

Our intelligence reports estimate that the current harvest will be less than 20 percent of the normal level. This drastic shortfall in food production will be compounded by the complete breakdown of Cambodia's transportation system, and by the continuing warfare in many areas of the country.

They also report that disease is rampant—bubonic plague, malaria, dysentery—diseases especially fatal to infants and young children.

America and other nations in the international community have known of the Cambodian crisis for many months. We have

known since last spring from our own intelligence reports of the imminent shortfall in food production. We have known for many weeks of the spread of disease and famine.

According to an official report received by our Embassy in Thailand: "The physical condition of newly arrived refugees over the past few days was among the worst we have witnessed. Assuming that only the strongest are able to make the trek into Thai territory, it appears that those still inside Cambodia are reaching the point where it is no longer possible for them to survive."

The United States government had that report on September 17, over a month ago But during that time, and throughout the recent months, our government was more concerned with the credentials fight over Cambodia's seat at the United Nations, than with the issue of mass starvation among its people. Our government was more concerned with which dictator—Pol Pot or Heng Samrin—sits in the United Nations, than with the many children dying in the nation they purport to lead.

Last April, when the warning signs were already completely clear, I called for an international conference on Indochina. I suggested that the United States, Japan, and the ASEAN countries should meet to help Cambodia, before conditions deteriorated beyond recall and an overwhelming refugee crisis developed. Other countries joined in similar calls—including Britain, Sweden, Australia, and Japan. But the voice of the United States has been most notable by its silence.

In June, I met with Secretary General Waldheim at the United Nations in New York to express my sense of urgency about the crisis. On June 18th, I called again for an international effort to deal with the mounting refugee crisis, and to support the United Nations effort. I urged the United States government to undertake an immediate new initiative, and to answer the cries for help with immediate food and other relief supplies.

In Geneva last July, an international conference was convened on Indochina. Under Secretary General Waldheim and the U.N. High Commissioner for Refugees, that conference achieved a major breakthrough. It responded to the plight of the Vietnamese "boat people" and generated new international support and participation in the refugee program. But the subject of Cambodia was dropped from the agenda of the conference, without protest by the United States, and with no assurance it would be considered later.

I raised this question with Secretary Cyrus Vance at a hearing by the Senate Judiciary Committee later in July. Mr. Vance agreed that famine threatened in Cambodia, and that there was an urgent need to act. He said that, although we faced many diplomatic hurdles, we would be willing to work with others to begin a major international effort for relief.

But three months have passed, with no action by the government. Incredibly, the only movement was the heroic effort of the Red Cross and UNICEF to do the job alone.

Finally, in an effort to expedite U.S. action, Congress itself began to act. On October 11th, the Senate amended the foreign aid bill to urge that all available funds be used for the crisis in Cambodia, with a specific request for an initial $30 million contribution. Today, three members of the Senate—Jim Sasser of Tennessee, Max Baucus of Montana and John Danforth of Missouri—are actually in Cambodia, prodding America into more effective actions for relief.

This afternoon, I understand that the President plans to announce that the $30 million is at last to be provided.

That action is a welcome step. But it is only a first installment, compared to the need that now exists. The Red Cross, UNICEF, and the U.N. High Commissioner for Refugees have already appealed for funds to deal with the crisis.

We must take essential steps now if we are to stave off mass starvation in Cambodia and avoid even graver dangers to the peace in Southeast Asia:

First, dollars cannot do the job alone. We must begin an immediate massive airlift of food and medicine to Cambodia, in conjunction with the work of the Red Cross and the other voluntary agencies already in the field. In a similar crisis in 1975, the United States airlifted over 400 tons a day of rice to the city of Phnom Penh. We can do the same again in 1979, to ease the much more drastic crisis now taking place before our eyes.

Second, we must be prepared to supplement these immediate actions with increased cash assistance. It is estimated that up to $200 million in food and medicine and other supplies may be needed over the next nine months. Together, America and other nations must insure the need is met.

Third, we should press urgently for an international conference on Cambodia by all concerned nations. The Geneva Conference last summer catalyzed effective international action to deal with the plight of the boat people. A similar conference now could generate prompt action on Cambodia, and prevent vast new deaths from starvation, disease, and the bayonets of brutal dictators.

Fourth, we should use every possible diplomatic means to achieve a military ceasefire in Cambodia. We should seek peace, neutrality, and independence for Cambodia and Laos, with effective international guarantees. Without a political solution of this kind, the unending flow of refugees from Indochina will go on. I do not minimize the difficulty of this effort. But it should receive the highest priority of American diplomacy, and it should involve the highest leaders of this nation.

Fifth, we should reinforce this international action with strong pressure on Hanoi and Phnom Penh to join in resolving the crisis. Our allies in Europe and Asia should also join the effort. We should challenge the Chinese and the Soviets to cooperate. The approaches should be high-level and direct. We cannot afford a policy of diplomatic non-involvement or under-involvement. Weak or ineffective action now will only reduce America's credibility further in the area, and undermine our diplomacy with other nations.

Sixth, we must increase our efforts in Thailand to cope with the rising tide of refugees. We must also encourage international efforts to resettle Cambodian and other Indochinese refugees. For the vast majority of refugees, we must work to create conditions permitting them to return to their homes in peace. For countless others, however, resettlement must take place in other lands. The United States has already enacted legislation to facilitate this action, and other countries should be encouraged to make a greater effort on their own.

The human crisis of Cambodia cries out for urgent action by peoples and nations in every corner of this earth. It is time to end the long period of delay and neglect. We can no longer avert our eyes.

As we act to end the tragedy of Cambodia, let us remember the words of the Bengali poet Tagore, who wrote, "Life is given to us. We earn it by helping to give it."

This rich nation once brought death and devastation to Cambodia. Now, we have a unique opportunity to bestow the gift of life. The tragedy is upon us. The hollow eyes of children peer out from our morning newspaper. Their faces are pressed against our window, waiting for an answer.●

IMPACT STATEMENT FOR S. 1873, THE JUDICIAL CONDUCT AND DISABILITY ACT

● Mr. DECONCINI. Mr. President, on October 10, 1979, the Senate Judiciary Committee reported S. 1873, a bill to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes.

Rule 29.5 of the rules of the Senate requires that reports accompanying legislation contain an evaluation of the regulatory impact of the legislation. Through an oversight, such a statement was not included in the report on S. 1873.

Mr. President, I state for the record that it is the judgment of the Judiciary Committee that enactment of S. 1873 will result in a minimal amount of additional regulation.

This proposed legislation, if enacted, will effect or regulate approximately 1,500 judicial officers; create 13 attorney and secretarial positions; 11 circuit judicial councils; and the Administrative Office of the U.S. Courts. Each attorney and secretary will be needed to process approximately 177 of the 2,300 annually projected complaints. Projections of the number of complaints that will be filed are uncertain. For purposes of this legislation, 3 percent of the number of prisoner petitions filed along with the number of criminal defendants convicted was used as an estimating base. The circuit judicial councils will be required to meet on the average of six times a year to act upon these complaints. The Administrative Office of the U.S. Courts will be responsible for providing administrative, professional, and financial assistance to the judicial councils. The administrative office will also be responsible for the preparation of reports required by the House of Representatives, including the annual report showing the number of complaints filed with each judicial council and the action taken on each complaint. Two additional attorney positions and two secretarial positions will be required in the administrative office in order to prepare these reports.

The economic impact of such regulation on these parties is as follows:

Cost estimate for 1981

A. Circuit judicial councils:	
Miscellaneous Expenses	$81,000
Salaries and expenses of 13 attorneys and 13 secretaries	559,000
Travel of judicial council members	46,000
Contractual court reporting	13,000
B. "Court"/Administrative Office:	
Salaries and expenses of 2 attorneys and 2 secretaries	86,800
Travel for 5-judge court sessions	20,000
Contractual court reporting	2,500
Counsel fees	25,000
Witness fees and travel to de novo hearings	28,600
Total cost (2,300 complaints)	$861,900

The cost of prisoner travel and U.S. marshals' expenses would be the responsibility of the Department of Justice and have not been included in these estimates.

I further state for the record that the provisions of S. 1873 providing for the im-

ely a few years ago. Badly—and unfairly—

an extra $12.2 billion. A 3% hike, after in-

just now asking for at least a 3% larger

position of sanctions against members of the Federal judiciary will have minimal impact on the personal privacy of the affected individuals. Sanctions that may be imposed under the act are authorized only if the judicial officer is or has been unable to discharge efficiently the duties of his or her office by reason of mental or physical disability, or is or has been engaged in conduct inconsistent with the effective and expeditious administration of justice. These provisions, however, will not excise the rights of the disciplined judge, a public figure, who in accepting the Federal judicial office, must yield to some extent privacy rights relating to those matters which are legitimately within the scope of the public interest.

In addition, there is insufficient factual information available at this time to make determinations on the amount of additional paperwork that will result from regulations promulgated pursuant to this bill.●

TRIBUTE TO GENERAL JONES

● Mr. McGOVERN. Mr. President, the October 29, 1979, issue of Time magazine carries on its cover the picture of Gen. David C. Jones, chairman of the Joint Chiefs of Staff. This issue of Time includes a far-ranging article on the Nation's defense posture with a special essay on General Jones.

I have long been impressed with General Jones' patriotism and his commitment to the national interest. I do not always agree with him on defense issues, but I have never doubted his ability and his dedication.

I am proud of the fact that he is a native of South Dakota. As was the case with me, General Jones left college to join the Army Air Corps in the spring of 1942. He has maintained his interest in flying and in the larger concern of airpower ever since.

I ask that the essay on General Jones be printed in the RECORD. I also ask that the balance of the Time magazine article to which I have referred to be printed in the RECORD.

The articles follow:

HE IS EXASPERATED WITH PEOPLE ABOUT HALF THE TIME

"He gets into an airplane and he just doesn't know how to turn toward the passenger compartment," says a senior aide about General David C. Jones. Indeed, during his frequent trips around the U.S. and to many parts of the globe, the Chairman of the Joint Chiefs of Staff invariably takes charge of the plane's controls.

Heading straight for the cockpit is a habit that Jones acquired during his 37 years in the Air Force. But he is no mere hot pilot. Cool, meticulous, low-key and dogged, Jones typifies the new breed of military managers. Explains a senior Pentagon aide: "The era is over of flamboyant combat heroes rising to the top of the military. The military is no longer going to win the budget game through image and authority. The brass are going to win it by knowing their stuff and knowing how to present it."

At this, Jones is an ace. During the current SALT II ratification hearings, he has made numerous trips up Capitol Hill to testify. Leaning intently across the witness table, with rows of ribbons glistening on his four-starred uniform, he has persuasively argued the military case: that SALT II is acceptable if the U.S. increases its arsenal to counter the growing Soviet threat. To a significant degree, it has been the clarity and force of Jones' arguments that transformed these hearings into a wide-ranging analysis of national defense needs. The Jones touch was also evident in a successful campaign against the Office of Management and Budget; OMB wanted to limit military pay raises to 5%, but Jones got 7%. He has been equally persuasive at the White House, where he helped sell Jimmy Carter on the MX mobile ICBM.

Jones does not win every argument, of course. Indeed, he still bears the scars of the fight over the B-1 supersonic bomber. Carter canceled that project in June 1977, when ex-Bomber Pilot Jones was Air Force Chief of Staff and the plane's leading advocate. Carter's surprise decision shook the Air Force. Its generals immediately began talking of mounting a campaign in Congress to save the bomber and they looked to Jones to lead the attack. Jones concluded instead that such a campaign would have almost no chance of succeeding. "That was an agonizing decision," he recalls today. "Maybe we could have made a better case, but the President had made his decision."

Some Air Force hard-liners, still smarting from the B-1 experience, have insinuated that the J.C.S. chairmanship was the reward Jones got for going along with the White House. To be sure, Carter, like most Presidents, prizes team players. But the main element in Jones' selection was the problem-solving managerial talent that he had demonstrated during his four years as head of the Air Force and prior to that as commander in chief of the U.S. Air Forces in Europe between 1971 and '74.

What was more unusual about Jones' appointment as the nation's top soldier was that he neither attended a service academy nor finished college. A native of South Dakota, he dropped out of Minot State in North Dakota in April 1942 to join the Army Air Corps. Ten months later he had his pilot's wings as a second lieutenant. To his dismay, instead of being sent into combat, he spent the war in the U.S. training other pilots. His combat turn came during the Korean War, during which he flew B-29 bomber missions over North Korea.

His first important staff job came in 1955 at the Strategic Air Command, where he served two years as an aide to its legendary Chief, General Curtis LeMay. Jones refers to LeMay as "my mentor." In 1964, at age 43, Jones decided to learn to fly fighters. He outperformed many of the students who were half his age and went on to command an F-4 Phantom wing. Major posts in NATO, Viet Nam and back at SAC later earned him his stars.

As Chairman, Jones works at least a dozen hours daily, many of them at his stand-up desk in his spacious second floor Pentagon office. Not directly involved in commanding troops, he primarily oversees and coordinates the four service chiefs. He took a speed-reading course to help him through the mountains of paper work, and he writes memos fluently with both right and left hands. "I do it totally unconsciously," he says of this unusual ambidexterity. "It depends on how I'm sitting or standing."

Reserved and dignified, Jones is not known to slap many backs or crack many jokes. No one but a few retired generals, especially LeMay, would dare call him "Davey"—at least not to his face. Explains former Air Force Vice Chief of Staff William McBride: "I've never seen him slam a desk or shout at anybody. But at the same time, he is exasperated with people about half the time. It is hard to work for him if you're mediocre. He demands that everybody be as good as he is—and that's pretty tough." But Jones can also show tenderness. When ailing, wheelchair-bound Omar Bradley, 86, visited the Pentagon in July 1978, Jones personally took the nation's only living five-start general on a nostalgic 45-minute tour of the headquarters.

Jones tries to play racketball every day and tries to jog a couple of miles daily. "I ran before it became popular," he says. He and his wife Lois (they were married in 1942) live in the Chairman's sprawling official residence at Fort Myer, in Virginia, a short distance from the Pentagon. Their two daughters are living on the West Coast, and their son David, 18, is attending Auburn University in Alabama. "He tells me he wants to be an Air Force pilot," the Chairman says of his son, and then adds with a smile, "If he doesn't, he'll have to go to work." For one who does not seem to regard the Air Force as work, David Jones has done quite a job.

THE PRICE OF POWER

Through a driving rain that swept the Cuban coast, 2,100 U.S. Marines stormed into Guantánamo Bay, the tiny U.S. military base that perches like a lighthouse on the eastern tip of Fidel Castro's island fortress. Most landed by helicopter from seaborne troop carriers, but a quarter of the force hit the beach in more classic Marine style, splashing ashore aboard tracked amphibious vehicles. Though their rifles, tanks and howitzers were unloaded—no live ammunition was carried throughout the operation—their performance was intended by Jimmy Carter to be a firm and well-publicized demonstration of Washington's concern about the presence of a Soviet combat brigade in Cuba.

But that was only one of a pride of U.S. military maneuvers round the world last week. At Grafenwöhr, West Germany, a U.S. tank battalion roared into combat exercises after having been flown in from Fort Hood, Texas, on a "no notice" emergency drill. At Florida's Eglin Air Force Base, 20,000 soldiers, sailors and airmen prepared to launch "Bold Eagle 80," a nine-day maneuver to practice coming to the aid of an invaded ally. In the Indian Ocean, a U.S. Navy seven-ship carrier task force joined up with a five-ship Middle East force to show the flag.

All these military activities were designed to maintain the U.S. readiness needed both to protect the nation and meet its far-flung obligations. But just how well the Pentagon would be able to carry out its awesome responsibilities is a matter of growing concern in Washington. Both in the Administration and in Congress, officials confront a question that will not go away: Could the U.S. successfully counter a major Soviet military thrust, no matter where it came? If the answers seems doubtful, then the next question inevitably is: What must be done to ensure the nation's security?

Those two related questions have dominated the Senate debate on ratification of the SALT II accord. More generally, they have been influencing the way other countries view the U.S. as a world power. The search for answers has already caused one of the most far-ranging U.S. defense controversies since World War II.

The debate began stirring in scholarly journals, inside think tanks and on Capitol Hill. It has assumed a heightened sense of urgency during the SALT hearings, in which both expert witnesses and Senators have been expressing grave concern about the state of the nation's military strength. Armed with volumes of facts and statistics, they have convinced a growing number of citizens that the U.S. can no longer afford to postpone tough and costly defense decisions if it intends to remain a superpower. As a result, a consensus has been emerging that favors a stronger U.S. military establishment, something that would have seemed impossible

only a few years ago. Badly—and unfairly—scarred by the Viet Nam War, the armed services were forced into a period of retrenchment, receiving little popular backing for their expensive needs. But the national mood and the international realities are both changing.

In the coming months, the focus of the debate will be the fiscal 1981 defense budget, the final details of which are now being drafted in highly technical but often heated sessions behind closed doors at the Pentagon, White House and Office of Management and Budget. Congress will get a look at this draft in a few weeks, two months before the rest of the federal budget is shown to Capitol Hill. This unusual preview, at first resisted by the White House, is an attempt by the Administration to prove that it will increase defense spending. Several key Senators have been threatening to oppose SALT II unless more money is earmarked for modernization and expansion of the U.S. arsenal. This, they say, is the price of power.

A key participant in the mounting debate is the officer who must plead the Pentagon's case, the top-ranking man among the nation's generals and admirals and the only military personage who can carry his arguments directly into the President's Oval Office. He is David C. Jones, 58, the cool, persuasive Air Force general who serves as ninth Chairman of the Joint Chiefs of Staff. In an interview with Time Pentagon Correspondent Don Sider, Jones stressed that he is more worried about U.S. security today than when he became chairman 15 months ago. Because of the "continued military buildup by the Soviet Union," he says, there is a "need for us to do more." Fully in agreement is Jones' civilian boss at the Pentagon, Secretary of Defense Harold Brown: "The gap between U.S. and Soviet defense expenditures cannot continue to expand without a dangerous tilt in the relevant balances of power and a weakening of the overall U.S. deterrent."

The loudest alarm has been sounding on Capitol Hill. Senator Sam Nunn, the Georgia Democrat who is emerging as one of the most influential military experts in Congress, has warned, "We in this country have gone to sleep, [while] the Soviet Union has diligently, consistently, steadily set about the task of building the most awesome military machine mankind has ever seen." As a result, argues Arizona Republican Senator Barry Goldwater, the U.S. is "no longer the No. 1 military country in the world." Rather, it is "No. 2, and not a very good No. 2."

What many critics of current defense policies want is an increase in military spending of 5% annually (after adjustment for inflation) for at least the next five years. Such an increase has been endorsed by General Jones. Harold Brown, however, has argued that a 3% boost might prove adequate; this is the rate of annual growth pledged by the U.S. and the other NATO states last year. But Brown has also said, "It may not be feasible to do what we need to do with the 3%. If not, we'll ask for more." Brown also has warned, "The last thing I would want to see is some unsustainably large increase in defense budgets over a very short time, followed by no increase or by decreases over a much longer period. We've experienced that too often in the past."

Even the lower 3% figure means billions of extra dollars in military costs at a time when the White House has been struggling to trim the estimated $29 billion federal budget deficit in order to fight inflation. The defense outlays for fiscal 1980, which began Oct. 1, will be about $122 billion, although Congress and the Administration have not yet definitely agreed on a figure. Simply to maintain this level for the next fiscal year, compensating only for an estimated inflation rate of 10%, the Pentagon would need an extra $12.2 billion. A 3% hike, after inflation, would require spending $4 billion over that; a 5% real boost would mean yet an additional $2.6 billion outlay.

Other critics charge that a nation in which 25 million citizens are classified as living below the official poverty line can ill afford huge increases in military spending. The $2 billion to $3 billion required to build one new nuclear carrier, says Democratic Representative Patricia Schroeder of Colorado, could support 1,000 New York schools for a year. The $4.3 billion needed to build 880 miles of track for the proposed MX missile could finance all the nation's mass-transit systems for two years. Even the $60 million used to build one C-5A transport could feed 12,000 families of four for a year. Asks Schroeder: "How do we let them get away with that?" Somewhat more cautiously, Senator Edward Kennedy, who now supports an increase in defense spending, has warned against asking "the poor, the black, the sick, the young, the cities and the unemployed to bear a disproportionate share."

If the conflicting demands for military and social-welfare spending cannot be reconciled, the two alternatives are to increase taxes, a measure that most Americans strongly oppose, or increase deficit financing, which would worsen the inflation that is already ravaging the economy. The debate over the Pentagon budget is thus not simply a debate over defense requirements—though that is fundamental and important enough—but also a debate over national priorities, over how best to allot resources among the nation's pressing social, economic and security needs.

General Jones and his allies do not flinch at any such challenges. Although the financial requests of the military appear staggering, Jones argues that "we are spending less on defense in real terms today than we did at the time of the '62 Cuban missile crisis." He is right. When reckoned in "constant dollars," to avoid the distortion of inflation, the estimated U.S. defense outlays for fiscal 1980 are just about what they were in the strikingly low military budgets of the last Eisenhower years and lower than in most years since then. An even more telling comparison is the one between Pentagon spending and some key economic indexes. In 1955 defense spending claimed 58.1% of federal expenditures and equaled 10.5% of the gross national product. Ten years later, it had shrunk to 40.1% of federal spending and 7.2% of G.N.P. In the current fiscal year, it is down to 23% of federal spending and 4.9% of G.N.P., the lowest it has been since the early 1940s.

What makes today's military budget appear gargantuan is inflation. The Pentagon has not been immune to the rising prices that plague all Americans. As a consumer of 170 million bbl. of fuel annually (conservation measures have cut that from 193 million bbl. in 1974), the military has been extraordinarily hard-hit by last spring's OPEC price jump, which added $888 million to the Pentagon's fuel bill. Other costs have similarly skyrocketed. Inflation has pushed up the salary-and-benefits cost of both uniformed personnel and civilian employees (the uniformed-to-civilian employee ratio is 2 million to 900,000).

The steady decline in the share of U.S. national wealth devoted to arms would be a welcome development if the same had happened to the Soviets. Instead, they continue to pour an estimated 11% to 13% of G.N.P. into defense. Today they spend from one-fifth to two-fifths more than the U.S. does on the military. (The range in estimate is so broad and imprecise because ruble costs in the U.S.S.R. are hard to convert to dollar outlays in the U.S.) While the Pentagon is just now asking for at least a 3% larger budget, Soviet annual increases have been at about 5% for the past 15 years. Says Harold Brown: "Through all our negotiations with the Soviets, they have kept on increasing their military efforts, carrying out what they had planned to do and beginning new programs." Overall, Moscow has spent about $100 billion more than the U.S. on arms in the past decade.

The result of these divergent U.S.-Soviet trends was inevitable: a substantial Soviet gain in the balance of forces. The comfortable strategic superiority that Washington enjoyed only half a dozen some years ago has now been replaced by, at best, nuclear parity. The Soviet's deploy more land-based intercontinental ballistic missiles than the U.S. (1,400 vs. 1,054), and more submarine missile-launching tubes (950 vs. 656). By 1985 they could nearly close completely the current U.S. lead in strategic nuclear warheads (9,200 vs. 5,000). The only remaining category of clear-cut U.S. strategic superiority is the manned bomber; the advantage is 348 vs. 150, but the aircraft providing this lead are almost all aging B-52s, some of which date back to 1956.

Because of the Soviet strategic buildup and modernization, the U.S. Minuteman ICBMs will soon be subject to destruction by a surprise attack. This is what Pentagon officials label the window of vulnerability, a period that could last from four to six years, beginning in the early 1980s. This window and the current strategic balance will scarcely be changed by SALT II, though the treaty could restrain the Soviets from further widening of the gap.

In conventional arms, Soviet gains have been almost equally impressive, and in some ways are of more concern. Explains William Perry, the Under Secretary of Defense for Research and Engineering: "The Soviets are outproducing us by 2 to 1 or more in most categories of military equipment [and] deploying military equipment that is no longer inferior in quality." The U.S.S.R. leads the U.S. in total military manpower (3,658,000 vs. 2,022,000), tanks (50,000 vs. 10,500), artillery (40,700 vs. 18,000), tactical warplanes (4,350 vs. 4,164) and major warships (823 vs. 260). The main American advantages are in high-technology weapons, such as guided antitank missiles, and the ability to deploy forces rapidly into distant areas with aircraft carriers, Marine Corps units and airborne forces.

There are substantial geopolitical dangers in the Kremlin's expanding military strength. Senator Henry Jackson, the Washington Democrat, warned the Senate that Moscow's growing power could "mean an increasingly aggressive Soviet international policy." Harold Brown agrees. Referring to increasing Soviet interference in Africa and the Middle East, he says, "We've seen the Soviets become more adventurous in their behavior. This is an inevitable consequence of their greater confidence in their military capabilities."

To counter Moscow's buildup, the U.S. is already modernizing its forces with new weapons systems, ranging from the Trident nuclear-missile submarine to the Patriot antiaircraft missile. But much more will probably be required, and at a quicker pace.

The most important measures concern strategic arms, even though such weapons systems take only 7% of the defense budget. As Jones put it, "The strategic balance sets the tone for what goes on in the rest of the world." The Administration has just taken an important step in this area by approving a $33 billion, ten-year program for the MX ICBM. The movable MX is theoretically invulnerable to surprise attack, so when the Pentagon starts deploying the first of these missiles in Utah and Nevada in 1986, the window of vulnerability will begin closing. The U.S. has also been moving ahead with the

$4.4 billion air-launched cruise missile program; the 1980 budget provides $90 million

to respond around the world to different crises, then the risks can be very great."

This year the U.S. Air Force is scheduled to take delivery of 350 new fighters, General

$4.4 billion air-launched cruise missile program; the 1980 budget provides $80 million for it. Under the current timetable, the first cruise missiles are to be deployed at the end of 1981 and would probably be launched from converted B-52s.

Another step to increase the nation's strategic capability, a proposal by Air Force Chief of Staff Lew Allen Jr., is to radically upgrade 155 of his F-111s. A major part of his plan: extending the fuselages of 96 of the FB-111 fighter-bombers 104 inches and installing the General Electric engines that were designed originally for the canceled B-1 bomber. This would enable these FB-111s to fly into the U.S.S.R. faster at 740 m.p.h., vs. 450 for the B-52) and more safely at low altitudes. The FB-111 would be more difficult for the Soviets to detect, in part because it shows up as a smaller radar image than the B-52. What might prevent Allen's project from taking off is its price tag: $6 billion.

More certain of deployment is the Pershing II nuclear missile, a $1.5 billion weapon system that occupies a gray area in analysts' calculations of the strategic balance. Because its 1,000-mile range would prevent it from hitting the Soviet Union from the U.S., the Pershing II is not, strictly speaking a strategic weapon. But since it could strike Russia from bases in Western Europe it is something considerably more than a tactical battlefield nuclear device like the atomic cannon or the proposed neutron warhead.

Moscow has recently expanded its own arsenal of similar weapons. In the past year the Soviets have stationed in Eastern Europe an estimated 100 atomic-tipped, multiwarhead SS-3 intermediate-range ballistic missiles and about 90 supersonic Backfire bombers. These could strike all Western European countries. Warned Henry Kissinger at a September NATO conference in Brussels: "If there is no [Western] theater nuclear establishment on the continent of Europe, we are writing the script for selective blackmail in which our allies will be threatened."

Far along in development, the Pershing II could be based in Europe by the mid-1980s, and this prospect has already prompted denunciations from the Kremlin. Britain is expected to base some new Pershings on its territory, but West Germany last week indicated that it would do so only if joined by one other Continental NATO member. Bonn's ruling Social Democratic Party is worried about a potential uproar from its vocal left wing if West Germany becomes the only Continental NATO state to have nuclear missiles capable of reaching the U.S.S.R. Washington remains optimistic that at the mid-December meeting of NATO, several countries will agree to accept the Pershing II.

Despite all the attention paid to strategic weapons, experts are nearly unanimous that the U.S. would be making a dangerous error if it continued concentrating as much as it has on the nuclear balance. As long ago as the mid-1960s, when targets in the U.S. first became vulnerable to Soviet ICBMs, the threat of massive nuclear retaliation lost some of its credibility, and thus some of its ability to deter Soviet aggression. Would U.S. leaders really defend Western Europe by launching a nuclear strike against the U.S.S.R. if that could trigger a devastating Soviet counterstrike at New York or Los Angeles? The question echoes more loudly now that the U.S. no longer boasts strategic superiority. As Kissinger put it in Brussels, "It is absurd to base the strategy of the West on the credibility of the threat of mutual suicide." With U.S. and Soviet strategic nuclear forces tending to cancel each other out, Washington needs adequate nonatomic forces to counter threats that could range from an armored invasion of Germany to a brushfire war in the Third World. Says Jones: "If you don't have the capability to respond around the world to different crises, then the risks can be very great."

Since 1975 the Army and Air Force have been allocating increasing resources to conventional weapons and missions. But so widely is it felt that more must be done that the Pentagon plans to spend most of any budget boost it gets on its conventional forces. Initially, says Jones, the extra funds would mostly be used for "new procurement, more supplies, more ammunition and fixing personnel problems."

Translated into specifics, here is where the money might go:

GROUND FORCES

The Army requires more trucks, supplies and ammunition. In mid-September, Nunn charged that the Army had only "one-third of the ammunition and equipment it needs to . . . sustain simultaneously a war in Europe and a minor contingency in the Middle East or outside of Europe." Nunn was referring to the official U.S. doctrine of having the resources to fight 1½ wars at the same time: a major confrontation with the Soviets in Europe, plus a regional skirmish. Said Nunn: "In the category of tank ammunition designed specifically to destroy other tanks, the Army has on hand about one-fourth of the requirement postulated by the Department of Defense for sustained combat in Europe." In addition, he said, the service is short almost 60,000 wheeled vehicles "required to move ammunition, fuel, wounded soldiers, food, weapons and to support just about every other Army mission."

Providing these needed vehicles would cost about $4 billion. An extra $600 million is needed annually by the Army just for enough bullets, artillery shells and mortar rounds for adequate training. So tight has money been that Army crews training in Europe have been allowed to fire only one TOW antitank missile (cost: $5,000 each) a year. Experts believe that minimum proficiency would require three TOWs annually for each crew. Several additional billions of dollars in each of the next few years would be required if the Army sought faster delivery of some major new weapons. Only eight Black Hawk helicopters are produced monthly, the minimum needed to keep the assembly line open. The Army would like 15 choppers a month.

Maintenance of more prosaic matériel has long been shortchanged too. Overhauls are needed for heating plants, sewage systems, hospitals and living quarters. The cost of putting Army facilities and equipment into shape: $1.1 billion. Millions could also be used to give U.S. ground and air units more training and better gear for fighting on battlefields that have been contaminated. Soviet forces have been practicing extensively on techniques for disabling foes with chemical and biological agents.

TACTICAL AIRCRAFT

The U.S. Air Force deploys the world's most sophisticated and deadly warplanes, but the Soviets have been catching up. No longer are their planes confined primarily to air defense. In the past decade, the Soviets have deployed a family of aircraft that, like U.S. warplanes, can support ground units in combat and strike deep inside enemy territory to destroy airfields and supply depots. Says Brigadier General John Chain, the Air Force's deputy director of plans: "They've closed the technology gap. They have damned good equipment and their people are well trained."

The latest U.S. warplanes—the F-15 Eagle, A-10 Thunderbolt and F-16—far outclass anything the Soviets now fly, but American quality ultimately could be overtaken by Russian quantity. The Soviet Union has been turning out about 1,150 fighters annually, of which 25% are exported to its Warsaw Pact allies. By contrast, the U.S. has been building only 500 such planes each year, and 30% have been sold to other nations.

This year the U.S. Air Force is scheduled to take delivery of 350 new fighters. General Chain would also like to see a more rapid deployment of the EF-111. This $35 million aircraft is packed with computers and other electronic gear that can jam the radar on Soviet planes that would be used to spot U.S. aircraft and guide missiles to them. The EF-111 also could neutralize Soviet ground-based radar. Current plans call for the Air Force to buy 42 EF-111s over an unspecified period of time. Like the Army, the Air Force has an ammunition shortage. Currently, it is very low on air-to-air missiles.

NAVAL FORCES

In no area has the U.S.S.R. been catching up faster than at sea. Just two decades ago, the Red fleet was primarily a coastal defense force, rarely venturing far from its home shores. Today, its 1,760 vessels constitute a full-fledged blue-water navy. Meanwhile, the U.S. Navy has been steadily declining, from 955 ships two decades ago to 458 today. This is roughly half the number of ships the Navy had before the attack on Pearl Harbor in 1941. Complains a high Navy official: "We've been underinvesting for 15 years. Shipbuilding has been dismal." Because of its 13 mammoth aircraft carriers and the high technology crammed into its other surface ships and submarines, the U.S. Navy still commands the seas. For how long, is another matter. There are indications that the Soviets may be building their first large-deck aircraft carrier and are already well along with the construction of a 20,000-ton nuclear battle cruiser.

Just to keep the U.S. fleet at its present size would require construction of 17 new vessels annually. Yet the fiscal 1980 budget authorizes only 14 new ships. This includes a $2 billion aircraft carrier, six guided-missile frigates and two nuclear attack submarines. The admirals would like an extra $2 billion to $2.5 billion for shipbuilding in 1980. This would buy two more attack submarines, one more destroyer armed with the devastatingly accurate AEGIS guided-missile weapons system, a landing ship for the Marines and two oilers. The oiler shortage typifies the Navy's plight. While at least 21 oilers are needed to keep the fleet steaming, only 16 are available and ten of these were commissioned before the end of World War II. Mines are also scarce, and torpedo stockpiles are so low that there are not even enough to arm all U.S. attack subs for two patrols.

AMPHIBIOUS FORCES

Sending in the Marines has traditionally been one of the nation's most effective means of intervening in distant lands. There is concern now, however, over whether the Leathernecks could really reach the beaches. Declares Nunn: "If the U.S. Marines were called upon to undertake a major landing in the Persian Gulf or elsewhere in the Middle East, they would probably have to walk on water to get ashore." With only 63 amphibious ships, the Marines are suffering from a severe shortage of vessels for such operations and probably could not land more than one division at a time.

The fiscal 1980 budget earmarks $41 million for start-up costs for the first $300 million LSD-41, a 15,774-ton amphibious vessel that could carry about 340 Marines. But senior officers would like a commitment of $1.2 billion for four of the new LSDs. The Marines also want 336 British-designed, vertical-takeoff Harrier attack planes (cost: $5.7 billion), plus 33 heavy-lift and attack helicopters ($400 million for the first year's production). Bringing Marine Corps ammunition stockpiles up to a level that could sustain combat operations would cost an extra $1.5 billion; improving battlefield command systems would run $400 million.

So hard up for cash is the corps that it is

reluctantly planning to shrink itself. Through attrition, it will drop to 179,000 by mid-1980, a reduction of 10,000. Says a senior Marine officer: "We are reducing manpower to pay our bills. There is no sense in having a force like the Marine Corps if it does not have the means to go to war."

RESUPPLY CAPABILITIES

According to General Jones, "In any large operation or full-blown conflict short of a nuclear exchange, lift becomes a very critical factor." He feels that the Pentagon's ability to resupply troops rapidly on the battlefield is "one of the areas in which we run into limitations early." Though the Air Force would have sufficient planes to rush troops overseas, including requisitioned commercial airliners, it would not have enough to take along their arms and equipment.

The Air Force wants more transport aircraft, but has not yet decided how many. Also needed are additional tankers for airborne refueling of transport and combat planes. In fiscal 1980 the Air Force will be buying four KC-10 tankers, a version of the McDonnell Douglas DC-10 jetliner, at a total cost of $200 million. In all, the service will purchase 20 of the $50 million tankers.

The total annual cost of the programs that the experts have cited tops $30 billion, and even these would not exhaust the Pentagon's shopping list. Yet this sum already exceeds what a 5% military budget boost would yield. Chairman Jones and the Joint Chiefs therefore will have to set program priorities, an exercise that has almost always aggravated interservice rivalries.

More and better weapons would obviously strengthen all the armed forces, but they will not solve what many experts feel is perhaps the nation's most serious military shortcoming—manpower. Admits Chairman Jones: "We have a growing personnel problem in the military." To Senator Gary Hart, the Colorado Democrat, "the big factor in the strategic equation is not weapons. None of them makes any difference if the people aren't there to man them."

The basic total numbers reveal no manpower shortages. The 562,419 men and women in the Air Force and the 524,514 in the Navy bring both services up to 90 percent of their authorized minimum force levels; the Army with 752,468 soldiers and the Marines with 189,000 stand at 98 percent. But these figures are deceptive. The Air Force, for example, badly needs pilots and technical officers. The Navy is short of more than 20,000 petty officers in such critical areas as aviation, nuclear propulsion and medical care. Complains Admiral Thomas Hayward, the Chief of Naval Operations: "Our retention of second-termers has dropped from a barely satisfactory 59 percent in 1975 to a totally unsatisfactory 48 percent today." First-termers have been proving even harder to retain; the Army's re-enlistment rate for this group is a dismal 38 percent. Notes a senior Pentagon official: "The absence of skilled people can take a very sophisticated weapons system and turn it into mush."

One of the most disturbing trends has been the fall in recruitment. For the first eleven months of fiscal 1979 (through this August), the 127,500 men and women recruited by the Army were only 89 percent of its goal and a 5 percent drop from a year earlier. Though the other three services have been doing better, all are below their targets.

Worse yet, the quality of the recruits has been dropping. Only 72 percent of those inducted during the first eleven months of fiscal 1979 had high school diplomas, compared with 76 percent for the previous year. Yet the electronic gear on today's battlefields requires highly skilled G.I.s. Warns General Edward Meyer, the Army's new Chief of Staff: "Clearly there is some level at which the Army has to say, 'Whoa! That's far enough. We can't take any more of the [low intelligence] category.'" Meanwhile, the intense pressure on military recruiters to fulfill quotas, as well as the lure of bonuses they receive for doing well, apparently has prompted widespread cheating among them. Some 1,100 recruiters are now being investigated by the Pentagon.

Would more money cure the manpower problem? Some experts think so. States C.N.O. Hayward: "Since 1972, when we had the last major pay adjustment, real military compensation has declined about 17 percent in purchasing power. Average union pay and benefits have increased 5 percent in purchasing power during the same period." From this, the nation's top admiral concludes that "the system is totally out of whack when a janitor on union scale makes almost the same salary as a chief petty officer with 17 years of service." General Jones puts it in different terms. "There is a popular perception that the military receives too many benefits. I say, if military benefits are all that great, why are we having all these people leaving?" But to improve pay and benefits would be very costly. A wage increase that simply permitted servicemen to catch up with inflation since 1972 (about 75 percent) would cost $5 billion. Reinstating attractive educational benefits, similar to the old G.I. Bill, would run an additional $1 billion.

Whether the Pentagon can afford to pay billions more for manpower when it needs billions just for ammunition is going to be one of the most controversial questions in the defense budget debate. Yet even now, a surprising 60¢ of every Pentagon dollar goes for personnel costs. The Soviets, by contrast, devote less than 30 percent of their defense outlays to personnel. How the Kremlin does this is no secret. Because the U.S.S.R. never abolished conscription, 75 percent of all Soviet males are drafted. (The rest are deferred for the familiar reasons: poor health, family need, employment in a critical job.) But the Pentagon is compelled to rely entirely on volunteers and thus must pay wages and offer benefits reasonably competitive with those available in the private economy.

For demographic reasons, the manpower squeeze is going to get even tighter. Because of generally declining birth rates since 1960, a decreasing number of Americans will be reaching the minimum military enlistment age of 18 in the 1980s. The Pentagon will have an ever more difficult time getting enough recruits to maintain the armed forces at their present strength of 2 million. In view of this prospect, there has been a revived questioning of the concept of the all-volunteer force, which was started in 1973. Some analysts have called outright for the restoration of the draft. Others have suggested merely a return to compulsory registration for all 18-year-olds so that conscription machinery could start moving quickly if needed in a crisis. In September, the House of Representatives voted against restoring registration but asked the White House to study the question and report to Congress.

That the American arsenal needs strengthening is a proposition that has a diminishing number of dissenters, at least in Washington. There are some, like Senator Hart, who continue to argue that the Soviet threat has been exaggerated and that the Pentagon might not need all the money it has requested. Among most officials and experts, however, the debate is no longer whether to boost defense spending but how much and in what way. One substantial fear is that a higher defense budget would fuel inflation. Insisted Maine's Edmund Muskie in a mid-September Senate speech: "The enemy who has the capacity . . . to devastate the economy—the defense budget, the Government's overall budget—is not the Soviet Union or any other enemy I can foresee. It is the enemy called inflation."

A noninflationary means of obtaining the money needed to buy more arms might be to free funds by cutting the Defense Department's fat. Though Chairman Jones has stressed that it is "just plain wrong" to think that somebody can tap a 'mother lode' by issuing an order to get more efficient overnight," he has admitted that "our feet should be held to the fire to be more efficient."

One recommendation by Washington's Brookings Institution: about $500 million could be saved annually if the Pentagon stopped paying civilian blue-collar employees more than what comparable non-Government workers earn in the same community. Another by Congress's General Accounting Office: a gain of $300 million if the military would simplify the methods by which it protects its telephone conversations from eavesdroppers.

Even if these recommendations are feasible (and accepted), the Pentagon would still have to turn to the federal budget for more money. This would alarm those critics who have argued that defense expenditures are particularly inflationary. Concluded Columbia Professor Seymour Melman in a report on the subject: "Cause and effect links the military economy to inflation and unemployment." The kernel of a thesis put forth by Professor Lloyd Dumas of the University of Texas is that "people who do military-related work and the firms they work for receive a flow of money that is not balanced by a production of goods and services that can be used to absorb that money."

Such reasoning, however, could be applied to just about every expenditure by a Government bureaucracy, from the State Department's outlays for American diplomats to the battalions of inspectors employed by regulatory agencies. Moreover, whatever inflationary impact the Pentagon might have, it is relatively minor compared with that of other Government programs. Today, defense outlays are only half as much as Washington spends on social welfare programs. Says Murray Weidenbaum, a member of Tuer's Board of Economists: "The inflationary effects of defense spending are sufficiently mild so that the decision about how much is to be spent on arms should be made on other, noneconomic grounds." It is notable that those years when the Pentagon budget was largest in real dollars, and took its greatest share of the G.N.P. and federal budget, were also the years when the nation enjoyed some of its lowest inflation rates. In 1955 inflation was nil, and in 1965 it was around 2 percent. Increases of more than 2,000 percent in Government spending on health and housing in the past decade, declares Nunn, show that the pattern of inflation fits "the real increase in nondefense spending." Observes Oregon Senator Bob Packwood: "Let's lay to rest the shibboleth that we have been chipping away at human resources spending on behalf of defense."

It can be maintained, in fact, that a nation's most fundamental social-welfare obligation to its citizens is to defend them against attack. The responsibility for this is entrusted to the armed forces, but the U.S. military has been denied sufficient resources to fulfill the responsibility. Catching up now is certain to be expensive. How much it will cost and how long it will take are urgent questions that the mounting debate on national defense will have to resolve. What exactly is the price of power?

Even more critical perhaps is another question: Are Americans willing to pay the price? There is, of course, a widespread sense that the U.S. confronts a deadly threat from the Soviets, and that something must be done about it. But deciding what to do will test the nation's confidence and nerve as well as its ability to see issues in a long-term perspective. It will also require a challenging self-examination in which the U.S. weighs

its role as a superpower and balances the inherent heavy burdens against the benefits. How such a process turns out could set America's course for the closing decades of the century.●

TEXAS NURSE WEEK

● Mr. TOWER. Mr. President, Texas Nurse Week is October 21–27. It is time for each of us to consider what nurses mean to us and recognize the valuable contribution these professionals give our community.

Nurses practice in many situations: Homes, hospitals, community agencies, clinics, schools and industry, to name a few. Today, nurses are emerging into new roles in order to bring the delivery of good health care closer to the consumer. an example of one of the new roles is the nurse practitioner. A nurse practitioner works closely with patients to assess their health by physical examination, patient education, and nursing care. A specialized nurse practitioner could be further educated to be a certified nurse midwife, a specialist in helping the elderly and many other areas underserved in today's society.

Currently, the nursing profession is encouraging the return of nonworking nurses to practice through refresher courses and inservice training. Fewer than two-thirds of the 55,000 registered nurses in Texas are practicing. The greatest need for nurses is in rural areas. Fortunately, the number of applicants and graduates of nursing schools has risen sharply in the last half decade. The number of men in nursing has also increased.

Nurses continue to be very important members of a health care team of professionals. Increasing complexities in health care services, coupled with advances in knowledge, have increased the need for well prepared nurses. The nurse is a viable solution to curbing the rising cost of health care to the consumer/patient.●

THE STARVING CHILDREN OF CAMBODIA

● Mr. McGOVERN. Mr. President, a picture in this morning's Washington Post tells the whole story of the famine in Cambodia. It shows a starving 7-month-old Cambodian child in Thailand—wide eyed, shrunken, his bones draped with sagging flesh. It is a grotesque portrait of the suffering of innocent children and of the fate of an entire nation.

How can this shocking picture fail to move us? We must respond urgently to help meet the food and medical needs of the 2 to 3 million Cambodians who face imminent starvation or death from epidemics. I understand that President Carter will be announcing today a food relief program. Now we must do all we can to deliver the foodstuffs and medical supplies as rapidly as possible.

The article accompanying the photograph is a moving account of one reporter's traumatic confrontation with the human tragedy of Cambodia. I ask to print it in the RECORD to alert my colleagues to the sense of desperation which visitors to Cambodia are feeling. I am also submitting an account of the forthcoming mission to Cambodia by three of our colleagues, Senator SASSER, Senator BAUCUS, and Senator DANFORTH. I wish them every success and I hope that their participation will strengthen the capacity of the Senate to provide the financial and diplomatic commitment necessary to deliver the food to the hungry children as soon as possible.

The texts of the articles follow:

A FUTILE DASH WITH A DYING BOY

(By John Burgess)

BANGKOK.—Somewhere on the road between Thailand's newest mass encampment of refugees and a small hospital 35 miles away, an emaciated Cambodian boy, probably about 12 years old, died next to me in the front seat of my car.

I do not know his name, whether his parents were alive, or precisely what he died of. He was one of countless Cambodian children who have succumbed to disease and malnutrition in recent months.

Another boy, who lay motionless and wide-eyed in the back seat, survived the drive last week. A Thai doctor later diagnosed malaria—believed to be the most serious disease among Cambodians, though it could be easily controlled if people had once-a-week preventative pills. The boy was wheeled off to a ward already crowded with refugees immobilized by disease.

A nurse said the dead boy's body would be sent back to the camp at Klong Kai Tuen, where about 30,000 Cambodians are sleeping beneath trees, oxcarts and plastic sheeting. Every day, corpses are collected there and carried into the forest for hasty burials.

The experience was for me traumatic confirmation of months of reports that war and politics have created famine and epidemics in Cambodia and kept readily available aid from many of those who desperately need it.

When Vietnamese forces pushed into the country last December to overthrow the Khmer Rouge regime of Pol Pot, Cambodian society was once again turned upside down. Guerrilla fighting continued sporadically as hundreds of thousands of people traversed the country on foot returning to home villages from which Khmer Rouge forces had removed them.

As a result, only a fraction of the country's rice fields were planted and tended through to harvest. Reports filtered out that food stocks were dangerously low and that Cambodia's few hospitals were filling with people showing the stark symptoms of severe malnutrition.

Meanwhile, political bickering slowed relief efforts. Western countries do not recognize the Heng Samrin regime, installed in Phnom Penh by Vietnam. They declined direct contact and insisted that aid be channeled through the United Nations and International Committee of the Red Cross.

Heng Samrin officials in turn argued with the two agencies over the amount of relief and who would get it. In August, token once-a-week flights began into Phnom Penh—most carrying 40 tons of supplies when relief officials estimated 1,000 tons a day were required.

Despite warnings from Phnom Penh that nothing must go to Khmer Rouge zones—an apparent attempt to starve them into submission—relief groups sent food to them through Thailand, including one area where the boy who died in my car probably lived.

But there politics intruded again to help keep children hungry: Khmer Rouge soldiers get priority over food supplies—a fact attested to by the presence of well-fed, healthy young men among the boys' fellow refugees.

I and another journalist, John McBeth of the Hong Kong magazine Far Eastern Economic Review, saw the children after we had spent several hours last Saturday at the Klong Kai Tuen camp, about four miles from the Cambodian border.

Its people are among the more than 65,000 soldiers and civilians who began crossing into Thailand from Khmer Rouge zones Oct. 11, when Heng Samrin troops, believed to be Vietnamese, began a sweep around the Phnom Malai hills in western Cambodia.

On Saturday Thai and foreign doctors from an assortment of relief agencies were working furiously in a makeshift clinic—a frame of tree branches freshly cut from the forest, topped by plastic sheeting.

Hundreds of sick people squatted in the sun waiting their turn. Consultations were quick—some as short as 30 seconds—and usually ended with dispensing of vitamins and drugs to treat malaria and dysentery. The seriously ill were arrayed, shoulder-to-shoulder, on mats beneath the shelter.

Saline-dextrose solution—the normal emergency treatment for severe malnutrition—dripped through needles into patients' forearms from bottles suspended from the shelter's beams.

McBeth and I were about to leave when I noticed a spindly limbed boy lying on his side beneath the shelter. He breathed in starts and stared ahead vacantly. Flies were crawling undisturbed around his mouth—the usual prelude to death in refugee camps—and the smell of feces came from his filthy pants and fatigue shirt.

"Is the kid going to die?" I asked a Thai doctor. "He will for sure if he doesn't get to a real hospital," the doctor replied. I asked if we could take him, but the man shrugged and said, "You have to talk to the soldiers."

Sick or healthy, Cambodian refugees are normally required to stay at sites the Thai army designates for them. But we were in luck—the officer in charge agreed immediately to my request and wrote out a pass on a slip of notebook paper.

The doctor then suggested we take out two others, both malaria cases. Did he know their names? I asked. He shook his head—with one clinic for 30,000 people, there was no time to worry about names.

Our car could only take two children comfortably, so we asked other journalists to take the third and any others allowed to leave.

One of the malarial cases, a boy of about 15, was stretched out across the back seat. For the child I had first noticed, we reclined the front bucket seat and laid him on it.

McBeth drove and I sat on the gearbox between the two bucket seats with my arm over the child to support him when we crossed rough roads. As we rolled out of the camp he coughed and stirred slightly, and we began to think there was more life in him than first appeared.

But after a only mile he again began breathing fitfully. Thick white liquid oozed from his lips and dripped onto his shirt.

For the rest of the 35-mile trip—speeding along dirt and paved highways, passing everything on the road—he lay inert. The stench from his clothes was terrible, and we rolled down the windows despite clouds of dust raised by other vehicles.

Five miles from the hospital we began to suspect he was dead. There was no pulse or sign of breath and his arms dropped limply when I lifted them.

At the hospital I bundled him out of the car onto a wheeled stretcher. A nurse felt for a pulse, then shined a flashlight into his pupils. They did not react. She pronounced him dead.

Her confirmation was a shock. During the ride I had been thinking how I would visit him in the hospital, watch him recover and perhaps even adopt him.

The other boy was still conscious and feebly responded to inquiries in Cambodian about his name. A doctor listened to his chest, called him malarial and orderlies wheeled him past the dead boy.

We searched through his clothes for something to establish his identity. There was only one pocket, containing two pills apparently given him at the camp and some dried-out chili peppers.

He probably died of dysentery and malnutrition. It is possible his parents were dead; the state of his clothes indicated he had lain untended for many days. If his parents were dead, they might never learn how he died. Thousands of people come and go at the camp daily and the word we sent back of his death could easily have gone astray.

We left for Bangkok that same night. A doctor there advised that there was a small chance the boy had had cholera and I disinfected my clothes and the car as a precaution.

Few people visit camps like Klong Kai Tuen without an emotional reaction. On Oct. 18, Thai Prime Minister Kriangsak Chomanan flew to another camp containing an estimated 35,000 newly arrived Cambodians. He was reported to be so disturbed by what he saw that he decided no one would be forced back across the border, as the government had intended to do if necessary.

Current plans call for construction of a refugee center with a capacity of 300,000 people. Diet and medical care there will presumably be far better than what the people are receiving today. For the moment, however, there are too many cases like the boy who died in our car.

THREE U.S. SENATORS TAKING FOOD AID PLAN TO CAMBODIA TODAY

(By John Burgess)

BANGKOK, Oct. 23.—Three U.S. Senators are scheduled to fly to Phnom Penh Wednesday morning to seek approval of a plan they have devised to truck internationally donated relief supplies directly from Thailand to famine-ravaged zones controlled by the Vietnamese-supported Heng Samrin government.

When they land in Phnom Penh Sens. James Sasser (D-Tenn.), Max Baucus (D-Mont.) and John Danforth (R-Mo.) will be the first official U.S. visitors to Cambodia since the Khmer Rouge captured Phnom Penh in 1975.

Analysts in Bangkok believed that the Vietnamese and their clients in Phnom Penh had approved the trip partly to gain increased international standing for the diplomatically isolated regime installed by the Vietnamese in January after toppling the Khmer Rouge government of Pol Pot. The U.S. has not had diplomatic relations with either government.

"The sole mission of our trip is humanitarian" Baucus said at a press conference here. "Our visit in no way . . . amounts to recognition of any form of government in Cambodia."

[In Washington the State Department said the senators' visit should not be taken as indicating any move by Washington toward recognition of the Heng Samrin government.

[Spokesman Hodding Carter said that for policy reasons, no senior U.S. officials will accompany the American legislators to Phnom Penh.

[Assistant Secretary of State Richard Holbrooke, who went to Bangkok with the Senators, will not travel with them to Phnom Penh.

["We have to be sure no mixed signal will come out of it," Carter said. "It seems safer not to have implications raised" about possible U.S. recognition.]

Approval for the Americans' visit was received this morning from the Vietnamese embassy in Bangkok. Aides said the delegation would fly to Phnom Penh early tomorrow aboard a U.S. government jet that brought them to Bangkok.

The senators' visit comes at a time when Cambodia is faced with severe shortages of basic foodstuffs. Warfare and politically motivated bickering is slowing the delivery of international aid to the village level.

The three men are members of a special senatorial delegation on refugees. On Monday they traveled to the Cambodian border to talk with people who recently fled into Thailand in response to escalated fighting.

Today they detailed their proposals to open a "land bridge" into Cambodia. The trucks and supplies would be provided by agencies like the United Nations Childrens' Fund and the International Committee of the Red Cross. The convoys would deliver the aid along routes 5 and 6 which pass close to areas in which guerrillas loyal to the ousted Khmer Rouge regime operate.

Methods of delivering aid that the Heng Samrin authorities have approved by air to Phnom Penh and by sea to Kompong Som have a capacity of less than half the 1,000 tons per day that Cambodia needs Danforth said. "If permission were given tomorrow" for their proposals he stated "in a period of about three to five days trucks loaded with food would be moving from Thailand."

Vietnamese troops in Cambodia could be asked to provide security for the convoys the senators said, a possibility that was discussed this morning in a meeting here with Vietnamese Minister of State for Foreign Affairs Nguyen Co Thach. Thach told them Vietnam would help with security if the Phnom Penh authorities so requested, the senators said.

The senators said they did not know who exactly might pose a security threat to the trucks, though one did mention the possibility of hijackings.

Indochina watchers in Bangkok believed that any threat would probably come from Khmer Rouge guerrillas who would not look kindly on hundreds of heavily laden trucks passing into the territory of their adversaries.

Khmer Rouge enclaves are currently receiving some relief trucked in directly from Thailand. In Phnom Penh, Heng Samrin officials have repeatedly condemned those shipments and demanded that all Cambodian relief be channeled through their government.

The senators said they had not sought a guarantee of security from the Khmer Rouge, nor did they intend to.

When pressed for details on the expected threat to the convoys, U.S. Embassy sources said the question was more one of clearance than of security. It is simply a practical problem, one source said. Aid "cannot be moved without the permission of the Vietnamese Army."

However, this explanation conflicted with the senators' statements, which implied the Vietnamese would be asked to provide some sort of escort force.

Sasser said that Thai Prime Minister Kriangsak Chamanan had expressed "warm support" for the relief convoy idea. Thailand is anxious that food enter Cambodia to reduce the flow of refugees across its borders.

Sources reported today that the Thai Supreme Command has told the United Nations that 180,000 people have entered its territory in recent months from Cambodia or are gathered just across the border. Tomorrow the Thai army will begin moving 90,000 of them to a new refugee center away from the border.●

STATEMENT ON COST ESTIMATE ERROR IN REPORT 96–362

● Mr. DECONCINI. Mr. President, on October 10, 1979, the Senate Judiciary Committee reported S. 1873, a bill to establish a procedure for the processing of complaints directed against Federal judges and for other purposes.

S. 1873 was accompanied by Report 96–362. A printing error was made on page 18 of that report, paragraph 5. Under the headings "Estimated authorization level" and "Estimated outlays" the fiscal year range should read "1981, 1982, 1983, 1984, 1985" rather than "1980, 1981, 1982, 1983, 1984."●

ANGOLA

● Mr. McGOVERN. Mr. President, in recent months, there have been several positive developments occurring in Africa. Three bloodthirsty dictators—Bokassa in the Central African Empire, Idi Amin in Uganda, and Macias in Equatorial Guinea—have been overthrown. Nigeria and Ghana have returned to civilian rule. An all-parties conference on Rhodesia has been convened in London and progress has been made on the Namibian negotiations. In South Africa it appears that some substantive steps forward have also been taken to reduce racial tensions.

These developments compel us to take a fresh look at the role of the United States in the continent. To encourage further progress in this direction and extend our influence in Africa, the United States should take a bold step forward—it should extend diplomatic recognition to Angola.

I became convinced of the wisdom of this policy during my trip to Angola last December. Representatives of other NATO countries and American businessmen operating in the country all told me they favored normalization of relations. During his visit to the United States last month, President Tolbert of Liberia, who is serving as the current head of the Organization of African Unity, also made a strong plea for U.S. recognition of Angola, emphasizing that this is the psychological moment to move since a new head of state, Jose Edwardo dos Santos, has been installed. No single gesture would better serve U.S. interests in the continent at this propitious time than diplomatic recognition of the Luanda government.

Two recent press accounts have argued this case very strongly. A Baltimore Sun editorial quoted President Carter while campaigning for the Presidency in 1976:

> I think that the United States position in Angola should be one which admits that we missed the opportunity to be a positive and creative force for good in Angola during the year we supported Portuguese colonization. We should also realize that the Russian and Cuban presence in Angola, while regrettable and counterproductive of peace, need not constitute a threat to United States' interests, nor does that presence mean the existence of a Communist satellite.

Prof. Gerald Bender, an expert on Angola, pointed out in his excellent op-ed piece in the New York Times that many officials in Washington have been encouraged by the peaceful succession of dos Santos after the death of President Neto, and by Angola's record of cooperation with the West, particularly its receptivity to foreign investment, its reconciliation with Zaire, and its commitment to negotiated solutions to the conflicts in Rhodesia and Namibia.

Mr. President, I request that these two articles be printed in the RECORD at the conclusion of my remarks. They under-

score the need for Washington to take the long overdue step of putting our relations with Angola on a realistic footing. It is my hope that the administration will take this opportunity to reassess its position, basing its decision not on presumed domestic constraints but on an objective assessment of our foreign policy interests in southern Africa—an area of the world that Ambassador Marshall D. Shulman described on October 16, 1979, in his testimony before the House Subcommittee on Europe and the Middle East, as the region representing "the most serious potential problem on the horizon in United States-Soviet relations."

The article follows:

OPPORTUNITY IN ANGOLA

Jimmy Carter, campaigning for the presidency in 1976, had this to say about Angola:

"I think that the United States position in Angola should be one which admits that we missed the opportunity to be a positive and creative force for good in Angola during the years we supported Portuguese colonization. We should also realize that the Russian and Cuban presence in Angola, while regrettable and counterproductive of peace, need not constitute a threat to United States' interests, nor does that presence mean the existence of a Communist satellite."

Since moving into the White House, Mr. Carter has pulled back—just as he has on withdrawing U.S. troops from South Korea. He has joined Congress in holding that the United States will not recognize Angola until Cuban troops have departed, avowing that they represent a direct threat to this country's interests. This has been a dubious policy. The change in leaders, therefore, offers an excellent opportunity for updating American policy. There are indications that the government, which is not monolithic, is anxiously courting U.S. support.

Regarded by the U.S. as hopeful signs are the following: With calm and surprising speed, the ruling hierarchy chose Edoardo Dos Santos president to succeed Dr. Neto. Foreign Minister Paulo Jorge and External Minister Robert de Almeida, both moderates, have been made full central committee members of the ruling party—the Popular Front for the Liberation of Angola.

President Dos Santos, in his inaugural address, indicated that Angola will follow his predecessor's policies, which the United States apparently favored. Angola, he said, will continue seeking peaceful solutions to the problems of southern Africa and maintaining already established diplomatic ties while seeking others. His country would also seek international assistance for solving its myriad development problems.

A Marxist poet and revolutionary, Dr. Neto readily acknowledged that his country needed U.S. assistance. Two and one-half times the size of France and with a population of only six million, Angola has the potential for being one of the most prosperous in Africa because of its vast natural wealth. Gulf Oil Corporation already has a booming operation in Cabinda province, which ironically is protected by Cuban troops. The Boeing Company also is developing the country's airport facilities. Many other opportunities exist for utilizing American capital and know-how.

United States non-recognition may have the undesired effect of maintaining Angola's dependence on the Soviet Union and Cuba. So as Mr. Dos Santos extends a friendly hand, President Carter should respond, taking care, however, not to arouse the Senate's Castrophiles into even stronger opposition to SALT II.

U.S. POLICY ON ANGOLA

(By Gerald J. Bender)

LOS ANGELES.—Until his death in September, Angola's first President, Agostinho Neto, was described in the news media as a "Soviet puppet" and a "dogmatic Marxist," while United States officials were concerned more with his Cuban guests than his foreign and domestic policies. Since his death, he has been described as "moderate . . . a strong nationalist . . . honest . . . committed to nonalignment . . . [and an] uncompromising supporter of multiracialism."

The newer perceptions' closeness to reality underscores a fundamental problem of American foreign policy toward the third world: How to distinguish genuine nationalist or moderate leaders (with whom America can maintain reasonable relations) from radical Marxists who will eschew their national interests in order to advance Soviet policies.

Western leaders are trying to assess the prospects of the Angolan Government, now led by 37-year-old José Eduardo dos Santos, in pursuing the same moderate policies that Dr. Neto did, especially with respect to receptivity toward foreign investment, nonalignment, peaceful relations with neighbors such as Zaire, and continued cooperation in the search for negotiated, not military, solutions in Southern Africa.

But as the only Western nation that has not recognized the Angolan Government, the United States has little first-hand intelligence with which to make such an assessment. One Defense Department analyst says, "We know practically nothing about dos Santos or the rest of the M.P.L.A. leadership and much of what we do know appears to be inaccurate." One high State Department official complained that until recently the Central Intelligence Agency appeared to gather most of its information from the National Union for the Total Independence of Angola (a rival movement still fighting the Popular Movement for the Liberation of Angola) while the department was highly dependent on African governments and European allies whose perceptions or interests do not always coincide with ours.

However, many Washington officials have been encouraged by the rapid, peaceful transition. Mr. dos Santos, sworn in three days after Mr. Neto's funeral, pledged to uphold all of the Mr. Neto's policies, from recognition of the necessity for continued Western economic assistance to his commitment "to continue to help find solutions which will bring [Southern Africa] peace and stability."

American oil companies, a number of which are seeking or expanding rights for further oil exploration in Angola, are no doubt pleased by the selection of Mr. dos Santos as President. He holds a degree in petroleum engineering and was Angola's chief negotiator with Texaco, which signed a $360 million contract with the Government shortly before Mr. Neto's death. Texaco expects to be producing 50,000 barrels a day by next year. Gulf already produces 150,000 barrels a day in Angola and is investing approximately $80 million to increase production.

Contrary to the predictions of former United States officials, the M.P.L.A. has not attempted to deny its resources to the United States. Most of its oil and other major exports, such as coffee, are shipped here. Americans concerned about the dwindling supply of oil available should also be concerned that Washington adopt a more enlightened policy towards the recognition of the dos Santos-led Angola.

The State Department, from Secretary Cyrus R. Vance on down, appears to solidly favor recognition of Angola. They receive support not only from businessmen and academics but also from a growing number of liberal Republicans. All are concerned about the presence of some 20,000 Cuban troops in Angola, but they recognize that the Cubans will not be withdrawn while Angola remains under continual attack from South Africa.

In the meantime, America has far more to gain by normalizing relations with Angola now than it could possibly lose politically from recognizing the Government while the Cubans are still there.

The stability of the Angolan regime, demonstrated by the smooth transition, presents the Carter Administration with an excellent opportunity to change its policy toward recognition. America tried its best to make Agostinho Neto out as its enemy but his pragmatism and statesmanship never conformed to our unfounded perceptions and accusations. Mr. dos Santos has now indicated that he, like Mr. Neto, is prepared to normalize relations with the United States on the basis of mutual respect. One should not underestimate, however, the genius of the United States to make enemies out of potential friends in the third world.●

HOW TAXFLATION ADDS INSULT TO INJURY

● Mr. DOLE. Mr. President, more people than ever before are aware of the impact inflation has on their tax liabilities because acute inflation continuing over a number of years has such a dramatic impact on taxes. The inflation tax increase, or taxflation, hits every taxpayer who owes taxes for the year. This is because taxflation operates through the declining real value of the fixed dollar amounts in the tax code—for example, the zero bracket amount and personal exemption—and through bracket creep, or the pushing of taxpayers into higher marginal rate brackets.

No one is immune from taxflation, but it is interesting to note which taxpayers suffer the most from these automatic tax increases. It has been observed that people in the lower income brackets are more likely to suffer because the tax brackets are narrower at lower incomes. But there are other compelling reasons why eliminating taxflation would be of greatest benefit to low-income taxpayers.

Consider the significance of tax exemptions and deductions to people with marginal incomes. These are not the individuals who benefit from tax loopholes because they do not have income to spare for investments or, in these times, for owning their own home. This means that low-income taxpayers are unlikely to itemize deductions and will instead use the zero bracket amount. But unless Congress acts to change it, the zero bracket amount declines in real value each year because of inflation. As a result, it is of less value to low-income taxpayers, whose taxes thereby increase.

The situation is the same with the personal exemption. Personal exemptions constitute a much greater proportion of income in the lower brackets. Therefore, lower income taxpayers suffer most acutely when the real value of the personal exemption declines each year because of inflation. Obviously, the declining value of the personal exemption also has an unusually heavy impact on the tax liability of large families. It is apparent that marginal income taxpayers have the most to lose to taxflation.

Indexing the income tax for inflation would relieve low-income taxpayers from this burden. The zero bracket amount and personal exemption, and their real value would be maintained constant unless changed by Congress. Similarly, the tax bracket cutoff points would be changed to reflect the rate of inflation. The Federal Government would no longer receive a revenue windfall for doing nothing about taxes.

Mr. President, the Tax Equalization Act, S. 12, would do all of the above. The Senator from Kansas has introduced S. 12 which would adjust the zero bracket amount, personal exemption, and tax brackets according to the rise in the Consumer Price Index. My colleagues who express concern at the plight of marginal wage earners ought to promote the cause of tax equalization. There is no better way to help those whose productivity is most vital to our economy than by relieving them of the burden of taxflation. Our low-income wage earners are suffering enough from inflation without having to pay a tax penalty as well.●

THE STRUCTURE OF AMERICAN AGRICULTURE

● Mr. MORGAN. Mr. President, the Secretary of Agriculture, Bob Bergland, has written a provocative essay, "It's Time to Rethink Our Farm Policy," in the November issue of the Country Journal. I commend this article to every Member of the Senate.

Secretary Bergland, through this article, demonstrates his sensitivity to the changing structure of American agriculture. He believes that the structural characteristics of our system of farming make the formulation of farm policy a most difficult and complex task. He has begun to set the tone for a fresh debate on our farm program, the lifeblood of some 3 million farm families, which will be a major issue of the 97th Congress.

The Secretary has called for a national dialog on the structural issue. He will be leading a series of 10 hearings that will begin in late November of this year. One of those hearings, I might add, will be in Fayetteville, N.C., on November 28.

Mr. President, I request that the text of Secretary Bergland's article be printed in full in the RECORD.

The article follows:

IT'S TIME TO RETHINK OUR FARM POLICY

(By Bob Bergland)

In Roseau County, Minnesota, where I grew up and farmed, the harvest is in, the first dusting of snow lies on the fields, and folks who live there—among them my oldest children—are getting ready for Thanksgiving and the holiday season.

The people in Roseau County, like people everywhere, are worried about inflation and energy. But there is an air of comparative well-being in that community that is common to much of farm country in this autumn of 1979.

The truth is that our countryside boasts more people and more opportunity today than it has in decades. Nonmetropolitan areas are growing faster than metropolitan areas, and the most rapid growth is taking place in the most rural counties. What is more, this nonmetropolitan growth is taking place in every U.S. Census region.

I think what we're seeing is convincing evidence that rural development efforts launched in the fifties and accelerated in more recent years have helped reverse nearly a century of migration out of the countryside. In 1900, 85 percent of all Americans lived on farms or in small towns. But from 1945 to 1970, more than 20 million left their rural homes for the cities. In the 1950s, more than a million a year were fleeing the countryside. In the 1960s, the yearly number of departures dropped to 600,000—not because the rate had slowed, but because the source, the rural population base, had shrunk so much in the previous years.

But in the seventies, the pattern reversed itself. Rural areas gained more than 2 million people, and the growth of rural nonfarm jobs was double the rate of urban jobs in metropolitan areas. Some people, of course, simply opted for country life. Their motivation was more esthetic than economic. But for many others, the economic factor was of equal if not overriding importance. Earlier this year a report issued by the Urban Land Institute specifically credited those federal and state programs that channeled development money, manpower, and project resources into rural communities with having been a major factor in bringing people and opportunity back to the countryside.

On the farm front, our agricultural exports continue to set new records; commodity prices are up and relatively stable; and there is a good chance that net farm income—which increased 40 percent in 1978—could set a new all-time record this year. So I think we are also seeing evidence that farm policy and programs have created a tough, efficient, market-responsive food and agriculture system that rewards the prudent and efficient producer, has all but eliminated hunger in America, provides food aid where it is needed overseas, and still feeds the American consumer for proportionally less of his or her income than most other consumers in the world pay.

Yet in the last several years—and somewhat to my surprise—I have become increasingly uneasy about the state of agriculture and what it portends for the future of rural America. Somehow I sense that we have no clear purpose or direction, that what semblance of public policy we have is shaped by events and circumstances rather than by vision and deliberation. Programs that are the product of reactive policy tend to be themselves reactive, narrowly focused, transient—or expedient. There are some 144 different farm commodities, for example, and at any one time perhaps 20 of them are in trouble. When the trouble occurs, pressure builds on the Congress to apply a "patch"—higher support prices, emergency allocation for fuel, subsidies for energy to power irrigation systems, or something else in the way of a quick fix. What is more, what policy we have had over the years, for all its remarkable successes, may have had other consequences few foresaw, and many may not want.

Three personal experiences in recent times brought these misgivings home. After a speech I made in Iowa several years ago, I was visited by ten young families. They were tenant farmers. And the land they farmed was being sold out from under them. They wanted to get together to buy that land and save their chosen way of life. They couldn't get the financing. And I thought to myself the old approaches just won't do. There has to be a better way.

And then, last winter, hundreds of farmers drove their tractors into Washington to tell us that farm programs that had helped increase total farm income to the second highest level on record and not buffered them from the threat of financial ruin. Most of these farmers were not marginal operators. Many had substantial farms. Big machinery. Heavy investments. And an equally heavy debt load.

I did not agree with their argument—that government-mandated 90-per-cent-of-parity price supports would save them. I said that what they were asking would only aggravate their problems, because it might price them out of the export market and further inflate the land, capital, and production costs that were at the root of their predicament.

Nevertheless, that demonstration pointed up the inescapable conclusion that what we now have in the way of public policy in agriculture neither gets to the root of an elemental problem, nor addresses the full spectrum of problems arising from the differences in American farming operations. As good as the Food and Agriculture Act of 1977 is, it is flawed as its predecessors were flawed. It, too, fails to recognize the wide diversity in farms and farm problems.

This is why I responded as I did last spring when a young woman reporter stood up at a press conference in Kansas City and asked me what the goals were for U.S. farm policy. Her question was perceptive. I thought hard, and then I told her that while we had food policy goals, we did not have farm policy goals that are consistently and explicitly expressed. The means and ends become blurred. Price supports, target prices, or the reduction of surplus stocks tend to become the sole focus of policy. Lost is the ultimate goal of these measures—a rate of return for agriculture that is comparable to that earned by other industries.

These incidents, coupled with the mulling over of fundamental questions about agriculture through a quarter of a century of farming, seven years in the Congress, and three as Secretary of Agriculture, have moved me now to call for an intensive review—within and beyond the Department of Agriculture—of all the basic questions relating to what economists call the "structure" of agriculture, to order new or fine-tuned research on the issue, and to invite a national public discussion of how public policy might be changed to reshape farm structure and redirect its course.

What do economists mean by farm structure?

To get at this matter of structure, we have to ask a number of questions. Among them are these: What is the number and the size of our farms? How do they vary by type and by location? How do they relate to their markets? Who owns or controls our agricultural land, and who makes the decisions about its use? What are the technological requirements of our various farms? What obstacles stand in the way of a family getting into farming? How does a farmer retire without selling his land to his neighbor, a speculator, or a developer? What are the social and economic characteristics of farm operators and owners?

By the time this is read, many papers on the questions involved in structure—and some of the new research efforts—will have been completed by economists, sociologists, and historians within the USDA, and by experts from the land grant universities, foundations, and other public interest groups. Other commentaries and recommendations have been solicited from farm organizations, rural life associations, including the church-affiliated; and from many other individuals or institutions who have a direct or tangential stake in the future of agriculture and the rural community.

It is my hope that the factual data collected will serve as an informational base for the national discussion that will begin in the next few weeks at a series of ten public hearings. I will chair these meetings at locations throughout the country.

At the same time, young people who want to farm often can afford neither the price of

received increasing popularity, technical

GREAT RESPONSIBILITIES FOR A GREAT NATION

What then? A filing away of just another report on just another public exercise? Not if I have anything to say about it. In 1981, the Congress will renew or revise basic farm legislation. By that time I hope we will have amassed the most comprehensive and reliable base of data and recommendations ever compiled for developing not only a new farm bill, but for making whatever adjustments are deemed necessary in tax laws, credit programs, and government regulations that affect the structure of American agriculture.

I am telling all participants in the farm structure project to let the factual chips fall where they may, regardless of how those facts might contradict their own—or *my* own—prejudices.

For that reason I want to explain my own philosophy, attitudes, and opinions, for *they* explain why I have initiated this project.

At the heart of the issue of structure is the clash between two venerable American ethics. The democratic ethic is predicated upon the belief that control of resources and political decisions should be as broadly based as possible. The enterprise ethic holds that there should be no limits on the amount of property men and women can fairly earn their work.

These two-ethics co-existed in rural society even beyond the time that commercial family farms began to outnumber the self-sustained family farms. It was not until after World War II—when policy makers made a conscious decision to seek a more efficient use of agricultural resources, and a surge of new technology made it possible for farmers to work more land than ever before—that the enterprise ethic became the dominant ethic in shaping the structure of agriculture.

There is no question that technological advances and the entrepreneurial instinct were of primary importance in developing the "bigger but fewer" farms syndrome. But public policy surely played a critical role, and, in my judgment, does so to this day.

What deeply concerns me and many others who work in or depend upon agriculture is that the trends deliberately set in motion or encouraged by public policy makers then and now may be shaping a food and agriculture structure that is not in the best interests of farmers, of the rural community, or of the nation as a whole.

I look at the growing concentration of ownership and control of farm production, farm marketing, and farm supply and I fear the coming of a time when competition in all three areas is reduced to a minimum—to everyone's disadvantage except those few who hold control. I fear the coming of a time when rural communities that are now surrounded and sustained by families operating diversified (even part-time) farms will be surrounded, instead, by empty acres, absentee owned and worked by computerized machines.

That time, thank goodness, has not yet come. But the time has come to decide whether this is what we want in the future structure of American agriculture.

The trends are there for anyone to see. In 1950, we had more than 5 million farms. Today we have fewer than 3 million. Though it has slowed, the decline in numbers continues. So too does the trend toward concentrated ownership and tenant farming. Today 40 percent of the land being farmed is rented land.

As farms dwindled in number, many grew in size. As they grew in size, the biggest came to dominate production. Today only 500,000 of our 2.7 million farms produce about 80 percent of our food and fiber.

At the same time, control of the markets where the farmer buys his machinery and supplies and sells his products has become more and more concentrated.

There was a time when farmers were almost self-sufficient. Today they have to buy 70 percent of what they need to produce. Who sells it to them?

Four companies sell three out of every four tractors sold in America. Four companies sell four out of every five combines. Only two firms sell 79 percent of all cotton pesticides. Half the corn herbicides are sold by just two companies.

There was a time when all farm products were traded on the open market, where buyers and sellers competed vigorously in their negotiations. No more. Now we have the total "vertical integration" of the broiler industry, for example. Vertical integration means that the production, processing, and marketing of broilers are all under a single company's control, with no price existing at intermediate stages of production. Pork production is swiftly following the broiler pattern. Today egg prices are determined by formula, because no central market exists. Fruit and vegetable production and marketing is becoming vertically integrated at an accelerating pace. And while grain markets are still largely traditional, contracting, hedging, and pure speculation are on the increase.

There are those who see these trends as not only inevitable and unstoppable—but desirable. They argue that maximum efficiency in the structure of agriculture has not yet been achieved and that to slow the trends toward concentration of ownership and control would frustrate the attainment of that goal and would penalize the consumer in the process.

Some of the "bigger but fewer" advocates ridicule concern that small, medium, and part-time family farm operations will in time go the way of marginal farms. They point out that the American public did not object when Mom and Pop stores were put out of business by supermarkets, that the public voices little concern that less than 3 per cent of U.S. firms now control more than 80 per cent of all industrial assets.

Still others raise the family bogey that any effort, however well-meaning, to slow the trend toward concentrated ownership and control of agricultural resources will lead inevitably to the mandatory breaking up of big farms and big agricultural supply firms.

I sense, with some degree of assurance, that they are wrong on all three counts. There is persuasive evidence that little additional savings in production cost would be gained by further expansion of farm size and further concentration of farm ownership and control. Indeed, there is mounting indication that even part-time farmers, using the right mix of methods and equipment, can be as cost efficient as some of the biggest operators.

What is more, inflation and the energy crisis could make those smaller operators even more efficient than some of their big competitors. For one thing, their smaller size finds them often located close to local markets—thus savings transportation costs. For another, their size makes them less energy and capital intensive.

Secondly, the spokesmen for "bigness" in the farm sector are wrong in my view, when they say the public regards the growing concentration of farmland ownership with the same sanguine acceptance with which they view mergers and the formation of conglomerates in the commercial and industrial sectors.

For whatever reason, most Americans, however urban, have a proprietary interest in the land and an almost mystical reverence for the intrinsic values they attach to it. In my judgment, this is why opinion samplings show widespread appreciation of "the family farm" and widespread resentment over the use of tax dollars to subsidize the income of big farm operations.

Third, it does not follow that efforts to preserve smaller family farms must include the breaking up of big farms. I surely see no justificaiton for that. In the first place, "big" is a relative term in discussing farm size, because what is a big farm of one type in one location may be considered a small farm of one type in another. In the second place, all but 2 percent of our farms are "family farms," regardless of how big they are, and in many instances, their size determines their success. And lastly, I happen to believe that the broadest possible competitive mix of farms—and that includes large as well as small—is in the best interests of everyone from farmer to town dweller to urban consumer.

The key word here is "mix." My concern is that we are losing that mix, that farms are growing fewer and larger with little further gain in production efficiency and little further benefit to the public interest.

What could this trend toward bigness signal for the future of the rural community? Thanks to development efforts, many rural communities now have a modest industrial base that provides jobs for town dwellers and part-time farmers. But what happens when the farm population shrinks under ownership consolidation to the point where it no longer helps sustain the retail stores, banks, and other small businesses that remain the economic backbone of small towns and cities? I saw what happened in Roseau during the Soil Bank years. Farmers put their land into the Soil Bank and moved out. And before long, store after store on Main Street closed down and boarded up their windows and went out of business.

What troubles me today is the suspicion that public policy is encouraging the trend by helping most those farmers who need help the least, while helping least those farmers who need help the most.

Take the matter of commodity programs. We know that program payments, which are based on volume of production and amounted to $2.03 billion in 1978, provided much greater benefits to the big producers. Ten percent of the farms participating in the programs got nearly half the total payments. They were the largest farms. The smallest farms, those making up half the total, got only 10 percent of the payments.

I see evidence, too, that tax laws, credit programs, government regulations, farm marketing arrangements, yes, even agricultural research, are skewed to favor the big farm over the small and medium sized farm.

What is more, I suspect that the combination of policies that encourage expansion of farm size and further concentration of control and ownership are impeding freedom of choice—an American ideal I cherish above nearly all others.

Federal commodity programs that stabilized farm prices and protected against disaster made it easier for aggressive farmers to borrow money to buy land and adopt cost-reducing technologies. As their holdings increased, and as land values soared, they found it easier to obtain even more credit. So they borrowed, expanded, boosted production, borrowed again, bought out their neighbors, and expanded still more. In time, rising land values and tax advantages began to attract land speculators who took their profit from the sale of the land—not from the products it produced. This, in turn, drove farm land prices even higher. Since 1967 those prices have trebled, rising 14 per cent last year alone.

This situation erodes freedom of choice for many already in farming, and many others who want to get into farming. The agressive farmer who borrowed to expand and buy out his neighbor may find himself trapped in a Catch 22 situation. If he has passed the point of most efficient size, his profit margin per unit of production levels off and he can then only increase his total profit by increasing volume. To do this, he must continue to expand. His only other choice is to sell out and retire.

At the same time, young people who want to farm often can afford neither the price of the land nor the cost of the money they must borrow to pay for it. They, to, have lost their freedom of choice, for they can neither work at what they want nor live where they wish. Yet it need not be this way.

I still own my 600-acre farm in Roseau County. My oldest son, Steve, and my daughter Linda and her husband chose not to farm. But they did choose to live near the village of Roseau and work in town. They had this choice because rural development programs helped bring industry and jobs to that community. My daughter Diane and her husband, Steve Dall, want to farm. But with today's prices, they can't afford to buy their own, so they are farming my land. Grain farming there is not a full-time occupation, however, so Steve also holds down a full-time job in town.

Most important in terms of the issue of farm structure, that job makes it possible for him to keep on farming. He may not be able to afford his own land now, but he is doing what he wants to do, where he wants to do it. He believes this is in his best interests. I believe it is in the best interests of his community, the best interests of agriculture, and the best interests of the nation.

I hope that the review, the research, and the public discussion of farm structure that I have launched this year will show us how agriculture should be shaped, where it should be headed, how to get there, and—above all else—how to save and expand freedom of choice in rural America. If it does, we can look to a time when the farmer caught in the cycle of borrowing to expand, and expanding to survive, can get off the treadmill without getting out of farming—and young farmers—like my son-in-law—will be able to own the land they farm.●

REPORTING DEADLINE FOR THE NATIONAL ALCOHOL FUELS COMMISSION

● Mr. MCGOVERN. Mr. President, I would like to take this opportunity to express my support for an important provision of H.R. 4249, which extends the reporting deadline for the National Alcohol Fuels Commission.

As a member of the Commission, representing the Senate Agriculture Committee, it has been a pleasure to work with the Commission Chairman, Senator BIRCH BAYH to develop an aggressive alcohol fuels policy for our Nation.

Mr. President, the Senate has spent a great deal of time over the last several years considering our energy problems and possible solutions. We are increasingly cognizant of the need to reduce America's dependence on foreign fuels. The long gasoline lines of this summer and skyrocketing fuel prices have given us a further mandate from the public to not only develop long-term strategies, but to also develop mechanisms which will prevent shortages in the near future.

No single program will provide the answer to our energy problems. Our Nation's energy future will be dependent upon a variety of energy sources and conservation strategies. We owe it to our citizens to investigate every option possible. Many of my colleagues and I are convinced that renewable energy resources are one option that has not received adequate attention.

Although alcohol fuels, and particularly ethanol from farm products, have received increasing popularity, technical regulatory and economic barriers to widespread production continue to be prevalent.

A major goal of the National Alcohol Fuels Commission is to assist in the elimination of these barriers and create an environment in which the rapid commercialization of alcohol fuels can occur. The Commission has already initiated a number of public hearings across the country for the purpose of identifying these barriers and to obtain as much input as possible regarding the removal of these problems and to document the incentives required to create a favorable alcohol fuels production environment.

Yet considerable work remains to be accomplished. Although most of the hearings will be completed within the original timeframe of the Commission, I believe the extension of the reporting deadline is essential to assure that comprehensive policy plans and program initiatives are completed. I urge my colleagues to support this bill.●

ADDRESS BY SENATOR MATHIAS DELIVERED AT BRETHREN SERVICE CENTER CELEBRATION

● Mr. HATFIELD. Mr. President, an outstanding speech by my good friend, Senator MATHIAS, has come to my attention. His compelling remarks were delivered on the occasion of the 35th anniversary celebration at the Brethren Service Center in New Windsor, Md., on October 14, 1979.

Senator MATHIAS is appealing for an enlarging of the constituency aware of our "common humanity as children of God," a constituency that speaks for service and self-sacrifice. He invokes Pope John Paul in his appeal for believing people to practice social justice. I wholeheartedly concur in the Senator's appeal to take the message of the Pope, the biblical message of restraint, sacrifice, and sharing, to heart so that we can build up the core of our Nation's ability to be a servant people in a broken world. It becomes increasingly apparent that we need not fear destruction from without by armed might nearly so much as we must face destruction from within because of our greed, self-centeredness and lack of spiritual and moral fiber.

Mother Teresa, honored with the Nobel Peace Prize, although small in physical stature, stands as an intensely brilliant light in her witness to faithful and fruitful service. Social work is not what she practices but rather a deep personal love for each individual who crosses her path. She has said poignantly that the worst disease in the world is "feeling unwanted, uncared for and deserted."

It is my hope that we might be inspired as a body to commit ourselves anew to the selfless philosophy purported by Senator MATHIAS in both our national life and foreign relationships. Mr. President, I request that Senator MATHIAS' speech entitled "Great Responsibilities For a Great Nation" be printed in the RECORD.

The address follows:

GREAT RESPONSIBILITIES FOR A GREAT NATION

Thank you for inviting me to share in your celebration of the 35th Anniversary of the Brethren Service Center. I am very happy to be here among those who, like our Lord, keep their eyes on the sparrow.

For the past 35 years, while so many of the citizens of this great republic have been busy "getting and spending", to use Wordsworth's phrase, you here at New Windsor have been reaching out to comfort the hungry, and the homeless, and the hurting people of the world.

There is no greater work than that, and I am proud to be a witness to your achievements.

Exactly a week ago today at just about this time of day, I stood on the tarmac at Andrews Air Force Base to say goodbye to Pope John Paul II, that remarkable human being who dominated our consciousness and our news media from the moment he set foot on American soil.

But, as the plane door closed behind the Pope concealing his dynamic figure from sight, I wondered for a moment just how long his message would remain with us once he himself had left our shores.

As a nation, we have developed a very short, a dangerously short, attention span. We turn eargerly from one media event to the next. We seek entertainment, not enlightenment. We seem unable to concentrate on the abiding question of what our humanity requires of each of us.

Yet it is precisely this question that Pope John Paul II has asked us to examine. He reminded us of our common humanity as children of God. He spoke of our traditional attachment to human values and ethical concerns. He praised us for past goodness and generosity in providing for the hungry of the world. He challenged us to contribute to a world order that will create a more just relationship between the nations of the world. And he warned us that:

"Since people are suffering under international inequality, there can be no question of giving up the pursuit of international solidarity, even if it involves a notable change in attitudes and life styles of those blessed with a larger share of the world's goods."

America has taken the Pope to its heart. But will America take that message to heart? A message that calls for restraint and sacrifice and sharing.

Thirty-five years ago, when this Center was founded, there was a consensus among Americans that we had a responsibility to help rebuild a war-ravaged world. We freely offered our help to friend and foe alike then. We agreed that it was the right thing to do.

Today no such consensus exists in America. The constituency that speaks for service and self-sacrifice is small. So, if we are to do the great deeds in the world that our humanity and our good fortune require of us, we must build a new consensus in America—a consensus that favors looking beyond ourselves and our parochial problems to the wider world whose future is so intimately, so inescapably entangled with our own.

When I was invited to speak today, I was urged to "challenge you to the future, to the needs that I see that you might anticipate and to the unexpected." Although I didn't admit it when I accepted the invitation, I wouldn't think of trying to tell this group, with its extraordinary record of anticipating human needs, how it should deal with the challenges of the future. You are already fine-tuned to the future. Your programs prove it.

But I would like to add another burden to your load. I would like to ask the Brethen Service Center as a unit and each one of you as individuals to help build a new consensus in America that would support dealing aggressively with the truly enormous

problems that fester just beyond our doorstep on this very small, vulnerable planet.

another area where I would like to tap your wisdom.

where poor, everywhere scarce, everywhere at

Safe" echoes this belief. The editorial

problems that fester just beyond our doorstep on this very small, vulnerable planet.

When President Carter took office, he promised us a new foreign policy that would concentrate on the large issues of our times. He promised the Soviet-American relationship, that so long has dominated our thinking about foreign affairs, would be placed within a broader global perspective. He promised to turn America's attention to the imbalances between the developed and underdeveloped nations—to the world population explosion and to the problems it spawns—hunger, poverty, unemployment, mass migrations. In short, he promised to redefine our national interest in broad international terms.

I looked forward to supporting that new foreign policy and I have been disappointed that it has never gotten beyond the talking stage. But I do not blame President Carter entirely.

No one person—not President Carter, not the Pope, not any one of our clutch of presidential hopefuls—can accomplish miracles. People have to be willing to follow. And frankly I see no will in this country to think in broad international terms. That will must be rekindled. And that is the burden I hope you will take up.

There is a selfish motive behind my request. I sit on the Foreign Operations Subcommittee of the Senate Appropriations Committee and I find it very hard to watch our most important foreign aid programs cut year after year because the votes aren't there. This fall almost every request for funding for bilateral humanitarian programs has been cut either in Committee or on the floor. Millions of dollars were lopped off AID requests for population control, health, agriculture, food and science and technology—all programs designed to deal with the problems of the underdeveloped world.

I don't claim that no cuts would have been made if people had spoken out against cutting these programs. There probably would have been some cutting anyway because Congress is very conscious of the need to bring the federal budget into balance. But I guarantee you that the cuts would not have been as deep as they were, if members of Congress believed the American people really supported foreign aid programs.

Throughout the entire debate on the Foreign Aid Bill, I don't think I got more than two or three letters backing those programs. In the same period, I received hundreds of letters urging me to support the highest peacetime military budget in our history.

I don't think we have to trade off the military budget against foreign aid programs. But I do think we have to broaden our concept of what national security is.

Right now, Mexico, our neighbor to the south, has a population of about 65 million. That population is expected to double by the year 2000. Today, according to Kathleen Newland of Worldwatch Institute, the adult Mexican labor force amounts to only 28 percent of the population and of these only half are fully employed.

Who can say what the future employment picture will be when the Mexican population doubles? What we can say for sure is that it will bring us problems we will never again be able to ignore.

I have been appointed to the Select Commission on Immigration and Refugee Policy which has been asked to take a comprehensive look at the immigration and refugee situation in the United States and to report its findings to the President by next year. I will chair the first of 12 regional hearings in Baltimore two weeks from tomorrow—on October 29th. We will be looking into the effect refugees and immigrants—legal and illegal—have on the U.S. economy, on the labor force, on the unemployment rate. And will be trying to develop a policy suited to the realities of the 21st Century. This is another area where I would like to tap your wisdom.

One of the somber realities of the 20th Century with which you are all very familiar is the successive waves of refugees that have fled various forms of political and religious persecution. This has been a tragic fact of global life since the earliest days of our century, when pogroms in Russia forced the first large Jewish immigration to the West. As long as man's inhumanity to man persists, the problem will persist and there will be refugees who must find welcome among us.

As you know, the large numbers of Indochinese refugees being admitted to the United States have strained our capacity to resettle them. Your work with these refugees has been tremendous, but the resettlement process in this country has been haphazard at best. The fragmented nature of the existing system has created confusion, uncertainty, and antagonism, and has impeded resettlement despite valiant efforts by voluntary agencies.

I'm happy to say that in this area, at least, the Senate has taken some very positive action. This summer, in Title III of the Refugee Act of 1979, we addressed the problems of resettlement and reworked the entire program. It now provides for payments to public and private voluntary agencies for placement, resettlement and care of refugees; funding for projects to increase self-reliance of refugees (language and vocational training); support for special education; and cash and medical assistance during an initial period. I sponsored an amendment which provides for two studies which I think will concern you: one to be undertaken by the General Accounting Office to assess the efficiency of the resettlement programs; and one by the Department of Health, Education and Welfare to examine how refugees adapt to life in the United States.

According to the House Select Committee on Population, at present growth rates, there will be 8 billion people on earth in the year 2018; there will be 16 billion in 2058; and 32 billion in 2098. There is a real question whether the earth's biological systems—already strained by 4 billion people—can sustain that kind of growth. There is even more question about whether we can feed that many people.

Worldwatch Institute warns that we already have more than enough evidence that excessive demands are being placed on our biological systems. Global double-digit inflation is the most obvious sign that the supply of many of our world's basic resources has been outstripped by the demand for them. And, there are other problems, even more serious.

For instance, we will need about one billion new jobs by the year 2000 to give work to all the new entrants into the job market. And consider this: the Census Bureau tells us that by the year 2000 more than 12 percent of all Americans will be over 65 and by 2025 that figure will top 17 percent.

These demographic changes have serious implications for the future of our society. If we don't face those implications now, we won't be able to do anything about them when the future comes. That is why we are here today.

I think it is significant that the character in Chinese for crisis means both "danger" and "opportunity". We are in a period of crisis now. No one doubts it. But, we can move from the "danger" phase of crisis to the "opportunity" phase, I think, if we get together on this now and work together on it from now on.

Several years ago, at a meeting of the Congressional Clearinghouse of the Future, Herman Kahn, Director of the Hudson Institute, spoke in glowing terms about what lies ahead of us. He said:

"Two hundred years ago man was everywhere poor, everywhere scarce, everywhere at the mercy of nature. Two hundred years from now man (barring bad management and/or bad luck) will be everywhere rich, everywhere numerous, and everywhere in control of the forces of nature. We are in the middle of the most exciting 400 year period in human history."

I share Mr. Kahn's enthusiasm although the road ahead will not be easy for any of us. There are many uncertainties. But I am absolutely certain of one thing. If we can spread the spirit that animates your work here across our land, we can transform crisis to opportunity. In your work here, you epitomize Robert Louis Stevenson's wonderful observation that: To travel hopefully is better than to arrive.

Let us travel hopefully together then. That way we will surely arrive at the solutions we need for a future that already crowds us.●

COAL MINING CAN BE SAFE

● Mr. WILLIAMS. Mr. President, the October 29, 1979, issue of Business Week magazine contains a thoughtful article entitled "Why Mine Fatalities Are Going Down." The article details the efforts which are being made by the coal mining industry and the unions which represent coal miners to reduce the incidence of deaths in the Nation's coal mines.

There has been, indeed, a stunning reduction in the number of deaths associated with coal mining, and the frequency of deaths expressed in terms of million man hours worked. It is gratifying to me that the article quotes many industry and union leaders as agreeing that much of this progress is the result of the 1969 Federal Coal Mine Health and Safety Act and the 1977 Federal Mine Safety and Health Act.

As the Business Week article points out, it was not until enactment of those laws, and the subsequent strong enforcement that most major coal operators set up safety departments, and started to make concerted efforts to train miners and supervisory personnel. The frequency of fatalities started to drop thereafter.

But more important, Mr. President, following the enactment of these laws, attitudes toward death and injury in the mines started to change. While tragic accidents and death had always been considered an inevitable part of coal mining, we are starting to see that both union and management no longer accept this inevitability. The substantial improvements in recent years have spurred still greater efforts. "We do not have to accept 100 deaths a year" says Ralph W. Hatch, vice president for safety of Consolidation Coal Co., a company which now spends $20 million each year in safety programs.

This is a remarkable change of attitude in an industry which saw 2,719 deaths in 1911, 1,158 in 1947, and 311 deaths in 1968.

Mr. President, this progress is laudable, and this attitude is constructive. I believe, as do the industry's leaders from both management and labor, that the Federal mine safety legislation has been instrumental in these very real improvements in inner safety in the coal industry.

In the same issue of Business Week, an editorial, entitled "Coal Mining Can Be

Safe" echoes this belief. The editorial points out also the significant improvement in reducing the number of mine fatalities, and says that "a primary factor in the improvement has been the Coal Mine Health and Safety Act of 1969 * * *." This law has encouraged the initiatives which the industry has undertaken, and Business Week points out something that I have long believed: That "better management and training techniques can (further) reduce the number of such accidents."

Data provided by the Mine Safety and Health Administration demonstrates just how dramatic the improvement in the coal mining industry has been. In 1911, the first year for which such data is provided, 2,719 miners died in mine accidents. Between 1911 and 1930, an average of 2,254 coal miners were killed each year. While there were some improvements in succeeding years, as late as 1947, our Nation still saw more than 1,000 coal mine fatalities in a single year.

In 1968, the last year before enactment of the Coal Mine Health and Safety Act, 311 miners were killed on the job. Since enactment of that law, the number of coal mine fatalities has dramatically dropped. In 1978, there were 104 coal mine fatalities, a more than 200 percent reduction.

We have indeed come a long way.

But, there is still room for improvement, and as Business Week points out, the Federal Mine Safety and Health Act can provide the foundation upon which the industry can build a program of increased miner training and management awareness which can still further reduce the incidence of death in the coal mines.

Mr. President, there is, however, a disturbing trend in the data provided by MSHA. In 1911, 75.49 percent of the mining fatalities were in the coal industry and 24.51 percent were in the noncoal mining industry. On the average, for the period 1911–30, 79.24 percent of all mine fatalities were in the coal industry, and 20.76 percent of all fatalities were in the noncoal mining industry. In 1978, however, of the 240 mining fatalities, 104 (or 43.33 percent) were in the coal industry, and 136 (or 56.67 percent) were in the noncoal mining industry.

It is obvious from these statistics that the noncoal mining industry has failed to make the same strides in improving workplace safety as the coal mining industry. Fortunately, however, the new Federal Mine Safety and Health Act of 1977 adopts many of the statutory features which have been responsible for the dramatic improvements in the coal industry and makes them applicable to the noncoal industry as well. As this new law begins to take hold, I am confident that the noncoal mining industry will be able to implement the kinds of training and management programs which will result in significant improvements in the rate of mine fatalities.

I know that the entire mining industry is committed to improving workplace safety and health. And, I am as confident, as is Business Week, that the new mine safety and health laws will provide a firm foundation upon which this vital American industry can resolve its safety and health problems, and build for the future.

Mr. President, I ask that the data on mine fatalities for the years 1911 through 1978 provided by the Mine Safety and Health Administration, and the article and editorial from Business Week magazine be printed in the RECORD.

The material follows:

Mining fatalities 1911–78

Year	Coal	Metal	Total
1911	2,719	883	3,602
1912	2,360	874	3,234
1913	2,785	866	3,651
1914	2,454	739	3,193
1915	2,269	701	2,970
1916	2,226	870	3,096
1917	2,696	983	3,679
1918	2,580	771	3,351
1919	2,323	591	2,914
1920	2,272	603	2,875
1921	1,995	350	2,345
1922	1,984	476	2,460
1923	2,462	510	2,972
1924	2,402	556	2,958
1925	2,234	520	2,754
1926	2,518	584	3,102
1927	2,231	487	2,718
1928	2,176	392	2,568
1929	2,187	476	2,663
1930	2,063	370	2,433
1931	1,463	219	1,682
1932	1,207	139	1,346
1933	1,064	154	1,218
1934	1,226	176	1,402
1935	1,242	215	1,457
1936	1,342	290	1,632
1937	1,413	296	1,709
1938	1,105	238	1,343
1939	1,078	221	1,299
1940	1,388	302	1,690
1941	1,266	306	1,572
1942	1,471	349	1,820
1943	1,451	300	1,751
1944	1,298	220	1,518
1945	1,068	174	1,242
1946	968	181	1,149
1947	1,158	220	1,378
1948	999	203	1,202
1949	584	152	736
1950	643	167	810
1951	785	175	960
1952	548	209	757
1953	461	161	622
1954	396	139	535
1955	420	157	577
1956	448	157	605
1957	478	152	630
1958	358	167	525
1959	293	173	465
1960	325	185	510
1961	294	127	421
1962	289	216	505
1963	284	173	457
1964	242	179	421
1965	259	180	439
1966	233	195	428
1967	222	181	403
1968	311	182	493
1969	203	179	382
1970	260	165	425
1971	181	164	345
1972	156	234	390
1973	132	175	307
1974	132	158	290
1975	155	123	278
1976	141	113	254
1977	139	134	273
1978	104	136	240

WHY MINE FATALITIES ARE DOWN

For most of this century, workers who donned a coal miner's hard hat have had to accept the fact that their chances of being killed on the job were greater than in any other industry. This began to change with enactment of a stiff federal safety law 10 years ago, and now the coal industry has reached a watershed. The days of mine disasters are largely gone, and the industry's own belated safety efforts are cutting the rate at which miners die in individual accidents. This raises the prospect that coal managements and their employees may finally be developing ways to end mine deaths in the foreseeable future, although a significant breakthrough in coal labor relations must still be made before this can happen.

These developments are occurring at a crucial time for coal companies, which are trying to drag both their management and their labor relations techniques "into the 20th century," as one industry official puts it. Safety problems have always been a source of conflict between the industry and the United Mine Workers. As the industry tries to increase production by 30 percent or more during the next decade, its ability to push mine deaths still lower will have a strong bearing on how peacefully the two will get along—and whether the industry can raise its sagging productivity.

In recent years, labor flareups over safety have become less frequent, and statistics compiled by the Mine Safety & Health Administration show why. The number of workers killed annually at mining operations dropped 47 percent—from 280 to 139—between 1970 and 1977, the last full year without a nationwide coal strike, even though coal production rose 15 percent during that period. The industry's death frequency rate, a more accurate gauge because it expresses fatalities in terms of the total hours worked in the industry each year, has declined even more sharply. It stood at 0.30 death per million work hours last year, down from one death per million in 1970, and it could go even lower this year.

TIGHTER REGULATIONS

The question is whether these trends can continue. On the positive side, coal production is rapidly shifting to surface mining, which is much safer than underground mining, and increasing mechanization is making deep mining itself less labor intensive. Federal oversight of mine safety is tighter than ever before, reflecting amendments made in 1977 to the Coal Mine Health & Safety Act of 1969. Since the mid-1970s, most major producers have established long-overdue safety departments, and they are giving more than lip service to the goal of cutting fatalities. "We have as our goal zero accidents," says Ralph W. Hatch, vice-president of safety at Consolidation Coal Co., the industry's No. 2 producer. Consolidation claims to spend $20 million a year on its safety programs.

Still, the potential for future problems is great. As production jumps, the industry will have to lower its death rate drastically to keep the actual number of deaths from rising. This means stamping out individual fatalities that so far have proved impervious to safety laws; 109 miners have already died this year. This in turn will require much closer cooperation between miners and their foremen, who traditionally have been tough, mistrustful adversaries. Says one UMW official: "There has to be a commitment on both sides."

Nearly everyone agrees that much of the progress to date is a direct result of the 1969 Mine Safety Act. Triggered by a 1968 explosion that killed 78 workers at a Consolidation mine near Farmington, W. Va., the law for the first time set strict standards for ventilating explosive mine gas and coal dust and for preventing roof falls. Now every underground mine must be inspected at least four times a year, and safety violators are fined. These procedures have drastically reduced the number of mine disasters. (A disaster is defined as an accident that kills at least five workers.)

"The 1969 act essentially marked the be-

that the company established a safety divi-

brought on by internal political problems

"The 1969 act essentially marked the beginning of the coal industry that America is going to have and the end of the type of industry America had from 1920 to 1969," says Joseph P. Brennan, president of the Bituminous Coal Operators' Assn., the coal industry's bargaining arm.

NEW ATTITUDES

Although mine accidents had killed almost 100,000 miners since 1900, it was not until the law appeared that big companies such as Consolidation Coal Co. and Peabody Coal Co., the top producer, set up safety departments. The law also strengthened efforts by the reform administration of UMW President Arnold Miller, who was elected in late 1972, to win contractual safety protections. The agreement the union negotiated in 1974 required, for the first time, that new employees be trained before being sent into narrow mine passages where slight mistakes can result in workers being crushed by falling slate or electrocuted by the high-voltage cables that power big mining machines. And it gave individual miners the right to simply leave their posts if they feel they are in "imminent danger."

In varying degrees at different companies, these developments have been accompanied by significant changes in attitudes. In the past, coal executives—and even miners—often saw deaths as simply a cost of production in an unavoidably dangerous industry. But now, says Consolidation's Hatch, "we do not have to accept 100 deaths a year." Adds one UMW official: "There is realization by everyone that safety is here to stay." It is this change in attitude that provides the best hope that mine deaths can be wiped out altogether.

This new outlook toward safety has led some companies to take steps beyond those required either by law or by the UMW contract. Most major companies, including Consolidation and Peabody, now have at least one safety official stationed at each mine. Practically every big producer sponsors occasional safety competitions for its hourly workers and gives awards to individuals who have the fewest accidents. Westmoreland Coal Co., among others, holds union-management seminars to enhance communications between miners and foremen. Several companies started safety training for foremen after an influx of inexperienced miners and foremen into the industry in 1975 pushed deaths up temporarily. Foremen and workers at Jones & Laughlin Steel Co.'s Gateway mine in western Pennsylvania have jointly written a booklet explaining how to do each job in the mine safely.

Partly as a result of those programs, and partly because the MSHA's 985 inspectors and legions of state inspectors patrol the coalfields constantly, the death frequency rate of most major producers in this decade has fallen below the average for the industry, and in most cases the rates continue to drop. For instance, the average frequency rate for the entire industry during the four years beginning in 1975 was 0.36 death per million work hours. Over that same period, the average rate for some of the nation's largest producers was as follows: Peabody, 0.29; Consol, 0.21; AMAX (which has large surface mine production), 0.07; Island Creek, 0.30; U.S. Steel, 0.14; Bethlehem Steel, 0.30; North American Coal, 0.18; and Eastern Associated Coal, 0.26.

LATE START

One glaring exception to this pattern is Pittston Co., the seventh-largest producer. Every year but one since 1972, Pittston's death rate has exceeded 0.4 per million, and since 1975 its average rate has been 0.46, according to MSHA statistics. Pittston officials say that many of their mines are old, and the company has few surface mines, which help lower the overall rate for many producers. Still, it was not until April, 1978, that the company established a safety division, even though it has huge reserves of cash that it earned during the profitable coal markets of the mid-1970s. Pittston has hired Jack Crawford, a former MSHA official, to direct its safety department, and he is implementing a plan such as other companies already have.

Despite the safety progress made since 1970, the industry has had limited success in eliminating less-publicized causes of the 100 or more mining deaths that still occur each year. On average, nearly half of these happen when a chunk of mine roof, usually slate, falls and crushes a miner. Another 30 percent to 40 percent of them occur when workers are either electrocuted or crushed by the huge equipment that just barely fits into underground mines. The MSHA does not usually assign blame in fatal accidents, but a study of last year's 33 roof-fall deaths identifies reasons such as failure to examine or properly analyze the condition of the mine roof, or failure to use enough roof support or to comply with a preset roof-support plan.

UMW officials point to such accidents—plus occasional disasters—as evidence that production, not safety, is still the highest priority at many companies. Last June, for instance, a federal grand jury handed down a criminal indictment against Blue Diamond Coal Co. charging that it "willfully" violated federal ventilation rules in connection with methane explosions on Mar. 9 and 11, 1976, that killed 26 men at the company's Scotia mine in Letcher County, Ky. Moreover, several companies, using a provision they negotiated last year, have persuaded their UMW locals to accept incentive plans that pay miners bonuses for higher production even if a mine's safety record deteriorates in the process.

"AWARENESS"

Whatever part production pressures may play, industry officials contend that most individual fatalities occur because of carelessness by either miners or foremen and that the solution to this problem lies in better labor-relations techniques rather than in more rules and regulations. "Awareness is the key to the whole safety issue," says John L. Schroder, Jr., U.S. Steel's vice president for coal. Adds Latham G. Gray, general manager of coal at Bethlehem: "Safety is an attitude or philosophy."

One way to improve attitudes is with more and better training. Bethlehem, which along with U. S. Steel had an effective safety program long before most other companies, says it gives its miners twice as many hours of training as state and federal laws require. In addition to state tests, each new Bethlehem foreman must take a 20-day company course that has a "strenuous emphasis on safety," Gray says. Moreover, the company punishes both miners and foremen whose mistakes cause accidents. Gray adds: "Safety is a management responsibility, from the first level all the way up. The first-line foreman has to carry that commitment to the workers. If not, you can't get to first base."

UNION PARTICIPATION

There is general agreement, also, that too much of the training that new miners currently get is what Pittston's Crawford calls "pro forma." David Moe, a local union president at the Laurel Run mine operated by Eastern Associated in eastern Pennsylvania, recalls his own week of instruction two years ago. "They showed us some old Bureau of Mines film, asked if we had any questions, and that was it."

Another prerequisite for reducing fatalities below current levels is stronger efforts by the UMW to make its members more safety conscious and to challenge employers who are lax on safety. In the mid-1970s, the union's lobbying and negotiating produced important safety gains for miners. But during the past two years, staff reductions brought on by internal political problems have impaired the UMW's efforts. Only two members of its six-member legal staff are assigned to combatting the dozens of appeals that companies regularly file after federal inspectors cite them for safety violations. The union no longer has a research department to study safety trends. And the most powerful official in its safety department is a former bodyguard of UMW President Miller who has little experience in safety matters.

Despite the progress made so far, the coal industry and the UMW will have to spend increasing amounts of time and money on safety efforts if the trend of the past few years is to be sustained and improved upon. The alternative is a continuation of senseless accidents such as the one last August that accounted for Pittston's third fatality in 1979. Two miners were riding in an electrically-powered locomotive along a mine passageway, one sitting up on the edge of the machine. As they passed a ramp used to load coal on cars that would take it to the surface, part of the ramp that extended slightly over the tracks struck the nearest miner in the head and killed him. A flag or other signal might have prevented this death, and Pittston's Crawford intends to devise such a system. But in this case the dead miner should have realized better than anyone the danger that existed: He had helped install the ramp himself.

COAL MINING CAN BE SAFE

For at least a century and a half, coal mining has borne the reputation of being the most dangerous industry in the U.S. Within the past few years, it has become a classic example of what industry can do to improve safety when it really takes the assignment seriously. Although more than 100 workers a year still die in mine accidents—a figure the industry knows it must reduce—this represents a major change by comparison with the 1,250-a-year average since 1900.

A primary factor in the improvement has been the Coal Mine Health & Safety Act of 1969, which imposed tough safety standards on the mining process. But companies have taken initiatives on their own. Most major producers now have at least one management employee stationed at each mine whose primary job is to make sure that safe work practices are followed. Some companies, Bethlehem Steel Corp., for instance, provide more training than state and federal law requires.

The campaign to end coal mine deaths completely is now entering its most difficult phase. Most mine fatalities now are the result of individual carelessness—on the part of either workers or management. Only better management and training techniques can reduce the number of such accidents. More laws would be useless.

Moreover, as production rises in the coal industry, more workers will be exposed to the hazards of mining. The death rate must continue to drop rapidly if the industry is to avoid a rise in total number.

The industry's best hope of achieving its goals is that there has been a marked change in attitudes toward safety among managers and workers alike. Traditionally, coal miners and their families have regarded death as an unavoidable cost of bringing coal up from below ground. Today, they see no reason why mining cannot be safe.●

TRIAL OF CHARTER 77 GROUP IN CZECHOSLOVAKIA

● Mr. DOLE. Mr. President, following the arrest in Czechoslovakia, on May 29, 1979, of 10 members of Charter 77, 6 of those arrested went on trial on October 22 on subversion charges. On October 23, sentences were handed out, ranging from 4½ years in prison for playwright Vaclav Havel, to 5 years for economist Peter Uhl. A former spokesman for the Charter 77 group, Vaclav Benda, was sentenced to 4 years, former television commentator Jiri Dienstbier and Otta Bednarova, a journalist, received 3 year sentences. Dana Nemcova, a Roman Catholic dissident and mother of 7 children, had her 2 year sentence suspended. The other four members of the group arrested in May remain incarcerated, while awaiting a trial date.

Originally founded as a monitoring group of the Helsinki Accord, Charter 77 became increasingly diversified in recent years. Last year, it established a committee for "the defense of the unjustly persecuted". Its self-appointed task was to investigate alleged injustice in individual cases and abuse of power by the State.

The May arrests followed the group's publication of a study comparing economic conditions in Western Europe with those in Czechoslovakia, and charging government corruption. The publication of such a document was clearly in keeping with basket III of the Helsinki agreement dealing with the free flow of information, as well as with the language of the accord which stipulates that participating States will first, "make it their aim to facilitate the freer and wider dissemination of information of all kinds", and second, "will promote the publication and dissemination of economic and commercial information at regular intervals and as quickly as possible, in particular: statistics concerning production, national income, budget, consumption and productivity".

The charges of subversion bear no relationship to the "crime" of the defendants. The sentences that were meted are simply unjustifiable.

The Czech Government's reaction to criticism leaves no doubt that the line of demarcation between communism and fascism is thin indeed. The common denominator of totalitarianism compels rulers to treat dissention as a threat to their total power. It is only through the suppression of individualist thinkers that control of the masses can be maintained.

The nations who participated in Helsinki conference viewed the suppression of ideas and of the flow of information across borders as a threat to world peace. It is ironical to note that Czechoslovakia was a signatory of the accords that were concluded in August 1975. The timing of the trial by the Czech Government, simultaneous with the continuing debate on SALT and the Soviet government's expectations of its outcome, can only provoke serious thought and puzzled speculation.

The overall issue of universal peace may transcend humanitarian concerns, it can never diminish it. I should like to voice my strong protest at the manner in which the trial of six members of Charter 77 was conducted, free from journalistic scrutiny, as well as my outrage at the sentences that were so unjustly meted to the defenders.

Far from decreasing in size, dissident movements in Czechoslovakia and elsewhere have been growing. Their strength and the tenacity of their adherents are a testimony to men's inate craving for the principle of freedom, as well as their unflagging faith that it can triumph. As a free nation, we can do no less but lend them our continuing support.●

DAIRY FARMERS: LOSERS IN THE 1979 TRADE ACT

● Mr. McGOVERN. Mr. President, I am a supporter of the trade bill and voted for it earlier this year. By and large it represents a positive step forward that will increase our export potential. As Ambassador Strauss told the Agriculture Committee when he testified on June 27th, the Tokyo Round was particularly successful in removing barriers which restrict our ability to penetrate foreign agricultural markets.

As we begin to more fully appreciate the impact of the act however, it appears to me that dairy farmers may be the biggest losers in the 1979 Trade Act.

The Trade Act permits a 34 million pound increase in U.S. cheese imports over 1978 imports, for a total of 276 million pounds annually. This represents a 14-percent increase in milk equivalent, or 350 million pounds. The 350 million pound increase in milk equivalent imports will cost each producer 6¼ cents per hundredweight or $2,496 annually.

The attached paper by Truman Graf of the University of Wisconsin elaborates on the economic impact of the Trade Act to the dairy industry and I ask that it be printed in the RECORD.

The paper follows:

IMPACT OF THE TRADE ACT OF 1979 ON THE DAIRY INDUSTRY

International trade negotiations, concluded in Geneva, Switzerland on April 12, 1979, are one of the most important current factors affecting the dairy industry. I view my assignment then as analyzing the impact of these trade negotiations on farm milk prices and income. To do this I will also examine the impact of the negotiations on import quotas, countervailing duties, proof of injury, and related measures designed to help protect domestic farm milk prices from subsidized imports.

BACKGROUND

One-sixth of everything that is grown or manufactured in the world is traded internationally, currently totaling $1.3 trillion annually. Countries throughout the world are therefore interested in expanding international trade as a way of increasing economic development, income, and the standard of living for society generally. In an effort to accomplish this goal, gradual modification of international trade restrictions have occurred. For example, in the past century and one-half, the U.S. has enacted 17 separate tariff and trade acts, gradually reducing tariffs on foreign imports from a high of about 60 percent of the value of imported products in 1833 legislation, to only about 6 percent under legislation in effect in 1978. U.S. tariffs are being reduced another 33 percent over the next eight years as a result of the Geneva international trade negotiations.

The Geneva international trade negotiations had, as their objective, an expansion in international trade. They date back over 30 years—to 1947, following a world wide depression and war, when 23 nations, including the U.S. met to negotiate and sign General Agreements on Tariffs and Trade (GATT). In the next twenty years, six GATT trade "rounds" were held, concluding with the Dillon and Kennedy rounds in the early and mid 1960's. These GATT trade rounds reduced tariffs on thousands of products traded by member countries. By the early 1970's, however, many new barriers of a non-tariff nature such as import quotas had developed, and threatened expanded world trade. GATT rules were becoming less able to deal with these new barriers. The U.S. and other interested countries therefore initiated the seventh or "Tokyo Round" of multilateral trade negotiations (MTN) at a ministerial trade conference in Toyko, Japan, in September of 1973. Actual negotiations began in February 1975 in Geneva, Switzerland, following enactment of the U.S. Trade Act of 1974, which authorized our participation in the Tokyo round of MTN. Ninety-nine countries participated in the MTN, including the U.S., EEC countries, Canada, Japan, and other countries, which together account for the bulk of world trade volume.

Agricultural exports are critical to not only U.S. agriculture, but to the entire U.S. economy. More than one-fifth of U.S. farm income comes from exports, and production of nearly one of every three harvested acres is exported. Last year, U.S. agricultural exports totaled $29.4 billion, resulting in a $14.6 billion agricultural trade surplus—which is expected to increase to $16.6 billion this year because of an increase in agricultural exports to $32.4 billion. This agricultural trade surplus is critical to the entire economy as a way of offsetting the non-agricultural trade deficit of approximately $40 billion annually, largely brought on by oil imports. Thus, the agricultural trade surplus helps ease the downward pressure on the dollar, and in the battle against inflation.

Agricultural trade was therefore of great concern to the U.S. at the Tokyo Round MTN, and we emphasized reducing barriers affecting agricultural trade, such as import quotas, export subsidies, and tariffs. We requested trade concessions on $4.7 billion annually in agricultural exports, and were granted concessions on about $4 billion. Agricultural exports are expected to increase about a half billion dollars annually as a result of these concessions. These trade concessions are on 480 items, including items valued at $1.5 billion going to Japan, and items valued at $700 million going to the EEC. In exchange we offered annual trade concessions on about $2.6 billion of agricultural imports. Our agricultural import concessions included cutting agricultural tariffs by more than 50 percent.

We reduced dairy tariffs on butter, butter products, and Swiss, Cheddar, and Italian style cheeses. However, these duty reductions are not expected to have an impact on U.S. imports of these products, since all have import quotas. It will, therefore, be quotas, not tariffs, which will determine the level of imports of these products. The tariff on casein mixtures was reduced 1.3 cents per pound, to .2 cents per pound. Since casein currently has no import quota, this duty reduction is estimated by the Administration to increase imports about $200,000 annually. In addition, we granted Australia a 4.5 million pound import quota on chocolate crumb, a butterfat product used in candy-making and as an ice cream mix. However, these were relatively minor adjustments and did not generate much opposition in the U.S. dairy industry.

We also increased import quotas on cheese, permitting a 15 percent increase in cheese imports over 1978 levels. This is the change which the U.S. dairy industry feels will hurt it most. It was primarily done in response to EEC requests, reflecting their 15% dairy surplus, which cost them about $6 billion annually. This is in sharp contrast to our milk surplus of only 2.4% last year, which cost USDA only $240 million.

Even the Administration conceded there will be losses to the U.S. dairy industry as a result of tariff and non-tariff agreements

reached at Geneva, because of increases in

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low. The argument that the new Trade Act

reached at Geneva, because of increases in cheese imports. Net dairy trade concessions granted exceed $500 million annually. These losses to the dairy industry contracts to gains from MTN for almost all other sectors of U.S. agriculture, as well as U.S. industry. This helps explain why the dairy industry stands almost alone in questioning the agreements reached in the Tokyo Round of MTN.

The Geneva trade pact of April 12, 1979, was formally submitted by the President to the Congress for legislative action in mid-June. By law, Congress had 90 working days to approve or reject the bill. Also under rules spelled out in the 1974 U.S. Trade Act, the bill could not be amended by Congress—it had to be either voted up, or down, as submitted.

Congressional action was not needed on tariff reductions. Authority to cut them up to 60% was granted to the President, in the U.S. Trade Act of 1974. However, Congressional approval was required for measures to curb non-tariff barriers such as import quotas, government subsidized exports, restrictions on foreign bidding for government procurement contracts, customs valuation methods that keep foreign goods out, and standards that discriminate against foreign products. Congressional approval was also needed for changes in procedures for enforcing rules dealing with alleged unfair trade methods, such as subsidization of exports by foreign countries.

The U.S. House of Representatives approved the Trade Bill by an overwhelming margin of 395 to 7 on July 11, 1979. The U.S. Senate followed suit on July 23, 1979, overwhelmingly approving the bill 90-4. President Carter signed the bill on July 26, 1979, thus enacting it into law. The U.S. dairy industry therefore has lost in its attempt to remove or modify the increase in U.S. cheese import quotas, agreed to in the Geneva negotiations, and included in the new U.S. Trade Law—the Trade Act of 1979.

NEW DAIRY IMPORT REGULATIONS

The U.S. Agricultural Adjustment Act of 1933 (Section 22) provides that import quotas may be imposed whenever imports interfere with the price support program for an agricultural commodity. U.S. dairy import quotas were first introduced in 1951, and are now used to regulate imports of cheese, butter, nonfat dry milk, ice cream, and most other dairy products. In 1978, quota imports totaled 1.3 billion pounds of milk equivalent—slightly over 1 percent of U.S. milk production, and applied to 57 percent of U.S. dairy imports.

Import quotas are considered the most effective device for regulating dairy imports. Yet, dairy import quotas are being increased in the new Trade Act—which explains U.S. dairy industry opposition to it.

The 1979 Trade Act permits a 34 million pound increase in U.S. cheese imports over 1978 imports, for a total of 276 million pounds annually. The Act increases annual cheese import quotas 117 million pounds, to a new level of 245 million pounds.

Sheep and goats milk cheeses, cheeses such as Bryndza, Gammelost, and Goya, and soft cured cheese such as Camembert and Brie are exempt from import quotas. Imports of these cheeses are expected to total about 31 million pounds annually, which, with the new 245 million pound quota for other cheeses, results in the new level of cheese imports of 276 million pounds. Swiss type "pricebreak" cheeses previously exempt from import quotas if priced 7 cents or more per pound above the support level for American cheese, are brought under the new increased quota.

The new Act also amends the previous countervailing duty statute which prevented damage to the cheese and other industries from subsidized imports by mandatory imposition of countervailing duties of the same magnitude as the export subsidies. Under the new Act, foreign nations would be allowed to subsidize their exports as long as the resulting prices did not undercut prices of domestically produced cheese. The domestic cheese industry and other U.S. industries would therefore be required to prove price undercutting before "countervailing" action could be taken.

Thus, domestic "injury" will have occurred before remedial action can take place. The Act does contain a "speed up" procedure in dealing with price undercutting complaints, allowing the Secretary of Agriculture no more than 65 days to make a decision on whether "price cutting" is taking place—almost five months faster than in the past. If the Secretary found a price cutting violation, the exporting country would be required to end its illegal practices or have its cheese exports banned from the U.S.

IMPACT OF NEW DAIRY IMPORT REGULATIONS

In my opinion, dairy farmers will be losers in the 1979 Trade Act. The agreement's proponents say the loss will be "no big deal," for the increase in cheese imports to 276 million pounds under the agreement will be only 34 million pounds over last year's imports of 242 million pounds. However, the increase amounts to a 14 percent increase in milk equivalent—350 million pounds.

You may say "so what," that it is better to produce for the Class I fluid market anyway, than for the Class III cheese market. However, since cheese factory pay prices comprise about 75 percent of the Minnesota-Wisconsin manufacturing milk price (M-W), a fall in cheese prices because of added cheese imports will also result in a substantial fall in the M-W price. Since the M-W price is the base price for Class I, II, and III prices in most state and federal milk orders, a fall in the M-W price will also result in a decrease in Grade A blend prices to farmers. Manufacturing milk prices all over the U.S. will also drop, since cheese prices are its main determinant. Canadian cheese and farm milk prices will also be affected, since they are influenced by U.S. cheese prices. Thus, an increase in cheese imports would impact adversely on dairy farmers—and in turn on agriculture generally, since farm milk sales last year totaled $12.7 billion—12 percent of U.S. farm income.

How much? Every 500 million pounds of milk equivalent imports results in a 9 cents per hundredweight (cwt.) loss for each dairy producer, according to U.S. Department of Agriculture calculations. ("The Impact of Dairy Imports on the U.S. Dairy Industry," USDA Agricultural Economic Report 278, January 1975.) Therefore, the 350 million pound increase in milk equivalent imports will cost U.S. producers $76 million annually, and will cost each producer 6¼ cents per cwt., or about $378 annually (with average midwest volume).

Additionally, each dairy farmer lost 35 cents per cwt., or $2,118, because last year's milk equivalent imports exceeded exports by 1.94 billion pounds. This is $427 million annually to U.S. dairy farmers.

Total cost for each dairyman; $2,496 annually.

Proponents of the trade package say dairy losses will be only short term because increases in imports of quota-exempt Swiss type price break cheese have been occurring steadily and regularly, and would probably result in total cheese imports reaching the 276 million pounds permitted in the new Trade Act, by 1980 or 1981, anyway. Price break cheese imports increased 25 million pounds, to 108 million pounds, in 1978—45 percent of total cheese imports.

I don't think short term comparisons of cheese imports tell the whole story about the impact of quota increases. Farmers need import protection when farm milk prices are low. The argument that the new Trade Act affords as much dairy import protection as existed before, is based on the assumption of continued high prices for cheese attracting cheese imports at 7 cents over price support prices, continued increase in per capita consumption of cheeses that have been occurring, and a high level of economic activity. These developments are by no means certain, but without them, the new Trade Act offers less import protection than existed before it became law.

Under last year's import quota, a maximum of 128 million pounds of quota cheese could be imported. But under the new agreement, cheese import quotas are raised to 245 million pounds—117 million more pounds than could come in under quotas last year.

The administration says the agreement "caps the price break," because price break cheese imports will no longer be allowed. The result really is that quota imports of 1.18 billion more pounds of milk equivalent will be permitted—an increase of 91 percent in cheese import quotas. To each farmer, that represents an import quota protection loss of 21 cents per cwt., or $1,271 annually.

Another concession made by U.S. negotiators will make it harder to control imports causing harm to U.S. dairymen. Our negotiators have agreed that "price undercutting" would have to be shown before export subsidies could be banned. To "prove injury," dairymen would have to go through long proceedings of up to 65 days, even under the improved features of the new Trade Act. Thus, at the minimum, dairymen would have to absorb 65 days of price injury before remedial action could occur. Even then they might not be successful in eliminating the price cutting. Besides, the harm would already be done.

History illustrates what a combination of export subsidies by other countries and increased U.S. import quotas can mean to U.S. dairy farmers. In 1973, when EEC export subsidies were about 8¾ cents per pound on nonfat dry milk (71 cents per cwt. of milk), and 15 cents to 32 cents per pound on cheese ($1.52 to $3.23 per cwt. of milk), U.S. import quotas as a percent of U.S. production were increased from .1 percent to 9 percent for butter, from .2 percent to 28 percent for nonfat dry milk, and from 7 percent to 9 percent for American cheese. As a result, heavily subsidized dairy imports jumped to 6½ times exports—and M-W farm milk prices fell $1.86 per cwt.—23 percent in just four months (from $8.15 to $6.29 between March and July 1974).

This bit of history indicates what increased subsidized imports and lack of countervailing duties can mean to farm milk prices.

Farm milk prices rest on a very narrow fulcrum. Very small changes up or down in supply result in big changes in farm milk prices. For example, 1978 farm milk prices rose 83 cents per cwt. (8.5 percent), with a .8 percent decrease in production of about 1 billion pounds. Imagine what farm milk prices would have been if foreign imports had only offset the .8 percent drop in production. Farmers would have probably lost much of the $.83 per cwt. increase in farm milk prices—which was sorely needed to cover increased production costs as reflected in an increase of $1.90 per cwt. in the parity price for milk last year. The latest reported U.S. farm milk prices (June 1979) still average only 75 percent of parity.

Administration proponents of the agreement also say that only about 3 percent of the permitted additional cheese imports will be cheddar, so resulting competition from increased import quotas to our major cheese industry will be minimal.

The problem with that argument is that displacement of dairy products caused by imports means that surplus milk will largely

go into cheddar cheese, and will therefore adversely affect the entire U.S. cheese and dairy industry anyway. Indirectly this will also affect Canada—and milk control agencies in both countries.

The U.S. already has less import protection than do countries to which we attempt to sell agricultural and other products. Our duties average only about 3 percent of the value of total U.S. agricultural imports. Over one-half of our agricultural imports are duty-free. Meanwhile, two-thirds of U.S. agricultural exports are subject to some kind of trade restriction by other nations. The proportion of agricultural production protected by non-tariff import barriers is more than twice as large in countries we attempt to sell in, than it is in the U.S. Easing import controls on dairy products as a way of maintaining or increasing other exports into countries that already have far more stringent import restrictions than we do, puts the full burden of increased exports on the U.S. dairy industry. This is something the U.S. dairy farmer feels he can ill afford.

If subsidized dairy imports can't be dumped on the U.S., and if quality standards on foreign dairy imports are as rigid as on our own, the U.S. dairy industry can compete with dairy imports from other countries. However, if an increase in U.S. cheese import quotas is not tied in with a procedure that prevents subsidized imports from undercutting domestic prices, or reimburses farmers for losses they incurred because of the subsidized imports, U.S. dairy farmers feel a minimum price support level enabling them to survive will be needed.

In summary, increased cheese imports resulting from the increased import quota in the new Trade Act will adversely affect farm milk prices. Thus, the Trade Act will result in downward pressure on farm milk prices.

On an overall basis, the 1979 Trade Act benefits the United States. Administration projections are that it will create 100,000 new U.S. jobs, strengthen the dollar, and open up new opportunities for U.S. exports of both farm and industrial products.

However, the results for the dairy industry are negative. In effect, the dairy industry became the bargaining tool to get trade concessions for other products. Increased cheese imports resulting from the increased import quota in the new Trade Act will result in downward pressure on farm milk prices. It is a fact of life you, and others in the dairy industry, will have to live with.●

ADDRESS BY SENATOR MATHIAS BEFORE AMERICAN PLANNING ASSOCIATION

● Mr. LUGAR. Mr. President, on October 15, 1979, Senator MATHIAS spoke before an American Planning Association meeting of the National Planning Conference. In his remarks Senator MATHIAS describes the path the planning profession should take into the eighties. He defines a role which would lend valuable assistance to the development of policy at all levels of government. Senator MATHIAS' remarks are an important contribution to the ever-changing philosophy of planning in America and I ask that they be printed in the RECORD.

The remarks follow:

WANTED: PLANS TO STIR THE BLOOD

I am delighted to be here to take part in the National Planning Conference of the American Planning Association and I commend you on your choice of meeting places. You have come to the best urban laboratory in the nation to see a working city that really works. I've reviewed a copy of your hefty conference agenda and I know that, if you survive, you're going to leave here impressed.

I'm not a betting man but I'd give sizable odds that Mayor Schaefer and his administration; the Baltimore business community, the Baltimore neighborhoods, and the people of Baltimore—all will impress you as you've never been impressed before. There is an enthusiasm and pride in this city that is infectious. And it is the underlying reason Baltimore works so amazingly well.

It is a real pleasure to welcome you to Baltimore and to Maryland because we are proud of what we have to show you. I know your hosts here will dazzle you with their success stories. So I will leave that to them.

Instead I would like to talk with you today about your profession, about its role in national policy-making and about the Congressional perspective on planning and planning issues.

Last December Harper's magazine carried a rather disturbing essay entitled "The Urban Crisis Leaves Town". That piece stirred up a lively debate in Congress and among urban specialists across the country. Its central thesis was that the Great Society programs of the Sixties had come too late; that much of the urban decay and disinvestment in the city was already turning around—through private market forces and nonprogrammatic federal spending—by the time those programs came along.

The article went on to suggest that virtually any program conceived at the national level comes too late, because national policymakers do not see far enough down the road; do not clearly identify trends leading to problems; and therefore, respond only when a problem has assumed emergency proportions.

I don't agree with the author's central thesis that the urban crisis is now safely behind us and the fiscal health of our nation's cities is just hunky-dory. But he does raise some valid questions about our ability, at all levels of government, to forecast and predict. And that, it seems to me, presents a challenge to the planning profession.

The era of the Sixties is clearly over. In another two months, in fact, the Seventies will be behind us. But the contrast between those two decades in terms of our economy and the national mood is striking and has left a residue of tension that will be with us even in the Eighties.

The Sixties were a decade of optimism, of faith in government and of thinking big. Planning emerged as an important part of the process of government and decision-making.

The decade of the Seventies, on the other hand, has been plagued with tough economic and social problems—unemployment, inflation, a declining confidence in the ability of government to deliver. The rising expectations engendered in the booming Sixties have been disappointed and a general malaise seems to have set in.

This situation is frustrating for public officials. Decision-making is not easy in an Era of Limits. We are hamstrung by apparent tax revolts at all levels, by growing paperwork and regulations and competing demands on all our resources.

Cities are challenged to grow smaller gracefully, to tighten their belts, to improve workers' productivity and service delivery. The most obvious example of this—the New York City fiscal debacle—reached such crisis proportions it finally commanded the attention of the President and the Congress.

Now, while New York is working hard to get its financial house in order, other emerging crises loom on the horizon. For every Cleveland and every Chrysler Corporation that is highly visible, many other less public, but equally disturbing financial crises wait in the wings in towns and cities, and companies across our land.

It is in those situations, which have yet to attain national prominence, where planners have such an important role to play. And that role is to insure that festering problems do not reach crisis proportions; that they are dealt with, managed, and that hard decisions are made which will enable local governments and companies to maintain an even keel.

To do this, I need not tell you, is no small challenge.

As Harvey Perloff noted in an article in your Planning magazine in July:

". . . planning in municipal government (must) become cost-conscious and management oriented, (it must) become part of the municipal team concerned with the delicate balancing act between tax reduction and maintenance of public services and environmental protection as well as the development and redevelopment of the urban physical plant.

"For almost three quarters of a century, planning has been one of the claimants on the public budget, as planners have proposed projects and activities that would serve the master plan but have done so without concern for the financing aspects. Only in rare instances has the planning operation encompassed capital programming and capital budgeting . . . much less . . . been involved with balancing public outlays and revenues overall."

Your profession must rise to the occasion, or it will be seriously threatened by other specialities which are increasingly filling the traditional planning role. I'm referring, of course, to the economists; MBAs; engineers; accountants; systems analysts; transportation, energy and environmental engineers. I'm not alone in sounding this alarm. Melvin R. Levin, Director of the Community Planning Program at the University of Maryland in Baltimore, is more than a little apprehensive about the legal profession moving onto the planners' turf. He calls it the "Invasion of the Lawyers".

One way to forestall these competitions is to sharpen the image of your profession. If you tell a member of Congress that you are a planner, you're apt to get an "Oh, really?" and a sort of perplexed vacant stare. If the conversation doesn't end right there, you may be asked if you do much drafting or design drawing, because a lot of people seem to connect planning with architecture.

The fuzziness of the planning profession's image can be directly correlated with the decline in federal support for planning. Just look at what has happened to the appropriations for the 701 Program. They dropped from a $100 million level in 1975, to this year's $42.5 million level. That's a pretty steep decline even in a time of Congressional penny-pinching.

If you can't explain who you are, what you do, and, as I told Walt Scheiber during this year's 701 debate, how you're going to save us money, then how can you expect the federal government to fund your activities? The first thing you ought to do to sharpen your image is find the guy who's promoting those tee-shirts that say, "Planners Eschew Obfuscation". I suspect he's the same fellow who defines a planner as: (1) a person who plans, or (2) a person who cannot leave bad enough alone. Those things may get laughs but they do nothing for your image.

And it's not as if there aren't plenty of planning success stories around. You are in a city of planning success stories. A short drive down the road to Washington will bring you to Columbia, Maryland; a New Town brought into being by one of the most enterprising, creative businessmen in America—James Rouse.

Mr. Rouse is an optimist who has been a driving force in the revitalization of downtown Baltimore as well as in the successful creation of shopping malls, the restoration of Boston's Faneuil Hall Marketplace and Philadelphia's Gallery Market East.

His advice to planners is instructive:

"The worst thing planners can do is to

have a shortsighted vision of the possible. Planners—particularly the planners in city governments—have been buffeted so much, they have seen rational proposals unfulfilled so often, that they get a limited view of the possible and often tend to be the people who suffocate the big idea before it can be born. And they have the ability to suffocate it, because if they say it can't happen, the business and civic communities can get discouraged."

Doesn't that sound like the reincarnation of Daniel Burnham and his unforgettable precept "Make no little plans: they have no magic to stir men's blood."

It seems to me the planning profession must maintain the enthusiasm, inventiveness, and spirited optimism which its founders had. That positive attitude is the most important ingredient in approaching problems, sorting them out, and reaching decisions.

We, in the Congress, need your expertise in formulating national policy. The urgent issues of our times—inflation, unemployment, energy resources, environmental protection, over-regulation of the private sector, transportation, health and social welfare programs—at times seem almost unmanageable.

The kind of clear-headed thinking the planning process provides is what we most need to deal with these complex problems. Many of these issues are interrelated and cannot be addressed in a planning vacuum. Nor can we afford to ignore one because another has a high priority.

For example, one of the national trends which is attracting more and more Congressional attention is the shift of people and jobs from the so-called Frostbelt to the so-called Sunbelt. A Congressional alliance has been formed in both the House and Senate called the Northeast-Midwest Coalition. Its purpose is to look at pending legislation with a critical eye as to what its impact will be on broad geographic regions of our nation.

I have been concerned for some time about the unplanned impact federal spending, locational decisions, leasing and contracting have on our nation's cities, regions, and on the overall stability of our national economy.

Federal agencies such as the Department of Defense, General Services Administration, Federal Highway Administration and many others, daily pump millions of dollars into the national economy. They open and close bases, space centers, navy yards, and move people around without giving much thought to the employment and economic base of numerous cities and regions of our nation.

If we are really serious about having a national urban policy, we've got to put our money where are mouths are by devising federal spending practices to bolster that policy.

I am trying to do that and have recently introduced legislation which would provide the sort of "big picture" look at the impact of federal spending that we need so badly. It calls for a Cabinet-level forum for guiding non-programmatic federal spending, leasing, contracting and locational decisions.

In short, the Growth Management Council called for in my bill is a planning tool, pure and simple. But it is not aimed at instituting national economic planning with five year goals, as is done in several Western European countries. If we started talking about a five-year economic plan in the United States, the screams from business would be louder than we could bear.

Planning is a scare word in American politics and has been for some time. Businesses project over much longer periods than 12 months, but traditionally the U.S. government only looks forward 12 months. That's why many of our government programs collide with each other. Their effects haven't been projected over a long enough period.

Despite the enormous historic suspicion of planning by government, we must find a way to identify those areas in our national life that require some real look into the future.

I see the Growth Management Council as a way to do that. It can serve as a forum for beginning a necessary dialogue about our economy, about how and where it is growing, about what role we each play in it, and about how we can play our roles better. The Council will not promulgate new, complex federal regulations, for ours is basically a free economy. Rather, it will monitor the directions of the public sector of our economy and coordinate the government's role in promoting ordered growth.

Since planning is such a scare word, we probably should talk in terms of planning alternatives, of highlighting choices. But we have somehow got to see that we, as a nation, don't get into the position the auto industry was in 20 years ago. They could have read the Paley Report, which warned of an impending energy crunch, and they could have started making smaller cars then. But Detroit didn't choose to listen.

I hope we are all wiser now.

We, in the Congress, need your advice on many legislative issues. I hope that I personally will be seeing much more of the A.P.A. My door is open to you. And I hope now that the American Institute of Planners and the American Society of Planning Officials have come together to form the American Planning Association, your impact on the Congress will be broadly felt in the critical decade ahead.●

EDISON'S INVENTION A CENTURY LATER

● Mr. GLENN. Mr. President, last Sunday in Cleveland, Ohio, the General Electric Co. hosted an event marking one of history's greatest inventions.

It was 100 years ago—October 21, 1879—when Thomas Edison and his brilliant inventive team perfected the world's first practical incandescent electric light. Within 3 years from that occasion in Menlo Park, N.J., Edison had developed the technology that would make commercial indoor lighting possible.

"I have accomplished all that I promised," Edison wrote in 1882 when the switch was thrown on his Pear Street power station in New York City. Significant as that event was, it really was merely a station along a path of genius that literally lit the world.

During Edison's lifetime, this great inventor patented 1,093 inventions, averaging a patent every other week during his peak productive phase. No American has ever come close to that record.

We in Ohio take particular pride in Edison. He was born in our State, and his birthplace, in Milan—on the Huron and Erie County line—is a major tourist attraction. It is located near the Ohio Turnpike and has served to educate many thousands each year about this great American's achievements.

Cleveland was a perfect site for the ceremony last Sunday, because that city has the distinction of having been the first whose streets were illuminated by electricity. Also, General Electric maintains an outstanding research facility at Nela Park, in east Cleveland, that carries on the Edison tradition proudly. Products designed and tested at Nela Park are used around the world to make life more pleasant, safe, and productive.

Sunday's ceremony at Severance Hall included an outstanding concert by the world-renowned Cleveland Orchestra and a reenactment by closed circuit television of the successful experiment 100 years ago in Menlo Park. The actual reenactment took place simultaneously at Greenfield Village in Dearborn, Mich., where Edison's historic workshop was moved and restored earlier this century.

The audience at Cleveland was treated to a film showing the 50th anniversary ceremony in 1929 where Thomas Edison was joined by President Hoover and Henry Ford in recalling what happened that fateful day in 1879 and in noting the impact of electric lighting on the world.

Edison was to die 2 years later, leaving a legacy that will span the ages.

The centennial this week affords us all an opportunity, I believe, to reflect on his achievements and also to look ahead to America's research potential.

If Thomas Edison were here today, I am not altogether sure he would be pleased by the state of America's inventive and research environment.

Some European and Asian countries are actually outspending us in terms of percentage of gross national product devoted to research, and we are experiencing the dangerous phenomenon of American industry actually buying technology, basic research, from other lands.

Jean-Jacques Servan-Schreiber, the French author, wrote a book in 1968 that brought this point home to me. Servan-Schreiber was writing for Europeans and extolling American achievement. Yet, his message ironically underscores American weakness today and is worth our consideration.

Servan-Schreiber theorized that the reason the United States had outcompeted the rest of the world was the unique American respect for and encouragement of basic research, of inventiveness, of search into the unknown. That trait, exemplified by individuals like Edison, had provided the springboard for American free enterprise, for capitalism, to develop industries that quickly became the envy of the world. Our high standard of living was a direct product of this marriage of research and industry.

Today, however, we have seen the past pattern reversed. In the decade since Servan-Schreiber's book, American spending for research as a percentage of our gross national product has declined about 25 percent, while nations like Japan simultaneously have increased their real spending for research by 40 to 50 percent.

The results are already showing. Major American firms are more and more coming to depend on foreign research for significant portions of their basic research and plant modernization. Technology, once a proud American export, now is an import item in increasing and dangerous amounts.

Another decade of such a trend would be ruinous. American industry has turned to foreign lands not because our scientists and technicians lack the ability to

produce. Quite to the contrary, I maintain my faith in the competence and potential of America's technical might.

What we have done, however, is drain the profit incentive from basic research. Because so much of research does not result in success, companies have become increasingly reluctant in the present tax environment to invest risk capital in such basic research efforts. In short, we as a nation have not maintained the proper incentives for U.S. business to invest in basic research and development. R. & D. is beginning to atrophy in this country. Our best minds are not being used to maximum benefit.

Congress next year is likely to review the entire tax structure of the United States, and already we have witnessed some very far-reaching proposals for change. I plan to study each such legislative initiative closely, of course, and want to take this opportunity to urge that my colleagues keep in mind that encouraging research and development should be a major goal of any revisions of the tax code that are made in the near future.

Edison did not have to worry about such things, and perhaps his freedom to achieve was related to the environment of his day, an environment that encouraged creativity and development of uniquely American genius.

As we honor Edison on the centennial of his remarkable feat I think it affords us all the opportunity, and responsibility, to ponder the future as well as the past.●

MANDATORY BEVERAGE CONTAINER DEPOSITS

● Mr. HATFIELD. Mr. President, as most Senators know, I have been attempting to educate Congress to the benefits of mandatory beverage container deposits for the last 7 years. In the course of that effort, I have been continually baffled by the ability of the beverage container manufacturing industry and other opponents of beverage container deposits, to publish misleading information based on statistics taken out of context. Recently, reports began to appear in the Nation's newspapers which purported to show that deposit legislation had harmed the ability of Oregon's recycling industry to survive by depriving it of essential high quality trash. After reading these "facts" we are supposed to conclude that deposit legislation will harm our efforts to stop fouling our own nest, and that no respectable environmentalist should touch it.

Mr. President, stung by this nonsense and the potential damaging effect it might have on other States which might be considering the "deposit/return" alternative, the manager of the Oregon Department of Environmental Quality's Recycling Switchboard, Nancie Szabo, wrote to any publication which would give her space. I ask that her letter be printed in the CONGRESSIONAL RECORD, together with the attached tables, compiled by the DEQ.

The letter and tables follow:

DEPARTMENT OF ENVIRONMENTAL QUALITY,
Portland, Oreg., Oct. 3, 1979.

DEAR EDITOR: Many newspapers are printing information indicating that recycling in Oregon is shrinking as a result of the Bottle Bill.

Recycling in Oregon is alive and growing, and if you believe otherwise you are being misled.

As manager of the Oregon Department of Environmental Quality's Recycling Switchboard, I am in daily contact with recyclers throughout the state and with people wanting to recycle at their depots. It is important to note that the volume of recycled material is steadily increasing, rather than decreasing.

Oregon leads the nation in recycling; we have more household recycling per capita and more participation in recycling. The Portland Recycling Team, only one of Oregon's many recycling systems, is the largest drop-off recycling system in the country. Figures for the month of August in the last three years indicate continuing growth in recycling (August '77: 773 tons; August '78: 780 tons; August '79: 868 tons). Owens Illinois' Portland glass recycling plant recycles 20,000 tons a year, or close to 600 tons a month. These figures are well above the 12,000 tons a year recycled at Northwestern Glass in Seattle, which serves twice the population base. Oregonians recycle more tin cans than residents of other states. Our statewide aluminum recovery rate is the highest in the nation. In the last year, aside from the normal growth in recycling, Oregon established 500 new oil recycling depots.

Oregon's recycling program has been well established for ten years. Individual depots will add or drop depending on economic conditions and personal interests. Some of the Oregon recyclers are youth groups and community organizations which set a recycling goal, reach it, and move on to new activities. One recycler recently dropped from the scene after fifty years of service—he felt he deserved a rest. The larger full-line recycling depots continue year after year. They not only take glass and newspapers, but tin cans, aluminum, cardboard and many times scrap paper, magazines, ledger paper, plastic, and motor oil.

Oregon recyclers handle material worth ten times that recycled as a result of the Bottle Bill. The Bottle Bill has not adversely affected their status. Most of them started after the Bottle Bill was in effect, and it has helped their efforts. Feedback from recyclers indicate that the Bottle Bill has raised the consciousness for recycling. It gets the public into the recycling habit. ("If you can return a beer bottle, why not recycle a pickle jar too?")

Claims that the Bottle Bill has put recyclers out of business are "wild". As one recycler said about these "wild stories", "That's like saying if a hot dog stand on a downtown corner goes out of business, we have to assume that the whole restaurant business is in trouble."

Well, the restaurants and the recyclers are still open in Oregon. If you have any questions or are having trouble choosing between the hundreds of recycling depots in towns throughout Oregon, just call the Recycling Switchboard. We have been answering questions about recycling in Oregon for the last years and we don't have any plans for closing.

Sincerely,

NANCIE SZABO,
Recycling Switchboard Manager,
Solid Waste Division.

1978 OREGON RECYCLING SURVEY

Material	Percent of sites reporting [1]	Volume (tons)	1978 average salt product value [2] (per ton)	Product value	Disposal savings [3]	Energy savings [4]	Energy value [5]
Glass cullet	76.8	30,747	$30	$922,410	$180,709	639,410	$471,027
Cans	71.9	989	30	29,670	8,182	91,784	67,640
Aluminum [6]	70.2	3,653	400	1,753,907	22,578	5,775,349	4,097,884
Paper	62.0	80,124	30	2,403,720	844,365	7,595,172	5,776,671
Bard	91.9	166,717	35	5,817,595	1,075,559	8,199,612	5,795,578
Grade paper	75.6	20,858	65	1,375,308	178,570	2,681,504	1,877,053
Scrap paper	79.2	10,713	7	74,991	65,099	1,097,482	768,745
Ferrous metals	67.0	36,850	50	1,847,500	277,764	3,465,517	2,425,862
Nonferrous metals [6]	88.7	18,452	240	4,428,480	111,849	19,194,478	13,567,196
Used motor oil	[7] 99.9	[8] 4,276,193	[9] 0.03	128,286	105,512	4,120,695	2,884,487
Total	68.5	385,683	49.7	19,154,540	2,379,664	52,580,163	36,785,114

[1] This is the percentage of the sites that are represented in the responses to the questionnaire out of a total number of sites accepting the particular category of material. This has no correlation whatsoever with the percentage of actual volume that the volume figures represent. No attempt has been made to estimate the percentage of actual volume that the survey figures represent.
[2] An average price for a unit (ton or gallon) in 1978 as paid by Oregon markets.
[3] Figured at $8.17 per ton, calculated from "Disposal Siting Alternatives," Metropolitan Service District, September 1978, p. S-7 table.
[4] Units are in gallons of gasoline equivalent. Energy savings figures are taken from Resource Conservation Consultants Paper C, "Energy Savings from Recycling."
[5] Taken to be 70 cents per gallon.
[6] Aluminum category consists primarily of cans, foil, and trays. Nonferrous category includes all other types of aluminum scrap as well as copper, brass, nickel, lead, zinc, bronze, etc. There may be a small amount of scrap in the aluminum category and vice versa, but the categories represent different site results.
[7] Data taken from 1979 used oil program final report to the Department of Energy by the DEQ.
[8] Gallons.
[9] Per gallon.

BOTTLE BILL IMPACT

The Bottle Bill in 1978 was responsible for 10.6 percent of the recycled materials in Oregon. The table below lists the primary energy savings and does not account for the benefits of reduced litter and landfill space saved.

It is important to note that the figures for beer are calculated from 1978 OLCC figures using an estimated rate of return of 90 percent for bottles and 80 percent for cans. These computations agree with 1978 unclaimed deposit figures.

Soft drink sales are not maintained on a state wide basis so the following statistics are estimated with the national ratio of soft drink containers to beer containers (19/33.5) and assumes the same ratio of bottles to can as in beer (81 percent/19 percent). The soft drink return rate is computed at 95 percent for bottles and 80 percent for cans.

It has further been assumed that all soft drink bottles are refillable whereas beer bottles are 83.6 percent refillable.

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"custodial care" that appear in nursing

VALUE OF THE BOTTLE BILL IN OREGON RECYCLING

Item	Volume (1978)	Product value	Energy savings	Disposal savings
Beer	22,560,180 cases sold			
Bottles refilled	13,149,955 cases	$8,547,471 (65 cents per case)	2,196,640 gal (3,045 M Btu)	$567,947
Glass cullet	20,094 tons	$602,812 ($30 per ton)	393,685 gal (2.5 M Btu)	123,978
Aluminum recovered	1,723 tons	$1,013,182 ($480 per ton)	3,432,855 gal (200 M Btu)	10,419
Soft drinks	12,795,326 cases sold			
Bottles refilled	9,538,832 cases [1]	$19,077,664	2,845,990 gal	735,582
Glass cullet (from nonrefillable and shrinkage)	3,688 tons (shrinkage)	$110,610	72,257	22,755
Aluminum recovered	978 tons	$469,230	1,532,915 gal	6,034

[1] A case has 24 containers in it and when empty weighs 14 lb for beer (average) and 25 lb for soft drinks (average):

Totals:

Bottles refilled	22,688,787 cases.
Product value	$27,625,135.
Energy savings	5,042,030 gal of gas equivalent.
Disposal savings	$1,303,629.
Glass cullet	23,782 tons.
Product value	$713,452.
Energy savings	465,942 gal of gas equivalent.
Disposal savings	$146,733.
Aluminum recovered	2,701 tons.
Product value	$1,482,412.
Energy savings	4,965,770 gal of gas equivalent.
Disposed savings	$16,453.
Total product value	$29,820,999.
Total energy savings	10,473,742 gal of gas equivalent.
Total disposal savings	$1,466,815.

Note: Total "value" of bottle bill if gas equivalent was valued at 70 cents per gallon $30,619,433.

EMPLOYMENT

The following figures indicate the extent of the work force in 1978 according to the responses of 47 percent of the recyclers polled:

EMPLOYMENT

Employment figures (responses from 47.4 percent of sites):

Full time employees	272
Part time employees	184
Part time hours	79,032
Volunteer employees	778
Volunteer hours	57,237

●

MOTHER TERESA AWARDED PEACE PRIZE FOR 1979

● Mr. COHEN. Mr. President, in honoring Mother Teresa of Calcutta with the peace prize for 1979, the Nobel Committee has spoken for all in the world who acknowledge the humanity and wants of men and women living without hope, and too often, without society's compassion. But in Mother Teresa's eyes, the Nobel Committee has done the work of providence. On learning of her selection, she thanked God for "this gift to the poor." To those who know of her work among the poor and dying on the streets of Calcutta, this was a characteristic expression of her humility and faith. In response to praise in the past, she would say, "God's work, not mine."

Whether we reflect on her work, or on God's, we may derive instruction, not only for ourselves, but for our society's attempt to serve the poor, elderly, and sick. After visiting Mother Teresa in Calcutta, Malcolm Muggeridge, the British philosopher, wrote that she "is fond of saying that welfare is for a purpose • • • whereas Christian love is for a person."

Perhaps in the United States we ask that institutions do the work of individuals, believing that they, too, can express compassion to those we hope to aid. In reality, only individuals can act upon their compassion, not governments. Our loss is that of love, while in many instances we still fail to achieve our purpose, to lend dignity and fellowship to lives without them.

Our programs cannot be measured in terms of Mother Teresa's love, just as the results of her love cannot be measured by the statistics that testify to the limited success of our social work. Our ends, however, must be the same, even if our means must be different. Mother Teresa says of her work—

It is not social work. I can give my whole heart to that person for that moment in an exchange of love. It involves emotional involvement, making people feel they are wanted.

We must at least try to give an opportunity, through our programs, to enable such an exchange.

Mother Teresa began her work in Calcutta's slums in 1948, 20 years after taking her first vows as a Catholic sister of mercy. She encountered disease and despair among the slum dwellers, India's "poorest of the poor." Others might have abandoned her self-assigned task, to comfort those who appeared to be beyond comfort, to give heed to those others ignored, and to take into her hospital others abandoned to the city's narrow lanes.

She began by giving the dying a place to die, lepers a place to rest and children a place to learn and to escape hunger. Today the order she founded, Missionaries of Charity, has 158 branches, 1,800 nuns and 120,000 coworkers in Africa, Asia, and the United States. Some may be surprised to learn that one of Mother Teresa's missions has reached into the South Bronx, where our institutions have yet to reach successfully. There, 16 nuns visit shut-ins, feed the hungry, and attend to the sick.

The greatest tribute to her life, greater even than the Peace Prize, is the wide array of her admirers in India, stretching across religions and castes. Although her beliefs may be strange to the people of her adopted country, and theirs to her, Mother Teresa's actions have overcome the obstacles of culture and custom. Because she is the recipient of the Peace Prize this year, her message will be heard by millions more people, not simply the poor and sick she has touched in Calcutta. She would want us to understand that her message is not simply to be heard, but to be acted upon.●

MEDIGAP INSURANCE—LET US EDUCATE—NOT LEGISLATE

● Mr. WALLOP. Mr. President, on June 7, 1979, Senators BAUCUS and CULVER introduced legislation to place some State and Federal controls on companies who sell supplemental health insurance to medicare. The Senior Citizens Health Insurance Reform Act of 1979 establishes a voluntary program of certification for those companies selling "medigap" policies, requires the Department of HEW to develop minimum standards for these policies, and forbids the sale through the mail of medigap policies that are not approved by the State insurance commission.

Although the intentions of this legislation are commendable, I cannot support S. 1295. It is my feeling that the problem surrounding this issue is one which can be solved merely by education of the consumer. Mr. BAUCUS pointed out several times in his floor statement on S. 1295 that there is widespread confusion over supplemental policies and that he has received requests from senior citizens needing accurate, reliable information on how to shop for medicare supplemental policies.

Although I strongly support private advocacy groups for consumers, I do not feel it is the Federal Government's place to create further Federal controls on the insurance industry. State regulators must be held accountable for their actions. More importantly, if the same results can be achieved in this area by educating our senior citizens, then there is no need to pass another so-called protection law which may have the inadvertent affect of pricing legitimate "gap" policies beyond the reach of those who need the coverage most.

Because I am concerned with the need for accurate information on the subject of medigap policies for medicare recipients, I have done some homework on the subject. In the course of my reading I encountered a two-part series of articles on this particular subject published in View magazine. View is printed in conjunction with the Group Health Cooperative of Puget Sound, and in this two-part series it proposes a shopping list of do's and don'ts for senior citizens to use in purchasing supplemental policies

to medicare insurance. Some of the advice is as complicated as recognizing interchangable terms for "custodial care" or as simple as knowing that you never make a check payable to an insurance agent for payment on your premium.

I applaud the efforts of the Puget Sound Group Health Cooperative in doing their part to educate the senior citizens on the purchase of medigap insurance. I ask, Mr. President, that the text of the following two articles be printed in the RECORD.

WHY IS THAT NICE YOUNG MAN SMILING?

(By Nick Gallo)

Anyone who has ever opened the door to purveyors of insurance must forever feel a sense of deja vu about that voice, that sales pitch, those sheaves of facts and figures . . . just let me quote you a few statistics . . . there always seems to be facts piled on top of figures, and sometimes the arithmetic hits home; but often as not it is a moment of panic, a thought that triggers a bad association, something akin to last-second pocketing of flight insurance at a vending machine in an airport. For the elderly it's word like Cancer or Nursing Home or Inflation. Then the mind goes whirring for cover, closes off terrible realities that the agent at the door agrees are indeed terrible but whose job it is to detail them in great length . . . and in the end, buying health insurance seems not so much an issue of risk vs. protection—who there is an actuarial scientist? who can decipher exclusions and restrictions and hedging clauses? In the end it comes down to a certain rightness about the agent at the door, so often young, polite, grandson-like, not to be denied; and after all, the sales rap goes, there is no sense in being pennywise when it comes to protection; a few dollars here, a few more there . . . full coverage, sir . . . ah, to sleep easy, to rest assured, to bolt the door to disaster and ruin. . . .

Except, of course, there never is full coverage. Unfortunately there often is very little coverage at all. The U.S. House Select Committee on Aging estimates that the elderly spend about $1 billion annually on worthless or unnecessary insurance, aimed for the most part at plugging gaps in Medicare coverage. The result is a new industry in the last decade that Sen. Claude Pepper (D-Fla.) has called, "a colossal racket. Many unscrupulous agents have been preying on the fears of the elderly and selling them three, four, five, sometimes as many as 30 different health insurance policies (which are) duplicative and largely worthless. . . ."

And yet Medicare, the federal government's health insurance program for the elderly, paid only 38 percent of the elderly's health care expenses in 1976. No wonder that three out of five elderly persons have some type of Medicare supplemental policy.

At Group Health Cooperative, more than 18,000 Medicare subscribers—the overwhelming majority with the Hi-Option Plan—have purchased a comprehensive medical package. With it, GHC/Medicare consumers should have little need for additional insurance marketed as Medicare Supplemental policies. However, neither Medicare nor GHC nor virtually any private insurance company cover what has become a significant expense to the elderly: custodial care at nursing homes.

Consumers may not be aware that they must pay for custodial care out of pocket—or get help from Medicaid, a federal program for people with low incomes.

"During the past year I've noticed an increasing number of members who have insurance policies which they believe cover nursing home insurance," observes Patti Krein, a GHC administrator who assists consumers with nursing home placement. "But when I've talked to them about these policies I've found out they don't understand what is covered and what isn't."

Such was the case with Eula and James Hamlin, two GHC consumers. When 78-year-old Eula Hamlin dug into the family safe deposit box this year to examine several nursing home policies, she was not thinking much about policy provisions; in fact, she was not aware at the time of the crucial difference between skilled and custodial care at a nursing home. Her husband had just suffered a slight stroke on Mother's Day—his sixth in the past few years—raising the possibility that he might need nursing home care when he was released from the hospital. Such an eventuality clearly upset Eula Hamlin.

"I would hate to do that you know. I would hate to put him in a nursing home because it's something terrible to do to old people," she told Krein. "But what else am I going to do if he gets worse. I'm getting up there in age myself. I don't want to burden my children—they have enough responsibilities of their own."

James Hamlin is an 82-year-old retired Seattle City Light range man. Two years ago a health insurance agent came to his door. When the agent left the Hamlins had four nursing home policies totaling over $600 a year in premiums. The Hamlin's monthly income is roughly $600. Eula Hamlin remembers being in the kitchen when her husband chose the policies, so she doesn't know what was promised, what was misunderstood, what was never explained fully. She remembers, however, the phrase, "full coverage."

To the Hamlins, full coverage meant that insurance benefits would pay for all reasonable nursing home expenses. They didn't know, however, that nursing home care is divided into two types. The first is skilled care, which is performed by medical persons. It includes such things as intravenous feeding, rehabilitative care, and any acute complications that require observation and evaluation. GHC's 30-bed Progressive Care Facility (PCF) is a skilled nursing facility eligible to Medicare patients. The second type of care is custodial, involving more ordinary services that are essential to the elderly, but do not need to be performed by medical professionals. Aid in walking, dressing, bathing, and feeding are examples of custodial care. It is this type of care that the elderly most often need. The majority of America's nursing homes are primarily custodial facilities.

The problem is, consumers like the Hamlins may think they are purchasing policies that will pay for ordinary nursing homes, when in fact those policies cover skilled nursing care only. What is worse, those policies are likely to be unnecessary. With a GHC/Medicare Plan, a consumer is covered for up to 100 days per benefits period if they require care at a skilled nursing facility, such as Central's 30-bed PCF.

The lure of some Meddigap policies is that they often offer coverage for a longer stay, sometimes up to 730 days.

"That sounds good, but do you know what the average stay in the PCF is right now?" asks Krein.

According to 1978 statistics, the average length of stay was 18.3 days.

"People are covered for 100 days at Group Health Cooperative," she continues. "Out of 500 admissions yearly to the PCF only one or two stay longer than 100 days."

Therefore, such nursing home insurance policies are of doubtful value simply because the cost of the premiums outweighs the chances of ever using the benefits.

Obviously, it pays to be familiar with terms used in any contract, including phrases like "custodial care" that appear in nursing home policies. But sometimes wording can baffle the most savvy of observers. For instance, Dorothy Straiger recently came to GHC with her mother's Skilled Nursing Home Indemnity Policy. After she reviewed the first page of the contract, which advertised in great, glossy lettering—"Guaranteed issue—for everyone . . . pays up to $600 a month . . . in cash, Straiger turned to a phrase on the second page that she hadn't previously examined closely. Under "exclusions" there was a curious entry—"rest cure."

"I had no idea what 'rest cure' meant," says Straiger. "I still don't really know."

It almost sounds as if it's a Viennese treatment for 19th-century hysterics. Instead Dorothy Straiger's mother who is 78 years old, living on social security money, and likely to enter a nursing home soon, is sinking $500 a year into a policy that may never return her a dime because "rest cure," of course, is a devious way of saying "custodial care." And custodial care isn't covered by the insurance company.

To determine a nursing home policy's coverage, a consumer should ask his or her agent outright: does the policy cover custodial care? That's how Dorothy W., a 70-year-old GHC consumer discovered her policy was useless, although her questions sparked a response she hadn't anticipated.

"For two years I paid premiums on a nursing home policy I don't need," she notes. "My agent admitted that much to me. But then," says Dorothy in disbelief, "he tried to sell me more of the same kind of insurance. He called it a supplement."

For the elderly the answer isn't to avoid all Medigap policies. The same Sen. Pepper who calls the Medicap industry a "colossal racket" also adds that he thinks the majority of America's insurance companies are reputable. The truth is Medicare coverage often needs supplementation (GHC has several plans for Medicare enrollees). Unfortunately, the market offers so many different kinds of policies that "the lack of standardization and the complexity of the coverage available makes comparison shopping almost impossible," reports a 1978 FTC staff policy paper.

The problem dates to 1945 when Congress enacted the McCarran-Ferguson Act which prohibited federal regulation of the insurance industry. Consequently, states were left to concoct a bewildering variety of approaches to guard against illegal practices. In the past few years the Washington State Insurance Commission has moved to force insurance companies to disclose more and more information about policies to consumers.

Such efforts are welcome, say consumer specialists in Seattle, especially by the elderly, who are so susceptible to fraud.

"You have to realize that older people can be intimidated for the simple reason that they don't get all the coverage they need from Medicare," notes Herman Leder, head of an elderly fraud project with Seattle's Department of Licenses and Consumer Affairs. "Inflation is driving up hospital costs and medical prices and older people generally don't have the opportunity to increase their income. So they make pretty good targets for high-pressure salesmen."

Next month, VIEW will detail some of the tactics used by unscrupulous insurance agents. In addition, we will provide you with a pull-out form that lists essential GHC/Medicare coverage. It will include a column for Medigap insurance agents to write down precisely how their policies will improve a consumer's protection. Enough of misunderstandings. And "full coverage."

For people who want to lodge complaints about insurance agents or companies, contact the Insurance Commission.

OUT OFF AT MEDI-GAP

(By Nick Gallo)

For the elderly the question often isn't whether to supplement Medicare, but how to fill ever-widening gaps in the federal health insurance program. Medicare pays only 38 percent of the elderly's health care costs, according to 1976 figures, compared to 50 percent a decade earlier. For instance, Medicare pays almost nothing for nursing home care and outpatient drugs, together which account for nearly two-fifths of an older person's health bill. Thus, the elderly, in predictable fashion, have beaten a path to private health insurance companies for supplemental protection, or more accurately, they have been driven into the arms of a $4-billion-a-year business known as "Medigap." But, ironically, this newest of health insurance industries, designed to support the elderly when Medicare fails them, is being labeled by some consumer specialists as a great betrayal.

After six months of investigations and hearings last year, the U.S. House Select Committee on Aging concluded that the elderly spend as much as $1 billion on worthless or unnecessary Medigap insurance. The industry is so riddled with abuse that an angry Sen. Claude Pepper, D-Fla., called it, "a colossal racket . . . preying on the fears of the elderly."

At the heart of the matter is the complexity of Medigap insurance coverages. Contracts with 150-word sentences list so many exclusions, limitations, and special conditions, so many riders, waivers, and waiting periods, that there is no easy way to compare, say, one $200 deductible policy against another as it is possible to do with auto insurance for example.

The result is chaos. Never certain whether they have adequate coverage, some of the elderly buy and buy and buy; worse, even those with several policies may find themselves footing big health bills because of faulty coverages.

Several years ago, *Consumer Reports*—smelling a scandal—researched and compared more than a dozen Medigap policies. None satisfied the magazine's investigators, who instead recommended that the best health-insurance choice is a Health Maintenance Organization (HMO) plan with a broad range of long-term services.

Some people reason that an HMO's prepayment philosophy is better suited to paying for day-to-day health care costs than are insurance principles. Dr. William A. MacColl, active in Group Health Cooperative since its founding more than 30 years ago puts it, "Insurance principles rest on the idea that you can predict the probability of an event, such as an ocean liner sinking every so many years, but when you try to apply that concept to daily medical care the basic principles don't work."

Dave Walker, a deputy insurance commissioner with the Washington State Insurance Commission notes, "HMO's have the highest rate of return for the premium dollar. The Blues (Blue Cross and Blue Shield) come next (often returning as much as 90 percent of the premium dollar), but we have some companies that don't meet even our minimum standards . . . Our rule of thumb is that a company should be returning at least 55 percent of the premiums they take in through benefits. Some don't do that."

Why then are they permitted to continue business?

The lack of a sophisticated computerized system to analyze insurance company returns inhibits the Commission from tackling the Medigap industry as it should, says Walker. There are 26,000 agents licensed to sell various kinds of insurance in Washington, according to Walker, and only 16 deputy commissioners to keep them honest. Shortstaffed and underfunded, the Commission for the most part focuses on educating the elderly to protect themselves by making wise purchases.

"There's almost one-half million seniors in this state," notes Walker. "It's a natural market for the blue-sueders (the slick sales agents). I'd guess that 125 agents probably specialize in Medigap policies and about 40 or 50 are bad agents. When it comes to dealing with seniors some of 'em just rip, rape, burn, and pillage," he says in blistering, if somewhat exaggerated, language.

To show some examples of the scams, rip-offs, and fraud in this industry that some are calling, "Medi-scare", VIEW interviewed several consumer watchdogs in Seattle.

Following are their observations:

FILING ON CLEAN-SHEETING

At Seattle's Department of Licenses and Consumer Affairs downtown, Herman Leder is talking on the phone in a low-key voice. He is an investigator—head of the Fraud and the Elderly Project. Leder is in his 60s, warm-hearted and welcoming, all uncle, all smiles—a figure certainly worlds away from the hard-boiled manners of a Marlow or a Sam Spade. But on this particular day, Herman Leder suddenly abandons his thick smiles and sing-song voice. Over the phone, a merchant accused of deceptive advertising is getting tough with him.

"Whaddya mean who wants to know?" the investigator reacts. "I want to know, that's who. You listen a minute . . . Hey . . ."

Moments later he slips the phone into its cradle; a grimness settles. A consumer has been ripped off and it doesn't sit well with Leder. He turns to see me waiting, then motions to join him. A file on Medigap fraud, thick enough to serve as a bookend, dominates his desk.

"We've got cases here that I can show you as long as you don't use any of the victims' names," he stipulates. That agreed, he softens his voice, "I don't think anyone actually knows how big the Medigap problem is. No one likes to admit they've been victimized. Older people equate that kind of situation with being senile, so they don't want to report this stuff. But my feeling is that there are a lot of unscrupulous agents out there, a lot of white-collar crime."

Leder's first piece of advice is for consumers not to "pile-on," or "over-stack" policies as it is called in the trade, which is to purchase too much insurance. Testimony before one congressional committee revealed an 87-year-old Wisconsin woman who paid $4,000 to nine insurance companies for 19 policies that were largely worthless because of the duplicate coverage. Insurance companies often coordinate benefits; only one company will pay.

The State Insurance Commission recommends, "As a general rule purchasing the most complete Medicare supplement policy that you can afford is much better than purchasing several incomplete policies."

"A person can be insurance-poor," explains Leder. "You can buy cancer policies, nursing home policies, hospitalization policies, you can buy so many different kinds of supplemental insurance that you have no money left for anything else."

Limited policies, in general, bear close scrutiny, he says. "A lot of it is scare stuff. Cancer policies often cover hospitalization only. But the big costs in cancer treatment are outpatient care, like chemotherapy. Medicare will pay a lot of cancer costs.

"Then you get these agents that tell a Mrs. Jones about a hospitalization policy that covers up to 300 days," he continues. "But the average stay in a Washington hospital is a little more than seven days. Most people don't need 300 days."

Limited policies recently came under sharp attack from a consumer agency-backed study in New York that claimed they were "high-priced in relation to their value." (New York is one of three states that has banned single-disease policies, such as cancer insurance.)

But limited policies are growing increasingly popular, say industry observers. "Think of the thing the elderly fear the most: illness," says one Medicare administrator. "And going into debt. Or going on welfare. Then you get this advertising that shows pictures of bedridden elderly or mentions the gory details of John Wayne's bout with cancer and you can see how easy it is to intimidate the elderly, especially some who can't read or hear all that well."

No only must older persons be on guard, they sometimes are called upon to act as bar-room bouncers of a sort. "I had one woman in here, a retired teacher and not the helpless type," recalls a Seattle senior rights advocate, "who finally had to scream at an agent, 'Get out, get out, leave me alone,' before he'd actually leave the house."

"Here, let me show you some of the things that older people get in the mail," says Leder, shaking his head. He pulls out what appears to be a policy, with a glossy gold seal in one corner and a flowery scroll bordering antique lettering.

"Looks like a certificate for $100,000, huh?"

It isn't a certificate. Neither is it a policy. "For $6.40 this sounds good, but this is only a brochure. You have to pay to see the policy . . . the literature of mail order policies is glowing, but the policies often aren't worth that much. It's also more difficult to file and collect on a claim if the agent is out-of-state somewhere.

"Also, never, never, make out a check to an agent," he implores. "In one case we had phony agents who weren't even licensed in this state. Usually by the time anyone can look into it, the agent is gone. Always make out the check to the company.

"Here's one more thing to watch out for," says Leder, thumbing again through his file. "Have you ever heard of 'clean-sheeting'?" That's where an agent fills in the medical history of an applicant himself. If Mrs. Smith had a heart attack in the past, a company might not accept her, so the agent, who is worried about the commission doesn't fill in the medical information. But six years later the woman gets sick and files a claim. Someone backtracks and finds out she never reported a previous sickness. The company denies the claim."

The moral of the story is for an applicant to be as complete as possible regarding medical history on an insurance application; a shortfall of candor is like counting cards at a Reno blackjack table where the decks are changed routinely.

WOLF IN SHEEP'S CLOTHING

Tucked away on the second floor of the Lowman Building on 1st Ave. and Cherry St., an elderly woman is rattling off tips about Medigap insurance faster than I can take notes. Ignore the scare advertising, she is saying. Beware of celebrity-endorsed insurance policies. Don't be fooled by policies with words like "consumer" or "senior citizen" in their titles. Don't believe that because a policy is advertised in your favorite religious magazine or your employee newsletter that it's reliable.

Maxine Johnson takes a breath and sits back in the office of Senior Rights Assistance (SRA), a group that offers the elderly help with law-related concerns.

"I'm not saying that these policies aren't on the up-and-up," allows Johnson, a counselor at SRA. "Just don't take any of these things for granted."

She then mentions "sucker lists"—names of susceptible, sometimes senile, elderly persons that are traded back and forth by agents who prey on retirement homes.

"Sometimes agents get names by advertising with free booklets that ask, 'Do you want to know more about Medicare?'" she says.

Or there is what is known as the "wolf in sheep's clothing" modus operandi.

"For awhile there was someone coming around with a red, white, and blue card that looked very official," she remembers. "They looked like they were government salesmen or from Medicare. Once they're inside the door . . ." her voice trails off.

ROLLING THE CLIENTELE

Johnson lists one other trick: "This one is called 'rolling.' You see, an agent gets a higher commission for selling a new policy. Some of them will come around every year and get their clients to replace their old policies with new ones. But there are pre-existing conditions and waiting periods on those policies."

Often, insurance companies include a clause in a policy that precludes any benefits being paid until a certain length of time has elapsed after purchase, ostensibly so that the person who gets cancer, for instance, cannot rush out the next day and load up on cancer insurance. But some waiting periods are for as long as two years. Furthermore, in the case of hospitalization policies, beneficiaries often must be in the hospital for a certain number of days before benefits will start.

"Several policies won't start paying until a person is in the hospital for eight days," notes Johnson. "The average stay in a hospital is about seven days, though."

As Maxine Johnson closes her looseleaf file, her voice drops almost to a whisper. "These things are unconscionable, you know. It's worse than selling someone a bum car. What happens if you get sick and you think you were covered by insurance when you're not?"

The Medigap industry, is, thus, a free-for-all, full of more promise than delivery, a thicket of misinformation and misrepresentation. "A rotten system," says State Insurance Commission's Dave Walker. "We should go in with a sledgehammer and start all over again. What we need are simple comprehensive Medigap policies, like they have in Wisconsin. Grades 1, 2, 3, 4, and 5. No phony baloney. You want the deluxe baby you know what you're getting."

Right now, certain state regulations enforced by the State Insurance Commission are introducing more responsibility in the Medigap industry. But the best protection, of course, is to be well informed.

Complaints about questionable sales tactics used by agents should be directed to the State Insurance Commission, which also has compiled an excellent health insurance guide, available upon request.●

MOTHER TERESA RECEIVES NOBEL PEACE PRIZE

● Mr. HATFIELD. Mr. President, I want to express my joy for Mother Teresa, the Missionaries of Charity, and for the thousands of people whom she has blessed with her love. My family and I had the opportunity to visit Calcutta in 1974 and we followed Mother Teresa on her daily rounds through the city. I saw her pick up the dying and take them to a shelter where she bathed them, fed them, and loved them so that they could die with dignity. I went with her to the leper area where the vultures sit up on the bridge waiting for someone to die, people with no fingers, no hands, no nose, no feet. Mother Teresa moved among these people, taking them by the shoulder and steadying them, touching their arms, loving them. The babies that are left and abandoned she takes in to feed. As we drove down a street we saw the body of a person who had just died only a few minutes before, still lying there waiting to be removed like garbage; and we walked through rows of cots where the elderly were perspiring on the brow, soon maybe in an hour or two, to die. Mother Teresa said to me:

Before every single person dies we tell them about Jesus.

Mother Teresa told about a memorable time when she took rice to a family that had not eaten for 3 days. As she doled out the rice, Mother Teresa noticed the mother putting part of the rice into another container. Why? "The mother replied that there was a neighbor family which had not eaten for 3 days either. She wanted to share her rice with them. I could have given a double portion of rice," Mother Teresa told us, "but I did not want to deny this family the blessing of sharing."

Several of us in the Senate had the opportunity of meeting with this modern-day saint when she visited Washington in 1975. We were struck then that Mother Teresa's work seemed out of step with a world that emphasizes power, success, and wealth. Her route toward fulfillment is that of self-denial. She views her work not as professional social work but rather as an intimate, emotional involvement with a needy person; not as sympathy that becomes focused on welfare, but as a sustained commitment of Christian ministry.

It is typical of Mother Teresa's spirit that when she was notified of her Nobel Peace Prize, her response was that of "I am unworthy." Her response and sense of God's purpose in this world reminds us of Mary's prayer in Luke 1:46–55 where:

Mary said:

My soul praises the Lord and my spirit rejoices in God my Savior, for he has been mindful of the humble state of his servant. From now on all generations will call me blessed, for the Mighty One has done great things for me—holy is His name. His mercy extends to those who fear him, from generation to generation. He has performed mighty deeds with his arm; he has scattered those who are proud in their inmost thoughts. He has brought down rulers from their thrones but has lifted up the humble. He has filled the hungry with good things but has sent the rich away empty. He has helped his servant Israel, remembering to be merciful to Abraham and his descendants forever, even as he said to our fathers.

Mother Teresa's gifts of service to the poorest of the poor in India do not fit our conventional definitions of peacemaking. Nor does it seem to fit with the geopolitical efforts to balance this power off against another. Mother Teresa's peace efforts start with and end with individual interaction with one another and with their God. In the end, this is the only kind of peace that will stand the test of time. So, Mr. President, it was with great enthusiasm that I, along with many others, nominated Mother Teresa for the Nobel Peace Prize in 1975 and again this year, and I wish to salute her efforts today in this great body.●

ORDER FOR THE CONSIDERATION OF H.R. 3434 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished manager of the bill, Mr. LONG, and the minority through Mr. BAKER. I ask unanimous consent that at 12:30 p.m. tomorrow the Senate proceed to the consideration of Calendar Order No. 352, H.R. 3434, and that the pending business, Calendar Order No. 387, continue to be laid temporarily aside, and that a call for the regular order not bring back before the Senate Calendar Order No. 387 until such time as H.R. 3434 is disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a further report of the committee of conference on H.R. 4394 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 23, 1979.)

Mr. PROXMIRE. Mr. President, the report before us today is simply a report on two items contained in the HUD-Independent Agencies appropriations bill for fiscal year 1980 which the House and Senate were unable to agree upon the first time around. A thorough explanation of that first conference agreement is set forth in the CONGRESSIONAL RECORD of September 28, with an accompanying table, at pages S13652 through S13664. I will not go over that ground again but I do intend to insert a modified table in the

RECORD at the conclusion of my remarks. Senate, by a vote of 49-30, deleted this House proceedings of the RECORD of October 23, 1979.

RECORD at the conclusion of my remarks today.

As I say, Mr. President, this is a very abbreviated conference report, because it simply relates to two items contained in the HUD-independent offices appropriation bill which were not agreed to the first time around. One item relates to NASA; we provide an additional $8 million to NASA for two programs. The other relates to livable cities, which was deleted, and the conferees agreed to the deletion.

The two items that were still at issue after we completed action on the first conference report were the livable cities program and the National Aeronautics and Space Administration's research and development program. The Senate conferees reluctantly agreed to recede to the House and drop the $3 million contained in the Senate version of H.R. 4394 to initiate a livable cities program.

The House conferees, in return, agreed to Senate action to add $3 million to NASA's request for research and development funding for a variable cycle engine and to boost rotorcraft research by an additional $5 million. As a consequence NASA's variable cycle engine program will be funded at the $8 million level in fiscal year 1980 while the rotorcraft program will total $15 million in the current fiscal year. As a result of these actions $3,807,500,000 would be made available in fiscal year 1980 for NASA's research and development efforts.

The House also agreed to delete their language setting aside a $23 million reserve for the Space Shuttle as well as a provision requiring the approval of the House and Senate Appropriations Committees before NASA could proceed to purchase hardware for a split Galileo Jupiter orbiter probe mission. These issues are also discussed in some detail in the CONGRESSIONAL RECORD of September 28.

I might say that the distinguished Senator from Connecticut (Mr. WEICKER) made a very powerful fight for the neighborhood programs, and deserves great credit for fighting for the Senate's position, but there was no way we could settle this without giving that up. The vote in the House was 2½ to 1, by a roll-call vote, against the neighborhood or livable cities program, and we had to let that one go.

● Mr. MATHIAS. Mr. President, the additional conference held yesterday on H.R. 4394, the HUD and Independent Agencies Appropriations Act of 1980, resulted in an agreement to drop the language added by the House which provided for a one-House veto of the Galileo project. That language was as follows:

Provided, That no funds may be obligated for development of separate orbiter and probe missions in Project Galileo, without the prior approval of the Committees on Appropriations * * *"

This matter was not a subject of the original conference but added by the House subsequent to that conference to an amendment in disagreement. The Senate, by a vote of 49–20, deleted this language. In taking this action, however, we are nonetheless cognizant of the need for congressional review of a separate launch for the orbiter and probe missions of Galileo. I was, therefore, pleased when NASA informed us that it would be sending up a notification of its intentions with respect to the Galileo program under section 4, paragraph 3 of the authorizing legislation. This notification procedure will allow Congress the necessary input and oversight into the Galileo project without the threat of a one-House, one-committee veto over the project. Thus, while we have eliminated the House language providing for a veto over the Galileo project, we will have more than adequate input as was discussed by the distinguished chairman of the Authorizing Committee, Senator CANNON, and myself on the floor of the Senate on September 28, when we originally considered the conference report on this matter.

Mr. President, I ask unanimous consent that a copy of the NASA letter together with a copy of section 4 of Public Law 96–48 be printed in the RECORD.

The material follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., October 16, 1979.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD-Independent Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter will confirm our commitment that, immediately upon enactment of the Fiscal Year 1980 Appropriations Act for HUD-Independent Agencies, I will forward to the Speaker of the House, the President of the Senate, to you and to the Chairmen of the appropriate authorizing committees, a formal notice prepared in accordance with Section 4(3) of the National Aeronautics and Space Administration Authorization Act, 1980 (Public Law 96–58), with respect to the revised plans for the Galileo program.

This notice will detail the revisions that we plan to make and associated programmatic and budgetary impacts. We would not proceed with revised elements of the Galileo program until the expiration of the 30-day statutory period following submission of the section 4 notification.

Sincerely,

A. M. LOVELACE,
Deputy Administrator.

PUBLIC LAW 96–48

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Mr. MATHIAS. Mr. President, the conference report also provides $8 million for NASA R. & D. above the amount proposed by the House. These funds are specifically earmarked for two projects. $3 million is for the variable cycle engine program. This is in addition to the $5 million already provided in the fiscal year 1980 budget for VCE. The additional $3 million would permit NASA to undertake additional fundamental acoustical work to reduce jet noise. The conference committee has also included $5 million for advanced rotorcraft technology. As many of my colleagues know, the need for increased R. & D. in the helicopter area is becoming more and more evident as foreign concerns begin to capture a larger share of the foreign and domestic market. The $5 million will provide for research on advanced all-weather IFR systems, for the development of a methodology to predict rotorcraft performance and noise, for the prediction of helicopter airframe dynamics, for propulsion technology, for large rotorcraft development R. & D., and for augmented research in the area of high speed rotorcraft.

On amendment No. 12, Livable Cities, the House insisted upon its position and the Senate receded. My colleague, the Senator from Connecticut (Mr. WEICKER), made a valiant effort to obtain funding for this program but could not prevail in the face of the House position and the fact that the administration had withdrawn its support from the program. I personally believe that a program such as Livable Cities has considerable merit in that it can provide a community with artistic and cultural experiences.

In conclusion, I would like to compliment, once again, our distinguished chairman (Mr. PROXMIRE) for the enormous amount of time and effort he invested in the HUD and independent agencies bill. I would also like the record to reflect the fact that the other members of this subcommittee have been extremely active and extremely helpful in concluding the business at hand and that they all individually should be commended for their work on this bill.●

Mr. PROXMIRE. Mr. President, I ask unanimous consent that a revised tabulation of the amounts contained in the HUD-Independent Agencies appropriation bill as recommended by the conferees be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted 1979	Estimates 1980	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
TITLE I									
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
HOUSING PROGRAMS									
Annual contributions for assisted housing (contract authority)	124,395,848,000	126,680,127,750	126,680,128,000	126,680,128,000	126,680,128,000	+12,284,280,000	+1250		
Increased limitation for annual contract authority	(1,322,297,000)	(1,140,661,275)	(1,160,474,000)	(1,140,661,000)	(1,140,661,000)	(−181,636,000)	(−275)	(−19,813,000)	
Rent supplement		−200,000,000		−200,000,000	−200,000,000	−200,000,000		−200,000,000	
Housing payments (appropriation to liquidate contract authority)	(4,460,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(+1,069,000,000)			
Housing for the elderly or handicapped fund (authority to borrow)	800,000,000	800,000,000	800,000,000	860,000,000	830,000,000	+30,000,000	+30,000,000	+30,000,000	−$30,000,000
Congregates services program	10,000,000		10,000,000	10,000,000	10,000,000		+10,000,000		
Payments for operation of low-income housing projects	727,000,000	741,500,000	741,500,000	741,500,000	741,500,000	+14,500,000			
Troubled projects operating subsidy	74,000,000	82,000,000	77,000,000	82,000,000	79,500,000	+5,500,000	−2,500,000	+2,500,000	−2,500,000
Federal Housing Administration fund	352,290,000	194,850,000	194,850,000	194,850,000	194,850,000	−157,440,000			
Government National Mortgage Association									
Emergency mortgage purchase assistance: Recapture of repayments	(1,000,000,000)					(−1,000,000,000)			
Special assistance functions fund: Authority to borrow	500,000,000					−500,000,000			
Recapture of repayments	(1,500,000,000)	(2,000,000,000)	(2,000,000,000)	(2,000,000,000)	(2,000,000,000)	(+500,000,000)			
Payment of participation sales insufficiencies	20,477,000	16,971,000	16,971,000	16,971,000	16,971,000	−3,506,000			
Total, Government National Mortgage Association	520,477,000	16,971,000	16,971,000	16,971,000	16,971,000	−503,506,000			
Total, housing programs	26,879,615,000	28,315,448,750	28,520,449,000	28,315,449,000	28,352,949,000	+1,473,334,000	+37,500,250	−167,500,000	−3,500,000
COMMUNITY PLANNING AND DEVELOPMENT									
Community development grants	3,750,000,000	3,900,000,000	3,900,000,000	3,900,000,000	3,900,000,000	+150,000,000			
Urban development action grants	400,000,000	675,000,000	400,000,000	675,000,000	675,000,000	+275,000,000		+275,000,000	
Comprehensive planning grants	53,000,000	40,000,000	35,000,000	50,000,000	42,500,000	−10,500,000	+2,500,000	+7,500,000	−7,500,000
Rehabilitation loan fund	230,000,000	130,000,000	140,000,000	13,000,000	135,000,000	−95,000,000	+5,000,000	−5,000,000	+5,000,000
Urban homesteading	20,000,000					−20,000,000			
Total, Community Planning and Development	4,453,000,000	4,745,000,000	4,475,000,000	4,755,000,000	4,752,500,000	+299,500,000	+7,500,000	+277,500,000	−2,500,000
NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION									
Housing counseling assistance	9,000,000	9,000,000	9,000,000	9,000,000	9,000,000				
Neighborhood self-help development program	5,000,000	15,000,000	10,000,000	10,000,000	10,000,000	+5,000,000	−5,000,000		
Livable cities program		5,000,000		3,000,000			−5,000,000		−3,000,000
Total, neighborhoods, voluntary associations and consumer protection	14,000,000	29,000,000	19,000,000	22,000,000	19,000,000	+5,000,000	−10,000,000		−3,000,000
POLICY DEVELOPMENT AND RESEARCH									
Research and technology	57,500,000	53,000,000	49,000,000	50,300,000	49,650,000	−7,850,000	−3,350,000	+650,000	−650,000
FAIR HOUSING AND EQUAL OPPORTUNITY									
Fair housing assistance		3,700,000	3,700,000	3,700,000	3,700,000	+3,700,000			
MANAGEMENT AND ADMINISTRATION									
Salaries and expenses	269,458,000	296,002,000	288,377,000	281,002,000	284,189,000	+14,731,000	−11,813,000	−4,188,000	+3,187,000
By transfer, FHA funds	(250,255,000)	(255,118,000)	(255,118,000)	(255,118,000)	(255,118,000)	(+4,863,000)			
Total, title I, Department of Housing and Urban Development:									
New budget (obligational) authority	31,673,573,000	33,442,150,750	33,355,526,000	33,497,451,000	33,461,988,000	+1,788,415,000	+19,837,250	+106,462,000	−35,463,000
Appropriations	5,977,725,000	6,162,023,000	5,875,398,000	6,157,323,000	6,151,860,000	+174,135,000	−10,163,000	+276,462,000	−5,463,000
Contract authority	24,395,848,000	26,480,127,750	26,660,128,000	26,480,128,000	26,480,128,000	+2,084,280,000	+250	−200,000,000	
Authority to borrow	1,300,000,000	800,000,000	800,000,000	860,000,000	830,000,000	−470,000,000	+30,000,000	+30,000,000	−30,000,000
Appropriation to liquidate contract authority	(4,460,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(+1,069,000,000)			
Increased limitation for annual contract authority	(1,322,297,000)	(1,140,661,275)	(1,160,474,000)	(1,140,661,000)	(1,140,661,000)	(−181,636,000)	(−275)	(−19,813,000)	
Limitation on corporate funds to be expended	(250,255,000)	(255,118,000)	(255,118,000)	(255,118,000)	(255,118,000)	(+4,863,000)			
TITLE II									
INDEPENDENT AGENCIES									
AMERICAN BATTLE MONUMENTS COMMISSION									
Salaries and expenses	7,425,000	7,603,000	8,186,000	7,603,000	7,603,000	+178,000		−583,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted 1979	Estimates 1980	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
TITLE II—Continued									
INDEPENDENT AGENCIES									
CONSUMER PRODUCT SAFETY COMMISSION									
Salaries and expenses	$42,940,000	$41,776,000	$41,250,000	$40,600,000	$40,600,000	−$2,340,000	−$1,176,000	−$650,000	
DEPARTMENT OF DEFENSE—CIVIL									
Cemeterial Expenses, Army									
Salaries and expenses	5,100,000	7,943,000	8,326,000	7,611,000	8,326,000	+3,226,000	+383,000		+$715,000
ENVIRONMENTAL PROTECTION AGENCY									
Salaries and expenses	457,419,000	520,319,000	506,748,000	515,319,000	513,319,000	+55,900,000	−7,000,000	+6,571,000	−2,000,000
Research and development	218,819,000	239,568,000	233,568,000	232,568,000	233,568,000	+14,749,000	−6,000,000		+1,000,000
Abatement, control, and compliance	524,145,000	540,688,000	475,809,000	515,592,000	508,892,000	−15,253,000	−31,796,000	+33,796,000	−6,700,000
Buildings and facilities	1,063,000	1,425,000	1,425,000	1,425,000	1,425,000	+362,000			
Construction grants:									
Appropriation	4,200,000,000	3,800,000,000	3,400,000,000	3,400,000,000	3,400,000,000	−800,000,000	−400,000,000		
Appropriation to liquidate contract authority	(1,400,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(+100,000,000)			
Scientific activities overseas (special foreign currency program)	2,500,000	4,000,000	2,000,000			−2,500,000	−4,000,000	−2,000,000	
United States Regulatory Council		3,238,000	2,238,000	3,238,000	3,038,000	+3,038,000	−200,000	+800,000	−200,000
Total, Environmental Protection Agency	5,403,946,000	5,109,238,000	4,621,788,000	4,668,142,000	4,660,242,000	−743,704,000	−448,996,000	+38,454,000	−7,900,000
EXECUTIVE OFFICE OF THE PRESIDENT									
Council on Environmental Quality and Office of Environmental Quality	3,026,000	3,126,000	3,026,000	3,126,000	3,126,000	+100,000		+100,000	
Office of Science and Technology Policy	2,496,000	2,900,000	2,725,000	2,625,000	2,625,000	+129,000	−275,000	−100,000	
Total, Executive Office of the President	5,522,000	6,026,000	5,751,000	5,751,000	5,751,000	+229,000	−275,000		
FEDERAL EMERGENCY MANAGEMENT AGENCY									
Disaster relief, funds appropriated to the President	386,105,000	193,600,000	193,600,000	193,600,000	193,600,000	−192,505,000			
Emergency planning, preparedness and mobilization	129,348,000	139,121,000	131,121,000	129,621,000	129,621,000	+273,000	−9,500,000	−1,500,000	
Hazard mitigation and disaster assistance	132,517,000	125,709,000	119,109,000	118,709,000	118,709,000	−13,808,000	−7,000,000	−400,000	
Total, Federal Emergency Management Agency	647,970,000	458,430,000	443,830,000	441,930,000	441,930,000	−206,040,000	−16,500,000	−1,900,000	
GENERAL SERVICES ADMINISTRATION									
Consumer Information Center	1,162,000	1,364,000	1,315,000	1,315,000	1,315,000	+153,000	−49,000		
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Office of Consumer Affairs	1,732,000	1,861,000	1,861,000	1,861,000	1,861,000	+129,000			
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION									
Research and development	3,477,200,000	3,822,500,000	3,799,500,000	3,822,500,000	3,807,500,000	+330,300,000	−15,000,000	+8,000,000	−15,000,000
Construction of facilities	147,500,000	157,600,000	156,100,000	156,100,000	156,100,000	−8,600,000	−1,500,000		
Research and program management	936,469,000	964,900,000	954,900,000	964,900,000	959,900,000	+23,431,000	−5,000,000	+5,000,000	−5,000,000
Total, National Aeronautics and Space Administration	4,561,169,000	4,945,000,000	4,910,500,000	4,943,500,000	4,923,500,000	+362,331,000	−21,500,000	+13,000,000	−20,000,000
NATIONAL COMMISSION ON AIR QUALITY									
Salaries and expenses	2,000,000	6,000,000	5,000,000	5,500,000	5,500,000	+3,500,000	−500,000	+500,000	
NATIONAL CONSUMER COOPERATIVE BANK									
Salaries and expenses	1,500,000	8,900,000	7,000,000	8,900,000	7,950,000	+6,450,000	−950,000	+950,000	−950,000
Self-help development	1,000,000	20,000,000	17,000,000	17,000,000	17,000,000	+16,000,000	−3,000,000		
Total, National Consumer Cooperative Bank	2,500,000	28,900,000	24,000,000	25,900,000	24,950,000	+22,450,000	−3,950,000	+950,000	−950,000
NATIONAL CREDIT UNION ADMINISTRATION									
Central liquidity facility (authority to borrow)		500,000,000	300,000,000				−500,000,000	−30,000,000	
NATIONAL INSTITUTE OF BUILDING SCIENCES									
Salaries and expenses	750,000	750,000	718,000	750,000	750,000			+32,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted 1979	Estimates 1980	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
TITLE II—Continued									
NATIONAL SCIENCE FOUNDATION									
Research and related activities	$827,000,000	$915,300,000	$896,800,000	$915,300,000	$906,050,000	+$79,050,000	−$9,250,000	+$9,250,000	−$9,250,000
Science education activities	80,000,000	84,700,000	84,700,000	84,700,000	84,700,000	+4,700,000			
Scientific activities overseas (special foreign currency program)	4,000,000	6,000,000	5,500,000	5,500,000	5,500,000	+1,500,000	−500,000		
Total, National Science Foundation	911,000,000	1,006,000,000	987,000,000	1,005,500,000	996,250,000	+85,250,000	−9,750,000	+9,250,000	−9,250,000
NEIGHBORHOOD REINVESTMENT CORPORATION									
Salaries and expenses		9,500,000	9,500,000	12,000,000	12,000,000	+12,000,000	+2,500,000	+2,500,000	
SELECTIVE SERVICE SYSTEM									
Salaries and expenses	7,830,000	9,825,000	7,830,000	7,830,000	7,830,000	(————)	−1,995,000	(————)	(————)
DEPARTMENT OF THE TREASURY									
Payments to State and local government fiscal assistance trust fund	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,000				
Office of Revenue Sharing, salaries and expenses	7,200,000	6,337,000	6,237,000	6,237,000	6,237,000	−963,000	−100,000		
New York City loan guarantee program, administrative expenses	1,050,000	1,034,000	1,034,000	1,022,000	1,022,000	−28,000	−12,000	−12,000	
Investment in National Consumer Cooperative Bank	1,000,000	60,000,000	50,000,000	48,100,000	49,050,000	+48,050,000	−10,950,000	−950,000	+950,000
Total, Department of the Treasury	6,864,174,000	6,922,295,000	6,912,195,000	6,910,283,000	6,911,233,000	+47,059,000	−11,062,000	−962,000	+950,000
VETERANS' ADMINISTRATION									
Compensation and pensions	10,706,700,000	11,201,800,000	11,201,800,000	11,201,800,000	11,201,800,000	+495,100,000			
Readjustment benefits	2,445,700,000	2,278,535,000	2,278,535,000	2,278,535,000	2,278,535,000	−167,165,000			
Veterans insurance and indemnities	5,750,000	5,400,000	5,400,000	5,400,000	5,400,000	−350,000			
Medical care	5,374,374,000	5,659,117,000	5,671,119,000	5,696,215,000	5,683,700,000	+309,326,000	+24,583,000	+12,581,000	−12,515,000
Medical and prosthetic research	122,847,000	122,847,000	127,847,000	122,847,000	122,847,000			−5,000,000	
Medical administration and miscellaneous operating expenses	47,058,000	48,024,000	47,606,000	47,606,000	47,606,000	+548,000	−418,000		
General operating expenses	631,675,000	592,790,000	584,967,000	589,392,000	587,392,000	−44,283,000	−5,398,000	+2,425,000	−1,000,000
Construction, major projects	365,560,000	317,292,000	317,292,000	317,292,000	317,292,000	−48,268,000			
Construction, minor projects	86,345,000	73,072,000	72,633,000	72,633,000	72,633,000	−13,712,000	−439,000		
Grants for construction of State extended care facilities	10,000,000	5,000,000	5,000,000	10,000,000	7,500,000	−2,500,000	+2,500,000	+2,500,000	−2,500,000
Grants for construction of State veterans cemeteries		5,000,000	5,000,000	5,000,000	5,000,000	+5,000,000			
Assistance for health manpower training institutions	104,905,000					−104,905,000			
Grants to the Republic of the Philippines	500,000	1,700,000	1,700,000	1,000,000	1,350,000	+850,000	−350,000	−350,000	+350,000
Total, Veterans Administration	19,901,414,000	20,310,577,000	20,318,899,000	20,346,720,000	20,331,055,000	+429,641,000	+20,478,000	+12,156,000	−15,665,000
Total, title II, Independent Agencies:									
New budget (obligational) authority	38,366,634,000	39,373,088,000	38,607,949,000	38,432,796,000	38,380,696,000	+14,062,000	−992,392,000	−227,253,000	−52,100,000
Appropriation to liquidate contract authority	(1,400,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(+100,000,000)			
TITLE III									
CORPORATIONS									
Federal Home Loan Bank Board:									
Limitation on administrative expenses	(17,650,000)	(18,984,000)	(18,359,000)	(18,359,000)	(18,359,000)	(+709,000)	(−625,000)		
Federal Savings and Loan Insurance Corporation (limitation on administrative expenses)	(31,928,000)	(33,566,000)	(33,466,000)	(33,466,000)	(33,466,000)	(+1,538,000)	(−100,000)		
Total, title III, Corporations	(49,578,000)	(52,550,000)	(51,825,000)	(51,825,000)	(51,825,000)	(+2,247,000)	(−725,000)		
Grand total, titles I, II, and III:									
New budget (obligational) authority	70,040,207,000	72,815,238,750	71,963,475,000	71,930,247,000	71,842,684,000	+1,802,477,000	−972,554,750	−120,791,000	−87,563,000
Appropriations	44,344,359,000	45,035,111,000	44,183,347,000	44,550,119,000	44,532,556,000	+188,197,000	−502,555,000	+349,209,000	−57,563,000
Contract authority	24,395,848,000	26,480,127,750	26,680,128,000	26,480,178,000	26,480,128,000	+2,084,280,000	+250	−200,000,000	
Authority to borrow	1,300,000,000	1,300,000,000	1,100,000,000	860,000,000	830,000,000	−470,000,000	−470,000,000	−270,000,000	−30,000,000
Appropriations to liquidate contract authority	(5,860,000,000)	(7,029,000,000)	(7,029,000,000)	(7,029,000,000)	(7,029,000,000)	(+1,169,000,000)			
Increased limitation for annual contract authority	(1,322,297,000)	(1,140,661,275)	(1,160,474,000)	(1,140,661,000)	(1,140,661,000)	(−181,636,000)	(−275)	(−19,813,000)	
Limitation on corporate funds to be expended	(299,833,000)	(307,668,000)	(306,943,000)	(306,943,000)	(306,943,000)	(+7,110,000)	(−725,000)		

● Mr. STEVENSON. Mr. President, today after long and arduous negotiations with the House, the Senate, hopefully, will settle the amendments in disagreement on the HUD-Independent Agencies Appropriations Act, 1980. One of the issues in disagreement was the NASA research and development appropriation. As I understand it, the conference committee accepted the language of the House report on this bill (H.R. 4394); however, according to a colloquy between the chairman of the House Appropriations Subcommittee (Mr. BOLAND) and the chairman of the House Science and Technology Committee (Mr. FUQUA) on September 27 (page H8264 of the CONGRESSIONAL RECORD No. 127), the language of the House report is not meant to stop efforts on Space Shuttle thrust augmentation, and indeed NASA can continue to use funds for design work already in progress in this area. According to the colloquy, NASA is required only to touch base with the committee on the use of 1980 funds for this purpose in view of the fact that the House cut the full $15 million for thrust augmentation from the fiscal year 1980 appropriation.

The conference agreement on the NASA research and development appropriation for fiscal year 1980 also rids the bill of the House language which would have permitted a committee veto of the Galileo program and rids the bill of the $23 million set-aside for the Space Shuttle, some of which was not authorized. Further, I understand that the conference agreement on the fiscal year 1980 appropriation for NASA research and development provides $5 million for a program on advanced rotorcraft technology—a most important program—and $3 million for additional work on the variable cycle engine.

In dollars the conference, therefore, agreed to a total of $3,807,500,000 for NASA's research and development program for fiscal year 1980; this is $15 million less than requested by the administration.

This result, Mr. President, is one that the National Aeronautics and Space Administration can live with.

The Appropriations Committee is to be commended for its tenacity in this matter. In particular, I want to thank the chairman of the subcommittee (Mr. PROXMIRE) and the ranking minority Member of the Subcommittee (Mr. MATHIAS) for their diligence in supporting the Senate's position and bringing this fine result to the Senate.●

Mr. PROXMIRE. I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

CONTINUATION OF ROUTINE MORNING BUSINESS

Mr. PROXMIRE. Mr. President, I understand that the conference report has been agreed to and that business has been completed.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, I also understand that the Chair closed morning business a few moments ago. I ask unanimous consent to be permitted to speak as if in morning business for not to exceed 6 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

FED'S FIGHT FOR LOWER INTEREST RATES

Mr. PROXMIRE. Mr. President, one of the most persistent myths in the country is that the Federal Reserve is determined, for one reason or another, to push up interest rates. Many people, including some distinguished Members of this body, have said that before the Senate.

The fact is that no one on the Board of the Federal Reserve wants high interest rates. They are a sign of the failure of our monetary policy. They are a source of concern and loss to the bankers, not of gain, as well as loss to the farmers and the small business people and others who have to pay those high interest rates.

Interest rates are not high because that is the objective of the Federal Reserve Board. The Board wants urgently to get them down. But the Board recognizes that the only way to get them down is to turn inflation around.

To understand the truth of that proposition consider a simple mathematical proposition. Suppose you have an inflation rate of 15 percent, and the public expects that 15 percent rate to continue. Now let us suppose that one way or another you get interest rates down to 10 percent and keep them there. What happens? Answer: The speculators have a field day with other people's money. You cannot stop them. How can they resist? Here is why: A speculator can borrow $1 million at 10 percent and invest it for a year. Cost of the money: $100,000. He invests the money, real estate, commodities, almost anything that is rising at the average inflation rate. With a 15-percent inflation, he enjoys a $150,000 profit. The full cost of his money was $100,000, so using the lender's money he has made himself a nice fat $50,000 profit.

Do you see why an interest rate lower than the perceived inflation rate is bound to push up inflation, is bound to push up prices, is bound to be inflationary? It will do so through the sheer force of speculation when the investors perceive a sure thing, a cannot lose bargain.

In the real world, of course, it does not work that way, and the distinguished occupant of the chair knows why it does not.

That is why the 8- or 10- or 12-percent usury laws are such a disaster. After all you cannot count on the lender being a complete idiot. And just as the borrower in the example makes a tidy $50,000 profit, the lender suffers a $50,000 loss. He lends $1 million at 10 percent interest, so at the end of a year he gets $1,100,000 back, but that is worth $50,000 less than his original million dollars in real terms—thanks to inflation.

So what does the lender do? He says, "Nix. I won't lend. I'll take my million dollars and I'll put it into commodities and real estate so that I won't take an inflation beating."

Now if you think this is all theory, just consider what has happened in Arkansas and is happening in every other State that has usury statutes that are 12 percent or less. The lenders will not lend, so the small businessman, the farmer, the home buyer who depends on credit, cannot get any credit, not any. He is out of business. He is in worse shape. At least, if interest rates are high, the borrower has the option of paying the higher rate or refusing to take the loan. With the limit on interest rates below the inflation rate, he has no option at all. In a credit economy, he is out of business.

Here is why the inflation situation has become so overwhelmingly serious and why it has become so quinessential for the Federal Reserve Board to follow the tough limitation of credit policy they are pursuing.

This policy is going to cause pain.

Anybody who says we can do it without more unemployment or more recession is just either deceiving you, Mr. President, or is deceiving himself, because there is no way you can do it without more unemployment, without some business failures you would not otherwise have, without serious farm losses and, for millions of Americans who will be affected by it, as Paul Volcker has said, who has been attacked for it but he is speaking the truth, a lower standard of living.

Mr. President, the first step in stopping the rise in prices is to recognize that there are only a few actions we can take that will help, and that whatever we do that will work will be painful, will require sacrifice and will require more sacrifice from some than from others.

If there is a better policy to stem inflation by all means let us pursue it.

This policy has been attacked by many, but nobody offers a different course. I wish there were a different course. If there were, we should follow it immediately.

As I say, this is a bad policy from the standpoint of sacrifice and it hurts many, many Americans, hundreds of thousands, millions of them. But we ought to either come up with an alternative or say that we are not interested, really, sincerely in fighting inflation and paying the tough price we have to pay, or we should support this policy and recognize and speak out on it, pointing out why it is needed.

There are other things we can do to make this policy work more effectively. We know them here in the Senate. We can hold down Government spending. We can encourage wage restraint. We have to do all we can with taxation policy and research to encourage productivity improvement.

We can eliminate our present statutory restrictions on interest paid to savers, to reward thrifty people who are fighting inflation by holding down consumption and putting their money in the bank.

We have a bill before us that is going

to enable us to make a record on that in the next few days.

Above all, we must persist through thick and thin, through recession and unemployment, until we succeed in reducing the rate of inflation.

A CONSTANT STRUGGLE

Mr. PROXMIRE. Mr. President, yesterday was the scheduled opening of a long overdue trial in Cologne, West Germany. Accused are three men, charged with aiding and abetting in the crime of murder. Their alleged victims were 75,000 French Jews, all deported to the Auschwitz concentration camp during the Second World War.

The three men were all SS officers, stationed in Paris, who took part in the roundup and loading of Jews onto sealed boxcars bound for Poland. There is documented evidence proving this, there are witnesses who will testify to it, and the defendants themselves freely admit that it is the truth. They do maintain their innocence, though.

They claim that they were not aware of why they were herding men, women, and children into cattle cars. They say that they were just following orders.

As depressingly familiar as this scenario is, it once again shows us that the issue of genocide can never be relegated to the past. It is something we must face and combat again and again if we are to able to be free from it. Moreover, the hollow echo of the defense in this case is a reminder that we are all responsible for our actions. Regardless of the circumstances, our conscience must be the ultimate guide for our decisions.

Closer to home, there is another example of how we must constantly pledge ourselves to the sanctity of human rights. Unfortunately, it is an example of how we are failing to do so. I am speaking of the Convention for the Prevention and Punishment of Genocide. This fundamental human rights treaty has been ratified by 83 nations, and yet the United States has neglected it for 30 years. We must finally live up to our responsibility. I urge the Senate to ratify the Genocide Convention.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 15 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 3:59 p.m., recessed until 4:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LEAHY).

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized under the standing order tomorrow, Mr. PROXMIRE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER REDUCING TIME OF THE TWO LEADERS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reduced to 5 minutes each on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE AUTHORIZATIONS, 1980—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on S. 428 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of further conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. STENNIS. Mr. President, the last action on the floor with respect to this measure was yesterday. Due to a flaw with respect to a technical point in the measure, we asked that it be referred by the Senate back to the conference, which was done.

I will take up first the short conference we had yesterday afternoon.

I see that the Senator from North Carolina and the Senator from Virginia are in the Chamber, so I will proceed with the entire report at this time.

Mr. President, this conference report is signed by a majority of the Senate conferees—in fact, all except two, whose real objection, as I understand, was limited to one matter, involving a small amount of money, but it involved weaponry of a certain kind. Two members did not sign for that reason. Other than that, it was signed by all our conferees and I believe by all the conferees for the House of Representatives, with respect to the final report we made.

The approval of this conference report will bring to a close a long and arduous process in both Houses of Congress. Started officially in January but antedated that time in preparation by a year or two or more.

The Armed Services Committee examined the President's defense budget minutely this year, holding more than 31 committee hearings on all aspects of our defense posture. S. 428 passed the Senate on June 13; and after some delay in the other body, we began our conference on September 21.

Without any criticism, I pause to express regret that the situation was not such that we could get this bill moving in its customary way and have it finished and reported back in final agreement to this body very near July 1. It is necessary and needed greatly by the services and the Congress, for the administration of related matters including consideration by the Appropriations Committee and others.

But this has been a highly unusual year in many ways. It was preceded by a rather long but important supplemental bill for fiscal 1979, that contributed somewhat to the delay.

After the House bill was passed, the conferees met for six sessions, during more than a month, to work out the differences between the Senate and the House versions. These things are passed by readily sometimes; but there are well over 1,000 line items in this bill as assorted language items—far too many. Many times we had 200 or more differences in conference that had to be ironed out.

I express the hope—and I believe it is the hope of all the other Members—that we can reduce the number of these amendments in some way. That applies with even more insistence with respect to appropriations items which carry out this program, because they really are out of order unless properly framed in a limited way. It is mighty easy to try to use that in the form of legislation.

When this conference report was presented yesterday, it was necessary to recommit it, as I have said. We met the technicality there by merely adding two words. That was with reference to Zimbabwe-Rhodesia, which relates to the matter of chrome. I am sure that our rules now are complied with, under this added language.

Mr. President, we believe that this is an excellent conference report when aimed at the mission it is supposed to serve. It authorizes a new *Nimitz*-class carrier and two nuclear attack submarines which will make an important contribution to improving the capability of our Navy. These are the most modern and powerful weapons of their kind that money can buy. There is no other weapon in their field that can come up to it.

It includes authorization of 705 new aircraft, missiles for all the services, and a total of 416 new tanks.

The bill also covers a number of important research and development programs, including $670 million for full-scale development of the crucial MX strategic program.

The conferees agreed on end strengths for our active duty forces and for the Reserve and the National Guard. They also agreed to a number of measures relating to active and Reserve manpower problems.

The total authorized are $27.8 billion for procurement, $13.5 billion for research and development, and $107 million for civil defense—for a total of $41.4 billion.

I wish to say a special word of thanks to all members of the committee who worked so diligently on this bill and particularly to the chairman and ranking minority members of our subcommittees who bear much of the load during the long process of analyzing each proposed program: The chairman of our Subcommittee on General Procurement (Mr. HARRY F. BYRD, JR.) and the ranking minority member of that subcommittee (Mr. GOLDWATER), the chairman of our Subcommittee on Manpower and Personnel (Mr. NUNN) and the ranking minority member of that subcommittee (Mr. JEPSEN), and the chairman of our Subcommittee on Research and Development (Mr. CULVER) and the ranking minority member of that subcommittee (Mr. WARNER).

Mr. President, I say a special word of thanks for the dedication, attention, and assistance of the new members of our committee. This is not an easy committee to get the full swing of and to get into a working position with reference to much of the subject matter. As a matter of fact, it takes years to get into the merits of a great deal of it.

This year vacancies came in our committee. They were filled with men of real outstanding caliber and capabilities who were willing to work and apply themselves, which they did diligently and contributed in a very fine way in working out these problems. Some are international policies related to almost everything under the Sun. They have done an unusual amount of work in these fields.

We had one bill that I know was very difficult to handle concerning the implementation of the Panama Canal Treaty. It was a very difficult situation which has been approved finally over strong objection. But more than one of the new members worked on that bill with great diligence. I requested the Senator from Michigan (Mr. LEVIN) to give it extra special time, which he did with outstanding ability and his usual perseverence and ability. He made a real contribution.

But in every field these so-called new men represent a great deal in this field of military service and military administration. A former Secretary of the Navy is included in the group, as an illustration. They really worked and contributed to the measure here that will bear fruit for many, many years.

I am especially proud of the fine contribution of our committee staff director, Frank Sullivan and am grateful to him and the other staff members for their faithful and effective assistance. They are of untold value to the committee at every turn.

I have a great deal of faith in those in responsible positions in our military services. Also most of the members in the units of our Reserves and National Guard units are of a very high type and their work is very important indeed.

While I thank people I wish to thank especially the Senator from Texas (Mr. TOWER), the ranking minority member of our committee. He is a member of our committee well versed in military affairs. He has been an active participant for years on the committee, well versed in world affairs and related subjects and policies. He has his preferences, of course, and he has a spirit of perseverance, I will call it, but determination, also. He is worth a lot to the committee, and he is always easy and pleasant to deal with.

I do want to mention one thing. The total budget for the military is much more than that covered by this bill. This is what we call the hardware bill and deals with a lot of the policy matters.

The appropriation bill that we are going to meet on in the morning is going to have $130-odd billion. The spending of that money, the procurement, the contracts, the day-to-day administration of that money and its expenditures is an outstanding example where the Government is going to have to adopt a more frugal attitude and record of simply making a dollar go as far as possible.

It is an art that has been partly lost. It has not been practiced with insistence as in former days of our great Nation. And we can theorize and talk about balancing the budget, trying to kill off inflation, or stop inflation, all we wish to, but I do not think anything permanent, lasting, and effective is going to be done until we also go back and relearn the way to spend the money that the Government spends with frugality and with an application to the high standards of competence that should apply. Until we do that, a great number of the people and their affairs are not going to have a pattern of frugality in related matters. When the Government does do it, then a great number of people will be willing to and will follow that pattern

So, the question naturally comes to mind. Why do you not do something about it and do more about it? The committee does try, and a lot of these men in the services try. Not all maybe, but many do. The civilian appointees try, but they have a very difficult job. It is very difficult to be a Secretary of the services or one of the many Assistant Secretaries of the Department of Defense and of the services. By the nature of the matter they do not serve for very long periods of time; I do not mean they are discharged, but by the nature of it and the way our Government operates they do not stay in place too long, and that leaves them less effective. But we have to try harder. I think the administration, all administrations are making some effort along that line. The very fine highly competent people that come here to serve deserve a great deal of credit for the contribution they make.

I am thinking there in terms of letting these contracts and following them up and seeing that the money that is paid out under them is earned and good business practices are followed.

There is another thing. When we turn these bills in, I am one that firmly believes that the weak part refers to the manpower. That does not relate to all the individuals, nor to all of the units by any means. We have some that are very fine. We have many men and women that are highly superior. Conditions are grave within our services, some more than others, because of the growing inability of being able to find enough competent people who have the talent, know-how, dedication, and willingness to work to make effective military units. You just do not have an A-1 military unit unless members thereof have been trained to know what discipline is, to accept discipline as part of their day's work, and to automatically follow in those courses.

I am not trying to lecture anyone, but I am highly conscious of a failure in this field. I do not read it in books; I do not read it in papers. I see it. I am told these things by people who are in the services.

We are now making some headway in Congress. We are trying to get this message over to the people. We are trying to not just go to a dogmatic Selective Service Act. We are trying to get conditions where we will have a fair and properly administered Selective Service Act that will insure that the services have the needed personnel who are properly trained.

There I want to mention again—and I will not take any more time after that—that we have a great number of highly trained, talented men and women in our services, in our Reserves, and in the National Guard. Many of these people have rendered services for 1 year or 2 years or 3 years or 4 years, and even during wartime. Then have come back to their home communities and have some liking for the military and have a talent in that field. They do not see fit to make it a career, so here are these service units at the local level and led by local people, with talent, competence,

and experience. They are actually making better records now than the Regular services are in many fields, and that is an encouraging situation.

If it was left to me, I would assign them more duties and provide them more money and make corresponding reduction than in the Regular services. Let us try that a while, not in the extreme degree. I believe that will be one of the general directions we will develop over the years, that being a more active, better trained, better supported, better equipped Reserve unit, and I commend these people. They serve at a considerable sacrifice, a lot of them, and we are failing to get these units filled up with new members which are so important.

So, Mr. President, I will not take any more time of the Senate. I hope the Senator from Texas and other members of our committee who can be on the floor will seek recognition here.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, there is very little I can add to the very fine and comprehensive presentation made by the distinguished chairman of the Armed Services Committee. I think he has described what the Congress has done, and has described its salient points as well as can be.

I would simply say that I believe the product of the conference has been one of the best authorization bills that we have produced in recent years, one that takes into consideration what our requirements are going to be over the next several years, and one that takes into consideration the deficiencies in our capability, of which we are growing more painfully aware each day.

It is a fact that the United States is inferior to the Soviet Union in terms of conventional capability, in terms of theater nuclear or Euro-strategic capability; that we cling to a rough equivalence in terms of strategic capability, and that we are likely to lose a tenuous margin of naval superiority in the next 5 to 10 years if we do not modernize our Navy at a more accelerated pace than is now the case.

We have taken some steps, some small steps, in this bill toward meeting these problems that confront us in our efforts to maintain an adequate posture of preparedness

It would be remiss of me if I failed to thank, with great profusion, my distinguished colleague from Mississippi for all the generous things he has said about me, which I can hardly believe are merited.

But I must say things about him that certainly are merited, and one of those is that it is a pleasure to work for and with a gentleman of his talent, a man of great conviction and dedication, and a man who always pursues a course of action he conceives to be right regardless of what the consequences may be to himself.

It has been a pleasure to work with Senator STENNIS over the years, and it has been a pleasure to share the work of the committee with him.

I would also like to second what he has to say about the new members of our committee. There are new members on both sides of the aisle. We do have two distinguished new Democrats on the committee who serve very well and who have taken on responsibilities beyond their years in the Senate.

I am particularly proud, however, of the four Republican freshmen who serve on the committee. Indeed, the majority of the Republican side of the aisle on the Committee on Armed Services is made up of freshmen Senators who serve with great distinction, who do their homework well, who are zealously attendant upon the meetings and the affairs of the committee, and who have discharged themselves like veterans. I am, therefore, delighted to have an opportunity to recognize the fine work they have done.

Mr. President, I urge the Senate to adopt the conference report. There is more than many of us would like to have done, but I think that, as a practical matter, we have done all we could in the two bills, the one of the House and the one of the Senate.

We have labored long and hard at this. If I might say, I think this year's conference was characterized by a great desire on the part of both the Members of the Senate and the House to come up with a bill that is best calculated to meet our needs over the next few years, and I think there was a minimum of partisan bickering and there was a minimum of self-serving activity in the conference this year, and I hope this has set an example for future conferences.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I want to say that I think the Committee on Armed Services is very fortunate in the leadership that it has, the leadership of the Senator from Mississippi (Mr. STENNIS) as chairman of the committee, and the leadership of the ranking Republican member of the committee, the Senator from Texas (Mr. TOWER).

The committee is fortunate, too, in having an excellent professional staff.

This conference report is a very important one. It provides for a new nuclear aircraft carrier; it provides for two attack submarines; it provides for 705 aircraft, new aircraft; and, of course, many missiles, tanks, and conventional arms of many types.

In regard to a new aircraft carrier, last year Congress approved such a carrier, and the President vetoed the legislation, and his veto was sustained in the House of Representatives.

Many of us felt that was a mistake, the veto that carried. This year the bill which the Senate is considering now contains a new nuclear carrier. That is a part of the conference report. It has received strong support in the House of Representatives and strong support in the Senate.

There was no question as to what the conferees would do in regard to this matter. And I think it is fair to say that the conferees, while not unanimous, were pretty close to being unanimous on the question of the new nuclear carrier.

I am hopeful that President Carter will this year realize the importance and the wisdom of going ahead with this new carrier program, and will approve the legislation which will be submitted to him very shortly.

Mr. President, this bill contains authorizations for approximately $41 billion for both procurement and for research and development.

To put that in perspective, the new obligational authority which will be approved this year for our defense purposes will total, in round figures, $142 billion. So that means, this bill being $41 billion, that less than 30 cents of each dollar will go for the combined purpose of research and development and the procurement of weapons systems. That is one of the great weaknesses, as I see it, of our defense program, that such a high percentage of the total funds will go for personnel costs and for maintenance and operational costs and such a relatively small percentage is available for new weapons systems and for research and development.

Before dealing with another phase of the conference report, I want to say, as a Virginian, that I am very pleased that my colleague for Virginia (Mr. WARNER) is a member of the Armed Services Committee. Senator WARNER took a very active and persuasive role in having included in this legislation a new *Nimitz* nuclear aircraft carrier and two new attack submarines. As his colleague representing the same State, I am very pleased that we are serving side-by-side on this committee.

Mr. President, another phase of the conference report deals with the question of sanctions against Rhodesia. That is section 818 of the conference report. Many of us felt that Congress should mandate the lifting of sanctions against Zimbabwe-Rhodesia. Others felt that this was not the bill on which the President should be mandated to lift the sanctions.

What has been worked out is, I think, of considerable significance, so I want to read section 818. The way it was finally drafted by the conferees in the second conference is this:

> It is the sense of the Congress that the United States should have unlimited access to strategic and critical materials which are vital to the defense and security of the United States and that every effort should be made to remove artificial impediments against the importation of such materials into the United States from Zimbabwe-Rhodesia.

The first conference report did not include those last three words. As a result of the perseverance of the Senator from North Carolina (Mr. HELMS), the first conference report was sent back to the committee of conference. A conference was then held a second time yesterday afternoon and it was in that conference that the conferees agreed to add the three additional words at the

end of that section: "from Zimbabwe-Rhodesia."

I think that has significance because it says clearly to the American people that the Congress feels that the President should lift economic sanctions against Zimbabwe-Rhodesia. I hope that the President will act quickly to do this.

I realize that there are certain individuals, whom I believe to be extremists, in the State Department, who seem determined to force upon the new government in Rhodesia the Marxist-terrorist guerrillas who have caused such disruption in that country over a long period of time. Hopefully something worthwhile will be worked out in England at an early date. But if it is not, I think and hope that the President will accept the views of Congress and will lift the sanctions which were imposed unilaterally by President Johnson many years ago.

This section, which is now a part of the conference report which will be voted on today, clearly states it to be the sense of Congress that the President should act because Rhodesia contains many critical materials, especially chrome, that are important to the defense of the United States.

Incidentally, in regard to chrome, there are only three areas in the world where there is any appreciable or significant supply of chrome, and they are Rhodesia, South Africa, and the Soviet Union. Not having access to Rhodesia makes the United States more dependent, then, on Russia for this vital war material.

Mr. President, I support this conference report. I think it is a good conference report. I think the provisions that it has for weapons systems are good provisions, and I am particularly pleased that the aircraft carrier has been included. I think it is of significance that the conferees yesterday added the words "Zimbabwe-Rhodesia" to make clear that the Congress feels that these sanctions should be removed at the earliest possible time from that country.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HELMS. Mr. President, first of all I want to pay my respects to the distinguished members of the Armed Services Committee. As a former member of that great committee, I am particularly gratified with many aspects of the results of their work. I particularly extend my gratitude to the chairman, my former boss, Senator STENNIS, of Mississippi, who has been so patient with me with regard to the Zimbabwe-Rhodesia matter; and to my friend from Texas, the ranking Republican (Mr. TOWER), as well.

I certainly agree with the statements which have been made about the members of the committee, particularly the freshmen, such as Mr. WARNER, from Virginia, and others.

Mr. President, the Senator from North Carolina is exceedingly gratified to read in the revised conference report section 818, that the conferees have taken note of the critical need of the United States to regain access to the strategic and critical materials which exist in Zimbabwe-Rhodesia.

This is a subject to which the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) has devoted his energies and his considerable talents for many, many years, long prior to my arrival in the Senate. He has done an outstanding job. Since I have come to Washington and to the Senate it has been my privilege to work with him.

With respect to this conference report, section 818, by adding the words "from Zimbabwe-Rhodesia" the conference has made it impossible to overlook the crucial point, namely, that Zimbabwe-Rhodesia is the only country in the world where artificial restrictions are preventing the United States from obtaining a dependable supply of materials which are so critical to our national defense.

Mr. President, the approval of this report will make the third time that Congress as a whole has gone on record in support of the removal of sanctions against Zimbabwe-Rhodesia.

First, there was the Case-Javits amendment. Then came the Helms amendment. And now the Byrd amendment.

There are some spokesmen in the House who claim that the House of Representatives does not support the removal of sanctions, but they have been proved wrong two times and, with the approval of this conference report, they will have been proved wrong the third time.

Mr. President, I think it is also important to note the timing of this action. It comes at a critical moment in the London talks when the Government of Zimbabwe-Rhodesia has made important concessions.

As I discussed on this floor yesterday, Mrs. Thatcher has written to me that she wants to lift sanctions, "as soon as possible."

And yesterday, Lord Carrington announced plans to ease currency restrictions.

Mr. President, this action today by Congress will greatly assist a successful resolution of the London conference by sending the Muzorewa government a signal that the Congress of the United States has not forgotten efforts to achieve peace and security for the nation of Zimbabwe-Rhodesia, and, in particular, this should be a gratifying development for Bishop Muzorewa, the Prime Minister of Zimbabwe-Rhodesia, a fine man whom I was proud to host in this country earlier this year.

It need hardly be pointed out, Mr. President, that the survival of the Muzorewa government at this crucial time is a matter of essential security to the United States.

Zimbabwe-Rhodesia is not just some abstract piece of geography on the other side of the world. It is important to this Nation in terms of our national defense. If Zimbabwe-Rhodesia should collapse into chaos, then the line for the defense of freedom would move back from the Zambezi River to the Limpopo. South Africa itself would be open to subversion and to Soviet pressures. As my colleagues well understand, Zimbabwe and South Africa are the sources of an astounding array of critical and strategic materials that are essential to our economic and military survival.

I would also remind Senators that as a result of the amendment I sponsored, and which was approved when the Senate passed the State Department authorization bill, the President of the United States must make a decision on November 15 as to whether or not to extend sanctions. He must do it.

As I have already pointed out, Congress has repeatedly gone on record in favor of lifting sanctions.

So here we are today, about 3 weeks before that decision, and Congress is once more saying to the President of the United States, "Every effort should be made to remove artificial impediments against the importation of such materials into the United States from Zimbabwe-Rhodesia."

The least that Congress can do, is to expect the President to "make every effort." For if he does not lift sanctions, then Congress, under the expedited procedures set by the Helms amendment, is required within 30 days to decide whether or not to rescind the President's decision.

I do not know what the President will decide. There are at least three options that would be helpful. He could lift sanctions on strategic materials only. He could lift sanctions completely. He could extend recognition to Zimbabwe-Rhodesia.

However, whatever he decides to do, he now knows that Congress is maintaining its interest in this issue and will be watching very closely to see what he does.

Again, Mr. President, I compliment the distinguished chairman and the ranking Republican on the Armed Services Committee and the able members of that committee. In particular, I want to thank my dear friend from the State of Virginia, Senator HARRY F. BYRD, JR., for the great work he has done in this cause. I support the conference report.

Mr. President, today's Washington Star carries an article entitled "Conferees Back Lifting of Rhodesia Sanctions," which gives a good account of the action leading up to our debate here today.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONFEREES BACK LIFTING OF RHODESIA SANCTIONS

(By Lance Gay)

House and Senate conferees yesterday agreed to new language on a non-binding "sense of Congress" resolution asking the Carter administration to lift economic sanctions against Zimbabwe Rhodesia.

The language was agreed to in an hour-long closed-door session of the House and Senate armed services committees.

The Carter administration, which had fought any move to turn the resolution into a binding law, said it could live with the proposal as it is now written.

Yesterday's skirmish came over language attached to military appropriations legislation that contains funding for a new *Nimitz*-class nuclear carrier and a vast array of submarines, missiles, tanks and other weapons.

The Senate earlier this year voted to end sanctions against Rhodesia, but the House refrained from attaching any specific provision to the military bill.

Earlier this month, the conferees had agreed to include non-specific language on the Rhodesia issue in the measure, thus skirting the problem. But they were forced to include the specific language in the measure yesterday after Sen. Jesse Helms, R-N.C., threatened to raise a parliamentary point and launch a floor fight to get a binding amendment attached to the measure.

Helms said the legal government of Zimbabwe Rhodesia has made major concession "to rebel forces" in the current London peace conference and the continuation of sanctions against the importation of Rhodesian chromium and other materials makes no sense.

"It's time to get this over with and let Zimbabwe Rhodesia resolve it themselves," Helms said. "Why should we wait? Salisbury needs a signal that they can proceed to rebuild their economy and get this over with . . . This is tampering and meddling with another country's future."

Sen. Paul Tsongas, D-Mass., said a move by the United States to lift sanctions now would send the wrong signal to the parties at the London conference and stymie British efforts to encourage a peace agreement between the government, headed by Bishop Abel Muzorewa, and the Patriotic Front.

The State Department opposed Helms attempt to get a tough amendment out of the Armed Services committees. J. Brian Atwood, assistant secretary of state for congressional relations, told committee members in a letter yesterday that the administration opposes "any further congressional action which would restrict its position with respect to sanctions against Rhodesia."

Mr. THURMOND. Mr. President, I rise in support of the fiscal year 1980 defense authorization conference report, which in my judgment, is one of the stronger defense bills to be considered by the Senate in recent years.

This bill authorizes expenditures of $41.3 billion, $1.2 billion above that recommended by President Carter. It contains a nuclear aircraft carrier, an additional submarine, and additional tactical aircraft, all long overdue and essential to our defense posture. Although it is an improvement over previous defense bills, I still feel it is inadequate to meet the Soviet threat.

NO VETO EXPECTED

The Senate may recall that last year we added the nuclear aircraft carrier, only to see the bill vetoed by the President. It is our understanding that the President will not veto the nuclear carrier again.

In my judgment, the earlier Senate position to build a 20-year-old *Kennedy*-class oil-fired carrier was a mistake. The *Nimitz*-class nuclear carrier has much greater operational capability, and its reactors can propel the ship for 13 years without refueling. Furthermore, the Nation would save about 620 million gallons of oil which the *Kennedy*-class carrier would have required.

SECOND ATTACK SUB

In addition, the conference accepted the House position of two nuclear attack submarines, instead of the one requested by the administration. We must begin building 2 to 3 attack submarines annually if we are to maintain our minimum force level of 90 attack submarines. I urge that the administration increase this procurement level in the fiscal year 1981 budget, which the Senate has supported, by endorsing a level of 5-percent real growth increase over this year.

The Soviets have been outbuilding the United States by 3 to 1 in submarines for the past few years, and if we are to control the sealanes over which so many vital materials travel, we must increase this building rate.

INCREASED PLANE BUY

In the aircraft account the conference insisted on procurement of a number of needed aircraft which were not included in the administration budget. These included 12 A-7K aircraft, which are two-seat trainers for the Air National Guard; 6 Navy A-6E aircraft, which are our only all-night, all-weather attack planes; C-130 transport aircraft and AH-1S helicopters for the Guard and C-12A transport planes for the Army. In addition, we increased the buy of the Navy's F-18 and F-14 fighters. These increased rates of procurement are necessary to our force structure, and will enable us to buy the aircraft at a lower cost.

Another major add-on by the conference was the decision to continue procurement of the MARK-48 torpedo. My amendment to add $75 million to buy 144 MARK-48's in fiscal year 1980 was accepted by the conference, and will enable us to maintain a needed quantity of these weapons further out into the 1980's.

TANK AND MISSILE PROGRAMS

The conference also approved procurement of 351 XM-1 tanks, the new battle tank, as well as 64 of the new model of M-60 tanks. In this area we provided $14.2 million for an advanced diesel tank engine, to assure against failure of the turbine engine. Procurement was also allowed on the Roland low-level air defense missile system, and the Patriot high-level air defense system.

STRATEGIC PROGRAMS

Of great importance, Mr. President, the conference allowed the full funding requested for the cruise missile and MX missile programs. I feel these programs have not been expedited enough in past years, but hopefully the administration is getting the message that Congress is determined to modernize our strategic forces rapidly.

This bill also contains $13.5 billion for research, development, test and evaluation. In this account we have the unique situation where the conference approved testing and evaluation of a low-cost close air support plane developed by private industry. I have reference to the Enforcer aircraft, which is a small, heavily armored plane with a turbo-prop jet engine. It can operate off forward fields, perform at speeds slower and faster than the A-10 and carry the same payload from these forward fields. If this concept tests out favorably, we could greatly expand our support of ground troops in NATO at one-sixth the cost we are now paying.

Mr. President, this bill obviously contains many other programs. It is a compromise bill on which the House and the Senate worked out strong differences. Although there were some decisions in the conference with which I did not agree, on balance I believe it is one of the stronger bills we have fashioned in a number of years, and I urge it be approved by the Senate.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Virginia.

Mr. WARNER. Mr. President, I yield to the distinguished Senator from Massachusetts.

Mr. TSONGAS. Mr. President, let me extend my appreciation to the committee for the action taken yesterday in the conference. It is clear that the committee is sensitive to what has happened in London and sensitive to the progress being made today. However, there are not too many people here to acknowledge what has taken place. I would submit, however, that the conference, and its willingness to adopt language that gives peace a chance, as they say, will be remembered as one of the most significant things we have done in terms of the world order.

I have just one comment. That is that noted earlier was the success of the Mozurewa government in Zimbabwe-Rhodesia to American national interests. I would suggest that is not the case. What is in our national interest is a peaceful revolution in Zimbabwe-Rhodesia that includes all the parties, that does not end in violence and bloodshed, and that does not provide entry to the Soviets who at this point are waiting in the wings.

I will read from the letter of Mrs. Thatcher sent to the Senator from North Carolina in which she says:

> What Rhodesians need above all is a settlement which will bring them international acceptance. They are looking to the Conference to achieve this.

That is exactly what our language does. It looks to the London conference to achieve that equilibrium.

She goes on to say:

> But we are determined to bring about a solution which will bring Rhodesia to legal independence and enable us and others to lift sanctions with the widest possible international acceptance. I am confident that we are making progress in that direction.

I endorse those sentiments and I congratulate the Senator from Mississippi and the Senator from Texas on their leadership in this proposal.

I yield back the remainder of my time.

Mr. WARNER. Mr. President, may I ask my distinguished colleague from Massachusetts if he will insert Mrs. Thatcher's letter in its entirety into the RECORD? I think it is important that that be done.

Mr. TSONGAS. I say to the Senator that the letter is in yesterday's CONGRESSIONAL RECORD. Otherwise, I would have done that.

Mr. WARNER. Perhaps it would be wise—it is a short letter—in view of the fact that two excerpts were quoted today, that it be included.

Mr. TSONGAS. Fine, I shall do that.

I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE PRIME MINISTER,
10 Downing Street.

DEAR SENATOR HELMS: I was grateful for your letter of 12 September about Rhodesia. I am sorry not to have replied earlier, but I thought that before doing so it would be best to wait to judge the progress made in the Constitutional Conference.

As you know, I want to see sanctions against Rhodesia lifted as soon as possible. I am now confident that the Conference in which we are engaged will help us to achieve this aim. We regard adequate safeguards for the white minority as an essential part of the independence Constitution. We have provided for this in the constitutional proposals we have put forward. (I enclose a copy.) As you will know, Bishop Muzorewa has announced his acceptance in principle of our constitutional proposals.

What Rhodesians need above all is a settlement which will bring them international acceptance. They are looking to the Conference to achieve this: it would provide the strongest encouragement to them to remain in the country. We shall not allow anyone to exercise a veto over a settlement we believe to be fair and reasonable. But we are determined to bring about a solution which will bring Rhodesia to legal independence and enable us and others to lift sanctions with the widest possible international acceptance. I am confident that we are making progress in that direction.

Warm regards.

MARGARET THATCHER.

Mr. WARNER. Mr. President, I rise in behalf of the freshmen members of the Senate Committee on Armed Services to express our profound appreciation to the distinguished chairman from Mississippi and the ranking minority member from Texas. I think—I know—the freshmen have been treated with total equality and have had every opportunity to contribute to the work of this committee. I urge the Senate to accept this conference report.

I also want to take special note of the contributions by the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the distinguished Senator from North Carolina (Mr. HELMS) and the manner in which they exercised statesmanship and restraint yesterday on a subject that was very important to them; nevertheless, they recognized that the paramount importance was that the Senate proceed at the earliest possibility to the consideration of this bill.

Mr. President, I close my remarks with the observation that, in the coming fiscal year, one of the paramount responsibilities of the Armed Services Committee will be to examine the All-Volunteer Force and, indeed, the overall personnel programs of our military. We learned with considerable distress just recently that all the services failed this year to recruit the numbers of young men and women needed to fill their authorized strengths. Those of us who have the opportunity to serve on the Subcommittee for Manpower under the able leadership of Senator NUNN of Georgia will shortly be having hearings on this subject.

In my own personal opinion, four things are necessary to bring about a solution to our recruiting shortfalls. We have a responsibility to keep our Armed Forces up to strength, but we also have a responsibility to those men and women who serve our Nation on active duty. We are losing, right today, far too many well-trained, middle-career individuals, both enlisted and officers. They cannot be expected to continue to deprive their families and their lifestyles of the basics which they deserve and which their abilities would enable them to provide their families in the civilian economy. If we do not meet these minimum requirements, competition from free enterprise is such that they will be lured away from the services in ever increasing numbers.

Mr. President, I am, therefore, going to recommend, in the coming fiscal year, an across-the-board pay raise for all persons on active duty; secondly, that we increase the educational benefits for those young men and women who complete a term of enlistment in an honorable way; and, third, that we improve health care for all individuals on active duty and, indeed, those in the retired category as well. We cannot expect persons to consider the military as a career if, in fact, at the end of that career, they do not receive those entitlements that were promised as a part of the contract they undertook in good faith with the United States of America.

Last, Mr. President, I urge every single American in his or her own way to stop and pause and congratulate those who do honorably serve in the uniform of our country. A little word of encouragement very often is worth a great deal more than added pay and perquisites. Our service men and women deserve our respect and admiration—we should give it to them.

I thank the Chair. I yield back the floor to the distinguished chairman of the Committee on Armed Services, Mr. President.

Mr. STENNIS. Mr. President I did want to get the floor for just a few additional minutes. One reason was to thank with even more emphasis the Senator from Virginia (Mr. WARNER) for his active and willing service to our committee. He has an inexhaustible supply of energy. He works hard and knows the subject matter. He has been former Secretary of the Navy as I said, but he knew a lot about it before then. We thank him for his service.

Also, I heard part of what he said here about our personnel matters. Certainly, there is not a graver matter resting before the American people than this matter of what we are going to do about getting enough of the quality type people to make our military units effective. Our committee has been on it. I am not just bragging about them, but they do have an interest in a broad field of activity. These bills every year cover it.

We shall have the appropriation bill before the full Committee on Appropriations tomorrow, bottomed on this bill that we are passing. I am sure that we shall have it ready early next week to come to the floor. There will be good debate on that. I hope we can be prepared to take part in it, too.

We did not ask for a rollcall on this conference report. It is late in the afternoon. It has been so thoroughly debated here in the course of the year, and an opportunity is going to come on the appropriations bill, anyway, if anybody wants to challenge any of these matters.

Mr. WARNER. Will the Senator yield?

Mr. STENNIS. Yes, I yield.

Mr. WARNER. First, I want to thank the Senator for his thoughtful remarks on my behalf, but I say that, among the freshmen, the first prize for the year would go to Senator LEVIN, who took on that impossible task the chairman gave him on the Panama Canal legislation.

Mr. STENNIS. Surely that is true for what he gave, too, in doing that midnight work.

Mr. President, we shall not ask for a rollcall for the reasons I said. I see the Senator from Arizona over there. He is a valuable member of our committee.

● Mr. HATFIELD. Mr. President, passage of the 1979 defense authorization bill as reported will bring us one step closer to the much-despised military draft. While this old idea is dressed in a new package, it still reflects the involuntary servitude mentality that this body has suffered since we instituted the All-Volunteer Force in 1973.

I am referring, of course, to section 811 of the bill that requires the President to prepare and send to Congress a plan for fair and equitable reform of law providing for registration and induction into the Armed Forces. Mr. President, I cannot understand the necessity of such action, especially since the President already has the authority to reactivate the Selective Service System and launch a mass registration of our young people. A simple announcement from the President and some additional funding are all it takes to bring back registration. Furthermore, the President, the Secretary of Defense, and the Secretary of the Army have all stated publicly that they are satisfied with the progress of the volunteer system and oppose registration.

Nevertheless, Congress continues to force the President's hand by insisting that he conduct yet another study that usurps current manpower mobilization procedures.

In addition to the fact that this new study is unnecessary, the possibility of compiling a comprehensive report on our military manpower by January 15, 1980, is highly unlikely at best.

Mr. President, I strongly oppose this move on the part of the House and the armed services conferees to prolong the issue of registration and undermine the reputation of the All-Volunteer Force and I ask unanimous consent that an article I recently prepared on this subject entitled "The Case Against Peacetime Registration," be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CASE AGAINST PEACETIME REGISTRATION

The calls for a return to peacetime registration, the cornerstone of the draft, reflect the saber rattling of the Cold War era and have little relationship to our true defense requirements. Such action is expensive, inefficient, unnecessary and unfair. If the United States is not at war, there is absolutely no justification for a return to military conscription.

The same people who fought against ending the draft and opposed the All Volunteer Force are now trying to focus our attention on such issues as manpower for our active duty forces, the quality of person entering the armed forces, racial mix, our reserve strength, medical facilities and personnel, and the lack of infantry, armor and chemical warfare specialists. All of these are significant issues. However, they fail to address tremendous difficulties which would follow a return to peacetime registration, difficulties that in the Vietnam era threatened to tear apart the social fabric of the country.

Registration, classification and drafting are all totally alien to our American principles of freedom. The late Senator Robert Taft said: "Military conscription is far more typical of totalitarian nations than of democratic nations. It is absolutely opposed to the principles of individual liberty, which have always been considered part of American Democracy." It seems to me that the principles of which Senator Taft spoke are not only part of our democracy, but its very foundation.

And yet, looking over the record of criticism of those bent on returning to a compulsory draft, I find very few statements dealing with the basic assumptions of a peacetime military draft, its domestic and foreign implications, and, most importantly, its implications for the individual men and women in our society.

As a peace-professing country, we should consider the likelihood for domestic turmoil as well as the military aspects. Anyone who favors a return to registration and the draft should give careful thought to the kind of Presidential power such a system grants. A pool of eligible young people registered for the purpose of military service gives the Congress and the president of the United States unlimited and automatic person power. One need only to look back to the bloody years of Vietnam to be reminded of this horrible situation. If John F. Kennedy, Lyndon Johnson or Richard Nixon had employed their Vietnam War policy without the assistance of a draft, we could not have continued so long and lost so many Americans in the quicksand of Southeast Asia. With a huge manpower pool of potential conscripts it would be just as easy to slip into military action in Africa, Latin America, or the Persian Gulf. We should therefore avoid a situation that would encourage a "presidential war" or force our young people into making difficult decisions involving conscience, family responsibilities, and patriotism.

I am surprised at the refusal of so many draft proponents to address the issue of women and their probable role. Current Congressional activity in both Houses completely ignores the question. If your son is required to register for the draft, should your daughter have to register as well? If she should choose an Armed Forces career, should she have the same chance as men for the combat assignments which lead to promotion—or to being killed in action? The answers to these questions are difficult at best, but they must at least be confronted and dealt with. Ignoring or eliminating women from the registration requirement will undoubtedly result in constitutional challenges and court battles.

Alleged threats of manpower shortages are combined with assertions that the all-volunteer army isn't working.

The fact is the all-volunteer army is a success. A Pentagon report commissioned by Congress and released last December concludes:

"Since the end of the draft, the active forces have remained within 1.5% of Congressionally authorized levels. More importantly, the quality of those serving on active duty, as measured by the education levels of active duty personnel, and the average test scores of new recruits, has not declined as popularly believed but has markedly and steadily improved since the end of the draft."

Furthermore, compared to the Department of Defense's current requirement of the first inductions within 30 days after mobilization, a November, 1978, Congressional Budget Office study concludes that with a credible, effective post-mobilization plan, the Selective Service System could have the first inductee within 25 days of mobilization. This is wholly adequate to projected manpower needs. The Department of Defense has found no need for inductees until 30 days after mobilization.

The President and the Secretary of Defense, as well as the Secretary of the Army, have all rejected out of hand the prospect of a return to peacetime registration. This is particularly significant since the President has the power to reinstate registration at any time without the Congress forcing his hand.

Put into historical context, we survived and prospered for about 160 years of our 200 year life with a voluntary military system. When a genuine crisis of national security presents itself, the American people will respond as they did in the Revolution of 1776 or the attack on Pearl Harbor. In the two months following the outbreak of World War II, 300,000 Americans voluntarily enlisted. It is interesting that current defense manpower projections do not even include emergency volunteer response as a factor. This is an appalling oversight.

One of the war games the Pentagon plays, and often cites to substantiate its increasing manpower needs, is called "Nifty Nugget." In this projected exercise, conducted last fall, a surprise Soviet-backed "blitzkrieg" attack was assumed to take place in Europe which, in turn, touched off a conventional Warsaw Pact-NATO war. The Pentagon claims that this demonstrates the need for peacetime registration and that without it a draft could not be cranked up fast enough.

Before a scenario such as this can be taken for granted, however, it is essential to realize that it was engineered solely by the military establishment. In "Nifty Nugget," for example, 500,000 U.S. soldiers are killed or wounded in just six weeks of hypothetical combat. This massive death toll far surpasses the total of 55,000 dead and 300,000 wounded U.S. soldiers during the entire course of the Vietnam War.

Pro-draft forces have the audacity to advance the notion that a return to registration will somehow make nuclear war in Europe less likely by strengthening conventional forces. This is a dangerous exercise in self-delusion.

By the Department of Defense's own dangerous design, our war-fighting strategy in Europe envisions the possible use of thousands of tactical nuclear weapons as soon as the tide of battle turns against the allies. This would happen in days—not in the three months it would take to get the first registrant to Europe. The neutron bomb, for example, has been specifically designed to be used against Warsaw Pact conventional tank invasion early in the assault. Component production of that weapon continues. To again force involuntary servitude on the American public based principally on a drawn-out conventional conflict in Western Europe, flies directly in the face of our plans for defending the NATO allies.

The American people, the Congress and the military community should all have grave concerns about a return to peacetime registration. It is a practice that encourages involvement in regional conflicts and reflects a nation constantly braced for war.

Recruitment goals are being met and our Armed Forces increasingly constitute a representative cross-section of our society. Rising manpower costs, that can be controlled by better management and appropriate reforms, are no excuse for a new peacetime draft. A voluntary program of service is characteristic of the free and democratic republic that we enjoy and are striving to protect.

Those who serve in military organizations are certainly performing a duty to our country. But those who are teaching in our schools, building our cities and highways, providing medical services and farming our land are also providing equally vital contributions to our nation. By respecting the roles of Americans in and out of the service, and allowing them to operate in an atmosphere of freedom, we are twice armed against our enemies.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the conference report was adopted.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NAVAL PETROLEUM AND OIL SHALE RESERVES

Mr. STENNIS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3354.

The PRESIDING OFFICER (Mr. GLENN) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 3354) to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. STENNIS. Mr. President, this is a relatively small bill regarding certain naval oil resources.

I move that the Senate insist upon its amendment, agree to the request of the House for a conference, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. GLENN) appointed Mr. HART, Mr. JACKSON, Mr. CANNON, Mr. THURMOND and Mr. TOWER conferees on the part of the Senate.

Mr. STENNIS. I thank the Chair and I yield the floor.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The PRESIDING OFFICER. The Chair now lays before the Senate the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

Calendar No. 387, H.R. 4986, an act to amend the Federal Reserve Act to authorize the automatic transfer of funds, and so forth, and for other purposes.

The Senate resumed the consideration of the bill.

NAVAJO AND HOPI INDIANS RELOCATION AMENDMENTS ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 392 for the rest of this calendar day.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar Order No. 392 (S. 751), a bill relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Navajo and Hopi Indians Relocation Amendments Act of 1979".

SEC. 2. Paragraph (4) of section 5(a) of the Act of December 22, 1974 (88 Stat. 1714), is repealed.

SEC. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

"(c) The Secretary of the Interior shall take such action as may be necessary in order to assure the protection, until relocation, of the rights and property of individuals subject to relocation pursuant to this Act, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to subsection (d) of section 14 of this Act.

"(d) With respect to any individual subject to relocation, the Secretary of the Interior shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

"(e) During the pendency of litigation in the United States District Court for the District of Arizona brought pursuant to section 8 of this Act, including the case of Sekaquaptewa against MacDonald (74-842-P.C.T.-W.P.C.), any new use or development of the lands contained within those lands lying west of the Executive Order Reservation of December 16, 1882, and bounded on the north and south by westerly extensions to the reservation line of the northern and southern boundaries of said 1882 Executive Order Reservation and on the west by the Colorado and Little Colorado Rivers, shall be carried out only upon the written consent of the two tribes or upon the written approval of the Secretary: *Provided*, That if the Secretary approves such use or development over the objection of one of the tribes, that tribe may petition the district court having jurisdiction over the litigation for an order or orders prohibiting such use or development, including an order staying any such use until such matter is finally resolved by the court. In reaching a final decision regarding such petition the court shall consider the matter de novo to determine whether the proposed use or development would adversely affect the ultimate legal right of either tribe to partition based on use of land.".

SEC. 4. Section 11 of the Act of December 22, 1974, is amended by striking out all of subsection (b) and inserting in lieu thereof the following new subsections:

"(b) The Navajo-Hopi Relocation Commission is authorized to purchase or otherwise acquire, except by eminent domain, not to exceed two hundred thousand acres of land contiguous to, or adjacent and within six miles of, the Navajo Reservation for the benefit of the Navajo Tribe to facilitate relocation. Such lands shall be taken by the United States in trust for the Navajo Tribe and shall be a part of the Navajo Reservation.

"(c) The Commission shall have the authority to enter into negotiations with the Navajo and Hopi Tribes with a view to arranging and carrying out land exchanges or leases, or both, between such tribes, and lands which may be acquired by the Commission under subsection (b) of this section may, with Commission approval, be included in any land exchanges between the tribes authorized under section 8(c) or section 23 of this Act.".

SEC. 5. Section 12 of the Act of December 22, 1974, is amended by—

(1) inserting, in paragraph (1) of subsection (g), the phrase "an independent legal counsel," after the phrase "Executive Director,";

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal and housekeeping services."; and

(3) redesignating subsection (i) as subsection (j) and inserting new subsection (i) as follows:

"(i)(1) The Commission is authorized to call upon any department or agency of the United States to assist the Commission in implementing its relocation plan and completing relocation within the time required by law, except that the control over and responsibility for completing relocation shall remain in the Commission. In any case in which the Commission calls upon any such department or agency for assistance under this section, such department or agency shall provide any reasonable assistance so requested.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commission shall report such failure to the Congress.

SEC. 6. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting in lieu thereof the word "ninety".

SEC. 7. (a) Section 14(b)(1) of the Act of December 22, 1974 (88 Stat. 1712, 1718), is amended by deleting "$5,000" and inserting in lieu thereof "$10,000".

(b) Section 14(b)(2) of such Act is amended by deleting "$4,000" and inserting in lieu thereof "$8,000".

(c) Section 14(b)(3) of such Act is amended by deleting "$3,000" and inserting in lieu thereof "$6,000".

(d) Section 14(b)(4) of such Act is amended by deleting "$2,000" and inserting in lieu thereof "$4,000".

(e) Subsection (b) of section 14 is further amended by adding paragraph (5) at the end thereof as follows:

"(5) The amendment made to paragraph (1) of this subsection on the date of enactment of the Navajo and Hopi Indians Relocation Amendments Act of 1979 shall be applicable with respect to any head of a household who would have been entitled to the $10,000 payment under section 14(b)(1) of this Act but for the fact that such head relocated prior to the date of the enactment of the Navajo and Hopi Indians Relocation Amendments Act of 1979.".

SEC. 8. Section 14 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this Act, the Commission shall make available to an eligible applicant, on timely application as set forth in paragraph (3) of this subsection, a limited tenure of such land as the Commission determines necessary in order to avoid the necessity of relocating such applicant, and his or her spouse and dependents, if residing with such applicant. The Commission shall grant up to one hundred and sixty life estates and shall give first priority to disabled applicants. Second priority shall be awarded on the basis of age with the oldest applicants given preference over younger applicants and among such older applicants, first priority shall be given to those residing in the Big Mountain area. Such tenure shall consist of the right of use and occupancy of one hundred and fifty acres of land in order to enable such applicant to raise livestock not to exceed twenty-five sheep units per year or equivalent livestock. The Commission upon the issuance of a life estate shall fence the boundaries of lands assigned for use by the recipient of such life estates. The life estate tenure shall end by voluntary relinquishment, or at the death of the applicant or the death of the spouse of the applicant, whichever last occurs: *Provided*, That such survivorship rights shall apply only to those persons who were married on or before the date of the enactment of this subsection. Nothing in this Act or any other law shall preclude such applicant from making improvements within the area covered by such tenure.

"(2) As used in this subsection, the term—

"(A) 'eligible applicant' means, with respect to a Navajo or Hopi individual, an individual—

"(i) who on December 22, 1974, and continuously thereafter has maintained a place of abode, and has been actually domiciled therein, in an area from which such applicant, but for this subsection, would be required to relocate; and

"(ii) who on or before the date of enactment of this subsection was at least forty-five years of age, or who is found by the Commission to be mentally or physically disabled.

"(B) 'dependent' means—

"(i) those members of the applicant's household who derive more than one-half of their support from the applicant; or

"(ii) those relatives, members of the immediate family, or other persons who are necessarily and customarily present to provide for the care of the life estate applicant.

"(3) In any case in which a Navajo or Hopi individual believes that he or she can qualify as an eligible applicant (as defined by paragraph (2) of this subsection), such individual is authorized to file an application with the Commission requesting that he or she be granted a life estate in lands in accordance with this section. Such application shall be submitted in such manner, and contain such information as the Commission shall prescribe by regulation, such regulation to be promulgated by the Commission within ninety days of the enactment of this subsection. Such application must be filed on or before January 1, 1981: *Provided*, That in exceptional cases the Commission may accept later applications where necessary to avoid inequity or hardship.

"(4) Within ninety days following the date of the enactment of this subsection, the Secretary, in consultation with the Commission, shall promulgate such regulations as may be necessary to assure that in the case of a life estate granted pursuant to this subsection, no person may reside on the land covered by such life estate other than the applicant, his or her spouse, and the applicant's dependents, except that such regulations shall provide that in case of illness or disability persons necessary to attend upon and care for such applicant, spouse, or dependent may reside on such lands during such illness or disability. Such regulations shall further provide for the right of all residents and visitors to the lands covered by such life estate to have access thereto by use of all established roads or ways leading thereto.

"(5) The Secretary shall make available to applicants receiving a life estate under this subsection such assistance, during that tenure, as may be necessary to enable such applicant to feed and maintain that applicant's livestock at an adequate nutritional level. Within ninety days of enactment of this subsection, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this subsection.

"(6) Any eligible applicant, and his or her spouse and dependents, so living on the Navajo Reservation shall be subject to the jurisdiction of the Navajo Tribe, and any such eligible applicant, and his or her spouse and dependents, so living on the Hopi Reservation shall be subject to the jurisdiction of the Hopi Tribe, except that the land laws of the Navajo Tribe shall not be applicable to any tenure granted to a member of the Hopi Tribe, and the land laws of the Hopi Tribe shall not be applicable to any tenure granted to a member of the Navajo Tribe.

"(7) Nothing in this subsection shall be construed as prohibiting any such applicant who receives a life estate under this subsection from relinquishing, prior to its termination, such estate at any time and voluntarily relocating. Upon voluntary relinquishment of such estate, by such means or instrument as the Secretary of the Interior shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary comparable to those provided by section 15 of this Act. For life estates terminated by the death of the life tenant or his or her surviving spouse, compensation shall be paid to the estate of the deceased life tenant based on the fair market value of the habitation and improvements at the time of the expiration of such tenure and not before. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 15 of this Act. Assistance similar to section 15(b) of the Act shall be paid to the estate of such life tenant by the Secretary. Such compensation and assistance shall be paid and distributed in accordance with the last will and testament of the life tenant, or in the event no valid last will and testament is left, compensation shall be paid and distributed to his or her heirs in accordance with the laws of the tribe of which such life tenant is a member. Upon the termination of a life estate by whatever means, the dependents residing with the individuals having such life estate so terminated shall have ninety days following such termination within which to relocate.".

SEC. 9. Section 15 of the Act of December 22, 1974, is amended by adding at the end thereof a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law to the contrary, the Commission shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of this section to the head of each household of members of the Navajo Tribe who were evicted from district numbered 6 of the Hopi Indian Reservation in 1972: Provided, That such heads of households have not already received equivalent assistance from Federal agencies.".

SEC. 10. Section 16 of the Act of December 22, 1974, is amended by adding the following new subsections:

"(c) The Secretary is authorized and directed to receive, consider, and pay any claim received by him from the Navajo Tribe or Hopi Tribe for compensation for the reasonable rental value, losses or other expenses incurred by the tribe by reason of such life estates conferred by the Commission pursuant to section 14(d) of this Act. Such claims shall be submitted at such time, in such manner, and contain such information, as the Secretary may prescribe. Any payment made pursuant to a claim filed under this subsection shall be in lieu of rental payments from the tribes under subsections (a) and (b) of this section with respect to lands covered by such claim.

"(d)(1) In lieu of rental payments under the provisions of subsection (a), (b) or (c) of this section, the tribe upon whose reservation a life estate has been created may elect to accept compensation in lieu of lands out of the lands acquired by the Commission under section 11(b) of this Act. In any case in which a Navajo individual receives a life estate under this Act in lands of the Hopi Tribe, the Commission shall make available to the Hopi Tribe land of equivalent economic value out of the lands acquired for the Navajo under section 11(b) and shall permit the use of such land by the Hopi Tribe for a period ending upon the expiration of the ninety-day period following the termination of such life estate. Upon the expiration of such ninety-day period, the United States shall hold such land in trust for the benefit and use of the Navajo Tribe.

"(2) In the event a tribe elects to accept compensation in lieu of lands under this subsection, the Commission shall make diligent efforts to make such compensatory land available in consolidated parcels which will provide the greatest economic return.".

SEC. 11. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c)(1) Conservation practices, including grazing control and range restoration activities in the joint use area as required by subsection (a) of this section, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned, and all such grazing and range restoration matters on Navajo Reservation lands shall be administered by the Bureau of Indian Affairs, Navajo Area Office, and on Hopi Reservation lands shall be administered by the Bureau of Indian Affairs, Phoenix Area Office, under applicable laws and regulations.

"(2) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands partitioned pursuant to section 4 of this Act and within twelve months after a final order of partition with respect to any lands partitioned pursuant to section 8 of this Act.

"(3) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.".

SEC. 12. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein, the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within ninety days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those who actually relocate within such period.

SEC. 13. (a) Section 25(a)(4) of the Act of December 22, 1974, is amended to read as follows:

"(4) For the purpose of carrying out the provisions of section 14(b) for the period prior to October 1, 1980, there is authorized to be appropriated not to exceed $5,500,000. For the purposes of carrying out such provisions for the period commencing October 1, 1980, there is authorized to be appropriated an additional amount of not to exceed $10,500,000."

(b) Section 25(a)(5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96-40), is further amended by striking the figure $1,000,000" and inserting, in lieu thereof, the figure "$5,000,000": Provided, That no new budget authority for fiscal year 1980 is authorized to be appropriated.

(c) Section 25(a) of the Act of December 22, 1974, is further amended by adding at the end thereof the following new subsections:

"(7) For the fiscal year beginning October 1, 1980, and for each of the two next following fiscal years, there is authorized to be appropriated such sum, not to exceed $1,000,000, as may be necessary to carry out the provisions of subsection (c) of section 16 of this Act.

"(8) For the fiscal year beginning October 1, 1980, there is authorized to be appropriated such sum, not to exceed $350,000, as may be necessary to carry out the provisions of subsection (d)(5) of section 14 of this Act. For the fiscal year beginning October 1, 1981, and the next following fiscal year, there is authorized to be appropriated for each such fiscal year such sum, not to exceed $600,000, as may be necessary to carry out such provisions.

"(9) For the purpose of carrying out the provisions of subsection (b) of section 11 of this Act, there are authorized to be appropriated, for the period beginning October 1, 1980, such sums not to exceed, in the aggregate, $31,250,000, as may be necessary.".

SEC. 14. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"SEC. 27. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe, and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this Act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs, and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, or judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

"Sec. 28. The Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection, to the funding and construction of the Hopi high school and a Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.".

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, S. 751 is a bill to provide needed amendments for the Navajo and Hopi Land Settlement and Relocation Act which was passed in a previous Congress.

We have dealt in this country for many decades, almost 100 years, with the question of the proper assignment of the reservation for the Hopi Indians. In fact, it was in 1882 that President Chester A. Arthur set aside, through an Executive order, a reservation for the Hopi Indians where they had lived for several centuries, but he included in that Executive order the language:

"Such other Indians as the Secretary of the Interior may see fit to settle thereon" in lands lying west of the then existing Navajo Reservation in northeast Arizona. Over the years the population of the Navajo expanded and their traditional lifestyle of grazing sheep caused their migration to most parts of the 1882 Hopi Reservation and surrounding areas.

In 1943, the entire 1882 Hopi Reservation was surrounded by the present Navajo Reservation. The Department of the Interior set aside grazing district No. 6 lying entirely within the 1882 reservation for the exclusive use of the Hopi Tribe. Title to the surrounding land up to the borders of the 1882 Executive Order Reservation was left uncertain. In 1962, in the case of *Healing* v. *Jones*, the U.S. District Court determined that this land was held jointly and equally by the two tribes.

In its decision, the court determined that even though the Government did not have and officially settled Navajos on the 1882 reservation, a 1931 Department of the Interior internal communication had this effect. Thus, the court found that while the Department of the Interior had not directly and officially settled Navajos on the 1882 lands, it had done so by implication, indirection and neglect.

This eventually led to a very strained situation between the two tribes. The Navajo were much greater in numbers and the Hopi were very much the minority.

Finally, Congress sought to rectify this strained situation by passing the act of December 22, 1974. Among other things, the act set up the Navajo and Hopi Indian Relocation Commission.

Since 1974, the efforts of the Commission have not been entirely successful in drawing the boundaries between where the Navajos could live and the Hopis could reside.

It is because of this that we are faced today here in Congress with amendments to that act of 1974. While it has become apparent to us in the last few days that the administration opposes the key sections in the bill before us, S. 751, it should be noted by all Members of the Senate that we are doing this to resolve problems. We are seeking compromises between the two tribes. The Relocation Commission has sought these types of compromises. The fact that the administration opposes the key parts of S. 751 should not in any way delay the passage of this bill. It is sorely needed.

We recognize that when we ask Navajo families to move off land they have, in many cases, resided on for several generations, it, indeed, does impose hardships. The families have to have land on which they can relocate.

The Commission found itself in a position where it could not adequately handle the relocation of Navajo families. The amendments we have placed in the bill will correct that situation. They will provide more incentives for the Navajo families to move and will provide lands to be acquired by the Commission for those families to live on.

I think it is fair to say that these amendments to the Relocation Act of 1974 which are embodied in S. 751 do not completely satisfy either tribe. Within the spirit of compromise, we have arrived at what we think is the most equitable settlement under all the conditions that were presented to us.

We hope the Senate will agree to S. 751 and that final decision in the conference will be agreed to by both the House and the Senate. The House is working on a companion bill with several differences, and we hope we can resolve those differences in conference and that, when presented to the President, the bill will receive his signature so that it can become law.

Without these agreements, these compromises, we will have continual strife between the two tribes. These are equitable settlements, so far as the committee can tell, and I recommend them to the Senate.

Mr. GOLDWATER. Mr. President, I congratulate and thank Senator MELCHER for his outstanding work on this problem, which has involved two Indian tribes in my State for a hundred years.

I have lived intimately close with this problem. I was a Navajo Indian trader, and I have lived among the Hopi Indians. I sided with the Hopi in this case because they are a much smaller tribe. The Navajo Tribe is the largest tribe in the United States, constituting about 20 percent of all the Indians we have in the continental United States.

The Hopi have lived on their mesas and in their villages more than 2,500 years, in northern Arizona; and while the Navajo are latecomers, judging time in that frame, having arrived about 450 years ago, they did have treaty lands created by the United States in 1868 which were a few miles to the east of the land we are talking about.

The 1882 lands set aside for the use of the Hopi Indians contained this language:

For the use of the Hopi Indians and other tribes.

That is where we got into trouble. Why that language is there, none of us knows, and we never will know, but it is there.

As the Navajo Tribe began to grow and grow and grow from 1868, when it was down to about 6,000 people, to today—they comprise a tribe of about 160,000 people, living mostly in Arizona, as well as Utah, a little in Colorado, and New Mexico—they had to branch out.

That reservation, which originally was 1,500 acres in size, is now 16 million acres. It is larger than many States east of the Mississippi.

Mr. President, the problem that really brought this to a head was that in 1974, when the bill was on the floor and it was obvious that it was going to pass, an amendment nobody knew about was suddenly brought up on the floor. It involved what we call the Moenkopi Indians of the Navajo Tribe. These are the people who live on what we call Big Mountain. These Navajos have lived there, as an entity, probably longer than the Navajos have lived in any other one place. I would say there might be 200 of them, if we could count them all. They are mostly older people. It is on Hopi tribal land.

To show how well the Hopis have accepted them, the Indian trading post that supplies the Navajo, located on the Hopi reservation, is licensed by the Navajo Tribe, approved by the Hopi Tribe. These are the Indians who were going to suffer because of an amendment that was submitted at the last minute, about which we knew nothing. Former Senator Fannin and I argued that this was a wrong amendment, that it involved people who were entitled to live where they were living, and that we did not want to see anything happen to it.

As a result of that, the Relocation Commission got into a terrific argument with the chief of the Hopis and the head of the Navajo Tribal Council, and once again it went to court; and once again, as four times before, the court ruled in favor of the Hopi, but the Navajo did not pay any attention to the ruling.

So this bill, written with the great help of my junior colleague, Senator DECONCINI, whose knowledge of the Indian problem there is as great as mine, is a bill which, although it is not completely acceptable to everybody involved, as Senator MELCHER has said, at least will end this 100-year-old argument and will give the Commission and the Government some guidelines and some roads down which to travel in order to bring this squabble to an end.

Mr. President, I do not care to comment any further on this matter, except to say thank God we now have a vehicle to climb on which will take us to the end of an argument that is causing great concern among both people—one tribe, a very old, very sedate, very conservative group of people who literally live in the past, who retain their same dress, their same religious customs, and everything about them is as it was thousands of years ago. They speak a very, very difficult language and do not particularly care for the company of the white man, but they do get along with their brother Indians.

The Navajo, on the other hand, are a very, very progressive tribe. They have excellent leadership, even though the leadership and I have disagreed rather vehemently in politics. They do have a good tribal government, good law, are well policed. Their young people are going to school in increasing numbers. I

think I can say now that we have more than 1,000 graduates in the two tribes with master's degrees and probably close to 50 with their doctorate degrees.

So we are dealing with two tribes, one of which is perfectly happy living as they have for 3,000 years, and the other tribe anxious to get going. I think that with their leadership and with the industry that is coming to their part of the reservation, we will see that.

So I urge that we accept this bill. Again, I thank my junior colleague from Arizona, Senator DECONCINI, and Senator MELCHER for the great work they have done on this matter. They have actually given us something that none of us thought we would ever see.

Mr. DECONCINI. Mr. President, I extend my compliments to my distinguished colleague from Arizona. He has been involved in this much longer than I.

I assure my senior colleague that in the course of venturing into this effort when I came to this body, it never was the intent to cast any criticism on the fine work accomplished by the senior Senator from Arizona and by our mutual good friend, former Senator Fannin. During the almost 3 years I have been in the Senate, I have come to realize what a struggle this problem has been.

Indeed, Senator MELCHER has approached it in that way of taking a serious look at trying to find equities and to try to do what is least harmful to the least amount of people.

I thank the Senator from Arizona for his cooperation and his staff for continuously working on it.

I might add that this bill is no panacea. It has been considerably compromised since I first introduced it as S. 1714 in the 95th Congress. Hopefully it will help to reduce the anxiety and other adverse impacts that have been thrust upon some of the people in this particular area.

It is of interest to me to know the history that I have learned from my senior colleague and also from my own research and visit in the area that we are talking about in northern Arizona.

I hope that with enactment of this bill we can demonstrate to our brothers living in the particular area, the joint-use area, that our efforts here are not to dictate and to mandate things that are unreasonable, but that we are only human beings and that we struggle with good intentions to find solutions to problems that have lasted for hundreds of years. In doing so man indeed is fallible. We do make mistakes.

I think the purpose of S. 751 is a corrective measure, fine-tuning, if you like to use that word, to try to bring a little bit or more equity to the particular Public Law 93-531.

Mr. President, this bill, S. 751, will modify Public Law 93-531, the Navajo-Hopi Settlement Act, which was designed to resolve the Navajo-Hopi joint-use land dispute.

The intent of the law, Public Law 93-531, to resolve a century-old land dispute is admirable. However, since enactment, problems have arisen that could thwart implementation of this law. The dilemma is that the Federal agency responsible for relocating those Navajo and Hopi Indians who must move has not been able to identify suitable sites for relocation. Quite a few voluntary relocatees have been moved to urban areas, such as Gallop and Flagstaff—a significant number of these relocatees have experienced difficulties in their new environment. Further, those potential relocatees presently living on the Hopi side of the partition are the most traditional of all the Navajos—many have no skills that would allow them to become productive members of an urban population—to move them to such an environment would be disastrous.

The Senate Committee on Interior and Insular Affairs, in its report which accompanied H.R. 10337, as amended, now Public Law 93-531, recognized the serious impact relocation would have if not handled properly:

The Committee believes it vitally important, that the plan take into account all social, economic, cultural and other adverse impacts of relocation on persons involved in the relocation and be developed to avoid or minimize, to the extent possible, such impacts. The plan must also identify the sites to which such households are to be relocated and assure that housing and related community facilities are available at the relocation sites. The Committee believes this requirement is particularly important in effecting the purpose of minimizing the adverse impacts of relocation.

In view of the fact that proper sites have not been found for most of the relocatees, the committee's intent of "minimizing the adverse impacts of relocation" will not be fulfilled unless the law is amended. I would go one step further and say that if the law is not amended, relocation will, in all probability, not take place.

The Navajos residing on the former joint-use area, awaiting relocation, have lived there for decades. Their ancestors are buried on the land that the relocatees know as their only home. I have visited the former joint-use area and talked with many of those who will be required to relocate. This personal contact has further convinced me that the Congress has no choice but to help these people.

This bill is no panacea—it has been considerably compromised since I first introduced it as S. 1714 in the 95th Congress—but hopefully it will help to reduce the anxiety and other adverse impacts that have been thrust upon these Navajo people. The bill contains two major provisions to accomplish these goals. First, it will provide life estates for 160 families with older heads of households—thus, those most adversely affected by relocation will not have to move. Second, it provides the Navajo-Hopi Indian Relocation Commission with the authority to purchase up to 200,000 acres of private land for relocation purposes—thus, those having to relocate will know where their new home will be and will be able, to some extent, to continue their traditional life style.

Mr. President, S. 751 will provide for a more humane relocation than is called for in present law. I urge my colleagues to support it.

I join with my senior colleague in thanking the chairman of the Select Committee on Indian Affairs for his willingness to sit through several days of hearings, for his willingness to sit through several days of markup, to work with Senator GOLDWATER and myself and members of the respective tribes and the people to put this together.

I also thank the staff of the select committee for the many hours, including John Mulkey, assigned to me for this purpose, the many, many hours of work that has been put into this. People will consider this an inconsequential piece of legislation, of no real importance, but when you look into the people's eyes that have to live with laws that we pass some 2,200 miles away, and they indicate that there are problems with the laws, and there may be problems even with this, you realize that it takes a lot of time to learn a subject and try to do what is in the best interest.

I urge the adoption of the legislation and again thanks to the chairman of the committee.

Mr. MELCHER. Mr. President, I point out to the Senate that the bill was introduced several months ago. The bill whose number we are retaining is Senator DECONCINI's bill, S. 751. A similar bill, S. 1077, introduced by Senator GOLDWATER in May of this year, was considered along with S. 751, and we reconciled the two bills.

In reporting out the bill by unanimous vote, on September 26, we felt that any objections that the administration might have would be timely received and would be incorporated in the report. However, when we filed the report on October 17 we had not received any communication from the administration. On October 19 a letter from the Department of the Interior was received by the committee.

Mr. President, I ask unanimous consent that this letter, dated October 19, 1979, from the Department of the Interior to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 19, 1979.

Hon. JOHN MELCHER,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This provides our views on S. 751, the "Navajo and Hopi Indian Relocation Amendments Act of 1979" as amended and ordered reported by your Committee on September 26, 1979. The following comments are in line with and supplement our more detailed August 3 report on S. 751 as introduced.

The Administration is strongly opposed to:

(1) The 200,000 acre land purchase by the Relocation Commission authorized by the amendment in Section 4 of the bill and for which $31,250,000 is authorized to be appropriated by the an amendment in Section 13;

(2) The independent "legal counsel" and "administrative fiscal and housekeeping services" newly authorized for the Relocation Commission in Section 5 of the bill, and for which $5,000,000 (an increase of $4,000,000) is authorized to be appropriated annually by an amendment in Section 13, because it is not fiscally or administratively prudent to establish such separate staffs for a temporary agency;

(3) The amendment in Section 8 of the bill authorizing fenced 150 acre life estate areas for persons who may be as young as 45 years of age (and for the lives of their sur-

viving spouses) and who apparently need not be a head of household;

(4) requirement that the Secretary of the Interior provide each life tenant (and their successor spouses) with feed and water for their livestock during the term of the life estates as provided by an amendment in Section 8 of the bill for which Section 13 would authorize appropriation of $350,000 in FY 1981 and $600,000 in each of FY 1982 and FY 1983;

(5) The requirement in Section 10 of the bill that the Secretary of the Interior pay rent and other compensation to the Tribe whose land is subjected to the life estates mentioned above and for which $1 million is authorized to be appropriated in each of Fiscal Years 1981, 1982, and 1983;

(6) The requirement in Section 14 of the bill that the Secretary of the Interior pay "attorney's fees, costs, and expenses" for the Hopi and Navajo Tribes for which $700,000 is authorized to be appropriated during the five year period of Fiscal Years 1981–1985; and

(7) The provision in Section 14 which requires the assigning of the "highest priority" to certain construction projects for the Hopi Tribe without regard to the needs of other tribes.

We note also that we may provide you with additional views on the applicability of the Federal Land Policy and Management Act (FLPMA) of October 26, 1976 (90 Stat. 2744; 43 U.S.C. 1701 *et seq.*).

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program, and that the enactment of S. 751 would not be in accord with the program of the President.

Sincerely,

LARRY E. MEHROTTO,
Assistant Secretary.

Mr. MELCHER. The Department of the Interior opposes the key provisions in the bill.

I might point out that if there had not been an original error in the Executive order of 1882, we would not have been led to the situation that has since followed.

If the Department had had complete success under the act of December 22, 1974, relating to the Relocation Commission for the two tribes, it would not be necessary to have these amendments.

S. 751 is a compromise that contains amendments to alleviate the problems that exist. When the Department of the Interior criticizes, as they do in their letter of October 19, the 200,000 acre land purchase by the Relocation Commission authorized in S. 751, they do not offer us a solution to the problem. It is just plain criticism.

When criticism is leveled at the provision in the bill that would permit independent legal counsel and administrative, fiscal, and housekeeping services, and authorizes funds for those purposes, as is provided in the bill in section 13, there is no alternative recommended by the administration.

Section 8 of the bill authorizes 150-acre life estates for persons who may be 45 years of age or older who are going to be relocated. In opposing that particular section, which is a key section of the bill, the administration is in effect shrugging off the problem. While they might prefer that the life estate be a very small acreage of, say, 10 acres, and that the age of anyone eligible for a life estate would be 65 or older, they fail to recognize the true circumstances that exist and the compassion that the committee has chosen to follow. I think it is only ordinary human compassion to allow up to 150 acres for a life estate and to recognize that a head of a household at 45 years of age can be considered for such life estate.

S. 751 is only recognizing the problems that exist for the Navajo families that are involved and would have to be relocated. It imposes strenuous, tough conditions as to when a life estate should be allowed for certain families. This is a compromise that the committee finds equitable.

We do recognize that the Navajo or Hopi families, who may qualify for life estates should not be confined to a very small acreage. They should have the opportunity to continue their lifestyles as they have done traditionally, not just for generations but for centuries. They should have the opportunity to have some livestock, probably sheep, on their own life estate of 150 acres, that requires something else that the administration and the Department of Interior object to. That is, that S. 751 provides for adequate nutrition for those sheep or other livestock that might be permitted on the 150-acre life estate.

I suggest that if we do not provide the funds for livestock feeding, it would be inhumane in the most gross manner.

However, in S. 751, the livestock that will be allowed on the life estate will be restricted to no more than 25 sheep units or comparable units of other livestock if the family with a life estate chooses other than sheep.

In summary, I think the Department of the Interior's objections are not very timely. All of those points were very thoroughly discussed and considered within the committee prior to our enactment and reporting out of S. 751 from the committee.

I believe we have done as good a job as could be done under the circumstances, and I look forward to acceptance of the bill as presented by the committee and by the Senate. I hope a conference committee can work out the differences between the House version and the Senate version rather quickly.

The PRESIDING OFFICER. Does anyone seek recognition?

Mr. MELCHER. Mr. President, I request a third reading.

The PRESIDING OFFICER. The question first is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be read a third time and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? (Putting the question.)

The bill (S. 751), as amended, was passed as follows:

S. 751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Navajo and Hopi Indians Relocation Amendments Act of 1979".

SEC. 2. Paragraph (4) of section 5(a) of the Act of December 22, 1974 (88 Stat. 1714), is repealed.

SEC. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

"(c) The Secretary of the Interior shall take such action as may be necessary in order to assure the protection, until relocation, of the rights and property of individuals subject to relocation pursuant to this Act, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to subsection (d) of section 14 of this Act.

"(d) With respect to any individual subject to relocation, the Secretary of the Interior shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

"(e) During the pendency of litigation in the United States District Court for the District of Arizona brought pursuant to section 8 of this Act, including the case of Sekaquaptewa against MacDonald (74–842–P.C.T.–W.P.C.), any new use or development of the lands contained within those lands lying west of the Executive Order Reservation of December 16, 1882, and bounded on the north and south by westerly extensions to the reservation line of the northern and southern boundaries of said 1882 Executive Order Reservation and on the west by the Colorado and Little Colorado Rivers, shall be carried out only upon the written consent of the two tribes or upon the written approval of the Secretary: *Provided,* That if the Secretary approves such use or development over the objection of one of the tribes, that tribe may petition the district court having jurisdiction over the litigation for an order or orders prohibiting such use or development, including an order staying any such use until such matter is finally resolved by the court. In reaching a final decision regarding such petition the court shall consider the matter de novo to determine whether the proposed use or development would adversely affect the ultimate legal right of either tribe to partition based on use of land.".

SEC. 4. Section 11 of the Act of December 22, 1974, is amended by striking out all of subsection (b) and inserting in lieu thereof the following new subsections:

"(b) The Navajo-Hopi Relocation Commission is authorized to purchase or otherwise acquire, except by eminent domain, not to exceed two hundred thousand acres of land contiguous to, or adjacent and within six miles of, the Navajo Reservation for the benefit of the Navajo Tribe to facilitate relocation. Such lands shall be taken by the United States in trust for the Navajo Tribe and shall be a part of the Navajo Reservation.

"(c) The Commission shall have the authority to enter into negotiations with the Navajo and Hopi Tribes with a view to arranging and carrying out land exchanges or leases, or both, between such tribes, and lands which may be acquired by the Commission under subsection (b) of this section may, with Commission approval, be included in any land exchanges between the tribes authorized under section 8(c) or section 23 of this Act.".

SEC. 5. Section 12 of the Act of December 22, 1974, is amended by—

(1) inserting, in paragraph (1) of subsection (g), the phrase "an independent legal counsel," after the phrase "Executive Director,";

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal and housekeeping services."; and

(3) redesignating subsection (i) as subsection (j) and inserting new subsection (i) as follows:

"(i)(1) The Commission is authorized to call upon any department or agency of the United States to assist the Commission in implementing its relocation plan and completing relocation within the time required by law, except that the control over and responsibility for completing relocation shall remain in the Commission. In any case in which the Commission calls upon any such department or agency for assistance under this section, such department or agency shall provide any reasonable assistance so requested.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commission shall report such failure to the Congress.

SEC. 6. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting in lieu thereof the word "ninety".

SEC. 7. (a) Section 14(b)(1) of the Act of December 22, 1974 (88 Stat. 1712, 1718), is amended by deleting "$5,000" and inserting in lieu thereof "$10,000".

(b) Section 14(b)(2) of such Act is amended by deleting "$4,000" and inserting in lieu thereof "$8,000".

(c) Section 14(b)(3) of such Act is amended by deleting "$3,000" and inserting in lieu thereof "$6,000".

(d) Section 14(b)(4) of such Act is amended by deleting "$2,000" and inserting in lieu thereof "$4,000".

(e) Subsection (b) of section 14 is further amended by adding paragraph (5) at the end thereof as follows:

"(5) The amendment made to paragraph (1) of this subsection on the date of enactment of the Navajo and Hopi Indians Relocation Amendments Act of 1979 shall be applicable with respect to any head of a household who would have been entitled to the $10,000 payment under section 14(b)(1) of this Act but for the fact that such head relocated prior to the date of the enactment of the Navajo and Hopi Indians Relocation Amendments Act of 1979.".

SEC. 8. Section 14 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this Act, the Commission shall make available to an eligible applicant, on timely application as set forth in paragraph (3) of this subsection, a limited tenure of such land as the Commission determines necessary in order to avoid the necessity of relocating such applicant, and his or her spouse and dependents, if residing with such applicant. The Commission shall grant up to one hundred and sixty life estates and shall give first priority to disabled applicants. Second priority shall be awarded on the basis of age with the oldest applicants given preference over younger applicants and among such older applicants, first priority shall be given to those residing in the Big Mountain area. Such tenure shall consist of the right of use and occupancy of one hundred and fifty acres of land in order to enable such applicant to raise livestock not to exceed twenty-five sheep units per year or equivalent livestock. The Commission upon the issuance of a life estate shall fence the boundaries of lands assigned for use by the recipient of such life estates. The life estate tenure shall end by voluntary relinquishment, or at the death of the applicant or the death of the spouse of the applicant, whichever last occurs: *Provided,* That such survivorship rights shall apply only to those persons who were married on or before the date of the enactment of this subsection. Nothing in this Act or any other law shall preclude such applicant from making improvements within the area covered by such tenure.

"(2) As used in this subsection, the term—

"(A) 'eligible applicant' means, with respect to a Navajo or Hopi individual, an individual—

"(i) who on December 22, 1974, and continuously thereafter has maintained a place of abode, and has been actually domiciled therein, in an area from which such applicant, but for this subsection, would be required to relocate; and

"(ii) who on or before the date of enactment of this subsection was at least forty-five years of age, or who is found by the Commission to be mentally or physically disabled.

"(B) 'dependent' means—

"(i) those members of the applicant's household who derive more than one-half of their support from the applicant; or

"(ii) those relatives, members of the immediate family, or other persons who are necessarily and customarily present to provide for the care of the life estate applicant.

"(3) In any case in which a Navajo or Hopi individual believes that he or she can qualify as an eligible applicant (as defined by paragraph (2) of this subsection), such individual is authorized to file an application with the Commission requesting that he or she be granted a life estate in lands in accordance with this section. Such application shall be submitted in such manner, and contain such information as the Commission shall prescribe by regulation, such regulation to be promulgated by the Commission within ninety days of the enactment of this subsection. Such application must be filed on or before January 1, 1981: *Provided,* That in exceptional cases the Commission may accept later applications where necessary to avoid inequity or hardship.

"(4) Within ninety days following the date of the enactment of this subsection, the Secretary, in consultation with the Commission, shall promulgate such regulations as may be necessary to assure that in the case of a life estate granted pursuant to this subsection, no person may reside on the land covered by such life estate other than the applicant, his or her spouse, and the applicant's dependents, except that such regulations shall provide that in case of illness or disability persons necessary to attend upon and care for such applicant, spouse, or dependent may reside on such lands during such illness or disability. Such regulations shall further provide for the right of all residents and visitors to the lands covered by such life estate to have access thereto by use of all established roads or ways leading thereto.

"(5) The Secretary shall make available to applicants receiving a life estate under this subsection such assistance, during that tenure, as may be necessary to enable such applicant to feed and maintain that applicant's livestock at an adequate nutritional level. Within ninety days of enactment of this subsection, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this subsection.

"(6) Any eligible applicant, and his or her spouse and dependents, so living on the Navajo Reservation shall be subject to the jurisdiction of the Navajo Tribe, and any such eligible applicant, and his or her spouse and dependents, so living on the Hopi Reservation shall be subject to the jurisdiction of the Hopi Tribe, except that the land laws of the Navajo Tribe shall not be applicable to any tenure granted to a member of the Hopi Tribe, and the land laws of the Hopi Tribe shall not be applicable to any tenure granted to a member of the Navajo Tribe.

"(7) Nothing in this subsection shall be construed as prohibiting any such applicant who receives a life estate under this subsection from relinquishing, prior to its termination, such estate at any time and voluntarily relocating. Upon voluntary relinquishment of such estate, by such means or instrument as the Secretary of the Interior shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary comparable to those provided by section 15 of this Act. For life estates terminated by the death of the life tenant or his or her surviving spouse, compensation shall be paid to the estate of the deceased life tenant based on the fair market value of the habitation and improvements at the time of the expiration of such tenure and not before. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 15 of this Act. Assistance similar to section 15(b) of this Act shall be paid to the estate of such life tenant by the Secretary. Such compensation and assistance shall be paid and distributed in accordance with the last will and testament of the life tenant, or in the event no valid last will and testament is left, compensation shall be paid and distributed to his or her heirs in accordance with the laws of the tribe of which such life tenant is a member. Upon the termination of a life estate by whatever means, the dependents residing with the individuals having such life estate so terminated shall have ninety days following such termination within which to relocate.".

SEC. 9. Section 15 of the Act of December 22, 1974, is amended by adding at the end thereof a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law to the contrary, the Commission shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of this section to the head of each household of members of the Navajo Tribe who were evicted from district numbered 6 of the Hopi Indian Reservation in 1972: *Provided,* That such heads of households have not already received equivalent assistance from Federal agencies.".

SEC. 10. Section 16 of the Act of December 22, 1974, is amended by adding the following new subsections:

"(c) The Secretary is authorized and directed to receive, consider, and pay any claim received by him from the Navajo Tribe or Hopi Tribe for compensation for the reasonable rental value, losses or other expenses incurred by the tribe by reason of such life estates conferred by the Commission pursuant to section 14(d) of this Act. Such claims shall be submitted at such time, in such manner, and contain such information, as the Secretary may prescribe. Any payment made pursuant to a claim filed under this subsection shall be in lieu of rental payments from the tribes under subsections (a) and (b) of this section with respect to lands covered by such claim.

"(d)(1) In lieu of rental payments under the provisions of subsection (a), (b), or (c) of this section, the tribe upon whose reservation a life estate has been created may elect to accept compensation in lieu of lands out of the lands acquired by the Commission under section 11(b) of this Act. In any case in which a Navajo individual receives a life estate under this Act in lands of the Hopi Tribe, the Commission shall make available to the Hopi Tribe land of equivalent economic value out of the lands acquired for the Navajo under section 11(b) and shall permit the use of such land by the Hopi Tribe for a period ending upon the expiration of the ninety-day period following the termination of such life estate. Upon the expiration of such ninety-day period, the United States shall hold such land in trust for the benefit and use of the Navajo Tribe.

"(2) In the event a tribe elects to accept compensation in lieu of lands under this subsection, the Commission shall make diligent efforts to make such compensatory land

available in consolidated parcels which will provide the greatest economic return.".

Sec. 11. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c) (1) Conservation practices, including grazing control and range restoration activities in the joint use area as required by subsection (a) of this section, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned, and all such grazing and range restoration matters on Navajo Reservation lands shall be administered by the Bureau of Indian Affairs, Navajo Area Office, and on Hopi Reservation lands shall be administered by the Bureau of Indian Affairs, Phoenix Area Office, under applicable laws and regulations.

"(2) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands partitioned pursuant to section 4 of this Act and with twelve months after a final order of partition with respect to any lands partitioned pursuant to section 8 of this Act.

"(3) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.".

Sec. 12. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein, the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within ninety days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those who actually relocate within such period.

Sec. 13. (a) Section 25(a)(4) of the Act of December 22, 1974, is amended to read as follows:

"(4) For the purpose of carrying out the provisions of section 14(b) for the period prior to October 1, 1980, there is authorized to be appropriated not to exceed $5,500,000. For the purposes of carrying out such provisions for the period commencing October 1, 1980, there is authorized to be appropriated an additional amount of not to exceed $10,500,000."

(b) Section 25(a)(5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96-40), is further amended by striking the figure "$1,000,000" and inserting, in lieu thereof, the figure "$5,000,000": *Provided*, That no new budget authority for fiscal year 1980 is authorized to be appropriated.

(c) Section 25(a) of the Act of December 22, 1974, is further amended by adding at the end thereof the following new subsections:

"(7) For the fiscal year beginning October 1, 1980, and for each of the two next following fiscal years, there is authorized to be appropriated such sum, not to exceed $1,000,000, as may be necessary to carry out the provisions of subsection (c) of section 16 of this Act.

"(8) For the fiscal year beginning October 1, 1980, there is authorized to be appropriated such sum, not to exceed $350,000, as may be necessary to carry out the provisions of subsection (d)(5) of section 14 of this Act. For the fiscal year beginning October 1, 1981, and the next following fiscal year, there is authorized to be appropriated for each such fiscal year such sum, not to exceed $600,000, as may be necessary to carry out such provisions.

"(9) For the purpose of carrying out the provisions of subsection (b) of section 11 of this Act, there are authorized to be appropriated, for the period beginning October 1, 1980, such sums not to exceed, in the aggregate, $31,250,000, as may be necessary.".

Sec. 14. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"Sec. 27. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe, and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this Act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorneys' fees, costs, and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorneys' fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, or judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

"Sec. 28. The Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection, to the funding and construction of the Hopi high school and a Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.".

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST FOR COMMITTEE MEETINGS

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the sessions of the Senate today and Thursday, October 25, 1979 beginning at 2 p.m. to hold markup sessions on the SALT II treaty.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 25, 1979, beginning at 2 p.m. to hold a markup session on the SALT II treaty.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

THE ANGUISH OF CENTRAL BANKING

Mr. JAVITS. Mr. President, day by day it becomes more evident that the No. 1 problem afflicting our economy is inflation. The stubborn persistence with which inflation has gripped this Nation has led us all to search for solutions to eliminate this phenomenon which saps our strength in terms of growth and productivity. As we look for the roots of this economic disease in order to deal with it at its source, it becomes frustratingly apparent that the causes of inflation are structurally imbedded in our economy. Over time, it becomes clear that our way out of this inflationary spiral will not be any magical, quick-fix formula. Rather, what is required is a reassessment of the fundamental precepts regarding restraint in Government spending and regulation, private factor economic programs and expectations, and the action of national monetary authorities to control inflation through the use of traditional monetary tools.

As the Nation debates the wisdom of pursuing monetary policies which result in restrictive money supplies and sky-high interest rates we would do well to consider the dilemma that central bank authorities around the world confront as a result of the unrelenting forces of inflation.

The active participation of central bank authorities is critical to any coordinated anti-inflation plan. In our case, the ability of the Federal Reserve to consistently apply anti-inflationary monetary policies has been weakened by the country's seeming lack of resolve to take the requisite long-term steps to deal with the underlying structural problems of domestic productivity and job training, protectionist trade and agricultural laws, some inhibiting governmental regulations, and international uncompetitiveness of some U.S. products, without which we cannot hope to arrest inflation.

This is in part what has led Chairman Volcker to seize the reins of monetary policy so forcefully. In one sense, these dramatic actions have given the economy and especially the administration some breathing space with which to address the inflationary problems before us. Yet, more importantly, through these actions, the Federal Reserve is attempting to establish the first leg of a three-way partnership among the White House and Congress, whereby a frontal assault on inflation may be devised.

Clearly the latest actions by the Fed cannot succeed alone. They must be supported and complemented by the administration and the Congress with anti-inflationary initiatives in the areas of energy, private sector performance, unnecessary regulation, and Federal fiscal and monetary policies among others.

I commend to my colleagues the words of one of America's most eminent central bankers, Arthur Burns, who delivered the 1979 Per Jacobsson Lecture on this subject. Entitled "The Anguish of Central Bankers," Dr. Burns' remarks delivered last month in Belgrade, address not only the root causes of inflation and the tools available to government to abate it, but also why the U.S. Federal Reserve System and central bankers generally have failed effectively to combat inflation. Dr. Burns points out, one of the distinguishing features of inflation today, and one of the most alarming, is its self-sustaining momentum.

It is a momentum that feeds on inflationary expectations bred by the experience of inflation witnessed throughout the course of the business cycle. Dr. Burns' perception is that there is a strong inflationary bias built in to the U.S. economy that will be difficult to break, given our "gradualist" approach to addressing inflation.

Among the proposals that Dr. Burns advances are a "binding endorsement" of anti-inflationary monetary policies which would allow the Fed to implement a consistent long-term strategy. Also, Dr. Burns recommends a series of business tax reductions to boost productivity and thus hold down prices. I disagree with the former Federal Reserve Board chairman on some points but overall his remarks are an incisive comment on this greatest of dangers—inflation—facing our economy and our way of life. I ask unanimous consent that Arthur Burns' remarks appear in their entirety in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE ANGUISH OF CENTRAL BANKING

(By Arthur F. Burns)

When I was invited several months ago to deliver this year's Per Jacobsson Lecture, I found it easy to give my consent. Per Jacobsson was a financial statesman whose efforts in behalf of world economic order deserve to be remembered by this distinguished audience. I feel I can honor his memory best by presenting on this occasion some straightforward thoughts on central banking.

The international monetary system, which has been in almost constant turmoil during this decade, has benefited recently from several developments. Under the amended Articles of Agreement, the International Monetary Fund can exercise firm surveillance over the exchange rate policies of its members, and is therefore now in a position to move the nations of the world toward a rule of law in international monetary affairs. Another promising development is the establishment of the European Monetary System with the aim of maintaining relatively stable exchange rates within the Common Market.

A third positive development is recognition by the United States that the persisting deficits in its international current account must be eliminated, and that in the meantime decisive intervention to protect the external value of the dollar may well be needed. The conventional theory that a depreciating currency is beneficial to a nation's foreign trade and to its over-all economic activity has lost its appeal within the American government. The officials concerned with economic policy have learned that whatever merit may in some circumstances attach to this theory, it is a dangerous guide for a country whose currency is still the centerpiece of the international monetary system. "Benign neglect" of the external value of the dollar came to an end dramatically, and I would hope irrevocably, last November.

This and other constructive developments suggested earlier this year that a closer approach to international equilibrium was under way and calm returned for a while to foreign exchange markets. But uneasiness about the monetary system, particularly about the future of the dollar, has continued and in fact intensified this summer. There have been ample reasons for concern—among them, the political convulsions in Iran, the enormous new increases in oil prices by OPEC, the narrowing at times of interest-rate differentials between New York and foreign money-market centers, and the limited progress in developing an effective energy policy in the United States. While all these factors contributed to nervousness, what has been most disturbing to foreign exchange markets in recent months is the reacceleration of inflation in the United States and in much of the rest of the world. Even Germany and Switzerland no longer qualify as islands of stability.

This unhappy development is one more indication, if any were needed, that the current instability in international finance is largely a consequence of the chronic inflation of our times and that stability will not return to the international monetary system until reasonably good control over inflationary forces has been achieved in the major industrial nations—and especially in the United States. This critical consideration at once raises serious questions: Why is the worldwide disease of inflation proving so stubborn? Why is it not yielding to the various efforts of the affected nations, including some determined efforts, to bring it to an end? Why, in particular, have central bankers, whose main business one might suppose is to fight inflation, been so ineffective in dealing with this world-wide problem?

To me, as a former central banker, the last of these questions is especially intriguing. One of the time-honored functions of a central bank is to protect the integrity of its nation's currency, both domestically and internationally. In monetary policy central bankers have a potent means for fostering stability of the general price level. By training, if not also by temperament, they are inclined to lay great stress on price stability, and their abhorrence of inflation is continually reinforced by contacts with one another and with like-minded members of the private financial community. And yet, despite their antipathy to inflation and the powerful weapons they could wield against it, central bankers have failed so utterly in this mission in recent years. In this paradox lies the anguish of central banking.

My aim today is to consider the causes of this paradox and its implications for the future.

Much of what I say will inevitably reflect lessons that I learned during my service as Chairman of the Federal Reserve Board over an eight-year period that ended about eighteen months ago. This may be a good time to reflect on that experience; a year ago I was probably too close to it to have the necessary perspective, and a year from now the sharpness of my impressions may have begun to fade.

I shall focus mainly, although not exclusively, on the United States. That is the area that I know best, and I also believe the American experience—despite some unique aspects—is fairly representative of that of other industrial countries. The developing nations have their own characteristic sources and patterns of inflation. Nevertheless, in our interdependent world, economic conditions in the United States and other industrial countries are bound to have a significant bearing on the fortunes of developing countries.

By way of introduction, I might note that during much of the period since the end of World War II, over-all economic developments were, in the main, satisfactory. By prewar standards, recessions were brief and mild through the mid-1960's, both in the United States and in other industrial countries; world trade expanded rapidly under a beneficent regime of stable exchange rates; and living standards rose impressively throughout the developed world. In most industrial countries inflationary pressures were troublesome from time to time—as in the immediate postwar years, during the Korean hostilities, and for a couple of years after the mid-1950's. These pressures were more substantial in some countries than in the United States, but in none did inflation appear to be out of control.

From 1958 through 1964, the United States enjoyed a remarkable degree of price stability. During that stretch of six years, the wholesale price index remained virtually unchanged and the consumer price index rose at an annual rate of only a little more than one percent. And then the inflation that has ever since been plaguing the American economy got under way. Average wholesale prices rose at an annual rate of 2 percent from 1964 to 1968, 4 percent from 1968 to 1972, and 10 percent from 1972 to 1978. This pattern of accelerating price increases is found in other countries also, although rates of increase have varied widely, and in most industrial nations the acceleration began later—typically in 1969 or 1970.

Analyses of the inflation that the United States has experienced over the past fifteen years frequently proceed in three stages. First are considered the factors that launched inflation in the mid-1960's, particularly the governmental fine tuning inspired by the New Economics and the loose financing of the war in Vietnam. Next are considered the factors that led to subsequent strengthening of inflationary forces, including further policy errors, the devaluations of the dollar in 1971 and 1973, the world-wide economic boom of 1972–73, the crop failures and resulting surge in world food prices in 1973–74, the extraordinary increases in oil prices that became effective in 1974, and the sharp deceleration of productivity growth from the late 1960's onward. Finally, attention is turned to the process whereby protracted experience with inflation has led to wide-spread expectations that

it will continue in the future, so that inflation has acquired a momentum of its own.

I have no quarrel with analyses of this type. They are distinctly helpful in explaining the American inflation and, with changes here and there, that in other nations also. At the same time, I believe that such analyses overlook a more fundamental factor: the persistent inflationary bias that has emerged from the philosophic and political currents that have been transforming economic life in the United States and elsewhere since the 1930's. The essence of the unique inflation of our times and the reason central bankers have been ineffective in dealing with it can be understood only in terms of those currents of thought and the political environment they have created.

Historically, Americans have had deep faith in the concept of progress—in the idea that it was realistic to expect to better one's own lot and that of one's family in the course of a lifetime. During the greater part of America's history, government intervention in economic life was only peripheral. Personal progress was generally viewed as a reward for personal effort—assisted, perhaps, by good fortune. Provision for bad times or other contingencies of life was deemed prudent, but that was a private responsibility. The American's way through life lay along the road of self-reliance; only in extremity did he look to government or his neighbors for economic assistance.

This tradition of individualism was shattered by the cataclysmic events of the 1930's and 1940's. The breakdown of economic order during the Great Depression was unprecedented in its scale and scope, and it strained the precept of self-reliance beyond the breaking point. With one-quarter of the labor force unemployed, personal courage and moral stamina could guarantee neither a job nor a livelihood. Succor finally came through a political idea that was novel to a majority of the American people but compelling nonetheless—namely, that the Federal government had a far larger responsibility in the economic sphere than it had hitherto assumed.

Under the New Deal the Federal government undertook extensive projects of public construction and offered work relief as well. It gave direct relief to the needy—a function previously performed only by local authorities or private charity. It established unemployment insurance and old-age pensions. It took steps to raise wages and prices with a view to fostering economic recovery. And beyond these innovative actions, the Federal government greatly extended the range of its regulatory activities. It intervened massively in the securities market, in banking, in the public utilities industry, in the housing market, and in the farm sector; and it gave labor unions broad new rights and powers. Together, these and other New Deal measures laid the foundations of an activist government—a government responsible not only for relieving suffering and insuring against economic adversity, but also for limiting "harmful" competition, subsidising "worthwhile" activities, and redressing unequal balances of market power. In less than a decade the government became a leading actor on the economic stage.

Just as Americans were persuaded during the depression that the Federal government should help the unemployed, so they were taught by the experience of World War II to look to government to prevent unemployment in the first place. Under the compulsions of war, the government had demonstrated that it could assure gainful employment for every willing hand. It therefore seemed reasonable, and not only to the followers of Keynes, to expect government to do the same in a time of peace. In 1944, when President Roosevelt set forth the basis of his postwar domestic program in an "Economic Bill of Rights", he put "the right to a useful and remunerative job" at the head of the list. With the war ended, the Employment Act of 1946 explicitly proclaimed the Federal government's responsibility to promote "maximum employment", and this came to mean "full employment" as a matter of law as well as popular usage.

Armed with the Employment Act, the government sought to demonstrate that it could combat unemployment with preventive as well as curative measures. In fact, the period from World War II to the mid-1960's was marked not only by a dampening of the business cycle but also by persistent increases in the prosperity of American families. On the one side, rising incomes, reflecting substantial gains in labor productivity, made possible rising consumption, greater leisure, and better provision for retirement. On the other side, a steady stream of new and often improved consumer goods tended to sustain the growth of aggregate demand. The extensive development of consumer credit institutions made it easier for people to acquire automobiles, household appliances, and other goods and services, the desire for which was continually being whetted by alluring advertisements and the illustrations of potential life styles broadcast by television and the movies. The seemingly inexorable rise in living standards for the bulk of the population was reflected in upward trends in the proportion of families that owned their own home, that owned a summer home, that possessed one, two and even three automobiles, that had telephones, that owned television sets, clothes washers, and food freezers; also in the proportion of the population that had graduated from high school and from college, that traveled abroad, that owned corporate stock, that carried life insurance, and so on.

This experience of economic progress strengthened the public's expectations of progress. What had once been a quiet personal feeling that the long future would be better than the past, particularly for one's children, was transformed during the postwar years into an articulate and widespread expectation of steady improvement in living standards—indeed, to a feeling of entitlement to annual increases in real income.

But the rapid rise in national affluence did not create a mood of contentment. On the contrary, the 1960's were years of social turmoil in the United States, as they were in other industrial democracies. In part, the unrest reflected discontent by blacks and other minorities with prevailing conditions of social discrimination and economic deprivation—a discontent that erupted during the "hot summers" of the middle 1960's in burning and looting. In part, the social unrest reflected growing feelings of injustice by or on behalf of other groups—the poor, the aged, the physically handicapped, ethnics, farmers, blue collar workers, women, and so forth. In part, the unrest reflected a growing rejection by middleclass youth of prevailing institutions and cultural values. In part, it reflected the more or less sudden recognition by broad segments of the population that the economic reforms of the New Deal and the more recent rise in national affluence had left untouched problems in various areas of American life—social, political, economic, and environmental. And interacting with all these sources of social disturbance were the heightening tensions associated with the Vietnam War.

In the innocence of the day, many Americans came to believe that all of the new or newly discovered ills of society should be addressed promptly by the Federal government. And in the innocence of the day, the administration in office attempted to respond to the growing demands for social and economic reform while waging war in Vietnam on a rising scale. Under the rubric of the New Economics, a more activist policy was adopted for the purpose of increasing the rate of economic growth and reducing the level of unemployment. Under the rubrics of the New Frontier and the Great Society, broad-scale efforts were made to stitch up open seams in the fabric of affluence—inadequate or unequal education, housing, medical care, nutrition. Under the rubrics of civil rights and citizen participation, minorities and other disadvantaged groups were given political weapons to maintain, consolidate, and extend their gains.

The interplay of governmental action and private demands had an internal dynamic that led to their concurrent escalation. When the government undertook in the mid-1960's to address such "unfinished tasks" as reducing frictional unemployment, eliminating poverty, widening the benefits of prosperity, and improving the quality of life, it awakened new ranges of expectation and demand. Once it was established that the key function of government was to solve problems and relieve hardships—not only for society at large but also for troubled industries, regions, occupations, or social groups—a great and growing body of problems and hardships became candidates for governmental solution. New techniques for bringing pressure on Congress—and also on the State legislatures and other elected officials—were developed, refined, and exploited. Congress responded by pouring out a broad stream of measures that involved government spending, special tax relief, or regulations mandating private spending. Every demonstration of a successful tactic in securing rights, establishing entitlements, or extracting other benefits from government led to new applications of that tactic. Various groups found a powerful ally in the Federal courts, which repeatedly struck down legislative or administrative limitations on access to government benefits. Even government employees, particularly at the state and municipal levels, discovered the pecuniary rewards of shedding genteel notions of public service and pressing economic demands with a strident militancy.

Many results of this interaction of government and citizen activism proved wholesome. Their cumulative effect, however, was to impart a strong inflationary bias to the American economy. The proliferation of government programs led to progressively higher tax burdens on both individuals and corporations. Even so, the willingness of government to levy taxes fell distinctively short of its propensity to spend. Since 1950 the Federal budget has been in balance in only five years. Since 1970 a deficit has occurred in every year. Not only that, but the deficits have been mounting in size. Budget deficits have thus become a chronic condition of Federal finance; they have been incurred when business conditions were poor and also when business was booming. But when the government runs a budget deficit, it pumps more money into the pocketbooks of people than it withdraws from their pocketbooks; the demand for goods and services therefore tends to increase all around. That is the way the inflation that has been raging since the mid-1960's first got started and later kept being nourished.

The pursuit of costly social reforms often went hand in hand with the pursuit of full employment. In fact, much of the expanding range of government spending was prompted by the commitment to full employment. Inflation came to be widely viewed as a temporary phenomenon—or, provided it remained mild, as an acceptable condition. "Maximum" or "full" employment, after all, had become the nation's major economic goal—not stability of the price level. That inflation ultimately brings on recession and otherwise nullifies many of the benefits sought through social legislation was largely ignored. Even conservative politicians and businessmen began echoing Keynesian

teachings. It therefore seemed only natural to Federal officials charged with economic responsibilities to respond quickly to any slackening of economic activity—at times, in fact, as in the early days of 1977, to sheer illusions of such slackening—but to proceed very slowly and cautiously in responding to evidence of increasing pressure on the nation's resources of labor and capital. Fear of immediate unemployment—rather than fear of current or eventual inflation—thus came to dominate economic policy making.

This weighing of the scales of government policy inevitably gave an inflationary twist to the economy, and so too did the expanding role of government regulation. Traditional ways of protecting particular groups against competition—such as raising farm price supports, increasing minimum wages, and imposing import quotas—did not lose their appeal as inflation kept soaring. On the contrary, all these devices of raising costs and prices were liberally employed even in the face of accelerating inflation during 1977 and 1978. Also troublesome were the newer social regulations—those concerned with health, safety, and the environment—that kept multiplying during the 1970's. However, laudable in purpose, much of this regulatory apparatus was conceived in haste and with little regard to the costs being imposed on producers. Substantial amounts of capital that might have gone into productivity-enhancing investments by private industry were thus diverted into uses mandated by the regulators. Improvements in productivity were also slowed by the discouragement of business investment that resulted from the increasing burden of income and capital-gains taxes. Progress in equipping the work force with new plant and equipment proceeded much less rapidly during the 1970's than during the 1950's or 1960's, and this shortfall contributed to the productivity slump and thus to the escalation of costs and prices.

Additional forces on the side of supply contributed to the inflationary bias. As the income maintenance programs established by government were liberalized, incentives to work tended to diminish. Some individuals, both young and old, found it agreeable to live much of the time off unemployment insurance, food stamps, and welfare checks—perhaps supplemented by intermittent jobs in an expanding underground economy. Even enterprising and ambitious individuals who sought permanent jobs could be more leisurely or more discriminating in their search when the government, besides pursuing a full employment policy, provided a protective income umbrella during jobless periods. In such an environment, employed workers could demand and often achieve longer vacations with pay and more frequent holidays and sick leave, besides enjoying coffee breaks and other social rites on the job. In such an environment, they could afford to reject a pay cut or a small wage increase when their employer pleaded serious financial difficulties. Thus the number of individuals counted as unemployed could rise even at times when job vacancies, wages, and the consumer price level were rising.

The philosophic and political currents that transformed economic life and brought on secular inflation in the United States have run strong also in other industrial countries. Rising economic expectations of people, wider citizen participation in the political arena, governmental commitments to full employment, liberal income maintenance programs, expanding governmental regulations, and increasingly pressing demands on government for the solution of economic and social problems—all these became common features of the industrial democracies. And just as the rapid expansion of government activities in the United States was accompanied by persistent budget deficits and inflation, that too happened in other industrial countries. Indeed, other countries have often practiced loose governmental finance and inflation on a more intensive scale than has the United States.

And so I finally come to the role of central bankers in the inflationary process. The world-wide philosophic and political trends on which I have been dwelling inevitably affected their attitudes and actions.

In most countries, the central bank is an instrumentality of the executive branch of government—carrying out monetary policy according to the wishes of the head of government or the ministry of finance. Some industrial democracies, to be sure, have substantially independent central banks and that is certainly the case in the United States. Viewed in the abstract, the Federal Reserve System had the power to abort the inflation at its incipient stage fifteen years ago or at any later point, and it has the power to end it today. At any time within that period, it could have restricted the money supply and created sufficient strains in financial and industrial markets to terminate inflation with little delay. It did not do so because the Federal Reserve was itself caught up in the philosophic and political currents that were transforming American life and culture.

The Employment Act prescribes that "it is the continuing policy and responsibility of the Federal government to . . . utilize all its plans, functions, and resources . . . to promote maximum employment." The Federal Reserve is subject to this provision of law, and that has limited its practical scope for restrictive actions—quite apart from the fact that some members of the Federal Reserve family had themselves been touched by the allurements of the New Economics. Every time the government moved to enlarge the flow of benefits to the population at large, or to this or that group, the assumption was implicit that monetary policy would somehow accommodate the action. A similar tacit assumption was embodied in every pricing decision or wage bargain arranged by private parties or the government. The fact that such actions could in combination be wholly incompatible with moderate rates of monetary expansion was seldom considered by those who initiated them, despite the frequent warnings by the Federal Reserve that new fires of inflation were being ignited. If the Federal Reserve then sought to create a monetary environment that fell seriously short of accommodating the upward pressures on prices that were being released or reinforced by governmental action, severe difficulties could be quickly produced in the economy. Not only that, the Federal Reserve would be frustrating the will of Congress to which it was responsible—a Congress that was intent on providing additional services to the electorate and on assuring that jobs and incomes were maintained, particularly in the short run.

Facing these political realities, the Federal Reserve was still willing to step hard on the monetary brake at times—as in 1966, 1969, and 1974—but its restrictive stance was not maintained long enough to end inflation. By and large, monetary policy came to be governed by the principle of undernourishing the inflationary process while still accommodating a good part of the pressures in the marketplace. The central banks of other industrial countries, functioning as they did in a basically similar political environment, appear to have behaved in much the same fashion.

In describing as I just have the anguish of central banking in a modern democracy, I do not mean to suggest that central bankers are free from responsibility for the inflation that is our common inheritance. After all, every central bank has some room for discretion, and the range is considerable in the more independent central banks. As the Federal Reserve, for example, kept testing and probing the limits of its freedom to undernourish the inflation, it repeatedly evoked violent criticism from both the Executive establishment and the Congress and therefore had to devote much of its energy to warding off legislation that could destroy any hope of ending inflation. This testing process necessarily involved political judgments, and the Federal Reserve may at times have overestimated the risks attaching to additional monetary restraint.

Any such errors of political judgment are extremely hard to identify; but I believe, in any event, that errors of economic or financial judgment have in practice been far more significant. In a rapidly changing world the opportunities for making mistakes are legion. Even facts about current conditions are often subject to misinterpretation. Statistics on unemployment in the United States provide a good example. Even before World War II ended, some economists were trying to determine how much frictional and structural unemployment would exist when the demand for labor and the supply of labor were in balance; in other words, the rate of unemployment that would reflect a state of full employment. Before long, a broad consensus developed that an unemployment rate of about 4 percent corresponded to a practical condition of full employment, and that figure became enshrined in economic writing and policy making. Conditions in labor markets, however, did not stand still. A huge influx of women and young people into the labor force, the liberalization of unemployment insurance, the spread of welfare programs, the progressive lifting of statutory minimum wages, the increasing proportion of families having more than one worker, and the increase of national affluence itself—all these changes in the economic and social environment served to render the conventional 4 percent figure obsolete. The unemployment rate corresponding to full employment is now widely believed to be about 5½ or 6 percent, and this year's report of the Council of Economic Advisers appears to concur in that judgment. But governmental policy makers, while generally aware of what was happening in the labor market, were slow to recognize the changing meaning of unemployment statistics, whether viewed as a measure of economic performance or as a measure of hardship. The Federal Reserve did not escape this lag of recognition and, once again, I believe that other central banks at times have made similar mistakes.

While misinterpretations of unemployment statistics or other current information have consequences for all public policy making, there are other problems of interpretation to which the central banker's calling is peculiarly subject. Monetary theory is a controversial area. It does not provide central bankers with decision rules that are at once firm and dependable. To be sure, every central banker has learned from the world's experience that an expanding economy requires expanding supplies of money and credit, that excessive creation of money will over the longer run cause or validate inflation, and that declining interest rates will tend to stimulate economic expansion while rising interest rates will tend to restrict it; but this knowledge stops short of mathematical precision.

Partly as a result of the chronic inflation of our times, central bankers have been giving closer attention to the money supply than did their predecessors; but they continue to be seriously concerned with the behavior of interest rates. They face difficult questions about the relative weight to be given to measures of money and interest rates in the short run and long run; about the concept or concepts of money that are

most significant for policy purposes; about the interpretation of such developments as the growth of Eurocurrency deposits and credits; about the length and regularity of the lags with which changes in monetary growth rates influence business activity and prices; about the likely changes in monetary velocity as a consequence of institutional innovations and business-cycle developments; and so on and on—as any student of central banking and monetary theory well knows. And there are more fundamental problems about potential conflicts between domestic and international objectives, about the appropriate response to exceptional events not encompassed by theory, and about the precise relevance of any theory based on past experience to a world where behavioral patterns are continually evolving.

It is clear, therefore, that central bankers can make errors—or encounter surprises—at practically every stage of the process of making monetary policy. In some respects, their capacity to err has become larger in our age of inflation. They are accustomed, as are students of finance generally, to think of high and rising market interest rates as a restraining force on economic expansion. That rule of experience, however, tends to break down once expectations of inflation become widespread in a country. At such a time, lenders expect to be paid back in cheaper currency, and they are therefore apt to demand higher interest rates. Since borrowers have similar expectations, they are willing to comply. An "inflation premium" thus gets built into nominal interest rates. In principle, no matter how high the nominal interest rate may be, as long as it stays below or only slightly above the inflation rate, it very likely will have perverse effects on the economy; that is, it will run up costs of doing business but do little or nothing to restrain overall spending. In practice, since inflationary expectations, and therefore the real interest rates implied by any given nominal rate, vary among individuals, central bankers cannot be sure of the magnitude of the inflation premium that is built into nominal rates. In many countries, however, these rates have at times in recent years been so clearly below the ongoing inflation rate that one can hardly escape the impression that, however high or outrageous the nominal rates may appear to observers accustomed to judging them by a historical yardstick, they have utterly failed to accomplish the restraint that central bankers sought to achieve. In other words, inflation has often taken the sting out of interest rates—especially, as in the United States, where interest payments can be deducted for income tax purposes.

In addition to these direct efforts of inflation, there are other effects that raise doubts about the meaning of particular growth rates of the monetary aggregates. I have in mind changes in financial practices that evolved in the United States during the 1950's—particularly during the bouts with tight money in 1966 and 1969—and that culminated in an explosion of financial innovations in the 1970's.

Many of these changes were facilitated by regulatory actions or the development of new computer technology. But the driving force behind them was the incentive that sharply rising market interest rates gave to financial institutions and their customers to change their ways of doing business. Commercial banks responded to rising rates by economizing on non-interest-bearing reserves, and their customers responded by economizing on non-interest-bearing demand deposits. Both banks and large corporations developed new sources of funds in the Euro-dollar market and the domestic commercial paper market. Banks developed new techniques of liability management by exploiting these sources as well as the vast potential of the Federal funds market and the market for negotiable certificates of deposit. Other financial institutions—including savings banks, savings and loan associations, credit unions, and money market mutual funds—developed new transactions services in connection with customer accounts on which they paid interest. Banks fought this competition for transactions balances by offering large depositors special services that reduced the average level of balances they had to carry and by employing various ingenious means to pay interest on balances that were held in large part for transactions purposes.

Developments of these kinds have had profound consequences for the environment in which American monetary policy operates. Not long ago, the thrust of monetary restraint was conveyed more by reductions in the availability of credit—particularly residential mortgage credit—than by rising interest rates; at present, rising interest rates are the primary channel of restraint. This means that a higher level of interest rates is required to achieve any given degree of restraint—quite apart from the effects of inflation premiums that I discussed earlier. But how much higher is not clear; only time will tell. Not long ago, changes in M-1, the familiar monetary aggregate confined to currency and demand deposits, reflected reasonably well changes in the aggregate volume of transactions balances; at present, with new alternatives to bank demand deposits emerging all the time, a lower rate of growth in M-1 is required to achieve any given degrees of restraint. But how much lower is not clear; only time will tell. Nor is it clear what other monetary aggregate, if any, would be more serviceable than the traditional M-1 as a monetary indicator. As a result of these effects of inflation, central banking has not only lost its moorings in interest rates; that has happened to a large extent also in the case of the monetary aggregates—certainly in the United States and perhaps in other countries as well.

There is no need to expand further on the opportunities for misjudgment that in recent years have surrounded policy making at central banks. Some uncertainty, of course, has always characterized monetary policy, just as it has characterized policy decisions generally, whether in public or private life. It should be noted, however, that lags in recognizing some of the developments I have been discussing—with respect to unemployment rates, interest rates, and growth rates of the monetary aggregates—would tend to bias policy toward monetary ease. Moreover, the emergence of an inflationary psychology in industrial countries has imparted an asymmetry to the consequences of monetary errors, even if the errors themselves occurred as often in one direction as the other.

There is a profound difference between the effects of mistaken judgments by a central bank in our age of inflation and the effects of such judgments a generation or two ago. In earlier times, when a central bank permitted excessive creation of money and credit in times of prosperity, the price level would indeed tend to rise. But the resulting inflation was confined to the expansion phase of the business cycle; it did not persist or gather force beyond that phase. Therefore, people generally took it for granted that the advance of prices would be followed by a decline once a business recession got under way. That is no longer the case.

Nowadays, businessmen, farmers, bankers, trade union leaders, factory workers, and housewives generally proceed on the expectation that inflation will continue in the future, whether economic activity is booming or receding. Once such a psychology has become dominant in a country, the influence of a central bank error that intensifies inflation may stretch out over years, even after a business recession has set in. For in our modern environment, any rise in the general price level tends to develop a momentum of its own. It stimulates higher wage demands which are accommodated by employers who feel they can recover the additional costs through higher prices; it results in labor agreements in key industries that call for substantial wage increases in later years without regard to the state of business then; and through the use of indexing formulas, it leads to automatic increases in other wages as well as in social security payments, various other pensions, welfare benefits, also in rents on many properties and in the prices of many commodities acquired under long-term contracts. On the other hand, unintended central bank effects of a restrictive type do not ramify in similar fashion.

To develop any significant momentum in unwinding inflation, they would need to be both large and repetitive—a combination that can hardly occur under prevailing conditions in the industrial democracies.

If my analysis of central banking in the modern environment is anywhere near the mark, two conclusions immediately follow. First, central banks have indeed been participants in the inflationary process in which the industrial countries have been enmeshed, but their role has been subsidiary. Second, while the making of monetary policy requires continuing scrutiny and can stand considerable improvement, it is vain to look to technical reforms as a way of eliminating the inflationary bias of industrial countries. What is unique about our inflation is its stubborn persistence, not the behavior of central bankers. This persistence reflects the fundamental forces on which I dwelt earlier in this address—namely, the philosophic and political currents of thought that have impinged on economic life since the Great Depression and particularly since the mid-1960's.

My conclusion that it is illusory to expect central banks to put an end to the inflation that now afflicts the industrial democracies does not mean that central banks are incapable of stabilizing actions; it simply means that their practical capacity for curbing an inflation that is continually driven by political forces is very limited. Historically, central banks have helped to slow down the pace of economic activity at certain times and to stimulate economic activity at other times. They have also contributed to economic stability by serving as lenders of last resort or even going beyond that traditional function. During this decade alone, the Federal Reserve moved on at least two occasions to prevent financial crises that otherwise could easily have occurred. I have in mind particularly the failure of the Penn Central Transportation Company in June 1970 and the failure of the Franklin National Bank in October 1974. In the former case the inability of Penn Central to refinance its outstanding commercial paper caused consternation among holders of commercial paper generally. To prevent a financial panic the Federal Reserve put aside its monetary targets for a while, opened the discount window wide, and changed its regulations so that commercial banks could raise funds in the open market to finance firms unable to renew their maturing commercial paper. In the Franklin National case, the Federal Reserve loaned to that troubled international bank almost 2 billion dollars; and while these advances were outstanding it was possible to arrange a takeover by another bank that protected the interests of Franklin's depositors and customers. These actions were influenced by a feeling of responsibility for the financial system as a whole—international as well as domestic. The central banks of some other countries, notably the Bank of England, have likewise discharged constructively the function of serving as lenders of last resort, and the entire concept of central bank responsibility has been both widened and clarified through discussions in

recent years at the Bank for International Settlements.

All this and much more deserves to be noted about central banks—especially their tireless efforts to awaken the citizens of their respective countries to the economic and social dangers posed by inflation. But whatever the virtues or shortcomings of central banks may be, the fact remains that they alone will be able to cope only marginally with the inflation of our times. The persistent inflation that plagues the industrial democracies will not be vanquished—or even substantially curbed—until new currents of thought create a political environment in which the difficult adjustments required to end inflation can be undertaken.

There are some signs, as yet tenuous and inconclusive, that such a change in the intellectual and political climate of the democracies is getting under way. One of the characteristic features of a democracy is that it encourages learning from experience. Recent disturbing trends in economic and social life, particularly the persistence and acceleration of inflation, have led to much soul-searching by leaders of thoughts and opinion. Among economists, the Keynesian school has lost much of its erstwhile vigor, self-confidence, and influence. Economists are no longer focusing so exclusively on unemployment and governmental management of aggregate demand. They are paying more attention to the management of aggregate supply—to the need to strengthen incentives to work and innovate, to ways of stimulating saving and investment, to the importance of eliminating barriers to competition, to ways of reducing the regulatory burdens imposed on industry, and to other means of bolstering business confidence. Many economists now recognize that much of reported unemployment is voluntary, that curbing inflation and reducing involuntary unemployment are complementary rather than competitive goals, that persistent governmental deficits and excessive creation of money tend to feed the fires of inflation, that the high savings rate that usually prevails in the early stages of inflation is eventually succeeded by minimal savings, and that when this stage is reached it becomes very much harder to bring inflation under control.

The intellectual ferment in the world's democracies is having its influence not only on businessmen and investors, but also on politicians, trade union leaders, and even housewives; for all of them have been learning from experience and from one another. In the United States, for example, people have come to feel in increasing numbers that much of the government spending sanctioned by their compassion and altruism was falling short of its objectives; that urban blight was continuing, that the quality of public schools was deteriorating, that crime and violence were increasing, that welfare cheating was still widespread, that collecting unemployment insurance was becoming a way of life for far too many—in short, that the relentless increases of government spending were not producing the social benefits expected from them and yet were adding to the taxes of hard-working people and to the already high prices they had to pay at the grocery store and everywhere else. In my judgment, such feelings of resentment and frustration are largely responsible for the conservative political trend that has developed of late in the United States. And I gather from the results of recent elections elsewhere that concern about inflation and disenchantment with socialist solutions are increasing also in other industrial countries. Fighting inflation is therefore being accorded a higher priority by policy makers in Europe and in much of the rest of the world.

In the United States a great majority of the public now regard inflation as the Number One problem facing the country, and this judgment is accepted by both the Congress and the Executive establishment. Some steps have therefore been taken within the past year to check the rapid rise of Federal spending, to lower certain taxes in the interest of encouraging business investment, and yet bring down the still large budget deficit. Pressures to augment the privileges of trade unions have been resisted by the Congress. Some government regulations—as in the case of airlines and crude oil—have been eased. And even restrictive moves by the Federal Reserve, which not long ago would have stirred anger and anxiety in government circles, have been accepted with equanimity. Symbolic of the changed political atmosphere was the announcement of an increase in the Federal Reserve discount rate on the very day this July when a sizable decline of the nation's over-all production was being reported for the spring quarter.

The present widespread concern about inflation in the United States is an encouraging development, but no one can yet be sure how far it will go or how lasting it will prove. The changes that have thus far occurred in fiscal, monetary, and structural policies have been marginal adjustments. American policy makers tend to see merit in a gradualist approach because it promises a return to general price stability—perhaps with a delay of five or more years but without requiring significant sacrifices on the part of workers or their employers. But the very caution that leads politically to a policy of gradualism may well lead also to its premature suspension or abandonment in actual practice. Economic life is subject to all sort of surprises and disturbances—business recessions, labor unrest, foreign troubles, monopolistic shocks, elections, and governmental upsets. One or another such development, especially a business recession, could readily overwhelm and topple a gradualist timetable for curbing inflation. That has happened in the past and it may happen again.

If the United States and other industrial countries are to make real headway in the fight against inflation it will first be necessary to rout inflationary psychology—that is, to make people feel that inflation can be, and probably will be, brought under control. Such a change in national psychology is not likely to be accomplished by marginal adjustments of public policy. In view of the strong and widespread expectations of inflation that prevail at present, I have therefore reluctantly come to believe that fairly drastic therapy will be needed to turn inflationary psychology around.

The precise therapy that can serve a nation best is not easy to identify, and what will work well in one country may work poorly in another. In the case of the American inflation, which has become a major threat to the well-being of much of the world as well as of the American people, it would seem wise to me at this juncture of history for the government to adopt a basic program consisting of four parts. The first of these would be a legislative revision of the Federal budgetary process that would make it more difficult to run budget deficits and that would serve as the initial step toward a constitutional amendment directed to the same end.

The second part would be a commitment to a comprehensive plan for dismantling regulations that have been impeding the competitive process and for modifying others that have been running up costs and prices unnecessarily. The third part would be a binding endorsement of restrictive monetary policies until the rate of inflation has become substantially lower. And the fourth part would consist of legislation scheduling reductions of business taxes in each of the next five years—the reduction to be quite small in the first two years but to become substantial in later years. This sort of tax legislation would release powerful forces to improve the nation's productivity and thereby exert downward pressure on prices; and it would also help in the more immediate future to ease the difficult adjustments forced on many businesses and their employees by the adoption of the first three parts of the suggested program.

I wish I could close this long address by expressing confidence that a program along the lines I have just sketched, or any other constructive and forceful program for dealing with inflation, will be undertaken in the near future in the United States or elsewhere. That I cannot do today. I am not even sure that many of the central bankers of the world, having by now become immured to gradualism, would be willing to risk the painful economic adjustments that I fear are ultimately unavoidable. I would therefore not be surprised if the return to reasonable price stability in the industrial democracies and thereby to an orderly international monetary system is postponed by more false starts. But if political patience in individual countries is severely tested as that happens, the learning process will also be speeded. The conservative trend that now appears to be under way in many of the industrial democracies will then gather strength; and unless political leadership falls into irresponsible hands, the inflationary bias that has been sapping the economic and moral vitality of the democracies can finally be routed.

Mr. JAVITS. Mr. President, we have an eminent central banker's view of inflation, our No. 1 problem, in the shape of this speech delivered by Mr. Burns in Belgrade some days ago, September 30 to be exact.

While I do not agree with some of the points in the speech, his overall remarks are so incisive on this greatest of all dangers facing us economically that I urge my colleagues to read his statement.

I yield the floor.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. JAVITS. Of course, I yield.

Mr. BAKER. I only take a brief moment to commend the Senator from New York for his remarks about the speech in Belgrade by the former chairman of the Federal Reserve, Dr. Burns.

I have read that speech, and I think it is extraordinary in its breadth and in its detail. As the Senator from New York says, while everyone will not agree with every proposal made by Dr. Burns in that speech, I think it is a significant contribution to the literature on economic policy in the United States.

Mr. JAVITS. Mr. President, if the Senator will allow me to say just one other word, you know, it is amazing to me that we take these great minds like that of Arthur Burns, and when they are out of office it is like a pebble dropped in an ocean. You would think they never existed, and it is ridiculous. Here is a man who is brilliant, as I say, and I do not agree with a number of the things he said. So what? The fact is that he is one of the best minds we have, and I think that more and more we ought to learn in the Senate to treasure these great national treasures, whether they are in office or out, and that is the reason why I am doing what I am doing about this speech.

Mr. BAKER. Mr. President, I entirely agree, and I once again commend the Senator from New York for bringing this to our attention today.

ORDER FOR THE CONSIDERATION OF H.R. 3434 TO COMMENCE AT 1 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for starting consideration of H.R. 3434 tomorrow be moved from 12:30 p.m. to 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONVENING OF SENATE AT 12:30 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate convene at 12:30 p.m. instead of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Now, Mr. President, on tomorrow the Senate will have before it H.R. 3434, the child welfare and social services bill. The Senate will proceed to the consideration of that bill at 1 p.m. There is a time agreement on the bill. There will be, I would think, some rollcall votes in relation to the bill and amendments and/or motions in regard thereto tomorrow.

There may be other matters, conference reports, and so forth, if such are cleared for action.

RECESS UNTIL 12:30 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business now to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 12:30 p.m. tomorrow.

The motion was agreed to; and at 5:59 p.m., the Senate recessed until Thursday, October 25, 1979, at 12:30 p.m.

HOUSE OF REPRESENTATIVES—*Wednesday, October 24, 1979*

The House met at 10 a.m.

Rabbi Melvin L. Goldstine, the Temple Aliyah, Woodland Hills, Calif., offered the following prayer:

Our God and God of our fathers, Creator of Heaven and Earth, Inspirer of the human being, Author of liberty: to Thee do we turn our hearts in reverence and humility.

Prayer points in two directions. It is a reaching outward and a searching inward at one and the same time. It is a questing and a questioning.

We seek the wisdom to fathom and to help resolve the complex problems that beset our Nation and the world; we seek the strength to reject unjust solutions; and we seek the courage to stand always for the right.

We continually search our souls to determine whether we represent the people of this great country with integrity and compassion.

Bless these, Thy chosen servants, dear God, as they exercise their awesome responsibilities.

Grant America and all mankind the blessings of mutual understanding and peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ASHBROOK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 354, nays 19, answered "present" 1, not voting 59, as follows:

[Roll No. 592]

YEAS—354

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Derrick
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Frost
Fuqua
Garcia
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Udall
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—19

Aspin
AuCoin
Bereuter
Burton, John
Coughlin
Derwinski
Gooding
Hall, Ohio
Harkin
Jacobs
Lloyd
Lott
Lowry
Madigan
Mitchell, Md.
Quayle
Schroeder
Traxler
Walker

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ANSWERED "PRESENT"—1

Neal

NOT VOTING—59

Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Applegate
Beard, R.I.
Boggs
Bolling
Bonker
Breaux
Brooks
Brown, Calif.
Chisholm
Corcoran
de la Garza
Dellums
Diggs
Dixon
Dodd
Dougherty
Eckhardt
Evans, Ga.
Flood
Forsythe
Fountain
Gaydos
Gephardt
Gilman
Harsha
Hefner
Heftel
Hinson
Holtzman
Jones, N.C.
Leach, La.
McDonald
McEwen
McHugh
Mathis
Minish
Montgomery
Rose
Runnels
Scheuer
Seiberling
Skelton
Stockman
Swift
Thompson
Treen
Ullman
Vander Jagt
Waxman
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wyatt
Young, Alaska

□ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

A WELCOME TO RABBI MELVIN L. GOLDSTINE

(Mr. GOLDWATER asked and was given permission to address the House for 1 minute.)

Mr. GOLDWATER. Mr. Speaker, it is my privilege and pleasure this morning to introduce to my colleagues Rabbi Melvin L. Goldstine, spiritual leader of the Temple Aliyah in Woodland Hills, Calif.

Rabbi Goldstine is a summa cum laude graduate of Northwestern University and was ordained at the Jewish Theological Seminary of America, which awarded him a master's degree in Hebrew literature and a doctor of divinity degree. Rabbi Goldstine has a long history of involvement in the concerns of southern California, serving as an officer of the Western States region of the Rabbinical Association and as a member of the executive committee of Southern California Board of Rabbis.

The 20th District of California is fortunate to have the rabbi as a vigorous contributing member of the community. May we, as Members of this Congress, have the strength and understanding of this man to not only speak of peace, but truly take an active role in the creation of peace.

As we begin the day's session, I am proud on behalf of all the Members of the House to welcome Rabbi Goldstine and his charming wife Bella to our midst.

AN OPEN INVITATION TO ECONOMIC DISASTER

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, New York banks today announced they are raising the prime interest rate to an unprecedented 15 percent—the highest in American history.

This is the result of a misbegotten policy of the Federal Reserve Board. In my opinion it is an open invitation to economic disaster.

The Federal Reserve seems to think that raising interest rates is an effective way to curb inflation.

That, I submit, is like pouring gasoline on the fire. The two elements which have run ahead of and paced the rise in the cost of living are the cost of energy and the cost of money.

For the past 6 months we have watched the inflation rate follow the interest rate up and up. High interest rates are clearly price inflationary, not deflationary. They have become, quite clearly, one of the principal causes of the inflation.

But they do run the serious risk of stalling out the economy, creating rising unemployment to exacerbate the ills of rising prices.

That is exactly what they did in the early 1970's.

High interest is the proven formula for creating both inflation and recession in the same economy.

High interest rates always have cruelly hurt the poor and moderate-income Americans.

People with money always have had an advantage over people without money. The interest rate is the precise measure of the degree of that advantage which a society is willing to tolerate and institutionalize.

The skyrocketing interest rate already this year has made it impossible for literally millions of American families to afford a home.

Since the first of this year, the increase in interest alone has added some $41,000 to the ultimate cost of paying for a $50,000 home on a 30-year mortgage.

It has added $115 a month to the payments a young family would have to make to purchase such a home. That is a $115 monthly hidden hand in the pocket. It robs that young family of that much of its income while giving nothing whatever in return.

Since the first of this year, the skyrocketing interest rate has added $4 billion to the annual cost of servicing the national debt. That is $4 billion more the American people will have to pay in taxes, and for which we will get exactly nothing.

In the early 1950's, President Harry Truman ordered the Federal Reserve to disgorge itself of an ill-gotten interest rate increase which it had ordered. The Federal Reserve did so. It is time, and past time, for that kind of leadership again.

THE PARADE OF BIG OIL PROFITS: A SAD TIME FOR THE AMERICAN PEOPLE

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, the international oil companies have begun to reveal their third-quarter earnings. The parade of profits is led by the largest oil company, Exxon. Exxon's profits in the third quarter soared 118 percent over the same period last year. In dollar terms, Exxon earned $1.14 billion in the last 3 months. "It was a good quarter," commented Exxon Comptroller Ulysses Grange.

No, it was not. It was not a good quarter for the millions of American consumers who are paying for Exxon's $1.14 billion profit. It was not a good quarter for the elderly who began to take deliveries on Exxon home heating oil, which now costs around 99 cents a gallon. It was not a good quarter for families of limited income who have no idea how they will pay for these skyrocketing energy prices. It was not a good quarter for the American people who continue to be victimized by these international profiteers.

And it was not a good quarter for Congress. Because we had the opportunity to stop this ripoff and we did not do it. We had the opportunity to reimpose controls on petroleum prices and we failed. The oil lobbyists railroaded the American people once again. But it was a good quarter for Exxon.

Of course, Exxon is not the only international oil company to have a "good quarter." Arco's profits were up 45 percent. Amoco's rose 49 percent. And today the parade of profits will continue as the other oil companies unveil their earnings. The American people are suffering under double-digit inflation and triple-digit oil profits. It is almost pornographic.

Presumably it is a happy day in the high buildings that house the oil executives. There is backslapping and congratulations in the stately board rooms.

But in America's homes, the people are angry because the ripoff continues. Angry because this week the oil companies are again warning of another mysterious shortage. They are angry because the real shortage is a shortage of courage on Capitol Hill, a shortage of courage in the House of Representatives where we cannot find a majority of Members to stand up to the self-interested oil companies on behalf of the American consumer.

Yes, it was a good quarter for Exxon. But a tragic day for the American people.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO MEET TODAY AND FRIDAY, OCTOBER 26, 1979, WHILE HOUSE IS IN SESSION

Mr. BLANCHARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs be permitted to sit today and Friday, October 26, 1979, past 10 a.m., in order to conduct hearings on the Chrysler Corp.'s financial situation.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Michigan (Mr. BLANCHARD) assure the House that this is for hearings only and that there would be no markup of any bill?

Mr. BLANCHARD. If the gentleman will yield, there will be absolutely no markup yet.

Mr. ROUSSELOT. Mr. Speaker, during those days of hearings, there will be no markup of any bill?

Mr. BLANCHARD. Mr. Speaker, there

will be no markup. We have consulted with minority members of the Committee on Banking, Finance and Urban Affairs on this matter.

Mr. ROUSSELOT. I appreciate the gentleman's comments, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan (Mr. BLANCHARD)?

There was no objection.

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO SIT TODAY WHILE HOUSE IS IN SESSION

Mr. HANLEY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be permitted to sit today while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, would the gentleman from New York (Mr. HANLEY) assure the House there would be no markup?

Mr. HANLEY. Mr. Speaker, I cannot give the gentleman that assurance. I do not believe we have a problem. I do not believe we have a controversy. We do have some legislation that is very important, but that is noncontroversial.

Mr. ROUSSELOT. Mr. Speaker, is the gentleman going to mark up bills then?

Mr. HANLEY. Mr. Speaker, the gentleman is correct.

Mr. ROUSSELOT. Mr. Speaker, what bills is the gentleman marking up?

Mr. HANLEY. Mr. Speaker, this is a bill, incidentally, that the gentleman from California (Mr. ROUSSELOT) is intensely interested in its enactment.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, it is not whether the gentleman is intensely interested or not. We have a lot of legislation here on the floor.

I would ask the gentleman, is this just for 1 day?

Mr. HANLEY. Mr. Speaker, this is for 1 day.

Mr. ROUSSELOT. Mr. Speaker, I would ask the gentleman, is this for tomorrow?

Mr. HANLEY. Mr. Speaker, we would be finished this morning.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York (Mr. HANLEY)?

There was no objection.

PERMISSION FOR COMMITTEE ON VETERANS' AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs may be permitted to sit tomorrow, Thursday, October 25, 1979, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, would the gentleman from Texas (Mr. ROBERTS) assure the House there would be no markup of any bill?

Mr. ROBERTS. Mr. Speaker, really, there is no legislation. It is more of an investigation into the administration policy of the VA hospitals.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas (Mr. ROBERTS)?

There was no objection.

□ 1030

AMENDMENT ON DOE AUTHORIZATION REQUIRING OIL COMPANIES TO SUPPLY INFORMATION SHOULD RECEIVE "YES" VOTE

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I merely take this time to call attention of the Members to the fact that the first order of business when the DOE is taken up in the committee this morning is going to be the amendment dealing with providing information to the DOE from the oil companies and bringing about the action of the DOE to inform the Congress immediately of the results of the oil companies' refining capabilities, their storage and so forth. I am convinced that the membership today, having seen the recent reports and outrageous profits that have been run up by the oil companies, are going to be most interested in voting on this amendment.

EXXON OIL CO.—U.S. PROFITS DOWN

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, as I listened to television news, I wanted to confirm the extent of oil company profits. I checked Exxon, which is the largest U.S. oil company, and found that their operating earnings from the U.S. petroleum and natural gas operations were up only 2.7 percent during the first 9 months of 1979. Considering the fact that our Nation has 14-percent inflation, Exxon is falling way behind the inflation rate. With all the talk in Congress about refinery profits and what oil companies are making in service stations, I was interested to see that Exxon U.S. earnings were down 17.1 percent from the year earlier period. Exxon reported that higher prices for domestic products were more than offset by higher costs of both imported and domestic crude oil, as well as higher operating costs.

The American consumer has seen Exxon profit margins decline in the refinery and the U.S. service station where he buys gasoline.

Fortunately, the company had strong foreign earnings including refining and marketing earnings abroad, tax relief in England, and worldwide chemical operations were most profitable.

We must encourage Exxon to increase its profits in the United States. They are reinvesting capital for exploration and development. Six years ago the United States was importing $3 billion in oil. This year the United States is going to import $60 billion in oil. It is essential that the U.S. oil companies make and retain more earnings so they will have the capital for exploration in new U.S. fields as well as in U.S. secondary and tertiary recoveries in old fields in the United States.

EXXON'S PROFITS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, as the elected representative for the one-half million citizens of rural western Massachusetts, I am compelled to stand and speak on their behalf when I hear the third-quarter profits for some of the major oil companies. I do not care what the gentleman from Texas (Mr. COLLINS) says. We have to look at the bottom line. The world's largest oil company, Exxon, reported its earnings yesterday. They soared from $525 million for the June to September 1978 period to $1.14 billion for the same period in 1979. This translates into a profits picture of some 118 percent, more than double last year's figure and nearly 100 percent points above the second-quarter profits this year of 20 percent.

Mr. Speaker, the American consumers have been besieged with negative economic news all year. They have waited patiently in gas lines during the hot summer months. They hear reports of possible dislocations of home heating oil for this winter; a winter already upon some regions of the country, such as New England. They are hit in the pocketbook whenever the oil ministers decide to raise prices on their precious export—crude oil.

Our 220 million citizens, many of which have worked hard for all their lives and have retired on fixed incomes, deserve better than the insensitivity displayed by the big oil companies. Many are now fearful that they may have to choose between eating and heating. They have been ripped off for too long now. These profit figures should be the clearest signal to the Nation that passage of a stiff windfall profits tax is necessary in order for the American public to recoup some of their hard-earned money.

REPRESENTATIVE REGULA INTRODUCES BILL TO MONITOR "CONTRACT BUREAUCRACY"

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, according to a recent National Journal study, the civilian Government payroll grew from $29 billion to $45 billion between 1970 and 1978. Yet, during that same period, the number of civilian employees remained fairly constant at 2.1 million. It is becoming apparent that this growth in Government spending is due chiefly to the increase in the "contract bureaucracy."

It is estimated that approximately $150 billion of Federal outlays in 1978 were

for Government grants and contracts with private firms and individuals. The National Journal study revealed that as many as 8 million people may be employed indirectly by the Federal Government.

Two and a half years ago, the President directed the Office of Management and Budget to find out how many consultant contracts the Federal Government awarded and the names of the consulting firms. Today, we still do not have that information.

As the contract bureaucracy grows in numbers, its influence increases over the entire governmental network. The potential for misplaced power exists as the consulting industry continues to reach into every department and agency in the Government. There are no checks and balances over this "branch" of our Government, yet the cost to the American taxpayers for consulting services is tremendous.

The use of consultants for Government services can be necessary in certain instances. But, we have no way of knowing which contracts are properly awarded and will be a benefit to the country and which are a waste of the taxpayers' money.

In an attempt to uncover the "hidden employees" of the Federal Government and to monitor this contract bureaucracy, I am today introducing a bill amending the Administrative Procedures Act to require public notice of Federal contracts, grants, and loans. This proposal has consistently been endorsed by the Administrative Conference of the United States and by the American Bar Association.

Requiring public notice of the contracts awarded by Federal departments and agencies will enable us to find out what contracts are being awarded and by which agencies. This is an important first step in our investigation into this hidden contract bureaucracy.

REPRESENTATIVE MARTIN REQUESTS REDUCTION IN PAY

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, I know not what course Exxon may take, but as for me, in accordance with title 2, United States Code, section 39, I make a unanimous-consent request that my pay be reduced for the 3 days during which I was not in attendance at sessions of the House on October 9, 11, and 12.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

HUD "SUCCESS" STORY

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COUGHLIN. Mr. Speaker, Members have surely been reading with great interest the Washington Post series on the alleged diversion and misappropriation of at least $600,000 from the Department of Housing and Urban Development and low-income tenants by officials of a real estate spinoff of Pride, Inc. Post readers were treated to related articles not 3 months ago detailing the failure of HUD-subsidized housing projects in Prince Georges County, Md. One cannot help but wonder how many more HUD "success" stories exist, and how HUD officials allow such things to happen in the first place.

The current Post stories tell how HUD sold the Clifton Terrace apartments complex in Washington, D.C., with a "unique, no-downpayment HUD mortgage." Even though this was an experimental program, reportedly only four monthly mortgage payments were made, partial taxes and utility bills were paid, and security and maintenance were reduced in the 3 years before foreclosure. In the words of one of the participants:

> Nothing was ever correct that was sent to HUD. They never got a true picture. I don't think they were really interested.

The Department of Housing and Urban Development was, and continues to be, interested in bullying local governmental officials, harassing community groups, and tormenting planners who attempt legitimately to use federally assisted housing and community development programs for the benefit of their areas. Furthermore, HUD officials often scream that that are not enough "monitors" among the 16,000 employees to prosecute those who refuse to knuckle under. There is a better way to achieve the goal of safe, decent, and affordable housing for all. If HUD would concentrate on designing simple, good, and workable programs, and investigating possible participants to insure their eligibility and potential for success, even more could be done for those the Department was established to serve.

REPRESENTATIVE ROTH SHARES VIEWS OF AGRICULTURAL CONSTITUENTS

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROTH. Mr. Speaker, more than two-thirds of my district is rural, and the interests of farmers and small-town people are very important to me. Therefore, I would like to take some time today to share the views of some of my agricultural constituents who are members of my agricultural advisers committee. This committee is designed to provide me with suggestions and reactions on agricultural and rural issues as they arise in Congress. It is fair to say that they closely represent the views of the agricultural community in my district.

Despite the presence of many controversial farm related issues, a survey of our committee found that inflation and the energy crisis are the foremost concerns. These two problems are so serious that they far outrank any usual "farm issues." With production prices skyrocketing, inflation is hitting the farmer harder than ever. They are also concerned that heating and diesel supplies will not get them through the winter and the following spring planting season. Clearly, farmers must have sufficient fuel to plant and harvest their crops. And it is absolutely essential that others who live in rural areas are not deprived of their transportation.

Of the "farm related issues," the Farm Credit Act, which expands the ability of co-ops to participate in international trade, was also ranked high. In this same general area, the agricultural advisers committee considers the multilateral trade agreement as it affects agriculture of major importance also.

In the dairy sector, the increased importation of casein and its use in food products dominates discussion along with milk price supports.

The issues I have just mentioned were ranked most important by my agriculture advisory board. However, many other issues are on my constituents' minds. Among these are the carryover basis, farm installment sales, and foreign investment in American farmland.

The following is a ranking of farm related issues by the agriculture advisory board in order of importance:

1. Inflation;
2. Diesel fuel supply;
3. Heating fuel oil supply;
4. Multilateral Trade Agreement (as it affects agriculture);
5. Farm Credit Act;
6. Casein (the increased importation and use in food products);
7. Carryover basis;
8. Milk price supports;
9. Farm installment sales;
10. Foreign investment in American farmland;
11. "Wheat for Oil";
12. Water resource planning; and
13. Revisions in federal crop insurance.

SOMETHING SHOULD BE DONE ABOUT RIPOFF OF FEDERAL FUNDS IN HUD

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, to follow up the remarks of the gentleman from Pennsylvania (Mr. COUGHLIN), I think it is an outrage that something is not being done about this ripoff of Federal funds through the failures of the HUD organizations.

The Washington Post has carried a series of stories having to do with Clifton Terrace, and somebody ought to go to jail if there is anything to those stories. They talk about Mary Treadwell. I do not know anything about her except they say she uses street language and intimidates the people in HUD and they are afraid to do anything about it.

□ 1040

We are talking about literally hundreds and hundreds and hundreds of thousands of dollars of taxpayers' money. No wonder many of us do not support HUD programs.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to my colleague from Ohio.

Mr. ASHBROOK. Mr. Speaker, my colleague will recall a few years ago when our late colleague from Iowa, Mr. Kyle, and others, including myself, pointed out

what Pride was doing. We were attacked as not being fair to a poor group that was trying to develop this city. The gentleman remembers that very well.

Mr. DEVINE. I would suggest that the Committee on Banking, Finance and Urban Affairs exercise its oversight responsibility to follow through on this to make sure that there is not a ripoff of the taxpayers' funds, and also the Justice Department get involved.

RIGHTS OF HOUSE MEMBERS AGAIN DIMINISHED

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, once again it grieves my heart to take the floor of the House and inform the Members that their rights have been diminished still further. Yesterday the House Committee on Rules, following the trend of the majority leadership, of the majoritarian, authoritarian, totalitarian dictatorship that has now taken over direction of this House, reported out a closed rule on a major welfare bill, a multibillion-dollar bill. No amendments are in order—no amendments by the minority, no amendments by the majority, save one. There will be one amendment offered by the gentleman from Vermont (Mr. JEFFORDS) which was said to improve the lot of the lonesome, the poor, the elderly. It passed just that quickly, so that is the only amendment in order, despite the fact that many Members appeared and asked to have amendments made in order.

We will be confronted with a major issue, a major policy area, where the hands of the House will be tied. It is sad to see the decline of a once great institution.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, will that lone amendment increase or decrease?

Mr. BAUMAN. It will increase. That is why it passed.

CONFERENCE REPORT ON H.R. 4394, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT — INDEPENDENT AGENCIES APPROPRIATIONS, 1980

Mr. BOLAND. Mr. Speaker, pursuant to the order of the House on October 23, 1979, I call up the conference report on the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

The Clerk read the title of the bill.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 23, 1979.)

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The gentleman from Massachusetts (Mr. BOLAND) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we bring before the House today a further conference report on the amendments in disagreement on the 1980 HUD-independent agencies appropriation bill.

The Members will recall that a conference report on H.R. 4394 was approved by the House on September 27 and by the Senate on September 28. However, two amendments originally reported in disagreement from the committee of conference remained unresolved at that time. The issues in dispute were the Department of Housing and Urban Development's livable cities program and the National Aeronautics and Space Administration's research and development account.

Mr. Speaker, I am glad to be able to report that during a further conference on the amendments in disagreement a compromise—hopefully acceptable to both Houses—was reached. The Senate conferees receded to the House position on the livable cities program. The Senate had included $3 million for the program, but agreed to provide no funding in this bill. I sympathize with the objectives of the livable cities program and respect the views of those who want to fund the endeavor. We have been over this ground many times before so I will not belabor the issue. The House position is simply that existing programs in other agencies should be the vehicle for encouraging artistic opportunities in our cities.

The complicated NASA research and development issue has also been resolved. The only changes from the original House reduction of $23 million are recommendations of an additional $3 million for variable cycle engine work and $5 million for advanced rotorcraft technology. This represents a good compromise. The House gave up the $23 million Shuttle reserve and Project Galileo oversight language adopted September 27. The Senate agreed to funding only two projects—against the eight that were originally added by the other body.

Although no funds are included in the bill specifically for Space Shuttle thrust augmentation, I want to reassure my good friend from Florida, the chairman of the Science and Technology Committee (Mr. FUQUA), that we have no objection to NASA using some funding for design work already in progress in this area.

Mr. Speaker, I want to follow up on some of the comments made this morning concerning the Clifton Terrace Apartments series which has appeared in the Washington Post over the last 4 days.

I want to make clear that I share the concerns expressed by Mr. COUGHLIN, the distinguished ranking minority member of the HUD-Independent Agencies Appropriations Subcommittee. The allegations made in the Post articles are serious—and they will not be treated lightly by the subcommittee which I chair. It is alleged that at least $600,000 was diverted, misappropriated, or stolen from low-income tenants and the U.S. Government according to a year-long inquiry conducted by the Washington Post. The Post and the two fine reporters who wrote the articles, Lewis Simons and Ron Shaffer, are to be congratulated for their diligence in bringing this matter to public attention.

The Department of Housing and Urban Development (HUD) sold the Clifton Terrace Apartments in Washington, D.C., to P. I. Properties, Inc., in 1975 under a special experimental program designed to promote minority housing ownership and management. During the next 3 years P. I. Properties, Inc., made only four mortgage payments to HUD—one of which was not covered by sufficient funds. The Post articles detail the mismanagement and misappropriation of funds that resulted in P. I. Properties, Inc., becoming $350,000 overdue in payments owed to HUD before the Department finally took action to foreclose on the mortgage. In addition, the District of Columbia Government spent $100,000 for utilities for the Clifton Terrace Apartments and HUD advanced P. I. Properties, Inc., nearly $200,000 for utilities and taxes.

I realize that HUD has a very difficult mission to accomplish and must manage thousands of trouble-prone properties nationwide. The Department's objectives are very hard to meet under the best of circumstances. But they are made immeasurably more difficult if the process is subverted, as appears to be the case at Clifton Terrace.

However, I believe the distress signals at Clifton Terrace were sufficiently clear to warrant corrective action by HUD long before it actually occurred.

I want to assure my colleague on the HUD-Independent Agencies Appropriations Subcommittee, the gentleman from Pennsylvania (Mr. COUGHLIN), and the Members of the House that the subcommittee intends to pursue this situation. I have asked that HUD's Inspector General brief the staff on the current status of the Clifton Terrace situation.

I do not believe this unfortunate development pervades all of HUD's housing programs—but determining how pervasive the problem is will be a high priority of the appropriations subcommittee.

Mr. Speaker, I will include in the remarks a table comparing the conference agreement with the amounts for 1979 and the actions of the House and Senate. I urge the adoption of the conference report.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1980 (H.R. 4394)

[Note.—All amounts are in the form of appropriations unless otherwise indicated.]

Agency and item	New budget (obligational) authority fiscal year 1979 [1]	Budget estimates of new budget (obligational) authority fiscal year 1980 [2]	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action	Conference action compared with— New budget (obligational) authority fiscal year 1979	Budget estimates of new budget (obligational) authority fiscal year 1980	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE I									
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Annual contributions for assisted housing (contract authority)	$24,395,848,000	$26,680,127,750	$26,680,128,000	$26,680,128,000	$26,680,128,000	+$2,284,280,000	+$250		
Increased limitation for annual contract authority	(1,322,297,000)	(1,140,661,275)	(1,160,474,000)	(1,140,661,000)	(1,140,661,000)	(−181,636,000)	(−275)	(−$19,813,000)	
Rent supplement		−200,000,000		−200,000,000	−200,000,000	−200,000,000		−200,000,000	
Housing payments (appropriation to liquidate contract authority)	(4,460,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(+1,069,000,000)			
Housing for the elderly or handicapped fund (authority to borrow)	800,000,000	800,000,000	800,000,000	860,000,000	830,000,000	+30,000,000	+30,000,000	+30,000,000	−$30,000,000
Congregate services program	10,000,000		10,000,000	10,000,000	10,000,000		+10,000,000		
Payments for operation of low-income housing projects	727,000,000	741,500,000	741,500,000	741,500,000	741,500,000	+14,500,000			
Troubled projects operating subsidy	74,000,000	82,000,000	77,000,000	82,000,000	79,500,000	+5,500,000	−2,500,000	+2,500,000	−2,500,000
Federal Housing Administration fund	352,290,000	194,850,000	194,850,000	194,850,000	194,850,000	−157,440,000			
Government National Mortgage Association									
Emergency mortgage purchase assistance: Recapture of repayments	(1,000,000,000)					(−1,000,000,000)			
Special assistance functions fund: Authority to borrow	500,000,000					−500,000,000			
Recapture of repayments	(1,500,000,000)	(2,000,000,000)	(2,000,000,000)	(2,000,000,000)	(2,000,000,000)	(+500,000,000)			
Payment of participation sales insufficiencies	20,477,000	16,971,000	16,971,000	16,971,000	16,971,000	−3,506,000			
Total, Government National Mortgage Association	520,477,000	16,971,000	16,971,000	16,971,000	16,971,000	−503,506,000			
Total, Housing Programs	26,879,615,000	28,315,448,750	28,520,449,000	28,385,449,000	28,352,949,000	+1,473,334,000	+37,500,250	−167,500,000	−32,500,000
Community Planning and Development									
Community development grants	3,750,000,000	3,900,000,000	3,900,000,000	3,900,000,000	3,900,000,000	+150,000,000			
Urban development action grants	400,000,000	675,000,000	400,000,000	675,000,000	675,000,000	+275,000,000		+275,000,000	
Comprehensive planning grants	53,000,000	40,000,000	35,000,000	50,000,000	42,500,000	−10,500,000	+2,500,000	+7,500,000	−7,500,000
Rehabilitation loan fund	230,000,000	130,000,000	140,000,000	130,000,000	135,000,000	−95,000,000	+5,000,000	−5,000,000	+5,000,000
Urban homesteading	20,000,000					−20,000,000			
Total, Community Planning and Development	4,453,000,000	4,745,000,000	4,475,000,000	4,755,000,000	4,752,500,000	+299,500,000	+7,500,000	+277,500,000	−2,500,000
Neighborhoods, Voluntary Associations and Consumer Protection									
Housing counseling assistance	9,000,000	9,000,000	9,000,000	9,000,000	9,000,000				
Neighborhood self-help development program	5,000,000	15,000,000	10,000,000	10,000,000	10,000,000	+5,000,000	−5,000,000		
Livable cities program		5,000,000		3,000,000			−5,000,000		−3,000,000
Total, Neighborhoods, Voluntary Associations and Consumer protection	14,000,000	29,000,000	19,000,000	22,000,000	19,000,000	+5,000,000	−10,000,000		−3,000,000
Policy Development and Research									
Research and technology	57,500,000	53,000,000	49,000,000	50,300,000	49,650,000	−7,850,000	−3,350,000	+650,000	−650,000
Fair Housing and Equal Opportunity									
Fair Housing Assistance		3,700,000	3,700,000	3,700,000	3,700,000	+3,700,000			
Management and Administration									
Salaries and expenses	269,458,000	296,002,000	288,377,000	281,002,000	284,189,000	+14,731,000	−11,813,000	−4,188,000	+3,187,000
By transfer, FHA funds	(250,255,000)	(255,118,000)	(255,118,000)	(255,118,000)	(255,118,000)	(+4,863,000)			
Total, title I, Department of Housing and Urban Development:									
New budget (obligational) authority	31,673,573,000	33,442,150,750	33,355,526,000	33,497,451,000	33,461,988,000	+1,788,415,000	+19,837,250	+106,462,000	−35,463,000
Appropriations	5,977,725,000	6,162,023,000	5,875,398,000	6,157,323,000	6,151,860,000	+174,135,000	−10,163,000	+276,462,000	−5,463,000
Contract authority	24,395,848,000	26,480,127,750	26,680,128,000	26,480,128,000	26,480,128,000	+2,084,280,000	+250	−200,000,000	
Authority to borrow	1,300,000,000	800,000,000	800,000,000	860,000,000	830,000,000	−470,000,000	+30,000,000	+30,000,000	−30,000,000
Appropriation to liquidate contract authority	(4,460,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(+1,069,000,000)			
Increased limitation for annual contract authority	(1,322,297,000)	(1,140,661,275)	(1,160,474,000)	(1,140,661,000)	(1,140,661,000)	(−181,636,000)	(−275)	(−19,813,000)	
Limitation on corporate funds to be expended	(250,255,000)	(255,118,000)	(255,118,000)	(255,118,000)	(255,118,000)	(+4,863,000)			

Footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD —INDEPENDENT AGENCIES APPROPRIATION BILL, 1980 (H.R. 4394)—Continued

[Note.—All amounts are in the form of appropriation unless otherwise indicated.]

Agency and item	New budget (obligational) authority fiscal year 1979 [1]	Budget estimates of new budget (obligational) authority fiscal year 1980 [2]	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action	Conference action compared with— New budget (obligational) authority fiscal year 1979	Budget estimates of new budget (obligational) authority fiscal year 1980	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE II									
INDEPENDENT AGENCIES									
AMERICAN BATTLE MONUMENTS COMMISSION									
Salaries and expenses	$7,425,000	$7,603,000	$8,186,000	$7,603,000	$7,603,000	+$178,000		−$583,000	
CONSUMER PRODUCT SAFETY COMMISSION									
Salaries and expenses	42,940,000	41,776,000	41,250,000	40,600,000	40,500,000	−2,340,000	−$1,176,000	−650,000	
DEPARTMENT OF DEFENSE—CIVIL									
Cemeterial Expenses, Army									
Salaries and expenses	5,100,000	7,943,000	8,326,000	7,611,000	8,326,000	+3,226,000	+383,000		+$715,000
ENVIRONMENTAL PROTECTION AGENCY									
Salaries and expenses	457,419,000	520,319,000	506,748,000	515,319,000	513,319,000	+55,900,000	−7,000,000	+6,571,000	−2,000,000
Research and development	218,819,000	239,568,000	233,568,000	232,568,000	233,568,000	+14,749,000	−6,000,000		+1,000,000
Abatement, control and compliance	524,145,000	540,688,000	475,305,000	515,592,000	508,892,000	−15,253,000	−31,796,000	+33,083,000	−6,700,000
Buildings and facilities	1,063,000	1,425,000	1,425,000	1,425,000	1,425,000	+362,000			
Construction grants:									
Appropriation	4,200,000,000	3,800,000,000	3,400,000,000	3,400,000,000	3,400,000,000	−800,000,000	−400,000,000		
Appropriation to liquidate contract authority	(1,400,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(+100,000,000)			
Scientific activities overseas (special foreign currency program)	2,500,000	4,000,000	2,000,000			−2,500,000	−4,000,000	−2,000,000	
United States Regulatory Council		3,238,000	2,238,000	3,238,000	3,038,000	+3,038,000	−200,000	+800,000	−200,000
Total, Environmental Protection Agency	5,403,946,000	5,109,238,000	4,621,788,000	4,668,142,000	4,660,242,000	−743,704,000	−448,996,000	+38,454,000	−7,900,000
EXECUTIVE OFFICE OF THE PRESIDENT									
Council on Environmental Quality and Office of Environmental Quality	3,026,000	3,126,000	3,026,000	3,126,000	3,126,000	+100,000		+100,000	
Office of Science and Technology Policy	2,496,000	2,900,000	2,725,000	2,625,000	2,625,000	+129,000	−275,000	−100,000	
Total, Executive Office of the President	5,522,000	6,026,000	5,751,000	5,751,000	5,751,000	+229,000	−275,000		
FEDERAL EMERGENCY MANAGEMENT AGENCY									
Disaster relief, funds appropriated to the President	386,105,000	193,600,000	193,600,000	193,600,000	193,600,000	−192,505,000			
Emergency planning, preparedness and mobilization	129,348,000	130,121,000	131,121,000	129,621,000	129,621,000	+273,000	−9,500,000	−1,500,000	
Hazard mitigation and disaster assistance	132,517,000	125,709,000	119,109,000	118,709,000	118,709,000	−13,808,000	−7,000,000	−400,000	
Total, Federal Emergency Management Agency	647,970,000	458,430,000	443,830,000	441,930,000	441,930,000	−206,040,000	−16,500,000	−1,900,000	
GENERAL SERVICES ADMINISTRATION									
Consumer Information Center	1,162,000	1,364,000	1,315,000	1,315,000	1,315,000	+153,000	−49,000		
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Office of Consumer Affairs	1,732,000	1,861,000	1,861,000	1,861,000	1,861,000	+129,000			
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION									
Research and development	3,477,700,000	3,822,500,000	3,799,500,000	3,822,500,000	3,807,500,000	+330,300,000	−15,000,000	+8,000,000	−15,000,000
Construction of facilities	147,500,000	157,600,000	156,100,000	156,100,000	156,100,000	+8,600,000	−1,500,000		
Research and program management	936,469,000	964,900,000	954,900,000	964,900,000	959,900,000	+23,431,000	−5,000,000	+5,000,000	−5,000,000
Total, National Aeronautics and Space Administration	4,561,169,000	4,945,000,000	4,910,500,000	4,943,500,000	4,923,500,000	+367,331,000	−21,500,000	+13,000,000	−20,000,000
NATIONAL COMMISSION ON AIR QUALITY									
Salaries and expenses	2,000,000	5,000,000	5,000,000	5,500,000	5,500,000	+3,500,000	+500,000	+500,000	

See footnotes at end of table.

Agency and item	New budget (obligational) authority fiscal year 1979 [1]	Budget estimates of new budget (obligational) authority fiscal year 1980 [2]	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action	Conference action compared with— New budget (obligational) authority fiscal year 1979	Budget estimates of new budget (obligational) authority fiscal year 1980	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE II—Continued									
NATIONAL CONSUMER COOPERATIVE BANK									
Salaries and expenses	$1,500,000	$8,980,000	$7,000,000	$8,000,000	$7,980,000	+$6,480,000	−$980,000	+$980,000	−$980,000
Self-help development	1,000,000	20,000,000	17,000,000	17,000,000	17,000,000	+16,000,000	−3,000,000		
Total, National Consumer Cooperative Bank	2,500,000	28,980,000	24,000,000	25,000,000	24,980,000	+22,480,000	−3,980,000	+980,000	−980,000
NATIONAL CREDIT UNION ADMINISTRATION									
Central liquidity facility (authority to borrow)		300,000,000	300,000,000				−300,000,000	−300,000,000	
NATIONAL INSTITUTE OF BUILDING SCIENCES									
Salaries and expenses	750,000	750,000	718,000	750,000	750,000			+32,000	
NATIONAL SCIENCE FOUNDATION									
Research and related activities	827,000,000	915,300,000	906,800,000	915,300,000	906,050,000	+79,050,000	−9,250,000	+9,250,000	−9,250,000
Science education activities	80,000,000	84,700,000	84,700,000	84,700,000	84,700,000	+4,700,000			
Scientific activities overseas (special foreign currency program)	4,000,000	5,000,000	5,500,000	5,500,000	5,500,000	+1,500,000	−500,000		
Total, National Science Foundation	911,000,000	1,005,000,000	997,000,000	1,005,500,000	996,250,000	+85,250,000	−8,750,000	+8,250,000	−8,250,000
NEIGHBORHOOD REINVESTMENT CORPORATION									
Salaries and expenses		9,500,000	9,500,000	12,000,000	12,000,000	+12,000,000	+2,500,000	+2,500,000	
SELECTIVE SERVICE SYSTEM									
Salaries and expenses	7,830,000	9,825,000	7,830,000	7,830,000	7,830,000		−1,995,000		
DEPARTMENT OF THE TREASURY									
Payments to State and local government fiscal assistance trust fund	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,000				
Office of Revenue Sharing, salaries and expenses	7,200,000	6,337,000	6,237,000	6,237,000	6,237,000	−963,000	−100,000		
New York City loan guarantee program, administrative expenses	1,050,000	1,034,000	1,034,000	1,022,000	1,022,000	−28,000	−12,000	−12,000	
Investment in National Consumer Cooperative Bank	1,000,000	50,000,000	50,000,000	48,100,000	49,050,000	+48,050,000	−10,950,000	−950,000	+950,000
Total, Department of the Treasury	6,864,174,000	6,922,295,000	6,912,195,000	6,910,283,000	6,911,233,000	+47,059,000	−11,062,000	−962,000	+950,000
VETERANS ADMINISTRATION									
Compensation and pensions	10,796,700,000	11,201,800,000	11,201,800,000	11,201,800,000	11,201,800,000	+405,100,000			
Readjustment benefits	2,445,700,000	2,278,535,000	2,278,535,000	2,278,535,000	2,278,535,000	−167,165,000			
Veterans insurance and indemnities	5,756,000	5,400,000	5,400,000	5,400,000	5,400,000	−356,000			
Medical care	5,374,374,000	5,659,117,000	5,671,119,000	5,696,215,000	5,683,700,000	+309,326,000	+24,583,000	+12,581,000	−12,515,000
Medical and prosthetic research	122,847,000	122,847,000	127,847,000	122,847,000	122,847,000			−5,000,000	
Medical administration and miscellaneous operating expenses	47,052,000	48,024,000	47,606,000	47,606,000	47,606,000	+554,000	−418,000		
General operating expenses	631,675,000	592,790,000	584,047,000	586,382,000	587,332,000	−44,283,000	−5,398,000	+2,425,000	−1,050,000
Construction, major projects	365,540,000	317,292,000	317,292,000	317,292,000	317,292,000	−48,248,000			
Construction, minor projects	85,345,000	73,672,000	72,633,000	72,633,000	72,633,000	−13,712,000	−439,000		
Grants for construction of State extended care facilities	10,000,000	5,000,000	5,000,000	10,000,000	7,500,000	−2,500,000	+2,500,000	+2,500,000	−2,500,000
Grants for construction of State veterans cemeteries		5,000,000	5,000,000	5,000,000	5,000,000	+5,000,000			
Assistance for health manpower training institutions	104,905,000					−104,905,000			
Grants to the Republic of the Philippines	980,000	1,700,000	1,700,000	1,000,000	1,350,000	+370,000	−350,000	−350,000	+350,000
Total, Veterans Administration	19,901,414,000	20,310,577,000	20,318,898,000	20,346,720,000	20,331,055,000	+429,641,000	+20,478,000	+12,156,000	−15,665,000
Total, title II, Independent Agencies:									
New budget (obligational) authority	38,386,634,000	38,373,888,000	38,607,949,000	38,432,796,000	38,380,696,000	+14,062,000	−492,392,000	−227,253,000	−52,100,000
Appropriations	38,386,634,000	38,873,088,000	38,307,949,000	38,432,796,000	38,380,696,000	+14,062,000	−492,392,000	72,747,000	−52,100,000
Authority to borrow		500,000,000	300,000,000				−500,000,000	−300,000,000	
Appropriation to liquidate contract authority	(1,400,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(+100,000,000)			

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1980 (H.R. 4394)—Continued

[Note.—All amounts are in the form of appropriation unless otherwise indicated.]

Agency and item	New budget (obligational) authority fiscal year 1979 [1]	Budget estimates of new budget (obligational) authority fiscal year 1980 [2]	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action	Conference action compared with— New budget (obligational) authority fiscal year 1979	Budget estimates of new budget (obligational) authority fiscal year 1980	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE III									
CORPORATIONS									
FEDERAL HOME LOAN BANK BOARD									
Limitation on administrative expenses	($17,658,000)	($18,984,000)	($18,359,000)	($18,359,000)	($18,359,000)	(+$709,000)	(−$625,000)		
Federal Savings and Loan Insurance Corporation, (limitation on administrative expenses)	(31,928,000)	(33,566,000)	(33,466,000)	(33,466,000)	(33,466,000)	(+1,538,000)	(−100,000)		
Total, title III, Corporations	(49,578,000)	(52,550,000)	(51,825,000)	(51,825,000)	(51,825,000)	(+2,247,000)	(−725,000)		
RECAPITULATION									
Grand total, titles I, II and III:									
New budget (obligational) authority	70,040,207,000	72,815,238,750	71,963,475,000	71,930,247,000	71,843,684,000	+1,807,477,000	−972,554,750	−$120,791,000	−$87,563,000
Appropriations	44,344,359,000	45,035,111,000	44,183,347,000	44,550,119,000	44,532,556,000	+188,197,000	−502,555,000	+349,209,000	−57,563,000
Contract authority	24,395,848,000	26,480,127,750	26,680,128,000	26,480,128,000	26,480,128,000	+2,084,280,000	+250	−200,000,000	
Authority to borrow	1,300,000,000	1,300,000,000	1,100,000,000	860,000,000	830,000,000	−470,000,000	−470,000,000	−270,000,000	−30,000,000
Appropriations to liquidate contract authority	(5,860,000,000)	(7,029,000,000)	(7,029,000,000)	(7,029,000,000)	(7,029,000,000)	(+1,169,000,000)			
Increased limitation for annual contract authority	(1,322,297,000)	(1,140,661,275)	(1,160,474,000)	(1,140,661,000)	(1,140,661,000)	(−181,636,000)	(−275)	(−19,813,000)	
Limitation on corporate funds to be expended	(299,833,000)	(307,668,000)	(306,943,000)	(306,943,000)	(306,943,000)	(+7,110,000)	(−725,000)		

[1] Includes all supplementals.

[2] Includes the following budget amendments:

H. Doc. 96-108: Department of Housing and Urban Development: Urban development action grants $275,000,000

H. Doc. 96-124: National Aeronautics and Space Administration: Research and development 220,000,000

H. Doc. 96-156: Environmental Protection Agency:

Salaries and expenses $2,571,000

Abatement, control and compliance 19,429,000

H. Doc. 96-164: Federal Emergency Management Agency: Hazard mitigation and disaster assistance 6,114,000

H. Doc. 96-168: Veterans Administration: Medical care 64,378,000

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this further conference report represents a resolution of the remaining items that were in disagreement between the House and the Senate. Those items have been resolved in this further conference report, and I think in a very equitable fashion. I urge adoption of the conference report.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I will be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, in view of the fact that a portion of this bill is an appropriation for HUD bill. Could the gentleman state what the status is at this juncture?

Mr. COUGHLIN. We adopted the conference report earlier on September 27. These are amendments that were in disagreement, two amendments specifically that were in disagreement that have been resolved by the House and the Senate conferees now, and we bring back this further conference report.

Mr. ROUSSELOT. Since we are all concerned about some of these inappropriate funding actions of HUD, how much are we giving to HUD in this bill?

Mr. COUGHLIN. There is about $33 billion going to HUD in the bill, but that is not involved in this particular conference report.

Mr. ROUSSELOT. I understand that, but this is an appropriation for HUD?

Mr. COUGHLIN. No, this is not an appropriation for HUD itself on this particular conference report. One of the items involved, HUD's livable cities program, was denied funding.

Mr. ROUSSELOT. We denied funding?

Mr. COUGHLIN. We denied funding. The other amendment involves the National Aeronautics and Space Administration.

Mr. ROUSSELOT. I thank the gentleman.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report under consideration, and that I may be permitted to include tables, charts, and other extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BOLAND. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 3000, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF ENERGY AUTHORIZATION ACT FOR FISCAL YEARS 1980 AND 1981—CIVILIAN APPLICATIONS

Mr. FUQUA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3000, with Mr. STUDDS, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, October 18, title VIII was open to amendment at any point.

Pending was an amendment offered by the gentleman from New York (Mr. PEYSER).

It was also agreed that all time for debate on the bill and all amendments thereto would be limited to 15 minutes. At this point, the Chair would like to ascertain those Members wishing to be recognized in the allocation of the remaining 15 minutes of debate.

□ 1050

PARLIAMENTARY INQUIRY

Mr. COURTER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state the parliamentary inquiry.

Mr. COURTER. Mr. Chairman, there are, I believe, two Members, perhaps even three, who have amendments printed in the RECORD, printed I believe last week. Under the rules, are we given 5 minutes despite the fact that we use up the 15 minutes that are left for debate?

The CHAIRMAN pro tempore (Mr. STUDDS). The Chair will advise the gentleman that at the conclusion of the allocated time of 15 minutes remaining, those Members with amendments printed in the RECORD—and the Chair believes there are three of them—will be entitled to 5 minutes in support of these amendments.

Mr. COURTER. I thank the Chairman.

The CHAIRMAN pro tempore. Members standing at the time the motion was agreed to, amongst whom the time will be allocated, will be recognized for approximately 50 seconds each.

Are there any amendments to the pending amendment offered by the gentleman from New York (Mr. PEYSER)?

AMENDMENT OFFERED BY MR. CAMPBELL TO THE AMENDMENT OFFERED BY MR. PEYSER

Mr. CAMPBELL. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMPBELL to the amendment offered by Mr. PEYSER: In the matter of the amendment to the amendment to H.R. 3000, as reported, strike out "third" in section 901 and insert "tenth" in lieu thereof; and

In section 902, strike "sixth" and insert "fifteenth" in lieu thereof.

Mr. CAMPBELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. DINGELL. Mr. Chairman, reserving the right to object, I reserve a point of order.

The CHAIRMAN pro tempore. Does the gentleman from Michigan object to the request that the amendment be considered as read?

Mr. DINGELL. I do, Mr. Chairman, until I know what it is. I do not have a copy of the amendment.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk concluded reading the amendment.

The CHAIRMAN pro tempore. The Chair will inquire of the gentleman from South Carolina (Mr. CAMPBELL) whether or not he chooses to utilize the 5 minutes which he has been guaranteed under the rule by virtue of his amendment having been printed in the RECORD. The Chair will advise the gentleman he is entitled to those 5 minutes, but if he chooses to use them now, it will come out of the 15 minutes allocated to the remaining Members.

Mr. CAMPBELL. Mr. Chairman, I do choose to use a portion of the 5 minutes. I do not think I will use all of it.

Mr. CAMPBELL. Mr. Chairman, this is a very simple amendment. Quite frankly, the Peyser amendment which seeks to get some information publicized concerning the oil companies in my opinion is going in the right direction in many instances, but I think it is much too tight. I think it is unreasonable. The amendment said that they must file their reports by the 3d of each month and they must be made public by the 6th of each month. I just think that is an unreasonable time, and I think by changing that to the 10th of the month before the information is made available and the 15th of the month before it is published will put it in a much more reasonable context. That is why I have offered the amendment.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding.

The reason I used the time frame that I did in the amendment was basically because this is a time that the oil companies presently report to the American Petroleum Institute. I realize they probably have a far more efficient operation than the Department of Energy has. I had hoped that maybe the Department of Energy could reach that level; however, if in the opinion of the gentleman that creates a problem, because of the time that the gentleman has given here, I would be inclined to accept the amendment that he has offered. I still think and hope that the Department of Energy should be able to conform with what we have originally offered.

Mr. CAMPBELL. I appreciate the gentleman's comments. I do think that the times that the gentleman has set in his amendment were too restrictive. I do not think they could be complied with, and I think that we will create a great deal of problems by it, but by lengthening the time available, since the information is already being given to the American Petroleum Institute, it does give the time necessary to compile information to make available to the Congress.

Mr. PEYSER. Will the gentleman yield again?

Mr. CAMPBELL. I yield to the gentleman.

Mr. PEYSER. I gather then that if the gentleman's amendment passes, certainly then he is supportive of this effort to give the Congress the right of knowing on a prompt basis—not perhaps as prompt but on a prompt basis—the information that they should have in order to act intelligently on the problems facing us.

Mr. CAMPBELL. The gentleman is correct. It is my understanding that we have available now to us a weekly report. I think that this would make it a little more concise, and I think that probably with this amendment I could support the gentleman's amendment. Without it, I do not think that I could.

Mr. Chairman, I yield back the remainder of my time.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The Chair will advise the gentleman from Michigan (Mr. DINGELL) that under the rule he is entitled to 5 minutes in opposition to the amendment and that it will come out of the 15 minutes.

Mr. DINGELL. Mr. Chairman, this is a good amendment to a bad amendment and as such, both the amendment offered by our friend, the gentleman from South Carolina (Mr. CAMPBELL) and also the basic amendment offered by our good friend, the gentleman from New York (Mr. PEYSER), should be rejected.

Mr. Chairman, I commend my colleague, the gentleman from New York (Mr. PEYSER) for his interest in improving energy information. It has been a matter of great concern to me for a long time. I would call to the attention of the House the fact that there are laws on the books which deal with this question more than adequately. While the administration of these statutes has not fully satisfied me, and I can understand it has not fully satisfied the gentleman from New York (Mr. PEYSER), the simple fact of adding more legislation on these good laws not properly administered is not going to do much to solve our information problem with regard to oil production and other questions covered in the amendment.

Mr. Chairman, the two statutes for dealing with information are section 11 of the Energy Supply and Environmental Coordination Act (ESECA) and the FEA Administration Act. The provisions of those laws are similar and, indeed, are stronger than the amendment offered by the gentleman from New York (Mr. PEYSER). The consequences of adopting the amendment offered by the gentleman from New York (Mr. PEYSER) are that we simply add confusion rather than certainty to the administration of our information-gathering activities. The consequences would be the enactment of three statutes at open variance which may permit the Department of Energy to shift back and forth as it might choose and to disregard those statutes which happen to least coincide with the concerns that it might have in the field at that particular time. It must be understood that ESECA requires the collection of every bit of information that the gentleman has suggested should be done and requires every action that the amendment offered by the gentleman from New York (Mr. PEYSER) would mandate in the Department of Energy.

There are certain other problems which must be addressed here and which must be before the House and the committee as it considers this. We just have received from the Department of Justice a letter which points out that there are strong anticompetitive consequences from the action of the amendment offered by the gentleman from New York (Mr. PEYSER). The gentleman from New York would make all papers, all records

received under that section, open to the public. The Department of Justice has pointed out as follows:

Congressman Peyser's proposed amendment to H.R. 3160, if enacted, would require the public dissemination of competitively sensitive company specific information. The publication of such information has the potential for severely restricting competition.

This is quoting from a letter from the Department of Justice.

For example, the availability of such data could enable rival firms to detect attempts to increase market share and could thus serve as a basis for policing unlawful collusive activity. Not only would the dissemination of such data enhance the likelihood and feasibility of overt collusion, but it would also increase the possibility that in reliance upon such information, oil industry firms would alter their individual competitive behavior in the expectation of similar response by their rivals. Access to competitively sensitive information could, for example, signal to oil industry firms the marketing plans of their competitors prompting less than competitive market responses on their part. Thus, the ready availability of such competitively sensitive information, even in the absence of express collusion, may greatly reduce the incentives for vigorous competition.

The Department of Justice goes on to indicate that they are opposed to the amendment and cite the case of United States against Container Corporation of America, in which the Supreme Court has held that under certain circumstances exchanges of competitively sensitive information among competitors are not lawful but are per se unlawful.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I have to yield first to the gentleman from Ohio (Mr. BROWN) and then I will yield to the gentleman from New York (Mr. PEYSER).

Mr. BROWN of Ohio. I thank the gentleman for yielding. I do not know whether the Department of Justice has advised the gentleman from Michigan (Mr. DINGELL) or the gentleman from New York (Mr. PEYSER), or whether in fact either one of the gentlemen has inquired, but the fact of the matter is that most of the requests for information under the Freedom of Information Act come from private companies, that is, people who want to know what their competitors are doing so that the big companies can knock the socks off the little companies in a competitive situation.

□ 1100

Now, we already see in the oil industry a lot of oil companies withdrawing from markets where they cannot be competitive. What does that do? It leaves the consumer with less choices from which to purchase and it makes for monopoly situations.

Mr. DINGELL. Mr. Chairman, the answer to the disclosure issue is neither total secrecy nor total disclosure. It is a middle ground, adopted in ESECA, which requires disclosure of data to agencies such as Justice and the FTC.

I recognize that the gentleman would like to see the data collected in a more timely fashion. I would, too. But mandating the date of the month for reporting will probably do nothing more than increase a large body of highly unreliable data, which is certain to be criticized and considered to be of small value. The problems of verification will continue.

The subcommittee receives weekly reports on refinery capacity, utilization, and stock levels. The very recent data are API numbers, and other data are based upon DOE reports. I frankly have doubts about both sets of figures since the numbers are based upon unverified industry submissions, but I have strong doubts that one more information provision, which is similar to previous law, is going to add much to our knowledge, and it may have potential anticompetitive effects.

(By unanimous consent, Messrs. ROTH, LEWIS, COURTER, and ROUSSELOT yielded their time to Mr. LOEFFLER.)

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. LOEFFLER) is recognized for 2 minutes.

Mr. LOEFFLER. Mr. Chairman, I would like to associate myself with the remarks of the distinguished chairman of the Energy and Power Subcommittee and the distinguished ranking minority member of the Energy and Power Subcommittee.

I would like to point out the fact we already receive pursuant to the Federal Administration Act, Public Law 93-275, on a weekly basis, information which brings forth refinery runs, crude input, imports, stocks, products, et cetera. It is published in a weekly publication provided by the Department of Energy. I believe that the requirements of the particular amendment pending, as offered by the gentleman from New York (Mr. PEYSER), and the amendment to the amendment offered by the gentleman from South Carolina (Mr. CAMPBELL), is basically unnecessary. We have the information already available. There is no need to provide yet another means for receipt of information which is available to the Department of Energy.

In addition, Mr. Chairman, I, too, am concerned about the disclosure of confidential trade secret data which would allow in essence the stimulation of anticompetitive situations. We would, by the passage of this amendment, be allowing collusion which does, in fact, impact on all of us as consumers because it will bring about anticompetitive activities.

In short then, Mr. Chairman, I urge the defeat of the amendments pending before the House at this time. They are unnecessary. We have information available at this time and the Department of Energy does provide us on a weekly basis all the data and more data than is required by the amendment.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I will be happy to yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I thank the gentleman for yielding.

I believe all the Members should be clear. I appreciate the gentleman's pointing out that this report is sent to every Member every week. Last week it was 44 pages long, full of charts, graphs, facts and figures of every type, and description about the petroleum situation in our country. I do not know what more information we could possibly use. This is done every week based on the facts available from the week past.

Now, how much more information can we have on this than is presented in this report? The gentleman's amendment is a good one, but we are already doing it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, the weekly information we get does come from the American Petroleum Institute which then the DOE acts on.

In the second place, when I hear the argument of competition being offered, that means competition to what? Every bit of oil and refined products that can be produced today by oil companies is sold. There is no competition in the oil industry and, therefore, we ought to have this information, we ought to have it promptly. Members of Congress do not have it today.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I would like to notify the House, as soon as this amendment is disposed of it will be my privilege to ask unanimous consent to reconcile some figures that as a result of the adoption of the Murtha amendment and the Neal amendment, both of which were accepted by the committee, but inadvertently they were printed wrong and I will ask unanimous consent to correct that language on page 2, line 8.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I want to emphasize two things. We have talked about the Exxon Oil Co. Exxon during the first 9 months of this year, earnings were down 17 percent in the refinery end of their business.

Another thing, Mr. Chairman. Last year, liberals suggested divestiture within the large oil companies. I found out everyone working in a major oil company wanted to stay out of the refinery business. No one in the oil business wants to be transferred into refineries.

Why we are talking about cutting back on refineries, I do not understand. The United States needs more refineries. Yet earnings in Exxon are down 17 percent in refineries. Now this amendment on the floor calls for more paperwork, more headaches for the oil companies.

Mr. Chairman, I rise in opposition to the Peyser amendment. We all know there is too much paperwork required by the Government.

It addresses itself to oil refineries and their profits. Everyone in the energy business knows that we have a shortage of oil refineries in this country. It is an unprofitable operation, and there has been a reluctance to go into the refinery business. Yesterday's newspaper reported that the first 9 months of 1979 showed Exxon was 17 percent lower in profits on refining and marketing in the United States.

Two years ago there were divestiture advocates of breaking up the oil companies. Among the employees in the oil industry, there was tremendous apprehension, because they were afraid they would either be assigned to refineries or to the marketing divisions.

On a month-by-month report there are no definite ascertained facts. If you took a 6-month report, you would get an averaging cross section. But there are too many temporary distributions or special production schedules that would throw a monthly operation out of balance.

Last year I was ranking Republican on the Oversight and Investigations Subcommittee of the Interstate and Foreign Commerce Committee. The chairman of our subcommittee was convinced that we should investigate all major oil companies that had any offshore gas reserves. The subcommittee issued a mandatory subpena for all of these records. The oil companies complied and brought in truckload after truckload of records. Several committee staff members were assigned to study them. Absolutely nothing of any consequence developed from this expensive study.

This amendment is also defective in not providing complete protection for these most important secret documents. Oil companies invest millions and millions of dollars trying to find oil reserves. The information they gain from these geological studies are most valuable in future drilling.

One further point is the excessive amount of paperwork we require by Government decree. I was talking to a major oil company located in Texas and they said they are now filing 453 reports. Whatever information is required in this particular amendment is already on some report. The oil companies are spending millions and millions of dollars filing reports. Let us not require this unnecessary paperwork.

Let us vote down the amendment.

(By unanimous consent, Mr. DEVINE yielded his time to Mr. MILLER of Ohio.)

Mr. MILLER of Ohio. Mr. Chairman, the amendment states that information shall be obtained from each oil company not later than the third day of each calendar month on the amount and location of all crude oil to be held or stored by this company. This information also includes the inventory and location of refined petroleum products of the company.

Mr. Chairman, it appears that the gentleman from New York offering the amendment feels that this information is easily available on the shelf in some warehouse. In reality the amount of oil is in the well, it is in the pipeline, it is in tankers on the high seas. It is in pipelines going to and from refineries. It is in a fluid state. It is next to impossible to calculate these figures in a precise manner each month.

The amendment requires an estimated inventory of the company's refined petroleum products by category and location. It appears that under this requirement each company would have to monitor each of its gasoline service stations, holding tanks, and tank trucks.

This amendment will drive the price of the refined products even higher. It is not needed. The cost to the consumer through the price of higher oil products due to these reports greatly outweighs the benefits derived from obtaining these statistics.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New Mexico (Mr. LUJAN).

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I am deeply concerned about the gentleman's amendment. If the amendment is adopted, how will it affect the Savannah River plant near Barnwell, S.C.?

Mr. LUJAN. Mr. Chairman, the amendment calls for primary consideration given to those lands which have a suitable hydrology and geology. It is my understanding that in that particular area the environmental impact statement on military waste says that the hydrology and geology are not suitable so it would not apply.

The CHAIRMAN pro tempore. The gentleman from South Carolina (Mr. CAMPBELL) is recognized.

Mr. CAMPBELL. Mr. Chairman, I would like to continue this colloquy very briefly.

Then the gentleman's opinion is that the area would not be suitable. Due to the fact there is a fault in this area and due to the fact the water supply for the lower part of Georgia and South Carolina comes under here, the gentleman's amendment would not affect the Savannah River plant?

Mr. LUJAN. That is my understanding, that it would not affect.

Mr. CAMPBELL. That it would not affect the Barnwell area in its entirety, basically?

Mr. LUJAN. Because the geology and hydrology are not suitable.

Mr. CAMPBELL. I thank the gentleman.

Mr. HARRIS. Mr. Chairman, I rise in support of the amendment offered by Mr. PEYSER, and urge my colleagues to adopt it as a step toward making the Department of Energy more accountable to the American people. This amendment, which requires DOE to make public on a monthly basis information it collects relating to oil companies' crude and refined supplies and utilization of refining capacity, would enable the Congress to more effectively deal with our Nation's energy problems.

When the Congress established DOE in 1977, one of our major objectives was to have an agency of the Federal Government that was knowledgeable about the operations of the major oil companies. Our hope was that we could rely on this agency of Government to provide Congress and the American people with factual information on our energy supplies, rather than depending on the American Petroleum Institute, which represents the major oil companies.

Unfortunately, DOE has not fully achieved this objective. I would like to share with my colleagues the difficulty I have experienced in gathering answers to this past summer's gasoline shortage in the Washington area, an experience which illustrates the importance of adopting this amendment.

In an effort to determine what was really happening with gasoline supplies in the Washington area, I asked DOE on June 19, 1979, to audit gasoline delivered through the Colonial and Plantation pipelines to storage tanks in northern Virginia. Together these pipelines account for over 85 percent of the Washington area's gasoline supply.

On September 17, I met with DOE auditors for an oral briefing on their investigation. I was pleased that as requested, DOE provided detailed supply information on a company-by-company basis. DOE concluded, after analyzing both the company records and the pipeline records, that EXXON, the largest supplier of gasoline to the Washington area, cut deliveries by 34 percent in June and by 20 percent in July, while other companies supplied as much as 95 to 98 percent of 1978 deliveries.

I was assured this information would be included in the final written report, but when I received it from DOE on October 1, there was no reference to Exxon's cut in gasoline deliveries. Instead, the report attributes the crisis "more to panic buying by motorists in the area" and "evidence of tank topping during the latter part of May and for the month of June."

Mr. Chairman, the DOE report is an incomplete and misleading assessment of the gasoline shortage in the Washington area last summer. It covers up the fact that Exxon shorted the market by 34 percent in June and 20 percent in July. I know, and DOE knows, that this was a primary cause of the crisis, not panic buying and tank topping.

Because the report covers up crucial data on gasoline deliveries compiled by DOE's own auditors, I returned it to DOE Secretary Charles Duncan. In a letter on October 18, I asked Secretary Duncan to release the Exxon gasoline delivery data and to explain why the DOE report contained none of the supply information broken down by company that was discussed during the preliminary briefing with DOE auditors on September 17. I also asked Mr. Duncan to explain why Exxon dramatically cut deliveries, yet other companies were able to supply nearly as much gasoline as they delivered in 1978.

I have not received an official response from Secretary Duncan, but DOE spokesmen have been quoted in the press as saying the data was withheld from the report because it was "proprietary" to the oil companies and might "hurt competition." For example:

DOE spokesman Ed Volade was quoted in the Potomac News, October 19, 1979, as saying the report was not intended to be "a comprehensive statement on gasoline supplies in the Washington area." Volade said the report is "not valid in that respect—we gave Harris composite figures because the DOE has a proprietary relationship with the individual oil

companies," adding that if "exact figures on these companies were released, it would hurt competitions."

In an Associated Press article in the Richmond News Leader, October 19, 1979, DOE spokesman Carl Gustin said "information on individual company supplies was not included in the final report because such data is considered privileged and not for public dissemination."

The Washington Post, October 19, 1979, quoted "a DOE spokesman" as saying Exxon's role in the gasoline shortage was not mentioned in the report "because individual data is proprietary, protected by law from disclosure."

Mr. Chairman, I do not accept the DOE's rationale that they have a "proprietary" relationship with the major oil companies that prohibits them from releasing gasoline supply information. Congress specifically created DOE to gather independent data on the oil companies, including supply and distribution information. Despite these powers, DOE continues to rely on, and protect, data from the oil companies' own organization, the API. It continues to maintain a "sweetheart" relationship with the very industry it is supposed to regulate.

We cannot accept the DOE's cries about "privileged" and "proprietary" information. The information I requested has already been compiled by DOE but is not being released because Big Oil does not want it released. It is time to stop letting Big Oil tell us what information we can and cannot see. It is time to make DOE more responsive to consumer's needs than to industry's demands. I urge my colleagues to support the Peyser amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from South Carolina (Mr. CAMPBELL) to the amendment offered by the gentleman from New York (Mr. PEYSER).

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. PEYSER), as amended.

The question was taken, and the chairman announced that the noes appeared to have it.

Mr. PEYSER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1120

The CHAIRMAN pro tempore. The Chair announces that a quorum of the Committee of the Whole has not appeared. A regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence.

The Chair further announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 593]

Abdnor
Addabbo
Akaka
Alboste
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Feighan
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gavdos
Gephardt
Giaimo
Gibbons
Gilman
Ginnrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McKay
McKinney
Madigan
Magnire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stead
Steed
Stratton
Stump
Swift
Symms
Synar
Taylor
Thomas
Ullman
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1130

The CHAIRMAN pro tempore. Three hundred and ninety-nine Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1140

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from New York (Mr. PEYSER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 264, noes 143, not voting 26, as follows:

[Roll No. 594]

AYES—264

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Bellenson
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Buchanan
Burgener
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis, Mich.
Davis, S.C.
Deckard
Devine
Dingell
Dornan
Duncan, Oreg.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Fascell
Foley
Forsythe
Frenzel
Fuqua
Goldwater
Gonzalez
Gramm
Green
Grisham
Guyer
Hall, Tex.
Hansen
Hightower
Hillis
Hinson
Holland
Holt
Huckaby
Hyde
Ichord
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lujan
Lundine
Lungren
McCormack
McDonald
McEwen
McKay
McKinney
Marriott
Martin
Mattox
Michel
Miller, Ohio
Moore
Moorhead, Calif.
Murphy, N.Y.
Murtha
Myers, Ind.
Nedzi
O'Brien
Paul
Pickle
Preyer
Quillen
Regula
Rhodes
Robinson

Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Grassley
Gray
Guarini
Gudger
Hagedorn
Hall, Ohio
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lowry
Luken
McCloskey
McDade
McClory
McHugh
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mavroules
Mazzoli
Meeds
Michel
Mikulski
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Petri
Peyser
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Sabo
Santini
Schroeder
Schulze
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Stenholm
Stewart
Stokes
Studds
Tauke
Thompson
Traxler
Trible
Udall
Van Deerlin
Vanik
Vento
Walgren
Walker
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wolff
Wolpe
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—143

Albosta
Archer
Ashbrook
Ashley
Badham
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bouquard
Bowen
Brown, Calif.
Brown, Ohio
Broyhill
Burlison
Butler
Carney
Cheney
Clausen
Cleveland
Clinger
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
Deckard
Devine
Dingell
Dornan
Duncan, Oreg.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Forsythe
Frenzel
Fuqua
Goldwater
Gonzalez
Gramm
Green
Grisham
Guyer
Hall, Tex.
Hansen
Hightower
Hillis
Hinson
Holland
Holt
Huckaby
Hyde
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lujan
Lundine
Lungren
McCormack
McDonald
McEwen
McKay
McKinney
Marriott
Martin
Mattox
Michel
Miller, Ohio
Moore
Moorhead, Calif.
Murphy, N.Y.
Murtha
Myers, Ind.
Nedzi
O'Brien
Paul
Pickle
Preyer
Quillen
Regula
Rhodes
Robinson
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shumway
Shuster
Stanton
Steed
Stratton
Stump
Swift
Symms
Synar
Taylor
Thomas
Ullman
Vander Jagt
Volkmer
Wampler
Watkins
White
Whittaker
Whitten
Wirth
Wright
Wyatt
Wydler
Wylie
Young, Alaska

NOT VOTING—26

Anderson, Ill.
Andrews, N.C.
Aspin
Boggs
Boiling
Bonker
Breaux
Corcoran
de la Garza
Diggs
Dodd
Eckhardt
Flood
Hefner
Leach, La.
McHugh
Minish
Perkins
Roberts
Scheuer
Stockman
Treen
Whitehurst
Wilson, Bob
Wilson, Tex.
Winn

Mr. DERRICK and Mr. STANGELAND changed their votes from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair will advise Members that under the time limitation agreement there are 2 minutes and 50 seconds remaining, and that time has been allocated. The Chair will recognize those Members to whom the time has been allocated.

AMENDMENT OFFERED BY MR. COURTER

Mr. COURTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COURTER: On page 79 at the end of title VIII: Strike out the last three words.

Mr. COURTER. Mr. Chairman, what I would like to do is talk just a few minutes on the entire bill, specifically directing everyone's attention to an amendment that will probably be brought up again when we move from the Committee into the House.

First of all, of course, my amendment was passed by three votes. In press releases some people indicated that my amendment would raise the price of gasoline up to $2 or $2.50 or even $3.

What I would like to do, Mr. Chairman, is take a couple of moments to bury some myths under the floor of this House, hopefully for the last time. The first myth is that if you decontrol the price of gasoline and dump the allocation system, the price of gasoline will shoot up to $2, $2.50, or even $3. There are a couple of things to look at. First of all, inventories are up this year over last year. Inventories of gasoline over September 14, 1978, are up by approximately 13 million barrels. To be specific, on September 14, 1978, there was an inventory of approximately 217 million barrels of gasoline; today approximately 230 million barrels of gasoline.

Consumption is down over 1978. Consumption is down by approximately half a million barrels of gasoline a day.

My point is that if we are going to decontrol, and everyone knows we are going to decontrol eventually, we might as well do it now when we have a situation where inventories are up and consumption is low.

Also, a study conducted by the DOE a little while ago, which studied basically what happened to the cost of diesel fuel when it was decontrolled, indicated that had price controls remained on diesel fuel during the past 3 years—as we know, there are no controls on any type of product from crude oil except for gasoline—the cost of diesel today would have been the same basically as it was 3 years ago. Controls do not increase or decrease the prices and they do not stop prices from increasing.

I would also like to reference a statement by Mr. C. Roger Glassey, Assistant Administrator of the Applied Analysis Section of the EIA. Mr. Glassey testified just a few days ago, and I am sure he was asked certain questions based upon a vote that will come up in the Whole House just in a few moments from now, that the price increase would not be very great if any at all. All of the evidence indicates that this particular amendment that passed by three votes will not, in fact, drive up the price of gasoline whatsoever.

Also, the second myth is the fact that controls keep down the prices of gasoline. If we really look at the price of gasoline in this country and the price of gasoline in some other countries such as Japan or West Germany, and if we cut away the taxes, we will find that the price of gasoline in this country is the same as in other countries where there is absolutely no control whatsoever.

Also as everyone knows, there are controls now on gasoline, no controls on heating oil. The price of gasoline increased from January to August 1979 by approximately 38.1 percent. The price increase of home heating oil during that same period of time increased 37.6 percent, just about exactly the same as the price increase of gasoline. No controls on heating oil, controls on gasoline and, therefore, it is obvious that controls do not effect the price of gasoline.

What, in fact, will this amendment do? First of all, it will eliminate gasoline lines. That was suggested in the Washington Post as it was suggested in many other newspapers throughout the country. Those people that spent hours in gas lines this past summer wasting gasoline to get gasoline will not have to do that if this amendment, which really eliminates the allocation system that caused some of the problems this past summer, is sustained in the full House.

Also, I might add, that the pressure that is now in existence forcing up the price of heating oil because of controls on gasoline, would be eliminated with the elimination of price controls on gasoline. Today we have the very strange and ridiculous situation of having controls and an allocation formula on gasoline, no controls, no allocation formula on home heating oil. As the Washington Post said a number of days ago:

> If Mr. Carter wants to help the people who are confronted with those enormous bills for oil heat, he might usefully begin immediately by decontrolling gasoline.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to the Courter amendment.

Mr. Chairman, when the House adopted the Courter amendment last week, I was among those who supported that amendment. I did so because the amendment seemed to be the only option available to express the frustration and deep dissatisfaction I have had with the operation of the administration of motor gasoline pricing and allocation regulations. I was and remain convinced that the implementation of those regulations has been a contributing factor to the gasoline shortages which hit parts of the United States this past summer.

However, since that vote was taken last week and discussion has focused on the revote we are about to take on the amendment, I have done a considerable amount of talking about this amendment—both with people here in Washington and in my district in Kansas—and have given the implications of the amendment extensive thought. That deliberation has reenforced my support for phased decontrol of crude oil prices.

I am convinced that that is absolutely essential if we are serious about developing energy reserves in this country which are becoming increasingly difficult and expensive to develop. But, on this amendment to immediately remove controls from motor gasoline, I have come to a different conclusion. While I still feel that we should be moving away from controls on motor gasoline and, in the meantime, working to be sure that they are administered in such a way as to minimize their negative impacts, I have decided to cast this second vote on this question in opposition to the Courter amendment. Before I do so, I would like to take a moment to outline on the record the concerns which have led me to reverse my previous position.

First, I think we need to look at this in the framework of our overall energy policy—unfortunately that is something we have not been doing with all too many aspects of our energy policies. On the surface, talk of decontrolling motor gasoline prices would seem to be a logical expansion of our crude oil decontrol policy. However, there is a significant difference in the administration's crude oil decontrol policy and that which the Courter amendment proposes for motor gasoline. The crude oil decontrol is being phased in; the Courter amendment would decontrol gasoline immediately.

There is considerable likelihood that that would result in gasoline prices—at least in some areas—rising artificially and unnaturally quickly. Such increases would not only raise questions of price gouging but would also place an undue economic burden on many working Americans. A sudden escalation in gasoline prices would also have a very negative impact on efforts to turn around our inflationary spiral. Finally, I would remind my colleagues that, while there has been considerable attention to providing relief to those individuals who cannot afford the cost of escalating home heating fuel prices, there has been no serious consideration given to providing such relief to help people pay their motor fuel bills at least to this point.

Second, the Government does have a responsibility to help consumers protect themselves from price gouging, and this becomes increasingly important at a time when inflation is as high as it is today. The Department of Energy indicates that it has pending billions of dollars in price violation allegations, but—under the broadly worded Courter amendment—the administration would be blocked from following through on those investigations. By adopting this amendment, we would be saying to those firms against which investigations are now underway that we have decided that they should not be prosecuted for violating Federal laws. That is certainly not a good precedent for the House to advocate.

Third, since adoption of the Courter amendment, I have become aware of considerable concern expressed by independent oil jobbers about the impact on their operations of automatic gasoline decontrol. There is an obvious tendency for firms to take care of their own first, and that would mean that the majors are likely to assure the availability of gasoline first to their own stations and then to supply independents. Present regulations protect the rights of those independents to at least some proportional allocation of supplies, but that would be impossible under the Courter amendment. The independent sector has traditionally provided some price competition in what is a highly concentrated industry, from top to bottom. By removing those protections at a time when supplies are tight—and still largely under the control of the majors—we would be adding to the potential for further concentration of gasoline marketing. That is certainly not the direction in which we should be headed.

Finally, after the House approved the Courter amendment last week, we adopted a number of other amendments. One of those, offered by our colleague from Texas (Mr. GRAMM), would have allowed controls for motor gasoline needed for agriculture and other priority users. He was right that we need to make sure that those needs are assured of adequate fuel, and I supported that amendment. But, in hindsight, I realized that that put the Courter amendment in a different light. With the Gramm amendment adopted, decontrolling other motor gasoline would only present the potential of disruptive and confusing regulations governing motor gasoline pricing and availability. In effect, we would have replaced one system of controls with a potentially worse one.

I have not made this decision hastily. I do not very often shift my position on votes taken in the House. However, I have decided in this instance that, while I continue to philosophically agree that price controls should be removed, in light of the practical implications of the Courter amendment as worded at this point in time, I must allow this authority to be retained. I do hope the administration will begin to phase these controls out on a timetable along the lines of that adopted for crude oil decontrol.

Mr. DINGELL. Mr. Chairman, the discussion right at this minute is really about the Courter amendment. My colleague, the author of that amendment, has just spoken about his reasons for offering the amendment. I would like to discuss the reasons why the House should reject that amendment.

First, the President has a program which will phase out controls over crude oil and phase out controls over gasoline. That phaseout will be completed at the end of September 1981.

The second reason the amendment should be rejected is that it is not well thought out. While there was a great complaint about the allocation system when we considered the amendment, my colleagues should know that the complaint was not answered by the amendment as it was finally adopted with the Gramm amendment. Although the Courter amendment eliminated both allocation and price regulations, the Gramm amendment restored allocation regulations. Thus, the Courter amendment merely eliminates price controls.

The way that was done raises substantial questions as to whether or not in requiring allocations to a rancher or a farmer, or to a small retailer or a jobber, that the allocation action of the Government can, in fact, include handling the question of price. Although I think price regulation could occur under the amendment, it may be that while a supplier might be compelled to allocate supplies of gasoline, there is some question whether, in fact, the Government can tell him at what price that gasoline will be allocated, with the consequence that we may very well find the allocation of gasoline to a person who is scheduled as a priority purchaser, but at a price much higher than market price, because the Government's capacity to insure prices in regard to allocated gasoline is cast into question by the amendment now before us.

What are the other reasons to oppose this amendment? This amendment could retroactively forgive both civil and criminal actions taken by the Federal Government with regard to price overcharges on gasoline by major oil companies and by other suppliers. That is intolerable because there are literally billions of dollars of overcharges which have been identified by the Federal Government.

□ 1200

The next reason: Under title III of the Petroleum Marketing Practices Act, enacted last year, the Federal Trade Commission and the Department of Energy are required to report on how we are going to preserve competition in the retailing, wholesaling, and the refining marketing areas. This amendment would prejudge the results of that study and will deny us the availability of the information at the time we make the judgment, a very bad step.

The next argument against the amendment: The two principal organizations of dealers and jobbers in the Nation, the National Congress of Petroleum Retailers and the National Oil Jobbers Council, have come out against precipitous decontrol of this kind, of the kind which we have before us. Let me read to the Members what the National Congress of Petroleum Retailers say:

Decontrol of gasoline under present circumstances will aid and assist refiners and resellers in taking over the retail market. Fewer gasoline outlets will mean lines, and longer lines at the remaining outlets.

A similar comment is made by NOJC. I previously have inserted both these letters into the RECORD for the information of the Members.

Let us deal with some other questions that are important. All of us are aware of the fact that our oil companies are making outstanding profits at this time. Exxon just indicated $1 billion a quarter, up 120 percent from last year. We should see to it that if there is a shutoff of supplies, as could very well occur, from Iran, Kuwait, Saudi Arabia, or some further difficulties in the Middle East somewhere, that we have in place the ability of the President to impose controls to see to it that the people are protected from the kind of disorderly market that would exist and permit even greater profits.

The CHAIRMAN pro tempore. Without objection, the pro forma amendment of the gentleman from New Jersey (Mr. COURTER) is withdrawn.

There was no objection.

Mr. FUQUA. Mr. Chairman, I ask unanimous consent that on page 2, line 8, the figure be corrected to read, "$94,550,000".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

● Mr. FISHER. Mr. Chairman, I believe that in being asked to vote on the Courter amendment to the Department of Energy authorization bill for fiscal year 1980, the House is being presented with an unfortunate choice. The amendment would prevent the authorization of any funds to enforce price controls on gasoline and to carry out a mandatory gasoline allocation system.

On the one hand, we are being asked to end the disruptive effect which price controls and the allocation system have had on the supply and distribution of gasoline products throughout the country. In general, I support the free market mechanism as the most efficient means of pricing and allocating our energy resources. It is for this reason that I have supported the phased decontrol of the price of domestic crude oil. Simply stated, in my view price controls and an allocation system may occasionally be necessary as interim measures, but they are not long-term solutions.

On the other hand, I do not believe that our gasoline supplies are now so plentiful or competition in the oil industry so complete that we can risk the immediate decontrol of gasoline prices. The proponents of immediate decontrol contend that it would not result in substantial gasoline price increases overnight. They assume that there will be a sufficient supply of gasoline available to foster competition and hold down prices. However, when pressed, they admit that if the supply should suddenly be reduced, there would be the very real potential for substantial gasoline price increases. Given our current rate of inflation, I do not believe that we can afford to legislate this risk into existence.

The House, then, is faced with a dilemma: whether to decontrol gasoline prices immediately and risk a sharp runup in their prices or whether to retain controls for another 2 years. I do not believe that it had to be this way. Over the past few days I have attempted with several of my colleagues to fashion a compromise which would have provided for the phasing out of price controls over gasoline through September 30, 1981, when, under current law they will be terminated. This would have made the treatment of gasoline consistent with the price control phaseout which is now in effect with respect to domestic crude oil prices.

I would have been satisfied with this modification of price controls over gasoline, which would have provided the Department of Energy with the flexibility to loosen up price controls, while at the same time forestalling the possibility of price gouging. Allocations, I believe, would not have been needed under this scenario of gradual decontrol unless an extreme gasoline shortage had occurred, in which case the recently enacted emergency rationing authority could have been instituted. Unfortunately, a compromise could not be reached.

Therefore, we are presented with an up-or-down vote on the Courter amendment. I will vote against the Courter amendment, as I did during its initial consideration, for two reasons. First, I do not believe that we can risk the potential spurt in gasoline prices that might accompany the immediate lifting of controls. Second, I would like to see gasoline price controls phased out contemporaneously with the phaseout of price controls on domestic crude oil, which will be completed September 30, 1981. I would prefer that the phaseout begin now under this authorization bill. However, the Congress will still have the opportunity to provide for the phasing out of gasoline price controls in the fiscal year 1981 authorization for DOE 1 year hence. Although it would have been better to phase out controls over a 2-year period, a phaseout during the 1981 fiscal year ought to be adequate to ease the transition from controls to decontrol.

In conclusion, let me say that I wish I could vote for the Courter amendment. I agree with Mr. COURTER's statement during the initial debate on his amendment that our gasoline pricing system is "an anachronism in today's world of gradual decontrol." Where we disagree is that I believe immediate decontrol is also inconsistent with today's world of gradual decontrol. That is why I must vote against his amendment.●

● Mr. PATTEN. Mr. Chairman, recently I had the opportunity to meet with a high-ranking member of the Department of Energy regarding a situation that is very near and dear to me. That situation is the development of a strategic petroleum reserve in the Northeast or, should that not be possible, the development of a regional reserve of heating oil in the Northeast.

This meeting came about primarily due to the Department's last-minute cancellation of the strategic petroleum reserve solicitation for Turnkey proposals. In early September, six or eight proposals were sitting on an Under Secretary's desk for final approval. It was nearly a fait accompli that all of the final proposals would be approved. The day before the announcement was to be made, the cancellation was announced. One of these final proposals was for the use of a site in my own congressional district for the storage of 20 million barrels of crude, a plan which enjoyed the support of the local and State governments, and a plan which was flexible, in that it allowed for the production of gasoline or home heating oil from the crude, depending on seasonal needs.

The reasons for the cancellation were not made clear immediately and to this date I am still not completely sure that I either understand or agree with the stated reasons. But aside from that I am perhaps even more concerned about the fact that a private business concern has spent years developing this proposal, has met constantly with DOE officials over the last 10 months in an effort to meet their every concern and requirement and have spent an estimated $1 million on this project, only to have it canceled, just when the fruits of their labors were about to be recognized. Congressman GUARINI and I, along with the staff members of most of the New Jersey congressional delegation, spent an unproductive 2½ hours in an attempt to resurrect this proposal or to have this site considered for a regional reserve of home heating oil—something which has been promised by both the President and Secretary Duncan for development in the Northeast as quickly as possible.

As quickly as possible apparently means another several years of solicitation, open bidding, and waiting for the revenues from a windfall profit tax which is presently on Senator LONG's butcher block. And perhaps the most frustrating part of the whole thing is that the high-ranking official with whom we met told us that he was the sixth person to hold that job in DOE—an agency which is only 2 years old—and that with the new Secretary in office, he is only acting for another 2 weeks. Midway through the meeting, I recalled the headline of last week's U.S. News & World Report's analysis: "DOE: Infancy to Senility in 2 Short Years."

Many of you have not had the experience of living through two World Wars. I well remember "Coalless Mondays" in World War I, and ration stamps for 3 gallons of gasoline a week during World War II. I do not want to see our people suffer so again. We need a reserve, whether it be a strategic petroleum reserve or a regional reserve of heating oil—we need it in the Northeast in particular, the region first to suffer from a shortage—and we need it now. Any plan for tank storage is automatically a couple of years off, because of the construction time and permit requirements, and so forth. Our people should not be forced to wait longer than that.●

● Mr. ATKINSON. Mr. Chairman, in the consideration of H.R. 3000, the Department of Energy authorization bill, Representative COURTER proposed an amendment which would have prevented the Department from spending any funds

on the allocation of gasoline. I supported this amendment because I found the gasoline allocation program to be iniquitous and full of failures. I have also felt that the archaic system of allocation which the Department used was particularly harmful to my home State of Pennsylvania. The shortage of gasoline we experienced this summer was a very serious problem; the Department of Energy was a large part of that problem. Their system of allocation was, in part, responsible for much of the panic.

I recently spoke at the "stop big oil day" rally on October 17. I do not like the fact that heating oil and gasoline prices have risen astronomically. I particularly do not like the fact that these increases have outpaced the increases in crude oil prices dictated by OPEC. This is even more disturbing to me in light of the incredible profits recently announced by the major oil companies. I stand for lower energy prices. I believe the rights of the consumers must be protected from rapacious companies reaping excessive profits and from the harmful allocation programs of the Department of Energy.●

The CHAIRMAN pro tempore. All time has expired.

Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STUDDS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes, pursuant to House Resolution 379, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. DINGELL. Mr. Speaker, I demand a separate vote on the so-called Courter amendment on page 40, after line 23.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put them en bloc.

The amendments were agreed to.

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 40, add at the end of line 23 the following new subsection (c): No funds authorized to be appropriated pursuant to this Act may be used to promulgate, administer or enforce any regulation or to issue or enforce any order which would continue any mandatory allocation or price control of motor gasoline.

PARLIAMENTARY INQUIRY

Mr. FUQUA. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. FUQUA. Mr. Speaker, did the Speaker put the question on the other amendments en bloc?

The SPEAKER. The Chair did.

Mr. FUQUA. I thank the Chair.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. COURTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 225, not voting 19, as follows:

[Roll No. 595]

AYES—189

Abdnor
Alexander
Anderson, Calif.
Andrews, N. Dak.
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Barnard
Bauman
Bedell
Bereuter
Bethune
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Oreg.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Forsythe
Frost
Gibbons
Gingrich
Goldwater
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hamilton
Hammer-schmidt
Hance
Hansen
Harkin
Hightower
Hillis
Hinson
Holland
Holt
Horton
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Lent
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lungren
McClory
McCloskey
McDonald
McEwen
McKay
McKinney
Madigan
Marriott
Martin
Mattox
Michel
Miller, Ohio
Mineta
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nelson
O'Brien
Pashayan
Paul
Petri
Pickle
Pritchard
Quayle
Quillen
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Spence
Stangeland
Stanton
Steed
Stenholm
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whittaker
Wilson, Tex.
Wirth
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—225

Addabbo
Akaka
Albosta
Ambro
Annunzio
Anthony
Applegate
Ashley
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hanley
Harris
Harsha
Hawkins
Heckler
Heftel
Hollenbeck
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Jenkins
Jenrette
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leder
Leland
Levitas
Lloyd
Luken
Lundine
McCormack
McDade
Maguire
Markey
Marks
Marlenee
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Snowe
Snyder
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wolff
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—19

Anderson, Ill.
Andrews, N.C.
Boggs
Bonker
Corcoran
de la Garza
Diggs
Flood
Frenzel
Hefner
Leach, La.
McHugh
Minish
Scheuer
Stockman
Treen
Whitehurst
Wilson, Bob
Winn

□ 1220

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Anderson of Illinois.
Mr. Minish with Mr. Stockman.
Mr. de la Garza with Mr. Corcoran.
Mr. Diggs with Mr. Bob Wilson.
Mr. Hefner with Mr. Whitehurst.
Mr. Flood with Mr. Frenzel.

Mr. McHugh with Mr. Andrews of North Carolina.

Mr. Bonker with Mr. Winn.

Mr. Leach of Louisiana with Mr. Scheuer.

Mr. DAVIS of South Carolina and Mr. KELLY changed their votes from "no" to "aye."

Mr. BEARD of Tennessee changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the votes was announced as above recorded.

The SPEAKER. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LOEFFLER

Mr. LOEFFLER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. LOEFFLER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LOEFFLER moves to recommit the bill, H.R. 3000, to the Committee on Interstate and Foreign Commerce.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 263, nays 150, not voting 20, as follows:

[Roll No. 596]

YEAS—263

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bouquard
Bowen
Brademas
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Butler
Carney
Carr
Carter
Chappell
Chisholm
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Derrick
Dickinson
Dicks
Dingell
Dixon
Dodd
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Grassley
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Heftel
Hightower
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Long, Md.
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McKay
McKinney
Madigan
Matsui
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Sabo
Seiberling
Sharp
Simon
Skelton
Smith, Iowa
Snowe
Snyder
Solarz
Solomon
Spellman
Stack
Staggers
Stewart
Stokes
Stratton
Swift
Synar
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
White
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—150

Archer
Ashbrook
Badham
Bafalis
Barnes
Bauman
Beard, Tenn.
Bereuter
Bonior
Breaux
Brodhead
Broomfield
Burgener
Burton, Phillip
Byron
Campbell
Cavanaugh
Cheney
Clausen
Cleveland
Collins, Tex.
Conable
Conyers
Coughlin
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Dellums
Derwinski
Devine
Donnelly
Dornan
Downey
Edwards, Okla.
English
Erdahl
Erlenborn
Fenwick
Findley
Forsythe
Frenzel
Gingrich
Goldwater
Goodling
Gramm
Grisham
Guyer
Hagedorn
Hance
Hansen
Heckler
Hillis
Hinson
Holt
Holtzman
Huckaby
Hyde
Ichord
Jacobs
Jeffries
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lewis
Livingston
Loeffler
Long, La.
Lott
Lungren
McClory
McDonald
Maguire
Markey
Marlenee
Marriott
Martin
Mathis
Mattox
Mavroules
Michel
Moakley
Moffett
Moore
Moorhead, Calif.
Myers, Ind.
Nolan
O'Brien
Pashayan
Paul
Petri
Quayle
Quillen
Rangel
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Shelby
Shumway
Shuster
Slack
Smith, Nebr.
Spence
St Germain
Stangeland
Stanton
Stark
Steed
Stenholm
Studds
Stump
Symms
Tauke
Taylor
Thomas
Vander Jagt
Walker
Watkins
Weaver
Weiss
Whittaker
Williams, Ohio
Wyatt
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—20

Anderson, Ill.
Andrews, N.C.
Boggs
Bonker
Corcoran
Crane, Daniel
de la Garza
Diggs
Flood
Hefner
Leach, La.
McHugh
Marks
Minish
Scheuer
Stockman
Treen
Whitehurst
Wilson, Bob
Winn

□ 1240

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Scheuer.
Mr. Minish with Mr. Bob Wilson.
Mr. McHugh with Mr. Corcoran.
Mr. Hefner with Mr. Marks.
Mr. de la Garza with Mr. Winn.
Mr. Diggs with Mr. Stockman.
Mr. Bonker with Mr. Daniel B. Crane.
Mr. Flood with Mr. Anderson of Illinois.
Mr. Leach of Louisiana with Mr. Treen.
Mr. Andrews of North Carolina with Mr. Whitehurst.

Mr. MAVROULES changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980, and for other purposes."

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3000, DEPARTMENT OF ENERGY AUTHORIZATION ACT FOR FISCAL YEARS 1980 AND 1981—CIVILIAN APPLICATIONS

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill H.R. 3000, the Clerk be authorized to correct punctuation, spelling, cross-references, designations of provisions, and the arrangement of provisions within a title, and to make such other technical and clerical amendments as may be necessary.

The SPEAKER pro tempore (Mr. RUSSO). Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON S. 975, INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES AUTHORIZATION ACT, FISCAL YEAR 1980

Mr. BOLAND. Mr. Speaker, I call up the conference report on the Senate bill (S. 975) to authorize appropriations for fiscal year 1980 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 12, 1979.)

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. BOLAND) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. ROBINSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the fiscal year upon which we are now embarked will be an important one for the foreign policy of this country.

During that time, the demands placed on the intelligence-gathering capabilities of this Nation will undoubtedly increase in order to support such policymakers as the President and the National Security Council.

Similarly, the evolving military posture of the United States will require increased and better intelligence support.

It is with this likelihood well in mind that all of the House managers on the intelligence authorization conference report make their recommendation that the House adopt the conference report.

I believe it is fair to say that it is our belief that the conference report will authorize all those programs and activities needed to provide this Nation, with the outstanding intelligence support it must receive to maintain its preeminent position in today's world.

As Members are aware, the actual numbers and program descriptions involved, and the agreements reached by the conferees, are contained in the classified schedule of authorizations and the classified annex to the statement of the managers.

These materials have been available to Members in the offices of the committee since the conference report was filed.

Mr. Speaker, the final composition of the conference agreement, its emphasis, and direction are a credit to the Subcommittee on Program and Budget Authorization and particularly its chairman, the Honorable BILL BURLISON, and ranking minority member, the Honorable KENNETH ROBINSON.

Also serving on the subcommittee were Congressman NORM MINETA, CLEM ZABLOCKI, and BILL WHITEHURST.

Their hard work and over 50 hours of hearings prepared the House conferees very well for the discussions leading to the conference agreement.

I believe that the House owes them a debt of gratitude for a hard job well done.

At this point, Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Subcommittee on Program and Budget Authorization, the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON. Mr. Speaker, I thank the subcommittee chairman for his words and for his considerable effort and support throughout the development of our bill culminating in this conference report. I join the gentleman in extending thanks to CLEM ZABLOCKI, NORM MINETA, KEN ROBINSON, and WILLIAM WHITEHURST of our subcommittee and to chairmen PRICE and ICHORD and ranking minority member BOB WILSON of the Committee on Armed Services.

Mr. Speaker, with regard to title I of the bill, intelligence activities, there were 37 matters at difference with the Senate. Careful review of the differences coupled with an attitude of cooperation resulted in sensible compromises. On matters of fiscal authority, the differences divided rather evenly between House and Senate. This is not to say, however, that the conferees split the difference on each issue simply to achieve agreement. All parties recognize that many programs are not logically subject to division. Our compromises result in a sensible and consistent program.

Title II provides for the intelligence community staff which supports the Director of Central Intelligence in the conduct of his coordinating and budgetary role in the national foreign intelligence program. The House bill had reduced funding authorization for external contracts by $1.1 million, a reduction of about 35 percent. The Senate agreed to this position.

There were no differences between the two Houses regarding title III, the CIA retirement and disability system. Both Houses authorizes the full request.

Title IV of the House bill provided supplemental authorization in fiscal year 1979 for intelligence and intelligence-related activities. The Senate agreed to this position.

The Senate bill contained an educational travel benefits provision to which the House agreed. It is section 502 of the conference report. Existing law provides that State Department and USIA employees may be reimbursed for the expense of one round trip per year for children attending secondary school or college in the United States while the parents serve overseas. Section 502 extends this benefit to employees of the Central Intelligence Agency and the National Security Agency. While the provision provides legal authority to pay benefits, no additional budget authority is included. Thus, if CIA or NSA want to use the new authority, they will finance the cost within their existing budget.

Mr. Speaker, I endorse this conference report and urge its adoption by the House.

Mr. ROBINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 975.

This bill would authorize appropriations for intelligence activities of the United States and is the result of many months of exhaustive examination of the intelligence needs of our Government.

Title I of the bill deals with intelligence and intelligence-related activities. As has been mentioned, with the exception of funding authorized for domestic terrorism activities of the Federal Bureau of Investigation, funding and program details for the intelligence activities authorized under title I are classified and I can, therefore, not discuss specific conference actions. However, details of these actions are contained in a classified schedule of authorizations and the annex to the joint explanatory statement and have been available to all Members since the 12th of October.

The conference recommendation is a compromise which I believe represents the best judgment of both sides. The House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence conferees worked to provide an authorization for national foreign intelligence activities that I consider to be a nearly optimum reconciliation of the two authorization bills. In arriving at this compromise, some program funding levels originally authorized by the House were reduced and others were increased. The net overall authorization level for these classified activities fell about halfway between the levels originally authorized by the House and Senate.

For those programs contained within the defense budget request to provide direct intelligence support to military operations—referred to as intelligence-related activities—the House Permanent Select Committee on Intelligence shares jurisdiction with the Armed Services Committee. Accordingly, the differences between the House and Senate on these activities were worked out by a conference group consisting of both Intelligence and Armed Services Committee members. The amounts listed for those intelligence-related activities subject to annual authorization and contained in the Department of Defense authorization bill represent funding levels jointly agreed to by the conferees for this bill and the House and Senate conferees for the fiscal year 1980 Department of Defense authorization bill.

Title II authorizes $11.5 million in funding and establishes a personnel ceiling for the intelligence community staff. The conference recommendation adopts the House position.

Title III, to authorize funding levels for the CIA Retirement and Disability System, was not at difference between the House and Senate.

Title IV is a fiscal year 1979 supplemental authorization for intelligence activities. The conference is recommending the House position. As with title I, authorizations recommended for additional appropriations are reflected in the classified Schedule of Authorizations and detailed in the committee's classified annex.

Under title V, the conference is recommending a Senate provision which would extend to overseas employees of the Central Intelligence Agency and National Security Agency authorization currently available to Department of State and U.S. Information Agency—now International Communications Agency—employees for the payment of dependent travel to and from schools in the United States once per year.

Overall, I believe the conference committee's recommendation for fiscal year 1980 provides sufficient resources to effectively meet our near-term intelligence needs as well as providing for some growth to modernize existing capabilities and to begin some new initiatives required to keep pace with our intelligence needs in the 1980's.

I urge the Members of the House to adopt this conference report.

Mr. BOLAND. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

□ 1250

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, when a rule for consideration of legislation has been reported from the Committee on Rules and has been pending before the House for more than 7 days, is it not proper for any member of the Committee on Rules to call it up?

The SPEAKER pro tempore. The gentleman is correct.

The gentleman from Illinois (Mr. MURPHY) is present.

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1980

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 332 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 332

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 2 (1)(5)(B) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3947) to authorize certain construction at military installations for fiscal year 1980, and for other purposes, the first reading of the bill shall be dispensed with, and all points of order against section 802 of the bill for failure to comply with the provisions of clause 5, rule XXI, are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 332 is an open rule providing for the consideration of H.R. 3947 authorizing appropriations for military installation construction. The rule provides for 2 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services.

The resolution provides that the bill shall be read for amendment under the 5-minute rule by titles instead of by sections. The rule also waives points of order against the bill as reported for failure to comply with section 402(a) of the Congressional Budget Act. Section 402(a) provides that it shall not be in order to consider any bill which authorizes new budget authority for a fiscal year unless the bill has been reported by May 15 preceding the beginning of such fiscal year.

Section 802 of the bill, as reported, authorizes appropriations effective upon enactment and since the bill was not reported by May 15, 1978, it would have been subject to a point of order had it been considered prior to October 1, 1979. When this rule was originally reported from the Committee on Rules on June 22, the committee was advised that the Committee on Armed Services intended to offer an amendment providing that section 802 of the bill would take effect on October 1, 1979, thereby curing the Budget Act violation. However, since we are now in the new fiscal year, the Budget Act violation has been cured by the date the House is considering H.R. 3947.

Further points of order are waived against section 802 for failure to comply with the provisions of clause 5, rule XXI, which prohibits appropriations in a legislative bill. Section 802 amends existing law to extend the ability of private contractors to develop refuse derived energy sources for military installations on private lands as well as on the military installation. Since this new authority creates a new class of appropriations and obligations, the waiver is required.

House Resolution 332 makes a technical waiver of clause 2(1)(5)(B) of rule XI which outlines what information must be printed in a committee report. Due to a printing error, House Report 96-149 does not bear on its face the required statement indicating that the report includes the cost estimate of the Congressional Budget Office. While the Committee on Armed Services has complied with the rules of the House by including the CBO estimate in the body of the report, the waiver is still necessary because of the printing error.

Mr. Speaker, H.R. 3947 authorizes appropriations of $3,786,449,000 in fiscal year 1980 for military construction, including family housing, which is $82,387,000 less than the administration's request. As my colleagues will recall, the House has already passed the military construction appropriation without benefit of its authorization.

Mr. Speaker, House Resolution 332 is a simple open rule and I would urge my colleagues to adopt it so that we may proceed to the consideration of H.R. 3947. It is especially important that the House consider this legislation so that the appropriation approved in June may be properly authorized.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of H.R. 3947, Military Construction Authorization Act for fiscal year 1980. It is an open rule, providing 2 hours of debate to be divided between the chairman and ranking minority member of the Committee on Armed Services. The bill is to be read by titles rather than sections for amendment, and one motion to recommit is provided.

The rule also waives clause 2(l)(5)(B) of rule XI—lack of recital on cover of committee report that it contains a cost estimate of the Congressional Budget Office—against consideration of the bill.

In addition, clause 5 of rule XXI is waived against section 802 of the bill. Clause 5 of that rule relates to appropriations in a legislative measure.

Mr. Speaker, H.R. 3947 provides military construction authorization and related authority for fiscal year 1980 in the amount of $3,786,449,000. One item of special interest is that the bill includes $32.6 million for projects in Panama which involve the relocation of existing troops and the rehabilitation of certain buildings for housing troops and equipment until the year 2000.

The Armed Services Committee reported the bill on May 10 by a vote of 38 to 1. I suggest that we approve this rule and move directly to consideration of the bill, H.R. 3947.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. NEDZI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3947) to authorize certain construction at military installations for fiscal year 1980, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3947, with Mr. PICKLE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Michigan (Mr. NEDZI) will be recognized for 30 minutes, and the gentleman from Tennessee (Mr. BEARD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House Committee on Armed Services presents H.R. 3947, the military construction authorization bill for fiscal year 1980.

The purpose of the bill is to provide

new military construction authorization and related authority in support of the military departments and defense agencies. At this point, Mr. Chairman, I want to thank the ranking member of the Subcommittee on Military Installations and Facilities, the distinguished gentleman from Virginia, the Honorable G. WILLIAM WHITEHURST, and all of the members of the subcommittee for their tireless efforts during the hearings and markup sessions on the bill.

Overall, we believe that H.R. 3947 is a good bill. It is a balanced measure that meets the most pressing requirements. It is a bill that reflects the efforts and judgment of the House Armed Services Committee.

The Defense Department requested new authorization in the amount of $3,721,536,000 for fiscal year 1980. In addition, the Department of Defense submitted as amended fiscal year 1979 supplemental authorization request which contained a total request of $147,480,000. Combined, the two requests provided new authorization in the amount of $3,868,836,000.

Instead of reporting out a separate supplemental bill, the committee decided to add items from that bill to the fiscal 1980 bill. Therefore, H.R. 3947 is a combination of the two bills. The bill as approved by the committee totals $3,786,449,000 in new authorization. This total is $82,387,000 or 2 percent below the requested authorizations.

After extensive hearings in nine separate sessions and close review of each requested project, the committee was able to determine those proposals that in its view could be deferred without impairing the operational effectiveness of the armed services.

Our committee did not cut projects just for the sake of cutting, but deleted projects that it felt could be deferred without impairing our national security. In certain instances, we added projects where it was determined either by testimony or supporting documentation that the priority was great enough to warrant inclusion in the bill. As such, the construction proposals for the Active Forces cover approximately 725 projects at approximately 340 major military installations within the United States and overseas.

In perspective, this bill is one of the smallest military construction authorization bills in some time. Even with the addition of items totaling $101,047,000 from the supplemental, the recommended authorization of $3,786,449,000 is only $65,093,000 above the original fiscal year 1980 request. It is $341,863,000 less than the $4,128,312,000 authorization enacted into law in fiscal year 1979.

For the individual services, the committee reduced the Army request of $819,924,000 to $780,514,000, increased the Navy request from $480,543,000 to $489,745,000 and reduced the Air Force request from $500,267,000 to $486,438,000.

Turning to the individual titles, the Army in title I requested $819,924,000. The committee is recommending $780,514,000. Under this title, the committee approved $52,029,000 for operational and training facilities, $122,100,000 for housing and community facilities, $109,470,000 for maintenance facilities, and $195,910,000 for air and water pollution control and energy conservation.

In addition, the committee after thorough evaluation approved $32,560,000 to cover Panama Canal Treaty related construction. The projects involve rehabilitation and a minimum of new construction for relocating and housing our troops and equipment at defense sites that will remain under the control of the United States until the year 2000.

In title II, the Navy portion of the bill, there was a total request of $480,543,000. The committee approved $489,745,000. Major items included $82,296,000 for housing and community facilities, $65,300,000 for maintenance and production projects, $133,600,000 for air and water pollution control and energy conservation efforts, and $26,000,000 for real estate acquisitions.

In title III, the Air Force portion of the bill, $500,267,000 was requested. The committee approved $486,438,000. Major items include $126,600,000 for operational facilities, $103,100,000 for research and development facilities, including $64,700,000 for the Space Shuttle program, $73,800,000 for housing and community support projects and $40,040,000 for pollution control and energy conservation efforts.

In title IV, for the Defense agencies, the total request was $232,377,000. The committee approved $214,707,000. The largest authorization requested in this title is $150,000,000 for the NATO infrastructure program. Because of dollar devaluation and a more rapid processing of projects eligible for infrastructure funding, the committee approved a deficiency authorization of $20,000,000 so that the United States will be able to meet its obligation during the rest of fiscal year 1979.

In title V, military family housing, there was a total request of $1,757,574,000. The subcommittee recommends approval of $1,736,894,000. Authorization of $1,716,494,000 is for operation and maintenance, leasing and debt payment, and currency revaluation. Because of currency exchange problems, the committee approved $26,969,000 for currency revaluation. Also approved was authorization of $11,500,000 for 200 units of family housing.

In title VI, administrative provisions, the committee extended the cost variation authorities and increased the per square foot cost of barracks and unaccompanied officer quarters to $48 and $52 respectively. The present cost limitations are $45 and $48, respectively.

In title VII, Guard and Reserve Forces facilities, the committee approved the total amount requested, $78,151,000. The committee also approved an amendment to clarify Department of Defense policy covering Federal contributions to armory construction. A recent Defense Department reinterpretation of existing authority does not permit Federal contributions to armory construction unless there is a Federal burden on the State, primarily in the nature of a federally directed reorganization. Under the total force concept, the committee felt that all Guard units have a Federal function. Therefore, the amendment provides the Secretary of Defense with discretionary authority to authorize a Federal contribution covering 75 percent of the construction cost of armories for units where facilities need to be replaced to support training even though they have not been impacted by reorganization.

In title VIII, general provisions, the committee authorized four land conveyances, extension of exclusive military use of the Bolling/Anacostia complex, revision of the solar energy system program to include operation and maintenance costs in life cycle analyses, and language prohibiting closure of certain military installations until the service secretary involved has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act. The impact statement will place special emphasis on the socioeconomic factors of the areas surrounding the installations.

The committee believes that it is presenting a balanced measure that meets the most pressing requirements. We are prepared to answer any Member's questions regarding the committee action and our recommendation. Overall, we believe our recommendation to you is a good one, and one which the House should support.

□ 1310

Mr. BEARD of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to rise in support of H.R. 3947, the Military Construction Authorization Act for fiscal year 1979.

I believe we have brought to you a bill that provides necessary construction at our military bases at home and abroad and at the same time recognizes the call for economy in the Federal budget. As the gentleman from Michigan noted, the bill is more than $82 million below the amount requested by the Defense Department.

The committee carefully assessed each project to assure that only those items which are essential to our national defense interests would be approved. Substantial reductions to the Department of Defense requests were made without depriving the services of any projects considered vital to maintaining a strong defense posture.

Perhaps the most controversial issue in this bill involves construction projects in the Panama Canal Zone. Each project was carefully reviewed to make certain that in all cases the construction effort would be directed into defense sites which will remain under U.S. control until the year 2000. In most cases the construction will consist of altering and rehabilitating existing structures in an austere way to house U.S. forces and equipment being relocated within the Canal Zone. Very little new construction is necessary.

The committee approved $32,560,000 for construction projects to carry out treaty-mandated relocations of our

forces in Panama. The committee reduced the Department of Defense request by $3,060,000. The largest single project denied by the committee was a request for $2,600,000 by the Defense Mapping Agency to relocate within Panama its Inter-American Geodetic Survey activities which are not essential to the defense of the canal.

Support for these projects should not be equated with support for the Panama Canal Treaty. These projects are needed for the well-being of American service men and women and civilians who are carrying out the U.S. obligation to defend the canal. Without this construction, they would be forced to live and work in crowded, substandard facilities. This construction will meet our critical relocation requirements in the short term and at the same time provide the long-term support to those U.S. forces and their dependents who will be stationed in Panama until December 31, 1999.

Mr. Chairman, we are prepared to answer any questions the Members may have. I believe we have brought a good bill to the floor, and I urge the passage of H.R. 3947.

Mr. DICKINSON. Mr. Chairman, would the gentleman yield?

Mr. BEARD of Tennessee. Certainly I yield to my colleague from Alabama.

Mr. DICKINSON. Mr. Chairman, I would just like to establish as best we can for the record what we are doing now in Panama and what we anticipate will be the needs in Panama.

As I recall, last year the Secretary of Defense, out of his contingency fund, spent some $29 million in military construction. This year there was a request for some $30 million or approximately that amount. But it was anticipated, if I understand it correctly, that there will be additional military construction funds next year, and we do not at this point—I do not know what the total might be. I wonder if the gentleman has any figures on that.

Mr. BEARD of Tennessee. I am not sure. The gentleman from Michigan, the chairman of the committee, might have those figures available.

I will say we turned down some of their requests this year and certainly will be looking very critically at increased construction costs for an area we are not going to be in for more than another 20 years.

Mr. DICKINSON. If the gentleman will yield further, that is one of the things I think that should be made clear, is that the military construction money we are spending here is for the relocation.

For instance, one was a radar receiving antenna. We either had to abandon it or else relocate it. There had to be funds in there to relocate. I believe that was around a million bucks. Then there was one area that bordered the area or the part of the land we were giving up, and in the testimony, as I recall, it was said the cost of building a fence, which was rather expensive and rather comprehensive, would amortize itself by doing away with the need for guards and guard dogs over the next 2 or 3 years.

For the most part the projects in this bill are of that nature. One was to repair a helicopter taxi strip, but really there is nothing in here that will not be used by our servicemen, that is not actually needed by them, for not only their comfort, but for their safety.

I was just wondering if the chairman knew, looking ahead, what was anticipated to be the total military expenditure before we are finished building anything new there.

Mr. NEDZI. Will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the Chairman.

Mr. NEDZI. If the gentleman will yield, the chair wishes to assure the gentleman that the subcommittee scrutinized the problem the chairman is alluding to very, very carefully. The total amount through 1984, in addition to what we are authorizing in this legislation, is some $34 million at the present time.

Mr. DICKINSON. If the gentleman will yield further, I thank the chairman for those figures. As a member of the subcommittee I am cognizant of some of the expenditures that have been and will be needed. But I did want to make a part of the record here by voting for this portion of the military construction, which happens to be located in Panama, that in no way does it make a person voting for this go on record in support of the Panama Canal Treaty. It is a fait accompli, a fact, it is done; it is the law of the land; there is nothing we can do to change it, and the only thing we can do is make the best of a bad situation. Would the Chairman agree with that?

Mr. NEDZI. If the gentleman will yield, I do not think any reasonable person could construe it in that fashion. The fact of the matter is these are moneys that are going to be spent for our people in Panama and if we do not spend these moneys we are not imposing a burden upon the Panamanians, we are imposing a burden upon our own people.

Mr. DICKINSON. If I may. If the gentleman will continue to yield, let me just say I have urged General McAuliffe while he was commander in chief of the south, and the other military witnesses that have come before either our full committee or the subcommittee to seriously look at the possibility of reducing our presence there. The threat there is no greater than it has ever been; perhaps it is less. Whether it is an internal threat or an external threat, I do not know we need the troops there in the numbers that are projected to be continued to be based there, and I am going to continue to urge the military to examine our needs there to see if perhaps we can reduce some of our expenditures anticipated in the future under military construction by reducing some of our troops there. I think probably this might be a good solution.

Mr. NEDZI. If the gentleman will yield further, I would like to assure the gentleman of my cooperation with him in that regard. Certainly we will look to minimize our presence there, because obviously that will minimize our costs.

Mr. DICKINSON. I thank the Chair.

Mr. BEARD of Tennessee. Mr. Chairman, I yield 2 minutes to my colleague from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I rise to engage in a colloquy with the gentleman from Michigan, the chairman of the subcommittee (Mr. NEDZI). I know that the committee has deferred the request for $13.5 million to change a launch pad approved by Congress last year at Vandenberg Air Force Base to handle a shuttle that now requires a single strap and solid rocket motor to be attached to each of the main solid rocket boosters. It is said by the Air Force that these augmentation thrusters are necessary to enable the shuttle to carry a 32,000 pound payload which defense missions require.

I ask the gentleman if the situation with regard to the thrust augmentation proposal has changed since the committee report was written in May.

Mr. NEDZI. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman.

Mr. NEDZI. The gentleman will perhaps recall that at the time of the subcommittee hearings the design level of the space shuttle thrust augmentation was at 30 percent, which is below the 35 percent which the committee looks to as a guideline for funding new projects.

That design level we are now advised is at 100 percent, and the Air Force has assured the subcommittee that it will be able to accommodate any booster system which the National Aeronautics and Space Administration decides upon.

I can assure the gentleman from California that these facts will be kept in mind during the conference when this project is considered.

Mr. LAGOMARSINO. I thank the gentleman and yield back the balance of my time.

Mr. BEARD of Tennessee. Mr. Chairman, I yield back the balance of my time.

Mr. NEDZI. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. I thank the chairman and ask him to join me in a colloquy.

Mr. Chairman, I rise to commend the gentleman from Michigan on his thorough preparation and development of this comprehensive bill.

I also take this time to inquire if I am correct in understanding that under permanent minor construction authority, certain repairs are to be made at the Naval Reserve Training Center in Gary, Ind.?

Mr. NEDZI. That is correct. A maximum of $100,000 is authorized to make only those repairs necessary to protect the health and safety of the service personnel and visitors who will use the present facility pending new construction.

Mr. BENJAMIN. I appreciate the chairman's concern for those who use the training center. I further thank the gentleman for his desire to limit this year's spending to prevent the unnecessary expenditure of Federal funds.

While no authority for the construction of a new Naval Reserve Center in

Gary is provided for in fiscal year 1980, it is my understanding that the Department of Defense has confirmed the need for new construction, but deferred it until fiscal year 1980 and possibly fiscal year 1986. Is that correct?

Mr. NEDZI. That is my understanding. While the Department has not assigned the construction of a new Naval Reserve Training Center for Gary, Ind., a priority and design status for fiscal year 1980, they have indicated to the Subcommittee on Military Installations and Facilities that new construction is necessary. However, they do not anticipate making a request for construction authority until at least fiscal year 1984.

Mr. BENJAMIN. In view of the Department's recognition that a new facility is needed, I have serious reservations regarding the wisdom of deferring construction for another 4 to 6 years. I am particularly concerned about the delay since the Reserve facilities at Michigan City and Benton Harbor have been closed and the nearest training centers are now situated in South Bend and Fort Wayne, Ind.

Would it be possible for the committee to review the Department's decision on this construction and examine the possibility of including new construction authority in the committee's Military Construction Authorization Act for fiscal year 1981?

Mr. NEDZI. We would be pleased to reexamine the priority given to the construction of a new Naval Reserve training center in Gary, Ind., for fiscal year 1981, and to consider the merits of the project. In the event that our examination determines that the construction schedule should be advanced to fiscal year 1981, we will so advise the Department of Defense and ask that it govern itself accordingly.

Mr. BENJAMIN. I would be pleased to assist in undertaking such a review.

I thank the chairman for his cooperation and for the continued courtesy and help he and his staff have extended to me in this matter.

□ 1320

Mr. BEARD of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

I would like to establish a colloquy with the chairman also regarding some items we inserted in the bill dealing with the Naval and Marine Corps Air Reserve units, Naval Air Station, Memphis, Tenn. That is at page 48 of our report.

The decision has been made after extensive studies to retain those Reserve units down there. There have been pointed out great shortcomings or critical problems as to runways and the deficient state of repair of these runways. In the Senate authorization bill, they have included $3.3 million to improve that. In our bill, we have strong language stating that designs should be prepared in time for the 1981 bill.

I have talked to the Navy. It appears that there is a good chance that they could begin construction immediately on repairing these runways, which pose a very serious and dangerous hazard. I would hope that in conference we could give that strong consideration.

I personally would have liked to have offered an amendment today to our bill, understanding that we have held hearings on it, but understanding also the chairman's feeling and respecting his feeling regarding last minute amendments, I will refrain from doing so. But, I would hope that in conference we could definitely give strong consideration to the acceptance of this $3.3 million from the Senate authorization bill.

Mr. NEDZI. If the gentleman will yield, I would like to say that I share the gentleman's understanding of the problem, and assure the gentleman the further understanding that in the course of the conference—and of course the gentleman is going to be a conferee so that he will not let me forget.

Mr. BEARD of Tennessee. I thank the gentleman.

● Mr. WON PAT. Mr. Chairman, I am pleased to support legislation I voted for in the House Armed Services Committee—H.R. 3947, the 1980 Military Construction Authorization Act.

This is an excellent bill that seeks to strengthen our base needs while keeping a tight reign on inflation.

The measure is highly important to those of us in the Pacific who look on the U.S. military as our only means of defense against foreign intervention. I have often said that we have overlooked the need for a strong defense in the Pacific. History has taught this country not to forget we are a Pacific power and not just an Atlantic power.

This bill provides for $3.7 million in new construction at the Guam Naval Public Works Facility and an additional $440,000 for new firefighting equipment at the SAC base on Guam. These funds I fully support.

Further, this measure seeks to assure that the United States will continue to have access to important missile testing sites at the Kwajalein Range in the Marshall Islands. This is an important provision that will give us the facilities we need to keep America strong.

Finally, I commend my colleagues on the Armed Services Committee for standing firm against those who would close military bases purely on the grounds of budgetary needs. My constituents know the heartache of losing a job because some bureaucrat in Washington says that job can no longer be afforded. This bill puts the committee and myself on record that we want the Pentagon to fully study the impact of a base closing and be prepared for close scrutiny on the Hill before they act.

I urge my colleagues to support this measure and thank you.●

● Mr. FLORIO. Mr. Chairman, I rise in support of the amendment offered in behalf of the gentleman from New Jersey (Mr. THOMPSON).

Members closely involved with efforts to preserve the Fort Dix Army Training Center received welcomed news earlier this month when Secretary of the Army Clifford Alexander announced that plans to close the center have been placed in abeyance pending a further review of Army recruit training needs over the next 12 to 18 months. The Secretary's decision, which was supported by Deputy Defense Secretary Graham Claytor, was based on findings that the Fort Dix training facilities will be needed to process the increased recruit training load the Army anticipates for the coming year. During the past several months fears have been raised both in the Congress and the Department of Army that the dismantling of Fort Dix would impair the Army's ability to train incoming recruits. I am pleased that the Defense Department has decided not to go forward with any reductions at Fort Dix pending a further assessment of the number of recruits entering the Army and the requirements placed on the training installations.

As a Representative from New Jersey, I am also concerned over the large social and economic impact the closing of Fort Dix would have on my district and the entire central and southern New Jersey area. The most recent projections show that the removal of the Fort Dix Army Training Center would result in the loss of at least $157 million by area businesses in just 1 year's time; 10,000 to 15,000 workers employed in the area would be expected to lose their jobs if the proposed Fort Dix realinement was implemented.

Mr. Chairman, it is clear that policies designed to improve our Nation's military readiness should never be judged up or down according to their effects on local economies. However, decisions to reduce or eliminate large military installations must be made with a precise understanding of their effect on the communities involved.

Last year I joined many of my colleagues in writing a letter to the President, expressing reservations concerning the Defense Department's base realinement proposals. The President responded that Defense Department evaluations of base realinement proposals "should take into account not only the military missions and total Federal cost savings, but also the environmental and economic impacts on the affected communities."

The amendment before us would implement the President's position by requiring the Department of the Army to prepare an environmental impact statement before action could be taken to close or realine the military mission of Fort Dix. The findings contained in the statement would be valuable to the Army and the Congress in reviewing any proposals offered in the future which would substantially alter the Fort Dix mission. I urge the amendment to be adopted.●

● Mr. ERTEL. Mr. Chairman, I rise in support of this amendment. I want to say that in the case of both of these facilities, Fort Indiantown Gap and the New Cumberland Army Depot, the Department of the Army has had since April 1, 1976, to determine if the proposed realinements are economically justified, that is, are these realinements going to save us taxpayer some money?

Well, the Army completed its determination last March 29 and recommended that both Fort Indiantown Gap and the New Cumberland Army Depot be realined. I asked the Comptroller General of the United States to review the Army's data for recommending realinement. The report on Fort Indiantown Gap is completed and here is how GAO

characterizes the Army's 3½ year exhaustive study of the justification for realining this facility:

> Our (that is GAO's) review of the study disclosed data, changes, errors, omissions, and questionable procedures that caused us (GAO) to challenge the use of the study as a basis for the decision.

So, after 3½ years, the Army has produced a report which GAO says is not adequate to base a decision. I met with the Assistant Secretary of the Army in late August to discuss this matter and he conceded that more work would have to be done. But, he intends to have it completed by next week. After 3½ years, the Army was unable to justify the realinement of Fort Indiantown Gap, but now expects to do it in only 2 months.

WASHINGTON, D.C.,
August 23, 1979.

Subject: Review of Planned Realinement of Fort Indiantown Gap, Pennsylvania (LCD-79-329).

Hon. ALLEN E. ERTEL,
House of Representatives,
Washington, D.C.

DEAR MR. ERTEL: This is in response to your January 16, 1979, request to review the economic justification for the Department of Defense's decision of March 29, 1979, to terminate active Army use of Fort Indiantown Gap, Pennsylvania, and to pass control of the installation to the Commonwealth of Pennsylvania. The garrison at Fort Meade, Maryland, would assume the area support mission from Fort Indiantown Gap.

The Chairman, Subcommittee on Military Installations and Facilities, House Committee on Armed Services, also requested us on April 10, 1979, to review the economic justification. In order to brief the Subcommittee on May 18, 1979, we limited our review to the most significant cost and savings items. The following appraisal is provided within the context of the limited scope and time frame of our reivew.

The basis for the realinement decision was an Army study performed in 1976. The results of the study were provided to us in the official format of an Army case study and justification folder.

Our review of the study disclosed data changes, errors, omissions, and questionable procedures that caused us to challenge the use of the study as a basis for the decision. According to the Army's estimates, the change in the status of the fort would result in one-time costs of about $2.3 million, annual savings of about $2.9 million, and elimination of 310 civilian and 128 military positions.

REDUCED NUMBER OF POSITIONS SHOULD HAVE REDUCED ESTIMATED SAVINGS

Due to reductions of authorized civilian positions at Fort Indiantown Gap after the 1976 study, but prior to the March 1979 decision, it appears that 212 rather than 310 civilian positions would be eliminated by the proposed realinement. This significantly reduces the estimated annual savings.

The 1976 study showed that 612 authorized civilian positions at the fort would be affected by the proposed realinement and that 331 positions would be eliminated. Thus, after realinement, the authorized strength would be 281 positions. Of these, 270 would be assigned to Fort Meade and 11 would remain at Fort Indiantown Gap.

Since the 1976 study, and prior to the March 1979 decision, the number of authorized civilian positions in the affected units had been reduced from 612 to 514. The reduced authorized positions of 514, minus the after-realinement strength of 281, results in an elimination of 233 positions from the affected units. Because 21 of the positions were rehired, the net elimination would be 212 rather than 310.

BUDGETED COSTS EXCEEDED ACTUAL COSTS BY $1 MILLION

The study documentation showed that fiscal year 1976 budgeted costs of about $24 million were compared to estimated after-realinement costs to determine the estimated annual savings. This is reasonable as long as the actual costs do not vary significantly from the budgeted costs. At the time of the decision, however, the Army knew that for the affected units, the fiscal year 1976 actual costs were about $1 million less than the budgeted costs. Nonetheless, it directed that the study be updated in 1977 using the higher budgeted costs. Thus, the Army knew that the savings shown in the study could be significantly overstated. Its rationale was that to have used the actual costs for the base year would have required a complete revision of the study rather than a simpler updating.

The annual savings were estimated to be about $2.9 million on the basis of budgeted costs. We believe it would have been prudent to have determined the cause of the variance between budgeted and actual costs and disclosed any significant effect on the estimated annual savings.

THE STUDY UNDERSTATED AFTER-REALINEMENT COSTS

The base year costs contained in the study included costs for support of the Command and General Staff Officers School, the Military Occupational Specialty School, and the Noncommissioned Officer Academy. The study indicates that the after-action workload excludes these schools because they would be relocated to other installations. Army Forces Command officials stated the study shows no costs after realinement for these schools because a decision has not been made as to where the schools would be located.

Army officials agreed the costs to operate, after realinement, were understated because some adjustment should have been made to reflect the costs to support the schools. They stated, however, that the amount of such costs would depend upon where the schools were located. Therefore, they did not attempt to estimate the costs.

INAPPROPRIATE DETERMINATION OF PROJECTED ENGINEERING COSTS

To project the after-realinement costs for the Adjutant General of Pennsylvania to operate the base, Army officials determined the base operations costs per staff-year for 1976 based on 1975 costs, adjusted for inflation. They then applied this figure to the estimated training staff-years to be supported by the Adjutant General of Pennsylvania after realinement. This procedure appears acceptable except for the following questionable actions:

Pennsylvania National Guard units on base were included in the total 1976 workload units in determining the engineering cost. However, these units were excluded in the determination of total after-realinement costs to be incurred by the Adjutant General of Pennsylvania.

Fort Indiantown Gap garrison activities were included in the 1976 workload units (as above), but the Adjutant General units expected to perform the garrison functions after the realinement were excluded in the computation of after-realinement costs.

The Adjutant General of Pennsylvania provides most of its own engineering services and therefore did not receive a proportionate share of the engineering support provided in 1976. Additionally, the Adjutant General reimbursed the Army for utilities—the primary engineering support received. Therefore, we believe the Adjutant General workload and the reimbursement for utilities should have been excluded from the staff-year cost determination. Also, to reflect the total engineering costs to be incurred by the Adjutant General after the realinement, the 162 additional Adjutant General employees taking over the garrison function should be included in the after-realinement cost determination.

The effect of these actions were to underestimate the costs to operate after the realinement and consequentially overstate the estimated annual savings by about $1.3 million.

OTHER MATTERS WHICH COULD AFFECT ESTIMATED SAVINGS

Our review also disclosed several other cost factors on which the Army and the Adjutant General of Pennsylvania have not agreed. The differences should be resolved to provide a sound basis for a decision on the proposed realinement. Some of the factors are:

The number of civilian employees needed by the Adjutant General of Pennsylvania to assume responsibility for the garrison function at the fort. The Army Inspector General recommended 214 positions. The Army, however, allowed only 182 positions.

The number of civilian employees needed at Fort Meade. Fort Indiantown Gap officials believe that the estimated costs at Fort Meade after realinement are not adequate for the part-time employees needed to support the annual training workload. Fort Meade officials have already indicated they need at least 27 additional employees to handle the projected workload.

The cost of troops' rations after realinement. Fort Indiantown Gap officials believe that elimination of the Troop Issue Commissary will result in more than $1 million in costs for troops to obtain rations on the local economy. The Army has acknowledged that about $201,000 in additional costs may result, but it did not include that amount in the after-realinement costs.

The exclusion of various miscellaneous costs. Fort Indiantown Gap officials said that various miscellaneous costs totaling approximately $400,000 annually have not been included in after-realinement costs.

On May 18, 1979, we briefed your staff and advised them that we believed the Army study should be revised before committing additional resources to the question of whether the decision was economically justified. We also discussed these matters with Department of the Army officials who acknowledged the need for significant revisions to the study. Pending revisions, they have suspended action on the move. They also voided previously ordered reductions in authorized spaces at the fort which were to have been made by the end of fiscal year 1979 in anticipation of the realinement.

Army officials informed us on July 23, 1979, that they were still assessing the Fort Indiantown Gap situation and that you will be informed of their decision through their established congressional liaison procedures.

This letter report is also being sent today to the Chairman, Subcommittee on Military Installations and Facilities, House Committee on Armed Services.

We will be glad to discuss these matters further with you if you wish.

Sincerely yours,

ELMER B. STAATS,
Comptroller General
of the United States.●

● Mr. EDGAR. Mr. Chairman, as chairman of the Northeast-Midwest Congressional Coalition, I am vitally interested in and committed to the effective implementation of this administration's urban policies. It is a matter of grave concern to me that the Defense Department continues to disregard the importance of these urban initiatives to the detriment

of this Nation's economic health and its military preparedness.

Of particular concern to me is the way in which the Defense Department has disregarded the administration's policy which directs Federal agencies to locate and maintain facilities in central cities, and whenever possible, in distressed cities. Out of the recognition that the Defense Department must consider national security as its first concern, the Defense Department is exempt from complying with the General Services Administration's regulations implementing Executive Order 12072, "Federal Space Management." The Defense Department, however, has been directed to comply with this policy whenever possible. In other words, the administration—and up until now—Congress have relied on the Defense Department to comply with these policies given the constraints and priorities of national defense.

The priorities set by the administration in these years of serious inflation and impending recession were designed to recognize that the long-term consequences of abandoning urban centers and distressed cities for new locations, based on short-term cost considerations, were disastrous not only to the economy but indirectly to the Federal Government as well. The Federal Government, as well as State and local governments, pay increased income maintenance costs in terms of unemployment compensation, food stamps, and housing subsidies. Yet despite the importance of this urban initiative requiring agencies to place facilities in areas of high unemployment and central cities, and despite clear instances where national security issues were not involved, the Defense Department has shown virtually a complete disregard for the importance of this policy to the Nation.

In March of this year the Defense Department announced a list of proposed base realinements which represented a loss of 8,717 military and civilian jobs from our region. They totaled 62.5 percent of all job losses announced by the Defense Department. More significantly, these job losses continue a trend that began stripping our region of military personnel and installations in the early 1950s. This pattern of declining defense jobs, payroll, and construction in the northeast-midwest region has increased unemployment and exacerbated economic problems. President Carter assured the chairman of the Northeast-Midwest Congressional Coalition in June of 1978 that—

> Every decision concerning mission consolidation must be based on thorough, impartial and well reasoned evaluation of the merits of each case.

And that—

> The evaluations should take into account not only the military missions and total federal cost savings, *but also the environmental and economic impacts on the affected communities.* (Emphasis added.)

Despite this commitment from President Carter on behalf of his administration, the Defense Department has not been following these established impact assessment procedures required for base realinements. The Committee on Appropriations, for example, in their report accompanying the military construction appropriations bill, fiscal year 1980 (H.R. 4391) pointed out numerous deviations from these established procedures. The committee specifically noted the Defense Department's "failure to file the environmental impact statement required under existing law and general provision in the military construction appropriations acts."

The Military Construction Authorization Act of 1980 specifically requires the Defense Department to prepare environmental impact statements for a number of announced base realinements. However, the existing language does not include the requirements that the impact statement place special emphasis on socioeconomic factors in the affected area for Fort Dix, as it does in the case of other realinements.

Representative FRANK THOMPSON is prepared to introduce an amendment to H.R. 3947 which would correct this deficiency. We urge you to support the Thompson amendment to the military construction authorization bill.

This is just one example out of many, of Defense Department's failure to seriously consider the impact of their realinement and location decisions on the socioeconomic fabrics of our Nation. Some of the realinement decisions announced in March of 1979, which will leave a trail of underutilized and abandoned facilities throughout the Northeast and Midwest, were undoubtedly justified on national security grounds, some, perhaps many of them, were not. Taken together they parallel similar patterns of civilian agency and industry's decisions to locate facilities on the basis of shortrun cost savings—policies that this administration has committed itself to reversing. Rather than maintaining and upgrading many Northern and Midwestern facilities, the Defense Department has neglected them and then used their deteriorated condition to justify expansion of facilities elsewhere. In some cases, "the preferred alternative" of a Southern climate and proximity of friends has been the determining factor.

The clearest example of this refusal to take the urban policy of locating and maintaining facilities in distressed central cities into consideration is the Defense Logistics Agency's decision to consolidate the Atlanta and Philadelphia Defense Contract Services Administration's regional offices in Atlanta.

This consolidation is being undertaken:

Despite the fact that the Philadelphia office employs 406 persons in its regional office, 31 percent of which are minorities and 61 percent of which are women, compared to Atlanta's work force of 257:

Despite the fact that the Philadelphia office has the highest efficiency rating of the existing nine offices, compared with Atlanta, which has the least efficient rating in three out of five mission areas;

Despite the fact that the Philadelphia office administers two-thirds of the present contracts, most of which are in the Philadelphia area; and

Despite the fact that the Philadelphia office is located in a distressed central city—the Atlanta office is located in a suburb outside of Atlanta, with no public transportation system from the central area of Atlanta to the office.

The Defense Logistics Agency justified its decision to locate the office at Atlanta for three reasons, none of which concern military preparedness or national security: First, merger at Atlanta results in a greater 6-year discounted cost savings, second, Atlanta is centrally located; and third, Atlanta has better facilities and a lower consumer price index.

On closer examination, however, these reasons reflect several inconsistencies:

First. The original cost-analysis showed that consolidation in Atlanta would result in a $600,000 savings over merger at Philadelphia. The cost-analysis, however, was so riddled with errors that correction of them resulted in a cost advantage of $924,000 to Philadelphia. As a result, the Defense Logistics Agency agreed to revise the original cost-analysis. The revision corrected the errors, but concluded that Atlanta represented a savings of $5 million to the Federal Government. After another round of protests from the Philadelphia office, Congressman DOUGHERTY, and me, the revision was changed and two major errors corrected. But the cost-savings showed a higher savings represented by Atlanta—in this case, $149,000. We have again found errors in the final re-analysis and have asked the General Accounting Office to evaluate the validity and objectivity of the final figures.

Correction for just one of these errors would show a net savings to Philadelphia. The first cost-analysis had used actual grade levels at the offices to derive the civilian personnel savings, the final revision used an average of civilian personnel savings rates in New York, Philadelphia, and Atlanta. This biased the figures in Atlanta's favor since Atlanta has the highest average and Philadelphia has the lowest average grade. If the Defense Logistics Agency had not averaged the civilian personnel figures, its latest study would show Philadelphia having an annual cost advantage of about $275,000 rather than Atlanta having a $9,000 advantage.

Second. Atlanta is centrally located. If geography is the sole consideration, Atlanta is more centrally located, but it is an irrelevant factor. When considering the distribution of workload, Philadelphia is more centrally located, as two-thirds of the proposed new region's workload are located within a 200-mile radius of Philadelphia.

Third. Atlanta has better facilities and a lower consumer price index. The Atlanta office is located in former Lockheed plant in Marietta, Ga., a suburb of Atlanta. The facilities in Philadelphia, which are located in that distressed city, are adequate but not as desirable, according to the Defense Logistics Agency.

The Defense Logistics Agency set forth as one of its reasons for choosing Atlanta over Philadelphia precisely the bias for the "preferred alternative" that this administration has committed itself to reverse. Not only that, it proposes to do so

by sacrificing the efficiency of its mission by abandoning its most efficient office for one of its least efficiently run offices. Although the cost-analysis does not reflect it, the office with the lowest average grade will be closed down and the office with the highest average grade of civilian personnel will be expanded. Furthermore by deciding to consolidate the offices in a suburban location "with a relatively low unemployment rate," the Defense Logistics Agency faces problems in filling the 200 positions necessary to staff the expanded office. No public transportation is available from downtown Atlanta to the Marietta site. In contrast to Atlanta, Philadelphia has had an average unemployment rate of 11.6 percent over the last 2 years.

Although the Defense Logistics Agency maintains that the decision will be made on the basis of the cost-analysis—which officially favors consolidation at Atlanta—this cost-analysis has lost credibility and appears to be a justification for a "preferred alternative" rather than an objective appraisal. Revised twice, so far, and currently under the General Accounting Office's investigation, the savings attributed to Atlanta has dropped from a high of $5 million to a mere $200,000 for the 6-year period.

As chairman of the Northeast-Midwest Congressional Coalition, I urge my colleagues to bear in mind the Defense Department's irresponsible and cavalier disregard for policies designed to protect and strengthen this country. The Defense Department must no longer be allowed to disregard our administration's own recognition of the costs to the Federal Treasury of such actions. When national security issues are not compelling, the Defense Department must not be allowed to justify preferences as to location under the guise of saving the government money or under a smokescreen of "national security" issues, which will not bear up under congressional scrutiny. Military construction authorization and appropriations should receive the closest attention. The time to reverse the long-standing trend of abandonment of existing facilities is now.●

● Mr. CORRADA. Mr. Chairman, we are considering today H.R. 3947, the Military Construction Authorization Act, a bill to authorize certain constructions at military installations for fiscal year 1980.

On June 18, 1979, the House passed H.R. 4391, the military construction appropriation bill, 1980. In the committee report for this bill and in the State list for the military construction program for fiscal year 1980, three projects were included for the district of Puerto Rico, to wit:

First. Navy: Naval Station, Roosevelt Roads: Solar.

Second. Army National Guard: Arecibo 150-person armory.

Third. Air National Guard: Puerto Rico IAP: Alter fuel system maintenance dock.

I fully support and endorse the construction of these projects. Furthermore, in the summary of the construction authority approved for fiscal year 1980, as it appears in the committee report for H.R. 3947, military construction authorization bill, these projects were also included. I am pleased by the action taken by the committee.

To my surprise, I have been advised that the National Guard Bureau (NGB) is planning to defer to fiscal year 1981 the already approved and above mentioned 150-person armory in Arecibo.

With the legislative background of this bill as well as that of H.R. 4391, the appropriation bill, it is clear that Congress has mandated that these projects be constructed during fiscal year 1980, if not then they would have been deleted from these lists.

This is a problem that I believe the NGB is in good position of solving. Some expectations have been created and I should say that the city of Arecibo has leased the land, in which this 150-person armory will be constructed, and has been paying for it for over 2 years. It is not fair that at the last minute and after various efforts were placed to expedite the final approval of this construction project, the NGB has reversed itself and now wants to postpone it once more. This project has been deferred by the NGB on a previous occasion.

The Puerto Rico National Guard, as I have been advised, has complied with all of the Bureau's requirements, including the time schedules for submitting plans and specifications. For these reasons I, in all fairness, believe that the NGB should reconsider their decision and should order the approval of this 150-person armory for fiscal year 1980. The House has already appropriated the necessary funds for this project and after this bill is passed the NGB will have the necessary authority to go ahead with the construction projects.

As I have stated, I support and endorse these projects and in particular the 150-person armory for the city of Arecibo, Puerto Rico.

I urge you to vote for this bill.●

Mr. NEDZI. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will read the bill by titles.

The Clerk read as follows:

H.R. 3947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Construction Authorization Act, 1980".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $2,900,000.
Fort Campbell, Kentucky, $16,550,000.
Fort Drum, New York, $690,000.
Fort Greely, Alaska, $820,000.
Fort Hood, Texas, $12,000,000.
Fort Hunter Liggett, California, $2,900,000.
Fort Lewis, Washington, $7,400,000.
Fort Meade, Maryland, $18,500,000.
Fort Ord, California, $17,380,000.
Fort Polk, Louisiana, $26,810,000.
Fort Richardson, Alaska, $4,450,000.
Fort Riley, Kansas, $28,350,000.
Fort Sheridan, Illinois, $1,200,000.
Schofield Barracks, Hawaii, $2,750,000.
Fort Stewart/Hunter Army Air Field, Georgia, $39,900,000.
Yakima Firing Center, Washington, $1,100,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Camp Perry, Ohio, $1,000,000.
Fort Belvoir, Virginia, $2,420,000.
Fort Benning, Georgia, $7,500,000.
Fort Bliss, Texas, $30,000,000.
Fort Eustis, Virginia, $6,410,000.
Fort Benjamin Harrison, Indiana, $4,450,000.
Fort Knox, Kentucky, $9,750,000.
Fort Leavenworth, Kansas, $1,690,000.
Fort Lee, Virginia, $3,960,000.
Fort Rucker, Alabama, $5,580,000.
Fort Story, Virginia, $2,450,000.
Fort Leonard Wood, Missouri, $6,350,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $8,400,000.
Anniston Army Depot, Alabama, $4,850,000.
Badger Army Ammunition Plant, Wisconsin, $650,000.
Crane Army Ammunition Activity, Indiana, $2,490,000.
Detroit Arsenal, Michigan, $4,400,000
Harry Diamond Laboratories, Maryland, $2,600,000.
Dugway Proving Ground, Utah, $520,000.
Indiana Army Ammunition Plant, Indiana, $1,010,000.
Iowa Army Ammunition Plant, Iowa, $2,060,000.
Joliet Army Ammunition Plant, Illinois, $5,800,000.
Kansas Army Ammunition Plant, Kansas, $650,000.
Lake City Army Ammunition Plant, Missouri, $3,800,000.
Letterkenny Army Depot, Pennsylvania, $1,200,000.
Lexington-Blue Grass Army Depot, Kentucky, $1,500,000.
McAlester Army Ammunition Plant, Oklahoma, $1,470,000.
Michigan Army Missile Plant, Michigan, $2,550,000.
Fort Monmouth, New Jersey, $1,650,000.
Newport Army Ammunition Plant, Indiana, $1,550,000.
Picatinny Arsenal, New Jersey, $7,950,000.
Radford Army Ammunition Plant, Virginia, $6,100,000.
Red River Army Depot, Texas, $8,600,000.
Redstone Arsenal, Alabama, $8,500,000.
Riverbank Army Ammunition Plant, California, $1,100,000.
Rock Island Arsenal, Illinois, $5,900,000.
Rocky Mountain Arsenal, Colorado, $6,500,000.
Scranton Army Ammunition Plant, Pennsylvania, $3,750,000.
Seneca Army Depot, New York, $8,350,000.
Sharpe Army Depot, California, $1,650,000.
Sierra Army Depot, California, $770,000.
Tobyhanna Army Depot, Pennsylvania, $10,410,000.
Tooele Army Depot, Utah, $1,050,000.
Volunteer Army Ammunition Plant, Tennessee, $810,000.
Watervliet Arsenal, New York, $1,300,000.
White Sands Missile Range, New Mexico, $5,750,000.
Yuma Proving Ground, Arizona, $4,300,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $830,000.
Indiana Army Ammunition Plant, Indiana, $10,490,000.

Lake City Army Ammunition Plant, Missouri, $140,000.
Lone Star Army Ammunition Plant, Texas, $1,890,000.
Longhorn Army Ammunition Plant, Texas, $170,000.
Louisiana Army Ammunition Plant, Louisiana, $670,000.
Milan Army Ammunition Plant, Tennessee, $450,000.
Radford Army Ammunition Plant, Virginia, $67,350,000.
Riverbank Army Ammunition Plant, California, $230,000.
Scranton Army Ammunition Plant, Pennsylvania, $720,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $570,000.
Fort Ritchie, Maryland, $7,850,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $13,350,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $550,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Terminal, New Jersey, $920,000.
Oakland Army Base, California, $1,100,000.
Sunny Point Terminal, North Carolina, $32,540,000.

OUTSIDE THE UNITED STATES

KWAJALEIN MISSILE RANGE

National Missile Range, $2,900,000.

UNITED STATES ARMY FORCES COMMAND

Panama Area, Canal Zone, $26,060,000.

UNITED STATES ARMY, JAPAN

Okinawa, $2,700,000.

UNITED STATES ARMY, EUROPE

Germany, various locations, $126,630,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND

Various locations, $2,800,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Army or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $52,620,000.

FOREIGN CURRENCY FLUCTUATIONS

SEC. 104. If the estimated cost to complete any construction or acquisition outside the United States authorized for the Army in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $31,434,000.

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to title I? If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Base, Camp Lejeune, North Carolina, $24,630,000.
Marine Corps Base, Camp Pendleton, California, $14,200,000.
Marine Corps Air Station, Cherry Point, North Carolina, $4,450,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, $4,800,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, $4,500,000.
Marine Corps Development and Education Command, Quantico, Virginia, $7,300,000.
Marine Corps Air Station, Tustin, California, $3,400,000.
Marine Corps Base, Twentynine Palms, California, $5,700,000.
Marine Corps Air Station, Yuma, Arizona, $4,000,000.

CHIEF OF NAVAL OPERATIONS

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $20,330,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $150,000.
Naval Amphibious Base, Little Creek, Virginia, $1,670,000.
Naval Submarine Base, New London, Connecticut, $15,850,000.
Naval Station, Norfolk, Virginia, $5,500,000.
Naval Air Station, Oceana, Virginia, $14,700,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, $19,950,000.
Naval Amphibious Base, Coronado, California, $1,600,000.
Naval Air Station, Lemoore, California, $6,300,000.
Naval Magazine, Lualualei, Hawaii, $16,000,000.
Naval Air Station, Miramar, California, $4,050,000.

Naval Air Station, North Island, California, $1,450,000.
Naval Station, San Diego, California, $9,200,000.
Navy Submarine Support Facility, San Diego, California, $3,200,000.
Naval Air Station, Whidbey Island, Washington, $2,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $720,000.
Naval Training Center, Great Lakes, Illinois, $6,300,000.
Naval Air Station, Memphis, Tennessee, $1,400,000.
Fleet Antisubmarine Warfare Training Center, Atlantic, Norfolk, Virginia, $1,200,000.
Naval Air Station, Pensacola, Florida, $820,000.
Fleet Training Center, San Diego, California, $8,300,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Camp Pendleton, California, $2,050,000.
Naval Regional Medical Center, San Diego, California, $5,900,000.

CHIEF OF NAVAL MATERIAL

Naval Air Rework Facility, Alameda, California, $3,500,000.
Puget Sound Naval Shipyard, Bremerton, Washington, $2,545,000.
Puget Sound Naval Supply Center, Bremerton, Washington, $1,000,000.
Charleston Naval Shipyard, Charleston, South Carolina, $2,250,000.
Naval Weapons Station, Charleston, South Carolina, $5,000,000.
Polaris Missile Facility Atlantic, Charleston, South Carolina, $7,500,000.
Naval Air Rework Facility, Cherry Point, North Carolina, $750,000.
Naval Weapons Center, China Lake, California, $4,350,000.
Naval Weapons Station, Concord, California, $3,950,000.
Naval Weapons Support Center, Crane, Indiana, $690,000.
Naval Weapons Station, Earle, New Jersey, $7,100,000.
Naval Air Rework Facility, Jacksonville, Florida, $3,600,000.
Navy Fuel Depot, Jacksonville, Florida, $1,400,000.
Portsmouth Naval Shipyard, Kittery, Maine, $6,250,000.
Long Beach Naval Shipyard, Long Beach, California, $8,250,000.
Naval Air Engineering Center, Lakehurst, New Jersey, $700,000.
Navy Ship Parts Control Center, Mechanicsburg, Pennsylvania, $2,400,000.
Naval Supply Center, Norfolk, Virginia, $25,960,000.
Naval Air Rework Facility, North Island, California, $3,200,000.
Naval Air Test Center, Patuxent River, Maryland, $4,540,000.
Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $7,300,000.
Navy Public Works Center, Pearl Harbor, Hawaii, $1,000,000.
Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $510,000.
Naval Construction Battalion Center, Port Hueneme, California, $1,200,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, $22,650,000.
Naval Ocean Systems Center, San Diego, California, $8,800,000.
Navy Supply Center, San Diego, California, $11,600,000.
Naval Weapons Station, Seal Beach, California, $960,000.
Naval Surface Weapons Center, Solomons Island, Maryland, $860,000.
Mare Island Naval Shipyard, Vallejo, California, $16,220,000.
Naval Weapons Station, Yorktown, Virginia, $2,270,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $6,505,000.

OUTSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Base, Camp Smedley B. Butler, Okinawa, Japan, $11,700,000.

OFFICE OF NAVAL RESEARCH

Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt, $30,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Bermuda, $860,000.
Naval Station, Keflavik, Iceland, $17,650,000.
Naval Station, Roosevelt Roads, Puerto Rico, $1,300,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Facility, Midway Island, $3,900,000.

NAVAL FORCES EUROPE

Naval Station, Rota, Spain, $6,600,000.
Naval Air Facility, Sigonella, Italy, $9,700,000.

CHIEF OF NAVAL MATERIAL

Navy Public Works Center, Guam, Mariana Islands, $3,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Station, Harold E. Holt, Exmouth, Australia, $2,500,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $1,400,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $33,325,000.

AL GHARDAQA MARINE LABORATORY, EGYPT

SEC. 204. The Secretary of the Navy is authorized to expend excess foreign exchange funds in the amount of $580,000 for the construction of a multipurpose marine biological laboratory at the Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt.

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to title II? If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $3,740,000.
Kelly Air Force Base, Texas, $6,350,000.
Newark Air Force Station, Ohio, $860,000.
Robins Air Force Base, Georgia, $7,236,000.
Tinker Air Force Base, Oklahoma, $12,100,000.
Wright-Patterson Air Force Base, Ohio, $13,200,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,500,000.
Eglin Air Force Base, Florida, $5,100,000.
Hanscom Air Force Base, Massachusetts, $8,500,000.
Johnson Space Center, Texas, $12,400,000.
Maui Optical Site, Hawaii, $3,650,000.
White Sands Missile Range, New Mexico, $2,100,000.

AIR TRAINING COMMAND

Keesler Air Force Base, Mississippi, $840,000.
Lackland Air Force Base, Texas, $5,400,000.
Laughlin Air Force Base, Texas, $4,500,000.
Mather Air Force Base, California, $1,650,000.
Maxwell Air Force Base, Alabama, $6,600,000.
Sheppard Air Force Base, Texas, $2,050,000.
Vance Air Force Base, Oklahoma, $1,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $13,400,000.

MILITARY AIRLIFT COMMAND

Andrews Air Force Base, Maryland, $1,190,000.
Kirtland Air Force Base, New Mexico, $1,500,000.
Little Rock Air Force Base, Arkansas, $510,000.
McChord Air Force Base, Washington, $4,100,000.
Richards-Gebaur Air Force Base, Missouri, $1,100,000.
Scott Air Force Base, Illinois, $10,060,000.
Travis Air Force Base, California, $6,300,000.

STRATEGIC AIR COMMAND

Castle Air Force Base, California, $5,300,000.
Ellsworth Air Force Base, South Dakota, $17,000,000.
Grand Forks Air Force Base, North Dakota, $4,900,000.
Griffiss Air Force Base, New York, $7,150,000.
Grissom Air Force Base, Indiana, $4,700,000.
K. I. Sawyer Air Force Base, Michigan, $5,200,000.
March Air Force Base, California, $6,600,000.
Minot Air Force Base, North Dakota, $5,100,000.
Offutt Air Force Base, Nebraska, $2,190,000.

Vandenberg Air Force Base, California, $82,300,000.
Various Locations, $14,200,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $7,850,000.
Cannon Air Force Base, New Mexico, $5,750,000.
Davis-Monthan Air Force Base, Arizona, $5,540,000.
England Air Force Base, Louisiana, $6,390,000.
George Air Force Base, California, $18,350,000.
Holloman Air Force Base, New Mexico, $4,200,000.
Homestead Air Force Base, Florida, $8,370,000.
MacDill Air Force Base, Florida, $2,350,000.
Moody Air Force Base, Georgia, $4,140,000.
Mountain Home Air Force Base, Idaho, $60,000.
Nellis Air Force Base, Nevada, $3,690,000.
Shaw Air Force Base, South Carolina, $2,780,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,950,000.

OUTSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Thule Air Base, Greenland, $3,150,000.

AIR FORCE SYSTEMS COMMAND

Mahe Tracking Station, Seychelle Islands, $550,000.
Various locations, $2,350,000.

MILITARY AIRLIFT COMMAND

Roberts International Airport, Liberia, $4,950,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $1,100,000.
Kunsan Air Base, Korea, $4,010,000.
Osan Air Base, Korea, $20,080,000.
Taegu Air Base, Korea, $510,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Canal Zone, $6,185,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, various locations, $16,640,000.
United Kingdom, various locations, $14,920,000.
Various locations, $40,370,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. The authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed

Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $28,960,000.

FOREIGN CURRENCY FLUCTUATIONS

SEC. 304. If the estimated cost to complete any construction or acquisition outside the United States authorized for the Air Force in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $4,097,00.

SEC. 305. (a) Section 301 of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 555), is amended by striking out "$74,738,000" in the item relating to the authorization for acquisition and construction at various locations for the United States Air Forces in Europe and inserting in lieu thereof "$61,838,000".

(b) Section 602(3) of such Act is amended by striking out "$102,846,000" and "$485,869,000" and inserting in lieu thereof "$89,946,000" and "$472,969,000", respectively.

SEC. 306. (a) Section 301 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1357), is amended—

(1) by striking out "$38,000,000" in the item relating to the authorization for acquisition and construction at various locations for the United States Air Forces in Europe and inserting in lieu thereof "$31,600,000"; and

(2) by striking out "$13,180,000" in the item relating to Nuclear Weapons Security and inserting in lieu thereof "$12,480,000".

(b) Section 602(3) of such Act is amended by striking out "$56,650,000" and "$736,409,000" and inserting in lieu thereof "$49,550,000" and "$729,309,000", respectively.

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

COMMITTEE AMENDMENTS

Mr. NEDZI. Mr. Chairman, I offer committee amendments, and I ask unanimous consent that the committee amendments be considered en bloc, and that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read as follows:

Committee amendments: Page 23, after line 15, insert the following new section:

SEC. 307. Section 301 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1754), is amended by striking out "$9,000,000" in the item relating to the authorization for acquisition and construction for the Aerospace Corporation at Los Angeles, California, and inserting in lieu thereof "$20,500,000."

Page 29, line 16, strike out "and in no case" and all that follows through "authority," on line 18.

Page 32, line 18, strike out "exchange of Government-owned,".

Page 49, strike out lines 5 through 7 and insert in lieu thereof the following:

"The authority of the Secretary to obligate funds under this section shall be effective only to the extent that appropriated funds are available for that purpose.".

Page 53, line 11, insert "both places it appears" before "and inserting".

Page 53, strike out lines 13 and 14 and insert in lieu thereof the following:

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS WITH RESPECT TO CERTAIN BASE CLOSURES

Page 53, line 17, insert "(a)" after "Sec. 810.".

Page 53, after line 22, insert the following:

(b) No action with repsect to the closure of, or the realinement of, the Air Training Command at Goodfellow Air Force Base, San Angelo, Texas, may be taken unless and until the Secretary of the Air Force has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in San Angelo, Texas, and the surrounding area.

(c) No action with respect to the closure of, or the realinement of, Fort Indiantown Gap, Annville, Pennsylvania, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(d) No action with respect to the closure of, or the realinement of, New Cumberland Army Depot, New Cumberland, Pennsylvania, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(e) No action with respect to the closure of, or the realinement of, Fort Monroe, Hampton, Virginia, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

The committee amendments were agreed to.

AMENDMENTS OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. PRICE: Page 19, line 6, strike out "$52,300,000" and insert in lieu thereof "$109,300,000".

Page 33, line 10, strike out "$338,596,000" and insert in lieu thereof "$395,596,000".

Page 33, line 12, strike out "$486,438,000" and insert in lieu thereof "$543,438,000".

Mr. PRICE. Mr. Chairman, this amendment authorizes $57 million for the construction of four MX system test facilities at Vandenberg Air Force Base.

The President has determined that we should have an initial operating capability (IOC) of the MX by mid-1986, and an initial testing of the MX in January 1983. To meet these objectives, it is necessary that authorization and funds be made available in this calendar year for the four projects.

Advertisement and award of construction contracts need to begin in February 1980 so that construction, equipment installation and checkout are completed before the first scheduled flight test in January 1983. Otherwise, the schedule will slip and the Department of Defense will be faced with either making a production decision on the missile without the benefit of adequate testing or delaying the production decision beyond mid-1983. Such a delay would result in the mid-1986 IOC being slipped by 7 months.

The national security requirements of the United States argue strongly against any further slip in the MX IOC. The Congress passed legislation earlier this year stating that deployment of an MX system at the earliest practicable date is vital to the security of the United States. This amendment carries out the intent of the statement by Congress.

The amendment has been requested by the Department of the Air Force, concurred in by the Department of Defense, and submitted to the House Armed Services Committee. Following a hearing by the Subcommittee on Military Installations and Facilities, it is now being brought to the House for consideration.

The $57 million authorization is for the construction of integrated test facilities, a missile assembly building, a mechanical maintenance facility and related roads and utilities. All of the projects are at adequate design levels; therefore, cost estimates are considered solid.

I want to stress that these projects were originally planned for inclusion in the fiscal year 1981 military construction program, because the 1980 program was submitted before the President made his MX decision. The projects are being advanced to the fiscal year 1980 program. A corresponding reduction of $57 million is being made in the fiscal year 1981 program that will be submitted to Congress.

There is no increase in the total cost over the life of the MX program. Construction authorization for four test facilities is merely being moved up 1 year to avoid a slip in the planned IOC of the system.

Even with the $57 million addition, the total authorization in H.R. 3947 will remain $25,587,000 below the requested authorization of $3,868,836,000.

The amendment adjusts the Vandenberg Air Force Base installation total by $57 million and makes a corresponding adjustment in the Air Force title total.

I urge its adoption.

□ 1330

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the

gentleman for yielding. I want to express my support for the amendment offered by the gentleman from Illinois (Mr. PRICE). The President has asked for an operational capability for the MX missile system by 1986, which means we will have to start test flights in 1983. With debate scheduled soon on the SALT II treaty in the Senate, we should be forthright in indicating our intent to proceed with this system right now. The Air Force feels it can handle the tests at Vandenberg on the schedule requested by the President; I urge my colleagues to vote for the amendment.

Mr. PRICE. I appreciate the gentleman's support, and the gentleman's statement is absolutely correct.

Mr. NEDZI. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Michigan.

Mr. NEDZI. I thank the gentleman for yielding. On behalf of the subcommittee, I would like to say we have held the hearings on this problem and have no objection to the amendment.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Chairman, I would just like to say that I support the amendment. This is in large measure for buildings to accommodate the building of the MX missile. But in the testimony that came before our committee, there was an indication that the Air Force might ultimately take money out of the research and development account to fund this shortfall. I made the statement at the time that as the ranking member of the Research and Development Subcommittee, I would oppose that being the source to fund this. If the Air Force needs military construction funds and they believe they have to reduce funds in some other account so that they don't raise the overall budget, then let them choose another source. I just want to go on record right now as saying I do not favor and would oppose funding this additional sum by taking it out of research and development. We have already scrubbed the R. & D. program as much as any program can be and still be a viable and effective program.

I support the amendment, but I want the Air Force to be on notice that it is not coming out of R. & D., if I can help it.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words. I rise just briefly in opposition to the amendment. I do not think we need the MX missile. I think we have got enough weapons to kill everybody in the world 100 times over. And to embark on this program, for those who worry about Government spending and inflation, we are talking about a long-range program that is going to cost billions upon billions upon billions of dollars. The only way we know it will work if it ends up killing somebody, so I will vote no on the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. PRICE).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to title III? If not the Clerk will read.

The Clerk read as follows:

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Depot, Memphis, Tennessee, $670,000.

Fuel Terminal Ozol, California, $3,650,000.

Fuel Terminal, Escanaba, Michigan, $600,000.

DEFENSE MAPPING AGENCY

Defense Mapping Agency Hydrographic/Topographic Center, Bethesda, Maryland, $825,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,800,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Wake Island Air Force Base, $11,400,000.

OFFICE OF THE SECRETARY OF DEFENSE

DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS' EDUCATION

Alconbury Royal Air Force, United Kingdom, $2,340,000.

Atsugi Naval Air Facility, Japan, $580,000.

Bad Hersfeld, Germany, $770,000.

Baumholder, Wetzel Housing Area, Germany, $1,920,000.

Grafenwoehr, Germany, $1,640,000.

Keflavik Naval Air Station, Iceland, $1,700,000.

Ludwigsburg, Germany, $570,000.

Pruem Air Station, Germany, $1,000,000.

Schwaebisch Gmuend, Germany, $575,000.

Seoul, Yongsan, Korea, $3,290,000.

Soesterberg, Camp New Amsterdam, Netherlands, $3,300,000.

Yokota East Air Base, Japan, $2,450,000.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Various locations: For the United States' share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area, $150,000,000. Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred by the United States for the United States' share of the cost of such multilateral programs.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section, including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $5,250,000.

FOREIGN CURRENCY FLUCTUATIONS

SEC. 404. If the estimated cost to complete any construction or acquisition outside the United States authorized for the defense agencies in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $9,377,000.

DEFICIENCY AUTHORIZATION FOR HIGH ENERGY LASER FACILITY, WHITE SANDS, NEW MEXICO

SEC. 405. (a) Section 401 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358), is amended by striking out "$33,449,000" in the item relating to the High Energy Laser Facility at White Sands, New Mexico, and inserting in lieu thereof "$40,749,000".

(b) Section 602(4) of such Act is amended by striking out "$55,909,000" and inserting in lieu thereof "$63,209,000".

SEC. 406. (a) Section 401 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 576), is amended by striking out "$120,000,000" in the item relating to North Atlantic Treaty Organization Infrastructure and inserting in lieu thereof "$140,000,000".

(b) Section 602(4) of such Act is amended by striking out "$217,610,000" and inserting in lieu thereof "$237,610,000".

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to title IV? If not, the Clerk will read.

The Clerk read as follows:

TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

SEC. 501. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of

thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units: Fort MacArthur, California, two hundred units, $11,500,000.

(d) The amount specified in this section may, at the discretion of the Secretary of Defense, or the Secretary's designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

LEASING OF FAMILY HOUSING

SEC. 502 (a) Section 2686(c) of title 10, United States Code, relating to leases for military family housing, is amended by striking out "$300" in paragraph (1) and inserting in lieu thereof $310".

(b) Section 2675(d) of title 10, United States Code, relating to leases in foreign countries, is amended—

(1) by striking out "$485" and "$850" in the first sentence of paragraph (1) and inserting in lieu thereof "$550" and "$970", respectively; and

(2) by striking out "18,000" in paragraph (2) and inserting in lieu thereof "20,000".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. (a) There is authorized to be appropriated for fiscal year 1980 for use by the Secretary of Defense, or the Secretary's designee, for military family housing as authorized by law for the following purposes:

(1) For construction of, or acquisition of sole interest in, family housing, including minor construction, an amount not to exceed $14,500,000, and for planning, an amount not to exceed $900,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payments to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m), an amount not to exceed $1,716,494,000.

(3) For homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, an amount not to exceed $5,000,000.

(b) The amounts authorized to be appropriated in subsection (a) may be increased to the extent additional funds are appropriated to defray increased pay costs associated with actions taken pursuant to law.

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to Title V? If not, the Clerk will read.

The Clerk read as follows:

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, exchange of Government-owned, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. There are authorized to be appropriated for fiscal year 1980 such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V shall not exceed—

(1) for title I: inside the United States $535,370,000; outside the United States $192,524,000; minor construction $52,620,000; for a total of $780,514,000.

(2) for title II: inside the United States $397,080,000; outside the United States $59,340,000; minor construction $33,325,000; for a total of $489,745,000.

(3) for title III: inside the United States $338,596,000; outside the United States $118,882,000; minor construction $28,960,000; for a total of $486,438,000.

(4) for title IV: a total of $214,707,000, including $5,250,000 for minor construction.

(5) for title V: military family housing and homeowners assistance program, $1,736,894,000, including $3,000,000 for minor construction.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b), (c), (d), and (g), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN INSTALLATION TOTALS—ONLY ONE PROJECT AT AN INSTALLATION.—When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) VARIATIONS IN INSTALLATION TOTALS—REPORTS BY THE SECRETARY OF DEFENSE.—When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS; REPORTS TO CONGRESS.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects, may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed from the date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and

percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) COST AND FLOOR AREA VARIATIONS—SOLAR ENERGY.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost or floor area of a project authorized by this Act shall be in addition to any other increase in such cost or variation in floor area limitations authorized by this or any other Act.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction authorized in this Act. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business the names of such firms, the total number of separate contracts awarded each firm, and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR YEAR AUTHORIZATIONS; EXCEPTIONS

SEC. 605. (a) As of October 1, 1980, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment, or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565), and all such authorizations contained in Acts approved before September 8, 1978, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisitions, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1980, and authorizations for appropriations therefor.

(b) Notwithstanding the provisions of subsection (a) of this section and of section 605 of the Military Construction Authorization Act, 1979 (Public Law 95-356, 92 Stat. 583), authorizations for the following items shall remain in effect until October 1, 1981:

(1) Barracks Complex—Trainee construction in the amount of $14,967,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(2) Brooke Army Medical Center Hospital Alteration in the amount of $10,000,000, at Fort Sam Houston, Texas, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(3) Reception Station construction in the amount of $5,886,000 at Fort Benning Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(4) POMCUS Maintenance Complexes in the amount of $33,768,000 at Kaiserslautern, Pirmasens, Germersheim, Gersweski Barracks, Mannheim, Miesau, Nahbollenbach, and Neureut Kaserne, all in Germany, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 360).

(5) Morse Training Building construction in the amount of $2,400,000 at Naval Technical Training Center, Pensacola, Florida, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(6) Medical/Dental Branch Clinic construction in the amount of $4,350,000 at the Navy Regional Medical Center, Pearl Harbor, Hawaii (Naval Station, Midway Island), authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(7) Relocation of the weapons range from the Culebra Complex in the amount of $12,000,000 for the Atlantic Fleet Weapons Range, Roosevelt Roads, Puerto Rico, authorized in section 204 of the Military Construction Authorization Act, 1974 (Public Law 93-166; 87 Stat. 668) and extended in section 605(b)(H) of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 565) and in section 605(b)(4) of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 376).

(8) Municipal Sewer Connection in the amount of $4,150,000 for the Navy Public Works Center, Norfolk, Virginia, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 363).

(9) High Energy Laser Facility construction in the amount of $33,449,000 at White Sands, New Mexico, authorized in section 401 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 369).

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction project inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $48 per square foot for permanent barracks; or

(2) $52 per square foot for unaccompanied officer quarters;

unless the Secretary of Defense, or the Secretary's designee, determines that, because of special circumstances, application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of the enactment of this Act.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 607. Titles I, II, III, IV, and V of this Act shall take effect on October 1, 1979.

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to title VI? If not, the Clerk will read.

The Clerk read as follows:

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $14,537,000; and

(B) for the Army Reserve, $19,234,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $12,790,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $23,500,000; and

(B) for the Air Force Reserve, $7,500,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

CONTRIBUTIONS FOR GUARD AND RESERVE FORCES FACILITIES

SEC. 703. (a) Section 2233 of title 10, United States Code, is amended—

(1) by striking out "and" after clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(5) contribute to any State or Territory, Puerto Rico, or the District of Columbia, such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by the failure of existing facilities to meet

the purposes of this chapter. A contribution made for an armory may not be more than 75 percent of the cost of construction of which it is applied.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

INCREASE IN MAXIMUM CONTRIBUTION FOR GUARD AND RESERVE FORCES FACILITIES WITHOUT NOTIFICATION TO CONGRESS

SEC. 704. Paragraph (1) of section 2233a of title 10, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$175,000".

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to title VII? If not, the Clerk will read.

The Clerk read as follows:

TITLE VIII—GENERAL PROVISIONS

REVISIONS TO MINOR CONSTRUCTION AUTHORITY

SEC. 801. Section 2674 of title 10, United States Code, relating to minor construction, is amended—

(1) by adding at the end of subsection (b) the following new sentence: "Approvals under the preceding sentence are not required for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives."; and

(2) by adding at the end of subsection (f) the following new sentence: "Such notice is not required for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives.".

AMENDMENT WITH RESPECT TO DEVELOPMENT OF SOURCES OF ENERGY ON MILITARY LANDS

SEC. 802. Section 803 of the Military Construction Authorization Act, 1979 (30 U.S.C. 1002a), is amended as follows:

(1) The section heading is amended to read as follows:

"DEVELOPMENT OF SOURCES OF ENERGY ON OR FOR MILITARY INSTALLATIONS."

(2) Subsection (b)(1) is amended by inserting "or on private property" after jurisdiction".

AMENDMENT WITH RESPECT TO USE OF SOLAR ENERGY SYSTEMS

SEC. 803. (a) Section 804 of the Military Construction Authorization Act, 1979 (42 U.S.C. 5504a), is amended by striking out "facilities" and inserting in lieu thereof "buildings that are to be heated or cooled".

(b) Subsections (b) and (c) of such section are amended to read as follows:

(b) The Secretary of Defense shall require that all family housing constructed by the Department of Defense under the authority of this Act or any Act enacted after the date of the enactment of this Act shall include solar energy systems to the extent that engineering analyses demonstrate that the inclusion of such systems is cost effective.

(c) For the purposes of this section, the cost effectiveness of a solar energy system shall be determined by life cycle cost analyses that take into account original investment cost and estimated operation and maintenance over the expected life of the building. Notwithstanding the results of such life cycle cost analyses, solar energy systems shall be installed when the benefit/cost ratio exceeds .80.".

USE OF ROI-NAMUR ISLAND

SEC. 804. (a) The Secretary of Defense may pay to the owners of the land of Roi-Namur Island, Marshall Islands District of the Trust Territories of the Pacific Islands, such amount as the Secretary of Defense determines to be in the public interest for the use after 1960 of Roi-Namur Island by the Government of the United States.

(b) Subsection (a) shall take effect on October 1, 1979, and shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

LAND CONVEYANCE, SAN DIEGO, CALIFORNIA

SEC. 805. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to acquire, by condemnation or otherwise, all right, title, and interest of the city of San Diego, California (hereinafter in this section referred to as the "city"), in and to a tract of land consisting of 40 acres, more or less, in the Balboa Park in San Diego, California. Land acquired pursuant to this section shall be used as the site for construction of any new Navy hospital or medical center that is authorized to be constructed in the greater San Diego area after the date of the enactment of this Act and for related purposes.

(b) The Secretary is authorized to convey to the city, in consideration for the acquisition under subsection (a), all right, title, and interest of the United States in and to all or any part of the real property (including improvements thereon) of the Naval Regional Medical Center, San Diego, that has been conveyed, leased, or otherwise made available to the United States by the city.

(c) The exact acreage and legal description of any land acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(d) This section shall take effect on October 1, 1979. The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

LAND CONVEYANCE, TUSTIN, CALIFORNIA

SEC. 806 (a) Subject to subsection (b) the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Irvine Company, a Michigan corporation, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 84 acres located in the northeastern portion of the Marine Corps Air Station (Helicopter), Tustin, California, together with the improvements on such land. Such conveyance shall be made subject to such terms and conditions as the Secretary considers to be in the public interest.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Irvine Company shall—

(1) convey to the United States land and interests in land that the Secretary considers to be equivalent in value to the land conveyed by the Secretary under subsection (a) and that are otherwise acceptable to the Secretary.

(2) pay the costs of relocating the Military Affiliate Radio Station (MARS) radio facilities and the skeet range facilities located on the land conveyed under subsection (a), and

(3) pay all costs of surveys, appraisals, and evidence of title involved in both such conveyances

(c) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys which are satisfactory to the Secretary.

(d) The Secretary is authorized to accept any land conveyed under subsection (b), and any such land shall be administered by the Secretary.

LAND CONVEYANCE, HUNTSVILLE, ALABAMA

SEC. 807. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey, without monetary consideration, to the Alabama Space Science Exhibit Commission (an agency of the State of Alabama) all right, title, and interest of the United States in and to the real property described in subsection (c). Any real property conveyed under the preceding sentence shall be conveyed for use as a permanent site, in addition to the real property conveyed under Public Law 90-276, for the Alabama Space Science Exhibit.

(b) The conveyance authorized by subsection (a) shall be subject—

(1) to the condition that the real property so conveyed shall be used by the State of Alabama as a permanent site for an Alabama Space Science Exhibit to display suitable public exhibits of United States weaponry and allied subjects, developments of the National Aeronautics and Space Administration, and space-oriented exhibits of other United States Government departments, agencies, and instrumentalities and that if such property is not used for such purpose, all right, title, and interest in and to such real property shall revert to the United States, which shall have the right of immediate entry thereon, and

(2) to such other conditions as the Secretary may prescribe to protect the interest of the United States.

(c)(1) The real property referred to in subsection (a) is a certain tract or parcel of land containing 300 acres more or less (less that land occupied on the date of the enactment of this Act by the Department of the Navy), lying within range 1 west, township 4 south, parts of sections 8 and 9, and more particularly described as beginning at the established northeast corner of the Alabama Space and Rocket Center, running east along the Redstone Arsenal northern boundary, thence south along the Redstone Arsenal eastern boundary to a point north of the northwest corner of the intersection of Patton Road and Goss Road, thence west parallel to the north site of Goss Road to MacDonald Creek thence northwesterly parallel to the east bank of the creek to the northern line of the Tennessee Valley Authority easement, thence west along the easement to the Alabama Space and Rocket Center established corner, thence north and east along the Alabama Space and Rocket Center boundary to point of beginning.

(2) The exact description of such property is to be determined by an accurate survey approved by the Secretary.

LAND CONVEYANCE, CHARLESTON, SOUTH CAROLINA

SEC. 808. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange all right, title, and interest of the Charleston County Aviation Authority (hereinafter in this section referred to as the "Authority") in and to a replacement hazardous cargo handling area to be constructed by the Authority at the Charleston County Airport, South Carolina, for the Air Force.

(b) As consideration for the acquisition under subsection (a), the Secretary is authorized to convey to the Authority all right, title, and interest of the United States in and to land (and improvements thereon) having a fair market value not more than the fair market value of the property to be acquired.

(c) The exact acreage and legal descriptions of the properties to be acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary and to the Authority.

BOLLING AIR FORCE BASE EXTENSION

SEC. 809. Section 607(b) of the Military Construction Authorization Act, 1966 (Public Law 89-188; 79 Stat. 818), is amended by striking out "January 1, 1980" and inserting in lieu thereof "October 1, 1984".

CLOSURE OF ARMY TRAINING COMMAND AT FORT DIX, NEW JERSEY

SEC. 810. No action with respect to the closure of, or the realinement of, the Army Training Command at Fort Dix, New Jersey, may be taken unless and until the Secretary of the Army complies with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement.

TECHNICAL AMENDMENTS TO THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1979

SEC. 811. The Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565) is amended as follows:

(1) Sections 102, 202, and 302 are amended by striking out "upon the date of enactment of the Military Construction Authorization Act for fiscal year 1980" and inserting in lieu thereof "on October 1, 1979".

(2) Section 603(a) is amended by striking out "(a), (b), (c)" and inserting in lieu thereof "(b), (c), (d)".

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title VIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AMENDMENT OFFERED BY MR. NEDZI

Mr. NEDZI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NEDZI: Page 53, beginning on line 20, strike out "complies with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement." and insert in lieu thereof "has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realignment. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.".

Mr. NEDZI. Mr. Chairman, this merely conforms paragraph (a) of section 810 with paragraphs (b), (c), (d), and (e) and makes the same conditions applicable to Fort Dix as it does to the other installations that have been proposed for deactivation by the Secretary of Defense.

The CHAIRMAN. Are there any further requests for time with respect to the amendment offered by the gentleman from Michigan (Mr. NEDZI)? If not, the question is on the amendment offered by the gentleman from Michigan (Mr. NEDZI).

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to title VIII? If not, under the rule, the Committee rises.

□ 1340

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. PICKLE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3947) to authorize certain construction at military installations for fiscal year 1980, and for other purposes, pursuant to House Resolution 332, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ANNUNZIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, nays 26, not voting 26, as follows:

[Roll No. 597]

YEAS—381

Abdnor
Addabbo
Akaka
Alboata
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Minata
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Paahayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—26

Bedell
Bingham
Burton, John
Carr
Chisholm
Derrick
Downey
Edwards, Calif.
Forsythe
Garcia
Holtzman
Kastenmeier
Leland
Maguire
Miller, Calif.
Mitchell, Md.
Moffett
Nolan
Ottinger
Paul
Rangel
Richmond
Roybal
Shannon
Stark
Weiss

NOT VOTING—26

Anderson, Ill.
Andrews, N.C.
Boggs
Bonker
Clay
Conyers
Corcoran
de la Garza
Dellums
Diggs
Flood
Hefner
Leach, La.
McCloskey
Minish
Oakar
Panetta
Rosenthal
Runnels
Scheuer
Stockman
Treen
Whitehurst
Wilson, Bob
Wilson, C. H.
Winn

□ 1350

The Clerk announced the following pairs:

On this vote:

Mr. McCloskey for, with Mr. Dellums against.

Until further notice:

Mrs. Boggs with Mr. Anderson of Illinois.
Mr. Minish with Mr. Stockman.
Mr. Charles H. Wilson of California with Mr. Corcoran.
Mr. Panetta with Mr. Andrews of North Carolina.
Ms. Oakar with Mr. Whitehurst.
Mr. de la Garza with Mr. Conyers.
Mr. Bunnels with Mr. Bob Wilson.
Mr. Flood with Mr. Treen.
Mr. Rosenthal with Mr. Scheuer.
Mr. Bonker with Mr. Winn.
Mr. Hefner with Mr. Diggs.
Mr. Clay with Mr. Leach of Louisiana.

Mr. JENRETTE changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. NEDZI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1319) to authorize certain construction at military installations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

□ 1400

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Construction Authorization Act, 1980".

TITLE I

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $1,250,000.
Fort Campbell, Kentucky, $18,200,000.
Fort Drum, New York, $690,000.
Fort Greely, Alaska, $820,000.
Fort Hood, Texas, $13,650,000.
Fort Hunter Liggett, California, $1,550,000.
Fort Lewis, Washington, $7,400,000.
Fort Meade, Maryland, $18,500,000.
Ford Ord, California, $17,380,000.
Fort Polk, Louisiana, $26,810,000.
Fort Richardson, Alaska, $5,250,000.
Fort Riley, Kansas, $28,350,000.
Fort Sheridan, Illinois, $1,200,000.
Schofield Barracks, Hawaii, $2,750,000.
Fort Stewart/Hunter Army Air Field, Georgia, $39,900,000.
Yakima Firing Center, Washington, $1,100,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Camp Perry, Ohio, $1,000,000.
Fort Belvoir, Virginia, $2,420,000.
Fort Benning, Georgia, $12,800,000.
Fort Bliss, Texas, $30,000,000.
Fort Eustis, Virginia, $6,410,000.
Fort Benjamin Harrison, Indiana, $4,450,000.
Fort Knox, Kentucky, $22,815,000.
Fort Leavenworth, Kansas, $540,000.
Fort Lee, Virginia, $3,960,000.
Fort Rucker, Alabama, $2,080,000.
Fort Story, Virginia, $2,450,000.
Fort Leonard Wood, Missouri, $6,350,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $2,700,000.
Anniston Army Depot, Alabama, $4,850,000.
Badger Army Ammunition Plant, Wisconsin, $650,000.
Corpus Christi Army Depot, Texas, $1,560,000.
Crane Army Ammunition Activity, Indiana, $2,490,000.
Detroit Arsenal, Michigan, $4,400,000.
Harry Diamond Laboratories, Maryland, $2,800,000.
Dugway Proving Ground, Utah, $520,000.
Indiana Army Ammunition Plant, Indiana, $1,010,000.
Iowa Army Ammunition Plant, Iowa, $2,060,000.
Joliet Army Ammunition Plant, Illinois, $5,890,000.
Kansas Army Ammunition Plant, Kansas, $650,000.
Lake City Army Ammunition Plant, Missouri, $3,800,000.
Letterkenny Army Depot, Pennsylvania, $1,200,000.
Lexington-Blue Grass Army Depot, Kentucky, $1,500,000.
McAlester Army Ammunition Plant, Oklahoma, $1,470,000.
Michigan Army Missile Plant, Michigan, $2,550,000.
Fort Monmouth, New Jersey, $1,650,000.
Newport Army Ammunition Plant, Indiana, $1,550,000.
Picatinny Arsenal, New Jersey, $9,750,000.
Radford Army Ammunition Plant, Virginia, $6,100,000.
Red River Army Depot, Texas, $8,600,000.
Redstone Arsenal, Alabama, $7,200,000.
Riverbank Arsenal Ammunition Plant, California, $1,100,000.
Rock Island Arsenal, Illinois, $5,900,000.
Rocky Mountain Arsenal, Colorado, $6,500,000.
Scranton Army Ammunition Plant, Pennsylvania, $3,750,000.
Seneca Army Depot, New York, $8,350,000.
Sharpe Army Depot, California, $1,650,000.
Sierra Army Depot, California, $770,000.
Tobyhanna Army Depot, Pennsylvania, $10,410,000.
Tooele Army Depot, Utah, $1,050,000.
Volunteer Army Ammunition Plant, Tennessee, $810,000.
Watervliet Arsenal, New York, $1,300,000.
White Sands Missile Range, New Mexico, $5,750,000.
Yuma Proving Ground, Arizona, $4,300,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $830,000.
Indiana Army Ammunition Plant, Indiana, $10,490,000.
Lake City Army Ammunition Plant, Missouri, $140,000.
Lone Star Army Ammunition Plant, Texas, $1,890,000.
Longhorn Army Ammunition Plant, Texas, $170,000.
Louisiana Army Ammunition Plant, Louisiana, $670,000.
Milan Army Ammunition Plant, Tennessee, $450,000.
Radford Army Ammunition Plant, Virginia, $67,350,000.
Riverbank Army Ammunition Plant, California, $280,000.
Scranton Army Ammunition Plant, Pennsylvania, $720,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $1,150,000.
Fort Ritchie, Maryland, $7,850,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $13,350,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $650,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Terminal, New Jersey, $920,000.
Oakland Army Base, California, $1,100,000.
Sunny Point Terminal, North Carolina, $31,290,000.

OUTSIDE THE UNITED STATES

KWAJALEIN MISSILE RANGE

National Missile Range, $2,900,000.

UNITED STATES ARMY FORCES COMMAND

Panama Area, Canal Zone, $26,160,000.

UNITED STATES ARMY, EUROPE

Germany, Various Locations, $117,990,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND

Various Locations, $2,800,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations; (2) new weapons developments; (3) new and unforeseen research and development requirements; (4) improved production schedules; or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1981, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $51,970,000.

TITLE II

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction.

INSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Logistics Base, Barstow, California, $3,900,000.
Marine Corps Base, Camp Lejeune, North Carolina, $24,630,000.

Marine Corps Base, Camp Pendleton, California, $14,200,000.
Marine Corps Air Station, Cherry Point, North Carolina, $6,410,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, $4,800,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, $4,500,000.
Marine Corps Development and Education Command, Quantico, Virginia, $7,300,000.
Marine Corps Air Station, Tustin, California, $3,400,000.
Marine Corps Base, Twentynine Palms, California, $5,700,000.
Marine Corps Air Station, Yuma, Arizona, $9,700,000.

CHIEF OF NAVAL OPERATIONS

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $14,970,000.
Naval Support Activity, Mare Island, California, $1,050,000.
Trident Submarine Support, Thames River, Connecticut, $5,500,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Charleston, South Carolina, $3,600,000.
Naval Amphibious Base, Little Creek, Virginia, $1,670,000.
Naval Submarine Base, New London, Connecticut, $15,850,000.
Naval Air Station, Oceana, Virginia, $14,700,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, $19,950,000.
Naval Amphibious Base, Coronado, California, $1,600,000.
Naval Air Station, Lemoore, California, $6,300,000.
Naval Air Station, Miramar, California, $4,050,000.
Naval Air Station, Moffett Field, California, $850,000.
Naval Air Station, North Island, California, $1,450,000.
Naval Station, San Diego, California, $9,200,000.
Navy Submarine Support Facility, San Diego, California, $3,200,000.
Naval Air Station, Whidbey Island, Washington, $2,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $720,000.
Naval Training Center, Great Lakes, Illinois, $6,000,000.
Naval Air Station, Memphis, Tennessee, $4,700,000.
Fleet Anti-Submarine Warfare Training Center, Atlantic, Norfolk, Virginia, $1,200,000.
Naval Air Station, Pensacola, Florida, $820,000.
Fleet Training Center, San Diego, California, $8,300,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Camp Pendleton, California, $2,050,000.

CHIEF OF NAVAL MATERIAL

Naval Air Rework Facility, Alameda, California, $3,500,000.
Puget Sound Naval Shipyard, Bremerton, Washington, $2,545,000.
Puget Sound Naval Supply Center, Bremerton, Washington, $1,000,000.
Charleston Naval Shipyard, Charleston, South Carolina, $2,250,000.
Naval Weapons Station, Charleston, South Carolina, $5,000,000.
Polaris Missile Facility Atlantic, Charleston, South Carolina, $7,500,000.
Naval Air Rework Facility, Cherry Point, North Carolina, $750,000.
Naval Weapons Center, China Lake, California, $4,350,000.
Naval Weapons Station, Concord, California, $3,950,000.
Naval Weapons Support Center, Crane, Indiana, $690,000.
Navy Fuel Depot, Jacksonville, Florida, $1,400,000.
Portsmouth Naval Shipyard, Kittery, Maine, $6,250,000.
Long Beach Naval Shipyard, Long Beach, California, $8,250,000.
Naval Air Engineering Center, Lakehurst, New Jersey, $700,000.
Naval Ordnance Station, Louisville, Kentucky, $1,850,000.
Navy Ship Parts Control Center, Mechanicsburg, Pennsylvania, $2,400,000.
Naval Supply Center, Norfolk, Virginia, $25,980,000.
Naval Air Rework Facility, North Island, California, $3,200,000.
Naval Air Test Center, Patuxent River, Maryland, $4,540,000.
Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $7,300,000.
Navy Public Works Center, Pearl Harbor, Hawaii, $1,000,000.
Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $510,000.
Naval Construction Battalion Center, Port Hueneme, California, $1,200,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, $12,500,000.
Naval Ocean Systems Center, San Diego, California, $8,800,000.
Navy Supply Center, San Diego, California, $11,600,000.
Naval Weapons Station, Seal Beach, California, $960,000.
Naval Surface Weapons Center, Solomons Island, Maryland, $860,000.
Mare Island Naval Shipyard, Vallejo, California, $16,220,000.
Naval Weapons Station, Yorktown, Virginia, $2,270,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Unit, Cutler, Maine, $950,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $6,505,000.

OUTSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $11,700,000.

OFFICE OF NAVAL RESEARCH

Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt, $30,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Bermuda, $860,000.
Naval Station, Keflavik, Iceland, $17,650,000.
Naval Station, Roosevelt Roads, Puerto Rico, $1,300,000.

NAVAL FORCES EUROPE

Naval Station, Rota, Spain, $6,600,000.
Naval Air Facility, Sigonella, Italy, $9,700,000.

CHIEF OF NAVAL MATERIAL

Navy Public Works Center, Guam, Mariana Islands, $3,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Station, Harold E. Holt, Exmouth, Australia, $2,500,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $1,400,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations; (2) new weapons developments; (3) new and unforeseen research and development requirements; (4) improved production schedules; or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $30,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1981, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $33,080,000.

AL GHARDAQA MARINE LABORATORY, EGYPT

SEC. 204. The Secretary of the Navy is authorized to expend excess foreign exchange funds in the amount of $580,000 for the construction of a multipurpose marine biological laboratory at the Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt.

TITLE III

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $6,990,000.
Kelly Air Force Base, Texas, $6,350,000.
Newark Air Force Station, Ohio, $860,000.
Robins Air Force Base, Georgia, $10,750,000.
Tinker Air Force Base, Oklahoma, $15,600,000.
Wright-Patterson Air Force Base, Ohio, $15,500,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,500,000.
Eglin Air Force Base, Florida, $5,100,000.
Hanscom Air Force Base, Massachusetts, $8,600,000.
Johnson Space Center, Texas, $12,400,000.
Maui Optical Site, Hawaii, $3,650,000.
White Sands Missile Range, New Mexico, $2,100,000.

AIR TRAINING COMMAND

Keesler Air Force Base, Mississippi, $940,000.
Lackland Air Force Base, Texas, $5,400,000.
Laughlin Air Force Base, Texas, $4,500,000.
Mather Air Force Base, California, $1,630,000.
Sheppard Air Force Base, Texas, $2,050,000.
Vance Air Force Base, Oklahoma, $1,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $13,400,000.

MILITARY AIRLIFT COMMAND

Andrews Air Force Base, Maryland, $1,190,000.

Kirtland Air Force Base, New Mexico, $3,470,000.

Little Rock Air Force Base, Arkansas, $510,000.

McChord Air Force Base, Washington, $4,100,000.

Pope Air Force Base, North Carolina, $5,400,000.

Richards-Gebaur Air Force Base, Missouri, $1,100,000.

Scott Air Force Base, Illinois, $10,060,000.

Travis Air Force Base, California, $6,300,000.

STRATEGIC AIR COMMAND

Castle Air Force Base, California, $3,850,000.

Ellsworth Air Force Base, South Dakota, $17,530,000.

Grand Forks Air Force Base, North Dakota, $4,900,000.

Griffis Air Force Base, New York $8,080,000.

Grissom Air Force Base, Indiana, $4,700,000.

K. I. Sawyer Air Force Base, Michigan, $5,200,000.

March Air Force Base, California, $6,600,000.

Minot Air Force Base, North Dakota, $5,100,000.

Offutt Air Force Base, Nebraska, $2,190,000.

Vandenberg Air Force Base, California, $65,800,000.

Various Locations, $14,200,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $7,850,000.

Cannon Air Force Base, New Mexico, $6,480,000.

Davis-Monthan Air Force Base, Arizona, $5,540,000.

England Air Force Base, Louisiana, $6,390,000.

George Air Force Base, California, $18,350,000.

Holloman Air Force Base, New Mexico, $2,600,000.

Homestead Air Force Base, Florida, $9,870,000.

Langley Air Force Base, Virginia, $2,500,000.

MacDill Air Force Base, Florida, $3,120,000.

Moody Air Force Base, Georgia, $1,990,000.

Mountain Home Air Force Base, Idaho, $60,000.

Myrtle Beach Air Force Base, South Carolina, $970,000.

Nellis Air Force Base, Nevada, $3,690,000.

Seymour Johnson Air Force Base, North Carolina, $2,650,000.

Shaw Air Force Base, South Carolina, $2,780,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,950,000.

OUTSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Thule Air Base, Greenland, $3,150,000.

AIR FORCE SYSTEMS COMMAND

Mahe Tracking Station, Seychelle Islands, $550,000.

Various Locations, $2,350,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $1,100,000.

Kunsan Air Base, Korea, $4,010,000.

Osan Air Base, Korea, $20,080,000.

Taegu Air Base, Korea, $510,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Canal Zone, $4,500,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, Various Locations, $13,900,000.

United Kingdom, Various Locations, $22,520,000.

Various Locations, $7,170,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations; (2) new weapons developments; (3) new and unforeseen research and development requirements; (4) improved production schedules; or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1981, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $29,310,000.

SEC. 304. (a) Section 301 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 368), is amended by striking out "$97,905,000" in the item relating to the authorization for acquisition and construction at various locations under the heading "United States Air Forces in Europe" and inserting in lieu thereof "$77,905,000".

(b) Section 602(3) of such Act is amended by striking out "$147,942,000" and "$421,249,000" and inserting in lieu thereof "$127,942,000" and "$401,249,000", respectively.

DEPARTMENT OF DEFENSE SHARE FOR WATER POLLUTION CONTROL FACILITIES

SEC. 305. There is authorized to be appropriated, in accordance with section 608 of this Act, the sum of $2,400,000 for the Department of Defense share for the upgrading of the waste treatment facility that serves Little Rock Air Force Base, Little Rock, Arkansas.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Depot, Memphis, Tennessee, $670,000.

DEFENSE MAPPING AGENCY

Defense Mapping Agency Hydrographic/Topographic Center, Bethesda, Maryland, $825,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,800,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Wake Island Air Force Base, $11,400,000.

DEFENSE MAPPING AGENCY

Various Locations, Panama Canal Zone, $3,600,000.

OFFICE OF THE SECRETARY OF DEFENSE, DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS SCHOOLS

Atsugi Naval Air Facility, Japan, $580,000.

Keflavik Naval Air Station, Iceland, $1,700,000.

Misawa Air Base, Japan, $5,070,000.

Seoul, Yongsan, Korea, $3,290,000.

Yokota East Air Base Japan, $2,450,000.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Various Locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area, $200,000,000: Within thirty days after the end of each calendar year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred by the United States for the United States share of the cost of such multilateral programs.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $5,250,000.

DEFICIENCY AUTHORIZATION

SEC. 404. (a) Public Law 95–82 is amended under the heading "INSIDE THE UNITED STATES" in section 401 as follows:

With respect to White Sands, New Mexico, strike out "$33,449,000" and insert in place thereof "$40,749,000".

(b) Public Law 95–82 is amended by striking out in clause 4 of section 602, "$55,909,000" and inserting in place thereof, "$63,209,000".

SEC. 405. (a) Public Law 95–356 is amended under the heading "OUTSIDE THE UNITED STATES" in section 401 as follows: With respect to "North Atlantic Treaty Organization Infrastructure" strike out "$120,000,000" and insert in place thereof "$140,000,000".

(b) Public Law 95–356 is amended by striking out in clause (4) of section 602, "$217,610,000," and inserting in place thereof, "$237,610,000,".

TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

LEASING OF FAMILY HOUSING

SEC. 501. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units: Tinker Air Force Base, Oklahoma, three hundred thirty-two units, $12,000,000.

(d) The amount specified in this section may, at the discretion of the Secretary of Defense, or the Secretary's designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

SEC. 502. (a) Section 2686(c) of title 10, United States Code, relating to leases for military family housing, is amended by striking out "$300" in paragraph (1) and inserting in lieu thereof "$310".

(b) Section 2675(d) of title 10, United States Code, relating to leases in foreign countries, is amended—

(1) by striking out "$485" and "$850" in the first sentence of paragraph (1) and inserting in lieu thereof "$550" and "$975", respectively; and

(2) by striking out "18,000" in paragraph (2) and inserting in lieu thereof "17,000".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. (a) There is authorized to be appropriated for fiscal year 1980 for use by the Secretary of Defense, or the Secretary's designee, for military family housing as authorized by law for the following purposes:

(1) For construction or acquisition of sole interest in family housing, including minor construction, $15,000,000 and for planning an amount not to exceed $900,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m), an amount not to exceed $1,662,525,000.

(3) For homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, an amount not to exceed $5,000,000.

(b) The amounts authorized to be appropriated in sections 502(a) (1), (2), and (3) may be increased to the extent additional funds are appropriated to defray increased pay costs associated with actions taken pursuant to law.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. There are authorized to be appropriated for fiscal year 1980 such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: inside the United States $545,875,000; outside the United States $149,850,000; minor construction $51,970,000; for a total of $747,695,000.

(2) for title II: inside the United States $373,690,000; outside the United States $55,440,000; minor construction $33,080,000; for a total of $462,210,000.

(3) for title III: inside the United States $373,210,000; outside the United States $79,930,000; minor construction $29,310,000; for a total of $482,450,000.

(4) for title IV: a total of $256,635,000, including $5,250,000 for minor construction.

(5) for title V: military family housing and homeowners assistance program, $1,683,425,000, including $3,000,000 for minor construction.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (a), (b), (c), and (g), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN INSTALLATION TOTALS—ONLY ONE PROJECT AT AN INSTALLATION.—When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) VARIATIONS IN INSTALLATION TOTALS—REPORTS BY THE SECRETARY OF DEFENSE.—When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committee on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS; REPORTS TO CONGRESS.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects, may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed from the date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) COST AND FLOOR AREA VARIATIONS—

SOLAR ENERGY.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost or floor area of a project authorized by this Act shall be in addition to any other increase in such cost or variation in floor area limitations authorized by this or any other Act.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR YEAR AUTHORIZATIONS: EXCEPTIONS

SEC. 605. (a) As of October 1, 1980, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565), and all such authorizations contained in Acts approved before September 8, 1978, and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1980, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1979 (Public Law 95-356, 92 Stat. 583), authorizations for the following items shall remain in effect until October 1, 1981:

(1) Barracks Complex—Trainee construction in the amount of $14,967,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(2) Brooke Army Medical Center Hospital alteration in the amount of $10,000,000, at Fort Sam Houston, Texas, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(3) Reception Station construction in the amount of $5,886,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(4) POMCUS Maintenance Complexes in the amount of $33,768,000 at Kaiserslautern, Pirmasens, Germersheim, Gerzweski Barracks, Mannheim, Miesau, Nahbollenbach, and Neureut Kaserne, all in Germany, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 360).

(5) Morse Training Building construction in the amount of $2,400,000 at Naval Technical Training Center, Pensacola, Florida, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(6) Medical/Dental Branch Clinic construction in the amount of $4,350,000 at the Navy Regional Medical Center, Pearl Harbor, Hawaii, (Naval Station, Midway Island), authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(7) Relocation of the weapons range from the Culebra Complex in the amount of $12,000,000 for the Atlantic Fleet Weapons Range, Roosevelt Roads, Puerto Rico, authorized in section 204 of the Military Construction Authorization Act, 1974 (Public Law 93-166; 87 Stat. 668) and extended in section 605(b)(H) of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 565) and in section 605(b)(4) of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 376).

(8) Industrial Waste Collection in the amount of $2,650,000 at the Naval Torpedo Station, Keyport, Washington, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 363).

(9) Municipal Sewer Connection in the amount of $2,100,000 for the Long Beach Naval Shipyard, Long Beach, California, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 363).

(10) Municipal Sewer Connection in the amount of $4,150,000 for the Navy Public Works Center, Norfolk, Virginia, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 363).

(11) Municipal Sewer Connection in the amount of $2,200,000 for the Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 363).

(12) Alter Sewage Treatment and Disposal Facilities in the amount of $631,000 at King Salmon Airport, Alaska, authorized in section 301 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 366).

(13) Small Aircraft Maintenance Facility in the amount of $1,928,000 for Moody Air Force Base, Georgia, authorized in section 301 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 367).

(14) High Energy Laser Facility construction in the amount of $33,449,000 at White Sands, New Mexico, authorized in section 401 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 369).

(15) CIDC Field Operations Building at Fort Hood, Texas, in the amount of $890,000 authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(16) Radar Operations Facility at Redstone Arsenal, Alabama, in the amount of $962,000 authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $48 per square foot for permanent barracks; or

(2) $52 per square foot for unaccompanied officer quarters;

unless the Secretary of Defense, or the Secretary's designee, determines that, because of special circumstances application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133, of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army:

(a) Army National Guard of the United States, $18,237,000.

(b) Army Reserve, $24,824,000.

(2) For the Department of the Navy: Naval and Marine Corps Reserves, $16,090,000.

(3) For the Department of the Air Force:

(a) Air National Guard of the United States, $29,500,000.

(b) Air Force Reserve, $9,500,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by

gift, purchase, exchange of Government-owned land, or otherwise.

SEC. 703. Paragraph (1) of section 2233a of title 10, United States Code, is amended by striking out "$100,000", and inserting in lieu thereof, "$175,000".

TITLE VIII—GENERAL PROVISIONS

REVISIONS TO MINOR CONSERVATION AUTHORITY

SEC. 801. Section 2674 of title 10, United States Code, is amended as follows:

(a) At the end of subsection (b) add the following: *"Provided*, That such approvals are not necessary for projects at specified locations that have been identified in the annual military construction program submitted by the Department of the Defense to the Committees on Armed Services of the Senate and the House of Representatives.".

(b) At the end of subsection (f) add the following: *"Provided*, That such notice is not necessary for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives.".

DEVELOPMENT OF SOURCES OF ENERGY ON MILITARY LANDS AMENDMENT

SEC. 802. Section 803 of the Military Construction Authorization Act, 1979 (Public Law 95-356) is amended as follows:

(a) Delete the title and in lieu thereof insert: "DEVELOPMENT OF SOURCES OF ENERGY ON OR FOR MILITARY INSTALLATIONS".

(b) In subsection (b)(1) after the word "jurisdiction" insert "or on private property".

USE OF ROI-NAMUR ISLAND

SEC. 803. The Secretary of Defense, or the Secretary's designee, is authorized to pay to the land owners of Roi-Namur Island, Marshall Islands District of the Trust Territories of the Pacific Islands, such an amount as the Secretary of Defense determines to be in the public interest for the use after 1960 Roi-Namur Island by the Government of the United States to the extent or in such amounts as may be provided in appropriation Act.

LAND EXCHANGE, KING COUNTY, WASHINGTON

SEC. 804. (a) The Secretary of the Air Force (hereinafter referred to as the "Secretary") is authorized to convey to King County, Washington, all right, title, and interest of the United States in and to the land and improvements which comprise the 143d Combat Squadron, Washington Air National Guard, leased site located at Boeing Field, Seattle, Washington. Such conveyance shall be made subject to such terms and conditions pursuant to an Exchange Agreement as the Secretary considers appropriate, but may not be made until a replacement facility for such Air National Guard unit is available in accordance with subsection (b).

(b) In consideration for such conveyance by the Secretary under subsection (a), King County shall—

(1) make available to the Secretary a leasehold interest in land and funds for the purchase or making of improvements on such land which are acceptable to the Secretary as a replacement facility for such Air National Guard unit pursuant to an Exchange Agreement; or

(2) convey to the United States unencumbered fee simple title to land in the area of Seattle, Washington, which contains improvements acceptable to the Secretary as a replacement facility for such Air National Guard location.

(c) Funds made available under subsection (b)(1) or (2), and land conveyed under subsection (b)(1), shall be subject to terms and conditions which shall be agreed upon by the Secretary and King County and which the Secretary considers to be in the public interest. If the cost of the replacement facility is less than the fair market value or the appraised value dated February 20, 1978, by Roland James Hoefer and Associates of the existing facility for the Air National Guard unit, King County shall pay the amount of the difference between such costs to the United States, and such amount shall be deposited in the Treasury as miscellaneous receipts.

CONTRIBUTION TO THE INTERNATIONAL INSTITUTE OF STRATEGIC STUDIES

SEC. 805. The Secretary of Defense may authorize the expenditure of up to $500,000 from funds authorized to be appropriated for minor construction in title I, II, III, or IV for the purpose of a capital contribution to the International Institute of Strategic Sudies.

USE OF FORMER ENT AIR FORCE BASE BY THE OLYMPIC COMMITTEE

SEC. 806. Notwithstanding the provisions of the Federal Property and Administration Services Act of 1949, as amended, the Administrator of General Services is authorized to convey the excess 5.6 acres of land and improvements on the remaining portion of the former Ent Air Force Base, Colorado Springs, Colorado, to the United States Olympic Committee without compensation. The Committee may accept and administer such property in furtherance of the United States Olympic amateur athletic activities. If the property ceases to be utilized by the United States Olympic Committee for conduct of such activities, it shall be returned to the Administrator of General Services for disposition.

USE OF MASS TRANSIT ON MILITARY INSTALLATIONS

SEC. 807. (a) Notwithstanding any other provision of law, the Secretary of Defense may authorize the use of mass transit vehicles on any military installation if the use of such vehicles on such installation is determined, in accordance with regulations issued by the Secretary of Defense, to be efficient, practical, and in the best interest of the United States. In determining whether the use of mass transit vehicles on any military installation is in the best interest of the United States, the Secretary of Defense shall require that careful consideration be given to the potential for saving energy and reducing air pollution.

(b) All costs of operating and maintaining mass transit vehicles on military installations shall be borne by the users of the vehicles by means of a fare schedule established in accordance with regulations issued by the Secretary of Defense. Funds accruing under the fare schedule shall be retained by the military installation to the extent necessary to offset operating and maintenance costs. Any funds accruing under the fare schedule that are in excess of such costs shall be transferred to the Treasury as miscellaneous receipts.

(c) Mass transit vehicles used on any military installation under authority of this section may be Government-owned vehicles operated by Federal employees or contractor-owned and operated vehicles, whichever is more cost efficient, as determined under regulations issued by the Secretary of Defense.

(d) This section shall not apply to the transportation of personnel by mass transit vehicles on any military installation if the transportation of such personnel is incident to training or other operational activities on such installation.

PAYMENT OF DEPARTMENT OF DEFENSE SHARE FOR UPGRADING WASTE TREATMENT FACILITIES UTILIZED BY MILITARY INSTALLATIONS

SEC. 808. (a) Subject to the provisions of subsection (b), in any case in which a waste treatment facility is being altered, remodeled, improved, or extended for the purpose of complying with the provisions of section 201(b) of the Federal Water Pollution Control Act (33 U.S.C. 1281) and such facility treats the waste from any military installation under a contract arrangement with the Department of Defense, the Secretary of Defense shall pay to the appropriate authority, as the Department of Defense's share for the upgrading of such facility, an amount agreed upon by the Secretary of Defense and the appropriate authority.

(b) Funds may be used for the purpose of paying the Department of Defense's share in connection with the alteration, remodeling, improvement, or extension of a waste treatment facility, as authorized by subsection (a), only if such funds have been specifically authorized to be used for such purpose by legislation enacted on or after the date of enactment of this Act.

PROHIBITION ON THE REALIGNMENT OF LORING AIR FORCE BASE

SEC. 809. With respect to the base realignment decisions announced by the Secretary of the Air Force in March 1979, no funds authorized to be appropriated by this or any other Act shall be obligated or expended for the purpose of the realignment of the Strategic Air Command's (SAC) Loring Air Force Base.

DAVIS-BACON WAIVER

SEC. 810. Subsection (a) of the first section of the Act of March 3, 1931 (46 Stat. 1494; 40 U.S.C. 276a(a)), commonly referred to as the Davis-Bacon Act, is amended by striking out "in excess of $2,000 to which the United States or the District of Columbia is a party for construction, alteration and/or repair, including painting and decorating of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia," and inserting therefor the following language: "to which the United States or the District of Columbia is a party, in excess of:

"(1) Except as provided in paragraphs (2) and (3), $10,000 for construction of public buildings or public works of the United States or the District of Columbia;

"(2) $2,000 for any construction on existing public buildings or public works, including but not limited to alteration and/or repair, painting and decorating, and new additions to such buildings or works; and

"(3) $2,000 where such contract is for a part of a construction project in excess of $10,000;

within the geographic limits of the States of the Union or the District of Columbia,".

ALABAMA SPACE AND ROCKET CENTER

SEC. 811. (a) Section 2 of Public Law 90-276 is amended—

(1) by inserting "(1)" immediately before "A certain tract or parcel of land containing 35.69 acres";

(2) by striking out the period immediately after "Secretary of the Army" and substituting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(2) A certain tract or parcel of land containing approximately 300 acres, less that land occupied by the Department of the Navy on the date of enactment of this paragraph, lying within range 1 west, township 4 south, parts of sections 8 and 9, more particularly described as beginning at the established northeast corner of the Alabama Space and Rocket Center, running east along the Redstone Arsenal northern boundary, thence south along the Redstone Arsenal eastern boundary to a point north of the northwest corner of the intersection of Patton Road and Goss Road, thence west parallel to the north side of Goss Road to MacDonald Creek, thence northwesterly parallel to the east bank of the creek to the

northern line of the Tennessee Valley Authority easement, thence west along the easement to the Alabama Space and Rocket Center established corner, thence north and east along the Alabama Space and Rocket Center boundary to point of beginning. The exact description of such property is to be determined by an accurate survey and approved by the Secretary of the Army.".

(b) Section 3 of Public Law 90-276 is amended by—

(1) inserting "and related educational and recreational purposes" after "instrumentalities"; and

(2) striking "purpose" and substituting "purposes".

PROPOSED CLOSURE OR THE REALIGNMENT OF FORT INDIANTOWN GAP AND NEW CUMBERLAND ARMY DEPOT IN PENNSYLVANIA

SEC. 812. No action with respect to the proposed closure or the realignment of Fort Indiantown Gap, Annville, Pennsylvania, or New Cumberland Army Depot, New Cumberland, Pennsylvania, shall be taken until the Secretary of the Army has conducted a study of the economic impact on central Pennsylvania of (1) the proposed closure or realignment, as the case may be, of each such military installation, and (2) the recent nuclear accident that occurred at Three Mile Island, Middletown, Pennsylvania.

MOTION OFFERED BY MR. NEDZI

Mr. NEDZI. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NEDZI moves to strike out all after the enacting clause of the Senate bill, S. 1319, and to insert in lieu thereof the provisions of the bill, H.R. 3947, as passed, as follows:

That this Act may be cited as the "Military Construction Authorization Act, 1980".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $2,900,000.
Fort Campbell, Kentucky, $16,550,000.
Fort Drum, New York, $690,000.
Fort Greely, Alaska, $820,000.
Fort Hood, Texas, $12,000,000.
Fort Hunter Liggett, California, $2,900,000.
Fort Lewis, Washington, $7,400,000.
Fort Meade, Maryland, $18,500,000.
Fort Ord, California, $17,380,000.
Fort Polk, Louisiana, $26,810,000.
Fort Richardson, Alaska, $4,450,000.
Fort Riley, Kansas, $28,350,000.
Fort Sheridan, Illinois, $1,200,000.
Schofield Barracks, Hawaii, $2,750,000.
Fort Stewart/Hunter Army Air Field, Georgia, $39,900,000.
Yakima Firing Center, Washington, $1,100,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Camp Perry, Ohio, $1,000,000.
Fort Belvoir, Virginia, $2,420,000.
Fort Benning, Georgia, $7,500,000.
Fort Bliss, Texas, $30,000,000.
Fort Eustis, Virginia, $6,410,000.
Fort Benjamin Harrison, Indiana, $4,450,000.
Fort Knox, Kentucky, $9,750,000.
Fort Leavenworth, Kansas, $1,690,000.
Fort Lee, Virginia, $3,960,000.
Fort Rucker, Alabama, $5,580,000.
Fort Story, Virginia, $2,450,000.
Fort Leonard Wood, Missouri, $6,350,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $8,400,000.
Anniston Army Depot, Alabama, $4,850,000.
Badger Army Ammunition Plant, Wisconsin, $650,000.
Crane Army Ammunition Activity, Indiana, $2,490,000.
Detroit Arsenal, Michigan, $4,400,000.
Harry Diamond Laboratories, Maryland, $2,800,000.
Dugway Proving Ground, Utah, $520,000.
Indiana Army Ammunition Plant, Indiana, $1,010,000.
Iowa Army Ammunition Plant, Iowa, $2,060,000.
Joliet Army Ammunition Plant, Illinois, $5,800,000.
Kansas Army Ammunition Plant, Kansas, $650,000.
Lake City Army Ammunition Plant, Missouri, $3,800,000.
Letterkenney Army Depot, Pennsylvania, $1,300,000.
Lexington-Blue Grass Army Depot, Kentucky, $1,500,000.
McAlester Army Ammunition Plant, Oklahoma, $1,470,000.
Michigan Army Missile Plant, Michigan, $2,550,000.
Fort Monmouth, New Jersey, $1,650,000.
Newport Army Ammunition Plant, Indiana, $1,550,000.
Picatinny Arsenal, New Jersey, $7,950,000.
Radford Army Ammunition Plant, Virginia, $6,100,000.
Red River Army Depot, Texas, $8,600,000.
Redstone Arsenal, Alabama, $8,500,000.
Riverbank Army Ammunition Plant, California, $1,100,000.
Rock Island Arsenal, Illinois, $5,900,000.
Rocky Mountain Arsenal, Colorado, $6,500,000.
Scranton Army Ammunition Plant, Pennsylvania, $3,850,000.
Seneca Army Depot, New York, $8,350,000.
Sharpe Army Depot, California, $1,650,000.
Sierra Army Depot, California, $770,000.
Tobyhanna Army Depot, Pennsylvania, $10,410,000.
Tooele Army Depot, Utah, $1,050,000.
Volunteer Army Ammunition Plant, Tennessee, $810,000.
Watervliet Arsenal, New York, $1,300,000.
White Sands Missile Range, New Mexico, $5,750,000.
Yuma Proving Ground, Arizona, $4,300,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $830,000.
Indiana Army Ammunition Plant, Indiana, $10,490,000.
Lake City Army Ammunition Plant, Missouri, $140,000.
Lone Star Army Ammunition Plant, Texas, $1,890,000.
Longhorn Army Ammunition Plant, Texas, $170,000.
Louisiana Army Ammunition Plant, Louisiana, $370,000.
Milan Army Ammunition Plant, Tennessee, $450,000.
Radford Army Ammunition Plant, Virginia, $67,350,000.
Riverbank Army Ammunition Plant, California, $280,000.
Scranton Army Ammunition Plant, Pennsylvania, $720,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $570,000.
Fort Ritchie, Maryland, $7,850,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $13,350,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $650,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Terminal, New Jersey, $920,000.
Oakland Army Base, California, $1,100,000.
Sunny Point Terminal, North Carolina, $32,540,000.

OUTSIDE THE UNITED STATES

KWAJALEIN MISSILE RANGE

National Missile Range, $2,900,000.

UNITED STATES ARMY FORCES COMMAND

Panama Area, Canal Zone, $26,060,000.

UNITED STATES ARMY, JAPAN

Okinawa, $2,700,000.

UNITED STATES ARMY, EUROPE

Germany, various locations, $126,630,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND

Various locations, $2,800,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by preceding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $52,620,000.

FOREIGN CURRENCY FLUCTUATIONS

SEC. 104. If the estimated cost to complete any construction or acquisition outside the United States authorized for the Army in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $31,434,000.

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations

and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Base, Camp Lejeune, North Carolina, $24,630,000.
Marine Corps Base, Camp Pendleton, California, $14,200,000.
Marine Corps Air Station, Cherry Point, North Carolina, $4,450,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, $4,800,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, $4,500,000.
Marine Corps Development and Education Command, Quantico, Virginia, $7,300,000.
Marine Corps Air Station, Tustin, California, $3,400,000.
Marine Corps Base, Twentynine Palms, California, $5,700,000.
Marine Corps Air Station, Yuma, Arizona, $4,000,000.

CHIEF OF NAVAL OPERATIONS

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $20,330,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $150,000.
Naval Amphibious Base, Little Creek, Virginia, $1,670,000.
Naval Submarine Base, New London, Connecticut, $15,850,000.
Naval Station, Norfolk, Virginia, $5,500,000.
Naval Air Station, Oceana, Virginia, $14,700,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, $19,950,000.
Naval Amphibious Base, Coronado, California, $1,600,000.
Naval Air Station, Lemoore, California, $6,300,000.
Naval Magazine, Lualualei, Hawaii, $16,000,000.
Naval Air Station, Miramar, California, $4,050,000.
Naval Air Station, North Island, California, $1,950,000.
Naval Station, San Diego, California, $9,200,000.
Navy Submarine Support Facility, San Diego, California, $3,200,000.
Naval Air Station, Whidbey Island, Washington, $2,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $720,000.
Naval Training Center, Great Lakes, Illinois, $6,300,000.
Naval Air Station, Memphis, Tennessee, $1,400,000.
Fleet Antisubmarine Warfare Training Center, Atlantic, Norfolk, Virginia, $1,200,000.
Naval Air Station, Pensacola, Florida, $820,000.
Fleet Training Center, San Diego, California, $8,300,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Camp Pendleton, California, $2,050,000.
Naval Regional Medical Center, San Diego, California, $5,900,000.

CHIEF OF NAVAL MATERIAL

Naval Air Rework Facility, Alameda, California, $3,500,000.
Puget Sound Naval Shipyard, Bremerton, Washington, $2,545,000.
Puget Sound Naval Supply Center, Bremerton, Washington, $1,000,000.
Charleston Naval Shipyard, Charleston, South Carolina, $2,250,000.
Naval Weapons Station, Charleston, South Carolina, $5,000,000.
Polaris Missile Facility, Atlantic, Charleston, South Carolina, $7,500,000.
Naval Air Rework Facility, Cherry Point, North Carolina, $750,000.
Naval Weapons Center, China Lake, California, $4,350,000.
Naval Weapons Station, Concord, California, $3,950,000.
Naval Weapons Support Center, Crane, Indiana, $690,000.
Naval Weapons Station, Earle, New Jersey, $7,100,000.
Naval Air Rework Facility, Jacksonville, Florida, $3,600,000.
Navy Fuel Depot, Jacksonville, Florida, $1,400,000.
Portsmouth Naval Shipyard, Kittery, Maine, $6,250,000.
Long Beach Naval Shipyard, Long Beach, California, $8,250,000.
Naval Air Engineering Center, Lakehurst, New Jersey, $700,000.
Navy Ship Parts Control Center, Mechanicsburg, Pennsylvania, $2,400,000.
Naval Supply Center, Norfolk, Virginia, $25,960,000.
Naval Air Rework Facility, North Island, California, $3,200,000.
Naval Air Test Center, Patuxent River, Maryland, $4,540,000.
Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $7,300,000.
Navy Public Works Center, Pearl Harbor, Hawaii, $1,000,000.
Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $510,000.
Naval Construction Battalion Center, Port Hueneme, California, $1,200,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, $22,650,000.
Naval Ocean Systems Center, San Diego, California, $8,800,000.
Navy Supply Center, San Diego, California, $11,600,000.
Naval Weapons Station, Seal Beach, California, $960,000.
Naval Surface Weapons Center, Solomons Island, Maryland, $860,000.
Mare Island Naval Shipyard, Vallejo, California, $16,220,000.
Naval Weapons Station, Yorktown, Virginia, $2,270,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $6,505,000.

OUTSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $11,700,000.

OFFICE OF NAVAL RESEARCH

Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt, $30,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Bermuda, $860,000.
Naval Station, Keflavik, Iceland, $17,650,000.
Naval Station, Roosevelt Roads, Puerto Rico, $1,300,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Facility, Midway Island, $3,900,000.

NAVAL FORCES EUROPE

Naval Station, Rota, Spain, $6,800,000.
Naval Air Facility, Sigonella, Italy, $9,700,000.

CHIEF OF NAVAL MATERIAL

Navy Public Works Center, Guam, Mariana Islands, $3,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Station, Harold E. Holt, Exmouth, Australia, $2,500,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $1,400,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $33,325,000.

AL GHARDAQA MARINE LABORATORY, EGYPT

SEC. 204. The Secretary of the Navy is authorized to expend excess foreign exchange funds in the amount of $580,000 for the construction of a multipurpose marine biological laboratory at the Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $3,740,000.
Kelly Air Force Base, Texas, $6,350,000.
Newark Air Force Station, Ohio, $860,000.
Robins Air Force Base, Georgia, $7,236,000.
Tinker Air Force Base, Oklahoma, $12,100,000.
Wright-Patterson Air Force Base, Ohio, $13,200,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,500,000.
Eglin Air Force Base, Florida, $5,100,000.
Hanscom Air Force Base, Massachusetts, $8,600,000.
Johnson Space Center, Texas, $12,400,000.
Maui Optical Site, Hawaii, $3,650,000.
White Sands Missile Range, New Mexico, $2,100,000.

AIR TRAINING COMMAND

Keesler Air Force Base, Mississippi, $840,000.
Lackland Air Force Base, Texas, $5,400,000.
Laughlin Air Force Base, Texas, $4,500,000.
Mather Air Force Base, California, $1,850,000.
Maxwell Air Force Base, Alabama, $6,600,000.
Sheppard Air Force Base, Texas, $2,050,000.
Vance Air Force Base, Oklahoma, $1,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $13,400,000.

MILITARY AIRLIFT COMMAND

Andrews Air Force Base, Maryland, $1,190,000.

Kirkland Air Force Base, New Mexico, $1,500,000.

Little Rock Air Force Base, Arkansas, $510,000.

McChord Air Force Base, Washington, $4,100,000.

Richards-Gebaur Air Force Base, Missouri, $1,100,000.

Scott Air Force Base, Illinois, $10,060,000.

Travis Air Force Base, California, $6,300,000.

STRATEGIC AIR COMMAND

Castle Air Force Base, California, $5,300,000.

Ellsworth Air Force Base, South Dakota, $17,000,000.

Grand Forks Air Force Base, North Dakota, $4,900,000.

Griffiss Air Force Base, New York, $7,150,000.

Grissom Air Force Base, Indiana, $4,700,000.

K. I. Sawyer Air Force Base, Michigan, $5,200,000.

March Air Force Base, California, $6,600,000.

Minot Air Force Base, North Dakota, $5,100,000.

Offutt Air Force Base, Nebraska, $2,190,000.

Vandenberg Air Force Base, California, $109,300,000.

Various Locations, $14,200,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $7,850,000.

Cannon Air Force Base, New Mexico, $5,750,000.

Davis-Monthan Air Force Base, Arizona, $5,540,000.

England Air Force Base, Louisiana, $6,390,000.

George Air Force Base, California, $18,350,000.

Holloman Air Force Base, New Mexico, $4,300,000.

Homestead Air Force Base, Florida, $8,370,000.

MacDill Air Force Base, Florida, $2,350,000.

Moody Air Force Base, Georgia, $4,140,000.

Mountain Home Air Force Base, Idaho, $60,000.

Nellis Air Force Base, Nevada, $3,690,000.

Shaw Air Force Base, South Carolina, $2,780,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,950,000.

OUTSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Thule Air Base, Greenland, $3,150,000.

AIR FORCE SYSTEMS COMMAND

Mahe Tracking Station, Seychelle Islands, $550,000.

Various locations, $2,350,000.

MILITARY AIRLIFT COMMAND

Roberts International Airport, Liberia, $4,950,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $1,100,000.

Kunsan Air Base, Korea, $4,010,000.

Osan Air Base, Korea, $20,080,000.

Taegu Air Base, Korea, $510,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Canal Zone, $6,185,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, various locations, $16,640,000.

United Kingdom, various locations, $14,920,000.

Various locations, $40,370,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $28,960,000.

FOREIGN CURRENCY FLUCTUATIONS

SEC. 304. If the estimated cost to complete any construction or acquisition outside the United States authorized for the Air Force in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $4,067,000.

SEC. 305. (a) Section 301 of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 555), is amended by striking out "$74,738,000" in the item relating to the authorization for acquisition and construction at various locations for the United States Air Forces in Europe and inserting in lieu thereof "$61,838,000".

(b) Section 602(3) of such Act is amended by striking out "$102,846,444" and "$485,869,000" and inserting in lieu thereof "$89,946,000" and "$472,969,000", respectively.

SEC. 306. (a) Section 301 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1357), is amended—

(1) by striking out "$38,000,000" in the item relating to the authorization for acquisition and construction at various locations for the United States Air Forces in Europe and inserting in lieu thereof "$31,600,000"; and

(2) by striking out "$13,180,000" in the item relating to Nuclear Weapons Security and inserting in lieu thereof "$12,480,000".

(b) Section 602(3) of such Act is amended by striking out "$56,650,000" and "$736,409,000" and inserting in lieu thereof "$49,550,000" and "$729,309,000", respectively.

SEC. 307. Section 301 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1754), is amended by striking out "$9,000,000" in the item relating to the authorization for acquisition and construction for the Aerospace Corporation at Los Angeles, California, and inserting in lieu thereof "$20,500,000".

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Depot, Memphis, Tennessee, $670,000.

Fuel Terminal, Ozol, California, $3,650,000.

Fuel Terminal, Escanaba, Michigan, $600,000.

DEFENSE MAPPING AGENCY

Defense Mapping Agency Hydrographic/Topographic Center, Bethesda, Maryland, $825,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,800,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Wake Island Air Force Base, $11,400,000.

OFFICE OF THE SECRETARY OF DEFENSE

DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS' EDUCATION

Alconbury Royal Air Force, United Kingdom, $2,340,000.

Atsugi Naval Air Facility, Japan, $580,000.

Bad Hersfeld, Germany, $770,000.

Baumholder, Wetzel Housing Area, Germany, $1,920,000.

Grafenwoehr, Germany, $1,640,000.

Keflavik Naval Air Station, Iceland, $1,700,000.

Ludwigsburg, Germany, $570,000.

Pruem Air Station, Germany, $1,000,000.

Schwaebisch Gmuend, Germany, $575,000.

Seoul, Yongsan, Korea, $3,290,000.

Soesterberg, Camp New Amsterdam, Netherlands, $3,300,000.

Yokota East Air Base, Japan, $2,450,000.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Various locations: For the United States' share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area, $150,000,000. Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred by the United States for the United States' share of the cost of such multilateral programs.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land

acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section, including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $5,250,000.

FOREIGN CURRENCY FLUCTUATIONS

SEC. 404. If the estimated cost to complete any construction or acquisition outside the United States authorized for the defense agencies in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the autority of this section may not exceed $9,377,000.

DEFICIENCY AUTHORIZATION FOR HIGH ENERGY LASER FACILITY, WHITE SANDS, NEW MEXICO

SEC. 405. (a) Section 401 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358), is amended by striking out "$33,449,000" in the item relating to the High Energy Laser Facility at White Sands, New Mexico, and inserting in lieu thereof "$40,749,000".

(b) Section 602(4) of such Act is amended by striking out "$55,909,000" and inserting in lieu thereof "$63,209,000".

SEC. 406. (a) Section 401 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 576), is amended by striking out "$120,000,000" in the item relating to North Atlantic Treaty Organization Infrastructure and inserting in lieu thereof "$140,000,000".

(b) Section 602(4) of such Act is amended by striking out "$217,610,000" and inserting in lieu thereof "$237,610,000".

TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

SEC. 501. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units: Fort MacArthur, California, two hundred units, $11,500,000.

(d) The amount specified in this section may, at the discretion of the Secretary of Defense, or the Secretary's designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

LEASING OF FAMILY HOUSING

SEC. 502. (a) Section 2686(c) of title 10, United States Code, relating to leases for military family housing, is amended by striking out "$300" in paragraph (1) and inserting in lieu thereof "$310".

(b) Section 2675(d) of title 10, United States Code, relating to leases in foreign countries, is amended—

(1) by striking out "$485" and "$850" in the first sentence of paragraph (1) and inserting in lieu thereof "$550" and "$970", respectively; and

(2) by striking out "18,000" in paragraph (2) and inserting in lieu thereof "20,000".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. (a) There is authorized to be appropriated for fiscal year 1980 for use by the Secretary of Defense, or the Secretary's designee, for military family housing as authorized by law for the following purposes:

(1) For construction of, or acquisition of sole interest in, family housing, including minor construction, an amount not to exceed $14,500,000, and for planning, an amount not to exceed $900,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m), an amount not to exceed $1,716,494,000.

(3) For homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, an amount not to exceed $5,000,000.

(b) The amounts authorized to be appropriated in subsection (a) may be increased to the extent additional funds are appropriated to defray increased pay costs associated with actions taken pursuant to law.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. There are authorized to be appropriated for fiscal year 1980 such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V shall not exceed—

(1) for title I: inside the United States $535,270,000; outside the United States $192,524,000; minor construction $52,620,000; for a total of $780,514,000.

(2) for title II: inside the United States $397,080,000; outside the United States $59,340,000; minor construction $33,325,000; for a total of $489,745,000.

(3) for title III: inside the United States $395,596,000; outside the United States $118,882,000; minor construction $28,960,000; for a total of $543,438,000.

(4) for title IV: a total of $214,707,000, including $5,250,000 for minor construction.

(5) for title V: military family housing and homeowners assistance program, $1,736,894,000, including $3,000,000 for minor construction.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b), (c), (d), and (g), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN INSTALLATION TOTALS—ONLY ONE PROJECT AT AN INSTALLATION.—When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) VARIATIONS IN INSTALLATION TOTALS—REPORTS BY THE SECRETARY OF DEFENSE.—When the Secretary of Defense determines that any amount named in title I, II, III,

or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS; REPORTS TO CONGRESS.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects, may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed from the date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) COST AND FLOOR AREA VARIATIONS—SOLAR ENERGY.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost or floor area of a project authorized by this Act shall be in addition to any other increase in such cost or variation in floor area limitations authorized by this or any other Act.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious and cost-effective accomplishment of the construction authorized in this Act. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees' charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business, the names of such firms, the total number of separate contracts awarded each firm, and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR YEAR AUTHORIZATIONS; EXCEPTIONS

SEC. 605. (a) As of October 1, 1980, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565), and all such authorizations contained in Acts approved before September 8, 1978, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1980, and authorizations for appropriations therefor.

(b) Notwithstanding the provisions of subsection (a) of this section and of section 605 of the Military Construction Authorization Act, 1979 (Public Law 95-356, 92 Stat. 583), authorizations for the following items shall remain in effect until October 1, 1981:

(1) Barracks Complex—Trainee construction in the amount of $14,967,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(2) Brooke Army Medical Center Hospital Alteration in the amount of $10,000,000, at Fort Sam Houston, Texas, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(3) Reception Station construction in the amount of $5,886,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(4) POMCUS Maintenance Complexes in the amount of $33,768,000 at Kaiserslautern, Pirmasens, Germersheim, Gerzweski Barracks, Mannheim, Miesau, Nahbollenbach, and Neureut Kaserne, all in Germany, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 360).

(5) Morse Training Building construction in the amount of $2,400,000 at Naval Technical Training Center, Pensacola, Florida, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(6) Medical/Dental Branch Clinic construction in the amount of $4,350,000 at the Navy Regional Medical Center, Pearl Harbor, Hawaii (Naval Station, Midway Island), authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(7) Relocation of the weapons range from the Culebra Complex in the amount of $12,000,000 for the Atlantic Fleet Weapons Range, Roosevelt Roads, Puerto Rico, authorized in section 204 of the Military Construction Authorization Act, 1974 (Public Law 93-166; 87 Stat. 668) and extended in section 605(b)(H) of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 565) and in section 605(b)(4) of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 376).

(8) Municipal Sewer Connection in the amount of $4,150,000 for the Navy Public Works Center, Norfolk, Virginia, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 363).

(9) High Energy Laser Facility construction in the amount of $33,449,000 at White Sands, New Mexico, authorized in section 401 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 369).

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction project inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index (based on the following unit cost limitations where the area construction index is 1.0:

(1) $48 per square foot for permanent barracks; or

(2) $52 per square foot for unaccompanied officer quarters:

unless the Secretary of Defense, or the Secretary's designee, determines that, because of special circumstances, application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of the enactment of this Act.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 607. Titles I, II, III, IV, and V of this Act shall take effect on October 1, 1979.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense

may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $14,537,000; and

(B) for the Army Reserve, $19,824,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $12,790,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $23,500,000; and

(B) for the Air Force Reserve, $7,500,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

CONTRIBUTIONS FOR GUARD AND RESERVE FORCES FACILITIES

SEC. 703. (a) Section 2233 of title 10, United States Code, is amended—

(1) by striking out "and" after clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(5) contribute to any State or Territory, Puerto Rico, or the District of Columbia, such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by the failure of existing facilities to meet the purposes of this chapter. A contribution made for an armory may not be more than 75 percent of the cost of construction of which it is applied.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

INCREASE IN MAXIMUM CONTRIBUTION FOR GUARD AND RESERVE FORCES FACILITIES WITHOUT NOTIFICATION TO CONGRESS

SEC. 704. Paragraph (1) of section 2233a of title 10, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$175,000".

TITLE VIII—GENERAL PROVISIONS

REVISIONS TO MINOR CONSTRUCTION AUTHORITY

SEC. 801. Section 2674 of title 10, United States Code, relating to minor construction, is amended—

(1) by adding at the end of subsection (b) the following new sentence: "Approvals under the preceding sentence are not required for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives."; and

(2) by adding at the end of subsection (f) the following new sentence: "Such notice is not required for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives.".

AMENDMENT WITH RESPECT TO DEVELOPMENT OF SOURCES OF ENERGY ON MILITARY LANDS

SEC. 802. Section 803 of the Military Construction Authorization Act, 1979 (30 U.S.C. 1002a), is amended as follows:

(1) The section heading is amended to read as follows:

"DEVELOPMENT OF SOURCES OF ENERGY ON OR FOR MILITARY INSTALLATIONS"

(2) Subsection (b)(1) is amended by inserting "or on private property" after "jurisdiction".

AMENDMENT WITH RESPECT TO USE OF SOLAR ENERGY SYSTEMS

SEC. 803. (a) Section 804 of the Military Construction Authorization Act, 1979 (42 U.S.C. 5504a), is amended by striking out "facilities" and inserting in lieu thereof "buildings that are to be heated or cooled".

(b) Subsections (b) and (c) of such section are amended to read as follows:

"(b) The Secretary of Defense shall require that all family housing constructed by the Department of Defense under the authority of this Act or any Act enacted after the date of the enactment of this Act shall include solar energy systems to the extent that engineering analyses demonstrate that the inclusion of such systems is cost effective.

"(c) For the purposes of this section, the cost effectiveness of a solar energy system shall be determined by life-cycle cost analyses that take into account original investment cost and estimated operation and maintenance over the expected life of the building. Notwithstanding the results of such life cycle cost analyses, solar energy systems shall be installed when the benefit/cost ratio exceeds .80.".

USE OF ROI-NAMUR ISLAND

SEC. 804. (a) The Secretary of Defense may pay to the owners of the land of Roi-Namur Island, Marshall Islands District of the Trust Territories of the Pacific Islands, such amount as the Secretary of Defense determines to be in the public interest for the use after 1960 of Roi-Namur Island by the Government of the United States.

(b) Subsection (a) shall take effect on October 1, 1979, and shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

LAND CONVEYANCE, SAN DIEGO, CALIFORNIA

SEC. 805. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to acquire, by condemnation or otherwise, all right, title, and interest of the city of San Diego, California (hereinafter in this section referred to as the "city"), in and to a tract of land consisting of 40 acres, more or less, in the Balboa Park in San Diego, California. Land acquired pursuant to this section shall be used as the site for construction of any new Navy hospital or medical center that is authorized to be constructed in the greater San Diego area after the date of the enactment of this Act and for related purposes.

(b) The Secretary is authorized to convey to the city, in consideration for the acquisition under subsection (a), all right, title, and interest of the United States in and to all or any part of the real property (including improvements thereon) of the Naval Regional Medical Center, San Diego, that has been conveyed, leased, or otherwise made available to the United States by the city.

(c) The exact acreage and legal description of any land acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(d) This section shall take effect on October 1, 1979. The authority of the Secretary to obligate funds under this section shall be effective only to the extent that appropriated funds are available for that purpose.

LAND CONVEYANCE, TUSTIN, CALIFORNIA

SEC. 806. (a) Subject to subsection (b), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Irvine Company, a Michigan corporation, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 84 acres located in the northeastern portion of the Marine Corps Air Station (Helicopter), Tustin, California, together with the improvements on such land. Such conveyance shall be made subject to such terms and conditions as the Secretary considers to be in the public interest.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Irvine Company shall—

(1) convey to the United States land and interests in land that the Secretary considers to be equivalent in value to the land conveyed by the Secretary under subsection (a) and that are otherwise acceptable to the Secretary,

(2) pay the costs of relocating the Military Affiliate Radio Station (MARS) radio facilities and the skeet range facilities located on the land conveyed under subsection (a), and

(3) pay all costs of surveys, appraisals, and evidence of title involved in both such conveyances.

(c) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys which are satisfactory to the Secretary.

(d) The Secretary is authorized to accept any land conveyed under subsection (b), and any such land shall be administered by the Secretary.

LAND CONVEYANCE, HUNTSVILLE, ALABAMA

SEC. 807. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey, without monetary consideration, to the Alabama Space Science Exhibit Commission (an agency of the State of Alabama) all right, title, and interest of the United States in and to the real property described in subsection (c). Any real property conveyed under the preceding sentence shall be conveyed for use as a permanent site, in addition to the real property conveyed under Public Law 90-276, for the Alabama Space Science Exhibit.

(b) The conveyance authorized by subsection (a) shall be subject—

(1) to the condition that the real property so conveyed shall be used by the State of Alabama as a permanent site for an Alabama Space Science Exhibit to display suitable public exhibits of United States weaponry and allied subjects, developments of the National Aeronautics and Space Administration, and space-oriented exhibits of other United States Government departments, agencies, and instrumentalities and that if such property is not used for such purpose, all right, title, interest in and to such real property shall revert to the United States, which shall have the right of immediate entry thereon, and

(2) to such other conditions as the Secretary may prescribe to protect the interest of the United States. (c)(1) The real property referred to in subsection (a) is a certain tract or parcel of land containing 300 acres more or less (less that land occupied on the date of the enactment of this Act by the Department of the Navy), lying within range 1 west, township 4 south, parts of sections 8 and 9, and more particularly described as beginning at the established northeast corner of the Alabama Space and Rocket Center, running east along the Redstone Arsenal northern boundary, thence south along the Redstone Arsenal eastern boundary to a point north of the northwest

corner of the intersection of Patton Road and Goss Road, thence west parallel to the north site of Goss Road to MacDonald Creek, thence northwesterly parallel to the east bank of the creek to the northern line of the Tennessee Valley Authority easement, thence west along the easement to the Alabama Space and Rocket Center established corner, thence north and east along the Alabama Space and Rocket Center boundary to point of beginning.

(2) The exact description of such property is to be determined by an accurate survey approved by the Secretary.

LAND CONVEYANCE, CHARLESTON, SOUTH CAROLINA

SEC. 808. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange all right, title, and interest of the Charleston County Aviation Authority (hereinafter in this section referred to as the "Authority") in and to a replacement hazardous cargo handling area to be constructed by the Authority at the Charleston County Airport, South Carolina, for the Air Force.

(b) As consideration for the acquisition under subsection (a), the Secretary is authorized to convey to the Authority all right, title, and interest of the United States in and to land (and improvements thereon) having a fair market value not more than the fair market value of the property to be acquired.

(c) The exact acreages and legal descriptions of the properties to be acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary and to the Authority.

BOLLING AIR FORCE BASE EXTENSION

SEC. 809. Section 607(b) of the Military Construction Authorization Act, 1966 (Public Law 89-188; 79 Stat. 818), is amended by striking out "January 1, 1980" both places it appears and inserting in lieu thereof "October 1, 1984".

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS WITH RESPECT TO CERTAIN BASE CLOSURES

SEC. 810. (a) No action with respect to the closure of, or the realinement of, the Army Training Command at Fort Dix, New Jersey, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realignment. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(b) No action with respect to the closure of, or the realinement of, the Air Training Command at Goodfellow Air Force Base, San Angelo, Texas, may be taken unless and until the Secretary of the Air Force has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in San Angelo, Texas, and the surrounding area.

(c) No action with respect to the closure of, or the realinement of, Fort Indiantown Gap, Annville, Pennsylvania, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(d) No action with respect to the closure of, or the realinement of, New Cumberland Army Depot, New Cumberland, Pennsylvania, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(e) No action with respect to the closure of, or the realinement of, Fort Monroe, Hampton, Virginia, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

TECHNICAL AMENDMENTS TO THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1979

SEC. 811. The Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565) is amended as follows:

(1) Sections 102, 202, and 302 are amended by striking out "upon the date of enactment of the Military Construction Authorization Act for fiscal year 1980" and inserting in lieu thereof "on October 1, 1979".

(2) Section 603(a) is amended by striking out "(a), (b), (c)" and inserting in lieu thereof "(b), (c), (d)".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3947) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1319

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill (S. 1319) to authorize certain construction at military installations, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees: Messrs. PRICE, NEDZI, CHARLES H. WILSON of California, BRINKLEY, DAVIS of South Carolina, WON PAT, FAZIO, BOB WILSON, WHITEHURST, and BEARD of Tennessee.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENTS TO S. 1319

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate bill (S. 1319) the Clerk be authorized to make necessary technical corrections including section numbers, punctuation, and cross-references as may be necessary to reflect the action of the House in amending the bill, H.R. 3947.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Mr. JONES of Tennessee. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3683) to amend the Consolidated Farm and Rural Development Act.

The SPEAKER. The question is on the motion offered by the gentleman from Tennessee (Mr. JONES).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3683, with Mr. LEHMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, October 19, 1979, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the Committee amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 3683

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Consolidated Farm and Rural Development Act is amended by—

(1) in section 303(b), deleting paragraph (1) and inserting in lieu thereof—

"(1) the term 'improving farms' includes, but is not limited to, the acquisition, installation, and modification of any qualified nonfossil energy system located on a family farm; and";

(2) in section 306(a)(7) deleting "ten thousand" and inserting in lieu thereof "twenty thousand"; and

(3) in section 310B(a), inserting at the end of the first sentence immediately before the period "and reducing the reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems, including the modification of existing systems. For the purposes of this subsection the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended";

(4) in section 312(a), deleting "and" immediately before clause (10) and inserting immediately before the period at the end of clause (10) "and, (11) assisting farmers and ranchers in reducing their dependence on nonrenewable resources by encouraging the development and construction of solar energy system, including the modification of existing systems";

(5) in section 321, inserting immediately after the term "United States" the first two times it appears, the phrase "or aliens legally admitted for permanent residence"; and

(6) in section 346, inserting "(a)" after "SEC. 346." and adding a new subsection (b):

"(b)(1) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows: (A) real estate

loans, $1,615,000,000, including $1,500,000,000 for farm ownership loans of which $1,400,000,000 may be for insured loans and $100,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories and $100,000,000 for water development, use, and conservation loans of which $90,000,000 may be for insured loans and $10,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; (B) operating loans, $1,200,000,000 of which $1,150,000,000 may be for insured loans and $50,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; and (C) emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters. Not more than 75 per centum of the insured loans authorized for farm ownership purposes and not more than 75 per centum of the insured loans authorized for farm operating purposes may be for persons other than low income limited resource borrowers.

"(2) Loans for each of the fiscal years 1980, 1981, and 1982, are authorized to be insured, or made to be sold and insured, or guaranteed, under the Rural Development Insurance Fund as follows: insured water and sewer facility loans, $1,000,000,000; industrial development loans, $1,500,000,000 of which $100,000,000 may be for insured loans and $1,400,000,000 may be for guaranteed loans with authority to transfer amounts between such categories; and insured community facility loans, $500,000,000.

"(3) The authority for each program provided in this subsection shall apply only for such period as the applicable program is administered by the Secretary of Agriculture.".

Mr. JONES of Tennessee (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN: On page 4, line 10, strike the phrase "a new subsection (b)" and insert in lieu thereof the phrase "new subsections (b) and (c)".

On page 5, line 19, strike the quotation marks and the second period and add the following:

"(c) The Secretary shall develop long-term cost projections for the loan programs authorized by subsection (b) of this section. Such projections shall include an analysis of the long-term costs for the levels of loans requested to be authorized by this section and the long-term costs for increases in such levels beyond those requested to be authorized based upon increments of $10 million or such other levels as the Secretary deems appropriate. Long-term cost projections for the three-year period beginning with fiscal year 1983 and for each three-year period thereafter shall be submitted to the House Committees on Agriculture and on Appropriations and the Senate Committees on Agriculture, Nutrition, and Forestry and on Appropriations at the time the requests for authorizations for those periods are submitted to the Congress. Not later than February 15, 1980, the Secretary shall submit to such Committees long-term cost projections covering fiscal years 1981 and 1982 for such programs.".

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, my amendment to H.R. 3683 is to require the Secretary of Agriculture to develop and submit to the appropriate committees of each body, the House and the Senate, long-term crop projections for the major FRA loan programs for which we are establishing loan levels in this bill.

These projections would be submitted for each 3-year period beginning with fiscal year 1983 and each 3-year period thereafter at the time the departmental request for those periods is submitted to Congress.

This is a recommendation of the Comptroller General's Office issued in April of this year, and I understand the amendment is supported by both the majority and minority spokesmen on the bill.

Mr. Chairman, if that understanding is correct and if there are no questions, I would urge support for the amendment.

Mr. JONES of Tennessee. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as my colleague and good friend, the ranking minority member of the subcommittee, mentioned, this has been discussed by us before. If I am not mistaken, we had this matter before us in the subcommittee to begin with, and later it was also discussed in the full committee.

Mr. Chairman, as far as I am concerned, we have no real problem with this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HEFTEL

Mr. HEFTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFTEL: Page 4, line 8, strike out "and".

Page 5, at the end of line 19, strike out the period and insert in lieu thereof "; and".

Page 5, after line 19, add the following:

(7) in section 343, striking out ", and (4)" and inserting in lieu thereof the following: ", (3) the term 'owner-operator' shall include in the State of Hawaii the lessee-operator of real property in any case in which the Secretary determines that such real property cannot be acquired in fee simple by such lessee operator, that adequate security is provided for the loan with respect to such real property for which such lessee-operator applies under this Act, and that there is a reasonable probability of accomplishing the objectives and repayment of such loan, (4)".

Mr. HEFTEL. Mr. Chairman, this language was in the bill during the period, 1966 to 1970, and through oversight was not omitted from the bill since then.

This pertains to the large areas of land in Hawaii which cannot be owned in fee, which are actually farmed, and for which there is adequate security. Further, the Secretary of Agriculture makes the determination of whether or not it is in fact a secure loan and whether or not the property cannot be owned in fee.

Mr. JONES of Tennessee. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my good friend, the gentleman from Hawaii (Mr. HEFTEL), and I have discussed this amendment before. The Department of Agriculture has accepted the amendment without any difficulty whatsoever.

As the gentleman said, the amendment was previously in the bill and for some reason was dropped at the end of 1970.

So, Mr. Chairman, as far as this side is concerned, we have no problem with accepting the amendment, and I suggest that it be accepted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. HEFTEL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS: On page 4, line 8, strike "and" and insert the following, and on line 9 change "(6)" to "(7)":

"(6) in section 324, adding at the end thereof the following new sentence:

'Any limitation on the amount of loans under this subtitle to any one borrower which may be imposed by the Secretary by regulation shall take into consideration the operations and financial status of each borrower.'; and".

□ 1410

Mr. THOMAS. Mr. Chairman, last Friday the Subcommittee on Conservation and Credit of the Committee on Agriculture held a hearing on the emergency loan program. Many suggestions as to the improvements in the program were offered, not just by the Farmers Home Administration, but by the General Accounting Office, the Inspector General, and other Department of Agriculture officials. Many of those suggested remedies are much needed and will go into effect by regulation.

One specific regulation which the Department said that it was going to place into effect was an arbitrary limit on the amount of money that may be loaned under the program. My concern during the subcommittee and the reason for this particular amendment is that farming practices throughout the United States differ greatly. The types of crops raised and the amounts of money necessary to raise particular types of crops differ enormously per acre. My concern is that, in making these loans, when following all of the proper administrative procedures, that no arbitrary limit be placed prior to the consideration of an individual farmer's operations and financial status and, thus, the reason for the amendment.

Mr. JONES of Tennessee. Mr. Chairman, the gentleman from California (Mr. THOMAS) and I have discussed this

amendment. There is no problem on this side with it. I accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. THOMAS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Page 4, strike out lines 5 through 8 and insert in lieu thereof, the following:

"(5) in section 343, striking out "and (6)" and inserting in lieu thereof "(6) the term 'citizens of the United States' includes aliens legally admitted for permanent residence, and (7)".

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, as a member of the Agriculture Committee and the Subcommittee which reported this legislation, I rise to offer an amendment to make a minor change in a provision that was adopted during markup. Presently, legal permanent residents are eligible to participate in a wide range of Farmers Home Administration programs with the exception of a couple of the loan programs authorized by the Act before us today. This oversight was pointed out by my friend and colleague, the gentleman from California (Mr. COELHO) during markup of the bill. At that time we unanimously adopted an amendment to correct this situation.

After the measure was passed by our committee, however, I discovered that it failed to achieve the coverage that we had intended. I am therefore offering the amendment presently at the desk to strike the language adopted in committee and to substitute language to extend this coverage to all of the Farmers Home Administration programs authorized by this act.

It is my understanding that the amendment is acceptable to both sides. I would urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN: On page 4, line 8, insert the following after "and" and on line 9 change "(7)" to "(8)":

"(6) in section 324(a), changing the period at the end of the first sentence to a comma and inserting the following: 'except that for guaranteed loans exceeding the amount of the actual loss, the interest rate shall be such rate as may be agreed upon by the borrower and the lender but not in excess of a rate as may be determined by the Secretary. No loan or portion of a loan exceeding the amount of the actual loss may be made or insured under this subtitle unless the Secretary determines that the applicant is unable to obtain from a private or cooperative lending agency a loan which would be guaranteed under this subtitle sufficient to finance his actual needs. In determining whether an applicant is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, the Secretary shall require at least one written indication of declination of credit from a legally organized lending institution within reasonable proximity to the applicant which specifies the reasons for the refusal: *Provided*, That in the case of loans over $300,000, the Secretary shall require at least two such written declinations: *And provided further*, That in the case of loans not exceeding $300,000 the Secretary may waive the requirements of this sentence if he determines it would impose an undue burden on any applicant.'".

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, last Friday the Subcommittee on Conservation and Credit of the Committee on Agriculture held a hearing on the emergency loan program. That hearing, and additional information recently made public, has indicated that there are a number of problems with the current Farmers Home Administration emergency loan program.

A number of recommendations were made by witnesses, which included the General Accounting Office, the Inspector General of the Department of Agriculture, and other Agriculture Department officials. It is clear from this hearing and subsequent discussions with the Department that some of the problems with the program will be handled administratively. However, there are several changes which I believe should be provided in the statute. They are incorporated in the amendment that I have offered.

This amendment would basically make three changes in the emergency loan program. It would authorize guaranteed loans at negotiated interest rates. It would require loan applicants to seek a guaranteed loan for operating and adjustment purposes before being eligible for an insured loan from the Farmers Home Administration for such purposes. It would also tighten the credit-elsewhere test by requiring the Secretary to obtain at least one written turndown of credit in the case of all loans unless waived by the Secretary and two such turndowns in the case of loans over $300,000.

Some of these changes are going to be made anyway by the Department of Agriculture, as I understand their communications with us. Others I think are necessary to address the mounting criticism of the emergency loan programs as they are presently being administered.

Most of the Members are aware of the publicity that this program received on the CBS "60 Minutes" television program a week ago Sunday night. The three-phase amendment that I am offering here is for the purpose of responding to the legitimate criticisms that were aired on that program. All of those criticisms cannot be responded to in an intelligent way because not all of the criticisms were well founded, but some were, and we are here trying to respond to those that were legitimate. I think that this amendment does it. I would urge support of the amendment from the committee.

Mr. JONES of Tennessee. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, I would like to ask the gentleman from Illinois (Mr. MADIGAN) a question or two.

If I understand, the gentleman is talking about the disaster loans.

Mr. MADIGAN. Emergency disaster loans, that is correct.

Mr. SMITH of Iowa. Did the gentleman say a $300,000 cap?

Mr. MADIGAN. No, sir. What I said was that on loans that would exceed $300,000 it would be necessary as a procedure in approving that loan that there be at last two written turndowns from commercial banks as a condition of the eligibility for the borrower.

Mr. SMITH of Iowa. Mr. Chairman, what I am really wondering, if the gentleman will permit me, is this: As the gentleman knows, we have in conference, which I hope will be out in a few days, changes in the disaster loan program that will make the FmHA program consistent with the SBA program, and I believe the language we have agreed on there will correct almost every legitimate criticism set forth on the "60 Minutes" program. It puts a cap on, which it did not have before, it reduces length of loan to the time necessary to absorb the shock of the disaster which gets to the needs problem in an effective way, and it limits the loans to the amount of the net loss, which was not true before. The gentleman's amendment would not affect that?

Mr. MADIGAN. Mr. Chairman, there is no inconsistency between the gentleman's bill and the amendment that I am offering to this bill.

Mr. SMITH of Iowa. I thank the gentleman.

I think it should be pointed out that Congress has already taken action to correct these problems by making the FmHA disaster loan eligibility provisions the same as SBA has been using.

(On request of Mr. MADIGAN and by unanimous consent, Mr. JONES of Tennessee was allowed to proceed for 2 additional minutes.)

Mr. JONES of Tennessee. Mr. Chairman, I thank my colleague, the ranking minority member on the subcommittee.

Mr. Chairman, the reason I am in opposition to this amendment is that it came at a late hour. I am aware of the fact that we had hearings last week, because I chaired the subcommittee hearings, and I am aware of the fact that there are some problems. Yet I want to point out that this amendment which has been offered here by my good friend, the gentleman from Illinois (Mr. MADIGAN), will add much redtape to the Farmers Home Administration program; it will add an additional burden to the bankers who are working with the Farmers Home Administration and it really does not resolve the problem that we have.

What I propose is that we continue

oversight hearings—that we get into the real meat of the problem that we have and give it the serious review and consideration it deserves.

I would like to point out that right now in a conference on the Small Business Act a $500,000 cap on the loans is being proposed.

Mr. HANCE. Mr. Chairman, will the gentleman yield?

Mr. JONES of Tennessee. I yield to the gentleman from Texas.

Mr. HANCE. I think there is no doubt that the "60 Minutes" program probably brought a lot of attention to the Farmers Home Administration loans across the country. But if you look at the more than 98 percent of the loans that are legitimate loans, you cannot overreact and completely change the structure of the loan system on the floor.

I think one thing we need to look at is that last week when we had those committee hearings, I agree with the gentleman from Illinois (Mr. MADIGAN) that there is a lot of opposition to the fraudulent type of loans we saw on "60 Minutes," and that problem should be addressed.

I think the proper way to do it is in subcommittee and let the Farmers Home Administration come out with some new guidelines.

I do not think it would be the proper way to amend this bill on the floor. Therefore, I would be in opposition to the gentleman's amendment.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. JONES of Tennessee. I yield to the gentleman from Illinois.

Mr. MADIGAN. I thank the gentleman for yielding.

I would just comment in response, first of all, that the gentleman is a very valuable member of the Committee on Agriculture and works very hard there. I understand his interest in this program. I assure the gentleman I do not want to do anything to jeopardize the proper and legitimate and effective activities of the Farmers Home Administration.

The fact of the matter is that there are loans in excess of $15 million being made to farmers who have tennis ranches, who have show horses, who have garages full of Cadillac automobiles and Rolls Royce automobiles.

We discussed in the committee hearing the other day the attorney from California who made over $900,000 in legal fees in 1 year obtaining these loans for people into the millions of dollars, when they did not even offer any evidence first, that they needed the loans or, second, that they had been turned down by any commercial lender.

Obviously something like that ought to be tightened up unless this Government has decided to be in the business of creating a whole new class of millionaires in the United States.

The recommendations that I am making for tightening it up are those coming from the Comptroller General and from the U.S. Department of Agriculture.

I thank the gentleman for yielding.

Mr. HANCE. I appreciate the gentleman's comments very much, but in opposition to that, I would say, first of all, the present law should be enforced. This can be taken care of by the Department of Agriculture, but in speaking of the farmer who owns the tennis ranch, I have to think of the people in my district who have suffered one hailstorm that was 180 miles long and 40 miles wide and just wiped them out.

If the gentleman's guideline or if the gentleman's amendment comes in and hurts the 99 percent who are trying to get actual loans to stay in the farming business, it is a bad amendment.

Mr. MADIGAN. There is nothing in my amendment that would affect those people in any way.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. JONES) has expired.

(By unanimous consent, Mr. JONES of Tennessee was allowed to proceed for 2 additional minutes.)

Mr. JONES of Tennessee. Mr. Chairman, let me say this, that I realize that the "60 Minutes" program focused attention on a lot of problems in this program. We cannot correct all these problems today.

The gentleman from Illinois (Mr. MADIGAN) knows that I am willing to do that. I have already said that I think there are some corrections that should have been made, but I think that we should force the Department of Agriculture to go ahead and administer the program like it ought to be administered. It is something that I have long advocated.

There is no Member of this House who is more interested in seeing the Farmers Home Administration program administered as it should be for the good of all people who need help than the Member who is speaking at this point.

I ask that we do defeat this amendment.

Mr. COELHO. Mr. Chairman, will the gentleman yield?

Mr. JONES of Tennessee. I yield to the gentleman from California.

Mr. COELHO. I thank the gentleman for yielding.

As the chairman knows, there is a lot of controversy right now in regards to shopping around for low-interest loans as opposed to what they pay in the open market. This has caused a great deal of the problems that "60 Minutes" talks about and everything else.

The gentleman is saying in effect that he is prepared to address this question in the committee and try to work with the administration to make the necessary changes and also legislatively, if necessary, in order to correct the problem; is that correct?

Mr. JONES of Tennessee. The gentleman is exactly correct. In fact, no sooner than we had finished the hearings was I in touch with the Department telling them that something had to be done, and done quickly, and that we were going to hold some additional hearings.

I do not feel that we can do it here today. We will make some mistakes if we are not careful.

Mr. COELHO. I thank the gentleman.

Mr. HOPKINS. Mr. Chairman, I rise in support of the Madigan amendment.

I believe that I speak for most of the Members on this side of the aisle. There are, according to Secretary Bergland, 320 emergency loans of over $1 million each, which total $1 billion.

It seems to me that the Department has already had an opportunity to correct this situation, and they have not done it; and it seems to me that the Madigan amendment is meaningful, and it is time that we start making an attempt to correct that situation. This amendment would provide integrity to the program at a time that it is needed.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding.

In terms of just where we are in revising the program extensively, I think it is important to note that in the subcommittee hearing on Friday, the Farmers Home Administration recommended in its testimony presented to the subcommittee, "The test required to determine whether an applicant can secure adequate credit should be strengthened."

That is done in the Madigan amendment.

"Guaranteed emergency farm loan interest rates should be allowed to be negotiated."

That is done in the Madigan amendment.

From the Inspector General: "Limit loss loans to actual dollar loss."

The Madigan amendment limits direct loans to actual dollar loss.

It says, "Tighten up the test for credit."

As indicated, that is done in the Madigan amendment.

"Require 'Treasury Formula' instead of 'Money Market' interest * * *"

The interest rate is modified from previous practice in the Madigan amendment.

The GAO report indicated that "* * * we recommend the FmHA administrator clarify the test for credit elsewhere for all county supervisors and review all production loss loans made in fiscal year 1978 * * *"

The "credit elsewhere" is strengthened in the Madigan amendment.

The Madigan amendment incorporates suggested changes drawn from the GAO, the Inspector General, and Farmers Home Administration and attempts to put them into effect as soon as possible.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I compliment both the gentleman from Kentucky (Mr. HOPKINS) and the gentleman from California (Mr. THOMAS) for their remarks that they have brought out here. I think that the amendment of the gentleman from Illinois (Mr. MADIGAN), does deserve our support.

I think it has been pointed out here or someone made the statement earlier here on the floor in listening to the debate that the "60 Minutes" program that they are referring to, the CBS television

program caused some problems for the program.

The way I saw the program, they did not cause any problems for it. They just reported some of the things that had been happening. There is a big difference.

I think that these programs have to be analyzed. I think the amendment of the gentleman from Illinois (Mr. MADIGAN) could do a great deal toward making some corrections and needed reforms in these ever expanding programs, that it is just like a payoff to go out here and try to buy bullets with somebody else's money by just opening floodgates of money. That is why we have all this printing press money floating around the country at 14- or 15-percent inflation.

I thank the gentleman for his time.

Mr. HOPKINS. Mr. Chairman, I yield back the balance of my time.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words.

I have some questions that I would like to clear up in my own mind.

I should say first off that I am in general agreement with what has been offered by the gentleman from Illinois (Mr. MADIGAN). I think it makes a great deal of sense, but I would like to ask the chairman of the committee a question. He has indicated we would hold hearings to try to give this proper consideration. I think that is a legitimate statement to be made.

My question is, if we were to do that, and were to pass legislation to correct this, how quickly would that come into effect and take effect? Are we talking about a 1-year delay by doing so, or would it take effect as soon as the legislation were passed?

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Tennessee.

Mr. JONES of Tennessee. As I have already said, last Friday, we did have hearings by a number of witnesses on this very subject. I must admit to the gentleman that the hearings were scheduled——

Mr. BEDELL. The gentleman is well aware of that.

Mr. JONES of Tennessee (continuing). Before I had any knowledge of the fact that "60 Minutes" was coming up. We knew some of these were problems with the program. We felt we ought to hear about them. But I can assure the gentleman, just as soon as we can get to it—we will take corrective action.

□ 1430

Mr. BEDELL. I understand that. My question is if we were to do that and we were to come back with language that were to pass both Houses and become law, would that then be for the following year or would that immediately take effect?

Mr. JONES of Tennessee. Of course I do not dictate to the subcommittee but we will do whatever has to be done.

Mr. BEDELL. We will have the authority if we wish to do so to it immediately?

Mr. JONES of Tennessee. That is correct.

Mr. BEDELL. I guess the only question I would have is if that is the case I would likewise assume if we were to accept the Madigan amendment, which I agree is rather hurriedly drawn and we are considering rather quickly, if we were to accept it I would assume we would also have the oppotunity in the committee to come back and change it as we saw fit and see that it was corrected. Is that right, Mr. Chairman?

Mr. JONES of Tennessee. I think I would have to answer that in the affirmative. I think that is correct.

Mr. BEDELL. I guess the only thing I would feel, if that is true, it was clearly stated in those hearings that the Farmers Home Administration felt that they need better language in regard to the credit elsewhere provision in order to adequately inforce the credit elsewhere provision, which I understand the Madigan amendment does. I realize it requires two banks rather than just the one and says it has to be a bank near where the loan is made. To me that does not seem to be particularly onerous to the person applying for one of these sizable loans. As I understand it, that is only for loans of over $300,000. I for one feel it needs to be corrected. If it is true that we can change it, whenever we need to change in committee, then it would appear to me that to adopt the Madigan amendment and then go back to the committee and try to correct it if it is wrong would be more sensible than simply sitting here and doing nothing.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I will be glad to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman for yielding and acknowledge that the gentleman from Iowa (Mr. BEDELL), is also a member of this subcommittee and understands this subject very well.

We have not proposed anything in the Madigan amendment that is not either included in the recommendations of the Comptroller General or is not something that the Department of Agriculture says it is going to do administratively in any event. What this amendment attempts to that the Department of Agriculture says it is going to do anyway. The reason for doing that is because, as was evidenced in the Comptroller General's report, the people in the field, the county offices and the State offices obviously admittedly have been ignoring the regulations. I do not think they are doing it to ignore the law with the same abandon with which they have been ignoring the regulations. All I am doing is proposing we put into the law the thing that the Department of Agriculture says they are going to do by regulation anyway.

If there is going to be any negative effect from this, and I do not think there is, it is going to happen anyway because these are Department of Agriculture recommendations.

Mr. BEDELL. Is it not also correct that these amendments in no way affect the loans covering actual losses in case of a disaster?

Mr. MADIGAN. If the gentleman will yield further, that is absolutely correct.

Mr. BEDELL. I thank the gentleman.

Mr. COELHO. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent Mr. BEDELL was allowed to proceed for 2 additional minutes.)

Mr. COELHO. I thank the gentleman for yielding and would like to address a question, if he does not mind, to the gentleman from Illinois (Mr. MADIGAN).

The gentleman from Illinois made the statement that the Department intends to implement these provisions anyway. I am not aware of that. The Department has indicated that they are interested in some of these provisions. The interest rate question is one that I am particularly concerned about and the Department at this point is still opposed to it. The Inspector General and the GAO have indicated some interest in this area. But in the proposal that the Department intends to submit to the Federal Register, which I have seen, that is not listed in that proposal. I am not aware of any indication that they are proceeding in that area. If they are, I would appreciate knowing it.

Mr. MADIGAN. Mr. Chairman, will gentleman yield to me?

Mr. BEDELL. I am glad to yield to the gentleman.

Mr. MADIGAN. I thank the gentleman for yielding. I believe I said these are either recommendations of the Comptroller General or are things that the Department of Agriculture intends to do. With regard to the interest rate, there has been a considerable amount of discussion that what we really are confronting here is people who do not need the money that they are borrowing, that are borrowing it to take advantage of the fact that this program has a lower rate of interest than the debts they presently have outstanding. So they are getting into this program and refinancing their debt through the Government at a lower rate of interest.

Obviously the way to get away from that is to make those restructuring loans, not loans for full losses, but loans for restructuring to be at some kind of prevailing rate of interest so that the attractiveness of that has been eliminated. I think in the process of doing that we would eliminate some of the $15 million and $17 million borrowers and some of the people with Cadillacs and Rolls Royces and show horses. We would also eliminate the $800,000-a-year lawyers who are making all of that kind of money just by processing these multimillion-dollar loans.

Mr. MATHIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, having examined the amendment offered by the gentleman from Illinois, who is a very valued member of the full Agriculture Committee, as well as a ranking member of the Subcommittee on Conservation and Credit, I find it difficult to pick apart the amendment or the intention of the gentleman. I also find it a little ironic that those of us on this side of the aisle are defending or appearing to defend those big corporate farms that generally we are attacking. Maybe it ought to be the other way around here today. I am not exactly

sure about the position in which we find ourselves.

But I am concerned, after looking at the amendment, as to what other implications might be here. I think the gentleman from Tennessee (Mr. JONES) has said that he is willing to hold a series of further hearings on this proposal. I think I would suggest to members of the committee that that probably is the way we should proceed.

We know what we are going to do by the adoption of this amendment. Certain things we will do; but I am not sure we know all of the things we will do or what other effect we may have that is unintended. I think that is why there is a necessity to examine this through the normal legislative procedure. I feel very confident that the gentleman from Tennessee, the distinguished chairman of the subcommittee (Mr. JONES) will work with the gentleman from Illinois (Mr. MADIGAN) in bringing back legislation that will, in fact, avoid the kind of expose, hopefully, that we saw in "60 Minutes."

But, we do not need to overreact to that situation. I am not suggesting that the gentleman from Illinois is motivated by anything except the purest of motivations, because he always is. But let us not come to this House today and overreact to a situation that has been blown out of proportion by a muckraking journalist. I think we ought not do that. We ought to go through the normal channels of the legislative procedures and allow the committee to work its will and find a way to legitimately correct the problem if, in fact, it does exist.

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I am delighted to yield to the gentleman.

Mr. JONES of Tennessee. Mr. Chairman, I thank my dear friend for yielding. I want to associate myself with the gentleman's statement.

I want to point out that I am in no way defending the big borrowers. But I want to say to this body that just a few moments ago did this side of the House see this amendment. I do not believe that is the way to write legislation when we spent a long time on H.R. 3683. I think we ought to take some time, gentlemen. There are some other problems that I want to discuss in some hearings involving this program. I want to talk about interest rates also.

I appreciate what the gentleman has said and I appreciate his yielding.

Mr. MATHIS. I appreciate the comments and the support of the chairman. I want to make it very clear if there is a $1 million loan that has been made to a farmer in my district, I am not aware of it. If there has been, he is probably a Republican anyway.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I am happy to yield to my friend from South Dakota.

Mr. DASCHLE. Mr. Chairman, I want to associate myself with the gentleman's remarks as well. I think there are a couple of things that we want to clarify here.

First, I do not think anyone on this side of the aisle is any less abhorred by the kind of distortions that have occurred and which we have seen through the hearings and the reports in the media. But the fact is in the hearing we had last Friday there were a whole range of suggestions made for ways in which this can be overcome. The Comptroller General, the Department of Agriculture, and various other witnesses proposed numerous solutions to this particular problem.

I think the gentleman from Illinois has done very well in proposing some of those solutions, but we have no indication at all that those are the ones we want to select. We may even want to go further than the proposals made by the author of this amendment.

□ 1440

There may be another four or five solutions which we may want to implement which deal with this matter much better than the proposed amendment.

Mr. MATHIS. I thank the gentleman for his comments.

I would pledge to both the chairman of the subcommittee and the gentleman who is the maker of the amendment my full efforts to attempt to find a way to cure this problem, because I think there have been abuses. I do not think any of us could be naive enough to stand up on the floor of the House and say that there have not been abuses, but let us follow the normal channels. Let us give the committee and the subcommittee an opportunity to work its will and find a way to defeat these abuses.

Mr. THOMAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am amazed at the majority party's sensitivity to the "60 Minutes" program. The subcommittee hearing that was held was not just on that particular basis, but in fact the whole farmers home program was already being scrutinized.

As to the Madigan amendment, I also find it somewhat amazing that the reaction of the majority party is in fact an overreaction. The amendment itself is not an overreaction. As the gentlemen from Iowa (Mr. BEDELL) indicated, the particular measures in the Madigan amendment are very prudent. The credit elsewhere test in terms of a stiffening of that particular test was asked for by every one of the individuals who testified. The credit elsewhere test has provided for a legal confirmation of lack of credit, and if it is over $300,000, two written statements. I think that is reasonable and appropriate.

What might the committee amend it to if it decided to look at that particular test later? To write two letters under $300,000 and three over, or three under $300,000 and four over? I think the one letter under $300,000 and two letters over is reasonable and prudent.

What else does the Madigan amendment propose? It proposes that if you want a loan, you get a direct or an insured loan from Farmers Home for actual loss. If you want a loan beyond actual loss, either for adjustment or operational costs, you will be required to first seek a guaranteed loan from a private financial institution at negotiated interest rates. One of the chief causes of our concern was that operational and adjustment loans carried with them subsidized interest rates. Here, the requirement to seek a guaranteed loan requires negotiated interest rates.

But, there may be some areas of the country where the local financial institutions would not be able to supply a guaranteed loan. The Madigan amendment then provides that in case of an individual's inability to get a guaranteed loan, Farmers Home can then offer a direct or an insured loan—at what rates? Prevailing interest rates. That is all the Madigan amendment does.

If there are other areas that need to be addressed, certainly the committee can address them, but in terms of the basic embodiment of the problems that were discussed at the subcommittee hearing, the Madigan amendment addresses the key problems in what I consider to be a sensible fashion. I would urge the committee to support the Madigan amendment, and then any other areas that have not been handled can certainly be handled by the committee.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, we have heard two stories this afternoon as to why we cannot buy the Madigan amendment. One is that the committee has been working for 2 years to turn this bill out, and had not found the problems that "60 Minutes" did in a couple of minutes that they portrayed on TV. The other is that it is too hastily drawn.

It seems to me that those are inconsistent positions. Maybe what it is is a lack of our committee being able to find out these problems. I think it is incumbent upon us to restore confidence in this program for the 99 percent of the farmers who do need the program. We have got to realize that there are less than 5 percent of the American people who are farmers. We ought to restore confidence in it for the future. The amendment is not anything radical. It simply is addressing a problem.

We can overturn it and hold hearings and go on and on and on, but the fact is that it is our responsibility as Members of Congress to legislate. I do not think the floor of the House of Representatives is a bad place to legislate.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. BETHUNE and by unanimous consent, Mr. THOMAS was allowed to proceed for 2 additional minutes.)

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Chairman, not being a member of the committee, and listening to the gentleman from Missouri, it seems that the reaction and hostility to this proposed amendment is not so much on merits as it is somewhat of an embarrassment that this has been brought up and not dealt with. It seems to me that the gentleman put his hand

right on it when he said these are prudent provisions.

I cannot read anything here that is going to disturb the Farmers Home Administration programs, at least in my knowledge of those programs, having practiced law in a rural community, so I am very supportive of the amendment.

Mr. THOMAS. I appreciate the gentleman's statement.

Let me say in closing that the primary criticism, as I see it, is that the Madigan amendment is not all-inclusive of all the possible changes that could have been made. Those changes it does address itself to, I think, are reasonable and prudent. I ask for support of the Madigan amendment.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 3683, Consolidated Farm and Rural Development Act Amendments of 1979. This important legislation establishes for the first time specific annual lending levels for the Farmers Home Administration's farm and rural development loan programs. In the past, the nonspecified levels have been left in a state of limbo due to the uncertainties of the regular appropriations process.

FmHA provides valuable assistance for our farmers and for others who live in small towns and rural areas. FmHA loan programs include the following essential categories: real estate, farm operations, water and sewer facilities, community facilities, business and industry, and emergency natural disasters.

An important provision of this legislation increases the size of communities eligible for water, sewer, and community facility loans from 10,000 to 20,000 population. This move will benefit several communities in my home State of North Carolina—communities which have recently experienced business and industrial expansion or which have annexed new housing subdivisions. Many such communities, despite growth, have maintained their traditional rural character and flavor—and their citizens ought to retain their eligibility for FmHA services. I hope FmHA will continue to provide essential services to our growing small towns and communities.

Now is a good opportunity for many of us from rural and agricultural districts to express publicly once again our opposition to any administrative reorganization plan which might transfer certain FmHA loan programs to other agencies. The loan authorizations contained in this legislation are effective only for such period as the programs are administered by the Secretary of Agriculture. This provision ought to be seen as an expression of opposition to the proposed transfers of FmHA functions.

The legislation clarifies FmHA's authority to make loans for the furtherance of gasohol and solar energy technologies—new energy sources of interest to all of us.

Mr. Chairman, this is a good bill, designed to aid the economic development and stability of rural areas by providing needed credit where it is otherwise not readily available. I urge my colleagues to join me in supporting this legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

□ 1450

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 18, noes 21.

RECORDED VOTE

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 326, noes 84, not voting 23, as follows:

[Roll No. 598]

AYES—326

Abdnor
Addabbo
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boland
Bonior
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Cheney
Chisholm
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fithian
Florio
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Heckler
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Rallsback
Hatchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Thomas
Thompson
Traxler
Tribie
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

NOES—84

Akaka
Albosta
Alexander
Anthony
Aspin
Bailey
Blanchard
Boggs
Bolling
Boner
Bouquard
Bowen
Breaux
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Chappell
Collins, Ill.
Corman
Davis, S.C.
Dellums
Derrick
Dixon
Edwards, Ala.
Evans, Ga.
Fascell
Fisher
Flippo
Foley
Ford, Mich.
Fuqua
Gaydos
Ginn
Gonzalez
Harris
Harsha
Hawkins
Heftel
Holland
Howard
Huckaby
Hutto
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kazen
Lehman
Leland
Long, La.
Lundine
Mathis
Mitchell, Md.
Moakley
Moorhead, Pa.
Murtha
Nichols
Oberstar
Ottinger
Patten
Pepper
Price
Rahall
Rangel
Reuss
Richmond
Roberts
Rose
Skelton
Solarz
St Germain
Steed
Stewart
Stokes
Taylor
Ullman
White
Whitley
Williams, Mont.
Wilson, C. H.
Yates
Zablocki

NOT VOTING—23

Anderson, Ill.
Andrews, N.C.
Bonker
Brademas
Carter
Clausen
Conable
Conyers
de la Garza
Diggs
Flood
Hefner
Horton
Leach, La.
Maguire
Minish
Rosenthal
Scheuer
Treen
Whitehurst
Wilson, Bob
Winn
Wydler

□ 1500

Messrs. LLOYD, GLICKMAN, DOWNEY, BINGHAM, COTTER, McCORMACK, HANCE, HANLEY, MURPHY of Illinois, WEISS, CARR, LEATH of Texas, GARCIA, ECKHARDT, DINGELL, JONES of Oklahoma, KILDEE, WATKINS, SHELBY, ENGLISH, SLACK, PREYER, DASCHLE, ROTH, and AMBRO changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1510

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: Page 5, after line 19, add the following new section:

SEC. 2. (a) Section 322 of the Consolidated Farm and Rural Development Act is amended

by adding at the end thereof the following new sentence: "For the purpose of determining whether to make or insure any loan under this subtitle, the Secretary shall take into consideration the net worth of the applicant involved, including all of the assets and liabilities of such applicant.".

Mr. GLICKMAN. Mr. Chairman, this section of the bill that I am seeking to amend adds a provision which we should consider.

Mr. Chairman, currently only farm assets and liabilities of an individual are included in the determination of eligibility for many of these Farmers Home Administration loans that are covered under this bill, and particularly the disaster loan provisions. That leaves open the possibility of a farmer with both a conventional farm operation and a nonfarm operation like a tennis farm, for example, being able to qualify for a generous amount of disaster assistance, without having to declare the worth of his tennis farm.

The purpose of the amendment which goes along with the amendment the gentleman from Illinois just offered, requires that the Secretary shall take into account the total net worth of the applicant involved, including both his farm assets and nonfarm assets.

It does not make any further requirements on the Secretary to in any way categorize those. It just requires him to take into consideration all of the applicant's assets, whether farm or nonfarm assets.

I think that is the intent of this committee. I know the gentleman from Tennessee (Mr. JONES) has been pursuing this matter most diligently. I think that is the intent of what we want to have, except under current law, I would again say, only farm assets are included in the determination of eligibility.

This leaves broad discretion to the Secretary, but all it says is that he must take into consideration farm and nonfarm assets.

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to my colleague, the gentleman from Tennessee.

Mr. JONES of Tennessee. Mr. Chairman, I thank the gentleman.

Mr. Chairman, there is no problem with this amendment. We have already discussed it and this side accepts it without any problem.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 5, line 16, insert close quotation marks and a period at the end of such line, and strike out lines 17, 18, and 19.

Mr. FASCELL. Mr. Chairman, this amendment is offered to delete a provision which would have the effect of exempting these programs from any reorganization of the Federal Government. Section 3 of the bill states that the authority for each program provided for in the bill applies only so long as that program is administered by the Secretary of Agriculture. Thus, transfer of any of these programs to another executive branch agency would cause that program's authority to lapse.

On March 29, 1977, this House approved the Reorganization Act of 1977 (Public Law 95–17) by an overwhelming vote of 395 to 22. This grant to the President of carefully limited authority to undertake reorganizations within the executive branch was an affirmation of the need to provide an opportunity for structural flexibility to the President. In the words of the committee report:

> We are living in a period of rapid change which inevitably affects the programs and responsibilities of the Federal Government. Organizational structures should be modified to efficiently carry out the laws which Congress enacts.

The Government Operations Committee has jurisdiction over executive branch reorganizations. Provisions such as section 3 of H.R. 3683 make reorganizations more difficult and can serve to unsettle the proper procedure for conducting such reorganizations. It is my understanding that the administration has no plans to reorganize any of the programs involved in this particular legislation, but the problem is that this provision creates a very mischievous precedent insofar as Government organization is concerned.

I urge support of this amendment deleting section 3.

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Tennessee.

Mr. JONES of Tennessee. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have discussed the amendment on numerous occasions.

Mr. Chairman, I would like to ask one question to the author of the amendment. Since reorganization has been discussed, it seems to me, Mr. Chairman, that we really have no problem with this any more, because I think that this part of the organization program has been laid aside, anyway.

Mr. FASCELL. I know of no plans to do anything about these programs, I would say to the chairman.

Mr. JONES of Tennessee. I thank the gentleman.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. Yes, I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

This was a proposal that I included in this bill and that I offered at the time.

Mr. FASCELL. I did not know that, or I would have talked to the gentleman about it at length.

Mr. PANETTA. I understand the gentleman would do that.

I wanted to express the concerns at that time that we feared that these programs were going to be moved from the Department of Agriculture to the Department of HUD. We felt that the Department of Agriculture had handled these programs adequately and wanted to protect them.

I would like the assurance of the gentleman that the gentleman shares in that feeling, prior to accepting this amendment, because I agree that we ought to let them have that flexibility. I do not want to interfere with that, but I also do not want to see these programs moved from the Department of Agriculture to HUD.

Mr. FASCELL. Mr. Chairman, I have no desire to do that, I can assure the gentleman. I share the gentleman's concern, and I can assure the gentleman that any such proposal probably would have a hard time.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I would be glad to yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding.

Let me say, as one of the ranking members on the Committee on Government Operations, that I want to congratulate the gentleman on offering this amendment. Apparently it is not controversial at this time, although it may have been earlier. I would hope that the amendment would be unanimously adopted.

Mr. FASCELL. Mr. Chairman, I thank the gentleman.

Mr. HOPKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we on this side of the aisle have made inquiries of Department of Agriculture representatives today and I am informed that President Carter has abandoned his plans to transfer the business and industrial loan program to the Department of Commerce and the transfer of certain of the FmHA housing programs to the Department of Housing and Urban Development. For that reason, we have no objection on this side to the amendment.

□ 1520

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 5, after line 19, add the following new section:

SEC. 2. Section 310B(d) of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof the following new paragraph:

"(7) No financial or other assistance shall be extended under any provision of this section to any individual, or to any private or cooperative organization, to facilitate any private business activity, or the development of any private business enterprise, involving the acquisition of an ownership interest in, handling, or processing livestock, poultry, or agricultural commodities obtained directly from producers if such individual or such private or cooperative organization engages in the production of any variety of the kind of livestock, poultry, or agricultural commodity so acquired, so handled, or so processed.".

Mr. HARKIN. Mr. Chairman, the amendment that I have offered addresses one of the growing problems that we who represent agriculture face everyday as we move ahead in the agricultural industry of this Nation. That problem has to do with the vertical integration of agriculture. It has to do with those opera-

tions that are now taking over more and more of the production, the processing, the distribution, and the marketing end of agriculture.

This is one area that is of growing importance, and I think it should alarm all of us, whether we represent agriculture or whether we represent consumers.

My amendment goes to the business and industrial loan program of the Farmers Home Administration. This program was one of the major new programs authorized by the Rural Development Act of 1972 to round out the Federal Government's credit and rural development programs already in existence.

The law contained a number of new and revised programs to strengthen State and Federal efforts to assist and encourage rural development. The overall goal was to encourage economic development in rural areas, provide jobs and income required to support better rural facilities and services, and improve the quality of rural life on a self-sustaining basis.

The Farmers Home Administration, under the business and industrial loan section, guarantees loans for a number of different purposes, but one of the things that it does not guarantee loans for is agricultural production. That is absolutely forbidden under the business and industrial loan program of the Farmers Home Administration, except for one phase, and that has to do with this—and I will read this to the Members from the regulations—They can provide guarantees for the processing and marketing facilities, hatcheries, commercial nurseries, integrated poultry operations, and commercial custom feedlot operations. Loans are provided for processing or marketing facilities, hatcheries, commercial nurseries, and integrated poultry operations, but it does not include loans for agricultural production.

However, applicants who are in the business of processing, marketing, and packaging, as well as production, may be eligible for loan assistance for that portion of the business other than agricultural production, provided that it is separate from the rest of the business. In other words, if I am vertically integrated, if I have production, if I have the processing, if I have the marketing, I can get a B. & I. loan, let us say, for my marketing facilitiy, for my processing, or for something else, but I cannot get it for the production end.

Can anyone here deny the fact that if I am a vertically integrated operator and I get the loans to help me out on the marketing end or the processing end, that does not in effect benefit my production end? Of course it does.

As a member of the subcommittee—and I have been one for the 5 years that I have been in Congress, I know the Members might raise this question: Why did I not bring this up in subcommittee, and why did we not act in subcommittee?

The bill we are working on right now is the one we worked on in subcommittee earlier this year, and it was reported out in May. Most of the data and statistics we have on the B. & I. program have come to us since that time.

In fact, just today Gordon Cavanaugh, Administrator of the Farmers Home Administration, testified before the Senate Select Committee on Small Business, and he talked about this very subject, the B. & I. loan program for vertical operations, and I will read what he testified. I think this is most important to Members who just cast their votes on the last amendment. I am quoting now from Mr. Cavanaugh's testimony:

> The policy—
>
> And the policy to which he is referring is the policy of providing B. & I. loans—
>
> does not distinguish between vertically integrated and non-vertically integrated operations. Agricultural production is not a qualifying purpose under either system of operation.
>
> However, he points out—
>
> There have been 14 loans to date—
>
> That is, since 1973—
>
> for a total of $26,574,000 made to vertically integrated livestock producers and custom feedlot operators under the business and industry guaranteed program of the Farmers Home Administration.

The loan guarantees for integrated operations have been used, he says, for the processing and marketing aspects of those businesses.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 3 additional minutes.)

Mr. HARKIN. But, Mr. Chairman, again my point is that in getting these big loans for the processing or the marketing end, it does in fact redound back to helping in the production end, and it discriminates against those producers who are not vertically integrated, who may have a small feedlot, a small hatchery, or something like that, and they cannot get those kinds of B. & I. loans.

So all my amendment says is that again the B. & I. loans cannot go to agricultural production, and this is as it has been ever since 1973.

Furthermore, if you are a vertically integrated operation, you will not be eligible for B. & I. loans on any of the other segments of your operation other than production, if you are involved in those areas. That is really all my amendment does.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Texas.

Mr. KAZEN. In other words, Mr. Chairman, what the gentleman is saying is that if you are vertically integrated, you can only apply for an industrial loan on one of the other phases aside from production?

Mr. HARKIN. That is as it is right now.

Mr. KAZEN. Then, will the gentleman tell me what his amendment does?

Mr. HARKIN. My amendment says they cannot get any B. & I. loans for that end of their operation. It is just like saying I am a producer, I am not big enough for a processing plant and marketing facilities, so I do not get a loan. I am a producer, so I cannot get the loan.

Mr. KAZEN. Why do we not have it so the producers can get a loan?

Mr. HARKIN. Because what we are saying is that there is sufficient credit under the other programs for producers. That is not true of vertically integrated operators at all. As far as the producers are concerned, they can go and get operating loans, emergency disaster loans, and all these other things. Then on the other part of their business they get other loans. They double up on the Farmers Home Administration, and under this the producers can only get loans from one source.

Mr. KAZEN. Will there still be a source for B. & I. loans to the other segments?

Mr. HARKIN. There will be B. & I. loans available for all other nonproduction businesses in a rural area, yes.

Mr. KAZEN. Mr. Chairman, I thank the gentleman.

Mr. HOPKINS. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I will be glad to yield to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I thank the gentleman for yielding.

In the gentleman's amendment he speaks of "handling, or processing livestock." What does "handling" mean, and what would that cover?

Mr. HARKIN. Mr. Chairman, that is a generic term, talking about the other aspects involved. For example, let us take livestock production other than production facilities themselves, where, let us say you have an interest in that trucking operation or you are a processor or something other than your operation when you are handling livestock. Let us say you have an auction barn. Maybe you have an auction barn or something like that.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has again expired.

(On request of Mr. HOPKINS, and by unanimous consent, Mr. HARKIN was allowed to proceed for 2 additional minutes.)

Mr. HOPKINS. Mr. Chairman, will the gentleman yield further?

Mr. HARKIN. I yield to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I thank my colleague for yielding.

Let me ask, would a hog confinement operation be eligible for a B. & I. loan under the gentleman's amendment?

Mr. HARKIN. Mr. Chairman, a hog confinement operation, if it was part of a vertically integrated operation, would be a good example, and that vertically integrated operation would not be able to get the loan.

□ 1530

Hog confinement operations right now are not eligible for B. & I. loans. Loans are only for the processing and marketing facilities. That is all. Only for the processing and marketing facilities. If you have a feedlot operation right now—in fact, that is a good question that the gentleman has raised—if I am feeding hogs on my farm in a small confinement facility, I cannot get a B. & I. loan. If, however, I happen to be a big operator and I not only have the confinement feedlots for the hogs but I grow the feed, I do the marketing, I do the processing, I sell them in the grocery stores, I can get the B. & I. loans for everything else other than the feedlot operation itself.

I will give the gentleman just one ex-

1605(b)	19(j)(2) CNA
1605(c)	19(j)(3) CNA
1606	19(d)(5) CNA
1607(a)	19(f)(1) CNA
1607(b)	19(f)(3) CNA
1607(c)	19(f)(4) CNA
1608	19(f)(2) CNA
1609	19(h)(1)(2) CNA
1610	19(h)(3) CNA
1611	19(g)(2) CNA
1701	6(a)(3) NSLA
1702	18(a) CNA
1703	10 CNA
1801(a)	12(a), 13m NSLA
	17(f)(5), 19(g)(1), 16 CNA
1801(b)	17(q) NSLA
1901	12(g) NSLA
1902(a)	13(o)(1) NSLA
1903(b)	13(o)(2) NSLA
1902(c)	13(o)(3) NSLA
2001	15 NSLA
2002	17(k) CNA
2101	10 CNA; 19(e) CNA
2201	3 NSLA
2202	4(a) CNA
2203	3 CNA
2204	13(p) NSLA
2205	17(r) NSLA
2206	5(a) CNA
2207(a)	7(a) CNA
2207(b)	7(1) CNA
2208	17(g) CNA
2209	14(c) NSLA
2210	19(j)(2) CNA
2211	18(b) CNA
2212	3 NSLA
2213	3 NSLA
2214(a)	6(a) NSLA
2214(b)	14 CNA
2301	13 CNA
2302	4(a) CNA
2401	7 NSLA
2402	6 CNA

TABLE 3.—*Omitted provisions*

GENERAL

All obviously obsolete provisions relating to a prior year.

References to section 10, NSLA, or to Secretary as an alternate to State. See, for example, section 5(f), (1) CNA. It would not seem necessary to refer to operation by the Secretary in view of the express language of provisions authorizing the Secretary to act. See title XII of the new "Act." Also, if references are to be made to the Secretary as an alternate program administrator, the references to operation by the Secretary should be made much more frequently.

A reference to "grants-in-aid" is made only in the "Declaration of Policy." The various program provisions are specific as to the type of program to be conducted.

NATIONAL SCHOOL LUNCH ACT

§ 5 and all references to § 5.
§ 6(a)(2).
Reference in § 7 to agreements between Secretary and States.
The provisos at the end of § 11(a).
§ 11(c).
§ 11(d).
§ 12(b).
§ 12(d)(4) & (5).
The proviso at the end of § 13(b)(1).
The reference to the study at the end of § 13(b)(3).
§ 13(b)(4).
The first sentence of the last ¶ of § 14(d).
§ 18.
§ 19.
§ 20(a), (b), (c).
§ 21.

CHILD NUTRITION ACT OF 1966

The third sentence of § 4(c).
The last sentence of § 4(g).●

By Mr. SARBANES:

S. 1899. A bill to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date 10 years after the effective date of such act to the date 20 years after such effective date; to the Committee on Energy and Natural Resources.

● Mr. SARBANES, Mr. President, I am pleased to introduce this legislation which would extend the life of the C. & O. Canal Citizen Advisory Commission beyond its current expiration date in 1981. The intent of this bill is that the outstanding work of the Commission, one of the most effective and useful citizen panels ever created by Federal law, be continued for an additional 10 years. This legislation is being advanced in the House of Representatives by my colleagues Congressman MICHAEL BARNES and Congresswoman BEVERLY BYRON, where congressional districts encompass the Maryland portion of the national park.

The Chesapeake and Ohio Canal National Historical Park Commission, as it is officially known, was created in 1971 at the same time that the canal was designated a national park. The Commission was established in recognition of the unique character of the canal. Unlike most other national parks, the C. & O. Canal is situated close by thriving urban and suburban communities in the District of Columbia and Maryland. Because of this close proximity, the Citizen Advisory Commission has been an important instrument in providing a voice for the concerns of the members of these communities.

During the past 8 years, volunteer representatives from Montgomery, Frederick, Washington, and Allegany Counties in Maryland have joined with other citizens from the District of Columbia, Virginia, and West Virginia in providing valuable advice regarding the operation and maintenance of the canal. With the guidance of the Commission, the Department of the Interior developed a comprehensive master plan for the long-range management of the canal. The result of this activity has been greater use and enjoyment of this national treasure by thousands of Americans. It is my hope that Congress will act to insure the continued success of the C. & O. Canal as a national park by retaining this very worthwhile citizen advisory group, the Chesapeake and Ohio Canal National Historical Park Commission.●

ADDITIONAL COSPONSORS

S. 300

At the request of Mr. KENNEDY, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 300, the Antitrust Enforcement Act of 1979.

S. 1619

At the request of Mr. MATHIAS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1619, a bill to provide that motion picture films and video tapes which are produced for sale or rent as training films are to be treated as educational films for purposes of the investment credit.

S. 1865

At the request of Mr. KENNEDY, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 1865, the Radiation Exposure Compensation Act of 1979.

S. 1884

At the request of Mr. HART, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S. 1884, a bill to provide that legislation appropriating funds for payment of salaries to federal employees shall be enacted separately from other legislation.

AMENDMENT NO. 518

At the request of Mr. HUDDLESTON, the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of amendment No. 518 intended to be proposed to the resolution of ratification of the treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms (Ex. Y, 96–1).

AMENDMENT NO. 520

At the request of Mr. HUDDLESTON, his name was added as a cosponsor of amendment No. 520 proposed to H.R. 4930, the Interior appropriations bill.

SENATE RESOLUTION 257—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. CHURCH, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget.

S. RES. 257

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1012, a bill to provide for the participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes. Such a waiver is necessary to allow the authorization of $20,800,000 in additional budget authority for fiscal year 1980 to carry out United States participation in this exposition.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline, because of a delay in the presentation of the Administration's position on this legislation.

The effect of defeating consideration of this supplemental authorization will be a disruption of U.S. efforts to prepare for this exposition.

The desired authorization will not delay the appropriations process.

Home Administration for only making those big B. & I. loans. What happens now if a small producer or a group of small producers want to band together in a cooperative to go in and try to make a B. & I. loan and they are actively involved in production? Would the gentleman deny them the right to do that with the passage of his amendment?

Mr. HARKIN. Not necessarily.

Mr. MATHIS. Not necessarily?

Mr. HARKIN. Not necessarily. It would depend again on how much vertical integration was involved. If the gentleman is talking about the small people getting together to build a plant, I could care less.

□ 1540

What I am talking about is a person who controls the production, the processing and marketing from the beginning to the end.

Mr. MATHIS. In that regard, Mr. Chairman, I agree with the gentleman from Iowa. We should do it. What I do not want to do is put a prohibition against a small producer or group of small producers banding together to attempt to vertically integrate their operations and finding themselves ineligible for B. & I. loans.

Mr. HARKIN. If the gentleman will continue to yield, the gentleman raises these hypotheticals that do not exist in reality.

Mr. MATHIS. If I may reclaim my time, I would say to the gentleman we are not talking about hypotheticals. We are talking about a real world where there are any number of small producers who seek vertical integration for economic survival.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding.

My understanding from the gentleman from Iowa was he was talking about vertical integration, producing, handling, and processing. His amendment, as written, does not include vertical integration, because he has "or" in there, rather than "and", so the amendment itself is imperfect in terms of handling the vertically integrated structure he talks about.

Mr. MATHIS. I thank the gentleman for his observation.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

That is what I wanted to find out, what the gentleman's amendment was saying.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. MATHIS) has expired.

(At the request of Mr. JOHN L. BURTON and by unanimous consent, Mr. MATHIS was allowed to proceed for 2 additional minutes.)

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I agree with the dangers of having vertical integration where you have people controlling food from the land to the grocery shelf, but I think every point that the gentleman talked about may be hypothetical, but unless something exists at this minute, it is hypothetical. We do not know if any big conglomerate is going to get a B. & I. loan in the future, because that is hypothetical.

I do not think the amendment is drafted in such a way to get at the big problem.

I would ask the gentleman what are the limits, or what are the eligibility requirements for B. & I. loans?

Mr. MATHIS. I would say to the gentleman there is a regulation book that looks like a spring and fall Sears & Roebuck catalog relative to all of the eligiblity for B. & I. loans, but there are no producers who are now eligible.

Mr. JOHN L. BURTON. I am aware the producers are not eligible.

As I understand, you could probably build a shoe factory in a rural area under B. & I. and not do anything for producers.

Mr. MATHIS. We encourage that.

Mr. JOHN L. BURTON. We do not do it in the Northeast.

The point I am making, I would ask the gentleman from Iowa (Mr. HARKIN), and I agree with the thrust of his amendment, but it seems to be in some kind of trouble, because there is a great deal of confusion and, as we all know, the floor of the House is a bum place to legislate. It might be better to have the subcommittee do it in a proper legislative forum, because I think everybody is in general agreement.

Certainly we would not want a peanut farmer getting money for a peanut warehouse.

Mr. MATHIS. Certainly not, I would say to my friend from California.

Mr. JOHN L. BURTON. And I love the gentleman.

Mr. MATHIS. I thank the gentleman.

Mr. Chairman, I reluctantly urge opposition to this amendment based on the fact we do not fully understand what the implications might be. Let us let the subcommittee take a look at it, and defeat it at this time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was rejected.

● Mr. GRASSLEY. Mr. Chairman, the increase in the prime lending rate to an unprecedented 15 percent will place added pressures on many farm families who are already finding it difficult to cope with the inflationary increases of all the things they have to buy to carry out their farming operations.

In the farming business credit is as important an input as seed or fertilizer or machinery. Adequate credit at reasonable cost is a key element for the success of most farming enterprises. That is why the Federal Government got into the agricultural credit business as a lender of last resort. For the most part these programs have worked well in helping farm families who, for various reasons, are confronted with a lack of normal credit resources.

There have been problems, of course, but they have been the exception rather than the rule. The "Sixty Minutes" program the other night highlighted one set of problems. Corrective amendments will be offered during consideration of this bill today, and I will certainly support them. It is important that we move to correct the situation as soon as possible.

The principal purpose of this legislation is to authorize lending levels for fiscal years 1980 through 1982 for the Farmers Home Administration farm and rural development loan programs. This is a new procedure required by the Agricultural Credit Act of 1978. Until now the loan program authority levels have been set only in appropriations legislation. Because these programs have grown so much and affect the lives and livelihoods of so many people, it is important that the Congress exercise greater oversight responsibility to assure that they are doing the job they are designed to do. That is one important objective of this new procedure.

This bill sets lending levels for farm ownership, operating and emergency loans, for soil and water, and irrigation or drainage loans, for community water and sewer loans, loans for community facilities, and rural business and industrial loans. The levels of all categories have been increased over the fiscal year 1979 amounts in order to help meet the growing need for these types of assistance. In addition, this measure would increase the size of communities eligible for water and sewer and community facility loans from 10,000 to 20,000 population.

Another important feature of this legislation is the clarification of the authority of the Farmers Home Administration to make farm ownership, business, and industrial and operating loans for the acquisition, development, construction, modification, or operation of solar energy systems, including the production of alcohol for fuel and the utilization of biomass. This provision should put to rest any questions that have been raised about the extent to which farmers and rural residents may use Farmers Home programs for energy production purposes. Every dollar invested in a way that will reduce the amount of oil that must be imported into this country is a blow against inflation and an investment in our future as a nation. The potential for development of renewable energy resources on farms and in rural areas is tremendous. We have just recently approved major gasohol legislation in the Agriculture Committee, and we have another bill with a significant gasohol provision awaiting action on the House floor—H.R. 3580. I hope it will receive consideration soon.

In conclusion, Mr. Chairman, I will just say that the bill before us is worthy of the support of every Member of this body, and I urge its favorable consideration by my colleagues in the House.●

● Mr. GILMAN. Mr. Chairman, I rise in support of the amendment introduced by our distinguished colleague from Tennessee (Mr. JONES) and especially wish to express my support for the provision therein allowing towns with a population of up to 20,000 to become eligible for Farmers Home Administration loans for water-sewer and community facility projects.

Too many communities in my own congressional district and across the Nation are caught in a regulatory "no man's land"—too large to be considered rural and too small to be considered urban. Unfortunately, these communities have had to watch neighbors receive government funds for badly needed projects and yet could not apply themselves.

This amendment redefines the upper limit of a rural community and thus lets many towns across the Nation out of the no-man's land and now makes FmHA assistance available to them.

Six towns in my 26th Congressional District of New York—the towns of Highlands, Montgomery, New Windsor, Wallkill, and Warwick in Orange County, and the town of Stony Point, in Rockland County—immediately become eligible for FmHA assistance as a result of the passage of these amendments into law. In addition, a number of communities now eligible, which may have become ineligible under the old law once the 1980 census figures are released, need not worry now for the forseeable future.

I am delighted to support this legislation which will do much to expand the jurisdiction of the FmHA loan program.●

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. LEHMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3683) to amend the Consolidated Farm and Rural Development Act, pursuant to House Resolution 304, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HARKIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 393, nays 14, not voting 26, as follows:

[Roll No. 599]

YEAS—393

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Borgs
Boland
Bolling
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kasen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—14

Archer
Broomfield
Collins, Tex.
Crane, Daniel
Crane, Philip
Dannemeyer
Hansen
Kelly
Lungren
McDonald
Motti
Paul
Schroeder
Symms

NOT VOTING—26

Anderson, Ill.
Bonior
Bonker
Brademas
Brodhead
Carter
Clay
Conable
de la Garza
Diggs
Erdahl
Flood
Frost
Gephardt
Gradison
Hefner
Leach, La.
Lujan
Minish
Rosenthal
Scheuer
Treen
Whitehurst
Wilson, Bob
Wilson, C. H.
Winn

□ 1600

The Clerk announced the following pairs:

Mr. Rosenthal with Mr. Anderson of Illinois.

Mr. Scheuer with Mr. Winn.

Mr. Minish with Mr. Lujan.

Mr. Frost with Mr. Bob Wilson.

Mr. Charles H. Wilson of California with Mr. Whitehurst.

Mr. Hefner with Mr. Gradison.

Mr. Gephardt with Mr. Conable.

Mr. de la Garza with Mr. Carter.

Mr. Brademas with Mr. Clay.

Mr. Bonior of Michigan with Mr. Bonker.

Mr. Brodhead with Mr. Erdahl.

Mr. Leach of Louisiana with Mr. Diggs.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. JONES of Tennessee. Mr. Speaker, pursuant to the provisions of House Resolution 304, I call up from the Speaker's table the Senate bill (S. 985)

to amend the Consolidated Farm and Rural Development Act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. JONES of Tennessee moves to strike out all after the enacting clause of the Senate bill, S. 985, and to insert in lieu thereof the provisions of the bill H.R. 3683, as passed, as follows:

That the Consolidated Farm and Rural Development Act is amended by—

(1) in section 303(b), deleting paragraph (1) and inserting in lieu thereof—

"(1) the term 'improving farms' includes, but is not limited to, the acquisition, installation, and modification of any qualified nonfossil energy system located on a family farm; and";

(2) in section 306(a)(7) deleting "ten thousand" and inserting in lieu thereof "twenty thousand"; and

(3) in section 310B(a), inserting at the end of the first sentence immediately before the period "and reducing the reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems, including the modification of existing systems. For the purposes of this subsection the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended";

(4) in section 312(a), deleting "and" immediately before clause (10) and inserting immediately before the period at the end of clause (10) "and, (11) assisting farmers and ranchers in reducing their dependence on nonrenewable resources by encouraging the development and construction of solar energy system, including the modification of existing systems";

(5) in section 343, striking out "and (6)" and inserting in lieu thereof "(6) the term 'citizens of the United States' includes aliens legally admitted for permanent residence, and (7)";

(6) in section 324, adding at the end thereof the following new sentence:

"Any limitation on the amount of loans under this subtitle to any one borrower which may be imposed by the Secretary by regulation shall take into consideration the operations and financial status of each borrower."; and

"(7) in section 324(a), changing the period at the end of the first sentence to a comma and inserting the following: "except that for guaranteed loans exceeding the amount of the actual loss, the interest rate shall be such rate as may be agreed upon by the borrower and the lender but not in excess of a rate as may be determined by the Secretary. No loan or portion of a loan exceeding the amount of the actual loss may be made or insured under this subtitle unless the Secretary determines that the applicant is unable to obtain from a private or cooperative lending agency a loan which would be guaranteed under this subtitle sufficient to finance his actual needs. In determining whether an applicant is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, the Secretary shall require at least one written indication of declination of credit from a legally organized lending institution within reasonable proximity to the applicant which specifies the reasons for the refusal: *Provided*, That in the case of loans over $300,000, the Secretary shall require at least two such written declinations: *And provided further*, That in the case of loans not exceeding $300,000 the Secretary may waive the requirements of this sentence if he determines it would impose an undue burden on any applicant.

(8) in section 346, inserting "(a)" after "SEC. 346." and adding new subsections (b) and (c):

"(b)(1) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows: (A) real estate loans, $1,615,000,000, including $1,500,000,000 for farm ownership loans of which $1,400,000,000 may be for insured loans and $100,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories and $100,000,000 for water development, use, and conservation loans of which $90,000,000 may be for insured loans and $10,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; (B) operating loans, $1,200,000,000 of which $1,150,000,000 may be for insured loans and $50,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; and (C) emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters. Not more than 75 per centum of the insured loans authorized for farm ownership purposes and not more than 75 per centum of the insured loans authorized for farm operating purposes may be for persons other than low income limited resource borrowers.

"(2) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed, under the Rural Development Insurance Fund as follows: insured water and sewer facility loans, $1,000,000,000; industrial development loans, $1,500,000,000 of which $100,000,000 may be for insured loans and $1,400,000,000 may be for guaranteed loans with authority to transfer amounts between such categories; and insured community facility loans, $500,000,000.

"(c) The Secretary shall develop long-term cost projections for the loan programs authorized by subsection (b) of this section. Such projections shall include an analysis of the long-term costs for the levels of loans requested to be authorized by this section and the long-term costs for increases in such levels beyond those requested to be authorized based upon increments of $10 million or such other levels as the Secretary deems appropriate. Long-term cost projections for the three-year period beginning with fiscal year 1983 and for each three-year period thereafter shall be submitted to the House Committees on Agriculture and on Appropriations and the Senate Committees on Agriculture, Nutrition, and Forestry and on Appropriations at the time the requests for authorizations for those periods are submitted to the Congress. Not later than February 15, 1980, the Secretary shall submit to such Committees long-term cost projections covering fiscal years 1981 and 1982 for such programs.".

(9) in section 343, striking out ", and (4)" and inserting in lieu thereof the following: ", (3) the term 'owner-operator' shall include in the State of Hawaii the lessee-operator of real property in any case in which the Secretary determines that such real property cannot be acquired in fee simple by such lessee-operator, that adequate security is provided for the loan with respect to such real property for which such lessee-operator applies under this Act, and that there is a reasonable probability of accomplishing the objectives and repayment of such loan, (4)".

SEC. 2. Section 322 of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof the following new sentence: "For the purpose of determining whether to make or insure any loan under this subtitle, the Secretary shall take into consideration the net worth of the applicant involved, including all of the assets and liabilities of such applicant.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3683) was laid on the table.

GENERAL LEAVE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed, H.R. 3683.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

ENDANGERED SPECIES ACT AUTHORIZATIONS

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committe of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2218, with Mr. FLIPPO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 22, 1979, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 2218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 7(q) of the Endangered Species Act of 1973 (16 U.S.C. 1536(q)) is amended to read as follows: "There are authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g), and (h) of this section not to exceed $600,000 for each of fiscal years 1979, 1980, 1981, and 1982.".

SEC. 2. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $23,000,000 for fiscal year 1979, and not to exceed $25,000,000 for each of fiscal years 1980, 1981, and 1982, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $2,500,000 for fiscal year 1979, and not to exceed $3,000,000 for each of fiscal years 1980, 1981, and 1982, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

SEC. 3. Subsection (f) of section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended—

(1) in paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in subparagraph (C); and

(2) by adding at the end thereof the following new paragraphs:

"(8)(A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.

"(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the original certificate shall remain in effect during the period of the renewal.

"(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph.".

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. In lieu of the amendment recommended by the Committee on Merchant Marine and Fisheries now printed in the bill, it shall be in order to consider an amendment printed in the CONGRESSIONAL RECORD of September 20, 1979, by Representative BREAUX.

The Clerk will report the amendment.

The Clerk read the amendment made in order under the rule, as follows:

Page 3, after line 2 insert the following:

SEC. 3. Section 3(11) of the Endangered Species Act of 1973 (16 U.S.C. 1532(11)) is amended by striking out "(A)" and all that follows thereafter and inserting in lieu thereof "violate section 7(a)(2).".

SEC. 4. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by amending subsection (f)(2)(B)(i) to read as follows:

"(i) not less than 60 days before the effective date of the regulation, publish—

"(I) the text of the proposed regulation in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, general notice of the regulation (including a summary of the text) in a newspaper of general circulation within or adjacent to such habitat;";

(2) by amending subsection (f)(2)(C)(ii)—

(A) by striking out "subsection (b)(A), (B), and (C)" and inserting in lieu thereof "subsection (b)(1)(A), (B), and (C)",

(B) by striking out "120-day period" each place it appears therein and inserting in lieu thereof "225-day period", and

(C) by inserting at the end thereof the following new sentence: "If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best scientific and commercial data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it."; and

(3) by adding at the end thereof the following new subsection:

"(h) GUIDELINES AND PROCEDURES.—The Secretary shall develop and implement guidelines and procedures to ensure that the purposes of this section are achieved efficiently and effectively. Such guidelines and procedures shall include, but are not limited to—

"(1) procedures for recording the receipt and the disposition of petitions submitted under subsection (c)(2) of this section;

"(2) criteria for making the findings required under such subsection with respect to petitions;

"(3) a ranking system to ensure that species facing a high degree of threat receive priority review for listing; and

"(4) a system for developing and implementing, on a priority basis, recovery plans under subsection (g) of this section.".

SEC. 5. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is further amended—

(1) by amending subsection (a)—

(A) by striking out "(a) CONSULTATION.—" and inserting in lieu thereof "(a) FEDERAL AGENCY ACTIONS AND CONSULTATIONS.—(1)";

(B) by striking out the third sentence thereof; and

(C) by adding at the end thereof the following:

"(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

"(3) For the purposes of paragraph (2) the term 'endangered species and threatened species' includes every species of fish or wildlife or plant that is listed or proposed to be listed under section 4; except that paragraph (2) shall cease to apply for purposes of an agency action to any species so proposed for listing unless, within 90 days after consultation regarding the agency action is concluded, the Secretary publishes in the Federal Register a final regulation listing such species.";

(2) by amending each of subsections (b), (c), (d), (e)(2), (f), (g)(1) and (5), (h)(1), and (m) by striking out "subsection (a)" wherever it appears therein and inserting in lieu thereof "subsection (a)(2)".

(3) by further amending subsection (c)—

(A) by inserting "(1)" immediately after "BIOLOGICAL ASSESSMENT.—", and

(B) by adding at the end thereof the following new paragraph:

"(2) Any person who may wish to apply for an exemption under subsection (g) of this section for that action may conduct a biological assessment to identify any endangered species or threatened species which is likely to be affected by such action. Any such biological assessment must, however, be conducted in consultation with the Secretary and under the supervision of the appropriate Federal agency.";

(4) by further amending subsection (g)(1) by striking out "may jeopardize" and all that follows thereafter in the first sentence thereof and inserting in lieu thereof "would violate subsection (a)(2).";

(5) by amending subsection (g)(2)(A) by striking out "process." and inserting in lieu thereof "process; or, in the case of an agency action involving a permit or license applicant, not later than 90 days after the date on which the Federal agency concerned takes final agency action, for purposes of chapter 7 of title 5, United States Code, with respect to the issuance of the permit or license.";

(6) by amending subsection (g)(3) by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

"(B) If more than one application for exemption is filed for the same agency action, the same review board shall be convened for each application and shall consider each such application in the manner set forth in paragraph (5).";

(7) by amending subsection (g)(5)—

(A) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively,

(B) by striking out "such exemption applicant" in clause (B) (as so redesignated) and inserting in lieu thereof "the Federal agency or exemption applicant, as the case may be", and

(C) by redesignating subclauses (A), (B), and (C) as subclauses (i), (ii), and (iii), respectively; and

(8) by amending subsection (h)—

(A) by amending paragraph (2)(A) to read as follows:

"(2)(A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute, but only if a biological assessment has been conducted under subsection (c) with respect to such agency action, a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action, regardless whether the species was identified in the biological assessment."; and

(B) by amending the first sentence of paragraph (2)(B) to read as follows: "An exemption shall not be permanent under subparagraph (A) if the Secretary finds, on the basis of the best scientific and commercial data available to him, that the exemption will result in the extinction of a species that was not the subject of the consultation under subsection (a)(2) relating to the agency action concerned and was not identified in any biological assessment that was prepared under subsection (c) before, or in conjunction with, the Committee consideration relating to the exemption.".

SEC. 6. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended—

(1) by striking out subsection (e) of section 8;

(2) by adding immediately after section 8 the following new section:

"CONVENTION IMPLEMENTATION

"SEC. 8A. (a) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—For purposes of the Convention, the Management Authority shall carry out, but is not limited to carrying out, the following functions:

"(1) Issue permits and certificates as required by the Convention.

"(2) Apply to each permit or certificate that authorizes the importation, exportation,

or introduction from the sea of a specimen of any species included in Appendix I of the Convention appropriate conditions and restrictions so that—

"(A) the importation will be for purposes that are not detrimental to the survival of the species of which the specimen is a member;

"(B) the exportation or introduction from the sea will not be detrimental to the survival of such species; and

"(C) in the case of importation or introduction from the sea, the specimen will not be used primarily for commercial purposes.

"(3) Apply to each permit or certificate that authorizes the exportation or introduction from the sea of a specimen of any species included in Appendix II of the Convention appropriate conditions and restrictions so that trade in other species listed in either—

"(A) Appendix I of the Convention; or

"(B) Appendix II of the Convention pursuant to paragraphs 2(a) of Article II thereto;

will be brought under effective control.

"(4) Apply to each permit or certificate that authorizes the exportation or introduction from the sea of a specimen of any species included in Appendix II of the Convention pursuant to paragraph 2(a) of Article II thereto appropriate conditions and restrictions so that the exportation or introduction from the sea will not be detrimental to the survival of the species of which the specimen is a member.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—For purposes of the Convention, the Scientific Authority shall carry out only the following functions:

"(1) Advise the Management Authority—

"(A) whether the importation of a specimen of any species included in Appendix I of the Convention will be for purposes that are not detrimental to the survival of the species of which the specimen is a member; and

"(B) if such specimen is a living specimen, whether the proposed recipient of the specimen is suitably equipped to house and care for the specimen.

"(2) Advise the Management Authority whether the exportation or introduction from the sea of a specimen of any species included in Appendix I or II of the Convention (except species included pursuant to paragraph 2(b) of Article II thereto) will not be detrimental to the survival of the species of which the specimen is a member.

"(3) Recommend to the Management Authority conditions and restrictions appropriate to carry out paragraphs (3) and (4) of subsection (b).

"(4) Monitor export permits referred to in paragraphs (3) and (4) of subsection (b) and the actual exports of specimens made under the authority of such permits and, if the Scientific Authority determines that the exportation of any species included in Appendix II of the Convention should be limited in order to maintain such species at a level well above the level at which the species might become eligible for inclusion in Appendix I, recommend to the Management Authority suitable measures that should be considered in the granting of export permits for specimens of any such species. The Scientific Authority shall base the advice and recommendations required of it under this subsection on the best available scientific and commercial data. Advice given by the Scientific Authority under paragraphs (1) or (2) may not be conditioned upon the acceptance of recommendations made by it under paragraph (3) with respect to the species concerned.

"(d) ADVISORY PANEL.—(1) There is established the Endangered Species Advisory Panel (hereinafter in this subsection referred to as the 'Panel').

"(2) The Panel shall be composed of the Director of the United States Fish and Wildlife Service, who shall also serve as the chairman of the Panel, and an even number (but not more than 8) of other members appointed by, and who serve at the pleasure of, the Secretary. No individual is eligible for appointment as a member of the Panel unless that individual is knowledgeable or experienced in the conservation of wild fauna or flora.

"(3) The Panel shall meet at the call of the chairman.

"(4) The Secretary shall provide to the Panel necessary staff and administrative support.

"(5) The members of the Panel, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule when engaged in the actual performance of duties of the Panel. Each member of the Panel shall be reimbursed for actual expenses incurred in the performance of such duties.

"(6) The Panel shall provide technical advice to the Management Authority and to the Scientific Authority on matters arising in the administration of their respective functions under the Convention.

"(7) The Federal Advisory Committee Act does not apply to the activities of the Panel.

"(e) WILDLIFE PRESERVATION IN WESTERN HEMISPHERE.—The President shall designate those agencies of the Federal Government that shall act on behalf of, and represent, the United States in all regards as required by the Convention on Nature Protection and Wilderness Preservation in the Western Hemisphere."; and

(3) by amending the table of contents by inserting immediately after the section title for section 8 the following:

"Sec. 8A. Convention implementation.".

SEC. 7. Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended—

(1) in paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in subparagraph (C); and

(2) by adding at the end thereof the following new paragraphs:

"(8)(A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.

"(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the original certificate shall remain in effect during the period of the renewal.

"(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph.".

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AMENDMENT OFFERED BY MR. BREAUX TO THE AMENDMENT MADE IN ORDER UNDER THE RULE

Mr. BREAUX. Mr. Chairman, I offer an amendment to my amendment made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. BREAUX to the amendment made in order under the rule: Page 7, strike out line 12 and all that follows down through and including line 24 on page 11, and inserting the following:

"CONVENTION IMPLEMENTATION

"SEC. 8A. (a) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Scientific Authority under the Convention.

"(d) ENDANGERED SPECIES SCIENTIFIC AUTHORITY COMMISSION.—(1) There is hereby established within the U.S. Fish and Wildlife Service the Endangered Species Scientific Authority Commission (hereinafter in this section referred to as the 'Commission').

"(2) The Commission shall be composed of scientifically qualified agency representatives. Each of the following shall designate one such representative from his agency:

"(A) The Secretary of the Interior, whose representative shall be the Chairman.

"(B) The Secretary of Agriculture.

"(C) The Secretary of Commerce.

"(D) The Secretary of Health, Education, and Welfare.

"(E) The Director of the National Science Foundation.

"(F) The Chairman of the Council on Environmental Quality.

"(G) The Secretary of the Smithsonian Institution is invited to designate a representative.

"(3) The Commission shall make recommendations to the Director of the U.S. Fish and Wildlife Service on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention.

"(4) In the discharge of its responsibilities, the Commission shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the governmental and non-governmental scientific communities, State agencies responsible for the conservation of wild fauna or flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community and others as appropriate.

"(5) The Secretary shall designate an Executive Secretary for the Commission, and shall provide the necessary staff and administrative support for the Commission.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, the 1978 amendments to the Endangered Species

Act were passed by the House on the second to last day of the session. The conference report was adopted on the last day of the session. Obviously, very little time was available to insure absolute technical consistency throughout all of the new provisions. This year, in our oversight hearings, the committee received a number of suggestions for changes in various portions of the 1978 amendments. Some of these changes were suggested by the administration, which has tested the new exemption process in two separate instances. Others were suggested by the General Accounting Office which has just completed an extensive study of the endangered species program.

This amendment incorporates a number of these suggestions and adds some others that reflect information developed during the oversight hearings. We believe that all of these changes will measurably improve the administration of the act and the exemption process created last year.

SECTION 3

The first portion of the amendment (section 3) makes a technical amendment to the definition of "irresolvable conflict" in the act. This amendment is necessary to make several provisions of the act relating to the exemption process consistent. Under the 1978 amendments the review board must determine whether there is an irresolvable conflict before proceeding to consider the merits of an exemption application. The act currently defines this term as an action that "would jeopardize" the continued existence of an endangered species. Other portions of last year's amendments, however, refer to actions that may or are likely to jeopardize a species. In order to make these provisions consistent these various sections are keyed to the standard described in section 7 of the act.

SECTION 4

Section 4 of the amendment amends the notice provisions of the 1978 amendment to allow the Secretary to publish a summary of proposed critical habitat proposals in local newspapers rather than the complete text.

This section also amends the emergency regulation provisions of the act to allow emergency listings of species to remain in effect for 225 days. The statute currently limits the time for emergency listings to 120 days. The extension of time is necessary because of the procedural requirements, including the preparation of an economic impact statement, added to the act last year.

Section 4 of the amendment also requires the Secretary to develop guidelines and procedures for disposing of petitions to list and delist species, and for ranking listing and recovery proposals. These amendments were originally suggested by colleague ROBIN BEARD. The amendments are taken directly from the findings of the General Accounting Office. The GAO found that the endangered species office failed to develop and implement systems for recording petitions and ranking the priority of listing and recovery proposals. This amendment will insure that the deficiency cited by the GAO is corrected.

SECTION 5

The next section of the amendment amends section 7 of the act to require Federal agencies to insure that their actions are "not likely" to jeopardize the continued existence of endangered or threatened species or adversely modify or destroy the critical habitat of such species. The act currently requires Federal agencies to insure that any action does not jeopardize a listed species.

The language of the amendment reflects the commonsense interpretation of the requirements of section 7 by the wildlife agencies of the Federal Government in most of the issued biological opinions. These agencies recognize that in some instances the absence of complete data on a species may make it impossible to know with complete certainty the potential impact of an agency action on a listed species. Thus, the wildlife agencies originally proposed that their biological opinions would simply indicate whether an agency action was likely or not likely to jeopardize a listed species.

The amendment to section 7(a), which would require all Federal agencies to insure that their actions are not likely to jeopardize endangered species, simply brings the language of the statute into conformity with existing regulations, agency practice, and judicial decisions, such as the opinion in National Wildlife Federation against Coleman.

The joint regulations published by the Fish and Wildlife Service and the National Marine Fisheries Service at part 402 of title 50 of the Code of Federal Regulations, require those agencies to render biological opinions which advise whether or not proposed agency actions are likely to jeopardize an endangered species. Courts have given substantial weight to these biological opinions as evidence of an agency's compliance with section 7(a). My amendment would not alter this state of the law. It is not intended to lessen in any way an agency's obligation under section 7(a) to avoid taking an action where it cannot insure, after consultation with the wildlife agencies, that the action is not likely to result in jeopardy to a listed species or in the adverse modification of designated critical habitat.

Although the wildlife agencies adopted this commonsense interpretation of section 7, I am concerned that the Fish and Wildlife Service and the National Marine Fisheries Service may be tempted to issue negative biological opinions whenever not enough information is known about a particular species. This amendment will require the wildlife agencies to frame their biological opinion on the evidence that is available and will require them to evaluate the likelihood of jeopardy as a result of the agency action. In some cases, it will be difficult, if not impossible, for a Federal agency to make certain that its action does not jeopardize a listed species or adversely modify its critical habitat. No matter how many precautions are taken, there may be a small chance that the agencies' action will end up jeopardizing the species. No agency can or should be expected to give a 100-percent guarantee of no adverse impact.

I am concerned that the language of the existing statute could be interpreted to require this guarantee. The language I have proposed would continue to give the benefit of the doubt to the species, and it would continue to place the burden on the action agency to demonstrate that its action will not violate the standard of the act. The language, however, allows Federal agencies to consider the probability or likelihood of jeopardizing a listed species in deciding whether to go ahead with a particular action.

In an imperfect world I believe that the best that we can ask of Federal agencies is that they be sensitive to the potential adverse impacts of their actions, that they give considerable weight to the biological opinions of the wildlife agencies, and that they make sure that their actions are not likely to jeopardize a listed species. To require more would not only be asking the impossible, it would lead to dozens of unnecessary exemption applications.

Unfortunately, there will be many instances when not enough information is available on a particular species to evaluate the potential impact of an action with certainty. This language is not intended to absolve Federal agencies from the responsibility of cooperating with the wildlife agencies in developing needed information. In many cases the most prudent and responsible action a Federal agency can take is to attempt to gather more information about a species so that unnecessary conflicts can be avoided.

Section 5 of the amendment also requires consultation on proposed species. This amendment was suggested by the General Accounting Office. It is intended to get the development agency and the wildlife agency talking about endangered species problems at the earliest opportunity—before the problem becomes unresolvable.

This section also clarifies the permanent exemption provision of the 1978 amendments to provide that exemptions granted by the Endangered Species Committee will apply to all endangered and threatened species that are identified in the biological assessment or are the subject of the consultation process.

SECTION 6

Section 6 of my amendment restores a measure of order and accountability to U.S. trade policy in endangered and threatened wildlife. It is an entirely separate issue from the controversies we have encountered in the administration of the act. The amendment is necessary because the system for carrying out our obligations under the Convention on International Trade in Endangered Flora and Fauna has completely broken down and needs to be restored to working order.

Under the Convention the United States designates two agencies—a Management Authority and a Scientific Au-

thority, to administer trade regulations regarding species whose survival is threatened by commercial exploitation. The U.S. Management Authority resides in the Interior Department and the Scientific Authority, composed of seven natural scientists from various executive departments, is uniquely autonomous. This arrangement was created by an Executive order authorized by section 8 of the Endangered Species Act.

A full day of hearings held by the Subcommittee on Fisheries, and Wildlife Conservation and the Environment uncovered some rather startling facts about the Scientific Authority which I believe Members interested in accountability in Government will be concerned about. The ESSA, as the Scientific Authority is referred to, publishes regulations, interprets the Convention, sets its own operating procedures and limits trade in listed species at its discretion with no official policy guidance from Congress or the executive branch. It is an unaccountable, extra governmental organization capable of overriding official Interior Department decisions and disrupting wildlife management and trade policy at its discretion. The Scientific Authority is not only unaccountable to any single governmental official, its members have decided that they are not even required to represent the views of the agency that appointed them. To my knowledge the ESSA is the only agency of the Federal Government where unelected and unappointed Federal civil servants are allowed to promulgate rules and regulations without review by a higher authority. It creates enormous confusion and unpredictability which has resulted, on at least one occasion, in the publication of regulations by the ESSA completely negating the U.S. Fish and Wildlife Service regulations regarding trade in the same species. I find the spectacle of two separate agencies canceling out each other's regulations unacceptable and more than a bit ridiculous.

The amendment which I offer today simply makes the ESSA accountable to the Secretary of the Interior and gives it the same status as the management authority under the Convention. It leaves the ESSA intact with full authority to administer its obligations under the Convention, but makes it responsible to the Secretary like any other unit of the Department of the Interior.

My amendment fills a vacuum created by a complete lack of congressional direction in this area. In fact, we discovered that the Convention received the barest attention imaginable when it was ratified by the Senate. The Senate ratified the Convention without debate by a voice vote and without a hearing. The Library of Congress, when asked to research the question of the origin and limits of the ESSA's authority, reported that no information exists other than the record of the hearing held by my subcommittee on July 16 of this year.

Now some might argue that my amendment somehow violates the spirit of the Convention. Nothing could be more false. The amendment explicitly gives the Secretary of the Interior all of the authority granted the Scientific Authority by the Endangered Species Convention.

Nothing in the Convention requires the Scientific Authority to be a completely independent, multiheaded agency, as is now the case. All the Convention requires is that the signatory nations designate a Management Authority and a Scientific Authority. The Convention leaves it completely up to each individual nation to decide how that is to be done. In Canada, for example, many of the Convention responsibilities have been delegated to the individual provinces. This would be the same as delegating our responsibilities to the individual States. I do not propose that we do this, although I should point out that State fish and wildlife conservation agencies are the ones primarily responsible at the working level for making the Endangered Species Convention work.

My amendment is wholeheartedly supported and endorsed by the Association of Fish and Wildlife Agencies which represents all of the State departments of fish and game. They see this amendment as a necessary change which will return some order to the U.S. management of this program without weakening the Convention on Endangered Species.

The amendment before the House, which resulted from our hearings, creates a reasonable system of carrying out U.S. obligations under the Convention. It affirms an important principle of good government, namely—that any agency which publishes regulations, interprets the law and creates policy should be accountable to the executive branch and subject to the expressed will of Congress. The ESSA, without my amendment today, is accountable only to itself.

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Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I would be glad to yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding. In making the legislative history on this amendment and the intention of the amendment, the only question that I would ask the gentleman is this: When the Convention was adopted, it was clearly the intention of the parties to the Convention and their intent that the Scientific Authority make independent scientific judgments.

If I understand the gentleman's amendment correctly and what it replaces, there is no intention of this amendment to cause the scientific judgments of the Scientific Authority or the Secretary acting in that capacity to be other than independent; am I correct?

Mr. BREAUX. I would say to the gentleman in response to his question that I see nothing in the International Convention on Endangered Species that requires the creation of a completely separate independent authority. They are required to make scientific biological decisions, and they should have the freedom to make those decisions within the structure of their organization. This amendment allows them to have the same members appointed that they have under the existing authority, allows them to take every action that they are guaranteed authority to take under the CITES Convention. My amendment simply places that organization within the Department of the Interior so that they will fit within the boundaries and confines of the Department of the Interior as the Management Authority is operating today.

Mr. McCLOSKEY. All right. I have no problem, if I can finish this question. Clearly the Management Authority that the Secretary will exercise is a policy-making decision that Government policy would govern. In his capacity as the Scientific Authority, I take it he is free to make scientific judgments as opposed to policy judgments that may be different from policy judgments.

Mr. BREAUX. I would say to the gentleman, the gentleman I think is basically correct, with the explanation that it is my intent in offering this amendment to say that they are the ones who are initially responsible for looking at the scientific and biological data and making the decision based independently on their finding as a Scientific Authority. That Scientific Authority must operate within the Department of the Interior under the Fish and Wildlife Service. They are a part of that under this amendment, and they would be under the same restrictions and obligations that any other subagencies of the Fish and Wildlife Service would be.

Mr. McCLOSKEY. Let me draw an example if I can, because we have a similar situation with respect to the International Whaling Commission where we have been successful because our scientists who reached opinions as to whether whale stocks were declining, diminishing, or increasing were making independent scientific judgments. That is what I mean by scientific judgment, that this is a scientific judgment independent of political persuasion that the Scientific Authority would be making. Am I correct?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. BREAUX was allowed to proceed for 5 additional minutes.)

Mr. BREAUX. I yield to the gentleman.

Mr. McCLOSKEY. Am I correct in that?

Mr. BREAUX. Their ability to make an independent biological scientific decision is not affected.

Mr. McCLOSKEY. It is independent of policy decisions? It is a scientific judgment made on a scientific basis?

Mr. BREAUX. It is based on science and the biology of the species they are asked to look for. I do not want to give the gentleman any incorrect impression. They are part of the Fish and Wildlife Service. They are part of the Department of the Interior, and those agencies and officials look at their actions, and if they see that they are outside of or exceeding their authority, or are in violation of their rules in the Department of the Interior, then they point out that that is not the way they should be operating. Then they would have that authority, as they have with Management Authority.

Mr. McCLOSKEY. I think I understand, but I just want to say that the Secretary of the Interior had a dual responsibility on rattlesnakes, one of which was a scientific opinion that they were diminishing, and one was a political opinion as to whether they ought to be removed from the menu of a local restaurant. I just want to make clear that the legislative history of this act makes a distinction between the scientific opinions of scientists, which are independent and must be under the Convention, and the policy decisions that, of course, should be accountable under the Management Authority.

Mr. BREAUX. I think the gentleman and I are correct in our understanding that the intent is not to delineate in any way or take in any way the responsibility that is guaranteed to them under the CITES Convention.

Mr. McCLOSKEY. That is, the independence of scientific judgment?

Mr. BREAUX. That is correct, but it is not the intent, and I think the amendment very clearly does not allow them to do anything that the Convention does not allow them to do.

Mr. McCLOSKEY. I thank the gentleman.

Mr. BREAUX. I would merely conclude, Mr. Chairman, that my amendment is wholeheartedly supported and endorsed by the Association of Fish and Wildlife Agencies throughout the United States. The bill is a compromise package. It is not unanimous with everybody's support. Many groups are not completely satisfied with it, but I think many groups have come to the correct conclusion, as many Members of Congress have, that the only way we are going to make this process work is to work together and work in a spirit of compromise in order to allow the Endangered Species Act to survive.

Mr. Chairman, I yield back the remainder of my time.

□ 1620

The CHAIRMAN. The question is on the amendment to the amendment made in order under the rule.

The amendment to the amendment made in order under the rule was agreed to.

Mr. FORSYTHE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to support the Breaux amendment and the modification just agreed to.

Mr. Chairman, the Endangered Species Act of 1973 represents the most far-reaching wildlife conservation statute ever enacted. It established a clear national policy to ensure the survival of those species of fish and wildlife which have become endangered because of natural causes or because of man's activities. To effectuate this policy, the act prohibits any Federal agency from taking any action which would adversely affect an endangered species or its critical habitat.

The passage of the Endangered Species Act preceded the oil embargo, rampaging inflation, and the increasing shortage of natural resources in this country. In the years following 1973, there was a growing awareness that the needs of this Nation's fish and wildlife resources would have to be balanced against society's needs for nonliving resources. The absolute prohibitions of the Endangered Species Act began to be called into question. These questions led to the passage, in 1978, of a series of amendments establishing a special Endangered Species Committee which was authorized to permit the completion of various projects when the benefits of the project outweighed the conservation needs of the endangered species involved.

I believe these amendments were a major step forward in introducing a necessary balance into the Endangered Species Act. In fact, it is my firm belief that without the passage of these amendments, the act would have been lost. The Endangered Species Act is an important statement of national policy, and I believe it must be preserved.

Since the passage of the 1978 amendments, we have discovered several problems associated with their implementation. Most of the amendments being offered by the gentleman from Louisiana seek to resolve these problems. For example, when the conferees met to resolve the differences between the House and Senate bills during the last Congress, it was our intent that exemptions granted by the Endangered Species Committee should be permanent. The legislative history, however, is less than clear. To clarify congressional intent, one of the gentleman's amendments provides that if an exemption has been granted, that exemption shall be permanent with respect to all listed species. But the gentleman's amendment contains a safeguard. If the species was not identified in a biological assessment and if the Secretary finds that the completion of the project will cause the extinction of the species, the Endangered Species Committee may reconsider whether to grant an exemption for the project.

The 1978 amendments provide that either a Federal agency or a permit or license applicant can apply to the Endangered Species Committee for a project exemption. Prior to filing for such an exemption, a biological assessment must be completed by the party seeking the project exemption. However, the act only authorizes a Federal agency to do an assessment and, therefore, a permit or license applicant is effectively blocked from filing for an exemption. The gentleman's amendments remedy this inconsistency in the act by specifically providing that permit and license applicants may conduct biological assessments.

Another amendment adopts a recommendation of the General Accounting Office that project sponsors consult regarding the impact of the project on species which are proposed for listing as endangered. Currently, the consultation requirement extends only to species which have actually been listed. The purpose of requiring consultation on proposed species is to minimize potential conflicts with the Endangered Species Act. If, as a result of the consultation, it is determined that the project will have a negative impact on the proposed species, the Secretary of the Interior must list the species within 90 days or withdraw the proposed listing.

The pending amendment also clarifies the requirements which section 7 of the act places on Federal agencies. Under this section, Federal agencies must insure that any action taken by them does not jeopardize the continued existence of any listed species or result in the destruction or adverse modification of that species critical habitat. The operative word is "insure." That is an unrealistic and unachievable standard since it is impossible to "insure" that an action will have no adverse effect. A more reasonable standard would be to require that Federal agencies not take any action which is likely to adversely affect an endangered species or its critical habitat. This is precisely what the pending amendment does. The amendment modifies the existing insure standard by requiring that Federal agencies only insured their actions are not likely to have adverse effects on endangered species or their critical habitats.

There are several other sections of the gentleman's amendment which clarify the 1978 amendments and I believe these represent an improvement over the 1978 efforts.

Finally, the amendment now before us contains language implementing the International Convention on Trade in Endangered Species. This section of the amendment designates the Secretary of the Interior as the Scientific Authority under the Convention and delineates the functions of both the Scientific Authority and the Management Authority.

Mr. Chairman, the Endangered Species Act amendments which were passed in the last Congress introduced a necessary balance into the act. The amendments under discussion today resolve many of the technical deficiencies of the 1978 amendments and clarify the policy of those amendments by insuring that the need to conserve this Nation's fish and wildlife is balanced against this Nation's need for nonliving natural resources.

Mr. EVANS of Delaware. Mr. Chairman, I strongly support the authorization of appropriations to carry out the purposes of the Endangered Species Act of 1973 for another 3 years. America's beleaguered wildlife, with its ever-shrinking habitats, needs strong protection if it is to thrive—much less survive—in the coming years.

In the 95th Congress, the Merchant Marine and Fisheries Committee, of which I am a member, and others considered at length the Endangered Species Act and the various criticisms which had been leveled since passage of the original act. In 1978, the House approved amendments to the 1973 act which responded to those criticisms by providing some flexibility and a means for balancing environmental and economic interests. I think the act we now have is a fair and good law, and we should keep it intact.

Mr. Chairman, I note that today we have before us not only an authorization bill, but various amendments, including

one offered by the chairman of the Subcommittee on Fisheries, Wildlife Conservation and the Environment. As a member of that subcommittee, I must say that I would have very much preferred having had a chance to review and consider these amendments in subcommittee and full committee, since some were substantive in nature and not purely technical.

The fact that these substantive amendments were not considered in committee, where such matters are best considered, is water over the dam, and I will not mention it further here.

To focus now on the amendment offered by the gentleman from Louisiana (Mr. BREAUX) I have been particularly concerned with section 6, regarding the implementation of the Convention on International Trade in Endangered Species (CITES). The gentleman's amendment as printed in the RECORD on September 20 transferred the Endangered Species Scientific Authority to the U.S. Fish and Wildlife Service and restricted their functions and responsibilities. I understand that the effect of that original amendment was to place the United States in violation of both the letter and spirit of CITES. The implementation of an international treaty should not be taken lightly, especially one which the United States initiated and has taken the lead in implementing. For this reason I would have opposed the gentleman's amendment in its original form.

However, I appreciate the fact that Mr. BREAUX, in his pending amendment, has taken steps to address some of the concerns that have been expressed. I think Mr. BREAUX's amendment to his amendment is a move in the right direction and I will not oppose it's adoption.

In conclusion, I must note for the record that by transferring the Scientific Authority to the U.S. Fish and Wildlife Service one can raise serious question as to the "independence" of that Authorities' subsequent determinations. While this action apparently does not violate the letter of the CITES, it does seem inconsistent with the spirit of the treaty. It is my hope that to the extent they are able, the Scientific Authority continues to make its judgment in an independent fashion.

AMENDMENT OFFERED BY MR. BOWEN TO THE AMENDMENT MADE IN ORDER UNDER THE RULE, AS AMENDED

Mr. BOWEN. Mr. Chairman, I offer an amendment to the amendment made in order under the rule, as amended.

The Clerk read as follows:

Amendment offered by Mr. Bowen to the amendment made in order under the rule, as amended: Page 1, between lines 8 and 9, insert the following:

(1) by amending subsection (b)(1) by striking out "him" and inserting in lieu thereof the following: "him after conducting a review of the status of the species";

Page 1, line 9, strike out "(1)" and insert "(2)".

Page 1, line 12, insert "shall" before "publish".

Page 1, line 13, strike out "text" and insert "general notice and the complete text".

Page 1, line 17, strike out "text" and insert in lieu thereof "text, and a map of the proposed critical habitat".

Page 1, between lines 19 and 20, insert the following:

(3) by amending subsection (f)(2)(B)(iv)(II) by striking out "if requested," and inserting in lieu thereof "if requested within 15 days after the date on which the public meeting is conducted,".

Page 1, strike out line 20 and all that follows down through line 12 on page 2 and insert the following:

(4) by amending subsection (f)(2)(C)(ii) by inserting at the end thereof the following new sentence: "If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best scientific and commercial data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it."; and

Page 2, line 13, strike out "(3)" and insert "(5)".

Page 2, line 15, strike out "GUIDELINES AND" and insert "AGENCY".

Page 2, line 16, strike out "develop and implement guidelines and" and insert "by regulation establish agency".

Page 2, line 18, strike out "guidelines and".

Page 4, strike out lines 3 through 11, inclusive, and insert in lieu thereof the following:

"(3) Each Federal agency shall confer with the Secretary on any agency action which may jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d).".

Page 5, line 1, strike out "consultation" and insert "cooperation".

Page 6, strike out line 20 and all that follows down through line 6 on page 7 and insert in lieu thereof the following:

(B) by amending paragraph (2)(B) to read as follows:

"(2)(B) An exemption shall be permanent under subparagraph (A) unless—

"(i) the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of a species that was not the subject of consultation or was not identified in any biological assessment conducted under subsection (c), and

"(ii) the Committee determines within 60 days that the exemption should not be permanent.".

Mr. BOWEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. BOWEN. Mr. Chairman, I would like to congratulate the gentleman from Louisiana (Mr. BREAUX) for the outstanding job he has done in preparing the amendments to the legislation which we developed last year. These are amendments which I think make significant improvements in our legislation based upon the year's experience we have had in administering that act. I have met at length with the gentleman from Louisiana.

We have discussed some of the aspects of his amendment and ways that it might be clarified in certain instances. I have at the same time discussed the amendments I am offering with the environmental organizations represented here in the capital, and I have discussed them with the Fish and Wildlife Service. They found no objection to them, and I think my amendments will preserve the spirit and purpose of the Endangered Species Act and the Breaux amendment.

These amendments, Mr. Chairman, involve several areas and in most cases simply make small changes in language. In one instance it is a matter of changing the words "consult and consultation" to "confer and cooperate" simply to clarify the intent of the act.

In another instance, we have a recommendation from the GAO which indicates that the Fish and Wildlife Service should proceed with a status review before proposing an actual listing itself. In many cases they have failed to do this. Although they have stated in testimony before our committee that they would do this, they have, in fact, not done it in several instances.

In one case, for example, they proposed the listing of an endangered species, the green pitcher plant in Alabama, and upon proposing it they discovered that 2 weeks earlier they had signed a contract with a botany professor at Mississippi State University in my district to do a year's study to determine whether or not they should propose it. I think that this requirement for status review will make a constructive change in the legislation.

In another instance, we intended in our legislation last year that there be both public meetings and public hearings before a listing. Some of the administrative regulations issued by the Fish and Wildlife Service have confused that goal and have made it impossible to have clearly established the two separate processes and, in fact, roll them into one. This amendment would clarify language of the Endangered Species Act.

There are other technical changes, Mr. Chairman, which I will not go into, but I know of no opposition to these amendments.

Mr. BREAUX. Mr. Chairman, would the gentleman yield?

Mr. BOWEN. I will be happy to yield to the gentleman from Louisiana.

Mr. BREAUX. I would like to interrupt the gentleman's presentation on the amendments to say the amendments are basically very keyed into the amendments I have offered. The gentleman from Mississippi is to be commended for his presentation. The gentleman was the floor manager, I think, on representing the subcommittee in the last Congress on the 1978 amendments to the Endangered Species Act and the gentleman made a remarkable contribution to the statute.

Mr. Chairman, while I do not want to give anyone the impression there is unanimous consent in Washington or anywhere else on supporting my amendment or the amendments of the gentleman from Mississippi, I do want to commend the gentleman and say to the members of this committee that the amendments are acceptable. I think they are improvements to the amendments we are presenting here today. We would ask that they be supported and adopted.

□ 1630

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, we have reviewed these amendments, and as the chairman of the subcommittee has pointed out, we believe that they are all very good amendments and should be approved.

Mr. BOWEN. Mr. Chairman, I thank the gentleman from New Jersey. The gentleman certainly also has made an outstanding contribution to the perfection of this legislation.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would ask my distinguished friend, from Louisiana, Mississippi, New York, Delaware, New Jersey, or Alaska, what are they doing to me with these amendments, anything?

Mr. BREAUX. Mr. Chairman, if the gentleman will yield, I would say to the gentleman that the gentleman is not on the endangered species list and is not affected in any way by any of the amendments that we are offering here today.

Mr. JOHN L. BURTON. The gentleman knows my affinity for those on the endangered species list.

Mr. BREAUX. We do not change the affinity of the gentleman for the animals and plants that are on the endangered species list, of which the gentleman from California is not a member.

Mr. JOHN L. BURTON. Mr. Chairman, I yield to the distinguished chairman from the sovereign State of New York.

Mr. MURPHY of New York. Mr. Chairman, I would like to assure my distinguished colleague from California that since the committee visited his district, that none of the plants in which the gentleman has a particular interest are included within this legislation.

Mr. JOHN L. BURTON. They are not in danger, but I am being serious, the gentleman from Louisiana stated that there was no unanimous support for the gentleman's amendment; but by and large, how do the environmentalists feel about it?

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman. I would say that the initial amendments that we proposed were controversial, a great deal more controversial than what we are presenting here today. After a series of meetings with the environmental groups and with the administration, we now have reached the point where we can support these amendments. The administration does support the amendments we are offering today.

While some environmental groups would like phrases changed in some manner, I think by and large we can say that we are moving forward together on this. While they might prefer some different language, I do not think anyone is concerned that any grave damage is being done. The spirit and the integrity of the bill is preserved.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman. There are a few words in the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. BOWEN) to the amendment made in order under the rule, as amended.

The amendment to the amendment made in order under the rule, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to the amendment made in order under the rule?

AMENDMENT OFFERED BY MR. FORSYTHE TO THE AMENDMENT MADE IN ORDER UNDER THE RULE, AS AMENDED

Mr. FORSYTHE. Mr. Chairman, I offer an amendment to the amendment made in order under the rule, as amended.

The Clerk read as follows:

Amendment offered by Mr. FORSYTHE to the amendment made in order under the rule, as amended: After the last line of the amendment offered by Mr. BREAUX, insert the following:

SEC. 8. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended as follows:

(1) Section 2(a)(5) is amended by striking out "fish and wildlife." and inserting in lieu thereof "fish, wildlife, and plants.".

(2) Section 4(f)(2)(C)(ii) is amended—

(A) by striking out "fish or wildlife." and inserting in lieu thereof "fish or wildlife or plants,"; and

(B) by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants,".

(3) Section 8(b) is amended—

(A) by inserting "and plants" immediately after "fish or wildlife" in paragraph (1); and

(B) by inserting "or plants" immediately after "fish or wildlife" each place it appears in paragraph (3).

(4) Section 15 (as amended by section 2 of this Act) is amended by striking out "Act." at the end of paragraph (2) and inserting in lieu thereof "Act; and"; and by adding immediately after such paragraph the following new paragraph:

"(3) not to exceed $1,500,000 for fiscal year 1980, not to exceed $1,750,000 for fiscal year 1981, and not to exceed $1,850,000 for fiscal year 1982, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of terrestrial plants."

Mr. FORSYTHE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FORSYTHE. Mr. Chairman, I am offering this amendment in order to give the Department of Agriculture the resources it needs to carry out its responsibilities under the Endangered Species Act. Pursuant to that act and the Convention on International Trade in Endangered Species, the United States has embarked on a program to protect plants which are threatened with extinction.

The Department of Agriculture has been charged with the responsibility for enforcing the provisions of the Endangered Species Act and the International Treaty as they relate to plants. The act makes it unlawful for any person to deliver, receive, sell, or transport in interstate or foreign commerce any plant listed as endangered unless that person has a permit from the Secretary of the Interior. It is the Secretary of Agriculture, however, who enforces these provisions. Unfortunately, the Department's efforts have been rendered almost completely ineffective because of a lack of manpower and funds.

In fiscal year 1978, 6.85 million plants were imported into the United States through 84 ports of entry. Because of a lack of adequate funding and manpower, the Department of Agriculture has inspectors in only 14 ports of entry.

With such an inadequate level of enforcement, there is virtually no deterrent to the illegal import and export of plants. In addition, plants are inadequately inspected for disease or pests which they may be carrying.

In preparing this amendment, members of the committee staff met with acknowledged plant smugglers who detailed the ease with which they can import and export plants. The smugglers said it was so easy because of the almost nonexistent enforcement of the Endangered Species Act and the International Convention. This illegal trade in endangered plants must be stopped because the uncontrolled trade in endangered plants is having serious and adverse effects on this Nation's plant conservation program.

It is important that endangered plants be conserved for future uses. Plants serve man in many ways. Many species are used directly by man as timber, industrial raw materials, components of drugs, or as ornaments. These plants of proven economic value are particularly vulnerable to overexploitation for commercial purposes. Should they be driven to extinction, their valuable properties would be lost.

To adequately monitor the importation of almost 7 million plants and to effectively enforce regulations designed to protect endangered plants, the Department of Agriculture needs additional funds. My amendment authorizes the appropriation of $1.5 million in fiscal year 1980 and $1.75 million in fiscal year 1981 and $1.85 million in fiscal year 1982.

In addition, my amendment adds language to the congressional findings so that plants are included in the congressional finding that States and other interested parties should be encouraged to develop and maintain conservation programs for endangered species. My amendment also adds the word "plants" to section 8(b) of the act, thereby enabling the Secretary of State to enter into agreements with foreign nations for the conservation of endangered plants. Finally, my amendment gives the Secretary of the Interior authority to take temporary action to conserve plants when there is an emergency posing a significant risk to the species. The Secretary already has such authority for fish and wildlife but lacks the emergency authority to conserve plants.

Mr. Chairman, this amendment has

the support of the administration and of the environmental community, it will permit the Department of Agriculture to carry out its responsibilities under the act, and it will help stop the illegal trade in endangered species of plants. For these reasons, I urge its adoption.

Mr. MURPHY of New York. Mr. Chairman, I rise in strong support of the Forsythe amendment. It certainly is a necessary amendment.

Mr. Chairman, this amendment will substantially improve the efforts to control the international illegal trade in endangered species of plants. The amendment is very simple. It authorizes appropriations to the Department of Agriculture to carry out their important responsibilities under the Endangered Species Act. In addition, the amendment authorizes the Secretary to encourage foreign nations to develop conservation programs for endangered plant species.

This amendment closes a very unfortunate omission in the original Endangered Species Act. Under that act, the Department of Agriculture has the responsibility to regulate the importation and exportation of endangered plants. At the working level of the Department this function has been delegated to the Animal and Plant Health Inspection Service. The Service received this authority because they already operate a nationwide system of inspection stations to prevent the introduction of dangerous pests into this country.

The problem is that although the Animal and Plant Health Inspection Service operates inspection stations and is supposed to insure that endangered plants have the appropriate import permits, they have never received funds for this task and as a practical matter are not fulfilling their obligations.

By the Department's own admission, plant inspectors are not adequately inspecting importations of plants for violations of the Endangered Species Act and the International Endangered Species Convention. In fact, in 1977, the Department informed its regional directors that because the Department had not received funds to enforce the Endangered Species Act, no shipment of plants could be detained or refused entry because of a failure to comply with the act or the convention.

The basic problem is that there is a very high level of plant importations into this country. When Agriculture began enforcing the trade regulations in midsummer 1978, it seized 200 shipments containing over 20,000 plants within 11 weeks. Department records suggest that the total volume of the trade numbers in the millions. Some former plant dealers have openly admitted to the committee that they often obtained extremely rare plants by smuggling them into the United States right through the Agriculture inspection stations. The existing inspection personnel cannot hope to properly inspect plant importations for violations of the Endangered Species Act. First, the inspectors are largely trained to look for insects on the plants. They are essentially bug men. They are not trained to identify illegally imported endangered plants. Second, the inspection personnel have to carry out their endangered species duties in addition to all of their other duties. The Department has recently written me asking that H.R. 2218 be amended to provide an authorization to permit the Department to seek a moderate increase in their inspection personnel. This amendment conforms to the departmental request.

This amendment will help stem the alarming trade in illegal plants. A number of individual States in this country have passed strong laws to protect their native species, but the State actions will never be truly effective until the Federal Government implements a strong inspection system at the various ports of entry.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FORSYTHE) to the amendment made in order under the rule, as amended.

The amendment to the amendment made in order under the rule, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to the amendment made in order under the rule?

The question is on the amendment made in order under the rule, as amended.

The amendment made in order under the rule, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 3, after line 2, insert the following new Section 3 and renumber subsequent sections accordingly:

"SEC. 3. Section 3(8) of the Endangered Species Act of 1973 is amended by striking the words 'mollusk, crustacean, arthropod or other invertebrate,'."

□ 1640

Mr. YOUNG of Alaska. Mr. Chairman, the amendment that I am offering today will remove from the definition of "fish and wildlife" under the Endangered Species Act all invertebrate animals, such as snails, insects, spiders, clams, et cetera. This will conform the act with the original intent of Congress.

I first entered the Congress when the Endangered Species Act was being debated. At that time, our goals were clear, to prevent extinction of those birds and animals which were truly endangered by man's activities. The intent was not to save every last beetle and butterfly on Earth that was disappearing through natural processes of evolution; and it certainly was not our intent to call a halt to every activity in which man could engage.

Unfortunately, the interpretation of this act by well-meaning but misguided individuals has come to the point where man may be endangered if the act is fully enforced. In fact, as I look at the list of criteria for determining endangerment, I note that Alaskans meet 3 of the 5: our range is curtailed, we suffer under inadequate regulatory mechanisms, and other manmade factors affect our continued existence. Perhaps this Congress will agree to declare Alaska as critical habitat and get the Federal Government off our backs.

Finally, in Hawaii, the cave wolf spider is found only in one cave, which is listed as a civil defense shelter. If the shelter is ever needed, anyone who takes refuge there will be violating the Endangered Species Act.

Mr. Chairman, I could continue this for quite some time but I think I have made my point. The United States is in trouble, partially due to natural causes but mostly due to our own stupidity and short-sightedness. Our country needs energy and it needs transportation if we are to survive. We cannot continue to regulate and preserve ourselves out of existence. We can have a clean environment, a healthy, balanced population of fish and wildlife and plants, and still produce enough energy and enough minerals to keep us going. All I am saying is: give us a chance to do so. Do not hamper us with laws and regulations that prevent us from continuing our lives. My amendment may not be the best solution, but it is a start.

In regard to my amendment, however, let me point out some of the problems that have been caused by invertebrates alone:

On the Duck River in Tennessee, completion of the Colombia dam was halted due to the listing of seven species of mussels, including the Cumberland monkeyface and the tan riffleshell. Only after the hard work of our colleague from that State—Robin Beard—did the Fish and Wildlife Service examine the area and discover that the mussels involved had been extinct in the Duck River for many years, thus allowing the dam to be finished.

On the Little Tennessee River, we are all aware of the conflict between Tellico dam and the snail darter. However, even if the snail darter did not exist, the project still would have been halted by the Anthony's river snail.

In Florida, the Florida tree snail threatens construction of a needed airport. In California, the El Segundo blue butterfly is hampering expansion of the Los Angeles jetport.

Again in California, the New Melones dam was halted by the discovery of the cave harvestman spider. Only after further searches found other healthy populations was the dam completed.

At this time, Mr. Chairman, I would like to request that the chairman of the subcommittee, who has done so well on this bill, engage in a little colloquy with me.

Mr. Chairman, my main intent in offering this amendment is to make sure that those who enforce the Endangered Species Act do not enforce it to the detriment of people but that they enforce the act as it was intended by Congress.

If the gentleman wishes to ask me any questions, I would be glad to answer them.

Mr. BREAUX. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman's purpose in offering the amendment, and I thank him for his comments and for making his suggestions.

As the gentleman full well knows, we did make some changes last year in the

1978 amendments which prohibited the listing of endangered species individually, and now we have to look at them as a whole class of invertebrates.

We cannot pick out one and say, "Now, this particular invertebrate species is going to be in the endangered species classification," but we have now to look at the whole class of the species that fall in that category and make that determination.

I know the gentleman is trying to come up with a reasonable approach. I just want to say to the gentleman that the committee has not had an opportunity to hold hearings or to look into any of the problems we are having with invertebrate species.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. BREAUX. Mr. Chairman, if the gentleman will yield further, I am very hesitant to support his amendment, and I will have to say that I oppose the gentleman's amendment.

There are some invertebrates that are very important, some that we want to protect. We want to be able to say that they are in the endangered species classification, and I can think of several, including shrimp species, mollusks, and some crustaceans in the invertebrate class. They are invertebrates, but yet they are very important to our food cycle, and there are some that should be in the category of species to be protected.

Mr. YOUNG of Alaska. Mr. Chairman, it is my understanding, under the bill as proposed by the gentleman and the committee, that if there is any action concerning invertebrates that does not make real sense, we still have oversight privileges under the bill as members of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, of which the gentleman is chairman?

Mr. BREAUX. Mr. Chairman, the gentleman from Alaska is absolutely correct. If we find during the course of the next 3-year authorization under this bill that they are not following the law as Congress intended, I give the gentleman from Alaska my commitment—and I know the gentleman from New York does also—that we will proceed very aggressively, as we have in the last Congress, to have oversight hearings and allow anyone to come in and say that this is not what Congress intended. We pledge that to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, with the assurance of my good friend, the chairman of the subcommittee, and further, with a full understanding of the hard work and effort he and the gentleman from New Jersey (Mr. FORSYTHE) have put into this bill, I ask unanimous consent that I may be permitted to withdraw my amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

● Mr. BONKER. Mr. Chairman, the distinguished chairman of the Merchant Marine and Fisheries Subcommittee on Fisheries, Wildlife Conservation and the Environment has proposed an amendment to H.R. 2218 which raises some questions about the timing, manner, and potential effect if adopted by the committee. I welcome the spirit of consultation represented by this compromise and intend to vote in favor of the amendment. But I wish to make it clear that I do so reluctantly.

The compromise amendment to the endangered species authorization bill offered by Mr. BREAUX is an improvement over the original amendment to be sure, but this amendment places the United States in violation of the spirit of the Convention on International Trade in Endangered Species (CITES) to which the United States is a party. Indeed, the Department of State has commented that Mr. BREAUX's compromise would not be "an express violation of CITES".

Let me briefly discuss the reasons for which I believe Mr. BREAUX's amendment is not in strict conformity with U.S. international legal obligations under CITES. The convention intends that the Endangered Species Scientific Authority (ESSA), which each country party to the treaty is required to establish, make independent scientific determinations on whether international trade will threaten the existence of an animal or plant species. The purpose and function of ESSA are clear: It is to act as a check and balance with the Management Authority. Although CITES does not specifically require the Scientific Authority to be independent, the Executive order that established ESSA designated it as a semi-independent body. Contrary to the will of the Executive order, Mr. BREAUX would have the Secretary of the Interior serve as both the Scientific and Management Authorities, thereby removing the autonomy of ESSA and raising questions as to the independent scientific judgment of ESSA.

Mr. Chairman, the United States has traditionally exercised a strong and positive influence in international activities concerning endangered species. CITES was initially drafted by us, and was negotiated in Washington, D.C., in 1973. We were the first country to ratify the convention in 1975, and were, therefore, a party when the treaty entered into force on July 1, 1975.

In summary, placing the Scientific Authority under the jurisdiction of the Secretary of the Interior could indicate to the 53 other countries now party to the treaty a weakening of our commitment to protect endangered species, and undermine our leadership in international efforts to conserve the world's endangered animals and plants. Moreover, curtailing ESSA's independence could negatively affect any future attempts to improve American implementation of CITES.

I will, therefore, not oppose the amendment offered by Mr. BREAUX, but hope that my colleagues will recognize the possible negative international implications of its passage.●

The CHAIRMAN. Are there other amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FLIPPO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, pursuant to House Resolution 417, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes".

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, pursuant to the provisions of House Resolution 417, I call up a similar Senate bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate bill, S. 1143, and to insert in lieu thereof the provisions of the bill, H.R. 2218, as passed, as follows:

That the first sentence of section 7(q) of the Endangered Species Act of 1973 (16 U.S.C. 1536(q)) is amended to read as follows: "There are authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g), and (h) of this section not to exceed $600,000 for each of fiscal years 1979, 1980, 1981, and 1982.".

SEC. 2. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $23,000,000 for fiscal year 1979, and not to exceed $25,000,000 for each of fiscal years 1980, 1981, and 1982, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $2,500,000 for fiscal year 1979, and not to exceed $3,000,000 for each of fiscal years 1980, 1981, and 1982, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

SEC. 3. Section 3(11) of the Endangered Species Act of 1973 (16 U.S.C. 1532(11)) is amended by striking out "(A)" and all that follows thereafter and inserting in lieu thereof "violate section 7(a)(2).".

SEC. 4. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by amending subsection (b)(1) by striking out "him" and inserting in lieu thereof the following: "him after conduct-

ing a review of the status of the species";

(2) by amending subsection (f)(2)(B)(i) to read as follows:

"(i) not less than 60 days before the effective date of the regulation, shall publish—

"(I) the general notice and the complete text of the proposed regulation in the—Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, general notice of the regulation (including a summary of the text, and a map of the proposed critical habitat) in a newspaper of general circulation within or adjacent to such habitat;";

(3) by amending subsection (f)(2)(B)(iv)(II) by striking out "if requested," and inserting in lieu thereof "if requested within 15 days after the date on which the public meeting is conducted,".

(4) by amending subsection (f)(2)(C)(ii) by inserting at the end thereof the following new sentence: "If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best scientific and commercial data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it."; and

(5) by adding at the end thereof the following new subsection:

"(h) AGENCY PROCEDURES.—The Secretary shall by regulation establish agency procedures to ensure that the purposes of this section are achieved efficiently and effectively. Such procedures shall include, but are not limited to—

"(1) procedures for recording the receipt and the disposition of petitions submitted under subsection (c)(2) of this section;

"(2) criteria for making the findings required under such subsection with respect to petitions;

"(3) a ranking system to ensure that species facing a high degree of threat receive priority review for listing; and

"(4) a system for developing and implementing, on a priority basis, recovery plans under subsection (g) of this section.".

SEC. 5. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is further amended—

(1) by amending subsection (a)—

(A) by striking out "(a) CONSULTATION.—" and inserting in lieu thereof "(a) FEDERAL AGENCY ACTIONS AND CONSULTATIONS.—(1)";

(B) by striking out the third sentence thereof; and

(C) by adding at the end thereof the following:

"(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

"(3) Each Federal agency shall confer with the Secretary on any agency action which may jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d).";

(2) by amending each of subsections (b), (c), (d), (e)(2), (f), (g)(1) and (5), (h)(1), and (m) by striking out "subsection (a)" wherever it appears therein and inserting in lieu thereof "subsection (a)(2)".

(3) by further amending subsection (c)—

(A) by inserting "(1)" immediately after "BIOLOGICAL ASSESSMENT.—", and

(B) by adding at the end thereof the following new paragraph:

"(2) Any person who may wish to apply for an exemption under subsection (g) of this section for that action may conduct a biological assessment to identify any endangered species or threatened species which is likely to be affected by such action. Any such biological assessment must, however, be conducted in cooperation with the Secretary and under the supervision of the appropriate Federal agency.";

(4) by further amending subsection (g)(1) by striking out "may jeopardize" and all that follows thereafter in the first sentence thereof and inserting in lieu thereof "would violate subsection (a)(2).";

(5) by amending subsection (g)(2)(A) by striking out "process." and inserting in lieu thereof "process; or, in the case of an agency action involving a permit or license applicant, not later than 90 days after the date on which the Federal agency concerned takes final agency action, for purposes of chapter 7 of title 5, United States Code, with respect to the issuance of the permit or license.";

(6) by amending subsection (g)(3) by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

"(B) If more than one application for exemption is filed for the same agency action, the same review board shall be convened for each application and shall consider each such application in the manner set forth in paragraph (5).";

(7) by amending subsection (g)(5)—

(A) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively,

(B) by striking out "such exemption applicant" in clause (B) (as so redesignated) and inserting in lieu thereof "the Federal agency or exemption applicant, as the case may be", and

(C) by redesignating subclauses (A), (B), and (C) as subclauses (i), (ii), and (iii), respectively; and

(8) by amending subsection (h)—

(A) by amending paragraph (2)(A) to read as follows:

"(2)(A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute, but only if a biological assessment has been conducted under subsection (c) with respect to such agency action, a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action, regardless whether the species was identified in the biological assessment."; and

"(2)(B) An exemption shall be permanent under subparagraph (A) unless—

"(i) the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of a species that was not the subject of consultation or was not identified in any biological assessment conducted under subsection (c), and

"(ii) the Committee determines within 60 days that the exemption should not be permanent.".

SEC. 6. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended—

(1) by striking out subsection (e) of section 8;

(2) by adding immediately after section 8 the following new section:

"CONVENTION IMPLEMENTATION

"SEC. 8A. (a) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Scientific Authority under the Convention.

"(d) ENDANGERED SPECIES SCIENTIFIC AUTHORITY COMMISSION. (1) There is hereby established within the U.S. Fish and Wildlife Service the Endangered Species Scientific Authority Commission (hereinafter in this section referred to as the 'Commission').

"(2) The Commission shall be composed of scientifically qualified agency representatives. Each of the following shall designate one such representative from his agency:

"(A) The Secretary of the Interior, whose representative shall be the Chairman.

"(B) The Secretary of Agriculture.

"(C) The Secretary of Commerce.

"(D) The Secretary of Health, Education, and Welfare.

"(E) The Director of the National Science Foundation.

"(F) The Chairman of the Council on Environmental Quality.

"(G) The Secretary of the Smithsonian Institution is invited to designate a representative.

"(3) The Commission shall make recommendations to the Director of the U.S. Fish and Wildlife Service on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention.

"(4) In the discharge of its responsibilities, the Commission shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the governmental and nongovernmental scientific communities, State agencies responsible for the conservation of wild fauna or flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community and others as appropriate.

"(5) The Secretary shall designate an Executive Secretary for the Commission, and shall provide the necessary staff and administrative support for the Commission.

"(e) WILDLIFE PRESERVATION IN WESTERN HEMISPHERE.—The President shall designate those agencies of the Federal Government that shall act on behalf of, and represent, the United States in all regards as required by the Convention on Nature Protection and Wilderness Preservation in the Western Hemisphere."; and

(3) by amending the table of contents by inserting immediately after the section title for section 8 the following: "Sec. 8A. Convention implementation.".

SEC. 7. Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended—

(1) in paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in subparagraph (C); and

(2) by adding at the end thereof the following new paragraphs:

"(8)(A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.

"(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the original certificate shall remain in effect during the period of the renewal.

"(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph.".

SEC. 8. The Endangered Species Act of 1973 (16 U.S.C. 1631 et seq.) is further amended as follows:

(1) Section 2(a)(5) is amended by striking out "fish and wildlife." and inserting in lieu thereof "fish, wildlife, and plants.".

(2) Section 4(f)(2)(C)(ii) is amended—

(A) by striking out "fish or wildlife." and inserting in lieu thereof "fish or wildlife or plants."; and

(B) by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants,".

(3) Section 8(b) is amended—

(A) by inserting "and plants" immediately after "fish or wildlife" in paragraph (1); and

(B) by inserting "or plants" immediately after "fish or wildlife" each place it appears in paragraph (3).

(4) Section 15 (as amended by section 2 of this Act) is amended by striking out "Act." at the end of paragraph (2) and inserting in lieu thereof "Act; and"; and by adding immediately after such paragraph the following new paragraph:

"(3) not to exceed $1,500,000 for fiscal year 1980, not to exceed $1,750,000 for fiscal year 1981, and not to exceed $1,850,000 for fiscal year 1982, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of terrestrial plants."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2218) was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5269, PANAMA CANAL AUTHORIZATION—FISCAL YEAR 1980

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 415, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 415

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 2(1)(6) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5269) to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Merchant Marine and Fisheries now printed in the bill, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1650

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the usual 30 minutes for the purpose of debate to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 415 is the rule providing for the consideration of the bill H.R. 5269, Panama Canal authorization for fiscal year 1980. It is an open rule, providing for 1 hour of general debate and including three waivers of points of order. First is a waiver of section 402(a) of the Budget Act. Section 402(a) requires that the authorization bills for a fiscal year be reported out of committee by May 15 of the preceding year. For obvious reasons—including the fact that until adoption of the conference report on Panama it was not completely clear whether an authorization would be necessary—this bill was not reported from committee by the May 15 deadline.

The second waiver is of clause 2(1)(6) of rule XI. That clause simply provides that a bill may not be considered on the floor of the House within 3 days from the time it is reported from committee. At the time the Rules Committee granted this rule, we were hoping that the bill could be brought to the floor almost immediately. That did not happen; we are now well beyond 3 days since the bill was reported from committee, so this waiver no longer has any real meaning.

Finally, there is a waiver of clause 7, rule XVI to protect the committee amendment that is printed in the bill from any germaneness points of order. Section 4 of the bill as originally introduced made certain stipulations with respect to the fiscal year beginning October 1, 1979. The committee amendment applies the stipulations to any fiscal year and, as a result, is technically not germane.

Mr. Speaker, H.R. 5269 authorizes appropriations for the maintenance and operation of the Panama Canal for the fiscal year beginning October 1, 1979. The legislation we passed recently to implement the Panama Canal treaties required that operations in the Canal Zone be on an annual authorization/appropriation basis. The House insisted on that provision in order to insure better oversight of activities in the Canal Zone. Now, since the annual authorization provision has been agreed to, this bill contains the required authorization for fiscal year 1980. In a sense, this bill is necessary to implement the implementing legislation we passed.

It is important legislation, Mr. Speaker, and I urge the adoption of House Resolution 415 in order that the bill might be considered.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Massachusetts (Mr. MOAKLEY) has given an absolutely superb description of the rule.

I have no requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON HOUSE JOINT RESOLUTION 430, SUPPLEMENTAL APPROPRIATIONS FOR LOW-INCOME ENERGY ASSISTANCE FOR FISCAL YEAR 1980

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on House Joint Resolution 430, making urgent supplemental appropriations for low-income energy assistance for fiscal year 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 430, SUPPLEMENTAL APPROPRIATIONS FOR LOW-INCOME ENERGY ASSISTANCE FOR FISCAL YEAR 1980

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96-547) on the resolution (H. Res. 464) providing for the consideration of the joint resolution (H.J. Res. 430) making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PANAMA CANAL AUTHORIZATION—FISCAL YEAR 1980

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5269) to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5269, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on September 27, 1979, the President signed the enrolled enactment of H.R. 111, the bill to provide for operation of the Panama Canal for the next 20 years under the provisions of the 1977 treaty with Panama. Among the major features of this act, for which the House is primarily responsible, are the provisions which require the Panama Canal to operate on a self-sustaining basis with the requirement that all expenses be recovered from tolls and other canal revenues. The mechanism provided by the act to accomplish this result is the basic requirement that all expenditures be authorized by the Congress and paid from funds appropriated by the Congress. Under the provisions of the act, appropriations cannot exceed either the amount of canal revenues or the amount of the authorization, whichever is lower. This converts the canal financial management from the off-budget, almost autonomous operation of recent years before the 1977 treaty, to the close controls applicable to U.S. Government agencies generally with full disclosure and congressional regulation of all expenditures.

The procedures now required under H.R. 111 are fully in accord with the provisions and objectives of the Congressional Budget Act of 1974.

H.R. 5269, the Panama Canal Appropriations Authorization Act, fiscal year 1980, is the first step in the series of congressional actions necessary to make effective the spending controls set up by H.R. 111. This bill will authorize appropriations for the operation of the canal in this fiscal year with necessary capital replacements and additions.

For these purposes H.R. 5269 authorizes appropriations of $427,262,000 for operating expenses and $40,400,000 for capital expenditures of which $13,200,000 is for the payment of obligations incurred by the Panama Canal Company and Canal Zone Government prior to October 1, 1979.

These amounts are based on estimates furnished to the Panama Canal Subcommittee at hearings on the authorization in July of this year, supplemented by additional data furnished to the subcommittee and full committee after the hearings were concluded. These data are published in the printed hearings of the subcommittee. (Panama Canal Commission Authorization and Oversight—1980, serial No. 96–7.)

After careful examination of the estimates submitted to the committee and comparison with the estimates submitted in January in the President's budget both the subcommittee and full committee are satisfied that the amounts of the authorization included in the bill are realistic and will provide an appropriate benchmark for further consideration in the appropriation process and review by the legislative committee in the exercise of its oversight functions.

Furthermore, in accordance with the provisions of the basic legislation and the requirement of section 4 of H.R. 5269, the estimates furnished to the committee indicate that appropriation of the amounts authorized will be covered by Panama Canal revenues paid into the Treasury, so that in the end, the appropriations authorized will not result in any cost to the U.S. taxpayer.

Section 5 of H.R. 5269 provides that any program authorized in this act may be prosecuted by continuing contracts to be funded from appropriations in annual appropriation acts, not to exceed, in the aggregate, the total amount for each program specified in the bill.

This section is based on a similar provision in section 621 of title 33 of the United States code authorizing continuing contracts for public works projects under which the corps of engineers may obligate the full price of continuing contracts subject to appropriations in advance for the accomplishment of projects specifically authorized by the Congress. The obvious purpose of section 5 of H.R. 5269 is to extend similar authority to the Panama Canal Commission, thereby making it unnecessary to appropriate the full amount of a large continuing contract in the first year of the project.

Section 6 of H.R. 5269 follows the language prescribed by section 401(a) of the Congressional Budget and Improvement Control Act of 1974 to the effect that any new spending authority provided in the bill is effective for any fiscal year only to the extent or in such amounts as are provided in advance in appropriation acts. A technical amendment to correct the citation in this section will be offered at the appropriate time.

During consideration of H.R. 111 last month I stressed the urgent necessity for prompt action by the House on that bill in view of the fact that the 1977 treaty would enter into force on October 1. The House, the other body, and the President, all responded to that situation by the prompt enactment of that basic and essential legislation before the October 1 deadline. Unfortunately, the requirement for prompt action on H.R. 5269 is accompanied by an equal degree of urgency because, with the commencement of the new fiscal year, the Panama Canal is wholly dependent on the appropriations authorized by this bill. Although a temporary stop-gap joint resolution enacted on October 12 provides funding for a 30-day period, the canal is dependent on appropriations authorized in H.R. 5269 for the funds required to pay its employees and keep the canal open and operating during the year. As previously noted, all these appropriated funds will be repaid to the treasury in full. The enactment of this vital bill does not admit of delay and I urge its prompt passage.

At this time, Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. HUBBARD), the very distinguished chairman of the Subcommittee on the Panama Canal.

Mr. HUBBARD. Mr. Chairman, I want to express my appreciation to the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from New York (Mr. MURPHY), for yielding this time to me.

Mr. Chairman, I rise today to urge strongly that this House support and approve the bill H.R. 5269, an authorization for appropriations for the operation and maintenance of the Panama Canal for the fiscal year 1980. This legislation merits rapid approval.

Approval of H.R. 5269 is crucial for the continued operation of the canal under the legislative framework recently enacted into law.

The bill contains ample funding for the execution of the requirements laid upon the Panma Canal Commission while at the same time it causes continuing operation of the waterway to be prosecuted in an efficient, businesslike manner.

And, significantly, H.R. 5269 protects the funds of our Treasury and our constituent taxpayers.

I urge my colleagues to focus their careful attention on this pivotal legislation, which is the first of some 20 annual authorization bills expected to be brought before the Congress for the purpose of funding the canal prior to the expiration of U.S. control in the year 2000. These funding bills will be the benchmarks demonstrating the manner in which the United States intends to meet its high obligations and underscore its rights, in the last and perhaps most arduous years of U.S. control of the canal operation.

In explaining the provisions of this legislation today I ask the indulgence of my colleagues for consent to depart from direct description and analysis of the contents of the bill in order to provide some background that will aid in exposition of some major issues and challenges. For we know the Panama Canal Commission has some unique and sensitive concerns based on the treaty and establishing legislation.

As for its accounting standards, the Commission is required to establish a

system to account for the funds appropriated to it, but it will also utilize accrual accounting in determining costs for its tolls payers.

As for its decisionmaking structure, while the Commission will receive annual appropriations approved by the Congress, its supervisory board will also make important management decisions.

As to its identity, it will be a U.S. agency, operating under U.S. law, but within the framework of a bilateral agreement stressing use of Panamanian personnel and allocating a certain number of positions on the supervisory board to nationals of Panama.

Mr. Chairman, the importance and even necessity of this authorizing legislation for a very important and unique agency was demonstrated by the unanimous support it collected when considered by the Committee on Merchant Marine and Fisheries on September 19. The legislation had been introduced on September 13 when it became clear that the establishing legislation for the Panama Canal Commission would render it a noncorporate agency of our Government. I am pleased to be a cosponsor of H.R. 5269. The chief sponsor of the bill is the gentleman from New York (Mr. MURPHY), the distinguished chairman of our committee on Merchant Marine and Fisheries, who displayed great determination, courage and judgment in his leadership on H.R. 111.

The groundwork for this bill was laid out well before its introduction. Even though the committee had no basis to approve authorization legislation for fiscal year 1980 until September, the committee through its subcommittee on the Panama Canal had foreseen the prospects for such a need when H.R. 111 was passed by the House on June 21. Accordingly, the subcommittee held hearings on July 16 and subsequently received a revised budget from the Panama Canal organization in line with the needs of a noncorporate agency. This August submission formed the basis for the amounts included in this legislation, and, in fact, the overall amount authorized is derived from those recommendations of the canal organization submitted at that time.

A total of $467,681,000 is authorized in H.R. 5269. This amount is ample, perhaps generous, for the first year of canal operation under the Panama Canal Commission. This was the amount deemed necessary and recommended to this body in the light of the new requirements restrictions, and changed circumstances facing the U.S. agency tasked with operating the canal. We recognized throughout the consideration of this authorization, as I urge my colleagues to now consider, that the United States has a reputation for fair and efficient operation of the canal. We must insure that the amounts authorized in fiscal year 1980 will not permit our reputation to be diminished at this crucial time when the world's interoceanic commerce will be watching closely the new canal regime.

Since the committee reported H.R. 5269 to this body on September 19, the executive has submitted a budget amendment which, exclusive of the fiscal year 1980 emergency fund that has already been authorized in the implementing legislation, requests $4 million more than the amount authorized in this legislation, H.R. 5269. The subcommittee and committee have not formally deliberated on this new estimate, and as I indicated we are concerned particularly that there be sufficient funding for the first year of the commission. However, those of us who have studied the 1980 canal budget believe the level of funding in this authorization legislation can accommodate all the elements described in the budget amendment.

As my colleagues will recall, the recent legislation that established the Panama Canal Commission contained a taxpayer protective feature limiting appropriations of the Panama Canal Commission to amounts of anticipated revenues. There is every reason to expect that the Panama Canal Commission can comply with this protective feature of the implementing legislation. However, to emphasize that protection, its text is repeated in this bill H.R. 5269. The revenues anticipated to cover amounts appropriated pursuant to this authorization were expected to total more than $470 million, according to the August estimate submitted by the canal organization. That estimate was based on an increase in tolls of 29.3 percent, which was effective this past October 1, and which is expected to yield an additional $67,838,000 in revenues. The overall estimate also includes a transfer of $71 million in funds to the Panama Canal Commission fund from the predecessor Panama Canal Company fund.

The requirement that limits appropriations to estimated revenues necessitates a brief review of the status of appropriations for the Panama Canal for fiscal year 1980.

In H.R. 4440, the Department of Transportation and related agencies appropriations for fiscal year 1980, passed by this body on September 18, there was contained an appropriation of $254,529,000, to remain available until March 31, 1980, for the Commission and its payment of the obligations of the former Panama Canal Company and Canal Zone Government. This appropriation for only half a fiscal year was tendered because of the absence of a timely statement from the executive branch on fiscal year 1980 funding requirements for a noncorporate version of the Panama Canal Commission. Until August, the executive held that a corporate form of organization for the Commission should be adopted.

This authorization, unlike the appropriation in H.R. 4440, provides for the entire fiscal year. H.R. 5269 authorizes more than $467 million for the entire fiscal year 1980. Based on the submission by the executive of an official budget amendment listing amounts needed by the Panama Canal Commission for the entire fiscal year, and based on discussions with the Appropriations Committees, it appears likely that subsequent revisions of the transportation appropriations measure will, in the case of the Commission, operate for the entire fiscal year. Thus, H.R. 5269 is consistent with this prospect.

Approximately 20 percent of the total amount authorized in H.R. 5269 is not needed for the prospective commitments of the new canal operating agency, the Panama Canal Commission. Rather, nearly $90 million of the authorized funding will cover the remaining obligations and commitments of the former Panama Canal organization that ceased to exist as of October 1.

Section 2 of H.R. 5269 authorizes operating funds for the crucial first year of operation by the Panama Canal Commission. The $427,262,000 authorized provides for the entire expanse of Panama Canal Commission operating responsibilities. This amount also includes more than $76 million for the funding of non-capital commitments of the former Panama Canal Company and Canal Zone Government, which ceased to exist on October 1.

Administratively, the operating expenses of the Panama Canal Commission are divided as amounts for transit operations, supporting services, and administrative and general expenses.

The Panama Canal Commission is the agency designated by the United States to continue to control such functions as the movement of vessels, operation, and maintenance of the canal locks, dredging, and utilization of aids to navigation. Within the scope of transit operations fall many of those operating functions that are little changed from previous fiscal years. However, one major requirement for funding of transit operations not previously borne by the canal operation and recompensated by the users of the waterway involves the payments to Panama for U.S. operating rights and for certain public services performed by Panama in the canal area.

Unlike those activities directly involved in the physical dimensions of transiting vessels, some of the activities included under transit operation and in the nature of auxiliary services have new diminished scopes of operation, in comparison to previous years. Such areas include launch services and repair and maintenance services, for example.

Operating expenses for transit operations also include, for fiscal year 1980, amounts for the continuation of jurisdictional services formerly provided by the Canal Zone Government and authorized to be continued for a 30-month transition period under the Panama Canal Treaty. For example, the fiscal year 1980 budget of the Commission lists over $9 million for the former Canal Zone police force. Over $3½ million is included for fire protection services which will continue to be provided by the Commission for as long as is necessary.

The supporting services for the Panama Canal Commission are also key functions which, if not properly executed, would impact negatively on the efficient operation of the canal. Slightly less than $50 million is required for the funding of these activities, which include supply and logistical services, utilities, and other services of the Commission.

Several of the supporting services of

the Commission are altered in the fiscal year 1980 budget in comparison to their scope and role in the previous canal organization. However, the operation of the S.S. *Cristobal*, the sole remaining oceangoing vessel from the several that were once operated by the canal organization, will continue its resupply role without significant modification.

The important utility services to which I made reference include power generation, a water purification and distribution system, and a communications system, all of which have been important not only to operation of the canal but to the necessities of urban life in Panama.

The general and administrative expenses of the Panama Canal Commission are necessary to proper organization for action. These expenses are affected by the commencement of a new regime for canal service, principally by the need to employ administrators to plan and manage the transition to a new agency and the need for coordination with Panama and other United States agencies.

Within the general and administrative expenses of the Panama Canal Commission are included amounts for the executive direction of the Commission; an amount for its financial management, which is absolutely essential for proper accountability and preservation of its financial viability and value; and an amount for employment costs which are necessary to the retention of skilled employees.

In general, it is important to recognize that although the United States retains control of the transit of vessels, the major changes in the environment for operation have caused considerably greater necessity for coordination. Much of this is reflected in the general expenses of the Commission.

As I indicated earlier, all of the operating and capital costs of the Commission will be offset to a net budgetary effect of zero due to the requirements of the Rudd amendment. But, the critical nature of the initial budget for the Panama Canal Commission and the accompanying estimate of the tolls offset is evident in the present uncertainty of canal managers with respect to the manner in which the users of the canal will greet the most recent increase in tolls, which is the largest increase since the opening of the canal.

Effective October 1, in order to transit the canal it will cost canal users $1.67 per Panama Canal net ton for laden vessels, $1.33 per ton for vessels in ballast, and $0.93 per displacement ton for naval vessels. This is considerably higher than the $0.90, $0.72, and $0.50 that applied until July 8, 1974. In little more than 5 years three hikes in tolls and one change in measurement rules have nearly doubled the cost for a transit through the canal. This upward spiral of rates has caused some diversion of traffic and may prompt other diversions, presenting a major challenge to the Commission and the Congress for the planning of expenditures so as to make unnecessary further increases that may cause a deterioration in the traffic base for the canal.

Mr. Chairman, a crucial component of the running of the Panama Canal involves a capital program, including improvements and replacements, necessary for use of the waterway in the years ahead. In addition to the requirements that a capital program must meet due to the prospective increases in canal traffic, it is incumbent to recall that we have entered into a treaty promise to convey the canal "in operating condition and free of liens and debts" in the year 2000.

Clearly, then, the capital program is of decisive importance to the canal operation, and for this reason the subject consumes a major portion of the text of H.R. 5269. All projects specifically authorized in the bill are limited to the amount budgeted by the Panama Canal organization in the August 1979, submission to the committee. The imposition of specific limitations on each capital project demonstrates the desire of the committee, and we believe, of this body to place in focus the substantial capital needs of the waterway and to spur accuracy in predicting the costs of those projects.

A significant portion of the capital program of the Panama Canal Commission has the objective of making those changes necessary to render the canal adequate for the increasing number of larger vessels transiting the waterway; $5,000,000 for channel improvements, $4,320,000 for procurement of additional towing locomotives, and $3,500,000 for replacement and addition of tugboats, are all major capital projects based on this objective.

The 110-feet wide locks of the Panama Canal may accommodate vessels of beams up to 106 feet. A vessel with a beam wider than 80 feet is considered to present handling problems of greater significance, and consequently the canal authority devotes more resources to its transit, and traffic is restricted to one-way passage at critical transit points.

During fiscal year 1978, over 40 percent of the vessels transiting the canal possessed beams of greater than 80 feet. In that same fiscal year, the average size of the oceangoing commercial vessels transiting the canal rose fully 10.4 percent over the previous year.

However, even the 40 percent figure is not indicative of the critical impact of these vessels on the finances and engineering of the Panama Canal.

These vessels, of course, represent far more than 40 percent of total Panama Canal tonnage and far more than 40 percent of 1978 revenues.

They bear a greater risk of being involved in a major accident that would cause a blockage of the canal, thus severely decreasing the revenues of the canal and in fact endangering the value of the waterway itself.

Finally, within the category of vessels whose beams measure more than 80 feet are included tankers bearing North Slope Alaskan oil. These tankers in the Alaska to gulf coast trade are expected to generate 1,075 transits and $31.8 million in canal revenues in fiscal year 1980, the dollar figure being more than 10 percent of all anticipated canal revenues.

In addition to projects for accommodating larger vessels, another significant portion of the capital funds contained in H.R. 5269 is devoted to the replacement with modern equipment of worn-out machinery, tools or their parts.

Most of the canal's replacement projects are conducted on a recurring basis. The Panama Canal has had a remarkable and even world-renowned reputation for the preservation and continued use of very old equipment. Some of this equipment dates to the very opening of the canal in 1914, and is today simply unusable even with the most diligent of maintenance; $3,860,000 for replacement of dump scows, $600,000 for replacement and addition of transit equipment, $600,000 for replacement of launches and launch engines, and $450,000 for replacement of motor vehicles are examples of some of the more important replacement projects to be undertaken. Such recurring projects are routine but essential.

To summarize, in understanding the background for the funding of the Panama Canal Commission and this legislation recognition must be made of the diverse considerations that shape the allocation of resources and the overall amounts needed for the Commission. The funding for the first year of the Panama Canal Commission is a particularly unique situation because of the incidence of that expense not expected to recur in significant sums in subsequent years, such as payment of the liabilities of the canal organization, the expense of services provided during the transition period and those services expected to be phased out in the future. Thus, while H.R. 5269 is a relatively straightforward bill, the interrelationships between its component parts are quite sensitive. The committee has studied these interrelationships and recommends H.R. 5269 in the form before you. Again I urge its adoption without substantive amendment.

As chairman of the Panama Canal Subcommittee, I ask for support for this measure even though I had a record of firm resistance to the Canal Treaties now in force. I ask you for support to apply the terms of implementing legislation that I could not support even though it had significant strengths. With that legislation enacted, we have defined roles to play and the interests of the United States depend upon fulfilling these roles.

We must approve the legislation not only because it contains appropriate amounts for the administrative and logistical requirements of continuing a presence in Panama, and not only because it discharges our responsibilities in the first phase of our new implicit contract with our loyal and faithful employers who operate the waterway. We must approve the legislation not only because it applies the standards of taxpayer protection to the first of the annual funding measures for the Commission, but also because it recognizes a high responsibility of the United States to perform faithfully in accordance with

our given word in the operation of a major waterway affecting the interoceanic commerce of the world.

□ 1700

The CHAIRMAN. The gentleman from New York (Mr. MURPHY) has consumed 10 minutes.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to my colleague from Idaho.

Mr. HANSEN. Mr. Chairman, I would like to ask the gentleman from New York, on page 3 of the bill, we talk about a capital outlay of $27,244,000, which says:

> There is authorized to be appropriated to the Panama Canal Commission not to exceed . . .

This amount of money.

From where is this appropriated, Mr. Chairman?

Mr. MURPHY of New York. This $27,244,000 under section 3 capital outlay, would come from tolls.

Mr. HANSEN. If I may further inquire of the chairman, why is the language different there than it is under section 2, where it says:

> There is authorized to be appropriated from the Panama Canal Commission Fund for the use of the Panama Canal Commission, for the fiscal year beginning October 1, 1979, not to exceed $427,262,000 . . .

We are talking about "from" in one and "to" in the other, section 3, and if they are both coming from tolls, why is the language different? It appears we are appropriating money to the Commission under one and appropriating money from the Commission under the other.

Mr. MURPHY of New York. There is basically no difference in the intent. The $427,262,000 is from tolls. That is section 2 under "Operating expenses;" the "Capital outlay," section 3, is $27,244,000, and that revenue comes from tolls, also.

I appreciate the gentleman clarifying this point, however.

Mr. HANSEN. If I may inquire further, is there any money in this particular bill that is coming from appropriations which would be from the taxpayers of the United States, from the Treasury of the United States?

Mr. MURPHY of New York. No funds here. The mechanism set up in H.R. 111, and the gentleman was very instrumental in final passage of the language that we insisted on, that is all tolls would come into the Treasury; and this is the appropriation process that we are now embarking on to authorize those expenditures from tolls, and tolls only.

Mr. HANSEN. If I might ask one further question, or I might just like to at least make an analogy. Earlier today we had the military construction bill before us, and of course there I think there was some $29,879,000 which does come from funds appropriated from the taxpayers of the United States.

I felt it was important for us, because this has been some part of the controversy of the transfer of the Panama Canal, to know exactly where funds are coming from in this legislation before us now.

I appreciate the clarification of the gentleman from New York.

Mr. MURPHY of New York. I thank my colleague from Idaho. As the gentleman knows, during the debate on H.R. 111, we specifically stated that all operational expenses would come from tolls, but that U.S. military expenses really should not come from the users and that they were basically unrelated to the operation and maintenance of that waterway.

I appreciate the gentleman's statement.

□ 1710

Mr. HANSEN. I think that was a matter of controversy during the previous debate, but at least that is over now so we are talking about the matter before us, and I appreciate the indulgence of the chairman and the gentleman from New York.

Mr. BAUMAN. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, I rise in support of the legislation now pending. I will make a few remarks just so there is no misunderstanding on the part of our colleagues about this bill. The money involved in this authorization is as follows: $227,262,000 for operating expenses and $40,400,000 for capital expenditures, of which $13,200,000 is for the payment of obligations of the Panama Canal Company and the Canal Zone Government which expired on October 1.

All of the amounts I have just described do not come out of the funds of the American taxpayers, they do not in any way constitute expenditures of our tax money or Treasury funds obtained from U.S. taxpayers. All of the amounts of money involved in this legislation come directly from the toll revenues collected in the Panama Canal by the new Panama Canal Commission, which are paid by the shippers and the others who in one way or another become indebted to the Canal Commission for services rendered, or transits of the canal. So we are not voting on taxpayers' dollars. I just want to make that very clear. Indeed, if we were, I would be very much concerned.

The reason we have this legislation before us is because of the legislation passed only a few weeks ago, the Panama Canal Act of 1979, which specifically required that each year the Congress of the United States, until the treaty expires in the year 2000, must enact authorizing legislation and appropriations in order to allow the canal to operate. This bill is not a vote on the treaties, it is not a vote on the implementing legislation, it is not a vote on anything except whether or not the Panama Canal will continue to operate at the funding levels we have described.

Our subcommittee held hearings several months ago on these amounts. There has been some readjustment based on projected revenues and toll increases that will occur. The money will allow the canal to operate throughout fiscal year 1980. I can assure the Members the Subcommittee on the Panama Canal and the Merchant Marine and Fisheries Committee, as well as the Appropriations Committee will use the coming year as a time to watch closely the developments in Panama and the manner in which the new jointly operated Commission conducts its business.

I would say for my own part I have been disturbed by the statements on the part of several Panamanian officials, including President Royo, which followed shortly after the passage of the implementing legislation, that indicated that there will be attempts by the Government of Panama to change the implementing legislation, particularly as it pertains to the appropriations and the degree of control that the U.S. Congress retains over this operation.

I will certainly resist those changes.

I know that I can speak for my colleagues, many of them on both sides of this aisle on this committee in saying we think we have put together a mechanism that will protect both the interests of the U.S. taxpayers, to the degree that is possible, and the continued operation of the canal, which is important both economically and militarily.

This authorization bill was reported from the Merchant Marine and Fisheries Committee after the May 15 deadline required by the Budget Impoundment and Control Act because the legislation implementing the Panama Canal treaties was not signed into law until last month. Until the last moment, there was considerable uncertainty as to whether the tighter controls which this bill represents would prevail in the House-Senate conference. An appropriate Budget Act waiver has been provided by the Rules Committee.

The total $467,681,000 authorized is to be spent in the following ways: $427,262,000 is to be used for operating expenses of the Canal Commission. This includes maintenance and operation of locks and supporting facilities, the payment of outstanding liabilities of the predecessor Panama Canal Company and Canal Zone Government, employees' salaries, early retirement benefits for U.S. personnel who may be replaced, and $73.2 million for the annual payments to Panama that are required by the Panama Canal treaties; $27,244,000 will be spent for the acquisition, construction, and replacement of capital facilities. In order to control capital allocations as closely as possible, the bill enumerates 36 specific projects and establishes definite dollar ceilings for each. Since the treaties require that the canal itself be turned over to Panama in 20 years, this enumeration will help insure that elaborate new facilities are not constructed.

Finally, $13,175,000 is provided to pay for the liabilities of the predecessor Panama Canal Company and Canal Zone Government for capital projects which were outstanding as of September 30, 1979.

It does not give me pleasure to ask the House to authorize funds for a canal which has been, in many respects, turned over to Panama. However, this bill provides tight controls over the canal's funding, and under the circumstances is the best we can do. I ask all Members to join me in supporting it.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Idaho.

Mr. HANSEN. I thank the gentleman for yielding. I would say that notwithstanding the fact many of us were very disappointed the Panama Canal treaties were finally implemented, this is probably the first of the fruits of the handiwork of what turned out to be a relatively tight implementation legislation in the sense that here we are having to authorize before this House, as well we should, the use of funds for the Panama Canal.

The accountability is here in this legislation, which I think all of us wanted to be sure we will retain for the next 20 years. So I do commend the gentleman from Maryland, the gentleman from New York, and the gentleman from Kentucky, who is the chairman of the subcommittee, for their good work in at least making sure that if we had to transfer the canal that the legislation is tight enough that we retain control here in the Congress of the United States.

I might mention one thing, though, so we do not get too eurphoric about this, that the money we are talking about today does come out of the tolls and the tolls are being increased. So the American consumer, even if the taxpayer is not, is being dealt a blow in order to pay for these authorizations. The country of Panama, of course, is getting a big benefit with the appropriations being turned over to them.

Mr. BAUMAN. I would respond to my colleague from Idaho by saying he is quite correct, that a large portion of the increased tolls that have been imposed on an interim basis by President Carter only in the last few weeks, has been made necessary directly by the terms of the treaty which will give the Government of Panama approximately $75 million to $100 million a year as skimming off the top, if you will, payments to them which they have not had in the past. This is due to the terms of the treaty and not anything this House did. Both the gentleman from Idaho and I, and a great many others, wish it were different.

I also want to say, without the unrelenting position taken by the gentleman from Idaho we would not have as strong a legislative position as we have in the House.

The House and the country owe him a debt for the activities in which he has engaged, because they certainly have served to fashion this legislation.

I would also like to extend an invitation to him, perhaps, to join us in our oversight hearings that will be conducted by our subcommittee in the coming year when the new authorizations are considered. I am sure that it may even require a return to what was once the Canal Zone. I am not at all sure that the gentleman from Idaho and the gentleman from Maryland will be able, under the new terms of the Panama treaty, to receive a visa to permit us into the area to investigate how the canal is operating, but we can face that question at that time.

● Mr. DERWINSKI. Mr. Chairman, H.R. 5269, the Panama Canal Appropriations and Authorizations Act, Fiscal Year 1980, represents an historic step by the Congress to exercise its control and oversight of the operation and maintenance of the Panama Canal.

Legislation which placed our operating control of the canal under an appropriated funds agency, established the need for annual authorizations throughout the life of the canal treaties. This first funding bill provides us with the vehicle to protect our rights and privileges under the treaties and demonstrates the Congress' commitment to the continued operating of the canal with the same traditional high standards as in the past.

One of the major features of the implementing legislation was the requirement that the canal operate on a self-sustaining basis with all expenses to be recovered from tolls and other revenues. While related military costs are represented in the separate overall military budget, the passage of H.R. 5269 provides the necessary authorizations to continue the operation of the canal without taxpayer's expense.

During this first critical year, it is extremely important that we carry out our responsibilities in such a manner that will reassure our canal employees of our continuing concern for their well-being. In addition, we must continue operation of the canal in great traditions of the past and fulfill our pledge to keep the canal open to the world's shipping.

Passage of this legislation is needed, not to alter the treaties or redefine their implementation, but to authorize the continued operation of the canal on a self-sustaining basis.

I strongly support passage of H.R. 5269 and urge all of my colleagues to join me in responsibly exercising this new authority for which we fought so long and hard to protect.●

Mr. MURPHY of New York. Mr. Chairman, I have no further requests for time.

Mr. BAUMAN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 5269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Panama Canal Appropriations Authorization Act, Fiscal Year 1980."

OPERATING EXPENSES

SEC. 2. There is authorized to be appropriated from the Panama Canal Commission Fund for the use of the Panama Canal Commission, for the fiscal year beginning October 1, 1979, not to exceed $427,262,000 for all expenditures requisite for and incident to the maintenance and operation of the Panama Canal, pursuant to the Panama Canal Act of 1979, including—

(1) hiring of passenger motor vehicles and aircraft;

(2) uniforms or allowances therefor, as authorized by sections 5901 and 5902 of title 5, United States Code;

(3) official reception and representation expenses;

(4) operation of guide services;

(5) residence for the Administrator;

(6) contingencies of the Administrator;

(7) procurement of expert and consultant services as provided by section 3109 of title 5, United States Code;

(8) maintenance and alteration of facilities of other United States Government agencies in the Republic of Panama used by the Panama Canal Commission;

(9) maintenance and alteration of facilities of the Government of the Republic of Panama, used by the Panama Canal Commission, of which the United States retains use pursuant to the Panama Canal Treaty of 1977 and related agreements; and

(10) payment of liabilities of the Panama Canal Company and Canal Zone Government outstanding as of September 30, 1979, or liabilities that may accrue thereafter, including accounts payable for capital projects.

CAPITAL OUTLAY

SEC. 3. (a) There is authorized to be appropriated to the Panama Canal Commission not to exceed $27,244,000, to remain available until expended, for acquisition, construction, and replacement of improvements, facilities, structures, and equipment required by the Panama Canal Commission, including—

(1) the purchase of not to exceed forty-eight passenger motor vehicles, of which twenty-eight are for replacement only;

(2) the recruitment of expert and consultant services, as authorized by section 3109 of title 5, United States Code;

(3) the improvement of facilities of other United States Government agencies in the Republic of Panama used by the Panama Canal Commission; and

(4) the improvement of facilities of the Government of the Republic of Panama, used by the Panama Canal Commission, of which the United States retains use pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) Of the sums appropriated pursuant to subsection (a) of this section, not more than the following amounts shall be available for the following purposes:

(1) $5,000,000 for channel improvements;

(2) $4,320,000 for procurement of additional towing locomotives;

(3) $3,860,000 for replacement of dump scows;

(4) $3,500,000 for replacement and addition of tugboats;

(5) $2,404,000 for relocation costs in connection with canal support operations;

(6) $2,000,000 for construction of launch repair facilities at Mount Hope;

(7) $600,000 for replacement and addition of transit equipment;

(8) $600,000 for replacement of launches and launch engines;

(9) $368,000 for miscellaneous improvements to transit facilities;

(10) $265,000 for improvements to wing-wall-knuckle fendering system for all locks;

(11) $130,000 for construction of locomotive crane repair pits for all locks;

(12) $56,000 for installation of chamber lighting for all locks;

(13) $10,000 for replacement of major buoys;

(14) $226,000 for replacement of the engine of the dredge Mindi;

(15) $144,000 for construction of a concrete apron at Miraflores;

(16) $44,000 for installation of emergency power at the Gatun and Petro Miguel locks;

(17) $18,000 for replacement of telemetering systems;

(18) $450,000 for replacement of motor vehicles;

(19) $435,000 for phase II improvements to communication facilities;

(20) $370,000 for minor improvements to quarters;

(21) $336,000 for replacement of roofing for employee quarters;

(22) $328,000 for water system improvements;

(23) $243,000 for replacement and addition of equipment for supporting services;

(24) $217,000 for insulation of quarters;

(25) $75,000 for modernization of existing quarters;

(26) $65,000 for improvements and replacements to electrical power and communication systems;

(27) $42,000 for improvements to supporting services facilities;

(28) $107,000 for expansion of generating capacity;

(29) $35,000 for replacement of employee quarters;

(30) $250,000 for advanced engineering planning and design;

(31) $212,000 for replacement of and improvements to Commission buildings;

(32) $182,000 for minor capital additions and improvements;

(33) $30,000 for costs of retirement and removal of capital items;

(34) $21,000 for replacement and addition of employee training equipment;

(35) $50,000 for replacement of dredge pipe; and

(36) $253,000 for continuation of prior year projects.

(c) There is authorized to be appropriated to the Panama Canal Commission, for the fiscal year beginning October 1, 1979, not to exceed $13,175,000 for payment of liabilities of the Panama Canal Company and Canal Zone Government incurred or outstanding for capital projects as of September 30, 1979.

GENERAL PROVISION

SEC. 4. No funds may be appropriated to or for the use of the Panama Canal Commission for the fiscal year beginning October 1, 1979, in excess of the amount, as estimated by the Secretary of Defense and certified by the Comptroller General of the United States before the enactment of the appropriation, of the revenues to be deposited in the Panama Canal Commission Fund during that fiscal year.

CONTINUING CONTRACTS

SEC. 5. Any program authorized in this Act may be prosecuted by continuing contracts to be funded from appropriations made by law in annual appropriation Acts, not to exceed in the aggregate the total amount for each program specified herein.

NEW SPENDING AUTHORITY

SEC. 6. Any spending authority (as defined in section 402(c)(2) of the Congressional Budget Act of 1974) provided by this Act is effective for any fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 7, strike lines 10 through 16 and insert in lieu thereof the following:

SEC. 4. No funds may be appropriated to or for the use of the Commission for any fiscal year in excess of (A) the amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated by the Secretary of Defense and certified by the Comptroller General of the United States at the time the budget request for the Commission for such fiscal year is submitted to the Congress, plus (B) the amount of revenues deposited in such Fund prior to such fiscal year and remaining unexpended at the beginning of such fiscal year. Not later than thirty days after the end of such fiscal year, the Secretary of the Treasury shall report to the Congress the actual amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year.

Mr. MURPHY of New York. Mr. Chairman, the committee amendment to H.R. 5269 incorporates the identical language in section 4 of the bill as presently exists in section 1302(c)(2) of the Panama Canal Act of 1979, the so-called Rudd amendment.

The language that is proposed to be replaced is an earlier and less technically acceptable version of the Rudd amendment as it developed in the course of considering H.R. 111. The language proposed to be inserted is identical to that worked out by the conference committee on H.R. 111 and signed into law on September 27.

It is the purpose of this section of the bill, section 4, to insure that there is no taxpayer cost in the operation of the canal for fiscal year 1980. In effect, the language already in the Panama Canal Act precludes a taxpayer cost in the canal operation between the present and the year 2000. With this section we have, for every Member who will cast a vote on H.R. 5269, an assurance to his or her constituents that expenditures at the Panama Canal are being controlled and that no taxpayer funds are being used for either payments to Panama or any canal expenses.

Mr. BAUMAN. Mr. Chairman, we concur in the amendment.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

□ 1720

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 3, line 12, after the word "appropriated" add the phrase "from the Panama Canal Commission Fund".

Mr. BAUMAN. Mr. Chairman, I believe this amendment is concurred in by the majority. It is simply an insertion of the language that appears in section 2, making it clear that the amount of money in section 3 is to be appropriated from the Panama Canal Commission Fund.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the majority agrees with the statement of the gentleman from Maryland and has no objection to the amendment.

Mr. BAUMAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: On page 8, lines 13 and 14, strike "section 402(c)(2)" and insert in lieu thereof "section 401(c)(2)".

Mr. MURPHY of New York. Mr. Chairman, this is purely a technical amendment. It is to correct the citation in section 6 referring to the provision in the Congressional Budget Act on new spending authority.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOLLING) having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 5269) to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes, pursuant to House Resolution 415, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just passed, H.R. 5269.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

U.S. GOVERNMENT BIGGEST SPECULATOR IN GOLD

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PAUL. Mr. Speaker, recently the Treasury announced a change in the rules on gold sales. Today the policy of gold sales is totally unknown. They claim the reason for this is to prevent speculation in the gold markets, but I claim the Government is now the biggest speculator and with one of America's most valuable assets.

I would like to call attention of my colleagues to an article that appeared in the Houston Chronicle written by a liberal writer, Hobart Rowen. He says in part in this article that:

But if gold, contrary to our wishes, in fact has a monetary role of some significant kind,

then another option is to quit selling any of it, and maintain the stockpile as a "last resort" store of value. . . .

If gold is not money (as we argue officially), then the government should quit worrying about the price. . . .

But if gold is money, or like money, then why don't we close the door at Fort Knox, and hang onto what's left?

I might also add; rather than dumping the gold into the hands of the European central bankers or the hands of the Arabs, if we must insist on selling gold, why not sell the gold to the American people in one and one-half ounce medallions and let them hold onto this valuable asset.

GOLD STARTING TO LOOK LIKE MONEY

(By Hobart Rowen)

More than 300 years ago, gold expert Charles Stahl reminds us, there was a tulip bulb craze in which the price of one "Viceroy" bulb soared to 2,500 Dutch florins.

As detailed in a book by Charles Mackay, Extraordinary Popular Delusions and the Madness of Crowds, 1,500 florins was enough to buy four fat oxen, eight fat swine, a half-ton of cheese and a host of other goods, including one suit of clothes and a silver drinking cup.

"The current worldwide gold fever may be considered by some as being better founded than the 17th century bull market in tulips, but the final effect has to be the same—a lot of people will lose a lot of money," Stahl said in one of his newsletters.

"Every bull market in history has come to an end, and so will this one. That applies also to the two other precious metals, silver and platinum."

The spectacular rise of gold in the past few months has been fed by rising oil prices and double-digit inflation all around the world. It represents not only a flight from the dollar—but from all paper money. Gold has jumped 60 percent against the mighty Swiss franc.

In essence, gold hovering near $400 an ounce represents the conviction of many that the economic managers of the international monetary system have lost control—that even if they want to, they can't whip inflation.

It represents a belief, among others, that economic power has swung heavily to the Organization of Petroleum Exporting Countries, which not only calls the tune on oil prices but is building up such large financial surpluses that the cartel states—especially Arab countries—will look to gold as the best store of value.

And finally, there is evidence, as German Central Bank President Otmar Emminger put it in an interview, that gold "has sneaked back" into the monetary system, despite the efforts to "demonetize" the yellow metal. "You just can't make hundreds of billions in gold disappear," Emminger said.

Not only do almost all central banks count their gold reserves at a market-related price, instead of the puny $42 official price, but the new European monetary system has given gold a big boost by pooling 20 percent of national gold holdings at current high prices as part of the backing for its embryonic common currency.

So if gold is not exactly "money" once again because central banks don't hand it over for their own paper currencies, it is reacquiring monetary characteristics. It is being prized by central banks as a valuable reserve asset, and an insurance policy of last resort. Even Treasury Secretary G. William Miller, in a slip of the tongue at Belgrade, put a value on U.S. gold holdings by using a market-related value.

The fact of the matter is that there is now more gold in the international monetary system—if you count it at its market value—than all of the currencies and other paper assets put together.

This poses a dilemma for the United States, because skyrocketing gold prices further shake confidence in the dollar. The gold craze discourages long-term dollar investments, and probably has contributed to sky-high interest rates.

This past week, the U.S. Treasury took the advice of many outside advisers, and put a little uncertainty into its gold-sales policy: Instead of feeding the speculative fever with a regular monthly sale, it will keep the markets guessing on times and amounts. And at long last, some modest curbs will be put on gold futures speculation on the commodity exchanges.

But sooner or later, the United States will have to decide once and for all whether gold is just a commodity like copper, or whether it is also money. If it's a commodity, and we don't care about the price, we can sell it all—soaking up excess dollars abroad and helping reduce the trade deficit.

But if gold, contrary to our wishes, in fact has a monetary role of some significant kind, then another option is to quit selling any of it, and maintain the stockpile as a "last resort" store of value.

As economist Edward Bernstein says, whatever we do or don't do about gold won't solve this country's basic economic problems. But at least we ought to have a rational approach to gold. If gold is not money (as we argue officially), then the government should quit worrying about the price. It can even be quoted, as Stahl mischievously suggests, at so many tulip bulbs per ounce.

But if gold is money, or like money, then why don't we close the door at Fort Knox, and hang onto what's left?

U.S. OIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 30 minutes.

Mr. COLLINS of Texas. Mr. Speaker, energy prices go up because of excessive imports of OPEC oil and because of shortage of materials; but the public chooses to blame it on the oil companies.

Let us look at the vote today demanding monthly refinery reports. Congress voted for this. The debate by the proponents kept repeating big profits of oil companies as reported on television. Many references were made to Exxon as the largest oil company with big gains in profits.

The facts are that Exxon in the first 9 months of 1979 reported U.S. earnings from refining and marketing were down 17 percent from last year. Refinery profits were down 17 percent because of higher U.S. operating costs. Exxon profits were up in foreign business where chemicals, heating oil, and an English tax adjustment were favorable. So the oil companies get another Government report to add to the 450 they now file.

But do we tax foreign OPEC companies? The windfall tax of the Democrats taxes 60 percent on U.S. oil companies but zero percent on foreign OPEC oil companies.

The need for oil deregulation is essential for America's energy independency in producing its own energy. Today, half of the oil consumed in the United States is imported. Six years ago the United States was importing $3 billion in oil and today the United States is importing $60 billion in oil.

In order to have adequate operating capital, the U.S. oil companies need to receive the "replacement price" for their old oil.

There is not a person in this room that would sell their home for the price they paid for it. Take a home you bought 20 years ago and paid $18,000 for it. If you were moving to another town you would object to a price control limit of $18,000, because it would cost you $90,000 to buy a similar home in the next town. If oil companies had a well that cost $180,000 20 years ago, they would spend $900,000 today if they moved into a new oilfield to drill a new well.

In order to replace the old oil, oil must be priced based on the world replacement market price.

Every barrel of oil that comes into the United States from the Arab OPEC countries is paid the full world market price. Today OPEC oil under long-term contract lands in Philadelphia for $25 a barrel. If you happen to need immediate oil in the spot market, you may be paying $40 a barrel.

We have staggered tiers of prices under price control here in the United States. But average them all together and the average price paid for U.S. oil is less than $11. Price control limits a barrel of old U.S. oil to $5.91 a barrel, but has no limit on foreign oil and can import OPEC oil at $40 a barrel.

Let us all remember one basic fact, and that is when you drill wildcat wells, nine will be dry and one will be a producer. How can the independent oilman pay for drilling based on inadequate oil prices to provide his new cash flow for investment.

We must also remember that the new oil we are recovering today is deeper and in more expensive geological formations. The easy oil has been discovered. The gas we are getting today is mostly coming from below 15,000 feet and many of the best new gas fields are 25,000 feet. Oil is coming from hard rocks to produce.

There are great recovery opportunities in this country from secondary and tertiary recovery. Of all the oil fields that have been discovered in the United States, only 30 percent of the crude oil has been recovered. We realize that the last 40 percent will be very expensive and very difficult to produce. But we can get 30 percent more from these same wells by means of secondary recovery. This will give us as much additional oil as the total amount we have produced in the past 100 years. Producers will go after it with water flood, chemicals, and special drilling; but this is expensive. At $22 a barrel, many productive means are available to produce secondary and tertiary oil. Why not use American labor, American pipes, American machinery, American chemicals, and American transportation, and pay Americans the same price as Arab OPEC oil. Keep the dollars here at home, instead of sending $60 billion each year of American money to pay for OPEC imported oil.

We hear all of this talk about profit of oil companies. Out of the dollars generated in the oil business, 70.2 percent goes in Government taxes. The stockholder gets 5.3 percent. This means that the Government gets over 13 times as much of the oil business dollar as the stockholder who owns the oil company.

Oil taxes begin from severance time when oil leaves the well, taxed again at the pipeline, the workers' wages are fully taxed, the oil properties are taxed, and oil is taxed at the gasoline pump. Shareholders are taxed and oil companies pay corporate 48-percent tax.

This is a confused Congress. President Carter recommended a special windfall/tax on U.S. oil companies of 60 percent and Arab OPEC zero percent; and Congress voted for it.

Let us review a tax survey that is made annually for Energy Week by Ernestine Adams and Abbott Sparks. Out of $81.655 billion in total oil revenues, the dividend after taxes received by the stockholder was $4.823 billion, whereas taxes paid in by the oil companies, shareholders, employees, and oil consumers totaled $64.331 billion. Think it over. You can buy stock and be a stockholder in an oil company; but every time you receive a dividend of $1, the Government taxes will be getting over $13 in the big tax bite on oil.

The facts are when U.S. oil prices go up, most of the money 's going for taxes to pay for the big government of big spending liberals in Washington. Yet, there is no comparable tax on imported OPEC foreign oil, which is half the oil consumed in the United States.

Oil companies are reinvesting all their profits back into oil and gas exploration and drilling. Capital expenditures in the first half of 1979 were 50 percent greater than profits in the period.

Let us compare oil company profitability. Taking the 10 years of 1969–78, the 10-year weighted average of oil companies showed a return on stockholders equity of 13.9 percent for oil companies compared to 13.7 percent for all total manufacturing companies.

Let us compare four larger oil companies on net income as a percent of stockholders equity. In 1978, Exxon was 13.7 percent, Mobil was 12.6 percent, Texaco was 9.0 percent, and Standard Oil was 13.4 percent. Compare these to the earnings of media that have challenged the oil companies' profit. We find in 1978 that CBS profit was 21 percent, NBC profit was 18.4 percent, ABC profit was 21.6 percent, and the Washington Post was 28 percent.

Profit analysis of oil company earnings for the first half of 1979 shows most of the increase from foreign earnings. Domestic earnings were up 26 percent while foreign earnings were up 82 percent. North Sea earnings were strong and Europe's coldest winter in 15 years gave a big boost in foreign earnings. Foreign income was also boosted by worldwide chemicals.

The U.S. oil producer operates under a confused multiprice tier which has risen from $6.74 a barrel in 1974 to $11 a barrel in mid-1979 for U.S. oil. This is an increase of 63 percent in price whereas total drilling costs average is up to 104 percent.

Price control imposed on oil and gas in the United States encourages world prices to skyrocket. When U.S. oil was placed under price control in 1974, the world price of oil was $5.50 a barrel. Today we see spot price of world oil as high as $40 a barrel.

The Congress controlled natural gas in 1954 at 9 cents mcf. Today gas in the United States has climbed to $2.40 mcf. while the United States has welcomed gas from Mexico at $3.63 mcf.

All price control does is produce more paperwork, more bureaucrats, more imports, and makes it more difficult for much needed competitive alternative fuels to enter the energy market.

□ 1730

UPWARD MOBILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 10 minutes.

● Mr. WEAVER. Mr. Speaker, with the exorbitant and obscene profits being revealed by oil companies, the following article in Oregon magazine, April 1979 issue, which relates ways of using these profits highly unethical if not illegal, related by a former employee of Mobil Oil Co. is of interest.

Inside his garage in a quiet, middle-class Eugene neighborhood, John Hanks keeps an almost compulsively thorough filing cabinet of documents, inter-office memoranda and other souvenirs from his 14-year career with the Mobil Oil corporation.

"If I were a good, loyal Mobil man," Hanks says carefully, examining an invoice, "I would have burned this stuff."

Hanks, 37, is a self-described right-wing Republican with an abundant shock of strawberry hair, enough faith in America's future to collect vintage wines, and a full-time interest in organizing political campaigns for conservative candidates.

Last December, Hanks walked away from his $30,000-plus job in Mobil's mid-Willamette industrial sales division after balking at a transfer to Corpus Christi, Texas. When gas lines began forming late this spring, Hanks decided to come forward with his story of life inside the oil industry during the last energy crisis.

Congress had empowered the Federal Energy Administration to allocate petroleum products and freeze prices for every class of distillate fuel. Under a program to control profits, May 15, 1973, was the magic date. The FEA instructed the oil companies to compute an average price for gas, diesel and heating oil at every one of thousands of U.S. delivery points, using May 15 sales receipts. Whatever the price had been on May 15—or the nearest date before—became the "base price," and only costs such as increased taxes or higher wages could be added to that price.

Hanks says he helped set "75 percent of the base prices in the Northwest for industrial consumers," then adds: "It's not a duty that I'm proud of."

Hanks spent weeks "flying between Mobil's Portland delivery terminal, Seattle division office, Los Angeles accounting center and Dallas region headquarters to review sales receipts, documents and guidelines." Finally, base pricing for the Pacific Northwest states was finished in November, 1974.

So far, so good, Hanks says, until mid-level management executives gerrymandered the definition of "distribution points" to serve Mobil's bottom line.

Take Eugene, for example. The way diesel prices were established in Eugene ended up costing consumers tens of thousands of dollars extra.

There was only one May 15, 1973, diesel sale in Eugene on the books—at 13.55 cents per gallon. However, 46 miles to the east, in the mill town of Oakridge, an unauthorized shipment to a logging contractor was made on the same date—but at a price that was 8.2 cents a gallon higher.

For the purposes of establishing a base price, Mobil decided to treat the Oakridge transaction as a basis for Eugene pricing—an apparent case of the tail wagging the dog. As a result, the price of Mobil No. 2 diesel to Eugene-area farmers, contractors, industrial users and governmental agencies was more than half again higher than it otherwise would have been.

Hanks objected to the decision, as did at least one other Mobil employee, J. Scott Erbe, on the grounds that it was inconsistent to merge Eugene and Oakridge for price basing when Mobil had divided Seattle and Tacoma prices—terminals only 30 miles apart. Furthermore, the merging mixed apples with oranges, since the Oakridge delivery had been made by a small (and more expensive per gallon) "tankwagon" truck.

Back from Mobil's Office of General Counsel came a "reaction"—not a legal opinion, the memo stressed—to Hanks' and Erbe's objection. According to Mobil's legal team, the Oakridge sale (from a 14,000-gallon tank on major customer Pope and Talbot's property) didn't have to be counted as a separate base price from Eugene because it was "no more than additional storage for Mobil's convenience on deliveries originating from Eugene."

To figure out how much this informal "reaction" may have cost Eugene customers of No. 2 diesel for about two years until price controls were removed from diesel fuel is no simple task. The Oregon Department of Energy has no figures on how much diesel flows out of the Eugene terminal on a month-by-month basis. Mobil Northwest Division Manager Larry Larson, at the company's Portland terminal, says his office has no way of computing Eugene's total Mobil deliveries of diesel.

Hanks, however, notes that Mobil's share of the industrial market alone was about 15 to 20 percent, and that one Eugene-area lumber company alone used 800,000 gallons a year in the early 70s. The total for the town may have been twice that. At 8.2 cents per gallon in padded profits, the disputed overcharge could easily have reached $25,000 a year.

Splitting hairs over a legal definition is one thing, but in the case of Mt. Vernon, Washington, Mobil actually back-dated an invoice to establish a higher base price, contends Hanks, and he has the "pink" slip copy of the invoice in question to prove it.

Here's what happened. During a cold snap in the winter of 1973, the city of Mt. Vernon took a delivery of light No. 1 heating oil because it was simply too cold to use the heavier No. 2 heating oil originally contracted for. The city was subsequently billed at Mobil's posted price difference of 1.9 cents a gallon higher for No. 1 fuel. Mt. Vernon paid the bill.

When it came time to set base prices, however, nearly a year and a half later, Hanks was told that the old invoice must be changed. Since no heating oil price differential was specified in Mt. Vernon's contract, the highest market price for No. 1 fuel would be charged. Hanks balked. "We should have lived with it," he says. "I refused to raise the price." So, Irwin Wayne (I. W.) Jordan, the western commercial region manager in Dallas, gave instructions that the invoice was to be changed. The West Coast controller, Norm Mendenhall, carried out those instructions.

Because of the altered billing, a new base price for No. 1 diesel fuel was established in Mt. Vernon—at 6.7 cents a gallon higher.

In another case, complaints to Hanks' boss, Jim Kimner, that Mobil was selling diesel to U.S. Plywood in Lebanon at about a penny

a gallon over the base price did no good, even after Hanks pointed out that the sales were putting Mobil "into a ticklish situation."

Kimner fired back an unambiguous memo in August, after two more prods from Hanks: "John, once & for all forget this Problem and go on to working on new business, or something else. N.Y. says last and final time, No Change—Leave It Alone."

Of course, in as complicated a bureaucratic scheme as fixing the price of petroleum by distribution point, by product, and by mode of transport, some errors were inevitable. Mobil's official policy was that if base prices were found to be incorrect, the consumer's money would be refunded. Hanks says that is "one of the few times I believe Mobil deliberately lied. They knew no one could interpret federal guidelines, so no money ever would be returned."

"Some customers," wrote I. W. Jordan in a 1976 memo to mid-level managers, "may be due refunds for overcharges as a result of an adjustment to a base price. It will be some time before we know who [is] entitled to refunds at each of our more than 1,700 source points. You will be advised on this subject in future communications."

By the time Hanks left Mobil in December 1978, such a "communication" had never been made. However, says Hanks, the ideal opportunity to rebate consumer cash presented itself in North Bend—over the issue of 18 months of Mobil-admitted overcharges.

Mobil employees had established two separate base prices in August 1974 for the adjoining towns of Coos Bay and North Bend. This decision, which penalized North Bend a few cents a gallon for gas, kerosene, heating oil and diesel, contradicted a Mobil pricing guideline that "commission truck routes . . . making deliveries out of terminals should be included in the price survey as an integral part of the terminal complex." North Bend was served by such a truck route.

Hanks first raised this issue in a November 23, 1974, letter. His file shows seven more memos on the subject over the next year, most of them ignored, before the question was sent to New York headquarters for resolution. Sure enough, on February 19, 1976, base prices at the two locations were combined.

"I stressed then that Mobil must rebate money for the 18-month period," Hanks says. "We admitted our mistake on pricing, but when I brought up the subject of rebates I was told by the pricing manager, the regional manager and everybody else involved to drop the subject and never bring it up again."

And the money rolled in. Mobil bought Montgomery Ward and Container Corporation. Hanks remembers: "They were making so much money they gave every employee a month's salary as a bonus. I thought it was really nice of them to give it to us instead of the government." Apparently, Mobil's huge profits created tax problems.

Hanks still maintains that, on major issues, Mobil was characterized by liberal and enlightened policy decisions. But executives within the giant corporation, he adds, could be surprisingly petty and cheap when it came to relatively small matters.

Salesmen were sometimes instructed not to let customers know about potential savings. Hanks complained that the information should be getting out. Despite his annoying role as corporate gadfly, however, no one argued with his job performance. Among Hanks' garage file of memorabilia is one folder prominently displaying the Mobil logo and labeled "Extra Effort Recognition." Inside is a photo of Hanks, smiling broadly, sandwiched between Kimner and Jordan, in the act of accepting a national sales award.

Hanks' increasing objection to Mobil pricing policies peaked in February of 1975. One evening that month Hanks found himself, over dinner at Eugene's Coburg Inn with Kimner and Jordan, airing his doubts. As he was wont to do, Hanks took the opportunity to quote back to his bosses Mobil's ethics policy. All Mobil employees are required to sign it. "The maintenance of the highest reputation for integrity is essential," the last sentence reads, "and is not in any circumstances to be sacrificed for the sake of results."

According to Hanks, the dinner came to an unpleasant end when Jordan "turned red, jumped up from the table, shook his finger three inches from my nose and said, 'Resign, you ——— ———, resign! I want no more of this ——— ———. I run this region. Shut up, resign, or I'll fire you.' "

"Needless to say," Hanks adds, "Mr. Kimner turned white."

Jordan, through his secretary in Dallas, after repeated calls refused to answer any questions about his role in the establishment of base prices and referred all questions to Mobil's public relations specialists in Los Angeles.

Kimner, however, when reached at his home in Darien, Connecticut, only a short commute from New York City, where he serves as Mobil's international sales training manager, denied that he heard such an outburst. "I remember dinner at the Coburg Inn, but I was not in the room nor was I at the table during the incident," Kimner said. "I was off in another part [of the inn] for awhile making phone calls. I just remember John saying next morning that the evening hadn't gone as well as he'd planned." Kimner added that the whole matter of overpricing in the mid-'70s is "ancient history in the light of today's situation."

Mobil's official five-sentence reaction to Hanks' allegations echoes that theme, conceding that "there has been some confusion within the oil industry concerning price control regulations," but that, as far as particulars go, "we do not think it appropriate or meaningful to comment on individual cases."

But Hanks doesn't see it that way. For one thing, he argues, "If one person ran into this stuff setting industrial base prices for three states, think about the rest of the country."

Today, with the United States on the verge of a rationing program, and Congress talking about a windfall profits tax to catch up with oil decontrol, Hanks sees a moral in the story: "Watch out for middle management," he warns. "They'll always find some way to soak America."

THE WATER RESOURCES DEVELOPMENT ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. JOHNSON) is recognized for 5 minutes.

● Mr. JOHNSON of California. Mr. Speaker, our Committee on Public Works and Transportation has recently filed its report on H.R. 4788, the Water Resources Development Act of 1979. This bill contains many significant and innovative provisions designed to meet this Nation's water and related resources needs in a responsible and balanced manner. Because of the importance of this legislation, I feel it would be of value to bring some of the provisions of this bill to the attention of the House Members.

H.R. 4788, as is traditional with water resources development bills, contains project authorizations, authorizations of water resources studies, project modifications, and general provisions affecting the overall water resources program of the U.S. Army Corps of Engineers. This bill also continues the practice of refining the manner in which the water resources program is carried out, along with its scope and direction, to meet our constantly changing water resources needs. As a result, the bill contains a number of features addressing water supply needs, environmental concerns, energy needs, and project study procedures, in addition to the traditional provisions addressing flood control, navigation, recreation and the like.

WATER SUPPLY

Water supply has long been a concern of our committee, and we have warned for years that a severe water supply crisis will occur unless timely steps are taken to begin the long process which leads to selection and construction of facilities and implementation of other measures, both to increase the efficiency with which we use existing supplies and to develop new sources of supply. The water supply problem is growing more serious all of the time. Not only do we still have the present and anticipated shortages in the Southwest and West, but now the eastern and northeastern parts of the country are experiencing problems. This is brought about primarily by two factors—the increasing pollution of available water and the deterioration of antiquated distribution facilities. The Federal interest in pollution control has been established. The Federal interest in the repair of water distribution facilities has not. Yet it is a problem we must address in some fashion.

In order to better understand the nature and scope of the problem we face in insuring adequate and well-maintained distribution facilities, the committee, in section 219 of the bill, provides for the authorization by committee resolution of studies of single purpose water supply projects, including conveyance and distribution facilities. The carrying out of such studies, on a selective basis, is the necessary first step in determining whether general Federal assistance is appropriate and, if so, the extent of such assistance.

ENERGY

Section 167 of the Water Resources Development Act of 1976 authorized the Corps of Engineers to study the most efficient methods of utilizing the hydroelectric power resources at water resources development projects under the jurisdiction of the Secretary of the Army. Section 212 of H.R. 4788 extends the study authority and increases the authorization for appropriations. In addition, section 218 of the bill directs the Corps of Engineers to make a study of the possibility of developing the hydroelectric potential at former industrial sites, mill races, and similar types of facilities. It also authorizes the Corps to provide technical assistance to local public agencies and cooperatives for the development of hydropower at such facilities. These provisions are designed to increase the supply of hydroelectric power in order to help meet our increasing energy needs.

Hydroelectric power development was rapid during the first half of the 20th century, but by the mid-1960's its contribution to the total amount of power generated had diminished. This came

about primarily because of three factors: The most favorable hydropower sites were developd early and other sites appeared less attractive when compared to other energy sources. The overall demand for electricity increased and the percentage of hydropower as a part of the total amount of power generated decreased as new generating facilities were constructed. Finally, the low cost of fossil fuels and optimistic forecasts concerning nuclear technology created a feeling that our energy future was secure.

This is no longer the case. Nuclear power has not been developed as originally forecast. Perhaps most importantly, the dramatic rise in oil prices, and those of other fossil fuels, have made previously undeveloped hydroelectric power potential much more attractive economically.

The studies of hydropower potential, both at corps projects and at other in-place facilities, will identify the amount of hydropower which can be economically developed and will assist in meeting our overall power needs with a larger source of clean, nonpolluting power.

THE ENVIRONMENT

H.R. 4788 contains a number of precedent-setting provisions for the consideration of and protection of the environment in connection with the development and conservation of our water resources.

Section 360 authorizes the Corps of Engineers to modify any of its water resources development projects to provide for mitigation of damages to fish and wildlife if the estimated cost of the modification does not exceed 10 percent of the total cost of the project or $7,500,000, whichever is the lesser. The modification must be approved by resolutions adopted by our committee and the Committee on Environment and Public Works of the Senate. This procedure will expedite the provision of needed mitigation measures at projects by providing for a more simple and less time-consuming means of securing congressional approval. For the larger mitigation plans, the committee feels that it is appropriate to retain the requirement for authorization by act of Congress.

Section 220 of the bill directs the Corps of Engineers to study the feasibility of conserving wildlife and wildlife habitat where the habitat may be expected to be adversely affected by the action of a Federal agency. The study is to include the use of engineering or construction capabilities to create alternative habitats or to improve, enlarge, or develop existing habitats. The section also authorizes the corps to conduct demonstration projects of alternative or beneficially modified habitats for wildlife. Up to $10 million a year is authorized to be appropriated for the demonstration projects.

Many Federal projects result in the destruction of, or damage to, fish and wildlife habitat. Also, such projects often offer the opportunity to enhance and improve such habitat. Many techniques have traditionally been used for fish and wildlife mitigation and enhancement, including land acquisition, intensified management practices, special project operation and maintenance techniques, and establishment of wetland areas. The committee feels that there is considerable merit in studying and demonstrating a broad range of engineering and construction practices to preserve and create habitat and to enhance fish and wildlife resources. This could include such measures, for example, as artificial impoundments, creation of wetland areas, creation of habitats and nesting areas, modified operation of projects, and the like. The study authorized by this section, in conjunction with the demonstration of various measures, will provide the needed information on the feasibility and desirability of implementing such a mitigation and enhancement program on a general basis.

H.R. 4788 also addresses the problem of justification of measures undertaken in connection with a water resources project for the protection of the environment. Projects traditionally are evaluated on the basis of national economic benefits and costs. This effectively limits measures for protection or enhancement of the environment to those which are demonstrably cost effective. The committee believes that this should not be the case. Environmental benefits are not quantifiable in strict economic terms. We have, therefore, provided in the case of a very few projects that the environmental benefits associated with certain project features shall be deemed to be at least equal to their cost. One example is the navigation project for Gulfport Harbor, Miss. The environmentally preferred means of spoil disposal for this project is disposal into deep waters of the gulf.

However, the costs of this type of disposal are much higher than alternative methods and could result in the project being less justified from a strictly economic point of view. In order to avoid having the preferred disposal method rejected because of its high cost, the authorization for the Gulfport project provides that any benefits associated with the gulf disposal shall be deemed to at least equal the costs.

Another related feature of the bill, section 409, directs the Corps of Engineers to include specific information on the benefits and costs attributable to enhancing regional economic development, the quality of the total environment including its protection and improvement, the well-being of the people, and national economic development in any report relating to a water resources development project. This will insure that Congress, as well as others, has information on all of the benefits and costs associated with a water resources project in order to make a better informed decision with regard to the project. This will enable us to determine, for example, on a project-by-project basis whether or not measures for the protection or enhancement of the environment are desirable and should be included in the project authorization regardless of their economic costs.

PROJECT PLANNING

Section 401 of the bill establishes new requirements for studies of potential water resources projects undertaken by the Corps of Engineers. It provides that in the case of any such study, the Secretary of the army, acting through the chief of Engineers, shall prepare a feasibility report. This feasibility report shall define with reasonable certainty the engineering features (including hydrologic and geologic information), the environmental benefits and detriments, the costs and benefits including the objectives set forth in section 209 of the Flood Control Act of 1970, the public acceptability, and the purpose, scope and scale of the recommended project. The feasibility report shall also define the Federal and non-Federal participation in the project and demonstrate that States and Federal agencies have been consulted and coordinated with in the development of the recommended project. The report shall contain information of sufficient detail on which to base an authorization for construction of any recommended project. The requirement for preparation of a feasibility report does not apply to any study with respect to which a report has been submitted to Congress before the date of enactment of H.R. 4788.

In the Water Resources Development Act of 1974, the committee adopted a new two-stage authorization procedure for the larger water resources projects which had unresolved or potentially unresolveable issues, such as the extent of adverse effects on fish and wildlife and suitable mitigation measures, adverse environmental impacts, and the like. Such projects were authorized only through the phase I stage of advanced engineering and design, so that the committee would have the more detailed information contained in a phase I study prior to considering a project for construction authorization. While this procedure has its merits, it also has its disadvantages.

The time required by two authorization actions and two studies adds substantially to the total time required for study, authorization and construction of a project—the average time is now at least 19 years. Not only does this delay the realization of project benefits, it results in increased project costs caused by inflation. In addition, if it is anticipated that only a phase I authorization will result from a study performed by the Corps of Engineers, requiring yet another study, there is a tendency to reduce the amount of detail included in the original study and to do enough only to justify the conclusion that a potential project warrants more detailed study.

The procedure set forth in section 401 avoids these difficulties while maintaining the major advantage of a phase I study authorization—the preparation of a report of sufficient detail to provide the Congress with adequate information on which to base a construction authorization.

Section 401 contemplates one report and one authorization—for construction. There may, of course, be cases where the committee determines that a report does not contain sufficient information on which to base a construction authorization. In such a case the committee retains the option of authorizing only more detailed studies, either of the entire proj-

ect or of particular aspects thereof, such as fish and wildlife mitigation provisions. The determination of whether a feasibility report meets the requirements of section 401 is one which will be made by the Congress when it decides whether or not to authorize construction of a project.

Many reports on proposed projects currently being prepared by the Corps of Engineers satisfy the requirements of section 401. In the case of these reports it will not be necessary to modify them or redo the study. They can simply be allowed to continue through the customary review process. For those reports which do not meet the requirements of section 401, it will be necessary to supplement them with information necessary to meet the requirements.

Section 401 is intended to result in better, more detailed reports on proposed water resources projects and to reduce the time required for implementation of such projects. This will produce a more responsive and more efficient water resources program.

Mr. Speaker, in addition to the items I have mentioned, H.R. 4788 also includes projects and provisions which address critical water resources needs of our Nation for flood control, navigation, fish and wildlife, recreation, water supply, and hydroelectric power. It is a good bill; it is a responsible bill; it is an innovative bill. We hear far too much about supposedly undesirable features of water resources development and far too little of the enormous economic and environmental benefits associated with such development. One prime example of the good things brought about by water resources development is the McClellan-Kerr navigation project. There is a very interesting and informative article on this project which appeared in the July 30, 1979, issue of U.S. News & World Report. I include this article as a part of my remarks:

TAMING THE ARKANSAS: A PORK BARREL PAYS OFF

Has America's era of building massive water projects—dams, barge canals, power-generating plants and irrigation systems—come to an end?

Some observers conclude that public pressure to hold down government spending and increased concern over the environment mean precisely that. The time has come and gone, these experts insist, for undertakings such as the Tennessee Valley Authority, Hoover Dam and other schemes that have changed the face of the country in the lifetimes of many Americans.

In an effort to put the pluses and minuses of huge water projects in focus, Paul Recer of *U.S. News & World Report's* Houston bureau traveled through Arkansas and Oklahoma along the Arkansas Waterway—an endeavor that was once condemned by opponents as an expensive boondoggle and a classic example of pork-barrel politics. His report:

CATOOSA, OKLA.—In its natural state, the Arkansas River was moody and unpredictable—turning by season from a brackish, timid stream into a marauder that jumped its banks, chewed away fields, drowned cattle and inundated whole towns.

The river's waters were too salty to drink, its flow was too erratic for dependable navigation, and it was a poor habitat for fish.

All that was before the federal government spent 1.2 billion taxpayer dollars to turn the truant stream into the carefully controlled McClellan-Kerr Arkansas River Navigation System.

The project, which was named after the late Senators Robert Kerr of Oklahoma and John McClellan of Arkansas, was completed in 1971 in one of the most massive public-works projects ever undertaken by the Army Corps of Engineers.

The engineers changed the character of the river and, in so doing, have helped change the character of an entire region.

RESERVOIR OF SUPPORT

Contrary to the ill feelings accompanying many large-scale water projects, the Arkansas River endeavor drew spirited opposition only from a few displaced landowners. Nearly everyone else has cheered the resurrection of what was commonly regarded as an ugly and troublesome stream.

Today the Arkansas is tame and predictable. Seventeen locks and dams have created calm pools that enable barges to float 448 miles from Oklahoma across the state of Arkansas to the Mississippi River.

Seven reservoirs on the river's watershed keep water in the canal at a constant level of 9 feet, as well as provide flood control.

FINANCIAL FLOW

More important to many is the fact that the waterway has brought a modest economic boom to the once-impoverished Arkansas River Valley. Some 10 million tons of barge cargo moved through the waterway last year. Factories and warehouses are springing up on what were flood-prone plains. Rich harvests of grain are riding low-cost barges to New Orleans. Landlocked coal mines are open to the markets of the world.

Environmentalists, too, are content. Water quality in the river—once so bacteria-infested that swimming was forbidden—has improved substantially. More than 13 million persons enjoyed water sports and fishing along the watershed last year. Numbers and varieties of wildlife have increased. Even the threatened bald eagle has found a new home.

Still the question remains: Do all these benefits outweigh the tremendous cost of the project?

During construction, backers forecast a return of $1.50 for every federal dollar spent over a 100-year period.

That estimate now appears conservative. Studies by the Corps of Engineers and by independent business-research groups show that investments along the waterway already exceed the cost of its construction. Almost 2 billion dollars has been spent for new plants and for expansions, creating an estimated 50,000 jobs.

The canal is credited with keeping a Reynolds Metals aluminum plant at Benton, Ark., from shutting down by making it economical to ship imported bauxite up the river. The plant now employs 3,000 workers.

BOON FOR MINING

The waterway at the same time has pumped new life into the coal-mining industry along its shores. Arkansas has about 9 billion tons of coal reserves and Oklahoma twice that. But about half the fuel is metallurgical coal that must have access to international markets. The waterway has provided that.

Declares E. S. Stephens of the Garland Coal Company in Little Rock: "We'd be out of business without the waterway."

A half-dozen coal-handling facilities have been built along the river, and more are planned. Some coal operators have doubled their production and their work forces. More than a half-million tons of coal moved on the river last year. An independent study predicts that the annual total will increase to 7.5 million tons by the year 2000.

"The river opens up world coal markets to the Arkansas Valley that would not be opened otherwise," observes coal consultant Bill Rogers.

Farmers may have benefited most from the tamed river. The river ports of Catoosa, Muskogee, Fort Smith, Little Rock and Pine Bluff handle tons of grain flowing from the wheat and soybean fields of Oklahoma, Kansas, Colorado, and Arkansas. In all, more than 609,000 tons of grain was barged down the Arkansas last year, destined for ships docked at New Orleans.

Guthrie Cotton Oil Company, a major grain shipper on the river, has tripled in size since 1971. Company President John Pearson says farmers in the Arkansas Valley "can now ship their grain by barge for about half the rail rate."

The impact on business in general is harder to trace, but one official claims that the river is the "economic nucleus" that has awakened the farm-based economy of the whole region.

Most port cities have established industrial parks beside the waterway that are steadily attracting new warehouses and plants, many of which have only a minor need for the river.

Navigation on the waterway starts at a place called Tulsa Port of Catoosa. Located 20 miles from Tulsa on the Verdigris River, a major Arkansas tributary, the port is 448 miles from the Mississippi and boasts of being the nation's northernmost ice-free river shipping point.

Tulsa's port handles a steady flow of grain, coal, liquid fertilizer, oil, chemicals and dry cargo. Westinghouse has built a facility to transport power-plant equipment to Kansas. Another manufacturer routinely ships out industrial air ducts weighing up to 200 tons. About 25 firms have located in an industrial park operated by the port.

Just downstream, where the Verdigris and Arkansas join, the port of Muskogee ships oil, grain, fertilizer and dry cargo. The waterway has attracted two large companies to Muskogee—Fort Howard Paper, which will employ 2,000 people in a decade, and International Harvester, which will assemble trucks and ship them through the port.

In Arkansas, the port of Fort Smith handles coal, grain and some heavy cargo.

Bauxite for the Reynolds plant is the major commodity shipped through the Little Rock port. More than 200,000 tons of the ore moved through there last year. Little Rock also has a foreign-trade-zone building in the port's 1,500-acre industrial park. The zone permits a shipper to store imports under U.S. Customs protection without paying duty or meeting import quotas.

Pine Bluff's port is the busiest on the river—and the closest to the Mississippi. It handled more than 2.5 million tons of grain, chemicals, steel and dry cargo last year. It's also a center for the production of barges, towboats, cryogenic tanks and agricultural products.

MILLIONS SAVED

Besides providing low-cost transportation, the waterway prevented more than 12 million dollars in flood losses last year alone, the Corps of Engineers estimates.

Eight of the federal dams in the system generate power, producing more than 2.1 trillion kilowatt-hours of electricity last year and earning 18 million dollars for the government. The power plants are expected to bring 1 billion in revenue by the year 2030.

While economic benefits of the waterway are enormous, its human impact is even more impressive.

Dams and levees have turned the formerly turgid river into an azure ribbon offering fishing, water skiing and boating. Thousands of weekend skippers roar over the waters of the lakes and down the river itself. Any vessel, from a large cabin cruiser to the smallest canoe, can be locked through the

dams without charge. Some inland sailors have journeyed the entire length of the waterway.

On weekends, fishermen stand shoulder to shoulder along choice stretches of the waterway, angling for the bass and catfish that now prowl the stilled waters.

Yet despite all the obvious benefits, many observers believe the waterway could be the last of its kind.

Noting the lawsuits and controversy that have accompanied the construction of new projects such as the Tennessee-Tombigbee Waterway in Alabama and Mississippi, a Corps of Engineers official says: "If we were starting today, I doubt that we could get it built." ●

CONFERENCE REPORT ON H.R. 4387

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 4387) making appropriations for the Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 96-553)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4387) "making apropriations for the Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1980, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 13, 17, 24, 29, 30, 32, 33, 35, 36, 37, 39, 43, 45, 47, 51, 52, 53, 54, 55, 59, 71, 73, 75, 82, 86, 89, 91, 94, 95, 96, 98, 99, and 100.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 7, 8, 21, 25, 27, 31, 34, 38, 41, 56, 63, 87, 88, and 93, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,470,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$11,000,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$23,122,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$370,573,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "California, construction of a greenhouse/headhouse at Stillwater, Oklahoma, construction of a feedmill at El Reno, Oklahoma,"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$118,566,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,000,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$17,785,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$32,548,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$16,000,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$650,000"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$6,000,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$189,045,000"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$189,331,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$278,994,000"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$245,631,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$86,070,000"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$47,643,000"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,600,000.

And the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$186,586,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$338,975,000"; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,979,000,000"; and the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,070,000,000"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,000,000"; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,500,000"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$230,518,000"; and the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$264,747,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$16,487,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,500,000"; and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows: In lieu of the sum proposed by

said amendment insert "$167,524,000"; and the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,500,000"; and the Senate agree to the same.

Amendment numbered 70: That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ", of which $390,000 shall be for the authorization of 6 new areas"; and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$15,000,000"; and the Senate agree to the same.

Amendment numbered 76: That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,114,301,000"; and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$20,000,000"; and the Senate agree to the same.

Amendment numbered 90: That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$82,000,000"; and the Senate agree to the same.

Amendment numbered 92: That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$56,427,000"; and the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$312,796,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 5, 6, 19, 60, 72, 77, 79, 80, 81, 83, 84, and 85.

JAMIE L. WHITTEN,
BILL D. BURLISON,
BOB TRAXLER,
BILL ALEXANDER,
MATTHEW F. MCHUGH,
WILLIAM H. NATCHER,
JACK HIGHTOWER,
JOHN W. JENRETTE, JR.,
MARK ANDREWS,
J. KENNETH ROBINSON,
JOHN T. MYERS,
SILVIO O. CONTE,
Managers on the Part of the House.

THOMAS F. EAGLETON,
JOHN C. STENNIS,
WILLIAM PROXMIRE,
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
JIM SASSER,
WARREN G. MAGNUSON,
HENRY BELLMON,
MILTON R. YOUNG,
JAMES A. MCCLURE,
JAKE GARN,
HARRISON H. SCHMITT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4387) making appropriations for Agriculture, Rural Development and Related Agencies programs for the fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—AGRICULTURAL PROGRAMS

OFFICE OF THE SECRETARY

Amendment No. 1: Appropriates $4,470,000 for the Office of the Secretary instead of $4,400,000 as proposed by the House and $4,534,000 as proposed by the Senate.

DEPARTMENTAL ADMINISTRATION

Amendment No. 2: Earmarks $3,196,000 for Budget, Planning, Evaluation and Public Participation as proposed by the Senate instead of $2,757,400 as proposed by the House.

Amendment No. 3: Combines Operations and Finance line item with Personnel, Equal Opportunity, Safety and Health Management and Management Analysis as proposed by the Senate.

Amendment No. 4: Earmarks $8,455,000 for the items combined in Amendment No. 3 as proposed by the Senate, instead of a comparable total of $8,454,600 as proposed by the House.

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment earmarking $7,772,000 for Governmental and Public Affairs instead of $8,397,000 as proposed by the House and $8,072,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The requested $300,000 to implement centralized informational programs at the regional level is not approved. Included in the conference agreement is the reduction of $625,000 proposed by the Senate for reimbursements to the GSA for Consumer Information Center publications. The conferees do not anticipate that the number of publications will be significantly reduced.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $19,423,000 for Departmental Administration instead of $19,609,000 as proposed by the House and $19,723,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate Report requested several detailed, specific revisions in the format and nature of the fiscal 1981 budget justification material, as well as special analyses and other material relating to mission budgeting. The conferees agree that these and similar details should be evolved through continuing discussions with both the House and Senate Appropriations Committees.

The conferees direct USDA to conduct a study of section 32 of the Act of August 24, 1935, and report its findings to the House and Senate Appropriations Committees by February 1980. The study should include the purpose and legislative intent of section 32, what its benefits have been over the years, how it functions and how those functions relate to its purpose, and a review of whether any alternative mechanism might be feasible or advisable.

Amendment No. 7: Provides a limitation of $750,000 for reimbursement to the GSA for Consumer Information Center publications as proposed by the Senate.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 8: Appropriates $25,527,000 for the Office of the Inspector General as proposed by the Senate instead of $24,727,000 as proposed by the House.

OFFICE OF THE GENERAL COUNSEL

Amendment No. 9: Appropriates $11,000,000 for the Office of the General Counsel instead of $10,786,000 as proposed by the House and $11,136,000 as proposed by the Senate.

While not specifying an exact number of additional positions by type of location, the conferees direct that proper attention be given to the need for legal positions in the actual field work of the agencies.

FEDERAL GRAIN INSPECTION SERVICE

Amendment No. 10: Appropriates $23,122,000 for the Federal Grain Inspection Service instead of $22,872,000 as proposed by the House and $23,372,000 as proposed by the Senate.

The conferees remain concerned over the failure of the Department of Agriculture to move expeditiously in eliminating sub-class grading of Hard Red Winter wheat. A provision to prohibit the use of funds to administer this grading scheme was deleted in the FY 1978 Agriculture and Related Agencies Appropriations Act with the understanding that actions to terminate this unreliable and obsolete grading standard were underway. In the two years since that time, however, this inaccurate means of grading Hard Red Winter wheat has continued to the detriment of farmers, others in the grain industry and ultimately, the consumers. The conferees, therefore, direct the Department to implement, without further delay, proposed reforms which will prohibit sub-class grading of this wheat by Federal and federally licensed agencies.

SCIENCE AND EDUCATION ADMINISTRATION

The conferees are in agreement on the importance of a well-managed and well-coordinated agricultural research program that maintains and strengthens the long-term partnership between the in-house resources of the Department and the expertise of agricultural experiment stations at colleges and universities throughout the country. The challenges facing the agricultural research establishment of the nation are great, considering the leveling off of productivity increases that occurred during the "green revolution," (declining yields in certain key crops), the loss of prime farmland, and the continuing pressures of population growth on global food supply. A strong research program is essential in meeting these challenges. The recent reorganization and upgrading of Science and Education within the USDA may be evidence that the Department is aware of the need for increased attention to this matter. But, more than just reorganization is needed. Tangible financial commitments are crucial.

The recommendations contained in the President's budget for a 2.6 percent reduction in outlays for agricultural research were especially disturbing. At a time when additional research inputs in agriculture are needed, it is inconsistent to propose growth in the research programs of virtually every other major Federal agency except USDA. Accordingly, the conference agreement provides for an overall increase in the research and development budget over comparable fiscal 1979 figures.

In making this recommendation, the conferees were guided by several basic imperatives:

The need to maintain an appropriate balance in the Federal-State partnership by providing for appropriate levels of Hatch Act and

Smith-Lever formula funding. This "core" support is crucial in retaining existing capabilities and attracting new high caliber talent into agriculture.

The need to maintain important Federal scientific teams at in-house facilities, and insure that their work is fully coordinated with State experiment station efforts.

The need to provide for diversity in research methodologies and funding mechanisms by channeling some funding into various grant programs. These programs can be highly valuable in focusing attention on high priority areas of basic and applied research, enlarging the cadre of scientists contributing to agricultural development, and increasing the support of new and nontraditional ideas and approaches.

However, in making this recommendation, the conferees were also mindful of the need for a number of actions designed to increase the quality and efficiency of agricultural research and the competence of USDA research leadership and management, as follows:

Placing national research goals and priorities into sharper focus, and addressing key national problems such as energy, plant nitrogen fixation, environmental stress, and animal productivity.

Improving coordination between the Department and universities to insure the establishment of research priorities and program plans which are mutually compatible and which optimize the use of limited resources.

Utilizing peer review processes for both in-house, formula and special research funds. Peer review, if properly handled, can be a highly constructive mechanism for improving scientific quality and relevance of programs once research priorities have been established.

Improving productivity through sound program evaluation, and, where necessary, appropriate changes in the scope and orientation of research programs.

The conferees are in agreement that meeting the needs and implementing the actions outlined above are challenges that can be effectively addressed by USDA only in conjunction with the other parts of the agricultural research and education establishment.

AGRICULTURAL RESEARCH

Amendment No. 11: Appropriates $370,573,000 for Agricultural Research instead of $363,142,000 as proposed by the House and $372,479,000 as proposed by the Senate.

For research on improving energy efficiency in crop and animal production the conferees have agreed to $4,139,000 instead of $3,139,000 as proposed by the House and $5,139,000 as proposed by the Senate.

For research on aquatic weeds the conference agreement provides $450,000 instead of $100,000 as proposed by the House and $650,000 as proposed by the Senate. These additional funds are to be divided equally between intramural and extramural research activities.

For research on yellow star thistle the conference agreement provides $100,000 instead of $200,000 as proposed by the Senate.

For staffing the Nutrition Laboratory at Tufts University the conference agreement provides $2,000,000 as proposed by the House instead of $1,000,000 as proposed by the Senate. For equipping a stable isotope facility at the Children's Nutrition Laboratory at Baylor College of Medicine the conference agreement includes $1,000,000 as proposed by the House. The conferees will expect the USDA and the directors of the nutrition centers to ensure that there is close cooperation and coordination with the National Institutes of Health.

For the updating of Pork Handbook No. 8 on nutrition standards of pork the conference agreement provides $263,000 instead of $200,000 as proposed by the House and $325,000 as proposed by the Senate. The conferees believe these funds are adequate to keep the program on a three-year completion schedule.

For research on Contagious Equine Metritis the conference agreement provides $500,000 as proposed by the Senate.

For research on the category of "Other Animal Disease and Production Research" the conference agreement provides $41,793,000 instead of $42,308,000 as proposed by the House and $41,278,000 as proposed by the Senate.

For staffing and equipment for the Appalachian Fruit Research Station at Kearneysville, West Virginia, the conference agreement provides $1,371,000 as proposed by the Senate instead of $521,000 as proposed by the House.

For research on rural housing the conference agreement includes $389,000 as proposed by the House.

For research on wool and mohair the conference agreement includes $1,748,000 as proposed by the House instead of $524,000 as proposed by the Senate.

For tanning research the conference agreement provides an additional $150,000 instead of an additional $300,000 as proposed by the Senate.

For additional funds for citrus production research the conference agreement provides $108,000 instead of an additional $215,000 as proposed by the Senate.

For small farms research the conferees agree to provide a total of $3,750,000 as proposed by the House instead of $3,000,000 as proposed by the Senate. The conferees are also in agreement that of the amount provided, $850,000 shall be available for establishment of a South Central small farms research center in Booneville, Arkansas, under a cooperative Federal-State relationship, utilizing facilities at Fayetteville and Booneville. A small number of Federal personnel will be located at the Center. The existing buildings and acreage at Booneville will be an integral part of a research program emphasizing through practical demonstration solutions to small farm problems. Additional State scientists are to be physically located at Booneville. The Senate receded from Senate report language which would have transferred $2,500,000 of small farms research funds to Booneville.

For research on plant stress and soil moisture conservation to be carried out at Texas Tech University the conference agreement provides $200,000 as proposed by the House.

For tropical and subtropical research the conference agreement provides $2,800,000 instead of $2,200,000 as proposed by the House and $3,200,000 as proposed by the Senate.

For construction of a greenhouse-headhouse at Stillwater, Oklahoma, the conference agreement includes $1,700,000 instead of $2,500,000 as proposed by the Senate.

For tick research the conference agreement provides $813,000 instead of $638,000 as proposed by the House and $986,000 as proposed by the Senate.

For mint research the conference agreement provides $280,000 instead of $230,000 as proposed by the House and $410,000 as proposed by the Senate.

The conferees have agreed not to delete $40,000 in connection with regional information centers as had been proposed by the Senate.

In connection with moving costs associated with the Soil and Water Conservation Laboratory at Beckley, West Virginia, the conference agreement includes $200,000 as proposed by the Senate.

The conference agreement deletes $2,000,000 for the laboratory at Purdue University which the Senate had proposed.

The conferees have agreed to provide $1,000,000 for the feedmill at El Reno, Oklahoma instead of $2,200,000 as had been proposed by the Senate.

The conferees have agreed to provide $1,000,000 for nutrition research at the Letterman Institute of Research instead of no funds as proposed by the House and $1,800,000 as proposed by the Senate.

The conferees will expect the Department of the Army to transfer to the USDA 19 positions at the Institute currently dedicated to nutrition research. USDA is to develop a program for a Western nutrition center, taking into account the nutritional expertise available in the San Francisco area, and including those parts of the University of California system that are located within reasonable distance of Letterman. The effort at the Western nutrition center will be oriented toward nutritional intervention as well as nutritional requirements, and will utilize portions of the Letterman research facility, including the metabolic unit designed for that specific purpose, associated analytical facilities, and necessary laboratory and office space for the 19 personnel being transferred to USDA. Appropriate reimbursement arrangements are to be negotiated with the Department of the Army. The conferees will expect the USDA to formulate an integrated plan for the development of the Western nutrition center, utilizing the resources outlined above.

The conferees concur in the Senate report language which earmarks $80,000 of base funds for conservation research at the Columbia Basin Research Center. The conferees do not concur in the Senate report language earmarking $55,000 of base funds for pear research at the Mid-Columbia Station at Hood River, Oregon. However, the conferees do wish to point out that $37,500 is included in the base project for extramural pear research at that location.

Amendment No. 12: Exempts from the limitation on cost of construction the greenhouse-headhouse complex to be constructed at Stillwater, Oklahoma, and a feedmill at El Reno, Oklahoma. The Senate amendment had proposed to exempt from the limitation on construction a greenhouse-headhouse at Stillwater, Oklahoma, a feedmill at El Reno, Oklahoma, and a laboratory at West Lafayette, Indiana.

Amendment No. 13: Provides that the Special Fund is to be used by the "director, Agricultural Research" as proposed by the House instead of the "Director, Science and Education Administration" as proposed by the Senate.

COOPERATIVE RESEARCH

Amendment No. 14: Earmarks $118,566,000 for payments to Agricultural Experiment Stations under the Hatch Act and for penalty mail instead of $115,066,000 as proposed by the House and $119,566,000 as proposed by the Senate.

Amendment No. 15: Earmarks $10,000,000 for grants for cooperative forestry research instead of $9,500,000 as proposed by the House and $10,165,000 as proposed by the Senate.

Amendment No. 16: Earmarks $17,785,000 for payments to the 1890 Land-Grant Colleges including Tuskegee Institute for research instead of $17,260,000 as proposed by the House and $17,934,000 as proposed by the Senate.

Amendment No. 17: Earmarks $1,500,000 for rural development research as proposed by the House.

Amendment No. 18: Earmarks $32,548,000 for contracts and grants for agricultural research instead of $32,420,000 as proposed by the House and $33,023,000 as proposed by the Senate.

The conference agreement includes an additional $500,000 for soybean research as proposed by the Senate. The conferees have agreed to delete the $500,000 for pest management and $300,000 for genetic vulnerability research as proposed by the Senate. The conferees have also agreed to $50,000 for bean and beet research as proposed by the House.

For special grants for animal health research the conferees have agreed to $7,000,000 instead of $10,000,000 as proposed by the House.

For energy research the conferees have agreed to $1,900,000 as proposed by the Senate instead of $2,400,000 as proposed by the House. The conferees have agreed to this action since the $500,000 has been included under Amendment No. 19 for alcohol fuels research as a line item.

The conferees have also agreed to $150,000 for aquaculture research and $35,000 for dairy photoperiod research as proposed by the House.

The conference agreement deletes $15,000,000 for special grants and contracts for plant sciences and human nutrition research, which had been proposed by the House, and includes $2,500,000 to be targeted to high priority agricultural research.

For mushroom by-product utilization research the conference agreement includes $38,000 as proposed by the Senate. Also included in the conference agreement is $100,000 for bean flour research.

For soil and water research to be carried on in Alaska, the conference agreement includes $290,000 instead of $1,600,000 as proposed by the Senate. The conferees recognize the special and unique circumstances surrounding research and agriculture in Alaska. The $290,000 is the amount of money needed to fund the first year of a five-year program.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment earmarking $16,548,000 for special research grants instead of $8,023,000 as proposed by the Senate. The House bill contained no earmarking for these funds. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 20: Earmarks $16,000,000 for competitive research grants instead of $25,000,000 as proposed by the Senate. None of the funds are to be used for social behavioral research projects, including research in human food preferences resulting from external stimuli.

These funds are to be used in the following research areas, in the approximate amounts shown:

Biological stress of plants	$3,500,000
Genetic mechanisms of plants	3,500,000
Plant photosynthesis	3,000,000
Plant nitrogen fixation	3,000,000
Human nutrient requirements	3,000,000

Amendment No. 21: Earmarks $500,000 for grants in accordance with section 1419 of Public Law 95-113 as propcsed by the Senate.

Amendment No. 22: Earmarks $650,000 for research authorized by the Native Latex Commercialization and Economic Development Act of 1978, instead of $800,000 as proposed by the Senate.

Amendment No. 23: Earmarks $6,000,000 for animal health and disease research authorized by section 1433 of Public Law 95-113 instead of $10,000,000 as proposed by the Senate.

Amendment No. 24: Deletes Senate language earmarking $5,000,000 for the support of animal health and disease programs authorized by section 1434 of Public Law 95-113.

Amendment No. 25: Earmarks $1,496,000 for administrative expenses of Cooperative Research as proposed by the Senate instead of $1,781,000 as proposed by the House.

Amendment No. 26: Appropriates a total of $189,045,000 for Cooperative Research instead of $177,527,000 as proposed by the House and $198,484,000 as proposed by the Senate.

It has come to the attention of the conferees that several States may plan to decrease their monetary commitment to Hatch Act and McIntyre-Stennis programs in an amount equal to any increased appropriations granted by Congress. This is clearly not the intent of Congress regarding the use of such funds. When additional funds are appropriated for a program, such increases are not meant to relieve the States of their responsibility. This is applicable whether the States' share of the program comes from in-State funds or from revenue sharing funds. The conferees hope this will suffice as an adequate expression of their feeling on this matter.

Amendment No. 27: Deletes House language earmarking $500,000 for the Native Latex Commercialization and Economic Development Act of 1978, since funds for this program are provided in Amendment No. 22.

EXTENSION ACTIVITIES

Amendment No. 28: Earmarks $189,331,000 for cooperative Extension work under the Smith-Lever Act instead of $185,831,000 as proposed by the House and $195,331,000 as proposed by the Senate.

Amendment No. 29: The conference agreement restores House language which earmarks $51,810,000 for payments for the nutrition and family education program for low-income areas under section 3(d) of the Smith-Lever Act.

Amendment No. 30: Restores House language which earmarks $3,000,000 for the urban gardening program.

Amendment No. 31: Deletes House language which earmarks $1,000,000 for rural development work. The conferees will expect the same level of support for rural development to be maintained with available funds.

Amendment No. 32: Earmarks $6,435,000 for payments for the pest management program as proposed by the House instead of $5,935,000 as proposed by the Senate.

Amendment No. 33: Restores House language earmarking $1,020,000 for the farm safety program.

Amendment No. 34: Deletes House language earmarking $1,300,000 for the nonpoint source pollution program. The conferees have taken this action since Smith-Lever funds are available for this purpose.

Amendment No. 35: The conference agreement deletes Senate language which would have earmarked $50,560,000 for food and human nutrition education under section 1425 of Public Law 95-113. The conferees have taken this action since work of this type is provided for under Amendment No. 29.

Amendment No. 36: Restores House language earmarking $2,500,000 for Rural Development Education.

Amendment No. 37: Earmarks $11,500,000 for grants under the Bankhead-Jones program as proposed by the House instead of $3,000,000 as proposed by the Senate in Amendment No. 39. The conferees will expect that, to the maximum extent possible, these grants will be used only in support of agricultural education as discussed in the Senate report.

The conferees will also expect the Department, along with appropriate nongovernmental representatives, to conduct a detailed review of the Bankhead-Jones program, including the original intent of the legislation, and report their findings to the appropriate committees of Congress by March 1, 1980.

Amendment No. 38: Deletes House language providing for competitive education grants as proposed by the Senate.

Amendment No. 39: Deletes Senate language providing $3,000,000 for Bankhead-Jones education grants since these grants have been provided for in Amendment No. 37.

Amendment No. 40: Appropriates $278,994,000 for Extension activities (excluding Federal administration and coordination) instead of $279,044,000 as proposed by the House and $268,224,000 as proposed by the Senate.

It has come to the attention of the conferees that several States may plan to decrease their monetary commitment to Smith-Lever programs in an amount equal to any increased appropriations granted by Congress. This is clearly not the intent of Congress regarding the use of such funds. When additional funds are appropriated for a program, such increases are not meant to relieve the States of their responsibility. This is applicable whether the States' share of the program comes from in-State funds or from revenue sharing funds. The conferees hope this will suffice as an adequate expression of their feeling on this matter.

The conferees do not concur with the Senate report language specifying that $1,000,000 of Smith-Lever funds be used for development and testing of the "Green Thumb" project. However, the conferees feel that this program does hold a great deal of promise for the future and therefore, the conferees will expect the Department to continue to support developmental work on the "Green Thumb" project.

The conferees do not concur in the Senate report language which specified that Smith-Lever funds be used for rural health education in each State. The conferees will expect the Department to review the need for this type of program, taking into account the programs of the Public Health Service and others, and report their findings to the Appropriations Committees of the House and Senate.

Amendment No. 41: Appropriates $6,543,000 as proposed by the Senate for Federal administration and coordination of Extension activities instead of $6,791,000 as proposed by the House.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Amendment No. 42: Appropriates $245,631,000 for the Animal and Plant Health Inspection Service instead of $237,583,000 as proposed by the House and $248,241,000 as proposed by the Senate.

The conference agreement includes the following program amounts:

	House	Senate	Conference
Imported fire ant	$2,000,000	$1,000,000	$2,000,000
Japanese beetle	412,000	112,000	212,000
Noxious weeds	500,000	1,700,000	1,700,000
Range caterpillar	0	2,006,000	1,006,000
Tri-fly in Hawaii	824,000	0	424,000
West Indian sugarcane root borer	500,000	0	200,000
Cattle ticks	4,730,000	3,705,000	4,730,000
Diagnostic assistance	500,000	1,000,000	0
Poultry diseases	1,325,000	0	1,325,000
Scabies eradication	5,290,000	4,290,000	4,290,000
Swine disease surveillance	2,264,000	2,264,000	3,264,000
Screwworm	35,653,000	35,395,000	35,395,000
Tuberculosis eradication	6,848,000	5,032,000	6,848,000
Brucellosis eradication	70,195,000	85,195,000	77,695,000
Mediterranean fruit fly	6,512,000	7,312,000	7,312,000
Citrus blackfly	4,041,000	3,041,000	3,041,000
Multiflora Rose	0	200,000	200,000

Included in the $1,700,000 for noxious weeds is $200,000 for the Florida hydrilla program, up to $500,000 for a California hydrilla program, and not less than $1,000,000 for a nationwide regulatory program.

In agreeing not to earmark any funds for diagnostic assistance, the conferees do not foreclose future consideration of a more comprehensive proposal on multi-project, overhead-type costs.

The conferees have agreed to decrease scabies eradication by $1,000,000 as proposed by the Senate, and to increase swine disease surveillance by the same amount in response to Departmental reestimates of program requirements which arose subsequent to submittal of the President's budget.

The conferees have provided funding for

the tri-fly eradication program in the expectation that negotiations for a cooperative Federal-State program will soon be completed. No funds shall be expended for this activity until the affected States and USDA have reached agreement on the details.

Amendment No. 43: Earmarks $1,000,000 of fire ant program funds to be reserved for State matching as proposed by the House.

ECONOMICS, STATISTICS AND COOPERATIVES SERVICE

Amendment No. 44: Appropriates $86,070,000 for Economics, Statistics and Cooperatives Service instead of $86,050,000 as proposed by the House and $86,090,000 as proposed by the Senate. Included in the conference agreement is $420,000 for work in connection with food safety, quality and nutrition as proposed by the Senate instead of $670,000 as proposed by the House. Also included in the conference agreement is $4,135,000 for funds for cooperatives as proposed by the House. The conference agreement includes $3,733,000 for work in connection with remote sensing instead of $2,963,000 as proposed by the House and $3,842,000 as proposed by the Senate. The conference agreement also provides $2,063,000 for arts and graphics as proposed by the Senate instead of $2,563,000 as proposed by the House, and also provides that this decrease shall be allocated as a general reduction. The conference agreement also restores the $40,000 reduction proposed by the Senate in connection with regional information offices.

The conferees will also expect the Department to retain the mink estimates program.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

Amendment No. 45: Restores language deleted by the Senate which provides for the administration and coordination of payments to States.

Amendment No. 46: Appropriates $47,643,000 for marketing services instead of $48,302,000 as proposed by the House and $45,586,000 as proposed by the Senate. The conference agreement includes $2,057,000 for wholesale market development work as proposed by the House, and $12,712,000 for market news reporting as proposed by the Senate instead of $13,371,000 as proposed by the House.

Within the funding provided for market news services, the conferees will expect the Agricultural Marketing Service to continue to operate the eight offices proposed for closure at the same level at which they were operated in fiscal 1979.

Amendment No. 47: Restores House language earmarking $2,057,000 for the wholesale market development program.

PAYMENTS TO STATES AND POSSESSIONS

Amendment No. 48: Restores language deleted by the Senate which provides for the payments to States and Possessions under the Agricultural Marketing Act of 1946. The conference agreement provides $1,600,000 for these payments instead of the $2,000,000 proposed by the House.

FARM INCOME STABILIZATION

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Salaries and expenses

Amendment No. 49: Appropriates $186,586,000 for salaries and expenses for the Agricultural Stabilization and Conservation Service instead of $190,586,000 as proposed by the House and $182,546,000 as proposed by the Senate. The conference agreement reduces funds for commodity programs carried out by the county offices because of the higher commodity prices which will thereby result in a reduced workload. In addition, the conference agreement restores the Senate reduction of $40,000 related to the regional information offices.

The bill, as recommended by the conferees, continues section 610 which was contained in previous appropriations acts to allow the Secretary of Agriculture to utilize county office employees to the fullest extent possible. Recent commodity price improvements indicate a decreasing workload level in Agricultural Stabilization and Conservation Service county offices and while such reductions are reflected in the budget, it is anticipated that seasonal and regional workload fluctuations will enable utilization of part-time and intermittent assistance by other agencies within the Department of Agriculture.

The Secretary is directed to implement a concerted policy of interagency county personnel utilization and to report to the Appropriations Committees of the House and Senate, on a quarterly basis, the extent to which this authority has been exercised. The conferees note that this authority has been available to the Secretary for the past two fiscal years. There is little evidence that it has been used. The conferees will expect full implementation of this provision.

Amendment No. 50: Provides a total $338,975,000 for the Agricultural Stabilization and Conservation Service instead of $342,975,000 as proposed by the House and $334,935,000 as proposed by the Senate.

DAIRY AND BEEKEEPER INDEMNITY PROGRAMS

Amendment Nos. 51, 52 and 53: Restores House language appropriating $3,290,000 for Dairy and Beekeeper Indemnity Programs instead of $400,000 for a Dairy Indemnity Program as proposed by the Senate.

The conferees have agreed to restore these funds pending completion of the detailed review of the beekeeper indemnity program now underway, which is due to be completed in January 1980.

CORPORATIONS

FEDERAL CROP INSURANCE CORPORATION

Federal Crop Insurance Corporation Fund

Amendment No. 54: Limits the administrative and operating expenses which may be paid from premium income to $16,500,000 as proposed by the House instead of $16,480,000 as proposed by the Senate.

COMMODITY CREDIT CORPORATION

Limitation on administrative expenses

Amendment No. 55: Provides a limitation of $50,700,000 on administrative expenses of the Commodity Credit Corporation as proposed by the House instead of $50,690,000 as proposed by the Senate.

Amendment No. 56: Provides a limitation of $500,000,000 on the amount of loans that can be guaranteed by the Commodity Credit Corporation for the production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products as proposed by the Senate.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

FARMERS HOME ADMINISTRATION

Rural Housing Insurance Fund

Amendment No. 57: Provides $3,979,000,000 for insured loans as authorized by title V of the Housing Act of 1949, as amended, instead of $4,059,000,000 as proposed by the House and $3,766,000,000 as proposed by the Senate. The conference agreement includes $2,280,000,000 for section 502 low-income housing loans as proposed by the House instead of $2,067,000,000 as proposed by the Senate. Also included in the agreement is $868,000,000 for section 515 rural rental housing loans as proposed by the Senate instead of $948,000,000 as proposed by the House.

Amendment No. 58: Earmarks $3,070,000,000 for subsidized interest loans to low-income borrowers instead of $3,150,000,000 as proposed by the House and $2,857,000,000 as proposed by the Senate.

RURAL DEVELOPMENT INSURANCE FUND

Industrial development loans

Amendment No. 59: Deletes Senate language which would provide that industrial development loans be guaranteed loans.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: "of which $10,000,000 shall be for insured loans and $1,090,000,000 shall be for guaranteed loans".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The agreement provides that of the funds available for industrial development loans $10,000,000 shall be for insured loans and $1,090,000,000 shall be for guaranteed loans. The House version of the bill had provided $50,000,000 for insured loans and $1,050,000,000 for guaranteed loans. The Senate version of the bill struck the House language.

The conferees will expect that up to $2,000,000 of the insured loan authority will be made available to assist small businesses in the area around the Boundary Water Canoe Area in accordance with section 19(a) of P.L. 95-495.

The conferees are concerned with recent reports that applications for industrial development loan guarantees are becoming larger, several of which could deplete a significant portion of the authorization for this program.

While not foreclosing large loans, the conferees feel that the agency should exercise caution and restraint in approving large applications which significantly impair its ability to serve a broad range of smaller qualified borrowers. In addition, very large loans of questionable value to true rural development efforts could well jeopardize the future of the program.

Furthermore, some of the large loans made so far have appeared to be more appropriate as a Small Business Administration loan or an Economic Development Administration loan. Because of this, the conferees considered placing a limit on the size of loans allowed under the program but agreed to take no action at this time.

The conferees direct the Department to conduct a full review of the scope, intent, and administration of this program and to report its findings, along with recommended administrative or legislative changes, to the appropriate committees of Congress not later than February 1, 1980.

RURAL DEVELOPMENT PLANNING GRANTS

Amendment No. 61: Appropriates $7,000,000 for rural development planning grants instead of $5,000,000 as proposed by the House and $9,000,000 as proposed by the Senate. The conferees will expect that not to exceed $1,000,000 out of this total will be for rural information and assistance centers.

RURAL HOUSING SUPERVISORY ASSISTANCE GRANTS

Amendment No. 62: Appropriates $1,500,000 for rural housing supervisory assistance grants instead of $2,500,000 as proposed by the House and $1,200,000 as proposed by the Senate. The conferees will expect that these grants will be used primarily for counseling low-income borrowers.

RURAL DEVELOPMENT GRANTS

Amendment No. 63: Corrects a typographical error as proposed by the Senate.

Salaries and expenses

Amendment No. 64: Appropriates $230,518,000 for salaries and expenses of the Farmers Home Administration instead of

$232,318,000 as proposed by the House and $228,278,000 as proposed by the Senate.

The conferees will also expect that a significant portion of the loan and grant funds for rural water and waste disposal programs will be used for the expansion of existing systems and will also expect the Department to carry out a program that provides for maximum area coverage, including consolidation of existing systems and grants to financially sound existing systems where necessary in order to serve uneconomic areas.

In connection with making loans and grants for water systems, the conferees will expect the Department to give high priority to those communities that are in jeopardy of losing their water supply system because of the requirements of the Safe Drinking Water Act.

The conferees are concerned over reports that the new District offices of the Farmers Home Administration may be slowing down the processing of loan applications rather than serving as a means of expediting the approval of loans. District offices have historically broken the contact between the applicant and the Department. The conferees expect an early report from the Department on delays in processing requests and applications, time of waiting for attention, and what action is taken to correct this problem.

The conferees are concerned over very serious abuses in the emergency loan program of the Farmers Home Administration. Some of these were aired by the news media recently, and involved the making of multimillion dollar loans to individuals at interest rates significantly below commercially available loan rates. Little attention was paid to the "credit elsewhere" requirement in the law.

Reports and statements by farm credit agencies, banks and others indicate that abuses in the three percent, now 5 percent, loans jeopardize other sources of regular loans. From reports to date, it appears that the Department has been negligent in administering this program both in requiring submission of budget proposals for farming operations and in graduating loans to commercial credit sources, when appropriate. Inappropriate attention appears to have been paid to rentals paid, equipment purchased, and the soundness of any claims of disaster which would require a matching of the loss against the size of the operation.

While the basic authorizing legislation does not place limits on the size of these loans, the conferees feel that with or without a limitation in the law the Department should have imposed reasonable limitations as an essential business practice.

The conferees take note of the recent proposal by the Department to establish, by regulation, limits on the size of individual emergency loans, strengthening the test on whether the applicant can secure adequate credit elsewhere, and better administration of the graduation review requirement. Also, the Administration has proposed limiting to two years the availability of "follow on" loans after a disaster.

The conferees commend the Department for proposing these steps and expect their immediate implementation since controls clearly are needed to save the program. The conferees would also point out that the Rural Electrification Administration in prior years took similar actions to bring programs under control and in line with established business principles.

The Committee does realize that some of this problem may have arisen because year after year the Office of Management and Budget has imposed personnel ceilings considerably below the number of persons for which funds were provided by Congress and badly needed.

The conferees have, therefore, provided for 469 additional personnel and direct that they be added to enable the Farmers Home Administration to review existing loans and to strengthen FmHA practices and procedures.

The conferees will also expect the Department to review all outstanding loans in excess of $750,000 for the possibility of graduating some of the loans as provided by Sec. 1983 of Title 7 of the U.S. Code. In addition, the conferees will also expect that the loans be reviewed to assure that the loan proceeds have been used in the farming operation and not for some non-farm purpose, for if so used, such an action would be substantial evidence that the borrower should be able to obtain credit elsewhere.

The additional staff recommended by the conferees should be more than adequate to carry out the above review.

The conferees further call attention to the language of the Statement of the Managers on the Continuing Resolution (Public Law 96-86) regarding funds for official travel. In line with that language, the conferees will expect the Department to provide adequate travel funds for the supervision and servicing of the loan portfolio.

The conferees note that legislation is in conference amending the Consolidated Farm and Rural Development Act. The House version includes a tightening of the law with respect to this program. The conferees commend this action, and are hopeful that effective and appropriate controls can be implemented legislatively.

Accordingly, the conferees will expect the Department to hold in abeyance the approval of all large loans relating to the Emergency Disaster program pending clarification of Congressional intent.

CONSERVATION

SOIL CONSERVATION SERVICE

Conservation operations

Amendment No. 65: Appropriates $264,747,000 for conservation operations instead of $259,747,000 as proposed by the House and $272,043,000 as proposed by the Senate. The conferees have recommended a $5,000,000 increase over the House bill in order to support the current level of permanent staff. The conferees have been advised of the Department's pending proposal to turn the plant material centers over to non-Federal entities. The conferees are extremely concerned that a reduced Federal involvement in the plant material centers may significantly narrow the national perspective from which the centers operate. Therefore, prior to taking any action with respect to the centers, the conferees will expect the Department to first notify the Congress of alternative support mechanisms it is considering for the centers and how they will insure the continuation of a national plant materials program.

The conference agreement includes an increase of $250,000 to expedite work on the bank caving/foothill erosion research project now underway. These additional funds were in both the House and Senate bills.

River basin surveys and investigations

Amendment No. 66: Appropriates $16,487,000 for river basin surveys and investigations instead of $17,061,000 as proposed by the House and $15,801,000 as proposed by the Senate.

Watershed planning

Amendment No. 67: Appropriates $10,500,000 for watershed planning instead of $12,293,000 as proposed by the House and $6,023,000 as proposed by the Senate. The funds provided by the conference agreement will continue the program at last year's rate of completion. The Soil Conservation Service is to continue revising State watershed planning workloads.

Watershed and flood prevention operations

Amendment No. 68: Appropriates $167,524,000 for watershed and flood prevention operations instead of $172,524,000 as proposed by the House and $162,524,000 as proposed by the Senate.

Amendment No. 69: Earmarks $18,500,000 for Public Law 534 projects instead of $23,500,000 as proposed by the House and $13,500,000 as proposed by the Senate. The conferees will expect the Department to provide the appropriate committees of Congress with a budget plan for completing the remaining Public Law 534 projects.

Resource conservation and development

Amendment No. 70: Provides for the authorization of 6 new resource conservation and development areas instead of 10 as proposed by the House. The Senate bill proposed no new area authorizations. The conferees are extremely concerned over the lack of cooperation shown by the Department on this program, as evidenced by their delaying for 11½ months the authorization of the 6 new areas mandated in the fiscal 1979 bill.

The conferees will expect the General Accounting Office to conduct a full and complete review of the resource conservation and development program, taking into account both the costs and the benefits of the program.

Amendment No. 71: Deletes Senate language that funds be used to meet current project commitments.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rural clean water program

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

RURAL CLEAN WATER PROGRAM

For necessary expenses for carrying out an experimental Rural Clean Water Program, $50,000,000, to remain available until expended and to be targeted at areas with identified and significant agricultural nonpoint source water pollution problems to be selected by the Secretary: *Provided*, That practices under the above program shall be recommended by the County Committees, approved by the State Committees and the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, or recommended by the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, and approved by the State Committees and the County Committees: *Provided further*, That such program shall be in addition to the regular Agricultural Conservation Program, and coordinated therewith, with the Soil Conservation Service and others providing technical assistance and the Agricultural Stabilization and Conservation Service providing administrative services for the program, including, but not limited to, the negotiation and administration of contracts and the disbursement of payments: *Provided further*, That such funds as may be required shall be transferred to the Soil Conservation Service, or others, for necessary technical assistance.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $50,000,000 for an experimental rural clean water program instead of $75,000,000 as proposed by the Senate.

Agriculture has a great responsibility in

the use of water, for land is the great gathering place and reservoir for storage of water. Just a few years from now, we will need significantly more water than we use today, all of which points up the need to protect and manage the quality and quantity of our water supply.

The conferees have agreed to provide funds in an effort to intensify participation in soil and water conservation programs in areas of urgent need by building on existing programs and organizations. Federal cost sharing has been available for many years under the Agricultural Conservation Program to meet the problems the rural clean water program also seeks to correct. Therefore, in order to promote maximum conservation efforts, the conferees have agreed to an experimental rural clean water program to provide conservation programs in those areas that have not made full use of the Agricultural Conservation Program, or where the need for conservation to improve water quality is acute. The conferees will also expect that the approved funds will be used only for highest priority projects in geographical areas to be selected primarily from applications previously submitted to the Secretary and approved by him in consultation with the Administrator of the Environmental Protection Agency. In addition, where practical, the Agricultural Stabilization and Conservation Service and its State and local committees shall seek the advice and assistance of conservation districts, State soil and water conservation agencies or State water quality agencies.

Included within the total are funds for additional permanent employees of the Soil Conservation Service to carry out technical assistance under the program.

AGRICULTURAL CONSERVATION PROGRAM

Amendment No. 73: Deletes Senate language which would have provided that participants in long-term agreements were exempt from the $3,500 payment limitation. In addition, the conferees have agreed that funds for the salinity control projects in Colorado and the Uintah Basin should not be taken out of the State allocation.

The conferees will expect the Secretary of Agriculture to give consideration to allowing, as an approved practice of the Agricultural Conservation Program, a nonstructural flood prevention program, including ring dikes, in the Red River Basin of North Dakota and Minnesota.

EMERGENCY CONSERVATION PROGRAM

Amendment No. 74: Appropriates $15,000,000 for the emergency conservation program instead of $20,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

Amendment No. 75: Deletes Senate language which would have made funds for the emergency conservation program available upon enactment of the bill.

TITLE III—DOMESTIC FOOD PROGRAMS

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

Amendment No. 76: Provides $3,114,301,000 for child nutrition programs instead of $3,165,301,000 as proposed by the House and $3,110,301,000 as proposed by the Senate. This derives from the agreement reached by the conferees on Amendment Nos. 78 and 83.

The conferees will expect USDA to analyze reports of fraud and abuse in the child nutrition programs and provide a complete report on the problem to both the House and Senate Appropriations Committees no later than November 1980.

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment specifying that "$1,279,215,000 is hereby appropriated," instead of $1,275,215,000 as proposed by the Senate.

The House bill specified a combined figure for a program level, which included transfers, use of prior balances and an appropriation, but did not separately identify the amount appropriated.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 78: Earmarks $20,000,000 for the food service equipment assistance program instead of $24,000,000 as proposed by the House and $16,000,000 as proposed by the Senate.

The 1979 conference report directed that a detailed survey be performed of requirements and inventory of school food service equipment. This information necessary for program evaluation has not yet been developed and the conferees have deferred agreeing to major changes in this program pending receipt of the necessary information.

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to require that claims for meals served in fiscal 1980 must be made within three months of September 1980.

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to make the availability of State administrative expenses contingent upon State cooperation in studies directed by Congress and requested by the Secretary.

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to provide for a sanctioning and administrative review system for the child nutrition programs.

The conferees expect that this provision will significantly aid the Department in encouraging administrative improvements and curtailing deficiencies in the programs.

Amendment No. 82: Deletes the Senate provision that no funds shall be available to provide direct Federal administration of summer food service operations in States. The conferees agree to give this matter future consideration.

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to limit eligibility for the summer food service program to six specific categories of organizations.

The conferees are extremely concerned over fraud, abuse and waste which are reported to be rampant in the summer feeding program. While it would be most proper for the authorizing committee to aggressively and promptly address these matters, the conferees do not rule out special hearings on the conduct of this program and the possibility of including in the fiscal 1981 Appropriations Bill such additional provisions as may then be necessary to responsibly correct fraud, abuse and waste.

The conferees take note of the expressed concern of the Department over the reported abuses in this program, and observe that existing law and regulation provide a wide array of tools with which to curtail such abuses. Rather than beseech the Congress to so restrict sponsor eligibility as to foreclose program benefits to a large number of worthy recipients, the Executive Branch might do well to look to its own existing authority and responsibility, as reinforced by the language in the bill.

The conferees will expect that, in accordance with the guidelines prescribed in the conference agreement, the Department will expedite its efforts toward the aggressive pursuit of eliminating fraud, abuse and waste from this program. Accordingly, the conferees agreed to a Senate proposed reduction of $47,000,000 in the summer food service program.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: "of which $757,700,000 is hereby appropriated and $13,800,000 is to be derived from prior-year balances,".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The agreement provides for funding $13,800,000 of program costs from prior-year balances instead of $22,000,000 as proposed by the Senate. The amount agreed upon includes $21,500,000 for the commodity supplemental food program, a WIC appropriation of $736,200,000, and the availability of at least $13,800,000 in prior-year balances for the WIC program.

Amendment No. 85: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which amends the Child Nutrition Act to reduce the WIC program entitlement to $750,000,000.

The conferees direct that WIC funds be used only for food costs, evaluations, appropriate administrative costs, and appropriate nutrition education costs.

FOOD STAMP PROGRAM

Amendment No. 86: Appropriates $6,188,600,000 for the food stamp program as proposed by the House instead of $6,187,600,000 as proposed by the Senate.

Prior to the conference, the President transmitted an amendment to his budget request for food stamps. The additional $1,411,454,000 requested brings the total request for fiscal 1980 to $8,337,974,000. Since the authorization "cap" will remain at $6,188,600,000 until the completion of legislation that has been passed by the Senate and is now pending in the House, the conferees were constrained not to appropriate in excess of that amount. Further authorizing legislation will presumably require program management improvements. These savings will partially offset whatever additional amounts may be needed to finance the added cost of higher food stamp allotments and increased participation. Current estimates clearly indicate that program requirements will far exceed what the conferees have been able to include in this bill. Timely review and disposition of program funding requirements is anticipated upon the enactment of new legislative authorization. In the interim, the Department will be expected to continue program operations at the current level of benefits.

The conferees take note of the historic inability of the Department to estimate food stamp program requirements accurately and will expect improvements to be forthcoming. The Department will also be expected to take every reasonable action to eliminate the fraud and abuse for which this program has become notorious, before going out to search actively for new participants.

The bill includes language so that up to 5 percent of the amount provided may be placed in reserve pursuant to the Anti-Deficiency Act, for use in such amounts and at such times as may become necessary to carry out program operations. This will provide the Department and the Office of Management and Budget with an additional tool with which to achieve program savings.

Amendment No. 87: Provides for one-year availability of funds as proposed by the Sen-

ate instead of two years as proposed by the House.

Amendment No. 88: Strikes the reference to "entitlement" and substitutes the word "amount" as proposed by the Senate to maintain consistency with current law.

FOOD DONATIONS PROGRAMS

Amendment No. 89: Provides for one-year availability of funds as proposed by the House instead of two years as proposed by the Senate.

In addition to the nutrition for the elderly program funded in this bill, the Older Americans Act contains authorization for an elderly feeding program of cash grants operated by HEW's Administration on Aging. Since approximately 70 percent of the USDA program is now cash payments rather than distribution of commodities, the conferees direct the Department of Agriculture, in conjunction with the HEW-Administration on Aging, to analyze and report to the House and Senate Appropriations Committees by January 1, 1980, on the advisability and feasibility of continuing to operate these as separate programs, or combining the cash payment portion of the USDA commodity program into the title III-part C nutrition authorization, Administration on Aging.

FOOD PROGRAM ADMINISTRATION

Amendment No. 90: Appropriates $62,000,000 for food program administration instead of $80,000,000 as proposed by the House and $84,362,000 as proposed by the Senate.

Amendment No. 91: Earmarks $5,000,000 for savings-related activities as proposed by the House instead of no earmarking as proposed by the Senate.

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

Amendment No. 92: Appropriates $56,427,000 for the Foreign Agricultural Service instead of $56,129,000 as proposed by the House and $56,807,000 as proposed by the Senate. The conference agreement provides $400,000 to offset increased costs resulting from the devaluation of the dollar overseas instead of $800,000 as proposed by the Senate. The conference agreement restores $20,000 for regional information offices which the Senate had proposed to delete. In addition, the conference agreement deletes $102,000 associated with the cost of the agricultural attaché stationed in Taiwan as proposed by the Senate since funds for this item are now included in appropriations for the State Department.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

Amendment No. 93: Appropriates $1,864,000 for the Office of International Cooperation and Development as proposed by the Senate instead of $2,964,000 as proposed by the House.

Amendment No. 94: Deletes Senate language which would specify that $150,000 be used for expenses of the International Science and Education Council in coordinating exchanges. The conferees will expect the Department to use not to exceed $150,000 of available funds for this purpose.

PUBLIC LAW 480

Amendment No. 95: Provides $901,730,000 for titles I and III of the Public Law 480 program as proposed by the House instead of $843,004,000 as proposed by the Senate.

Amendment No. 96: Appropriates $280,776,000 for titles I and III of the Public Law 480 program as proposed by the House instead of $222,050,000 as proposed by the Senate.

A budget amendment of $205,800,000 for the P.L. 480 program was received after the bill had passed both the House and the Senate and has, therefore, been deferred for later consideration.

Within the $556,000,000 provided in the bill for title II, sufficient funds are available to carry out humanitarian aid to Cambodia. The conferees have agreed to act expeditiously on the pending request for additional funds.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

Salaries and expenses

Amendment No. 97: Appropriates $312,796,000 for FDA salaries and expenses instead of $316,296,000 as proposed by the House and $307,796,000 as proposed by the Senate. This is a general reduction of $3,500,000 below the budget request.

The bill includes, and the agency shall earmark, at least $1,500,000 for research generating new epidemiological information by comparing the health of humans with extensive exposure to animals, and/or their products, receiving antibiotics at the subtherapeutic level with the health of comparable individuals not so exposed. This provision was included in both the House and Senate reports.

Buildings and facilities

Amendment No. 98: Appropriates $4,372,000 for FDA buildings and facilities as proposed by the House instead of $29,372,000 as proposed by the Senate.

The conferees considered and passed over without prejudice the proposed FDA headquarters facility included in the Senate bill. It is noted that serious health and safety problems are reported to exist in current facilities, that FDA's capacity to support regulatory policies with sound scientific analysis may be decreasing, and that recruiting problems are said to have developed due to inadequate facilities. The conferees call these matters to the attention of the Office of Management and Budget in recognition that OMB had given assurances of future funding requests prior to Congressional funding of an architectural and engineering study last year. Any future budget requests to fund new construction shall be accompanied by an analysis of alternative geographic locations.

The agency will be expected to consider the contracting for laboratory services with other governmental or non-governmental entities. Provision for such contracting is made by the Economy Act of 1932 (31 U.S.C. 686). The conferees note that such contracting might assist in relieving the burden of personnel ceilings, permit more flexible responses to emerging new problems, and provide a further source of expertise and advice.

General provisions

Amendment No. 99: Restores House language which makes funds available to ASCS county committees "available until expended." The conferees have agreed that the Department should estimate bank account balances not needed for fiscal year programs annually, and apply such balances to offset any additional statutory requirements.

Amendment No. 100: Deletes Senate language which would prohibit GSA from locating county offices in inner-city locations unless adequate parking facilities were available for farm vehicles.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for 1980 follow:

New budget (obligational) authority, fiscal year 1979	$19,413,136,000
Budget estimates of new (obligational) authority, fiscal year 1980	16,323,534,000
House bill, fiscal year 1980	16,700,815,000
Senate bill, fiscal year 1980	16,658,651,000
Conference agreement	16,697,854,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979	−$2,715,282,000
Budget estimates of new (obligational) authority, fiscal year 1980	−1,625,680,000
House bill, fiscal year 1980	−2,961,000
Senate bill, fiscal year 1980	+39,203,000

JAMIE L. WHITTEN,
BILL D. BURLISON,
BOB TRAXLER,
BILL ALEXANDER,
MATTHEW F. MCHUGH,
WILLIAM H. NATCHER,
JACK HIGHTOWER,
JOHN W. JENRETTE, Jr.,
MARK ANDREWS,
J. KENNETH ROBINSON,
JOHN T. MYERS,
SILVIO O. CONTE,
Managers on the Part of the House.
THOMAS F. EAGLETON,
JOHN C. STENNIS,
WILLIAM PROXMIRE,
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
JIM SASSER,
WARREN G. MAGNUSON,
HENRY BELLMON,
MILTON R. YOUNG,
JAMES A. MCCLURE,
JAKE GARN,
HARRISON H. SCHMITT,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MINISH (at the request of Mr. WRIGHT), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROTH) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS of Texas, for 30 minutes, today.

Mr. SHUSTER, for 20 minutes, today.

(The following Members (at the request of Mr. BEILENSON) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. JOHNSON of California, for 5 minutes, today.

Mr. DINGELL, for 60 minutes, on October 30, 1979.

Mr. PEASE, for 60 minutes, on October 30, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HARRIS, to extend his remarks prior to the vote on the Peyser amendment.

Mr. EVANS of Delaware, to revise and

extend his remarks after Mr. FORSYTHE in the committee today on the bill, H.R. 2218.

(The following Members (at the request of Mr. ROTH) and to include extraneous matter:)

Mr. WHITEHURST.
Mr. WILLIAMS of Ohio.
Mr. FINDLEY.
Mr. PAUL.
Mr. HORTON.
Mr. GILMAN.
Mr. DANIEL B. CRANE in two instances.
Mr. LAGOMARSINO.
Mr. COLLINS of Texas in two instances.
Mr. DORNAN.
Mr. MARKS.
Mr. DOUGHERTY.
Mr. GOODLING.
Mr. GRASSLEY.
Mr. EVANS of Delaware.

(The following Members (at the request of Mr. BEILENSON) and to include extraneous matter:)

Mr. NOLAN.
Mr. ROE in two instances.
Mr. GUDGER.
Mr. HAMILTON.
Mr. CARR.
Mr. WIRTH.
Mr. EDGAR.
Mr. SOLARZ.
Mr. FORD of Michigan in three instances.
Mr. HALL of Ohio.
Mr. ZEFERETTI.
Mr. MAZZOLI in two instances.
Mr. WON PAT.
Mr. DRINAN.
Mr. DIXON.
Mr. APPLEGATE.
Mr. DINGELL.
Mrs. CHISHOLM in two instances.
Mr. ATKINSON.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 975. An act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 23, 1979, present to the President, for his approval, bills of the House of the following titles:

H.R. 3923. An Act to amend chapter 25 of title 44, United States Code, to extend for 1 year the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes;

H.R. 4580. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes; and

H.R. 5386. An act to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States.

ADJOURNMENT

Mr. BEILENSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 38 minutes p.m.) the House adjourned until tomorrow, Thursday, October 25, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2692. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment and services to the Republic of Korea (Transmittal No. 80-10), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2693. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Israel (Transmittal No. 80-11), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2694. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Forces proposed sale of certain defense equipment to the Republic of Korea (Transmittal No. 80-16), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2695. A letter from the Secretary of Labor, transmitting the annual report on the administration of the Black Lung Benefits Act, pursuant to section 426(b) of the Federal Coal Mine Safety and Health Act of 1977; to the Committee on Education and Labor.

2696. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Barbara W. Newell, U.S. Permanent Representative-Delegate to the United Nations Educational, Scientific and Cultural Organization, with rank of Ambassador, and by members of her family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

2697. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by William J. vanden Heuvel, Deputy Representative-designate to the United Nations, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

2698. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting project performance audit reports prepared by the International Bank for Reconstruction and Development, and two reports prepared by the former Group of Controllers and a "special study" prepared by the External Review and Evaluation Office of the Inter-American Development Bank, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2699. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the estimated number of officers and employees of the United States Government and U.S. civilian contract personnel in foreign countries for assignment in implementation of sales and commercial exports under the Arms Export Control Act, pursuant to section 36(a)(7) of the act; to the Committee on Foreign Affairs.

2700. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and service to the Republic of Korea (Transmittal No. 80-10), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2701. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (Transmittal No. 80-11), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2702. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to Saudi Arabia (Transmittal No. 80-13), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2703. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to the Republic of Korea (Transmittal No. 80-16), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2704. A letter from the Secretary of Agriculture, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2705. A letter from the Under Secretary of the Interior, transmitting notice of the bidding systems to be used and the tracts to be offered in OCS Lease Sale No. 58A, pursuant to section 8(a)(8) of the Outer Continental Shelf Lands Act, as amended (92 Stat. 640); to the Committee on Interior and Insular Affairs.

2706. A letter from the Clerk, U.S. Court of Claims, transmitting a copy of the Court's judgment order in Docket No. 283-B, *Colorado River Indian Tribes, et al.* v. *The United States;* to the Committee on Interior and Insular Affairs.

2707. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of July 1979, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2708. A letter from the Secretary of Transportation, transmitting the annual report on highway safety improvement programs, covering fiscal year 1978, pursuant to section 203(e) of the Highway Safety Act of 1973 and sections 151(g) and 152(g) of title 23, United States Code (Rept. No. 96-210); to the Committee on Public Works and Transportation and ordered to be printed.

2709. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on negotiated contracts for experimental, developmental, test or research work, or for industrial mobilization in the interest of the national defense, covering the period January 1 through June 30, 1979, pursuant to 10 U.S.C. 2304(e); to the Committee on Science and Technology.

2710. A letter from the Comptroller General of the United States, transmitting a report on the Department of the Interior's implementation of the Inspector General Act of 1978 (CED-80-4, October 24, 1979); jointly, to the Committees on Government Operations, and Interior and Insular Affairs.

2711. A letter from the Director, Administrative Office of the U.S. Courts, trans-

mitting reports on the studies, together with recommendations, on the need for creation of new judicial districts from portions of the Central District of California and the Eastern District of New York, pursuant to section 5 of Public Law 95-573; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 464. Resolution providing for the consideration of the joint resolution (H.J. Res. 430) making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-547). Referred to the House Calendar.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 3343. A bill to permit civil suits under section 1979 of the Revised Statutes (42 U.S.C. 1983) against any person acting under color of any law or custom of the District of Columbia who subjects any person within the jurisdiction of the District of Columbia to the deprivation of any right, privilege, or immunity secured by the Constitution and laws (Rept. No. 96-548). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 4546. A bill to amend the District of Columbia Redevelopment Act of 1945, and for other purposes (Rept. No. 96-549). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5537. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia (Rept. No. 96-550). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5645. A bill to grant to the Little Sisters of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia; without amendment (Rept. No. 96-549). Referred to the Committee of the Whole House on the State of the Union.

Mr. NATCHER: Committee on Appropriations. House Joint Resolution 430. Joint resolution making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes; with an amendment (Rept. No. 96-552). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of conference. Conference report on H.R. 4387 (Rept. No. 96-553). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ZABLOCKI (for himself, Mr. WOLFF, Mr. FASCELL, Mr. DIGGS, Mr. ROSENTHAL, Mr. HAMILTON, Mr. BINGHAM, Mr. STUDDS, Mr. SOLARZ, Mr. BONKER, Mr. PEASE, Mr. IRELAND, Mr. BARNES, Mr. GRAY, Mr. WOLPE, Mr. BOWEN, Mr. BROOMFIELD, Mr. DERWINSKI, Mr. FINDLEY, Mr. BUCHANAN, Mr. GILMAN, Mr. GOODLING, Mrs. FENWICK, Mr. PRITCHARD, Mr. YOUNG of Florida, and Mr. ANDERSON of Illinois):

H.R. 5689. A bill to authorize the President to furnish assistance to alleviate the human suffering in Cambodia caused by famine; to the Committee on Foreign Affairs.

By Mr. AMBRO:

H.R. 5690. A bill to amend section 112 of title 28 of the United States Code to divide the eastern judicial district of New York into two divisions; to the Committee on the Judiciary.

H.R. 5691. A bill to amend title 28, United States Code, to move the place for holding court for the district court of the Eastern District of New York to Brooklyn and Hempstead, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL:

H.R. 5692. A bill to amend the Fair Labor Standards Act of 1938 to provide a special minimum wage for the employment for limited periods of time of youth aged nineteen and under and to broaden the authority for the employment of full-time students at a special minimum wage; to the Committee on Education and Labor.

By Mr. GIBBONS:

H.R. 5693. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals who are participants in employer pension plans a credit for their contributions to such plans or for their contributions to individual retirement plans; to the Committee on Ways and Means.

By Mr. GUDGER (for himself, Mr. ANDREWS of North Carolina, Mr. BEVILL, Mr. BROYHILL, Mr. PHILLIP BURTON, Mr. CARTER, Mr. CORCORAN, Mr. DERWINSKI, Mr. DUNCAN of Tennessee, Mr. FOUNTAIN, Mr. GINN, Mr. GORE, Mr. HEFNER, Mr. HUBBARD, Mr. JENKINS, Mr. JONES of North Carolina, Mr. MARTIN, Mr. NEAL, Mr. NICHOLS, Mr. PREYER, Mr. QUILLEN, Mr. SEIBERLING, Mr. SIMON, Mr. SYNAR, Mr. UDALL, Mr. WATKINS, and Mr. YATES):

H.R. 5694. A bill to amend the National Trails Systems Act, to authorize a study of the Trail of Tears, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HOLLAND:

H.R. 5695. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion for income earned abroad attributable to certain missionary services; to the Committee on Ways and Means.

By Mr. LEVITAS:

H.R. 5696. A bill to amend title 28 of the United States Code to require the Attorney General to transmit reports to the Congress summarizing any position of the Attorney General that any provision of law is unconstitutional and is not to be enforced or defended by the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. PATTERSON:

H.R. 5697. A bill to amend title 28 of the United States Code to establish two divisions for the central judicial district of California; to the Committee on the Judiciary.

By Mr. REGULA:

H.R. 5698. A bill to amend title 5 of the United States Code, to require public notice on matters relating to Federal contracts, grants and loans; to the Committee on the Judiciary.

By Mr. SENSENBRENNER:

H.R. 5699. A bill to amend the Internal Revenue Code of 1954 to provide individuals a refundable credit against income tax for amounts paid or incurred for fuel oil and natural gas for principal residences in excess of the average cost of fuel oil and gas in 1978; to the Committee on Ways and Means.

By Mr. WATKINS (for himself, Mr. HANLEY, and Mr. LEACH of Iowa):

H.R. 5700. A bill to amend the Bank Holding Company Act of 1956 to provide that the Board of Governors of the Federal Reserve System shall not follow any practice or policy in the consideration of any application for the formation of a one-bank holding company if following such practice or policy would result in the rejection of such application solely because the transaction to form such one-bank holding company involves a bank stock loan for a period of not more than 25 years; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NATCHER:

H.J. Res. 430. Joint resolution making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FUQUA introduced a bill (H.R. 5701) for the relief of Dr. John Gamble and Ursula Gamble, which was referred to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1918: Mr. DONNELLY and Mr. WOLPE.
H.R. 2191: Mr. EVANS of Indiana.
H.R. 3245: Mr. BENNETT, Mr. BARNES, Mr. COUGHLIN, Mr. DANIEL B. CRANE, Mr. DOUGHERTY, Mr. FITHIAN, Mr. FROST, Mr. HINSON, Mr. KEMP, Mr. LEE, Mr. LIVINGSTON, Mr. MOORE, Mr. NATCHER, Mr. NELSON, Mr. PRITCHARD, Mr. SMITH of Iowa, Mr. TREEN, Mr. WAMPLER, Mr. GINN, Mr. EMERY, Mr. LENT, Mr. FOLEY, and Mr. SWIFT.
H.R. 3439: Mr. HYDE, Mr. STARK, Mr. FRENZEL, Mr. DASCHLE, Mr. NEAL, Mr. CORRADA, Mr. MCCLOSKEY, Mr. COELHO, Mrs. SCHROEDER, and Mr. BONIOR of Michigan.
H.R. 3766: Mr. DORNAN.
H.R. 4084: Mr. DORNAN.
H.R. 4624: Mr. SYNAR.
H.R. 4631: Mr. ROYBAL and Mr. ADDABBO.
H.R. 4881: Mr. CONTE.
H.R. 4905: Mr. GILMAN.
H.R. 4990: Mr. GOLDWATER, Mr. FROST, Mr. COELHO, Mrs. BOUQUARD, Mr. LAFALCE, Mr. DONNELLY, Mr. ROE, and Mr. BLANCHARD.
H.R. 5071: Mr. RICHMOND, Mr. DORNAN, and Mr. MURPHY of Pennsylvania.
H.R. 5362: Mr. MCKINNEY, Mr. CLINGER, Mr. MINISH, Mr. RINALDO, and Mr. HORTON.
H.R. 5384: Mr. BUTLER, Mr. BADHAM, Mr. SEBELIUS, Mr. ROYER, and Mr. CHARLES WILSON of Texas.
H.R. 5396. Mr. CARTER, Mr. RAHALL, Mr. MURPHY of Pennsylvania, and Mr. MCDONALD.
H.R. 5539: Mr. CLINGER, Mr. HORTON, Mr. EMERY, Mr. CHARLES WILSON of Texas, Mr. FORSYTHE, Mr. PEPPER, Mr. CLEVELAND, Mr. CARTER, Mr. YATRON, Mr. MURPHY of Pennsylvania, Mr. SCHEUER, and Mr. MURTHA.
H.R. 5561: Mr. LAGOMARSINO, Mr. MILLER of Ohio, Mr. JEFFORDS, Mr. DUNCAN of Tennessee, Mr. BUTLER, and Mr. SOLOMON.
H.R. 5660: Mr. KOGOVSEK, Mr. MARKEY, Mr. MAGUIRE, Mr. NEAL, Mr. CONABLE, Mr. SEBELIUS, Mr. MINETA, Mr. EDWARDS of Oklahoma, Mr. BEILENSON, Mr. DODD, Mrs. FENWICK, Mr. FISH, Mr. FLORIO, Mr. GORE, Mr. HARRIS, Mr. JEFFORDS, Mr. LOWRY, Mr. MCCLOSKEY, Ms. MIKULSKI, Mr. MATSUI, Mr. NOLAN, Mr. PANETTA, Mr. RICHMOND, Mr. SWIFT, Mr. WALGREN, Mr. WAXMAN, Mr. WILLIAMS of Montana, Mr. MARRIOTT, Mr. LAGOMARSINO, Mr. FAZIO, Mr. SCHEUER, Mr. PATTERSON, Mr. BONIOR of Michigan, Mr. DOWNEY, Mr. STARK, Mr. BROWN of California, Mr. GINGRICH, Mr. DORNAN, Mr. FOWLER, Mr. DRINAN, Mr. KOSTMAYER, Mr. DELLUMS, Mr. AUCOIN, Mrs. SPELLMAN, Mr. BINGHAM, Mr. COELHO, Mr. WOLPE, Mr. SHANNON, Mr. HOWARD, Mr. CHARLES H. WILSON of California, Mr. KILDEE, and Mr. VENTO.
H. Con. Res. 183: Mr. DORNAN.
H. Con. Res. 200: Mr. LEACH of Iowa, Mr. FINDLEY, Mr. GRAY, and Mr. WOLPE.
H. Res. 382: Mr. GOODLING.

PETITIONS, ETC.

Under clause 1 of rule XXII,

213. The SPEAKER presented a petition of the Nassau County Board of Supervisors, Mineola, N.Y., relative to home heating fuels, which was referred jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1885

By Mr. KILDEE:

—Page 15, line 11, insert "or" immediately after the semicolon; on line 15, strike out "; or" and insert in lieu thereof a period; and strike out line 16 and everything that follows through line 20.

Page 15, line 22, strike out "subparagraph (A), (B), (C), or (D)" and insert in lieu thereof "subparagraph (A), (B), or (C)".

H.R. 2608

By Mr. WEISS:

(Page and line numbers refer to H.R. 5297.)

—Page 11, after line 15, add the following new section:

SEC. 303. (a) Section 170(a) of the Atomic Energy Act of 1954 is amended—

(1) in subsection (a), by striking out the second sentence;

(2) in subsection (b), by amending the first sentence to read as follows: "The amount of financial protection required shall be the maximum amount of liability insurance available from private sources. Such amount shall be redetermined periodically by the Commission on the basis of the cost of living (including the cost of health care).";

(3) in subsection (h), by amending the third sentence to read as follows: "All licensees required to maintain financial protection under this section shall also be required, without regard to the manner in which they obtained other types or amounts of financial protection, to participate in an industry retrospective rating plan. Such plan shall provide for premium charges deferred in whole or in major part until public liability from a nuclear incident exceeds or appears likely to exceed the sum of—

"(1) the level of primary financial protection required of the licensee involved in the nuclear incident, and

"(2) the amount otherwise available from such licensee for the satisfaction of such liability (including all real and personal property of the licensee and any amounts available pursuant to applicable bankruptcy proceedings).

The deferred premium which shall be charged following any nuclear incident under such a plan shall be such amount as is required under rules promulgated by the Commission not later than 60 days after the date of the enactment of the Nuclear Liability Reform Amendments of 1979. Such amount required under such rules shall be determined according to a formula based on—

"(A) the licensee's generating capacity,

"(B) the degree of risk of nuclear incident associated with the licensee,

"(C) the licensee's total assets, and

"(D) such other factors as the Commission deems appropriate.";

(4) in subsection (b), by striking out the fifth sentence and all that follows and substituting: "If any licensee is unable to meet any assessment of deferred premiums within a reasonable time following any nuclear incident without impairing the provision of electric utility service by such licensee, the Commission may loan such licensee the amount by which such assessment exceeds the amount which the licensee is able to pay without such impairment. The loan shall be made upon such terms and conditions as may be established by the Commission except that such loan shall be secured by the liens on assets of such licensee and on the revenues derived therefrom and shall bear interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the making of such loan.";

(5) by repealing subsection (c);

(6) in subsection (d), by striking out ", in the amount of $500,000,000" and all that follows down to the period at the end thereof;

(7) by repealing subsections (e), (f), (g), and (h);

(8) in subsection (i), by striking out "which will probably require" and all that follows down through "$560,000,000";

(8) by repealing subsections (k) through (m);

(9) by amending paragraph (1) of subsection (n) to read as follows:

"(1) With respect to any nuclear incident with respect to which financial protection is required under this section and which—

"(A) arises out of, or results from, or occurs in the course, of the construction, possession, operation of a production or utilization facility, or

"(B) arises out of, or results from, or occurs in the course of transportation of, source material, byproduct material, or special nuclear material to or from a production or utilization facility, or

"(C) during the course of the contract activity arises out of, or results from, the possession, operation, or use by a Commission contractor or subcontractor of a device utilizing special nuclear material or byproduct material,

the Commission shall require provisions to be incorporated in insurance policies or contracts furnished as proof of financial protection, which waive (i) any issue or defense as to conduct of the claimant or fault of persons required to obtain financial protection, (ii) any issue or defense as to charitable or governmental immunity, and (iii) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. When so incorporated, such waivers shall be judicially enforcible in accordance with their terms by the claimant. Such waivers shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages, nor shall such waivers apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant.";

(10) in paragraph (2) of subsection (n), by striking out "extraordinary nuclear occurrence" each place it appears and substituting "nuclear incident"; and

(11) by amending the section heading to read as follows:

"SEC. 170. LIABILITY FOR NUCLEAR INCIDENTS.—".

(b) The item relating to section 170 in the table of contents is amended to read as follows:

"Sec. 170. Liability for nuclear incidents.".

(c) Section 53(e) of the Atomic Energy Act of 1954 is amended by striking out "; and" in paragraph (6), by striking out "." in paragraph (7) and substituting a period, and by inserting "and" at the end of paragraph (6).

(d) Section 2(t) of the Atomic Energy Act of 1954 is amended by striking out ", and may limit the liability of those persons liable for such losses".

(e) Section 11 of the Atomic Energy Act of 1954 is amended—

(1) by repealing subsection (t);

(2) in subsection (m), by striking out "; and (3)" and all that follows down to the period at the end thereof and by inserting "and" before "(2)";

(3) in subsection (w), by striking out "indemnified" and substituting "required to obtain financial protection under section 170"; and

(4) in subsection (p), by striking out "as the term is used in subsection 170(l), it shall include any such occurrence outside the United States: *And provided further*,".

(f) This section may be cited as the "Nuclear Incident Liability Reform Amendments of 1979".

(g) The amendments made by this section shall take effect on the date 60 days after the date of the enactment of this Act and shall apply with respect to all contracts referred to in section 170(d) of the Atomic Energy Act of 1954 and to all licenses referred to in section 170(a) of such Act without regard to whether such contracts were entered into, or such licenses were issued, before, on, or after the date of the enactment of this section.

H.R. 4985

By Mr. LUJAN:

Strike out page 46, line 1 and all that follows down through line 12 on page 49 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by

such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

Page 45, line 6, after "182" insert "or 185 (a)(2)(A)".

Page 49, line 19, after "182" insert "or 185 (a)(2)(A)".

By Mr. SANTINI:

—Strike out page 46, line 1 and all that follows down through line 12 on page 49 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less strin-

gent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

Page 45, line 6, after "182" insert "or 185(a)(2)(A)".

Page 49, line 19, after "182" insert "or 185(a)(2)(A)".

H.J. RES. 341

By Mr. LELAND:

(To the amendment in the nature of a substitute by Mr. FLORIO.)

—Strike section 6; delete reference to section 6 contained in section 9(c); and strike the first sentence of section 9(e) and substitute the following:

Any rail carrier, after having taken any action required or authorized by the civil rights laws, court orders, or agency actions related to hiring, shall comply with the following provisions: if any rail carrier during the 20-day period after a compilation of position is mailed, receives one or more bids on any employment position listed by such rail carrier in such compilation said carrier shall offer such employment position to the employee who submitted a bid on such position during such period who has the most seniority in the class or craft within which such position is listed.

EXTENSIONS OF REMARKS

EMERGENCY ENERGY PLANNING—ANOTHER STEP FORWARD

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. FISHER. Mr. Speaker, I would like to take this opportunity to express my support for the action taken by the House in passing S. 1030 which establishes procedures for the formulation and implementation of a standby gasoline rationing plan. Now that the House has acted, only the President's signature is required for this legislation to be enacted and for the planning to begin.

This bill represents, I believe, a balanced approach between the need for congressional approval of a standby plan and the need for expeditious implementation of the plan if a severe supply shortage arises. The Department of Energy would have 120 days to draft the plan, with a possible further extension of 90 days, and the Congress would have 30 days to act on the plan once it is proposed. The plan would be subject to a veto by a majority of each house through a joint resolution of disapproval. However, that joint resolution itself could be vetoed by the President, subject to his action being overturned by a subsequent vote of two-thirds of both Houses of the Congress.

Although on the surface this may appear to be an excessively cumbersome procedure, I believe that it is actually an ingenious compromise which seeks to immunize a standby plan from being defeated by a coalition of parochial interests. Nevertheless, it would prevent a standby plan to which there is massive opposition from being drafted and put on the shelf for later implementation.

Similarly, if there is a projected shortfall of 20 percent in gasoline supplies, the President will have the power to propose implementing the standby plan, and his action will take effect within 15 days, except if either House has voted against implementation. Furthermore, the President could implement the standby plan even if there is less than a 20 percent shortfall projected if both Houses of Congress vote in favor of implementation within 60 days of his request. Here again, this legislation allows the President and the Congress to coordinate their actions in a considered, yet expeditious manner.

As I indicated when I supported legislation in May of this year to authorize a standby gasoline rationing plan, I believe that the only prudent course of action is to have a standby plan on the shelf and ready to be implemented in the event that a severe gasoline supply shortage develops. The gasoline crisis during the summer demonstrated in stark terms the chaos which could result from a restriction in our gasoline supply. Having seen the economic and social dislocations which resulted from that shortfall of 5 percent, the Congress would have been foolhardy not to have passed this legislation, which is primarily designed to deal with even more severe supply shortfalls. I wish that the Congress had acted sooner, but I am pleased that it finally has acted.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

NO NEED FOR THIS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. FINDLEY. Mr. Speaker, as Allan A. Seiler, editor of the Pike Press, Pittsfield, Ill., observes, there is no justification for the latest bureaucratic creation—the Office of Families. Seiler puts the case against it succinctly in the October 17 issue of the Pike Press:

[From the Pike Press, Oct. 17, 1979]

NO NEED FOR NEW OFFICE OF FAMILIES

What this country doesn't need is a new Office of Families in the Department of Health, Education, and Welfare.

Nevertheless, President Carter has announced its creation.

That's the declaration he made Monday in Kansas City, explaining that it would "provide the focal point for the development of policies and programs affecting families."

A noble goal and lofty sentiments. What has more appeal than something relating to the American family, whether you're selling politics or breakfast cereal? Besides, as the President explained, Lillian, Rosalynn, and Amy are all behind it.

Here we go again. One more federal bureaucracy turning out reams of press releases, issuing advice, imparting knowledge, hiring employees, spending taxpayers' money. And all totally unneeded.

This is a function already being performed very well indeed by the Cooperative Extension Services.

It's only by coincidence and not relating to Carter's message that Farm Adviser Harry Wright's news column this week on page 18 of the issue is on the very same subject—how the extension service aids Pike county families.

It provides "timely information on a broad range of topics: family economics, agriculture, 4-H and youth involvement, nutrition, housing, farm management."

The services of Home Economics Adviser Cheryl Bielema are equally valuable and equally available to both town and country families.

As Harry further explains, it's free. There's no charge for seeking the information and advice. It's part of the off-campus educational mandate of the University of Illinois. Anyone is welcome at the meetings. Anyone can get on the mailing list.

When you take various other youth groups, the churches, the already existing governmental aids to family living, you'd conclude that the family needs of America are being pretty well met by those who desire the service, without the need for another federal bureaucracy.

The important thing to remember are the words, "those who desire the service." That's the key. It's there now to those who want to avail themselves of it. If they don't, that's their privilege.

But with another federal agency it's going to be there anyway—needed or not, used or not, desired or not. And guaranteed to get bigger all the time.

That's a big difference. That's why the country doesn't need a new federal Office for Families.●

DR. C. E. SOUTHERN: COUNTRY DOCTOR

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. PICKLE. Mr. Speaker, when people talk about the country doctor, they must have had Dr. C. E. Southern in mind. For many years, he helped the poor and afflicted throughout a wide area of central Texas. Last month, Dr. Southern died at the age of 72. He leaves a legacy of love and respect on the part of thousands of friends and former patients.

Dr. Southern enjoyed a full, varied medical career. After graduating from Baylor Medical School in Dallas, he moved to Burton, Tex., where, at the age of 27, he built the Burton Hospital. People from surrounding communities drove the distance to get treated by Dr. Southern. Eighteen years later, he moved to Brenham, Tex., where he established a clinic. Then in 1975, Dr. Southern gave up his practice and became the first medical director of the new Brenham State School.

Dr. Southern was a country doctor, but he was no country bumpkin. Throughout his carrer, he continued his studies at Harvard Medical School, the Mayo Clinic, the Columbia Presbyterian Medical Center in New York and other institutions. He was an active community servant, having served on the staffs of both Brenham hospitals.

With little fanfare, Dr. Southern served the poor and afflicted. He understood all people, especially those who needed the most help. He was a compassionate doctor.

Besides being an excellent physician, Dr. Southern found time to be active in civic and political affairs. It was in this role of the doctor's that I first met him and his wife, Carra.

Dr. Southern developed friendly ties to then Congressman Lyndon B. Johnson. The Southerns played host to many political gatherings. I was in on some of those meetings and got to know the Southerns well. I remember one occasion in the late 1930's when three of us spent the night at the Southern's modest home. The hospitality was remembered for a long time by that trio: Lyndon Johnson, John Connally and myself. It was an unusual time and circumstance, especially when one considers the future roles of the three of us. All through the years, each of us kept up our close ties with Dr. Southern. Later, President Johnson never went to Washington County without stopping off to say hello to Dr. Southern.

Dr. C. E. Southern was not only a fine host to us, but as a healer, civic leader and builder of medical facilities and services, played host and provided care to generations of central Texans. His example of leadership and caring for all people leaves us sad at his passing, appreciative of his accomplishments and inspires all of us to realize the rewards of serving mankind.●

HOW TO ACHIEVE AN AMERICAN MIRACLE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. PAUL. Mr. Speaker, my good friend Ambassador Albert B. Fay of Houston recently brought an excellent article on wage and price controls to my attention. I would like to share it with my colleagues.

As the Ambassador indicated to me, "If the President and Congress can have the good judgment to deregulate in accordance with (C. Jackson) Grayson's ideas, there would be no limit to the height our economy could reach."

The article follows:

[From Business Week, July 16, 1979]

HOW TO ACHIEVE AN AMERICAN MIRACLE

(By C. Jackson Grayson, Jr.)

The most frightening aspect of the current gasoline crunch is not the long lines. Nor the price. Nor OPEC. It is not even the shootouts at the service stations.

It's the almost total absence of serious consideration and open support by businessmen, politicians, and economists for a return to the market system to ration demand and increase supplies.

The answer to our problems has to be complete decontrol—decontrol not only of oil, but also of gasoline—and elimination of the price and wage "guidelines" program along with it: a complete dismantling of the increasingly complicated, inefficient, inequitable, and unworkable machinery of energy and wage-price controls.

I recommend this not from blind ideological faith in the market system, but from (1) a reading of the history of the failures of wage-price and allocation controls for over 40 centuries, (2) an observation of the current failures of energy and wage-price guidelines, and (3) my own personal experience

in directing controls, during Phase II of President Nixon's wage-price program.

The gasoline situation is a good example. The President blames Congress and scolds the public. The Congress blames the President and lectures the oil companies. Endless and fruitless disputes, investigations, and hearings drain the nation's energies to find out who's to blame: "Is there a shortage? Where is the gasoline?"

At the gas pumps there are hired guards, shootings, thefts, and scamps. Hundreds of thousands of hours are spent nonproductively in long lines when the nation's productivity growth is already alarmingly low. New allocation schemes are cooked up almost daily: odd-even days, numbered windshield stickers, minimum purchase amounts, state conservation quotas, coupons. Such controls organize and prolong shortages. And in the process the poor, those with low incomes, and the weak are hurt the most.

BACK TO A MARKET ECONOMY

A good account of the history of controls is chronicled in a recent book by Robert L. Schuettinger and Eamonn F. Butler, Forty Centuries of Wage and Price Controls (The Heritage Foundation, Washington, D.C., 1979). It is tragicomic that 40 centuries of price and wage controls and governmentally directed allocation systems for such commodities as flour, corn, wheat, and housing show a record of repeated failures.

Not only do the guidelines violate the basic economic laws of supply and demand, they also violate the basic political laws of consensus, power, and equity. The program has no power base, no real support by business or organized labor, and it is rife with inequities. The program is not fading fast—it is dead. No scraping, painting over, or review is going to change it from being bad law, bad economics, and bad politics.

"We have to continue," says Barry Bosworth, director of the Council on Wage and Price Stability. "There is no alternative."

Yes there is. I offer these recommendations:

Remove all price and allocation controls over gasoline and other fuels.

Remove all wage and price controls.

Abolish the Council on Wage and Price Stability.

Return to a market economy.

A "political impossibility," the conventional wisdom runs. It can't be done. Congress, the President, and the public would never stand for it. Believing this, many businessmen and legislators fail to fight for a return to the market system. Instead, they remain silent or concentrate on compromises and accept what Representative Al Ullman calls "the political equation." That's a mistake, both economically and politically.

Economically, controls are a disaster. As chairman of the Price Commission during Phase II (1971–73), I saw this firsthand. After an initial appearance of gains, the inevitable erosion and inefficiencies began. No matter how good our intentions, how hard we worked, what models we employed, or how ingeniously we designed the regulations, the controls could never handle as efficiently or as effectively the millions of decisions made daily in the marketplace to adjust to the changing conditions of supply and demand. The controls did not reduce shortages or inflation. They increased both.

POLITICAL COURAGE

Bad economics is also bad politics. A very recent example is Britain. Margaret Thatcher rode to power on pledges to reduce much of the governmental economic management, to decontrol prices and wages, and to revive the market system.

The classic example, of course, is West Germany. In July, 1948, virtually all economic controls were removed, including price and wage controls. The Allied powers, then in control, were fearful that it would lead to greater inflation, unemployment, political instability, and more problems for the poor. The bold move was controversial even among those closest to its architect, the economist (later Chancellor) Ludwig Erhard.

The fears proved unfounded. There was higher employment, higher real wages, rising productivity, a disappearance of black markets, an abundance of goods in the shops, and—after an initial spurt in prices—a great reduction in inflation. Apathy and despair turned to hope and energy.

In truth, the "economic miracles" that have followed decontrol were not miracles. They were no more than an end to the economic paralysis and disorder caused by the control mechanisms and a return to the market economy.

President Carter speaks of the need for "political courage" in facing these problems. It's time for an act of political courage that makes both political and economic sense: decontrol.●

EXCITING TIMES IN SCIENCE AND TECHNOLOGY

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. FUQUA. Mr. Speaker, with the arrival of the 1980's, Americans will experience the most exciting times imaginable due to science and technology. Out of the laboratories are coming advances that point to expansive changes in the way we work and live on Earth and in space.

Mr. Speaker, the U.S. News & World Report published an article in their October 15, 1979, issue entitled, "Exciting Times in Science and Technology," outlining several key forecasts for the subsequent article; and, as chairman of the Science and Technology Committee, I would like to stress the importance of basic research and development which ultimately leads to these and other scientific and technological innovations.

The material follows:

SCIENCE—KEY FORECASTS

Home computers: Inexpensive ones will become a reality for many families.

Lasers: Doctors will use high-intensity lasers for cancer surgery.

Medicine: Research will focus on the human cell. Cheaper insulin will become available for diabetics.

Space: U.S. space shuttles will put into orbit a broad range of new satellites for communications, astronomy, research.

Energy: This country's first synthetic-fuel plants will appear.

EXCITING TIMES IN SCIENCE AND TECHNOLOGY

Science and Technology in the 1980's will change every aspect of American life—in offices, factories and homes.

During the next decade, the average American will rely far more on computers and other electronic marvels to provide a wealth of information—and to improve the quality of life. Genetic research and computers both will provide new medical treatments, and laser beams will finally come of age in medicine, commerce and industry.

Dramatic alterations are in store for global communications patterns because of advanced orbiting satellites that also will help scientists study the earth's geological formations and oceans—and speed the search for new energy sources. Far-reaching probes will scan the universe beyond the solar system as man looks outward for clues to his own origins.

SPACE AND ASTRONOMY

The re-usable manned space shuttle will be the centerpiece of the U.S. space program in the 1980's.

Scheduled to be launched for the first time in 1980, the first shuttles will be used mainly to place earth-circling satellites into orbit—saving millions of dollars in expendable rockets now used to blast satellites into the sky.

Satellites placed by the shuttles will be able to pinpoint resources on land and under the sea more accurately than can be done today. There also will be a broader range of commercial satellites that will bring a wider selection of television programs and a tremendous improvement to business communication, newspaper publishing, medical diagnosis and disaster relief.

A space telescope, to be placed in orbit in 1983, will provide astronomers with a valuable new tool for scanning the heavens beyond the solar system. Because of its position high above the earth's hazy atmosphere, the telescope will help scientists gaze into parts of the universe previously beyond the range of man's vision.

One of the two unmanned Voyager spacecraft already is on the way to deep space and will hurtle out of the solar system after visiting its outlying planets. The craft contains numerous human artifacts—among them, for instance, a photograph of a woman raking leaves—that could eventually find their way to other intelligent creatures on the fringes of the universe and help tell them the story of the planet Earth.

ENERGY

The 1980s will bring important new developments in energy production, including greater use of solar energy in both homes and industry, and the first U.S. plants for making synthetic fuels.

These plants will make liquid fuel from natural gas, petroleum products from coal and extract oil from shale.

The nation also will look to increasingly diverse sources of energy to fuel its plants and automobiles but is not likely to find the final answer to its energy shortage.

There will be more coal production during the next 10 years but the environmental problems of coal will remain. Nuclear plants will increase in number too, with tighter safety standards, but will not contribute a much greater proportion of the nation's electrical supply than they do today.

To keep even with the nation's increasing thirst for energy, controls on domestic oil and gas production will finally come to an end, while the uncertainties of imported oil will continue. Conservation and recycling will become far more active parts of the nation's energy policy and of daily life than they are today.

Fusion, the great energy hope of the next century, will move a step or two closer to reality with the first attempt by Princeton University scientists in 1981 to reach "break-even"—the point at which a fusion reactor puts out as much energy as it requires to run it.

An energy-saving car, powered by an electrochemical process using aluminum, also is in the works.●

RECOGNITION OF LIBBY FILL, MUSICIAN

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. WILLIAMS of Ohio. Mr. Speaker, on Sunday, October 28, Mrs. Libby Fill, a well-known and popular tamburitza musician, will be honored by friends and admirers in Youngstown, Ohio.

Mrs. Fill has actively promoted Yugoslav and Balkan culture through her music. She hosts two tamburitza radio programs in the Youngstown area, has made several records, and on October 14 she had the honor of being inducted into the Tamburitza Hall of Fame at the annual extravaganza in St. Paul, Minn., the only woman to be so honored.

Ljubica "Libby" Fill's life goal has been to brighten people's lives through her music. She has performed throughout Ohio, Pennsylvania, Michigan, Indiana, and Canada. Among her fondest memories are an appearance in Washington, D.C., in 1976 for the Nation's Bicentennial celebration, and her invitation to perform at President Carter's Inaugural Ball.

She is also well known for her charitable performances for nursing homes, disabled veterans, retarded children, senior citizens, and promotions, and telethons for numerous charitable causes.

Only her family is more important to her than her music. She is especially proud of her close-knit family which consists of husband Cas, daughter Sally and daughter Stacie Vesolich, son-in-law Steve Vesolich, and granddaughter Stephanie Vesolich.

Perhaps the best indication of her attitude toward life is this quote from her: "Bez Tamburasi, nema zivot (without music there is no life)." As long as Ljubica has life, there will be music. It is a pleasure to add my congratulations to those from hundreds of friends who know her not only as an outstanding musician, but also as a public-spirited American who takes immense pleasure in giving the world the benefit of her talents.●

CONGRESSIONAL SALUTE TO HON. MARGARET H. SEPEDE, DISTINGUISHED CITIZEN OF NEW JERSEY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. ROE. Mr. Speaker, on Friday, October 26, the people of Passaic County, my congressional district, and State of New Jersey will gather in testimony to the exemplary public service career of the Honorable Margaret H. Sepede who is retiring as deputy clerk of our county of Passaic.

Mr. Speaker, I know that you and our colleagues here in the Congress will want to join with me in sending our warmest greetings and felicitations to this wonderful lady whose standards of excellence and untiring efforts on behalf of county administrative affairs are applauded by all of us. We share the pride of her husband Frank and their children, daughters Mary and Jane, and son Joseph and his wife Kathy and grandson Michael Francis on her distinguished record of achievements.

Margaret Sepede is an outstanding individual who throughout her lifetime has earned the respect and esteem of all of us who have had the good fortune to know her. She is a native of Passaic County having been born in the city of Paterson and now residing in my hometown of Wayne.

Mr. Speaker, in seeking ways to express the esteem of her associates for her many, many accomplishments—the richness of her wisdom, the warmth of her friendship, and sincerity of purpose in everything she set out to do—the board of chosen freeholders of the county of Passaic have adopted the following resolution in proclamation of their deepest appreciation for her profound dedication and devotion to the needs of the people of the county of Passaic. With your permission I would like to insert this testimonial at this point in our historic journal of Congress, as follows:

PROCLAMATION

Whereas Margaret H. Sepede, the well-known Administrative Secretary in the Clerk to the Board of Chosen Freeholders' Office of the County of Passaic, will be retiring on October 26, 1979, after having served the County of Passaic with distinction and honor as a faithful employee for a period of approximately twenty-one years; and

Whereas she first began her public service career as a Clerk Typist on April 1, 1958; and

Whereas approximately nine years later in 1968, she assumed the title of Principal Clerk, and in 1970 the title of Administrative Secretary, and has since served under the leadership of the following Clerks to the Board: Basil McMichael, Walter Keeley, Donald E. Van Hoomst, Ronald Dooney, and Ralph P. Gambatese; and

Whereas on January 2, 1970, she was permanently appointed to her present position as Administrative Secretary and has served to date in such capacity; and

Whereas in 1969 she additionally received the honorary title of Deputy Clerk due to the unfortunate illness of Walter Keeley; and

Whereas the Board of Chosen Freeholders of the County of Passaic wishes to express its gratitude and appreciation by honoring and recognizing Margaret H. Sepede for her exemplary service, which she unselfishly devoted to the citizenry of Passaic County;

Now therefore be it proclaimed by the Board of Chosen Freeholders of the County of Passaic that it publicly acknowledges the distinguished public service career of Margaret H. Sepede and expresses to her its best wishes for a happy and fruitful retirement from active public service; and

Be it further proclaimed that this Proclamation be spread upon the minutes of this Board as a fitting tribute to Margaret H. Sepede's contribution to the welfare of the County of Passic; and

Be it further proclaimed that a certified copy of this Proclamation be forwarded to Margaret H. Sepede and to the press.

Dated: October 17th, 1979.

Frank Fahy, Joseph Lobosco, S. M. Terry LaCorte, Edward G. O'Byrne, James W. Roe, Joseph R. Russo, Cyril Yannarelli, Ralph P. Gambatese, Clerk to the Board.

Mr. Speaker, as Margaret Sepede retires from her public service career, I appreciate the opportunity to seek this national recognition of all of her good works on behalf of our people. Her lifetime of friendship and good will that she has so willingly and lovingly given over these many years—her personal care and and commitment—is one of the greatest treasures that one could attain in seeking life's purpose and fulfillment. We do indeed salute a grand lady, an outstanding citizen, and great American—the Honorable Margaret H. Sepede.●

ABOLISH THE DEPARTMENT OF ENERGY

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, as we debate the authorization bill for the Department of Energy (DOE), I must pause and wonder why we should give them any funds at all.

A recent article in the Sunday Chicago Tribune Magazine noted that the DOE budget surpasses the profits of seven of the largest oil companies. If one breaks the DOE budget down and divides the current appropriation with the number of employees, the budget figure represents about $500,000 per employee. This represents a tax of more than $50 on every person in this country.

And what do we get for this extravagant amount of free spending? I wish I knew. I wish someone knew. But the fact is, as the Tribune article reveals, no one knows.

The money could be used to buy 700 million barrels of oil, drill more than 200 million feet of new wells, or explore and drill about 40,000 new oil and gas wells. But it is not. In fact, our energy situation is worse today than when the Department of Energy was created on October 1, 1977.

Because of these reasons, I am proud to be a cosponsor of H.R. 4329, to terminate the Department of Energy on January 15, 1982. The bill was introduced on June 5, 1979, by my illustrious colleague from Virginia, Congressman WILLIAM WHITEHURST.

As Congressman WHITEHURST noted at the time of introduction of his bill, numerous departments, created by Congress, have taken it upon themselves to promulgate regulations that have gone far beyond the intent of Congress. Since the Tribune article, "Who Needs It?" by Mr. Herb Daniels, clearly shows the lack of need for a Department of Energy, I commend it to the attention of my colleagues at this point.

[From the Chicago Tribune, June 10, 1979]

WHO NEEDS IT?

The word "obscene"—its root comes from the Latin word for filth, *caenum*,—is also used to connote offensive excess. Thus one of

our noisy demagogs some time ago roused the rabble by calling oil profits obscene.

Tit for tat. In the context of oil, the Almanac offers a collector's example of the obscenity of outrageous excess—the new bureaucracy, the Department of Energy.

The DOE began operations last year with a budget of $10 billion and 20,000 employes. Those were only starters. The budget is now up to about $12.2 billion, and the employes number 23,000. To me, that's really obscene.

The DOE budget surpasses the profits of those seven naughty oil companies that were labeled obscene. That budget figure represents about $500,000 per year per employe. It is a tax of more than $50 on every person in the U.S. For what?

No one knows. But we do know what we could get for our DOE money. It would drill more than 200 million feet of new wells. It would buy about 700 million barrels of oil at today's prices. It's more than the entire oil industry spends in a year to explore and drill about 40,000 new oil and gas wells.

While we don't know much of what those 23,000 bureaucrats do, we do know they generate paperwork. My modest guess of an average 12 pieces per head per day for 220 days a year adds to more than 60 million pieces of paper a year. That makes a stack a mile high.

To this must be added the millions of pieces of paper (and the millions of man hours) needed for reports and replies to DOE's demands.

This is no defense of the oil companies; in any event they can take care of themselves all too well. It's just a reminder that when obscenity is quantified in dollars, the oil companies are Little League substitute right-fielders compared with the all-time champion of obscene waste, our own government bureaucracy.

There's a story about the last-place ball-team's pitcher who threatened to quit if he wasn't given a hefty raise. "Go ahead," said the manager. "We finished in last place with you. We could do as well without you." So it goes with energy and DOE.

The energy "program" is a shambles. Gas is short or it is not, but it's $1 a gallon. We could have done at least that well without DOE. Don't tell me about obscenity and the moral equivalent of war. I know.●

H.R. 5660—THE UDALL-CLAUSEN-WIRTH ENERGY MOBILIZATION BOARD SUBSTITUTE

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. WIRTH. Mr. Speaker, during the past several months, the House and the Senate have devoted many hours to consideration of the proposals President Carter sent to Congress after his July energy address. The first major decision on those proposals will be facing the full House within the next several weeks: The establishment of an Energy Mobilization Board designed to speed Government decisionmaking on critical energy projects.

Creating an effective "fast-track" process for key energy decisions at all levels of Government is an important step for Congress to make toward the rapid development of new energy resources. There is no doubt in my mind—nor, I believe, among any of my colleagues here today—that legislation creating an Energy Mobilization Board will be enacted before the end of this session. The Senate has already approved a bill, and two versions have been reported by committees of the House. The Rules Committee is scheduled tomorrow to clear these for floor action with the next 2 weeks.

The issue facing the House is not whether there will be an Energy Mobilization Board. The question here is a far greater one—a basic question that goes to the heart of the challenge of our energy problems:

Can we create an effective, coordinated reponse to our energy crisis without destroying the balance of responsibilities and authority in our 200-year-old federalist system of government?

INTERIOR AND COMMERCE COMMITTEE BILLS

The two versions of Energy Mobilization Board legislation before the House now—one reported from the Commerce Committee, the other from the Interior Committee—present us with what I and a growing number of my colleagues view as a difficult and unnecessary choice.

The Commerce Committee legislation would grant a five-member appointed Federal body the authority to waive virtually any existing or future Federal, State, or local law subject only to Presidential approval and a one-House veto. Such an unprecedented expansion of executive branch authority within the Federal Government, and of Federal authority over States and localities, is repugnant to me, to my colleagues, to a large majority of the Nation's Governors, and to State and local officials across the country.

It is also absolutely unnecessary.

Not only is waiver power unnecessary, it is the only tool the Board has under the Commerce Committee bill. The only way the Board could order two agencies to consolidate hearings would be to recommend a waiver of law, subjecting the entire process to Presidential approval and the added delay of a waiting period for one-House congressional veto. This is hardly a flexible and effective process.

In addition—and even more disturbing—while the Board's power to waive laws is described by its supporters as a weapon for enforcing timely decisions by agencies, that power is in fact not tied to deadlines or timetables at all: The Board is granted the authority to waive virtually any law it decides is an impediment to "implementation" of a priority energy project.

UDALL-CLAUSEN-WIRTH SUBSTITUTE

The bill we have introduced was developed through weeks of bipartisan effort. H.R. 5660 will create a strong Board with effective enforcement powers but without jeopardizing the essential balance of responsibilities among Federal, State, and local governments.

During the Commerce Committee's consideration of its Energy Mobilization Board legislation, I offered a series of amendments which would have left the basic elements of that Board intact while eliminating its powers to waive Federal, State, and local laws. However, as we began to work on developing alternative legislation, my colleagues and I realized that a more comprehensive approach was needed to provide the Board with both the authority and the flexibility to deal with a wide variety of possible delays by Government agencies.

Consequently, we developed the following principles which guided our work in drafting H.R. 5660:

First. The Energy Mobilization Board must have the authority to set binding timetables for agencies at all levels of government and to streamline agency procedures.

Second. The Board's enforcement authority must not depend on methods—like waivers of law—which rest on shaky constitutional ground; the proven method of expedited court enforcement, backed up by clear penalties, is far more reliable and appropriate.

Third. While the Board must have the power to force agencies to make decisions in a timely manner, except in the rarest of circumstances, the substance of those decisions must rest with the agencies themselves, protecting the right and responsibility of State and local governments to administer their own laws.

Fourth. The Energy Mobilization Board will be most effective if it encourages cooperation among agencies; consultation must be built into its procedures and adequate public participation must be guaranteed.

The specific provisions of the legislation are outlined in materials which have been handed out to all of you, and I will not recite them here, except to say that in each we have endowed the Board with the greatest independent powers possible consistent with the rights of other levels of government.

THE PRESIDENT'S POSITION

This legislation gives the President a Board with the extensive procedural authority he requested to speed energy decisionmaking. The bill addresses every fundamental principle of the President's: First, no substantive waiver authority; second, enforceable deadlines for energy project decisions by all levels of government; third, procedural streamlining authority, including consolidated environmental impact statements, for the Board to exercise on its own; fourth, special treatment of new requirements imposed after construction begins; and fifth, expedited judicial review. The President can support this bill. I hope he will.

During Commerce Committee consideration of the legislation there was considerable confusion about the administration's position on the issue of waivers of Federal, State, and local law. Administration representatives lobbied in favor of waiver powers, although the President had not requested them and has personally and repeatedly restated that position. White House and Department of Energy representatives later explained that they sought waiver powers for "tactical" reasons, expecting the Senate to approve a weak version of the legislation.

I was pleased to see that the administration took a unified stand during Senate deliberations on the Energy Mobilization Board, playing a major role in defeating a floor amendment which would have authorized waivers of law.

I trust that administration representatives will now take a position similarly consistent with the President's views during House consideration of this legislation. The Senate adopted an Energy Mobilization Board measure of which the White House has expressed its strong approval; there is no longer any justification for a "tactical" position in favor of legislation which authorizes waiver powers—particularly in face of the bill being offered here today, which offers far greater flexibility and authority to the Board to act on its own. By clearly and carefully defining the Board's powers, H.R. 5660 eliminates the additional delays present in the Commerce Committee bill, which endows the Board with such unlimited powers that constant congressional acquiescence in its actions is required.

CONCLUSION

My colleagues should take particular note of the leadership role Chairman UDALL has played on this issue from the very beginning. It was he who first originated the "fast track" idea, and I understand, suggested it to the administration. He has devoted many hours to development of both the original Interior version of the Energy Mobilization Board legislation and now to this bill. Although there have probably been times when he rued the day he first floated the "fast track" concept, I hope that the House will ultimately prove that it can act on his good idea without making a monster of it.

OUTLINE OF THE UDALL-CLAUSEN-WIRTH SUBSTITUTE

A. BASIC PRINCIPLES

The fundamental theme of the substitute is to provide the Energy Mobilization Board with the authority and flexibility necessary to speed decision-making on key energy projects at all levels of government. Broadly stated, the legislation:

(1) establishes a Board to select Priority Energy Projects;

(2) empowers the Board to set and enforce decision timetables for federal, state and local agencies;

(3) empowers the Board to streamline, federal agency procedures; and

(4) preserves the rights and responsibilities of each level of government for administration of the laws it has enacted.

The goal of the legislation is to create an effective "fast track" process, forcing agencies to make expedited decisions—without eliminating the decisions themselves, or the laws on which they are based.

By specifically defining the Board's powers, the substitute eliminates both the danger of delay through constitutional challenges to the Board's authority and the need for constant Congressional approval of the Board's actions envisioned in the Commerce Committee's version of the EMB legislation.

B. DESIGNATION OF PRIORITY ENERGY PROJECTS

After considering a list of criteria, the Board grants or denies priority designation to a particular energy project. Drawing a balance between an unlimited number of projects which could be "fast-tracked" (thereby causing no real fast track) and too few (which would limit the Board's eligibility to expedite nationally significant energy projects), the bill allows the Board to give priority designation to a total of 75 projects, no more than 20 of which may be designated in any one year. Before naming a Priority Energy Project, the Board must notify the Governors of affected states, the appropriate federal, state, and local agencies, and other interested parties, and consider their comments.

C. ESTABLISHMENT OF DECISION DEADLINES

Following designation of a Priority Energy Project, all federal, state and local agencies from which decisions on some aspect of the project are required must submit to the Board a list of those decisions, the personnel and financial resources available to them to make those decisions, and a proposed action schedule.

After receiving this information, the EMB is required to convene meetings with those agencies seeking mutual agreement (in writing, if possible) on a master timetable. Governors and heads of Indian Tribes are given non-voting representation on the Board for consideration of projects affecting them. Following this process (with or without agreement) the EMB issues a project decision schedule which is binding on all agencies: federal, state or local.

D. STREAMLINING OF PROCEDURES

The bill gives all federal agencies a list of procedures—"streamlining measures"—that they can use to meet expedited time tables, and grants the EMB the authority to impose these measures if necessary to meet the expedited timetable. These include the consolidation of hearings, replacing formal trial-type hearings with legislative-type ones, and skipping levels of review within an agency. The bill also allows the EMB to require a single federal environmental impact statement.

E. ENFORCEMENT OF DEADLINES

The key to "fast track" is enforcement of decision deadlines. The substitute bill uses the proven method of court enforcement as the primary enforcement tool, instead of either waiving the affected laws or taking decisions away from the responsible agencies.

After finding that an agency has failed or is reasonably likely to fail to meet a deadline, the EMB can have a U.S. district court order the agency to act in compliance with the original decision schedule, or a modified one if the court finds the original was, or has become, unreasonable. The court may order an agency to use streamlined procedures, to add more staff, or to take other actions to enable it to comply with the deadline. It may impose penalties on the responsible agency officials individually. Courts are instructed to expedite enforcement actions in every way. Fifteen day court filing deadlines are imposed on the parties, for example. In the rare circumstance where an agency chooses to violate a court order, this substitute provides that the President may make the decision in place of the agency, following fifteen days notice of his intention to do so. The President may also take jurisdiction if the court fails to act quickly.

F. NEW REQUIREMENTS

The bill provides that the EMB, on its own, may postpone the imposition of any new requirements enacted at the federal, state, or local level after construction begins for up to five years if it finds that (1) imposing the new requirement would prevent the timely completion or operation of the priority project, and (2) the postponement would not present a significant threat to public health or safety. The bill thus recognizes the disruptions that new requirements can cause, but balances this concern with our present lack of knowledge of the problems synthetic fuels and other new energy technologies may pose.

G. JUDICIAL REVIEW

All court review of Board and agency decisions is limited or expedited. Judicial review of the EMB decisions on timetables and procedures is prohibited at the time they are issued. Courts may consider the reasonableness of timetables and procedures only when the EMB goes to court to enforce them, or when they review a challenge to a final agency decision.

Judicial review of other EMB decisions, and of all agency decisions on a priority project over which Federal courts could have jurisdiction occurs directly in federal courts of appeals and is expedited in every way. For example, suits must be filed within 60 days after a decision.

H. OTHER ATTRIBUTES OF THE EMB

To avoid a proliferation of bureaucracy, the size of the Board's staff is limited to 60 people. Moreover, a seven year sunset provision is incorporated. Prior to going out of business, the EMB is directed to submit a comprehensive report to Congress including a description of those federal, state, or local requirements which it has found to be the causes of unnecessary delays to energy projects, along with its recommendations for changes in any such requirements.●

SOLAR ENERGY—A CAUTIOUS APPROACH

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, the recent problems in the availability of energy have characteristically united Americans in the search for new and cheaper energy sources. One alternative deserving of serious research is solar energy.

It is our responsibility to do all we can in the quest for alternative energy sources. This responsibility carries with it the obligation to be prudent and thorough in investigating claims for any sources of energy.

In this regard, the ACU Education and Research Institute, one of the Nation's premiere public policy research organizations, has prepared a study of solar energy and its prospects for the future. I commend this study, written by Tom Humber and David Williams, to the attention of my colleagues:

AUGUST 22, 1979.

SOLAR ENERGY—PROSPECTS AND PROBLEMS

The subject of solar energy is attracting public interest in the light of the Three Mile Island incident and the reduction of oil supplies from Iran since the Ayatollah Khomeini came to power. Numerous spokesmen are suggesting that solar power would be an effective replacement for fossil fuels and nuclear power alike. Newly appointed Federal solar "czar" Denis Hayes, for instance, argued in an April 1978 paper to Worldwatch Institute that with large government support programs, solar power could meet ⅗ of the anticipated world energy "budget" by the year 2025.[1] Congress, for its part, allocated more than $320 million for solar research and development in FY 1978, a threefold increase since 1976.[2]

On Thursday, June 21, President Carter unveiled a proposed solar energy program, including $646 million for solar research in FY 1980. The plan would be funded in part by expected revenues from the windfall tax on oil company profits after deregulation. The plan would authorize a $100 million Solar Energy Development Bank to subsidize low-interest loans to finance the purchase of solar equipment.

The program would also offer a 20 percent tax credit up to a $2000 maximum for in-

stallation of solar systems. In multifamily and commercial buildings a credit would be granted of $20 for every million B.T.Us saved per year above the Government's energy performance standard.

At present, about 6 percent of our energy needs are met by solar power, broadly defined to include such forms as hydroelectric power. Without Carter's plan, observers predict, the figure will reach 13 percent by the end of this century. Carter expects that, with his plan, the figure would rise to 29–30 percent by the year 2000.

Despite such optimism, solar energy faces a number of serious hurdles. Foremost among these is the fact that solar power is an extremely dilute source of energy. As Dr. Petr Beckman, editor of Access to Energy, observes, "The sun will never give more than 1kw per square meter. . . . The large collecting areas needed to provide sizable amounts of power are one of the great (and permanent) handicaps of solar power. A 10mw solar plant has a maximum capacity of 10mw, but is able to supply them when the sun cooperates, i.e., when it stands high in a cloudless sky. For a conventional plant, the average power supplied depends only upon the demand; for a solar plant it depends on both the demand and the sun and therefore its plant factor is far lower than the roughly 50 to 75 percent usual in conventional plants. To characterize a solar plant by its maximum capacity is entirely misleading, because that maximum could (and usually will) be achieved when it is not needed.[3]

Because of these factors, enormous collecting areas would be required to capture the sun's energy—even if solar equipment reached 100 per cent efficiency. Running an ordinary pressing iron, for instance, would require more than 100 square feet of collector area when the sun was shining brightly. To meet the total energy needs of our country in 1980 by this method would require covering 8,000 square miles of land (about the size of Massachusetts or New Jersey) with solar devices. The solar collectors could be concentrated in one large land area ("off-site") or situated on the rooftops of buildings ("on-site"), but the technological constraints would require in either case that enormous land areas be used for large-scale energy production.

ON-SITE TECHNOLOGY

The most practical on-site solar application at present is in hot water heating. Solar energy collectors located on the roofs of homes or other buildings can provide warm water for small-scale use. Such systems work on the same principles as leaving a long garden hose in the sun for a few hours. The sun's heat is absorbed by water tanks mounted on the roof or south wall of a building, and the water is then pumped to an insulated storage tank where it is kept until needed.[4]

According to a report prepared in June 1978 by the Office of Technology Assessment, the major barrier to the widespread use of solar water heating is its high cost.[5] The cheapest solar water heating units run between $1,000 and $1,500, with installation costing another $300 to $500 (as of 1978).[6]

A January 1978 Department of Energy (DOE) study found that the time required for the anticipated fuel savings to repay the full cost of the solar-based system was in most cases prohibitively high. Even in the most favorable circumstances, competing with electric hot water heaters, the fuel savings did not repay the cost of the solar system in less than eleven years. When the solar-based technology replaced water heaters fueled by oil or natural gas, it took between 14 and 24 years before the fuel savings recouped the cost of the systems.[7]

DOE concluded from these data that in none of the cities tested (Los Angeles, Grand Junction, Colorado, Boston, and Washington, D.C.) was solar water heating competitive with fuel oil or natural gas. In only two cities, Los Angeles and Grand Junction, were solar systems competitive with electric water heaters.[8] In short, solar water heating was found to be competitive for home use only in the most favorable climatic areas of the country and only when compared against electric power.

Solar water heating appears to be even less economical for multi-unit apartment buildings. A recently installed system for a 64-unit apartment building in New York City illustrates the point. The solar system cost approximately $140,000 (of which HUD financed $110,000) and will provide fuel savings of less than $5,000 a year.[9] At that rate it will take 28 years before the cost of the system is recouped. Since solar systems have a 20 to 30 year lifespan and significant maintenance expense, the possibility of recovering the cost of this system is doubtful at best.

Solar water heating could be competitive in some sections of the country by the mid-1980's, if the costs of conventional fuels rise relative to solar energy and if mass production reduces the cost of solar collectors.[10] Solar researchers Aden B. and Marjorie P. Meinel of the University of Arizona have raised doubt, however, that such optimistic forecasts can be realized. Since the manufacture of solar systems is energy-intensive, they say, conventional energy price increases will pull up the costs of solar energy systems as well. As a result, the researchers conclude, "the gap between solar energy apparatus and conventional energy prices is only slowly narrowed as technology progresses."[11]

Cost reductions from mass production of solar collectors, it appears, are also likely to be severely limited. According to the OTA, the price of solar devices is unlikely to fall dramatically with mass production because the cost of materials—a significant factor in the total cost of solar equipment—is not expected to drop significantly.[12] Additionally, a large portion of the total cost of a solar system is due to installation charges, including wages for plumbers, carpenters, and other laborers—costs which are unlikely to decrease with mass production of solar equipment.[13]

Combined solar space and water-heating units are beyond the financial reach of most homeowners. Part of the costs include a 9-foot by 5-foot storage tank with a concrete foundation. Such a system is similar to solar water heating except that a larger storage tank is required (typically about 1,500 gallons), more collector area is needed, and warm air is produced in addition to warm water. A combined solar unit would cost from $6,000 to $20,000 depending on climate and model.[14] Add on another $5,000 to adapt the solar system to an existing house and you have a system far more expensive than the $20 or $30 in electric bills it would save.

Despite the high costs involved, many people support on-site solar facilities because they are reputed to be energy-conserving, pollution-free, and safe. Recent studies call all three tenets into question. Solar energy may not achieve much energy conservation since large amounts of energy are consumed in constructing the solar systems. Both space and water-heating solar systems employ large quantities of steel, concrete, aluminum, copper, plastic and glass—materials which require a large amount of energy to manufacture. Dr. S. Baron of Burns and Roe, Inc., an energy engineering and construction firm, explains the implication for energy conservation:

"If solar energy applications are to be successful, the energy consumed for fabrication, construction, and operation of these plants must be less than the energy recovered by these solar systems over their operating life. If the cumulative consumption of non-renewable resources of natural gas, oil, coal, and uranium to build and operate solar energy plants is significantly large compared to the recovered energy, there is no purpose in developing the technology unless designs are forthcoming which are less energy-intensive.[15]

According to an Office of Technology Assessment report issued in June 1978, "the process of manufacturing solar energy devices creates substantially more pollution than the operation of an equivalent conventional energy plant."[16] They also found that solar energy involves risks of "leakage or explosion from excessive temperatures, high pressures, corrosion, and component failures . . . human contact with hot surfaces or broken glass, with toxic coolants if plumbing is not properly installed, and damage to collectors from high winds or heavy snowfalls."[17]

No energy source, of course, is completely safe, but conventional energy plants may have compelling safety advantages over solar power from on-site equipment. The concentration of pollution, hazards, and safety risks at one site by large-scale conventional energy plants makes health hazards easier to monitor and control. In comparison, on-site solar systems allow the safety risks to proliferate in homes all over America, making them harder to manage. According to Beckmann, massive solar production "means square miles of collectors of one type or another for each load-based large-scale facility: furnaces, reflectors, storage involving square miles of molten metal, and the like. Dangers diluted over a large area are very difficult to guard against."[18]

SOLAR THERMAL ELECTRIC PLANTS

Off-site solar systems try to avoid some of these problems by concentrating production and distribution in one large area. Solar thermal electric plants would mass-produce electric power at a central location. DOE and Southern California Edison are currently building a 10 megawatt solar electric plant in Barstow, California. The plant will have 1,760 identical slightly curved mirrors that will focus sunlight onto a central absorber more than 250 feet above ground. Cold water pumped up the tower will return as steam at 960 degrees Fahrenheit to generate electric power by turning power turbines.[19]

The major problem with the power tower, as it is called, is its cost—$100 million. This is for a plant of 130 acres producing only 10 mw. Conventional power plants producing more than 1,300 mw need only 30 acres. It would cost $13 billion for the solar tower to match the 1300 mw figure, ten times the $1.3 billion price tag of the conventional electric plants.

A solar thermal plant providing Washington, D.C.'s present electric needs would cover between 77 and 144 square miles of land with solar devices.[20] Obviously this large collector area would be physically impossible to find in a city itself measuring less than 70 square miles.

For solar energy to meet our electricity needs in the year 2000 we would have to cover 40,000 square miles with solar collecting devices. Such a large land area might be

Footnotes at end of article.

found in the desert land of the Southwest—say, ⅓ of the state of Arizona—but transmitting the power to major urban centers thousands of miles away would present major economic and technical problems of its own; transmission costs might be prohibitively high, particularly since much of the energy would be lost along the way.[21]

PHOTOVOLTAICS

Of all solar technologies none causes more excitement and more controversy than photovoltaics. Photovoltaics are silicon semiconductor cells which convert sunlight into electricity. Spacecraft are powered by this method.[22]

The chief barrier to photovoltaics is, again, the problem of cost. The NASA space station, Skylab, used photovoltaic technology for its power needs, which were about the same as an average home's requirements. The cost of the system was $30 million.

Photovoltaic electricity now costs between $1.50 and $2.00 per kw, compared to a few cents per kw for conventional sources. The high cost is due to the need for manufacturing silicon crystals. American and British scientists are currently working to produce a cheaper film of amphorous silicon.[23] These new methods may reduce costs up to 90% by 1982. Even at this level photovoltaic electricity would be several times as expensive as conventional electricity.[24]

According to the Energy Research Group at M.I.T. energy from photovoltaics will not contribute significantly to our energy supply for many decades, providing not more than ¼ to ½ of one percent of U.S. electrical demand by the year 2000.[25] A Mitre Corporation report, Nuclear Power: Issues and Choices, found that photovoltaic electricity will remain too expensive to compete with coal or nuclear power in the coming decades.[26]

Even if the cost of solar photovoltaic cells dropped to a fraction of the present cost tomorrow, the technology would still face problems of space, complexity, and skilled maintenance. Like solar thermal electric plants, photovoltaics require vast collector areas.

In New York City, according to Lawrence Rocks and Richard Runyon in The Energy Crisis, "assuming a 10 percent conversion efficiency, we would need a panel about seven by seven feet to light a 100-watt bulb."[27] According to Rocks and Runyon, if U.S. electrical needs by 1980 rise to 500 billion watts, we would require about 8,000 square miles of sunshine-collecting surface to supply the necessary power.[28] Far less energy-intensive methods to manufacture photovoltaics must be found before the technology can contribute significantly to our energy needs.

EXOTICS

There are other solar technologies that may contribute significantly to our energy needs, but probably not until well into the 21st century. Ocean Thermal Energy Conversion (OTEC) would take advantage of the oceans' vast reservoir of solar energy. The oceans act as a storehouse of energy because their upper layers are warm while their depths remain cold. The difference, about 20° in tropical waters, is enough to evaporate a liquid with a low boiling point, such as ammonia.

Currently, estimated costs of OTEC electricity range from $5000 to $3000 per kilowatt—three to four times the cost of power from a conventional electric plant, which is $1000 per kw of capacity. The goal is to cut the cost to $1200 per kilowatt by the mid-1980's.[29] Three companies—TRW, Lockheed, and Westinghouse—are working on a government contract to build a 25 megawatt OTEC plant.[30]

The next few years will make the OTEC picture much clearer. However, even the optimists doubt that OTEC can provide more than 4% of national energy needs by the year 2000.

Solar energy can play a role in solving America's energy problems. But it must be a cost-effective one. By being many times more expensive than its nearest competitors, solar energy prices itself out of the market and therefore cannot become the cure-all for our energy woes that some of its enthusiasts suggest.—Tom Humbert and David Williams, Policy Research Staff.

FOOTNOTES

[1] Dennis Hayes, *Worldwatch Paper 19: The Solar Energy Timetable*, Worldwatch Institute, April 1978, p. 5.

[2] Dr. S. Baron, Senior Vice President, Burns and Roe, Inc., Oradell, N.J. "Solar Energy—Will it Conserve Our Non-renewable Resources?" (paper), 1978, p. 2.

[3] *Access to Energy* (newsletter), December 20, 1976.

[4] *Access to Energy*, December 1973.

[5] Office of Technology Assessment (OTA), *Application of Solar Technology to Today's Energy Needs*, June 1978.

[6] *National Parks and Conservation*, April 1978, p. 19.

[7] U.S. Department of Energy (DOE), *An Analysis of the Current Economic Feasibility of Solar Water and Space Heating*, January 1978, Table 3, p. 11.

[8] Ibid, p. 10.

[9] *New York*, May 8, 1978.

[10] Dr. Aden Meinel and Marjorie Meinel, paper from the Optical Science Center, September 22, 1977.

[11] *Ibid.*

[12] *Ibid.*

[13] Daniel W. Kane, *Soft vs. Hard Energy Paths*, Charles Yulish Associates, Inc., 1977.

[14] *National Parks and Conservation*, April 1978, p. 18. See also Energy Research Group, *New Energy Sources: Dreams and Promises*, March 1, 1976.

[15] *Ibid.*

[16] Baron, p. 2.

[17] OTA, *Applications of Solar Technology*.

[18] *Ibid.*

[19] *Access to Energy*, November 1, 1974.

[20] *Science News*, April 22, 1978.

[21] Figures (for year ending 1978) from Potomac Electric Power Company (PEPCO), 1978.

[22] *Access to Energy*, November 1, 1974, p. 1.

[23] OTA, *Application of Solar Technology*.

[24] *Access to Energy*, December 26, 1976.

[25] OTA, *Application of Solar Technology*, p. 393.

[26] Energy Research Group, p. 35.

[27] *Nation*, January 21, 1978.

[28] Lawrence Rocks and Richard Runyon, *The Energy Crisis*, 1972, p. 50.

[29] Rocks and Runyon, p. 51.

[30] McKelvey, p. 168.●

MORAL IMPERATIVES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. SOLARZ. Mr. Speaker, I would like to call to the attention of my colleagues a speech recently delivered by Congressman RICHARD OTTINGER of New York. This address, delivered to the Brotherhood/B'nai B'rith breakfast of the Westchester Jewish Center on October 21, is an eloquent reaffirmation of the moral imperative of America's commitment to Israel and a persuasive argument for the necessity of reducing our dependence on OPEC.

The text of the speech follows:

OCTOBER 21, 1979.

I am pleased to have the opportunity to appear before you this morning to address some issues of preeminent concern to me. Put in a nutshell, our problem is that America's commitment to social equity at home and to the cause of democracy and human rights abroad is being jeopardized by our increasing reliance on imported oil. Our dependence on OPEC for half of our petroleum has brought us economic instability and threatened our security and the security of our friends abroad.

American integrity is being challenged as it never has been before. The longer we tolerate the weakening of our economy by the oil-producing nations, the greater will become their ability to influence our domestic and foreign policy decisions.

There is, in other words, a fundamental moral imperative in confronting and solving our nation's energy crisis. Regrettably, moral imperatives are not in vogue today. We can see this in the growth of special-interest politics and we can see this in the apparent weakening of some of our nation's commitments.

Special-interest, one-issue type politics have become the hallmark of the Seventies. Rather than asking whether a decision is right or wrong, too many leaders ask what the exact political equation of the issue is. Too many leaders follow the polls and do not even attempt to lead. Well, I believe that this is a time that crys for leadership—a time to stand tall for our moral principles and commitments.

I believe that our nation's commitment to Israel represents a fundamental moral imperative, not merely a transitory foreign policy position. Yet the strength of that commitment seems somehow less than definitive today.

We continue to pour our devalued dollars into the coffers of the OPEC nations, the very nations that are the sworn enemies of our ally Israel. Prudence requires us to wonder when some in our country will see our interest in oil as superseding our interest in Israel. Yet I am convinced that our support for Israel extends far beyond our interest in their strategic location. Our support is based on principle. If America is to mean anything to itself and to the world, it must uphold its principles and commitments made out of moral responsibility.

I do not have to justify for you the legitimate right of Jews to a homeland in Israel. Israel was not created by the UN in 1947, it is the result of many years of nation-building by devoted Zionists. Since the 19th century, Zionist pioneers settled an undeveloped land and turned an untamed desert into a verdant, productive land. Against all odds, the State of Israel has persevered to become a model of democracy and economic achievement, all the while surrounded by hostile and turbulent neighbors. Israeli courage and tenacity should be an inspiration to us all.

To found a nation, develop it to its greatest potential, defend it, yet always aggressively pursue peace can only be viewed as an extension of the finest traditions and virtues of our own nation. To support Israel is in the highest tradition of morality and democratic principles.

Israel is not a pawn in a game of power

politics. Rather, it is a viable, vibrant example of what can be accomplished if a people decides on a great objective and never loses sight of their principles or objectives.

To jeopardize our national interest for the benefit of the OPEC nations is sheer insanity. We must do everything in our power to halt the erosion of American democratic values and strength at home and abroad. The security of the world's democracies is too high a stake to gamble in a game of oil roulette.

It is time we finally make the commitment to freeing ourselves from OPEC's stranglehold over our energy supplies, for as long as OPEC controls our energy future, they will continue to threaten the stability of our economy and the security of our nation and our allies.

As Chairman of the House Energy Development and Applications Subcommittee, I am acutely aware of the impact that the energy crisis is having on our domestic stability and international world order. While there are no "quick fix" solutions to the long run problem of dwindling oil supplies, there are measures we can take, right now, to ease the crisis. The key step is conservation. Conservation, the more efficient use of energy, accompanied by greater use of renewable resources, is clearly recognized as our best energy investment option.

The Harvard Business School, the Ford Foundation, the Council on Environmental Quality all agree: conservation and renewable resources are our best option for reducing our reliance on imported oil.

According to these studies, we could reduce our energy consumption by 40 percent without sacrificing our life style. We need not remain hostage to OPEC if we commit ourselves to energy efficiency. The choice should not be a difficult one to make.

Listen to these recent remarks of Energy Secretary Duncan:

"Energy conservation is my highest priority. It is the cheapest and quickest way to improve our energy security, to strengthen our economy, and to reduce our public, corporate and family budgets. Conservation improves the quality of our environment and enhances our position of international leadership. I believe in energy conservation—it is the foundation of our energy policy—both now and in the future."

Some suggest that increased reliance on nuclear power is the secret to reducing our dependence on OPEC. This is simply not the case. Electric generation represents only 9 percent if our petroleum consumption, only 4½ percent of imports. It is a misleading and false illusion to suggest that nuclear can significantly reduce our reliance on OPEC oil.

Some suggest that synfuels are the answer to breaking OPEC's grip on our economy. This ignores the fact that synfuel technology is largely experimental. The truth is that it will take roughly five years to build pilot plants, ten years to get the first significant commercial production and fifteen years or longer to significantly impact existing energy systems.

If indeed we are truly committed to reducing our dependence on OPEC in the next decade, we must be committed to conservation, for it is the only option available that can bring significant, immediate returns.

In response to the great need for legislation that will accelerate our progress in energy conservation, I have introduced the Conservation and Renewable Energy Resource Act of 1979 which is aimed at bringing into more widespread use the nation's enormous conservation and solar potential by making these options more attractive to consumers.

My bill would make it easy for homeowners and commercial establishments to obtain financing and maintain energy saving and solar devices. Present law makes it possible for consumers to have their utility conduct an energy audit of their home. This bill authorizes the utility to also arrange for independent contractors to install energy saving or renewable energy devices; provide or arrange financing; audit the home after installation to assure high quality work and provide maintenance, the same way the phone company fixes your phone.

The hardships suffered by the American public at the hands of OPEC are numerable: rampant inflation, deepening recession, rising unemployment—not to mention the threat of a cold winter for the poor who cannot afford to pay their heating bills.

While moral imperatives may not be in vogue, our nation's future depends on our commitment to them. Commitment to an energy policy that will be effective in reducing our reliance on OPEC oil. Commitment to our allies around the world, and a commitment to help those among us who are most disadvantaged by our current economic hard times. To me, these imperatives are inseparable. I will not cease in my efforts to pursue these objectives.●

KODAK'S FALLON TALKS ABOUT PRODUCTIVITY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. HORTON. Mr. Speaker, while we in this House may not always agree on the causes of the problems confronting our Nation today, I do believe there is a growing consensus that one of our economic woes can be attributed to diminishing productivity. Because we have witnessed a decline in productivity in the economies of our trading partners in Western Europe, I think it is particularly important to draw attention to this problem in our own country.

Mr. Walter A. Fallon, chairman of the board and chief executive officer of Eastman Kodak in Rochester, N.Y., recently addressed the Society of Manufacturing Engineers on the subject of productivity. His speech, "The Commonsense of Productivity," provides an interesting insight into the success of one firm in this area, and I commend it to my colleagues. The text follows:

THE COMMONSENSE OF PRODUCTIVITY

(By Walter A. Fallon)

Good morning. One hundred and eighty years ago, in 1799, the man for whom this city was named lay dying. He was afflicted by a disease his doctors knew well, but could neither treat nor cure.

The symptoms of acute tonsilitis were obvious: An increasingly sore throat . . . swelling of the glands in the neck . . . difficulty in breathing. Following accepted medical practice, the best doctors in the capital drained his blood, a pint or so every day. They applied wheat bran poultices to his legs and feet and tried to make him drink a mixture of molasses, vinegar and butter. Though the patient never complained, he grew steadily worse. Three days after the doctors had been summoned, George Washington was dead.

One of his more enlightened doctors later speculated that "had we taken no more blood from him, our good friend might be alive now."

While we will never know for certain if the disease that killed George Washington was diphtheria or an acute strep infection, we do know that nothing any 18th century doctor could have done would have saved him.

Happily, that is not the case with the patient who has lost so much blood in recent months: the U.S. economy. We have a remedy. Productivity. If others could see that as clearly as you do, we could be well on the way to a permanent cure.

At Kodak, we've worked very hard to improve productivity over the last five years.

But I didn't come here with a magic wand or an earthshaking new management technique. There is nothing radically new about productivity. Most of it is no more than plain comomn sense. Most techniques we use are no different from the ones you use or could easily be using if you wanted to. It doesn't matter if you're a 7-billion-dollar business or a 7-million-dollar business. I think you'll see as we go along that the basic rules remain the same.

Kodak has always recognized the importance of productivity, but the push intensified in 1974 and '75. Then, as now, the nation was in a recession. Then, as now, business results were reflecting extraordinary escalation in labor and raw material costs.

Five years ago at Kodak, new product programs were requiring enormous capital investment. At our film manufacturing facility in Rochester, New York, we were building some of the most sophisticated manufacturing equipment in the world—high-speed assembly machines to make the instant film we would market in April 1976. The design engineers and toolmakers at our apparatus division were busy, too. They were preparing to make instant cameras for the new film. And they are also working on major new copier products we would announce in the spring of 1976. We had added people. And we were spending tens of millions of dollars.

For years, it had been very clear that the only way we could build for the future, and return a fair dividend to our shareowners, was to become more productive. The recession brought the lesson home hard.

We began by putting a lid on hiring. We would hire new people *only* where absolutely necessary. When someone retired or quit, we asked management to do its best to fill the job from within. Still, there were some shocks to a lot of people. But as one manager said to me only last week, "Limiting the head count was the best thing that ever happened to our operation. It made people realize they had to really get smart to handle the increased volume. And that was when they started thinking productively."

The results, I think, speak for themselves. Over the past ten years, productivity gains at Kodak have averaged four percent per year, nearly twice the national average for industry and three times the national improvement. In 1978, Kodak productivity increased by more than 12 percent, about four times the rate of manufacturing companies.

We learned a lot during this time. I can sum it up in seven simple statements.

The first lesson is the most important. Productivity is a science. "Science," of course, is simply the Latin word for "knowledge." There is a science to every job. Nearly every job can be made more productive by studying it scientifically and applying what you learn.

Take office administration. Kodak employs about 50,000 people in Rochester and

more than 4,000 work at our corporate headquarters.

A small town of 4,000 people needs a lot to keep it going. Kodak Office does, too. The cost of keeping the building open, heating it, cleaning it, getting the mail delivered, and running the phone systems is not small.

Office administration does not produce a single product for sale. Yet for most companies it takes as many as ten dollars in sales to make one dollar available to run the business. So when we began looking for gains, we charged administrative people with the same responsibility as any other operating unit. Deal with more work, but hold down costs, especially "people costs."

It worked. We studied closely how we handled mail. We made it better. We streamlined the service and we were able to withstand a volume increase of some 80 percent. During the last ten years, we've only added two people, yet we handle more than 25 thousand additional pieces of mail each day.

We closely examined the value of office landscaping. It works. We moved department after department from classic walled offices to landscape areas. We cut the cost of moving an average office from $10 a square foot to 80 cents. And cleaning costs for landscaped offices were reduced by one-third.

We didn't have to study the price of energy to know we had to manage it better. Nobody did. We caulked the windows. We used computers to adjust our heating and cooling systems. We adjusted the lighting. We made dozens of other small innovations. They worked. We reduced energy consumption over six years by 53 percent. Although costs skyrocketed during the same period, we actually are paying only 20% more now for energy than we did before the crunch came.

We studied internal printing costs. We installed our own copiers and a two-sided automatic duplicating system in the reproduction department. We realized time and cost savings of 10% on a volume increase of 3.5 million copies.

I could cite other examples but the point is clear: If you want costs cut, you have to be smart about every aspect of your operation, not just manufacturing, or building construction, or data processing. You must look at every expense, then ask yourself: Can this be done better? The moment you know it can, you owe it to your shareowners to do it.

Productivity is a science, but the second rule of productivity goes to the heart of the matter. You need everybody's commitment. It's OK to be smart about improvements, but your good ideas won't get you far unless people want to make them work. And people will work toward productivity only when they know why it is needed and how much their effort contributes.

We asked the people at Kodak Park, our manufacturing site for films and papers, to look at tens of thousands of jobs—managers, supervisors, production workers. Since we hadn't done this for several years, we could consolidate operations and eliminate duplication. At the same time, we decided to restrain hiring and fill openings from within where possible. As a result, we could take advantage of natural attrition—about 3 percent per year—and redeployment of people, to improve the effectiveness of the workplace. Overall sales advanced faster than employment, and we realized those substantial productivity gains I referred to earlier.

The major benefit became visible in 1978, when Kodak profits advanced 40 percent after 4 years of what we might call discomforting stability.

Productivity and profits work together, of course, to provide the funds needed for investment in new and better products, in new and better ways to make and market what we develop in the laboratory. To complete the cycle, those new products generate the demand that justifies more and more jobs. Productivity, then, supports real growth, and real growth should be the only source of additional employment.

A new financial information system was important to productivity improvements at Kodak Park. It wasn't set up to give data to top management. Rather, it was designed to help manufacturing "clients" establish productivity goals and monitor progress. By establishing a flexible, simple measuring and reporting system, we could translate productivity needs into data both supervisors and workers could understand. Where dollars or units were important, we rated work in those terms. Where labor hours per 1,000 square feet of film or paper was effective, we used that. In every case, we made our standards fit the job.

In every case, we told supervisors and workers they "owned" a productivity opportunity. We also told them their performance would be judged in part on how well they took advantage of it.

Here, for example, is a work team whose job it is to spool and inspect 35 mm amateur film. The team supervisor regularly tells the team leaders their effectiveness in terms of the output per machine per shift. We then tell the different work crews the full shift rates of production. Each team strives to get the most work out with the least amount of watse and at the lowest cost to the company. The competition keeps people motivated. A typical team increased its productivity gains, in a way that cut costs by more than $35,000 a year. There are hundreds of a similar teams. Many departments run three shifts a day, seven days a week. When they all become more productive, you begin to pick up some remarkable cost efficiencies.

This second rule cannot be overemphasized. The man or woman on the line remains the best and most flexible source of productivity improvements. If you put productivity challenges to them in plain words and real numbers, people will become committed and stay committed.

There's much more to it, however, than working smart and working hard. When the sales and earnings report comes due, no one cares how smart you are or how hard you work. The only thing that counts then is results, and those results are being measured in increasingly inflated dollars.

So following our first two rules, we add a third. You must *emphasize programs that will contribute directly to sales.*

Consider the impact of inflation on prices. Inflation is a funny thing. It builds in cost pressures, sure. And it builds in both consumer resignation to some price increases and consumer resistance to others. In some industries, it's possible to pass your costs along. If consumers badly need your product (gasoline, for example), they seem resigned to paying whatever it costs to get it. But many products won't bear that strain.

Prints and slides can be as important as people's favorite memories. Yet picture-takers are less forgiving of passed-along costs than motorists. They don't care that silver now costs $18 an ounce (up from $6 a year ago). They don't care that Kodak must find 50 million dollars each time the price goes up a dollar an ounce. They don't care that our labor costs have risen steadily at about 10 percent per year over the last 10 years. There is a certain price they will pay for a camera or for a color print, and they have a powerful psychological resistance to paying much more.

When a woman with five grandchildren goes Christmas shopping with a $20 limit on each gift, she may consider a camera the perfect present for her favorite 12-year-old. But if she can't get a $20 camera, she may head for the clothing department or the record store.

The manufacturing challenge, then, comes from marketing. Sales people want a camera that sells for $20 because that's the highest price millions of people will pay. That price point creates a cost point. Over the past ten years, we have had to manufacture cameras, lenses, film and paper at a total cost that doesn't change despite inflation. And we've done it. The camera you see here sold for under $20 in 1970. We made a pocket camera with more features in 1973 and it sold for about the same price. And the comparable cameras now on the market lists for less than $18.

We must meet a cost point for *all* our cameras—conventional and instant. To do it in an inflationary recession meant more productive design, engineering and assembly. Our people came through. They used computers to design a plastic lens. They repeatedly designed one plastic part to do the work of several metal ones, eliminating springs, cams, gears and others parts formerly added by hand on the assembly line. They designed automated manufacturing units to handle simple though precise assembly jobs. They designed streamlined QC functions like this one that simultaneously checks four different characteristics of an electronic flash unit.

Technology has been applied with comparable zeal to the manufacture of Kodak films and papers.

The color prints you got back from Kodak laboratories cost 30 cents each in 1972. In 1979, they cost 33 cents apiece, and picture quality is better than ever. Keeping our costs down keeps our prices down. Cost control on your key products is indispensable to the unit volume increases any company must get to increase its real productivity.

When you realize that, a fourth rule becomes very important. To get productivity increases, you must *keep score in productivity terms.* Many companies yield to the temptation of playing all kinds of statistical games. It can be tempting to content yourself with market share data, return on equity, profitability standards, and profit centers. But for a company to stay healthy and grow, it must produce more and it must produce it more effectively.

I'd add here that what's true for companies is equally true for the public sector. It strikes me as one of the great "cop-outs" of our time that so many public institutions and service organizations claim they can't develop their own productivity standards. Of course, "total factor productivity" data that includes the cost of labor, capital and materials is very difficult to measure—especially on an international scale. But pockets of productivity can be measured. And each productivity gain benefits everyone involved. At Kodak, we have developed some very accurate productivity audits—but none so sophisticated that other manufacturing companies couldn't design equally effective methods for themselves. Such audits give us an excellent picture of our productivity. We constantly refer to that picture when analyzing our performance and planning future programs. If we can do it, any sizable organization can.

For my fifth commandment, I'd point out only one thing. You can't get productivity by short-changing the future. Some hard-nosed people think the smart, short road to profitability is to postpone new product introductions, slash R&D spending, cut training programs and eliminate support activity. But the really hardnosed people know better. When well run, these programs, per-

ticularly the research and development programs, are indispensable. At Kodak, R&D costs have run at about 6 percent of sales in good years and bad. To cut these programs would be to limit some remarkable long-term growth opportunities. We must afford the future, no matter what it costs today.

As much as 20% of our research money goes to making our plant run better. The machines that coat our films and papers with layer upon layer of emulsion are the heart of our manufacturing operation. The higher their yields, the more efficient Kodak becomes. Over the past three years, we have steadily increased coating machine speeds by as much as 50% for some products while improving their quality. Research into improving the efficiency of your equipment can be tedious, frustrating and, to some, not very glamorous. But believe me, there is real glamour in the economies that result when the job is done right.

The sixth commandment of increased productivity is something every manufacturing engineer already knows very well. Your work will only be as good as your tools. The tools in the productivity game come in hundreds of shapes and thousands of flavors. I'll mention just one: The computer.

At Kodak, we have been able to use data processing technology in hundreds of applications. We use computer-aided drawing for product illustrations and office layouts. Drawings go out in one-third the time they would take if done entirely by hand. In this area alone, savings in personnel time should come to at least $1 million a year.

We use minicomputer-based text and data processing in our marketing and distribution locations as well as in the field. We look for savings here of between $2 and $4 million a year.

Over the next five years, we expect to increase by a factor of ten our use of computers to display graphic information to market research analysts. When combined with the use of some Kodak IMT microimage terminals for low-cost document storage, we look for annual savings of around $2 million.

We're using an on-line computer system to dispatch service people and record their work. They are thus freed from writing up call reports and can use their time more productively. We could see savings in this area of more than $3 million annually.

I could give you a dozen more examples in the marketing and distribution areas, but I think you can see how innovative uses of computers can drastically affect our costs. For many large companies, a million-dollar savings may not have a visible impact on earnings. But to paraphrase the late Senator Dirksen, "A million here, a couple of million there—pretty soon you're talking about real money."

The last lesson we learned from our productivity push might work a kind of magic if applied across our society. It's simple. People enjoy working more productively.

In the last three years, we have held our workforce steady—both in Rochester and around the world—while increasing our sales by 30%. You can't drive a good workforce 30% harder. But we found we could often work 30% or 50% or even 150% smarter. And our industrial relations people noticed that in case after case morale improved as productivity improved. People like working. They like to shoot for a goal and hit it. Most of us like being part of a winning team; people like the sense of accomplishment that comes from doing a good job even better.

I don't know if the fight for productivity is the "moral equivalent of war" or not. But meaningful productivity gains can create the economic equivalent of peace, and a sense of real personal accomplishment.

Leaving Kodak aside, I would like to offer one more thought this morning. There has been a great deal of talk in the press about productivity, and there has been a lot of finger pointing at government people, teachers, lawyers, professionals and other groups. Manufacturing people have traditionally been exempt from such criticism because for many years their productivity increases were consistently above those of other economic sectors. But the current downturn in investment and capital spending suggests that the trend cannot be continued unless we become willing to assert our belief in the future by planning for—and spending for—production now.

I think we can all do better. But I don't think we will do better unless we stop using the idea of productivity as a weapon to point out the other person's problems. Instead, we should each examine what it will really mean for ourselves, our jobs and our nation, if we become more productive. Every attempt at being more efficient—using resources conservatively . . . saving time . . . becoming better organized . . . eliminating waste . . . and managing our work better—produces an incremental gain in productivity. We can't get people to realize this by casting blame, pointing fingers and accusing each other.

Productivity is an absolute good. It increases the national and world economic product. But, there is nothing magic about it. We don't need magic anyway. We need common sense and the will to work. Common sense today consists of using tools that technology has created to work smarter still on the complex social and economic challenges before us. The motivation to work can only come when people see the opportunities the productivity challenge affords.

Thank you. ●

GENERAL ACCOUNTING OFFICE DEFINES EXPORT "SUSPENSION"

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. NOLAN. Mr. Speaker, on August 1, 1979, the Secretary of Agriculture announced that a "mutual understanding" had been reached with the Soviet Union regarding further sales of corn. According to Secretary Bergland's announcement, the Soviets would be allowed to purchase no more than 5 million tons of corn between August 1, 1979 and the regular October meeting with the Soviets.

On October 14, 1979, I asked the General Accounting Office to provide me with an opinion on whether or not the Agriculture Department's action constituted a suspension of exports as defined under section 1002 of the Food and Agriculture Act of 1977. GAO concluded that the Agriculture Department's August 1, 1979 action did not constitute a suspension.

The GAO response follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., October 23, 1979.

Hon. RICHARD NOLAN,
House of Representatives.

DEAR MR. NOLAN: This is in response to your request for our opinion on whether the current sale of corn by the United States to the Soviet Union, which you suggest limits the amount of corn the Soviet Union may purchase from the United States to 5 million tons, constitutes a suspension of export sales under the Food and Agriculture Act of 1977 (Public Law No. 95-113, § 1002, 7 U.S.C. § 1310 (Supp. I 1977)). If this is the case, you maintain that the Secretary of Agriculture is apparently in violation of the Act because it requires him to establish the loan level at 90 percent of parity for any commodity for which export sales are suspended, and he has not done so for corn.

We have determined that section 1002 of the Food and Agriculture Act of 1977 is not applicable to the present situation. The statute provides:

"(a) Notwithstanding any other provision of law, whenever the President or any other member of the executive branch of the Federal Government causes to be suspended, based upon a determination of short supply, the commercial export sales of any commodity [defined to include corn], * * * to any country or area with which the United States otherwise continues commercial trade, the Secretary of Agriculture shall, on the day the suspension is initiated, set the loan level for such commodity under the Agricultural Act of 1949, as amended, if a loan program is in effect for the commodity, at 90 per centum of the parity price for the commodity, as such parity price is determined on the day the suspension is initiated."

The central issue here is whether the United States has actually suspended export sales of corn to the Soviet Union, based on a determination that corn is in short supply. If so, then the Secretary of Agriculture would have to establish the loan level at 90 percent of parity for corn in order to comply with section 1002.

Neither the statute itself nor the legislative history defines the term suspension. Because of this, we have examined the definition contained in Black's Law Dictionary, p. 1615 (rev. 4th ed. 1968). There the term "suspend" means:

"To interrupt; to cause to cease for a time; to postpone; to stay, delay, or hinder; to discontinue temporarily, but with an expectation of resumption * * *."

Applying this definition to the present situation, it is clear that the United States would have to discontinue in some way the supply of corn to the Soviet Union in order to require the Secretary of Agriculture to fulfill the conditions of section 1002.

We asked the Secretary of Agriculture to describe the circumstances of the purchase. He indicated that the current sale relates to a five-year agreement between the two countries which commits the Soviet Union to buy a minimum of 6 million metric tons of wheat and corn annually from the United States. The Soviet Union may buy up to 8 million metric tons without consultation unless the United States' total grain supply is less than 225 million metric tons. The agreement also provides that before the Soviet Union buys a total volume of wheat and corn exceeding 8 million metric tons in any one year, the countries must consult with each other and agree upon a higher level of supply. In the Secretary's opinion:

"The intent of the provision requiring prior agreement before trading more than 8 million tons in a single year is mainly to ensure stability of trade between both countries and to avoid surprises which could have an extremely disruptive effect on world markets."

The legislative history of section 1002 supports the Secretary of Agriculture's position that the statute does not apply to the present situation. It states:

"This provision is intended to discourage embargoes or the suspension of export sales by the Executive Branch of government. It does not of course prevent such action where an overriding national interest exists. However, the committee feels that if the public interest is served by such drastic and disruptive action, then the public, not just grain producers, should pay for that public policy. If there is a true short supply of the commodity, then this provision should not prove costly to the government since short supplies should cause market prices for the commodity to be at or above the parity price for the commodity. It is not considered that there would be suspension of sales by the Executive Branch if there were to be consultations with a foreign government and as a result of such consultation the foreign government decided not to purchase commodities. Similarly, this section would not apply to a situation where there was a short supply of a commodity and the Executive Branch were to allocate the available supply to customers abroad in an orderly manner."

H.R. Rep. No. 348, 95th Cong., 1st Sess. 31, reprinted in [1977] U.S. Code Cong. & Ad. News 1704, 1732. Thus, the Subcommittee on Livestock and Grains, House Committee on Agriculture, meant to place limitations on suspensions because it "had seen the bad effects of past embargoes and wanted to prevent similar circumstances from occurring in the future." *Id.*, 1854.

According to the Secretary of Agriculture, the agreement between the United States and the Soviet Union has not been used to limit exports of corn or wheat to the Soviet Union from the United States in any way. It merely requires that the two parties consult with each other to determine an appropriate, new level of supply.

Seen in this context, the statement you cite in the Secretary's August 1 statement, that "there was the mutual understanding [between the United States and the Soviet Union] that 5 million tons of corn may be purchased for delivery during the fourth year of the agreement," does not, in our view, describe a suspension of exports. Rather, it represents the agreement of the parties on an appropriate level of supply.

That the 5 million tons does not represent a suspension of export of additional amounts is borne out by the next sentence of the August 1 statement:

"The possibility of additional purchases of U.S. corn * * * will be discussed during the regular meeting of the two governments in early October. By that time, we will have more precise information on the size of this year's corn and other feed grain crops and the Soviets will have a better estimate of their import needs."

This conclusion—that the 5 million ton agreement is not a suspension of exports—also finds support in the Secretary's explanation to us that "[s]hipments of U.S. corn to the U.S.S.R. are proceeding at a pace which is believed to be at or very near the capability of physical handling facilities on both sides."

It should also be noted that in order for the statute to apply a determination must have been made by the President or another member of the executive branch of the Federal Government that corn is in short supply. (See, in this connection, 50 U.S.C. § 2403 (1976), which permits the President to prohibit or curtail exports of agricultural commodities under certain conditions including when the Secretary of Agriculture determines them to be in short supply.) No such determination has been made in this case.

We are therefore unable to find that export sales of corn to the Soviet Union have been suspended because of short supply and that the Secretary of Agriculture is in violation of section 1002 of the Food and Agriculture Act of 1977.

We hope that this information has been helpful to you.

Sincerely yours,

MILTON J. SOCOLAR,
Acting Comptroller General
of the United States.●

SALT II: THE DEBATE CONTINUES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, October 24, 1979.

SALT II: THE DEBATE CONTINUES

The outlook for Senate approval of the second strategic arms limitation treaty (SALT II) is still in doubt. There is firm opposition to the treaty, but there is also strong support for it.

Support for SALT II in the Senate can be explained by three main factors. First, all the problems of national security that worry opponents of the treaty would not be solved if SALT II were repudiated. Second, all the defense projects that might be credibly proposed to enhance our national security could be pursued under SALT II. Third, the treaty would make a number of significant contributions to our national security. We can understand the first two factors better if we take a close look at current objections to SALT II:

"The treaty would give the Soviets an unfair advantage in heavy missiles." Under the treaty the Soviets would be allowed 308 heavy missiles, each of which could be armed with ten warheads. We would be allowed none. Without SALT II, however, the Soviets could produce more of these missiles and could fit them with up to 30 warheads each. Thus, under the treaty the Soviets would not be able to exploit their heavy missiles fully. Because of our superior technology, we have consciously chosen not to build heavy missiles.

"The treaty would not include the Soviet Backfire bomber within overall limits." Under the treaty the Backfire bomber would not be counted as a strategic delivery system. The reason for the exclusion is the bomber's limited range. However, the Soviets have agreed not to increase the bomber's range and not to produce more than 30 bombers per year. Without SALT II there would be no restrictions whatever on improvements in or production of the Backfire.

"Compliance with the treaty could not be verified." Experts note that the treaty would not be based on mere trust, for in addition to our national technical means of surveillance the Soviets would be obliged to aid us in the acquisition of data on their strategic forces. Moreover, the treaty would prohibit any deliberate effort by the Soviets either to interfere with surveillance or to conceal strategic forces. In the absence of SALT II unaided surveillance would be our only source of information on the Soviet threat.

"The treaty would do nothing to protect our land-based missiles." Because of technological improvements in the Soviet strategic arsenal, most experts say that our land-based missiles will be vulnerable in the early 1980s. While the treaty would not eliminate the problem, it would open the door to various solutions. By limiting the number of Soviet missiles and freezing the number of warheads on the missiles, the treaty would reduce the Soviet threat. Also, our new system of mobile deployment (the MX) would make our land-based missiles less vulnerable only if the treaty's restrictions on delivery systems and warheads were in force.

The case for SALT II does not rest on counterarguments alone. The treaty would make many significant contributions to our national security. The following are just a few of those contributions:

SALT II would help to preserve the military balance between us and the Soviets. With the treaty in effect both sides would be limited to 2,250 strategic delivery systems. The Soviets would have to dismantle 10 percent of their existing systems to reach that level (the first actual reduction ever negotiated in the history of nuclear arms), but we would not have to dismantle any of ours. Furthermore, the treaty would limit the number of warheads each delivery system could carry. The carefully considered limits of SALT II would break the momentum of the nuclear arms race and would give us a clear picture of the Soviet military threat through the 1980s. There would be greater stability at less expense.

SALT II would support the principal objectives of our foreign policy. The central element of stability in our relationship with the Soviets is the mutual effort to control nuclear arms. The treaty would strengthen that effort. If the treaty were to fail in the Senate, we would almost certainly enter a period of unbridled and dangerous military competition with the Soviets. Also, our closest allies have strongly endorsed SALT II. They see it as a way to stabilize relationships between East and West in many areas. Failure to approve the treaty would diminish their confidence in us as a reliable ally. Finally, rejection of the treaty would put our credibility as a world leader on the line. It would show us suddenly and strangely unwilling to follow through with one of our most important foreign policy initiatives.

SALT II would perpetuate a framework for progress in arms control The treaty would not go as far as we want in controlling nuclear arms, but it makes no sense to refuse to take a step forward with SALT II just because the step might not be the fullest. We are now pursuing the broadest agenda of negotiations in history to limit arms. If the process which gave rise to SALT II were to break down, the prospects for agreement in any of the critical negotiations would be seriously compromised. For the immediate future, at least, arms control, whether nuclear or conventional, would be practically impossible.

The paramount question, then, is whether we are at all better off with SALT II. If we are, the treaty should be ratified. Our response cannot turn on what an ideal accord might be, but whether we are better off with the treaty or without any constraints on the strategic weapons of either side. I believe that we are better off with the treaty.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the com-

puterization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 25, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 26

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.
235 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

*Finance
To continue consideration of H.R. 3464 and 3236, bills to remove certain work disincentives for the disabled recipients of supplemental security income benefits.
2221 Dirksen Building

Judiciary
To resume hearings on S. 1763, to reform the immigration laws and policies, to improve the efficiency of the Immigration and Naturalization Service, and to provide an increase in the annual number of visas available to Canada and Mexico.
2228 Dirksen Building

Joint Economic
To resume hearings on the Consumer Price Index figures and inflationary trends.
5302 Dirksen Building

10:30 a.m.
*Foreign Relations
To hold hearings on proposals for the reform of the United Nations.
4221 Dirksen Building

OCTOBER 29

8:00 a.m.
*Veterans' Affairs
To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.
5110 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1905 and S.J. Res. 114, measures to provide for the orderly restructuring of the Milwaukee Railroad.
235 Russell Building

10:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To resume consideration of S. 703, to provide for the study, advanced engineering, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the U.S. and trust territories.
4200 Dirksen Building

Select on Indian Affairs
To hold hearings on the nomination of William E. Hallett, of Colorado, to be Commissioner of Indian Affairs.
1202 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Joint Economic
To hold hearings in observance of the 50th anniversary of the beginning of the Great Depression of 1929, focusing on the causes and effects of depression.
318 Russell Building

OCTOBER 30

9:30 a.m.
Judiciary
Business meeting, to resume consideration of S. 10, authorizing the Department of Justice to initiate suit to enforce constitutional rights to institutionalized persons; and to begin consideration of S. 1246, to protect against the growth of a monopoly power among major petroleum companies, and to encourage oil companies to invest profits back into oil exploration, research, and development; and pending nominations.
2228 Dirksen Building

10:00 a.m.
*Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
6226 Dirksen Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry, on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
6226 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To continue consideration of S. 703, to provide for the study, advanced engineering, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the U.S. and trust territories.
4200 Dirksen Building

OCTOBER 31

9:30 a.m.
Commerce, Science, and Transportation
To hold joint oversight hearings with the Select Committee on Small Business and the House Committees on Small Business and Science and Technology to review proposed techniques in the field of industrial development.
1202 Dirksen Building

Select on Small Business
To hold joint oversight hearings with the Committee on Commerce, Science, and Transportation and the House Committees on Small Business and Science and Technology to review proposed techniques in the field of industrial development.
1202 Dirksen Building

Select on Small Business
To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information released by such services.
424 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To continue consideration of S. 703, to provide for the study, advanced engineering, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the U.S. and trust territories.
4200 Dirksen Building

Rules and Administration
To hold hearings on S. 392 and 597, bills to assure access for the elderly and handicapped to polling and registration locations for Federal elections; and other legislative and administrative business.
301 Russell Building

Joint Economic
To resume hearings on the economic impact of racial discrimination on minority communities.
210 Cannon Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 246, 1468, and 1846, bills to allow taxpayers to exclude interest income earned from a savings account from gross income; S. 1638, to permit owners of new businesses to write off their initial expenditures; S. 1703, to provide a tax exclusion from personal income earned abroad from charitable services; S. 541, to provide that the election to use the the alternate valuation date may be made on an estate tax return that is filed late; S. 999, to exempt taxpayers who file late tax payments from interest penalties; S. 555, to permit the owners of independent local newspapers to make tax deductible contributions to trusts established for the eventual payment of estate tax; and S. 1543, to defer current Federal income tax on dividends reinvested in original issue stock of a company.
2221 Dirksen Building

NOVEMBER 1

9:30 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on proposals advocating a balanced Federal budget or restricting in some way the growth of Federal outlays which include S.J. Res. 2, 4, 5, 6, 7, 9, 10, 11, 13, 16, 18, 36, 38, 45, 46, and 56.
6226 Dirksen Building

Select on Small Business
To continue hearings to review the impact of private and commercial credit reporting services on small business to focus on the accuracy, reliability, and assessibility of information released by such services.
424 Russell Building

Select on Small Business
To continue oversight hearings with the House Committees on Small Business and Science and Technology to review proposed technical methods for industrial development.
2316 Rayburn Building

2:00 p.m.
Conferees
On S. 239, authorizing funds through fiscal year 1981 for programs under the Domestic Volunteer Service Act.
S-206, Capitol

NOVEMBER 2

9:30 a.m.
Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on a proposal to transfer the functions of the Cost Accounting Standards Board to the General Accounting Office.
5302 Dirksen Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 1691, to create an appellate court with exclusive jurisdiction over all federal civil tax appeals.
2221 Dirksen Building

NOVEMBER 6

9:00 a.m.
Agriculture, Nutrition and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To hold oversight hearings to examine the current operations of the Farmers Home Administration, focusing on recent problems relating to the outstanding debt to the agency and personnel problems associated with loan supervisions and counseling; also to examine the implementation of the guaranteed agricultural loan programs and the economic disaster loan program; and to review the installation of a management information system at the agency.
324 Russell Building

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To resume hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
3302 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings on the implementation of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).
4232 Dirksen Building

Select on Small Business
To resume hearings to examine the economic outlook for the small business.
424 Russell Building

NOVEMBER 7

9:30 a.m.
Government Affairs
Intergovernmental Relations Subcommittee
To continue hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
1318 Dirksen Building

Labor and Human Resources
To hold hearings on S. 1089, to revise the reporting and recordkeeping requirements under the Employee Retirement Income Security Act (ERISA) and to enforce the IRS Code requirement with respect to pension plans.
4232 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To continue oversight hearings on the implementation of the Rehabilitation, Comprehensive Service, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).
457 Russell Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on H.R. 2797, making technical, clerical, conforming, and clarifying amendments to provisions of the Revenue Act of 1978.
2221 Dirksen Building

NOVEMBER 8

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 1136, to develop an integrated program of financial assistance to provide States and local governments with greater flexibility in handling various environmental programs.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, the National Endowment for the Humanities, and Institute of Museum Services; and S. 1429, authorizing funds through fiscal year 1982 for programs under the Museum Services Act.
4232 Dirksen Building

10:30 a.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To mark up S. 988, authorizing funds through fiscal year 1983 to increase the effectiveness of research in biomedical sciences.
155 Russell Building

NOVEMBER 14

9:30 a.m.
*Commerce, Science, and Transportation
To resume oversight hearings to review proposed techniques in the field of industrial development.
235 Russell Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights; the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

NOVEMBER 15

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

Government Affairs
Intergovernmental Relations Subcommittee
To resume oversight hearings to examine the scope of the general revenue sharing policy.
3302 Dirksen Building

NOVEMBER 16

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

10:00 a.m.
Finance
Public Assistance Subcommittee
To hold oversight hearings on alleged fraud and mismanagement practices in HEW directed toward erroneous State payments to recipients of the Aid to Families with Dependent Children and Medicaid programs under the Social Security Act.
2221 Dirksen Building

NOVEMBER 20

9:30 a.m.
*Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.
5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of the U.S. maritime policy.

235 Russell Building

CANCELLATIONS

OCTOBER 29

9:30 a.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To hold hearings on S. 1335 and 1336, bills to establish a program of financial assistance to improve the energy efficiency of residential heating systems.

3110 Dirksen Building

10:00 a.m.

Governmental Affairs

Civil Service and General Services Subcommittee

To resume hearings on the use of consultant services by the Federal Government.

1318 Dirksen Building

UNITED STATES OF AMERICA

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FIRST SESSION

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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

SENATE—*Thursday, October 25, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 12:30 p.m., on the expiration of the recess, and was called to order by Hon. DONALD STEWART, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Breathe on us breath of God that we may, at this midday moment of prayer, hear the gentle whisper of Thy voice. Remove from us all that obstructs knowing and doing Thy will.

Thou knowest our needs, O Lord—our tired bodies, our tense nerves, our caloused wills, our tangled purposes, our frustrated hopes. Light up our hearts and illuminate our minds with Thy presence. Look down the corridors of our souls and fill them with Thy grace and compassion. Keep us sensitive to suffering humanity. Make us grateful for every healing and redemptive ministry. Give us a part in moving forward Thy kingdom. Grant us Thy peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 25, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD STEWART, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. STEWART thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the standing order time of the two leaders be restored to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that I be permitted to transfer 5 minutes of my time to the minority leader (Mr. BAKER) for further transferral, and I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the minority leader is recognized.

Mr. BAKER. I thank the Chair. Mr. President, I believe, as the result of the generous action of the majority leader, that I have 15 minutes available to me.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, I yield that 15 minutes to the distinguished senior Senator from Texas (Mr. TOWER).

The ACTING PRESIDENT pro tempore. The Senator from Texas.

SALT II

Mr. TOWER. Mr. President, I first wish to thank the distinguished majority and minority leaders for their generosity in yielding me this time.

As our three committees bring to a close their hearings on the SALT II treaty—hearings in which all of the ambiguities, inequities, and harmful precedents have been exposed—the administration, in desperation, is wheeling out its arguments of last resort.

With opposition at home rising each day, the President has decided to reach out to our European allies in the hope that they might rescue through propaganda a treaty which cannot stand on its merits.

The theme of this latest lunge of desperation goes in two directions. The first is that our allies are solidly behind SALT II and that its rejection will shatter the alliance. The second is that, unless SALT is ratified, the NATO countries will not go forward with the currently planned modernization of our theater nuclear forces.

Both of these assertions are palpable poppycock, and in the next few minutes, I hope to rebut this unconscionable fraud.

The first assertion—that our allies support SALT—tries to make a virtue of what is obviously diplomatic necessity. It would be politically difficult for European heads of state to proceed on any other official assumption than that the United States was attentive to its own national security interests in negotiating the treaty. It would also be difficult for them to challenge publicly U.S. assurances that our cooperation with the alliance on matters of Western European security are not adversely affected. Given the fact that the treaty has been agreed to by the two superpowers, it would be surprising if allied governments took any other posture than formal endorsement.

But beyond this deceptive characterization of allied support, is it really true that all responsible Europeans support SALT?

I believe firmly that it is not. I base my views on the personal, written opposition of literally dozens of high-level elected officials representing constituencies throughout Europe.

These include Antoine Pinay, former French President who states that the ratification of SALT "would be a catastrophe for the Western world." His remarks are typical of the uniformly critical views I have received. Among the others are such prominent figures as Franz Josef Strauss, Winston Churchill, Lord Chalfont, Lord Avon, Count Otto von Habsburg, and General Pierre Gallois. Each of these men—responsible leaders and serious contributors to allied security policies—have voiced their grave personal misgivings about this shameful treaty and the risks it assures.

Beyond their substantive conviction, they explain the dilemma their leaders face. In each case, the incumbent governments hold power with very narrow majorities or pluralities. They are ex-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tremely vulnerable to pressure from the left wings of their parties. But beneath their public positions, they are deeply alarmed at the shocking lapse in American leadership, our woefully inadequate military strength, and our apparently declining will to resist Soviet expansion.

The second theme of the administration's last gasp is that, without SALT, our NATO allies will not go forward with the program for theater nuclear force modernization. Were it not for the vigorous promotional effort behind this blatant nonsequitur, it would fall of its own absence of logic. But the argument persists and must be put to rest.

Again, based upon personal dialog with numerous European leaders, I can say unequivocally that this asserted linkage is not only untrue but is viewed as extremely harmful to allied solidarity.

To European leaders, TNF modernization is a military imperative with or without SALT II. They understand how severe the imbalance has become—now more than 3 to 1 in favor of the Russians. Furthermore, they realize that existing forces are neither survivable, sufficiently mobile, or of adequate range. In addition, they welcome the deployment of weapons which promise to cast the battle away from NATO soil, and onto the Russian homeland.

They join with Senator NUNN, who best expressed the logic of TNF in a recent speech before the International Foreign Policy Association. He stated:

> Those who greatly fear theater nuclear modernization do not seem to realize that doing nothing poses the greatest danger of all.

Senator NUNN went on to draw an analogy between the administration's false linkage and the Marx brothers movie in which Chico, whose life was being threatened by armed thugs, points a gun at his own head and shouts, "If you come any closer, I'll pull the trigger."

I am prepared to listen to reasonable arguments in support of SALT II, but the linkage of SALT II to TNF modernization will not be among them.

European leaders, withnessing this pervasive U.S. abrogation of responsibility, are worried about the future of Western security. They see an apparent destiny of decline and are looking fervently for a signal of renewed U.S. strength, resolve, commitment, and leadership. In fact, as one leading member of the Bundestag told me yesterday, the mere suggestion of linkage on this issue raises serious questions about U.S. leadership.

But our allies are in no position to do it on their own. They lie between two superpowers who together determine their future, for better or for worse. All of them hold very narrow bases of power which will not sustain dramatic innovations absent strong U.S. leadership. They cannot carry the burden of political decisions involving enormous sums as demandeurs to a flagging, uncertain leadership in America.

For the administration to foist this burden upon them is an unconscionable act of political depravity—a tawdry but poignant rehearsal of the neutron warhead episode which the alliance cannot withstand. As we have already seen, this transparent attempt by the administration to have the allies fish its chestnuts from the fire under a wholly illogical distortion of reality is having a very destructive effect. To cast the issue as a NATO problem has been terribly divisive and, unless stopped immediately, can do irreparable harm to allied cohesion.

Moreover, this vacuous ploy plays precisely into the hand of Kremlin strategy. By taking a defeatest approach to the theater nuclear forces issue, the administration encourages European acceptance of phony Soviet gestures toward arms control.

The Brezhnev offer, which in its essence says, "It is OK for us to deploy the SS-20, -21, -22, -23, and Backfire, but it is not OK for you to defend yourselves," may become by default a horrible game—but the only game in town, absent strong U.S. leadership.

In the latest twist of Soviet strategy on this issue, the Baltimore Sun has reported Moscow's declaration that TNF would circumvent SALT II and can only be dealt with in SALT III—again seeking to preempt the only bargaining leverage we hope to have for those negotiations.

As a final comment, I would point out the obvious double standard the administration has pursued by its conduct in the SALT II debate. When our hearings opened, the President stressed that the treaty ought to be considered on its merits without regard to Soviet behavior or actions to expand their influence which are a matter of public record.

Now, however, we see the administration resorting to wholly unsubstantiable, hypothetical forecasts of doom without any basis in fact. They cannot have it both ways, refusing to deal with relevant facts while basing their case on fictitious smokescreens of no substance.

Mr. President, I have tried in these few minutes to portray the administration's position for what it is—a transparent abrogation of responsibility, a refusal to lead, a dangerous divisive threat to allied cohesion but one which, unless withdrawn, threatens to become a self-fulfilling prophecy.

History reflects that Europeans do not want for courage. In two wars, they have proven their devotion to freedom and willingness to sacrifice whatever resources are required to maintain their freedom. They ask only our equal commitment and leadership.

We in this country can best answer that call by a firm expression of renewed resolve. Such an expression must be founded upon a dramatic program to improve our failing defenses starting with our theater nuclear defenses, and with parallel action to enact remedies to the military flaws in the SALT II treaty.

Together, these actions will constitute the best evidence of the vital element missing in alliance politics today. This element is leadership—pure and simple—firm, thoughtful, strong leadership. There is no substitute. We are at a crossroads of historic proportion. If we fail to meet this challenge, no amount of rationalization or attempts to pass the buck will be remembered. We will get no plaudits for losing with moderation.

Mr. President, I reserve the remainder of my time.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for laying down H.R. 3434 at 1 p.m. be modified to this extent only, that the bill be laid down upon the conclusion of the special order by Mr. PROXMIRE.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield my 5 minutes to Mr. MELCHER.

Mr. MELCHER. I thank the leader.

FOREIGN TAX CREDITS

Mr. MELCHER. Mr. President, in these days of America's economic deterioration, Congress will have to change policies to end our economic hesitancy which most charitably can be termed as the median of mediocrity.

If the cliches of congressional debate and administration statements are the best of current American planning for recovery, it is most appropriate that the CONGRESSIONAL RECORD, newspapers, and periodicals are now largely recycled. The next time around after recycling, the printed matter will likely recycle the same speeches and statements which only scratch the surface of the problems rather than constitute proposals for a sensible restructuring of the economy.

Consider the pompous bombast on energy company profits led by Exxon's third quarter profits.

Frustration is vocally vented.

"See, I told you so's" are trumpeted.

Well, what to do?

Why not consider action to bring Exxon and other multinational companies in more direct confrontation with our domestic problems? Exxon states their earnings on their foreign operations were up considerably last quarter, and the Department of Energy a few days ago revealed oil and gas drilling was down this year in the United States.

The tax advantage on deferral of foreign income should be repealed for Exxon and other multinationals to reduce the profitability of foreign investment instead of investments in the United States. That is a start.

The advantage of foreign tax credits should not be a deterrent to meeting at least a minimum tax obligation for U.S. multinationals. That is a separate issue, and Congress should consider a minimum tax at 17½ percent on foreign earnings.

The goal we seek for U.S. energy multinational corporations is more U.S. energy supplies. To the extent that the

U.S. tax code favors foreign operations, attaining adequate supplies domestically is hampered.

I believe we should deemphasize those tax advantages.

I propose that the Senate consider the following two amendments to H.R. 3919:

(1) Repeal the deferral of U.S. tax on the income of foreign subsidiaries of U.S. companies (as permitted under present law), and tax profits of foreign subsidiaries currently to their U.S. parents in the same manner as profits of domestic companies. The foreign tax credit would be allowed for the repatriated earnings.

(2) Impose a minimum U.S. tax of 17½ percent on the net foreign source income of U.S. companies. For this purpose, the net foreign source income of a U.S. company refers to its foreign source taxable income reduced by foreign taxes. The company would pay the greater of the amount of tax computed under the regular rates with a full foreign tax credit allowed or the 17½ percent alternative minimum tax on net foreign source income.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

UNITED STATES AND WEST EUROPEAN DISAGREEMENTS OVER THE SOVIET MILITARY THREAT

Mr. PROXMIRE. Mr. President, once again, as we are about to act on a huge military appropriations bill, we are told that the Russians are 10 feet tall. We are told that our defense effort is inadequate. We are told we have to spend tens of billions of dollars more than before. We are told that we have to do this or we are going to be grossly inferior. All kinds of exaggerated claims have been made.

I think we ought to recognize the attitudes and judgments of our allies and friends in Europe who are closer to the Russian threat and what their policies are as well as what their attitude is.

Disagreements over military policy between the United States and our NATO allies are obviously becoming more common and more serious. Consider, for example, the response to the Soviet President Brezhnev's offer to reduce Soviet forces in Europe if NATO canceled its plans to deploy new medium-range missiles.

Our response to the Soviet proposal to reduce some of their forces in Europe was to view the offer as a devious plot. A number of West European leaders, however, are taking it more seriously.

This kind of disagreement is illustrative of the widening differences between United States and West European perceptions of the Soviet military threat to NATO, and they can result in irreparable harm to the alliance.

While some Americans seem to have become extremely concerned over what they call a massive Soviet military buildup, many European leaders are taking the view that they should spend less on NATO defense—less on NATO—not more.

The Germans are planning to spend less in NATO, and they are not alone.

WEST GERMANY PLANS DEFENSE REDUCTIONS

According to West German sources, the West German Government is planning real reductions in its defense budget over the next 3 years.

Present planning in Bonn calls for nominal defense expenditure increases in money terms of 2.9 percent in 1980, 2.1 percent in 1981, and 1.6 percent for each of the years 1982 and 1983—these are increases—for each of the years 1982 and 1983. But, when fully adjusted for inflation, these figures result in real defense spending cuts. I repeat, these are real defense spending cuts, substantial cuts, cuts of hundreds of millions of dollars.

West Germany is not alone in cutting their defense spending over the next 3 years, or planning to cut it. Other NATO governments, including Denmark and the Netherlands, may also be considering reducing their rates of defense spending. This is in direct contradiction to the proposals being made in Washington that U.S. defense spending should be increased.

Mr. President, I think that is most ironic, because we were told that the reason we should increase our defense spending by 3 percent a year and one of the main reasons why the Senate went on record to make it 3 percent the coming year, followed by 2 years of 5-percent real increases above inflation, was that we had made a pledge to NATO and the NATO allies were keeping their word and we should keep ours. Well, if they made a pledge to us, they certainly are ignoring it, because the decisions made in Bonn to slow down West German military expenditures underlines the senselessness of the recent Senate vote to raise the defense budget by 3 percent in real terms in fiscal 1980 and 5 percent in 1981 and 1982.

That is likely to be an increase, with inflation of 10 percent, which I think is optimistic, of 13 percent in fiscal year 1980 and 15 percent in 1981 and 1982, compared, as I say, to a real reduction on the part of the West Germans.

What is disturbing is the fact that those urging U.S. defense increases are doing so on the grounds of a supposed erosion of NATO's military capabilities relative to the Soviet Union's.

They argue that the Soviet military buildup is tipping the balance against NATO and that we need to spend more to put us back on an even keel.

But if the West Germans are right, those who are pressing in Congress for a spending hike have a distorted view of Soviet military capabilities and the balance in Europe.

At the very least, there is a sharp divergence of views about defense spending needs between the European nations and ourselves which should cause us to reexamine our own defense spending policies.

GERMAN MILITARY VIEW

One European view was expressed earlier this year by the West German military officer, Maj. Gen. Gert Bastian, commander of the 12th Armored Division. General Bastian is on the front line of our NATO defense forces.

General Bastian believes the Soviet military establishment is of a "defensive character" and he has said so publicly several times.

In his comments on the Soviet military General Bastin said:

> After all, it was we—
>
> Meaning the Germans—
>
> who unprovokedly invaded Soviet Russia * * *. Therefore, no wonder that the Soviets have drawn the lesson, namely, not to tolerate warfare in their own territory, in the case of a new aggression but to immediately carry the war into the attacker's country and decide it there; for this reason, they created the necessary military potential.

HELMUT SCHMIDT'S VIEWS

Bastian's views may be wrong. But the significance is that they are shared at the highest levels within the West German Government.

In a recent interview the West German Chancellor, Helmut Schmidt, takes sharp issue with "alarmist attitudes" toward the Soviet Union and states his conviction that the Soviet leadership is attempting to assure itself of a "stable and secure situation" in Europe.

According to Chancellor Schmidt—

> I myself believe that the Brezhnev leadership is fundamentally not aiming at war in Europe, not aiming at offensive moves in Europe, but aiming at maintaining a stable and secure situation.

Referring to the makeup of their defense forces, Schmidt says "the Russians always want to be on the safe side," and they "over do it in some fields," requiring an appropriate response from the West.

The critical fact is that the response from Bonn to Soviet defense spending trends is a planned cutback in West German defense spending.

German defense spending plans are consistent with Chancellor Schmidt's and General Bastian's views. But they are inconsistent with the view being vigorously asserted here that U.S. defense spending should be increased.

We need to ask ourselves whether the view from Bonn or Washington more accurately assesses the Soviet military threat, and what the difference of views means for the future of the NATO alliance. I doubt that the alliance can long withstand this kind of fundamental division.

NEED FOR REEXAMINATION OF U.S. DEFENSE PLANS

A complete reexamination of our own defense planning with respect to Europe is also in order.

If the Germans are correct about their assessment of the Soviet threat, then we ought to think about reducing or holding steady our own defense expenditures.

It is inconceivable to me that we would increase our NATO-related defense budget when one or more of our principal NATO allies, that are right on the front line and for whom our defense would be principally useful—after all, we are pulling their chestnuts out of the fire—are planning to reduce theirs.

The matter is especially urgent in view of the budget busting and inflationary effects of defense spending. This is the worst possible time to hike the defense budget and the Federal deficit for reasons that exceed our real military requirements.

A THANKSGIVING PRESENT

Mr. President, as I speak here, the Appropriations Committee is meeting downstairs, a few feet away from where we meet. I just left the Appropriations Committee. We are meeting on the defense appropriations bill and voting on it. I can tell you that this bill will be several billion dollars higher than the House bill. We shall have a commitment to a 3-percent real growth no matter what our NATO allies do. We have taken this defense bill and stuffed it full of every program we can think of, every aircraft procurement at or above the request of the administration, all the ships and then some new ones, all the tactical equipment and more, all of the operations and maintenance the House provided and significantly more; a huge increase in procurement over the House.

This bill is stuffed tighter than a Thanksgiving turkey. If I can carry the analogy one step further, it will be a Thanksgiving for the defense contractors and a turkey for the taxpayers.

At the same time, this country faces the most serious inflationary period in recent history. Twelve and seven-tenths percent is an outrageously high figure, a statistic that falls most harshly on the poor and those with fixed incomes.

The distinguished majority leader of the House, JIM WRIGHT, is a very able man. I have great admiration and respect for him. I do not think there is a Member of Congress who is more eloquent, more intelligent, or more thoughtful than JIM WRIGHT. He spoke yesterday on the floor of the pain and tragedy of high interest rates for millions of American borrowers—farmers, homeowners, and so forth. Mr. President, excessive Federal spending makes high interest rates inevitable for two reasons: First, it increases the multibillion dollar deficit and the Treasury bidding up interest rates to fund a bigger and bigger deficit.

I noticed just the other day, Treasury bills reached an all-time high. They are over 14 percent. Of course, if the Federal Government, with the most riskless security in the world, pays 14 percent for money, that means that the small businessman has to pay more.

Why is the Treasury going into the market? They are going into the market because of the deficit. They are going in bigger because of the deficit and they are bidding up interest rates more because of the deficit.

Second, this spending pushes up inflation and there is no way to reduce interest rates below the inflation rate.

We must attack inflation wherever we can. Monetary policy cannot correct the inflation problem alone and the tough, anti-inflation Federal Reserve program is attacked by congressional leaders. They say that is not the way to fight inflation. Then what do they do? They turn around and push an inflationary military spending program.

We must have a more prudent fiscal policy. That means less Federal spending, fewer commitments to new programs, an end to artificial indexing of major Government programs that have no justification for such automatic increases—such as the defense budget.

Our adherence to a 3 percent and then a 5 percent real growth in defense is nothing more than a formal cost plus indexing requirement. How nice it would be to be protected from inflation and have a guaranteed real growth budget.

And what circumstances face our NATO allies who benefit from our largess? West Germany, for example, has an unemployment rate of 3.7 percent compared to 6.0 percent for the United States. While our consumer price inflation index stands at 12.7 over 3 months or 13.4 most recently, that for West Germany is 7.2 percent—about half ours. Our GNP growth rate is slower than West Germany, our average retail sales in constant prices are dramatically lower, our manufacturing wages are growing at a higher rate thus increasing the cost of our goods and West Germany shows a better productivity rate than that of the United States. Who can afford to spend more on defense in relation to the GNP? The United States? Or West Germany?

Why should we be held to an artificial real growth index mechanism when West Germany apparently will not follow the same plan and when their economic condition is superior to ours?

It is time to rethink this mindless, automatic 3 percent and 5 percent commitment and concentrate anew on how to improve our defense position without automatic real growth increases. Those who argue against improving military capability from within just have not taken the time to look for the wasteful projects and bad management that characterizes any Government program the size of the defense budget.

I challenge those who argue that the Department of Transportation or HEW or the social programs would be improved by less funding but reject the same logic as it applies to the defense budget.

I think we can have a neater, leaner, stronger, more effective defense establishment if we spend less money on it, clean out about half the admirals and generals, if we get rid of the almost 1 million bureaucrats, or civilians, we have in the Pentagon.

A little commonsense will tell us that large bureaucracies, no matter what their function, respond to the same stimuli. If given fewer resources they will find a way to operate more efficiently.

Mr. President, I ask unanimous consent that the following items be printed in the RECORD. An English translation of an article that appeared in the Frankfurter Allgemeine Zeitung, August 27, 1979, entitled "Only a Modest Increase in the Bonn Defense Budget"; an English translation of an article in the Der Spiegel, March 26, 1979, entitled "The Soviets Are No Devils"; an interview with West German Chancellor Helmut Schmidt in the Economist entitled "Schmidt's Calculabilities"; an article in the New York Times, October 15, 1979, entitled "Schmidt Bids West Accept Soviet Offer"; an article in the Washington Post, October 10, 1979, entitled "NATO Unity Seen as Brezhnev's Target"; an article in the Christian Science Monitor, October 9, 1979, entitled "U.S. Debate Over Soviet Troop Cuts"; an article in the Washington Post, October 10, 1979, entitled "President Rebuffs Soviets' Proposal on Arms Cutback"; an article in the Washington Star, October 10, 1979, entitled "Carter, Mondale Criticize Soviet Arms Offer as Ploy".

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Frankfurter Allgemeine Zeitung, Aug. 27, 1979]

ONLY A MODEST INCREASE IN THE BONN DEFENSE BUDGET

BONN, August 26.—In mid-September, during the first week of the session after the summer recess, the Bundestag will deal with the federal budget for 1980. The total budget is expected to amount to 215.3 billion marks, or 5.1 percent more than for the previous year. Next year, the share of the defense budget in the federal defense expenditures will be 17.5 percent lower than at any time during the last twenty years. In the bill (section 14) introduced by the Federal Government, 37.37 billion marks are foreseen for the defense budget. This is 1.07 billion marks or 2.9 percent more than for the current year. Here the defense budget lags clearly behind the growth of the entire budget, but also behind the expected inflation rate for next year. Only when the sum received by the Department of Defense for the compensation of wage and income raises is taken into account, is an increase rate of 4.8 percent reached.

Due to this modest increase, the Federal Republic might face some problem from its NATO partners, because the Federal Government, like that of any other NATO member, has committed itself to increase its defense expenditures annually by a real 3 percent. This will not happen next year, because according to NATO criteria—which besides the defense budget, (section 14) also include expenditures in the individual sections of the Federal budget—defense expenditures of the Federal Republic will increase by only 3.6 percent in 1980. This nominal growth will be absorbed by the inflation rate next year so that the real defense expenditures of the Federal Republic in 1980 will not increase, but will even eventually decrease.

If we compare the development of the defense budget for the year 1980 with the entire budget, it then appears that its growth—as it had been during the five preceding years—is smaller than that of the total budget. Whereas the entire budget will increase to 215.3 million marks in 1980 and thus will be higher by 5.1 percent than the budget for the current year, the growth of the defense budget will lag behind by 2.9 percent and 4.8 percent, respectively. By this, the share of the defense budget in the total budget, which in 1974 still amounted to 22.4 percent, will decrease further and reach 17.5 percent in 1980. Its share in the Gross National Product will also decrease.

The restraint of the Federal Government in the defense expenditure is clearly evident in the individual sections of the budget. Thus, the funds earmarked for research, development and testing of new weapon systems will decrease by 4.4% while they increased by 6.4% last year. This saving of scarcely 80 million marks was materially possible due to the conclusion of development operations which were necessary in connection with the new combat airplane "Tornado." This year it will require 390 million marks and in 1980 there will still be necessary 280 million marks. It is possible to deduce the amount of funds required for this combat airplane—for which serial production has already begun—from the fact that in 1981 an additional 250 million marks will be necessary for the development of the "Tornado," adding 220 million in 1982 and again 172 million marks in 1983. A reduction in the expenditures by about 3% is also planned in the construction of military installations.

On the other hand, 8.6 billion marks are available for the purchase of new weapons, that is 567 million marks or 7% more than in the previous year. This is the highest increase rate for this item, of Section 14, though even it remains below the corresponding increase for the current year: in the 1979 budget, 8.1% or more than 600 million marks were earmarked for the purchase of weapons.

All in all, total defense expenditures will be increased nominally by 4% next year. This guarantees that the share of the expenditures invested in defense, which includes military supplies, research, development and testing, makes up 31.6% of the entire defense budget. It is an iron rule in establishing defense budgets, that the share of defense expenditures should not decrease below 30%. This is indispensable, if we want to prevent the Federal Armed Forces and their equipment, and consequently, their defense capacity, from becoming technologically obsolete within a few years.

This does not change anything in the fact, that the defense expenditures at a nominal growth of 4%, will in reality scarcely increase at all, or eventually even regress, if the inflation rate for armaments should not be lower in 1980 than it was during the past decade. Since experience has shown that the deflator for armament goods is higher than the general inflation rate and that even in 1978—when the general consumer price increase declined to 2.6%—it still amounted to 3.5%, it cannot be excluded that the increase in the price of arms this year, as well as next year, could increase by more than 4% and thus could change the nominal increase of the defense expenditure into a real decrease. Again, the Defense Ministry counts on a 4.5% inflation rate for armaments this year.

The Federal Armed Forces also face imponderables because of the recent developments on the oil market. The drastic increase in energy costs has already led the Federal Armed Forces this year to spend 70 million marks more than expected for heating oil. An additional 170 million marks will be needed for gasoline and diesel fuels. These expenditures can be balanced through lesser expenditures in other areas. It is hoped that the difficulties will be overcome the same way next year.

The Federal Armed Forces will probably have to get along with a meagerly computed budget in the coming years as it results from the rates of increase, adopted by the Cabinet with the 1980 budget in its 13th medium term financial evaluation plan. For the year 1981 an increase of 2.1% has been foreseen while for 1982 and 1983, Section 14 is expected to increase by about 1.6% each year. However, it is hoped that military procurements will show an above-average increase of 5.3% in 1981, and 3.5% and 4.6% in 1982 and 1983, respectively, in order to avoid delays in the introduction of new weapons.

[From Der Spiegel, Mar. 26, 1979]

THE SOVIETS ARE NO DEVILS—A GENERAL OF THE FEDERAL ARMED FORCES AND AN AMERICAN HISTORIAN ON THE RUSSIAN MILITARY POWER

The Bonn disarmament debate, triggered last February by Herbert Wehner's assertion that the Soviet military power is of a defensive character, is noticeably becoming more violent. Currently, the SPD Parliamentary Leader's thesis is getting support from outside: from Major General Gert Bastian, 56, Commander of the 12th Armored Division stationed in Veitshochheim near Würzburg and from American Diplomat and Historian George F. Kennan, 75. After nonparty member Bastian declared on March 9 at a young-socialist meeting in Bad Mergentheim that he was in agreement with Wehner, he once more stated his position last week in a letter to the "Fränkische Nachrichten," as a result of which the CSU demanded the replacement of the Commander. Also Kennan, assistant professor of history at respected Princeton University, last week in an interview with Berlin's RIAS Radio Station put forth the thesis that the Soviets acted more defensively than offensively. Already prior to WW II the former diplomat was active in the U.S. embassies in Berlin and Moscow. From 1947 to 1949, he was chiefly responsible for U.S. foreign policy and the investor of the so-called "policy of restraint" toward the Soviet Union. At the end of 1957, George F. Kennan, in six lectures prepared for a British broadcasting station, proposed the disengagement of the atomic superpowers—through the disengagement of the military power blocs in Europe. The Spiegel is publishing here excerpts from Bastian's letter and the Kennan interview.

MAJOR GENERAL GERT BASTIAN

"I do not notice a dissent in substance between my statements and Mr. Wehner's well-known comments . . .

"After all, it was we who unprovokedly invaded Soviet Russia. We did it so effectively that even this gigantic country was pushed close to the edge of a catastrophe. Only after three years of unheard of efforts was it able to stem the enemy's advance and repulse him into his own country.

Therefore, no wonder that the Soviets have drawn the lesson, namely, not to tolerate warfare in their own territory, in the case of a new aggression but to immediately carry the war into the attacker's country and decide it there; for this reason, they created the necessary military potential.

Of course, we know that such a situation cannot arise because NATO, of which we are a member, is a defensive Alliance and because an attack of its armed forces against the East is unthinkable. But are the others also aware of it and do we expect them to simply believe that just because we say so? Do we respect them to believe that after the Federal Republic of Germany became a member of NATO and after it has not always convincingly refuted the opinions of some or dispelled the suspicion that it might abuse this Alliance for a forceful revision of the war results?

To me it looks a little naive to imagine that our present peacefulness would clearly convince all those who only a generation ago had suffered from our force. It would be somewhat arrogant to believe that it is we who decide which part of the Soviet armament appears to be justified and which is not justified according to the security considerations graciously consented to by us.

We Germans, of all people, should better understand reasonable assumption of this sort made by the other side."

GEORGE F. KENNAN

"The Soviet leaders and also the Soviet people—at least the older generation—still remember the last world war very vividly. They have not forgotten that German armies, that is, European armies deeply penetrated into Russia. The people and especially those in the government have said they won't be weak again and that such a thing will never happen a second time. . .

"Thus, I think, we cannot say that either one side or the other has created its armed forces for an offensive purpose. If this can be said of the Russians it also can be said of us. I surely do not believe that we had offensive intentions when we established this whole potential.

"It seems to me that quite a few people have the impression that the Soviet leader each morning when getting up are asking themselves: What shall we do today to materialize the world revolution? I find this a little unrealistic. They are confronted with many direct problems with which they have to deal before they wish to take up the long-term problems. This is what I had in mind when I said that the Soviet leadership is also of a defensive nature. It has to cope with the daily issues of which it has very many like any other big government. . .

"My God, they (the Soviets) are no devils, they are people. They know what sort of terrible and immeasurable devastations such arms—or only a fraction of them—would cause to another country. They know that this would actually not be a blow to our country, but that the whole civilized world could not take it. . . .

"I do not like to see weapons systems being built only to enable us to negotiate if otherwise they are not necessary. I don't see why the existence of such weapon systems played such a big and useful role in former negotiations. I believe we have to get away from this sort of thinking and learn how to negotiate in another sort and fashion."

GENERALS—A DOWNRIGHT PANIC

Violently attacked because of his support for Wehner's disarmament theses, Division Commander Bastian falls short of the general concept of the unpolitical military.

Among the generals presented to him on the occasion of the farewell party for Army Inspector Horst Hildebrandt, Defense Minister Hans Appel gave the Commander of the 12th Armored Division a closer look: "Well, well, you are the man who has caused all that fuss."

One day later, last Friday, all the commotion about Major General Gert Bastian reached its climax when in the Bundestag (German Parliament) the CDU/CSU again demanded the Commander's dismissal and when it again failed in its attempt to make a big fuss of this "incredible happening" (CDU Defense Expert Manfred Wörner). Bastian's offense: The officer had taken the liberty of agreeing with Social Democrat Wehner's thesis on the Soviet Union's defensive posture toward the West.

Even among his fellow officers, who in contrast to Bastian view the Soviet Army as a deadly threat, this general, suddenly propelled into national prominence, has aroused feelings of solidarity. In their opinion, the campaign has definitely been carried too far.

The attacks on the general by the opposition press, such as the "Welt" and the "Frankfurter Allgemeine," have even turned out to be helpful.

World War II, the "Welt" stated in an article that revealed only one fourth of the truth, Bastian had seen in France; an article which in the opinion of the General might insinuate that "I had staggered from one brothel to the other."

In the "Frankfurter Allgemeine," Military Strategist Adelbert Weinstein suggested the two-star General has desperately been trying to become prominent so as to get his "third star."

The 56-year-old Bastian will be pensioned in four years. He may have attracted general attention by his unconventional behavior but never because of excessive ambition. Thus, to a commanders' meeting in Sindelfingen, he did not drive in his official dark Mercedes-Diesel but in a rust-colored Matra-Bagheera—surely the deed of an eccentric fellow in the opinion of the reserve colonel and contributor to the "Frankfurter Allgemeine" who has a different idea of an army officer of the old stamp.

"He is," writes a local newspaperman from Bad Mergentheim, "a man who keeps a low

profile and who does not hold his 18,400 men stationed between Nuremberg and Coblenz on a tight leash." According to Major Jens Braunschmidt of the divisional center in Veitshöchstheim near Würzburg "he does not carry out the Army Regulations to the last detail."

However, in the opinion of some officers, "Bastian gets tough with superiors who give their subordinates a hard time. "In such cases I show no mercy," admitted Bastian, "I have always drummed into the people's heads that they will turn draftees into draft dodgers if they treat them wrongly."

The Commander does not pay too much attention to formal training and makes no secret of his loathing to drill and other "senseless monkey business." "When I see the National People's Army parade in goose step, a shiver runs down my spine."

Yet, the "drilled puppets" appealed to him at least 15 years ago—which is not astonishing for a professional officer who, already in 1953, that is three years prior to the establishment of the Federal Armed Forces applied for employment at the Blank office.

He learned the trade of war at the age of 18. Immediately after his emergency graduation from high school, he volunteered for the east front in 1942. Twice wounded he was sent to Normandy in June 1944 at the beginning of the Allied invasion, where he was wounded a third time. He recovered from a bullet wound in the military hospital in Bad Tolz from where in March 1945 he was sent to the already nearby east front.

After a short imprisonment, he learned bookbinding and set up his own shop in 1948. After the small enterprise did not flourish, he joined the Munich Welfare Office, where he worked on pension matters until 1956, when he joined the Federal Armed Forces as a first lieutenant.

"I always wanted to become a major," he said, but he ascribes the fact that he had climbed four steps higher and had been appointed Commander of the 12th Armored Division in October 1976 more to an accident than to his own capabilities.

As a Commander he revamped the concepts he had read 20 years ago in Ulrich de Maiziere's book on "Interior Conduct". The latter subsequently became Inspector General.

Bastian ordered Colonel Fritzjurgen Kunze of the Coblenz "School of Interior Conduct" and Commander of the 12th Artillery Regiment to develop a concept of political education which as "Tauberbischoffsheim Model" is currently examined by the Defense Ministry which ultimately will decide whether or not it should be recommended for the entire Federal Armed Forces.

The Commander, however, made headlines in connection with other activities. Two years ago he clashed with neo-Nazi Erwin Schonborn who had sent "comrade" Bastian anti-Semitic pamphlets. The General told him not to molest him any longer; Schonborn became abusive and was sentenced for insult.

Bastian caused another stir last year when he prohibited his division from playing the "Badenweiler March." On the occasion of a public event the "Geissberg-Buben," a folkloric group of the Division was playing Hitler's favorite march while some among the audience shouted "Heil Hitler." "The Badenweiler," Bastian explained, "was played only whenever Hitler showed up."—Among today's generals that march still provokes aversion.

"A downright panic" (Bastian) was triggered by the non-party member Commander last month, when during a young-socialist meeting in Franconian he positively reacted to SPD Parliamentary Leader Wehner's disarmament proposals.

The personal insults heaped upon the General by his opponents in their smear campaign did not bother him. However there was one exception: According to the "Frankfurter Allgemeine's" Editorialist Weinstein, the General has "often given stilted and rather laboriously formulated explanations."

"This," said Bastian, "has hurt my vanity."

[From the Economist, Oct. 6, 1979]

SCHMIDT'S CALCULABILITIES

You said earlier this year that "never before have we been so secure." What did you mean by that?

When I used that phrase, "we" was not meant to be "we", the west as a whole. It was meant to be "we", the Germans. I am trying still to make it understood to my own people that we, the Germans, the Germans in the western Federal Republic of Germany as well as the Germans in the German Democratic Republic, as well as the Germans in West Berlin, that we are securer nowadays than we were in the 1960s and 1950s and 1940s.

My reasoning is rather simple. We saw many Berlin crises in earlier decades, the Khrushchev ultimatum, the building of the wall in the early 1960s, the intervention in Czechoslovakia in the late 1960s. Today, on the basis of a continuous equilibrium of military forces which results from those forces inside Europe, and those working upon Europe from the outside, we have created a policy of cooperation between western and eastern Europe. A policy of what one calls detente, a policy of calculability on both sides.

Eastern policies in Europe are more calculable nowadays. Western policies are calculable for the east. Nobody foresees a Berlin crisis around the next corner, as one had to in the 1950s and the 1960s. This is what I meant by saying that we are living in more secure circumstances than in the first 25 years after the war.

Do you therefore base that feeling of security in West Germany—as distinguished from the west as a whole—on your interpretation of what Russian intentions are?

I do not accept your distinction. But on substance I would base an increased feeling of security in Europe not only on Russian intentions, but on western intentions as well. I base it on the treaties and agreements that have been concluded. For instance, the treaties between my country and the Soviet Union, the People's Republic of Poland, the German Democratic Republic, the four-power agreement on Berlin, all of which were the prerequisites for the all-European Final Act of Helsinki in 1975. I base it on all these, not just on Soviet attitudes. Soviet attitudes are important, but also the Soviet Union has bound itself by all these treaties.

But you're talking about agreements which were reached in the heyday of detente. Since then a strong streak of opinion in America, a strong streak of opinion in Britain, has not so much gone back on detente but has begun to worry again about Russian intentions.

If you want to have continuity of detente you have to have continuity of the balance of power, the equilibrium. Continuity of detente cannot persist if you let the military equilibrium deteriorate. You must not let that happen.

Some of those streaks of opinion you are quoting are more streaks of unrest about the west's own ability or effectiveness in maintaining the balance of power than they are streaks of uncertainty about a potential Soviet capability to exploit a deterioration in that balance or in that equation. It's in the first instance necessary that you maintain the balance. It's wrong just to point to the Soviet side. If one has the feeling of the balance being tilted, one has also to mend one's own defences.

Yes, but this feeling of alarm is also based on the degree of Soviet build-up, is it not? Something which you yourself have referred to.

Well, I don't like the word "alarm" but of course you have to watch . . .

We're not talking about your alarm, we're talking about alarm elsewhere in the west.

Well, I don't like the word "alarm" at all. There is no need for alarm. Some people are taking alarmist attitudes because they want to fight their own government or their own administration. Some people have to drop their alarmist attitudes once they have come from opposition into office. And they certainly will drop them. You have to watch what the other side does and the other side will have to watch what we do. It's a necessity for both sides to establish a continuous equilibrium.

This more or less is the moral, the rationale, of Salt-1 and Salt-2, at least in the one field of global strategic weapons, inter-continental strategic weapons. Other fields in which military power plays a role haven't so far developed into the same maturity, the same established, agreed equilibrium as is the case in Salt-2. So in these fields there is room for criticism. That's okay, it's necessary.

You're talking about Euro-strategic weapons?

Not only, also conventional weapons.

We nevertheless do face a situation where western strategic superiority has gone.

It was never a western strategic superiority. It was an American superiority in inter-continental strategic nuclear weaponry. It was never a superiority in the early 1970s or the 1960s in global military capabilities.

We were talking about strategic superiority.

I do not like that. I think it's wrong to use the word "strategic" only in the context of inter-continental nuclear weaponry. It's a wrong perception of strategy. I use the word "strategy" in the sense of the late Captain Liddell Hart's grant strategy which embraces not only all the military fields but of course also the political, the psychological, the economic fields.

BEYOND EUROPE

Yes, but then even in the wider sense that you're defining it, we've gone into a period where, after Vietnam, there has been a loss of superiority in the west or, if you prefer, in America.

Superiority is never, can never be, appropriate. If one talks of equilibrium, superiority has no place. It's the wrong perception.

In places like Africa, let us say . . .

There is no equilibrium in Africa, there hasn't been superiority in Africa.

There was at one time.

Well, in the 1950s, before decolonisation.

If one takes the Gulf area, for example: the equilibrium, wouldn't you concede, is less stable now than it was?

Right, right. Not so much due to Soviet activities. Iran hasn't collapsed because of Soviet activities. There are some Soviet activities in the southern part of the Arabian peninsula.

And the Horn of Africa?

The Horn of Africa, right.

Now, it's a common perception that in all these areas there is an imbalance to the extent that the Soviet Union or its surrogates are willing to be involved militarily but the west or America and its allies are not ready to be involved. And you don't seem to us to be worried by that.

I am worried, but I am not one of those people who always sees only the negative developments. I also see positive ones. There was a time, not so long ago, when you had plenty of Soviet troops and military influence in Egypt and there is none right now. This is quite something.

I personally do not believe that in the end the complex of Middle East questions can be settled without some participation of the Soviet Union. But I do not maintain that

Soviet influence as regards the Palestine question or the complexities between Israel and her neighbours is greater than it was five years ago. It's smaller, indeed.

What role does or could Europe play in that sort of area in, say, the Horn of Africa or in Africa itself?

A rather small role because there isn't much that Europe could provide. What could the Europeans give or guarantee? Could they guarantee military assistance? Could they give a great amount of finance? Could they guarantee the flow of oil into Israel? Obviously they can't. They can, of course, be helpful in a limited way. But it is more or less a fact, whether you like it or not—and I don't like it too much but I have to accept it as a fact—that the Americans are the ones who have the influence there and, to a lesser degree, the Soviets. There is no European Sixth Fleet in the Mediterranean, nor is there any such thing in the Indian Ocean, nor in the Gulf—nor would there be any such thing.

Not in the foreseeable future, you think?

No, no.

Is Salt-2 vital to maintaining the nuclear strategic balance?

Yes. It gives some stability to that balance. Only in that one field, not in other fields. If agreements were limited just to inter-continental nuclear weaponry it would not be enough to stabilise the strategic situation as a whole.

Would it be a serious matter if Salt-2 now were seriously amended or went into cold storage?

I don't see any technical, diplomatic possibility for effectively changing the substance of a treaty which has been concluded between governments. I have never seen this happen in modern times.

The Treaty of Versailles?

It was not amended afterwards. There is no possibility of changing by parliaments the substance of treaties which have been concluded and signed by governments. That's a rather naive conception.

If Salt-2 was not ratified as it stands, it could—and this would be my apprehension—create a broad feeling of uncertainty. This treaty has been negotiated by three American presidents, Nixon, Ford and Carter, by three American secretaries of state, Rogers, Kissinger and, nowadays, Vance, and their aides and security advisers and so on. If, after such a long period of negotiation and agreement, in the end parliaments refused to ratify that sort of treaty, the world becomes rather incalculable. How could you in the future depend on a policy carried out by an American president? It would be a disastrous blow to the necessary leadership of the United States as regards the west as a whole. I rule out amendments which would require renegotiation.

Now, having said this, of course, the Americans, whether it's the administration or the senate, can embed a treaty which they ratify into an environment of other things which they do at the same time: not violating the treaty, not amending the treaty, but adding to the general strategic setting. And of course they can do that and obviously they will.

You think it's useful, therefore, the way the Salt debate seems to be acting as a catalyst for larger spending on nuclear strategic systems?

I am the representative of a non-nuclear power. That is not my business and I do not want to appear to regard that field to be my business.

Coming to the Euro-strategic field, since Russia's deployment of the SS-20 there has been a debate which you have participated in quite vigorously yourself about the stationing of Pershing or cruise Euro-strategic weapons on German soil.

This is a long history that goes back more than 20 years.

It was in 1960 that a great American soldier who had just left active service, Maxwell Taylor, published a book called "The uncertain trumpet." He was one of those who foresaw at that time that situations might arise in the future in which one could not and would not actually apply one's superiority in the inter-continental nuclear strategic field in order to make up for deficiencies in other military fields.

I myself wrote a book many years ago, the English title of which was "Defence or retaliation?", in which I put forward the thesis that one could not rest assured on the theory that it was just enough to be able to retaliate afterwards and that one had to be able to defend oneself if attacked. Ten years later, I published a second book, "Balance of power," in which I again depicted the obvious development of the 1970s by which it was more or less bound to become unthinkable that the Americans would apply their diminishing, shrinking, withering inter-continental superiority in order to correct all situations which might arise in the future in other fields. Already in 1969 I asked for an adequate equilibrium, military equilibrium, on other levels and in other areas of defence.

This is not new for me, it has been my thinking for 20 years, remained as my thinking when I was defence secretary of this country and still is my belief as chancellor. Its nothing new. Nobody needs to be alarmed about it. It did not start once we heard for the first time of the SS-20s or the Backfires. It has been my thinking all along the past 20 years. Backfires and the SS-20s are just a confirmation of what one saw as likely to develop.

In the late 1960s, American governments started to think in terms of parity in the inter-continental strategic field which should have, by pure logic, led them to understand that, if they engaged in negotiations which were meant to lead to a situation of parity in the inter-continental field, they should also have to do something about the field in which they were inferior, like the field of the SS-4s, SS-5s, nowadays SS-20s. There were western medium-range ballistic missiles and intra-range weaponry in the late 1950s but they were dismantled by 1963 which I think from hindsight was a wrong step. They should have been modernised rather than dismantled.

So that does raise the question you are now raising yourself, namely of stationing in Europe of Euro-strategic weapons so that there is a Euro-strategic balance, not one that is just covered by an inter-continental balance.

I wouldn't necessarily ask for parity. I would ask for a sufficient counterweight. And I would ask for a serious undertaking on the basis of mutual agreement to limit the number of weapons or warheads in that field, both for the east and the west.

That's Salt-3?

Could very well be under Salt-3, yes. I would prefer it to happen under Salt-3.

Does that mean that the Federal Republic as a non-nuclear power, plus Britain and France as nuclear ones, should be directly involved in Salt-3?

France would certainly not wish to be involved. We ought not to be involved because we are not a nuclear power and don't want to give the impression that we are striving to become one.

The Federal Republic, as I understand it, has said that it is not happy about having Euro-strategic weapons stationed on its soil unless other countries in the NATO alliance also agreed to do so.

Other non-nuclear countries. Britain and France are nuclear powers in their own right, and I don't want by any means to have my country compared with those.

It has been said in West Germany that the increase in Russian military strength was primarily or purely defensive. Is that a notion which you subscribe to?

I will not comment on what others have said. I myself believe that the Brezhnev leadership is fundamentally not aiming at war in Europe, not aiming at offensive moves in Europe, but aiming at maintaining a stable and secure situation. I have to add that, as it was in the past, so also in their perception of stable security in the present, the Russians always want to be on the safe side, having a little more in any field than others, a little better. Well, that is their inbuilt instinct.

They overdo it in some fields. Therefore the west has to respond, to tell them that this is being overdone. But one has either to limit the figures on both sides by agreement or by tacit agreement, or one has to accept that the west acts as well in order to keep up the equation.

But there is, so far as I can see, no tacit hidden offensive attitude behind Russia's policy. This I say for the present leadership in the Soviet Union. I am not making any prophecies for the rest of the 1980s.

There is always a question of succession in the Soviet Union.

Not only in the Soviet Union, also in the west. Questions of succession play a much greater role than is being anticipated by today's political analysts, and a much greater role in the east than is being foreseen in Marxist theory. Personalities do matter sometimes, and, to be quite frank, I would hope that the attitudes of the present leadership in the Soviet Union will be respected and further developed by their successors.

We've got the nearest we're likely to see to an election campaign in the Soviet Union coming sometime in the next few years. It happens rarely there, therefore it makes more of a splash when it does happen. We're used to the idea that Schmidt will be up for election or Giscard will be up for election. We're not used to the idea of frequent changes in the Soviet Union. Does the prospect of a change in Russia in the nearish future disturb you?

I wouldn't say "disturb", but it should be borne in mind and understood in the east as well as in the west as an incentive to settle the business which has been prepared for settlement by the present Russian leadership.

Like Salt-2?

Like Salt-2, yes. And the engagement into Salt-3.

What about Russian intentions outside Europe, which seem to us to be much less just a question of containing and preserving the status quo?

They are exploiting the situation in some places which the west has by negligence, and as a result of the psychological aftermath of Vietnam, allowed to open up. But even so, I do not think that the present leadership in the Soviet Union would risk any showdown in any place of the world. I think that one could see this clearly with the Vietnamese request for Soviet help vis-à-vis the so-called Chinese operation of punishment. The Soviets behaved rather cautiously.

You made it very clear at the time, as we understood it, that you were happy about the restraint that the Soviets showed.

I praised them because of their self-restraint, yes, that's right.

But you also were fairly critical of the Chinese move and indeed of the playing by America and others of the Chinese card.

I was critical of the Chinese. They don't have a right to punish somebody, nobody has a right to violate the territory of some-

body else, to violate somebody else's sovereignty.

Even if there's somebody else doing a rather ugly thing?

The Vietnamese had no right to intervene in Cambodia even if Pol Pot was a criminal murderer.

But they did. So then what does China do?

Neither the Vietnamese had the right to intervene, nor had the Chinese the right to intervene. Nobody has a right to intervene.

No. But if the Vietnamese have already done it? You only have to speak to Lee Kuan Yew or anybody down in that area to know they were rather satisfied that the Chinese came in.

Well, I can imagine, in pragmatic terms, that one could be satisfied. But the morale of the world is going to go under if from time to time we praise intervention into sovereign territory and from time to time we criticise it. I am criticising it all the time, whether it's in south east Asia or whether it's in eastern Africa.

It must be said you're sounding somewhat as you were represented after Brezhnev's visit here in May, 1978. There was speculation at the time that there was an understanding between the two of you that the Federal Republic and its leadership would become the explainer and the advocate of Soviet attitudes within the alliance.

We are not the advocates of the Russians. We are not even the interpreters of the Russians. They are a great power, one of the two greatest powers of the world, who can and do speak for themselves. We are a member of the western alliance, we want to see this alliance maintain its strength, maintain its operability, maintain its defensive capabilities, be regarded as a strong alliance—not only to appear like a strong one—be respected as a strong alliance.

We contribute quite a bit to the defensive abilities of that alliance. To think of the alliance without Germany is to think of fairly little. As in the past, so in the future we shall contribute what is our duty, not because it's our duty, but because we feel it's necessary. We do it for our own sake, out of our own necessities.

On the other hand, one of the necessities of the alliance as well as for us Germans is to get along with the eastern power. We don't want to get back into the cold war. There is nothing to be gained for the Germans in a cold war, divided as our nation is, divided as our capital of Berlin is, nothing to be gained from a new cold war period. A return to the cold war is still thinkable: I hope it doesn't occur, but we have not passed the point of no return as yet.

More important than strategic thinkers yet understand is economic co-operation. There is no possibility for the Soviet Union or other European powers in the future to exist economically on their own. They need exchanges with the west, they need capital goods, they need investment goods, they need export markets for their own produce, their own raw materials especially. They are much more intertwined in the world's economy, as a whole, than in the past. They have come to understand it. It's good that they understand that, it's good that we in the west respond to that.

They are much more dependent on the western world economy than the western world is dependent on the economy of the east.

DIVIDED AS OUR NATION IS

All right. Greater interdependence. Greater security than 20 or 30 years ago. Very much greater German success economically, and stability inside Germany. All these things have raised questions about how firmly embedded Germany is in the western alliance, the whole question of reunification. Heine's famous words: "If I think of Germany at night I cannot sleep".

Where do you think the reunification debate and the reunification matter between yourselves in negotiation with the Soviet Union goes in the next year or two?

I'll tell you the same thing which I tell anybody, whether on German television or in conversation with Leonid Brezhnev. I always let people remember the Polish example.

Historically there have been three divisions of Poland: after the third division at the end of the eighteenth century nothing was left of Poland. All the Polish nation and the Polish territory was divided between three great European powers at the time: Russia, Prussia and Austria. And then again, in 1939, there was a fourth division of what then again had been created as a Polish state between Stalin and Hitler. But nevertheless, the Poles, over a period of now 200 years, two centuries, did not give up the will, not give up the hope to get together one day in the future. They didn't know when.

They've had a fairly nasty time along the way.

Yes, they have. But they didn't give up. And the first line of the Polish national anthem since the early nineteenth century has been "Poland is not lost as yet" and so far they have been proved right.

I do not foresee under what auspices and conditions the Germans will get together again, but they will. Maybe only in the twenty-first century. I don't know. It would obviously be wrong for any European nation to believe that the nation state is normal for any nation but not for the Germans.

What's the implication for the alliance then?

There is no implication for the alliance, no.

No immediate implication. In the long run there must be.

I don't know, I don't know. I do not think that the present alliances will last for centuries. For the time being the alliance is a totally indispensable instrument for maintaining peace in Europe. Therefore the alliance is good for the Germans and they'll stick to it. There is no need and indeed no reason for philosophising about Germany's adherence to the alliance. I would just repeat that, if every great nation in the west would contribute to the defensive strength of the alliance as much as we do, the alliance would be better off.

How live is the feeling for reunification among the younger generation here? There have been opinion polls showing that they'd prefer to go on holiday in Spain and they no longer terribly care about reunification.

Yes? The Poles waited for two centuries. Nevertheless the matter was very vital deep in their souls. It's not necessary that you advertise it every Sunday.

One Germany is not something which anybody thinks of as being right around the next corner, or even the corner after the next. It's some way in the future but it does exist. It's a real desire in the soul of the German nation, whether in the west or the east, and one must not delude oneself by young people going to Ibiza or Majorca.

[From the New York Times, Oct. 15, 1979]

SCHMIDT BIDS WEST ACCEPT SOVIET OFFER

BONN, October 14.—Chancellor Helmut Schmidt said today that the stated willingness of Leonid I. Brezhnev to open talks on European security could mean that new American medium-range nuclear missiles might never have to be deployed in Western Europe.

In a new effort to stress what he sees as the positive aspects of the Soviet leader's initiative, Mr. Schmidt emphasized that a readiness to negotiate with the Soviet Union must be made clear when the Western allies adopt plans at a North Atlantic Treaty Organization meeting in December to produce and deploy more than 500 of the middle-range missiles.

Mr. Schmidt's arguments, running parallel to statements made yesterday by Willy Brandt, the Social Democratic Party leader and former Chancellor, appear to be an attempt to counter some of the more negative appraisals of the Brezhnev proposals from Washington and other NATO officials.

Mr. Brezhnev, in a speech in East Berlin on Oct. 6, announced Soviet troop and tank withdrawals from Eastern Europe and offered a reduction in Soviet medium-range nuclear missiles if NATO canceled its plans to deploy its new missiles.

TAKE SOVIETS AT THEIR WORD

The Chancellor said that the Brezhnev initiative, in general, created both skepticism and defensive feelings in him. But he said that a readiness to negotiate on the issue of medium-range nuclear arms would be an attempt "to take the Soviets at their word, which through the Brezhnev speech presents still additional prospects of success."

He added, "The Soviet Union has reiterated: We want to bargain".

Referring to the NATO decision to produce and deploy the new missiles, the Chancellor said that if negotiations with Moscow were successful, it might not be necessary "to develop all of them, perhaps only many fewer, and in ideal cases, absolutely none."

Mr. Schmidt emphasized that Mr. Brezhnev's threats about possible Soviet retaliation if NATO decided in December to go ahead with the new missiles were tied to the word "deployment."

Mr. Brezhnev's "attempts at intimidation are linked to deployment," Mr. Schmidt said. "That's the way I read the speech. And therefore I am confident that he wants to use the intervening time the way the West wants to use intervening time between a decision and actual deployment—for negotiation."

If the NATO decision on production and deployment is made as expected in December, the missiles could be operational in 1983.

Mr. Schmidt called the December decisions "statements of intention" and said they "could during the intervening three or four years be changed, or reduced if progress in negotiations allows it."

[From the Washington Post, Oct. 10, 1979]

NATO UNITY SEEN AS BREZHNEV'S TARGET

(By Michael Getler)

BONN, October 9—Soviet President Leonid Brezhnev's speech in East Berlin last Saturday, in which he combined conciliatory gestures with threats in an effort to forestall deployment of new U.S. medium-range atomic missiles in Europe, is being seen in allied capitals as a skillful attempt to stirup public opinion and enlist the sympathies of Western Europe's sizeable leftwing as a way to stop governments from accepting these weapons on their soil.

"That is very definitely the case," says A. B. N. Frinking, spokesman of the parliamentary defense committee in Holland. "We are not blind. We see what is going on," he says of Brezhnev's tactics. Nevertheless, he adds, "the people in Holland want to stop the action-reaction cycle of the arms race so we shouldn't say it is an offer that is not worthwhile until we have more facts."

The question of deploying some 572 new U.S.-built Cruise missiles and Pershing II missiles in Western Europe to balance new Soviet SS-20 missiles already in place is one of the most significant and politically sensitive issues to confront the North Atlantic Alliance in many years. It has now been made more so by the direct mixing in of the Soviet leader. This could drive a wedge between the United States and some of its European allies.

While U.S. officials tend to treat the Brezhnev remarks as mostly propaganda, Europeans, living closer to Soviet power and influence, are scrutinizing them intensely for clues to the future of detente on the continent.

Though NATO ministers have already indicated they are likely to authorise going ahead with deployment at the alliance's forthcoming December meeting, that approval will then have to be ratified by parliaments back home.

Diplomats and experienced political observers in some countries where those missiles would be stationed acknowledge, however, that the Kremlin leader's proposals and threats could have an effect on public opinion and on parliamentary approval.

At stake, therefore, are not only questions of modernizing NATO nuclear weapons and the European balance of power, but also cohesion of the alliance on a fundamental question of future defense policy, relations between Western Europe and the Soviet Union, and the atmosphere surrounding future nuclear arms limitation talks and East-West troop reduction talks.

The issue is so sensitive in Holland, say several sources, that the fragile coalition government there could possibly fall if it backs the deployment plan. This, in turn, could influence support for the deployment plan in neighboring Belgium. And, if Belgium waivers, that leaves only West Germany. Bonn has said repeatedly that it will not be the only West European non-nuclear country to provide bases for these new weapons.

At a seminar of the Atlantic Institute in Paris last week, Klaas de Vries, chairman of the defense committee of the Dutch Parliament, said that this country would want to know Belgian intentions before committing itself.

Thus, the issue is probably more fragile than the expected NATO endorsement reflects, and Brezhnev obviously senses that.

The U.S.-NATO plan is to begin, within the next few years, emplacing 108 new Pershing land-based missiles to supplant a similar number of existing shorter-range Pershings. In addition, about 464 ground-launched Cruise missiles would also be deployed.

The United States has had atomic weapons in Western Europe for 30 years—some 9,000 of them are still here, sources say. But the crucial difference—to the Kremlin as well as the West Europeans—is that these new missile, for the first time, would be able to fly more than 1,000 miles and thus strike targets in Western Russian from their European bases.

The missiles would be on U.S. bases, with the Pershings stationed primarily in West Germany and Cruise missiles here as well as in England, Holland, Belgium and possibly Italy. Authoritative sources say they would also be exclusively under U.S. control rather than joint control so as not to force the allies to have a finger on the nuclear trigger aimed at Russia.

The number of missiles reportedly was arrived at by calculating that the Soviets, who now have more than 120 of the new and mobile SS-20 missiles deployed, would eventually have about 200 of these, each armed with three warheads for a total of about 600 individual weapons.

The alliance has nothing to match those Soviet weapons at this point and it is the desire to plug that real, or perceived, gap in the West's ability to deter attack at any level and to resist severe political pressure that NATO wants the new missiles.

In his speech, Brezhnev first captured attention by a unilateral pledge to withdraw up to 20,000 Soviet troops from the roughly 400,000 believed stationed in East Germany and 1,000 of the 7,000 tanks there as a gesture of "goodwill and detente."

Then he said the Kremlin was also ready to negotiate reduction of its medium-range rocket force based in Europe, but only if the west refrained from deploying new weapons. If there was no restraint, he threatened stern Soviet Countermeasure.

Officials throughout NATO have reacted with cautious interest to Brezhnev's proposals, seeing some positive elements in them but also seeing attempts to confuse the Western public.

The allied political strategy to get the plan approved has always revolved around finding a partner for West Germany. England, whose Conservative government is expected to support the deployment plan, in Bonn's eyes does not count as a partner because it is already a nuclear power.

The effort to gain Dutch backing centers around what is called a "switch" plan in which it is hoped Dutch reservations can be overcome by removing some older U.S. nuclear bombs, artillery and anti-aircraft weapons and replacing the missions to be carried out by those forces with the new missiles.

Belgium, remains the key. Foreign Minister Henri Simonet is widely viewed as strongly disposed to back the NATO deployment plan. The Belgians are seen as not nearly as sensitive as the Dutch on such questions and as more pragamatic on security issues, like the French. Indeed, some Belgian officials privately say their country is simply "passive" about a lot of things except taxation.

For the West Germans, the conciliatory portions of Brezhnev's speech were seen as a boost to getting SALT II ratified in the United States. Without SALT II, there would be no SALT III and therefore no forum to discuss the European arms control portion of the NATO plan.

The Kremlin has put considerable pressure on Bonn, which highly values its relationship with the Soviets and which has an active left-wing in its ruling Social Democratic Party.

Egon Bahr, a leading figure in the Social Democratic Party here who has close ties to the Soviets and was a strong opponent of U.S. neutron bomb deployment plans, called on Moscow to stop production of the SS-20 and said "the way in which the Russians publicly criticize Western plans, which are simply answers to Soviet actions, do not help very much."

In an editorial this week, the influential center-left French newspaper LeMonde also pointed out that the "new phase in the arms race in Europe was not only the fault of NATO militarists but rather more the fault of the Russians, who assured a Western response by considerably reinforcing their panoply of theater nuclear arms in recent years."

[From the Christian Science Monitor, Oct. 9, 1979]

U.S. DEBATE OVER SOVIET TROOP CUTS

(By Daniel Southerland)

The Christian Science Monitor

WASHINGTON, D.C.—Soviet President Breshnev's announcement of a unilateral reduction in European-based Soviet troops and tanks—while clearly limited in size—may place President Carter in a difficult bind.

Eager to move ahead with arms control, the President is nonetheless committed to the "modernization" of U.S. nuclear weapons based in Europe. If he repeats the zigzag performance he went through last year over deployment in Europe of the short-range neutron warhead, he could undermine his already damaged credibility among NATO allies.

Initial reaction among American officials was that the Brezhnev announcement of unilateral troop and tank reductions may amount to nothing more than a propaganda ploy. A public statement issued by the State Department said, however, that his speech of Oct. 6 appeared to contain "some positive elements." The State Department does not want to miss the chance to respond to what could turn out to be a "positive signal" from the Soviets which would both help with the ratification of the Strategic Arms Limitation Treaty (SALT) and get long-stalled negotiations over East-West forces reductions in Europe moving.

But regardless of the significance which President Brezhnev's announcement may hold for future negotiations, U.S. officials said the immediate impact of the announcement was clear: In their view, it amounts—in part at least—to an astute move by the Soviets to disrupt current NATO plans for the deployment in Western Europe in the early 1980s of nearly 600 new U.S. nuclear weapons. The allies, only a matter of days ago, firmed up plans to install these weapons as a counter to the Soviets' mobile, medium-range missiles known as the SS-20. A final decision is to be made by the NATO foreign ministers in mid-December.

In a speech on Oct. 1 which focused largely on Cuba and on SALT, President Carter had announced that the modernization plans for NATO were "on track."

Speaking in East Berlin on Oct. 6, President Brezhnev announced that he intended to withdraw up to 20,000 Soviet troops and a thousand Soviet tanks from East Germany over the next 12 months. At the same time, he offered to reduce the number of Soviet medium-range nuclear weapons launchers based in the western region of the Soviet Union provided that NATO does not increase—as it now plans to do—its own Europe-based medium-range nuclear weapons' strength.

American officials argue that such an increase on NATO's part is necessary because the West has no European-based weapons capable of matching the Soviets' SS-20 which would make possible a strong but graduated, West European-based response to a Soviet attack limited to West Europe.

President Brezhnev asserted in his speech that the Soviet Union has not increased the number of medium-range missiles based in the western part of its territory over the past 10 years. But American officials say that this misses the point, which is that the Soviets have been steadily modernizing their nuclear forces, adding to their range and accuracy and as well as to the number of warheads which each missile can carry.

The SS-20, they say, has the added advantages of being mobile and reloadable.

According to the International Institute of Strategic Studies, the Soviets have as many as half a million troops and more than 10,000 tanks stationed in Eastern and Central Europe. By those standards, the withdrawals announced by President Brezhnev may amount only to a token gesture. Old tanks could be withdrawn. And "up to 20,000" troops could mean almost anything.

But Mr. Brezhnev has done just enough, it appears, to set off a lively debate among the allies and among Carter administration officials themselves.

Some American experts have already argued against deploying new U.S. nuclear weapons in West Europe, contending that their proposed deployment amounts to a "military hardware answer" to a political problem.

Thus the Soviets might achieve what they have achieved before: a situation in which the Americans negotiate among themselves and with their allies more vigorously than they negotiate with their adversaries in the Soviet Union.

[From the Washington Post, Oct. 10, 1979]

PRESIDENT REBUFFS SOVIETS' PROPOSAL ON ARMS CUTBACK

(By Don Oberdorfer)

President Carter yesterday rebuffed Soviet President Leonid Brezhnev's proposal for military reductions in Europe and urged full support for NATO plans to place longer-range nuclear missiles on the continent.

Carter's remarks in a news conference, while falling short of a formal rejection, left no doubt of his negative attitude toward the proposal announced by Brezhnev last Saturday in East Berlin.

"It's not quite as constructive a proposal as at first blush it seems to be. I think it's an effort designed to disarm the willingness or eagerness of our allies adequately to defend themselves," Carter declared.

The president went on to urge a western alliance decision to modernize its European military strength and then to negotiate with the Soviets to lower armaments on both sides.

A "high-level group" of North Atlantic Treaty organization officials has recommended approval of U.S. plans to station new 1,000-mile-range Pershing 2 missiles and 1,500-mile-range ground-launched cruise missiles in Western Europe to replace the 400-mile-range Pershing 1. The plan, in response to Soviet deployment of 2,500-mile-range SS20s that threaten Europe, is scheduled to be considered by NATO defense ministers in mid-December.

Brezhnev, on the other hand, called for a halt to the NATO plan, which he said would "radically alter the strategic situation on the European continent [and] poison the international atmosphere." The Kremlin leader offered a future reduction in his nation's medium-range missiles targeted on Europe in return for a NATO freeze, but indicated that Soviet missile strength will grow if NATO moves ahead.

The Brezhnev proposals, including a unilateral offer to withdraw up to 20,000 Soviet troops and 1,000 Soviet tanks from East Germany in the next 12 months, have been given full-volume treatment by Soviet media as a "historic peace initiative."

Carter, in his response to the Brezhnev plan, said the Russians have been replacing their older airplanes with new Backfire bombers and their older SS4 and SS5 missiles with new SS20 weapons carrying three warheads each and packing much greater range and accuracy. The new Soviet missiles are also mobile and thus less vulnerable to an allied "preemptive strike," he said.

Carter said Brezhnev is offering, in effect, to continue the Soviet rate of modernization "provided we don't modernize at all."

At another point, however, Carter called Brezhnev's plan "an interesting proposal . . . that might show promise" but he immediately added that "it is not as great a step as would ordinarily be judged at first.'

Carter took the occasion to call anew for Senate approval of the strategic arms limitation treaty (SALT II) with the Russians, which limits strategic armaments but does not apply to intermediate-range missiles. He noted that future negotiations on Eastern and Western Europe military cuts, which are expected to take place in a SALT III forum, are dependent on approval of the strategic pact now before the Senate. For this reason among others, Western European leaders have made strong statements of support for SALT II.

The latest Carter-Brezhnev public exchange came in the wake of unsuccessful efforts to achieve a negotiated settlement of the dispute over U.S. charges of a Soviet "combat brigade" in Cuba.

"In my opinion we have answered the question of the Soviet combat unit in Cuba adequately. I think we have isolated any threat from that unit. We will increase our surveillance there. . . . I believe it has been addressed adequately," Carter said in response to a question.

While calling the presence of a Soviet unit in Cuba "a serious matter," Carter said it is "not the most important matter" and not "a major threat." He said the countermeasures he announced last week were "measured and appropriate."

Responding to former secretary of state Henry A. Kissinger's sharp criticism of the handling of the Soviet-troops-in-Cuba issue, Carter said Kissinger's basic premises of concern were "compatible" with his and that he had seen no report that Kissinger had recommended different moves than had been adopted.

At the State Department earlier in the day, spokesman Hodding Carter delivered a more combative response. Kissinger is "wrong" and will change his mind about the gravity of the threat that the Soviet force poses, the spokesman said.

The president, as he often has in the past, delivered a biting attack on the Soviet Union as a totalitarian, atheistic and military-oriented nation whose values and accomplishments compare poorly with those of the United States in political, religious and economic fields.

At the same time, he credited Brezhnev with sharing a common interest in avoiding a nuclear war.

In response to a question about use of the planned "rapid deployment force" that was given emphasis in his address on the Soviet troops, Carter said he sees "no prospect at this point for our intervention militarily anyplace in the world."

He also said, responding to a query about the impending famine in Cambodia, that the United States is "ready and eager" to join with other nations to provide humanitarian aid.

Carter said he does not plan to meet with the Rev. Jesse Jackson about his just-completed tour of the Middle East, which ended with a recommendation for U.S. official dealings with the Palestine Liberation Organization. There is no change in the U.S. posture on the PLO, said Carter.

[From the Washington Star, Oct. 10, 1979]

CARTER, MONDALE CRITICIZE SOVIET ARMS OFFER AS PLOY

(By Henry S. Bradsher)

Vice President Walter Mondale said today that NATO restraint in nuclear weapons has not been matched by the Soviet Union, and Moscow is now trying to lure the West away from a military buildup to balance new Communist arms.

Mondale said Soviet leader Leonid Brezhnev's statement on reducing arms in Europe had to be viewed in the context of Soviet forces vastly outnumbering those of the NATO alliance.

Mondale's remarks followed a statement by President Carter that the position Brezhnev took last Saturday was not so constructive as it appeared because it would permit continued modernization of Communist weaponry while halting the improvement of NATO forces.

Both Carter, speaking yesterday at a news conference, and Mondale in an address today to a meeting here of the Atlantic Treaty Association, cautiously welcomed Brezhnev's statement.

Carter said it might show promise for arms control talks, and the Western allies are assessing it carefully. Mondale said it had to be considered in terms of the Soviet military buildup.

Both men made the point that the Soviet position is, as Carter expressed it, "designed to disarm the willingness or eagerness of our allies adequately to defend themselves."

The administration reply to Brezhnev came as Soviet-bloc media developed the proposal into a major propaganda campaign. It is being launched while NATO members are preparing for a December meeting to decide on placing improved U.S. nuclear-armed missiles in the Netherlands, Belgium, Germany and Britain.

The question is controversial, with great hesitancy in the Netherlands and Belgium. Brezhnev played on this by warning against the NATO plans and promising never to use nuclear arms against countries that do not have them on their territory.

Brezhnev contended that the Soviet Union had not increased its "medium-range carriers of nuclear arms on the territory of the European part of the Soviet Union" in the last decade. It would reduce them "if no additional medium-range nuclear means are deployed in Western Europe," said the Soviet Communist Party's general secretary and nation's president.

Carter said the Soviets have been replacing old SS-4 and SS-5 medium-range missiles carrying one warhead with new SS-20 missiles that have three warheads, long enough range to hit Western Europe from Central Russia, three to six times better accuracy and mobility to protect them from attack. Old bombers are being replaced with new Backfire supersonic warplanes, Carter also said.

NATO needs to improve its defenses in order to have military strength equal to the Soviet's, Carter said. But what Brezhnev was offering, he said, "is to continue their own rate of mobilization as it has been provided we don't modernize at all."

Similar comments were made yesterday by Britain's defense secretary, Francis Pym, at a political party meeting in England. Brezhnev's proposal "comes at a time when Russians have been modernizing and augmenting their own nuclear armory, while the equivalent NATO capability is small and aging," Pym said.

The proposal "must therefore be treated with caution," Pym said.

Carter used his reply to Brezhnev to emphasize that Senate ratification of the new strategic arms limitations treaty, SALT II, is the first step toward trying to negotiate controls on medium-range nuclear weapons in Europe. They are to be included in SALT III.

"I believe SALT will be ratified this year, basically on its own merits," Carter said when asked if he had "defused the problem or the issue of the Soviet brigade in Cuba." He said the troop question had been handled adequately by isolating any threat and increased surveillance.

Carter sidestepped a dispute with former Secretary of State Henry Kissinger, who had criticized his handling of the troop question. "We do share a common concern," he said when asked about Kissinger's remarks.

The president also said at the news conference that the United States is "ready and eager" to provide humanitarian aid for starving Cambodians. It is trying to work out ways for international agencies to get food to them, Carter said. The agencies have been trying to overcome reluctance of the contending forces in Cambodia to allow them to monitor food distribution so as to insure it reaches hungry civilians rather than feeding troops.

Congress banned all aid to Cambodia after the American-backed Lon Nol regime fell in 1975. A bill introduced last week by Reps. Stephen Solarz, D-N.Y., and John B. Anderson, R-Ill., would authorize $30 million worth of food and related relief supplies for distribution by international agencies at the discretion of the president. Congress and the administration are trying to work out the legal and budgetary problems.

ISOLATION IS NO EXCUSE FOR FAILING TO APPROVE THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, there was a time in this Nation's history when a good, strong argument could be made for an isolationist foreign policy. George Washington did just that, of course, in his farewell address to the Nation at the end of his Presidency. At the time, we were a young country, without the strength or maturity to make an impact on world affairs, or perhaps even to survive the impact of world affairs on us. We were protected by thousands of miles of ocean, and our national energy and enterprise were easily absorbed in the drive to settle the continent. There was little reason to be concerned with the intrigues and intricacies of foreign alliances.

The justifications for this argument have all slowly withered away over the years, especially in this century. As the Republic grew, the trade that made us strong brought us into increased contact with the rest of the world. Technological advances lessened the obstacles of our nautical frontiers, and we developed more and more of an interest in the train of events around the world.

The interest in the world in us increased, as well. We became influential enough so that even our indecision on an international issue had an effect on people far beyond this hemisphere. At the same time, we developed enough of a sense of national identity that we were not overwhelmed by all of this increased involvement.

These developments have at times occurred slowly, and at times they have come in dizzying spurts. The advocates of isolation have continued, in ever-dwindling numbers, to press their cause in spite of the changes in the world. But as wistfully as some might seek a more innocent era, we cannot avoid playing a significant role in the world. We are an international power; we influence the world and it reacts to us, with every stand that we take.

And it must be emphasized that the same is true for every stand we do not take, for every issue we avoid. We have avoided taking a stand on the Genocide Convention for 30 years, perhaps out of a mistaken urge to remain free from "foreign entanglements." But the inevitable fact is that we are shaping world events, whether we choose to or not. Let us choose to, and let us try to shape events in a way which is in harmony with our national values.

I urge the Senate to ratify the Genocide Convention.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 10 minutes, and that Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there morning business?

If not, morning business is closed.

ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3434, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 3434) to amend the Social Security Act to make needed improvement in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

The Senate proceeded to consider the bill which had been reported on the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "Adoption Assistance and Child Welfare Act of 1979".

TABLE OF CONTENTS

Sec. 1. Short title.

TITLE I—ADOPTION AND FOSTER CARE ASSISTANCE

Sec. 101. Federal payments for adoption assistance and foster care.
Sec. 102. Study of adoption assistance and foster care programs.
Sec. 103. Advance funding for child-welfare services.

TITLE II—SOCIAL SERVICES

Sec. 201. Determination of amount allocated to States.
Sec. 202. Temporary extension of 100-percent Federal matching for certain child day care expenditures.
Sec. 203. Temporary limitation on funds for training.
Sec. 204. Use of restricted private funds for training programs.
Sec. 205. Emergency shelter.
Sec. 206. Multiyear plan; choice of fiscal year.
Sec. 207. Social services funding for territories.
Sec. 208. Permanent extension of provisions relating to child support enforcement, child day care services, and services for alcoholics and drug addicts.

TITLE III—OTHER SOCIAL SECURITY ACT PROVISIONS

Sec. 301. Earnings disregard under AFDC programs.
Sec. 302. Incentives to report earnings under AFDC programs.
Sec. 303. Income of stepparents.
Sec. 304. Prorating of shelter allowance.
Sec. 305. Services for disabled children.
Sec. 306. Public assistance payments to territorial jurisdictions.
Sec. 307. Period within which certain claims must be filed.

TITLE I—ADOPTION AND FOSTER CARE ASSISTANCE

FEDERAL PAYMENTS FOR ADOPTION ASSISTANCE AND FOSTER CARE

SEC. 101. (a)(1) Title IV of the Social Security Act is amended by adding at the end thereof the following new part:

"PART E—FEDERAL PAYMENTS FOR ADOPTION ASSISTANCE AND FOSTER CARE

"PURPOSE; APPROPRIATION

"SEC. 470. (a) For the purpose of encouraging each State, as far as is praticable under the conditions of that State, to provide, in appropriate cases, foster care and adoption assistance for children who otherwise would be eligible for assistance under the State's plan approved under part A, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1979) such sums as may be necessary to carry out the provisions of this part.

"(b) The sums made available under this section—

"(1) are made available in recognition of the policy of the Federal Government that the placement of a child in foster care is not ordinarily regarded as a desirable form of permanent child care and that foster care should therefore ordinarily be a temporary status; and

"(2) shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part.

"STATE PLAN FOR ADOPTION ASSISTANCE AND FOSTER CARE

"SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

"(1) provides, where the plan includes adoption assistance payments, that such payments shall be payable in accordance with section 471, and, where the plan includes foster care maintenance payments, that such payments shall be payable in accordance with section 472;

"(2) provides that the State agency responsible for administering the program authorized by part B of this title shall administer, or supervise the administration of, the program authorized by this part;

"(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

"(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, and under any other appropriate provision of Federal law;

"(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

"(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the 'State agency') will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(7) provides that the State agency will

monitor and conduct periodic evaluations of activities carried out under this part;

"(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, C, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body (other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

"(9) provides that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

"(10) provides that the standards referred to in section 2003(d)(1)(F) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

"(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

"(12) provides that any individual who is denied a request for benefits available pursuant to this part or part B of this title (or whose request for benefits is not acted upon within a reasonable time) will be informed of the reasons for the denial or delay and, if he so requests, will be offered an opportunity to meet with a representative of the agency administering the plan to discuss the reasons for the denial or delay;

"(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

"(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1981) for each fiscal year (commencing with the fiscal year which begins on October 1, 1982) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals; and

"(15) effective October 1, 1981, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent the removal of the child from his home, and (B) to make it possible for the child to return to his home.

"(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.

"FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

"SEC. 472. (a) Each State with a plan approved under this part may make foster care maintenance payments (as defined in section 475(4)) under this part only with respect to a child who is placed in foster care prior to October 1, 1984, and who would meet the requirements of section 406(a) or of section 407 of this Act but for his removal from the home of a relative (specified in section 406(a)), and only if—

"(1) the removal from the home was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and that reasonable efforts of the type described in section 471(a)(15) have been made;

"(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 471, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 471 has made an agreement which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution as a result of a determination referred to in paragraph (1);

"(4) such child—

"(A) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home was initiated, or

"(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(5) there is a case plan (as defined in section 475(1) of this part) for such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution).

"(b) Foster care maintenance payments may be made under this part only in behalf of a child described in subsection (a) of this section who is—

"(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

"(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payment' (as defined in section 475(4)).

"(c) For the purposes of this part and part B of this title, (1) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term 'child-care institution' means a nonprofit private child-care institution, or (subject to the succeeding sentence) a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing; but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. A public institution which on the effective date of this part accommodates children and which, except for the provisions of this sentence would be a child-care institution (as defined in the preceding sentence), shall not, for purposes of this part, be considered to be a child-care institution (as so defined) with respect to any child who was in such institution on the date of enactment of this part.

"(d) For purposes of title XIX of this Act, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

"ADOPTION ASSISTANCE PROGRAM

"SEC. 473. (a)(1) Each State with a plan approved under this part may, directly through the State agency or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (3) of this subsection to parents who are eligible for such payments pursuant to paragraph (2) of this subsection and who, after the effective date of this section, adopt a child who—

"(A) would, at the time adoption proceedings were initiated, have met the requirements of section 406(a) or section 407 of this Act except for his removal from the home of a relative (specified in section 406(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child,

"(B)(i) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home were initiated, or

"(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, and

"(C) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

"(2) Parents may be eligible for adoption assistance payments under this part only if their income at the time of the adoption does not exceed 125 per centum of the median income of a family of four in the State, adjusted in accordance with regulations of the Secretary to take into account the size of the family after adoption. Notwithstanding the preceding sentence, parents whose income is above the limits specified therein may be eligible for assistance payments under this part if the State or local agency administering the program under this section determines that there are special circumstances (as defined in regulations of the Secretary) in the family which warrant adoption assistance payments; except that not more than 10 per centum of all parents receiving adoption assistance for any month may be parents whose income exceeds the limits so specified.

"(3) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

"(4) Notwithstanding the preceding two paragraphs, (A) no payment may be made to parents pursuant to this section with respect to any month in a calendar year following a calendar year in which the income of such parents exceeds the limits specified in paragraph (2), unless the State or local agency administering the program under this section has determined, pursuant to paragraph (2) (and subject to the percentage limitation imposed by the second sentence thereof), that there are special circumstances in the family which warrant adoption assistance payments, (B) no payment may be made to parents with respect to any child who has attained the age of eighteen, and (C) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(5) For the purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

"(b) Any child—

"(1) who the State determines meets the requirements of subsection (a)(1); and

"(2) who is placed for adoption or adopted following such determination

shall, with respect to any medical condition which was in existence at the time the child was adopted, retain eligibility under title XIX until the age of eighteen under such plan. However, a State may provide to such a child full eligibility for medical assistance under the State's plan approved under title XIX. For purposes of section 1904 of this Act, the requirement imposed by the first sentence of this subsection shall be deemed to be imposed by a provision of section 1902(a); and Federal payments on account of expenditures made by a State in compliance with such first sentence, or in accord with the second sentence of this subsection, shall be made in like manner as is provided under such title in the case of medical assistance furnished to a dependent child receiving aid under part A of title IV.

"(c) For purposes of this section, a child shall not be considered a child with special needs unless—

"(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

"(2) the State had first determined (A) that there exists with respect to the child a specific factor or condition because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section.

"(d) Notwithstanding any other provision of this part, no adoption assistance payment under a State plan approved under this part shall be made pursuant to any adoption assistance agreement entered into after September 30, 1984.

"PAYMENTS TO STATES; ALLOTMENTS TO STATES

"SEC. 474. (a) For each quarter beginning after September 30, 1979, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of—

"(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care institutions who were placed in foster care prior to October 1, 1984; plus

"(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements entered into prior to October 1, 1984; plus

"(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

"(B) one-half of the remainder of such expenditures.

"(b)(1) Notwithstanding the provisions of subsections (a)(1) and (a)(3), with respect to expenditures relating to foster care, the aggregate of the sums payable to any State thereunder, with respect to expenditures relating to foster care, for the calendar quarters in any fiscal year shall not exceed the State's allotment for each such year.

"(2) For purposes of this subsection, a State's allotment for the fiscal year ending September 30, 1978, shall be equal to the amount of the Federal funds payable to such State under section 403 on account of expenditures for aid with respect to which Federal financial participation is authorized pursuant to section 406 (including administrative expenditures attributable to the provision of such aid). In the event that there is a dispute between any State and the Secretary as to the amount of such expenditures for such fiscal year, then, until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, the amount of the State's allotment for such fiscal year shall be deemed to be the amount of Federal funds which would have been payable under such section 403 if the amount of such expenditures were equal to the amount thereof claimed by the State.

"(3)(A) For fiscal year 1980 and each fiscal year thereafter, the allotment of each State shall be equal to its allotment under this subparagraph for the preceding year increased or decreased (as the case may be) by a percentage equal to the lesser of (i) the inflation rate for such fiscal year as shown in the table appearing on page 25 of Senate Report Numbered 96-311 submitted by the Senate Budget Committee, rounded to the next higher percentage which is equal to or a multiple of 10 per centum; or (ii) a percentage equal to twice the percentage increase or decrease (as the case may be) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (and for purposes of this clause the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter); except that the allotment of any State shall not be increased by this subparagraph to an amount exceeding 176 per centum of its allotment for fiscal year 1978. For purposes of this subparagraph, the allotment of each State for fiscal year 1979 shall be equal to 109.1 per centum of its allotment for fiscal year 1978.

"(B) The amount of any State's allotment, for any fiscal year referred to in subparagraph (A), shall be the amount determined under such paragraph or (if greater) an amount which bears the same ratio to $100,000,000 as the under age eighteen population of such State bears to the under age eighteen population of the fifty States and the District of Columbia. The Secretary shall promulgate the amount of each State's allotment, for the fiscal year 1980, not later than sixty days after the date of enactment of this part, and for any succeeding fiscal year, prior to the first day of the third month of the preceding fiscal year, on the basis of the most recent satisfactory data available from the Department of Commerce.

"(c) For the fiscal year 1980, and each fiscal year thereafter, sums available to a State from its allotment under subsection (b) for carrying out this part, which the State does not claim as reimbursement for expenditures in such year pursuant to subsection (a) of this section, may be claimed by the State as reimbursement for expenditures in such year pursuant to part B of this title, in addition to such sums available pursuant to section 420 for carrying out that part.

"DEFINITIONS

"SEC. 475. As used in this part or part B of this title:

"(1) The term 'case plan' means a written document which includes at least the following information: A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child in accordance with section 472(a)(1); a plan of services that will be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

"(2) The term 'parents' means biological or adoptive parents or legal guardians, as determined by applicable State law.

"(3) The term 'adoption assistance agreement' means a written and consensual agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adopting parents of a minor which specifies, at a minimum, the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement.

"(4) The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

"Sec. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

"(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.".

(2)(A) Effective with respect to expenditures made after September 30, 1979, section 408 of the Social Security Act is, subject to subparagraph (B), repealed.

(B) The repeal made by subparagraph (A) shall not be applicable in the case of any State for any quarter prior to the first quarter, which begins after September 30, 1979, in which such State has in effect a State plan approved under part E of the Social Security Act, or (if earlier), such repeal shall be effective with respect to expenditures made after September 30, 1981. During any period with respect to which the repeal made by subparagraph (A) is not applicable in the case of a State, the aggregate of the sums payable to the State, under the State's plan approved under part A of title IV of the Social Security Act, with respect to expenditures (including administrative expenditures) authorized or incurred by reason of the provisions of section 408 of such Act shall not exceed the amount of the allotment which such State would have had for such period under section 474(b) if such State had had an approved plan under part E of such title IV.

(3) For the first year with respect to which there is appropriated under section 420 of the Social Security Act a sum which is subject to the restriction authorized under section 428(a) of such Act, Federal payment with respect to expenditures made by a State, under its State plan approved under part E of such Act, for any of the purposes described in section 428(b)(1) of such Act shall not be subject to the limitation imposed by section 474(b) for such year.

(4) Unless otherwise specified, the amendments made by this section shall be effective on and after October 1, 1979.

(b)(1) Section 423 of the Social Security Act is amended—

(A) in subsection (b), by striking out "The" and all that follows, and inserting in lieu thereof the following: "The 'Federal share' for any State shall, effective on and after October 1, 1979, be 75 per centum.", and

(B) in subsection (c), by striking out "Federal share and".

(2) Section 425 of such Act is amended by adding at the end thereof the following new sentence: "Expenditures made by a State for any calendar quarter which begins after September 30, 1979, for foster care maintenance payments shall be treated for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care maintenance payments constituted child welfare services of a type to which the limitation imposed by section 427 does not apply; except that, the amount payable to the State with respect to expenditures made for other child welfare services and for foster care maintenance payments during any such quarter shall not exceed 100 per centum of the amount of the expenditures made for child welfare services for which payment may be made under the limitation imposed by such section 427 as in effect without regard to this sentence.".

(3) Part B of title IV of the Social Security Act is further amended by adding at the end thereof the following new section:

"LIMITATION ON PAYMENTS WITH RESPECT TO FOSTER CARE

"SEC. 427. Notwithstanding any other provision of this part except the last sentence of section 425(a), if for any fiscal year which begins after September 30, 1979, there is appropriated under section 420 an amount in excess of the amount appropriated for the fiscal year ending on September 30, 1979, the amount payable to any State for expenditures made to provide child welfare services in the form of foster care maintenance payments in foster family homes or other foster care facilities, shall not exceed the amount of its allotment (before application of the provisions of section 424) under this part for the fiscal year ending September 30, 1979. Funds made available to any State pursuant to section 474(c) shall be subject to the limitation imposed by the preceding sentence.".

(4) Section 425 of such Act is amended by inserting "(a)" immediately after "SEC. 425." and by adding at the end thereof the following new subsection:

"(b) Funds expended by a State for any calendar quarter to comply with the statistical report required by section 476(b), and funds expended with respect to nonrecurring costs of adoption proceedings in the care of children placed for adoption with respect to whom assistance is provided under a State plan for adoption assistance approved under part E of this title, shall be deemed to have been expended for child welfare services.".

(c) Part B of title IV of the Social Security Act is amended by adding after section 427 (as added by subsection (b)(3) of this section) the following new sections:

"PORTIONS OF INCREASED ALLOTMENTS TO BE USED FOR CERTAIN SERVICES

"SEC. 428. (a)(1) If, for any fiscal year after 1979 there is appropriated under section 420 a sum in excess of the sum appropriated thereunder for the fiscal year 1979, the appropriation Act by which such sum is appropriated may set aside the amount of such excess necessary for the carrying out of the activities and programs described in subsections (b) and (c).

"(2) Whenever a specified amount of the sum appropriated under section 420 for any fiscal year is set aside pursuant to paragraph (1), the allotment of each State for such fiscal year shall be adjusted accordingly so as to restrict the availability of funds to the carrying out of the activities and programs described in subsections (b) and (c).

"(b) For the first year that any amount of a State's allotment is restricted under subsection (a)(2), the amount so restricted may, except as provided in subsection (c), be expended only for the following purposes (and amounts so expended shall be conclusively presumed to be expended for child welfare services):

"(1) for the purpose of conducting an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory; for the purpose of determining the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship;

"(2) for the purpose of designing and developing to the satisfaction of the Secretary—

"(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can readily be determined;

"(B) a case review system for each child receiving foster care under the supervision of the State; and

"(C) a service program designed to help children remain with their families and, where appropriate, help children return to families from which they have been removed or be placed for adoption or legal guardianship.

"(c) For any fiscal year (after the first fiscal year) that any amount of a State's allotment is restricted under subsection (a)(2), the amount so restricted may be expended only for the implementation and operation of the systems and programs described in subsection (b)(2) (and amounts for such purposes shall be conclusively presumed to be expended for child welfare services). In the case of any State which has completed an inventory of the type specified in subsection (b)(1) and the design and development of the program and systems referred to in subsection (b)(2) prior to the first fiscal year referred to in subsection (b), or at any time prior to the end of such fiscal year, the amount of such State's allotment which is restricted under subsection (a)(2) shall remain available and may thereafter in such fiscal year or the succeeding fiscal year be used for the purposes specified in the first sentence of this subsection. In the case of any State which, during the first fiscal year referred to in subsection (b), fails to complete an inventory of the type specified in subsection (b)(1) and the design and development of the program and systems referred to in subsection (b)(2) prior to the end of such fiscal year, the amount of such State's allotment which is restricted under subsection (a)(2) for such fiscal year shall remain available for the succeeding fiscal year for the purpose of completing such inventory and the design and development of such program and systems; also, the amount of such State's allotment which is restricted under subsection (a)(2) for the succeeding fiscal year may be expended for such purpose.

"(d)(1) As used in subsection (b)(2)(B), the term 'case review system' means a procedure for assuring that—

"(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

"(B) the status of each child is reviewed periodically but no less frequently than once every twelve months by either a court or by administrative review (as defined in paragraph (2)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship, and

"(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than twenty-four months after the original placement (and periodically thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis); and procedural safeguards shall also be applied with respect to parental rights to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

"(2) As used in paragraph (1)(B), the term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

"SEC. 429. (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this part directly to an Indian tribal organization within any State which has a plan for child welfare services approved under this part. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

"(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

"(c) For purposes of this section—

"(1) the term 'tribal organization' means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body; and

"(2) the term 'Indian tribe' means any tribe, band, nation, or other organized group or community of Indians (including any

Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688)) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.".

(d) Section 422 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this part, there shall not (subject to paragraph (2)) be paid to any State under the preceding provisions of this section for any fiscal year (commencing with the fiscal year which begins on October 1, 1979) an amount in excess of the amount of such State's allotment for the fiscal year which began on October 1, 1978, unless the State's plan for child-welfare services indicates the manner in which the State, in the administration of such plan, will achieve the objective and carry out the activities specified in paragraphs (1) and (2) of section 428(b).

"(2) The amount payable to a State under the provisions of this part which precede this subsection shall not, because of the provisions of paragraph (1) of this subsection, be reduced for any fiscal year prior to the fiscal year which commences October 1, 1981, if the Secretary finds that such State has initiated the process for having such State's plan for child welfare services indicate the manner in which the State, in the administration of such plan, will achieve the objectives and carry out the activities specified in paragraphs (1) and (2) of section 428(b).".

STUDY OF ADOPTION ASSISTANCE AND FOSTER CARE PROGRAMS

SEC. 102. (a) The Secretary of Health, Education, and Welfare shall conduct a study of programs of foster care and adoption assistance established under part IV-E of the Social Security Act (as added by section 101 of this Act) and shall submit to the Congress, not later than October 1, 1983, a full and complete report thereon, together with his recommendations as to (1) whether such part IV-E should be continued, and if so, (2) the changes (if any) which should be made in such part IV-E.

(b) Such report shall include, but not be limited to, the following:

(1) a determination as to (A) the extent of reduction that has occurred in the duration of foster care under such programs, (B) the extent to which such programs of adoption assistance have resulted in an increase in the adoption of children who otherwise would have remained in foster care under State plans approved under title IV-A of the Social Security Act, and (C) the extent to which the availability of Federal funding for adoption assistance under title IV-E of such Act has resulted in States' initiating or expanding programs for adoption assistance,

(2) data concerning the number of instances in which income standards for adoption assistance under section 473(a)(2) of the Social Security Act have resulted in inability to place a child in an adoptive home, and

(3) specific legislative recommendations for ways to bring about further reduction in the duration of foster care for children.

ADVANCE FUNDING FOR CHILD-WELFARE SERVICES

SEC. 103. (a) Section 420 of such Act is amended by—

(1) inserting "(a)" immediately after "SEC. 420.", and

(2) by adding after and below such section the following new subsection:

"(b) Funds appropriated for any fiscal year pursuant to the authorization contained in subsection (a) shall be included in the appropriation Act (or supplemental appropriation Act) for the fiscal year preceding the fiscal year for which such funds are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding the fact that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.".

(b) The amendments made by subsection (a) shall apply only with respect to appropriation Acts, which appropriate funds pursuant to the authorization contained in section 420 of the Social Security Act, enacted after the date of enactment of this Act.

TITLE II—SOCIAL SERVICES

DETERMINATION OF AMOUNT ALLOCATED TO STATES

SEC. 201 (a) Section 2002(a)(2)(A) of the Social Security Act is amended by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) The amount specified for purposes of clause (i) for fiscal year 1980 and each succeeding fiscal year shall be an amount (not exceeding $3,300,000,000) equal to the indexed ceiling amount for that fiscal year as determined under subparagraph (B).".

(b) Section 2002(a)(2) of such Act is amended by striking out subparagraphs (B), (C), and (D) and inserting in lieu thereof the following:

"(B)(i)(I) Except as otherwise provided in clauses (ii), (iii), and (iv), the indexed ceiling amount for any fiscal year shall be an amount equal to the indexed ceiling amount for the preceding fiscal year increased or decreased (as the case may be) by an amount determined under division (II).

"(II) For purposes of division (I) the amount of the increase or decrease (as the case may be shall be an amount equal to $2,500,000,000, multiplied by a percentage equal to the positive or negative percentage change in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 per centum). For purposes of this clause the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

"(ii) If the percentage increase in the Consumer Price Index as determined under clause (i)(II) for any fiscal year exceeds the inflation rate for that fiscal year as shown for that year (or, if no rate is shown for that year, for the most recent preceding year for which a rate is shown) in the table which appears on page 25 of Senate Budget Committee Report Numbered 96-311, then for such fiscal year such inflation rate shall be used in making the determinations under clause (i)(II) instead of the percentage increase in the Consumer Price Index.

"(iii) The indexed ceiling amount determined under clause (i) shall, if not a multiple of $100,000,000, be rounded to the next lesser amount that is a multiple of $100,000,000.

"(iv) The indexed ceiling amount for fiscal year 1979 shall be $2,500,000,000.".

TEMPORARY EXTENSION OF 100-PER CENTUM FEDERAL MATCHING FOR CERTAIN CHILD DAY CARE EXPENDITURES

SEC. 202. (a) Section 2002(a)(1) of the Social Security Act is amended by inserting

"(subject to paragraph (17))" after "planning services and".

(b) Section 2002(a) of such Act is further amended by adding at the end the following new paragraph:

"(17)(A) The total payment to a State under this section with respect to expenditures during fiscal year 1980 or fiscal year 1981 for the provision of child day care services under this title shall be equal to 100 per centum of such expenditures to the extent that such expenditures (during that fiscal year) do not exceed an amount which bears the same ratio to $200,000,000 as the amount of the State's limitation under paragraph (2)(A) bears to the indexed ceiling amount for such fiscal year.

"(B) Federal funds payable to a State under this title (with respect to expenditures for child day care services) at the rate specified in subparagraph (A) shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.

"(C) In determining the amount of the expenditures with respect to which payment shall be made at the rate of 100 per centum as provided in subparagraph (A), there shall be included those sums granted to States for child day care service for which payment is authorized under section 2007, and the total amount of payment to a State for fiscal year 1981 or 1982 under this paragraph and under section 2007, may not exceed the 8 per centum of the limitation applicable to that State under paragraph (2)(A) for such fiscal year.".

(b) The Secretary of Health, Education, and Welfare shall monitor the use of donated funds having restrictions as to use or geographical area, as permitted under section 2002(a)(7)(D)(ii) of the Social Security Act, and shall report to the Congress with respect to the results of the use of such funds under title XX of that Act.

TEMPORARY LIMITATION ON FUNDS FOR TRAINING

SEC. 203. (a) The first sentence of section 2002(a)(2)(A)(i) is amended by striking out "in excess of an amount" and all that precedes it, and inserting in lieu thereof "Except as provided in clause (iii), no payment may be made under this section to any State for any fiscal year beginning after September 30, 1979, in excess of an amount".

(b) Section 2002(a)(2)(A) is further amended by adding after clause (ii), as added by section 201 of this Act, the following new clause:

"(iii) Payment with respect to expenditures for personnel training or retraining directly related to the provision of services under this title may be made to a State, for any fiscal year, in excess of the limitation for such State determined under clause (i), except that, notwithstanding any other provision of law, payment to a State with respect to such expenditures for fiscal year 1980 may not exceed an amount equal to 4 per centum of such State's limitation under clause (i), or, if greater, an amount equal to the amount of the payment made under this title to such State with respect to such expenditures for fiscal year 1979.".

USE OF RESTRICTED PRIVATE FUNDS FOR TRAINING PROGRAMS

SEC. 204. (a) Section 2002(a)(7)(D)(ii) of the Social Security Act is amended by striking out "and" at the end thereof and inserting in lieu thereof the following: "except that such funds may, during fiscal year 1980, be donated with such restrictions as to use or geographical area if such funds are for the purpose of training or retraining as provided in subsection (a)(1), and such funds are not donated to an entity other than a public or nonprofit entity, and".

EMERGENCY SHELTER

SEC. 205. (a) Section 2002(a)(11) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(E) any expenditure for the provision of emergency shelter, for not in excess of thirty days in any six-month period, provided as a protective service to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation.".

(b) The amendments made by this section shall be effective on and after October 1, 1979.

MULTIYEAR PLAN; CHOICE OF FISCAL YEAR

SEC. 206. (a) Section 2004(1) of the Social Security Act is amended to read as follows:

"(1) for each services program period, the beginning of the fiscal year of the Federal Government, the State government, or the political subdivisions of such State is established as the beginning of the State's services program period, and the end of such fiscal year, the succeeding fiscal year, or the second succeeding fiscal year is established as the end of the State's services program period; and".

(b) Section 2004 of such Act is further amended—

(1) by striking out "services program year" each place it appears and inserting in lieu thereof in each instance "service program period";

(2) by striking out "annual" in paragraph (2) (in the matter preceding subparagraph (A)) and in paragraph (4);

(3) by striking out "during that year" in paragraph (2) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "during that period";

(4) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(5) by adding at the end thereof the following new paragraph:

"(6) in the case of a State that adopts a services program planning period of longer than one year, the State agency publishes and makes generally available such information concerning the comprehensive services program at such time as the Secretary may by regulation require.".

(c) Section 2003(b) of such Act is amended—

(1) by striking out "each services program year" and inserting in lieu thereof "each fiscal year (as selected by the State under section 2004(1)) within each services program period"; and

(2) by striking out "any services program year" and inserting in lieu thereof "any services program period".

(d) Sections 2003(d)(1) and 2005 of such Act are each amended by striking out "services program year" and inserting in lieu thereof in each instance "services program period".

(e) The amendments made by this section shall be effective on and after October 1, 1979.

SOCIAL SERVICES FUNDING FOR TERRITORIES

SEC. 207. (a) Section 2002(a)(2) of the Social Security Act is amended by adding after subparagraph (B) (as added by section 201 of this Act) the following new subparagraph:

"(C)(i) The Secretary shall pay to the jurisdictions of Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands such sums as may be necessary (not to exceed the limits specified in clause (ii)) for purposes of matching the expenditures of such jurisdictions for services pursuant to sections 3(a)(4) and (5), 403(a)(3), 1003(a)(3) and (4), 1403(a)(3) and (4), and 1603(a)(4) and (5) of this Act. Such payments shall be in addition to the amounts available to such jurisdictions under section 1108 of this Act.

(ii) Payments for any fiscal year under this subparagraph shall not exceed $15,000,000 to Puerto Rico, $500,000 to Guam, $500,000 to the Virgin Islands, and $100,000 to the Northern Mariana Islands.".

(b) The amendments made by this section shall be effective with respect to fiscal year 1980 and fiscal years thereafter.

PERMANENT EXTENSIONS OF PROVISIONS RELATING TO CHILD SUPPORT ENFORCEMENT, CHILD DAY CARE SERVICES, AND SERVICES FOR ALCOHOLICS AND DRUG ADDICTS

SEC. 208. (a)(1) Section 455(a) of the Social Security Act is amended—

(A) by striking out the semicolon at the end of paragraph (2) and inserting in lieu of such semicolon a period, and

(B) by striking out all that follows paragraph (2).

(2) The amendments made by this subsection shall be effective on and after October 1, 1978.

(b)(1) Section 2002(a)(1) of the Social Security Act is amended by inserting "100 per centum of the expenditures during that quarter (which are not in excess of 2 per centum of the limitation applicable to that State under paragraph (2)(A) for the fiscal year in which such quarter occurs) for grants to qualified providers under section 2007," after "an amount equal to".

(2) Title XX of such Act is amended by redesignating section 2007 as section 2008 and inserting after section 2006 the following new section:

"CHILD DAY CARE SERVICES

"SEC. 2007. (a) Subject to subsection (b), sums granted by a State to a qualified provider of child day care services (as defined in subsection (c)) to assist such provider in meeting its work incentive program expenses (as defined in subsection (c)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child care facilities of such provider, shall be deemed for purposes of section 2002 to constitute expenditures made by the State in accordance with the provisions of this title for the provision of child day care services.

"(b) The provisions of subsection (a) shall not be applicable with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used to pay wages to any employee at an annual rate in excess of $6,000, in the case of a public or nonprofit private provider, or at an annual rate in excess of $5,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

"(c) For purposes of this section—

"(1) the term 'qualified provider of child care services', when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 per centum thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under the State's services program conducted pursuant to this title; and

"(2) the term 'work incentive program expenses' means expenses of a qualified provider of child day care services which constitute work incentive program expenses as defined in section 50B(a)(1) of the Internal Revenue Code of 1954, or which would constitute work incentive program expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.".

(3) Sections 2002(a)(4)(C), 2002(a)(4)(D), and 2002(a)(5)(A) of such Act are each amended by striking out "2007(1)" and inserting in lieu thereof "2008(1)".

(4) The amendments made by this subsection shall be effective on and after October 1, 1979.

(c)(1) Paragraph (1) of section 322(e) of the Revenue Act of 1978 (relating to effective date) is amended by adding at the end thereof the following new sentence: "For purposes of applying section 50A(a)(2) of the Internal Revenue Code of 1954 with respect to a taxable year beginning before January 1, 1979, the rules of sections 50A(a)(4), 50A(a)(5), and 50B(e)(3) of such Code (as in effect on the day before the date of the enactment of this Act) shall apply.".

(2) Subparagraph (B) of section 322(e)(2) of the Revenue Act of 1978 (relating to eligible employees hired after September 26, 1978) is amended—

(A) by striking out "September 27, 1978," and inserting in lieu thereof "September 26, 1978, for purposes of applying the amendments made by this section,"; and

(B) by striking out "January 1, 1979," and inserting in lieu thereof "January 1, 1979, and any wages paid or incurred after December 31, 1978, with respect to such individual shall be considered to be attributable to services rendered after that date.".

(3)(A) Subparagraph (C) of section 50A(a)(4) of the Internal Revenue Code of 1954 (relating to limitation with respect to nonbusiness eligible employees) is amended by striking out "'$6,000' and" and inserting in lieu thereof "'$6,000' for".

(B) Subparagraph (B) of section 50B(g)(2) of such Code is amended by striking out "giving to such credit" and inserting in lieu thereof "giving rise to such credit".

(C) Clause (i) of section 50B(h)(1)(A) of such Code is amended by striking out "9-day" and inserting in lieu thereof "90-day".

(D) The second subsection designated as subsection (d) of section 322 of the Revenue Act of 1978 is amended by striking out "our" in paragraph (1)(A) thereof and inserting in lieu thereof "out".

(d)(1)(A) Section 50B of the Internal Revenue Code of 1954 is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

"(i) SPECIAL RULES WITH RESPECT TO EMPLOYMENT OF DAY CARE WORKERS.—

"(1) ELIGIBLE EMPLOYEE.—An individual who would be an 'eligible employee' (as that term is defined for purposes of this section) except for the fact that such individual's employment is not on a substantially full-time basis, shall be deemed to be an eligible employee as so defined, if such employee's employment consists of services performed in connection with a child day care program of the taxpayers, on either a full-time or part-time basis.

"(2) ALTERNATIVE LIMITATION WITH RESPECT TO CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.—The amount of the credit allowed a taxpayer under section 40, as determined under section 50A and the preceding provisions of this section, with respect to work incentive program expenses paid or incurred by him with respect to an eligible employee whose services are performed in connection with a child day care services program conducted by the taxpayer shall, at the election of the taxpayer, be determined by including (in comouting the amount of such expenses so paid or incurred by him) any amount with respect to such employee for which he was reimbursed from funds made available pursuant to section 3(c) of Public Law 94-401 or section 2007 of title XX of the Social Security Act, except that, if the total amount of such credit, as so computed, plus such amount reimbursed to him under such sections, exceeds the lesser of $6,000 or 100 percent of the total expenses paid or incurred by him with respect to such employee, the amount of such credit shall be reduced (but not below zero) so as to provide that such total does not exceed the lesser of $6,000 or 100 percent of the total expenses paid or incurred by him with respect to such employee.".

(B) The amendment made by subparagraph (A) shall be effective in the case of taxable years beginning after December 31, 1978.

(C) Section 50B(a)(2)(B) of the Internal Revenue Code of 1954 as in effect prior to amendment by the Revenue Act of 1978 is amended, effective October 1, 1978, by striking out "October 1, 1978" and inserting in lieu thereof "January 1, 1979".

(2) Paragraphs (1) and (2)(A) of section 3(c) of Public Law 94-401 are each amended by striking out "(other than the fiscal year ending September 30, 1979)".

(3) Paragraphs (1) and (3)(B) of section 3(c) of Public Law 94-401 are each amended by striking out "Federal welfare recipient employment incentive expenses" each time it appears and inserting in lieu thereof in each instance "work incentive program expenses".

(4) Section 3(c)(3)(B) of Public Law 94-401 is amended—

(A) by striking out "Federal welfare recipient employment expenses" and inserting in lieu thereof "work incentive program expenses"; and

(B) by striking out "section 50B(a)(2)" and inserting in lieu thereof "section 50B(a)(1)".

(5) Section 3(c)(2)(B) of Public Law 94-401 is amended—

(A) by striking out "$5,000" and inserting in lieu thereof "$6,000"; and

(B) by striking out "$4,000" and inserting in lieu thereof "$5,000".

(6)(A) The amendments made by paragraph (2) shall be effective on and after October 1, 1978.

(B) The amendments made by paragraphs (3), (4), and (5) shall be effective with respect to expenses paid or incurred after December 31, 1978.

(e) Section 4(c) of Public Law 94-120 is amended (effective October 1, 1978) by striking out "only for the period" and all that follows and inserting in lieu thereof "from and after October 1, 1978.".

TITLE III—OTHER SOCIAL SECURITY ACT PROVISIONS

EARNINGS DISREGARD UNDER AFDC PROGRAMS

SEC. 301. (a)(1) Section 402(a)(7) of the Social Security Act is amended by inserting ", in the case of an initial determination of eligibility only," after "as well as".

(2) Section 402(a)(8)(A)(ii) of the Social Security Act is amended to read as follows:

"(ii) in the case of earned income of a dependent child not included under clause (i) a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination (I) the first $70 of such earned income for individuals for such month plus (II) 40 per centum of the remainder of such income for such month except that in each case an amount equal to the reasonable child care expenses incurred (subject to such limitations as the Secretary may prescribe in regulations) shall first be deducted before computing such individuals earned income (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b)(2) and (3)); and".

"(b)(1) The amendments made by this subsection shall become effective on January 1, 1980.

"(2) A State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under part A of title IV of the Social Security Act, and the amount payable to any State under such part shall not be decreased, solely because such State plan fails to comply with the requirements of paragraph (7) or (8) of section 402(a) of the Social Security Act as in effect after the date of enactment of this Act and prior to January 1, 1980, if such State plan complies with the requirements of such paragraphs as amended by this section.

INCENTIVES TO REPORT EARNING UNDER AFDC PROGRAMS

SEC. 302. (a) Section 402(a)(8) of the Social Security Act is amended—

(1) by inserting "or" at the end of subparagraph (D) thereof, and

(2) by adding after subparagraph (D) the following new subparagraph:

"(E) any of the persons specified in clause (i) or (ii) of subparagraph (A) with respect to which there is a failure without good cause to make a timely report (as prescribed by the State plan) to the State agency of earned income received in such month;".

(b) The amendments made by this section shall take effect on January 1 1980.

(c) A State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under part A of title IV of the Social Security Act, and the amount payable to any State under such part shall not be decreased, solely because such State plan fails to comply with the requirements of paragraph (8) of section 402(a) of the Social Security Act as in effect after the date of enactment of this Act and prior to January 1, 1980, if such State plan complies with the requirements of such paragraph as amended by this section.

INCOME OF STEPPARENTS

SEC. 303. (a) Section 402(a) of the Social Security Act is amended by—

(1) striking out "and" at the end of paragraph (28),

(2) striking out the period at the end of paragraph (29) and inserting in lieu thereof "; and", and

(3) adding after and below paragraph (29) the following new paragraph:

"(30) provide that in making the determination under paragraph (7), the State agency shall take into consideration so much of the total of the unearned income plus 80 per centum of the earned income of the dependent child's stepparent (living in the same home as such child), as exceeds the sum of (A) the State's standard of need under such plan for a family of the same composition as the stepparent and those other individuals living in the same household as the stepparent and claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making the determination under section 402(a)(7), (B) amounts paid by the stepparent to individuals not living in such household claimed by him as dependents under subtitle A of title 26 of the United States Code for purposes of determining his Federal personal income tax liability, and (C) payments of alimony or child support with respect to individuals not living in such household.".

(b) The amendments made by this section shall become effective on January 1, 1980.

(c) A State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under part A of title IV of the

Social Security Act, and the amount payable to any State under such part shall not be decreased, solely because such State plan, prior to January 1, 1980, and after the date of the enactment of this Act, provides for consideration of stepparent income in accordance with the provisions of section 402(a)(30) of the Social Security Act as added by this section.

PRORATING OF SHELTER ALLOWANCE

SEC. 304. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"PRORATING OF SHELTER ALLOWANCE IN CERTAIN CASES WHERE CHILD LIVES WITH RELATIVE NOT LEGALLY RESPONSIBLE FOR HIS SUPPORT

"SEC. 412. (a) Notwithstanding any other provision of this part, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed under this part solely because, under such plan, in any case in which one or more children live in any household—

"(1)(A) in which the total income of such child or children and the closely related family members (as defined in subsection (b)) living in the same household equals or exceeds the standard of need under such plan for a family equal in number to the total number of such children and closely related family members in the same household, or (B) where the income of children and family members cannot be determined due to failure to cooperate, and

"(2) which (A) does not include a relative (specified in section 406(a)(1)) who is legally responsible for the support of the child or children, or (B) includes one or more such relatives who is legally responsible for the support of the child or children but none of whom is eligible for aid under the State plan because such relative is being supported by another person or under another program.

the amount of the aid furnished with respect to such child or children for shelter, utilities, and similar expenses, bears the same ratio to the total amount which would be furnished for such expenses, if all the closely related family members with whom such child or children are living were eligible for such aid, as the number of such children bears to the total number of such children and family members.

"(b) For purposes of subsection (a), the term 'closely related family members' of a child means those relatives of his who are specified in section 406(a)(1) and any other individual for whose support such a relative is legally responsible, but does not include any such relative or other individual (1) with respect to whom benefits are provided under another public program eligibility for which is based on need, or (2) whose presence in the home would not increase the total amount which would be allowed for shelter, utilities, and similar expenses if he was eligible for aid.

"(c) The amount of aid to families with dependent children for shelter, utilities, and similar expenses shall be identified, for purposes of this section, in the following manner:

"(1) If the State plan approved under this part provides for paying 100 per centum of the standard of need specified in the plan, and designates a portion of that standard, for families of specified sizes, to meet shelter, utilities, and similar expenses, then an amount equal to that portion shall be considered the total amount for such expenses for a family of the specified size.

"(2) If such plan provides for meeting less than 100 per centum of such standard, and designates a portion of that standard, for families of specified sizes, to meet such expenses, then an amount equal to that portion, multiplied by the proportion of the standard of need which such State pays as aid to families with dependent children, shall be considered the total amount for such expenses for a family of the specified size.

"(3) If such plan does not designate any portion of the standard of need for meeting such expenses, then such portion shall be prescribed by the Secretary, but in no event shall such portion exceed 30 per centum of the standard of need for a family of a specified size, multiplied by the proportion of such standard which the State pays as aid to families with dependent children.

"(d) For purposes of subsection (a), the total income of the child or children and the closely related family members (as defined in subsection (b)) shall be determined as it would be if all such individuals were applicants for aid under the State plan and shall not include any income which any such individual is obligated to apply to the support of any other individual not living in the household.".

SERVICES FOR DISABLED CHILDREN

SEC. 305. Section 1615 of the Social Security Act is amended by redesignating the second subsection (c) as subsection (e), and by striking out "October 1, 1979" in paragraph (1) of such subsection (e) and inserting in lieu thereof "October 1, 1982".

PUBLIC ASSISTANCE PAYMENTS TO TERRITORIAL JURISDICTIONS

SEC. 306. (a) Section 1108(a) of the Social Security Act is amended—

(1) by striking out "with respect to the fiscal year 1972 and each fiscal year thereafter other than the fiscal year 1979" in paragraphs (1)(E), (2)(E), and (3)(E) and inserting in lieu thereof in each instance "with respect to each of the fiscal years 1972 through 1978"; and

(2) by striking out "with respect to the fiscal year 1979" in paragraphs (1)(F), (2)(F), and (3)(F) and inserting in lieu thereof in each instance "with respect to the fiscal year 1979 and each fiscal year thereafter".

(b) The last sentence of section 1118 of such Act is amended by striking out "when applied to quarters in the fiscal year ending September 30, 1979".

PERIOD WITHIN WHICH CERTAIN CLAIMS MUST BE FILED

SEC. 307. (a) Part A of title XI is amended by adding after section 1131 the following new section:

"PERIOD WITHIN WHICH CERTAIN CLAIMS MUST BE FILED

"SEC. 1132. (a) Notwithstanding any other provision of this Act (but subject to subsection (b)), any claim by a State for payment with respect to an expenditure made during any calendar quarter by the State in carrying out—

"(1) a State plan approved under title I, IV, V, X, XIV, XVI, XIX, or XX of this Act,

"(2) or under any other provision of this Act which provides (on an entitlement basis) for Federal financial participation in expenditures made under State plans or programs,

shall be filed (in such form and manner as the Secretary shall by regulations prescribe) within the two-year period which begins on the first day of the calendar quarter immediately following such calendar quarter; and payment shall not be made under this Act on account of any such expenditure if claim therefor is not made within such two-year period; except that this subsection shall not be applied so as to deny payment with respect to any expenditure involving court-ordered retroactive payments or audit exceptions, or adjustments to prior year costs.

"(b) The Secretary shall waive the requirement imposed under subsection (a) with respect to the filing of any claim if he determines (in accordance with regulations) that there was good cause for the failure by the State to file such claim within the period prescribed under subsection (a). Any such waiver shall be only for such additional period of time as may be necessary to provide the State with a reasonable opportunity to file such claim. A failure to file a claim within such time period which is attributable to neglect or administrative inadequacies shall be deemed not to be for good cause.".

(b) The amendments made by subsection (a) shall be effective only in the case of claims filed on account of expenditures made in calendar quarters commencing on or after October 1, 1979.

The ACTING PRESIDENT pro tempore. Debate on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Kansas (Mr. DOLE), with 1 hour on any amendment in the first degree (except a Schweiker amendment on medicaid management information systems, on which there shall be 1½ hours; a germane Bellmon amendment, on which there shall be 2 hours; and two Cranston amendments on the adjustment of foster care cap and the medicaid eligibility for certain VA pensioners, respectively, on each of which there shall be 30 minutes), with 30 minutes on any amendment in the second degree, and with 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. MOYNIHAN. On the majority time, Senator LONG's time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from New York yield to me for 1 minute?

Mr. MOYNIHAN. The Senator from New York is honored to have that opportunity.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, this is a request that has been cleared with Mr. BAKER, with Mr. LONG, and other Senators.

Mr. President, I ask unanimous consent that no amendments to H.R. 3434 be in order after today.

Provided further, that any rollcall votes on amendments ordered after 4 p.m. today be put over until Monday, and that all amendments that are offered to the bill be debated today.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This means, Mr. President, that all amendments to the bill should be called up today; that no amendments to the bill will be in order after today; that there will be rollcall votes, if ordered, before 4 p.m. today; but that any rollcall votes ordered on

amendments after 4 p.m. today will be put over until Monday.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I have been told that the bus is leaving at 3:30. So could we move it to 3:30?

Mr. ROBERT C. BYRD. We will just slow down the bus. [Laughter.]

I understand the significance of the Senator's query and the importance of the mission on which he is going, but inasmuch as this has been cleared all the way around, I believe we had better leave it that way.

The PRESIDING OFFICER (Mr. BUMPERS). Is there objection? The Chair hears none, and it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the following members of the Finance Committee staff have the privilege of the floor during the debate and votes on H.R. 3434: Michael Stern, Joe Humphreys, Bill Galvin, Bob Hoyer, Bob Lighthizer, Rod DeArment, Linda McMahon, and Sheila Burke.

I make the same request for Margaret Malone, of the Congressional Research Service of the Library of Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I believe the Senator from Oregon wishes to speak, and I am happy to yield to him from the time on the bill which has been assigned to the Senator from Louisiana.

UP AMENDMENT NO. 664

(Purpose: Relating to incentives of States to collect child support obligations)

Mr. HATFIELD. I thank the Senator from New York for yielding.

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 664.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

INCENTIVES FOR STATES TO COLLECT CHILD SUPPORT OBLIGATIONS

SEC. . (a) The heading to section 458 of the Social Security Act is amended by inserting "States and" after "to".

(b) Section 458(a) of such Act is amended—

(1) by inserting "or a State on its own behalf makes," after "another State,", and

(2) by striking out "or such other State" and inserting in lieu thereof ", such other State, or such State (in the case of a State which on its own behalf makes such enforcement and collection)".

(c) Section 458 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) No payment under the preceding provisions of this section shall be made to any State or political subdivision thereof with respect to any amount collected and distributed by it unless such amount was collected and distributed in accordance with the State plan of the State approved by the Secretary as meeting the conditions required by section 454.".

Mr. HATFIELD. Mr. President, the amendment I am offering today, on behalf of the Senator from Vermont (Mr. LEAHY), the junior Senator from Oregon (Mr. PACKWOOD) and myself, is a modification of S. 1396, which I introduced earlier this year for myself and these Senators.

The amendment would amend title IV–D of the Social Security Act to permit States such as Oregon, Vermont, and Washington, with excellent State programs, to retain 15 percent of the child support collected and required to be distributed for AFDC public assistance cases.

The amendment would correct an inequity in the child support program that was unforeseen when the program was originally designed. At that time, it appeared that the incentive provisions of title IV–D of the Social Security Act were necessary to encourage local political subdivisions of States with county administered and State supervised programs, to become actively involved in implementing the program. That goal has been achieved in most of such States.

Unfortunately, the present IV–D incentive system has created a completely unforeseen result by tearing down and eroding away the effectiveness of some State administered child support programs which were in operation and performing well at the time the IV–D program started. It has also inhibited the development of some State administered programs which had not existed prior to the enactment of the IV–D (child support) program in 1975.

The result of the present system of incentives in part D of title IV of the Social Security Act has been that while Oregon excels in collection activity and its production of a profit for not only the State, but the Federal Government, as well, it has done so without the benefit of literally millions of dollars of incentives which are provided other States.

According to the Committee on Finance staff data on child support, the States administer the child support programs through separate agencies (IV–D agencies). The State agency administers the program in 42 States. In the other States the program is State supervised and is administered by local political subdivisions.

My amendment would extend the incentive program to those 42 State administered programs, including Oregon, which collect child support on their own behalf. The cost would be minimal and the value great since it would provide the funding necessary to enlarge some of those State programs to provide the child support services needed by many of their residents. This cost will be more than covered with the increased collections attributable to my amendment. This bill will merely extend the benefits to all States and localities equally.

Mr. President, the effective date of this amendment will be January 1, 1980.

Mr. President, when the program was instituted for the collection from the fathers of dependent children, the State of Oregon already had in place and operating a rather superior type program, having already set in motion the collection procedures which later would comply with the incentive provisions of title IV D of the Social Security Act; but because of our advanced activity in that area, these three States previously mentioned, among others, have been penalized. So this amendment would establish the equity with the other States of the Union and provide us with the opportunity to retain 15 percent of those collections. We still, in effect—if I may put it in crass terms—are making money for the State and for the Federal Government by the superior system of collections we have underway and already operating.

Mr. President, this has been cleared with the chairman of the Finance Committee; with the manager of the bill, the Senator from New York, and with the staff of the majority. It also has been cleared with Senator DURENBERGER, who will be handling the management of the bill on the minority side during this first hour of debate, and with the staff of the minority.

Therefore, I present this amendment and ask for its adoption.

Mr. MOYNIHAN. Mr. President, I am happy to state, on behalf of the chairman of the committee and on my own behalf—and I am sure I speak for the Senator from Kansas, who is the comanager of the bill—that we fully take the point made by the Senator from Oregon and his colleagues. It is a correct point. It is the most recent example of the progressive and innovative social programs of the State of Oregon. We are happy to accept his amendment, and we will incorporate it in the bill.

Mr. HATFIELD. I thank the Senator from New York for his kind remarks and for his willingness to accept the amendment.

Mr. President, in order to add to the legislative record, I should have mentioned that this has been cleared with the Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, the bill before us was nearly 3 years in the making. H.R. 7200, in the 95th Congress, was passed by the House and reported out by the Finance Committee; only at the very last moment of the 95th Congress did it finally fail of enactment, because of the jam of legislative business at that time.

H.R. 3434, which we bring to the floor today is a very similar, in many respects an identical bill, and it is an improved bill. We commend it to the Senate in those terms.

As one of the managers of this bill, which originates in the Committee on

Finance, I feel a special obligation and privilege and pleasure to acknowledge the debt this body owes to Senator ALAN CRANSTON, the senior Senator from California, who has persistently, steadfastly, and compassionately taken the lead in reforming and improving the Government's treatment of needy, abandoned, and parentless children, and whose amendment, which I have had the honor to cosponsor, is the foundation of this bill as reported by the Finance Committee.

Mr. President, it is properly the concern of Members of the Senate to note what is contained in a large and complex item of legislation of this kind, and I can report this matter in the most succinct way.

There is one new Federal program embodied in this bill. It provides Federal subsidies for the adoption of hard-to-place children who have been in the aid to families with dependent children program. This is a new Federal program. But it is a very old, established practice of State governments. There are some 47 States which already have such subsidies in one form or another.

The Federal policy here is not innovating but simply is coming into step with the overwhelming judgment of the State governments whose wards these children are and for whom they have assumed responsibility. But it should be noted that the bill marks an historic shift in the thrust of Federal policy away from foster care, which is increasingly recognized to be less than satisfactory in many cases, even if sometimes unavoidable, toward permanent arrangements for children, involving the retaining of the children in their own homes, keeping them at home, bringing their homes back together as that often involves, restoring children to their parents when they have been removed by court order, and encouraging the adoption of children who are able to be adopted.

Before going further, may I say something about foster care, which was covered particularly in the hearings that the Subcommittee on Public Assistance of the Finance Committee held. Foster care was often described in Dickensian terms, as some awful abuse of children. That would be a great disservice to those persons who have provided foster homes because they were urged to do so by the State.

It is not the nature of these houses, but they were meant to be a temporary holding pattern, if I may use the image from aviation, for children until more permanent arrangements could be made. Yet Federal policy, and Federal statutes have provided and do provide fiscal incentives to place children in foster care and to keep them there because that is the only Federal assistance that can be received for children who have no home of their own to be in or where a court has taken them out of their home.

The AFDC program has and will continue to provide Federal payments for foster care. There have been until now no payments for children who were adopted and the cost of whose raising was assumed by a new family.

It is the judgment of persons in social welfare whose professional concern this has been that adoption is almost always to be preferred to any arrangement such as foster care, that a child having lost one family acquires another one as a matter of right, becomes a permanent member of a new family.

It is not easy to find such homes. I offer the remark which I hope will not be seen as critical that the social welfare professions have not made adoption a simple matter and may have made it more complicated than in the end is in the interest of the children involved. But in any event, it is the best option available and there should not be any Federal disincentive to choosing that option.

The legislation before us, through a mixture of incentives, disincentives, and new procedures, alters that pattern, makes it easier to pay for the services that might keep a child in his home or restore him to his parents, easier to have him adopted and keep him in his adopted home, and less attractive fiscally, if that is the term, to maintain children in foster care.

Mr. President, this is a limited bill. It recognizes that the lives of children and families are at most indirectly susceptible to the influence of Federal policies and actions. It does not expect more of the States and the private agencies than is reasonable to expect of them. It does not burden them with excessive regulations. We have been earnest in our efforts to avoid that.

The reforms it makes all expire in 5 years in order to enable the Department of Health, Education, and Welfare and Congress to judge what their effects have been.

Five years is perhaps too short a time, but we will see. It takes many years to turn a child into an adult. It takes 18 years at a minimum. And this is not a subject in which anyone would wish to rush to judgment.

In addition to the adoption service and subsidy provisions and the reunification, to use the jargon, provisions, this bill deals with title XX social services in a reasonable and forward-looking way.

It would increase the permanent title XX ceiling in stages to $3.3 billion in 5 years. And it would freeze in place, as the term has it, the current title XX training program for 1 year to permit the committee and Congress to scrutinize it and to devise a proper role for training funds in the context of our social service programs.

I call to the attention of the Senate that the social services program began in the most modest manner and swelled to vast proportions owing to its open-ended nature, such that there came a point, not too much to caricature the matter, when some States were considering whether they should not build highways with title XX money, it being demonstrable that highways are social services of sorts, and in the end we had to freeze the program, and we have kept it on a very tight rein, more than I think would be my preference.

I understand that a simple calculation has been made that if we were to have maintained the value of the program in 1973 when it reached $2.5 billion in constant dollars, by fiscal year 1983 we should be required to appropriate $5.5 billion instead of $3.3 billion, and so one observes a clear shrinkage in this function in our social welfare programs, notwithstanding the modest increases provided in this bill.

With respect to training, we found ourselves in a not dissimilar situation. The funds for services were finally capped. Those for training, which were to accompany and facilitate the services, were not. And in consequence training activities began to grow at a rapid pace. So we have decided on the present arrangement which will hold them constant for the moment and give us a year to make the judgment as to what to do. For example, some have proposed, and it might be wise, to include training in the title XX bloc grants themselves and let the States decide what mix they may wish to use among their options.

The committee has not made any decisions. It is open on the matter and will expect to be holding hearings in the course of the year at which we will take testimony from concerned and informed parties, and we will be back in the second session with a recommendation to the Senate on this matter.

So, Mr. President, I wish to close these preliminary remarks with respect to the Adoption Assistance and Child Welfare Act. This is a restrained bill, but a good one. It does not involve large expenditures. Alas, the effort to provide adoptive homes for children is a slow and difficult one.

The numbers of children actually placed are painfully small. The Federal subsidy for this will simply substitute for the existing Federal support for foster homes such that no significant increase in public expenditure will be involved.

What we do see is a change in public policy which, I think, is a wise and prudent one. But we are sufficiently aware of the unanticipated consequences of what we do in public policy to ask that this change be made for a 5-year period, after which we may reach some better judgment as to its wisdom and its effects.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, the bill H.R. 3434, as reported by the Committee on Finance, makes several important revisions in Social Security Act programs.

The first title of the bill substantially revises the incentive structure of the Federal programs which aid the States in caring for children who must be removed from their homes. The overall purpose of these changes is to redirect the emphasis of the program toward increased efforts to find permanent homes for these children—either by re-

storing them to their own families or, if that is not possible, finding them adoptive homes. The bill would achieve this overall objective by establishing a new program to subsidize the adoption of hard to place children who would otherwise remain in federally-funded foster care, by placing a limit on the extent of future growth in the Federal funding for foster care as a means of directing State efforts toward other, more permanent forms of placement, and by restructuring the child welfare services also along these same lines.

The committee bill does not increase the child welfare services authorization but, with the restructured provisions, the committee anticipates that increased funding under the existing authorization will be made available.

The second title of the bill makes several changes designed to improve the social services program established by title XX of the Social Security Act. In particular, the bill would provide for a moderate degree of indexing for the Federal funding ceiling of that program which will increase the funding level over the next several years to a total of $3.3 billion.

For fiscal year 1980, the bill would provide a $2.7 billion funding level which is less than the $2.9 billion level in fiscal 1979. The committee is recommending this level in conformity with the assumptions of the Senate in passing the second budget resolution. If additional room is available when that budget resolution has been finally agreed to, an appropriate adjustment could be made in conference.

Also included in the bill are a number of other Social Security Act provisions. These include an extension of a program of specialized services for disabled children who are recipients of supplemental security income (SSI), a continuation of 1979 funding levels for territorial welfare programs, and several amendments to improve the efficiency and reduce the costs of the aid to families with dependent children program.

I ask unanimous consent that a more detailed summary of the provisions of H.R. 3434 be inserted in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROVISIONS OF H.R. 3434

ADOPTION ASSISTANCE, FOSTER CARE AND CHILD WELFARE SERVICES

The committee amendment involves a major restructuring of Social Security Act programs for the care of children who must be removed from their own homes. In particular, the incentive structure of present law is modified to lessen the emphasis on foster care placement and to encourage greater efforts to find permanent homes for children either by making it possible for them to return to their own families or by placing them in adoptive homes.

Subsidized adoptions.—The Committee amendment provides for a new subsidized adoption with Federal matching. Under the adoption subsidy program, a State would be responsible for determining which children in the State in foster care would be eligible for adoption assistance because of special needs which have discouraged their adoption. The State would have to find that any such child would have been receiving AFDC but for the child's removal from the home of his relatives; that the child cannot be returned to that home; and that, after making a reasonable effort consistent with the child's needs, the child has not been adopted without the offering of financial assistance. The requirement of a search for a non-subsidized adoptive family would not apply when such a search would be against the best interests of the child, for example, where the child had already established significant emotional ties as a foster child of the potential adoptive parents. Even in such cases, however, the State would have to determine that it could not reasonably expect to place the child in the absence of adoption assistance because of some specific factor or condition which makes the child hard to place.

In the case of any child meeting these requirements, the State would be able to offer adoption assistance to parents who adopt the child so long as their income does not exceed 125 percent of the median income of a family of four in the State, adjusted to reflect family size. The agency administering the program could make exceptions to the income limit where special circumstances in the family warrant adoption assistance (such exceptions could not be made in more than 10 percent of the cases). The amount of the adoption assistance would be agreed upon between the parents and the agency, could not exceed the foster care maintenance payment that would be paid if the child were in a foster family home, and could be readjusted by agreement of the parents and the local agency to reflect any changed circumstances. Adoption assistance payments would not be paid (1) after the child has attained the age of 18, or (2) for any period when the family income rose above the specified limits. A child with a medical disability which existed at the time of the adoption would continue to be covered under the medicaid program for treatment related to that medical disability, or, at State option, for other conditions.

There would be no Federal matching for adoption subsidy agreement beginning in fiscal year 1985 (though Federal matching for subsidies under agreements entered into before then would continue to be available). This would permit a review of the program by the Congress before the end of the five-year trial period.

Where children are placed for adoption with assistance being provided under the new adoption assistance program, the nonrecurring costs involved in the adoption proceedings would be eligible for funding as child welfare services under title IV–B.

Foster care grants.—Under present law open-ended Federal matching is provided for foster care payments under aid to families with dependent children if a child (1) meets State AFDC eligibility requirements and (2) is removed from his home as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of such child.

Under the committee amendment a ceiling would be put on Federal matching beginning in fiscal year 1980, set at 20 percent above the 1978 level, with a 10 percent annual increase thereafter through 1984. In addition, for any year an alternative foster care grant ceiling would be provided equal to each State's share of $100 million based on population under age 18 in each of the States. This would provide some additional room for program growth in those States which now have disproportionately small foster care programs. (In States which have disputed claims for Federal reimbursement in fiscal year 1978, the ceiling and subsequent increases in the ceiling would be computed on the basis of the State's claim for Federal reimbursement until the disputed claim is resolved. From the date that the claim is resolved, the ceiling would be based on the actual, finally determined Federal reimbursement but there would be no retroactive application of this final ceiling.) Amounts within each State's ceiling not used for foster care payments could be used for child welfare services, under the title IV–B grant program. Under the committee amendment, Federal matching for AFDC foster-care would be available only for children placed in such care prior to October 1, 1984. This is consistent with a similar provision under the adoption assistance program in the expectation that legislation relating to both programs would be considered prior to the end of this five-year period.

At the present time Federal funding of foster care maintenance payments for children is available for children placed in foster care homes and also for children placed in a "nonprofit private child care institution." The committee amendment would broaden the provision to allow for Federal funding of foster care maintenance payments for children in public as well as private facilities, but only if the public institution serves no more than 25 resident children. (This provision would apply only to children placed in foster care for the first time after enactment of the bill.) Federal foster care matching would not be permitted under the committee amendment for care in a facility operated primarily for the detention of children who are determined to be delinquent.

The committee amendment incorporates, and requires renewed emphasis on, the provision of present law limiting Federal funding for foster care in institutions to those items which are comparable to what would be provided in a foster family home such as food, clothing, shelter, personal needs and the costs of providing those items and of supervising the children.

The committee amendment adds a requirement that States establish goals as to the maximum number of children who will remain in foster care after being in such care for more than 24 months and that, starting October 1, 1981, efforts are made in each case to prevent the removal of a child from his home or to make it possible for the child to be returned to his own home.

Child welfare service grants.—The child welfare services program under title IV–B of the Social Security Act provides a Federal contribution to the costs of State programs to protect and promote the welfare of children including the provision of services to enable children to remain in their own homes, action to remove children from unsuitable homes and place them in foster care homes or institutions, and measures to place children in adoptive homes. Within the overall Federal funding available, the Federal matching share ranges from 33⅓ to 66⅔ percent depending on State per capita income. (Because of the relatively small amount of overall Federal funding which has been available, however, the effective Federal matching has been much smaller, about 7 percent nationally.) Under the committee amendment, the Federal matching rate would be set at a flat 75 percent. Federal grants for child welfare services above the present $56.5 million funding level could not be used for foster care maintenance payments.

The committee amendment also adds a new section to the child welfare services part of the law specifically permitting expenditures for State tracking and information systems, individual case review systems, services to reunite families or place children in adoption, and procedures to protect the rights of natural parents, children and foster parents. This would allow the Congress to designate that all or part of any new fund-

ing (over and above the current $56.5 million funding level, but within the overall $266 million now authorized) be specifically for this new section. (This earmarking would be accomplished through the appropriations process and not as a part of the authorizing statute.) State participation in this program would be optional.

In the first two years for which funds are allotted to a State specifically for the new section, those funds could be used:

1. For conducting and completing an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory, including determining the appropriateness of and necessity for the current foster placement, whether the child can or should be returned to its parents or should be freed for adoption and the services necessary to facilitate either the return of the child or the placement of the child for adoption. (In that first year only, administrative expenses incurred for this purpose—and the purposes specified in sections 2a and b below—insofar as children receiving foster care under part E are involved could be funded under that part without regard to the ceiling on foster care funding which would otherwise apply.)

2. To design and develop:

a. A statewide information system concerning children in foster care.

b. A case review system for each child in foster care under the supervision of the State. (Such a system—if funded under this new section—would have to include procedures for assuring placement in the least-restrictive setting and provision for an annual or more frequent judicial or administrative review of: the appropriateness of the placement, compliance with the case plan, and prospects for returning the child home or placing him for adoption. Within 24 months after the initial placement, each child would have to receive a dispositional hearing by a court, tribal court, or court-appointed or approved administrative body to determine the future status of the child. The case review system would also have to provide for procedural safeguards concerning parental rights, the removal of a child from the home, changes in placement, and visitation rights.)

c. A service program designed to help children remain with their families and where appropriate help children return to families from which they have been removed or be placed for adoption or legal guardianship.

When the inventory has been completed and the systems and programs have been designed and developed, funding appropriated for the new section could be used to operate the systems and programs described in item 2. A State which already has an inventory of children in foster care and has developed the specified systems and programs could immediately use any funds which may be appropriated under the new section.

The committee amendments also modifies the child welfare services program so that it will operate on a "forward funding" basis. Under this provision, amounts appropriated for the program after the enactment of this legislation would become available for expenditure in the fiscal year following the fiscal year to which the appropriation act applies. This would give States advance knowledge of the amount of funding available.

An additional element of the committee bill would authorize the Secretary of Health, Education, and Welfare (to the extent he determines appropriate) to deal directly with recognized Indian Government entities in making child welfare services grants under title IV–B.

PROVISIONS RELATING TO SOCIAL SERVICES

The committee amendment includes a number of amendments affecting the social services program under title XX of the Social Security Act.

Ceiling Federal funding.—Under present law, there is a permanent ceiling on Federal matching for State social services programs of $2.5 billion annually. The committee amendment indexes this ceiling. Under the indexing provision, the ceiling will rise to $2.7 billion in fiscal year 1980 and $2.9 billion in fiscal 1981. Thereafter, the provision will result in annual increments of $100 million until reaching a level of $3.3 billion in fiscal year 1985. After reaching the $3.3 billion level, the indexing provision would cease to operate unless extended by subsequent legislation. The committee intends to review the question of the ceiling level for fiscal year 1980 after the Congress completes action on the Second Budget Resolution for that year.

Special allocation for child care services.—Under the committee amendments, $200 million of the funds provided to the States in fiscal years 1980 and 1981 would be available for child care services, with no State matching requirements. This is an extension of authority which has been in the law for the last 3 years.

Ceiling on training funds.—Under present law, funding for social services training is available to the States on an open-ended entitlement basis, with the Federal Government paying 75 percent of all State expenditures. The committee amendment would establish a limit, for one year (fiscal year 1980), on the amount of Federal matching funds available to the States for training. Notwithstanding any other provision of law, the limit for each State would be equal to four percent of that State's 1980 allotment under the title XX funding ceiling or the actual amount spent by the State in fiscal year 1979, whichever is higher.

Use of private funds for training.—Under present law, donated private funds used for title XX services must be donated to the State without restrictions (1) as to use, other than restrictions as to the type of donor who is not a sponsor or operator of a program to provide these services, and (2) as to the geographic area in which the services are to be provided. The committee amendment would permit the acceptance by the State of restricted private matching funds for training purposes in fiscal year 1980. The Department of Health, Education, and Welfare would be required to monitor the States' use of these funds, and there would be a prohibition on their use for training in proprietary facilities.

Multiyear planning.—The committee bill includes a provision under which, beginning in fiscal year 1980, States would be permitted to use either a one, two, or three year title XX program period, instead of the annual plan required under present law. If the State elected a program period of longer than one year, the State agency would have to publish and make generally available such information concerning the program, at such times as the Secretary may by regulation require.

Choice of fiscal year.—Present law allows the State to use the beginning of the fiscal year of either the Federal Government or the State government as the beginning of the State's title XX planning year. The committee bill amends this provision to allow a State the alternative of choosing the fiscal year used by its local subdivisions.

Emergency shelter for adults.—Present law allows funds to be used to pay up to 30 days of emergency shelter provided as a protective service to a child. Beginning in fiscal year 1980, the committee amendment provides that funds could be used for emergency shelter provided as a protective service to an adult in danger of physical or mental injury, neglect, maltreatment or exploitation. As is now provided under regulation for services for children, the shelter could be provided for no more than 30 days in any 6-month period.

Entitlement for Puerto Rico, Guam, and the Virgin Islands.—Under present law these jurisdictions receive an allotment for social services from the amount that the States certify, at the beginning of the program year, they will not need from their title XX formula allotments for that year. There is a ceiling on the amount that can be made available in any year of $15 million for Puerto Rico, and $500,000 each for Guam and the Virgin Islands. The committee amendment provides that, beginning in fiscal year 1980, a separate title XX entitlement amount would be established, as follows: Puerto Rico, $15 million; Guam and the Virgin Islands, $500,000; and the Northern Marianas, $100,000.

Child support enforcement services for non-welfare families.—The child support enforcement program requires States to make available services to both welfare and non-welfare families to assist in establishing the paternity of children and in securing support from absent parents. The original legislation enacted in 1975 provided for 75 percent Federal matching of the costs incurred by the States in providing these services. In the case of welfare families, the Federal matching provision was enacted in 1975 on a permanent basis while the matching for services to non-welfare families was provided only through June 30, 1976. Because of the success of the child support program in keeping families off welfare, Congress subsequently extended the provision for Federal matching for services to nonwelfare families through fiscal year 1977 and fiscal year 1978. During the last Congress, legislation to make this matching permanent was passed by the Senate on several occasions and also agreed to by the House of Representatives as a part of legislation which, for other reasons, did not reach enactment.

The committee amendment establishes this authority on a permanent basis retroactively to last October 1, 1978. This provision has already been agreed to by the Senate this year as an amendment to H.R. 3091, but has not yet been enacted.

Provisions relating to authority to hire welfare recipients as child care workers.—The Committee amendment includes a number of provisions which were approved earlier by the Senate as an amendment to H.R. 3091, but which have not yet been enacted. The amendment would restore the authority of the States to use social services funds under title XX to pay the costs of employing welfare recipients in child care jobs. This authority was available in fiscal years 1977 and 1978. The amendment would make this authority permanent, retroactive to October 1, 1978. It would also make certain changes to conform and better coordinate it with the provisions under which employers obtain a tax credit for hiring welfare recipients. Specifically, the amendment would:

1. extend the authority to use title XX funds to reimburse the costs of hiring welfare recipients in child care jobs;

2. incorporate this authority as a permanent part of the basic title XX statute;

3. increase the maximum per recipient annual combined tax credit and title XX reimbursement from $5,000 to $6,000—the same level of wages that is eligible for the new welfare recipient tax credit;

4. make the payment and credit available for part-time as well as full-time employment in child care jobs;

5. permit the credit to be computed on the basis of the full wages including the part reimbursed under title XX—subject to a maximum combined tax credit and title XX payment not to exceed 100 percent of the first $6,000 of wages; and

6. make the tax credit coverage applicable to the period between the date it previously expired (October 1, 1978) and the effective date of the new credit enacted last year (January 1, 1979).

Services to alcoholics and drug addicts.—The committee amendment reinstates and makes permanent, retroactive to October 1, 1978, temporary provisions of law relating to the use of title XX funds for certain services to alcoholics and drug addicts. These temporary provisions expired September 30, 1978. Title XX funds ordinarily may only be used to provide health services if the services are an integral, but subordinate, part of a social service. The law provides also that funds may not be used for services to persons in medical institutions. The amendment would make permanent those expired provisions of law which permitted consideration of the entire rehabilitative process in determining whether medical services provided to addicts and alcoholics are an integral but subordinate part of a social service. Also made permanent would be provisions allowing funding for up to 7 days of detoxification services provided to alcoholics and drug addicts in medical institutions, and provisions applying the privacy protections of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. This provision has previously been approved by the Senate as an amendment to H.R. 3091.

OTHER SOCIAL SECURITY ACT PROVISIONS

AFDC earnings disregard.—Under present law States are required, in determining need for aid to families with dependent children, to disregard the first $30 earned monthly by an adult, plus one-third of additional earnings. Costs related to work—such as transportation, child care, uniforms, and other items—are also deducted from earnings in calculating the amount of the welfare benefit.

The committee amendment requires States to disregard the first $70 earned monthly by an individual plus 40 percent of additional earnings. Child care expenses, subject to limitations prescribed by the Secretary, would be deducted before computing an individual's earned income. Other work expenses could not be deducted.

Incentive to report earnings.—When a State learns that a recipient had unreported earned income in prior months, it must under present law give him the benefit of all the earned income disregards provided by law in calculating the amount of the overpayment. Thus if a recipient is negligent in reporting his earnings even over a long period of time, there is no penalty involved. The committee amendment would provide an incentive to report income by specifying that there would be no disregard of any earned income which the recipient has not reported to the State agency.

Income of stepparents.—Under current law a stepparent's income may not be considered in calculating the benefit due a stepchild unless the stepparent is legally responsible for stepchildren under State law. Thus, in almost all States, families which include a stepparent may receive AFDC regardless of the amount of a stepparent's income. Under the committee amendment, States would be required to take into account that part of the unearned income plus 80 percent of the earned income of a stepparent which exceeds the sum of: (1) the State standard of need for a family of the same composition as the stepparent and his dependents who are not receiving welfare (that is, those members of the household whom he claims as Federal personal income tax dependents but who are not in the AFDC recipient group); (2) amounts paid by him to dependents living elsewhere which are taken into account for Federal personal income tax purposes; and (3) alimony or child support payments made by him to persons not living in the household.

Prorated shelter allowance when AFDC household includes ineligible relatives.—An AFDC household may include one or more members who are not actually considered a part of the AFDC eligibility group. For example, an uncle living with the family could be excluded from the AFDC computations since he is not legally responsible for the support of the other members of the household. In such a case, his needs would not be counted in determining the size of the grant and his income would not be used to reduce the amount payable. AFDC studies have shown that a substantial proportion of all AFDC households include such ineligible relatives. The committee amendment would permit States, in computing the shelter cost component of the AFDC grant, to assume in effect that such an ineligible relative in the AFDC household bears his proportionate share of the shelter expenses. This would be computed as follows: instead of applying the shelter allowance applicable to the actual AFDC eligibility group the State would use the larger shelter allowance that would apply to a group including the AFDC unit and the ineligible relatives. That larger allowance, however, would be reduced on a prorata basis in accordance with the ratio of the number of AFDC eligibles to the total number of AFDC eligibles plus ineligible relatives. For example, if the household included 4 AFDC eligibles plus two ineligible relatives and the shelter allowance for a 6-person family was $60, the amount actually payable for shelter would be $40 (four-sixths of the full allowance). The provision would apply only if the overall household income exceeded the State's AFDC standard of need for a household of that size.

Services for disabled children.—The committee amendment provides for the extension for an additional 3 years of the special referral and services program for disabled children who are receiving SSI benefits. The program was enacted in 1976 and provided up to $30 million in Federal funds to be allocated annually to the States on the basis of the proportion of children under age 7 in the State. Without extending legislation, the program will have expired as of September 30, 1979.

This program requires the referral by the Social Security Administration of a disabled child under age 16 to a State agency which is responsible for counseling disabled children and their families, and for establishing an individual service plan for each child. Children are to be referred to appropriate services, and agencies are required to monitor the program to assure adherence to service plans.

Public assistance expenditures in Puerto Rico, Guam, and the Virgin Islands.—Under existing law there is a dollar ceiling on Federal matching for costs of cash assistance, administration and social services provided under the programs of aid to families with dependent children and aid to the aged, blind and disabled in the jurisdictions of Puerto Rico, Guam, and the Virgin Islands. The annual permanent ceiling is $24 million for Puerto Rico, $1.1 million for Guam, and $0.8 million for the Virgin Islands. These limits have been in effect since 1972. In addition, these jurisdictions are limited to 50 percent Federal matching, whereas the States may receive from 50 to 83 percent Federal matching, depending on State per capita income.

For one year (fiscal year 1979), the overall ceiling was tripled to $78 million and the matching rate was increased to 75 percent by an amendment to the Revenue Act of 1978 (Public Law 95–600) This provision expires September 30, 1979, and the ceiling reverts to $26 million and the matching rate to 50 percent.

The committee amendment provides for a permanent extension of the provisions which were included in Public Law 95–600 on a temporary 1-year basis.

Limitation on Period for State Filing of Claims Under the Social Security Act.—Current law does not set a time limit on State submission of claims under the welfare, Medicaid and social services programs in the Social Security Act. The committee amendment includes a provision under which the Social Security Act would be amended effective October 1, 1981 to limit the period of retroactivity for State claims to a full two years under the various titles of the Act (that is, it would apply to expenditures for periods starting with fiscal year 1980). However, the provision could not be interpreted so as to limit Federal financial participation in cases involving court-ordered retroactive payments or audit exceptions or adjustments to prior year costs. The Secretary of Health, Education, and Welfare would be able to waive the limitation in other circumstances where he determines there is good reason to do so. While this provision establishes a time limitation on claiming reimbursement for expenditures for fiscal 1980 and subsequent years, in the view of the Committee it does not authorize any change in the treatment of outstanding expenditures for earlier years. The expenditures for such earlier years retain their status as entitlement items for which the Federal Government is obligated by statute to provide appropriate matching.

Mr. JAVITS. Mr. President, the bill before us today contains a number of very positive features for improving services to children as well as some negative elements that cause me concern.

Let me speak first of the improvements in our foster care and child welfare systems made by this bill. I am most pleased that the Federal Government would for the first time be assisting States in providing adoption subsidies for children with special needs. These children with substantial physical, mental, or emotional handicaps—or who are older and thus much harder to place—can have the emotional security that adoptive parents can provide. But too, on the parents can be the deciding factor in not adopting, especially, as in the vast majority of the cases, the parents are receiving foster care payments from the States. Moving children from foster care to adoption with financial assistance will mean less cost to the Government—and more importantly—will mean these children will have a permanent home without fear of being separated from their foster family.

The adoption subsidies are an important component of our program to assist less fortunate children without families. But special needs children free for adoption are only a very small portion of children in foster care. H.R. 3434 will authorize additional funds for information, tracking and case review systems for children in foster care as well as moneys for services for returning the child to the natural home or placing the child in an adoptive home. These are important services to insure that children in foster care will remain there only as long as is necessary.

These adoption subsidy and support service provisions are similar to systems already in place in New York. Since 1968 we have provided adoption subsidies for children with special needs, and since 1973 have had preventive services available. We also have an information system to monitor children in foster care as well as regular administrative and court reviews at intake, 6 months, and 18 months. Although New York's system can be substantially improved, I am proud that we have been in the forefront of reforms in foster care and adoption assistance.

I am also most pleased to note that the

committee bill makes permanent the 75 percent matching rate for AFDC payments to Puerto Rico, the Virgin Islands, and Guam and establishes an entitlement for title XX funds for them.

I regret that the committee did not include voluntarily placed children in AFDC reimbursement once the case review protections are in place. My interest in including voluntaries goes back to 1973 when the Senate adopted my amendment to include voluntaries in the AFDC foster care program. This year I introduced a bill that would include voluntaries once case review protections are implemented; a companion bill was introduced by Congressmen DOWNEY and RANGEL. Since the House bill includes the provisions of our bill on voluntaries, I will not press the issue at this time. I am sure my colleagues will weigh the issue most carefully during conference and will reach an equitable solution that will insure the best care for our foster care children.

The committee bill includes my amendment adopted last year by the Senate which would prorate the welfare grant in cases where AFDC recipients live with relatives but either none of the relatives is legally responsible for the support of the child or, if there is such a legally responsible relative, the adult is not a part of the AFDC unit because he or she is supported by someone else, for example, a spouse who is the stepparent of the AFDC child.

My prorating amendment is, I believe, an appropriate response to the issue of the size of the grant where relatives may be contributing to the shelter of an AFDC recipient. The committee's bill, however, also includes a provision requiring States to count the income of stepparents when determining the welfare grant. This deeming provision, I believe, is bad social policy as well as bad administrative policy. By counting the stepparent's income, we are encouraging couples not to marry. Under a Supreme Court decision, States are not permitted to deem the income of a man living in the home. Yet the committee's bill will require the State to count the income of a stepparent. When it means a substantial reduction in the already limited amount of money the household will have, I fear that too many couples will opt to live together rather than to marry and thus provide the children with more permanency.

The deeming of stepparent's income also increases administrative complexity. Deeming will require the computation of two separate budgets instead of the present one, thus greatly increasing the possibility for error.

At the very least, I believe we should make the provision optional so that States may determine what policy would be best in their particular welfare system. They at least, then, could choose to do only prorating or only deeming. That would eliminate the double counting on stepparent families when the stepparent's income is first counted and then the grant is further prorated because of the stepparent's presence.

The earned income disregard amendment in the committee bill is also particularly troubling. The committee would severely limit the disregard, and thus the incentive, for working parents. In addition, by deducting day care expenses prior to the fractional disregard, the committee would penalize even further parents with day care expenses. Thus, a parent earning $500 and spending $150 on child care in a State with a benefit level of $320 would have $60 less disposable income than the parent without child care costs. We should not further penalize these parents who are making the difficult choice of giving up precious time with their children in order to earn money to improve the family's standard of living.

Mr. President, I believe all of these AFDC amendments would be better dealt with in the context of welfare reform. I understand the need for savings in this time of budget austerity, but we should do the savings at the same time we make reforms in the welfare system that will provide additional protections for our Nation's poorest families. I urge my colleagues in the conference to weigh this issue carefully.

Mr. DOLE. Mr. President, H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979, is the product of extensive congressional consideration over the last 2 years. The bill makes needed improvements in the title XX social services program, child welfare services and foster care, and other programs under the Social Security Act.

TITLE XX

The title XX social services program provides the kind of supportive services to people with problems that make cash assistance and social insurance programs work. It allows the States to make decisions about the kinds of services that are needed and how they can best be provided. These services are particularly important because they give families the necessary support to help them remain self-sufficient or return to self-sufficiency.

Without this legislation, the funding ceiling for social services will revert to the $2.5 billion level at which the program was originally funded in 1972. Although the Finance Committee was not able to increase the permanent ceiling as much as we would have liked in fiscal year 1980 due to budget considerations, we did provide for automatic increases through fiscal year 1984 up to $3.3 billion. It is our intention to look at the ceiling level again before we go to conference with the House on this measure so we can agree to a higher funding level if a higher level is indicated in the budget resolution.

The bill provides for a ceiling on title XX training funds in response to the concern that some States appear to have overutilized these open-ended matching funds. The ceiling is not punitive, however, since it allows the States the greater of either 4 percent of their fiscal year 1980 title XX allotment or the equivalent of their actual fiscal year 1979 spending. The Finance Committee has agreed to hold hearings on the training cap issue in the coming year so a permanent long-range solution to the problem can be worked out.

The legislation also gives the States more options for the use of the title XX money and improves the State planning process. It includes a separate entitlement for Puerto Rico, Guam, and the Virgin Islands so the territories can plan their social services programs with the same certainty that the States are currently afforded. The measure also provides child support enforcement services for nonwelfare families on a permanent basis, retroactive to October 1, 1978. This program is an important part of the effort to keep families from turning to public assistance.

CHILD WELFARE AND FOSTER CARE

The provisions in the measure dealing with child welfare and foster care are innovative and long overdue. The legislation provides incentives to the States to find ways of assisting families with problems that are more appropriate than automatically removing the children from their homes and putting them in foster care, perhaps to be lost in the foster care system forever. This is done through adoption subsidies for hard-to-place children, improved Federal matching grants to the States for services directed at keeping children in or returning them to their own homes, and a cap on Federal matching for foster care maintenance payments.

The committee feels the combination of improved title IV–B child welfare services, adoption subsidies for lower income families, and limited Federal matching for foster care maintenance is necessary to give States the proper incentives to reverse the tendency to indiscriminately use foster care. Each of these elements is important, and the elemination of any one of them will undermine the effort to give children permanent homes, whether their own homes or the homes of adoptive parents.

The committee recognizes, however, that the foster care system will never be completely replaced by preventive services, reunification and adoption assistance. Thus, even though foster care expenditures are capped, the committee has allowed for cost-of-living increases for foster care maintenance and has even provided an alternative foster care ceiling for States which have made more limited use of foster care in the past. The cap will not only give the States the incentive to find alternative methods of dealing with children, it will also give them the incentive to investigate the current cost of foster care and make efforts to place children in less costly and more appropriate forms of foster care.

The committee provided for the "forward funding" of the title IV–B services in an effort to respond to the need of the States to know in advance what funding will be available for this program. The "forward funding" mechanism allows the Congress to maintain control over spending—control which is lost through entitlement programs—while meeting the States' needs.

AFDC AMENDMENTS

The Finance Committee version of H.R. 3434 also makes several improvements in the treatment of income of AFDC recipients. These improvements include a change in the earned income disregard, incentives for recipients to report earnings, deeming of part of a stepparent's income as to an AFDC child, and proration of the shelter allowance in AFDC households which include ineligible relatives. These improvements are important to the integrity of the AFDC program and will help to eliminate from the welfare rolls those families which have substantial earnings and should not be eligible for public assistance. The bill provides a permanent extension of the $78 million ceiling and 75 percent matching rate for public assistance expenditures in the territories in order to continue the viability of those programs. It also limits to 2 years the period in which States can file claims under the Social Security Act.

SSI DISABLED CHILDREN'S PROGRAM

Of particular interest to me, the Finance Committee bill extends for 3 years a program for the referral of disabled children receiving supplemental security income to appropriate counseling, medical, rehabilitative and social services. This program was originally authorized 3 years ago, but it is only now becoming fully implemented. Those States which have been able to put their programs in place have found them to be an effective mechanism for coordinating all available services that a disabled child may need and assuring that the services are actually received. Through this program, many children who would otherwise be destined to lead lives of dependence will have the opportunity to overcome their handicaps and become fully functional, independent adults.

An example of the sources of the program is found in the case of a New Jersey child. A 3½-year-old, dependent on a ventilator due to a severe birth defect, was provided home care through the SSI disabled children's program. The care cost $16,000 for 6 months in contrast to the $70,000 it would have cost to keep the child in an institution under medicaid. However, the child's developmental and medical progress and the improvement in the emotional status of his family are priceless and tell the real story of the program's success.

CONCLUSION

In shaping the bill, the Finance Committee has made every effort to fairly balance all the conflicting needs and interests in order to report the best possible bill. I am convinced this measure, which is so important to the well-being of children, families, and others who need assistance, is a good product. Therefore, I urge my colleagues to support the measure as reported by the committee.

● Mr. RIEGLE. Mr. President, although I support many of the provisions of H.R. 3434, I believe the bill as reported by the Finance Committee presents some very severe problems for State governments attempting to provide quality child welfare services in an efficient manner.

For example, the imposition of a restrictive cap on foster care services blithely assumes that States are currently providing foster care services to all the children who need such services. In light of the tragic events in Jonestown, Guyana, I suggest that it is altogether possible that we may discover a large number of "forgotten" children in certain areas of this country—children who should undeniably be in foster care (at least until adoptive parents can be found), but who may be denied these services because they were not included by this cap. Such a tragedy must be avoided.

More likely, this cap will simply restrict the ability of States to improve the quality of foster care services they provide. This result would also hurt those of our children who are most in need.

As my colleagues know, I am strongly in favor of moving children out of foster care to be reunited with their family or placed in adoptive families. Indeed, since coming to the Senate I have sponsored a number of bills for this purpose along with Senator CRANSTON, the chairman of the Child and Human Development Subcommittee on which I serve. Today, I am offering along with my fellow Senator from Michigan, Mr. LEVIN, an amendment to expand the adoption subsidy provisions in this bill.

So my colleagues know that when I speak out against the foster care cap, it is not because I believe that foster care is a permanent solution for many American children. In the vast majority of cases, foster care should be a short-term matter. But I am concerned that placing a restrictive cap on State foster care expenses may adversely affect the quality of such care, and for that reason I oppose the foster care cap. I hope it will be eliminated in conference with the House, and I support attempts here in the Senate today to limit the adverse impact it may have in many States.

I am also concerned that H.R. 3434 as reported by the Finance Committee will unfairly deprive some poor families of income they desparately need. The welfare amendments added to this bill by the Senate committee go beyond what is equitable. In particular, I am concerned that the Finance Committee version would reduce welfare payments to families based on the income of stepparents of eligible children and would also reduce such payments by prorating costs according to the number of ineligible grantees in a household.

As my colleagues will recall, Senator JAVITS and I authored a proration amendment for shelter and utility costs which passed the Senate in the closing minutes of the 95th Congress, but was never enacted into law. I continue to believe that prorating shelter and utility costs is an equitable move, but I believe it is totally unjustified to impose both proration and deeming of stepparents' income across the board. At a time when our poorer families are facing skyrocketing utility costs, when inflation for both food and fuel is raging, I cannot believe that the Congress really means to undercut the ability of the poorest among us to meet these essential expenses.

I would also like to express my appreciation to the Finance Committee and to its chairman, Senator LONG, for including in H.R. 3434 the vital provisions relating to title XX services for detoxification of drug addicts and alcoholics. When title XX was enacted in 1975, it authorized funding for "appropriate combinations of services * * * for alcoholics and drug abusers." Later that same year, the package of amendments included in this bill was first authorized on a temporary basis.

For many States, the most significant amendment pertains to the use of title XX funds to cover the entire rehabilitative process for alcoholics and drug abusers, including initial detoxification, short-term residential treatment, and followup outpatient counseling and rehabilitation. All of these services are essential components of most treatment programs for alcoholics and drug abusers, which generally find a continuum-of-care approach to be most effective. The amendments dealing with confidentiality and the relationship between detoxification and other services have also proven to be effective in encouraging State activities to combat these problems.

Unfortunately, these amendments were allowed to lapse before this fiscal year. Experience in many States indicates how important these drug and alcohol services can be in reducing illness, crime, and other problems. The Finance Committee has correctly determined that these services should continue without interruption, and I am certain their strong stand will prevail in conference.

H.R. 3434 is a valuable bill, although it falls short in many areas. I am concerned, for example, that in its current form it will not enable title XX social service programs to continue their current level of services in the face of continued inflation. I am concerned that it will cut back certain welfare programs at a time when the need for such services is increasing in the face of recessionary pressures. I am concerned that it may inadvertently restrict States' ability to help children in need of foster care.

The Nobel Peace Prize was recently awarded to Mother Teresa for her work in the Black Hole of Calcutta. Our Government cannot, unfortunately, match her dedication to the world's poor. I hope, however, that in dealing with this bill, we will do our best to help our own needy children across this country.●

● Mr. EAGLETON. Mr. President, section 428(d)(1)(A) of the pending legislation describes the procedures that must take place when a "case review" is conducted for children placed in foster care.

While I commend the chief sponsors of this legislation (Mr. MOYNIHAN, Mr. CRANSTON, and Mr. LONG) for including this added protection for the welfare of foster children, I would like some clarification of this provision from one of the authors of this legislation.

Some concern has been expressed to me by quality private not-for-profit homes in Missouri who presently care for foster children that this provision which requires placement "in close proximity to the parents' home" could be interpreted in such a strict fashion by HEW that it would have the effect of closing down their homes. Many of our better child care homes in Missouri are located in the rural areas of our State and oftentimes the majority of the children placed in those homes come from our two metropolitan areas—St. Louis and Kansas

City. I do not believe that it is the intent of this legislation to close any of these quality child care homes simply because they are located many miles from the child's home.

Rather, I believe, it is the intention of the legislation to encourage States to look at each individual child's case and determine what setting will offer him or her the most love and care and which will best approximate a family setting, while taking into account the child's special needs.

I would like to ask the distinguished Senator from California, Mr. CRANSTON, who is chairman of the Child and Human Development Subcommittee of the Labor and Human Resources Committee if he agrees in my interpretation of section 428(d)(1)(A)?

Mr. CRANSTON. The Senator is correct that the intent of this legislation is not to close any quality child care homes simply because they are located many miles from a foster child's home. The purpose of this provision is simply to assure that whenever appropriate, a child is placed in as close proximity to his or her family as possible so that opportunities for contact and reunification of the child with the family will be enhanced. In each case, however, the placement should take into account the child's special needs and should be the most appropriate for that individual child.

As I have indicated before, this provision is particularly aimed at reducing instances where children are shipped from State to State, losing all contacts with their families when suitable facilities are available closer to home.

Mr. BUMPERS. Mr. President, I rise today in support of the Adoption Assistance and Child Welfare Act of 1979, H.R. 3434. Most of us in this room have children of our own and we all know how important it is to give a child a permanent home. This act provides guidelines and programs to help the States work toward moving their AFDC children in foster care to permanent homes more quickly.

By providing funding for adoption assistance in H.R. 3434, we will provide hard-to-place children with a lasting home environment. In my home State of Arkansas, the State legislature recently began a subsidized program on its own. The program officially began July 1, 1979, and the first six subsidized adoption agreements went into effect October 1 of this year. Arkansas has approximately 125 other children who could be placed if a subsidy were available for those children.

Of those six children who were placed by Arkansas social services, there is one case which illustrates exactly the type of foster care case that the adoption subsidy program in H.R. 3434 will affect. One child had been in foster care for 4 years and her foster parents had literally kept her alive by their care. This little girl was microcethialic. She will never walk and will never have full mental capacity. However, she has been given physical therapy and lots of love by her foster parents and she has developed capacities she was never expected to develop and lived much longer than physicians thought was possible. Through the Arkansas subsidized adoption program, her foster care parents adopted this little girl permanently, even though it meant that she was no longer eligible for either medicaid or SSI benefits. These parents have some money to help support this child. Many foster care parents will not have that luxury although they would love to adopt a foster child who is in their care. This bill will allow those foster care parents to adopt that child.

In addition to the adoption subsidy, under this bill, States will receive foster care grants for their AFDC children in foster care. Arkansas has about 1,000 foster care homes and approximately 1,136 children in foster care. Of those children, approximately 350 are eligible for funding under the foster care program. Through the programs in H.R. 3434, Arkansas will be able to develop a program to move their foster care children out of foster care and return them to their homes or place them in an adoption situation where they can develop cohesive family ties. The average length of time a child is in foster care in Arkansas is 3.76 years. The national median length of time a child is in foster care is 2.5 years. H.R. 3434 provides that the States shall develop a system to move those children out of foster care within 2 years.

By providing plans to move children out of foster care quickly and by providing for an adoption subsidy program for AFDC foster care special children, we will cut down on administrative costs involved in foster care. We will also save money in cases where the adoption subsidy is lower than the foster care grant. Passage of this bill will not only improve the services to these foster care children but will also save the Federal Government money in the long run. It is not often that the Federal Government can take a program and cut expenses at the same time it provides the best program for the recipient.

The Adoption Assistance and Child Welfare Act of 1979 also provides for continuation of funding for the child support enforcement program for both AFDC and non-AFDC families. The Arkansas child support enforcement program has collected $2,571,667 for the fiscal year of 1978 and $2,798,895 for the first three quarters of 1979. These child support payments have kept many families off of the State and Federal welfare rolls. There were approximately 52,078 cases in the Arkansas child support enforcement program for the last 3 months of the fiscal year. Of those cases approximately 4,600 were non-AFDC. The retroactive authorization in this program is badly needed by Arkansas to keep this program going.

In this International Year of the Child, it seems appropriate that we provide programs to help the children in our Nation.

Mr. President, I ask unanimous consent that the following article be printed in the RECORD at the end of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 23, 1979]

WHO SPEAKS FOR THE KIDS IN FOSTER HOMES?

(By Jonathan Kwitny)

A year ago a story on page one of this newspaper described the plight of about 200,000 children in long-term foster care in the U.S., often shuttled traumatically from one home to another, denied security and dignity. There was substantial evidence that the law itself is greatly exacerbating this situation by creating financial incentives for kids to be kept in foster care when numerous couples are prepared to adopt them into permanent homes.

Not only could the children be given better lives if the law were changed, authorities said, but substantial cuts could be made in the $2 billion-a-year taxpayer cost of supporting the kids. About $1 billion of this money pays salaries and other costs of the agencies that supervise them in foster care.

This week the Senate is due to consider extending the support now paid for kids in foster care to help the same kids if they are adopted. Both the House and Senate have considered such a change in the law over the past four years, and at least a couple of times have actually voted for it, though never in mutually agreeable form.

Yet the proposed changes have never become law, and there's considerable doubt they will this year, even though the House passed them in August. The problem isn't that anyone in Congress opposes the idea. The problem is that the relatively noncontroversial foster care-adoption proposals keep getting lumped in with other proposals that are highly controversial.

For example, most of last year the foster care-adoption proposals languished as part of a bill that also would have required ambulatory welfare recipients to go to work at government jobs—not exactly a proposal likely to glide through without objection.

At one point, two Senators (Cranston and Moynihan) succeeded in separating this extreme measure from the bill that included the foster care-adoption package, but only at the end of substituting two other amendments on welfare eligibility, not so extreme, but still controversial enough to keep the package from going to the President.

Speaking of the President, a private study with the obvious blessing of his administration last year strongly backed the foster care-adoption changes, and Vice President Mondale in his Senate days was an original proponent. Yet two years ago in Congressional hearings the administration testified against the changes, because it preferred to include them in a broader social reform package that never got passed.

Things got so bad last year that the Child Welfare League of America, an old and highly respected organization that is supposedly out there speaking up for the kids, actually lobbied against the bill containing the foster care-adoption proposals, which it supports. The same bill contained limitations on general welfare eligibility that the League found objectionable.

According to Suzanne Martinez, counsel to the Senate Subcommittee on Child and Human Development, the Child Welfare League's lobbying is what killed the whole package in a conference committee last year (the League says the House conferees would have voted it down from conviction, even without lobbying). Candice Mueller, a League official, concedes the League might oppose the package again this year if similar provisions are included though she says she hopes they won't be.

A key point is that the Child Welfare League is made up not of children or parents, but of social service agencies, which employ a lot of professionals to do work that permanent parents might be doing instead. It is in no way a reflection on the sincerity and devotion of these agencies to note that their

interests may not be exactly synonymous with those of the kids, or their prospective parents.

This year there are amendments and expected amendments dealing with welfare aid and family services in general, including changes in welfare eligibility requirements that have aroused strong feelings on both sides. The foster care-adoption proposals also have been bound up in the controversy over whether social service money should leave Washington in the form of "entitlements," which guarantee to states a fixed amount of money to spend for a particular purpose for several years to come, or in the form of annual appropriations, so that Congress can decide each year how much money to spend and where to spend it.

Obviously, the social service industry, which believes in advance planning, and fiscal conservatives, who believe in budgetary control, don't see eye to eye on this issue. Both groups lobby effectively. The kids, whose chance for adoption may be held up altogether because of the dispute, don't even vote.

It may not be immediately apparent why financial subsidy is so vital to the adoption of kids in foster care, particularly when many of the prospective parents are middle income or higher. But the reason becomes obvious when you consider why these kids are in foster care in the first place: they tend to have unusual physical, mental or behavioral problems that are likely to require unusual cash outlays. Many are walking (or wheelchaired) time bombs, who in two, five or ten years may well need, say, a series of spinal operations, costly visual aid equipment, special schooling or extensive psychiatric counseling.

Right now the government winds up paying these costs through the foster care system. If adoptive parents are willing to provide love and care for these children, and to relieve the state of the burdens of supplying physical plants and personnel, then asking them to pick up these maintenance costs as well is asking a lot.

ENDING FOSTER CARE DRIFT

Mr. BIDEN. Mr. President, I rise in support of H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979. This bill would provide States with substantial incentives to take children currently in foster care institutions and place them with families in permanent homes.

Mr. President, foster care drift is a serious problem in many States today. Too many children are placed in foster care homes and simply are never placed in a permanent home. There are nearly 500,000 foster children in the United States, of which 103,000 are receiving Federal foster care subsidies. However, once a child is placed in foster care it is not always easy for this child to be adopted or returned to his or her natural parents. An HEW survey of foster care children revealed that 30 percent of all children in foster care had been in placement for more than 2 years. Some of these children remain in foster care institutions for several years until they reach 18 years of age. At this point they are released for independent living as an adult.

The Junior League of Wilmington prepared a study of foster care cases in my home State of Delaware. Based on 277 randomly selected cases, the Junior League found that almost 10 percent of children in foster care have been there for over 15 years. Another 22 percent were in foster care custody for 10 to 15 years. Only 43 percent were in foster care custody for less than 5 years.

The average age of the child upon entering care was almost 6 years of age. The average age of the child presently in foster is 13. Most of these children were taken into custody because of physical or parental neglect. Many of those children will "drift" around from one foster care facility to another.

As a result, these children will not experience the security and warmth of a permanent home with their natural parents. Because their natural parents are frequently unwilling or unable to take care of the child, the parent-child relationship often deteriorates. Many of these children will experience difficulties in school and have a higher incidence of social problems such as alcohol and drug abuse, delinquency, and economic dependence.

Much of the problem of foster care drift is due to the inability of State social service agencies to spend the necessary time to find adoptive parents or to provide the counseling and supportive services necessary to return the child to his or her natural parents. It is often easier for State welfare agencies to place children in temporary foster care homes rather than find them permanent homes.

Current Federal policy encourages State agencies to pursue this policy by making Federal funds available for foster care homes but not for adoption subsidies. States are currently not required to establish effective case review systems to monitor the placement goals of children in foster care homes.

This is not to say that foster care placement is always bad. In fact, in many cases foster care is absolutely necessary to remove children from a home situation which has become intolerable. However, institutional foster care should not become a permanent living arrangement for children simply because it is easier to keep them there than to place them with adoptive parents or to return them to their natural parents when circumstances permit.

H.R. 3434 creates incentives to encourage States to do a better job of monitoring foster care children.

Title I of the bill would establish a new adoption assistance program with Federal matching payments for State adoption subsidies. Under the adoption assistance program, a State would be responsible for determining which children in a State would be eligible for assistance because of special needs discouraging their adoption.

Title I of the bill allows funds to be used by States to compile a complete listing of all children in foster care under the responsibility of the State and to determine the appropriateness of current foster care placement.

All States would be encouraged to design and develop a State-wide information system concerning children in foster care. This case review system would insure the appropriations of foster care placement goals, especially for children who have been in foster care for more than 24 months. A service program designed to help children remain with their families or help them return to their families after a short period of foster care would also be created.

In conclusion, Mr. President, I believe that H.R. 3434 represents a significant improvement in the way which the Federal Government delivers child welfare services. This goal is particularly important, I feel, as one of our contributions during the International Year of the Child. I urge my colleagues to support H.R. 3434.

UP AMENDMENT NO. 665

(Purpose: To amend titles XVIII and XIX of the Social Security Act to strengthen the capabilities of States and the Federal Government to detect medicaid fraud and abuse and to improve the administration of the medicaid program)

Mr. SCHWEIKER. Mr. President, I call up a modified version of amendment 522 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER), for himself and others proposes an unprinted amendment numbered 665, which is a modified version of amendment No. 522.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new sections:

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. 309. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new section:

"(r)(1) The amount otherwise payable for any quarter under paragraphs (2) and (7) of subsection (a) (without regard to this subsection) shall be reduced by an amount equal to—

"(A) 25 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1980, and ending before July 1, 1981.

"(B) 50 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1981, and ending before July 1, 1982.

"(C) 75 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1982, and ending before July 1, 1983, and

"(D) 100 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1983, with respect to any State which fails to meet the requirements of paragraph (2).

"(2)(A) In order to receive payments under section 1903(a) without being subject to reduction under paragraph (1) of this subsection, a State must provide that mechanized claims processing and information retrieval systems of the type described in section 1903(a)(3)(A)(i) which are approved by the Secretary as achieving the objectives of an effective system at reasonable cost (whether such systems are operated directly by the State or by another person under a contract with the State) be operational with respect to the entire State, and that such systems meet the requirements of paragraph (3) of this subsection.

"(B) With respect to quarters ending before July 1, 1981, payments to a State shall

not be subject to reduction under paragraph (1) of this subsection if such State has submitted, and the Secretary has not formally disapproved, an advanced planning document which specifically describes (in reasonable detail) the State's plans for installing and operating mechanized claims processing and information retrieval systems described in subparagraph (A).

(2)(c) Any State which has a system approved by the Secretary on or before the date of enactment of this act shall be deemed to meet the requirements of paragraph (2)(A) until such time as such State system is disapproved by the Secretary in accordance with paragraph (3)(B).

"(3)(A) In order to be approved by the Secretary, or to be reapproved by the Secretary in the case of a system which is initially approved but is subsequently disapproved, mechanized claims processing and information retrieval systems must meet the following requirements:

"(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types and items of service, including prescribed drugs, to the extent such profiles are not duplicative of information developed and available under the program established under part B of title XI of this Act.

"(ii) The State must provide that information on possible fraud or abuse which is obtained from, or developed by, the systems is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

"(iii) The systems must meet the standards developed by the Secretary under paragraph (4).

"(B) Any mechanized claims processing and information retrieval system which does not meet the requirements of subparagraph (A) shall not be approved by the Secretary (in the case of a State which is seeking initial approval of its systems) or shall be disapproved by the Secretary (in the case of a State which has systems which were initially approved). The Secretary shall periodically reassess the systems in operation in each State to determine whether the systems should be disapproved.

"(4) The Secretary, with respect to State systems, shall—

"(A) develop written approval procedures for use in approving State systems, including specific criteria for testing systems in operation to insure that all performance standards and requirements are met;

"(B) establish and periodically update the systems performance criteria, objectives, regulations and guides;

"(C) give priority to aiding States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

"(D) for the purpose of ensuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

"(i) develop a uniform idenification coding system for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under the State plans (auproved under this title) or under title XVIII;

"(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

"(F) develop and disseminate clear definitions of those types of reasonable costs relating to the State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

"(G) report on or before April 1, 1981, to the Congress on the extent to which States have developed and operated effective mechanized claims processing and information retrieval systems.

"(5)(A) In any case in which a State's mechanized claims processing and information retrieval system is disapproved by the Secretary pursuant to paragraph (3)(B) of this subsection, the State (with the assistance of the Secretary) shall develop a corrective action plan for bringing the system back into compliance with the requirements of paragraph (3)(A) of this subsection, and submit such plan to the Secretary within a period of time which the Secretary determines to be adequate to submit such plan, but not to exceed one year after the disapproval.

"(B) If the State's system has not been reapproved by the Secretary as being in compliance with the requirements of paragraph (3)(A) within a period of time after disapproval which the Secretary determines to be adequate to comply with such requirements but not to exceed two years, payments to such State under this section shall be made without regard to the provisions of subsection (a)(3).

"(C) If the State's system has not been so reapproved within one year after the date on which payments to the State were reduced under subparagraph (B), the payments with respect to administrative costs made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a reimbursement rate of 25 percent rather than the percentage specified in such paragraphs.

"(D) If the State's system has not been so reapproved within two years after the date on which payments to the State were reduced under subparagraph (B), no payments with respect to administrative costs shall be made to such State under paragraphs (2), (3), and (7) of subsection (a).

"(E) If a State's system is reapproved, payments under this section shall be made without regard to this paragraph beginning with the first quarter that begins after the date of such reapproval.

"(6)(A) The Secretary shall waive the provisions of this subsection in whole or in part with respect to any State which had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures reimbursable under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title, including the State's ability to develop provider, physician, and patient profiles as described in paragraph (3)(A)(i).

"(B) A waiver granted under subparagraph (A) may be withdrawn if the Secretary determines that the State no longer meets the criteria for such waiver. If such waiver is withdrawn, the State shall develop a plan to be followed for the expeditious installation or modification of a mechanized claims processing and information retrieval system.

"(C) If the State's system is not approved by the Secretary as being in compliance with the requirements of paragraph (3)(A) within such period of time after the waiver granted under subparagraph (A) is withdrawn as the Secretary determines to be reasonable to comply with such requirements, but not to exceed two years, payments made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a rate equal to 50 percent of the rate otherwise payable under such paragraphs.

"(D) If such system has not been so approved within a period of one year after the expiration of the period described in subparagraph (C), payments made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a rate equal to 25 percent of the rate otherwise payable under such paragraphs.

"(E) If such system has not been so approved within a period of one year after the expiration of the period described in subparagraph (D), no payments shall be made to such State under paragraphs (2), (3), and (7) of subsection (a).

"(7)(A) The reductions in payments to States required under paragraphs (1), (5), and (6) of this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the requirements of such paragraphs for (i) good cause, but such waiver shall not exceed six months, or (ii) due to circumstances beyond the control of such State.

"(B) If the Secretary determines under subparagraph (A) that a State is not subject to such reductions, he shall recommend a plan for corrective action so that such State's system will expeditiously meet the requirements for approval under this subsection, and shall report to the Congress on each such determination, including a description of the plan for corrective action.".

"(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.".

EXCHANGE OF INFORMATION ON TERMINATED OR SUSPENDED PROVIDERS

SEC. 309. (a) Section 1862(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of any determination made under the provisions of this subsection.".

(b) Section 1866(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Where an agreement filed under this title by a provider of services has been terminated by the Secretary, the Secretary shall promptly notify each State agency which administers or supervises the administration of a state plan approved under title XIX of such termination.".

(c) Section 1902(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (40) the following new paragraph:

"(41) provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the State plan, the State agency shall promptly notify the Secretary of such action.".

Mr. SCHWEIKER. Mr. President, this amendment is similar to S. 731, a bill introduced last March to cut medicaid fraud, waste, and abuse throughout the country.

After an informal consultation with

the Committee on Finance's staff, I have included several improvements over S. 731 and an earlier printed amendment No. 507, which I submitted on October 9. I made a slight modification today which, I believe, is acceptable, as well.

I believe the changes made will insure that sufficient flexibility among the States is allowed. I am pleased to have as cosponsors Senators NUNN, HATCH, and YOUNG.

Almost 7 years ago, a computerized medicaid management information system, commonly known as "MMIS," was developed. By coordinating information on medicaid providers, recipients, and claims, MMIS has enabled both the large and small States which use it to save literally hundreds of millions of medicaid dollars. This sophisticated system can be tailored to the needs of any State and is currently being utilized by States ranging in population size from tiny Hawaii to California. Twenty-seven States have installed the system to date, and the taxpayers are enjoying enormous savings as a result. For example, New York City saved an estimated $100 million by installing MMIS. Florida rejected $26 million worth of erroneous claims the first year an MMIS was operational. Idaho, with a relatively small program, saved $1.4 million the first year it installed the system. The list goes on, proving conclusively that MMIS can save an average of 5 percent of medicaid program costs. This is not a small amount, when you consider that medicaid is a $20 billion program.

Presently the Federal Government pays 90 percent of the developmental and startup costs for MMIS, and 75 percent of its operational costs once in place. States that do not have MMIS are only reimbursed for 50 percent of their operational costs. However, for often unacceptable reasons, almost half the States have failed to install these computerized systems to get their medicaid programs out of the stone age. The primary purpose of my amendment is to push these laggard States to install the computerized systems by reasonable deadlines.

A number of GAO reports, including a recent report I requested on my own State of Pennsylvania, have stressed that the antiquated manual medicaid claims processing systems still used by many States simply cannot detect fraud, waste, and abuse. In fact, in my own State it was calculated that claims payment personnel could take only 5 seconds to view each claim, which is hardly enough time to turn the page, and this is my own State. So we, by default, have not been doing our job. This is what the GAO report says, and the same is true in other States. At a time when the American people and Congress are justly concerned with poor and wasteful use of tax dollars, it is difficult to explain that many of our States run multimillion-dollar medicaid programs without the capability to even detect, let alone stop, medicaid waste ranging from paying ineligible providers, or paying providers twice for the same service, to thousand-dollar fraud. This is especially difficult to explain given the fact that computerized systems that can easily detect waste, fraud, and abuse have been available for installation for almost 7 years.

These MMIS computerized systems have proven to save 5 percent of medicaid program costs where installed. States not yet having MMIS accounted for an estimated $8 billion in medicaid expenses last year.

If MMIS installations save 5 percent of program costs—and that has been the experience of States that have put them in to date, $400 million will be saved the first year the new systems have been installed. Some savings estimates go up to 8 percent, depending on the State and the mechanics of their program.

Most of the laggard States report they are currently working to install mechanized systems, yet some of them have been trying to install systems, which should take 6 to 18 months, for over 5 years. GAO has documented repeated delays in Illinois and Pennsylvania. Washington, D.C. and Maryland submitted detailed plans for MMIS installation over 4 years ago, and still, up. The list goes on, the record showing State after State pledging to HEW to have an operational system by a certain date, and failing to stick to their pledges time after time. The developmental and installation costs for MMIS are minimal compared to the systems' potential savings, and the Federal Government picks up 90 percent of these costs. Money to cover this has already been budgeted for HEW's fiscal year 1980 budget, and HEW has pledged, as usual, to push laggard States to install the system. Yet the delays continue. The time has come to end the delays and to begin to enjoy the fullest savings the most efficient computerized administrative systems can offer. With this goal, my amendment calls for four urgently needed reforms.

First, it requires States, unless they are waived, to stick to their plans to install mechanized claims processing and information retrieval systems. If unwaived States do not have the system operational by July 1, 1981, they will start to lose the Federal matching money they get for medicaid administrative costs. All States, unless they are waived because of small, efficient programs, must have submitted detailed plans on MMIS installation by July 1, 1980.

Second, it requires HEW to aid the States with technical advice on installation and operation of effective computerized systems. HEW, as recommended by a recent GAO report, is also required to periodically check State systems to insure that they continue to meet minimum requirements. If they do not, they will be given HEW assistance and 2 years to correct deficiencies before being penalized.

Third, it establishes long needed coordination between medicaid and medicare information on suspended and terminated providers so that providers who have been earmarked for violations under either the federally-administered medicare program or the State-Federal medicaid program do not receive compensation for practicing under either program in any State. The data provided from mechanized systems will help States to efficiently administer other programs besides medicaid.

Fourth, my amendment allows for enough flexibility so that the very few small, efficient States which do not need computerized systems to improve efficiency may be waived from installation requirements.

I believe that the approach I take in this amendment is fair to both the States and the taxpayers. The July 1, 1981, installation deadline allows the States plenty of time to get the system going—in fact, in most cases it merely makes them to stick to their latest pledges, and in some cases it allows more time for installation than States currently predict they will need. But at the same time, it sets a deadline; it attempts to put a stop to the constant pattern of delays that the record shows.

Second, by calling for HEW to give more technical assistance to States trying to install the system, it attempts to eliminate one of the stumbling blocks—lack of technical expertise—that have caused States to delay.

Third, by requiring HEW to periodically check State systems in operation to determine if minimum standards for the higher 75 percent Federal matching are being met, it attempts to insure that once the systems are in place, they will be properly operated so that their enormous cost savings potential can be fully realized.

I would like to emphasize that although my amendment requires HEW to check State systems in operation to insure that certain minimum requirements are met, it is not my intent to have HEW draft regulations which require uniform types of computer systems, the use of only certain types of computer hardware and softwear, or the mechanization of every aspect of every State's medicaid program. I have been quite careful in drafting the amendment to require only that States meet certain performance criteria, and that their systems meet certain broad objectives. For example, my amendment directs HEW to require that State systems have the ability to develop provider and patient profiles so that individuals can be isolated and checked for possibly abusive practice. Any mechanized system should have this capacity. However, it is not my intent for HEW to tell the States exactly how they must go about developing these profiles. Most States will need computers and sophisticated programs to do so, but some States may be able to develop profiles with simple processes.

I am well aware that HEW has not always allowed for sufficient State flexibility when it drafts regulations, and has sometimes imposed requirements on all States which are reasonable only for some States. I would like to state very clearly, for purposes of legislative history, that my amendment is intended to direct HEW to develop criteria for mechanized systems which are sensitive to the differing needs and programs of different States. They are to develop system parameters to be used in checking State systems, but are to leave the States free

within those parameters to run their medicaid programs as the States feel best.

Finally, my amendment contains a waiver provision which allows the few small States with small medicaid programs which will not benefit from mechanization to continue running their programs using manual techniques. If such States can demonstrate their ability to run efficient systems without mechanization, they will be permitted more far-reaching departures from the provisions of my amendment, as it makes no sense to require computer installation if it is unnecessary.

I believe that it is the proper role of the Federal Government, which will pour over $12 billion into medicaid reimbursements next year, to require the kind of proven medicaid management techniques MMIS brings. Although we have not yet developed perfect computerized management techniques to wipe out all program error, experts are unanimous in agreeing that automated systems are much better than the obsolete and inefficient manual techniques still used in many States. As long as States continue to run their medical programs using obsolete and inefficient management techniques, and as long as States need technical assistance to run their programs effectively, the administrative integrity of the medicaid program is threatened and tax dollars are wasted. My amendment establishes the kind of responsible oversight and improvement that is sorely needed in these times of increased taxpayer aversion to Government programs and spending.

Mr. President, I hope the Senate will agree that action is needed now.

Mr. DOLE. Mr. President, the Senator from Kansas commends the Senator from Pennsylvania (Mr. SCHWEIKER), for his interest in the serious problem of fraud and abuse in the medicaid system.

Without question, the cost of the medicaid program to both the Federal Government and the States, and the increasing incidence of fraud and abuse in this program, is an issue of deep concern to us all. Certainly any reasonable attempt to deal with this problem should be supported.

The management information system which my colleague has described has been put into place by my own State of Kansas and has proven to be effective, particularly in cost avoidance. It is my understanding that in September alone, our system detected 2,362 claims that were duplicates. Had these claims been paid, it would have been an expenditure of $277,822. The medicaid staff in Kansas believes their system to be both cost effective and more efficient than past programs.

There is much to be gained through efforts like these; however, caution should be used in developing guidelines and a monitoring system to guide and assist the States. The Senator from Kansas would like to join with the Senator from Pennsylvania in making it clear to the Department of Health, Education, and Welfare that the guidelines developed as a result of this legislation must be sensitive to the individual needs and abilities of each of the States.

We have, in the past, had a very unfortunate experience with the planning guidelines in particular and HEW's insistence that what is good for one State is good for all. The guidelines that will be prepared must be both clear and flexible so as to truly offer guidance and assistance rather than a hinderance.

Again, the Senator from Kansas thanks the Senator from Pennsylvania for his efforts in this important area.

Mr. WALLOP. I would like to discuss the waiver provision in Senator SCHWEIKER's amendment. As I understand it, the Secretary would be required to waive the requirement that a State install a medicaid management information system if that State had a 1976 population of under 1 million, had total medicaid expenditures of less than $100 million in fiscal year 1976, and if the State reasonably demonstrates and the Secretary does not formally disagree that the application of such provisions would not significantly improve the efficiency of the administration of that State's medicaid plan.

With the exception of Arizona (which does not have a medicaid program), Wyoming has the smallest medicaid program in the country, with reimbursements in fiscal year 1979 amounting to $10,872,000 on behalf of 9,000 recipients. When the Census Bureau publishes its population figures for 1979, their report will reflect a statewide population in Wyoming of approximately 466,000. In fiscal year 1976, the statewide population was some 391,000; our medicaid expenditures were $6,687,000.

It appears clear that Wyoming meets the first two criteria for a waiver. Would that be your assessment as well, Senator?

Mr. SCHWEIKER. Yes. In light of the facts just presented, regarding population and program sizes Wyoming falls within the purview of the waiver language. As a matter of fact, the waiver provision was drafted with the handful of very small medicaid programs throughout the country in mind.

Mr. WALLOP. With regard to the third prong of the waiver test, I believe Wyoming will meet this criterion as well. The State now uses a manual information management system. The medicaid program has been managed free of fraud (I was informed that there has never been a case of medicaid fraud in the State) and relatively free of abuse and error. It has not been cost beneficial to install a computerized system owing to the types of services covered under the program and the small number of recipients. As the program expands, it may well become feasible to convert from the present system to the computer system required under the proposed amendment. For now, however, Wyoming can manage its caseload and maintain it free of fraud, abuse and error through existing mechanisms. I ask Senator SCHWEIKER, are these the sort of circumstances to which his waiver language would apply?

Mr. SCHWEIKER. They are. From what the Senator from Wyoming has told me about the program's efficiency, it appears that Wyoming meets all three criteria and therefore, would be entitled to a waiver under my amendment. I assume the Secretary would draw the same conclusion.

Mr. WALLOP. I thank my colleague from Pennsylvania for his courtesy in responding to my questions.

Mr. LONG. Mr. President, the Senator has proposed an amendment which, in my judgment, is meritorious, and I believe it should be agreed to and taken to conference with the House. I hope the Senate will agree to the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 665) was agreed to.

UP AMENDMENT NO. 666

Mr. McCLURE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 666:

On page 50, strike the words "adoption assistance"—

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. On page 50, strike "Adoption Assistance And" in line 3; and strike "Adoption Assistance And" in lines 7 and 8; and strike "and adoption assistance" in lines 12 and 13; and

2. On page 51, beginning with "where" in line 9, strike everything through "and," in line 11; and

3. On page 54, strike "and adoption assistance payments" in lines 19 and 20; and

4. Beginning on page 60, strike everything after "473." in line 6 through line 21 on page 63; and redesignate subsection (b) beginning on page 63 as subsection (a); and redesignate subsection (c) on page 64 as subsection (b); and

5. On page 65, strike lines 9 through 12; and

6. On page 70, strike lines 8 through 15; and redesignate subsection (4) as subsection (3); and

7. On page 83, strike lines 4 through 8; and redesignate subsection (3) as subsection (2).

Mr. McCLURE. Mr. President, today I am offering an amendment to H.R. 3434, the Adoption Assistance and Child Welfare Act, that I believe will reinforce the good intent behind this bill.

I am fully aware there is a need in this country to find good, stable homes for parentless children and children who cannot, for various reasons, remain in their own homes. Unfortunately, many children because of mental, emotional, or physical disabilities, are difficult to place in homes because of the special problems their disabilities involve. Consequently, many of these children are institutionalized, and as we all know, not only is this an expensive alternative to

adoption, but more importantly, it cannot compare with the atmosphere of a family. H.R. 3434 attempts to solve this problem by providing a payment to parents who are willing to adopt a hard-to-place child. I strongly object to this provision of H.R. 3434.

Adoption is not, and should not be, the same as foster care. Foster families provide short-term care for the immediate needs of the child and there is good reason to financially assist foster parents. They are, after all, providing care for a child who is not their own and I do not believe they can be expected to assume the financial responsibility for that child. Adoption is entirely different. It demands a deeper commitment and a permanent relationship with a child and stems from the fact there is only one right reason to adopt—because the child is loved and wanted as one's own. I do not believe a federally subsidized incentive should be a consideration when the decision is made whether or not to adopt. Prospective parents do not need to be paid by the Federal Government if they are motivated by the right reason.

I am also concerned because there is an abuse potential inherent in the adoption assistance provision of the bill. Just as abuse occurs in some foster care programs, there will surely be a segment of society that will adopt a child for monetary reasons alone. This potential should not be ignored. Once a child is adopted, we should be able to assume his environment will be a loving one. We should not have to worry that he was adopted to contribute to the overall family income.

There is an answer, however, to the problems of certain hard-to-place children and this lies in reducing the disincentives to adoption, rather than providing an incentive, especially a direct payment system.

I understand and recognize there are many couples who want to adopt a disabled youngster, but who are deterred because of fear the cost of providing special care for the child will exceed the budgetary limits of the family. The adoption disincentive of medical bills, rehabilitation bills, and other special care requirements is great. H.R. 3434 addresses this problem by extending medicaid coverage for hard-to-place children. This provision of the bill is entirely reasonable. By alleviating the worry over how to pay medical expenses or other bills we have gone a long way toward the goal of finding homes for hard-to-place children by removing the disincentives to their adoption.

Mr. President, the amendment I am offering today will leave intact the provision for medicaid payments, while striking the Federal adoption assistance payments. I submit to my colleagues that it is conceptually wrong for the Federal Government to pay couples to adopt. It is wrong for us to assume the subsidy will be used only for the child's benefit, when in fact it may not.

I would like to add, Mr. President, that the director of health and welfare for the State of Idaho, Mr. Milton Klein, agrees with me that the Federal Government has no business paying couples to adopt hard-to-place children. Mr. Klein has indicated to me that he completely supports and appreciates the efforts made to extend medicaid payments past the foster care stage to these children. He maintains this will provide an additional support system for placement efforts in Idaho, but he does not believe it is right for the Federal Government to provide adoption assistance payments.

As I stated at the beginning of my remarks, Mr. President, I believe the basic intent of H.R. 3434 is a good one, and I support that basic intent. My amendment simply returns the bill to that admirable purpose, and I urge my colleagues to support it.

Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, how much time is available on both sides?

The PRESIDING OFFICER. Thirty minutes to a side on an amendment.

Mr. LONG. I yield myself 5 minutes.

Mr. President, there are situations where children will be hard to place for adoption for a number of reasons. One of the most obvious, of course, is a physical handicap, but there are other social and economic reasons. For example, it is generally easier to find adoptive homes for children of the Caucasian race than it is for black children. The various economic and social factors that play a part in that really need not be discussed. It is just a fact of life that we have more difficulty placing some children than others. Some of it has to do with the ethnic background of the family.

Where the children are hard to place, be it for reasons of disability or other ethnic or sociological reasons, or maybe just because the child has not had the good fortune to have had a favorable home prior to the point that the child is to be adopted, there is a need to provide an additional incentive. A cash incentive or a subsidy for adoption is provided in 47 States which recognize that some type of subsidy is needed in order to help find homes for children who are rather difficult to place in adoptive homes.

Under the program, the State would have to find that the child cannot be returned to his home. The State would also have to find that after making a reasonable effort consistent with the child's needs, that the child has not been adopted and is not likely to be adopted without the offering of financial assistance. The committee bill places a ceiling on the previously open-ended foster care program while at the same time creating a new adoption assistance program. This was done to provide a disincentive for the expansion of foster care and an incentive for the placing of children in permanent homes. The McClure amendment would undermine this approach by preserving the ceiling on foster care while deleting the incentive that would be provided for adoption.

Mr. President, those of us on the Committee on Finance as well as those in the Departments of Health, Education, and Welfare, and various social organizations, strongly believe that in the committee bill the subsidy for adoption is necessary. We believe it is essential to this legislation. We therefore hope very much that the pending amendment will not be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I would suggest, Mr. President, we have a brief quorum call with the time being equally charged to both sides.

Mr. McCLURE. Mr. President, it will be my intention to ask for a rollcall vote.

Mr. LONG. I will be happy to cooperate when we have the Members here. Is it all right to charge the quorum call to both sides?

Mr. McCLURE. Yes.

Mr. LONG. I ask unanimous consent that I may suggest the absence of a quorum with the time to be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

Mr. LONG. How much time does the Senator from Michigan desire?

Mr. LEVIN. About 4 minutes.

Mr. LONG. Mr. President, I yield 4 minutes to the Senator from Michigan.

Mr. LEVIN. Mr. President, I rise to indicate my opposition to the amendment offered by the Senator from Idaho.

Those persons who provide a caring, wholesome home life for an uprooted child are performing an exceedingly difficult and valuable service to society. Financial stress should not be added to the burdens which they have already assumed in adopting a physically, mentally, emotionally, or medically handicapped child.

It is my feeling that families possessing the requisite compassion, character, and skills to take such a child into their homes should not be discouraged from doing so by the understandable fear that the adoption will cause them financial hardship. Better we provide an incentive, at actual savings to the Treasury, to adopt children thereby providing a real home with real parents instead of an unending series of institutions and foster care.

Mr. President, the experience of many agencies, States, and local entities has proven that an adoption assistance program is an effective and efficient means of providing permanence to children, who have previously been written off by the child welfare system as unadoptable.

Studies of State subsidy programs indicate that parents most likely to adopt these special children are of predominately lower to middle income levels. The subsidy in many instances provides for necessary care.

Simply allowing the medicaid coverage to remain will not cover all of the prohibitive costs which surround adoption of "special needs" children. Medicaid coverage for preexisting medical conditions which would be allowed under the Senator's amendment does not cover legal

expenses, nor does it cover the therapy costs for children who are emotionally disturbed which many of the special needs, hard-to-place children are, nor does it cover medical costs resulting from subsequent illnesses.

Both maintenance and medical assistance are offered to adoptive parents of hard-to-place children by 45 States which have subsidized adoption programs.

State programs have proven that adoption assistance works. Their efforts have begun to create a responsive, effective, and accountable adoption system for the hard-to-place child. Such efforts will be greatly enhanced by the implementation of a Federal adoption subsidy program.

I support the bill of the Finance Committee in this regard and will later bring up an amendment which will result in increased adoption of these "special needs" children, at no additional cost to our Treasury.

Mr. President, I close by saying that I believe that the vast majority of adoptive parents are motivated by the right reasons, and I do not believe that the potential for abuse is inherent in the program we hopefully will approve here today.

I thank the Chair and the Senator from Louisiana.

Mr. LONG. How much time does the Senator from Rhode Island require?

Mr. CHAFEE. Five minutes.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I rise in opposition to the amendment of the Senator from Idaho. First, I say the thrust of the whole program we are considering here today, of course, is to get children out of foster homes and into adoptive homes. All too often, children are placed in foster care and remain there far longer than necessary. The child welfare system of this Nation and the various States has placed too little emphasis on keeping children with their families and reuniting them wherever possible. This legislation we are considering today will provide funds for services to enable children to remain in their homes and to prevent unnecessary removal. Where children are necessarily placed in foster care, these changes in the bill today will promote moving them from foster care either to reunification with their families or into permanent adoptive homes.

It seems to me the adoption assistance provisions are important and essential to the improvements of the child welfare system. Experience has shown that, even with subsidies, adoption is less expensive than foster care. But even though saving public moneys is a high priority for Congress, this goes beyond that, because it fosters placing children in permanent, loving, and secure homes. That is the objective of the program.

Many families are willing to provide a home and love, which these children deserve, but they simply do not have the means to provide for the expensive care needed by these children with their special needs.

The Senator from Idaho points out that there is no need for this subsidy because medicaid coverage eliminates any disincentives that might be implied by adopting a child beset with the problems these children have, and it does not seem to me that goes far enough. The children in these programs have problems that go far beyond those covered by medicaid. They need all types of assistance, all types of support on behalf of the adoptive parents.

If the objective is moving more children into adoptive homes, and the small national price in dollars that this program will cost will go a long way toward achieving this purpose.

I do not think it is enough to say it is conceptually wrong to contemplate paying anyone to adopt a child. Any adoptive parent that takes on a child like this is not going to come out ahead financially. We have had enough experience with that in our own society many times. Any parent who takes on one of these children, and by definition they are problem children, is going to have a multitude of financial problems that are far above anything this program will reimburse him for.

But what this program will do will help give them some incentive to disregard the tremendous costs, not only in money, but in drain, emotionally, physically, on the parents, and will encourage them to adopt these children.

So, Mr. President, I think the amendment should not be adopted. I do hope it will be defeated for the reason that it will not encourage the purposes we are attempting to achieve.

I thank the Senator from Louisiana for the time.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, may I have some time?

Mr. LONG. I have 8 minutes left. How much time does the Senator need?

Mr. CRANSTON. Three minutes.

Mr. LONG. I yield 3 minutes to the Senator.

Mr. CRANSTON. Mr. President, I strongly oppose this amendment. The adoption assistance provisions of the committee bill are virtually important to helping free thousands of children from foster care.

I would remind my colleagues that this is not a program to facilitate the adoption of healthy infants—these are children with special needs—physically and mentally handicapped children many of whom have been in foster homes for years and years. Studies have indicated that 90 percent of the families adopting these "special needs" children are foster parents who have developed deep, emotional attachments to these children. Yet most of these foster parents are in low to lower middle income brackets, often in their forties to fifties. These are families who often simply do not have the financial capacity to take on the heavy economic burden of a special needs child. Studies also show that families adopting special needs children often have other children, further placing financial demands upon the household income.

Let me give an example. At hearings I chaired in 1977 a young couple in their thirties who live in nearby Virginia testified about the foster child in their care. Earl was diagnosed as brain damaged, severely impaired, hyperactive, bordering on autistic. His case workers felt that the only possible placement for him was residential care—institutionalization. But that young couple would not hear of it. Through their experience with Earl as foster parents they grew to love him and felt responsible for his future. They adopted him. With adoption subsidy assistance they enrolled him in a speech therapy program and in a preschool for children with severe behavioral disorders.

Today Earl attends public school. His parents reported that his progress had been remarkable. Their family now consists of six adopted children—several, like Earl, with handicaps that must be worked with. They are truly a remarkable couple, exactly the kind of people who would be eligible for assistance under the bill we are considering today.

Without this kind of program, children like Earl will be forced to remain in the foster care system at considerably greater cost to the taxpayer and will be denied the benefits that being a permanent member of a family brings. I stress, it will cost more to leave them in institutions.

How could anyone doubt the love of adoptive parents like these? The point of this provision in the bill is to make it possible, financially, for the family ready and willing, but not financially quite able to provide a loving environment for a "special needs" child, to be able to do so.

For those reasons, I recommend very strongly rejecting the amendment offered by the Senator from Idaho.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. McCLURE. Mr. President, does the Senator have some requests for time?

Mr. LONG. I am not aware of any.

Mr. McCLURE. Mr. President, just so that others might know, I will be very brief and then will be prepared to yield back the remainder of my time.

Mr. LONG. There was one Senator, the Senator from Kansas (Mr. DOLE), who might——

Mr. McCLURE. I thank the Senator from Louisiana.

Mr. President, if I understand the arguments being made against the amendment by those who are opposed to the amendment, they are saying now that we are putting a price on love. We are going to solve an economic problem to society by paying people to take a relationship they ought to be willing to take if, as a matter of fact, we do the things that my amendment does not interfere with, that the bill does do, allow the payment from medicaid for the extra medical expenses of the hard-to-place child.

Mr. President, I am not unfamiliar with the hazards or pitfalls of adoption. I have a younger sister who is adopted. I practiced law in a small town for 16 years and during that period of time I

had occasion a number of times to deal with adopted children, some of whom were hard-to-place children, and dealt with both good and bad circumstances in both proposed and actual adoption settings.

But, Mr. President, there is no way—no way—we can justify, to save money for the taxpayers, to substitute dollars for love. That is what people are trying to say we should do here in this bill today, that in order to save society some money we are going to place children in homes where love was not sufficient to do that.

We have taken that financial disincentive to such placements away by the payments which are called for in this bill, which I support and applaud for the extra medical expenses.

But, Mr. President, the issue is not dollars here. Certainly, we can save more dollars this way. The issue has to do with what is the proper relationship in a home between parent and child.

We know the sordid and tawdry business of adoption which has troubled us for several years in this country, and we moved at various times in various ways to stop this adoption racket.

Now, because it is going to cost society money, we are going to have the Federal Government get into the adoption for pay business.

Mr. President, it is wrong, and it is wrong, certainly doubly wrong, to justify it on the basis it would save the taxpayers some money.

We do have hard-to-place children. We do have children that are disadvantaged and that, because of their physical or mental condition, find themselves in various kinds of institutions. Sometimes the best answer we can find for that is placement in a foster home. That foster home oftentimes ripens into a loving relationship, and it might mature into an adoption under that loving relationship except for the extra expenses that are involved.

This bill and my amendment would permit those extra expenses to be paid under the medicaid program. But it does not go the next step and put a commercial value, put a commercial value, on that relationship where in adoption they are saying, "This child is now mine, this child is now as though by choice it had been born into my family." That is the relationship I have with my sister. I love her as fully and as completely as if she had been born into our family.

It was a matter of choice that she is of our family—a choice made sometimes much more cogently than when there is a natural conception and a natural birth. But it is not, I assure you, one that is based upon pecuniary gain to our family for having taken her. The gain we had was a rich gain, a fellowship of love between brother and sister, parent and child, and it was not one that demanded the interposition of Federal Government payments to get my parents to adopt that small child.

Mr. President, the whole philosophy behind adoption for pay must be wrong, and it cannot be justified on the basis that it will save the taxpayers some money.

Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, I yield 4 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I will not take too much time. I know there are some time problems with respect to other Senators.

I regret that I did not have a chance to hear the entire argument of the Senator from Idaho. I do not disagree with anything he said, except that we are talking about special children. We are talking about hard-to-place children.

Medicaid does not cover all the expenses which are associated with children with special needs, so cash assistance is sometimes necessary as a supplement.

The bill provides safeguards to assure that the subsidies will only be provided in cases where children could not otherwise be placed with adoptive families.

Nothing in the legislation will diminish the control of the States over the adoption process—a very careful and exacting process.

Furthermore, adoption subsidies are provided in 44 States already, and all States except Alabama, Arkansas, Hawaii, and Wyoming have passed adoption assistance laws.

The point I make is that there are a lot of people who would like to adopt children with special needs. They love them and they want them for their own, as the distinguished Senator from Idaho has said; but because of the great expense for these children with special needs—that is the key, special needs—they are unable to adopt them. For that reason, I oppose the McClure amendment.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Tennessee (Mr. SASSER) are absent on official business.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I also announce that the Senator from Missouri (Mr. DANFORTH) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 13, nays 77, as follows:

[Roll No. 371 Leg.]

YEAS—13

Armstrong	Cochran	Helms
Baker	Garn	Humphrey
Bellmon	Goldwater	McClure
Byrd, Harry F., Jr.	Hatch	Tower
	Hayakawa	

NAYS—77

Bayh	Heinz	Proxmire
Bentsen	Hollings	Pryor
Biden	Jackson	Randolph
Boren	Javits	Ribicoff
Boschwitz	Jepsen	Riegle
Bumpers	Kassebaum	Roth
Burdick	Kennedy	Sarbanes
Byrd, Robert C.	Laxalt	Schmitt
Cannon	Leahy	Schweiker
Chafee	Levin	Simpson
Chiles	Long	Stafford
Church	Lugar	Stennis
Cohen	Magnuson	Stevens
Cranston	Matsunaga	Stevenson
Culver	McGovern	Stewart
DeConcini	Melcher	Stone
Dole	Metzenbaum	Talmadge
Domenici	Morgan	Thurmond
Durenberger	Moynihan	Tsongas
Durkin	Muskie	Wallop
Eagleton	Nelson	Warner
Exon	Nunn	Weicker
Ford	Packwood	Williams
Glenn	Pell	Young
Hart	Percy	Zorinsky
Heflin	Pressler	

NOT VOTING—10

Baucus	Hatfield	Mathias
Bradley	Huddleston	Sasser
Danforth	Inouye	
Gravel	Johnston	

So Mr. McCLURE's amendment (UP No. 666) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 667

(Purpose: To Clarify the provision relating to the period within which certain claims must be filed)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) for himself, Mr. JAVITS, Mr. BELLMON, Mr. WILLIAMS, Mr. HATFIELD, Mr. TSONGAS, and Mr. BRADLEY proposes an unprinted amendment numbered 667.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 109, line 19, insert "(1)" after "(b)".

One page 109, after line 22, insert the following:

(2) In the case of claims filed prior to the date of enactment of this Act on account of expenditures described in Section 1132 of the Social Security Act made in calendar quarters commencing prior to October 1, 1979, there shall be no time limit for the payment of such claims.

(3) In the case of such expenditures made in calendar quarters commencing prior to October 1, 1979 for which no claim has been

filed on or before the date of enactment of this Act, payment shall not be made under this Act on account of any such expenditure unless claim therefor is filed (in such form and manner as the Secretary shall by regulation prescribe) prior to January 1, 1981.

(4) The provisions of this subsection shall not be applied so as to deny payment with respect to any expenditure involving adjustments to prior year costs or court-ordered retroactive payments or audit exceptions. The Secretary may waive the requirements of paragraph (3) in the same manner as under section 1132(b) of the Social Security Act.

(c) Notwithstanding any other provision of law, there shall be no time limit for the filing or payment of such claims except as provided in this section, unless such other provision of law, in imposing such a time limitation, specifically exempts such filing or payment from the provisions of this section.

Mr. MOYNIHAN. Mr. President, this is a minor, basically clarifying and perfecting amendment to the committee bill.

May I first point out—and I am pleased that the distinguished chairman of the Appropriations Committee is in the Chamber at this moment—that the bill before us, our basic bill from the Senate Committee on Finance, has a new section which states that henceforth, beginning in fiscal 1982, States must submit their claims under medicaid, AFDC, and title XX within 2 fiscal years. I believe this responds to a concern of the Appropriations Committee that these claims be presented without delay.

In this year's HEW appropriation bill, there is a provision that says, "No claim may be paid out of this appropriation if the outlay for which reimbursement is sought is more than 2 years old."

What we have to do is to provide a transition period to the provision in the Finance Committee bill. Some of these claims have been slow in coming in because the States have chosen to audit or review them, even to litigate them, when they thought they were excessive or inappropriate, rather than just passing them on to Washington. This takes time.

So this amendment, which Senator JAVITS and I, Senator BELLMON, and Senator TSONGAS and others have introduced, does one simple thing: It says that for claims already filed with HEW—already filed—there is no time limit on HEW's paying them; second, that expenditures made by States up through fiscal 1979 may be claimed as late as January 1, 1981; and, finally, no other limitations shall be valid.

This is simple and this is orderly. I see my senior colleague has risen, and I know we would like to hear from him.

Mr. JAVITS. I thank my colleague. If I may, I will be very brief.

It seems elementary justice, Mr. President, that we should not bar claims honestly incurred when there was no statute of limitations against their filing.

Senator MOYNIHAN has rendered us all a great service by dealing with this matter in committee, but it turned out to have been dealt with prospectively, and it was thought a recital in the report would deal with the retrospective factor, but it cannot in the absence of law. So, if this amendment is accepted and becomes law it will then deal with the problem of the retrospective character which otherwise would be a bar to these very proper claims.

Mr. President, the fiscal year 1980 Labor/HEW appropriations conference report accompanying the fiscal year 1980 Labor/HEW appropriations bill (H.R. 4389) contains a provision which prohibits the use of fiscal year 1980 funds from being used to reimburse the Federal share of claims for medicaid, welfare, and social services expenditures made prior to September 30, 1978. It is my understanding that the Appropriations Committee took this action to force States to file more timely claims so that expenditures under the entitlement programs would be more predictable. While I am in complete agreement with the Appropriations Committee that the process for filing claims should be improved, I am not in agreement with the solution developed by the Appropriations Committee.

H.R. 3434 contains a provision which offers a prospective solution to this problem. Section 307 of the bill establishes a new section 1132 of the Social Security Act which requires States to file claims made for expenditures under medicaid, welfare, and social services programs occurring on or after October 1, 1979, within 2 years. I support this policy.

However, the Finance Committee bill does not speak to the issue of past claims—neither those which have been filed nor those which have not yet been filed with HEW.

The amendment which we are proposing now would clarify the intent of the Congress with respect to these two concerns:

First, it establishes that any claim currently pending in HEW, regardless of how old it is, can be paid if it is eligible.

Second, it establishes that for any claim for an expenditure made prior to October 1, 1979, and which has not yet been submitted by a State, the claim must be submitted by January 1, 1981.

Paragraph (c) of the amendment stipulates that no other provision of law may alter the policy established in H.R. 3434 with respect to the filing or payment of medicaid, welfare or social services claims unless such other provision of law specifically exempts such filing or payment from the provisions of this section. This paragraph is designed to address a concern which might arise if the fiscal year 1980 Labor/HEW appropriations bill is enacted after H.R. 3434 given the general rule that the policy of the most recently enacted bill prevails. I would like to stress that the reason for including this provision is to clarify the intent of Congress should this unusual circumstance occur; consequently, I would recommend to the Finance Committee that this particular paragraph be dropped in the conference on H.R. 3434 if the fiscal year 1980 Labor/HEW appropriations bill is enacted first.

While I recognize the need to improve the processes for filing claims under these important entitlement programs, I believe that we should enact a fair and realistic policy. I believe this amendment coupled with the provisions already included in H.R. 3434 will achieve that objective.

For all of those reasons, Mr. President, I hope very much the managers may see fit to accept the amendment.

I thank my colleague very much for his fine presentation.

Mr. LONG. Mr. President——

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Chair apologizes to the Senator from Louisiana and must interrupt once again to ask that the Senate please be in order.

The Senator from Louisiana.

Mr. LONG. Mr. President, the committee bill sets out a prospective rule for the treatment of retroactive claims. The committee report states this is not intended to change anything in the past. The pending amendment is consistent with the committee position, stating this position, in effect, in statutory language. So far as this Senator is concerned, Mr. President, I have no objection to the amendment. If anyone wishes to speak against it, I will be glad to yield time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. MAGNUSON. We in the HEW appropriations have been trying to speed up the claims. We found some that were 4 and 5 years old, and that is why we put in the appropriation bill the 2-year limitation.

But I can realize in some cases—it may be in New York, where there is some dispute about the claims, and things of that kind—it might take longer. But I do hope this will be no indication for any more stalling by the States in sending in their claims so that we can dispose of them. It is hard to appropriate money for this program when the Department comes down and says, "Well, we have a claim from the State of New York and we do not know how long it is going to be. We do not know what the amount is." That is why I think this is a reasonable amendment for a transition period.

But we are going to insist that we get back to a 2-year limitation.

Mr. MOYNIHAN. Mr. President, will the Senator permit me to speak? The bill before us establishes the 2-year limitation.

Mr. MAGNUSON. Yes.

Mr. MOYNIHAN. In the law.

Mr. MAGNUSON. OK.

Mr. DOLE. Mr. President, will the Senator from New York or the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. DOLE. Mr. President, I have discussed this amendment with the distinguished senior Senator from New York and the distinguished junior Senator from New York, who is one of the sponsors of the amendment. As the Senator from Washington has indicated, the purpose of this amendment is to tighten up the reimbursement claims of States under the social security program. I think it is a reasonable amendment. The States are already aware of the pending time limits on reimbursement claims, but it does provide some flexibility that I think we need to accommodate the States in the overall reform of claim procedure.

So we support the amendment.

Mr. JAVITS. Mr. President, may I just thank both Senators, Senator DOLE and Senator MAGNUSON, for their understanding?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (Mr. MOYNIHAN).

The amendment (UP No. 667) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 668

(Purpose: To limit the title XX ceiling increase after fiscal year 1981)

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 668:

On page 84, line 17, strike out "not exceeding "$3,300,000,000" and insert "not exceeding $2,900,000,000".

Mr. BELLMON. Mr. President, this amendment will establish a $2.9 billion ceiling for social services grants to the States instead of $3.3 billion as provided in the reported bill.

This amendment will save $100 million in fiscal year 1982, $200 million in fiscal year 1983, $300 million in fiscal year 1984, and $400 million in fiscal year 1985, a total of $1 billion over the next 5 years.

But saving money is not my primary reason for offering this amendment. Rather, my main purpose in proposing this change is: First, to put pressure on both HEW and the States to improve the management of social services programs funded under the Social Security Act; and, second, to cause both the Congress and the executive branch to clarify Federal objectives and strategies for social services programs and the relationships between title XX and other narrower categorical service programs.

I am concerned, Mr. President, that Congress has been far too willing to excuse poor management on the part of both HEW and the States. Congress and the executive branch have also been guilty, in my view, of dealing piecemeal with decisions on social services programs and have not established any sort of coherent strategy for these programs.

In 1974, when Congress enacted title XX of the Social Security Act, it launched the Federal Government into a whole new pattern of relationships with the States relative to social services programs. States were allowed increased flexibility in the use of Federal funds. They were given new responsibilities for preparing annual service delivery plans through an open public planning process. The States were freed to use Federal money to serve people with incomes as high as 115 percent of the median income. The previous requirement that recipients of services be present, former, or potential recipients of cash welfare benefits was eliminated. Both the States and HEW were charged with important new program evaluation responsibilities.

Since 1974, Congress has held the funding for the title XX program constant except for two temporary $200 million increases over the $2.5 billion original ceiling. Now, both the House of Representatives and the Senate Finance Committee are interested in making these increases permanent. Moreover, the Senate Finance Committee has built into H.R. 3434 annual increases in the title XX ceiling through fiscal year 1985. The reported bill would result in a $3.3 billion ceiling in fiscal year 1985.

I see two basic problems with the Finance Committee proposal to build automatic increases into the title XX ceiling:

First, I see no evidence that there is a coherent plan or strategy in either the executive branch or in the Congress for relating title XX funding to funding for narrower, categorical programs, and I will have some further amendments later to deal with this same problem.

In many respects these other programs duplicate the title XX authority. My own view is that broad, flexible programs such as title XX should be the main channels for Federal assistance to State and local governments. These types of programs permit States and localities to set their own priorities within some broad Federal guidelines. Unfortunately, title XX, revenue-sharing, and other block-grant-type programs seem to have had relatively little impact on the propensity of Congress and the executive branch to create and enlarge narrow categorical programs.

I ask unanimous consent that a table showing growth in 15 Federal social services programs from fiscal year 1974 to fiscal year 1979 be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPROPRIATIONS FISCAL YEARS 1974 AND 1979

	Fiscal year— 1974	Fiscal year— 1979
Programs under title III of Older Americans Act:		
Area planning and social services	$68,000,000	[1] $196,970,000
State agency on aging activities	12,000,000	22,500,000
Nutrition services	104,800,000	227,046,000
Developmental disabilities and vocational rehabilitation:		
Developmental disabilities:		
State grants	30,875,000	35,331,000
Protection and advocacy	None	3,801,000
Vocational rehabilitation:		
Blind and disabled SSI recipients	39,674,000	54,981,000
Social security disability beneficiaries	69,705,150	103,744,000
Research	20,096,000	31,500,000
Facilities construction	4,000,000	None
Basic grants to States	650,000,000	[2] 817,484,000
HEW Office of Human Development Services:		
Native Americans programs:		
Economic and social programs	28,500,000	31,300,000
Research and development	2,400,000	1,700,000
Social services personnel training	[3] 22,000,000	[4] 9,000,000
Community Services Administration:		
Community Action agencies	185,000,000	348,000,000
Community economic development	35,625,000	48,170,000
Expenditures for planning grants [5]	None	(108,870)
Total	1,272,675,150	2,083,527,000

[1] Fiscal year 1979 appropriations include funds for multipurpose senior centers. Each State determines the amount which will be allocated for these centers. In fiscal year 1974 there was a separate authority for such centers.

[2] Includes $9,484,000 for maintenance of effort.

[3] This is an estimate. In fiscal year 1974 social services had not been separated out from maintenance. The total fiscal year 1974 appropriation of $44,600,000 for training including training for AFDC and other maintenance workers, as well as for social services workers, and was not broken down. A 1976 survey estimated that about ½ of the funds were used for training social services personnel.

[4] HEW Budget Office estimates that they will use an additional $14,000,000 for personnel training purposes in fiscal year 1979.

[5] Appropriations not broken down as far as planning grants. Only figures available are for expenditures. Planning grants are not funded every year.

Prepared by Social Services Section, Education and Public Welfare Division, Congressional Research Service.

Mr. BELLMON. This table shows, Mr. President, that Federal funding for these 15 categorical social services programs has grown by 64 percent between fiscal year 1974 and fiscal year 1979. In total, these 15 other programs cost the Federal Government $2.1 billion in fiscal year 1979, compared with about $2.8 billion for title XX.

So what has happened here is that while title XX has been kept relatively level, these 15 categorical programs have been growing in size each year.

I also ask unanimous consent to have printed in the RECORD a listing of 47 Federal social services programs published last year by the Advisory Commission on Intergovernmental Relations (ACIR). This list includes the 15 programs shown on the first table, plus title XX, plus another 31 Federal social services programs. It does not include other programs which also pay for social services such as CETA and revenue sharing.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FEDERAL GRANTS-IN-AID FUNDED FISCAL YEAR 1978

Budget subfunction and title	United States Code	Administering Agency	CFDA No.[1]
506 SOCIAL SERVICES			
1. Community Action: Community Action Agency Grants.	42 U.S.C. 2808, 2812	CSA	49.002
2. Community Action: Community Food and Nutrition.	42 U.S.C. 2809(a)(5)	CSA	49.005
3. Community Action: Emergency Energy Conservation Services.	42 U.S.C. 2809(a)(12)	CSA	49.014
4. Community Action: Senior Opportunities and Services.	42 U.S.C. 2809(a)(7)	CSA	49.010
5. Community Action: State Agency Assistance.	42 U.S.C. 2824(a)	CSA	49.013
6. Community Economic Development: Planning Grants.	42 U.S.C. 2965f	CSA	49.001
7. Child Abuse and Neglect Prevention and Treatment: Assistance to States for Developing, Strengthening, and Conducting Programs.	42 U.S.C. 5103(b)	OHDS	13.628
8. Child Abuse and Neglect Prevention and Treatment: Demonstration Programs and Projects.	42 U.S.C. 5103(a)	OHDS	13.628
9. Child Welfare Services: Basic Grants to States.	42 U.S.C. 620	OHDS	13.645
10. Child Welfare Services: Research and Demonstration Projects	42 U.S.C. 626(a)(1)	OHDS	13.608
11. Developing Local Facilities for Runaway Youths.	42 U.S.C. 5711, (5713, 5716, 5751(a)).	OHDS	13.623
12. Developmental Disabilities: Basic Grants.	42 U.S.C. 6061–6063	OHDS	13.630
13. Developmental Disabilities: Protection and Advocacy of Individual Rights.	42 U.S.C. 6012	OHDS	13.630
14. Developmental Disabilities: Special Projects of National Significance.	42 U.S.C. 2672(e)	OHDS	13.631
15. Domestic Volunteer Services: Foster Grandparent Program.	42 U.S.C. 5011(a)	ACTION	72.001
16. Domestic Volunteer Services: Retired Senior Volunteer Programs (RSVP).	42 U.S.C. 5001	ACTION	72.002
17. Domestic Volunteer Services: Senior Health Aides and Senior Companions.	42 U.S.C. 5011(b)	ACTION	72.008
18. Domestic Volunteer Services: Special Volunteer or Demonstration Programs (Mini-Grant Program).	42 U.S.C. 4992(a)	ACTION	72.010
19. Native Americans Programs: Economic and Social Programs.	42 U.S.C. 2991b	OHDS	13.612
20. Native Americans Programs: Research, Demonstration, and Pilot Programs.	42 U.S.C. 2991d	OHDS	13.612
21. Older Americans Programs: Area Planning and Social Service.	42 U.S.C. 3023	OHDS	16.633
22. Older Americans Programs: Attracting Qualified Persons to the Field of Aging.	42 U.S.C. 3033	OHDS	13.637
23. Older Americans Programs: Model Projects.	42 U.S.C. 3028	OHDS	13.634
24. Older Americans Programs: Multidisciplinary Centers of Gerontology.	42 U.S.C. 3035	OHDS	13.638
25. Older Americans Programs: Multipurpose Senior Centers: Acquisition, Alteration, or Renovation.	42 U.S.C. 3041	OHDS	13.639
26. Older Americans Programs: Nutrition Program for the Elderly.	42 U.S.C. 3045e, 3045d	OHDS	13.635
27. Older Americans Programs: Planning, Coordination, Evaluation, and Administration of State Plan.	42 U.S.C. 3026	OHDS	16.633
28. Older Americans Programs: Research and Demonstration.	42 U.S.C. 3035	OHDS	13.636
29. Older Americans Programs: Training Programs for Personnel in the Field of Aging.	42 U.S.C. 3034	OHDS	16.637
30. Social Services Personnel Training	42 U.S.C. 1397, 1397a	OHDS	13.644
31. Social Services Research and Demonstration.	42 U.S.C. 626, 1310, and 1315.	OHDS	13.647
32. State Volunteer Services Coordinator Programs.	42 U.S.C. 4992(a)	ACTION	72.011
33. Summer Youth Recreation	42 U.S.C. 2809(a)(13)	CSA	49.015
34. Vocational Rehabilitation: Payments to States for Services for Blind and Disabled Individuals Receiving SSI.	42 U.S.C. 1382d	SSA	13.807
35. Vocational Rehabilitation: Services for Social Security Disability Beneficiaries.	42 U.S.C. 422(d)	SSA	13.625
36. Vocational Rehabilitation and Other Rehabilitation Services: Personnel Training.	29 U.S.C. 763. 780(a)(2)	OHDS	13.629
37. Vocational Rehabilitation and Other Rehabilitation Services: Research.	29 U.S.C. 762	OHDS	13.627
38. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Special Projects and Demonstrations.	29 U.S.C. 774(b)	OHDS	13.626
39. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Handicapped Migratory Agricultural Workers Program.	29 U.S.C. 774(c)	OHDS	13.626
40. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Rehabilitation Facilities Construction Grants.	29 U.S.C. 771(b)	OHDS	13.626
41. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Rehabilitation Facilities Initial Staffing Grants.	29 U.S.C. 771(c)	OHDS	13.626
42. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Rehabilitation Facilities Planning Grants.	29 U.S.C. 771(d)	OHDS	13.626
43. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Rehabilitation Facility Improvement Grants.	29 U.S.C. 772(c)	OHDS	13.626
44. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Vocational Training Services for Handicapped Individuals.	29 U.S.C. 772(b)	OHDS	13.626
45. Vocational Rehabilitation and Other Rehabilitation Services: Vocational Rehabilitation Services: Basic Grants to States.	29 U.S.C. 730	OHDS	13.624
46. Vocational Rehabilitation and Other Rehabilitation Services: Vocational Rehabilitation Services: Client Assistance Pilot Projects.	29 U.S.C. 732	OHDS	13.626
47. Rehabilitation Services: Innovation and Expansion.	29 U.S.C. 740	OHDS	13.626

[1] This is the number assigned to the program in the 1978 Catalog of Federal Domestic Assistance.

Source: A Catalog of Federal Grant-in-Aid Programs to State and Local Governments: Grants Funded Fiscal Year 1978, Advisory Commission on Inter-governmental Relations, February 1979.

Mr. BELLMON. Mr. President, it is clear that title XX has not become the primary channel for Federal social services funding as was anticipated when it was enacted in 1974.

For instance, services to the elderly under the title XX program and social service programs——

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Chair is sorry to interrupt the Senator from Oklahoma, but the Chair would courteously request, once again, that there be order in the Senate. If Senators wish to speak, it is appropriate to seek recognition from the Chair. The Chair has not recognized any of the several Senators engaged in conversations that have been going on in the Chamber. Once again, the Senate will please be in order.

My apologies to the Senator from Oklahoma. The Senator may proceed.

Mr. BELLMON. I thank the Chair. As I was saying, Mr. President, the services to the elderly under the title XX program and social services programs for senior citizens funded under the Older Americans Act are very similar. Funding for the Older Americans Act services programs has increased by 169 percent since title XX was enacted in 1974.

Major increases have also occurred in vocational rehabilitation and other categorical service programs, although the same services can be provided under title XX.

In short, neither the executive branch nor the Congress has made a real commitment to channeling growth in Federal funding for social services into title XX. Instead, they have increased funding through specific service programs which have sprouted alongside the title XX program. Now, a permanent increase in the title XX ceiling is proposed but there is no indication that we will see any change in the growth pattern for other categorical service programs.

I do not think we can blindly increase funding for all programs. Where is the strategy that indicates where we should be going in social services funding? What has the Finance Committee done to get together with the Labor and Human Resources Committee on the relationships among those programs? What has the administration done to develop a social service strategy for the Federal Government?

I am afraid the answer to these questions is that little or nothing has been done in either the Congress or the executive branch to develop a coherent approach to these questions. And so we continue the old pattern of making ad hoc decisions which have little if any strategic thinking behind them. When we adopted title XX, we ostensibly chose the block grant approach to funding but we did not even slow down the growth in categorical programs.

My second problem with the future-year funding increases for title XX concerns the failure of HEW to deliver to

Congress a major evaluation study which was mandated when title XX was enacted. When Congress enacted title XX in 1974, it was concerned about the uncertainties which surrounded the new approaches being taken in Federal-State-local relationships. To enable it to make an early review of the initial period of title XX implementation, the legislation required the Secretary of HEW to submit a major evaluation report on the program not later than July 1, 1977.

Mr. President, nearly 2½ years have gone by since the deadline for that report and it has still not been submitted to the Congress. This fact was called to Senator MUSKIE's and my attention last spring, when the Budget Committee was working on the first budget resolution. We sent a joint letter to Secretary Califano inquiring about the status of this report and we received back a reply which indicated that the report would be submitted to Congress by mid-June. As of today there is still no evaluation report from HEW. I ask unanimous consent that the exchange of letters with HEW be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE BUDGET,
Washington, D.C., March 7, 1979.

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: Legislation passed last year temporarily increased by $200 million the ceiling on funding for State Grants under Title XX of the Social Security Act. The President's Budget proposes to make that increase permanent; and we understand that the House Ways and Means Committee is recommending an additional $200 million increase.

The Social Services Amendments of 1974 required an evaluation of the effectiveness of the program established by Title XX. PL 93-647 (Section 4) directed your Department to report to Congress by July 1, 1977 on your evaluation, together with any recommendations for improvements in that program.

In checking with the Finance Committee, and with representatives of your Department, we understand that a contract was let and other activities were undertaken in response to the legislative requirement, and that considerable information has been collected; but that the evaluation report to Congress has not been completed.

We would appreciate it, if you could furnish us a copy of the report on the evaluation and your findings (even in preliminary form) by April 30, 1979. This will enable the Budget Committee to use the information as it considers the question of a permanent increase in the Title XX ceiling as a part of the conference on the First Concurrent Resolution.

Sincerely,

EDMUND S. MUSKIE,
Chairman.

HENRY BELLMON,
Ranking Minority Member.

THE SECRETARY OF HEALTH, EDUCATION AND WELFARE,
Washington, D.C., May 11, 1979.

Hon. HENRY BELLMON,
Committee on the Budget, Washington, D.C.

DEAR HENRY: This is in response to your inquiry regarding HEW's progress on the report of the effectiveness of the Title XX social services program.

When this Administration took office, HEW viewed the effectiveness report as a good opportunity to assess the impact Title XX has made on the administration and delivery of social services. As you know, Title XX legislatively shifted much of the responsibility for program content to the States, who should be attune to local needs. Thus, in evaluating the effectiveness of the Title XX social services program, we have reviewed the effect of the legislation in improving the delivery of services to poor people; in encouraging active public involvement in the planning process; and in developing administrative flexibility for State agencies. The complexity of the evaluation and the need to incorporate the views of State administrators, the National Governors Association, service provider groups such as the United Way, service recipient groups, and interested individuals, have unfortunately meant that more time was required to prepare the report than was originally anticipated.

The Administration for Public Services (APS) has informed me that the final draft of the report will be ready for our internal review process within the next month. I will do all I can to ensure that you receive the report by mid-June.

Recognizing the importance of this report to the Budget Committee as it considers a permanent increase in the Title XX ceiling, we submitted to Budget Committee staff two reports on the overall effectiveness of Title XX prepared by the Urban Institute and the National Governors Association. The Urban Institute report, entitled "Social Services: Federal Expectations Versus State Implementation," contains working papers prepared under contract with APS. The National Governors Association report is an evaluation of the overall effectiveness of Title XX. The analyses, findings, and recommendations of both studies have been taken into account in the development of our report.

I am now enclosing another Urban Institute report, based on the National Title XX Policy Symposium, held in October 1978. I hope it will also be helpful to you in your deliberations. However, this report and the ones already provided to your staff should not be considered as reflecting the Department's final position or policy on Title XX.

Please let me know if I may be of any further assistance.

Sincerely,

HALE CHAMPION,
(for Joseph A. Califano, Jr.)

Mr. BELLMON. Mr. President, I think this is a clear case of Congress having failed to oversee adequately the implementation of a major new program, to see whether it has worked as hoped and whether there are relationships between it and other programs which need to be refined.

I simply do not see why we should now approve annual increases in title XX funding in the face of the uncertainties that still remain about how well the program is working, how it relates to other programs, and to what extent people are really being helped by it. To build in annual increases, without even insisting that HEW deliver the evaluation study which was required by law when the program was created, seems to me to be irresponsible. I hope that a majority of the Senate will agree with me and support my motion to strike the out-year increases. If the Finance Committee wants to increase title XX funding in future years, I think they should come to the Senate with some data from evaluation studies showing that the program is achieving its intended purposes and showing why increasing it is a better choice than providing additional funding for some of the many other categorical human services programs.

This amendment, if adopted, may ultimately provide fairly modest future savings to the Federal Treasury because I expect the advocates of increased title XX funding will undoubtedly be back next year. However, the symbolic importance of this amendment goes well beyond the potential monetary savings. This amendment gives Congress the opportunity to signal Federal agencies that it means business when it puts evaluation provisions in the law.

To me, this is an important part of the proposition. We have asked for this evaluation. That request has been ignored, and the evaluation has not been forthcoming.

The amendment will also nudge both the executive branch and the responsible congressional committees to examine title XX services programs and related categorical service programs, and provide the Congress with a rational strategy for future relationships among these programs.

Mr. President, I sincerely urge the managers of this bill to consider accepting this amendment. If they feel unable to do so, then I hope the majority of the Senate will agree with me that this amendment is totally reasonable and an important step in the right direction. I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Louisiana.

Mr. LONG. Mr. President, the permanent level of funding for title XX social services program is $2.5 billion annually. However, the level in fiscal year 1979 is $2.9 billion. The committee bill provides for $2.7 billion in fiscal year 1980, to conform to the limited figure assumed in the Senate budget resolution, $2.9 billion in fiscal year 1981 and increasing by $100 million annually until reaching a level of $3.3 billion in fiscal year 1985 and thereafter.

Mr. President, permit me to point out that there is a tremendous pressure on this program, as there should be, for the very reason title XX provides a great deal of flexibility and does have the potential of providing help in a great number of areas where help is needed.

The Senator makes the argument that he wants to hold back on these other programs, such as the adoption program. Well, Mr. President, if you want to avoid having these specific categorical programs, you ought to provide more money in title XX, not less.

The provision for the increase in title XX, Mr. President, does not even provide a cost-of-living increase. It is much less than that. So the program will have to contract in real terms. It will have to be a smaller program in general terms rather than a bigger one, notwithstanding the fact that there are tremendous pressures and tremendous needs for increases in this area.

The Bellmon amendment would not allow the title XX funding to increase above its 1979 level of $2.9 billion, not

even an increase to allow, in any respect, for the inflation that is taking place.

The $2.7 billion level for fiscal year 1980 is already $200 million lower than the authorization for fiscal year 1979. This reduction was made by the Finance Committee to conform to assumptions in the Senate budget resolution. Both the committee bill and the Bellmon amendment would allow the funding to revert to its 1979 $2.9 billion level in fiscal year 1981.

The Bellmon amendment would allow no increase in years after 1979—not even a cost-of-living increase, not even an inflation adjustment increase.

The increases allowed by the committee bill are significantly less than recent annual increases in the cost of living—7 percent between fiscal year 1980 and fiscal year 1981, 3 percent between fiscal year 1981 and 1982, and 3 percent in each of the next 3 years. Thus even under the committee bill States would have to increase State funding or cut back on some programs because of inflation. The Bellmon amendment would require even more substantial cutbacks.

While it is true that additional funds could be provided in future legislation, States would find it difficult to count on that in planning their program, particularly in the light of the present situation where the program faces a possible cutback this year of $200 million from the absolute 1979 levels.

Mr. President, I hope the amendment will be rejected.

Mr. BELLMON. Mr. President, I would point out that the amendment which I offer does not touch the committee's funding level for title XX in either fiscal year 1980 or 1981. We are touching only the years beyond fiscal year 1981. The reason we are doing that is to try to get the Department of HEW to provide the evaluation we requested, which they have consistently refused to provide.

We are also trying to make the point that the increases in title XX funding have not been accompanied by similar reductions in categorical social services programs as was expected when title XX was adopted.

It seems to me that we ought to decide which direction we are going. Frankly, I think the title XX approach is the right way to go, to give the States more flexible funds. But the fact is that if we are going to increase funding for broad, block grant programs we ought to cut back on the categorical programs. The purpose of this amendment is to focus the Senate's and the executive branch's attention on this important issue of block grants versus categorical funding.

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. Senator BELLMON has 16 minutes.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I hate to disagree with the ranking member of the Budget Committee, as I do know his concern. But as we discussed in the committee the ceiling on title XX, it just seemed to this Senator, and I think the majority of Senators on the committee, that the States have had to live with uncertainty and diminished funds for several years. If we do these outyear increases in fiscal year 1982 to $3.1 billion, in fiscal 1983 to $3.2 billion, and in fiscal 1984 to $3.3 billion, we can end that uncertainty.

I share the view of the distinguished Senator from Oklahoma, but the program was funded at $2.9 billion last year. At that, the ceiling did not make up for the cost-of-living increases since 1972. So there has been no real growth in the program.

If the program is limited to $2.9 billion in fiscal year 1981 and beyond, we are actually, in effect, going to be cutting the funding. Cutting funding in title XX, which covers a lot of programs that I think the Senator from Oklahoma says he agrees with—at least with that approach—is not going to bring about any cuts in categorical welfare programs.

It will affect day-care children; homemaker chore services; education, training and employment; protection services; foster care; and other title XX services.

While we share the same concern about the proliferation of welfare programs, I do not believe the amendment is the proper way to approach the problem. I reluctantly oppose the amendment.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Has the Senator from Louisiana yielded?

Mr. DOLE. I yield back the remainder of his time. I think the Senator from Louisiana has yielded back his time.

The PRESIDING OFFICER. That is also my recollection.

All time having been yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Tennessee (Mr. SASSER) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. BRADLEY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Missouri (Mr. DANFORTH) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 37, nays 50, as follows:

[Rollcall Vote No. 372 Leg.]

YEAS—37

Armstrong	Hayakawa	Proxmire
Bellmon	Heflin	Roth
Boren	Helms	Schmitt
Boschwitz	Humphrey	Schweiker
Byrd, Harry F., Jr.	Kassebaum	Simpson
	Laxalt	Stennis
Chiles	Lugar	Stevens
Domenici	McClure	Talmadge
Eagleton	Morgan	Thurmond
Exon	Muskie	Tower
Garn	Nunn	Warner
Hart	Percy	Zorinsky
Hatch	Pressler	

NAYS—50

Baker	Ford	Nelson
Bayh	Glenn	Packwood
Bentsen	Heinz	Pell
Biden	Hollings	Pryor
Bumpers	Jackson	Randolph
Burdick	Javits	Ribicoff
Byrd, Robert C.	Johnston	Riegle
Cannon	Leahy	Sarbanes
Chafee	Levin	Stafford
Church	Long	Stevenson
Cohen	Magnuson	Stewart
Cranston	Mathias	Stone
Culver	Matsunaga	Tsongas
DeConcini	McGovern	Wallop
Dole	Melcher	Williams
Durenberger	Metzenbaum	Young
Durkin	Moynihan	

NOT VOTING—13

Baucus	Gravel	Kennedy
Bradley	Hatfield	Sasser
Cochran	Huddleston	Weicker
Danforth	Inouye	
Goldwater	Jepsen	

So the amendment of the Senator from Oklahoma (UP No. 668) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, I have two additional amendments——

Mr. MOYNIHAN. Mr. President, may we have order, so that the Senator from Oklahoma may be heard?

The PRESIDING OFFICER. The Senate will be in order, so that we can hear the Senator from Oklahoma.

Mr. BELLMON. I have two additional amendments, and I ask unanimous consent that they be discussed and that there be 10-minute, back-to-back rollcall votes.

The PRESIDING OFFICER. We are acting under the unanimous-consent agreement that there be no rollcall votes after 4 o'clock.

Mr. BELLMON. This would allow the rollcall votes to occur before 4 p.m.

Mr. MOYNIHAN. Mr. President, I believe the first rollcall vote should be 15 minutes. The second may be 10.

Mr. BELLMON. I so amend my request.

The PRESIDING OFFICER. Does the Senator from Oklahoma appreciate that we cannot start a rollcall vote after 4 o'clock?

Mr. BELLMON. The answer is "yes."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BELLMON. Mr. President, I yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senate will be in order, so that we can hear the Senator from Pennsylvania.

UP AMENDMENT NO. 669

(Purpose: To provide States the option, in determining the foster care cap to use actual fiscal year 1979 data)

Mr. HEINZ. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 669.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, line 16, before the period insert the following: ", or, at the option of the State, shall be equal to the amount of the Federal funds described in paragraph (2) payable to such State for fiscal year 1979 (determined in the same manner as such amounts for fiscal year 1978 are determined under paragraph (2)). With respect to fiscal year 1980, the allotment of any State which chose, under the preceding sentence, to use the amounts payable to such State for fiscal year 1979 for determining its allotment for fiscal year 1979, shall be equal to its allotment for fiscal year 1979, increased or decreased (as the case may be) by a percentage equal to the greater of (I) the percentage otherwise applicable under the first sentence of this subparagraph, or (II) the increase or decrease (as the case may be) in such Consumer Price Index for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year.".

Mr. MOYNIHAN. Mr. President, we must have order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HEINZ. Mr. President, as a member of the Finance Committee which reported this important measure, the Adoption Assistance and Child Welfare Act of 1979, I want to take a few moments to say how pleased I am that these much needed reforms in child welfare are finally nearing enactment after such a long period of waiting. I must, however, take this opportunity to raise my voice in opposition to one provision of the bill, which places a "cap" on funding for the AFDC-foster care program. I have looked at all the arguments the proponents of a foster care "cap" could possibly muster, and I believe they have failed miserably to demonstrate any rational or justifiable reason to cap this program.

Mr. President, I have consistently supported past endeavors to make social welfare programs respond to sound management. Yet, whenever I contemplate such reforms, I always take into account two important factors. First, there is a human element which must be considered, and placing a "cap on foster care programs fundamentally impacts on children—children without homes, unwanted children; children that society has forgotten; children without alternatives to foster care; children without a voice in the U.S. Senate.

There is also the practical aspect of economics. Current programs for foster care funding will prove to be cost effective in the long run. To proceed toward passage of the Adoption Assistance and Child Welfare Act of 1979 without the benefit of arguments against the foster care "cap" would signify nothing less than the abandonment of millions of homeless children and loving foster parents.

The imposition of a "cap" on foster care, coupled with open ended funding for adoption services, may provide an incentive for States to find permanent homes for children. But these factors will not eliminate the need for foster care. If the track record for adoption assistance in Pennsylvania is any indicator of the success of similar programs across the Nation, then I commend these facts to the attention of my colleagues. Pennsylvania has had an excellent State-supported adoption assistance program in operation for 2 years. In the first year when the program was started, there were 5,194 children in foster care, and only 128 of them, or 2½ percent of the children in foster care, were adopted. In its second year of existence, only 148 foster children out of a total of 5,771 children in foster care found adopting parents—2.6 percent of the children in foster care.

What these unvarnished statistics reveal is this: Congress can provide all the incentives it can think of to stimulate the adoption of children; and Congress may in fact limit support for foster care; but Congress, no matter how hard it tries, cannot legislate families to adopt children.

Last month, Commissioner Barbara Blum, of the New York State Department of Social Services, testified on that State's adoption subsidy program; a program which has been in operation for 11 years. In 1978, for example, only 2,000 of 42,000 children in care were adopted. The overall percentage of children adopted in the past 11 years is 4.8 percent. New York State will be placing a "cap" on its foster care program in 1981. This will be 13 years after the commencement of the State's adoption subsidy program. Commissioner Blum was quick to note that New York State had taken action to provide extra funding for adoption and preventive services more than "a little in advance of having to move toward a 'cap.'"

Responding to a question put forth by my distinguished colleague from New York, Senator MOYNIHAN, on whether adoption assistance was "the way out of AFDC-FC," Commissioner Blum replied that adoption assistance is "a way" to help children in foster care find permanent homes.

On the basis of testimony I have heard, I am inclined to think that the provision of a foster care "cap" as agreed to by the Senate Finance Committee would be understatedly "premature." Mr. President, I also believe that a forthcoming "cap" on foster care would be ineffective. Children must now be adjudicated eligible for AFDC-foster care payments to receive them. In other words, a legal officer of the State, a judge, must make an individual and specific decision on each child. Lacking a court decision on a case-by-case basis, AFDC-foster care payments cannot be made. Judicial determination is a sound litmus test for foster care, and "cap" on foster care funding would have little to do with the actual eligible beneficiaries of foster care. It can be expected that judges will continue to make their determinations based on individual assessments and not with regard to any "cap" which we, like Canute, wish to use to restrain the perceived "sea."

It can be demonstrated, moreover, that title IV-B money has not been used often enough in the past to keep families together, or to return children to their homes. A spokesman for the administration testified that less than 5 percent of the title IV appropriation of $56.6 million has been used for reunifications services.

My good friend Senator DANFORTH and I noted in the additional views we filed along with the Finance Committee's report on the foster care "cap" that:

Institution of the improved services, protections, and reforms contained in H.R. 3434 must be a necessary first step to insure that a system is in place to quickly determine:

(1) That children are free for adoption;

(2) That children can be reunited with their families;

(3) That foster care placement is appropriate;

(4) And that case reviews can be conducted in a timely way.

These preventive services should be given a chance to work and their effectiveness reviewed carefully before a "cap" on foster care is imposed.

Mr. President, I am deeply concerned that many of my colleagues in the Senate mistakenly believe that the AFDC-foster care program is another "runaway bureaucratic nightmare." In response to this plaint, I want to state that the Congressional Budget Office's own analysis of foster care data indicates that most foster care grants will not grow as fast as they have in the recent past. Lately, the number of recipients of AFDC-foster care funding has leveled off and has actually begun to decline. In 1975, approximately 114,681 children were in the AFDC-foster care program. Since then, the number of children cared for has steadily fallen: 114,071 in 1976, to 110,000 in 1977; and only 107,433 in 1978. Even without the "cap," Mr. President, the program is declining. The mere $5 million estimated saving is hardly significant enough to risk the very real danger of keeping a needy child out of the program.

Some people will argue that since this is a stable program, a "cap" on AFDC-

foster care does no damage; so why not have one. The problem is that most States are not now doing a very good job with their foster care programs. A "cap" as envisioned by my colleagues in the Finance Committee fails to encourage States spending too little on foster care to spend more for needed services. It also does nothing to hold down spending in States which use a good deal of institutionalized care and, therefore, spend more than necessary for the program. According to HEW, the average monthly cost of AFDC-foster care per child in the United States was $345 last year. In Michigan, the cost was $365, in California the cost was $357, and in Wisconsin the cost was $346. The programs in these States are at or near the national average monthly cost for foster care. Yet, New York State spends more than twice this national average, or a whopping $763 per month per child, and Alaska spends nearly $580 per month per child. All other States, without exception, spend less than the average. Indiana and Ohio, for example, spend only $79 and $88 respectively—perhaps too little funding for foster care. With the amendments the Senate is currently considering, a "cap" on AFDC-foster care programs would permit, at the most, 20 percent more than what was spent in 1978.

Mr. President, I strongly oppose attempts to place a "cap" on the AFDC-foster care program. If the existing foster care program were a poor investment, I would be the first to argue against the position which the Senate Finance Committee has endorsed. I am disheartened to think that no one in this Chamber dares to speak up against the injustice of placing a "cap" on foster care funding. Foster care is worth every penny Congress can invest in it; for in the least, it provides children with a chance to lead meaningful, productive lives through the warm and loving guidance of foster parents. I fervently urge my colleagues to reconsider the "cap" on foster care funding, and at a minimum provide some flexibility in the bill to allow States to continue to provide quality foster care to children in need without locking them into a 1-year-old level of funding in this age of double-digit inflation.

I believe this flexibility can be accomplished by offering the States an option to use either the formula contained in the bill as reported out of Finance, or the actual amount spent in fiscal year 1979 for this program indexed by the cost of living or 10 percent, whichever is greater.

The purpose of this amendment is to provide the States with the maximum flexibility in determining, for purposes of the cap imposed by this bill, what the base year of funding for AFDC-foster care will be. As reported out of the Finance Committee, the bill provides for a cap in fiscal year 1980 equal to 120 percent of a State's actual fiscal year 1978 expenditures. My amendment would offer the State the option of using either the committee cap, or the actual fiscal year 1979 expenditures plus 10 percent (or the cost of living), whichever is higher.

I thank my distinguished chairman, Senator LONG, and my good friend from Kansas, Senator DOLE, for their support of this important amendment.

I understand that my distinguished colleagues who are managing this bill have had an opportunity to review this amendment and that they have no objection to it.

Mr. MOYNIHAN. Mr. President, the Senator from Pennsylvania is correct. The amendment would appear to involve little additional cost. It would take care of the problem of a State which did not begin significant utilization of the foster care program until fiscal year 1979—if there are States in such a circumstance—and they should not be discouraged in their programs by the unintended effect of the new legislation.

We are happy to accept the amendment.

Mr. HEINZ. Since I am the acting manager of the bill—Senator DOLE is absent—we accept it on our side.

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. I thank the Senator from Oklahoma for yielding to me.

UP AMENDMENT NO. 670

(Purpose: To consolidate certain programs under the Social Security Act)

Mr. BELLMON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 670.

Mr. BELLMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, between lines 15 and 16, insert the following:

SOCIAL SERVICES AND TRAINING CONSOLIDATION

SEC. 208. Effective October 1, 1982—

(a)(1) Section 2002 (a)(2)(B)(i)(I) of the Social Security Act (as added by section 201 of this Act) is amended by striking out "clauses (ii), (iii), (iv)" and inserting in lieu thereof "clauses (ii), (iii), (iv), and (v)".

(2) Section 2002 (a)(2)(B) of such Act is further amended by adding at the end thereof the following new clause:

"(v) For purposes of determining the indexed ceiling amount for fiscal year 1983 and each fiscal year thereafter, the indexed ceiling amount for fiscal year 1983 shall be equal to 104 percent of the amount otherwise determined under the preceding provisions of this subparagraph.".

(b) Section 2002 (a)(2)(A) of such Act is amended by striking out clause (iii) (as added by section 203 of this Act) and inserting in lieu thereof the following:

"(iii) Payment with respect to expenditures for personnel training and retraining directly related to the provision of services under this title may be made to a State, for fiscal years 1983, 1984, and 1985, in excess of the limitation for such State determined under clause (i) if such State, for the fiscal year 1979, received payments under this title with respect to such expenditures in excess of an amount equal to 4 percent of such State's limitation under clause (i) for such fiscal year. No payment may be made under this clause for any fiscal year to the extent that such payment, when added to such State's limitation amount under clause (i) for such fiscal year, would exceed the total amount of payments made to such State under this title for fiscal year 1979.

"(iv) Except as otherwise provided in clause (iii), not more than an amount equal to 5 percent of the limitation with respect to any State may be used to reimburse such State for expenditures for personnel training or retraining directly related to the provision of services under this title.".

On page 84, between lines 9 and 10, insert the following new section:

CONSOLIDATION OF CHILD WELFARE, FOSTER CARE, AND ADOPTION ASSISTANCE PROGRAMS

SEC. 103. Effective October 1, 1982—

(a) Section 420(a) of the Social Security Act (as amended by section 103 of this Act) is amended by striking out "the following sums" and all that follows and inserting in lieu thereof "there are authorized to be appropriated such sums as are specified in section 470 of this Act, subject to the provisions of that section.".

(b) Section 421 of such Act is repealed.

(c)(1) Section 422(a) of such Act is amended by striking out "and the allotment available under this part" and inserting in lieu thereof ", subject to the limitation of section 474(b),".

(2) Section 422(b)(2) of such Act is amended by striking out "From the allotment available therefore, the" and inserting in lieu thereof "The".

(3) Section 422(d) of such Act (as added by section 101 of this Act) is amended to read as follows:

"(d) Notwithstanding any other provision of this part, there shall not be paid to any State under this section for any fiscal year, any amount to the extent that such amount, when added to the amount paid to such State under part B of this title, exceeds the limitation for such State as determined under section 474(b) of this Act.".

(d)(1) Section 423 of such Act is amended by striking out subsections (a) and (c) and redesignating subsections (b) and (d) as subsections (a) and (b).

(2) The section heading of section 423 of such Act is amended by striking out "ALLOTMENT PERCENTAGE AND".

(e) Section 424 of such Act is repealed.

(f) Section 425 of such Act (as amended by section 101 of this Act) is amended—

(1) by striking out "(a)" after "Sec. 425.";

(2) by striking out the second sentence of subsection (a); and

(3) by striking out subsection (b).

(g) Sections 427 and 428 of such Act (as added by section 101 of this Act) are each repealed, and section 429 of such Act is redesignated as section 427.

(h)(1) Section 470(a) of such Act (as added by section 101 of this Act) is amended by striking out all that follows "part A," and inserting in lieu thereof "and for carrying out the program authorized under part B of this title, there is authorized to be appropriated an amount equal to the sum of the limitations for all the States as determined under section 474(b) for such fiscal year.".

(2) Section 470(b)(2) of such Act is amended by inserting ", and for carrying out the program authorized under part B" before the period at the end thereof.

(i)(1) Section 474(b) of such Act (as added by section 101 of this Act) is amended to read as follows:

"(b)(1) Notwithstanding the provisions of subsection (a) of this section and of section 422 of this Act, the total amount payable to any State under this part and under part B for any fiscal year may not exceed an amount equal to the State's limitation for that fiscal year as determined under paragraph (2).

"(2)(A) The State limitation for fiscal year 1981 shall be an amount equal to the total amount paid to such State for expenditures incurred by such State during such fiscal year for foster care payments under part A of this title, child welfare services under part B of this title, and adoption assistance and foster care under this part.

"(B) The State limitation for each succeeding fiscal year shall be the State limitation in effect for the preceding fiscal year for such State, increased by a percentage equal to the greater of (i) 5 percent, or (ii) the percentage increase in the Consumer Price Index prepared by the Department of Labor and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year, as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of one percent).".

(j) Part E of title IV of such Act (as added by section 101 of this Act) is amended by adding at the end thereof the following new section:

"CONSOLIDATED PROGRAM FOR ADOPTION ASSISTANCE, FOSTER CARE, AND CHILD WELFARE SERVICES

'SEC. 477. (a) Each State consolidated plan approved under sections 422 and 471 shall be updated on an annual basis, and shall be developed and updated in a manner which insures public participation in that process.

"(b)(1) The Secretary shall establish a single organizational unit within the Department of Health, Education, and Welfare which shall have responsibility for carrying out the provisions of the consolidated program authorized under this part and part B of this title.

"(2)(A) Before prescribing any regulation under such parts, the Secretary shall transmit such proposed regulation to the Senate and the House of Representatives. If either House of the Congress does not disapprove by resolution of such proposed regulation within 30 legislative days after the date of receipt of such proposed regulation, the Secretary may prescribe such regulation.

"(B) For purposes of this paragraph, the term 'legislative day' means, with respect to proposed regulations transmitted to the Senate, any calendar day on which the Senate is in session, and with respect to proposed regulations transmitted to the House of Representatives, any calendar day on which the House of Representatives is in session.

"(c) The Secretary shall conduct a comprehensive evaluation of the program conducted under part B and this part, and shall submit, on an annual basis, a report on such evaluation to the Governor and State legislature of each State (with respect to the programs in that State) and a consolidated report to the Congress on such evaluation with respect to the programs in all the States.".

(k) Section 422(a)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (B); and

(2) by inserting after subparagraph (C) the following:

"(D) provides that such plan for child welfare services shall be consolidated with the State plan for adoption assistance and foster care under part E of this title, and that such consolidated plan shall be carried out in accordance with the regulations prescribed by the Secretary under section 477 of this Act; and".

(l) Section 471(a) of such Act (as added by section 101 of this Act) is amended—

(1) by striking out "and" at the end of paragraph (14);

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(16) provides that such State plan for adoption assistance and foster care shall be consolidated with the State plan for child welfare services under part B of this title, and that such consolidated plan shall be carried out in accordance with the regulations prescribed by the Secretary under section 477 of this Act.".

Mr. BELLMON. Mr. President, this amendment is offered to give the Senate the opportunity to make a much-needed move to consolidate narrow, categorical programs into broader, more flexible grant programs.

This amendment will convert five separate program authorizations under the Social Security Act into two packages of broader program authority. First, it combines the large title XX social services block grant program with the relatively small social services personnel training program. The training program is currently authorized under title XX, but funded outside the title XX ceiling and it is subject to a separate set of rules and procedures. Second, my amendment will consolidate into a single program, as of October 1, 1982, the child welfare services, foster care, and adoption assistance programs provided for in H.R. 3434.

Lest there be any misunderstanding, Mr. President, let me make two points clear: First, both parts of this amendment have effective dates of October 1, 1982. This amendment does not change anything that would occur under the reported bill in fiscal year 1980, 1981, or 1982—that is, roughly 3 years in the future. Second, this amendment is not a scheme to reduce Federal funding. It will consolidate into two programs what the States would be entitled to get under five separate programs.

Without passage of this amendment, Mr. President, the bill before us will continue the fragmentation of our system of Federal aid to State and local governments. Under this bill, two new categorical grant programs—foster care and adoption assistance—would be created and two other narrow categorical grant programs—child welfare services and social services personnel training—would be continued.

Mr. President, the title XX block grant was enacted in 1974 to allow States broad discretion to tailor social services to the specific needs of public assistance recipients and other low-income individuals in their jurisdictions. Since 1974, however, we have continually increased funding for other programs with narrowly defined social services purposes. Meals on Wheels, vocational rehabilitation, social services for the elderly, and child welfare services are such examples. I do not dispute the need for these programs, Mr. President, but it is costly and self-defeating to do things this way. We need a strategy for Federal funding of social services. In my view, we should either channel growth in Federal social services assistance to State and local governments through the title XX block grant, or we should abolish the block grant mechanism and go back to categorical grant programs in its stead.

I remind the Senate that, in the past, considerable time and attention has been devoted to the need for streamlining the Federal grant-in-aid system. In the early part of this decade, not only was title XX enacted, but programs such as general revenue sharing, community development block grants, and CETA were adopted by Congress. These broader, more flexible programs were intended to lessen the degree of Federal control over the use of funds and return discretion in their use to State and local officials.

Much of the initiative for these consolidations came from past administrations. I am sorry to say that the Carter administration has not shown a lot of interest and imagination in this whole area. It is somewhat reassuring that, very recently, the subject seems to have been rediscovered downtown. OMB officials testified recently before the Governmental Affairs Committee and stated that President Carter has directed that major effort be undertaken to streamline the grant-in-aid system. The President has also told State officials that such streamlining is one of his highest priorities in the fight against inflation. I trust that we will see some specific recommendations on this from the President as part of his 1980 proposals.

As pressures on the Federal budget have mounted, State and local officials have renewed their push for grant consolidation and other reforms in the Federal grant-in-aid system. Congressional committees hear regularly from State and local officials about the problems caused for them by the hundreds of narrow categorical Federal programs, each of which has its own set of statutory, regulatory and procedural requirements. Governors have told us that the States could live with less Federal money if their flexibility in the use of Federal funds was increased through consolidations and other reforms. The Advisory Commission on Intergovernmental Relations, has called for action to "reduce the excessive fragmentation that continues to cause severe administrative problems and trouble intergovernmental relations" in the categorical grant system.

Mr. President, I ask unanimous consent to print in the RECORD an excerpt from the testimony of Gov. Richard Snelling of Vermont when he appeared before the Budget Committee last spring, and excerpts from a recent report by the National Governors Association on its grant-in-aid priorities. I also ask unanimous consent to print a summary of the Advisory Commission on Intergovernmental Relations' conclusions from its major study on the need for streamlining Federal grant-in-aid programs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM TESTIMONY OF HON. RICHARD A. SNELLING

STATEMENT

Consolidate categorical grant programs

Second, an attempt must be made to deal fairly with the huge diversity of needs. Congress has developed a gargantuan apparatus for administering programs. In 1978 there were nearly 500 separate narrow categorical grant programs, and there are some 30,000 separate governmental recipients of those 500 categorical grants.

Mr. Chairman, the States and Governors are not in conflict with Congress. We believe it is the structure of this grant system which offers an opportunity to both reduce public expenditures and to rejuvenate our Federal system.

A roadmap may well be the 14-volume study of the Federal grant system with which the chairman is very familiar and of which I am sure Mr. Shannon will be speaking later. The conclusions certainly indicate that our challenge and our opportunity is to simultaneously reform our Federal system and to establish fiscal restraint and to do the first as a result of addressing the second.

These positions were set forth with, I think, some specificity in our memorandum to Mr. McIntyre on November 28 and our letter to the President on December 20. We believe that savings can be made, substantial savings, first by grant consolidation—and that is spelled out in considerable detail in the testimony which is formally addressed to you, sir—and, second, by providing the States with a stronger role as to on-the-scene coordinators and allocators of these resources and, third, by a review of many of the unfunded mandates of the U.S. Congress which seriously erode our capacity at the State and local level to deal with some of the responsibilities which the Congress is to some degree thinking of returning to us.

Your colleague, Senator Bentsen, says that we should name a program which we want to be cut. He says that that kind of specificity is required.

Senator, I believe that you could save gasoline equally efficiently by denying 10 percent of the drivers access to automobiles or by requiring that automobiles increase their efficiency by 10 percent. I think the solution that has been enacted requiring automobile manufacturers to design a mix of automobiles that moves toward increased efficiency is a specific suggestion for improving the efficiency and saving fuel in the United States.

PREPARED STATEMENT

CONSOLIDATE CATEGORICAL GRANT PROGRAMS

More than three-fourths of all federal aid flows through 492 separate, narrow categorical grant programs, each with its own set of red-tape and overhead costs and each, I might add, with its own propensity for growth. The desirability of consolidating related programs—such as the 20 in health or the nearly 80 in elementary and secondary education—has been widely recognized not only by ACIR but by state and local officials. Members of Congress, and by the last four Presidents of the United States. Yet, the proliferation of such programs has continued, rising from 442 in 1975 to 492 in 1978. In contrast, the last block grant program, once held out as the wave of the future, was enacted in 1974.

The governors have said that through consolidation we can deliver the same services for less money. Let me emphasize that we are not saying "cut defense, or cut someone else's programs," although neither do we believe that state and local grants should bear the whole brunt of the sacrifices that must be made. We will accept our share of the burden. I personally am willing to take cuts of up to ten percent in many programs that are consolidated, and I believe that a substantial portion of those cuts will come out of overhead costs. Each governor has his own estimate of what amount he might be able to accept without loss of services. The amount would vary from state to state and from program to program. ACIR has identified 172 programs as candidates for consolidation, and certainly that list is a specific and well thought out starting point for congressional analysis. I will continue to work with the governors to develop further proposals for your consideration, and I hope that we can work with the Congress as well.

The governors have already identified several consolidations in their memorandum to Mr. McIntyre. Let me cite two as examples.

Under the Airport Development Aid Program, the federal government gives grants to 4,000 potential recipients under seven categorical grants. We suggest that the states be given authority to set priorities and spend funds for all airport construction and improvement projects except for those affecting the largest airports. These large facilities would continue to deal directly with the federal government.

The consolidation plan should create significant savings. A Federal Aviation Administration study in 1974 compared the cost of federally funded airport construction projects with projects funded by other sources and found non-federal projects to be 30 percent cheaper. The added expense is attributed to poor coordination of federal resources with state and local funding and inflationary increases which occur while federal approval is being sought.

Mr. Chairman, another consolidation proposal which we support will be considered by the Subcommittee on Environmental Pollution which you chair. EPA has developed the Integrated Environmental Assistance Act of 1979, which would enable states to apply for consolidated grants especially tailored to their needs. Grants to states for air and water pollution control, safe drinking water, and solid waste planning could be included in consolidated proposals submitted by states. We urge favorable consideration of this proposal.

Q. AND A.: COMMITTEE MEMBERS TO WITNESS

CONSOLIDATION OF GRANT PROGRAMS

Senator BELLMON. Now the other point I want to raise, I say I am all for consolidated grants. Governor Snelling, when I was down at the Governors' Conference earlier this month, I learned the Governors do have some specifics. Could you furnish those to us for the record? The areas where you feel consolidations are desirable?

Governor SNELLING. Yes; that is part of the testimony I am submitting for the record.

Senator BELLMON. Good. There are 20 of these.

Governor SNELLING. No; there are 172 specific areas where we believe grant consolidation could be accomplished in a way which would enable us to accept less funds.

Senator BELLMON. As I remember, those consolidations are not priced out. What is the amount of savings that the Governors felt could be accomplished through these consolidations?

Governor SNELLING. Senator, there is a great deal of debate on this subject. Senator Exon said all is not hunky-dory. It is possible, I think, to have a reasonably central opinion without denying disparity. For myself I believe that, depending on the particular grant area that we are talking about, that savings of from 5 to as much as 20 percent are realizable.

10 PERCENT REDUCTION IN FEDERAL GRANTS REALISTIC

My State would be glad, I think, to enter into a contract with the Federal Government where our total Federal grants were reduced by at least 10 percent across the board were we to be given greater latitude in the implementation of those grants and in more uniform rules and regulations. Some Governors will, of course, try very hard not to be specific.

I think 10 percent is really a very achievable aim.

Senator BELLMON. Now is this 10 percent of the $82 billion or 10 percent of some other figure?

Governor SNELLING. No; I think it goes by grant and I really don't believe that the $82 billion figure is the one that we can use. I am aware of Senator Muskie's concerns with Mr. Hyde's article, but I cannot see how we can save in Vermont anything on the Tennessee Valley Authority's budget. We are not prepared to accept a saving on that $10 billion as part of Vermont's share and I believe that is included in the $10 billion.

I believe the $9 billion program is an example of where we would be prepared to accept reductions.

NATIONAL GOVERNORS' ASSOCIATION,
October 9, 1979.

Hon. HENRY BELLMON,
Committee on Budget, Carroll Arms Building, Washington, D.C.

DEAR SENATOR BELLMON: Enclosed for your information is a survey report prepared by the National Governors' Association on federal grant-in-aid priorities. As you may know, the survey was undertaken in an effort to further two of the major policies of NGA: to support more effective use of federal resources through consolidation of categorical grants and simplification of grant requirements and to support efforts to balance the federal budget. The Governors' position is that they will accept funding reductions in grants-in-aid where consolidation and other reforms of those programs have led to increased flexibility and management savings.

The significance of the attached report is that it provides a blueprint for federal aid reform and for control of federal spending. In each of the nine functional areas covered, Governors overwhelmingly support grant consolidation. We view it as the best way to eliminate overlapping federal programs, to promote better coordination of federal, state and local resources, and to achieve management savings.

Moreover, the report demonstrates that the categorical approach to budget reduction will be just as ineffective as the categorical approach to spending has been. Individual Governors are able to list programs they can do without, and some of these suggestions are included in the report. Individual Congressmen and Senators have been able to do the same thing. The problem comes when groups of Congressional representatives and groups of Governors attempt to reconcile their lists. It cannot be done successfully in either case because the constituencies which gave rise to the categorical program in the first place will naturally, and quite understandably, resist its elimination. In addition, these constituencies quite rightly perceive that in most cases funding cuts will reduce services, not government overhead.

The Governors have concluded that those who believe, with us, that federal spending should be controlled must try a different approach. Consolidation of programs offers each grant recipient the opportunity to shift some resources from administrative overhead to services and to target resources according to priorities set by those closest to the problems. In so doing, consolidation accommodates the diversity among grant recipients that gave rise to the 492 categorical grants

and minimizes the conflict that meets efforts to reduce categorical programs.

In the report, the Governors make two other major recommendations. First, we recommend that the program responsibilities of the federal, state and local governments be clarified. We note that sharing of program responsibilities among the three levels of government was originally intended to ease the financial burden borne by each jurisdiction, but that it often led to administrative complications and lack of accountability for effective delivery of services. The other overall recommendation made by the Governors is that the federal government strengthen its capacity to evaluate existing programs.

Congress has acted decisively to control federal spending by adopting and adhering to the Congressional Budget Act. The Budget Act has provided a process for controlling aggregate spending decisions, and it has been successful. At the program level, however, there has been no companion framework guiding difficult decisions in light of the new spending restraints. The effect of the absence of this framework has been demonstrated this year, where our calculations indicate that because of inflation, the one percent real growth in grant-in-aid spending proposed by the President would amount to a reduction of over $8 billion in intergovernmental grants. Without a comprehensive effort at the program level, the spending controls dictated by the budget process will continue to be allocated in large measure by inflation and not by a concerted effort to spend grant-in-aid resources more productively. The Governors' report suggests a method for meeting budget targets at the program level without crippling service delivery.

I hope you will find the report useful to you as you review the programs under the jurisdiction of your committee. Please let me know if you have any questions on it.

Sincerely,

GOV. RICHARD A. SNELLING,
Chairman, NGA Committee on Executive Management and Fiscal Affairs.

REVIEW OF GRANT-IN-AID PRIORITIES

SUMMARY OF RECOMMENDATIONS

Introduction

This report presents the results of a review conducted by Governors over the past eight months to obtain:

An evaluation of federal grants-in-aid received by states; and

Suggestions for specific areas of intergovernmental assistance in each state where greater program flexibility and/or consolidation would produce savings.

The review was initiated by Governor Richard A. Snelling of Vermont, Chairman of the Committee on Executive Management and Fiscal Affairs of the National Governors' Association, in response to a request from President Carter and James T. McIntyre, Jr., Director of the Office of Management and Budget.

At a White House meeting in December 1978 the National Governors' Association pledged to support President Carter and Mr. McIntyre in their efforts to achieve a balanced federal budget by 1981. The Government made eight general recommendations to control federal spending and suggested several significant reforms in the federal grant-in-aid system. President Carter and Mr. McIntyre expressed appreciation for the Governors' support and suggestions and asked them for specific recommendations for changes in intergovernmental assistance. Governor Snelling and the Committee on Executive Management and Fiscal Affairs agreed to take up this challenge for two reasons. First, continuing the NGA support for a balanced federal budget and repeating demands for reform in the grant-in-aid system without a concomitant effort to focus on specific programs and elements of the federal grant system would be an inadequate response to growing public sentiment for controlling public sector growth. Second, the nation's Governors are in a strong position to evaluate the relative importance of intergovernmental assistance programs, to observe how they are administered, and to suggest improvements.

The conclusions that can be drawn from the survey responses are set forth below. A summary of individual comments is presented in the section entitled "Responses from Governors on Grant-In-Aid Priorities."

The Governors' review has been undertaken at a time when federal domestic assistance has already been substantially reduced in real dollar terms. In his fiscal year 1980 budget, the President proposed an $800 million increase in grants-in-aid—a 1 percent increase over the fiscal year 1979 level of $82.1 billion. But because the rate of inflation is more than 10 percent, the spending power of grants-in-aid has been reduced by about $8 billion between 1979 and 1980.

The Governors offer this report in good faith that it will be used by the Administration and the Congress in undertaking comprehensive reforms in the federal aid system along lines recommended not only by the Governors but also by the Advisory Commission on Intergovernmental Relations. Such reforms include grant consolidation, simplified grant management procedures, improved program design and evaluation, and review of realignments in the responsibilities of each level of government. The savings that accrue from these and other reforms should account for a substantial percentage of any further reductions in federal grants to state and local governments.

The Governors should not bear the entire burden of recommending budget reforms, however, nor should cuts in programs take place based solely on the recommendations in this report. The Administration and Congress have an equal, if not greater, responsibility to identify and undertake reforms in federal programs. The Governors stand ready to work with the Administration and Congress on a comprehensive approach to controlling government spending by increasing flexibility and reducing overhead costs in the federal aid system.

Recommendations

An Overhaul of the Federal Grant-in-Aid System

The Governors' responses to the survey of federal grant-in-aid programs reiterate a recurring theme embodied in policy positions of the National Governors' Association: that the federal government, in designing and implementing programs, fails to recognize the high level of state involvement in financing and administering these programs. The Governors believe that reductions in the total cost of the grant-in-aid system and improvements in service delivery can result from the reforms advocated in this report.

Reaffirmation of the Governors' conviction that the grant-in-aid system needs a thorough overhaul is the center of their analysis and recommendations. Such an overhaul should involve a program-by-program review and should result in a series of grant consolidations and regulatory reforms designed to introduce greater flexibility.

The Governors responding to the NGA grant-in-aid survey made two overriding recommendations:

Federal grants-in-aid to state and local government should be consolidated in at least the following areas: employment and training, environmental protection, community and economic development, education, law enforcement, energy, social services, health.

Governors believe that consolidation would ease problems of duplication and excessive administrative requirements and would result in increased program effectiveness and cost savings of up to 10 percent.

Consolidations should bring flexibility to the federal grant-in-aid system, not overlay new requirements.

Governors stress that the federal aid system must respond to the diverse needs of the states. The federal response to this diversity in the past has been to expand categorical programs nationally to meet new needs rather than to reallocate existing resources or to allow greater state discretion. Reducing federal program costs and consolidating or realigning federal grant-in-aid programs can be achieved only if this diversity is recognized. Greater recognition of diversity as an element of federal aid reform can be achieved by consolidating similar grant programs, giving the states the flexibility to target the funds, and simplifying administrative requirements.

In addition to grant consolidation and greater flexibility, the overhaul of the grant-in-aid system must focus on administrative reforms such as forward funding, standardizing "maintenance of effort" and "cross-cutting" requirements, and including, rather than bypassing, states in programs aimed at local government.

Identifying Appropriate Program Responsibilities for Federal, State, and Local Governments.

The Governors believe that sorting out the roles of state, local, and federal government is essential to fundamental reform of the grant-in-aid system.

The three levels of government currently share funding responsibilities for a wide variety of programs. While this cooperation was intended to ease the financing burden for each level of government, it has often led to administrative complications and lack of accountability for effective delivery of services.

Individual Governors have suggested that program responsibilities be shifted so that state and local governments shoulder most of the cost and administrative load for some programs while the federal government takes over other efforts. Some Governors have suggested that state government assume responsibility for education and the federal government take responsibility for welfare, health insurance, and macro-economic stimulus programs. The Governors recommend that a joint federal-state task force be appointed to study this fundamental issue and to make recommendations in time for incorporation in the FY 1982 budget proposals.

Evaluation of Federal Programs

As the remainder of this report demonstrates, Governors can make substantive critiques of federal priorities and programs. However, an overriding problem concerning the operation of federal programs is the federal government's inability to evaluate its own programs.

It is not always realistic to expect states to critique federal programs before agreeing to administer them. With some notable exceptions, federal funds are for dedicated purposes, and states are usually faced with the choice of participating or not participating in each federal program. Once this decision is made, state officials concentrate their analyses on the largest federal program because it is not within their purview to alter the basic guidelines or to reprogram the federal funds to higher state priorities. Instead, states tend to focus on programs and problems that they are responsible for financing and operating.

The federal government needs a stronger evaluative capacity. State officials would be more than willing to work closely with professional program evaluators who are charged with determining the effectiveness of federal programs from a national perspective.

RESPONSES FROM GOVERNORS ON GRANT-IN-AID PRIORITIES

INTRODUCTION

In January, Governor Richard A. Snelling, Chairman of the Committee on Executive

Management and Fiscal Affairs, wrote to each Governor requesting an evaluation of grant-in-aid programs and suggestions for specific reforms. In response to Governor Snelling's request, thirty-five states communicated with his office or NGA; twenty-five states sent written responses. The twenty-five responses are representative of the states in terms of geography and population. Six responses were from the Northeast, seven from the Southeast, five from the Midwest, and seven from the West. Thirteen responses came from states with populations above the 1975 median for the fifty states; twelve came from states with populations below the median. In addition, a written response was received from the Commonwealth of the Northern Mariana Islands.

While the responses account for a majority of the states and provide a representative sample, the program-specific comments outlined in this section must be considered to be the views of individual Governors who responded to Governor Snelling rather than a consensus view of the members of the National Governors' Association. The information request was intended to elicit Governors' opinions on the federal grant-in-aid system and their priorities for the use of federal funds in their respective states. It was not intended to be a methodologically precise instrument.

Human services

Within the broad area of human services, the Governors made a number of specific suggestions. These proposals are summarized below.

Consolidations

At present, a multitude of assistance programs with different requirements and different levels of assistance are directed to the same families or individuals. Because of statutory prohibitions or administrative resistance, the relationship of one program to another has not been analyzed in any but a perfunctory way. The result is ineffective and wasteful delivery of services.

The narrowness of programs and competition among them create duplication and confusion in service delivery and program administration. Many programs have their own eligibility workers, accounting services, and planning groups which produce an annual service plan intended in part to ensure adequate coordination among programs. Unfortunately, coordination is often difficult to achieve at the state level because programs are organized in an entirely vertical system from federal agency to special client group.

Problems also are created when a federal agency undertakes a "reorganization" that does not seek to reduce or eliminate duplicative administrative procedures and costs. One Governor cited the example of the recent reorganization of the federal Social and Rehabilitative Services (SRS): "The recent reorganization in the guise of improved efficiency, has created many more demands upon us and an apparent increase in the size of the federal bureaucracy. When HEW's Division of SRS existed, the Medicaid, AFDC, and Title XX programs were monitored by the single SRS organization. One regional staff person, for example, processed our grant awards. We now have, under the reorganization, four different systems. Such reorganization doesn't always bring about improvements and consolidation, and, if not planned correctly, could create as many problems as it solves."

Reasonable program consolidation services could improve and reduce costs in the following areas:

Title XX: A number of Governors had suggestions for including categorical programs under the Title XX quasi-block grant. Programs suggested for inclusion are: Developmental Disabilities Act, Child Welfare Social Services, Vocational Rehabilitation, Alcohol and Drug Abuse, and some Community Services Act and Older Americans Act programs.

Family Planning Programs: Under the general family planning head, states may be funded under two federal acts and four titles. One Governor suggested that "services could be increased in family planning by one-third if these programs were consolidated and we had more latitude. Conversely, we could cut the costs of these programs by one-third and still have the same level of operation."

Mental Health Programs: Governors recommended a basic federal block grant program for mental health. They also supported the major consolidation proposal for the alcohol and drug abuse programs. There was also a suggestion for block grants to states to fund community mental health centers rather than individual grants to each center.

Welfare and Other Transfer Programs: Short of complete overhaul of the welfare system, suggestions were received for consolidations aimed at reducing administrative overhead. One Governor proposed a consolidation of several categorical programs into four basic areas: income assistance, energy conservation and utility assistance, nutrition, and medical assistance.

Environmental Health Programs: Water, air, and solid waste programs should be consolidated into a single environmental block grant to states to provide flexibility to meet individual states' most pressing needs. In addition, Governors suggested that the meat and poultry inspection program be combined with the interstate food inspection program to allow for some efficiencies and greater state flexibility.

Crippled Children Programs: One Governor recommended that the current programs could be combined to provide flexibility and efficiency with no loss in services.

Administrative reforms

Most Governors participating in the survey suggested reforms and changes in the administration of federal human service programs. The following are excerpts from their responses:

Title XX: "Reducing planning and reporting requirements." "Eliminate current eligibility requirements and require that 50% of individuals served be below the poverty level." "Arbitrary reduction of Title XX to 1978 federal ceiling limits states ability to meet national guidelines for deinstitutionalization."

Day Care: "Day Care programs are fragmented among Title XX, WIN, and Vocational Rehabilitation. Eligibility requirements, subsidy amount, provider standards, and methods of payment all vary, causing confusion and administrative problems."

Food Subsidy Programs: "Continued funding for the basic food stamp program and the WIC program should be reevaluated in terms of their effectiveness and efficiency. These programs presuppose a funding mechanism and a program thrust which ensures that low income clients will receive an acceptable nutritious diet. However, under the present service delivery system there appears to be little evidence that these objectives are being achieved or could even be achieved through these funding sources. Also there is a question as to whether the federal government can effectively force clients to spend their income subsidies to achieve national nutritional goals."

"Due to the dual eligibility requirements for Food Stamps and AFDC, a possible reduction of $3,000,000 could be realized if the administration of both Food Stamps and AFDC could be merged."

Medicaid: "States should be given more latitude in establishing standards for medical facility certification (especially staffing requirements). More latitude is also needed in setting reimbursement rates, especially nursing home rates, major improvements in controls on medical care facility utilization, new options for providing home health services, and finally, alternatives to current fee-for-service payment mechanisms."

Federal Mandate of State Administrative Structure: "The federal laws which mandate state administrative structures for relatively small programs should be changed. Examples are the requirements for a separate administrative unit in the welfare department for the WIN program for AFDC recipients, and a separate unit for child support functions. States should be permitted to administer these functions in the most cost effective manner, which may well be as part of a larger related unit, instead of a separate unit."

Governors also expressed strong support for human services planning reforms. One Governor commented:

"While the merits of providing an overall block grant for alcohol, drug abuse, mental health administration, etc. are not totally undebatable, certainly the planning requirements of those various programs could be consolidated into one state plan which would provide greater administrative control and less money spent on planning at the state level."

Program reductions

Some Governors identified specific programs as targets for reduction or elimination. At least one Governor viewed the following programs as duplicative or wasteful:

The state office of economic opportunity program; Title XX training; summer youth recreation program of CSA; the Business Enterprise program for the blind.

EXCERPTS FROM ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS' REPORT "THE INTERGOVERNMENTAL GRANT SYSTEM: AN ASSESSMENT AND PROPOSED POLICIES, SUMMARY AND CONCLUDING OBSERVATIONS, JUNE 1978"

CATEGORICALS: A CURRENT APPRAISAL

The ACIR's reappraisal of the categorical grant reviewed the history and rationale, counted and documented the number, and examined the key features of this mainstay of the federal grant system. The study also looked at Congress's authorizing and oversight role, reviewed public officials' attitudes toward categoricals, and identified some of the more urgent difficulties afflicting them. Highlighted among the major findings and conclusions were the following:

THE COUNT—NUMBER AND ESTIMATED DOLLAR VOLUME OF CATEGORICAL GRANTS, BY TYPE

[Fiscal year 1975]

	Number	
	Number	Percent
Formula-based	146	33.0
Allotted formula	(97)	(21.9)
Project grants subject to formula distribution	(35)	(7.9)
Open-end reimbursement	(14)	(3.2)
Project	296	67.0
Total	442	100.0
	Estimated outlays (billions)	
	Amount	Percent
Formula-based	$25.8	69.1
Allotted formula	(8.6)	(13.1)
Project grants subject to formula distribution	(2.8)	(7.4)
Open-end reimbursement	(14.4)	(38.6)
Project	11.6	30.9
Total	37.4	100.0

Continuing fragmentation

While the number of categorical grant programs to state and local governments has grown steadily over the past decade, reaching a total of 442 for funded programs in FY 1975, it is well below the 1,000–1,500 figure frequently cited. But though these numbers have been exaggerated, the administrative problems have not.

The philosophy of "New Federalism," with its stress on revenue sharing, block grants, decategorization, decentralization, barely dented the traditional system of categorical aid. Despite Presidential and Congressional initiatives, long-standing problems persist, with categorical programs still accounting for nearly 80 percent of all federal aid dollars.

The problems of program numbers is not so much that of duplication and overlap, in the sense of two or more grants authorizing aid for identical activities, but excessive specificity, with clusters of several grants for servicing, planning, training and demonstration in the same narrow program area. This applies particularly to project grants. Often a single social problem has been attacked from many directions, with programs distinguished by the particular activities they support, the clientele group they serve, the manner in which services are delivered, or the places on which they focus.

Administrative problems

State and local governments still raise many of the same complaints about the categorical aid system that they did a decade ago, chiefly excessive paperwork and administrative complexity. Yet certain shifts are notable, including mounting concerns about the uncertainty of funding; the relationship of categorical grants to block grants and revenue sharing; and the emergence of new conditions affecting general state-local policies and governmental processes. At the same time, recipient jurisdictions continue to believe that these problems are federally centered and have little to do with their own internal management and decisionmaking capabilities.

Each of the four kinds of categorical grants possesses distinguishing characteristics and significant advantages and disadvantages. It is the large number of project grants, however, which is the source of the greatest current concern—involving 296 programs and $11.6 billion in 1975.

The federal executive branch has sought to coordinate, standardize and simplify categorical application and administrative procedures through governmentwide management and other circulars, organizational reforms, and decentralization to the field. Yet the overall record thus far must be rated as merely poor-to-adequate, thanks to executive-legislative conflicts, Congressional committee-agency links, departmental specialization, the relative weakness of critical managerial units within the Executive Office of the President, and the shifting nature of the problems constituting the grants management challenge.

Ironically, while efforts have been made to reduce red tape in grant application and award procedures over recent years, during the same period new problems have arisen from the impact on grant recipients of a number of governmentwide regulations involving national policies in environmental protection, equal employment opportunity, equal access to public services, and other fields. These regulations, which are administered by a complex network of federal departments, agencies and Presidential units, have too often become points of confusion and conflict between the levels of government and within the federal bureaucracy itself.

Fiscal features

In absolute dollar terms, categorical assistance expanded more than sixfold between 1960 and 1976, passing the $45 billion mark in the latter year. In constant dollar terms, the 1976 figure amounted to nearly two-and-a-half times its 1960 counterpart and as a percentage of state-local expenditures the hike (in inflated dollars) came to 33 percent over this 16-year period.

The program emphasis of categorical assistance has shifted significantly over the past decade and a half, with health, educational and environmental programs experiencing marked proportionate increases, while transportation and agricultural outlays decreased proportionately. Aid is now offered in nearly every area of state and local activity, though in some fields the federal contribution is quite small.

A number of different, competing, and even contradictory philosophies and objectives have determined the allocation of aid among state and local governments, including the need for a specific service, fiscal capacity, the actual level of recipient expenditures, and such general criteria of political "fairness" as equality among the states or total population. The 1975 distributive pattern in the aggregate was a product of 146 separate formulas and thousands of project grant awards, rather than any coherent national policy. Allocational patterns have shifted as formulas have been revised, new grants created, and the emphasis upon particular functional areas has altered. Over recent years, differences in the total per capita grant allocations among the states have narrowed, though there has been a slight but continuing tendency to favor the smaller and less urbanized states. Contrary to a common belief, federal aid has not consistently favored the states least able to finance their own public services—the reverse has sometimes been true—and only a small number of grants explicitly reorganize interstate differences in fiscal capacity.

Purposes and cost-sharing arrangements

Analysis of categorical statutes, their formal conditions, and age suggests that project grants tend to be used somewhat more for stimulative program purposes, while formula-based grants embody more of a support approach. These tendencies are clouded, however, by the significant proportion (one-fourth to one-fifth) of the grants in both sectors that incorporate both goals, as well as by the proportion of the total that are essentially national programs relying on state and/or local governments for their administration out of practical political necessity or convenience.

Matching and other cost-sharing provisions in grant authorizations continue to reflect considerable diversity and little clear rationale for their selection. At the same time, the overall number of categorical programs requiring no recipient matching has increased in recent years (by over 70 from 1967 to 1975), but this trend has not affected most of the big money formula-based and open-end grants. The overall fiscal effects of matching requirements would appear to be stimulative. However there is considerable debate over the evidence because of—

The different measures used,

The varying program preferences of recipient governments, and

The difficult-to-determine effects of other related provisions like maintenance of effort, and the potential—even among categoricals—for fungibility, over time, in program areas already involving large recipient outlays, and in jurisdictions that perform a wide range of services and participate in many aid programs.

The congressional role

In a formal sense, Congress is the chief architect of the categorical aid system, and many of the system's features are reflections of its subcommittee structure, the coalition character of its parties, the perennial constituency concerns and narrow program specialization of most of its individual members, and the continuing political and institutional constraints on its leadership and oversight role—despite recent reforms. Some current proposals for improved legislative processes are intended to reduce the resulting weaknesses. Yet, at bottom, Congress—and the categorical grant system—mirror the American political process as a whole, with its many points of access and power, its loosely structured political parties, its fluctuating sources of policy initiatives and leadership, its difficulty in sustaining a long-range planning effort, and its tendency to react to, and act upon, specific problems rather than move toward comprehensive national goals and explicit policy objectives.

On the basis of the major findings and conclusions, the Commission adopted 60 recommendations for improving the working of the intergovernmental grant system and the several types of grant. These follow by major subdivision, sometimes preceded by summary findings and conclusions which the Commission found of particular relevance to the recommendation.

CATEGORICAL GRANTS

1. Choosing the type of categorical grant

The Commission finds that categorical grants may be grouped into four types—project grants, formula grants, formula-project grants, and open-end reimbursement grants. Each of these types has different advantages and disadvantages, and is best suited for different situations and purposes. Thus, in choosing the form of categorical grant instrument to be used to accomplish particular objectives, Congress should consider systematically the advantages and disadvantages accruing to the various interested parties—grant recipients, interest groups, and administering agencies.

The Commission concludes, however, that federal categorical assistance still is excessively fragmented. This condition continues to generate program, management and organizational difficulties for grantor agencies and recipient jurisdictions. It severely complicates the task of achieving effective legislative oversight at all levels and hinders efforts to strengthen politically accountable Executive Branch officials.

The Commission finds that the continuing growth in the number of small, narrowly drawn, project grants is primarily responsible for the proliferation of categorical grants, and that avoiding, when possible, the creation of additional project grants of this type offers a significant means of controlling that proliferation. Too often project grants have been used almost automatically without adequate consideration of other types. Of course project grants have positive features that make them uniquely suitable in certain circumstances—such as (a) when funds are too scarce to serve a broad constituency and a more precise targeting of funds to the jurisdictions with the greatest program needs is desired; (b) when the appropriate recipients are not easily identifiable until they make application; (c) when the distribution of funds cannot be systematized appropriately ahead of time or measured accurately by objective factors; and (d) when national research or demonstration needs take precedence over recipient needs. On the other hand, they have other features that create friction in intergovernmental relations. For example they generate excessive paperwork, they foster "grantsmanship" and inequities among competing eligible recipients, and they introduce uncertainty about continued funding (in addition to the level of funding). These are added reasons for controlling the multiplication of project grants.

Formula-based grants, in contrast, distribute funds automatically according to more objective measures of program need and/or fiscal capacity as specified by Congress; involve a narrower, less diverse range of recip-

lents; and incur substantially fewer administrative complications than the project grant application and review process.

The Commission believes, therefore, that when undertaking new categorical grant programs and consolidating existing ones, Congress should more thoroughly assess opportunities to use the formula-based grant and use it when possible rather than the project grant. Even when it is not possible or desirable to use a formula for complete distribution of funds, a modified formula or open-end reimbursement approach may be used to help allocate funds more efficiently than is possible using only a project-by-project approach. Hence . . .

The Commission recommends that, when considering new or reenacting old categorical grant programs, Congress and the President consciously evaluate the advantages and disadvantages of the four alternative types of categorical grants—project, formula, formula-project, and cost reimbursement—as well as the relative advantages and disadvantages of block grants, and select in each case the type which meets the intended national purposes best in light of the need to reduce the total number of programs and to facilitate simpler, fairer and more efficient administration of grant programs.

The Commission recommends, further, that in those cases where the Congress and the President determine that a categorical grant is to be preferred, they use the following criteria in choosing among the four types:

a. Formula grants should be used when a federal program has nationwide applicability and when objective factors relevant to program needs and recipient jurisdictions' characteristics can be quantified appropriately and interrelated in a formula for the allocation of funds among recipients.

b. Project grants should be used when funds are to be targeted precisely to a limited number of recipients having unusually great needs, when national objectives call for selective research and demonstration projects, or when appropriate formulas and eligibility requirements cannot be devised for the systematic distribution of program funds.

c. Mixed formula-project grants should be used only when conditions for project grants obtain, but where state allocations are needed to curb administrative discretion in the awards process.

d. Cost reimbursement grants should be used when the Federal government wishes to underwrite a specified proportion of legitimate state or local government program costs, whatever the total amount may be, while permitting recipient governments discretion in establishing service levels.

2. Grant consolidation goal and criteria

Strongly implied in the Commission's appraisal of the categorical grant system is the need for action to reduce the excessive fragmentation that continues to cause severe administrative problems and trouble intergovernmental relations in that system. Hence . . .

The Commission reaffirms its 1967 recommendation that Congress and the President adopt as a general goal the reduction in the number of categorical programs and urges that the following factors be utilized in attempting to identify the most likely candidates for consolidation. Programs to be merged should be, or be capable of being made:

(a) closely related in terms of the functional area covered;

(b) similar or identical with regard to their program objectives; and

(c) linked to the same type(s) of recipient governmental jurisdictions.

3. Possible candidates for consolidation

On the basis of a preliminary review of the 442 categorical grants that were operational in fiscal year 1975, using the criteria suggested in Recommendation 2 but with primary emphasis on the functional interrelationship, the Commission concludes that the merger of at least 102 programs into no more than 15 grant consolidations appears to be both feasible and desirable. Hence . . .

The Commission recommends that as a first priority Congress and the Administration give serious consideration to achieving grant consolidation in the following subfunctional areas:

Forest Lands Management (involves five categoricals),

Highway Beautification (involves three categoricals),

Transportation Safety (involves eight categoricals),

Comprehensive Urban Transportation (involves ten categoricals),

Comprehensive State Transportation (involves nine categoricals),

Pollution Prevention and Control involves seven categoricals),

Public Library Aid (involves four categoricals),

Programs for Older Americans (involves four categoricals),

Child Welfare Services and Facilities (involves three categoricals),

Vocational Education (involves nine categoricals),

Strengthening Instruction in Science, Math, Language, etc. (involves two categoricals),

Vocational Rehabilitation (involves seven categoricals),

Domestic Volunteer Services (involves three categoricals),

Child Nutrition and School Meals (involves eight categoricals), and

Preventive and Protective Health (involves 20 categoricals).

4. Presidentially initiated grant consolidation plans

The Commission recommends that Congress enact legislation authorizing the President to submit to the Congress plans for consolidating categorical grant programs, and requiring Congress to approve or disapprove such plans by resolution within 90 days of submission, and if approved, such plans to go into effect upon approval by the President of the joint resolution. The Commission further recommends that the legislation authorize the President to make modifications or revisions of plans submitted to Congress anytime within 30 days after such submission.*

TABLE 17.—TITLE XX TRAINING FUNDS—1979 ESTIMATED FUNDING AND IMPACT OF 4-PERCENT LIMIT

[In thousands of dollars]

State	Estimated 1979 Federal funding	4 percent of $2.7 billion allocation
Total	88,779	107,997
Alabama	745	1,842
Alaska	439	203
Arizona	1,277	1,146
Arkansas	1,615	1,070
California	5,014	10,931
Colorado	1,464	1,307
Connecticut	8,605	1,551
Delaware	256	290
District of Columbia	226	344
Florida	728	4,219
Georgia	3,075	2,520
Hawaii	92	446
Idaho	357	427
Illinois	556	5,613
Indiana	214	2,660
Iowa	614	1,437
Kansas	1,088	1,161
Kentucky	2,095	1,726
Louisiana	1,665	1,957
Maine	504	541
Maryland	1,676	2,066
Massachusetts	4,251	2,886
Michigan	2,509	4,557
Minnesota	1,684	1,984
Mississippi	1,292	1,192
Missouri	1,020	2,396
Montana	757	379
Nebraska	282	779
Nevada	277	316
New Hampshire	77	423
New Jersey	3,731	3,658
New Mexico	1,301	594
New York	6,721	8,948
North Carolina	3,925	2,758
North Dakota	223	325
Ohio	805	5,342
Oklahoma	394	1,403
Oregon	1,414	1,186
Pennsylvania	3,896	5,883
Rhode Island	555	466
South Carolina	948	1,435
South Dakota	340	343
Tennessee	1,546	2,146
Texas	9,625	6,405
Utah	1,498	633
Vermont	505	241
Virginia	596	2,563
Washington	2,011	1,826
West Virginia	2,428	928
Wisconsin	1,686	2,323
Wyoming	177	202

Source: Based on data from Department of Health, Education and Welfare, representing estimates received from States, not including late claims.

* Senator Hathaway supports the proposition that the President periodically ought to submit grant consolidation plans to Congress. However, he is concerned that any structure for implementing such plans not alter Constitutional separation of powers or undermine fundamental Congressional authority to legislate. *Recommendation 4*, by granting the President authority to propose detailed grant consolidation plans and by confining Congress to a position of either approving or disapproving such plans within a set period of time would, in Senator Hathaway's view, reverse our current Constitutional structure.

TABLE 18.—CHILD WELFARE SERVICES: STATE ESTIMATES OF TOTAL EXPENDITURES REPORTED UNDER THE TITLE IV-B PROGRAM FROM ALL SOURCES, FISCAL YEAR 1979

	Adoption	Day care	Foster care	Protective services	Other CWS services	Total
Total	$25,775,138	$63,456,520	$581,021,701	$63,613,810	$51,985,877	$792,853,046
Alabama	700,909	0	3,157,414	243,703	1,548,915	5,650,941
Alaska	0	0	2,328,800	0	4,711,700	7,040,500
Arizona	230,900	0	20,372,000	0	3,579,900	24,182,800
Arkansas	0	0	542,142	0	595,140	1,137,282
California	15,392,594	13,672,000	92,218,300	10,163,002	7,965,980	139,411,876
Colorado	81,151	81,154	21,205,063	131,921	1,738,059	23,237,348
Connecticut	191,188	44,448	12,626,114	71,128	268,236	13,201,114
Delaware	0	0	443,949	0	0	443,949
District of Columbia	363,500	9,672,100	15,453,900	464,900	2,307,400	28,261,800
Florida	51,725	5,354	13,138,866	127,488	2,547	13,325,988
Georgia	0	0	2,646,398	0	0	2,646,390

	Adoption	Day care	Foster care	Protective services	Other CWS services	Total
Guam	0	0	18,720	132,433	59,079	210,232
Hawaii	39,870	0	1,265,939	105,633	195,257	1,606,699
Idaho	0	0	809,503	0	24,000	833,503
Illinois	0	0	0	0	5,500,000	5,500,000
Indiana	32,696	0	21,558,327	10,000	111,414	21,712,437
Iowa	448,000	25,000	10,108,000	700,000	0	11,281,000
Kansas	0	0	1,207,411	0	0	1,207,411
Kentucky	0	0	2,019,663	0	0	2,019,663
Louisiana	0	175,000	7,518,696	0	400	7,694,096
Maine	85,000	42,287	2,048,950	120,000	207,749	2,503,986
Maryland	525,647	0	26,257,246	3,991,274	677,424	31,451,591
Massachusetts	890,000	0	36,050,000	2,500,000	200,000	39,650,000
Michigan	0	0	28,219,600	0	0	28,219,600
Minnesota	20,695	260,028	1,138,194	82,777	558,750	2,060,444
Mississippi	0	0	2,065,000	30,000	120,000	2,215,000
Missouri	0	0	4,531,084	0	0	4,531,084
Montana	30,087	149,517	918,080	464,000	107,651	1,669,335
Nebraska	200,000	0	2,263,000	0	0	2,463,000
Nevada	10,000	0	975,000	0	0	985,000
New Hampshire	0	37,252	95,790	138,364	260,762	532,168
New Jersey	877,409	83,160	14,016,830	16,093,860	4,588,208	35,659,467
New Mexico	0	0	759,085	0	0	759,085
New York	0	0	61,735,058	0	0	61,735,058
North Carolina	67,104	130,000	4,726,842	0	425,947	5,349,893
North Dakota	63,250	0	206,818	10,000	187,750	467,818
Ohio	2,946,145	23,121,632	42,817,322	8,576,559	9,296,727	86,758,385
Oklahoma	88,192	56,202	2,226,470	57,963	59,433	2,488,265
Oregon	0	0	4,002,063	0	0	4,002,063
Pennsylvania	1,231,511	4,706,439	77,392,329	15,798,278	4,827,798	103,956,355
Puerto Rico	46,648	630,471	620,730	782,353	220,202	2,300,404
Rhode Island	195,187	0	7,845,324	1,379,285	470,745	9,890,541
South Carolina	708,570	44,500	1,569,672	141,714	94,476	2,558,932
South Dakota	52,860	40,178	1,253,051	0	164,620	1,510,709
Tennessee	172,700	0	3,161,500	0	60,600	3,394,800
Texas	0	9,440,041	7,205,584	0	0	16,645,625
Utah	0	0	1,617,000	0	0	1,617,000
Vermont	0	0	930,000	0	0	930,000
Virgin Islands	0	893,057	723,067	496,653	64,142	2,181,919
Virginia	12,1600	132,700	10,097,100	663,606	44,300	11,059,306
Washington	0	0	1,845,750	0	0	1,845,750
West Virginia	0	0	399,211	136,917	440,566	976,694
Wisconsin	0	0	2,814,479	0	200,000	2,384,479
Wyoming	0	0	485,267	0	0	485,267

Source: Department of Health, Education, and Welfare.

Mr. BELLMON. Mr. President, ACIR reports that categorical grant programs numbered 442 in 1975 and, by 1979, in less than 4 years we had added 50 more programs, raising this number to 492. The increase in dollar terms has been just as significant; Federal aid in the form of categorical grants increased approximately 65 percent alone from fiscal year 1975 to fiscal year 1979. The Governors claim that they will accept less Federal money if provided with more flexibility through grant consolidations and reduction of redtape. When we are being challenged to look throughout the whole array of Federal programs for opportunities to streamline the grant-in-aid system, it makes little sense to me to go in the reverse direction as this bill proposes.

Mr. President, I am not suggesting that the amendment I offer today is anything but a modest beginning effort on grant consolidation. This bill as reported would create two new categorical programs and revise and extend the authorization for two others. Ideally, all four of these programs should be consolidated with title XX. However, I recognize the concern this would cause to many who want to assure that services and support for vulnerable children in need of foster care, adoption assistance and other services are protected. Therefore, I am proposing two grant packages rather than a single consolidated one. This would at least reduce the number of programs from five to two.

Let me describe, Mr. President, how each of these changes would work and discuss briefly the reasons for them.

CONSOLIDATION OF TITLE XX—SOCIAL SERVICES AND TRAINING

Authority for using Federal funds to pay for personnel training has been in the Social Security Act since 1956. Until 1974 this authority was in title IV of the act. It was adopted initially as a response to attempts by HEW to help strengthen progessionalism (particularly the social work profession) in the administration of welfare programs. It was put in the law at a time when there was great hope for social services as a way of helping people to get out of welfare dependence. As was true originally of the basic social services authority, and is still the case for the AFDC program, after 1962 no ceiling was placed on Federal reimbursement to States for training expenditures. In other words, the States determined what they wanted to do in this area and submitted claims for Federal matching, with no limitation on such claims.

Over the years, training costs grew slowly, and this program was not considered a major issue when a ceiling was placed on Federal social services payments in 1972. In 1974, when title XX was enacted, the personnel training authority was moved to that title but again no ceiling was placed on expenditures.

Recently, there has been considerable concern about the growth of State claims for training expenditures and about imbalances among the States in the spending of training money. For instance, tables printed in the Finance Committee report on H.R. 3434 show that the State of Connecticut now spends about 8 million Federal dollars a year on training costs—roughly 20 percent of its title XX allocation—while the State of South Carolina, which has nearly the same welfare population as Connecticut, spends less than 1 million Federal dollars on training—only about 3 percent of its title XX allocation. I ask unanimous consent that a table from the Finance Committee report showing State training expenditures in fiscal year 1979 be printed in the RECORD.

The Finance Committee has recommended that for fiscal year 1980 a ceiling be placed on training expenditures equal to 4 percent of each State's allocation under the title XX program. The reported bill also provides a hold-harmless provision for States which now spend above 4 percent of their title XX allocation on training. However, the bill would keep the money for training separate from the basic title XX allocation.

The Finance Committee bill moves in the right direction; it simply does not move far enough. I see no reason to continue the separate allocation of funds for personnel training. We should put both the social services and training money in a single pot and let the States decide how much to spend on training. Our amendment would do just that.

Because of the imbalances among the States in current use of training funds, it would be inequitable to immediately merge the training money with title XX social services money without some adjustments in the formula. My amendment deals with this by holding harmless these States for a limited time. For a period of 3 years, States which now spend over 4 percent of their social services allocations for training would be protected. After the 3-year period, all State allocations would be computed as though they had had training costs in 1979 of 4 percent of the basic title XX allocation.

To assist States in their priority setting, my amendment provides that no more than 5 percent of the total allocation may be used for training, beginning in fiscal year 1984. This will provide reassurance to service providers that States will not divert an undue amount of resources away from services into

training. It will also help the States to justify reasonable training expenditures in the competition for title XX funds.

CONSOLIDATION OF FOSTER CARE, CHILD WELFARE SERVICES, AND ADOPTION ASSISTANCE

Now let me turn to the second part of this amendment: Effective October 1, 1982, my amendment will consolidate the separate programs of child welfare services, foster care, and adoption assistance into a single consolidated grant to States. The delay in the effective date will give States an opportunity to use the open-ended Federal funding provided for in the reported bill to further develop their adoption assistance programs. States will also have ample time in which to improve their child welfare service programs in the ways provided for in the reported bill.

I see no justification for the Federal Government to parcel its funding to the States for these interrelated areas into three separate packages. The States invest far more of their own money in these services than they receive from the Federal Government. I ask unanimous consent to insert in the RECORD a table showing total foster care, child welfare, and adoption assistance costs in fiscal year 1977. This table shows that the combined expenditures of all levels of government on these programs totaled about $800 million in fiscal year 1977. The Federal Government supplied less than one-third of this money.

Mr. President, there can be no real separation of the activities in these three areas. These programs are closely intertwined. For instance, child welfare services money is to be used to improve foster care programs and to assure adoption of children where this is desirable. Money provided under this bill for foster care may be used for expanding child welfare services if it is not all needed for foster care support.

The Finance Committee's bill separates funding for foster care from the basic AFDC cash assistance program. Foster care is made a "capped entitlement" program under the bill. I have some misgivings about the capping of Federal reimbursements of foster care costs, but I do agree with the Finance Committee that some constraint on the growth of Federal spending in these areas is needed.

Again, I think the Finance Committee bill simply does not go far enough. Rather than moving toward consolidation—it has further compartmentalized these programs. My amendment would give the States a block grant of funds for use in the areas of child welfare services, foster care, and adoption assistance. The amount of Federal funding each year would be subject to appropriations, but the ceiling would grow by the increase in the CPI or 5 percent whichever is greater. Thus the States would receive at least 5 percent growth in Federal funding each year. This would enable them to plan ahead for gradually increasing Federal grant funds, and help them to stabilize their programs.

I recognize that there have been major recent criticisms of State performance in foster care and child welfare services in various States. I am not persuaded that greater Federal involvement is the way to correct the abuses and mismanagement which may exist. Nevertheless, my amendments provide for a major evaluation responsibility on the part of the Department of Health, Education, and Welfare, with reports to be made by it to the Governors and legislatures of States in which HEW reviews are conducted and with annual reports to be submitted to the Congress on the findings of the HEW studies. By devoting less time and attention to dealing with red-tape and administrative minutiae surrounding three separate programs, HEW staff should be able to deal with the substance of what the States are doing and to help the States to identify ways of improving those programs.

In short, Mr. President, this is an amendment which should have the support of both those who want to improve services to children and to those who are interested in improving management and the efficiency of the Federal aid system. I think all Senators are interested in both subjects. I urge the adoption of the amendment.

Mr. President, let me try to sum up briefly what this amendment will do.

What we are doing here is creating two grant programs in place of five. There will be five in the bill as reported and two under my amendment.

One of these programs that we create combines the title XX social services program and the social services training program, and the other consolidates foster care, child welfare services and adoption assistance into a single program.

These consolidations would not take effect until after October 1, 1982.

Mr. MOYNIHAN. Mr. President, on behalf of the committee, I rise respectfully to oppose the proposals of the Senator from Oklahoma, first acknowledging the relevance of the issues he has raised.

In the Committee on Finance, we have agreed in the coming year to undertake a thorough inquiry into the relationship between title XX funds which support services to individuals and the training funds which have accompanied them in a parallel way.

As I said in the opening statement, the title XX funds have been kept under a cap. The training funds have lately begun to grow at an ominous rate. We have imposed a 1-year restraint on them and the Committee on Finance proposes to be back on the floor of the Senate in the second session of this Congress to propose a permanent regime of the kind which I think will commend itself to the Senator from Oklahoma. In any event, his proposal would not take place until well after there was time to have this consideration and hear the new proposals.

As to the second of the matters he proposes I would have to say it seems to us that this involves consolidating programs which are fundamentally different. The programs that provide foster care and adoption subsidies are basically maintenance payments to children and their guardians or parents who require these for their livelihood. This is an entitlement program. Any person meeting the requirements of the law is entitled by right to these payments. On the other hand, the child welfare services are primarily salaries to professional persons who provide services. These are appropriated moneys. We make the judgment each year how much we want to spend. They are not the same things, and to take a service program and make it an entitlement program—or vice versa—is not the kind of precedent which the distinguished Senator from Oklahoma, I think, would approve. It is exactly the kind of invitation to runaway expenditures that we experienced under title XX when it first began, and which we may be experiencing under the training provisions which accompany it and for which reason we have proposed a 1-year limit.

Mr. President, the time is late and the Senate has been told that there will be no votes after 4 p.m. Therefore, I shall not extend my remarks save to say that the committee very much opposes both these measures.

We feel, in the first case, we will respond to the proper question the Senator addresses and have arranged to do so in the committee.

In the second case, I think we might have a disagreement about what it is appropriate to combine, and I would be happy on some occasion to engage in a long discussion with my respected friend from Oklahoma on this matter. I do not do so now in order to keep the agreement we have made with other Senators.

Mr. BELLMON. Mr. President, I appreciate the courtesy of the Senator from New York and also respect his great understanding of these programs. But in my opinion these three programs we talked about are closely intertwined. For instance, child welfare services money is to be used to improve foster care programs and to assure adoption of children where this is desirable. Money provided under this bill for foster care may be used for expanding child welfare services if it is not all needed for foster care support.

I do not know that the Senator from New York and I can resolve our differences. It seems to me maybe we should vote because we are short on time.

I only suggest that the consolidations this amendment would require would not in any way prevent the Finance Committee from making the study to which the Senator from New York has referred. In fact, I would strongly support the study, but it seems to me that the consolidation decision should be made now and then the study could be made afterward rather than the other way around.

Mr. MOYNIHAN. Mr. President, it seems to me, if I may say, that is reminiscent of the lines from "Alice in Wonderland" in which the king says: "Sentence first; verdict afterwards."

Mr. BELLMON. Except here is the case where the verdict is very plain. It does not require waiting.

Mr. MOYNIHAN. That was the king's view. It is thought, nonetheless, to be rather the reverse of the normal arrangements.

Mr. BELLMON. Also this does not take effect until after October 1982.

Mr. MOYNIHAN. That is why we are having our hearings next year.

Does the Senator wish the yeas and nays on this matter?

Mr. BELLMON. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

● Mr. CRANSTON. Mr. President, I am opposed to the amendment offered by the Senator from Oklahoma (Mr. BELLMON) which would consolidate the title XX training program with the title XX social services program and would consolidate the foster care and adoption assistance maintenance programs with the child welfare services program.

Mr. President, I am particularly opposed to the latter consolidation. Presently, States are spending 80 to 90 percent of the child welfare services funds they receive from title IV–B funds on foster care maintenance payments for children who are not eligible for one reason or another for IV–A foster care. One of the most important provisions of the committee bill would restrict use of any new IV–B funds for foster care maintenance. This provision is critical to our efforts to redirect Federal financial assistance away from an open-ended foster care maintenance program and toward support of services designed to maintain children in their own homes.

The Federal Government has repeatedly been criticized for providing open-ended funding for foster care maintenance and virtually no funding for child welfare services to keep families together. The committee bill would put an end to that untenable situation by placing a ceiling on the foster care maintenance program, providing for the earmarking in the appropriations process of new IV–B funds for services designed to help prevent foster care, and, finally, imposing a prohibition against using new IV–B for foster care maintenance.

The amendment proposed by the Senator from Oklahoma would lump these programs together and provide no incentives for States to reduce foster care. It would provide no incentives for the States to utilize the new adoption assistance program, which, under the committee bill, is openended. I urge the defeat of this amendment which runs counter to all the efforts to reduce foster care which have gone into the committee bill.●

The PRESIDING OFFICER. Is all time yielded back?

Mr. MOYNIHAN. I yield back the remainder of the time on our side.

Mr. BELLMON. I yield back the remainder of time.

The PRESIDING OFFICER. All time having been yielded back, before the Chair orders the clerk to call the roll, since 3:45 p.m. has come and gone, this will have to be the last rollcall today under the order which was previously entered.

Mr. MOYNIHAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. Will the rollcall be on the proposal to amalgamate title XX funds with training services under title XX? Is that what our vote will be?

Mr. BELLMON. It is on amendment No. 2 which was just reported. It does cover both matters.

Mr. MOYNIHAN. It covers both matters?

Mr. BELLMON. Yes.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

I further announce that the Senator from Tennessee (Mr. SASSER) and the Senator from Montana (Mr. BAUCUS) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. BRADLEY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Missouri (Mr. DANFORTH) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 26, nays 61, as follows:

[Rollcall Vote No. 373 Leg.]

YEAS—26

Baker	Hatch	Pressler
Bellmon	Hayakawa	Simpson
Boren	Helms	Stevens
Boschwitz	Humphrey	Thurmond
Byrd, Harry F., Jr.	Kassebaum	Tower
Domenici	Laxalt	Wallop
Exon	Lugar	Warner
Garn	McClure	Young
	Packwood	Zorinsky

NAYS—61

Armstrong	Hart	Pell
Bayh	Heflin	Percy
Bentsen	Heinz	Proxmire
Biden	Hollings	Pryor
Bumpers	Huddleston	Randolph
Burdick	Jackson	Ribicoff
Byrd, Robert C.	Javits	Riegle
Cannon	Johnston	Roth
Chafee	Leahy	Sarbanes
Chiles	Levin	Schmitt
Church	Long	Schweiker
Cohen	Magnuson	Stafford
Cranston	Mathias	Stennis
Culver	Matsunaga	Stevenson
DeConcini	McGovern	Stewart
Dole	Metcher	Stone
Durenberger	Metzenbaum	Talmadge
Durkin	Morgan	Tsongas
Eagleton	Moynihan	Williams
Ford	Muskie	
Glenn	Nelson	

NOT VOTING—13

Baucus	Gravel	Nunn
Bradley	Hatfield	Sasser
Cochran	Inouye	Weicker
Danforth	Jepsen	
Goldwater	Kennedy	

So Mr. BELLMON's amendment (UP No. 670) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 671

(Subsequently designated amendment No. 556)

(Purpose: To modify the foster care ceiling)

Mr. BELLMON. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 671.

Mr. BELLMON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 69, between lines 4 and 5, insert the following:

"(4) The percentage by which a State's allotment would otherwise be increased for any fiscal year under paragraph (3) shall be adjusted as follows:

"(A) In the case of any State in which, during the preceding fiscal year, the number of children receiving foster care maintenance payments under the plan approved under this part, as a percentage of the total number of children in such State receiving aid under the State plan approved under part A plus the number of children receiving aid under the State plan approved under this part, exceeded such percentage for the United States by more than 50 percent, any percentage increase in such State's allotment otherwise required under paragraph (3) shall be decreased by a percentage equal to such excess (in excess of 50 percent) in the State's foster care percentage over the United States foster care percentage.

"(B) In the case of any State in which, during the preceding fiscal year, the number of children receiving foster care maintenance payments under the plan approved under this part, as a percentage of the total number of children in such State receiving aid under the State plan approved under part A plus the number of children receiving aid under the State plan approved under this part, was less than such percentage for the United States by more than 50 percent, any percentage increase in such State's allotment otherwise required under paragraph (3) shall be increased by a percentage equal to such difference (in excess of 50 percent) between the State's foster care percentage and the United States foster care percentage.

"(C) In the case of any State whose average costs per foster care placement (for purposes of reimbursement under this title) in the preceding fiscal year exceeded the average costs per placement for the United States by more than 50 percent, any percentage increase in such State's allotment otherwise required under paragraph (3) shall be decreased by a percentage equal to such percentage difference (in excess of 50

percent) between such State's average cost per placement and the average cost per placement for the United States.

"(D) In the case of any State whose average costs per foster care placement (for purposes of reimbursement under this title) in the preceding fiscal year were less than the average costs per placement for the United States by more than 50 percent, any percentage increase in such State's allotment otherwise required under paragraph (3) shall be increased by a percentage equal to such percentage difference (in excess of 50 percent) between such State's average cost per placement and the average cost per placement for the United States.

"(E) No State's allotment may be reduced on account of the provisions of this paragraph below 105 percent of such State's allotment for fiscal year 1979.".

Mr. BELLMON. I yield 3 minutes to the Senator from Missouri (Mr. EAGLETON).

UP AMENDMENT NO. 672

(Purpose: To delay the date certain child support requirements became effective in the case of certain States)

Mr. EAGLETON. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside and that the Senate proceed to the consideration of an amendment which I send to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

This will be very brief; I understand that the chairman is willing to accept the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 672: At the appropriate place insert the following new section.

Mr. EAGLETON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new Section:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the case of any State which established a child support program under part D of Title IV of the Social Security Act which became effective on July 1, 1977, the provisions of sections 402(a)(26) and 402(a)(27) of such Act shall not be effective with respect to such State prior to such date, and, in applying the provisions of section 403(h) of such Act to such State the phrase thereof which reads "September 30, 1976 (but, in the case of the fiscal year beginning October 1, 1976, only considering the second, third, and fourth quarters thereof)" shall be deemed to read "September 30, 1977."

Mr. EAGLETON. Mr. President, my colleagues will recall that in 1975 Congress enacted the child support enforcement program (Public Law 93-647), which was primarily supported by Senators LONG, TALMADGE, and NUNN. The purpose of this program is to establish a cooperative mechanism for the State and Federal Government to inforce support obligation owed by absent parents, establishing paternity when necessary and obtaining child support. This, the sponsors told us, will result in savings to the taxpayers, because the Federal and State government would ultimately be required to pay out less in aid to dependent children benefits.

At the time of the debate on this legislation, many so-called experts predicted that the program would be a failure. These experts suggested that one of the main reasons absentee fathers do not make their payments is because they are penniless, and that to try to collect from them would be like trying to squeeze blood from a rock.

The program is now 4 years old and in those 4 years, the record has shown us that the experts were wrong, and that Senators LONG, TALMADGE, and NUNN were right.

In fiscal year 1979 it now appears that child support collections by State and local governments will increase to approximately $1.4 billion at a cost to Government of about $330 million; in other words, about $4 are being recovered for every $1 spent. This is truly an outstanding program.

In my own State of Missouri, the child support enforcement program got off to a very slow start, but now it is functioning with much success. I will return to our initial problems in a moment, but first I would like to tell my colleagues a little about the record of this program in Missouri thus far.

The program went into full operation in my State on July 1, 1977. There now are seven child support field offices in Missouri, and the statewide staff numbers 155 persons. Missouri has approximately 70,000 ADC families; we already have received more than 130,000 child support program assignments and referrals from ADC staff. Since the beginning of the program we have collected approximately $8 million in delinquent payments. For every State dollar spent on this program, we have recovered in turn approximately $2.24. When counting all State and local expenditures, $1.18 is returned for every dollar spent. These figures are very good for such a new program and they will improve as the State gains experience with it.

Although the Missouri child support program is now running very efficiently we do have a problem with this program. It is a historical problem which could end up costing my State $5 million because we did not initiate the child support program until July 1977.

The story goes back to 1976. At that time, in his message to the State legislature in January of 1976, former Governor Bond described enactment of State enabling legislation for this program as one of his top priorities. Leaders of both the State house of representatives and the State senate echoed the Governor's sentiment on this, and it looked like the bill would win quick approval in Jefferson City. However, the bill ran afoul of parliamentary maneuvering. Two State senators—realizing that passage of the bill was crucial—decided to turn the child support legislation into a "Christmas tree bill," to use one of Senator RUSSELL LONG's favorite expressions. These two legislators encumbered the bill with many nongermane amendments that made the bill unacceptable to the House-Senate conference. When the State house deleted the nongermane amendments and sent the bill back to the senate on the last day of the legislative session, the two State senators filibustered the bill to death.

Needless to say, our State division of family services officials were shocked by this unexpected turn of events. The division already had prepared the policy manual and the statewide staffing and organizational plan for the program, and all was ready for implementation in April of 1976. However, with the authorizing legislation dead, and with the legislature out of session until 1977, there was absolutely nothing the division could do to bring Missouri into compliance and actually get the program underway. Division officials could only spend the rest of 1976 laying groundwork with prosecutors all across the State, so that the child support program could be fully implemented as soon as the necessary State legislation was enacted in the 1977 legislative session.

In January of 1977 the legislature returned to Jefferson City and Gov. Joseph P. Teasdale repeated Governor Bond's call for speedy enactment of the child support enforcement program. Again, the leadership of each house of the general assembly included this legislation on its "must" list. This time, fortunately, agreement was reached with the two filibustering Senators of 1976, and the bill was enacted into law with an effective date of July 1, 1977.

Administrative machinery for the program had been ready to go for a year, and thus it took very little time for the division of family services to get our child support enforcement program operating at full speed. In fact, startup was so rapid and trouble free that by the end of the first quarter of operation, cooperative agreements had been signed with all 114 counties and the city of St. Louis, Missouri may have been late in getting this program off the ground, but once the wheels began to turn, progress was very rapid. In fact, Missouri accomplished more during its first quarter of operation than some States accomplished in their first year of operation.

The problem Missouri faces does not arise out of our operation of the program, but rather out of our delay in getting the program started. As my colleagues know, the Department of HEW has audited each State's child support enforcement program for the period January 1977 through September 1977. If a State's program is found to have been deficient during this period, HEW is required to assess a 5-percent penalty against ADC Federal payments to the State. In Missouri's case, such a penalty would amount to about $5 million. At this time the Federal officials have completed their audit of Missouri but have not issued their final report. However, since Missouri's enabling legislation did not allow our program to go into effect

until July of 1977 it is unlikely that Missouri can successfully complete the audit.

Mr. President, the amendment I am offering today is identical, in intent, to legislation which passed the Senate last year as an amendment to H.R. 12232. Unfortunately, this legislation died because during the last minute rush in the 95th Congress a House-Senate conference committee failed to meet. Simply stated, my legislation would exempt Missouri from the requirement of a January 1977 through September 1977 audit.

As I have explained today, Missouri now has in operation one of the best child support enforcement programs in the country, and I think this is the result Congress wanted when we passed the title 4(d) legislation.

In my judgment, it would be unfair to penalize the people of my State for the actions of two State senators in 1976, and I think such an action would be inconsistent with the spirit of Federal/State cooperation which motivates this program.

Therefore, Mr. President, I am hopeful that the floor managers of this bill will accept my amendment to the pending legislation since it is identical, in intent, to legislation passed by the Senate last year.

Mr. MOYNIHAN. Mr. President, the distinguished Senator from Missouri is, of course, correct in what he has informed the Senate. It would be inappropriate for an unintended consequence of this legislation to penalize the State of Missouri, which is moving forward in a timely manner on important legislation; and, on behalf of this side of the aisle, we are happy to support the amendment.

I believe the Senator from Kansas would like to speak also.

Mr. DOLE. Very briefly. Mr. President, we have checked with our staff and with the Finance Committee staff, and we are happy to accept the amendment.

Mr. EAGLETON. Mr. President, I thank my colleagues, Senator MOYNIHAN and Senator DOLE. I thank Senator BELLMON for yielding.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MOYNIHAN. Mr. President, I yield back the remainder of my time.

Mr. DOLE. Mr. President, I yield back my remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 671

Mr. BELLMON. Mr. President, what is the pending business?

The PRESIDING OFFICER. (Mr. HEFLIN). The amendment of the Senator from Oklahoma is the pending business.

Mr. BELLMON. Mr. President, I will very briefly explain the amendment.

Mr. President, before I proceed, would it be in order for the Senator from Oklahoma to ask unanimous consent that a rollcall vote on this amendment occur prior to the vote on final passage of this bill on Monday?

The PRESIDING OFFICER. Any rollcall vote on this amendment by unanimous consent would have to occur on Monday, pursuant to the previous order.

Mr. BELLMON. Mr. President, I ask unanimous consent that the rollcall vote on this amendment occur prior to the vote on final passage of the bill on Monday.

The PRESIDING OFFICER. Does the Senator from Oklahoma wish to have the amendment voted upon just prior to final passage, as the last amendment?

Mr. BELLMON. The Chair is correct.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, this amendment modifies the ceiling in the reported bill for Federal reimbursement of State foster care expenditures.

What I am trying to do with this amendment is to create greater equity among the States. My concern is that the bill's provisions are unduly generous for States which currently have expensive foster care programs, and are inequitable to States which have low cost programs.

The bill, as it is now before us, would remove foster care from the open-ended AFDC program and make it a separate capped entitlement program. A State's fiscal year 1980 entitlement under the bill would equal the Federal share of its fiscal year 1978 foster care expenditures, increased by 20 percent. The ceiling on Federal payments would then increase by 10 percent each year.

This means that a State which has had a costly program up to the time the bill takes effect, would have a higher base than a State which has had a less expensive program. The committee bill does provide an alternative formula which would enable the low cost States to get some additional funding, but it goes only part of the way in redressing the basic inequities.

Moreover, the committee bill funds builds into the base any disputed claims for reimbursement which are now at issue between HEW and the States. The problem with this is that those claims relate primarily to New York which has the highest cost foster care program in the country. Thus, this provision would exacerbate inequities in the distribution of funds among the States. I ask unanimous consent that two tables, prepared by HEW, which show the amounts of disallowed and deferred foster care claims, be inserted in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Foster care claims in dispute disallowances made by HEW in Calendar Years 1976–79

State	Amount	
	Paid	Unpaid
Colorado		$204,913
Illinois		3,451,279
Maryland	$112,581	
Nevada	89,195	
New York		16,886,786
North Dakota	35,646	
Pennsylvania		149,194
Rhode Island	127,336	
Wisconsin	4,774	
Total	369,532	20,692,174

Foster care claims in dispute claims for period FY 1976–79 deferred—status

Arkansas	$2,964
California	400,037
New York	*21,386,737
Wisconsin	2,642,668
Total	24,412,406

*The claims include expenditures for foster care payments and administrative costs related to providing foster care.

Mr. BELLMON. Mr. President, let me illustrate specifically the problem I see with the bill's current provisions. The Finance Committee's report on this bill shows that New York's foster care costs average $763 per month per child. On the other hand, six States have reported foster care costs of less than $100 per month per child. I ask unanimous consent that a table from the Finance Committee report showing average monthly costs per foster care placement be included in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 7.—AVERAGE MONTHLY COST OF AFDC FOSTER CARE PER CHILD

[January to June 1978]

State	All AFDC foster care	Foster home care	Institutional care
U.S. total[1]	$345.62	$258.58	$707.59
Alabama	93.94	94.56	85.63
Alaska	580.12	277.16	1,234.13
Arizona	322.26	140.63	814.85
Arkansas	103.15	101.97	119.08
California	357.49	215.54	1,013.69
Colorado	182.00	113.48	408.63
Connecticut	199.03	144.73	411.77
Delaware	162.08	138.05	247.02
District of Columbia	266.92	197.84	372.92
Florida	153.17	153.17	NA
Georgia	126.51	122.27	157.67
Guam	108.87	108.87	NA
Hawaii	141.19	141.19	NA
Idaho	232.15	149.22	906.88
Illinois	212.98	137.05	881.58
Indiana	78.82	NA	NA
Iowa	213.99	186.01	308.08
Kansas	253.90	183.88	420.67
Kentucky	152.33	NA	NA
Louisiana	185.29	163.28	532.33
Maine	209.52	NA	NA
Maryland	175.34	136.88	416.48
Massachusetts	262.05	171.92	1,036.45
Michigan	365.85	212.04	1,370.27
Minnesota	241.42	221.45	507.03
Mississippi	120.86	120.86	NA
Missouri	98.01	98.02	97.96
Montana	211.01	211.01	NA
Nebraska	183.38	180.22	214.13
Nevada	204.96	151.93	752.58
New Hampshire	110.67	105.34	129.51
New Jersey	166.17	166.17	NA
New Mexico	122.31	117.50	156.94
New York[1]	763.53	814.93	723.20
North Carolina	117.97	188.76	114.75
North Dakota	176.14	148.81	380.99

TABLE 7.—AVERAGE MONTHLY COST OF AFDC FOSTER CARE PER CHILD—Continued

[January to June 1978]

State	All AFDC foster care	Foster home care	Institutional care
Ohio	88.24	86.24	110.80
Oklahoma	99.04	99.04	NA
Oregon	206.47	199.39	990.90
Pennsylvania	209.88	NA	NA
Rhode Island	180.00	NA	NA
South Carolina	98.00	98.00	NA
South Dakota	121.87	118.43	157.73
Tennessee	134.31	132.79	151.33
Texas	197.78	194.40	258.30
Utah	155.72	NA	NA
Vermont	136.05	96.22	422.46
Virginia	137.40	126.64	321.28
Washington	208.53	164.26	471.59
West Virginia	142.99	105.49	463.91
Wisconsin	346.20	165.84	1,450.05
Wyoming	242.68	136.38	464.95

[1] Beginning with January 1979, statistics reported to HEW by the State of New York reflect that State's new method of estimating the breakdown of the number of children who are either in foster family homes or in institutional care. Earlier reporting, reflected in this table, indicated that about 56 percent of New York's foster care children were in institutional care. Current reporting indicates that about 23 percent of the children are in institutional care. The figures in this table therefore presumably exaggerate the cost of foster home care per child and understate the cost of institutional care per child. These exaggerations and understatements would also be reflected in the national totals.

Source: Data provided by the Department of Health, Education, and Welfare.

Mr. BELLMON. New York is currently drawing from the Treasury nearly one-half of the Federal funds expended for foster care. I ask unanimous consent that a table showing State-by-State distribution of Federal foster care funding in fiscal year 1977 be included in the RECORD at this point. Under the committee bill, the present inequities in distribution of funds among the States would be built into the Federal funding formula on a permanent basis.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—AID TO FAMILIES WITH DEPENDENT CHILDREN: FOSTER CARE, FISCAL YEAR 1977

[Amounts in dollars]

	Total payments computable for Federal funding	Federal share	Non-Federal share
Alabama	$1,725,747	$1,283,428	$442,319
Alaska	1,039,927	519,975	519,952
Arizona	159,506	71,148	88,358
Arkansas	581,367	435,939	145,428
California	55,799,597	27,899,804	27,899,793
Colorado	2,034,538	1,112,688	921,850
Connecticut	3,378,990	1,689,497	1,689,493
Delaware	934,918	467,460	467,458
District of Columbia	1,182,363	601,184	581,179
Florida	835,998	497,361	338,637
Georgia	3,420,413	1,524,090	1,896,323
Guam			
Hawaii	59,477	29,739	29,738
Idaho	630,493	429,870	200,623
Illinois [1]			
Indiana	2,464,012	1,416,069	1,047,943
Iowa	1,962,357	1,121,094	841,263
Kansas	4,223,091	2,281,314	1,941,777
Kentucky	2,694,656	1,923,104	771,552
Louisiana	3,459,448	2,504,985	954,463
Maine	2,404,878	1,663,249	741,629
Maryland	6,314,353	3,157,178	3,157,175
Massachusetts	4,373,917	2,186,961	2,186,956
Michigan	16,816,421	8,408,211	8,408,210
Minnesota	6,226,472	3,539,127	2,687,345
Mississippi	1,461,905	976,827	485,078
Missouri	2,249,180	1,326,566	922,614
Montana	976,132	623,602	352,530
Nebraska	964,759	536,310	428,449
Nevada	443,042	221,521	221,521
New Hampshire	687,451	375,232	312,219
New Jersey	164,269	82,135	82,134
New Mexico	114,946	79,684	35,262
New York	176,252,047	88,126,025	88,126,022
North Carolina	1,098,760	747,587	351,173
North Dakota	843,011	485,490	357,521
Ohio	3,921,294	2,134,969	1,790,325
Oklahoma	827,647	558,001	269,646
Oregon	6,055,247	3,575,015	2,480,232
Pennsylvania	8,564,316	4,743,774	3,820,542
Puerto Rico			
Rhode Island	235,859	133,377	102,482
South Carolina	803,888	550,263	253,625
South Dakota	610,405	410,376	200,029
Tennessee	2,920,505	1,565,554	1,354,951
Texas	2,777,180	1,067,555	1,709,625
Utah	527,742	369,632	158,110
Vermont	363,643	253,896	109,747
Virgin Islands			
Virginia	5,010,845	2,923,326	2,087,519
Washington	3,873,454	2,080,818	1,792,636
West Virginia	981,187	705,475	275,712
Wisconsin	5,597,940	3,353,726	2,244,214
Wyoming	118,284	72,082	46,202
Total	351,171,877	182,824,293	168,347,584

[1] Data not available.

Source: Department of Health, Education, and Welfare.

Mr. BELLMON. I understand the argument that costs are higher in some States than in others, Mr. President; and I agree that it is reasonable to take differences in cost into account when we distribute Federal funds. I submit, however, that no cost differences can justify a funding mechanism which puts nearly half of the Federal money under a program such as this into one State. By basing the funding in this bill on the expenditures of the various States under current law, we run the risk of rewarding inefficiency and punishing economy.

This amendment takes into account the differences in cost of living from one State to another. Unless a State exceeds by 50 percent the national average for foster care costs—or exceeds by more than 50 percent the national average for AFDC children in foster care, this amendment would provide the same or greater funding than under the committee bill.

Let me state it another way, Mr. President:

My amendment simply provides that any State which exceeds the national averages by more than 50 percent in either of two measurements will receive smaller increases in its Federal foster care funding than provided by the bill as it was reported. I want to stress that I am not proposing to reduce the Federal funding for any State below what it is now.

Under my amendment the two measurements which will determine whether a State's Federal foster care ceiling is adjusted are, first, whether it varies from the national average monthly cost per child in foster care by more than 50 percent; and second, whether it varies from the national average for the percentage of AFDC children in foster care by more than 50 percent.

These two factors seem to me highly appropriate indicators to which to relate increases in Federal spending. Obviously we ought to encourage States to manage their programs efficiently and economically; to hold down overhead costs while paying adequate support to families and institutions caring for foster children. My amendment provides that encouragement. Likewise, there is broad acceptance of the view that some States have kept too many children in foster care. The Finance Committee's report stresses that problem as one of the considerations which led it to report to H.R. 3434. By adopting my amendment, the Senate will signal the States that it is concerned enough about this problem to adapt the Federal funding formula so that it take into account the relative percentages of AFDC children in foster care.

My amendment provides that States which exceed the national averages by more than 50 percent shall have their ceiling for Federal foster care funding reduced by the percentage by which they exceed the national averages by more than 50 percent.

Conversely, my amendment provides that States which have costs for foster care placement more than 50 percent below the national averages would have proportionately higher ceilings than provided in the committee bill. The net effect of my amendment is to limit the increases in the Federal payment to States which have unduly costly programs or high percentages of children in foster care, while permitting more room for program growth for States which have very low-cost programs or a low proportion of AFDC children in foster care.

To moderate the impact of my amendment, I have provided that no State will get less than a 5-percent growth in fiscal year 1980 and a 2-percent growth in Federal funds in 1981 and beyond.

Mr. President, I ask unanimous consent to include in the RECORD at this point a table comparing the State ceilings on Federal foster care under the committee bill and under my amendment. This table shows, Mr. President, that 22 States would have higher ceilings and 9 States would have lower ceilings under my amendment. There would be no change in the ceilings for the other States.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED FISCAL YEAR 1980 STATE CEILINGS FOR FEDERAL FOSTER CARE REIMBURSEMENTS

	H.R. 3434 as reported; State gets higher of—		Bellmon amendment	Change
Alabama	1.6	1.8	1.97	+0.17
Alaska	.8	.2	.78	−.02
Arizona	(*)	1.1	1.57	+.47
Arkansas	.4	1.0	1.3	+.3
California	35.2	35.8	35.2	(1)
Colorado	1.5	1.2	1.5	(1)
Connecticut	1.9	1.4	1.9	(1)
Delaware	.5	.3	.5	(1)
District of Columbia	.5	.3	.52	+.02
Florida	1.3	3.5	4.7	+1.2
Georgia	2.6	2.5	2.65	+.05
Hawaii	(*)	.4	.6	+.2
Idaho	.4	.4	.4	(1)
Illinois	3.8	5.3	5.32	+.02
Indiana	1.4	2.6	4.25	+1.65
Iowa	1.4	1.3	1.4	(1)
Kansas	2.9	1.0	2.54	−.36
Kentucky	2.2	1.7	2.22	+.02
Louisiana	3.1	2.0	3.1	(1)
Maine	2.0	.5	1.88	−.12
Maryland	3.5	1.9	3.5	(1)
Massachusetts	.7	2.5	2.5	(1)
Michigan	12.3	4.4	12.3	(1)
Minnesota	3.8	1.9	3.8	(1)
Mississippi	1.0	1.3	1.38	+.08
Missouri	1.8	2.2	2.35	+.15
Montana	.7	.4	.59	−.11
Nebraska	.8	.7	.8	(1)
Nevada	.3	.3	.3	(1)

	H.R. 3434 as reported; State gets higher of—		Bellmon amendment	Change
New Hampshire	.5	.4	.5	(1)
New Jersey	.4	3.3	4.47	+1.47
New Mexico	1.0	.6	1.10	+.10
New York	131.1	7.9	114.68	−16.42
North Carolina	.8	1.9	2.90	+1.0
North Dakota	.8	.8	.7	−.1
Ohio	3.1	5.0	5.6	+.6
Oklahoma	.7	1.3	1.45	+.15
Oregon	4.4	1.1	4.27	−.13
Pennsylvania	8.1	5.1	8.1	(1)
Rhode Island	.2	.4	.41	+.01
South Carolina	.6	1.4	1.85	+.45
South Dakota	.4	.3	.42	+.02
Tennessee	2.5	2.0	2.54	+.04
Texas	1.2	6.3	6.3	(1)
Utah	.5	.7	.87	+.17
Vermont	.6	.2	.56	−.04
Virginia	3.2	2.3	3.15	−.05
Washington	2.5	1.7	2.5	(1)
West Virginia	1.0	.8	1.0	(1)
Wisconsin	3.5	2.2	3.5	(1)
Wyoming	.08	.2	.2	(1)

[1] No change.

Mr. BELLMON. The net effect of my amendment would be to lower Federal program costs in fiscal year 1980 by $11 million because the reduction in payments to high-cost States would more than offset the increases in payments to low-cost States.

Mr. President, one effect of adopting my amendment will be to cause States which have high costs or large percentages of children in foster care to examine their programs more closely. I am sure that some States are operating their program as efficiently as they should be. On the other hand, States which have had low-cost programs up to now will be able to get some additional Federal help to improve their programs where needed. In short, my amendment will reduce the inequities among the States in the distribution of Federal foster care funds that would exist under the bill as reported.

I urge adoption of this amendment.

Mr. MOYNIHAN. Mr. President, I have the unwelcome task of opposing this amendment with much more resolve than I would ordinarily bring to a proposal from the very respected and admired, I dare say beloved, Senator from Oklahoma whose humaneness and compassion have characterized all his activities in this Chamber. But I feel he may have misunderstood the purposes of the bill before us, and his amendment works in just the opposite direction than we had hoped to move with national social policy, a direction which I believe to be the strong consensus of the Chamber, not just the committee.

The committee, as I said earlier and as the Senator from Kansas has said so eloquently, has made the judgment in response to urgent and well-argued proposals which we have heard in committee that we should move our emphasis away from foster care and toward adoption. We have judged that this can be done and should be done. We do not lightly settle a matter which only a good deal of experience and time can settle, which involves the lives of children in the most sensitive, exposed, and vulnerable condition.

We have put a loose cap, to use our term, on the increase in funds that will be available for foster care over the next 5 years at 20 percent over fiscal 1978 actual spending for the coming year and thereafter to increase by 10 percent a year, which is likely to be not much more than the inflation rate, if that.

This will allow us to see whether adoption could be more effectively used as the preferred means of caring for children who do not have homes of their own.

However, no one expects the number of adoptions to displace foster care. We might hope it would, but realistically it will not. In the meantime, we must have a fair and adequate foster care program.

As I said earlier, when the Senator from Kansas was necessarily off the floor, some of the descriptions of foster care were almost Dickensian in their disapprobation in our hearings, which seemed to be unfair to the devoted foster parent couples who have taken in children and looked after them, because they were encouraged to do so, and this will continue to be a very widely held program.

If it is to be a general program, as much as can be it ought also to be a humane program. This proposal, I am sorry to say, would penalize those States which have tried to be most generous in their provision—for whom?

For dependent children without homes. It invokes no inappropriate term to say we are talking about orphans and how inappropriate it would seem to me to say that those States which have chosen to spend more on their orphan children ought now to be required to spend less.

The Senator has referred to high-cost States. This is not a defense program with an overrun on the cost of constructing a bomber. A high-cost State is a State that has provided something more than the usual pittance for the care of abandoned children. Those States share in this cost. The Federal Government provides a portion and the States provide the rest, as in the AFDC program generally. I cannot imagine that we would wish to have States that are providing a somewhat higher level of payment be forced or even pushed to reduce that payment.

I cannot imagine that the Senate would wish to do this. I know that, most certainly, I do not. I think it would be fair to say that our committee does not. I am glad the Senator has agreed to a rollcall vote on Monday when more of our colleagues will be present, inasmuch as I think the Senate would look up in surprised horror to find that, while it was elsewhere engaged, any decision had been made or the provisions had been made for a decision to slash the allowances for orphans and abandoned children in those jurisdictions that have tried to make them sufficient—and they are never more than that.

I yield back the remainder of my time.

I see that Senator CRANSTON, the Senator from California, is on the floor.

Mr. BELLMON. Mr. President, will the Senator from California allow me to respond for 30 seconds?

Mr. MOYNIHAN. I am happy to do that.

Mr. President, I think the Senator from Oklahoma would like to respond and then the Senator from California would like to speak.

Mr. CRANSTON. After the Senator responds.

Mr. MOYNIHAN. There is plenty of time for this.

Mr. BELLMON. Mr. President, first, the Senator from New York may have made it sound like we are doing something while the Senate is away.

Mr. MOYNIHAN. Oh, no. I indicated my agreement that a vote should occur when more Senators are here.

Mr. BELLMON. It is merely that we ran out of time.

Mr. MOYNIHAN. That is precisely so. It is merely the case that most Senators are not here and it is no intention of the Senator from Oklahoma whatsoever.

Mr. BELLMON. Mr. President, when you look at the table on pages 50 and 51 of the report of the Finance Committee on this bill, we find some interesting facts. One is that the average national AFDC foster care cost is $345. But there are only four States at or above that figure. The rest of the States, the other 46, are all below the figure and most of them are substantially below that figure. The purpose of this amendment is to try to bring some realism, some equity, to this matter.

I appreciate the point that the Senator from New York makes, that these States are matching these funds, but in most cases, at least—I do not believe it is true in the State of New York—in most States, the predominance of the funds is Federal. Here is a case where some States are taking what I consider to be an unfair advantage of a program and have allowed the cost to get very much out of hand, while other States are being, I would say, responsible, or more responsible, in holding the costs within more reasonable limits.

Mr. DOLE. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. MOYNIHAN. The Senator from California had asked for the floor. Is that agreeable to the Senator from Kansas?

Mr. DOLE. Yes.

Mr. CRANSTON. Mr. President, I rise in opposition to the amendment offered by the Senator from Oklahoma.

It would significantly alter the foster care maintenance allocation provisions of H.R. 3434, as reported by the Finance Committee.

This amendment would decrease the allotments of States which exceed the national average for either the percentage of AFDC population in foster care or the average costs per foster care placement.

Mr. President, the Finance Committee bill provides for a ceiling on foster care maintenance payments at 120 percent of a State's 1978 allocation, or the State's share of $100 million based upon population under the age of 18 in each State. This latter provision is specifically designed to provide States with small foster care populations room for "reasonable" caseload growth.

My support for the concept of a ceiling upon a State's foster care maintenance payments is based upon my firm belief that many children are inappropriately placed in long-term foster care placements when they should either be reunited with their own families or freed for adoption. I believe that States can and should reduce their foster care caseloads. Demonstration projects around the country which have concentrated upon maintaining families together, rather than placing children in foster care, have proven the success of this approach, both in monetary and social terms.

At the same time, I fully recognize that there are a number of States which pay extremely low rates for necessary foster care. The National Commission for Children in need of parents, after surveying some of these low rates, observed that in one State, foster parents were paid $32 a week to support a child while nearby kennels were charging $35 per week or more to board a dog. The basic problem with the amendment offered by the Senator from Oklahoma is that by focusing upon a State's costs, it punishes those States which pay decent, humane foster care rates.

For that reason, I oppose the amendment.

Mr. DOLE. Mr. President, I rise in opposition to the amendment of the distinguished Senator from Oklahoma. I think what he would do has been outlined by the Senator from Oklahoma himself and by others who have spoken. I just say very quickly that it may be demonstrated in the next few years that the Senator from Oklahoma is exactly correct, but we are attempting this year to put a cap—we call it a loose cap as the Senator from New York alluded to it—on the foster care. The cap on foster care is an innovation. It reduces the amount of funds available to a State. If we tried to put the cap on and then tried to reduce the amount of funds to a State at the same time, it could create a hardship.

This particular change in allocation of funds was never discussed in our committee. We had lengthy hearings and lengthy discussions and a lengthy markup. I do not fault the Senator from Oklahoma, but I suggest that it is something that comes to this Senator as a new concept. It might be appropriate at a future time to make such a reduction if a study of each State's foster care program indicates that the funds are being wasted.

I hope that that is an on-going process. If, in fact, the funds are being wasted in some States as compared to others, the Senator from Kansas would not only support the efforts of the Senator from Oklahoma, but would support them gladly.

Mr. MOYNIHAN. Mr. President, may I in closing, emphasize something and say something about the Senator from Kansas which he might find embarrassing and which he certainly would not say for himself.

He is not a person without many demands on his time. Yet, in the long and complicated hearings on this matter, the Senator from Kansas was invariably present, concerned about these matters, cognizant of the great difficulty of making wise choices, and always cautioning as to prudent rates of change where the lives of children—babies—wards of the State, are involved.

I do not wish, and it would not be appropriate for me, to make any large assertion of the jurisdiction of any committee and to ask that others stay out of our domain. That is not the case at all. But there is such a thing as having been involved in the matter and coming to a prayerfully moderate set of proposals with respect to an infinitely sensitive subject.

The Senator from Kansas speaks with the authority of someone who has taken from other, what might seem more pressing, demands on his time all the energy and attention that were required to bring this bill to the floor. I think that if anyone's judgment ought to be sufficient in the matter, certainly, in my view, it would be his. I thank him for that.

Mr. President, I believe we have now concluded this portion of the amendment of the Senator from Oklahoma.

We are not going to vote on it.

May I ask the Chair, how ought we to proceed to the next business?

The PRESIDING OFFICER. I believe the Senator from California desires to be recognized.

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. DOLE. I yield back Senator BELLMON's time, with his permission.

The PRESIDING OFFICER. Without objection, the time is yielded back.

The Senator from California is recognized.

UP AMENDMENT NO. 673

(Purpose: To adjust the base year for foster care maintenance payment allotments to the States to include otherwise eligible children who were placed in homes with relatives)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 673.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, line 9, insert before the period the following: "and shall also include for those States which in fiscal year 1978 did not make foster care maintenance payments, under section 408 on behalf of children otherwise eligible for such payments, solely because their foster care was provided by related persons, the additional amount the State would have been entitled to be paid for that fiscal year if such payments had been made".

Mr. CRANSTON. Mr. President, this amendment would adjust a State's allotment for the foster care maintenance program to include in the base year total—fiscal year 1978 in the reported bill—that amount of money a State would have been entitled to be paid for foster care maintenance payments on behalf of children whose foster care was provided by related persons.

Mr. President, the necessity for this amendment arises as a result of a decision of the Supreme Court earlier this year in the case of Miller against Youakim. The case involved the issue of whether a State could lawfully distinguish in its foster care program between children who are placed with relatives and those who are not. Thirteen States—California, Alabama, Alaska, Arizona, Colorado, Hawaii, Idaho, Illinois, Michigan, Mississippi, New Hampshire, New Mexico, and Wyoming—had established programs wherein children placed in foster homes of unrelated persons qualified for the AFDC–FC program, which provided greater monthly payments than the basic AFDC program. But children who were placed in foster homes of related persons in these States were allowed to participate only in the basic AFDC program.

The Supreme Court held in the Youakim case that the Social Security Act required inclusion in the AFDC–FC program of these children who are placed—through court orders—in foster homes of related persons.

Mr. President, this amendment is necessary to assure that adequate provision is made in the base year to permit States to comply with the Supreme Court's directive. The amendment covers only those children who would otherwise have been eligible for the foster care program and were excluded solely because they were placed in the care of a relative. I know of no opposition to this amendment. I hope it will be acceptable to the managers of the bill, and I thank the committee staff for their cooperation in preparing the amendment.

Mr. MOYNIHAN. Mr. President, I am happy to say that this seems to us to be a prudent and an important amendment.

As much as the increased foster care costs were created by a decision over which the States have no control, it would seem reasonable to allow this type of adjustment. I will support the measure.

Mr. DOLE. If the Senator will yield, I agree with the distinguished Senator from New York. It does respond to the Supreme Court decision which ordered 13 States to increase certain foster care payments.

It would be inequitable not to adjust that ceiling for those States to accommodate that requirement. I support the amendment on behalf of this side of the aisle.

Mr. CRANSTON. I thank both managers very much.

Mr. President, I am prepared to yield back my time.

Mr. MOYNIHAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from California.

The amendment (UP No. 673) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 674

(Purpose: To provide continuing Medicaid eligibility for certain recipients of Veterans' Administration pension)

Mr. CRANSTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Messrs. TALMADGE, RANDOLPH, MATSUNAGA, DURKIN, THURMOND, BENTSEN, BRADLEY, and BUMPERS, proposes an unprinted amendment numbered 674.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title III of the bill, add the following new section:

CONTINUING MEDICAID ELIGIBILITY FOR CERTAIN RECIPIENTS OF VETERANS' ADMINISTRATION PENSIONS

SEC. . (a)(1) Part A of title XI of the Social Security Act is amended by adding after section 1132 (as added by section 307 of this Act) the following new section:

"APPLICANTS OR RECIPIENTS UNDER PUBLIC ASSISTANCE PROGRAMS NOT TO BE REQUIRED TO MAKE ELECTION RESPECTING CERTAIN VETERANS' BENEFITS

"SEC. 1133. (a) Notwithstanding any other provision of law (but subject to subsection (b)), no individual who is an applicant for or recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, or of benefits under the Supplemental Security Income program established by title XVI shall—

"(1) be required, as a condition of eligibility for (or of continuing to receive) such aid, assistance, or benefits, to make an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 with respect to pension paid by the Veterans' Administration, or

"(2) by reason of failure or refusal to make such an election, be denied (or suffer a reduction in the amount of) such aid, assistance, or benefits.

"(b) The provisions of subsection (a) shall be applicable only with respect to an individual, who is an applicant for or recipient of aid, assistance, or benefits described in subsection (a), during a period with respect to which there is in effect—

"(1) in case such individual is an applicant for or recipient of aid or assistance under a State plan referred to in subsection (a), in the State having such plan, or

"(2) in case such individual is an applicant for or recipient of benefits under the supplemental Security Income program established by title XVI, in the State in which the individual applies for or receives such benefits,

a State plan for medical assistance, approved under title XIX, under which medical assistance is available to such individual only for period for which such individual is a recipient of aid, assistance, or benefits described in subsection (a).".

(2) The amendment made by paragraph (1) shall be effective on and after January 1, 1979; except that nothing contained in such amendment shall be construed to authorize or require any payment (or increase in payment) of any aid or assistance or benefits referred to in section 1133(a) of the Social Security Act (as added by paragraph (1)) for any benefit period which begins prior to the date of enactment of this Act.

(b)(1)(A) For purposes of section 1902 (a)(10)(A) of the Social Security Act, any individual who, prior to the date of enactment of this Act, was eligible for and received aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV of such Act, or was eligible for and received supplemental security income benefits under title XVI of such Act (or a supplementary payment described in section 13(c) of Public Law 93–233), and was also in receipt of (or was a dependent, for purposes of chapter 15 of title 38, United States Code, as in effect on December 31, 1978, of an individual in receipt of) pension from the Veterans' Administration for the month of December 1978 shall (subject to subparagraph (B)) be deemed to be eligible to receive such aid, assistance, supplemental security income, or supplementary payment, for each calendar month thereafter for which such individual would have been eligible therefor if the increase in income of such individual (or of the family of which such individual is a member), attributable to an election (made by such individual or another member of such individual's family) under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, had not occurred.

(B)(i) The provisions of subparagraph (A) shall take effect on January 1, 1979, and shall cease to be effective, in the case of any individual, for and after the first calendar month beginning more than 10 days after an "informed election" (as defined in subdivision (ii) of this subparagraph) has been made by such individual (or, if such individual is not eligible to make such an election, by a member of such individual's family who is eligible to make such an election which affects such individual's eligibility for aid, assistance, or benefits under a plan or program referred to in subparagraph (A)).

(ii) The term "informed election" means an election made under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (or a reaffirmation of such an election which previously was made under such section 306) after the date of compliance by the Administrator of Veterans' Affairs (hereinafter in this section referred to as the "Administrator") with the provisions of paragraph (2)(A) with respect to the individual concerned. An individual who fails, within the time limits prescribed in paragraph (2)(B), to disaffirm an election previously made by such individual under such section 306 shall be deemed, for purposes of this section and such section 306, to have reaffirmed such election.

(2)(A) The Administrator shall provide to each individual to whom section 1133 of the Social Security Act (as added by subsection (a)(1) of this section) applies and who is eligible to make or has made an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, a written notice, in clear and understandable language, which (i) describes the consequences to such individual (and possibly to such individual's family), in terms of a determination or possible determination of ineligibility for medical assistance under a State plan approved under title XIX of the Social Security Act, of making an election with respect to pension under such section 306, (ii) describes the provisions of subparagraph (B) of this paragraph and subsection (a) of this section, (iii) sets forth other relevant information that would be helpful to such individual in making an informed decision concerning such an election or the disaffirmation thereof, and (iv) in the case of any individual who has made such an election, is accompanied by a form prepared for the purpose of enabling such individual to file with the Administrator a written disaffirmation of such an election.

(B) Notwithstanding any other provision of law—

(i) any individual to whom section 1133 of the Social Security Act (as added by subsection (a)(1) of this section) applies may, within the 90-day period beginning with the day that there is mailed to such individual (at such individual's last known mailing address) a notice referred to in subparagraph (A), disaffirm an election previously made by such individual under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 by completing and mailing to the Administrator the form furnished such individual for such purpose by the Administrator pursuant to subparagraph (A).

(ii) whenever any such individual files such a disaffirmation with the Administrator, the amount of pension payable to such individual shall be adjusted, beginning with the first calendar month which commences after the receipt by the Administrator of such disaffirmation, to the amount that such pension would have been if such an election by such individual had not been made.

(iii) any individual who has filed a disaffirmation, pursuant to this subparagraph, of an election made by such individual under such section 306 may again make an election thereunder, but such subsequent election may not be disaffirmed under this subsection, and

(iv) no indebtedness to the United States, as a result of the disaffirmation by an individual, pursuant to this subparagraph, of an election made by such individual under such section 306 shall be considered to arise from the payment of pension pursuant to such an election.

(C) The Administrator shall promptly advise the Secretary, and provide identification of the individuals involved and other pertinent information, with respect to (i) disaffirmations of elections made by individuals pursuant to subparagraph (B), (ii) individuals who, by failing to disaffirm within the 90-day period prescribed in subparagraph (B), are deemed to have reaffirmed elections previously made, and (iii) individuals who, after having disaffirmed an election under subparagraph (B), subsequently again make an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978. The Secretary, upon receipt of any such information with respect to an individual, shall promptly notify the appropriate agencies administering State plans approved under title I, X, XIV, XVI, and XIX, and part A of title IV of the Social Security Act, and State agencies making supplemental payments pursuant to section 1616 of such Act or an agreement entered into pursuant to section 212(a) of Public Law 93–66.

(c)(1)(A) Not later than December 15 of each year (commencing with 1979) the Secretary, in consultation with the Administrator, shall prepare and submit to the Administrator estimates of the additional expenditures incurred (including expenditures for administration) by each State concerned and by the Secretary (with respect to all such States) by reason of the provisions of this section and the amendment made by subsection (a)(1) of this section, during the fiscal year ending on the preceding September 30. Such estimates of the additional expenditures incurred by each such State shall include the expenditures incurred with respect to which such State is not entitled to reimbursement by the Federal Government under the Social Security Act (i) under such State's plan approved

under title XIX of the Social Security Act, (ii) under such State's plan approved under title I, X, XIV, XVI, or part A of title IV of such Act, and (iii) under such State's program, if any, of supplementation pursuant to an agreement required under section 202 (a) of Public Law 93-66 and supplementation to benefits provided under the Supplemental Security Income program established by title XVI of the Social Security Act.

(B) Not later than December 15 of each year (commencing with 1979) the Administrator shall estimate—

(i) the amount of pension benefits paid during the previous fiscal year to persons who filed disaffirmations with the Administrator pursuant to provisions of subsection (b) of this section, and

(ii) the amount of pension benefits that would have been paid to such persons if this section had not been enacted.

(2) Whenever the estimates required under paragraph (1) of this subsection for any fiscal year have been completed, the Administrator shall pay to the Secretary, from amounts appropriated to the Veterans' Administration for the compensation and pensions account, an amount equal to whichever of the following is the lesser:

(A) the excess, if any, of the amount estimated under paragraph (1)(B)(ii) of this subsection over the amount estimated under paragraph (1)(B)(i) of this subsection, or

(B) the amount estimated under paragraph (1)(A) of this subsection.

Thereafter the Secretary shall pay to each State concerned an amount equal to the Secretary's estimate of each such State's expenditures incurred by reason of the provisions of this section and the amendment made by subsection (a)(1) of this section. In making such payments to such States, the Secretary shall use, to the extent sufficient, the amount so paid by the Administrator and shall apply the remainder, if any, of such amount to the expenditures otherwise incurred by the Secretary by reason of the provisions of this section and the amendment made by subsection (a)(1) of this section.

(3) Payments of any amount required to be made under the preceding provisions of this subsection for any year (commencing with 1980) shall be reduced or increased to the extent necessary to make proper adjustment of over-estimates or under-estimates of that amount for any prior year for which proper adjustment pursuant to this paragraph has not previously been made.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I offer this amendment in order to avert very serious hardships for certain VA pensioners—those who, as a result of the enactment of the Veterans' and Survivors' Pension Improvement Act of 1978, Public Law 95-588, are threatened with the loss of medicaid coverage because they live in States where medicaid eligibility is solely dependent on eligibility for supplemental security income (SSI) or aid to families with dependent children (AFDC).

BACKGROUND

Mr. President, in about 15 States, eligibility for medicaid is contingent on eligibility for SSI or AFDC, and, if an SSI or AFDC beneficiary receives an increase in income making him or her ineligible for SSI or AFDC benefits, he or she is also disqualified for medicaid. These may be called categorically eligible States. In other States, medicaid eligibility may continue, after disqualification for SSI or AFDC, if the recipient uses his or her additional income for health care and thus "spends down" to State-prescribed levels. These may be called medically needy States.

Mr. President, about 100,000 VA pensioners were receiving SSI benefits during 1978; the number who were receiving AFDC is not known, but was probably far less than 100,000.

Mr. President, Public Law 95-588 provides, effective January 1, 1979, for a new pension program under which higher pension benefits are available to those pensioners most in need—those with little or no nonpension income. Section 306 of that law, a grandfathering provision, generally allows pensioners who were receiving VA pension as of December 31, 1978, to continue to receive pension at the same rate they were receiving on that date or to elect benefits under the new program if they so choose. If benefits under the new program are actually paid, the election is irrevocable.

By statute, both SSI and AFDC require, as a condition of eligibility, that any beneficiary apply for any other Federal benefits—such as the higher VA pension benefits available under the new pension law, Public Law 95-588—to which he or she may be entitled. Thus, those pensioners who are eligible for SSI or AFDC can be required to elect benefits under that law. If the result of the election is an increase in income from VA pension, they generally become ineligible for SSI or AFDC because the new pension income standards exceed SSI and AFDC income limits.

Mr. President, in the "medically-needy" States, these pensioners would remain eligible for medicaid if they use the increased income for health-care expenses to the extent required by the State spend-down level. However, in "categorically eligible" States, pensioners who elect benefits under Public Law 95-588 and are thus disqualified from SSI or AFDC also lose eligibility for medicaid.

In providing information early this year to pensioners about Public Law 95-588, the VA, which at that time had no means of identifying pensioners who were also receiving SSI or AFDC, did not provide any information that would have enabled pensioners to understand that the pension election could result in the loss of medicaid coverage.

In the case of some pensioners in categorically eligible States—such as veterans living near a VA health-care facility and any pensioners with relatively low medical expenses—the loss of medicaid would not create serious difficulties. But, for others who have high medical expenses, including some veterans with families, veterans in nursing homes, some veterans who live far from a VA facility, and elderly and disabled surviving spouses, the loss of medicaid may cause very serious hardships.

Mr. President, the maximum annual pension rates for veterans' surviving spouses—most of whom are elderly widows—are lower than those for veterans, and these elderly widows, who are not eligible for VA health care, would be among those who would be hardest hit by the loss of medicaid eligibility.

SUMMARY OF PROPOSED AMENDMENT

Mr. President, our amendment would assure that persons in the categorically eligible States who were receiving VA pensions before the new pension program went into effect—January 1, 1979—would be able to continue under the old pension program and continue to remain eligible for SSI or AFDC and, thus, for medicaid benefits.

Thus, our amendment would basically provide for "grandfathering"—protecting—the medicaid eligibility of pensioners in the categorically eligible States who are eligible for both VA pension and medicaid if they choose to be grandfathered under the old pension program. These pensioners would be exempted from the statutory rule requiring them to elect to receive higher benefits under the new pension program and would remain eligible for SSI or AFDC and, thus, medicaid.

In the cases of those who have already elected new pension benefits, the amendment would allow them, within 90 days after being fully advised of the advantages and disadvantages of being grandfathered under the old pension program and the medicaid program, to choose whether to disaffirm or reaffirm their earlier elections. Those who disaffirm would again begin receiving the lower pension payments that they were receiving in December 1978, and would be restored to medicaid eligibility.

Mr. President, our amendment would also provide for a transfer of funds from the VA to HEW—not to exceed the amount "saved" by the VA as the result of paying lower pension benefits to those who choose to be grandfathered by disaffirming their elections. To defray the SSI—or AFDC—and medicaid costs resulting from restoring medicaid coverage, the amount that the VA would save by paying lower pensions would be paid by the VA to HEW to reimburse the States for their share of these costs; and, if the VA "savings" are more than sufficient to reimburse the States, the remainder would go to HEW for the Federal share of such SSI and medicaid costs. If the VA payment was insufficient to cover the States' shares, HEW would be required to make up the difference to the States concerned.

LETTER TO CHAIRMAN OF FINANCE COMMITTEE

Mr. President, I have discussed this matter with the distinguished floor manager and first brought it to his attention in a letter dated June 27. I ask unanimous consent, Mr. President, that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FINANCE,
Washington, D.C., June 27, 1979.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, Washington, D.C.

DEAR RUSSELL, I am writing to request your assistance in solving a problem concerning the Medicaid program that is arising as a result of the enactment of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588). VA pensioners also re-

ceiving Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC) in certain States may, as a result of electing higher pension benefits under the new pension program established by Public Law 95-588, no longer be eligible for cash benefits under those programs and thus may lose their derivative eligibility for Medicaid benefits.

The loss of Medicaid coverage, for many of these pensioners would create very serious hardships because the value of the lost Medicaid coverage would far exceed the increase in their monthly pension benefits.

As you may know, the Social Security Administration has advised its regional offices that SSI-eligible pensioners must, under section 1611(e)(2) of the Social Security Act, apply for higher benefits under the new VA pension program. The implementation of this directive has been stayed pending a decision in *Jones* v. *Califano*, a class action currently pending in the Federal District Court for the District of Columbia. However, even if the Court ultimately finds in plaintiffs' favor, the decision will not reach those pensioners who have already elected benefits under Public Law 95-588 and who have thus lost eligibility for SSI or AFDC, and, as a result, Medicaid coverage.

It seems to me that the gravity of the situation warrants an amendment to title XIX of the Social Security Act that would either grandfather Medicaid eligibility for VA pensioners entitled to Medicaid on December 31, 1978, or require all States to provide Medicaid benefits for such pensioners under a "medically needy" spend-down provision.

Russell, I would very much appreciate your help in this matter, which I believe requires very prompt action. I would hope that our two Committee staffs could work together to develop a mutually acceptable legislative resolution of this troublesome situation and that such a program could be added at the appropriate time as an amendment to your Committee's health legislation currently in markup.

With warmest regards,
Cordially,

ALAN CRANSTON,
Chairman.

ANALYSIS OF PROVISIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that an analysis of the provisions of the amendment be inserted in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS OF UNPRINTED CRANSTON AMENDMENT NO. 674

Paragraph (1) of subsection (a) of the proposed amendment would amend part A of title XI of the Social Security Act, relating to general provisions, to add a new section 1133, as follows:

New section 1133.—Applications or Recipients under Public Assistance Programs Not to be Required to Make Election Respecting Certain Veterans' Benefits:

Subsection (a) of new section 1133 would provide that, notwithstanding any other provision of law, no Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC) applicant or recipient who is eligible, under section 306 of the Veterans' and Survivors Pension Improvement Act of 1978, Public Law 95-588, to elect to receive benefits under the new VA pension program established by Public Law 95-588 would be required to make such an election as a condition of eligibility or continued eligibility for SSI or AFDC or would suffer a denial or reduction of SSI or AFDC benefits as a result of failure or refusal to make such an election. Veterans and survivors eligible to make an election under section 306 of Public Law 95-588 are those who were eligible to receive VA pension benefits on December 31, 1978, the day prior to the date—January 1, 1979—on which Public Law 95-588 became effective.

Currently, applicants for and recipients of SSI (under section 1611(e)(2) of the Social Security Act) or AFDC (under HEW regulations pursuant to section 402(a)(7) of the Act) benefits are required, as a condition of eligibility for such benefits, to apply for benefits under any other Federal program—such as VA pension—to which they may be entitled. The new provision would thus provide a limited exemption from this general requirement.

This subsection's applicability would be subject to the provisions of subsection (b) of new section 1133.

Subsection (b) of new section 1133 would provide that subsection (a) would apply only to SSI and AFDC applicants and recipients in States where there is a State plan for medical assistance approved under title XIX of the Social Security Act—"State Medical plan"—under which Medicaid benefits are available to such an individual only when such individual is eligible for SSI or AFDC. Such a State plan is hereinafter referred to as a "categorically eligible State Medicaid plan".

Paragraph (2) of subsection (a) of the proposed amendment would provide that new section 1133 would be effective as of January 1, 1979, but also that no SSI or AFDC payments for any benefit period beginning prior to the date of enactment of this Act—that is, no retroactive payments or increases in payments—would be authorized by new section 1133.

Subsection (b) of the proposed amendment would set forth the terms and conditions under which the SSI or AFDC and Medicaid eligibility of VA pensioners in States with categorically-eligible State Medicaid plans would be continued or restored, if, after the VA provides appropriate information, the pensioner disaffirms an election previously made under section 306 of Public Law 95-588 or decides not to make an election.

Subparagraph (A) of paragraph (1) of subsection (b) would provide, for the purposes of categorically eligible State Medicaid plans, that any person who, prior to the date of enactment of this amendment was receiving SSI or AFDC and also received VA pension for December 1978, shall be deemed eligible to continue receiving SSI or AFDC after December 31, 1978, without regard to any increase in household income attributable to an election under section 306 of Public Law 95-588. Thus, the effect of this subparagraph would be to restore, retroactively, eligibility for Medicaid to any VA pensioner residing in a State with a categorically eligible State Medicaid plan whose Medicaid eligibility has been terminated because of a pension election.

Subparagraph (B) of paragraph (1) of subsection (b) would provide for an effective date, with regard to VA pensioners' retroactive eligibility for Medicaid, of January 1, 1979. With regard to any individual whose Medicaid eligibility is thereby restored, subparagraph (A) would cease to be effective beginning with the first calendar month that begins more than 10 days after any such pensioner makes an "informed election", defined as an election under section 306 of Public Law 95-588 that has been made only after compliance, by the VA, with the provisions of paragraph (2)(A) of this subsection requiring the VA to provide specified information to the individual to assist in making an informed decision concerning such election.

Subparagraph (A) of paragraph (2) of subsection (b) would require the VA to provide to each VA pensioner to whom new section 1133 of the Social Security Act applies—those in States with categorically-eligible Medicaid plans—and who was receiving VA pension in December 1978 and is thus eligible to make or has made an election under section 306 of Public Law 95-588, a clear and understandable written notice that describes the consequence, or possible consequence, of such an election with regard to the pensioner's—or the pensioner's family members'—Medicaid eligibility. The notice would also be required to contain a clear and understandable description of the provisions of new section 1133 of the Social Security Act, the pensioner's right to disaffirm any such election under paragraph (2)(B) of this subsection, and other relevant information that would be helpful to the pensioner in arriving at an informed decision concerning such an election or its disaffirmation. In the case of VA pensioners who have already made elections, the VA would be required to enclose with the notice a disaffirmation form.

Subparagraph (B) of paragraph (2) of subsection (b) would provide that any VA pensioner to whom new section 1133 of the Social Security Act applies may disaffirm an election under section 306 of Public Law 95-588 within the 90-day period that begins on the day the VA mails to him or her the notice required under subparagraph (A) of this paragraph. Such a disaffirmation would be accomplished by completing and mailing to the VA the disaffirmation form to be enclosed with the notice. Such a disaffirmation would be effective notwithstanding any other provision of law, such as the provision in section 306 of Public Law 95-588 under which pension elections are to be irrevocable if pension benefits pursuant to such an election are actually paid.

If such a disaffirmation were filed with the VA, the pension payment would be reduced to the amount that such payment would have been had no election been made. Such reduction would be effective beginning with the first calendar month following the VA's receipt of the disaffirmation.

Any pensioner who disaffirms would later be permitted to make another election under section 306 of Public Law 95-588, but no such subsequent election could be disaffirmed under this subsection.

No pensioner who disaffirms would be charged by the VA with an overpayment or other indebtedness to the Federal government as a result of such disaffirmation. Thus, for example, even though the person received higher pension benefits (as a result of the election) during the period prior to the disaffirmation, no overpayment would be created thereby.

Subparagraph (C) of paragraph (2) of subsection (b) would require the VA to identify, to HEW, pensioners who disaffirm; pensioners who, having not disaffirmed within the 90-day period, are deemed to have reaffirmed elections they previously made; and pensioners who, having disaffirmed, subsequently make elections under section 306 of Public Law 95-588. HEW would be required to provide this information, to the extent appropriate, to State agencies in charge of administering Medicaid, AFDC, and SSI State supplement programs.

Subsection (c) of the proposed amendment would provide for a transfer payment from the VA to HEW, and from HEW to the States, to compensate the States and HEW for the cost of the Medicaid coverage for the VA pensioners involved and for other costs—Medicaid, SSI, and administrative expenses—resulting from the enactment of this section. Such VA payment would not exceed the total amount saved by the VA as a result of the lower payments for the pensions of the persons who disaffirm the elections

they had made under section 306 of Public Law 95-588.

Subparagraph (A) of paragraph (1) of subsection (c) would require HEW, in consultation with the VA, to estimate the additional expenditures incurred by the States concerned and by HEW by reason of the enactment of this section. Such estimates would be required to be completed by December 15 of each year, beginning with 1979, and submitted to the VA by that date and would cover the previous fiscal year. With regard to State expenditures, such estimates would include Medicaid expenditures to which the State is not entitled to Federal reimbursement, AFDC expenditures, and SSI State supplement expenditures, if any.

Subparagraph (B) of paragraph (1) of subsection (c) would require the VA, also by December 15 of each year, to estimate the amount of VA pension benefits paid to persons who have filed disaffirmations with the VA during the previous fiscal year and the amount of pension benefits that would have been paid to such persons if this section had not been enacted.

Paragraph (2) of subsection (c) would require the VA to pay to HEW, whenever the HEW and VA estimates have been completed, from the amount appropriated to the VA for the compensation and pensions account, an amount equal to the excess of the amount that would have been paid in pensions if this section had not been enacted over the amount actually paid, or, if the HEW estimate required under paragraph (1)(A) of this subsection is a lesser amount, an amount equal to the HEW estimate.

HEW would be required, in turn, to pay each State concerned an amount equal to HEW's estimate of such State's expenditures incurred by reason of the enactment of this section. To the extent that the VA payment is sufficient, HEW would be required to make use of it for such payments to the States concerned and would apply the remainder, if any, to HEW's own expenditures incurred—for Medicaid, SSI, and AFDC—by reason of the enactment of this section.

Paragraph (3) of subsection (c) would enable HEW and the VA to make necessary adjustments, beginning with 1980, for overestimates and under-estimates in any prior year for which such adjustments have not been previously made.

COST ESTIMATE

Mr. CRANSTON. Mr. President, the Congressional Budget Office estimates that the net impact on Federal expenditures resulting from my amendment would be, for fiscal year 1980, $9.5 million and, for the first 5 fiscal years, 1980 through 1984, $62.3 million. No increased costs to the States would result from our amendment. I ask unanimous consent that the CBO estimate be printed in the RECORD at this point.

There being no objection, the CBO estimate was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 12, 1979.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for a possible amendment to H.R. 3434 to continue medicaid eligibility for recipients of certain Veterans' Administration pensions.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: A possible amendment to H.R. 3434.

2. Bill title: An amendment to the Social Security Act to continue medicaid eligibility for recipients of certain Veterans' Administration pensions.

3. Bill status: To be offered as a floor amendment to H.R. 3434 by Senator Alan Cranston.

4. Bill purpose: The Veterans' and Survivors' Pension Improvement Act (P.L. 95-588) took effect on January 1, 1979. All persons receiving benefits on that date under the provisions of the old pension program were given the option of remaining on the old program or switching to the reformed pension, which has higher maximum benefits but allows fewer exclusions from income. Section 1602 of the Social Security Act, however, provides that entitlement to veterans' pension must be fully exploited as a requirement of eligibility for Supplemental Security Income (SSI) benefits. Most individuals who had been in receipt of both old VA pension and SSI benefits found that when they switched to the new VA pension program, their incomes were then too high for them to qualify for SSI. In some states, the loss of eligibility for SSI also means a loss of eligibility for medicaid benefits. This amendment would remove the SSI requirement that SSI/VA pension beneficiaries must switch to the new pension program, if such a switch would result in their loss of eligibility for medicaid. The amendment would also apply in a similar fashion to the Aid to Families with Dependent Children (AFDC) program.

The amendment also provides that the savings which would accrue to VA as a result of pensioners opting to remain under the old pension program in order to retain their medicaid eligibility would be transfered to HEW and distributed to the affected states to offset the SSI, AFDC and medicaid costs that the states would incur for these pensioners. Any transfered funds over and above the combined increases in state costs would be used to offset increased federal expenditures.

5. Cost estimate: The federal budgetary impact of this bill would fall in budget functions 550, 600 and 700.

[By fiscal years; in millions of dollars]

	1980	1981	1982	1983	1984
FUNCTION 550 EFFECTS					
Medicaid:					
Federal costs:					
Required budget authority	7.7	8.6	9.6	10.8	12.1
Estimated outlays	7.7	8.6	9.6	10.8	12.1
Reimbursable State costs:					
Estimated budget authority	4.8	5.4	6.1	6.8	7.6
Estimated outlays	4.8	5.4	6.1	6.8	7.6
Transfer from VA:					
Required budget authority	−5.9	−6.4	−7.0	−7.6	−8.3
Estimated outlays	−5.9	−6.4	−7.0	−7.6	−8.3
FUNCTION 600 EFFECTS					
SSI:					
Federal costs:					
Required budget authority	3.3	3.6	4.0	4.3	4.6
Estimated outlays	3.3	3.6	4.0	4.3	4.6
Reimbursable State costs:					
Estimated budget authority	4.0	4.4	4.8	5.2	5.6
Estimated outlays	4.0	4.4	4.8	5.2	5.6
AFDC:					
Federal costs:					
Required budget authority	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
Reimbursable State costs:					
Estimated budget authority	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
Transfer from VA:					
Required budget authority	−4.4	−4.8	−5.2	−5.5	−5.9
Estimated outlays	−4.4	−4.8	−5.2	−5.5	−5.9
FUNCTION 700 EFFECTS					
Compensation and pensions:					
Required budget authority	−10.3	−11.2	−12.2	−13.1	−14.2
Estimated outlays	−10.3	−11.2	−12.2	−13.1	−14.2
Transfer to HEW:					
Required budget authority	10.3	11.2	12.2	13.1	14.2
Estimated outlays	10.3	11.2	12.2	13.1	14.2
NET BUDGETARY IMPACT					
Federal:					
Required budget authority	9.5	10.8	12.3	14.0	15.7
Estimated outlays	9.5	10.8	12.3	14.0	15.7
State:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	0	0	0	0	0

[1] Less than $500,000.

6. Basis for estimate: This amendment would only apply to persons in states that provide automatic medicaid eligibility for all SSI beneficiaries and that do not have a "medically needy" beneficiary classification in their medicaid program. There are 15 states that fall into this category. Even though all states have automatic medicaid eligibility for AFDC recipients, the number of AFDC/VA pension beneficiaries who would be affected by this provision should be extremely small for two reasons. First, the number of pension beneficiaries who also receive AFDC benefits is estimated to be quite small (not more than ten thousand). Second, it is assumed that most of the dependent children of these pensioners receive social security survivors' benefits, which would make these beneficiaries ineligible for the higher pension benefits under the reformed program. It was, therefore, assumed that the impact of this amendment on AFDC would not be significant.

According to a match-up of VA pension and SSI recipients in July 1979, there are 12,407 individuals in the affected states who were at that time receiving both VA pension and SSI benefits. Under current law, virtually all of these individuals would lose their eligibility for SSI and medicaid benefits. The base figure of 12,407 affected individuals was reduced to 11,000 to account for those veterans who will voluntarily give up their medicaid eligibility in favor of the higher pension benefits since pension veterans have access to free medical care in VA facilities.

Based on the VA pension-SSI match up, it was estimated that the 11,000 affected individuals were receiving, on the average, $644 a year in SSI benefits for which they would lose eligibility under current law. This figure

would, therefore, be the average cost to SSI of the amendment. It was assumed that 45 percent of this cost would relate to the federal benefit and the remaining 55 percent to state supplemental benefits. The average cost was inflated in the out-years by the latest CBO projections of increases in the CPI as they relate to SSI indexing provisions.

An average federal medicaid cost of $696 a year was assumed based on medicaid program data adjusted to reflect the program provisions of the affected states and the characteristics of the affected population. An average state cost of $440 annually was estimated using the same process. These costs were inflated in the out-years consistent with the latest CBO projections of increases in medicaid costs.

An average VA pension savings of $850 a year was determined using a computer model which simulates the interaction between the old and new pension programs. This amount was inflated in the out-years by the latest CBO projections of CPI increases as they apply to the indexing provisions of the two pension programs.

The amendment provides that each year VA would estimate the amount of money which was saved as a result of pensioners opting for the lower pension benefit in order to retain their SSI and medicaid eligibilities. This amount of money would then be transfered to HEW. The Secretary of HEW would distribute the transfered funds first to the states affected by the amendment to cover the increased state costs that would result from enactment. Any remaining transfered funds would then be used to offset the increase in federal AFDC, SSI, and medicaid costs. It is estimated that the VA savings would be sufficient to cover the full amount of the increase in state costs through fiscal year 1984. It is also estimated that there should be some transfered funds remaining to offset a portion of the higher function 600 federal costs throughout the projection period. After 1984, however, the savings realized by VA may not continue to be as great as the increase in state costs, because medicaid costs are expected to grow at a faster rate than the gap between the old and new pension benefits.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: K. W. Shepherd (225-7766).

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

CONCLUSION

Mr. CRANSTON. Mr. President, I would like to thank the distinguished floor manager, the Senator from Louisiana (Mr. LONG), for his courtesy and for his help and cooperation in developing this amendment. I would also like to express my gratitude to the distinguished chairman of the Finance Committee's Subcommittee on Health, the Senator from Georgia (Mr. TALMADGE), for his guidance and assistance, and to his staff member, Bobby Avary. In addition, the very capable staff of the Finance Committee—Michael Stern, Joe Humphreys, and John Kern—provided invaluable assistance, as did legislative counsels Doug Hester and Hugh Evans, for which I am very grateful.

Mr. President, I hope our amendment will be acceptable to the distinguished floor managers and other members of the Finance Committee, and I urge the adoption of this amendment.

Mr. LONG. Mr. President, the pending amendment appears reasonable. It would remove a statutory barrier and thus allow veterans to elect a lower pension benefit in order to retain their medicaid eligibility.

I am pleased that the Senator directed this matter to our attention, and I am happy to support the amendment.

Mr. CRANSTON. I thank the distinguished floor manager.

Mr. DOLE. Mr. President, I share the view just expressed by the distinguished chairman of the Finance Committee.

I have discussed this matter on the staff level with members of the majority and with the distinguished senior Senator from South Carolina (Mr. THURMOND) who, as is indicated, is one of the cosponsors of the legislation.

It seems to the Senator from Kansas that this is a good amendment.

BACKGROUND

In about 21 States—the "categorically eligible" States—medicaid is available only to SSI and AFDC recipients. In order to be eligible for AFDC and SSI an individual must have less than a specified level of income. In computing an applicants income, no deduction is permitted for high medical and attendant care costs.

By statute, AFDC and SSI require that as a condition of eligibility that recipients apply for any other Federal benefits to which they may be entitled.

Public Law 95-588 established, effective January 1, 1979, a new VA pension program under which higher VA pension benefits were made available to those pensioners most in need. Pensioners who were receiving a VA pension as of December 31, 1978, were permitted to continue receiving their then current pension or to elect the higher pension benefit under the new VA program.

Because of statutory requirements of the AFDC and SSI programs, VA pensioners on those programs were required by law to elect the new higher VA pensions. In some cases this forced election resulted in an increase in income that made them ineligible for SSI and AFDC. This in turn made these pensioners ineligible for medicaid in the 21 categorically eligible States.

This forced election has imposed a severe hardship on a number of veterans—and veterans' widows and families—with high medical costs, veterans in nursing homes, and veterans who live far from a VA hospital.

PROVISION

The proposed amendment would permit VA pensioners who are eligible for medicaid in the "categorically eligible" States in December 1978 to disaffirm any earlier election to receive higher VA benefits. These pensioners would be permitted 90 days to disaffirm their prior election after being fully advised on the advantages and disadvantages of being grandfathered under the old pension program.

For the purposes of making this decision to disaffirm, there will be a waiver of the statutory rule that SSI and AFDC recipients must elect the highest other Federal benefits available.

COST

CBO estimates the net cost of the amendment to be $9.5 million.

CONCLUSION

By instituting higher VA pension for needy veterans and widows, Congress surely never intended those pensioners to be worse off. Yet, unless the Cranston amendment is adopted, many such pensioners will be stripped of medicaid coverage as a result of this change.

The proposed corrective measure would have a very modest revenue cost and it would affect only a small closed group of VA pensioners.

Mr. President, I accept the amendment on behalf of the minority.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 675

(Purpose: To hold harmless such funds as appropriated for fiscal year 1980 by State legislatures before Oct. 1, 1979)

Mr. TSONGAS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS), for himself, Mr. KENNEDY, Mr. GARN, Mr. MORGAN, Mr. THURMOND, Mr. RANDOLPH, Mr. HATCH, Mr. HOLLINGS, Mr. ROBERT C. BYRD, and Mr. HELMS, proposes an unprinted amendment numbered 675.

Mr. TSONGAS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 88, line 16, after "1979" change period to comma and insert: "or equal to (I) the amount which would be payable without regard to this clause with respect to expenditures pursuant to an appropriation made prior to October 1, 1979 by such State for fiscal year 1980, or, if less, (II) the amount determined under subclause (I) reduced to the extent necessary and on a proportional basis so as to assure that the aggregate of the additional amounts payable to all States as a result of such subclause (I) does not exceed $6,000,000."

Mr. TSONGAS. Mr. President, the committee has decided to take action on the training section of title 20, which I think is not without merit. The problem that arises is that a number of States are impacted by the decision to put a limit on the amount of reimbursement that accrues to the States relative to their expenditures. Many States have a July 1 fiscal year and plan their programs in accordance with what is now the law of the Federal Government.

Under the bill, that would change. Five of these States would be in a position to lose money, without having been given due notice. My amendment would simply provide that States that are in that

position would be allowed to continue as if the law had not changed for this fiscal year.

The Finance Committee has amended my amendment to include a cap of $6 million, so that we have some notion as to what dollar figure we are talking about; and if, for any reason, it should exceed $6 million—I do not think it could—it would be allocated proportionately.

The States that are affected are West Virginia, Utah, North Carolina, South Carolina, and Massachusetts.

I hope this amendment is acceptable to the floor managers.

● Mr. MORGAN. Mr. President, I support the amendment by the Senator from Massachusetts.

I take a back seat to no Member of the Senate in my willingness to support controversial amendments which control Federal spending and make progress toward balancing the budget. In this regard, I fully support the action of the Finance Committee to place a ceiling on training programs funded through title XX of the Social Security Act. But, because of the delay in acting on this reauthorization bill, many States had to guess as to what the Congress would do and make commitments accordingly. Unfortunately, a few States, including North Carolina, made predictions that were not accurate. I do not think it is fair to penalize these States for delays in the Federal legislative process. The amendment by the Senator from Massachusetts would prevent an unfair penalty from being levied on these States, and I would hope that the managers of this bill can accept the amendment.

To date, the title XX training program has been an open-ended entitlement. States could support any amount of social services training they desired, and the Federal Government would pay the entire bill. It is clear now that making this training program an open-ended entitlement was a mistake. While some States, such as North Carolina, have used the money in a worthwhile and constructive fashion, others have greatly abused the program. We should not be terribly surprised that some abuses took place. Such a development is practically inevitable when those who run up the bills are not in any way responsible for paying them.

Because of this, the administration proposed that social services training should not exceed 3 percent of the funds made available for social services under title XX of the Social Security Act. In my view, the compromise agreed to by the Finance Committee is a reasonable one. In fact, my Governor has informed me that North Carolina can easily adjust, over the next year or two, to a 4-percent ceiling even though training expenditures are now running at about 6 percent of total title XX spending.

But the delay in enacting this bill has created a problem for the State government. My State government runs on a fiscal year beginning July 1, 3 months earlier than the Federal fiscal year begins. State spending plans had to be made and confirmed during the spring and early summer.

In addition, the training programs are run through colleges and universities. Their school year started a month or more ago. They had to know exactly what their sources of revenue were going to be by July, so they could hire faculty, plan classes, and so forth.

The House of Representatives did not pass H.R. 3434 until August 2. The Senate Finance Committee, and I understand they have had to deal with a large number of bills this year, did not approve H.R. 3434 until October 2, 2 days after all of title XX expired. And, it has been another 3½ weeks for the bill to get to the floor of the Senate.

But the North Carolina Department of Human Resources, and the University of North Carolina and Livingston College and the other schools who receive the training funds, could not wait. They put together their training programs, which are very good, and, it turns out they exceeded the limit that the Finance Committee agreed to by about $700,000.

I do not feel that North Carolina and the other four States in this situation should be held responsible for delays in the congressional reauthorization process, and so I support the amendment by the Senator from Massachusetts.

This problem does show the need for two things. First, the Congress should stop enacting open-end entitlements, and especially where the Federal Government is paying 100 percent of the costs. Giving the States such a blank check can only cause problems, and there are sure to be complications when the Congress tries to establish some reasonable controls. Second, it is imperative that authorization and appropriations bills get passed in a timely fashion. We simply cannot afford the disruptions and complications that always develop when timely action does not take place.

I urge my colleagues to support this amendment, and I thank the Senator from Massachusetts for offering it.●

Mr. LONG. Mr. President, the committee bill places a limitation on social services training in fiscal year 1980. The Senator's amendment would provide an exception to this ceiling where a State legislature has already appropriated funds for social services training. The cost of the amendment is explicitly limited to $6 million.

The amendment appears reasonable in light of the actions which State legislatures have already taken.

Mr. President, I am pleased to accept the amendment, if the Senate sees fit to go along with it, and to discuss it with the House in conference.

Mr. DOLE. Mr. President, I share the views expressed by the chairman, and we are prepared to accept the amendment.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. TSONGAS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (UP No. 675) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, I had another amendment that would involve the question of a change in definition under AFDC, as to parent or unemployed father or major breadwinner, which is the more technical term in the legislation. I will not offer that amendment.

The committee has indicated that the issue is too substantive and that there have not been proper hearings, and I will not proceed with it.

I would appreciate the committee's looking into that issue, and I understand that will be the case.

Mr. MOYNIHAN. Mr. President, as the chairman of the Subcommittee on Public Assistance of the Committee on Finance, I assure the Senator that we welcome his thoughts and will be happy to hear from him and other persons in the course of hearings which will be held this coming winter on the general subject of the AFDC program and welfare programs generally.

Mr. TSONGAS. I appreciate the Senator's comments. This matter is particularly of interest in Massachusetts, where the entire problem is under review.

UP AMENDMENT NO. 676

(Purpose: To allow Federal financial participation for an AFDC child in foster care after a judicial determination that a voluntary removal from the home was necessary for the welfare of the child)

Mr. MOYNIHAN. Mr. President, I have an amendment at the desk, which I call up.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for himself and Mr. JAVITS, proposes an unprinted amendment numbered 676.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, between lines 10 and 11, insert the following:

"For purposes of this section, a child who was voluntarily removed from the home of a relative and who had a judicial determination prior to October 1, 1978, to the effect that continuation therein should be contrary to the welfare of such child, shall be deemed to have been so removed as a result of such judicial determination if, and from the date that, a case plan and a review meeting the requirements of paragraph (5) of this subsection have been made with respect to such child and such child is determined to be in need of foster care as a result of such review. In the case of any such child described in the preceding sentence, for purposes of paragraph (4), the date of the voluntary removal shall be deemed to be the date on which court proceedings are initiated which led to such removal."

On page 72, between lines 10 and 11, insert the following:

(C) Section 408 of such Act is amended, effective on and after the date of the enactment of this Act (but subject to the repeal provided under subparagraphs (A) and (B)) by adding at the end thereof the following sentences:

"For purposes of this section, a child who was voluntarily removed from the home of a relative prior to October 1, 1979, shall be deemed to have been so removed as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, if, and from the date that, a judicial determination was made prior to October 1, 1978, to the effect that continuation therein would have been contrary to the welfare of such child. In the case of any such child described in the preceding sentence, for purposes of subsection (a) (4), the date of the voluntary removal shall be deemed to be the date on which court proceedings are initiated which led to such removal.".

(D) Notwithstanding any other provision of law, Federal financial participation in aid to families with dependent children under a State plan approved under section 402 of the Social Security Act for quarters beginning prior to October 1, 1979, shall not be denied with respect to aid furnished to or on behalf of a child in foster care, by reason of the fact that such child was voluntarily removed from the home of a relative, rather than removed from such home as the result of a judicial determination as described in section 408 (a) (1) of such Act, if, and from the date that, a judicial determination was made prior to October 1, 1978, to the effect that continuation in such home would have been contrary to the welfare of such child. For purposes of section 408 (a) (4) of such Act, the date of the voluntary removal shall be deemed to be the date on which court proceedings were initiated which led to such removal.

Mr. MOYNIHAN. Mr. President, we are today beginning a major Federal initiative in the area of adoption services and a major reform of our foster care and child welfare programs.

As mentioned earlier, the Federal Government is now catching up with the previous actions of 47 States which, in one form or another, have done this on their own. Among the first States to have done this was my own State of New York, which began adoption subsidies in 1968. They were then financed solely out of State and local funds.

This is but one of the numerous programs that New York undertook on its own with respect to the welfare of needy children, and which it paid for on its own. Many of those programs are echoed in the legislation now before the Senate, which would in effect involve the Federal Government in the support of such activities.

At the same time, New York continued to run its AFDC foster care program, a large and rather expensive program, which was supported half with State and local funds and half with funds obtained from Federal reimbursement of eligible children.

Recently, in reviewing some of these reimbursements, the Department of HEW held that these Federal foster care payments could only be made after a court decision had placed children into foster care, and that claims might not be valid even after such court decisions were rendered if the children involved had been initially placed in foster care without a court order.

What our amendment does is to say that these payments would be permissible, inasmuch as the State of New York, in perfectly good faith, assumed the claims it filed were legal. We concede that there may be some question that before the courts acted, there may not have been any Federal responsibility for joint payments. But after the required court action was obtained, the State's claims should be valid.

So what this amendment—which Senator JAVITS and I submit—does is to say that any disputed moneys which involve payments after a court has acted are deemed to have been regular payments, eligible for Federal reimbursement.

I stress that without my knowing this to be the case, similar situations may face many other States. This turned up in an audit. It is a technical thing. These payments were made in good faith with respect to the wholly commendable programs which the Government encouraged then and encourages now. We wish thereby to clear the matter up with respect to cases where there is no question the court had approved the child's foster care status and the payments were made accordingly.

To our knowledge this applies to New York. It could also apply to many other places. Our amendment would put the matter to rest.

I add that there is no cost whatever involved to the Federal Government here in the sense that all the moneys have been expended and absent this provision, this amendment Senator JAVITS and I introduced, we can look forward to 15 years of lawsuits which have a way of catching up in legal fees with the total costs originally involved. It seems to us the issue is properly put behind us and we would be grateful to the committee if it would accept the amendment.

Mr. JAVITS. Mr. President, I join in the amendment offered by my colleague, respecting the time for filing claims by States.

Our amendment would clarify section 408 of the Social Security Act by providing that once a court has ratified the appropriateness of the placement of an AFDC child in foster care, payments for that child's care would be eligible for Federal reimbursement. Such reimbursement would be on the same terms as those for children removed from their homes as a result of a judicial determination at the time of placement.

This amendment would resolve a dispute between the State of New York and HEW. Prior to September 1, 1973, children in New York could be placed in foster care voluntarily, such as when a parent was going into the hospital and no one was available to take care of the child, or when the parent was fearful that he or she might abuse the child. In such voluntary placements, New York law provided for a court review after 18 months. The court would look at the appropriateness of the placement as well as the desirability of continuation of the child in foster care.

This requirement of court review insured that voluntarily placed children would not be "lost" in the system—but HEW asserts that it does not meet the requirements of section 408 and has initiated disallowance proceedings for payments made to New York on behalf of AFDC foster care children for which a court review was not made at time of placement.

I believe approval of this amendment is consistent with the original congressional intent—to require court approval of foster care placements in order to insure appropriate placement. Adoption of this amendment today will continue this policy by permitting reimbursement once such a court determination is made.

The amendment will have no adverse impact on the budget, for reimbursement has already been made, and any New York children continuing in care are already accounted for in the budget estimates for future years.

I urge my colleagues, the majority and minority managers of this bill, to accept our amendment.

Mr. LONG. Mr. President, the Senator has offered an amendment which undoubtedly contains merit. It does involve a very substantial amount of money. As the Senator has stated it does not have a budget impact because what is in contest here is a matter, I believe, of certain people on the Federal side of the table contending that money had been paid to New York which New York should be required to pay.

Mr. MOYNIHAN. That is right.

Mr. LONG. I think that is how it is.

So if those who would contend that the Federal Government is entitled to money from the State of New York should prevail, it could involve a large amount of money, perhaps as much as $250 million.

This type of thing, of course, as the Senator has indicated, tends to drag out in dispute and litigation and eventually somewhere down the line either the Government decides to waive or the matter is eventually settled by litigation as the Senator has suggested.

As far as the Senator from Louisiana is concerned he does not oppose the amendment. If it would be the will of the Senate to accept the amendment, he would support the Senate view.

I do think that it would be appropriate that there should not be a motion to reconsider made at this time if the amendment should be agreed to because some Senator who is reading the RECORD might see that this involves a large amount of money and want to look into it and might want to discuss it or even contest the matter, and under those circumstances I think it would be appropriate if the Senate should agree to the amendment that there would not be a motion to reconsider and lay on the table, as we oftentimes do, but the matter should be one that could be subject to a motion to reconsider if Senators, after all Senators have had an opportunity to read the RECORD, should feel that they wanted to vote against the amendment.

I personally do not intend to oppose it and if the Senate saw fit to agree to it I would agree to discuss it with the House of Representatives in conference.

Does the Senator from Kansas care to discuss the amendment?

Mr. DOLE. Mr. President, I might say I discussed this amendment with the sen-

lor Senator from New York (Mr. JAVITS) before he was required to leave and with Senator MOYNIHAN, and it is not my intention to oppose the amendment.

I think the Senator from Louisiana makes a good suggestion. I think we have had at least one inquiry because—I am not certain of the exact amount—I believe it has been estimated that $250 million might be involved. Perhaps we could accept it on the basis that we provide someone an opportunity on Monday if he desires to move to have it reconsidered. But it does settle a legal dispute between New York State and HEW concerning Federal foster care as the distinguished junior Senator from New York pointed out.

It is a large amount of money, but it does not have any budget impact. So I think from that standpoint we are not in any difficulty with those on the Budget Committee. In fact, Senator MOYNIHAN is on the Budget Committee.

The State of New York apparently was not aware of HEW's position on matching for foster care payments for children placed in foster care voluntarily but later reviewed by the courts.

The committee has decided that foster care should be supported with Federal dollars only in cases where the decision to place the child was made by the courts. It is conceivable this requirement is covered by the 18-month judicial review.

Mr. President, I join with the chairman that we leave it open in case someone wishes to raise a question on Monday.

Mr. MOYNIHAN. Mr. President, I express my deep appreciation to the chairman and to the Senator from Kansas for their courtesy in this matter.

To be precise, it appears that up to $200 million in claims could be involved because the State does not dispute the payments made before there was a court action to place the child in the foster care home. I regret that we have to bring this matter before the Senate. I do note that it comes from having been somewhat in the vanguard of social programs, and I add that there may well be many other States that are in the same place.

I accept the Senator's suggestion that we not close the matter at this point, and I will be in the Chamber and so will Senator JAVITS on Monday to discuss it should anyone wish to do so then.

I thank both Senators for their kindness.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. LONG. Mr. President, unless there is request for time, I yield back my time on this amendment.

Mr. DOLE. Mr. President, does the Senator from Kansas have time?

The PRESIDING OFFICER. Yes, he does have time.

Mr. DOLE. I assume on Monday in the event that someone did wish to further debate the matter that would be possible under this arrangement. I wonder if we yield back all of our time if that would be possible?

The PRESIDING OFFICER. Do Senators wish to yield it back for the purpose of going to a vote now but retain it for a motion for reconsideration?

Mr. LONG. Under the parliamentary situation, Mr. President, I would ask whether the matter would be subject to further debate in the event that a motion to reconsider is made on Monday?

The PRESIDING OFFICER. The agreement we are operating under provides for 20 minutes debate on debatable motions so there would be a 20-minute time period on the motion to reconsider.

Mr. LONG. It seems to me, Mr. President, that this would allow anyone wishing to move to reconsider adequate opportunity to explain why he thought it should be reconsidered.

Mr. DOLE. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

(Putting the question.)

The ayes appear to have it. The have it.

The amendment was agreed to.

UP AMENDMENT NO. 677

(Purpose: Relating to disregard of income under AFDC programs)

Mr. LONG. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 677.

Mr. LONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The amendment is as follows:

On page 99, line 18, insert "(A)" immediately before "in".

On page 99, line 19, immediately after "only" insert "or (B) in the case of earned income derived from participation in a project maintained under the programs established by section 432(b)(2)(3)".

Mr. LONG. Mr. President, the committee bill changed the earned income disregard provisions as they affect welfare recipients. In the drafting, however, the bill inadvertently changed the treatment of work expenses for persons in work incentive program public service employment and work experience projects. These persons are not eligible for the earned income disregard either under present law or under the committee bill.

The amendment would correct the drafting error by allowing persons in these programs to deduct work expenses as under present law.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. DOLE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, will the distinguished floor manager yield me 4 minutes on the bill?

Mr. LONG. Yes.

Mr. CRANSTON. Mr. President, the legislation that is before us today contains many key provisions that have developed from years of work by my Human Resources Subcommittee on Child and Human Development.

I will make a longer statement on the bill at the end of the debate. Let me now make a brief statement about my personal interest in this legislation.

Provisions of this bill which I authored are intended to bring about a major reform of the present system of Government-financed custodial care of American children.

Foster care in this country is a system which holds the lives of a half million American children in limbo.

Foster care has become a bureaucratic nightmare—a perversion of good intentions. It exists basically to provide emergency or short-term shelter for children whose parents cannot—or will not—care for them. It is supposed to be a temporary condition.

Mr. President, let me say, however, that there are hundreds of thousands of foster parents who provide loving care to abused and neglected children. And, there are many foster care institutions that provide similarly important and necessary and sensitive care for foster children.

But, too often—as my subcommittee has learned through a series of hearings—too often, foster care is a trapdoor to a whole world of horrors like those found in the pages of the novels of Charles Dickens.

My subcommittee, over a period of many months, has heard compelling testimony from parents, child care professionals, and Government officials. The thrust of this testimony has been that Government is often a poor parent.

As chairman of the subcommittee, it was my difficult and unpleasant task to hear witnesses tell of instances in which children were beaten, starved, and sexually abused in institutions supported in large part by State and Federal payments.

I learned that 12 children in my own State of California were placed with families associated with Jim Jones' Peoples' Temple. Those children now are counted among the dead in the horrible mass suicide in Guyana.

Our hearings demonstrated clearly that once a child is separated from his or her permanent family, the world may, indeed, become a very dangerous place.

The corrective legislation that came out of our hearings is before us today, embodied in the provision of H.R. 3434 as reported.

In brief, these provisions would do the following:

First. The bill would place a cap on what is presently open-ended funding for the program of foster care maintenance;

Second. It would create a new adoption assistance program to help move children out of long-term foster care and into stable, adoptive families. This would be encouraged by continuing medicaid eligibility and providing cash assistance to families that adopt certain handicapped or disturbed or other hard-to-place children; and

Third. The bill would create a subcategory of title IV-B of the Social Security Act. This would limit new Federal expenditures under IV-B from being used by States on more foster care maintenance. It would direct the money, instead, to family services to keep children from drifting into the foster care system. And it would provide for better followup and monitoring of placements to avoid the kind of tragedy I mentioned with regard to the Guyana mass suicide.

Mr. President, I want to express my thanks to Senators LONG and MOYNIHAN and the staff of the Committee on Finance for their excellent work on this very complicated measure.

I thank them for the extraordinary cooperation that has transpired over the last 2 years on the bill as finally reported. There have been many hours of meetings with myself, with my staff, and with the administration, and the cooperation has been magnificent from so many people involved in this on the Committee on Finance, and I am exceedingly grateful for that.

Mr. LONG. I thank the Senator.

The PRESIDING OFFICER (Mr. TSONGAS). Who yields time?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Michigan? Does the Senator from Michigan have an amendment?

Mr. LONG. I yield the floor, Mr. President.

AMENDMENT NO. 553

(Purpose: To provide adoption eligibility for supplemental security income recipients, to delete the means test for adoption assistance, and to provide full medicaid coverage for adopted children with special needs up to age eighteen)

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank my friend from Louisiana.

Mr. President, I call up amendment 553 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself, Mr. DECONCINI, Mr. RIEGLE, and Mr. HATFIELD proposes a printed amendment numbered 553.

Mr. LEVIN. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, lines 11 and 12, strike out "who are eligible for such payments pursuant to paragraph (2) of this subsection and".

On page 60, line 14, insert "(i)" after "(A)".

On page 60, line 20, insert "or" after the comma.

On page 60, between lines 20 and 21, insert the following:

"(ii) meets the requirements of section 1611(a)(1) of this Act with respect to eligibility for supplemental security income benefits,".

On page 61, line 8, strike out "and" and insert "or".

On page 61, between lines 8 and 9, insert the following:

"(iii) is a child described in subparagraph (A)(ii), and".

Beginning on page 61, line 12, strike out all through page 62, line 2.

On page 62, line 3, strike out "(3)" and insert "(2)".

Beginning on page 62, line 17, strike out all through "(B) no payment" on page 63, line 1, and insert in lieu thereof the following:

"(3) Notwithstanding the preceding paragraph, (A) no payment".

On page 63, line 3, strike out "(C)" and insert "(B)".

On page 63, line 14, strike out "(5)" and insert "(4)".

On page 64, lines 3 and 4, strike out ", with respect to any medical condition which was in existence at the time the child was adopted,".

On page 64, lines 6 through 8, strike out "However, a State may provide to such a child full eligibility for medical assistance under the State's plan approved under title XIX.".

Mr. LEVIN. Mr. President, the adoption subsidy provision of H.R. 3434, as reported by the Finance Committee, contains an eligibility "means test" for adoptive parents, of special needs children, equal to 125 percent of the State's median income for a family of four, adjusted for family size. It also assures medicaid coverage only for preexisting disabilities, and does not provide for the 5,000 children who are eligible for SSI because they are physically and/or mentally handicapped. Many of these children are currently covered by State-adoption subsidy programs.

My amendment is intended to increase the number of special needs children adopted without any additional cost to the Treasury. Special needs children are mentally and physically handicapped children, minority children, older children, or sibling groups.

I am pleased to have as cosponsors on this amendment Senators DECONCINI, RIEGLE, and HATFIELD, and I ask unanimous consent at this time, Mr. President, to add Senator CHAFEE as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. The amendment will increase adoptions of special needs children in these ways: First, deleting the mandatory means test for adopting parents; second, providing for full medicaid coverage for children who are receiving adoption assistance; and third, including in the program SSI eligible children who have been determined by the State to have special needs.

The amendment would not have any cost impact upon the budget because the Federal Government is currently spending at least as much money to maintain these same children in foster care arrangements.

Mr. President, the intent of the adoption assistance provision contained in the Finance Committee bill is to stimulate the permanent placement of children that are at a disadvantage because they bear a condition which often discourages their adoption. But, the bill is flawed in imposing a means test for that assistance. Families will be subjected to the means test periodically until their child reaches the age of 18. The prospect of a periodic means test, and of repeated financial disclosures, will deter families from adopting children by raising the specter of a cutoff in financial support if a certain income level is reached and will deter adoption by forcing repeated disclosure of financial condition.

The means test will also place administrative burdens on the State with a very small yield financially because experience indicates few potential adopting parents have incomes above the recommended cutoff.

There are many parents who are willing to meet the primary requirements of the disadvantaged child—a permanent family and home. But, they cannot always assume the high costs associated with proper care of a special needs child. I emphasize—this bill in dealing with special need children.

Various States which have designed and implemented adoption support programs, without the use of a means test, have found substantial cost savings over simply maintaining the child in foster care. Adoption drastically reduces the administrative costs factor which, in the case of foster care, can be as high as 50 to 60 percent of the costs of keeping a child in placement. With adoption, such costly factors as periodic review, updating of case plans, service worker visitation and the related paperwork are virtually eliminated. At the present time, the Federal Government is paying, through title XX, 75 percent of the service and administrative costs for the many thousands of children in substitute care. It is clear that adoption, even with subsidy, costs less than maintaining that same child in a foster home or institution.

A recent survey of the implementation of State subsidy programs reported the significant cost effectiveness of subsidies. According to the Urban Institute, the computed savings ranged from 10.7 percent to well over 60 percent per year, and led to an average annual savings of 36.9 percent based on 13 of the 27 reporting States.

The means test requirement would prohibit the payment of any adoption subsidy to families which have incomes above 125 percent of the State's median income. It also allows each State to waive this prohibition in 10 percent of the cases. Let us look at the real impact of this means test as it is drafted and consider it on its merits.

First, the adoption assistance measure is intentionally designed to give States flexibility. While they can provide a subsidy which is no more than the AFDC foster home payment, the State agency, working with the prospective adopting parents, can agree on any level of subsidy payment up to the maximum. In reaching that agreement, the needs of the child and of the prospective parents can be weighed on a case-by-case basis. Because we are dealing with children who have special needs and whose needs vary widely, it is to my mind unwise and unnecessary to impose a means test that has the potential of tying the hands of the States. I do not believe that we, in Washington, D.C., should attempt to impose our judgment on State agencies which will have the opportunity to review each case individually and which

share equally our interest in using tax dollars wisely since their tax dollars are equally involved.

Currently, State agencies generally consider each case on an individual basis and most establish a rate taking into consideration the child's needs and adoptive parents' ability to meet those needs. As a result, most maintenance payments are established below the State's foster family home care rates.

Mr. President, some will argue that the 10 percent waiver provides the States with the flexibility that I believe to be so essential. Quite the opposite is true. The 10 percent waiver makes the means test meaningless in terms of its purported purpose. In testimony before the Subcommittee on Public Assistance and in studies of currently operating State adoption subsidy programs, it has become clear that at least 80 to 90 percent of the families who receive an adoption subsidy payment are below the 125 percent cutoff contained in the bill. These findings are confirmed by several sources.

First. An October 15 Congressional Budget Office analysis revealed that, and I quote:

> Many of the 47 states with adoption subsidies do not have means test and do not compile data on income. A 1977 study, however, of adoption subsidy families in Illinois, a state with no income eligibility requirements found that the family median income of adoption subsidy families was well below the income requirement for Title XX services. (The income test for Title XX ranges from 80–115 percent of family median income in each state, adjusted for family size). The average income of the adoptive families in 1976 was $11,858. The typical Illinois adoptive parents were white, low-income and middle-aged individuals with several children of their own who were adopting children that had been in foster care for several years.

Second. A study conducted by the Commonwealth of Virginia Department of Welfare on subsidized adoption found that:

> Very few wealthy people are interested in adopting children with special needs—most of the families who want to help these children are lower, middle-income people.

Third. According to the North American Council on Adoptable Children, Inc.:

> Ninety percent of subsidized adoptions are by foster parents. Foster parents' incomes tend to be lower than many other categories of adoptive parents.

If 80 or 90 percent already fall below the means test level and the bill provides for a 10-percent waiver of those above the means test income level we are left with a requirement which may in reality screen out none. What is left is its negative aspects—discouraging families from ever seeking to adopt children.

This bill deals with special needs children. Families who adopt such children face real financial burdens. Many families of four above the median level indicated in the bill legitimately need some financial help with such adoptions.

Beyond that, the hassle resulting from forcing parents to open their income records to program administrators will deter parents from adopting even if they are likely to pass the means test.

Beyond that, the hassle resulting from parents to open their financial records over and over and over again, as long as the child is a minor so that administrators can comply with the bill's provision that no payment be made if parents earn more than the cutoff level will also deter adoptions.

And beyond that, the bill will require additional administrative machinery and the costs attendant with no resulting financial yield to the State or Federal Treasuries, both because of the 10-percent waiver which is allowed by the bill and, more important, because the adoptions which will not take place as a result of the imposition of the means test will result in more children staying in institutions and foster care homes at much greater cost to the State and Federal Treasuries. The taxpayers gain nothing while children lose an adopted home and the special love that goes with it.

Let me be more specific.

Beyond the human cost of leaving a child in a foster care institution or having him or her move from one foster family to another, there is a very real budgetary cost. For each child in a foster care institution who is not adopted, we must pay an additional $5,376 per year over the maximum adoption subsidy payment. Ten children not adopted from institutions means an added cost of $53,000; 100 children not adopted from institutions means an added cost of over one-half million dollars.

Further, the savings which the proponents of the means test claim may prove to be illusory at best. The program, without the means test, has the ability to adjust the subsidy and the economic circumstances of the family payment to reflect the true needs of the child, in all cases.

Also, requiring that States give prospective adopting parents a means test will add to the administrative costs of the program. For instance, the Michigan Federation of Private Child and Family Agencies has indicated that an eligibility determination process such as the one set fourth in the bill, would not only place administrative burdens on agencies but would also increase administrative cost of the program.

In fact, the CBO analysis determined that:

> Costs would be incurred, . . . as states require local adoption agencies to obtain extensive information on the income of prospective adoption families, and collect that information at the State level.

Very simply, the imposition of the means test could result in money being wasted and children suffering needlessly.

Thus, while the means test in the bill will likely be totally ineffective to prevent certain income-level families from receiving a subsidy; it will certainly have the serious negative effect of deterring some families from adopting at all. Even if a subsidy were paid to a family above the prescribed means test, it is hard to see what damage has been done: The child has been placed in a suitable adoptive home, the expense to the Government, both Federal and State, is less than were the child to remain in foster care; it is highly unlikely that the adopting family will profit at all from the subsidy which all experts recognize covers only a portion of the true costs of raising a child and the families means can be considered on a case-by-case basis in any event. It makes sense to ask the question in reverse: Who benefits by prohibiting parents with incomes above the prescribed limit from adopting a child who otherwise will remain in long-term foster care at considerably higher cost?

Mr. President, the question has been raised—why give a subsidy to those relatively few parents who may not need it? This amendment will not produce that result for a number of reasons. First, there are families above the cutoff level with unusual medical or educational expenses who may very well need the financial assistance. Second, my amendment would allow local flexibility to consider financial ability in setting the amount of the adoption subsidy providing, of course, it is no more than the amount of money which the State and Federal Government already pay for foster care.

We are dealing with special needs children with uncertain futures and that makes an absolute precise test impossible to devise which will be fair in all situations. But, even if we ignore that and could devise a system that would really filter out those few individual parents who do not need the subsidy, the process of identification will reduce the number of adoptions. By forcing parents to repeatedly open books we will deter adoptions with resulting extra costs needed to keep those same children in foster homes or institutions. And the process of screening will result in administrative costs to operate the means tests with no financial yield since 80 percent or more of the parents will qualify and 10 percent above the means test can be waived under the terms of the bill in any event. Imposing the means test in this bill is thus a fruitless effort, with no yield to the taxpayers and needless grief and loneliness for children. The very purpose of a means test is to screen out. That is not the purpose of this bill—we are trying to encourage and promote adoption. This bill is aimed at opening doors for children, not closing doors upon them.

Another portion of my amendment relates to medicaid coverage. The continuation of full medicaid coverage for special medical needs of hard-to-place children is of great importance. To limit medicaid coverage to preexisting conditions would reduce the number of adoptions. It is important to note that there are numerous families who do not qualify for medicaid, who want to adopt children in the special needs category, but who do not have the financial resources to cover the expenses of necessary medical care. The fear that the child might develop other medical conditions after adoption which are not covered by medicaid, would discourage some potential adopting parents. Again, it is special needs children we are talking about.

The sentiments expressed in a letter I

recently received from an adoptive parent of special needs children presents dramatic proof that middle income families who are willing to take on the responsibility of caring for such children should be provided with the medicaid assistance needed to help make the adoption a success. I want to read this letter because of its eloquent testimony.

It is from Ms. Laurie Flynn, Annandale, Va. It reads as follows:

HON. CARL LEVIN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR LEVIN: We are a middle-class middle-income family with a special interest in children. My husband and I are parents of twelve children, seven of whom are adopted. Although each of our adopted children are considered to have special needs, we have never been offered nor received a subsidy. None of our children has received financial assistance under Medicaid.

Because our children didn't present specific health problems at the time of placement, they cannot be said to have pre-existing conditions. Yet, two sons were born to mentally retarded parents who are institutionalized. Their future development was quite uncertain as both were under one year of age when placed. Both have evidenced continuing special problems. One has a speech difficulty and learning disabilities requiring therapy. The other son has been diagnosed as developmentally delayed and hyperactive. The entire expense of testing and treating our two sons has been a big part of our family budget.

Five years ago we adopted two teenagers who had spent six years in foster care. These children had experienced severe abuse and neglect and the transition to family life wasn't an easy one. Our son in particular required intensive counselling and psychiatric treatment. He was hospitalized for testing twice. For nearly a year my husband and I made twice monthly visits with our troubled son to a family therapist. The cost of transportation, time off from work and babysitting for our other children were added to the $40.00 per hour charge for the professional services. The total cost to our family ran to nearly $3,000.00 to care for our son's severe emotional problems. Yet, we have never received any kind of financial help. We quite literally spent our summer vacation money for two years to provide the treatment required.

We are not alone in this predicament. Many concerned middle income families who adopt find themselves "too rich" to qualify for adoption subsidy for their special child, but "too poor" to provide the special services their children frequently need to make the adoption successful. Yet, had these same children remained in foster care, they would have received all the necessary services through Medicaid. This makes no sense at all and acts as a serious barrier to adoption of waiting children.

Today, everyone is aware of how expensive it is to raise children. The costs of clothing, food, furniture and other essentials have risen dramatically. Yet many caring families are still willing to assume the extra expense of adding a special needs child through adoption. They need encouragement and support, not financial penalties. We should provide them and the children to whom they offer a loving family all the assistance that is available to children in foster care and institutions. It costs nothing to make the opportunity for adoption meaningful to thousands of children who wait.

Sincerely,

LAURIE FLYNN.

Mrs. Flynn and her family are indeed unusual. They are willing to bear the extraordinary financial burdens described.

Must we force all potential adopting families to make that sacrifice? How many families cannot—families who would otherwise provide fine adopting homes? Three percent? Five percent? Ten percent?

The real children who are available for adoption and who are reflected by these percentages will continue to be placed in revolving door institutions and foster homes.

There are approximately 10,000 "special needs" children who will be affected by the adoption subsidy provision. The national average cost of maintaining a child in a foster care institution is $7,212 per year. The national average AFDC foster care payment for children placed with families is $1,536 per year. The average medicaid cost per child per year is $240 nationwide. The bill, without my amendment, provides for coverage of preexisting conditions which I estimate will cost between 15 to 25 percent of the $240 or $40 per year. Administrative cost for children placed in foster family homes is estimated at 10 percent of the grant level or $154 per year.

Lack of comprehensive data from all states precludes an exact assessment of the percentage of special needs children who are in foster parent homes as opposed to institutional care. However, experts in the field agree that a safe assumption would be that 70 percent are in institutions and 30 percent are with foster families. Putting all that data together, what is the result?

Let us assume that only 2 percent of children in institutional care and 6 percent of children with foster families do not get adopted because of the lack of full medicaid coverage.

The extra gross cost of full medicaid is estimated at $2 million, but the savings not realized because the assumed percentage of children were not adopted is calculated to be $9,000 for foster parents homes and $2,258,000 for institutional care. The net savings lost without my amendment would be $2,267,000 or $267,000 greater than the total cost of my amendment. If my amendment is conservative, which I think it is, we are losing even more money by not providing full medicaid.

At this point, Mr. President, I ask unanimous consent that a chart prepared by my office be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SAVINGS FROM THE LEVIN MEDICAID AMENDMENT TO H.R. 3434

[Dollar amounts in millions per year]

Medicaid cost added by amendment [1]	Percent of children not adopted (without amendment) from: [2]		Total children not adopted	Savings foregone because of children not adopted from:		Net savings without amendment
	Foster homes	Institutional care		Foster homes [3]	Institutional care [4]	
$2	2	.6	480	$0.009	$2.258	$0.267
2	3	9	710	.015	3.387	1.402
2	5	15	1,200	.024	5.645	3.669
2	8	25	1,990	.038	9.408	7.446
2	10	30	2,400	.048	11.290	9.338

[1] The bill, without the Levin amendment, provides medicaid coverage for preexisting conditions. The average cost of full medicaid coverage nationwide is $240 per child per year. The Levin amendment will add approximately $200 per child per year to the cost of subsidized adoptions over the cost of the current provisions of the bill.

[2] There are an estimated 10,000 special needs children who will be covered by the adoption subsidy provision of H.R. 3434. Experts in the field of adoption for hard-to-place children estimate that 30 percent of those children are currently with foster care families. The remaining 70 percent are in institutional foster care. Unfortunately, there no firm data base and these estimates are based on the experience of the experts in the field. It has been further estimated that for every 1 special needs child currently placed with a foster family who is not placed in an adoptive home there will be 3 special needs children currently in institutional care not placed in adoptive homes. The experience with state adoption subsidy programs confirms this minimum estimate.

[3] The average AFDC foster care payment nationwide is $1,536 per child per year. The administrative cost of maintaining a child with a foster family is estimated at 10 percent of the grant level or $154 per year.

[4] The national average cost of maintaining a child in institutional foster care is $7,212 per year. The minimum savings realized by having a child in institutional foster care adopted even with the maximum subsidy is $5,376 per year.

Mr. LEVIN. Mr. President, my amendment also provides for the inclusion of the 5,000 disabled SSI children, who are now covered under most State adoption programs, under the Federal adoption assistance program. These children have been separated from their real parents and placed in some form of living arrangement for one of the following reasons: Parents emotionally incapable of caring for (49 percent); parent did not want the child (17 percent); parent ill or disabled (11 percent) and other reasons (12 percent).

We are in a position to help thousands of needy children find permanent homes, and save money in the process. Such a legislative opportunity is rare. We should seize it by adopting this amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, the Senator is to be commended for his interest in children and his desire to help less fortunate people. I applaud him in that respect. On the other hand, Mr. President, the public is properly concerned about the fact that we spend a great deal more in our social welfare programs than can be justified. To take one simple example, in the Finance Committee at this moment we are talking about some amendments to the unemployment insurance program to remove from that program matters that the taxpayers properly consider to be a ripoff, where hundreds of millions of dollars could be saved annually, areas where people think we must have been out of our mind to have provided the benefits in the first instance.

For example, when a person retires from a plant, having earned a very fine

retirement for the rest of his life, enough to provide adequately for his needs, we found that in some States those people are able to claim unemployment insurance and, by adding the unemployment insurance to what they are making, they can make more money in retirement than what they made when they were working. It was never intended that the unemployment insurance program be used as a supplement to a very generous retirement program, but it is working out that way.

It is very difficult, when we find we have spent a great deal more than we think a program should cost or been much more generous with the taxpayers' money than the taxpayer can afford, to get the genie back inside the bottle.

When we voted for the medicaid program, we were led to believe that that program would cost us $200 million. Within a few years, it was costing us $3 billion, or 15 times the estimate. Presently, that program is costing, in Federal funds alone, $13 billion, which is about 65 times—65 times—what the estimate was. That was an open ended, Federal matching program.

When we first agreed to the social services program, that was estimated to cost us $40 million a year of additional Federal spending. We finally managed to get a lid on that program at a time when it looked like it was about to break the $4 billion barrier. So the cost looked like it was about to go beyond the 100-to-1 ratio at the time that we managed to get a lid on the program. It is difficult to get these spending programs under control when they are too generous.

When we voted the program for total and permanent disability, we had a very strict definition of total and permanent disability. We had estimates of the way this matter would be administered that indicated that the cost would be kept to a modest figure. The cost has greatly exceeded that estimate. It is very difficult to pass something to limit that program to what the sponsors of the program had in mind when we initially put it into law.

So, here we have another open-ended program. We, the Federal Government, will put up funds, the States will match, and we have high hopes for this program. But, Mr. President, if this program greatly exceeds the estimate, people will ask, well, why did you want to pay this money out to people making $200,000 a year, who would have adopted a child anyway and could have been persuaded to adopt that same child? By making the money available in situations where it is not really necessary, we set the stage for many people to come in and put the pressure on the administrators to declare a child to be a hard-to-place child when, in fact, the child is not that hard to place.

We believe that, in going into a new open-ended program, it is better to draft it somewhat carefully to limit the eligibility for the program. Far better to do it that way than to find out after we are in it that it is costing much more than we estimated and that there are all sorts of cases that can be cited as an abuse of the taxpayer by paying affluent, well-to-do people to adopt children who were not really very hard to place to begin with.

The Finance Committee recommended that where people have an income more than 25 percent over the median income—and that would be an income of about $23,000 for a family of four—they would generally not be eligible under this program. Now, we provided that in 10 percent of the cases the income limit could be waived so that, in 10 percent of the cases where an agency had a child that was very hard to place in a family, there could be a waiver and the family could be, indeed, a family making $200,000 a year or over in income and still have the benefit of the payments provided by the program. Keep in mind that we are going to review the program. We are suggesting that this be a 5-year program. We want to look at it again. We want to see how it is working. As I say, it is a lot easier to liberalize a program than it is to tighten up on it when you find that you have passed too liberal a program in the first instance.

With regard to medical care, the Finance Committee bill does not provide additional medicaid matching for the medicaid coverage of adoptive children. As a result, the committee limited the mandatory medicaid coverage to medical conditions existing at the time the child was adopted. However, the State may if it wishes provide the additional medicaid coverage for all medical care needs of the child, and the Federal Government will provide matching funds. Also, the committee considered the ordinary medical care needs of the child—if he has a cold or needs a shot—generally to the responsibility of the parents.

As to SSI children, the Finance Committee bill limits adoption assistance payments to children who were receiving AFDC payments under the foster care provisions of that program (or who would have been eligible for such payments on the basis of their removal from an AFDC home). The purpose of establishing a new adoption assistance program is directly related to the establishment of a funding ceiling on AFDC foster care. There is no similar rationale for extending the program to SSI children.

Moreover, the committee provision includes all of the ordinary requirements attached to the foster care program (such as requiring a judicial determination that the original removal of the child from his home was appropriate). The committee bill thus restricts the new program to a fairly limited category of children who clearly would otherwise continue on AFDC. The amendment proposed would broaden the provision by allowing adoption assistance in the case of any child with a severe enough disability to qualify under the SSI program, without regard to whether he meets the specific eligibility requirements of the AFDC foster care program.

Mr. President, many times I have asked, why is it that we cannot do something around here without overdoing it? It is far better when we go into these new spending programs, particularly the new open-ended programs, that we carefully limit what we are doing so that the cost and the expenditures would not be far beyond that which was anticipated. It seems to me that our wisdom would be justified in this case. If the Senate should be in error in supporting its committee, I point out that the House indeed has been about as liberal as the Senator from Michigan wishes to be. The House has no limitations. It is wide open—open ended and wide open. I can only say that where we have done business that way, we have, many times, come to regret it.

Between the House and the Senate, I would assume, if the Finance Committee should be sustained, that we shall have to negotiate. We shall have to fix an eligibility standard and a benefit standard somewhere between the very liberal provisions of the House bill, as would be the case in the Levin amendment, and the more cautious provision recommended by the Committee on Finance.

I would say, Mr. President, that we on the Finance Committee have recommended about as much social welfare legislation as the taxpayers of this country feel they can stand. We are going to bring a health insurance bill in here, in this Congress and, from the point of view of a great number of people, particularly employers who are going to have to pay that tax, there will be complaints that we have gone too far with social welfare. I believe, Mr. President, that we would be well advised to proceed somewhat cautiously with this program rather than throwing caution to the wind, to be sure that we are not doing a great deal that we had not intended when we go into another open-ended Federal spending program.

Mr. President, this, of course, will be an amendment subject to a rollcall vote. We will be happy to vote on it when the Senate comes in on Monday.

I believe the majority leader wants us to postpone the vote until after 4 p.m., and that is the motion he will make in due course.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I thank the Senator from Louisiana for his kind remarks. I would like to comment on a couple of points he made.

I am sympathetic to some of the concerns he has about social welfare programs and the expense that they have engendered for the taxpayers of this country.

This is not an open-ended program which is being proposed by this amendment. We now have an open-ended program in existence. That is an open-ended program for Federal and State support for children in foster care homes and foster care institutions. They are there. The programs are in place and the program funds it.

That is the only open-ended program which exists.

What this amendment seeks to do is to take some of those children, by providing incentives for their adoption, from their present foster care situation and to encourage parents to adopt them by eliminating the means test in providing medicaid.

So the only open endedness is the open endedness that is already in existence, and the only money which is involved is the saving which results from every single child who is adopted.

Every time we adopt a child who is in a foster care home or a foster care institution, we save money. That money is already being spent by the Federal and State governments, open ended.

If we are able to both place that child in an adoptive home, with all of the love that is involved in that setting, and, at the same time, reduce the burden on the Federal and State treasuries, it seems to me we have got a rare opportunity, an unusual opportunity, not to add to the burdens of the taxpayers, but to relieve the burdens on children and relieve taxpayers at the same time.

There is no financial cost to this amendment, as I have indicated. The means test is meaningless because of the 10-percent waiver provision. It is meaningless because under the bill, a provision of the bill which would be retained, the States could still consider the economic circumstances of families.

So the only thing left to the means test is a deterrent to adoption. That is all that is left.

To the question of why should a family with $200,000 be given this subsidy, I would hope the States would have enough commonsense, if there was no economic problem in that family, not to provide this full subsidy, or any part of it. But that can be done on a case-by-case basis.

To superimpose a means test, which has no purpose, in order to answer that question is totally unnecessary. That question can be answered in other ways, and it can be avoided and should be avoided in other ways.

Mr. President, we have an opportunity here which I hope we will not pass up. I know the chairman, my friend from Louisiana, is very conscious of cost. He has to be, and he should be, and he does a great job at it.

But I would like to assure him that we are not talking about added costs in this program. We are talking about saving dollars and saving kids. Again, that is an opportunity which rarely occurs in this Chamber.

Mr. LONG. Mr. President, the foster care program is an open-ended program. We propose under this bill to close off the open end on the foster care program, and we are proposing an adoption program which is an open-ended program.

Now, we have no limit on the amount of money that can be put into it.

The Senator's amendment also provides that in addition to the children who would be eligible under the committee bill, that those children who are recipients of supplemental security income, as well as children who are eligible for aid for families with dependent children, should be subject for adoption under the bill, and that would be open ended.

It may be, Mr. President, that the Senator is right about the matter. But I submit that, if so, we are making a vast forward stride in the area which he favors and in which the Senate has thus far indicated it favors. It seems to me we can judge by our experience just how fast and how generous we want to be in this program.

I do not think that with the bill we have before us many people in this Nation will feel the Senate was really too frugal in extending aid in areas where aid had not existed prior to that time.

Some of us, Mr. President, have the burden of raising the money to pay for all this. As one who has served on a tax-writing committee for many years, I find myself sensitive, and I would like the people of this Nation to know that in the main those of us on the committee find ourselves concerned, about the views of taxpayers and their concern that social welfare spending keeps expanding. It keeps growing. It has grown far more rapidly than expenditures for national defense or certain other vital matters, and we are concerned about the views of those who pay to support this Government.

We think we would do well to be cautious as we expand into a new program which will cost a very substantial amount of money. We would hope the expenditures under this program will not expand as rapidly as we have seen them expand under some programs I have mentioned in my previous statement.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, my colleague from Louisiana, indeed, has carried a burden for a long time in the Senate helping to raise money for social welfare programs.

He indicates that some of us have the obligation to raise the funds and I think that obligation has fallen too heavily on him. I think some of us have the obligation to see to the programs that we offer.

I think all of us ought to share, probably, more evenly in carrying out that obligation.

But I would like to assure my friend from Louisiana that this is not one of those programs which is going to cost money, that the analysis which we have done, which the CBO has done, and everyone we can find has done, indicates that this is not going to cost additional money, but save money, because it will result in additional children being adopted. Every additional child that is adopted saves the Federal and State treasuries some money.

So this will not add to the burdens which the Senator from Louisiana already carries. I hope it may alleviate some of those burdens, and properly so.

It is my understanding, specifically referring to the SSI program, that that is also a program which is federally funded, in part.

So the same rule and the same point would apply. The money which is now spent to maintain SSI children can more profitably be spent if those children are adopted. Rather than being additional expenditures, we would expect savings in this program.

I again thank my friend from Louisiana.

I am willing to yield the floor at this time. I understand the Senator from Kansas may be coming back and would like to make a statement.

If there is nobody else who wants to speak at this time, I would suggest the absence of a quorum. I do not know whether Senator MELCHER wishes to speak.

Mr. LONG. Mr. President, let me just say that I appreciate the Senator's desire to benefit people, and children in particular. But, Mr. President, I have been in this body longer than the Senator. That does not necessarily mean that one has more wisdom, but it does mean one has more experience.

Mr. President, I have heard that said before, about the social welfare programs, that this or that proposal will save money in the long run. It usually has been my experience that several billion dollars later we find that it did not quite work out that way, that when the time came when the saving was supposed to take place, it never quite materialized.

I believe the record is complete on both sides of the argument, and I am content to let the record stand, and Senators can decide what they want to do about the matter on Monday.

Does the Senator plan to suggest the absence of a quorum?

Mr. LEVIN. I understand that the Senator from Kansas is on his way to the Chamber and that he wishes to speak.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time? The Senator from Michigan has 56 seconds.

Mr. LONG. Mr. President, I ask unanimous consent that there be a quorum call, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Kansas.

Mr. DOLE. I thank the Senator from Louisiana.

Mr. President, I cannot decide who is right in this instance. I really believe that Senator Levin's amendment makes a great deal of sense.

If it does not cost anything, it makes even more sense; but I share the view of the chairman that sometimes things that do not cost anything at the outset become very expensive.

I suppose the problem is whether or not we are going to be helping children and whether the 125 percent provision that we adopted in the committee is the correct way to go. I am inclined to support the amendment. It seems to me that if we get into a means test, which is what we have when we talk about 125 percent of the State's median income, it could complicate the administration of the program and require, at least at some cost, a determination of who might be eligible.

I am also advised that studies show that most families that adopt children

with special needs are lower and middle-income people. In any event, subsidies should be considered as the child's benefit and therefore should go with the child into adoption under any circumstances.

Under the amendment, foster care costs will be less because the adoption subsidies would replace the foster care costs. The amendment is particularly important in terms of medicaid coverage, especially for handicapped children. These children will have a much better chance to become independent and fully functional adults if they receive the emotional as well as financial and medical support available through adoption.

I find it very difficult to look at the alternatives. What are the alternatives for placing hard-to-place children? The alternatives may be more expensive than the subsidy.

Again, I am somewhat at a disadvantage, not having heard the eloquent arguments of the chairman of our committee and the sponsor of the amendment.

The Federal subsidy could never be greater than the amount already allocated for the child's foster care needs.

As has been said, the Congressional Budget Office estimates that the cost of the amendment will be negligible, since adoption subsidies will replace foster care costs; but the Senator from Kansas comes down in support of the amendment because of the concern everybody has, and that is for the child—for the child with special needs. It is not for the normal child. It is a special needs case.

In that event, it seems to me that the amendment makes a great deal of sense. I support the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I am willing to yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair will state that the vote will occur on Monday pursuant to the previous order.

Mr. LONG. Mr. President, I believe that we have considered all matters Senators wish to offer on the bill.

Mr. LEVIN. Mr. President, I ask unanimous consent that the vote on this amendment take place immediately prior to the amendment of Senator BELLMON, which I understand will be immediately prior to the vote on final passage.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, what was that?

The PRESIDING OFFICER. The request of the Senator from Michigan is that the vote on his amendment occur prior to the vote on the amendment offered by the Senator from Oklahoma which will be the last vote prior to final passage.

Mr. LEVIN. Immediately prior.

Mr. LONG. Mr. President, as far as this Senator is concerned it is all right with the Senator from Louisiana if it is all right with the Senator from Oklahoma.

Mr. LEVIN. This is in compliance with the request of the Senator from Oklahoma. He asked that his amendment be voted on immediately prior to the vote on final passage. I am not trying to take his place. I am simply asking unanimous consent that this amendment be voted on immediately prior to his amendment.

Mr. LONG. I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

UP AMENDMENT NO. 678

(Subsequently numbered amendment No. 659)

Mr. DOLE. Mr. President, I wish to have printed in the RECORD a nongermane amendment that the Senator from Kansas is trying to figure out some way to offer for himself and the distinguished junior Senator from Kansas, Senator KASSEBAUM, along with a statement explaining that amendment.

I hope that on Monday after everyone has had a chance to review the amendment and the statement in support of the amendment I will be permitted to offer the amendment. It may be subject to a point of order at that time. I do not ask for any consideration of that at this point but just that I have an opportunity on Monday to propose the amendment and see if it is objected to.

Mr. LONG. Mr. President, I suggest that the Senator offer his amendment and that we have an understanding that if there is objection to the amendment on the basis that it is not germane, if anyone wants to object on that basis, he would have a right to do so on Monday. That being the case, we could vote on it at that point and let the Senate work its will.

The Senator can make a statement if he wishes to and explain or put in the RECORD a statement explaining his amendment.

Mr. DOLE. That is what I was going to do.

Mr. President, I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and MRS. KASSEBAUM, proposes an unprinted amendment numbered 678:

Notwithstanding any other provision of law, the Commissioner of Education shall increase the priority for Unified School District No. 337, Mayetta and Hoyt, Kansas, a local educational agency, so as to assure that such agency shall be eligible for funding in Fiscal Year 1980, under Public Law 815, 81st Congress, relating to school construction costs in areas affected by federal activities.

Mr. DOLE. Mr. President, let me explain just what I am about. I know any Senator in this body could raise a point of order against the amendment. We have been meeting, and that is one reason the Senator from Kansas has been absent part of the afternoon, trying to figure out some way out of the dilemma that affects a very small school district in the State of Kansas, district No. 337.

They are facing some very severe financial problems because, first, they have a very limited tax base; second, there is an increasingly high population of Pottawatomie Indian students at the nearby Indian reservation; and, third, the Federal funding formula makes it almost impossible for the district to qualify for assistance.

It is a $17 million fund. There are 64 applications totaling some $330 million, all trying to be funded out of the $17 million.

The district that I am concerned about, and it is a unique case, includes within its boundaries the Pottawatomie Reservation which had 93 Indian students living on the reservation in 1978, a 100-percent increase since 1974. What we have is the Housing and Urban Development Department presently financing a large housing project on the reservation which will bring the number of Indian students living on the reservation to 210 by September 1980.

So we have one Government agency building housing, which we appreciate very much, and we have other Indians moving into the new housing coming into the district putting a severe financial strain on the district itself. So we have, on the one hand, one Government agency through a Federal program providing housing and, on the other hand, a very heavy burden on a local school district, and they just cannot finance the education and the buildings necessary for these 210 students who will be in that particular school in September 1980.

The financing problem arises because Indians living on the reservation are exempt from local property taxes which largely finance the school district's operations and thus the nonresidents on the reservation are asked to build school facilities and finance school operations not only for their children but for the Indian children as well.

The district involved, unified school district No. 337, is one of the poorest in the State of Kansas. The general fund mill rate is about 15 mills, and it is going to go up to 50 mills which it just cannot sustain.

Mr. President, I ask unanimous consent that a statement along with a letter from the Kansas State Department of Education be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY MR. DOLE

Unified School District No. 337, Mayetta-Hoyt, Kansas is facing some very severe financial problems because of (1) a very limited tax base, (2) an increasingly high population of Pottawatomie Indian students at the nearby Indian reservation, and (3) a Federal funding formula which makes it almost impossible for the District to qualify for assistance.

The District includes within its boundaries the Pottawatomie Reservation which had 93 Indian students living on the reservation in 1978, a 100 percent increase since 1974. HUD

is presently financing a large housing project on the Reservation which will bring the number of Indian students living on the reservation to 210 by September, 1980.

The financing problem arises because Indians living on the reservation are exempt from local property taxes which largely finance the school district's operations. Thus, the non-residents of the reservation are asked to build school facilities and finance school operations not only for their children, but for the Indian children, as well.

The District is considered one of the poorest in Kansas. The general fund mill rate is about 15 mills above the state median level.

FEDERAL ASSISTANCE THE DISTRICT IS SEEKING

First in July, 1969, and again in March, 1978, the District has applied for Federal impact aid under P.L. 81-815 to construct new facilities to handle the Indian and non-Indian students. A letter was received by me in February, 1979, stating that there would be no funds available for Mayetta under 81-815 in the foreseeable future.

The District submitted a bond issue to the voters in February for nearly $2 million in anticipation of the denial of Federal assistance. If passed, the District would have the highest bond and interest levy in Kansas even though it is one of the poorest districts. Not surprisingly, the voters didn't think they could afford to pay for what they consider to be a situation created by the Federal Government—more non-taxable Indian students moving onto the reservation.

I believe that where the Federal Government has caused a problem such as this, it must accept the responsibility of solving it. This amendment would do that.

KANSAS STATE
DEPARTMENT OF EDUCATION,
Topeka, Kans., October 25, 1979.

To Senator Nancy Kassebaum; Senator Robert Dole; and Representative Jim Jeffries.

From Merle R. Bolton, Commissioner of Education: Dale M. Dennis, Asst. Commissioner for Financial Services.

Subject Public Law 81-815—Mayetta/Hoyt, Kansas.

Unified School District No. 337, Mayetta and Hoyt, Kansas, has some very serious educational problems related to limited and inadequate facilities.

The school district includes within its boundaries the Pottawatomi Indian Reservation which had (93) Indian students living on the reservation in 1978. This number represents a 100 percent increase since 1974. The Federal Department of Housing and Urban Development is in the process of building (68) additional homes on the reservation. It is anticipated by HUD that there will be (210) Indian children living on the reservation by September, 1980. It is also projected that the Indian enrollment in the district including those living off the reservation will be at least (255) students by September, 1980.

In July of 1969, the school district submitted an application under P.L. 81-815. Since no action was received within one year, in July of 1970, the district voted to issue general obligation bonds for $750,000 to be paid by the local property taxpayer (this totaled 13.98 mills during the 1978-79 school year). In April of 1971, the school district was officially notified that P.L. 81-815 funds were not available.

In March of 1977, a natural disaster was added to the facilities' burden of the district; a fire totally destroyed the junior high school building in Mayetta. The money received from insurance was used to provide minimum facilities for food service programs, purchase of equipment, and some remodeling of buildings. Mobile classroom facilities were purchased with federal disaster funds. These mobile classroom units are totally inadequate and, when sold, the money must be returned to the federal government.

In March of 1978, an application was again made under P.L. 81-815 for funds for the construction of new facilities. A letter was received by Senator Dole from the federal school assistance office in February of 1979, stating that there would be no federal funds available in the foreseeable future under P.L. 81-815 for the Mayetta school district.

The board of education chose in February of 1979, to submit a bond issue for $1,975,000 in order to provide a minimal education program for the students in the district. The mill levy to pay such bonds would have required an additional 27 mills which would have brought the mill levy to approximately 40 mills for bonds and interest; this would be by far the highest bond and interest levy in the state.

The bond issue was defeated by a ratio of 2-1. The primary reason for the defeat of the bond issue, according to school district officials, was that many patrons did not feel that it was their responsibility to pay for the full cost of a new facility which was primarily needed for the increased enrollment of students from the reservation.

The persons living on the Indian reservation do not pay any real or personal property taxes. It is quite difficult to explain to the taxpayers why the school district should be required to provide facilities for students who live on the reservation when the federal government, who is responsible for their education, is not willing to pay its fair share of the cost.

In order to provide minimum facilities, it is anticipated that $2,500,000 would be required to fund such a project. It is the belief of school officials in U.S.D. No. 337 that if the federal government would pay its share of the cost, the taxpayers would be willing to pay their share.

The school district, based on adjusted valuation per pupil or taxable income per pupil, is considered one of the poorest districts in Kansas. Over 70 percent of the general fund budget is financed by state sources. The general fund mill rate is approximately 15 mills above the state median.

It appears that the alternatives the school district has are rather limited. Possible alternatives include the following:

1. The school district patrons could vote to issue general obligation bonds for $2,500,000 and place themselves in debt $3,000,000 ($2,500,000 plus $500,000 on bond issue passed in 1970) with a potential property tax mill rate of 40 to 50 mills for the next 20 years.

2. All Indians living on the reservation could request the federal government to build a school for only their children under Section 6. This is estimated to cost the federal government a minimum of $3,000,000.

3. All Indian students living on the reservation could possibly be rejected as nonresidents of the school district. This alternative will cause tremendous problems and is considered unwise and very expensive since this could possibly require the construction of a school on the reservation at a cost of $3,000,000 to the federal government.

4. The federal government could pay its fair share of the cost of new facilities for the school district as provided under P.L. 81-815. It is the opinion of the school district officials in U.S.D. No. 337 that the taxpayers would be willing to pay all costs above $1,000,000.

Attached are some basic facts concerning the district which should be helpful in understanding the problem. Any assistance you can give U.S.D. No. 337 in resolving this matter will be greatly appreciated.

UNIFIED SCHOOL DISTRICT NO. 337, MAYETTA, KANS.
1978-79 SCHOOL YEAR

[Background information: County—Jackson; towns—Mayetta and Hoyt; area—170 mi²; enrollment—836.0 FTE; number of schools—4; general fund budget—$1,134,184; assessed valuation—$6,389,783]

STATE RANKING ON FINANCIAL DATA OF DISTRICT	Median	Mayetta	State ranking [1]
Average adjusted valuation per pupil	50,183	17,675	[2] 294
Average taxable income per pupil	10,568	6,101	[3] 291
Wealth per pupil	60,510	23,776	[4] 299
General fund mill levy	40.12	48.72	[5] 264
Total mill levy	46.93	63.74	[6] 289
General fund budget per pupil	1,719.66	1,356.68	[7] 306
Assessed valuation		6,389,783	[8] 288
Ratio of general State aid to general fund budget (percent)	37	69	[9] 8

[1] Total of 306 unified school districts in Kansas.
[2] Only 12 USD's lower.
[3] Only 15 USD's lower.
[4] Only 7 USD's lower.
[5] Only 42 USD's higher.
[6] Only 17 USD's higher.
[7] The lowest in State.
[8] Only 18 USD's lower.
[9] Only 7 USD's higher.

Present attendance centers:

Royal Valley High School, Hoyt: Permanent capacity of 240 students; current enrollment of 275 students.

Royal Valley Junior High School, Mayetta: Permanent capacity of 0 since March 2, 1977 fire destroyed building. Portable classrooms have been purchased with federal pinpoint disaster aid. Portable buildings to be sold and money returned to federal government upon completion of permanent facilities. Current enrollment of 131 students.

Hoyt Elementary School, Hoyt: Permanent capacity of 200 students; current enrollment of 243 students.

Mayetta Elementary School, Mayetta: Permanent capacity of 175 students; enrollment of 210 students.

Enrollment data and projections:

Present enrollment:

Unified school district total, 836.0.

No. of Indian students, 138.0.

No. of students living on Indian lands, 93.0 on Pottawatomi Indian Reservation.

PROJECTED ENROLLMENT

	Actual enrollment
Unified school district:	
School year:	
1974	734.1
1975	762.0
1976	812.4
1977	829.0
1978	836.0
1983	[1] 1,030.0
1988	[1] 1,103.0
1991	[1] 1,214.0

	Living on reservation	Living off reservation	Total
Number of Indian students:			
School year:			
1974	40	[1] 58	[1] 108
1975	42	[1] 68	[1] 110
1976	55	57	112
1977	92	42	134
1978	93	45	138
1980	[1] 210	[1] 45	[1] 255

[1] Estimate.

HUD projects that 210 students will be living on the Pottawatomi Indian Reservation by September, 1980. Thirty-two housing units are completed and 68 units are scheduled to be built in the near future. Indian residents on the reservation are exempt from the payment of real and personal taxes.

Minimum facilities needed:

1. New middle school for grades 5–8 at Mayetta. Sixteen classrooms, music, art, and library will be attached to existing gymnasium and cafeteria.

2. Addition of vocational shops and classrooms, new multi-purpose room, and kitchen at Hoyt. Convert present cafeteria and kitchen into expanded library and classrooms. Remodel gymnasiums.

Bond issue considered, 1979:

Amount, $1,975,000.

Mill levy required to fund bond issue, 27 mills (average).*

Average increase in property taxes, $2.70 per $100.00 of assessed valuation.

Ratio of issue to total assessed valuation, 30.9 ($1,975,000 ÷ $6,389,783).

Election date, April 3, 1979.

Election results, 409–opposed: 221–for.

Present costs to meet minimum facilities:

Amount, $2,500,000.

Mill levy required to fund bond issue, 31 mills (average).*

Average increase in property taxes, $3.10 per $100.00 of assessed valuation.

Ratio of costs to total assessed valuation, 39.9% ($2,500,000 ÷ $6,389,783).

Present indebtedness, $500,000.

Total indebtedness, $3,000,000.

Ratio of total indebtedness to assessed valuation, 46.9% ($3,000,000 ÷ $6,389,783).

Mr. DOLE. Mr. President again I know that I am subject to probably a number of parliamentary objections, but I hope that Senators will have a chance to read the amendment. We are talking about $1 million. Maybe on Monday they will just not object.

Mr. LONG. Mr. President, I believe that we have considered all amendments to the bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BOREN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, we yield all time back on the bill.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, I yield back all time on the amendment and ask that further proceedings on the amendment occur on Monday.

The PRESIDING OFFICER. All time has been yielded back, and without objection, further action will be delayed until Monday.

IMPORTING ALTERNATE ENERGY

Mr. EXON. Mr. President, as America begins to struggle with the energy problem trying to extricate ourselves from a heavy reliance on foreign energy, a most interesting and ironical fact has come to light. A company in Mineola, N.Y., called American Gasohol, is planning to import ethanol from Brazil to use in the manufacture of gasohol. According to the Office of Technology Assessment's (OTA) September 1979 report, American Gasohol Co. plans to import 120 million gallons of ethanol from Brazil each year for the next 2 or 3 years to mix with gasoline to manufacture gasohol.

I find this situation to be preposterous. Just as a noted investment company once claimed to be "bullish on America" but was filming its TV commercials in Mexico, now we have an American business, in the name of energy independence, importing Brazilian ethanol to mix with gasoline produced from Arabian oil to create American gasohol. How absurd.

We are trying to become energy independent. We are preparing to spend billions of dollars to develop alternate sources of energy to free ourselves from political blackmail by foreign governments. At the same time we seemingly are falling into the same trap by starting to import one of our prime alternate sources, which is ethanol. As we make this leap from the proverbial pan into the fire and continue our dependence on foreign energy at the expense of American farmers and a fledgling new American ethanol industry, we are also going to add $50 million a year to this Nation's trade deficit by importing ethanol from Brazil, according to OTA estimates. This money should be flowing to American farmers, not foreign countries.

In all fairness to American Gasohol Co., they tell us that they would rather use ethanol manufactured here in the United States, but there is not enough domestic ethanol available. So if they are to proceed rapidly with this worthwhile effort they are forced to import, and unless pending legislation is passed and implemented soon, and in practical form, the situation could become more severe.

We have succeeded in convincing the American public that gasohol is an excellent fuel that is a step toward solving our immediate problems. From its humble beginnings in Nebraska, which pioneered the use of grain fuels in recent years and even popularized the name "gasohol," sales have increased dramatically nationwide. There are now more than 1,000 stations in 29 States selling gasohol. There are only optimistic reports about its feasibility and yet this readily available, renewable source of energy that can be an immediate, partial solution to recurring gas lines, is going to have to be imported. The Senate must move rapidly to spark sufficient production of domestic ethanol to meet ever-increasing demands.

There are several bills which will soon be considered that would authorize funds to spur development of gasohol plants and I urge their passage. The Senate Finance Committee, in considering the windfall profits tax, has on a 19-to-0 vote recommended the removal of the current 4-cents-per-gallon excise tax exemption for gasohol and replacing it with a 40-cents-per-gallon income tax credit for each gallon of domestically produced alcohol which is mixed with gasoline, in any proportion, to produce gasohol. This proposal will transfer the benefit of the Federal subsidy from the gasohol consumer to the gasohol producer.

Rather than directly affecting the cost of gasohol at the pump, the Finance Committee's proposal apparently seeks to translate lower costs to the producer into lower costs to the consumer. This proposal furthermore, does not increase the Federal subsidy, as the 4-cents-per-gallon excise tax exemption for gasohol blend is equal to 40 cents per gallon of alcohol used in producing gasohol. The difference lies in where the economic carrot is placed.

According to DOE, present financial incentives of the Federal Government could increase the current yearly output of 60 million gallons of gasohol to about 300 million gallons by 1982. Under the current incentives, gasohol is sold at a price equal to or less than premium, unleaded gasoline with an octane rating between regular and premium, unleaded gasoline. A lower selling price of gasohol, due to the Federal and State excise tax exemptions, is a significant factor contributing to increasing demand for gasohol.

Rising demand resulting from the current tax policies would provide the market with sufficient incentives to produce without the change which the Finance Committee proposes. Higher prices for gasohol at the pump will not encourage demand, and it is uncertain that the theoretical proposition of lower costs to the producer translating into lower costs at the pump, will actually occur. The National Alcohol Fuel Producers Association shares my concern that needed "marketing incentives" will be reduced if the Finance Committee's recommendation is enacted.

I seriously question this recommendation. Less incentives for a proven product that can provide an immediate, partial solution to impending gas lines? Less incentives for a product that has already become popular with the American public and demand already exceeds supply? Less incentives to manufacture a product that is already in such short supply that one company is already planning to import it from foreign countries? The gasohol industry does not need less incentives—it needs more, and it needs them now. As American Gasohol Co. said—

We would buy domestic ethanol but it's not available so we're forced to import.

The DOE report stated that the near-term opportunity for gasohol is significantly enhanced by the existing Federal and State incentives, of a 4 cents Federal excise tax exemption for gasohol, entitlements payments for production, and the 20-percent investment tax credit for qualified production facilities of gasohol and other synthetic fuels. The need exists to improve and maintain the current Federal incentives to insure the economic competitiveness of gasohol. We must provide assurances to industry that current incentives will not be removed or significantly altered in view of the successes we are now beginning to realize.

In addition to passage of legislation to assure incentives for production to meet increased domestic gasohol demand, I urge that Congress seek solutions which will discourage future importing of foreign ethanol by insuring that the tax incentives apply only to domestic and not foreign produced ethanol.

Mr. DOLE. Will the Senator from Nebraska yield?

Mr. EXON. Yes.

Mr. DOLE. I read the same statement. I might add that we have taken care of part of the problem. I do not quarrel about the imports; we just do not think we ought to subsidize imports. We have written that into the so-called windfall profits tax bill, which will be coming to the floor in about 2 weeks. I think that is the concern the Senator from Nebraska addresses.

Mr. EXON. I thank the Senator from Kansas. I have addressed that in my remarks. I think we should pass that in order to show that we are giving credit only for the domestically-produced gasohol.

Mr. DOLE. We did that. I think the Senator from Nebraska agrees that is the right thing to do.

*Does not include a current bond and interest levy of 13.98 Mills.

CORNELL C. MAIER: ONE PERSON CAN MAKE A DIFFERENCE

Mr. HELMS. Mr. President, the guiding principle for Kaiser Aluminum & Chemical Corp. is "One person can make a difference." No one better personifies this theme than Kaiser's chairman of the board, president and chief executive officer, Cornell C. Maier. He is a remarkable corporate leader and citizen who truly understands the value of the American free enterprise system.

I recently met with Mr. Maier to discuss Kaiser Corp's. efforts to sponsor television commercials drawing attention to several issues of widespread public concern. Kaiser sought to purchase commercial time from the three major networks to promote public awareness of the energy crisis, Government redtape, and the free enterprise system. The major networks refused to air the commercials, citing either the fairness doctrine or the controversial nature of the ads.

The proposed TV commercials, of course, are hardly controversial. I ask unanimous consent that the three rejected ads be printed in the RECORD.

There being no objection, the ads were ordered to be printed in the RECORD, as follows:

FREE ENTERPRISE

Is free enterprise an endangered species? How much government regulation is enough? Is business bad just because it's big? Or does a country like ours require a diversity of business—both big and small?

Will excessive control over big business lead to control over all our business?

The answers are up to you.

Whatever your views let your elected representatives know.

People, one by one, need to speak up now. You can help keep free enterprise free.

A message from Kaiser Aluminum.

One person can make a difference.

ENERGY

Some people are calling the energy crisis a hoax.

Others say that at the rate we're using up our oil reserves we'll be down to our last drop in our children's lifetime.

Whoever's right, one thing is clear. America needs an energy plan for the future now. One that uses all resources available from coal and nuclear power to solar.

But we're only going to get it if people, one by one, demand it.

Whatever your views, let your elected representatives know now.

There's not much we can do when the light goes out.

A message from Kaiser Aluminum.

One person can make a difference.

GOVERNMENT REDTAPE

OFFICIAL VOICES (OVERLAPPING)

Applications should be filled out in triplicate . . .

Forms should be returned by the 19th or penalty charges . . .

The Bureau requires all permits to . . .

The Department must be notified . . .

Send one copy to . . .

ANNOUNCER

It's redtape. In 1977, America spent $100 billion on federal paperwork alone. And in the end we all pay for it.

But if people, one by one, start speaking out, we can begin untangling America's knottiest problem.

A message from Kaiser Aluminum.

One person can make a difference.

Mr. HELMS. Mr. President, Kaiser officials were understandably quite concerned that a corporation could not have access to television by buying time to express its opinions. Accordingly, a decision was made to raise this issue publicly. Kaiser argued that the networks' interpretation of the fairness doctrine chokes the flow of information, stifles expression, and squeezes out provocative advertising on issues of national importance. I wholeheartedly agree. I am hopeful that legislation can be enacted during the 96th Congress that will permit the networks to accept the Kaiser—and similar—ads without risking economic jeopardy under the fairness doctrine.

The overall reaction to the Kaiser initiative has been encouraging. Congress and the networks have taken notice of the issue of fair access to television and are searching with Kaiser for a realistic solution to this problem.

Chairman Maier told me that he did not expect such a large and favorable reaction when his company went to the public with the story of what had happened. I admire his determination to keep the issue alive. He has the strong support of the Senator from North Carolina.

For too long, we have lived in the era of the silent executive, which has allowed the free enterprise system to be maligned by demagogic politicians. Cornell Maier's willingness to risk a little controversy to make a point comes as a breath of fresh air. Corporate leaders ought to speak out on issues that are important to their workers, their shareholders, their companies, their communities, and the American people. Cornell Maier has demonstrated that one person can indeed make a difference; but more voices need to be heard.

Mr. Maier delivered a speech on the free enterprise system at the Miami University Business Conference in 1977. The message is still valid today. Mr. President, in order that I may share with my colleagues this speech by an eloquent spokesman for our economic system, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY CORNELL C. MAIER

Mr. Chairman, ladies and gentlemen:

The free enterprise system is dying. We are gathered here around its deathbed. The initiative, the innovation, the hope and the freedom that have given this country's people more of the fruits of life and liberty than mankind has ever enjoyed, are dying with it.

In our death watch, as we sit meekly letting it happen, we should know that when it dies here, it will not rise again. And we should know that when it dies here, a long night of mediocrity will descend on us and on our children.

It's about time we admitted this fact. It's about time we admitted that the free enterprise system can't survive in this country . . . unless—unless those of us who should be defending the system, who should be working to improve it, fight to save it.

That's right. I said fight. This is a war. The battle is not over our economic system. The battle is over our political system. Will we retain our individual rights and liberties as a people, or will we surrender them to an all-pervasive state that will decide what's best for us . . . and make us take it . . . whether we like it or not?

Will we have a country where individual excellence is rewarded and achievement encouraged; or will we have a land where excellence and achievement are penalized?

Are we willing to be told what we may eat, drink, wear, drive, build; or are we willing to fight for the right to choose?

Is it better that we the people decide our own destiny; or is it better that an elitist group decide for us?

That is the issue.

I am not overstating the case. While the visible attack point is the free enterprise system, the actual target is the American system itself . . . and, more particularly, the idea of individual liberty and freedom.

The essence of the American proposition has always been that free people can be trusted to know what's best for them. There are a number of people in this country, though, who do not agree with that proposition. Somehow they think they know what is best for us. They think their values are better than the values that we have reached by consensus and which have served us so well. They feel disposed to impose those values, and re-weave the economic and political fabric of this country into a starkly different design. They are becoming increasingly more influential.

Edmund Burke, a thinker whose ideas I very much like, in commenting on the preservation of a free society, observed, "The true danger is when liberty is nibbled away—for expediency—and by parts."

That is happening now. Not in nibbles, but in gulps! Far too many people in this country don't realize it. They seem to think that the attacks on our free economic system are removed from their personal well-being and personal freedoms. That is not the case. All of our freedoms are intertwined. Raymond Moley once pointed out that "the preservation of a free press is utterly dependent upon the preservation of a free economy." If one goes, the other goes. If our free economy is under serious attack (and it is), then it follows that so, too, is our free press . . . and our individual freedoms as well. The idea of freedom is very important to me. I assume it is to you, too. Liberty is, or ought to be, our most important political value. I have no idea what name those who would do away with the free enterprise system might give to

the system they would impose in its place, but I echo Bob Bielberg's sentiment: "If the carcass is freedom, I don't care what name is given the vulture on top."

So, Mr. Chairman, ladies and gentlemen, I think it's about time we recognize this fight for what it is.

Yes, the free enterprise system is dying . . . and with it, our political safeguards.

Why?

Not because the system doesn't work. It does!

Not because those who would do away with it have something better to offer. They don't!

Then why are we gathered here examining what appears to be a terminally ill patient? The answer is simple. The people who are attacking the system are doing a much better job than the people who should be defending it. They are because no one is effectively countering the misunderstanding, the misinformation, and the sometimes intentionally misleading propaganda that is being slipped to the American people.

It's about time that those of us who believe in the system do something about that. And if that means being provocative or controversial to get our message across, fine. Along the way, I hope that business people and educators can lose the idea that a program of "economic education" or "economic awareness" delivered to the American public could somehow cause public attitudes toward business and the "system" to magically improve. As Professor Irving Kristol points out, the public's attitudes toward business are no more a function of the public's knowledge of economics, than the public's attitudes toward government are a function of the public's knowledge of political science. Those attitudes are provoked by experience. They are created in the schools, by the media, and by the "value formers" in the communities. Since that is where attitudes are formed, that is where the advocates of free enterprise need to be—in the schools, on the college campuses, at the women's club meetings, at the city council, in civic organizations, in the local newspaper office or television studio, in the state legislature, in the federal Congress. The advocates of free enterprise need to be anywhere and everywhere people come together to learn, or plan, or work together to advance a common cause.

Spare us "economic education." Give us, instead, the opportunity to talk with people about their own self-interest. They will make the right decisions . . . for themselves and for the system.

It's also about time that those who are advocates of free enterprise fully and freely admit that the system isn't perfect. We should admit that it has been unable to provide total safeguards against greed; against corruption; against exploitation. But for all its faults, no other system has been able to provide the freedom, the opportunity, and the bounty . . . of both the material and spiritual good things of life . . . to so many . . . as has our system. It isn't perfect. It needs improvement. But there is none better. In this regard, I think it is only fair to point out that for all of their faults, business and industry have been tarred with much too broad a brush as a sinner in our society. Bad makes news. Good doesn't. For every instance of scandal, there are thousands, no, there are literally millions of instances repeated day in and day out in which customers receive products that perform exactly as they are supposed to; in which employees are well treated and well rewarded; in which stockholders are paid fair and regular dividends; in which the arts, and letters, and charities are aided; and in which social responsibilities are willingly met.

Still, the system needs change—improvement. And businessmen need to change . . . to meet the changing demands of the societies at whose pleasures their businesses exist. Far too many in business have been aloof, disinterested, or fearful of getting involved. Far too many are still encased in their corporate cocoons . . . insulated from problems like the alienation of ghetto youth . . . or the frustration of unemployment . . . the despair of poverty . . . the loneliness of the aged. The closest that many of us come to these problems is our daily newspaper or nightly television newscast.

Far too many have believed that the troubles belonged to someone else. There has been no lack of "someone elses" who have been willing to offer solutions to them, and demand political power as the price. More often than not, the "solutions" have become problems in themselves. We can no longer allow the crying concerns of our society to be manipulated for political ends. We, in business, industry, and education, must participate. We must help manage constructive change. And to do that, we must be as involved with public issues as we are with profit and loss statements, or with diplomas. Our system needs to change, it needs to improve—but without sacrificing its underlying concepts. Every country, every society, every organization, has two basic needs: stability and change. The constant problem is how to preserve the one while achieving the other. Failure to do so results in chaos.

If our system is to survive, without chaos, but with both stability and change, it's about time we all recognized some basic facts.

They are these:

Bigness isn't bad.

Government cannot produce wealth. It can only take. And for everything government decrees, the people pay.

Employment is better than unemployment . . . work better than welfare.

Wealth is better than poverty.

Liberty is at least as important as equality.

How the American people have been sold the idea that bigness is bad defies logic or experience. Bigness is what has given us the standard of living we have. The economies and efficiencies of big companies have allowed the technological advances, the product development, and the distribution systems that place more of the necessities and fruits of life within reach of more Americans than any other peoples on earth. We are a big country. We have big problems. We need big schools, big churches, big businesses, big unions, and, yes, big government. The idea that bigness is bad is simply wrong.

People also need to understand that everything government has comes from us . . . from working men and women and from business and industry. Taxpayers and consumers are the cornucopia from which all good things flow. Not the government. For everything government gives, taxpayers and consumers pay. If government orders a pristine environment, taxpayers and consumers will pay for it. If government orders air bags in our automobiles, taxpayers and consumers will pay for them. If government provides for the able-bodied indigent, taxpayers and consumers pay for it.

Governments can redistribute existing wealth and, in some cases, are doing exactly that. But one thing I know for certain, new wealth can be created only by people working to develop the resources at their disposal.

The alternative to this approach is what has happened in Great Britain. Britain tried to create a paradise in which all would share equally. The result was, though, that there was less to share. Their pie shrunk.

This is what Prime Minister Calaghan had to say about the situation: "You know we have not been creating sufficient new wealth as fast as we have been distributing it. We have lived too long on borrowed time, borrowed money, and borrowed ideas. We will fail if we think we can buy our way out of our difficulties by printing confetti money and by paying ourselves more than we earn. The cause of high unemployment is quite simply and unequivocally paying ourselves more than the value of what we produce."

It's about time we admitted that we here in the United States are on the same track. What happened in Britain can happen here. It is happening here!

In the attacks on the system, a number of fictions abound. One of the most insidious is the fiction that our political rights guarantee equality in all things. That has come to mean equality not only at the starting line, but at the finish line as well. Even Will Durant has suggested, "To check the growth of inequality, liberty must be sacrificed." So here we have a dilemma. You are guaranteed equality. You are guaranteed liberty. But one must be sacrificed to the other. I do not believe it! Will Durant is wrong. All men should have equality at the starting line, but when the race is on, the guarantee should be freedom. Freedom to achieve or to fail . . . freedom to make the most of every talent and ability you have . . . freedom to run the race as best you can run it . . . and freedom to receive the rewards for that effort. Voltaire said it very well. "Those who say all men are equal speak the truth, if they mean that all men have an equal right to liberty, to their property, and to the protection of the laws. But they are mistaken if they think all are, or can be made to be, equal in their station and employments; since they are not so by their talents."

I said that wealth is better than poverty. I doubt that anyone disagrees. But I meant it in this sense. The efforts in our country to stymie growth, to redistribute wealth, to pay ourselves more than we earn—these efforts will lead us to national poverty. National wealth is better. It can be achieved only by creating new wealth. We have the ability to do that. What I fear is that we may not have the will to do it. We have the ability to create new wealth . . . if government, and business, and labor, and our educators will only start working together to solve problems rather than lay blame at each other's door.

You've heard that before, you say, and it can't be done.

Yes, it can

All it takes is: a little sacrifice . . . a bit of ego submersion . . . a recognition that to let go of a little power in order to achieve a common good is not a bad thing . . . a willingness to abandon old ways of thinking if they no longer fit the circumstances . . . and, most important, the understanding that men of goodwill can find fair solutions to mutual problems if they honestly try to do so. A good place to begin would be with the nation's number one problem—unemployment among young people.

It's about time we started.

I said earlier that the real battle is over our political system. I believe ours is the best system yet devised by man. Yet, it can still be improved. To do that, we do need some changes in the system, we need to make our elected representatives more interested in solving problems than in re-election. We need to make our politicians less political. We need broader representation in government. It's about time we limited the presidency to one six-year term. It's about time we increased the term for representatives from two to four years and limited them to three terms. It's about time we limited senators to two terms. It's about time we overhauled our courts. It's about time we put our country above our politics.

Mr. Chairman, ladies and gentlemen, I would like to conclude with two messages. One is to my colleagues in business and industry. You are beginning to hear that if you just do your jobs well, run your companies efficiently, give good service, and produce good products—there is no need to take your story to the public. All will be well. That's not true. Most of American

business has done these things consistently over the years, and yet it obviously has not been enough. We must tell our story to anyone who will listen: and if they won't listen, we must find ways to make the story interesting enough or important enough—to them—that they do listen.

And one more thing. In getting the story told, I would urge you to begin with your own employees, your families, and your stockholders. No groups have a bigger stake in the success of the free enterprise system than they. We haven't done a very good job with them so far. It's about time we started correcting that.

But, more important, we must be involved with helping unravel the perplexing social problems that so undermine our country. This will require your personal attention—your personal invlovement. It will require the willingness to commit human as well as financial resources. In some instances, you may not be comfortable. In some instances, you will not be welcome. But it must be done. The changes that must be made in the system if it is to survive are too important to be left in other hands.

My last message is to those who would tear down our free enterprise system—the critics, the complainers, the dismantlers, the attackers. The message is this: "We're mad as hell, and we're not going to stand for it anymore."

I wish I could end by saying I'm confident that we can save the free enterprise system. I'm not. The best I can be is hopeful.

But I do know this. We do not deserve the liberty, the freedoms, and the riches in the common stock of the comforts of life we have in this country unless we—you and I—are willing to assume the responsibility for preserving them and passing them on to our children.

It's about time we began.

LEGISLATIVE VETO

Mr. PERCY. Mr. President, in the coming months, the Senate will debate a variety of proposals to improve Federal regulation. Two Senate Committees, Judiciary and Governmental Affairs, have major regulatory reform legislation before them nearing markup. Similarly, the upcoming debate on authorizing the Federal Trade Commission will provide a forum for airing many reform issues.

The need to improve Federal regulation is real and substantial. There is a clear consensus that Federal regulation has had a substantial negative impact on our economy, spurring inflationary pressures and adding to the drag on productivity. Many view the current mosaic of more than 95 Federal entities issuing regulations as a system out of control, in need of close examination and more cost-conscious procedures.

In enacting corrective measures to make Federal regulation less burdensome, it is important that Congress not overreact and, in its zeal, create rigid and unworkable procedures or simply pass the buck from one branch of Government to another.

One proposal which presents such a potential danger is the so-called "legislative veto." I have previously discussed my opposition to this idea and noted its potential for actually lessening the responsiveness of Federal agencies. I would also like to direct the attention of my colleagues to a letter from my distinguished colleague (Mr. JAVITS) to Chairman JOHN MOAKLEY of the House Subcommittee on Rules of the House, in which Senator JAVITS analyzes many weaknesses in the "legislative veto" proposal.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., October 2, 1979.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Subcommittee on Rules of the House, House Rules Committee, Washington, D.C.

DEAR CHAIRMAN MOAKLEY: Thank you very much for your invitation to appear last week before the Rules of the House Subcommittee to express my views on the important and controversial subject of the legislative veto, and its application to agency regulations. I regret that a prior commitment in the Senate Labor and Human Resources Committee prevented me from testifying in person. However, I did want to take this opportunity to make my position on this issue known to members of the subcommittee in writing, and request that it be included in the record of the hearing.

The legislative veto has been with us for many years now in one form or another, and has always been the source of controversy. At the outset, I would like to make clear that, where executive branch decisions involve broad questions of national policy, such as the Reorganization Act, the War Powers Resolution, or sales of military equipment or nuclear technology to foreign nations, I support the legislative veto. In fact, I am the principal author of the War Powers Resolution, which contains provisions analogous to the legislative veto, authorizing Congress to halt deployment of U.S. troops abroad. These are all cases in which the Congress has reserved to itself decisions that are legislative in nature that need to be made based on developments that occur after the enabling statute is enacted, and to me represent an entirely different situation than the application of the legislative veto to individual regulations.

Nor am I personally troubled by arguments about the constitutionality of the legislative veto in such cases. Two years ago, I authored a law review article, entitled "Congressional Oversight and the Legislative Veto: A Constitutional Analysis" which was published at 52 N.Y.U. L. Rev. 455 (1977). My research for that article convinced me that the veto—whether one House or two Houses—is constitutional in most circumstances (although not when applied to independent regulatory commissions). Although I did not specifically study the "1½ House" veto proposed by Congressman Levitas in H.R. 1776, my presumption is that that mechanism is constitutional as well, to the extent it applies to delegations of legislative power.

However, I recognize that legal scholars are split on the constitutional question, and the issue will not be finally decided until the Supreme Court has had a chance to review it. My concerns about the legislative veto go far beyond the narrow legal question involved. In my view, extension of the legislative veto procedure from broad questions of national policy to all agency regulations, no matter how detailed or technical, as H.R. 1776 does, creates more problems than it solves.

Certainly, I can understand why the legislative veto has been proposed. There is a widespread feeling that many in the bureaucracy have become unresponsive to Congress or to the public, unfaithful to legislative intent and policy, and much too slow in making decisions. However, it is clear to me that a universally applicable legislative veto is not the answer. Adoption of this procedure can only result in a bureaucracy that is less responsive and more dilatory. Additionally, it would have very adverse effects on the workings of Congress, which we ignore at our peril.

These are my reasons for this belief. Agencies issue more than 7500 regulations per year under procedures spelled out in the Administrative Procedures Act. Agencies are required to give advance notice of the regulation, provide adequate time for public comment, and explain why they accept or reject the comments. Once a regulation is final, it can be challenged in the courts. The reviewing court will examine the record, which is often lengthy, detailed, and technical. If it finds the regulation exceeds the agency's authority, is contrary to Congressional intent, or is not backed up by the record, the court will invalidate the regulation. That is the system we have had for more than thirty years, and it has worked well. It is important to recognize that, under this system, agencies are not free to do what they please; they are subject to constant review by the courts, based on the factual record they have compiled.

Several adverse consequences flow from Congressional involvement in this process through the legislative veto. I would like to divide my comments into several categories: delay and uncertainty, reduction in due process guarantees, effect on regulatory reform, and effect on Congressional workload.

DELAY AND UNCERTAINTY

In a time when we are all hearing from our constituents about the slow pace of the bureaucracy, I would think that the last thing we in Congress would want to do is slow down the regulatory process even more. Yet that is exactly what will happen under this proposal. By its terms, H.R. 1776 will require every rule to be delayed 60–90 days of "continuous session of Congress." That will mean three to six months of actual time, at a minimum, before a regulation can go into effect. Indeed, the Governmental Affairs Committee, in Volume II of its study of federal regulation, identified one instance where regulations of the Federal Election Commission, which are subject to a thirty day legislative veto provision, were in fact delayed more than 16 months before they could be implemented. So this fear of delay is not speculative.

That leads me to a related problem I have with this procedure—the great uncertainty to affected parties that would result. While the effective date of a regulation is delayed by the veto process, or by negotiations with staff to avoid the possibility of veto, the underlying requirements of law remain binding. Delay in issuing regulations interpreting the law increases the chances that persons will have to rely on their own interpretations, which could later be rejected by the agency. Indeed, in order to avoid a legislative veto battle, an agency may decide to issue no regulation at all or merely to restate the applicable provisions of law. Such action forces affected groups to guess what the law means, and the resulting uncertainty may impose greater costs than the final regulation itself.

The agency too, must live with greater uncertainty. It will be difficult for it to develop a comprehensive regulatory program, when it is faced with the prospect that individual pieces of the program, which may be crucial to its success, could be knocked out at any time by the legislative veto. Imagine what would happen if someone tried to run a business in this manner—that is, if every business decision could be vetoed by an outside group. No business could function under such circumstances, and no agency could either.

In the same vein, I also note that this

amendment contains another provision that has not received much comment, but is potentially even more destructive than the veto itself—the reconsideration process. Under this provision, any regulation any agency has ever passed in its entire history, could be terminated by Congress. There would never be any finality on which affected parties could rely. Business planning, based on known regulatory policies, would become chaotic.

REDUCTION IN DUE PROCESS GUARANTEES

The legislative veto will enable interest groups to undermine the due process protections built into law by moving the regulatory process out of the agencies and courts and into Congressional offices. In the notice and comment proceeding, all parties have equal access to decision makers, equal notice of all the facts, and can require the agency to base its decision on the record before it.

Not so with legislative veto. Meetings between lobbyists and Congressional staff are not open to the public and no transcript is taken. Decisions are not based on a formal record and cannot be appealed to the courts. Often these decisions can be made and communicated to the agency even before a rule is proposed, in order to avoid the prospect of the veto. How will a court review such a procedure? What will happen to public confidence in the system? I suggest there are as yet no satisfactory answers to these questions.

Indeed, the legislative veto process is necessarily a political one. The persons who could benefit most are those with the greatest political and economic clout—not those with the most persuasive legal or factual arguments. The process is not likely to give relief to groups—such as small business—that have fewer financial or political resources. Yet these groups have an equal if not greater interest in the impact of agency regulations, since their very survival is often at stake. The net effect of the legislative veto may be to reduce the spectrum of interests properly taken into account in framing a regulation.

EFFECT ON REGULATORY REFORM

I am also concerned that the legislative veto will undermine efforts at regulatory reform. One of the most persistent criticisms of the agencies that is heard in Congress is that the agencies constantly exceed the authority Congress intended them to have. I believe that this is, at least in part, our own fault. We in Congress, in order to move legislation, often strike compromises that provide the agency with only vague guidance. We then criticize the agency for making the hard choices we avoided.

If we are to rein in those agency decisions that truly flout Congressional will, we must spend some time reviewing the underlying statutes. We must be sure that all affected parties are heard. We must make sure that, where possible, the most cost-effective regulations are adopted. Adoption of the legislative veto may well hinder us in reaching these goals. Instead of looking at needed changes in regulatory statutes, we will get bogged down in reviewing individual regulations. Instead of opening up the rulemaking process, and selecting the most cost effective alternatives, we will make public participation more difficult, and cost/benefit analysis superfluous.

CONGRESSIONAL WORKLOAD

Finally, I want to say a word about what will happen to our workload if the legislative veto becomes law. I know that proponents of the veto contend that the veto will be used only in extreme cases. They point to the fact that it is now contained in nearly three hundred laws, and has been exercised in only a handful of cases. I think this argument overlooks two critical points.

First, where the legislative veto now exists, it applies almost exclusively to broad questions of national policy. In very few, if any, of these cases are we talking about vetoing regulations that directly affect the private sector. But that is exactly what we are talking about with this proposed legislation. I assure my colleagues that if we give interest groups another procedure to challenge regulatory decisions, they will make use of it. If the legislative veto becomes law, every single regulatory decision of every single agency that is the least bit controversial will be fought out all over again in the halls of Congress. If any of my colleagues think this will be an easy task for us to take on. I suggest that they pick up a copy, at random, of any day's Federal Register. I think you will be impressed by the number and complexity of the regulations it contains. Congress has neither the time nor the expertise to second guess the agencies on all of them. In fact, that is exactly why we created the agencies in the first place.

Second, where the veto now exists, it is often not used because the terms of the regulation are negotiated beforehand by Congressional and agency staff. Although this avoids a veto fight, it places immense power in the hands of the staff. Rarely will a committee, let alone a House of Congress, be consulted during these negotiations. Indeed, as a member of the Senate Labor and Human Resources Committee, I have seen this pattern time and again with respect to regulations of agencies subject to that committee's jurisdiction.

If we are truly concerned about runaway bureaucracy, then let us initially draft statutes that clearly spell out Congressional intent. Let us engage in systematic and thorough oversight. Let us propose amendments where they are needed.

But let us avoid temptation to become rule making bureaucrats ourselves through a process that has as many serious problems for our system of laws as this one.

With best wishes,

Sincerely,

JACOB K. JAVITS.

POPULATION CONFERENCE IN COLOMBO, SRI LANKA

Mr. PERCY. Mr. President, in August, I represented the Senate at the Colombo, Sri Lanka, International Conference of Parliamentarians on Population and Development. The conference, which brought together legislators from 58 different national parliaments, was held under the auspices of the United Nations Fund for Population Activities (UNFPA), headed by Rafael M. Salas, executive director, and the Inter-Parliamentary Union (IPU). Its purpose was to consider population problems and their effects on countries' economic development.

The conference strengthened my belief that there are only two catastrophes that can completely devastate our planet—nuclear war and population explosion—and overpopulation is the most certain to happen if we do not take action now. Imagine a world where the population has doubled, where 4 billion people are starving, unemployed or underemployed, where whole nations' economies and ecologies simply collapse under the burden of overpopulation, and you will begin to grasp what a terrible future most of the developing countries face in the next 40 years.

The UNFPA projects that world population will grow from the current 4.3 billion to over 6 billion by the end of this century, with four-fifths of these people living in poor countries, a majority of them in desperate poverty. If we procrastinate a single generation in leveling off the world's population growth rate, we can expect another 3 billion people to join us on an already overcrowded planet.

As Robert McNamara, President of the World Bank, said in a recent address:

> To reduce poverty, population growth will have to be slowed—and soon. . . . It must be faced for what it inevitably is: a central determinant of humanity's future, and one requiring far more effective attention than it is currently receiving.

The conference members issued the "Colombo Declaration of Population and Development," which calls for specific actions to reduce the world's population growth rate. The conferees recognized that population growth and development efforts are two sides of the same coin and that to make progress in one area demands real effort and understanding of the other. They cannot be separated. Acknowledging this, the declaration recommends that governments designate a proportion of their development aid to population programs. It also calls upon developing nations to recognize the importance of population when formulating their development plans.

The Colombo declaration calls for an annual target of $1 billion in international population assistance by 1984. The developed world and developing nations are beginning to understand one another and to realize that we are all living on a planet with limited resources. All countries are confronted daily, to a greater or less degree, with pollution, overcrowded cities, malnutrition, inflation—all problems which relate to population in one way or another. Problems within a nation affect its relationship with other nations. Therefore, all nations must work together to solve the population problem because it affects us all.

Although it is up to the individual countries to develop specific policies and programs, population assistance funds can provide countries with the vital resources to implement their programs. The United States, along with other countries, can contribute extensively to this effort.

Conference members recommended that a U.N. World Population Conference be held in 1984 to review the progress made in the 10 years since the 1974 World Population Conference in Bucharest. As a participant in both the Bucharest and Colombo conferences, I am acutely aware of the important role these meetings play in bringing population problems to the attention of the world. Fifteen years ago, few social scientists and fewer governments were interested in population science, which today is recognized as an integral aspect of the quality of life of all people. These conferences are significant occurrences because they stand as indications that the international community recognizes population as a subject of global concern and its related problems deserving of global attention.

As we begin to grasp fully the grave consequences of unchecked population growth rates, we should not turn away

from the problem because of its enormity. I call upon my colleagues to give this critical problem the urgent attention it deserves and ask unanimous consent that the text of the Colombo declaration be inserted in the RECORD. While not everyone will agree with all its recommendations, I think it provides an excellent framework for addressing overpopulation issues.

I would also like to commend Representatives JAMES SCHEUER and JOHN ERLENBORN, the other U.S. delegates to the conference, who have done such a fine job of articulating questions surrounding world population growth.

The material follows:

COLOMBO DECLARATION

PREAMBLE

1. We, Parliamentarians concerned with population and development, assembled in Colombo from fifty-eight different national parliaments for a Conference from August 28 to September 1, 1979, having considered the progress made in the field of population and development since the World Population Conference held in Bucharest in 1974, hereby reaffirm that the principal aim of social, economic and cultural development, of which population goals and policies are integral parts, is to improve levels of living and enrich the quality of life of the people. And we reiterate the necessity of linking population programmes with development plans.

2. Today most countries have recognized that population and development are inextricably bound together and that no population programme should be considered in isolation from policies and plans on health, housing, education, employment, the environment and the use of resources. Equally, there is increasing recognition that development programmes should reflect population policies.

3. However, as the first United Nations review made since Bucharest makes clear, not enough progress in this direction has been achieved. Much more has to be done to make these relationships meaningful in action programmes. The need is both urgent and imperative.

THE NEED

4. In the 25 years up to 1975 the total world population increased from just under 2,500 million to over 4,000 million; by the year 2000 it is expected to reach 6,200 million, of which four-fifths will be in the developing countries, with a substantial majority living in desperate poverty.

5. The implications of such increases are staggering. *In the developing countries*, between now and the end of the century, 800 million additional jobs will need to be created. This is more than the entire actively-employed population of the developed world at the present time. Problems of similar magnitude will be posed as far as the provision of food, water and shelter is concerned.

6. *In the developed countries*, per capita consumption of resources—so much higher than in the developing world—has been a cause of much pollution, waste and environmental degradation. It has also contributed to world-wide shortages in key resources. Other questions such as the aging of the population and internal and international migration are becoming important.

7. At the *global level*, continuously expanding human demands have created intolerable pressures on resources, particularly energy. The pressures on biological resources—fisheries, forests, grasslands, and croplands—are mounting steadily and will continue to do so. Human needs have already begun to outstrip the productive capacity of many local biological systems as currently managed.

8. Peace itself, which is the precondition of development, will be put in jeopardy. For one of the principal threats to peace is the social unrest caused by the accumulation of human fear and hopelessness. It is also noted that forced migration and the deliberate encouragement of citizens of a country to become refugees are disruptive to the economic development and political stability of countries ill-equipped to receive them.

9. It is clear, moreover, that we can no longer afford to limit our viewpoint to the year 2000. Unless effective action is taken *now* in the field of population and development, world population could continue to rise to 8,000 million or even 10,000 million people. A delay of just one generation in bringing world population to a stable level implies approximately 3,000 million additional persons.

THE OBJECTIVES

10. To improve and enrich the quality of life for these increasing numbers—all of them individuals needing food, shelter, clean water, work, education and medical care, as well as a decent environment to live in—and to avoid a continued aggravation of the world population situation in the twenty-first century, the goals and objectives of the New International Economic Order must be urgently implemented. At the same time internal changes are necessary to assure an equitable distribution of resources and a fair and just society within each nation. These achievements would be important in their own right, and, in addition, we know that improved equity and modernization of society lead to the lowering of both mortality and fertility.

11. A massive expansion of resources devoted to development programmes will be required, as well as a restructuring of those programmes. And we will also need a major expansion of preventive health and medical care and the family planning services linked with them. Above all, it will be necessary to ensure that actions are taken at the local level—the grass-roots or village level—and respond to local demand. The involvement and participation of people themselves in all aspects of social and economic development is of paramount importance.

12. On the *development side*, the Conference belives that it will be necessary to reformulate goals and strategy to include:

Deliberate direction of development efforts towards social justice, fairer income distribution and full employment including a more equitable allocation of such efforts between urban and rural population;

Measures to discourage migration from rural areas to already overcrowded cities and to promote country projects for the better distribution of populations; these should include the encouragement, in the rural areas, of food crops and small industries (especially agricultural and food industries);

The provision of a wider choice of appropriate technologies;

Emphasis on individual self-reliance and on creating among the people, greater self-confidence, economic self-help, social awareness and political consciousness;

Promotion of the role and status of women within the family and society through effective measures aimed at enhancing and ensuring women's access to education, employment, health services and financial credit; and

The use of public education and information programmes, through all the media, as a principal instrument of development and as a channel for two-way communication.

13. On the population side, specific measures should include:

Reduction in mortality, particularly of infants, children and mothers, through effective promotion of basic health services easily accessible to all people, especially in rural areas;

Information about, and provision of, easily accessible family planning services suitable to the particular needs of couples and individuals in diverse social, cultural and economic settings, both urban and rural;

Training and equipping of adequate numbers of paramedical and field workers, including voluntary workers, preferably from the local community itself, to provide the full range of preventive and curative health services and all aspects of family planning, including counselling and delivery of services. Special efforts should be made to encourage the medical profession to design and supervise programmes to train and employ paraprofessionals in these comprehensive health programmes. Maximum use should be made of traditional systems of medicine;

Encouragement of popular acceptance of higher ages of marriage;

Greater participation of men and women, particularly youth, in population and family planning programmes.

A CALL

14. This Conference accordingly calls on all governments to strive to redress the inequities of economic relationships between countries through the early achievement of the goals and objectives of the New International Economic Order so as to assist the development of the full economic and human potential of developing countries.

15. In this connection, the Conference believes that rising levels of armaments spending can only detract from the resources available for international assistance and domestic investment in population and development programmes. The Conference calls for the reduction of the arms race by disarmament agreement as a step towards general disarmament and for the utilization of the resources available for the solution of population and deveolpment problems.

16. The Conference also calls on governments to work towards fairer distribution of resources within their own countries and towards the creation of more just societies.

17. The Conference calls upon all governments of the developed countries to take meaningful steps to stem the flow of trained personnel from developing to the developed countries till such time as the developing countries have built up an adequate cadre of trained personnel for the implementation of their development programmes with special reference to health and population activities.

18. The Conference further calls on governments to:

(a) Strengthen and expand socio-economic development programmes and to formulate appropriate population policies as an integral part of these plans in consonance with national needs and aspirations;

(b) Examine population trends in their countries and the impact of these trends on health, education, employment, agricultural and industrial development, housing and environmental conditions; it being understood that population policy remains a matter of national sovereignty;

(c) Take deliberate steps to promote and strengthen the integration of population programmes in all development activities, including efforts to increase knowledge of the interrelationships between population and development among policy-makers, planners, civil servants, development workers and the people, and integration of population education into all levels of education;

(d) Direct more of the available national resources to the rural areas where the vast majority of the people live and to ensure more equitable and balanced development by providing a comprehensive network of decentralised and community based services to meet basic human needs;

(e) Establish equality between men and women in public, political, economic, social, cultural and family responsibilities, so as to enable women to exercise their basic hu-

man rights and to play more effective roles both by formulating policies and by participating in programmes on population and development.

(f) Ensure that all couples and individuals can exercise their basic right to decide freely and responsibly the number and spacing of their children and have the information, education and means to do so; the responsibility of couples and individuals in the exercise of this right takes into account the needs of their living and future children and their responsibilities towards the community;

(g) Support increased biological and social research into safer, more efficient and more widely acceptable techniques of fertility regulation, including the effective management of family planning programmes; and

(h) Increase the overall allocation of international assistance to UNFPA and other related programmes and agencies of the United Nations system, bilateral aid programmes and nongovernmental organisations such as the International Planned Parenthood Federation (IPPF) in order to meet the foreseen large increases in both the need and the demand for assistance from all parts of the developing world, and in order more effectively to integrate population and development programmes designed to improve the quality of life for all people.

To this end and in the spirit of this Declaration, the Conference calls for an annual target of one billion (one thousand million) dollars in International Population Assistance to be achieved by 1984.

In order to secure the availability of necessary funds, the Conference recommends that contributing governments clearly designate a meaningful proportion of their development aid to population programmes. The Conference calls for countries receiving assistance to increase their own efforts in the field of population and development correspondingly.

19. The Conference also calls on governments to ensure that international migrants living in countries other than their own, are accorded basic human rights and protected from exploitation and discrimination. Positive refugee resettlement policies should also be adopted by all countries as part of their national immigration policies according to their economic, political and social capacities.

20. The Conference calls on the *Press and other media* to provide greater positive coverage of population and development issues, so as to increase public awareness and understanding of these matters.

21. The Conference calls on *religious leaders* to take into account the tremendous impact of population pressures on human, spiritual and physical well-being.

22. This Conference makes a special appeal to *Youth* and to all those who are concerned with young people. The future generation has already been born, and indeed 36 percent or over 1,500 million of the world's population are under 15 years of age. They must be informed of the importance of population and development issues through education and communication in and out of school. It is of vital importance that tomorrow's parents and decision makers understand the key linkages between their fertility behaviour and national population change, available food and resources, consumption patterns and the environment, and that they be afforded the benefits of family life education and family planning services to encourge them to space their children and practice responsible parenthood.

23. The Conference calls on the *United Nations and all its Specialised Agencies and Organisations, including the World Bank,* and other inter-governmental agencies including the Regional Development Banks to increase their efforts to sustain rational and humane population policies as an integral part of the development process.

24. The Conference calls on these organisations and agencies to redirect their resources away from capital-intensive projects which generate few jobs towards labour-intensive developments that could provide the massive growth of the employment needed to meet basic human requirements.

25. The Conference calls on all *non-governmental and voluntary organisations* such as IPPF and the International Union for the Scientific Study of Population (IUSSP), as well as Universities and other educational and research bodies to continue their efforts to help in this work of protecting and enhancing the quality of life.

26. The Conference calls upon the Inter-Parliamentary Union (IPU) and other international and regional groupings of parliamentarians to give special attention to this question of population and development and to undertake and support all appropriate actions.

27. The Conference recognises the need for the formation within each nation, where they do not exist, of well-informed committees, groups or associations of parliamentarians to be concerned with the urgent problems of population and development and it urges parliaments and governments to encourage the formation of such committees or groups and to facilitate their work.

28. With a view to helping parliamentarians and other leaders of public opinion to discharge their duty to foster progress in this crucial matter and to monitor that progress, the Conference considers that the formal and informal dialogues on population should continue both internationally and bilaterally.

29. The Conference believes that it would be useful for parliamentarians to meet at the regional level to exchange information and experience gained in their countries and to promote the holding of such regional or sub-regional meetings.

30. The Conference calls for a UN World Population Conference in 1984, to review progress made over the ten years since the Bucharest Conference and to propose further actions.

31. The Conference also believes that the increased international assistance which is here proposed requires that the role and functions of UNFPA be strengthened. In particular, the Conference recommends that the UNFPA should develop into a Population Programme within the United Nations system in order to deal more effectively with the foreseeable changing demands in population and development. The Conference also recognises the need for continuing and close collaboration and cooperation between all inter-governmental, governmental, and non-governmental and voluntary agencies and organisations involved in the population and development field.

32. The Conference believes that the integration of population and development should be considered as a key issue in the International Development Strategy to be adopted for the next decade and calls on the Special Session of the General Assembly, to be held in 1980, to give appropriate recognition to this factor. Parliamentarians should encourage their government representatives to the United Nations to press for action in this sense.

COMMITMENT

33. The parliamentarians at this Conference, in their capacities as legislators, leaders of public opinion and as representatives of their constituencies, commit themselves to initiate action to achieve an effective integrated approach to development and population policy.

34. In particular we commit ourselves as *legislators:*

To establish groups and associations of parliamentarians and other opinion leaders. The purpose of such groups and associations will be to promote legislative and other governmental measures designed to achieve integrated programmes for population and development and to ensure that every development programme includes action on population;

To seek to ensure that adequate resources are committed to such programmes;

To monitor the action flowing from policies in population and development and to ensure that these policies are not obstructed by the processes of bureaucracy; and

To work to remove legislative obstacles which may prevent the development of comprehensive population and development policies and programmes.

35. As *leaders of public opinion,* we commit ourselves to make a maximum effort to arouse interest and enthusiasm in questions of population and development and to initiate measures designed to influence our respective governments and legislatures to devote a greater share of their resources to these programmes.

36. Finally, as the *elected representatives of our constituents,* we commit ourselves to work at the local level with local organisations and people so that practical programmes may enable these integrated population and development plans to be put into effect.

REBUILDING THE ECONOMY—PART I

Mr. PERCY. Mr. President, the saving rate in the United States is one of the lowest among the major industrial countries. As was made so clear last year during debate on the capital gains tax cut, we must provide business and labor with the pool of funds it needs to stay competitive. The "cost" of a new job in manufacturing is over $40,000 now and unless we foster the capital for these jobs and for new equipment, the economy is going to continue to falter. The capital gains tax cut has produced a healthy new venture capital market. Saving incentives can supplement it.

Saving, investment and job creation are intertwined and complicated aspects of the economy. To highlight these aspects and their role in a true and sustained recovery, I intend to comment on them in the weeks ahead.

Today I will focus on the comparative saving rate of the United States vis-a-vis our major trading partners. When we see where our competitors are advancing, it may place in perspective the challenge that faces us.

On July 19 I introduced S. 1542, the Small Savers Incentive Act of 1979. My bill would eliminate the Federal income tax on $500 of interest earned from a savings account if the income is reinvested during the tax year. Regardless of whether the interest is reinvested, $100 would be taxfree. This legislation would also boost the Federal tax exclusion on dividend income from $100 to $500 if it is reinvested during the tax year.

I hope that passage of the Small Savers Incentive Act will lead to a reversal of two disturbing trends. First, the rate of saving in the United States is low when compared to that of Germany, Japan, France, and even Great Britain. As the following chart shows, we are at

the bottom when we are compared with our allies:

HOUSEHOLD SAVING RATE

[As a percent of household disposable income]

	1973	1974	1975	1976	1977
Japan	20.4	23.7	22.5	22.2	21.2
West Germany	14.2	15.2	15.3	13.6	12.6
France	16.3	17.4	18.6	16.1	16.7
United Kingdom	11.9	14.4	15.0	14.6	13.7
United States	8.0	7.4	7.9	5.9	5.3

Source: Organization for Economic Cooperation and Development, 1979 Economic Survey.

There are many different ways to measure the saving rate, but even when it is looked at in a way most favorable to the United States, we came in last.

For example, the same 1979 OECD survey also evaluates international saving rates as a percentage of gross national product. This rate is determined by deducting national consumption from GNP and stating it as a percentage of GNP. In this case, for 1977, OECD found that Japan saved 32.2 percent of its GNP, West Germany 24.2 percent, France 23.4 percent, the United Kingdom 20.3 percent, and the United States 17.7 percent.

The second trend in savings may be more damaging to the economy than our standing vis-a-vis our trading partners. As Business Week magazine noted in a recent article, "not only is the U.S. rate of personal saving the lowest of all the major industrial countries, but the U.S. rate has fallen from the level of a decade ago, while the rates in many other industrial nations have risen, and so has the percent of their gross national products that go into capital investment."

What has happened to the U.S. saving rate—in terms of personal disposable income—can be seen in the accompanying chart from the President's 1979 Economic Report. The Commerce Department figures differ somewhat from the OECD's due to different methods of computation, but the trend is clear in either case.

U.S. personal saving

(as percent of disposable personal income)

1970	7.4
1971	7.7
1972	6.2
1973	7.8
1974	7.3
1975	7.7
1976	5.7
1977	5.1
1978	5.3

Furthermore, only five times since 1950 has our rate of saving dropped as low as it was last year. Clearly the time has come for us to act to reverse this trend.

Mr. President, the October 5 Wall Street Journal carried an important front page article on the European "Super-Savers" and I commend it to my colleagues and ask unanimous consent that it be placed in the RECORD at the end of my remarks.

There are great benefits to be realized to the savers of this country and to the economy in general. At a later date, I will explore these aspects of the Small Savers Incentive Act.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EUROPE'S SAVINGS RATE, FAR OUTSTRIPPING U.S., AIDS ECONOMIC GROWTH

(By June Kronholz)

FRANKFURT.—The late-summer sales are offering what, to Germans, are terrific bargains: canvas sandals for $30, large-size cotton dresses for $100, major appliances for perhaps double U.S. prices, and the usual array of last winter's heavy-duty underwear for $8.70 a set.

Despite such temptations, Renate Schumacher, a 24-year-old telephone operator, expects to stick to the budget she devised four years ago. From her take-home pay of about $740 a month, she regularly banks $284 and "whatever is left" after paying for rent, food, and upkeep on her automobile.

Old stories of depression, deprivation and hyper-inflation are passed along like family recipes here, and they have turned West Germany into a nation of super-savers. This year Germans will spend more and borrow more than ever before, but they also will save more—the equivalent of about $60 billion in all, they will squirrel away about 14 percent of their disposable incomes, more than double what Americans will put away.

VIRTUOUS HABIT

The importance of that high savings rate is that it has what one economist calls "a virtuous effect" on a country's economic performance. Instead of turning to stock offerings to raise money, German companies traditionally turn to their banks—an easier and more reliable way to raise funds. With deposits high, the banks have plenty of money available to lend for plant investment and expansion.

All this is a prime factor in the German economy's success story—and a comment on the comparatively slack economic performance of the U.S. The funds made available by saving have helped push productivity ahead at a faster rate in Germany since the 1960s than in any other Western nation. And even though productivity shows signs of slowing lately, it still is expected to rise five times faster this year than in the U.S.

Savings rates—the percentage of income that people put into bank accounts, bonds, securities, insurance and mortgages—have been growing steadily in most of Western Europe in recent years. The French are expected to save even more than the Germans—about 17 percent of their incomes this year, according to the Organization for Economic Cooperation and Development. In Italy, where the Consumer Price Index is rising faster than in any other major European country, savings will total about a quarter of disposable income, the OECD says.

There is some government encouragement behind these figures. Frenchmen get generous tax breaks on their savings-account interest, and the German government stimulates savings by offering a cash bonus to savers of up to about $100 each year.

THE INVOLUNTARY FACTOR

Much of the growth in European savings is due to payroll-savings plans and other contractual savings programs. Britons, for instance, saved more than 14 percent of their disposable income last year, double the rate of the 1960s. But London's National Institute for Economic and Social Research estimates that about half of their current savings are involuntary—payroll-paid life-insurance and pension programs, for example.

Deepening fears of inflation seem, oddly, to encourage savings in Europe. Previous inflations spurred people to spend their money before it lost further buying power. "The logical thing to do is to borrow everything you can," says Roger Bookhouse, an economist for Bankers Trust Co. in London.

But, beginning in the 1970s, European consumers have been doing just the opposite. "They feel the need for a larger cushion," says F. T. Blackaby, deputy director of London's National Institute. "They fear the future."

In 1974, these economic fears, fueled by Germany's highest inflation rate (7 percent) since World War II, prompted Germans to bank so much of their money that the government, worried that the economy would stagnate, passed a series of measures to encourage spending. It was no use producing more if no one was buying. (The economy recovered anyway, and savings rates dropped back.)

This year, while other Europeans varily anticipate a recession inspired by high oil prices, Germany has no such concerns. Inflation and unemployment are only about 4 percent each, and the real gross national product will grow by 4 percent this year, double the American rate, according to the Deutsche Bundesbank, Germany's equivalent of the U.S. Federal Reserve.

THEY SPEND, TOO

As enamored as ever with new cars and eager to travel because current foreign-exchange rates are in their favor, Germans will increase their consumer spending by 7 percent this year over 1978, the Paris-based OECD predicts. Dresdner Bank, Germany's second largest, says that consumer loans, which weren't even offered by German banks until 1959, now average about $1,000 for every German and will jump about 20 percent this year.

Still, Germans are expected to keep saving, because—well, because they always have. "It's something Germans got with their mother's milk," says Herbert Wolf, chief economist for Commerzbank, a major bank.

A poll that Commerzbank conducted among its depositors concluded that Germans don't save to buy anything in particular. Indeed, when they buy a car, furniture or a package-tour vacation, it usually is on the installment plan, even though almost all borrowers have savings accounts too. Most Germans told Commerzbank that their savings were for emergencies or for old age, even though Germany has generous social-security and medical-care programs.

Because wages are rising twice as fast as prices in Germany—and because inflation isn't eating away at purchasing power—Germans can afford to save more than most people. Germany's commercial banks almost ignored private savers, leaving them to the savings banks, until they recognized the growth in disposable income 20 years ago. The commercial banks then quickly began opening 1,000 bank offices a year to help handle savings accounts.

Now, Dresdner estimates that 95% of Germans have savings accounts, and that bank savings alone average $3,900 a person. To handle all those depositors, Germany has 44,000 bank offices—one for every 1,400 people—and traveling tellers regularly visit elementary schools to open accounts for children as young as six.

Whatever motives Germans may have for saving, interest rates don't seem to be the primary one. A few years ago, a research firm discovered that two-thirds of Germany's depositors didn't know how much interest they were being paid.

Now, Germans are becoming more aware of interest rates, the major banks say. But passbook accounts still are the most popular way to save, even though they pay only 3.5% interest now and were paying a mere 2.5% a year ago. (Other forms of bank saving, including certificates of deposit, pay higher interest rates, but aren't as popular.)

Despite that low return, Gunnar Kockerols, who is studying for a doctorate in economics at the University of Frankfurt, says he regularly puts 40% of his income as a teaching assistant into a passbook account. With a certain doomsday logic, Mr. Kockerols says he saves "because of my own anxiousness and what might come," and he saves in a passbook account because "I want to be able to get to my money."

The German preference for a safe, handy

investment helps explain the indifference to investing in company stock. Last year, Germans put the current equivalent of $31 billion into banks, but only $1 billion into stock, the Bundesbank says. The Frankfurt stock exchange, one of eight in the country, lists only 229 companies.

Other investments are similarly unpopular; bond holdings far outnumber stock holdings, but the Bundesbank says their sales have been falling for two years.

Not everyone learned the same lessons from Germany's bad economic times, of course. Although there are 15 bank offices within a short walk of her job, Kerstin Franke says she saves only about 3% of her income as a travel agent—and even that will be put into a piece of real estate as soon as she can manage it. "After the last war, the people who saved found their money was worth nothing," she reasons.

Nonetheless, economists don't expect many young people to scuttle their bank accounts as Miss Franke plans to do. The savings rate will grow slightly again this year, predicts Mr. Wolf, the Commerzbank economist. "Americans sleep well with debts," he explains. "But Germans sleep well only when they have money in the bank."

GOV. JOHN D. ROCKEFELLER IV ESTABLISHES AGENDA FOR APPALACHIAN REGIONAL COMMISSION

Mr. RANDOLPH. Mr. President, each fall for the past 3 years, the Appalachian Regional Commission has conducted a conference on major issues facing the 13 States which comprise the region. Our able colleague, Senator MOYNIHAN, gave a meaningful message.

This year's conference focused on energy and health-care cost containment. It was held in Binghamton, N.Y. In 3 days of discussions ending yesterday, these issues were reviewed in detail. The position of the Appalachian States as a principal supplier of energy resources and the health-care needs of the region's people made these dual topics extremely timely. I am confident that the information and views exchanged will be extremely helpful on developing the Commission programs in the years ahead.

The conference concluded with a meeting of the full Appalachian Regional Commission to review the recommendations of the conference and to conduct its business as required by law. It provided the opportunity to review the activities of the past year during which Gov. Hugh Carey of New York served ably as State cochairman of the partnership.

He will be succeeded in January by Gov. John D. Rockefeller IV of West Virginia who described for the Commission his view of the direction this unique Federal-State partnership should take in 1980. His goals are ambitious, but they are consistent with the intent expressed in the legislation passed by the Senate which extends the Commission for 4 years. They also are attainable goals and I commend Governor Rockefeller for his determination to lead the Appalachian Regional Commission in this manner, in partnership with the new Federal cochairman expected to be nominated soon by President Carter.

Mr. President, Governor Rockefeller's statement is evidence of the responsiveness to changing conditions and the vitality which exists in the Commission. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was orderd to be printed in the Record, as follows:

GOVERNOR ROCKEFELLER'S STATEMENT

As ARC's States' Cochairman for 1980, I intend to build on the leadership provided by Governor Carey and those who have preceded him. We will continue to focus the Governors' agenda on issues of policy as we are today.

Over the past three years we have held a series of conferences. These have given us new direction and vitality. They have given citizens of the region an input into our program agenda. The recommendations of the past two conferences are now largely embodied in our legislative reauthorization. This demonstrates the importance and the efficacy of these conferences.

I propose we continue this effort. I recommend we hold a fourth conference, in West Virginia, on the housing needs of all the Appalachian people in the 1980's. To increase Governor involvement in the conference, I propose to invite a number of my fellow ARC Governors to chair the conference panels.

Our legislative reauthorization hearings and the reports of the Public Works Committees in both houses commend us to chart new directions for our programs. I intend as States' Cochairman to lead our effort to revitalize the program. All of us have come to believe that ARC is a program of vital import to the well being of our region. If it is to continue beyond the reauthorization now contemplated, we must continue to improve our program. We must demonstrate that it can achieve objectives that regular federal agency programs cannot.

I propose that the Federal Cochairman, our Alternates, and the Commission staff give their highest priority to developing new initiatives for the Commission program. These initiatives must be regional, not parochial. I propose that we have on the agenda for our next Governors' meeting proposals to implement new initiatives beginning with our investment programs for Fiscal Year 1981.

Departing from our traditional posture, I propose that we develop regional investment targets. These would be in areas where Governors here expressed special interest. These areas might include housing, basic education, economic diversification, or energy. Each State would be expected to select at least one target area which the Governor would set as a priority for major investment of ARC funds on a regional rather than single State basis. The model contained in the energy resolution to come before us today should provide a foundation for developing the mechanism to implement this strategy. We have traditionally jealously guarded our individual State prerogatives in the ARC program. In the main we will continue to do so. But we must take steps to broaden our regional horizons if we are to have prerogatives to protect. I hope all the Governors will support this effort, and we will take up this debate in good spirit in the spring.

I share with my fellow Governors confidence in our ARC team. I look forward to working cooperatively with our new Federal Cochairman. Our States' Washington Representative, Leonard Schwartz, has worked diligently over the past two years to serve the Governors. He has been effective. All of us appreciate the added responsibilities he has had during a difficult period. But that is behind us. Obviously I have a great many responsibilities as Governor of West Virginia and as such I will rely on Len to discharge my day-to-day responsibilities with regard to ARC. He will have the personal access to me which will assure he can do so effectively. Our Executive Director, Henry Krevor, is doing an outstanding job and has made significant changes in staff organization which we all support.

I look forward to 1980 as a year in which all of us move forward together to assure that ARC continues to meet the needs of the 19 million people of the region.

THE ISSUES UNDERLYING SALT

Mr. STEVENS. Mr. President, Richard Perle, of Senator JACKSON's staff, has written a clear-cut article on the issues underlying the SALT debate. In his words, it is a thorough explanation of "the sea of troubles involved in an arms control treaty built on American dreams." I commend it to my colleagues and ask unanimous consent that it be printed in full at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 7, 1979]

AN ARMS CONTROL TREATY BUILT ON AMERICAN ILLUSIONS

(By Richard Perle)

Having come to office with virtually no experience in foreign affairs, President-elect Carter drew around him a small circle of senior officials whose faith in the efficacy of arms control is exceeded only by their abhorrence of military power and their dread of confrontation with the Soviet Union.

So the acquiescence last week in a Cuban status quo declared only days ago to be unacceptable in wholly in keeping with the animating spirit of an administration which describes the U.S.-Soviet relationship as one of "cooperation and competition" but cannot tell the difference between them.

The fact is that since 1972, but especially since the Carter administration took office, the United States has been faced with unceasing Soviet global adventure accompanied, despite the "limitations" of the SALT I agreement, by a massive buildup of Russian theater and strategic air, ground and naval forces.

In Angola, Afghanistan, Cambodia, Ethiopia, Iran, Vietnam and Yemen, among the Russian-trained terrorists of the PLO or the expeditionary forces mounted from Cuba, the Soviet Union, our partner in detente, has been fomenting turmoil, inciting bloodshed and fueling wars.

In response, the Carter administration (which was helped to power by the impression that it would understand Soviet foreign policy better than President Ford was thought to understand the Polish political system) has chosen to take arms control against this sea of troubles:

The Soviets and their Cuban proxies have intervened militarily and politically throughout the troubled Third World, exploiting ethnic and racial tensions and the fragility of new nations and weak governments. The administration responded by initiating negotiations with Moscow, proposing that we limit the sale of arms to our respective friends and allies—an unverifiable and unenforceable proposal which would threaten the supply of essential arms to our friends at precisely the moment that our friends are being threatened.

The Soviets are engaged in a broad effort to encircle the oil fields of the Persian Gulf, fomenting trouble in Iran, intervening in Ethiopia, inciting war in Yemen.

The Carter administration response: proposals to freeze and then reduce the U.S. and Soviet military presence in the Indian Ocean. If accepted, the U.S. proposal would leave the Soviets, whose air forces are within easy range of the Indian Ocean and the Gulf, in a commanding position.

In recent years, the Soviets have deployed

no fewer than four new theater nuclear missiles, two new calibers of nuclear artillery and several new nuclear-capable aircraft. Partially to redress the resulting theater imbalance in Europe, the United States developed a family of "neutron" weapons whose destructive effects can be better confined to the battlefield, thus sparing nearby civilians. When the Soviets mounted a menacing political and propaganda campaign against our deploying these less indiscriminate weapons, the Carter administration response was to defer their production while asking that the Soviets show reciprocal restraint. Now, after two more years of Soviet military expansion, and without any sign of restraint, the neutron weapon deployment remains deferred, probably permanently.

While the Soviets continue to conduct a massive nuclear testing program, several times more extensive than ours and some of it almost certainly in violation of the current threshold testing treaty, the Carter administration has pushed hard for a comprehensive, unverifiable ban on even very low yield nuclear tests; and it has done this while sharply reducing the U.S. testing program.

So cardinal is it to the administration's outlook that one could multiply many times these examples of its faith, unsupported by reason or experience, that the Soviet threat to our security (and that of our allies) is best moderated by negotiating arms control agreements. It is a faith that flows easily from the premise, intoned as a conclusion by Paul Warnke, that the United States and the Soviet Union are merely "apes on a treadmill," with America providing the model of senseless weapons building that the hapless, blinkered Soviets have mechanically imitated. It is a view, ignorant of history and resistant to fact, that rules out even the suggestion that the Soviets might plan their military forces independent of our plans or that they might pursue what they know to be a politically useful military superiority with which to coerce those states not already responsive to Soviet desires.

Committed to the notion that our relations with the Soviets are a mixture of "cooperation" as well as "competition," the Carter administration sees SALT II as the principal cooperative enterprise between us. The presumption seems to be that the mere act of concluding a treaty on strategic weapons, whatever its terms, is by itself an act of "cooperation" to be contrasted with such episodes of "competition" as the insertion of Mig 23s or a combat brigade in Cuba.

What is missing is any concept of what "cooperation" entails. Is any transaction between a buyer and seller an example of cooperation—or does it depend on the circumstances and the terms? Is a security treaty between the Soviet Union and Finland a sign that those two countries are cooperating—or is it simply an expression of Soviet strength and Finnish proximity?

In fact, SALT is really something quite different from the ordinary sense of cooperation. It is a bizarre symbiosis between our tendency to harbor illusions and the Russian practice of nurturing them.

In the case of the SALT II treaty, the illusion is that the Soviets will acquire fewer weapons with the treaty than without it. It is an illusion curiously immune to experience. That it persists despite the lesson of SALT I, following which the Soviet strategic buildup continued with undiminished fury, must amuse Henry Kissinger the historian even as it undoes Kissinger the diplomat. For after more than a month of Senate hearings on SALT II, it has become abundantly clear that our negotiators failed to obtain those constraints—on the Soviet capacity to attack our deterrent forces—that would have given substance to the misty dream of "cooperation."

In some cases the Soviets simply told us to get lost—as when we suggested that 150 heavy missiles for them and 0 for us seemed fairer than the 308 to 0 the treaty ultimately provides. In other cases the Soviets held out for—and got—treaty language replete with loopholes and ambiguities calculated to permit their strategic weapons programs to go forward unperturbed. A prime example of this has to do with the deployment of "new" types of ICBMs. By the time the dust had settled over the negotiating table at Vienna, the term "new" had been defined so as to permit the Soviets to complete the very fifth generation of ICBMs that it had been our original purpose to halt. Finally, in still other cases, the Soviets were willing to trade cosmetic "assurances" for U.S. acquiescence—as when we gratefully received a Soviet statement of the range/payload of the Backfire bomber that our own intelligence estimates showed to be false.

All these points have been established in the Senate hearings. To Lloyd Cutler's self-serving assertion that the Senate critics of the treaty "failed to lay a glove on it," I commend the record of hearings before the Armed Services Committee wherein it becomes clear that the treaty has failed to lay a glove on the continuing Soviet strategic buildup.

As this has become increasingly evident, some senators have said that the treaty ought not to be ratified unless it is accompanied by an increase in defense spending large and sustained enough to begin to reverse the dangerously adverse trend that began a decade ago—as the first SALT negotiations got underway in Helsinki.

But beyond a fleeting tactical accommodation there is little hope that they will get their increase. For as the last 10 years have shown, SALT has served principally to ease the apprehensions of the West while the military forces of the Soviet Union widen their already considerable advantage. The impression of arms control without the reality, the atmosphere of detente without substance, the rhetoric of peace and stability as our defenses decline—all are fundamentally inconsistent with an adequate defense effort. The clash between that simple fact and the administration's faith in arms control cannot be reconciled. The Senate will have to choose; and the sooner the better.

INDOCHINESE REFUGEES

Mr. BOSCHWITZ. Mr. President, I congratulate my eminent colleague, Senator HAYAKAWA, who made a very feeling speech about the Indochinese refugee question last night at George Mason University. There are few in the Senate who feel more strongly about helping others, particularly those who are so desperately in need of relief, than Senator HAYAKAWA.

Mr. President, I ask unanimous consent that the remarks of Senator HAYAKAWA at George Mason University be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HAYAKAWA

Ladies and Gentlemen: It gives me great pleasure to be here with you tonight, at what I understand is the first academic conference on the subject of Indochinese refugees. This is an issue with which I have been concerned for quite a long time, and I am glad to see that it is being addressed by a distinguished group of learned people such as yourselves.

It is almost impossible to view this overwhelming story of human suffering without seeing the spectre of the Jewish refugees who drifted on the high seas in the 1930's. The world, including the United States, failed to meet its human obligations to the refugees in that instance. If you will remember, forty-one years ago in July, 1938, President Roosevelt called the nations together at Evian to coordinate efforts to rescue German Jews from the coming holocaust. The statesmen arrived, made speeches and departed. They left behind an Inter-Governmental Committee on Refugees that stalled until the war made further efforts impossible. In 1939 a shipload of Jewish refugees arrived in Havana, with Cuban visas, but were turned away there and in Miami. They returned to Nazi Germany. Many finally reached Holland, Belgium, and France, but wound up in death camps anyway. Even after the Holocaust, thousands of Jewish "boat people" were turned away from the Middle East ports. The feeling was adamant in the international community that met in Geneva five months ago that this not be allowed to happen again.

Fortunately, it does seem that more was accomplished in Geneva than was accomplished forty years before. Pledges for final resettlement of refugees by various countries had risen to 266,000 by the end of the conference. At the close of the conference, United Nations General Secretary Kurt Waldheim announced that the Socialist Republic of Vietnam would make every effort to stop illegal departures for a reasonable period of time. According to U.S. analysts, they agreed to do this for two reasons. First, they realized that they were losing most of their support among people and countries that strongly had backed it against the United States during the Vietnam War. Joan Baez, a former war resister, had turned against Vietnam. Sweden and Yugoslavia, and the French leftist intellectuals, formerly strong supporters of Vietnam, were making their criticisms increasingly clear. The European Common Market diverted all its aid for Vietnam to helping the boat people. Secondly, the moratorium was agreed to because Hanoi was beginning to realize that they were suffering economically because they were losing many skilled craftsmen and businessmen, particularly in the northern part of the country.

Much of the current refugee exodus from Vietnam is attributed to the documented pattern of discrimination toward people of Chinese heritage. The government of Hanoi is forcing its Chinese to choose between leaving the country, or moving to rural labor camps. They are determined to get rid of all their one million ethnic Chinese, and at the same time, build up the national treasury. They accomplish this by charging the people they want to exile for the privilege of leaving at the unbelievable price of $2,000 per person—payable in gold or hard currency.

How could Hanoi explain this atrocious behavior to the world? They did so in their usual propaganda style of insisting that these are capitalist landowners and undesirables who hate the new system and really want to leave. But these same people "who really want to leave" are required to declare that they are happy to give their property to the Vietnamese government—pay the same government hard currency and then climb aboard leaky, overcrowded boats to go to an almost certain watery grave! No rational thinking person can honestly believe a thing like that.

Because Hanoi is no longer forcing its citizens to leave in droves, the arrivals of the boat people have markedly declined, from 60,000 people in May–June to 12,000 in September. It appears that people who leave the country now are developing their own clandestine methods of leaving. This moratorium by the Vietnamese has resulted in more people leaving the Southeast refugee

camps than have arrived for the first time in many months. However, it is a faucet that is controlled by the Vietnamese government, and one that they can turn back on at any time. However, the Conference opened up discussions with the Vietnamese government, and established a precedent of cooperation with them on this issue. It also was a witness to the world that most of the major governments of the world were united in their concern about the thousands and thousands of homeless refugees that were being pushed out to sea, and dying there by the tens of thousands.

The United States Senate, on the whole, has been very responsive to the plight of the refugees. On June 10th the Senate unanimously passed a "Sense of the Senate" resolution calling upon the United Nations to immediately convene an emergency session to deal with the Indochinese refugee crisis. On June 25th Senator Boschwitz from Minnesota, himself a Jewish refugee from Nazi Germany, got an amendment passed to the Supplemental Appropriations bill which made $15.5 million immediately available to finance assistance to the Indochinese refugees. In July, I joined with Congressman Pete McCloskey from Menlo Park in writing to the President asking him to commit the resources of the 7th Fleet to search for and provide assistance to the boat people leaving Indochina.

I was deeply moved when Joan Baez came to Washington in July to hold an open air concert and then march to the White House in support of the Vietnamese refugees. Her concert was held on July 19th, the day after Congressman McCloskey and I held our press conference to make public the contents of our letter to the President. And it was at the conclusion of that march, when everyone had gathered around the White House gate singing "Amazing Grace" that President Carter came out of the House and stood on the fence, telling the crowd that any group that could sing all four verses of "Amazing Grace" deserved special consideration, and that he was thinking about the possibilities of using the 7th Fleet to rescue the boat people.

The following day, July 20th, the President officially announced that he would be using the 7th Fleet to pick up refugees at sea. Vice President Mondale reiterated that decision by announcing at the Geneva Conference that the President had ordered four ships from the Military Sealift Command to be dispatched to the South China Sea to transport refugees from camps to processing centers and to help refugees at sea. The President also ordered long-range naval air patrols to find and seek help for refugee boats in trouble. Refugees on seaworthy vessels were to be given supplies and set on a course that would take them to land. Refugees in danger of sinking were ordered to be taken aboard the Navy ships and dropped at the next port of call under American guarantees that they would be taken to the United States for resettlement.

I find that considerable opposition to actions I take toward aiding the refugees comes from some of the constituents I represent from the State of California. I get many letters from my home state saying that I should do everything in my power to keep the refugees from coming to the United States; that they bring with them mysterious diseases; that there is not enough room in America for them, or that they are Communist spies. I responded to them by asking them just who are the boat people? The answer is, of course, that we ourselves are boat people. Every American owes something to those fragile wooden vessels that sailed from Europe in the 17th Century with groups of misfits, riffraff, and political and religious dissenters whom we have historically come to know as the Pilgrim Fathers.

After the Pilgrims came the Irish, Germans, Arabs, Slavs and Greeks—as well as the Armenians, Chinese and Japanese. More recently, refugee Soviet and Polish Jews, Hungarians, Czechs, Rumanians, and Cubans found their way to America. Unlike the Vietnamese refugees, they were not turned away; they were not set adrift to starve or drown.

The conditions these boat people faced became more gruesome every day before the Geneva Conference was convened to do something about them. The Malaysian government returned the refugees, at gunpoint, back to the sea. The Malaysian government insisted, and they were probably right, that they simply could not accommodate that many displaced persons.

But did they have the right to resolve the problem by towing them back to sea where they would probably die? Could the rest of the civilized world look on and do nothing? I quote Foreign Minister Sinnathamby Rajaratnam of Singapore: "A poor man's alternative to the gas chambers is the open sea. Today it is the Chinese Vietnamese. The Cambodians have already been added to the list of people who are going to die. Why not Thailand tomorrow, and Malaysia, Singapore, and others who stand in the way of Vietnam's dreams?" The plight of these refugees should cause other Asian countries to be more wary of a "liberation" that results in thousands of people risking their lives to leave their homelands.

I applauded President Carter's announcement that the U.S. would double, to 14,000 a month, the number of Indochinese refugees admitted per month. I thought then, however, and I think now, that we should lift the lid entirely on our immigration laws to accommodate the thousands of helpless Southeast Asian refugees. We can hold conferences and argue and wait for other nations to act, but meanwhile these people are dying. It is necessary that in this emergency situation, and those of the future, that we have the ability to act fast.

It is for this reason that I supported Senator Kennedy's immigration reform legislation, that recently passed the Senate. The bill provided a new definition of a refugee that both recognizes the plight of homeless people all over the world, as well as according to refugee admissions the same immigration status given all other immigrants. It raised the annual limitation on regular refugee admission from 17,400 to 50,000. But this provision was amended on the Floor to terminate in three years. The bill also provided an orderly but flexible special admissions procedure for numbers above the quota—with numbers determined by presidential consultation with House and Senate Judiciary Committee Members. A very important part of the bill provided for federal support of the refugee resettlement process for two years. An amendment that I introduced with Senator Cranston of California extends the Indochinese Refugee Assistance Program for one year, providing an additional year of federal funding for many Indochinese refugees who will already have been in the U.S. for two years at the time of passage of the bill. This provision is very important, in order to guard against local resentment of the refugees.

As the largest percentage of the refugees settle in California, local governments and communities often express their fears to me that the refugees will drain their resources. This provision is designed to alleviate their fears, and to encourage all local communities to extend open arms to the refugees. To further this goal, on July 19th of this year, the Senate passed an amendment to the HEW appropriations bill to provide $10 million to assist in the education of the Indochinese refugees.

In dealing with the issue of Indochinese refugees, I have also found many heartwarming examples of people who are willing to open their homes and their hearts to the refugees. I know that there are many people with hearts of gold in California when I said spontaneously at a Fourth of July gathering in Palos Verdes that we ought to send out the Navy to save the lives of the boat people and worry about quotas and admission policies and such afterwards, but that first we must save their lives. I was thrilled when the audience burst into applause. I have received many letters from people who wanted to adopt refugee children or whole families, who wanted to donate supplies, even an offer from a retired pilot to fly over to the refugee camps in his own plane and pick up as many refugees as he could to bring back to the States. Because many of these offers were lost in the bureaucratic shuffle, Senator Boschwitz and I sent a letter to Ambassador Clark asking that he appoint within his office a staff member to serve as the official coordinator for the private sector. It would be this person's function to organize and coordinate the private relief efforts of those individuals, organizations and businesses that wish to make a contribution to the relief efforts of the Indochinese refugees. The letter stated my belief that it is essential that there be a visible and easily accessible official available to channel and direct these various organizations and businesses to the areas where their skills and resources were most urgently needed. The letter was co-signed by more than 40 Senators and Congressmen, and was favorably responded to by Ambassador Clark.

It is important that we continue our efforts, and that we continue to educate the public about the great need we have to help these people. Indeed, I think we should regard it as our privilege to do so.

Asians are readily accepted by most communities as they have made a good record for themselves. Few remain on welfare for very long, because they are ambitious people. They are hard-working and proudly self-sufficient. According to a recent study conducted by the University of Maryland, the Vietnamese employment rate in the U.S. is higher than that of the American population as a whole, and the number of Vietnamese refugees on welfare has steadily declined. According to the Department of Health, Education and Welfare about 94 percent of the heads of refugee households are employed.

We as a nation of abundance have a duty to share it with people who are willing to work and carry their own weight. We need to encourage our churches, our families, our community organizations, to facilitate the sponsorship of refugees fleeing some of the most despicable atrocities since Hitler's slaughter of the Jews.

By welcoming these people into our country, we are really doing ourselves a favor. Our great nation was made by boat people, but those who came to this country with nothing, or next to nothing, worked from dawn to dusk, and established their little markets, or farms, or dress shops, or even a steel mill. The great improvement in technology, in the quality of life, in personal freedom all extends from the pluckiness of people who at one time were hungry, and had to survive by their wits. Without boat people, who are today's pioneers, this country loses some of its uniqueness, its venturesomeness, its creativity.

Most of my colleagues and I stand ready to help and we look to profit from scholarly research of this body on the subject. If we do this charitable, humane thing, we will once and for all show up the present government of Vietnam as the totalitarian, racist tyranny that it is. Morally, we shall have won the Vietnam war.

Let me close by quoting from the poem by Emma Lazarus which is inscribed on the Statue of Liberty and has welcomed and inspired generations of immigrants. I am proud to know that with our refugee policy, we are giving new meaning and significance to this great poem:

"Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!"—Emma Lazarus.

DEPOSITORY INSTITUTIONS REGULATION ACT

Mr. TSONGAS. Mr. President, when the Senate considers the Depository Institutions Regulation Act, H.R. 4986, I intend to offer two amendments.

The first would expand the asset powers of savings banks by allowing them to accept deposits from any source and to use up to 20 percent of their assets for any type of investment, subject to the approval of the Federal Home Loan Bank Board. The second would set the reserve requirements on NOW accounts, automatic transfers, and share drafts at 3 to 7 percent, instead of the 3 to 22 percent currently in the bill.

H.R. 4986 is basically a good bill which meets consumer demands for a better return on savings in regulated institutions. I strongly support the committee action to phase out interest rate controls. We neglected, however, to provide a means for savings banks to pay higher rates to depositors. We have placed these institutions in the untenable position of paying higher interest while making long term, fixed rate mortgage loans. The savings bank industry is understandably concerned about its ability to remain competitive under such restrictions.

My amendment does not make thrifts into commercial banks. In fact, it forestalls that process. This amendment has a 20 percent cap on new investment, and phases it in over an 8-year period as regulation Q is phased out. I have also sought to keep most of the investment in State, by providing that at least 65 percent of the new investment be made within 50 miles of the State where the institution is located.

This amendment does not remove savings banks from their primary role as housing lenders. That role could be jeopardized if we do not make adjustments which assure the viability of these institutions. It is my intent, which will be made clear during the debate, that the housing orientation of savings banks continue.

The second amendment sets reserve ratios on NOW accounts, automatic transfers, and share drafts at 3 to 7 percent. The current ratio is 3 percent and H.R. 4986 permits a range of 3 to 22 percent.

NOW accounts have received widespread consumer approval in New England and New York. They were developed to benefit consumers. A substantial increase in reserve requirements could hurt consumers by forcing financial institutions to pass along their increased costs. This would make NOW's far less attractive to those with smaller accounts.

The Federal Reserve treats NOW accounts like savings accounts. The NOW originated from savings accounts, although it has features of both savings and checking accounts. Savings and NOW accounts both have reserve ratios of 3 percent and both require a 30-day notice of withdrawal, although this is generally waived.

The provision in the bill is premature in that the high reserve requirement is predicated on full-fledged nationwide NOW accounts. Since it will take several years for these accounts to become widely used, we place an undue burden on New England banks before the rest of the country catches up.

Mr. President, I urge adoption of these amendments, which will make H.R. 4986 an excellent bill worthy of passage.

I ask unanimous consent to have the amendments printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

RESERVE REQUIREMENTS

On page 22 of H.R. 4986, line 10, strike all after the word "at" through and including line 12, and insert in lieu thereof the following: "the ratio of 3 per centum, or at a ratio which is not less than 3 per centum nor more than 7 per centum, as determined by the Board."

EXPLANATION

An initial reserve ratio of 3 percent would be established under this amendment to H.R. 4986, with respect to NOW accounts, savings deposits subject to automatic transfers and share draft accounts. Thereafter, the Federal Reserve would have authority to vary reserve ratios applicable to such deposits within the range of 3 to 7 percent.

On page 32, between lines 20 and 21, insert the following:

Sec. . (a) Section (a) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following: "A Federal mutual savings bank may (1) accept demand deposits from any source, and (2) subject to such rules and regulations as the Board may make, make loans and investments without regard to any other limitation under Federal or State law, except that—

"(A) not more than 20 per centum of the assets of such a bank may be so loaned or invested; and

"(B) 65 percent of such loans and investments must be made within the State where the bank is located or within 50 miles of the States.".

(b) Notwithstanding the amendment made by subsection (a), the Federal Home Loan Bank Board shall limit the percentage of assets which a Federal mutual savings bank may loan or invest pursuant to the provisions of such amendment to 5 percent during the first two years following the date of enactment of this Act, to 10 percent for the next succeeding two years, 15 percent for the next succeeding two years and to 20 percent upon the expiration of eight years after such date of enactment, except that the Board may lengthen or shorten any such two-year period where necessary or appropriate in the event of a more rapid phase-out of interest rate controls or to avoid economic dislocation.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 127

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I transmit herewith the 1978 Annual Report on the Administration of the Radiation Control for Health and Safety Act, as required by Section 360D of the Public Health Service Act (42 U.S.C. 2631).

JIMMY CARTER.

THE WHITE HOUSE, *October 25, 1979.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:33 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4394. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. STEWART).

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5269. An act authorizing appropriations for the fiscal year beginning October 19, 1979, for the maintenance and operation of the Panama Canal, and for other purposes.

At 1:35 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 985. A bill to amend the Consolidated Farm and Rural Development Act.

The message also announced that the House has passed the bill (S. 1319) to authorize certain construction at military installations, and for other purposes, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. NEDZI, Mr. CHARLES H. WILSON of California, Mr. BRINKLEY, Mr. DAVIS of South Carolina, Mr. WON PAT, Mr. FASCO, Mr. BOB WILSON, Mr. WHITEHURST, and Mr. BEARD of Tennessee were appointed as

managers of the conference on the part of the House.

The message further announced that the Speaker has appointed Mr. CONYERS as an additional manager in the conference on the part of the House on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

At 5:32 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4473) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. LONG of Maryland, Mr. OBEY, Mr. CHARLES WILSON of Texas, Mr. YATES, Mr. MCHUGH, Mr. LEHMAN, Mr. DIXON, Mr. WHITTEN, Mr. YOUNG of Florida, Mrs. SMITH of Nebraska, Mr. KEMP, and Mr. CONTE were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4955. An act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.

The message further announced that the Speaker has appointed Mr. MITCHELL of New York as an additional manager in the conference on the part of the House on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1319) to authorize certain construction at military installations, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 5269. An act to authorize appropriations for the fiscal year beginning October 19, 1979, for the maintenance and operation of the Panama Canal, and for other purposes; to the Committee on Armed Services.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 4955. An act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 25, 1979, he presented to the President of the United States the following enrolled bill:

S. 975. An act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2369. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the proposed letter of offer of the Department of the Air Force to Korea for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2370. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the proposed letter of offer of the Department of the Army to Israel for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2371. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the proposed letter of offer of the Department of the Army to the Republic of Korea for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2372. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the total itemized revenues and expenses and the revenues and expenses of each train operated by the Corporation for the month of July 1979; to the Committee on Commerce, Science, and Transportation.

EC-2373. A communication from the Secretary of Transportation, transmitting, pursuant to law, the 1979 annual report on the Highway Safety Improvement Programs; to the Committee on Commerce, Science, and Transportation.

EC-2374. A communication from the comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improving Interior's Internal Auditing and Investigating Activities—Inspector General Faces Many Problems"; to the Committee on Governmental Affairs.

EC-2375. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, copies of comprehensive studies, and recommendations based on those studies, with respect to the need for creation of new judicial districts from portions of the Central District of California and the Eastern District of New York; to the Committee on the Judiciary.

EC-2376. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes"; to the Committee on Labor and Human Resources.

EC-2377. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of the Black Lung Benefits Program for calendar year 1978 and for January 1 through June 30, 1979; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAYH, from the Committee on Appropriations, with amendments:

H.R. 4440. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-377).

By Mr. WILLIAMS, from the Committee on Labor and Human Resources with an amendment:

S. 1724. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel and for other purposes (together with additional views) (Rept. No. 96-378).

By Mr. BAYH, from the Select Committee on Intelligence:

Special Report entitled "Implementation of the Foreign Intelligence Surveillance Act of 1978" (Rept. No. 96-379).

By Mr. WILLIAMS, from the Committee on Labor and Human Resources, without amendment:

S. Res. 265. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1724. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. CANNON. Mr. President, as in executive session, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD on October 1, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NELSON (for himself, Mr. TOWER, Mr. LUGAR, Mr. MORGAN, and Mr. STEWART):

S. 1940. A bill to amend the Securities Act of 1933 to authorize the sale of certain securities to accredited investors without filing a registration statement under such Act, to amend the Investment Company Act of 1940 to grant an exemption from such act to certain issuers which engage in the business of furnishing capital or providing financing for business ventures and activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

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STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. TOWER, Mr. LUGAR, Mr. MORGAN, and Mr. STEWART):

S. 1940. A bill to amend the Securities Act of 1933 to authorize the sale of certain securities to accredited investors without filing a registration statement under such act, to amend the Investment Company Act of 1940 to grant an exemption from such act to certain issuers which engage in the business of furnishing capital or providing financing for business ventures and activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

VENTURE CAPITAL INVESTMENT ACT OF 1979

● Mr. NELSON. Mr. President, in my judgment the Venture Capital Investment Act of 1979 which I am introducing today will help greatly expand a major institutional source of funding for American small businesses.

We all know that small and independent enterprise is the job-creating, innovative segment of the economy. But we also know that small business finds it particularly difficult to raise long-term debt and equity capital. Not only do banks shy away from making long-term loans to young firms, but the public equity market for new and small issues is practically nonexistent. In addition, these companies are the hardest hit by inflation and high interest rates, since they lack the means to absorb rising costs and prices.

So where does a smaller enterprise go for capital? To venture capital firms or small business investment companies, which provide long-term subordinated debt and equity capital in return for a partial ownership in the concern. Venture capitalists look for long-term capital gains, and make investments with the intent of keeping them for 5 to 10 years or even longer in many instances. Obviously, the more venture capital flowing into the small business sector, the better.

But venture capital firms have had serious problems which have impeded their operations. These impediments have caused the amount of capital available to small companies to remain at inadequate levels.

This proposal addresses one of the most pernicious problems inhibiting venture capital formation in this country—the Investment Company Act of 1940, or more commonly referred to as the 1940 act.

The 1940 act was originally passed to regulate mutual funds. At the time of enactment there were no organized, institutionalized venture capital firms. Small business investment companies (SBICs) did not come about until 1958. Had any of these types of companies been in existence in 1940, I believe that Congress would have added them to the long list of companies exempted from the Investment Company Act of 1940. Unlike mutual funds, venture capital companies do not have large amounts of liquid assets to be used to buy and sell blocks of listed public securities. Instead the assets of institutional venture capital firms are tied up in illiquid investments, that is, debt instruments and equity securities of small, closely held businesses.

Nevertheless a venture capital firm is subject to the Investment Company Act of 1940 if it initially has more than 100 shareholders. Likewise if it breaks through the 100 shareholder threshold level, the company is automatically thrust into the quagmire of 1940 act regulation.

An illustration of how the 1940 act causes great problems for venture capital companies is provided by looking at section 17 of the act. Section 17 not only prohibits transactions between affiliated companies (a concept ambiguously defined), but also transactions between affiliates of affiliates, unless undertaken with an exemptive order from the SEC. According to section 17, almost any investee company of a venture capital firm is an affiliate of the firm, thereby making transactions between the two companies subject to regulation under the 1940 act. Anyone remotely familiar with the venture capital industry knows that interaction between the venture firm and its portfolio companies is frequently necessary—new companies often need immediate injections of risk capital to keep them alive. Regrettably the 1940 act precludes this type of timely response because additional injections of capital usually require prior SEC approval. Compliance with this regulatory requirement is time consuming and very costly.

Many of you are no doubt familiar with Federal Express, the national overnight package delivery system which is an innovative and phenomenally successful company. Before it "took off," however, it required three rounds of venture financing and several times was dangerously close to bankruptcy. If its investors had had to file for an exemption each time they needed to organize another round of financing, Federal Express would probably not be with us today.

I cannot overstress the fact that filing for an exemption is a time-consuming process, with an outcome difficult to predict. In addition, one can never be sure just who is and who is not an "affiliate" under section 17, leading occasionally to unintentional and inadvertent noncompliance. The offshoot of all of this is that there are no non-SBIC venture capital companies operating under the 1940 act today, and only 32 SBIC's. Except for these 32, venture capital firms have deliberately curtailed their growth if necessary to avoid falling under the jurisdiction of the convoluted 1940 act, which means that the number of dollars available to help high-risk, smaller companies is also curtailed.

We can also cite numerous cases of successful venture capital companies which have liquidated rather than operate under the 1940 act—a very recent example being Continental Capital Corp. headquartered in San Francisco. Officers of Continental Capital recently revealed that in its 20 years of existence, the company made equity investments in over 100 young companies, 45 of them startups. These portfolio companies now have combined sales exceeding $500 million, employ over 10,000 people and pay over $25 million in taxes. But, says Continental's president:

The securities laws and regulations designed for mutual funds in 1940 are an onerous burden.

An article by columnist Thomas P. Murphy appeared earlier this month in the October 1 issue of Forbes which describes events leading up to the dissolution of Continental Capital. In the context of the 1940 Act, Mr. Murphy had this to say:

As for SEC regulation, it tends to be onerous and mindless.

Mr. President, I ask unanimous consent that the article entitled "Encouraging Competition?" be printed in its entirety at the end of my remarks.

Having described the vagaries of 1940 act enforcement, I want to assure my colleagues that I by no means advocate a lessening of investor protection. The full provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934 would still apply to the exempted companies. SBIC's are also regulated by the Small Business Administration. In addition, the bill would require every exempt venture capital company to have a majority of "disinterested" directors on its board, each of whom could not be an "affiliate" of the venture capital firm. No officer, director, or controlling shareholder would be allowed to own securities of companies in which the venture firm invests. All of these changes which are incorporated in the bill should lead to more efficient regulation without sacrificing shareholder protection.

While it is impossible to predict the exact amount of money that would be channeled into new companies with enactment of these amendments, I assure you it should be considerable.

I also want to note that while this bill will eliminate one more impediment to small business capital formation, it will not cost the taxpayer one additional cent to have it implemented. In fact the Federal Government should realize increased revenues from the hiring of more people and the paying of more taxes by small businesses who will be the recipients of additional venture capital financings.

It should be noted, too, that this measure has broad-based support within the securities industry and the investment community. The National Association of Small Business Investment Companies, National Venture Capital Association, National Association of Securities Dealers, Securities Industries Industry Association, American Council for Capital Formation, Capital Formation Task Force for the White House Conference on Small Business, National Federation of Independent Business, National Small Business Association, Independent Business Association of Wisconsin, Council of Smaller Enterprises, Small Business Association of New England, and Smaller Manufacturers Council have urged in statements made before the Senate Small Business Committee and other forums that the 1940 act be amended. All of these groups share my concern that an

equitable balance be struck between shareholder protection and eliminating the equity capital shortfall of American growth-oriented concerns.

In addition to the 1940 act changes, the bill would also facilitate capital formation in small companies by making it easier to attract equity dollars through the sale of securities to "accredited investors." As I mentioned earlier, there is practically no public market for these smaller companies, and even if there were, the registration process is too expensive for most young firms to afford. The bill will bridge the gap between the public stock market and the private market by creating an interim market among these "accredited investors." By accredited investors, I mean those institutional investors who are able to "fend for themselves" without the protections inherent in private placement and resale restrictions. Under the provisions of the bill, accredited investors would be able to purchase the stock of new and small issuers without the unnecessary legal memoranda and forms currently required for private placements. A primary result of this increased liquidity change would be to reduce the "discount" on the securities issued by a smaller company.

The bill incorporates one other change in existing law. Currently, stringent resale rules apply to affiliated purchasers of stock obtained by "private" purchase. While non-affiliates may sell their restricted stock freely in the public markets after 3 or 4 years, affiliates can only sell their security holdings in a public market under very restrictive guidelines. This legislation would exempt "venture capital affiliates" from these resale restrictions after a 5-year holding period, something which must be accomplished by legislation since the SEC feels that it lacks the authority to do so administratively. The result of this provision would be to encourage risk investments in new companies by making those investments more liquid.

Finally, I wish to give credit to cosponsoring Senators TOWER and LUGAR who originally called to the attention of the Senate certain securities problems which are dealt with in the bill we are introducing today. Many of the proposals initially put forth in S. 1533, introduced by Senators TOWER and LUGAR, are contained in this bill. Also joining as cosponsors are Senators MORGAN and STEWART who are members of the Small Business Committee as well as the Banking, Housing, and Urban Affairs Committee which has legislative jurisdiction over securities legislation. We hope other Senators will join our bipartisan group and support needed reform of the securities laws. Small business and the economy will benefit immeasurably as a result.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed at this point in the RECORD along with an article from Forbes by Thomas Murphy.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Venture Capital Investment Act of 1979".

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 101. Section 2 of the Securities Act of 1933 (15 U.S.C. 77b) is amended by adding at the end thereof the following new paragraphs:

"(15) The term 'accredited investor' means (A) a bank, insurance company, registered investment company, small business investment company licensed under the Small Business Investment Company Act of 1958, venture capital company, a fund, trust, or other account with respect to which a bank or insurance company exercises investment discretion, or a person who controls or is controlled by any such person, or (B) any person who, on the basis of such factors as financial sophistication, net worth, knowledge and experience in financial and business matters, or amount of assets under management, qualifies as an accredited investor under rules and regulations which the Commission shall prescribe.

"(16) The term 'limited sale security' means a security which bears a legend to the effect that such a security may not be sold or otherwise transferred without compliance with the registration requirements of this Act or pursuant to an exemption therefrom.

"(17) 'Venture capital company' means any company which meets both of the following conditions:

"(A) it is engaged or proposes to engage primarily in the business of furnishing capital (other than through the purchase of short-term paper) to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, or reorganizing companies or similar activities; and

"(B) at least 80 per centum of its net assets at cost (exclusive of Government securities, short-term paper, and cash items) consists of securities which were—

"(i) acquired directly from the issuer thereof in a transaction or transactions not involving the registration of the securities under the Securities Act of 1933 or acquired otherwise than directly from the issuer thereof and, immediately after such acquisition, restricted as to resale under the Securities Act of 1933, or pursuant to the exercise of options, warrants, or rights acquired in such transactions;

"(ii) received in a reorganization or in an exchange offer in exchange for securities acquired pursuant to clause (i) of this paragraph; or

"(iii) distributed on or with respect to any securities referred to in clause (i) or clause (ii) of this paragraph.".

TRANSACTIONS INVOLVING LIMITED SALE SECURITIES AND ACCREDITED INVESTORS

SEC. 102. Section 4(2) of the Securities Act of 1933 (15 U.S.C. 77d(2)) is amended by adding at the end thereof the following: "For purposes of this paragraph, transactions by an issuer not involving a public offering shall include transactions in which all of the following factors are present:

"(A) The securities are acquired by one or more accredited investors or persons that the issuer reasonably believes to be accredited investors.

"(B) The security which is the subject of the transaction is a limited sale security.".

RESALE OF LIMITED SALE SECURITIES

SEC. 103. Section 4(1) of the Securities Act of 1933 (15 U.S.C. 77d(1)) is amended by adding at the end thereof the following: "For purposes of this paragraph, any person who sells a limited sale security for his own account or for the account of any person shall not be considered to be an underwriter with respect to such transaction if such sale is made to an accredited investor or to a person whom the seller reasonably believes to be an accredited investor, or if such sale is otherwise exempt from registration under this Act.".

RESALE OF RESTRICTED SECURITIES

SEC. 104. Section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)) is amended—

(1) in the first sentence, by inserting "(A)" immediately after "shall not include" and by inserting immediately before the period the following: ", or (B) any venture capital company engaging in a sale or other distribution of restricted securities if such company has been the beneficial owner of such securities for a period of not less than five years prior to the date of such sale or distribution"; and

(2) by inserting immediately before the period at the end of the second sentence the following: ", and the term 'restricted securities' means securities acquired directly or indirectly from the issuer, or from an affiliate of the issuer, in a transaction or chain of transactions not involving any public offering".

TITLE II—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

DEFINITION OF VENTURE CAPITAL COMPANY

SEC. 201. Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by adding at the end thereof the following:

"(46) 'Venture capital company' means any company which meets both of the following conditions:

"(A) it is engaged or proposes to engage primarily in the business of furnishing capital (other than through the purchase of short-term paper) to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, or reorganizing companies or similar activities; and

"(B) at least 80 per centum of its net assets at cost (exclusive of Government securities, short-term paper and cash items) consists of securities which were—

"(i) acquired directly from the issuer thereof in a transaction or transactions not involving the registration of the securities under the Securities Act of 1933 or acquired otherwise than directly from the issuer thereof and, immediately after of such acquisition, restricted as to resale under the Securities Act of 1933, or pursuant to the exercise of options, warrants, or rights acquired in such transactions;

"(ii) received in a reorganization or in an exchange offer in exchange for securities acquired pursuant to clause (i) of this paragraph; or

"(iii) distributed on or with respect to any securities referred to in clause (i) or clause (ii) of this paragraph.".

EXEMPTION FROM INVESTMENT COMPANY ACT OF 1940

SEC. 202. Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(3)) is amended—

(1) by striking out "or" immediately after "guardian"; and

(2) by inserting immediately before the period at the end thereof the following: "; any venture capital company subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; or (A) any venture capital company, but only for a period of one hundred and eighty days after its outstanding securities (other than short-term paper) become beneficially owned by more than one hundred persons as determined under paragraph (1) of this subsection, or (B) any venture capital company which presently proposes to make a public offering of its securities, but only (i) for a period of one hundred and eighty days after the filing with the Commission of its registration statement (or its notification under Regulation A or Regulation E) under the Securities Act of 1933, (ii) for a period of sixty days after the effective date

of such registration statement (or the first sale of any securities offered by means of an offering circular under Regulation A or Regulation E), or (iii) until the withdrawal of the registration statement without its having become effective (or the withdrawal of the notification under Regulation A or Regulation E), whichever event specified in clause (i), (ii), or (iii) last occurs".

RESTRICTIONS ON VENTURE CAPITAL COMPANIES

SEC. 203. Section 7 of the Investment Company Act of 1940 (15 U.S.C. 80a-7) is amended by adding at the end thereof the following:

"(e) A venture capital company which is not an investment company within the meaning of this title solely by reason of section 3(c)(3) and which claims exemption from the Act under such section may not—

"(1) engage in any business in interstate commerce unless a majority of the members of the company's board of directors would not be deemed interested persons of the company if it were an investment company within the meaning of this title; or

"(2) sell, or otherwise dispose of, any securities (exclusive of Government securities, short-term paper, and cash items) acquired in transaction in the open market, except in such manner and amounts and at the times as the company would be permitted to do if the securities had been acquired by it in a transaction not involving any public offering within the meaning of the Securities Act of 1933 and the rules thereunder.

If, by reason of the death, disqualification, or bona fide resignation of any director or directors of any company, the requirements of clause (1) of the preceding sentence are not met, the application of the preceding sentence shall be suspended as to that company for a period of one hundred and eighty days or for such longer period as the Commission may prescribe, upon its own motion or by order upon application, as not inconsistent with the protection of investors.

"(f) No director, officer, employee, or controlling person of a venture capital company which is not an investment company within the meaning of this title solely by reason of section 3(c)(3) and which claims exemption from the Act under such section may beneficially own or purchase securities or other property of any issuer other than the venture capital company whose securities (other than Government securities, short-term paper, and cash items) are beneficially owned by the venture company; and no affiliated person of any such person shall beneficially own or purchase securities or other property of any issuer other than the venture capital company whose securities (other than Government securities, short-term paper, and cash items) are beneficially owned by the venture capital company, unless the ownership or purchase is approved by a majority of the members of the venture capital company's board of directors who have no financial interest in the ownership or purchase, including a majority of the members who would not be interested persons of the company if it were an investment company within the meaning of this title, on the basis that—

"(1) the terms thereof, including the consideration to be paid or received, are reasonable and fair to the shareholders of the venture capital company and do not involve overreaching of the company or its shareholders by another party; and

"(2) the ownership or purchase is not contrary to the interests of the shareholders of the venture capital company and is consistent with the policy of the company as recited in its articles of incorporation and any other documents made available to its shareholders generally.

For purposes of this subsection, beneficial ownership of securities or other property acquired by a director, officer, employee, or controlling person is not prohibited if the beneficial ownership was acquired otherwise than by means of a purchase and if the person, as soon as reasonably practicable, sells or otherwise disposes of the securities or other property upon a determination by the members of a majority of the venture capital company's board of directors who have no financial interest in the ownership, including a majority of the members who would not be interested persons of the company if it were an investment company within the meaning of this title, that the terms of the sale or other disposition, including the consideration to be received, are reasonable and fair to the shareholders of the company and do not involve overreaching of the company or its shareholders by another party. The sale or other disposition must be effected within one hundred and eighty days after the acquisition, unless a majority of the members of the venture capital company's board of directors who have no financial interest in the sale or other disposition, including a majority of the members who would not be interested persons of the company if it were an investment company within the meaning of this title, approve a longer period, which shall not exceed eighteen months from the date of acquisition of the securities or other property.".

ALTERNATIVE REGISTRATION

SEC. 204. Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8) is amended by adding at the end thereof the following:

"(g) Notwithstanding any provision of this Act or other provision of law, an investment company which would be an investment company under the Investment Company Act of 1940 but for the exclusion under paragraph 3(c)(3) as amended may voluntarily register as an investment company provided that such company is not a personal holding company as defined under section 542 of the Internal Revenue Code of 1954.".

EFFECTIVE DATE

SEC. 3. (a) The amendments made by this Act shall take effect on the date of enactment of this Act.

(b) The Securities and Exchange Commission shall, within one hundred and eighty days after the date of enactment of this Act, prescribe such rules and regulations as may be necessary to carry out the amendments made by this Act.

SECTION-BY-SECTION ANALYSIS OF S. 1940, VENTURE CAPITAL INVESTMENT ACT OF 1979

S. 1940, the proposed "Venture Capital Investment Act of 1979," would amend the Securities Act of 1933, 15 U.S.C. §§ 77a *et seq.*, and the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 *et seq.*

Title I of the proposed bill concerns amendments to the Securities Act of 1933. Section 101 adds three new definitions to the Act. An "accredited investor" is defined as (A) various named kinds of financial institutions or accounts concerning which a bank or insurance company exercises investment discretion or (B) any person who, on the basis of financial expertise or assets, qualifies as an accredited investor under rules and regulations prescribed by the Securities and Exchange Commission (SEC). "Limited sale security" is defined as a security having a legend indicating that it may not be sold or transferred without complying with the registration requirements of the '33 Act or pursuant to an exemption from the Act. "Venture capital company" is defined as a company which meets two conditions: (A) it engages primarily in activities such as furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market exists, or reorganizing companies; and (B) at least 80% of its net assets at cost (excluding certain named items) consists of securities which were (i) acquired directly from the issuer in transactions not involving the registration of securities under the '33 Act and immediately after the acquisition restricted as to resale, or were (ii) received in a reorganization or exchange offer for securities acquired in accordance with (i), or were (iii) distributed on or with respect to securities referred to in (i) or (ii).

Section 102 amends 15 U.S.C. § 77d, which concerns transactions exempted from the prohibitions of using interstate commerce and the mails to trade securities or send a prospectus unless a registration statement is in effect. The amendment adds a sentence to subsection (2) of that section to provide that exempted transactions by an issuer not involving a public offering include transactions in which the securities are acquired by accredited investors and are limited sale securities.

Section 103 amends 15 U.S.C. § 77d(1), the exemption concerning transactions by any person other than an issuer, underwriter, or dealer, to provide that any person who sells a limited sale security for his own or any other account shall not be considered to be an underwriter concerning this transaction if the sale is made to an accredited investor or if the sale is otherwise exempt from registration under the '33 Act.

Section 104 amends 15 U.S.C. § 77b(11), the definition of "underwriter," to provide that an underwriter shall not include any venture capital company engaging in a distribution of restricted securities if the company has been the beneficial owner of the securities for not less than five years before the distribution. Appended to the end of 15 U.S.C. § 77b(11) is the statement that the term "restricted securities" means securities acquired from the issuer or from an affiliate of the issuer in a transaction not involving any public offering.

Title II of the bill concerns amendments to the Investment Company Act of 1940. Section 201 amends 15 U.S.C. § 80a-2(a) by adding a definition of "venture capital company" identical to the definition of the term in section 101 of the bill.

Section 202 amends 15 U.S.C. § 80a-3(c)(3) to exclude other financial institutions from the meaning of "investment company": 1) any venture capital company subject to the reporting requirements of section 13 (a) or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a *et seq.*; or 2) any venture capital company for 180 days after its outstanding securities become beneficially owned by more than 100 persons; or 3) any venture capital company which presently proposes to make a public offering of its securities for 180 days after filing its registration statement with the SEC, for 60 days after the effective date of the registration statement, or until the withdrawal of the registration statement without its having become effective, whichever event last occurs.

Section 203 amends 15 U.S.C. § 80a-7, which concerns transactions by unregistered investment companies, by providing that a venture capital company which is not an investment company may not 1) engage in business in interstate commerce unless a majority of the board of directors would not be interested persons of the company if it were an investment company or 2) sell any securities acquired in an open market transaction, except in the manner and amounts and at the times which the company could do if it had acquired the securities in a transaction not involving any public offering.

Section 203 also provides that no director, officer, employee, or controlling person of a venture capital company which is not an

investment company and which claims exemption from the Act may beneficially own or purchase securities or other property of any issuer other than the venture capital company whose securities are beneficially owned by the venture company. No affiliated person of any of the above-named people can engage in the above-prohibited transactions unless the ownership or purchase is approved by a financially disinterested majority of the venture capital company's board of directors on the basis that the terms are fair to the shareholders of the venture capital company. Beneficial ownership is not prohibited if it was acquired other than by purchase and if the person sells the securities or other property if a disinterested majority of the board of directors determines that the terms of the sale are fair to the shareholders of the company. The sale must occur within 180 days after the acquisition unless a disinterested majority of the board of directors approves a longer period not to exceed eighteen months from the date of acquisition of the securities.

Section 204 amends 15 U.S.C. § 80a-8 to provide that an investment company which would be an investment company under the Investment Company Act of 1940 but for the exclusion provided by this bill may voluntarily register as an investment company so long as it is not a personal holding company.

The bill shall take effect on the date of enactment.

Within 180 days of enactment, the SEC shall prescribe necessary rules and regulations.

ENCOURAGING COMPETITION?

(By Thomas P. Murphy)

Frank G. Chambers is not an impatient man. Through his Continental Capital Corp., Chambers has helped more small high-technology companies get started than anyone else in the country. He is used to waiting five or ten years for an investment to mature. But Frank Chambers' patience finally snapped. Why? Chambers gives three reasons: our tax laws, the SEC and the stock market.

"Last year," Chambers says with irritation, "the IRS, the SEC and the SBA (Small Business Administration) spent 27 days in our office. Understand, we are not being investigated for anything. All this was routine." Chambers figures that that much time is a heavy expense for a company with only five employees.

Then there is the stock market. Continental's success, Chambers feels, was just never reflected in the price of its stock. "Except for a brief period in the early 1960's," he says, "our stock (it is traded on the West Coast o-t-c) never sold for as much as the company's stated asset value." And, he adds, "that value was always stated conservatively." One recent example: Continental owned part of a company called FME, and it carried FME's shares at $165,000 but sold them for $1.26 million.

Chambers' complaint about taxation is the whole issue of double taxation. In a more rational world, venture firms would be encouraged to reinvest their winnings so that the process would reseed itself. Instead, if Continental, for example, decided to keep its profit from the FME sale, it would be taxed on the long-term gain at the rate of 28 percent, plus California's 5 percent. Then later, when those long-term gains were finally given to the shareholders, they too would have to pay a capital gains tax of up to 28 percent.

As for SEC regulation, it tends to be both onerous and mindless. Publicly traded firms were pretty much ignored by the SEC through the Sixties, but then there were some abuses, so the regulators poured in. Their hot button is something called "conflict of affiliate relationships." That sounds just fine—who wants a lot of self-dealing? Until you get to the realities of a company like Continental. Since it is small, it frequently co-invests with other venture firms, and nearly all the investments are in high-technology companies and in the San Francisco Bay area. Just imagine the possibilities a zealous young lawyer for the SEC might uncover in the relationships among board members, banks and small companies!

Nor does it help that both the SEC and the IRS use small companies as training ground for their new people. Most of the IRS agents who arrived in Continental's offices had never heard of a venture capital firm before, and by the time they figured out what it was, another agent had been assigned to Continental.

In fairness, though, government is not and was never the whole problem. If government does not understand venture capital, neither does the stock market. The institutional investors shun venture capital stock because the companies are small and the stock is thinly traded. The public, by and large, never heard of Continental because analysts simply do not know how to analyze the portfolios. What do you do to understand a company that owns pieces of 21 other companies—15 of which are private? The answer, if you are a security analyst, is to go on to something easier.

Chambers tried to help his stockholders, some of whom had put their money into Continental at the original public offering in 1960. He devised a scheme that guaranteed to repurchase shares over a five-year span at 60 percent to 80 percent of Continental's stated asset value. That helped a little, for at least it put a floor under the price of the stock.

Still, Chambers thought the stock was worth more, and as the feverish buy-out of small, high-technology companies got under way a year and a half ago, he knew that Continental had greater possibilities. That, and those 27 days of regulators in his office within the last year, finally tipped the scale, and Continental announced that its was liquidating.

Patience has been rewarded. The original shareholders, after deducting earlier distributions, have a tax cost basis in their Continental stock of less than $1 a share. Its last stated value per share, a June figure, was $19.69, but the market now agrees that those valuations have been on the conservative side, and the bid price at this writing is $22.

Frank Chambers has finally done all right by his stockholders, but what else did he accomplish over two decades? He made more than 100 equity investments in small companies; 45 of them were raw startups. Today the companies Chambers backed have total sales of over $500 million, they employ 10,000 or more people.

Chambers, who is now 63, is not getting out of venture. Not at all. If money were the only thing in life, he and his brother Robert could have cashed in years ago when they sold their first venture, a company called Shop Smith. Brother Bob went on to found Envirotech, and Frank to Continental. Now Frank is starting a new, private venture firm. The banks, pension funds and insurance companies that never had an interest in the publicly traded shares of Continental are more than anxious to finance its private reincarnation.

Who is the loser in all this? The bell tolls for all of us. With Continental goes the last publicly traded venture firm in the SBIC program that was really doing high-technology startups. If our almighty bureaucracy really wants to do something to encourage competition, it might start by paying less attention to alleged monopolies in the making of children's crayons and paying more attention to encouraging rather than punishing venture capitalists like Frank Chambers.●

● Mr. TOWER. Mr. President, I am very pleased to join with Senator NELSON, Senator LUGAR and other Senators in cosponsoring the "Venture Capital Investment Act." This bill would amend the Investment Company Act of 1940 to exempt from its provisions "venture capital companies" which meet certain requirements designed to provide substantial protections for investors in these companies.

These provisions are similar to those contained in S. 1533, a bill which Senator LUGAR and I introduced in July, and the two bills have the same goal: To establish an environment which encourages the formation and growth of professionally-managed firms to provide long-term capital to tomorrow's successful businesses. Differences in the two bills reflect the benefits of the ongoing dialog, which I expect to continue, concerning legislative changes needed to encourage such an environment, while at the same time preserving an ample system of investor protection.

In addition to the amendments to the Investment Company Act, the "Venture Capital Investment Act" also contains a provision designed to facilitate the use of "private offerings" under the Securities Act of 1933 where the investors are "accredited investors" including financial institutions, venture capital companies and others who, because of sophistication, financial strength, and knowledge and experience in financial matters, do not require the benefits of the SEC's registration system when they purchase securities in "private offerings."

Mr. President, this bill reflects the growing recognition of the need to encourage the formation of venture capital and to enable public investors to participate in professionally managed venture capital firms. I look forward to the opportunity to work with Senator NELSON and the other sponsors of the bill toward its favorable consideration by the Banking Committee and the Senate.●

By Mr. McGOVERN:

S. 1942. A bill to provide for a resource conservation and development program in the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RESOURCES CONSERVATION AND DEVELOPMENT ACT OF 1979

Mr. McGOVERN. Mr. President, I am today introducing legislation to provide for a resource conservation and development program in the U.S. Department of Agriculture. It is important to note this bill does not "create" a resource conservation and development program—one already exists. What this legislation does is place a program which has evolved under a variety of administrative umbrellas and congressional authorities upon a sound legislative and financial footing all its own.

During the last few years there have been administrative efforts to phase this program out of existence. In each of those years, we in the Congress have resisted that administrative effort by boosting the program's budget to levels higher than the administration requested. We have clearly signaled we do not want this popular, grassroots program terminated. Yet, I have every reason to believe the administration will persist in its efforts and that time after time we are going to find ourselves in a

"budget fight" over this program. I believe the time has come to elevate that disagreement with the administration. The time has come for the Congress and especially we here in the Senate to debate the merits of this program and decide whether or not we want it continued in its own right with a minimum of interference by "budget cutters" who see this small, but significant, program as vulnerable to their administrative whim.

"Administrative whim" is the central impediment to this program's success. Because the R.C. & D. program is for all practical purposes an "administrative creature" having no legislative mandate that it exists, it becomes an easy target. A report of the task force on USDA's resource conservation and development program published by the Department of Agriculture in October of last year put it best:

> This lack of agreement within the Federal Government has occupied time of local RC&D leaders that might better have been spent in dealing with the problems and needs of their area.

There are those of my colleagues who are probably not familiar with the R.C. & D. program. I would like to give over a portion of my remarks to a description of it.

R.C. & D. is a program carried out in an area approved by the Secretary of Agriculture by local people who volunteer their time for no pay and form a resource improvement organization. In many instances the organization is called an R.C. & D. area council, but sometimes the R.C. & D. program is implemented through other existing local organizations which can be adapted to this purpose. Typically an R.C. & D. area covers several adjacent counties. Technical and financial assistance to the local organization in preparing and carrying out its area plan is provided by the USDA, though oftentimes the local people become a "clearinghouse" using USDA assistance to explore possibilities of assistance from other programs and sources outside USDA—but USDA is generally the focus of their efforts. In this way local people can direct Federal programs to sources of need in their area. To my way of thinking there is no better way for USDA to carry out its resource conservation and development program than the model provided by the R.C. & D. approach.

For example, an R.C. & D. area may emphasize control of critical erosion problems in its area plan, while another is apt to work on development of local resources to improve economic and employment opportunities in their area, while still another might improve facilities for recreation in rural areas to make the quality of life for people living in rural America that much better. No matter what the emphasis of a specific R.C. & D. area, generally they can be depicted as local people working to improve their economy and environment through conservation, development, and better utilization of local natural resources.

I must confess that for quite some time I focused on the R.C. & D. program in the Midwest as I am a midwestern Senator and most familiar with the program's accomplishments there. But, back in March, the Senate Agriculture Committee's Environment, Soil Conservation, and Forestry Subcommittee held a hearing on the budgetary problems of the R.C. & D. program and called witnesses from around the country.

It came as a revelation to me that R.C. & D.'s are active in every State in the Union with the exception of Alaska and in fully one-third of the counties in the United States. Official sponsors of R.C. & D. areas include 3,143 local and State units of government and other groups including counties, cities, towns, and soil and water conservation districts. For rural residents of urban States, R.C. & D. has been a way for them to apply regional planning while regional planners are focusing on urban areas. R.C. & D. provides a tangible way for rural areas to compete in our urban-oriented society.

The legislation I am introducing today does not create anything new. In a most fundamental sense it calls for Congress to put our stamp of approval on a program which has already evolved. My bill takes nothing away from the program and at the same time it adds no new responsibilities, though I will admit it does some fine tuning of the program in conformance with recommendations contained in the R.C. & D. Task Force report.

Mr. President, during the Subcommittee hearing on the future of the R.C. & D. program in which I was invited to participate by Chairman JOHN MELCHER, we heard curious testimony from the administration on this program which echoes other presentations they have made to groups concerned about the future of the R.C. & D. program. While on every occasion they are effusive in their praise of what R.C. & D. is doing, at the last minute in their presentations they then claim, as did USDA Deputy Assistant Secretary for Conservation, Research, and Education David G. Unger:

> While these achievements show the success of the program at the area level, reviews of the national program have been unable to prove statistically significant differences in the achievement of the program objectives between counties receiving RC&D assistance and similar counties that do not receive such assistance.
>
> It is our hope that the sponsors who have given such tremendous leadership at the local level will continue to do so without the assistance provided by the RC&D program.

I find this kind of testimony extremely cynical. The statistical differences USDA has looked for are in terms of creating new jobs, yet creation of new jobs is not a consistently mandated function of an R.C. & D. area. While it may be an objective in an area, it need not be the chief objective or an objective at all. This kind of statistical analysis is unfair. That is why my legislation makes it absolutely clear that job opportunities are to be only one purpose of the program not "the" purpose for which it should be judged. More appropriately it seems to me that judgment of a resource conservation and development program should be passed on its ability to conserve and develop resources—an analysis which has not been undertaken by the budget cutters at USDA and the Office of Management and Budget. It is much less statistically quantifiable, though the statistics proving the overwhelming loss of topsoil in this Nation and pollution of our water resources are readily available and alarming in their magnitude. I think we should go slow in phasing out a program which is grappling with these problems at the local level.

The statistics proving outmigration from rural areas and the disintegration of the family farm are alarming to anyone familiar with them—and here again, without analyzing the impact of this program in making rural life more attractive for Americans and encouraging the continuation of the family farm in doing so, the budget cutters are ready to phase out a program which is in the first line of defense against this problem.

It is altogether one thing for USDA to hope that local sponsors keep the initiative alive. It is altogether another matter when USDA cooperates in stripping away the one framework for allowing the initiative to move ahead with a clear delineation of goals and the technical and financial means to accomplish them. I am certain the R.C. & D. volunteers, despite what the administration is doing to undercut their program, hope, too, that they can keep the initiative alive. But it does not appear anyone is going to help them do so unless we act on this bill.

R.C. & D. activists have shown extreme resourcefulness in working on a shoestring without a firm commitment by the sponsoring agency to keep the program alive so they can meet their long-term goals. I dare say that little has been done in terms of long-term commitment to allow a fair test of what the R.C. & D. program can really do if the commitment of personnel, resources, and finances are in place. This bill would see the program receive this kind of fair shake.

There is one other significant feature of this bill which I would like to highlight in these remarks. Section 10 is in essence a sunset provision requiring the Secretary to report to Congress by December 31, 1986, concerning continuation, termination, redirection, or modification of the program. This is consistent with provisions of the Resource Conservation Act calling for periodic reporting to Congress as to the progress and effectiveness of the USDA resource conservation programs.

I believe that if R.C. & D.'s future is assured for 5 years so that local sponsors can implement some of their long-range objectives instead of having to rely on short-term commitments and programs, that the R.C. & D. program will prove its utility and capability in a more meaningful sense than it has been able to heretofore. I am personally convinced a revitalized R.C. & D. program can become a model for a method of directing national resource conservation and development programs to points of need.

If in the review process it can be proven that a different approach is better than R.C. & D., I think local people will be eager to utilize it. But until such an improved program is in place, I think

it is too much to ask or hope that the objectives of the R.C. & D. program can be carried out in the absence of a legislative and administrative framework for doing so.

I hope my colleagues on the Senate Agriculture Committee will agree with me that the merits of this popular grassroots program warrant our consideration of this legislation, that it will be reported favorably by the committee, and that we can then act on it here in the Senate.

Mr. President, I ask unanimous consent that the text of the bill I am introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1942

Be it enacted by the Senate and House of Representatives of the United States of America assembled, That this Act may be cited as the "Resource Conservation and Development Act of 1979".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that the rural areas of the Nation are confronted by critical resource utilization, economic, and environmental problems;

(2) that such problems are the result of—

(A) continually increasing pressures on such rural areas to meet domestic and foreign demand for food, fiber, and wood;

(B) inadequate public and private investment to help formulate and carry out acceptable courses of action necessary to meet the accelerating demands being made on the land and natural resources of the Nation; and

(C) social, economic, and environmental conditions of such complexity that they cannot be effectively dealt with by individual communities in rural areas acting independently of each other; and

(3) that such problems have resulted in and, unless unchanged, will continue to result in the decline of the family farm system, small business enterprise, and job environmental qualities of rural areas throughout the United States.

(b) It is, therefore, the purpose of this Act to encourage and assist State and local units of government and local non-profit organizations in rural areas to plan, develop, and carry out a program for resource conservation and development.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "planning process" means the continuing effort by any State, local unit of government, or local nonprofit organization to develop and carry out effective resource conservation and utilization plans for a designated rural area, including development of an area plan (as defined in paragraph (3)), goals, objectives, policies, implementation activities, and evaluations and reviews, and the opportunity for public participation in such effort.

(3) The term "area plan" means a resource conservation and utilization plan for a designated rural area of a State or States which has been developed through a planning process and which includes one or more of the following basic elements:

(A) a land conservation and utilization element the purpose of which will be to correct maladjustments in land use, to protect agricultural land from imprudent conversion to other uses, to control erosion and sedimentation, and to protect fish and wildlife habitats;

(B) a water management element the purpose of which will be to provide for the conservation and utilization of water, including irrigation and rural water supplies; the mitigation of floods and high water tables; construction, repair, and improvement of dams and reservoirs; improvement of agricultural water management; and improvement of water quality through control of nonpoint sources of pollution;

(C) a community development element the purpose of which will be the development of natural resource based industry, the protection of rural area industries from natural resource hazards, development of aquaculture, adequacy of rural area water and waste disposal systems, improvements in recreation facilities, rural housing, adequate health and education facilities, and essential transportation and communication needs; and

(D) other elements such as energy conservation, environmental protection, preservation of unique natural and cultural resources that are appropriate to achieving the goals of the citizens in the designated rural areas.

(4) The term "State" means the several States, the Commonwealth of Puerto Rico, and the Virgin Islands.

(5) The term "local unit of government" means any city, town, township, parish, village, or other general-purpose subdivision of a State, any local or regional special district or other limited political subdivision of a State, including any soil conservation district, irrigation, watershed, or drainage district, school district, park authority, and water or sanitary district.

(6) The term "nonprofit organization" means any community association, wildlife group, or resource conservation organization that is incorporated and approved by the Secretary for the purpose of providing to any rural area those public facilities or services included in the area plan for such rural area.

(7) The term "technical assistance" means any service provided by the staff members of any agency of the Department of Agriculture, including advising, inventory evaluating, planning, designing, supervising, laying out, and inspecting, and the providing of maps, reports, and other documents associated with the services provided.

(8) The term "financial assistance" means the assistance made available under this Act by means of Federal grants and loans.

(9) The term "works of improvement" means the facilities installed or being installed in compliance with the area plan.

RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM

SEC. 4. The Secretary shall establish a resource conservation and development program under which the Secretary shall make available to States, local units of government, and local nonprofit organizations the technical and financial assistance necessary to permit such States, local units of government, and organizations to operate and maintain a planning process for the development of plans and actions needed to conserve and better utilize land, develop natural resources, and improve and enhance the economic and environmental conditions of rural areas of the United States.

AUTHORITY OF THE SECRETARY OF AGRICULTURE

SEC. 5. In carrying out the provisions of this Act, the Secretary may—

(1) provide technical assistance and advice, upon request, to any State, local unit of government, or local nonprofit organization within a designated rural area to assist in developing an area plan for such area;

(2) cooperate with other departments and agencies of the Federal Government, with State and local governments, and with local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans;

(3) assist in carrying out an area plan approved by the Secretary for any rural area by providing technical and financial assistance, including grants and loans, to local public agencies and nonprofit organizations designated to receive such assistance by the Governor or legislature of the State concerned;

(4) enter into agreements with State agencies, local units of government, and local nonprofit organizations, as provided in section 6; and

(5) assist local units of government in acquiring any land or interest in land by purchase, gift, or otherwise whenever the acquisition of such land or interest is necessary to protect the public from a threat to its health and welfare and such threat can be eliminated by rehabilitation or reclamation of the land to be acquired or in which the interest is to be acquired, subject to the following conditions:

(A) that such land or interest is to be returned to the public or private sector after such threat has been removed and the public or private sector agrees to use such land or interest in a manner that will maintain the rehabilitated or reclaimed condition of the land or interest after such land or interest has been returned to the public or private sector;

(B) that such land or interest is returned to the public or private sector, at a cost to be determined by the Secretary and unit of local government concerned, within ten years after it has been rehabilitated or reclaimed; and

(C) that appropriate restrictions or covenants are provided in any agreements or instruments used to return the land or interests therein to the public or private sector and that such restrictions or covenants run with the land or interest and provide that the land or interest therein shall revert back to the unit of local government concerned in the event that the land is not maintained so as to preserve and protect its rehabilitated or reclaimed condition.

AGREEMENTS: TERMS AND CONDITIONS

SEC. 6. (a) Technical and financial assistance, including loans, may be provided by the Secretary to any State agency, local unit of government, or local nonprofit organization to assist such agency, unit of government, or organization in carrying out works of improvement specified in an area plan approved by the Secretary only if—

(1) such State agency, unit of government, or organization agrees in writing to carry out such works of improvement and to finance or arrange for financing of any portion of the cost of carrying out such works of improvement not paid by the Secretary under this Act;

(2) the works of improvement for which assistance is to be provided under this Act are included in an area plan and have been approved by the local units of government to be assisted;

(3) the Secretary determines that assistance to finance the type of works of improvement concerned is not reasonably available to such agency, unit of government, or organization under some other Federal program;

(4) the works of improvement provided for in the area plan for any area are consistent with any existing comprehensive plan for such area;

(5) the cost of land or interest in land acquired or to be acquired under such plan by any State, local unit of government, or local nonprofit organization is borne by such State, unit of government, or organization, except in the case of land or interest in land acquired or to be acquired for the purpose of conserving or protecting fish or wildlife, acquired or to be acquired for public recreational purposes, or acquired or to be acquired to protect the public from a threat to its health and welfare, as provided in clause (5) of section 5; and

(6) the State, local unit of government, or local nonprofit organization participating in an area plan agrees to maintain and operate any work of improvement carried out under such plan.

(b) Loans made under this Act shall be made on such terms and conditions as the Secretary may prescribe, except that such loans shall have a repayment period of not more than thirty years from the date of completion of the works of improvement for which the loan is made and shall bear interest at the average rate of interest paid by the United States on its obligations of a comparable term, as determined by the Secretary of the Treasury.

(c) Assistance may not be made available to any State, local unit of government, or local nonprofit organization to carry out any area plan unless such plan has been submitted to and approved by the Secretary.

IDENTIFICATION OF GROUPS OR PROBLEMS FOR SPECIAL CONSIDERATION IN AREA PLANS

SEC. 7. Any area plan may identify for special emphasis or assistance under such plan any particular group (including small farm operators, rural poor, or minority groups living in the area covered by such plan), or any particular natural resource or water utilization problem.

SUPPLEMENTAL AUTHORITY OF THE SECRETARY

SEC. 8. The authority of the Secretary under this Act to assist States, local units of government, and local nonprofit organizations in the development and implementation of area plans shall be supplemental to and not in lieu of any authority of the Secretary under any other provision of law.

RESOURCE CONSERVATION AND DEVELOPMENT POLICY BOARD

SEC. 9. (a) The Secretary shall establish within the Department of Agriculture a Resource Conservation and Development Policy Board (hereinafter in this section referred to as the "Board").

(b) The Board shall be composed of seven members appointed by the Secretary. One member of the Board shall be designated by the Secretary to serve as chairman.

(c) It shall be the function of the Board to advise the Secretary regarding the administration of this Act, including the formulation of policies for carrying out the program provided for by this Act.

EVALUATION OF PROGRAM

SEC. 10. The Secretary shall evaluate the program provided for in this Act with a view to determining whether such program is effectively meeting the needs of, and the objectives identified by, the States, local units of government, and local nonprofit organizations participating in such program. The Secretary shall submit a report containing the results of the evaluation not later than December 31, 1986, together with his recommendations for continuing, terminating, redirecting, or modifying such program.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, except that not more than $60,000,000 may be appropriated for technical and financial assistance for any fiscal year and not more than $15,000,000 may be appropriated for loans for any fiscal year.

SEPARABILITY PROVISION

SEC. 12. If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid part.

By Mr. PELL:

S. 1943. A bill to stabilize the cost of living; to the Committee on Banking, Housing, and Urban Affairs.

COST OF LIVING STABILIZATION ACT OF 1979

● Mr. PELL. Mr. President, I am today introducing the Cost of Living Stabilization Act of 1979 to provide the President of the United States standby authority to impose controls on wages, prices, rents, and salaries.

I believe it is essential that the President have this authority. The continuing, unrelenting, ceaseless increase in price levels is decimating family budgets, grossly distorting business decisions on production, inventories, and investment, and sapping the strength of the American economy. The raging, double-digit inflation is hurting everyone except a happy band of speculators, who are gorging themselves with profits gained from riding the tidal wave of inflation.

President Carter and his administration are making a valiant and commendable effort to contain and restrain inflation with the limited authority given to him under existing law. But, inflation continues a galloping pace exceeding the projections and the hopes of the administration's economic advisers and officials.

The administration's voluntary program to restrain price and wage increases has worked about as well as could be expected, but a major problem is posed by the fact that the program has worked more effectively in restraining wages than in restraining prices.

During the past 12 months, the Consumer Price Index has increased by 11 percent, while wage increases have been held to an average of a little more than 7 percent—very close to the wage guidelines established by the administration. The net result, however, is that the real income of the average worker has declined by 4 percent as price increases have outrun wage increases.

The patience and restraint of the average American worker as he watched his real income slide during the past year has been remarkable, but unless there is real progress in reducing the inflation rate in the very near future, that patience will rapidly disappear. Workers understandably will want double-digit pay increases to match double-digit price increases.

Unfortunately, only the most optimistic economists see any immediate hope of a substantial reduction in cost-of-living inflation rates.

I do not see how we can realistically avoid the sad conclusion that the inflationary tidal wave racing through our economy threatens to overwhelm and swamp any system of voluntary restraint, no matter how well conceived and no matter how diligently it may be administered.

The recent actions by the Federal Reserve Board, using its authority to control bank reserve requirements, represents a bold new effort to bring expansion of the money supply under control, but there is considerable skepticism that this action, tight-fisted as it is, will prove sufficient or fully effective. We in the Congress, for our part, have made a strong commitment to restraining Federal Government spending and to pressing toward a balanced Federal Government budget, and that effort must continue unabated.

Nevertheless, our economy remains under siege by inflationary pressures, ranging from the uncontrollable increases in the costs of imported petroleum to the sheer self-propelling momentum of inflationary expectations.

The President of the United States is the Commander in Chief in the struggle to repel these inflationary forces, and I do not believe we should send him into this battle without every possible weapon in the arsenal of economic policy. The authority to impose wage and price controls must be one of those weapons.

The President has stated repeatedly that he does not want wage and price controls. I would prefer that we not have wage and price controls either. Indeed, everyone agrees that it would be preferable to end this inflationary cycle without imposing wage and price controls. But what is preferable is not always possible.

I am convinced that the time has come to face the fact that wage and price controls may be the only effective way to stem inflationary forces.

Economists tell us that wage and price controls are undesirable because they interfere with the free market's prime function—the allocation of scarce resources to the most productive use. Indeed, no one can deny that economic controls produce distortions in an economy. Controls inevitably undervalue some goods and services and overvalue others. Controls do not respond automatically and with great flexibility to changing conditions and circumstances.

But inflation also causes gross distortions in our economic life, and the greater the inflation rate, the greater the distortions. Inflation drains investment funds from the most economically productive use and funnels them to the most speculatively lucrative. It penalizes saving and rewards inflationary spending. It cripples the poor and those with no economic leverage and rewards those who have the clout and the sheer power to profit from inflation. The distortions caused by inflation are in fact nearly endless, and almost without exception, undesirable.

I believe we are rapidly approaching the time when the economic distortions caused by economic controls will be less damaging than the distortions and penalties imposed by raging inflation.

Obviously one does not prescribe medicine for a healthy patient, and one does not impose wage and price controls on a healthy economy. But we do not have a healthy economy, we have an economy with a raging fever. At some point we must decide whether the patient will heal himself, or whether it is time to administer some strong medicine. When that time comes, we all want to be sure that the doctor has the medicine available.

Mr. President, wage and price controls have worked well in the past. The major problem has been in managing the removal of controls, once they have served their purpose, so that a postcontrols surge of inflation is avoided.

The 1971 economic controls imposed by President Nixon held consumer price increases to 4 percent during the highly successful phase II. It was the abrupt

removal of the controls, before inflationary forces had abated, that led to double digit inflation in 1974 and 1975.

During the Korean war, economic controls held consumer price increases to a rate of about 2.5 percent a year, and the gradual removal of the controls resulted in no inflationary surge. In fact, the years after the Korean war were a period of great price stability with consumer prices increasing 1 percent a year or less for several years.

The record, I believe, shows that economic controls do work and that it is possible, with skillful management and proper timing, to move from economic controls without a major postcontrols inflation.

Wage and price controls, properly conceived and administered, have a legitimate place in economic policy, and I believe the President should be given the authority to impose controls when it is clear that they are essential to our national well being.

Mr. President, I ask unanimous consent that the text of the legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cost of Living Stabilization Act of 1979."

SEC. 2. STATEMENTS OF FINDINGS.—It is hereby determined that in order to reduce inflation, minimize unemployment, improve the Nation's competitive position in world trade, and protect the purchasing power of the dollar, the executive branch of the government must have the authority to stabilize prices, rents, wages, and salaries.

SEC. 3. PRESIDENTIAL AUTHORITY.—(a) The President is authorized to issue such orders and regulations as he deems appropriate, accompanied by a statement of reasons for such orders and regulations, to stabilize prices, rents, wages and salaries at levels not less than those prevailing on October 31, 1979, except that prices may be stabilized at levels below those prevailing on such date if it is necessary to eliminate windfall profits or if otherwise necessary to carry out the purposes of this Act. Such orders and regulations shall provide for the making of such adjustments as may be necessary to prevent gross inequities.

(b) In carrying out the authority vested in him by subsection (a), the President shall issue standards to serve as a guide for determining levels of wages, salaries, prices, rents, interest rates, corporate dividends, and similar transfers which are consistent with the purposes of this Act and orderly economic growth. Such standards shall—

(1) be generally fair and equitable;

(2) provide for the making of such general exceptions and variations as are necessary to foster orderly economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits;

(3) take into account changes in productivity and the cost of living, as well as such other factors consistent with the purposes of this title as are appropriate;

(4) provide for the requiring of appropriate reductions in prices and rents whenever warranted after consideration of lower costs, labor shortages, and other pertinent factors; and

(5) call for generally comparable sacrifices by business and labor as well as other segments of the economy.

SEC. 4. DELEGATION.—The President may delegate the performance of any function under this Act to such officers, departments, and agencies of the United States as he may deem appropriate.

SEC. 5. INJUNCTIONS.—Whenever it appears to any agency of the United States, authorized by the President to exercise the authority contained in this section to enforce orders and regulations issued under this title, that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation or order under this title, it may in its discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the agency, any such court may also issue mandatory injunctions commanding any person to comply with any regulation or order under this title.●

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 123, a bill to amend the Social Security Act to provide for payment under medicare and medicaid of the services of psychologists.

S. 219

At the request of Mr. MOYNIHAN, the Senator from Wyoming (Mr. WALLOP) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 414

At the request of Mr. BAYH, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 414, the University and Small Business Patent Procedures Act.

S. 445

At the request of Mr. PERCY, the Senator from Wyoming (Mr. SIMPSON) and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 445, the Regulatory Reform Act of 1979.

S. 464

At the request of Mr. INOUYE, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1954 to expand the category of targeted groups for whom the new employee credit is available to include displaced homemakers.

S. 1161

At the request of Mr. PERCY, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 1161, the Government Accountability Act of 1979.

S. 1200

At the request of Mr. BAYH, the Senator from Iowa (Mr. CULVER) was added as a cosponsor of S. 1200, the Alcohol Fuels Regulatory Simplification Act of 1979.

S. 1203

At the request of Mr. BAYH, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1533

At the request of Mr. TOWER, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 1533, a bill to amend the Investment Company Act of 1940 to provide an exemption for qualified venture capital companies.

S. 1589

At the request of Mr. MCCLURE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1589, a bill to amend the Public Rangelands Improvement Act of 1978, to prevent the loss of economic grazing units, to prevent increased unemployment and flood inflation, and for other purposes.

S. 1627

At the request of Mr. TSONGAS, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 1627, the Consumer Checking Account Equity Act of 1979.

S. 1647

At the request of Mr. INOUYE, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 1647, a bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order 9066, and for other purposes.

S. 1668

At the request of Mr. CHURCH, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 1668, a bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981.

S. 1705

At the request of Mr. MOYNIHAN, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1705, a bill to amend the Internal Revenue Code of 1954 with respect to the deduction of charitable contributions to organizations from which the taxpayer or a member of his family receives services.

S. 1724

At the request of Mr. ROBERT C. BYRD (on behalf of Mr. WILLIAMS), the Senator from Maryland (Mr. SARBANES), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 1724, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

S. 1754

At the request of Mr. MOYNIHAN, the Senator from Idaho (Mr. CHURCH), the

Senator from Montana (Mr. BAUCUS), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 1754, a bill to determine the causes and effects of acid precipitation throughout the United States and to develop and implement solutions to this problem.

S. 1756

At the request of Mr. TSONGAS, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 1756, a bill to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to receive share draft accounts, and for other purposes.

S. 1762

At the request of Mr. NELSON, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 1762, the Small-Scale Hydropower Tax Incentive Act of 1979.

S. 1862

At the request of Mr. MCCLURE, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 1862, a bill to improve the administration of Federal firearms laws, and for other purposes.

SENATE JOINT RESOLUTION 19

At the request of Mr. WALLOP, the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Montana (Mr. MELCHER), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of Senate Joint Resolution 19, proclaiming March of 1980 as "Youth Art Month."

AMENDMENT NO. 505

At the request of Mr. CHURCH, the Senator from Alabama (Mr. STEWART), the Senator from Oregon (Mr. HATFIELD), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. PRYOR), the Senator from Indiana (Mr. LUGAR), the Senator from Washington (Mr. MAGNUSON), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of amendment No. 505 intended to be proposed to S. 932, a bill to extend the Defense Production Act of 1950, as amended.

SENATE RESOLUTION 265—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. WILLIAMS, from the Committee on Labor and Human Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 265

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1724. Such waiver is necessary because the reported bill authorizes $1,600,000,000 for the fiscal year 1980 for home energy assistance to or on behalf of eligible households to meet the rising costs of home energy.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1979, because the severity in the rise of costs of home energy was not known at that time.

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SERVICES AND CHILD WELFARE AMENDMENTS OF 1979—H.R. 3434

AMENDMENT NO. 558

(Ordered to be printed.)

Mr. BELLMON proposed an amendment to H.R. 3434, an act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

AMENDMENT NO. 559

(Ordered to be printed.)

Mr. DOLE (for himself and Mrs. KASSEBAUM) proposed an amendment to H.R. 3434, supra.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. NELSON. Mr. President, I would like to announce that the Labor and Human Resources Committee will hold a legislative hearing on S. 1725, a bill to amend the Economic Opportunity Act of 1964 to establish a comprehensive energy conservation services program designed to enable low-income and near-poor individuals and families to participate in energy assistance programs. The hearing, entitled "Low-Income Weatherization and Energy Conservation Services," will take place on Tuesday, October 30, 1979, at 9:30 a.m., in room 4232 of the Dirksen Senate Office Building. If you have any questions regarding the hearing please contact Lori Hansen or Marianne Hughes of the staff of the Subcommittee on Employment, Poverty, and Migratory Labor at 224-3968.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. PRYOR. Mr. President, I wish to announce that the Governmental Affairs Committee will continue oversight hearings regarding the Department of Energy on Friday, November 2, 1979 at 10 a.m. in room 3302. Special attention will be given that day to the Department's use of consultant services.

Anyone wishing additional information about the hearings should contact the committee office at 224-5751.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the following hearing schedule for the Select Committee on Indian Affairs:

Nov. 5, 1979, 10 a.m., S.J. Res. 108—to validate the effectiveness of certain judgment distribution plans;

Nov. 8, 1979, 10 a.m., S. 1273—to restore federal recognition to certain bands of Paiute Indians;

Nov. 20, 1979, 10 a.m., S. 1730—to declare certain lands to be held in trust for the Ramah Band of the Navajo Tribe, and S. 1832—to extend the authority of the Secretary to declare lands in Arizona and New Mexico to be Indian reservation lands;

Nov. 26, 1979, 10 a.m., S. 1855—to increase the authorization for technical assistance for tribally controlled community colleges;

Nov. 28, 1979, 10 a.m., S. 1466—to provide for distribution of certain judgment funds; and

Dec. 4, 1979, 10 a.m., S. 1507—relating to the settlement of certain claims involving the waters of the San Luis Rey River.

The room numbers for these hearings are to be announced. For further information regarding these hearings you may wish to contact Max Richtman of the committee staff on extension 234-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

● Mr. PRYOR. Mr. President, I wish to announce that the hearing of the Subcommittee on Civil Service and General Services on the use of consultant services by the Federal Government scheduled for October 29, 1979, is being rescheduled to a later date.

Anyone wishing additional information about the hearings may contact the subcommittee staff at 224-4551.●

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, October 29, beginning at 2 p.m., to hold hearings on numerous executive nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROBLEMS OF COMMUTER RAIL SERVICE

● Mr. WILLIAMS. Mr. President, I have long been concerned about assuring effective public transit services in our major urban areas—especially now in this era of energy scarcity. One mode of transit which has been a workhouse of urban transit in major cities for years is the commuter rail line. For many years, these rail services have been elements of the transit scheme in New York, New Jersey, Philadelphia, Chicago, Boston and several other cities. But, the operators and riders on these lines have

been plagued with severe service problems, antiquated equipment and generally unreliable operations for so many of these years, that the grumbling commuter being late to work in an unheated or uncooled coach has become a cliche. But the sufferings of these dogged but determined riders have not been totally in vain. Efforts are being made in many communities to upgrade commuter rail service to make it more reliable and more attractive.

But these efforts have been hamstrung by serious problems in the supply industry and among the operators of commuter services. Chief among these problems has been the loss of rail car manufacturing capability in this country. At least three rail car manufacturers have withdrawn from the market in recent months leaving only one domestic—but foreign owned—manufacturer in the business. An article in the October 19 Wall Street Journal clearly spells out what these problems have been and is instructive to all of us who need to understand how important commuter rail service is, and how serious are the problems faced by these services.

Mr. President, I ask that the following article be printed in the RECORD.

COMMUTER RAIL SERVICE, STILL DETERIORATING AFTER FUEL SQUEEZE, IS SEEN AT PERILOUS POINT

(By John D. Williams)

Commuter railroads—the long-neglected orphans of transportation—are at a crossroads.

They either must begin to be an efficient tool for hauling people between suburbs and city centers in this era of costly fuel, or must suffer a rattling death, replaced by autos and buses.

That's the blunt conclusion of analysts who monitor the fortunes of this beleaguered industry. There are about 550,000 rail commuters in the U.S., half of them in the New York-New Jersey metropolitan area. If they all switched to autos, they would burn about 260 million gallons of gasoline a year. Air quality and traffic congestion would surely worsen in all eight commuter-rail areas. According to size, behind New York-New Jersey, these areas are Chicago, Philadelphia, Boston, San Francisco, Washington, Detroit and Pittsburgh.

Commuter railroads missed a comeback opportunity last summer, when fuel shortages forced auto commuters to rail coaches in droves. But the industry wasn't ready. Commuter cars were old and uncomfortably hot. Example: On July 13 in New York, thousands sat for two hours in hot, dark cars in a station waiting for locomotives to arrive.

RISE IN RIDERSHIP

Ridership in such areas as New York and Philadelphia rose in July by 15 percent to 20 percent from a year earlier, reaching the highest level in over three decades. But it has since fallen back to a point about 8 percent ahead of last year. Some commuters vow never to return to trains again unless another fuel pinch makes auto travel impossible.

It's estimated that the average rail commuter car is over 25 years old. A federal official reports that there are only 4,000 cars in the U.S., about the same as five years ago. Only 2,671-new cars have been delivered since 1940.

In New York, commuter-line operators have recently taken to cannibalizing out-of-service cars for parts to keep other cars running, because new parts are no longer manufactured. One New York rail shop now custom-makes some out-of-stock parts. Donald Anesi, one of two remaining machinists in this sprawling shop, worries that when he retires in June, management won't replace him. Back in 1946 his shop had 60 machinists.

LITTLE ACCOUNTABILITY

One reason that commuter roads are in trouble is that for 15 years, private railroads have unloaded money-losing commuter operations on unprepared, often inept public agencies. Another such turnover may be imminent. Southern Pacific Transportation has agreed to hand over to California its San Francisco-area commuter line. Last year the line lost $13 million hauling 9,000 persons each workday. These same railroads continue to manage their old commuter lines for fees from the public agencies. But there's little accountability.

A congressionally sponsored concern, Consolidated Rail Corp., carries 43.9% of all U.S. rail commuters on its 1,800 daily trains for five subsidized public authorities, including ones in New York, New Jersey and Philadelphia. The U.S. Railway Association, a government corporation that monitors Conrail for Congress, recently questioned whether Conrail should continue to manage commuter rail services. The association is also looking into Conrail's poor commuter service in New York.

Commuter rail transportation still could revive, however. President Carter has called for public spending of $50 billion during the 1980s—more than triple the $15 billion spent in the 1970s—for buses, subways, streetcars and commuter railroads. The package is tied to the President's call for a "windfall-profits" tax on the oil industry.

Even if the package materializes, a manufacturing problem could present further difficulties. Because of seesaw commuter-rail financing by the government, deliveries of new cars have been erratic, as the accompanying chart shows.

Only Budd Co., a U.S. subsidiary of Thyssen AG of West Germany, remains in U.S. commuter-car building. A St. Louis unit of General Steel Industries Inc. closed its commuter-car plant six years ago. A Pullman Inc. unit dropped out earlier this year after it got into a legal skirmish with New York City on flawed subway cars. General Electric Co. withdrew last year, although it still makes some motors and controls.

WAITING FOR "SOMETHING BIG"

"Currently we aren't building any new commuter cars and don't see any real opportunities in the near-term future," a GE spokesman says. "But if something big came up, we would look at bid invitations."

A "buy-American" federal law since November 1978 hampers non-U.S. concerns in making commuter-rail cars. It requires, unless special waivers are won, that 51% of the content of each car be U.S.-made and that final assembly be in the U.S. "This is a dreadful handicap for the foreign builder," says a spokesman for Hawker Siddeley Canada Ltd. in Thunder Bay, Ontario. "We've been bloodied in the U.S."

Industry sources say that a greater resurgence in car deliveries than that recently evident in the chart would be needed for GE to reenter the field or for foreign concerns to establish U.S. facilities. Needed as well would be an assurance from U.S. authorities that the collapse—from 375 deliveries in 1972 to eight last year—wouldn't occur again. "This is a screwy business," says a Budd official who blames the 1972–73 collapse largely on a drying up of governmental funds. Budd has 55 cars on order for 1980, he says, and one of its three assembly lines is idle.

Federal financing for commuter-railroad plant and equipment has also followed an erratic course. In addition, on account of inflation, the public is getting fewer cars for each tax dollar. An electric commuter car today costs $1 million. That's 10 times what one cost 10 years ago. This year, it's estimated, federal financing will total $204.2 million. That's down from $271.6 million in 1978 but $30 million higher than as recently as 1975.

TWO BOND PROPOSALS

Commuter cars are purchased on a basis of 80% federal and 20% state and local funds. State financing may increase if bond proposals are approved November 6 by voters. New York's transportation bond issue of $500 million calls for $170 million for commuter rail. New Jersey's bond issue of $475 million would put $100 million into commuter rail.

Such funds aren't always expertly spent. Some 60 New York commuter cars, which could have been used in last summer's crunch, have instead stood idle since 1973, even though funds to renovate the 1954 vintage cars were authorized as part of a 1974 bond issue.

A spokesman for the Metropolitan Transportation Authority, the deficit-ridden state agency that oversees New York commuter railroads, insists that the agency is blameless for this tardiness. Although the funds for the cars were authorized in 1974, they didn't become available—because of governmental red tape—until last July. Moreover, the "scope of work" to be done on the cars wasn't agreed upon by the MTA, state and county officials and a commuter group until September. (The MTA's chairman, under criticism for reasons unrelated to this matter, is resigning November 16.)

The 60 cars will be ready for use about a year before a section of track is electrified—a project promised to 5,000 commuters for over a decade. For this reason, the cars will have to be pulled by 22-year-old diesels, which are subject to frequent breakdowns.

In New Jersey, 100 new electric commuter cars, which could haul a total of 13,000 persons, stand idle at a GE facility. The cars were completed a year ago, before a new electric power system was ready for them. Those 13,000 commuters will be riding in those new seats no sooner than about December 1981, some three years behind schedule.●

REMARKS OF REPRESENTATIVE BARRY GOLDWATER BEFORE THE NATIONAL SAFETY COUNCIL GENERAL AVIATION MEETING

Mr. GOLDWATER. Mr. President, all of us who are deeply interested in the subject of aviation are necessarily concerned with the subject of safety. In this connection, it would seem that there is a serious question whether the Federal Aviation Administration is fulfilling all of the requirements necessary to make our aviation system as accident-free as possible.

Congressman BARRY GOLDWATER, Jr., of California recently addressed this question when he delivered a particularly incisive speech before the National Safety Council's general aviation meeting.

Mr. President, I ask that this speech be printed in the RECORD.

The speech follows:

REMARKS OF THE HONORABLE BARRY M. GOLDWATER, JR.

About 1,500 people will die in general aviation accidents in the next year. Statistically speaking, one or two of you in the audience tonight will be in that group of 1,500. We're all here tonight to see if that can be prevented.

Now there are two broad categories of accidents I'd like to talk about tonight. The first is where the fault rests primarily on the pilot. The second is where the fault rests primarily with the system—the government—the FAA—through their action or inaction.

An example of the first type of accident—where it's the pilot's fault—is when a VFR-only pilot gets a weather briefing which forecasts lousy weather—or maybe he doesn't even bother to check the weather. He takes off anyway, gets in the bad weather where he's not trained to fly, and crashes.

Since this type of accident is caused by individual pilots, it can be prevented by individual pilots.

The other type of accident is where—in a subtle way perhaps— the system, the government, the FAA—make it more likely for an accident to happen. Here it's very hard for the individual pilot to protect himself. This is where the role of Congress comes in.

An obvious example is when a pilot calls for a weather briefing and gets a good report and forecast when the weather is really bad. A more subtle example is when a pilot tries to get a weather briefing by calling the Flight Service Station, but he can't get through. After an hour of frustration, he finally gives up and takes off. He runs into terrible weather and crashes. The NTSB blames it on "pilot error—failure to check the weather."

Another example of this type—take the case of a pilot flyng into a busy GA airport on a dark rainy night. There is no ILS, no VASI, no weather reporting. The plane crashes and everyone is killed. Pilot error is the probable cause.

But that accident might not have happened if there had been an ILS—or a VASI—or weather reporting at the airport. Why wasn't this equipment available—was there a lack of funding? The answer is "no"—there is currently $2.5 billion available for such safety improvements as ILS, VASI, automatic weather reporting, and Flight Service modernization. This money is in the Aviation Trust Fund, which was created by Congress for airport and airway imrpovements and is paid for by users like yourselves. You all pay into the Trust Fund with the 7 cents per gallon aviation fuel tax.

So with $2.5 billion available for new safety devices, why isn't the money being spent? It's because FAA and the Administration won't spend it. They like the fat surplus because government accountants can use it to make it look like the government deficit is $2.5 billion less.

The ADAP legislation which created the Trust Fund is now up for renewal in Congress. The FAA has a solution for the Trust Fund surplus. They propose to take the money—which was already paid in by users for safety improvements—and use it to pay for day to day FAA expenses—government salaries and paper clips.

Fortunately, I think there are enough Congressmen who agree with me to stop the FAA from raiding the cookie jar. But I think it's a crying shame when the agency which is charged with aviation safety has to be dragged—kicking and screaming—by Congress to spend money from a safety trust fund on safety projects.

FAA recently found another way to spend $200,000 of safety trust fund money. At Atlanta they bought a sculpture to beautify the terminal building. I don't have anything against art and sculpture—except when the money to pay for it comes out of a fund set up to buy ILS's VASI's, weather reporting equipment, runway groving, Flight Service Station modernization, and upgrading the ATC system. I questioned Langhorne Bond on this at a Congressional hearing last month and he defended the $200,000 sculpture. I hope to amend the new ADAP bill to prevent this type of thing in the future.

Another brilliant idea of Langhorne Bond came out last December after the San Diego mid-air collision. Although that collision took place in FAA controlled airspace. Bond's response was to increase the amount of FAA controlled airspace. The Notice of Proposed Rule Making would have lowered positive controlled airspace from 18,000 feet to 10,000 feet and establish so many new Terminal Control Areas (TCA) that you could hardly fly anywhere without having to fly around several. In fact, the rule could have decreased GA safety by packing so many GA aircraft into the airspace just outside the TCA's—and—by overloading the already overloaded ATC system.

The proposed rule was such a ridiculous overkill in terms of expanding FAA control than an unprecedented 43,000 pilots wrote in against the idea. And a number of Congressman rallied to block the rule from ever taking effect. Just recently Langhorne Bond backed down and withdrew the proposed rule.

This brings me to the final thought of my talk tonight. Those 43,000 pilots who wrote in had to carry the ball for almost a million pilots who probably felt the same way but didn't bother to write. My message here is to urge you to pick up a pen and paper whenever you see something wrong like this in Aviation. Write the FAA, Your Congressman and Senators, or to me. We're ready to help, but we need to know from you what is going on in the real world outside of Washington.●

PHIL SAMPSON

● Mr. ARMSTRONG. Mr. President, Phil Sampson, minority counsel for the Housing Subcommittee of the Senate Banking Committee on Friday leaves his post to become the new Director of Customers Programs for the Comptroller of the Currency.

Mr. Sampson has ably served my staff and I during the past year. Several of my colleagues on the committee have mentioned to me how impressed they have been with his fine and thorough work. I wanted to bring to the attention of the U.S. Senate his fine service, and wish him well in his new position.●

JUVENILE JUSTICE REFORM

● Mr. KENNEDY. Mr. President, when we speak about violent crime one problem stands out above the rest—the plague of juvenile violence. Practical steps must be taken to check the growing cancer of violent juvenile crime. On October 14, 1979, the following article—written by one of our Nation's most distinguished authorities on the subject—appeared in the New York Times magazine. Chief Judge Irving R. Kaufman, of the U.S. Court of Appeals for the Second Circuit, and chairman of the Joint Commission on Juvenile Justice of the American Bar Association and the Institute of Judicial Administration, makes a convincing case for the need to reform current criminal justice procedures for the treatment of juvenile offenders. Chief Judge Kaufman makes the point that our current juvenile justice system is all too often unable to make the distinction between the violent juvenile offender and the mere status offender. Indeed, the author points out that violent juveniles are often released from custody because existing jail facilities are overcrowded with juvenile runaways and other nondangerous status offenders.

Mr. President, this article is important reading for all who are interested in the problem of juvenile crime and sentencing disparity. Chief Judge Kaufman suggests that—

Courts must mete out fair and even-handed justice to young criminals. No longer should they try to serve as surrogate parents in attempting to control youthful mischief.

I completely concur with this view. Local laws and procedures should be altered to mandate that certain violent juveniles be treated as adults in an adult criminal justice system; at the same time, we must rid our juvenile criminal courts of the status offender who is only there because there is no other social welfare agency available to offer assistance. I submit the article for printing in the RECORD.

The article follows:

JUVENILE JUSTICE: A PLEA FOR REFORM

(By Irving R. Kaufman)

On July 27, 14-year-old Luis Bonilla sat impassively in the starkly modern courtroom of the Bronx Supreme Court, waiting for the jury to return. He was accused of shooting and killing a teen-ager who had resisted Luis's attempt to steal his portable radio; at the time of his crime Luis was 13 years old. If the jury convicted him on charges of second-degree murder, his sentence would be mandatory life imprisonment, with no chance of parole for at least five years.

That Luis had been tried in an adult criminal court at all was extraordinary, for criminal suspects below the age of 16 had long been under the exclusive jurisdiction of the family court. Even for the most serious offenses, that court could impose at most five years of "restrictive placement," only the first 18 months of which would be spent behind bars. But two months before the fatal Bonilla shooting last October, New York's new juvenile-offender law took effect. It requires that 13-year-olds accused of second-degree murder (as well as 14- and 15-year-olds indicted for a variety of offenses, including burglary and assault) be treated as adults in the eyes of the law and tried in the adult court system. (To protect young convicts from premature contact with adult offenders, however, the new law still requires that a convicted youth be confined in juvenile facilities until he or she is old enough for transfer to an adult prison.)

Spurred by a series of brutal and highly publicised killings in the New York City subways, the State Legislature, in an extraordinary session in July 1978, enacted this far-reaching transformation of New York's criminal law within a few hours after the bill's submission. Luis Bonilla was the first 13-

year-old tried under the new law, but though convicted, he was not sentenced as an adult. When the jury finally did return, after 15 hours of deliberations, it found him guilty of manslaughter—an offense not within the ambit of the new law for 13-year-olds. Accordingly, he was returned to family court for sentencing. The process had come full circle. The New York Family Court does not place manslaughter in the highest severity category, so the maximum sentence available—which Luis received—was three years, of which only the first will be in secure detention.

The case of Luis Bonilla illustrates only one of the problems facing those who have attempted to reform laws dealing with juveniles. Eighty percent of the 328 youths arrested under the new law during its first seven months were charged with theft, rather than with the more vicious crimes that were the principal target of the lawmakers. Over 60 percent of the youths initially charged as adults were returned to the family court—but not before some had undergone such experiences as pretrial detention in the filthy, windowless holding pens used by the Kings County Criminal Court in Brooklyn to house adult defendants.

All this, critics assert, demonstrates that the new law was drafted too broadly, sweeping within its purview many youths who should not be exposed to the adult criminal-justice system. Most states have long provided for the transfer to adult courts of juveniles who have committed particularly serious crimes. But in virtually all these states the family court determines whether transfer is necessary, thus minimizing potentially harmful pretrial contact with adult criminals.

The new law's defenders, however, point out that cases of neglected, abused, runaway or disobedient children, as well as child-support controversies, make up the bulk of the family court's docket. This court, they contend, was established to deal with youthful criminal mischief and petty thefts, not the brutal, heinous crimes that the public fears today. They also emphasize that many dangerous offenders are treated too leniently, simply because the few available secure juvenile detention facilities are already overcrowded by runaways and other nondangerous offenders. Removing youths accused of serious crimes from the family-court system, these policymakers concluded, would result in stiffer penalties, and thus serve as a more powerful deterrent of juvenile crime. But perhaps because juries are unwilling, except in compelling cases, to condemn youthful criminals to adult prisons, the "tough" new law has produced fewer and shorter detentions than the juvenile-offender law that preceded it.

New York's unsatisfactory experience with its new juvenile-offender law is illustrative of the age-old dilemma in this field. It is a fact of life that juveniles, no less than adults, are capable of killing and destruction, and must be punished for such deeds. Yet society is unwilling to abandon young delinquents to the often hopeless fate that awaits adult criminals.

On one issue, however, both sides in this often bitter debate are in agreement: the present system of juvenile justice is plagued by serious problems, problems that run too deep to be rectified by last-minute legislative fiat. Recognizing this fact, the American Bar Association, in cooperation with the Institute of Judicial Administration, a research organization, has sponsored a comprehensive nine-year study, now nearing completion, of our entire juvenile-justice system. This project's goal has been to re-evaluate and produce a detailed set of guidelines, or "standards," that may serve as the basis for reform of every aspect of the child's manifold interactions with the law.

For each of 22 distinct topics, an expert, termed "reporter," was appointed to draft proposed standards and commentary. The work of the reporters was then reviewed by drafting committees drawn from the full spectrum of professionals in the field. Many were lawyers; the roster included three past presidents of the American Bar Association. The project also consulted judges, scholars, psychiatrists, psychologists, social workers, educators and experts in corrections and police work. This process insured that the standards would be well-integrated and internally consistent. In addition, they would reflect the varying perceptions of those involved in different aspects of the juvenile-justice systems.

The standards, now being considered by those concerned with juvenile-justice reform, are not an exercise in theoretical armchair sociology. Rather, they draw on the best of existing, tested statutory reforms. Covering such areas as police handling of juvenile problems, youth service agencies, pretrial proceedings, juvenile records and information systems, and rights of minors, the first 17 volumes of the standards were approved by the American Bar Association this February. Five more volumes will be submitted to the A.B.A. at a later date.

The standards represent the latest chapter in the history of troubled children in America, a history that reflects some of the meanest and the most noble aspects of the American character.

Seventeenth-century London was beset by every type of problem child now encountered by our family courts. Young criminals terrorized the middle classes, and were tried and punished in the same manner as adults. "Rogues and vagabonds," as well as "idle and needy" children who had run away from their parents and masters, were brought to the courts for punishment; orphans and neglected or abandoned children were bound out or cared for at public expense. But the Londoners had a "dispositional alternative" (in the jargon of the day's juvenile justice) that is unavailable now: they shipped many of these children to the Virginia colonies as indentured servants. The Dutch, for their part, pursued a similar policy in New Amsterdam.

The colonial policy toward children and their families was marked by a stern Puritanical view of the responsibilities of the child to his parents and of the parents to the state. The dead hand of this view continues to mold today's policy. The colonial government lent its force to the absolute rule of the parents, permitting up to 10 stripes at the public whipping post for incorrigible children who displayed a "rebellious carriage" toward their elders.

The colonies also expected much of parents. Virginia provided in 1748 that unfit parents who were either too poor to raise children properly, or who failed to bring them up "in honest courses," could lose custody of them forever.

The New England colonies (and later New York as well) provided for dependent persons, including young abandoned children, by a reverse auction known as vendue. The state offered subsidies of ever-decreasing amounts to prospective caretakers, with the lowest bidder winning. Apart from a cursory check to ascertain whether the child was being grossly abused, the child's best interests were not even considered.

By the 1820's, this reality gained broad recognition as the nation's increasing prosperity alleviated the financial pressures that had made the vendue acceptable. The search for a more humanitarian approach was galvanized by a dilemma in governmental policy toward juvenile delinquency, which was already beginning to emerge as a heated issue with the massive influx of European immigrants. In the eyes of the criminal law, youths reached maturity at age 14, and suspects as young as 6 were legally considered as adults if the state could show that they knew right from wrong. Thus, several cases are recorded of 12- and 13-year-olds tried for murder, and of 7- and 8-year-olds locked up in adult prisons. The sympathy of judges and jurors toward the young mitigated the harshness of this common-law rule; even in 1820 all were aware that brutality and instruction in "the most artful methods of perpetrating crime" awaited the youth incarcerated with adults. But if acquitted, as the New York Society for the Reform of Juvenile Delinquents noted in an 1826 report, "they were returned destitute, to the same haunts of vice from which they had been taken, more emboldened to the commission of crime, by their escape from present punishment."

The New York reform society therefore recommended the establishment of specialized institutions for children. These homes would provide a refuge not only for young criminals but also for those who had been dealt with by the vendue—the homeless, the neglected and the vagrant—and children beyond their parents' control or whose parents were considered "unfit."

The institutional movement spread rapidly, at first under private auspices and later supported by public funds. These early "child savers" deemed several years of stern, regimented discipline essential to reform. They therefore thought it necessary that institutions and the state be given extensive authority over these children, even over parental protests. In 1838, the seminal case of *In re Crouse* established this power.

Mary Ann Crouse was consigned to the Philadelphia House of Refuge on her mother's assertion that she was "incorrigible." The Pennsylvania Supreme Court rejected her father's petition to recover custody, defending its usurpation of the rights of "unworthy" parents by stating, "She in fact has been snatched from a course which must have ended in confirmed depravity, and, not only is the restraint of her person not unlawful, but it would be an act of extreme cruelty to release her from it."

With these noble-sounding words, the court planted in American jurisprudence a dangerous and alien seed that flourished most fully in the juvenile-court system founded 60 years later. A central principle in Anglo-American law is that crimes must be charged and proved precisely. One is convicted not of "being a robber" but of robbing John Jones at 2 p.m. on the corner of Fifth and Main. A law that confines a child in an institution because a parent is "unworthy" or because the child is destined for "depravity" presupposes that a court can devine the most salutary remedy for an individual by peering through some magic window into the soul. A homogenous community like Puritan New England may tolerate such official moral judgments, but in the diverse society dedicated to free thought that the United States has become, such institutional presumptuousness appears pernicious.

These considerations did not impress those active in the institutional movement, nor reformers who attempted other means of grappling with the problems of youth. The Children's Benevolent Society, for example, like its predecessors in London 150 years before, sought to "drain the city" of its delinquent children and ship them westward to "the best of all asylums, the farmer's

home." And as the frontier began to close after the Civil War, yet another new phenomenon—the reform-school movement—swept the North and the West.

Two principles were central to the reform school ideal. First, youths could be properly treated as criminals for offenses peculiar to their status as minors: for example, truancy, running away, incorrigibility. Second, because the mission of the reform school was a benign, rehabilitative one, the normal procedural protections of the adversary criminal trial—the rights of confronting witnesses, of prior disclosure of specific charges, of counsel and of trial by jury—could be abrogated with no constitutional qualms.

Initially, these principles suffered a major setback. In *People v. Turner*, the Illinois Supreme Court rejected a statute that mandated the confinement of children under 16 "growing up in mendicancy, ignorance, idleness or vice." "Vice is very comprehensive term," wrote the court. "Acts, wholly innocent in the estimation of many good men, would, according to the code of ethics of others, show fearful depravity. What is the standard to be? What extent of enlightenment, what amount of industry, what degree of virtue, will save from the threatened imprisonment? The principle of the absorption of the child in, and its complete subjection to the despotism of the State, is wholly inadmissible in the modern civilized world."

The Turner decision represented a subtle wisdom that would not become widely evident for nearly a century. The Illinois child savers ignored its warning and lobbied to create a new institution that would further their interventionist, paternalistic goals within constitutional limitations. Finally, in 1899, at the prompting of the Chicago Women's Club, Illinois founded the nation's first juvenile court. Its jurisdiction encompassed all children in trouble, including those found living "with any vicious or disreputable person." This idea of a separate court for juveniles, able to address and cure the problems of youth with a special fatherly concern, quickly spread to every major city in the Union.

The juvenile court was the culmination of a growing belief that children were institutionalized far too frequently, both in degrading, unhealthy almshouses and in reform schools, which were already perceived as dehumanizing in their regimentation and brutal in their operation. Foster care and adoption were the practices preferred by the juvenile court for children with unsatisfactory homes, and for the first time home relief was offered on a broad basis to "worthy" mothers of dependent children. Juvenile probation officers were another innovation. These men and women—at first, unpaid volunteers—were to supply the court with investigations of the young offender's background. More importantly, they would supervise the child living at home, thus providing an alternative to punishment in an institution.

"Juvenile courts," noted Thomas D. Eliot, a critic of the system, in 1914, "were to fill every gap in the child-caring system. However, if this be granted, no line can be drawn short of a court administering all the children's charities. . . . Some courts actually state this as their ideal; they are all things to all men." The juvenile courts had, indeed, set themselves an ambitious, perhaps impossible, task. As a leading juvenile-court judge, Paul Alexander, noted in 1944, the judge must apply "not only man-made law, but the moral law and the laws of social science, psychology, psychiatry and the general laws of human nature." But the states never gave the juvenile courts the resources to carry out their mission. As late as 1967, one-third of the juvenile courts in the country did not have social workers or probation officers available to them, and 83 percent lacked psychologists or psychiatrists.

Confronted with massive waves of runaways in the 30's and the 40's, as well as a steady increase in youth crime, the system steadily broke down. Insufficiently staffed to follow its proclaimed purposes, the juvenile court—despite its origins as an alternative to institutionalization—with increasing frequency referred delinquents to an ever-growing network of misleadingly and euphemistically named "reform" and "training" schools. By 1966, 51,000 children were living in 292 institutions for delinquents.

Discipline, rather than rehabilitation or education, preoccupied these prison-like facilities. As late as 1940, the punishment for possession of tobacco at the Indiana State School for delinquent boys was 10 strokes on the bare back with a leather paddle; for impudence and vulgarity, 15 strokes. At the Hudson School in New York State in the 1950's rebellious girls could be locked in solitary confinement for up to 81 days and fed only milk and bread for two of their daily meals. And reports emerged in the 1960's from one Massachusetts training school of children who were punished by "staff dunking youngsters' heads in toilets, dousing them with pails of water, forcing them to march around with a pail over their heads, and using one 12-year-old boy as a mop and dragging him through urine in the boys' washroom."

With the heightened social consciousness of the 1960's, many of these aspects of the juvenile-justice system began to appear archaic, if not cruel. Recognizing at least the essentially punitive nature of reform schools, Justice Abe Fortas, writing for the Supreme Court in 1967, noted that "however euphemistic the title, a 'receiving home' or an 'industrial school' for juveniles is an institution of confinement." Before making a finding of delinquency, therefore, juvenile courts were required to observe the "essentials of due process and fair treatment."

The 1960's also witnessed a second, more massive deinstitutionalization movement. It took its most striking form in Massachusetts, where the entire training-school system was closed and replaced with a network of small-scale, community-based residences.

There was, therefore, little disagreement in 1967 when the President's Commission on Law Enforcement and the Administration of Justice wrote: "The great hopes originally held for the juvenile court have not been fulfilled. It has not succeeded significantly in rehabilitating delinquent youth, in reducing or even stemming the tide of juvenile criminality, or in bringing justice and compassion to the child offender."

The Juvenile Justice Standards Project of the American Bar Association and the Institute of Judicial Administration thus convened in a day of growing disenchantment with the institutions used to deal with problems of youth. At that time, it was clear that a substantial number of adult criminals had started as juvenile offenders and invariably returned to lives of crime. The depth of dissatisfaction, however, provided the project with an ideal opportunity to achieve its ambitious goal: to structure a new juvenile-justice system that by heeding the lessons of the past would better serve us in the future.

After nearly a decade of research and discussion, the project members concluded that the juvenile court must abandon the "moralistic" model that has guided it since the turn of the century. Some members supported this view because they believed courts could not meaningfully pass upon the "worthiness" or "depravity" of those who came before them. Others argued that such judgments have no place at all in modern society. All agreed that the juvenile courts—like all other courts—should be tightly bounded by the rule of law. Acts that would be crimes if committed by adults should be charged, proved and punished in a similar manner. Senator Edward Kennedy, Chairman of the Senate Judiciary Committee, has forcefully decried the cruel ironies of the present system: "If juveniles want to get locked up, they should skip school, run away from home or be deemed 'a problem.' If they want to avoid jail, they are better off committing a robbery or burglary." Children whose actions do not amount to adult crimes—the runaways, truants and incorrigibles—should be dealt with outside the judicial system. The term "delinquency," therefore, with its attendant stigmatization and possibility of incarceration, should be reserved exclusively for juveniles who have committed crimes.

A few examples will illustrate the basic philosophy that undergirds the Juvenile Justice Standards Project:

Parental Abuse and Neglect. Under the standards, children may not be removed from their homes because of alleged parental misconduct without a finding that specific physical harm clinically recognizes phychiatric disturbance, or sexual abuse has occurred or is imminently threatened. This standard is intended to reduce sharply the widely deplored extent of state intrusion into family life that the child savers thought proper. Although state intervention is clearly called for when a child is, for example, battered by a parent, physical abuse was reported in only 10 percent of the 300,000 neglect petitions filed annually. More often, the petition for juvenile-court intervention to remove the child from the home is based on such complaints as the tendency of a single mother to bring home overnight male visitors. Separation of child from mother in such cases, which once may have appeared imperative, has become distasteful in a society that has learned respect for the dignity of all and has come to recognize the necessity of keeping hands off the parent-child relationship except in particularly dangerous situations.

Experts agree that unnecessary intervention often harms rather than helps the child, shattering parental bonds. The wiser course, the standards conclude, is for the state to leave the child with the family and supply voluntary social services to assist the family unit in the home.

Youth crime. In cases of juvenile delinquency, the standards frankly recognize that although reform schools may have rehabilitative goals, they are dominated by their punitive aspect. Clichés about saving a child from a life of crime do not alter the stark reality—and necessity—of punishment. For the protection of society, it is necessary that legislatures increase many of the maximum prison sentences for juveniles who have committed serious crimes. And, under carefully defined circumstances, juvenile courts must be permitted to transfer the most hardened young criminals to the adult system for the severest punishments allowed by law. But in either court, juveniles accused of crime should have the right to the same adult procedural protections that guard against conviction of the innocent. Consequently, the standards accord accused juveniles, beyond the minimal due process that the Supreme Court has held is constitutionally required, the rights to counsel and to a six-person jury. The juvenile-court judge must remain free to act leniently in an appropriate case. The standards require no minimum sentences, but where the judge deems a heavier determinate sentence necessary, no parole commission should be permitted to release the offender prematurely. Under the existing system, as Senator Kennedy recently said, "certainty of punishment is a joke."

Noncriminal Misbehavior. The standards permit incarceration only for conduct forbidden by the adult criminal law. Large segments of juvenile court jurisdiction would therefore be removed, for adults cannot be convicted for disobeying their parents, truency or running away. In recent years, some

states have begun to treat youngsters who have committed such acts, but no crimes, as "Persons [or Children] in Need of Supervision" (PINS or CHINS), rather than as delinquents. The change, however, is one in name only. PINS children continue to be confined alongside young criminals, an experience destined to do more harm than good. In fact, through PINS petitions, juvenile courts have intervened in family disputes over household chores, abusive language and undesirable boyfriends. The juvenile courts, in these cases, have allowed themselves to be used as birch rods by angry parents disgusted with, but unable to control, their adolescent children's behavior.

The project concluded that all services rendered to PINS children should be provided on a strictly voluntary basis, and preferably outside the judicial system. For example, in recent years, concerned adults—many of them former runaways—have established "crash pads" and runaway houses where young people who have left home can live for a time, safe from the dangers of the street. At first, these shelters were often hostile both to parents and authorities, but today, with the help of government funding and state certification, they have evolved into an important adjunct to the social-services system. Experience has shown that after a runaway child spends a few days in such a shelter, an amicable reunion with parents usually ensues. The standards endorse this system of licensed shelters and recommend that it be augmented substantially.

For other troubled children who have not broken the law, the standards prescribe voluntary psychiatric or other medical care, and educational, vocational and legal counseling appropriate to the needs of the particular child. Where a child chooses to avail himself of such services, the chances of success will be enhanced by the fact that he has chosen this course voluntarily. The key, then, is to make these services adequate, well-known and easily accessible.

The long history of justice and injustice to our nation's children counsels that the juvenile court focus its power, its wisdom and its compassion on the gravest problems that confront it: The twin evils of violence by and against the young. Courts must mete out fair and even-handed justice to young criminals. No longer should they try to serve as surrogate parents in attempting to control youthful mischief. As the legislatures of our states join in this effort and draw upon the standards' recommendations, the old-age promise of justice for our nation's youth may at last be fulfilled.●

ROCHESTER INSTITUTE OF TECHNOLOGY 150TH ANNIVERSARY

● Mr. JAVITS. Mr. President, this week, the Rochester Institute of Technology, one of New York's, and the Nation's finest institutions of higher education, is celebrating its 150th anniversary. RIT has a proud tradition of commitment to independent higher education by providing quality liberal arts, technical, and professional career programs through its 10 constituent colleges. Two of these colleges, Eisenhower College and the National Technical Institute for the Deaf, are federally chartered, and hence are of particular national note. I believe it is appropriate for my collegues to recognize the contributions of RIT to the intellectual, artistic, and scientific life of the Nation, and I am pleased to be able to offer them a brief overview of RIT's exceptional service activities.

Rochester Institute of Technology (RIT), observing this year its 150th anniversary, is a privately endowed, coeducational, nonsectarian major institution of higher education.

In contrast to many other institutions of higher education in a decade characterized by declining enrollments and financial difficulties, RIT can proudly point to a balanced budget and increased enrollment, based largely on its 150 years of commitment to quality career education and its ability to respond to the changing technological needs of our society.

RIT offers a wide range of programs, including master's, bachelors' and associates' degrees, as well as certificate and diploma programs. Some of these programs are unique or highly unusual: Packaging science, nuclear medicine technology, printing, photographic science, and the programs of the School for American Craftsmen and the National Technical Institute for the Deaf.

Many of the programs are cooperative; that is a format of campus study augmented by off-campus work in the student's chosen field. Pioneered by RIT in New York State in 1912, the cooperative educational concept epitomizes the institute's "learn by doing" philosophy.

In the fall of 1979, over 14,000 students were enrolled at RIT: 7,600 in full-time study and nearly 6,200 students in part-time coursework. In addition, 738 students were involved in cooperative education experiences off-campus. These students, representing every State in the Union and several foreign countries, reflect the diversity of RIT's programs. Older, part-time, female and handicapped students are also comprising a greater and greater proportion of RIT's total enrollment.

RIT's main campus, in the southern perimeter of Rochester, occupies 400 acres of a 1,300-acre site. Completed in 1968, it houses complete academic and support facilities, including an indoor ice rink and olympic-size swimming pool. The complex of 13 buildings has received several architectural awards.

RIT is composed of 10 colleges

EISENHOWER COLLEGE

With its comparatively small campus in Seneca Falls, RIT's Eisenhower College offers students a rural life style distinct from the main campus facilities. Chartered in 1965 and opened in 1968 as the national living memorial to the 45th President, Dwight D. Eisenhower, its curriculum emphasis on world studies provides a new depth to an RIT education.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF (NTID)

Established by Congress in 1965 and opened in 1968, NTID is the world's only national technical college and research center for deaf persons. NTID this year is offering professional and semiprofessional career technical education to over 900 college-aged deaf students. Its 96-percent placement record indicates that RIT has kept its commitment of partnership with the Federal Government in fulfilling promises never before thought possible.

COLLEGE OF SCIENCE

The undergraduate in the College of Science at RIT gets a different kind of education than at any other school in New York State. The RIT program combines work study with the potential for undergraduate research and a strong faculty-staff-student interaction brought about by the smallness of the various departments and the resulting classes. The college's main interest is high quality teaching at the undergraduate level in biology, chemistry, computational mathematics, chemical technology, mathematics, biomedical computing, medical technology, nuclear medicine technology, physics, premedicine, and pharmacy.

INSTITUTE COLLEGE

Organized in 1973, Institute College incorporates the schools of engineering technology, computer science and technology currently the largest in the country, packaging science, community/junior college relations and instructional technology.

COLLEGE OF GRAPHIC ARTS AND PHOTOGRAPHY

This college is internationally known for its excellence and the contributions of its graduates to the world of communication. Faculty are experts in their field. The Graphic Arts Research Center, with its own full-time staff, conducts research in various fields of the graphic arts. Programs of study include photographic science and instrumentation, photographic illustration, professional photography, photographic processing and finishing management, printing, newspaper production management and printing systems management.

COLLEGE OF GENERAL STUDIES

This college offers general education courses for students enrolled in all other RIT colleges and also offers two baccalaureate programs in social work and criminal justice. The courses in general studies are designed to help the student understand humanistic concerns, the physical universe and human society. The purpose is to stimulate curiosity, to encourage independent study, and to enable the student to see how different areas of knowledge are related.

COLLEGE OF FINE AND APPLIED ARTS

This college includes the distinctive School for American Craftsman. Programs of study feature communicative design, fine arts, environmental design, ceramics and ceramic sculpture, glass, metal crafts and jewelry, weaving and textile design, woodworking and furniture design, and medical illustration.

COLLEGE OF ENGINEERING

Engineering programs combine liberal education, professional training and real world, on-the-job experience. The programs of study are electrical engineering, industrial engineering, mechanical engineering, and computer engineering.

COLLEGE OF BUSINESS

This college reflects the world of business, which has become increasingly complex. Programs of study include accounting, business administration, food service administration, hotel and tourist

industries management, dietetics, retailing, and photographic marketing.

COLLEGE OF CONTINUING EDUCATION

This college offers a variety of certificate, degree, and diploma programs as well as special seminars and noncredit courses, with many of its programs offered in the evening. The full range of programs of study reflect the offerings at the other nine colleges of RIT.●

FT. WAYNE FIRE SAFETY PROGRAM

● Mr. BAYH. Mr. President, recently, Edith Kenna and Carol Wissman, the cochairpersons of the Ft. Wayne PTA fire safety project, contacted my office requesting my endorsement of the joint PTA/fire prevention bureau December smoke alarm project. I wholeheartedly agree with the aims and objectives of this worthwhile program—to reduce the ever-increasing number of deaths caused by smoke inhalation. Fire is indeed a major national problem. Statistical evidence clearly indicates that the installation of smoke alarms has led to a decrease in the number of victims killed or injured by smoke inhalation. However, the number of lives claimed annually by fire is still staggering.

I commend the work of the Ft. Wayne PTA and the fire prevention bureau in initiating a program of this nature and encourage other communities to become as involved in fire prevention programs.

I welcome this opportunity to have printed in the RECORD a synopsis of this joint PTA/fire prevention bureau December smoke alarm project.

The synopsis follows:

JOINT PTA/FIRE PREVENTION BUREAU DECEMBER SMOKE ALARM PROJECT

We, Edith Kenna and Carol Wissman, in conjunction with the Fire Prevention Bureau of the City of Fort Wayne present the following proposals:

(1) That December be proclaimed as the month to "Give a smoke alarm," and that we adopt as our slogan for this project, "Love enough to give a smoke alarm."

(2) That through the month of December, we make our program as visible as possible through flyers distributed by PTA members at shopping centers, by printings of our slogan on the sides of grocery bags, by public service announcements on T.V. and radio, letters to the editor, and by appearances on local talk shows.

(3) That all PTA Council mailings in the month of December carry our slogan in bold letters, and that the Fort Wayne Community Schools and administration do the same.

(4) That all general PTA meetings in the month of December take the time to remind the parents that a smoke alarm is the best gift to give or receive this Christmas.

(5) That the Fort Wayne PTA Council accept a citizen liaison from the Fire Prevention Bureau to help in the implementation of this program and the initiation of future fire prevention programs within the city schools.

(6) That the amount of $100 be allotted to purchase the copyright for "Freddie the Firefighter" logo and the amount of $200 be allotted for use in defraying printing costs.

(7) That this project, when developed and implemented, be submitted to the State and National PTA to serve as a model project that could be adopted throughout the country.

(8) That the PTA Council adopt this program in total now. December, 1979, the last month of the International Year of the Child, is the most appropriate time to implement a joint PTA/Fire Prevention Bureau project that could save the lives of many children in the years to come. In order to be effective this year, we must begin immediately.●

RUN TO END WORLD HUNGER

● Mr. COHEN. Mr. President, last week I was visited in my Washington office by Charles Frair of Morrill, Maine, who played an important role in organizing the recently completed "Run to End World Hunger." During our visit, Mr. Frair presented to me a message concerning the challenge of world hunger which was carried on foot by concerned athletes from the downeast city of Eastport, Maine, on the Canadian border to the Capitol building here in Washington.

Such an undertaking, such a serious expression of sincere interest and attention to the problems of starvation and nutrition, indicates to me that a national consensus is developing with respect to food assistance and food relief. No longer will the American people accept from their chosen policymakers the excuses that economic ramifications and logistic uncertainties make food aid impractical and ineffectual.

Of course, Mr. President, the tragedy which is currently unfolding in Southeast Asia underscores the urgent need for the more fortunate nations of the world to fix on the objective of eliminating world hunger, and to set about resolving those difficulties which inhibit prompt humanitarian action in states such as Cambodia whose people are now in such dire need of our help.

Though the United States has severe economic and social problems of its own, Americans have always been generous and enthusiastic in their efforts to assist those in other lands who are truly in need. The rising interest of Americans in the subject of hunger is now creating an increased awareness among our people that many persons with empty stomachs are looking to us with out-stretched hands, beseeching us to respond.

The runners who came to Washington suggest that if our country is to remain true to the values from which we have traditionally drawn our true national strength, this call for help must be heeded.

Mr. President, I ask that the runners challenge to us be printed in the RECORD.

The message follows:

CHALLENGE

Twenty-eight people died of starvation each minute we carried this message to you—more than 300,000 during this run. The truth is that hunger perists not because we can't end it, but simply because we haven't. The time has come to end hunger and starvation forever.

Every step we took in delivering this message to you has brought us one step closer to the end of world hunger. Throughout the run thousands of individuals have contributed their money and energy to organizations dedicated to ending starvation. In order to get the job done, YOU, both as individuals and as members of Congress, must make the same commitment. Look and see what programs and legislation directly affect the end of hunger and spend your time and our tax dollars on those that work to eliminate this condition.

We pass this baton to you to empower you to take the next step and to let you know that we are partners with you in ending world hunger.●

NATO AND SALT

● Mr. BIDEN. Mr. President, I would like to call the attention of my colleagues to an article in this week's Baltimore Sun that deals with the subtleties and realities of NATO's relationships. The author, Stanley Sloan, explores the blend of political factors at work in NATO. He explains how the NATO alliance must respond to the Soviet challenge at the same time that it seeks to maintain détente with the Soviet Union. This article is particularly relevant in light of President Brezhnev's recent arms limitation proposals.

Mr. Sloan also makes it abundantly clear why our NATO allies feel that passage of the SALT treaty would create a favorable climate for a positive decision in December to modernize theater nuclear forces in Europe.

I recommend the following article in its entirety to my colleagues and ask that it be printed in the RECORD.

The article follows:

[From the Baltimore Sun, Oct. 23, 1979]

WHAT KISSINGER OVERLOOKED

(By Stanley R. Sloan)

Henry Kissinger seemed to be dropping a bomb in Brussels a few weeks back when he bluntly told the Europeans they could no longer count on the American nuclear guarantee against the Soviets.

But his assertion, after all, was really just a new chapter of an old book: In 1968, Dr. Kissinger wrote, "The more NATO relies on strategic nuclear war as a counter to all forms of attack, the less credible its pledges will be." And most analysis would certainly agree that, as Dr. Kissinger said in Brussels, the Atlantic Alliance needs to modernize its theater nuclear weapons and to improve its ability to fight with conventional forces to provide more confident deterrence against the Soviets.

Some of us who listened to Henry Kissinger's views on the alliance were surprised, however, by how lightly he dispensed with the North Atlantic Treaty Organization's role as an instrument of detente—something he had also done in 1968 when it was less obvious how politically important this aspect of the alliance was to become.

Mr. Kissinger's unidimensional concept of the alliance misses a very important point, one which is increasingly relevant as the NATO nations approach decisions this December on modernization of NATO's theater nuclear weapons. We have agreed with our NATO allies that such decisions should be accompanied by an offer to the East to negotiate mutual limitations on such theater, or regional, weapons systems.

("Theater" weapons are distinguished from strategic weapons by their range and destructiveness. A nuclear weapon to be used in the "European theater" of a war, for example, could reach European Russia from West Germany, or the reverse, but would not have intercontinental range. Such weapons have been outside the scope of the U.S.-Soviet SALT treaties. The question at hand is whether and where NATO will deploy longer range and more accurate theater nuclear delivery systems—such as the Pershing II and ground-launched cruise missiles—in

response to Soviet deployment of more versatile and accurate systems of its own, principally the SS-20 mobile medium-range missile and the Backfire bomber.)

Soviet General Secretary Leonid Brezhnev's recent offer unilaterally to reduce Soviet forces in East Germany and to limit further deployment of Soviet theater nuclear systems may be but a ploy to prevent NATO from reaching positive deployment decisions in December. But NATO's political credibility may depend on the alliance's matching its skepticism about the Soviet offer with a demonstration of willingness to negotiate a genuinely stable nuclear and conventional military balace in Europe. A bit of NATO history may help explain why.

It is no news that into the early 1960s NATO's deficiencies in conventional military forces were compensated for by the strategic nuclear superiority of the United States. In other words, NATO was able to live with weaknesses in its non-nuclear forces in the belief that the Soviet Union would be deterred in Europe by its inferior strategic nuclear position. But as the Soviet Union began to acquire a credible intercontinental nuclear capability, dependence on the threat of "massive retaliation" to deter the Soviets began to lose validity.

So far so good. But our historical perspective on the alliance is not complete without some political history as well. In parallel with its advances in strategic weaponry, the Soviet Union also projected a relatively peaceful image to the West (as implied by its policy of "peaceful coexistence"). Western perceptions of the nature of the "threat" facing NATO began to change.

To many, and particularly to those parties and political forces to the left of center in Europe, strict confrontation no longer was a politically acceptable basis for the alliance. U.S. involvement in Vietnam tended to make the Soviet Union look peacelike by comparison, in spite of evidence of Soviet adventures, albeit on a lesser scale than the U.S. involvement in Vietnam.

These two vitally importantt shifts—in the strategic balance and in perceptions of Soviet intentions—combined to force a re-evaluation of NATO's military and political posture.

Militarily, this re-evaluation led to the new NATO strategy called "flexible responses." This strategy was premised on the requirement for the alliance to be able to respond with sufficient force at any level of Soviet challenge—ranging from conventional forces through theater nuclear weapons up to strategic forces. The era of massive retaliation was over.

Politically, the revised perception of Soviet intentions was taken into account in the Harmel Report, approved by the Allies in 1967. This report, bearing the name of Belgian Foreign Minister Pierre Harmel, recommended that NATO be used to seek detente with the Soviet Union and its Warsaw Pact allies as well as to maintain a defense against Eastern military capabilities.

The defense-detente combination accommodated the split between the Left and the Right within the alliance. It compromised two different views of the East-West political-military situation, broadening the potential base of support for NATO. This dual role has been the political life-blood of the alliance ever since.

The alliance now faces a serious challenge to the continued viability of this doctrine—a challenge not fully comprehended in Dr. Kissinger's approach.

The political right within the alliance judges that the Soviet Union has achieved a qualitative and quantitative advantage over the West in the area of theater nuclear forces. These observers believe it is imperative that NATO deploy an "answer" to the SS-20 mobile missile.

The political Left within the alliance recognizes Soviet gains in theater nuclear arms, but sees these gains as a Soviet response to previous American superiority in this area. These observers would prefer that limitations be negotiated on theater nuclear systems before the West deploys new ones.

Strong differences concerning the relationship in timing—and substance between deploying new nuclear systems and trying to reduce such systems through negotiations will pose a serious test for the alliance—and European sources increasingly suggest that no alliance-wide decision on deployment will be possible in the absence of a SALT II accord.

These conflicting perspectives will have to ship in timing and substance between defense-detente duality, if the alliance is to retain military credibility and political viability in the 1980s. This would mean taking whatever decisions are required to modernize NATO's nuclear arsenal while implementing a co-ordinated NATO approach to the arms control challenge posed by General Secretary Breshnev.●

INTERNATIONAL SUGAR STABILIZATION ACT OF 1979

● Mr. ZORINSKY. Mr. President, in the 3 years of my tenure here in Washington, I have become increasingly concerned with the widespread myth of a consumer-producer rift. In Washington and throughout the country there is a prevalent, and totally erroneous perception that the interests of America's agricultural producers and our Nation's consumers are diametrically opposed.

During this past week, the House of Representatives took action, based on that false premise, to defeat the International Sugar Stabilization Act of 1979. In doing so, they have done both American sugar producers and American sugar consumers a great disservice.

Sugar is a vital commodity, and our country needs a reliable domestic source. My colleagues in the House have been shortsighted and irresponsible. Their action this week clearly demonstrates that despite the current energy panic, we still have not learned the painful lesson of dependence on foreign suppliers.

The International Sugar Stabilization Act of 1979 was a very moderate bill, Mr. President. It was designed to bolster our country's domestic sugar industry, and simultaneously, to insure that American consumers will always have a reliable source of sugar. In addition, the bill included provisions to implement the International Sugar Agreement, which would protect consumers from wild price fluctuations due to short supplies.

But the action of the House this week has both doomed the International Sugar Agreement to failure, and withdrawn any hope of support for our own country's distressed sugar industry. The bill they defeated was a compromise. It had won the begruding support of the President, and the support of the two distinguished chairmen of the House Agriculture and Ways and Means Committees.

The 15.8 cents a pound price support was not nearly as high as I would have wished. But it was nevertheless a meager thread of hope for Nebraska sugar beet farmers to cling to. Now, even that thread has been withdrawn.

The American sugar industry is failing, Mr. President. It is drowning under a sea of cheap imported sugar. With the kind of rescue mission conducted by the House, it will not be long before our American sugar beet and cane producers go down for the third time.●

ENERGY POLICY IN THE UNITED KINGDOM

● Mr. McCLURE. Mr. President, I am certain I am not the only Senator curious about the United Kingdom's new Prime Minister and her influence on its politics. If the comments made in Washington by her Secretary of State for Energy, the Honorable David Howell, to the American Women's Economic Round Table are exemplary of the policies the two will be supporting, I am thus far pleased.

Although the United Kingdom is not a member of the distinguished league of countries dangerously dependent on imported oil as the United States is, Secretary Howell aptly conveys throughout his address how really very close our two countries' energy concerns are. It is commendable to note that they apparently are viewing energy dependence much more seriously and responsibly than did the United States at its comparable domestic energy level. Although they will be producing by next year, from their North Sea, sufficient quantities of oil to meet their needs, they realize this is not a permanent fix. To quote Mr. Howell:

Our oil production will rise, then fall away again in the late eighties and nineties . . . the present government believes that the best way, the only effective way, to maintain that diversity and that security is to move increasingly away from the restrictions of state ownership and state regulation, towards a climate of enterprise and reward for effort. That alone can provide reliable responses to our energy challenge.

You are familiar, Mr. President, that I am one who firmly believes the United States must use nuclear energy. In this context, I found Mr. Howell's impression of the United States—an impression that he has strongly received on the other side of the Atlantic—extremely interesting, and I quote:

Organized opinion rarely seems to be enlisted in favor of development, almost invariably against. Yet ought there not also to be a strong body of opinion that spells out what would really happen if we in Europe or you in the United States were to renounce the nuclear option because of its alleged risks? Can synthetic, renewable fuels and coal be produced in sufficient quantities or conservation be successful enough to maintain the economic prosperity to which we have become accustomed? Are we really prepared to do without that economic prosperity? Who will stand responsible for the real suffering and danger to society if the confident prediction that we can get by without nuclear energy turns out to be plain wrong? I would not wish to suggest what course the United States should take, but I believe that judgments about the future of nuclear energy should be formed in the light of all the consequences. The hazards of not going nuclear need to be spelled out as articulately as the alleged hazards of future nuclear power and development". A significant declaration the Energy Secretary further makes, "I have felt it right, while in the United States, publicly to put on record the British Government's commitment of a substantial contribution from nuclear power".

Mr. President, foreign government doctrines and impressions are significant to us in the Senate as we face heavy energy decisions and our predominant goal of a free world. I request that this statement be printed in the RECORD in full, so that my colleagues can better acquaint themselves with the new government's policies.

The article follows:

SPEECH BY THE RT. HON. DAVID HOWELL, MP

When Mrs. Thatcher appointed me Secretary of State for Energy on 5 May—immediately after the Conservative election victory—I readily confess that I was a novice in the subject. It took time to learn the energy jargon; to understand that a "wildcat" well was not necessarily dangerous; that a "fluidised bed" would be pretty uncomfortable to lie on; that "yellowcake" would sit rather heavily on the stomach.

But it was not my first experience at the Department of Energy. In fact I was one of the first batch of Energy Ministers ever appointed in Britain when for just a few weeks in 1974 I was a junior minister there, reporting to the Secretary of State. I mention this not to claim any greater experience of the energy field than I in fact have, but simply to highlight the fact that the present Department of Energy was only created after the Yom Kippur war. In retrospect it seems incredible that until then, energy matters were thought of so little importance that they could be looked after, as it were, part-time, by a Cabinet member with much wider responsibilities. And, of course, the same was true of the United States.

Because there has only recently been an Energy Department in either of our countries, people assume that energy is itself a new subject. It is not. Neither, incidentally, is the gloom about our future energy prospects new. In the eighteenth century some forecasters in Britain predicted an unbridgeable energy gap as wood ran out! (To digress further, a century later forecasters feared that the increase in urban traffic would result in streets choked with horse manure, but I do not know if anyone saw the energy potential of that!)

The energy problem is not new, and neither is it really very different from many other political problems. Despite all the jargon with which I had to grapple in my first days in office, the problem is essentially political.

Sufficient energy potential exists in the world for us never to worry or even constrain our lifestyle. That is not in doubt. The question is how we can harness it to fulfill our needs. As an illustration, the Sun provides an energy source to the Earth which is equivalent to 12,000 times humankind's present consumption.

Nor is it the technical expertise that we lack. Certainly there are many technological problems to be overcome, but if we devoted massive efforts in disregard of all other factors, interests and aims, we could for example, with ease harness sufficient solar power, mine enough coal, exploit further oil and gas deposits and build enough nuclear power stations to satisfy our energy extravagance.

But of course in our balanced and democratic societies we do not pursue particular goals in disregard of all other factors, interests and aims. That is why energy is an intensely political matter. Not because politicians choose to make it so, but because at every turn there are lobbies, pressure groups and corporate interests who have an interest in promoting one energy source above another, or preventing development at a particular location, or who wish to secure a specific contract; and because, above all, the case for future benefit is locked in unceasing combat with the case for present sacrifice. So if you ask why not take the politics out of energy, you might as well ask "why not take the politics out of politics?" The debate on energy is essentially no different from the wider economic debate. In Britain, energy policy is dominated by the question of how large a role the state should play alongside private enterprise and how much we give up now for greater security later. Issues like nuclear power have not, so far, divided politicians along party lines. I shall return to this later.

In the midst of all the lobbying and special pleading governments must never lose sight of the majority of consumers who have become accustomed to gas being readily available at filling stations, who expect heat, light and power at the flick of a switch in their homes and who do not recognize until energy supplies cease even briefly to be readily available that there is an energy crisis. It is this majority to whom governments ultimately must answer.

In Britain, next year we shall begin to produce as much oil from the North Sea as we consume. We already meet our own demand for coal and the North Sea supplies our demand for natural gas. So, as you may say, what are we worried about? Is there not a tap in the North Sea which will supply us forever? Cannot Britain be insulated by her oil and coal and gas reserves from the rest of the world's troubles?

The answer is, quite simply, that there is not and we cannot. On the contrary, the existence of some massive reserves, and the easy even complacent, habits of mind which idle reference to these encourages, can actually make it more difficult to bring home to people the real nature of our energy predicament over the next few years and the absolute necessity of calling in aid every resource of enterprise, skill and imagination to overcome it.

Let me put it more graphically. Our oil production will rise, then fall away again in the late eighties and nineties as we again have to import. Our gas will follow a similar profile, at a somewhat longer pace. Coal and nuclear power will have to fill the gap. So will our ingenuity in conserving energy—doing more with less.

Yet here is the heart of the crisis for us. If in Britain we achieve massive success on all these fronts, with all the political problems overcome, the changes of habit, the enterprise and the technical competence that that implies—if we do all this—we will just—only just—get through—in the sense of being able to maintain a civilised, tolerant free society and the standard of living that people expect to go with it.

In short, all the energy sums must add up. And since in real life some things are bound to go wrong somewhere along the front, there must be insurance, indeed double insurance, wherever possible. Failure to meet future energy needs somehow, whatever the difficulties in any one area, just cannot be contemplated—or chanced. That is the challenge to government and it is a challenge which people expect their elected government to meet.

So it is against this background that the government must work to unravel the competing demands put upon it and tackle the issues in each area of energy supply and demand.

Firstly, there is competition for funds.

In Britain, where the industries supplying coal, natural gas and electricity are state-owned monopolies, this competition appears in a very obvious way. The government can only sanction a limited amount of cash particularly for the more long-term or speculative projects. Even expressed in British pounds, virtually any major development today carries a price tag in multiples of a billion. Nuclear stations cost about £1 billion each; and the government is committing something over £½ billion each year to new coal development.

In the United States this competition occurs in this direct way, I would imagine, only in the allocation of research budgets, whether at federal or state level. But even in the private sector, utilities are obviously constrained by their cash flows, and at a macroeconomic level, if more of the gross national product is devoted to energy production less is left to be spent somewhere else: on defence, on education, welfare or private consumption. In Britain our largely free enterprice oil industry faces constraints on this model. With oil fields in the North Sea costing upwards of around £1 billion each, oil companies have to take a view on whether to invest in Britain or elsewhere in the world, and whether to invest in oil or coal. Banks have to take a view on whether to lend to oil companies or to toy manufacturers or whoever. The government has to make guesses about all these views in setting its conditions for oil development.

In each of our countries these competing demands are resolved by a combination of political decision-making and the operation of market forces. The resolution depends, ultimately, on the public's willingness to see their money spent on energy security, rather than, say, on missiles, schools, the care of the poor or consumer durables: and depends also on how accurately politicians and businessmen perceive that willingness.

A second way in which energy policy has to be balanced is as against the preservation of the environment, and the protection of mankind's safety and health.

Obviously, in a small island with a population density many times greater than yours, the British have to be at least as concerned as you are. I believe that we have developed standards of safety and environmental protection, and inspectorates to enforce them, that are at least the equals of any in the world.

So the background to, for example, the nuclear power debate is, I believe, broadly similar in both the United States and Britain. We share a common concern for our environment and both see a central role for governmental bodies in defending it.

One contrast I might draw is between the way in which groundswell of consumer opinion has become articulate and organised in the United States, whilst it has remained a comparatively small scale and generally local phenomenon in Britain. Obviously, American women have played a crucial part in organising and fund-raising, and in articulating these opinions.

Since I am addressing opinion formers, and since in discussion after this you can correct if I am wrong, I hope you will not mind me recording an impression which I receive strongly on the other side of the Atlantic. That is that organised opinion rarely seems to be enlisted in favour of development, almost invariably against. Yet ought there not also to be a strong body of opinion that spells out what would really happen if we in Europe or you in the United States were to renounce the nuclear option because of its alleged risks? Can synthetic, renewable fuels and coal be produced in sufficient quantities or conservation be successful enough to maintain the economic prosperity to which we have become accustomed? Are we really prepared to do without that economic prosperity? Who will stand responsible for the real suffering and danger to society if the confident prediction that we can get by without nuclear energy turns out to be plain wrong? I would not wish to suggest what course the United States should take. But I believe that judgments about the future of nuclear energy should be formed in the light of all the consequences. The hazards of *not* going nuclear need to be spelled out as articulately as the alleged hazards of future nuclear power and development.

I believe that governments must provide

opportunities for fully informed and thorough public debate on these issues. I am encouraged by an experiment which we conducted recently in this field.

The decision had to be taken on whether to extend an existing nuclear plant so as to enable us to reprocess spent fuel from our second generation reactors. Now at first sight this looked as though it was going to be a local planning inquiry, as though it were an application to build a highway or shoe factory. But it soon became clear that something special was needed. The issues raised were immense: Environmental certainly; but also questions of economics, nuclear weapons proliferation, foreign policy and ethics. The arguments were heard by a non-specialist: A high court judge, with specialist advisers. The terms of reference of the enquiry were drawn very widely, so that the enquiry lasted 100 days and took 4 million words of evidence.

In the end, in a thorough and well-reasoned report, the judge gave the project the go-ahead, provided that certain conditions were met. The labour government of the day, supported by ourselves, accepted the report and approval was given.

I believe that we are fortunate in Britain to be able to conduct the nuclear debate on non-party political lines. Other European countries have not been so fortunate, and this may make it harder for all the issues to be fairly aired.

I have felt it right, while in the United States, publicly to put on the record the British Government's commitment to a substantial contribution from nuclear power. But I would not want you to think that we were not pressing ahead with development of our other energy sources.

The future will always turn out to be different from what we expect and it would be unrealistic to try and construct an energy policy blueprint. The ability to respond flexibly and in the right timescale is of extreme importance. Thus, we seek to develop a broad framework which will enable us to adjust to changing circumstances and which does not close options too soon.

We must also maintain our present diversity of supply. All forms of energy are uncertain in varying degrees. Thus, risk needs to be spread over as many sources as possible.

The present government believes that the best way, the only effective way, to maintain that diversity and that security is to move increasingly away from the restrictions of state ownership and state regulation, towards a climate of enterprise and reward for effort. That alone can provide reliable responses to our energy challenge.

We are determined, for example, to give fresh impetus to our oil exploration programme so as to take full advantage of our resources, by restoring the confidence of investors in the fairness and stability of the government's oil policies. And we propose to spread the ownership of the oil assets of the British National Oil Corporation. Ownership will pass from the state to the people.

That is what I mean by genuine public ownership.

We are continuing a massive investment programme in new coal mining facilities, in recognition of the increasing part that a competitive coal industry can play.

The government believes that energy saving also has a permanent and central place in energy strategy. The efficient use of energy is a new area of policy. Yet the saving of energy through its efficient use is the best additional source of energy we have. We must try to ensure through the operation of the market and by education, that the correct economic decisions are made by individuals in industry, in transport, in commerce and in the home, so that we really make the most of our energy resource. This is an area where the state must not attempt to mastermind idealistic schemes. We do far better to rely on the common sense incentive to save energy. It is this which provides the opportunity for private enterprise commerce and business small and large, to respond to the demands for energy-saving ideas, equipment and material and to deliver to people a better living standard, yet with less energy use.

As I have said earlier the UK has no room for complacency whatsoever despite her energy wealth. The energy resources are available, but they must be harnessed. It will take enormous effort and skill to develop all our resources and to use efficiently what we have to avoid damaging disruptions of supply and to attain the longer-term freedom from fuel crises which is our aim.

Furthermore, as I said before, Britain's present oil wealth does not enable her to stand aloof from the world oil scene. We share the United State's concern over relations with OPEC. I believe that the view of OPEC in confrontation with the west is too simple. There is a common interest of both producers and consumers in a stable world economy and hence in an orderly development of the oil market. We must aim to develop a measure of understanding with the oil producers about how this objective can be achieved. Britain has historic ties with the Gulf States, and HM the Queen's recent visit to that area revealed a fund of goodwill there towards Britain. We have no intention of joining OPEC and would hardly qualify for membership if we had.

But Britain can play an important role in efforts to secure a measure of understanding between producers and consumers. We must take every opportunity to move forward. It was therefore right, for instance, (and certainly not detrimental to the interests of the US) for the EEC to respond positively to recent suggestions by Gulf Oil producers for a meeting which may take place later this year to consider energy and economic matters of interest to both sides.

An essential part of a new consumer/producer relationship must be a demonstrable willingness by the consumers to shoulder their responsibilities: to show they are doing their bit by conservation and the development of alternatives to oil. The oil import targets for 1985, agreed at Tokyo, are a significant move in the right direction (though, of course, targets achieve nothing by themselves).

The U.S. contribution to the consumer effort will be crucial. We welcomed President Carter's statement of 15 July as valuable confirmation of this American administration's determination to implement the Tokyo goals. I very much hope that the current session of Congress will see the translation of the administration's proposals into legislative measures. I believe that the staged deregulation in 1978 of natural gas prices and the process of domestic crude oil price decontrol, which the administration put in hand in June this year, are important steps towards bringing American oil prices into line with those elsewhere in the industrialized West.

It is not my place to become involved in American energy politics. I hope, however, that I have today been able to convey to you that in an energy-anxious world the concerns of our two countries are closely linked. That is why I am particularly grateful to you for providing this opportunity to discuss this shared energy challenge.

So let me sum up. We are in this together. We have a vast task of adaptation as the world moves away from oil dependence.

In Britain we have the wherewithal to make that transition a little less difficult, we will be a little less reliant on the unreliable, the vagaries of word energy supplies and world politics than some countries. But not very much. The challenge is still enormous. Our strategy to beat it is this:

1. To ensure security and availability of energy supplies and to do so with maximum sensible reliance on national energy sources consistent with good commercial practice and our trading interests;

2. To do so by using our gas and oil reserves steadily not greedily—which means avoiding underpricing and waste;

3. By developing competitive coal production, as coal replaces oil, and nuclear replaces coal, and oil is confined to its premium uses such as petrochemicals and transport;

4. By espousing low-cost nuclear power;

5. By encouraging longer range developments in sun, wind and wave power, and

6. Perhaps above all, by changing our ways at work, at home and on the road and right through our society to use less of the expensive commodity which energy has now become. Cheap energy is over. Transition has begun. New resources must now open up with new enterprise and new expertise. This way, and no other, we shall work and weave our way through to a better future.●

SENATOR MUSKIE AND THE VICTIMS OF RAVENSBRUECK

● Mr. KENNEDY. Mr. President, it is all too often that men suffer at the hands of natural disasters. But it is even more tragic when men suffer at the hands of other men. It was in this century that the most brutal and destructive tragedy was experienced by mankind: The Second World War and the Holocaust. Some of its most unfortunate victims were the Polish women, later known as the "Ravensbrueck Ladies," who were subjected to gruesome medical experiments at the Ravensbrueck Concentration Camp.

It is gratifying, then, to learn of the important role of Senator EDMUND MUSKIE in securing compassionate treatment and compensation for the Ravensbrueck Ladies, which they so very much needed and deserved. In the October 27 issue of the Saturday Review, Norman Cousins reminds us of these humanitarian efforts, in which he joined Senator MUSKIE and my brother Jack, to restore the bodies and the souls of the Ravensbrueck victims. In Cousins' words:

The Ladies remained in the United States for a full year. Nothing was more gratifying than to see them change physically and spiritually. From a group that had been discarded by history, these women became deeply involved in a loving experience, and rejoined the human race.

Mr. President, I submit this moving article to be printed in the RECORD. It is indeed a tribute to the compassion of Senator MUSKIE and others that the rejuvenation of these victims has been possible. May this story inspire others to persevere in the struggle to improve the human condition.

The article follows:

RAVENSBRUECK LADIES

Our purpose in coming to Warsaw was to visit with some of the loveliest ladies in the world. When we first met them they were known as the Ravensbrueck Lapins, a morosely impersonal but historically precise way of describing experienmental human guinea pigs at the notorious Ravensbrueck Concentration Camp during World War II. The survivors were hardly more than girls when they were imprisoned. They were Catholic, a fact of significance only because it destroys the notion that Nazi abominations were visited only on Jews.

The German doctors were testing new sulfanilamide drugs. The bones of the young women were cracked open. Gangrenous materials—oily rags, broken glass, decaying substances—were stuffed into the open wounds. Then the doctors tested the efficacy of the drugs against the raging infections. After the Ravensbrueck Concentration Camp was liberated by the advancing American army, the survivors were returned to their homes in Poland, most of them badly crippled or disabled. Since Poland was not recognized by West Germany, the women were excluded from the compensation program available to other victims of Nazi brutality. No one paid any significant attention to them for a decade, until an American, Caroline Ferriday, learned of their existence and became determined to help them.

Miss Ferriday came to the offices of the *Saturday Review*. We had just completed the Hiroshima Maidens project, under which two dozen young women, disfigured and crippled by the atomic bombing of Hiroshima, had been brought to the United States for plastic and reconstructive surgery. Miss Ferriday felt that the team we had fashioned for that purpose might be reassembled for the benefit of the Ravensbrueck Lapins.

We said we would be willing to try. Because the number of Lapins to be cared for was much larger than the number of Maidens, we recognized it would be necessary to go beyond New York in mounting a project for the Polish women. All those who had participated in the Hiroshima undertaking, including Dr. William M. Hitzig, Dr. Arthur Barsky, Dr. Bernard Simon, and Dr. Sidney Kahn, volunteered in the new effort. In the Maidens project, the girls, when not in the hospital, had lived with members of the Religious Society of Friends and with *SR* readers who had volunteered. Virtually all those "host" families, as well as other Friends and *SR* readers across the country, became part of the new project.

The term "Ravensbrueck Lapins" was dropped, and the term "Ravensbrueck Ladies" was substituted. The women were flown to the United States as the guests of Pan American World Airways. After their arrival in the United States, they were divided into small groups. Some stayed in the metropolitan New York area; others went off to Ohio, Michigan, Florida, and California. In each place, a comprehensive program had been arranged that, in addition to physiological and surgical treatment, included psychological rehabilitation and occupational therapy. The core of the program, of course, was the home experience—being part of an American family.

The Ladies remained in the United States for a full year. Nothing was more gratifying than to see them change physically and spiritually. From a group that had been discarded by history, these women became deeply involved in a loving experience, and rejoined the human race. Their injuries could not be undone, but they received the best medical care this country had to offer. It was deeply moving to see them, as they prepared to return to Poland, capable of laughter and joy.

As mentioned earlier, the West German government did not recognize Poland, and therefore the Ravensbrueck Ladies had not been included in the compensation program for concentration-camp victims. But we were able, thanks to the support of the U.S. State Department and Senators like Edmund Muskie and John Kennedy, to carry the case directly to the Bonn government, with the result that West Germany reversed its position and included the women in its indemnification program.

After the Ladies flew back to Warsaw in 1959, they embarked on new lives. They had been able in most cases to overcome or moderate their infirmities; they had the prospect of modest financial resources; and, most important, they had rich memories of friends in America who would be close to them for the rest of their lives.

On the 20th anniversary of their return, we visited the Ladies here in Warsaw. A few have died and some of them are now ill. But most of them carry on productive and meaningful lives. They are a close-knit group and see each other regularly, helping to care for one another when the need arises. We met at one of their homes, some of them having come from distant points, and they took turns in telling us about their families and their present situations. Most of them now have grandchildren whom they described with great pride. We all reminisced about incidents attending their stay in the United States, and I told them what I know about their American families. They asked me to convey their love to all their American friends, which I do herewith.

Perhaps the most important thing I have learned as the result of this and similar projects is that regeneration, especially spiritual regeneration, is possible even under the most remote and wretched circumstances. We live in a hard-boiled and dry-eyed age, where it is not fashionable to talk of such matters. But it is difficult for me to resist the sentimental statement that nothing gives me greater pride in the *Saturday Review* and its readers than its involvement over the years in such projects as the Hiroshima Maidens and the Ravensbrueck Ladies.●

OMNIBUS ANTI-TERRORISM ACT OF 1979

● Mr. JAVITS. Mr. President, I would like to call to my colleagues' attention a letter written by Petr Spurney, the general manager of the Lake Placid Olympic Organizing Committee (LPOOC) concerning S. 333, the Omnibus Anti-Terrorism Act of 1979.

LPOOC reviewed the bill at my request. The 1972 Olympic games tragically brought to light the urgent need for increased security against terrorist activities. Every major international event is a potential target for a terrorist attack.

The LPOOC heartily endorsed the Omnibus Anti-Terrorism Act, including particularly the explosives tagging provisions of the bill. These provisions of S. 333 would require manufacturers of explosive materials to utilize a tracer element in their product which could be used to identify explosives after detonation (identification taggants) and also would require the insertion of taggants which would allow the presence of explosives to be detected prior to detonation (detection of taggants). The LPOOC states:

The tagging of explosives is of special interest, and we feel any costs associated with this program would be more than offset by the ability of law enforcement agencies to more easily identify the presence of explosives.

I ask my colleagues to consider this endorsement from an organization very much familiar with the problems of international security and ask that the letter be printed in the RECORD.

The letter follows:

XIII OLYMPIC WINTER GAMES, 1980,
Lake Placid, N.Y., October 2, 1979.

Senator JACOB K. JAVITS
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: In accordance with your request, the Lake Placid Olympics Organizing Committee reviewed S. 333, the Omnibus Anti-terrorism Act.

As a result of the tragedy associated with the 1972 Munich Olympic Games, security has become one of the principal priorities of the International Olympic Committee and the National Organizing Committees. Any legislation that would contribute to minimize terrorist activities is of vital importance, not only to the Olympics, but to mankind.

S. 333 is an attempt to make terrorism acts more difficult and easier to identify and is, therefore, preventative in nature. Needless to say, any situation that reduces the potential for an act of terrorism and enhances the possibility of apprehension is, of course, great value. The Organizing Committee's security feels that there is a definite potential for future increases in terrorist activities.

All major international events are subjective to bomb scares and/or the use of explosives in terrorism acts. As a result, the tagging of explosives is of special interest, and we feel any costs associated with this program would be more than offset by the ability of law enforcement agencies to more easily identify the presence of explosives. Certainly within the criminal world, this would also act as a deterrent with far reaching results.

The Lake Placid Olympic Organizing Committee heartily endorses the Omnibus Anti-Terrorism Act and would be pleased to provide any additional support you may require.

Sincerely,

PETR L. SPURNEY,
General Manager.●

'THE KNOW YOUR BODY PROGRAM

● Mr. MOYNIHAN. Mr. President, I am pleased to report that the American Health Foundation has recently concluded a unique cross national evaluation of risk factors for cancer, heart disease, and stroke among children. This project was conducted as part of an "International Know Your Body" project and included 15,000 children from 16 countries. The study clearly reveals that chronic disease will continue its epidemic increase unless prevention oriented health education is made an integral part of children's schooling.

Dr. Ernst L. Wynder, President of the American Health Foundation, reported that:

Poor health habits and abnormal clinical indices are common among children in all parts of the world, and the prevalence of these values relates to the incidence of chronic disease in the adult population.

Clearly the general conclusion that can be drawn from the study is that appropriate health education must become an integral component of school education everywhere. In this regard, I am pleased to report that the American Health Foundation is implementing its "know your body" health education system in School District No. 2, in New York City, under the auspices of Charles Wilson, superintendent.

The pilot study which preceded this project was funded by the National Cancer Institute and serves as an excellent example of the feasibility, and importance of creating a bridge between research and application.

The know your body program is designed to raise the understanding of the value of preventive medicine and, in

the process, to create a sense of responsibility in each child for his or her good health. In addition, each child participates in a health screening examination designed to provide early detection of risk factors for cancer, heart disease, and stroke—those diseases which result in approximately 66 percent of all adult deaths in the United States.

The know your body program is an innovative approach to a difficult problem. It has proved successful in New York as well as in Evanston, Ill., and Kansas City, Mo. It is the type of program which I think should be implemented on a broad basis.

I congratulate the American Health Foundation on its success.●

ADDRESS OF SENATOR MATHIAS BEFORE THE ANNAPOLIS CHAPTER OF THE NATIONAL SOJOURNERS

● Mr. GOLDWATER. Mr. President, as a member of the National Sojourners myself, I have always been interested in its proceedings and in particularly the remarks of people who visit with this group. On October 24, our distinguished colleague, Senator CHARLES MCC. MATHIAS, JR., addressed the Annapolis Chapter of the National Sojourners, and his remarks were particularly pertinent to principles we find around our world. I ask that these remarks be printed in the RECORD.

The address follows:

NAVAL POWER AND GLOBAL PROBLEMS

Today, because we are meeting in the final days of the 1970's, it seems appropriate to take stock of where we stand in the world and of what the coming decade may require of us as a nation and as individuals.

In almost every area of our national life we face decisions that are vital to our future security. Personally, I consider the decisions we face on energy as crucial to the independence of this nation as any decisions made since the good people of Annapolis politely escorted Sir Robert Eden, Maryland's last Proprietary Governor, to H.M.S. Fowey, the ship waiting in the harbor to return him to England and King George III.

There is no doubt at all that what we decide to do, or not to do, now and in the immediate future will surely determine the strength and the welfare of the United States well beyond the decade of the 1980's. For example:

The educational options we support today will determine how effectively our children and grandchildren deal with the future; they will influence the quality of America's leadership and the character of its people;

The petroleum we conserve today will be available to us in the years ahead, what we waste can never be recaptured, and

The naval vessels that we decide to build today won't enter service for perhaps 10 years or more, but they will be part of our national defense capability for 20 to 30 years years once they are in commission.

These are grave responsibilities and our job is not made any easier by having to discharge them in a world where we face global challenges of unprecedented complexity.

Once, not long ago, we were entirely self-sufficient, secured by geography, by the natural wealth of our great continent, and by the vigor and vision of our people. Now, we are a dependent part of an interdependent world; our prosperity and our security increasingly depend on our ability to export and to import. Our lifelines girdle the globe.

As a people, we are gradually awakening to the fact that we import about half of the petroleum we consume. Although we haven't started to make the sacrifices that knowledge necessarily imposes on us, at least we have begun to absorb the facts. Soaring oil prices will do the rest.

Very few Americans, however, know that the United States imports half of its requirements for 18 or more essential commodities, including bauxite, cobalt, manganese, nickel, tin, tungsten and zinc. And even fewer realize that a fifth of our industrial production is exported; a third of our agricultural produce goes abroad, and roughly a third of the profits of U.S. corporations is based on operations and sales abroad.

These are the new facts of our national life as we enter the 1980's. Our ability to deal with them will test the vigor and the vision of the American people as they have not been tested before.

Some people concluded from our experience in Vietnam that we should bow out of global competition—that we should pick up our marbles, go home and stay home. I absolutely reject that conclusion. It is dangerous.

What Vietnam should have taught us—and what I hope it did teach us—was that we must take care not to focus our energies so narrowly that the larger interests of the nation suffer. It is precisely because we are part of a world economy that what happens in Vietnam, in Korea, in Afghanistan, in North Africa and in the Latin America bears on the national security of the United States. Our dependencies involve us globally and they make us vulnerable. We must, therefore, take prudent, timely counter-measures, if we are not to become dangerously vulnerable to forces beyond our control.

Occasionally someone will ask me why we should get all hot and bothered by what happens in Afghanistan. I tell them the answer to that question lies in the map of the Middle East. Afghanistan borders on Iranian and Pakistani Baluchistan, which in turn borders on the Gulf of Oman at the entrance to the Persian Gulf. If you add to this geography, the fact that all but one of the top five oil exporting countries in 1978 sent their produce through the narrow Straits of Hormuz at the entrance to the Persian Gulf, it becomes pretty clear why we care about what happens in Afghanistan. About a third of our oil comes from countries bordering the Persian Gulf. So, until we've moved a lot closer to energy independence than we are today, there's no way we're going to be able to bow out of world affairs.

And don't forget, we're not all alone on the international stage. In the two decades after World War II, the United States was unmistakably the strongest nation on earth—politically, economically and militarily. Today our military supremacy is severely challenged by the Soviet Union. There has been no sudden surge in Soviet power, but there has been a steady, uninterrupted improvement in Soviet military capabilities over the last decade or so. During this period, the Soviet Union has devoted 13 percent or more of its GNP annually to its military establishment.

As a result, Soviet capabilities in the strategic nuclear, theater nuclear and conventional military fields are now fully comparable with our own and, in some cases, may even surpass them. The Soviet Union in recent years has also began to flex its muscles in regions far from its borders in ways that impinge upon our global interests.

Some observers interpret these developments as indications of a decline of American power. I don't hold with that interpretation myself. And I have yet to meet a senior member of our Armed Forces who would be willing to exchange Soviet military capabilities for our own.

The Soviet Union also has some troublesome problems which must be considered in any assessment of Soviet strength. The U.S.S.R. has a 4500-mile border with a none-too-friendly People's Republic of China. Soviet allies in Eastern Europe are allies courtesy of the Red Army, with all the uncertainties that implies. Substantial Western grain imports by the Soviet Union annually document the failure of collectivized agriculture and the Soviet industrial sector is plagued by problems. For decades now, the brightest stars of the Soviet cultural firmament have voted against the system the only way they can—with their feet—by defecting to the West. But what may ultimately prove far more difficult for the Soviets than any of these problems is a demographic trend that suggests Russians will be a minority among Soviet nationalities by the year 2000. Such a development could bring with it a Pandora's Box of ethnic, economic and geopolitical tensions.

But, while the Soviet Union clearly has problems that will constrain its actions in many ways, we must not be lulled into passivity by contemplation of those problems. There are no signs that the Soivet Union intends to allow anything to interfere with its competition with the United States. And we should respond accordingly.

I have dwelt on the world scene this long because, if we are to maintain our strategic position in the world, it is critical to understand the global environment in which we must operate and the nature of the challenges facing us.

The United States is a maritime power. Like our principal allies, we are dependent on the seas for the commerce that sustains our economy and ultimately defines our security.

It is therefore very disturbing that Jane's Fighting Ships, the most authoritative public source on the naval balance of power, concludes in its latest survey that: "The West remains dependent on world-wide sea routes but has surrendered a large part of its capability to defend and watch over them."

Jane's puts the issue starkly:

By dropping the shield of maritime security the Western leaders have so weakened their own position that they are moving towards a position of vulnerability to blackmail. The results of the blackmail? Deprivation of raw materials, markets and the freedom of those friends who are not strong enough to guarantee their own security are some of them.

Other authoritative analysts raise similar warnings. The Atlantic Council, in an exhaustive study this year entitled "Securing the Seas: The Soviet Naval Challenge and Western Alliance Options", found that:

The Soviet Union—whose naval forces have become substantially strong in recent years—is now capable of seriously interfering with essential shipping and challenging other Western uses of the seas.

Echoing the same somber theme, a recent Congressional Budget Office study points out that the size of the U.S. fleet "has declined dramatically in recent years, from more than 1,000 ships in 1970 to fewer than half that number today." *Jane's* argues that, if this trend continues:

By the end of the century the U.S. Navy might well be below the 400 mark, a situation which could place the U.S.A. in an inferior position to the United Kingdom and other Western powers when considered as a balance of ships to population.

These dire predictions could come true unless we respond to them promptly. Right now we have a first rate Navy—second to none. The Soviet Union simply cannot match our carrier battle groups. Our submarine force, though outnumbered, is demonstrably superior to the Soviet force. Our

present superiority reflects decisions taken 10 and 20 years ago that have given us the Navy we have today.

But the future trends worry me. I am disturbed when the Chief of Naval Operations, Admiral Thomas Hayward, says:

. . . the vision I have of the Navy five or six years from now is not a happy one. There *are* plenty of problems ahead of us, all related to a single issue—will we, or will we not, maintain a Navy second to none?

Indicators of problems ahead abound. Reenlistment statistics are way off. The Navy's retention of second termers has dropped from 59 percent in 1975 to 48 percent today. The career people, the backbone of the Navy, are simply not staying in. But can we expect anything else when, as Admiral Hayward points out: "A janitor on union scale makes almost the same salary as a Chief Petty Officer with seventeen years of service"?

The most serious danger indicator of all is that this June, when the members of the Naval Academy's Class of 1980 put out to sea, they will find a fleet seriously reduced in strength.

During his election campaign, President Carter said that he favored "an aggressive shipbuilding program" for the Navy. (*New York Times* 6/6/76) Since coming to the White House he has changed his tune. The Navy was the hardest hit of all the services in the President's FY '79 Defense Budget. Its plan to build new warships and support vessels was cut by 20 percent.

Today our 479-ship fleet is only a pale shadow of the 600-ship fleet experts say the Navy will need to carry out the tasks assigned it in the 1980's. The forward-looking five-year shipbuilding program President Ford outlined in his FY '78 budget has been scuttled. Instead, this Administration proposes in its FY '80 budget that we build 16 new ships in all, only 11 of them combat ships.

A Library of Congress analysis of this trend concludes that:

The new Five-Year Shipbuilding Plan calls for 67 new ships and 13 conversions/modernizations, confirming a Carter Administration shipbuilding policy whose trend leads to a Navy of only 450 ships within 10 years and of less than 350 in 20 years.

The Library of Congress isn't partisan. It simply states the facts. If we don't lay the keels now, there is no way we are going to have ships five and 10 years from now.

At the turn of the century, Alfred Thayer Mahan—naval officer, historian and tireless advocate of U.S. naval power—woke this country up to the historical relationship between seapower and national supremacy. Today, we seem to be dozing off again as our naval power declines.

There are plenty of warning signs to wake us up, if we take the trouble to read them. We've even got one from the Commander in Chief of the Soviet Navy, S. G. Gorshkov, who has stated publicly that: "The flag of the Soviet Navy flies over the oceans of the world. Sooner or later the United States will have to understand it no longer has mastery of the seas."

Gorshkov doesn't mince words and neither will I. We must decide now whether or not we are going to compete globally to protect our national security interests. As I said before, the competition isn't getting any easier—not just because of activities of the U.S.S.R., but because our participation in a global economy exposes us to new vulnerabilities. The Navy's role in keeping us competitive is vital.

The Sixth Fleet shows our strength in the Eastern Mediterranean. Our carrier task forces indicate our resolve from Korea to the Persian Gulf. Our force of Polaris and Poseidon submarines houses the most invulnerable leg of our strategic triad. The U.S. Navy keeps the seas lanes open. It projects U.S. power far beyond our shores.

But if we are to place any reliance on these capabilities in the future, we must make decisions now to prepare for tomorrow.

We must abandon a ship building policy which results in a Navy that, in absolute numbers, is getting smaller not bigger. We must abandon a benefit and pay policy which sees our experienced seamen leaving for better opportunities elsewhere. Finally, we must not so reduce the naval reserve levels that any emergency would find us without the officers and men needed to support the Navy's missions.

Those are the goals I support. I intend to fight in the Appropriations Committee and on the floor of the Senate to insure that our Navy remains strong in the 1980's and beyond.●

THE POPE AND THE JEWISH EXPERIENCE

● Mr. KENNEDY. Mr. President, earlier this month Pope John Paul II touched the hearts of millions during his trip to the United States. The Pope's eloquent message stressed the bonds that unite all humanity—the bonds that come from mankind's desire for a more peaceful and decent world. His words reminded us not only of the interdependence of nations, but of the stake of all people in the well-being of each other and in the elimination of suffering.

It is the Pope's message of a "humanistic" interdependence that Hyman Bookbinder, Washington Representative of the American Jewish Committee and member of the President's Commission on the Holocaust, related in a recent article in the Washington Star. In discussing the Pope's understanding of the Jewish tragedy during the Holocaust, Mr. Bookbinder comments upon this Pope's unique sensitivity. He also highlights a special meaning of the Holocaust: "In his Auschwitz reference to Abraham, the Pope had reminded us all of the common spiritual bonds which united Christians and Jews."

Hyman Bookbinder states further that:

John Paul II has properly called on us not to dwell only on remembering the past but to work for the fulfillment of our common humanity. . . . Those who remember the silence that surrounded the Holocaust are determined not again to be silent whenever and wherever people's lives and souls are threatened. It is good to know that John Paul II is in our midst, ready to cry out for social justice and world peace and human rights.

Mr. Bookbinder rightly reminds us that the Pope's message is addressed to the present and the future. It is a tragic irony that even as we acknowledge our common humanity, we too often stand idly by while nations and peoples suffer at the hands of famine, disease, and injustice. We must never forget those who died in World War II. We cannot countenance "so much bigotry and racism and antisemitism around the world" today. We cannot stand by as millions more die in Cambodia.

Mr. President, I submit Hyman Bookbinder's sensitive and compelling commentary to be printed in the RECORD. I urge my colleagues to consider it as a reminder of our responsibility to help overcome the problems and suffering that too long have plagued mankind and divided us all.

The article follows:

[From the Washington Star, Oct. 7, 1979]

JOHN PAUL SHOWS UNDERSTANDING OF THE JEWISH EXPERIENCE

(By Hyman Bookbinder)

I have a very special, personal reason for welcoming Pope John Paul II to Washington. Only two months ago I visited Cracow, his birthplace in Poland, and then stood exactly where he had stood only weeks earlier—at a memorial monument at the Auschwitz concentration camp near Cracow. I thought of the pope as we bowed our heads in prayer, and I have thought of him ever since with deep appreciation and with affection. I could never forget that he had spoken these words: "In particular, I pause with you, dear participants in this encounter, before the inscription in Hebrew. This inscription awakens the memory of the people whose sons and daughters were intended for total extermination. This people draws its origins from Abraham, our father in faith. The very people that received from God the commandment "Thou shalt not kill" itself experienced in a special measure what is meant by killing. It is not permissible for anyone to pass by this inscription with indifference."

In these few sentences John Paul II had managed to say so much that had to be said. There were other inscriptions, too—in his native Polish and in 20 other languages—just as there had been many other victims of Nazi horror in addition to the Jews. But in singling out the Hebrew tablet, the pope acknowledged that the Holocaust was above all a uniquely Jewish tragedy. And he declared as impermissible any indifference to this basic truth.

But in this very act of acknowledging its uniqueness, John Paul II helped us all—Jew and non-Jew—to see also the universality of the Holocaust. He reminded us, without having to say it, that there had been Poles and Danes and Swedes and, yes, even Germans who cared very much about what was happening to the Jews and who in many cases risked their lives to save them.

If this statement by the pope had been his first demonstration of caring and remembrance, it would have been welcome enough. But John Paul II did not have to read that Hebrew inscription to learn about the Holocaust; he did not have to learn from others or from books. He had himself been in the center of the Nazi terror as a student in an underground seminary in Poland, a seminary described by a fellow student as a "vigorous center of anti-Nazi ideology and resistance."

An example of the pope's continued sensitivity to anti-Jewish outrages was his condemnation in 1964 of the desecration of Jewish cemeteries in Cracow and his appeal to the Catholic students to clean and restore those cemeteries.

In his Auschwitz reference to Abraham, the pope had reminded us all of the common spiritual bonds which unite Christians and Jews. But Jews cannot be asked to forget that Auschwitz is a reminder, too, that at that time the genocide directed primarily against the Jewish people—what was to be the "final solution"—had brought not protest and resistance from the majority of church leaders but silence and indifference, the same silence and indifference that characterized the reactions also of the world's political leaders, including America's.

But John Paul II has properly called on us not to dwell only on remembering the past but to work for the fulfillment of our common humanity. In his first official statement

on Christian-Jewish relations, he told a group of American Jewish leaders earlier this year:

"I believe that both sides (Christians and Jews) must continue their strong efforts to overcome difficulties of the past so as to fulfill God's commandments of love and to sustain a truly fruitful and fraternal dialogue that contributes to the good of each of the partners involved and to our better service of humanity."

If American Jews today are generally positive and hopeful about John Paul II, truth compels the observation that such a judgment was not unanimous or immediate when his election took place. There had been very little known about the cardinal, no knowledge of his having spoken out on issues of concern to Jews, no consistency in the early answers to questions about him. Perhaps because of these uncertainties, the actions and the words of the pope since his election have been particularly gratifying.

But truth compels another acknowledgement, one that I feel personally at ease in offering precisely because I visited Poland in August and now have a better basis for facing the truth. That truth is that the pope's Polish origins caused some misgivings at first among some Jews. Those of us who come from Polish ancestry have mixed feelings about that country. For hundreds of years it had been the land of refuge for millions of Jews, had been the center of great Jewish scholarship and culture, the home for hundreds of vibrant "shtetels." But it was also the country from which more recently our parents or grandparents had emigrated in order to escape insecurity and virulent antisemitism. And during the Holocaust it was the country that suffered more than half of the six million Jewish casualties. What did the Poles really do, the question kept coming up, to save the Jews from the Hitler onslaught?

And so, when Cardinal Wojtyla became pope, there were questions in Jewish minds about whether a "Polish pope" could be expected to understand Jewish anguish, Jewish anxieties, Jewish aspirations. I cannot speak for all Jews, of course, but I do believe that in the short period of his papacy John Paul II has already done much to allay those early fears. For me personally his actions have underscored what I experienced in my trip through Warsaw and Cracow, through Auschwitz and Treblinka and Birkenau—realization that there were bad Poles, yes, but that there were many good ones, too. There were millions of Jewish victims, but there were many non-Jewish Polish victims, too.

If we are truly to remember and honor our Jewish dead, we dare not be guilty of any group prejudice or group defamation. The Poles have suffered long enough from such defamation. Polish jokes are not funny. And they cannot be laughed off. John Paul II, with his brilliance and his sensitivity, has already done much to challenge and moderate the unfortunate anti-Polish bigotry of recent years.

There is so much bigotry and racism and antisemitism around the world. There is hunger and tyranny and terrorism. Children and grandchildren of Auschwitz survivors in Israel today sleep in bomb-shelters to escape the acts of terrorists. Thousands of "boat people" risk their lives daily in their search for freedom. Those who remember the silence that surrounded the Holocaust are determined not again to be silent whenever and wherever people's lives and souls are threatened. It is good to know that John Paul II is in our midst, ready to cry out for social justice and world peace and human rights.

In concluding his remarks to the Jewish leaders, the pope said, ". . . Let me express again my cordial welcome and greetings to you all with that word so rich in meaning, taken from the Hebrew language, which we Christians also use in our liturgy: Peace be with you Shalom, Shalom!"

To John Paul II, it is now our turn to say, "Welcome to Washington. Welcome, Shalom, Shalom!"●

A DEFEAT FOR LIVABLE CITIES

● Mr. WEICKER. Mr. President, I rise to cite a disturbing trend. What causes me extreme distress is that as this country moves to cut spending in order to fight inflation, those who can least afford it are being asked to sacrifice the most. So far this year we have seen funding slashed for nutrition programs, public service jobs and low-income housing—to mention just a few. It is this latter area which I choose to address.

The HUD fiscal year 1980 budget request provided the Congress with an opportunity to fund a unique and innovative program entitled "Livable Cities". This is not an expensive program with a price tag of only $3 million. Its primary purpose is to generate neighborhood-based community redevelopment. This program targets some of this country's most distressed urban and rural communities, funding cultural festivities and historic preservation projects.

In conference the House insisted on providing no funding for this program. Once the Senate learned that the Administration had dropped its initially strong support for this project there was no choice but for the Senate to recede to the House.

Why is it that the poor of this country are condemned to do without the amenities of community life which are commonplace for the majority of Americans? Why is it that every time this country enters a so-called economic crunch, the poor are asked to sacrifice first?

Opponents of this program have argued that it should be funded under the National Endowment for the Arts. However, this agency has no expertise in community development, precisely what this program is about. Just last week the NEA released $26 million for arts programs in the cities around the country, not one penny of this money is to be spent in low-income neighborhoods or on programs for the poor. This is precisely why Livable Cities belongs at HUD where there are experts who know the needs of the neighborhoods and can effectively administer the program.

The action taken by both the House and the administration to abandon the Livable Cities program proves that cities are no longer of a high priority in this country. The administration's commitment to the cities is nothing more than a picture of President Carter and Pat Harris in the south Bronx.

Mr. President, it is no wonder that so many of this country's housing programs have been such dismal failures. New housing projects tend to ignore the simple fact that concrete walls do not livable housing make; it is simply not enough to have a nonleaking roof over one's head. Livable housing means more: It means housing within a community environment that offers social and economic security and opportunity. To ignore this and to focus only on the concrete walls is to doom any rehabilitation or development effort to failure—witness the Pruitt-Igoe project. Therefore, not to invest the little extra necessary to promote a livable community, not just a housing bloc, to live in, risks losing the entire investment made.

The administration has succumbed to a hazard of fiscal expediency. Three million dollars is not too much to ask when the opportunities are so great. This is not too high a price to make life a little more livable for the most disadvantaged of America's citizens.●

TAKE A CUE FROM THE STATES ON TAXFLATION

● Mr. DOLE. Mr. President, there are some who would argue that the widely-hailed tax revolt, highlighted by the passage of California's proposition 13, has subsided. These observers of the political scene say that people will support taxes necessary to maintain the level of public services they are accustomed to, and that the momentum has gone out of the tax reduction movement.

The Senator from Kansas believes the movement for real tax reform has plenty of steam in it yet. People want basic services, but they know that services can be delivered more efficiently, and they know that government, unlike business, has little incentive to cut unnecessary costs unless the voters provide an incentive. We should keep an eye on the types of proposals that are being submitted to the voters, and on how the votes are going. Tax reform remains a matter of crucial concern at all levels of government.

It has often been said that the States are laboratories for social experimentation. Certainly it is often true that initiatives taken at the State level prove to set the direction for national policy. The tax reduction movement may prove to be a prime example of a political development at the State level that has a major impact on the direction taken by the Nation as a whole. That is why we need to be aware of the direction tax policy is taking at the State level.

Consider the attention the States are paying to the impact of inflation on the income taxes they assess. Few States have a truly progressive income tax, and none has a progressive rate scale comparable to the Federal income tax. This is because inflation reduces the purchasing power of every dollar earned, yet income gains that merely match inflation tend to push people into higher rate brackets. With any progressive tax, people can end up paying a higher rate of tax even though they have experienced no real income gain.

The States are responding to the problem of the inflation tax penalty, or taxflation. Six States have indexed provisions of their income tax codes to make adjustments for inflation, and 13 other States considered indexing proposals this year. California is one of the States that has indexed its income tax brackets by the change in the State consumer price index minus 3 percentage points, and corrects the personal credits, standard

deduction, and low-income credits by the full change in the State consumer price index. Beginning in 1980 the California income tax brackets will also be adjusted by the complete CPI change.

Mr. President, the example of California deserves our attention. The progressive Federal income tax is affected by inflation much more drastically than any State income tax. Inflation exacts a tax penalty, on every Federal taxpayer without the need for any action by Congress. If indexing is needed at the State level, it is even more urgently needed at the Federal level.

The Tax Equalization Act, S. 12, would index the Federal income tax for inflation and eliminate taxflation at the Federal level. I have introduced this legislation to adjust the income tax brackets, zero bracket amount, and personal exemption according to the rise in the consumer price index. The Tax Equalization Act would be in effect until 1983, at which time Congress could review the impact of indexing.

Mr. President, we should take a cue from the States and index the income tax for inflation. Tax equalization would be a responsible and simple way to address the concerns of the tax reduction movement. It would also restore honesty and fairness to the Federal income tax. Public pressure to achieve those goals will not abate until the Congress demonstrates that it is responsive to the legitimate concerns of taxpayers.●

A VIEW ON SALT

● Mr. PERCY. Mr. President, I would like to bring to the attention of my colleagues a letter to the editor of the New York Times written by Dr. Lawrence Finkelstein, a professor of political science at Northern Illinois University and ask that it be printed in the RECORD. The topic is SALT and the issue addressed is the political advantage of nuclear superiority. I believe my colleagues will find it of interest.

The letter follows:

[From the New York Times, Oct. 8, 1979]

THE CRUCIAL RESOLVE IN EAST-WEST CONFLICTS

To the Editor:

McGeorge Bundy is correct in saying that U.S. strategic doctrine has been based on the threat of retaliation, not on "usable superiority" [news story Sept. 18]. There is an important corollary to that. The credibility of that threat is what matters when we have important disputes with the Russians. And there is much reason to believe that credibility of the threat to risk nuclear war depends on clarity as to what is essential to the national interest and what is not.

Nothing is more dangerous to the national interest and to world peace than the fashionable current belief that a technological "fix" can take the place of clarity of purpose, in short, resolve.

Throughout most of the postwar period, the U.S. strategic arsenal was bigger and better than Moscow's. Yet we did not prevail in all our important disputes with the Russians. Khrushchev was forced to withdraw the missiles from Cuba in 1962. But the Russians had not been deterred from posing severe threats to our interests in Berlin and, although we were able, through a series of crises, to retain our rights there, we finally had to let the East Germans and the Russians keep their "wall." We couldn't stop the Russians in Poland and Hungary in 1956 or in Czechoslovakia in 1948 and 1968.

This record does not support the belief that "nuclear superiority" determines the outcome when our interests are challenged. A different rule seems to apply: The advantage lies with the side that has the deeper interest in the outcome. We prevailed in the Cuban missile crisis. The Russians prevailed in the East European cases. We came to a kind of stalemate over Berlin. The rule stands up against examination of the other cases of conflict.

Other factors enter also, particularly the balance of relevant non-nuclear forces. There is nothing in the record, however, to contradict the conclusion that we have all the strategic nuclear force we need to defend what is vital to us, when we know what that is.

LAWRENCE S. FINKELSTEIN.●

BILLION DOLLAR BUMPERS

● Mr. LAXALT. Mr. President, I wish to call attention to a September 14, 1979, issue of National Review, in which an article entitled, "Billion Dollar Bumpers" dramatically demonstrated the exorbitant economic costs caused by Federal regulations affecting the automobile industry.

At a time in which this country is entering yet another recession with its attendant difficulties compounded by runaway inflation and energy shortages, the time is ripe for this Congress to review its priorities for all vehicle legislation. Does it make sense to have a federally mandated "crash bumper" on all new cars that adds approximately 600 pounds to the vehicle, and increases gas consumption on an average of 62 gallons a year, when that bumper has proven worthless in low-speed crashes?

Congress has mandated regulation in the areas of safety, emissions, and energy consumption. Regulations promulgated by the various agencies in response to this mandate are presently working at cross-purposes with one another. Emission standards are adversely affecting performance and mileage. Safety regulations have a negative impact on gas mileage and, in some cases, emissions. All of this continues unabated and uncontrolled with the consuming public being forced to suffer the concomitant spectacular increases in the price of new cars.

The regulatory chaos that results from well-meaning legislation must be controlled. Congress has both the responsibility to end this nightmare and the capability to determine our priorities by virtue of their historical responsiveness to the needs and will of the electorate. Congress now lacks the tools to bring the regulatory agencies in line with our country's changed priorities. With the legislative veto, the situation of forcing our economy to try and cope with regulations that no longer pass a simple cost-benefit analysis, will be brought to an end. By giving Congress the power in this area can only improve our present standing in the opinion polls which is a necessary fall-out of our seeming impotence in making the Government more responsive to the needs and demands of those who elect us to this position of trust and leadership.

Mr. President, I would like to share the article I mentioned earlier and request it be printed in the RECORD.

The article follows:

BILLION-DOLLAR BUMPERS

(By Jack Solomon)

Nine thousand six hundred seventy-four dollars and eighty-nine cents for a 1978 Chevrolet? Five years before, the same model would have listed for less than $5,000, and in 1968 it would have lightened your savings by a third of the 1978 price.

The car buyer who has been absent from the marketplace for three or four years is both angered and dismayed at these prices: he had expected inflation to take its toll, but it can't have added *that* much to the cost. And of course he's right: the Bureau of Labor Statistics says inflation swelled new-car prices by 30 per cent in five years, but that accounts for only $1,500 of the $4,600 jump. What about the rest? We are left with a $3,100 discrepancy that is not readily explained by common economic facts.

What can explain the difference is federal regulations. Over the past decade, a proliferation of laws dealing with safety, emissions, and energy, many of which are at cross-purposes with one another, have been handed down by Congress. The bureaucrats, it appears, would like nothing better than to do away with the motor car completely.

The campaign against the automobile is fraught with ever-accelerating costs, and no slowdown is in sight. Congress has already mandated regulations in safety, emissions, and energy to take effect clear through the next decade. In a few years that ten-grand Chevy will look dirt cheap.

Federal control of the auto industry began with auto-safety considerations in 1966; emissions regulations followed in 1970; and energy standards were introduced in 1975. These three bodies of law were conceived in almost total isolation from one another, and, not surprisingly, they have a contradictory effect on the vehicles produced under them.

It is crucial that we recognize the intimate relationships among these factors since they interact to affect functioning as well as cost. Safety regulations have adversely affected gas mileage and, in some cases, emissions. Emissions laws have certainly reduced performance and mileage. And so on. Regulation has proceeded so arbitrarily that it has been much less effective and vastly more expensive than it should have been. Seldom has so little cost so many so much.

The spectacular growth of the motor car in America has been paralleled by an equally awesome growth in the legislation to control it. These laws have been characterized by phases of emphasis: first on the car, then on the roads over which the car traveled, and later on the driver of the car. In the last decade or so, attention has reverted to the car itself; and it is in this period, not coincidentally, that the spectacular price escalation has taken place.

In 1966 the 89th Congress, prodded by Ralph Nader and President Lyndon Johnson, passed two extraordinary laws, the Highway Safety Act and the National Traffic and Motor Vehicle Safety Act. The latter, in particular, put responsibility for passenger car design firmly in the hands of the Federal Government.

Until that time, the automobile manufacturers themselves engineered safety into their cars under the aegis of the Society of Automotive Engineers. The SAE, an august body of professionals almost as old as the automobile itself, establishes specifications for vehicle components and systems with which the industry must comply. Surprisingly, these specifications still apply, though with a cumbersome federal overlay. Brake

fluid, for instance, which used to be referred to as SAE 40, is now referred to as DOT (Department of Transportation) 39876–J. SAE 40 and DOT 39876–J are exactly the same, except that under the new system the DOT issues the directive rather than the SAE. SAE specifications apparently were deemed inappropriate when Congress decided the industry could no longer be trusted to design cars with a level of safety "demanded by the public."

In due course, the National Highway Transportation Safety Administration (NHTSA) was created by Congress to write a whole new body of regulations and to oversee them. That the "public demand for safety" was largely non-existent is shown by the fact that no more than 25 per cent of the driving population has ever worn the seatbelts originally mandated by this agency, which explains why the NHTSA has mandated the airbag. The agency demands "passive safety" to relieve people from the burden of fastening their seatbelts. And the airbag will add to the price tag on every new car.

The Federal Motor Vehicle Safety Standards (FMVSS) promulgated by the NHTSA were entirely different from anything the SAE boys ever envisioned. They were called "performance standards" because they specified a capability rather than a piece of hardware. For example, instead of a simple directive to install seatbelts, auto-makers were told to provide restraint systems for the driver and passengers that would protect bodies under specific crash conditions. How they did it was up to them, so long as the performance of the resulting hardware met or exceeded the federal criteria. This approach is our first clue to the $3,100 discrepancy we discovered earlier.

The performance standard was the natural choice for the NHTSA. Since it wanted only the best in crash safety for the motorist, it reasoned that he should be willing to pay for it. The performance standard also relieved the Feds of another ticklish responsibility. They had little knowledge of or interest in equipment design as such; hence, by demanding performance rather than hardware, they were relieved of the burden of engineering and testing components. This task and its attendant cost was left to the car-maker and had, of course, to be recouped at time of sale—clue number two to the extra $3,100 in the ten-grand Chevy.

The creation of independent designs meant that each carmaker was expending vast sums in engineering costs and talent to develop hardware that duplicated the hardware each of the other carmakers was developing. This is tantamount to redesigning the wheel every time you need one. Howard Freers, chief engineer at Ford Motor Company, said a few years ago, "I've got 1,200 engineers out there; six hundred are working on safety and emissions and the other six hundred are designing cars, which is what they all ought to be doing."

Safety devices have added perhaps as much as $1,500 to the cost of each car. The total is probably more if we add the chassis and suspension buttressing to accommodate the extra weight. Does this equipment work? Are we safer now than we were in 1966?

Federal legislation has not made cars safer to drive, only to crash in. "Passive safety" or crash-worthiness does nothing to prevent accidents. If today's cars are more roadworthy, if they stop or handle better; it has little to do with Congress or the Department of Transportation. The auto firms themselves have done it. It's called technological evolution; as the engineers learn more, they apply that knowledge to improve the breed—but not because of a federal mandate. There is hardly a new car on the road today that is not an improvement in handling and stopping over its 1960s counterpart. This is "active safety," and it's real: you can feel it any time you drive a newer model; and it didn't take the entire NHTSA or $1,500 a car to do it.

The question of what benefit is derived from federal safety legislation has puzzled the public for some time. Dr. J. M. Juran, a former government administrator, recently published an in-depth analysis of the value of the federally mandated safety devices. His evaluation leaves little to the imagination. "It is obvious that despite the huge expenditures, the really significant improvement has come from the category of seatbelts used, which involves only 6 percent of the money!" Seatbelts cost practically nothing, yet they provide excellent second-crash protection. The other fifty or so federally mandated safety devices have been responsible for almost 100 percent of the cost; but have yielded no significant reduction in highway fatalities. Incidentally, seatbelts have been standard equipment on all cars since 1964, two years prior to the federal mandate.

Dr. Juran goes on to consider another factor, the curious absence of property-damage reduction during the decade of federal control of auto safety. "The lack of decline in property damage can be readily explained on the grounds of NHTSA's emphasis on reducing the effect of the 'second crash,' rather than preventing accidents from happening." Motorists are not only still crashing, but it's costing them more to do it.

Now more standards are being proposed, which will touch off a new round of cost increases. Will they be more effective, or is the motorist just being taken for another expensive ride?

II

Four years after the passage of the Highway Safety Act and the National Traffic and Motor Vehicle Safety Act, Congress went after exhaust emissions. The 1970 Clean Air Act, championed by Senator Edmund Muskie, contained regulations dealing with both stationary and automotive sources of pollution. The automobile was on its way to being foolproof. It was only natural that it should also be pure.

The original vehicle standards of 1970 were to be enforced by the Environmental Protection Agency (EPA). These called for a 90 per cent reduction in carbon monoxide, hydrocarbons, and nitrogen oxides by 1975. This in itself would have been extreme, but the mandate was in fact far tougher than it first appeared to be. In setting the limits, Congress failed to mention that exhaust emission had already been cleaned up by more than 60 per cent over uncontrolled levels. This was achieved over a three- to four-year period through adoption of California standards, which were first established in 1965. The EPA was effectively asking for a 98 per cent reduction in pollutants, an achievement that would baffle the best engineers in the country.

We have only recently become aware that carbon monoxide, hydrocarbons, and nitrogen oxides are only three of the contributors to poor air quality. The Clean Air Act said nothing about particulates, the solids in air, which are at present uncontrolled. As a result, diesel engines, which generate a high level of particulates, have no trouble meeting existing standards. However, the EPA has recently become concerned about particulate emissions, and new regulations are imminent. Hence, just as manufacturers have begun mass-producing the diesel and marketing it as the energy conservation engine of the future, it may be forced into obsolescence because of unattainable emission regulations. Federal shortsightedness of this degree not only cheats the public but makes the planning of future production by the automakers a next-to-impossible task.

While no one really disagrees that the air needs cleaning up, the problem once again is the government's plan to achieve this goal. Back in 1970, little was known about the relationship between air quality and health, and not much more is known today. How our well-meaning representatives in Washington were able to determine that a 90 per cent reduction in three specific gases was called for remains a mystery. They didn't know how much this 90 per cent reduction would contribute to improved air quality, or, even more, whether it was feasible within the time allotted. Furthermore, if air quality were improved, would this in turn contribute to public health, and by how much?

The question of cost never rose. Because Congress had none of the other pertinent answers, the cost of compliance, both social and monetary, was never addressed. Only recently have scientists spoken out against the excessive costs of over-controlling exhaust emissions. John McKetta, chairman of the National Academy of Sciences' Committee on National Air Quality Management, says that if we were 100 per cent successful in removing oxides of nitrogen from automobile exhaust, we would still have to contend with 99 per cent of the atmosphere's daily supply, just as mankind has since the dawn of history.

The greatest cost of compliance with federal mandates has been the horrendous rise in automobile fuel consumption. "Don't get me wrong," says John McKetta, "we do have to worry about automobile pollution. But we shouldn't worry about it so much that it prevents us from doing a lot of other good things." One of these is saving fossil fuel. Automotive pollution control devices have increased fuel consumption between 15 and 30 per cent since the Clean Air Act. We have paid for our improved air quality by burning an additional three trillion gallons of gasoline at a cost of over $1.5 trillion. That pollution-free Chevy is not only expensive to buy, it's also costly to operate (that is, if you can find gas for it at all this year).

For, if the stringency of the standards was bad, even worse was the way in which they were implemented. The Clean Air Act demanded *immediate* response from the manufacturers. The regulations were to be effective in the next model year and tightened annually thereafter. The manufacturers were not given a final standard and then allowed the lead-time to perfect the technology required to meet it. No sooner had Detroit laid out the hardware to meet 1971 standards than they had to begin on 1972, 1973, and so on. As a result, no optimum system for controlling pollutants was ever designed.

Because the auto-makers were forced to meet increasingly tough standards with essentially zero lead-time, they installed inefficient, ad-hoc devices which they probably would *not* have chosen under better conditions. If Congress had set only one standard—the final level to be attained in the year 1975 or 1976—the end product would have been significantly better, gas mileage would have suffered less, and, most of all, the resulting air quality would have been as good as and probably better than it is today. An emissions-controlled engine that gets bad gas mileage burns more fuel and thereby produces a greater *volume* of pollutants than a more efficient engine.

III

At the peak of of the Arab oil embargo in 1973, we were told that an energy crisis existed. Washington insisted that we were running out of fossil fuel and had better cut our usage. A gas rationing plan was devised and coupons printed. Again this year, a rationing system appeared imminent, while prices have risen stratospherically. What has failed to be mentioned amid the declaration of doom was the contribution federal legislation had made to the energy shortage.

No more was made, during or after the 1973 embargo, to review the Federal Motor Vehicle Safety Standards and Clean Air Acts

with an eye toward reducing their effect on fuel consumption. Instead, Congress stepped in to pass yet another law affecting the auto industry. The Federal Energy Act of 1975 contained specifications for fuel economy standards for cars manufactured in 1977 and thereafter.

CAFE stands for Corporate Average Fuel Economy standards, and specifies that the weighted average of each manufacturer's production in any model year shall reach a specific miles-per-gallon level, as follows: 1977, 17 mpg; 1978, 18 mpg; 1979, 19 mpg; 1980, 20 mpg; 1981 to 1984, to be determined; 1985, 27.5 mpg.

After 1985 the goals are uncertain, but they will probably be revised by Congress long before then anyway. What is important is that each and every car-maker, domestic or foreign, must meet these standards or face a heavy fine. A $50 fine is imposed for every vehicle produced in a given model year, for each mpg below the standard. A company such as General Motors could easily incur a fine of over $3 million by missing the CAFE standard by one mpg.

How are the car-makers doing it? The technology is exotic but the approach is quite simple. They are spending billions of dollars. A revolution is taking place in Detroit. It's called down-sizing. The biggest single factor in fuel consumption is vehicle weight, and the down-sizing program is designed to reduce it. General Motors kicked it off by down-sizing its full-sized cars in 1977. They redesigned the entire line to eliminate about seven hundred pounds of vehicle weight, at a cost of over $1 billion. For 1978 they down-sized the intermediates, and in 1979 down-sized their compact line. This will continue without interruption through 1985. Ford and Chrysler began down-sizing this year. This is the most colossal endeavor ever undertaken by the auto industry. By 1984, they will have gone over $80 billion into debt in an effort to meet federal mileage standards. By then, Chrysler may be out of business.

They are also testing new engine designs, particularly diesels. This is serious business. The auto-makers must meet the CAFE standards or go under. It's all horrendously expensive, and guess who is paying the bill? The consumer didn't ask for the ten-grand Chevy, but he is the one who has to pay for it. By 1984 the average new car is expected to cost over $10,000, and this doesn't mean your present-day Chevrolet, it means a car about the size of today's Pinto.

Congress is well aware that emissions and safety standards contribute to increased fuel consumption. Yet it refuses to review these regulations. It has not even attempted to ascertain if they are accomplishing their intended purpose. Crash bumpers, for example, have proved worthless in protecting safety-related systems during low-speed crashes. Their contribution to vehicle weight is enormous. Auto-makers have demonstrated conclusively that the bumpers and the strengthening of the chassis they require add up to six hundred pounds. It takes an additional 62 gallons of gasoline a year to cart your crash bumpers around. Yet they will continue to be required on future models.

New laws are heaped on old ones in an endless attempt to undo previous mistakes. Each new round of legislation carries its associated cost. Safety and emissions controls are responsible for about $2,100 of the $4,600 difference in price between your 1973 and your 1978 Chevy. After deducting for uncontrolled items, the from-the-groundup redesign to meet the CAFE standards will easily account for the rest. If you're in doubt, drop in to your local dealer and compare the sticker price of a new midsized car with its 1976 (pre-down-sizing) counterpart.

The regulations Congress has heaped upon the automobile industry over the past 15 years are in dire need of review. Every standard must be examined to determine not only its initial cost, but the cost over its expected life span. Finally, we must determine priorities for all vehicle legislation in light of future expectations. If energy conservation is to be our Number One concern, we must weed out those laws which unduly hinder us from reaching this goal, especially those whose economic and social benefits are questionable or non-existent.

The motor car's future role in private transportation is at stake, and there are those who would be glad to see it go. Here, for example, is an obiter dictum uttered last fall by a member of the current Administration's Department of Transportation: "I'm not sure you need to go more than forty miles an hour or drive a car more than three hours from the city." That's the way our bureaucrats think.●

JAYAPRAKASH NARAYAN

● Mr. MOYNIHAN. Mr. President, Jayaprakash Narayan was one of the great moral forces of this century. His death last week in Patna, India, diminishes us all. His abiding faith in democracy, his dedication to human rights, and his commitment to nonviolence were profoundly important forces in the evolution of modern India's political conscience and in the development of effective alternatives to totalitarianism there and throughout the world. His personal integrity set a standard which, while rarely achieved, was—and remains—a fit goal for those in public life. His selflessness and humility were—and remain—qualities that public officials and private citizens alike would be wise to emulate.

I ask that the attached obituary of Jaya Prakash Narayan by J. Y. Smith in the Washington Post be printed in the RECORD.

The obituary is as follows:

[From the Washington Post, Oct. 9, 1979]

JAYAPRAKASH NARAYAN DIES; OPPOSED INDIRA GANDHI

(By J. Y. Smith)

Jayaprakash Narayan, 76, a widely recognized moral force in India's politics who led a movement that ousted Prime Minister Indira Gandhi in 1977, died of a heart ailment yesterday at his home in Patna, India.

Mr. Narayan was one of the last major links to Mohandas K. Gandhi, the father of Indian independence, and a disciple of the nonviolence that Gandhi preached. A man of unquestioned integrity, he was able to exert an enormous influence in Indian politics by virtue of his pronouncements and the example he set.

Prime Minister Charan Singh, the head of the present caretaker government, declared seven days of national mourning for Mr. Narayan. He said his death had stilled "the conscience of the nation."

Mr. Narayan never held government office, although at one time he was considered the most likely successor of Jawaharlal Nehru, who became prime minister after India won its independence from Britain in 1947. Instead, he renounced the mainstream of politics to work among the poor.

In the early 1970s, he became increasingly outraged by the corruption in the government of Mrs. Gandhi and the Congress Party. He began to speak out against Mrs. Gandhi, whose father was Nehru. (She was not related to Mohandas Gandhi). In June 1975, he gave a speech in which he called on the police and the army to disobey what he described as illegal orders.

Citing this speech as one of the reasons for her action, Mrs. Gandhi declared a state of emergency. Using the repressive powers that it gave her, she ordered Mr. Narayan jailed. Thousands of others also were put behind bars. Mr. Narayan's detention lasted for 139 days.

After his release, he again began speaking out. In the elections of 1977, Mrs. Gandhi and the Congress Party were swept from power for the first time since independence. They were replaced by the Janata Party, which was made up of the groups that Mr. Narayan had welded together. Morarji Desai became prime minister.

During his imprisonment, Mr. Narayan kept a journal which was published later under the title "Prison Diary." In its first entry, he wrote:

"My world lies in a shambles all round me. I am afraid I shall not see it put together again in my lifetime . . . Where have my calculations gone wrong? . . . I went wrong in assuming that a Prime Minister in a democracy would use all the normal and abnormal laws to defeat a peaceful democratic movement, but would not destroy democracy itself and substitute for it a totalitarian system. I could not believe that even if the Prime Minister wanted to do it, her senior colleagues and her party, which has had such high democratic traditions, would permit it. But the unbelievable has happened."

If the election of 1977 restored Mr. Narayan's faith in the viability of democracy in his country, subsequent events were a bitter disappointment to him. Although he suffered from kidney troubles—he himself attributed them to his period of imprisonment—and heart ailments, he frequently spoke out against the inability of the various factions of the Janata Party to work together.

On hearing of Mr. Narayan's death, Mrs. Gandhi, who was campaigning for forthcoming elections, issued a statement in which she said that, "differences apart," Mr. Narayan commanded universal respect and affection among Indians. She said the example of his life would be an inspiration to future generations.

The United News of India press agency reported that 50,000 persons gathered outside Mr. Narayan's house in Patna to pay their respects to him. Thousands followed a flower-bedecked vehicle carrying his body to the town hall, where it was to lie in state. Mr. Narayan was to be cremated Tuesday in traditional Hindu fashion. His funeral was expected to be the largest in India since that of Nehru, who died in 1964.

Mr. Narayan, who was known throughout India as "J.P.," was born on Oct. 11, 1902, in a village in the State of Bihar in northwest India. His father was a lower-ranking irrigation officer. It is said that the boy was 19 before he ever saw a city. In any case, he left high school a month before his graduation to join a student protest against British rule organized by Mohandas Gandhi.

In 1922, Mr. Narayan came to the United States as a student. He worked his way through Ohio State and earned a master's degree at the University of Wisconsin. On the way, he became a Marxist.

On his return to India in 1929, he rejoined Gandhi and Nehru in their nonviolent campaign against the British. Like them, he underwent several periods of imprisonment. In the 1940s, he abandoned Marxism—he later became a critic of India's increasingly close ties with the Soviet Union—and founded the Indian Socialist Party. Previously, he had been a member of the Congress Party of Nehru and Gandhi.

In 1952, he joined Acharya Vinoba Bhave's campaign to improve the lot of Indian peasants by persuading large landowners to turn over part of their holdings to them. He spent most of the rest of his life on social reforms at the village level, believing that the key to solving India's problems lay in improving the lot of the small farmers and poor rural workers. His reemergence on the national scene in the early 1970s began as a student movement in the State of Bihar. It spread to other parts of the country, fueled in part by Mr. Narayan's reputation for absolute honesty in a country where political corruption is widely taken for granted.

As Mr. Narayan's movement grew, Mrs. Gandhi was facing increasing difficulties in her government and in the Congress Party. She saw Mr. Narayan as a person around whom this dissatisfaction could coalesce. The lines were drawn for the incidents that led to Mr. Narayan's imprisonment on June 26, 1975.

He had been in poor health for years before his detention. Upon his release his health was a factor in persuading the authorities to let him go he was hospitalized in India and then in the United States, where he was put on a dialysis machine because of kidney failure. In addition to his kidney and heart problems, he had diabetes.

On his release, Mr. Narayan commented, "After I feel better, I will continue to work for politics based on moral principles."

But as the 1977 election campaign progressed, his health worsened. He could play only an advisory role in securing the victory of the Janata Party at the polls and in the government that it later organized.

Mr. Narayan's wife, Prabhavati Devi Narayan, died in 1973. They had no children.●

THE PRAGUE AUTUMN

● Mr. CHURCH. Mr. President, on January 1, 1977, a number of citizens of Czechoslovakia released to the public a document in which they welcomed their government's adherence to the International Covenants on Human Rights and the 1975 Helsinki accord. "The freedoms guaranteed to individuals" in those covenants and that accord, the signers of Charter '77 said, "are important assets of civilization." Pledging themselves to a "civic initiative" to promote the rights guaranteed by international and domestic law, the initiators of Charter '77 asked first of all for a "constructive dialog with the political and State authorities" of Czechoslovakia.

There was no dialog. While the number of Czechoslovak citizens who signed the Charter grew from an initial 242 to 1,000, the "political and state authorities" responded to their citizens' appeal only with repression and persecution. Prof. Jan Patocka, one of the first Charter spokesmen, was subjected to merciless police interrogations in spite of his 69 years. He died less than 2 weeks after an uninterrupted 11-hour browbeating. Six months later, two young engineers in Slovakia were sentenced to 3½ years in prison for having possessed and disseminated Charter documents. In October 1977—during the very first meetings of the Helsinki accord signatories in Belgrade to review compliance with the 35-nation agreement—another Czechoslovak court sentenced a journalist, Jiri Lederer, and a theater director, Ota Ornest, to similar prison terms for their association with the Charter group. Two other signatories, playwright Vaclav Havel and writer Frantisek Pavlicek, were given suspended sentences at the same trial.

In his opening statement to the Belgrade meeting, U.S. Ambassador Arthur Goldberg registered "vigorous disapproval" of these trials and of all "repressive measures taken in any country against individual and private groups whose activities relate solely to promoting the (Helsinki) Final Act's goals and promises."

Throughout 1978 and 1979, however, the authorities in Prague continued to persecute the Charter '77 group and its many offshoots. Only a few weeks ago, Czechoslovakian authorities showed how fearful they have become of the strong voices in their midst speaking out for freedom and for human dignity when they denied one of the country's finer playwrights, Pavel Kohout, the citizenship to which he had been born and the right to reenter the country he loved.

The day before yesterday, another act of judicial squalor occurred in Prague. Six charter activists were convicted of "subversion" purely for the words they had written. Vaclav Havel, a defendant in 1977, was sentenced again, this time to 4½ years in prison. Four of his codefendants—Peter Uhl, Vaclav Benda, Jiri Dienstbier, and Mrs. Otta Bednarova—received terms from 3 to 5 years, and Mrs. Dana Nemcova was given a 2-year suspended sentence. Four more Charter sympathizers face yet another trial.

Czechoslovakia's charade against justice and human rights has been condemned around the world. From Communist Party spokesmen in France and the French foreign ministry to demonstrators like Kurt Vonnegut and E. L. Doctorow in New York and the U.S. Department of State, the protest has been firm and angry. I wish to register a similar censure. By violating the rights of their citizens to freedom of conscience and of expression, the rules of Czechoslovakia—and those who keep them in power—have violated the word they gave at the Helsinki Conference, the letter of the Human Rights Covenants they ratified in 1976, and the standards of decent conduct which are written not just in international documents but in history of man's struggle to be free.

A little more than a year from now, the Helsinki accord signatories will be meeting for a second review of progress toward the goals set out in the Final Act. Many of us hope that the discussions in Madrid will be constructive ones, conducted in an atmosphere which would enable the representatives of the 35 nations to work out new approaches to security and cooperation among the signatories. Many are hopeful that Madrid will prove an appropriate forum to begin the discussion of further measures to build confidence on military and security matters, to move within and beyond the framework the Final Act has established in that field.

Confidence, however, cannot be strengthened in one area of Helsinki undertakings—the military sphere—when it is being continually undermined in political matters. To have a setting in which we genuinely strengthen military confidence-building measures, we must build far greater confidence that the undertakings already given on the protection of human rights are to be faithfully observed.

Czechoslovakia's actions this autumn undercut that confidence as they demolish the hopes that blossomed in that country 11 years ago during the Prague spring. Czechoslovakia and its patron, the Soviet Union, which also systematically flouts its Helsinki pledges, now face a choice as to the atmosphere they want to create for the Madrid meeting. If that atmosphere is to be constructive, guarantees of human rights must be honored. If they are not, the responsibility for stalemate at Madrid will belong to those who fear the lesson Jan Patocka wrote on his deathbed in Prague 2½ years ago. Assessing the meaning and the future of Charter '77, he said:

What is needed is to speak the truth. It is possible that repression may be intensified in individual cases. People are once more aware that there are things worth suffering for.

Those things are human dignity, freedom of thought and of speech. The United States holds them sacred and will not cease to pursue their observance everywhere.●

WATER

● Mr. MOYNIHAN. Mr. President, I bring to the attention of my colleagues an editorial that appeared today in the New York Times. As Senators are aware, the members of the Environment and Public Works Committee are currently considering this year's water projects bill S. 703. Our deliberations will most certainly cover the area of water policy reform. It is to this topic that the editors of the New York Times have addressed themselves today. I ask that the editorial be printed in today's RECORD.

The editorial is as follows:

FEDERAL WATER, FINDING ITS LEVEL

National water policy has become more confused than effective, even in the old game of pouring Federal money into Western and Southern states. Low rainfall in the West and silt-laden rivers in the South once justified unequal distribution. But now, many other states need help for which they cannot qualify under the old rules. A bill introduced by Senators Domenici and Moynihan offers a wiser approach.

Existing law effectively bars assistance for projects that only supply a city with water. To qualify for Federal help, projects must serve multiple purposes, like power generation, navigation, soil conservation, flood control. This favors Western and Southern states; working such multiple wonders is not generally necessary in the Northeast and Midwest. Yet single-purpose projects might nonetheless be equally deserving of support.

There are other problems. States now feel encouraged to support one another's proposals, raising the amounts spent on water projects but lowering their usefulness. Westerners have been encouraged to waste water because it is priced far below real costs. Meanwhile, Eastern water supply systems get much less than they need for safe long-term operation.

Under the Domenici-Moynihan proposal, Congress would continue to subsidize water projects. But its bargaining over individual projects would be eliminated. The vehicle for choosing projects would be the Water Resources Council, an existing interagency body. It would be reorganized and authorized to study all proposed projects.

Each state would receive a fixed share, based on area and population, of an annual $4 billion authorization. That is about what is being spent now. This limit would force each state to establish its own priorities and allow it to choose single-purpose designs. Each state would pay 25 percent of the project costs.

Some critics of the bill say its changes, while beneficial, should be made gradually. But it is difficult to split the new procedure into rational stages. Others argue that giving states fixed amounts would overlook the nation's real water needs. The history of water projects, however, shows that many former needs have been met. The task now is to let each state define its own requirements.

The Domenici-Moynihan approach would open the way for communities like New York City, which have built water supply systems with their own money, to get Federal help. The city cannot build a third water tunnel without assistance. Federal aid, like water, should be allowed to flow fairly. This bill would permit it to do so, and merits cautious support.●

MISSING PERSONS

● Mr. CHURCH. Mr. President, I would like to take this opportunity to commend Congressman DON BONKER for the hearings he has held on a new and very disturbing phenomenon in the violation of human rights called "the disappeared person." As chairman of the House Foreign Affairs Subcommittee on International Organizations, Congressman BONKER's investigation has examined the tragedy of the many thousands of dissidents and intellectuals who have dissappeared in the night at the hands of security forces around the world.

The charges against these victims are often fabricated or nonexistent; their legal and human rights are ignored and abused. Hundreds of such cases have been reported in Africa and Asia, thousands have disappeared in Chile and Argentina.

Mr. President, I ask to have Mr. BONKER's recent article in the Washington Post printed in the RECORD.

The article follows:

THE MISSING 30,000

It is 7 a.m. Five men in civilian clothes burst into a home and seize a 23-year-old man. The chief of the gang tells the young man's mother that her son has been named a subversive by a prisoner under custody and is being taken in for questioning. She is told that she can inquire about her son the following day. But the next day—and a thousand days later—the police deny knowing anything about him.

In another incident, a 31-year-old woman who lived through the terror of imprisonment and returned to tell about it reports: "I was told by my captors I was not detained, nor disappeared. I was just absorbed, kidnapped, sucked up."

Scenes from "Holocaust"? No, these incidents are examples of a new phenomenon in the violation of human rights called the "disappeared person." This brutal and cynical practice is occurring almost daily in a significant number of countries. It is further evidence that the 20th century has not spent itself of horrors.

Though the phenomenon of the "disappeared person" is prevalent worldwide, most documentation comes from South and Central America. At a recent human-rights conference in Chile, the secretary general of Amnesty International estimated that in the last decade some 30,000 Latin Americans have disappeared. The number of documented missing reaches the hundreds in parts of Africa and Asia, as well as in Brazil, Uruguay and Paraguay. These numbers soar to the thousands in Chile and Argentina.

Since the military coups in Chile and Argentina, many thousands have disappeared without a trace after arrest by police, security forces or parapolice. In certain cases, husbands and wives have been taken together, sometimes with their young children.

Tragically, a substantial number of unaccounted-for children have been abducted or have been born in captivity to pregnant kidnap victims. No attempts have been made by governments to investigate such disappearances, and these abuses continue unchecked.

After a recent visit to Buenos Aires, V.S. Naipaul wrote: "There is still, for the distinguished or well-known, legal arrest on specific charges. But below that there is no law. People are taken away and no one is responsible. The army refers inquirers to the police and the police refer them back to the army. A special language has developed: an anxious father might be told that his son's case is 'closed.' No one really knows who does what or why; it is said that anyone can now be made to disappear, for a price."

In Argentina, one does not need to be a terrorist to be arrested, tortured or murdered. It is enough to have belonged to a trade union or a student organization or to have helped persons classified by the military as "subversive." People are simply picked up, some to return as corpses, minus their heads and hands to prevent identification. A few are released and warned not to speak, but most are subjected to brutal conditions in secret camps.

Until recently, little international attention focused on this terrifying violation of human rights. In the last session of the United Nations General Assembly, a resolution was passed asking for intergovernmental cooperation to search and account for the disappeared.

More recently, a subcommission of the United Nations adopted a resolution stating that disappearances continue to occur and that the "dangers involved for such persons warrant urgent reaction." If the situation were to continue, the subcommission recommended, some form of emergency remedy must be applied by the international community.

The House International Organizations Subcommittee will hold today the last in a series of hearings on the phenomenon.

If, as President Carter has said, human rights is the "soul of American foreign policy," then we as a nation steeped in traditions of freedom and justice must respond to the mounting evidence. We must let the word go forth to the relatives of the disappeared, to those locked in secret detention camps and to the exiles around the world that "if you are silenced, we will speak for you."●

ENERGY

● Mr. MOYNIHAN. Mr. President, recently WNBC-TV and WCBS-TV of New York City editorialized favorably on the thoughtful proposals of New Jersey Senators PETE WILLIAMS and BILL BRADLEY to help solve this Nation's energy problems. I too am impressed by the initiatives put forth by my distinguished friends and colleagues from New Jersey and ask that the editorials be printed in the RECORD for the consideration of my colleagues.

The editorials are as follow:

NEW JERSEY SENATORS

New Jersey's Senators have shown themselves unusually responsive to the energy problems of the country in general and the poor in particular, and for that we believe Senator Williams and Senator Bradley deserve the thanks of all of us. Senator Williams' bill to help people get the money to properly insulate and weather proof their homes can be a great help, not only to the individuals involved, but to the country's economy. It should pay for itself many times over.

Senator Bradley's legislation which, among other things, would provide for an energy audit for the house of everyone wanting one—and everyone should—would also be a big help. We have one reservation about it which we think he should consider. The bill would provide for a corps of experts to do the auditing. We think these should be local people, locally hired and controlled. In this part of the world we have good reason to be suspicious of casual strangers snooping around our homes.

But the ideas here are good. Now, if Congress and the Administration would only start acting as though they, too, thought such legislation important, then maybe we can start licking this energy problem.

THE BRADLEY PLAN

Baby, when it's cold outside, keeping warm inside is going to be expensive and likely to get more so anytime OPEC chooses. So if you're a home owner, you may be trying to figure out how to conserve fuel. You may be weighing the advantages of insulating against refitting your furnace.

But how can you tell what's best for your home? Can you rely on the company that does the job to give you the best advice and how are you going to pay for it?

Well, Bill Bradley, the new Democratic Senator from New Jersey, has come up with a plan that could be your answer. The Bradley Plan would have an energy efficiency expert from a private energy conservation company come to your house to advise you on the best method of reducing fuel consumption and then make the necessary improvements. Who would pay for this? Well, it is not clear to us, considering the complexities of the Bradley Plan. Senator Bradley would have utility companies pay the bill and pass the cost onto the consumer which may prove unworkable. But, in principle, we believe Senator Bradley is onto something. A nationwide program of energy conservation should be established. Energy audits should be made in homes across the country, but a simple means of financing conservation should be available to all. We question whether using a utility company is either fair or practical, but despite our doubts about whether the Bradley Plan is the way to bring about energy conservation in our homes, its goal is important, and we hope Congress gives it and other plans with the same goal the highest priority.●

ERNIE DAY

● Mr. CHURCH. Mr. President, the "River of No Return Wilderness" is almost a reality.

Earlier this year, I introduced three bills which would reclassify Idaho's two remaining national forest primitive areas as wilderness. Those bills represented a

broad spectrum of plans for the future management of the wildlands of central Idaho. I introduced the three measures at the specific request of those who drafted them: The Carter administration, the Idaho Forest Industry Council, and the River of No Return Wilderness Council.

Three and a half days of hearings were held on the bills in Idaho in April and May, and a final hearing here in Washington in June. Since then, Senator McCLURE and I have been working with Governor Evans and the various parties who have an interest in this legislation. I am happy to report that agreements have been reached on many points and I am hopeful that a final proposal will be worked out by the Energy and Natural Resources Committee within the next few days.

Mr. President, there are many, many Idahoans who have given selflessly of their time and talents to protect this magnificent area. We owe them a great debt. One of those individuals is a dear friend of mine, Ernest Day.

Ernie Day is a hunter, a fisherman, an avid photographer, and one of Idaho's leading spokesmen for conservation and wise management of our natural resources. Recently, there appeared a profile in the Idaho Statesman of Ernie and an interview with him in the Living Wilderness magazine.

Mr. President, I ask that both the interview and the profile be printed in the RECORD.

The material follows:

A TALK WITH ERNIE DAY: "I'M NEVER HAPPIER THAN WHEN I GET BACK ON THAT MIDDLE FORK IN A RUBBER BOAT"

(When American wilderness wins statutory protection, it is because committed citizens have worked hard to achieve it. In Idaho, conservationists are sponsoring the largest wilderness proposal outside Alaska—the 2.3-million-acre River of No Return Wilderness. One of its most vigorous champions is Ernest E. Day, Wilderness Society member, past president of the Idaho Wildlife Federation, former board member of the National Wildlife Federation and vice president of the River of No Return Wilderness Council since its formation. On June 22, he testified in Washington before a unit of the Senate Energy and Natural Resources Committee in support of the proposal, on which legislative action is pending. The following conversation between Ernie and Living Wilderness editor Jim Deane occurred the day after the hearing.—Ed.)

DEANE. Ernie, tell me how you happened to get into the conservation activity that you've been involved in now for so many years. When did you first become a conservation activist?

DAY. I became a conservation activist after many years of enjoying the resource, photographing, hunting, fishing, hiking. Idaho had so much to offer we just took it for granted, and when I was in the service, away overseas, I used to dream about getting back and going to Granite Lake up above McCall in the Payette Lakes country. We'd had good fishing there all through my boyhood. It was about a three-mile hike into Granite Lake. When I got back it had been roaded up. They'd had a survival camp site there for the Air Force, and the thing that I'd been dreaming about for two or three years no longer existed. That caused a lot of evaluation as far as I was concerned. I guess you have to lose something before you appreciate it. So with that loss I guess I was ripe to be swept up by the wilderness movement.

DEANE. How did that sweep you up? What got you into it?

DAY. I realized then that a road meant the end of everything that was dear to me in almost any area. That road just completely changed the character, the integrity of the whole scene up there to the point where I no longer wanted to go back. Then I got to spending time in more areas and realized that the same thing could easily happen to them. I read Bob Marshall, Aldo Leopold, Wallace Stegner, Joseph Wood Krutch, Olaus and Mardy Murie, and I hiked with people of a little broader than strictly Idaho interests. I heard about The Wilderness Society and the Sierra Club and joined both and was exposed to some of the real people in the movement.

DEANE. Did you meet Howard Zahniser early on?

DAY. Yes, very early. I think the first wilderness bill that Howard presented was my formal introduction to fighting for specific statutory protection.

DEANE. Zahnie was then the executive secretary of The Wilderness Society here in Washington. How did you meet him?

DAY. At the outset we were in a tiny minority in Idaho when it came to fighting for wilderness. I'm happy to say it's better now, though it's also more polarized. But there weren't too many people in Idaho then who even thought about the wilderness—it had been there all the time. The frontier ethic was still rampant. Multiply, conquer the earth, subdue—the regular old frontier ethic. That's all we ever really had in Idaho because we were so close to it that we just took it for granted. I'm convinced there's some kind of an inverse law that the closer you are to something, the less you appreciate it. And that's true in Idaho. But to get back to how we met Zahnie: there were four or five of us—Bruce Bowler, Ted Trueblood, Frank Jones, Mort Brigham—who realized the necessity even then of passing statutory protection for roadless areas. We got in contact with Zahnie because we needed Zahnie's help. We felt very lonely out there. We thought the best we could do was kind of be a beacon west of the Mississippi saying, "Look, there are some of us out here. Help us! Hone in on us! Do whatever you can!" And of course that was good news to Zahnie, too, because he was looking for a voice out there that said, "Come and help us. Embrace us." At that time Gracie Pfost was congresswoman from that district. She was on the Interior and Insular Affairs Committee, and she was opposed to wilderness. So we formed an alliance between Zahnie and some of us in Idaho. Later on we formed our Idaho Wilderness Committee.

DEANE. This was eight years that went into the Wilderness Act?

DAY. Eight years, at least, I have a degree in political science and I never have seen a more perfect primer to document the passage of a law, from Zahnie's originally asking for the world and scaling that down a little as the facts of political life were impressed very indelibly. He'd retreat to another position and another position. Finally he said, "That's as far as we can go," and that's about the time that the thing jelled and they passed it, in 1964.

DEANE. In the process of that effort, did more people in Idaho come to be identified with the wilderness cause?

DAY. Yes, many. Most of them appreciated the wilderness already, but they didn't realize the necessity of taking statutory steps to preserve it. I'm convinced that even then more people wanted it than didn't. But they just didn't realize that it wouldn't be with us always.

DEANE. Now you have a magnificent potential wilderness area which you're calling the River of No Return. When the Wilderness Act was passed, there was some wilderness that was established by that act in Idaho, wasn't there?

DAY. Just prior to the passage of the act, the Selway-Bitterroot was courageously redesignated wilderness, so when the Wilderness Act was passed, the Selway-Bitterroot came in as wilderness. But the rest of it in the state of Idaho was classified as primitive area and as such was up for wilderness review within 10 years. And that's the genesis of the proposed River of No Return Wilderness. It was the old Idaho Primitive Area which was established by the Forest Service in the early 1930s. Nobody ever called it anything but Middle Fork country in those days.

DEANE. When did the River of No Return Wilderness Council come into being?

DAY. In 1972, I think it was, it became apparent that time was running out for Idaho Primitive Area reclassification, and the Forest Service initiated workshops to try to get some citizen input. We decided we needed a catchier name, so we started referring to it as the River of No Return. Several of us got together and delineated what we thought should go in the package. We looked at well over 3 million acres and thought that about 2.3 was the minimum we should shoot for. We could actually have gone for quite a bit more, and there were some who thought we should. But we tried to devise a package that would be justifiable and politically realistic. It was a compromise.

DEANE. Have you still got as much as 3 million acres that are roadless in that country?

DAY. Oh, yes. In fact it'll go probably as high as 3.5 million acres, depending on where you draw the lines.

DEANE. Where is that country?

DAY. Right in the heart of Idaho. The main feature is the Middle Fork of the Salmon River. It flows in basically a northerly direction for about 120 miles to the confluence with the Salmon River. The Salmon River is also now part of the proposal, because encompassed in the River of No Return Wilderness on the north would be part of what was the old primitive area in the Selway-Bitterroot. It is called the Salmon River Breaks Primitive Area.

DEANE. So a substantial portion of the proposed River of No Return Wilderness has been in these two primitive areas, is that right?

DAY. That's correct.

DEANE. And it's been protected against timbering and so on.

DAY. It's been basically managed as wilderness. There's very little difference between primitive area and wilderness area as far as administration is concerned.

DEANE. What threats are there to this wild country?

DAY. The main threat, of course, is logging with its logging roads. Much of the region is underlain by what they call the Idaho batholith. The soil covering this rock is usually thin and is exceptionally erodible. It can't stand roading. It's just very tender, and to protect the integrity of the Middle Fork, which is the main bedroom for the anadromous fish of the Salmon River system, we have to keep the Idaho batholith from ending up in the river like it did on the South Fork, which once provided 30 percent of Idaho's salmon fishing. The South Fork was closed to fishing in 1967 after logging and roading on only 15 percent of the drainage caused such severe erosion that the spawning gravels were choked with silt. Fish reproduction all but stopped. That is what we're striving to avert.

DEANE. These are the fish that come hundreds of miles up the river from the ocean to spawn?

DAY. That's right. There are two or three runs of salmon, chinook salmon. There's also some sockeye, which Redfish Lake was named after. They're red, about four pounds. And

then the one that I like the best of all is the steelhead. Of course there's a good resident fishery, too. And on top of that there are 190 species of wildlife in there, from the tiny little rodents clear through to the cougar which sits on the top of the food chain.

DEANE. So there's both hunting and fishing in there, and they are important to a lot of people.

DAY. That's right, and it's not incompatible. Hunting's part of it. And in fact it's necessary. There were times when the deer herds built up to the point where starvation took more than the hunters did. It has to be a balanced thing.

DEANE. Then there are a lot of people now who are also interested in taking photographs. You've been taking photographs for a long time yourself.

DAY. Oh sure, more people all the time are hunting with the camera.

DEANE. When did you start doing that?

DAY. Quite early on, I guess 20 to 25 years ago.

DEANE. How many pictures do you figure you've taken of that country over the years?

DAY. Oh, I don't know. That and the Sawtooths, I suppose I have five or six thousand in my files.

DEANE. You go up in the air and take them from the air too, as well as on the ground.

DAY. There's no better way to make a point sometimes with a committee or with a magazine or anything else than to show really the vastness that's involved, and this is a vast area—2.3 million acres. That's larger than Yellowstone Park.

DEANE. But the area, you feel, should be kept intact for ecological reasons? That's very important?

DAY. That's right, sure. I hate to see it rationed. If anybody had told me when I first floated the river in 1954 that someday you'd have to apply almost a year in advance to get your name in a lottery which would determine whether you got to go the next summer, that just would have been inconceivable. I'd have told them they were out of their minds. Well, here we are, not too many years later, and you have to apply about a year ahead of time and go through a lottery process. And tht's part of our dilemma in wilderness, how do you protect it after you have it? Because all of a sudden just by virtue of naming it wilderness it attracts some people. And we've never had any regulation at all of anything along that line, and the only thing worse, in my opinion, than regulation of this tender area, through lottery or whatever restrictions you have, would be to know that that's indicated and necessary yet not have it regulated.

DEANE. Some people have discovered this area, I take it?

DAY. Many people, especially since the President's been down the Middle Fork.

DEANE. I'm told the President really got a bang out of taking that float trip last year.

DAY. He said to the boatman that it was the best three days he'd ever had in his life. It's addictive. I'm never happier than when I get back on that Middle Fork in a rubber boat. You bob along there and your cares and anxieties just roll off like water off a duck's back. There's nothing like it. Some people are just latent river rats and when they're exposed to it they're gone, and I'm one of those. And Jimmy Carter kind of indicated maybe he was that too.

DEANE. There's quite a little economy built up around people traveling that river, isn't there?

DAY. Oh, very, it's a vital part of Idaho's economy. The outfitters have records of that. They keep tabs through their licensing applications. I think last year they said that $23 million came off of backcountry outfitters and guides—hunting, fishing, river-running, the whole thing. Now, that wouldn't be all in this area, but most of the guide fees come from this big central Idaho wilderness. So that's $23 million directly to the coffers of Idaho. That doesn't count air fare to get there or anything else. And that's some of the best money you can get, because those are nonresidents. You don't have to furnish police power, you don't have to furnish retirement, you don't have to do all kinds of things that you do for an industry which is there on a 12-month basis. It's kind of like retirement people. You don't have to give them nearly the facilities that you do younger breadwinners, because they're at a different stage in their requirements.

DEANE. You're saying that Idaho is attracting quite a lot of people from out of state to enjoy these natural values?

DAY. Very many. It's an explosion. In fact, we have four explosions going on. You have more people. They have more and longer vacations. You have a transportation explosion—you can get to Idaho from New York in one day. Finally you have an explosion of equipment—these horrible ORVs and all the other things that allow you to get in there, and better means of taking fish and hunting and all that. These things all total up, just put more pressure on everything.

DEANE. So that a big area really is justified in terms of accommodating this kind of growing use, is that right?

DAY. Yes. The tendency of everybody, even our own wilderness advocates, is not to project the needs on a broad enough base to take care of the long-term requirements. There is a much higher percentage of the outdoor people now who are interested in wilderness.

DEANE. On the other side of the fence, the timber industry has been contesting the objective of setting aside this wilderness.

DAY. Every inch of the way.

DEANE. What's the stake of the timber industry and have they got valid arguments, do you think?

DAY. Well, I'm in the real estate business and we have a residential department. So I really do participate in the profits from the end-product in lumber which is the home-building, and it's certainly legitimate. We must have wood, and the paper avalanche has to be satisfied with wood pulp, and all kinds of things. So I wouldn't sit here and say that it's not important. But we've got to have it in balance. We think it should be balanced one place, with an adequate timber base, and the timber industry and their stockholders think it should be balanced some place else.

DEANE. Will they have enough resource out there to meet the legitimate needs of the timber industry without sacrificing the acreage that you think should be included in this wilderness?

DAY. We think so. There's a lot of lumber in the Northwest shipped to Japan, if you want to look at that. Now it isn't off public domain, Forest Service, the people's land. That's not allowed to be shipped directly outside. The way it works, they ship the product of their tree farms or private property, and then the other takes up the slack.

DEANE. Alaska's doing the same thing.

DAY. That's right. Japan's getting more of them. But the way it's evolved in Idaho, it's a fight for forest jobs. At least that's what the timber people get their jobholders to believe—that every bit of wilderness takes from their job base. And soon mills will close and they'll be out of work. Well, that's going to happen anyway if they're allowed to cut above the sustained yield. And sooner or later, if they keep cutting heavier than they should be, they're going to put themselves out of business, just like too many cows on the common, you know. So one of the big questions is, are we going to save some of this precious land and this really choice wild country in time, and blow the whistle on some of this forest products production, or are we going to wait till we've cut the last tree and then be out of a job?

DEANE. How many jobs are being enumerated in this controversy? How many jobs are allegedly at stake?

DAY. At the hearing, a claim was made that 180 direct and indirect jobs would be impacted and that one mill employing 130 people has threatened to close. They try to say that due to RARE II and logging restrictions they have less timber to harvest than they did. But actually the number of jobs in the timber industry in Idaho has been increasing. So they haven't been hurt. And none of the cutting bases are in our Idaho Primitive Area, so wilderness designation would take no jobs from anybody, because they haven't a right to be in there anyway. Besides, they have these new computer-run mechanized logging mills that can do twice, three times—maybe more than that—the processing of this product with less jobs. Ultimately these people are going to be out jobs one way or another anyway.

DEANE. I didn't think at the hearing that I heard very large figures.

DAY. The forest products people have finally consented just because public opinion made them go for something. I think, to about a 1.4-million or 1.3-million-acre wilderness. One of the Boise Cascade vice presidents stated that in the million acres of timber between the 1.3-million-acre industry bill and our 2.3-million-acre bill, the sustained yield would be approximately 20 million board feet. That is less than one percent of the annual cut for the whole state of Idaho. Well now, that extra million acres in this ecological package has got to be worth more than just a one percent addition to the timber cut in Idaho each year. That's the salient figure.

DEANE. You're looking to Senator Church for help in getting this problem resolved.

DAY. That's right, and he has a good track record. He carried the original Wilderness Act when Clinton Anderson became ill. He was instrumental in wild rivers legislation. He championed Hell's Canyon protection and the recreation area there. We just really hope that he'll stay with us on this one. But this one cuts deeper. There's more polarization on a local basis.

DEANE. But the interest of the country at large certainly is in protecting the extraordinary values of this particular region, isn't that right?

DAY. Every American has a stake in this. Some of them may never see it, but just knowing it's there means something to them, especially if a magazine like The Living Wilderness shows what's there. They think, "Maybe I'll get out there," or "At least the whole United States isn't a concrete canyon like it is here."

DEANE. Here in the East?

DAY. Yes.

DEANE. What sort of environmental movement is there in Idaho now?

DAY. In '73 when we had those original hearings and workshops, we had 1,100 people out in Boise one night. I'd never seen such an outpouring in my life. There were people from all walks of life, not just environmentalists. A lot of them didn't even know what the word meant. But they knew that the Middle Fork country was important to them, and enough of it had to be saved to make it worthwhile. At the three Senate hearings in Idaho this year, citizens backed our 2.3-million-acre proposal two to one.

DEANE. What's the population of Idaho today?

DAY. Just a little under 900,000 for the entire state. It's one of the fastest-growing states, and Boise's one of the fastest-growing cities in the United States now. We're getting so many people fishing that on opening day you have to have a tapered line to get it in the water.

DEANE. A lot of the people who have moved out to Idaho have moved there because of the natural values of the country, isn't that right?

DAY. Sure, that's what they want. But if we aren't careful, Idaho's going to be just what the rest of the world is.

DEANE. We'd hope that the Idahoans would want to protect what they went there to enjoy.

DAY. If their jobs aren't directly threatened, and a lot of times those threats sound a lot more real than they actually are, most of them feel that way.

DEANE. You know, I should have asked you way back at the start of this conversation whether you're a native-born Idahoan.

DAY. I've been in Idaho for 61 years.

DEANE. Where were you born?

DAY. Boise. I've lived there all my life.

DEANE. Were your parents born out there too?

DAY. My dad was born in London, lived in England till he was 20. Came out, and never had done anything, in fact, outdoors. He settled in Idaho and loved it so much that he started hunting and fishing, and that's where I got my first exposure to it, fishing with Dad. My mother's father was a dentist, and I think if I had it to do all over again I'd be a dentist, because they say, "Miss Jones, don't take any appointments for Wednesday," and they can run over to Silver Creek and fish all day. Doctors have emergencies, but dentists by and large can set the time. Anyway, Grandpa Maberly was a dentist and one of the original classical sportsmen in Idaho. He dropped dead following his dogs at a hunting field trial.

DEANE. Have you seen wolverines in Idaho?

DAY. Not myself, though they're reported occasionally.

DEANE. But you have bumped into cougars?

DAY. Yes, in fact that's a very large part of this River of No Return battle. The greatest cougar study, I guess, in America has taken place up there the last 10 years. That's a real laboratory for the study of the big cats, and Maurice Hornocker has done more significant work in there and found out more about the cougar than probably any other researcher. There have been wolves sighted. And they think maybe there are grizzlies. It is just a big wild country and as such has things that almost no other segment of America has.

DEANE. Cecil Andrus, the Secretary of the Interior and formerly the governor of Idaho, is pretty strong on protecting the big wild country in Idaho, isn't he?

DAY. That's right. In fact, one of the main issues of his initial election was a proposed open-pit mine in the White Clouds.

DEANE. He made that a plank in his campaign for election?

DAY. It was probably the main issue that catapulted him in. Not that that was by and of itself the largest issue. But he was the only one of the four candidates who had the forthrightness to come out and say, "I am opposed to a large molydenum mine in the White Clouds." All the rest of them were shilly-shallying with an evasive approach. Cece just came out and hit it hard, and was rewarded with an election victory that upset a 24-year Republican state regime. Then he was reelected with the highest plurality anybody's ever had in Idaho.

DEANE. He's been a very strong Secretary of the Interior since he came to Washington.

DAY. You bet he has. As far as Alaska's concerned, as far as the Redwoods are concerned, his record is great. He wants a little less River of No Return Wilderness than we do and said that when he was governor. We're 100,000 to 200,000 acres apart on that. But I can't fault him at all for his record as Secretary of the Interior. I think it's just been great.

DEANE. What's your impression of the attitude of Idaho conservationists about Alaska? You went up there yourself. How'd you happen to go to Alaska?

DAY. I first went as a board member of the National Wildlife Federation when the oil people were trying to sell us the pipeline. And we flew the whole thing and looked it over and we had our summer board meeting there, and I fell in love with the vastness of Alaska then. Anything anybody else has got, even Idaho, Alaska has in spades.

DEANE. It's beautiful country.

DAY. It's too bad that most Alaskans don't really realize how great it is. We have parallel philosophies, parallel problems, parallel piecemeal attempts at solution with Alaska and Idaho. A lot of the natives just don't want that much locked up for federal intervention or federal regulation or whatever.

DEANE. Is lock-up a fair word?

DAY. No, heavens no, it isn't. I use that in a little quote, you know.

DEANE. You have to say the quotes, like Victor Borge.

DAY. I can't do it with my two fingers on each hand. But you know what I mean, many are hostile to outsiders. And so are Idahoans hostile to outsiders, some of them.

DEANE. Is there a similar ratio between the population and the acreage of the terrain? You know there are only 400,000 people in the whole state of Alaska, which is 375 million acres.

DAY. That's right. Well, they've taken it for granted. They're part of that old law, the closer you are to something, the less you appreciate it.

DEANE. They're not very close when they're right there, either, because it's so big. Well, the people of the United States obviously have a large stake in these areas of which they're the owners. Everybody, all the citizens of the country own these big public areas, and they all have a stake in what's to become of them in the future.

DAY. That's right, and in the future they're going to be a lot more important to them than they are right now. That just goes with this time-transportation-equipment-population explosion formula I was telling you about. And even if you look at it as far as the lowest, and I mean lowest, common denominator, the dollar, is concerned, I'm convinced that over a long enough projection it will make more dollars for Idaho and probably more dollars for Alaska to maintain a large enough wilderness base to keep your state known and acknowledged and appreciated and a magnet for others. Now that gets into another problem, how you protect it.

DEANE. Management problems.

DAY. That's right, and that's hard. Many people think if you say nothing about it it'll take care of itself. And for a while that seemed like maybe that was the way to go, but now we know that if you're going to have it, you're going to have to protect it with statutory boundaries. Now I'm convinced that the de facto wilderness which I have known for my first 50, 60 years and taken for granted will no longer exist as wild country in the very near future. They're going to cut and mine right up to the borders of anything that is not statutorily protected. That's why this is such a key time, such a crucial time, to get as much of it in under this statutory tent as possible, because as the population increases the pressure is going to be more and more. So we just have to get our sights high enough to protect enough of this so that we'll always have it, in a fairly good condition.

DEANE. It's my sense that the great majority of the people of the United States want this. Do you agree with that?

DAY. I'm sure that's true. But there's an awful lot of really pretty lethal Madison Avenue media attack going on right now sponsored by almost every timber company in business. And I am apprehensive that they are molding a philosophy or a partial philosophy of a lot of people who haven't thought the thing through to the idea that wilderness is a lock-up and that it is undesirable and it's bad for the economy.

DEANE. The people who live in all of the great crowded urban areas of the United States I would think have the biggest stake of all in seeing to it that we don't throw away what wilderness we have left. And there are intrinsic values in preserving the wildlife and the beauties of the natural world that people like Justice Douglas have pointed to, and those aren't to be ignored either.

DAY. That's right. Somebody said, "Are we going to destroy every last nook and cranny of this country, or are we going to blow the whistle and stop before it's too late?" It's something like the whale situation. Today perhaps more than at any other time in history we need to save the opportunity for stimulation and exhilaration that is offered by our remaining wild country.

DEANE. The language we're talking now is the language that Aldo Leopold used about the importance of a land ethic and the realization of our people that you have to have an ethical view toward the land that you live in. The basic principles are what's really important.

DAY. That's true. There's one thing that really grieves me. That is the climate in which we're making these decisions. They're made politically rather than on the real merits. A politician says, "What can I do that'll affect me the least?" rather than "What can I do that will affect the land least?" And a part of this is what I call the leftover principle of wilderness allocation, that is, we get the rocks and ice and anything else that nobody else wanted. We're getting just the crumbs off the table, not even the full-fledged crusts. We're getting little more than rocks and ice out of all of RARE II.

DEANE. In practical terms, people have to speak up if the politicians are going to be influenced.

DAY. And people habe to vote, and people have to work for the good politicians.

[From the Idaho Statesman, Oct. 8, 1979]

DAY RECALLS YEARS OF CONSERVATION BATTLES

(By Pete Zimowsky)

A smile came to conservationist Ernie Day's face as he recalled the 30 or so years of battling to preserve Idaho's wilderness areas.

The casually dressed Boisean leaned back and recalled a 17-year battle for Hells Canyon, 15 years for classification of the Sawtooth National Recreation Area, 8 years to get the Wild Rivers and wilderness acts, and the battle over the White Clouds somewhere in between.

His eyes brightened as he remembered hunting and fishing trips with other conservationists—the wall tents pitched on some mountain ridge in the fall while grouse hunting, or over at Owyhee Reservoir in May for an annual bass and crappie fishing trip. Even Ted Trueblood's great camp cooking came to mind.

Days a real estate agent, but he has a 2nd occupation—conservation activist. Day has fought many battles. During those years he has taken thousands of photographs of Idaho's back country. Youll find his byline on countless photographs in outdoor magazines, conservation periodicals and pamphlets urging wilderness areas.

Day isn't ready to quit fighting for Idaho's wilderness. He's currently wrapped up in the battle to get the biggest chunk possible set

aside for the River of No Return Wilderness in the heart of Idaho. After that issue is put to rest, he'll go on to another. His love for the outdoors will keep him embroiled in the issues.

Even though Day, 61, isn't planning to step down from any wilderness battles, he has mellowed a little. Day is associated with the fire horses in Idaho conservation—Ted Trueblood, nationally acclaimed outdoor writer; Bruce Bowler, Boise attorney whom Day considers Idaho's best conservationist; Frank Jones, printer-conservationist; and Mort Brigham, a conservationist from the timber industry who Day says has a burr under his saddle when it comes to wilderness issues.

Day believes the environmental movement has matured. The fervor is gone from the old "Earth Day" movement, he said, but young people have a better fact base from which to operate. He respects the new breed and says, "They're articulate young people instead of retreads like us from the old environmental battles."

Day has lived all his life in Boise. His grandfather loved the outdoors and died standing behind his dogs at a field trial. He inherited his grandfather's prized gun and love of the outdoors.

Day was swept into the conservation movement because of a mountain lake near McCall. While serving overseas during World War II, all he could think about was the day he could return to Granite Lake and its 18-inch trout.

That day never came. A road had been built to the lake. Day said "It vividly brought to mind that roads bring an end to what I like." He also realized that "You have to lose something to appreciate it."

Day had always wished he had taken wildlife and biology classes in school but later realized his political science background was valuable in fighting for wilderness in state and national political arenas.

During that time he has been a member of the board of directors of the National Wildlife Federation, member and past president of the Idaho Wildlife Federation, chairman of the Idaho Park Board, president of the Boise Executive Association, member of the Rotary Club, chairman of local chapter of Ducks Unlimited, chairman of the Idaho Wilderness Committee, director of the Nature Conservancy, Ada County Fish and Game League, Hells Canyon Preservation Council, Idaho Environmental Council, director of the River of No Return Wilderness Council and member of the Sierra Club. He has also served on the advisory boards of the Boise District of the Bureau of Land Management and Challis National Forest.

Day credits his ability to fight for wilderness to being self-employed. He said many people can't get totally involved because of their jobs.

Day also learned to stand by his guns in state wilderness issues. In 1969 he resigned from the Idaho Park board because of a difference of opinion with then-governor Don Samuelson over the issue of mining in the White Clouds. Samuelson favored proposed molybdenum mining in the Central Idaho mountains. Day didn't.

Mining in the White Clouds became the central issue during the 1970 gubernatorial election in which Cecil Andrus narrowly defeated Samuelson.

Day has been labeled a conservationist-preservationist—"friends consider me a conservationist; enemies call me a preservationist."

Day's philosophy is that nothing is any better than where it lives. He says the only way to preserve wildlife is to preserve its habitat. He says fish- and bird-stocking programs are only short-term solutions to wildlife problems.

He said "We need a broad enough wilderness base for our needs—the needs of one million people in Idaho and also for people throughout the United States."

People are living in Boise because of the lifestyle not the salaries they make, Day said. Many companies are locating in Idaho because of the lifestyle and the outdoor experiences nearby.

He said, while working as director of the National Wildlife Federation, he has seen other states lose what Idaho has, and there is still time to save it, but time is running out. "It's to our economic advantage because we have something no one else has."

Day's mind wandered to the Sawtooths. They're his favorite mountains. He interrupted once to describe how beautiful the leaves are up there this time of the year.

Day has gone over almost every foot of the Sawtooths except a trail along Queens River.

"I plan to do that trail before I hang up my Vibram soles." ●

RALPH NEAS, A BRAVE YOUNG MAN

● Mr. MOYNIHAN. Mr. President, in the past few weeks there have been several articles in the Washington newspapers about a very brave young man. I speak of Ralph Neas, administrative assistant to my friend and distinguished colleague, Senator DAVID DURENBERGER of Minnesota.

Last February 11, Ralph was stricken with Guillain-Barre syndrome, a disease that progressively paralyzes the nerves that control the muscles. It has been a month now and almost miraculously Ralph is back working and functioning in the Senate at the level of competence and professionalism he has always been noted for.

Mr. President, I personally welcome Mr. Neas back and commend him for his courage and perseverance. I ask that the articles from the Washington Post magazine of October 7, 1979, and the Washington Star of October 13, 1979, be printed in the RECORD for the consideration of my colleagues.

The articles follow:

[From the Washington Post Magazine, Oct. 7, 1979]

NEAS FOUGHT BACK FROM PARALYSIS AFTER A PRIEST GAVE HIM THE LAST RITES

(By Rudy Maxa)

It's a hell of a case of the flu, thought Ralph Neas one evening last winter as he lay in a Minneapolis motel room, his hands and feet numb. The next morning he stood on wobbly legs and looked into the bathroom mirror, panicked. Half his face drooped grotesquely, paralyzed. And as he lay in bed awaiting a ride to a doctor, Neas began to writhe and scream in pain as the paralysis worked its way further through his body.

That's the way the bizarre medical saga of a young Capitol Hill legislative lawyer began last February. Before it was over, Neas became totally paralyzed. He watched and listened—his mind unimpaired—as a priest administered general absolution at his bedside.

"Sometimes I feel like Lazarus," Neas says today. Often when he walks the halls of Congress, dapper in a threepiece, pin-stripe suit and tapping his fashionable walking stick on the marble floors, he is spied by old friends who were aware of his imminent death earlier this year. They stammer at the sight of the 33-year-old Neas back in the place where he served as chief legislative assistant for, first, Sen. Edward Brooke (R-Mass.) and, now, for Sen. David Durenberger (R-Minn.).

Today Neas uses words such as "incredible," "amazing" and "interesting" to describe his bout with Guillain-Barre syndrome, a disease whose cause is a mystery and whose treatment is merely a waiting game. Most of the 3,000 people who will be hit by the disease this year will experience several weeks of paralysis before beginning a slow recovery. Neas was hit harder and spent three months in critical condition.

Next month Neas and his friends hope to arrange a party that will raise funds to pay some of his medical expenses and to fund research into the strange syndrome. That gathering will publicly mark the return of Neas to Washington where his reputation as an expert on civil rights legislation is known to Capitol Hill insiders.

"I don't think the basic framework of my life changed," says Neas, the son of a Chicago businessman and 1971 graduate of the University of Chicago's law school. "I always had a strong faith in God, and that faith was very important." On the wall of his Minneapolis hospital room was a needlepoint sampler that read, "Nothing is So Full of Victory as Patience." It was a gift from a nun who had Guillain-Barre syndrome 25 years ago; she visited him regularly and, perhaps more than others on the hospital staff, understood the peculiar frustration Neas felt as he fought against pain to steal three or four hours of sleep a day.

Neas was struck by the illness last February on the first day of his first visit to Minnesota with the freshman senator who had hired him as his $45,000-a-year chief legislative aide. By March 5 Neas could no longer hold a newspaper, and double-vision prevented him from watching television. He listened to the radio for news.

"I used to believe that if I had enough time I could do just about anything I wanted to do professionally and personally," Neas says. "But I didn't take into account acts of God. This made me aware of my vulnerability as well as my dependence on other people."

He participated in his own care, using his eyes to communicate with the medical staff when his arm could no longer point at letters on a board. He hopes to write a book about the experience, if only to give those dealing with Guillain-Barre patients an idea of what it's like on the other side.

These days Neas leaves his office in the afternoon to rest. His stamina is in short supply, but he is back up to 142 pounds from the 119 pounds he fell to at one point. Though Neas specialized in legislation that touched on voting rights, busing and education, the civil rights of the handicapped now loom larger in his life as he coaxes his body back to normal. The formal therapy has ended. Now, for the man who came to the edge of death, "living is the best exercise."

[From the Washington Star, Oct. 13, 1979]

RALPH NEAS' VITAL SIGNS ALMOST VANISHED FROM THE HOSPITAL MONITOR

(By John Sherwood)

Ralph Neas was getting on with a new job and getting over an old virus when he landed at the Minneapolis Airport last Feb. 11 on a mission for his new boss, Sen. David Durenberger, R-Minn. It was his first visit to the city and he expected to stay only a few days.

Instead, he was there five months, a period that turned out to be the most deverate and traumatic time of his young life. In fact, he almost died there. At one point his friends back in Washington were actually discussing plans for his funeral.

Before he left for the Midwest, the senator's 32-year-old chief legislative aide noticed a numbing, tingling sensation in the tips of his fingers and toes. It was irritating, not

painful. It just wouldn't go away. A friend told him jokingly: "Don't worry. It's probably only a heart attack."

Then, while walking to the baggage claim area, his left leg buckled and he almost fell down the stairs. "I checked in at my hotel about 9 p.m., read the local newspaper and hit the sack. I thought maybe I still had a touch of the virus and a good night's sleep would solve the problem," he recalled.

The next day he was up at 7:30 o'clock and he was feeling very strange indeed. The tingling sensation was still there, but now he was getting weaker by the hour and was not walking normally. "I felt physically exhausted," he recalls.

His first meeting that morning was with some leading health care experts, of all people: "I wanted to ask the doctors what was going on, but I didn't think it would be the proper thing to do," he says. At the end of the meeting he was quite wobbly. Back at the senator's home office, he asked to be taken to the nearest emergency room. A doctor examined him and told him to go home and rest.

The next morning he could hardly stand up, but he went to more meetings anyway. Delivering a little speech, he noticed that his mouth was tightening up and he began slurring his words. At lunch he found that chewing food was difficult, and swallowing even more so. He planned to sleep for twelve hours on the premise that sleep can cure anything.

That night he was in "excruciating pain. It was a pain that would not leave me for months. I felt a paralysis moving up my legs. By this time I thought I had multiple sclerosis. I was actually thinking of impending death. I tried to look in the mirror and smile, but I couldn't smile! And I'm *always* smiling."

Back at St. Mary's Hospital they took a spinal tap and immediately suspected a rare ailment called, Guillain-Barre syndrome, a disease that progressively paralyzes the nerves that control the muscles. The good news was that the disease is temporary, but the bad news was that there is no known cure for it and people have died because of respiratory failure while it runs its course. Only the symptoms can be treated.

At the hospital, Neas met a nun, Sister Margaret Frances, 73 who had the disease 25 years ago. "I never really believed in angels until I met her," he says.

"From Feb. 14 through April 15 I lost something every day," says Neas. "I was tested on a machine that measures vital signs. Normal is 4,000cc. I went to 1,000. At that time they were talking about an emergency tracheotomy. I fought that machine every day to get my breathing back to normal. That machine was my enemy. It was the bearer of bad tidings. They finally had to operate."

At this point Neas could no longer talk. The disease also distorts the feeling of physical pain, so even though he was paralyzed he could feel intense pain. Every time he was touched he wanted to scream but, of course, he could not—his vocal cords were paralyzed. By March 10 he was being fed by a nasal tube inserted down into his stomach.

"All I could think of was survival. I lost 21 pounds between Feb. 14 and March 5. My digestive system started to quit. I could urinate, but I couldn't get rid of solid waste. Then I got pneumonia. Liquids were building up in my respiratory system and I felt as if I was drowning. I couldn't get my breath, so I was put on a machine to help me breathe."

By March 20, he was really in a sorry state. He could barely shake his head and a nurse had to lift his finger so he could point to letters in the alphabet to communicate. Messages used often were printed out in full so he could point to them. Next came a case of double vision and he thought he might be going blind.

Now he was really in a bind. If he couldn't see the alphabet there was no way to communicate, especially when the respirator supplied him with too much oxygen or too little. He developed clots in his lungs and it took the doctors hours to suction it out. "At this point I was ready to make my peace with God," he says. "I reconciled myself to the distinct possibility that I might die."

But then his smile returned the first week of April. In early May he "conquered gravity. I lifted my arm." Weighing 118 pounds (he weighs 150 now), he slowly returned to the world of the living.

"It didn't occur to me that I would have to learn to walk again, like a baby," he remembers. "But the physical therapy from April 10 to early July was the most painful thing I've ever gone through. My muscles had shrunk and I had to stretch them."

In July, Ralph Neas—a bachelor lawyer and a former aide to former Sen. Ed Brooke—walked out of the hospital, and on July 19 he returned to Washington—a $100,000 hospital bill behind him (most of it paid by insurance) and an experience that he will never forget.

Back at work at the old Senate Office Building, Neas is sporting a beard now and no longer uses a cane. He still has a little bit of a tingling sensation in the tips of his fingers and toes and he has to watch out for a relapse. But the worst is over. Ralph Neas is back in the land of the living again.●

INVOCATION BY THE REVEREND THOMAS HANSON, COMMUNITY MINISTER, ST. SIMONS TERRACE

● Mr. MOYNIHAN. Mr. President, on Monday, October 22, I had the distinct pleasure of being the guest speaker at the annual dinner of the Monroe County Democratic Committee outside of Rochester, N.Y. At that dinner, the Reverend Thomas Hanson, community minister of St. Simons Terrace, gave the invocation. I was moved by the simplicity, yet poignancy of his remarks and ask that it be printed in the RECORD for the consideration of my colleagues.

The invocation follows:

INVOCATION

For the glimpses of beauty, the taste of truth, a vision of justice, we give thanks, O God.

And because we love the world for what it can be, give us courage to quarrel with it for what is so often—is not. O Thou, whose lover's quarrel with the world is the history of the world.

Give us grace to quarrel with a world which separates and trivializes the lives of men and women, help us in the struggle against that which exploits the desires of people for economic gain at the expense of human need; assist us in the fight with the powers and principalities which sacrifice the things around us because they are only "things."

Give us courage to risk something big for something good so that we can give to the world a little more justice, a little more truth, a little more beauty because we loved the world enough to quarrel with it for what it is and not what it could be. Amen.●

HERMAN EILTS RECEIVES THE JOSEPH C. WILSON AWARD

● Mr. MOYNIHAN. Mr. President, on October 22, I spoke in Rochester, N.Y., on the occasion of the presentation of the Joseph C. Wilson Award to one of our distinguished diplomats, Herman Eilts, formerly American Ambassador in Egypt. The Wilson Awards honor distinguished achievement in international affairs, and are a fitting tribute to the late Mr. Wilson. During his long career at the Xerox Corp. he came to epitomize the best in civic mindedness, for he was a man of large achievement and even larger understanding. His powers of mind and his depth of spirit were of inestimable value to our country as it confronted the most difficult of public questions. It was thus an honor to participate in this annual tribute to him, and to share the platform with his indomitable wife, Peggy.

If Mr. Wilson were with us today, I am sure that he would have been actively and effectively interested in the most important public question before the Senate, the limitation of strategic arms. I felt it appropriate, therefore, to address this subject during my remarks, and I ask that the text of those observations be printed in the RECORD.

The address follows:

ADDRESS BY SENATOR DANIEL PATRICK MOYNIHAN

I have not yet served three years in the Senate, but in even that comparatively brief time, there have been two critical treaty debates, each without equal in the volatility since the rejection of the Versailles settlement six decades ago. That the impending struggle over SALT should follow so soon upon upon a dramatic encounter over Panama is more than another indication of the difficulties in reaching a new national consensus about foreign policy. It is also a result of the restrictions imposed on us by the political vocabulary we have inherited for our discussion of these issues. Indeed, if I understand it aright, I believe the SALT ratification process will play havoc with our traditional notions of "conservatism" and "liberalism" in foreign affairs.

I must first note in passing what strikes me as an interesting difference between the cases of Panama and SALT. It will be recalled that the opposition to the ratification of the Canal treaties was intense and widespread. But in that broad middle ground of our Senate, which still retains a decisive influence over the outcome of these matters, I dare say the *terms* of the treaty were not controversial as such. And indeed, as the debate wore on, the airing of the issues served only to move opinion toward the ratification of the treaty. If I may use the phrase, the "civic duty" of the Senate seemed apparent, to its members, even if the political climate surrounding the decision seemed a bit unsettled.

Let me be precise and say, so far as Panama was concerned, there were, in my estimation, no more than fifteen Senators who thought that a "bad treaty," though quite obviously there were more than that who felt that many of their constituents thought it a bad treaty. Thus one could reckon that the Panama arrangements began their course in the Senate with 85 or so "supporters," if you will. In 1972, the SALT I treaty passed with a vote of 88–2. But today, it is my judgment that there are no more than thirty-five Senators firmly in support of SALT, even as the ratification process moves forward.

My impression of SALT ratification, at least this far into it, is quite different. SALT is not yet an issue which has engaged deep public feeling. There are no clear "signals" from various segments of the population that either support or opposition to the treaty will be dealt with harshly in the political process. Instead, I detect a public willingness to afford the Senate a good deal of leeway in rendering its judgment on the treaty. What bedevils the treaty's prospects in the Senate today, in other words, is not some abstract fear of the political consequences of a vote "yea" or "nay."

Rather, it is a genuine conviction that the answer to the SALT question is no longer self-evident or even obvious, that the mere invocation of either "arms control" or "military preparedness" or some other traditional term will no longer immediately end the argument. It becomes increasingly apparent to me that the cloudy atmosphere surrounding the SALT debate reflects a feeling that we must come to a new way of thinking about arms control and strategic and military policy, that we must develop new ideas—or perhaps revive some older ones—to replace a set of ideas currently in place, ideas which, if not wrong, have at least lost the power to persuade and to move.

I begin with the notion that the SALT process and its most recent results are no longer defensible within the framework of ideas which gave rise to the negotiations. People are coming to understand this, even if in a still imprecise way. Ten years ago, the United States devised SALT, and drew Russian assent to it, as a means of fixing in the real world, and on a long-term basis, certain notions about stability and security in an era of nuclear weapons. We had, to our own satisfaction, devised a doctrine, a theoretical framework, which defined the safest condition for a nuclear-armed world. And we thought we had, in SALT, a means of securing Soviet agreement to this paradigm of our own devise.

I refer specifically to the strategic doctrine often called "assured destruction." That doctrine set forth two requirements: the vulnerability of populations to nuclear attack, and the invulnerability of the nuclear forces which could carry out such an attack. Or put another way, neither the Soviets nor ourselves would undertake to defend our populations—as with an ABM—nor would either country deploy so-called "counterforce" weapons capable of destroying the other's nuclear forces.

Ten years ago, SALT began in order to secure both these conditions. The conclusion of the ABM treaty secured the first, and one would therefore have expected that the second would be achieved, if not simultaneously, then at least in good time. Not to build, eventually to reduce. Indeed, one would have thought that a ban on defenses would have made easier the task of reducing the inventories of nuclear weapons on both sides. But something quite different has happened in the past decade. SALT has been the setting for an enormous buildup in the strategic nuclear forces of both countries and, worse, the occasion for the deployment of weapons which, according to American doctrine, are weapons of the most dangerous sort.

It is not enough to remark on the irony of an arms limitation experiment which fails utterly to limit arms. We must go further. For some arguments now advanced in behalf of the SALT II treaty have acquired, from a doctrinal perspective, a rather unreal cast. The Administration has proposed the deployment of our first counterforce missile called the MX. It will carry ten warheads, each the equivalent of several hundred kilotons of conventional explosives. And each warhead will be able to come within hundreds of feet at a target thousands of miles away. Each will be able to destroy a missile silo. The Administration says we require this system. Our situation of being overmastered by the Soviets' own counterforce capability requires it. But more, that the terms of the treaty afford protection for that very MX missile.

Thus a process which began as an effort to do away with missiles of this sort is defended on the grounds that it permits—and establishes a regime which will protect—that deployment. A virtue is seen in SALT today precisely because it allows what it was designed to prohibit a decade ago; the SALT process makes the world safe for MX. And then the argument is taken a step further by advocates of the treaty—that is, some advocates of the treaty—who argue that the deployment of such a weapon is the only thing which can bring about subsequent reductions in strategic forces. The argument here is that only by establishing the vulnerability of Soviet land-based missiles can the Soviets be persuaded to reduce their number.

Now it is not my purpose here to challenge that contention, but rather to ask how this line of argument has come to replace the original claims put forward for the SALT process. Is it an argument forced upon us by the enormous growth in Soviet strategic forces these past dozen years? Does it reflect an unnoticed defect in the original American doctrine of years ago? What are we to do when it becomes increasingly apparent that our received strategic doctrine can neither predict the future, nor even govern the deployment of our own strategic forces?

I submit that questions like these, still rather inchoate to be sure, hover over the SALT debate. And some manner of answer to them is necessary to the achievement of a new consensus on strategic policy in general and to the ratification of the SALT treaty in particular.

Earlier I offered my impression that these matters are no longer conveniently explicable in terms of the Liberal-Conservative dichotomy. For traditional Liberal faith in the SALT process has been severely shaken by the realization that SALT seems to encourage the arms buildup far more than it restrains it. One hears murmuring of an even more "heretical" notion, to the effect that the "lethality" of strategic forces on both sides might have been less than it is today had SALT not channeled the arms competition into the routes it has taken. As for a caricature of the Conservative tradition—that the deployment of new weapons systems afford a security of their own—there is "heresy" on that side as well, expressed in the fear that even a complex and expensive system like the MX could be neutralized by a Soviet willingness to deploy ever larger numbers of warheads in the period after 1985. If I may put the matter somewhat crudely, there are "doves" who question SALT, there are "hawks" who question the MX.

And that is why one can report from the Senate that today there are nothing like the sixty-seven votes necessary to ratify the treaty.

We face instead the task of resolving another seeming paradox. That is, how the ratification process can become the basis for effecting needed improvements in our military forces, especially our conventional forces, *and* how that same process can be made a basis for returning SALT to a constructive track, the track of genuine and meaningful reductions in levels of strategic forces.

I must remark once again on the tolerance the political "process" has shown for the admittedly slow, even painful pace, of these twin efforts. And it is precisely this tolerance which affords us the opportunity to "deliberate." It has thus far prevented the hardening of positions and the rejection of sensible possibilities.

There is at least this much we have learned: that SALT has, in a way, become a victim of its own dogmas. And that the reconstruction of arms limitation negotiations in the next years must prevent a repetition of that experience. The situation is stark. There are indeed too many nuclear weapons in the world, and they have been produced at their fastest rate during the very decade of the SALT experience. In 1969, the Soviets began the negotiations in possession of some 700 nuclear warheads; when the SALT II pact is scheduled to expire, 1985, they will have 12,000. That is the equal of four warheads for every county in the United States. And we are likely to have a comparable number in 1985, so that we will have four warheads for every *rayon* in the Soviet Union, their comparable unit of government.

It is not sufficient to say that this is madness, and congratulate ourselves at such surpassing insight. It is rather not to become immobilized by such a recognition. At the beginning of the nuclear era, there appeared a group of thinkers who were not so immobilized. They confronted the reality of a nuclear-armed world, and sought to understand its implications. We ought to be better off for those pioneering intellectual efforts, even as we seem not to be. But surely, they were no more clever than we. It is in this realm that I hope the SALT ratification process will prove its value—as the first opportunity in a generation to examine in depth the intellectual foundations of our national strategies.●

AID TO NON-GOVERNMENT SCHOOLS

● Mr. MOYNIHAN. Mr. President, on Sunday, October 21, I had the privilege of receiving the Second Annual Saint John Neumann Award from the Federation of Home School Associations of the Diocese of Buffalo and the Buffalo Chapter of the New York State Federation of Catholic School Parents. At that time, I had the opportunity to address the subject of aid to non-Government schools and ask that the address be printed in the RECORD for the consideration of my colleagues.

The address follows:

ADDRESS BY SENATOR DANIEL PATRICK MOYNIHAN

There can be few areas of public policy as muddled as that of government aid to nongovernment schools, and perhaps only an unwary person in public life will venture too far into the field.

Yet I wonder if others have been struck, as I have been, by the contradictions of public policy in this area. For a generation now, from the time the Supreme Court called for severe restraints on public assistance to nonpublic schools, various levels of government have both imposed these restraints and have fair to excelled themselves in devising ways, small or even symbolic, to get around them. One would say there is a considerable disjunction between what we say and what we do in this field save that the whole business is so muddled as to preclude the very thought of anything being distinct.

Such murkiness is properly a warning to officeholders. Even so I have become involved, perhaps to my cost, out of a combination of personal experience and public concerns which begin with my having attended such schools, specifically the Catholic parochial schools of New York City, as a child and the fact that when I did so there seemed nothing unusual about them. They were the normal schools of my youth, in every sense parochial, and to the child's perception entirely public.

My public policy concern in this area has rather different origins. We face a great contraction in the nongovernment sector in education. I feel this will be a loss both to education and the pluralism, and one that also poses fundamental problems for many cities of the Northeast, perhaps especially for those of my own state.

Hence I have been an advocate of public—in this instance federal—aid to nonpublic education at the elementary and secondary level—as well as at the college level where

it is now taken for granted, where indeed it has become an indispensable element of government policy.

I am an advocate of tuition tax credits, which almost passed the 95th Congress and has been reintroduced in both the Senate and House in the 96th Congress. I think that the income tax system provides an appropriate and straightforward way to aid those who are struggling to pay their children's tuitions and one that has further advantage of requiring minimal entanglement of nongovernmental schools with government agencies. A tax credit makes clear that the aid is going to the individual, not to the educational institution, and in an important sense it is not really "aid" at all but rather what might be termed permission to the taxpayer to keep a bit more of his own income for purposes thus tacitly sanctioned, but in no way required, by the government.

We should be clear, however, that the form the assistance takes is not the point. Myriad other ways could be devised to lighten the financial burden of school tuitions. As an example of a different approach that I believe warrants consideration—not as a substitute for tax credits but as a complementary idea—I also introduced a bill this year to extend the Basic Educational Opportunity Grants program to the elementary and secondary level, which would make federal grants—scholarships is the familiar word—available to needy students to help them pay their educational expenses. We have large and effective programs for doing this at the college level, now including students with family incomes up to about $30,000, and there is no reason these could not reasonably be extended to cover primary and secondary education. Indeed, this coming week I will appear before the Senate Subcommittee on Education, Arts and Humanities, which is currently considering re-authorization of the B.E.O.G. program, to explain my proposal.

There is a possibility that we will prevail during this Congress, with tax credits, Basic Grants, or some other approach. I am doing my best to see that we do. But I would be less than candid with you if I did not share my concern that it will be difficult to succeed in Congress so long as the President and the executive branch remain opposed. And this unhappy situation is apt to persist until we manage to impress upon the President and the executive branch not only that simple justice and sound policy are on our side, but also that it is in their interest to embrace our interests.

Three years ago this week, as a Presidential candidate, Jimmy Carter wrote a letter to the Chief Administrators of Catholic Education in which he said: "Throughout our Nation's history, Catholic educational institutions have played a significant and positive role in the education of our children. . . . Therefore, I am firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools."

It is not surprising that the Democratic party's Presidential candidate would offer to support aid for nonpublic education. Both of his immediate predecessors, Senator McGovern and Vice President Humphrey, had done as much. The platform on which he was running stated, in a plank I had the privilege of writing, "The Party renews its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of all pupils in nonsegregated schools in order to insure parental freedom in choosing the best education for their children."

Furthermore, the Republican party was at least as forthcoming. The 1976 G.O.P. Platform said, "We favor consideration of tax credits for parents making elementary and secondary schools tuition payments. . . . Public schools and nonpublic schools should share an education fund on a constitutionally acceptable basis."

Hence there was no reason to be surprised that the Carter campaign included such a pledge. There would have been greater cause for wonder had it not. But what was not predictable, and was to me both surprising and alarming, was that fifteen months after Mr. Carter as a candidate made this promise, Mr. Carter as President set out to defeat tuition tax credits. This was not just mild disapproval, but intense and unrelenting opposition.

One could adduce various explanations for this, but I shall offer what seems to me under the circumstances to be the unavoidable conclusion. A commitment to Catholic educators was not regarded as a commitment that had to be kept.

When a political figure abjures a commitment he had earlier made, one of two things has happened. Either his advisors have misled him into thinking that the commitment is in fact being kept in some other way or will be kept at a later time. Alternatively, he has recognized that the commitment is not being kept but judges that there will be no substantial political price for not keeping it, either because the groups affected are unswervingly loyal (or hostile!) to him, or because they do not really care about the issue at hand, or because they will understand that he has changed his mind.

I shall not try to characterize the nature of the administration's rejection in early 1978 of a commitment that the President had made in late 1976. But I will say this. Those who are concerned with nonpublic education in general and Catholic education in particular must in the coming months develop a degree of perseverance and sophistication of advocacy that has not recently been associated with that concern. For if the necessary commitment to this concern is not found in the executive branch in the aftermath of the 1980 election, it is unlikely that those of us in the legislative branch will be able to prevail. I wish to be gentle, but I wish also to be clear about the nature of such commitment, for an amiable disposition toward nonpublic education will not suffice to overcome the deeply ingrained hostility of the government's education bureaucracy. A candidate wishing to be thought a friend of nonpublic education—and there may well be some who do not so wish—must be asked to make a commitment that he will regard as solemn and binding: to propose specific measures and to persevere until such measures can be enacted into law by the Congress and subsequently reviewed by the Supreme Court.

This will not be easy to achieve, for it will require the mobilization of considerable moral and political force on behalf of our cause. Presidential candidates have a natural tendency to avoid binding commitments on controversial issues unless they find either that it is overwhelmingly in their interest to make such commitments or that it is irremediably damaging to their interest *not* to.

On the matter of nonpublic education, I fear we are not off to a very good start, at least with respect to *my* party. (It seems likely, though it ought not be taken for granted, that whomever is nominated by the Republicans will again be attentive to these matters. At least that has been the general pattern.)

On September 25, 1979, President Carter held a "town meeting" at Queens College in New York City, where I was present. The "townspeople" present clearly included a number with an interest in Catholic education, yet not a single question was addressed to the President on this subject. And just this week, on Tuesday, October 16th, the President addressed the National Conference of Catholic Charities in Kansas City. I was not present, but so far as I have been able to determine the subject of Catholic education was not raised by anyone present.

There is time to rectify this, with respect both to President Carter and to the various contenders for his office, but there is not a lot of time, and it is not a task that anyone is going to do for us. Nor will it be an easy one, for there is organized opposition to aid for nonpublic education. Hence a decision to support such aid must be based at least in part on a political judgment that there is greater reward for doing so than for opposing or ignoring the matter.

In order to achieve this level of political effectiveness, those who seek such aid must first determine that they are proud of their cause and confident that they are asserting it as a *right*, not pleading for a favor. They must also insist—and it is to this point that I shall devote the balance of these remarks—that the question of Constitutionality of providing public aid to nonpublic education be temporarily set aside while it is determined whether as a matter of policy and politics, the leadership of the nation believes that such aid should be provided.

Only the Supreme Court of the United States can make a final determination as to the Constitutionality of a given law or program, and that can only happen after such a law or program is enacted. The Supreme Court does not give advisory opinions. If a program of aid, whether it be tuition tax credits or Basic Grants or something else, is not passed by the Congress and signed into law by the President it will never be possible to have it reviewed by the Court.

Such a review is necessary and—I wish to be clear—its outcome is far from certain. I believe that aid to nonpublic education is permissible under the Constitution, and that only a flawed reading of the First Amendment would prohibit it. I further believe that the Supreme Court, in a series of decisions beginning in 1947, has been wrong in its interpretation of the establishment clause of the First Amendment, and I have written and spoken extensively to this point. In time—as has happened in other areas where the Supreme Court has, for a period of time, been "wrong"—I expect the Court to correct itself, and I should like to hope that the enactment of federal aid to nonpublic education would occasion such correction. But I cannot be certain that this will happen. I ask only that we be granted our day in court to argue the case on its merits. We shall, of course, respectfully and faithfully comply with the Court's ruling whatever it may be.

But we must have less patience with those who are simply opposed to aiding our schools and who cloak their opposition to such aid in the garb of Constitutional disputation. If our experience with tuition tax credits in the 95th Congress taught us anything it is that those who prefer not to help Catholic schools are wont to interpose the Constitution between any specific proposal and the issue of social policy that it properly addresses. (With the greatest respect for former Attorney General Bell and former H.E.W. Secretary Califano, the administration which they served indulged in such interposition, using the question of Constitutionality as a way of ducking the policy question, at one point even sorely misrepresenting our bill so as to buttress their reading of the First Amendment and thereby make it easier not to address the issue of whether they did or did not wish to see these schools survive.) I would hold that those who, as a matter of policy, do not want public funds to assist nonpublic schools and their students should be expected to say so and should not be permitted to avoid that question by substituting predictions of what the Supreme Court will or will not say if in fact legislation were passed to provide such assistance.

If, then, the matter is not resolved beforehand, I would suggest that in the coming months it ought not be enough for candidates simply to indicate a warm disposition toward a popular cause. Candidates who wish to be understood as favoring some form of aid should be expected to say just what form they intend, and *then* to say that they will press the matter through Congress in order that it may be tested in the Supreme Court. They should be asked to specify that they will not use the constitutional question as an excuse to avoid the question of public policy.

It seems to me that this is a reasonable expectation. It may be that when put in this manner no candidate will want to be associated with support for nonpublic schools. In which event, fair enough. It is an important issue, and very much an urban issue.

This would scarcely be the only issue in an election, and I would certainly hope that it does not join that growing list of "single issues" that determines bloc voting. If we are disappointed, so be it. But that is better than being misled. There is too much of that: probably always has been, but there is no point settling down to a kind of agreed upon deception such as is practiced in the quadrennial pledge to repeal the Taft-Hartley Act.

The springs of democracy should run clear. We have rather muddied them in this matter, and should do better.

Finally, I would hope we all might be a bit more ecumenical in this issue than we have been. There are those who just don't like church-related schools, and aren't going to change their minds. But many more persons are genuinely worried as to what might happen to the public schools if aid is provided to what they see as a competing system. They deserve answers, just as we do.

We begin with a common concern for education. Surely that should lead to a shared dialogue on how best to advance it.●

GLOBAL COMMUNICATIONS DEVELOPMENTS AND PROBLEM AREAS

● Mr. MOYNIHAN. Mr. President, during the last week of September, leading telecommunications experts from throughout the world met in Geneva, Switzerland to discuss global communications developments and problem areas. The meeting was sponsored by the International Telecommunications Union and brought together an impressive array of senior government officials, high-level executives, engineers and consultants from the communications and information system industries throughout the world. These participants are involved in planning, designing, and implementing private and public telecommunications systems and networks.

The United States can be proud of the men and women who represented our Government and industry and who played a major role in this very successful gathering. Through presentations and exhibits, we again demonstrated that American firms are in the forefront of the highly sophisticated and rapidly changing communications field. Our participation proved once again that we want to share our technology with others and we are anxious to learn from the other nations of the world.

In the midst of these technological developments, however, we must remain alert to problems that such advanced accomplishments bring with them. With that in mind, I was impressed by reports of a speech delivered in Geneva by a leading American businessman, Rand V. Araskog, president and chief executive officer of International Telephone and Telegraph Corp. Mr. Araskog was chosen to deliver the keynote address which opened "Telecom '79" in Geneva. In his remarks, Mr. Araskog called attention to one of the major problems facing developed and underdeveloped countries alike—the "human" or "people considerations" involved in pursuing the new and promising era of advanced telecommunications technology.

He reminded the more than 1,000 officials present at the Telecom 1979 inaugural that we cannot forget or overlook the continuing contribution of the people who have made the industry great. He urged that we recognize and prepare now for the human adjustments which this promising future will bring with it. He warned against the consequences of severe dislocations of present employees who may not currently be prepared for the demands of a new and more sophisticated industry and a possible shortage of sufficiently trained workers to meet future needs. The skills of yesterday and today will simply not suffice in the communications world of tomorrow, Mr. Araskog said. The ITT president emphasized the need to find, train and develop the people that the telecommunications business will need in the future and called for a study group formed under ITU auspices to develop long-range plans for bridging the growing gap between technology and human skills.

This appears to be a very sound proposal since the International Telecommunications Union consists of delegations from 154 countries around the world and is a leading forum for considering the role of communications in today's society. As an organization which has taken the lead in harmonizing the development of telecommunications throughout the world, it may be able to play a vital role in this important planning for "people considerations." I commend Mr. Araskog for his forward-looking recommendations and I ask that the entirety of Mr. Araskog's address be printed in the RECORD for the consideration of my colleagues.

The address follows:

A DISCORDANT NOTE IN THE TELECOMMUNICATIONS MARCH

Mr. Federal Councillor, Mr. Secretary General, Mr. Councillor of State, Mr. Mayor, Mr. Ministers, Your Excellencies, Ladies and Gentlemen, I am very pleased and honored to be your keynote speaker. Now a keynote in music is described as the fundamental note. I am quite certain that the fundamental theme of each of the meetings to be chaired by telecommunications leaders will be the dazzling developments in digital technology, leading to more communications for people the world over.

The men who founded the ITU well over 100 years ago, could never have dreamed of the subsequent accomplishments of the then infant industry. The relatively simple approach of transmitting a signal by wire has, in the 1970's catapulted into the integration of the power and intelligence of the computer with the flexibility and efficiency of electronic communication.

The vast storage and computational capabilities of the computer are now instruments of telecommunications. The line between the information processing and communications disciplines is disappearing. That boundary which once kept them apart is fading.

Electronic communication is creating spectacular competition and growth in the telecommunications field. It also supports the efforts of mankind to explore and use outer space and is critical to the many other interests of the world population, from energy exploration to the television in our own living rooms.

There is so much about telecommunications that is melodious, so much that has tempo: there is so much in the new harmonizing of business equipment and telecommunications that makes Telecom '79 one of the most exciting in terms of the forward look that you will have described by many of the technical, business, and government leaders here over the next several days.

Within these exhibition halls, you will see the equipment and services that are testimony to the technological revolution that is taking place, permitting man to communicate with greater speed, clarity and precision, year after year.

The effect on world relations is certain. As communications improve between nations, diplomatic relations become trade relations, cultural and educational exchanges follow and finally and most importantly, the realization develops that disparate ideas can and will exist in a crowded world.

In the last 10 years, the number of telephones in the world has almost doubled. No matter whether telecommunications are supplied by government or private entities, the growth continues through good times and bad as supply trails ever increasing demand.

Those nations with the greatest telecommunications densities are also the ones with the highest standards of living. It is obvious that as more and better communications are available to more people, the quality of life, expansion of commerce and industry and the enlargement of trade follow.

Not only do all of us in business, education and government enjoy the use of far better communications equipment and facilities through which to perform our responsibilities, but communication brings understanding and it brings warmth.

On a very personal note, I remember several years ago calling my home while I was away on an extended business trip, and having my young son home answer the phone with the word, "Dad, I knew it was you, the phone had a happy ring." I am sure we have all, in one way or another, had similar experiences, and from them, the recognition of the security and warmth that comes from having a telephone in the office or home. Of course, there are hundreds of millions of people who do not yet share this privilege, and it is a common objective of all of us to see that one day soon they will. This, again, is the fundamental note of Telecom '79.

On this human ring, may I say that, while it is not the fundamental note, there is a strong, discordant note in the march of telecommunications.

Most telephone equipment manufacturers and post, telegraph and telephone administrations around the world have been forced, not to add, but to subtract from employment levels. The advance in telecommunications equipment from mechanical to electromechanical, to first generation and now to digital technology, has created a requirement for fewer and fewer people—a human, not a technical problem. The new technologies require abilities in employing software, not screwdrivers; machine monitors, not maintenance technicians; tape disc, and bubble storage, not thousands of pages of records and drawings.

In telecommunications, it has been the

movement of human skills from watchful eyes and skilled hands, working with heavy machinery, to highly skilled minds and software controlled machines.

The geographic separation and the new skill requirements of the computer industry cannot accommodate the electro-mechanical factory worker.

While there is a surplus of workers mounting in the electro-mechanical telecommunications industry, the integration of computers and telecommunications technology is creating severe shortages of software personnel. There is no question, as you all know, that this software shortage will grow more severe and is now already the most critical factor limiting the rate of growth in our industry.

The people problems are very real and they will not go away, but at the same time let me add another dimension. The growth of the electronic and digital age communication systems will bring with it demands for new types of products and new services which will be the logical developments accompanying innovation. Although we may not see the needs for the same number and the same types of skills that have made the industry what it is today, there will be needs for people with new skills.

In 1950, the computer was unknown in most aspects of business and society. It had few applications for general use and was very expensive to own or operate. The planners at one of the world's largest computer firms at that time concluded that all of the foreseeable computer needs of the world would be met with fewer than 100 machines. Their order backlog today is far more than the number they thought the entire world would ever need, to say nothing of the thousands of computers already in service, and obviously hundreds of thousands of jobs have been created in this process.

The growth potentials for our industry may be just as great, perhaps even greater in the years to come. The office of the future is still several years away, but many of its basic components have become routine parts of our daily business lives.

Telex services continue to grow nationally and internationally. Facsimile machines are being used to send pages of text and drawings across continents and across oceans in minutes. Teleconferencing has been tried on experimental bases in several nations and may assume a legitimate business place as the cost of energy and transportation increases, making business trips a diminishing practice.

Remote terminals connected to central computers are becoming more and more widely used in transportation, utilities, banking and a host of other business and governmental applications.

These are all facts of telecommunications life today, and to some extent each of us here today is involved in that evolution. We must continue to play a central role in the economical development and marketing of these services and the equipment which make them possible.

Prestel, Teletext, Teletel and Data Handling will all be realities within the next few short years. They will need terminals, transmission facilities, an ability to handle interactive data. They are all concepts which have emerged from telecommunications, and they will need people.

We will continue to face the problem of accommodating the needs of the future with the requirements of today. We have to learn how to help people adapt to the new jobs created by the new technology. There is no magic formula which can be invoked nor a piece of legislation passed which will suddenly transform a person skilled in mechanical assembly into a software expert.

No single act or action will provide the skills which a dynamic and growing telecommunications industry will need, nor will any single act or action see us through the critical days ahead when people considerations must be given their proper importance as business decisions are made. These challenges are not solely those of manufacturers. They affect communications ministries, telephone administration and the educational systems of each nation as well.

The maintenance technicians of today, skilled in mechanical adjustment procedures, must be given the opportunity to learn the electronic skills which they and the industry will need tomorrow. The telephone operator will need to learn computer terminal operation, and behind that operator there must be a cadre of highly skilled computer and video terminal repair people.

Outside plant forces, accustomed to the technology of wire and cable placing and splicing, will soon be putting optical fibers into service, to handle the vast increases in traffic.

The changes are here and we have opportunities almost unequalled in the history of communications. We cannot, however, forget or overlook the continuing contribution of the people who have made this industry great. We cannot afford to let those productive hands and those imaginative minds become permanently idled.

As we cannot hold back progress and perpetuate outmoded technologies to preserve the present, so we must plan to find, train and develop the people we will all need in the future.

Certainly expansion of national systems would be a major means of overcoming these problems and bringing the new people and the new technologies on stream sooner while continuing to expand existing networks.

Where long waiting lists for telephones exist, it may be better to make significant increases in telephone services and keep legitimate employment strong while meeting national needs. Many of these programs could be financed by the new revenues they will bring and governments will be spared the staggering cost of unemployment payments caused by the period of technological adaptation.

No one company nor no one country has found the ideal solution to these problems yet, nor is it likely that any single one will be able to do so.

What is needed is a professional and cooperative effort to enhance the role of telecommunications and to recognize the needs and contributions of the people who have brought telecommunications to its present high state of development.

Since its founding the ITU has brought impartiality, expertise and order to the world of telecommunications. Its technical missions, training and development programs and its establishment of international standards are living proof of that capability.

I ask you to join with me in requesting the ITU to begin an examination of the human problems of the new technologies and to recommend the courses of action which all of us need to take as we enter the 1980's. The ITU can bridge technologies, cross borders, stay above politics, defend economics and take the best ideas from each of us in compiling long range programs for the voluntary use of nations and industries. The need for such programs is clear and I know that the ITU will receive your full support in developing these new programs for people.

The ITU and Mr. Mill share this concern, and they agree that this is a proper concern for ITU action.

As I am certain is true of many in this room, I have walked telecommunications facilities from Raleigh to Zurich, Berlin-Bangalore, Bangkok, Hong Kong, Rio de Janeiro and Lagos, and I have seen the devoted and interested men and women in these facilities. They must continue to be motivated both for themselves and for a growing industry. When those satisfied people begin to turn uneasy or sullen, our industry and the world lose.

Let me close by saying that the motto of the corporation I represent is, "The best ideas are the ideas that help people." A program dedicated to helping people would be one of the finest things we and the ITU could commit ourselves to today.

The efforts already underway in many nations and at many industries would receive new and additional support and direction and the march of telecommunications can go on without a discordant note.●

THE PAPAL PROGRESS

● Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues the poem, "The Papal Progress," written by Mrs. Virginia Doris of my home State of Rhode Island.

Mrs. Doris commemorates the first anniversary of the coronation of Pope John Paul II, celebrated this week, and his recent visit to the United States.

Mr. President, in her poem, Mrs. Doris pays rich and deserved tribute to this extraordinary man. I ask that the poem by printed in full in the RECORD.

The poem follows:

"THE PAPAL PROGRESS"

His Holiness, Pope John Paul, II The American "visit"

O tremulous Faith! God-be-Glorified obeisance!
The lilting of our fragile, soulful reeds
Whispers uncared for while the trumpets bray;
Aria is thin air; our heart's exalting play
Beats time but to the stride of marching deeds,
Heeding the mighty pilgrimage that Pope John leads,
His Vatican standard flaming to the day!
The empurpled Throne where a Christian pleads
Breathes nobler litany than the poet's lay.
Strong face, broad breast, pure spirit, is truer worth
Than blares that sing the thunderous echoes dumb.
Hark! 'tis the holy reverberating Te Deum
Rolls o'er the Boston Common, the rock-bound North:
The call-to-worship Future stretches forth
Its Nation's palms. Behold, He comes! He comes!●

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. BOREN). The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the following Senators to attend the North Atlantic Assembly, to be held in Ottawa, Canada, October 22-27, 1979: The Senator from South Carolina (Mr. HOLLINGS); the Senator from Ohio (Mr. METZENBAUM); the Senator from Michigan (Mr. RIEGLE), in lieu of the Senator from New Hampshire (Mr. DURKIN), resigned; and the Senator from Arkansas (Mr. PRYOR), in lieu of the Senator from North Carolina (Mr. MORGAN), resigned.

REQUEST FOR COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the sessions of the Senate on Wednesday, October 31, Thursday, November 1, and Friday, November 2, beginning at 2 p.m., to hold markup sessions on the SALT II treaty.

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

ORDER FOR RECESS TODAY UNTIL MONDAY, OCTOBER 29, 1979, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, during the recess of the Senate over until Monday next at 10 a.m., the Secretary of the Senate be authorized to receive messages from the other body and from the President of the United States and that they may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE BILLS, REPORTS, AND CONFERENCE REPORTS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, between the hours of 12 noon and 4 p.m., committees may be authorized to file bills and reports and conference reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE OR THE ACTING PRESIDENT PRO TEMPORE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until Monday at 10 a.m., the Vice President of the United States, the President of the Senate pro tempore and Acting President pro tempore be authorized to sign all duly enrolled bills and resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS MATSUNAGA AND PERCY ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on Monday, after the two leaders have been recognized under the standing order, Messrs. PERCY and MATSUNAGA be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, the reservation is for the purpose of affording an opportunity to inform the majority leader that the items identified by him are cleared on our Executive Calendar. We have no objection to their consideration and confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The clerk will state the nominations.

The second assistant legislative clerk proceeded to read the nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all the nominees be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, all nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

Gen. James E. Hill to be general.

Maj. Gen. Kelly Howard Burke to be lieutenant general.

DEPARTMENT OF LABOR

John N. Gentry, of Virginia, to be Under Secretary of Labor.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the votes by which the nominations were considered and confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—PROCEDURE ON MONDAY ON H.R. 4986

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Senators under the orders previously entered, the Senate then resume consideration of H.R. 4986, the depository institutions bill; provided further that at 3:45 p.m. the Senate resume consideration of H.R. 3434, and the pending amendment by Mr. DOLE; provided further, that whatever rollcall vote or votes are ordered in relation to the amendment by Mr. DOLE begin at 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRATEGIC ARMS LIMITATION TREATY II

Mr. ROBERT C. BYRD. Mr. President, months ago, I stated that I would determine my position on the SALT II treaty only after a thorough, systematic, and comprehensive examination of the treaty and its related issues.

Because of the vital nature of this issue, I have personally reviewed the transcripts of the extensive and valuable hearings conducted by the Committees on Foreign Relations and Armed Services.

I have studied the top secret report and the publicized findings of the Select Committee on Intelligence.

I have received numerous briefings—from administration officials and from prominent private citizens with differing views on the treaty.

I have met with leaders of several NATO countries to get the perspectives of our allies.

In July, I traveled to the Soviet Union for discussions with Soviet leaders.

Throughout this process, I have said that my decision on the treaty would stand or fall on the answer to a simple, but basic question. The question itself is simple, the answer is not so simple, but it is a simple question and a basic question; namely, is the SALT II treaty, as written, in our national interests, or is it not?

If the treaty is not demonstrably in our national interests, it should be rejected.

If SALT II is in our national interests, the Senate should consent to its ratification.

I have concluded that SALT II is in our national interests. I believe that the treaty should be approved by the Senate, with the adoption of certain provisions to be included in the resolution of ratification, upon which I will elaborate later.

First, I want to explain the reasons why I am convinced that the Senate should consent to the treaty's ratification.

THE TREATY

First. The treaty imposes equal overall ceilings on the number of strategic nuclear delivery systems for both the United States and the U.S.S.R. An initial ceiling of 2,400—the level agreed upon at the Vladivostok Summit in 1974—is placed on strategic nuclear delivery vehicles—intercontinental ballistic missile (ICBM) launchers, submarine-launched ballistic missile (SLBM) launchers, heavy bombers, and air-to-surface ballistic missiles (ASBM) capable of a range in excess of 600 kilometers.

Under the treaty, the 2,400 initial ceiling would be lowered to 2,250 beginning on January 1, 1981. This process must be completed by December 31, 1981.

On January 1, 1981, each party must begin to dismantle or destroy systems in excess of 2,250. It will be necessary for the Soviet Union to dismantle or destroy more than 250 strategic offensive systems in order to comply with the aggregate limitation.

Incidentally, Mr. President, under the treaty, immediately upon its entry into force, the reduction of systems down to the 2,400 limit would begin.

Under the treaty, an equal sublimit of 1,320 is established for the combined number of launchers of first, ICBM's and SLBM's equipped with MIRV's—multiple independently targetable reentry vehicles; second, ASBM's equipped with MIRV's; and third, heavy bombers equipped for long-range cruise missiles, that is, cruise missiles capable of a range of over 600 kilometers.

The treaty imposes a further equal sublimit on weapons equipped with MIRV's. Each party is limited to a total of 1,200 launchers of MIRVed ICBM's, MIRVed SLBM's, and MIRVed ASBM's. Of this number, no more than 820 may be launchers of MIRVed ICBM's.

Second. Mobile launchers of heavy ICBM's, heavy SLBM's and their launchers, and heavy ASBM's are prohibited under the treaty. Moreover, each party is allowed to flight-test and deploy only one new type of ICBM, which must be "light," as defined by the treaty.

Under this limitation, the United States will be permitted to proceed with the development and deployment of our only planned new ICBM—the MX mobile missile.

Third. The treaty limits the numbers of MIRV's on ICBM's, SLBM's, and ASBM's. It establishes a freeze on the maximum number of reentry vehicles permitted on existing types of ICBM's. For example, as to Soviet missiles, the limit is 4 for the SS–17; 10 for the SS–18; and 6 for the SS–19. The one new type of ICBM permitted to each party is limited to not more than 10 warheads, which is the number planned for the U.S. missile, the MX. These "fractionation" limits on ICBM's constitute a significant achievement of SALT II and will prevent the Soviet Union from fully exploiting the greater throw-weight of its ICBM's.

SLBM's may not be flight-tested or deployed with more than 14 reentry vehicles, nor ASBM's with more than 10.

The United States faces a period during the early to mid-1980's in which our land-based ICBM's will become increasingly vulnerable to hard-kill attacks from Soviet ICBM's. While SALT II will not solve the Minuteman vulnerability problem, it will make the solution to the problem easier because it will limit the number of Soviet MIRVed ICBM's to a point well below previously projected levels. And, with the limits on the number of warheads on existing ballistic missile launchers, the treaty will restrict the number of reentry vehicles which the Soviets would otherwise be free to deploy.

Fourth. The treaty prohibits certain other types of weapons systems, including surface ship ballistic missile launchers; systems to launch missiles from the seabed or the bed of internal waters; and systems for delivery of nuclear weapons from Earth orbit.

Fifth. The treaty prohibits deliberate interference with national technical means of verification or any deliberate concealment measures which impede verification of Soviet compliance with treaty provisions.

Sixth. Under the treaty the Soviet Union is prohibited from testing, production, or deployment of the Soviet SS–16, an ICBM mobile missile.

Seventh. In addition to the limitations in the treaty, the Soviet Union is committed to hold production of the Backfire bomber to not more than 30 annually, and to certain other restrictions on the Backfire.

Eighth. SALT II leaves the United States free to develop strategic weapons systems needed for our own security. The Joint Chiefs of Staff testified to the Senate Armed Services Committee that no planned American strategic or theater nuclear weapons system is inhibited by SALT II.

In other words, the United States can proceed with the Trident I and Trident II missiles; the Trident submarine; air-launched cruise missiles; advanced cruise missile carriers; bomber modernization—including an improved FB–III; and the MX missile in a survivable basing mode. We also may proceed to develop and test ground and sea-launched cruise missiles with ranges exceeding 600 kilometers. Ground and sea-launched cruise missiles with ranges exceeding 600 kilometers may not be deployed until after December 31, 1981, at the termination of the Protocol; but in any event the United States has no program for such deployment before that time.

Ninth. U.S. defense programs can be managed more effectively with SALT II than without it. The unrestrained strategic competition we would face without SALT II would drain monetary resources we need for our conventional forces and for theater nuclear forces in Europe. General Meyer, Chief of Staff of the Army, testified:

> Without SALT we would have to be devoting such an increasingly large portion of our defense budget and national budget to strategic weapons that we could very likely have an even decreased capability conventionally.

Tenth. SALT II will leave us free to continue to collaborate with our allies in the modernization of NATO's theater nuclear forces and to consider arms control initiatives in that area.

Eleventh. SALT II will pave the way for negotiations leading to SALT III, in which it is hoped that the growing imbalance in theater nuclear forces in Europe can be corrected, and that significant reductions in central strategic systems can be accomplished.

Twelfth. The cost to the United States of maintaining essential equivalence in our central strategic forces will be less with SALT II than without SALT II.

Defense Secretary Brown has said that without SALT II an additional $30 billion could be incurred over the next 10 years. I quote Secretary Brown:

> We are spending about ten billion dollars a year directly on strategic forces, in 1980 dollars. The program that we project through 1985 will probably require us to increase that number, in 1980 dollars, by about 25%. That will still be only half the rate—in constant dollars—at which we spent during the late 1950's and early to mid-1960's. But it will be about two or three billion dollars less than we would have to spend if there were no SALT II agreement and if the Soviets went ahead at their current momentum, which they could do very easily.

Thirteenth. Our military forces will have less difficulty executing their deterrent and emergency war missions with a treaty than without a treaty. General Ellis, commander-in-chief of the Strategic Air Command, testified that:

> The SALT Treaty provides some help simply because it restrains what we know the Soviets can do; it is that simple.

SHOULD SALT II BE AMENDED?

There are those who argue that the text of the treaty itself should be amended.

While I will support certain amendments to the resolution of ratification, I will oppose amendments to the treaty itself. Amendments to the treaty text would result in reopening negotiations. I do not believe that a new round of negotiations will serve the national interest.

SALT II required almost 7 years of negotiations under the administrations of Mr. Nixon, Mr. Ford, and Mr. Carter, during which the Soviets made several concessions—for example, equal limits and sublimits on missile systems; fractionation limits; prohibition against deployment of SS–16 mobile ICBM's; deployment of not more than one "new" missile; and the prohibition against telemetry encryption which impedes verification.

If the treaty negotiations were to be reopened, the Soviets would want to renegotiate the concessions they have already made. There is a real likelihood that the resulting treaty would be less—rather than more—favorable to the United States. And it is even more probable that there would be no treaty at all.

It is virtually certain that renegotiation would entail a long delay, and that during this time the Soviets would proceed to develop and deploy weapons systems which are prohibited by this SALT II treaty.

Some opponents of the treaty argue that it "allows" the Soviets to "keep" their 308 SS–18 "heavies," while denying us the "right" to build similar heavy missiles. This argument overlooks the fact that U.S. force planners opted in the 1960's not to go the "heavy" route, and chose instead to go for smaller, more accurate, solid-fuel ICBM's—Minuteman.

Our force planners, if given the option today to build the likes of the SS–18 heavy missile, would not choose to do so. In other words, if afforded the opportunity, we would not take advantage of the "right" to build such missiles; we would still follow the course we have chosen—the MX-mobile, which is comparable in size to the Soviet SS–19, heaviest of the "light" missiles.

The SALT II treaty is not responsible for the Soviet SS–18 "monsters." The U.S.S.R. chose to go the "big missile" route many years ago. Although deployment of the SS–18 did not begin until 1974, it is a follow-on to earlier Soviet heavy missiles, and its planning, development, testing, and production covered more than a decade. Some opponents of the current SALT II treaty were among those who, in 1972, supported SALT I, which "froze-in" the big missiles. The Soviets were permitted to keep their "heavies." The 1974 Vladivostok agreement, which many of today's treaty opponents also embraced at the time, extended this provision. So, it is wrong to criticize SALT II for "allowing" the Soviets to "have" something which they already had, namely, the heavy missiles which had been agreed to in earlier negotiations.

It is futile to argue that the treaty should be amended by the Senate to reduce the number of Soviet SS–18's from 308 to 150. I would like to see the number reduced to 150—or even to zero—but there is a great gulf between what is ideal and what is achievable. U.S. negotiators sought to cut back the number of SS–18's, but the Soviets insisted that the negotiations should proceed on the basis of the Valdivostok understandings. Furthermore, to reduce the number of SS–18's to 150— or even to zero—would not change the growing vulnerability of U.S. Minuteman missiles; they would still be vulnerable to the increasing accuracy of the Soviet SS–19's and other missile systems. I hope that SALT III will result in meaningful reductions, quantitatively and qualitatively, in Soviet missiles. But SALT III will never come about if a SALT II is rejected.

POSSIBLE CONSEQUENCES OF REJECTED SALT II

Argument has been made that SALT II should be rejected in order to "shock" the American people into an awareness of the need to fund programs to improve our national defense. I do not question the need for increased expenditures, on a prudent and selective basis, for defense. But, I reject the shock argument. I believe our deliberations on the SALT II treaty can contribute to greater public responsiveness to defense needs.

Selective increases are necessary, with or without this treaty. I am convinced, however, that the cost of improving our defense posture will be less with SALT II than without it.

SALT II will allow us to carry out the necessary strengthening and modernization of our central strategic nuclear systems, while limiting the momentum of Soviet development in this field.

If the treaty is rejected a greater proportion of our total defense expenditures would be devoted to central strategic nuclear weapons systems in the effort to deny Soviet strategic nuclear superiority—thus "bleeding" away the much needed funding for modernization of U.S. conventional forces and theater nuclear forces in Europe.

This is not the only negative consequence which would flow from rejection of the treaty. For example:

First. No limits on the number of strategic nuclear delivery systems. Secretary of Defense Brown and Under Secretary of Defense William Perry testified before the Senate Armed Services Committee that this Nation would face a substantially greater threat by 1985 without SALT II than with it. Without SALT II, we could face 30 percent more total missiles and bombers, 50 percent more MIRVed strategic missiles, 75 percent more MIRVed ICBM's, and more than double—perhaps even 150 percent more—silo-killer warheads.

With SALT II, the Soviets would be limited to 2,250 strategic missiles and bombers overall. Without SALT II, considering the production momentum they have acquired, the Soviets could have as many as 3,000 by 1985.

With SALT II, the Soviets are limited to 1,200 MIRVed strategic missile launchers, while, in light of their present trends, they could have 1,800 by 1985 without SALT II. The treaty limits Soviet MIRVed land-based strategic missile launchers to 820, whereas, without SALT II, they could potentially reach 1,300 by 1985.

Second. No limits on warheads. Since SALT II limits the Soviets to 308 SS–18's—a figure which was not created by this treaty, but which was frozen by SALT I and carried forward in the Vladivostok agreement—and restricts the number of warheads on each to 10, the maximum threat from the SS–18's under SALT II is 3,080 warheads by 1985. Without SALT II, according to Secretary Brown, they could keep their SS–18 production line open and, by maintaining their current production rate, produce 500 SS–18's in that period. Without the treaty, they could double the number of warheads on each to 20 and could thereby have 10,000 warheads on their SS–18's by 1985. Technologically, the Soviets could even triple the number of warheads on each missile and could achieve 15,000 warheads on their SS–18's.

Third. The SS–16 would not be prohibited in the event of rejection of the treaty. Under SALT II, the Soviets are prohibited from testing, producing, or deploying the SS–16, the only mobile ICBM currently available to either side. Without SALT II, the Soviets would be free to deploy the SS–16 mobile ICBM.

In sum, as Adm. Noel Gayler, former commander in chief of our forces in the Pacific testified:

> The first consequence (of a rejection of the Treaty) would be more weapons in the hands of the Russians.

Fourth. There would be less predictability. Rejection of SALT II would diminish our knowledge of the threat we need to defend against, because the Soviet strategic buildup would be less predictable, in the absence of SALT restrictions on Soviet weapons and prohibitions against concealment from our national technical means of observing them.

As Secretary Brown has said:

> Without SALT we would lose the greater predictability that is one of the agreement's most important contributions to stability. In my view, it is probable that without SALT II we would enter into an era of greater uncertainty—in both military and political terms—that would result in increased strategic forces on both sides, as hedges against that uncertainty. This would mean less rather than more security for the United States—and for the Soviet Union, too.

General Barrow, Commandant of the Marine Corps, testified:

> If this Treaty were rejected, our knowledge of the threat we face and must defend against would necessarily diminish (because there probably would be) no restrictions on Soviet programs and prohibitions against concealment.

Fifth. Rejection of SALT II would damage U.S. leadership credibility. In considering the consequences of rejection of SALT II, we must also look at the international impact, and its effect on our allies and on our role of international leadership. I have had the opportunity to review the extensive testimony on this issue, and to discuss it over the past months with a number of key European leaders. I have found our European allies to be strongly supportive of SALT II, although they have some specific concerns about the noncircumvention clause and the provision of the protocol. Europeans are genuinely concerned about the growing imbalance in theater nuclear and conventional forces, and they hope that this imbalance can be rectified in SALT III—which, of course, would not be reached unless and until SALT II is ratified. Rejection of SALT II would send confusing signals to other nations. Our allies would tend to see rejection of the treaty as raising serious questions about U.S. stability and leadership. It would create a climate of political uncertainty. The cohesiveness of the Western alliance would be undermined.

Sixth. Rejection of SALT II would make U.S. monitoring more difficult. Without SALT II, the United States would face a much more uncertain situation in monitoring Soviet strategic developments because the deception, concealment, and countermeasures banned by SALT II would be uninhibited. U.S. monitoring capabilities with respect to SALT II may not be ideal, but without SALT II our capabilities would be considerably diminished. With or without SALT II, it would be virtually necessary for the U.S. intelligence community to have the capabilities to monitor Soviet strategic developments. SALT II places restrictions on Soviet concealment activities which deliberately impede verification of the treaty provisions. Without SALT II, there are no restrictions on the Soviets against deliberate concealment to impede U.S. monitoring and verification.

Seventh. Other arms control efforts would be endangered if SALT II were rejected. Rejection of SALT II would have a potentially adverse impact on other arms control endeavors presently underway. Such arms control efforts would include first of all, of course, the SALT process itself would be the first casualty of a failure to ratify SALT II; but our nonproliferation efforts, as well as the Comprehensive Test Ban (CTB), Mutual and Balanced Force Reductions (MBFR), and Antisatellite (ASAT) negotiations might also be imperiled.

Ratification of SALT II will not necessarily make it easier to achieve success in other arms control efforts, but rejection of SALT II could slam the door on the hope for progress in these efforts.

First. Nuclear nonproliferation. The Treaty on the Nonproliferation of Nuclear Weapons (NPT), commits all parties to the treaty, including the United States and the Soviet Union, to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date. Under this treaty, 106 nonnuclear weapon states have pledged not to acquire nuclear

weapons or nuclear explosive devices. In 1975, a conference to review the operation of the NPT was held. The United States and Soviet Union were repeatedly attacked for inadequate attention to disarmament. Yugoslavia even threatened to withdraw from the treaty in part because:

> The nuclear-weapon states have not fulfilled their basic obligations under the Treaty: they have not discontinued the nuclear arms race; they have not stopped the nuclear weapons tests; vertical proliferation of nuclear weapons has continued.

Another review conference will convene next June. It can be anticipated that the degree to which the nuclear-weapon states have lived up to their obligations under the NPT treaty will again be a critical point. Most responsible non-nuclear-weapon states consider United States and Soviet willingness to negotiate reductions in the arms race as essential to the success of worldwide efforts to control proliferation. Failure to ratify SALT II would weaken our hand in our continuing effort to persuade other nations to remain nonnuclear. We will hardly be in a strong political or moral position to ask other nations to hold the nuclear line if we and the Soviets have demonstrated that we are unwilling or unable to control and reduce our own massive nuclear arsenals.

Second. Comprehensive test ban. Failure to ratify SALT II would have a seriously adverse effect on the negotiating climate for CTB. Taken together, SALT II and a comprehensive test ban treaty would have mutually reinforcing effects in moderating and stabilizing the United States-Soviet arms race. Since neither the United States nor the U.S.S.R. could be expected to deploy new types of nuclear warheads without fully testing them, a comprehensive test ban treaty could, in effect, freeze deployed nuclear warhead technologies at present levels.

Any new systems would have to employ warheads of already proven design. A CTB would place important constraints on Soviet nuclear improvements—for example, in the yield-to-weight ratios of Soviet warheads—thus preventing them from putting their missile throw-weight to most efficient use. A CTB could inhibit the Soviets' ability to field a cruise missile force as efficient and sophisticated as our own.

After 7 years of negotiating SALT II under three Presidential administrations, both Republican and Democratic, failure to ratify the treaty would severely damage our credibility as a negotiating partner. Soviet negotiators would not only reap political profit from our failure to ratify SALT II, but they would also see little incentive to make the concessions, especially on verification, that would be needed to reach an agreement on a comprehensive test ban treaty.

Third. Mutual and balanced force reductions (MBFR). These negotiations on force levels—a subject vital to European security—are at a potentially decisive stage. Disagreement remains over one key issue: the data base. Western estimates of Warsaw Pact forces differ significantly from the data provided by the Eastern countries. Nonetheless, the Soviets have accepted the Western principle of common ceilings and if the data base problem can be resolved, an agreement could be in sight. However, there is serious question as to whether MBFR negotiations could continue at all in the aftermath of a failure to ratify SALT II.

Fourth. Antisatellite weapons negotiations. The U.S. goal in these negotiations is to prevent an arms race in weapons used for attacking space objects. Such competition would increase threats to U.S. satellites, and it would be extremely expensive. The United States would prefer to avoid such a race by negotiating with the Soviet Union equitable limitations on antisatellite weapons. These negotiations are related to SALT II, in that any restrictions on means to attack satellites would increase the confidence of each side in the survivability of its satellites used for verification of arms control agreements. If SALT II is rejected, it is unlikely that the climate would exist for progress toward agreement on limiting or prohibiting antisatellite weapons.

THE TREATY IN CONTEXT

And so, Mr. President, I have repeatedly stated that, while the SALT II treaty should be considered on its own merits, it must necessarily be viewed within the broader context of the overall strategic and military balance.

Corollary and peripheral issues do arise. Although I believe SALT II can contribute to an overall improvement in United States-Soviet relations and to international stability, there remain some serious concerns about Soviet actions and policies. The Soviets have developed and deployed military forces far beyond those needed to maintain their own security. The Soviets and their clients have in several cases exploited unstable situations in Africa and elsewhere. It should be noted that their record is not one of unblemished success in this regard. What is important for the United States is that we continue to act to protect our own interests, and to make clear to the Soviets that, when international stability is threatened in such a manner, it will inevitably affect prospects for better United States-Soviet relations.

In the recent controversy over Soviet troops in Cuba, there was danger that we would lose sight of what our country's real interests are. We are not threatened by the presence of a brigade of Soviet troops in Cuba. The stakes in SALT II are much higher and far more vital to our national security than this peripheral and unrelated issue.

The fact is that SALT II—as a number of qualified witnesses have testified—is a positive contribution to our national security. And the action by the Senate on this treaty can have a profound effect on international security, stability, and the prospects for world peace for many years to come.

I would readily concede that the SALT II treaty is far from perfect. Any Senator unilaterally can draft a treaty but it takes two parties to negotiate it. We must remember that this treaty is the product of negotiations between two parties over 6½ years, under three administrations, two of which were Republican and one of which was Democratic.

This treaty, like most treaties, is a statement of the political realities existing between the nations involved. It suggests a commitment on both sides to limit competition in one domain, that of strategic arms.

Certainly there is no more important area in which to achieve agreement—even limited agreement—than in this critical area. Cooperation to moderate competition in strategic arms does not mean an end to United States-Soviet competition in other areas. Indeed, the fact that such competition between the Soviet Union and the United States will continue makes SALT II all the more important: the treaty is a step toward stabilizing the nuclear arms race and thereby reducing the danger that Soviet-American competition or confrontation on other questions might lead to nuclear confrontation.

We will not be relying on trust. That would hardly be a sufficient basis for assuring that the provisions of the treaty are being complied with. We will be relying on our own observation. Our diverse national technical means can provide us with accurate and up-to-date information on Soviet strategic developments. The Select Committee on Intelligence has considered this matter in a careful and detailed manner in reaching this conclusion.

Thus, it is my strong belief that approval of SALT II is the correct step to take not only in terms of our national security interests, but for its international implications as well. At the same time, I reiterate that we must take steps to bolster our deterrent capability, particularly in NATO. This, of course, is not for the United States to do alone. It has to be done in conjunction with our European allies.

As to the resolution of ratification, I now turn to those areas of the treaty and protocol which, in my view, require strengthening through clarification or elaboration by the Senate in the resolution of ratification. These include matters which relate to our future ability to proceed with programs vital to our future ability to proceed with programs

When I met with President Brezhnev, Foreign Minister Gromyko, and other Soviet leaders early in July, I stated that there were several areas of major concern to me and other Senators, and I indicated that the Senate would probably act on these points.

PROTOCOL EXPIRATION

I said that it was likely that the Senate would specify that the provisions of the protocol do not constitute a precedent, and that the protocol could not be extended beyond its December 31, 1981, expiration date without the explicit consent of the Senate. I regard this as a matter of major importance. General Jones, Chairman of the Joint Chiefs, said:

> As presently constructed, the Protocol restrictions will have no significant impact provided there is no extension of the current expiration date.

The protocol must not be considered in any sense as precedental. This is a critical issue in relation to our ability to deploy cruise missiles and the MX in the 1980's. The limits in the protocol, we have been repeatedly assured, will in no way inhibit the testing and development of these systems. We want to leave no shred of doubt about our ability to go ahead with these systems, and to make clear that the protocol means what it says. We might face a future effort to make it appear that we are somehow reneging on the treaty if we do not continue the provisions of the protocol. Thus, it is important for the Senate to act on this point.

NON-CIRCUMVENTION

I informed the Soviets that the Senate would want to state its understanding that the noncircumvention provision of the treaty will not affect existing patterns of collaboration with our allies. We have been informed that during the SALT II negotiations, the Soviets repeatedly sought to place limits on us in our cooperation with allies. Our negotiators successfully rejected these efforts, but I think it is incumbent upon the Senate to make our position on this issue absolutely unequivocal. This is an issue of major importance to NATO.

BACKFIRE BOMBER

In his statement at the Vienna Summit, President Brezhnev made certain important assurances and commitments in regard to the Backfire (Tu22-M), stating that the production level would not exceed 30 aircraft per year and that the radius of action would not be increased so as to give it intercontinental capability. President Brezhnev reaffirmed this during my meeting with him. I believe the Senate should formalize these assurances. We should make clear that we consider the carrying out of these commitments to be essential to the obligations assumed under the treaty. I support a reservation which would underline the legally binding nature of these commitments and indicate that their violation would constitute grounds for our withdrawal from the treaty.

VERIFICATION AND REPORTING PROCEDURES

I also believe it is important for the Senate to establish formal verification reporting procedures. The Senate should be kept informed on a regular and periodic basis of our monitoring efforts in relation to SALT II, including issues brought before the Standing Consultative Commission (SCC). The Senate should be advised immediately, through the procedures governing the Select Committee on Intelligence, of any significant new development which indicates either Soviet noncompliance with the treaty or Soviet activities inconsistent with the objectives of the treaty. I am cosponsoring a reservation which would require reports to the Senate every 6 months on SALT II verification and compliance, plus special reports at such other times as developments warrant.

I believe that—with inclusion of the kinds of modifications I have suggested—we will have a treaty that is balanced, that protects our security interests, and enables us to proceed with needed qualitative improvements in our deterrent capability. It would be foolish to jeopardize all of this, and the long efforts that have gone into achieving agreement on SALT II, by attempting to rewrite the treaty in the Senate.

I have cited four specific points on which I believe the Senate should act: nonextension of the protocol, the noncircumvention provision, the bomber, and verification and reporting procedures. There are additional subjects which the Senate may wish to deal with, a notable example being clarification of the status of the agreed statements and common understandings. It is my belief that the agreed statements and common understandings are of the same force and effect as the provisions of the treaty and it would be appropriate for the Senate to make this clear in the resolution of ratification.

The Senate may take additional actions, and I may want to submit other proposals for consideration. For example, in conjunction with its consideration of the treaty, I believe the Senate should adopt language providing guidance for U.S. negotiators in SALT III. This would include a declaration of our support for significant reductions in levels of strategic arms on both sides—in keeping with the principle of essential equivalence. This would be consistent with and give greater weight to the joint statement of principles and basic guidelines for subsequent negotiations on the limitation of strategic arms. The Senate may want to suggest other specific points for the SALT III agenda. This would be a means of addressing such issues as Soviet theater nuclear weapons deployment.

If the Senate approves amendments to the resolution of ratification of the nature I have discussed, I believe we should then proceed to consent to the ratification of the treaty.

HISTORIC OPPORTUNITY

In considering this treaty, the Senate has an historic opportunity. The Senate's constitutional role presents us with an awesome and solemn challenge. I believe the Senate will rise to this challenge. This treaty not only goes to the heart of U.S. national security interests, but has far-reaching ramifications in the international arena. The Senate has an opportunity to help diminish the potential for nuclear destruction, to help make the world a more secure and safer place.

I am proud of our constitutional system and the special role of the Senate in foreign policy. When I was in the Soviet Union, I took great pains to explain to the Soviet leaders the Senate's role in the treaty process and the seriousness with which the Senate exercises this independent prerogative. One of the virtues of this process is that a treaty, and particularly one of this import, having been negotiated by the executive, is then subjected to the scrutiny of the Senate. A treaty which has withstood this thorough constitutional process is backed up by the confidence and support of the American people through their elected representatives in the Senate.

I believe the American people favor a treaty that contributes to our security, while reducing international tensions and the risks of nuclear war. I believe the American people will support the steps necessary to protect our security by bolstering our defense in certain key areas. This, I repeat, has to be done with or without SALT II. Without the treaty, we face a more costly, a more uncertain, and a more dangerous future. But with the treaty we should have no illusions. As the Chairman of the Joint Chiefs, General Jones, has pointed out, we cannot let the SALT II treaty "tranquilize" us. If SALT II is approved, we cannot afford to become complacent about the critical need to undertake important strategic modernization programs in order to maintain strategic parity within the SALT II limits. Unless we sustain a commitment to a strong national defense, the possibilities inherent in SALT II will not be realized.

The SALT II treaty provides a foundation on which to build future arms control efforts. I am convinced that careful consideration of all the testimony that has been presented, and a thoughtful analysis of the treaty, leads to the clear-cut judgment that the treaty should be ratified.

This is a time for serious contemplation.

It is a time to put the interests of this country, not only of this generation—but for who knows how many generations ahead—above all partisan considerations or personal considerations.

It is a time not to be swayed by considerations other than the merits of the subject before us.

It is a time for sober reflection of the highest order.

What we do here and now will not be judged by polls or elections but in the cold, clear light of history.

PROGRAM FOR MONDAY, OCTOBER 29, 1979

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will come in at 10 o'clock. After the orders for the recognition of the two leaders or their designees and two Senators, as previously ordered, the Senate will resume consideration of the depository institutions bill, H.R. 4986, Calendar Order No. 387. Rollcall votes may occur in relation to that bill at any time between circa 10:45 a.m. and 3:45 p.m.

At 3:45 p.m., the Senate will resume consideration of H.R. 3434, the social services bill, and the pending question at that time will be on the adoption of Mr. DOLE's amendment. There will be 15 minutes of debate on that amendment, the time to be equally divided between Mr. MOYNIHAN and Mr. DOLE, and if any rollcall votes are ordered in relation to the Dole amendment they will begin running at 4 p.m.

Other votes will occur in relation to the amendment by Mr. LEVIN and the

amendment by Mr. BELLMON and, of course, final passage of H.R. 3434.

Thereafter, and/or prior to 3:45 p.m., S. 1871 being a privileged matter, a message from the House on the international energy agreement, may be called up and votes in relation to that measure may occur.

So this means, Mr. President, that on Monday there will be several rollcall votes, no less than three, and with a probability of some more, possibly several more, rollcall votes, on Monday, they being, in summation, in relation to H.R. 4986, the depository institutions bill; S. 1871, the message from the House on the international energy agreement; and HR. 3434, the social services bill.

By the way, Mr. President, I think I should state this point in connection with the program for Monday: It is to be expected that rollcall votes will occur daily throughout next week, including Saturday, and that Saturday sessions from here on out are not only a possibility, but, in some several weekends, a probability.

RECESS TO MONDAY, OCTOBER 29, 1979, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. on Monday next.

The motion was agreed to; and at 6:58 p.m., the Senate recessed until Monday, October 29, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 25, 1979:

ECONOMIC REGULATORY ADMINISTRATION

Hazel Reid Rollins, of the District of Columbia, to be Administrator of the Economic Regulatory Administration, vice David J. Bardin, resigned.

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, sections 3442 and 3447:

ARMY PROMOTION LIST

To be lieutenant colonel

Abercrombie, Thomas, 419-52-3734.
Adamowski, Francis, 381-40-7586.
Adams, Donald L., 259-60-2118.
Adams, Doye W., 224-50-2719.
Adams, John, 278-32-3029.
Adams, Richard M., 247-52-9684.
Adams, Ronald E., 417-58-5264.
Ahern, Michael B., 520-40-5580.
Ahrens, Robert E., 566-50-2215.
Alexander, John B., 388-38-3091.
Alexander, William, 230-54-4148.
Aljets, John W., 498-42-2384.
Allen, Cornelius A., 449-62-6574.
Allen, David L., 548-50-8401.
Allen, Frank B., 256-54-7285.
Allen, Richard B., 043-32-5905.
Allen, Robert A., 229-56-3396.
Allison, David B., 480-48-3039.
Allison, William F., 511-36-7305.
Allman, Douglas D., 563-54-9231.
Alt, Emile A., 435-56-4819.
Alverson, Frank L., 575-40-8927.
Ames, Robert A., 065-34-8196.
Anderson, Clinton L., 249-78-6274.
Anderson, Dean R., 253-64-7556.
Anderson, Edwin P., 352-34-3004.
Anderson, Martin S., 563-54-0752.
Anderson, Norman L., 474-46-4062.
Anderson, Robert L., 301-30-1661.
Andrews, Andrew E., 551-58-8258.
Annan, William M., 213-40-0685.
Armstrong, William, 441-38-8089.
Arrants, William M., 248-70-7231.
Arrington, Jimmy S., 419-44-6865.
Arrington, John W., 241-62-1068.
Ashworth, Jimmy P., 459-52-8319.
Askew, Arthur M., 263-64-4226.
Asselin, Leo J., 264-60-5955.
Bachman, Howard P., 293-36-5384.
Bachman, James H., 316-40-5176.
Baetcke, Dorothy A., 230-54-9714.
Baggett, John A., 424-40-3332.
Bailey, Dalene G., 548-54-2498.
Bailey, Richard E., 452-66-0058.
Bain, Seavy A., 239-64-4917.
Baird, John C., 465-62-0509.
Baisden, Edward D., 267-60-8732.
Baker, Ralph K., 230-44-6599.
Baker, Robert J., 534-36-5235.
Balderson, Robert A., 110-34-9484.
Baldwin, Roger L., 286-36-5972.
Ball, Francisco, Jr., 460-62-1298.
Ballagh, Robert S., 521-44-4388.
Ballard, Stephen D., 513-44-2446.
Banks, Hayes B., 224-46-8414.
Barcomb, Paul J., 108-32-7786.
Barfield, John R., 254-56-9718.
Barkers, Arnold L., 227-48-1307.
Barnaby, Richard J., 338-36-0406.
Barr, Dale D. Jr., 467-50-3432.
Barr, Douglas H., 538-38-6590.
Barrie, Jeffrey E., 125-30-9242.
Barrow, Joseph M., 534-38-0337.
Barry, David A., 068-34-5347.
Barthmus, Winfried, 178-32-7472.
Bartholomew, Daniel, 171-32-1562.
Bartlett, James A., 451-68-0180.
Bartz, Richard C., 150-32-7385.
Bashore, John F., 454-56-9141.
Basile, Domenic F., 209-32-6645.
Bassett, Lionel T., 165-34-3970.
Bates, Jared L., 060-34-9134.
Baucum, Tommy A., 457-58-4430.
Bauer, Daniel E., 454-58-8807.
Baumann, Charles H., 009-28-2138.
Bawell, Walter A., 182-32-6047.
Bayer, William K., 162-34-2976.
Beall, Marshall D., 529-54-3732.
Beasley, Lonnie S., 455-68-2612.
Beaumont, Richard A., 023-32-6093.
Bechtold, Earl E., 201-32-0211.
Becker, James W., 100-32-6877.
Becker, Loren L., 505-40-3747.
Becker, Oliver R., 019-32-4910.
Bedell, Larry L., 465-62-1510.
Beegle, Charles L., 413-66-9073.
Behr, Steven, 069-34-4795.
Beiler, George W., 175-32-9538.
Beilharz, Kurt O., 098-32-3106.
Bell, David G., 428-78-8153.
Bell, William A., 227-52-5791.
Benavides, Gustavo, 463-62-7830.
Bennett, John L., 048-32-6053.
Bennett, Leon L., 247-70-8961.
Benton, John G., 214-36-3896.
Bentz, Kenneth, Jr., 447-34-4321.
Bergen, John D., 094-32-1206.
Bergeron, Daniel M., 021-30-8747.
Bergin, Donald S., 530-28-1355.
Berk, Walter L., 530-24-1316.
Berner, Robert L., 267-60-2725.
Berrong, Larry B., 259-64-9331.
Best, Billy B., 237-60-7912.
Bettner, Steven M., 309-44-3153.
Beyer, David J., 044-28-1913.
Bianco, Charles, 032-28-0110.
Biank, Samuel A., 161-34-3070.
Bidwell, Robert L., 262-64-0674.
Biermann, James, 558-54-1045.
Billy, Ronald J., 030-28-3621.
Bittenbender, Edward, 230-52-7527.
Black, Clinton J., 422-50-4500.
Blades, Jon W., 026-30-5756.
Blahnik, David G., 388-36-9244.
Blair, Arnold G., 409-54-6503.
Blair, Joseph M., 273-40-6110.
Blair, Melvin R., 405-56-4398.
Blake, Bruce A., 221-28-3702.
Blalock, Darrell N., 416-48-1321.
Blieberger, Anton G., 508-52-4484.
Blouin, James O., 438-52-8181.
Bluhm, Raymond K., 354-32-5474.
Bobar, Robert L., 019-32-4003.
Bock, James W., 289-30-9607.
Bohm, John A., 381-38-8249.
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Rodrigues, Luis O., 457-70-6505.
Rodrigues, Roque C., 459-72-1507.
Roerty, Dennis F., 154-32-5380.
Rollins, Gordon C., 012-32-0206.
Rosenthal, Sidney D., 459-66-1038.
Rooker, Lester W., 427-76-1740.
Roskowski, Raymond, 145-32-6174.
Rossow, Allen F., 539-36-2773.
Roval, Alfred P., 556-64-9803.
Rovansek, Raymond J., 521-50-2881.
Rovig, Lavern D., 501-32-7759.
Rowe, Michael A., 058-34-6206.
Rudy, James J., 218-62-0509.
Ruehle, Stuart L., 196-34-2728.
Runnells, David L., 485-46-4370.
Rush, Wayne A., 549-54-2636.
Rusnak, Terrance J., 327-36-2574.
Russell, Nancy A., 238-54-5305.
Russell, W. Arthur, Jr., 066-32-7977.
Ruth, Marilyn M., 472-46-7773.
Sabatini, John J., 005-34-4088.
Sagers, John D., 530-22-7523.
Sakas, Karl D., 154-34-3664.
Samuels, Charles W., 413-66-2039.
Sanchez, Desi J., 527-42-5486.
Sanchez, Washington, 266-62-0984.
Sanders, John D., 518-42-7189.
Sanders, Ross I., 412-70-3053.
Sanderson, Michael, 226-56-2645.
Sanford, Teddy H., 576-46-4079.
Sapp, David C., 141-30-3426.
Sarantakes, John E., 450-60-5539.
Sarran, George C., 449-54-2764.
Sarratt, Robert R., 248-70-6604.
Sasser, Howell C., 261-44-4382.
Sauter, Fred E., 328-34-0840.
Savoy, Wallace J., 434-54-9975.
Sawyer, David R., 011-30-2348.
Sayles, Rapheal H., 500-38-0931.
Scannell, Michael J., 019-32-3513.
Scarboro, James H., 262-54-5107.
Schaaf, Clifford C., 491-44-8330.
Scharff, Ronald E., 519-44-0151.
Schaufelberger, John 519-48-6237.
Scheider, Martin F., 278-38-4757.
Schenker, Frederick, 208-30-7069.
Schmidt, Ernest R., 340-30-6491.
Schmidt, Ronald B., 263-34-7405.
Schmitt, Kenneth W., 316-40-8873.
Schoonover, James F., 525-94-1240.
Schramm, James D., 371-40-9903.
Schrock, Philip J., 322-36-1918.
Schulenberg, Robert, 459-62-1545.
Schuyler, Donald F., 269-34-6261.
Schwartz, Thomas M., 230-56-3974.
Scott, Richard P., 162-32-3955.
Scott, William A., 519-38-7863.
Sears, Daniel G., 023-30-3493.
Seelig, Louis C., 092-34-7417.
Segler, Roger L., 442-42-5419.
Seiler, Dennis L., 195-32-4645.
Sellers, Tony M., 463-50-9608.
Senkus, Neal J., 238-60-9296.
Shaler, Michael D., 564-50-9043.
Shamanski, Daniel M., 188-32-6459.
Sharpe, Gerald W., 521-56-9552.
Shaw, Dallas A., 266-48-3133.
Shaw, Hubert S., 006-42-5912.
Shaw, John C., Jr., 431-74-3284.
Shelby, William L., 352-32-0708.
Shelly, Clyde, 500-38-1967.
Sherburne, John R., 457-62-7503.
Shipmen, Ted L., 249-52-4137.
Shipp, Donald R., 462-58-8779.
Shive, Donald W., 110-34-9525.
Shoemaker, Philip H., 189-32-9936.
Shore, Christian M., 528-54-4241.
Shrader, Charles R., 233-66-3847.
Sielinski, Peter E., 033-30-2603.
Sierra, Michael J., 461-60-3491.
Sikora, Stanley F., 055-34-0095.
Simino, Joseph R., 002-28-6106.
Simmons, Earnest L., 239-60-2706.
Simpson, Daniel H., 406-56-5376.
Sims, Eddie R., 410-60-4077.
Sinclair, Robert B., 419-54-9232.
Siraco, Joseph A., 031-28-6414.
Sisson, David J., 164-32-6632.
Sizemore, Michael E., 567-56-3387.
Skerker, Alan L., 090-34-6527.
Slate, James S., 162-32-6470.
Sligar, Norman F., 519-38-1418.
Smay, Donald R., 185-34-0224.
Smith, Blaine H., 441-40-7014.
Smith, Bruce E., 003-30-4434.
Smith, David R., 213-38-8113.
Smith, Freddie G., 284-34-2180.
Smith, George F., 436-58-0036.
Smith, James L., 530-22-6979.
Smith, James W., 458-68-0735.
Smith, Jerry A., 496-44-9897.
Smith, Melvin S., 228-44-6086.
Smith, Ray T., 542-42-5340.
Smith, Richard G., 433-58-0471.
Smoot, Charles V., 229-46-3120.
Smor, Francis M., 264-56-8287.
Sneed, Robert L., 525-68-6561.
Snider, Thomas H., 289-34-4249.
Snyder, Robert A., 519-40-8268.
Soderberg, John D., 144-30-7036.
Sorensen, Kenneth C., 529-50-0344.
Soron, Vitold J., 129-32-6872.
Southard, Ralph C., 448-34-0231.
Souvenir, Stanley J., 540-42-3590.
Sowell, Norman E., 542-46-9777.
Speedy, John C., 110-34-9626.
Speidel, Richard R., 225-50-8458.
Speranza, Nicholas, 068-34-3176.
Spinetto, John D., 386-44-0672.
Spinosa, Ray D., 021-32-7531.
Sponberg, Darrell L., 455-60-1621.

Sprague, Kenneth E., 528-46-9155.
Spruill, Matthias A., 261-70-4364.
Squire, Willard S., 371-36-5501.
Staley, David H., 567-52-1563.
Stamm, Richard L., 551-40-8251.
Stapleton, James B., 093-32-3220.
Starkey, James C., 468-44-0726.
Starnes, John L., 412-64-0533.
Steele, James J., 270-42-0795.
Steele, William M., 252-70-0433.
Steen, Robert S., 424-50-6195.
Steiner, Frederick, 422-48-8079.
Stephens, Robert F., 205-26-5773.
Stephenson, Hartwell B., 238-46-7286.
Stephenson, Joel S., 105-30-9759.
Sternberg, Ben, Jr., 110-34-9494.
Stewart, Donald P., 290-34-3822.
Stewart, George D., 463-58-4517.
Stewart, Robert L., 427-90-0242.
Stewart, Thomas W., 530-22-2453.
Stilwell, Richard G., 079-34-6570.
Stocker, Ralph F., 363-38-4102.
Stonecipher, Roy L., 526-46-5760.
Storz, William A., 347-32-4664.
Stracensky, Gary C., 284-38-1200.
Stringer, Hugh L., 262-62-1293.
Strom, Roger C., 519-40-9194.
Stroud, Richard M., 263-52-3149.
Stuart, Larry E., 257-54-1141.
Stuart, Rodney K., 530-24-2162.
Stubbs, Richard C., 248-64-7446.
Stubbs, William P., 096-26-1492.
Studdard, Walter C., 420-54-1233.
Stunkard, Larry E., 346-32-2468.
Styer, Norman W., 199-32-6328.
Sullivan, Darr F., 249-68-5966.
Sullivan, David E., 444-40-9528.
Sullivan, David E., 479-38-3554.
Sullivan, John P., 144-32-8166.
Sutcliffe, Edwin H., 037-26-4157.
Swain, Richard M., 261-70-5238.
Swain, Thomas E., 516-48-4600.
Sweeney, Russell W., 289-36-5824.
Sweet, Worth A., 238-58-0121.
Swendson, Joe A., 439-52-2392.
Swenson, Peter C., 144-32-5475.
Swink, Terry E., 413-62-6991.
Swisher, Arthur H., 223-54-9542.
Sylvester, Louis A., 423-50-3097.
Taggart, Donald C., 464-54-2047.
Takayama, Thomas T., 576-40-2159.
Tanaka, Richard M., 518-44-1205.
Tastad, Jerome W., 501-44-8535.
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Tavernetti, Leonard, 559-52-8271.
Taylor, Edwin L., 534-30-5713.
Taylor, Frederick C., 005-40-9711.
Taylor, Herbie R., 462-64-0981.
Taylor, John M., 256-52-6506.
Taylor, John W., 140-34-9722.
Taylor, Larry A., 273-36-4433.
Taylor, Morris J., 484-54-4220.
Taylor, William E., 375-40-4071.
Tedesco, Vincent J., 056-34-1066.
Terry, Robert B., 253-66-7457.
Tetu, Robert G., 230-54-7411.
Thackston, Bruce L., 089-34-3520.
Theriault, Alfred J., 036-26-0123.
Thie, Harry J., 136-34-6919.
Thiels, Jerry M., 434-54-5877.
Thomas, Charles L., 424-54-4168.
Thomas, Gerald E., 250-54-6384.
Thomas, James M., 118-30-1698.
Thomas, Joseph D., 084-34-2408.
Thomas, Robert E., 254-60-7326.
Thomas, Trent N., 556-62-7016.
Thompson, Donald W., 520-44-7010.
Thompson, John C., 424-52-8331.
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Thornton, Rufus, 259-60-7880.
Thrash, Gerald W., 370-42-7106.
Tigges, Kenneth D., 483-38-9379.
Timian, Robert C., 391-42-9416.
Timmons, Richard F., 231-56-0272.
Togashi, Theodore T., 576-38-6323.
Toney, Elijah, 219-38-3288.
Tonsetic, Robert L., 185-34-5426.
Torrence, Harry L., 238-50-2616.
Tracz, William J., 083-34-3495.
Trapnell, Franklin, 559-54-3617.
Tratensek, Milivoj, 327-32-8403.
Travis, Stuart B., 259-64-9418.
Trew, Grady, 450-60-5303.
Trifiletti, Anthony, 272-36-7320.
Tripler, David J., 367-42-4018.
Triplett, Robert L., 232-68-9958.
Tudela, John A., 449-68-5074.
Tugwell, Tyler, 220-40-7139.
Turbok, James M., 292-34-4833.
Turchiano, Nicholas, 067-34-5326.
Turcotte, Paul J., 024-30-4110.
Turner, Vance L., 500-34-1091.
Turner, William E., 127-32-9629.
Twining, David T., 215-42-6140.
Tyson, Robert K., 166-30-1611.
Tyson, William E., 252-72-2578.
Ullmann, Donald F., 113-32-0839.
Underwood, Alan K., 509-40-8855.
Unger, Larry T., 314-40-1333.
Unzelmann, Werner O., 167-32-1783.
Urquhart, John C., 526-38-5824.
Utley, Melvin A., 504-46-2196.
Valentine, Kit J., 219-38-6041.
Vanalstyne, John A., 461-70-3328.
Vanbrero, Erik, 043-32-8831.
Vance, John D., 402-54-6657.
Vandernaald, James, 104-32-0062.
Vandeven, Martin L., 393-36-0394.
Vanmatre, Donald G., 520-42-9992.
Vanprooyen, Jan A., 555-62-7762.
Vansteenburg, Robert, 267-60-8570.
Vaughan, Herbert G., 551-56-3415.
Vedrani, Ronald W., 020-30-2189.
Veen, Robert A., 502-40-4875.
Verdier, Douglas L., 172-32-0196.
Vernon, Edwin T., 423-44-0042.
Viall, Charles C., 036-26-6332.
Vilcoq, Paul M., 452-66-3319.
Vines, Bobby L., 422-50-8866.
Vititoe, John N., 403-54-5153.
Vlasak, Walter R., 292-34-3216.
Vlasics, Robert F., 178-34-5800.
Voelz, James H., 394-38-1311.
Vooys, Daniel F., 114-34-1094.
Vossler, Herbert L., 295-26-3511.
Wade, David C., 241-64-7240.
Wade, Thomas G., 320-36-6064.
Wagner, Terry L., 179-32-7800.
Wahl, William E., 521-56-4580.
Wakefield, Thomas C., 432-72-7767.
Walker, James L., 320-36-8199.
Walker, Patrick E., 442-44-0691.
Walters, Robert P., 266-60-5711.
Walters, William P., 214-34-8461.
Ward, Dennis, 446-38-1003.
Ward, Emmett J., 224-48-7328.
Ward, James E., 427-64-2004.
Ward, Robert N., 441-42-7006.
Ward, Thomas R., 144-32-8215.
Ward, William E., 033-28-3060.
Warner, John P., 267-60-5701.
Warren, James F., 424-56-5949.
Warvari, Harold E., 101-32-1594.
Watkins, George H., 531-38-7125.
Watkins, Thomas G., 429-74-9004.
Watson, Harvey D., 091-36-0806.
Watt, Earl A., 045-30-4325.
Watts, William J., 329-32-8792.
Wauford, Raymond J., 415-62-1261.
Weary, Robert W., 164-30-2919.
Weaver, Noel L., 450-50-5363.
Weaver, Thomas C., 220-40-7565.
Weaver, Wendell L., 225-56-2322.
Weber, Gary L., 466-64-8202.
Weeks, Henry T., 052-34-2296.
Weems, Kelly G., 428-76-3310.
Weichel, Frederick, 264-68-2116.
Weigand, James R., 280-36-0351.
Weisel, Stephen L., 080-34-9672.
Weiss, Robert M., 159-34-2424.
Welch, Terry J., 523-38-4994.
Wells, John T., 079-34-5630.
Wells, Virgil R., 523-48-0373.
Wenners, Edward B., 033-28-0694.
Werner, Gerald C., 396-38-4440.
West, Arthur L., 446-40-3961.
Wettack, John T., 510-40-7680.
Wetzel, David C., 186-32-8115.
Wheat, Paul A., 133-28-0310.
Wheeler, Wayne R., 016-32-0477.
Wheelock, Eddie D., 408-68-3296.
Whitaker, James P., 467-62-6571.
Whitcomb, Allen J., 060-32-8220.
White, Ernest K., 111-30-5108.
White, James L., 248-72-5816.
White, Lowell L., 267-52-0549.
White, Thomas E., 370-44-4712.
Whitehorne, Joseph, 003-32-0626.
Whiteside, Leonard, 034-30-6184.
Whitney, Roger B., 539-34-3238.
Whittle, Charles E., 273-40-0873.
Wiecking, Charles M., 367-66-9481.
Wilkan, Michael E., 110-34-9524.
Wilken, Wayne M., 502-40-5028.
Wilkerson, Arthur F., 419-52-8028.
Wilkie, Robert B., 365-32-9550.
Williams, Gene R., 532-32-9365.
Williams, George M., 291-36-7199.
Williams, Lee W., 210-30-7159.
Williams, Norman E., 219-42-0353.
Williams, Rowdy L., 441-38-5547.
Williams, William J., 258-48-2061.
Willis, Richard C., 516-40-5196.
Wilson, Charles V., 502-40-8773.
Wilson, Grady W., 427-62-0508.
Wilson, Howard H., 728-12-9961.
Wilson, James L., 515-40-8575.
Wilson, Johnnie E., 289-38-8869.
Wilson, Lee H., 538-36-0432.
Wilson, Thomas A., 233-58-1292.
Winslow, Wendelin W., 537-36-8622.
Winstead, Reginald, 244-64-2219.
Winston, Albert P., 444-36-0813.
Wise, Franklin F., 430-74-7078.
Wolfe, Jack W., 185-30-6692.
Wong, Frederick G., 576-38-5227.
Wood, Calvin S., 029-28-8061.
Wood, Jack B., 185-34-0365.
Wood, Norman M., 572-52-9362.
Woodbury, Kenneth M., 044-32-8153.
Woods, Alex Jr., 532-38-3449.
Woods, Jackie W., 234-58-1826.
Woods, Leroy, 099-32-6689.
Woolley, Bobby J., 449-62-9689.
Work, Samuel C., 197-34-6406.
Woronchuk, Ivan, 309-36-8533.
Wright, Richard H., 252-56-7098.
Xenakis, John J., 025-30-1606.
Yamada, Earl M., 576-40-3202.
Yancy, Jimmy B., 428-80-9577.
Yando, Arthur N., 009-26-8465.
Yarger, Harry R., 403-62-4710.
Yates, Stanley F., 415-68-9580.
Yedinak, Steven M., 531-36-4621.
Yoder, Roberta A., 365-44-0084.
Yoshida, Roy S., 576-38-3755.
Young, James V., 441-38-2804.
Young, Richard J., 136-36-9138.
Young, Robert F., 577-54-7740.
Young, Robert H., 137-30-1259.
Youngblood, George, 247-76-9763.
Youngblood, Norman, 230-54-7499.
Yurcaba, John Jr., 207-28-6531.
Zadrozny, Paul F., 167-32-2067.
Zana, Donald D., 204-32-5904.
Zdrojewski, Michael, 092-34-8983.
Zimmerman, Marylou, 133-30-7678.
Zink, Gale R., 550-58-4200.
Zore, John C., 396-38-5062.
Zschoche, Robert C., 505-50-4819.
Zweig, Richard N., 145-32-7154.

CHAPLAIN CORPS

To be lieutenant colonel

Bailey, Harvey E., 537-34-5458.
Barker, Robert E., 563-40-0635.
Behlendorf, Jack R., 392-30-8168.
Black, Wayne, 427-62-7296.
Blue, Robert E., 028-28-1084.
Bridgman, Huey A., 259-54-8829.
Broemer, Donald L., 309-34-3846.
Bruton, James D., 319-30-7488.
Cavin, David S., 264-44-7790.
Clements, Kenneth B., 414-50-7701.
Covington, Robert R., 425-62-8707.
Delossa, Alfred Jr., 186-38-4061.
Drake, Philip A., 549-44-4324.
Dufour, Rene P., 327-22-2196.
Dulany, Joseph P., 445-32-4342.
Endress, James R., 314-32-8702.

Greenspan, Alan M., 049-28-9477.
Higgiston, Malachy, 322-26-8547.
Hill, Rollin C., 161-26-6499.
Hill, Thomas M., 224-50-4262.
Hull, James D., 359-32-0912.
Juhan, James L., 254-56-3810.
Kirk, Marion R., 508-38-3250.
Kuehne, Wayne E., 529-40-5588.
Lacey, Floyd E., 408-62-8939.
Lacey, Thomas W., 186-20-3670.
Lesko, Edward A., 382-22-7556.
Lombardi, Felix J., 539-54-2518.
Martin, Jerry L., 407-46-9582.
Mathis, Roy N., 243-54-3468.
McKinney, James H., 252-56-3880.
Nebergall, Allen V., 263-48-7647.
Norton, Thomas H., 409-60-8495.
Ortiz, Michael G., 309-24-8196.
Peterson, Eugent S., 468-38-8077.
Powers, George E., 516-46-5261.
Reinbacher, Otto A., 340-30-6577.
Schaffer, Harvey L., 520-34-1072.
Schlater, Richard A., 398-24-8242.
Scott, Larry D., 309-32-0765.
Seaborn, Duane R., 012-26-3977.
Sitler, John E., 226-40-8359.
Spry, Randolph G., 223-44-5634.
Sullivan, Luke F., 055-28-7527.
Tierney, Warren L., 565-22-7431.
Voelker, Charles E., 539-22-6282.
Walker, Jack W., 432-54-2446.
Watterson, John E., 035-24-6581.
Windmiller, Bernard, 344-26-6136.

JUDGE ADVOCATE GENERAL CORPS

To be lieutenant colonel

Adams, John B., 562-58-5368.
Arkow, Richard S., 103-32-5617.
Burke, Michael A., 392-44-8688.
Carmichael, Harry S., 405-52-5151.
Colby, Edward L., 015-30-8459.
Cooper, Norman G., 220-40-3158.
Eggers, Howard C., 560-54-2837.
Gates, Elmer A., 490-44-1150.
Giuntini, Charles H., 036-26-4657.
Gleason, James C., 359-34-3970.
Haessig, Arthur G., 469-44-1518.
Heaston, William P., 508-52-2624.
Jacunski, George G., 262-58-8609.
Kennett, Michael B., 244-70-3877.
Kirchner, John E., 453-64-6227.
McNeill, David, Jr., 525-94-4764.
Miller, Joe D., 245-46-3835.
Mitchell, Kenneth M., 472-40-4934.
O'Brien, Maurice J., 483-54-8179.
Plaut, Peter K., 141-36-3419.
Richardson, Quentin, 429-74-5294.
Sandell, Lawrence J., 527-42-7612.
Scanlon, Jerome W., 141-30-2082.
Strassburg, Thomas, 393-44-3505.
Taylor, Warren H., 444-44-1859.
Weber, John P., 208-32-2879.
Werner, Steven M., 064-34-2103.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Aasen, Robert B., 505-50-3799.
Adams, Idus W., 255-66-8122.
Adams, Thomas H., 225-54-9481.
Addison, Wilbur D., 227-52-6706.
Alexander, James R., 170-34-5699.
Anderson, Kenneth W., 547-58-3182.
Atack, Rodney M., 520-38-3206.
Ayala, Isaac, 457-56-1674.
Baker, Michael C., 554-52-7432.
Bennett, James R., 168-34-9706.
Bennett, Roger A., 118-32-5251.
Benson, Charles F., 259-66-5351.
Blatnica, Joseph R., 176-30-6001.
Boland, Edward J., 569-54-5926.
Boyd, Raymond D., 219-38-3815.
Brady, Thomas F., 036-24-2035.
Case, Harry M., 309-42-3797.
Christianson, Lloyd, 472-38-3630.
Collopy, Eugene A., 096-32-3874.
Conway, John W., 519-38-0565.
Cook, Richard E., 476-40-0704.
Dunlevy, Bernard J., 295-36-9658.
English, Lamont B., 445-42-1269.
Ethington, William, 259-68-5481.
Fechner, Robert P., 499-44-2311.
Freeman, Joseph B., 223-48-2598.
Gill, Alfred W., 503-44-9411.
Ginn, James P., 255-62-1679.
Gmelin, Robert T., 109-26-3217.
Goriup, Franklin J., 220-38-4903.
Groshans, John H., 533-36-9292.
Hart, John S., 241-64-5356.
Hill, Anthony W., 212-40-6080.
Hrubetz, John E., 364-36-6630.
Hula, Roger P. II, 440-44-6387.
Ideus, Eldon H., 506-52-7069.
Italiano, Angelo J., 300-30-6852.
Jones, Robert G., 267-40-5373.
Jordan, Charles O., 515-38-6026.
Jorlett, Joel. 219-38-3653.
Kamenar, John M., 467-66-2627.
Kelley, Randall R., 408-72-2604.
Kelly, Robert W., 542-44-0384.
Kernen, George G., 545-54-3792.
Knight, Horace, 261-56-1016.
Kulm, Gale B., 503-46-7017.
Kusumoto, Howard H., 576-34-1379.
Lacy, Nelson C., 422-48-3996.
Lamb, Robert F., 235-44-1252.
Lander, Robert J.. 168-26-9849.
Leach, Paul J., 563-50-4329.
Letchworth, James R., 447-42-7706.
Libby, Glidden N., 389-36-1316.
Lindahl, James H., 475-38-1303.
Lloyd, Andree J., 391-34-1485.
Lull, George F., 523-50-4369.
Lyons, Gerard A., 184-30-2827.
Marshall, Stanley B., 392-44-7681.
McClinton, Gaylon M., 464-62-0535.
McGibony, James T., 579-56-9484.
Meek, Thomas, 389-38-2935.
Mekkelson, Peter W., 391-38-7207.
Moore, James F., 408-52-8987.
Moore, Thomas J., 426-58-8896.
Mora, Edward A., 466-64-5681.
Moses, Morris H., 247-66-3035.
Mote, Edgar F., 256-58-4626.
Murry, James H., 438-58-2353.
Nelson, Larry L., 503-50-4429.
Nichols, Alfred G., 266-48-7559.
Ohashi, David K., 521-44-2589.
Olihovik, Paul L., 025-30-8757.
Parker, Stanley R., 245-60-8196.
Patterson, James F., 463-56-8978.
Pearsall, Robert S., 061-32-2699.
Poe, Gerald D., 432-64-8752.
Pollard, David E., 267-62-9123.
Porta, Ronny E., 491-38-7741.
Purcell, Jackson D., 375-42-8675.
Reed, John F., 046-34-3984.
Reichard, Lawrence, 156-30-8028.
Reineck, Theodore C., 398-34-7319.
Rians, Charles W., 247-64-0533.
Ribotto, Joe W., 528-48-8941.
Richards, Robert E., 181-34-7586.
Rosenberg, Leroy J., 247-62-5625.
Sargent, Martin W., 254-66-2749.
Schlenker, Patrick, 126-32-7182.
Selby, Jack L., 234-64-5047.
Severson, Richard W., 504-46-6365.
Shaffer, William J., 520-40-9879.
Shannon, Michael A., 006-36-4253.
Sparks, Frederick D., 518-50-5240.
Speer, William L., 511-42-8135.
Spille, Robert M., 476-42-7049.
Stingle, Norbert A., 399-42-3232.
Suit, Larry R., 496-42-9414.
Thill, Fred A., 562-34-9062.
Valenti, Fred, 261-52-7443.
Vanwagoner, Frank A., 223-50-9325.
Watson, Robert T., 425-74-9258.
Weeks, Hershel E., 419-54-5451.
Wells, Robert A., 283-36-9154.
White, John R., 100-30-6564.
Wiley, Roger W., 353-32-6915.
Williamson, James A., 475-44-0672.
Wilson, Claude L., 446-40-7333.
Wilson, Gary R., 380-40-0257.
Wimsett, Jimmie B., 491-44-9181.
Wood, Robert T., 461-34-1701.
Woodcome, Andrew H., 022-30-1299.
Wright, Frederick L., 509-36-0479.

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Baker, Margaret J., 459-68-5889.
Boyd, Katie A., 238-54-3524.
Cronin, Martha A., 024-32-9990.
Fridlund, Karen E., 470-48-9072.
Harper, John A., 328-32-8665.
McCandless, Sally A., 461-58-0309.
Moore, John W., 048-30-9042.
Selman, Sherley A., 258-66-7348.
Thomes, Linwood J., 267-70-7777.
Vandervort, Judith, 137-32-1508.

VETERINARY CORPS

To be lieutenant colonel

Alm, Philip F., 502-38-2348.
Carter, James C., 437-62-4282.
Cirone, Salvatore M., 339-32-7583.
Cole, William C., 484-50-6491.
Harrington, Donald, 456-62-0483.
Johnson, Anthony J., 224-46-9183.
Johnson, Howard C., 454-58-6567.
Lumpkin, William L., 434-58-4778.
Maul, Lawrence P., 526-48-3513.
McLeod, Charles G., 249-68-5324.
Moe, James B., 469-48-7871.
Oldham, Larry S., 512-40-7111.
Reardon, Michael J., 285-36-7858.
Staley, Leo G., 483-48-5500.
Varley, James E., 471-44-8135.
Vogel, Lyle P., 468-46-9594.

ARMY NURSE CORPS

To be lieutenant colonel

Allen, Jimmy M., 375-40-2586.
Alvillar, Edna B., 473-50-8775.
Baca, Richard C., 522-52-7086.
Bailey, Mary A., 503-42-0253.
Baker, Thomas D., 368-40-7674.
Basta, Patricia J., 523-46-1286.
Blanchard, Josephine, 516-36-9595.
Boaz, Evelyn E., 225-60-3688.
Bombard, Charles F., 055-32-7540.
Bowie, Reuben A., 218-48-2120.
Brazier, Robert E., 555-52-0107.
Brodkey, Caroline G., 265-60-4781.
Brown, Barbara D., 312-40-3814.
Brown, Mary L., 391-40-2854.
Burke, Carole A., 538-36-6323.
Butke, Diane N., 397-36-4534.
Chadwick, Mary L., 259-54-2204.
Couch, Kenneth R., 528-48-1496.
Danner, John A.. 083-26-6915.
Devin, Kathleen, 572-54-6084.
Digirol, Marilyn T., 087-26-6806.
Dockal, Harvey J., 463-60-1731.
Edwards, Carolyn L., 266-74-4042.
Ellis, Merlan O., 518-42-8714.
Estes, Zane E., 483-30-2230.
Evers, Thomas E., 313-34-1778.
Fattal, Suzette, 561-64-8529.
Fico, Karen K., 562-60-8998.
Fletcher, Ella L., 434-52-0136.
Fortson, Shirley E., 021-26-8606.
Freeman, William E., 231-38-3089.
Freidhoff, Terrance, 191-28-2935.
Goethals, Gerald B., 367-40-4813.
Gouldthorpe, Barbara, 230-48-8801.
Grady, Henrietta C., 414-50-9161.
Green, Dolores, 146-28-5895.
Griess, Lorna L., 550-54-9771.
Hudock, John M., 168-32-0515.
Hurd, Waltraut P., 392-24-3342.
James, Doris M., 271-28-9746.
Jerney, Charlotte O., 390-40-3475.
Johnson, Joyce G., 579-56-0911.
Johnson, Sandrah W., 003-28-2238.
Johnston, Zula J., 194-30-6626.
Kohl, Michelle L., 483-52-7510.
Kramer, Robertajo A., 178-34-5577.
Kuttner, Jean M., 509-34-7045.
Lambert, Sharon L., 474-46-7183.
Lockhart, Sarah G., 092-32-9843.
Lyde, Willie J., 239-40-7835.
Maloney, Joseph P., 168-32-0435.
Matson, Erland G., 370-34-9704.
McCabe, John M., 479-50-9702.
McCann, Sheila A., 386-30-2781.
Mennega, Wubbina A., 378-34-4313.
Metcalfe, Martha E., 527-50-1426.
Miles, Ann L., 147-34-0336.
Miller, Evelyn S., 108-28-0319.
Moreau, Donald M., 007-36-0816.
Morres, Anna V., 186-28-0930.
Moslly, Charles E., 269-36-0734.

Myers, Nancy R., 240-52-3548.
Pearce, Maurice C., 366-36-8163.
Peterson, Dolores C., 356-20-1530.
Petrello, Judith M., 549-46-9674.
Phelps, Frederick O., 478-50-2332.
Reed, Jack O., 333-26-0184.
Reulein, Carol E., 062-26-4012.
Robbins, Dolly M., 259-44-8566.
Rollins, Pearl M., 003-20-3932.
Rosado'Otero, Adolfo, 581-64-0675.
Sauter, Joseph G., 180-32-2205.
Shafer, Kathleen M., 387-40-2881.
Smith, Lucille A., 310-40-7481.
Sterley, Marguerite, 515-26-6610.
Sterling, Faith E., 041-30-9469.
Taylor, Venorise M., 466-40-0534.
Tiers, Sharon M., 511-42-5864.
Tollefson, Marilee, 503-50-2060.
Underhill, Lilburn, 261-52-9747.
Urban, Donald D., 284-34-7853.
Vail, James D., 431-70-2887.
Welton, Nellie L., 237-48-3347.
White, Carolyn M., 247-64-2279.
Wolf, Jo Ellen, 272-38-8761.
Zahm, Karen E., 064-34-7767.
Zanto, Raymond L., 394-32-2895.
Zuelke, David H., 393-38-6717.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 25, 1979:

DEPARTMENT OF LABOR

John N. Gentry, of Virginia, to be Under Secretary of Labor.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

Gen. James E. Hill, U.S. Air Force, (age 57), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Kelly Howard Burke, 419-20-0489FR, U.S. Air Force.

HOUSE OF REPRESENTATIVES—*Thursday, October 25, 1979*

The House met at 10 a.m.

Rev. John L. Wright, minister, First Baptist Church of Guilford, Columbia, Md., offered the following prayer:

Thou eternal God, for the democratic principle, by which we can all participate in the ordering of our community, State and national life, we pause in gratitude before Thee. Grant that we might be concerned enough to be informed, wise enough to choose leaders of integrity and ability, American enough to rise above party loyalty, and responsible enough to vote for the sake of justice as we know it in Thee. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4394) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) entitled "An act to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3354) entitled "An act to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HART, Mr. JACKSON, Mr. CANNON, Mr. THURMOND, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 751. An act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes.

AID TO CAMBODIA

(Mr. SIMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIMON. Mr. Speaker, I simply want to rise to commend the President and our House Committee on Foreign Affairs for action in assisting the desperately hungry and starving in Cambodia.

The great moments in the history of this Nation have been the moments when we have done the generous, humanitarian things. I do not know, frankly how it pays off politically for the United States but I know it is the right thing to do and I hope we move with dispatch in helping these desperate people.

EDUCATIONAL OPPORTUNITIES FOR ALL AGES

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, I rise today to applaud the foresight of this Congress in its recent actions to promote postsecondary educational opportunities for all Americans.

The House Committee on Education and Labor has now completed its work on the Education Amendments of 1980, which will reauthorize a broad range of Federal programs for students and colleges across the Nation. The committee has reported a strong bill which has remarkably broad support from the education community, and which will greatly expand educational opportunities for all Americans.

In particular, I would like to applaud the revision of title I of the Higher Education Act which has recently been forged in committee. The new title I is an example of the Congress responding to changing needs and to the mandate for more efficient and effective Government, focusing and targeting existing programs rather than creating new bureaucracies and increasing Federal spending.

In revising the current title I legislation, we have the opportunity to reach out to unserved adults across the Nation who face barriers to participation in higher education. For perhaps the first time, working men and women, retirees, homemakers, and individuals in isolated rural areas will have a program which responds to their special needs.

With traditional college enrollments dropping sharply, we are quickly learning that higher education is not only for our youth. I commend the Congress for its foresight in this first response to a new reality in higher education.

SALE OF AIRCRAFT TO MOROCCO

(Mr. STACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STACK. Mr. Speaker, I commend President Carter for his decision to allow the sale of armed OV-10 Bronco reconnaissance planes and Cobra helicopter gunships to Morocco, to reinforce Morocco's effort to prevent further incursions into that country by guerrillas of the Algerian-backed Polisario front. The guerrillas, according to news sources have carried out several attacks in re-

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

cent months against targets in Morocco from the western Sahara.

The President's decision, apparently, reflects a desire to demonstrate that the United States will stand by its friends abroad, despite reverses in that policy, notably in Iran.

Saudi Arabia has been encouraging Washington to help pro-American King Hassan of Morocco, in his fight against the Polisario guerrillas, and has indicated that it will finance the arms purchases. In announcing the revised policy, a State Department official stated:

> We feel Morocco now has a self-defense problem because of numerous attacks into its territory from the Sahara.

This policy decision, in my view, is a reflection that the President has correctly perceived the changing mood of the American people, who are rejecting the guilt syndrome resulting from our unfortunate involvement in Vietnam, and who now feel, that the time has come to halt the worldwide retreat before the Communist-inspired red tide, which threatens to engulf us on a global basis. It is time to call a halt—further retreat will leave us without friends and no place to go but under.

CONGRESSMAN TONY P. HALL SPEAKS ON THE SUGAR BILL

(Mr. HALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HALL of Ohio. Mr. Speaker, I am pleased that the House of Representatives this week defeated the International Sugar Stabilization Act of 1979, by a vote of 158 yeas to 249 nays.

As my colleagues well know, this bill would have supported a price hike from 15 to 15.8 cents per pound on imported sugar. This increase may not seem like much, but each 1-penny increase adds $500 million a year to American's grocery expenses. At a time when inflation is sapping the strength of our economy, it would have been unjustifiable to contribute to it further.

This vote reaffirms for the American consumer that we are committed to fighting inflation. At the same time, we have not abandoned the American sugar industry. The administration's loan program for the 1979 sugar crop—under existing authority—is more than adequate.

It is important to keep in mind that the price of raw sugar is already up more than 50 percent from 2 years ago. In addition, the profits of the sugar industry are up dramatically.

The President's chief inflation fighter, Alfred Kahn, stated it best when he said:

> I wish it were possible politically in this country to have such a powerful anti-inflationary constituency or coalition that raising the price support of sugar from 15 cents to 15.8 cents would be unthinkable and impossible.

Mr. Speaker, it is my hope that this week's vote against the sugar bill will help to hasten that day.

QUESTIONABLE ACTIONS OF THE SMALL BUSINESS ADMINISTRATION INVOLVING PERSONNEL

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, what is going on over at SBA? Of its 63 district directors across the country, 16 are suddenly and unceremoniously being shuffled around, trading places, presumably to coerce them into resignations.

Despite pious statements from the administration that this is designed to enhance the career opportunities of these 16, it smells more like the "reeducation" programs in South Vietnam after the fall of Saigon. It smells like the kind of shabby "politics as usual" that this President promised to eradicate under civil service reform—or was that just another apparent promise?

If, indeed, this fast shuffle was a sincere effort to "promote career opportunities," as advertised, why were no Democrats considered for this enhancement? That is right, not one. The 16 are 15 Republicans and 1 Independent. Some reform, right? Just like in the olden days?

It is clear that 1980 is going to be a very significant year for loans, what with interest rates so high, and you would think that the interests of small businesses would be placed ahead of the interests of small politicians—or large ones. You would think that, if you think the President was on the level on March 2, 1978, when he proposed to "insure that employees and the public are protected against political abuse of the system."

Mr. Speaker, the Congress must investigate this shabby trick to find out who ordered it and for whom it is to make room; and why such a waste of money on such phoney pretenses.

And I call on the Civil Service Commission and its brandnew Merit Protection Board to investigate an apparent violation of its standards.

And I call on the President of the United States to root out those who have so callously tried to embarrass him with this scheme which undermines the integrity of his promise to lift civil service, out of petty patronage facilities—unless of course, he finds that this was all cooked up at the highest levels in the White House—in which case his silence will tell us all we need to know.

FEDERAL TRADE COMMISSION VIOLATES CONSTITUTION

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I was tempted to offer my medical services to my colleagues today, at a discount rate to emphasize the right of medical doctors to advertise. I finally realized it would be most difficult to undersell the free health care the Congress has already voted for themselves.

Yesterday the Federal Trade Commission violated the Constitution when it ordered the American Medical Association to change its code of ethics. Physicians have traditionally considered certain types of advertising to be unethical, and the AMA's code of medical ethics has reflected this.

Why is such a private judgment any business of the Federal Government's? Certainly there should be absolutely no State or national laws restricting advertising, unless fraud can be proved. If any doctor wants to run radio jingles proclaiming his appendectomies as the cheapest in town, he is protected under the first amendment. But the ethics of his doing so are very much the concern of his county, State, and national medical societies. If they choose to censor him for unprofessional conduct, it is their right. The content of private organizations' codes of ethics is not within the constitutional scope of the Federal Government.

Private behavior that does not involve aggression or fraud is no concern of the FTC's. But since that agency's very existence is unconstitutional, we cannot expect legitimate decisions from it. The FTC serves no constitutional purpose. We should abolish it.

□ 1010

CONGRATULATIONS TO DELTA-NEW ALPHA CHAPTER 102 IN MARION, OHIO, AS "OUTSTANDING CHAPTER IN AMERICA"

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, I would like to take this opportunity to offer my congratulations, before the Members of the House, to the Delta-New Alpha chapter 102, based in Marion, Ohio, of the National Transportation Education Fraternity upon its selection as the "Outstanding Chapter in America" by the fraternity's national office.

This honor was bestowed upon the Delta-New Alpha chapter, comprised of approximately 90 members, last Saturday in Memphis upon the basis of the chapter's timeliness in reporting to the national office, its membership growth, its quality of programing, its participation in "National Transportation Week Activities," and its many special transportation-related projects which benefit the community.

We are all very much aware that transportation is the backbone of our Nation's economy. I commend my constituents, the members of Delta-New Alpha chapter, for their many outstanding efforts to maintain the highest degree of professionalism in the transportation industry and to promote public awareness of this vital industry.

ONLY FEDERAL RESERVE BOARD CAN CONTROL OUR RUINOUS INFLATION

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, the distin-

guished majority leader yesterday took the floor to denounce the restrictive monetary policy being imposed by the Federal Reserve Board.

I would tell the distinguished majority leader that there is only one institution in our country pursuing a policy with any chance of controlling the ruinous inflation that is hurting the American people. That institution is the Federal Reserve Board.

The Fed policy may be our last and best hope to stop runaway inflation, and I know it is a painful dose of medicine. It is going to be rough on all of us. The sad truth of the matter is this: It would not be necessary if Congress had restrained deficit spending and the Fed had limited monetary growth in recent years. Unfortunately, they pumped up a raging inflation.

Congress is still not demonstrating the required discipline in its fiscal policy. The proposed 1980 budget is another inflation balloon in a long string of them.

The Federal Reserve Board is now waging a lonely fight to bring inflation under control, and the majority leader should have applauded the effort.

Finally, one part of the Government has started to impose the discipline necessary to control inflation. It is sad that the elected Congress seems incapable of exercising such responsibility, but has left the responsibility to the nonelected Federal Reserve Board.

BIG OIL'S BIGGER PROFITS

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, during the last few days, the front pages of virtually every newspaper in our Nation and throughout the nations of the free world have carried disturbing news of oil company profits. Every oil company, from Occidental to Amoco, and including Mobil, Exxon, Gulf, and Sohio, have reported astounding third quarter profits beyond reason, increases of as much as 191 percent over last year's profits:

MAJOR OIL COMPANY PROFITS IN THE 3D QUARTER

	Revenue in billions	Net income in millions	Change in net income from 1978 (percent)
Exxon	$20.6	$1,145	+118
Gulf	6.7	416	+97
Amoco	5.1	434	+49
Arco	4.4	320	+45
Conoco	3.5	247	+134
Sohio		125	+191
Sun		105	+63

Where do these profits come from? It is obvious that the American public is paying for these exorbitant oil profits and their affect on our economy has been devastating. These latest startling profits disclosures should provide sufficient impetus to the Senate to act expeditiously on the long lingering windfall profits measure which we sent over to that body on July 10, 1979. These extensive profits certainly substantiate recent House action to preserve existing Federal gasoline price controls. Our Nation needs immediate, effective action to keep many of our low-income people out of the poorhouse in the coming winter months. While we are preparing to spend billions of dollars for relief for those who will not be able to afford to heat their homes during the winter, we should bear in mind these exorbitant oil profits and reinstate home heating oil price controls to help our Nation survive an imminent winter heating fuel crisis.

AID TO CAMBODIA

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, a nation is starving and we are not feeding it.

We watch it on television and read the statistics: 2 million are starving; 4 million suffer malnutrition; 15 percent of the population is already dead; if the situation continues, there will be no children under 5 in the entire nation.

Even if our legislative wheels act today, it will be weeks before that aid becomes food and is delivered to Cambodia.

We must urge our Government to begin an airlift now. Our planes are available.

Let us, for once, forget politics.

If U.S. pilots can join with Soviet pilots to airlift food, perhaps the real meaning of détente will be realized.

If international pilots must fly in the food, fine. We will provide the aircraft. And the trucks. And the food.

But let us act now. Let us work out the logistics now.

Let us prove that the richest nation on Earth can help feed the poorest.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4904, SOCIAL WELFARE REFORM AMENDMENTS OF 1979

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96-554) on the resolution (H. Res. 465) providing for the consideration of H.R. 4904 to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5192, EDUCATION AMENDMENTS OF 1980

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96-555) on the resolution (H. Res. 466) providing for the consideration of H.R. 5191, to amend and extend the Higher Education Act of 1965, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 430, EMERGENCY FUEL ASSISTANCE APPROPRIATIONS

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 464 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 464

Resolved, That upon the adoption of this resolution it shall be in order, clause 2(1)(6) of rule XI to the contrary notwithstanding, to consider the joint resolution (H.J. Res. 430) making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes, in the House as in the Committee of the Whole.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the usual 30 minutes for debate to the gentleman from Mississippi (Mr. LOTT). Pending that, I yield myself such time as I may consume.

□ 1020

Mr. MOAKLEY. Mr. Speaker, House Resolution 464 is the rule providing for the consideration of House Joint Resolution 430, the low-income energy assistance supplemental appropriation.

First, Mr. Speaker, this rule waives clause 2(1)(6) of rule XI. That clause prohibits consideration of any bill or resolution until 3 days after it has been reported from committee. Ordinarily that is an excellent requirement, but when an emergency arises it is not always possible to wait those 3 days. In this instance, Mr. Speaker, the Rules Committee determined that this is an emergency, and that consideration of this resolution should not be delayed until next week.

The other major provision of the rule is that House Joint Resolution 430 should be considered in the House as in the Committee of the Whole. The effect of that is that the bill will be considered as having been read and will be open to amendment at any point. The provision will insure adequate opportunity for any and all germane amendments to be considered.

Mr. Speaker, this supplemental appropriation is an urgently required measure to provide assistance to people who are faced with a critical situation this winter due to increases in home energy costs. It is now literally to the point that some people will have to pay in the many hundreds and even the thousands of dollars merely to heat their homes for a few months. Obviously, a great many people cannot possibly afford that kind of expenditure, and those people are going to be suffering—freezing—this winter unless we pass this emergency appropriation.

It is an appropriation, Mr. Speaker, that is carefully drafted to channel emergency assistance toward those households where it is needed most. A major portion, for instance, will go di-

rectly to people who are on SSI, the supplemental security income program. Those people are the elderly, the blind and the disabled. In addition, the appropriation is targeted toward households that are at or below 125 percent of the poverty level.

Mr. Speaker, those are the kinds of people who are always among the hardest hit by this kind of crisis. Although their energy consumption is generally lower than average, their expenditures for utilities in general represent a much larger portion of their incomes than they do for most. Also, such people have little flexibility to adjust their spending to accommodate a rapid increase in utility costs—at least not without sacrificing other basic necessities of life like food, shelter, and clothing.

I would be among those to argue most strongly, Mr. Speaker, that ultimately we must come up with major initiatives to provide long-range solutions to this critical problem. But what we are faced with right now is an immediate emergency—this winter. And what this bill will do is help people deal with that emergency—this winter.

Mr. Speaker, the money in this supplemental appropriation is vitally important to people all across this country. And, given the logistics that are involved in getting this kind of program underway, every day that we delay in passing this emergency assistance brings many people one day closer to unacceptable choices between food bills and utility bills, one day closer to days with no heat in their homes.

Mr. Speaker, it is urgent that we pass this supplemental appropriation, and it is essential that we pass it immediately. I urge all of my colleagues to support this rule so that we may move to immediate consideration of the appropriation.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 464 is the rule providing for consideration of House Joint Resolution 430, making urgent supplemental appropriations for low-income energy assistance for the fiscal year 1980, and making the joint resolution in order for consideration.

I must say that when we talk about fast-track legislation around here, although that usually is applied to the Energy Mobilization Board, this joint resolution is not only fast-tracking, it is really blowing through the House of Representatives.

I realize there are those who are going to answer that because of the coming long, cold winter, we have to work quickly, but I must question the amount of actual need for this legislation at this point.

Beyond that, I raise the red flag about the problems we are going to be faced with here. I feel very confident that we are going to run into problems legislatively and in trying to administer this program, assuming the legislation gets through the Congress.

This resolution was written in the Committee on Appropriations just yesterday after about 3 hours of haggling. I doubt that the Members are fully aware right now of what is in this legislation or how it will affect Florida, Mississippi, California, New York, or Massachusetts, and I am sure there are going to be some questions raised about this when we get to the debate on the supplemental appropriation bill.

Mr. Speaker, this was quickly written. It is an appropriation that does not have the proper authorization. It is a supplemental appropriation, so we do not have to have the normal waivers that are involved when we do not have an authorization or when there is legislation on an appropriation bill.

I just want to emphasize to the Members that there is a great deal of money in this supplemental appropriations. I think the total amount comes to $1.35 billion. I want to get into the debate on that, asuming the rule is accepted.

I emphasize that in the Committee on Rules we actually granted a rule before the resolution was reported out of the Committee on Appropriations. That is not totally unprecedented, but I must say that it is a dangerous way to proceed when we are granting a rule on something we have not even seen.

Basically, the rule makes in order consideration of the joint resolution, waiving the 3-day rule. I think we are taking a lot of risks in acting in this way on the rule and on the legislation. Even though the Members in theory may want to eventually support the legislation, I urge them to be very cautious.

Mr. Speaker, in order to give us some chronology of what is happening here and what is going to happen, at this time I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I appreciate the gentleman's yielding time to me.

I am not going to oppose the rule, but I do want to say a few things to complement what the gentleman from Mississippi (Mr. LOTT) has said with respect to the fast track upon which this legislation is flying and then leave the more pertinent remarks with respect to the individual parts of the legislation to be made when we consider the actual bill.

This thing all got started just a week ago when the senior Senator from New York added $1,200 million to the Interior appropriation bill over on the other side. That apparently sparked some action over here on the House side, to the degree that on Thursday no less than the honored Speaker of this body came before our subcommittee to testify for the first time in his position as Speaker of the House and to push this legislation through the House committee in as quick a time as possible. He was complemented by Mrs. Harris, the new Secretary of HEW, together with representatives from the Social Security Administration and CSA.

Then, with very few really penetrating questions being asked during the course of that hearing or that so-called hearing, we were summoned to a markup the following day. There was absolutely inadequate time given for us to prepare any kind of alternative proposal or to really develop the kind of printouts and computerization of what these payments might be, to the extent that I really felt inadequate to present an alternative until yesterday when the full committee considered the subcommittee's recommendations.

It was during the deliberations in our full committee on appropriations that we had the more spirited debate engaged in by Members on both sides of the aisle, and that was certainly not in a partisan sort of way but simply an effort to try to get at the facts.

The chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO), who is also a member of the Committee on Appropriations, made a very, very eloquent presentation during the course of our committee's deliberations, because he sees, I am sure, as chairman of that committee, a budget deficit coming up in the year 1980 approximiating 40 billions of dollars, and if we do not face up to it today, we are going to have to face up to it next year, after we have appropriated again, quite blindly, $1,350 million. And for what purposes?

Now, I must confess that I have always had a reservation about this program because it never had any clear authorizing legislation. We have appropriated money in our HEW bill; it was a couple of hundred million dollars in the 1979 HEW bill, and $250 million in the 1980 bill.

The Members will recall that during the debate on the 1980 bill a couple of months ago, I raised 14 or 15 specific questions as to how the money was to be used. How are we really going to dole out this money, and under what guidelines. That is my serious concern about this.

Then all of a sudden we are ballooning a $200 million expenditure in 1979 to $1,600 million in 1980, with no more clearly defined guidelines than those we have had before. That is the issue we are going to have to face here today.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, let me ask, are my figures correct that last year we appropriated $250 million for this program?

Mr. MICHEL. It was $200 million.

Mr. WALKER. About $200 million for the program. Heating oil costs have risen about 50 percent. That may be a little high, but they have gone up about 50 percent.

If we are going to cover what we covered last year, then, the appropriations should be in the range of maybe $300 million to $400 million; is that not correct?

Mr. MICHEL. Well, if we are going to use that computation or that slide rule or that benchmark, yes.

□ 1030

Mr. WALKER. Is that not a reasonable kind of computation to use, because are we not covering exactly the same people with this appropriation that we covered with the appropriation last year?

Mr. MICHEL. Of course, now, with what the committee is proposing here, you would, of course, just automatically

funnel out funds to every SSI recipient, and if the States choose, to every AFDC recipient. Under the CSA block grants, eligibility, of course, was not confined to those specific categories, and that happens to be one of my reservations here, too, because there are poor people on social security who do not qualify for AFDC or SSI who thus do not receive automatic payments.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

Mr. LOTT. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. What I am getting at is, all of those people were eligible to participate in the program last year, were they not? The SSI people and all of these other people could have come in and participated in the program last year?

Mr. MICHEL. If they fell within those guidelines of the 125 percent of the poverty index so far as income is concerned.

Mr. WALKER. Which is really the people we are trying to get at and make certain that they have coverage. That being the case, can the gentleman explain why we are ballooning this figure when, if I understand correctly, under last year's appropriation there was money left over, was there not? They did not even utilize all of the money last year.

Mr. MICHEL. Each year we have had the program on the books there has been some left over, yes.

Mr. WALKER. So we are expanding the program by six times on a program that did not even use all of its money the year before?

Mr. MICHEL. Yes.

Mr. WALKER. And doing so to cover exactly the same people who were covered previously; is that the gentleman's point?

Mr. MICHEL. Yes.

Mr. WALKER. I thank the gentleman.

Mr. MICHEL. I should say further that we have really got to make a determination here as to whether or not this is a one-shot proposition or whether it is going to be a permanent program. Let us face it, the earlier programs were supposedly emergencies for the drastic winters that we had last year and the year before. Now, apparently, we are embarking on what I perceive to be a permanent program because I cannot perceive fuel costs going down anyplace in the country from this date forward; they are going to continue to rise. So are we going to subsidize them this year and withdraw them next year in a political year, a Presidential political year? No, I think not. And there are prospects for that increasing. As a matter of fact, the President spoke, in terms of his discussion of windfall profits tax, of having this program aggregate $2.4 billion a year.

I get back again to my central theme that if we are going to have that kind of an expensive program, we better be doggone sure that the guidelines are clearly drawn.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. MICHEL) has again expired.

Mr. LOTT. Mr. Speaker, I yield 3 additional minutes to the gentleman from Illinois.

Mr. Speaker, if the gentleman will yield, the gentleman noted that these funds would go to SSI recipients. I would like to inquire, is that regardless of the area that they live in or the temperature in the area where they live?

Mr. MICHEL. That will be regardless of where the people, the recipients, live in the country, right.

Mr. LOTT. I have to question the appropriateness of this. If you are going to call it low-income energy assistance—and I could be talking about my own area—if it is a very warm climate I would have to question whether these people have the need for this type of assistance.

Mr. MICHEL. That was the serious question that was raised. And I must say, however, that in my substitute I had a revised formula which, incidentally, was adopted by the full committee, to make a better ratio of payout to those living in the colder climate of the country as distinguished from the warm Southern tier of States where the gentleman lives.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman from Illinois mentioned that there is no existing authorization in law for this program.

If I recall, this is the same program that in my own State of Maryland, as it was administered last year, saw the 5th Regiment Armory in Baltimore used as a clearinghouse for handing out money to anyone who wanted to walk in and claim that they needed the money. People were only required to show heating bills or some cursory proof that they had to pay extra money for their heating bills, and the money was handed out until it ran out.

If that is the way this bill is going to be administered, with no authorizing power in the law, it seems to me that we are really not helping the people we intend to help, and at the same time we are requiring the taxpayers to pay for an enormous ripoff.

What authority in law is there?

Mr. MICHEL. I will get the gentleman the specific authority under which we are appropriating. In my judgment, it is a very weak piece of authorization on which to hang our hat today.

Mr. BAUMAN. It just appears to me that, on page 2 of the resolution that this rule makes in order, you are trying to write an authorization, that you are imposing legislative restrictions, but in the broadest terms and without any guarantee that this new program will in fact properly be administered.

Mr. MICHEL. And that has to be the reservation of the gentleman from Illinois as to who is best, frankly, to administer this. Is it social security, those administering the AFDC or SSI or the Community Service Administration? The latter, of course, does have a pretty poor track record, according to our committee investigators. But frankly, these are the only places now that we are going to be able to use the administrative outlets for this program. The situation which the gentleman referred to also opens up the question of those persons getting reimbursed after the fact, while some, particularly older people, would sacrifice food and a lot of other things, just to keep paying their fuel bills on time because that is the way they have always done it. But they get discriminated against, as opposed to those who do not have that kind of responsibility, and then they get reimbursed after the fact.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, in regard to the question of the SSI payments, the Members must realize that these are the poorest of the poor people in the entire country. These people on SSI are living from hand to mouth. You will give them a few dollars under this bill. That is what it will amount to. The argument will be made regarding Hawaii. There are about 7,000 people in Hawaii who are on SSI.

I wish to express my support for the adoption of the rule. The low-income energy assistance bill is an emergency measure and it demands the immediate attention of the full House. If we fail to act quickly to assist the thousands of Americans who need this assistance with their home heating bills this winter, we will be responsible for their suffering.

As we all know, there are many regions of this great country where inflation and escalating costs of home heating oil have pushed people under the poverty level. We have the ability and we have the responsibility to assist them now and not later on.

Yes, the emergency assistance bill is a costly measure, but not so costly as the price of suffering that thousands of needy Americans will have to pay if they withstand another harsh and severe winter without adequate home heating oil.

I urge the rapid adoption of the rule, and I urge this body to pass the energy relief measure. I must say that the gentleman from Iinois (Mr. MICHEL) did an outstanding job. This really could be called the Michel bill because it was the gentleman's substitute in the committee. Yes, we haggled for 3 hours on this. And because it was the fine workmanship and fine authorship of the gentleman from Illinois (Mr. MICHEL), we have a tight bill here today.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to compliment the gentleman on his comments. I know the gentleman in the well has worked very diligently and hard on this particular legislation.

Testimony was received before the gentleman's own committee outlining in detail the need, particularly in those regions of the country, in the Northern tier of our country, where home heating oil prices are going to be doubled. In many cases, for people who are living on fixed incomes, who last year were able to just make it, they will have to reduce

their food budgets in order to pay very high and, in many instances, exaggerated bills for home heating oil.

We need a period of adjustment, and I think this bill responds to an emergency which I think is imminent. I commend the gentleman for his leadership.

Mr. CONTE. Mr. Speaker, I want to thank the gentleman from Pennsylvania for his remarks.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to also agree with the gentleman in the well, who has been a leader in this effort.

I think, on reflection, the bill that we have worked out is a vast improvement over the bill that was initially reported by the subcommittee, particularly in adopting the formula offered by the gentleman from Illinois (Mr. MICHEL).

I would like to point out to the gentleman, who I think has been one of the great and compassionate leaders of the House in terms of human needs in this country, that one thing I think is still going to be a problem, which we did not address properly in this legislation, is providing some assistance to those people who are on unemployment compensation, who have lost their jobs, people who are going to be affected this winter by the recession, people whose unemployment compensation has expired. They do not qualify for assistance under SSI or AFDC.

The gentleman knows, and has pointed out to me yesterday, that there is $400 million available under the Community Services Administration to help those people, and if the States opt for the block grants, money can be paid to unemployed individuals. But, they will not get direct assistance like people on SSI and AFDC and their need is just as great.

□ 1040

I am deeply concerned, and I hope that we in our haste to act have not forgotten the serious problem that the unemployed person with a family is also going to have.

I hope that as we look at this problem in the future that we also try to factor in and consider the welfare of those people, because they are one group that I am afraid may fall between the cracks.

Mr. CONTE. I want to thank the gentleman, first of all, for his kind remarks and also thank him for his contribution yesterday in the full committee. The gentleman made a contribution in this particular area, and we adopted the gentleman's language which is in the report.

Mr. MOAKLEY. Mr. Speaker, at this time, I yield 5 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker, it has been an unusual week or two around here on energy in that a lot of us who are not accustomed to cooperating with each other and sharing the same views have been working together.

The rationing bill, of course, was featured on the news as a great love-in between the pro-control and pro-decontrol people.

Even on the gasoline decontrol debate that we had, I think some of us frankly felt that the gentleman from New Jersey (Mr. COURTER), was absolutely right and that you do not really give a great deal of protection to people by controlling one product. So we have had those debates.

I think we have come closer together, and as the membership may recall, the gentleman from Ohio (Mr. BROWN) and others came together in more or less a consensus with me and others on this side that, in fact, the decontrol debate is all but over for now. We have to look toward conservation and toward—guess what?—some help for those who are left in the wake of the decontrol debate and the unbelievable increases by OPEC.

I thought that we were more or less marching forward on the basis of that consensus, and I think that the committee's work seems to indicate that they feel that there is a reasonable consensus and that we must move forward.

This Member, as the membership knows, chairs a subcommittee on the Committee on Government Operations. We have heard from so many witnesses with regard to heating oil prices, for example, that we should not try and do that through the price structure and try and reimpose controls, but we really ought to have separate programs for that. People like Mobil, Gulf Oil, and Texaco have said it, and they are pro-decontrol advocates.

We have heard it on the Republican side in the decontrol debate and on this side from Democrats who favor decontrol that this is not the way to do it. Never mind the controls, they say. Let us go the route of meeting the needs through a new program.

Now any new program or any extension of a program that involves an increase is going to be imperfect.

I am in sympathy with the gentleman from Mississippi who is a far better parliamentarian than I am, and an expert on the rules; and this is moving quickly, but it really is unfortunate when we hear statements such as that from the gentleman from Pennsylvania (Mr. WALKER), that it does not appear that we need all this money.

Now, the gentleman certainly seems distressed that not all the money was used last year. If all the money had been used and had been spent at the last moment, like so many Federal funds are spent at the last moment, where people down at the agencies say, "We have only got a month to go. Let's spend the money," I am sure the gentleman and others would have been here criticizing that.

The fact of the matter is many States did not have enough money. Connecticut did not even come close to having enough money.

When we look at the figures that indicate the projections for this year, the $400 million that was the first cut of assistance would give something like $27 to a family, if in fact they qualified, and we are not even talking about all those families who do not qualify.

The fact is that last year we did not even begin to touch the needs, and if the gentleman reads the reports, the reports of the fuel oil marketing committee that has refiners on it and wholesalers and retailers and a variety of others, they said we did not even begin to touch the need last year and that the program was reasonably efficient.

I think the formula that the committee has come up with is far better this year. They are trying to improve on it. It is so easy to come in here and say, "How in the world can we spend $1.6 billion?"

Let us look at some real-life examples. I do not mean to get melodramatic with the gentleman or any of my other colleagues, but I have a grandmother who is 88 years old, who runs a dry goods store 6 days a week in Holyoke, Mass. The gentleman from Massachusetts (Mr. CONTE) knows it, as does the gentleman from Massachusetts (Mr. BOLAND). Her heating bill last year for that little store and the house next to it, to her house, was $1,100. Her heating bill this year is going to be $2,200. Now she does not have a thriving business. She has about two customers a month. The store is always crowded with her friends in there drinking coffee, but no one buys anything, so she does not do too well.

She is going to have a $1,000 increase in her bill. She does not even qualify for this program.

What about all those people who do qualify, but who are going to get $50, $60, $80, or $100, and the need, and it is here in all the studies and the gentleman can read it, is $400.

Mr. LONG of Maryland. Mr. Speaker, I make a point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair does not entertain that motion.

Mr. MOFFETT. Mr. Speaker, the need that is projected is $400 to $600 per family, at least in our part of the country, the family increase in heating oil bills.

Now, let us not lose this consensus that we have, maybe not a firm grip on here, but we seem to be moving forward.

The SPEAKER pro tempore. The time of the gentleman from Connecticut (Mr. MOFFETT) has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 2 additional minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. We seem to be moving forward here. We are not rehashing the decontrol bill. We passed a very good bill the other day on gasoline rationing. We seemed to be saying as a body that we mean business on conservation. For heaven's sake, the committee addressed this. Let us not pretend they have not looked at it carefully. The gentleman from Massachusetts (Mr. EARLY) and others on the committee, and the gentleman from Massachusetts (Mr. SHANNON), who is on the Committee on Ways and Means; and my colleague, the gentleman from Connecticut (Mr. DODD), who offered the amendment several months ago and was accused of not having studied it at that time, they have been studying this. Many of us have been studying the need, and it is critical that we move forward; and this is a reasonable formula. Is it a one-shot program, the gentleman from Illinois asks?

Let us face it, we are not structuring these programs now based on how abnormal a winter is going to be anymore. We are structuring a program based on a consensus that includes consumer groups and Texaco and Gulf Oil and

Governors and a whole variety of other people, a consensus that there is really misery out there, and it is going to be with us for more than 1 year.

We do not need to point fingers as to how it got there, but it is there, and we have to deal with it, and this bill is, sad to say, a drop in the bucket, at $1.3 billion, to try and treat that.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

What I am trying to get at is we certainly agree with the gentleman, that there is a desire to try to structure the program toward need. We supposedly, last year, structured the program toward a need and appropriated $200 million.

My point simply was we did not even use all that $200 million. Maybe that was because of poor administration. There may have been a lot of reasons, but to come in then with an 800-percent increase when fuel bills have gone up by 50 percent, seems to me to be something of a questionable thing to do.

Mr. MOFFETT. If I may reclaim my time, the gentleman is proceeding on the assumption we met some significant need last year. That is false. Does the gentleman really think because this House appropriated $250 million last year that the need was met? Come on. I am sure the gentleman does not believe that.

The fact that sometimes the State did not spend the money means they did not have the need in that particular State.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Speaker, I want to repeat what my colleague from Connecticut has just told the House. The fact is that it is easy to get emotional about these programs, and we really should not. We should try and be cold and dispassionate. I use the word "cold" advisedly in this debate.

The fact is that there was not enough money, at least in the State of New York, to meet the needs of the elderly and the poor last winter. The fact is that—and the gentleman from New York (Mr. GREEN) and I had a hearing in my district on the question of these programs for the elderly in New York—we discovered that people are turning down their thermostats 60° F.

Henry Mehl from Brentwood, a 72-year-old gentleman, said:

> Congressman, I am afraid I am not going to have enough money to pay my heating bills, I'll be heating my home with candles.

That is what we are talking about. There really cannot be any question that prices have gone up and that people living on fixed incomes just cannot afford to pay the fuel bills that they once struggled to pay.

□ 1050

The average family pays between 5 to 10 percent of their income to pay their heating bills. Those living on fixed incomes are now looking at 30 to 40 percent of their income to fuel payments. That is inescapable. It is unconscionable.

The gentleman from Connecticut mentioned, and all of us have been subject to this, that the decontrol issue is now resolved, and now the people who were arguing for decontrol at least recognize the human side of the equation of higher fuel prices. The human side of the equation simply is there are people who can no longer afford to pay for home heating oil. I recognize that maybe in other places in this country that is not a concern, but please understand, we not only have a parochial responsibility, we have a national responsibility and a responsibility to the people in Mississippi, and Alabama is one that I share and I would hope that my colleagues would share for the Northeast as well, because the people on Long Island, and the people in Massachusetts, the people in the Northeastern part of this country, and in many other parts of the Midwest are not going to be able to heat their homes. That is a reality and unless we do something about it we are all going to be in very, very big trouble, both as Congressmen from different parts of the country and as Congressmen who represent, I hope, a national interest.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I want to speak in support of both the bill and the rule. I do want to bring to the attention of the House one problem, however, one gap which I feel still remains in this entire process.

The committee inadvertently neglected last night to print my supplemental views in the committee report, which is the reason I want to take the time at this time to mention the problem that I discussed in those supplemental views. We will be providing $1.2 billion under the new program, plus $150 million in the old CSA program today to try to meet emergency energy needs. But in my judgment, there is another area into which we ought to be moving and into which we are not moving at the present time. That is simply the question of weatherization. The houses which will be heated under this program are probably some of the most notoriously wasteful houses in terms of energy consumption of any homes in America because many of them are old, many of them need fixing up, and they are occupied by people who are, in many cases, too poor to do much about that.

We have a problem in that area. Right now the Department of Energy has at its disposal a little over $400 million for use to purchase materials which are supposed to be installed in homes of low-income people. The problem, however, is that for a variety of reasons much of that material will never be used, simply because we do not have the available manpower to install that material.

What is happening is that CETA in the past had been used largely to provide the manpower slots which were then used by local community action programs in order to install that material. The problem is that as the numbers of CETA jobs decline around the country, local prime sponsors and local mayors are using those slots for other purposes and not using them to provide replacements for weatherization workers. For instance, one community action program in Nebraska has available at the present time about $195,000 in materials, but because of the lack of manpower they will wind up with $125,000 of that material being unused. The same is true in most of the agencies around the country. I am not going to offer my amendment to try and change that today because, frankly, I think the situation on this bill has been so confusing and I think the need to move quickly is so imperative that I do not want to muck up the works by adding any other problems to it. But I do want to alert the House to the necessity to do something about this other area and I hope that we will do it soon. I certainly hope the other body will at least consider adding this.

On the bill itself I want to make the point that this bill is an intelligent compromise between the administration, which wanted one approach, and members of the committee which felt there ought to be another approach. We do retain the SSI distribution which the administration wanted. But I want to point out we do not have an automatic requirement—as I think was implied by one speaker this morning—we do not have an automatic requirement that the remainder of the funds be distributed only on the basis of AFDC.

States do have the option, States do have the option to decide on another distribution mechanism, another distribution formula is better, and I would hope, frankly, that most States would take advantage of that because I think that would be a much more efficient plan, to have it done by the States than to have it done the way the administration planned eventually to do it.

I want secondly to point out that contrary to what was stated on SSI, the distribution to SSI recipients is, is, I repeat, weighted on the basis of degree days, and so there will be a rational differentiation between SSI people in a very cold State and SSI people in a different kind of State. I think that has to remain very clear.

In addition to that, Members have indicated their concern about people on the low end of social security who might not be helped in States which choose to us the AFDC mechanism for distribution. I want to point out that the $400 million which is available for crisis intervention under the old program is meant to fill in those gaps. I think it will do so quite adequately. This bill is, as the gentleman from Connecticut indicates, not nearly enough. It does not meet the national needs. But it will help at least in a small way those people who are living in the most desperate of circumstances, and we ought to pass it.

Mr. LOTT. Mr. Speaker, to dramatize my point that this thing is moving so fast that some mistakes are being made, it was just noted the gentleman from Wisconsin's supplementary remarks were inadvertently not included. Also a very key word on the last page, after the word "home" they left out the word "heating," which, if you will look at it, was a very crucial word that was left

out because that meant this assistance could go, for instnce, for air-conditioning.

I urge my colleagues to take a close look at this again, this rule, and also the legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I think all of us acknowledge the existence of the problem of the increased cost of energy in general and heating supplies in particular. We know what groups of our citizenry are most affected and we would like to help them.

But it does not seem to me it would hurt us to reject this rule today and wait a few days while the appropriate authorizing committee can address this problem in some intelligent sort of fashion. We have seen in the brief debate here all sorts of examples of serious questions about the manner in which this program will be administered. In fact, we have the Appropriations Committee hastily attempting to write legislation for a whole new billion dollar-plus program.

I seem to remember it was the food stamp program, well intentioned and said to meet a need, that started with a few hundred million dollars on a trial basis, and within a few years has grown to $6 billion or $7 billion annually, with a question in amost every American citizen's mind about whether that program is really going to the people that are truly in need.

It seems to me if we really are concerned about those who will need this fuel assistance, the most important part of our decision should be to write a tight administrative law that will make sure that those people get the money. I do not have that confidence in this bill. I have listened to a few people get up today and explain what they think is going to happen if this bill becomes law. Some say it is going to be administered by the Community Services Administration. The bill says most of the $1.6 billion will be switched over to HEW to distribute. Some say it will be administered or given only to SSI and AFDC recipients. Others have told you that the States will have the option about how the money will be handed out and to whom it will be given.

One of the Members complains those receiving social security and those on unemployment may need the money just as badly, but they are not on welfare so they will not be eligible under this bill. Now they have a need that should be considered and yet this bill ignores them.

Precisely what are we trying to achieve here? I think this rule is ill-conceived. I think we ought to put this legislation in the hands of the proper authorizing committee and give them a deadline to report. The Speaker has the right of referral with report on a certain day. Let them have until next Thursday or whatever. We have been told that we will be in session for the remainder of November. I do not think we can shirk our responsibility. But how can we vote for a program that is this splintered, this questionable with this amount of money on the basis of 24 or 48 hours of rushing around here with dramatic speeches, dramatic testimony by the Speaker and others, and have any confidence that we will help the people we pretend to help?

□ 1100

This is the legislative pattern that has been followed, a mistaken pattern, repeatedly lately. It is done under the guise of emotion, under the guise of need in individual cases, but it is also one of the reasons why people are suffering, suffering from the inflation that this kind of program, if not properly administered, causes. I think we owe it to the people who need the money and to the people who provide the money—that is, the taxpayers—to at least pause and pass legislation in a rational manner.

Mr. Speaker, I urge that the rule be rejected and allow us to legislate in a proper way.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. Mr. Speaker, a great many of us in this Chamber this morning are concerned about the problem we face today. First, I do not think there is any one of us who is not willing to help to alleviate the problem that many of our folks are going to experience this winter with higher fuel costs. But, what is the right remedy for this problem? Are we not, as many have suggested here this morning, rushing in with haste that eventually might make waste? Is there not a better way if we worked on better legislation and waited until possibly another week to consider this problem?

We are all concerned and want to help those people, but is there a better way? I see many problems, and all of us see many problems with the program that will be developed from the legislation that will be passed possibly today. First, how many people are going to get payments who do not pay fuel bills? We will be standing on the street corner handing out checks. Is it really going to be helping people that need it? Of course, everyone on SSI or welfare can stand a little extra money, but this is a fuel assistance program, not just to supplement income, and it should be used exactly for that, to pay higher fuel bills for all people that need it.

There are going to be a great many people getting those checks. Is there any requirement that they apply them to their fuel bills? Is there anything to keep those individuals from cashing their checks and buying a bottle of wine instead of a gallon of fuel oil? There is nothing in this legislation, not at all to prevent that.

But really, the biggest problem is this: How often we have heard individuals from this well say that the programs today have driven people on to welfare rolls? As has been suggested, we have a great many people, the so-called working poor in this country, who are going to have trouble paying their bills this winter. This does not help them. They will be forced, instead of working, to quit their jobs and go on to welfare rolls because that way they can get more money to pay their fuel bills.

My friends, I think we can do a better job. The American people are deserving of a better job. This is another example where we rush in because we have got our backs to the wall, and we have placed our own backs to the wall. This is not a new problem. We have known for a long time that we were going to have higher bills this winter. We have known that a great many Americans were going to have trouble paying those bills, but does 1 week make that much difference? Do we once again want to compound the problem by not waiting? Is it going to be sufficient to put in another program, as has been suggested by the gentleman from Connecticut, when the existing program has not worked? Many States have not gotten enough money, and others have gotten too much, but we are stacking another program on the existing framework. Should we not rewrite the rules? I suggest that this body had better stay in session a little bit longer, and let us get something that realy helps the American people. It is suggested that some people may fall through the cracks on this, and that is right, they will; but, I am also concerned about the money that is going to fall through the cracks if we do not improve the fuel assistance program.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding, because I would certainly agree with the comments that have been made. All of us are aware of the problem being faced by the poor and elderly people this winter. All of us, I think, want to have some kind of response to that problem. I remember when this program first came through the House of Representatives. I think it passed by one vote. If I recall, it was 199 to 198. I remember the gentleman from Illinois shaking his head in disbelief when I was one of the people who voted for that program when it went through the first time. But, I believed then and I believe now that there should be some response to a very great need.

My question in coming to the floor today is, what are we doing in the name of attempting to help? We are pushing through a bill with no authorization whatsoever. The authorization that this bill is pretensed on is not there. Our administration of this program has been horrible, to say the least. Maybe that is part of the reason why not all the money was spent in years previous, but the fact is that we go to the same people that we have had participating in the program before and are identifying in this bill as being people in need.

We did not spend all the money before, $200 million in the previous year's appropriation. Now, we are coming in and we are going to raise that by 800 percent. Fuel costs have gone up, but not by that much. They have gone up by about 50 percent. It would be reasonable to come in with a bill that increases it by 100, 200, 300 percent, and I intend to offer an amendment to increase the appropriations by 500 percent, to $1 billion; to take the $1.35 billion and cut

it back to $1 billion so that we have a 500-percent increase. At least, there would be a little bit of control.

I also think, because there is no authorization, we need to do something to make certain that there is some legislative instruction on what is done by HEW. It is also my intention to offer a legislative veto provision which would permit this House to have some control over the regulations that are going to be written to promulgate this legislation.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. Mr. Speaker, I think some of the Members here today are suggesting that we should delay the rule, delay the program and reconsider the situation. That is precisely what has been the problem with this program in the past. I think we are all forgetting that some form of winter emergency assistance has been in effect since 1976.

We have observed failures and we have observed successes. We do not want to repeat the spring performance of last year, which was a program of something too little and too late. If we give the States leadtime, we can avoid misspent funds, which I think is a concern of many of the Members in the House today.

Community Services Administration issues their rules and regulations by the first week in October. That is the matter that came to our attention on the Subcommittee on Manpower and Housing. We got the rules out because they made a commitment to me during the oversight hearings to issue them by 1st of October.

We need more time because, as everybody has stated, fuel bills have doubled since last January, so we do not want to repeat that spring performance of last year. If we procrastinate here today we will do just that.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Speaker, I think the time has come when we have to face the reality that cold weather is upon us, and that cold weather is not just a problem for the Northeastern part of the country, but it is a problem that all Northern States have in general. The fact is that in the State of Maine during the last several months the cost of heating oil has gone up some 62 percent. That means that people are going to be eligible for fuel assistance and are going to need fuel assistance who last year might have been able to make it on their own.

I am the last person to want to stand in the well of the House and promote the expansion of another Federal program. I know it has some administrative problems, but the fact of the matter is that with the increase in cost of energy, people are going to need assistance. In the northern part of the country some people are going to freeze to death. We are having problems in the allocation of kerosene in Maine. Fuel oil is going to be in short supply. The cost of keeping warm will continue to rise.

I am standing here as one who has supported decontrol in this Congress. I am willing to go along with the necessary economic steps to produce more energy, but the point of this program, as my friend from Connecticut (Mr. MOFFETT) pointed out, is to provide assistance to those people who are going to depend on it this winter, and have nowhere else to turn.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in reluctant support of both the rule and the bill; reluctant because this bill puts more money into a welfare program without expanding it beyond the people who are not on welfare, but who are in need. I rise in support of this bill because it is too late for us to revise this program to provide the money for a definite need.

It is my hope that during next year the standing committees of this Congress will look into the administration of this program and take care of people such as the elderly who are too proud to go in and apply for welfare, but are going to be faced with a choice between either heating or eating, this winter. So, let us look at more effective means of providing relief to the truly needy such as tax credits, so that low and moderate income people who are not on welfare can get relief from high heating bills. Many States have enacted "circuit breaker" tax credit programs designed to provide relief from high property taxes. This approach is less bureaucratic and more effective than the bill before us.

But this bill is the only game in town and should pass. However, Congress should express continuing concern over the administration of this program so that next year, legislation of this nature will not come before this House in a crisis atmosphere.

□ 1110

Mr. LOTT. Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, yesterday I offered an amendment in the committee to the report language to ask the States to directly mail notices to people who are unemployed to notify people who are receiving unemployment compensation benefits, so that they will know about the CSA energy crisis assistance program. I think one of the gaps in this legislation, in my judgment, is that it does not directly deal with unemployed people or people whose unemployment compensation benefits have recently expired. They can qualify under the $400 million that CSA has. They can qualify if the States develop a block grant plan. I only wish that, like AFDC and like supplemental security income recipients, we were able to directly assist those people who have lost their jobs, who are on unemployment, because I feel that they have a very serious problem and need help with their fuel bills. I hope that the States will help by contacting these people so that they will know about the CSA program and the block grant program in States that adopt that approach.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in support of the measure reported by the committee and the rule providing for its consideration. I just want to say to my colleagues that really this not the procedure that any of us would like, but I do not think that being against this process really speaks to the issue of need we face.

We sent a windfall profits tax to the Senate Finance Committee where they have sat on it for 3 months. Finally, they have detached various aspects of the energy assistance program and have begun some action. In Minnesota this week it started to snow. The time to act is now. We cannot wait any longer for action from the Senate Finance Committee where the windfall profits tax legislation is languishing.

There is no way that we can make up for the cost increases to low and moderate income families as a result of decontrol of our various types of fuel commodities, especially those fuels used for heating. What this proposal before us today strives to do is to try to fill in the needs of the very poor. Those who are receiving some sort of public assistance will benefit from the $1.2 billion energy assistance program and those low income families who are our working poor will benefit from the additional $150 million appropriation for the crisis intervention program that the Community Services Administration administers. We are in fact dealing with two programs—one that provides for those on low income who receive welfare and one that tries to pick up those who do not. I urge my colleagues to act. I do not like the fact that there is not an authorization for this measure. But we do not have any other vehicle. If the Senate had acted in a timely fashion on the windfall profits tax, we could have crafted authorization legislation, which is, indeed, being addressed in our various committees even today as part of other less urgent energy legislation. If the Senate had acted, we would have had a fuel assistance program.

I think with close oversight and review of this particular program we can go a long way to meet the very apparent need in our communities today.

I especially want to commend the members of the Committee on Appropriations for trying to attain the cold-weather goals of the crisis intervention program which is so important to the State that I represent and the States of many of my colleagues.

I think with these particular modifications, H.R. 430 will go a long way toward helping. When the allocation of $5.6 million was announced last Friday evening, it sent shock waves throughout the State of Minnesota. The result was that even with a proposed program expenditure level that was larger than last year, my State would receive less than it received last year. This allocation for-

mula would have resulted in severe hardships for the 174,000 households in Minnesota which have incomes at 125 percent of the CSA poverty guidelines. Last year we were able to meet 5 percent of the need. But with rising energy costs, we would not be able to continue even this same level of assistance with the low allocation.

The problem was a direct result of the formula used by CSA to distribute the funds. Although the formula used the factors required by the appropriations conference committee, it was structured in such a way that it became an energy subsidy program rather than a program designed to meet the needs of people faced with life threatening situations because they do not have the financial ability to pay their heating bills. As my colleagues know very well, when the temperature reaches below freezing, home heating becomes a life or death matter—there is no choice or luxury in this consumption of energy.

For this reason the appropriations conference committee correctly chose to reframe the formula used to allocate this money. I applaud their action. I realize that this is an expensive measure, but without it, the toll in human suffering and the loss of human life could be staggering. This body must act today to approve this legislation. Winter is setting in throughout the country and by the time the other body acts and the necessary administrative structures are in place, the low income and the elderly will very likely have spent more to heat their homes this year than they spent all last winter.

We are certainly not going to make up the total difference between the cost of energy today and what it was last year. The remedy to address increased OPEC prices and decontrolled prices of energy is a battle that we have not addressed effectively in my judgment. Hopefully, we will in the future.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. EARLY).

Mr. EARLY. Mr. Speaker, I hope the rule is adopted and the bill is passed quickly. Every speaker during this debate has acknowledged the emergency, and this is not something that is new to the subcommittee. We have had days, weeks, and months of hearings on this specific subject. I think it is crystal clear that the $1.6 billion is an inadequate amount of money to supply the people on 125 percent of poverty level. Like most emergencies, the fear of the problem is usually as bad as the problem itself. The people who are coming into my office have reservations on how they are going to handle this winter.

I would like to give the Members a specific case so we can deal with what this money does. Take a family in the Northeast that has a net income of $6,000 after taxes. The Bureau of Labor Statistics tells us that they will use 25 percent of that $6,000 for fuel energy supply. That is $1,500 annually, but that $1,500 is not spread out over 12 months. Roughly, the 7 summer months take one-fifth of it. Four-fifths of it is during the 5 winter months, so four-fifths of the $1,500 is $1,200 that they have to come up with each year. Those 5 months take $240 monthly out of their $6,000 annual income, which is a $500 monthly income, so that leaves them a balance of $260. That is not for this upcoming year; that was last year. Home heating fuel has gone from 50 cents per gallon to close to 90 cents. With those same statistics, given that fellow who has a net income of $6,000 and the 7-percent increase that he has with the cost of living, he makes $6,420. His 25-percent cost will be $1,920. The cost for these upcoming 5 winter months is going to be $384 out of his $500. That is a working man; that is a family man.

Does anyone in this Hall suggest that there is not enough of an emergency, that we should not face it before it occurs, and that we not do what Congress usually does—react? We have a responsibility to act, not to react, and the difference between this emergency with the upcoming winter, with the increased fuel prices, versus a hurricane or a tornado is that we address the disaster area before it occurs. What the subcommittee is suggesting today, Mr. Speaker, is just to treat the emergency before it occurs, to relieve those people of the fear of the problem, and then relieve the problem. DOE has suggested to just take care of the 125 percent of the poverty level; that is all. To do that adequately this program needs $3.5 billion. We have $1.6 billion, and I think many of the reservations that have been raised by the chairman of the subcommittee, the gentleman from Kentucky (Mr. NATCHER), whose State does not get the lion's share of this money, will be adequately answered. It is not a perfect plan. The gentleman from Illinois, who is as responsible a Member as we have in here, has amended the bill. In my opinion, he has improved it. Seventy-five percent of the moneys—75 percent of the moneys—could be distributed via the block grant route if the States submitted a plan to HEW and it was approved.

I really hope that we treat this emergency before it happens, and I hope the rule is adopted and that we quickly pass the bill.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, I rise in support of this bill (H.J. Res. 430). It is a bill that must be passed as soon as possible. There soon will be too many people throughout this land facing the horrible alternative of food or warmth. These funds must be made available now, to meet this crisis, not to become available after the crisis has passed.

When I offered the first amendment to fund this program many years ago, there was great concern on the part of many Members about the costs it mandated. But the Congress—to its credit—approved the funding.

The following year I offered the amendment to fund the program again. The weather was warm and we had forgotten the severity and hardships of the previous winter. The amendment barely passed, and would not have passed had the Speaker of the House, Mr. O'NEILL, not cast the deciding vote. But we were proven right again, for the weather turned and we had a severe and devastating winter.

In the last several years as the administration dawdled in getting itself together on this issue, the program has been funded at its barest minimum and many have suffered greatly.

Mr. Speaker, today we know what the facts are. The tremendous increase in fuel costs, food costs, and forewarnings of another severe winter promise that many of our people face the real choice of starvation or death by freezing. We must be prepared with a program fully funded and in place to properly aid those who are in need of help.

We hear cries that is a new welfare program. We hear cries it is more important to balance the budget.

Do we balance the budget with the lives and welfare of our poor and elderly who are caught in an inflationary squeeze not of their doing?

When we can afford billions of dollars in aid to the needs of other countries, when we appropriate $130 billion for national defense, an increase of $9 to $12 billion in 1 year, can we not find funds to save the lives of those who are in need?

Since the inception of this emergency heat supplemental program, we have appropriated a total of about $1 billion. With this appropriation, that total will be over $2 billion—a pittance compared to the increase of over $35 to $50 billion in defense spending.

I urge my colleagues to vote in favor of House Joint Resolution 430.

□ 1120

Mr. LOTT. Mr. Speaker, I yield the remaining time I have to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the Rules Committee for expeditiously bringing this measure to the floor. Providing funds for low-income emergency fuel assistance is a critical need. We cannot afford to delay. Any further delay may result in the loss of lives in the months ahead if we experience a severe winter.

Mr. Speaker, I urge my colleagues to expeditiously adopt this rule in the interest of avoiding an imminent heating oil crisis.

I thank the gentleman for yielding.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, the gentleman from Pennsylvania seems concerned the money we are going to be appropriating today will be far in excess of what will be needed. For someone who makes $7,000 a year, the cost-of-living increases they will receive this year will not equal that which the Members of Congress voted for themselves. When they have to pay an extra $500 this winter for a thousand gallons of home-heating oil, add in their additional food bills, their additional bills for gasoline, and what we may be facing is a situation where $1.6 billion may be a miracle if it

is able to cover the human suffering which we are going to see. We are going to create a new category of poor people which will increase not arithmetically but geometrically because of the vast numbers of people who are going to be included in the category who are not going to be able to meet their bills because of the dramatic increase in heating oil costs this winter.

I hope that this will pass and I hope we get expeditious handling of this measure. If we do delay any longer, that category of people will grow and grow and the suffering increase apace.

Mr. MOAKLEY. At this time, Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Mr. Speaker, I had not intended to speak today but I have listened to the debate with a growing sense of sadness. There are but two things to be said about this legislation. It is too little and it is too late.

Mr. Speaker, I hear the gentleman from Indiana speak of the danger of someone buying a bottle of wine with this. We are not speaking of so-called welfare chislers, but of people who simply want to heat their homes this winter. Where was the gentleman from Indiana when the profits of these corporations were skyrocketing?

This is the Congress which will be remembered for voting for decontrol, this is the Congress which has gutted the windfall profits tax and this is the Congress which may refuse even to enact this miserable sum for aid to the poor and the elderly.

Mr. MOAKLEY. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, I rise in strong support of this resolution. We must move rapidly on this matter. Those who argue for further delay in hopes of finding a better way of helping, simply are arguing for us to do less. Those who are arguing for a delay so we can be true to the traditional legislative process, to me, are choosing procedure over people; and I believe we must today choose for the people. We must pass this resolution.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 47, not voting 31, as follows:

[Roll No. 600]

YEAS—355

Abdnor
Addabbo
Akaka
Alboata
Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Applegate
Aspin
AuCoin
Bafalis
Bailey
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldfing
Gore
Gradison
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Latta
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Lowry
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—47

Anderson, Calif.
Andrews, N.C.
Archer
Ashbrook
Atkinson
Badham
Bauman
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, R. W.
Erlenborn
Evans, Ga.
Fountain
Glaimo
Goldwater
Gramm
Hance
Hansen
Hinson
Jacobs
Jeffries
Jones, Okla.
Kelly
Kindness
Kramer
Lagomarsino
Leath, Tex.
Long, Md.
Lott
Lungren
McDonald
Mattox
Montgomery
Moorhead, Calif.
Myers, Ind.
Paul
Robinson
Rudd
Satterfield
Shumway
Shuster
Stenholm
Stump
Symms
Taylor
Walker

NOT VOTING—31

Anthony
Ashley
Baldus
Brademas
Breaux
Burton, John
Flood
Foley
Ford, Mich.
Gingrich
Gonzalez
Gray
Howard
Leach, La.
Lee
Livingston
Luken
McKay
Martin
Minish
Pease
Rosenthal
Rousselot
Santini
Scheuer
Treen
Waxman
White
Whitehurst
Wilson, Bob
Winn

□ 1140

The Clerk announced the following pairs:

On this vote:

Mr. Brademas for, with Mr. Leach of Louisiana against.

Mr. Minish for, with Mr. McKay against.

Until further notice:

Mr. Howard with Mr. Livingston.
Mr. John L. Burton with Mr. Scheuer.
Mr. Breaux with Mr. Rousselot.
Mr. Ashley with Mr. Bob Wilson.
Mr. Baldus with Mr. Martin.
Mr. Waxman with Mr. White.
Mr. Rosenthal with Mr. Lee.
Mr. Gray with Mr. Luken.
Mr. Foley with Mr. Flood.
Mr. Ford of Michigan with Mr. Gingrich.
Mr. Santini with Mr. Winn.
Mr. Gonzalez with Mr. Whitehurst.
Mr. Anthony with Mr. Pease.

Messrs. DANIEL B. CRANE, GRAMM, and EVANS of Georgia changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 640, MARITIME APPROPRIATION AUTHORIZATION ACT FOR FISCAL YEAR 1980

Mr. MURPHY of New York submitted the following conference report and statement on the Senate bill (S. 640) to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96-556)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 640) to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do

recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1980".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1980, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $101,000,000; except that—

(A) no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a Sealift Readiness program approved by the Secretary of Defense; and

(B) in paying the funds authorized by this paragraph, the construction subsidy rate otherwise applicable may be reduced by 5 percent unless the Secretary of Commerce, in his discretion, determines that the vessel to be constructed is part of an existing or future vessels series.

(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $256,208,000; except that—

(A) no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a Sealift Readiness program approved by the Secretary of Defense; and

(B) an operator receiving funds under this paragraph may elect, for all or a portion of its ships, to suspend its operating differential subsidy contract with all attendant statutory and contractual restrictions, except as to those pertaining to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels, if—

(i) the vessel is less than ten years of age,

(ii) the suspension period is not less than twelve months.

(iii) the operator's financial condition is maintained at a level acceptable to the Secretary of Commerce, and

(iv) the owner agrees to pay to the Secretary, upon such terms and conditions as he may prescribe, an amount which bears the same proportion to the construction-differential subsidy paid by the Secretary as the portion of the suspension period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel.

Any operator making an election under subparagraph (B) is entitled to full reinstatement of the suspended contract on request until October 1, 1984. The Secretary of Commerce may prescribe rules and regulations consistent with the purpose of subparagraph (B).

(3) For expenses necessary for research and development activities, not to exceed $16,360,000.

(4) For maritime education and training expenses, not to exceed $31,372,000; including not to exceed $17,132,000 for maritime training at the Merchant Marine Academy at Kings Point, New York; $10,285,000 for financial assistance to State marine schools; $1,998,000 for fuel oil for State marine school training vessels; and $1,957,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936.

(5) For operating expenses, not to exceed $35,598,000; including not to exceed $6,377,000 for reserve fleet expenses; and $29,221,000 for other operating expenses.

SEC. 3. There are authorized to be appropriated for the fiscal year 1980, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

SEC. 4. Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) is amended by striking out the period at the end thereof and inserting the following new proviso: "*Provided further*, That until April 1, 1984, and notwithstanding any other provisions of this section, any vessel documented under the laws of the United States and owned by persons who are citizens of the United States may, when operated upon a voyage in foreign trade, transport merchandise in cargo vans, lift vans, and shipping-tanks between points embraced within the coastwise laws for transfer to or when transferred from another vessel or vessels, so documented and owned, of the same operator when the merchandise movement has either a foreign origin or a foreign destination; but this proviso (1) shall apply only to vessels which that same operator owned, chartered or contracted for the construction of prior to the date of the enactment of this proviso, and (2) shall not apply to movements between points in the contiguous United States and points in Hawaii, Alaska, the Commonwealth of Puerto Rico and United States territories and possessions.".

SEC. 5. Subsection D(a)(5) of section 30 of the Merchant Marine Act, 1920 (46 U.S.C. 922(a)(5)) is amended to read as follows:

"(5) The mortgagee is a State, the district of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States, or is a citizen of the United States, and for the purposes of this Act the Reconstruction Finance Corporation shall, in addition to those designated in sections 37 and 38 of this Act, be deemed a citizen of the United States.".

And the House agree to the same.

JOHN M. MURPHY,
MARIO BIAGGI,
BARBARA A. MIKULSKI,
BRIAN J. DONNELLY,
PETE MCCLOSKEY,
GENE SNYDER,
Managers on the Part of the House.

DANIEL K. INOUYE,
WARREN G. MAGNUSON,
RUSSELL B. LONG,
JOHN W. WARNER,
ROBT. PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 640), to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text. The Senate disagreed with the House amendment.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House to the text of the Senate bill, with an amendment which is a substitute for both the text of the Senate bill and the House amendment to the text of the Senate bill.

The provisions of the amendment recommended by the committee of conference are set forth below, so as to inform the House and the Senate as to the effect the amendment contained in the accompanying conference report will have upon the measure to which it relates.

1. The Senate disagreed with the House amendment providing that a vessel built with construction-differential subsidy must be offered for enrollment in a Sealift Readiness Program. In Conference, the Senate agreed to the House amendment and receded from its disagreement.

2. The Senate disagreed with the House amendment providing that the applicable construction-differential subsidy rate may be reduced by five percent unless the Secretary of Commerce determines that the vessel to be constructed is part of an existing or future vessel series. In Conference, the Senate agreed with the House amendment and receded from its disagreement.

3. The Senate disagreed with the House amendment providing that construction-differential subsidy may not be used for any vessel which will have a subsidized manning level 50 percent above the minimum determined by the Coast Guard to be necessary for the safe operation of the vessel. In Conference, the House agreed with the Senate opposition to the amendment and receded from its amendment.

4. The Senate disagreed with the House amendment providing that a vessel receiving operating-differential subsidy must be offered for enrollment in a Sealift Readiness Program. In Conference, the Senate agreed to the House amendment and receded from its disagreement.

5. The Senate disagreed with the House amendment permitting the operator of a vessel receiving operating-differential subsidy to suspend his subsidy contract from one to five years with the option at the end of that period of going back under the subsidy program or then remaining off subsidy permanently. This amendment also required the repayment of construction-differential subsidy in proportion to the ratio of the period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel, and does not supplant any other authority that the Maritime Administration now has to permit vessel operators to temporarily withdraw their vessels from subsidized operation, or to allow subsidized vessels to carry preference cargoes without repayment of construction-differential subsidy. In Conference, the Senate agreed with the House amendment and receded from its disagreement.

6. The Senate disagreed with the House amendment providing that no operating-differential subsidy funds may be paid for any item of wage costs that is paid to the Transportation Institute, the Joint Maritime Congress, the American Maritime Officers Service, or to any other organization which engages in lobbying activities. In Conference, the House agreed with the Senate opposition to this amendment and receded from its amendment.

7. The Senate disagreed with the House amendment which would have added $3½ million to repair and equip a replacement training vessel for the Massachusetts Maritime Academy's TS BAY STATE, which was declared unusable. In Conference, the Senate agreed with the House amendment and receded from its disagreement.

8. The Senate disagreed with the House amendment which added $1,198,000 for the

purchase of fuel oil for state maritime academy training ships. In Conference, the Senate agreed with the House amendment and receded from its disagreement.

9. The Senate disagreed with the House amendment establishing a ceiling of $1.5 billion during fiscal year 1980 for new loan guarantees authorized by Title XI of the Merchant Marine Act of 1936, as amended. In Conference, the House agreed to the Senate opposition to this amendment and receded from its amendment.

10. The House disagreed with the Senate provision amending section 30 of the Merchant Marine Act of 1920 allowing States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States to be mortgagees of preferred ship mortgages under the Ship Mortgage Act. In Conference, the House agreed with the Senate amendments with technical clarification and receded from its disagreement.

11. The House disagreed with the Senate amendment adding shoreside "fishing facilities" as an eligible category for the Capital Construction Fund and Title XI Ship Financing Guarantee programs under the Merchant Marine Act of 1936. In Conference, it was noted that two procedural issues (jurisdictional and germaneness) raised by the amendment would have made the Conference Report subject to points of order in consideration on the Floor. Following assurance by the House Conferees that they would consider and attempt to pass legislation before the end of the year which would accomplish the objectives of the Senate provision, the Senate agreed with the House opposition to this amendment and receded from its amendment.

12. The Senate disagreed with the House amendment permitting foreign-built, U.S.-documented vessels to carry foreign-origin and foreign-destination cargo between coastwise ports in the continental United States. The Senate agreed with the House amendment and receded from its disagreement, with the unanimous agreement of the Conferees that the time period would be shortened six months from October 1, 1984, to April 1, 1984, and that the following proviso would be added to the amendment: "shall apply only to vessels which that same operator owned, chartered or contracted for the construction of prior to the date of enactment of this proviso."

JOHN M. MURPHY,
MARIO BIAGGI,
BARBARA A. MIKULSKI,
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Managers on the Part of the House.

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RUSSELL B. LONG,
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ROBT. PACKWOOD,
Managers on the Part of the Senate.

APPOINTMENT OF AN ADDITIONAL CONFEREE ON S. 1157, DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1980

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Speaker be permitted to appoint an additional conferee on the conference committee on the Senate bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for the fiscal year 1980 and other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the gentleman from Michigan (Mr. CONYERS) as an additional conferee on the Senate bill, S. 1157.

There was no objection.

EMERGENCY FUEL ASSISTANCE APPROPRIATIONS

Mr. NATCHER. Mr. Speaker, pursuant to the rule just adopted, I call up the joint resolution (H.J. Res. 430) making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes and ask that the joint resolution be considered in the House as in the Committee of the Whole.

The Clerk read the joint resolution, as follows:

H.J. RES. 430

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, namely:

COMMUNITY SERVICES ADMINISTRATION

COMMUNITY SERVICES PROGRAM

For an additional amount for "Community services program", $1,350,000,000: *Provided*, That of this amount $1,200,000,000 shall be transferred by allocation to the Secretary of Health, Education, and Welfare for payment of energy grants and allowances and related administrative costs: *Provided further*, That energy allowances shall not be considered as income or resources under any other public or publicly assisted income tested program, but shall be taken into consideration in determining eligibility for energy crisis assistance: *Providing further*, That the States shall, in awarding funds, give priority to those households experiencing significant increases in heating fuel costs over the levels of the previous year: *Provided further*, That proof of income eligibility shall be required of all applicants: *Provided further*, That an annual audit shall be made of this program and all of its components: *Provided further*, That no awards to applicants shall be made after June 30, 1980: *Provided further*, That the funds shall be distributed among the States according to the following formula: (1) 50 per centum based on the number of heating degree days squared times the number of households below 125 per centum of poverty; (2) 50 per centum based on the difference in home energy expenditures between 1978 and 1979.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, I make a point of order on the joint resolution.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Speaker, I make a point of order against the present consideration of House Joint Resolution 430.

The point of order lies under rule XXI, clause 2, which provides that no appropriation shall be reported in any general appropriation bill for any expenditure not previously authorized by law, nor shall any provision in any such bill or amendment thereto change existing law. And it goes on further to state that such appropriations must be authorized in law.

I call the attention of the Chair to the fact that the rule just adopted, House Resolution 464, does not waive rule XXI, clause 2, and that the joint resolution, House Joint Resolution 430, contains, in addition to $1,350 million, which has no statutory authorization in law, legislation appearing on page 2, line 7, through line 3 on page 3.

The gentleman from Maryland is aware that there have been previous rulings stating that a resolution providing appropriation for a single Government agency is not subject to this rule, but the gentleman would point out that this resolution makes in order appropriations to the Community Services Administration. This is an independent agency, I understand, responsible to the President, but it is not part of the Department of Health, Education, and Welfare or any other agency. Yet on line 8 of page 2 the resolution presumes to allow this agency to transfer funds to the Secretary of Health, Education, and Welfare, I believe in contravention of existing law, and, therefore, brings into play at least two separate agencies, which the gentleman from Maryland contends does not meet the single Government agency exception.

Further, the prior rulings have indicated that a joint resolution containing continuing appropriations for diverse agencies are exempt from the rule, but this is quite obviously not a continuing appropriation; it is in fact an appropriation for the fiscal year 1980 for a new program under the guise of a supplemental appropriation bill supposedly merely adding more moneys to an existing program. I contend that this is not the case.

On both grounds, Mr. Speaker, the gentleman from Maryland contends that this is a general appropriation bill, regardless of the manner in which it is drafted, and it, therefore, is not in order for consideration at this time.

The SPEAKER pro tempore. Does the gentleman from Kentucky (Mr. NATCHER) wish to be heard on the point of order?

Mr. NATCHER. Yes; I do, Mr. Speaker.

I would like to call the Speaker's attention to the fact that this is not a general appropriations bill. This, Mr. Speaker, as we well know, is a House joint resolution brought before the House at this time under a rule, so, therefore, the rule that the distinguished gentleman from Maryland calls to the attention of the Chair does not lie in this instance.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The Chair would like to make the observation that this joint resolution was not reported from the committee as a privileged appropriation, and the Chair is of the opinion that this is not, as has been pointed out by the gentleman from Kentucky (Mr. NATCHER), a general appropriation bill and feels that clause 2, rule XXI does not apply in this instance.

Mr. BAUMAN. Mr. Speaker, before the Chair finally rules, may I be heard further?

The SPEAKER pro tempore. The Chair will hear the gentleman.

Mr. BAUMAN. Mr. Speaker, it is the impression of the gentleman from Mary-

land that it is the obligation of the proposers of the legislation to cite statutory or other authority that contravenes the point of order.

The gentleman from Kentucky has cited the rule which makes in order this bill. The gentleman from Maryland has already pointed out that the rule, House Resolution 464, does not waive the rule XXI and there is no indication in this resolution that it is in fact in any way exempt from the category of a general appropriation bill. I see nothing in the report and nothing in the rule to prove that contention. I do not know how the Chair can determine that this is not a general appropriation bill on some theory that the Appropriations Committee did something, because there has been no authority cited for the record to show that they did so.

Mr. Speaker, the precedents clearly say that the proposers of the legislation must cite statutory or other authority for their position.

□ 1150

Mr. CONTE. Mr. Speaker, may I be heard on the point of order?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I would like to cite 42 U.S.C. 2809(a), the emergency energy conservation services. This is a program known as the emergency energy conservation services, designed to enable low-income individuals and families, including elderly and the near poor, to participate in energy conservation programs designed to lessen the impact of the high cost of energy on such individuals and families and to reduce the individual family energy consumption.

Mr. BAUMAN. Mr. Speaker, I would like to respond to the gentleman from Massachusetts (Mr. CONTE).

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the law that the gentleman states I understand to be the authority for the Community Services Administration and its administration of the law cited. It is not the authority for what this resolution proposes, and that is a new system of heating aid distribution to SSI recipients, AFDC recipients, with State options as to how it shall be handled; that authority is said to be created in the resolution against which I am making a point of order. So the statutory authority cited is not to uphold this bill.

Mr. CONTE. Mr. Speaker, I would like to be heard further on the point of order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, under the authority that I have cited, the Federal Register of October 11, 1975, part IV of the Community Services Administration, you will find there the formula as set out by the Community Services Administration as followed by this bill.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, I would like to further point out that, under a general appropriations bill, if challenged, your authorization must be cited.

Here we have a House joint resolution, one item. Under the rules of the House that does not apply to the measure that is now before the House.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The Chair feels that the gentleman from Kentucky (Mr. NATCHER) is correct. As already stated, this legislation has not been reported as a general appropriations bill. The Chair feels his ruling is consistent with the precedents set and overrules the point of order.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: In the last proviso, insert "heating" after "home".

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 430).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only to ask my good friend, the gentleman from Kentucky (Mr. NATCHER), this question: As the gentleman knows, under the procedure that is allowed by this rule, any Member may offer an amendment until such time as the previous question is ordered. The gentleman from Kentucky, under the precedents of the House, has the power to move that previous question at will. He could do so, for instance, after his remarks are concluded and the committee amendment is disposed of.

I would only inquire in my reservation as to whether or not the gentleman would permit other Members—there are several—to offer amendments in good time, assuming that no one is attempting to hold up the business of the House.

Mr. NATCHER. Mr. Speaker, if the gentleman will yield, I would like to inform my friend, the gentleman from Maryland, that certainly we intend to be reasonable so far as the authorization is concerned in this rule, whereby I, as the manager of the bill, have the right to move the previous question. There are amendments. There are Members on this floor who want to speak, and certainly we are going to be reasonable about it.

Mr. BAUMAN. Mr. Speaker, I know the gentleman is an honorable Member of this House and would not seek to close off debate for any Member, but, further reserving the right to object, I would just say that the reason I chose to reserve now is that if we are going to have debate cut off, I do not think all Members should have the right to extend their remarks and pretend they participated in debate if in fact our rights to do so are in any way diminished.

So with the assurance of the gentleman, Mr. Speaker, I will withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, I move to strike the last word.

The SPEAKER pro tempore. The Chair would like to ask the gentleman from Kentucky (Mr. NATCHER) a question.

Is it the gentleman's intention to debate the committee amendment?

Mr. NATCHER. Not at this time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, the Committee on Appropriations brings to the House today an urgent supplemental appropriations bill in the amount of $1.35 billion to provide energy assistance to the low-income people of this Nation during the upcoming winter. This amount, when added to the $250 million already appropriated, will provide a total of $1.6 billion for this purpose. That is the full amount requested by the President.

All Americans are feeling the effects of the decontrol of domestic oil prices and the price increases instituted by the OPEC countries. The poor are particularly hard hit. Although their energy consumption is lower than average, their expenditures for fuel and utilities represent a considerably larger-than-average share of their income. Furthermore, low-income families have little flexibility to adjust their budgets for higher fuel prices and remain able to pay for food, shelter, clothing, and other necessities. The committee is recommending this appropriation to help low-income Americans meet this increased hardship. We realize that this program cannot compensate for the total increase in energy costs, but it will alleviate substantially the impact of decontrol and, to some extent, the burdens imposed on the poor by the OPEC price increases.

The bill includes $150,000,000 for the energy crisis assistance program administered by the Community Services Administration. That amount, together with $250,000,000 appropriated earlier, will provide a total of $400,000,000 for fiscal year 1980. The funds will be distributed among the States as block grants for the same purposes specified in the conference report to accompany the Labor-HEW appropriation bill for 1980.

The bill includes $1,200,000,000 which will be transferred to the Department of Health, Education, and Welfare for administration by that Department. Of that amount, an estimated $404,827,000 will be paid as a special one-time energy allowance to recipients of supplemental security income as proposed in the budget. Federal administrative costs of $4,000,000 are also included. The budget

proposed to utilize an additional $791,173,000 for special energy allowances to recipients of aid to families with dependent children. The committee directs in the report that States be given the choice of either participating in the AFDC plan presented in the budget or of receiving their share of those funds in the form of a block grant. The block grant would be used to provide assistance to households with incomes below 125 percent of the poverty level.

The States can use the block grant in a variety of ways, including but not limited to the following: Retain all or part of the funds for crisis intervention; target households with higher energy costs rather than distributing it broadly; establish a vendor line of credit; and make payments to those already participating in other income assistance programs, such as AFDC.

If a State elects to use all or a portion of its block grant to increase the funding available for the existing CSA energy crisis assistance program, we would expect that HEW and CSA will jointly work out an arrangement for State plan approval, distribution, and monitoring of those funds.

We have included in the bill the formula by which HEW and CSA will allocate funds to the States. It is based 50 percent upon low-income weighted heating degree days and 50 percent upon the difference in home energy expenditures between 1978 and 1979. SSI funds will be distributed to individuals as proposed in the administration's budget.

The bill also provides for the following: That the States shall give priority to those households experiencing significant increases in heating costs over the levels of the previous year; that proof of income eligibility shall be required of all applicants; that an annual audit shall be made of this program; that no awards to applicants shall be made after June 30, 1980; and that States may use up to 10 percent of block grants for administrative expenses.

Mr. Speaker, time is of the essence in this matter. This bill must be enacted promptly to insure that low-income Americans will be able to heat their homes this winter.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. NATCHER) has expired.

(By unanimous consent, Mr. NATCHER was allowed to proceed for 5 additional minutes.)

□ 1200

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. NATCHER) has expired.

(By unanimous consent, Mr. NATCHER was allowed to proceed for 2 additional minutes.)

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

I agree with almost everything the gentleman said.

I just want to make a couple of little statements and lead to a specific question.

As the gentleman indicated, this is the fourth year that we have had this kind of program, but we still do not have specific authorizing legislation. We are sort of appropriating in the blind. The authorizing committee in another instance, as we had so many in this year, has not come forth with the guidelines and rules that assure us that the money will be pinpointed to the place where it ought to go.

Now, in this case, I had the feeling at the hearings that the disposition of the Department was to sort of scatter the money and hope some of it gets to where it should go. That is the reason for putting into the report the specific language the gentleman mentioned, giving the States in lieu of that 30 days to use this as block grant money and come up with their own program so that they can pinpoint it.

I also got the distinct impression that the people in the Department think that the only people who need this money are those on SSI and AFDC. The gentleman and I know that in our States at least half of the people who will need this money are on neither one of those programs.

I just do not trust the Department with their present disposition to think everybody who needs money is on one of those two programs to administer this unless we can kind of tie down that they will let the State have 30 days in which to come up with their own program.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. NATCHER) has again expired.

(At the request of Mr. SMITH of Iowa and by unanimous consent, Mr. NATCHER was allowed to proceed for 3 additional minutes.)

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. My question to the gentleman is this: How sure can we be that the Department, first of all, will give them the 30 days that we say in the report they ought to have, and, second, how sure can we be that, with their present disposition, that they will not approve the block grant, the program that the States submit if they do provide for people other than those in these welfare categories?

Mr. NATCHER. In answer to the gentleman's question. I would like to say that we want, and we say to the Department of Health, Education, and Welfare, I think it should be emphasized, that we want that 30-day period complied with strictly, and the 15 days and the 5 days specified in the report; and we will make every effort on the Appropriations Committee to see that the Department of Health, Education, and Welfare complies with the directions set forth in this report.

Mr. SMITH of Iowa. I thank the gentleman for his answer.

I also remember that in reply to a question I asked, I got the indication that the Secretary thinks that it is a unique case where somebody who needs help is not on either SSI or AFDC.

I think it is the unanimous agreement of the members of the committee that it is not unique at all, that, in fact, those are probably the people who are going to need this the most, and not everybody is going to need the exact same amount.

Mr. NATCHER. The gentleman's statement is correct.

I think that expresses the desire of every member on the subcommittee.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Connecticut (Mr. GIAIMO), the chairman of the Committee on the Budget.

Mr. GIAIMO. I thank the gentleman.

I would like to clear up the discussion that we had in the committee yesterday concerning the use of this money.

The gentleman will recall that it was stated that the Secretary of HEW indicated that this money could be used for other than heating purposes, that, in fact, the term "air-conditioning" was used. The gentleman will recall that it was stated that this money can be used for air-conditioning in those States that perhaps will not need it for heating purposes, even though the thrust and the emphasis will be on heating.

The gentleman will recall further that the gentleman from Massachusetts (Mr. CONTE), offered an amendment, as I recall, in the committee yesterday, inserting the word which now appears in the committee amendment on page 3, the word "heating" was put in.

□ 1210

The SPEAKER pro tempore. The time of the gentleman from Kentucky has expired.

(At the request of Mr. GIAIMO and by unanimous consent, Mr. NATCHER was allowed to proceed for 5 additional minutes.)

Mr. GIAIMO. Mr. Speaker, will the gentleman yield further?

Mr. NATCHER. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I am told, notwithstanding the amendment, including the word "heating" in the Conte amendment, the purpose of that in committee clearly, in my opinion, was to limit this money to pay heating bills, not air-conditioning bills, not any other kind of bills. But I am told, notwithstanding that amendment it is still within the purview and within the authority of this legislation, it is still the fact that this money goes to all of the States and that the amendment saying "heating," in fact, applies only to the formula and to the part of the formula which is set forth on lines 24 and 25 of page 2 and 1, 2, and 3 of page 3, and does not restrict the use of money and, in fact, this emergency money demanded and required for heating purposes, in fact, will be sent to States that will not have heating problems and can be used for air-conditioning. Is that the gentleman's understanding?

Mr. NATCHER. I would like to advise the gentleman from Connecticut that, as he knows, on page 2 of the resolution before the House, the last proviso reads as follows: "That no awards to applicants shall be made after June 30, 1980." So that answers part of the gentleman's question.

The balance, in answer to the gen-

tleman, as I pointed out to the House just a few minutes ago, this program applies only to families and to people who are below 125 percent of the poverty level, which is a figure of $8,375 for a family of four.

As far as the checks that go out to SSI recipients, that payment would run about $100 per recipient, but as far as me saying to the gentleman from Connecticut that not $1 of this money could be used for the purpose he has addressed his remarks to, I cannot answer that question and say to the gentleman that not $1 can be used for that purpose. This is a bill to take care of low-income people during the wintertime who are cold and are suffering. We put in there, Mr. GIAIMO, the provision concerning no award shall be made after June 30, 1980. This is not an air-conditioning bill, and that is the reason why the committee amendment contains only one word.

The gentleman from Massachusetts (Mr. CONTE) offered that amendment and it was agreed to in the committee. It contains the word "heating." That will be passed on by the House.

So in answer to the gentleman let me say this: We do not intend for $1 of this money to be directed for air-conditioning and air-conditioning only, not $1. This bill pertains to the heating of homes, and that is the purpose of the legislation.

Mr. GIAIMO. With all due respect, if the gentleman will yield further——

Mr. NATCHER. I yield to the gentleman.

Mr. GIAIMO. The gentleman will recall there was a great deal of discussion in the committee yesterday.

Mr. NATCHER. The gentleman is correct.

Mr. GIAIMO. There was a great deal of discussion over the question of air-conditioning and, in fact, there were even some suggestions made that we needed the warm States in order to get the legislation passed.

The fact is the gentleman mentioned the June 30, 1980 date. My understanding of that would be no payments could be made after that date in those warm States that need air-conditioning after June 30, but they can get a payment during the winter months, or the spring months, if they could use it for air-conditioning. That would be my understanding and, in fact, it is backed up by the statement of the Secretary. I suspect, I believe it is backed up by the gentleman's statement, because while he indicated the major thrust of this is again for heating, the gentleman does indicate, or at least my inference from what the gentleman says is it is possible in those States that do not have heating problems, but have warm problems, that they could use this money for those purposes.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. GIAIMO and by unanimous consent, Mr. NATCHER was allowed to proceed for 3 additional minutes.)

Mr. NATCHER. Mr. Speaker, let me say to the distinguished gentleman from Connecticut that I do not believe a single State that submits a plan under this resolution, that must be approved by HEW, if it contains language to the effect that money was to be used for that purpose, that the plan would be approved. I do not believe a single plan would be approved.

The only way the State could operate under it is to have that plan approved. The Secretary, Mrs. Harris, emphatically stated this is a bill to take care of the cold people, the people that are going to suffer in the wintertime.

As far as the SSI payments are concerned, as I have said to the gentleman, there will be $404 million that will be distributed by that mechanism.

Mr. GIAIMO, it is not the intention of our subcommittee, it is not the intention of the committee that you and I serve on, to make this an air-conditioning bill. This is one to take care of the cold people, Mr. GIAIMO, and I hope that the colloquy that you and I are having at this time will convince them downtown that this is what we have in mind.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I will certainly yield to my distinguished friend from Massachusetts (Mr. CONTE).

Mr. CONTE. So that we have some legislative history here that could serve as a guideline for the Secretary of HEW, the gentleman in the well is absolutely correct. The idea, the thought behind my amendment was to see that this goes for the payment of heating bills and not for any wasteful air-conditioning.

However, I want to make the record clear that if the State opts for their own program with the Michel amendment as amended by me, however, under the SSI program the recipient of an SSI check can use that check for anything he wants. If the State does not opt for their own plan, then the HEW will administer the program under the aid to dependent children. There again in that particular instance the recipient can use that check for whatever they want, but it is my feeling, and I think it is the chairman in the well's feeling that 99 percent of these States are going to opt for their own program, and if they opt for their own program it is strictly for heating oil consumption.

Mr. NATCHER. I would agree with the gentleman. I want to commend the gentleman from Massachusetts on the work he has done on this particular bill, not only during the hearings but at all times. I want the gentleman to know that as chairman of the subcommittee I appreciate the fact that he is on our subcommittee and I can serve with him.

Mr. CONTE. Thank you, Mr. Chairman.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. ADDABBO and by unanimous consent, Mr. NATCHER was allowed to proceed for 2 additional minutes.)

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I am happy to yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Speaker, in the calculation of residential heating costs, I am especially concerned about the treatment of residual oil. As you know, Mr. Chairman, residual oil is used in many States as a fuel for electrical generation. This is true in New York.

However, residual oil is also widely used in New York, particularly in the New York City area, as a boiler fuel for many large apartment complexes. In fact, Mr. Chairman, I would venture that for many low-income households in New York City residual oil is the principal fuel for heating. In the Northeast there are 3.4 million multifamily housing units accounting for more than 20 percent of the region's households.

I have been informed, Mr. Chairman, that CSA and DOE do not include residual oil usage in their calculations of residential heating costs. The reason is that DOE terms residual oil to be a "commercial" fuel. As I have already indicated, residual oil is generally used for commercial purposes. As I have also indicated, however, there is a very special exception to this general proposition—an exception which is rather significant to a large number of New Yorkers.

My question, Mr. Chairman, is a simple one. Is it not the intent of the committee that in the calculation of either aggregate residential energy costs or aggregate residential heating costs, CSA and HEW are to include the costs of heating one's apartment with residual oil?

Mr. NATCHER. I would like to say the gentleman's statement is correct and certainly that has to be taken into consideration.

Mr. ADDABBO. I thank the gentleman.

Mr. NATCHER. That is the intention of our committee.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I am happy to yield to the gentlewoman from Louisiana, a member of our committee (Mrs. BOGGS).

Mrs. BOGGS. I thank the gentleman for yielding. I would like to insert in this discussion, if we are making legislative history, at this point I would hope that the gentleman in the well and the gentleman from Massachusetts would not exclude all air-conditioning. I think we must realize that over the years, because electricity and gas and heating and air-conditioning were so inexpensive in many States, that a great number of housing programs, a great number of buildings of public housing, of low-cost housing, of housing for the elderly, were all built in a less expensive way than the climate demanded because air-conditioning was so easily available and so inexpensive.

□ 1220

These people are now caught in a terrible situation of where they cannot have cross-ventilation, they do not have overhanging roofs, they do not have porches and center halls and windows to the floor. They are caught in small boxes built under Federal programs and built

in that way because it was less expensive to build them that way.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has again expired.

(At the request of Mrs. BOGGS and by unanimous consent, Mr. NATCHER was allowed to proceed for 2 additional minutes.)

Mrs. BOGGS. To pay for the air-conditioning, particularly the old people, would be very, very hard hit if we exclude them from inclusion in this bill.

Mr. NATCHER. I want to thank the gentlewoman from Louisiana for her statement.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, as long as we are making legislative history, here is a little caveat. I do not want some State turned down because they did not have some provision that prevents somebody from giving some attention to carrying out a higher rent bill next year. The fact of the matter is that there are a lot of elderly and low-income people living in apartment houses who have no control over their rent increase. The rent is going to be increased for the very purpose this bill is before us; that is, because energy costs are going to go up. The rent is going to go up another $30 or $40 a month.

They are in just as bad a position. They have no control over it. The reason is because energy costs went up, and I do not think they ought to be excluded any more than somebody who happens to be up in a cold climate.

I do not think we have legislative history that says that we ought to turn down some State plan because they did not exclude in some way all those increases in rents that happen to be attributable to air-conditioning, because that is an energy cost. The whole reason for this is because the cost of energy went up, and it hits those poor people as bad as anybody else.

(At the request of Mr. PHILLIP BURTON and by unanimous consent, Mr. NATCHER was allowed to proceed for 5 additional minutes.)

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, initially I would like to associate myself with the remarks of the gentlewoman from Louisiana (Mrs. BOGGS), as well as those of the gentleman from Iowa (Mr. SMITH).

I have two or three questions I would like to pose. First, is a Governor, without the necessity of State legislative action, authorized to speak on behalf of the State? I ask that in light of the fact that virtually every State legislature in the country is not in session; that many States require a certain notice before they can get into session; and most States require an extraordinary percentage of both houses before action can be taken that is effective on enactment.

Mr. NATCHER. I would like to say to my friend from California (Mr. PHILLIP BURTON) that I think the Governor has the right to submit a plan.

Mr. PHILLIP BURTON. So, the answer is that the Governors do have the authority to speak on behalf of the State under the terms of the legislation to decide what that State plan is?

Mr. NATCHER. I would say to the gentleman that in my opinion every Governor of the 50 States has the right to submit a plan for approval under this House joint resolution. Every Governor of the 50 States, I think has the right to submit a plan.

Mr. PHILLIP BURTON. My next question is, would the gentleman describe very briefly—conceptually, not in detail—the measurement of need for hearing? I ask that question in the following context: Our part of the State is not unlike Gaul, we are divided into at least three parts, if not 45. We have sections of the State that are very cold, and we have sections of the State that are very warm. So, the impact, if you will, for the need for heat varies greatly.

I ask that question because I am led to believe that there is some formula utilized that then produces a per person increase for those, let us say on SSI, and I am trying to assess how that formula is constructed and the need for it once a formula is constructed allocating these increases if they want to use the SSI mechanism. Can it be an average payment so that everyone gets the benefit of it, or how?

Finally, with respect to that, what is the estimated increase on SSI per person, or the range of estimated increase per person?

Mr. NATCHER. Mr. Speaker, in answer to the gentleman's question, in the full committee and also in the subcommittee during the hearings we considered the matter concerning those that would be eligible and those not.

As far as the payments to the SSI recipients are concerned, the $404 million, those payments, I would say to the gentleman, are automatic. They would be made through the SSI system. All of those people, every one in my opinion, that is, on the SSI roll, would receive a payment.

Mr. PHILLIP BURTON. So, if I may interrupt the gentleman, am I correct in assuming then for purposes of eligibility for this energy grant or fuel grant or heating grant, or however it may be termed, there is automatic eligibility for anyone currently receiving public assistance in the sense that they shall be deemed to be under the 125 percent of poverty level?

Mr. NATCHER. SSI recipients are automatically eligible.

Mr. PHILLIP BURTON. My next question is, what position is a State in—and I can defer obtaining a response to this until the gentleman has an opportunity to leave the well and deal with it at some later time—what is the situation where we have people in the mountains with very high fuel costs who are being currently hurt today, but people in the deserts of our State——

The SPEAKER pro tempore. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. PHILLIP BURTON and by unanimous consent, Mr. NATCHER was allowed to proceed for 5 additional minutes.)

Mr. PHILLIP BURTON (continuing). Vis-a-vis the person who has been hurt the last 3 months, living in the desert because the increased fuel costs attributable presumably in part to setting aside—and I agree with the policy—certain assured reserves for fuel oil. Can our State, for example, be permitted, if the Governor so elects, to say that this is a totality of SSI money and therefore we shall increase each of the grants by this standardized amount?

I ask that question because one of the values of SSI is to have standardized payments, but my heavens, if we have to alter it county by county, we are back in the same swamp we were in before we constructed the SSI program. That is the question I hope I can get an answer to before the debate closes.

Mr. NATCHER. I would like to tell the gentleman that SSI payments will be uniform throughout any given State.

Mr. EARLY. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Massachusetts.

Mr. EARLY. Mr. Speaker, as the chairman suggested earlier, on the SSI program, the $404 million, California would not have that option, but under the $400 million CSA, if the gentleman's Governor opted to send all the money up to that area he could do that. If the gentleman's Governor opted to participate in the $800 million share California would get, he could send all of it to that area. The chairman will tell the gentleman that he could do that.

Mr. PHILLIP BURTON. But is the gentleman saying that SSI recipients would receive nothing?

Mr. EARLY. The SSI, $404 million, will be distributed to the 50 States, and it will be distributed upon the one-time basis.

□ 1330

Mr. PHILLIP BURTON. I do not quarrel with that.

Mr. EARLY. But everyone in California will get $86 in one check in January under the SSI.

Mr. PHILLIP BURTON. I see. I see.

Mr. EARLY. Yes. The other 1.2 distribution, as the chairman so eloquently stated, the Governors would have as an option, and we should make the point at this time that the gentleman in the well has made a tremendous statesmanlike statement. Does his State get a good share of this money? No. Kentucky does not do very well because the formula is by the temperature and degrees. I praise the gentleman for looking at the emergency throughout the whole country and to participate the way he has.

Mr. PHILLIP BURTON. Will the gentleman yield further, just by way of continuing this conversation for a moment?

Mr. NATCHER. I yield to the gentleman from California.

Mr. PHILLIP BURTON. As I read this proposal, it is going to be a one-shot pay-

ment for those on current maintenance programs, SSI and AFDC, and income shall be disregarded as income resources and will not in any way affect eligibility, let us say, for medicaid or other public services because of this added one-shot income factor? Am I correct in that understanding?

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

I will say to the gentleman from California (Mr. PHILLIP BURTON) I am not sure whether his question with respect to SSI initially was appropriately answered, or maybe I did not hear right. But every SSI recipient in California, whether he lives in the south or the north, is going to be getting his standard payment of $85 a month, period. That does not vary within a State. The payment, as the gentleman knows, does vary between States.

Mr. PHILLIP BURTON. I thank the gentleman.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding. First, I want to commend the chairman, the gentleman from Kentucky, (Mr. NATCHER) and the members of the committee for expediting this legislation. Coming from New Jersey, obviously it is very important to our region. But I do have some concerns about some of the language in the legislation and the report. I would like to get some clarification, if I could, from the chairman. I know that the gentleman used the term on page 2 of the legislation, "heating fuel costs" in referring to "* * * the States shall, in awarding funds, give priority to those households experiencing significant increases in heating fuel costs. * * *"

Then the gentleman uses in another place "home heating energy." My question is what about those individuals who have total electric homes?

The SPEAKER pro tempore. The time of the gentleman has expired.

(At the request of Mr. HUGHES, and by unanimous consent, Mr. NATCHER was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. If the gentleman will yield further, in my region, and I suspect in many regions of the country there was a very aggressive advertising program a number of years ago by the utilities for all-electric homes. Many of the people who are on SSI, and who were in need of these funds who were not on SSI it would seem to me would be totally foreclosed from participating fully in the program, although they might be the neediest if, in fact, we interpret heating fuel costs to exclude electric heat, for instance.

Mr. NATCHER. I would like to say to the gentleman that if the applicant, if the recipient who wants to receive the money, qualifies under the category of below 125 percent of the poverty level, that electricity would be the same as natural gas and oil. There would be no distinction.

Mr. HUGHES. If the gentleman will yield further, then it would seem to me that perhaps "heating fuel costs" as it is used in the context of the legislation might be extremely confusing, because technically even though those people might be absorbing additional fuel costs through the fuel adjustment clause, if in fact there is one in a particular State, they do not really purchase heating fuel. I wonder if perhaps we cannot clarify that. I would hesitate at this point to support legislation that would foreclose a major segment of my consumers.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding. The gentleman is speaking about the amendment that I offered in committee, and it is the second part of the formula that says 50 percent based on the difference of home heating energy expenditures between 1978 and 1979. We definitely—and I think the gentleman in the well, the gentleman from Kentucky (Mr. NATCHER) will agree with me—we definitely say it is not only home heating fuel costs, but if they are heated by electricity, that definitely is our intent, and that was the intent of the amendment. We agree with the gentleman.

Mr. NATCHER. The gentleman's statement is accurate. I would like to have the gentleman know that electricity would apply, as I said a moment ago, the same as heating oil, natural gas, or any other fuel or form of energy.

Mr. HUGHES. I thank the gentleman for that.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding. One of the concerns I have and this may be addressed by an amendment offered by my colleague, the gentleman from Connecticut, (Mr. GIAIMO) is the question of relating this to the windfall profits tax. I think there are two basic concerns I see in this legislation: One, the fact that we may be constructing an entitlement program, which I think the gentleman has dealt with by the June date, and, second, the question of where are the revenues that will support this? In the budget process and in the budget conference right now we are amending the supporting of this program with the windfall profits tax.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. NATCHER) has expired.

(At the request of Mr. PANETTA, and by unanimous consent, Mr. NATCHER was allowed to proceed for 2 additional minutes.)

Mr. PANETTA. If the gentleman will yield further, in the report itself, however, there is no mention about the windfall profits tax as being the basic support for this program. I am concerned that if we do not build this kind of language into the report, we merely feed those forces that are undermining the windfall profits tax at the present time, and, indeed, we are going to be reaching into the General Treasury as a way of supporting the program. So I would ask the gentleman, in any way is this program to be tied to the windfall profits tax?

Mr. NATCHER. In this House joint resolution, as the preamble states, this money is appropriated out of the general fund of the Treasury.

This resolution is not hitched to or is not contingent upon the passage of the windfall profits tax, I will say to the gentleman. The Secretary did say in the hearing that the general fund would be reimbursed after passage of the windfall profits tax.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield on that point?

Mr. NATCHER. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I thank the gentleman for yielding. I would just like to advise the gentleman that I do have several amendments which will attempt to relate this matter to the windfall profits tax.

Mr. NATCHER. Yes. Mr. Speaker, I yield back the remainder of my time.

Mr. MICHEL. Mr. Speaker, I move to strike the last word.

(By unanimous consent, Mr. MICHEL was allowed to proceed for an additional 5 minutes.)

Mr. MICHEL. Mr. Speaker, there is no question but that some assistance to help the needy pay their heating costs this year is desirable, but we also have a responsibility to insure that our tax dollars are wisely and properly spent. The question has been raised within the last few minutes: What happens to the windfall profits tax? It just so happened that when the Speaker came to testify before our subcommittee, I posed the question:

> The Administration proposes tacking the $1.2 billion energy allowance proposal to the windfall profits tax. Do you support that approach or do you want us to appropriate the money regardless of what happens to the tax over in the other body?

That was my statement to the Speaker. Speaker O'NEILL responded:

> I am concerned with the windfall tax but the needs of the American people come first. The windfall tax comes afterwards.

The thrust of what I am saying here is that from what I gather from the leadership on the majority side and the administration, it is, "Damn the torpedoes, full speed ahead." This is a program that has got to be enacted. Appropriate the money, and then we will take care of reimbursement, if there is any, through a windfall profits tax.

□ 1240

The result of this under-the-gun approach has been the development of a bill that, frankly, contains a hodgepodge of programs that represent little more than throwing a large sum of money at a problem and hoping a little good will result.

Its amazing how quickly we can spend money around here with few questions

asked. But when it comes to cutting spending in order to reduce our incredible 13-percent inflation rate, that becomes another matter entirely and most everybody runs for cover.

To be sure, we were able to make some improvements in the bill in full committee, due mainly to a substitute amendment I offered.

We were able to revise the allocation formula to remove some of the bias favoring warm weather areas, thus providing more funds to the cold weather States where the greatest needs are.

We wrote language in the bill requiring that priority be given to those households experiencing the largest increases in heating fuel costs.

We included language requiring proof of eligibility, requiring an annual audit, and requiring that no awards be made after June 20, 1980, all of which are designed to prevent abuse.

Despite these improvements, however, we still have a bill that provides for four separate programs, administered by two different agencies, under several possible sets of regulations. It is an approach that builds in additional bureaucracy and redtape that will serve only to add to the confusion and result in delays in getting the money out.

Most of the money will not get into the hands of the recipients until next January and February at the earliest, and a good portion will be siphoned off to make direct cash payments to individuals regardless of heating needs.

My block grant approach through CSA.

We are making payments to all SSI recipients, regardless of need or area of the country. Payments will even go to those in Hawaii. A person who does not incur any increase in heating costs will receive the same amount as a person whose fuel bills have doubled.

Several SSI recipients could be living in a single household, and yet each one would receive a cash payment, even though there is only one facility to heat.

Since there is no restriction on these cash payments, they could even be used to pay air conditioning bills.

Moreover, only those SSI recipients who are on the rolls in December will receive funds. Those coming on in January, February, or March, the coldest winter months, will not be eligible.

Making payments directly to SSI recipients will result in a disproportionate share of the funds going to warm weather States, where the needs are the least. For instance, Minnesota and Louisiana have similar populations, but Louisiana would get twice as much SSI funds as Minnesota, despite the fact that Minnesota is five times as cold as Louisiana, Texas would get $5 million more than Illinois, despite the fact that Illinois is three times as cold.

Mr. PHILLIP BURTON. Will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, first dealing with SSI, am I correct in my belief that if someone applies for assistance in December and is approved in December, they would be eligible?

Mr. MICHEL. That is correct.

Mr. PHILLIP BURTON. Similarly for AFDC if they apply, let us say in January and are approved in January, they are eligible. Is that correct?

Mr. MICHEL. That is correct.

Mr. PHILLIP BURTON. May I just offer this one suggestion: By waiting for AFDC until January, you are inviting inevitably a timelag of another 30 days for these welfare families. I will have no amendment to do this, but I would urge the conferees to seriously consider having that AFDC date moved up to perhaps December because you eliminate of necessity another 30-day lag before that check can get to these poor families. This is a thought I would hope the conferees will bear in mind when they go to conference on this question.

Mr. MICHEL. Mr. Speaker, I would just say that part of that problem would have been resolved if my total substitute would have been enacted because under the CSA-grant approach, payments could be made beginning next month. That was one of the advantages to my approach, rather than waiting until January, February, or beyond.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield further?

Mr. MICHEL. I yield to the gentleman from California.

Mr. PHILLIP BURTON. As the gentleman is aware—and I have an amendment to deal with this later in the insular areas—in the event the insular areas are included, not automatically but included, not rendered ineligible simply because they are not mentioned, that in Guam and the Virgin Islands, at least, they do not have SSI, they have the precursor of SSI, old-age assistance. In the northern Marianas, however, they do have SSI.

Mr. Speaker, I would like the record to reflect that in the event these areas are protected, the old-age assistance aid to the blind and aid to the disabled, the three programs that were the genesis of what we now describe as SSI, shall be deemed the equivalent of SSI. I would hope that would prove to be the case.

Mr. EARLY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Massachusetts.

Mr. EARLY. Mr. Speaker, I would like to go to the justification. There is no one I have more respect for than the man in the well. However, in the justification the testimony is different. I think those people would be picked up. I quote:

> These funds are needed to pay a special energy allowance to SSI recipients who receive an SSI payment for the month of December 1979. The actual energy payments will be made after December 1979, as soon as possible. Although all recipients receiving an SSI payment in December 1979 are eligible for an energy allowance payment, cut off dates for the payment system to issue checks in January 1980 is mid December. This means that some recipients who become eligible in late December will not receive a check initially. We will make additional payment system computer runs in January, February and March to pick up these people.

Mr. Speaker, the people who are not on SSI in December who become eligible in January, February, and March will be picked up.

I thank the gentleman for yielding.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from Pennsylvania, but I first want to respond to the gentleman from Massachusetts that the item he reads from in the justifications indicates only that initial SSI payments will be made to people on the rolls as of mid-December. The later payments he refers to will only be made to those people coming on the SSI rolls in the last half of December. Those coming on in January, February, or March still will not be covered.

Mr. WALKER. Mr. Speaker, I wanted to clear up what I felt was a little confusing in the presentation by the gentleman from Kentucky with regard to the 125-percent figure that is in here. Can the gentleman clarify that for me? The gentleman from Kentucky referred to it a number of times and I wanted to get the information for the legislative history, that it is 125 percent below the poverty figure. If I read the bill correctly it is 125 percent of the poverty figure and below; is that correct?

Mr. MICHEL. That is correct.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. MICHEL was allowed to proceed for 5 additional minutes.)

Mr. MICHEL. Mr. Speaker, we are providing in the bill two block grant programs, one administered by the Community Services Administration and the other by HEW. I endorse the chairman's call for cooperation between these agencies, but frankly, it simply does not make sense to have two separate block grant programs administered by two separate agencies. Unless we have a complete merger of the programs, the States will have to deal with two separate sets of regulations, will have to submit two separate plans, will have to keep two separate sets of books, and will have to go through two different review cycles.

The States are given the option of either going with the HEW block grant program or making payments to all AFDC recipients, and I venture to say that many States will opt for the AFDC approach because it will be easier. My own State of Illinois has indicated as much. Yet, if the AFDC route is chosen, you have the same problem as in the SSI approach: Payments would go to all AFDC recipients, regardless of heating needs, and they would be in the form of cash grants, which means they can use the money for anything they want.

I simply do not think there is any justification for making automatic payments to AFDC recipients, because, frankly, many of these families get more than social security recipients. And I would venture to say that most social security recipients do a better job of conserving energy than do those on welfare. Yet social security recipients receive no special consideration under this bill, and in fact would have to depend for assistance on smaller block grant allotments

than what would be available if all payments were based on need.

The Northeast-Midwest Congressional Coalition sent out a memorandum this week which says the following about the approach contained in this bill:

The Administration's concept of direct, one-time payments to recipients of AFDC and SSI needs to be reexamined. While it may be practical from an Administrative point of view, this $1.2 billion program has serious flaws. Research shows that less than 50 percent of the needy households (125 percent of poverty level) would be assisted. On the other hand, many of those who do not need fuel assistance would nonetheless receive it. In addition, the average payment of $200 will not cover more than one fuel tank fill-up and in practice may not even be spent on fuel but on other necessities.

I offered an amendment in full committee designed to meet the concerns voiced by the coalition and correct the shortcomings in the bill I have cited. That amendment would have placed the entire $1.35 billion into a single block grant program, distributed through CSA and administered by the Governors.

By providing for one program administered by one agency, my proposal would have reduced the confusion, redtape, and bureaucracy, and by doing so, would have resulted in funds being made available to those in need by November, rather than January or February, as in the committee bill.

It would also have overcome the remaining warm weather bias in the bill by not making a distribution through the SSI mechanism. It would have insured the allocation of assistance to those with the greatest heating needs, both within States and among States.

Regrettably, the committee did not see fit to go along with the one block grant approach.

We could have done better—and should have done better.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield briefly?

Mr. MICHEL. I am happy to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I would simply like to thank the gentleman from Illinois, the chairman of the subcommittee and all of the members of the Committee on Appropriations and thank the Speaker for this initiative of bringing this matter of such great urgency so promptly to the House floor. I think we are demonstrating that when we need to the Congress can act rapidly. There are a lot of problems that remain to be worked out but we are responding to an urgent need and I want to thank the gentleman for his part in it.

● Mr. BINGHAM. Mr. Speaker, there can be no doubt that an emergency fuel assistance program is needed and needed now. In August 1977, the average price of a gallon of home heating oil was 47 cents. Today in the Bronx, N.Y., my home district, people are paying 85 cents and more. The hardship represented in that figure cannot be overestimated. The average American family using heating oil this winter will be paying $540 more this year than was paid last year for the same amount of fuel; $1,275 compared to $735 last winter. This is an extraordinary increase. How many of our constituents can afford that extra $540 over the course of 5 months? How many will be forced over the line to poverty or near poverty? How many just will not be able to pay their fuel bills and will face the awful choice of fuel or food?

As is so often the case, the poor and the near poor are being hit the hardest by these energy price hikes. This winter many low-income households will be devoting as much as 50 to 70 percent of their total earnings to pay heating bills. This is despite the fact that low-income families use, on the average, much less energy than middle- and upper-income families. Low-income families are incapable of reducing their energy costs through reductions in consumption simply because they, for the most part, have learned to live with the bare minimum of energy use. We cannot ask our elderly to learn to live with additional blankets and less heat. That is what they are doing already.

So it is essential that we enact this emergency legislation quickly. The administration would have had us delay action until the windfall profits tax was in place. Under the leadership of the Speaker and the Appropriations Committee (and of Senator JAVITS in the Senate), we are rejecting that "linkage" and moving on aid swiftly. Low-income and elderly people cannot be held hostage while the Congress deliberates over the size and scope of the windfall it is going to allow Exxon and Mobil and the others to keep. As I said in testimony last month before the Senate Labor and Human Resources Committee, it would have made good sense to link decontrol of oil prices to passage of a tough comprehensive windfall profits tax. The President chose to reject that in favor of a linkage of emergency fuel assistance with the windfall tax, a linkage which could only penalize the innocent—the poor and the elderly—while leaving the oil companies untouched.

The supplemental appropriations we are voting on today will not end the problem of higher energy costs. The combination of OPEC greed, and oil and gas decontrol guarantees that skyrocketing energy prices are here to stay. I oppose decontrol and have voted against it again and again but, unfortunately, the administration and the majority of the Congress seem to favor that approach, and opponents of this policy like myself have not been able to muster a majority to block it. This fuel assistance can help ameliorate the problem for some people but it will not cure it. In essence, it will only help those on the poverty line or close to it, while it will allow the rest of the people to fend for themselves. Still this $1.6 billion program is an important step.

The supplemental appropriations before us includes $1,350,000 for energy assistance. This amount, together with $250,000,000 appropriated earlier, will provide a total of $1.6 billion for the coming winter. Of the total amount $400,000,000 will go to the Community Services Administration to be distributed to the States for "crisis intervention." The States will make this money available to low-income families through local community action agencies and other existing delivery systems. Payments will be made to help people meet their emergency fuel needs to insure that no one freezes while he or she waits for a fuel delivery or a boiler repair.

Another $1.2 billion will be transferred to the Department of Health, Education, and Welfare. Of that amount, $400 million will be paid as a one-time energy allowance to recipients of supplemental security income—SSI. Another $800 million would either go to States in the form of block grants to be distributed to households with incomes under 125 percent of the poverty level—approximately $9,000—or to recipients of welfare—aid to families with dependent children.

I do not claim that this program is perfect. Last month in my testimony before the Senate Labor and Human Resources Committee, I urged that any fuel assistance program include middle as well as lower income families. I do not think it is good policy to deny middle income families the assistance which might be necessary to keep them from joining the ranks of the poor. I am supporting legislation which would, in future years, provide a tax credit to help families with incomes under $20,000 with their fuel bills. I also urged that any fuel assistance program specifically target renters. The resolution before us provides almost $800,000,000 to the States in the form of a block grant. A Governor, in allocating his State apportionment to those under $9,000 in income, will be able to apply some of those funds to help tenants deal with higher rents brought on by higher energy costs. This is essential if we are going to help those renters who are now being hit by fuel "pass-along rent hikes" in cities like New York and Washington, D.C., among others.

In conclusion, I believe that this legislation is a start toward a decent fuel assistance program. It does not go far enough toward protecting consumers from these incredible price hikes. I believe that we can do better and I trust that next year when the windfall profits tax is in place, we will be able to greatly expand this program. The other day we learned that Exxon's earnings have jumped 118 percent this quarter; Gulf's earning are up 97 percent, Texaco's are up 210 percent. In light of these amazing—or as Senator HENRY JACKSON said "obscene"—profits, we can certainly realize enough tax revenues to insure that not a single American will have to freeze or go hungry because of energy costs. This supplemental appropriations bill is a step down the road but we have to go a good deal farther if we are going to help people cope with these unconscionable price increases.●

□ 1250

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I am confused by the feeling of the committee that they had to give this money to two different agencies. Why was it done that

way? Why was not the money just simply paid?

Mr. MICHEL. Well, I think there was some concern that the track record of the Community Services Administration was not the best, and I do share some of that concern.

Mrs. FENWICK. Then why did we not give it all to the other?

Mr. MICHEL. Essentially because CSA is already well underway in distributing the money we had previously appropriated. As I indicated earlier, I do have serious concerns over the fact that payments under SSI are just cash grants. They could be used for anything. There is no difference between hot weather, cold weather, and warm weather. The same thing with AFDC.

Mrs. FENWICK. But that is not in the second part of the bill. It is all tied to degree days, is it not?

Mr. MICHEL. Well, the formula which I had adopted is an improvement over the current one, because, for instance, in the case of Illinois and Texas, where the populations are similar, we have 6,000 heating degree days in Illinois, while Texas has just 2,000.

By rights, our payment for the colder area ought to be three times, but under the current formula it is only about 1.8. Minnesota and Louisiana are comparable States, in terms of population. Minnesota has five times the heating degree day factor as Louisiana, but under the current formula that I have now revised to correct that inequity, the payment would have been only two and a half times; so we have made some improvement in the formula, but the overall distribution is still not quite right.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. MICHEL) has again expired.

(At the request of Mr. LATTA, and by unanimous consent, Mr. MICHEL was allowed to proceed for 5 additional minutes.)

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Ohio, but let me yield first to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to go back and try to emphasize one of the points that the gentleman passed over, but I do not think emphasized quite as much as I would like to have it done.

The gentleman mentioned our colloquy in the Committee on Appropriations yesterday about the automatic payment of these benefits under SSI or the AFDC program.

What is going to happen in many cases where people are living together in congregate housing or public housing or maybe four or five people who have joined together to live together, each one of those if they are eligible for SSI or AFDC are going to get the money, whether they are paying their own utility bills or not. In the case of so many of these congregate housing facilities and public housing projects, they do not pay the utilities. It is paid for them. But they are still going to get the money.

Now, if they get money when they do not need it for heating expenses, then someone who really does need it under this particular plan is not going to get as much as they need.

I thought we perhaps ought to go back to that point to emphasize that this is not the best way to distribute these funds. It may be the easiest. It may get rid of the money, but it is not necessarily going to make sure that people who need it to warm their places of dwelling during the cold winter months will get the help that they need.

Mr. MICHEL. Well, the gentleman's point is very well taken. The reason I make the prediction that some of our States that normally one would think could develop their own plan are going to opt for AFDC is because even though they petition the Congress for a balanced budget, they are strapped in their State budgets. They think they ought to increase their welfare benefits, but they say, "Hey, boys, maybe we won't have to do that, because the Congress is now so beneficent. They are going to give us funds here supposedly for home heating," and it is just going to be a cash grant for every AFDC recipient; so the State will say, "Well, you got an increase and it all came from the Federal Government."

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Yes, I am happy to yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I wish to thank the gentleman for yielding and I would like to commend the gentleman for the hard work that the gentleman has put forth in the last couple of days in trying to iron out some of the inequities in this legislation.

The gentleman has touched on many of them, but I would like to go back, as the gentleman from Florida just did, to this matter of the social security recipients.

About what percentage, if the gentleman knows, are the social security recipients on SSI payments?

Mr. MICHEL. Well, the gentleman poses a question to me off the top of my head that I cannot answer, but I would be happy to do that and fill out the record for the gentleman.

Mr. LATTA. Well, the point I want to make is that the great bulk of our social security recipients are not covered by this legislation.

Mr. MICHEL. Of course, they are not.

Mr. LATTA. Because they are not under SSI payments; but they are still being subjected to these excessively high energy costs. The people who have not been running down there, even though they were entitled to SSI payments and getting them, are going to be left out in the cold, so to speak, under this legislation.

I hope that something will be done to take care of these people, if we are going to pass this type of legislation, because I think it is unfair to these people, the great bulk of them on social security, who are not covered.

Mr. MICHEL. Well, currently those people will have to be picked up in the $400 million CSA grant, because there is not a requirement for an automatic allocation as there is for SSI and possibly AFDC. But then, let us face it, and the gentleman serves on the Budget Committee and I know what trauma they have got to go through here, if we make a further step up the ladder, as we have done with food stamps, we will be opening it up to the same drastic increase that has taken place in food stamps, which started out as a $25 million pilot project and now is over $8 billion. This is the concern I have here.

Mr. LATTA. Mr. Speaker, if the gentleman will yield further, let me ask the gentleman one other question.

I have heard the discussion that a person on SSI payments under the legislation that is drafted, who might be living in a rest home would automatically get that payment, even though they do not have any heating bills.

Mr. MICHEL. Yes.

Mr. LATTA. How can we justify that type of payment?

Mr. MICHEL. This will go out through the computer.

Mr. LATTA. How can we justify that payment?

Mr. MICHEL. This is part of the concern that I have, because it is an automatic thing. The only justification for those who are wedded to the proposition is that they are the poorest of the poor and we have recognized that in times past. Therefore, what additional benefit they get from this program will not be all that bad, because it is a little bonanza from the Federal Government. I do not happen to believe that we have sufficient funds to be that generous where there are not specific increased needs.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. MICHEL) has again expired.

(At the request of Mr. RHODES, and by unanimous consent, Mr. MICHEL was allowed to proceed for 3 additional minutes.)

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to our distinguished minority leader.

Mr. RHODES. Mr. Speaker, is it not true that the practicalities of the situation are such that most of the State legislatures do not meet until January and some of them later on and that is when the winter is half over, so that from a practical standpoint is it not more than likely that this money, if we do vote it, will be distributed to SSI and to AFDC?

In other words, there is not really much of a chance that the States would be able to put any plan into operation, is there?

Mr. MICHEL. I do not think it is necessary that a legislature meet, in most States, to enable the State to participate. Most Governors have the authority to approve State participation, particularly when no State money is involved.

□ 1300

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield, State law provides for that. State law allows it.

Mr. RHODES. Mr. Speaker, that would be in accordance with the law of the State, if the State allows it.

Mr. MICHEL. Of course.

Mr. RHODES. Mr. Speaker, if the gentleman will yield further, is it not likely that most of the people who are in the working poor category, because of the fact that the legislators are not going to meet, will not really be helped by this legislation? Are we not talking mainly about SSI, AFDC, and also the CSA and people on food stamps, things like that?

Mr. MICHEL. Yes.

Mr. RHODES. Are we not talking about people who are already getting welfare?

Mr. MICHEL. There is no question about it, and as the gentleman from Ohio (Mr. LATTA) says, his concern is for those who fall between the cracks here.

Mr. RHODES. And I am sure the gentleman will agree, because he has been the main Member of the House who has brought this fact out, that the Department of Health, Education, and Welfare already admits it is wasting $7 billion on the welfare plan. Is this not just likely to make the figure $7.5 billion?

Mr. MICHEL. Mr. Speaker, I would certainly hope not, but I would not bet on it not happening, what with the track record in this area. That is precisely the problem with rushing legislation through without proper consideration.

Mr. RHODES. Mr. Speaker, I want to thank the gentleman from Illinois (Mr. MICHEL) for the remarks he has made and also for the fine work he has done in bringing what I think is some semblance of sanity to this. But I am not sure he has reached the threshold as yet so that I can support the legislation.

Mr. MICHEL. Mr. Speaker, I understand the gentleman perfectly, and, frankly, there are doubts that that has taken place here. There are dog-gone good arguments for a Member to vote against this bill and not be accused of being against those who are in need, because, frankly, I still have reservations that we have not yet tightened up as tightly as we ought to.

Mr. Speaker, I would hate to see Members criticized for voting against this proposition when it came to us the way it did, in such a furor of haste, to the extent that we practically have to write it on the floor of the House.

Mr. WHITTEN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I thought for the record we might set the matter straight, since some of our Members have not realized that the matter before us appeared first in an amendment on the Senate side to the appropriations for the Department of the Interior early last week. There was a Presidential budget estimate submitted in connection with this program on October 12. The Senate amendment is very short and it is pretty difficult to know just exactly what was intended. I shall read it:

COMMUNITY SERVICES ADMINISTRATION

EMERGENCY FUEL ASSISTANCE

For emergency fuel assistance programs administered by the Director of the Community Services Administration under section 222(a)(5) of the Economic Opportunity Act of 1964, $1,200,000,000.

Now, that is the complete explanation and the authority for the matter as it was considered by the other body.

It was my suggestion, when asked by the leadership, that the Committee on Appropriations deal with this subject in the conference on the Interior appropriations bill, where we would have time to work this matter out and give some additional thought to that act in order to see that the deplorable situation that existed last winter in many areas of the country would be taken care of.

It was the judgment of the leadership and others that a separate bill would be preferable. That is the reason that this was handled in such short order plus the early need. We were glad to cooperate. We did have a hearing, and the Speaker and others who are familiar with this issue participated and other interested parties presented testimony. It could not be in better hands than it was and than it is, under the sponsorship of the gentleman from Kentucky (Mr. NATCHER), whom we all admire and respect for his sincerity and his ability.

But I rise not only to point out that that was the limit of our consideration but all the debate here leads me to believe, as I thought yesterday when the committee considered this, that the law, if it is going to work and reach the problem, is going to have to be written in conference. The bill before us, in my judgment will not fully resolve the problem. When I first saw the bill, as drafted, as I understand it, by the Department of Health, Education, and Welfare, I felt it had no reference to meet the point of supplying assistance to those who had this terrible heating problem.

First, let me say for the record that a review shows that the SSI recipients received on July 1 an increase of 9.9 percent in their payments as a cost-of-living increase, part of which included the increase in heating costs.

May I say further that the bill as it was presented, in my opinion, did not require that the $1.2 billion go to the persons that we have described here where the need is so urgent. Seeing that, provisions were included which no longer appear in the bill, as follows:

Provided further, That individual recipients of funds under this program shall certify that funds received were used for fuel payments and this certificate shall be signed by the fuel supplier, and such certificate shall be transmitted to such central office for the State or region as may be designated by the Secretary of Health, Education, and Welfare.

Now, there are a number of reasons why those provisions could be difficult to administer as they are worded, but it does point up the fact that in the absence of them there is nothing in the bill that would direct us to the point where we could check and see if the funds were received or used for the purposes for which the legislation was sponsored.

If we had further time—and we did not—we could have changed those words to say for example something to the effect: "Provided further that individual recipients of funds under this program shall certify that funds received were used for fuel payments or increased rents resulting from increased fuel prices."

The language could be adjusted in any number of ways to assure that funds effectively reach those who are most severely impacted by increased heating expenses.

Mr. Speaker, I have heard complaints in this House today about recordkeeping and the cost of recordkeeping and certification. I would remind Members of the statements of the former Secretary of Health, Education, and Welfare that some $7 billion had been lost under the general heading of "waste, fraud, and abuse," partly due to inadequate or nonexistent recordkeeping and certification procedures. I personally feel that the language concerning certification can and will be added in conference and that there will be time to make other adjustments designed to improve the effectiveness of this program.

Mr. Speaker, I do say again that in reference to the situation we are dealing with, the SSI recipients received on July 1 an increase of 9.9 percent in their payments to offset the increased cost of living, which included increased heating bills.

When we get through here, I think we will see that the value of the debate we are having here will be for the benefit of those who have to write a bill, since it really does not have many restrictions or specific requirements at all and much of what we have here is hopeful thinking. For instance, if a State has block grant, then they have to submit a plan. There should be guidelines for plans. These things should be spelled out in the bill, in my opinion, so that plan will assure the money goes to those who have the need, because if we dissipate the funds in increased payments to SSI and increased payments to other recipients and leave out those who are in real need, we will have missed the point.

So far as I can see, under the present bill no application is required of the recipient, no certificate is required as to receipt of heating oil or other energy. No acknowledgement of delivery is required.

With no records required, what good would an audit do?

How about other sources of heat other than oil?

Why limit to a comparison between 1978 and 1979? Why not include 1976 and 1977 when rates for gas and electricity increased rapidly?

Also, Mr. Speaker, housing is usually built to meet the normal needs of the area. This means the heating bill may be as great in a warmer section of the country as in a colder area. In the North, you do not have houses built on blocks with open space underneath. Many other areas do.

What really is at fault here is that there seems to be no assurance that the payment goes to meet the urgent need, or the person who has it.

Neither are there any guidelines which the States are required to follow.

These matters may be taken care of in the writing of a bill in conference—but I do not believe they are sufficiently provided for in the bill before us.

Mr. Speaker, the point I make is that this is a bill and not the law, and we will have to make a whole lot of improvements before it will be a worthwhile law to meet the needs which we all recognize. I anticipate that we will have an

opportunity to achieve this in conference and hence, Mr. Speaker, I support this resolution at this time.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on October 23, 1979, the President approved and signed bills of the House of the following titles:

H.R. 898. An act for the relief of Rodney L. Herold and others; and

H.R. 1301. An act to amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes.

LOW-INCOME ENERGY ASSISTANCE SUPPLEMENTAL APPROPRIATION

The SPEAKER pro tempore. The House will resume its business.

Mr. CONTE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in strong support of House Joint Resolution 430, the bill to provide an emergency supplemental appropriation of $1.35 billion for heating assistance to the needy. This will bring the total amount of funding available for energy assistance to $1.6 billion this winter.

The urgency of this request should be self-evident to every Member of Congress. It is already the end of October, and cold weather has hit many parts of the country. Many people face the prospect of paying heating bills that have risen dramatically since just last year, and last year these bills fell as a cruel blow on many families and elderly homeowners.

This supplemental appropriation is being brought up for your rapid consideration and approval, because we in Congress have a grave responsibility to the poor and the elderly—to spare them from the choice between freezing and starving. It would truly be a shameful act for this Congress through lack of speedy approval of this bill, to allow anyone in this land of such vast wealth to face a frigid and perhaps fatal winter. That is why we must pass this bill today.

Mr. Speaker, my colleagues know that I have been no stranger to this well in the past months—and most of my trips here have been to decry either the latest increase in fuel prices or, more often, the latest reported increase in oil company profits. As the prices rose to the level of intolerance and as the profits rose to the level of obscenity, I have asked for, I have hoped for, I have prayed for the kind of emergency assistance being presented to you today.

I will admit that the bill before us is based, at least in terms of dollar estimates of need, on an administration request. But I—many of us—were far from satisfied with that request. First, there was an intolerable delay in sending up the request for the supplemental.

Second, the official request tied the availability of those urgently needed funds to passage of the windfall profits tax. Well, President Carter finally had his supplemental request up here on October 12, and we are ready to act on it today. The speed with which the Labor-HEW Subcommittee and the full Appropriations Committee have dealt with this legislation are perhaps the best measure of just how serious we consider this bill to be.

Furthermore, this appropriation is no longer directly linked to passage of the windfall profits tax. It goes without saying that if and when a windfall profits tax is enacted, the general revenues of the Treasury from which this appropriation has been made should be replenished. However, the immediacy of the need of our Nation's poor precludes the possibility of our awaiting final passage of this tax. We all know that the Senate committee version of this tax differs markedly with the House version of this legislation, and conference on this bill could well be a long and hard process. This reality removes the luxury of awaiting enactment of this legislation.

This appropriation will go out now because the poor and elderly in this country require this money right away.

I would like to discuss with you the provisions of this legislation.

This appropriation makes available $1.35 billion which, together with the $250 million already appropriated for this purpose in the budget of the Community Services Administration, will provide a total of $1.6 billion for emergency fuel assistance.

Both in subcommittee and in full committee yesterday, action has been taken to try to assure that this money would be directed to those States where the weather was harshest and the need greatest. First, the subcommittee acted to shift allocation of most of this funding from the HEW formula to the CSA allocation formula, which takes account of both heating degree days and the number of poor. Yesterday, in full committee, on an amendment offered by the distinguished ranking minority member of the Labor-HEW Subcommittee, Mr. MICHEL, and on an amendment which I offered, the full committee acted to change the formula CSA uses, in order to further accentuate heating degree days, and to make sure that only changes in heating energy costs be calculated into the allocation, thereby trying to make sure that cold weather States get the bulk of this appropriation.

Of the supplemental, $150 million will be added to the $250 million already appropriated for the Community Services Administration, allowing a total of $400 million to be given out to States in block grants through this agency. This money can be used in a variety of ways to help low-income individua's who are having problems dealing with the cold, harsh winter. This money can be made available through vendor payments for heating charges or even for supplying blankets and heaters to families in need.

Also, $404 million will be distributed by HEW to all SSI recipients in the country. Of course, individuals in Alaska will receive more than those in warmer States, but all SSI recipients will receive some payment, since it is believed that increased energy costs land particularly hard on the needy elderly.

The balance of this appropriation, roughly $790 million with a few dollars left over for administration—will either be distributed to eligible AFDC recipients in each State, or, Governors may opt out of this approach, and submit a State plan to HEW, which details how they would like to allocate their funds in the State, thereby foregoing the AFDC approach. The committee believes this will give States the freedom to decide for themselves who the needy are and how best their needs can be met.

Mr. Speaker, I do not claim that we have set forth a perfect plan here. What we have done is present to the Congress a workable plan which rapidly disburses funds the elderly and low-income populations desperately need to face the harsh winter ahead. I urge an overwhelming vote in favor of this legislation, so that this Congress can demonstrate that it is capable of swift and firm action when the need is urgent.

□ 1310

The SPEAKER pro tempore. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

(On request of Mr. RHODES and by unanimous consent, Mr. CONTE was allowed to proceed for 2 additional minutes.)

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I wish to explore with the gentleman from Massachusetts (Mr. CONTE), my good friend, the matter of State participation. If a Governor does not call his legislature into session, can the Governor submit a plan which he himself has devised to the Department of Health, Education, and Welfare, and if he does, will the Department then pay the funds to the State, in accordance with the formula rather than to the beneficiaries of AFDC and food stamps?

Mr. CONTE. First let me preface my remarks by saying that if he, under the State law, has that authority, yes, the State Governor can do it without the legislature. He has 30 days to do that. He submits his plans, then HEW has 15 days to approve that plan. If they approve that plan, then it goes back to the State for administration.

Mr. RHODES. If the gentleman will yield further, the real test is whether or not the Governor has that authority under the existing law of the State ——

Mr. CONTE. That is exactly right.

Mr. RHODES (continuing). To submit such a plan, which would then be legally binding on the State.

Mr. CONTE. The gentleman from Arizona is absolutely correct.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I certainly want to commend and to associate myself with the remarks of the gentleman from Massachusetts (Mr. CONTE) to commend the gentleman from Kentucky (Mr. NATCHER) for bringing this measure to the floor, for trying to expedite its passage before the winter months are upon us and in trying to resolve the imminent heating fuel crisis confronting our low-income families.

I rise in support of House Joint Resolution 430, the low income emergency fuel assistance bill.

Time is running out for the Congress to act in order to meet our Nation's need for home heating oil for this winter. A significant concern in addition to meeting the escalating costs of home heating fuel, is the problem of secondary distribution. Secretary Duncan recently assured us that the Department of Energy, having met the stockpile requirements of 240 million barrels of home heating fuel by the end of October, is doing everything possible to make certain that the stockpiled fuel will be distributed to both the independent dealers and to their customers. Hopefully, then, supply will not be a problem. However the critical issue of exorbitant heating oil prices remains unresolved. Simply stated, many Americans will not be able to pay their home heating fuel bills this winter. Equally obvious is the fact that the oil companies are primarily responsible for this dilemma and are showing no signs of reducing their profits. To put this situation into better perspective I would like to insert at this point in the RECORD several articles which appeared in the New York Times of October 24, 1979, describing just how "surprisingly large" the profits of the major oil companies have been in this quarter alone:

BIG INCREASES MAY BOLSTER TAX PROPOSAL

(By Anthony J. Parisi)

Only a handful of oil companies have released their third-quarter earnings thus far, but it is already clear that the current round of oil profits will surpass the startling increases that riled the public earlier this year.

Even analysts who follow the oil industry closely say the current increases are surprisingly large. The companies' earnings were expected to be big, they say, but not this big. In their view, the recurring surges in oil profits suggest that upward swing that began in the first quarter will continue quite a bit longer than was expected.

If so, that would weaken the oil companies' often-repeated argument that such surges merely offset their slumps and result, over the long haul, in overall profits that are not out of line with those of industry in general. The oil companies have leaned heavily on this rationale in their campaign against President Carter's proposal for a stiff tax on "windfall profits" in the oil industry.

"Windfall tax, here we come," Dillard P. Spriggs, president of Petroleum Analysis Ltd., said after hearing that Exxon had reported a jump of 118.1 percent in its earnings. Like other Wall Street analysts who specialize in oil, Mr. Spriggs had thought the companies' profits would start to taper off by now.

FUNDAMENTAL CHANGE HINTED

"But that was before world prices kept going up," he said. "Now, you've got to expect that everybody is going to do pretty well."

Analysts interviewed after the latest profit reports said the continued strength in earnings might indicate that a fundamental change is under way in the oil business worldwide. Such a change could keep market forces from moderating these gains as readily as in the past.

It is already apparent, the analysts note, that the Organization of Petroleum Exporting Countries has managed to keep the oil market tight despite having almost doubled world prices in less than a year.

And now, they say, there are signs that OPEC may succeed in coordinating production cutbacks next year to prevent a recurrence of the glut of oil that followed the runup in prices during the Arab oil embargo. It was that glut that held petroleum prices and profits in check until this year.

Orchestrated cutbacks on so large a scale would be new, even for OPEC. In the past, the cartel has managed to raise prices dramatically only after some independent political event had reduced output, creating a shortfall. The quadrupling of prices in late 1973 followed the Arab oil embargo, which in turn followed the Arab-Israeli war. The doubling of prices this year came after the downfall of the Shah and the faltering in Iran's production.

If the cartel is indeed moving into a new phase of control, the analysts who were interviewed contended that a windfall profits tax would make both political and economic sense even from the industry's point of view.

Otherwise, they warned, the public backlash against high oil earnings might be so vehement that Washington would be forced to reverse the trend away from price controls on oil. A growing number of energy experts, in and out of the Government, say it was mainly those controls that got the United States into its current energy predicament in the first place.

There is little question that the third-quarter profits announced so far have the potential to create a powerful backlash. Yesterday Conoco Inc. overshadowed Exxon's gain by reporting a profit rise of 133.6 percent. The Gulf Oil Corporation, meanwhile, said its earnings rose 97.2 percent. Earlier, the Standard Oil Company (Indiana) reported a 48.6 percent increase, and the Atlantic Richfield Company said its earnings were up 45.3 percent.

STRONG PREVIOUS QUARTERS

"It's been mind-boggling," said Robert C. LeVine, who follows the oil industry for E. F. Hutton & Company. "After the first-quarter reports, we cautioned investors that this kind of thing was not sustainable, that it was a bubble. We said the same thing after the second-quarter reports. And here we have these big third-quarter results. Now I believe we're going to see these profit levels for a while."

The third quarter of 1978 was a relatively poor one for the oil industry, muddying comparisons with this year's figures. But Mr. LeVine pointed out that the profits reported so far not only have been high but also have exceeded the expectations of analysts who try to keep their earnings estimates as current as possible.

He and others also said they now see no reason to expect anything different in the fourth quarter. And with OPEC almost certain to put through another big price increase by the end of the year—and to adjust output to take up any resulting slack in demand—the analysts said profits in the first three months of 1980 might even exceed this year's first-quarter results by a big margin.

By contrast, in 1974, the last time oil profits surged so dramatically, the industry's earnings started to level off during the second half of the year. By 1975 they were actually slightly below normal compared with the return in other industries. They remained somewhat average until this year.

QUARTERLY EARNINGS SOAR AT GULF OIL AND CONOCO

The Gulf Oil Corporation reported yesterday that its third-quarter earnings had almost doubled, and Conoco said its profits were more than twice the level of the year earlier quarter.

The two companies' profit announcements followed by a day Exxon's announcement of a 119 percent rise in third-quarter earnings. Atlantic Richfield reported a 45.3 percent rise and Standard Oil (Indiana) posted a 49 percent rise.

Conoco and Gulf, like the other companies, emphasized that only a small portion of the increased earnings resulted from larger profits from the sale of gasoline, heating oil and other products in the United States. Most of the increase, they said, could be traced to better results from operations abroad, where there are few government price controls.

GULF OIL

Gulf, the nation's fifth largest oil company, the quarter rose 97.2 percent to $416 million, or $2.13 a share, from $211 million, or $1.08 a share, a year ago. Revenues in the quarter rose 33 percent to $6.74 billion from $5.05 billion.

Much of Gulf's foreign improvement came from Europe, where the company went from a $1 million loss in the third quarter of 1978 to a $107 million profit this year as its share of production from Britain's North Sea oil field increased sharply.

Gulf the nation's fifth largest oil company, also said the European improvement was due to "the tight supply situation, a more liberal attitude by European Governments in allowing the prompt pass-through of increased costs and the weakness of the United States dollar."

CONOCO

Conoco, the nation's ninth-largest oil company, said its third-quarter profits rose 133.6 percent to $247.1 million, or $2.30 a share, from $105.8 million, or 98 cents a share, in 1978's third quarter. Sales for the Stamford, Conn., based concern rose 41 percent in the quarter to $3.5 billion from $2.4 billion in the year-earlier period.

Conoco said third-quarter profits from its worldwide operations increased to $212.4 million from $123.6 million a year ago, with this year's figure including a one-time gain of $32.6 million from a change in British tax law.

Without that change in the law, the rise in Conoco's third-quarter profits would have been reduced to 103 percent, the company said.

Conoco said the strength in overseas operations helped balance a decline in the earnings of its coal operations. Conoco owns Consolidation Coal, one of the nation's largest coal companies.

In view of the incredible profits these oil companies are enjoying, and considering the inevitable financial hardship facing the elderly and those on fixed income in our country, in view of the steadily dropping outside temperatures

and considering all the time it takes to implement any program once it has been passed, I will be voting in favor of this measure and I urge my colleagues to do the same.

The provisions of this emergency fuel assistance bill will enable the States to be awarded money in the form of block grants ($250 million), with the money to be distributed according to approved State plan to households with incomes below 125 percent of the poverty level. Other portions of the appropriated funds would go toward a one time allowance to recipients of supplemental security income (SSI), with $404.8 million set-aside, and finally, $791.2 million to be used for special energy allowances to recipients of aid to families with dependent children (AFDC).

Nevertheless, I am concerned that this program will not be sufficient to stave off a severe winter. In my weekly series of remarks on the home heating fuel crises (CONGRESSIONAL RECORD, pages 24942, 24944, 25779, and 26956, in the respective RECORDS of September 17, 21, 29) I have pointed out that the low-income groups spent roughly 24 percent of their income on heating costs last year. With the price of a gallon of home heating fuel now costing upwards of 88 cents, it is anticipated that these same groups will be spending 50 percent of their income on heating bills. House Joint Resolution 430 appropriates only $1.35 billion for special energy assistance. This program does not take into consideration those lower ("working poor") income families that may not be eligible for this assistance, and therefore, will continue to face further hardship.

Despite some of the flaws this bill has in terms of insufficient funds and an ostensibly inequitable assistance requirement, it is a significant step forward in providing some immediate relief to those people who will be the first priority on any emergency list.

Hopefully, as the House and Senate consider further supplemental emergency fuel assistance measures, a broader scope of financial assistance will be considered coupled with a reimposition of price controls on home heating fuel so that the oil companies will not continue to be subsidized by these programs.

It is apparent that we will continue to be challenged by problems of fuel supplies and fuel prices in the months and years ahead. The OPEC cartel, scheduled to meet next month in Venezuela, will not be negotiating in the interest of the American consumer. It is neither understandable nor justifiable for our oil companies to follow the questionable tactics of the oil-producing countries. To avoid disaster, it is imperative that we undertake steps to curb excessive price abuse by our oil companies and, it is imperative that we do not delay in adopting any measures directed toward protecting our constituents from the severe burdens of exorbitant heating fuel prices.

Accordingly, Mr. Speaker, I urge my colleagues to support House Joint Resolution 430.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, if I could just add to what the gentleman in the well has said—and I think he has made an excellent statement—there are a great many Governors who already have the authority under the law to do exactly what he said.

Mr. CONTE. Definitely.

Mr. OBEY. In addition, there are a number of States which are planning special legislative sessions, such as Connecticut, which is coming up in a week or 2 weeks, such as Wisconsin, which is going on right now, so that those States will have much greater flexibility if the need arises.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts (Mr. CONTE) has again expired.

(On request of Mr. OBEY and by unanimous consent, Mr. CONTE was allowed to proceed for 2 additional minutes.)

Mr. OBEY. If the gentleman will yield further, Mr. Speaker, I would also like to point out, since the objection has been raised on the question of the windfall profits tax, page 33 of the committee hearings, and Mrs. Harris, when she was asked about that very question, said as follows, in response to a question from the gentleman from Kentucky (Mr. NATCHER), when he said:

You are not asking us to wait until the windfall profits bill is passed, are you?

Secretary Harris said as follows:

I don't recall that we have ever specifically given a condition for 1980 of passage. What we must have is assurance of reimbursement. I am convinced, on the basis of what has happened, both on this side of Congress and on the Senate side, that we can be confident today we will have a windfall profits tax, that we will have a reimbursement. I believe that it is so certain that there is no reason for us to delay proceedings with the determination of the structure of this program. It has always been assumed that there would be a reimbursement from the windfall profits tax for the 1980 low-income energy program.

The point is, simply, that everyone believes there is a linkage but they do not believe that the delay which has been experienced in the Senate should be used as an excuse to deny to people who need assistance now the assistance they need now, not next March or next April.

Mr. CONTE. The gentleman from Wisconsin is absolutely correct. I questioned her at great length before the committee and said that there should not be a linkage here; that if the windfall profits tax goes through, definitely there will be a reimbursement, but let us not hold this bill here a hostage to the windfall profits tax, and she agreed.

AMENDMENT OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIAIMO: Page 3, after line 3, insert the following new sentence: "Notwithstanding any other provision of law (whether enacted before, on, or after the date of the enactment of this Act), no portion of any windfall profit taxes imposed by Federal law on producers of domestic crude oil may be transferred to any other use except to the extent that the amount of such taxes exceeds the amount appropriated by this Act."

Mr. NATCHER. Mr. Speaker, I make a point of order against the amendment offered by the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I concede the point of order.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. GIAIMO) concedes the point of order and the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIAIMO: Page 3, after line 3, insert the following new sentence: "None of the funds appropriated by this Act may be obligated before the date of the enactment of any Federal law imposing a windfall profit tax on producers of domestic crude oil."

Mr. NATCHER. Mr. Speaker, I make a point of order against the amendment offered by the gentleman from Connecticut (Mr. GIAIMO).

The SPEAKER pro tempore. Does the gentleman from Kentucky wish to be heard on the point of order?

Mr. NATCHER. I would like to be heard on the point of order, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, the amendment before us violates the rules of the House, inasmuch as it is not germane under clause 7, rule XVI.

The amendment clearly goes beyond the bill and, in fact, addresses an entirely separate piece of legislation that is not referred to in any manner in House Joint Resolution 430.

I urge the point of order be sustained.

We have ample precedents, Mr. Speaker, of similar situations which clearly show that an amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane. I cite Deschler's Procedure 28.4, Mr. Speaker.

□ 1320

The SPEAKER pro tempore. Does the gentleman from Connecticut (Mr. GIAIMO) wish to be heard on the point of order?

Mr. GIAIMO. Mr. Speaker, I insist upon my amendment. I do not think it is subject to a point of order. I think the gentleman's arguments are more aptly applied to my first amendment. The amendment which I am offering here addresses itself to this legislation. It is simply a limitation and says none of the funds appropriated can be obligated before the date of enactment of any Federal law imposing a windfall profit tax.

That is a simple limitation, which I think is not subject to a point of order.

Mr. NATCHER. Mr. Speaker, I still respectfully insist on the point of order.

The SPEAKER pro tempore. The Chair is ready to rule.

The Chair has examined several precedents and would like to point to chapter 28, section 4.11 of Deschler's Precedents:

To a bill extending and amending laws relating to housing and the renewal of urban communities, an amendment providing that no funds could be appropriated or withdrawn from the Treasury for the purposes of the bill until enactment of legislation raising additional revenue, was held not to be germane.

The CHAIR sustains the point of order of the gentleman from Kentucky (Mr. NATCHER).

Mr. GIAIMO. Mr. Speaker, I move to strike the last word.

I just want to point out to the House the extent to which we will go to pass this legislation.

Clearly—clearly—this legislation arose as a result of the efforts to have a windfall profits tax. Here we are raising points of order, to which I would respectfully object, but I shall not object to the ruling of the Chair.

I think it is a mistake. I am opposed to this legislation. I am very seriously opposed to this legislation. I am not opposed to the problem of heating requirements of poor people, however.

Let me just give my colleagues the history of this legislation. We had a relatively modest program of $200 million, if one can call $200 million modest, in 1977 because of an emergency, a disaster, a very severe winter, which required disaster-type assistance.

So, we came along with a community services program of $200 million, designed to alleviate and give relief in that disaster.

The States and the Governors, being rational, intelligent people, liked this program. So, they said to themselves, "How can we make this program a permanent one?"

They began to think up ways to make it a permanent program, and they did. As a result, we have had a continuation of the community services program, albeit at a smaller amount of money, $250, $400 million, in this year's budget.

Along comes the energy crunch, inflation, if you will, and higher energy prices, and we now have a runaway, $1.6 billion, program. Of course, energy is going up. Of course, fuel oil and fuel prices are going up. Rental incomes, food, health care requirements and medicines also are going up. But so are all of the requirements of the American people, particularly of those who cannot afford them, going up.

I am not talking about the wealthy people here. They can pay their bills in this country.

I am talking about those who have difficulty paying all of their bills. So we single out fuel.

We have been talking here for several hours about the importance and necessity of making certain that people can pay their heating bills this winter. What about their medical bills? What about their food bills? What about their rent?

Let me say something to this body. The poor, those who are addressed in this bill, the recipients on SSI or AFDC or community services, those 125 percent of the poverty level, are going to be the recipients and the beneficiaries. I submit to the Members that we are not even beginning to touch the problem when we address ourselves to them. We are not going to do it.

I submit further that those people are going to have their areas heated this year. They are not going to freeze in the United States. They are not going to freeze. This body knows it, and I know it.

The question—the issue here today—is not whether or not they freeze.

I will submit to those Members who will say I am heartless and have no concern for the heating needs of the poor that I will let my 20-year record in this place—record of accomplishment for the poor, starting with medicare legislation—stand and speak for itself.

I will submit to this body that the issue is not whether or not we are going to provide the money to eliminate the danger facing them. If we do not provide the money, I submit that the States or the local communities will.

The issue here today is should we make this a Federal responsibility. Should we here today, without benefit of authorization, create a new entitlement program which I guarantee will run into the billions and billions of dollars? That is the issue here today, not whether or not people are going to freeze this winter. They are not going to freeze in the United States of America, as we all know. Again, I repeat, the issue is whether the Government of the United States is going to meet that responsibility.

The SPEAKER pro tempore. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

(By unanimous consent, Mr. GIAIMO was allowed to proceed for 5 additional minutes.)

Mr. GIAIMO. Let me remind this body that we in the Federal Government cannot be all things to all people. We have to recognize that.

What are we doing for the people who are over the 125 percent of the poverty level? I am not talking about the wealthy. I am talking about the people who go to work every day, who pay their bills, as hard as it may be, who earn $10,000, $11,000, $13,000 a year, who have children whom they are trying to educate, who pay those bills and those oil bills and those electric bills, and who pay for their own food. What are we doing for them?

I will tell the Members what we are doing for them. We are putting this burden on their backs.

Read your newspaper. In the market for U.S. Government issues, the latest Treasury bill was quoted yesterday at 12.74 percent. That is what we are paying for money. It is pushing inflation up and ruining the working men and women of America, all because we find it so easy in this body, you and me, to try to answer a problem by throwing money at it.

We are on hard times. We are at deficit levels. We should not be expending this kind of money. We should not vote this kind of bill. We have all we can do to fund existing programs. We have all we can do to pay the bills for programs for which we do not even have enough revenues, and here we are starting a new one.

Mr. Speaker, I have resisted efforts in this Congress this year on balance-the-budget amendments and on spending limitations, but I say to this body that I am becoming convinced that this Congress cannot control itself in spending money; and I am seriously going to look at legislation which will put a spending limitation on the amount of money which this Congress has got to pass.

We are not treating the working men and women of America properly when we pass new kinds of entitlement programs like this; and I, for one, who has dedicated most of my life to public service, say to my colleagues here today, I have had it. I hope the American people have had it, also.

□ 1330

Mr. OBEY. Mr. Speaker, I rise to strike the last word.

Mr. Speaker, although I disagree with his conclusion, I want to congratulate the gentleman from Connecticut (Mr. GIAIMO) for bringing two things to the attention of the House. No. 1, for trying to emphasize by the amendments that he tried to offer how important it is that we do pass a windfall profits tax so that we do recoup the revenue which is being used in part by this legislation today. Even though his amendments were out of order, I do not think that ought to be construed by anybody as a judgment on the part of anybody in this House, certainly on the part of the committee, that we do not need that tax because we do. It would clearly be irresponsible to pass this kind of legislation if we thought that there would be no money coming down the line to pay for it.

Second, I do congratulate the gentleman because I do think he is absolutely correct in spelling out the need for this Congress to take a tougher look at the way we shuffle money back to States, even though some of those same States are busy lecturing us on how necessary it is to balance the budget, at the same time they are asking for more funds under every program under the Sun, which makes our job even more difficult.

But I do want to challenge what the gentleman from Connecticut said in one respect. I do think that this program requires a different response from the Federal Government than many other requests which we have had to increase expenditures. Because it is not the State governments who made the decision to allow the price of energy costs to rise in this country. It is the Federal Government which has made a conscious decision to deregulate oil prices, and it has been Federal policy going all the way back through the years. I remember when the gentleman from Massachussets (Mr. CONTE) took the lead in trying to change it for years. It was Federal policy which drained America's oil basins dry first and put us in a position where we are now very heavily reliant upon OPEC oil. I remember the gentleman trying to eliminate the oil import quota at that time so that we would not be draining America's basins dry first.

But it has been the Federal Government, with its energy policy going all the way back to the fifties on that issue, and it has been the Federal Government now

with its decision to deregulate the price of energy, which has allowed the cost of energy to rise to the citizens we are now talking about helping today in this bill.

I want to emphasize, I think the best statement delivered to the Labor-HEW Appropriations Subcommittee in hearings on this bill was the statement by the gentleman from Massachusetts (Mr. BOLAND). Mr. BOLAND went through a number of States and laid out what the real impact is in human terms of no action on our part. In the State of Connecticut, for instance, the share of household income which has to be paid out by poor families for energy today for heating a home is 25 percent versus 16 percent a year ago. Even in Mississippi where it is relatively warm we have had an increase of almost 40 percent in the share of household income for the kind of people we are talking about for their share of household income which has to be used to meet heating expenses. In the State of North Dakota 43 percent of the average household income of the people we are talking about has to go out to pay those kinds of bills; 37 percent in Nebraska, 32 percent in Iowa, up from 20 percent just a year ago. It is 28 percent in my own State, up from 18 percent a year ago. That is almost a 40-percent increase in 1 year's time.

Those are incredibly wrenching experiences for people who have the kind of minimal income we are talking about here. I would suggest to my colleagues because the Federal Government made the conscious decision at the Federal level to allow those energy prices to rise, we have a political, a social, and a moral obligation to do something to help those people who are most damaged by the decisions which the Federal Government has made. That is all that the leadership is trying to do in pushing this bill. It is all the gentleman from Kentucky is trying to do. That is all the members of the committee are trying to do, or the Members of the House who vote for this bill. I ask my colleagues to keep this in mind when they vote on the bill.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired.

(At the request of Mr. GIAIMO and by unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I will yield to the gentleman.

Mr. GIAIMO. I think we both know one reason the price of oil is going up is inflation. The Arabs, whatever else they may be, are not stupid. They price their oil in dollars. The gentleman would readily admit, I know, that the reason, or one of the major reasons that oil goes up is because of the highly inflationary world in which we are presently finding ourselves and which has caused the dollar to lose its purchasing power. The Arabs are going to make certain that their oil retains its purchasing power.

Mr. OBEY. That is correct. But I would say to the gentleman we should not ask the poorest of the poor in this country to bear the burden of meeting those responsibilities. We should not ask the people who can least afford it to be on the cutting edge of burden sharing in this country as we do if we do not pass this legislation.

Mr. GIAIMO. If the gentleman will yield further, we should not ask the working people who are making $10,000, $12,000, and $13,000 to carry the burden on their shoulders. They do not have it so easy either.

Mr. OBEY. As the gentleman well knows, the windfall profits tax is going to pass and that tax is going to be used to finance this. As far as I am concerned, that passage will insure that it is not the average wage earner who is, in fact, going to be paying additional taxes.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I want to compliment the gentleman from Wisconsin for his excellent statement. I think the statistics with reference to the cost of energy in the particular States that he cites and detailed by me at the time of hearings on this bill clearly indicate the necessity for this legislation.

I also am aware of the position of the gentleman from Connecticut, Mr. GIAIMO. I want to compliment him for his leadership in the Budget Committee. He has a very difficult job, a very difficult task, and I know of no one who could handle it better. However, on this proposal we do differ.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has again expired.

(At the request of Mr. BOLAND and by unanimous consent, Mr. OBEY was allowed to proceed for 3 additional minutes.)

Mr. BOLAND. If the gentleman will continue to yield, the fact of the matter is the increase in energy far exceeds the increase in some of the items the gentleman from Connecticut pointed out here. Home heating oil has increased in many States by 70 percent over last year. It might very well go to 100 percent before the year is out. So there is a necessity here for this urgent supplemental appropriation bill to help pay for the escalating price increase.

It is not a permanent program right now. The bill clearly indicates that no applications can be accepted after June 30 of 1980. And the gentleman from Wisconsin points out, the money that will be expended and appropriated in this bill will be covered by the windfall profits tax. I do not think there is any question about it. Congress will pass a windfall profits tax and that will be the source for funding this program.

It may very well be that the bill we have here today and will pass may not be the final product. There is another body around this Hill, and I am sure it will have something to say about it.

But let me say so far as the Appropriations Committee is concerned, I think yesterday the 3½ hours that the Appropriations Committee spent under the leadership of the gentleman from Kentucky (Mr. NATCHER) was a good meeting. It was a very difficult, and a long, and tortuous meeting. I believe the debate, discussion, and deep interest of the entire Appropriations Committee membership within that meeting we have a better product than that presented to the committee.

So I want to compliment my colleagues, all of my colleagues on the Appropriations Committee for the service they rendered yesterday, and particularly I want to congratulate the gentleman from Illinois (Mr. MICHEL). All of the provisos in this bill, with the exception of one, all of the provisos are a result of his ability, thinking and persuasion. So we do have here today a bill that can be supported by those who believe there is a necessity and urgency to this matter.

Again, I want to compliment the gentleman from Wisconsin for his expertise, his knowledge, and his conviction on this bill.

Mr. Speaker, I ask unanimous consent to include with my remarks, the remarks I offered to the Subcommittee on Labor-HEW at the time of its hearing on this matter.

TESTIMONY OF CONGRESSMAN EDWARD P. BOLAND BEFORE THE SUBCOMMITTEE ON LABOR-HEW, HOUSE APPROPRIATIONS COMMITTEE, OCTOBER 18, 1979

Mr. Chairman, I appreciate this opportunity to appear before your Subcommittee on the issue of energy assistance for low income families and individuals. I would also like to commend you and your colleagues on the Subcommittee for holding these hearings at this time, before the arrival of what threatens to be a very difficult winter for low income households.

I am appearing before you today not only as the Congressman from the Second District of Massachusetts, but as Co-chairman of the New England Congressional Caucus, serving along with my good friend and Co-chairman, Silvio Conte. In that capacity and as one deeply concerned by rapidly escalating energy prices, I would urge this Subcommittee to approve an additional $1.35 billion for low income energy assistance, beyond the $250 million that has already been approved.

As all of you know, I am not one who would lightly recommend the expenditure of $1.6 billion by the Congress for what is essentially an income maintenance program. As a member of the House Appropriations Committee, I have fought to check unnecessary government spending. But at the same time, I also realize that situations sometimes occur that require humanitarian acts by the Congress, acts which help to minimize human misery and suffering.

Mr. Chairman, I believe that in approving the Administration's request for $1.6 billion for low income energy assistance, we are responding to what will be a critical need in only a matter of months. Energy prices, and in particular the price of home heating oil, have risen so rapidly that the poor and elderly are simply not going to be able to pay their heating bills. While the grim prospect of witnessing our senior citizens and low income families "freezing in the dark" has been with us before, at no time in the recent past has the potential for suffering been so high.

Heating oil prices have skyrocketed in one year from 50 cents per gallon to about 85 cents, a 70-percent increase. By the time the winter reaches its peak cold periods, prices may be up even further, nearly doubling the high prices of last year. This means that the average low income household that last year spent $625 on home heating oil in Massachusetts, or $620 in Ohio, $715 in Iowa, or $550 in Kentucky, should this year expect to pay

$1,060, $1,055, $1,215, or $935 in those respective states for similar amounts of fuel. (Figures prepared by the New England Economic Research Office, October 11, 1979.)

These figures are alarming, yet what is even more alarming is the percentage of income which the poor must spend on energy and residential heating. The Fuel Oil Marketing Advisory Committee of the Department of Energy found that in 1978, at a time when the average U.S. household spent 4.7 percent of its annual income on household energy usage, the average low income household spent over 18.4 percent of its income on heating and utilities.

In the coming winter, referring to the same states mentioned above, the New England Economic Research Office has calculated that heating oil alone would consume from 22 percent of the poor's budget in Kentucky, to 32 percent of their annual income in Iowa. In Massachusetts it would amount to 23 percent and in Ohio 24 percent. During the winter months these percentages would of course be higher on a monthly basis, with as much as 40 to 50 percent of the poor family's income going into residential heating.

Mr. Chairman, the statistics which I have just cited show only too dramatically that the choice between food and fuel will be very real for many low income households this winter. With total energy costs eating up 25 to 50 percent (and sometimes more) of the household's winter income, and housing taking another 20 to 30 percent, there is not a great deal left over for food and other necessities. Clearly, without help of some sort, we can expect more than a few household tragedies in the coming months. These tragedies will occur not just from actual cases of people freezing from lack of heating fuel, but from hypothermia among our senior citizens, illness worsened by exposure to chilling temperatures, and accidents from oven doors being left open or from similar hazardous practices.

I urge this Subcommittee to approve an additional $1.35 billion for low income energy assistance, as recommended by the President. While I recognize that the President has made $1.2 billion of this amount contingent on passage of the windfall profits tax, I believe that at least for this winter, we can no longer wait to link up energy assistance and the revenues from the windfall tax. Therefore, it is my feeling that the Congress should move forward expeditiously in appropriating these funds from general revenues for fiscal year 1980.

Mr. Chairman, on behalf of the members of the New England Congressional Caucus, I thank you for the opportunity to appear before your Subcommittee on this vital subject.

□ 1340

Mr. OBEY. I thank the gentleman. I simply want to observe that people who we are trying to help under this bill do not much care whether they are helped under an appropriation bill or an authorization bill. They are under desperate conditions, and they do need some help.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I ask unanimous consent that the gentleman be given 2 additional minutes.

The SPEAKER pro tempore. The gentleman's time has not yet expired.

Mr. CONTE. Well, it is going to expire pretty fast.

The SPEAKER pro tempore. Does the gentleman insist on his unanimous-consent request?

Mr. CONTE. Yes, please.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Speaker, I want to take this opportunity to commend the gentleman in the well. I too want to commend the gentleman from Connecticut. I commended him yesterday. He gave the same speech yesterday in the full committee, a very courageous speech, although I take issue with him.

As the gentleman from Massachusetts just pointed out, why single out fuel? Fuel has gone up 50- to 70-percent increase, where the other commodities have gone up as follows: Food, 12 to 20 percent; basic medical, 15 to 20 percent; housing, 10 to 18 percent. So, there has been a real dramatic increase in fuel cost.

To say the fuel costs by the Arabs has gone up because of our inflation is a lot of hogwash, because it was right after the oil embargo that the fuel from the OPEC countries went up from $2.25 a barrel to a dramatic $10 a barrel. Inflation did not go that high.

The gentleman made a big issue about the middle-income people. I could not agree with him more. I have a bill with 80 cosponsors—I plead that he may be one of them, and I hope he is—which will give a $400 tax credit to middle-income people for the cost of oil up to an income level of $20,000. That is the kind of person we are both interested in. That will come out of the windfall profits tax.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I will be happy to yield after I first make one statement.

Mr. CONTE. Clear up the hogwash.

Mr. OBEY. I do not happen to think that what the gentleman from Connecticut said is necessarily hogwash. I also want to say that everybody knows that I love the gentleman from Connecticut even though we fight occasionally. But, I do understand the gentleman's frustration because I think that as chairman of the Budget Committee no one is under more pressure, no one is cheap-shotted on more occasions from both the liberal and conservative side of this House.

AMENDMENT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, I offer an amendment.

The Cerk read as follows:

Amendment offered by Mr. COUGHLIN: On page 3, line 3, strike the period and insert in lieu thereof ": *Provided further*, That, in the State Funding Plan, the Governor shall provide assistance for those who pay fuel bills indirectly as well as directly.".

Mr. COUGHLIN. Mr. Speaker, the purpose of this amendment is simply to clarify that any State implementation plan would treat those who pay fuel costs indirectly, through rent or condo fees, the same way as people who pay fuel bills directly.

Mr. Speaker, let me say, frankly, this is a terrible program.

I am going to vote for it because it is the only show in town to help people cope with skyrocketing fuel prices as a result of noncompetitive factors beyond their control and, to a large extent, beyond our control.

But, it is a terrible program because it is both inadequate and unfair.

It is terrible because this Congress dallied for a year.

It is terrible because it encompasses the time-dishonored approach of throwing money at a problem without analyzing and projecting the consequences.

Last winter, we had an emergency. Fuel costs were escalating out of control. The solution was to throw money at the problem. The legislation we enacted, among other things, compensated those people who did not pay their fuel bills, but did not compensate those who sacrificed and paid their fuel bills. What we did was bail out the fuel oil dealers who held unpaid bills.

This year—guess what? We have another emergency. Fuel oil prices again are escalating out of control. The solution is to throw more money at the problem.

Although this is an improvement over last year's legislation, the program remains riddled with problems. It provides $400 million for automatic checks to supplementary security income recipients without determining whether or not they need the additional aid to pay bills.

Some of these people live in warm parts of the country, some live where heating costs are paid by the Government. Some live together. Regardless, each recipient will receive an automatic check for home heating assistance.

Mr. NATCHER. Mr. Speaker, will the gentleman yield at this point?

Mr. COUGHLIN. I will be happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, as I understand the gentleman's amendment, it assumes that after the State has complied with the provisions of the House resolution and a plan for a block grant has been approved, that the Governor shall provide assistance for those who pay fuel bills indirectly as well as directly.

Mr. Speaker, we have no objection to that amendment.

Mr. COUGHLIN. Mr. Speaker, I am pleased that the chairman agrees with the amendment. Let me continue, and I will be happy to yield to the gentleman from New York (Mr. GREEN) in a moment.

The resolution further provides another $800 million to go either in automatic checks to aid to families with dependent children, regardless of whether they pay for heat, or in block grants to States, subject to HEW approval of State plans.

Another $400 million will be administered through the Community Services Administration. CSA gives Governors the flexibility to determine the maximum amount receivable as long as it is under $400 for an unpaid fuel bill. However, section 1061.70–8(c) of the energy crisis assistance program regulations sets a cap of $50 on households seeking

reimbursement for a bill already paid. Clearly, those who make an attempt to pay fuel bills—certainly robbing Peter to pay Paul—are penalized while those who do nothing are rewarded. Our committee report rectifies this by saying—

The Committee directs the Community Services Administration to amend its regulations to provide equal treatment of paid fuel bills and unpaid fuel bills. Cash payments for bills already paid shall be equivalent to payments for unpaid bills.

The report language, at least, puts all needy who require home heating assistance on the same level.

In a further effort to make some sense out of, and insure some equality in, this program, I have introduced the amendment which the distinguished Chairman of the Labor-Health, Education, and Welfare Subcommittee has accepted. No one knows how the proposed program effects renters and condominium and cooperative owners who, never-the-less, bear the burden of escalating heating bills through increased rents and fees. The amendment mandates that the Governors of the States provide assistance on an equal basis.

Despite these and other improvements, in the final analysis, this hastily conceived and ill-defined programs must rely on the hope that the States will do a better job of administering funds. At least we have insisted on an element of fairness in the plan the States will present to the Government.

Mr. GREEN. Mr. Speaker, will the gentleman yield at this point?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, I want to commend my colleague from Pennsylvania for offering this amendment. I have an amendment at the desk which, in due course when I am recognized, I shall offer, which specifically deals with the rental problem. But, I think the gentleman's perceptiveness in seeing that the language which got dropped relating to indirect payment, which got dropped in the final version of the bill, is put back in. His amendment is most statesmanlike, and I applaud the gentleman.

Mr. COUGHLIN. I thank the gentleman.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I commend the gentleman for the amendment, and I am delighted that the chairman of the committee, the gentleman from Kentucky (Mr. NATCHER) has accepted it. I feel that there was an area here that a segment of the people were neglected in. The gentleman has clarified it. It is important, especially with respect to the indirect effect of the increased cost of oil.

Mr. COUGHLIN. Mr. Speaker, I thank the gentleman, and I urge adoption of the amendment.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN).

The amendment was agreed to.

Mr. MITCHELL of Maryland. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, my colleagues, I ask for an opportunity to address the House. The gentleman from Connecticut, who I do not think is on the floor, who I used to love, said he was fed up. Well, here is another Member who is fed up, too.

The problem is this House and this Congress and the President. It is not just the OPEC problem. In your Budget Committee and in the Senate Budget Committee and in the President's budget we have built in unemployment, even anticipating a rise in it, saying that we have got to keep people out of work in order to fight inflation. Maybe if we put some of these people to work we would not have to pay out this money, but you decided, and you are not going to put them back to work. You are going to keep them unemployed in the name of fighting inflation.

I cannot accept that, and I think the gentleman does this House a disservice when he attempts to pit the middle class, or the working class, the middle working class, against the impoverished people. I think that is a disservice. You say none of them will freeze to death in this country. Damn it, some people froze in my district last year. They froze to death in their homes—three people. Nobody can tell me that it is not a choice between freezing and eating. I say it is.

□ 1350

I say it is a choice between freezing and eating, and there is no guarantee that any city government or State government is going to accept that responsibility. All that we do if we ignore this problem is to set up another condition where we drive the poorest of the poor deeper into debt.

Last year in my district, because people could not pay their fuel bills even with some help, they kept their gas ranges on in the kitchen, and it ended up we had to go and ask the public utilities to defer payment on those gas bills because the people could not pay them. That was the only way they kept their homes warm. Then after the winter was over, they were required to pay the gas bills, so they paid them off and dug the hole deeper for this year.

Mr. Speaker, this legislation is needed, I am convinced. I refuse to believe—I refuse to believe—that this Nation, which responded to a Pope in such a magnificent fashion, a Pope who said, "Care about your brother no matter where he is"—I refuse to believe, I will say to the gentleman from Connecticut (Mr. GIAIMO) that this Nation would not accept this bill as a moral imperative.

Mr. GIAIMO. Will the gentleman yield?

Mr. MITCHELL of Maryland. Not at this moment, no. I refuse to believe that this Nation would accept this as less than a moral imperative to meet the plight of those who are poor and who are poor in many instances because it is national policy to keep them out of work. I have noticed the programs the gentleman has fought for in the past. I have served on the Committee on the Budget with him, and he has fought for programs for the poor. But I say, in that statement which the gentleman from Connecticut (Mr. GIAIMO) made on the floor today, he not only attempted to create division in this Nation but he repudiated a policy which he stood for for so many years, a policy that made us look up to him, those of us who served with him on the Committee on the Budget.

Mr. GIAIMO. Now will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I thank the gentleman for yielding. Let me just say that I agree with what the gentleman is saying, that he refuses to believe that we are going to let people freeze in this country. He just said that. My point and my difference with him is that we in this Government are not the only government in the United States. There are others. There is a State government and a local government, and they have responsibilities also.

Mr. MITCHELL of Maryland. I have yielded to the gentleman. I understood his position, but he asked me whether the city or the State responded to the needs of the poor.

Mr. GIAIMO. Why should they when they can rely on the Federal Government?

Mr. MITCHELL of Maryland. I will not yield any further. I will ask the gentleman to ask those people who froze to death whether the city or the State met their responsibilities.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Page 3, in line 3, after "1979", and before the period insert the following: ": *Provided further*, That from revenues received from any windfall profit taxes imposed by Federal law on producers of domestic crude oil, there shall be reimbursed to the general fund of the Treasury an amount equivalent to the amount of funds appropriated to carry out the purposes of this Act".

Mr. NATCHER. Mr. Speaker, I would like to reserve a point of order against the amendment offered by the gentleman from California (Mr. PANETTA).

Mr. Speaker, will the gentleman yield to me at this point?

Mr. PANETTA. I will be pleased to yield to the Chairman.

Mr. NATCHER. I thank the gentleman for yielding. Would the gentleman agree with me that in the preamble of House Joint Resolution 430 the resolution provides:

That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, namely—

And then the balance of the resolution? Would the gentleman agree with me that if his amendment as offered is adopted, it does not affect the passage of this resolution in any way, shape, form, or fashion as far as the $1,350,000,000 is concerned, but if the windfall profit tax which has passed in the House finally passes in the Senate, then there would be a reimbursement under the gentle-

man's amendment? But the gentleman's amendment does not affect the money provided for in this resolution, does the gentleman agree with me?

Mr. PANETTA. The Chairman has stated it correctly.

Mr. NATCHER. Mr. Speaker, we accept the gentleman's amendment.

Mr. Speaker, will the gentleman yield further?

Mr. PANETTA. I will be pleased to yield to the gentleman.

Mr. NATCHER. Mr. Speaker, although I have certain reservations about the germaneness of amendments along this line, in all deference to the gentleman, we have no objection to his amendment.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. I realize the gentleman's amendment has been accepted, but may we hear what the gentleman's amendment is?

Mr. PANETTA. Yes; I would like to do that because I think this issue has been raised previously and I would like to clarify this amendment for my colleagues.

Obviously, we are dealing with urgent legislation here. No one disagrees with that. And I do not think it really helps to pit one section of the country against another section, or rich against poor, or middle class against lower class, or black against white on this issue. It is obviously an issue of concern. We all sense it. We all have to deal with it in one way or another.

We have a responsibility to those facing high heating costs this winter. At the same time we do have responsibilities that relate to the budget as well. As a member of the Budget Committee, I have worked with the gentleman from Connecticut (Mr. GIAIMO). No one has worked harder in terms of trying to deal with the budget issues that face this country. The Members of this Congress go back to their districts and talk about legitimate budget concerns that face this country, and yet come back and sometimes pretend that they do not exist. The fact is they do exist. They are themselves issues.

We have been going through a conference now with the Senate for 10 days on the budget resolution to try to resolve the differences between the House and the Senate, with the Senate pushing for more defense money. On the House side the gentleman from Connecticut (Mr. GIAIMO) is doing everything he can to try to protect the funding for the social programs that are important to many of the Members of this body. So I prefer that we not get into the battle of whether we should sacrifice the budget for fuel assistance, or sacrifice budgetary concerns for human concerns but try and decide what approach we are going to take here that meets our responsibility to all Americans.

There are two concerns relating to this legislation. One is the danger of creating another entitlement program. Seventy-five percent of the Federal budget is uncontrollable right now. We have a very difficult time getting a handle on programs that are already built into the process. As chairman of the Legislative Savings Task Force, we have been able to get about $2.4 billion of legislative savings carried into this budget. We are fighting to protect it right now in the budget conference. But it points up the fact that once you build some of these programs into the process automatically, it is very tough to go back and get a handle on them, programs like medicare and medicaid and disability and all of the other programs that are automatically built into an automatic expenditure process. The danger is we are going to create that kind of program here today. I understand a June of 1980 termination date is built into it, but the fact is if we reach into the General Treasury, there will be an incentive here to create another entitlement program. So it is very important that we not simply fall back on the General Treasury but look to the windfall profit tax as a resolution to fund this kind of program. That is the way we build it into the budget resolution. It has to be built into this bill. There is nothing in the report, there is nothing in the bill that refers to the windfall profit tax. We all talked about it, but let me tell the Members, in the conference committee in dealing with this issue we do not know what that windfall profit tax is going to look like. And, indeed, it is already being spent for an energy corporation, for conservation, for this or that, with fuel assistance down near the bottom someplace. So we do not know that these funds are in fact going to be used for that purpose.

What I am trying to do with this amendment is to insure that at the very least the funds that are taken out of the General Treasury are reimbursed back to the Treasury once a windfall profit tax is passed. I think it is extremely important for this House to go on record on that issue, and that is why I have offered this amendment.

I thank the chairman, the gentleman from Kentucky (Mr. NATCHER) for accepting it. I think it is important that the House consider and adopt this prior to passing this legislation.

Mr. MICHEL. Mr. Speaker, I rise in opposition to the amendment. I expressed the concern earlier as to whether or not this bill was really meeting an emergency or whether we were embarking upon another entitlement program. If you really want to directly tie this kind of program to whatever revenues come by way of a windfall profit tax, let us face it, if there is to be such a tax, it "ain't" going to be for 1 year; it is going to be for multiple years; and that in effect is an indirect entitlement. Then you have yourself whipsawed. Because we have a windfall profit tax running for 10 years, there is then justification to run this program for 10 years. I agree with the chairman's earlier observation that this resolution calls for a direct appropriation and that, frankly, his language does not affect that in that sense, but I think we ought to go one step further because by indirection here we are in effect saying, yes, we are going to continue this program indefinitely so long, conceivably, as there is a windfall profits tax. For that reason I would raise an objection to the gentleman's amendment only because of what it implies.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. As I recall the House version of the windfall profit tax to which my colleague refers, it goes on for quite awhile.

□ 1400

So conceivably this restriction that my colleague offers, while it might seem very restrictive, as I recall the House version of the windfall profit tax it goes on for 10 years. The gentleman's amendment really does not restrict it that much except to say the revenues will supposedly be reimbursed out of a 10-year tax. Is that correct?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

I do not disagree with the gentleman's concern. I would say this. There is greater concern if we do not tie this amendment to the windfall profit tax in this legislation. The fact is if we simply leave it open to the General Treasury, if we simply rely on appropriations year in and year out without in any way tying it to this fact, that we ignore what I think is the crucial point here that, in fact, it does have to relate, if we are going to pay to this program, to some kind of revenues coming in and the windfall profits is the only place we can look to in the budget to do it.

Mr. Speaker, I understand the concern of the gentleman. I hope we can take that position come June 30, that this will not become just another entitlement program. The fact is right now if this legislation is to be adopted, let us stick in the windfall profit tax.

Mr. MICHEL. I will tell the gentleman that the June 30 date in there comes about as a result of part of my substitute that was adopted yesterday. Taking it one step further here, this is supposed to be reimbursement for increases in heating costs. The gentlewoman from Louisiana earlier in the debate made mention of air-conditioning as a very legitimate expenditure under this program for the reasons the gentlewoman alluded to.

Mr. Speaker, now what is to foreclose, for example, if we tie this to the benefits of windfall profits, using this to subsidize air-conditioning, which is just one step further. I have a real reservation about directly tying what we are doing today to what I think is an indefinite entitlement for the future.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I would be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I think the gentleman's point is well taken. My concern is on this issue—the windfall profit tax as it passed the House went

for 10 years. It does nothing about the gentleman's concern about a long-range entitlement. This amendment does nothing to make sure that it is not a permanent entitlement program and that is the concern of the chairman of the Committee on the Budget, which I think is a very appropriate concern.

Mr. GIAIMO. Mr. Speaker, would the gentleman yield to me?

Mr. MICHEL. I am happy to yield to the gentleman from Connecticut.

Mr. GIAIMO. I think you ought to support this amendment. I do not want to see this become an entitlement. I do not even want to see it get started, for reasons which I have stated. We know, it started in 1977 with that cold winter, and they got to like it, and the Governors got to like it and no one better than my Governor has gotten to like it. They are down here and they will be down here next year and the year after.

Whether we call it an entitlement or a direct appropriation, we are going to be faced with this thing. At least let us try to hold it down to the amount of taxes that we get from windfall profits. That is all the amendment of the gentleman from California does.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GREEN

Mr. GREEN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GREEN: On page 2 after "previous year;" insert the following: "*Provided further*, That states shall, in establishing such priority, provide for determining the extent to which increases in rents are caused by increases in heating fuel costs and consider such portions of increases in rents to be increases in heating fuel costs.".

Mr. NATCHER. Will the gentleman yield, Mr. Speaker?

Mr. GREEN. I would be happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I would assume from reading the gentleman's amendment that the gentleman has in mind that under the provisions of this resolution if the State of New York, through the Governor, submits a plan and it is accepted, then the provisions as set forth in the gentleman's amendment would apply.

Mr. GREEN. The gentleman is correct.

Mr. NATCHER. The amendment of the gentleman is similar to the amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN). In substance, the amendment of the gentleman seems to be in order.

Mr. Speaker, we have no objection to the amendment of the gentleman.

Mr. GREEN. I appreciate the gentleman's acceptance of my amendment. I do want to explain why I am offering this amendment despite the amendment offered by the gentleman from Pennsylvania.

An earlier version of this bill, in committee, contained a reference to indirect payment of home heating cost increases and made specific mention of rent increases. The amendment of the gentleman from Pennsylvania restored the language as to indirect payment, but did not restore the language as to rent increases. That was because the gentleman from Pennsylvania was concerned about occupants of cooperatives and condominiums. My amendment makes it clear that renters are covered by the program.

Mr. Speaker, for some time I have been very concerned about the availability of home heating fuel in various parts of the country this winter and, due to the enormous increases in the costs of such fuel, the ability of many middle- and low-income persons to heat their homes adequately. This is especially important in considering the needs of our elderly population.

As I know other Members of this body have, I have had extensive communication with the Department of Energy on this issue. I commend the Members of the Appropriations Committee in providing us with the supplemental appropriation before us, which addresses the problem of soaring heating costs. However, I am greatly disturbed that the version of the bill presented on the floor made no provision for renter households in the block grant program to the States.

Renter households rarely pay heating costs directly. But their rent bills inevitably reflect heating costs. When tenants cannot pay those heating costs, the result is housing abandonment. We have literally had people—generally elderly—freeze to death in abandoned buildings.

The abandonment phenomenon is not unique to my city—New York City. A General Accounting Office study last year showed 113 cities with significant housing abandonment problems. If we do not face up to the radical rise in heating costs, that problem will multiply enormously.

I understand the urgency of this heating aid legislation. I want to move it along speedily. But I must stand up for the rights of renter households. The last census data reveal that 37.1 percent of all households nationwide were renter households. I am sure the scope of this problem is clear to my colleagues and I hope that they will assist me in amending this important legislation to provide for the consideration of renters in the block grant program to be established.

Mr. BAUMAN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I cannot think of a better example of the folly of the manner in which this major new program is being considered than the demonstration that has just been provided by this amendment and the previous amendment. The previous amendment by the gentleman from California (Mr. PANETTA) was probably not germane to the bill. It held out the hope that a windfall profit tax on oil might be used to pay for the costs of this bill.

Mr. Speaker, that is a good tactic to get votes for an otherwise bad bill, but now with the two amendments pending, first we add renters to the bill so that they will receive heating payments. Now we have an amendment telling the Governors of the various States that they are supposed to look into the reason for the rent for every building and decide whether the rent went up because of the heating cost, a near impossible task.

Mr. Speaker, if we are going to continue to legislate in this manner, we are not going to help the people who really need assistance.

Mr. Speaker, I said when the rule was considered that the bill did not deserve this kind of haphazard consideration. This bill is rapidly acquiring the character of a Christmas tree with each new amendment ornament.

Mr. Speaker, I suspect we are going further than just aid to renters. How about small businessmen who have their heat bills increased because of inflation? Are they going to be considered? We do not want to neglect the small business community.

How about quotas for heating aid based on various other distinctions?

Mr. Speaker, this thing is getting out of hand because of the way it is being considered. We should have had full hearings on this before the appropriate committees, not rush pellmell into trying to solve problems with legislation that may never aid the people we profess to want to help. This is the worst way to legislate. We all know that. Unfortunately, this bill is likely to be passed because of the label pinned on it as assisting the elderly, those who need heat in the wintertime, and so on, even if it does not.

Mr. Speaker, I suspect that this legislation is designed not so much to assist the poor and elderly with their heating bills as it is intended to help certain politicians at the Federal level get themselves reelected in 1980. It is not so much the cold weather of the coming winter of 1979 that disturbs them, but the possible cold reaction of some voters in November 1980. This bill may fail miserably to direct real assistance to those who need it, but some hope it will undoubtedly do much to enhance the power of the welfare bureaucracy and the welfare lobby.

Well, I think those who tout this program as being the solution to a real problem may discover their political preservation will not be assured by the creation of yet another massive Federal program with a starting cost of $1.6 billion for just the first year. The courageous gentleman from Connecticut (Mr. GIAIMO) earlier laid it on the line for all of us when he spelled out the problem such legislation presents. He raised the very real and pertinent question as to how such a program will be financed and who will pay for it. The answer is that it will be paid for in increased inflation which is already at an annual rate of 15 percent as well as increased taxes on the middle class who bear the brunt of that inflation both in higher prices and higher taxes.

We are told that this program will be paid for by the imposition of a so-called windfall profit tax on the oil companies. But such a tax is not now in place, and even if it does become law

each and every oil company will pass along the tax to the oil consumer as a cost of doing business. So we have the vicious circle of increased inflation, increased fuel costs, and increased taxes, and increased fuel costs once again, which will lead to still more demands for bigger programs of this nature.

Obviously there should be a program to provide emergency assistance to those who really need it in order to heat their homes and maintain their lives. Such a program does exist and was administered last year by the Community Services Administration. In Maryland the program was operated in such a slipshod manner that money was not distributed until long after it was needed, many of those in greatest need were ignored, and eventually money was handed out to anyone who presented even the vaguest proof that they needed some help to pay heating bills.

Under the bill before us we do not even have the assurance that many in need will be helped. Yes, the bill says payments of about $200 for a family of four will go to those who receive AFDC and SSI but that may well exclude those who are very much in need and receiving social security or unemployment insurance but who do not qualify. Again the bill suggests payments will go to those who have an income of less than 125 percent of the poverty level income which is now $8,950, but the authors do not tell us that there is no existing government mechanism to determine who these people are. And why, we must ask, does this bill contain a formula which is based half on need of the individuals to be helped, and half on the temperature in the States in which they live?

This one provision alone means that "heating" assistance will be handed out to AFDC and SSI recipients in such balmy climes as Puerto Rico, Guam, and the Virgin Islands, regardless of the weather.

Mr. Speaker, it is estimated that there are now 25.7 million people in this Nation of 225 million who are receiving welfare, food stamps, or SSI payments. If the money in this bill is handed out to each of them they may average about $60 each. Many of these people, about 3 to 4 million are beneficiaries under two or more of these programs and may get double the amount under this bill's formula. How is the duplication to be avoided?

There are now 182 separate and distinct Federal programs in which money is handed out to people in order to alleviate poverty. More than $250 billion is taken from the taxpayers each year and transferred through the government to those who receive payments under these programs. It is logical to believe that if the 183d welfare program proposed by this bill becomes law that it will do what the other 182 programs have not done—solve the problem of poverty with a check of $60.

I will support a truly beneficial program which channels aid to those in proven need, but I cannot vote for this kind of slipshod legislation which provides no guarantee that the people most in need will really get help.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes, I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, I simply want to make clear from the point of view of the legislative history of my amendment, that I simply do not contemplate that the States are going at this building by building. I think there are many other mechanisms that are available to the State and my amendment leaves it perfectly open for the State to devise general methods.

Mr. BAUMAN. I think the House is indebted to the gentleman from New York because the implication of the gentleman's amendment is that the only way we could administer this program properly would be to have heating inspectors on the Federal payroll going from house to house to examine the qualifications of the individual people who may or may not be eligible to receive help.

Mr. Speaker, the administrative cost of that, of course, would well exceed the $1.3 billion that would be given to the people for the heating bills.

This bill has the potential of making all other welfare programs look puny by comparison. I can just see the inspectors reading thermostats in rental units all over the United States.

Mr. GREEN. Will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. GREEN. There are mechanisms. For example, there are a number of municipalities that have rent controls, that have developed means of applying general fuel passthroughs and identifying what portion of rents generally are arising from fuel costs and I would expect any Governor to devise a plan suitable for his State along those lines.

□ 1410

Mr. BAUMAN. The gentleman has not convinced me. The legislative tactics we are seeing here today are apparently an effort to pass a bill that otherwise might be in trouble.

I have no doubt that most of these amendments will be dropped in conference. They will go down the drain, as quite often they do. That will be unfortunate from the point of view of the sponsors, but the bill will have been passed and Members will have been given some solace.

Members might say, "Now I can vote for it, because it covers renters and I have renters in my district. I can vote for it because it might come out of a windfall profits tax. I can vote for it for this reason or the other," ignoring the fact that the bill may not help the people we say we want to help and that it will surely damage a great many people because of the inflation that it will cause.

Mr. HUGHES. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I wonder if I could have the attention of the sponsor of the amendment, the gentleman from New York (Mr. GREEN).

Mr. GREEN. The gentleman certainly may.

Mr. HUGHES. Mr. Speaker, I do not oppose the gentleman's amendment, but I am concerned about the use of the term "heating fuel costs."

Mr. GREEN. Mr. Speaker, if the gentleman will yield, I simply took the language that is already in the bill.

Mr. HUGHES. I am going to try to strike the language that is in the bill.

Mr. GREEN. Then I suppose the gentleman would want to amend this also and do that at that time; but I simply drafted my language in the identical language that is in the bill as it came from the Appropriations Committee. That is where I got that phrase.

Mr. HUGHES. Mr. Speaker, I wonder if the gentleman would agree to just eliminate the word "fuel."

I do not think the word "fuel" adds anything to it, so that it just reads "increases in heating costs."

Mr. GREEN. If the committee is agreeable, I am certainly agreeable.

Mr. HUGHES. Well, if the gentleman would seek unanimous consent for that purpose, I could support the gentleman's amendment.

Mr. GREEN. Mr. Speaker, I ask unanimous consent to modify my amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. GREEN)?

Mr. FRENZEL. Mr. Speaker, I object.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I simply want to state that the gentleman from New York has offered an amendment which makes eminent good sense and really does nothing but apply elemental fairness. People across this country who rent their housing should be accorded the same kind of protection from unbearable heating costs as those who own their own homes.

It is very difficult for me to understand how anybody could object to that.

Mr. Speaker, I strongly support passage of House Joint Resolution 430, the supplemental appropriation for emergency energy assistance to low-income people.

The $1.35 billion contained in the resolution represents the bare minimum needed to prevent poor people from literally freezing to death this winter or making the impossible choice between heating their homes and eating regular meals.

This is no exaggeration. In a matter of weeks, the situation will be that grave.

The average price of a gallon of home heating oil has soared from 47.5 cents in 1977 to more than 80 cents today. This astronomical increase, which is only going to be aggravated as the winter goes on, means that a family in the northeast will have to pay $540 more this year for heating oil than last year. Uncontrolled inflation of that sort is threatening to wreck the budgets of middle-income

Americans and to threaten the lives of people living in poverty.

Indeed, we find that the poor are being hurt the most by staggering heating costs. In 1978, for example, low-income households spent 19 percent of their income on energy costs—already four times the national average. And this proportion is expected to rise this winter to 25 percent of total income.

It is thus absolutely essential that we pass this resolution today and set in motion at once a program for helping millions of Americans pay their heating bills. Winter has already begun in some parts of our country. Further delay will mean that the program could not start functioning until sometime in 1980, far too late to provide the kind of help that is so clearly needed.

I wish to emphasize, too, Mr. Speaker, that I very strongly support this amendment to the resolution which specifies the need to help people who rent their homes. Under this amendment, the States must take into account the impact on tenants of increases in the cost of heat that are reflected rent hikes. A portion of the $791 million in the resolution set aside for discretionary distribution by the States should certainly go to eligible people who are going to pay significantly higher heating costs under the guise of increased rents.

In New York City, for example, tenants living in so-called rent stabilized apartments have already been hit with a fuel pass-along rent hike, and an additional increase is now under consideration. Similarly, tenants in New York City living in so-called rent-controlled apartments are facing a special 5 percent fuel pass-along increase. Many people living in both rent-controlled and rent-stabilized apartments would qualify for this assistance on the basis of income.

It is vital that these renters receive emergency assistance under this resolution.

I urge my colleagues to approve the resolution so that we can begin now to counteract the effects of unconscionable price increases for one of life's essentials—home heating.

Mr. Speaker, I thank the gentleman for yielding.

AMENDMENT OFFERED BY MR. HUGHES TO THE AMENDMENT OFFERED BY MR. GREEN

Mr. HUGHES. Mr. Speaker, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES to the amendment offered by Mr. GREEN: Strike the word "fuel" from the Green amendment.

Mr. HUGHES (during the reading). Mr. Speaker, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. FRENZEL. Mr. Speaker, I object.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk concluded the reading of the amendment to the amendment.

Mr. HUGHES. Mr. Speaker, the amendment is very simple. All it does is strike the word "fuel" from the term "heating fuel costs", so that in essence the amendment of the gentleman from New York would recite:

Provided further, That States shall, in establishing such priority, provide for determining the extent to which increases in rents are caused by increases in heating costs and consider such portions of increases in rents to be increases in heating costs.

It is a very simple amendment. I am concerned because the present language might suggest that those who heat their homes by electricity would not be covered.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I would be happy to yield.

Mr. GREEN. Mr. Speaker, I certainly share the concerns of the gentleman. I simply used the language that was already in the bill. I certainly did not intend in any way to exclude electrically heated homes. They certainly do need the help as much as homes heated by other means.

I am certainly delighted to support the gentleman's amendment.

Mr. MYERS of Indiana. Mr. Speaker, would the gentleman yield?

Mr. HUGHES. I would be happy to yield.

Mr. MYERS of Indiana. Mr. Speaker, it would be possible, however, under the gentleman's revised language here, that a property, a rental property, where the owner had to replace the furnace as heating equipment could prorate that and recover the costs this way? Would it be a capital investment?

Mr. HUGHES. No; I do not think it would do that at all. If I may make it clear, all it does is clarify the term heating costs to show that we are talking about oil and we are talking about gas and we are talking about electrically heated homes.

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield further, why is it so necessary to take the word "fuel" out when it further defines the intent of the amendment?

Mr. HUGHES. Well, because it is important to suggest that those people who pay their heating bills through their electric bills are also covered by the legislation. Many people have all-electric homes.

Mr. MYERS of Indiana. Is not electricity a fuel?

Mr. HUGHES. Well, the utilities use the gas and the oil in the production of electricity and those bills are also skyrocketing out of sight. Many segments of the community really heat their homes by electric energy. Surely, it is not the intent to deny those people the same relief that we are providing those that use oil or gas to heat their homes.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I would be happy to yield to my colleague, the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, does this cover firewood for a fireplace?

Mr. HUGHES. Well, if I can just recapture my time——

Mr. ROUSSELOT. Well, I am serious in that, because we have a lot of places in the mountains of California that are heated by firewood.

Mr. HUGHES. I would say it would cover any type of heating costs.

Mr. ROUSSELOT. Including firewood?

Mr. HUGHES. If, in fact, firewood has increased in costs and the State develops a plan that would provide relief for those who heat their homes in that fashion, it covers it.

Mr. ROUSSELOT. How about solar energy?

Mr. HUGHES. Again, I would recapture my time.

I yield to the gentleman from New York.

Mr. ROUSSELOT. I hope my colleague will tell us if solar energy is included.

Mr. GREEN. Mr. Speaker, I would like to point out that this amendment covers only rent increases. The fact that a renter goes out and buys a furnace or buys wood or buys a solar panel is not covered by this at all.

It covers only rent increases and that portion of the rent increase that is attributable to the heating cost.

Mr. HUGHES. Mr. Speaker, I thank the gentleman. I think the gentleman's amendment contributes to the legislation. I hope my colleagues will support it.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to my colleague, the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, as I understand the amendment of the gentleman is to include electric bills or costs for electrical heating; is that correct?

Mr. HUGHES. Mr. Speaker, if I can say to the gentleman, no, it does not.

Once again, to try to explain the amendment, very simply, many households are total electric. They heat by electricity. It was the intent, from what I understand from the committee, to cover home heating, whether it be gas or oil or whether it be electrical; but unfortunately, by using the term "fuel" we suggest there is a bias in favor of the direct use of oil or gas.

Mr. MILLER of Ohio. Mr. Speaker, if the gentleman will yield further, indirectly, the gentleman is really talking about electric heating.

Mr. HUGHES. Yes. We have in New Jersey what they call a fuel adjustment clause. Many States have the same thing, where people can actually measure the increase in their electrical bills, because of the increased cost of coal or gas. This just clarifies the intent to cover electrical heating bills, as well as gas and oil.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield further?

Mr. HUGHES. I would be happy to yield.

Mr. MILLER of Ohio. Mr. Speaker, the gentleman has covered pretty well what I had in mind. The gentleman speaks of fuel. The gentleman speaks of electricity, how about hydroelectricity? No fossil fuel is used so the cost to generate hydroelectricity should not rise drastically.

Mr. GREEN. Mr. Speaker, will the gentleman yield to me to explain the amendment, since I have the underlying amendment?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, basically my amendment deals only with rents and increases in rents.

The SPEAKER pro tempore. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(At the request of Mr. GREEN, and by unanimous consent, Mr. HUGHES was allowed to proceed for an additional 3 minutes.)

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, the amendment covers only increases in rent. It tells the Governor to devise in his plan a means of identifying that portion of rent increases which are the result of heating cost increases; so presumably a Governor drawing a plan may differentiate between households which are receiving hydropower and those households which are not. Obviously, there is a mix in most systems and the Governor is going to have to devise a way of estimating which portion of the rent increases are the result of heating cost increases. That is all it covers. It does not cover a householder's electric bill.

□ 1420

Mr. VOLKMER. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to interrogate the gentleman from New York (Mr. GREEN) just very briefly on his amendment so that I will understand exactly what we are doing here with this rent matter and payments for the extra heating bills.

One of the things that concerns me is that the payment undoubtedly would be after the season is over. Is that when the payments are going to be made? When are they going to be made?

Would the gentleman anticipate that the payments would be made on a monthly basis to the people who are deserving of them?

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, as the gentleman knows, this bill only runs for a very limited period of time.

Mr. VOLKMER. Yes, I anticipate that.

Mr. GREEN. And the payments would be made during the period of time the bill is in effect. Obviously, after that the rent increases will still be there, but the help from the bill will not be there.

Mr. VOLKMER. Let us say the rent increase is made on December 1, 1979.

Mr. GREEN. Again that depends on when the State plan comes into effect.

Mr. VOLKMER. Well, the State plan undoubtedly will not go into effect until sometime in December or January.

Mr. GREEN. It can only cover what the State plan says it should cover. The bill—and here it has nothing to do with my amendment—leaves the States a great deal of flexibility in determining their priorities. That is going to depend on how the Governor drafts his State plan, as to what is covered, just as it does with every other home heating cost.

Mr. VOLKMER. The gentleman does not anticipate, then, any difficulties at all with a State plan deciding how to treat the rent increases?

Mr. GREEN. No. Mr. Speaker, if the gentleman will yield further, the issue of an increase starting on December 1 is no different a problem in the case of renters than it is in the case of ownership households. They pay their fuel oil bills periodically.

Mr. VOLKMER. Mr. Speaker, the gentleman is, then, envisioning an averaging out of the cost in New York City? They would just average it out?

Let us say rents have gone up in New York City by $25 a month because of the increase in heating costs this winter; then every renter who falls within this substandard income category would get $25? Is that what the gentleman is saying?

Mr. GREEN. That is right, within the limits of the State plan. In New York City, because of our rent control and rent stabilization laws, we have a very detailed breakdown of rent figures, and it is a very easy job to make that determination in the case of New York City.

Mr. VOLKMER. Mr. Speaker, let me ask the gentleman one further question, since the amendment offered by the gentleman from New Jersey (Mr. HUGHES) is to the gentleman's amendment and the discussion is on electrical heating.

We have, I suppose, apartment houses that are heated by electricity, all electric heating. Now, the utility bill has gone up. Let us say this is February, and the utility bill went up in January.

How much of that is attributable to heat, and how much is attributable to normal use?

Mr. GREEN. Mr. Speaker, I think the Governor in his plan is going to have to make that distinction.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, in most States the utilities keep a separate account. For instance, in New Jersey we call it the fuel adjustment clause. The utility in the past actually has accounted to the customer for the additional cost of energy. So there is a separate item used by most utilities. Many States like Michigan have a partial pass-through.

Mr. VOLKMER. I know, Mr. Speaker, but on my individual bill that I receive, how do I know how much of that is attributable to using a television set and using appliances and how much is attributable to heat?

Mr. HUGHES. First of all, the utilities are required to keep a separate account of their fuel costs. When they go for rate increases, they have to keep account for the cost of coal, gas, oil, or for whatever they are using, and it is that account that is used; it is not based on what an individual's particular usage is.

Mr. VOLKMER. Mr. Speaker, is the gentleman saying the amount they should receive money for is based on a rate increase that the utility company may receive?

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. No, I will not yield now because I am discussing this now with the gentleman from New Jersey (Mr. HUGHES).

There is a rate increase granted, and, therefore, if there is no rate increase, the people would not receive any subsidy under this provision?

Mr. HUGHES. Mr. Speaker, if the gentleman will yield further, the utilities keep a separate log on what their fuel costs are, and it would be that sum that would be apportioned among the customers who are on electrical heat. The utilities keep an account of those customers who have electrically heated homes as well as the patterns of use as between seasons, for instance.

Mr. VOLKMER. Yes; I realize that.

Mr. HUGHES. So it is easily determined as to what portion of the bill is directly attributed to cost increases due to the increase in the cost of coal, gas, and oil.

Mr. VOLKMER. Mr. Speaker, I will not argue that, but I will ask this: How much is attributed again to the individual apartment building for this month? No matter whether there is a rate increase, how much of that is attributable to heating, and how much is attributable to using appliances?

Mr. HUGHES. Mr. Speaker, that varies from area to area and from customer to customer.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES) to the amendment offered by the gentleman from New York (Mr. GREEN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 41, nays 11.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, nays 17, not voting 35, as follows:

[Roll No. 601]

YEAS—381

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Pascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Ralisback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solars
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Taukr
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—17

Archer
Bereuter
Broomfield
Collins, Tex.
Crane, Philip
Devine
Erlenborn
Gibbons
Holland
Jeffries
Kindness
McDonald
Madigan
Molloban
Myers, Ind.
O'Brien
Paul

NOT VOTING—35

Anderson, Ill.
Ashley
Baldus
Bonior
Brademas
Brown, Calif.
Burton, John
Clay
Conyers
Flood
Foley
Guarini
Howard
Leach, La.
Lee
Livingston
Luken
McKay
Maguire
Minish
Patten
Rodino
Roe
Rosenthal
Rudd
Santini
Scheuer
Skelton
Thomas
Treen
Waxman
Whitehurst
Wilson, Bob
Winn
Yatron

□ 1440

Mr. ARCHER changed his vote from "yea" to "nay."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

APPOINTMENT OF AN ADDITIONAL CONFEREE ON S. 1319, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1980

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint one additional conferee on the bill, S. 1319, to authorize certain construction at military installations for fiscal year 1980, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan? The Chair hears none and, without objection appoints the following conferee: Mr. MITCHELL of New York.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. GREEN), as amended.

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: Add the following at the end of the resolution: "*Provided, further*, That for the purposes of this Act, the term "States" shall include the "insular areas" of the United States.".

Mr. PHILLIP BURTON. Mr. Speaker, this is another in what seems to be a never-ending task of reminding my colleagues that the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Northern Mariana Islands are all part of the United States.

I would hope that all of the staffers of all of the committees of the House will read this debate so that this Member will never again have to stand on the floor to offer amendments of this type.

I might note parenthetically, as I mentioned in earlier debate, that in some of these areas they have the old-age assistance aid to the blind, and aid to the disabled programs rather than SSI, and this amendment, if adopted, as I gather it will be, and if it survives conferences, and I hope it shall, then perhaps justice will extend to all of our Americans under the American flag.

The Northern Marianna Islands are included in the SSI program. Puerto Rico, the Virgin Islands, and Guam still administer the pre-SSI adult categories of OAA, AB, and ATD.

These adults categorical aid recipients should be treated the same as SSI recipients—as this amendment will achieve.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman knows this legislation contemplates giving assistance to people for the increased cost of heating their homes?

Mr. PHILLIP BURTON. Yes.

Mr. BAUMAN. If the gentleman would yield further, does the gentleman think that Guam, the Mariannas, and the Commonwealth of Puerto Rico, the Virgin Islands, and the other insular possessions actually need to be brought under this legislation?

Mr. PHILLIP BURTON. Certainly I would think there would be areas in Northern Mariannas, and perhaps others, where the act definitions might apply.

The purpose and thrust of my amendment is only to see that the people in these "insular areas" are not precluded from whatever ground rules there are for measuring heat and temperature in the area and so forth.

It is not my purpose to put them in with a special set-aside entitlement. I merely want them to be eligible for the same consideration as if they were on the mainland of the United States.

Mr. BAUMAN. If the gentleman will continue to yield, that certainly seems fair, but on the other hand, knowing the way such programs are administered, I suspect that these tropical areas probably will get a great deal of the money meant for heating.

Mr. PHILLIP BURTON. I would like to think so, but I strongly suspect not.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Minnesota.

Mr. FRENZEL. The gentleman has said he does not want a set aside, but if there are SSI recipients, they will get a particular set aside.

Mr. PHILLIP BURTON. There are about 900 or so SSI recipients in the territories, or maybe it is 1,000. I do not know the OAA, AB, and ATD figures.

Mr. FRENZEL. If the gentleman will continue to yield, whether they have any heating expense increases or not, they will get aid under this particular bill.

Mr. PHILLIP BURTON. No differently than someone living in Death Valley drawing SSI.

Mr. FRENZEL. Exactly. That is what is wrong with having SSI included.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Kentucky.

Mr. NATCHER. The gentleman, of course, knows that as far as House Joint Resolution 430 is concerned, that as far as the insular areas are concerned, under this particular resolution, they are not mentioned.

Mr. PHILLIP BURTON. That is my understanding.

Mr. NATCHER. They are not mentioned at all.

Mr. PHILLIP BURTON. That is my understanding. Therefore, I have offered this amendment.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The amendment was agreed to.

Mr. BIAGGI. Mr. Speaker, I move to strike the requisite number of words.

I would like to engage the gentleman from Kentucky (Mr. NATCHER), chairman of the Subcommittee on Labor-Health, Education, and Welfare, in some colloquy.

As I understand, the chairman is aware that I and 17 other Members of the New York delegation are concerned about the formula proposed for the distribution of the funds for the CSA program. The concern is based on the failure of the formula to take into specific account consumption levels for home heating oil which clearly is the home energy source whose prices have risen the most over the past year.

Can the chairman, for the purposes of legislative history, agree to instruct the Director of CSA to give special consideration in the awarding of funds to those States which are burdened further by their consumption levels of home heating oil?

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I would like to say that the answer would be "no," but the formula in the bill reflects this to some extent. I say that to the gentleman frankly.

Mr. BIAGGI. I appreciate the response, but the purpose of my query is to highlight the fact that in the State of New York, which will be very critically affected by the formula that exists in this legislation by virtue of the fact that 70 percent of all of the households in the State of New York are heated by oil, and even further, when we direct ourselves to the concern of the senior citizens, 37 percent of all of the households in the United States are owned by senior citizens. The failure to consider or to give additional consideration to the level of consumption that we have historically required would inflict a severe hardship on those individuals.

Perhaps the chairman could respond. Could the chairman provide details on how the second part of CSA formula will in fact be implemented?

Mr. NATCHER. Mr. Speaker, if the gentleman will continue to yield, I would like to advise the gentleman that with respect to the second part of the formula for distributing funds among the States, CSA would use an index based upon data provided by the Department of Energy in determining the increase expenditures for energy for home heating in each State.

□ 1450

Mr. BIAGGI. Will consumption of home heating oil be considered in any special or specific fashion?

Mr. NATCHER. I would like to advise the gentleman, Mr. Speaker, only to the extent that the formula in the bill would reflect the use and the cost of the oil, only to that extent.

Mr. BIAGGI. I appreciate the chairman responding and engaging in this colloquy. I commend him for the bill, but must hasten to add that the formula, as it currently stands, works a hardship on New York as well as many of the States in the northeast section of our country.

Mr. Speaker, it was just 1 week ago that I testified before the subcommittee to appeal for immediate passage of legislation providing additional aid for low-income energy assistance. I consider this to be one of this body's finest hours in that just 1 week later we are preparing to vote for an emergency energy bill providing $1.35 billion in such assistance.

The fact is I have been as much involved in this issue as any Member of Congress. My legislative activities on behalf of emergency assistance began in August when as chairman of the Subcommittee on Human Services of the House Select Committee on Aging I began a series of national hearings to investigate the impact which rising home energy costs would have on our senior citizens. The hearing was followed by four others: August 28, Des Moines, Iowa; September 29, Syracuse, N.Y.; September 8, Waterbury, Conn.; and September 29, Pittsburgh, Pa.

I was joined in these hearings by a number of my colleagues on the House Select Committee on Aging including Mr. GRASSLEY, Mr. RATCHFORD, Mrs. SNOWE, Mr. ATKINSON, Mr. GREEN, and Mr. MARKS. The message we received from hundreds of witnesses was remarkably the same: The cost of energy has far exceeded the economic capacities of our low- and fixed-income senior citizens. The choice for the winter of 1979–80 was to be graphically simple: Heat or eat.

The overall increases in the cost of home energy has skyrocketed nationally to the tune of 30 percent. It has been the major contributing factor to an inflation rate which is now running in excess of 13 percent.

Meanwhile for our low-income seniors and others, the corresponding increase in spendable income has been only a fraction as high. Consider a social security or SSI recipient. Their latest cost of living increase, effective July 1 of this year was for 9.9 percent. The cost of a gallon of heating oil has risen from 53 cents in January to over 85 cents at the present time. This constitutes more than a 30-percent increase.

We have seen figures that indicate that the average family in the North will have to pay $540 more this winter than last for home heating. Department of Energy estimates point to the average household in this Nation spending $159 a month on just heating—whether it be oil, gas, or electric. Consider the household in New York State where the main source of income is SSI. This household will receive $291 a month. After paying for heating, this household is left with $132 a month for the other necessities of life. The reality of sacrifice will be felt in this household.

As an original member of the House Select Committee on Aging, I obviously have profound concerns about the survival prospects of the elderly during this upcoming winter. Older Americans head a staggering 37 percent of all households in the United States. Whereas median-income Americans spend no more than 10 percent of their total available for residential energy, low-income households spend at least twice that much and the percentage may soon reach 25 percent this winter. One preliminary survey conducted by the Community Services Administration in New York reveals that as many as 100,000 to 125,000 New York seniors will devote more than 25 percent of their income to heating.

While conducting these hearings, I introduced House Joint Resolution 398, legislation which I consider the forerunner of the resolution before us today. House Joint Resolution 398 provided for an additional $250 million for the so-called crisis-intervention program administered by the Community Services Administration. My bill would have brought the total fiscal year 1980 appropriations level for this program to $500 million. It was introduced on September 13 and at that time seemed to be the maximum amount we were likely to get for low-income energy assistance. This resolution enjoys the cosponsorship of 33 of my colleagues, the names which I will insert for the RECORD.

COSPONSORS OF HOUSE JOINT RESOLUTION 398

Hon. Joseph Addabbo (New York); Hon. Don Bailey (Pennsylvania); Hon. Berkley Bedell (Iowa); Hon. Carroll Campbell (South Carolina); Hon. James Cleveland (New Hampshire); Hon. Norman D'Amours (New Hampshire); Hon. Thomas Downey (New York); Hon. Melvin Evans (Virgin Islands); Hon. Thomas Evans (Delaware); Hon. James Florio (New Jersey); Hon. Daniel Glickman (Kansas); Hon. Charles Grassley (Iowa); Harold Hollenbeck (New Jersey); Hon. James Jeffords (Vermont); Hon. Stewart McKinney (Connecticut); Hon. Edward Markey (Massachusetts); Hon. Marc Marks (Pennsylvania); Hon. Parren Mitchell (Maryland); Hon. James Oberstar (Minnesota); Hon. Claude Pepper (Florida); Hon. Carl Perkins (Kentucky); Hon. Nick Rahall (West Virginia); Hon. Charles Rangel (New York); Hon. Frederick Richmond (New York); Hon. Robert Roe (New Jersey); Hon. Martin Sabo (Minnesota); Hon. Fernand St Germain (Rhode Island); Hon. Olympie Snowe (Maine); Hon. Louis Stokes (Ohio); Hon. Thomas Tauke, (Iowa); Hon. Bruce Vento (Minnesota); Hon. Robert Young (Missouri); and Hon. William Wampler (Virginia).

The resolution before us today does in fact provide an additional $150 million for the CSA program. I wish to advise my colleagues that as part of my activities on the Aging Committee I conducted a number of meetings with CSA officials to discuss with them the problems with their program in the past year which were raised during my hearings.

The first point: timeliness of payments. The fact was that many low-income Americans eligible for CSA funds did not get them until April or May, well after the crisis was in fact upon them. Crisis intervention was the name of the program yet the way it was administered, it was more like crisis perpetuation.

The second main fault with the previous CSA programs were in terms of the eligibility criteria which the agency employed. Rather than just sticking to a pure income eligibility standard, they insisted that the nonpayment of bills would be considered a prime criteria for eligibility. Senior after senior who testified at the hearings or who I spoke with told me they always paid their bills yet when they went to go for assistance, they were denied. Consequently, they were forced to sacrifice basic necessities.

In addition, the reliance on this criteria resulted in a 20-percent decrease in the participation rate by the elderly in this program during 1978.

In an early September meeting I held with CSA officials I was assured of the following:

Payments would be available to States by November,

The sole criteria for eligibility would be income levels of 125 percent of poverty or less, and

A priority would be given to serving the elderly.

I have been monitoring the activities of the CSA very carefully and thus far am satisfied that they are fulfilling their end of the bargain. Our passage of House Joint Resolution 430 will fulfill ours.

Overall this legislation is constructed to respond to the most compelling needs. In addition to the $150 million being provided to the CSA House Joint Resolution 430 provides for $1.2 billion in assistance to reach other economically vulnerable groups. Included is approximately $400 million to go directly to aid SSI recipients through a one-time add on to their checks. Certainly these recipients are among the most economically hard pressed of all Americans and this constitutes meaningful assistance.

The balance of the $1.2 billion will be directed to States and they will be given a choice as to how to spend it. They can channel it through the Department of Health, Education, and Welfare to distribute special energy allowances to recipients of AFDC or receive their funds in the form of a block grant to be administered under the terms of the CSA formula. No matter the choice all States should strive to meet the needs of their poorest citizens, giving a priority to the elderly.

Obviously we in the House regret the fact that we must consider this massive bill without having the windfall profits tax available to fund all or part of this assistance program. The fact is the House did in fact pass the windfall profits tax, and a strong one, several months ago. We did so on the assumption that it would be signed into law this year. That apparently is not going to happen.

I have stated repeatedly that the President's wisdom in linking the two proposals together was sound and logical. Yet the reality of tremendous cost increases in energy and the nearness of winter made the linkage harder to defend. The President in separating the two has demonstrated to this Nation his inherent sense of compassion. However my vote for this measure does not in any way diminish my full support for a strong windfall profits tax. If we need any additional justifications for the tax let us examine the recently released third quarter earnings of our major oil companies. Imagine these figures—Mobil earnings up 130.6 percent, Sohio, 191.3 percent, Cities Service, 63.7 percent. These are profits being made off the working man, the senior citizen on a fixed income, a veteran on a pension, a small businessman. They can only be described by one word—obscene. The windfall profits tax is a key legislative goal of the President—it should be, it is good for this Nation. The taxpayers of this Nation deserve a break and unless they are taxed, the oil companies will never give them one.

We are on the fringes of a serious national emergency this winter. Happily we are acting before winter takes its full grip and toll on the Nation. Ample warnings have been given—the time is for action. I commend the distinguished gentleman from Kentucky (Mr. NATCHER) for his usual outstanding leadership on a difficult issue. Also a word of praise for the Speaker for his leadership as well.

Mr. Speaker, 2 months from today we celebrate Christmas. By our actions today we may help guarantee that the warmth of the holidays will include that which emanates from oil burners and furnaces. I urge immediate passage of the resolution.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 2, in line 7, strike out "$1,350,000,000" and insert in its place "$1,000,000,000"; and

In line 8, strike out "$1,200,000,000" and insert in its place "$900,000,000."

Mr. WALKER. Mr. Speaker, this is an admittedly modest amendment, but it attempts to go in the direction to try to put a little bit of fiscal sanity into what we are doing here today. I think it has been roundly discussed here on the floor today that what we are doing is coming up with a new entitlement program. We are doing it based upon some rather iffy financial data. Very few people have been able to come up with much justification for the kind of spending we are talking about in this bill whatsoever, except to say that it is probably not enough.

Well, I think probably the facts show something different than that. If we look at the facts of the case, in the last Congress or the last session what we voted on was a $200 million to $250 million program. Not even all of that money was used in the program last year. It is important to recognize that that money was being spent after the winter was over, after people already knew what their fuel bills were, the choice was for them to apply for the money and not even all of that money was used.

Now all of a sudden we come in here with an 800-percent increase in last year's program. We are saying we need this kind of money this year even though past experience does not show evidence of such a need.

What my amendment does is say I do not think we need an 800-percent increase. Maybe a 500-percent increase would be a little bit more reasonable. In other words, I am saying we are going to a $1 billion appropriation instead of a $1.35 appropriation in this bill.

I think it is also important to recognize what this spending is for. We keep talking about the fact this money is going to go to the poor and the elderly and all of these people. This program is a direct financial benefit to the big oil companies. They are the ones who are going to get this money. If last year's program we had was any indication, they know it too, because in my district there were newspaper ads being run by the utilities telling people to go out and get this money because they knew dog-gone well it was coming directly to them.

We have heard references during the debate on the unconscionable profits of the big oil companies, the 100-percent, 113-percent profits. I agree, those are something to be concerned about. But I say to my colleagues this is simply helping that profit margin along. We are going to take taxpayers' funds and let us think about what kind of taxpayer funds we are going to be taking. With a $1.5 billon program it means that we are going to take $35 out of the pocket of every working American in this country and give it to the big oil companies, indirectly.

I think we ought to be a little more fiscally responsible in what we are doing. As I said, what I am offering is a very modest cut, a cut from $1.35 billion to $1 billion. It is an attempt to say at least let us slow down and look at it, let us show the bureaucrats and the people here in the Congress who may view this as a program coming down the pike for many years to come that we do want to put some limits on it, we do want to try to cap it, we do want to try to keep some sense of fiscal responsibility about what we are doing.

Mr. NATCHER. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, during the hearings on this House joint resolution that is now before the House, we inquired of the Secretary of HEW as to the amount of $1,350,000,000. We wanted to know if it was too high, if it was too low, or just where that figure came from.

Mr. Speaker, during the past year the cost of a gallon of heating oil has risen from 50 cents to about 85 cents. By way of example, as the Members of this House know, 5 years ago it cost about $6 billion for the oil imports that were coming into this country. Today it runs about $58 billion.

Mr. Speaker, as far as the amount concerned in the House joint resolution of $1,350,000,000, I do not believe this winter, and I am willing to stand on these words, I do not believe that the $1,350,000,000 will be fully adequate. That is the reason we inquired of the Secretary of HEW when she appeared before our committee. We said to her: "Are you sure? What is the formula, what is the basis for the $1,350,000,000?"

Mr. Speaker, this is the most serious amendment that has been offered since this House joint resolution has been on

the floor today. This amendment should be overwhelmingly defeated.

Mr. CONTE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in opposition to the amendment of the gentleman from Pennsylvania (Mr. WALKER). Mr. WALKER claims that there is no clear justification for the $1.6 billion appropriation. This is true, the figure in fact probably ought to be a lot higher.

HEW's figure was based on the need of the roughly 7.3 million who are SSI and AFDC recipients. The amount of money requested was designed to pay an average of $100 to each SSI beneficiary, and $200 for each AFDC family.

The full committee has now significantly reworked the administration request, precisely because it was felt that this target group was too narrow. States now have the option to distribute fully three-fourths of these funds as block grants, and to target those with low incomes who have the most urgent need.

The grim reality is that there are many people who will not be able to pay their heating bills this winter, and this Congress has the responsibility to help these people.

I am appalled that there is disagreement about the need for SSI recipients to receive these payments. In Massachusetts, my State, there are 122,000 recipients of SSI benefits. Individual recipients can receive a maximum of $208, couple $337. In Mr. WALKER's State of Pennsylvania, there are 159,000 SSI beneficiaries. These people can receive a maximum of $240 for individuals, and $361 for couples. Mr. WALKER has a better sense of the cost of living in Pennsylvania than I. I wonder if he feels this is enough money per month to live comfortably through the winter. In Pennsylvania, the average SSI recipient will receive roughly $120 to help pay for heating costs. SSI payments go only to elderly, blind or disabled persons. These people need our help.

Mr. Speaker, I know full well why Mr. WALKER is offering this amendment. He is very concerned that $1.6 billion is a very large sum of money, that the Federal Treasury can ill afford to expend. He seeks to reduce the Federal expenditure in a program that has been hastily thrown together, and for which we have no assurance that the money will reach the right people and have the right effect. I have never made the claim that we were offering Congress the chance to vote for a perfect measure. This program is laced with flaws. I myself have many unanswered questions about the way this program will work. What I cannot allow, though, is that no Federal money be available to help protect people from the cold of winter. Mr. WALKER would claim that—$1 billion—is more than enough to do this. I fear that the $1.35 billion we are trying to appropriate is insufficient I urge the passage of a measure that is an emergency measure. I ask the authorising committees to work with great speed to draft legislation that will sensibly attempt to assure that no one in this great country might freeze. But we cannot wait for sensible authoring language, just as we cannot await final passage of the windfall profits tax. We need this money today, and we need all of it, because the need is here today. The cold weather has arrived. I urge defeat of the Walker amendment, though I commend the gentleman for his excellent intentions.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will be glad to yield to the gentleman.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman for yielding. Will the gentleman tell us, as he has already partially indicated, how much the bureaucracies have cleaned up the Community Service Administration so that they have now so "cleaned up" their act, and how they are so much more capable now of doing a good job. The gentleman said they did a lousy job last time. Did I hear the gentleman correctly? It was a terrible job of administering the distribution of the some $200 million?

□ 1500

Mr. CONTE. Terrible.

Mr. ROUSSELOT. Really, just absolutely bad job.

Mr. CONTE. Really.

Mr. ROUSSELOT. They have really reorganized the structure of the Community Services Administration? How can we be assured that they are going to manage all of this extra money so much better than they did a lousy job of administering $200 million. Could the gentleman explain that?

Mr. CONTE. As usual, a very good question.

Mr. ROUSSELOT. I thought so.

Mr. CONTE. Excellent.

Mr. ROUSSELOT. I thought so.

Mr. CONTE. One of the most piercing questions of the day. I will tell you what they did. We ordered an investigative report, and we brought them before our Appropriations Committee. In the Federal Register they have set down new guidelines to assure fairer administration of the program. I do not want to read them all——

Mr. ROUSSELOT. Give us a couple of instances, where "new mandates" are in place to assure the House that they will do it so much better.

Mr. CONTE (reading):

For example these funds must be used to provide assistance to eligible households to offset the high cost of household energy. Only the following types of assistance can be provided with these funds:

(a) Payments to vendors of fuel—

Mr. ROUSSELOT. Payment to vendors?

Mr. CONTE. Yes, the person who sells you heating fuel.

Mr. ROUSSELOT. I understand.

So some of the funds that the Community Services Administration has to distribute will go directly to the vendor, and not to the individual?

Mr. CONTE. They could, but only to help pay the increased cost of fuel bills of qualifying persons.

Mr. ROUSSELOT. It could?

Mr. CONTE. Oh, yes. In fact, our chairman of the full Appropriations Committee, Mr. WHITTEN, would like to see all of it made available to vendors through a voucher system.

Mr. ROUSSELOT. A voucher system, but the administrators did not provide that in the rules and regulations.

Mr. CONTE. That is an option. It is provided in the CSA regulations, and applies to $400,000 of the $1.6 billion.

The SPEAKER pro tempore (Mr. VANIK). The time of the gentleman from Massachusetts has expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. CONTE was allowed to proceed for 4 additional minutes.)

Mr. ROUSSELOT. I appreciate that clarification. Now, how else are these new rules and regulations guaranteeing that all of this extra money will be such an improvement in administration?

Mr. CONTE (reading):

The establishment of lines of credits with fuel/utility vendors for the benefit of eligible households. The governors may provide limitations on the use of lines of credit such as:

Mr. ROUSSELOT. May provide? Does the gentleman think, for instance, that in the State of Massachusetts his Governor will make sure that those new conditions are provided? It is not mandatory?

Mr. CONTE. Another excellent question.

Mr. ROUSSELOT. I am not sure my Governor would.

Mr. CONTE. You ought to know my Governor. I played football with him at Boston College, and I will tell you, he is one of the toughest men you ever want to meet. In fact, a lot of people think he is the toughest minded man that ever lived.

Mr. ROUSSELOT. I see that one of your colleagues from Massachusetts agrees to that assessment.

Mr. CONTE. Yes. You see my crutches? That is what he did to me back in the early years, and you can realize how tough he is going to be in setting up those rules and regulations.

Mr. ROUSSELOT. What other regulations are going to provide this better administration?

Mr. CONTE (reading):

Direct money assistance not to exceed $50 for the duration of the program to eligible households in those cases where a household is without resources to pay for other necessities as a result of paying for utility/fuel bills or as a means of implementing activities allowing under paragraph (d) of this section.

Mr. ROUSSELOT. Not to exceed $50?

Mr. CONTE. In those cases—

. . . where necessary to prevent hardship or danger to health, the provision of immediate assistance in the form of goods or services such as emergency fuel deliveries, warm clothing, blankets, temporary shelter . . .

Assuming they cannot get fuel or they cannot pay for it.

Mr. ROUSSELOT. Get a warm blanket?

Mr. CONTE. Yes, blankets, or if necessary you can move them into temporary shelter.

Mr. ROUSSELOT. So they could also get additional clothing, is that right?

Mr. CONTE. Yes, or blankets, or heating fuel.

Mr. ROUSSELOT. So we are providing blankets or clothing under this program?

Mr. CONTE. Yes, but only under the $400 million allotted to CSA.

Mr. ROUSSELOT. I am not sure I understand that.

Mr. CONTE. Well, the reason is, first of all, that CSA originally was not getting to all of the poor people in that particular area.

Mr. ROUSSELOT. You mean they were not getting enough blankets out?

Mr. CONTE. Well, you could say blankets. I would emphasize heating fuel.

Mr. ROUSSELOT. That is what it says in the new rules?

Mr. CONTE. Mainly it is fuel.

Mr. ROUSSELOT. Fuel, I see. But, they can provide blankets and clothing under this appropriation?

Mr. CONTE. I think that if the gentleman was up in the Berkshires and it was 20 or 30 degrees below zero——

Mr. ROUSSELOT. I am sure I would need a heavy sweater and coat in the Northeastern States during the winter. I am not sure this is supposed to be a clothing program.

Mr. CONTE. I would give the gentleman my electric blanket. I would give him my last electric blanket. And I agree it is not a clothing program.

Mr. ROUSSELOT. I would probably need a large shovel to keep all that deep snow moving around.

What other regulations assure a tightening down of this very inadequate administration that occurred last time? How are we really going to bring this under control?

Mr. CONTE. Well, the Federal regulations provide that they also have very strict auditing.

Mr. ROUSSELOT. Strict auditing? Through who?

Mr. CONTE. Auditing by CSA and the Department of Health, Education, and Welfare.

Mr. ROUSSELOT. We have been reading in the paper what a great job they do over there. They just gave away some furniture. They do a terrific job of auditing at HEW. That is not much security as far as my taxpayers are concerned. Keep going.

Mr. CONTE. This will be a 1-year bill.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has again expired.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for 4 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I have an idea that some of this discussion could go on in other fora than this. Is the gentleman going to take additional time?

Mr. ROUSSELOT. I promise not to take more than 4 minutes.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROUSSELOT. I am really, sincerely trying to find out how this lousy administration of $200 million is so improved, and the gentleman says that it is primarily through these new rules and regulations. That is why I was anxious to hear how that is all going to be tightened down.

Mr. CONTE. Let us go back a bit. The gentleman did mention the furniture give away by HEW. Knowing the gentleman to always be so exact, I want to correct him. It was the Department of Agriculture and GSA that gave away the furniture.

Mr. ROUSSELOT. What other strong tightening down regulations have been imposed so that we can be assured that 1 billion, 3—3, excuse me—is going to be so much better administered than the $200 million which was loused up, which the gentleman admits?

Mr. CONTE. Again I know the gentleman's desire for exactness——

Mr. ROUSSELOT. Yes, 1 billion, 3.

Mr. CONTE. CSA will not get 1 billion, 6.

Mr. ROUSSELOT. One billion, 3.

Mr. CONTE. Not 1 billion, 3.

Mr. ROUSSELOT. That is what it says, right here in the bill.

Mr. CONTE. Please tell me precisely what is says.

Mr. ROUSSELOT. It says for additional amount for community services program. $1.35 billion. That is what it says in the bill. Is that wrong?

Mr. CONTE. This will give only $400 million to CSA. The rest, the States will have the opportunity to administer for their own program. It will be a State program.

Mr. ROUSSELOT. HEW will have that?

Mr. CONTE. If the State does not opt for its own program. Then, HEW will get it and HEW will then send out checks to needy AFDC recipients.

Mr. ROUSSELOT. Do these new rules and regulations apply to HEW? Some of us have concern that they are not doing too well because former Secretary Califano said that they squander or lose $7 billion a year.

Mr. CONTE. If the States does not opt to it and have their own program it goes back to HEW.

Mr. ROUSSELOT. What other guarantee do we have that this money is going to be spent frugally and carefully and really reach the poor?

Mr. CONTE. I know the gentleman will join me and the gentleman from Illinois (Mr. MICHEL), who is our watchdog on the HEW Committee. We will be holding hearings come February, and we will be watching this very, very closely. It is a 1-year program.

Mr. ROUSSELOT. Better than you did the $200 million?

Mr. CONTE. No, we——

Mr. ROUSSELOT. Blew the whistle?

Mr. CONTE. Yes; we blew the whistle, and we are not going to let them get away with anything without careful review.

Mr. ROUSSELOT. I am not reassured, but I thank the gentleman for taking the time to explain how this will be more carefully administered.

Mr. EDGAR. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Speaker, I rise to express my strong support for this vital legislation. As chairman of the Northeast-Midwest Congressional Coalition, I am acutely aware of the effect high energy costs will have on low- and fixed-income people in this region. It has been estimated that in the New England, Middle Atlantic, and Midwest States, households below 125 percent of the Federal poverty level will use at least 40 percent of their income for fuel oil during the 1979–80 heating season.

In my own district, I have learned through a series of meetings with heating oil dealers, community service people and concerned constituents that we will be faced with a high number of people who cannot pay their heating bills, or who try to pay them by sacrificing food, or medicine, or clothing. Having recognized this, we are all working together to provide a mechanism for assisting these people. What we need is adequate funds.

I strongly urge my colleagues to support this supplemental appropriation for low-income energy assistance at its full funding level. I am satisfied that the distribution formula for the funds is fair, reflecting as it does the regional differences in climate, low-income populations, and increased heating costs. I am also convinced that most States are ready and able to handle this amount of money so I am glad that the bill gives them the flexibility to find the most appropriate and effective means of channeling their share of the funds to the neediest households.

The House has expressed its intention to decontrol petroleum products and move away from dangerous dependence on foreign crude oil and toward conservation and the development of alternate fuels. It is imperative, however, that during this transition period, we provide adequate and timely assistance for those who will bear the burden of decontrol and escalating energy costs.

We have been amused by some of the comments that have been made in the last few moments, but I think we are dealing with a very serious issue here. I stand in the well as a Member of Congress from Pennsylvania, and I rise in opposition to the amendment offered by my colleague from Pennsylvania to reduce the amount of funds in this emergency assistance program. I recognize that particularly in our State we have a substantial need this winter to recognize that conditions are different than they were last year, than they were 6 months ago.

One of the significant differences that we face is that many of our senior citizens and low-income persons were buying home heating oil from small businessmen in our State for 49 cents a gallon. It was costing them $100, maybe $125, to fill up their tanks. But this year, we find that that same gallon of home heating oil is going to cost between 85 and 90 cents a gallon.

□ 1510

Those same senior citizens living on fixed incomes are going to have to find not $100 or $125 to pay that bill to fill up their tanks, but $200 or $250 to fill up those very same tanks.

As chairman of the Northeast-Midwest Congressional Coalition, I am concerned about all 18 States of this region, not just Pennsylvania. A survey of all the States, done by the New England Economic Research Office shows that in our region of the country those households below 125 percent of the Federal poverty level will use over 40 percent of their income each month this winter to buy fuel oil to heat their homes. So, Mr. Speaker, I would urge my colleagues very strongly not to reduce these funds but to recognize that they may cover only one-quarter of the emergency assistance need.

A few weeks ago I gathered in my office distributors of home heating oil and representatives from public and private social service agencies. As we talked about Pennsylvania's State program, the Federal program, and about other possible ways to respond to this emergency need, it became quite evident that in our particular community massive efforts were going to have to be made by the private sector and religious groups.

I think that this resolution today is a good one. I think it responds to a basic need. I do not think it is enough, and I think it would be irresponsible for us to accept a reduction.

My colleague, the gentleman from Pennsylvania, pointed out that what this really is is a subsidy for big oil companies. Let me point out to the Members that in my particular district, the people who are distributing the oil are small businessmen, the very same businessmen that many of our colleagues on the Republican side talk about all the time. These small businessmen are heavily in debt to banks where they must apply for credit in order to purchase the fuel from refiners that they then sell to households. I can tell the Members that this year they are frightened about whether or not they can get adequate lines of credit, and whether or not they will be able to continue to supply their customers who cannot pay their bills this winter. I am convinced these dealers will be squeezed between their suppliers and their customers and many will face financial ruin.

Finally, I would like to remind my colleague, the gentleman from Pennsylvania, that Governor Thornburgh, a Republican Governor, came to Washington specifically to request the help of our delegation in putting together a fuel assistance program that could respond to this gigantic need. So I would urge my colleagues, in light of Pennsylvania's need, in light of the needs of the Northeast-Midwest region, and in light of our national needs, to respond by voting down this amendment and voting for this resolution.

The SPEAKER pro tempore. The time of the gentleman has expired.

(At the request of Mr. WALKER, and by unanimous consent, Mr. EDGAR was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

The gentleman says that the problem is that this really is not enough. I guess the question is when you are increasing a program by 800 percent, what would the gentleman regard as enough? That is one of my problems. Even if the gentleman accepts my amendment, we go up by a 500-percent increase, and what is proposed by the committee is an 800-percent increase. I agree with the gentleman that the fuel oil prices for those poor people have gone up significantly. They have gone up 100 percent. The question is why do we need an 800-percent increase in order to cover a 100-percent difference in the cost of fuel?

Mr. EDGAR. I appreciate the gentleman's question. I think there are really two responses to that question. The first response comes from the Department of Energy that estimates the need will be more in the neighborhood of 3 to 5 billion. But probably more important than that, my colleague, the gentleman from Massachusetts and others have pointed out that last year the program came in after the fact. The program had some initial problems because of its newness and, in fact, it probably only responded to 8 or 10 percent of the total need that existed last year. I am not talking about the merits or demerits of last year's program, but I do know that this year in our region of the country we are going to be suffering gigantic increases in cost, and it is not going to be just to care for 10 percent of the need but to care for all of that need; which will not be met even if we accept the amount of the figure that is in the resolution.

Mr. WALKER. Will the gentleman yield further?

Mr. EDGAR. Mr. Speaker, I yield back the remainder of my time.

Mr. MARKEY. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to this amendment. Mr. Speaker, I think that we have really seen a wide variety of opinions here today. We have seen the chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO) who believes that no program at all is needed. We see the gentleman from Pennsylvania who argues that there is an ability here to cut $350 million out of this program when there has already been proof presented that demonstrates that there is at least a doubling of this need which may manifest itself before this winter is past. Fifteen million low-income households spend 30 percent of their income on energy. One million senior citizens' households take in $2,000 or less each year in total income and they will pour out half of that for energy. There just is not that much discretionary income left in the pockets of senior citizens and people who live on fixed incomes when you get done with the kind of increase in food, fuel, health care, and rent that is going to be passed on to those peoples' shoulders in this coming winter.

Now, while we are waiting for the marketplace to sort itself out, while new energy resources come on line, while we see OPEC increase prices, and we allow the decontrol of oil, we see a real energy increase passed on to the consumers over the next 5 or 10 years. What do we say to people who have to assimilate this increase in the next 5 or 6 months? They are seeing a doubling of home heating oil price. Do we say we are going to assist enough in the next 5 or 6 months while the rest of the system is going to take 5 or 10 years?

Exxon yesterday reported a 120-percent increase in their profits. At the same time they say they would like to be able to pass on the increased costs to domestic oil because they have to take most of their 120-percent profitability from overseas oil. They say they are suffering from reduced profitability. What happens simultaneously? Two hundred million Americans are going to suffer a net loss.

Exxon and Mobil are saying that they are going to suffer from a reduced profitability of only 120 percent. I ask the Members whether this coming winter, as we say to people over the next 10 years that they are going to be paying $400, $500, or $600 billion additional in the price of oil, we are also going to say that the minimum we can give to them out of that $500 or $600 billion is $1.6 billion. We are going to say to the people who are at the margin in our society, not to the 200 million nor the 20 million but maybe to just 5 million families in this country, we are going to say to them during the most crushing winter and the first winter under a new set of circumstances that we are going to give you a hand. We are going to give you $1.6 billion. I do not think that is a lot to ask. I think it is a modest proposal, given the amount of profitability we are going to allow the oil companies over the next decade.

I would hope that the amendment of the gentleman from Pennsylvania is, if not just rejected out of hand, at least overwhelmingly rejected as a complete misunderstanding of the situation which is going to confront the poor and the elderly in this country in this coming winter.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding. I want to congratulate the gentleman on a fine statement. We can play games with figures. The fact is that of $200 million which the gentleman mentioned, some of which was not spent, less than 10 percent of the people who were potentially eligible actually took part. Now we have a doubling of oil prices. Given any penetration, if we can get people aware of this program and participate in it, the actual price would be $4 billion, if we were going to provide them not $2 billion, not $1.3 billion. So the fact is that this program is modest in scope. It is not going to help everyone;

it is just going to be a lifeline to those people who desperately need it.

Mr. MARKEY. I thank the gentleman for his statement.

□ 1520

Mr. CONTE. The gentleman is absolutely right. I called DOE before we started the debate today. DOE said it would cost an additional fuel cost, because of the increase of 70 percent over last year, $3.35 billion to poor people in this country. So the $1.3 billion we are providing here today falls far short of the mark.

The SPEAKER pro tempore. The time of the gentleman has expired.

(At the request of Mr. NATCHER and by unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. NATCHER. Mr. Speaker, will the gentleman yield to me?

Mr. MARKEY. I yield to the gentleman from Kentucky.

PARLIAMENTARY INQUIRY

Mr. NATCHER. Mr. Speaker, I would like to inquire how many amendments are at the desk.

The SPEAKER pro tempore. The Chair will advise the gentleman from Kentucky there are five amendments at the desk.

Mr. NATCHER. Mr. Speaker, I would like to further point out to the Members now that we have been on this bill for about 5 hours. The distinguished gentleman from Maryland (Mr. BAUMAN) inquired about moving the previous question. We said to him this morning, shortly after going on the bill at 10 o'clock that certainly we would be reasonable and fair about this matter. We have now been on it for 5 hours and the Speaker said we have five amendments at the desk.

Mr. Speaker, shortly, now, I will move the previous question on this bill. I want to point that out to the Members. I think we have been fair. I think we have been reasonable.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MARKEY. I would like to make one statement in conclusion.

If my father who is retired, 68 years old, never made more than $12,000 or $13,000 in his life, living on a pension, this coming winter has to find, after taxes, out of discretionary income, an additional $500 for home-heating oil, in Massachusetts, you can imagine the impact that is going to have on a family who makes $6,000, $7,000, or $8,000 a year.

Mr. Speaker, my father lives on a pension and he is not going to ask to participate in this program but there are a lot of other people who heretofore have considered it almost degrading for them to have to go into some kind of Government agency and ask for help. This winter it is going to be different. It is going to be special. If we do perhaps appropriate a little bit more, then let us err on the side of generosity and then reclaim those funds for the general Treasury at the end of the year. Let us not go into it assuming that the upcoming winter will be one as we have had in the past, because it is not.

Mr. DAVIS of Michigan. Mr. Speaker, I have two amendments at the desk which I will withdraw at this time.

Mr. MILLER of Ohio. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, we have heard about the programs and the $250 million that was allocated the last time around; and that there is no place else for these people to turn.

Mr. Speaker, I am aware of the problems the elderly and the poor have and that the fact that we have an increase in the price of energy. I am very much aware of this, as are all of us.

Also, we have had increases in the cost of living for SSI which amount to a 48.3-percent cost-of-living increase in the last 6 years. This year, in 1979, we have had a 9.9-percent cost-of-living increase and that was to help pay for the increase costs of energy. As many are aware, we have a new housing program utilizing existing private housing. We have people out selling that program, as a matter of fact. The program does this: The renter pays no more than one-quarter of his net income for housing including rent and utilities. The taxpayers are already paying for utilities and now the Federal Government makes up the difference for the full rent with a monthly check to the property owner. Here are two places where those who really need the assistance can go.

Permit me to congratulate the House for this effort to further burden the taxpayer of this country with another layer of bureaucracy. We are again seeing a perfect example of trying to solve a serious problem by throwing money at it. That approach has not worked in the past and it would not work today.

We do not have any assurances at this point that the formula to be followed in providing emergency fuel assistance payments will not unfairly favor one home, person, or household over another. I have had no reasonable explanation of what constitutes a "household" and I have not been convinced that persons now eligible for, or residing in federally subsidized housing will not be given an unfair advantage over those who are truly in need—the elderly, the poor, and the disabled who face winter heating bills without any Federal housing assistance at all.

My point is to underscore the cost and the bureaucracy associated with this bill. We are talking about an appropriation of $1.35 bilion addded to the $250 million previously appropriated for this very same purpose. The emotional debate going on here has overlooked the cost of administering this program and it has clearly ignored the middle-income family, working day in and day out, and watching a bigger and bigger slice of the paycheck go to support the same bureaucracy that daily contributes to every inflationary factor.

I am not advocating turning any person out into the cold. Heaven forbid. I have known difficult times, as have some other Members in this Chamber. But there is an emotional tidal wave sweeping across this distinguished Chamber that would lead the country to believe that alternatives for those needing a secure place to reside simply do not exist. That is not true.

Housing—warm in the winter and cool in summer—subsidized every year by the taxpayer goes looking for tenants. I have two flyers—one four pages long and the other three pages long—which trumpet the advantages of subsidized housing programs. The first flyer headlines: "The New Housing Assistance Payments Program" and encourages owners of rental property to closely examine the lucrative aspects of getting into the Federal housing business. The second addresses the renter and it offers a deal that cannot be refused. Let me quote from this particular flyer which was, by the way, distributed to every household in an entire Ohio county.

WHAT IT MEANS TO FAMILIES WHO RENT: ARE YOU ELIGIBLE?

Are you having a difficult time with your present rent or need larger or better housing than you can afford? You may be eligible for the Federal government's new Housing Assistance Payments Program.

You then will pay no more than ¼ of your net income for both rent and utilities. The Federal government will make up the difference through a monthly subsidy check direct to your landlord.

To be eligible, your net annual income (less deductions) must not be above these figures for this area: 1 person in family—$8,150, 2 persons in family—$9,300, 3 persons in family—$10,500, 4 persons in family—$11,650, 5 persons in family—$12,400, 6 persons in family—$13,100, 7 persons in family—$13,850, and 8 or more persons in family—$14,550.

If you are already on the waiting list for rental housing you must apply again to be placed on a separate eligible list for the Housing Assistance Payments Program. This program allows a higher income level than the basic program does.

If you are eligible for this new program and your present housing suits you, you might be able to stay there and have help with your housing expenses.

Now, Mr. Speaker, the Senator from New York included, as I recall, an amount of $1.2 billion in an Interior bill, just in the last few days for energy bills. The Speaker of the House apparently got the message from downtown that we had better move, or we would be left out in this House, and that we had better have a bill to appropriate money to help pay for the heating bills of those elderly and those poor. We are moving it. We are moving it quite fast.

Mr. Speaker, I would like to convey a message I received from a gentleman in my congressional district about a year ago.

He said, "Congressman, what is going on?"

He said, "I drive a tank truck and deliver fuel oil."

He said, "I have been, over the past week, delivering fuel oil into tanks that have not been used for the last 5 years. Five years ago the people converted their heating to natural gas. They have not been using oil. But I have been ordered to fill the tanks, and the Federal Government will pay the bill."

That came out of the $250 million. It had to. Now today we are talking about an 800-percent increase over that program. I oppose the bill and I feel strongly that we should vote for the amendment of the gentleman from Pennsylvania because we certainly can reduce the $1.6 billion.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield for a question?

Mr. MILLER of Ohio. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. I wonder if the gentleman from Ohio heard what the gentleman from Massachusetts (Mr. CONTE) said when he contacted DOE earlier in the day and they apparently told him that $3.35 billion more was necessary to meet the existing need. As a matter of fact, last year's program did not meet the existing need at all.

Mr. MILLER of Ohio. Mr. Speaker, I do not believe the bureaucrats downtown, or we would not have a $500 billion budget or almost a $900 billion debt or paying $150 million a day interest on that debt. That is what the bureaucrats downtown tell us they need. They build a bigger bureaucracy. We did not spend all of the $250 million and I have reliable indications that it was fraud and evidence of how some of the money was misspent.

Mr. KOSTMAYER. Mr. Speaker, what portion of it was fraud, if I might further inquire?

Mr. MILLER of Ohio. I explained to the gentleman what took place in my congressional district. What took place in the congressional district of the gentleman? Did the gentleman check?

Mr. KOSTMAYER. No; I did not.

Mr. MILLER of Ohio. Then how would the gentleman expect me to say what part was fraud. There must have been some fraud in every congressional district.

Mr. KOSTMAYER. I am sure such is the case.

The SPEAKER pro tempore. The time of the gentleman has expired.

(At the request of Mr. KOSTMAYER and by unanimous consent, Mr. MILLER of Ohio was allowed to proceed for 1 additional minute.)

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. I wonder if the gentleman from Ohio might give me some, perhaps, general indication of how much last year's program was a fraud, a third, a half, a quarter, 10 percent? Does the gentleman have any estimate of the great ripoff that is being perpetrated by these people throughout the country.

Mr. MILLER of Ohio. The amount could be reduced, because I feel we could very likely have much fraud and waste in the new program.

Mr. KOSTMAYER. Mr. Speaker, I do not want to delay this any longer. I appreciate the courtesy of the gentleman. I would hope the gentleman would make this proof available to the House of Representatives, if there is apparently massive fraud, as I believe the gentleman contends.

Mr. MILLER of Ohio. I have already made it a part of the record, do we need other proof? It is all too obvious from the comments here on the floor and in committee yesterday for nearly 3 hours, that we are going too fast with this bill. If we slow down and consider this carefully we can help those who really need aid without wasting money on those who do not.

The hearing record shows that a number of Members agree that we are reacting to the emotion of the moment without an adequate consideration of the details. We still have no authorization for this, and will come under more criticism by GAO and others for the sloppy manner in which this is being done.

This plan has several serious flaws which will dilute its effectiveness, among them is the fact that funds will be duplicated in certain households, will be paid when it is not needed and will not guarantee that all needy will be warmed.

Those eligible will get funds under AFDC and SSI whether in sunbelt or frostbelt, according to a formula, but it is not just for emergency heating, but can also be used for air conditioning in Hawaii, Florida, California, Guam, Somoa, and the Marianna Islands. There is no verification that funds will be used for heat, or even for energy expenses.

Congress needs to take more time with this bill and plan it out so that those who need emergency heat assistance will get it, and those not needing it will not. This program could become larger than food stamps and much more expensive, it deserves better consideration and more planning than we have given it here.

Taxpayers want to help the truly needy yet they too are suffering from high energy bills.

I congratulate the House for finding a new way for taxing the people and for spending the windfall profit tax before it is even collected.

Now the Members can make someone else into the bad guys for raising prices, yet the windfall profits tax is nothing but a hidden tax that gives the Members additional revenue to spend.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MILLER of Ohio. Mr. Speaker, I ask unanimous consent to be allowed to proceed for 1 additional minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BRODHEAD. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. WYLIE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, when I came to the House floor today, I was truly in doubt as to how I would vote on this bill. I have sat here on the floor and listened to the debate for almost 5 hours.

□ 1530

It is true, as the gentleman from Connecticut said, that we do not have $1.35 billion in surplus for any program.

I would commend the gentleman (Mr. GIAIMO), for a very courageous statement.

I would also like to compliment and commend the gentleman from Kentucky (Mr. NATCHER) for the gentleman's courageous stand.

Now, the chairman of the committee (Mr. NATCHER), also has a reputation for frugality, but I also know the gentleman from Kentucky as a man of compassion. I respect the gentleman's judgment.

I have decided to vote for this bill on final passage, because I have determined that 14 percent of the people in Ohio are on fixed incomes and most of them are elderly.

I have also determined that many of them use heating oil and that the cost of heating oil has increased by almost 100 percent in our State, and we are a "have" State. People should not have to make a decision between heating and eating in this affluent country of ours. No American should have to go cold in this great United States of America, and my conscience tells me after listening to this debate for about 5 hours that I should vote for the bill and I think we can find $1.35 billion out of a budget of $540 billion to pay for this fuel bill.

I, therefore, compliment the gentleman from Kentucky (Mr. NATCHER), and the gentleman from Massachusetts (Mr. CONTE), for bringing this bill to the House floor today.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I just want to take this opportunity to say that the gentleman from Ohio (Mr. WYLIE) is one of the soundest men in the House of Representatives. I think the statement the gentleman has made here today is a very profound statement. It shows the gentleman has an open mind. The gentleman came here, he listened and came to the right conclusion and I want to compliment the gentleman for it.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his complimentary statement and am most appreciative.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I also congratulate the gentleman for an excellent statement. I think it is a bad bill. It is bad procedure, but it is the only act in town and I am going to support that lonely act.

Mr. Speaker, although I can find plenty of things wrong with House Resolution 464, there is sufficient need, and sufficient urgency, so that I shall vote for it, and I hope it will be promptly passed by this body.

The principal problems is the distribution of funds. Energy crisis assistance funds distribution has been an administrative disaster for the past two winters. CSA has proved to be an inept, inefficient distributor of funds.

But using AFDC families, or SSI families, as a criterion does not solve the problem, either. They are not all the families who need help, and, in addition, some of those families will not have incurred great heating increases during this winter. Some live in areas where heating costs are not a problem, and some of them will not have large heating cost increases this year.

This bill is also deficient in that some renters would be excluded. They deserve consideration whether they pay heating bills directly, or pay them as a part of the rent.

We would be better advised to give all the money to the States for distribution to families whose income is not more than 125 percent of the poverty level. The distribution per family should be based on the degree-day formula, and the increase in heating costs this year, with a limitation of $400 per family. It should also be limited to users of heating oil.

Since the bill before us provides for distribution in a manner similar to that described above, of a large share of the total funds, I shall support it as being reasonably close to a good program, even if $400 million will be distributed directly to SSI recipients.

Other than distribution, the major problem is the size of this appropriation. We ought never to forget that when we tax one class of poor, or near poor, to help another class of poor, there is need for the greatest care to avoid waste. Previous distributions of these kinds of benefits have been great examples of poor administration.

Because there has been no authorization and because this bill has moved through our body on an emergency basis, we really do not know how much the need actually is. As in the past 2 years, we will be passing a poorly conceived and hastily passed program which is, in effect, throwing money at the problem.

Viewed at its worst, the bill is symbolic of obsolete congressional procedures, wrong-headed congressional attitudes, and inefficient congressional programs. However, it is the only game in town. We need something. This is the only something around.

A longer term problem is that we are in the process of creating another endless program, or maybe another entitlement program. When we first passed a moderate program in 1977, we were told it was a one-time deal. But the clientele and their lobbyists, including State Governors, took it as an absolute, ongoing right. So we had it, again, and again.

This year, when there is real need, and for the first time, a new tax source, the windfall profits tax, we are escalating the program geometrically without having a very good idea about the dimensions of the need. Although I do not want to see the program extended, anyone who has experience with Congress knows it will be extended. And programs extended are never cut back, whether they were too generous or not.

Since the bill is effective through next June, I would be happier if we started with a lower figure, and then moved to this $1.6 billion next year if it was proved to be necessary. Therefore, I will support amendments to reduce the total, on the grounds that additional funds, if needed, can be appropriated long before June.

I can find many more things wrong with this bill than are right with it. But there is no denying that need exists. The overriding argument is that with oil decontrols come higher prices. Some of the proceeds of the windfall profits tax, which was designed to take some of the sting out of decontrol, ought to be used to cushion the shock of heating oil increases this year. Despite a strong aversion to many aspects of this bill, I must support it on that basis.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Minnesota (Mr. FRENZEL) for your contribution and wish to express my sincere appreciation for his significant approval.

Mr. HORTON. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, I know the hour is getting late and I do not want to take the time of the House unnecessarily, but I do feel this is a very important piece of legislation.

It just so happened that this last winter I held office hours in Wayne County, which is in my district and which is one of the upstate counties in New York State. It so happened that during the week that I held those office hours, the temperatures in upstate New York were about 15 below zero. As a matter of fact, the record was broken one day when I held office hours in Newark, N.Y., because it was 22 below zero. Most of the people I saw in Wayne County were elderly people or people who were concerned about the heating oil costs.

In the winter of 1978–79, heating oil was costing in upstate New York 48 cents a gallon. Right now in upstate New York it is costing 87 cents a gallon.

I know personally from having talked with literally hundreds of my constituents, many of whom are elderly or who are on fixed incomes, that they are not able to absorb this additional cost.

It makes no difference how they got there, and I think partly this Congress is to blame, because we have not come forth with an energy program that will provide an alternative so that we are not dependent on OPEC oil; but the fact of the matter is that we are dependent and that oil is more expensive and it is costing more. Those people cannot absorb it, and it is very important, in my judgment, that we have this legislation and that this legislation be enacted very quickly so that we can have the money in advance of the winter season, which is almost upon us, especially in upstate New York.

I have heard talk about an 800-percent increase in the funding. Well, I do not care whether it is 800 percent or what it is. It was not enough money last year, because many people were not able to take advantage of the program; so I urge that this amendment be defeated and that this resolution be adopted.

In addition, I would like to add that I met with some of the independent oil dealers in my district about 3 weeks ago. These are not the big oil companies. These are the little independent businessmen, and each one of them was concerned. They were not concerned about the fact they could not get the oil, because they can get the fuel oil; but they are concerned about the price. They are also concerned about the high interest cost it is going to cost them, and they say, "We cannot extend the credit we did before. In other words, we are not going to be able to give 30 days like we used to. We are going to have to charge cash on the barrelhead when we deliver the oil."

Now, that is going to create a disadvantage as far as many of these elderly and people on fixed incomes are concerned; so I urge the House to vote down this amendment and vote for this resolution.

Unless this resolution is acted upon favorably and expeditiously, the Nation's elderly and low-income may be forced to choose between food and heat, a choice they should not have to make.

Since the end of last winter, a mild winter by most accounts, consumers have witnessed dramatic increases in the price of all petroleum based products. The impact, however, of rising home heating oil prices has a special and potentially devastating meaning for the 16 million American households who fall below 125 percent of the Federal poverty level. A 13-percent inflation rate combined with a doubling of last year's heating oil costs have seriously eroded their incomes, and thus their ability to meet their most basic needs.

With the onset of winter approaching rapidly, these Americans and many middle-income wage earners will face some new and harsh realities. In addition to cost, already 87 cents per gallon in many parts of the country, oil users may be required to pay cash on delivery. In the past, fuel oil delivery companies have allowed customers to pay their bills 30 days after delivery. This changed circumstance, coupled with minimum purchase requirements, will only worsen an already serious situation.

New York State, and indeed the States of the Northeast and Midwest will be particularly hard hit by high home heating oil costs and cold temperatures. According to the New York State Department of Energy, New York's petroleum consumption is significantly greater than that of the Nation. The State's reliance on petroleum products accounts for approximately 66 percent of its total energy consumption. More than half the counties in New York State depend on oil for home heating. More importantly, all households in New York pay about one-third more than the national average for energy.

The resolution reported by the Appropriations Committee represents a reasonable and equitable effort to assist those most in need. A major portion of the $1.35 bill to be appropriated will go to recipients of supplemental security income—the elderly, the disabled and the blind; $800 million, to be administered by the Department of HEW, will

provide assistance to households with incomes below 125 percent of the poverty level.

I urge my colleagues to support this urgent supplemental appropriations.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HORTON. Yes, I will yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I just want to know whether the elderly who are on fixed incomes, the pensioners and so on, are going to be able to afford, in addition to the small businessmen the gentleman refers to, are going to be able to afford the additional taxes that are going to have to be charged for social programs that rise at the rate of 800 percent a year.

Is not that also a concern and relevant?

Mr. HORTON. I do not think that is relevant.

Mr. WALKER. Then what is relevant?

Mr. HORTON. The fact is these people need assistance. Now, you can do whatever you want with the tax situation and you can talk whatever you want about the 800 percent, but I am just telling you, we did not have enough money last year for these people and they are going to be suffering this year and they are not going to have heat unless we give them some assistance.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. HORTON. I yield to the gentleman.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding further; but I would point out to the gentleman, No. 1, not all the money in the program was spent last year.

No. 2, that the taxes are very relevant, because we are talking about an additional tax burden as a result of $1.6 billion.

All I am trying to do is cut it back by a mere $350 million.

Mr. HORTON. Well, Mr. Speaker, the gentleman ought not to be cutting it back. It ought to be increased. We do not have enough right now.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I would be glad to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, in answer to the gentleman's question, that money is coming from the obscene profits of the big oil companies. A windfall profits tax, that is what is coming.

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I would be glad to yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Speaker, on October 19, in remarks submitted for the RECORD, I stressed the urgent need for the House of Representatives to take the necessary steps to see to it that the high price of home heating oil does not force the disadvantaged of this country to go without heat this winter.

House Joint Resolution 430, while it certainly is not a perfect bill and can be criticized for being a somewhat hasty approach to the problem, nonetheless does provide this body with the best opportunity to deal with this critical issue.

Let me repeat the point that I stressed in my earlier statement: Home heating oil is not a luxury item; it is not an expense which can be deferred, and for some in our country, including many elderly citizens, it is not simply a matter of careful budgeting or eliminating nonessentials. Rather, it is a matter of survival; survival on a fixed income which is continually ravaged by inflation.

The fact is, some States have come to grips with this problem ahead of us and have already taken what action they can to offset the effects of this exorbitant oil price increase. Governor Otis Bowen, in my home State of Indiana, is to be commended for authorizing up to $200 in fuel bill credits for needy elderly citizens and those on SSI. However, $200 is not sufficient to meet the hardships which these price increases will bring about. The Federal Government must act and act soon to do its part in assisting those who can least afford to pay the cost of heating oil.

Mr. Speaker, some have argued that the high price of home heating oil means that we should reimpose controls on the oil industry. My personal philosophy is that we would all be better served by avoiding controls, which only strap the economy and cause shortages, and enact instead the windfall profits tax which would fund the emergency program we are now debating.

It seems to me that no industry should be permitted to take advantage of a national crisis to the detriment of the poor and the middle class. That is why I introduced an excess profits tax on the oil industry back in 1975, and that is why I believe it is necessary today.

So I urge my colleague, not just to pass this vitally important measure, but to pass the proposed windfall profits tax which will fund it. With the weather turning colder in much of the Nation, we are running out of time and action is called for now.

Mr. DICKINSON. Mr. Speaker, because I have to leave immediately to fly back to Alabama to fulfill an important commitment in my district, I will not be here to vote for final passage of House Joint Resolution 430. Although I do not feel that this is the best way to cope with the impact of inflation and the rising cost of heating oil on the poor and elderly, I realize that winter is approaching and this solution to the problem may be the lesser of several evils. I believe that the Congress is establishing a precedent which will return to haunt us. Be that as it may, if I were able to be in Washington for the vote, I would have voted for final passage of House Joint Resolution 430.

The SPEAKER pro tempore (Mr. VANIK). The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL: On page 2, line 7, following "$1,350,000,000:", strike everything thereafter through *"Provided further"* on line 11, and insert in place therein the following:

"Provided, That this amount shall be distributed in the form of block grants to the states for energy allowances designed to meet the heating needs of households with incomes below 125 per centum of poverty, in accord with regulations established by the Community Services Administration;"

Mr. MICHEL. Mr. Speaker, we are obviously getting to that point now where we are wrapping up consideration of this bill. I regret that as much money as we have involved here, we have had to go through this kind of traumatic procedure.

A perfunctory hearing, then a spirited debate in our full Appropriations Committee that the gentleman from Massachusetts (Mr. BOLAND) referred to as one of our best and now finally attempting to rewrite the legislation out here on the floor.

Let us face it, this proposal is by no means noncontroversial. There are Members who have serious objections to the method by which we are going to be distributing this money.

I am grateful that the committee in yesterday's deliberations adopted all of my substitute proposals, except the first paragraph, and that is what I have embodied in this amendment.

□ 1540

What I am proposing is that we put the entire $1.35 billion under the ongoing CSA block grant program. This would result in the entire $1.6 billion being administered through one agency.

It really does not matter to me which agency has the responsibility, because the track record of both CSA and HEW is nothing to brag about. The program should be administered under one agency, through, and CSA is the one furthest along in having the program ready to go. What is more, the program essentially will be administered by the Governors, so there will not be a great opportunity for CSA to botch the job.

There are many advantages to this one agency block grant approach over what the subcommittee is recommending:

First. By placing the whole program under one agency, we would be greatly simplifying the administrative problems faced by the States by reducing the overlap and redtape.

The States would only have to deal with one agency instead of two. They would only have to submit one set of plans instead of two. They would only have to keep one set of books, and they would only have to worry about one set of deadlines.

Second. We would be greatly speeding up the time for getting the funds in the hands of those in need. CSA has already finalized its regulations. They have been holding ongoing discussions with the

States on how to best implement the program. The States are already submitting plans, and it is expected that all the States will have plans in this week. CSA expects the plan review process to take about 2 weeks, which means that the States will be able to start processing applications and making awards in November. This contrasts with the January or February dates under any HEW administered program.

Third. By making the entire amount available in the form of block grants for assistance in meeting heating costs, we would be insuring that the funds would be directed at those really needing help. We would not be siphoning off funds to make cash payments to SSI and AFDC recipients who may not have any heating expenses, such as those in Hawaii or Florida, or who may not be incurring any increased heating costs, such as many of those who may rent, et cetera.

Fourth. By not making special payments to SSI recipients, we will avoid the inequitable situation of making payments to those SSI recipients on the rolls in December, but not to those who come on the rolls in January, February, or March.

Fifth. By distributing funds through my revised CSA formula, accepted by the committee yesterday, the amendments would eliminate the excessive SSI bias in favor of the warm weather areas.

Let me cite two examples of how this would work:

Under the bill, Texas would receive $19 million and Illinois $14 million. Under my amendment, Texas would get $9 million and Illinois $26 million. This comes much closer to reflecting the fact that Illinois is three times as cold as Texas.

Whereas under the bill Louisiana would receive $10 million and Minnesota $4 million, under my amendment Louisiana would receive $3 million and Minnesota $15 million. This again comes much closer to reflecting the fact that Minnesota is five times as cold.

In sum, when we are trying to launch a program on short notice, simplicity is of the essence. The complicated approach proposed by the subcommittee will, I am afraid, cause the program to bog down from its own weight. My amendment will reduce the confusion, redtape, and bureaucracy, and by doing so, will make it easier for the States to administer the program and insure that the funds are made available to those in need at the earliest possible date.

Mr. RITTER. Mr. Speaker, will the gentleman yield for a point of information?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I will ask, for those of us who are not familiar with the bill, this question of the gentleman from Illinois, who is familiar with the program for distribution by the States:

Is there a formula existing for the breakdown of the $1.6 billion to go to the different States?

Mr. MICHEL. Yes, there is, and it would be predicated, of course, upon the formula that we have written into the bill. It is an improvement over the formula the CSA is currently using because it gives more weight to those States that have cold weather and more severe heating problems for its citizens.

Mr. NATCHER. Mr. Speaker, I rise in opposition to the amendment offered by my distinguished friend, the gentleman from Illinois (Mr. MICHEL).

We have had this matter up before the subcommittee, and we had it up before the full committee in substance yesterday, Mr. Speaker.

As far as making the entire program a block grant program is concerned, it would be a serious mistake. If we were to say that it would be under CSA, the Community Services Administration, or under HEW, that would be a serious mistake.

This House joint resolution has been right carefully prepared, Mr. Speaker, and we have a part of it under Health, Education, and Welfare, and a part of it under the Community Services Administration. Part of the funds will go out to SSI recipients.

It would be a serious mistake to adopt this amendment. This amendment should be defeated. As my friend, the gentleman from Illinois (Mr. MICHEL), knows, we had to have an investigation made about a year ago in regard to CSA. We had the investigative staff of the Committee on Appropriations make this investigation. When we considered the regular bill on Health, Education, and Welfare, we had recorded in the hearings the report that was filed with our committee concerning the CSA.

This is too much money, Mr. Speaker, to be handled by CSA alone. This amendment should be defeated, and, Mr. Speaker, after the vote on this amendment, which I hope the Chair will put immediately after I sit down, I am going to move the previous question.

Mr. CONTE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I will be very brief. I rise in opposition to this amendment.

There are 3,941,781 SSI recipients in the United States. They are the low-income people, they are the blind, and they are the disabled persons of this country. They are receiving benefits to this extent: A single person receives from $1 to $208 a month maximum, and a couple receives from $1 to $312 per month maximum.

This is a very quick way of getting a very small portion of this entire bill out to these needy people throughout the United States.

As the gentleman from Kentucky (Mr. NATCHER) has said, we have debated this. We went over this matter yesterday for 3½ hours in committee, and the gentleman from Illinois (Mr. MICHEL) made a very, very fine contribution.

Mr. Speaker, 90 percent of this amendment, as the gentleman from Illinois (Mr. MICHEL) says, is in here, and I do not see why he wants another 10 percent in here today. Let us kill this amendment.

The SPEAKER pro tempore (Mr. VANIK). The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MICHEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 183, nays 207, not voting 43, as follows:

[Roll No. 602]

YEAS—183

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Boggs
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Forsythe
Fountain
Frenzel
Gaimo
Gibbons
Gingrich
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammer-schmidt
Hansen
Harsha
Hefner
Hillis
Hinson
Holt
Hopkins
Huckaby
Hughes
Hyde
Ichord
Jeffries
Johnson, Colo.
Jones, Tenn.
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lent
Levitas
Lewis
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Panetta
Pashayan
Paul
Preyer
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Ritter
Robinson
Rose
Roth
Rousselot
Royer
Runnels
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whittaker
Williams, Ohio
Wirth
Wydler
Wylie
Young, Alaska
Young, Fla.

NAYS—207

Addabbo
Akaka
Alberta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Bailey
Barnes
Beard, R.I.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Brodhead
Brown, Calif.
Burlison
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter

Danielson	Ireland	Rangel
Daschle	Jacobs	Ratchford
Davis, S.C.	Jeffords	Reuss
de la Garza	Jenkins	Richmond
Dellums	Jenrette	Rinaldo
Derrick	Johnson, Calif.	Roberts
Dicks	Jones, N.C.	Rostenkowski
Diggs	Jones, Okla.	Roybal
Dingell	Kastenmeier	Russo
Dixon	Kazen	Sabo
Dodd	Kildee	Seiberling
Donnelly	Kostmayer	Shannon
Dougherty	LaFalce	Sharp
Downey	Lederer	Shelby
Drinan	Lehman	Simon
Duncan, Oreg.	Leland	Slack
Early	Lloyd	Solarz
Eckhardt	Long, La.	Spellman
Edgar	Lowry	St Germain
Edwards, Calif.	Lundine	Stack
Ertel	McCormack	Staggers
Evans, Ind.	McHugh	Steed
Fary	McKinney	Stenholm
Fazio	Markey	Stewart
Ferraro	Matsui	Stokes
Fisher	Mattox	Studds
Fithian	Mavroules	Swift
Flippo	Mazzoli	Synar
Florio	Mica	Thompson
Ford, Mich.	Mikulski	Traxler
Ford, Tenn.	Mineta	Udall
Fowler	Mitchell, Md.	Ullman
Frost	Moakley	Van Deerlin
Fuqua	Moffett	Vanik
Garcia	Mollohan	Vento
Gaydos	Mottl	Volkmer
Gephardt	Murphy, Ill.	Walgren
Gilman	Murphy, N.Y.	Watkins
Ginn	Murphy, Pa.	Waxman
Glickman	Murtha	Weaver
Gray	Myers, Pa.	Weiss
Hall, Ohio	Natcher	White
Hamilton	Nedzi	Whitten
Hance	Nolan	Williams, Mont.
Hanley	Nowak	Wilson, C. H.
Harkin	Oakar	Wilson, Tex.
Harris	Oberstar	Wolff
Hawkins	Obey	Wolpe
Heckler	Ottinger	Wright
Heftel	Patterson	Wyatt
Hightower	Pease	Yates
Hollenbeck	Perkins	Young, Mo.
Holtzman	Peyser	Zablocki
Horton	Pickle	Zeferetti
Hubbard	Price	
Hutto	Rahall	

NOT VOTING—43

Ashley	Leach, La.	Roe
Baldus	Lee	Rosenthal
Brademas	Livingston	Rudd
Brooks	Luken	Santini
Burton, John	McEwen	Scheuer
Clay	McKay	Skelton
Dornan	Maguire	Stark
Evans, Ga.	Miller, Calif.	Treen
Fascell	Minish	Whitehurst
Flood	Mitchell, N.Y.	Whitley
Foley	Moorhead, Pa.	Wilson, Bob
Goldwater	Patten	Winn
Guarini	Pepper	Yatron
Holland	Petri	
Howard	Rodino	

□ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Livingston for, with Mr. Stark against.

Mrs. BOUQUARD, Messrs. SHUMWAY, LEACH of Iowa, LONG of Maryland, DECKARD, and JONES of Tennessee changed their votes from "nay" to "yea."

Messrs. BURLISON, YOUNG of Missouri, and RINALDO changed their votes from "yea" to "nay."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. GEPHARDT. Mr. Speaker, I rise to express my support for and deep concern about House Joint Resolution 430, the emergency fuel assistance supplemental appropriation.

This measure, which would make $1.35 billion available to Americans suffering from skyrocketing heating fuel costs, is unquestionably needed. Heating oil prices have practically doubled since last winter, confronting too many low- and middle-income Americans with a choice between fuel and food in the coming months. Cold weather is already upon us, forcing us to act today to provide urgently needed relief.

I am deeply concerned, however, about the way this legislation has been handled—hearings in committee were brief, markup was short, and now floor debate is taking place less than 24 hours after the report was filed. Little is known or understood about how this program will be run and how well it will meet the needs of those suffering most from heating cost increases. We are again repeating the mistakes we have been making every year in our last-minute funding of the crisis intervention program.

For the past several years, the Congress has waited until the last minute to fund energy assistance. The result has been a program riddled with confusion, inefficiency, and, to a significant degree, ineffectiveness. The experience in my home State of Missouri has been disturbing. Each year a different set of eligibility rules has applied—leaving constituents uncertain as to whether they can qualify for assistance from one year to the next. Funding is usually so late that grants are not made until winter is well passed. Last year, for example, assistance was available in January only because the State had some funds left from the previous allocation. Regular grants under the fiscal 1979 program were not made until March, and the last payments were still being distributed as late as June. Not only did the delay leave needy households without fuel assistance when it was needed most, but it encouraged the use of the aid for nonfuel expenses like food and clothing.

The bill we are considering today represents another last-minute attempt to address the fuel assistance needs of low- and middle-income Americans. We have known such aid would be needed since last summer, but we have been idle until winter is upon us. We are now proposing to extend the fuel assistance program without regard to the problems of the past and to expand it more than sixfold.

I will vote for House Joint Resolution 430 because I believe energy assistance is urgently needed and I do not believe needy Americans should have to suffer from the procrastination of the Congress. It is my sincere hope, however, that this will be the last time we authorize this program on an emergency basis. I hope we can do a better job next year and start on a program for the winter of 1981 as soon as we complete action on the program for this year.●

● Mr. DODD. Mr. Speaker, I rise in strong support of House Joint Resolution 430, the low-income energy assistance supplemental appropriation which will provide $1.35 billion to help low-income and elderly people pay their fuel bills this winter.

Mr. Speaker, we are already feeling temperatures begin to drop. Here in Washington, D.C., there has already been a snowfall. Winter is upon us, and for the third year in a row we are dragging our feet in getting funds to those who are in desperate need of assistance. Heating oil costs in the Northeast have risen more than 70 percent from last year, and there is no doubt in my mind that the poor and elderly in cold weather areas of this country are going to be unable to pay the exorbitant cost of heating their homes.

In my State of Connecticut, an average low-income family paid $620 to heat their homes during the winter of 1978. This year that same family can expect to pay $1,050. Where a poor family was spending 16 percent of their income for fuel last year, this year they will be paying 25 percent, and that is a conservative estimate. Escalating energy prices are hitting everyone hard, including middle-income earners who have less and less discretionary income as inflation increases, but the greatest burden falls on those with the most limited budgets: The poor and the elderly living on fixed incomes.

Many of the elderly people in my State with low incomes last year did not receive help to offset their energy costs, not because they did not need the assistance, but because they refused to take welfare of any kind. This year their energy bills will be nearly double what they were last year, and it is up to us in Congress to prevent the kind of tragedy that results from people making choices between the essentials of food, clothing, fuel, and housing costs.

Prompt action on this appropriation will allow money to reach the areas of this country in greatest need of aid. Even with immediate action by this Congress to appropriate energy assistance funds, it will take 8 weeks for the money to reach the local level. We cannot afford to haggle over parochial differences or balanced budget questions any longer. The Senate has already approved $1.6 billion and is ready to work out problems in a conference committee. We should not be worrying about Federal finances when the lives of people across this country are at stake. An austere budget is of little interest and no comfort at all to an elderly person freezing in her home this winter.

Everyone here is aware of the exorbitant profits recorded by oil companies in the 3d quarter of this year. These outlandish gains only emphasize the need to protect the public against the kind of profittaking by oil companies that results in such high energy prices that even those with moderate level incomes cannot afford to pay their fuel bills.

OPEC is meeting again in December to raise the price of their crude oil. Decontrol has not even begun to hit us with its full effect, and heating oil prices in my State have already increased from 50 cents to 86 cents. Utility and natural gas prices are fully 20 percent higher than last year.

Obviously, at this point in time we cannot reduce energy costs, and prospects for future hikes in prices are more than likely. So we must cope with raising energy prices as best we can. Many of us can conserve energy, but our elderly and our poor are already cutting back their

use of fuel to the point of endangering their lives.

The fact of the matter is that people are going to suffer unless we, in Congress, do something to help them. The $1.35 billion appropriation will add $150 million to the $250 million crisis intervention moneys approved by Congress in a continuing resolution: $405 million of the $1.35 billion will be channeled through the SSI system; $791 million will be allotted to families through the AFDC program or allocated to States in an optional block grant approach.

This House has the opportunity to stop a tragedy before it occurs, and I urge my colleagues to take action and pass this appropriation before it is too late.●

● Mr. JENRETTE. Mr. Speaker, as the House debates House Joint Resolution 430, the low-income energy assistance supplemental appropriations bill, I want to make it clear that I have strongly supported the low-income fuel assistance program over the past 2 years and continue to do so. And I am well aware of the need to act with dispatch to provide additional funds for this program so poor people will have the means to get through the coming winter.

I must strenuously object, however, to the way this bill is being precipitously pushed through the House, before Members can obtain meaningful information on what it will do. Since these funds cannot be disbursed until the end of the year in any event, would it harm the process to delay a few days in order to get better information on where the money will go. Or is it being rushed through in this manner so we will have to vote before we know.

House Joint Resolution 430 has gone through hearing and markup and been brought to the floor in the space of 1 week. In the process the Committee on Appropriations made a major change in the Community Services Administration formula by which the funds would be distributed among the several States. The formula CSA is now using accords equal weight to the weather factor—the number of heating degree days in a given State—and the size of a State's low-income population in distributing the money.

But under an amendment adopted just yesterday by the Committee on Appropriations, the weight given the weather factor would be greatly increased. But how much it is to be increased we do not know and have not been able to find out.

This morning I was told that those of us who are unhappy about this formula change are being parochial. But are we not at least entitled to know what its effect will be on the distribution of funds among the States? Nowhere in the committee's report will you find the formula change even mentioned, let alone analyzed in terms of its impact. If the proponents of the new formula have these figures, they are not letting on. I would have thought this aspect of the legislation was significant enough at least to warrant mention in our committee report.

This brings me to a second point. Is this bill supposed to provide energy assistance as its title says, or just heating assistance? There was much discussion in the committee yesterday to the effect that the need of the poor for heat were the only ones that justified help, that no other energy use was sufficiently important to warrant assistance. Some of our northern friends expressed outrage that poor people living in hot climates might even get help with the costs of air-conditioning. And the committee amended the bill to require that priority in disbursing funds be given by the States to households that have experienced significant increases in heating costs over the past year.

I do not object to that amendment. And I fully recognize the need to give more assistance to the poor residents of the States with colder weather. But we were already prepared to do that. Does giving priority to heating costs mean that heat is the only legitimate energy use with which we should help poor people?

Let me be specific. In the South and Southwest, there are many poor and elderly people for whom air-conditioning is just as essential as heat is in the North. Those with respiratory ailments must have air-conditioning to survive in hot and humid climates. So let me ask you: Is a person any less dead if he dies of respiratory failure in a Florida summer than if he freezes to death in a New England winter? I believe one energy use is just as legitimate, and essential, as the other.

This leads me to the broader point. If we are concerned about the impact of the rise in energy costs on the Nation's poor, we must look at all energy uses, not just heat. People must have not only heating and cooling in order to survive; they must also transport themselves to and from work, they must cook their food, they must process their crops—they must do a whole host of things of varying essentiality. In my judgment this bill is and should be designed to provide the poor assistance, much of it though the States, with the energy costs which are essential to their particular way of life. Those costs are not in all instances limited to heat.

I would urge my colleagues not to make this legislation into a sectional battleground. We in the South are well aware of the critical need to help poor people in the North with their heating bills. But what we must insist is that the poor people in the South are also being badly hurt by rising energy costs, and that they are equally deserving of help. As the House moves forward with more permanent energy impact assistance legislation, I hope my colleagues will truly avoid the parochial approach.●

● Mrs. HOLT. Mr. Speaker, I am in a panic because winter is near and heating oil prices have risen dramatically but I hope that a majority of the House is not in such a panic that it passes House Joint Resolution 430.

This legislation purports to provide $1.4 billion in new budget authority to provide energy assistance to low-income people, but after reading the bill and the committee report, I do not believe the poor would be helped.

Some $1.2 billion of the new budget authority would go to HEW, which could distribute the money through welfare programs or through bloc grants to the States, depending upon the preference of each State and subject to HEW approval of State plans.

With some money previously appropriated, the sum of $400 million would be distributed to the States by the Community Services Administration.

The arrangements for spending this money are loose, to say the least. The committee report gives us no clue as to how it arrived at the vast amounts of money to be spread around. The report itself is one of the smallest I have seen during my 7 years in Congress. It summarizes the bill using both sides of a single sheet of paper.

I believe it safe to say this legislation was literally whipped up to give people the impression that Congress is doing something about the winter and soaring heating bills. The committee cannot tell us how the money would be spent, or how much is really needed, or how long it would take to funnel through Federal, State, and local bureaucracies. Winter may be over by then.

This is a shoddy piece of legislation. It offers no assurance that help will get to a family at its time of emergency. It even directs the Community Services Administration to make "cash payments for bills already paid."

I would remind the House that the Federal Government is literally broke, while the States and localities are in much better condition, largely because of the Federal aid we are generously shoveling to them. We are providing more than $80 billion a year in grants to the States and localities for various purposes, plus another $6.9 billion in general revenue-sharing funds.

The Federal Government already has a galaxy of programs to help the poor, and most of these programs are adjusted for inflation. I believe it is time for the States and localities to accept more responsibility for social needs, and the heating emergencies that arise this winter are the opportunity for them to exercise such responsibility.

There is no more money in Washington. There is the national debt shooting toward $900 billion and the certainty of more inflation if Congress continues the spending spree.

I know this: If the States and localities provide for the emergency fuel needs of the poor with State and local funds, it will be accomplished at lower cost and with greater likelihood that the aid will reach those who truly need it.●

● Ms. MIKULSKI. Mr. Speaker, the decontrol of oil prices is hurting all Americans; but it is the poor and the elderly who are particularly hard hit. They do not have extra cash to meet higher fuel prices and still be able to pay for food, shelter, clothing and other necessities. It is a national disgrace that we should treat elderly citizens in this way. People who have worked hard all their lives should not be afraid they will have to give up their homes because they cannot afford the oil bill. This is absolutely wrong.

When the first cold spell hit this area a few weeks ago, my office in Baltimore received an avalanche of phone calls from senior citizens, as well as from those on fixed incomes. They were just finding out how much it would cost to heat their homes this winter. Many were worried because the majority of fuel companies in the Baltimore area have minimum purchase requirements ranging from 150 gallons to 250 gallons. My constituents cannot afford to make such large purchases at one time. They are literally facing a terrible decision—whether they should heat their homes or buy food. It is totally unfair for anyone to have to make such a tradeoff.

It is our responsibility in Congress to assure that all Americans will be able to afford to heat their homes this winter. We have taken too long already. I want to applaud the leadership of the Speaker in bringing this bill to the floor.●

● Mr. PRICE. Mr. Speaker, there should be no doubt in anybody's mind that what we are doing here to ameliorate home heating fuel cost problems will not provide the long-term solution. In fact, what we are doing could be a very dangerous precedent which could, heaven forbid, be carried on indefinitely. Giving out money to assist in payments for increasingly costly and limited home heating oils creates inequities, injustice, bureaucracies, graft, waste and will not advance us down the road one inch to a real solution: The development of our own national resources of economic energy. We must get started on a priority basis on real solutions. We must increase the construction of electrical generating capacity fueled by coal and uranium. This is the only route immediately available which will directly reduce our dependence on diminishing sources of petroleum products.

Shifting more of our heating load to electricity generated by such plants will provide a meaningful solution. If assistance must be provided to accelerate this shift it can be provided in a one-shot form such as construction cost assistance for powerplants and for efficient devices such as heat pumps. Assistance in the form of fuel cost payments such as we have under consideration could go on forever while powerplant or heat pump assistance would only be necessary once for the lifetime of such devices which are measured in decades. It certainly would be an easier program to administer in a just way.

Maybe the fuel payment assistance route is the only thing we can do to ameliorate the immediate problem. But we must start now to correct the error of our past ways and get on with shifting the load to energy sources we have in practically limitless amounts.

Each 1,000 megawatt coal or nuclear plant can save 30,000 barrels of oil a day. In 1978 oil- and gas-fired electrical plants utilized the equivalent of 3½ million barrels of oil per day. According to data I have been given it is now less expensive to heat with electricity driven heat pumps than with oil.●

● Mr. PEPPER. Mr. Speaker, I rise in support of this legislation, making urgent supplemental appropriations for low-income energy assistance for the coming winter. The Appropriations Committee does not use the designation "urgent" lightly. All of us are aware that soaring energy costs are severely straining the budgets of many Americans. Without immediate action by this body, however, millions of low-income and elderly persons will literally face a "heat or eat" dilemma this winter.

As chairman of the Select Committee on Aging, I am particularly concerned with the vulnerability of millions of aged persons to the devastating effects of extreme cold. Persons over 65 not only constitute the poorest segment of the population, but are also the likeliest to live in substandard housing. When these factors are combined with the decreased ability of an elderly person to compensate for variations in temperature, the prospects for survival this winter become gloomy indeed.

We owe a debt to MARIO BIAGGI, my friend and the distinguished chairman of the Subcommittee on Human Services of the Aging Committee. Under his vigorous leadership, the subcommittee held five hearings throughout the northeast and north-central States, focusing on the impact of rising home energy costs of senior citizens. I commend the foresight of the gentleman from New York, whose leadership in this issue became apparent in the early months of summer, well before the imminency of freezing temperatures spurred Congress to belated action.

I should note that the proposal we are considering today is an emergency proposal, designed to address an urgent but short-term need. The formula for distribution does not take into account the regional differences in energy expenditures as a portion of income. In my own State of Florida, for instance, over 17 percent of income is spent on energy, as compared to 16 percent in Idaho, 15 percent in Massachusetts and Texas, 13 percent in California, and 10 percent in Michigan and Ohio. Moreover, the proposal disregards testimony given by the National Institutes on Health that the devastating effects of extreme heat on the elderly can result in death. Most of the energy assistance proposals under consideration, including this one, ignore this documented but underpublicized fact.

Nevertheless, Mr. Speaker, the time for comprehensive planning has long passed. Officials at HEW and CSA have developed the necessary planning and are waiting for Congress to act. While a long range policy which will include all of the factors that have been overlooked is badly needed, we can risk no further delays. Time is running out on our elderly.●

● Mr. WOLFF. Mr. Speaker, I rise in strong support of House Joint Resolution 430, the supplemental appropriations for low-income assistance which provides assistance to meet rising heating costs and high home heating oil prices.

Mr. Speaker, last week I addressed this body to call attention to a new and dark cloud of uncertainty which is hovering over many poor and elderly Americans. The dark cloud is caused by the concern over the price and availability of home heating oil. Passage of the resolution before us would whisk away a small portion of this cloud thus exposing some ray of hope to those who are now on the verge of despair.

We have all heard the overwhelming reasons for appropriating additional funds. I would just like to again call attention to the following realities. It is estimated that the average family in the States will have to pay $540 more this year to pay for the same of heating oil as last year. That is an increase in the average price of $735 last winter to about $1,275 this year. The meager incomes of more than 16 million American households who fall below 125 percent of the Federal poverty level will be greatly eroded by the increase in price and the current 13 percent inflation rate.

The price of home heating oil currently averages about 81 cents a gallon in New York State with some areas reporting prices as high as 91 cents. The price of home heating oil has increased 70 percent in the State since last September alone. New York, like many of the Northern States are very much dependent on oil as a source of heat. Over 54 percent of our homes in the State are heated with oil.

Unfortunately, the problem goes deeper than that of price. Consumers are faced with tighter credit terms from suppliers. The tight money situation has forced many distributers to require customers to make full payments at the point of delivery. The impact of this policy has been directed primarily toward the elderly and the poor since they are the persons termed as high credit risks.

Mr. Speaker, the rising cost of home heating oil has caused problems for all Americans. The price increase and the inflation rate is creating a growing number of economically distressed Americans. A growing number of middle class residents are now suffering the squeeze on the family budget. Something needs to been done to relieve the burden of the middle class. It is imperative however, that we act to pass this legislation quickly so that those in most need can receive help in time for winter.

I call upon my colleagues on both sides of the aisle to give your stamp of approval to this measure. Let us provide the poor and elderly with some ray of hope as we approach the eve of the heating season.●

● Mr. DRINAN. Mr. Speaker, I rise in support of House Joint Resolution 430 which makes supplemental appropriations of $1.35 billion for low-income energy assistance.

While there has been discussion today about the distribution formulas contained in this bill, it is clear that this legislation reflects a good compromise which will make assistance available to those who will need aid to keep their homes warm this winter.

I know that my colleagues are aware of the severity of the problem facing the Nation's poor this winter, but I would like to briefly mention a few illustrative statistics:

Last year, the average low-income family in the United States spent over 18 percent of its annual income on energy for household purposes—four times the amount the average American family spent. This year it is predicted that these low-income families will spend 25 percent of their income for household energy.

According to the Grier Partnership report on the New England energy consumer, the average low-income household in New England spent 29 to 34 percent of its before-tax income on energy purchases. That figure will inevitably be much tighter this year.

In my own Commonwealth of Massachusetts, last year the average low-income family spent $625 or 15 percent of its income for heating oil. This year, that figure will rise at least $435 to $1,060. This means that this winter low-income families in Massachusetts will be spending at least 23 percent of their income just on heating oil. Massachusetts does not have the Nation's most severe climate. Many of my colleagues' constituents will be even harder hit.

There is very little poor people can do to reduce their energy consumption, Mr. Speaker. The Fuel Oil Marketing Advisory Committee of the Department of Energy concluded in a report issued last July that low-income households "are incapable, generally, of reducing their costs through reductions in consumption." The poor turned their thermostats down years ago, but, tragically, their homes are among the Nation's most energy inefficient. We enacted a home weatherization program to address this problem, but it has been nowhere nearly sufficient to deal with this tremendous problem.

In conclusion, I urge my colleagues to consider just one final statistic: This year low-income families will have to spend 40 to 70 percent of their income during the heating season just on heating oil.

The situation faced by the poor is clearly very urgent. If we do not enact an assistance program, some of these people will not be able to survive. It will take at least 6 weeks from the date of enactment of this bill to get money out to those who need help, thus it is imperative that we approve this legislation today. The heating season is already upon us. We cannot and must not delay action, Mr. Speaker, I urge the immediate adoption of this emergency measure.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in support of the urgent supplemental appropriations for heating assistance. This legislation is desperately needed in Delaware and across the Nation, and I urge my colleagues to give it rapid and overwhelming approval.

In many parts of the Nation, particularly the Northeast, many low and moderate income and older persons are facing a cruel choice this winter—whether to heat or to eat. Unless Congress acts, and acts now, I am deeply concerned that many individuals will die this winter because of our failure to pass adequate legislation in a timely manner.

In Delaware alone, there are about 30,000 people who may qualify for Community Service Administration assistance. Yet, unless we act to increase funding, only about 8,000 persons will even have a chance for help.

This legislation is probably not perfect. It was drafted hastily, and if we had the time could probably be improved. But we do not have the time. Winter is just about here, and every day we delay will mean greater hardship for tens of thousands of people.

The bill before us today provides $150 million additional for the energy crisis assistance under CSA. This, together with the $250 million already appropriated, will make available $400 million for this program. I have previously cosponsored a bill with the gentleman from New York (Mr. BIAGGI) which would have added an additional $250 million, but I am still pleased with the amount approved by the Appropriations Committee.

Further, the bill establishes a special energy allowance assistance program to be administered by the Department of Health, Education, and Welfare at a level of $800 million. An important feature of this program is that States would be given the choice of either participating in an AFDC plan or of receiving their share of these funds in the form of a block grant. The States would have the flexibility of distributing the funds for crisis intervention, targeting households with higher energy costs, establishing a vendor line of credit, making payments to those already participating in other income assistance programs or other approved programs. Of special interest to States like Delaware, the distribution formula recognizes that certain areas are impacted to a greater extent than others, and thus the formula allocates money based on heating degree days and on the increase in home heating energy expenditures between 1978 and 1979.

Finally, $405 million is made available to recipients of supplemental security income. These one-time payments would average $100 for individuals and $200 for households. Payments would be made during the first week of January.

Mr. Speaker, this legislation must not be held up. Too many people are going to be dependent on this aid for us to delay action. I urge my colleagues to recognise the urgency of the situation and vote for the supplemental fuel assistance legislation.●

● Mr. GOLDWATER. Mr. Speaker, I rise in support of the Michel amendment. It is sound. It is an approach which I had hoped would be taken by the sponsors of the bill. Here we are, considering a proposal which would take $1.6 billion of Federal funds, put it in a special account, and distribute it throughout the country to whomever decides they wish to qualify. Are not the food stamp program, welfare programs, a variety of the public assistance services botched up enough already?

All this amendment does is take the funds under the act and give them to the States. The Governors, by working with their local officials, are best able to identify what eligibility standards should be honored. I can guarantee you that by concentrating the power to disburse this aid in the hands of an office of bureaucrats here in Washington makes this program vulnerable to mismanagement and administrative confusion.

As our colleague from Pennsylvania, Mr. WALKER, pointed out when he offered his amendment, the money in this bill is nothing more than a handout to the utility companies—a subsidy, if you will. The authority to determine who is deserving of funds under the program is subject to misuse if that judgment is cast by officials who are not as familiar with the particular needs of a local jurisdiction or community.

I urge adoption of the Michel amendment.●

● Mr. PERKINS. Mr. Speaker, I strongly support this supplemental appropriations measure, however, I am deeply concerned that it does not contain a weatherization component. I am convinced that in the long run we could better help low income people in meeting energy costs if we made a sizable adjustment now in weatherizing their homes. I think the administration has made a terrible mistake in its decision to place the weatherization program in the Department of Energy. The result is that there is no effective weatherization program in operation.

On the other hand, we have a Federal agency which has provided significant help in the winterization of old and substandard homes since 1973. The 1974 amendments to the Economic Opportunity Act established the emergency energy conservation program and the Community Services Administration administered the program effectively through 1978. Just last year the Committee on Education and Labor undertook an intensive review of the CSA weatherization program. During those hearings we received testimony from individuals administering housing and weatherization programs from communities across the Nation. Based on our review, the committee stated in its report on the CSA bill:

> The CSA weatherization program is an active and successful component of the effort to relieve poverty in rural areas. We were not alone in this view. A report of the Committee on Banking, Finance, and Urban Affairs to the Ad Hoc Committee on Energy last year observed that:
>
> "CSA has had the most experience in administering a weatherization program for the poor, the program being carried out by community action agencies pursuant to section 222(a)(12) of the Economic Opportunity Act of 1964. In fact their program was the basis for the FEA program established in the Energy Conservation and Production Act of 1976. The Congress in recognizing this fact designed the FEA program so as to supplement, and not supplant nor conflict with, CSA's emergency conservation program. Because of the effectiveness of the CSA program, title II conforms the FEA program as much as possible to CSA's basic structure and guidelines."

Mr. Speaker, our committee action last year was to continue the CSA authority for weatherization projects and we encouraged mutual development and implementation of effective weatherization projects between CSA and the Department of Energy. This is something that

appears not to be happening. The Committee on Education and Labor will turn to this matter in the immediate future. We are going to make sure that there will be an effective weatherization program and if that requires further amendments to the Economic Opportunity Act we will bring the necessary legislation to the Floor of the House. At this critical time we simply cannot allow the weatherization program to be dormant. Let me repeat, the Community Services Administration has done an effective job with the weatherization program in the past. The Community Services Administration today is not the ineffective and poorly administered agency critics claim it was 10 years ago. It is an agency which has the ability and the capacity, perhaps more than any other agency in Government, to conduct programs benefitting the poor of this Nation.●

● Mr. STOKES. Mr. Speaker, I rise in strong support of House Joint Resolution 430—a bill which would provide $1.35 billion to assist low-income families pay their utility costs this winter.

Immediate action by this Congress is necessary to prevent hundreds of families and senior citizens from facing severe hardship this winter. Rising fuel costs have affected nearly everyone in this country. But, their impact on poor families and senior citizens on fixed incomes has been especially harsh. These people already pay proportionately more of their incomes on fuel costs than more affluent families. Yet, poor families will be faced with home heating costs this winter that could double those of last winter. For example, an average low-income household in Ohio that spent $620 on home heating oil last winter could expect to spend $1,055 this winter. Moreover, these families have little flexibility to absorb these costs on their meager incomes. As a consequence, many will be forced to choose between freezing and starving, unless some assistance is provided.

This bill is not perfect. The $1.35 billion contained in the bill is not nearly enough to provide energy assistance to every poor family in this country. However, the House Appropriations Subcommittee on Labor-HEW labored over 3 hours to fashion a bill that would direct the money to the neediest families in the coldest climates. This money will do much to prevent inestimable human suffering and misery this winter. While the administrative approach drafted by the subcommittee is cumbersome, I believe that it is workable. The Community Services Administration has already done the necessary planning for implementation of its share of the appropriation. The Department of Health, Education and Welfare (HEW) has the capacity to distribute checks quickly to SSI and AFDC recipients. Many of those States which will opt out of HEW administration already have plans in place for effective program administration. Given these elements, I believe that the money can be distributed expeditiously to those persons who most need it, even though a great deal of effort will be required of both HEW and CSA to accomplish a smooth program operation and to minimize duplication.

The need is overwhelming. The time to act is now; winter is already upon us. I urge my colleagues to pass this low-income energy assistance supplemental appropriation without delay.●

Mr. NATCHER. Mr. Speaker, I move the previous question on the joint resolution and all amendments thereto to final passage.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and on a division (demanded by Mr. WALKER) there were—yeas 166, nays 64.

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOFFETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 290, nays 105, not voting 38, as follows:

[Roll No. 603]

YEAS—290

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Aspin
Atkinson
AuCoin
Bailey
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brodhead
Brocmfield
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Latta
Leach, Iowa
Lederer
Leland
Lent
Lewis
Lloyd
Long, La.
Lowry
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Matsui
Mavroules
Mazzoli
Mikulski
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Young, Alaska
Zablocki
Zeferetti

NAYS—105

Anthony
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Bethune
Bevill
Bowen
Breaux
Brinkley
Broyhill
Burgener
Butler
Chappell
Cleveland
Collins, Tex.
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
Derwinski
Devine
Dornan
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Evans, Ga.
Flippo
Fountain
Gialmo
Gibbons
Gingrich
Ginn
Goldwater
Gramm
Grisham
Gudger
Hall, Tex.
Hammer-schmidt
Hance
Hansen
Hinson
Holt
Hyde
Ichord
Ireland
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Kelly
Kindness
Kramer
Lagomarsino
Leath, Tex.
Lehman
Levitas
Loeffler
Long, Md.
Lott
Lungren
McDonald
Martin
Mathis
Mattox
Mica
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Nelson
Nichols
O'Brien
Paul
Rhodes
Roberts
Robinson
Rose
Rousselot
Satterfield
Sawyer
Schroeder
Sebelius
Shelby
Shumway
Shuster
Snyder
Steed
Stenholm
Stump
Symms
Synar
Taylor
Thomas
Walker
Watkins
Wydler
Young, Fla.
Young, Mo.

NOT VOTING—38

Ashley
Baldus
Brademas
Brooks
Burton, John
Clay
Dickinson
Flood
Foley
Guarini
Holland
Howard
Leach, La.
Lee
Livingston
Luken
McEwen
McKay
Maguire
Miller, Calif
Minish
Moorhead, Pa.
Patten
Petri
Rodino
Roe
Rosenthal
Rudd
Santini
Scheuer
Skelton
Stark
Treen
Whitehurst
Whitley
Wilson, Bob
Winn
Yatron

□ 1620

The Clerk announced the following pairs:

On this vote:

Mr. Foley for, with Mr. Livingston against.
Mr. Rodino for, with Mr. McKay against.
Mr. Brademas for, with Mr. Leach of Louisiana against.
Mr. Petri for, with Mr. Rudd against.

Until further notice:

Mr. Guarini with Mr. Whitehurst.
Mr. Maguire with Mr. Winn.
Mr. Miller of California with Mr. Lee.
Mr. Roe with Mr. Bob Wilson.
Mr. Santini with Mr. Dickinson.
Mr. Stark with Mr. McEwen.
Mr. Yatron with Mr. Rosenthal.
Mr. Whitley with Mr. Scheuer.
Mr. Skelton with Mr. Patten.
Mr. Moorhead of Pennsylvania with Mr. Luken.
Mr. Minish with Mr. Howard.
Mr. Clay with Mr. John L. Burton.
Mr. Brooks with Mr. Ashley.
Mr. Baldus with Mr. Holland.

Mr. LEHMAN and Mr. HYDE changed their votes from "yea" to "nay."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FUEL BILL WILL MAKE FOOD STAMPS SEEM STINGY

● Mr. DEVINE. Mr. Speaker, we are often asked what effect constituent mail has on our voting and we always assure our people it has a great impact.

Let me read you a constituent letter that may set a pattern for the type of mail many may receive next week:

HOUSE OF REPRESENTATIVES,
Washington, D.C.

DEAR CONGRESSMAN: What in the hell are you guys doing down there? I recognize there are many financial problems facing many people in this nation, however, you all seem to have the same solution for all problems—cover them with money.

I am making specific reference to the $1.6 billion legislation being rushed through the House, bearing the attractive, emotional title of "fuel assistance for the poor elderly".

I suspect one opposing this could be flirting with political suicide, however, while Congressmen are oozing compassion and exhibiting their humanitarian proclivities, I would hope they would also exercise the same emotional reactions for the taxpayers back home that are forced to pick up the check.

As I understand the program, SSI recipients are eligible, AFDC beneficiaries are eligible, and grants will be made with no control on how the money is spent (whether it be on fuel, air conditioning, alcohol, or whatever), no particular needs test, and the folks in Hawaii will have assistance in paying their fuel bills the same as the folks in Maine or Minnesota.

Inflation hits everybody and particularly those on a fixed income, such as those for whom this legislation was designed, but isn't it inflationary to call upon the taxpayers across America to fund another program initially at $1.6 billion and administered by a Community Services organization and/or HEW and/or the various states with basic cash grants—where will it end?

It is interesting to note so many New England Congressmen, particularly in Massachusetts, taking such an emotional approach relative to the fuel problems in their area, when these states and their Representatives refuse to permit offshore drilling or the construction of refineries that would help produce energy that might keep prices down.

In any event, Mr. Congressman, please don't forget the taxpayers when you are generously shoveling out tons of money to solve every conceivable type of problem with yet another welfare type program that will grow like food stamps and never end.

Yours,

A CONCERNED CONSTITUENT.

As you know, Mr. Speaker, because of the impassioned pleas of those who are primarily responsible for the big inflation that hurts everyone, old and young, those that feel Government spending is the solution to everything, coupled with their eyes on the ballot box, the bill sailed through 290 to 105.

The food stamp program for the needy poor started at a figure much more modest than the $1.6 billion initial cost of this, and today that costs over $8 billion per year.

There is a need to assist in hardship cases, particularly the elderly poor, but a massive, inflationary, never-ending subsidy is just not the answer.●

PERSONAL EXPLANATION

Mr. PEPPER. Mr. Speaker, I was in my office with constituents and missed the vote on rollcall No. 602.

Had I been present, I would have voted "nay."

APPOINTMENT OF CONFEREES ON H.R. 4473, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS, 1980

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4473) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. YOUNG of Florida. Mr. Speaker, reserving the right to object, I do so for the purpose of inquiring of the chairman as to what his position will be on some of those amendments that were adopted by such overwhelming votes in the House, whether he personally supported them or not. What will be his position when we get into the conference committee?

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to my chairman.

Mr. LONG of Maryland. For the gentleman's information I want to say that I support the House position on these amendments, and want to point out that the House passed the particular amendment that I think the gentleman has in mind, dealing with indirect aid, prohibiting it, by a margin of 3 to 1. The Senate did not pass that, but that failed there by only two votes.

I intend to support the House positions as long as that is possible.

Mr. YOUNG of Florida. Mr. Speaker, let me say that I appreciate the comments of the gentleman from Maryland, and because of his personal commitment I will not offer the motion to instruct that I had intended to offer. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. LONG of Maryland, OBEY, CHARLES WILSON of Texas, YATES, MCHUGH, LEHMAN, DIXON, WHITTEN, YOUNG of Florida, Mrs. SMITH of Nebraska, Mr. KEMP, and Mr. CONTE.

REQUEST TO CONCUR IN SENATE AMENDMENT AND TO APPOINT CONFEREES ON H.R. 2515, AUTHORIZING ON TEMPORARY BASIS CERTAIN BUSINESS AND AGRICULTURAL LOANS

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2515) to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. MATTOX. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that conferees be appointed for the consideration of the bill (H.R. 2515) to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. CAVANAUGH. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

SUPPLEMENTAL REFUGEE ASSISTANCE AUTHORIZATION

Mr. FASCELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4955) to

authorize an additional appropriation of $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981 for migration and refugee assistance.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 8, not voting 83, as follows:

[Roll No. 604]

YEAS—342

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Pascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Peyser
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roth
Rousselot
Roybel
Royer
Russo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Waxman
Weaver
Weiss
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—8

Collins, Tex.
Conable
Holt
Jeffries
Latta
McDonald
Mitchell, Md.
Paul

NOT VOTING—83

Ambro
Ashley
AuCoin
Baldus
Boland
Bolling
Brademas
Brooks
Brown, Calif.
Burton, John
Chappell
Chisholm
Clay
Daschle
Davis, S.C.
Dickinson
Diggs
Dingell
Early
Flood
Florio
Foley
Ford, Mich.
Forsythe
Fuqua
Giaimo
Guarini
Holland
Howard
Huckaby
Ireland
Jones, N.C.
Leach, La.
Lee
Livingston
Luken
McCormack
McEwen
McKay
Madigan
Maguire
Mathis
Miller, Calif.
Minish
Moakley
Moffett
Mollohan
Moorhead, Pa.
Patten
Petri
Pickle
Preyer
Quayle
Rangel
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rudd
Runnels
Sabo
Santini
Scheuer
Seiberling
Skelton
Stark
Stewart
Treen
Ullman
Vento
Wampler
Watkins
White
Whitehurst
Whitley
Wilson, Bob
Wilson, C. H.
Winn
Wright
Yatron
Young, Alaska

□ 1640

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4955, with Mr. PEYSER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 22, 1979, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 4955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to amounts otherwise available for such purpose, there are authorized to be appropriated for the Department of State for "Migration and Refugee Assistance", $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZABLOCKI: Page 2, after line 5, insert the following:

SEC. 2. (a) In addition to the assistance authorized by the first section of this Act, there is authorized to be appropriated for the Department of State $30,000,000 for the fiscal year 1980 for use in furnishing assistance, on such terms and conditions as the President may determine, to alleviate the human suffering and starvation among refugees and other victims of the famine in Cambodia. Assistance provided under this section shall be for the humanitarian purposes and limited to the civilian population, with emphasis on providing food, medicine, clothing, temporary shelter, and similar efforts to save human lives. Such assistance shall, to the extent feasible, be provided through international agencies and private voluntary organizations.

(b) The President shall satisfy himself that adequate procedures have been established to ensure that the assistance authorized by this section reaches the innocent victims of famine for whom it is intended. Such procedures shall include end use monitoring of deliveries on a periodic basis by individuals having freedom of movement where the assistance is being distributed within Cambodia. The President shall report to the Congress on compliance with this subsection not later than 90 days after the enactment of this section.

(c) Funds appropriated under this section may be made available until expended.

(d) At the direction of the Secretary of State, obligations incurred prior to the enactment of appropriations to carry out this section, against other appropriations or accounts for the purpose of alleviating the human suffering and starvation caused by famine in Cambodia, may be charged against appropriations authorized by this section.

(e) Priority shall be given in allocating assistance under the Agricultural Trade Development and Assistance Act of 1954 to furnishing agricultural commodities for use in carrying out this section.

(f) Assistance under this section shall be provided in accordance with the policies and utilizing the general authorities provided in section 491 of the Foreign Assistance Act of 1961.

Mr. ZABLOCKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. The amendment I am offering is substantially the same as the bill, H.R. 5689, which was approved by

the Committee on Foreign Affairs yesterday. I am pleased to offer it on behalf of the committee as an amendment to the bill pending before us.

The amendment represents a bipartisan congressional initiative to respond to the tragic situation from the famine in Cambodia. The amendment authorizes $30 million for fiscal year 1980 for assistance to alleviate the human suffering and starvation among the refugees and the other innocent victims of this terrible famine.

Mr. Chairman, as I indicated, this amendment is virtually identical, except for drafting changes necessary to offer it as an amendment to the bill, to H.R. 5689, the Cambodian famine relief bill which the Committee on Foreign Affairs approved and which has a large number of cosponsors on both sides of the aisle. It is an amendment worthy of support. Furthermore, it is an amendment which is supported by the President. Indeed, it is a portion of the overall package of $69 million which the President announced yesterday as the U.S. contribution to the international relief effort which is now getting underway.

Mr. Chairman, because of the urgency of the situation in Southeast Asia we are offering the bill as an amendment rather than following the usual routine we go through on separate legislation. Ordinarily, the bill, indeed, would have been scheduled for the Suspension Calendar next Monday.

Mr. Chairman, may I at this point express appreciation to the distinguished gentleman from Florida (Mr. FASCELL), chairman of the International Operations Subcommittee, for his invaluable support in this humanitarian effort, and to the gentleman from Alabama (Mr. BUCHANAN) who also is a cosponsor and has contributed much in this effort, to the gentleman from New York (Mr. WOLFF), chairman of the Asian and Pacific Affairs Subcommittee; to our colleague from New York (Mr. SOLARZ) and to many others including those who are not members of the Committee on Foreign Affairs, but who have made important contributions, prominent among them being the gentleman from Florida (Mr. YOUNG), the gentleman from Illinois (Mr. ANDERSON), and so many, many others, Mr. Chairman, too numerous to mention at this point.

□ 1650

The appalling tragedy in Cambodia is one of the worst disasters in human history. Cambodia's population has been reduced from some 8 million to 4 million or 5 million. Almost half of the population of Cambodia is gone. Perhaps another 2½ million will die in the months ahead unless aid gets to them immediately.

The famine is cruelest among young children. Already relatively few children under the age of 5 are left in Cambodia. Starvation among the civilian population generally is accompanied by epidemics of diseases such as malaria, dysentery, and other illnesses which are wiping out untold numbers of persons in their weakened condition.

This amendment, Mr. Chairman, is simple. It authorizes appropriations of $30 million for humanitarian relief for the civilian victims of the famine. This is for food, medicine, clothing, temporary shelter and similar efforts to save human lives. It is to be provided through international agencies and private voluntary organizations. The provision of aid is subject to the establishment of adequate procedures to insure that the assistance reaches innocent victims for whom it is intended. The aid deliveries will be monitored by observers in the field and the President of the United States is to report to the Congress on compliance with the requirements contained in the amendment.

Mr. Chairman, I will not take further time of the House at this point. I know that all of my colleagues have read about the situation in Cambodia and I know we are all sympathetic and want to exert every effort to assist the refugees and victims of the famine.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(By unanimous consent, Mr. ZABLOCKI was allowed to proceed for 3 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, I yield to the ranking member of the House Foreign Affairs Committee, the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Chairman, I rise to endorse the comments of my distinguished colleague, Chairman ZABLOCKI, and support his amendment to the legislation authorizing additional appropriations for migration and refugee assistance. The Zablocki amendment would authorize the President to furnish humanitarian disaster relief assistance to the famished Cambodian civilian population through the use of various voluntary organizations and international agencies.

As my colleagues know, there has been tremendous suffering in Cambodia due to the ruthless and barbaric actions of the Communist regimes that have ruled the country in recent years. Surely, the people of Cambodia have experienced human rights violations almost unparalleled in recent history. In the words of Father Hesburgh, the distinguished president of Notre Dame University, "We have in the making another holocaust" in Cambodia.

At this time we are told that 200,000 Cambodians are dying every month, and that there is virtually no food anywhere for these destitute people. Moreover, 3 million people are now "in very dire straits" and need food, medicine and clothing immediately.

Cambodia—desolate, devastated and starving—barely exists as a nation. Families have been decimated, children are malnourished, currency is nonexistent.

In order to alleviate this terrible man-made tragedy, I urge all nations—including the sponsors of the present regime in Phnom Penh—to respond promptly to this urgent humanitarian need.

I urge my colleagues to support this amendment.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for his contribution, and especially for quoting my very good friend, Father Ted Hesburgh, and sharing that quotation with our colleagues.

Mr. Chairman, I yield to the chairman of the Subcommittee on Asian and Pacific Affairs, the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, I thank the chairman for yielding. Let me compliment the chairman for the speed with which the gentleman has pushed this measure forward.

I should like to say at this point, however, that this legislation, which the subcommittee did approve and pass forward to the full committee in no way implies that there is recognition of either regime in Cambodia, the Pol Pot or the Heng Samrin regime, and as well that we are going to monitor this aid at the suggestion of the gentleman from Florida (Mr. YOUNG) that we are going to continue to monitor the end use of this humanitarian assistance to see to it that it gets to the people where it is so vitally needed.

Mr. Chairman, I am pleased today to join with my chairman in offering this life-saving amendment to the refugee authorization bill now before us.

As we all know from the graphic and heart-rending news accounts, the people of Cambodia are dying the slow and horrible death of starvation and disease. Our help is overdue, the world's help is overdue. But it is now on the way—at last. The world community has finally chosen to act, and President Carter yesterday announced the U.S. program, a key portion of which we are asking the House today to quickly ratify in the form of the amendment being offered by the Foreign Affairs Committee.

Chairman ZABLOCKI has already outlined the case for the amendment; let me assure this House that this amendment is the logical product of months of activity by the House, and by the Foreign Affairs Committee, the Subcommittee on Asian and Pacific Affairs, and cooperative subcommittees from a number of committees.

Back on June 29, seven Members joined in sending President Carter a letter asking an immediate U.S. airlift of humanitarian relief supplies—food and medicine—to the thousands of helpless refugees then trapped along the Thai-Cambodian border, as well as people trapped in Cambodia itself.

Shortly thereafter, the President authorized some $900,000 for immediate relief across the Thai border.

On September 26 the Asian Affairs Subcommittee approved, and on September 27, under unanimous consent, the entire House adopted, House Resolution 431, calling on the United Nations to immediately inaugurate an international relief program for Cambodia, and citing the primary responsibility of Vietnam and the authorities in Phnom Penh to cooperate in this endeavor. You will re-

call a similar resolution approved by the House on June 18 helped set the stage for the Geneva Conference on Refugees, which was so instrumental in compelling Vietnam's attention to the plight of the boat people.

Following the House vote of September 27, Congressman ANDERSON and Mr. SOLARZ introduced a Cambodian relief bill which would have authorized $35 million, and on October 9, I was privileged to join with Chairman ZABLOCKI in introducing a similar bill which tied the assistance to the foreign disaster relief section of the foreign aid bill.

On October 10, the Subcommittee on Asian and Pacific Affairs took testimony on Cambodian relief legislation, and on October 17, we joined with our colleague from Florida (Mr. YOUNG) in perfecting the monitoring provisions now incorporated into the amendment we are offering today.

Yesterday, the Foreign Affairs Committee, after extensive consultations with the Department of State, with AID, and with the White House, approved a $30 million Cambodian relief bill, the substance of which we are asking you to join us in today.

At this point, I would like to commend my chairman for his leadership on this issue, and to thank the members of the Subcommittee on Asian and Pacific Affairs for their dedication over the past few months. I would particularly like to thank our colleague from Florida (Mr. YOUNG) for his assistance in making sure that the amendment we present today will meet—insofar as it is possible—the real needs of the people of Cambodia.

As I have said on repeated occasions to this House, we face for the second time in this century the unspeakable—the death by state policy of 6 million human beings. This time, we are in a position to call a halt halfway through the process. It is too late to do anything about the autogenocide of Pol Pot. But it is not too late to move to save the remaining 3 million Cambodians who have hung on, and now so desperately need our help.

Speed is of the essence, and on that account—the thousands of lives which will be saved every day—we can move action forward. I ask your approval today for this amendment.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman from New York for further clarifying what I have said as to how the aid which will be provided with the funds authorized by this bill will be monitored.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has again expired.

(At the request of Mr. SOLARZ, and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 2 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, I yield to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding.

I simply want to take this opportunity to pay tribute to the very distinguished chairman of our committee, the gentleman from Wisconsin (Mr. ZABLOCKI); to the gentleman from Florida (Mr. FASCELL), the distinguished chairman of the committee which reported this legislation out; to the gentleman from Alabama (Mr. BUCHANAN), the ranking minority member; to the chairman of the Subcommittee on Asian and Pacific Affairs, the gentleman from New York (Mr. WOLFF); to the gentleman from Illinois (Mr. ANDERSON), for having played such a helpful role in bringing this urgent matter to the attention of the House today and to the leadership of the Congress for making it possible for us to expeditiously consider this desperately needed legislation, since while we are talking the people in Cambodia are dying.

Over the past few years many of us have risen in this body to express our outrage at the horrors that have befallen the Cambodian people.

In 1977, this House passed a resolution sponsored by me and many other Members which condemned the genocidal massacres undertaken by the Pol Pot regime to purge Cambodia of all Western influences, and which had turned that once beautiful and gentle country into an Asian "Auschwitz."

Last year we acted to allow 15,000 Cambodian refugees rotting in refugee camps in Thailand to resettle in the United States.

Today we are acting on an amendment to authorize $30 million as part of the U.S. response to the international emergency relief effort to assist the 2½ million Cambodians faced with starvation.

The desperate situation in Cambodia today is a direct result of the cruel policies of the Pol Pot and Heng Samrin forces which have uprooted the population and destroyed rice fields and food reserves to prevent them from falling into the hands of the other side. These two warring factions have until recently refused to allow relief agencies to enter their country or distribute food and medicines. But finally, with tens of thousands sick and starving, they have agreed to allow an internationally monitored relief effort to get under way.

Mr. Chairman, I am a member of the President's Commission on the Holocaust, which was charged with finding a suitable memorial to the victims of the Nazi Holocaust. What we are doing here today is in some ways a living memorial to those millions of innocent people who perished defenseless over 30 years ago. There is no doubt in my mind that their deaths, and our failure to act at that time has sensitized and shamed us into acting compassionately today to aid our suffering Cambodian brethren.

Mr. Chairman, I have nothing more to say and would hope that we could pass this as soon as possible.

Mr. ZABLOCKI. Mr. Chairman, I want to again thank my friend and colleague, the gentleman from New York, for his efforts in helping prepare this legislation.

Mr. Chairman, I yield to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I would like to thank my colleagues, especially those of the Foreign Affairs Committee, for acting so swiftly and conclusively to help alleviate the suffering of millions of people in Cambodia—a suffering and depravation reminiscent of Nazi Germany and Biafra.

I hope that our requirements for monitoring food distribution and for the total exemption of military personnel from all forms of aid does not prevent help from reaching the general population in that tormented country. I do not advocate aiding the troops of the Pol Pot or the Heng Samrin regimes. But, I would accept the loss of a bowl of rice to either in order to get thousands of bowls of rice to the children, the women, the elderly and the noncombatant men.

We accepted civilian casualties when we bombed Cambodia. Perhaps we should accept some filling of military bellies to keep civilians from starving.

I wish we had all understood the degree of the suffering in Cambodia earlier so that we might have forestalled the many deaths. Perhaps we shall use this experience as a lesson to look closely at what is happening to innocent people in the corners of the world. If we act soon enough, we can avoid duplicating the fate of the boat people; we can help people where they live and not subject them to the danger of flight and the indignity of rejection.

We owe a great debt of thanks to voluntary relief agencies such as the Catholic Relief Services, UNICEF, the International Red Cross, and others for their humanitarian efforts to feed the Cambodian people.

I am encouraged by the actions of the Reverend Theodore M. Hesburgh, president of Notre Dame, who pledged to raise $100 million in voluntary contributions for food and supplies and by President Carter's decision to enlarge his own commitment.

I hope I can tell the people of my district that the feelings they have expressed in letters and in petitions such as that submitted to me by the Village Temple in the Greenwich Village area of New York City, and the concern expressed by myself and other Members earlier, will be answered.

I hope we can tell the people of Cambodia that their food is coming.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Chairman, I also want to join my colleagues in thanking the chairman for the expeditious way the gentleman did whatever this House could to help in this massive slaughter.

Two years ago the distinguished writer, John Barron, put out a book that was distributed, not widely enough around our House, called "The Murder of a Gentle Land."

I visited Cambodia three times before I came to the Congress, the first time in

1966, and it was that, a gentle land with a beautiful and gentle people, and to think we may witness a famine of 3 million of its citizens in the next 6 months just staggers the mind.

I know the gentleman's committee will keep this House informed on a regular basis of what we can do and how quickly we can do it to save whatever hundreds of thousands of children we can in this most pathetic area of the world and to remind ourselves, without any rancor, that it is again a manifestation of the curse on the face of the Earth of communism, no matter how we try to picture it, this form of oppression over mankind is causing hundreds of thousands of refugees and now the death of millions of people again, and it has only been six decades since 1917 in the Soviet Union.

So I thank the gentleman again for the gentleman's work in this great committee on both sides of the aisle.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman from California.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has again expired.

(At the request of Messrs. DERWINSKI and FASCELL, Mr. ZABLOCKI was allowed to proceed for 3 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, I yield to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, I rise in support both of the amendment offered by the distinguished chairman of the Foreign Affairs Committee and of the assistance provided Vietnamese refugees by H.R. 4955.

The situation in Southeast Asia today represents one of the greatest tragedies of all time. Because of the activities of the Socialist Republic of Vietnam, which is certainly no republic, and of democratic Kampuchea, which is in no way democratic, thousands have been forced to flee their homes and many, many more face starvation because Communist forces have ruined their croplands.

All of these people, from tiny babies to the very old, are the victims of some of the most severe, cruel, and inhumane actions the world has witnessed.

I am concerned over the increased repression by such Communist regimes as those in Vietnam, Cambodia, and the Soviet Union.

Because of this concern, I have voted for additional defense spending in the face of continued aggression. In that same vein, we must show our concern for the victims of this continued repression.

The Cambodian assistance is in response to urgent pleas from the International Red Cross and UNICEF. We have received assurances from these organizations that they will be permitted to distribute food and supplies within Cambodia. This assistance will not go to the government or governments there, it will go to the people. The United States has received additional assurances from these organizations that they will halt the programs if they are prevented from distributing these supplies to the people truly in need.

I think the amendment adequately addresses the concerns of some that our aid might end up in the wrong hands.

The additional authorizations in this bill for refugee assistance are in response to commitments made by the United States to increase the number of refugees which we will accept.

At the same time, we have undertaken a number of actions at a series of meetings around the world to strongly encourage other nations to bear a greater share of the burden. Many have responded.

In fact, the supplemental refugee assistance in this bill reflects a decrease in what we would normally be expected to contribute because Japan has agreed to pay half of the cost of assisting refugees in Southeast Asia.

We have led the world in efforts against Communist aggression and repression. We cannot turn our backs on the victims of this repression.

I urge the adoption of the amendment by our distinguished chairman and the support of our colleagues for this legislation.

Mr. ZABLOCKI. Mr. Chairman, I yield to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I want to join in commending the chairman and the members of the committee.

I had breakfast this morning with someone who said, "Don't you think that civilization as a whole is going downhill?"

In a sense, we are answering that question this evening here. A century ago these people would have starved and we would not have known anything about it. Now we know about it and now we have the opportunity to respond. This country has been at its finest when we have generously responded to human misery.

I am pleased to join in moving this bill ahead.

Mr. AKAKA. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Hawaii.

Mr. AKAKA. Mr. Chairman, I thank the gentleman for his speedy efforts in bringing assistance to the people of Cambodia.

Mr. Chairman, I rise in support of this amendment.

In August, I had the opportunity to travel to Southeast Asia on a study mission appointed by the Speaker and chaired by my distinguished colleague from New York, Mr. ROSENTHAL. While our group did not visit Cambodia, many of the officials whom we met with in Hong Kong, Thailand, Indonesia, and Malaysia warned us of the crisis that existed in Cambodia. Our study mission was not formed to address the Cambodian situation. In our final report, however, special note was made of the food problem because we all became aware of the overwhelmingly grave situation in Cambodia.

The only point that needs to be made today is that many thousands of Cambodians are dying and will die of starvation. This is a situation that was foreseen in August and is being realized today. We, as leaders in the free world, must provide assistance without delay so that a large-scale tragedy can be averted.

In this decade, there have been at least three occasions when special famine relief was authorized by Congress. In 1971, we came to the aid of Bangladesh. In 1973, it was Biafra, and in 1974 and 1975 we provided relief for thousands of starving people in the Sahara region. The needs of the Cambodians are equally as great.

We have all seen the reports in the press. There can be no question about this assistance if we view this famine relief in human terms. I urge all my colleagues to join with me in supporting this amendment.

□ 1700

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman from Hawaii (Mr. AKAKA) for his contribution.

Mr. Chairman, I would also like to point out that the gentleman from Ohio (Mr. GUYER) was very helpful in our efforts on this legislation.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Chairman, having just come back from Thailand and the Ban Vanai camp there, I have seen firsthand the condition of these people.

I would just like to compliment the gentleman from Wisconsin (Mr. ZABLOCKI) and say that his amendment is very timely. I urge the House to accept it.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I also want to commend the chairman of the committee for offering his amendment. I think this aid is crucial to save a people that suffered extraordinary misfortunate and extraordinary tragedy.

The only thing I would add, Mr. Chairman, at this point is that many of us pointed out as early as late spring and early summer the need for action by the U.S. Government.

In fact, I along with several of my colleagues, wrote to President Carter on June 28 of this year requesting him to provide immediate humanitarian assistance in the form of an airlift of food and emergency medical supplies to Cambodian refugees. I regret that the administration did not respond to our plea in a more expeditious fashion and, as a result, until 3 weeks ago virtually no food or medical supplies reached Cambodia and since then very little aid has been supplied.

I am hopeful that the situation will now be reversed quickly and that other countries of the world will join the United States in responding to the international appeal that has been made to assist these unfortunate refugees.

I want to compliment the committee

for including provisions designed to insure that the proper monitoring of these supplies so that they reach those populations which are most in need. It is indeed regrettable that the political situation within Cambodia has also worked to impede the delivery of food and medicine to the people of that country.

Mr. Chairman, this amendment raises a question of common decency and its passage and effective implementation will aid thousands of people who will perish without our help and the help of the international community.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentlewoman from New York (Ms. HOLTZMAN) for her remarks and for her support. I urge the adoption of my amendment.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, first I want to thank the members of the Committee on Foreign Affairs for paying such kind attention to the concerns that I expressed during the hearing that this food and humanitarian relief actually reach the people in Cambodia who need the help without regard to their politics and rather than the troops of either side.

We read in our newspapers here in Washington and throughout the country that the Vietnamese-backed government in Phnom Penh had said they would take all the humanitarian assistance we would send them but they would not give it to those not on their side.

Mr. Chairman, in my opinion, we ought to be compassionate for hungry people who are starving in Cambodia whether they support Pol Pot, whether they support Heng Samrin, whoever they support. They are hungry human beings, and I just hope that some of the pressure and some of the notice we have brought to the attention of the world through our efforts here in the Congress helps in convincing those regimes that all the hungry people in Cambodia deserve compassion, not just one side or the other.

The truth is that I do not have any compassion or love for the Hanoi regime or the Pol Pot regime. They are both murderous, they are both barbaric, and they are both uncivilized.

Mr. Chairman, in addition to that, we have seen the Vietnamese Government as the sponsor of so much of the grief the people are experiencing in that part of the world, earlier the boat people who were set adrift on the seas and who are ending up in refugee camps around the world.

Mr. Chairman, the Vietnamese have thumbed their nose at the United States of America and every other free nation in the world. The Vietnamese have thumbed their nose at every civilized practice in which we believe.

While I am supporting this humanitarian aid, and supporting it very enthusiastically, I believe it is time we used every effort available to us to bring pressure on the uncivilized people who are controlling the Vietnamese Government, which controls Laos and Cambodia, to let the world know exactly what they are doing and to let the world know what type of holocaust they are bringing upon the people of Southeast Asia.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to compliment the gentleman from Florida (Mr. YOUNG) on the work he has been doing in this connection.

I might remind the gentleman that the Soviet Union has shipped something like $4 billion worth of military supplies into Vietnam and has yet to do very much in the way of shipping food in to help the starving people of Cambodia.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from Hawaii.

Mr. Chairman, the gentleman from New York (Mr. WOLFF) is exactly correct. We can take care of starving people all day long, but we are never going to solve the problem until we stop these barbaric regimes, the people who are responsible for the starvation and this famine.

Mr. Chairman, I hope the House will agree at every opportunity to bring the pressure of the world against those who are causing the suffering, the pain, and the anguish.

Mr. HEFTEL. Mr. Chairman, I want to join in support of the gentleman's statements, and I would point out that on both sides of the aisle we have to recognize that, whatever we think of the Communist threat or menace, it is a menace not to theory but to people.

This is a tragic example of that, and I hope we can recall this as we move on and have to figure out how we are going to provide freedom to those in the world who are being threatened and will continue to be threatened.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman from Hawaii (Mr. HEFTEL) for his comments.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to my colleague, the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Florida and I have sometimes disagreed on questions of foreign assistance, but I am pleased to say that in this case I very pleasantly join with him in support of this amendment and agree with him that the policies of the Vietnamese Government have in large part created the travesty we are now witnessing in Cambodia.

As the gentleman knows, we are going to be meeting on Tuesday in conference on the appropriations for foreign assistance, and at that time I hope the gentleman will join with me and, I am sure, others in appropriating the funds necessary to meet the demands of the amendment which we are about to adopt.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would just like to commend the gentleman from Florida (Mr. YOUNG) and say that I think this is a bipartisan effort in a humanitarian way to respond to a human need in the world. I also commend the chairman of this committee for the expeditious way in which this legislation has been pursued.

Mr. Chairman, in rising to support this amendment, I want to express my profound sense of gratitude to the Committee on Foreign Affairs for their leadership on this issue.

With the adoption of this amendment, we set the stage for American participation in a strictly humanitarian and nonpolitical famine relief effort.

The United States traditionally has contributed one-third of international aid requests made by the world food program. With this amendment, we will be able to reach this target.

This amendment is no cure-all to the problems faced by the people of Cambodia. This amendment will provide cash necessary to finance a famine relief program over the next 6 months only. More money will be needed later on, since it will take some time for Cambodia to resume anything resembling a normal planting and harvesting season.

In addition to the help authorized by this amendment, the world food program needs contributions from individual Americans. Yesterday, a distinguished group of American religious leaders called upon the American public to match the $30 million in aid that will be made available by the adoption of this amendment.

The $30 million target is a challenge to the American public and to our charitable organizations. We must meet this challenge head-on—for as I have said, such funds will be especially important to sustain the relief effort through next year.

While this amendment will enable the President to implement the program of assistance that he announced yesterday, I believe the record should show that the solution we are pursuing through this amendment is, essentially, a congressionally inspired solution. On this most pressing moral issue, the Congress—and specifically the House Foreign Affairs Committee—has been taking the lead.

Until yesterday, the administration was not on record in support of the extra appropriations needed to respond to the international aid request for Cambodia.

To be fair, the record should show that much of the international efforts now going on are due to effective State Department work behind the scenes. Nevertheless, the record also should show that the administration never formally advised the Congress that the Cambodian famine would require a significant monetary response from the U.S. Government. Why was not this

money requested up front? The reason rests not with the State Department—they knew that this money would be needed. The reason rests with the Office of Management and Budget, which until President Carter's personal intervention yesterday, never permitted the State Department to level with the Congress.

It has been my general experience that the Office of Management and Budget operates more like an office of obstruction and delay. In this case, that obstruction has had serious and morally repugnant consequences.

Apart from the delays caused by the morally blind accountants at the OMB, the whole Cambodian aid picture has been muddied by "big power" politics. One astute observer has said that, over the past few months, the Cambodian people have been treated "like bloody pawns in a big power chess game."

Because the government now in Phnom Penh is the creature of armed intervention by Vietnam—an ally of the Soviet Union—we have let ourselves fall into the abhorrent position of siding with the government of Pol Pot, a "native" Cambodian Government. The Vietnamese are not saints—not by a long shot—but it must be said that the government of Pol Pot stands as the single most barbaric national regime in the history of this century—and in this assessment I include Nazi Germany.

I call upon my colleagues in the House to consider a few of the atrocities of the Pol Pot regime:

During his reign, all professional people, technicians, diplomats, students, and those who have had contact with foreigners were systematically killed.

For example, of approximately 500 Khmer doctors in 1975, it is estimated that 50 survive. In order to survive, all had to go underground and assume the role of peasants for 4 years.

Religious leaders of all faiths were exterminated. The Vietnamese have sent a delegation of Buddhist monks to Phnom Penh to reestablish the Buddhist Church in Cambodia. In many cases, what has been reported by the American press as "Vietnamese occupation" is, in fact, an assignment of technical and professional personnel to Cambodia, to keep things going in the total absence of a technical class among the native population.

The result of Pol Pot's reign is a nation where every single economic and social institution has to be rebuilt, entirely from scratch. This is the great "prize" that the Vietnamese have captured.

I repeat: I am not defending the Vietnamese, whose behavior in the food relief effort, for example, has been up until very recently, totally unacceptable. But I do want to reiterate that our Government must, in every way, shape, and form, repudiate the Pol Pot regime. The fact that we have been ambiguous on this point represents a major moral failure of the President's foreign policy.

In summary, Mr. Chairman, the House of Representatives has been taking, and with this amendment, is taking the moral lead on this issue, and I urge the adoption of this amendment.

Mr. YOUNG of Florida. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Wisconsin on behalf of the Committee on Foreign Affairs.

Mr. Chairman, we have heard much in these hallowed Halls of the weakness of America. Some of my colleagues have been critical of our Government for failing to secure the removal of a Soviet combat brigade from Cuba. Others have been critical of our Nation for failing to secure the release of political prisoners in Latin America and in Eastern Europe. Still others have been critical for our seeming inability to prevail in discussions which take place within the confines of international organizations such as the United Nations.

But today, Mr. Chairman, we have an opportunity to demonstrate our greatest strength to the rest of the world—our capacity for moral leadership. We can join, indeed even lead the forces of good throughout the world and stand up for human life in Cambodia.

There can be no doubt that the tragedy of the Cambodian people is real. The slaughter of hundreds of thousands of innocent children, women, and men is not months away; the apocalypse is now. The famous Four Horsemen—conquest, famine, disease, and war—are running on a rampage in Cambodia, but we have the resources, the capabilities, and the will to reign them in.

Enactment of the amendment offered today which is based on earlier legislation proposed by myself and our colleague from New York (STEPHEN SOLARZ) will give the President the authority he needs to implement the modest but important U.S. contribution to an international rescue effort on behalf of the people of Cambodia. Enactment of the amendment will give our commitments credibility. It will demonstrate that we have both the will and the capability of marshalling that will to act to forestall a horrendous tragedy in Cambodia.

Mr. Chairman, the eyes of the world are indeed upon us today. History may not heap lavish praise on the United States for providing assistance. But, history will judge us cruelly for failing to act should we defeat this amendment. That the wealthiest nation on Earth cannot reach out and extend a helping hand to the poor would be difficult for others to understand. The commitment of the United States to the fulfillment of our dream for universal human rights would be without any credibility. And many would judge us guilty of complicity in the deaths of hundreds of thousands of innocent Cambodians.

Mr. Chairman, many of us have young children who grow more conscious of the world each day. What will we say of them when they ask, "What did you do to save the lives of the people of Cambodia?"

Mr. Chairman, there are no superiors giving us orders to stand fast, to remain idle, and to simply let nature take its course. Yet, it would be easier, I suppose, to adopt the attitude, let someone else take care of these wretched souls.

But I for one cannot be passive ignoring my indirect responsibility for the prospective deaths of 2 or 3 million Cambodian people. I will not and cannot be silent.

In my lifetime, we have observed the holocaust of European Jewry, the massacre of the Kurds, and the attempted destruction of the Ibos. This time, we can intervene to prevent a new holocaust.

This time, we must say as a Nation, "Never Again."

I urge adoption of the amendment.

The CHAIRMAN. The time of the gentleman from Florida (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Florida was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Florida. Mr. Chairman, there is just one more thought I want to leave with our colleagues as this relates to Vietnam.

In addition to the problems that they are creating for innocent people all over Southeast Asia, let me say again, so that no one forgets, that this is the same Vietnamese Government based in Hanoi that to this day still refuses to give an honest accounting for many Americans still listed as missing in action in Southeast Asia.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank my distinguished colleague, the gentleman from Florida (Mr. YOUNG), for the leadership and the very fine bipartisan effort that has occurred with respect to this effort in joining with the chairman of the full Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI), and making this possible, because without that cooperation, the speed with which we were able to consider this measure would not have been possible.

As the chairman of the committee said, this matter went through the Committee on Foreign Affairs and through the subcommittee unanimously, and on our side, of course, we are delighted to accept it.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the ranking minority member of the subcommittee, the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I thank the gentleman for yielding, and I associate myself with his remarks in commending the chairman of our full committee for this amendment and accepting it.

His amendment follows the provisions of H.R. 5689 as reported unanimously yesterday from our committee and will provide desperately needed food and medical care to thousands of Cambodians who will surely die without our assistance.

We have seen in recent days pictures of starving children and have read the accounts of those who have died and will die. If I could bring before this House just one of these children and lay upon the hearts and the minds of our colleagues the enormity of this tragic situation. I know that no American could turn his or her back on that child.

As the gentleman from Wisconsin has

noted, his amendment contains language to insure that this assistance will go only to the victims of Communist repression in Cambodia, not to the perpetrators of that repression.

I strongly urge the support of our colleagues for this lifesaving amendment.

I also commend the gentleman from Florida (Mr. YOUNG) for his remarks.

I must say that someone a good deal wiser than I am once said, "By their fruits ye shall know them."

We have seen the fruits of Asian communism in repression, in hunger, and in the desperation of people fleeing from Vietnam, the people whom we seek to help in this basic legislation. We have seen the terrible condition of the people of Cambodia.

Mr. Chairman, let us show the world the fruits of our country by giving this urgently needed assistance to those who ask us for help.

□ 1710

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Chairman, in August I had the opportunity, along with my colleague, the gentleman from Washington (Mr. PRITCHARD), to visit a refugee camp on the border of Thailand near Aranyaprathet, and I can tell the Members that the situation there is very, very grim.

We had a chance to talk to a number of Cambodian refugees personally there, to have them tell us about the situation. The report that came back from the three Members of the other body who were there indicates clearly that there is tragic human necessity for this, and I think that the chairman's amendment is a good one. We have just got to do everything we can to help deal with this very significant problem.

Mr. FASCELL. I thank my colleague for his statement and for his report.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I, too, want to commend both gentlemen, as well as the chairman of the full committee and all of the members of the committee on both sides for their expeditious action in having this matter reported to us on the floor for action. Of course, I hold no brief at all either for the Vietnamese Government or for the current Cambodian regime and its immediate predecessor, the Pol Pot regime, but it seems to me that at this time, when we are in fact demonstrating in this body and in this country a sense of compassion and humaneness, that we ought to try to restrain ourselves from the extreme self-righteousness that some few Members of this body have exercised in the last few minutes. It seems to me that, when you talk about less-than-civilized behavior in Southeast Asia over the course of the past decade, we have some things to be regretful about, too.

Mr. Chairman, I rise in strong support of H.R. 4955, the supplemental authorization for refugee assistance, and the amendment to the bill which would authorize $30 million in emergency disaster relief for the people of Cambodia.

The human dislocation and famine occurring today in Southeast Asia cries out for worldwide attention and action. Literally millions of people are now homeless and on the brink of death by starvation in a region that has not known peace or security for three decades. We here in the Congress of the United States and, indeed, all governmental leaders throughout the world have the power and the resources to end this mass misery and to save many lives.

I salute President Carter's humane response to the situation in Cambodia. I also endorse the administration's commitment to helping refugees from Vietnam and Laos. It is most fitting that the United States should take a leading role in the international effort to prevent famine and to provide refuge for the victims of tyranny and cruelty in Southeast Asia. Immeasurable pain has been inflicted on the people of that region, and our Nation has a clear responsibility to help heal the wounds resulting from our own involvement there.

The legislation and the amendment to it seem to me to contain effective safeguards against misuse of the proposed assistance. Although there are obviously difficult obstacles to aid distribution in Cambodia, it is nonetheless essential that we act today to make available vital food resources. By approving H.R. 4955 and the amendment to it, we will set in place the assistance program that can be put into full and immediate operation once the necessary tactical planning has been completed.

I must point out in conjunction with this measure that no benefits accrue to the people of Vietnam and Cambodia by U.S. refusal to recognize the government in Hanoi. Unlike the current situation in Pnom Penh, the regime in Hanoi has been long established and faces no serious internal challenge to its rule. The United States could facilitate disaster relief operations in all of Southeast Asia by opening diplomatic channels to Vietnam. It does no good to either side—and especially to the people of Southeast Asia—to continue the policy of nonrecognition of Vietnam.

Certainly, the Hanoi regime is guilty of atrocious crimes against its own people and those of a neighboring country. But a degree of the current social chaos prevailing throughout the region is a result of U.S. devastation of Vietnam, Cambodia, and Laos. The way to alleviate the suffering and to encourage stability is not by ignoring the existence of key authorities in the area, but instead by employing diplomatic and political leverage to promote humanitarianism.

Mr. Chairman, I urge all my colleagues to support H.R. 4955 and the Cambodian relief amendment. And I urge them also to consider normalization of relations with Vietnam as an effective means of furthering our commendable relief efforts in Southeast Asia.

● Mr. CONTE. Mr. Chairman, yesterday's Washington Post contained an article which brought my busy life to a startling halt. It made me forget for a moment the multitude of problems confronting us during the legislative day of October 24, the days and weeks before that, and the days and weeks to come. It made me forget the facts and figures, dollar signs, meetings, hearings, and receptions. It made me forget my typical daily priorities and define reality by one AP wirephoto, a picture that catapulted me across the globe, that dropped me into a shocking state of awareness—a state to which I would like to draw the attention of my colleagues here this morning.

The picture was taken in a part of the world that is so ravaged by hunger and disease, so ravaged that young and innocent children, just like the nameless child captured by this camera, die of starvation and serious disease every second of the day. I have read of the thousands that have perished, but nothing has moved me as greatly as this one picture, blatantly posted on the front page, and the story which accompanied it.

I am sure that many of my respected colleagues have seen this picture—or have been haunted by similar ones. It is the most concise statement that can be made on the need—no, on our obligation, to put an end to the inexcusable cessation of life in a part of the world that however far from these United States, is close enough to be reached by telecommunication and aviation. This picture of a 5-month-old child, who starved to death and left nothing to the world but skin and bones and eyes, will not escape my memory. He represents a worldwide reality—one confronting 80 percent of humanity daily. It is an obscenity which we try desperately to forget. But I cannot forget.

The majority of people in Cambodia bear a striking and shocking resemblance to that child—they are little more than walking skeletons. Cambodia is on the other side of the globe. So far away that we cannot comprehend the commonality of tragedies such as the one that befell this nameless boy. And even if we do attempt to understand, we tend to shirk the responsibility we do have to halt their continuation. Well, they are a reality. Death and disease spread as I speak now. And if we claim to be human beings, we assume the responsibility to do something about this tragedy.

The American people, and the Congress which speaks for them, are worried about energy, the economy, skyrocketing food prices, and unemployment statistics. And they should be. But these same people are possessed with a humanitarian spirit which, in crisis situations, has always dictated a call to action—a call which is heard today—a call which we in Congress can answer.

Mr. Chairman, as a human being, I rise to this call. I rise in support of this legislation before us for consideration.

And I say to those who mumble that we can hardly justify "another $30 million for foreign assistance," that I cannot in my right mind justify either this picture, or the obscenity that it represents.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 362, noes 10, not voting 61, as follows:

[Roll No. 605]

AYES—362

Abdnor
Addabbo
Akaka
Alberta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Deliums
Derrick
Derwinski
Devine
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gialmo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hillis
Hinson
Holt
Holtzman
Hopkins
Horton
Hubbard
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClosky
McDade
McHugh
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moffohan
Montgomery
Moorhead, Calif.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—10

Benjamin
Collins, Tex.
Crane, Daniel
Dannemeyer
Hansen
Ichord
Kelly
Leath, Tex.
McDonald
Paul

NOT VOTING—61

Ashley
AuCoin
Barnard
Brademas
Brooks
Burton, John
Chisholm
Clay
Davis, S.C.
Dickinson
Early
Flood
Foley
Fuqua
Guarini
Harsha
Heckler
Hightower
Holland
Hollenbeck
Howard
Huckaby
Jones, N.C.
Leach, La.
Lee
Livingston
Luken
McClory
McCormack
McEwen
McKay
Maguire
Minish
Moakley
Moffett
Moore
Moorhead, Pa.
Ottinger
Patten
Pepper
Petri
Rallsback
Roberts
Rodino
Roe
Rosenthal
Rudd
Santini
Scheuer
Shuster
Skelton
Stark
Symms
Treen
Van Deerlin
Whitehurst
Whitley
Wilson, Bob
Wilson, C. H.
Winn
Yatron

□ 1720

Mr. FITHIAN and Mr. HANCE changed their vote from "no" to "aye."

Mr. DANNEMEYER changed his vote from "present" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1730

Mr. MARRIOTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to make one point if I may, and I will be very brief so that we can get on to the vote. But there has been some concern about how these refugees are fitting into American lifestyle.

I would like to report in my district in Utah we have about 2,600 refugees. Ninety-five percent of them are employed without displacing any other workers.

I would like to congratulate the National Semiconductor Co. in Utah. This company, Mr. Chairman, in Salt Lake, is not only employing a great many of these refugees, they are also teaching these people English on company time. It has proven out that some of these refugees are now the most productive people they have in their company.

If I could just make three points. One is the free enterprise system is capable of handling these refugees. More companies ought to follow the example and the method of the National Semiconductor Co. Lastly, these refugees need not be on the Federal payroll very long, because the free enterprise system can handle them.

● Mr. AUCOIN. Mr. Chairman, there is before us, and before the world, a tremendous tragedy unfolding in Southeast Asia. The Cambodian people face extinction due to mass starvation and widespread disease. I fully applaud the President's pledge last night of $69 million in relief assistance. It is unfortunate we did not respond months ago when this calamity first became apparent. Now it is imperative that we immediately move to insure that prompt action is taken to distribute food and medical supplies.

Six years ago America was involved in an unfortunate and disastrous war in Indochina. Now that U.S. combat troops have left, we have all but turned our backs on the plight of these people. The aftermath of the war has brought incomprehensible suffering and misfortune to the people of Cambodia, and all of Indochina. The greatest disaster is the famine facing millions. This threatens to be one of the greatest unnecessary losses of human life which the world has ever known. It is of utmost importance that the United States, for both political and humanitarian reasons, move as quickly as possible to help.

The Khmer civilization was once a powerful and flourishing empire. From Phnom Penh, Buddhist kings held court over a fertile land between the then tiny Thai and Vietnamese kingdoms. For 500 years, from the 9th to the 14th centuries, it remained the dominant cultural and economic center of Southeast Asia. Architectural wonders such as Angkor Wat, a spectacular Hindu temple erected prior to Cambodia's conversion to Theraveda Buddhism, remain as landmarks of their great achievement.

The early Thai kingdom of Ayudhya borrowed heavily from the Cambodian empire to enhance its status and legitimacy. However, within a century after Ayudhya's emergence in the mid-14th century it had reduced the Cambodian dominion to a shadow of its former self. The Thais sacked the capital and carried off much of its riches.

At the same time, the Vietnamese at Hue were pressing in from the east, and by the mid-18th century the Cambodian court was a shambles. Caught between its now larger and war-hardened neighbors, Cambodia was forced into ceding territory and wealth in return for short-lived alliances.

By the 1860's, the Cambodian King welcomed the French appearance in the vain hope they would serve to restrain the Thais and Vietnamese while guaranteeing Cambodian sovereignty. It turned out to be simply trading masters as Cambodia remained under French rule until 1953.

Independence after 1953 proved dangerous as well. In the mid-1960's North Vietnam established bases within Cambodian territory. Following this in 1969, the new notorious secret bombing of Cambodia was carried out by the United States.

The Cambodians, who have been victimized for centuries, now stand at the brink of final destruction. War, famine, disease, and foreign occupation are consuming an entire people with a genocidal wrath.

Between 2 and 3 million people—as many people who live in my home State of Oregon—may perish if relief does not arrive immediately.

U.S. State Department officials estimate that around 90 percent of Cambodia's arable lands lie fallow. The nation lacks even the grains to plant for next year's harvest. Out of desperation the seed needed for this December's planting is being eaten. And, like the seeds consumed before spring's planting, the youth of the nation are dying. An estimated 80 percent of the country's children face starvation. Many of these children never will recover from the disabling effects of malnutrition on their mental and physical development, even if aid does arrive.

As someone who has spoken out in support of efforts to end world hunger, such a prospect is unthinkable.

I am convinced these problems can be solved if we act—decisively and quickly.

To be sure, many physical and political obstacles stand in our way. The situation demands an international effort and careful coordination. We, as a world leader, are in a position to make the difference.

Aid efforts are underway, these will not be adequate. The World Food Program and Oxfam are sending several thousand tons of rice. Three shipments will arrive before the end of the month. UNICEF and the International Red Cross are spearheading the effort. Their work is to be commended. However, according to the Washington Post, as of this October 14, only 200 tons of rice has reached Cambodia over the past 9 months—which equals approximately one-fifth of 1 day's estimated requirements. A minimum estimate of 600 tons of rice per day will be needed over the next several months. Current aid efforts can provide only part of what is needed.

Cambodia's needs will not end with the arrival of rice and medical supplies. Beyond the immediate famine, future prospects are very dim. Cambodia will need assistance in rebuilding its entire economy and means of production for years to come.

Recently I returned from the annual International Monetary Fund conference in Belgrade, Yugoslavia where Robert McNamara, president of the World Bank, spoke. Mr. McNamara severely rebuked the United States for standing in the way of international assistance to countries such as Cambodia and Vietnam. The only project under way is a $60 million loan to Vietnam for food production. While no other loans are in the offing, there is a request for another $60 million loan for an irrigation project benefitting 21,000 farm families or about 110,000 people. McNamara said it is unbecoming of our world leadership position, and more important, it was counterproductive to U.S. foreign policy aims. I could not agree more.

Regardless of political persuasions, the people of both these nations are suffering. We have both a responsibility and an opportunity to help. It is not in our tradition to refuse a helping hand.

Ten years ago we engaged in bombing missions in Cambodia. Some argue this led to the chaos which currently reigns there. Whether true or not, it would be hypocritical of us now to refuse the Cambodian people food aid when their need is so desperate. It would make President Carter's "human rights" policy a sickening farce.

It has been estimated that the food, medical supplies, and shelter required to avert the famine and disease will cost around $100 million. To date the United States has contributed $7 million. A bill to appropriate another $30 million will soon be before the full Congress. This is our chance to demonstrate our concern for the Cambodian people, and for all people no matter what their race, religion, or politics.

I strongly urge the Congress appropriate $30 million in aid as proposed in bill H.R. 5443, introduced by my distinguished colleague Mr. ANDERSON. There is no excuse for delaying immediate action. Agreements have already been arrived at to insure proper monitoring of aid distribution. Voluntary relief organizations are already mobilized to work. We have only to demonstrate our commitment to join the international community in helping provide the Cambodian people with the means to escape starvation and live.

Beyond this, I urge my colleagues to reexamine their views on foreign assistance to all nations of the region. Our policies of ignoring Vietnam and Cambodia, in the childish hope that we can forget the past, are shortsighted and potentially dangerous. The American-Vietnam war is over. Now is the time to build for the future, not look to the past. Now is the time for the United States to assume its rightful place as a leader of the international community of nations in seeking stability, peace and freedom in Southeast Asia. Our past involvement in Vietnam gives us a unique vantage point, and a special opportunity, to exercise forward-looking diplomacy. And there is no better start than to step forward and provide aid for starving millions.●

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. PEYSER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4955) to authorize an additional appropriation of $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981 for migration and refugee assistance, pursuant to House Resolution 418, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 301, nays 69, not voting 63, as follows:

[Roll No. 606]

YEAS—301

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Badham
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonker
Bonior
Bonker
Bowen
Breaux
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Philip
D'Amours
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Frost
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammer-schmidt
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hillis
Hinson
Holtzman
Horton
Hubbard
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Lundine
Lungren
McCloskey
McDade
McHugh
McKinney
Madigan
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shumway
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
Whittaker
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Young, Fla.
Young, Mo.
Zablocki

NAYS—69

Andrews, N.C.
Archer
Ashbrook
Bafalis
Barnard
Bauman
Benjamin
Bevill
Bouquard
Brinkley
Broyhill
Chappell
Collins, Tex.
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Devine
Duncan, Tenn.
English
Flippo
Fountain
Gaydos
Ginn
Gramm
Gudger
Hall, Tex.
Hance
Hansen
Hefner
Holt
Hopkins
Hughes
Ichord
Jeffries
Jenkins
Jones, Tenn.
Kelly
Kindness
Kramer
Leath, Tex
Loeffler
Lott
McDonald
Marlenee
Martin
Mathis
Miller, Ohio
Montgomery
Mottl
Myers, Ind.
Nichols
Paul
Quillen
Robinson
Rose
Rousselot
Runnels
Satterfield
Sebelius
Shelby
Snyder
Steed
Stenholm
Stump
Taylor
Watkins
White
Whitten
Young, Alaska

NOT VOTING—63

Addabbo
Ashley
AuCoin
Bouquard
Brademas
Brooks
Burton, John
Clay
Davis, S.C.
Dickinson
Early
Flood
Foley
Fowler
Fuqua
Guarini
Harsha
Hightower
Holland
Hollenbeck
Howard
Huckaby
Jones, N.C.
Leach, La.
Lee
Livingston
Luken
McClory
McCormack
McEwen
McKay
Maguire
Murtha
Moakley
Moffett
Moore
Moorhead, Pa.
Ottinger
Patten
Penner
Petri
Roberts
Rodino
Roe
Rosenthal
Rudd
Santini
Scheuer
Shuster
Skelton
Solomon
Stark
Symms
Treen
Van Deerlin
Whitehurst
Whitley
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Yatron
Zeferetti

□ 1740

The Clerk announced the following pairs:

On this vote.

Mr. Foley for, with Mr. Rudd against.

Mr. Addabbo for, with Mr. Leach of Louisiana against.

Until further notice:

Mr. Brademas with Mr. Winn.

Mr. Moakley with Mr. Bob Wilson.

Mr. Santini with Mr. Dickinson.

Mr. Rodino with Mr. Harsha.

Mr. Pepper with Mr. Lee.

Mr. Charles Wilson of Texas with Mr. Hollenbeck.

Mr. Scheuer with Mr. Livingston.

Mr. Ottinger with Mr. McClory.

Mr. Patten with Mr. Shuster.

Mr. Roberts with Mr. Symms.

Mr. Skelton with Mr. Whitehurst.

Mr. Whitley with Mr. Solomon.

Mr. Roe with Mr. Petri.

Mr. Stark with Mr. Moore.

Mr. Rosenthal with Mr. McEwen.

Mr. Charles H. Wilson of California with Mr. Hightower.

Mr. Holland with Mr. Jones of North Carolina.

Mr. Maguire with Mr. Huckaby.

Mr. Guarini with Mr. McCormack.

Mr. Fuqua with Mr. Davis of South Carolina.

Mr. Early with Mr. Clay.

Mr. Fowler with Mr. John L. Burton.

Mr. Brooks with Mrs. Boggs.

Mr. Ashley with Mr. AuCoin.

Mr. Yatron with Mr. Zeferetti.

Mr. Minish with Mr. McKay.

Mr. Moffett with Mr. Moorhead of Pennsylvania.

Mr. Luken with Mr. Van Deerlin.

Mr. Howard with Mr. Flood.

Mr. HALL of Texas changed his vote from "present" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

□ 1750

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 4955.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

TITLE AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. FASCELL: Amend the title of the bill to read as follows: "An Act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

PERSONAL STATEMENT

Mrs. HECKLER. Mr. Speaker, during the consideration of the Zablocki amendment to the bill, H.R. 4955, I was momentarily called off the floor to handle an issue of great significance for my district. Had I been present at the time of the vote, I would have voted "aye," and I would like the RECORD to show that.

1978 ANNUAL REPORT ON ADMINISTRATION OF RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the 1978 Annual Report on the Administration of the Radiation Control for Health and Safety Act, as required by Section 360D of the Public Health Service Act (42 U.S.C. 2631).

JIMMY CARTER.

THE WHITE HOUSE, *October 25, 1979.*

GINZBURG FAMILY HELD IN SOVIET UNION

(Mr. JEFFORDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFORDS. Mr. Speaker, this Saturday, October 27, marks the 6-month anniversary of what should be a happy event in the life of Alexander Ginzburg. A half year ago, Mr. Ginzburg was freed from the severe hardship he had endured as a Soviet prisoner of conscience, and arrived in this country as a result of a prisoner exchange between the United States and the U.S.S.R. As part of the exchange, Mr. Ginzburg had assurances that his wife and family would soon be joining him, to begin a new life in America.

Tragically, that agreement, to which our country is a party, has not yet been fulfilled. Mr. Ginzburg's family—his aging mother, his wife, and their children—remain in the Soviet Union, enduring the most difficult of conditions. The Soviets are denying their freedom, under the excuse that one of the Ginzburg children, Sergei, has not been legally adopted. This Soviet claim has been soundly refuted, but the Soviets have so far refused to alter their position. Understandably, the Ginzburg family has refused to depart from the U.S.S.R. if one family member is forced to remain there for continued persecution.

With ever passing day, this human tragedy is prolonged. Mr. Ginzburg will not realize freedom until he is reunited with his family. His wife, Irina, will mark the 6 month anniversary this Saturday with a news conference and public statement in Moscow.

Along with millions of other Americans, I look forward to hearing news of her plight. But incredibly, public interest, especially interest by the American news media, appears to be waning. We, as Members of the U.S. Congress, must be aware that our continued interest and concern, and the continued concern of the American people, is crucial to any hope that the Soviets may reconsider their position and release this heroic family.

During these past 6 months, Alexander Ginzburg has spent every moment trying to help others by telling Americans of his own experiences and continuing to promote human rights in the Soviet Union, not only on behalf of his own family, but for all Soviet prisoners of conscience and their families.

Over 200 of my colleagues in the House have joined me in a letter to President

Carter, urging him to negotiate with the Soviet Union at the highest level to secure the right of Sergei and the Ginzburg family to emigrate to the United States.

The situation, however, still appears to be at a stalemate. I know my colleagues in the House join me in the hope that it will be resolved favorably, and soon. This family has suffered far too long. In the meantime, it is imperative that the 6-month anniversary of their unnecessarily prolonged suffering not pass unnoticed.

CSCE COMMISSION CHAIRMAN DECRIES TRIAL OF CHARTISTS

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, as chairman of the Commission on Security and Cooperation in Europe, I denounce the trial of six members of the Czechoslovak Charter 77 human rights movement. The charges of subversion against them are fabrications and distortions that reflect the paranoia of the Czechoslovak Government when its citizens seek to exercise the basic human rights specifically guaranteed to them by the Helsinki Final Act and the U.N. human rights agreements.

The six dissidents, members of the Charter's Committee to Defend the Unjustly Persecuted, faced the charges of subversion "on an extended scale" conducted in conjunction with foreign agents and "inflammatory centers."

"I want to make it clear to the Czechoslovak authorities and all other governments which have the habit of heaping abusive terms on anyone who is critical of them—in their own country or abroad—that such denunciations are totally contrary to the Helsinki spirit.

Playwright Vaclav Havel, 43, was sentenced to 4½ years; economist Peter Uhl, 38, was given 5 years; Vaclav Benda, 33, a former spokesman for the Charter 77 was sentenced to 4 years; former television commentator Jiri Dienstbier, 42, and Otta Bednarova, 54, a journalist, were given 3-year sentences; and Dana Nemcova, a Roman Catholic dissident was given a 2-year sentence that was suspended.

Since the Commission on Security and Cooperation in Europe was one of the first organizations to publish material from the charter movement, I suppose we have the honor to be called an inflammatory center. The Commission has published a collection of unofficial documents from the Soviet Union and Eastern Europe entitled "The Right To Know, the Right To Act," in May of 1978.

Far from being moribund—as it had been erroneously reported in the Western press—the charter has tended to function less as a core group and more as an umbrella organization. The charter—which has a constant membership of about 1,000 people drawn from all classes and generations—continues to issue reports on subjects of interest to Czechoslovak citizens.

The charter has assisted in instituting an independent information system—1,000 samizdat materials since January of 1977—and a samizdat publishing enterprise—150 books and many underground periodicals. In May of 1978, a new organization was formed to speak out for individual cases of human rights violations. This new group, called the Committee for the Defense of the Unjustly Persecuted (VONS) has released over 100 information bulletins for which Peter Uhl was the acknowledged editor.

Mr. Speaker, there was one sign of the Czechoslovak Government's sensitivity to the international outcry at the wave of arrests of Chartists.

Two officials came to Vaclav Havel in prison and offered him release from prison if only he would accept U.S. director Joseph Papp's offer to come to New York to work in his theater. Mr. Havel refused, saying he would not consider the offer unless the charges against his imprisoned colleagues were dropped.

Mr. Havel's bravery is in glaring contrast to the repressive acts of the frightened Czechoslovak Government. If Czechoslovakia wishes to be accepted as a respected members of the world community, it should uphold the human rights pledges it signed at Helsinki.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding. Mr. Speaker, the distinguished Chairman of the Helsinki Commission has spoken the truth and has spoken it well for all of us.

THE ALL-IDAHO MULTIPLE-USE LAND MANAGEMENT ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. SYMMS) is recognized for 5 minutes.

● Mr. SYMMS. Mr. Speaker, this Congress presently faces the strongest public lack of confidence in its 191-year history. Americans are more and more certain that this body cannot effectively deal with energy, inflation, taxes and our foreign policy. We in Congress are racing to a crossroads when we must make the hard decisions necessary to rekindle citizen support of our abilities.

Westerners, as exhibited by the growing popularity of the Sagebrush Rebellion, are no exception to the general public sentiment. Their displeasure is mounting over the way in which the Federal Government is managing the public lands located within the borders of their States. The West is rebelling because their feelings are consistently being ignored by urban congressional interests who have little understanding of Western issues. The bottom line is that Washington is not responsive to the needs of our citizens. While the citizens look to Congress to lead the country, the Congress has floundered in indecision and lack of commitment. Congress, who has the express power to engineer our country's destiny is playing in the sandbox when we should be plowing the fields.

Our congressional leadership is afraid to make the decisions that can straighten the country out because they are afraid of the possibility of making a wrong decision. The Alaska lands controversy was a perfect example of the contradictory actions of this Congress. After publicly acknowledging its concern over a crisis of energy and resource production and overdependence on oil from the Middle East, the Congress showed that concern by passing the Alaska lands bill, which effectively guaranteed our continued dependence on imported oil. This, Congress said, was done for future generations. What we really are doing for future generations is to lock them into a state of energy immobilization.

The impacts are similar in my own State of Idaho, which contains the largest repository for nonproductive wilderness in the Lower 48 States.

Wilderness is not new to Idaho, a comparatively young State which is 64 percent federally owned. The best wilderness decision ever made in Idaho was the 1934 establishment of the Idaho Primitive Area. It should have been the only wilderness decision made in my State. Since that time, Congress has repeatedly enacted more and more wilderness, on a piecemeal basis, with the perpetual promise that each would be the last.

With the establishment of the Selway-Bitterroot and Salmon River Breaks Areas in 1936, the subsequent additions of the Sawtooth and Hells Canyon National Recreation Areas and the existing or pending wilderness proposals, fully one-fifth of my State could be locked into single-use wilderness. For those of you who may have difficulty grasping the sheer size of that area, it would, if granted statehood, be larger than eight of the sovereign States.

If there were no existing alternatives to statutory wilderness, I could understand its overwhelming popularity, but the Wilderness Act of 1964 amended the Multiple-Use-Sustained-Yield Act of 1960 to include wilderness management in administrative multiple use. The administrative wilderness differs from statutory wilderness in its flexibility—it can be tailored to the peculiarities of the area. Administrative wilderness could feasibly be thinned and treated to prevent bug investigation, it could be primitively roaded, and the access to the roads controlled, so that in wilderness areas as large as those in Idaho, a forest fire could be handled quickly and efficiently, and finally, the status could be reviewed and changed in the event of an emergency such as a crisis in energy mobilization of timber or nonfuel mineral shortage.

Let us look at a few of the facts that face Idaho:

First. Dependence on imported timber, oil, and nonfuel minerals is increasing at an alarming rate as a result of fine timber stand lockup, poor reforestation policies, closure of oil exploration in the public lands of the overthrust belt, and lockup of valuable cobalt, molybdenum, and other presently imported nonfuel minerals.

Second. The Federal lands policy in Idaho has already resulted in the closure

of two lumber mills, not to mention untold mining and oil and gas employment opportunities. We are losing economic ground in Idaho, a resource rich State that has significant potential to aid the energy mobilization potential of our country.

Third. Wilderness recreation use makes up only 5 percent of all public lands recreation. This useage has not increased with the establishment of more wilderness. The fact is that this land is virtually inaccessable, making it a playground for those who are able to afford to take a significant amount of time from their employment and who are physically able to enjoy a wilderness experience.

Fourth. Wilderness withdrawals of timber, mining, and oil resources add to the cost of inflation by limiting domestic supply and requiring the import of these vital resources, the result of which is the loss of the production stage of the economic multiplier effect for domestically produced goods.

Fifth. Contrary to cries that multiple-use management is development oriented, approximately half of Idaho's public land, which was managed as multiple use for more than 50 years, remained undeveloped during that time. There is no evidence that a departure from single use to multiple-use land status would change that.

All factors considered, Federal wilderness designations must be made with more consideration given to the State or Nation as a whole. We cannot manage wilderness as we do the Federal budget, without regard to how much we are spending and how overallocation affects the citizens of America. Furthermore, we cannot afford to keep the workers, producers, and employers of this country in the dark regarding future Federal land policy. The lands which Congress chooses not to allocate to single-use wilderness status, must be returned to the productive economic sector for exploration and rational development of the resources we so desperately need.

Consequently, I am introducing with Congressman HANSEN to this body the all Idaho multiple-use land management proposal, which consolidates all of the Idaho land management proposals for Forest Service land into a single legislative package which consists of two bills.

This rational legislation presents a workable compromise between the Senate proposals prompted by the administration and environmental groups and the proposals of those who feel there should be no wilderness in Idaho whatsoever. It provides for Idaho's fair share of wilderness by setting a limit.

Specifically, the bills accomplish three major goals which I feel are essential to a rational Idaho land management approach: First, the first bill would establish a 3.5-million-acre ceiling on Idaho wilderness. This cap resembles those which Congress places on Federal expenditures in that its intent is to outline the whole picture and determine the size of the frame before we begin to paint the details. Like fiscal caps, the wilderness cap would require us to place priorities on land use enactments. My bill would also provide for the exchange of the status of lands, within the cap, from wilderness to nonwilderness, and vice versa. The provision takes into account the fact that land use priorities may change in upcoming years.

Second, the second House bill would require the instant release to multiple use of all lands not specifically designated as wilderness for further planning. The released land would be afforded the same statutory protection as is presently in force for wilderness land. This provision would free current administrative restrictions on Federal land usage, thus stimulating rational development of vital domestic resources and lessening our country's dependence on foreign imports.

Third. Finally, the legislation would designate 1.4 million acres of wilderness in Idaho bringing Idaho's total wilderness contribution to 2.9 million acres. Idaho would still be the largest repository for wilderness in the lower 48 States, but there would be less interference with the economy of the State under my proposal than under other proposals. The remaining 600,000 acres in limbo would be established by priority and through congressional enactment.

Although there are those in Washington who may point to the recent comments of the distinguished chairman of the House Interior Committee, to the effect that an all Idaho approach is not feasible, we can no longer overcompromise the issue. The honorable Secretary of Interior, former Idaho Governor, Cecil Andrus, has stated that Idaho has indeed contributed more than its share of wilderness. Piecemeal enactment of more wilderness under the pending proposals will only exacerbate that already extreme contribution.

I am presenting the views of a State whose wish is to influence policy over the public land within its borders. I speak for the rights of States and for the majority of the citizens in my State when I say there must be a limit placed on wilderness in Idaho and elsewhere throughout this Nation. We are rapidly approaching that limit.●

SHABBY TRICKS AT SBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 60 minutes.

GENERAL LEAVE

Mr. MARTIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the topic of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. MARTIN. Mr. Speaker, most Americans have been comforted to believe that this President of the United States was telling us the truth when he said that with civil service reform, managerial appointments were going to be taken out of the sorry pattern of patronage politics and elevated to a higher standard of merit selection.

Phooey. We have just uncovered Democratic dirty tricks at the Small Business Administration. Just like in olden times. This past week the Small Business Administration announced a new policy to reassign a select list of District Directors, 16 out of the 63 in all, to new locations far removed from their present positions. This smells of the old "politics as usual" device to force Republicans either to move to unfamiliar locations or else move out: Resign, and make room for deserving Democrats. Some reform.

In the case of George Marshall in my district of Charlotte, N.C., despite the fact that he is a civil service employee, presumably therefore immune from such political shenanigans if the system is run "on the level," despite the fact that he has good marks from Democrats and Republicans, including Democrats in high elected office, despite grassroots support for keeping him in North Carolina where his work is appreciated by Indians, blacks, and women's business groups alike, despite even the fact, Mr. Speaker, that he recently had a heart attack before they mailed the order to him, this order will callously disregard all that, pack him off to Iowa, a nice State where another Republican is in turn being packed off to other distant horizons.

All this is being done under the bald-faced pretense that, according to a statement from the Small Business Administration Administrator, Vernon Weaver, "is to enhance their career development." That statement is so transparently phony that Mr. Weaver is currently on a 3-week foreign junket to avoid having to answer embarrassing questions. His published statement did, however, promise that no more such rotations would be contemplated for another 18 months, that is, until after the next elections.

Mr. Speaker, I called the SBA to check out what is a nearly irresistible suspicion, a tantalizing suspicion, that this was just a blatant partisan dirty trick, despite the President's assurances to the contrary. All hands at SBA dutifully insisted that all was purest innocence, that all transfers were legitimate. They could not think of any of the 16 who were not doing a good job, but asserted that "the effective ones needed tougher assignments." Yet I was reassured that one other Republican was being kept in his same position for the very reason that he was doing a good job. Most curious. The more I heard, the more suspicious I became.

Who ordered this party-line shakeup, Mr. Speaker? The President of the United States? Surely not. His top political aides? Perhaps not. Or was it all as innocent as I was being assured? Baloney.

The conversation really got cute when I asked about the registration of the 16 on the hit list. Would you believe it, nobody at the Small Business Administration had any idea. There was no such list, I was told. No one had thought or dared to check such information, so as not to appear partisan.

□ 1800

They assumed the federation would be random. Ah, yes. Along the way I learned that all the SBA people I talked to were recently installed in their positions and

I began to wonder, indeed, if they had been placed there to do a hatchet job on holdover Republicans, to find a new way to get them out of the way. Yet, I still found that hard to believe for two reasons. First, this President had insisted that all was pure and righteous altogether in this administration. Second, because 1980 is expected to be a significant year for loans, what with interest rates so high, and great care would surely be taken to safeguard the interests of small businesses rather than the interests of small politicians or large politicians, surely.

It was just on March 2 of 1978 this President proposed civil service reform to "insure that employees and the public are protected against political abuse of the system."

I asked SBA and other contacts for evidence that some of these assignments were Democrats, expecting to find some random distribution as proof of the avowed innocence in high places. Officials at SBA just plain refused to accept that bait. They clearly did not think party registration was a factor.

Finally, one of them, whose name I withhold to protect the innocent, did agree, since I was a U.S. Congressman, to at least tell me some names and phone numbers of the ill-starred District Directors. I hoped there might be a chance they would know their own party registration, just as a casual matter, of course, even if it were not a factor. Surely 8 or 10 of the 16 or at least 1 or 2 would turn out to be Democrats. I only talked to one. The first and only one that I talked to by phone was evasive and circumspect because he could not verify that I said who I said I was over the phone. A curious reaction, Mr. Speaker.

Not wishing to place others in fear of being disloyal, I then resorted to public records and voter registration lists which could, when necessary, easily be checked by phoning the Director's secretary to confirm his place of residence.

Mr. Speaker, out of a total of 63 District Directors for the Small Business Administration, only 16 were shuffled by this phony policy. Of these 16 Directors on the hit list, not one was a Democrat. Fifteen are Republicans, one is an independent.

Mr. Speaker, surely this House with all its piety and sanctimony is not so jaded that it will not recognize an outrage when it smells one.

Mr. Speaker, I respectfully request that the Congress investigate this sordid shuffle to see for itself whether this is a partisan misuse of Federal funds to arbitrarily and callously relocate experienced managers to unfamiliar territory, and I will also submit to the U.S. Civil Service Commission a request that it review this political throwback to see if it is an illegal attempt to circumvent the job security safeguards they have set up.

Mr. Speaker, I call upon President Carter, urging him to demand an explanation and a resignation by any subordinants who cooked up such a scheme, before it embarrasses him and discredits the integrity of his avowed and earnest efforts to lift this Government above petty politics.

Mr. ASHBROOK. Will my colleague yield, Mr. Speaker?

Mr. MARTIN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank my colleague for bringing this to our attention. I am personally aware of, I might even say I am involved in, the so-called transfer of the Columbus, Ohio, Small Business Administration Director. My guess would be he had been there for 7 or 8 years. A long enough period to have a very good reputation and I think Mr. Ray is being transferred to Boise, Idaho, or somewhere like that.

Mr. MARTIN. Helena, Mont., where his experience and knowledge of local conditions and the business community will certainly make him much more effective than in Columbus, Ohio, where, after all of these years, he obviously would not know how to go about his business. I say that entirely satirically.

Mr. ASHBROOK. I thank our colleague from North Carolina, for bringing this to our attention.

We will wait with bated breath while these wonderful guardians of morality and improved civil service look into this matter and bring back a report or those dastardly people are prosecuted and punished. We will wait with bated breath on all this. I do thank my colleague for bringing this to our attention.

Mr. MARTIN. We shall either see whether there is reaction or we shall hear overwhelming silence which will tell us all we need to know as well.

It is interesting, in regard to what the gentleman from Ohio has said, that on April 30, 1976, the Small Business Administration circulated a special notice regarding qualifications to be District Director in 1 of the 63 offices it runs. It added one important minimum, significant job-related element that has to be met by a candidate for this office; namely, "good working knowledge of the local (or comparable) banking, financial and business community."

The complete text of the special notice I refer to follows:

APRIL 30, 1976.

SPECIAL NOTICE NO. E-1C

Subject: Change in SBA Qualification Standard for Regional and District Directors and Branch Managers, and revised certification procedures for District Director positions.

To: See distribution below.

Some time ago the Civil Service Commision advised this office that the residency requirement which was a part of the minimum qualification standard for Regional and District Directors and Branch Managers is no longer acceptable.

However, an important consideration in filling these positions is to seek out an individual with the ability to influence and persuade the acceptance and promotion of SBA programs. Therefore, it is essential that candidates for such positions have a good working knowledge of the local (or comparable) banking, financial and business community.

In this regard, future Job Opportunity Announcements and/or requests for CSC certificates for *Regional Director* and *Branch Manager* positions will, as a minimum, contain the following Significant Job Related Element:

"Good working knowledge of the local (or comparable) banking and business community"

Because this is a Significant Job Related Element, it will be used to evaluate candidates in order to determine those who are highly qualified.

This office, in concert with the Civil Service Commission has spent considerable time in developing an improved method of screening candidates for filling our District Director vacancies. One phase of this new process is that of forwarding to the Civil Service Commission those outside candidates which we (SBA) have recruited so that those individuals are subject to the same screening process as persons currently on the CSC.

Mr. Speaker, surely these 16 being shifted around hardly meets this requirement, since their experience is in communities far across the country.

Mr. Speaker, it might be interesting to note for the record the list of the offices that are being transferred. The Small Business Administration announcement lists the offices subject to this new rotation scheme and I have regrouped them as follows into a series of chains.

The first begins with the district director of Jackson, Miss., who is moving to make room for the former mayor of Jackson, a staunch Carter man, to Charlotte, N.C., in my district.

The Charlotte director is moving to Des Moines, Iowa. The Des Moines director is moving to Lower Rio Grande, Tex., who is moving to Houston, Tex., who is moving to St. Louis, Mo., who in turn is moving to fill a vacancy in Salt Lake City, Utah.

Then there is a second change. The director in Denver, Colo., is moving to make room for a successor yet to be announced, to Kansas City, Mo. The Kansas City director is moving to Lubbock, Tex. Lubbock is moving to Fargo, N. Dak. Fargo to Albuquerque, N. Mex. And Albuquerque to a vacancy in Casper, Wyo.

Mr. Speaker, as the gentleman from Ohio has indicated a third but short chain begins with the Columbus, Ohio, director who is moving to Helena, Mont., and the Helena, Mont., director is moving in turn to a vacancy at Hartford, Conn.

Mr. Speaker, added to that there are three more directors being shuffled by this little maneuver but they have not yet been told where their new assignment will be because there is no job opening awaiting them as yet. They are being put into limbo, in a holding pattern, a pool arrangement which is the SBA's way of enhancing their career opportunities. Again I am speaking entirely satirically as my colleagues will recognize. One of these, the director for Washington, D.C., the very city in which we have the seat of our Government. He is being put into a pool.

Second, Mr. Speaker, from Sioux Falls, S. Dak. Third, from Baltimore, Md. None of these have yet been assigned. It would be an interesting footnote I would share with my colleagues that one of these last mentioned is a disabled veteran with 1 year to go before retirement from public service.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. Yes, I yield to the gentleman from Maryland.

Mr. BAUMAN. I believe the gentleman from North Carolina is referring to Gerald Lang who is the director, or was until now, the director of the Small Business Administration, Baltimore district, I

can only say that I have had many occasions to work with Mr. Lang over the last 6 years I have served in the House. He has shown himself to be a superior civil servant. I did not know until the gentleman remarked today of his political affiliation but I also know of no reason why he should be transferred in view of the experience and seniority he has built up in dealing with the people in the Baltimore and Maryland area. The gentleman says he is being transferred out of his job and to no particular position?

Mr. MARTIN. He is being transferred into limbo, which is not one of the States of the United States, and he will stay there until they find someplace for him. Perhaps if one of these other directors refuses to go to the places they have been assigned to go across the country which I suspect is the reasoning behind all this, they will then have a vacancy that he can be offered the job to go across the country.

Mr. BAUMAN. I would certainly join the gentleman in a protest against this kind of thing. I find it hard to believe that the President of the United States would lend himself to this kind of activity in view of his often stated belief in good and clean government, operating in a way that is different, not the way things always were done in Washington. I believe that that is understood to be one of his themes.

□ 1810

Mr. Speaker, I would like to ask the gentleman one last question. If, in fact, this is happening to Republicans in the Small Business Administration, can the Kennedy backers be far behind?

Mr. MARTIN. Mr. Speaker, I will have to ponder that question. The gentleman as usual, taxes my philosophical talents and I will just have to reflect on that one a bit.

It is a fact that not one Democrat was offered such a new and exciting opportunity to enhance his career.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. Yes, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, did I understand correctly that all of these that are being moved around or put in limbo are all Republicans?

Mr. MARTIN. The three who are being put into limbo are Republicans. If you take the entire group of 16, no, not all of them are Republicans. Only 15 of the 16 are Republicans.

Mr. ROUSSELOT. So it is all happenstance?

Mr. MARTIN. The other one is an independent, neither Republican nor Democrat; not one is a Democrat.

Mr. ROUSSELOT. Well, he must have shown too much independence; I guess that is the problem.

Now, we were assured when we passed this bill——

Mr. MARTIN. Civil service reform.

Mr. ROUSSELOT. That it was really civil service reform, that it was nonpolitical and that it would never be used for political purposes; but it does not look that way, does it?

Mr. MARTIN. Well, it included a merit security, a Merit Protection Board at the request of the President of the United States and I am going to see to it that that Merit Protection Board reviews these 16 shuffles and reviews this entire policy novelty that is being used here to see if it, indeed, is an attempt to find a new way to go back to the old politics.

It cannot be said that this administration has dreamed up this kind of a technique. It has been done before by Republicans and Democrats.

Mr. ROUSSELOT. Of course it has.

Mr. MARTIN. But it has to be said that this President has assured us, both in making and proposing that legislation and at other times, that he was going to do all within his power to raise the civil service system above petty partisan abuse, and I call on him to take the opportunity to exercise those capabilities within his power to see that he reforms this instance right now.

Mr. ROUSSELOT. Well, I appreciate the gentleman bringing this up, because really, many of us who voted for that reform thought it was reform. This kind of puts a hazy cloud over the whole procedure.

I think the gentleman is to be complimented for reviewing that for us and I am sure the new Merit Board will want to look into this very carefully.

Did they give reasons why all this movement occurred?

Mr. MARTIN. It was clear in the reform legislation that there would be no more of the old harassment, which is what this clearly and patently seems to be; but that instead of any change in job assignment would not be done for the purpose of getting rid of the employee, but rather to improve the operation and the performance of the particular agency or bureaucracy.

In fact, in announcing this new policy of rotating district directors on October 19 of 1979, the administrator, Vernon Weaver, stated, and I quote:

Our intent is to enhance the career development of these key personnel—

Parenthetically, I remind you that all but one are Republicans and not one a Democrat.

Mr. ROUSSELOT. And the other is an independent.

Mr. MARTIN. The other being an independent.

Again—

to enhance the career development of these key personnel through the expansion of their knowledge, skills and experience. This rotation policy will help SBA directors to develop versatility and to assure greater uniformity and consistency of services to our small business clientele.

Now, I ask you, how does that reflect upon the two, at least two, there may be more, who are within a year of their retirement?

How is this going to enhance their career development and how it is going to develop their versatility and assure greater uniformity and consistency—blah, blah, blah. It is a baloney policy. It is an attempt, in my opinion, to get around what was spelled out by the President of the United States and by this Congress in enacting that civil service reform legislation.

Mr. ROUSSELOT. Well, there is an old phrase, "See the U.S.A.," and I guess it now means, "See the U.S.A. through the S.B.A."

Mr. MARTIN. Mr. Speaker, I thank the gentleman for his contribution.

Finally, for the record, the new Associate Deputy Administrator who was brought into the SBA to manage this career opportunity double-talk is a man named Paul Sullivan. He was very polite when I talked with him on the phone and very convincing in reassuring me that all was aboveboard and innocent and that he had no list of how many of these folks were registered and that probably some were Democrats—false, as it turns out—until I received the news release announcing his appointment to this sensitive post. His previous position, executive director of the Democratic National Committee.

Some reform, some civil service job security, some career enhancement.

Mr. Speaker, until tomorrow and until further developments, I yield back the balance of my time.

THE SOCIAL SECURITY SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

● Mr. EDWARDS of Alabama. Mr. Speaker, I am introducing legislation today aimed at a problem in our social security system which has caused hardship for the families of many social security recipients for years.

Under current law, social security benefits are paid in full for the first month of eligibility, regardless of when established, but no payment at all is allowed for the last month of a social security retiree's life, if the retiree lived only part of that month, rather than through to the last day of the month. Although widows and survivors are eligible for social security benefits for the full month of the death, the paperwork for establishing their eligibility takes considerable time. For most families, this means a lapse of several weeks before their survivors' benefits can be delivered—at a time when there are already unexpected expenses and burdens.

This full-month, rather than prorated, procedure for payment was designed to prevent any double payment of benefits and to make administration simpler; and I think it would be difficult to change the procedure without substantially increasing paperwork or allowing some double payments, neither of which the system can afford. As an alternative solution to the problem, my bill would simply require the Social Security Administration to establish some emergency procedures to expedite the payment of widows' and survivors' benefits after the death of a social security recipient. It would seem that a check could be issued simply upon notification and presentment of the proper identification and proof of relationship to the deceased, while the red-tape for survivors' benefits was being processed fully through the system. My

bill would require that benefit checks be delivered to survivors at the time regular checks would have been delivered to the deceased recipient, if at all possible. If not possible, my bill would then provide that initial payment of those survivors' benefits must be made at least within 7 days after social security has received notice of the death and the proper identifying information from the widow or other survivor. This would alleviate the hardship in those cases where survivors have been relying on social security benefits of the deceased.

I am hopeful that my bill will be given every possible consideration whenever we consider any new social security legislation, and I urge my colleagues to join me in support of it.●

VIETNAM VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 10 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, today I have the pleasure of introducing a resolution which I hope will receive the quick and unanimous support of this entire body.

The Vietnam Veterans Memorial Fund consists of a group of Vietnam and Vietnam-era veterans who are employed in professional positions in the Washington, D.C., area. They have begun a nonpartisan effort to build an extensive and artistically sound memorial to those who fought and died in the Vietnam war, and I am proud to lend my own support to their effort. I should point out that they are not asking for any funding whatsoever from our Government. They have developed sufficient funding resources from the people of this country.

They merely desire a parcel of land on which to build the monument. The site they propose, and which I endorse, would constitute 2 acres in Constitutional Gardens, on the mall. The monument, which would be built subject to the approval of the National Commission on Fine Arts, would blend in with existing landscaping in the gardens, and would enhance, rather than detract from, that portion of our national capitol.

We have been struggling, as a Nation, to resolve the many remaining divisions from the Vietnam war. I do not need to catalog for you, Mr. Speaker, or for my colleagues, the enormous emotional and political complexities that come into play every time anything even tangential to that era is discussed. But I have always maintained that the key to resolving Vietnam, to our assimilating that experience into our national mindset, is for us to accord the Vietnam veteran the dignity of his experience.

Of all the elements in this country who were involved with Vietnam, he suffered most. And of all the elements, he has received the least amount of benefit for his suffering. We have only to look right here in the halls of Congress to verify that notion, Mr. Speaker. After World War II, the Congress filled with returning veterans. It is now 7 years since the last American fired a shot in anger in Vietnam. Where are the veterans?

The resolution I introduce today represents a major step in showing those veterans that we, as a Nation, sincerely appreciate their service. It will give every man and woman who served in Vietnam something tangible in our Nation's Capitol, a memorial to their service and to their comrades who gave this country the ultimate gift, their lives.

It is only fitting that such a memorial should be erected on the mall, as outlined in the resolution. Nine and 10 years ago our media brought great attention and dignity to the notion of dissent when others in the Vietnam-era age group gathered on the mall to protest the war, even as our soldiers and sailors and airmen and marines were dying unheralded in combat. It is now up to the Congress to bring a long-deserved dignity to those who answered the call, at great personal cost. It is their turn to gather on the mall, Mr. Speaker, and when I notice that one portion of this memorial will contain the names of every man who died in Vietnam, I cannot think of a more appropriate group to be permanently enshrined there.

I hope that all of my colleagues will join me in this most deserving effort.

H.J. RES. 431

Joint resolution to authorize the Vietnam Veterans Memorial Fund, Inc. to erect a memorial

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Vietnam Veterans Memorial Fund, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia, is authorized to erect a memorial on public grounds in the District of Columbia in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam war.

SEC. 2. (a) As the site upon which may be erected the memorial authorized in the first section of this resolution, there is hereby designated such parcel of land of approximately two (2) acres, located in Constitution Gardens on The Mall in the District of Columbia immediately adjacent to Constitution Avenue between 18th and 21st Streets NW., as the Vietnam Veterans Memorial Fund, Inc. shall select.

(b) The design and plans for such memorial shall be subject to the approval of the National Commission of Fine Arts, in consultation with the Secretary of the Interior and the National Capital Planning Commission.

(c) Other than as to the land authorized for the erection of the memorial in subsection (a), neither the United States nor the District of Columbia shall be put to any expense in the erection of this memorial.

SEC. 3. The authority conferred pursuant to this Act shall lapse unless the erection of such memorial is commenced within five years from the date of enactment of this Act.

SEC. 4. The maintenance and care of the memorial erected under the provisions of this Act shall be the responsibility of the Secretary of the Interior.●

AMERICANS SHOULD NOT BE FORCED TO CHOOSE BETWEEN FREEZING AND STARVING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. PURSELL) is recognized for 5 minutes.

● Mr. PURSELL. Mr. Speaker, elderly and low-income Americans must not be forced to choose this winter between freezing and starving.

Rapid inflation and escalating fuel oil prices are a burden on all families. But to some, to millions of our citizens, it is far more than a burden—it is a matter of desperate survival. Congress has a clear obligation to provide emergency assistance to these citizens. This is part of the tragic price we must pay for our failure to free this country from dependence on foreign energy supplies.

I support full funding of $1.6 billion now under consideration for emergency home heating assistance for this winter, including the $250 million already approved by our committee in the 1980 HEW budget bill.

This money is essential to help over 7 million individuals and families meet the rising cost of home heating. Without this assistance to pay for basic human necessities, they face terrible risks to their health, and even their lives. That is not acceptable to me, and I'm sure it's not acceptable to the Congress.

The urgency of the situation must be emphasized. In order to have funds available in January for the year's harshest weather period, we must have this supplemental appropriation in place by November.

The cost of heating oil has increased about 70 percent since last winter. Winter does not officially begin until December 21, but people in our State are already well into the heating season and shouldering much higher fuel costs. Median-income families are paying 10 percent more of their annual income for home heating. Most low-income families will pay 15–30 percent over the full year, and at least 40 percent in peak months just to stay warm. Many Americans may see over 50 percent of their income go for heat alone. Without assistance, those most in need will simply not make it.

Our assistance programs must reflect the rising costs of energy. Failure to do so would be unspeakably cruel.

I also urge the House to assure that at least part of the funds in this emergency program are allocated to the cold weather States, in addition to funds provided directly to individuals through relatively rigid Federal formulas. If critical local needs arise, it is essential to guarantee maximum flexibility to respond. Only by having discretionary money available at the State level can we be sure this program is responsive enough to meet critical needs.

This Congress has many very important issues to resolve: a permanent national energy strategy, national security matters, the 1980 budget and more. But nothing is more urgent at this moment than assuring that Americans do not die needlessly this winter from cold or hunger. That's exactly what some of our people face and, since they are helpless to fight the international forces threatening to crush their lives, we must step forward and fight for them.●

A NEW SOCIAL WELFARE PROGRAM IN THE GUISE OF "INSURANCE" FOR MULTIEMPLOYER PENSION PLANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. Mr. Speaker, consider costs of up to $4.8 billion over the next decade or consider per capita "premium" taxes skyrocketing 16,000 percent from the current rate of 50 cents to over $80. According to the Pension Benefit Guaranty Corporation (PBGC), these are the catastrophic cost consequences that are possible under the ERISA title IV multiemployer plan termination insurance program. That is if the Congress does not change the present law before May 1, 1980, when mandatory coverage begins for terminated multiemployer plans.

In its May 1979 report to Congress, the PBGC outlined the flaws of present law relating to these collectively bargained multiemployer plans.

Employers and unions are encouraged to dump plans and their large unfunded liabilities at the door of the PBGC.

Employers are encouraged to avoid the "Last Man Club" by withdrawing before plan termination when employer liability is assessed up to 30 percent of net worth.

Runaway costs of the program are accelerated because of excessively high benefit guarantees.

Plans are hampered in their ability to balance income and outgo because adjustments in accrued benefits are prevented.

Inadequate minimum funding standards fail to encourage fiscal discipline and prevent plan insolvency.

Given the problems with present law, the PBGC could have recommended scrapping the entire program. They should have.

It is clear, however, that over 5 years ago the die was cast and the fate of multiemployer pension plans and their contributing employers was sealed when ERISA was hastily enacted under the foreboding shadow of Watergate. In making their legislative recommendations for a greatly revised mandatory termination insurance program, the PBGC recognized the practical impossibility of uprooting the original congressional intent that multiemployer pension benefits be guaranteed.

While the committee reports on ERISA record my opposition to plan termination insurance, it is a fact that the affected industries, plans, and employers failed to heed the pre-ERISA warnings that title IV would create instability, inequity, and burdensome costs. The new cries of "unfair" which are now raised by some plans and employers in connection with the PBGC initiative ring hollow against the backdrop of the lack of concern and opposition at the time the initial legislative decision was made.

In fact, it would be most embarrassing to the business community were my colleague from Illinois, Mr. ERLENBORN, and I to recount how representatives of big business undermined our efforts to oppose termination insurance when the original ERISA legislation passed. We tried to warn what would happen but we could not get business leaders to listen.

My opposition to ERISA at that time was, and continues to be, based on the fact that:

Plan termination insurance is not "insurance," but is an income transfer scheme that soaks the well-managed, more stable, and well-funded plans in order to pay for the unstable, underfunded ones;

The plan termination provisions change the basic legal structure of multiemployer plans, thus infringing on the freedom of the collective-bargaining process and raising constitutional questions relating to impairment of contracts;

Program costs are based on insufficient plan funding which can stem from the loss of plan assets due to market fluctuations, manipulation, and fiduciary abuse as well;

Inestimable program costs and employer liability create inequities and fear which can only serve to undermine the necessary and continued growth and expansion of the private pension system; and

Finally, as program premium costs go up, there will be the inevitable pressure for general revenue financing, thus dooming "private" pension plans by transforming them into quasi-governmental entities.

Clearly the issues surrounding termination insurance for multiemployer plans are complex and the dangers real. The PBGC principals should be given high marks for their recognition of these facts and their studious attempt to fashion a balanced approach. However, their task was an impossible one. Therefore, it is doubtful that they have managed to "reach their impossible dream." The PBGC recommendations embodied in H.R. 3904 would:

First, change the insurable event from plan "termination" to plan "insolvency";

Second, require all plans to meet a new minimum contribution requirement (MCR) and fund new benefit obligations over 30 years rather than 40 years;

Third, reduce benefit guarantees so as to minimize the incentive for employers and unions to abandon their plans;

Fourth, enable plan trustees to "reorganize" plan benefits to levels consistent with affordable contribution rates;

Fifth, require withdrawing employers in underfunded plans to continue funding a proportionate share of unfunded vested liabilities; and

Sixth, require plans to pay increased annual premuims grading from $0.50 to $2.60 per capita over 5 years.

The PBGC formulation is one that can be said to "share the woe." Employers continuing in a plan must increase their contributions to fund a given level of benefits. Withdrawing employers must continue to fund a share of a plan's unfunded liability. Employees in ongoing plans share in the cost of the program to the extent that benefit adjustments are made because of increased premiums. Employees in insolvent plans bear the burden of reduced benefit guarantees.

The PBGC has attempted to take into account the nature of the work and the special circumstances of transitory and other employers in the building and construction industry. Generally the bill would impose withdrawal liability on a withdrawing construction employer in the event the employer continues to do construction work of the type covered by the plan, in the area of the plan, without maintaining an obligation to continue contributions to the plan under a collective-bargaining agreement. The special construction industry exemption rule, as far as it goes, is necessary. Consideration might be given to extending this exemption to other industries which are similarly characterized by a high degree of employer mobility and by work having a temporary project nature.

A number of construction employers, however, remain unhappy with the limitations of the withdrawal liability exemption proposed by the PBGC. The PBGC rule is not perfect, but it attempts to strike a balance. This attempt to balance competing concerns appears to carry over into the other provisions of the bill as well. If it is possible to make the imposition and allocation of costs among employers more equitable, it should be done. As much as I am opposed to termination insurance for multiemployer plans, if we are stuck with it, we must have an all out effort to make it as workable as possible. The same might be said as to certain other provisions of ERISA which have proven detrimental to plan participants and plan sponsors alike.

If 1980 is to bring "new" legislation and burdens to multiemployer plans, it is imperative that "old" unnecessary burdens under ERISA be lifted from the backs of employees and employers in multiemployer and single employer plans. After 5 years of congressional oversight of ERISA, the record makes a compelling case that this Congress take expeditious steps next year to enact ERISA amendments which would——

Eliminate the illogical, inefficient, and wasteful overlap of ERISA regulation and administration by consolidating all employee benefit plan regulatory functions under a single agency;

Simplify and improve ERISA's reporting and disclosure requirements;

Make ERISA's minimum standards more workable and clarify the intent of Congress, for example, in areas relating to the elapsed time, eligibility, and seasonal industry rules;

Clarify and strengthen ERISA's preemption provisions;

Make procedural corrections to enable exemptions to be expedited under ERISA's prohibited transaction provisions; and

Provide employers and employees with additional incentives to establish plans or make voluntary contributions to individual retirement accounts.

These changes are necessary if the Congress is to improve ERISA's image and silence the criticism that ERISA means "Every Ridiculous Idea Since Adam."

Clearly the Congress is faced with a

Hobson's choice on H.R. 3904. If this legislation with modifications is not enacted, mandatory coverage goes into effect under the current rules which would portend economic disaster. Another delay would merely increase uncertainty and chaos in the collective bargaining process. It appears that the remaining choice which is the least of all evils is for the Congress to make the necessary corrections and take action on H.R. 3904 by May 1, 1980.

These remarks should not be construed as my concession to ideas I oppose. ERISA passed. We had little help at the time and few who would listen. It is a fact of life and the May 1, 1980 fact of life is with us, like it or not. Like so many things that are pushed ahead in the theory that they do not impact on us "right now." ERISA is coming home to roost. Small business and medium-sized businesses are rightfully concerned.

Some have termed this bill a "turkey." Perhaps with the ERISA amendment "trimmings" that I have suggested, this turkey can be made more palatable.

MISDIRECTED PUBLIC POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I have to scratch my head just a bit over the vote this House has taken today in passing House Joint Resolution 430. It represents to me everything that is wrong with the way Congress approached the problem of rising fuel costs. It is by and large the action of the House and Senate—the plethora of unwieldy regulations established by the Energy Department—that keeping warm during the winter months has become something we can no longer take for granted. If we in Government had the foresight to pass legislation and administer laws which would encourage home heating oil to be available—to provide for sufficient supplies of alternative energy sources—then we wouldn't have to keep bilking the taxpayer for money so the cost of heating a home is affordable.

I may be speaking in idealistic terms, but look at our food stamp program. Look how it has grown. Look at the fraud and abuse which has surrounded it. That program started out just as this one is. You know, I am cynically inclined to offer a proposal to subsidize families that travel to southern California, or Florida, or Hawaii for that matter—or to any warm climate during the winter so that they would not have to fear the cold weather. Since we are taking things this far—since we are going around throwing money at anything that provides relief at public expense, why not go just a little bit farther? Subsidized vacations to the sunshine resorts of America as a means of avoiding the high cost of heating a home.

The point I wish to make is simply this: As public policymakers we could save the taxpayers a tremendous amount of money; we could make the economy much more productive, if we would simply direct our policy decisions to the goal of letting the marketplace dictate the supply and demand of our energy resources. The role of government in this respect has failed miserably. And while I applaud the objectives of this legislation, House Joint Resolution 430, the objective of keeping everyone warm during the bitter winter months, I hope my colleagues will agree that there is another approach we should have examined long ago. The policy of enabling the business sector the opportunity to explore and bring on line the precious energy resources we so desperately need is one which does not necessitate our considering resolutions like the one we passed today.●

□ 1820

ANGOLA: IS THE UNITED STATES MAKING AN ENEMY OUT OF A POTENTIAL FRIEND?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

● Mr. DIGGS. Mr. Speaker, the following New York Times, October 23, 1979, op-ed article by Prof. Gerald Bender once again raises serious questions about our country's continued policy of nonrecognition of Angola, a country that has been striving hard to become truly nonalined in its foreign policy while assisting a peaceful solution to the conflict in Namibia, at the same time offering an important role for foreign private investment in its developing economy. Nevertheless, because of the Cuban troop presence in Angola, our Government has seen fit to continue withholding diplomatic recognition while the Congress vindictively places irrational restrictions on U.S. economic aid to that country. In short, we have chosen to make our policy toward Angola hostage to our confrontation with Cuba when it is in our national interest to separate our policies toward these two countries. The issue of Cuba should be dealt with within its Western hemispheric context and not allowed to complicate our interest in stabilizing southern Africa. If we eventually totally alienate Angola from the United States, we will only have ourselves to blame. For this reason I submit the following article:

U.S. POLICY ON ANGOLA

(By Gerald J. Bender)

LOS ANGELES.—Until his death in September, Angola's first President, Agostinho Neto, was described in the news media as a "Soviet puppet" and a "dogmatic Marxist," while United States officials were concerned more with his Cuban guests than his foreign and domestic policies. Since his death, he has been described as "moderate . . . a strong nationalist . . . honest . . . committed to nonalignment . . . [and an] uncompromising supporter of multiracialism."

The newer perceptions' closeness to reality underscores a fundamental problem of American foreign policy toward the third world: How to distinguish genuine nationalist or moderate leaders (with whom America can maintain reasonable relations) from radical Marxists who will eschew their national interests in order to advance Soviet policies.

Western leaders are trying to assess the prospects of the Angolan Government, now led by 37-year-old José Eduardo dos Santos, in pursuing the same moderate policies that Dr. Neto did, especially with respect to receptivity toward foreign investment, nonalignment, peaceful relations with neighbors such as Zaire, and continued cooperation in the search for negotiated, not military, solutions in Southern Africa.

But as the only Western nation that has not recognized the Angolan Government, the United States has little first-hand intelligence with which to make such an assessment. One Defense Department analyst says, "We know practically nothing about dos Santos or the rest of the M.P.L.A. leadership and much of what we do know appears to be inaccurate." One high State Department official complained that until recently the Central Intelligence Agency appeared to gather most of its information from the National Union for the Total Independience of Angola (a rival movement still fighting the Popular Movement for the Liberation of Angola) while the department was highly dependent on African governments and European allies whose perceptions or interests do not always coincide with ours.

However, many Washington officials have been encouraged by the rapid, peaceful transition. Mr. dos Santos, sworn in three days after Mr. Neto's funeral, pledged to uphold all of the Mr. Neto's policies, from recognition of the necessity for continued Western economic assistance to his commitment "to continue to help find solutions which will bring [Southern Africa] peace and stability."

American oil companies, a number of which are seeking or expanding rights for further oil exploration in Angola, are no doubt pleased by the selection of Mr. dos Santos as President. He holds a degree in petroleum engineering and was Angola's chief negotiator with Texaco, which signed a $360 million contract with the Government shortly before Mr. Neto's death. Texaco expects to be producing 50,000 barrels a day by next year. Gulf already produces 150,000 barrels a day in Angola and is investing approximately $80 million to increase production.

Contrary to the predictions of former United States officials, the M.P.L.A. has not attempted to deny its resources to the United States. Most of its oil and other major exports, such as coffee, are shipped here. Americans concerned about the dwindling supply of oil available should also be concerned that Washington adopt a more enlightened policy towards the recognition of the dos Santos-led Angola.

The State Department, from Secretary Cyrus R. Vance on down, appears to solidly favor recognition of Angola. They receive support not only from businessmen and academics but also from a growing number of liberal Republicans. All are concerned about the presence of some 20,000 Cuban troops in Angola, but they recognize that the Cubans will not be withdrawn while Angola remains under continual attack from South Africa.

In the meantime, America has far more to gain by normalizing relations with Angola now than it could possibly lose politically from recognizing the Government while the Cubans are still there.

The stability of the Angolan regime, demonstrated by the smooth transition, presents the Carter Administration with an excellent opportunity to change its policy toward recognition. America tried its best to make Agostinho Neto out as its enemy but his pragmatism and statesmanship never conformed to our unfounded perceptions and accusations. Mr. dos Santos has now indicated that he, like Mr. Neto, is prepared to normalize relations with the United States on the basis of mutual respect. One should not underestimate, however, the genius of the United States to make enemies out of potential friends in the third world.●

STATEMENT OF THE HONORABLE AL ULLMAN, CHAIRMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 3591, TO REDUCE TEMPORARILY THE DUTY ON TITANIUM SPONGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, on October 23, 1979, the Committee on Ways and Means ordered favorably reported to the House of Representatives H.R. 3591, to reduce temporarily the duty on titanium sponge. The bill would reduce the 18 percent ad valorem rate of duty to 9 percent ad valorem on imports of titanium sponge until June 30, 1981.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of H.R. 3591 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First. Committee amendments, which would not be subject to amendment;

Second. Waiving all necessary points of order;

Third. One hour of general debate, to be equally divided; and

Fourth. One motion to recommit.

We intend to file the committee report on H.R. 3591 on Friday, October 26, and we will request a hearing before the Committee on Rules as expeditiously as possible.●

A NATIONAL PLAN ON PRODUCTIVITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 60 minutes.

● Mr. LAFALCE. Mr. Speaker, until very recently, mentioning the word or the concept of productivity was a sure cure for insomnia. Most economists avoided the subject, preferring arguments about economic theory or investigations into the intricacies of the ball-bearing industry. Labor leaders associated the term with speed-ups on the assembly line, and business leaders in a perverse manner did likewise. During the past 4 years, it seemed at times that only a small group of Members of Congress had any real interest in this important economic problem.

I know that I don't need to go into great detail concerning the facts and figures on productivity, but I do want to mention a few statistics, in order to put productivity in the proper perspective. During most of the post-World War Two era productivity was not a problem, because until 1965 the rise in annual productivity remained comfortably above 3 percent. However, after that point, a decline set in, which has worsened every year. From 1965 to 1973, productivity gains slipped to 2 percent on an annual basis. From 1973 to 1977, those annual gains dropped to 1.2 percent; and last year, the gain did not even reach 1 percent.

That lagging rate of productivity growth was bad enough, but this year, productivity actually began to decline. Although there are a few arguments about the actual figures among various statisticians, which is rather understandable because statistics can be an inexact science, even the most conservative estimates indicate that a decline has begun. According to the Labor Department's Bureau of Labor Statistics, productivity registered an absolute decline of 3 percent on an annual basis during the first quarter of 1979 and 4.3 percent during the second quarter of this year. Even more alarming is the fact that there is no evidence that this decline will be halted, not to mention reversed, in the near future.

RAMIFICATIONS

This lagging, and now declining, rate of productivity is of great national importance. A healthy rate of productivity plays a vital role in improving real, I repeat, real, living standards. A healthy rate of productivity allows the economy to grow without increasing inflationary pressures.

If wages increase without any improvement in productivity, the result will be a higher rate of inflation, because unit labor costs will increase. The most obvious way in which reduced productivity growth increases inflation arises from the fact that in the long run unit labor costs and the price level move virtually in tandem. Correspondingly, every increase of one percentage point in productivity reduces by 1 percentage point the rates of increase in unit cost and inflation.

This direct relationship between inflation and productivity has unfortunately been long overlooked. As Paul Volcker, Chairman of the Federal Reserve Board, has repeatedly stated, the current rate of inflation is clearly unacceptable; and strong steps must be taken to reduce it. However, the arguments on how to achieve this goal have concentrated on reducing Government spending and instituting tighter controls on the money supply and raising interest rates. Although both of these methods have their role to play, I do not believe that they provide an underlying solution to either inflation or, more properly, stagflation.

The key to a long-term solution to our current economic problems must be greater attention to productivity and to ways which will boost the rate of productivity growth. Without an improvement in productivity, we could balance the Federal budget, raise interest rates and administer other jolts to the economy without solving the problem of stagflation. The historical record is clear; high rates of productivity growth have been associated with relatively stable prices and high rates of output growth.

Another consequence of declining productivity is the increasing inability of U.S. businesses to compete either at home or abroad. Month after month, quarter after quarter, the statistics from the Department of Commerce reveal a dismal international trade performance by the United States. The negative balance of payments figures have not been solely due to lagging productivity, in that higher energy prices have played an important part. Nevertheless, lagging productivity is undermining the ability of U.S. businesses in world markets.

Any comparison of productivity growth figures for the United States and other Western countries reveals a depressing pattern. Although there are once again some disagreements about the exact figures, the experts agree on one point—during the entire post-World War Two period, the United States has had the worst rate of productivity growth among the industrialized countries. This may seem somewhat natural in the case of the productive Germans and Japanese, but it is very troubling in the cases of the supposedly crumbling economy of Great Britain and the strike-ridden Italian economy.

The most respected studies of international productivity comparisons have been conducted by the Organization for Economic Cooperation and Development. One of those studies compared the percentage increase between 1960 and 1976 for productivity in the manufacturing sector on an annual basis, and I want to emphasize once again that the situation has become even more alarming in the United States since 1976. The figures say it all: Japan, 9 percent; Germany, 5.9 percent; Italy, 5.9 percent; France, 5.7 percent; England, 3.3 percent; and the United States, 2.2 percent.

In light of those figures, it really is no surprise to see so many Volkswagens, Datsuns, Sonys, and the like throughout the United States. It may very well be true that the U.S. worker is still more productive than his or her European or Japanese counterpart, but those countries are rapidly closing the gap and could pass the U.S. worker early in the 1980's. In his recent testimony before my Small Business Subcommitee on General Oversight, Dr. Richard L. Boyce, senior economist at the Council on Wage and Price Stability, told me that "the level of technology in the United States may be lower than that of Japan," which is a

telling indication of how far the United States has slipped.

Improved U.S. competitiveness and improved export performance should be considered top priority goals. There are many steps necessary to achieve those goals, as the President stressed in his address on exports; but all of those steps could prove futile without improved productivity. Without better goods and services, U.S. businesses will find themselves driven out of one market after another; and better goods and services are the result of improved productivity. This is not an insightful piece of wisdom; it is merely a possibly unpleasant economic fact of life; and U.S. businesses must face it.

PAST INITIATIVES

Before I discuss congressional initiatives to improve productivity, I want to supply some background information. My involvement with productivity began within the first 6 months I was in Congress. During 1975, the Banking Subcommittee on Economic Stabilization, of which I am a member, held extensive hearings on a bill I cosponsored, to create a National Center on Productivity and Quality of Working Life. The Center was subsequently created; and it was designed to disseminate information and focus Government assistance for improvements in productivity at every level of the economy.

Although the Center had the strong backing of the Congress, neither the Ford nor the Carter administrations ever demonstrated much interest in the Center. Under the Ford administration, the Center's Board of Directors met just once; and the Center's funding was set at the clearly inadequate level of $3 million, which effectively prevented it from accomplishing any of its ambitious aims.

During 1977, I repeatedly urged various government officials, including Charles Schultze, Ray Marshall, and James McIntyre, to provide adequate funding for the Center and to expand its activities to include fostering the development of labor-management cooperation, rather than strife, because labor-management cooperation can often result in better productivity. In order to help forward this proposal, I introduced H.R. 5283 to more specifically target the work of the Center to achieve those goals. These urgings were met with no administration response.

In April 1978, I introduced a bill to extend the life of the Center 1 year beyond its original expiration date of September 30, 1978. The introduction of this bill was met with opposition from the administration, which said that it had other plans for dealing with the productivity problem. In a meeting in my office on May 22, 1978, I called together all of the administration officials who were allegedly working on these plans. At that meeting, I learned that the administration's only concrete plan was to let the Center expire; but I was once again assured that some plans were in the works.

For the next 2 months, the administration procrastinated; and, therefore, I held a hearing with my Small Business Subcommittee in August with witnesses from all of the relevant agencies and departments. I learned that there was going to be an ill-defined National Productivity Council with no program, no agenda, and an unknown membership. I was appalled and clearly voiced that sentiment. A month and half later, the National Center disappeared; and its records were transferred to the vaults of the Office of Management and Budget.

During this year, I have held two hearings with my Subcommittee on General Oversight, in order to prod the administration on activating the National Productivity Council which has a total personnel staff of two. A spokesman for the private-sector American Productivity Center told me that as a result of my first hearing, the National Productivity Council was given a phone number by the GSA and a hand-printed sign, designating its place in the Office of Management and Budget.

On a more positive note, the 95th Congress took the initiative on the tax front, in order to create a more hospitable climate for investments in the private sector of the economy. Due to strong congressional pressure, the provisions of H.R. 12907, the Investment Incentive Act, which I cosponsored, was included in the Revenue Act of 1978. These provisions were a fundamental reform of the capital gains tax which had become a significant disincentive for investments. The Revenue Act rolled back the capital gains tax to a more equitable level, and many economists believe that the reduction of the capital gains tax is already having a positive effect on investments.

COMPREHENSIVE NATIONAL PRODUCTIVITY POLICY

At my last subcommittee hearing, I repeatedly urged the administration to adopt as a No. 1 priority a comprehensive, national, productivity plan; and that is the core of my message to you. We can no longer afford to take a piecemeal approach to the problem of lagging productivity, because it is becoming more and more severe and timely every day. Action must be taken on a broad range of fronts, in order to halt the current decline in productivity and begin to restore the economy to a level of healthy productivity growth rates.

A comprehensive national plan also means that every segment of society and the economy will have a role to play in implementing that plan. The Government will have its place through the various forms of public policy. Labor and management must soften their adversary stances and learn that a cooperative spirit, rather than rancor, can significantly contribute to increased productivity in the workplace, which will be to the benefit of both. Academia must make its own contributions through research, which must include research of benefit to a healthier economy and a better society.

I am not suggesting, however, a repetition of Japan Inc. Some commentators have studied the Japanese model and have erroneously concluded that the United States should blindly emulate Japan and create an America Inc., along what used to be known as a corporatist society where all parts are geared toward the whole. Americans are far too individualistic to participate in a Japan Inc., but the United States could learn that more cooperation and working together are not necessarily un-American.

I will limit myself to seven components of a comprehensive, national productivity plan. There may be other components which could be introduced into this plan, but I believe that these seven are vital for the proper functioning of any effective productivity plan.

ADMINISTRATION LEAD

The first and foremost component must be a commitment by the administration to such a plan, and when I say administration, I mean a personal and public commitment by the President himself. My Small Business Subcommittee has heard platitudes from various agency officials, but these have been the moral equivalent of declarations in favor of motherhood. The Subcommittee on Economic Stabilization has heard suggestions from Al Kahn and Bob Russell from COWPS, but these suggestions are always tentative and unofficial. The Joint Economic Committee has heard a combination of both categories, which forced it to rely on its own members and economists to develop a program; and that circumstance is precisely the point.

A spokesman for the American Productivity Center made that very point during my last hearing, when he said that they always received a sympathetic and understanding reception on the Hill but that only the President could make lagging productivity a No. 1 national priority. I agree entirely with his assessment, and I have numerously begged, cajoled, and demanded that the President take the lead on this issue, because a handful of Congressmen and Senators do not have the audience that a President has.

I well realize that productivity is not a glamorous issue, but neither is export performance; and the President has issued a position paper on that. He has also made a national commitment to solar energy, which I applauded; but my applause would be tumultuous, if he would go to the American people on this issue. It would have to start as an education message; he would have to carefully explain why productivity is vital for the continued health of the economy. Linked to his national commitment to improved productivity would have to be a list of concrete measures to implement a productivity plan; and I have my own modest suggestions for the other six components.

TAX POLICIES

The tax code is not neutral in its relationship toward productivity growth, and tax policy must be made in light of its effect on productivity. Due to the emphasis on Keynesianism in the postwar world, tax policies have concentrated on the demand side of the economy, as various administrations and Congresses have attempted to stimulate demand, in order to produce prosperity With the onset of prolonged stagflation (economic stagnation coupled with inflation), new attention is being focused on ways to stimulate the supply side of the economy, because the usual Keynesian tax cut (personal income tax cuts) contributes to a higher rate of inflation.

A surprising consensus of opinion persuasion is emerging on the need for noninflationary supply side tax reductions to revive the economy without contributing to inflation. This consensus, which includes Herb Stein, Walter Heller, and Bill Miller, is convinced that economic stimulus is vital to restore the basic underlying strength of the economy. That strength has been eroded by the inadequate level of investments in the private sector of economy.

That study by the Organization for Economic Cooperation and Development of productivity also investigated the level of investments in industrialized countries during the same period, 1960–1976. Not surprisingly, it found that the United States ranked dead last by a fair margin in investments as a percentage of gross national product. The OECD concluded that "nations with highest ratios of investment to GNP had the highest rates of productivity growth", which points to the imperative need to stimulate investments.

Last year, the Congress took the initiative and forced the inclusion of three key items in the Revenue Act. First, as I mentioned earlier, the act contained provision for a liberalized capital gains tax. Second, it made the investment tax credit, which is one of the most direct ways of encouraging investments, more attractive to businesses wishing to expand their facilities or equipment. Third, the act instituted a graduated corporate income tax, which will be of considerable benefit to small and medium sized businesses, by freeing equity capital for these firms.

This year, the Congress has again taken the initiative with H.R. 4646, the Capital Cost Recovery Act of 1979, whose chief sponsors are Representatives JONES and CONABLE, and which I have cosponsored. This bill would institute a fundamental reform of the depreciation allowance by installing a rational, clear-cut, and equitable system of depreciation allowances. Business leaders and economists have long been complaining about the haphazard and complicated present system of depreciation allowances, which provide a marked disincentive for new investments.

Economists generally agree that the investment tax credit and depreciation allowances are the two best tools for stimulating investments. The improvement in the investment tax credit last year should now be matched by a similar improvement for depreciation allowances, and the wide, bipartisan support which H.R. 4646 has received make it, or a variation thereof, almost a sure bet for enactment during this Congress.

There is yet another way to use the tax code to enhance productivity growth. R. & D. (research and development) are vital to improvements in productivity, because they directly lead to better and newer products, more streamlined production, and better worker safety and comfort. However, total R. & D. spending has steadily declined from over 3 percent of GNP in the early 1960's to just over 2 percent in 1977; and there is no sign that this discouraging trend is being reversed. Not uncoincidentally, this same period saw a lagging rate of productivity growth.

One sure-fire method of encouraging R. & D. is to provide a tax incentive to businesses which are involved in advanced technological research and development. Therefore, I have sponsored a number of bills which would provide targeted tax incentives to businesses, in order to persuade them to increase their R. & D. spending or to become involved in R. & D. A growing number of experts have been calling for these types of tax incentives, and particularly for small businesses, because it is precisely those types of firms which are in the forefront of technological innovation and which require these tax incentives the most because of their limited financial base.

There is one last way to indirectly boost productivity through reforming the tax code. Individual savings help provide financial institutions with pools of money, which can then be used to supply financing for investments by private firms. The catch is the fact that the rate of savings in the United States is the lowest in the industrialized world, even to the extent that the Japanese rate of savings is roughly five times that of the United States. Preliminary data indicate that this already low rate of savings further declined during the third quarter of this year, which correspondingly further narrows the amount of funds available to financial institutions for financing investments.

One good reason for this phenomenon is the average saver's fear that inflation will eat away his or her savings, because the interest rate is lower than the rate of inflation. There are a number of ways to address this problem, but I do not want to get into the long and complicated question of regulation Q (which perhaps a few of you are aware of) and interest-rate ceilings. Let me say briefly, however, that these ceilings must be phased out. However, there is another approach which could provide meaningful encouragement for increased savings. In order to help supply that necessary encouragement, I have introduced a bill which would exempt the first $1,500 ($3,000 for a joint return) of interest earned in a savings account at a financial institution. This approach has the virtue of directly and immediately addressing the need for new incentives for savers, and particularly small savers. We must move in that direction. We must reverse the present bias that exists against saving, and in favor of spending.

REGULATORY REFORM

There has been increasing awareness of the fact the Federal Government cannot endlessly promulgate regulations and rules without regard for their economic impact or their effectiveness. Many Government regulations have made a positive contribution to the quality of life in this country, but far too many others are ineffective, counterproductive, and cost inefficient. With the encouragement of Congress, the administration has directed all of the agencies and departments to reevaluate existing regulations, in order to weed out those which should be modified or eliminated.

However, that process can be taken one step further. The administration should direct all agencies and departments, where possible, to produce productivity-impact statements on all proposed rules and regulations. These productivity-impact statements could be similar to the existing environmental impact statements which are required on many questions. Although there may be some difficulty measuring the impact on productivity by some regulations, the introduction of these statements could be very valuable in raising regulators' consciousness and awareness of the possibly adverse impact of certain rules and regulations.

I want to introduce a cautionary note here. Some commentators view almost all Government regulations as inherently bad. I must take exception to that view, because my own personal experience with the Love Canal, which is one of the most infamous environmental disasters in this country and which is located in my congressional district, has convinced me that in some fields strict regulations are vital for the protection of our citizens. I also want to note that some regulations can contribute to productivity, by improving the quality of life for workers and the relationship between employers and employees.

GROUP PRODUCTIVITY PLANS

Many innovative employers have moved to directly boost productivity in their own firms, by using group productivity plans, which reward workers with financial benefits for increases in production through better productivity. These voluntary plans give workers a direct incentive for contributing to a better production performance by their employer's firm. I want to add that this is not the classic case of the speed-up on the assembly line. These group productivity plans try to incorporate the latest in managerial and technological efficiencies, which can make a positive contribution to production, without increasing the workload for the individual worker.

Unfortunately, these group productivity plans were not exempted from the provisions of the pay standards established by the Council on Wage and Price Stability last year. This lack of an exemption for these plans destroyed the primary motivation for workers' participation, by removing the financial reward for participation. I have repeatedly urged Bob Russell, Director of the Council, to grant an exemption for these plans, because wage increases for higher productivity are not inflationary, because they would reflect real decreases in operating costs.

The counsel of the American Productivity Center informed me that prior to my first hearing this year, COWPS would not even consider an exception for these plans. During this year's second hearing, the counsel said that the atmosphere had completely changed after the first hearing; and Bob Russell has told me that COWPS will try to persuade the Tripartite Pay Advisory Committee to grant an exception for the second year pay standards.

This is an excellent example of the types of small steps which can make a

contribution to boosting productivity growth. Quite often, improvements in productivity originate in small, undramatic, and almost unnoticed steps, which, taken together, determine the overall level of productivity in the economy. Without these small, almost incremental steps, productivity will continue to seriously lag.

LABOR-MANAGEMENT COMMITTEES

There is no better way to diminish productivity than through labor strife. Conflicts between labor and management can either slow down or stop production altogether, and the traditional adversary relationship between labor and management can contribute to these strikes. On the other hand, a willingness to cooperate and listen to the other's problems and proposals can not only create a happier and more pleasant workplace, but it can also boost productivity in that workplace.

One of the best, if not the best, ways to achieve that goal is through the formation and operation of labor-management committees, both at the firm level and at the community level. These committees can help the flow of communication between workers and employers, between unions and chambers of commerce. This free flowing communication is very important for labor peace, because labor strife is often the result of misunderstandings, misinformation and a general failure to communicate.

One specific example of this is the western New York area, including my own 36th Congressional District. On an areawide basis, the Buffalo-Erie County Labor-Management Council has been established with the support of key business and labor leaders from throughout the area. The council has helped reduce labor strife in western New York and has encouraged the formation of labor-management committees at individual firms. The council has also educated its members about the importance of productivity and has disseminated valuable information on the various ways to enhance productivity at the individual firm level.

Although labor-management committees have a proven track record for boosting productivity through labor-management cooperation, Federal support for them has been negligible. I strongly supported an effort to provide $5 million for the Federal Mediation and Conciliation Service for programs to encourage the formation of labor-management committees. I personally contacted every member of the National Productivity Council before its September 4 meeting in order to elicit their support for funding this important program. I urged them to communicate their support to the Office of Management and Budget, which has been figuratively sitting on this proposal for months.

Labor-management committees should receive more public attention because of the valuable work that they do. Federal support, both in terms of publicity and financing, is vital for creation of the committees and their proper functioning.

PRODUCTIVITY IN THE FEDERAL GOVERNMENT

If the President is to issue a comprehensive, national productivity plan, one very obvious component must deal with productivity within the Government. The Federal Government is the single largest employer in the United States, and there is no reason why it should be excluded from any program to boost productivity. There is also no reason why Federal workers should be any less productive than their counterparts in private industry, but some preliminary studies by the General Accounting Office indicate that the record of the Federal Government has not been the best. The GAO is actively pursuing these studies about productivity in the Federal Government, in order to determine where improvements can and must be made.

Meaningful progress toward this goal will not be registered, until there is adequate knowledge and figures about productivity in the Federal Government. At the present time, the Bureau of Labor Statistics—BLS—measures the productivity of nearly two-thirds of the civilian employees of the Federal Government; and the BLS does not publish that data on an agency-by-agency basis, which severely restricts the value of the data. In order to correct those deficiencies, I introduced the Federal Government Productivity Data Act this year. This bill would mandate the BLS to collect data on all civilian agencies and to publish the data on an agency-by-agency basis, so that the Congress and the general public will be able to determine which agencies are productive and which are not. In addition, the bill would require the BLS to conduct studies comparing productivity in those activities performed by both the public and the private sectors.

The Federal Government is not the only portion of the public sector which could experience improvements in productivity. State and local governments also need to improve their productivity performances, and the Federal Government is now actively involved in assisting State and local governments to cope with their own problems. As a former New York State legislator, I can only wish them well in that arduous task.

RETRAINING PROGRAMS

One of the most serious problems confronting productivity improvement is the genuine fear felt by many workers that new machinery and productivity improvement programs will result in increased unemployment and layoffs. Particularly during the 1960's, there was a great deal of concern with the dread specter of automation which would in somewhat mysterious fashion throw everyone out of work. While this is a greatly exaggerated fear, some workers can be temporarily displaced by productivity advances, despite the fact that more employment opportunities are created by higher productivity in the long run.

In order to help deal with the short-term problem, I introduced the Labor Productivity and Training Act. This bill would require that 5 percent of CETA training funds be targeted at workers unemployed because of productivity improvement programs. It calls on CETA administrators to emphasize on-the-job retraining programs, as practiced routinely and effectively in Japan, and the sharing of costs between employers and the Department of Labor. Labor would be much more supportive of productivity programs, if retraining would occur before, rather than after, layoffs due to higher productivity.

CONCLUSION

The downward trend in productivity is undermining the basic health and fabric of our economy. Although there is total agreement about the causes of that trend, we do not possess the time for waiting for economists to begin their in-depth analyses of what exactly went wrong.

Two widely disparate sources have echoed that message this year.

The New York Stock Exchange issued an excellent report on productivity, entitled "Reaching a Higher Standard of Living," which had a conclusion I could to quote from:

> A coordinated national effort to boost productivity growth to at least 3 percent per annum would go a long way toward unwinding inflation, raising living standards, and creating jobs. It would also make American goods more competitive internationally and help strengthen the dollar. These are objectives in which every American has a stake.

For the first time in its history, the Joint Economic Committee issued a unanimous report on the economy. Liberals and conservatives joined together and endorsed the midyear report of the committee, which dealt with the outlook for the 1980's. I would also like to quote from that report:

> America's dismal productivity performance is an important cause of the nation's stagflation. . . . The major potential source of reductions in the core rate of inflation during the 1980's will be improved productivity.

As I have stated, there is an urgent need to establish a comprehensive, national productivity plan, in order to help reverse this downward trend. That plan cannot be simple, because the decline in productivity stems from many causes; but that plan must be implemented, unless we are prepared to live with stagflation throughout the 1980's. That plan must be given a top priority and must not be implemented in a half-hearted, piecemeal fashion.

Inflation and unemployment have been the key words in our economics vocabulary, reflecting our two most important concerns. It is time for productivity to join them.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. SWIFT) is recognized for 5 minutes.

● Mr. SWIFT. Mr. Speaker, on two occasions in recent days I missed procedural votes because I was chairing subcommittee hearings and was loath to delay the proceedings for what were clearly not votes of substance. I am referring to votes to approve the Journal on October 19 and 24—rollcall Nos. 584 and 592. Thank you.●

LOW-INCOME ENERGY ASSISTANCE APPROPRIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 5 minutes.

● Ms. FERRARO. Mr. Speaker, today the House is responding to a desperate call from the people of this Nation. As a Representative from New York, I appreciate the expediency with which this $1.3 billion supplemental appropriation for low-income energy assistance was brought before the House.

Home-heating oil costs have increased 400 percent since 1973. My own State uses oil to meet fully 65 percent of our energy needs. My constituents' No. 1 concern today is that they will not have sufficient funds to meet the rising costs of heating their homes. It will remain their No. 1 priority tomorrow, and throughout this winter. For many, the painful choice between eating and heating will become a reality unless we act immediately.

It is more than unfortunate that the poor and the near-poor are those who suffer the most from rising energy costs. It is a tragedy. While middle-income households commit 9.6 percent of their incomes to energy, low-income households must budget as much as one-third of their incomes for energy needs. Furthermore, it is these same low-income households which have the least flexibility in their budgets to make the necessary modifications that increased energy costs will demand.

I represent more than 70,000 senior citizens. Those that live in apartments are seeing their rents soar, as landlords jack up rents in order to meet their own increased fuel costs. The seniors who are homeowners are, more often than not, living on fixed incomes. Their meager budgets, and monthly social security checks will not approach the increased costs that they will face this winter. Senior citizens represent 37 percent of this Nation's low-income households. Without immediate assistance, many will face the possibility of losing their homes, relocating to warmer climates whether or not they want to, or denying themselves the necessities of life.

The supplemental appropriation before us today is a first step. It addresses the needs of those Americans who will suffer the most at the hands of decontrol and unprecedented profits on the part of the oil companies. Supplemental security income (SSI) recipients, aid to families with dependent children (AFDC) families, and households within 125 percent of the poverty line are in immediate need and will benefit by passage of this appropriation. Those people cannot wait for a new Federal program to be put in place. We do not have the luxury of time—a luxury which would allow us to devise the best mechanism and vehicle to provide assistance. The snow in Washington several weeks ago should serve as a signal to all of us. The winter is upon us, and without providing immediate assistance, Americans will be unable to cope with it. Nor do we have the luxury of waiting for passage of the windfall profits tax to provide revenues to finance energy assistance programs. I fear that the winter will move faster than the legislative process.

Mr. Speaker, while this resolution will receive my complete support, I am concerned that it does not go far enough. I worry that by targeting assistance only to SSI recipients, AFDC families, and households within 125 percent of the poverty line, many other energy indigent households will suffer from increased energy costs, but because they do not meet these means tests, they will not receive aid. I am also concerned that within those three groups covered by this appropriation, we will be providing assistance to people who are not energy indigent. For example, does not the household which is within 126 percent of the poverty line need this aid more than the AFDC family who lives in a public housing project and has no energy-related costs? But, in light of the time considerations, I see no way for the House to eliminate this inconsistency, and still provide aid to those who do qualify and are, in fact, energy indigent.

Mr. Speaker, I am proud of the House for bringing this appropriation up as quickly as we have. But, I hope that my colleagues from throughout the Nation will realize that this appropriation is just a first step. There are still major, unaddressed needs which the House must consider before it is too late. We must direct our attention, after passing this bill, to the important needs of millions of Americans who will not be covered by the low-income energy assistance provisions which we are considering today.

I urge my colleagues to join with me in supporting this appropriation. But, I also urge this House to bear in mind that this is not a comprehensive aid package which will alleviate the pressing problems that face our constituents. Our work will not be over when we approve this appropriation; instead, it will have just begun.●

PRESIDENT CARTER'S ELOQUENT ADDRESS AT THE JOHN F. KENNEDY LIBRARY DEDICATION CEREMONY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes

● Mr. STRATTON. Mr. Speaker, last week President Carter was the main speaker at the dedication ceremony of the John F. Kennedy Memorial Library in Boston.

Nearly everyone who was there regarded that speech as one of the finest President Carter ever delivered. Unfortunately, the press accounts gave only selected quotes from that speech. Therefore, as a service to my colleagues, I include herewith the full text of that gracious, witty, perceptive, and sensitive address.

REMARKS OF THE PRESIDENT AT THE JOHN F. KENNEDY LIBRARY DEDICATION CEREMONY, BOSTON, MASS.

Members and friends of the family of John F. Kennedy: As President of the United States, I am indeed honored to be here on this occasion at once so solemn and also so joyous—the dedication of the John F. Kennedy Library. Like a great cathedral, this building was a long time coming. But it more than justifies the wait. Its grace and its dignity are, I hope and believe, worthy of the man whose memory it will nurture.

I never met him, but I know that John Kennedy loved politics, he loved laughter, and when the two came together, he loved that best of all.

For example, in a press conference in March 1962, when the ravages of being President were beginning to show on his face he was asked this two-part question: "Mr. President, your brother Ted said recently on television that after seeing the cares of office on you, he wasn't sure he would ever be interested in being President." (Laughter) And the questioner continued, "I wonder if you could tell us whether, first, if you had it to do over again, you would work for the presidency, and, second, whether you can recommend this job to others?" The President replied, "Well, the answer to the first question is yes, and the second is no. I do not recommend it to others—at least for a while. (Laughter) (Applause)

As you can well see, President Kennedy's wit and also his wisdom—(Laughter)—is certainly as relevant today as it was then. (Laughter)

This library, this repository of facts and ideas, will feed history with a permanent record of the dreams of John Fitzgerald Kennedy, and also the realization of those dreams.

In America, the records of a great political leader will not be threatened by succeeding political regimes which might fear them, because we are a Nation committed not only to freedom, but also to the pursuit of truth.

A library is especially fitting as a tribute to John Kennedy, for he was not only a maker of history, but a writer of history as well.

His fame as an author of books foretold his fame as an author of events. He said he had few apprehensions about how his Presidency would fare in history, because he planned to write that history himself.

To our loss, we will never read the books that he would have written about his own Presidency. His death impoverished not only statecraft, but literature as well. But in this building behind me, the work of reflection and evaluation of what he did can now be done very well by others.

President Kennedy understood the past and respected its shaping of the future. Yet he was very much a man of his own time. The first President born in this century, he embodied the ideals of a generation as few public figures have ever done in the history of the earth. He summoned our Nation out of complacency, and he set it on a path of excitement and hope.

The accomplishments of his thousand days, as you well know, are notable, though his Presidency was too short for him to finish all the tasks that he set for himself. We honor him not just for the things he completed, but for the things he set in motion, the energies that he released and the ideas and the ideals which he espoused.

President Kennedy took office understanding that the texture of social and economic life of our Nation and our people was changing, and that our Nation and our people would have to change with it. "Change is the law of life," he once said. "And those who look only to the past or the present are certain to miss the future."

He had a vision of how America could meet

and master the forces of change that he saw around him.

President Kennedy entered the White House convinced that racial and religious discrimination was morally indefensible. Later that conviction became a passion for him—a passion that his brother Robert shared and as his son has so well said, carried forward.

As a Southerner, as a Georgian, I saw at firsthand how the moral leadership of the Kennedy Administration helped to undo the wrongs that grew out of our Nation's history. Today the problem of human rights in the United States is shifting from inequality of legal rights to inequality of opportunity. But the question of legal rights is not yet settled.

We are all Americans, we are all children of the same God. Racial violence and racial hatred can have no place among us in the South or in the North. (Applause)

The moral imperative of the Kennedy Administration, indeed, still remains with us.

President Kennedy sought to move our foreign policy beyond the sterility of the Cold War. He never failed to uphold liberty and he never failed to condemn tyranny; yet he saw very clearly that the threat of nuclear destruction had created the need for mutual accommodation with our potential adversaries. He warned against the nation and a world turned into "a prison in which man awaits his executioner."

When the Nuclear Test Ban Treaty was signed in 1963, he voiced the hope—though he dared not yet voice the anticipation or expectation—that there would some day be controls on the numbers and the types of nuclear weapons.

Now, the SALT II Treaty can redeem that hope. Its ratification will be a further fulfillment of the needs of all humanity.

President Kennedy knew that the future of freedom would be increasingly bound up with social, political and economic justice in what has since become known as the Third World.

His one bold expression of this vision was the Peace Corps—which, with its combination of activism, idealism and adventure, summed up so many of John Kennedy's virtues.

I'm proud that this kind of commitment has now been vigorously renewed and that America once again holds out her hand to the poor, the silenced and oppressed of every country in the world.

Like every President who hopes to leave the world a better place because he served in it, President Kennedy chafed under the limits of his power to act. These limits on a President still exists. As he put it during his second year in office, "There are greater limitations upon our ability to bring about a favorable result than I had ever imagined." Yet President Kennedy persisted. He became, and he still remains, a symbol of human aspiration.

Perhaps that's why the outpouring of grief at his death had such a special quality.

On that November day, almost 16 years ago, a terrible moment was frozen in the lives of many of us here. I remember that I climbed down from the seat of a tractor, unhooked a farm trailer, and walked into my warehouse to weigh a load of grain. I was told by a group of farmers that the President had been shot. I went outside, knelt on the steps, and began to pray. In a few minutes, I learned that he had not lived. It was a grievous personal loss. My President. I wept openly, for the first time in more than 10 years—for the first time since the day my own father died.

People wept in Boston and in Paris, in Atlanta and in Warsaw, in San Francisco and in New Delhi. More than anyone had realized before that day, the spirit of this young American President had taken hold of the hearts and the imaginations of countless millions of people all over the world.

During the months that followed—in civil rights, in medical care for the aged, in greater dignity for the poor—in an increase of caring for one another, his vision was carried into the reality of our Nation's life with the help of a united Congress and a united people, united in grief, but also united in determination to fulfill the dreams which he had painted for us.

At the time, the tragedy in Dallas seemed an isolated convulsion of madness. But in retrospect it appears near the beginning of a time of darkness. From Vietnam to Cambodia, from Los Angeles to Memphis, from Kent State to Watergate, the American spirit suffered under one shock after another, and the confidence of our people was deeply shaken.

The American people are good and strong. We've undertaken a solid commitment to heal those wounds and at long last the darkness has begun to lift. I believe that America is now ready to meet the challenges of the 1980s with renewed confidence and with renewed spirit.

These challenges, of course, are not the same ones that confronted us a generation ago. The carved desk in the Oval Office which I use is the same as when John F. Kennedy sat behind it, but the problems that land on that desk are quite different.

President Kennedy was right: change is the law of life. The world of 1980 is as different from what it was in 1960 as the world of 1960 was from that of 1940. Our means of improving the world must also be different.

After a decade of high inflation and growing oil imports our economic cup no longer overflows. Because of inflation, fiscal restraint has become a matter of simple public duty. We can no longer rely on a rising economic tide to lift the boats of the poorest in our society. We must focus our attention and our care and our love and concern directly on them.

We have a keener appreciation of limits now, the limits of government, limits on the use of military power abroad, the limits of manipulating without harm to ourselves a delicate and balanced natural environment.

We are struggling with a profound transition from a time of abundance to a time of growing scarcity in energy. We are only beginning to learn the new habits and to utilize the new technologies that will carry us to a future age of clean and renewable energy.

And we face these times when centrifugal forces in our society and in our political system, as well—forces of regionalism, forces of ethnicity, of narrow economic interest, of single-issue politics—are testing the resiliency of American pluralism and of our ability to govern.

But we can and we will prevail.

The problems are different, the solutions, none of them easy, are also different. But in this age of hard choices and scarce resources, the essence of President Kennedy's message—the appeal for unselfish dedication to the common good—is more urgent than it ever was. The spirit that he evoked—the spirit of sacrifice, of patriotism, of unstinting dedication—is the same spirit that will bring us safely through the adversities that we face today. The overarching purpose of this Nation remains the same—to build a just society, in a secure America living at peace with the other nations of the world.

The library that we dedicate today is a symbol, above all, of that unchanging purpose. Through our study here of his words and his deeds, the service of President Kennedy will keep its high place in the hearts of many generations of Americans to come after us.

This library may be dedicated with the words of a poet from Tennessee, a contemporary of the President whose name the library will bear:

"To those who in all times have sought the truth and have told it in their art or in their living, who died in honor . . .

"To those who died in the high and humble knowledge of God . . . .

"(T)o those who died in sorrow, and in kindness, and in bravery; to those who died in violence suddenly . . . .

"(T)o those who died in the time of the joy of their strength . . ."

This library is dedicated to John F. Kennedy, the thirty-fifth President of the United States of America.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARRIOTT) to revise and extend their remarks and include extraneous material:)

Mr. SYMMS, for 5 minutes, today.
Mr. MARTIN, for 60 minutes, today.
Mr. EDWARDS of Alabama, for 5 minutes, today.
Mr. HAMMERSCHMIDT, for 10 minutes, today.
Mr. PURSELL, for 5 minutes, today.
Mr. ASHBROOK, for 30 minutes, today.
Mr. GOLDWATER, for 5 minutes, today.
Mr. GRASSLEY, for 15 minutes, today.

(The following Members (at the request of Mr. ANTHONY) to revise and extend their remarks and include extraneous material:)

Mr. DIGGS, for 5 minutes, today.
Mr. ULLMAN, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. LAFALCE, for 60 minutes, today.
Mr. SWIFT, for 5 minutes, today.
Mr. GAYDOS, for 5 minutes, today.
Ms. FERRARO, for 5 minutes, today.
Mr. STRATTON, for 5 minutes, today.
Mr. ANDREWS of North Carolina, for 60 minutes, on October 31, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DEVINE, to include remarks following vote on House Joint Resolution 430.

Mr. CONTE, to revise and extend previous to rollcall vote on Cambodian refugees.

(The following Members (at the request of Mr. MARRIOTT) and to include extraneous matter:)

Mr. ROTH.
Mr. SYMMS in two instances.
Mr. DORNAN in two instances.
Mr. MARKS.
Mr. MICHEL in two instances.
Mr. TAUKE.
Mr. RUDD.
Mr. DERWINSKI in two instances.
Mr. GRASSLEY in two instances.
Mr. QUAYLE.
Mr. HYDE.
Mr. BEARD of Tennessee.
Mr. DEVINE.
Mr. FINDLEY.
Mr. ASHBROOK in three instances.
Mr. WILLIAMS of Ohio.
Mr. EVANS of Delaware.

Mr. RAILSBACK.
Mr. SPENCE.
Mr. COLLINS of Texas in two instances.
Mrs. FENWICK.

(The following Members (at the request of Mr. ANTHONY) and to include extraneous matter:)

Mr. DODD in two instances.
Mr. WAXMAN in two instances.
Mr. KILDEE.
Mr. DRINAN.
Mr. PATTEN.
Mrs. SCHROEDER.
Mr. EDGAR.
Mr. ULLMAN.
Mr. SIMON.
Mr. HAWKINS.
Mr. BONKER.
Mr. SANTINI.
Mr. SYNAR.
Ms. MIKULSKI.
Mr. BLANCHARD.
Mr. LONG of Maryland.
Mr. MCDONALD.
Mr. GAYDOS.
Mr. DINGELL.
Mr. MOAKLEY.
Mr. HARKIN.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4394. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

ADJOURNMENT

Mr. ANTHONY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 25 minutes p.m.) the House adjourned until tomorrow, Friday, October 26, 1979, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NATCHER: Committee on Appropriations. Supplemental to H.J. Res. 430 (Rept. No. 96–552, Part 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 465. Resolution providing for the consideration of the bill (H.R. 4904) to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes (Rept. No. 96–554). Referred to the House Calendar.

Mrs. CHISHOLM: Committee on Rules. House Resolution 466. Resolution providing for the consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes (Rept. No. 96–555). Referred to the House Calendar.

Mr. MURPHY of New York: Committee of conference. Conference report on S. 640 (Rept. No. 96–556). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2742. A bill relating to the Indiana Dunes National Lakeshore, and for other purposes; with an amendment (Rept. No. 96–557). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Rhode Island:

H.R. 5702. A bill to establish a Federal program to assist small businesses by increasing their role in federally funded research and development; to the Committee on Small Business.

By Mr. EDWARDS of Alabama:

H.R. 5703. A bill to amend title II of the Social Security Act to assure that the initial payment of any benefits due survivors of an insured individual will be made without delay after such individual's death; to the Committee on Ways and Means.

By Mr. FISHER:

H.R. 5704. A bill to amend titles 5 and 37 of the United States Code to provide authority to continue the pay of Federal employees and military personnel during periods in which the enactment of appropriations is delayed; jointly, to the Committees on Post Office and Civil Service, and Armed Services.

By Mr. HAGEDORN:

H.R. 5705. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income interest on deposits in certain savings institutions, and to increase the amount of the exclusion for dividends received by individuals; to the Committee on Ways and Means.

By Mr. LAFALCE:

H.R. 5706. A bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount that the United States may pay to a member of the Armed Forces or to an officer or employee of the United States in settlement of a claim by such member or such officer or employee for losses incident to service as a member of the Armed Forces or an officer or employee of the United States and to increase the maximum from $15,000 to $35,000 in certain circumstances; to the Committee on the Judiciary.

By Mr. MITCHELL of Maryland (for himself, Mr. NEAL, Mr. D'AMOURS, Mr. BARNARD, Mr. MATTOX, Mr. CAVANAUGH, and Mr. PAUL):

H.R. 5707. A bill to increase the number of class C directors of the Federal Reserve banks; to the Committee on Banking, Finance and Urban Affairs.

By Mr. QUAYLE:

H.R. 5708. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit for payments for enrollment in programs for dieting or stopping smoking; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself, Mr. ROSENTHAL, Mr. MITCHELL of Maryland, Mr. ST GERMAIN, Mr. PEPPER, Mr. BIAGGI, Mr. JOHN L. BURTON, Mr. CLINGER, Mr. CONYERS, Mr. DUNCAN of Tennessee, Mr. EDWARDS of California, Mr. GARCIA, Mr. HOLLENBECK, Mr. HUBBARD, Mr. MOTTL, Mr. PURSELL, and Mr. RICHMOND):

H.R. 5709. A bill to amend the Second Liberty Bond Act to provide that individuals age 65 or older who purchase certain U.S. savings bonds shall be paid a rate of interest which is 2 percent higher than the rate of inflation; to the Committee on Ways and Means.

By Mr. SYMMS (for himself, and Mr. HANSEN):

H.R. 5710. A bill to establish a ceiling on Statutory wilderness designated lands located within the National Forest System in the State of Idaho; to the Committee on Interior and Insular Affairs.

H.R. 5711. A bill to designate the Central Idaho Wilderness and two other wilderness areas within the Nez Perce, Clearwater, Boise, Payette, Challis, Salmon, and Targhee National Forests; to designate for continued study seven other wildlands within the Panhandle, Clearwater, Boise, Sawtooth, Challis, and Targhee National Forests; to release for management all other National Forest Lands, all within the State of Idaho, and for other purposes; jointly to the Committees on Interior and Insular Affairs, and Agriculture.

By Mr. STUMP (for himself, Mr RHODES, Mr. RUDD, Mr. MARRIOTT, Mr HALL of Texas, Mr. YOUNG of Alaska Mr. MCKAY, Mr. SHUMWAY, Mr BURGENER, Mr. LUNGREN, Mr. WAYKINS, Mr. WHITTAKER, Mr. MCDONALD, Mr. PRENZEL, Mr. MCCLORY, Mr. PHILIP M. CRANE, Mr. JEFFRIES, Mr. HANCE, Mr. PASHAYAN, Mr. GRAMM, Mr. LEATH of Texas, Mr. WHITLEY, Mr. SKELTON, Mr. FLIPPO, Mr. HEFNER, Mr. YOUNG of Missouri, Mr. WILLIAMS of Montana, Mr. JENKINS, Mr. GINN, Mr. HUCKABY, Mr. BARNARD, Mr. STENHOLM, Mr. CHAPPELL, Mr. RUNNELS, Mr. SYMMS, Mr. SHELBY, Mr. ROBERTS, Mr. HUTTO, and Mr. JONES of North Carolina):

H.R. 5712. A bill to prohibit the U.S. Park Service from limiting the number of commercial motorized water craft trips on the Colorado River through the Grand Canyon; to the Committee on Interior and Insular Affairs.

By Mr. HAMMERSCHMIDT:

H.J. Res. 431. Joint resolution to authorize the Vietnam Veteran's Memorial Fund, Inc. to erect a memorial; to the Committee on House Administration.

By Mr. MCKINNEY (for himself, Mr. QUILLEN, Mr. HUBBARD, Mr. COLLINS of Texas, Mr. MCDONALD, Mr. MCDADE, Mr. NICHOLS, Mr. WOLPE, Mr. BERRUTER, Mr. HOPKINS, Mr. ARCHER, Mr. WHITEHURST, Mr. OBERSTAR, Mr. UDALL, Mr. DAN DANIEL, Mr. SCHEUER, Mr. JEFFORDS, Mr. MURPHY of Pennsylvania, Mr. FROST, Mrs. BOUQUARD, Mr. LAGOMARSINO, Mr. ROBERT W. DANIEL, JR., Mr. PRENZEL, Mr. PANETTA, Mr. FAZIO, Mr. MARRIOTT, Mrs. CHISHOLM, Mr. CAMPBELL, Mr. BEDELL, Mr. MAZZOLI, Mr. COLEMAN, Mr. NEAL, Mr. FLIPPO, Mr. ASPIN, Mr. MYERS of Indiana, Mr. LONG of Maryland, Mr. DOUGHERTY, Ms. OAKAR, Mr. PREYER, Mr. DICKINSON, Mr. GUYER, Mr. ASHBROOK, Mr. WOLFF, Mrs. HOLT, Mr. LUKEN, and Mr. KRAMER):

H.J. Res. 432. Joint resolution authorizing and requesting the President to issue a proclamation designating the week of January 20 through January 26, 1980, as "Junior Achievement Week"; to the Committee on Post Office and Civil Service.

By Mr. TAUKE:

H.J. Res. 433. Joint resolution to authorize and request the President to proclaim November 14, 1979, as "National Operating

Room Nurses Day"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3106: Mr. MAZZOLI and Mr. MURTHA.

H.R. 3284: Mr. GUYER.

H.R. 3905: Mr. NEAL, Mr. HOLLENBECK, and Mr. MURPHY of Illinois.

H.R. 4574: Mr. DORNAN and Mr. LEHMAN.

H.R. 4646: Mr. MYERS of Pennsylvania, Mr. ZEFERETTI, Mr. LLOYD, Mr. WHITE, and Mr. HOLLENBECK.

H.R. 4796: Mr. DORNAN, Mr. FAZIO, and Mr. GLICKMAN.

H.R. 5095: Mr. MURPHY of Pennsylvania, Mr. STOKES, Mr. RAHALL, Mr. VENTO, Mr. NOLAN, Mr. SABO, Mrs. SPELLMAN, Mr. LONG of Louisiana, Mr. COUGHLIN, Mr. SLACK, Mrs. FENWICK, Mr. MOAKLEY, and Mr. HUCKABY.

H.R. 5184: Mr. DORNAN, Mr. FAZIO, and Mr. GLICKMAN.

H.R. 5265: Mr. BARNES, Mr. BONIOR of Michigan, Mr. DIGGS, Mr. EVANS of the Virgin Islands, Mr. GRAY, Mr. NOLAN, Mr. STOKES, and Mr. WEISS.

H.R. 5304: Mr. DOWNEY, Mr. WEISS, Mr. OBERSTAR, Mr. SOLARZ, Mr. DOUGHERTY, and Mr. NOLAN.

H.R. 5371: Mr. WATKINS, Mr. CLEVELAND, Mr. HUCKABY, Mr. DE LA GARZA, Mr. BUTLER, Mr. FRENZEL, Mr. ERTEL, Mr. ROYER, Mr. WHITLEY, Mr. STENHOLM, Mr. COELHO, Mr. NELSON, Mr. SKELTON, Mr. HOLLAND, and Mr. MCKAY.

H.R. 5378: Mr. KINDNESS.

H.R. 5402: Mr. LUKEN.

H.R. 5408: Mr. FAZIO, Mr. BEDELL, and Mr. DE LA GARZA.

H.R. 5425: Mr. BEDELL.

H.R. 5428: Mr. MURPHY of Pennsylvania, Mr. MARKEY, Mr. MOAKLEY, Mr. BEARD of Rhode Island, Mr. D'AMOURS, Mr. FROST, Mr. WOLPE, Mr. PEPPER, Mr. MOTTL, Mr. KILDEE, Mr. AMBRO, Mr. NOWAK, Mr. WHITEHURST, Mr. HUGHES, Mr. MAZZOLI, Mr. MINETA, Mr. VENTO, Mr. MITCHELL of New York, Mr. GRAY, Mr. GLICKMAN, Mr. FAZIO, Mr. BEDELL, Mr. BLANCHARD, Mr. DOWNEY, Mr. NOLAN, Mr. ERTEL, and Mr. MATSUI.

H.R. 5477: Mr. CARR.

H.R. 5543: Mr. DAN DANIEL, Mr. HYDE, Mr. COLLINS of Texas, Mr. WHITEHURST, Mr. FRENZEL, Mr. RUDD, Mr. BURGENER, Mr. SAWYER, Mr. KINDNESS, Mr. GOLDWATER, Mr. ROBERT W. DANIEL, JR., Mr. LIVINGSTON, Mr. EDWARDS of Oklahoma, Mr. MCDONALD, and Mr. CORCORAN.

H.R. 5577: Mr. CHARLES WILSON of Texas, Mr. YOUNG of Alaska, Mr. HANCE, and Mr. LELAND.

H.R. 5660: Mr. BEARD of Rhode Island, Mr. MILLER of California, Mr. STUDDS, Mr. SIMON, Mr. FISHER, Mr. BEDELL, Mr. EDWARDS of California, Mr. YOUNG of Missouri, Mr. GUDGER, Mr. HARKIN, Mr. ERDAHL, Mr. GREEN, Mr. JOHNSON of California, Mr. RATCHFORD, Mr. EDGAR, and Mr. BARNES.

H.R. 5689: Mr. HALL of Ohio and Mr. EDGAR.

H.J. Res. 407: Mr. VENTO.

H.J. Res. 409: Mr. STENHOLM, Mr. LEATH of Texas, Mr. STUMP, Mr. GINN, Mr. HEFNER, Mr. BARNARD, Mr. BRINKLEY, Mr. HUBBARD, Mr. FLIPPO, Mrs. BOUQUARD, Mr. SHELBY, Mr. YOUNG of Missouri, Mr. GRAMM, Mr. LOWRY, Mr. WHITE, Mr. GUDGER, Mr. EVANS of Georgia, Mr. HANSEN, Mr. ENGLISH, Mr. RUNNELS, Mr. HALL of Texas, Mr. HOLLAND, Mr. BEVILL, Mr. SYMMS, Mr. WON PAT, Mr. JONES of Tennessee, Mr. KINDNESS, Mr. LUJAN, Mr. DUNCAN of Tennessee, Mr. MATHIS, Mr. HANCE, Mr. BURGENER, Mr. WINN, Mr. DEVINE, and Mr. MURPHY of Pennsylvania.

H. Res. 446: Mr. GILMAN, Mr. MCKINNEY, Mr. LAFALCE, Mr. DANIELSON, Mr. EDWARDS of California, Mr. HAMILTON, Mr. CHARLES H. WILSON of California, Mr. FROST, Mr. HUGHES, Mr. BUCHANAN, Mr. LOWRY, Mr. HALL of Ohio, Mr. MCCLOSKEY, and Mr. CARR.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2063

By Mr. MOORHEAD of Pennsylvania:

—Page 10, strike out lines 3 and 4 and insert in lieu thereof the following:

"(f) The Secretary shall assess a fee of not less than one quarter of 1 per centum of the amount of each guarantee to cover administrative and other costs of the loan guarantee program under this section.

—Page 10, line 15, strike out "thirty years" and insert in lieu thereof "ten years".

—Page 11, line 11, strike out "3 per centum" and insert in lieu thereof "4 per centum".

—Page 13, line 8, strike out the period and insert in lieu thereof a comma and the following: "or to an extension of the maturity of any loan or guarantee made under this title, beyond the periods stated in such loan, guarantee, or debt or in this title, for an additional period of not to exceed ten years, if such extension will aid in the orderly liquidation of such loan, guarantee, or debt.".

—Page 12, line 12, strike out "(a)" and insert "(1)".

—Page 12, line 16, strike out "(b)" and insert "(2)".

—Page 12, line 23, strike out "(c)" and insert "(3)".

—Page 13, line 1, strike out "(d)" and insert "(4)".

—Page 13, line 9, strike out "(e)" and insert "(5)".

—Page 13, line 14, strike out "(f)" and insert "(6)".

—Page 13, strike out lines 24 and 25 and insert in lieu thereof the following:

"(7)(A) With respect to loans guaranteed under section 202 of this title, the total principal amount of guaranteed loans outstanding in any fiscal year for any one firm may not exceed $20,000,000.

"(B) With respect to direct loans made under section 201 of this title, the total principal amount of direct loans outstanding in any fiscal year for any one firm may not exceed $10,000,000.

"(C) Direct loans under section 201 of this title and guaranteed loans under section 202 of this title shall not be made for projects involving firms which had assets in excess of $50,000,000 in their most recent fiscal year.

"(D) Not more than 15 per centum of the aggregate principal amount of loans which may be made or guaranteed in any fiscal year may be made without regard to the limitations of subparagraph (A), (B), and (C) of this paragraph, except that the aggregate principal amount of loans which may be made or guaranteed to any one firm may not exceed $50,000,000.

"(E) Not more than 30 per centum of the aggregate principal amount of loans which may be made or guaranteed in any fiscal year may be used to provide working capital."

—Page 14, line 1, strike out "(h)" and insert "(8)".

H.R. 4904

By Mr. ROUSSELOT:

—On pages 2 and 3, amend the table of contents by striking all that pertains to title I and inserting in lieu thereof:

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; BLOCK GRANTS TO STATES; WORK REQUIREMENTS; DEMONSTRATION PROJECT

Sec. 101. Block grants to States.
Sec. 102. Limitation on use of grants.
Sec. 103. Imposition of work requirements as condition of aid to families with dependent children eligibility.
Sec. 104. Conforming changes.
Sec. 105. Demonstration project.
Sec. 106. Effective date.

On page 5, line 1, strike all that follows through page 104, line 11 and insert in lieu thereof:

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; BLOCK GRANTS TO STATES; WORK REQUIREMENTS; DEMONSTRATION PROJECT

BLOCK GRANTS TO STATES

SEC. 101. (a)(1) Section 403(a) of the Social Security Act is amended by striking out all that precedes paragraph (2) and inserting in lieu thereof the following:

"(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter beginning on or after October 1, 1979—

"(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount which (subject to the last paragraph of this subsection) shall be equal to one-fourth of the adjusted base period amount for such State (as determined under section 412) plus any supplemental grant payable to such State under section 413; and".

(2) Section 403(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"In the case of calendar quarters beginning after September 30, 1985, the amount to be paid to each State under paragraph (1) of this subsection (as otherwise determined under this part) shall be reduced by 2 percent."

(b) Part A of title IV of such Act is further amended by adding at the end thereof the following new sections:

"ADJUSTED BASE PERIOD AMOUNT

"SEC. 412. (a)(1) The base period amount for any State shall be equal to—

"(A) the total amount which the Secretary determines would have been payable to such State for the fiscal year beginning October 1, 1978 (hereinafter in this section referred to as the 'base period'), under paragraphs (1), (3), and (5) of section 403(a), taking into account the provisions of section 1118 of this Act and section 9 of the Act of April 19, 1950 (64 Stat. 47), but computing such total amount without regard to subsections (c) through (f) of section 403 and increasing it by the amount of any social and supportive services provided in accordance with section 402(a)(19)(G); plus

"(B) an amount which bears the same ratio to $1,000,000,000 as such State's population bears to the total population of all the States (other than Puerto Rico, Guam, and the Virginia Islands); plus

"(C) in the case of a State whose basic AFDC payment during the base period when combined with the average value of food stamps in such State during that period (as those terms are defined in subsection (d)) would place it in the lowest 15 of all the States (other than Puerto Rico, Guam, and the Virgin Islands) based on the basic AFDC benefit and average value of food stamps in each of the States, an amount which bears the same ratio to $400,000,000 as such State's population bears to the total population of said 15 States (other than Puerto Rico, Guam, and the Virgin Islands);

except that a State described in subparagraph (C) shall be entitled to receive the additional amount specified in such subparagraph for any quarter in the fiscal year beginning October 1, 1980, only to the extent that the sum of the basic AFDC benefit and the average value of food stamps in such State during that quarter is higher than the corresponding sum for the same quarter in the base period.

"(2) The adjusted base period amount for any State—

"(A) for the fiscal year beginning October 1, 1978, shall be equal to the base period amount, and

"(B) for the fiscal year beginning October 1, 1980, and each fiscal year thereafter, shall be equal to the base period amount as adjusted for such State in accordance with subsections (b) and (c).

"(b) The adjusted base period amount for any State as determined under subsection (a) shall be increased for each fiscal year, starting with the fiscal year beginning October 1, 1980, by an amount equal to the product of—

"(1) the adjusted base period amount as determined (for such State) for the preceding fiscal year, and

"(2) a percentage equal to the percentage increase (if any) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living increases under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 percent).

For purposes of this subsection the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

"(c) The adjusted base period amount as determined under subsection (a) and increased under subsection (b) for any State shall be increased or decreased (if such State has had an increase or decrease in population) for each fiscal year, starting with the fiscal year beginning October 1, 1980, by an amount equal to the product of—

"(1) the adjusted base period amount as determined (for such State) for the preceding fiscal year, and

"(2) a percentage equal to the percentage increase or decrease in the population of such State on January 1 of the preceding fiscal year as compared to the population of such State on January 1 of the second preceding fiscal year (as determined by the Secretary not later than April 15 of the preceding fiscal year, on the basis of the best estimates available from the Bureau of the Census, and rounded to the nearest one-tenth of 1 percent).

"(d) For purposes of subparagraph (C) of subsection (a)(1) (and the matter immediately following such subparagraph)—

"(1) the term 'basic AFDC benefit', with respect to any State and any period, means the average monthly payment of aid to families with dependent children made during such period under the plan of such State approved under this part to a family whose income consists solely of payments made under such plan;

"(2) the term 'average value of food stamps', with respect to any State and any period, means the average monthly bonus value, within such State, of the food stamps for which a family whose income consists solely of payments made under such plan is eligible during such period; and

"(3) determinations relating to which of the States fall into the lowest 15 shall be made in the manner prescribed by the Secretary on the basis of such surveys, samples, or other methodologies as may be specified in regulations which shall be promulgated by the Secretary not later than 90 days following the date of the enactment of this section.

"SUPPLEMENTAL GRANTS TO STATES WITH HIGH UNEMPLOYMENT

"SEC. 413. (a) The Secretary shall pay to each State which has an excess unemployment percentage greater than zero (as determined under subsection (b)), for each quarter beginning on or after October 1, 1980, a supplemental grant equal to the product of—

"(1) one-fourth of the adjusted base period amount for such State (as determined under section 412) for the fiscal year in which such quarter occurs; and

"(2) the State's excess unemployment percentage for such quarter.

"(b) The excess unemployment percentage for any State for each quarter shall be the percentage (rounded to the nearest one-tenth of 1 percent) equal to the remainder (if any) obtained by subtracting from the insured unemployment rate in such State during such quarter (as estimated by the Secretary based upon the weekly rate of insured unemployment used in making determinations under section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970) the greater of—

"(1) the insured unemployment rate in such State (as so estimated) during the corresponding calendar quarter during the base period (as defined in section 412(a)); or

"(2) 6 percent.

"(c) Notwithstanding any provision of section 403(b) to the contrary, a supplemental grant payable for any quarter under this section shall be paid as soon as practicable after the unemployment statistics required in order to compute the amount of such grant become available to the Secretary.".

LIMITATION ON USE OF GRANTS

SEC. 102. Section 403 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(k) Grants made to any State under the provisions of subsection (a)(1) may be used by such State only for payments of aid to families with dependent children and for other social welfare purposes.".

IMPOSITION OF WORK REQUIREMENTS AS CONDITION OF AID TO FAMILIES WITH DEPENDENT CHILDREN ELIGIBILITY

SEC. 103. Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this part or part C, or in any State plan approved under this section, or in any regulation prescribed to implement this part or part C or any such State plan, shall be constructed to prevent a State from imposing (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with subsection (a)(19) or part C) a requirement that an individual or relative, or any other person (living in the same home) whose needs are taken into account in making the determination under subsection (a)(7), perform employment (as defined by the State) as a condition of eligibility for aid to families with dependent children.".

CONFORMING CHANGES

SEC. 104. (a) Section 403(a)(3) of the Social Security Act is amended by striking out "in the case of any State" and inserting in lieu thereof "in the case of Puerto Rico, the Virgin Islands, and Guam".

(b) Section 403(a)(5) of such Act is amended by striking out "in the case of any State" and inserting in lieu thereof "in the case of Puerto Rico, the Virgin Islands, and Guam".

(c) Section 1118 of such Act is amended—

(1) by striking out "403(a),"; and

(2) by inserting after "1603(a)" the following: ", and paragraph (2) of section 403(a)."

(d) Section 403(a) of such Act is amended by striking out "paragraph (1) or (2)" in the first sentence following paragraph (5) and inserting in lieu thereof "paragraph (2)".

(e) Section 408(c) of such Act is repealed.

(f) The first sentence of section 431(a) of such Act is amended by inserting ", including the making of payments to States for social and supportive services provided in accordance with section 402(a)(19)(G)" before the period at the end thereof.

DEMONSTRATION PROJECT

SEC. 105. (a) In order to provide an effective pilot test of the States ability to create their own welfare programs as an alternative to the program of aid to families with dependent children under part A of title IV of the Social Security Act, there is hereby established a five-year ten-State demonstration project in which the payments made under section 403(a) of such Act to participating States may be used without regard to the requirements and limitations otherwise applicable under the program of aid to families with dependent children, and which shall be structured and carried out in accordance with this section.

(b)(1) The ten States participating in the demonstration project under this section shall be—

(A) the State of Pennsylvania (to assure the inclusion of at least one northern industrial State);

(B) the State of Mississippi (to assure the inclusion of at least one southern rural State); and

(C) eight additional States to be selected by lot in accordance with paragraph (2).

(2) The Governor of any State which desires to participate in the demonstration project under this section (as one of the additional States referred to in paragraph (1)(C) may submit a request for such participation to the Advisory Commission on Intergovernmental Relations, within such period following the date of the enactment of this Act and in such manner and form as the Commission may prescribe. At the close of such period (but in no event later than 90 days after the date of the enactment of this Act) the Commission shall select by lot, from among all of the States submitting requests under the preceding sentence, the eight additional States which are to participate in the demonstration project.

(c) During the five-year period beginning October 1, 1980, each State which is participating in the demonstration project under this section shall utilize the payments made to it under section 403(a) of the Social Security Act to conduct such activities and provide such assistance as in its judgment will most effectively benefit and promote the social welfare of children and families with children in that State, without regard to the requirements and limitations which would otherwise apply in the program of aid to families with dependent children under part A of title IV of such Act; and for this purpose the State may waive any or all of such requirements and limitations except those relating to the child support program under part D of such title (as made applicable under section 402(a)(27) of such Act.)

(d) The Advisory Council on Intergovernmental Relations shall from time to time report to the Secretary and to the Congress on the activities of the participating States in the demonstration project, with a final report at the close of the five-year period of the project.

EFFECTIVE DATE

SEC. 106. With the exception of the selection of States described in section 6 of this Act, the amendments made by this Act shall become effective on October 1, 1980.

H.R. 4985

By Mr. ECKHARDT:

(Amendment to the amendment in the nature of a substitute (H.R. 5660).)

—Page 30, line 25, strike the words "been enacted or promulgated" and insert in lieu thereof the following: "taken effect after the

designation of the project as a Priority Energy Project and".

—Page 34, strike line 20 down through line 2 on page 35 and insert in lieu thereof the following:

"(2) Any other action by the Board relating to an energy project."

Page 35, strike lines 9 through 11.

By Mr. HUCKABY:

(To H.R. 4985 on page 41, line 19, and also to the amendment in the nature of a substitute (H.R. 5660) on page 20, line 15.)

—After the period, insert "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project."

EXTENSIONS OF REMARKS

WINDFALL PROFIT TAX: PATH TO A NEW ERA OF CONSERVATION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. EDGAR. Mr. Speaker, in an address delivered on Monday before the Northeast-Midwest Congressional Coalition, Secretary of Transportation Neil Goldschmidt argued eloquently for the enactment of a windfall profit tax. This tax, Goldschmidt stated, can be a path to a new era. We must move away from an era of cheap energy and an era of throw-away cities to a new era of conservation.

Secretary Goldschmidt's speech reveals a profound understanding of the relationship between transportation, energy, and the environment. To those who wonder what to expect from the Transportation Department under Neil Goldschmidt, I urge you to read his remarks.

The remarks follow:

REMARKS BY NEIL GOLDSCHMIDT

America's agenda and America's transportation agenda cannot be separated. Indeed, history teaches us that our Nation's overall domestic program has in large measure been defined by our transportation program.

We need look no further back than the last 30 years to find the evidence of that lesson. Over the last three decades, the growth and development of our Nation and the growth and development of our national transportation system have been indistinguishable. Both have been based on the automobile and premised on the availability of an unlimited supply of cheap and abundant oil. With the skills of American technology and a self-replenishing supply of funds from the gas tax, we built a superb personal transportation system and created an American life-style.

But today, we face a new era and a new set of assumptions about the future.

Today we are at the end of two eras—the era of cheap energy and the era of throw-away cities—and the beginning of a new era—the era of conservation.

Once again, America is a nation in transition, seeking new guiding definitions which keep faith with old and deeply held values.

Once again, I believe, transportation can lead us in our self-definition; for transportation is an integrating thread, weaving together mobility, energy conservation, economic development, and environmental quality into a new mantle in which to clothe the long-standing American dream.

The path to this new era begins, for me, with the President's energy program and the windfall profits tax. For the fact is that the energy crisis is the overriding economic and political reality of our time. It threatens our economy and jeopardizes our independence:

It is costing us in inflation.

It is costing us jobs.

It is costing us in the value of the dollar and the balance of payments.

It may cost us our freedom. And this is the most basic issue. Just last week, Shiek Yamani's willingness to dictate what American energy policy must be demonstrated again the leverage we have given OPEC over our foreign and domestic affairs.

We must come to our own terms with the energy crisis and the President's program is our vehicle.

It unleashes this Nation's vast productive capacity to create alternative forms of energy—synfuels, geothermal, and solar.

And it commits us to a major program of energy conservation—the most cost-effective investment we can make—including the pledge of $16.5 billion for transportation programs that will make our use of the auto more efficient, make transit more attractive, conserve energy and promote urban revitalization.

Transportation accounts for more than one-half of our total petroleum use; and the private automobile accounts for more than one-third of our total petroleum use.

Clearly, then, a remedy for our energy ills must include both undertaking new initiatives for public transit and getting a handle on our auto habit. The two are inextricably related and connected, and must be approached as such.

The auto component of the President's program represents a commitment of $2.5 billion over 10 years, focusing primarily on obtaining greater efficiency in the use of the auto. Right now, the average auto occupancy is 1.3 passengers. Just for the routine home to work commute trip, Americans use 1.8 million barrels of gasoline each day. And roughly 1.4 million of those barrels are burned by commuters driving back and forth each day alone.

Just doubling the number of commuters using carpools and vanpools will save 200,000 barrels of oil per day. Additional energy savings will come from Federal aid highway projects which encourage energy efficiency in the operation of the auto—such as improvements that aid traffic flow—from enforcement of the energy and life-saving 55 mile per hour speed limit, from investments in energy-conserving auto technology and from basic auto research.

By far the most ambitious element of the President's initiative is the $13 billion public transportation investment program. This program will increase the overall transit capacity of the country by up to 50 percent—the equivalent of an additional 15 million passengers per day.

First, this program means buses. The President's program calls for $5.6 billion in new money for buses. Placing an additional 3,000 buses per year in service. In more than 90 percent of American communities, from the small towns of the Northeast to the largest cities of the Midwest, mass transit means buses. And even in those cities that have heavy or light rail systems, buses still play a major role in feeding and augmenting the rail lines.

But while buses may mean transit to most of America, unfortunately buses apparently don't mean much to American industry. Currently, there is only the equivalent of one and a half companies producing buses in this country. And the one major firm is operating at only one-half of its capacity.

Consequently, at the very time that we need increased competition in equipment manufacture, increased capacity to produce new vehicles, increased speed in delivery and increased standardization for bus production, we face instead a bus procurement bottleneck.

To break this bottleneck, I have advanced the concept of a 1,000 vehicle Federal strategic bus reserve. The concept proposes that we change our current cumbersome procurement process for an emergency purchase authority. We would allow the urban mass transportation administration to order directly 1,000 buses up front, and then to deliver the vehicles to transit properties around the country based on a pre-arranged agreement.

If this idea were to go forward, it could stimulate competition perhaps to the extent of luring some new manufacturers into—the business—it could drive down the unit price of vehicles, reduce the delivery time for new buses—which currently averages 18 months—and even achive some uniformity in bus design in transit properties around the country—thereby further reducing maintenance costs.

At the moment, this is only an idea and in its seminal stage. We have initiated discussions with the transit industry, the bus manufacturing companies, Members of Congress and other interested parties to see whether there may be other ways to solve the bus procurement problem and to develop further the idea of a strategic bus reserve. One way or another, we must solve this problem if we are to achieve the potential for bus ridership that is in the communities around the country.

The three other major elements of the President's program include $5.7 billion in new money for rail modernization and extensions—adding 200 new rail cars per year and the capacity for an additional 4 million passengers per day—$900 million for accelerated completion of new rail systems—adding capacity for 500,000 passengers per day one year earlier than scheduled—and $800,000 million for accelerated completion of interstate withdrawal projects—adding 900,000 passengers per day.

The total impact of this program on our nation's transit capacity will be substantial. In this past decade, we spent a total of $15 billion in support of transit's capital needs. Between 1972 and 1978, transit ridership grew by 16 percent—from 6.5 billion passengers in 1972 to 7.6 billion in 1978—and a full 4 percent of that growth took place during 1978.

In the coming decade, the President is proposing a program that will see $50 billion spent by all sources in support of transit—more than three times the amount spent in the 1970s. It is a program to serve all of America—buses for small and medium-sized

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

communities, rail for large cities, rehabilitation of old systems, and construction of new ones. And the result should be an additional 15 million transit passengers per day—a 50 percent increase.

The combination of all these programs—auto and transit—will save at least 350,000 barrels of oil per day by 1990—and with the full support of the American public, that figure could nearly double.

That support is vital.

The success of these programs will not be determined by the ability of the Federal Government to disburse billions of dollars but by the ability of State and local governments and transit authorities to spend those dollars effectively. Ultimately, our conservation program depends upon a complex of decisions by State, local and private actors—to participate in a carpool, to build high occupancy vehicle lanes, to undertake engine diagnostics or promote the use of mass transit. We are committed to working closely and cooperatively with all of these actors, for they are our allies and our agents in our common battle against energy waste.

Moreover, we are committed to a partnership at the Federal level. We recognize that the most effective way to spend transportation dollars is in concert with other Federal Department's dollars—as part of a comprehensive strategy in each community that combines Federal programs for the greatest impact.

What is most important and most promising about the energy conservation program is the opportunity we have to make transportation investments a leading force in revitalizing our cities, building our economy, cleaning up our air, conserving our land, promoting our overall quality of life.

This administration has articulated both a national energy policy and a national urban policy, and we mean to follow them. They are basic to our transportation program for the 80s. At heart, these policies direct that critical linkages between transportation investments and other community needs and values—such as energy conservation, equal opportunity, jobs, housing, environmental quality, recreation and more—must be identified and incorporated into transportation projects. And unless those linkages occur, the projects do not go forward.

One result of these policies should be the redefinition and expansion of the role of transit in this country. President Carter's program is an invitation to take a quantum leap in the 1980's, to assume a full partnership with the auto in meeting this Nation's transportation needs. No longer should transit systems be designed and operated simply as adjuncts to the highway network, content to carry the overflow of white collar rush hour commuters and those who do not have access to an automobile. If we seize the opportunity, transit can carry swing shift factory workers to their jobs, can get families to nearby recreational spots, can get grandparents to medical care and shopping centers, and can still carry an increased regional peak hour load. In other words, transit can provide energy-conserving, mobility-preserving full service transportation.

The key that unlocks this future is, as always, money. And in this instance, that means the windfall profits tax, as proposed by the President. Quite simply, with a strong windfall profits tax we will have a comprehensive energy program, balanced between conservation and new production. And we will have a major thrust for transportation, for transit, and thereby for our cities and towns, their mobility, their economic development, and their environment.

Without a strong windfall profits tax, we are back at square one.

Out of all this, one fact is clear to me. America is clearly a nation in transition. We are changing and evolving and that is healthy and proper.

It is healthy so long as we are able to manage the process of change and direct it in a positive course. And that depends fully on our capacity to anticipate problems, to build support systems that will carry us into a workable future. That is what our transportation program for the 1980s is all about and why the enactment of the windfall profits tax is so vital to our national interests and to our future.

Our Nation has been in this position before in our history—our freedom threatened from abroad. Our ability to act decisively in question, our society in transition, mid-way between old and new assumptions. At another such time, Franklin Roosevelt reminded us that, "when you see a rattlesnake poised to strike, you do not wait until he has struck before you crush him."

The energy crisis today poses just such a threat. We must not delay; already we have heard the shake of rattles and the hissing of the fangs; we cannot afford to wait for the snake to strike.

We must not fail to act and act now, lest future generations scorn us for mortgaging their future and their freedom and leaving them a hollow legacy of timidity and fear.

Thank you.●

OIL COMPANY DISTORTIONS OF ALASKA LANDS BILL

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. SEIBERLING. Mr. Speaker, on May 16 of this year, the House overwhelmingly passed—360 to 65—the Udall-Anderson bill—H.R. 39—the Alaska National Interest Lands Conservation Act of 1979. It appears likely that a somewhat different version of this important legislation will soon be reported to the other body by the Senate Committee on Energy and Natural Resources. Thus, it comes as no surprise that once again opponents of the balanced kind of approach found in the House-passed bill are circulating the same tired myths about that bill's provisions and their supposed impact on our energy situation.

Thus, on October 10, the gentleman from Alaska caused to be printed in the CONGRESSIONAL RECORD an article by a Mr. E. Louis Overstreet entitled—inaccurately—"Repressive Congressional and Department of Interior Lands Action Will Stymie Alaska Economic Development."

Now, Mr. Speaker, I do not believe that our colleagues in the House will be misled by this article, or by similar wild charges and distortions, because they will remember the very thorough and detailed discussions of the Alaska lands issues which preceded the House landslide vote for the Udall-Anderson bill. But, because other readers of the CONGRESSIONAL RECORD may not be as familiar with the facts regarding the House bill, I think that I should set them out once again.

For example, Mr. Overstreet writes that H.R. 39 "is almost completely void of appreciation for our national energy problem and the potential that exists in Alaska." The fact is that the Udall-Anderson bill is grounded in a rational appreciation of the importance of energy resources, especially oil and gas, and in the need for orderly development of those resources in Alaska. Thus, the Udall-Anderson bill:

First. Mandates oil and gas leasing by private industry in the National Petroleum Reserve in Alaska—renamed the Teshekpuk-Utukok National Wildlife Refuge—an area of considerable promise which has been off limits to such exploration and development by industry for a half century. As to the significance of this provision of the Udall-Anderson bill, consider the evaluation of John Silcox, western region general exploration manager of Chevron USA:

> The Department of Energy's most recent estimate of the potential of the area is 5 billion barrels. The numbers I would like to use are 5 to 10 billion barrels, which would be as much as 10 percent of undiscovered U.S. reserves. However, responsible and plausible estimates of 20 to 30 billion barrels have also been made. So it's possible that we're talking about one-quarter of America's undiscovered reserves.
>
> Chevron considers the NPR-A a very exciting opportunity. I would have to say that this area stands as one of the highest potential single areas in the U.S. onshore today. *It may be the highest.*" (Emphasis added.) (Opening Alaska's National Petroleum Reserve, remarks by John Silcox, Western Region General Exploration Manager, Chevron U.S.A., May 4, 1979, page 4.)

Second. Leaves open to exploration and development all the offshore areas of the Continental Shelf and the State's submerged lands. These are currently the areas which are attracting the most interest, and an unprecedented State-Federal joint lease sale is currently under active consideration.

Published studies by the USGS and the State of Alaska have rated the offshore oil and gas potential significantly above the onshore. The ratio is roughly one-third onshore to two-thirds offshore. Industry has rated the Bristol Bay Outer Continental Shelf Basin as one of the highest potential areas of the entire U.S. Outer Continental Shelf.

Offshore development similar to conditions to be expected in Bristol Bay has been underway for over a decade in the Alaska Cook Inlet where fields as small as 75 million barrels have been producing from platforms. Striking economic differences can be seen when contrasting the 75-million-barrel fields now producing in Alaskan waters with the 1- to 2-billion barrel field that is considered economically viable on land in the Arctic. It takes over 10 times the volume of oil to justify the costs of development in areas such as the Arctic Range than in promising Outer Continental Shelf areas such as Bristol Bay.

Third. Opens for expedited or normal exploration and development over 90 percent of the onshore promising areas—that is, the areas which have been identified, by Federal and State experts, as being either high or favorable in terms of the likelihood of oil and gas discoveries. Many of these are in areas for which the bill—in title XII—mandates expedited leasing procedures.

So, Mr. Speaker, what is all this propaganda about? What prompts articles like Mr. Overstreet's that suggest the Udall-Anderson bill will cripple our economy, bring back the gas lines, or block

development of Alaska's energy potential? Of course, the answer is that the House, by passing H.R. 39, refused to sacrifice the Arctic National Wildlife Range, with its incomparable international wildlife, wilderness, and other natural values; by designating that area as wilderness, the House overwhelmingly decided that this should be the last place we look for petroleum after other potential areas in Alaska have been explored and developed. That is the real burden of Mr. Overstreet's complaints, the real reason for the absurd litany of misinformation and distortions which once again are beginning to be heard here in the House and at the other end of the Capitol.

So, again, let me remind the readers of the CONGRESSIONAL RECORD about the realities of the situation. A good place to start is with the important colloquy between the gentleman from Oklahoma, Mr. SYNAR, and Chairman UDALL during the debate on the Alaska lands bill here in the House last May 15, concerning the Udall-Anderson bill's wilderness designation for the Arctic National Wildlife Range (ANWR). The first question concerned the often heard claim—repeated by Mr. Overstreet—that the ANWR may be "another Prudhoe Bay" that would supply a considerable part of the oil our Nation needs today. Let me quote Chairman UDALL's response, and the rest of the colloquy:

Mr. UDALL: Mr. Chairman, if the gentleman will yield, there are two reasons for this claim—the first mythical and the second political and ideological.

In 1972 during the great optimism which followed the Prudhoe Bay discovery, the State of Alaska speculated that the Arctic Range could contain as much as 14 billion barrels of oil. Last year, however, the U.S. Geological Survey reported the results of recent research, including near-shore seismic profiles, which indicates the potential of this area is roughly 400 million barrels of oil. Alaska's former chief petroleum geologist estimates 750 million barrels, enough to supply current U.S. demand for about 38 days, and well below the estimated economically recoverable threshold of 1 to 2 billion barrels for similar frontier areas in Alaska. Still, the hopes raised in the State's 1972 report persist.

The second reason for these claims is more ideological. The petroleum industry, in common with development interests generally, is opposed to withdrawing any area with potential mineral resources from exploration and development. Our current energy problems have made the Arctic Wildlife Range an ideal tactical issue for supporters of a pro-development Alaska lands bill, who continue to quote a multibillion barrel potential despite lack of any scientific merit whatsoever.

In summary, the latest published studies and testimony by the Department of Energy do not support these claims of high oil and gas potential. They contradict them in total. Industry may bid fantastic dollars for North Slope leases in the NPR-A but it is highly doubtful if they would do so in the ANWR. . . . There is a strong probability that there is not a Prudhoe Bay size field located within the Arctic Range coastal plain. The latest USGS report states:

"In the western part of the ANWR, the prospects for large oil or gas deposits in rocks of the Ellesmerian sequence (Prudhoe Bay's Reservoir Rocks), including traps of the Prudhoe Bay type, is very low."

Later in the report the author again states "the potential for such large Ellesmerian oil or gasfields beneath the coastal plain is low."

Furthermore, the USGS scientists state that in the rocks that are expected to trap oil in the coastal plain the fields "might contain in the range of 10 to 200 million barrels of oil." This is a significant difference from the 9.6 billion barrel Prudhoe Bay field, and well below the economic limit of 1 to 2 billion barrels needed for development.

Mr. SYNAR. If this Congress acts favorably on legislation such as yours, which closes the Arctic Range to oil and gas exploration, what impact will that action have on the immediate and near-term energy situation in this country, and what would be the impact on the long-term energy problem we face, say 25 to 30 years from now?

Mr. UDALL. The opening of the Arctic Range to exploration and development would have no positive effect upon the short-term energy problem we face for the next 10 years. In fact, it would have a short-term negative economic effect. Exploration of these lands would require the use of fuel, manpower, and economic resources by industry and government that would be far better invested elsewhere. . . .

Under a realistic exploration and development program, ANWR production—if economic reserves are found—would most likely be on line around the year 2000 or later. . . . The oil of the Wildlife Range may be produced someday, but it will likely be not as energy but for plastic or fertilizer. Nothing stops some future Congress from allowing the exploration for these uses if they are of sufficient national importance. Our energy advisers have told us that the best bet for short- medium- and long-term energy is the Outer Continental Shelf and the National Petroleum Reserve—Alaska—not the Wildlife Range.

In conclusion, Mr. Speaker, let me simply urge all the readers of the CONGRESSIONAL RECORD—including the Members of the other body—to beware of the distortions and myths which once more are starting to circulate about the House-passed Alaska lands bill. That bill is sound, it is balanced, and it deserves the support of all parties who are truly determined to both improve our Nation's energy supply position and protect our heritage of incomparable natural treasures.●

SOMALIA NEEDS U.S. SUPPORT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. LAGOMARSINO. Mr. Speaker, for a number of years my colleagues and I have been complaining about Soviet-Cuban "adventurism" in natural resource-rich Africa. The feeling that we have missed our chance in that region is quite widespread. The following article, however, portrays a situation in which the United States is apparently not taking advantage of a chance to deflect Soviet advances in Somalia.

As the article relates, we are being looked to by Somalia's leaders to supply the economic and military aid needed to arrest Soviet-backed guerrilla attacks at her borders. As much as the Carter administration is reluctant to admit it, the fact remains that territorial integrity is the foremost consideration of Third World leaders. Since we will not supply them the means to insure this integrity, they may be forced into the hands of the Russians.

Somalia is an excellent case in point. The article follows:

TROUBLED SOMALIA LOOKS TO US, AND WE LOOK THE OTHER WAY

(By Georgie Anne Geyer)

MOGADISHU, SOMALIA.—The midnight drive up the empty, eerie streets of this exotic Indian Ocean city warns of Somalia's troubled politics. Three times as our car approached the presidential compound, Russian-trained soldiers flew to attention, trained their machine guns on the car and, without altering their aim, walked with a terrifying deliberateness to within six feet of our faces before allowing us to enter.

But when I got in to see President Mohammed Siad Barre, one of the more mysterious and least seen leaders of the world, he was cordial, witty, outgoing. He apologized for the midnight meeting, a habit of many Third World leaders to intimidate their guests.

"I don't like to work all night," said the President, a big, hearty man known for his long hours, "but I do it as an example. For instance, our economic commission just left. I tell them, 'It is not necessary to take all this time on things—why are you dragging?' "

But Siad Barre is not only impatient. In this country of 2 million to 3 million largely nomadic people, which sits at the confluence of the Red Sea and the Indian Ocean, his greatest concern is defense, and the American reaction—or, rather, nonreaction—to it.

"I don't want to provoke the Soviet Union any more," he said somberly, this man who three years ago kicked the hordes of Russians out of this strategic country that they thought they controlled, "because nobody is coming to my defense.

"My military chief of staff keeps asking me, 'Any news?' I have to say, 'Good news is coming.' I can't say there is no good news. And when the people ask me, 'Where are we, are we with Russia or the United States?' I say, 'We are with Somalia.' "

The problem is that Siad Barre and his now violently anti-Soviet regime want to be with the United States. But it is another classic case of the Carter Administration's indifference and hesitation that, after two years of thinking, it cannot decide whether to give the Somalis minimal weaponry or not.

Siad feels that he has assuaged American fears over whether Somalia might invade its neighbors, which have large Somali ethnic minorities. At a meeting in Taif, Saudi Arabia, in September, arranged through the quiet diplomacy of the Saudis, Siad stayed on the same floor of the Sheraton Hotel and negotiated through intermediaries with Kenyan President Daniel Moi to try to settle one local problem—the former Somali claims on the Somali tribesmen's part of Kenya.

"What I said was that we have no ambition for territory in any country, that's that," Siad told me emphastically. "But I told them that I can't renounce what I don't own—the Somali people's right to self-determination in these areas."

The meetings collapsed on the second point, and Somalia remains caught in the conundrum.

Meanwhile, the Somali regime is deeply concerned. The Somalis know that the Russians, dug in with 20,000 Cuban troops in Ethiopia, now hate them with passion. Radio Moscow's broadcasts constantly threaten Somalia. A Russian-backed guerrilla group, the Somali Salvation Front, is now attacking Somalia on its borders, at least in part because of continued Somali support for its guerrilla groups in the Ogaden.

"The last report of our minister of defense was the probability that Ethiopia might attack," the president told me. "I told him, 'Be watchful, be on guard.' That is all I could say. Our problem," he added, "is that sometimes we can't explain our plight to the rest of the world."

Meanwhile, the Saudis—concerned about the worsening situation in the area, with Soviets and Cubans making the military decisions in Ethiopia and South Yemen, with a disintegrating Iran on the other side and with South Yemen arming a new rebel movement against Western-oriented Oman—look at the United States with equal dismay.

"Give the Somalis something, anything," a high Saudi official in the area begged me. "Your Administration does not understand timing. It will soon be too late."

And an American diplomat in the area put it this way: "Somalia in itself may not be important. But it is certainly crucially important in terms of an overall strategy for the whole area."

That, as in so many other areas, does not seem to be forthcoming for this area. As elsewhere, the Carter Administration does not seem to be able to grasp a pregnant situation and birth it to our interests before someone else aborts it.

Somalia stands as a classic case. It is still struggling to be pro-Western, but time is running out—and, as in Nicaragua and so many other places, our policy here is to wait until disaster comes, and then to work 20 times as hard to try to bring it back to a promising situation such as we now have here.●

STATEMENT ON THE PRESIDENTIAL SYNTHETIC FUELS PLAN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DORNAN. Mr. Speaker, the President's proposals for the development of a synthetic fuels alternative—in terms of sheer expense—are somewhat revolutionary, but hardly a break from his previous commitments, constantly expressed during virtually every phase of the energy debate, to rely more and more upon the power of the public sector to resolve the Nation's energy problems. Defenders of the President's program are quick to point out that, whatever the particular faults of the President's program, it is, nevertheless, a sincere attempt to come to grips with an energy crisis that threatens the very economic foundation of the United States, and thus the entire industrial world. Briefly, I would like to focus on what I consider to be the major drawbacks of the President's proposal and offer some alternative suggestions.

The cost is prohibitive. According to the administration's own estimates, the establishment and operation of the proposed Energy Security Corporation to develop synthetic fuels will cost $142 billion by 1990. The funding for this program is to come from revenues primarily generated by a permanent windfall profits tax. As passed by the House, the amount of revenue going to the Federal Government from the windfall profits tax would be $23.2 billion by December 31, 1984. This means, of course, that somehow, some way, an additional $119 billion would have to be raised in the remaining 5 years. The massive Energy Security Corporation would have the stated goal of directing investments at the creation of a domestic synthetic fuel capacity in the range of 2.5 million barrels a day by 1990.

The Energy Security Corporation goes far beyond the simple enhancement of the economic climate for synthetic fuel development. It is designed to be a direct, major competitor with the private sector. It will be a massive operation, dwarfing in size companies that have been directly involved in the production of energy processes. In other words, if we permit the establishment of this gigantic corporate entity, we will be enabling the Federal Government to move ahead with an intrusion into the private sector that is simply unprecedented in peacetime.

I would like to elaborate on this theme in some detail. Such a Government corporation could only draw its capital from the private market into the public sector; and there is absolutely no reason, let alone a guarantee, that the Federal Corporation will use these resources more effectively than the host of private firms that are powered by the inventive genius of the marketplace. This diversion of massive amounts of capital will doubtless hinder the development of other energy technologies which might hold promise for the short to immediate term. It is instructive that Mr. Frank Zarb, former Federal Energy Administrator, told the Senate Energy Committee that a similar investment in tertiary recovery techniques for oil would result in a net gain of at least 1 million barrels of oil per day more than synfuels by 1985. Moreover, the Federal Corporation would not be competing with other firms in the energy market on a fair and equitable basis. Why? First, because it would be subsidized by taxation and insulated from the effects of financial loss. Second, because the same rational economic decision-making that guides a private firm under the constant pressures of a competitive market would be simply absent in a subsidized or tax-supported Government corporation. The Energy Security Corporation will be able to afford to take risks that private firms would not dare.

While these risks may sometimes be successful, failure would not simply hurt the Government's directorate, but every American who is forced to support it through higher taxes, Government loans, or other subsidies. All are punished by the profit decline, not just a few.

How can the Federal Government help? I think that the answer to this problem lies not in the creation of another massive bureaucracy with direct loans or subsidies from the Federal Treasury. The answer to the development of an effective synthetic fuels program lies in tax incentives, including accelerated depreciation or tax credits. Rather than providing a massive subsidy to the synfuel project, why not try two simple measures, radically different from the Presidential program. First, guarantee that the production of synfuel would be completely free of any price regulations, the worst single disincentives to economic development of the energy market in the Western World. Investors could be assured of at least a reasonable chance to get a profitable return on their hard-earned investments. Such a measure was initiated in Canada with considerable success. Second, we could allow producers to take a 20-percent tax credit for investment in synthetic fuel industry. A recent study by the Electric Power Research Institute indicated that such an incentive would allow the costs of synthetic fuels to approximate the costs of petroleum derived fuels for the first 5 to 10 years of operation. According to the same study, by the mid to late 1990's, the price of crude oil would rise to a point where unsubsidized synthetic fuels would be directly competitive. In conclusion, the Electric Power Research Institute study revealed that the tax incentives of this kind—such as a 20-percent tax credit—would result in low-cost synthetic fuels, and would require a minimum direct capital outlay from the Federal Government. That, is the way to go—not in the construction of yet another massive bureaucracy which will meander aimlessly over the national energy landscape.●

CONGRESSIONAL SALUTE TO THE CHILTON MEMORIAL HOSPITAL UPON ITS 25TH ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. ROE. Mr. Speaker, this year the Chilton Memorial Hospital located in Pompton Plains, N.J., and serving 11 communities in our northern region of New Jersey is celebrating the 25th anniversary of its founding and it is indeed my privilege and honor to call this most historic event to the attention of you and our colleagues here in the Congress and seek this national recognition of Chilton's quarter of a century of quality health care to the people of my congressional district and State of New Jersey.

Mr. Speaker, a silver anniversary ago—on November 29, 1944—the Chilton Memorial Hospital opened its doors to receive its first patient 7 years after Chilton's founders, Dr. Forrest S. Chilton II, and his wife Betty, donated an 8-acre tract of land on which to build a hospital to memorialize their son, Forrest S. Chilton III, whom they lost in World War II and the sons, brothers, and fathers of other families who gave their lives for our country in the same battle of nations.

The history and development of Chilton Memorial Hospital is inextricably interwined with the leadership, love, and caring of Dr. and Mrs. Chilton and a host of other dedicated men and women throughout the years with the deepest of concern for the needs of people—ever seeking the highest standards of excellence in their personal commitment to the health and well-being of the individual under their care.

Mr. Speaker, with your permission I would like to insert at this point in our historic journal of Congress an excerpt of a statement that recently appeared in the Chilton Memorial Hospital News which will provide you with a brief history of Chilton Memorial Hospital, its outstanding professional expertise, and the sincerity of purpose of the people who have worked diligently over the past 25 years in affirmation of their aware-

ness and concern for the dignity and humanity of each patient. The excerpt reads as follows:

CHILTON: QUARTER CENTURY OF COMMITMENT TO CARING

. . . After World War II, the need for a hospital to serve the rapidly growing upcountry communities became pressing. In 1947 Dr. Forrest S. Chilton of Pompton Plains donated a tract of land on Newark Pompton Turnpike in memory of his son, Forrest S. Chilton II, who was killed in action in World War II. Thus the Forrest S. Chilton III Memorial Hospital became a living memorial to all from this area who lost their lives in World War II.

A board of trustees was incorporated on June 20, 1947, and the official campaign began in July, 1948. In spite of many stumbling blocks, Dr. Chilton and his friends in Pompton Plains and the surrounding communities were determined to realize their goal. After much work by dedicated, community-minded people, nearly $200,000 was raised, but this was not enough—over $400,000 more was needed.

The involvement of hospital supporters in Civil Defense activities, which were very strong during the early 1950s, provided the crucial answer to the lack of funds. It was learned that loans were available from the federal Reconstruction Finance Corporation for hospital construction if the institution could be deemed essential to the Civil Defense program. Application was made and approved for a $443,000 loan, and the hospital was on its way.

Construction began in March, 1954. Eight months later, on Nov. 20, the 50-bed hospital on Newark Pompton Turnpike was dedicated. At the dedication ceremonies Dr. Chilton reviewed the beginnings of the plan to erect a hospital in the area and said, "At times it was almost impossible to get a doctor in an emergency. We now will have plenty of doctors." His words were truly prophetic. Over the years Chilton Hospital has attracted outstanding physicians in all the major specialities and has made remarkable strides in improving the quality of medical care for this area.

Those who signed the original incorporation papers included: Forrest S. Chilton, M.D., E. C. Chilton, R.N., the Rev. E. T. Jones, William Lewis Arthur, Kurt Manrodt, M.D., and Hugh B. Lynn, M.D., all of Pompton Plains; George Schmidt and Maurice Taub, Pequannock; Harry B. Davenport and Ralph Ellis, Pompton Lakes; C. J. Gunter, Montville; Charles Spongberg, Lincoln Park; Milton Janner, Little Falls; Oscar Storch, Bloomingdale; and Thomas N. D. Mace, Butler.

Original medical staff officers were: Dr. Forrest C. Chilton, president; Dr. Charles Honig, vice president; and Dr. Vincenzo Onorato, secretary-treasurer.

The demands for services accelerated ever since the day the hospital opened its doors. On April 1, 1961, after more fund-raising efforts, an addition to the existing plant was completed, bringing the total bed capacity to 119.

As the population growth of the 11-town primary service area depending on Chilton grew to spectacular proportions, the space-need story repeated itself. Many more doctors were settling "upcountry" and Chilton was hard pressed to meet the needs of their patients.

In 1965 a campaign was launched and public response was so vigorous that within months nearly $1 million was raised. Hospital trustees had the opportunity to purchase a tract of land one mile from the Turnpike property and after many regulations had been met to satisfy state, regional, and township officials, ground was broken for a new building of five stories with space for more expansion on Aug. 1, 1970. Dedication of the new building came 15 months later, on Nov. 20, 1971, just 17 years from the date of the first dedication in 1954. Many of the founding leaders were present to applaud the achievement.

With the addition of the new building, the hospital's total bed capacity is now at 250 beds. Chilton is a short-term, acute care general hospital which provides a full range of services, including 12 pediatric, 24 obstetrical, 12 intensive care and coronary care beds, and consistently operates at a high level of occupancy. A voluntary, non-profit, non-sectarian community hospital, Chilton is fully accredited by the Joint Commission on Accreditation of Hospitals and holds membership in the American Hospital Association, the New Jersey Hospital Association, the Hospital Service Plan of New Jersey, and the Associated Hospital Service of New York. The institution is also licensed by the State Department of Health of New Jersey, and was one of the first delegated by the state to participate in the Professional Standards Review Organization (PSRO).

Chilton Memorial Hospital is governed by a board of trustees, serving without compensation and elected on a rotating basis. Although the board functions primarily as a policy-determining body, it must approve major operational decisions and expenditures. Board membership reflects a cross-section of business, industrial, governmental and public interests, as well as the communities served by Chilton.

Current officers and members of the board of trustees are: Russell Johnson, Union Camp Corp., Wayne, president; John W. Fredericks, Fredericks Fuel and Heating, West Milford, vice president; Michael M. Horn, Williams, Caliri, Miller, Otley and Horn, P. A., Wayne, vice president; Ethel C. Moser, Wayne, vice president; Mary Chapman, Wayne, secretary; John Frol, First National Bank of N.J., Totowa, treasurer; Gerald M. Krantz, executive vice president and administrator.

Grace Brady, Morristown; Edwin P. Brooks, New York Life Insurance Co., N.Y.; Robert T. Dunn, M.D., Wayne; William A. Durbin, Hill & Knowlton, Inc., N.Y.; John M. Galesi, Galesi Realty Corp., Wayne; Gerald T. Heulitt, architect, Pompton Lakes; Charles Honig, M.D., Butler; W. R. Huntington III, D. D. & H. Associates, Inc., Cedar Grove; Helen Iafrate, West Milford; Louis Lombardi, National Community Bank, Pompton Lakes; William Ludwig, Amerace Corp., N.Y.; Kurt Manrodt, M.D., Pompton Plains; Rep. Robert A. Roe (D-8th); Philip H. Roy, Merck & Co., Inc., Rahway; Robert D. San Filippo, Greenwich Mills Co., Secaucus; Dorothy S. Shepherd, Wayne; and James M. Tindall, State Farm Insurance Co., Wayne.

Members emeritus are Max J. Husselrath, Miami, Florida; Charles E. Miller, Aiken, South Carolina; and Samuel S. Nochimson, Esq., Pompton Plains.

Chilton's administrative staff is headed by Gerald M. Krantz, F.A.C.H., executive vice president, who has been the administrator since January, 1972. Krantz joined the hospital as assistant administrator in 1959, becoming associate administrator in 1964. He received his bachelor of arts degree from Indiana University and his master's degree in hospital administration from Northwestern University. He is a Fellow of the American College of Hospital Administrators and is a trustee of the N.J. Hospital Association.

Ruth Taylor, presently of Texas, served as administrator from February 1956 to December 1971.

Eight hundred and four members of area communities are employed by the hospital. Continuing in-service education for nurses and other personnel keeps pace with the latest equipment and treatment plans for the best care for our patients.

Chilton Memorial Hospital has 267 physicians on its medical-dental staff, of which a remarkable 92 percent is board eligible and/or board certified in their particular specialty.

Chilton's Continuing Medical Education for physicians received a Category I accreditation from the American Medical Association.

Present officers of the medical-dental staff are: Dr. J. Duff Brown, Pompton Plains, president; Dr. Lewis Goodkin, Wayne, vice president; and Dr. Stephen Anish, Wayne, secretary-treasurer.

The medical-dental staff is organized into 13 major departments. Departments and their chairmen are as follows; anesthesiology, Rita Newman, M.D.; dentistry, Charles Getzoff, D.D.S.; medical department, Barry B. Galton, M.D.; obstetrics and gynecology, J. Calvin Frommelt, M.D.; surgery, Mitchel Bernstein, M.D.; ophthalmology, C. Jerrold Silodor, M.D.; orthopedics, Lewis Goodkin, M.D.; pathology, Irving Weiss, M.D.; radiology, Sanfurd Bluestein, M.D.; pediatrics, Herbert Cole, M.D.; urology, Barry Altman, M.D.; emergency department, Robert Pollack, M.D.; and psychiatry, Gerald Rozan, M.D. The non-clinical department of family practice is chaired by Harold Sargent, M.D.

Physicians who have served as medical staff president include: 1955, Forrest S. Chilton, M.D.; 1956, Charles Honig, M.D.; 1957, Andrew Ruoff III, M.D.; 1958, Kurt Manrodt, M.D.; 1959, J. Calvin Frommelt, M.D.; 1960, Samuel T. Bernson, M.D.; 1961, John W. Ratcliffe, M.D.; 1962, Byron H. Close, M.D.; 1963, Hugo M. Cardullo, M.D.; 1964, Ernest C. Lydecker, M.D.; 1965, Sanfurd Bluestein, M.D.; 1966, Saul L. Sanders, M.D.; 1967, Robert V. Holman, M.D.; 1968, Robert T. Dunn, M.D.; 1969, Jerome Bellett, M.D.; 1970, Herbert L. Cole, M.D.; 1971, Mitchel Bernstein, M.D.; 1972, Barry Galton, M.D.; 1973, Richard W. Rado, M.D.; 1974, Leonard J. Lesniak, M.D.; 1975, Irving Weiss, M.D.; 1976, Martin Rosenthal, M.D.; 1977, Robert Hubsmith, M.D.; 1978, C. Jerrold Silodor, M.D.; 1979, J. Duff Brown, M.D.

Johanna Demkowicz, R.N., has been director of nursing services since shortly after she joined the institution at its opening in 1954.

Of the 12 nurses on the original staff when the hospital opened its doors in 1954, five are currently members of the staff at Chilton: Dorothy Brown, R.N., MS II; Agnes Dalrymple, night supervisor, Parkway building; Miss Demkowitcz; Irene Donovan Farro, maternity staff; and Winifred Cooke Tintle, in-service coordinator.

Chilton's busy emergency room is staffed by fully licensed house physicians and specially trained nurses under the direction of Robert Pollack M.D., chairman of the emergency department. During 1978, more than 30,500 patients were treated in the emergency department.

Specific services offered by the hospital include clinics in medical obstetrics, gynecology, and other medical specialties.

Chilton has made extensive use of preadmission testing to reduce the average length of patient stays. This program has received special commendation from Blue Cross of New Jersey. More than 560 patients per month are admitted under the pre-admission testing programs which are done between the hours of 7:15 and 9 a.m. so that no patient loses a day's work. Chilton was recently one of two New Jersey hospitals lauded for the highest percentage of P.A.T. patients.

The department of dietetics has an approved program with the American Dietetic Association for a dietetic traineeship for candidates with a bachelor of science degree in foods and nutrition from a curriculum approved by the American Dietetic Association.

Also, through affiliations with William Paterson College of New Jersey, Felician College, Lodi, the County College of Morris, and the Passaic County Community College, clinical training is provided in the field of nursing, radiology, and respiratory therapy.

The Women's Auxiliary of Chilton Memorial Hospital was organized in 1949, five years before the hospital was built. Eight active chapters, 1,051 members strong, from communities in Chilton's service area have maintained on-going fund-raising programs which have raised more than $1,138,486 for the hospital. The Auxiliary's ability to raise money to insure the future of the hospital as a changing, dynamic institution is surpassed only by its enthusiasm for serving as ambassadors of good will in the community.

The volunteer program has recorded a total of 1,474,247 hours of selfless service since 1961 when hours were first recorded. The first volunteer service was staffing the information desk, continued through the years till now. Soon after, the volunteers branched out into other service areas and today can be found in nearly every hospital department. In 1978, 492 pink ladies served 55,807 recorded hours.

An active candy striper program gives high school girls between the ages of 14 to 18 an opportunity for first hand experience in health careers. In 1978, 274 candy stripers served a total of 16,495 recorded hours.

The Men's Corps of Chilton Memorial Hospital was organized in 1972. In 1978, 64 men's corps members served a total of 8,644 recorded hours.

In 1978, a total of 830 volunteers served a total of 80,946 recorded hours.

Thus, as we celebrate our Silver Anniversary Year—1979—the volunteer commitment to quality health care which prompted our friends and neighbors to join the campaign to build Chilton Memorial Hospital, remains an invaluable asset to the communities we serve.

Mr. Speaker, I appreciate the opportunity to look through the hourglass at Chilton during the past 25 years and reflect upon the great pride we all feel with the vast range of services and advanced medical technology they have achieved during a quarter century of commitment to the health care needs of our people which have truly enriched our communities, State, and Nation. We do indeed salute the administrators, doctors, nurses, employees, volunteers and patients at Chilton as they celebrate the silver anniversary of Chilton Memorial Hospital.●

HONORING CHUCK TANNER

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. ATKINSON. Mr. Speaker, I would like to call the attention of my colleagues to the high achievement of one of my constituents, Chuck Tanner, a native of New Castle, Pa., and the manager of the new world champion major league baseball team, the Pittsburgh Pirates.

Since taking command of the club in 1977, Chuck has inspired a genuine feeling of cheerful optimism and youthful love for the game that has spilled over to both the Pirate players and their legions of fans. Beyond this, Chuck Tanner has, on innumerable occasions during the long seasons, proven his ability and instinctive knowledge of the game by his demonstrations of deft strategy and ultimately by steering his team to competitive and winning seasons.

Granted, impressive performances in post-season games, player statistics, and win-loss columns are the yardstick that traditionally has gaged the overall success of baseball teams. However, cold facts are oftentimes an inadequate measure of achievement. Chuck Tanner's greatest triumph, in my belief, has been creating an environment of trust and concern in which he has unified 25 athletes, individual personalities and free spirits, into not only an awesome baseball power, but a close-knit "family" in the warmest sense of the word. This emotional togetherness provided a season-long source of motivation that members of his team have said was the true basis of their remarkable success.●

WILLIAM S. HART—HOME GROWN IN NEWBURGH

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. GILMAN. Mr. Speaker, the city of Newburgh, N.Y. in my 26th Congressional District lays claim to several famous Americans. Al Jolson, a renowned entertainer; Andrew Jackson Downing, the famous landscape architect; and the talented 19th century painter, George Innes all were brought up in that historic city on the banks of the Hudson.

On October 21 another favorite son, William S. Hart, "the original, one and only western cowboy of the silent screen," was honored at a film festival in Newburgh.

The event was spearheaded by Al Rhoades, the editorial page editor of the Newburgh Evening News, who for more than a decade has been trying to encourage that city's residents to recognize Hart, one of Newburgh's favorite sons.

It is a way, Mr. Rhoades told me, of getting our residents to realize that we do have a rich cultural heritage, even beyond Revolutionary War days.

I would like to note that the publisher of the Middletown Times Herald Record, James Ottaway Jr., cooperated with the Evening News in planning this commemorative festival.

At this point in the RECORD, Mr. Speaker, I would like to share with my colleagues the text of an article which reflects the cry of Newburgh's pride in its native son, William S. Hart, which was printed in the Evening News on September 23, 1979:

RARE FILMS OF WILLIAM S. HART, NEWBURGH NATIVE, TO BE SHOWN IN LIBRARY FESTIVAL

(By Al Rhoades)

The seven-week film festival, which will feature the classics of William S. Hart, stands not only as a tribute to the greatest of all western stars of the silent screen, but as a memorial to a native Newburgh son.

The tall, thin, rugged man, who was not only born in Newburgh but spent some of his most formative years here as a child, blazed the trail to gold and glory for Tom Mix, Hoot Gibson, Ken Maynard, Buck Jones and other famous cowboy actors.

But Hart was the original, the prototype, from which the mold was made. It is doubtful if any other achieved the fame and popularity he did as the result of the more than 25 films he made.

Newburgers will have a rare opportunity to see original Hart films during the series, which begins at the Newburgh Free Library, 124 Grand St., Sunday, Oct. 7 at 2:30 p.m.

The series is under the sponsorship of Friends of the Library, of which Peter Cantline is president.

The series is possible through the generosity of James H. Ottaway Jr. of Goshen, who owns several of Hart's film classics which can only be seen on occasions such as this . . . never in the movie theater and never on television.

Aiding Ottaway in collecting his library of Hart and other rare films is the undisputed dean of silent film buffs, Bown Adams of Greenwood Lake, who has volunteered to show the priceless programs. He will show some of his own rare Hart films.

Today at Newburgh Library, is a special tea and film preview of the screen star's out of print films, clips from "Hell's Hinges," "Tumbleweeds," "The Toll Gate," and many others.

Hart was born in Newburgh Dec. 6, 1870. His father, Nicholas Hart, was an Englishman and a graduate of Oxford. His mother was an Irish girl.

When Hart was six months old, his family moved to the Dakotas, where the youth grew up among the Sioux Indians, riding bareback, learning to fish and hunt, shooting with gun and bow and arrow, and learning to talk the Sioux language, both oral and sign language.

When he was a young lad, the family moved back east to Newburgh where Bill and his two sisters could have better educational advantages.

For a while, the family lived on Cart Alley, located behind the present Bourne Apartments, where merchants and peddler's kept their horses and wagons. The Hart family lived up over the long gone stables.

They then moved to Washington Street and rented one of the houses opposite St. George's Cemetery. The house is still standing today, but there is no way of knowing which one it was.

In one of the three books Hart wrote, "My Life—East and West"—he recalls a downtown bakery where he and other newspaperboys stood for hours, staring wistfully and hungrily at the wide variety of good things.

Heat came up through an iron grate in front of the store, warming his feet through the thin soles of his shoes, he recalled.

He made a few extra bucks shoveling sidewalks in the wintertime, among them the walks in front of the Good Shepherd Church. The original church, on Newburgh's Broadway, was a few doors east of its present location.

One problem that confronted him was the harassment by older boys who made fun of his soprano voice.

This didn't last too long, however, because Hart had learned much of rough and tumble fighting from his life in the west, where the ability to dish it out meant, in some cases, survival.

Those who couldn't handle themselves in the "fun" games collected a rash of black eyes, bruises and lumps.

When Hart was in his teens, the family made its way to New York City on a barge down the Hudson from Newburgh. At 19, he made his stage debut with Daniel D. Bandmann, a German comedian.

He played stock, then returned to Broadway where his rolls included that of Romeo, opposite Julia Arthur's Juliet.

Hart is one of numerous prominent people who were native sons of Newburgh. While the city does not warrant any particular plaudits for serving as the birthplace of these people, we do think the city could

have done more through the years to pay tribute to those who carried the name of Newburgh far and wide.

Now is our chance to make up for lost time and show our pride, both in the city and in our "sons and daughters." We'll go so far as to suggest that the city name a street in honor of William S. Hart, the man film historians acknowledge as the greatest cowboy actor of all time, who brought authenticity to western films.

There is no charge for the Hart film festival, a schedule of which will appear on other pages in The Evening News at appropriate times.

Further information on the festival can be obtained by calling Mrs. Patricia Marshall at the Library.

Film buffs, and those who find in Newburgh's past a key to Newburgh's future, owe a debt of gratitude to Ottaway and Adams for their interest in Newburgh and for wanting to fan the spark that remains of area pride in the city's heritage.●

THE AFTERMATH OF THE SWINE FLU PROGRAM

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. MAZZOLI. Mr. Speaker, recently the Office of Technology Assessment (OTA) issued a report entitled "A Review of Selected Federal Vaccine and Immunization Policies."

OTA's report indicates that the Federal Government is "the single most important determinant of this Nation's commitment to the use of vaccine to prevent disease."

From this statement I am constrained to observe that, if our experience with the swine flu program is any measure, then I question the ability of the Federal Government to develop a successful program to use vaccines to protect its citizens from disease.

In 1976, American citizens responded by the millions to their Government's entreaty and received swine flue shots. A few of these citizens, unfortunately, suffered adverse reactions from the shots, most notably from the Guillain-Barre Syndrome (GBS). Guillain-Barre causes paralysis beginning at the extremities and moving to the trunk of the body in stages.

There is human tragedy here. But, this tragedy has been compounded because of the unwillingness of the Federal Government to negotiate proper damage recoveries with the victims of GBS.

The OTA report cites that fewer than 50 claims out of a total of 3,694 damage claims opened and suits filed have been settled. In the words of OTA, "for vaccines suffering real harm or death . . . compensation was not timely, has yet to be provided, or may not be provided."

On July 16, I wrote letters to the President, and others in authority, urging that the Federal Government concede causation and negligence in all GBS cases brought under the Swine Flu Act. This would expedite the disposition of the backlog of GBS cases and would display justice to the victims.

Continued failure to deal fairly with the victims of the swine flu immunization program undermines the good citizenship exhibited by those who received shots, and casts a cloud of doubt over the degree of citizen cooperation which can reasonably be expected by the Government in the event a future mass immunization program is ordered.

Mr. Speaker, I would like to submit into the CONGRESSIONAL RECORD material from the OTA report.

LIABILITY EXPERIENCE OF THE SWINE FLU IMMUNIZATION PROGRAM

Because vaccine manufacturers were initially denied liability insurance by the insurance industry, the swine flu immunization program was delayed until Congress enacted legislation providing that all tort suits had to be brought against the Federal Government through a modification of the Federal Tort Claims Act. Under the legislation enacted, the National Swine Flu Immunization Program of 1976 (Public Law 94-380), the Government has a right of subrogation only against manufacturers and program participants who were negligent.

As described earlier, each of the four manufacturers of swine flu vaccine self-insured for $2.5 million, for a total of $10 million. Each manufacturer also received a basic policy of $5 million and an excess policy of $50 million, for a total of $20 million for the basic policy and $200 million for the excess coverage. Total premiums on the $20 million basic policies were $2.4 million; on the $200 million excess policies, the premium was $6.25 million. Sixteen companies issued the basic policies, each insurance company's share ranging from 0.5 to 10 percent of the total. Thirty-seven companies issued the excess policies, each company's share ranging from 0.05 to 17.035 percent of the total.

Both the self-insurance costs and the premiums are considered business expenses of producing the vaccines, so the Federal Government funded both for a total of $18.65 million. The premiums cannot be recovered, because they were the cost of providing the insurance. The $10 million of self-insurance or remaining portions of it will be returned to the Government with interest, providing either that the money is not used to pay claims costs, or that the manufacturers are shown to have been negligent in causing injury. This does not include the duty to warn, which had been assumed by the Federal Government.

Since the Government would be recovering up to the first $10 million in negligently proven cases from funds that it would recover from the manufacturers anyway, even if no subrogation suits were brought, there seems little incentive to bring such suits. While the insurance companies are theoretically responsible for $220 million of paid-out claims (at a premium price of $8.65 million), none of this money will be paid out unless the injuries to be covered by these funds were negligently caused and the $10 million self-insurance fund is exhausted.

Of the 3,694 claims filed as of March 23, 1979, 1,045 allege Guillain-Barre Syndrome (GBS). Of the $3.351 billion in damages sought, $952.5 million arises from GBS (Hamilton, 1979). In fact, both these sets of figures greatly overstate the actual situation because, first, some allegations of GBS are not credible, and second, in a lawsuit, just about any dollar figure can be alleged. The numbers cited include: 1) claims alleging vaccine-induced GBS by individuals in whom the syndrome began long after there would have been any relationship to the vaccine; 2) claims by individuals in whom GBS occurred, but who had not received the vaccine; and 3) frivolous claims such as an $80,000 claim by a truck driver who alleges having contracted GBS as a result of transporting the vaccine, and a $1 million claim for "hives, etc.;" and 4) claims filed because the statute of limitations was approaching by individuals who suffered no injuries.

The 464 lawsuits that have been filed seek damages totaling $504.3 million. The kinds of vaccine-related injuries alleged by persons bringing suits are shown in table 20. Between 40 and 50 claims and suits have been settled to date, with payments of approximately $1 million. This amount does not include expenses related to handling these claims. Through fiscal year 1977, the Department of Justice estimated costs of processing and defending these claims at $170,000 (Staats, 1979).

Table 20.—Alleged injuries in filed lawsuits arising from the swine flu immunization program

Type of injury alleged:	*Number of suits*
Personal injury related to GBS	251
Death from GBS	25
Personal injury from other neurological injuries	67
Death from other neurological injuries	3
Personal injury from non-neurological injuries	95
Death from non-neurological injuries	23
Total	464

SOURCE: Statement of Peter B. Hamilton, Deputy General Counsel, U.S. Department of Health, Education, and Welfare, before the U.S. Senate Subcommittee on Health and Scientific Research, 1979. (Hamilton, 1979.

Finally, two observations should be noted. First, the swine flu program essentially was in effect from October to mid-December 1976. Two and one-half years later—out of total filed claims (including frivolous ones) of 3,694 and total filed suits of 464—only 40 to 50 claims have been settled. For vaccines suffering real harm or death, therefore, compensation was not timely, has yet to be provided, or may not be provided. Second, the most significant injury and the one for which most compensation probably will be paid, i.e., Guillain-Barre Syndrome (GBS), resulted without apparent negligence in the manufacturing of the vaccine. Thus, when viewed as a compensation approach, the $8.65 million premium costs for liability insurance in all likelihood will provide no return.●

UDALL-CLAUSEN-WIRTH AMENDMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DINGELL. Mr. Speaker, legislation to create an Energy Mobilization Board to cut redtape and to provide a "fast track" for certain energy projects will be considered by the House next week. In order that Members may make informed judgments on the various proposals that will be considered, I am inserting in the RECORD a summary comparison of the Commerce Committee bill and the Udall-Clausen-Wirth bill (H.R. 5660), which has been prepared by the staff of the Subcommittee on Energy and Power.

SUMMARY COMPARISON OF COMMERCE COMMITTEE AND UDALL-CLAUSEN-WIRTH BILLS ESTABLISHING AN ENERGY MOBILIZATION BOARD PREPARED BY THE MAJORITY AND MINORITY STAFFS OF THE ENERGY AND POWER SUBCOMMITTEE

COMMERCE COMMITTEE BILL	UDALL-CLAUSEN-WIRTH
Coverage	
The bill does not apply to nuclear related facilities or to energy projects that have already been the subject of Federal expediting legislation. (Section 175)	The bill does not apply to nuclear related facilities. (Section 202)
Number of projects	
No limitation on number of projects.	Limited to a total of 75 Priority Energy Projects of which no more than 20 may be designated in any one calendar year. (Section 204 (d))
Regulations	
No comparable provision.	Regulations promulgated by Board, including those setting criteria and procedures for accepting and considering applications to designated energy projects are subject to a one-House veto within 60 calendar days of continuous session of Congress. (Section 201(g))
Scope of board's authority to establish a project decision schedule	
Board may modify time periods established by Federal, State and local statute or agency rules and regulations in setting Project Decision Schedule, but may not alter other statutory obligations applicable to the agencies. (Section 180)	Same as Commerce Committee bill. (Section 209(b))
Scope of board's authority to modify agency procedures	
Board can recommend to the President the waiver of Federal, State and local procedural requirements. If President determines that the recommended waiver, or a modification of the recommended waiver, is in the national interest and contains such terms and conditions as are necessary to mitigate any adverse effects, he transmits a waiver determination to Congress where it would be subject within 60 calendar days of continuous session of Congress to a one-House veto under expedited procedures insuring a vote on the House Floor. (Section 185)	Federal, State and local agencies may establish special procedures to expedite decisions. Board can order Federal agencies to change certain procedures. It can require consolidation of proceedings, elimination of unnecessary duplication, legislative hearings instead of trial type hearings, submission of written views and written responses and elimination of initial decisions. State and local agencies may be ordered by a court to employ these procedures if they miss or are likely to miss a deadline on the Project Decision Schedule. (Section 211(c))
Enforcement of project decision schedule	
Board has authority to establish procedures necessary to insure compliance by agencies with the Project Decision Schedule and to take action it determines appropriate to bring agencies into compliance, including going into court or participating in agency proceedings. (Section 183 and 174(d)(1))	Board may bring an enforcement action in U.S. District Court against Federal, State, or local agency head to bring agency into compliance with the Project Decision Schedule. If compliance with the Schedule would not insure adequate consideration of all matters concerning such project under applicable law, would not insure adequate participation by parties in applicable proceedings, would be impractical or would deny any person due process of law, the court is required to instruct the Board to revise the Project Decision Schedule to require the agency to complete consideration of the applicant's request "as soon as practicable." Immediately upon receipt of revised Schedule from the Board, the court is required to issue an order directing the agency to comply with such Schedule. In addition, the Court is authorized to order the agency to assign additional personnel to the matter or to utilize the special procedures of section 211. (Section 214)
The Board is not authorized to make decisions on behalf of Federal, State and local agencies. Decisionmaking authority is left with the appropriate Federal, State and local agencies.	The President is empowered to make decisions for Federal, State and local agencies if any Federal, State or local agency fails to render a decision within 15 days after the time allowed by a court order enforcing the Project Decision Schedule or if a court fails to act to enforce or modify a Project Decision Schedule within 120 days of initiation of an enforcement action by the Board following the failure of an agency to meet a deadline on the Project Decision Schedule. In making his decision, the President must apply the same laws that would have applied had the agency which missed the deadline performed the action. (Section 214)
Board also has authority to recommend a waiver of Federal, State or local laws or regulations which impede the making of an agency decision. President may waiver these impediments, subject to a one-House veto under expedited procedures which insure a vote on House Floor. (Section 185)	No comparable provision.
Waiver authority	
Prior to an agency decision, the Board may recommend to the President the waiver of certain Federal, State or local laws that present a substantial procedural or substantial substantive impediment to the making of any agency decision in a manner that will permit the implementation of a Priority Energy Project according to the Project Decision Schedule. In addition, the Board may recommend to the President the waiver of any Federal, State or local requirement enacted after the establishment of the Project Decision	Board may suspend for up to 5 years any Federal, State or local requirement which has been enacted or promulgated after commencement of construction of an Energy Project if it finds such requirement would delay timely completion or operation of the project and that such suspension poses no threat to public health or safety. Findings and decision are subject to court review for failure to comply with this Act or no Constitutional grounds. (Section 215)

COMMERCE COMMITTEE BILL	UDALL-CLAUSEN-WIRTH
Schedule that presents a substantial procedural or substantial substantive impediment to the implementation of the Project. If the President determines that the recommended waiver or a modification of the recommended waiver is in the national interest, he transmits a waiver determination to Congress where it would be subject to a one-House veto within 60 legislative days. A waiver must include such terms and conditions as are necessary to mitigate adverse effects, including effects on public health, welfare, or the environment. (Section 185)	
No waiver of certain laws	
The Board cannot recommend the waiver of labor laws, antitrust laws, criminal laws, civil rights laws or primary air quality standards established under the Clean Air Act. A waiver recommendation by the Board may not impair or abridge constitutional rights; may not contravene state or local laws, Federal contract or interstate compact relating to water rights, or may not impair or abridge rights to receive compensation for loss of any property interest as the result of the construction or operation of an Energy Project. (Section 186) To protect these rights a person is given 30 days after Congressional approval of a waiver to file suit in U.S. appellate court. (Section 187(a)(3))	Includes essentially the same prohibition for suspension orders concerning requirements enacted or promulgated after commencement of construction of a Priority Energy Project. (Section 215)
Water laws	
Prohibits the waiver of any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights. (Section 186(b)(4))	Prohibition with respect to suspension orders is essentially the same as Commerce Committee bill. (Section 215(d)(4))
No comparable provisions.	Declares that the bill does not expand or confer upon the United States and its permittees or licensees any right to acquire rights to the use of water. Declares that the United States and its permittees or licensees must appropriate water within any State for an energy project pursuant to State law. Declares that the establishment or exercise pursuant to State law of terms and conditions with respect to water rights shall not be deemed to constitute a burden on interstate commerce. The bill does not alter State requirements or interstate compacts governing appropriation, use or diversion of water. (Section 216)
Judicial review	
A priority Energy Project Designation, revocation or denial, any extension granted by the Board, the establishment or revision of a Project Decision Schedule by the Board, and any monitoring actions taken by the Board, are not subject to judicial review except as required by the Constitution. (Section 187(a))	Board decisions granting or denying designations and Board suspension orders of new requirements are subject to judicial review for failure to comply with this Act or on constitutional grounds. Board actions establishing modifying or revising a Project Decision Schedule, imposing special procedures, and granting or denying extensions are not subject to judicial review other than in an enforcement proceeding or on review of a final agency action. All other Board actions are not subject to judicial review except as required by the Constitution.
Requires that appeals of agency decisions subject to Federal jurisdiction be filed in the U.S. Court of Appeals for the circuit where the Project is located within 90 days of final agency action. (Section 187(b))	Requires that appeals of agency actions or Presidential decisions subject to Federal jurisdiction be filed in the U.S. Court of Appeals for the circuit where the Project is located, or where the claim arose, within 60 days of final action.
Grounds for judicial review are not changed.	The grounds for judicial review of State, local or Federal Agency decisions are limited to actions which are in violation of the Constitution or actions which are "in excess of or fall short of statutory jurisdiction, authority or limitations, or short of statutory right." (Section 217)

STATE IMPLEMENTATION PLANS OF CLEAN AIR ACT OF 1977

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. GRASSLEY. Mr. Speaker, the Clean Air Act of 1977 contained provisions requiring States to submit revised implementation plans demonstrating how they will meet national air quality standards. My own State of Iowa submitted its plan in June of this year. The plan was the subject of lengthy hearings and was thoroughly considered. It protects Iowans' health and welfare while recognizing our State's important rural characteristics. Yet the EPA has disapproved a critical element in the plan—that which deals with how States such as Iowa will treat windblown dust from their farm fields and farm to market roads.

In developing its State plan, the Iowa Air Quality Commission recognized that Iowa should not be penalized just because it is a rural State with a high proportion of windblown dust from farm fields and rural roads—so-called rural fugitive dust. If this dust would have to be included when environmental impacts were determined, less industrial growth would be allowed in Iowa and other farm States than in nonfarm States. Participants in the commission's hearings recognized this problem and asked that it be resolved in the plan.

Under the plan that was developed, these windblown particles would be included when determining whether the national "primary" air standards, designed to protect public health, have been met. However, they would be excluded in determining whether the more strict "secondary" standards, designed to protect things like visibility, would be met. Therefore, the strictest possible interpretation was given to insure the widest possible margin of safety existed in protecting Iowans' health, but recognition was also given to the State's rural character.

The commission properly recognized that the costs of resurfacing or treating Iowa's extensive rural road system and changing current farm tillage practices in order to control windblown dust from farm fields and roads would be extremely expensive. Iowa is already hard pressed to finance maintenance of its current rural roads and bridges. And, of course, they realized the obvious need for continued industrial growth in Iowa.

But the planners at EPA have decided that citizens of farm States must be protected from themselves—not because their health is in jeopardy, EPA agrees it is not. But, they say, farm dust hurts Iowans' "public welfare," and they, not Iowans should decide what that means. Because they count farm dust as a pollutant, there is hardly any more room for industry to grow in Iowa. When the farm dust in Iowa is counted, most areas of the State are over the national air standards to protect "public welfare." They are lower than the national health standard, but over this "welfare" standard. So new industry cannot come to our State, or expand in our State, unless they get "offsets"—to clean up the air enough so that they do not make it any worse than when they came in. That is not so bad if you are in Pittsburgh or Gary, but in Iowa there is little if anything to clean up except farm and road dust. Iowa has already committed itself to cut public dust sources—dust from parking lots, streets and so on—down by 50 percent. Where the money will come from to do that nobody knows. At least I do not think city and State taxpayers know. And how we are supposed to find still more money to clean up dust on farms and clean up farm to market roads I sure do not know. We cannot maintain them well enough as it is now.

Mr. Speaker, I think most Iowans and other citizens of farm States can figure out well enough all by ourselves how to protect our "public welfare." We can do it by cutting Government spending on programs like this one in order to keep the inflation rate down. We can do it by encouraging industrial jobs so people can keep some money in their pockets. We cannot do it by spending buckets full of private and public money on cleaning up dirt on farms. And we cannot do it by spending money to stop dust on farm-to-market roads instead of spending money to keep them safe and usable.

Iowans and others had until October 9 to respond to EPA's contention that farm dust should be counted and controlled in Iowa. I have written to Mr. Costle to ask for copies of the comments EPA has received on this topic. I would like to know how many others in Iowa share my concerns. I think that we will find that there will be a good many. Iowans—and the people of other agricultural States—are not lacking in commonsense.

I would like to request that a copy of my request to Mr. Costle be placed in the RECORD at this point.

WASHINGTON, D.C., *October 12, 1979.*

Mr. DOUGLAS COSTLE,
Administrator, U.S. Environmental Protection Agency, Washington, D.C.

DEAR MR. COSTLE: As you may know, I am concerned about your Agency's response to the State Implementation Plan recently submitted by the State of Iowa, particularly with respect to the manner in which rural fugitive dust should be handled.

Please immediately send me copies of all of the comments which you have received and receive in the future on your Agency's proposed response to the Plan, which was in the Federal Register (44 FR 135) on Friday, September 7, 1979. I am interested in knowing if other individuals and groups share my concern.

Sincerely,

CHARLES E. GRASSLEY,
Member of Congress.

On October 8, 1979, I wrote Mr. Costle another letter requesting this information be delivered to my office by October 24, 1979. It is now October 24, 1979, and as of now, 3 p.m., I have yet to receive the copies of my fellow Iowan's comments.●

ENOUGH WATER?

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. WHITEHURST. Mr. Speaker, a crisis looms on the horizon that threatens to make our present energy difficulties pale by comparison. And, as in the case of energy, this possible crisis involves a potential shortage of a valuable national resource—water.

I do not want to sound like an alarmist but I am deeply concerned about the future prospects of water availability in this country. It has been estimated that 1980 demands on national water resources will nearly double those of 1954, and that by the year 2000 demands will triple those experienced in 1954. And by the turn of the century, it is estimated that 85 percent of our country's population will live in urban centers.

While there are many concomitant concerns associated with such a dramatic shift in population, of primary concern should be how we are going to provide these vast concentrations of people with water. I underscore this point with the knowledge of predictions that much of this growth is projected to occur in cities located in semiarid regions of the West, many of which are built on nonrenewable supplies of water.

While it is true that from a national perspective there is sufficient water to meet our Nation's needs for some years to come, a region-by-region breakdown indicates serious supply problems ahead for many areas. Indeed, such supply problems exist or are anticipated in southern California, the Great Basin, the Lower Colorado, the Rio Grande, the High Plains of Texas, and the south-central portion of the Missouri River Basin.

Many of these same areas are rich in coal and oil shale and are being counted on to be centers of energy conversion processes, which require large quantities of water. In large measure, then, our Nation's commitment to become more energy independent of foreign oil suppliers is directly tied to our success or failure to better manage, develop and conserve our water resources. And, while many Federal agencies and congressional committees are involved in some aspect of the water resources issue, I believe our Nation's effort is too fragmented.

Indeed, I believe President Carter recognized this when he presented his Federal water policy directives on July 12, 1978, one of which called for improved planning and evaluation of Federal water resources programs and projects. The responsibility for carrying out the President's directives was given to 19 Federal interagency task forces with the Secretary of the Interior charged with oversight. I think, however, that the Congress must play a more visible role and assert itself more in this critical area. That is why I have introduced House Resolution 445 to establish an ad hoc committee on water resources. This committee would consider and report to the House on any bill, resolution, or message or communication from the executive branch on any matter dealing with water resources for this Nation.

It is my hope that one of the first steps taken by this body would be to give serious consideration to the establishment of a select committee charged with the responsibility of insuring a wise and viable long-range plan to provide an adequate water supply for future generations. We simply must grasp the severity of the problem now not wait until the 11th hour until we are handcuffed and panicked into action as we have been in the case of energy. Let us open our eyes and survey the present situation. Let us recognize our responsibility. Already water use approaches or exceeds the dependable supply in some cities, and there are potential shortages in other areas once believed blessed with inexhaustible supplies.

It was not too long ago that we once believed our oil supply would never run short. The parallels of energy and water are many. It has been a painful lesson for many of us, but I believe we realize the value of a gallon of gasoline and the importance of deriving every drop of energy from it. But I cannot say this is true for water. Americans simply do not appreciate the value of water and the importance of using it wisely. Not long ago, the General Accounting Office reported that nearly half of the water used in this country for irrigation purposes is wasted. This trend must be stopped and stopped now. Just as we have reached the end of an era of cheap energy, so too is the era of cheap water nearing an end.

Indications of a pending water crisis abound. In many areas of the country where municipalities rely heavily on ground water supplies, there is a clearly

established pattern of diminishing returns as the water is removed at a faster rate than it is replaced. This not only lowers the water table in those areas but also can result in saltwater intrusion into our freshwater supplies and reduce flows of surface water that we so casually inject a seemingly endless array of pollutants.

Even in parts of the country with seemingly abundant supplies of water, antiquated distribution systems may result in a city losing up to half of its water supply through old pipes and water main breaks. In 1977 the Pennsylvania Gas & Water Co. reported "unaccounted-for water" rates of 35 percent of its Wilkes-Barre service area and 46 percent for its Scranton service area. Similar unaccounted-for water statistics have been compiled in other cities, including Boston and New York.

I want to direct your attention to a few specific cities caught in the throes of planning for water scarcity.

In El Paso, Tex., a growing city of more than 322,000, the average annual rainfall is a paltry 8 inches. Like other southwest cities, El Paso gets 90 percent of its water from ground water sources. But current withdrawals are occurring at a rate of 10 times faster than the water is being replaced; and at a time when El Paso's water needs are increasing rapidly.

In Boston, the demand for water already exceeds the dependable supply. The Army Corps of Engineers has identified the Boston area as having a critical supply problem. The Metropolitan District Commission is the major water supplier in the State, providing water to about 2.3 million persons in Boston and about 40 other cities and towns. The dependable supply of the commission's system is 300 million gallons per day. The average daily use in 1976 was 317 million gallons per day. A 1977 Army Corps of Engineers report projected that the commission would need a dependable supply of 441 million gallons per day by 1990.

In my own district of Norfolk and Virginia Beach, Va., studies show that average daily demand will exceed the system's dependable yield of water by the later 1980's. In Virginia Beach, a city whose economy is underpinned by the tourist dollar, spot water shortages already have occurred during the tourist season during periods of heavy consumption. Although Norfolk does not project a significant increase in population by 2000, Virginia Beach—the fastest growing city on the east coast and which receives its water from Norfolk—is expected to have a population of 359,000 by that time. At present, my district is engaged in a desperate struggle to locate future water supplies and wrestling with the delicate issue of an inter-basin transfer of water.

In conclusion, I implore you not to look away from this issue, for it begs our attention as energy did in 1973. The battle for water rights in this country promises to intensify on all fronts. It is an issue that will not soon be resolved. The legislation I have introduced is not a panacea; however, it is an important step in the development, management and conservation of this extremely precious but fragile resource.●

WHAT READER'S DIGEST WAS AFRAID TO PRINT

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. CARR. Mr. Speaker, most major newspapers and periodicals, whatever their editorial policy, feel an obligation to present their readers with both sides of the major issues of the day.

Apparently the Reader's Digest feels such complication is unnecessary. It recently published an anti-SALT article by Melvin Laird, a former Congressman and Secretary of Defense, now an executive of that magazine. When asked if Reader's Digest would accept a pro-SALT article, Mr. Laird replied: "I would be against publishing it."

While this may not conform to the highest tradition of journalistic ethics, we should nevertheless sympathize with Mr. Laird and his organization. The case against SALT can survive only in a protected environment. Once exposed to a reasonably well-stated argument for SALT II, few readers would accept the anti-SALT case. So Reader's Digest really has no choice.

Richard Dudman of the St. Louis Post-Dispatch on October 4 provided an intriguing account of the Reader's Digest concept of the democratic process, together with a rather good taste of what that magazine's readers might be interested in digesting but will have to ingest from elsewhere. For the RECORD, here it is:

ARTICLE ON SALT II SPARKS EXCHANGE BETWEEN WRITERS

(By Richard Dudman)

WASHINGTON.—Here are some facts about the Strategic Arms Limitation Treaty that you won't see in the Reader's Digest.

At least that's what Melvin R. Laird, secretary of defense in the first Nixon administration and now senior counselor of the magazine, told reporters at breakfast Tuesday.

He made that remark in a tense exchange with Richard L. Strout, a veteran Washington correspondent of the Christian Science Monitor and author of The New Republic's influential "TRB" column.

Because both are Washington institutions—Laird a hard-boiled, hard-line former congressman and administrator who is as outspoken as ever; Strout, at 81 just as enterprising and independent-minded as he was when he first came to Washington to cover the Harding administration.

The Reader's Digest's October issue had just gone out to 19 million Americans with an article by Laird entitled "SALT II: The Senate's Momentous Decision." A teaser line said: "Behind the clamorous debate looms this inescapable truth: If the inequities of this treaty are not changed, our security will be placed in deadly peril."

The piece lists "among the most flagrant of the treaty's inequities" the fact that it permits continued Soviet deployment of 308 SS-18 heavy intercontinental ballistic missiles.

The article says this and other Soviet military advantages, which the treaty allows the Soviets but denies to the United States, "if unchecked, will give them clear strategic superiority within a matter of two or three years."

Strout asked whether the magazine intended to publish a pro-SALT article to balance Laird's anti-SALT piece. He asked what would happen if a pro-SALT piece were submitted for publication.

"I would be against publishing it," Laird said.

"Why do you give just one side of the story—like the Russians?" Strout asked.

He said newspapers and some magazines at least have a letters department, where readers can disagree in print with material in the publication.

Laird denied that Reader's Digest always takes the conservative side of an issue. He said it had published his article supporting the Panama Canal Treaty.

"We were for it. Probably we should have put the other side in," he needled.

He ended by saying he would tell the editors immediately that he had received the suggestion that the magazine begin publishing letters commenting on articles.

Laird's article had dwelt on the consequences of ratifying SALT II, which some senators emphasize as they weigh the decision they may face in the next few weeks.

What he omitted were the consequences of failure to ratify.

All numerical limits on the Soviet buildup would be off. By 1985, they could have 3,000 strategic missile launchers instead of the 2,250 permitted by the treaty.

Without the treaty subceilings, the Soviets could have 1,500 to 2,000 MIRVs—intercontinental ballistic missiles with several warheads, each of which can be aimed to a different target—instead of 1,200 under the treaty.

The SS-18s that worry Laird could be deployed without limit instead of being held to the ceiling of 308.

Without the treaty, there would be no "fractionation" limit on MIRV warheads. That is, the heavy Soviet intercontinental ballistic missiles, limited to 10 warheads each under the treaty, could be fitted with as many as 30 each. Instead of being limited to 3,080 warheads, those 308 heavy missiles alone could carry a total of 9,240.

Other missiles could be fitted with more warheads, too.

This Soviet expansion could threaten the projected MX "race-track" missile system of the United States, under which mobile missiles would be stored in a series of covered shelters and could be transferred from shelter to shelter to avoid attack. The Soviets could add enough warheads to cover all of the shelters—without caring whether they actually contained missiles or not.

A prohibition on production and deployment of the Soviet mobile ICBM, the SS-16, would no longer exist.

The Soviet Backfire bomber, which Laird pointed to as a threat to the United States as well as Western Europe, would no longer be limited in numbers or improvement, for example, to extend its range so that it could reach U.S. territory

Under the treaty, each side would be limited to one new type of ICBM. Without the treaty, there would be no such restriction, and the Soviet Union could move ahead with new systems now under development

Laird complained about the treaty's verification provisions, specifically its lack of a complete ban on encoding the radio signals that control and guide missiles.

But the treaty prohibits encoding such signals wherever this would impede verification. This protection would be lost, as well as a ban on concealment and interference with

satellite monitoring, a requirement for advance notification of certain launches and an agreement to report additions to present weapons as listed in an agreed data base.

Refusal by the Senate to ratify SALT II would also throw SALT I into doubt, notably the anti-ballistic missile system treaty, from which either side may withdraw on six months' notice.

SALT I's Interim Agreement on Strategic Offensive Arms expired in 1977, but both sides have continued to observe it, including provisions involving the Standing Consultative Commission, which has been successful in adjudicating complaints and disagreements. The interim agreement would be another likely victim.

Still other consequences could be delays or termination of other arms control negotiations with the Soviet Union. The talks that would be in jeopardy include those looking toward agreements for a comprehensive nuclear test ban, a ban on anti-satellite devices, mutual and balanced force reductions in Europe and limitations on conventional arms transfers.

The Non-Proliferation Treaty would be thrown into doubt, because it includes a commitment by the nuclear powers to continue efforts to limit their own nuclear weapons. A review conference on the treaty is scheduled for May.

These specifics say nothing about the possibility that Senate rejection or indefinite delay of the treaty would bring a return of the Cold War tension and cause an immediate upsurge of the arms race on both sides.●

HAITIAN REFUGEES

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mrs. CHISHOLM. Mr. Speaker, as chairperson of the Congressional Black Caucus Task Force on Haitian Refugees, I would like to make my colleagues aware of the caucus position on Haitian refugees in the United States. The following statement is the caucus position paper on Haitian refugees which we hope will result in parole for the 8,000 Haitians currently seeking political asylum.

CONGRESSIONAL BLACK CAUCUS STATEMENT

The Congressional Black Caucus strongly urges the Department of Justice, through its Immigration and Naturalization Service, to adhere to this Nation's fundamental tradition of equal protection for all persons under law by granting work authorization and genuine due process to Haitians seeking political asylum in our country. The Caucus must stand firm in its insistence that United States human rights and refugee policy be administered on an evenhanded basis so that no government activity or decision may be viewed as tainted with race, class or ideological prejudice. However, our information reveals that these minimum standards of fairness and decency have been violated repeatedly by the Department of Justice in instances of Haitians seeking political refuge in the United States.

The Caucus calls for the humane treatment and minimum due process protections for Haitians seeking political asylum in the United States. The CBC Task Force on Haitian Refugees joins other organizations which have been in the forefront of this issue, The Haitian Refugee Project, The Haitian Fathers of Brooklyn, The American Committee for the Protection of the Foreign Born, the National Council of Churches, the National Alliance of Postal and Federal Employees, the National Urban League, and the Archdiocese of Miami, in expressing our concern over the increasing repression in Haiti and calls for a critical reappraisal of our entire aid program to this country.

Further, we do not accept the contention that Haitian refugees are merely "economic refugees". Since the arrival of the first refugees in 1972, the State Department has constantly stated that the Haitian "boat people" are not entitled to asylum in the United States, because they are economic refugees and not political refugees. We call for an end to the invidious distinction between refugees which is somehow applied to mean that certain categories of people fleeing oppression are not as welcome as others. We do not deny that Haiti's per capita income of $80 makes it one of the world's poorest nations. To deny political asylum to refugees merely because they are from an economically poor country unfairly punishes them for conditions over which they have no control in their homeland. This position further suggests that poor people have no political rights. This attitude is totally unacceptable to the Congressional Black Caucus.

Furthermore, the State Department has recognized that basic human needs are part of the U.S. human rights policy. Secretary of State Cyrus Vance in his 1977 Law Day address at the University of Georgia stated that "the fulfillment of such vital needs as food, shelter, health care, and education" was a recognized human right. He further stated:

"We recognize that the fulfillment of this right will depend, in part, upon the stage of a nation's economic development. But we also know that this right can be violated by a government's action or inaction—for example, through corrupt official processes which divert resources to an elite at the expense of the needy or, through callous indifference to the plight of the poor."

The Congressional Black Caucus is deeply disturbed by reports that United States Assistance funds and programs designed to supplement local financing of critically needed social services have instead been used to supplant or displace already limited Haitian revenues devoted to local services. We note in particular that the supplanting practice has allowed the Haitian government to divert local revenues, which would otherwise be used to fund human needs programs.

Contrary to its February, 1979 State Department Report on Human Rights Practices in Countries Receiving U.S. Aid, in a recent visit to Haiti to review the plight of Haitian returnees, a State Department team found "no significant indication of mistreatment or of punishment of returnees' because of their journey to the U.S. . . ." The team's report has some methodological problems which raise serious questions as to the validity of the above conclusion. The report itself is severely marred by its unscientific methodology. It states that only 86 out of 600 "returnees" were interviewed. The State Department team had no way of verifying that those persons who were interviewed were actual returnees.

Finally, and perhaps most importantly, it could reasonably be suspected that the political environment in Haiti might not be conducive to candid discussions with U.S. government officials. Quoting from their report, "There was often initial suspicion of the team by returnees and some hesitation to become involved without a more complete understanding of the mission's purposes and what we planned to do with the information obtained. . . ." Given the environmental factors involved in the recent inquiry, it would be naive at best to assume that responses that could jeopardize the welfare of those interviewed would be given. Also the pending arrival of the State Department team was broadcast nationwide a week before the actual arrival of the team thereby possibly alerting individual returnees to avoid contact which could endanger them and enable local officials to control the interview environment. The focus of the inquiry did not include an assessment of the overall human rights situation in Haiti but merely focused on a direct relationship between emigration, return and persecution. Yet, the team's report seems to indicate that returnees may indeed face problems upon their return to Haiti. The report itself states that, "returnees are not immune to difficulties with the authorities on grounds other than emigration." Other comments in the report reinforce our concern that returnees may be endangered by their return to Haiti. The team reported that Haitian authorities consider the average emigrant, by virtue of a lack of education, to be politically unaware and "therefore excluded from actual or potential participation in anti-government activities." However, where an individual has been actively involved in political opposition to the Duvalier regime, "the individual might be liable to prosecution. . . ."

The apparent resurgence of strict enforcement of a censorship policy within Haiti has, along with other factors, made clear the need to closely re-evaluate and monitor the relationship between the United States and Haiti. Censorship by the Haitian Government has been denounced by the Haitian intellectual community and referring to the censorship policy on May 23, 1979, Ambassador Andrew Young stated:

"I had hoped that since my visit, there would have been a natural evolution on the side of freedom. . . . I am pleased with the statement of Haitian intellectuals who have denounced censorship in Haiti. It would be a tragedy if Haitian creativity and expression were stifled for any narrow political reason. The Haitians, through their art, songs and dance, speak a universay language to the world."

The Congressional Black Caucus concurs with the views expressed in Ambassador Young's statement. We are, of course, concerned about economic development so long as such development is properly used to feed the hungry, clothe the naked and provide shelter for the homeless. But we recognize that these laudable goals cannot be achieved, if the freedom of any people to speak out and participate in the political process is nullified.

As it relates to comestic priorities, we call attention to a report issued by the Metropolitan Dade County Office of the South Florida CETA Consortium which is located in the state where the vast majority of Haitian asylum applicants reside. The Consortium found that "a sufficient number of hard-to-fill entry level jobs exist to absorb the number of Haitians who would seek such work." We reject as totally unfounded attempts to portray the Haitian refugee matter as a primary cause of this country's economic woes. We note, for example, that a significant number of American companies have been lured to Haiti by the pitifully low wages Haitian workers receive. The availability of this cheap labor force, which leads to more constriction in an already shrinking job market here undermines domestic efforts to stem U.S. corporate investment overseas. While we firmly believe that the overriding economic problems in this country must be addressed in a serious fashion with a well-planned, workable strategy, we cannot agree that discrimination against impoverished Black and brown workers is an acceptable means to achieve this goal.

In the past few months, the Immigration and Naturalization service's (INS) Miami office has taken numerous serious actions that have substantially undermined the due process rights of Haitians seeking political asylum in the United States. These actions

involve the application process for political asylum and the timing and procedures in both deportation and exclusion cases. The following procedures do not allow adequate due process protections to individual applicants.

Haitian cases processed since July, 1978 by the INS District Office in Miami have been handled under "special procedures" which are not applied to any other group of refugees. These procedures deny normal due process protections. While the normal rate of deportation hearings is 10 per day, Haitian refugees have been subjected to an accelerated rate of deportation hearings which has been as high as 150 per day. This process makes it virtually impossible for attorneys to effectively represent their clients. Under such conditions, they have not had sufficient time to prepare asylum applications. This problem is further complicated by the fact that a large number of the Haitians lack formal education, financial resources and a working knowledge of English. These factors, alone, make the preparation of asylum applications more difficult and more time-consuming.

It has also been extremely difficult for attorneys even to be present with their clients at asylum interviews because they are conducted concurrently with deportation hearings, on an expedited basis, in a building several blocks from the deportation hearing rooms. Even when an attorney can be present, the current interview procedures minimize his or her effectiveness. Lawyers have been denied the right to ask clarifying questions, to challenge the typed record of the proceedings, or otherwise to participate actively in the interviews. The asylum interviews in these cases have merely been summarized rather than recorded or fully transcribed which often creates inaccurate or incomplete records of the interviews.

As a result of the accelerated handling of the Haitian cases and a variety of other irregularities, the asylum applications often are not completed properly. Consequently, they lack sufficient information for a determination to be made as to the applicants' refugee status. Therefore, any subsequent review of these applications by the State Department and United Nations High Commissioner for Refugees would not be productive. The applicants' records as seen by these agencies bears little or no relationship to the validity of individual asylum claims.

Further, we note that Haitian refugees presently receive no refugee assistance funds from the Federal government. Consequently, the local and state agencies in the Southern Florida area must bear the brunt of the relocation and other social service costs of these refugees. In comparison with other refugee groups, who are receiving Federal monies from the Migration and Refugee Assistance Fund, it is obvious that Haitians are once again victims of unequal treatment in U.S. refugee policies.

Finally, it is our hope that H.R. 2816 and its companion measure, S. 43, The Refugee Act of 1979, will result in legislation which places this country in conformity with the U.N. Protocol and Convention not only for refugee admissions but for those seeking political asylum in this country.

The State Department team that recently visited Haiti, reaffirmed the necessity for treating each Haitian asylum applicant as an individual case on its own merit. Quoting from their report, "If the majority (of Haitians) are not likely to be entitled to asylum under the Protocol, nevertheless it remains clear that some who leave Haiti might very well establish that their fear of political persecution is well-founded. There is no way to know, apart from close examination of the facts in each case, whether a given applicant falls into this category. Our findings should not by any means be read as a signal to reduce the care with which each Haitian asylum claim is reviewed under the established procedures." We hope and trust that the various Federal entities responsible for refugees in this country will heed these recommendations and provide for the due process rights of Haitian refugees. The Congressional Black Caucus, as representatives of the Black constituency in the United States, calls upon our government to establish an evenhanded policy with respect to refugees regardless of their race, ethnicity or the political ideology of their homeland.●

VETERANS REHABILITATION AND EDUCATION AMENDMENTS OF 1979

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. FORD of Michigan. Mr. Speaker, last week the House passed H.R. 5288, the Veterans Rehabilitation and Education Amendments of 1979, under suspension of the rules thereby preventing consideration of amendments. While I have very serious reservations about one provision in this bill, I felt compelled to vote for the bill because it contained important improvements in the rehabilitation services and subsidies for disabled veterans.

The legislation, however, Mr. Speaker, deals a serious blow to veterans pursuing their education while working and supporting families. H.R. 5288 would write into law an archaic, outmoded, and highly controversial VA regulation governing the number of hours a veteran-student must spend in a classroom each week. It is particularly disturbing to note that the Veterans' Administration seeks to codify this regulation while simultaneously it is being tested in the courts.

My particular concern stems from my association with an outstanding education program devised by Wayne State University which permits students to attend college on a full-time basis while maintaining necessary full-time employment. Wayne State's Weekend College, an internationally acclaimed model program enrolling large numbers of veterans working primarily in Michigan's auto industry, is under attack by the VA which clearly chooses to ignore innovations in educational curriculums and the changing nature of postsecondary education.

My longstanding interest in nontraditional education has increased through my role as chairman of the Subcommittee on Postsecondary Education. In 1977, I held a series of oversight hearings on the VA's implementation of the program to provide educational benefits to veterans. These hearings were sparked by the attack on the Wayne State University program and persuaded me to introduce legislation to transfer the program to the new Department of Education because of the VA's shortsighted, stubborn refusal to evaluate education in today's setting.

The VA rule and H.R. 5288 completely ignore educational quality and mandate instead quantity—the specific number of hours a veteran must sit in a classroom.

In his statement to the House my distinguished colleague from Washington (Mr. BONKER) eloquently described the incongruity of the rule. He charged the VA with determining as ineligible for full-time educational benefits "anything that deviates from the narrow and archaic definition used by the VA for standard class sessions. Seminars and tutorials not regularly scheduled on a weekly basis would not qualify. Senior thesis classes would not qualify. Most of the programs at an institution like Oxford, which employes the tutorial method would not qualify. Many of the honors programs at some of the Nation's finest universities would not qualify. Many of my colleagues would find that some of the programs of the best schools in their districts would not qualify." I strongly endorse and associate myself with my colleague's remarks.

For the Congress to write into law this language while the courts are attempting to determine the constitutionality of it would be a denial of justice. I am pleased to note that the companion bill in the Senate reflects somewhat more realistic views of modern education. Further, the higher education community is working closely with the VA staff and with the Education and Rehabilitation Advisory Committee of the Disabled American Veterans to develop appropriate guidelines which will produce educationally valid evaluations for nonstandard courses to promote quality education and prevent abuse of benefits.●

TESTIMONIAL DINNER FOR THOMAS H. STEWART

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. HALL of Ohio. Mr. Speaker, I am pleased to note that a testimonial dinner will be held this week in my District of Dayton, Ohio, to honor Thomas H. Stewart, retired staff representative for the AFL–CIO.

The son of a coal miner, Tom was born in Athens County, Ohio. He is a founder of Local 696, United Auto Workers, where he held the positions of Financial-Secretary Treasurer (1948–51) and President (1954–59).

Tom was vice president of the old CIO Council and was on the merger committee when the Dayton area AFL–CIO merged in 1959. In 1961, Tom was appointed by George Meany to the staff of the national AFL–CIO, a position which he held for the next 18 years.

Tom is not only a model for the community and organized labor, but an upstanding citizen. He was one of the founders of the first union blood bank. He served on the Dayton Psychopathic Children's Hospital as a labor representative. Tom has also served on several other community service boards including the Red Cross.

Tom has spent more than 40 years serving the goals and objectives of American workers and I know what my colleagues join with me in expressing gratitude to Thomas Stewart for his work and continued best wishes for the future.●

SECONDARY SCHOOL PRINCIPALS OPPOSE TESTING LEGISLATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. GOODLING. Mr. Speaker, I have been attempting to keep my colleagues informed on the developments concerning Federal regulation and forced disclosure of standardized tests. As you know, the Subcommittee on Elementary, Secondary, and Vocational Education has been conducting hearings on this issue. I am sure that the Members will be pleased to learn that the chief sponsor of the most controversial bill, H.R. 4949, the gentleman from New York (Mr. WEISS), requested that subcommittee markup of this legislation be postponed. It was noted that further investigation and additional hearings are needed before proceeding further. This is a wise decision. As you may know, Mr. Speaker, the prestigious National Academy of Sciences is currently conducting a study of this issue and its findings are expected well before the end of the 96th Congress. The education commission of the States is also conducting a study.

Furthermore, New York State has recently adopted a law similar to the proposals under consideration by our subcommittee. The New York law does not even go into effect until January of 1980. If the forthcoming National Academy of Sciences' study, the forthcoming ECS study, and the forthcoming statewide experiment in New York produce decisive evidence next year in favor of Federal action, there will still be plenty of time for Congress to take whatever action is warranted. But if Congress acts before the results are in, and if it turns out that the evidence at that time indicates that this type of new Federal legislation is not advisable, we are all going to look mighty foolish.

Inchoate congressional consideration is certainly no way for the Federal Government to tamper with admissions practices to postsecondary institutions. In this regard, I would like to share with my colleagues some of the remarks of Dr. Owen B. Kiernan, executive director of the National Association of Secondary School Principals (NASSP). In his October 15, 1979, statement on this legislation, Dr. Kiernan noted that the NASSP firmly opposes this legislation on the grounds that: First, it calls for the Federal Government to interfere with, and intrude into, an important area of education in a manner which is totally inappropriate; Second, it represents yet another example of Federal paperwork to which Americans are taking increasing exception; and Third, it enlists the Secretary of Education in federalizing admission policies in our higher education institutions.

A HIDDEN AGENDA

Dr. Kiernan also astutely argued that some of the supporters of this legislation would like to destroy standardized testing:

> The purposes (of this legislation) are presumably stated in Section 2 (of H.R. 4949), and have been presented elsewhere as being primarily to protect persons taking standardized tests against error and improper application. Some of the controls and limitations on the use of standardized testing sought to be imposed by this bill suggest more far-reaching objectives, however, including the possible elimination of standardized testing entirely on the basis of some philosophical objections not stated in the legislation * * * (Although the bill does say) there is increasing concern among citizens, educators, and public officials regarding the appropriate use of standardized tests, * * * we would respectfully point out that there is at least as much concern among citizens, educators, and public officials that reasonable standards be maintained by those institutions to assure the public that the diplomas and degrees they grant are worth more than the paper on which they are printed.

Mr. Speaker, I hope that every Member of this Congress demands a careful and deliberate analysis of the potential negative consequences of this Federal testing legislation before being asked to cast a vote. The recent postponement of subcommittee action was a responsible decision. Our subcommittee can now carefully consider the full implications of the pending legislation before making any decisions.●

CHRISTIAN LEADERS CALL FOR VATICAN RECOGNITION OF THE STATE OF ISRAEL

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DRINAN. Mr. Speaker, I bring to the attention of my colleagues a statement recently released by the National Christian Leadership Conference for Israel in which the conference calls on the Vatican to recognize the state of Israel. For over 30 years now, Israel has existed as a vital, independent nation in the Middle East. It has served as a homeland for Jews around the globe, and a religious center for Christians and for Moslems. Israel has expressed its desire over the years to be accepted in the family of nations, to contribute to constructive dialog in resolving its differences with its neighbors, and to build friendships around the globe based on cooperation and mutual respect.

For its part, the Vatican has not recognized Israel, and in so doing has prevented a full and productive relationship between Israel—including its Christian population—and the Vatican.

The National Christian Leadership Conference for Israel (NCLCI) was formed to reaffirm American Christian support for Israel and to celebrate Israel's 30th anniversary. The organization continues to thrive today coordinating and supporting policies in this country which contribute to our commitment to Israel. The statement of the National Christian Leadership Conference for Israel follows:

CHRISTIAN LEADERS CALL FOR VATICAN RECOGNITION OF THE STATE OF ISRAEL

Catholic and other American Christian leaders today called for recognition of the State of Israel by the Vatican. The signers of the statement said they believed that such an action by the Holy See would be a "real, as well as symbolic, gesture in support of the continuing movement toward peace and stability in the Middle East, and toward increased harmony between Christians and Jews throughout the world."

The statement was sponsored by the National Christian Leadership Conference for Israel, a coalition of clergy and laity working to increase understanding of and support for the people, land and State of Israel.

The statement reads as follows:

Recognizing: Past formal communications between the Vatican and the State of Israel; the significance of Nostra Aetate and its call for Catholic-Jewish dialogue and understanding; the significance of the National Conference of Catholic Bishops' statement on "The Pursuit of Peace with Justice" in which they support "the rights of Israel: to existence as a sovereign state with secure and recognized boundaries"; the Vatican's well-stated and constructive support for the Egypt-Israel peace treaty;

We, as Americans of many Christian denominations, respectfully urge that the Vatican grant official recognition to the State of Israel. We believe this will be a real, as well as symbolic, gesture in support of the continuing movement toward peace and stability in the Middle East, and toward increased harmony between Christians and Jews throughout the world.

The following is the list of those who signed the statement. Their organizations are listed for identification purposes only.

Cleveland Amory.

Claire Huchet Bishop.

Mary Rose Black, Chairman, California Christian Committee for Israel.

The Rev. Francis J. Buckley, S.J., Jesuit Community, University of San Francisco.

Dr. Archie L. Buffkins, Chairman of the Board, National Black Think-Tank.

The Rev. Robert Bullock, Immediate Past Chaplain, Brandeis University.

Prof. Harry James Cargas, Chairman, Dept. of Literature and Language, Webster College, St. Louis, Missouri.

Mary Carse, Vermont Christians' Committee for Israel.

Rufus Cornelson, Metropolitan Christian Council of Philadelphia.

Prudence Mary Croke, R.S.M., Ph.D., Salve Regina College, Newport, Rhode Island.

The Rev. Dr. Philip Culbertson, Christ Episcopal Church, Oberlin, Ohio.

Harold and Jean Dart, International Assoc. of Christians for Israel, Bellingham, Washington.

Colleen Dewhurst.

John E. Donovan, Regional Director, National Conference of Christians and Jews, Des Moines, Iowa.

Dr. A. Roy Eckhardt, Lehigh University.

Prof. Alice L. Eckhardt, Lehigh University, Chairperson, Israel Study Group.

Prof. William R. Estep, Southwestern Baptist Theological Seminary.

The Rev. Robert Everett, Emmanuel United Church of Christ, Irvington, New Jersey.

Father Edward H. Flannery, Director, Office of Continuing Education for The Clergy; Diocese of Providence; Former Director, Secretariat for Catholic-Jewish Relations; National Conference of Catholic Bishops.

Frank Gervasi.

Sister Ann Gillen, National Coalition of American Nuns.

The Rev. William B. Gray, Trinity Church, New York City.

Lionel Hampton.

The Rev. William H. Harter, The Presbyterian Church of Falling Spring, Chambersberg, Pennsylvania; Secretary-Treasurer, National Christian Leadership Conference for Israel.

The Rev. Kenneth Herbster, Director, Newman Center, Montclair College.

Pastor Robert Hooley, Faith Bible Chapel, Denver, Colorado.

Dr. David R. Hunter.

Dr. David Hyatt, President, National Conference of Christians and Jews.

Dr. John F. X. Irving, Chairman of the National Committee of Christian Lawyers for Peace and Justice in the Middle East; Visiting Professor at the New England School of Law.

Pastor Ed Jones, International Singers, Denver, Colorado.

Dr. David A. Lewis, Assembly of God Pastor; President, Christians United for Israel.

Dr. Franklin H. Littell, President, National Christian Leadership Conference for Israel; Professor of Religion, Temple University, Philadelphia, Pennsylvania.

Tony LoBianco.

F. Stephen McArthur, Executive Director, National Christian Leadership Conference for Israel.

Don McEvoy, Senior Vice-President, National Conference of Christians and Jews.

The Rev. Christopher F. Mooney, S.J., Assistant Dean, University of Pennsylvania Law School.

Dr. Ursula M. Niebuhr.

Sister M. Alfred Noble, C.S.J., Fontbonne College.

Paul O'Dwyer.

Msgr. John M. Oesterreicher, Institute of Judaeo-Christian Studies, Seton Hall University.

Dr. Arnold T. Olson, President Emeritus, Evangelical Free Church of America.

The Rev. John T. Pawlikowski, Catholic Theological Union, Chicago, Illinois.

Prof. John P. Roche, Fletcher School of Law and Diplomacy.

Prof. D. B. Robertson, Department of Religion, Syracuse University.

Isaiah Robinson, Chairman, Commission on Human Rights, New York City.

The Rev. Isaac C. Rottenberg, Minister, Reformed Church in America.

Abbot Leo Rudloff, O.S.B., Weston Priory.

Father John B. Sheerin, Editor Emeritus, The Catholic World.

Gerard E. Sherry, Executive Editor, The Voice, The Official Newspaper of the Archdiocese of Miami.

The Rev. Hilton Sutton, Chairman of the Board, Mission to America.

Sister Rose Thering, O.P., Vice-Chairman, America-Israel Friendship League; Professor, Seton Hall University.

Sister Margaret Traxler, Executive Director, Institute on Women Today.

The Rev. Victor R. Yanitelli, S.J., Chancellor, St. Peter's College, New Jersey City, New Jersey.

Sister Ann Patrick Ware, S.L., Commission on Faith and Order, National Council of Churches.●

SISTER MARIE JUDE BEHLING

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DOUGHERTY. Mr. Speaker, for Sister Marie Jude Behling, this weekend marks a significant milestone in a life of dedication and service. Sister will celebrate with her religious community, the Sister of Saint Joseph of Chestnut Hill, Philadelphia, her family and friends the silver jubilee of her religious profession.

Over the years Sister Marie Jude has devoted her energies to nurturing the minds and souls of children in more than a half dozen Catholic parish schools in McSherrystown, Ambler, Norwood, Rydal, and Chester, Pa.; and Oakland, N.J.; as well as her native Philadelphia.

To her many students she has given flesh and blood to the results of a recent survey which indicate that the influence of strong primary teachers is a significant factor in the future success of their pupils. Sister's quarter century of service to Christian education has been devoted exclusively to teaching first grade.

And so on this joyous occasion we offer to Sister our grateful thanks "for all that has been" and our prayers and best wishes "for all that will be." ●

SYDNEY KRONENTHAL'S DISTINGUISHED CAREER TO THE SERVICE OF HIS COMMUNITY AND HIS COUNTRY

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DIXON. Mr. Speaker, I am indeed proud to pay tribute to a constituent and friend of long standing, Sydney Kronenthal of Culver City, Calif. Syd has devoted his entire career to the service of his community and his country. If a stranger were to walk down the street of Culver City and ask a resident where to find Syd, the reply would never be "Syd who?" for Syd Kronenthal is truly Mr. Culver City.

After brief stints in other areas, Syd came to Culver City in 1947 to stay. Starting as director of recreation activities, he subsequently became director of human services, a post he still holds. In these 32 years he has received honors so numerous that listing them would more than fill this page. The words "Special Award" and "Distinguished Service" would appear over and over again. They would cover a range of activities from athletics to community service to veterans' rehabilitation and on and on. The dates would start in 1947 and continue right up to the present. Moreover, I will assure you that his invaluable contributions to the community will continue long into the future.

To give a better idea of his stature, we should take a sampling of some of his accomplishments. In the field of athletics, Syd not only serves as a lifetime member of the National AAU, but he is also on the 1984 Olympics Citizens Committee. In addition, he has conducted recreation and sports study programs for Japan and for the Republic of Korea, and is consultant to the Olympic teams of those countries.

Among the honors and affiliations in the area of public service and administration, perhaps the outstanding achievement has been the presidency of the League of California Cities. This league is the largest association of local governments in the world, and now, after completing his term as president, Syd has been elected to its board of directors. I am sure he will distinguish himself during the 20-year term of that office and again bring honor to the citizens of Culver City.

Because his service to Culver City was so well known, Syd's name came to the attention of then Secretary of State Dean Rusk. As an appointee of Secretary Rusk, Syd conducted a State Department tour of Africa, administering cultural programs for the Republic of Chad, Gabon, the Cameroons, the Central African Republic, and the Republic of the Congo.

All this did not come easily, but was the result of hard work, long days, and a great deal of dedication and study. Not only does Syd continually participate in institutes and seminars, but he is himself on the lecturing faculty of the University of Southern California as a senior lecturer. He has also lectured at Pepperdine University, University of California at Los Angeles (UCLA), and several campuses of California State University. His own formal education included studies at Northwestern University, Evanston, Ill.; American University, Washington, D.C.; University of New Mexico, Albuquerque; Columbia University, New York; Harvard University, Cambridge; Federal Institute, Washington, D.C.; and the University of Southern California. Syd established a notable mark when, in 1953, he received the first certificate in recreation and park administration ever issued by the USC School of Public Administration. In addition he has had many of his articles on recreation and human services published in national periodicals.

It is obvious that Syd Kronenthal is a rare individual deserving of the very special recognition, which will be accorded him as our man for all seasons on November 3, 1979, and to which I am happy to add my voice. But more important, I am pleased and proud to pay homage to a man whom I call friend.●

FAT-FREE FRIDAY IN DELAWARE

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. EVANS of Delaware. Mr. Speaker, a group of students at the University of Delaware has undertaken an effort to increase public awareness of the need to reduce the high level of fat present in the average diet in our Nation. This presence of too much fat has been found to be a major factor in heart disease—the leading killer in America. These Delaware students have taken a leading role in bringing this message to the public by calling for a "Fat-Free Friday" in Delaware on October 26, 1979.

This effort seeks to heighten the general public's awareness of the need for a modified diet to combat heart disease. Restaurants and institutional dining facilities across the State will follow the Governor's proclamation for a "Fat Free Friday" by offering their patrons fat free, low cholesterol meals on the 26th.

These students have shown a remarkable sense of compassion for the welfare of others as well as a strong sense of initiative and leadership. Through their efforts many Delawareans will learn of the fatal link between heart disease and the high level of fat in their diets, and I commend each of these students for bringing this message of good health to the first State.●

THE TRAIL OF TEARS

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. GUDGER. Mr. Speaker, I rise to bring to the attention of my colleagues in the House a bill I have introduced today. This bill would amend the National Trails Systems Act of 1968, which provides for a national system of scenic, historic, and recreation trails, by authorizing a suitability/feasibility study of the Cherokee "Trail of Tears" and for its designation as a national historic trail. The study would include the identification of associated forts and other structures.

The forcible eviction of the Cherokee people from their lands east of the Mississippi has been described as "one of the greatest blots in American history." I would like to briefly summarize the events leading up to the occurrence.

The Cherokee Nation of Indian Tribes held title to land in the States of North Carolina, Tennessee, Georgia, and Alabama. The Cherokees had lived in peace with their white neighbors for several generations. Commerce and trade flourished between the two races and intermarriages were common. Many of the Cherokees enjoyed a lifestyle similar to that of their white neighbors. The most prosperous Cherokees were on equal terms economically and socially with their white counterparts. They lived in roomy houses of brick, frame, and stone. They wore clothes purchased in the East and rode in fine carriages. They sent their sons and daughters to schools in neighboring communities.

However, the increasing white population and the concomitant westward expansion caused the white settlers to covet the Cherokee's lands. This desire was further increased when gold was discovered in Dahlonega, Ga., in the late 1820's. In an effort to force them to move, the Cherokees were subjected to official harassment from the various States and the Federal Government. Cherokee property was confiscated, plantations were raided and burned, and livestock was run off the land.

Finally, the Federal Government signed the Treaty of New Echota with the Cherokees in 1835. In this treaty, the Cherokee people agreed to relinquish their lands east of the Mississippi in return for western lands and monetary compensation. Immediately, the Cherokee people cried fraud and denounced the treaty as being illegal and claimed that it had been signed by persons unauthorized by the tribe. Over 15,000 Cherokees, out of a population of 17,000, signed a petition of protest. The tribal council voted unanimously to condemn the treaty. Despite the Indian protest, the treaty was ratified by the U.S. Senate.

Since the Cherokee people did not sanction the treaty, they made no move to give up their lands. As a result, the United States Army was called in to forcibly evict them from their ancestral homeland. Families at dinner were interrupted by the intrusion of armed men. Children were taken from play and men were seized in the fields. A lawless rabble followed the soldiers, pillaging and looting.

This eviction of a proud native people produced some of the most poignant scenes ever recorded in the history of man. One woman insisted on washing and drying her clothes, and then proceeded to place them carefully in the cupboard before leaving. Another woman fed her chickens then, while weeping, put on her bonnet and led her children away, never to return. One Georgia volunteer commented, "I fought through the Civil War and have seen men shot to pieces and slaughtered by the thousands, but the Cherokee removal was the cruelest work I ever knew."

The Cherokees were interned in military forts and then were transported west to the Indian territory in Oklahoma. The main overland trail used by the Cherokees for the long trek westward passed through Tennessee, Kentucky, Illinois, Missouri, and Arkansas. This trail was dotted with Indian graves, as over 4,000 Cherokees—almost one-fourth of their total population—were estimated to have died in transit while making the strenuous march or while awaiting deportation. These heartsick people, bereaved for the loss of their homes and loved ones, arrived in Oklahoma, penniless and bereft of personal possessions, homesick and broken hearted, strangers in a strange land, obligated under cruel and awesome conditions to begin life anew.

This tragic episode referred to as the "Trail of Tears" presents a shameful, but important, chapter in the intertwining and contiguous history of these native Americans and the United States. If for no other reason, a record of this sorrowful exodus needs to be made in order to remind each of us of man's inhumanity to man; the fragility of our delicate code of civilization; and, the potential danger of any government trammeling upon the dignity and basic rights of its citizenry. This record proves such oppression and destruction can occur toward one's neighbor, even in times of comparative enlightenment and among a free and God-fearing people. I am firmly convinced that it is imperative that such a study be conducted quickly before time and man's encroachments obliterate the few remaining landmarks and memorials along the route of the "Trail of Tears" which bear mute testimony to this tragic saga.●

THE 1979 QUESTIONNAIRE RESULTS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. BINGHAM. Mr. Speaker, the results of my annual poll have just been compiled, and I think my colleagues might find some of the results interesting. A total of 3,300 registered voters in the 22d Congressional District in the Bronx, N.Y., completed the questionnaire, which is a total sample of about 2.5 percent of the registered vote. Although we all know that congressional polls cannot be described as scientifically precise, I feel this one is roughly representative of the views of active citizens in my constituency.

Sixty-six percent of the respondents favored bringing back the draft or registration for the draft, while only 29 percent were opposed to both. I was surprised by the strength of this view, especially since the House of Representatives earlier this year defeated a proposal to resume registration for the draft by a vote of 155 to 259. I also noted with interest that 62 percent favored allowing young people to choose, if the draft were reinstituted, between voluntary military service, nonmilitary service such as the Peace Corps or VISTA, or take their chances on being drafted. I have advocated such an alternative national service approach for many years.

I was also struck by the results of the questions I asked my constituents about energy. There was the expected support for increasing solar energy programs, enacting a windfall profits tax, encouraging carpooling, and developing a standby gasoline rationing program. But opinion was very closely divided on many other proposals. Narrow pluralities favored keeping price controls on oil, nationalizing the oil companies, and stopping the construction of new nuclear powerplants. By a 50- to 39-percent margin, these voters favored allowing electric powerplants to use cheaper fuels which may cause more pollution; 55 percent thought building temperature restrictions made sense to conserve energy.

One of the most difficult questions in the poll asked voters to recommend whether the Senate should vote for or against the Strategic Arms Limitation Treaty with the Soviet Union now under consideration. Only 46 percent favored the treaty, with 31 percent against; 23 percent had no opinion, reflecting the difficulty many people have with understanding this complex issue.

I was not surprised, but very encouraged by the strong support the poll showed for mandatory wage and price controls, a full program of national health insurance, and public financing for House and Senate elections. All three of these proposals have had tough sledding in the Congress for years, but these responses show an unrelenting support which may yet push them into the forefront on the national agenda.

1979 BINGHAM QUESTIONNAIRE RESULTS

1. A number of proposals have been offered in recent months aimed at trying to conserve energy and reduce American dependence on foreign sources of oil. Please indicate whether you are in favor of, or opposed to, each of the following proposals:

Decontrol the price of domestically produced oil.

	Percent
Favor	42
Oppose	47
No opinion	12

If oil prices are decontrolled, a windfall profits tax using the revenue raised to develop alternate energy sources as well as to improve mass transit.

	Percent
Favor	78
Oppose	10
No opinion	11

Nationalize the oil companies.

	Percent
Favor	44
Oppose	41
No opinion	15

Restrict the temperature in public buildings and businesses to 65 degrees in winter and 78 degrees in summer.

	Percent
Favor	55
Oppose	35
No opinion	10

Allow electric power plants to use cheaper fuels which may cause more pollution.

	Percent
Favor	50
Oppose	39
No opinion	11

Build more nuclear power plants.

	Percent
Favor	42
Oppose	45
No opinion	13

Increase government support for the development of solar power.

	Percent
Favor	88
Oppose	6
No opinion	6

Strengthen programs which encourage car pooling.

	Percent
Favor	81
Oppose	8
No opinion	11

Develop a stand-by gasoline rationing plan.

	Percent
Favor	76
Oppose	15
No opinion	9

Begin rationing gasoline now.

	Percent
Favor	34
Oppose	49
No opinion	17

2. The Senate has begun to debate the U.S. treaty with the Soviet Union which limits strategic nuclear weapons—called SALT II. From what you know about this SALT treaty, do you think the Senate should vote for or against it?

	Percent
For	46
Against	31
No opinion	23

3. Do you favor continuing the present system of voluntary controls over price and wage increases, or do you favor putting in a sytem of mandatory price and wage controls under which anyone raising prices or wages over a certain percentage would be violating the law?

	Percent
Voluntary controls	27
Mandatory controls	62
No opinion	11

4. Some Congressmen think we should begin drafting young people for military service. Please indicate which of the following statements coincides most closely with your own opinion:

	Percent
The military draft should be restored now	27
While the draft is not needed now, we should have registration	39
There is no need at the present time for either the draft or registration	29
No opinion	5

5. If the draft were reinstituted would you favor or oppose a system under which potential draftees could choose between voluntary military service, non-military service (such as joining the Peace Corps, VISTA, etc.) or taking their chances on being drafted?

	Percent
Favor	62
Oppose	26
No opinion	12

6. It has been proposed by some that the United States enact right now a National Health Insurance program that would cover practically all the medical and health expenses of every American. Other people want to phase this in gradually over a number of years, and still others prefer to stick with our present system. Which do you favor: enacting a full National Health Insurance program now, phasing it in gradually over a period of years or trying to improve our present system?

	Percent
Full program now	49
Phasing in gradually	31
Sticking with present system	16
No opinion	4

7. Do you favor or oppose the proposal that all primary and general elections for the House of Representatives and U.S. Senate be financed as presidential primaries and elections are now financed, with federal funds provided through a voluntary tax check-off to match contributions of $100 or less from private citizens?

	Percent
Favor	56
Oppose	25
No opinion	17

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CONGRESSIONAL ACTION ON THE PROGRAM TO STRENGTHEN DEVELOPING INSTITUTIONS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. FORD of Michigan. Mr. Speaker, in the last several days, a number of news articles have criticized the Office of Education's program to strengthen developing institutions authorized by title III of the Higher Education Act. These reports of alleged scandal, fraud, and abuse of funds seem to be based on an 8-month-old report by the General Accounting Office which has been virtually ignored by the media until recent days.

The problems are described by Washington newspapers as though they are new. In fact, the Subcommittee on Postsecondary Education, which I chair, has been carefully scrutinizing and holding hearings on the program for a year. Three days of hearings in March and July focused on the management of the title III programs and on the GAO report.

In addition to questioning the GAO investigators who prepared the report, the subcommittee heard from program managers at HEW, representatives of the Office of Civil Rights, analysts from the National Center for Education Statistics, presidents of grantee institutions, and representatives of assisting agencies.

As a result, H.R. 5192, legislation to reauthorize the Higher Education Act, contains a completely rewritten title III.

The GAO report made a number of recommendations to Congress and to the Department of Health, Education, and Welfare. In preparing the reauthorizing legislation, the subcommittee attempted to incorporate these recommendations.

Responding to the charge that the program is unworkable because Congress has failed to provide a definition of a developing institution, H.R. 5192 requires that eligible institutions be determined on the basis of the percentage of low-income students enrolled and the institution's average expenditure per student. The bill further separates the process of determining eligibility from the application process.

I feel that replacing the existing vague and subjective criteria with measurable objective factors is an important step in eliminating many of the program's problems.

GAO called for specific guidelines governing the use of funds received from this program. The committee responded by requiring that grantees use this assistance to improve academic quality, institutional management and fiscal stability. H.R. 5192 also specifically prohibits the use of title III funds for any purpose other than those authorized in the law.

Further, the legislation instructs the Secretary to give priority to applications from institutions which propose a program to improve faculty development, funds and administrative management, development and improvement of academic programs, acquisition of equipment for use in strengthening funds management and academic programs, joint use of facilities such as libraries and laboratories, and student services. The new requirement that grantees report annually on the progress of their development activities and the establishment of these specific priorities for activities to be undertaken with title III support reply to GAO's call for planning, establishing goals and measuring progress toward goals.

Of particular concern to the committee and the General Accounting Office is the questionable value of and the potential for abuse by an "assisting agency." The current law requires that institutions participate in a consortium or bilateral arrangement. This requirement has led to the growth of a number of consortia and consultants specializing in providing title III assistance. GAO and the committee found that in many cases the value to institutions of these consultants or consortia was dubious. Allegations of "sweetheart arrangements," conflicts of interest and misuse of funds resulting from these arrangements also fill the recent "disclosures" by the press.

In reauthorizing title III, the committee removed the requirement that institutions participate in such arrangements. Institutions will continue to have this option. However, the committee's report on H.R. 5192 spells out detailed and stringent accounting procedures to govern such relationships in the future.

In addition, the bill requires that any institution applying for funds under this program must submit a detailed analysis of its fiscal control and fund accounting procedures. We expect the Secretary to require more careful monitoring of

funds disbursement by the program officers.

Another major criticism results from the fact that no institution has ever "become developed" or "graduated" from title III during the 14 years of its existence, even though many institutions have participated in the program for 8 years or more. Many institutions have received several million dollars from this program causing the fear that it is becoming regarded as an "entitlement".

The legislation attempts to limit the number of years of participation by establishing three types of grants. An eligible institution can apply on a competitive basis for assistance through a 1- to 3-year grant which may be renewed. A second category, a 4- to 7-year nonrenewable grant, is established with 25 percent of the appropriation reserved for it. This reserve will provide for substantially larger grants to encourage long range, "up and out" planning by institutions. Once an institution receives a nonrenewable grant, it cannot apply for the renewable grant.

A third category, challenge grants, is designed to encourage institutions to seek alternative sources of funding by requiring that Federal funds be matched. Private institutions would receive incentives to seek endowment funds from the private sector, and public institutions would seek increased assistance from the States. A separate authorization is provided for the challenge grant program and its implementation is delayed until fiscal year 1982 to permit dissemination of information and to receive applications. Like the other grants, this is a competitive application process, except priority for institutions in the nonrenewable grant program is required.

I urge my colleagues to carefully review the title III provisions in H.R. 5192 as well as the accompanying committee report (House Report 96–520). I am confident that the legislative changes coupled with the promised aggressive management of the program by the Office of Education can result in effective and efficient assistance to deserving institutions devoted to providing quality education and serving the underserved.●

THE 175TH BIRTHDAY OF CADIZ, OHIO

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. APPLEGATE. Mr. Speaker, it is with a great deal of honor that I address the House of Representatives today to make known to this body a very special occasion within Ohio's 18th Congressional District. On Monday, October 29, 1979, the village of Cadiz, Ohio, located in rural Harrison County, will celebrate its 175th birthday.

Just 1 year younger than the State of Ohio itself, Cadiz has developed over the years to be not only the seat of government for the county, but also one of the primary centers in the State for coal production. It is a fine community in every sense of the word that every Congressperson would be proud to have included in his or her congressional district.

Mr. Speaker, I ask all the Members of this body to join with me today in congratulating Cadiz on reaching this milestone and making this such a memorable day in its history.●

THE 114TH ANNIVERSARY OF BROOKLYN BUREAU OF COMMUNITY SERVICE

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Ms. HOLTZMAN. Mr. Speaker, the Brooklyn Bureau of Community Service will this year observe its 114th anniversary of service to the Brooklyn and New York community. A voluntary, nonsectarian, nonprofit social services agency, the Brooklyn Bureau began its work in 1866, caring for homeless children separated from their parents and families in the aftermath of the Civil War. Later, the Brooklyn Bureau added other services to meet changing community needs. Today, the agency offers faster care and adoption services to children, comprehensive rehabilitation services for the handicapped that include work training, job placement, counseling, recreation and homemaking instruction, an intensive counseling and guidance service to troubled families, and a special foster care service for handicapped and abused children living in hospital pediatrics wards who have no families to care for them.

Under one roof is a whole spectrum of services to help the poor and distressed. In its sheltered workshops, the Brooklyn Bureau trains people with a wide variety of handicaps to perform jobs for which they receive wages. It is the only business in the world that "fires" its most efficient workers. As soon as they are skilled enough to enter the labor market, they are helped to find jobs where they can become part of the normal life of the community and take their place as useful and self-supporting neighbors and citizens.

In all of its services to the handicapped, the Bureau is concerned with the total person, not just his handicap. The specialists in the sheltered workshops help him develop skills leading toward independence. Rehabilitation counselors, psychologists, and caseworkers who are concerned about his emotional strengths, his family life, his opportunities for social and cultural experiences are also part of the treatment team.

The bureau's home living and working center is a model apartment in which the severely handicapped learn to take care of their personal needs. The blind, heart-disease victims, men and women suffering from cerebral palsy, muscular dystrophy, and many other kinds of disabling afflictions, learn to cook, clean, iron, sew, budget their funds and do all the other things necessary to maintain themselves independently. This training enables many to remain in their own homes and out of institutions.

Those in our community who are isolated from others because of severity of handicap are of special concern to the bureau. The agency's work-at-home program permits the bedridden, the blind, the crippled, and others too incapacitated to leave their homes, to perform work where they live. Materials are brought to them, and the handicapped person can work at his own speed. For many of these persons, it is the first time in their lives they have known the dignity of paid employment.

The indigent aged and the handicapped are helped by still another bureau service. The agency's free summer vacation camp at Shelter Island on eastern Long Island is placed where their loneliness is relieved by 2 weeks in the fresh air and sunshine. The happy memories, the friendships formed, the interests developed, and the affectionate and concerned care received may make a whole year happier and more hopeful.

The bureau's services to children include placement in foster homes, psychiatric and social work counseling, and remedial services. A special foster care unit operates from an office in Kings County Hospital. Handicapped, abused, and neglected children living in pediatrics wards with no parents to care for them are placed in foster homes where they have a chance to grow normally. While children are being helped to find security and a feeling of being loved in their substitute homes, every effort is made to rehabilitate the families that had to give them up. Where this is not possible, long-term foster care or adoption becomes a viable alternative.

Families too are the focus of the bureau's work. The bureau was one of seven agencies in New York State that pioneered an intensive counseling service to help troubled families stay together where there is the danger that children may have to be placed in foster care. The service was begun in 1974 and has kept scores of families intact at a cost to the community that is far less than the placement of children in foster homes.

Some measure of the achievements of the bureau in its 114 years can be seen in the highlights of its history:

HIGHLIGHTS

1866—opened a lodging house for homeless boys. Established foster children service.

1867—established industrial schools to train young people. Opened kindergarten for children of working mothers.

1890—started program to distribute pasteurized milk to infants.

1898—legal aid for needy started with 25 volunteer lawyers.

1908—Jewish branch recognized as independent Jewish Aid Societies, forerunner of Jewish Family Service.

1910—organized housing committee to improve housing conditions.

1912—established school lunch program for undernourished children. Started free employment service for the needy.

1913—established home teaching for the blind and disabled, and sheltered workshops for the handicapped.

1916—provided nursing, ambulance and other medical services to 3,600 victims of Brooklyn's worst infantile paralysis epidemic.

1919—nursing affiliate reorganized as independent Visiting Nurse Association of Brooklyn.

1920—established Shelter Island summer camp, now used for the aged and handicapped.

1930–33—distributed $1,770,000 in relief to victims of the depression.

1946—tuberculosis committee reorganized as independent Brooklyn Tuberculosis & Health Association.

1954—established homemaker service to help families disrupted by illness stay together.

1964—printed first Braille cookbook of convenience foods.

1966—major building program increases capacity of sheltered workshops by 50 percent-grant from New York State Division of Vocational Rehabilitation.

1969—established a homemaking teaching center for the severely handicapped in a specially constructed model apartment.

1974—organized its Preventive Service Project for troubled families to keep children at home and out of foster care. Established foster care service at Kings County Hospital for abused, neglected, sick and handicapped children who live in pediatrics wards because they have no families to care for them.

During its 114 years of service to people, the Bureau participated in and often led important social movements that changed the conditions of living for the poor. These years also saw dramatic changes in the methods by which the agency helped people to transform their lives. But some things have not changed. While constantly searching for new and better ways to improve its services, the Brooklyn Bureau has remained an agency tied closely to the community of which it is a part, reaching out to those who ask for help, and dedicated to the principle that every individual it serves will receive opportunity to grow and live with hope, achievement and self-respect.●

HAITI'S ANNIVERSARY

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mrs. CHISHOLM. Mr. Speaker, I wish to bring to the attention of my colleagues the following news article from the New York Times dated Monday, September 24, 1979.

AMERICAN AIDES VOICE CONCERN OVER ARREST OF HAITIAN POLITICIAN

(By Jo Thomas)

WASHINGTON.—United States officials here and in Haiti have expressed concern over the Aug. 30 arrest of Sylvio Claude, founder of the Haitian Christian Democratic Party, one of the first independent political parties to operate openly in Haiti in 22 years.

Mr. Claude, who is still in custody awaiting trial on unspecified charges, was shot in the hand during a raid on his party's headquarters by Haitian police, who charged that he was trying to provoke the overthrow of the Government.

According to the State Department, United States officials, alarmed by the Government's action in silencing part of its fledgling opposition, privately told Haitian officials that they were concerned about Mr. Claude's human rights and urged that his case be given due process under Haitian law.

According to Haitian Government sources, Mr. Claude's arrest was authorized by President Jean-Claude Duvalier at the request of Gen. Roger St. Albin, chief of the general staff of the Haitian armed forces.

DUVALIER ORDERED ARREST

According to these sources, Mr. Claude had asked General St. Albin for protection in a letter that complained that his life had been threatened by the Volunteers for National Security, a militia usually referred to by the initials of its name in French, V.S.N. The group includes many former members of the Tonton Macoutes, the personal police of the late dictator, Francois Duvalier.

Mr. Claude's letter was interpreted by General St. Albin as an effort to initiate armed conflict between the military and the V.S.N. At the general's request, President Duvalier directed the chief of police to arrest Mr. Claude.

When the police went to the party headquarters, however, Mr. Claude jumped out a window and escaped while his supporters threw rocks at the arresting officers. In the ensuing melee, he was shot in the finger.

Mr. Claude then went to a radio station in Port-au-Prince and went on the air to report what was happening. Both he and the radio station operator, Gerard Resil, were then arrested. Mr. Resil was later released and made a public apology.

SUPPORTERS ALSO ARRESTED

According to both United States and Haitian sources, a number of Mr. Claude's supporters were also arrested. Some were later released. One, Frantz Voltaire, 31 years old, a sociology professor, was expelled from the country. Others are still in jail.

After the arrests, according to Haitian exiles in the United States, reporters for the Haitian press were called in and instructed by the Government not to report on political strife.

Georges Salomon, Haiti's Ambassador to the United States, said that he was not certain how many of those arrested were still in custody. Mr. Salomon said he believed Mr. Claude would be charged with conspiracy to commit arson in connection with an alleged plot to set fire to gasoline stations on the day Hurricane David was expected. According to Mr. Salomon, the Government learned of the alleged plot after Mr. Claude's arrest.

Mr. Claude founded his political party clandestinely last year and tried to run for office. His candidacy was declared illegal, and he was arrested and deported to Colombia. He returned to Haiti, was arrested again, got out of jail, and on July 5 publicly announced establishment of his previously secret party as the Haitian Christian Democratic Party.

Although this article is almost a month old, even today, a day after the anniversary of Duvalierist rule. Mr. Silvio Claude's whereabouts are still unknown. So despite claims to the contrary, it appears that liberalization has not really occurred in Haiti.●

EQUAL TREATMENT FOR THE MENTALLY ILL

HON. JOHN W. WARNER

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, October 25, 1979

● Mr. WARNER. Mr. President, as I believe that individuals who suffer mental disorders should be free of stigma in our society, I remain hopeful that benefits for the diagnosis and treatment of mental illness should be made available to individuals on a parity with benefits for medical and surgical illnesses. I remain concerned, for example, that the various proposals for catastrophic health insurance currently being debated in the Congress seriously curtail coverage for mental illness. While some observers claim that mental health benefits must be limited because the results of psychiatric treatment are more difficult to assess than the results of other medical and surgical treatment, and because there are many classes of mental health providers who may compete for reimbursement, I remain hopeful that these issues can be resolved so that the mentally ill of our Nation can be optimally served.

It was with interest, therefore, that I reviewed a recent decision of the U.S. District Court for the Eastern District of Virginia. B. R. Ashby, M.D., immediate past president of the Neuropsychiatric Society of Virginia believes that the court's finding is a landmark decision and may provide needed direction to the Congress.

I have received a communication from Dr. Ashby in which he summarizes the court's view in a suit brought by the Virginia Academy of Clinical Psychologists against the Neuropsychiatric Society of Virginia and Blue Shield of Virginia. The Academy of Clinical Psychologists sought reimbursement for their services under private medical insurance without medical referral and consultation. The court ruled in favor of the Neuropsychiatric Society and Blue Shield. Dr. Ashby feels that the court's reasoning may be instructive to those of us who must grapple with the issue on the national level.

The court found that:

It is true that both psychologists and psychiatrists professionally render psychotherapy to patients. But in the treatment of nervous and mental disorders, psychiatrists are capable of providing a full range of psychiatric treatments, not just psychotherapy. In addition, as medical doctors, psychiatrists may render medical treatment and diagnosis . . . .

It is . . . undisputed that the only method of making sure that a physical disorder does not complicate treatment by a clinical psychologist is regular contact between the psychologist's patient and medical doctor. Whether this be called supervision, or referral on a regular basis, the medical necessity for this practice, in most, if not all cases, is undisputed .

While I do not wish to enter into the debate between psychiatrists and psychologists, both honored professions which provide valuable services in our society, I wish to call this matter to the attention of my colleagues.●

A COMPARISON OF THE INTERSTATE AND FOREIGN COMMERCE BILL AS AMENDED BY SANTINI-LUJAN, AND THE UDALL-CLAUSEN-WIRTH SUBSTITUTE

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. SANTINI. Mr. Speaker, during consideration of H.R. 4985, the Energy Mobilization Board "fast track" legislation, there will be several significant

amendments offered. In order that the Members will be fully apprised of the different versions of the legislation, I am inserting a comparison of the Interstate and Foreign Commerce Committee bill as amended by Santini-Lujan, and the Udall-Clausen-Wirth substitute. It is expected that the House will consider the bill next week.

SUMMARY COMPARISON OF COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT AND THE UDALL-CLAUSEN-WIRTH BILL ESTABLISHING AN ENERGY MOBILIZATION BOARD

COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT	UDALL-CLAUSEN-WIRTH BILL
Coverage	
The bill does not apply to nuclear related facilities or to energy projects that have already been the subject of Federal expediting legislation. (Section 175)	The bill does not apply to nuclear related facilities. (Section 202)
Number of projects	
No limitation on number of projects.	Limited to a total of 75 Priority Energy Projects of which no more than 20 may be designated in any one calendar year. (Section 204 (d))
Regulations	
No comparable provision.	Regulations promulgated by Board, including those setting criteria and procedures for accepting and considering applications to designate energy projects are subject to a one-House veto within 60 calendar days of continuous session of Congress. (Section 201(g))
Scope of Board's authority to establish a project decision schedule	
Board may modify time periods established by Federal, State and local statute or agency rules and regulations in setting Project Decision Schedule, but may not alter other statutory obligations applicable to the agencies. (Section 180)	Board may modify time periods established by Federal, State and local statute or agency rules and regulations in setting Project Decision Schedule. (Section 209(b))
Scope of Board's authority to modify agency procedures	
Board has authority to recommend to the President the waiver of Federal procedural requirements. If President determines that the recommended Federal waiver, or a modification of the recommended Federal waiver, is in the national interest, contains such terms and conditions as are necessary to mitigate any adverse effects, that there is substantial evidence to support the Federal waiver recommendation and that the Federal waiver would not unduly endanger the public health and safety, he transmits the Federal waiver determination to Congress where it would require a two-House approval within 60 calendar days of continuous session of Congress under expedited procedures insuring a vote on the House and Senate Floors. (Section 185)	Federal, State and local agencies may establish special procedures to expedite decisions. Board can order Federal agencies to change certain procedures. It can require consolidation of proceedings, elimination of unnecessary duplication, legislative hearings instead of trial type hearings, submission of written views and written responses and elimination of initial decisions. State and local agencies may be ordered by a court to employ these procedures if they miss or are likely to miss a deadline on the Project Decision Schedule. (Section 211(c))
Enforcement of project decision schedule	
If the Board determines that an agency has failed or is reasonably likely to fail to make a decision within the time prescribed by the Project Decision Schedule, it must notify the appropriate agency of this determination. 45 days after such notification the Board must hold a hearing to determine the cause for the delay. Within 30 days after the hearing the Board may: (1) Modify the Project Decision Schedule, (2) issue an order providing for the Board and the President to make the decision in lieu of the agency, or (3) recommend to the President a waiver of Federal law or regulation for a specific project subject to a two-House approval. If an agency fails to comply with a modified Project Decision Schedule, the Board may elect either to make the decision in lieu of the agency or to recommend a waiver of Federal law or regulation. (Section 185)	No comparable provision.
No comparable provision.	Board may bring an enforcement action in U.S. District Court against Federal, State, or local agency head to bring agency into compliance with the Project Decision Schedule. If compliance with the Schedule would not insure adequate consideration of all matters concerning such project under applicable law, would not insure adequate participation by parties in applicable proceedings, would be impractical or would deny any person due process of law, the court is required to instruct the Board to revise the Project Decision Schedule to require the agency to complete consideration of the applicant's request "as soon as practicable." Immediately upon receipt of revised Schedule from the Board, the court is required to issue an order directing the agency to comply with such Schedule. In addition, the Court is authorized to order the agency to assign additional personnel to the matter or to utilize the special procedures of section 211. (Section 214)
If the Board issues an order undertaking to make a decision on behalf of an agency it must notify interested parties. The agency must transmit its records to the Board. The Board must complete the record, if necessary. The Board must promptly issue a recommended decision and submit it to the President for his review. The recommended decision must be consistent with all applicable Federal, State and local laws. Within 45 days of receipt of the recommended decision the President must affirm or remand it to the Board with instructions to modify it to the extent the President determines is appropriate. This decision is subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved. (Section 185)	The President is empowered to make decisions for Federal, State and local agencies if any Federal, State or local agency fails to render a decision within 15 days after the time allowed by a court order enforcing the Project Decision Schedule or if a court fails to act to enforce or modify a Project Decision Schedule within 120 days of initiation of an enforcement action by the Board following the failure of an agency to meet a deadline on the Project Decision Schedule. In making his decision, the President must apply the same laws that would have applied had the agency which missed the deadline performed the action. (Section 214)

SUMMARY COMPARISON OF COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT AND THE UDALL-CLAUSEN-WIRTH BILL ESTABLISHING AN ENERGY MOBILIZATION BOARD—Continued

COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT	UDALL-CLAUSEN-WIRTH BILL
The Board has authority to recommend to the President a waiver of Federal laws or regulations which impede the making of an agency decision. If the President makes certain findings, he transmits the waiver recommendation to Congress where it would require a two-House approval under expedited procedures insuring a vote on the House and Senate Floors. (Section 185)	No comparable provision.
Waiver and suspension authority	
Prior to an agency decision, the Board may recommend to the President the waiver of certain Federal laws or regulations that present a substantial procedural or substantial substantive impediment to the making of an agency decision or to the making of an agency decision in a manner that will permit the implementation of a Priority Energy Project.	
The Board may recommend to the President the waiver of any Federal, State or local requirement enacted after the establishment of the Project Decision Schedule that presents a substantial impediment to the implementation of the Project.	
In addition, the Board may suspend the application of laws enacted after establishment of the Project Decision Schedule to a Priority Energy Project for up to 5 years provided that the Priority Energy Project makes a good faith effort to comply with the new law.	Board may suspend for up to 5 years any Federal, State or local requirement which has been enacted or promulgated after commencement of construction of an Energy Project if it finds such requirement would delay timely completion or operation of the project and that such suspension poses no threat to public health or safety. Findings and decision are subject to court review for failure to comply with this Act or on Constitutional grounds. (Section 215)
If the President makes certain findings, he transmits the waiver determination to Congress where it would require a two-House approval within 60 legislative days under expedited procedures.	
A waiver may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement to be waived and must include such terms and conditions as are necessary to mitigate adverse effects, including effects on public health, welfare, or the environment. In addition, the President may only transmit a waiver recommendation to Congress if he determines: (1) such a waiver to be in the national interest (2) that there is substantial evidence to support the waiver recommendation, and (3) that such waiver would not unduly endanger the public health and safety. (Section 185)	
No waiver of certain laws	
The Board cannot recommend the waiver of labor laws, antitrust laws, criminal laws, civil rights laws or primary air quality standards established under the Clean Air Act. A waiver recommendation by the Board may not impair or abridge constitutional rights; may not contravene state or local laws, Federal contract or interstate compact relating to water rights; or may not impair or abidge rights to receive compensation for loss of any property interest as the result of the constuction or operation of an Energy Project. (Section 186) To protect these rights a person is given 30 days after Congressional approval of a waiver to file suit in U.S. appellate court. (Section 187(a)(3))	Includes essentially the same prohibition for suspension orders concerning requirements enacted or promulgated after commencement of construction of an Priority Energy Project. (Section 215)
Water laws	
Prohibits the waiver of any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights. (Section 186(b)(4))	Prohibition with respect to suspension orders is essentially the same as Commerce Committee bill. (Section 215(d)(4))
No comparable provisions.	Declares that the bill does not expand or confer upon the United States and its permittees or licensees any right to acquire rights to the use of water. Declares that the United States and its permittees or licensees must appropriate water within any State for an energy project pursuant to State law. Declares that the establishment or exercise pursuant to State law of terms and conditions with respect to water rights shall not be deemed to constitute a burden on interstate commerce. The bill does not alter State requirements or interstate compacts governing appropriation, use or diversion of water. (Section 216)
Judicial review	
A Priority Energy Project Designation, revocation or denial, any extension granted by the Board, the establishment or revision of a Project Decision Schedule by the Board, and any monitoring actions taken by the Board, are not subject to judicial review except as required by the Constitution. (Section 187(a))	Board decisions granting or denying designations and Board suspension orders of new requirements are subject to judicial review for failure to comply with this Act or on constitutional grounds. Board actions establishing, modifying or revising a Project Decision Schedule, imposing special procedures, and granting or denying extensions are not subject to judicial review other than in an enforcement proceeding or on review of a final agency action. All other Board actions are not subject to judicial review except as required by the Constitution.

COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT—Continued	UDALL-CLAUSEN-WIRTH BILL—Continued
Grounds for judicial review are not changed.	The grounds for judicial review of State, local or Federal Agency decisions are limited to actions which are in violation of the Constitution or actions which are "in excess of or fall short of statutory jurisdiction, authority or limitations, or short of statutory right." (Section 217)
Requires that appeals of agency decisions subject to Federal jurisdiction be filed in the U.S. Court of Appeals for the circuit where the Project is located within 90 days of final agency action. (Section 187(b))	Requires that appeals of agency actions or Presidential decisions subject to Federal jurisdiction be filed in the U.S. Court of Appeals for the circuit where the Project is located, or where the claim arose, within 60 days of final action.

THE SOVIET UNION'S GREAT FEAR

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. MICHEL. Mr. Speaker, in a recent official visit to the Soviet Union, I heard many Soviet officials say they feared two things: A nuclear war with the United States and the emergence of China as a superpower. I believe that they have more to fear from yet another area of concern: The growing problem of non-Russian national groups in the Soviet Union.

In a letter to the Christian Science Monitor, a staff member of the Commission on Security and Cooperation in Europe outlines the history and current status of one such minority group, the 40 million Soviet citizens who are Islamic.

At this point, I wish to include this letter, published October 24, 1979, into the RECORD.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE.

A better understanding of Soviet Islam is essential in trying to unravel the intricacies of Soviet policy on Afghanistan, Iran, the Kurdish issue, and the rest of the Muslim world. Certainly the fact that the Soviet Union is the fifth largest Muslim country in the world today is bound to influence its policies.

In April 1979, the Voice of Moscow, in a Turkish language broadcast, gave the first official statistics of Muslims in the USSR: 40 million. Soviet Islam represents a case of overlapping ethnic and religious identities and therefore to be a Kirgiz, Turkoman, Uzbek, Kazakh, Azeri, Tatar, Kurd, or Tadzhik is to be a Muslim.

Not only a web of ethnic kinship and cultural tradition links Soviet Turkoman, Tadzhiks and Uzbeks to their Afghan—and Iranian—counterparts, but also the fact that the vast majority of both Soviet and Afghan Muslims are Sunni of the Hannafi rite.

One little known episode of Soviet history concerns several Soviet Muslim groups such as the Chechen, Ingush, Crimean Tatars, and Meskhetians: during World War II Stalin branded them "traitor nations." As a result, they were deported en masse from their indigenous regions in the Caucasus and the Crimea, and were shipped off in cattle cars to distant Central Asia. Tens of thousands died in transit and later of disease or starvation. Rehabilitated under Khrushchev, most of these peoples were allowed to return to their native territories in the Caucasus.

Not all of these groups were so fortunate. To this day, the 200,000 Meskhetians (who lived on the strategic Turkish-Georgian border) and the 400,000 Crimean Tatars (who lived on the scenic Black Sea coast) are forbidden to return. In fact, in August 1978, the Soviet Council of Ministers handed down a secret decree which provides the legal basis for expelling and jailing Tatars who try to return to the Crimea.

The struggle of the Crimean Tatars to return to their homeland ranks with the activity of Soviet reform Baptists as the oldest of contemporary Soviet dissent movements. Andrei Sakharov has said that official treatment of the Crimean Tatars is the worst of many blots on the current Soviet human rights record. The Moscow Helsinki Group has documented the continuing persecution of the Meskhetians and the Crimean Tatars.

With the exception of the Meskhetians and the Crimean Tatars, open political dissent is rare. One of the few known cases of individual protest is that of Annasoltan Kekilova, a noted Turkoman poetess, who has been in a psychiatric hospital in Ashkhabad since 1971 after advocating reform in Turkmenia. One sign of broader discontent among Soviet Muslims is the growth of secret Sufi brotherhoods which reject Soviet—and Russian—life style. Membership in these Sufi sects is 500,000 in the Northern Caucasus alone.

Any course of action which the Soviets undertake in the Muslim world is bound to have profound effects on Soviet Islam. Kremlin leaders may be haunted by the fact that in 20 years one out of four Soviets will be a Muslim—by blood if not by belief.

CATHERINE CORMAN,
Staff Member.●

A BLOW TO SCHOOLS

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. GRASSLEY. Mr. Speaker, ever since this Congress voted to increase the size of the Federal Government by creating a new Department of Education, the reaction of the public has been one of disbelief and disgust. In talking with several of my colleagues, I have learned that they have received the same message I have gotten from throughout the State of Iowa: "We want less big Government and more local control of our affairs".

This call for less Government and more local control was clearly not reflected in the vote to create the new Federal Department of Education. Many of the folks I have talked to in Iowa wonder why this Congress thinks that Washington's bureaucrats know more about Iowa's schools than our own educators. People believe strongly in State and local control of education, and they clearly see that this move to nationalize education policy will destroy the local autonomy which has made our educational system the best in the world.

As an example of the reaction I have seen to the creation of this new Federal bureaucracy, I am submitting an editorial which appeared in the Burlington, Iowa, Hawk Eye. The editorial points out that public support for our schools can only decline with the nationalization and politicalization of our schools, and I commend it to all my colleagues.

A BLOW TO SCHOOLS

The National Education Association won its fight for a Federal Department of Education.

The schools and the public lost.

The consequences of this concentration of power are obvious.

The schools, already subject to political pressure, will be more politicized. That is a threat to quality and to any chance for improvement.

The NEA, which has grown to one of the nation's most powerful trade unions, will have even more power over elementary and high schools.

Local influence in the direction and operation of schools will diminish.

The NEA started as an association of professionals. As it became hungry for power, it became an out-and-out union. It also began indulging in partisan politics, despite the fact that taxpayers of all parties pay the salaries of their members.

We can imagine the schooling that will come when teachers are frankly partisan propagandists.

An example of the future is provided by the prediction that the first Secretary of Education will be Jerry Apodaca, former governor of New Mexico. His principal qualification is not that he knows anything about education but that he satisfied the President's need for a Chicano in his cabinet.

Popular support for our schools can only decline with this new political development. More federal money may be on the way, but not more learning.●

A DISPASSIONATE LOOK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DERWINSKI. Mr. Speaker, one of the major school desegregation controversies is centered around the Chicago

public school system. Chicago's radio station WBBM very properly editorialized on the complications involved in enforcement procedures by Federal authorities in its broadcast of October 19. I wish to insert WBBM's editorial at this point:

A DISPASSIONATE LOOK

We certainly do not share President Carter's enthusiasm for taking Chicago's school desegregation case to court. At best a court fight will be long, expensive and divisive. At worst, it could result in the mandatory busing of thousands of this city's children at a terrible financial and emotional price.

The Department of Health, Education and Welfare and Dr. Joseph Hannon are at an impasse over the merits of the Superintendent's Access to Excellence program as a desegregation vehicle. It's no wonder. HEW and Dr. Hannon are, we think, talking about two different things. The government and the courts have insisted in the last several years that the numbers of white and black children in each classroom is the issue. Dr. Hannon is primarily concerned about the education that the children, whatever their color, receive in those classrooms.

If only busing or anything else as simple were the answer. But it has not proved to be. We can only hope now that people from the Justice Department and the judges, if it comes to that, will be open-minded enough to realize that the issue in all this is education. We have some fine schools in this city, but many, quite frankly, are not what parents and other concerned citizens have a right to expect. When our public school system does not meet expectations now, how can the federal government come in and insist not only that we spend millions of dollars to bus children, a thing virtually no parents want, but that we divert energy and time from the real purposes of schools.

The position that the federal government and the courts have taken in recent years—that busing is the answer to impoved education—has not proved true. We earnestly hope now that the Justice Department officials will take a dispassionate look at the answer Dr. Hannon has developed. We don't believe HEW did.

That's our opinion. We'd welcome your views.●

ALCOHOL ABUSE: THE $42 BILLION HANGOVER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DORNAN. Mr. Speaker, in this Sunday's October 28, 1979 edition of the Twin Circle magazine, there will be an excellent article entitled, "Experts Urge Congress To Put Warning Labels on Alcohol." The piece is an excellent summary of the problems of alcohol abuse, a major cause of death in this country.

Our colleague in the other body, Senator HENRY BELLMON, has estimated that alcohol abuse is costing this country approximately $42 billion a year. He said $42 billion. In a related matter, I would call the attention of my colleagues to a recent assessment of the tragic problem by Max Cleland, Director of the Veterans' Administration. According to Mr. Cleland, while drug addiction among veterans, particularly Vietnam veterans, has been declining, alcohol abuse has been soaring.

There is one major cause underlying alcohol abuse, drug abuse, and many other of the ills that afflict our society; it is an absence of self-discipline. This has broader implications than the statistics of premature death and disability would indicate. The social and economic disruption caused by such widespread self-abuse can undermine the strength of an entire society. A democratic society cannot survive and prosper without a virtuous people. And virtue is impossible without self-discipline. I ask my colleagues to take time from their busy schedules and read this article. I believe it offers sound and wise advice.

The article follows:

EXPERTS URGE CONGRESS TO PUT WARNING LABELS ON ALCOHOL

WASHINGTON, D.C.—Calling alcohol addiction "our $42 billion hangover," government health experts urged Congress to require warning labels on all liquor bottles and in all alcohol advertisements.

Alcohol consumption "is a major factor in premature illness and death in this country," said John Deluca, Director of the National Institute on Alcohol Abuse and Alcoholism, before a Senate Sub-Committee on September 24.

"We believe it to be the federal government's obligation to inform the public of scientifically established health risks," Deluca said, supporting the use of proposed warning labels on alcoholic beverage containers and in advertisements.

"Excessive consumption increases the risk of cancer of the head and neck, poses increased risk for certain types of heart disease, and can cause birth defects," he told the subcommittee.

Sen. Henry Bellmon (R-Ok.) told the legislators that alcohol addiction was "our $42 billion hangover." He cited alcohol as a major contributing factor in most leading causes of death and disability, including some types of cancer, cardiovascular disease, cirrhosis of the liver, diabetes, automobile accidents, suicides and homicides."

Bellmon also reminded the sub-committee: "There is conclusive evidence that alcohol is directly involved in birth defects."

Deluca presented the sub-committee with a black-bordered sample warning label. It read: "CAUTION: Excessive use of alcoholic beverages may be harmful to your health, may be habit-forming, and during pregnancy may cause birth defects. Heavy, rapid consumption can cause death."

The alcohol industry has lobbied anxiously against the use of labels which warn that its products are harmful to consumer health. As a result of alcohol industry pressure, many congressmen and senators are steering clear from the warning-label issue since private citizens in local public welfare groups within their constituencies have not yet made their voices heard above liquor industry propaganda and pressure.

Sam Chilcote, Jr., President of the Distilled Spirits Council of the United States Inc., a price-fixing and advertising association of liquor manufacturers, recently said that alcohol producers "do not believe that warning labels are a constructive or effective way to reduce alcoholism and alcohol abuse."

Deluca, the Director of the Independent National Institute on Alcoholism and Alcohol Abuse, however, said that his organization favors warning labels on beer and wine, as well as distilled liquors. Warning labels, he said, were a form of sorely-needed public education.

"We require warnings on many drugs and other products with less dramatic effects and less potential harm than alcohol," said Deluca.— Karen Platt.●

THE BEAUTY OF ARIZONA'S SALT RIVER: FREE FROM GOVERNMENT REGULATION

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. RUDD. Mr. Speaker, I would like to call to the attention of my colleagues an informative article from the Arizona Silver Belt, a well-respected weekly newspaper in my State.

The article is written by Mr. Jimmie Woods, a distinguished citizen of Globe, Ariz., who serves as managing editor of the Silver Belt and as a member of the Committee for the Protection of Multiple Use Lands.

He has written quite eloquently on the concerns of the citizens of Gila County concerning Federal attempts to include a section of the beautiful Salt River in the wild and scenic river designation administered by the U.S. Forest Service.

I insert the article by Mr. Woods at this point in the RECORD:

WOODS SPEAKS AGAINST MORE FEDERAL REGULATIONS

(By Jimmie Woods)

(EDITOR'S NOTE.—The following is the complete text of a speech given Thursday night during the US Forest Service workshop on Scenic and Wild Rivers. The workshop was in Phoenix. Because of the technical information handed out at the workshop, parts of this speech were not given, but the speech has been submitted to the Forest Service for inclusion in the workshop studies.)

As I understand the purpose of this meeting, we are to apply eligibility criteria identified in the 1968 Wild and Scenic Rivers Act to the three rivers being studied in Arizona.

This step in the planning process has nothing to do with developing a particular recommendation for designation, but rather determines if the river is eligible to be considered for a designation.

To quote Bruce Hronek, supervisor of the Tonto National Forest, "This might be somewhat confusing, but it is a definite step identified by Congress in the 1968 Act."

During this workshop we are to concentrate on defining "outstandingly remarkable" values identified in the eligibility criteria and then applying these definitions to the three rivers.

It also is my understanding that the Wild and Scenic Rivers Act of October 2, 1968 (PL 90-542) as amended by the National Parks and Recreation Act of 1978 (PL 95-625) directs that portions of the Verde, Salt and San Francisco Rivers be studied to determine their eligibility and suitability for inclusion in the National Wild and Scienic Rivers System.

I want to limit my presentation to that portion of the Salt River that is under study since I am not that familiar with those portions of the Verde and San Francisco Rivers, even through a portion of the Verde River could possibly extend into Northern Gila County.

Before I deal with the specifics of the Salt River, let me briefly point out some facts about Gila County and the committee I represent, the Committee for the Protection of Multiple Use Lands.

The Committee for the Protection of Multiple Use Lands is comprised of persons from almost every walk of life: business, professional, clerical, education, ranching, mining, hunting, fishing, off-road vehicle, housewives and almost every other profession that may be found in Gila County. Committee membership is around 10,000.

Gila County has a population of about 33,000 persons within a framework of 3,040,000 acres, of which only about 2.7 percent is in private ownership.

Taking a closer look at those 3,040,000 acres in Gila County, we discover that 1,717,000 acres are managed by the US Forest Service with the Bureau of Indian Affairs responsible for another 1,143,000.

The Bureau of Land Management has 59,000 acres, the State of Arizona 28,000 and the Bureau of Reclamation about 15,200 acres.

Gila County has the smallest amount of privately-owned land of any of the state's 14 counties and we are not the smallest county in land areas within the state.

Our county, is comprised of hard-working, dedicated, fiercely-independent citizens. Self determination has become a way of life for us and we have had to fight to preserve that heritage.

We believe we should have some aspect of self determination in regards to the land management of our county. We are not asking for total self determination, because this land belongs to all of the citizens of our country.

However, we do believe we should have a great say in what happens to this land on which we live, work, play and worship.

Continuing governmental programs, such as RARE I, RARE II, BLM Wilderness efforts, which also includes a portion of the Gila River being included in a study of the Wild Scenic Rivers Act, Lower Salt River Planning Unit, Upper Salt River Planning Unit, Greenbelts study and whatever other acts may face us down the road continue to prick at our very foundation of freedom and self determination.

Being good, decent, honest, loyal taxpaying citizens, it alarms us and grieves us that we are facing soaring governmental regulations in almost everything we do.

Which brings us to the purpose of our current workshop . . . wild and scenic rivers.

We are concerned about the eligibility and suitability of that 17-mile portion of the Salt River, which has been included in the Wild and Scenic Rivers Act, as amended by the National Parks and Recreation Act of 1978.

The U.S. Forest Service says the length of that portions of a river that is to be included in the act, "generally should be at least 25 miles long."

That portion of the Salt under consideration is eight miles under the minimum requirements sought by the Forest Service or Congress or whoever determined the 25-mile length designation.

The Congressional act mandating the Forest Service to study the Salt defines a wild, scenic or recreational river area to be included in the system as "a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in Section One, (b) of this Act.

According to that section, we read, "It is hereby declared to be the policy of the United States that certain selected rivers of the nation, which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.

"The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes."

Now back to Section II, subsection (b) for a continuing definition of our rivers. "Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated and administered as one of the following:

(1) Wild River Areas: Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

(2) Scenic River Areas: Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(3) Recretational River Areas: Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past."

According to the Act, the study of any of the rivers shall be pursued in as close cooperation with appropriate agencies of the affected state and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the state and, shall include a determination of the degree to which the state or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

Now looking at the definitions of the three classes of rivers, ladies and gentlemen, there probably is not a river in the nation that portions of that said river could not be included in this act, unless you determine a definition of "outstandingly remarkable."

And when you determine that definition . . . if it means unique from any other river or portion thereof . . . or if it means something unusually different . . . then the 17-mile portion of the Salt River under consideration has no "outstandingly remarkable" qualities about it that, for example, portions of the Salt River below Roosevelt Dam and along the other three dams in that chain of water impoundments does not have.

The Committee for the Protection of Multiple Use Lands feels we already have too much control over our lives; the way we live, the things we eat, the air we breathe, the way we work. We just do not want additional federal bureaucratic control on the lands and rivers in our country.

We are opposed to the inclusion of the Salt River in either the wild, scenic or recreational designations.

A portion of the Salt River, especially from where Pinal Creek empties into the Salt, does not qualify under the "unpolluted water category" of the wild river designation. We also would point out that it does not meet the 25-mile length requirement.

We are ooposed to designating the Salt as a scenic river because of the tremendous hazards in connection with floating down the river. This year, for example, almost 20 persons have lost their lives in the Salt River . . . six of these during the Easter weekend.

We also are opposed to designating the Salt a recreational river for several reasons. Let me point out a few of those reasons:

There are six or seven pairs of bald eagles nesting on the Salt and Verde rivers and are the only bald eagles in the entire Southwest, outside of a pair or so in Baja, California and one in southwest Colorado and a pair on the Lower Colorado River.

As a resident of Gila County, I feel proud that the bald eagle has discovered itself biologically capable of survival in the Upper and Lower Sonoran Life Zones along the Salt River.

I have floated down portions of the Salt River. I have seen the Bald Eagle in his nest, perched high above the river . . . and I want you to know that it is a beautiful sight and one that I want to preserve.

If we make the Salt River a recreational river, where river development will be allowed for more and better facilities for the pleasure of fun-loving, river seekers, we will lose that sight from Gila County.

It will not take too many floaters, carrying their guns and rifles on the trips, for the alleged purpose of protecting themselves from the "beasts" of the area before someone starts shooting at the Bald Eagles, "just for the fun of it."

The Bald Eagles will either be killed or driven from their natural habitats. I do not want to see that nor do the residents of our county.

I would consider it a privilege to assist in the planting of cottonwoods along the Salt River and helping fence small portions of shorelines where these magnificent birds can rest, nest and breed.

But my friends, the more people you put on the river, the less Bald Eagles you will see along the Salt . . . and there goes the protection for these birds that are on the rare and endangered species list.

And the more people you put in that river on rafts, tubes or other method of river floating, the less natural floral and animal life you will see.

Wild life will be killed or scared from its habitats. Native shrubs, trees and plants, essential to the food chain for the survival of birds and animals, will be destroyed. Shorelines and rivers will be littered and polluted.

That portion of the Salt River, which is so beautiful now, will be destroyed.

What may be intended (the Wild and Scenic Act) to be a good act to protect the Salt River for the present and future generations may have just the opposite effect.

It might destroy what we already have and what Arizonans and other Americans from all across our nation have had for thousands of years.

The Salt River Canyon is beautiful with spacious shorelines in many places. We do not need further development along the river. It should not be included as a recreational river. This could destroy the shorelines and mar the beauty of the canyon.

If you doubt that statement, travel along any river where people have boating facilities. What will you find?

Littering and trash in abundance. Trees, native plants and floral species trampled and destroyed. Wildlife forced to flee from its natural habitats.

In general . . . a mess.

We in Gila County will not destroy what has taken years to make. We will preserve and protect the river and its immediate environments.

We will do anything and everything within our power to maintain a way of life that is rich, free and full for the citizens of our county.

We will make every attempt, enter every door, talk to every politician, appeal to every person who will listen to keep that portion of the Salt River free and beautiful . . . just as it is today.

We do not want development along that portion of the river. We want to preserve and maintain what nature has given us. We always have worked hard to protect our re-

sources, our heritage, our freedom and we will continue to do so.

It may be the desire of some to strangle Americans with more and more regulations. It may be the thought of some that Washington can protect and preserve us and keep us from hurting ourselves.

It may be the sincere desire of some people that the only way we can help ourselves is for Washington to move into every sector of our lives.

Washington does not have all the answers. Again, if you doubt that statement, visit the Potomac River in our nation's capital. Look at the boats, look at the pollution, look at the sludge, look at the filth, look at the non-beautiful sights.

If the bureaucrats in Washington cannot keep their own river clean, why do they want to come to Arizona and mess up one of the most beautiful rivers in the nation and make it like the Potomac?

No, that is not what we want nor is it what you want. We don't want a dirty, messy, filthy river like the Potomac or many of the rivers in the East. We want a river like the Salt is today . . . virtually untouched by humans' messes.

The Salt River, over the thousands of years, has been maintained and is beautiful in its present state. We think we have done a pretty good job in the time we have been entrusted to care for that area.

And we believe the best way in the future to maintain that beautiful river is for the citizens of Arizona to work together.

As private citizens, working together, we can build areas to protect the bald eagle, to provide for the continual existence of other birds and animals.

I really do not believe that we have a fight with any sincere citizen who is interested in making our country a better place in which to live and worship. We are not opposed to protecting any endangered species or providing whatever help is needed to do that job.

What we are opposed to, is the continual growth of bureaucratic stranglement of our county . . . of more and more rules and regulations by governmental agencies.

Permit us some degree of self determination and you will discover that private citizens working together, without governmental interference, can and will build a better, longer lasting and more beautiful environment.

The U.S. Supreme Court has ruled, in cases pertaining to pornography, that a community can determine what is illegal, immoral or indecent based on the community moral values.

I wonder why we cannot use that same standard in considering wildernesses, wild, scenic, recreational, air and water pollution and so forth. Why is it virtually impossible for a local community to judge for itself some of these key issues.

I am not talking about rules or regulations that might violate U.S. or state constitutional laws, but rather the things that we have been talking about.

We are not rebelling, we are not threatening, we are not seeking harm . . . but rather self-determination to manage the land in our county the way we see it, as long as there is not a violation of Constitutional issues.

If we are a government of the people, for the people and by the people . . . then permit us to be that government within our county and state.●

MILITARY CONSTRUCTION BILL

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DERRICK. Mr. Speaker, on roll-call vote No. 597, passage of the Military Construction Authorization Act for 1980, I was incorrectly recorded. My vote should have been recorded in favor of the measure.●

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS ENDORSES A STRONG FEDERAL TRADE COMMISSION

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. WAXMAN. Mr. Speaker, the director of the Department of Consumer Affairs of the State of California, Richard B. Spohn, has written me to express his serious concern that the integrity of the Federal Trade Commission not be weakened by the Congress.

Mr. Spohn argues that the FTC is absolutely indispensable to preserving the operation of the free market, preventing unfair or deceptive trade practices, and protecting consumers and business alike against abuses by industry.

Mr. Spohn concludes that the record of the FTC, since it was strengthened by Congress in the early 1970's, demonstrates that the agency has acted with the highest degree of competence and thoroughness, and with complete dedication to serving the public interest.

We shall soon vote on whether to curb the powers of the FTC. I do not believe such action is warranted, and would urge my colleagues to take Mr. Spohn's guidance and experience into account before reaching a judgment on this issue.

The letter follows:

CONSUMER AFFAIRS,
Sacramento, Calif., October 12, 1979.

Hon. HENRY A. WAXMAN,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN WAXMAN: In the course of my service as Director of the California Department of Consumer Affairs I have had an opportunity to work closely with the Federal Trade Commission in a variety of areas of importance to consumers. Based upon my personal experience as well as that of my staff, I would like to express a word or two in support of the present Commission and to urge you to oppose efforts to stop the Commission from doing its work in the years ahead.

In 1938, in the Wheeler-Lea Amendments, Congress broadened the coverage of the Federal Trade Commission Act to provide that "unfair or deceptive acts or practices in commerce . . . are declared unlawful." However, the FTC was slow in implementing the mandates expressed in the Wheeler-Lea Amendments. As a result of the consumer movement of the late 1960's, including the efforts of the American Bar Association, the President and the Congress saw fit to strengthen the FTC and to give it the leadership and support needed to carry out its mandate and to fulfill the potential of the Federal Trade Commission Act.

Beginning in the early 1970's and in the intervening years—and with the help and encouragement which the Congress provided in the Magnuson-Moss Warranty—FTC Improvement Act—the FTC became the organization and authority which Congress had envisaged.

The Commission's capacity to carry out the law by conducting thorough investigations, holding hearings, eliciting testimony and views, and engaging in careful analysis has enabled the Commission to act both vigorously and competently, and with full knowledge of the particular industry or issue before it, and in a way that we in the states, with our limited resources, could never hope to match.

The Commission's rulemaking proceedings, in particular, have been characterized by a thoroughness of investigation, analysis, debate and deliberation that is unsurpassed. It cannot be said that the FTC has rushed ahead in the adoption of rules or guidelines without thorough investigation, information analysis and thought.

With the pressures of inflation and scarce resources, there will be a tendency in the years ahead for certain segments of our economy to recoup their losses and gain a new toehold in the market at the expense of the consumer, too often focusing on the vulnerabilities of the low-income and minority consumers in our central cities. The methods adopted to achieve these ends will almost always involve the use of practices that are either deceptive or unfair, and therefore within the prohibitions of the Federal Trade Commission Act.

On reading the reports of proposals now before the Congress, it occurs to me—

Will the FTC be present with a qualified and well-motivated staff to respond?

Will it have the legal authority and material resources to respond?

Will it have the capacity and will to engage in the kind of thorough investigation and critical analysis that has typified all of its major actions in the '70's?

Will it be able to respond in an intelligent way, not by knee-jerk reactions but by rules and guidelines that will preserve the merits of a creative and efficient free-market economy and prevent abuses of that market?

Once its rules and guides are promulgated, will merchants have any duty to observe them? Will its regulations be "law"?

Will their legal force and effect be so watered down that unscrupulous businesses will be able to continue as before?

A free market depends upon the observance of a minimum level of honesty and fairness by all participants. Free markets cannot function in the face of deception, and no theory says they can. And the optimum distribution of resources that is one of the principal hallmarks of a genuinely free market cannot be realized when exchanges are unfair.

The Federal Trade Commission's power and duty to prevent unfair and deceptive practices in commerce are deeply routed in a long-standing national policy in favor of the preservation of the free market. For that reason, a destruction of the Federal Trade Commission or a diminution of its powers, resources, or status would itself therefore be an act in derogation of the market. It can only set the stage for further erosions in the freedoms business enterprises have had to serve the consumer will.

If the FTC were guilty of either overreaching or incompetence, Congressional action would be appropriate—indeed necessary. There is no evidence, to my knowledge, either of overreaching or incompetence at the FTC. As in all controversial matters, however, those who would be adversely affected, whether funeral directors, used car dealers, or consumer finance companies, are using every lawful means to prevent the commission from carrying out its responsibilities in their particular industries. They are, I assume, actively lobbying you and all of the other members of the Congress to "curb the FTC". I can well imagine the political pressures that you and all individual Congresspersons face. I appreciate how difficult it must be in deciding how to respond to such forces.

In my judgment the FTC has been doing an outstanding job as a protector of the integrity of the marketplace and as servant of the mutual best interests of both businesses and consumers. A vote in favor of almost any of the measures that are now being proposed by anti-FTC forces would be a vote in favor of the very practices which the FTC was set up to prevent.

I urge you, individually, to reflect upon the true meaning and likely impact of the proposals that are now being considered to "curb the FTC" and, in deciding upon your vote, to let your decision be based on a wise assessment of what is indeed the best public interest. And, in making your judgment, I hope you will agree with me and give the FTC your vote of support.

Here in the states—for our part—we hope to be able to continue to look to the FTC for assistance in serving the public interest, including the interests of the business community and the interests of the consuming public, our special constituents. In the past, we have both supported the work of the FTC by sharing our own experiences and insights with the FTC and also by utilizing the FTC's excellent reports and analyses of particular industries and issues as a springboard for appropriate action here at home.

We, our constituents, and the entire nation would suffer a major loss if these and other functions were discontinued or curtailed as a result of any of the steps now being considered.

Thank you for your consideration of the FTC.

Yours respectfully,
RICHARD B. SPOHN,
Director.●

THE LOW-INCOME ENERGY ASSISTANCE BILL

HON. MIKE LYNN SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. SYNAR Mr. Speaker. this body acted today on legislation to address a critical issue: Federal assistance to low-income and elderly persons to help pay their winter heating bills. Fuel costs have risen dramatically in the past several months. Many people will be paying heating bills twice what they were last winter. The hour is late, and once again this body is acting on crucial legislation in an atmosphere of crisis instead of reason.

I firmly believe the Federal Government has a moral responsibility to provide assistance to those in our Nation who are least able to help themselves get through critical times such as these. I believe that some citizens of this Nation will truly be facing a situation this winter of paying enormously high heating bills or putting adequate food on their tables. We simply must help these people avoid having to make that choice, and I would enthusiastically support well-thought-out legislation to that end. The American people and this body have known for months that assistance payments to low-income and elderly citizens would be essential this coming winter. But for reasons beyond me we have delayed action on such legislation until the last minute. Winter is almost upon us, and only now are we being asked to act on such low-income assistance legislation. This bill was given absolutely minimal consideration by the Appropriations Committee: 1 day of consideration by the subcommittee and 1 day of consideration by the full committee. I have serious concerns over the implementation of this massive aid program. There are potentially critical flaws in the bill. I cannot justify spending $1.35 billion on a half-thought-out program.

This body has known for weeks, if not months, that some form of windfall profits tax legislation was going to be enacted, and that a low-income energy assistance program would be a significant end-use of some of those funds. The administration made energy assistance payments to the poor and elderly one of the priority uses of the windfall profits tax revenues. When this House passed its version of the windfall profits tax bill, there was a good deal of discussion about this assistance program. It is not as though we suddenly awoke this morning to discover that fuel prices had risen dramatically and that something absolutely had to be done now—today—to help those who will desperately need assistance this winter in meeting the high costs of heating their homes.

In summary, no one believes more strongly than myself that lower income and elderly people in our Nation need and deserve this assistance. No one wants to help them more than I do. But this particular bill is ill conceived and has potentially serious deficiencies. In good conscience, I simply could not support the bill considered by the House of Representatives today. We must address the problem. We must do it quickly. But we must do it correctly.●

ADMINISTRATION RESPONSE CRITICAL OF DELAYS IN UDALL-WIRTH EMB PROPOSAL H.R. 5660

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DINGELL. Mr. Speaker, the administration has produced an analysis critical of the judicial review provisions of the alternative Energy Mobilization Board proposal by our colleagues Mr. UDALL of Arizona and Mr. WIRTH of Colorado. This analysis reports that their bill, H.R. 5660, "would add years of delay to the (energy) fast-track process by injecting the courts into the process at two key points."

I earlier requested the administration provide me with their comments on the Udall-Wirth bill and the following analysis provided me today shows the unwise course that would have to be adhered to in their bill which would thwart policy guidelines of energy fast-track legislation.

I insert at this point the administration analysis:

ANALYSIS OF DELAY CAUSED BY JUDICIAL REVIEW PROVISIONS OF UDALL-WIRTH EMB PROPOSAL (H.R. 5660)

The Udall-Wirth EMB bill (H.R. 5660) would add years of delay to the fast-track process by injecting the courts into the process at two key points.

First, their bill subjects decisions of the EMB to designate specific projects for fast-track treatment to judicial challenge. This approach invites litigation by any interest that might object to a project, and could add over 2 years to the permitting process (see Attachment 1).

Second, the Udall/Wirth bill requires use of the courts to enforce deadlines for permitting decisions established by the EMB. If an agency misses a deadline, the EMB must seek an order from the U.S. District Court either enforcing the existing deadline or establishing a new one. If the agency thereafter fails to comply with the court order, the President is authorized to take over the decision. Assuming that it would not be necessary for the Board to seek a second court order to determine whether a violation of the first court order had occurred and that such a determination would be made by the Board (or President), the Udall/Wirth proposal could add as much as 3½ years of additional delay (see Attachments 2 and 3).

The relevant time requirements are summarized below:

	Minimum		Maximum	
	Years	Months	Years	Months
Udall/Wirth:				
Review of Designation Decision		4.5	2	1
Court Enforcement of Deadlines	1	2	5	5
Total	1	6½	7	6

ATTACHMENT 1

TIME REQUIRED TO COMPLETE JUDICIAL REVIEW OF EMB DECISIONS TO DESIGNATE PROJECTS FOR FAST-TRACK TREATMENT UNDER UDALL/WIRTH PROPOSAL (OCT. 22 1979)

Trigger: EMB decides to designate a project for fast-track treatment:	Day
Step 1: Appeal of EMB decision is filed in Federal Court of Appeals	15–60
Step 2: Court of Appeals decides issues	15–180
Step 3: Petition for certiorari filed with U.S. Supreme Court	15–60
Step 4: Supreme Court decision on petition	15–180
Step 5: Argument heard	60–90
Step 6: Decision of Supreme Court	15–180
Total	[1] 135–750

ATTACHMENT 2

TIME REQUIRED TO ENFORCE DEADLINES UNDER THE UDALL/WIRTH PROPOSAL (OCT. 22, 1979) (ASSUMING ONLY 1 ENFORCEMENT LAWSUIT IS REQUIRED)

Trigger: Agency misses deadline for decision:	
Step 1: Seek District Court enforcement	15–30
Step 2: District Court decides	15–120
Step 3: Appeal to Court of Appeals	15–60
Step 4: Court of Appeals decides	15–180
Step 5: Petition for certiorari to Supreme Court	15–60
Step 6: Decision on petition	15–180
Step 7: Argument heard	60–90
Step 8: Decision	15–180
Step 9: State and local again fail to decide per order	90–180
Step 10: EMB completes record	15–90
Step 11: EMB/Pres. decides	15–30
Step 12: EMB decision to Court of Appeals	15–180
Step 13: Court of Appeals decides	15–180
Step 14: Petition for certiorari	15–60
Step 15: Decision on petition	15–180
Step 16: Argument heard	60–90
Step 17: Decision	15–180
Total	[2] 430–1,950

ATTACHMENT 3

TIME REQUIRED TO ENFORCE DEADLINES UNDER AMENDED COMMERCE BILL

Trigger: Agency misses deadlines for decision:	Day
Step 1: EMB completes record	15–90
Step 2: EMB decides	15–30
Step 3: File appeal of decision in Court of Appeals	15–60
Step 4: Court of Appeals decides	15–90
Step 5: File petition for certiorari with Supreme Court	15–30
Step 6: Decision on petition	15–180
Step 7: Argument heard	60–90
Step 8: Supreme Court decides	15–180
Total	[1] 165–750

[1] 4.5 mo to 2 yr 1 mo.
[2] 1 yr 2 mo to 5 yr 5 mo.
[3] 5½ mo to 2 yr 1 mo. ●

FOOD STAMPS: THE DAMNABLE QUESTION

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. HARKIN. Mr. Speaker, my distinguished colleague and chairman of the House Agriculture Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, FRED RICHMOND, is as you know deeply committed to the nutrition and health of our low-income citizens. The food stamp program is our major State-administered Federal program. In recognition of this Federal-State relationship, the subcommittee chairman delivered the keynote address to the National Council of State Welfare Administrators of the American Public Welfare Association meeting that was held this week in Washington.

Representative RICHMOND called upon the State commissioners to help Congress bridge the gap between legislative ideals and administrative realities. This spirit of cooperation will be critical to the subcommittee as we hold hearings and markup on the food stamp amendments of 1980.

Representative RICHMOND's remarks follow:

REMARKS BY FRED RICHMOND

For Congress, food stamps is the damnable question.

After five years in Congress and three years as Chairman of the House Nutrition Subcommittee, I have come to the conclusion that there is no way to satisfy the needs and demands of all those who have a direct interest in the Food Stamp Program.

By nature, Members of Congress thrive on public approval. Previously there was some confidence that we knew what our constituents wanted and by addressing their concerns we would be assured the votes necessary to keep us in office. Now it is anyone's guess.

Rather than hearing one voice, Congress hears many voices.

Rather than enacting laws in an orderly and logical process, the 96th Congress seems determined to do, undo, and redo every bill that comes before it. Food stamp legislation is an excellent if not unfortunate example of this confusion.

After spending hundreds and hundreds of hours passing the massive 1977 Food Stamp Reform Act, we felt that by eliminating the purchase requirement, standardizing deductions and reducing the potential for fraud and error we had performed an admirable public service.

Then, to our dismay, came the thousands of angry letters from constituents, the complaints of the state administrators and the attacks of advocates for the poor.

Once more we passed a new law which we believed was humane in intent both in relation to raising the cap and instituting new medical and shelter deductions for the elderly and handicapped.

There are however a number of indications in P.L. 96–58 and the debate which surrounded it which point to trouble ahead:

By separately identifying the elderly and SSI recipients as a special class of citizens, we have destroyed the homogeneity of the program. What other politically potent groups will now demand special treatment?

By establishing a new set of deductions we have reversed our intent to simplify the program, and I suspect we have added new burdens to your employees who must enroll participants and verify eligibility.

Finally, by giving the Secretary the authority to reduce benefits for some but not all participants, we have opened the way to potential cutbacks in funding.

This year because of the continuing problem with the budgetary ceiling—namely an estimated $2 billion shortfall—we are again in the midst of another food stamp battle.

As you know, it is the intention of our Committee to report out a bill before Congress recesses and to pass final legislation no later than February of next year. Unlike last year when we were able to protect the program from gratuitous amendments by intricate legislative maneuvers we no longer have such an advantage.

In addition to debate and amendments on such controversial titles of H.R. 4318 as removal of the cap, quality control and error rate sanctions, verification and retrospective accounting we face both in Committee and on the Floor such potentially damaging amendments as recoupment, the loss of the semiannual cost of living increases, a ceiling on gross income and an amendment similar to that offered against the welfare program by Mr. Michel to reduce program benefits by the amount of the national rate of overpayment. Amendments dealing with workfare projects, outreach, and in-kind benefits are also likely.

On the positive side, I intend to fight to lower the medical deduction to the pre-1977 threshold of $10 and to remove the cap for 1980 and 1981. To be candid with you, though, I think that given the current mood of Congress we will be very fortunate indeed if we can maintain the integrity of the program as it is.

You and I know that no program can withstand the shock of arbitrary and major revisions each year. My message to you today is that we must work together, particularly in the next few weeks and months, to close the widening gap between legislative ideals and administrative realities.

We must work together to overcome a number of prejudices and misconceptions which Members have about what we know to be a very worthwhile program. Last summer, during debate before the House, one Member of the Committee not only objected to the extent and cost of the program, but also condemned it for the damage that it supposedly is doing to the American character and the work ethic in particular. While my colleague's remarks were somewhat extreme, make no mistake that it is profoundly disturbing for Members of Congress to accept the fact that in a relatively prosperous economy 18½ million Americans are receiving over $7 billion in food stamps and another 15 million are eligible for similar aid.

While Members are not devoid of compassion for the poor, it angers them that after ten years of program operation we still have a national error rate of 13 percent with some states running above 20 percent in overpayments.

I know from reading your Interstate Conference Report that because of Congress' burdensome changes "State Agencies are no longer willing to accept sole responsibility for what may appear as excessive error rates, poor client services or inadequate cost effectiveness."

I know that many of you have problems with quality control, verification, outreach and points and hours.

I know that all of you are greatly concerned about the proposed sanctions against states which fail to lower error rates, and I know that it is somewhat illogical to penalize you for overpayment by lowering your administrative payments.

Like you I am not happy with the inexcusable delay by the USDA in promulgating regulations. But I also know and I think you had better recognize that there is much sympathy in Congress for the view expressed by a very distinguished Member of our Committee when he noted during the course of debate on the Floor that:

"There is not an army of Federal workers within the various States administering food stamps. There are State and local employees, and if we have error rates in the program, it is for the most part the result of bad State and local administration which we must try and correct."

This misconception is a direct result of the gap between administrators and caseworkers on one hand and legislators and regulators on the other.

While my staff and I have been fortunate to have the opportunity to work closely with my State and City Commissioners and their dedicated assistants, the same cannot be said of most other Members of Congress and in particular those who serve on the Agriculture Committee. For too long we have gone our separate ways. Today's meeting is, I hope, the first step in closing that gap.

During the next two days each of you should personally visit with Representatives in your state delegation in the House. For those of you whose states are represented on the House Agriculture Committee and especially on my Subcommittee, such meetings are critical.

It is of utmost importance that states make an articulate case before Congress. By the time a bill reaches the Floor or Conference Committee, it is too late to make the sensitive adjustments necessary to fine tune such a complex program as food stamps.

One of my colleagues who has been a great defender of the program at some political risk to his career recently complained to me that he has not heard once from his State Commissioner or Food Stamp Director.

You lobby your State legislatures

You lobby your state Governors.

Why aren't you lobbying us? States are sovereign bodies unto themselves, but remember what I said earlier about conflicting voices. When you or your representatives appear before our Subcommittee next week, you should have some sense of agreement and coordinated advice to give us about lifting the cap, the determination of error rates and the imposition of sanctions, recoupment, and retrospective accounting.

I have heard that many of you believe that recoupment is illogical and would place an intolerable burden on the states—that financial incentives, not sanctions are preferable ways of motivating states to lower their error rates. I agree! But Ladies and Gentlemen, when has logic alone carried the day?

Congress is faced with tremendous political pressure to reduce spending and curtail federal programs. Only with your advice and your testimony will we be able to discern the workable from the illusionary courses of action.

If a change in eligibility requirements means an hour more of a caseworker's time per applicant,

If increased regulations lead to higher error rates,

If recoupment means a costly annual review of all households,

Then we need to hear so directly and forcefully from each of you. Too often Congress legislates in the blind or even worse is guided by public myths which sound like truth if repeated often enough.

Only recently and only with your cooperation have we had reasonable documentation:

That the majority of food stamp households have gross incomes below $3,600 a year.

That more than 20 percent of program participants are elderly.

That the majority of new participants are from rural areas.

That higher food costs are primarily responsible for breaking the cap,

And that the program strengthens the economy by directly benefiting farmers, food manufacturers and local businessmen.

I do not have to tell this group how politically useful such information is to Congress.

During your conference you have an excellent opportunity to develop the network and strategy to ensure that Congress will be able to bridge the gap between legislative ideals and regulatory realities. There is no one in this audience who does not want to help the poor, who does not want the most just, efficient and humane program. There is too much at stake for us and the poor people we serve to continue to go our separate ways.

Over the past two decades we have developed one of the most comprehensive public programs for those in need that has ever been attempted on a national scale. Where there was hunger and malnutrition, condescension and abuse, there is now in place a network of food assistance programs approaching a cost of some $15 billion. I don't have to remind you how hard we fought for each victory.

But the good days are coming to a close. In this period of drift and social uncertainty much of your role as Directors and Administrators will depend on your ability to protect and maintain the funding and integrity of the programs under your jurisdiction.

There is no glory in this rearguard action.

You will be attacked from both the right and the left. Given the current political environment you face the prospect of a number of substantive changes in the program's operation. That many of these changes might possibly contradict one another will try your patience even more.

But should you falter—should you fail to make your voice heard in Washington—you will see your hard won victories eroded away.

We for our part stand ready to listen to you and to work with you.●

TRIBUTE TO ALICE B. BREDELL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. FLORIO. Mr. Speaker, it gives me pleasure to acknowledge the achievements of my constituent, Mrs. Alice B. Bredell, 515 Gloucester Avenue, Magnolia, N.J.

Mrs. Bredell was born in Glendora and has remained a lifelong resident of South Jersey, dedicating herself tirelessly to the 4-H programs in the area.

For 25 years she has been a 4–H leader specializing in the clothing programs. She has been a home economics leader and treasurer of the local 4–H association.

Helping the young to reach their potential in other 4–H activities, Mrs. Bredell also was a camp counselor from 1954 to 1979.

Her community activities also reach outside the 4–H as she is an active member of the Magnolia United Methodist Church, providing additional service to her neighbors.

Mrs. Bredell is being honored at the 4–H Annual Leaders' Recognition Dinner in Sicklerville, N.J. for her over two decades of dedication.

Mrs. Bredell is the mother of a daughter, Barbara Sawyer, also a 4–H leader. She has three grandchildren who are all 4–H members.●

UNMAKING OF TREATIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. McDONALD. Mr. Speaker, understandably, there are some people in the Department of State upset over Judge Gasch's recent decision that President Carter did not follow the Constitution of the United States in unilaterally deciding to terminate our Mutual Defense Treaty with Taiwan without recourse to the Congress. However, as the Richmond Times-Dispatch of October 20, 1979 pointed out in an editorial, treaty commitments should represent something more than just the whim of one man—the President. We need to reassure our allies that the word of the United States stands for something. I commend the editorial to the attention of my colleagues.

UNMAKING OF TREATIES

Morally, President Carter was wrong, in our view, to proceed on his own last Dec. 15 to break the 25-year-old Mutual Defense Treaty with Taiwan, a loyal ally, in order to accede to the conditions for exchanging ambassadors laid down by the People's Republic of China.

Legally, it was an open question—but one of potentially grave significance for the stability of American foreign relations. If one president could unilaterally declare the Taiwan pact null and void, a future president could just as easily pull out of the North Atlantic Treaty, or scuttle treaties with such important allies as Japan, South Korea, the Philippines, Australia and New Zealand without being required to show that any support whatsoever existed in Congress for his actions.

The Constitution is clear in stating that the president's treaty-making power is circumscribed by the need to obtain the "advice and consent" of the Senate, with the proviso that "two-thirds of the Senators present" must concur. As to unmaking treaties, the Constitution is silent.

When first asked to consider the suit brought by Sen. Barry M. Goldwater, R-Ariz., and 23 other congressional conservatives, challenging Mr. Carter's attempted treaty abrogation, U. S. District Judge Oliver Gasch showed an understandable—even commendable—reluctance to step into the unprecedented conflict, in the absence of any expression of the full Senate's position on its constitutional role. But when the Senate then voted 59–35 in support of the Goldwater view that it shared in treaty-unmaking power, the way was clear for the judge properly to adjudicate the dispute.

Judge Gasch's decision Wednesday voiding President Carter's action (which was scheduled to become effective Jan. 1) was in accord with the constitutional principle of checks and balances on the exercise of power by the three branches of the federal government. He held that a president "alone cannot effect the repeal of a law of the land which was formed by joint action of the executive and legislative branches, whether that law be a statute or a treaty."

President Carter is appealing the decision, and it is possible a majority of the Supreme Court justices will eventually agree with him. But such an outcome would be injurious to the position of the United States in world affairs. It would tell our allies that the adherence of the U. S. to its solemn treaty commitments rested on nothing more substantial than the inclinations of the man occupying the presidency at a particular time.●

LET'S CALL IT OFF

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. MICHEL. Mr. Speaker, as we watch, with a mixture of horror and hilarity, the efforts of the Carter administration to scramble back into the good graces of the American people, one absurdity follows another. First we had the Rafshoon-inspired new speech techniques of table pounding and arm waving which were supposed to show us that President Carter is a leader. Far from looking like a leader as he goes about waving and pounding, the President resembles somebody trying to send semaphore messages without the flags.

And now we have his recent vow to create an Office for Families. The President's pollsters and image makers are obviously aware that the word "family" has strong political vibrations these days. So the administration's deep thinkers, led no doubt by the Chief of Staff, set to work to see just how the administration could exploit this concern over families.

What did they come up with? Did they say that the Carter administration would have to immediately show some signs of stopping the inflation that is ravaging the family budget? No. Did they say there should be a review of all Federal aid to education since, after over $50 billion of such aid, we have declining test scores and a generation of children who are functional illiterates? No. What the Carter administration proposes is that we have yet another bureaucratic entity created, an Office for Families.

One does not know whether to laugh or weep. Is it still possible that after the accumulation of overwhelming evidence to the contrary, there are still those who believe that social and economic ills can

be cured by creating another Federal agency? In the Carter administration, apparently, such an idea is considered to be the height of responsiveness to public needs. This may well explain why the Carter administration has become the laughing stock of the Nation.

The American family needs a strong dollar, a declining rate of inflation, tax policies that lead to more savings, more investment and more jobs, an educational system that serves children and parents not pressure groups, and a strong national defense to keep the freedom in which a family can grow and prosper.

The Carter administration has provided none of these.

At this point I wish to include in the RECORD a funny and incisive look at the latest administration folly, "The Office for Families; Let's Just Call it OFF" by Joan Beck, in the Chicago Tribune, October 10, 1979.

The article follows:

THE OFFICE FOR FAMILIES; OR LET'S JUST CALL IT OFF

Jimmy Carter, who doesn't know how to president as well as John Paul II knows how to pope, evoked the Pontiff's name when he announced last week that he is creating a federal "Office for Families."

So far, the President has been vague about what his new Office for Families is supposed to do, except that it is to provide the focal point for the development of federal policies and programs affecting families. He hasn't even said whether the agency will be called OF or OFF.

Carter did say that the American family is "in trouble," with many families "strained to the breaking point by social and economic forces beyond their control." But surely he doesn't mean to give OFF the power to change those economic stresses—like inflation, high taxes, the marriage tax, and eroding savings—for which the federal government is primarily responsible.

So we can only assume the President is starting OFF in hopes of projecting the kind of sentimental and human aura that attracted so many millions of people to the Pope. But families aren't the only old-fashioned value in trouble today and Carter may be tempted to cast OFF as a model for other new government agencies in hopes of OFF-setting the appeal of other Presidential candidates.

Actually, OFF may not be the universal voter turn-on Carter assumes. The White House Conference on Families he scheduled so hopefully earlier in his administration had to be postponed because of heavy flak over the definition of "family." [An unmarried mother? Two homosexuals?] The conference is now reset for next summer, but split into three segments to be held in three cities outside critical Washington.

But like energy, love seems to be in short supply these days and filling voters' yearnings for love could be a new way to garner votes. Maybe the President could improve his slipping ratings by creating a Bureau of Love and Similar Emotions [that finesses the issue of defining "love"]. BLASE, with thousands of new employes, could spend billions of dollars trying to redistribute love more equally. [Love stamps? Green Lovecaid cards for poor lovers? Compulsory integration of the lovable and the unlovable?]

There's a shortage of kindness these days, too—as every president since John F. Kennedy has personally experienced. But who could resist feeling kindly toward President Carter for setting up a new federal Office for Kindness? OK could finance the development of new kindness resources [giving priority to minorities and small entrepreneurs]. It could draw up regulations giving environmental protections to kindness. And it could help reduce our dependence on expensive and unreliable foreign kindness.

Our gross national production of laughter has also fallen off drastically—due in part to the Viet Nam war, the Nixon administration, and strictures against the use of ethnic and sexist jokes. Even President Carter himself has a notable shortage of humor and the dearth of unadulterated, natural laughter on TV has led to a reliance on canned synthetics many doctors think is harmful to mental health. President Carter should delay no longer in setting up a federal Humor and Hijinks Administration, so we won't have to go through another election campaign without HAHA.

Although President Carter spoke at length last week about upholding family values, he neglected one of the most basic and threatened: cooking. Working women, fast food chains, preservatives, high prices, and dieting are all eating away at what was once a proud national heritage. A new Department of Cooking [DOC] could provide federally-funded training programs for poor cooks, give a new sense of worth to housewives, show the world we care as much about butter as guns, and—possibly—win the votes of millions of non-thin Americans.●

EVENT TO HONOR DR. MAX NOVICH

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. PATTEN. Mr. Speaker, Max M. Novich, M.D., nationally and internationally known orthopedic surgeon and authority on sports medicine will be honored on Monday, October 29 at the Seventh Annual Maxie Fisher-Lou Halper Memorial Boxing Show in Hillside, N.J. Dr. Novich, who has been associated with boxing on every level from participant to ringside physician, has initiated many changes to improve the sport of boxing and develop medical safeguards for boxers.

Dr. Novich lives in South Orange with his wife, Jean and their three children. He is presently clinical professor of surgery at CMDMJ-New Jersey Medical School and Director of Sports Medicine there and at the United Hospitals Orthopedic Center-Hospital for Crippled Children in Newark. He also maintains offices in Perth Amboy and Newark.

Dr. Novich was born and raised in Newark; he attended public schools and graduated from Central High School. He received his early training in boxing in Newark. In 1932 Mitch Silvers became his trainer at the High Street YMHA.

He fought as an amateur in Newark and New York in the early 1930's. At the University of North Carolina in Chapel Hill he worked his way through on a boxing scholarship and earned a baccalaureate degree in 1937. His intercollegiate record included two southern intercollegiate championships and two silver medals in the National Collegiate Athletic Association championships in 1936 and 1937. In 1936, he was invited to participate in the Golden Gloves Olympic tryouts held in Chicago for the preparation of the final 1936 American Olympic boxing team and reached the quarter-finals. He was captain of the 1937 University of North Carolina boxing team.

Dr. Novich fought professionally before entering medical school and then gave up competitive boxing. He was named freshman boxing coach of the 1937–38 UNC boxing team. Dr. Novich was also selected as one of the top 60 athletes in the history of UNC intercollegiate athletics. He received his M.D. degree from the University of Louisville in 1941.

During his internship at the Newark Beth Israel Hospital in 1942, he taught boxing at Weequahic High School. He enlisted in the U.S. Army Medical Corps in 1943 and was discharged in 1946 with a combat medical badge, four battle participation stars, a Bronze Star for Meritorious Service in Military Operations, a Purple Heart, and a battlefield promotion to captain. He was the 29th Division boxing coach, leading the team an unbeaten record in the European theater of operations.

After returning to this country, he successively became a diplomate of the American Board of Orthopaedic Surgery, fellow of the American Academy of Orthopaedic Surgeons, fellow of the American College of Sports Medicine and fellow of the American Orthopaedic Society of Sports Medicine. He is a member of many professional societies.

For many years he was on the National AAU Boxing Committee. He served on the U.S. Olympic Boxing Committee (1972–76), was consultant in boxing to the President's Commission on Olympic Sports, served on the medical jury for boxing, ringside physician, for the last three Olympics, was alternate physician for the 1956 U.S. Olympic Team and chief physician for the 1965, 1969, and 1973 Maccabiah teams. He also taught young boys how to box in his innovative Sunday Boxing School for Overprivileged Boys.

Dr. Novich was a founder and president of the Association of Ringside Physicians for the first World's Cup Amateur Boxing Championships in Cuba in 1974. He served as a physician for many AAU boxing teams in international competition. He developed and started an advanced center for the scientific study of boxing at Kean College.

He is the author of numerous articles on orthopedics and sports medicine. His book, "Training and Conditioning of Athletes"—Lea & Febiger—is in its second edition. His second book, "The High Energy Diet for Dynamic Living" was coauthored with Ted and Jean Kaufman of East Orange and published by Grosset & Dunlap.

Mrs. Novich is the former Jean Jolley. She was operating room supervisor at the Newark Beth Israel Hospital and is now a trustee for the village of South Orange. Their three children are Jay, 19, a sophomore at the University of Louisville; Nina, 18, a freshman at the University of North Carolina; and Bebe, 16, a junior at Columbia High School in South Orange.●

INFLATION-FIGHTING CERTIFICATE FOR THE ELDERLY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ROYBAL. Mr. Speaker it is my pleasure to introduce H.R. 5709, which would amend the Second Liberty Bond Act to provide that the Department of the Treasury issue special savings certificates indexed to the rate of inflation for persons aged 65 and over. The certificate would pay 2 percent per annum plus the rate of inflation, as calculated from the difference between the Consumer Price Index (CPI) most recently available at the time of purchase and the CPI most recently available at the time of redemption, if the bond is held for at least 6 months. If it is redeemed sooner, the rate of inflation would be calculated from the CPI published soonest after the time of purchase to the CPI most recently available at the time of redemption. The bill sets a $3,000 limit on the amount which any individual can invest in this Treasury instrument, an amount which could be considered to constitute "essential savings." The bill also provides for a limit on the total amount which the Treasury can issue in these certificates and specifies that the certificates will be available in denominations as low as $50. The purpose of this new instrument is to provide a sorely needed means for older persons to preserve at least a minimum amount of their savings from the ravages of inflation.

My decision to introduce this bill arose from the findings of the Subcommittee on Housing and Consumer Interests, which I chair, of the House Select Committee on Aging. During this Congress, my subcommittee has held hearings on the impact of inflation on the elderly in general and on the savings interest rates available to elderly small savers in particular. While younger working Americans certainly feel the effects of inflation and tend to be apprehensive about economic conditions, many older Americans are literally terrified, with no idea of how they are going to survive in the face of rapidly rising costs of necessities. Many older persons are faced with choices between paying the rent and buying food, between paying the heating bill and paying for medical prescriptions.

For older Americans, the rapid erosion of the purchasing power of their savings is a particularly significant component of the inflationary picture. Many older persons depend on their life-savings or money from the sale of a house for all or part of their income. Others may have managed to save a small "nest egg" for an emergency, only to see it rapidly evaporating as a result of inflation. According to the U.S. League of Savings Associations, 42.9 percent of all savings deposits in 1975 were held by persons over 65, who presumably also account for a similar proportion of individual savings account balances at commercial and mutual savings banks. By contrast, elderly households owed only 2.2 percent of all household mortgage debt outstanding in 1977, according to the 1977 Federal Reserve Survey of Consumer Credit. Thus, it is clear that our economic conditions and policies which provide advantages to borrowers and penalties to savers work to the most direct and severe disadvantage of the elderly.

Regulation Q gives our financial regulatory agencies the authority to impose ceilings on the interest rates which banks and savings and loan associations can pay to depositors. This authority has been administered in such a way that interest rates allowed on passbook accounts and most time deposits are far below market rates and even farther below the rate of inflation. The Department of the Treasury has estimated that these artifically low-interest rates have cost Americans $42 billion over the past 10 years, with $19 billion of this loss being borne by the elderly. For individual depositors, this means a loss of one-third of the purchasing power of their savings over a 5-year period, because of the difference between the CPI and the regulation Q ceilings. These powerful disincentives for saving, complemented by the equally powerful incentives for borrowing built into the tax system and elsewhere, help to fuel the inflation which is plaguing our Nation today.

Our tax system reinforces our financial regulatory policies in favoring borrowing and penalizing savings. Whereas unlimited deductions are allowed for interest paid on personal loans, interest earned on savings is fully taxed, further increasing the effective deficit realized from investment in savings. I fully support exempting a certain amount of interest earnings from taxation. This would be at least a step toward correcting the bias built into our tax system.

We have for some time pursued a housing policy of keeping mortgage interest rates as low as possible, with regulation Q as a major component of this policy, reinforced by tax deductions for loan interest payments. Ironically, disincentives for saving, including regulation Q, have created a severe shortage of money for mortgage loans from this source, driving up the cost of mortgage loans and necessitating the development of a complex, additionally subsidized secondary mortgage system to make more money available for mortgage loans. It is clear from our experience with the offering of 6-month money market certificates that it is the supply of money for mortgage investing, more than the cost of the money, which is most crucial for the well-being of the housing industry. As chairman of the Aging Committee's Subcommittee on Housing and Consumer Interests, I am deeply concerned about housing in our Nation and for our Nation's elderly. I am simply not convinced at this point that, under present economic conditions, regulation Q still provides substantial support to increase the supply and affordability of housing for Americans today.

I would personally favor a rapid phase-out of regulation Q over perhaps a 5-year period, with expansion of the powers of thrift institutions and direct assistance to certain thrift institutions, perhaps in the form of GNMA purchase of remaining low-yield mortgages. The gap between the interest rate ceilings and the rate of inflation has been allowed to widen to the point where a quarter of a percentage point increase in interest paid, as was allowed in the recent regulatory changes, cannot make a significant difference for the motivation of the saver.

The elderly today cannot afford to wait 10 years, in accordance with the Senate's proposed phaseout of regulation Q, to start getting a reasonable return on their savings. There are no easy solutions to the larger problem at this point. My introduction of this special Treasury certificate is in large part a stop-gap measure designed to cushion the devastating impact which our present financial policies are having upon the group which is being harmed most severely by these policies—the elderly.

Under regulation Q, small savers have provided a source of "cheap money" to financial institutions. Low interest rates paid to savers have in effect provided a subsidy for mortgage borrowing and, in the case of commercial banks, corporate borrowing. Last year, the difference between market rates and regulation Q imposed ceilings resulted in windfall profits for many large financial institutions.

When regulation Q policies were first formulated, economic conditions were very different. Since that time, however, overall economic conditions have changed substantially, with no corresponding flexibility in the way regulation Q has been administered. The present situation which has been allowed to develop, with multibillion dollar per year subsidies coming out of the pockets of those who can afford it least, is to me grossly untenable. Those who are wealthy enough and financially sophisticated enough to move their money out of low-yield accounts generally do so. It is those who have no viable alternative, whose accounts are not "interest sensitive," who are essentially being milked as a source of "cheap money." I personally can find no justification for perpetuating this situation.

Under the circumstances, I think the very least we can do is provide an alternative whereby senior citizens being directly penalized by this situation can gain a small but positive return on their investment and protect the purchasing power of at least a minimum "essential" amount of their savings. I strongly urge my colleagues to support H.R. 5709, which provides such an alternative.●

NATIONAL OPERATING ROOM NURSES DAY

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. TAUKE. Mr. Speaker, I would like to take this opportunity to introduce a resolution authorizing and requesting the President to proclaim November 14, 1979,

as "National Operating Room Nurses Day."

This day would be a tribute to the hard work and dedication provided day in and day out by operating room nurses across the country. They are an integral part of the whole surgical process, which attempts to relieve the suffering and save the lives of thousands of medical patients.

Essentially, this legislation calls upon the people of the United States and interested groups and organizations to observe such a day with appropriate ceremonies and activities.●

D.C. VOTING RIGHTS; OUR UNFINISHED TASK

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. MARKS. Mr. Speaker, quite often, as we tackle the tasks which confront us during the day to day activities of the House of Representatives, we tend to get caught up in the issue of the moment; mindful of the future, but forgetful of the past. I refer in particular to the present status of the D.C. Voting Rights Amendment.

Just because we have passed the D.C. Voting Rights Amendment and sent it on to the States, does not mean that our task is completed. Recently, the amendment has been the focus of much attention in the press. The fact that it has only garnered the support of six States during the first year has prompted many editorials, columns, and statements pointing out the amendment's problems and proffering gloom for its future. Well, I think it is time to reverse this doomsday trend, and I would like to be counted among those who are actively working to assure that the D.C. Voting Rights Amendment has a future.

I am not about to second guess the actions of those who are in the forefront of the bipartisan effort being put forth in favor of D.C. voting rights. I do know that I was quite disheartened last November to hear that my own State of Pennsylvania was one of the first States to reject the amendment. This was an unfortunate occurrence, but I feel that the setback in Pennsylvania is temporary and can be reversed. I am sure that with the assistance of many of my colleagues from the Pennsylvania delegation, we can better educate certain legislators as to the merits of this amendment, and assure prompt passage the next time this issue is brought up.

Th Pennsylvania case is not unique. While similar situations exist in other States, the majority of the State legislatures have yet to address the D.C. voting rights issue. Thus, those of us in both the House and Senate who supported the D.C. Voting Rights Amendment still have the opportunity to take a leadership role in each and every one of our home States when this issue comes up for ratification.

Mr. Speaker, when we passed this amendment in the last Congress, we took a giant step in recognizing the injustices which exist in the District of Columbia under the present system of "taxation without representation." We cannot ignore the fact that this injustice continues. I call upon each and every one of my colleagues to join with me in speaking out in favor of the D.C. Voting Rights Amendment, in working for the D.C. Voting Rights Amendment, and in recognizing and acknowledging that our job will not be done until we can stand here in this Chamber and proudly welcome our new voting colleagues from the District of Columbia.●

REMARKS FROM 1964

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. COLLINS of Texas. Mr. Speaker, the fuel subsidy bill reminds us of the food stamp bill. The history of food stamps is interesting.

I went back to the CONGRESSIONAL RECORD of April 7, 1964, to review the House debate when food stamps joined the system.

Let us look at some of the statements made by supporters of the food stamp program when it was introduced:

> Let me make clear that this is not a handout program. Under the program the participating families must spend their usual food budgets for food and only have food in order to receive coupons entitling them to buy additional food.
>
> I ask the members from farm areas, Mr. Chairman, are they interested in raising food consumption by low income people in this country by 8 percent at no additional cost to the federal government?
>
> Mr. Chairman, I would like to point out to those who are very interested in taking government out of business that this is one way of getting the government out of the food business.
>
> At the very height of the worst recessions we have had since the direct distribution system began in 1954, we never had more than 6 million people receiving surplus food.
>
> The food stamp plan is no utopia. It is complex and there are difficulties in administering it. But it works. It has been tried and tested for three years. Those who choose to vote against it will do so not because it does not work but because it works too well to suit their political desire. They do not want Democrats to get credit for a good program.

These were sincere statements by the advocates of the food stamp bill. They originally asked for $25 million, but by the time the bill came to the floor, it was a $75 million authorization. The Department of Agriculture says in 1980 they need $8.3 billion to pay for the present food stamp program. If you will recall in the debate, they challenged the fact that it would ever get up as high as 6 million people. The plan has grown to where today with 19 million people on food stamps, they are anticipating $8.3 billion for this subsidy. That is an increase of 110 times from where food stamps started.

Considering this fuel bill starts at $1.3 billion, you wonder just how high this subsidy could eventually become.

This is another subsidy bill. But what happens to the people working for a living who are already paying in taxes 42 cents out of every dollar?●

CALIFORNIA PUBLIC UTILITIES COMMISSION URGES CAUTION ON ENERGY MOBILIZATION BOARD

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. WAXMAN. Mr. Speaker, one of the critical questions in our debate on the Energy Mobilization Board is whether and to what extent the Board will be able to recommend waivers of State and Federal law to expedite the construction of new energy projects.

In a recent letter, the California Public Utilities Commission has urged the Congress to reject any proposal which would enable such waivers. The commission argues that at stake is the very ability of the States to continue to protect the public health and safety of their citizens.

Most Federal laws, especially those dealing with the environment, seek to meet their goals through the establishment of a strong cooperative relationship between the Federal Government and agencies in each State. Our States have the expertise necessary to evaluate and assist in the siting and licensing of energy facilities. The States are particularly responsive, in ways beyond the ability of the Federal Government, to local and regional needs in evaluating these projects.

To enable the Energy Mobilization Board to abrogate these relationships by overriding State and local statutes would undermine the very partnership necessary to develop our energy resources. It is imperative, in our consideration of the Energy Mobilization Board, that this not be disregarded, and the State of California urges that the Congress be responsive to this basic need.

I am pleased to share the letter from the California Public Utilities Commission with my colleagues:

> PUBLIC UTILITIES COMMISSION,
> STATE OF CALIFORNIA,
> *October 1, 1979.*
>
> Re July 27 Committee Print showing Proposed Substitute for H.R. 4862, 4985, and 4573 as amended by the Subcommittee on Energy and Power: Part C—Priority Energy Projects.
>
> Hon. HENRY A. WAXMAN,
> *House Office Building,*
> *Washington, D.C.*
>
> DEAR CONGRESSMAN WAXMAN: On behalf of the California Public Utilities Commission (CPUC) I strongly urge you to oppose Section 182 of the above substitute for H.R. 4862, *et al.*, which would allow the proposed Energy Mobilization Board to bypass substantive state law on siting and environmental issues relating to priority energy projects. Instead, we urge your support for language similar to the proposed Wirth Amendment to H.R. 4862, which was recently considered but not adopted by the House Commerce Committee. It is to be noted that neither H.R. 4985 nor either of the Senate bills to create an Energy Board, S. 1308 and S. 1806, include such provisions for preemption of substantive state law, except that S. 1308 would authorize waiver of state law enacted after commencement of construction of a priority project.
>
> California's state environmental laws reflect critical regional conditions and experience. Such laws can be complied with in an expeditious manner. Federal preemption, on the other hand, involves substantial risk to public health and safety interests which have long been considered within the states' residual police powers. The states' ability to protect public health and safety interests has been preserved through a whole series of laws allowing for "cooperative federalism" in the siting process. I refer specifically to the National Environmental Policy Act of 1969 (42 U.S.C. 4321), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451), the Federal Water Pollution Control Act of 1948, as amended (33 U.S.C. 1251), the Clean Air Act of 1955, as amended (42 U.S.C. 7401), the Estuarine Act of 1968 (16 U.S.C. 1221), and the Deepwater Port Act of 1974 (33 U.S.C. 1501).
>
> Section 182 would create confusion by interfering with the scheme of regulation fostered by that whole body of law. It would encourage the federal bureaucracy to ignore the sometimes superior expertise of the states in emergency situations where that expertise is likely to be most needed. It does not address the causes of delays which have occurred at the federal agency level, including poorly defined federal inter-agency authority and, most importantly, the lack of a comprehensive national energy program.
>
> The CPUC's experience in the recent siting process for a California liquified natural gas (LNG) facility provides an example of why state environmental standards should not be preempted. That case demonstrates that in critical areas where federal and state standards do not coincide, the states may be ahead of the federal government in their recognition of significant health and safety hazards that affect them individually. Initially, the Federal Energy Regulatory Commission (FERC) gave the LNG project only limited review and in 1977 approved construction of a facility at Oxnard, California. Also in 1977, after extensive research on the subject, the State of California enacted the Liquified Natural Gas Terminal Act which required remote siting of an LNG facility, finding in effect that the Oxnard site was not safe. Now, two years later, it is apparent that Congress is recognizing the legitimacy of California's concern. At least four bills now before Congress on LNG safety call for remote siting of LNG facilities; S. 411, "Pipeline Safety Act of 1979"; H.R. 51, "Fuels Transportation Safety Amendments Act of 1979"; H.R. 1414, "Liquified Gas Marine Transportation Safety Act of 1979", and H.R. 3749. "The Coastal Area Liquified Gas Facility Safety Act."
>
> The expertise developed by California state agencies in the LNG siting case has proven essential to reasoned decision making, particularly on site specific problems. The FERC staff has relied heavily on CPUC studies on construction monitoring and mitigation of environmental impacts. Moreover, the federal agencies in Washington had limited understanding of critical seismic issues while California state government could draw on extensive local seismic engineering experience. Thus the states' expertise actually assists, rather than delays, the federal agencies in properly addressing significant issues. Section 182 would be a constant temptation to bypass state standards in an emergency situation despite the obvious risks, confusion, and probable slowdown in regulatory procedures involved.
>
> The CPUC has no objection to reasonable time constraints upon federal, state and local decision-making procedures. California will endeavor to cooperate with whatever federal agency is created to achieve the most effective possible implementation of the goals of this legislation.
>
> I respectfully urge you to vote against Section 182 of the above Substitute Bill and to do all in your power to ensure that the Wirth Amendment to H.R. 4862, or similar language, is attached to any siting legislation passed by the Congress and, if necessary, that the amendment be attached on the floor of the House. If this Commission or our staff can be of any assistance to you in this matter, please let me know.
>
> Yours very truly,
> JOHN E. BRYSON,
> *President.*●

STATEMENT BY THE EXECUTIVE COMMITTEE OF THE NORTHEAST-MIDWEST CONGRESSIONAL COALITION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. EDGAR. Mr. Speaker, the Executive Committee of the Northeast-Midwest Congressional Coalition is deeply concerned about adequate and timely Federal assistance for low-income families in the Northeast-Midwest region. Winter does not officially begin until December 21, but many of our constituents are well into drawing down their first tank of heating oil. The early arrival of winter weather to the Northern half of the Nation is a serious matter. It means greater hardships and financial difficulties for more than 16 million American households. Their living standard will be forced down further as the combined impacts of a 13-percent rate of inflation and a doubling of last year's heating oil costs erode spending power and preclude necessary dental, educational, health-related and other expenditures.

It has been estimated that in the New England, Middle Atlantic, and Midwest States, households below 125 percent of the Federal poverty level will use at least 40 percent of their income for fuel oil during the 1979–80 6-month heating season. This expenditure covers space heating only and does not even include the cost of fuel oil for water heating, a common type of fuel use in the Northeast.

According to the U.S. Department of Energy's Fuel Oil Marketing Advisory Committee report published in July of this year, poverty level recipients of assistance through a Community Services Administration program in a large Midwestern city spent 81.9 percent of their monthly income on heating, utilities, and housing if they used gas and 92.9 percent of monthly income if they used oil. Many fuel oil delivery companies now demand cash on delivery with minimum purchase requirements. Low-income families cannot afford to replace a small tank with a larger one and their cash-flow potential makes large fuel purchases impossible.

The housing stock of many elderly and low-income citizens is generally in need of repair and less well insulated than the houses of higher income families. Low-income households use 54 percent less electricity and 24.1 less natural gas than the average U.S. household. They are already conserving energy to the point of endangering their health. In the view of the POMAC report, "They are incapable, generally, of reducing their costs through reductions in consumption. And they have no other available option to continued consumption—there is no practical substitution possible that would provide cheaper energy sources."

For this winter, the Congress needs to quickly act, via the appropriations process, to fund the CSA effort already in place at a level of $1.6 billion. CSA has sufficient authority in title II, section 222(a)(5) of the Economic Opportunity Act of 1964, as amended, to operate the energy crisis assistance program this winter at that level of appropriation. CSA and its regional network is equipped to dispense the funds immediately. Final regulations have been issued and the Governors have already begun responding to the request for State plans. Such plans will dictate the specific needs of the various States, and the local service delivering system to be used.

The administration's concept of direct, one-time payments to recipients of AFDC and SSI needs to be reexamined. While it may be practical from an administrative point of view, this $1.2 billion program has serious flaws. Research shows that less than 50 percent of needy households (125 percent of poverty level) would be assisted. On the other hand, many of those who do not need fuel assistance would nonetheless receive it. In addition, the average payment of $100 to $200 will not cover more than one fuel tank fill-up and in practice may not even be spent on fuel but on other necessities.

It is urgent that the Appropriations Committee report immediately the supplemental requests for $150 million and an additional $1.2 billion as proposed by the administration, to augment the CSA program. Utilizing the CSA authority and under ideal circumstances it takes nearly 6 weeks from the time the appropriation is signed by the President until the local operating units receive funds and are able to begin assisting people.

By Thanksgiving families eligible for assistance may have depleted their first tank of home heating oil and received their heating bill, and cruel choices will be forced upon them. Some Americans, particularly the elderly, will have to make the decision to either heat their homes and not eat, or to eat, and freeze. Failure to respond to the needs of our constituents may be the prelude to a national disaster. Your urgent action is absolutely necessary to avert the suffering, and possible loss of life that may beset the victims of higher energy costs.●

MASSACHUSETTS LEGISLATURE SALUTES CONGRESSMAN CLAUDE PEPPER

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DRINAN. Mr. Speaker, recently, the Massachusetts State House of Representatives unanimously passed a resolution commending our esteemed colleague, Congressman CLAUDE PEPPER for his 50 years of faithful and dedicated public service and his untiring efforts on behalf of older Americans. The resolution notes that Congressman PEPPER "has long championed the cause of the elderly, is largely responsible for expansion of the home care program for the elderly, and led the fight against mandatory retirement based on age."

Congressman PEPPER began his celebrated public service career 50 years ago in 1929 when he was elected to the Florida State House of Representatives. He served as a U.S. Senator from 1937 to 1951 and was elected to the U.S. House of Representatives in 1962 and to each succeeding Congress. I join the Massachusetts Legislature in saluting my friend, Congressman PEPPER, in this golden anniversary of his public service career.

The resolution follows:

RESOLUTION

Whereas, Representative Claude Pepper from Florida's fourteenth congressional district was born on a farm near Dudleyville Chambers County, Alabama, September 8th, 1900, son of J. W. and Lena C. Pepper, attended the public schools in Camp Hill, Alabama, received his Bachelor of Arts degree from the University of Alabama in 1921, his Bachelor of Law degree from Harvard University in 1924, served as Instructor of Law at the University of Arkansas 1924–1925, and engaged in the General Practice of Law from 1925–1936 and from 1951 to 1962; and

Whereas, he served as a member of the Florida House of Representatives 1929–1930, member of the Florida Board of Public Welfare 1931–1932, and in 1933–1934 was a member of the Florida Board of Law Examiners; and

Whereas, he served as United States Senator from the State of Florida from 1937–1951; and

Whereas, having won the Democratic nomination for United States Representative from Florida's third congressional district he was elected to the 88th Congress on November 6th, 1962 and has been reelected to each succeeding Congress; and

Whereas, Claude Pepper during his long and distinguished career as United States Senator and thereafter as United States Representative has served with honor and distinction of many important committees, subcommittees and commissions, all to the great benefit of his constituents and the nation; and

Whereas, he has long championed the cause of the elderly, is largely responsible for the expansion of the home care program for the elderly, led the fight against mandatory retirement because of age, and is Chairman of the House Committee on Aging; and

Whereas, Representative Claude Pepper has been the recipient of many honorary degrees and other honors for his outstanding service; and

Whereas, the current year marks the fiftieth anniversary of his first assuming the duties of elected public office; therefore be it

Resolved, That the Massachusetts House of Representatives hereby commends United States Representative Claude Pepper for his many years of faithful and dedicated public service and extends to him its sincere best wishes for the future; and be it further

Resolved, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to United States Representative Claude Pepper.●

JOHN F. (JACK) KUBIK, SR., RECIPIENT OF COMMUNITY LEADERSHIP AWARD

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. HYDE. Mr. Speaker, it is a pleasure for me to bring to the attention of my colleagues an honor soon to be bestowed on Mr. John F. "Jack" Kubik, Sr., publisher of the Life newspapers in my district.

On November 16, the Seguin Retarded Citizens Association will present Jack with its award for community leadership. Though he has been similarly honored by a number of civic groups and organizations in the past, I am sure this award is especially meaningful for him because of the personal interest and compassion he has shown for the special needs of retarded children and adults, and his untiring efforts on behalf of the Seguin School serving those individuals in the Cicero and Berwyn area.

Mr. Kubik's interests in the community life of the cities and towns covered by the Life newspapers extends far beyond that of a publisher and businessman. Having resided in Cicero, Berwyn, and Riverside since 1918, he knows and cares about the people—his fellow citizens, neighbors, and friends—and has always been sympathetic to the individual needs of each community. When a "special cause" needs a "special friend," Jack is usually working behind the scenes for any worthy project.

A great many of his achievements have gone unheralded, but certainly not unappreciated by the many thousands of individuals he has helped in one way or another through the years.

In addition to his participation in local civic and charitable organizations, Mr. Kubik's sense of citizen pride and duty extends beyond community political activities to the national level, and he served as a delegate to the Republican National Convention in 1972.

I commend the Seguin Retarded Citizens Association on their selection of Jack Kubik as the recipient of this prestigious award for community leadership; his many years of service are indeed inspiring, and this recognition is well deserved.

In addition, I also extend my congratulations to Jack's lovely wife, Ella, who I know shares great pride in her husband's accomplishments, as well as the rest of his fine family.

I am sure my colleagues in the House join me in wishing the Kubik's many more successful and fulfilling years.●

DO WE HAVE TO DESTROY THE ECONOMY TO FIGHT INFLATION?

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. HAWKINS. Mr. Speaker, for the last few weeks we have heard various administration officials rally behind the Federal Reserve Board's moves to restrict the supply of money and to raise interest rates. They say this is the best way to shore up the dollar and beat inflation. On the one hand, we hear officials say they will never do anything that would intentionally throw people out of work, while on the other hand, these same persons praise a monetary policy designed to do just that: Fight inflation with restrictive programs that result in joblessness.

My colleagues have heard me and the many other supporters of full employment policies say that the best way to achieve both price stability and full employment is through a coordinated program of balanced economic growth. The Fed's restrictive policies run directly counter to this philosophy, and even more consequential, directly counter to law, as stated in the Full Employment and Balanced Growth Act of 1978.

For these reasons, it is encouraging to hear the comments of Secretary of Labor F. Ray Marshall, as reported in the New York Times on October 24, 1979, for Mr. Marshall joins those of us who have been stating all along the imminent dangers of the use of high interest rates to fight inflation. In addition, Secretary Marshall's comments clearly support the Full Employment and Balanced Growth Act's mandate which prohibits the trade-off and fosters the use of targeted structural programs as a supplement to overall monetary and fiscal measures to stimulate economic activity.

As Secretary Marshall points out, "Now we want to encourage investment, not discourage it. We want to expand employment, not discourage it."

The entire article follows:

MARSHALL WARNS OF ADVERSE IMPACT FROM POLICY OF HIGH INTEREST RATES

(By Philip Shabecoff)

WASHINGTON, October 23.—Secretary of Labor Ray Marshall, expressing reservations about Federal Reserve Board policies, said today that "interest rates are a very inefficient way to deal with inflation." It was the first such reservation raised publicly by a member of the Carter Administration.

Mr. Marshall, an economist, said at a news conference that current monetary policies of the Federal Reserve could have an adverse impact on investment and employment without dealing with some of the real causes of inflation.

President Carter and other members of his Administration have repeatedly said that they consider the actions taken by the Federal Reserve to restrict the supply of money and raise its cost as necessary to bring down the inflation rate, which for the first eight months of the year ran at an annual rate of 13 percent.

GUARDING THE DOLLAR

At today's briefing, Mr. Marshall said that the high interest rate policy could best be defended as a means of guarding the dollar from erosion in international markets.

An aide said later that Mr. Marshall had expressed the view that the Federal Reserve policies might be necessary as a short-term measure to shore up the dollar.

Today, however, Mr. Marshall said it was "unfortunate" to have to place so much reliance on interest rates to deal with inflation and that the Administration was seeking alternative means to cope with the problem.

Mr. Marshall's policy inclinations, more than those of other Administration leaders, tend to lean toward direct Government action to stimulate economic activity and create jobs rather than toward monetary and fiscal measures to spread through the economy.

ADVERSE IMPACT SEEN

The Labor Secretary said that high interest rates had had an adverse impact on economic activity, with the impact first felt in the construction industry and then generally throughout the economy. So far this has not happened under current policies, largely because of jobs-market programs conducted by the Government.

But Mr. Marshall added that the impact of the policies would have to be watched carefully. If they produce widening unemployment, he said, he will seek to expand Federal employment and training programs.

"Regardless of what happens to the economy, we have to expand the programs for youth and for low-income workers," he added.

"And if we do have a problem of rising unemployment, the most effective way of dealing with it is through public employment and training programs," he said.

Mr. Marshall said that the usual medicine for dealing with inflation—cutting down on investment to cool off the economy—was not appropriate at this time because "it is not that kind of inflation."

INVESTMENT AND EMPLOYMENT

"Now we want to encourage investment, not discourage it. We want to expand employment, not discourage it. But there can be a tendency for higher interest rates to discourage investment and to lead to higher unemployment," he said.

Mr. Marshall declined to predict what the unemployment rate would reach as a result of current economic factors, including Federal Reserve policy. "Anybody who tries to do any kind of forecasting in this market with this ferment is deluding himself," he cautioned.

On another issue, Mr. Marshall suggested that one of the reasons unemployment had not risen recently despite slackening economic activity was that the high cost of fuel was leading many Americans to solve problems by hiring more workers instead of using more fuel.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. CORCORAN. Mr. Speaker, due to a previous commitment yesterday, I was unable to be present and voting on a number of matters before the House. Had I been present, I would have voted in the following way:

Rollcall No. 592: On a motion to approve the Journal of Tuesday, October 23, "yea."

Rollcall No. 594: On an amendment offered to H.R. 3000, Department of Energy authorization bill, as amended, that requires DOE to obtain and publish monthly petroleum supply reports from each oil company, "no."

Rollcall No. 595: On a separate vote in the Whole House on an amendment that sought to prohibit use of funds to promulgate, administer, or enforce any regulation which would continue any mandatory allocation or price control of motor gasoline, "yea."

Rollcall No. 596: On final passage of H.R. 3000, "yea."

Rollcall No. 597: On final passage of H.R. 3947, a bill authorizing certain construction at military installations for fiscal year 1980, "yea."●

THE STATE DEPARTMENT AND THE SHAH

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ASHBROOK. Mr. Speaker, those hard-fighting, two-fisted anti-Communists at the State Department are at it again and to nobody's surprise, they have genuflected to their newly found friend in Iran, the Ayatollah Khomeini. When our bureaucratic defenders of freedom learned that the deposed Shah of Iran was gravely ill and in need of immediate medical attention, a great deal of furor erupted. It seems that their concerns were based on the reactions of the Ayatollah and the Department went to great lengths to assure this bloodthirsty demagogue that the shah would be back on his way to Mexico as soon as he could be released from the hospital.

What an insult. What a compassionate institution. Who cares what the Ayatollah thinks, aside from a few misguided liberals here in Washington? The shah was a loyal friend to the United States for a number of years. Now he has fallen victim to what is an apparent widespread case of cancer and the Carter administration has to think long and hard about issuing him a visa so that he may seek medical attention in New York. Meanwhile, President Carter and his so-called human rights team in the State Department continue to look the other way while the Ayatollah lines them up against the wall. Quick as the crack of the Iranian executioner's rifles, our State Department softies move in to embrace every demagogue or Communist who deposes a friend.

It is simply appalling that these appeasers could think twice before issuing the shah a visa, in order to avoid a meaningless confrontation with the demagogue Khomeini—a poor excuse for a leader who has publicly called for the assassination of the shah, going so far as to offer an all-expense paid vacation at Mecca for the lucky killer.

What will they do next? They have sold our friends in Nationalist China down the river. They have turned their heads while Nicaragua falls to the Marxist Sandinistas. They have lobbied the Congress, illegally I might add, for the ratification of SALT II. They have sold much needed heating oil and kerosene to Iran, a nation which used to sell us oil. They have successfully completed the giveaway of the Panama Canal. Mr. Speaker, where will it end? Hopefully in 1980 when we throw them and their leader out of office.●

SMALL BUSINESS ADVISORS COMMITTEE

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ROTH. Mr. Speaker, I would like to take some time today to share the views of my Small Business Advisors Committee. The committee is a representative group of small business people from my district who provide me with suggestions and reactions on issues concerning the small business community as they arise in Congress. It is fair to say that they closely represent the views of the small business community in my district.

Like most Americans, energy and inflation are the two major concerns of the Small Business Committee. These two problems seem to permeate all aspects of the U.S. economy and the small business sector is not an exception. Rising fuel and other costs continue to hurt every small businessman. We must continue in our efforts to find answers to these problems.

A major concern of the small business community in my district is the current tax burden. Ever increasing taxes continue to discourage the small businessman. Another disincentive to the small businessman is the tangle of rules and regulations imposed on them by the Government. We must provide incentives to the small business community, not disincentives.

The threat of a recession also worries my Small Business Advisors Committee. A recession could put many struggling businessmen out of business. It would certainly hurt every small businessman in some way.

The issues I have just mentioned were ranked most important by my Small Business Advisors Committee. However, many other issues are on my constituents' minds. Among these are small regulatory assistance, unemployment compensation, and the carry over basis rule.

The following is a ranking of small business related issues by the Small Business Advisors Committee in order of importance:

1. Inflation.
2. Energy

3. Government rules and regulations.
4. Cost justification regulation.
5. Small business regulatory assistance.
6. Recession.
7. Capital Formation/Accelerated Depreciation.
8. Estate taxes/Carry Over Basis Rule.
9. Minimum wage.
10. Product liability.
11. ERISA revisions.
12. Small Business Administration.
13. Small Business Development Centers.
14. Small business disaster assistance.
15. Prevailing wage (Davis-Bacon).●

PROMINENT ABORTIONIST TAKES A DIFFERENT STAND

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DOUGHERTY. Mr. Speaker, amidst the confusion and frustration of situations such as the debate on the continuing budget resolution a short time ago, it is often easier to sacrifice conviction for the sake of expediency when the pressure is intense.

In addition, discussion surrounding the abortion issue often relies on dollar figures, percentages, and agency statistics with the individual human factor sometimes conspicuously absent except at points of heated emotional exchange from both sides. Therefore, I would like to share with my colleagues an article from the editorial pages of the Philadelphia Inquirer which I think highlights very well the realities behind last week's struggle:

ABORTION DOCTOR TELLS ALL

(By Joan Beck)

What do you say when you've fought successfully to make abortion legal, when you've performed or supervised 75,000 abortions yourself—and then decided it's wrong to kill human beings in this way?

For Bernard N. Nathanson, M.D., the medical and moral switch from radical pro-abortion fighter in the 1960s and leading New York City abortionist in the 1970s to an anti-abortion stance more ardent than that of Rep. Henry Hyde, (R., Ill.) seems to have caused him no twinges of regret. But his new book, "Aborting America," is going to hit both pro- and anti-abortion camps like kerosene on hot coals.

Dr. Nathanson worked hard for years to get abortion legalized. An obstetrician-gynecologist, he was medical head of the National Abortion Rights Action League (NARAL). He helped persuade feminists to stand in the front lines of the abortion-on-demand movement and sat in on meetings that picked the Catholic Church hierarchy to be the enemy against which supporters could be rallied.

Dr. Nathanson admits to falsifying statistics and other shabby tactics in the fight for abortion. And the sleazy practices he describes in performing and arranging abortions for his own patients can't fail to disgust all but the most radical pro-abortionists.

Once New York State made abortion legal, Dr. Nathanson became director of the world's largest abortion clinic, even though he was appalled by the practices he found there. But he managed to finesse state inspections, pruned the worst of the staff, and eventually had the clinic doing 100 abortions a day, seven days a week. (A Tennessee physician, for example, flew up on Friday afternoons, worked two shifts Saturday and one Sunday, and earned $185,000 in 18 months.)

Even with abortion legal, Dr. Nathanson admits to cutting corners with medical guideline. For example, he experimented with in-office second-trimester abortions, injecting saline solution into the uterus of pregnant women and then sending them away to expel a dead fetus by themselves. ("They were all from out of town," he recounts.)

But it wasn't until 1973 and 1974 that the "Abortion King" (he was also nicknamed the "Scraper") began to have doubts about what it was he was so eager and willing to kill.

Dr. Nathanson attributes his increasing awareness of the fetus as a living being to new research in perinatology, new data about fetal development, and new techniques for saving the lives of increasingly smaller prematures. But most of this information was known—and his moral and philosophic arguments made—years ago, when he was still playing radical politics with unborn children.

Today, Dr. Nathanson argues that abortion should not be permitted after implantation, when pregnancy can first be diagnosed by a maternal urine test two weeks or so after conception.

Using stricter criteria than even the controversial Hyde Amendment, he would not make exceptions for cases of rape or incest or when the unborn infant is known to have a genetic disease or birth defect. The only exceptions he would tolerate are for a very few medical conditions that clearly threaten the life of a pregnant woman.

Dr. Nathanson wants the nation's abortion policy reversed by a new Supreme Court decision; he thinks the new findings that changed his mind can also persuade the high court. Failing that, he favors a constitutional amendment, although he argues that earlier amendments already protect the unborn "if only the court would perceive it."

He says a ban would not cause a great increase in maternal deaths from "coat-hanger" or illegal abortions; such deaths were highly exaggerated in the past, he says, and new techniques, even if used illegally, would minimize harm to women.

Still, Dr. Nathanson can't quite face up to the realities of abortion himself.

He refuses to use the words "unborn babies" and insists on referring to them as "alphas." And even though he wants to prohibit the abortion of a baby with a malformation or genetic disease, he can't quite stop doing abortions on request himself. Some of his patients, he explains, are so dependent on him he can't let them down by refusing or seeming to reject them.

"The abortion crusade" in which he participated "was a seductive and ultimately poisonous dream," says Dr. Nathanson now. But it has already taken the lives of more than seven million unborn children. Somehow you'd expect him to say just once that he was sorry.●

ENERGY MOBILIZATION BOARD

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. HUCKABY. Mr. Speaker, the House will shortly consider several proposals establishing an Energy Mobilization Board. The purpose of the Board is to reduce redtape, streamline the permitting process, and move priority energy projects into operation as quickly as possible.

I would like to commend the gentlemen who put a great deal of time and thought into developing a concept which will enable energy decision to be made in an expeditious manner. Creating an effective "fast-track" process for key energy decisions is one of the most important steps this Congress can take toward rapid development of new energy resources.

The original Interior bill provides a benchmark time frame of 9 months for the appropriate Federal, State, and local agencies to act. However, neither the Commerce bill nor the Udall-Wirth substitute bill mention time. I plan to offer an amendment to both to establish a 12-month benchmark during which Federal, State, and local agencies are expected to act. The amendments printed are as follows:

AMENDMENT TO H.R. 4985

(Also to the amendment in the nature of a substitute (H.R. 5660) on page 20, line 15.)

Page 41, in line 19, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project."●

HOME HEATING SUBSIDIES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ROSENTHAL. Mr. Speaker, although my current assignment at the United Nations prevents me from voting on the home heating subsidy funded under House Joint Resolution 430, I would like to register my support for this legislation.

Mr. Speaker, a misguided Federal policy that has encouraged U.S. dependence on foreign oil and has produced rampant inflation will no doubt exact its harshest toll on the poorest in our Nation. Senior citizens, disabled persons, and others on fixed incomes will purchase needed health care regardless of its price. These people simply cannot cut their food budgets any further, and cannot find cheaper clothing or less expensive housing than they currently have. It is because there is no financial flexibility in their incomes that these people will be hardest hit by skyrocketing fuel costs this winter.

Mr. Speaker, I strongly support the provision of emergency home heating subsidies for these individuals, and regret that the bill cannot do more for those whose incomes place them just above the 125 percent poverty level cutoff. However, insofar as this measure does target aid to the poorest segments of society, it does, in my estimation, represent an important effort worthy of support.●

SURPRISE NUCLEAR ATTACK UNTHINKABLE?

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. SPENCE. Mr. Speaker, I recently had the opportunity to read remarks which were delivered by Rear Adm. George Miller, U.S. Navy retired, before the Washington Chapter of the Naval Academy Alumni Association on October 17, 1979. Admiral Miller had a long and distinguished career with the Navy, serving on active duty from 1933 until his retirement in July 1975. His concerns about a possible surprise nuclear attack on the United States are certainly thought-provoking, and I feel that his comments are worthy of consideration by my colleagues in Congress. I include his speech at this point in the RECORD.

The article follows:

SURPRISE NUCLEAR ATTACK UNTHINKABLE?

(By Rear Admiral George H. Miller)

The United States has spent over a trillion dollars in the last 10 years for national defense. Yet, the Nation is militarily defenseless against a surprise nuclear attack. Such an attack could come at any time, because U.S. land-based missiles and bombers are poised to strike the Soviet Union, thereby constituting a clear and present danger in the eyes of Soviet defense leaders.

U.S. defense leaders tranquilize the public with words, such as "We have deterrence," and "We'll retaliate." But words are no substitute for a sound military strategy and capability to preserve and defend the United States.

Surprise attack has long been a favored strategem of aggression. In World War II, both the United States and the Soviet Union were victims of surprise attack. President Franklin Roosevelt, in his capacity as Commander-in-Chief of the Armed Forces, moved the U.S. Fleet to Pearl Harbor to "deter" the Japanese. While U.S. and Japanese diplomats negotiated, Japnaese bombers surprised Pearl Harbor. The American population suffered little from the Pearl Harbor attack and seems to have forgotten the mental shock and disruption that surprise attack can create.

The German Army's World War II surprise attack on Russia occurred shortly after Hitler and Stalin had signed a non-aggression pact. The millions of casualties and monumental devastation wrought by the German attack seared on the minds of today's Soviet leaders the consequences of being taken by surprise.

The United States and the Soviet Union were fortunate that the weapon technology of World War II, together with favorable geography and help from Western Allies, enabled both nations to recover in time to continue fighting. The power and range of today's nuclear weapons, however, make surprise attack a far more decisive instrument of aggression than ever before. Consequently, a Commander-in-Chief's historic responsibility for deploying forces in a manner that prevents surprise, is more important today than ever before.

Soviet leaders know that U.S. land-based missiles and bombers are virtually undefended, are vulnerable to surprise attack, and are at full strength only when launched first, before they are destroyed on the ground. Soviet military commanders must therefore prepare for the possibility that U.S. missiles and bombers, regardless of what we may say, may one day attempt a first strike. Otherwise, they may reason, why would the U.S. invest so much in a land-based nuclear force so vulnerable to a first strike, if no one in the U.S. is thinking of launching these forces before they can be destroyed? From the Soviet point of view, the present U.S. land-based missile and bomber force poses a clear and present military threat to the Soviet Union, a threat which Soviet military leaders are duty bound to counter.

In terms of American national defense, the present U.S.-based missile and bomber force, logically a primary target of Soviet nuclear forces, constitutes an unprecedented threat to survival of the United States. Yet, U.S. Defense officials continue to reject weapon deployments less vulnerable to surprise and less hazardous to America, the land they have sworn to preserve and defend. The Pentagon also continues to reject a measure of defense-in-depth for the United States against nuclear attack. The attempt over the last 30 years to defend America with a land strategy has brought us to the brink of disaster.

Unfortunately, American officials have already negotiated away so many options for basing nuclear weapons outside the U.S., that few remain for reducing the danger of Soviet surprise attack on the U.S. itself.

The original 1969 Defense Department position on the SALT talks recommended that the U.S. and USSR retain the option to vary the land-sea mix of nuclear offensive and defensive weapons in accordance with their respective geographical requirements. This position recognized that the Soviet Union land area, 8.6 million square miles compared to the U.S. 3.6 million square miles, gave the USSR a 2.4 to 1 advantage in land available for weapon deployment. Yet, in the SALT I treaty actually negotiated the U.S. gave up its freedom to base ballistic missile defense weapons at sea. The result is that important U.S. coastal areas cannot have a nuclear defense-in-depth comparable to what the Soviets may already have in their extensive land buffer areas.

Then, in a 1972 "Interim Agreement," the U.S. gave the Soviets the right to deploy more ballistic missiles in submarines than we had then. While this agreement supposedly expired in 1977, the United States has done nothing to increase the size of its submarine-based missile force.

In the SALT II treaty the U.S. gives up its right to base intercontinental-range ballistic missiles and long-range cruise missiles in surface ships at sea. This denies the U.S. the ability to equip its ships with the most powerful, effective weapons of today, ballistic and cruise missiles, capable of carrying non-nuclear as well as nuclear weapons, for defensive as well as offensive purposes.

The seagirt, limited U.S. land area cannot have adequate defense without freedom to sea base the most effective weapons of the time—today's ballistic and cruise missiles, together with aircraft, for example—in tactical combination, in non-nuclear as well as nuclear situations. The SALT II ban on long-range cruise and ballistic missiles in U.S. warships dooms the U.S. to an inferior national defense position. This SALT II giveaway has been negotiated despite the findings of a 1967 Defense Department study that the surface ship is the most cost-effective platform for ICBM's—superior to submarines, and far superior to land-mobile and silo modes. In reaching this conclusion, the study group gave special scrutiny to surface ship survivability against ICBM as well as other types of attack. Yet, despite the findings of the 1967 study, which subsequent analysis has not challenged, some U.S. officials still argue that U.S. ICBM's in surface ships are vulnerable to mass destruction by Soviet land-based ICBM's. At the same time, they seem willing to barter away the U.S. right to deploy long-range ballistic, cruise, and defense missiles at sea to reduce the danger of surprise attack.

Here are other recent geographically significant concessions negotiated by U.S. representatives:

1. In 1962, the U.S. Government claimed victory when the Soviets removed an unknown number of nuclear weapons from Cuba. In return, the U.S. agreed not to invade Cuba, and Soviet military forces are still there. The Soviet foothold in Cuba has been expanding. Geographically, Cuba commands the eastern approaches to the Panama Canal and poses a threat to all shipping in the Canal area.

2. A U.S.-Soviet treaty concluded in 1969 bans nuclear weapons on the seabed, with no provision for verifying Soviet compliance. The U.S. should have at least insisted on preserving for deployment of U.S. nuclear offensive and defensive weapons a sector of U.S. coastal waters to give the U.S. an aggregate geographical deployment area comparable to that of the USSR land area.

3. The Panama Canal is the jugular of Western Hemisphere sea communications, indispensable to U.S. shipping and naval forces in war or national emergency. The new custodians of the Canal will be able to suspend traffic at will—accidentally perhaps—at times most damaging to the United States.

Every maritime geography-related concession the U.S. negotiates with the Soviet Union multiplies and perpetuates the military advantage of the Soviet 2.4 to 1 superiority in land deployment area.

The U.S. can and must provide more real national defense for less money—without posing a clear and present nuclear threat to the Soviet Union. Approval of SALT II as now written will strip away vital sea options and place America at the mercy of the superior Soviet land power. The U.S. must not surrender its freedom to base nuclear offensive and defensive weapons at sea. We must somehow recover many of those maritime options already bartered away.

Here are steps the U.S. must take, if we are to preserve and defend the United States:

Remove all U.S. nuclear weapons from U.S. soil to deny an aggressor the opportunity to gain a decisive military advantage by surprise nuclear attack on the United States.

Provide defense-in-depth consisting of land-based and sea-based weapons sufficient to give the United States population and industries a reasonable chance of survival against nuclear attack.

Base all U.S. nuclear offensive weapons—missiles, bombers, and whatever lies beyond—at sea, in ships, submarines and other sea modes—employing speed, mobility and deception to deny to the Soviets the opportunity to win by surprise.

America's altruistic approach to the SALT process has resulted in the most wholesale peacetime surrender of geographic assets by a world power in recorded history. This series of negotiating blunders epitomizes the intellectual ice age that froze national defense thought when the "We-have-the-bomb" mentality captivated U.S. defense leaders in the wake of Hiroshima. Now, after 30 years of experimenting with land war theories of nuclear war, America itself has become a prime, undefended target for nuclear attack.

Is surprise nuclear attack unthinkable? Perhaps so, for some Americans, but not so for U.S. Defense leaders who are hired to employ national defense assets in a manner that preserves and defends the United States against military attack.

It is the President and the Congress who have the Constitutional responsibility of providing for the common defense. It is urgent that the U.S. Government review national defense policy, strategy and organization and rededicate this Nation's national defense effort to preserving and defending America.●

ENERGY ALTERNATIVES NEEDED

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. BEARD of Tennessee. Mr. Speaker, in the many contacts I have had with my constituents over the last several months, it is clear that concern about energy shares the No. 1 spot with concern about our declining economy.

To date, we have heard a lot of rhetoric about who is responsible for the current energy crisis and the blame has been laid alternately on OPEC, the big oil companies, the Department of Energy and the wastefulness of the American people—depending upon who is doing the blaming.

The fact is, because of the enormous complexity of the world energy situation, we may never be able to identify who the real culprit is—if indeed there is a single culprit.

In the meantime, the rhetoric goes on and our energy problems get worse. The fact is we are more dependent than ever on oil—particularly foreign oil—as an energy source, and our Government's only response so far has been to offer a program of standby rationing along with a complicated set of still-vague proposals that would firmly entrench the Federal Government in every phase of our Nation's energy industry.

A standby rationing program is necessary in extreme emergencies. But standby programs have a way of becoming permanent national policy, and none of these programs does anything to encourage active conservation. They only acknowledge our inability to meet our energy needs.

Rather than wasting our rhetoric figuring out who is responsible for the oil shortages we were experiencing with increasing frequency, we ought to be concentrating on reducing our dependency on oil.

And what the Government ought to be doing, I think, is offering incentives to individuals and businesses to conserve energy by investing in alternate energy technologies. These incentives ought to be in the form of tax credits to reward individuals and businesses who make the extra effort to help reduce our dependence on oil—both foreign and domestic—as an energy source.

The use of alternate technologies can have an important impact on our efforts to reduce our unacceptably high consumption of imported oil. Many alternate technologies are generally currently available for wide scale use. However, according to recent studies by Harvard University, by our own Government and by private institutions involved in the energy industry, substantive tax incentives can greatly increase the rate at which our society makes these energy investments.

Although loan and grant programs can also enhance use of new energy technology, meaningful tax incentives are an important way to encourage families and businesses all over the country to invest in America's energy future.

Legislation first introduced last year made some inroads in this area by establishing tax incentives to encourage increased use of solar, wind, geothermal, hydroelectric, and biomass energy; industrial cogeneration, residential conservation, and alcohol fuel.

The problem is that these tax incentives did not go far enough to make it attractive to most American families and businesses to consider investing in these alternate technologies.

For this reason, I am introducing legislation that will greatly increase the tax credits now available for some of these technologies and will add other technologies to the list.

In summary, my bill would provide the following:

Fifty-percent tax credits available more quickly than currently for individuals who invest in solar, wind, geothermal, and other conversion technologies.

Fifty-percent tax credits for businesses investing in solar, wind, geothermal, hydroelectric, biomass, and ocean-thermal energy conversion equipment.

More flexible Federal tax exemptions and credits for use of alcohol fuels.

Improvement of the provisions of the Energy Tax Act of 1978 relating to individual and business conservation, solar, wind, and geothermal energy; tax credits for cogeneration and for individual and business use of heat pumps and energy efficient electric motors.

Extension of all tax credit provisions from 1981 to the year 2000 to encourage both individuals and businesses to invest now in the long-range future.

I do not share the view of this administration that the same Government who brought us last summer's gas lines and tangled web of allocations will prove competent to manage the allocation of our energy resources on a permanent basis.

Nor do I share the view that total Government management of our resources is necessary as the last remaining solution to our energy problems.

I do share the view, however, that active conservation is necessary to reduce our dependence on both foreign and domestic oil as an energy source.

When provided with incentives, Americans have always risen to the challenges that have faced them throughout their history through the free enterprise system.

To date, inflation and the relatively high cost of alternate energy technologies have prevented many American families from investing in these technologies.

My legislation will make it possible for many more American families to take up the challenge of reducing our dependence on both foreign and domestic oil by rewarding them for their conservation efforts with substantial tax credits.

Only when we make alternate technologies widely available, affordable, and competitive with oil in the marketplace can we, as consumers, have any control over the price of that oil in the marketplace and over the price of our utilities in the future.●

INFLATION AND PRODUCTIVITY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

○ Mr. SYMMS. Mr. Speaker, the following is a speech given by Mr. Joseph F. Alibrandi, chairman and chief executive officer of the Whittaker Corp. and retiring Chairman of the Board of Directors of the Federal Reserve Bank of San Francisco at a meeting with Los Angeles community leaders and the board of directors of the Los Angeles branch of the Federal Reserve Bank of San Francisco.

Mr. Alibrandi clearly elucidates on the reasons for inflation, where it is taking us, its effect on the economy and productivity and the choices we must make in order to reverse our current trend.

The speech follows:

SPEECH BY JOSEPH F. ALIBRANDI

I'd like to take the opportunity this afternoon to share with you some of my thoughts, not as a banker or an economist because it will become all too readily obvious to you that I qualify as neither, but rather as a businessman, a concerned businessman, and as the soon to retire chairman of the Twelfth Federal Reserve District.

I said a concerned businessman because it doesn't take a lot of waiting in gasoline lines, or watching prices rise at the supermarket to know that we're facing some serious economic problems; that our economic system is in trouble. We've all, for a long time, been secure in the feeling that no matter how much we abused our economy or how incompetently we managed it, it was so strong, so fundamentally sound that it would somehow always persevere and continue to produce the abundance of goods and services, and provide the standard of living that we've all become so accustomed to.

Well, ladies and gentlemen, this afternoon I'm going to attempt to emphasize to you that I think the honeymoon is over. Our free enterprise system, in my opinion, is wounded, and unless we can reverse an enormous momentum, we are inexorably headed toward a worsening economy, and a serious deterioration of our basic freedoms.

Now, I realize that that is pretty harsh language, and believe me I have never been known as an alarmist or a pessimist . . . on the contrary. And yet I would like, with your indulgence, to frankly discuss our situation with you as I happen to believe it really is.

I'm holding the new U.S. one dollar Susan B. Anthony coin which is planned to replace the paper one dollar bill we are all so familiar with. It's just a bit bigger in size than a quarter and will purchase, unfortunately, about one quarter of what a dollar bought around the middle forties. So, I guess, in that sense, it's sad but true that maybe its size is now appropriate.

Why is this so? Why are people who worked all their lives to save for retirement, for the future, finding that their savings have been robbed by inflation? Why have we developed the attitude that we had better buy now, rather than save, pay ourselves more than we produce, increase our social security benefits and let the next generation worry about paying for them. We no longer relate what we expect to be paid to what we contribute. Instead we use coercion, strikes, demonstrations, sit-ins, blue sicknesses to demand more, regardless of our worth or our productivity. We want handouts for almost everything and everyone whether or not we can or are willing to work productively. And, I'm not just talking about labor, or welfare

recipients. We in business sometimes have been all too glib in espousing the merits of free enterprise on the one hand and quick to place our cups under the spigot of government handouts just like those we criticize.

These are the economic, social and moral consequences of unbridled inflation. And as we continue down this path, we will unknowingly give up more and more of our individual freedoms as well, because we all know that economic freedom and individual freedom go hand in hand.

We all know what causes inflation. Milton Friedman states emphatically that inflation is caused by excessive money creation, and since the Fed has the responsibility for controlling the money supply, ergo, the Fed causes inflation. I think it would be more accurate to say instead that the Fed is, at least to a degree, a reluctant midwife in the inflation-creating process. When the U.S. government spends more money than it collects in taxes, the Fed knows well enough that "printing money" to cover the deficit is inflationary. On the other hand, the Fed also knows that if it chooses not to provide new money, it can cripple the economy and put us into recession. Clearly, a Hobson's choice situation! And yet, in fairness, I would be the first to admit that with the benefit of 20/20 hindsight, it is clear that the Fed has been too expansive during this past economic cycle. This observation is what leads me to emphasize to you and to my successors that retaining the independence of the Fed, both by statute and *de facto*, is crucial. The Fed is constantly threatened by those who would politicize monetary policy by attacking the independence of the Fed. I remember a former central banker commenting that his inflation-wracked country should serve as a warning to us in America of what happens when the politicians get control of the money printing presses. If there ever was a time that the Fed needed independence, it is now. We are blessed with a leadership in the Fed in the persons of Paul Volcker as chairman and Fred Schultz as vice chairman who I assure you have the courage and the conviction to do what is right, but they'll need your support. I'm counting on their having it.

So much for the Fed's role in fighting or fueling inflation as the case may be. Let's look behind monetary policy to fiscal policy and dissect the fountainhead of our inflation. In 1977 Congress spent approximately $250 billion on some 182 different income maintenance programs—everything from programs offering social security, unemployment protection and medicaid to those furnishing indemnity payments for beekeepers and stabilization subsidies for producers of mohair. This immense outlay marks a sixfold increase in spending for such consumptive programs over the last decade.

As these programs multiply, more and more of our country's resources are transferred from producer to non-producer, from those who are pulling the wagon to those who are riding in it. I don't know about you, but it certainly disturbs me to learn that the Federal bureaucracy has undergone a 500 percent expansion since 1930, or that one out of every 100 Americans is now supported by the Department of Health, Education and Welfare. It's been estimated that one out of every three adults between the ages of 20 and 64 is either a government employee or a recipient of regular public assistance. In the last ten years, the number of people in this category has increased seven times as much as the population itself. Seven fold! You've heard it estimated that generous welfare benefits are preventing as many as 500,000 employable persons from making a serious effort to find work. Unemployment insurance creates similar problems, according to a recent study conducted by the government's General Accounting Office. You may have seen this front page story in last week's *Wall Street Journal*. Jobless benefits have improved so dramatically since 1936 when the insurance system was set up, that the average recipient now receives a full 64 percent of the pay he took home prior to unemployment. The result, says the G.A.O., is that many insurance recipients lack financial incentive to get a job. No wonder we find ourselves still shelling out for this costly compensation program at a time when last Sunday's *Los Angeles Times* had 96 full pages of "help wanted" ads for jobs! Jobs going begging!

And incidentally, before I leave the subject of the G.A.O.'s report, what action do you suppose the agency finally recommended as a way of dealing with the unemployment benefit problem? Believe it or not, the recommendation was that unemployment benefit recipients be made to *pay taxes*. One more typical bureaucratic full circle!

It is little wonder that former Federal Reserve Board Chairman William Miller likens our present spending to that of the 16th Century Spanish monarchy. He said, "It absorbed vast masses of gold and silver from the New World to build the greatest palaces and create the most elegant lifestyle that had existed up to that time in Europe. Spain's use of resources was for consumption with little attention to investments for the future. And so, by the 17th Century, the nation had run through its wealth and was economically barefoot."

We, too, are running through our wealth. To support its huge complex of social service programs, our government eats up enormous quantities of the financial capital that businesses would otherwise invest in productive assets. And as it does this, the government also discourages the public from making investment capital available to businesses in the first place. We're all taking more out of the system than we're producing or putting in. The pie isn't getting bigger, and we're obsessed with finding ways of dividing it in smaller pieces instead of producing more pie. Look at all those governments that have embarked on such socialist programs, what are the results? All they've done is to substitute a government elite group for the wealthy—while, incidentally, the wealthy were instrumental in creating their wealth or at least taking the risks to create it, whereas the government elite, in most cases, did not—but the one constant in all those societies is that the poor remained poor.

Well, okay, like the not-too-bright lady who finds that she's pregnant, we might be asking ourselves, "How did we get this way?" The easy answer, the one you hear most often today is to blame Jimmy Carter, or Washington, the bureaucrats, but really we, you and I, thank God, still are the government of these United States. We're the ones who submit to this political expediency. We're the ones who know there's no free lunch. It's easy for our politicians to promise more welfare, more health care, satisfy all the special interest groups. It's really easy especially if that's what causes us to run out and get him elected. We know we're being seduced, but we simply lie back and enjoy it. The benefits come very, very quickly while the cost is spread out over many people, and we feel it much later. Truly, politically, an ideal setup. You, whose votes I'd like to get, fly now and everyone else pays later. We then compound the felony by not voting the taxes to pay for this largess. Instead, we let a deficit develop and then we monetize it by printing more money. As a matter of fact, a slick politician along the way may even throw in a tax cut to further increase the seduction. But then, eventually, inevitably, comes the piper—the insidious tax collector who travels by the name of inflation. This tax, inflation, is just as much a tax as the one we pay to the I.R.S. directly.

Remember, we had a $53 billion deficit in 1975, a $74 billion deficit in '76, a $54 billion deficit in '77, a $50 billion deficit in '78, and we think we're doing great because we're only projecting $40 billion for '79 . . . all of these deficits occurring during a period of economic growth, economic upturn. Well, that's what we're paying for with our 12-percent inflation rate today. Those same politicians will be quick to lay the blame for inflation on excessive wage demands by labor, big business profits, the O.P.E.C. oil prices, bad weather, even a change in the migration habits of sardines. But these are phony scapegoats, not the true causes. *The real cause is irresponsible and excessive deficit spending by excessive money creation.*

Recently, we were bombared by the Administration because of the large increases in profits over prior years reported by business. The fact is that in spite of the percentage increase over prior years, industry's absolute earnings are still totally inadequate to support the capital formation and investment that America needs in order to stay competitive and create productive jobs for Americans. Remember, it takes $60,000 of investment to create one job. Since profits go to only two places, either to dividends or to reinvestment in a company's plant and equipment, let's look at what really has been happening.

The present dividend rate of return for New York Stock Exchange composite stocks is 4.9 percent, and that's before taxes; and because dividends are categorized as unearned income, tax rates can be as high as 70 percent. With inflation now running at 12 percent, we surely can't conclude that our stockholders are getting rich on our dividends.

As for investment, we've legislated so many expensive constraints on investment, and made the rewards so doubtful as compared to the risks, that we've averaged only 9 percent of our gross national product over the last five years for investment as compared with 15 percent in Germany and 21 percent in Japan. Ever since 1966 our rate of capital investment has lagged behind those of all the other large industrial nations, even the United Kingdom. Without planting, of course, there can be no harvesting. Our Nation's industrial capacity is growing obsolete. More than two-thirds is over ten years old. Consequently, our productivity increase has been cut almost in half in the last ten years. In this period, our output per man-hour has increased only 1.5 percent per year as compared with 2.7 percent a year in the previous ten-year period, or to put it in more vivid, basic terms, in the last ten years, this slow down in productivity has cost us an immense trillion dollar loss in our overall G.N.P. And worse yet, the data for the first six months of this year shows that our productivity has now gone negative! Then when you consider the effect of what happens when our government unleashes its regulatory agencies on industry, it really becomes frightening. Now, I don't question that the agencies are well-meaning or that there are benefits, but whatever their social benefits may be, these programs proliferated by the Environmental Protection Agency, the Occupational Safety and Health Administration and 39 other Federal regulatory agencies are all basically *consumptive* programs.

Complying with the myriad of regulations they spew forth now cost U.S. industry more than $100 billion a year. Keeping up with this staggering bill often means diverting funds from productive capital investments.

Productivity is also seriously damaged by the many regulations that interfere with our businesses' most basic decision-making—regulations that dictate what markets can be entered, what workers can be hired, what products can be made, what prices can be charged and what wages can be paid. Government has been allocating, regulating, and legislating the energy industry, and with

what result? The oil companies have been diversifying into non-energy related businesses in order to get out from under the yoke of uncertainty and control. And so we achieve the opposite result. We are destroying the economic incentive to pursue the enormous oil and gas reserves that still remain in the ground, or in developing new alternative sources of energy—completely contrary to our national policy objectives. And so, our nation's annual bill for imported oil has now soared to a staggering $60 billion; $60 billion not spent in the United States but going outside of our economy.

The airline industry, on the other hand, which has recently gained a smidgeon of relief from regulation, shows us a far different picture. Here we see increased competition—resulting in lower fares—resulting in more people flying—resulting in higher load factors and more profit for the airlines. Wherever the free market has been permitted to operate, business has become more productive and efficient, and everyone benefits. And in the case of the airline industry, we may even have gotten rid of some bureaucracy in the process.

Well, so we've talked about some of our problems, but what do we do about them? How do we get ourselves back on the track? President Carter spoke about a moral degradation, but I don't believe Americans are any less moral than any other people. I think we have permitted ourselves to be pushed into a situation where freedom, individualism, and a philosophy of minimum government are rapidly being replaced by constraint, regulation, and a cradle-to-grave mentality of big government. Karl Marx would comment today that this phenomenon is precisely what he predicted as the natural evolution of societies from the free market, capitalistic system to socialism. But, does he have to be right? He doesn't and he isn't. He can only be right if we, you and I, continue through apathetic default to abrogate our responsibilities to serve our nation in its most important need—to participate. Our system, economic as well as political, is far and away the most equitable, most productive system ever, and yet as a representative democracy, it suffers from one potentially fatal weakness.

It requires that the people run the government. The last presidential election brought out only 54 percent of the voters; 28 percent of the country's eligible voters elected President Carter. How many of us have made our views known in the last year to our elected representatives? I hate to think how many eligible voters out there may not even know who their representatives are. This is what's wrong. For those who would destroy our system, we have been the ideal, let-someone-else-do-it, inactive majority.

Well, it's now time to change all that. Proposition 13 showed clearly what motivated people can do from the grassroots. We've got to convince our politicians that we mean business, that we expect more than lip service with regard to reduced taxation, less but more efficient government, and greater individual and economic freedom. The structure is there, but we've got to work at it. It isn't enough to just vote. We've got to be concerned enough to fight back. Let's not dismiss the rhetoric of those who propose destroying the system without proposing a better one. Tell the free enterprise story to your families, your employees, colleagues, stockholders. Use your company organs, newsletters, and other communications media. Take positions on issues and encourage others to do so as well. It's about time the majority of Americans became the primary special interest group. It won't be easy. Those who would tear the system down are vocal and articulate. Ironically, as we let more of them ride on the wagon, they only grow more vocal and more articulate. But, unless we have the courage and the commitment to reverse this slide, to change the momentum, we don't deserves the freedoms and abundance we've come to enjoy.●

PAT WILLIAMS POINTS TO CONVENTION DANGERS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. SIMON. Mr. Speaker, one of the finest new Members of the House, who has shown above average willingness to dig into the issues which face this Nation, is PAT WILLIAMS of Montana.

I have had the opportunity to read an article which our colleague from Montana has written about calling a constitutional convention for balancing the budget amendments.

The dangers of a constitutional convention are real. He points out the dangers. States which routinely and without much thought issue calls for a constitutional convention on a variety of subjects do so without considering the importance and dangers of tinkering with the fundamental structure of this Nation.

I confess that I disagree with WILLIAMS in that I favor a constitutional amendment which provides some fiscal constraints. At the very least, talk about a constitutional amendment perhaps pushes us to some prudence.

We will soon mark a period of 21 years of straight deficits, with only 1 year an exception to that during that period. We will pass a budget soon with an interest deficit figure for fiscal year 1980 of $58 billion, but ultimately we will have to adopt a third budget resolution with interest calculated at around $62 billion.

An increasing percentage of our tax dollar is going for interest, rather than goods and services. That does not make sense. And this reality we must face: That fiscal policy moves monetary policy, that deficits indirectly cause an increase in money supply.

Deficits are not the only cause of inflation, but they are one of the causes.

PAT WILLIAMS, in his usual thoughtful style, has pointed out the dangers of a constitutional convention and also the dangers of a constitutional amendment which is not carefully constructed. I hope my colleagues will read his article.

APPRAISAL OF THE IMPACT OF A CONSTITUTIONAL CONVENTION ON THE POLITICAL AND ECONOMIC STRUCTURES OF THE U.S.

(By Congressman PAT WILLIAMS)

The year: 1983. The place: Philadelphia. The event: the Second Constitutional Convention of the United States.

The convention was opened in July, 1982, one year after the last state called upon Congress to invoke Article V of the U.S. Constitution by calling a convention. Litigation over the delegate selection procedures and the mandate of the convention is pending before the courts, but the convention continues.

Since the opening gavel, the convention delegates, largely either ultra-liberal or ultra-conservative, have spent their time wrangling over the rules and procedures to use, and have assumed an open-ended mandate to work on whatever issue they deem appropriate for whatever length of time necessary.

It is anticipated that the first proposed amendment—to require a balanced budget—will come up for consideration by the end of the year.

While the convention plods along amid bickering and disputes, government assumes a malaise of unprecedented proportions, the economy slows to depression levels, and the U.S. position of preeminent world leader slips below all expectations.

There has been much public discourse on the subject of a constitutional convention, how it would operate, who would attend, what would be discussed and how it would be approved. The often-acrimonious debate has brimmed with details of the various groups' plans for the constitution and the effects of those plans on the country. Yet few have come forward and appraised how the convention itself—not the final product—might affect the United States.

The scenario described here is probably a "best-case" setting, leaving dozens more "worst-case" examples left to the imagination.

There are three important questions that should be addressed before any constitutional convention is called. 1.) Why is it being called? 2.) What effect would it have on the country? 3.) What would the amendments accomplish?

The first area is perhaps the most intriguing: Why do people want to convene a meeting that could spell the undoing of the constitution and the mandate of the free-world leader? Why do people want to tinker with a tried and true document that has endured for 193 years?

Some Americans are discouraged with their elected representatives in the House and the Senate, and with the legislation that has and has not been enacted. In response, groups have sprung up to reverse the commissions and omissions of Congress through amendment of the Constitution.

But the constitutional lever is entirely inappropriate. Pressure is applied to congressmen and senators through the election process. Responsible representation—not constitutional leverage—requires Washington to listen the voices back home. If radical change such as that proposed by those who would amend the constitution is supported because elected officials are not doing what the voters demand, then the problem lies therein, not in the constitution. The real solution apparent, and the one necessary to the continuation of representative democracy as we know it, involves cleaning house in Congress and installing representatives who will do the country's bidding as the electorate sees it.

The second area—the convention itself—is the one in which the most inadequate appraisals have been conducted, but where the most profound, immediate consequences would occur.

The mere calling of a convention would disturb the national economy, leading shortly to a rapid slowdown to await the outcome and analyze its effects on business and free enterprise. The stock market today reacts with amazing speed at the smallest bit of news affecting the country's stability—surely none can doubt the market's severe reaction when faced with the possible wholesale revision of the constitution.

The eloquent words of James Madison, written in the Federalist Papers 193 years ago, prove pertinent here:

"The want of confidence in the public councils damps every useful undertaking, the success and profit of which may depend on a continuance of existing arrangements. What prudent merchant will hazard his fortunes in any new branch of commerce when he knows not but that his plans may be rendered unlawful before they can be executed?

What farmer or manufacturer will lay himself out for the encouragement given to any particular cultivation or establishment when he can have no assurance that his preparatory labors and advances will not render him a victim to an inconstant government? In a word, no great improvement or laudable enterprise can go forward which requires the auspices of a steady system of national policy."

The Convention delegates would find themselves more and more at odds with Congress, and Congress at odds with the delegates. The courts would be called into the foray; the executive would invite itself in, and soon all would be in turmoil. The authority of the current government would be questioned, especially at the local levels where states, counties and municipalities would strive for whatever measure more of self-rule they could gain. The continuance of current law and constitutional precedent until the new law is adopted would be to no avail: the entire government would be a lame duck.

Certainly, the events in the United States would be of special interest abroad and likely would be seized upon as an opportunity to make whatever gains could be had. At worst, the country would be challenged in its weakest moment by its strongest rival, a confrontation the outcome of which cannot be guessed.

The third area—the goals of the amendments—holds two concerns that would prove most unfortunate for the country, especially in the area of the balanced federal budget amendment.

First is the means by which the goal is being pursued: a constitutional amendment. Previous efforts for conventions sought goals that could be attained only through constitutional change: the repeal of the 18th amendment, the limitation of the term of office for Presidents, the direct election of senators and the reversal of supreme court rulings on subjects ranging from school prayer to busing.

This drive, however, seeks none so lofty a goal. This drive has set constitutional change as its end, notwithstanding the numerous alternatives yet available.

A balanced federal budget could be required through statute, for example, rather than through the constitution. That approach has been suggested and drafted into legislation but does not fulfill the wishes of those leading the drive for the mandated balanced budget, and, in fact, has been criticized out of hand. If forcing a balanced budget is their only goal, then their motives must be suspect: amending the constitution or calling a constitutional convention even when other alternatives exist serves to erode the legislative system under which this country operates.

A second concern presents itself upon close appraisal of the goals of the "budget balancers:" They seek not only to balance federal spending with federal income (a noteworthy task), but also to place such a solution to current problems into the constitution in perpetuity.

The constitution of the U.S. does not and should not embody any passing notions, feverish slogans or antidotes to temporary problems. The constitution embraces the ideas of American society, those things that through good times and bad remain unchanged in importance in our hearts and minds.

The current move toward balancing the budget may be correct policy in today's economic situation—although many recently have forsaken it because of the onsetting recession. Although the nation has made great strides recently toward balancing the budget, it must not take that particular policy—or any other—and chisel it into the cornerstone of the country.

A constitutional mandate for a balanced budget would remove the capacity the government has to respond to needs and desires in the economic world.

Imagine the predicament of President Roosevelt in 1937 if he had been faced with maintaining a balanced budget because of a constitutional requirement. In the mid-1930s, when the economy finally began recovering from the severe depression that had so ravaged the nation, the federal deficit increased by proportions many conventional economists found unacceptable. Responding to their pressure rather than continuing along the new path, Roosevelt began in 1937 to narrow the deficit. Within one year, the unemployment rate shot from 14 percent back to the depression level of nearly 20 percent. Ultimately convinced of the critical need to spend money to stimulate the economy, Roosevelt began widening the deficit again in 1938, but it took nearly three years and rearmament for war to get the unemployment rate back to 10 percent. Since that time, both Democratic and Republican administrations have used that tool to keep unemployment below 10 percent.

If the nation had been tied to a balanced budget in the 30s, it would have been forced to slash spending or boost taxes, both of which would have taken money from consumers at a time when it was most needed.

The United States is confronting a deepening recession. Policy-makers now need the same latitude that President Roosevelt had in 1937. Already there has been talk on Capitol Hill of recession-fighting tax cuts, which would throw the budget out of balance.

Now, there are those who respond by saying that the amendment would be flexible—that its provisions could be suspended in time of national emergency or war. Such an argument has many obvious flaws. For example, what would constitute an emergency, and who would decide if it existed? If a war came, would it have to be declared war, or would the provisions extend to debacles like the Vietnam conflict?

Or, if an economic emergency were sufficient to suspend the balance provision, how would that emergency be determined, and by whom? Would it be enough to be approaching a recession or would the country have to be caught in its throes before action could be taken? Would declining GNP be used as an indicator, or would a combination of other factors be used? What levels of unemployment or inflation would constitute an emergency?

But, aside, from those questions that appear right on the surface, a deeper, more important and more alarming concern appears.

The American people would be faced with the ludicrous proposition that their constitution, the sounding board of democracy and human rights throughout the world, would contain an amendment that could be temporarily suspended upon agreement of two-thirds of the members of Congress.

It is ironic that we would conceive such an amendment while around the world we promote solid, constitutionally based governments.

And, in pursuing this idea of constitutional convenience, there is another overriding concern—actually a fear. If one qualified amendment to the constitution is made, the rest of that tried and true document would be open to qualification.

Future Congresses may infer from such a precedent that they are free to make more qualifiers, such as temporary suspensions of part or all of the bill of rights.

Supreme Court Justice David Davis recognized this in 1866:

"The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government."

Clearly, qualifiers would make a mockery of the Constitution, and would so radically change our democratic form of government as to render it unrecognizable.●

HUMANITIES BUDGET WASTE

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DEVINE. Mr. Speaker, another example of Federal funds with good intentions not solving the problem or serving the desires of the Congress will be back on the floor in the form of a conference report relating to the appropriation for the Department of the Interior. I make specific reference to the moneys for the arts and humanities.

Earlier this week, I received a letter from a highly respected businessman in Columbus, Ohio, who serves on the National Council on the Humanities, Mr. John Walton Wolfe. The letter is self-explanatory and quoted below for the information of the Members who will have occasion to vote on the conference report although the House last July passed the Interior appropriations:

COLUMBUS, OHIO, *October 23, 1979.*

Mr. JOSEPH D. DUFFY,
Chairman,
National Endowment for Humanities,
Washington, D.C.

DEAR JOE: I have received the budget request of the Humanities to the office of Management and Budget. I see, with great disappointment, that the 14% increase was requested as indicated at the August meeting. I feel that I, once again, must protest such an extravagant request. I fully understand the theory pointed out to me at the August meeting that it is bureaucratic policy to ask for more than you want, want more than you need, and everything will come out favorably in the end. If the National Endowment cannot take the lead and set the example of endeavoring to moderate the economic chaos that exists in this country today, creating hardships on everybody and everything from the old and infirmed to the institutions of higher education that we are supposed to support, then I think that the rest of our noble endeavors are being tarnished by our actions.

After sitting on the Council for more than a year, I asked one of the more senior members who happens to be a respective member of academia, with a prominent position at a well regarded institution of higher education, what percent of the Endowment budget was being well spent and I was very disheartened to hear his reply of 20%. Surely the benefits of an increase in spending for the Endowment during these troubled times can be achieved by a more prudent distribution of existing funds.

I also understand that by comparison with the total budget the Endowment's requests are considered small. But when one realizes that only 25% of the budget consists of discretionary expenditures, consequently the affect of anything that we do is multiplied by four. So if showing restraint in favor of the people the benefits of this restraint will also be multiplied by four.●

MORE PIPELINE QUESTIONS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

Mr. BONKER. Mr. Speaker, in recent days the Secretary of the Interior recommended to the President that the Northern Tier Pipeline Co. get expedited Federal approval as a new west-to-east crude oil pipeline.

This decision was unfortunate and premature. Washington State's two largest newspapers—the Seattle Post-Intelligencer and the Seattle Times—have both editorialized against the Secretary's decision.

They point out that there remain serious hurdles and troubling questions that must be answered before this pipeline can and should be built. I recommend these editorials to the attention of my colleagues.

The editorials follow:

[From the Seattle Times]

MORE PIPELINE QUESTIONS

Coupled with other developments in recent days, this week's conditional endorsement of the proposed Northern Tier oil pipeline by Interior Secretary Cecil Andrus did little to clear the project's still-cloudy future.

Andrus' statement itself, in effect a recommendation to the White House, included three conditions, any one of which could snag the undertaking further.

It calls, for instance, for shifting Northern Tier's preferred oil-port site from Port Angeles to a point farther west on the Strait; for a mandatory hookup of the Northern Tier line to oil refineries at Anacortes and Cherry Point, and for a one-year time limit in which the company could show progress on obtaining financing.

If the firm moved to heed those conditions, more delays would be in prospect. A spokesman for the State's Energy Facility Site Evaluation Council says the agency would need more time to consider amendments to the present plan, such as a new oil-port site or connections to the regional refineries.

The potentially greater significance to the pipeline picture was a report made public late last week by Senator Jackson's office.

A study by the Senate Energy and Natural Resources Committee, Jackson said, shows that various West Coast refiners are increasing their use of crude from Alaska's North Slope. And they want still more.

This means, Jackson says, that there might not be any Alaska oil available for movement to Midwest refineries via a transshipment port and pipeline in this state. Pipeline proposals advanced by Northern Tier and a competing firm, Trans Mountain, both are predicated heavily on the assumption that large amounts of Alaska oil could be obtained.

Finally, still another news report circulated yesterday that the federal Department of Energy has revised estimates on the need for crude in the states Northern Tier would serve. The department was said to have compiled a study predicting an oil shortage of only 140,000 barrels a day at the Midwest refineries, far below Northern Tier's planned pipeline capacity of 709,000 barrels.

A decision on whether to use his executive powers to speed up the permit process for Northern Tier now rests with President Carter. The danger is that Mr. Carter, eager to show for once that he can make a firm energy decision of some kind, might let 1980 politics obscure his vision of the question marks that continue to surround the entire Washington State pipeline issue.

[From the Seattle Post-Intelligencer]

OIL'S NOT SETTLED ON PIPELINE

Northern Tier Pipeline Co. got a nod from U.S. Interior Secretary Cecil Andrus this week. Andrus' conditional endorsement means that the company may soon get the president's go-ahead to build an oil pipeline from a point west of Port Angeles to the Midwest.

What the Andrus endorsement does not mean, however, is that the pipeline issue is settled. There remain serious hurdles and troubling questions.

—First there will be a meeting between the Washington state congressional delegation and the president. Because this state's delegation wields considerable power in Congress, Carter undoubtedly will weigh its wishes carefully. So far the only Washington congressman who appears enthusiastic is Rep. Tom Foley, D-5th District. Foley's Inland Empire stands to gain a more assured petroleum supply if the proposed Northern Tier pipeline route is followed.

—Another factor that looms large is the Canadian reaction to the selection of Northern Tier Pipeline. Canadian Environment Minister John Fraser has called the Andrus recommendation "the worst of two options." Fraser indicated a preference for the Trans-Mountain Pipeline proposal, That would link an oilport west of Port Angeles to an existing pipeline in Canada.

Another possibility, a faint one now, is the Canadian Foothills plan which would follow the existing pipeline from Alaska down through Canada to the Midwest. The EPA praised that route.

Carter will be meeting with Canadian Prime Minister Joe Clark in Ottawa Nov. 9 and 10. Should Carter delay his pipeline decision until after the Canadian talks (the president has 60 days to act), the pipeline route likely will be discussed. The two nations, close partners in trade and commerce, might profit from working on a joint transportation system.

Availability of supply is a factor in the pipeline decision. A report made public last week by Sen. Henry Jackson's office shows that there might not be any North Slope oil available to put in a pipeline for movement to Midwest refineries. The study—undertaken by the Senate Energy and Natural Resources Committee—shows that West Coast refiners have increased their use of Alaska's crude oil. The report raises doubts over oil trans-shipment from this area.

At the other end of the pipeline there are similar uncertainties. The federal Department of Energy recently changed estimates on the need in the Midwestern states that Northern Tier pipeline would serve.

Financing the pipeline may not be as easy as expected, particularly in light of the projected problems with supplies and need. The 1,500-mile Washington-to-Minnesota line would cost around $1.6 billion. That's far in excess of the $600 million price tag to build the TransMountain line.

It may be that Northern Tier can clear all these hurdles. If so, there are at least three important preconditions which the state's congressional delegation should work toward: (1) The oilport should be located west of Port Angeles, rather than adjacent to the town, as Northern Tier proposes. The Environmental Protection Agency, wisely we believe, has decided the Port Angeles site is unacceptable. (2) Building any pipeline ought to be predicated on a mandatory hookup of existing oil refineries. If the oilport does not reduce or eliminate tanker traffic in Puget Sound, it will have served no general benefit. (3) The federal government should not assist in pipeline financing. If the project can't get off the ground with private support, then the public ought not to foot the bill.

In years gone by, Sen. Magnuson has been standing, Horatius at the Bridge, at the portals to Puget Sound, determined to protect us from the disaster of a massive oil spill. Magnuson has asked why Washington should have to bear the risk of oil transshipment when there are few—if any—benefits to this state. It's still a good question. Now it's apparent that there's a question over the risks and benefits to other states and to the nation. That's an even better question.

TAX CREDIT FOR WEIGHT CONTROL AND FOR THOSE WHO QUIT SMOKING

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. QUAYLE. Mr. Speaker, shortly the House will be making a decision on a bill to place mandatory controls on hospital costs. While I support the idea of cutting our Nation's health care expenses, I do not endorse the mandatory program outlined in H.R. 2626.

The bill is unfair since it covers less than half of the Nation's hospitals. It penalizes the efficient hospitals by requiring that they cut costs just the same as those who have been wasteful. This program can threaten the quality of health care in America.

As an alternative, I have endorsed the voluntary effort which has resulted in a 4-percent cut in hospital costs in my home State, Indiana.

We, as individuals, can also take voluntary actions which will cut medical costs and protect our health for future productive years by eating a well-balanced diet and curtailing smoking.

The National Institute of Health Task Force on Obesity reported recently that people who are overweight face a greater risk of disease and death from high blood pressure, stroke, heart attack, and digestive diseases. All are costly diseases which require lengthy medication or hospitalization.

Smoking can cause increased occurrences of cancer, cardiovascular and respiratory diseases and death. The direct health care cost of smoking is $8.2 billion according to the New England Journal of Medicine.

In a recent study State Mutual Life Insurance Company of America found that smokers shorten their lifespan by 7 years. As a result the firm is providing a 30-percent savings to nonsmokers.

If we consider that in the United States smoking is the most frequent cause of death and property damage due to fires in the home, then the total amounts to a $27.5 billion loss.

Because of the burden smoking and improper eating habits place on our bodies and our pocketbooks, I salute the millions of Americans who are kicking these habits. Those who elect voluntarily to enter regimented programs to improve their health deserve support.

I believe they should be at least partially reimbursed for their expenditures on self-improvement programs to quit smoking or to improve unhealthy eating habits.

For this reason, I am introducing the "Kick the Habit" tax credit bill. Each individual who enrolls and attends in an approved program to stop smoking or commences a certified dieting program would be allowed a 50-percent tax credit up to $150 for the amount spent on the program. The Secretary of the Treasury would be responsible for certifying which programs are eligible for the tax credit.

By encouraging Americans to take these positive actions, we are cutting our insurance bills, preventing our Nation's medical bills from escalating, and, most importantly, we are preserving one of our greatest national resources—our health.●

ASSUMPTION GREEK ORTHODOX CHURCH TO CELEBRATE ITS GOLDEN ANNIVERSARY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. KILDEE. Mr. Speaker, it is with pleasure that I bring to the attention of the Congress the golden anniversary observance this weekend in Flint, Mich., of Assumption Greek Orthodox Church. The observance will be marked by a visit from His Grace Bishop Timothy of the Diocese of Detroit.

The observance will begin Saturday evening with a dinner and dance. The Divine Liturgy will be celebrated by Bishop Timothy and by the Reverend Athanas George, pastor of Assumption Greek Orthodox Church for the past 5 years, and by the Reverend Demetrious Koursaris, who was pastor for 20 years, as well as other guest clergy.

The first Greek Orthodox immigrants settled in Flint between 1910 and 1920, according to the parish historians. Assumption Greek Orthodox Church was founded by about 20 families, who began celebrating the Divine Liturgy once a month in a rented hall with visiting priests from Detroit. After much dedication and sacrifice, they were able to construct the first Assumption Greek Orthodox Church Building at North Saginaw and Gillespie Streets. The church was dedicated on May 6, 1928. As the years passed on under the spiritual guidance of Father Koursaris, the parish grew until a new church building was needed to accommodate the faithful. The present church thus was built in 1961. It is noted for its architectural beauty and has become a landmark near Flint. Plans are underway to expand the church, which now serves about 285 families.

I am pleased and proud to provide this brief sketch of Assumption Greek Orthodox Church's history, which speaks to the dedication and devotion of a large number of priests and families in establishing and building an active and healthy church for the Greek Orthodox community of the Flint area.●

INVALUABLE AID AFTER THE TORNADO OF OCTOBER 3, 1979

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. MOFFETT. Mr. Speaker, earlier this month north-central Connecticut was ravaged by a tornado that struck Windsor Locks, Windsor, and Suffield. I want to call to the attention of my colleagues the invaluable aid given tornado victims by State and local officials, the State police, voluntary associations, and many private citizens.

The disaster occurred at 2:50 p.m. on Wednesday, October 3. I was some 40 miles away at the time, at the University of Connecticut for a speaking engagement.

The devastation was so complete that it was impossible to get through to the affected areas—all lines of communication were down. I called the State police, and their response was immediate: I was driven to the stricken areas in less than an hour.

What I witnessed was, in a word, terrifying—especially for someone like myself, who has never before seen the frightening aftermath of a tornado.

In Windsor Locks, in my own Sixth Congressional District, Bradley International Airport and many small businesses were a shambles. In Windsor and other areas where the tornado touched down, houses were totally demolished. Families stood in front of what used to be their homes, dazed and unsure of what to do or where to go. One woman in an airport office who had seen cars flying through the air had hidden beneath her desk; the desk was all that remained when the office disappeared.

Joining with Gov. Ella Grasso, Congressman BILL COTTER, Civil Preparedness Director Frank Mancuso, and other local and State officials, we established a coordinated disaster aid command post in Windsor Locks.

For most of that first night and well into the next day, the State police escorted my staff and me from one ravaged home or business to another. Each time we came upon a situation which needed immediate attention—which was frighteningly frequent—the troopers were always close at hand, willing to do whatever was necessary.

The police profession, I realize, is one which undergoes constant scrutiny. I want to publicly commend and thank those officers who worked through the night and into the next afternoon, with the same dedication and concern from beginning to end.

From the outset, our Governor assumed complete control of the disaster assistance efforts. She worked tirelessly to coordinate State and Federal aid. Her presence alone was a reassuring sign to the dislocated families and workers in the region. Ella Grasso, it should be noted, is no stranger to the area: Her home is in Windsor Locks.

Supplementing her efforts and those of her staff was State civil preparedness director Frank Mancuso. A former mayor himself, he understood the immediate needs of both the displaced families and the business community. He brought all possible resources together to aid the tornado victims. His dedication and compassion was an inspiration to all of us.

Working side by side with these individuals were Windsor Locks First Selectman Edward Savino, Suffield First Selectman Earl Waterman, and Mayor Warren Johnson of Windsor. Spending many hours both in their own home towns and at the disaster assistance center, they were instrumental in helping to cut through the reditape for their residents.

Nor should the Federal help be omitted: The Federal Emergency Management Agency—FEMA—responded quickly and unstintingly. Along with the Small Business Administration, they were in the field in a matter of hours, assessing the damage and establishing a coordination center to help victims get back on their feet.

Finally, I wish to commend the work of the Salvation Army, the Red Cross, nearby hospitals, and all the State's voluntary associations which provided vital services to the stricken region. Many volunteers worked without rest, providing food, clothing, shelter, and perhaps most important, moral support to their fellow citizens.

Mr. Speaker, in a period when we hear the cry for government to "get off the backs" and out of the lives of its citizens, I contend that the combined efforts of government at all levels worked admirably in this situation. There is no way to diminish the horror and the devastation wreaked by the tornado. But the remarkable and selfless response was well worth noting, too. It was, in the traditional phrase, "above and beyond the call of duty."●

PARKTON ELEMENTARY VISITS CONGRESS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. LONG of Maryland. Mr. Speaker, I want to make welcome over 75 students, parents, and teachers who are visiting the Capitol today from the Seventh District Elementary School in Parkton, Md.

The students of the fourth grade class are studying Government and law processes. They are here to see firsthand how Congress works and to gain understanding of the legislative process. My constituents will tour the Capitol Building, observe floor action in the House and Senate, and visit the Smithsonian Institution. I appreciate this opportunity to meet my friends from Parkton and am certain that their day here will be interesting and informative.●

BRINGING IN THE WIND

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. BLANCHARD. Mr. Speaker, I would like to call my colleagues' attention again to the promise of wind energy as an electric power generating source.

Wind energy systems, like all power systems which derive their fuel from the Sun, are nonpolluting, inexhaustible, and function without dependence on foreign sources of supply. That being so, it is essential that we move as rapidly as possible to support them as replacements or supplements to conventional power systems.

The Science and Technology Subcommittee on Energy Development and Applications is currently considering the "Wind Energy Systems Research, Development and Demonstration Act of 1979," which was originally sponsored by Congressmen MINETA, JEFFORDS, and me, and it is my hope that it will report the bill favorably in the near future.

As evidence of the potential which wind energy holds for America's future, I would like to insert in the RECORD an article, "Bringing in the Wind," which appeared in the September-October 1979, issue of Public Power magazine.

The article follows:

BRINGING IN THE WIND

(By Robert B. Gallup and William E. Trommershausen)

Electric utility loads are continuing to grow despite major efforts toward conservation. This growth comes from three sources: Increased population, increased energy use per person, and a shift from other forms of energy to electric energy. Conservation may reduce the energy use per person, but population increases will be with us for the foreseeable future. The shift from other forms of energy use to electric energy use will continue because of the convenience electric energy provides and the need to conserve oil and gas resources.

The electric utility industry, therefore, must continue to develop additional sources of electric energy. Because of the shortage of oil and the need to conserve to the maximum extent possible all of our nonrenewable resources, increased attention is being given to the development of renewable energy sources to supply our electric energy growth. In one way or another, solar energy is the source of virtually all of these renewable energy sources and has unlimited potential if it can be harnessed.

One readily available way to harness a portion of this solar energy to produce electrical energy is through the use of wind power. Utilities throughout the United States, both small and large, have a big stake in this source of energy. Its use could significantly reduce our future dependence on oil, coal or nuclear energy.

Historically, utilities have striven to deliver a high grade of continuous electric service and the electric consumers have come to expect such service. Initial investigations of wind-powered generators stressed that firm power service should be provided. Because the minimum wind speed required to operate the generators is about six miles per hour, and the generators must be shut down at wind speeds of over 35 miles per hour, some form of energy storage was considered necessary for a wind-powered generation program.

STORAGE UNNECESSARY

A considerable amount of the Department of Energy-sponsored effort was directed toward investigating the storage of wind power-generated energy with such methods as: (1) hot water, (2) electric batteries, (3) fuel cells, and (4) fly wheels. Such storage systems are expensive and are not necessary if wind-powered generation can be properly integrated into a utility's power supply plans. Wind-powered generators should be considered for what they are, and their characteristics should be recognized in the development of a utility's overall power supply program. Most of the investigations now under way use this latter approach.

Currently, wind-powered generators in sizes from two kw to 3,000 kw are either in operation or under construction. Small wind-powered generators have been available for a number of years and several sizes are commercially available. Several research machines in the 200-kw range have been constructed, such as those at Clayton, N.M.; Block Island, R.I.; and Culebra, Puerto Rico. An additional unit is planned for the Island of Oahu, in Hawaii, next year.

The world's largest wind-powered generator was dedicated in July 1979, in Boone, N.C., and is currently undergoing final testing. This 2,000-kw unit is 50 percent more powerful than the previous record-holder that was constructed at Grandpa's Knob in Rutland, Vt., in the early 1940s. The Southern California Edison Company is building a 3,000-kw, 150-foot-diameter wind-powered generator in San Gorgonio Pass. This machine, when completed, will have a capacity 50 percent greater than the one located near Boone, N.C.

In addition, the California Department of Water Resources is negotiating with a wind power-generator supplier for purchase of energy from a number of wind-powered generating units in the 1,000-kw range. The Bureau of Reclamation is developing a program to construct a 98,000-kw wind farm near Medicine Bow, Wyo., and plans to integrate the output with the federal Colorado River Storage Project. Congress accepted this plan and has appropriated funds to construct an initial two-mw unit to verify the basic cost estimates.

The Bonneville Power Administration is investigating areas for construction of large wind-powered generators of the 2,000-kw to 3,000-kw class, and is promoting development of two such units in the Goodnoe Hills area of Washington. Preliminary studies indicate these units could produce energy at about 45 percent annual plant factor, and that as many as 1,000 of them, with varying plant factors, could be installed throughout the Bonneville service area.

BIGGER MAY NOT BE BETTER

The economies of scale which have in the past reduced thermal generating plant costs as generating plant sizes increased are not nearly as significant in determining economics of wind-powered generator construction. There are some benefits from increasing wind-powered generator sizes. However, the diameter of the present design of wind power generator blades increases with increased sizes, to the point that the increased costs of tower construction to support them may more than offset the other economies of scale. Thus, major use of wind to develop electric energy means that large numbers of wind-powered generators must be constructed.

One of the challenges facing utility systems at the present time is to develop programs that will permit the best use of wind-powered generating systems that are available now, or may become available in the near future. Two approaches in the development of wind-powered generators for generating electric energy have been suggested.

The first approach provides for the construction of a large number of relatively small wind-powered generators scattered throughout a utility's service area, possibly owned and operated by individual homeowners, and used directly to support a portion of the homeowner's needs, with sales of surplus energy to utilities. The second approach provides for the construction of "energy farms" in which relatively large arrays of wind-powered generators would be constructed by a utility to supplement the utility's power supply.

LOAD GROWTH REDUCED

There is increasing interest among individuals in the development of their own energy sources, to reduce their dependence upon central station service. Although this appears to reverse the trend of reliance on central station service for electric energy supply, this is not really the case. Small wind-powered machines can operate in parallel with utility systems. They act, in effect, as a negative load, thereby reducing the loads that the utility is required to supply.

As a practical matter, installation of small wind-powered generators has the same effect as conservation in energy use, and should be given the same kind of support and encouragement as is presently given to conservation efforts. These systems may well prove to be cost-effective if proper consideration is given to the services they perform. Considerable development work now under way should continue, and utilities should welcome the opportunity to investigate the use of small wind-powered machines in their own service areas.

Although the individually owned units are small, a large program of development could have a measurable effect on future power needs. Any program should take into consideration its long-term effects, recognizing that energy costs in the future will undoubtedly continue to rise, and that the economics of wind-powered generation should consider this increasing cost factor.

The construction of energy farms in which large arrays of wind-powered generators would be constructed by a utility to supplement the utility's power supply has an added advantage. Construction could be undertaken by a utility under specific time schedules which would be planned to fit into the utility's growing needs. One energy farm would not necessarily be able to provide firm power on an assured basis, but a number of such farms scattered throughout a region could significantly contribute to firm power supply through diversity of wind supply. Although further analysis is required to determine specific diversity relationships in various areas of the country, and to determine the relationship between peak loads and wind supply, the outlook is promising.

The Department of Energy has a program under way for making wind measurements at selected locations in many parts of the United States. The Bureau of Reclamation has developed a portable wind power measuring unit that operates with a satellite. This new system now makes it possible to take instantaneous readings of wind speeds at recording stations throughout the country (see diagram page 19). It will provide competent data to permit a determination of the actual diversity that may exist between widely separated wind areas. These data can be used to estimate the firm power available from a large number of energy farms located in an area with interconnected power systems.

INTEGRATE WITH HYDRO

For example, the Upper Missouri Basin has some 12,000 miles of federal transmission facilities covering eight midwestern states. It is probable that there is a substantial diversity between potential energy farm sites in the Missouri Basin that would be able to interconnect into this network. Similarly, the areas served by the federal grids in the Pacific Northwest, the Pacific Southwest and the Colorado River drainage area may also contain wind farm sites which would have

substantial potential diversity between them. All of these areas have hydro storage facilities which could also be used to integrate more effectively the energy produced from wind-powered generators.

Under the 1978 National Energy Act, municipal systems now have available system interconnection and wheeling rights, using the authority granted to the Federal Energy Regulatory Commission to order interconnections and wheeling for appropriate hearings. Accordingly, it is not necessary for municipal systems to install wind power generating units within their city limits; sites can be chosen for the best wind conditions. Participation in a potential regional wind farm development that may be sponsored by other utilities is possible if effective wheeling arrangements can be implemented. Also a matter for future consideration is the prospect of constructing added interties to achieve the benefits of a solar-wind-hydro integration plan.

20–40 MILLS PER KWH

Tentative cost estimates indicate that the construction of wind-powered generators is close to feasibility where wind speeds average 15 to 18 miles per hour. A company has offered wind energy at the bus bar in California, suitable for irrigation pumping for the period 1981–1986, at 35 mills per kwh. This is equivalent to oil at approximately $21 per barrel. Under the proposal, after 1986 wind energy would be priced competitive with imported oil. Another company estimated the cost of ownership and operation of a 50-kw vertical axis turbine in an area containing favorable winds in the range of 20 mills to 40 mills per kwh.

It is important that utilities view wind power in its true perspective and recognize its value to the energy supply of the United States. Each kwh generated by a wind machine means that one less kwh will have to be generated from oil, coal or nuclear fuel. Although the characteristics of a wind-powered generator are such that firm power is not available continuously to meet a utility's load, each wind-powered generator can be counted on to supply a significant amount of energy throughout the year. Furthermore, while a single generator cannot be considered to provide firm power, a large number of such generators scattered over a wide area may have significant firm power characteristics.

Whether the utility considers large wind farms in its power supply program, or small wind power machines constructed by individual customers, or plans on use of both methods, new approaches and innovative thinking will be required. Diversity over wide but interconnected areas could be significant. The benefits of such diversity should be included in any analysis of benefits from wind-powered generators.

RETHINK RATE STRUCTURE

New concepts in utility rate structures will be necessary, to recognize the value to the utilities of individually owned wind-powered generators. Customers' efforts to develop their own generating resources should be encouraged. The effects of inflation on alternative fuel costs, and of the intangible benefits that may occur from construction of small wind-powered generators, must be recognized.

Utilities should not expect wind-powered generators to be a panacea to their growing energy needs; however, wind-powered generators can be important factors in reducing our dependence on nonrenewable resources. Utilities should develop this energy source to the maximum extent feasible, recognizing its inherent drawbacks but also acknowledging its inherent benefits. Use of wind-powered generators is most effective when combined with other sources of power to serve a utility load. Both small and large wind-powered generators have a place in wind power supply for the future.●

CRS REPORT ON WOMEN AND RETIREMENT INCOME FOCUSES ON EQUITY AND ADEQUACY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mrs. SCHROEDER. Mr. Speaker, I would like to bring to the attention of my colleagues a report by the Congressional Research Service on "Women and Retirement Income Programs: Current Issues of Equity and Adequacy," which was released on September 27, 1979—Report No. 79–202 EPW. It was released in conjunction with the staff briefing on women and pensions sponsored by the Aging Committees of the House and Senate.

The CRS study takes a comprehensive look at the subject, with a chapter on the evolution of retirement income programs, legislative and case law developments. The primary focus of the study is an analysis of a wide range of problems associated with social security, private pensions and Federal, military, and railroad retirement. Moreover, it outlines legislative proposals concerning women and retirement that are pending in the 96th Congress.

Retirement issues, especially those impacting on women, are a neglected subject in the Congress. However, retirement issues become increasingly important as more of our constituents reach 65. Currently, 23 million or 11 percent of the population is 65 and older.

Aging is a poverty issue. In 1959, 33 percent of the aged were below the poverty level, while this percentage had decreased to 15 percent by 1977. This decline, however, came from improved economic standing of elderly males living with wives or families. Whereas, the poverty level of other subgroups—females, minorities, and elderly living alone—has actually increased. This occurs because women and minorities tend to have worked less for wages in the past, have worked at lower paying occupations, therefore having fewer financial assets or pension rights.

Furthermore, poverty among the aged is primarily a woman's problem since two-thirds of the elderly are female. In 1973, 19 percent of the women and 12 percent of the men over 65 lived below the poverty level. The 1976 census statistics indicate that 25.3 percent of women age 65 and over had incomes less than $2,000 per year, while 12.3 percent of women 65 and older had no income, compared with 0.3 percent of the aged men. Moreover, the median income for females 65 to 69 is $2,807, while that of males is $6,129. The discrepancy between older men and women carries over to the employment field, where 20 percent of men over 65 and 8 percent of women are working for wages. Finally, there exists a wide variation in percent who are single, since 38 percent of aged women are married compared with 77 percent of aged men.

The fact that women bear the burden of poverty in old age is partly due to pension systems that were created long ago or updated more recently without serious consideration of their adverse impact on women.

I recommend to my colleagues this study, which I hope will shed light on the subject and help us to take actions in this Congress that will make our pension systems more humane so that they better protect older women. Printed below is the introduction of the study.

CHAPTER I—INTRODUCTION

(By Leslie Gladstone)

A. WOMEN IN THE WORK FORCE

Women have always worked and have always been an indispensible part of the American economy. In fact, no country has ever been able to sustain itself on the work of men alone. Yet because women's traditional "place" has been outside the paid labor force (i.e., the home) and women's formal labor force participation has been limited in terms of time and wages, benefits from programs providing retirement income have been larger for men who have traditionally had stronger ties to the paid labor force.

Retirement income in America is based primarily on such programs as social security and employee pensions, on personal savings and investments, and on family contributions. For individuals without these or other assets, there is also Supplemental Security Income (SSI), a form of public assistance. Social security and employee pension systems, the two largest sources of retirement income, are structured to recognize and reward the kind of long-term and constant attachment to income-producing work characteristic of male workers. However until recently, the working pattern for most women consisted of homemaking and child-raising, supporting and sharing a wage-earner's career and, in some cases, filling an unpaid role in the family farm or business enterprise as well. This pattern has also tended to limit substantially women's opportunities for personal savings and investments.

As a result, the economic status of women at the end of their working years more often has been determined by a dependency relationship to a person in covered employment, rather than by earned rights of their own, regardless of the extent or value of their unpaid contributions to family and society. One of the practical consequences of treating women as dependents, rather than as one of two equal partners in a reciprocal economic relationship, is that it leaves women vulnerable to losses of benefits through divorce or the death of the wage-earner.

Even when women spend many years in paid employment, they generally retire with fewer benefits than men, since they tend to move in and out of the labor force, earn less than men, and are occupationally concentrated in industries which have lower pension benefits—or none. Women with shorter work histories or part-time jobs are sometimes excluded totally from pension benefits other than the minimum social security payment. One index of the overall adequacy of the retirement system is a comparison of poverty rates for men and women aged 65 and over. According to Census Bureau data, the poverty rate for older women is 60 percent higher than it is for men.

For many years women's employment patterns have been directly affected by conceptions of women's "place" or "role," which in turn have had a decisive impact on education, occupational choices and levels of earning, and consequently on pension access and benefit level as well. A task-force paper published by the Senate Committee on Aging in 1975 described this stereotype as a "convenient myth" which applied only to native, white, middle class women. For example, in the nineteenth century wives and daughters of poor, minority or immigrant families were needed to work on farms, in factories, and in domestic service. They earned less than men, even when

doing the same work, had fewer opportunities for promotions and fewer benefits because they were regarded as temporary workers. Most left the labor market after marriage or the birth of the first child, thus making room for a fresh group of younger women who repeated the same pattern.

By 1900 approximately one out of five women were in the labor force, increasing to only one out of four by 1940. Most of the increase came from new opportunities in teaching, office work, and nursing, which drew more middle class women to paid employment. Nevertheless, traditional attitudes toward women's roles prevailed. Despite surveys by the Women's Bureau in the Twenties and Thirties showing that women worked for the same reasons as men—to support themselves and their families, there was a general presumption that women were working only for "pin money" and neither needed nor deserved to be paid in the same way as men.

The advent of World War II and the sudden demand for massive numbers of new workers is generally credited with catalyzing major social and economic changes. Actually they had been set in motion earlier in the century but were delayed by the Depression of the Thirties. Among these changes were scientific and technological advances, ranging from birth control to greater mechanization in the home, which released women from many household burdens. In addition, greater female longevity and fewer children increased the number of years women could work outside the home; higher levels of education increased the desire for options beyond those that began and ended with domesticity.

By the end of World War II, the labor force had become 35 percent female and included increasing numbers of married women over the age of 35. In the three decades following, despite some readjustment during the Fifties, women have increased their proportion in the labor force to over 40 percent, as older women without dependent children in the home were followed by younger women with school-age children, and then still younger women with pre-school children. Among the factors contributing to the increased labor force participation of women are a two-fold increase in the divorce rate, modification of attitudes toward women's roles in the family and society, a higher level of education, and changes in the economics of families due to rising inflation.

In wartime, women had performed successfully in many occupations usually reserved exclusively for men. Yet massive as were the resultant changes and pressures, after the war women found themselves again concentrated in a narrow range of clerical, service, and lower level white collar jobs. In fact since 1960, occupational patterns, with women in lower-paying jobs, have not changed even though laws have been passed to end discrimination in employment opportunity, including the Equal Employment Opportunity Act of 1972. Moreover the earnings gap between full-time, year-around workers has continued to widen. In 1956 women earned 63 cents for every dollar earned by men; by 1978, the median for women had fallen to 59 cents. Variations between men and women in education and work-force attachment explain some of the disparities in occupation and income. However, in some studies which adjust for these factors, investigators still find a significant gap which they attribute to discrimination.

While the sharp increase in female employment means that many more women will be gaining eligibility for direct retirement benefits of some kind, many problems remain. To quote William H. Chafe in *Women and the American Economy*, "Although the economic role of women had [sic] changed, inequality remained as omnipresent as ever." Since income in retirement is usually directly linked to salary or wage level during the working years, employed women will remain disadvantaged vis-a-vis employed men until the salary gap is closed. In addition, to the extent that women remain occupationally segregated in industries with low pension benefits—or none—their opportunities to build retirement security will suffer.

B. WOMEN AND RETIREMENT INCOME PROGRAMS

The social security and pension systems are said to present a number of issues for women relating to both equity and adequacy. Chapters III through VII of this report discuss these issues in detail. Briefly, three major areas of concern in social security are: First, many working women believe the system discriminates against two-earner families and single earners, since the family with two workers may receive less benefits than a family with the same lifetime earnings but with only one earner; and a single worker receives only one benefit while paying the same total taxes that provide a single-earner family with an additional dependent's benefit. Second, the system does not provide coverage to homemakers outside the paid labor force. Third, working women have fewer dependents receiving benefits than dependents of men, giving women workers less value for their contributions.

The private pension system tends to pay lower benefits to women workers because of their lower earnings; it may exclude them altogether if they work in industries with little or no coverage, or because of vesting rules. In an article appearing in the February 1978 *Social Security Bulletin* entitled "Pension Coverage and Benefits, 1972: Findings from the Retirement History Study," 49 percent of men were found to be covered by a private pension plan on their longest job but only 21 percent of women. Furthermore, the median pension income for men was $2,230, but only $1,200 for women.

Although the Employee Retirement Income Security Act (ERISA) was enacted in 1974, some advocates think the provisions did not go far enough in ensuring adequate protection to dependents. Wives of workers in pension-covered jobs may be ineligible for survivors' benefits if a husband dies before he is eligible for retirement, even though vesting may already have taken place. Although most pension plans offer joint and survivor annuities, the decision whether or not to share the benefit and provide a widow's annuity may be made by the worker alone, without the spouse's knowledge or consent. Only under the social security system is a share of the benefit automatically allocated to a divorced wife (if the marriage has lasted 10 or more years). However current ERISA rules have been interpreted by some courts to preclude a divorced woman from claiming a share of a spouse's pension, although others have argued that such rules were intended only to protect the pension from creditors, not from legitimate legal or moral support obligations.

One of the most troublesome issues if the retirement income system is to be changed to make it more advantageous to women is the question of whether to credit or assign value to the work of the homemaker. Although a number of European countries now recognize childbearing and homemaking as pensionable occupations and fund benefits out of general revenues, the idea has not gained acceptance in the United States. Proposals to enact such legislation have been before several recent Congresses but have not passed.

A second option, also proposed for congressional action, would recognize marriage as an interdependent economic relationship in which each partner shares. The authors of this proposal suggest that there is already a precedent in the joint income tax. Under this plan, the Social Security Administration would assign half the social security credits earned to each partner, using the income reported in the joint tax return as a base. Some see an advantage in this approach because it would do away with the concept of dependency which many consider inequitable and which can leave widows and divorcees without adequate protection.

Under this plan, both partners in a marriage would share equally in the benefits since both have shared equally in setting aside resources in order to make pension fund contributions. Thus there would be little justification for denying equal benefits to a divorced or widowed spouse, according to proponents.

In the chapters of this report which follow, a fuller discussion is offered on the benefits from retirement income programs presently available to retired women. Critics have identified serious gaps in the present system, some of which are due to changes in the family and the roles of women since the programs originated. Others relate to equality of economic opportunity in the work force at large.●

HONOR THE CZECHS ON TRIAL IN PRAGUE

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mrs. FENWICK. Mr. Speaker, I had expected to speak concerning the suffering and the courage of those who are protesting the present situation in Czechoslovakia. But I think no one could put it better than the writer of this editorial in the Christian Science Monitor. I commend it to my colleagues.

The article follows:

[From the Christian Science Monitor, Oct. 24, 1979]

HONOR THE CZECHS ON TRIAL IN PRAGUE

It is easy for safe outsiders to condemn the Husak regime in Czechoslovakia for conducting the kind of purge trial that has not been seen in Eastern Europe since Stalinist days. Even Communists enjoying Western rights have jumped on the freedom train. Note the politburo of the French Communist Party roundly demanding acquittal of the six nonpolitical figures being tried for "subversion" behind closed doors in Prague. But do any coddled citizens of the free world feel one iota of the gratitude we ought to feel toward the Czechs themselves who are fighting for us in the world's indivisible battle for liberty and justice?

The least we can do is know their names: Vaclav Havel, Jiri Deinstbier, Dana Nemcova, Peter Uhl, Vaclav Benda, Otta Bednarova. Westerns may recognize playwright Havel (or Czech fellow writer Pavel Kohout—alluded to in a current play by Britain's Tom Stoppard—who is not on trial but was stripped of his citizenship and barred from his homeland). But how could most of us be aware of Otta Bednarova, former TV journalist working as a cleaning woman while she carried on the fight against repression and corruption? Or of the 250 brave individuals who risked signing their names to last summer's letter protesting the detention of political prisoners and the government's terrorism against upholders of human rights? Or of the Czechs who this week have tried to gather in support of the defendants only to be arrested or kept out of the courtroom under the remembering eyes of security forces?

Credit must go also to the Soviet monitors of the Helsinki human rights declaration who this year spoke out for the first time in

solidarity with their colleagues in another Soviet-bloc country, Czechoslovakia. They joined a Polish dissident group in calling for the release of members of the human rights movement arrested by the Husak minions.

People and nations in the West have to remain vigilant to preserve their own heritage of rights. But they cannot fail to count their blessings when the old totalitarianism breaks out again as in Prague. And they cannot fail to count their debts to those who stand up for freedom where it takes such courage to do so.●

IRVING KRISTOL ANALYZES THE ILLUSORY SOLUTIONS TO THE PALESTINIAN PROBLEM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. KEMP. Mr. Speaker, it has become fashionable to offer the establishment of a Palestinian state of some sort on the "west bank" of the Jordan River as the wisest "solution" to the intractable problem of Palestine. The Palestinian cause is seen by some prominent observers as the primary obstacle to peace in the Middle East, because the Palestinian refugees appear to be the only significant element in the Middle East unwilling to accept the status quo with respect to the legitimacy of the State of Israel.

As Irving Kristol writes in today's Post, it is evident to anyone who has studied the economic geography of the West Bank region that it cannot solve the Palestinian problem for the region cannot hope to absorb more than 1 million Palestinians living outside of Israel on its meager economic base. Palestine established on the West Bank could only be an intermediate point to the destruction of Israel, because the occupation of the State of Israel would be the only long-term source of water, agricultural resources, and international transportation. Thus, the establishment of a Palestinian state would assure a future war of vastly destructive proportions as it would be a fight for Israel's survival, as well as the survival of a Palestinian state. Palestine would have to occupy Isreal to survive, and Isreal would have to prevent such an attempt in order to survive. Such circumstances are congruent with perpetual conflict, not eternal peace.

A second dimension of the now fashionable theory that the United States must help in forcing the establishment of a Palestinian state turns on an assumption that such a circumstance is crucial to improve OPEC-U.S. relations. This perspective is defective on two grounds. First, few of the Arab states in the region welcome the prospect of a Palestinian state, despite their ritualistic rhetoric on the subject. The reason for this is quite simple: Many of the Arab states have Palestinian minority populations who, in the presence of a Marxist-oriented Palestinian homeland, would become a subversive element within the nations themselves. Hence, the diplomatic difficulties the United States faces with the conservative elements of OPEC have little to do with the Palestinian problem; they have much more to do with a host of other problems that relate more to economic issues than anything else.

The radical Arab states such as Libya and Iraq are, because of their Marxist orientation, anti-American from any perspective. As the gulf which divides U.S. policy from the radical Arab states is vast on matters unrelated to the Palestinian problem, there is no evidence that suggests that these states would be less hostile if the United States abandoned its long-standing policy in the Middle East in support of the establishment of a Palestinian state.

These views are infrequently expressed, but we should all be grateful for Irving Kristol's incisive—if unfashionable—analysis of the Palentinian problem. He has, in the space of less than 1,000 words, deflated the faulty premises of the season's most misguided policy recommendation. Professor Kristol's informative essay should be read by anyone who believes the notion of a Palestinian state to be congruent with the interests of the United States. This essay appeared in the October 25, 1979 issue of the Washington Post.

WHAT A PALESTINE SOLUTION WON'T SOLVE

(By Irving Kristol)

Public discussion of our Middle East policy is being increasingly bedeviled by two common fallacies. The first is that a solution to the Palestinian refugees problem, in the form of a Palestinian state on the West Bank, is a precondition for any overall Israeli-Arab settlement. The second is that the achievement of such a settlement will result in a significan improvement in the terms of trade between the United States and OPEC, thereby ameliorating our energy crisis.

The establishment of a Palestinian state on the West Bank will not—because it cannot—solve the refugee problem. This is quite evident to Anwar Sadat, to Menachem Begin and to Yasser Arafat, and explains much about their respective foreign policies. It seems less evident to our State Department or to John Connally.

The West Bank is a relatively arid territory one-fourth the size of Massachusetts, with some 700,000 inhabitants, a high birth rate and a limited economic potential. Even now, some 50,000 West Bank Arabs—approximately one-third of the labor force—commute daily to Israel for their jobs. How on earth is this territory going to absorb close to 1 million new immigrants—a figure that assumes that most of the Palestinians now living in Jordan will stay there?

Even with the most generous foreign aid, economic development of this territory will be slow and incremental. Its inadequate water supply by itself guarantees that. Indeed, there exists no plan of economic development that can get much ahead of the growth of the present population, to say nothing of hundreds of thousands of new immigrants—and to say nothing, either, of the natural increase in the refugee population, which also has a high birth rate, in the years ahead.

Is it any wonder that, in the period 1948–1967, when Jordan occupied the West Bank, the idea of this area representing a solution to the refugee problem seems not to have occurred to anyone?

A Palestinian state on the West Bank could not help being irridentist, seeing its future in the repossession of Israeli territory. This explains why Arafat will not recognize the territorial integrity of Israel, why Begin resists the idea of a Palestinian state and why Sadat is trying to finesse the whole issue by focusing on "autonomy" rather than sovereignty. These are all rational men who define their interests in terms of Middle Eastern realities. The notion that they are simply "unreasonable," while Americans are uniquely in a position to design a reasonable and comprehensive settlement, is absurd.

If the notion that the West Bank offers a solution to the Palestinian refugee problem is absurd, the idea that the high price of OPEC oil can be reduced by any alleviation of Arab-Israeli tensions is preposterous.

OPEC is primarily an economic organism. Many important members of OPEC—e.g., Nigeria and Indonesia—are neither Arab nor Middle Eastern. And all members of OPEC have a much keener interest in higher oil prices than in the Israeli-Arab quarrel. How quickly we seem to have forgotten that one of the architects of OPEC was none other than the shah of Iran, who was no political enemy of either Israel or the United States.

Moreover, to the degree that politics does enter the picture, many of the key Arab and Islamic members of OPEC are at least as much anti-American and anti-West as they are anti-Israel. These include Libya, Algeria, Iraq and—today—Iran. Even Saudi Arabia was duly represented at the recent "Third World" conference in Havana—a conference that paid relatively little attention to Israel and directed its hostility mainly toward the United States. When and if these nations are inclined to use their oil as an instrument of foreign policy, they will do so, Israel or no Israel.

The problems posed for American foreign policy by the Arab-Israeli conflict and the existence of OPEC are as complex as they are critical. This would hardly seem to be the moment to take flight from these problems by embracing "solutions" so illusory as to be more accurately labeled "panaceas."●

WORKER STERILIZATION AT AMERICAN CYANAMID

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. GAYDOS. Mr. Speaker, I would like to call my colleagues' attention to an incident involving the sterilizaiton of four women employees at the American Cyanamid plant in Willow Island, W. Va. These women alleged that they had themselves sterilized after a plan official implied that the surgery might help save their jobs. An OSHA investigation revealed that American Cyanamid announced in January 1978, a policy which, in effect, required women workers to be sterilized in order to continue working in areas of the plant where they were exposed to excessive levels of lead. This policy was in response to a fear of possible lead poisoning damage to a fetus.

Occupational exposure to lead can cause damage to the nervous, urinary, and reproductive systems; and studies have linked lead exposure in workers to defects in their offspring.

As a result of its investigation, OSHA has proposed a $10,000 penalty against the plant for its sterilization policy. Earlier this year, OSHA issued a number of other citations against American Cyanamid relating to excessive worker exposure to lead and chromates.

Clearly working men and women must not be forced to forfeit their ability to conceive children in order to maintain their current jobs. Such actions by any employer are totally inexcusable. Finally, this incident dramatizes the vital im-

portance of the Occupational Safety and Health Administration in insuring the worker the right to a safe and healthful environment free from harassment by this employer.●

OIL PROFITS AND CONTROLS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. SYMMS. Mr. Speaker, for the past several days the news media has once again deluged all of us with reports of the "unconscionable" profits of the oil companies.

True to form, all of the politicians in Washington picked up on the issue and are now busy proclaiming how they are going to save the consumers money. I believe it is important, however, that we carefully examine the issue.

The first fact that the Congress must face is that we cannot enforce control over most of the oil that is used. Half of our oil is imported; 20 percent is decontrolled domestic oil; fifteen percent is uncontrolled at the product level; heating oil is at the world price. Consequently, even if we are controlling the domestic crude price from which it is refined, it is not going to change the price to the consumer. My question then is, why are we reversing our previous decision to end price controls and allocations?

The second notion that must be discounted is that profits are in some way contrary to the public interest. This body fails to realize that there is not any reinvestment unless there are profits. Admittedly, Gulf Oil's profits in the last quarter were approximately $1 billion. However, we must also realize that they plowed $1½ billion into research and development of new sources and types of energy.

The third issue that must be examined is who are the benefactors of the supposedly "unconscionable" profits. An article which appeared in today's Wall Street Journal clearly indicates that the benefactors are the pension funds, insurance companies, mutual funds and other mechanisms for small savers to pool their resources in addition to charitable and educational foundations, colleges and universities and employee pension funds.

THE BIG OIL RIP-OFF

Motorists fumed over gasoline lines in the summer, fuel prices soared, filling station service deteriorated—and now, Exxon reports its third quarter profits were up 119% from a year before. If the oil politicians had written the scenario for piling new taxes on the oil industry they couldn't have planned it better.

Indeed, Herblock had an anti-oil cartoon in the Washington Post the very morning of the Exxon announcement; Jimmy Carter said the big oil profits aren't "fair to the American people" and James G. Archuleta, of the Oil, Chemical and Atomic Workers Union called the Exxon profits "pornographic," presumably is even worse than obscene. And yesterday the House reversed its previous decision to end gasoline price controls and allocations, apparently in the belief that keeping controls would punish the oil companies for their success.

To start to put this in perspective, you have to ask who gets these profits. Not Exxon's hired managers, as well compensated as they surely are. The profits go instead to shareholders, either directly as dividends or indirectly through share appreciation if profit is reinvested within the business. So who are these shareholders now so widely accused of greed?

Some 65% of Exxon's shares are held by institutions. These pension funds, insurance companies, mutual funds and other mechanisms for small savers to pool their resources. Plus charitable and educational foundations, colleges and universities and the like. Employee pension funds alone own 28% of Exxon. Just what does Herblock have against retired people?

The question is even more pertinent if you notice that most of Exxon's profit gains were overseas, while most of the shareholders are Americans. If you insist on seeing profits as an income transfer, they were a transfer from European consumers to America's social welfare institutions for the retired aged. Hardly a cause for yelling or screaming on the New Jersey Turnpike; maybe so in M1 to London.

But anyone who might wish to rise above penny dreadful analysis has to ask about the origin of these profits. Why are the oil companies making so much money? In fact, the companies themselves have little control over most of the variables—prices, exchange rates, taxes, Iranian politics—that govern their profit rates. They really do not even have the option of trying to lower their profits by cutting prices, since in the short run only so much oil is available, and since prices below market-clearing levels would leave them swamped with orders they could not fill. Gas lines and the like would return; this is also likely to be the actual effect of yesterday's House vote.

In any industry, when prices rise faster than the overall rate of inflation, as oil produce prices did this last year, it reflects, in simplest terms, diminished competition. The diminished competition in the oil industry this past year resulted not from a lack of competitors—there are 28 sizable oil companies—but the political restraints that have been applied to the energy industry, including all the products that compete with oil.

The Natural Gas Act crimped domestic drilling of natural gas, which was rising healthily before the act was passed. Environmental laws have curtailed coal use and expanded demand for unleaded gasoline, which requires more crude oil to produce than leaded gasoline. Pressures from the "No More Nukes" Yippies have stalled nuclear power development.

All of this is now to be remedied by piling still more burdens on domestic energy production. The windwall profits tax, which has gotten such a marvelous boost from the Exxon numbers, will further discourage U.S. oil production, reducing the total world supply of oil and practically guaranteeing that world prices and the overseas profits of the major oil companies will continue to rise. This will bring more screaming and yelling and more Herblock cartoons from Washington. And with the screaming and yelling will come new regulations, new taxes, new restrictions on domestic energy production.

Oil industry executives, many of whom would probably like nothing better in this poisoned political environment than to report a 1 percent profit decline, will continue to be benumbed by all the political and legal pressures that interfere with their fundamental goal of finding, producing and selling fuel.

The oil politicians, gearing up to run next fall on how forcefully they have championed the interests of the consumers, couldn't have written a better scenario. We wonder, however, if there won't come a point when the consumers and voters will begin to ask if they really need friends like these.

It is incumbent upon the Members of this body to intelligently examine this issue which is vital to our Nation's interest.●

FRANCE AND OTHERS HAVE NUCLEAR LEAD

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. WYDLER. Mr. Speaker, as we have debated the annual authorization for the Department of Energy in recent weeks I think it is worth noting that this country is falling further and further behind both our allies and the Soviet Union in the development of nuclear power as a major energy source. I include in the RECORD at this point a recent editorial which stresses this sad state of affairs. As the editorial states, the nation that discovered atomic power has now tied its own nuclear industry in knots:

[From the St. Louis Globe-Democrat, Oct. 17, 1979]

FRANCE, OTHERS HAVE NUCLEAR LEAD

France has jumped far ahead of a paralyzed United States in building not only conventional water reactor plants but also in developing a commercial fast breeder reactor, facilities for reprocessing spent nuclear fuel and a process for safely storing nuclear waste.

The French, now 10 years ahead of the U.S. in developing nuclear power, have moved so rapidly that they plan to produce 60 percent of their electricity from atomic power by 1985. The straitjacketed U.S. nuclear industry will be lucky if it is producing 18 percent of the nation's electricity by 1985.

The French, the British, the Soviet Union and other major industrial countries have recognized the great potential of the breeder technology that apparently has escaped President Carter and others in Washington.

For the fast breeder has two enormous advantages over present reactors. First, it is able to use the abundant Uranium 238 which comprises about 99 percent of uranium fuel. Conventional reactors, by contrast, must rely on Uranium 235 which comprises less than 1 percent of the uranium fuel.

Secondly, when the U-238 is bombarded with neutrons along with plutonium, the reaction produces more plutonium than is consumed—hence the name, breeder.

Thus the fast breeder is able to get up to 60 times as much energy from the same uranium that now is used in present reactors. Another important factor is that the United States has an incredible amount of U-238 stored in drums at uranium enrichment plants since U-238 is a byproduct of this process.

Opponents have argued that the U.S. shouldn't move ahead on nuclear power because the technology and facilities for storing nuclear waste haven't been developed. But, here again, the French have proven that this is a phony argument. They not only have developed the technology but have built a plant that is busily engaged in enclosing hazardous nuclear byproducts in solid glass blocks that can be safely stored underground in a relatively small area for hundreds of years. The process is called vitrification.

France, Britain, Soviet Russia and other countries all are doing the things in developing nuclear power that antinuclearites in this country say can't be done. They are moving steadily toward a future that is less and less dependent on oil and other scarce and costly fossil fuels. Meanwhile the nation that discovered atomic power has tied its own nuclear industry in knots and has put itself increasingly at the mercy of the OPEC oil pirates.●

EAGLES IN CEDAR GLEN

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. RAILSBACK. Mr. Speaker, in Illinois' 19th Congressional District is an area called Cedar Glen where the Bald Eagle, our national bird and an endangered species, spends its winters. Prof. Thomas C. Dunstan, an associate professor of biology at Western Illinois University—also in the 19th District—wrote an article entitled "Cedar Glen, Land of Wintering Eagles" which was published in the September/October 1979 issue of the Nature Conservancy News. I am pleased to submit the article for printing in the CONGRESSIONAL RECORD so that others may have the opportunity to read it:

CEDAR GLEN, LAND OF WINTERING EAGLES

(By Thomas C. Dunstan)

South of Chicago is the prairie state of Illinois. The Mississippi River passes down the entire western border of the state. During the fierce cold days in the dead of winter each year, our national bird, the bald eagle, gathers along the "Mighty Miss" in large numbers. At the Cedar Glen area, near the river's Lock and Dam 19 in west-central Illinois, eagles find a rare wintering situation that is vital to their survival during the 5- to 6-month period when they are away from their breeding ranges in the northern states and Canadian provinces.

Since 1969, as an associate professor of biology at Western Illinois University, I have been conducting research on winterizing eagles at Cedar Glen and at other sites up and down the Mississippi River. As a young boy, and later as a professional biologist studying the breeding ecology of eagles in Minnesota, I puzzled over the question of where breeding eagles go and what they do during the winter. After nine years of study, and through the combined efforts of my students and colleagues at the University and the Illinois Chapter of The Nature Conservancy, the answer is partially known. We have also helped raise people's consciousness about our responsibility for protecting this endangered raptor. In 1970, Cedar Glen and the surrounding 162 acres were purchased by the Conservancy in order to save an eagle night roosting site from potential destruction, and to safeguard eagles from human encroachment and harassment.

Cedar Glen is an eroded "punch bowl" about 4 acres in size, located among and behind an upland ridge of Keokuk limestone of Valmyerian age. The "bowl" lies adjacent to the Mississippi River. Most of its rim is surrounded by a natural windbreak of red, black, and chinquapin (*Quercus muhlenbergii*) oaks, the latter species typically associated with dry limestone buffs. In the bottom of the glen and bowl area are several large sycamores with widely spread branches that are the eagles' favored perch sites. On clear, frigid winter nights when the moonlight glistens off the snow, 20 to 40 eagles can be seen perched side-by-side in each of the trees.

Annually, the Illinois Chapter of The Nature Conservancy organizes a winter field trip to Cedar Glen to see the eagles and to share new information with interested members. For example, we have discussed and explained the three habitat-use areas that are important to eagles. One area is comprised of the primary feeding and eating sites between Warsaw, Illinois, and Lock and Dam 19 on the Mississippi. The second habitat consists of loafing areas—sites away from the river, which are protected from wind and exposed to the warming rays of the sun. The area adjacent to Eagle Island and the newly discovered Crystal Glen area next to Cedar Glen comprise the kind of habitat that the eagles use and need as roosting sites. We have also discussed the eagle's food habits and fishing behavior.

Since the initial purchase of the Cedar Glen night roost in 1970, the Conservancy has also purchased Mud Island, Eagle (Mink) Island, and mainland areas used for feeding, eating, loafing, and some night roosting. The Conservancy's project now encompasses about 580 acres. Several critical areas, including the newly documented Crystal Glen Night Roost, are worth protecting in the immediate future. Acquiring these additional areas would safeguard an entire system of components necessary to the survival of bald eagles in winter. The Conservancy also joined the Illinois Superintendent of Public Instruction's Office and the Illinois Audubon Society in a school children's "Dimes for Eagles" drive in 1976. Funds from the drive were used to purchase the Prairie State Eagle Refuge—also known as the Children's Eagle Refuge—adjacent to the Conservancy's properties.

Last winter, during the blizzard of '78–'79, Cedar Glen appeared to be the "true Mecca" for bald eagles in the Midwest. Data from the National Wildlife Federation's First National Census of wintering bald eagles in the 48 contiguous states documented the presence of 1,295 eagles along the Mississippi River from Minneapolis, Minnesota, to Cairo, Illinois. The majority ate, loafed, and roosted along the Illinois shore of the Mississippi. This large number of eagles exceeded counts made in any other state censused. The "Land of Lincoln" became the "Land of Wintering Eagles." The significance of the Cedar Glen area itself was never more apparent—the white heads and tails of hundreds of adult bald eagles could be seen brightening the clear, blue January skies. We recorded a record high minimum number of 454 eagles (359 adults, 88 immatures, and 7 eagles of undetermined age) in Cedar Glen during the national count. This total is about *double* the usual number that frequents the area. Also, it was seven or more times greater than numbers from any other single site censused along the Mississippi River.

The Glen's future is promising, but not secure. All necessary habitat requirements must be met—guaranteeing only part of the ecosystem is not enough to protect the eagles. Present activities, such as the building of the new interstate bridge from Iowa to Illinois right through the study area, require that we continue our efforts to acquire additional and necessary critical habitat. This time we can provide information for making decisions about bridge locations and construction activities; however, time is short. Past debts have to be paid so new areas can be purchased. Furthermore, what we learn at Cedar Glen can also be used to preserve other habitats for wintering eagles, both along the Mississippi River and throughout North America.●

CARTER'S SALT-SELLING CAMPAIGN: A $1,000,000 RIPOFF

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ASHBROOK. Mr. Speaker, some of my colleagues are aware and indeed parties in a lawsuit which asks that President Carter's SALT-selling campaign be ruled unconstitutional in Federal court. The use of appropriated funds for the purpose of influencing Congress is clearly illegal under the United States Code but the State Department has persisted in using our tax dollars to lobby the U.S. Senate for ratification of SALT II, the latest U.S. effort to appease the Communist government in the Soviet Union.

John D. Lofton has written in this week's edition of the Washington Weekly an excellent piece on this very subject. I think that my colleagues may be interested in reading this detailed account of how taxpayers' dollars have been used to garner support for the ratification of this ill-advised treaty. The Lofton article follows:

CARTER'S SALT-SELLING CAMPAIGN: A $1,000,000 RIPOFF

WASHINGTON.—In the absence of express authorization by Congress, it is illegal to use appropriated tax dollars to directly telephone or to finance letters, "printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress . . ." Any officer or employee of the United States who violates this law shall be fined not more than $500 or imprisoned not more than one year, or both; and, according to 18 U.S.C., Section 1913, after notice and hearing by the superior officer vested with the power of removing him, the transgressor shall be removed from office or employment.

When he's asked if the Carter administration has violated this federal statute by spending tax dollars to sell the SALT II strategic arms limitation treaty with the Soviets, State Department press spokesman Hodding Carter III is aghast at the mere suggestion. When he responds, one can hear the playing of "The Star Spangled Banner" in the background; one visualizes Old Glory snapping in the breeze, firmly planted in a field where amber waves of grain are gently swaying in the wind. Carter says:

"I think it is absolutely proper for this administration or any administration to present to the American people a rationale and reasons for policies which it is pursuing. It is, in fact, an obligation of this government to make sure that the people of the country understand the policy and have an opportunity to speak to it, and to those who are involved in implementing the policy and in carrying it out. We would be remiss in our duties if we did not pursue such a course of public information . . . we have engaged, not in lobbying Congress, but in informing the American people."

According to the General Accounting Office, during 1978 and the first half of this year administration SALT-sellers from the State Department's Public Affairs Bureau, the SALT Working Group, the Office of the Counselor, "other bureaus," the Arms Control and Disarmament Agency, "other offices," the Defense Department and the White House have participated in 1,065 speaking

engagements and 1,028 media events. The cost to the taxpayer of these 339 trips to 48 states and the District of Columbia has been $1.2 million. These officials addressed numerous academic groups, religious organizations, civic clubs and conferences, and participated in TV, radio and newspaper interviews.

During just the first six months of this year alone, the State Department—at taxpayer's expense—distributed more than half a million copies of documents, reports, pamphlets and speeches, all selling the SALT II treaty, at a cost of nearly $100,000.

In recent months, the White House Office of Public Liaison has stepped up its SALT-selling effort. No count has been made of the number of people invited to these sessions, which usually feature the president and the secretary of defense. But Anne Wexler, who heads the Liaison Office, says: "It is in several thousands, with different levels of contact." Ms. Wexler's office lists 800 names in its SALT file. Concerning the question of the salary costs for White House staffers involved in this selling of SALT, Ms. Wexler's office informs the General Accounting Office: "No records have been kept which would provide any reasonable estimate of what portion of an individual's time was spent on SALT II and therefore, no reliable cost data can be computed."

Anne Wexler has vigorously denied to me that the administration is engaged in any illegal lobbying for SALT with public funds. She says she is "very conscious" of the legal question involved and "very careful" that the law is obeyed. Ms. Wexler says: "We want to make information available so that the public can understand the context and the issues, whatever their final decision on SALT or any other topic might be. Our efforts are educational and consistent with federal law."

But either Ms. Wexler's memory is short or she's not paying close attention to what White House SALT-sellers are saying at her forums. In June, The New York Times quoted President Carter as telling one State Dining Room audience: "I hope you'll leave here and become strong and articulate advocates of SALT who will make your voices heard by your senators." In mid-August, according to National Journal reporter Dom Bonafede, Carter told another White House SALT-selling audience that it was important "for your voice to be heard back home and for you and others to let senators know how you feel."

Regardless of the semantic hair-splitting being engaged in by White House and State Department officials, the truth is that the massive SALT-selling "educational" campaign the administration is engaged in is precisely the kind of tax-funded indirect lobbying prohibited by federal law. In fact, in a moment of unguarded candor, Ms. Wexler told National Journal reporter Bonafede; "Our job is to create lobbyists." Indeed.

Footnote: When I asked Ms. Wexler if there was a memo from the White House counsel dealing with the legality of selling SALT, she said there was. When I asked if I could have a copy of it, she said she would check and see. I was subsequently informed that this document could not be made available.●

SALUTE TO THE REVEREND ANTHONY WISNIEWSKI

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. WILLIAMS of Ohio. Mr. Speaker, on Sunday, September 9, the Reverend Anthony Wisniewski and the Holy Cross Parish of Youngstown, Ohio, observed the golden jubilee of his priesthood in the Polish National Catholic Church. Ordained on August 7, 1929, by the Prime Bishop Francis Hodur, organizer of the PNCC, Father Wisniewski remembers well the spirited preaching of Bishop Hodur in his native Poland, and his influence in his life.

Father Wisniewski has been a staunch supporter of the Polish National Union, and has brought some 570 new members into "Spojnia," serving as secretary of branch 197 since 1969. He cherishes a plaque given by the supreme management as a tribute to his efforts—the first such plaque ever awarded.

The people of Holy Cross Parish whom he has served for 17 years know Father Wisniewski as a dedicated, hard working, sympathetic friend. The Father Jubilarian has led them in the construction of a new social hall, and the remodeling of their sanctuary and rectory. His efforts on behalf of Polonia in the Youngstown area are well known and hailed.

I am delighted to call attention to this important milestone in the life of Father Wisniewski, and to offer congratulations to him, his wife Eva, and children Richard, Jane, Eva, and Michael. They have served their community, their people, and their church well.●

THE PLO: "EXILE GOVERNMENT"

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. FINDLEY. Mr. Speaker, most Americans see the PLO only as a terrorist organization. The PLO, however, is much more, as the following article from the October 22, 1979 Wall Street Journal demonstrates. The Ray Vicker story details, in part, the meaning of the PLO for Palestinians.

[From the Wall Street Journal, Oct. 22, 1979]

NOT JUST GUERRILLAS—THE PLO MAKES GAINS ON BOTH THE INDUSTRIAL AND DIPLOMATIC FRONTS

(By Ray Vicker)

BEIRUT, LEBANON—To many people, the Palestine Liberation Organization is just a guerrilla group bent on the destruction of Israel. And if you're an Israeli, that may be all you have to know.

But the PLO is much more than that. It is a well-financed organization with growing international contacts whose diplomacy is beginning to outrank its violence as a political weapon. It has a budget exceeding that of many countries in the United Nations. It owns and manages businesses ranging from a Belgian charter airline to a Lebanese shirt factory. It has its own "state department," welfare agency, hospital chain, "national" library, education department, think tank, press agency, radio network and tax-collection system.

As such operations indicate, the PLO is something like a government-in-exile for the world's 3.5 million to four million Palestinians. A PLO official in a well-guarded office in southeastern Beirut says:

"We have everything to make a country except the land."

WHAT THE PLO DOES

Some examples of the PLO's activities:

Dr. Youssef Iraki is the financial director of 12 hospitals, mainly in Lebanon. Trained at Moscow University, the Palestinian is a vigorous, shirt-sleeved surgeon with an athletic build who regrets that his administrative work keeps him from the operating room. His skills serve the PLO, which controls all 12 hospitals.

A half-dozen books in Hebrew lie on the office desk of Sabri Jiryis, a Palestinian graduate of Hebrew University in Jerusalem. Currently, his knowledge of Hebrew is employed by the Palestine Research Center, here, where he directs. The center is part of the PLO empire.

Salah Abou Risleh holds a doctorate from the University of Chicago. He is a lean, angular Palestinian who spent a couple of decades in Saudi Arabia's oil industry. Today he is one of the directors of a conglomerate of 33 industrial plants in Lebanon that make everything from shoes to processed food. All 33 plants are owned by the PLO.

This decaying city of sudden explosions and rattling gunfire is the PLO's headquarters and the home of most of its administrative offices; Lebanon is too weak to keep anyone out. The agencies are scattered around town in office buildings or converted apartment houses. All are guarded by youths wearing khaki or camouflage uniforms and carrying Russian-designed Kalashnikov rifles. Tank barriers and sandbag inspection posts often advertise the fact that some PLO office is nearby. The wartime atmosphere prevails because Israeli commandos have attacked PLO centers in the past and probably will in the future. Visitors grow used to suspicion and bomb searches.

AL FATAH DOMINANT

Still, it is worth the trouble to visit PLO hospitals, plants, refugee camps and administrative offices. Interviews with officials and employes provide clues to what makes the organization tick.

The PLO is an umbrella organization composed of numerous fighting groups. Al Fatah, which is led by Yasser Arafat, is by far the largest, and it dominates the PLO; Mr. Arafat is the PLO's chairman. Al Fatah leads the PLO wing that believes that diplomacy and negotiations can bring results in the Middle East. The PLO wing that believes that only war can settle the Middle East's problems—the self-styled "rejectionist front"—is led by the Popular Front for the Liberation of Palestine, whose headquarters are in Iraq.

Iraq, Saudi Arabia, Kuwait, Qatar, Abu Dhabi and other Arab oil states give the PLO financial aid. Each price increase by the oil cartel thus enhances the ability of its members to contribute to the PLO.

That oil money isn't all the PLO gets, either. It receives other international aid of various types, and it collects "taxes" from several hundred thousand working Palestinians scattered around the globe. These taxes range from 3% to 6% of gross pay. In some countries, such as Kuwait, employers, whether public or private, withhold the tax for the PLO. Payments are voluntary, but few Palestinians refuse to go along.

All told, "PLO revenues must be running around a half-billion dollars a year," one source says. Moreover, the money is going directly to the PLO, not to its member groups. This gives Mr. Arafat a powerful weapon for keeping the various groups in line—for getting them, say, to back any move toward peace negotiations.

PENSIONS FOR SURVIVORS

Over the years, the PLO has lost many fighters in action. Today, about 25,000 widows and other dependents draw pensions or other benefits. One document estimates this cost alone at $30 million a year.

The PLO's industrial conglomerate, called Samed, developed from these survivors' needs. Sons and daughters of slain fighters were given jobs distributing foods, blankets and the like in refugee camps. In the last half-dozen years, as more money flowed into PLO coffers, Samed expanded into a chain of factories. "Our main purpose is to provide jobs," says the University of Chicago-trained Mr. Risleh.

Mr. Risleh leads the way into a basement shirt factory. Sixty men and women work at lines of humming Mitsubishi sewing machines. The scorched smell of cloth under a hot presser is evident. Shirts pass from machine to machine. Each shirt has Samed's emblem—an arm holding a torch—on its collar. "We are producing 300 shirts a day," says Sater Hussein, manager of cutting operations.

A nearby PLO pants factory employing 75 people is producing at the same rate. "This is the father of all our factories," says Zuhair Hamzeh, the facility's 23-year-old manager. "In 1972, this factory had four machines and five workers. Now it has 62 machines and 75 workers."

One of the biggest of Samed's 33 plants is a furniture factory near Beirut's airport. It has just been enlarged to 32,500 square feet, about four times its previous size. Several of its 150 workers fit sections of chairs into place for gluing. Fawaz Hassan, an accountant, uses a hand calculator to estimate labor and material costs per chair.

Abu Nader, the production manager, worked for General Motors Corp.'s Buick distributorship in Beirut for 20 years. That operation folded, and for the last two years he has been with Samed. "This factory is one of four in this complex," he says. The three others are new. Abu Sheikh, director of a handicraft plant, says that operations there began only five days earlier. "We have 70 men and women already," he says, "and probably will have many more."

Sales figures weren't disclosed at any Samed plant, but based upon production and prices charged, each plant probably chalks up annual sales of about $500,000.

40,000 AT REFUGEE CAMP

Burj al Brajmeh refugee camp is adjacent to the four-plant airport industrial complex. Forty thousand people are jammed into a warren of one-story, concrete-block houses. Narrow alleys with open drains provide passage. Compounds are neatly swept, interiors bright with whitewash. Tin cans with geraniums and other plants brighten the scene. Children play in the few existing open spaces. A line of women, most with young children, waits beside the small hospital for attention.

The 12 hospitals and their 100 clinics charge only nominal fees of 90 cents to $1.50 per visit to a doctor, including all prescribed drugs. "A person without money doesn't have to pay anything," says Hadla Ayoubi, an official at Acre Hospital in Beirut who is trained in the law. Like many other Palestinians, she contributes time in a low-paying job to aid, as she puts it, "the revolution."

The hospitals treat 3,000 patients a day. Among them is nine-month-old Nazer, an alert, extroverted child who stands up in his crib at Nazareth Hospital every time a visitor enters. His ready smile charms one visitor into picking him up and holding him awhile. Nazer's father was killed in Israel in a guerrilla raid. His mother died in childbirth. He is in the hospital for lack of any other place to go.

"MY NAME IS DALAL"

Nearby is three-year-old Dalal, a blind child from one of the Israeli-bombed villages in southern Lebanon. Her entire family was wiped out by an Israeli aerial bomb a few months ago. Dalal was pulled from the wreckage of the family home. Now she wants to withdraw from the world into her private darkness, saying little more than "My name is Dalal, my name is Dalal."

"She needs special attention and we don't have it," a nurse whispers.

Moscow University-trained Dr. Iraki says: "There has been too much killing. We want peace and a homeland, and we shouldn't give the extremists of either side a chance to fight merely for the sake of fighting."

There are signs that Mr. Arafat and his dominant clique, perhaps growing more realistic as the PLO empire grows, would be willing to recognize Israel in exchange for a Palestinian state that might consist of the West Bank and Gaza. That state probably would be federated with Jordan, and oil money presumably would pour in. Meanwhile, the PLO gains on the diplomatic front, maintaining offices in more than 50 countries.

Its leaders now are received by the governments of Austria and Spain. Portugal has invited a PLO delegation to visit. So has Belgium; Common Market nations lean toward recognizing the PLO. A black delegation from the United States—later criticized by many U.S. black leaders—has been welcomed by the PLO in Lebanon and has promised that the organization's point of view will be spread throughout the U.S.

The United States, of course, refuses to deal with the PLO until the latter recognizes the existence of Israel. Indications here are that dominant forces in the PLO would be happy to recognize Israel if Israel recognized the PLO, but the PLO doesn't want to make any unilateral concessions.

As the PLO's wealth grows, so does the problem of allocating it. Generally, a 15-member executive committee headed by Mr. Arafat decides how much money goes to military groups and civilian agencies. Some of the worst wrangles in the PLO have concerned the distribution of funds.

Military equipment and armament cost big money today. And all those guerrillas you read about are paid soldiers' wages, starting at about $100 a month and rising to brigadier general's pay, possibly $900 a month. Militarily, the PLO has three wings: commandos who operate guerrilla style; the Palestine Armed Struggle Command, which operates as military police in refugee camps and mediates intra-PLO rivalries; and the Palestine Liberation Army.

This army has about 5,000 men with heavy weapons, tanks, armored cars and all the armaments of conventional warfare. It often joins the Syrian army on maneuvers.

Civilian agencies and organizations are claiming more and more PLO funds. The hospital chain alone has 1,000 employes. The 33 factories in Lebanon employ 7,500. Pay scales range from $90 a month for a laborer to $900 a month for a key executive.

One important claimant for PLO funds is education. Palestinians are strong believers in it, and the PLO, through its various agencies, is liberal with scholarships. Samed, for instance, now has 300 people attending technical schools in Europe. Overall, thousands of Palestinians have scholarships.

Some sources say that Palestinian university graduates outnumber those in Israel. True or not, it is evident that higher education among Palestinians is close to the Israeli level, and Jews have always revered education.

"We are like the Jews and the Armenians. As homeless people, they came to regard education as the avenue through which they could escape the ghetto," says Mr. Jiryis, the director of the PLO research center. "Our people, too, now look upon education as the only way to get ahead."

An estimated 50,000 Palestinians now are in the U.S. About 5,000 of them are university professors.●

AN OVERVIEW OF THE BIKEWAY DEMONSTRATION PROGRAM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ANDERSON of California. Mr. Speaker, Mr. David K. Phillips of the Federal Highway Administration recently presented a speech to the Institute of Transportation Engineers, on the bikeway demonstration program which was established in 1974.

Response to the $6 million one-shot grant program was outstanding. Four hundred and ninety-five projects were submitted for funding. Forty-one projects in thirty-one States were selected for participation. And today, of the original $6 million appropriated, only $300,000 remains unobligated. Even these funds, I have been told by FHWA, "are committed to certain projects but have not been obligated yet because construction has not begun or project accounts have not been finalized."

On a different bicycle program, section 141 of the Surface Transportation Assistance Act, it appears likely that for fiscal year 1980, Congress will approve a final appropriation of $4 million. As was the case with the $6 million bikeway demonstration program, I feel sure these moneys will be well spent to facilitate an energy-efficient, nonpolluting mode of transportation.

Perhaps for fiscal year 1981, we can come closer to appropriating the full $20 million that is authorized by law for section 141.

Mr. Speaker, so that more of our colleagues may benefit from Mr. Phillips' speech, I would like to insert it in the RECORD.

THE BIKEWAY DEMONSTRATION PROGRAM

(Speech by David K. Phillips)

The current situation in the United States regarding bicycle travel is one of learning. The United States is still in its infancy when it comes to integrating the bicycle into urban transportation systems.

Bicycles are toys! Bikes don't belong on streets! These and similar attitudes are not uncommon. The extent that the bicycle is regarded as a viable mode of transportation varies around the U.S. Steps are being taken on all levels—Federal, State, and local—to improve bicycle travel. The Bikeway Demonstration Program, the subject of my talk, is one of the Federal Government's efforts to promote bicycling.

In the early 1970's a bicycle boom hit the U.S. Sales of domestic and imported bicycles in 1972, 1973, and 1974 averaged over 14 million. Since 1970, there have been more bicycles sold than automobiles. It is no longer just children buying and riding bikes, but adults of all ages now own and use them.

But what do we see in the city streets? Do we see hundreds of bicycles? Are 10 percent of commuters on bicycles? The answer unfortunately is "no." A 1975 study of metropolitan areas showed a little less than 1 percent of trips to work were made by bicycle.

Many positive steps are being taken in the U.S. to improve the conditions for traveling by bike. Since the 1960's some communities and States have been active in bicycle programs, whereas others are just now im-

plementing their first bikeway or bicycle education program.

In the early 1970's the Federal Government became more interested in developing the bicycle's potential as a mode of transportation. National conferences, training courses and funding programs, and numerous research studies were completed.

The FHWA, a branch of the DOT, became involved in 1970 in constructing bicycle facilities on Federal-aid highways. The Federal Government did not actually build the facilities, but provided the funding and oversight for States and communities that wished to do so. Funds were not reserved exclusively for bicycle facilities, but were general highway construction funds that could be used for bikeways.

When Congress passed the Federal-Aid Highway Amendments of 1974, the Bikeway Demonstration Program was established. Six million dollars was earmarked for promoting and constructing bicycle facilities in urban areas. Projects were to be funded on an 80 percent Federal and 20 percent State-local matching basis.

The response to the program was overwhelming. The 495 projects submitted for funding were developed by a wide assortment of transportation agencies, park and recreation departments, and universities. Projects were initiated at the State or local level, most of which were developed exclusively for the demonstration program. The proposals did not include detailed designs, but only proposed concepts.

In choosing projects, emphasis was given to those with nationwide application. New ideas and practical demonstrative features were the most important considerations. Other factors that were considered during the selection process include likelihood of early implementation, quality of the monitoring and evaluation plan, and indication of support and commitment of other public agencies.

In October 1976, 41 projects were selected for funding.

The Bikeway Demonstration Program funded a wide variety of bicycle facilities. Small towns, as well as some of the major metropolitan cities, received grants. Projects were scattered through the U.S. in 31 of the 50 States. The complexity and cost of the 41 projects range from a low of $20,000 to a high of $352,000. A few projects are oriented for commuting bicyclists, but most of the projects intend to serve all bicycle users.

All of the projects can be associated with major focal points of bicycle traffic, such as residential areas, parks, commercial centers, and employment centers. Interestingly enough, over 75% of the 41 projects either pass through or are in close proximity to schools or college campuses.

As evidenced by some of the projects funded under this program, constructing bicycle facilities can be expensive. Bikeways costing $100,000 a mile are not uncommon. Several of the demonstration projects feature ways to construct facilities at costs lower than normal highway construction practices. Materials such as soil cement, fly ash, and incinerator ash are being used in the pavement structure. To reduce the costs of right-of-ways, several projects are utilizing abandoned railroad rights-of-way, existing utility corridors, and one project is even being located in an existing concrete drainage way (Kansas City, Missouri).

Facilities to overcome barriers to bicycling and facilities to encourage bicycle use in inter-modal travel are two of the more important features being demonstrated in the program.

In many communities there are physical or man-made features which hamper bicycle travel. Providing a facility to overcome barriers such as freeways, hazardous highways, and bodies of water, can greatly promote bicycling. About 25% of the bikeway projects demonstrate this. These projects will provide a better understanding of the extent bicycle travel is enhanced when physical or man-made barriers are overcome.

Besides overcoming barriers, another area with a good potential for increasing purposeful bicycle usage relates to intermodal travel, or the use of the bicycle in conjunction with the use of a bus or mass transit system. Approximately 25% of the bikeway demonstration projects consider this a feature, and several consider it the essential feature. A few projects have located their bikeways in close proximity to a bus or mass transit stop. Making stops more accessible by bicycle should encourage more bike use. Another aspect being demonstrated is adequate parking facilities for bicycles. The possibility of theft is a strong deterrent to using the bicycle in an inter-modal trip. Another interesting way to interface bicycles with transit concerns the provision of bicycle-carrying devices on buses. This is the main demonstrative feature of one of the demonstration projects.

Overall, the Bikeway Demonstration Program truly offers a wide variety of interesting and unusual bikeway characteristics. Some will be highly successful, whereas others may have some problems. But that is what we are hoping to find out.

Each project is monitoring and evaluating the effectiveness of its demonstration features and documenting the results in a final evaluation report. During the selection process, some consideration was given to the quality of the proposed evaluation plan.

To help in coordinating the evaluation reports from each of the 41 projects, a suggested outline was disseminated to each project.

Usage data is being collected on all projects. Findings may include bicycle trips starts and ends, whether bicycle trips are substituting for automobile trips, and purpose of trips. Before and after bicycle counts will be compared. In their original proposals each project was asked to give an estimate of the number of weekly biyclists anticipated to use the facility—about ⅓ said 1000 bicyclists or less, ⅓ said between 1000 and 5000, and ⅓ said over 5000. It will be interesting to see how close the actual counts are.

A large amount of information is being generated from the 41 bikeway demonstration projects. Seeing how the bikeways have affected the number of bicycle accidents, learning what bikeways are suitable to all types of users, viewing the conflict between pedestrians and bicyclists on the bikeways, and looking at the motor vehicle and bicycle conflict at intersections are a few of the important bikeway concerns.

To put the program in a better perspective, I will give you the current status of the program. Also, I would like to fill in a few details on what has happened since the 41 projects were selected in October 1976.

In the original applications almost all of the 41 projects reported that construction would be completed within 1 year. After 2 years, only ⅓ of the projects had been constructed. And now, 3 years after the communities were notified there are still a handful of projects finalizing preconstruction details. Communities have learned that implementing bicycle facilities is not easy. Higher costs, neighborhood opposition and a general lack of experience in constructing bikeways have been the major causes for the delays.

About ½ of the bikeway demonstration projects are being built in areas that have had little experience in developing facilities. Other projects were expensive links that could not have been funded any other way. In this sense, the program has provided an opportunity to develop some practical experience. All of the areas benefited from their efforts in implementing the projects, even the one community that withdrew their project. Many people that had never been involved in bikeways gained some knowledge. As one person remarked, "We sure learned a lot. The next facility we build will definitely be better and easier to do than this one." The program has definitely increased the public's awareness.

One problem that surfaced during the program and which is worth mentioning was the difficulty in estimating the cost of the facility. When the engineer's estimate was made and the project advertised, it was not uncommon for the lowest bid to greatly exceed the estimate. The projects then had to be modified and readvertised. Several projects have had to reduce their scope and delete sections of the proposed bikeway.

Another area that was important in developing the bikeway projects was the need for public input. Several projects were delayed or modified because of public desires. One community decided not to build their project because of opposition from neighborhood jogging groups who opposed a hard surface and from local residents who were afraid of littering, vandalism, and noise. Along with the local residents, the views of bicycle riders should be sought. One project has been delayed for over a year because the original design was unacceptable to the bicycling community.

Besides identifying potential problems, the Bikeway Demonstration Program has pointed out some important aspects to consider when developing bicycle facilities.

A smooth riding surface is necessary. Poor maintenance and debris will result in a facility that is little used. Surface textured shoulders are not suitable. The shoulders should be smooth or bicyclists will ride in the travel lanes.

Providing a facility for bicyclists does not stop with the completion of construction. Proper maintenance is essential. Bikeways also need to be adequately publicized. Several communities developed a brochure depicting a map of the bikeway demonstration project. This was highly successful in attracting riders.

Bikeways are recognized as only one element of a community's program to improve the situation for bicyclists. Bicycle facilities must be in concert with and complement bicycle education and enforcement programs.

Bicycle riders are not all alike. They come in all sizes, ages, and level of skill. They ride a bicycle for a wide variety of purposes. A bikeway that is suitable for one type of bicyclist may be hazardous to another. For example, a sidewalk may be best for the young child, but not for the bicyclist commuting to work. Each type of bicyclist has its own characteristics, and needs. When implementing facilities, one must know what type of bicyclists they are designing for.

In closing, I must say that we still are learning how to best accommodate bicycles into our transportation systems. The Bikeway Demonstration Program has provided an opportunity to advance our knowledge. In the latter part of this year and the early part of next year, we will be assessing the important aspects of the 41 bikeway demonstration projects. Publications will be prepared to disseminate information on the projects to States and communities involved in implementing bicycle programs.

I might add at this point that the energy and highway legislation passed last fall included sections on bicycling. The National Energy Conservation Policy Act of 1978 included a provision to study bicycle transportation for energy conservation. The obstacles to bicycle use and programs to overcome these obstacles are being identified. A report is expected by the end of the year.

Also, Section 141 of the Surface Transportation Assistance Act of 1978 authorized a new funding program for bikeway projects and for nonconstruction projects, such as bicycle education, enforcement, or encouragement programs. Funds may be appropriated by Congress this year. Section 141 also requires the development of bikeway design and construction standards. We anticipate that they will be published in the Federal Register in October.●

EARNINGS TEST FOR SOCIAL SECURITY BENEFICIARIES

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ULLMAN. Mr. Speaker, on October 19, 1979, the Committee on Ways and Means favorably reported to the House of Representatives H.R. 5295, to amend title II of the Social Security Act on make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test. The bill would amend the social security annual earnings limitation to correct certain unintended and unforeseen problems that are related to the conversion from a monthly to an annual test of earnings as prescribed by Public Law 95-216.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of H.R. 5295 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First, Committee amendments, which would not be subject to amendment;

Second, waiving all necessary points of order;

Third, 1 hour of general debate, to be equally divided; and

Fourth, one motion to recommit.

It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.●

HOUSE OF REPRESENTATIVES—*Friday, October 26, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Blessed are those who hunger and thirst for righteousness, for they shall be satisfied.—Matthew 5: 6.

Gracious Lord, we recognize that by ourselves we are not able to do or be what You would expect of us. Yet, O Lord, we affirm our desire to serve You with praise and thanksgiving and to assist our neighbors with deeds of love. Grant us wisdom in the ordering of our lives and always give us the assurance that Your spirit will bless us and keep us wherever we are. May we experience the comfort of Your presence as You encourage us in the way of righteousness and truth. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 84-689, appointed Mr. HOLLINGS, Mr. METZENBAUM, Mr. RIEGLE (in lieu of Mr. DURKIN, resigned), and Mr. PRYOR (in lieu of Mr. MORGAN, resigned) to attend the North Atlantic Assembly, to be held in Ottawa, Canada, October 22-27, 1979.

OIL COMPANIES' PROFITS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, as the debate in the Congress focuses upon the emergency fuel assistance program for the sick, the elderly, and the needy so that they may meet their dramatically rising fuel bills, we must not lose sight of one of the major causes of their dilemma—the big oil companies.

The oil companies' profits picture was painted in larger detail yesterday with the pronouncement of their 1979 third-quarter earnings. As we all know, the profits are once again an outrage perpetrated upon the American consumer. Standard Oil of Ohio showed a profit increase for this year's third quarter over last year's of 191 percent; Conoco, 134 percent; Mobil, 131 percent; Exxon, 118 percent; the list is endless.

The needy, for whom we have fought this past week in Congress, as well as the middle-income earner, continues to be buffeted at every turn. The big oil companies, awash in profits, believe that they can ride roughshod over the consuming public. Mr. Speaker, we can no longer allow these arrogant oil barons to manipulate the marketplace. Clearly, they have been a significant factor in throwing our economy into a tailspin as the dramatic rise in the cost of energy reverberates through the economy.

It must be noted that all this is occurring while the investigative branch of the Department of Energy is charging Texaco, Arco, Exxon, Amoco, and Conoco with recent price violations. A total of 114 violations have been levied against the Nations' 35 largest oil refiners. The total amount involved to date is almost $5.2 billion. It is an American tragedy that one industry can wreak havoc upon an entire society of 220 million. We cannot afford to sit idly by with these developments taking place. This Congress must pass the windfall profits tax immediately so that the American public can recoup some of those obscene profits, in some cases, illegally obtained by Big Oil.

LOST AND FOUND

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I want to commend the gentleman from Massachusetts (Mr. CONTE), who just spoke, for not using the terms "malefactors of great wealth," "economic royalists," and a few other terms which do not occur to me.

Mr. Speaker, I noticed the following ad in the lost-and-found section of a major newspaper this morning, and I want to share it with my colleagues.

Lost: One political slogan, "New Foundations." Last seen in the vicinity of 1600 Pennsylvania Avenue, Washington, D.C., January 1979. Identifying marks: Patchwork design, machine-tooled slickness, built-in obsolescence, buoyancy of lead balloon. Believed to have left original home in company of high hopes and great expectations. Owner offers reward of 500 copies of state of the Union message in good condition plus uncut first edition of Gerald Rafshoon's "Slogan Your Way to Success." If found, call 202-456-1414.

INCREASES IN PROFITS OF OIL COMPANIES UNDERSCORE NEED FOR WINDFALL PROFITS TAX

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, the extraordinary increases in profit levels recently announced by the oil companies underscores the need to promptly enact a windfall profits tax. It also underscores the need to insure that this tax is neither weak nor rife with loopholes. The basic 60-percent level passed by the House is stronger than the 50-percent level proposed by the President and more realistic than the much weaker projections of the Senate. I urge my colleagues to stick with the House position. In America the concept of profit should not be considered pejorative; nor should the concept of equitability of the tax codes. The skyrocketing cost of fuel dictates

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

that we reexamine the tax structure in the oil industry and compensate for the enormous loopholes Congress has provided this one powerful industry over the last several decades. After all, on the average, oil companies pay less than half the income taxes of companies earning similar profits. No industry should be punitively taxed, but it is not unreasonable to require oil companies to pay their fair share.

REDUCING OUR DEPENDENCE ON IMPORTED OIL MUST BE NATIONAL IMPERATIVE

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, there is good news today out of the Department of Energy's Policy Office. Their latest estimate of the number of nuclear powerplants which will be operating in the United States in the year 2000 is in the range of 150–200. This is 50 to 100 fewer than DOE figured in estimates prior to the accident at Three Mile Island.

In the brief span of 5 years we have seen a dramatic decline in the forecasts of the contribution of nuclear power to our electrical generation. It was not long ago we heard 1,000 plants would be needed. The figure dropped first to a third of that and today it is one-fifth or less.

DOE's current forecast is much closer to that of the President's Council on Environmental Quality, the Harvard Business School's 6-year study "Energy Future" and other authorities.

It shows a confidence in a future of a mixed energy base in America. It reflects the people's concern over health, safety, and environmental perils inherent in a massive commitment to nuclear power.

Mr. Speaker, those of us who have been skeptical of nuclear power know also that in the decade of the eighties no one source of energy is going to substitute for oil. Reducing our dangerous dependence on imported oil, therefore, must be a national imperative. We must turn our efforts to encouraging a reduction in oil consumption by safe, easily attainable energy conservation measures, aggressively harnessing the Sun, increasing our domestic oil production, and improving our relations with our nearest neighbors.

TAX EQUALITY

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, energy taxes on oil should be equal to all. Instead, in the windfall tax, Congress taxes U.S. companies by 60 percent and places a zero-percent tax on foreign OPEC oil companies. The tax incentive should be the other way. We need to produce more oil from our own country.

Six years ago the United States imported $3 billion in oil and this year we are importing $60 billion in oil. Next year $60 billion more oil imports.

We need to stop importing oil. Instead we have zero-percent tax on imported OPEC oil but 60-percent tax on U.S. oil.

There has been much headline press on profits of U.S. oil companies. But the newscasters do not fully explain that the greatest part of the increased profits are on foreign oil marketing, chemicals, and operation.

Let me show you a chart on the 10 largest U.S. oil companies from 1970 through 1978. It shows that revenues were growing at a 19-percent compound rate whereas dividends to stockholders were going down at a minus-10-percent rate.

LARGEST U.S. OIL COMPANIES [1]

[Revenue, dividends, and income in millions]

	1978	1970	Annual compound growth rate (percent)
Revenue	$219,794	$54,794	19
Dividends	4,559	2,699	6.8
Income tax	[2] 16,089	3,019	23.3
Dividends per $1 of revenue	2.1¢	4.9¢	−10.0

[1] The largest companies are Exxon, Mobil, Standard of California, Standard of Indiana, Texaco, Shell, Atlantic Richfield, Gulf, Phillips, and Conoco.
[2] 5.33 times 1970.

When Charles Honig showed me these comparative figures prepared by Bruce D. Henderson of the Boston Consulting Group, I was amazed. Revenues of the oil companies were four times as large in 1978 but the dividends for stockholders per revenue dollar were less than half.

Congress should be trying to stop the heavy oil imports and encouraging our own American companies. When we produce oil here we use American pipe, American labor, American machinery, and American transportation. We are paying $25 a barrel for OPEC oil and $11 a barrel for U.S. oil. So the windfall tax on U.S. oil is 60 percent and yet taxes zero percent on OPEC imported oil.

□ 1010

DESIGNATING DECEMBER, 1979, AS "NATIONAL CHILD ABUSE PREVENTION MONTH"

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 428), designating December 1979 as "National Child Abuse Prevention Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 428

Whereas each year in the United States one million children are victims of child abuse and neglect, including three thousand who die;

Whereas the Child Abuse Prevention and Treatment Act of 1974 has yet to fulfill its mandate of being the cornerstone of a United States policy for child abuse prevention and treatment;

Whereas a dedicated core of organizations and individuals (including the National Alliance for the Prevention of Child Abuse; the New York Foundling Hospital and its Director, Dr. Vincent Fontana; Children's Village; and the National Center for the Prevention of Child Abuse and its Director, C. Henry Kempe, M.D.) are leaders in the effort to focus greater attention on and resources into the movement to combat child abuse and neglect; and

Whereas the month of December 1979 is the final month in the observance of the International Year of the Child: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 1979 is designated as "National Child Abuse Prevention Month" and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

The SPEAKER. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, as we close the year-long observance of the International Year of the Child, our country is still afflicted by very serious problems of child abuse and neglect.

The purpose of this resolution offered by our colleague from New York (Mr. BIAGGI), is to promote and increase the awareness of this problem by recognizing the month of December 1979, as National Child Abuse and Prevention Month.

● Mr. BIAGGI. Mr. Speaker, with the full and enthusiastic support of Speaker O'NEILL, I introduced this resolution (H.J. Res. 428) which calls upon President Carter to proclaim December 1979 as "National Child Abuse and Prevention Month."

As we close our year-long observance of the International Year of the Child, this Nation is still afflicted with the national disgrace of child abuse and neglect. Consider these facts: More than 1 million children a year are in some way abused in the United States. Of these children, there are at least 3,000 who also die each year. For every 1 case of child abuse or neglect reported, it is estimated that there are at least 10 to 50 cases which go unreported and undetected.

In 1969, the year in which I was first elected to this body, I sponsored one of the first bills aimed at providing Federal assistance to the victims of child abuse. In 1974, the Child Abuse and Neglect Prevention and Treatment Act became law. Unfortunately, due largely to low funding levels this legislation has far from realized its mandate of becoming the cornerstone of a Federal Government policy aimed at combating child abuse and neglect.

I would also like to note that my resolution takes note of the many private organizations and individuals who have dedicated their work and efforts in the fight against the problem of child abuse. These include the New York Foundling Hospital under the direction of Dr. Vincent Fontana and the National Center for the Prevention of Child Abuse led by Dr. Henry Kempe.

It is the intention of my resolution to promote an increased awareness of a social problem which has often been pushed under the table out of embarrassment or apathy. By supporting this resolution (H.J. Res. 428) this Congress can demonstrate its commitment and concern for the protection of our most vital natural resource—our children. I urge adoption of this resolution.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DESIGNATING NOVEMBER 4, 1979, AS "WILL ROGERS DAY"

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 3), designating November 4, 1979, as "Will Rogers Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 3

Whereas Will Rogers, in a lifetime of wise and humorous commentary on events in this Nation and throughout the world, made a tremendous contribution to human betterment through his gentle yet penetrating wisdom;

Whereas from Cherokee Indian and European ancestry, born on an Indian territory farm, he was a true product of the frontier civilization of our Great Plains as well as its unique combination in Oklahoma;

Whereas he become world famous as rodeo performer, Broadway entertainer, movie and radio star, and above all as daily columnist for some three hundred and fifty newspapers throughout the United States;

Whereas he become Oklahoma's best known native son and the most celebrated private citizen of the United States in his lifetime;

Whereas Will Rogers possessed the priceless gift of being able to judge people and events both kindly and keenly, personifying affection for his fellow man;

Whereas he improved the standard of public life throughout America by his witty and constructive commentary, making this a better place in which to live; and

Whereas the approaching one hundredth anniversary of his birth is a fitting occasion to dedicate ourselves to a rebirth of the goodwill and public spirit he exemplified: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate November 4, 1979, as "Will Rogers Day" in commemoration of the one hundredth anniversary of the birth of William Penn Adair Rogers, noted American philosopher-humorist.

The SPEAKER. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, this resolution, introduced by our distinguished colleague, the gentleman from Oklahoma (Mr. STEED), and by many other Members of the House, is to recognize the 100th birthday of Will Rogers of Oklahoma.

I think I need say nothing more than that, Mr. Speaker, because I am confident this resolution will win the support of all Members of the House.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions, House Joint Resolution 428 and House Joint Resolution 3.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 4(e) of rule XI, the Chair announces that he will postpone further proceedings today on each resolution or on the previous question thereon, on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all debate has been concluded on each resolution, and after each question to be determined by a "nonrecord" vote has been disposed of, the Chair will then put the question on each resolution or on the previous question thereon, on which further proceedings were postponed.

PROVIDING FOR THE CONSIDERATION OF H.R. 2313, FEDERAL TRADE COMMISSION AUTHORIZATION

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 456, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 456

Resolved, That upon the adoption of this resolution it shall be in order, clause 2(l)(3)(A) of rule XI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2313) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. No amendments to the bill or to the committee amendment in the nature of a substitute shall be in order in the House or in the Committee of the Whole except (1) pro forma amendments for the purpose of debate; (2) amendments recommended by the Committee on Interstate and Foreign Commerce; (3) an amendment printed in the Congressional Record of October 17, 1979, by, and if offered by, Representative Russo of Illinois; (4) an amendment printed in the Congressional Record of October 16, 1979, by, and if offered by, Representative Andrews of North Dakota; and (5) an amendment printed in the Congressional Record of October 18, 1979, by, and if offered by, Representative Kemp of New York, and said amendments shall not be subject to amendment except pro forma amendments for the purpose of debate. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 456 provides for the consideration of H.R. 2313, which authorizes appropriations for the Federal Trade Commission for fiscal years 1980, 1981, and 1982.

This is a modified open rule allowing amendments recommended by the Committee on Interstate and Foreign Commerce and amendments, if offered by Representative RUSSO of Illinois, Representative ANDREWS of North Dakota, and Representative KEMP of New York, to be offered. These amendments shall not be subject to amendment except pro forma amendments for the purpose of debate.

One hour of general debate is granted to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate

and Foreign Commerce. The rule also provides for one motion to recommit with or without instructions.

It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for purposes of amendment.

The resolution waives points of order under clause 7, rule XVI, relating to germaneness, for the amendment in the nature of a substitute. At the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole.

H.R. 2313 provides authorizations for the Federal Trade Commission for the next 3 years of $75 million in fiscal year 1980, $80 million in fiscal year 1981, and $85 million in fiscal year 1982. It contains several important regulatory reform provisions which should improve the ability of the Commission to set its priorities for rulemaking proceedings. Further, the bill exempts savings and loan provisions from FTC jurisdiction, modifies funding for the public participation program, and prohibits the FTC from petitioning the patent and trademarke office to cancel any trademark solely because it has become a generic or common name.

H.R. 2313 also contains a legislative veto provision that authorizes Congress to overturn an FTC rule by passage of a concurrent resolution by both Houses within 90 days of submission of the rule to the Congress; or, by passage of such a resolution by one House within 60 days and failure of the other House to overturn that action within 30 days.

Mr. Speaker, for the last 2 years the Federal Trade Commission has operated without the benefit of an authorization as the House and Senate did not reach agreement on the legislation. I urge my colleagues to adopt this resolution so that we may proceed to the consideration of H.R. 2313, the Federal Trade Commission Improvements Act of 1979.

□ 1020

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from South Carolina (Mr. DERRICK) for his able explanation of the provisions of the rule.

Mr. Speaker, I support this rule, even though it is a modified closed rule. I recall back in 1978 when two conference reports on an FTC authorization were brought to the floor of the House. Each time they were overwhelmingly defeated, mainly because they did not contain a congressional veto.

This agency's powers need to be diminished. It runs roughshod over the businesses of this country and it is time that the Congress took the bull by the horns to do something to stop the action of this bureaucratic agency.

We do have a tough bill now, thanks to the great work of the Interstate and Foreign Commerce Committee. It does provide for a congressional veto.

I do not want to let slip this opportunity to grab this antibusiness gang of bullies by the scruffs of their necks and give them a good, hard congressional lesson—to stop them from running roughshod over the people of this country. I would like to see their wings clipped.

For years the FTC has been harassing legitimate American businesses with its threatening rulings aimed at one industry after another. We never know when or where their gang of bureaucrats will strike next in their apparent attempt to cripple the American system of free enterprise.

I know from my constituents who live in fear of this agency that they have had enough. They are frustrated and angry and they want their Representatives to put a stop to these malicious raids against their professions and their businesses.

The bill the Committee on Interstate and Foreign Commerce has brought to the floor gives us the tools we need to stop the FTC from running over these people. It gives us the means to stand up for the people's right to be left alone in their honest business enterprises. It gives the means to get this agency off their backs.

The reason the floor managers of this bill, the gentleman from New York (Mr. SCHEUER) and the gentleman from North Carolina (Mr. BROYHILL), requested this rule is that without it the bill offers an irresistable temptation to offer well-intentioned, though perhaps unwise, amendments aimed at specific FTC proceedings.

Let us not let the chance to clap a firm leach on this outfit be lost because too many hands are reaching for the collar.

Mr. Speaker, this is a good bill. Historically I have supported open rules, but I believe that this modified, closed rule is the proper approach to bring the measure to the floor of the House.

Mr. DERRICK. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Speaker, as a member of the subcommittee that reported out this bill, I rise in support of the bill. I regret that the chairman of the subcommittee, Mr. SCHEUER, the gentleman from New York, is not here today to support the rule because of a death in his family.

Mr. Speaker, I rise in support of the rule voted out by the Rules Committee. It focuses debate and consideration on issues which might be considered reasonably on the floor of the House despite the fact that they were not considered in committee.

I think it important to note that every witness except one who appeared before the Rules Committee on H.R. 2313 endorsed a modified open rule, and I hope that Members will today vote the rule before us.

H.R. 2313 is a carefully crafted and negotiated piece of legislation. Levels of spending and eligible categories of spending are the product of give and take within our subcommittee that represents a fairly broad cross section of the House itself. The legislative veto was determined to be the proper vehicle to balance the congressional desire to leave broad rulemaking in FTC but to retain the effective oversight by the Congress over its use.

The rule before us permits three issues to be considered by the House itself. Their designation as proper for debate and vote does not mean, of course, that the subcommittee endorse the amendments. It does mean that those who raised these issues did so in a timely fashion so that they could be examined, if not in subcommittee and committee, at least for a minimum period of time before they would be on the floor.

I heartedly endorse the recommendations of the Rules Committee and hope that we adopt this rule.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL), the ranking minority member on the Interstate and Foreign Commerce Committee.

Mr. BROYHILL. Mr. Speaker, I support the Rules Committee recommendation for a partially open rule for H.R. 2313, the Federal Trade Commission Improvements Act of 1979. Normally, I would not support anything other than an open rule for a bill such as the one before us today. I am making an exception in this case for several reasons.

First, the bill itself contains a number of provisions, many of which I authored which substantially improve the rulemaking processes of the Federal Trade Commission. Among these provisions are requirements for the agency to issue a regulatory analysis along with its rules, that it set and keep internal deadlines, that it publish a semiannual regulatory agenda detailing its plans for the future, and that it go back and periodically review the continued need for rules which are already on the books. The bill also includes a legislative review and veto device which I think will be very useful in helping Congress look over the shoulder of the FTC to guarantee that the rules the agency issues are really in keeping with the intent of Congress. The agency's public funding program has also been roundly criticized and, consequently, the bill puts a ceiling on the amount of funds which the agency may give to any particular group. Finally, the bill clarifies the agency's ability to proceed against a trademark under the Lanham Trademark Act.

I have been thoroughly involved in the writing of each of these provisions and I am proud of the bill which the Commerce Committee has produced. It is a substantial improvement over previous bills and I think that it will do much to

improve the rulemaking processes of the Federal Trade Commission.

I am also hopeful that we can pass this rule and get on to consideration of the bill because it is now time to put the agency back on an acceptable legislative track. The agency's authorization expired at the end of the 94th Congress. It has not been authorized since 1977. It is certainly understandable that the Appropriations Committee is getting somewhat impatient with this situation.

Mr. Speaker, I realize that the FTC is one of the most criticized agencies in Washington. I strongly believe that the fact that the agency has become so controversial clearly indicates the need for better congressional oversight. Most of the provisions now found in H.R. 2313 provide us with the tools to conduct that oversight in a more effective and concrete fashion. You can be sure that as ranking minority member of the Commerce Committee, I will be closely examining the processes of the Commission during the authorization period contained in the bill. Therefore, I think it is important that we pass this rule so that we can get on to the more important question of considering the FTC authorization bill.

Mr. DERRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. LUKEN).

□ 1030

Mr. LUKEN. Mr. Speaker, this bill, this FTC authorization, has been carefully crafted, and it has been worked over in the committee at some length. Through the efforts of Mr. BROYHILL of North Carolina, the chairman, the gentleman from New York (Mr. SCHEUER), and a number of us on the subcommittee, I think we have hammered out a piece of legislation which most of this House—perhaps all of the House—will be happy with.

I want to make a case for a particular amendment which is in the bill, which has become known as the "Formica" amendment. I think it bears a little explanation, since it has received a good bit of notoriety. The Formica case is a bad case, and of course we do not want it to make bad law. But, it is an illustration of where the FTC has interfered unnecessarily. Formica has 38 percent of the decorative laminated plastic market, and there are none of the competitors of Formica who are complaining, who had complained, nor who are complaining. Yet, this government agency decided to take action to genericize—that is, to deny the right of Formica, which has built up through its employees in Cincinnati and its management, has built up its good name on the basis of good workmanship, its product under that name.

We certainly think, and the committee thought by an overwhelming majority, that this is an unwarranted interference, and that therefore in the authorization the FTC should be denied the ability to interfere on the basis of generic use only. This does not prevent the FTC from taking action on trademarks on the basis of merit, it is still permitted to take action under section 5 of the Federal Trade Commission Act if there is fraud, if there is deception and if the public is being misled and if the FTC can prove it—they still have plenty of authority to take that action. I think that is very important.

We are also taking up the same matter with a bill which the gentleman from New Jersey (Mr. MAGUIRE) has introduced. That bill is before the Judiciary Committee, and we have testified on it and will continue to press it. But, for now I think this takes care of and effectively forestalls a specifically unwarranted interference by the FTC.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, every now and then a matter comes before the House that involves principle. I know that may be unusual, but sometimes it is difficult to avoid matters of principle. This rule involves a very important principle, not just for Members of the minority party, but for Members of the majority as well. It involves our capacity to act as representatives of the people.

This is a closed rule. It allows only three amendments to be made in order; three amendments, two of which were requested by members of the committee as part of an arrangement, shall we call it, and one other that was offered by the gentleman from New York (Mr. KEMP), which I suggested the Rules Committee make in order, and that is all. The rest of the Members of the House be damned. You will not have a right to offer any other amendments to this FTC authorization bill.

Now, historically closed rules have been granted by the Rules Committee with extreme care. They are granted, for instance, on complicated tax matters, usual from the Ways and Means Committee. In some instances, they have been granted when an emergency matter had to be taken care of right away, and even in some cases where obstruction to a bill was known to be planned we have had a closed rule.

I listened to all the testimony before the Rules Committee on this rule, and none of the reasons that I have just described were present. In fact, the chairman of the subcommittee told me in response to my question that he did not know of any other Members that wanted to offer amendments. But, I doubt seriously if Mr. SCHEUER of New York went around and polled the other 434 Members of the House on this question.

Now, this rule is here as a result of an arrangement between the minority members and the majority members of one subcommittee. The full Committee on Interstate and Foreign Commerce was never consulted.

The rest of us, the elected representatives of the people of the United States, are just left out in the cold. I have been told by some of the Members on my side of the aisle, "Don't oppose this rule because the three amendments made in order are good ones, and the conservatives want them."

I am going to vote for them, but I wish that my liberal friends would take a look at this rule. Today they are getting closed out. There are three amendments dealing with the grain industry, the funeral industry, and one other with agricultural cooperatives. They are all from conservatives. Where are the liberals in this instance? Left out in the cold.

I support the bill; I support the amendments, but this is the first of many planned closed rules on legislative matters that will literally deny the Members of the House the right to legislate. That is the very reason the people of our districts sent us here.

I have one other point: We have been told by the Speaker, by the majority leadership repeatedly that they are opposed to legislative riders on appropriation bills, that the place to legislate on any question is on an authorization bill. So, now you bring us an authorization bill and we cannot offer amendments to deal with a very controversial agency. You cannot have it both ways. I am sorry to disagree with my Republican colleagues, but this rule does involve a policymaking decision by this House. We have coming down the road a multibillion dollar welfare bill offered under a similar closed rule, with little chance for anyone to offer amendments, not even a minority substitute is in order.

If this is the way the House is to be run, I want no part of such procedure. You must understand that the future use of closed rules is an announced policy of the majority and this is one of the first examples. I will not be a party to it, whether it be for the benefit of my side or the majority side.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding and for bringing this to the attention of the House, and hopefully to the attention of the American people. There is an old adage that for every problem there is a solution. I think we all know that during the past 8 or 9 months the papers have been full of the fact that the leadership has not been able to control this House. I suppose what we are seeing here is the solution, which is to take away the legislating rights, in effect, of the Members of this body.

I suppose if they want to yield that, if they want to give up on their ability to legislate as a part of the leadership's solution to the problem that the majority created by voting independently and presumably the way the people want, I suppose we are getting back now to a narrow leadership where the people are not represented and the leadership's decisions through forced closed rules are the only concerns. I hope the American people surmise what is happening.

Mr. BAUMAN. I thank the gentleman and I agree.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Maryland has expired.

Mr. QUILLEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman has made a good point, but the fact is that we have had no FTC authorization for a number of years. The fact is that this bill is badly needed. The veto power of the Congress must be established on FTC's roughshod operations. Sometimes decisions have to be made which go against my grain, such as supporting this kind of a rule, but it is very necessary in order to get the legislation passed.

I support this rule. I support the legislation, and as I recall, the amendments were made in order which were requested before the Rules Committee.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I rise in support of the modified closed rule. I do so with some trepidation, but I would agree with the gentleman, the ranking Republican on the Rules Committee, that this resolution asking for a modified rule is a good one in light of the necessity to preserve the strong FTC oversight contained in the bill.

I testified before the Rules Committee and was granted the right to add an amendment to the authorization bill that would prevent a tremendous inequity in the activities being carried on by the FTC.

For over 7 years, the FTC has been conducting an administrative law proceeding against three ready-to-eat (RTE) cereal manufacturers—the Kellogg Co., General Mills, Inc., and General Foods Corp.—claiming that these companies have been engaged in anticompetitive practices. The FTC's proposed solution, should it find the cereal manufacturers in violation of FTC competition standards, is to divest the cereal companies of Rice Krispies and Special K cereals, and to create five new cereal manufacturers through "spinoff" from the larger firms.

There is a very real question here as to why the FTC has initiated what is in essence a Federal antitrust case, especially in an industry which has shown no evidence of collusion in the past. Moreover, despite the real possibility that in the event of a decision against the cereal companies between 2,500 and 3,000 jobs could be threatened, the FTC has consistently refused to allow the American Federation of Grain Millers (AFL-CIO) to enter into the proceedings of the case evidence of possible job loss, economic displacement, and damage to the workers' rights to fair bargaining under the National Labor Relations Act.

My amendment would halt the FTC's proceeding against the cereal manufacturers until the FTC completes a study of the economic impact which may result from any proceeding against these companies, including a job and community impact study, and an additional study upon the impact of all union bargaining rights as covered under the National Labor Relations Act. This study would consider divestiture effects upon wages, pensions, insurance, working conditions, union representation, guarantee of new jobs, cost of relocation expenses, contractual rights, and the impact upon related unions and companies. It is supported by the American Federation of Grain Millers and the International Longshoremen's Association.

In refusing to allow this kind of information into its proceedings, the FTC has acted in a capricious manner without regard to the economic, legal and employment impact of its actions.

□ 1040

I would say to my friend, the gentleman from Maryland (Mr. BAUMAN) who called my amendment a conservative amendment that I, frankly, think it is nonideological to the extent that it affects both labor and management. It affects a tremendous and substantial potential loss of jobs in the cereal industry, which is being carried out by the FTC in what my friend called a roughshod manner.

I cannot imagine how the FTC can propose to break up the cereal industry in a capricious way and ultimately suggest to the American people that not only do Rice Krispies and Special K and Wheaties have to be divested from the companies that manufacture them but also that the FTC has the right to suggest where those cereals should be manufactured.

If the American people really believe that the Federal Trade Commission can better manufacture and market and distribute and produce Special K, then certainly they have got a place to go. They can vote not to allow us to halt this proceeding. But if they agree with the gentleman from New York that it is outrageous for the Federal Trade Commission to be launching an attack on an industry that is probably not as concentrated as they have said—and that is creating jobs particularly in a time of recession—and willy-nilly destroy about 2,500–3,000 jobs in the cereal industry, then they will agree with me that there ought to be some halt to these proceedings until a job impact and an economic study has been made.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield 3 additional minutes to the gentleman from New York.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. KEMP. One other aspect in this case, before I yield to my friend, the gentleman from Maryland (Mr. BAUMAN) that I would like to bring once again to the attention of the House is the fact that the action by the Federal Trade Commission was undertaken without any regard to the labor contracts that were negotiated in good faith between the unions and management over the past 7 years. What is going to happen to pension rights, to portability, to the contractual agreements that were negotiated in good faith between the unions and management and the industry?

The Federal Trade Commission's charter to protect the American consumer has been violated in its ridiculous attempts to violate the principle of private property, as witnessed by its attempt to classify the Formica company's logo as a generic name. Since the only trademarks that eventually are accepted by the public as generic terms have been trademarks of products of the highest quality, this kind of action can only lead to government-induced commercial mediocrity. What is next on the FTC's list—Kleenex? Jello? Coca-Cola?

For this reason, and because I strongly feel that the legislative veto provision contained in the bill which is specifically designed to prevent such foolish interventions into the marketplace by the FTC in the future—I strongly support the modified closed rule presented to us today.

I would be glad at this point now to yield to my very good friend, the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I thank the gentleman for yielding. I understand the reason for the gentleman's supporting this closed rule, and I would perhaps be tempted to do so if I were in his position, although I doubt that I would. But I hope I did not do any disservice to the gentleman's amendment by calling it a conservative amendment. He is quite right. It is nonideological. It is a good amendment; it ought to be passed. What I should have said is that it was proposed by one of the most prominent conservatives in the House of Representatives. That would have been a better characterization. I would like all conservatives, all liberals, and all Members of the House to have the right that you and only two other Members have under this rule, and that is the right to offer amendments.

Mr. KEMP. I would say to my friend, the gentleman from Maryland (Mr. BAUMAN), first, rather than being called one of the most distinguished conservatives, I would rather be called a classic liberal. In the sense the gentleman says it, I take it as a compliment.

Second, I say in all seriousness I was afforded an opportunity to go before the Committee on Rules. The gentleman supported me in the Committee on Rules. The Committee on Rules was very sympathetic to the attempt I am making to halt this action by the FTC.

The Committee on Rules did afford an opportunity to all Members to testify on behalf of amendments. This modified closed rule does allow those amendments, and anyone who wanted to bring an action before the authorizing committee could have done so in the Committee on Rules.

Mr. BAUMAN. If the gentleman will yield further, that is precisely another major objection. Why should the members of the Committee on Rules be the arbiters of the substantive amendments

which might be offered on the floor? We Rules Committee members should not have that right. That to me is terribly undemocratic.

Mr. KEMP. If anyone had a legislative remedy and wanted to, he or she could have brought it to the attention of the Committee on Rules. I would suggest that was the Member's duty, if he or she had strong feelings about this rule, to bring it to the attention of the Committee on Rules.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. KEMP. Of course, I yield to my libertarian friend, the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding. Is my good friend suggesting we change our legislative procedure so that all Members must go before the Committee on Rules?

Mr. KEMP. Not at all. Not at all. But I agree with the gentleman from North Carolina that it is imperative that we get a handle on and a veto power over the FTC, because otherwise its capricious intrusion into the private sector would go on ad infinitum.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. I appreciate the gentleman's yielding. I want to express the appreciation that I have to the Committee on Rules for making my amendment in order. As my colleague, the gentleman from New York (Mr. KEMP) said, there are those of us who have strong feelings on this bill, and it has been kicked around for 2½ years. Certainly the Members know where the substantive amendments are. This rule is set up so people do not take advantage by offering every kind of amendment at the last minute on the floor, where people have not had time to study those amendments.

My amendment concerns the agricultural cooperatives in this country. It is very simple. It says the Federal Trade Commission should not inject itself into regulating agricultural co-ops or farm marketing orders, not only because they do not have the expertise in that field but, frankly, because the Department of Agriculture is already doing it. And if there is anything this country needs less, it is two or three Government agencies messing around in one area. It costs the taxpayer money. It costs individuals money to protect against the capriciousness of a horde of different agencies that want to get into the act. I think it is a good amendment, a worthwhile amendment. I hope my colleagues in the House will support it, as my friends in the Committee on Rules did support it. This is not an in-house deal. I am not a member of the Committee on Interstate and Foreign Commerce. I happen to feel strongly about the need for this amendment. When I went to the Committee on Rules, they agreed it was one that deserved the consideration of the entire House, and I appreciated their making it in order under the rule. I would hope that my colleagues will take a look at it and support it when this bill comes up for amendment next week.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. Mr. Speaker, first of all, I want to say that the gentleman from Maryland (Mr. BAUMAN) made a lot of good points, many of which I agree with. Normally I would support his arguments, but I think this is a different case. I believe that it is essential that we pass this rule, which I would not characterize as a closed rule but perhaps more appropriately as a modified open rule. I want to tell the Members why I think we should pass it.

First of all, it makes a number of very needed changes in the FTC rulemaking process. Briefly stated, the bill includes the legislative review and veto device, which would give the Congress the authority to disapprove agency trade regulation rules before they go into effect, a number of regulatory reform provisions which will go a long way toward adding some rationality to the agency's rulemaking process, and certain limitations on the FTC program for funding rulemaking participants. In my view the Commerce Committee did a very good job in attempting to identify the bulk of the complaints that are being leveled against the agency and address those complaints by the provisions of this bill. Further, the solutions that we crafted in the legislation are generic solutions and do not attempt to deal with particular rulemaking proceedings on an individual basis.

This legislation, in one version or another, has been before us since the 94th Congress. I think it is important for the Members to realize that the Federal Trade Commission has not been authorized since 1977. We now have a good bill, a bill that we can be proud of. I think it is time to get the legislative process moving and pass the agency's reauthorization bill.

□ 1050

It may be that H.R. 2313 does not satisfy all Members. However, it is my understanding that the chairman of the Consumer Subcommittee (Mr. SCHEUER) has promised extensive FTC oversight hearings during the second session of this Congress. As the ranking minority member of the subcommittee, you can be assured that I will be giving FTC oversight my complete attention. The FTC has suffered from inadequate congressional oversight in the past. This is a condition which I, for one, intend to see does not arise in the future. This bill gives us many tools which we can use in this oversight process. Consequently, I believe it is critical that we pass the bill and send it on to the other body. Therefore, I hope that my colleagues will support the rule reported from the Rules Committee this afternoon and the final bill when it comes to the House floor for a vote.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I want to congratulate my colleague on the Committee on Rules for crafting a rule that will bring the Federal Trade Commission authorization to the floor of the House of Representatives. I share the concern of my colleague from North Dakota (Mr. ANDREWS) in the fact that we have for too long not had an authorization bill.

Mr. Speaker, as a member of the Committee on Appropriations we do not like to have to deal with these matters on an annual basis without an authorization bill and I want to congratulate all those who have worked in a spirit of compromise to get this bill to the floor. Particularly, I would like to congratulate my colleague from Georgia (Mr. LEVITAS) who I think has worked diligently to craft a responsible way for the Congress to deal with the question of Federal Trade Commission regulations and rulemaking processes. The gentleman has worked diligently and fairly with all parties and I think the gentleman is to be congratulated for the job that he has done.

Mr. Speaker, I think the rule is also fair in allowing several amendments to be put in order and to let the House work its will on those issues.

Mr. Speaker, I want to say one final thing: The Federal Trade Commission has been given the assignment of protecting consumers in this country, consumers who are being hit every day by rising prices and by inflation. I think we need an agency that is strong and has the ability to serve as a watchdog. I think the American people would be upset to learn that the Congress is more influenced by the special interest groups who are trying to limit the authority of this agency. The FTC needs to proceed in a prudent fashion and should be cautious and certain of its facts before it proceeds. It should never conduct vendettas, but it should protect consumer interests.

Let us have a legislative veto. Let us have Congress exercise its will but let us also remember the Federal Trade Commission is there to protect the consumers of our country and it should not be blocked from performing that important job.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I rise in support of the rule that has been proposed by the Committee on Rules. I would also like to thank the gentleman from Washington for his kind remarks.

Mr. Speaker, it is not without some concern that I support this rule, for many of the reasons suggested by the distinguished gentleman from Maryland, but I think the circumstances here are such that pragmatic decisionmaking is called for. We are not talking about a bill which is just coming to the floor for the first consideration. We are talking about legislation which will authorize an agency that has not been authorized for

two Congresses and I would certainly believe, hope and trust that if authorization legislation is not passed the Committee on Appropriations will not fund this agency with one more dime.

I think it is essential if we are to maintain the Federal Trade Commission that does protect the interest of consumers, we must have responsible authorizing legislation.

Mr. Speaker, I will no doubt be voting with the gentleman from Maryland on many occasions during the next few weeks against closed rules or modified closed rules because they are simply, in those instances, devices to cut off any consideration of amendments. Here we have legislation that has been considered during three Congresses which has to be enacted in order to authorize the FTC.

Mr. Speaker, I have not even mentioned the legislative veto provision as yet because I want to make it very clear there is no desire on the part of the gentleman from Georgia (Mr. LEVITAS) or the gentleman from North Carolina (Mr. BROYHILL) who have worked together on this proposal, to protect the legislative veto. I do not fear for the security of the legislative veto. That can come for an up or down vote any time, and I project it will get more than two-thirds of the Members of this House to support it.

Mr. Speaker, the reason we need a rule of this sort, however, is to make certain that within the short time left before the adjournment of this session of the Congress that we can get legislation which can go through a conference committee and be signed into law by the President with a strong legislative veto in it that will give the elected Congress for the first time an opportunity to control this rampant bureaucracy and make certain that the rules which are laws that are imposed upon the American people are rules which the elected representatives and not the unelected bureaucrats favor. That is why this is an important rule and I commend the Committee on Rules for developing this rule.

I assure the gentleman from Maryland that when efforts are made simply to cut off the opportunity for full consideration I will be at his side voting with him. This is a situation where we must have this authorization. The time is short, the stakes are high.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DERRICK. I yield the gentleman 1 additional minute.

Mr. LEVITAS. Mr. Speaker, when this legislation is passed under this rule, when the conference committee stands by the House position and, whether he likes it or not, the President signs this into law, it is going to be one of the landmark pieces of legislation in the 96th Congress, indeed of recent Congresses, and will blaze the trail for more control of Government by the people through their elected representatives.

Mr. Speaker, I urge my colleagues to support the rule.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 4, rule XI, and the Chair's prior announcement, further proceedings on this vote will be postponed.

□ 1100

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4249) to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes, with Senate amendments thereto, concur in Senate amendments numbered 1, 2, 3, 4, 5, 6, and 8, and concur in Senate amendment numbered 7 with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendments and the House amendment to Senate amendment No. 7.

The Clerk read the Senate amendments and the House amendment to Senate amendment No. 7, as follows:

Page 5, line 24, after "SEC. 8." insert: (a)

Page 6, after line 7, insert:

(b) Notwithstanding any other provision of law discretionary bridge funds authorized under section 144(g) of title 23, United States Code, for fiscal year 1980 may be transferred to a State's apportionment under section 104(b)(6) of title 23, United States Code, to repay funds obligated under section 104(b)(6) of title 23, United States Code, between June 1 and July 31, 1979, for bridge projects which are eligible for funding by virtue of the amendment in subsection (a) of this section.

Page 9, after line 11, insert:

SEC. 18. Section 119(b) of title 23, United States Code, is amended by deleting the date "October 1st" in the second sentence and inserting in lieu thereof the date "January 1st", and by deleting "funds apportioned to such State for that fiscal year" in the third sentence and inserting in lieu thereof "next apportionment of funds to such State".

Page 9, after line 11, insert:

SEC. 19. Section 125(b) of title 23, United States Code, is amended by inserting at the end of the first sentence the following new sentence: "Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on the Federal-aid highway systems, including the Interstate System."

Page 9, after line 11, insert:

SEC. 20. (a) Section 170(b) of the Surface Transportation Act of 1978 is amended by striking "one year" and inserting in lieu thereof "eighteen months";

(b) Section 170(1) is amended to read as follows:

"(1) There is hereby authorized to be appropriated, to remain available until expended, to the Commission not to exceed $3,000,000 to carry out the purposes of this section.".

Page 9, after line 11, insert:

SEC. 21. Section 161(f) of the Federal-Aid Highway Act of 1973, Public Law 93-87, is amended by inserting after "managed" the following: "and maintained".

Page 9, after line 11, insert:

SEC. 22. (a) Section 204(h) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding at the end thereof a new paragraph to read as follows:

"(3) Notwithstanding any other provision of this title, where a State assumes or has assumed, pursuant to an agreement entered into under section 274 b. of the Atomic Energy Act of 1954, authority over any activity which results in the production of byproduct material as defined in section 11 e. (2) of that Act, the Commission shall not, until the date three years after the date of enactment of this Act, have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated. If, upon expiration of the three-year interim, a State has not entered into such an agreement with respect to byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material.".

(b) Section 204(h)(1) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended to read:

"(h)(1) On or before the date three years after the date of enactment of this Act, notwithstanding any provision of this title, any State may exercise any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to section 274 of the Atomic Energy Act of 1954, as amended) respecting (A) byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, or (B) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the enactment of this Act: Provided, however, That nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under section 275 of the Atomic Energy Act of 1954 as may be necessary to implement title I of this Act.".

(c) The last sentence of section 83 a. of the Atomic Energy Act of 1954, as amended, is amended to read: "Any license in effect on the effective date of this section and subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination.".

(d) Section 204(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding at the end thereof a new paragraph to read as follows:

"(2) This subsection shall be effective on the date three years after the date of enactment of this Act.".

(e) Section 83(b)(1)(A) of the Atomic Energy Act of 1954, as amended, is amended by—

(1) striking all that follows "transferred to—" down through "Unless" and inserting in lieu thereof the following—

"(i) the United States, or

"(ii) the State in which such land is located, at the option of such State, unless", and

(2) striking "section 84 b." and inserting in lieu thereof "section 81 of this Act".

Page 9, after line 11, insert:

TITLE II—AUTHORIZATION OF REPAYMENT

SEC. 201. (a) That the State of Indiana (hereinafter referred to as the State"), acting by and through the Indiana State Highway Commission, and the Indiana Toll Road Commission (hereinafter referred to as the "commission") shall be free of all restrictions with respect to the issuance of bonds or other obligations constituting a lien against the East-West Toll Road in northern Indiana (Interstate Route 80/90) (hereinafter referred to as the "toll road") or payable out of revenues derived from the toll road and with respect to the imposition, collection, and use of tolls and other charges on the toll road contained in title 23, United States Code, or in any regulation or agreement under such title upon—

(1) repayment to the Treasurer of the United States of the sum of $1,936,894, which is the amount of Federal-aid highway funds received for the construction of the interchanges connecting the toll road with—

(A) Interstate Route 69 in Steuben County, Indiana;

(B) Interstate Route 80 in Lake County, Indiana; and

(C) Interstate Route 65 in Lake County, Indiana; and

(2) issuance of new bonds by the commission at such time and in such principal amount as will provide bond proceeds available for payment of costs of construction and acquisition of right of way not less than the amount required to undertake and complete the required construction and the required acquisition of right of way, as defined in the subparagraphs (D) and (E) of this paragraph, such issuance to be made subject to a trust indenture which will be binding on the commission and will provide—

(A) that the required construction and required acquisition of right of way will be performed and that the funds from the bond proceeds will be allocated sufficient to perform the required construction and the required acquisition of right of way before any other commitment of the bond proceeds (other than the refunding of outstanding bonds and payment of costs of issuance) is made;

(B) that any revenues from the toll road, and any proceeds of the bonds issued in connection with the toll road shall, after payment of the costs of issuance, be used only (i) for payment of the costs, direct and indirect, of the required construction and the required acquisition of right of way; (ii) for the payment of the costs, direct and indirect, of the operation, maintenance, repair, and improvement of the toll road, including the construction of lane additions and the construction or modification of, and acquisition of right of way for interchanges; (iii) for the debt service, payment, and refunding of outstanding bonds, the proceeds of which were used for the construction of the toll road or any improvement thereto or for the refunding of such bonds; and (iv) for the payment to be made under paragraph 1 of this section and for the repayment to the State out of the proceeds of the sale of such new bonds of amounts required to be paid by the commission to the State under the provisions of title 8, article 15, chapter 2, section 20 of the Indiana Code of 1971, as amended to the date of enactment of this Act;

(C) that the Commission will promptly commence acquisition of rights of way and preparation of final plans and specifications for the required construction and that it will commence the required construction on or before December 31, 1981, and that the commission will promptly begin acquiring all the required acquisition of right of way and will commence acquiring such rights of way on or before December 31, 1981;

(D) that the term "required construction" shall mean and include the following, all given equal priority:

(i) construction of a new interchange at Indiana State Highway 912 South (Cline Avenue) in Lake County, Indiana, and

(ii) construction of a new interchange at Mishawaka in St. Joseph County, Indiana, between mileposts 080 and 085 of the toll road after consultation with the executive authority of the county of St. Joseph and the executive authority of the city of Mishawaka, Indiana, and

(iii) construction of a new interchange in Elkhart County, Indiana, located between mileposts 095 and 102 of the toll road after consultation with the executive authority of the county of Elkhart, and

(iv) construction of a new interchange at Willowcreek Road in Porter County, Indiana, and

(v) construction of a new interchange at Indiana State Highway 912 North (Cline Avenue) in Lake County, Indiana, and

(vi) construction of a new interchange at Indiana Highway 53 (Broadway) in Lake County, Indiana, and

(vii) completion of construction of a new interchange at United States Highway 31 bypass in St. Joseph County, Indiana, located at milepost 072 of the toll road;

(E) that the term "required acquisition of right of way" shall mean and include the following:

(i) acquisition of right of way at State Road 149 in Porter County, Indiana, sufficient for placement of a future interchange as construction funds (other than proceeds of the bonds issued in connection with the trust indenture provided herein) became available and after consultation with the executive authority of the county of Porter, and

(ii) acquisition of right of way at United States Highway 20 in LaPorte County, Indiana, sufficient for placement of a future interchange as construction funds (other than proceeds of the bonds issued in connection with the trust indenture provided for herein) become available and after consultation with the executive authority of the county of LaPorte.

(b) The amount repaid to the United States under this title shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogramed balance of the Federal-aid highway funds of the same class last apportioned to the State of Indiana. The amount so credited shall be in addition to all other funds then apportioned to the State of Indiana and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

House amendment to Senate amendment No. 7: On page 3 of the Senate engrossed amendment, in lieu of the matter proposed to be inserted by amendment number 7, insert the following:

SEC. 22. (a) section 204(h) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of this title, where a State assumes or has assumed, pursuant to an agreement entered into under section 724 b. of the Atomic Energy Act of 1954, authority over any activity which results in the production of byproduct material, as defined in section 11 e. (2) of such Act, the Commission shall not, until the end of the three-year period beginning on the date of the enactment of this Act, have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated, suspended, or amended to provide for such Federal licensing. If, at the end of such three-year period, a State has not entered into such an agreement with respect to byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material.".

(b) Section 204(h)(1) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended to read as follows:

"(h)(1) During the three-year period beginning on the date of the enactment of this Act, notwithstanding any other provision of this title, any State may exercise any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to section 274 of the Atomic Energy Act of 1954) respecting (A) byproduct material, as defined in section 11e. (2) of the Atomic Energy Act of 1954, or (B) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the date of the enactment of this Act, except that such State authority shall be exercised in a manner which, to the extent practicable, is consistent with the requirements of section 274 o. of the Atomic Energy Act of 1954 (as added by section 204 (e) of this Act). The Commission shall have the authority to insure that such section 274 o. is implemented by any such State to the extent practicable during the three-year period beginning on the date of the enactment of this Act. Nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under section 275 of the Atomic Energy Act of 1954 as may be necessary to implement title I of this Act.".

(c) The last sentence of section 83 a. of the Atomic Energy Act of 1954 is amended to read as follows: "Any license which is in effect on the effective date of this section and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination.".

(d) Section 204(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding after paragraph (1) the following new paragraph:

"(2) The provisions of the amendment made by paragraph (1) of this subsection (which adds a new subsection o. to section 274 of the Atomic Energy Act of 1954) shall apply only to the maximum extent practicable during the three-year period beginning on the date of the enactment of this Act."

(e) Section 83(b)(1)(A) of the Atomic Energy Act of 1954 is amended—

(1) by striking all that follows "transferred to—" down through "Unless" and inserting in lieu thereof the following:

"(i) the United States, or

"(ii) the State in which such land is located, at the option of such State, unless"; and

(2) by striking "section 84 b." and inserting in lieu thereof "section 81 of this Act".

Mr. JOHNSON of California (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to Senate amendment No. 7 be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

Mr. HARSHA. Mr. Speaker, reserving the right to object, and I am sure I will not object, I would like to use this time to establish some legislative history.

As I understand the Senate amendments, they include all the amendments that the House passed earlier under H.R. 4249.

Mr. JOHNSON of California. Yes, they do.

Mr. HARSHA. In the Senate report on page 4 dealing with the Senate amendments, the portion entitled, "Acceleration of Bridge Projects," it is my understanding according to the report that it is the view of the Committee on Environment and Public Works of the Senate that necessary bridge approaches, including interchanges, and connector roadways are eligible items for approval in connection with these demonstration projects.

This language should dispel some uncertainty on the part of the Federal Highway Administration as to whether certain interchanges on the Ohio side of the river and some roadwork on the Kentucky side of the river are eligible for funding under the demonstration program. The language in the Senate report and our comments here today clarify that it is the intent of Congress that this type of work is eligible for funding under the demonstration program. I also want to make it clear that we in no way intend to change what type of work is eligible under the normal bridge replacement program; we are only concerned with the acceleration of two bridge projects authorized in section 147 of the Surface Transportation Assistance Act of 1978.

Now, is my understanding correct also that this is the House position, that they interpret this program in the same manner as the Senate does?

Mr. JOHNSON of California. Yes, we do.

Mr. HARSHA. And the full House Committee on Public Works and Transportation concurs in that Senate report language?

Mr. JOHNSON of California. We do.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I will be happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I want to commend the chairman, the gentleman from California (Mr. JOHNSON) for bringing the bill forward in the way the gentleman has and the way he has handled amendment No. 7, which deals with the jurisdiction of our Committee on the Interior and Insular Affairs.

Mr. Speaker, the Senate amendment under consideration is a clarification of the Nuclear Regulatory Commission's jurisdiction set forth in the Uranium Mill Tailings Control Act. The authors of that act have agreed that a drafting error resulted in a violation of intent which should be corrected. The amendment I am offering to the Senate amendment further clarifies the intent of the act and makes some additional technical changes.

My amendment retains the provision in the Senate amendment making clear that the Nuclear Regulatory Commission does not have concurrent licensing authority in agreement States during a 3-year grace period under the act. But the Senate amendment would also delay effectiveness of certain requirements of the act until after the 3-year period. This was not the original intent of the Tailings Control Act. The other principal authors agreed with this point in a letter to the Nuclear Regulatory Commission dated April 26 of this year.

My amendment changes the Senate amendment to provide that specified standards and procedures in the act would be effective immediately to the maximum extent practicable. Further, the Nuclear Regulatory Commission is declared to retain authority to assure that agreement States in exercising their licensing activities implement the requirements to the maximum extent practicable.

The Commission is here required to exercise considered judgment in overseeing the agreement States' licensing activities. It is not our intent that every regulation and procedure is implemented immediately down to the last detail. The agreement States should, rather, implement the important objectives of the Mill Tailings Control Act, including but not limited to eliminating to the maximum extent practicable the need for long-term care of tailings, and thorough independent review of the environmental impact of licenses. Where the State is not capable of performing such reviews at this time, the Tailings Act provides funds for technical assistance for this purpose.

My amendment, in addition, clarifies that during the 3-year grace period the State's agreement may be suspended or amended to provide for Federal regulation. The Senate amendment provides only that such agreements may be terminated. Suspension or amendment are the normal options available to the Commission and the agreement States.

It is important to clarify that the Commission does not have authority to issue, deny, or revoke licenses in the agreement States; but only to determine the adequacy of the agreement States' regulatory programs in implementing the requirements of the Tailings Act.

The final change here simply resolves a drafting problem.

Mr. HARSHA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California (Mr. JOHNSON)?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4167, MILK PRICE SUPPORT ACT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 385 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 385

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4167) to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price therefor, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 385 provides for the consideration of H.R. 4167 which extends milk price supports until September 1981.

This is an open rule providing for 1 hour of general debate on the bill. The time is to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Agriculture. A motion to recommit is in order upon completion of the consideration of the bill.

H.R. 4167 extends for 2 years the requirement that the price of milk be supported at not less than 80 percent of the parity price. It also provides semi-annual adjustments to reflect estimated changes in the parity index.

The purpose of the milk support program is to assure dairymen an income level sufficient to provide us with adequate supplies of milk. The milk support program has helped provide stability in both supplies and prices of dairy products.

Without the stability this program provides or with a support level of less than 80 percent of parity, many dairymen might find it attractive to sell their herds at present high beef prices and retire. In my district alone, I have seen the dairy industry decline from 50 farms to 5. Maintaining the support price can help forestall this exodus from dairying.

Last March, the Congressional Budget Office published a report which stated that a milk support price of 80 percent of parity would provide stability, would not cause any major changes in dairy farmers' incomes, in consumer prices, or in Federal budget outlays, and would result in adequate supplies of milk.

Mr. Speaker, this legislation is very important to consumers and producers alike. I urge my colleagues to adopt House Resolution 385 so that we may proceed to the consideration of H.R. 4167, milk price support legislation.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there should not be any objection to this rule.

Mr. Speaker, the notable feature of this rule is that it contains no waivers of points of order, and no restrictions on amendments. The rule provides 1 hour of general debate for the consideration of H.R. 4167, the milk price support bill.

There was no controversy in the Rules Committee on this matter. The rule was reported by a voice vote.

The primary purpose of the bill made in order by this rule is to support the price of milk at no less than 80 percent of parity through the end of fiscal year 1981. In addition it provides for adjustments every 6 months to reflect estimated changes in the parity index.

The Congressional Budget Office estimates that annual budget outlays will not increase over current outlays because of enactment of this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. Mr. Speaker, I rise in support of both this rule and the bill to support the price of milk at not less than 80 percent of parity until September 30, 1981.

This bill is of obvious importance to the Eighth District of Wisconsin, "America's Dairyland" as the Wisconsin license plates state.

Yes, Mr. Speaker, this bill is very important to Wisconsin dairy farmers and to the economy of our State.

But even more important, this bill is beneficial to all Americans.

No nation on earth enjoys the abundance and quality of dairy products that America does. Dairying is an important farming operation in nearly every State and our consumers consistently receive "nature's most perfect food" at fair and reasonable prices.

Some may argue that dairy supports should be lower or should be removed in order to give consumers lower prices.

History and experience have painfully proven however, that this theory just doesn't work.

Periodic surpluses and shortages with depressed farm income and zooming supermarket prices are the practical result of this theory.

No, Mr. Speaker, I believe the record of the dairy price support program reveals that a stable and fair support for manufactured milk products will in the long run treat consumers much better than will periodic price fluctuations.

The dairy price support program, of course, carries some public cost, currently about $285 million in the 1978–79 year, but when matched against the gains in farm income, as projected by the CBO to be $18 billion over the next 5 years, this seems like a real bargain for our economy.

Let me point out, too, Mr. Speaker, that the dairy price support program, unlike many other farm price support activities, does not provide any direct payments or subsidies to individual farmers.

The program instead relies on Government purchases from dairy processors and those purchases in turn are used for a variety of school, welfare, and foreign donation programs.

In summary, Mr. Speaker, this rule should be adopted today and this bill should be passed next week not only because its good for dairy farmers, not just because its beneficial to Wisconsin, but also because it is in the best interest of all Americans.

□ 1110

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, all this bill does is merely allow the price supports for dairy products to go for 4 years, as we had in the provisions of the last farm bill. However, the Senate insisted on 2 years. They said they wanted to take a look and see how the program is going at the end of 2 years. Thus in conference the dairy price support level of 80 percent was limited to 2 years. The 2 years is up and we find the program is going well. Everything is working fine. All this bill does is to extend the present program for another 2 years as the House had originally agreed to.

Mr. Speaker, I yield back the balance of my time.

Mr. LATTA. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 4, rule XI, and the Chair's prior announcement, further proceedings on this vote will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 5192, EDUCATION AMENDMENTS OF 1980

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 466 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 466

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 303(a)(4), 401(a), and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, and the first reading of said bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and raking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule by titles instead of by sections, each title shall be considered as having been read for amendment, and all points of order against said substitute for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 466 provides for the consideration of H.R. 5192 to reauthorize and improve programs included in the Higher Education Act and related measures.

This is an open rule granting 2 hours of general debate with the time equally divided and controlled by the chairman and the ranking minority member of the Education and Labor Committee. The bill is to be read for amendment under the 5-minute rule by titles rather than by sections. The rule also makes in order a committee amendment in the nature of a substitute as an original. Bill for purposes of amendment. A motion to recommit with or without instructions is in order upon completion of consideration of the bill.

The rule provides several waivers of the Budget Act so that the bill might be considered. These waivers are somewhat of a technical nature, since the Education and Labor Committee has agreed to offer amendments on the floor dealing with one of the budget violations and two of the others are already aired by the committee amendment in the nature of a substitute. The specific waivers of the Budget Act are sections 303(a)(4), 401(a) and 402(a).

Section 303(a)(4) of the Budget Act prohibits the consideration of a bill which provides new entitlement authority to become effective during a fiscal year before the first budget resolution for that year has been adopted. Several provisions of H.R. 5192 provide new entitlement authority which is to become effective in fiscal year 1981. The first concurrent resolution on the budget for fiscal year 1981 has not yet been adopted, the bill would be subject to a point of order under section 303(a)(4) of the Budget Act.

Section 401(a) of the Budget Act bars the consideration of any bill which pro-

vides new contract authority unless that bill also provides that such new spending authority is effective for any fiscal year only to such extent or in such amounts as are provided in advance in Appropriation Acts. Since various sections of the bill could be construed as providing unlimited new contract authority, the bill would be subject to points of order under section 401(a) of the Budget Act.

Section 402(a) of the Budget Act prohibits consideration of any bill which directly or indirectly, authorizes the enactment of new budget authority for a fiscal year unless the bill was reported by May 15 preceding the beginning of the fiscal year. Various sections of the introduceed bill would authorize the enactment of new budget authority which could become effective during fiscal year 1980, and thus should have been reported by May 15, 1979.

In addition to the Budget Act waivers, the rule waives all points of order pursuant to clause 5, rule XXI, prohibiting an appropriation in a legislative bill. The waiver applies to all titles of the bill.

Mr. Speaker, H.R. 5192 amends and extends almost all of the programs in the Higher Education Act of 1965 which expire at the end of fiscal year 1981 along with the fund for the improvement of postsecondary education and title VI of the National Defense Education Act. Thus the bill reaffirms and continues the Federal role in support of postsecondary education. The bill advances the goal of achieving equal educational opportunity through student assistance by several types of improvements in the equity of these programs. The bill also strengthens the Federal-State partnership in higher education, and it repeals several obsolete or unfunded programs, while providing consistency and simplicity in standards for student, institutional, and State eligibility for program participation.

Mr. Speaker, the programs authorized in H.R. 5192 are a very important aspect of our national commitment to quality educational opportunities for all citizens. I urge my colleagues to adopt House Resolution 466 so that we might proceed to the consideration of H.R. 5192, the Education Amendments of 1980.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentlewomen from New York (Mrs. CHISHOLM) has given one of the best explanations of this measure that has ever been presented on any measure here on the House floor. She did an excellent job of detailing the provisions not only of the resolution but the act itself.

Mr. Speaker, I support the rule because the amendments to the Higher Education Act of 1965 are necessary.

I remember, when this was before the Committee on Rules, that the reporting committee itself testified as to how progress was being made on collecting the delinquent loans made to students in the past. Perhaps over $1 billion was in arrears at one time, but now much of that is being collected, and the delinquencies under the new tightening provisions, are running very, very low.

It is the dream of all Americans to have a higher education. Those of us here on the floor who have not had that opportunity commend the committee. I commend the committee for making this opportunity possible. May the youth, the young men and women of America, take advantage of this measure.

Mr. Speaker, I commend the rule to the Members of the House, and I recommend passage of the measure when it is taken up on the floor.

Mr. Speaker, I reserve the balance of my time.

□ 1120

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1885, RETIREMENT PREFERENCE FOR CERTAIN BIA EMPLOYEES

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 437 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 437

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1885) to amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 437 makes in order the consideration of the bill H.R. 1885 to amend the civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and modifies the application of the Indian employment preference laws as it applies to those agencies.

This is an open rule granting 1 hour of general debate with the time equally divided and controlled by the chairman and the ranking minority member of the Committee on Post Office and Civil Service.

This bill is to be read for amendments under the 5-minute rule. The rule provides for one motion to recommit with or without instructions.

The rule further provides for consideration of an amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service as an original bill for the purposes of amendments.

Mr. Speaker, H.R. 1885 provides special retirement benefits for certain non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service, and modifies the application of Indian preference laws. In essence, this bill gives certain non-Indian employees of Indian tribal organizations an annuity if separated from service after 25 years or after attaining 50 years of service if such employee is not entitled to an employment preference.

The Supreme Court in three recent rulings, held that Indian preference is not a racial preference, but rather, an employment criterion designed to further the cause of Indian self-determination and self-government. In this case, preference is necessary in order to make Indian agencies more responsive to the needs of its constituency.

Mr. Speaker, similar pieces of legislation were introduced in the 94th and 95th Congresses. Neither of those legislative bills were able to survive the tough scrutiny of both Houses of Congress and the veto powers of the Presidency.

We have all recognized the problems inherent in the present system of Indian employment and the unusual situation brought about by the Supreme Court decision. We also realize that a solution to Indian preference must be found. The provisions in H.R. 1885 are designed to protect Indian people and non-Indian people and to prevent any injustices on either account. H.R. 1885 remedies the problems of Indian preference in a fair and equitable fashion, and provides Indian people with self-determination and self-government, which they so clearly deserve and need.

Mr. Speaker, this is an extremely important piece of legislation and I urge my colleagues to adopt House Resolution 437 so that we might proceed to the consideration of this bill.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the adoption of this resolution to correct an inequity. I think it is a good bill. I understand it is going to be discussed on the floor this afternoon.

The able gentlewoman from New York (Mrs. CHISHOLM) has explained the provisions of the resolution very eloquently.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all resolutions.

Pursuant to clause 4, rule XI, the Chair will now put the question on each resolution on which further proceedings were postponed, in the order in which the resolution was considered. Votes will be taken in the following order:

House Resolution 456, by the yeas and nays, and House Resolution 385, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

PROVIDING FOR CONSIDERATION OF H.R. 2313, FEDERAL TRADE COMMISSION AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the resolution, House Resolution 456.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution, House Resolution 456, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 273, nays 61, not voting 99, as follows:

[Roll No. 607]

YEAS—273

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bellenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Hubbard
Hughes
Hutto
Ireland
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moorhead, Calif.
Motl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
Oakar
Oberstar
Panetta
Patterson
Pease
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rose
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Satterfield
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vento
Walgren
Walker
Watkins
Waxman
Weaver
White
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Young, Mo.
Zablocki

NAYS—61

Anderson, Calif.
Archer
Ashbrook
Bauman
Bereuter
Bethune
Broomfield
Burgener
Campbell
Carney
Clinger
Collins, Tex.
Coughlin
Courter
Crane, Daniel
Dickard
Derwinski
Edwards, Okla.
Erdahl
Evans, Del.
Fenwick
Forsythe
Frenzel
Gingrich
Goldwater
Goodling
Gramm
Grassley
Guyer
Hagedorn
Hansen
Holt
Hyde
Ichord
Jacobs
Jeffries
Kelly
Kindness
Kramer
Lagomarsino
Lott
Lungren
McDonald
Michel
Miller, Ohio
Moore
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Sawyer
Sensenbrenner
Shelby
Shumway
Spence
Stump
Tauke
Taylor
Volkmer
Young, Alaska

NOT VOTING—99

Addabbo
Ashley
AuCoin
Bedell
Biaggi
Boggs
Boiling
Bowen
Breaux
Brooks
Burton, John
Butler
Clay
Cleveland
Conable
Corman
Cotter
Crane, Philip
Davis, S.C.
Devine
Dickinson
Dixon
Dougherty
Drinan
Duncan, Oreg.
Early
Flood
Florio
Foley
Fowler
Fuqua
Giaimo
Hanley
Hightower
Hinson
Holland
Howard
Huckaby
Jenkins
Jones, Okla.
Jones, Tenn.
Kastenmeier
LaFalce
Leach, La.
Lee
Livingston
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Mattox
Mavroules
Minish
Moakley
Moffett
Montgomery
Moorhead, Pa.
Nichols
Nolan
Obey
Ottinger
Patten
Pepper
Perkins
Quayle
Richmond
Rodino
Roe
Rosenthal
Rousselot
Rudd
Santini
Scheuer
Skelton
Staggers
Stark
Symms
Thomas
Treen
Van Deerlin
Vanik
Wampler
Weiss
Whitehurst
Whitley
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Yatron
Young, Fla.
Zeferetti

□ 1140

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Butler.
Mr. Jones of Tennessee with Mr. Hinson.
Mrs. Boggs with Mr. Cleveland.
Mr. Zeferetti with Mr. Conable.
Mr. Corman with Mr. McClory.
Mr. Rodino with Mr. Thomas.
Mr. Richmond with Mr. Lee.
Mr. Staggers with Mr. Philip M. Crane.
Mr. Stark with Mr. Devine.
Mr. Minish with Mr. Livingston.
Mr. Moakley with Mr. Rudd.
Mr. Montgomery with Mr. Quayle.
Mr. Biaggi with Mr. Symms.
Mr. Ashley with Mr. Wampler.
Mr. Howard with Mr. McDade.
Mr. Pepper with Mr. Bob Wilson.
Mr. Patten with Mr. Winn.
Mr. Wright with Mr. Dickinson.
Mr. Yatron with Mr. Dougherty.
Mr. Nichols with Mr. McEwen.
Mr. Foley with Mr. McKinney.
Mr. Fuqua with Mr. Rousselot.
Mr. Giaimo with Mr. Whitehurst.
Mr. Hanley with Mr. Whitley.
Mr. McHugh with Mr. Wydler.
Mr. McCormack with Mr. Williams of Ohio.
Mr. Rosenthal with Mr. Bedell.
Mr. Roe with Mr. Davis of South Carolina.
Mr. Nolan with Mr. Dixon.
Mr. Obey with Mr. Duncan of Oregon.
Mr. Early with Mr. Flood.
Mr. Breaux with Mr. Fowler.
Mr. Brooks with Mr. Hightower.
Mr. John L. Burton with Mr. Holland.
Mr. Clay with Mr. Perkins.
Mr. Cotter with Mr. Scheuer.
Mr. AuCoin with Mr. LaFalce.
Mr. Bowen with Mr. Leach of Louisiana.
Mr. Jones of Oklahoma with Mr. Mattox.
Mr. Jenkins with Mr. McCloskey.
Mr. Drinan with Mr. McKay.
Mr. Florio with Mr. Moffett.
Mr. Kastenmeier with Mr. Van Deerlin.
Mr. Maguire with Mr. Charles Wilson of Texas.
Mr. Mavroules with Mr. Whitehurst.
Mr. Moorhead of Pennsylvania with Mr. Skelton.
Mr. Ottinger with Mr. Vanik.
Mr. Santini with Mr. Weiss.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 4(e)(3) of rule XI, the Chair announces he will reduce

to a minimum of 5 minutes the period of time in which a vote by electronic device may be taken on the additional resolution on which the Chair has postponed further proceedings.

PROVIDING FOR CONSIDERATION OF H.R. 4167, MILK PRICE SUPPORT ACT

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the resolution, House Resolution 385.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution, House Resolution 385, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 327, nays 3, not voting 103, as follows:

[Roll No. 608]

YEAS—327

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mazzoli
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Motl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rose
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
White
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Young, Alaska
Young, Mo.
Zablocki

NAYS—3

Broomfield
Long, Md.
McDonald

NOT VOTING—103

Addabbo
Ashley
AuCoin
Bedell
Bevill
Biaggi
Boggs
Bolling
Breaux
Brooks
Burton, John
Butler
Carter
Clay
Cleveland
Conable
Corman
Cotter
Crane, Philip
Davis, S.C.
Devine
Dickinson
Dixon
Dougherty
Drinan
Duncan, Oreg.
Early
Ficod
Florio
Foley
Fowler
Fuqua
Giaimo
Gibbons
Hanley
Hightower
Hinson
Holland
Howard
Huckaby
Jenkins
Jones, Okla.
Kastenmeier
LaFalce
Leach, La.
Lee
Leland
Livingston
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Mattox
Mavroules
Mica
Minish
Moakley
Moffett
Montgomery
Moorhead, Pa.
Nichols
Nolan
Obey
Ottinger
Patten
Pepper
Perkins
Quayle
Richmond
Rodino
Roe
Rosenthal
Rousselot
Rudd
Santini
Scheuer
Skelton
Staggers
Stark
Symms
Thomas
Treen
Van Deerlin
Vander Jagt
Vanik
Wampler
Weiss
Whitehurst
Whitley
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Yatron
Young, Fla.
Zeferetti

□ 1150

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Butler.
Mr. Rodino with Mr. Hinson.
Mr. Addabbo with Mr. Jones of Oklahoma.
Mr. Cotter with Mr. Carter.
Mr. McCormack with Mr. Cleveland.
Mr. Minish with Mr. Bob Wilson.
Mr. Moakley with Mr. Wydler.
Mr. Wright with Mr. Symms.
Mr. Zeferetti with Mr. Philip M. Crane.
Mr. Biaggi with Mr. Devine.
Mr. Breaux with Mr. Lee.
Mr. Howard with Mr. McClory.
Mr. Brooks with Mr. Dickinson.
Mr. Mavroules with Mr. Thomas.
Mr. Corman with Mr. Quayle.
Mr. Florio with Mr. Vander Jagt.
Mr. Foley with Mr. Dougherty.
Mr. Montgomery with Mr. McCloskey.
Mr. Nichols with Mr. Whitehurst.
Mr. Nolan with Mr. McDade.
Mr. Staggers with Mr. Wampler.
Mr. Santini with Mr. McEwen.
Mr. Rosenthal with Mr. Mica.
Mr. AuCoin with Mr. Winn.
Mr. Ashley with Mr. Flood.
Mr. John L. Burton with Mr. Fowler.
Mr. Kastenmeier with Mr. Gibbons.
Mr. Maguire with Mr. Bedell.
Mr. McHugh with Mr. Clay.
Mr. Obey with Mr. Conable.
Mr. Patten with Mr. Davis of South Carolina.
Mr. Pepper with Mr. Dixon.
Mr. Early with Mr. Drinan.
Mr. Fuqua with Mr. McKay.
Mr. Hanley with Mr. McKinney.
Mr. Giaimo with Mr. Duncan of Oregon.
Mr. Bevill with Mr. Leach of Louisiana.
Mr. Huckaby with Mr. Leland.
Mr. Hightower with Mr. Rousselot.
Mr. Jenkins with Mr. Perkins.
Mr. LaFalce with Mr. Rudd.
Mr. Moffett with Mr. Mattox.
Mr. Moorhead of Pennsylvania with Mr. Young of Florida.
Mr. Ottinger with Mr. Williams of Ohio.
Mr. Yatron with Mr. Skelton.
Mr. Van Deerlin with Mr. Weiss.
Mr. Whitley with Mr. Vanik.
Mr. Stark with Mr. Livingston.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORT ON H.R. 5472, TO REVITALIZE PLEASURE CRAFT INDUSTRY

Mr. SYNAR. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight tonight to file a report on the bill (H.R. 5472) to revitalize the pleasure craft industry by clarifying certain restrictions to the Merchant Marine Act of 1936.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House of Tuesday, October 23, 1979, I call up the conference report on the bill (H.R. 4387) making appropriations for the Agriculture, Rural Development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes, and I ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the statement.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent to

dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

(For conference report and statement see proceedings of the House on October 24, 1979.)

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from North Dakota (Mr. ANDREWS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we bring to the Members today a conference report which I highly commend to my colleagues. This is the one annual appropriation bill which funds programs in which producers, consumers, labor and industry, all have a close mutual interest. Agriculture produces the food and fiber needed by consumers and provides the biggest market for industry and labor, while consumers provide the market needed by agricultural producers.

This is a truly "national" bill which benefits every part of the country. The programs funded in this bill strongly influence the quality of life and the standard of living of every American.

We have a good conference agreement, Mr. Speaker. It is sound. It is responsive to both the needs of our people and to their pocketbooks. It will treat agriculture as an equal partner of industry and labor. This bill will serve to the advantage of consumers and producers alike. It will help assure the quality and wholesomeness of our foods and drugs, and protect our valuable natural resources which are the ultimate basis of our standard of living. This bill will provide that our schoolchildren are fed properly; that the weak, the elderly, and the economically disadvanaged can avail themselves of a nutritious diet.

Mr. Speaker, this bill making appropriations for the Department of Agriculture, rural development and related agencies for fiscal year 1980 also includes the Food and Drug Administration and the Commodity Futures Trading Commission. Included are funds for rural development and conservation, the school lunch and school milk programs, the food stamp program, and many other food programs relating to production, processing, and orderly marketing.

The conference agreement, may I explain, is $607,812,000 less than the congressional budget target in the first concurrent budget resolution, which will remain available should future requirements arise.

I would like at this time to describe some of the highlights of this bill. The conference report recommends $18,528,940,000 in total budget authority for fiscal year 1980. The amount agreed to by the conferees is $2,295,771,000 less than appropriated in fiscal year 1979, $39,203,000 more than the Senate bill, $2,961,000 less than the House bill, and $1,625,680,000 less than the budget request.

Mr. Speaker, what we need to recognize is the great job so few—the American farmers—are doing for all of us.

Mr. Speaker, in connection with our recent agreement for a sale of grain to Russia, I would like to point out for the record some of the facts which we developed in our hearings concerning the sale some years ago. Our hearings demonstrate the fact that we should exercise some care in any new contract.

It developed that under that contract, we had in effect turned over to Russia the world's surplus food supply for them to use in their foreign policy. In order to do this, we paid $161 million in subsidies to the international grain exporting firms. Our records further show that under the agreement Russia had 3 years to accept the grain, but we failed to reserve the right to take 3 years for delivery. This all took place 6 or 7 years ago, but in our hearings earlier this year, the Department still had been unable to trace this grain to an end recipient. We must remember these past mistakes when we negotiate new agreements.

Foreign sales of U.S. agricultural commodities are an essential means of recouping our dollars from overseas and plays a major role in helping to offset our balance-of-payments problems. We need to move our surplus production into world trade. Our agricultural exports are our best dollar earner and they are needed by the world. Increased agricultural exports are our best opportunity to secure a lasting peace in the world. I believe we must use the sales manager of the Department of Agriculture to assure that a maximum effort is being made by the grain companies to sell U.S. commodities, and if they are not making that effort, then we should use the Commodity Credit Corporation to accomplish that goal.

In addition, Mr. Speaker, in developing this bill we have remained conscious of the need to protect our soil and our natural resources so we can keep our country solvent and protect it for future generations.

TITLE I—AGRICULTURAL PROGRAMS

Mr. Speaker, for agricultural research the conference agreement provides $370,573,000. Included in the agreement is an overall increase in the research and development budget over comparable 1979 figures. This is crucial in view of such challenges facing agricultural research as the leveling off of productivity increases, the loss of prime farmland, and the continuing pressures of population growth on global food supply.

As you can see in reading the conference report, there were literally dozens of research projects to be decided by the conferees. The agreement reflects our awareness of the need for a number of actions to increase the quality and efficiency of agricultural research and the competence of USDA research leadership and management. I will highlight some of the major items for my colleagues.

For research on improving energy efficiency in crop and animal production the conferees have agreed to $4,139,000 instead of $3,139,000 as proposed by the House and $5,139,000 as proposed by the Senate.

For tropical and subtropical research the conference agreement provides $2,800,000 instead of $2,200,000 as proposed by the House and $3,200,000 as proposed by the Senate.

For research on the category of "Other Animal Disease and Production Research" the conference agreement provides $41,793,000 instead of $42,308,000 as proposed by the House and $41,278,000 as proposed by the Senate.

Also included in the agreement are funds for staffing the nutrition laboratory at Tufts University, for staffing and equipment at the Appalachian Fruit Research Station at Kearneysville, W. Va., for equipping a stable isotope facility at the children's nutrition laboratory of the Baylor College of Medicine, for nutrition research at the Letterman Institute of Research, and for moving costs associated with the soil and water conservation laboratory at Beckley.

Mr. Speaker, for cooperative research the conference agreement provides $189,045,000. Included in the agreement is $118,566,000 in Hatch Act funds for our Land-Grant Colleges and $17,785,000 for our 1890 colleges and Tuskegee Institute. The agreement provides $16,548,000 for special grants and projects, including $7,000,000 for animal health research. We also agreed to $2,400,000 for energy research, including research on gasohol, $1,500,000 for rural development research, $10,000,000 for cooperative forestry research, and $6,000,000 for section 1433 grants for animal health and disease research. The agreement also includes $16,000,000 for competitive research grants, for specific purposes.

For cooperative extension the conference agreement provides a total of $285,537,000. Included in the agreement is $189,331,000 for payments under the Smith-Lever Act and $51,810,000 for payments for the nutrition and family education program for low-income areas under section 3(d) of the Smith-Lever Act. We were also able to hold the House position in regard to urban gardening, pest management, farm safety, rural development education, and the Bankhead-Jones program.

Mr. Speaker, for the Animal and Plant Health Inspection Service the conference agreement provides $245,631,000. Included in the agreement is restoration

of funding for poultry diseases, tri-fly, fire ant, range caterpillar, cattle fever ticks, and tuberculosis eradication.

For the Japanese beetle program the agreement provides $212,000. Brucellosis eradication is increased from $65,195,000 in 1979 to $77,695,000 for 1980.

For noxious weeds the agreement provides $1,700,000, including $200,000 for the Florida hydrilla program, up to $500,000 for a California hydrilla program, and not less than $1,000,000 for a nationwide regulatory program.

For the Agricultural Marketing Service we were able to maintain the House position which restored the funds for the wholesale market development program. We have also directed that market news reporting be kept at last year's level.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Mr. Speaker, for the Farmers Home Administration the conference agreement provides $2,280,000 for section 502 low-income housing loans, $800,000,000 for moderate income housing loans, and $868,000,000 for section 515 rural rental housing loans. We have provided for $870,000,000 in farm ownership loans and $875,000,000 in operating loans. The agreement also includes $7,000,000 for section 111 planning grants, and $1,500,000 for supervisory assistance.

Both the House and Senate versions of the bill included $300,000,000 for water and sewer grants. We have also provided that not less than 30 percent of the funds should be for the expansion of existing systems.

We have provided for an increase of 469 additional permanent positions for Farmers Home, all of which are to be located outside of the Washington area and used primarily to supervise the agency's loan portfolio which now totals over $30 billion.

For the agricultural conservation program the agreement includes $190,000,000. We will also expect the Department to work toward getting the participation in ACP back up to the annual level of one million participants.

For the Soil Conservation Service programs the agreement includes $264,747,000 for conservation operations, $16,487,000 for river basin surveys and investigations, $10,500,000 for watershed planning and $167,524,000 for watershed and flood prevention operations.

For the resource conservation and development program the agreement includes $32,000,000 and provides for six new area authorizations.

The agreement includes an additional $250,000 to expedite work now underway on the bank caving/foothill erosion research project as proposed by the House.

In connection with the plant materials centers the conference agreement requires the Department to contact the Congress in advance of making any changes in the way these centers are funded.

For rural clean water the conference agreement provides $50,000,000 for an experimental program. In order to promote maximum conservation efforts, the conferees have agreed to an experimental rural clean water program in those areas that have not made full use of the Agricultural conservation program, or where the need for conservation to improve water quality is acute. The conferees will also expect that the approved funds will be used only for highest priority projects in selected geographical areas to be selected primarily from applications previously submitted to the Secretary and approved by him in consultation with the Administrator of the Environmental Protection Agency. In addition, where practical, the Agricultural Stabilization and Conservation Service and its State and local committees shall seek the advice and assistance of conservation districts, State soil and water conservation agencies or State water quality agencies.

Also included within the total are funds for additional permanent employees of the Soil Conservation Service to carry out technical assistance under the program.

TITLE III—DOMESTIC FOOD PROGRAMS

Mr. Speaker, the conference agreement includes a total of $3,114,301,000 for child nutrition programs.

For the summer feeding program the conferees agreed not to restrict, at this time, the direct Federal administration of summer food service operations in States. The eligibility limitations were adopted as passed by the Senate and a reduction of $47,000,000 was assumed in the hope that savings can be made by aggressively curtailing fraud and abuse.

The conferees agreed to an appropriation of $736,200,000 for the special supplemental food program (WIC), and to derive at least $13,800,000 from prior-year balances, for a program level of at least $750,000,000.

For food stamps the agreement includes $6,188,600,000, which is the maximum amount now authorized. We expect to promptly give further consideration to this as soon as the legislative committee has completed its actions. Up to 5 percent of the total amount appropriated may be placed in reserve pursuant to the Anti-Deficiency Act, for use in such amounts and at such times as may become necessary to carry out program operations.

Many of these feeding programs have reportedly become plagued with fraud and abuses. The conferees have taken every reasonable action available through an appropriations bill to urge and promote the aggressive pursuit of eliminating fraud, abuse and waste from these programs.

TITLE IV—INTERNATIONAL PROGRAMS

Mr. Speaker, with respect to the Foreign Agricultural Service, the conference agreement provides $56,427,000, plus $1,864,000 for the Office of International Cooperation and Development. The agreement also includes the House level of $901,730,000 for titles I and III of the Public Law 480 program. Title II of Public Law 480 was not in conference. In our report we point out that adequate funds are available for humanitarian aid to Cambodia.

We have received a budget amendment of $205,800,000 for the Public Law 480 program, however, we were not able to address the amendment since title II was not in conference, and we therefore have deferred the amendment for later consideration.

TITLE V—RELATED AGENCIES

Mr. Speaker, for salaries and expenses of the Food and Drug Administration the conference agreement provides $312,796,000, including $1,500,000 for research on antibiotics in animal feeds. For FDA buildings and facilities the agreement includes $4,372,000 as requested by the administration.

Mr. Speaker, I would like to say to the House that through the years my colleagues on this committee have done a tremendous job. Mr. Speaker, this year particularly, they have all made major and essential contributions to the development of this bill.

Mr. Speaker, I refer to the gentleman from North Dakota (Mr. ANDREWS), the ranking minority member of our subcommittee, and the gentleman from Missouri (Mr. BURLISON), our ranking majority member. I would also like to add my thanks to the gentleman from Michigan (Mr. TRAXLER), the gentleman from Arkansas (Mr. ALEXANDER), the gentleman from New York (Mr. MCHUGH), the gentleman from Kentucky (Mr. NATCHER) whom I have worked closely with for many years now, the gentleman from Texas (Mr. HIGHTOWER), and the gentleman from South Carolina (Mr. JENRETTE). I would also like to commend our other two minority members, the gentleman from Virginia (Mr. ROBINSON), and the gentleman from Indiana (Mr. MYERS).

Mr. Speaker, may I also say it has been a pleasure this year not only on this bill, but all bills we deal with, to work with the gentleman from Massachusetts (Mr. CONTE), the ranking minority member of the full committee. No one could ask for better cooperation.

Mr. Speaker, all of the gentlemen have done a marvelous job, and we have been able to bring this bill to you because the House has confidence in them and their efforts on this bill which is so important to the standard of living of every American. I give my personal thanks to each and every one of them.

Mr. Speaker, at this point in the RECORD under leave to revise and extend my remarks, I will provide a table showing the amounts agreed upon by the conferees.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (−) conference recommendations compared with— 1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE I—AGRICULTURAL PROGRAMS									
PRODUCTION, PROCESSING AND MARKETING									
Office of the Secretary	$4,415,000	$4,534,000	$4,400,000	$4,534,000	$4,470,000	+$55,000	−$64,000	+$70,000	−$64,000
Departmental Administration	19,105,000	20,909,000	19,609,000	19,723,000	19,423,000	+318,000	−1,486,000	−186,000	−300,000
Working capital fund	(1,252,000)					(−1,252,000)			
Office of the Inspector General	23,095,000	34,151,000	24,727,000	25,527,000	25,527,000	+2,432,000	−8,624,000	+800,000	
Transfer from food stamp program	(8,922,000)		(8,924,000)	(8,924,000)	(8,924,000)	(+2,000)	(+8,924,000)		
Total, Office of the Inspector General	(32,017,000)	(34,151,000)	(33,651,000)	(34,451,000)	(34,451,000)	(+2,434,000)	(+300,000)	(+800,000)	
Office of the General Counsel	10,598,000	11,305,000	10,786,000	11,136,000	11,000,000	+402,000	−305,000	+214,000	−136,000
Federal Grain Inspection Service: Salaries and expenses	22,680,000	23,372,000	22,872,000	23,372,000	23,122,000	+442,000	−250,000	+250,000	−250,000
Science and Education Administation									
Agricultural research	343,416,000	344,872,000	363,142,000	372,479,000	370,573,000	+27,157,000	+25,701,000	+7,431,000	−1,906,000
Special fund (reappropriation)	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Buildings and facilities	36,740,000					−36,740,000			
Scientific activities overseas (special foreign currency program)	5,750,000	7,500,000	5,750,000	5,750,000	5,750,000		−1,750,000		
Cooperative research	174,395,000	178,317,000	178,027,000	198,484,000	189,015,000	+14,650,000	+10,728,000	+11,018,000	−9,439,000
Extension activities	275,399,000	259,227,000	285,835,000	274,767,000	285,537,000	+10,138,000	+26,310,000	−298,000	+10,770,000
Technical information systems	7,527,000	7,835,000	7,835,000	7,835,000	7,835,000	+303,000			
Total, Science and Education Administration	845,227,000	799,751,000	842,589,000	861,315,000	860,740,000	+15,513,000	+60,989,000	+18,151,000	−575,000
Animal and Plant Health Inspection Service	237,319,000	220,976,000	237,583,000	248,241,000	245,631,000	+8,312,000	+24,655,000	+8,048,000	−2,610,000
Food Safety and Quality Service	279,531,000	279,930,000	278,430,000	278,430,000	278,430,000	−1,101,000	−1,500,000		
Economics Statistics and Cooperatives Service	82,562,000	87,903,000	86,050,000	86,090,000	86,070,000	+3,508,000	−1,833,000	+20,000	−20,000
World food and agricultural outlook and situation board	1,009,000	1,015,000	1,015,000	1,015,000	1,045,000	+36,000			
Agricultural Marketing Service									
Marketing services	47,854,000	50,707,000	48,302,000	45,586,000	47,643,000	−211,000	−3,064,000	−659,000	+2,057,000
Payments to States and possessions	1,600,000		2,000,000		1,600,000		+1,600,000	−400,000	+1,600,000
Total, Agricultural Marketing Service	49,454,000	50,707,000	50,302,000	45,586,000	49,243,000	−211,000	−1,464,000	−1,059,000	+3,657,000
Total, Production, Processing and Marketing	1,574,995,000	1,534,583,000	1,578,393,000	1,604,999,000	1,604,701,000	+29,706,000	+70,118,000	+26,308,000	−298,000
FARM INCOME STABILIZATION									
Agricultural Stabilization and Conservation Service									
Salaries and expenses	227,527,000	190,586,000	190,586,000	182,546,000	186,586,000	−40,941,000	−4,000,000	−4,000,000	+4,040,000
Transfer from Commodity Credit Corporation	(99,865,000)	(152,389,000)	(152,389,000)	(152,389,000)	(152,389,000)	(+52,524,000)			
Total, salaries and expenses, ASCS	(327,392,000)	(342,975,000)	(342,975,000)	(334,935,000)	(338,975,000)	(+11,583,000)	(−4,000,000)	(−4,000,000)	(+4,040,000)
Dairy and beekeeper indemnity programs	3,240,000	400,000	3,290,000	400,000	3,290,000	+50,000	+2,890,000		+2,890,000
Total, Agricultural Stabilization and Conservation Service	230,767,000	190,986,000	193,876,000	182,946,000	189,876,000	−40,891,000	−1,110,000	−4,000,000	+6,930,000
Federal Crop Insurance Corporation									
Administrative and operating expenses	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000				
Federal Crop Insurance Corporation fund	(13,229,000)	(13,557,000)	(16,500,000)	(16,480,000)	(16,500,000)	(+3,271,000)	(+2,943,000)		(+20,000)
Total, Federal Crop Insurance Corporation	(25,229,000)	(25,557,000)	(28,500,000)	(28,480,000)	(28,500,000)	(+3,271,000)	(+2,943,000)		(+20,000)

See footnotes at end of table.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (−) conference recommendations compared with— 1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE I—AGRICULTURAL PROGRAMS—Continued									
FARM INCOME STABILIZATION—Continued									
Commodity Credit Corporation									
New borrowing authority	4,509,100,000					−4,509,100,000			
Liquidation of contract authority	(990,900,000)					(−990,900,000)			
Total, new authority to borrow	(5,500,000,000)					(−5,500,000,000)			
Reimbursement for net realized losses	990,900,000	3,056,189,000	3,056,189,000	3,056,189,000	3,056,189,000	+2,065,289,000			
Limitation on administrative expenses	(50,100,000)	(50,700,000)	(50,700,000)	(50,690,000)	(50,700,000)	(+600,000)			(+10,000)
Total, farm income stabilization	5,742,767,000	3,259,175,000	3,262,065,000	3,251,135,000	3,258,065,000	−2,484,702,000	−1,110,000	−4,000,000	+6,930,000
Total, title I, new budget (obligational) authority, agricultural programs	7,317,762,000	4,793,758,000	4,840,458,000	4,856,134,000	4,862,766,000	−2,454,996,000	+69,008,000	+22,308,000	+6,632,000
TITLE II—RURAL DEVELOPMENT PROGRAMS									
RURAL DEVELOPMENT ASSISTANCE									
Farmers Home Administration									
Rural housing insurance fund:									
Direct loans	(24,000,000)	(24,000,000)	(24,000,000)	(24,000,000)	(24,000,000)				
Insured loans	(3,776,000,000)	(3,406,000,000)	(4,059,000,000)	(3,766,000,000)	(3,979,000,000)	(+203,000,000)	(+573,000,000)	(−80,000,000)	(+213,000,000)
Guaranteed loans	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)				
Construction defects authorization	(1,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(+4,000,000)			
Rent supplement authorization	(425,500,000)	(393,000,000)	(393,000,000)	(393,000,000)	(393,000,000)	(−32,500,000)			
Home ownership assistance (authority to borrow)		954,960,000					−954,960,000		
Reimbursement for interest and other losses	320,192,000	320,209,000	320,209,000	320,209,000	320,209,000	+17,000			
Reimbursement for rent supplement payments	47,040,000	76,580,000	76,580,000	76,580,000	76,580,000	+29,540,000			
Home ownership assistance payments		60,000,000					−60,000,000		
Total, rural housing insurance fund	(4,668,232,000)	(5,346,749,000)	(4,984,789,000)	(4,691,789,000)	(4,904,789,000)	(+236,557,000)	(−441,960,000)	(−80,000,000)	(+213,000,000)
Agricultural credit insurance fund:									
Insured real estate loans	(875,600,000)	(879,600,000)	(949,600,000)	(949,600,000)	(949,600,000)	(+74,000,000)	(+70,000,000)		
Soil conservation loans	(30,000,000)	(22,400,000)	(30,000,000)	(30,000,000)	(30,000,000)		(+7,600,000)		
Operating loans	(925,000,000)	(700,000,000)	(875,000,000)	(875,000,000)	(875,000,000)	(−50,000,000)	(+175,000,000)		
Emergency loans [1]	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)				
Reimbursement for interest and other losses	143,565,000	272,809,000	272,809,000	272,809,000	272,809,000	+129,244,000			
Total, agricultural credit insurance fund	(2,174,165,000)	(2,074,809,000)	(2,327,409,000)	(2,327,409,000)	(2,327,409,000)	(+153,244,000)	(+252,600,000)		
Rural development insurance fund:									
Reimbursement for losses	107,276,000	91,874,000	91,874,000	91,874,000	91,874,000	−15,402,000			
Water and sewer facility loans	(900,000,000)	(700,000,000)	(700,000,000)	(700,000,000)	(700,000,000)	(−200,000,000)			
Industrial development loans	(1,100,000,000)	(1,000,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)		(+100,000,000)		
Community facility loans	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)				
Total, rural development insurance fund	(2,357,276,000)	(2,041,874,000)	(2,141,874,000)	(2,141,874,000)	(2,141,874,000)	(−215,402,000)	(+100,000,000)		
Rural water and waste disposal grants	282,500,000	265,000,000	300,000,000	300,000,000	300,000,000	+17,500,000	+35,000,000		
Very low-income housing repair grants	19,000,000	24,000,000	24,000,000	24,000,000	24,000,000	+5,000,000			
Rural housing for domestic farm labor	33,000,000	25,000,000	25,000,000	25,000,000	25,000,000	−8,000,000			
Mutual and self-help housing	13,500,000	5,000,000	5,000,000	5,000,000	5,000,000	−8,500,000			
Self-help housing land development fund	1,000,000					−1,000,000			
Rural community fire protection grants	3,500,000		3,500,000	3,500,000	3,500,000		+3,500,000		
Rural development planning grants	5,000,000		5,000,000	9,000,000	7,000,000	+2,000,000	+7,000,000	+2,000,000	−2,000,000
Rural housing supervisory assistance grants	2,500,000	1,200,000	2,500,000	1,200,000	1,500,000	−1,000,000	+300,000	−1,000,000	+300,000
Rural development grants	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Salaries and expenses	225,245,000	225,818,000	232,318,000	228,278,000	230,518,000	+5,273,000	+4,700,000	−1,800,000	+2,240,000
Transfer from loan accounts	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)				
Total, salaries and expenses	(228,745,000)	(229,318,000)	(235,818,000)	(231,778,000)	(234,018,000)	(+5,273,000)	(+4,700,000)	(−1,800,000)	(+2,240,000)
Total, Farmers Home Administration	1,213,318,000	2,332,450,000	1,368,790,000	1,367,450,000	1,367,990,000	+154,672,000	−964,460,000	−800,000	+540,000

See footnotes at end of table.

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TITLE II—RURAL DEVELOPMENT PROGRAMS—Continued									
RURAL DEVELOPMENT ASSISTANCE—Continued									
Rural Electrification Administration									
Rural electrification and telephone revolving fund: [2]									
Electric loans	(850,000,000)	(735,000,000)	(850,000,000)	(850,000,000)	(850,000,000)				
Telephone loans	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)		(+115,000,000)		
Total, loans	(1,100,000,000)	(985,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)		(+115,000,000)		
Capitalization of Rural Telephone Bank [3]	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)				
Salaries and expenses	25,061,000	25,970,000	26,045,000	26,045,000	26,045,000	+984,000	+75,000		
Total, Rural Electrification Administration	25,061,000	25,970,000	26,045,000	26,045,000	26,045,000	+984,000	+75,000		
Total, rural development assistance	1,238,379,000	2,358,420,000	1,394,835,000	1,393,495,000	1,394,035,000	+155,656,000	−964,385,000	−800,000	+540,000
CONSERVATION									
Soil Conservation Service									
Conservation operations	262,402,000	253,502,000	259,747,000	272,043,000	264,747,000	+2,345,000	+10,845,000	+5,000,000	−7,296,000
River basin surveys and investigations	16,487,000	15,810,000	17,061,000	15,601,000	16,487,000		+686,000	−574,000	+686,000
Watershed planning	11,847,000	6,023,000	12,252,000	6,023,000	10,500,000	−1,347,000	+4,477,000	−1,793,000	+4,477,000
Watershed and flood prevention operations	169,607,000	184,508,000	172,524,000	162,524,000	167,524,000	−2,083,000	−17,384,000	+5,000,000	−5,000,000
Resource conservation and development	25,441,000	2,943,000	32,000,000	32,000,000	32,000,000	+6,559,000	+29,057,000		
Great Plains conservation program	18,689,000	8,426,000	18,689,000	18,689,000	18,689,000		+10,263,000		
Rural clean water program [3]		75,000,000		75,000,000			−75,000,000		−75,000,000
Total, Soil Conservation Service	504,473,000	547,003,000	512,314,000	582,080,000	509,947,000	+5,474,000	−37,056,000	−2,367,000	−72,133,000
Agricultural Stabilization and Conservation Service									
Agricultural conservation program:									
Liquidation of contract authority	(115,000,000)					(−115,000,000)			
Appropriation	150,000,000	125,000,000	150,000,000	150,000,000	190,000,000		+65,000,000		
Forestry incentives program	15,000,000	10,000,000	15,000,000	15,000,000	15,000,000		+5,000,000		
Water Bank program	10,000,000		10,000,000	10,000,000	10,000,000		+10,000,000		
Emergency conservation measures	10,000,000	20,000,000	20,000,000	10,000,000	15,000,000	+5,000,000	−5,000,000	−5,000,000	−5,000,000
Rural clean water program [4]					50,000,000	+50,000,000	+50,000,000	+50,000,000	+50,000,000
Total, Agricultural Stabilization and Conservation Service	225,000,000	155,000,000	235,000,000	225,000,000	280,000,000	+55,000,000	+125,000,000	+45,000,000	+55,000,000
Total, Conservation	729,473,000	702,003,000	747,314,000	807,080,000	789,947,000	+60,474,000	+87,944,000	+42,633,000	−17,133,000
Total, title II, rural development programs: New budget (obligational) authority	1,967,852,000	3,060,423,000	2,142,149,000	2,200,575,000	2,183,982,000	+216,130,000	−876,441,000	+41,833,000	−16,583,000
TITLE III—DOMESTIC FOOD PROGRAMS									
Food and Nutrition Service									
Child nutrition programs	1,402,035,000	1,450,218,000	1,330,215,000	1,275,215,000	1,279,215,000	−122,820,000	−171,003,000	−51,000,000	+4,000,000
Transfer from sec. 32	(1,411,575,000)	(1,711,083,000)	(1,831,086,000)	(1,831,086,000)	(1,831,086,000)	(+419,511,000)	(+120,003,000)		
Total, child nutrition programs	(2,813,610,000)	(3,161,301,000)	(3,161,301,000)	(3,106,301,000)	(3,110,301,000)	(+296,691,000)	(−51,000,000)	(−51,000,000)	(+4,000,000)
Special milk program	142,000,000	32,000,000	142,000,000	142,000,000	142,000,000		+110,000,000		
Special supplemental food program (WIC)	569,500,000	771,500,000	771,500,000	749,500,000	757,700,000	+188,200,000	−13,800,000	−13,800,000	+8,200,000
Food stamp program [4]	6,679,200,000	6,926,520,000	6,188,600,000	6,187,600,000	6,188,600,000	−490,600,000	−737,920,000		+1,000,000
Food donations programs:									
Needy family programs	12,800,000	39,790,000	39,790,000	39,790,000	39,790,000	+26,990,000			
Elderly feeding program	57,000,000	50,500,000	50,500,000	50,500,000	50,500,000	−6,500,000			
Total, food donations programs	69,800,000	90,290,000	90,290,000	90,290,000	90,290,000	+20,490,000			
Food program administration	76,424,000	84,422,000	80,000,000	84,382,000	82,000,000	+5,576,000	−2,422,000	+2,000,000	−2,382,000
Total, title III, new budget (obligational) authority, domestic food programs	8,938,959,000	9,354,950,000	8,602,605,000	8,528,987,000	8,539,805,000	−399,154,000	−815,145,000	−62,800,000	+10,818,000

See footnotes at end of table.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (—) conference recommendations compared with— 1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE IV—INTERNATIONAL PROGRAMS									
Foreign Agricultural Service	54,215,000	54,929,000	56,129,000	56,807,000	56,427,000	+2,212,000	+1,498,000	+298,000	−380,000
Office of International Cooperation and Development	199,000	2,964,000	2,964,000	1,864,000	1,864,000	+1,665,000	−1,100,000	−1,100,000	
Public Law 480:									
Title I and III—Credit sales	339,400,000	280,776,000	280,776,000	222,050,000	280,776,000	−58,624,000			+58,726,000
Title II—Commodities for disposition abroad	466,500,000	438,700,000	438,700,000	438,700,000	438,700,000	−27,800,000			
Sales manager	(4,202,000)	(4,608,000)	(4,608,000)	(4,598,000)	(4,608,000)	(+406,000)			(+10,000)
Total, Public Law 480 [4]	805,900,000	719,476,000	719,476,000	660,750,000	719,476,000	−86,424,000			+58,726,000
Total, title IV, new budget (obligational) authority, international programs	860,314,000	777,369,000	778,569,000	719,421,000	777,767,000	−82,547,000	+398,000	−802,000	+58,346,000
TITLE V—RELATED AGENCIES									
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Food and Drug Administration									
Salaries and expenses	301,554,000	316,256,000	316,256,000	307,756,000	312,756,000	+10,842,000	−3,500,000	−3,500,000	+5,000,000
Buildings and facilities	10,459,000	4,372,000	4,372,000	29,372,000	4,372,000	−6,087,000			−25,000,000
Total, Food and Drug Administration	312,413,000	320,668,000	320,668,000	337,168,000	317,168,000	+4,755,000	−3,500,000	−3,500,000	−20,000,000
INDEPENDENT AGENCIES									
Commodity Futures Trading Commission	15,836,000	16,366,000	16,366,000	16,366,000	16,366,000	+530,000			
Farm Credit Administration (limitation on administrative expenses)	(10,925,000)		(11,897,000)	(11,897,000)	(11,897,000)	(+972,000)	(+11,897,000)		
Total, title V, new budget (obligational) authority, related agencies	328,249,000	337,034,000	337,034,000	353,534,000	333,534,000	+5,285,000	−3,500,000	−3,500,000	−20,000,000
RECAPITULATION									
Title I—Agricultural programs	7,317,762,000	4,793,758,000	4,840,458,000	4,856,134,000	4,862,766,000	−2,454,996,000	+69,008,000	+22,308,000	+6,632,000
Title II—Rural development programs	1,967,852,000	3,060,423,000	2,142,149,000	2,200,575,000	2,183,982,000	+216,130,000	−876,441,000	+41,838,000	−16,593,000
Title III—Domestic food programs	8,938,959,000	9,354,950,000	8,602,605,000	8,528,987,000	8,539,805,000	−399,154,000	−815,145,000	−62,800,000	+10,818,000
Title IV—International programs	860,314,000	777,369,000	778,569,000	719,421,000	777,767,000	−82,547,000	+398,000	−802,000	+58,346,000
Title V—Related agencies	328,249,000	337,034,000	337,034,000	353,534,000	333,534,000	+5,285,000	−3,500,000	−3,500,000	−20,000,000
Total, new budget (obligational) authority	19,413,136,000	18,323,534,000	16,700,815,000	16,658,651,000	16,697,854,000	−2,715,282,000	−1,625,680,000	−2,961,000	+39,203,000
Transfer from sec. 32	1,411,575,000	1,711,083,000	1,831,086,000	1,831,086,000	1,831,086,000	+419,511,000	+120,003,000		
Total obligational authority	20,824,711,000	20,034,617,000	18,531,901,000	18,489,737,000	18,528,940,000	−2,295,771,000	−1,505,677,000	−2,961,000	+39,203,000
Consisting of:									
1. Appropriations	19,411,136,000	18,321,534,000	16,698,815,000	16,656,651,000	16,695,854,000	−2,715,282,000	−1,625,680,000	−2,961,000	+39,203,000
2. Reappropriations	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
3. Direct and insured loan level	8,081,600,000	7,172,000,000	8,192,600,000	7,899,600,000	8,112,600,000	+31,000,000	+940,600,000	−80,000,000	+213,000,000
4. Guaranteed loan level	1,600,000,000	1,500,000,000	1,600,000,000	1,600,000,000	1,600,000,000		+100,000,000		
5. Rent supplement authorization	425,500,000	393,000,000	393,000,000	393,000,000	393,000,000	−32,500,000			
Memoranda:									
1. Appropriations to liquidate contract authorizations	1,105,900,000					−1,105,900,000			
2. Appropriations, including appropriations to liquidate contract authority	20,519,036,000	18,323,534,000	16,700,815,000	16,658,651,000	16,697,854,000	−3,821,182,000	−1,625,680,000	−2,961,000	+39,203,000
3. Transfers from sec. 32	1,411,575,000	1,711,083,000	1,831,086,000	1,831,086,000	1,831,086,000	+419,511,000	+120,003,000		
4. Transfers from Commodity Credit Corporation	99,865,000	152,389,000	152,389,000	152,389,000	152,389,000	+52,524,000			

[1] The budget request and bill provide no limitation for emergency loans. Funds are available in amounts necessary to meet the needs resulting from natural disasters.
[2] These amounts are excluded by law (Public Law 93-32) from the budget totals.
[3] A similar program is funded under the Agricultural Stabilization and Conservation Service.
[4] Funds for a similar program were requested under Soil Conservation Service.
[5] A budget amendment for an additional $1,411,454,000 for food stamps was received but passed over without prejudice by the conferees because of the lack of legislative authorization.
[6] A budget amendment for an additional $205,800,000 was passed over without prejudice by the conferees and will be considered at a later date.

Mr. ANDREWS of North Dakota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to reiterate what my chairman has said. This was a good conference. The needs of agriculture, the needs of the hungry in our Food for Peace program and feeding programs at home were taken care of. We set about a sensible and worthwhile research program so that we can have dependability of food and fiber supplies not only for the American market, but for the export market which is so important to our balance of payments.

As the chairman pointed out, we bring this bill back roughly $3 million under the original figure, and $1.6 billion under the budget. I hope my colleagues will support the conference report.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I rise in support of the conference report on H.R. 4387. We spent many long hours working on the compromises contained in this conference report. I would like to especially commend Chairman WHITTEN, and Mr. ANDREWS, the ranking minority member of the subcommittee, for their diligent efforts. These gentlemen have

already reviewed the contents of the conference report for you. I will not repeat their presentations.

I just want to say a few words about a particular problem that came up toward the end of the conference. I am sure many of you either saw or heard about the "60 Minutes" broadcast concerning Farmers Home Administration loans to millionaires through the emergency loan program. Although there is no doubt that these millionaire farmers are legally entitled to loans if they have a qualified loss through a natural disaster, I feel that Farmers Home making large loans to millionaires at interest significantly below commercially available loan rates is a horrible abuse of the intent of the program. I know that most of you agree with me.

Yesterday, on the consolidated farm bill an amendment was adopted by a large margin to tighten up this program, and I hope that during conference on that bill the limits can be even more firmly drawn. In addition, the conference report of the agriculture appropriations bill includes language encouraging the Department in its efforts to administratively limit the size of the emergency loans, and to strengthen the credit-elsewhere test. We want to preserve this program to help the average farmer to recover from natural disasters, but we do not want it to be an aid program to make the rich richer at the taxpayers expense.

Just a word about one other program.

The conference agreement includes $6.2 billion for food stamps. There was not one conferee who really believed that $6.2 billion is really enough for food stamps under current economic conditions, however, that is all that is currently authorized. The budget request for this program was amended just before we went to conference, it is now $8.3 billion, which may not even be enough. We can all expect that a supplemental bill will be necessary to cover the difference between the conference figure and what is really necessary to run the program under the present economic conditions.

I urge my colleagues to support this conference report.

Mr. ANDREWS of North Dakota. Mr. Speaker, I urge my colleagues to support the conference report.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Speaker, I rise in complete support of the adoption of the conference report to accompany H.R. 4387, the agriculture, rural development and related agencies appropriations bill for fiscal year 1980.

I can definitely say as a conferee that the differences between the original House and Senate versions of this appropriation bill have been given a thorough review, and I am confident that the funding provided in this report will adequately provide for the needs of farmers and consumers in the coming year.

The spending level of $16,697,854,000 is about $3 million below the level originally provided in the House version of the agricultural appropriations bill that we passed a few months ago. The compromises that have been made to reach this funding level have been fair, and I can say for a certainty that each conferee would have preferred to provide even stronger funding for many of these programs, but we understand the need to restrain spending to responsible levels in our efforts to hold down total Federal spending.

I am particularly pleased with the agreement we reached with the Senate on research appropriations. As many of my colleagues know, we have had a strong difference of opinion between the House and the Senate on the establishment of a competitive grants program under the Science and Education Administration's Division for Cooperative State Research. This program is based on the belief that additional research is needed in several basic science areas, and that the selection process for research proposals is to be controlled by a peer review panel.

The House has made efforts to hold down spending in competitive grants so that we can provide essential increases for traditional formula research programs administered through the land grant college system. We have no quarrel with providing research funds to research facilities outside of the land grant system. The problem we have had is that we have yet to be convinced by USDA officials that the per review process is the correct course to follow.

This year we will be able to provide $16 million for the competitive grant program, an increase of $1 million over what was provided in each of the past 2 fiscal years. At the same time, we will provide $2½ million for a special contract research grant program which will concentrate its funds in high priority agricultural research projects. These funds are intended to be available to all research groups, but will be administered solely by USDA officials.

It is my hope that over the next few years as we continue funding both programs that the Department can review both to see which method of funding research does, in fact, provide the most benefit per dollar spent.

Several individual research projects that are of specific interest to Michigan were approved by the conferees. The bean and beet research farm in Saginaw, Mich., will continue to receive $50,000 to carry on projects that are essential to the dry bean industry. Michigan State University will receive an additional allotment of $35,000 to continue work that it began last year in dairy photoperiod research. A new project in bean flour processing and product development will begin during fiscal year 1980 under a project to be operated jointly by Michigan State University and Texas A. & M.

We also agreed to provide $3.5 million increases for both the Hatch Act formula research program and for the Smith-Lever cooperative extension program. These increases will go a long way toward helping to continue the excellent joint efforts that these two programs have had throughout their history. Agriculture is unique in having an effective technology transfer system, and that transfer is the work of the Extension Service. I can think of no other program that is more worthy of an increase than both the Hatch and Smith-Lever programs.

We have also restored the funding for several essential categorical extension programs, such as farm safety, urban gardening, and the expanded food and nutrition education program. In this time of concern for limiting Federal spending, restoration of these programs is, I believe, ample evidence of the support that the Congress has for these projects.

Under the Farmers Home Administration, we have expressed some concern that there is a need for FmHA to give a higher priority to using rural water and waste disposal loan and grant funds in those areas that are in jeopardy of losing their water system because of the requirements of the Safe Drinking Water Act. The House Agricultural Appropriations Subcommittee will certainly monitor the FmHA response to this directive during the coming year.

It is also noteworthy that we have once again secured funding for the very important agricultural conservation program. Funding will continue at a level of $190 million for fiscal year 1980, and it is expected that this program which continues to help farmers maintain the quality of the environment will continue long into the future. The commitment of the Agricultural Appropriation Subcommittee to ACP is well known, and is not likely to change.

Some significant action was taken with respect to certain programs funded under title III, domestic food programs. No program can mean more for people than one which will provide them the food they need at a time when they can least afford to obtain that food.

We maintain our efforts to guarantee the continuation of the commodity supplemental feeding program in the coming year with an appropriation of $21.5 million. This program has a modest increase over the fiscal 1979 budget, and will continue to operate as a model for other Federal feeding programs. The dignity provided to the recipient and the quality of the food package available under CSFP is something of which the Congress, USDA, and CSFP operators can be proud.

Major action was taken with respect to the funding of the women, infants, and children feeding program. The House had originally provided a direct appropriation of $750 million for WIC, and allowed for all funds that remained in the program account at the end of fiscal 1979 to be carried over to fiscal 1980. The Senate had denied this carryover, the reason being that the Senate hoped to make a program savings by counting the carryover against the appropriation.

Since the passage of the bill by the Senate this summer, it has been estimated by USDA that this carryover will amount to at least $22 million. In order to responsibly fund the WIC program,

we have agreed to provide $736,200,000 by direct appropriation, $13,800,000 from remaining fiscal 1979 funds as part of the total $750 million for WIC, and we have allowed that any amount carried over in excess of $13,800,000 can be used for program expansion and will not result in a reduction of the base appropriation. That is what the report means by "at least $13.8 million in prior-year balances."

We are most interested in USDA using these funds in a responsible fashion, and it was the concern of the conferees that failing to allow at least some measure of a carryover would result in future years in indiscriminate spending at the end of the fiscal year in order to make use of all funds that were provided for the program. While we know that the administrators of this program would not consciously act to make unfortunate use of program funds, we felt that it was only good management practice to allow a portion of the remaining funds to be used in the coming year for responsible program expansion.

The House faced a major technical problem with providing the requested nearly $2 billion in food stamp funds in that an authorization for the additional amount has not yet been enacted. We point out very clearly in the conference report under amendment 86 that we expect to make a timely review and disposition of additional funding requirements for the food stamp program. It is also expected that while the authorization and the supplemental appropriations are being considered that the Department will not make any reduction in food stamp benefits to recipients because of the fact that the appropriation provided in this conference report is lower than the anticipated funding need for fiscal 1980.

This conference report is a solid one and deserves the support of every Member of the House. Funding demands for farmer and consumer programs are equally important, and are adequately met in this bill. This is a responsible spending measure, and I hope that every Member will vote to approve the conference report on the agricultural appropriations bill for fiscal year 1980.

Mr. DASCHLE. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Speaker, I would like to pay my commendation to the chairman and to the conference committee, especially in resolving to accept the Senate bill for fuels in rural counties.

Mr. Speaker, I rise to briefly speak in favor of one provision of the conference report to accompany H.R. 4387, a provision which is very important and which I strongly support. This provision increases to $500 million the total amount of Commodity Credit Corporation loan guarantees for the construction of facilities to produce alcohol for fuel and industrial hydrocarbons from agricultural and forestry products. Increasing the total amount of Commodity Credit Corporation loan guarantees to $500 million for the construction of facilities to produce alcohol fuel is a cost effective and good means to support and stimulate the development of an alcohol fuels industry in our country.

The Food and Agriculture Act of 1977 included a requirement that the Secretary of Agriculture through Commodity Credit Corporation loan guarantees totaling $60 million support four pilot projects for the production of alcohol for fuel from agriculture and forest products. I understand the Department of Agriculture received at least 30 formal applications for the 4 pilot projects and clearly interest in the production of alcohol fuels from renewable resources has increased many fold since passage of the Food and Agriculture Act of 1977.

There remains little question alcohol fuel will play an increasingly important role in the Nation's energy future. Support for this developing industry is most certainly in the national interest and increasing to $500 million the total amount of Commodity Credit Corporation loan guarantees for alcohol fuel production facilities which will expand an existing and important program is an action which I most strongly support.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I appreciate the gentleman yielding. I merely wanted to inquire—possibly I missed the gentleman's earlier remarks with respect to amendment No. 20, having to do with the competitive research grants. In this figure approximately the same or higher or lower than what we have had in the current year in this program?

Mr. WHITTEN. For fiscal year 1979 the appropriation was $15 million, this agreement provides $16 million for fiscal year 1980, which is a $1 million increase.

Mr. BROWN of California. If the gentleman will yield further, as the gentleman knows my own State of California has taken a strong interest in this program, as have many other States. We continue to look toward the possibility of passing the quality of agricultural research through this program. I commend the gentleman for his willingness to continue to see that there is modest growth in this program.

□ 1200

Mr. WHITTEN. May I say to the gentleman we have appreciated his support back through the years, and we do have the same understanding. There has not really been all that much difference of opinion. The difference between the special research grants program and the competitive program is one of whether to tell the Congress in advance or whether to tell the Congress in advance or whether to tell them after the fact.

Mr. ANDREWS of North Dakota. I thank the gentleman for his comments.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 25, not voting 104, as follows:

[Roll No. 609]

YEAS—304

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Donnelly
Dorman
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Garcia
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Hughes
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jeanette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patterson
Pease
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rose
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stead
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
White
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wirth
Wyatt
Wylie
Yates
Young, Alaska
Young, Mo.
Zablocki

NAYS—25

Archer
Ashbrook
Collins, Tex.
Courter
Crane, Daniel
Dannemeyer
Derwinski
Fenwick
Frenzel
Gephardt
Gradison
Jacobs
Kelly
Lagomarsino
Luken
Lungren
McDonald
Miller, Ohio
Motl
Paul
Ritter
Schroeder
Shumway
Weaver
Wolff

NOT VOTING—104

Addabbo
Ashley
AuCoin
Bedell
Biaggi
Boggs
Boiling
Breaux
Brooks
Burton, John
Butler
Clay
Cleveland
Conable
Corman
Cotter
Crane, Philip
Davis, S.C.
Devine
Dickinson
Dixon
Dougherty
Drinan
Duncan, Oreg.
Early
Flood
Florio
Foley
Forsythe
Fowler
Fuqua
Gaydos
Glaimo
Hanley
Hefner
Hightower
Holland
Howard
Huckaby
Hutto
Jenkins
Jones, N.C.
Jones, Okla.
Kastenmeier
LaFalce
Leach, La.
Lee
Livingston
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Mattox
Michel
Minish
Moakley
Moffett
Montgomery
Moorhead, Pa.
Nichols
Nolan
Obey
Ottinger
Patten
Pepper
Perkins
Quayle
Railsback
Richmond
Rodino
Roe
Rosenthal
Rousselot
Rudd
Santini
Scheuer
Skelton
Staggers
Stark
Stokes
Symms
Thomas
Treen
Van Deerlin
Vanik
Wampler
Weiss
Whitehurst
Whitley
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolpe
Wright
Wydler
Yatron
Young, Fla.
Zeferetti

□ 1210

The Clerk announced the following pairs:

On this vote:

Mr. Foley for, with Mr. Stark against.

Until further notice:

Mr. Staggers with Mr. Quayle.
Mr. Richmond with Mr. Railsback.
Mr. Addabbo with Mr. Symms.
Mrs. Boggs with Mr. McClory.
Mr. Rodino with Mr. Cleveland.
Mr. Wright with Mr. Butler.
Mr. Zeferetti with Mr. Conable.
Mr. Cotter with Mr. McDade.
Mr. Corman with Mr. Michel.
Mr. John L. Burton with Mr. Wampler.
Mr. Biaggi with Mr. Thomas.
Mr. Ashley with Mr. Rousselot.
Mr. Howard with Mr. Devine.
Mr. Jones of North Carolina with Mr. Dickinson.
Mr. McCormack with Mr. McEwen.
Mr. McHugh with Mr. McKinney.
Mr. Moakley with Mr. Forsythe.
Mr. Minish with Mr. Dougherty.
Mr. Moorhead of Pennsylvania with Mr. Dixon.

Mr. Nichols with Mr. Philip M. Crane.
Mr. Nolan with Mr. Whitehurst.
Mr. Stokes with Mr. Bob Wilson.
Mr. Santini with Mr. Lee.
Mr. Rosenthal with Mr. Livingston.
Mr. Pepper with Mr. Winn.
Mr. Patten with Mr. Wolpe.
Mr. Gaydos with Mr. Young of Florida.
Mr. Hanley with Mr. McCloskey.
Mr. Fuqua with Mr. Mattox.
Mr. Florio with Mr. Leach of Louisiana.
Mr. Brooks with Mr. Rudd.
Mr. Breaux with Mr. Perkins.
Mr. AuCoin with Mr. Scheuer.
Mr. Kastenmeier with Mr. Skelton.
Mr. LaFalce with Mr. Williams of Ohio.
Mr. Roe with Mr. Wydler.
Mr. Yatron with Mr. Bedell.
Mr. Charles Wilson of Texas with Mr. Clay.
Mr. Whitley with Mr. Davis of South Carolina.
Mr. Obey with Mr. Drinan.
Mr. Ottinger with Mr. Duncan of Oregon.
Mr. Flood with Mr. Fowler.
Mr. Early with Mr. Hefner.
Mr. Glaimo with Mr. Hightower.
Mr. Huckaby with Mr. Holland.
Mr. Maguire with Mr. Jones of Oklahoma.
Mr. McKay with Mr. Hutto.
Mr. Moffett with Mr. Jenkins.
Mr. Montgomery with Mr. Weiss.
Mr. Van Deerlin with Mr. Vanik.

Mr. SEBELIUS and Mr. HANSEN changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: Page 2, line 17, strike out "$8,397,000" and insert "$8,072,000;".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,772,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 2, line 19, strike out "$19,609,000" and insert "$19,723,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$19,423,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 19: Page 9, line 6, insert "of which $8,023,000 is for special research grants,".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$16,546,000".

The motion was agreed to.

□ 1220

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 60: Page 27, line 21, strike out "of which $50,000,000 shall be for insured loans and $1,050,000,000 shall be for guaranteed loans;".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "of which $10,000,000 shall be for insured loans and $1,090,000,000 shall be for guaranteed loans".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 72: Page 36, line 21, insert:

RURAL CLEAN WATER PROGRAM

For necessary expenses for carrying out Section 35 of the Clean Water Act of December 27, 1977 (33 U.S.C. 1251; 1288), and, in accordance with the provisions of the Federal Water Pollution Control Act of October 18, 1972, as amended, for application and cost-sharing of water quality measures incorporating best management practices to control nonpoint source pollution for improved water quality, $75,000,000, to remain available until expended.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

RURAL CLEAN WATER PROGRAM

For necessary expenses for carrying out an experimental Rural Clean Water Program, $50,000,000, to remain available until expended and to be targeted at areas with identified and significant agricultural nonpoint source water pollution problems to be selected by the Secretary: *Provided*, That practices under the above program shall be recommended by the County Committees, approved by the State Committees and the

Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, or recommended by the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, and approved by the State Committees and the County Committees: *Provided further*, That such program shall be in addition to the regular Agricultural Conservation Program, and coordinated therewith, with the Soil Conservation Service and others providing technical assistance and the Agricultural Stabilization and Conservation Service providing administrative services for the program, including, but not limited to, the negotiation and administration of contracts and the disbursement of payments: *Provided further*, That such funds as may be required shall be transferred to the Soil Conservation Service, or others, for necessary technical assistance.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 77: Page 41, line 9, insert "$1,275,215,000 is hereby appropriated,".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert "$1,279,215,000 is hereby appropriated,".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 79: Page 41, line 22 insert: ": *Provided further*, That only claims for reimbursement for meals served during fiscal year 1980 submitted to State agencies prior to January 1, 1981, shall be eligible for reimbursement".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 80: Page 41, line 25, insert: ": *Provided further*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966, as amended, shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows: Senate amendment No. 81: Page 42, line 9, insert ": *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act, as amended, or the Child Nutrition Act of 1966, as amended (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966, as amended, and under section 13(k)(1) of the National School Lunch Act, as amended; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated."

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 81 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 83: Page 42, line 25, insert:

"*Provided further*, That no part of the funds appropriated in this Act for the summer food service program shall be available for payments to service institutions other than to: (1) public service institutions, (2) private nonprofit service institutions including residential camps which use self-preparation facilities to prepare meals or obtain meals from a public facility, such as a school district, public hospital, or State university, (3) private nonprofit schools including colleges and universities, (4) private non-profit migrant farmworker organizations including those that purchase meals from a food service management company, (5) private nonprofit service institutions which serve not more than 500 children daily at not more than three sites and which purchase meals from a food service management company, and (6) in areas where no service institutions delineated in items (1) through (5) are available to operate the program, private nonprofit service institutions which purchase meals from a food service management company, determined by the Secretary of Agriculture to have a record of reliable and honest community service in feeding programs."

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 84: Page 44, line 8, insert "of which $749,500,000 is hereby appropriated and $22,000,000 is to be derived from prior year balances,".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "of which $757,700,000 is hereby appropriated and $13,800,000 is to be derived from prior-year balances,".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 85: Page 44, line 11, insert: "*Provided*, That section 17(g) of the Child Nutrition Act of 1966, as amended, is hereby amended by striking out the numeral "800,000,000" and inserting in lieu thereof, "750,000,000".".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 85 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which the action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include tables, charts and other extraneous material on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON S. 428, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1980

Mr. PRICE. Mr. Speaker, I call up the conference report on the Senate bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Force and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 23, 1979.)

The SPEAKER pro tempore. The gentleman from Illinois (Mr. PRICE) will be recognized for 30 minutes, and the gentleman from South Carolina (Mr. SPENCE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House has a crowded schedule today, and I shall, therefore, be as brief as possible.

The House conferees on the Defense appropriation authorization bill, S. 428, reached agreement with the Senate after six formal conference sessions, and numerous meetings by designated subgroups. This has been a most difficult conference requiring extended negotiations in areas where representatives on both sides held strongly to divergent views on important issues.

The conference report was printed in the CONGRESSIONAL RECORD for Tuesday, October 23, beginning on page 29215, and thus, has been available to all Members for several days.

The authorization bill as initially approved by the Senate provided $40.108.9 million in new authorizations. The House amendment authorized $41,393.1 million. The conference report contains authorizations totaling $41,390.5 million.

In line with the specific authority provided by the House, the conference went into closed session when required for national security purposes and only closed after House conferees so agreed by rollcall vote. Sitting Members of the House were allowed to sit in on all closed sessions. In addition to the procurement and R. & D. programs, which frequently involved classified national security information, the conferees also had to consider some intelligence related programs which, of necessity, are classified.

I would like to express my appreciation to Mr. BOLAND of Massachusetts and to the members and the staff of his committee for quickly working out the intelligence-related activities over which both committees have responsibility.

I would like to express my thanks to the House conferees who were diligent in their attendance at the conference and who worked hard on the numerous complex issues being considered. I would particularly like to express my appreciation to Mr. NICHOLS of Alabama, who conducted long and difficult negotiations on the question of treatment of dependents of junior enlisted personnel in the matter of overseas assignments. Mr. NICHOLS is a former combat commander who understands the needs of soldiers and he carried out a difficult assignment with perseverance and dignity.

The major dollar authorizations approved by the conference are as follows:

Procurement, $27.769 billion.

R. & D., $13,514 billion.

Civil defense, $106.8 million.

The bill authorizes a total of active duty military manpower of 2,051,700 and a civilian personnel end strength for the Defense establishment of 983,600. It authorizes for the Ready Reserve a minimum average strength of 835,200.

The conference report contains authorization for a nuclear aircraft carrier, as contained in the House amendment. The Senate bill had contained a conventional carrier. In view of the overwhelming vote in the House, 309 to 96, the House conferees were steadfast in their support of a nuclear carrier, and the Senate receded.

One of the most difficult issues in conference concerned the travel of military dependents overseas. The House bill had contained a provision passed by an overwhelming floor vote to prohibit differentiation on the basis of rank in providing for travel and transportation of military dependents overseas. The Senate bill contained a provision to discontinue overseas travel allowances for dependents of lower grade enlisted personnel. The conferees agreed to a compromise provision which limits the number of command sponsored dependents overseas to 325,000 and leaves to the discretion of the services Secretaries the determination of whose dependents are authorized travel allowances.

As the statement of managers makes clear, this is to be interpreted so that the burden of any limitation does not fall entirely on junior enlisted personnel.

Quite frankly, Mr. Speaker, the House conferees were unhappy with any limitation but the Senate conferees were exceptionally adamant on this issue and we struck the best bargain available at the time.

In summary, Mr. Speaker, I believe we have obtained the best bill we could expect under the circumstances. It is far from ideal, but it does provide for the most urgent needs of the Defense Department and does allow us to go forward with needed programs of the Department of Defense for the fiscal year 1980.

I urge all Members to support the bill.

Let me briefly summarize the agreement on some more important differences that were considered in conference:

The conferees approved the authorization requested for the Roland missile system, $283.3 million.

In aircraft procurement for the Navy, the conference approved:

$145.6 million for six A-6E aircraft. The aircraft was not requested by the administration but was included in the Senate bill.

$569.5 million for 30 F-14 aircraft. The House approved 36 and the Senate 24.

$890 million for 25 F-18 aircraft. The House had approved 30 and the Senate 25.

$29.5 million for two C-9B aircraft. The C-9B was not requested by the administration; the House had authorized five.

For the Air Force in aircraft procurement, the conferees approved:

$125.35 million for 12 A-7K attack aircraft. The A-7 was not requested by the administration but was added by the Senate. The conference denied any advance procurement funds for future procurement of A-7's.

$102.8 million for modification of three EF-111 reconnaissance aircraft. The administration had only asked for $55 million for one aircraft.

$13.7 million for 10 C-12A aircraft and $29.5 million for 15 AH-1S attack helicopters were agreed to for the Army. Neither aircraft had been requested by the administration.

In missile procurement, the conference agreed on $396 million for 155 Army Patriot missiles and denied $70.6 million requested for the Pershing I-A missile program.

In addition to the nuclear-powered aircraft carrier, the conferees agreed on $809.6 million for two SSN-688 nuclear submarines, the administration had requested one, with advance procurement only for the second; $41 million in long lead funding for the LSD-41; and $49.5 million for conversion of an LPH amphibious assault ship to a light carrier. Neither of the latter two ships had been requested by the administration.

The shipbuilding program approved totals $6,706.8 million, which compares to an initial House authorization of $6,790.4 million, and an initial Senate authorization of $5,791.6 million. The administration had requested $6,173.8 million.

In tracked combat vehicles, the conference authorized: $51.5 million for 56 M-728 combat engineer vehicles; $55 million for 64 M-60 tanks; and $34.2 million in additional spares and repair parts for the XM-1 tanks.

In coming to agreement on numerous items in the area of research and development, the conferees included the following major programs: $30.43 million for very high speed integrated circuits; $25.64 million for development of the Trident II missile system; $30 million for

evaluation of various aircraft as cruise missile carriers; $12.5 million for test and evaluation of laser designator pods for light aircraft such as the F-16; $60 million for construction, test and evaluation of a 3,000-ton surface effect ship.

Restriction on obligation of funds for the Extremely Low Frequency (ELF) system until the President certifies to the Congress that a site has been selected for the system.

A total of $5 million for continued development of the AV-8B+ carrier aircraft which had not been requested by the administration; and $3 million to be available for evaluation of launching the Hellfire missile from the UH-60 helicopter.

The conferees agreed to active duty military force levels of:

Army	776,700
Navy	528,000
Marine Corps	189,000
Air Force	558,000

And a Defense Department total civilian personnel level of 983,000.

The Senate conferees adamantly opposed a House provision for a multiyear authorization for civil defense and the House conferees were forced to recede. But the conferees agreed to urge the executive branch to submit a program for increased funding for civil defense over the next 5 years.

The conferees agreed to a House provision directing the Department of Defense to competitively procure gasohol for use in military motor vehicles, when feasible, and also adopted a House provision calling for a study of the condition of the Titan II missile.

Also included in the final version of the bill were provisions to require a study of the Selective Service System; extend the open season for reservists under the military retired survivor benefit plan; make maximum use of the Uniformed Services University of the Health Sciences; and provide Department of Defense support for the 1980 winter Olympic games.

The bill is, overall, a good piece of legislation and we should approve the conference report quickly so the bill can become law and the Defense appropriation process can proceed.

An earlier version of the conference report was published in the CONGRESSIONAL RECORD for Wednesday, October 17 but it was necessary to go back to conference briefly to revise the wording of one section, section 818, so as to avoid a conflict with the Senate rules.

Section 818 is an expression of a sense of Congress regarding lifting of artificial impediments to imports of strategic materials from Zimbabwe-Rhodesia. The revision to section 818 was merely to specifically mention Zimbabwe-Rhodesia so that the section would not be beyond the scope of the matter initially committed to conference. That is the only change from the earlier version of the conference report. I would emphasize that section 818 does not change the provision of existing law regarding the lifting of trade sanctions from Zimbabwe-Rhodesia; it is simply a sense of Congress expression.

□ 1230

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 428 and urge its acceptance by the House.

My good chairman, Mr. PRICE, has addressed, for the most part, the differences between the House- and Senate-passed bills and highlighted the major agreements reached in conference. I should like to digress for a moment from the diligent efforts and compromises attained in our conference agreement, and reflect on the assumptions upon which the administration based its request for a 3-percent increase in Defense spending for fiscal 1980.

We are all painfully aware of the spiraling inflation rate which has shown no signs of abating to date. The administration's budget request was based on an estimated rate of inflation which has proven to be unrealistic. The spending power of the Defense dollar has eroded along with that of every consumer's dollar. In spite of the increased authorization approved in conference, we will be fortunate to maintain the status quo in terms of real purchasing power for the Department of Defense.

With inflation eating away precious Defense dollars, the programs which finally surfaced in this conference report were subjected to great examination throughout the entire authorization process. Many of the programs that were dropped in conference—although important to our national defense and probably justified—were dropped because we realize there are just not enough dollars available. As the conferees worked their will on this report, the financial constraints on Defense were uppermost in their minds and in the forefront of every decision reached. The result of this conference is an authorization which we believe provides for a competitive and balanced defense budget and an authorization which we believe also addresses some very serious issues which may in the future, if not corrected now, lead to a lessening of our security.

A specific issue at hand is the conference agreement to authorize a nuclear-powered aircraft carrier versus an oil-powered carrier requested by the administration, or a conventionally-powered *Kennedy*-class carrier authorized in the Senate-passed bill. Although not supported by the President, the conferees agreed that this nuclear-propulsion system is the best alternative, especially in view of dwindling oil supplies.

The conferees also attempted to redress what we feel is a deficiency in combat power and readiness, particularly with regard to Navy aircraft procurement. By authorizing an increased procurement of A-6E, F-14A, and F/A-18 combat aircraft, as well as needed C-9B transports, the Navy's allotted budget will be more economically efficient.

To counter what we believe to be a strategic vulnerability, the conferees not only authorized requested modifications to the B-52 strategic bomber but additionally requested a study and report on the effectiveness of the B-52 as a cruise missile carrier and as a penetrating bomber over the next decade.

The conferees also authorized $25.64 million for development of the Trident II missile system in addition to requiring a report on the requirement for the missile, the design alternatives of the total missile system, its affordability within Navy budget constraints, and a management plan for completing the development and production of the missile system. As a further insurance to the survivability of the MX missile program, the conferees agreed to specifically authorize $670 million for concurrent full-scale engineering development of the Multiple Protection Structure (MPS) basing system and the MX missile.

Mr. Speaker, our defenses need attention. Our primary purpose as a Federal Government is to provide protection for our people. I am convinced that the American people feel it is time that we lived up to that responsibility. A poll I have conducted in my congressional district indicates that the public supports increased defense spending. In fact, defense is the only category for which they indicated their desire for additional appropriations. I believe it is time that the Congress responds to the will of the people—and to our constitutional mandate.

I urge your support and request your endorsement of this conference agreement.

Mr. RITTER. Mr. Speaker, will the gentleman yield for a point of information?

Mr. SPENCE. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, on the subject of the 3-percent increase, what is at present the best estimates of the real dollar increase in the defense budget? I know that many of the Members of this House are interested in what the increases are in reality, taking into account inflation.

Is there any best intelligence on that?

Mr. SPENCE. Mr. Speaker, our estimate would be that the real growth, even with the overall dollar increase to the President's budget, would be negligible. As I indicated earlier, the 3-percent increase proposed by the administration was based on an unrealistic inflation factor.

Mr. RITTER. But the real dollar increase of fiscal year 1980 over fiscal year 1979 is what, in the gentleman's best estimates?

Mr. SPENCE. Well, considering inflation, we still do not think we have an increase over what we had last year.

Mr. RITTER. I see. So the gentleman's best estimate is that there are no real

dollar increases in the defense budget of fiscal year 1980 over fiscal year 1979?

Mr. SPENCE. That is correct, taking into consideration a realistic inflation factor.

Mr. RITTER. Mr. Speaker, I thank the gentleman very much.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I am happy to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I notice that as far as civilian personnel are concerned, the conference report reduced the civilian employees by 1,500. Then, according to the report, this language is added: "In accommodating the reduction, the Department of Defense should include a reduction in support personnel for dependent activities overseas and give consideration to the areas addressed in the reports of the House and Senate Committees on Armed Services concerning civilian personnel."

Now, that is a reduction of 1,500 under the President's request, and it is apparently quite a bit under the House provisions.

Mr. Speaker, how does the gentleman foresee the wide ceilings of the Department of Defense on civilian personnel being affected by what happens overseas?

Mr. SPENCE. Mr. Speaker, I would like to refer that matter to the gentleman from Texas (Mr. WHITE), the chairman of the subcommittee.

Mr. KAZEN. Mr. Speaker, in other words, what I want to know is whether this language in the report says to the Department of Defense: "Hey. You take into consideration some of these positions, these civilian positions overseas, in reducing the civilian personnel rather than taking it out of those who are employed in the continental United States."

Mr. SPENCE. Mr. Speaker, I yield to the chairman of the subcommittee, the gentleman from Texas (Mr. WHITE) for an answer to that.

Mr. WHITE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me state to the gentleman that there was no mandated decrease. This was to take into consideration the possibility of reducing the number, but there is no mandated decrease in the report.

Mr. KAZEN. But it says:

> The conferees agreed to provide for an overall Department of Defense-wide authorization for civilian personnel of 983,600—a reduction of 1,500 from the administration request.

Now, the House authorized 986,292, and this report here only has 983,600, which is approximately 3,000 below the figure that went out from the House.

Mr. WHITE. Mr. Speaker, if the gentleman will yield further, counsel for the committee advises me that this number could be as few as 2. That will not necessarily mean it would be the 3,000 figure the gentleman is referring to.

Mr. KAZEN. Mr. Speaker, I just wanted to make sure that the Department of Defense, if they start cutting, will not cut the domestic personnel. I would rather they would be cutting the civilian personnel overseas than cutting the domestic help we have here that is so vital to our repair work, our manufacturing and everything else.

Mr. SPENCE. Mr. Speaker, I understand what the gentleman is saying, and I thank the gentleman for his contribution.

Mr. MITCHELL of New York. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from New York.

Mr. MITCHELL of New York. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just wanted to express my disappointment with the fact that the House was unable to maintain its position on civil defense. As we all recall, the Skelton amendment was passed by this House by a large margin, and that amendment would have provided for a 5-year comprehensive civil defense plan for our Nation—something that I feel is badly needed.

I had even thought seriously about offering a motion to recommit with instructions, but since I am strongly supportive of the remainder of the package, I do not want to do anything to jeopardize its passage.

As the Members will recall, the arguments used against the Skelton amendment on the floor were, first, that no hearings had been held on this specific piece of legislation. I am hopeful that in the months ahead the chairmen of the appropriate subcommittees will have an opportunity to hold hearings on that particular piece of legislation.

One other objection was that the Agency was in a state of flux, that it was changing from something called the DCPA to the FEMA and a new Director was coming on board. This is true. I had the opportunity to speak with the Director, John Macy, a couple of weeks ago, and I am impressed by the gentleman. I think he is going to do a fine job for civil defense.

Since this objection will also be made the next time around I am hopeful that the House will be able to maintain the position that it took this year. The President offered his support for civil defense last year. With the administration taking a stronger position on civil defense, I hope the Senate will concur with us, and that a year from now we will have a stronger program on civil defense.

Mr. SPENCE. Mr. Speaker, I appreciate the gentleman's remarks, and I hope we can do more in the future in this area.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. TRIBLE).

□ 1240

Mr. TRIBLE. Mr. Speaker, I rise in support of this conference report. I think it is a balanced bill. I think it is a good bill. It takes an important step in responding to the increased Soviet power and presence in the world.

However, we have a long way to go. Fortunately, it appears that the American people are now realizing the seriousness of the challenge and recognize that we must have a national defense second to none. That is the price we must pay if we are to remain free as a people and if we are to insure a safe and secure world for our children and our children's children.

I want to make one special comment here this morning. I am especially pleased by the shipbuilding portion of this report which provides 11 combatant ships for our Navy. The House conferees stood firm in advancing the cause of the nuclear aircraft carrier and a second nuclear attack submarine so vital to our Nation's defense.

Mr. Speaker, I want to extend my special thanks to the chairman of the Subcommittee on Seapower, the gentleman from Florida (Mr. BENNETT), for his strength in the conference committee, and to my colleagues there represented.

This authorization will dramatically strengthen our naval shipbuilding program. It will begin to provide the number of quality ships that we so desperately need to maintain our slim margin of superiority over the Soviet Navy.

Mr. PRICE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr WHITE).

Mr. WHITE. Mr. Speaker, I yield to the gentleman from Texas (Mr. KAZEN) for a colloquy.

Mr. KAZEN. Mr. Speaker, I wish to commend the Members of the House conference committee, and particularly Chairman WHITE, for the work it did on this particular section. Mr. Speaker, as the gentleman well knows, the Committee on Armed Services put a very strong provision in this bill concerning procedures for contracting out. I know how hard it was in conference to keep the provision which the House wrote. Although it was softened somewhat by the conference, what our conferees gave up, they did very reluctantly but in the main, they stood up well against the terrific assault made upon this section by the other body's conferees and what we have left in this conference report is the best that our people could do.

The conference provision was changed in the main in two ways. It now provides that before contracting out of a function, a report must be made showing the potential economic effect on employees affected and the potential economic effect on the local community and Federal Government if more than 50 employees are involved. When the bill left this House, there was no minimum number of employees involved before that report had to be made. And the other significant change that I see was the elimination of a 30-day notice period to the Congress before a contract was let. I understand that this is a compromise and I understand that the gentleman from Texas and our conferees tried for several days

to hold our position and even though they were not successful, I know that what they did accomplish is significant.

I understand that this was a compromise, because we in our House bill did not have any specific number. That is one of the differences that was made, and I understand that the chairman tried to hold the House position but could not hold it.

Mr. WHITE. Mr. Speaker, if the gentleman will allow me to explain, the committee pretty well held the House position. We had hung tough, as the saying goes, with the exception of two elements. One was the 30 days before contracting-out time would expire.

Mr. KAZEN. The 30-day notice coming to Congress before a contract would be let.

Mr. WHITE. The reports would still have to be made. All of the elements of the reports, the Hanley amendment, were kept in our version. But the 30 days was removed, and the 30 days did have some problems inherent.

The other matter was the question of at what level would the application of law transpire. Obviously, if you have one or two personnel, it was not very practical to have all of the reports, and so forth, take place. So finally we settled on the figure of 50. Earlier the Senate wanted a figure that was considerably more. I cannot remember precisely, but I think it is in the area of 300, or something like that. We said, "No, that is irrational, or certainly not practical." So we did make those two changes. That is all the changes we made in our version, except the Senate changed the word "impact" to a different word "affect" which means the same thing.

Mr. KAZEN. Again I say, Mr. Speaker, that I believe the House conferees did the best they could on this conference report. This particular section is of great interest to me since I represent so many dedicated civilian employees who would be hurt irreparably if their functions were contracted out on a whim without showing that it is in the best interest of our national security and national defense.

Mr. WHITE. The gentleman has taken a lead in that particular area.

Mr. KAZEN. Mr. Speaker, this is a good start. We can monitor the activities of the Department of Defense in this matter during the next year and if it is warranted, we can come back in our next authorization and make whatever corrections are needed.

Mr. WHITE. I agree with the gentleman.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I would just like to associate myself with the remarks of the gentleman from Texas (Mr. KAZEN) and also I would like to congratulate the chairman for his leadership on this issue. I think it is an area we are going to have to pay increasing attention to. I think post-contracting-out auditing should be done to make certain that the Government in fact is getting the best value for its tax dollar. The gentleman is to be commended for his outstanding work in this area.

Mr. WHITE. I thank the gentleman for his comments. We will continue to monitor the situation.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I just want to associate myself with the remarks of my colleagues on this issue. I, along with many other Members, have followed this very carefully, and there are many concerns here of my constituents. I think we appreciate what you have done in this regard.

Mr. WHITE. I thank the gentleman.

Mr. BEARD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Speaker, I want to commend the gentleman for the hearings he held on the all-volunteer service. I just want to go on record as saying that I hope this next year the Congress will show the responsibility in bringing to task the leadership of the Department of Defense in calling their hand on what has been one of the biggest coverups this country has ever seen when the true facts come out as to the status of the All-Volunteer Army being a total failure.

● Mr. HARRIS. Mr. Speaker, I am pleased to note that the conference report for the 1980 DOD authorization bill contains the amendment which was offered by Mr. HANLEY to eliminate contracting out to avoid personnel ceilings and to require certification that the in-house cost calculation is based on the most cost-effective organization. In fact, I feel that the modifications added by the conferees clarify the intent of the House in supporting the original Hanley amendment.

I would like to commend Mr. HANLEY for his actions in this area, as well as the conferees and other Members of this House who have supported these provisions.

I would also like to inform Members that my bill to eliminate waste in Federal procurement has been amended to extend the provisions of the Hanley amendment to all executive agencies. Since estimated Federal procurement activity now accounts for more than one-fifth of our entire Federal budget, I feel that the time has come for a clear legislative directive requiring cost-effective procurement decisions be provided to the executive branch.●

● Mr. WHITE. Mr. Speaker, I would like to mention some of the highlights of the conference action on the defense authorization bill for fiscal year 1980 with regard to manpower.

Although it is an area that will be addressed by my colleague, Mr. NICHOLS, I want to say that the resolution of the problem on junior enlisted travel was the most difficult the conference faced and I would like to congratulate Mr. NICHOLS for his perseverance and leadership in reaching a compromise on this very important issue.

ACTIVE FORCES

In the area of Active Forces, the conferees agreed on the following strengths for fiscal year 1980:

Army	776,700
Navy	528,000
Marine Corps	189,000
Air Force	558,000
Total	2,051,700

The two Houses were 10,100 apart overall. The conference agreement is 4,700 above the Senate and 5,400 below the House.

RESERVE FORCES

In the Reserve forces, the strengths themselves were not an issue, but the conferees did agree on an increase of 500—for a total of 707—full-time support personnel for the Naval Reserve to permit a test program using these additional Reserve personnel in high-priority missions of the Naval Reserve or to offset existing deficiencies in critical skills in the active Navy.

The Senate agreed to the House amendment to the Reserve educational assistance program and the House agreed to terminate the authority for administrative duty pay to Reserve commanders on September 30, 1980.

CIVILIAN PERSONNEL

In the area of civilian personnel, the Houses were approximately 5,400 apart and agreed on an end strength which essentially split the difference. The strength agreed to is 983,600 for fiscal year 1980. This is a reduction of 1,500 from the Administration request. The conferees agreed that specific increases made by the committees of 1,200 personnel for the naval air rework facilities and for additional medical support personnel should be accomplished within this number.

GENERAL PROVISIONS

UNIFORM CODE OF MILITARY JUSTICE

In the general provisions, the House agreed to the Senate position amending the Uniform Code of Military Justice to limit the right of an accused to raise defects in the enlistment process to defeat court martial jurisdiction and to clarify the President's authority to issue a manual of trial procedures. In taking this action, the conferees wanted to make clear that this should not be interpreted as indicating a lack of interest in an already serious recruiting malpractice problem. The conferees directed the Secretary of Defense to review the use of the quota system in recruiting and to have the services establish a more effective administrative process to permit all enlistees to raise questions concerning the validity of their enlistment.

CONTRACTING OUT

The House bill contained some important language on the issue of contracting out. The Senate bill had addressed the issue also. The conference agreement is

essentially the House language, including that offered by our colleague, Mr. HANLEY, as well as requiring an annual report by the Secretary of Defense on the number of positions to be converted to private contract in the current year and in the future. The conferees agreed, however, to strike the House provision which provided that no funds could be obligated on a contract involving a conversion to private contract until 30 legislative days had elapsed.

SELECTIVE SERVICE

On the House language on the Presidential study of the Selective Service System, the House provision is intact. However, one change to the provision involving the feasibility of a centralized, automated system for registration was agreed to that struck the reference to using school records. Several Members of the House who had been interested in the issue requested this change in conference.

The House provision expressing Congress view that the Selective Service System remain an independent agency was agreed to in the conference.

Mr. Speaker, there were some other matters in the manpower area, particularly those relating to compensation and an extension of 1 year in the reduction of senior grade civilian personnel in the Department of Defense which will be addressed by Mr. NICHOLS.

All in all, however, I believe the conference agreement is a fair one and I urge the Members of the House to support the conference report.●

● Mr. NICHOLS. Mr. Speaker, I would like to indicate my strong support of the conference report on S. 428, the Defense authorization bill for fiscal year 1980. Although it is not everything I personally would like it to be, it provides authorization for the fundamental defense posture this Nation requires.

One of the most difficult issues in the conference revolved around travel and transportation benefits for dependents of service members stationed overseas. The Senate bill contained a provision that would have ended the entitlement of junior enlisted service members to travel and transportation benefits for their dependents. The House bill contained a provision—added as an amendment on the floor by the gentleman from Wisconsin, Mr. ASPIN—that would have insured that no differentiation in entitlement could be made among service members based on their grade. I strongly support that amendment, and I still favor the concept on which it was based.

The conference had completed work on all other matters but was delayed for an extended period on the issue of junior enlisted travel, which was not resolved until October 16. Both the House and Senate conferees were adamant in their respective positions.

Finally, in order to break the deadlock, the conferees agreed to drop the original language relating to this issue contained in the Senate bill and the House amendment which, in effect, retained current law regarding entitlement of junior enlisted personnel to dependent travel allowances. In lieu thereof, the conferees agreed to revised language which places a ceiling on the number of command-sponsored dependents overseas. Command-sponsored dependents are those who are authorized to accompany the service member overseas and whose travel and transportation is paid for by the Government.

Beginning after September 30, 1980, travel and transportation benefits for dependents cannot be provided whenever the number of command sponsored dependents overseas—not including Alaska and Hawaii—exceeds 325,000. Under this provision, however, travel and transportation benefits would not be prohibited even if the number of command-sponsored dependents overseas exceeds the limitation for those dependents returning to the United States from overseas if they had received travel and transportation benefits when they initially traveled overseas. Further, the House conferees insisted on language that spells out that any restrictions on travel benefits should be at the discretion of the individual service Secretaries and that the Secretaries should administer these restrictions as fairly as possible and in a manner that is in the best interest of the United States. It was agreed by the conferees that any burden resulting from the limitation on command-sponsored dependents should not fall unilaterally on the junior enlisted population.

I personally believe this limitation on dependents overseas is a step in the wrong direction. The House conferees agreed to this limitation with great reluctance because it was necessary that the Defense authorization bill be passed. I do not disagree with the assertion that the large number of dependents overseas causes potential problems. I question, however, whether reducing the number will not cause even more severe problems. I believe effective ways of dealing with the potential problems could be found without creating the adverse morale impact of a ceiling on dependents overseas.

I am hopeful that the services will be able to accommodate this ceiling on the number of command-sponsored dependents without unduly disrupting assignments. I am convinced that any further, unwarranted reductions will significantly damage morale, readiness, and retention of our service members. No enlightened employer in the private or public sector would impose this type of restriction on its employees—at least no employer who desired to maintain a labor force.

Although I deeply regret this particular limitation in the conference report, I support the conference report as a whole.●

Mr. PRICE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DORNAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 26, not voting 107, as follows:

[Roll No. 610]

YEAS—300

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carter
Chappell
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Dicks
Dodd
Donnelly
Dornan
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Tenn.
Fountain
Frenzel
Frost
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gooding
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McDonald
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mateui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Ohio
Mineta
Mitchell, N.Y.
Moffohan
Moore
Moorhead, Calif.
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Panetta
Pashayan
Patterson
Paul
Pease
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quillen
Rahall
Rallsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solars
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Swift
Synar
Tauke
Taylor
Traxler
Trible
Udall
Ullman
Vander Jagt
Volkmer
Walgren
Walker
Waxman
White
Whittaker
Williams, Mont.
Wilson, C. H.
Wirth
Wolpe

Wright	Yates	Zablocki
Wyatt	Young, Alaska	
Wylie	Young, Mo.	

NAYS—26

Baldus	Gray	Seiberling
Bellenson	Holtzman	Shannon
Bingham	Leland	Stewart
Carr	Miller, Calif.	Stokes
Cavanaugh	Mitchell, Md.	Studds
Collins, Ill.	Oberstar	Thompson
Conyers	Pursell	Vento
Dellums	Sabo	Weaver
Gephardt	Schroeder	

NOT VOTING—107

Addabbo	Hanley	Ottinger
Ashley	Hefner	Patten
AuCoin	Hightower	Pepper
Bedell	Holland	Perkins
Biaggi	Howard	Quayle
Boggs	Huckaby	Richmond
Bolling	Ireland	Rodino
Bonior	Jenkins	Rosenthal
Breaux	Jones, N.C.	Rousselot
Brooks	Jones, Okla.	Rudd
Burton, John	Kastenmeier	Santini
Butler	LaFalce	Scheuer
Clay	Leach, La.	Skelton
Cleveland	Lee	Staggers
Conable	Livingston	Stark
Corman	McClory	Symms
Cotter	McCloskey	Thomas
Crane, Philip	McCormack	Traxler
Davis, S.C.	McDade	Van Deerlin
Devine	McEwen	Vanik
Dickinson	McHugh	Wampler
Diggs	McKay	Watkins
Dingell	McKinney	Weiss
Dixon	Maguire	Whitehurst
Dougherty	Mathis	Whitley
Drinan	Mattox	Whitten
Duncan, Oreg.	Michel	Williams, Ohio
Early	Minish	Wilson, Bob
Flood	Moakley	Wilson, Tex.
Florio	Moffett	Winn
Foley	Montgomery	Wolff
Ford, Mich.	Moorhead, Pa.	Wydler
Forsythe	Murphy, N.Y.	Yatron
Fowler	Nichols	Young, Fla.
Fuqua	Nolan	Zeferetti
Giaimo	Obey	

□ 1300

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Stark against.

Until further notice:

Mr. Rodino with Mr. Wydler.
Mr. Moorhead of Pennsylvania with Mr. Quayle.
Mr. Foley with Mr. Butler.
Mr. Cotter with Mr. Symms.
Mr. Zeferetti with Mr. Livingston.
Mr. Van Deerlin with Mr. Devine.
Mrs. Boggs with Mr. Whitehurst.
Mr. John L. Burton with Mr. Dickinson.
Mr. Florio with Mr. McClory.
Mr. Fuqua with Mr. Lee.
Mr. Giaimo with Mr. Williams of Ohio.
Mr. Nichols with Mr. Bob Wilson.
Mr. Nolan with Mr. Dixon.
Mr. Moakley with Mr. Dougherty.
Mr. Minish with Mr. Winn.
Mr. McCormack with Mr. McKinney.
Mr. Kastenmeier with Mr. Forsythe.
Mr. Ireland with Mr. Holland.
Mr. Howard with Mr. Leach of Louisiana.
Mr. Hanley with Mr. Mattox.
Mr. Patten with Mr. McCloskey.
Mr. Richmond with Mr. Thomas.
Mr. Santini with Mr. Wampler.
Mr. Staggers with Mr. Scheuer.
Mr. Vanik with Mr. Rousselot.
Mr. Whitley with Mr. McDade.
Mr. Montgomery with Mr. Flood.
Mr. Obey with Mr. Conable.
Mr. Early with Mr. Young of Florida.
Mr. Drinan with Mr. Cleveland.
Mr. Dingell with Mr. Rudd.
Mr. Corman with Mr. Perkins.
Mr. Brooks with Mr. Watkins.
Mr. Breaux with Mr. Michel.
Mr. AuCoin with Mr. Weiss.
Mr. Ashley with Mr. Skelton.
Mr. Bedell with Mr. Yatron.
Mr. Biaggi with Mr. Charles Wilson of Texas.
Mr. Bonior of Michigan with Mr. Whitten.
Mr. Clay with Mr. Ford of Michigan.
Mr. Jones of North Carolina with Mr. Fowler.
Mr. Jones of Oklahoma with Mr. Duncan of Oregon.
Mr. Rosenthal with Mr. Diggs.
Mr. Pepper with Mr. Davis of South Carolina.
Mr. Ottinger with Mr. Hefner.
Mr. Maguire with Mr. Hightower.
Mr. McEwen with Mr. Huckaby.
Mr. Mathis with Mr. Wolff.
Mr. Murphy of New York with Mr. Moffett.
Mr. Jenkins with Mr. LaFalce.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERSONAL EXPLANATION

Mr. JONES of Tennessee. Mr. Speaker, on rollcall 607 I was unavoidably detained.

Had I been present I would have voted "aye."

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the rest of today and for next week.

Mr. WRIGHT. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I yield to the gentleman.

Mr. WRIGHT. Mr. Speaker, the only thing remaining on this week's program is H.R. 1885, the retirement preference for certain Bureau of Indian Affairs employees. We would hope to complete consideration of that, and having done so to adjourn for the week.

Next week the House will meet at noon on Monday. We hope for no votes on Monday. There are six suspensions, the Navajo-Hopi Relocation Act; Indiana Dunes; Legionville, Pa., National Historic Site; the annuity payments to judges; the General Accounting Office Act of 1979; and the Congressional Award Act.

Then we would hope to take up two bills on which rules have already been granted and to have general debate on those two bills on Monday, the Education Act Amendments of 1980 and the Milk Price Support Act.

On Tuesday the House would meet at noon and consider three additional suspensions on Tuesday, the miscellaneous changes in Internal Revenue Code; the Martin Luther King birthday celebration bill; and the passenger ship industry revitalization bill. Following that we would have votes on such of the suspensions as votes had been required upon.

Then we have four bills scheduled for a special District day, if unanimous consent is granted. They are the D.C. civil rights suits, a bill to extend Treasury borrowing authority for the District of Columbia, the land title rights for Little Sisters of the Poor, and the D.C. Redevelopment Act amendments. Those will be the four bills scheduled for action on the District day.

Then we would begin the centerpiece for the next week, H.R. 4985, the Priority Energy Project Act of 1979 under an open rule with 2 hours of general debate. That bill is better known as the energy mobilization bill or the fast-track bill. We will proceed until we conclude action on that bill, whether it be on Wednesday, or Thursday, or whenever. I would imagine we could finsh it on Wednesday, having begun and had general debate at least on Tuesday.

Wednesday we will meet at 10, Thursday we will meet at 10, and at the end of this colloquy I shall ask unanimous consent that on Friday next we be allowed to come in at 9 and adjourn at 2, which might give Members a convenient schedule for Friday.

On Wednesday, Thursday, and Friday, after completing the Priority Energy Project Act, we would take up welfare reform amendments, the Federal Trade Commission authorization, Education Act amendments, repayment of loans made to State unemployment funds, the Milwaukee Railroad service continuation, the Agriculture Adjustment Act of 1979, Milk Price Support Act, Meat Import Act of 1979, the national security applications of nuclear energy—authorizations for fiscal 1980, and the Experienced Pilots Act of 1979.

Of course, conference reports may be brought up at any time. Any further program will be announced later.

The House would adjourn by 2 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday.

Mr. RHODES. The majority leader has mentioned that the centerpiece is the Priority Energy Project Act. I think it might be well to inform the Members that the rule on this bill is somewhat unusual in that it requires that amendments be printed in the RECORD 48 hours prior to the time that the bill will be heard. Anyone who has an amendment to offer, if that rule is adopted, as I say, it is an unusual rule, and if it is adopted in its present form it does require insertion of amendments in the RECORD.

I might also ask the distinguished majority leader if there are any plans for a further continuing resolution on the Labor-HEW situation, or if the appropriation bill itself may be brought to the floor prior to November 20, which, of course, occurs during the week that the House has projected to be out of session due to the Thanksgiving recess.

Mr. WRIGHT. Of course, as the gentleman would know, one or the other of those must be done. I would think it likely we might have the opportunity to act upon the appropriations bill conference report itself.

□ 1310

Mr. RHODES. I would agree. I share that hope. May I also inquire of the distinguished majority leader as to the plans, if any, that the majority leadership has to close down the operations of the Rules Committee? I was elated, as many Members were, when the distinguished majority whip, the gentleman from Indiana (Mr. BRADEMAS), about 2 weeks ago put out a projection of the program for the rest of the year indicating that most of November would be spent in pro forma sessions.

That situation which we greeted with such delight has eroded rather considerably, since we will have a program including the week of November 5 and a program after being off the 5th and 6th, and the week of November 12 after being off on November 12. My experience in this body, as I am sure the majority leader would agree, tells me that we cannot really have faith in the credibility of a scheme to curtail the activities of the House looking toward adjournment until the Rules Committee ceases its operations, or almost ceases its operations, except for emergency matters.

In order to lend further credibility to what remains of the statement of the gentleman from Indiana would it be possible for us to have some expression of opinion as to the further activities of the Rules Committee?

Mr. WRIGHT. If the gentleman would yield further, I think the minority leader would understand that it is impossible for us to give a firm and absolutely reliable projection as to an adjournment time, or a time at which the House might go into pro forma sessions, absent some understanding with the other body about when it will take up the SALT debate and whether it leaves other things untended while taking up the SALT debate. But, I think I can say this much: There remain relatively few priority projects from the standpoint of the House leadership.

In addition only to the appropriations bills, which we think obviously must be passed, and those energy matters which are at various stages of progression in the legislative mill, we would hope to have a vote on a hospital cost containment bill. In addition to that, it is hoped that we will have a vote on countercyclical legislation.

Beyond those that I have mentioned, I cannot at the moment think of anything that is an absolute must for this session of the Congress. With those exceptions and one or two others that I may have neglected to mention, we would hope that the time might not be too far off when the Rules Committee might cease to grant rules on additional bills for consideration this year.

Mr. RHODES. I certainly welcome the statement of the gentleman, and I do understand the difficulties in trying to psychoanalyze the other body. We have never really been very successful in that, and I am sure we will not be any more successful now than we were. However, the thought does strike me that even though such psychoanalysis is not profitable, we might consider the alternative of recognizing that there is going to be a rather protracted period of debate on the other side, and therefore to set our sails toward having a minimum program of legislation other than the very important matters that the distinguished majority leader has mentioned. If we do maintain that philosophy, which I hope we will, soon we could and should shut down the Rules Committee. Whenever a bill has a rule, there just seems to be almost irresistible pressure to bring it up, and I think the choke point has to be in the Rules Committee.

Mr. WRIGHT. I thank the gentleman for that advice, and I think it is basically sound.

Mr. RHODES. I thank the gentleman.

ADJOURNMENT TO MONDAY, OCTOBER 29, 1979

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER CONSIDERATION OF DISTRICT OF COLUMBIA BUSINESS ON TUESDAY, OCTOBER 30, 1979

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it be in order to consider District of Columbia business on Tuesday, October 30, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON FRIDAY, NOVEMBER 2, 1979

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House convenes on Friday for the remainder of the 1st session of the 96th Congress that it convene at 9 a.m. until otherwise ordered by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I thought the gentleman from Texas was going to ask that permission for this Friday, this coming Friday.

Mr. WRIGHT. If the gentleman would be constrained to object to a general proposition, I could offer it for this time and Members could see how they like it, if that is the gentleman's wish. I would revise my unanimous-consent request.

Mr. BAUMAN. I thank the gentleman.

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House convenes on Friday, November 2, 1979, that it convene at 9 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, will the distinguished majority leader yield?

Mr. WRIGHT. Yes, of course.

Mr. BROWN of Ohio. I ask the gentleman to yield only to ask a question of somewhat more specific nature about the schedule after next week. The majority leader said that there would be certain energy bills that would be given priority attention. I am curious to know which bills he had reference to, because on next week's schedule is what is referred to as the Priority Energy Project Act of 1979.

Are there others in addition to that, and does he embrace in the energy legislation the windfall profits tax legislation in conference form, or does he embrace the Energy Security Corp. in that energy package that should be done before the end of the year; and are there other energy bills beyond those two or three that I have mentioned that might be considered?

Mr. WRIGHT. In response to the gentleman's question, I would like to see all those bills passed before the end of this year. It may become impossible to do so, but it is my goal, and I think the goal of the leadership that those which we have sent to the Senate shall come back and the conference reports be approved. That includes emphatically and by express enumeration the excess profits tax bill, and the bill creating a synthetic fuels industry in this country. I think it also surely must include the so-called fast track legislation we are taking up in the House for the first time next week. There may be one or two others of less highly publicized status, but nevertheless matters of some interest. There has been introduced with some prospect of quick action a bill to stimulate additional energy conservation in this country.

Mr. BROWN of Ohio. That bill has yet to receive a rule.

Mr. WRIGHT. That is correct.

Mr. BROWN of Ohio. But that is on the priority list?

Mr. WRIGHT. I would like to see it on the priority list if it becomes realistically hopeful to get it there. Then, there is a bill that I understand has received a rule from the Science and Technology Com-

mittee, which creates a demonstration project for solar satellites. I would like to see that be passed.

Mr. BROWN of Ohio. These will be done in the 14th or 15th months of this year?

Mr. WRIGHT. Or the 17th or the 18th.

Mr. BROWN of Ohio. I thank the majority leader.

RETIREMENT PREFERENCE FOR CERTAIN BIA EMPLOYEES

Mrs. SPELLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1885) to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1885, with Mr. FLIPPO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, 185 years ago, Edmund Burke, the British statesman and philosopher, wrote there is but "one law for all, namely * * * the law of humanity, justice and equality." I know that none of us would disagree with that statement.

And because we do not, I hope we all can join together to support H.R. 1885.

For all this legislation seeks to do is to apply some of Mr. Burke's "one law" to an extremely unfortunate and unfair situation within our civil service. The bill simply tries to bring a sense of justice and equality to a small but significant group of Federal employees who have been done a grievous wrong and clearly deserve better treatment at the hands of their employer, their Government.

The group, Mr. Chairman, is made up of non-Indians working in the Indian service agencies. They number approximately 4,000 and, since 1972, they have been literally stymied in attempts to advance their careers through absolutely no fault of their own. They are the only group of Federal employees I know of subjected to this kind of legally sanctioned discrimination.

This unfortunate situation has grown out of honest and sincere past efforts by the Federal Government to grant increased self-determination to the American Indians. And I want to make it clear from the start, we are not addressing Indian preference. Our committee has no jurisdiction in that area. All we seek here is fairness for non-Indians as well as Indians. Happily, in this case, the two objectives are not mutually exclusive; they both can be achieved under this legislation.

Before we go any further, perhaps a little history is in order.

In 1934, Congress passed the Indian Reorganization Act, which gave preference to qualified Native Americans for appointment to positions in Federal agencies administering services that affect Indian tribes. The goals were simply to put Indians in Federal Government positions that most affect Indians and, through this, to make Government more responsive to the needs of that constituent group.

Today, these positions fall mostly within the purview of two agencies, the Bureau of Indian Affairs in the Department of the Interior, and the Indian Health Service in the Department of Health, Education, and Welfare.

All might have been fine had it not been for a 1972 Federal court ruling known as the Freeman decision. The Supreme Court, in unanimously affirming this decision, ruled that the 1934 law applied not only to initial hiring within to BIA and IHS but to all promotions, lateral transfers and reassignments within those agencies.

The effect of this decision, as I am sure you can imagine, has been sweeping and traumatic. Non-Indians in these agencies have been literally blocked from advancing their careers. Morale has plummeted and management problems have hurt the efficiency of both the BIA and the IHS in the delivery of vital services to Indian people.

It is this situation that H.R. 1885 seeks to rectify by amending certain civil service retirement provisions as they apply to non-Indians in these agencies and by modifying the application of the Indian preference laws.

The central issue here and the only issue this bill attempts to address is the Federal Government's good faith treatment of this group of adversely affected employees. These people were given assurances at the time they were hired that they would be able to compete equally for career advancement with all other employees, including Indians. They were, in fact, given both verbal and written assurances that the Indian preference law of 1934 only applied to initial hiring. Since 1972, of course, a very different situation has presented itself. As it turned out, the Government initially hired these employees under false and misleading pretenses.

Mr. Chairman, it is true that a bill very similar to H.R. 1885 was defeated in the House during the last Congress. It is my sincere belief, however, that the bill was defeated, not on substantive grounds relating to the issues, but for three reasons totally unrelated to the problem at hand.

First, it was argued the bill seeks to help a "special interest group" through improper means. Outplacement, not increased retirement benefits, is the answer, these individuals said.

In reply, I must point out this was the very position of the Post Office and Civil Service Committee and the administration during the 94th Congress, when this issue first arose. Throughout that Congress, we worked closely with the agencies involved to help set up an effectice outplacement program. We found that, because of the unique training and positions of the affected employees, this was just not possible. In fact, during recent oversight hearings, it was disclosed only three or so individuals have been effectively outplaced to date.

On the other side of the coin, the agencies have undergone various RIF's and reorganizations as a result of the Federal court decisions. It is estimated more than 200 employees already have lost their jobs.

For my colleagues in the legal profession, I can only remind them of what is commonly called the "but for" maxim. That is, but for the misinterpretation and misapplication of the law by the agencies, these adversely affected employees might not have joined the Bureau of Indian Affairs or the Indian Health Service.

The second argument used against passage of this bill is that the Indian preference law works to the detriment of the American people and is discriminatory. However, the Supreme Court squarely faced this issue and ruled the opposite.

Regarding the charge that the Indian preference law should be abolished, I can only repeat that the authority to do this does not rest with the Post Office and Civil Service Committee. This bill simply addresses and immediate problem that has already developed into a crisis for many employees.

The third argument used against passage of this bill was that the administration did not favor it. I am most happy to report that while the administration opposed past legislation, it supports this measure.

Mr. Chairman, we have in H.R. 1885 a chance to right a grievous wrong done a faithful group of Federal employees who by and large do not question the appropriateness of Indian preference despite the detrimental effect it has had on their own careers.

They do not object to being replaced by Indians, provided they can retire or have somewhere else to go when displaced. To me, Mr. Chairman, the only fair way to treat this truly unique group of employees is to enact H.R. 1885. Therefore, I respectfully ask all my colleagues to support this bill in its current form.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding. Certainly we all share her beautifully articulated concern for justice in this matter. But I cannot help

but feel that we are now involved in a program which would probably cost $104 million, some $6.5 billion over the next 30 years, and it sees to me that we should change the law. If the Supreme Court found that under the law this unjust situation had to be implemented, then we should change the law.

□ 1350

I do not see that the taxpayers should pay $104 million for a badly drawn law.

Mrs. SPELLMAN. Mr. Chairman, I might point out to the gentlewoman that was my own feeling 5 years ago and I opposed taking the steps we are taking now.

I would also point out that I have become a very, very zealous guardian of the civil service retirement system and have, as a matter of fact, offered to give up my jurisdiction, the jurisdiction of my subcommittee over that system if we could just bring together all of the various civil service retirement programs that are scattered through 11 different jurisdictions in this House. I must say I was the only one willing to give anything up and I have most of it right within our own subcommittee.

Mr. Chairman, despite the fact I am guarding that so carefully, I did finally decide this was the only fair way to deal with these people.

Mrs. FENWICK. Mr. Chairman, we must be fair with our public employees. When the Federal Government enters into an employment contract with an employee it has got to be honored. The Federal Government cannot continue to trample on the rights of people who have entered in good faith into an employment agreement with the Federal Government.

Mrs. SPELLMAN. I might point out the gentlewoman speaks very well for this bill.

Mrs. FENWICK. When we in our lack of wisdom but in our benevolent but ill-conceived zeal pass laws that are inappropriate that result in injustice we ought to change the law. We ought not continue to saddle the taxpayer with expensive programs which are designed to correct the law that we passed.

Mrs. SPELLMAN. I dare say, and I will leave this to speakers who will be following me, that might not be a law that would be very easy to change.

Mr. Chairman, I reserve the balance of my time.

Mr. DERWINSKI. Mr. Chairman, I yield 5 minutes to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, I just wanted to rise in support of this legislation and, of course, urge its approval. I have a great many constituents in South Dakota who are caught up in this recent 1972 court ruling who are very interested in this legislation.

Many of the non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service were midway in their careers when the 1972 Federal court decision, that the chairman talks about, placed them in a virtual deadend. What efforts have been made to place them in other jobs have been unsuccessful because of the specialized kind of work they do.

Mr. Chairman, this bill provides a fair solution to some 4,000 non-Indian BIA workers and IHS employees who have been adversely affected by the misinterpretation of the Indian-preference laws and subsequent court decisions.

Mr. Chairman, it would be great if we could come up with a solution such as my colleague here suggested a moment ago. They have been a long time trying and this seems to be the only answer. I certainly urge everyone's support.

Mrs. SPELLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. The chairperson of our subcommittee, the gentlewoman from Maryland, is one of my favorite people in this institution and I think one of her great traits is fairness. A country ought to be fair. If something is done for the common good that damages some of our citizens, this country ought to be ready to repair that damage. That is what has occurred here. It has a very broad base of support. The gentleman from South Dakota who just spoke; I was the principal sponsor of the bill; the gentleman from Oklahoma (Mr. STEED) who deals with the appropriations aspects of all of this; the gentleman from North Dakota (Mr. ANDREWS); the gentleman from New Mexico (Mr. LUJAN); the gentleman from New Mexico (Mr. RUNNELS) and the gentleman from Alaska (Mr. YOUNG) are among the others who have cosponsored the bill.

Mr. Chairman, this is a good bill. It will correct an injustice that should be speedily adopted.

Mr. Chairman, in connection with the remarks a few minutes ago, and the colloquy between the gentlewoman from New Jersey (Mrs. FENWICK) and the gentlewoman from Maryland (Mrs. SPELLMAN), some mention was made of the cost of the bill. Let me qualify one point. All the bill does is simply to allow—permits but does not require—permits and allows 4,000 eligible workers to retire if they have, but if everybody retired the retire. It is an optional retirement provision if they think they have come up against a career roadblock and they want to get out. If everyone took advantage of this, and we have many letters from Federal employees who say they do not want to retire, that they will continue the job they have, but if everybody retired the cost would be $104 million added to the funded civil service retirement system.

Mr. Chairman, I want to make it clear that this is not a mandatory retirement. It gives some people who in good faith took Federal jobs an option to pick up these fair terms of retirement.

Mr. Chairman, I hope my colleagues will speedily pass this legislation.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I know of the wonderful work the gentleman has done as has indeed the gentlewoman from Maryland and the gentleman from Illinois (Mr. DERWINSKI) in this whole area. However, Mr. Chairman, it does seem to me we are going to have to call a halt somewhere. This should have been done by attrition. If it is going to apply to promotion and hiring, in an effort to bring more Indians into those bureaus concerned with their welfare—which is good and right—it should be done by attrition and not through injustice to other employees.

Mr. Chairman, we are not going to get anywhere if all our problems have to be resolved with more expenditures for the general taxpayers. We cannot continue like this.

Mr. UDALL. I appreciate that, Mr. Chairman. I join in those sentiments. However, we have tried for several years to resolve this in different ways.

Mrs. FENWICK. Why not by attrition?

Mr. UDALL. Well, we tried to give these people a chance to shift to other agencies, to HEW.

Mrs. FENWICK. Mr. Chairman, why not have a bill that would say that Indians shall have preference by attrition. When someone else retires that an Indian shall have preference. But why a sudden cutoff?

Mr. UDALL. Well, Mr. Chairman, I hate to see a conflict between our Indian citizens and our non-Indian citizens.

Mrs. FENWICK. So do I.

Mr. UDALL. We have adopted for good reasons the Indian preference law. In adopting the preference law we sometimes create an injustice for other people. There are different ways to handle the problem as the gentlewoman suggested. We think this is the only feasible and readily available way to go. We tried this last year on a somewhat different bill and got beat. We think this bill can pass the House this year.

Mrs. FENWICK. I thank the gentleman.

Mr. UDALL. I yield back the balance of my time.

Mr. DERWINSKI. Mr. Chairman, this legislation is little more than a surrender of the Bureau of Indian Affairs and the Indian Health Service to those less capable of objectively administering the programs of those agencies.

Proponents of the legislation cite court decisions on the application of the Indian Preference Laws which in effect have said to non-Indian employees they have no hope of career advancement or even the normal job security. The legislation is promoted as a correction of this gross inequity. The inequity commenced with the distortion of the preference law.

In fact, the legislation cements into law this inequity and stimulates the exodus of capable and competent career professionals whose replacements may turn out to be of less than equal talent.

The bill deals with the issue on a short-term basis but ignores the real prospect of deterioration in the administration of the laws and programs affecting Indians throughout the country. The real victims are the Indians.

Nor should we ignore the radical elements of the Indian community and we cannot ignore radical actions in the past that involved the ravaging of Federal property. Does it make any sense to

channel taxpayers' money which supports Indian services under the BIA and IHS into the hands of those with a history of disregard for the laws of our land?

This portends a sad state of affairs for the Bureau of Indian Affairs and the Indian Health Service.

Should this legislation become law, I predict the day will come when we will take to the floor once again to reinstate the proper personnel procedures over these two agencies in the aftermath of the chaos created by our action today.

Frankly, Mr. Chairman, I think the real problem will come years from now when many of these truly able people will have left the BIA and the management of that controversial agency will even show less effectiveness. I am convinced that years from now we are going to have to undertake a major reform of the BIA, when we find that it is being mismanaged by the people who will have so easily inherited all control.

Mr. Chairman, this bill, of course, does not touch that issue. This bill is intended to help those individuals now frozen who, in fact, are being discriminated against and, therefore, want an early out. It is costly. It is $6 million a year. It sets a bad precedent. I see nothing meritorious in it. As a matter of fact, I think it is such a bad bill I did not even draft an amendment to try to perfect it. It is beyond perfection.

Mr. Chairman, having given the House the benefit of my words of wisdom, I yield at this point 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I thank the gentleman from Illinois.

It is well to look back on the history of this bill. In 1976 President Ford vetoed a bill which we had passed in Congress. Then they brought this matter up last year in 1978. The bill lost 204 "no" to 118 "aye." I want to repeat that. It went down almost 2 to 1, 204 "no" to 118 "aye."

□ 1340

Now, when we talk about fairness, and I know what mixed feelings my good friend, the gentlewoman from Maryland, has about this, what are we going to do to maintain a strong civil service system in America if every time a situation develops, we start making exceptions. We are going to bust that civil service system. It will end up as financially bankrupt as social security.

At this time, the civil service pension fund is the soundest of all the Federal pension systems.

Now, the people that work at the BIA have known since 1972 about this problem. They have been able to transfer into other divisions. They have had 7 years with their rank and their positions, and they could have transferred into another position; but instead, they stayed there. They have chosen to make it a career.

There are two things about this pension erosion that disturb me a great deal. The first one is that they are entitled to retire at age 50. One of the greatest problems with retirement today is the fact that people are not retiring at 60. We are just overburdening. We are putting too much of a burden on the plan. Not only are these people entitled to retire at age 50, but under certain circumstances they can retire at age 48 under this plan.

The other thing that comes up under the plan, and I look for it to be exercised often, frequently and at every opportunity, is the provision where they are involuntarily separated. Now, what happens in a department of this type, and we all know the history, is that people find by talking to others in the section that there is a way of reclassifying and there is a certain accommodation that exists in trying to help a person get out. So they get the job set up where it is an involuntary separation. For whatever reason that they put through this plan, when we take 4,000 people in civil service and put them on retirement too soon, we are taking the worst step backward in the world.

Let us make the civil service pension plan the best. Let us make the requirements much stronger. Let us not make this exception today. Let us use the same wisdom we used last year. Let us vote this plan down.

Mrs. SPELLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. STEED).

Mr. STEED. Mr. Chairman, I rise in support of this legislation.

First, I want to congratulate the chairman of the committee, the gentleman from Arizona (Mr. UDALL) and the chairperson of the subcommittee, the gentlewoman from Maryland (Mrs. SPELLMAN) for the fine job they have done in bringing this bill here.

I would like to just make one or two points clear. It is fine to talk about a sound civil service program, but if you have to do it by discriminating against innocent people, I do not think anybody would want to achieve soundness that way. That is the weight of the argument of the gentleman from Texas.

Besides, if these people we are dealing with here today had not been in the Indian service, they would have had to hire somebody else; so the impact on the retirement system would have been the same as it would be if this bill is enacted here today. So this is a specious argument about what the impact of this bill will be.

We have a problem here that affects only a few people and it is an easy bill to jump on and kick around; but if you do that, I want you to know that I cannot believe anybody who really understands what this problem is would want to be a party to having make their Government be unfair and discriminatory against good and faithful people working for it.

Now, there is another side to this question that ought to be kept in mind. We got into this trouble because we were trying to be good and helpful to a minority group, the original minority group in America, our Indians, and bring them into this service and let them get to the point where they could run this service.

To keep this thing the way it is, we are shortcircuiting the effect of that program. We are making it more difficult for Indians in the service to get promoted and this is one of the things that is causing the most trouble today.

I happen to have an area Indian office in my district and I cannot believe that I know anybody in this House that would be against this legislation if they had the same problem in their districts as I have in my district and have come to know this problem as I have, because it is a strict simple matter of trying to get your Government back at a fair level with some good people that have been working for it.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. STEED. I would be glad to yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Chairman, I know what a great friend the gentleman is of the Indians and the gentleman has civil service; so the gentleman has both groups represented.

What is the limitation from the people that work for the BIA in transferring into civil service and continuing to do service to the country to keep their same rank? They are entitled to retain their civil service.

Mr. STEED. That is true; but the point is that the skills they have working in the Indian service just do not have any marketplace in the rest of the Government. We made all kinds of efforts to get these people transferred and they have, too. We have not been able to find many places where they can fit and where their skills would be used, except in this service.

They have done a very fine job of staying on and helping our Indian employees learn this job. I think we owe them a debt of gratitude and we ought to be fair with them and rectify this injustice.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. STEED. I would be glad to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, in regard to the concern of the gentleman from Texas, would it not be fair to say that these people were locked in, that some of them were 45 then?

Mr. STEED. The gentleman is correct. They were made victims beyond their own responsibility.

Mr DERWINSKI. Mr Chairman, I yield 5 minutes to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Chairman, I rise in support of this legislation, H.R. 1885. As a sponsor of a similar bill, I believe it presents an equitable solution to the unique position that approximately 4,000 employees of the Bureau of Indian Affairs and the Indian Health Service find themselves in through no fault of their own.

These are employees whose career opportunities have been adversely affected because the Wheeler-Howard Act that provided for the preferential hiring of Indians by the BIA and also for preference for subsequent promotions was not enforced until relatively recently.

When these non-Indian employees of the BIA and IHS began their service, they thought they would be able to compete equally with Indians and other employees for promotion, lateral transfers and reassignments to vacant positions within these two agencies. However, now that the Wheeler-Howard Act is being enforced, they cannot compete equally. This situation is unfair to them as it is to Indian employees of these agencies who are being adversely affected because they cannot advance into positions held by nonpreference employees who are frozen in position and are now unlikely to be promoted or transferred.

This legislation by providing an extra one-half percent in the computation of their annuities encourages these non-Indian employees to retire earlier than might normally be the case. This will both help to accomplish the purpose of the Wheeler-Howard Act and provide relief for those who have not been able to advance in their jobs because of that law. I urge my colleagues to support this bill.

● Mr. DANIEL B. CRANE. Mr. Chairman, as you know, this legislation is no stranger to the House. Similar legislation was rejected on two separate occasions. As late as 1978, the House defeated, under suspension of the rules, a Senate-passed bill by a lopsided vote of 204 nays to 118 yeas. The measure not only did not receive the required two-thirds vote, but failed to even muster a simple majority. On the basis of this record, I believe it is a waste of time for the House to even consider this measure.

While the bill will be considered under an open rule, I do not believe any amendments will be offered because the bill is based on a faulty premise. That is, the bill provides for non-Indian employees who have completed 25 years of service or have obtained age 50 with 20 years of service to be eligible for preferential early retirement under the civil service retirement system. Using the civil service retirement system to solve what is essentially a personnel management problem is a mistake especially when there are more appropriate administrative solutions.

I am sympathetic to the limited career prospects of non-Indians because of Indian preference. But the legislative approach should be in the direction of placing these employees in other positions in the Government. The Office of Personnel Management and the affected agencies must involve themselves in a more concerted, aggressive job placement program. It is difficult to understand why a government, which employs over 2.8 million employees, cannot place a little over 4,000 employees, no matter the diversity of their positions, into other productive work in the Federal Government.

If we approve this measure, we should be prepared to provide the same sort of "fix" to many other personnel problems in the Government which can easily be characterized as cases of unusual circumstances. The cost of this bill may not be considered a large sum—$104 million, which would be financed in equal annual installments of $6.5 million over the next 30 years. However, the future financial impact is considerable if we apply this legislative approach to other similar personnel situations in the Government. We are setting a very dangerous precedent.

I, along with other Republican members of the committee, appreciate the concerns of the supporters of this legislation and recognize the pressures on Members to support this bill, but it is not a practical way to solve a critical problem involving the essential functioning of the Bureau of Indian Affairs and the Indian Health Service.

Rather than attempt to resolve this problem on a short-range basis, as is contemplated by this bill, it is far more logical for the Congress to address the problem of competing preferences before we are faced with an even greater personnel management dilemma in the future.

Mr. Chairman, I urge defeat on this measure.●

Mr. DERWINSKI. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mrs. SPELLMAN. Mr. Chairman, I just want to point out a couple things to my colleagues who have some concerns about this bill.

First, the idea of lateral transfer is an ideal one, except that it just does not work. We have tried this. We have worked on it since 1975. These are people with skills so specialized that we have not been able to get lateral transfers for them.

I also want to point out that we want a strong civil service. We want a strong civil service retirement program, but a strong civil service is not fostered by hiring employees under false pretenses. These people were hired under false pretenses, mistakenly, true, but false pretenses as it turns out.

The bill will give increased benefits only for those years that an employee was affected by Indian preference, that is from 1972 on. It does not give increased benefits for the whole career of the employee.

Mr. Chairman, there was another point I wanted to make, which escapes me at the moment; but I would say that in all fairness to these people that this bill should be passed.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8336 of title 5, United States Code, is amended by redesignating subsection (i) as subsection (j) and inserting after subsection (h) the following new subsection:

"(i)(1) Except as provided in paragraph (3), an employee is entitled to an annuity if he—

"(A)(i) is separated from the service after completing 25 years of service or after becoming 50 years of age and completing 20 years of service, or

"(ii) is involuntarily separated, except by removal for cause on charges of misconduct or delinquency, during the 2-year period before the date on which he would meet the years of service and age requirements under clause (i),

"(B) was employed in the Bureau of Indian Affairs, the Indian Health Service, a tribal organization (to the extent provided in paragraph (2)), or any combination thereof, continuously from December 21, 1972, to the date of his separation, and

"(C) is not entitled to preference under the Indian preference laws.

"(2) Employment in a tribal organization may be considered for purposes of paragraph (1)(B) of this subsection only if—

"(A) the employee was employed by the tribal organization after January 4, 1975, and immediately before such employment he was an employee of the Bureau of Indian Affairs or the Indian Health Service, and

"(B) at the time of such employment such employee and the tribal organization were eligible to elect, and elected, to have the employee retain the coverage, rights, and benefits of this chapter under section 105(e)(2) of the Indian Self-Determination Act (25 U.S.C. 450i(a)(2); 88 Stat. 2209).

"(3)(A) The provisions of paragraph (1) of this subsection shall not apply with respect to any separation of any employee which occurs after the date 5 years after—

"(i) the date the employee first meets the years of service and age requirements of paragraph (1)(A)(i), or

"(ii) the date of the enactment of this paragraph, if the employee met those requirements before that date.

"(B) For purposes of applying this paragraph with respect to any employee of the Bureau of Indian Affairs in the Department of the Interior or of the Indian Health Service in the Department of Health, Education, and Welfare, the Secretary of the department involved may postpone the date otherwise applicable under subparagraph (A) if—

"(i) such employee consents to such postponement, and

"(ii) the Secretary finds that such postponement is necessary for the continued effective operation of the agency.

The period of any postponement under this subparagraph shall not exceed 12 months and the total period of all postponements with respect to any employee shall not exceed 5 years.

"(4) For the purpose of this subsection—

"(A) 'Bureau of Indian Affairs' means (i) the Bureau of Indian Affairs and (ii) all other organizational units in the Department of the Interior directly and primarily related to providing services to Indians and in which positions are filled in accordance with the Indian preference laws.

"(B) 'Indian preference laws' means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986), or any other provision of law granting a preference to Indians in promotions or other Federal personnel actions.".

(b) Section 8339(d) of title 5, United States Code, is amended—

(A) by inserting "(1)" before "The"; and

(B) by adding at the end thereof the following new paragraph:

"(2) The annuity of an employee retiring under section 8336(i) of this title is computed under subsection (a) of this section, except that with respect to service on or after December 31, 1972, the employee's annuity is—

"(A) 2½ percent of the employee's average pay multiplied by so much of the employee's service on or after that date as does not exceed 20 years; plus

"(B) 2 percent of the employee's average pay multiplied by so much of the employee's service on or after that date as exceeds 20 years.".

(c) The first sentence of section 8339(h) of title 5, United States Code, is amended—

(1) by inserting "(d)(2)," after "(b),"; and

(2) by striking out "or (h)" and inserting in lieu thereof ", (h), or (i)".

(d)(1) The amendments made by this section shall take effect October 1, 1979.

(2) In the case of an employee who separated from service on or after the date of the enactment of this Act and before October 1, 1979, the amendments made by this section shall apply with respect to such separation to the same extent and in the same manner as if such amendments had been in effect at the time of such separation, but only if application therefore is made to the Office of Personnel Management within 1 year after the effective date of such amendments.

(3) No amount of annuity accruing by reason of such amendments shall be payable for any period before October 1, 1979.

Sec. 2. (a) For purposes of applying reduction-in-force procedures under subsection (a) of section 3502 of title 5, United States Code, with respect to positions within the Bureau of Indian Affairs and the Indian Health Service, the competitive and excepted service retention registers shall be combined, and any employee entitled to Indian preference who is within a retention category established under regulations prescribed under such subsection to provide due effect to military preference shall be entitled to be retained in preference to other employees not entitled to Indian preference who are within such retention category.

(b)(1) The Indian preference laws shall not apply in the case of any reassignment within the Bureau of Indian Affairs or within the Indian Health Service (other than to a position in a higher grade) of an employee not entitled to Indian preference if it is determined that under the circumstances such reassignment is necessary—

(A) to assure the health or safety of the employee or of any member of the employee's household;

(B) in the course of a reduction in force;

(C) because the employee's working relationship with a tribe has so deteriorated that the employee cannot provide effective service for such tribe or the Federal Government; or

(D) because failure to reassign the employee would seriously impair the provision of a necessary service to Indians or would jeopardize the effective operation of the service or activity in which the employee is employed.

(2) The authority to make any determination under subparagraph (A), (B), (C), or (D) of paragraph (1) is vested in the Secretary of the Interior with respect to the Bureau of Indian Affairs and the Secretary of Health, Education, and Welfare with respect to the Indian Health Service, and, notwithstanding any other provision of law, the Secretary involved may not delegate such authority to any individual other than an Under Secretary or Assistant Secretary of the respective department.

(c)(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action respecting an employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action.

(2) The provisions of section 8336(i) of title 5, United States Code (as added by the preceding section of this Act), shall not apply to any individual who has accepted a waiver with respect to a personnel action pursuant to paragraph (1) of this subsection or to section 1131(f) of the Education Amendments of 1978 (25 U.S.C. 2011(f); 92 Stat. 2324).

(d) The Secretaries of Interior and Health, Education, and Welfare shall each submit to the Congress a report following the close of each fiscal year with respect to the actions which they took in such fiscal year to recruit and train Indians to qualify such Indians for positions which are subject to preference under the Indian preference laws. Such report shall also include information as to the grade levels and occupational classifications of Indian and non-Indian employees in the Bureau of Indian Affairs and the Indian Health Service.

(e)(1) The Office of Personnel Management shall provide all appropriate assistance to the Bureau of Indian affairs and the Indian Health Service in placing non-Indian employees of such agencies in other Federal positions. All other Federal agencies shall cooperate to the fullest extent possible in such placement efforts.

(2) The Secretaries of Interior and Health, Education, and Welfare, and the Director of the Office of Personnel Management shall each submit a report to Congress following the close of each fiscal year with respect to the actions which they took in such fiscal year to place non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service in other Federal positions.

(f) For the purposes of this section—

(1) The term "tribal organization" means—

(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c); 85 Stat. 688)); or

(B) in connection with any personnel action referred to in subsection (c)(1) of this section, any legally established organization of Indians which is controlled, sanctioned, or chartered by a governing body referred to in subparagraph (A) of this paragraph and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

(2) The term "Indian preference laws" means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions.

(3) The term "Bureau of Indian Affairs" means (A) the Bureau of Indian Affairs and (B) all other organizational units in the Department of the Interior directly and primarily related to providing services to Indians and in which positions are filled in accordance with the Indian preference laws.

Mrs. SPELLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

□ 1350

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

Just for the sake of the record, Mr. Chairman, I would like to note that I did not object to the unanimous-consent request. But I always smile when a committee has to come in with two or three pages of perfecting technical language. I would like to think that our able staff, when marking up the bill in committee, should be totally efficient, and that we would not have to go through this correcting procedure on the floor. But since this pattern also develops in other committees, I understand it, and I am pleased to support these amendments.

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Chairman, the gentlewoman from Maryland would like to point out to my colleague that, as he well knows, the reason for these technical amendments is that they were made necessary by the passage of the Panama Canal implementing legislation.

Mr. DERWINSKI. Do I understand that the Panama Canal has upset our Indians also?

Mrs. SPELLMAN. The Panama Canal implementing legislation has upset our laws, and we are making these laws conform with the others. Had we not done so, I dare say the gentleman would have been on his feet now saying that we had been negligent and had not attempted to bring the laws into balance.

AMENDMENTS OFFERED BY MRS. SPELLMAN

Mr. Chairman, I offered a series of amendments, which are strictly technical in nature, and I ask unanimous consent that the amendments be considered as read, considered en bloc, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The amendments are as follows:

Amendments offered by Mrs. SPELLMAN: Page 10, beginning on line 13, strike out "redesignating subsection (i) as subsection (j) and inserting after subsection (h)" and insert in lieu thereof "redesignating subsection (j) as subsection (k) and inserting after subsection (i)".

Page 10, line 15, strike out "(i)(1)" and insert in lieu thereof "(j)(1)".

Page 13, strike out lines 9 through 12 and insert in lieu thereof the following: amended by adding at the end thereof the following new paragraph:

Page 13, line 13, strike out "(2)" and insert in lieu thereof "(5)".

Page 13, line 14, strike out "8336(i)" and insert in lieu thereof "8336(j)".

Page 13, line 25, strike out "(d)(2)" and insert in lieu thereof "(d)(5)".

Page 14, line 2, strike out "(i)" and insert in lieu thereof "(j)".

Page 14, strike out lines 3 through 15 and insert in lieu thereof the following:

(d) The amendments made by this section shall take effect on the date of the enactment of this Act.

Page 16, line 11, strike out "8336(i)" and insert in lieu thereof "8336(j)".

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Maryland (Mrs. SPELLMAN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KILDEE: Page 15, line 11, insert "or" immediately after the semicolon; on line 15, strike out "; or" and insert in lieu thereof a period; and strike out line 16 and everything that follows through line 20.

Page 15, line 22, strike out "subparagraph (A), (B), (C), or (D)" and insert in lieu thereof "subparagraph (A), (B), or (C)".

Mr. KILDEE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KILDEE. Mr. Chairman, the amendment which I am offering today will remove from H.R. 1885 a confusing subsection which was added to this legislation in committee with very little consideration. This provision, found in section 2(b)(1)(D), is a very general and ill-defined section which would allow the Secretaries of the Interior and Health, Education, and Welfare to unilaterally waive Indian preference in instances where they determine it is in the program's interests.

We are aware of the Agencies' poor performance in administering Indian preference. It is primarily due to the law being ignored for 40 years, the subsequent need for judicial action to force compliance, and poor internal administration and practices ever since. Most of today's problems in Indian preference can be directly traced to failure to practice what has been the law in a rational and reasonable manner.

The legislation currently before us, H.R. 1885, goes far in remedying one facet of this problem—the plight of thousands of non-Indian Indian Service employes who, through no fault of their own, find themselves the victims of past Bureau of Indian Affairs and Indian Health Service excesses and failures. I fully support this legislation and urge its passage.

However, this legislation is only meant to address this single facet. Any major change in Indian preference such as general waiver embodied in section 2(b)(1)(D) is out of place in this bill. Personally, I feel that such a blanket condonation of Bureau or IHS waivers is unnecessary. The current law, if administered properly, will remedy any current problems.

For this reason, I am offering this amendment to correct what I consider is a major flaw in H.R. 1885. I am happy to say that the committee has responded positively to my concerns and has agreed to accept this amendment. I appreciate this action and pledge that I stand ready to work with any of my colleagues to fashion reasonable and considered remedies to any specific program problems within the Bureau or Indian Health Service related to the Federal policy of Indian preference.

Mr. HINSON. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Mississippi.

Mr. HINSON. Mr. Chairman, I rise to offer support for the amendment offered by the gentleman from Michigan (Mr. KILDEE). H.R. 1885 is a bill which has been the focus of House consideration not once, but two times prior to our consideration today. Although the subject matter is not new, there has been a broadening of the conditions for waiving the Indian preference laws—an addition to which I am opposed.

The bill which is before us, if passed, will weaken the doctrine of Indian preference. Current law provides for Indian preference in the case of hiring reassignment of employees within the Bureau of Indian Affairs and within the Indian Health Service. To eliminate Indian preference in the area of assignment and the Indian Health Service is clearly beyond the intended scope of the law.

The Kildee amendment to the Department of Education bill removed Indian education from the clutches of the new Department. The House, by that vote, overwhelmingly affirmed its strong support for the doctrine of Indian preference and for the idea that the BIA itself is best able to set and manage Indian educational priorities. To pass this bill into law then, with its broad new waiver, would in effect negate the hard-won definition of preference as defined by the courts and would do a profound disservice to the efforts of American Indians to have a say in their own affairs free of the heavy, paternalistic hand of Uncle Sam.

To waive Indian preference laws in reassignments because the failure to reassign the non-Indian employee would impair the quality of service to Indians is a license far beyond the scope of the limited waiver that is already contained in the bill.

Indian preference laws were enacted for the express purpose of giving Indians preference in employment opportunities in the Bureau of Indian Affairs and in the Indian Health Service for any given employment position. To provide for broad waiver authority of these statutes would have the effect of negating the very protections the Indian preference laws insure. The gentleman from Michigan is to be commended for his vigilant defense of people who historically, have been virtually defenseless. It is a privilege to join in support of the amendment. I urge my colleagues to support the amendment and preserve intact the doctrine of Indian preference that is threatened by this bill.

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Chairman, the committee accepts the amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had mentioned earlier that I believe this bill is basically flawed and in fact cannot be helped by adopting amendments. I respect the gentleman who offered this amendment as a very knowledgeable, conscientious, effective Member. Trying to make a silk purse out of a sow's ear is always difficult, but in the spirit of cooperation and in the interest of the business of the House, we accept the amendment, with the admonition that it cannot change the basic flaws in the bill.

The CHAIRMAN. The question is on the amendment by the gentleman from Michigan (Mr. KILDEE).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair (Mr. FLIPPO), Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1885) to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies, pursuant to House Resolution 437, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 175, nays 120, not voting 138, as follows:

[Roll No. 611]

YEAS—175

Abdnor	Dellums	Hollenbeck
Akaka	Dicks	Horton
Albosta	Dingell	Hutto
Alexander	Dodd	Hyde
Ambro	Donnelly	Jeffords
Andrews, N. Dak.	Downey	Jenrette
Annunzio	Eckhardt	Johnson, Calif.
Anthony	Edwards, Calif.	Johnson, Colo.
Aspin	Edwards, Okla.	Jones, Tenn.
Atkinson	English	Kazen
Bailey	Erdahl	Kildee
Baldus	Ertel	Koguvsek
Barnard	Evans, Ind.	Kostmayer
Barnes	Fary	Latta
Beard, R.I.	Pascell	Lederer
Bevill	Fazio	Lehman
Bingham	Ferraro	Leland
Blanchard	Fisher	Lloyd
Boner	Flippo	Long, La.
Bouquard	Ford, Tenn	Long, Md.
Brademas	Frost	Lott
Brinkley	Garcia	Lowry
Brodhead	Gaydos	Lujan
Brown, Calif.	Gephardt	Luken
Buchanan	Gibbons	Lundine
Burlison	Ginn	Markey
Burton, Phillip	Gonzalez	Marks
Carr	Goodling	Marlenee
Carter	Gore	Marriott
Chisholm	Gray	Mathis
Clausen	Gudger	Matsui
Coleman	Guyer	Mica
Collins, Ill.	Hall, Ohio	Mikulski
Coughlin	Hall, Tex.	Miller, Calif.
Danielson	Harkin	Mineta
Daschle	Harris	Mitchell, Md.
Davis, Mich.	Hawkins	Mollohan
de la Garza	Heftel	Murphy, Pa.
	Hinson	Murtha

Myers, Pa.
Nedzi
Nowak
Oberstar
Panetta
Patterson
Pease
Peyser
Pickle
Preyer
Price
Rangel
Ratchford
Reuss
Rhodes
Rinaldo
Roe
Roybal
Runnels
Sabo
Schroeder
Sebelius
Seiberling
Shannon
Shelby
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Stangeland
Steed
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Thompson
Udall
Ullman
Vento
Walgren
Waxman
Weaver
White
Whittaker
Williams, Mont.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Alaska
Young, Mo.
Zablocki

NAYS—130

Anderson, Calif.
Andrews, N.C.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bowen
Broomfield
Brown, Ohio
Broyhill
Burgener
Byron
Campbell
Carney
Cheney
Collins, Tex.
Conte
Corcoran
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derrick
Derwinski
Duncan, Tenn.
Edwards, Ala.
Emery
Erlenborn
Evans, Del.
Fenwick
Findley
Fountain
Frenzel
Gilman
Gingrich
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Hagedorn
Hamilton
Hammer-schmidt
Hance
Hansen
Harsha
Heckler
Holt
Holtzman
Hopkins
Hubbard
Hughes
Ichord
Jacobs
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Leach, Iowa
Leath, Tex.
Lent
Levitas
Lewis
Loeffler
Lungren
McDonald
Madigan
Martin
Mazzoli
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Natcher
Neal
O'Brien
Pashayan
Paul
Petri
Pritchard
Rahall
Regula
Ritter
Robinson
Rose
Roth
Royer
Satterfield
Sawyer
Schulze
Sensenbrenner
Sharp
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stenholm
Tauke
Taylor
Trible
Vander Jagt
Volkmer
Walker
Wylie

NOT VOTING—138

Addabbo
Anderson, Ill.
Ashley
AuCoin
Bedell
Biaggi
Boggs
Boland
Bolling
Bonior
Bonker
Breaux
Brooks
Burton, John
Butler
Cavanaugh
Chappell
Clay
Cleveland
Clinger
Coelho
Conable
Conyers
Corman
Cotter
Crane, Philip
D'Amours
Davis, S.C.
Devine
Dickinson
Diggs
Dixon
Dornan
Dougherty
Drinan
Duncan, Oreg.
Early
Edgar
Evans, Ga.
Fish
Fithian
Flood
Florio
Foley
Ford, Mich.
Forsythe
Fowler
Fuqua
Gialmo
Glickman
Goldwater
Hanley
Hefner
Hightower
Hillis
Holland
Howard
Huckaby
Ireland
Jenkins
Jones, N.C.
Jones, Okla.
Kastenmeier
LaFalce
Leach, La.
Lee
Livingston
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Mattox
Mavroules
Michel
Minish
Moakley
Moffett
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Nelson
Nichols
Nolan
Oakar
Obey
Ottinger
Patten
Pepper
Perkins
Pursell
Quayle
Quillen
Railsback
Richmond
Roberts
Rodino
Rosenthal
Rostenkowski
Rousselot
Rudd
Russo
Santini
Scheuer
Skelton
Slack
Staggers
Stanton
Stark
Stockman
Symms
Thomas
Traxler
Treen
Van Deerlin
Vanik
Wampler
Watkins
Weiss
Whitehurst
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wydler
Yatron
Young, Fla.
Zeferetti

□ 1410

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Quayle.
Mr. Addabbo with Mr. Symms.
Mr. Rodino with Mr. Livingston.
Mr. Moorhead of Pennsylvania with Mr. Devine.
Mr. Foley with Mr. Whitehurst.
Mr. Cotter with Mr. McClory.
Mr. Zeferetti with Mr. Lee.
Mr. Van Deerlin with Mr. Williams of Ohio.
Mr. John L. Burton with Mr. Bob Wilson.
Mr. Florio with Mr. Dixon.
Mr. Gialmo with Mr. Dougherty.
Mr. Nichols with Mr. Winn.
Mr. Nolan with Mr. McKinney.
Mr. Moakley with Mr. Holland.
Mr. Minish with Mr. Leach of Louisiana.
Mr. McCormack with Mr. Mattox.
Mr. Kastenmeier with Mr. McCloskey.
Mr. Howard with Mr. Thomas.
Mr. Hanley with Mr. Scheuer.
Mr. Patten with Mr. Rousselot.
Mr. Richmond with Mr. McDade.
Mr. Santini with Mr. Flood.
Mr. Staggers with Mr. Young of Florida.
Mr. Vanik with Mr. Cleveland.
Mr. Whitley with Mr. Rudd.
Mr. Montgomery with Mr. Perkins.
Mr. Obey with Mr. Weiss.
Mr. Early with Mr. Skelton.
Mr. Drinan with Mr. Fowler.
Mr. Corman with Mr. Duncan of Oregon.
Mr. Brooks with Mr. Diggs.
Mr. Breaux with Mr. Davis of South Carolina.
Mr. AuCoin with Mr. Hefner.
Mr. Ashley with Mr. Hightower.
Mr. Biaggi with Mr. Huckaby.
Mr. Bedell with Mr. Moffett.
Mr. Bonior of Michigan with Mr. McKay.
Mr. Clay with Mr. Jenkins.
Mr. Jones of Oklahoma with Mr. McEwen.
Mr. Rosenthal with Mr. LaFalce.
Mr. Pepper with Mr. Anderson of Illinois.
Mr. Ottinger with Mr. Michel.
Mr. Maguire with Mr. Myers of Indiana.
Mr. Boland with Mr. Stockman.
Mr. Chappell with Mr. Wampler.
Mr. D'Amours with Mr. Pursell.
Mr. Edgar with Mr. Quillen.
Mr. Evans of Georgia with Mr. Dickinson.
Mr. Fithian with Mr. Conable.
Mr. Jones of North Carolina with Mr. Butler.
Mr. Mavroules with Mr. Clinger.
Mr. McHugh with Mr. Philip M. Crane.
Mr. Watkins with Mr. Railsback.
Mr. Charles H. Wilson of California with Mr. Stanton.
Mr. Murphy of New York with Mr. Dornan.
Mr. Murphy of Illinois with Mr. Fish.
Mr. Whitten with Mr. Forsythe.
Mr. Charles Wilson of Texas with Mr. Goldwater.
Mr. Yatron with Mr. Hillis.
Mr. Fuqua with Mr. Ireland.
Mr. Mottl with Mr. Nelson.
Ms. Oakar with Mr. Stark.
Mr. Traxler with Mr. Stack.
Mr. Rostenkowski with Mr. Glickman.
Mr. Russo with Mr. Coelho.
Mr. Roberts with Mr. Ford of Michigan.
Mr. Cavanaugh with Mr. Conyers.

Messrs. DICKS, NEDZI, and PREYER changed their votes from "nay" to "yea."

Messrs. SAWYER, PREYER, APPLEGATE, and BURGENER changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1885, just passed.

The SPEAKER pro tempore (Mr. FARY). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

ANNUAL REPORT FOR 1978 OF FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

To the Congress of the United States:

In accordance with Section 205(f) of the Older Americans Act of 1965 (P.L. 93–29), I am transmitting to Congress the Annual Report for 1978 of the Federal Council on Aging.

This report has been prepared by the Federal Council on Aging and submitted to me as required by law. The Report describes the Council's activities in 1978 and those proposed for 1979.

JIMMY CARTER.

THE WHITE HOUSE, *October 26, 1979.*

AN END TO POLITICAL HOSTAGES

(Mr. LOEFFLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOEFFLER. Mr. Speaker, earlier this month, literally millions of the most disadvantaged members of our society—the elderly, the poor, and the disabled veteran—had their fragile existence thrown needlessly and recklessly into total chaos. Likewise, millions of civil servants and military personnel agonized about where money would come from to pay for such "luxuries" as food and shelter. Those without savings to fall back on, faced a particularly uncertain future.

It behooves us as responsible Members of Congress to investigate the cause of this widespread tragedy. Unfortunately, we need look no further, Mr. Speaker, than to this Chamber and to the other body. Needless anxiety came about because Congress in a troubling show of insensitivity not only failed to act responsibly and in a timely fashion upon vital appropriations bills, but tied up a vital continuing resolution—which would have provided temporary relief—because of internal squabbles between the House and the Senate.

Today I am introducing legislation that would prevent such needless disruption and procedural havoc in the future. This bill simply states that at the end of any fiscal year, those agencies and departments whose appropriations for the upcoming fiscal year have not passed the Congress in a timely fashion would automatically receive a continuing appropriation at the previous year's funding level.

The elderly, the poor, the disabled veteran as well as the families of civil servants and persons in the military need not be subject to suffering and uncertainty, because of fear that money for their livelihood will not be forthcoming. Public servants, as well as those persons dependent upon the Federal Government for their very existence, should not be penalized because of our inability to work within the parameters of the appropriations process.

Mr. Speaker, I urge the favorable consideration of this legislation by all my colleagues.

LEGISLATION TO PROVIDE TAX INCENTIVES TO ENCOURAGE INCREASED UTILIZATION OF ENERGY ALTERNATIVES

The SPEAKER pro tempore. Under a previous order to the House, the gentleman from Tennessee (Mr. BEARD) is recognized for 30 minutes.

● Mr. BEARD of Tennessee. Mr. Speaker, I recently introduced H.R. 5663, which provides tax incentives to encourage increased utilization of solar, wind, geothermal, hydroelectric, and biomass energy; industrial cogeneration; residential conservation; and alcohol fuel.

The technologies can have an important impact on our effort to reduce our unacceptably high use of imported oil. The technologies affected are generally currently available for wide scale use. However, tax incentives can importantly increase the rate at which our society makes these energy investments. Although loan and grant programs can also enhance use of new energy technology, I believe that meaningful tax incentives are an important way to encourage families and businesses all over the country to invest in America's energy future.

In summary, the bill provides:

Fifty percent tax credits available more promptly than currently, for expenditures by individuals for solar, wind, geothermal and conservation expenses;

Fifty percent tax credits for expenditures by business for solar, wind, geothermal, hydroelectric, biomass, and ocean-thermal energy conversion energy equipment. This consists of the 10-percent investment tax credit and a 40-percent refundable energy tax credit;

Revision and improvement of the provisions of the Energy Tax Act of 1978 relating to individual and business conservation, solar, wind, and geothermal energy; tax credits for cogeneration and for individual and business use of heat pumps;

More flexible Federal tax exemptions and credits for use of alcohol fuels; and extension of termination of related provisions of the Energy Tax Act of 1978 from the early and mid-1980's to the year 2000.

I will now describe the provisions of the bill in more detail.

INCREASED USE OF SOLAR, WIND, AND GEOTHERMAL ENERGY BY INDIVIDUALS

First. Level of credit. Present law provides a tax credit of 30 percent for the first $2,000 of expenditures on solar, wind and geothermal equipment, and 20 percent for the next $8,000. This produces maximum tax savings of $2,200 per household. This bill would simplify and increase this credit. The bill provides a tax credit of 50 percent for costs up to $10,000. This produces a maximum savings of $5,000.

This bill had raised the tax credit to 50 percent, because of estimates by Prof. Robert Stobaugh of the Harvard Business School—energy future—and others that greater incentives are needed to hasten increased utilization of these new technologies.

Studies of solar heating commercialization by GAO and HUD found that tax credits below a threshold of 30 to 40 percent would have little effect on the number of new installations. The Harvard Business School energy project recommends a credit of 50 to 60 percent. After studying the potential impacts of tax credits, California raised their credit from 10 to 55 percent.

The wind energy mission analysis prepared by General Electric in 1977 for ERDA projects the potential energy contribution of small residential windmills. These are units with about 10-kilowatt capacity. Under a scenario where a 50-percent tax credit induced rapid implementation of these small wind systems, the study predicts installation of 416 million residential windmills by the year 2000. The annual energy output would be 103 kilowatt hours which would displace 192 million barrels a year.

Second. Principal residence. Current law limits the tax for solar, wind, geothermal and conservation property to property used in connection with the taxpayer's principal residence. This limits the effectiveness of the credit by denying it in several situations. For example, the tax credit would not normally be available for short-term residences—if this home is not the "principal residence"—for vacation or second homes; or for dwellings which the taxpayer rents to someone else. Substantial energy savings could result if taxpayers were given an incentive to use solar, wind, or geothermal property in these situations. In the case of rental property this could also lead to lower fuel bills for tenants. Therefore, the bill eliminates the "principal residence" rule.

Current law also denies the residential solar and conservation credits for residential uses other than the dwelling itself. This discourages use of new energy technologies and conservation property for residential, related uses, such as garages, greenhouses, and swimming pools. This differs from the California solar tax credit, and can impede solar investment. For example, a California Department of Revenue study of 1977 California tax returns, released August 1979, shows that 47 percent of the individual solar tax credits claimed in California in 1977 involved use of active solar systems for heating swimming pools. To help encourage use of solar and conservation property in these areas, this bill extends the solar and conservation tax credits to garages, greenhouses, and swimming pools.

Third. Photovoltaics. Photovoltaic systems use sunlight to generate electricity. The U.S. Department of Energy projects that photovoltaics could displace up to 215 million barrels of oil per day by the year 2000.

This bill makes photovoltaic equipment used by businesses eligible for the solar tax credit for businesses. This bill would extend the solar tax credit for individuals for photovoltaic equipment.

Fourth. Lease payments. Under current law, the solar wind, and geothermal credits are available for outright purchase of qualifying equipment, but not for lease payments for use of the equipment.

Many individuals are hesitant to commit relatively large sums of money to new energy technologies. This bill would encourage those individuals to lease energy-saving equipment by applying the energy tax credit to lease payments. This will also discourage installation of equipment which would not perform as promised, because the lessee could refuse to extend the lease if deficiences occurred. To avoid a "double dip," the lessor must certify to the lessee that he has not taken the energy tax credit on the equipment.

Fifth. Credit for the builder. Under current law, the first purchaser of a house is allowed to take the energy tax credit for equipment installed by the builder. This bill would also permit the builder to claim the tax credit himself. He would retain the option of passing the credit through to the first purchaser. Last year, California enacted a similar law. It has been partially responsible for the dramatic increase in sales of solar equipment in California. With the provision, I hope to extend that growth throughout the country. This bill contained an identical provision.

In Energy Future, Robert Stobaugh points out at page 168 that:

> Traditionally, the purchase price of a house, rather than that price plus operating cost, has been the chief concern of builder, buyer, and financing institution. Two-thirds of all the new single-family homes in 1971, for instance, were built for speculative sale. The builder was therefore interested in keeping the selling price down, and worried much less about longer term energy costs.

California's boom in new residential solar installations is due in part to the enthusiastic response of builders to the 55-percent credit, according to a recent California Energy Commission analysis. It has helped lead to the fact that 5,000 new solar subdivision homes were begun or completed by builders between January and mid-1979. Some builders take the credit themselves, and others chose to pass it through to the customer as a selling point.

For these reasons, I believe that extension of solar, wind and geothermal credits to builders will help increase its use.

Sixth. Joint purchasers. Several types of alternative energy equipment are well suited by use by several adjoining households. This could apply to duplexes, townhouse communities, or other small communities. A proposed Internal Revenue Service regulation permits owners of various residences to take the energy tax credit for a prorated share of the cost of jointly acquired equipment. This bill would put this rule into the statute.

Seventh. Prompt refund. Another provision of this bill would help low- and middle-income persons finance alternative energy equipment and improvements. Currently, the taxpayer receives this energy tax credit when he files his annual return. Thus, he may have to finance the full purchase and installation cost for as long as 16 months. We want to reduce this burden by allowing the homeowner to receive the credit as soon as possible. This bill would make the energy credit available against taxes paid the previous year. The taxpayer would file an amended return for the prior year, with the addition of his energy-saving expenditures. A similar procedure is available for disaster victims under section 167(k) of the Internal Revenue Code.

Eighth. Allocations. Current law is silent on the question of availability of the tax credit for geothermal, wind, and solar property which is also a structural component of a dwelling. Proposed IRS Regulation 1.44C-2 would deny the tax credit entirely for such equipment. This bill would provide the credit for the cost of solar, wind, and geothermal property which is also a structural component to the extent it exceeds the cost of the structural component without the solar, wind, or geothermal source feature.

INCREASED USE OF CONSERVATION PROPERTY BY INDIVIDUALS

First. Level of credit. Current law provides a tax credit of 15 percent up to $2,000 for investment by individuals and conservation property such as insulation, storm windows, and clock thermostats. This provides a maximum tax savings of $3,000 per household. This bill would increase the tax credit to 50 percent of costs up to $2,000. This would produce maximum tax savings of $1,000 per residence. This provision is added here because of the enormous energy savings potential in residential conservation, and estimates of Prof. Robert Stobaugh and others that higher incentives are needed to encourage fuller realization of potential energy savings in this area.

After presenting evidence from various energy conservation studies showing that a properly insulated house could cut its energy consumption from 25 to 67 percent, the authors of Energy Future state:

> The 1978 National Energy Act provides for a 15 percent tax credit on investments in residential conservation, but not to exceed $300. Although better than what has happened so far, the proposals are still rather modest, and still do not do enough to give conservation the chance it needs and deserves . . . It is nothing short of ridiculous that now, almost six years after the embargo, the U.S. does not yet have a broad-ranging national program of incentives to encourage retrofit. The speed with which retrofit can deliver substantial savings argues for a much more stimulative public policy, with tax credits up to 50 percent. Such a policy would signal the importance of retrofit and would encourage homeowners, entrepreneurs, and manufacturers. It would make retrofit economically attractive for some homeowners, and not only attractive but possible for others. Stobaugh, et al, p. 173.

Second. Heat pumps. The Energy Tax Act of 1978 provided tax credits for purchase of "energy conservation property." This bill adds heat pumps to the energy conservation property category for individuals, entitled to a 50-percent tax credit under the provisions of this bill. It also creates a 10-percent energy tax credit for purchases of industrial heat pumps. This bill also clarifies that water-well heat pumps, in addition to air heat pumps, would qualify for the tax credit.

Two recent studies have established that water-well heat pumps are far more energy efficient than conventional electric space heating systems. In March of this year, the University of Alabama, under contract to the DOE, concluded that a water-well heat pump system saves two-thirds of the energy required for electrical resistance heating. The Tennessee Valley Authority has also confirmed the energy efficiency of water-well heat pumps. According to the TVA, each residential water-well heat pump saves 11,610 kWh each year it replaces a central electric furnace home.

INCREASE USE OF NEW ENERGY TECHNOLOGIES BY BUSINESS

First. Energy equipment which is treated as a part of the structure for purposes of the investment tax credit. It is widely believed that last year's Energy Tax Act made solar and wind equipment—as well as several other categories of energy property—eligible for a 20-percent tax credit. This consisted of the 10-percent investment tax credit plus a new 10-percent energy tax credit. However, in many situations, the 10-percent investment tax credit is not available for solar and wind property. This is because the investment tax credit is not available for structural modifications or components, such as buildingwide heating and cooling systems or generators. That is particularly unfortunate since these are a primary use of solar and wind energy at this time.

This bill eliminates this problem by amending the investment tax credit to provide that the "structures" rule will be disregarded for solar, wind, geothermal, hydroelectric, biomass, and cogeneration equipment.

Second. Solar and wind energy. Current law provides a refundable 10-percent energy tax credit for qualifying solar and wind property. This additional increase is proposed because most experts believe that a much greater percentage would be needed to fully encourage increased use of solar and wind energy property, as well as many other types of new energy technology. Therefore, this bill would raise the refundable credit to 40 percent.

This bill also extends the tax credit to process applications of solar—as well as geothermal, wind, hydroelectric, and biomass—energy.

Wind-powered mechanical energy is not available for either the business or individual energy tax credits. This bill would make mechanical energy derived from wind—or solar, geothermal, biomass or hydroelectric energy—eligible for the 40-percent energy tax credit.

Wind-powered mechanical energy can be used to pump water for irrigation. New Mexico has included this excellent wind utilization among those applications eligible for its State energy tax credit. This bill will encourage farmers and others in all States to take advantage of wind-powered mechanical energy.

Third. Geothermal energy. Current law provides a 10-percent energy tax credit for geothermal property. This bill raises this to 40 percent.

Under current law, the credit for geothermal equipment—unlike wind and solar—is not refundable. This proposal would also make the credit refundable for geothermal equipment.

It is unclear under current law whether the tax credit for business and individual use of geothermal equipment covers the cost of drilling the well necessary to utilize the geothermal resources. This bill would expressly include such costs as eligible for the energy credit. However, to avoid a "double dip," a taxpayer would not be permitted to take the intangible drilling cost deduction if he elected the tax credit for drilling costs. The bill includes a similar provision for both business and individual use of geothermal energy. The President's Interagency Geothermal Coordinating Council has projected the potential contribution of geothermal to be the equivalent of 2.5 to 4 million barrels of oil per day by the year 2000.

Fourth. Hydroelectric energy. Both the House and Senate versions of the Energy Tax Act of 1978 provided tax incentives to increase hydroelectric generating capability on existing dams. The need to encourage this abundant, clean inexhaustible energy source was well recognized. However, partly to reduce the revenue loss of the bill, these provisions were deleted by the conference committee.

This bill would add hydroelectric to the list of "alternative energy property" categories for the proposed 40 percent refundable energy tax credit. Eligibility for this new credit would be based on language adopted by the Senate 2 years ago. However, the bill would not extend the credit to the dam structure. The credit would be available to encourage retrofitting of existing structures, for low-head hydroelectric power, and for hydroelectric equipment which does not rely on a structure to impound water.

While most dams during the past 40 years have incorporated electrical production, this was not true for older dams built primarily for flood control or to power small mills. In a study released July 1979, the Army Corps of Engineers has estimated total unused hydroelectric potential at existing dams to be up to 94,000 megawatts annually, equivalent to the electrical output of 94 modern nuclear reactors. This includes the upgrading of generating capacity at existing hydropowered dams. New England is most often mentioned as benefiting from such conversion. But examples of wasted hydropower exist throughout the country, such as in the Pacific Northwest.

Fifth. Biomass. The energy tax credit of 1978 provided a nonrefundable 10 percent "alternative energy property" credit for a wide range of equipment included in making or utilizing biomass fuels. This bill treats this important energy source like wind, solar, geothermal, and hydroelectric equipment by raising the credit from 10 to 40 percent, and by making it refundable.

Sixth. Ocean Thermal Energy Conversion ("OTEC"). This bill would make OTEC property eligible for the 40-percent refundable tax credits available for solar, wind, geothermal, hydroelectric, and biomass equipment.

Seventh. Cogeneration. "Cogeneration" is an old and proven practice. Cogeneration denotes any form of simultaneous production of electrical or mechanical energy and useful thermal energy such as heat, steam, or gas. A conventional industrial system produces either electricity or thermal energy; a cogeneration system produces both. For example, at a factory cogeneration might involve running high temperature gases through an electrical turbine before they are used for process heating.

In his national energy plan of 1977, President Carter cited cogeneration as an important technique for conserving domestic energy resources. Robert Stobaugh, in his recent book, Energy Future, called cogeneration "industry's North Slope." A 1975 study, done for National Science Foundation by Dow Chemical Co., concludes that by 1985 U.S. industry could meet approximately half of its own electricity needs through cogeneration. The study says this would amount to a savings of 2 to 3 million barrels of oil per day.

Cogeneration equipment is currently available. However, it is expensive and is not being purchased and used sufficiently. The bill would make utilities and industry eligible for a 10-percent energy tax credit for purchase and installation of cogeneration equipment. This would be in addition to the existing 10-percent investment credit.

Last year both the Senate and House passed legislation calling for cogeneration tax incentives. These were deleted in conference in an effort to reduce the overall cost of the Energy Tax Act of 1978. I believe that incentives to encourage investment in cogeneration equipment are now more necessary than ever before.

Eighth. Utilities. The Energy Tax Act of 1978 makes utilities ineligible for tax credits for equipment utilizing wind, solar, geothermal, hydroelectric, biomass, or cogeneration equipment. This bill would make utilities eligible for the 40-percent refundable tax credit applicable to these types of energy property. This will encourage use of these new energy technologies in the important utilities sector.

A recent study prepared in 1977 by General Electric under contract to the Energy Research and Development Administration (ERDA), now a part of DOE, projected a major wind contribution to the electric utility sector. Wind systems would significantly reduce the dependence on nuclear, coal, and oil for electrical generation, if given the proper incentives for rapid implementation. In the utility sector alone, G.E. projects wind systems would save the equivalent of 852 million barrels of oil in 2000, or 2.3 million barrels a day. The study concludes that "the utility market offers the greatest chance of significant oil, coal, and nuclear offset and is the lowest cost approach."

In addition, the National Energy Strategies Project of Resources for the Future has said, in "Energy in America's Future, the Choices Before Us" (1979), that some barriers to cogeneration would be less formidable if ownership and management of cogeneration facilities were vested in the utility rather than the industrial firm involved.

For these reasons, I believe that it is important for utilities to be encouraged to use solar, wind, geothermal, hydroelectric, biomass, and cogeneration property.

REFORMING EXISTING ALCOHOL FUELS INCENTIVES

Gasohol is a mixture of 10 percent alcohol and 90 percent gasoline. It is currently exempt from the 4-cent-per-gallon Federal gasoline tax. As a result, the retailer is encouraged to sell gasohol, but there is no incentive to increase the proportion of alcohol above 10 percent. I propose that the amount of tax incentives be matched to the amount of alcohol in the alcohol-gasoline mixture. An increased proportion of alcohol should earn increased tax benefits.

My bill would do this by repealing the present 4-cent-per-gallon exemption. In its place, it provides a 40-cent exemption for each gallon of alcohol sold in the alcohol-gasoline mixture.

Under the present 4 cents/gallon formula, 10 gallons of gasohol—containing 1 gallon alcohol, 9 gallons gasoline—earn a 40-cent tax exemption. Under this proposal, the 10 gallons gasohol—containing 1 gallon alcohol—would receive a 40-cent tax credit. However, if the alcohol content increases to 2 gallons alcohol and 8 gallons gasoline, the present formula still allows only a 40-cent exemption, while my proposed formula would provide an 80-cent credit. In sum, this bill would create an incentive to increase the alcohol content in gasohol, while present law does not.

The 40-cent credit would apply against either the dealer's Federal gasoline or diesel tax payments, or against his income tax payments. This would guarantee that the alcohol incentive will be fully available to small, independent retailers who sell relatively little gasoline.

ASSURING A LONG-TERM MARKET

Under the 1978 Energy Tax Act, the gasoline tax exemption expires October 1, 1984. I believe that to induce this type of investment, we must assure marketing incentives throughout the useful life of the alcohol production facility. This bill would extend the termination date of the tax exemption to the year 2000.

PHASEOUT OF THE INCENTIVE

Gasohol incentives are necessary because the price of alcohol-gasoline mixtures is higher than that of pure gasoline. However, with the increasing price of petroleum, alcohol-gasoline mixtures may eventually not need the tax exemption to be price competitive.

I propose that Treasury's annual gasohol report to Congress be expanded to include a calculation of the need for continued alcohol fuels incentives, and their appropriate level. The bill would also require that the report compare cost of alcohols produced from corn, wheat, wood, and other substances.

The Joint Committee on Taxation has preliminarily estimated that the revenue loss of this bill is as follows:

[In millions of dollars]

Provision	1980	1985	1990
Residential:			
Residential solar, wind, and geothermal	100	380	480
Residential conservation	1,345	1,780	(1)
Residential heat pumps	155	485	755
Delete primary residence test	240	300	(1)
Residential total	1,850	2,945	.....
Business:			
Cogeneration (excluding utilities)	60	150	300
Increment attributable to mechanical power	70	230	360
Hydroelectric property (excluding utilities)	190	450	570
Ocean thermal energy conservation property	.....	60	190
Solar and wind property	60	640	970
Geothermal property	50	80	110
Biomass property	640	830	1,110
Industrial heat pumps	50	100	200
Revision of structures rate for investment tax credit	.....	.....	.....
Provisions affecting utilities	210	540	880
Business total	1,320	3,080	.....
Alcohol fuels: Revision of current tax exemption	10	230	590
Total	3,180	6,255	.....

[1] Not available.

Source: Joint Committee on Taxation, preliminary estimates, Sept. 17, 1979.

TERMINATION DATES

Most of the provisions of the Energy Tax Act of 1978 expire in the early or middle 1980's. This is true of tax credits for business and residential use of solar, wind, and geothermal equipment; residential conservation equipment; and the gasohol tax exemption.

This bill extends these termination dates until the year 2000. This helps insure that manufacturers will make investments required to increase production in needed energy-related equipment and property. The energy problem will not be solved by a 2- or 4-year "quick fix." Therefore, long-term incentives such as these are required.

EFFECTIVE DATE

Experience has shown that when Congress is considering alterations to existing energy tax credits, sales of energy-saving equipment drop. Businesses and homeowners are reluctant to purchase now, when they anticipate a larger tax credit for purchasing the same equipment later. In anticipation of this dilemma, this bill has an effective date of July 24, 1979.

Mr. Speaker, I believe that through judicious use of tax incentives we can

promote alternatives to continued dependence on oil imports. Enactment of the Energy Tax Act of 1978 was a positive step forward. This bill will continue and expand upon that initiative.

I am hopeful that the House will give support and favorable consideration to this legislation. I welcome suggestions for strengthening this bill.●

EPA POLICY ON RURAL DUST NOT ADEQUATELY THOUGHT THROUGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 15 minutes.

● Mr. GRASSLEY. Mr. Speaker, I have spoken a number of times recently, both in Iowa and here on the House floor, about the fact that EPA has decided dust blowing off farm fields and off rural roads is a pollutant. Most cities in my home State of Iowa meet, or soon will meet, the national air quality standards designed to protect public health. We meet them even if we count windblown dust as a pollutant—a proposition I have trouble accepting. Any way you count it, we meet the health standard. Many of our towns do not meet the more strict air quality standard designed to protect our public welfare when this farm and rural road dust is counted. Now I am not sure what public welfare protection means in this situation. I am told it primarily means visibility—seeing better. As I have mentioned before, I think we see pretty well in Iowa right now. We certainly see more clearly how to solve this farm dust problem than the EPA planners here in Washington or in Kansas City do.

In counting windblown farm and road dust as pollutants, Iowa exceeds the national standard designed to protect the public welfare. EPA has decided that before major industries can build or expand in these areas they need to first reduce existing amounts of dust and similar particles from other sources. This is the offset policy. As a State, Iowa has relatively low levels of industrialization. Under the offset policy, many small communities in Iowa are committed to cut public dust sources by 50 percent, with little industrialization these reductions can only come from cutting farm and road dust. The fact is, this policy is not feasible socially or economically.

It is absurd on its face. I firmly believe it is one of the most ill-conceived and poorly reasoned schemes since OSHA came out with their regulations telling farmers that wet manure was slippery.

Under EPA policy, the rules to protect public welfare here in the East are different than those to protect public welfare in the West. Unfortunately, no one seems to know where the East stops and the West begins. I heard it was the Mississippi River. If it is, that is pretty important to my State, if policies are different for our neighbors in Illinois than for us in Iowa.

There is a more fundamental issue here. Where does EPA derive the authority to decide as a matter of policy to arbitrarily treat Western States differently from Eastern ones? Where is its statutory authority to implement a policy which penalizes farm States and Southwestern States more than all of the other States? Where are the regulations which EPA has promulgated giving itself that authority? To my knowledge, they do not exist. The only thing that does exist is an internal policy document, that, until now, only a handful of people have seen. Clearly, on matters as fundamental as this, on matters as costly as this, on matters as important as this to farm and Western States, this is not enough.

I have written to Mr. Costle and asked him to spell out in detail where his agency gets the authority to implement this sort of policy. I do not think he has it and I think they know it. I insert a copy of my letter to Mr. Costle in the RECORD at this point:

WASHINGTON, D.C.,
October 25, 1979.

Mr. DOUGLAS COSTLE,
Administrator,
Environmental Protection Agency,
Washington, D.C.

DEAR MR. COSTLE: As you know, I am greatly concerned about your agency's response to the State Implementation Plan recently submitted by the State of Iowa. Specifically, I am concerned about the manner in which your agency contends that farm and rural road dust, so-called "rural fugitive dust", should be handled under the plan. As I understand it, the EPA response to the fugitive dust portion of the Iowa plan is based upon an August 1, 1977, EPA policy document entitled: *Fugitive Dust Policy: SIP's and New Source Review*, which was forwarded to regional administrators on August 16, 1977. A copy of the policy and document and forwarding memo are attached for your convenience.

Under the policy, a distinction is made between "rural" and "urban" areas. In "rural" areas, fugitive dust is excluded when determining whether the national primary and secondary air quality standards have been met. In "urban" areas, such dust is not excluded. In the policy statement, "rural areas are defined very narrowly to include only those areas which 1) lack major industrial development, and 2) have populations under a certain size—under 25,000–50,000 for western states and under 100,000–200,000 for eastern states. All towns and cities not meeting both of those criteria are considered urban. Farm and rural road dust in these "urban" areas count as pollutants and must be added in when determining whether national air quality standards for particulates have been met. The policy does not distinguish between primary and secondary standards. It applies to both. As you surely must know, the economic and social impact of such a policy in agricultural states such as Iowa as well as in many southwestern states would be enormous. It would limit industrial growth severely and require heavy new local expenditures which we are now only beginning to understand. Yet, so far as I know, your agency's policy with respect to rural fugutive dust is not spelled out in any official regulation. It has not, to my knowledge, been developed by following the normal administrative procedures concerning regulations. If this is in fact so, it is a matter of extremely serious concern.

Would you please advise me whether the rural fugutive dust policy set out in the August 1, 1977, policy document is the official policy basis for your response to the Iowa State Implementation Plan so far as the fugutive dust portions of the Plan are concerned? If it is not, what is? If it is, please advise me whether this policy was adopted by regulations and furnish me with the citation of the regulation and the statutory authority upon which the regulation is based. If it has not been adopted by regulation, please advise me of the statutory authority which allows the EPA to establish the fugutive dust policy, define what are rural and urban fugutive dust areas without first adopting regulations according to normal legal procedures.

I will look forward to hearing from you in the near future.

Sincerely,

CHARLES E. GRASSLEY,
Member of Congress.

Mr. Speaker, what we have here is an EPA policy on rural dust which has not been adequately thought through so far as the standard for "public welfare" is concerned. In addition, we have an EPA policy for "offsets" that was designed to protect public health in Pittsburgh, Los Angeles and other large cities, but it is not applicable to any notion of public welfare in farm and Southwestern States. To make matters worse, EPA is applying these two policies to force State compliance with national air quality standards which are in the process of being revised to become more realistic.

Moreover, EPA is trying to apply their dust policy on the basis of an internal policy document, rather than on the basis of an official regulation. In short, this is an EPA program destined to eventually collapse from its own weight. How it was created, I do not know. But it should be dismantled before citizens and taxpayers are injured by it; and before its architects are ashamed to take responsibility for it.●

UNITED STATES SHOULD CONTINUE TO OBJECT TO REPRISALS IN COMMUNIST NATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 10 minutes.

● Mr. DERWINSKI. Mr. Speaker, this Sunday, October 28, marks a very important date in the history of Czechoslovakia, the birth of that nation's independence. By tragic coincidence, the announcement this week of the conviction of six human-rights activists during a mock trial in Prague displays further evidence of the Prague Government's continued suppression of dissent and denial of "basic rights" to its citizens.

The Czechs and Slovaks have a long and proud history which goes back over a thousand years. Although before 1914, they existed only as a nation within Austria-Hungary, the outbreak of World War I, led to a change in the outlook of the Czech and Slovak people, and a new vitality for independence arose. The spiritual head of this struggle for independence was Prof. Thomas Garrigue Masaryk, who devoted his life to the purpose of liberating his country.

In May 1918, Thomas Masaryk went to the United States where he secured official support for his cause, which resulted in its later adoption by the allied powers.

The work of Thomas Masaryk found its culmination in November 1918, when

he was elected first President of the Czechoslovakian Republic. He served in this capacity for 17 years in accordance with democratic principles. Ill health forced his resignation in December 1935, and he died in September 1937, thus being spared the agony of seeing his homeland under the control of Nazi and Communist oppressors.

However, his memory lives on in the hearts and minds of his countrymen to whom he dedicated his life, and he remains a symbol of inspiration to all who value freedom and true national independence.

Mr. Speaker, now let us examine the situation in Prague.

Strong condemnation of Czechoslovakia has arisen in much of the world in the wake of its "trial" and conviction of a group of human rights activists in Prague. Even some Western Communist Parties have joined in the chorus of criticism. The persecution of these so-called dissidents is, as even the State Department has pointed out, a violation of the Helsinki Final Act. Members of the group monitoring Czech compliance with its treaty obligations received absurdly harsh sentences. Should we be grateful because the defendents were not confined to psychiatric institutions?

The case is especially poignant in that free Czechoslovakia had an exemplary tradition of democratic rights and respect for law.

The U.S. State Department, rightly rebuked Prague in this instance and even came close to openly citing the heavy Soviet hand in Czech affairs. What the State Department has not yet announced, however, is the recall of the American Ambassador to Prague for "consultation."

In light of these developments, I believe that it is important for the United States to continue to publicize and object to the heavy-handed reprisals which are so pervasive in the Communist nations in order to reassure those suffering under captive rule of our commitment to freedom.●

SHABBY SHUFFLE AT SBA

The SPEAKER pro tempore (Mr. FARY). Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 30 minutes.

Mr. MARTIN. Mr. Speaker, yesterday I spoke to the House regarding the recent announcement of the Small Business Administration of a new policy to shuffle district directors around the country to move them to new locations for the avowed purpose of "enhancing their careers."

I reported to the House that of the 63 district directors in the United States, only 16 were being moved to enhance their careers or for whatever reason.

Second, I reported that despite assurances to the contrary, none of the 16 was a Democrat.

□ 1420

No Democrats were being offered such opportunities to "enhance their careers" in other parts of the country. Fifteen of the sixteen are Republicans and one is an Independent.

I would say to the Speaker I personally verified these without having to question the individuals involved, because I soon found it would be indiscreet to subject them to a threat of disloyalty by even asking them what their registration happened to be. So I found out by alternate methods and have confirmed that in many cases by conferring with Members of the House, Democrats and Republicans, who happen to know the circumstances.

Third, I expressed to the House that this new policy and the way in which it was being carried out threatened to undermine the integrity of President Carter's promise and avowed policy to lift the civil service system out of the thicket of partisan abuse, as he has said on many occasions. Further, I pointed out that it may well violate the new civil service reform law introduced and recommended by the President as a means of protecting the very job security which is in jeopardy from this action I am describing. And further, I believe that it threatens the interests of the small businesses whom we are supposed to be serving through the Small Business Administration by disrupting the experienced management in this way at a crucial time, when interest rates are so high, and loans will be badly needed.

And fourth, Mr. Speaker, I expressed my suspicion that this was all being done as an exercise in "politics as usual" under the subcategory "shabby tricks," as a way to coerce these 15 Republicans and one Independent to quit and make room for some deserving Democrats. Of course, this is not a novel idea, this has been done previously under other administrations, Democratic and Republican, and we all know it.

But this administration has pledged itself not only to rise above that kind of petty patronage, but to enforce its newly enacted law to accomplish that same purpose.

Fifth, Mr. Speaker, in my remarks yesterday I named the Associate Deputy Administrator, Mr. Paul Sullivan, who was brought to the Small Business Administration to be in charge of this shuffle after a previous experience as executive director of the the Democratic National Committee.

I have spoken with Mr. Sullivan on a couple of occasions and, as I have said before, he was very courteous and very polite. He reassured me that this was all aboveboard, innocent of any partisan motive. He, in fact, asserted he did not know or care what was the party affiliation of the 16 and expected it would turn out to be a random assortment. Yet, I have confirmed that none of the 16 are Democrats.

Now, Mr. Speaker, he has told at least three people, to wit one news reporter, at least one administration consultant, and at least one Member of Congress that the information I have reported to the House is false and I have not been truthful, and that I knew that the information was false.

Mr. Speaker, that is the kind of thing over which, under ordinary circumstances, someone might take a personal offense, or react in an emotional way, and I would want to reassure the Speaker that I have no intention of that. There is no reason to take politics personally. Rather, I think it is clear that since I have placed suspicion upon Mr. Sullivan and his activities and his motives, he is entitled and expected to defend himself.

Mr. Speaker, I would, therefore, call upon him to provide me or any Member of the House with a written statement of the particulars of what he believes has been falsely reported by me and I will put his clarification in the RECORD and would be pleased to do it. Previously, I have asked him direct questions and have gotten, in some cases, very helpful information about the names and phone numbers of these people, but he has told me that he did not know how the 16 were registered, and yet he now tells others that he is certain that some of them were registered as Democrats.

He could have told me that and told me what his basis was for knowing that information, but instead he told me he did not know or care to know. It is highly improbable that his regional directors, who must referee the partisan fights within their regions, do not know the specific registration of every district director in their region.

If it is true he has such information, I want to know which of the 16 are Democrats. Surely Gomorrah might be saved if he could find eight, or even four, or two, or even one. I cannot yet find anyone to do other than confirm my information on any specific individual, and I am still trying, Mr. Speaker.

I would also say until Mr. Sullivan has such evidence to share with us, that his slander should be kept to himself.

Now, Mr. Speaker, I want to report there are two new developments in this fast shuffle of Small Business Administration officials. Just yesterday in the Birmingham, Ala. News, there was a report that in addition to the 16 which I have already identified for the House that are being shuffled to other pastures to get them to quit right now, in addition the Birmingham newspaper reports there are others who are scheduled to be shuffled in 18 months which, of course, is just after the next inauguration of the successful candidate for President of the United States.

I will place in the RECORD at this point the Birmingham, Ala., newspaper so that information would be available to other Members of the House for their study and reflection.

[From the Birmingham (Ala.) News, Oct. 24, 1979]

LOCAL SBA DIRECTOR AMONG TRANSFERS; POLITICS CHARGED

The Birmingham district director of the Small Business Administration office is among a number of SBA directors being transferred in what many of those affected say is an attempt to replace Republicans with Democrats.

James C. Barksdale, district director of the SBA's Birmingham office, is on the list of those officials to be transferred, an SBA spokesman in Washington said this morning.

But it may be up to 18 months before Barksdale is transferred, according to Washington spokesman Robert Dietrich.

Barksdale was out of town this morning.

All told, the Small Business Administration is transferring 25 percent of its district directors.

Deputy SBA Administrator William Mauk denies allegations of political manipulation. He says the changes are part of a series of moves begun eight months ago "to show the business community that we can incorporate modern business practices into the public sector."

"I don't buy it," said one of the affected directors. "All those I know about being transferred are Republicans. Most of us think it's politically motivated, to try to force us out to open up some jobs to put their own people in."

Sixteen of the 63 directors received notices early this week that they were being transferred to other cities. SBA officials acknowledge that all but two of the affected directors joined the agency during Republican administration.

In interviews, some of the directors made these points:

Many of those being moved are in their late 50's and early 60's and so near retirement they could not be considered part of the agency's long-term management plans. Two of the directors have heart conditions and one is asthmatic.

Some are being moved to areas with completely different and unfamiliar business communities, like one moving from Helena, Mont., to Hartford, Conn.

Many will suffer some financial hardship. One man says he can't sell his remote, expensive home because of high mortgage interest rates—assuming money could be found at any cost. It will cost him $5,000 to commute hundreds of miles to see his wife and son during his final year before retirement, he says.

A key official in implementing the agency's new rotation policy has been Paul D. Sullivan, associate deputy administrator, who came to the agency just over a year ago from the Democratic National Committee.

On behalf of SBA, Mauk replies, "We anticipated speculation and suspicion because of the past reputation of this agency for political manipulation. We welcome the opportunity to tell people what we've been doing here."

Mauk said there will be a review every 18 months under the new rotation policy to see whether district directors should be transferred. He said such an approach "is common practice in the private sector."

The management shakeup at SBA began with the central office, where 17 of 26 top managers were transferred or left the agency, said Mauk. Then the regional offices were revamped to give regional administrators more authority and to have them report directly to Mauk and SBA Administrator A. Vernon Weaver.

The district directors were the next level to change, he said. The goal was to give directors more varied experience, to move strong managers to areas needing help, and to get new ideas into some offices.

Mauk said many directors had been in the same place more than six years. "You develop good contacts, it's true, but sometimes, you don't reach out for new contacts as the business community changes," he said.

In this instance, Birmingham District Director Barksdale is understood to be a Democrat. It is significant, therefore, that he has not actually been ordered to move, like the first 16, and may not actually be moved. In other words, his example may just be a "red herring" to confuse us with a possibility of his being moved.

I have asked Mr. Sullivan for a clarifying response to this article, which I will share with the House. Further, Mr. Speaker, I would report to the House that in conversation with a couple of my colleagues, I had mentioned that the Denver, Colo., director, for example, was being moved to Kansas City; while the Kansas City director in town was being moved to Lubbock. Our colleague, Representative TAYLOR of Missouri, told me that he had been told, by the Small Business Administration, that the reason that the Kansas City director was going to Lubbock was not because he was not a good director, but because he was so good they needed him in Lubbock to straighten out the problems in Lubbock. That struck a rather interesting chord in my memory, because I had just earlier been told by the Representative from Texas (Mr. HIGHTOWER) that he had been told that the district director in Lubbock was being shifted to Fargo, N. Dak., to clean up the mess in Fargo, N. Dak. That would make little sense if the Lubbock director was leaving behind problems for the current Kansas City director to straighten out. And I am going to pursue this further to see if similar information has been given to other Members of Congress whose district director is being shifted, to see if they have all been told that their district directors are such outstanding individuals that their talents are needed to clean up the mess caused by the district directors in the congressional districts represented by other Members who have been told the same thing in turn.

Mr. Speaker, I also want to report to the House that district offices of the Small Business Administration have now been informed that as a further clarification of their orders for the 16 to move to these new bases within the next month, they are now going to be given alternatives. First, they can either accept the new assignment that has been made; or second, if they do not agree to that assignment they can wait until other vacancies are available and they can be moved to fill an alternative assignment somewhere else; or third, they can stay where they are, not as the director, but as deputy director, which I am sure the Speaker will appreciate will hardly enhance the career of these civil service employees who presently serve as director, to be demoted to deputy director in order to stay in the community where their experience is so highly valued.

□ 1530

That is true, apparently, of every one of them.

Fourth, they can accept a double demotion to become the advocacy director, whatever that is, at the present location; or fifth, they may accept early retirement which, of course, is what is behind this entire scheme in the first place.

I understand that they have further been advised that no one in the district office is to discuss any of this any further with those of us who call them, nor are they to discuss it with members of the news media, but are to refer all questions regarding the Small Business Administration shuffle to their regional director so that a coherent answer can be given from one consistent source in that region. The answer, of course, that the regional director will give is that there is no partisanship here; that there is a random scatter. Perhaps they will show this in the next group a year and a half from now, but they have not shown in the 16 that were first announced, although I have on repeated occasions asked them to give me one or two or three or any that are Democrats. The only one that is not a Republican is the district director in Mississippi, who is an Independent and who, I am told, is within a year of retirement.

Mr. Speaker, I repeat that I think it is a shabby policy. It is not a new idea, as I have said earlier this evening. It is an old idea, one that the President of the United States has said we are going to exorcise from this administration. When he said that, there were many Democrats who were dismayed that the President was not going to play "politics as usual" to throw out all the Republicans and make room for Democrats. There were others who were surprised and somewhat doubtful that that policy of the President would in fact be carried out by others in his administration. Yet, all of us took him at his word. That is why I called upon the President yesterday and do so again today to investigate this mess, find out what the facts are, who ordered it, and put a stop to it and enforce the Civil Service Reform Act which he recommended to the Congress to protect public employees from just such abuses.

Mr. Speaker, once again until further notice and until I have additional information to share with our colleagues of the House on this shabby mess, I yield back the balance of my time.

RADIO BROADCASTS TO COMMUNIST COUNTRIES VITAL IN THE STRUGGLE FOR FREEDOM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the president of the Polish American Congress, Aloysius A. Mazewski, recently spoke out on the need to expand the facilities of Radio Free Europe and Radio Liberty at a conference here in Washington, and he emphasized the great hope and comfort given to the enslaved millions behind the Iron Curtain by these broadcasts.

Mr. Mazewski is a dedicated and strong leader who has focused the attention of the American people over the years on the need for firm, continuing vigilance in defense of our country's ideals of freedom. In his speech he urged that the radios':

Programming must be forthright in its criticism of the communist political dictatorship, police state methods of repression, its monopoly of mass media and censorship, distortions of history, etc. It should, we believe, denounce abuses of power, whether committed by high party dignitaries, or security service functionaries.

We, as Americans, must never let down our guard and lose sight of the enormous influence for good our country has, as the leader of the world's forces of liberty, or lose sight of the hope our country's very existence gives to the oppressed of the world.

The Polish people and the many millions in other nations forced to live under Communist tyranny must never be abandoned, and the broadcasts of Radio Free Europe, the Voice of America, and Radio Liberty remain crucial in their continuing struggle for political, cultural, and religious freedom.

Mr. Speaker, I call the attention of my colleagues to the full text of Mr. Mazewski's speech, which follows:

SPEECH OF ALOYSIUS A. MAZEWSKI

It is vital importance that Radio Free Europe, Radio Liberty and Voice of America should be dramatically upgraded on our list of strategic priorities. By maintaining free flow of information, views and ideas, mass media play a crucial and central role in the struggle for human minds. In their function they are the key element in the defense of Human Rights in the countries dominated by Russia.

This objective—upgrading of Radios in the overall, global strategy of the United States cannot be achieved without full support, participation and pressure from American people. We live in a democratic system where neither administration nor legislators can ignore views and demands of their voters.

Your organization has potentially a powerful constituency in this country. It includes not only Polish Americans but all ethnic groups from Eastern Europe numbering 15 million people. The Roman Catholic Church, which has no access to domestic mass media in the Soviet orbit, has vital stakes in supporting the Radios. You have an influential ally in Pope John Paul II, who has been a regular listener to your programs in Poland since the early fifties, when he was a young and unknown priest.

Jews in the Soviet Union remain subjected to discrimination, violation of their religious freedom and their right to emigrate. Jewish organizations in this country have also legitimate interest in supporting your broadcasts.

However, let me tell you frankly that until this conference was called, many of us were under the impression that you prefer to keep us at arm's length. The very fact that the first meeting of this sort takes place thirty years after RFE was founded, speaks for itself. Neither our legislators nor our administration is aware of the fact that the Radios represent a vitally important issue to many millions of Americans. This is in my view the main source of your difficulties lingering over the last eight years.

Let me at this time express our appreciation for your initiative, which is being implemented to provide Polish American media with up to date information and analysis of the developments in Poland. It is much needed and will greatly help to better inform Americans of Polish heritage of the Polish people's plight under the Communist regime, and their efforts to win a larger share of their inalienable democratic rights and freedoms. We feel that to make it more effective the New York Office should be expanded.

I understand that we are invited here to discuss with you the main problems facing the Radios today. We hope that you will answer our questions so that we may be better equipped to raise our voice effectively and to use whatever influence we have to support your mission. Let me therefore make it clear at the outset that the Polish American Congress has no intention to interfere in your internal affairs, administrative matters or appointments policy. Our concern as U.S. citizens and tax payers of East European origin concentrates around the following issues:

1. First, we believe that in accordance with the spirit and the letter of the law RFE/RL should remain independent broadcast media free from governmental controls and interference. We also feel that the Partnership between the American management and national editorial teams represented by their chief editors constitute an important asset of this organization which should be maintained and protected. I shall dwell on this subject later in greater detail.

2. Secondly, your mission should not be approached by the administration and the Congress from predominantly fiscal point of view. The funds allocated to Radios should not only compensate rising costs and decline of the dollar but should be considerably, perhaps dramatically increased. Such increase has been made imperative by the Soviet strategy of conquest without war. Soviet subversive and inflammatory propaganda by radio and other means represent an important element in this strategy.

3. Thirdly, we believe that policy and programing of Radios should be free from any restrictions which would be in conflict with our own standards of freedom of expression. You are a substitute of free and uncensored press and radio in countries under totalitarian system. This is your main characteristic which makes you different from Voice of America. We are firmly opposed to any guidelines, directives or practices which would be in conflict with U.S. commitments to self-determination of people and their fundamental freedoms.

Let me corroborate briefly on these basic points:

1. Radio Free Europe is broadcasting to countries where all mass media are owned by the state. By contrast RFE should project an image of free, independent and uncensored broadcasting station. Only in this way it may project convincingly freedom of speech and to enjoy trust of its audience.

We know that attempts were made in the past to abolish your private board and to make RFE/RL a part of governmental bureaucracy. We also know from the Congressional Record that such proposals were resolutely opposed by Prof. Gronouski, chairman of the BIB. We applaud and support his firm stand on this issue.

2. Last year in the presence of George Vest and other high officials at the State Department I expressed our deep concern over your financial difficulties. The Radios have been squeezed between decline of the dollar, inflationary rise in costs and economy minded Congress. In the last eight years your staff was reduced by one third, you lost many facilities and top talents. From time to time you had to block the influx of fresh blood. In the case of the Polish service, the "savings" assumed proportions of a slow extinction, particularly at the leadership level.

We recognize that you cannot invite pressure from outside to obtain adequate funding. Our efforts will be independent and unsolicited. However, we cannot expect to succeed if our representations at the level of the RFE/RL funding are in excess of your own requests addressed to the Administration and Congress, or if our appeals to members of Congress and Administration are contradicted by your spokesmen. We appreciate dedicated efforts and hard work of John Gronouski to obtain necessary funds. I read in one of BIB annual reports that in order to maintain the operation at the level of 1970 you would need 100 million dollars. This then should be your budget request. You may be assured that we would support such a request and do our best to obtain support in Congress.

3. We are concerned by complaints in our ethnic press, some of them coming from your listeners in Poland, that RFE has been toned down recently and that your coverage of domestic development is no longer as extensive and effective as it used to be in the past. Obviously the flow of information, news and ideas no longer can be considered free of measures restricting journalistic freedoms. We understand of course that the RFE/RL programming policy must be guided by a carefully weighted sense of responsibility, lest they stir emotions which may contribute to the volatility of the situation in Eastern Europe.

Otherwise RFE/RL programming must be forthright in its criticism of the Communist political dictatorship, police state methods of repression, its monopoly of mass media and censorship, distortions of history, etc. It should, we believe, denounce abuses of power, whether committed by high party dignitaries, or security service functionaries.

I trust that we will have an opportunity to discuss these matters more fully later on and receive assurances that complaints to which I refer are in fact unjustified.

Let me finish my remarks by saying that Radio Free Europe and Radio Liberty do not have to offer apology for its past record and activities, whether in time of cold war, coexistence or detente. We are particularly proud of the achievements of your Polish station.

Its success owes much to the qualities of leadership and selfless devotion of the past and present directors of the Polish service—Mr. Jan Nowak and Zygmunt Michaelowski. Our special thanks to Mr. Jan Nowak now retired, for adding greater dimensions to the success and effectiveness of RFE, and his continued interest. Our words of appreciation and encouragement to Mr. Michaelowski who is doing a great job under very trying conditions and we hope he continues.

In critical times of dangerous upheavals of 1956, 1968, 1970 and 1976 RFE very responsibly used its considerable influence to prevent an outbreak of violence which could only end in disaster. At the same time you were instrumental, at least in part, in bringing about peaceful and effectively supported by RFE in other countries. Polish October 1956 and Polish December 1970 would not have been possible without Radio Free Europe. The Radios have a right to claim that they left their mark on the history of Eastern Europe. Without the Radios the present reality in this part of the world would have been different from what it is today.

In our view, your success can be largely attributed to the special kind of relationship developed between American management and multinational editorial staff in the first years of your organization. The best democratic tradition of American people found its expression in this partnership. Thanks to this unique relationship you were able to take full advantage of creative skills, enthusiasm, knowledge and judgment of your associates from Eastern Europe. We wish you the same success in the future.

On behalf of all of us, our appreciation for this meeting which was long coming but finally became a reality.

SUMMARY

1. We strongly support the independence of RFE/FL both administratively and programming policies.

2. We oppose relocation of RFE/FL, even partial, for we believe that in the eyes of Eastern Europe it would appear as a gradual withdrawal from our principles.

3. We urge and support increased funding consistant with the RFE/RL objectives.

4. We urge expansion of the New York Office to adequately serve our communities.

5. We recommend greater dissemination of news about developments in Eastern Europe for our Ethnic newspapers and Radio, in forms of releases and tapes to counteract the growing propaganda of communist regimes.

6. We support programming that is open, factual and forthright consistent with United States policy in support of Human Rights.

7. We commend Zygmunt Michalowski for objective and dedicated service.

8. We offer and pledge our continued assistance in the realization of the goals and purposes of RFE/RL.

Our thanks to Mr. W. Zachariasiewicz for originating this idea for the meeting and appreciation to Dr. Ferguson and William A. Buell for making it possible.●

EXPORT TASK FORCE ARTICLE NO. 15: AMERICA'S GOLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● Mr. ALEXANDER. Mr. Speaker, in a recent issue of Time magazine, Hugh Sidey has an excellent article praising a group of Americans who do not receive enough praise for their contributions to America's strength and prestige—the American farmer.

Our balance-of-trade deficit reached a staggering $30 billion last year. If it had not been for an agricultural trade surplus of some $16 billion, the economy of our Nation would truly be in a state of shock.

As Mr. Sidey indicates, even our adversaries marvel at the producing capabilities of America's farmers. The article appeared in the October 22 issue of Time and is entitled "Where the Real Gold Is Mined." I highly recommend it to my colleagues for as we discuss the troubles of our Nation, America's farmers are harvesting our real national strength.

The article follows:

WHERE THE REAL GOLD IS MINED

(By Hugh Sidey)

In the middle of the U.S. the greatest harvest in all history is rolling in. Washington, obsessed with Jimmy Carter's polls and Teddy Kennedy's plans, has hardly noticed, a lamentable failure in understanding the nation's soul.

American strength rests on this miracle of food. Without it Carter might be hoeing peanut plants for the Queen and Kennedy might be a barkeep in Ireland. While we falter in other global competition, this season the U.S. harvest of corn, soybeans, wheat and other grains will humble even mythology. The Soviets know. With tensions high over the troops in Cuba, Secretary of Agriculture Bob Bergland was not sure Moscow's grain negotiators would even show up a few days ago to review purchases. They did, and signaled that they would buy 25 million metric tons of grain, a new high. Burly, dark-haired Boris Gordeev, Deputy Minister of Foreign Trade, leaned across a table and told about the hot dry weather that had pinched Soviet production (by as much as 20 percent, American experts estimate). That may be the only confession of weakness we will get from the Soviets in the next years—but it could be everything.

From the Appalachians to the Rockies, the combines are churning through our land. Some of these $100,000 monsters can spew out $118,000 worth of soybeans in a day. The U.S. crops—the result of near perfect weather, rich land, technology and extraordinary enterprise—will be worth $61 billion this year (up 17 percent over last year's record of $52 billion).

The achievement stuns one's senses. The corn would fill 2 million jumbo hopper cars that would stretch 13 times across the U.S. Those 320,000 machines at work in the fields now, if lined up wheel to wheel, could harvest the state of Iowa in a day. (This harvest by 5 million farm workers would have taken, before machines, 31 million people using 61 million horses and mules.)

Bergland, the stoic Norwegian, even gets a little poetic when he contemplates the fall drama. "American gold," he calls the soybeans, which sell for $6.57 per bu. and which we export at the rate of 1 billion bu. a year. "A storybook," the Secretary says of this. The Soviet leaders study it line by line.

"How often do you change your tractor tires?" Aleksei Kosygin, the Premier, asked Farmer Bergland on his last Kremlin visit. "About every 4,000 hours," he answered. "Engines?" asked the cool-eyed Soviet, a fellow normally associated with missiles and megatons, not farm machinery. "Every 10,000 to 15,000 hours," replied Bergland. The old Russian thought a few seconds and then gave his people a short lecture about the disadvantages of the Soviet policy of replacement by the calendar, not actual need.

"If we are going to talk peace," says Agricultural Historian Wayne Rasmussen, "a sufficient supply of food is one of the best assurances."

Nor are we at the outer limits of this miracle. Corn now grows with leaves that stick up like pineapples so stalks can be closer together. They have discovered a perennial variety in Mexico, and there are distant dreams of having crops regenerate like lawns. Geneticists are marching ahead with plans to make corn return nitrogen to the soil, which would save 13 million tons of fertilizer made from natural gas and the energy it takes to apply it.

Last week an editor on the prairie was talking about the gold bullion panic as he drove along the fields. As far as one could see, the ripe soybeans and corn were bathed in soft sunlight suffused by the fall haze. The land was pale gold. Looking around with a discerning eye, he said: "It means more than the metal stuff. If only we could get that through our heads."●

GET INTEREST RATES DOWN!

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

● Mr. REUSS. Mr. Speaker, what started as a sensible reaction by the Federal Reserve to rumbles of international monetary trouble at the IMF conference in Belgrade early this month has turned into a dangerous brew of 15 percent prime interest rates and real threats to the capital investment and homebuilding that our country sorely needs.

It is important to distinguish carefully the good from the bad in the Federal Reserve's recent actions. Frankly, we do not yet know whether the Fed Board is determined to lead us to repeat the disasters that can be laid at the door of its predecessors.

Let me review the positive and the negative sides of the ledger.

On the plus side are the three measures that Chairman Volcker announced on October 6. None of these, let me stress, necessarily portends a catastrophic monetary crunch. They are, rather, technical measures, designed to improve the way monetary policy works rather than to change its course:

Imposing a reserve requirement on additional Eurodollars borrowings merely brings a large pool of liquidity under slightly greater monetary control. Any contractionary effects may easily be offset by open market purchases.

The shift of emphasis in open market policy from the Federal funds rate to the level of bank reserves is an important technical change in the way of doing business. Theoretically, it has the effect of making monetary policy more responsive to economic downturns than it has been in the past. Whether it will have that effect in practice remains to be seen.

Raising the discount rate invariably follows, rather than leads, changes in open market policy. There is no point in allowing banks to borrow low at the discount window if open market lending rates are high.

In short, it would be a mistake, in my view, to take an apocalyptic attitude toward the dramatic Saturday night, October 6, news conference of Chairman Volcker, which so successfully propelled him to the covers of the newsmagazines and into the nightmares of stock market speculators and homebuilders. The Federal Reserve has saddled a new horse; it has not yet started to ride him.

On the negative side, interest rates are clearly too high. A sensible anti-inflation monetary policy involves two components: a steady policy of moderate-but-not-crushing restraint most of the time, and occasional dramatic action to forestall speculative runs on the dollar that threaten disorder in the international payments system. Most of the time, interest rates should be as low as is consistent with such a policy of moderate restraint. Right now they are much, much higher than that, for three reasons:

First. There is developing an international interest rate war. It works like this: In the first round, the Arabs raise oil prices. Germany and Japan, but especially Germany, respond to the resulting inflation by tightening money and letting interest rates rise. This has the effect of attracting short-term capital from abroad and revaluing the D-mark, cheapening dollar-denominated oil to the Germans and increasing the price of Volkswagens to us. As the D-mark rises, speculators move in against the dollar. The Federal Reserve raises interest rates in response, reattracting short-term capital to our shores and setting the stage for a new turn of the German monetary screws. Net result, higher interest rates—here, in Canada, throughout the world. Net danger—a world recession drastically deeper than would result from a more sensible mix of anti-inflationary policies.

Second. Occasionally, the Federal Reserve decides that a "show of force" is required to keep this little game from getting out of hand. Or, more insidiously, the Fed picks up rumors from abroad that chaos is ahead unless there is dramatic action. So, with admonitions from foreign money masters ringing in his ears, Chairman Volcker flies back from Belgrade and announces seemingly Draconian measures in an atmosphere of apparent crisis. Interest rates rise sharply, partly because the Federal Reserve is actually pulling tight the monetary strings, and partly because the financial world is momentarily convinced that it is about to do so.

Third. Unfortunately, what goes up in interest rates does not readily come down. The Federal Reserve may no longer impose a ceiling on lending rates, but it still enforces a floor. It is called the discount rate—currently a stupendous 12 percent and rumored to be rising. The Federal Reserve, have adopted monetary targets and abandoned its Federal funds fetish, is still attempting to maintain control over the discount rate. Since a lowering of the fixed discount rate would be interpreted as a retreat in our "defense of the dollar", the discount rate becomes a floor, causing interest rates to stick at high levels. The Fed finds it politically impossible to get back on the track of moderate monetary restraint once momentarily distracted by international consideration.

Too-high interest rates, as everyone knows, can be a disaster. They raise the interest costs of new capital investment and of housing, and thus add to inflation. They choke off the demand for new plant and equipment and for new homebuilding, and thus precipitate recession. Interest rates must come down.

There are two ways interest rates can be made to come down. First, the Federal Reserve should reexamine its way of doing business, so as to insure that the structure of interest rates is the lowest that is compatible with a long-term policy of monetary moderation, and not the after-effect of a speculative binge on the international currency markets.

Second, the Federal Reserve should reexamine, immediately, whether the monetary targets which all agreed were reasonable in light of the 7-percent inflation of 6 months ago should not now be raised temporarily to accommodate in part the disagreeable world of 13-percent inflation in which we now live.

In the first arena, there are five steps the Federal Reserve can take, and one the President can take, to lower critical interest rates within the framework of the open-market policy the Fed is now pursuing:

First. It can eliminate discretionary control over the discount rate, and allow that rate to rise and fall automatically with the interest rates charged by individual banks. That way, the symbolic importance attached specifically to highly publicized increases in the discount rate would disappear. That way, lending institutions would be encouraged to competitively lower their interest rates, rather than encouraged to raise them.

Second. It can eliminate the archaic system of lagged reserve requirements, under which banks base the reserves they have on deposit today on the deposits that they held 2 weeks ago. This system causes untold confusion and error in the administration of the open-market window.

Third. It can eliminate the "Wednesday Scramble" under which banks all post their reserves on the same day each week, causing wild fluctuations in short-term borrowing rates and increasing the instability of the financial markets.

Fourth. It can move, as former Federal Reserve Board member Andrew Brimmer and I recommended 5 years ago, to a modest form of credit guidance, designed to stem the flow of lending for conglomerate mergers, commodity speculation, and other nonproductive uses, and to redirect it, in greater volume and at lower rates, toward productive uses like capital investment, housing, small business, and agriculture. The specific form of our proposal was very simple: Place the reserve requirement that banks must post at the Federal Reserve, at least partially, on bank assets rather than on liabilities, and vary the rates to encourage what the Fed wants to encourage and discourage what the Fed wants to discourage. In his recent gentle request to the Fed's member banks, Chairman Volcker has listed, with admirable clarity, the Fed's view of what are desirable and what are undesirable loans.

But this is like Moses promulgating, instead of the Ten Commandments, the 10 suggestions. The good guys who follow the suggestions are victimized by the bad guys who disregard them. A system of differential reserve requirements would result in more money, at lower interest rates, for desirable loans, and less money, at higher interest rates, for undesirable loans. Since the Fed, commendably, is able to distinguish between the two, why not convey to the financial world the courage of its convictions? We in the Congress stand ready to help.

Fifth. The Federal Reserve should immediately get its technical operations under control. The appalling and destructive $3.7 billion money supply error earlier this month, if true, is inexcusable. I am promptly calling the Federal Reserve Board before our Banking Committee to insure that such destructive errors are not repeated.

A sixth course of action, primarily up to the President, is to call on the governments of the leading industrial democracies to alter their inflation fighting policy mixes so as to rely less exclusively on monetary tightness and more on anti-inflationary fiscal and structural policies.

If these steps are taken, interest rates will be lower than they are now. But, very likely, they still will not be low enough. And therefore we must also ask whether the monetary targets adopted last February by the Federal Reserve, with Banking Committee approval, remain sensible in light of changed events.

The Federal Reserve adopted a maximum monetary growth rate for 1979 of 7.5 percent, including a sizable growth of near-money accounts. At the time of adoption, in February, it looked as though with the usual 3-odd percent increase in M1 velocity, a ceiling of 7.5 percent money growth could accommodate the expected 7 percent inflation and 2.2 percent real growth. Now it appears we will have perhaps 11 or 12 percent inflation and 1 to 2 percent real growth or lower. These factors turn the 7.5 percent money growth ceiling that looked sensible very recently into a boa constrictor's embrace. The Federal Reserve should reexamine its assumptions, and be ready to announce a new, higher, temporary monetary range if such is necessary to keep the economy on an even keel.

Just as we should balance the budget, until recession makes that policy impossible, so we should pursue a course of slow and steady monetary expansion—until ill fortune hits. Then we should do whatever is necessary to keep real output, jobs, investment, and productivity growing. That, incidentally, is the best way to master inflation.

Let the word go forth: Get interest rates down.●

LEGISLATION TO REDUCE TAX BURDEN ON USERS OF NATIONAL AIRSPACE SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. MATHIS) is recognized for 5 minutes.

● Mr. MATHIS. Mr. Speaker, today I take pleasure in introducing legislation aimed at reducing the tax burden on users of the national airspace system by cutting various taxes which are placed into the airport and airways development trust fund.

My bill would halve the tax currently paid by airline passengers, reducing it from 8 to 4 percent, as well as lower the taxes on aviation fuel by 3 cents per gallon, from 7 to 4 cents. Additionally, the freight waybill tax would be reduced 3 percent, from 5 to 2 percent.

Current laws authorizing the trust fund, notably the Airport and Airways Development Act of 1970, are due to expire June 30, 1980, and now is the time for Congress to begin making meaningful changes in the operation of the fund, which, will have a balance of approximately $4 billion by June 30, 1980, when current authorizations expire.

The measure also addresses one of the many misinterpretations of the intent of Congress found in the Airport and Airways Development Act of 1970 whereby many airports in need of this money for improvements and maintenance are denied Federal assistance because there is no competition between fixed-base operators (FBO's), mostly small businessmen involved in providing needed services to aircraft operators. In many instances, a condition of Federal assistance to small airports involves competition between these FBO's at the airport in question. The problem arises when only one FBO is located at an airport and no competition exists. Airports are needed by all communities to provide an additional transportation link to the rest of the country and by refusing assistance on this basis, the Government effectively denies communities unable to secure alternate funding for improvements the benefits a well-maintained airport is capable of providing to the local economy. Additionally, operators who have paid into the fund in good faith are denied the benefits these taxes may bring.

All of us here in the Congress talk constantly about reducing the tax burden of our constituents but little is ever done. I call on my friends and colleagues to join with me on this legislation and begin to place more emphasis on taking action in such matters rather than merely paying lip service to them.

Thank you, Mr. Speaker.●

SENATOR SAM NUNN OF GEORGIA OFFERS SOME PLAIN, SENSIBLE TALK ABOUT THE PRESSING PROBLEMS OF THE ATLANTIC MILITARY DEFENSE ALLIANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, Senator SAM NUNN of Georgia has long been recognized as one of the most knowledgeable and sensible Members of Congress when it comes to matters of national defense.

The other evening at a meeting here in Washington of scholars, journalists, and parliamentarians from the Federal Republic of Germany and the United States, sponsored by the United States Strategic Institute, Senator NUNN delivered a most important and incisive address on some of the more important defense issues facing the NATO alliance, especially the matter of Mutual and Balanced Force Reductions (MBFR) between NATO and the forces of the Warsaw Pact, which has been under negotiation in Vietnam since 1973; and the new burning issue of a Theater Nuclear Force (TNF) for NATO, to which Mr. Brezhnev recently addressed some comments in an address in East Germany.

Therefore, Mr. Speaker, under leave to extend my remarks, I include the full text of the very thoughtful and instructive address by Senator NUNN:

ADDRESS BY SENATOR SAM NUNN

I am pleased and honored to join this distinguished group in a discussion of MBFR. I believe, and have so stated on several occasions during the past few years, that MBFR and the SALT II negotiations ideally should have proceeded on a parallel course.

It is not my intention here tonight to engage in a lengthy discourse on SALT II. The point must be made loud and often, however, that strategic arms negotiations cannot be conducted in a vacuum. The goal of our arms control efforts should not be simply to reduce arms. The goal should be to promote the security of the Western World and to preserve stability by reducing military incentives and fears that could encourage either side to strike first with any weapons, nuclear or conventional.

Unfortunately, a number of people in the United States believe that you can separate strategic nuclear planning and arms control from theater nuclear and conventional force planning. This stems from the myth that a "bolt out of the blue" strategic nuclear attack is the most pressing danger facing mankind. While no one can dismiss this possibility and we must maintain strategic forces designed to deter it, it is, in my view, the most unlikely scenario for nuclear war. It is much more probable that a strategic nuclear exchange would stem from a prior confrontation between the Soviet Union and the Free World at the conventional or theater nuclear level.

The point is that the United States, NATO, and the Free World must be able to deter war with the Soviet Union at each level of potential conflict—strategic, theater nuclear, and conventional. This is linkage in its purest military form, and has constituted the basis of the NATO Triad since the Alliance's adoption of the flexible response strategy in 1967. The elements of this triad are now in grave danger of being unlinked, not primarily because of the SALT II protocol nor even because of the Soviet bid to sabotage NATO's theater nuclear force modernization program. The real threat to the integrity of the NATO Triad is the Alliance's failure to adjust its conventional and theater nuclear force postures to the loss of American strategic nuclear superiority. The loss of that superiority has rendered urgent the need to develop credible deterrence at the theater nuclear and conventional force levels.

As you know, on October 6 Soviet President Brezhnev made a speech in East Germany in which he announced that over the next twelve months the Soviet Union will reduce its forces in that country by 20,000 men and 1,000 tanks. Brezhnev also stated that the Soviet Union was prepared to reduce its theater nuclear weapons aimed at Western Europe if NATO would forego its planned deployment of the Pershing II and the long-range cruise missile.

With respect to those NATO countries that might be prepared to accept the Pershing II and the cruise missile on their own soil, Brezhnev minced no words:

"We must say bluntly," he emphasized, "that the implementation of these rocket projects would radically alter the strategic situation on the European continent, poison the international atmosphere, and naturally we would have to take additional steps. . . . If the Federal Republic of Germany took these new rockets it is not difficult to imagine what consequences would await her if this weaponry were ever put to use."

Brezhnev added that the Soviet Union would "never use nuclear weapons against those states which refuse to produce or acquire such weapons for themselves and do not have them on their territory."

The "carrot" in Brezhnev's speech is his apparent willingness to negotiate limitations on Soviet medium-range systems in SALT III and his announcement of unilateral withdrawal of some Soviet troops and tanks from East Germany.

The "stick" in Mr. Brezhnev's speech is its crude attempt to dictate NATO's future theater nuclear force structure, and to lure NATO into an MBFR agreement that ignores the data question. The message on theater nuclear force modernization is clear. Having modernized her own theater nuclear forces, the Soviet Union is now seeking to stop NATO from doing likewise. Having deployed the backfire bomber, the SS-20, the SS-21, the SS-22, and the SS-23, the Soviet Union seeks to prevent NATO from fielding its own improvements. Having won the propaganda war over the neutron weapon, the Soviet Union seems confident that it can scare the Alliance away from its theater nuclear force modernization program.

Since the mid-1970s the Soviets have expanded and modernized their theater nuclear forces to the point where they may now be regarded as superior to NATO's in the crucial categories of survivability, mobility, and range. The Soviets have doubled the number of their nuclear warheads designated for targets in Europe. They have introduced at least two new calibers of nuclear artillery. They are replacing their older tactical surface-to-surface missiles with far more mobile and highly accurate systems. They have fielded a host of new nuclear-capable deep-strike tactical aircraft. And with the deployment of the SS-20 and the Backfire bomber, the Soviets have eliminated the territorial sanctuaries that NATO once would have enjoyed in a tactical nuclear exchange. Moreover, unlike NATO, the Soviets have designed, equipped, and trained their conventional forces to survive and exploit nuclear and chemical combat.

NATO's own tactical nuclear posture presents some disturbing contrasts. NATO forces continue to rely on an unwieldly inventory of largely obsolete weapons developed in the late 1950s and early 1960s. NATO's weapons are too many of the wrong type, too high in yield, too vulnerable to pre-emption, and too limited in range. Indeed, it can be argued that no small portion of the approximately 7,000 nuclear warheads NATO deploys in Europe today are more dangerous to the Alliance than to the potential adversary they are designed to deter. Those who greatly fear theater nuclear modernization do not seem to realize that doing nothing poses the greatest danger of all.

Two-thirds of NATO's 7,000 tactical nuclear warheads are tied to delivery systems with ranges of less than 100 miles, and most of these have ranges of 10-20 miles. The limited reach of the Alliance's 155mm and 8-inch nuclear artillery and its tactical surface-to-surface missiles—including the new Lance missile—would in all likelihood confine their use to targets on NATO territory. Knowledge that the bulk of NATO tactical nuclear weapons, if employed, would be confined to strikes on NATO territory is hardly likely to terrify or to deter the Soviet Union.

The ability to neutralize second- and third-echelon Pact forces in Eastern Europe and in Western Russia is the heart of any credible NATO tactical nuclear deterrent. The capacity to generate these follow-on forces and to move them rapidly across Poland and East Germany is the key to the Pact's conventional predominance over NATO. The Pact, with the deployment of the SS-20 and the Russian-based Backfire bomber, already enjoys the ability to disrupt and destroy the formation and movement of NATO's operational reserves.

The problem is that NATO today cannot credibly threaten Soviet forces in Russia's western military districts; indeed, NATO's ability to place at risk even Pact forces in certain parts of Eastern Europe is questionable. That ability resides almost exclusively in deep-strike tactical aircraft and the aging Pershing I missiles. Both are exceedingly vulnerable to pre-emptive destruction by nuclear, or for that matter, conventional attack. It is thus a paradox that those NATO weapons least vulnerable to pre-emption—nuclear artillery and smaller tactical missiles—have less deterrent value because they lack the range to hit Pact territory where it would hurt the most, whereas those systems which have greater range invite pre-emptive destruction.

In my view, a demonstrable capacity by NATO to disrupt to disrupt the movement of the Pact's theater reserves or to destroy them outright before they cross into Western Europe could greatly reduce the need for NATO's nuclear weapons being fired on NATO's own territory. Many defense analysts believe that the Pact's first-echelon forces, if denied continual reinforcement and support from second- and third-echelons approaching from Eastern Europe, could be isolated and destroyed by NATO's conventional forces alone. Long-range systems such as the Pershing II and the ground-launched cruise missiles, by threatening the destruction of Pact forces before they reach NATO soil, would reduce NATO's present heavy reliance on short-range weapons. Their deployment, if coupled with substantial improvements in the survivability, command and control, and employment concepts, would open the way to reductions in the number of nuclear warheads deployed in Europe.

The proposed modernization program is a strong first step toward improvement. It would greatly improve range and survivability. NATO still faces a challenge in improving command and control, as well as doctrine and employment concepts. NATO must also develop a program to upgrade survivability of the General Purpose Forces in a nuclear environment.

If the Brezhnev speech of October 6 is any indication, it appears that the Soviet Union has been deeply concerned over the progress that NATO's High Level Group has made in

formulating a theater nuclear force modernization program. The Pershing II and the long-range cruise missile are not just effective counters to the SS-20 and the Backfire. Their inherent mobility makes them less vulnerable to a pre-emptive attack, assuming minimum tactical warning.

It also appears, however, that the Soviet Union is acutely aware that the Alliance's knowledge of what must be done may not be matched by the political will to do it. They know that the Netherlands, Belgium, and the left wing of the ruling Social Democratic Party in Germany are the weakest links in the NATO chain on this issue. They know that the Dutch are reluctant to accept long-range theater nuclear weapons on their own soil, and they read in the papers that an outright Dutch refusal to do so could unravel the entire theater force modernization program, since it might trigger subsequent refusals by Germany, Belgium and Italy. Paradoxically, the gaping hole in NATO's forward conventional defenses, known as the "Dutch corps area," makes theater force modernization all the more imperative. The presence of a single Dutch brigade in Germany instead of the required full, two-division corps is a standing invitation to a Soviet military parade all the way to Amsterdam.

According to an October 18 article in the New York Times, Mr. de Vries, Chairman of the Dutch parliament's Defense Commission, has stated:

"If the Netherlands did not agree to the basing of new American intermediate-range missiles on the territory, the government of Chancellor Helmut Schmidt would be unable to go along with NATO plans to deploy the missiles in West Germany."

I am strongly inclined to believe that either the New York Times has misquoted Mr. de Vries, or that Mr. de Vries has misrepresented the position of the Schmidt government.

Chancellor Schmidt is one of the most militarily astute leaders of the Western World, and if he did not believe theater nuclear modernization were imperative for NATO, he would not have endorsed it. Having endorsed modernization as necessary for German security and NATO. I am confident that Chancellor Schmidt would not allow this decision to be vetoed by the Dutch parliament. I am therefore encouraged by the German government's subsequent denial of the accuracy of the New York Times article. I cannot believe that the former German Minister of Defense and present Chancellor would place the future security of his own country and Western Europe in the hands of the Dutch parliament. I know the British would not, nor, in my opinion, would the Belgians or the Italians.

Lest I be misunderstood. I have not lost hope that the Dutch government and parliament will approve the theater nuclear modernization. I know there are wise and politically courageous individuals, both in the Dutch government and Dutch military, who realize the danger posed by the status quo.

Those well-meaning souls who oppose modernization are inadvertently advocating a course that would:

(1) continue reliance on an excessive number of tactical nuclear weapons,

(2) continue to invite pre-emptive attacks on those systems in any confrontation,

(3) reduce deterrence and increase the possibility of miscalculation, which could lead to war,

(4) diminish the prospects of negotiated mutual reductions, and

(5) lead to a NATO dyad of only strategic nuclear forces and conventional forces.

If the modernization of theater nuclear forces is to be thwarted in Europe then at some point in the future the United States would have no choice but to consider the possibility of eventually removing those forces. A theater nuclear posture that is more dangerous to NATO than to the Warsaw Pact must be modernized or dismantled. It cannot be ignored. In this century, Americans have died in large numbers on European battlefields. We are prepared to do so again if necessary, but only for a Europe that is dedicated to its own defense.

The alternative, of course, is for the Western Europeans to take President Brezhnev at his word, when he promised to "never use nuclear weapons against those states which refuse to produce or acquire such weapons for themselves and do not have them in their territory."

Assuming Mr. Breshnev and his successors keep this promise, our European allies and friends would then be as safe, secure and free as Hungary and Czechoslovakia, both of which have avoided a nuclear attack by the Soviets.

The theater force modernization program is also being subjected to the curious argument by the Dutch and some others in Europe that ratification of SALT II is a prerequisite for the adoption of the program. The argument appears to be, "If SALT II is defeated or delayed, we'll teach those Americans a lesson. We'll make them keep their dangerous, short-range, non-survivable, ineffective weapons on our soil." This reminds me of a Marx brothers movie where Chico, whose life is being threatened by armed thugs, points a gun at his own head and shouts, "If you come any closer, I'll pull the trigger."

I must say that if the modernization program is cancelled because of Senate delay or even rejection of SALT II, then support for theater nuclear modernization was probably so weak in NATO that it would not have occurred anyway.

Our NATO allies are full partners and should be treated with full respect. They have logical and coherent arguments as to why SALT II should be approved. I will be listening carefully to the thoughts and ideas of our friends and allies. The threat to reject theater nuclear modernization, however, is not an argument I will be seriously considering. To accept this threat as a serious argument for SALT II ratification, one would have to conclude that our allies are not dedicated to their own defense. If this is the case, the future of the alliance is not bright, whether SALT II is ratified or rejected.

Brezhnev's October 6 speech was clearly a well-aimed torpedo launched at NATO's theater nuclear force modernization program. Yet, it was no less a calculated move to circumvent the present deadlock over data at the Vienna negotiations on mutual and balanced force reductions. The Vienna talks are stalled because the Warsaw Pact continues to insist that it maintains 180,000 fewer troops in the Guidelines Area than NATO believes to be the case. Either NATO's intelligence community is in grave error or the Soviet Union is guilty of flagrant bad faith. I am inclined to subscribe to the latter explanation.

It can be argued, however, that even a resolution of the manpower data dispute satisfactory to NATO would still not provide the basis for a meaningful MBFR accord. NATO's persistent focus on obtaining reductions primarily in manpower reflects a fundamental misconception—namely, that troop strengths are the critical indicator of the respective military capabilities of NATO and the Warsaw Pact.

In the Guidelines Area today, NATO's 792,000 ground troops are confronted across the inter-German border not so much by 935,000 Pact troops. They face 57 Pact divisions that are organized, deployed, trained and equipped for a surprise blitzkrieg geared for a rate of advance of up to 100 kilometers per day. It is mobility, firepower, organization and tactics—not numbers of men—that govern the course of combat on the modern battlefield. By continuing and even sharpening its focus on aggregate troops levels, NATO is pursuing an agreement in Vienna that may be irrelevant to the realities of the military balance in Europe.

Even if manpower were a meaningful yardstick of military might, limitations on it would probably be unverifiable without on-site inspection. Soviet troop movements in and out of Central Europe can be traced with little confidence, and because of the proximity of the Soviet Union to Central Europe, a manpower-dominated MBFR agreement would be inherently unbalanced. In short, manpower reductions can certainly be a part of an MBFR agreement, but unless accompanied by other measures, such an agreement would be self-delusion.

Up to now, MBFR has been predicated on the notion that the very presence of large military forces in Central Europe is the source of military instability on the Continent. I disagree. In my view, that instability is rooted not in the presence of military forces but rather in the prospect of their sudden and unexpected use.

Since NATO's formal adoption of the strategy of flexible response in 1967, the defense of Western Europe has rested on the assumption that NATO would enjoy substantial warning time prior to a major Warsaw Pact invasion. This assumption appeared valid in the late 1960s and early 1970s. Soviet forces forward deployed in Eastern Europe seemed incapable of sustaining such an invasion without substantial, time-consuming—and therefore detectable—prior reinforcement from the western military districts of the Soviet Union. This is no longer the case.

As documented in the report that the late Senator Bartlett and I submitted to the Senate in January, 1977, the modernization and expansion of Soviet forces in the Guidelines Area over the past decade has afforded the Warsaw Pact the capacity to initiate a potentially decisive invasion of Western Europe unattended by prior reinforcement. Soviet forces in Russia's western military districts need not be mobilized until after the attack is launched.

The consequences of a Warsaw Pact invasion attended by little or no warning are profound for NATO. It is to the Alliance's credit that its Long Term Defense Program, if fully implemented, will enhance NATO's capacity to resist a surprise attack. Yet if the resolution of the problems posed by reduced warning is to be the central objective of NATO force planning, a restoration of adequate warning time must be the Alliance's paramount arms control aim in Vienna.

Arms control must be the mistress of force planning, not its master. Unfortunately, the pursuit of mutual reductions in force levels may not alter the current imbalance. The preservation of the existing conventional balance in Central Europe at lower force levels would provide no guarantee against the threat of an attack without warning.

In my view, the time is long overdue to shift our primary focus at MBFR away from reducing the presence of military forces in Central Europe to one of precluding their being employed in a sudden and unexpected manner. This means focusing on the creation of an arms control regime that would make surprise attack impossible.

To be more specific, it means the establishment of a comprehensive system of associated measures based on permanent and pervasive on-site inspection in Europe. This would provide accurate knowledge of any suspect military activity. It is again to NATO's credit that such measures are being actively weighed within the Alliance. It is my hope that their consideration will stimulate increasing attention to designing an approach at MBFR aimed primarily at reducing the threat of unreinforced attack.

In closing, let me say: I am encouraged by the progress the Alliance has made to-

ward formulating a theater force modernization program. I am also encouraged by NATO's adoption of the Long Term Defense Program, which addresses critical deficiencies in conventional force posture. This is the only way we can continue a credible deterrent in NATO. It is the only way we can achieve meaningful arms control in Europe. We know what we must do to reverse the adverse military trends of the past decade. The issue now is whether we can muster the political will to do it.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. CORMAN (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. AUCOIN (at the request of Mr. WRIGHT), for today, on account of being chairman of the Ad Hoc Select Subcommittee on Maritime Education and Training.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROTH) to revise and extend their remarks and include extraneous material:)

Mr. BEARD of Tennessee, for 30 minutes, today.

Mr. GRASSLEY, for 15 minutes, today.

Mr. DERWINSKI, for 10 minutes, today.

Mr. MARTIN, for 30 minutes, today.

Mr. KEMP, for 15 minutes, today.

(The following Members (at the request of Mr. SWIFT) to revise and extend their remarks and include extraneous material:)

Mr. DIGGS, for 5 minutes today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. ALEXANDER, for 10 minutes, today.

Mr. REUSS, for 20 minutes, today.

Mr. MATHIS, for 5 minutes, today.

Mr. STRATTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROTH) and to include extraneous matter:)

Mr. GILMAN in three instances.

Mr. LUNGREN.

Mr. PHILIP M. CRANE.

Mr. JOHNSON of Colorado.

Mr. ASHBROOK in three instances.

Mr. DERWINSKI in two instances.

Mr. DANIEL B. CRANE.

Mr. BEREUTER.

Mr. GINGRICH.

(The following Members (at the request of Mr. SWIFT) and to include extraneous material:)

Mr. COELHO.

Mr. CLAY.

Mr. DONNELLY in two instances.

Mr. BALDUS.

Mr. CONYERS.

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 34 minutes p.m.) under its previous order, the House adjourned until Monday, October 29, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2712: A letter from the Deputy Assistant Secretary of Defense (Installations and Housing) transmitting notice of the location, nature, and estimated cost of two construction projects to be undertaken by the Air Force Reserve, and one project deleted from the fiscal year 1977 Air Force Reserve Construction Program which had not yet been funded, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2713: A letter from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs) transmitting a draft of proposed legislation to amend title 37, United States Code, to authorize the Secretaries concerned to set mileage rates based on various considerations for uniformed members performing permanent change of station moves, and for other purposes; to the Committee on Armed Services.

2714: A letter from the Under Secretary of State for Security Assistance, Science and Technology transmitting a report on the costs to the United States of implementing the peace treaty between Egypt and Israel, pursuant to section 9 of Public Law 96-35; to the Committee on Foreign Affairs.

2715: A letter from the Secretary of Health, Education, and Welfare transmitting the annual report for fiscal year 1977 on Federal activities on alcohol abuse and alcoholism, pursuant to section 102(5) of Public Law 91-616, as amended (88 Stat. 136); to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLAND: Permanent Select Committee on Intelligence. Report on the implementation of the Foreign Intelligence Surveillance Act of 1978 (Rept. No. 96-558). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 5472. A bill to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel *United States*, steamship vessel *Oceanic Independence*, steamship vessel *Santa Rosa*, and the steamship vessels *Mariposa* and *Monterey* into the trade, with amendments (Rept. No. 96-559). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3317. A bill for the relief of Ohio Wesleyan University, Delaware, Ohio, with amendments (Rept. No. 96-560). Referred to the Committee of the Whole House.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3755. A bill for the relief of St. Paul's Episcopal Church, Riverside, Connecticut, with an amendment (Rept. No. 96-561). Referred to the Committee of the Whole House.

Mr. ULLMAN: Committee on Ways and Means. H.R. 2535. A bill to amend the tariff schedules of the United States to suspend for a temporary period the duty on certain alloy tool steels used for making chipper knives, with amendments (Rept. No. 96-562). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 2537. A bill to suspend until December 31, 1982, a portion of the duties on strontium nitrate, with amendments (Rept. No. 96-563). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3352. A bill to provide for the temporary suspension of duty on the importation of fluorspar, with amendments (Rept. No. 96-564). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3591. A bill to reduce temporarily the duty on titanium sponge, with an amendment (Rept. No. 96-565). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4309. A bill to amend the tariff schedules of the United States to provide for the proper classification of cold finished steel bars; and for other purposes, with an amendment (Rept. No. 96-566). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4739. A bill to suspend for a three-year period the duty on pillow buns of latex foam, with amendments (Rept. No. 96-567). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 4962. A bill to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes, with amendments (Rept. No. 96-568). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 5713. A bill authorizing continuing appropriations for the Lithuania legation to the Committee on Foreign Affairs.

By Mr. COUGHLIN:

H.R. 5714. A bill to amend the Internal Revenue Code of 1954 to provide that amounts paid for first-class postage in connection with the payment of medical expenses shall be treated as a deductible medical expense; to the Committee on Ways and Means.

By Mr. ERTEL:

H.R. 5715. A bill to establish a uniform Federal system for management, protection, and utilization of the results of federally sponsored scientific and technological research and development; and to further the public interest of the United States domestically and abroad; and for other related purposes; jointly, to the Committees on the Judiciary and Science and Technology.

By Mr. FISHER (for himself and Mr. BUTLER):

H.R. 5716. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment for purposes of the consolidated return regulations of stock in certain railroads which transferred property to ConRail; to the Committee on Ways and Means.

By Mr. LEDERER:

H.R. 5717. A bill to provide that adjustments in the rates of pay for Members of Congress shall take effect at the beginning of the Congress following the Congress in which the adjustments are approved, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 5718. A bill to amend the Internal Revenue Code of 1954 to delay for an additional 2 years the application of the provisions which increase the Federal unemployment tax in States which have outstanding advances to their unemployment funds; to the Committee on Ways and Means.

H.R. 5719. A bill to amend the Internal Revenue Code of 1954 to clarify the tax exemption of proceeds from certain bingo games; to the Committee on Ways and Means.

By Mr. LOEFFLER:

H.R. 5720. A bill to provide for continuing appropriations for any purpose or function when funds are not available on the first day of any fiscal year for such purpose or function; to the Committee on Appropriations.

By Mr. McDONALD:

H.R. 5721. A bill to amend the Internal Revenue Code of 1954 to restore the deduction for State and local taxes on gasoline and other motor fuels and to allow the deduction for such taxes without regard to whether the taxpayer itemizes other deductions; to the Committee on Ways and Means.

H.R. 5722. A bill to amend the Internal Revenue Code of 1954 to provide that the mileage allowance used for Federal employees shall be used for determining the mileage allowance for the deduction for trade or business expenses, and to amend title 5 of the United States Code to revise certain provisions relating to mileage and per diem expenses of Federal employees; jointly, to the Committee on Ways and Means and Government Operations.

By Mr. MATHIS:

H.R. 5723. A bill to reduce certain taxes on aviation fuel and air transportation, and for other purposes; jointly, to the Committees on Ways and Means and Public Works and Transportation.

By Mr. RINALDO:

H.R. 5724. A bill to protect the interest of consumers and provide information to consumers regarding the effective use of smoke detectors through the establishment of smoke detector placement demonstration projects, to require the Consumer Product Safety Commission to take into account the results of such projects in connection with the promulgation of certain consumer product safety standards, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Science and Technology.

By Mr. VENTO:

H.R. 5725. A bill to amend title 39, U.S. Code, to restore to Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WRIGHT (for himself, Mr. STAGGERS, Mr. YATES, Mr. BOLAND, Mr. ASHLEY, Mr. REUSS, Mr. DINGELL, Mr. STANTON, and Mr. OTTINGER):

H.R. 5726. A bill to permit utilities to finance or provide capital investment payments for the installation of energy conservation measures, to establish an Energy Conservation Bank to provide financial assistance to purchasers of energy conserving improvements, to provide new secondary financing authority for the purchase of loans made with respect to energy conserving improvements, to improve the weatherization grant program for low-income persons, and for other purposes; referred jointly to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce, for consideration of such provisions as fall within the jurisdiction of those committees under clause 1(d) and 1(l) of rule X, respectively.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FISH introduced a bill (H.R. 5727) for the relief of Karen Odell Donnelly, to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2191: Mr. FAZIO.

H.R. 3245: Mr. ASPIN, Mr. COURTER, Mr. GINGRICH, Mr. GRADISON, Mr. HAMILTON, Mr. KINDNESS, Mr. MATHIS, Mr. MATTOX, Mr. McDONALD, Mr. McKINNEY, Mr. MICA, Mr. MONTGOMERY, Mr. ROUSSELOT, Mr. TAYLOR, Mr. YOUNG of Florida, Mrs. SNOWE, Mr. BARNARD, and Mr. LEACH of Iowa.

H.R. 4205: Mr. BARNES, Mr. BEDELL, Mr. CLINGER, Mr. CORCORAN, Mr. COURTER, Mr. DIXON, Mr. DONNELLY, Mr. DORNAN, Mr. FAZIO, Ms. FERRARO, Mr. FOWLER, Mr. HARKIN, Mr. LAGOMARSINO, Mr. LELAND, Mr. MAZZOLI, Mr. MITCHELL of Maryland, Mr. NEAL, Mr. OBERSTAR, Mr. PEPPER, Mr. SIMON, Mr. SOLARZ, Mrs. SPELLMAN, Mr. STOKES, Mr. TAUKE, Mr. VENTO, Mr. WHITTAKER, Mr. WHITEHURST, Mr. WINN, and Mr. WIRTH.

H.R. 4358: Mr. RICHMOND, Mr. BRINKLEY, Mr. ATKINSON, Mr. CARTER, Mr. CORRADA, Mr. DONNELLY, Mr. DUNCAN of Oregon, Mr. ERDAHL, Mr. FISH, Mr. FLORIO, Mr. FRENZEL, Mr. FROST, Mr. GILMAN, Mr. MARKEY, Mr. MARKS, Mr. MATHIS, Mr. MATSUI, Mr. MAZZOLI, Ms. MIKULSKI, Mr. MOFFETT, Mr. MURPHY of Pennsylvania, Mr. NICHOLS, Mr. PATTEN, Mr. PICKLE, Mr. ROE, Mr. ST GERMAIN, Mr. SANTINI, Mr. SCHEUER, Mr. SENSENBRENNER, Mr. STOKES, Mr. SYNAR, Mr. WEAVER, Mr. WOLFF, Mr. WIRTH, and Mr. YOUNG of Missouri.

H.R. 4638: Mr. DORNAN and Mr. MCCLOSKEY.

H.R. 4960: Mr. KOSTMAYER, Mr. WHITTAKER, Mr. CARTER, Mr. BUCHANAN, and Mr. PREYER.

H.R. 5127: Mr. DE LA GARZA, Mr. KAZEN, and Mr. SANTINI.

H.R. 5134: Mr. JOHNSON of Colorado.

H.R. 5225: Mr. MURPHY of Pennsylvania and Mr. BARNARD.

H.R. 5296: Mr. LIVINGSTON, Mr. DORNAN, Mr. DUNCAN of Tennessee, Mr. FITHIAN, Mr. BAFALIS, and Mr. GOODLING.

H.R. 5399: Mr. DORNAN, Mr. GOODLING, and Mr. RITTER.

H.R. 5412: Mr. ANNUNZIO, Mrs. BOGGS, Mrs. CHISHOLM, Mr. CLAY, Mr. DELLUMS, Mr. DIXON, Mr. EVANS of the Virgin Islands, Mr. GREEN, Mr. HAWKINS, Mr. JENRETTE, Mr. KILDEE, Mr. LELAND, Mr. MARKS, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MURPHY of Illinois, Mr. MYERS of Pennsylvania, Mr. OTTINGER, Mr. PATTEN, Mr. RAHALL, Mr. RANGEL, Mr. ROE, Mr. RICHMOND, Mr. STARK, Mr. STOKES, Mr. VENTO, Mr. WEISS, Mrs. COLLINS of Illinois, Mr. GRAY, and Mr. GARCIA.

H.R. 5499: Mr. STOKES, Mr. McCORMACK, Mr. HALL of Ohio, Mr. WILLIAMS of Montana, Mr. SOLARZ, and Mr. REUSS.

H.R. 5660: Mr. BONKER, Mr. ORTY, Mr. TAUKE, Mr. CAVANAUGH, and Mr. GRAY.

H.J. Res. 385: Mr. OBERSTAR, Mr. LAGOMARSINO, Mr. MOAKLEY, Mr. ADDABBO, Mr. PANETTA, Mr. MINISH, Mr. CONTE, Ms. FERRARO, Mr. GIAIMO, Mr. ANNUNZIO, Mr. RUSSO, Mr. MILLER of California, Mr. LAFALCE, and Mr. SANTINI.

H.J. Res. 428: Mr. MYERS of Pennsylvania, Mrs. CHISHOLM, Mrs. SPELLMAN, Mr. HYDE, Mr. RANGEL, Mr. YOUNG of Alaska, Mr. MAZZOLI, Mr. SCHEUER, Mr. PEPPER, Mr. FAZIO, Mr. AMBRO, Mr. MURPHY of New York, and Mr. DODD.

H. Con. Res. 200: Mr. MARKS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4985

By Mr. BAUMAN:

—On page 32, after line 19, insert the following:

"6 the will of the electorate as ascertained in any local or state initiative or referendum which was specifically related to the establishment of an energy project."

—On page 51, after line 2, insert the following:

"(5) have the effect of contravening the will of the electorate as ascertained in any local or state initiative or referendum which was specifically related to the establishment of an energy project."

—Page 13, after line 13, insert:

(e)(1) Upon the request of any person acting on behalf of an energy project which constitutes—

(A) the conversion of a fossil fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(B) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

(2) Any Project designated under this subsection shall not be taken into account for purposes of the limitations contained in subsection (d).

—Page 15, after line 19, insert:

(f)(1) Upon the request of any person acting on behalf of an energy project which constitutes—

(A) the conversion of a fossil fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(B) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

(2) Any Project designated under this subsection shall not be taken into account for purposes of the limitations contained in subsection (e).

—Page 38, after line 7, insert:

(d) Upon the request of any person acting on behalf of an energy project which constitutes—

(1) the conversion of a fossil fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(2) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

—Strike out page 46, line 1 and all that follows down through line 12 on page 49 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall pro-

vide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision; "(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand the Board's recommended decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which

commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part."

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

Page 45, line 6, after "182" insert "or 185(a)(2)(A)".

Page 49, line 19, after "182" insert "or 185(a)(2)(A)".

By Mr. SEIBERLING:

—Page 32, line 4, strike out "or".

Page 32, line 5, insert "or" after the semicolon.

Page 32, after line 5, insert:

(E) providing access to, or acquisition of, information by any agency or other person;

—On page 32, line 18, following the word "interest" insert a comma and add "or death or personal injury".

EXTENSIONS OF REMARKS

STUDY OF ENERGY PROJECTS

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. MAGUIRE. Mr. Speaker, next week the House of Representatives will consider the "Priority Energy Project Act of 1979" also known as "fast track" legislation. I wish to commend to the attention of the Members a Library of Congress study of several energy projects. The study was requested by Senator STAFFORD prior to Senate consideration of similar "fast track" legislation.

The document follows:

ENERGY DEVELOPMENT PROJECT DELAYS

At the request of the Senate Subcommittee on Environmental Pollution, we undertook a review of delays in non-nuclear energy development projects. This review focuses on ascertaining the causes of delays in selected energy projects, with a view toward providing background on the need for an implications of proposed "fast track" legislation.

We selected the following energy projects for review:

1. Kaiparowits—a large, coal-fired, mine-mouth electric generating facility located in Utah, originally proposed in 1962 and finally abandoned in 1976.

2. Dickey-Lincoln—a hydroelectric project, originally authorized in 1965, on the St. Johns River in Maine; bills both to fund construction and to deauthorize the project are pending before Congress.

3. Eastport refinery—proposed in 1973 to be built in Maine, the project at present is stymied, in part because of EPA's rejection of certain permits.

4. Hampton Roads refinery—proposed in 1975 to be built in Virginia, the project is at present awaiting a decision by the Corps of Engineers.

5. SOHIO pipeline (PACTEX)—proposed in 1975 as a route for transporting excess Alaskan crude oil to the Gulf States area, the project was abandoned in 1979 after delays in approval reportedly pushed its completion date beyond the time when costs could be expected to be recovered, based on expected oil supplies.

6. Oil shale—leasing programs began in 1971, but progress has been slow and commercial production is not expected before 1983.

These six cases were chosen for reasons of convenience, familiarity, and diversity. It is not suggested that they are representative or nonrepresentative of any particular type or class of regulatory problems.

When assessing these case studies in terms of their implication for "fast track" proposals, two caveats are necessary:

1. The case studies are of projects that were proposed in a period of innovation and flux in environmental statutes and regulations. Consequently, there has been a problem of "moving targets," and planning these projects has been particularly difficult. It is possible that environmental statutes and regulations are maturing, and that for the next several years changes in requiremens will be fewer and less burdensome; nevertheless, the case studies are illustrative of the sorts of regulatory problems cited as justitfying the "fast track" concept.

2. Extracting the actual implications of environmental regulations on these projects is made difficult by other unsettling forces effecting planners. The economy, so stable during the 1960's, has changed in puzzling and predicted ways. And energy prices and availability, taken for granted in the 1960s, have become major uncertainties. As a result, many planning assumptions, particularly concerning rates of growth of energy demand and rates of inflation, have been disrupted. These energy and economic uncertainties to some extent are compounded by any environmentally caused delays since if the time required to obtain various construction and environmental permits is extended, economic considerations may cross a threshold that would not otherwise have been reached. But to some extent it is probably also true that environmental controls have been the whipping boy for other negative economic forces.

Given these caveats, a review of the case studies points to two basic conclusions: first, that it is difficult to attribute the delay or foreclosure of construction of energy development facilities solely to substantive Federal environmental protection laws; and second, that usually it appears that a general lack of consensus on the need for the project, at least as proposed, underlies the difficulty promoters of the projects have faced in trying to obtain necessary regulatory approvals.

1. For each of the six case studies, factors other than environmental statutes appear important in causing delays.

For Kaiparowits, changing environmental requirements, particularly air pollution control requirements, did substantially disrupt planning; however, at the same time changes in the economy and energy demand were also important.

For Dickey-Lincoln, present delays can be attributed to Congressional hesitation to authorize funding for the project; it may be that some of that reluctance stems from environmental considerations, but it is Congress which is in a position to decide whether it should go ahead.

For the Eastport Refinery, the proposal is at present stopped because of the rejection of a permit on the grounds approving it would violate the Endangered Species Act; however, there is every reason to believe that numerous other probable roadblocks to the project exist, including international considerations that would transcend domestic environmental protection constraints.

For the Hampton Roads refinery, the pro-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

posal is at present awaiting a final decision on a key permit.

For the SOHIO pipeline (PACTEX), the working out of new air pollution regulatory procedures was a major cause of delay; however, at the time the project was abandoned these had been overcome, and it appears that environmental requirements would not have foreclosed construction; this, then, is a case where delays caused the economics of a project to cross a threshold of unacceptability.

For oil shale development proposals, the issue is one of developing new technologies; environmental controls are but one of the uncertainties affecting their development.

In short, although environmental considerations have been important constraints on the proposers of these projects, they have not been the sole constraints. In fact, the case studies suggest that the regulatory hangups suffered by these projects most often arise from underlying doubts about the projects, and that these doubts have often found their readiest expression in regulations based on environmental considerations.

2. In some of the cases, the underlying uncertainty arises from the doubt about the need for the project at all, in others it arises from uncertainty about siting, about alternatives, or some other aspect of the proposal. Of course, for virtually any proposal, someone will have objections or criticisms; but the more than this type of uncertainty is present, the more objectors there are likely to be and the greater their legitimacy. Most importantly, the greater the doubts, the more likely it is that critics will find sympathetic ears among decisionmakers. This combined with the multitude of regulations and of governmental interests involved, increases the probability that a veto or holdup will occur at one or more of the numerous decision points.

Two of the case studies shed light from different angles on the nature of this source of delay: The PACTEX proposal illustrates that when consensus on the need for a project exists, it does move ahead; the Dickey-Lincoln project illustrates that when consensus does not exist, the absence of regulatory holdups does not mean it will automatically go ahead.

The SOHIO pipeline proposal was widely perceived as being in the national interest. Much of the delay concerned how to implement new procedures, but some hardline objectors existed, too. However, the general consensus that the project should go forward was reflected in a number of ad hoc efforts to clear roadblocks; and a bill passed the California legislature to resolve litigation challenging approval of the project. It appears that the underlying consensus in favor of the project was sufficient to get most of the roadblocks cleared (albeit too late for the economics of the project to be sustained).

In the Dickey-Lincoln case, the roadblock is legislative, not regulatory. And in this arena where, presumably, action by consensus would be possible without the project having to run the regulatory maze, funding is still iffy. It appears, then, that consensus for (or against) the project is lacking, so it languishes—just as are so many projects lost in the regulatory maze.

This illustrates that where an underlying consensus is lacking, projects will not necessarily go forward even if there are no significant regulatory hurdles; or put the other way, the delays of the regulatory hurdles generally seem to reflect a genuine uncertainty about the proposal. Indeed, it appears that environmental requirements have become a convenient and effective point of access to decisionmaking for critics of individual energy projects, whether on environmental or on social, economic, philosophical, or other grounds. When clear agreement on the national essentiality or any particular project is lacking, achieving final approval becomes exceedingly difficult—in either the regulatory or the legislative arenas. Once a critical level of consensus is reached, however, relief is likely to be forthcoming. The opportunity for Congress to clear the way for energy projects is illustrated by the enactment of the TransAlaska Pipeline Act.●

RESOLUTION ON ENERGY MOBILIZATION BOARD

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. MAGUIRE. Mr. Speaker, next week the House of Representatives will take up consideration of the Priority Energy Project Act, H.R. 4985.

The proposed creation of an Energy Mobilization Board with the power to waive laws and to preempt Government officials is certainly one of the most controversial energy proposals which this Congress will face. This controversy has even reached the Department of Energy's advisory structure. I am inserting for my colleague's consideration the resolution on the Energy Mobilization Board which was passed by the Department of Energy's Environmental Advisory Committee on August 3, 1979. The resolution opposes granting the Board any authority to waive any Federal, State, or local laws and regulations.

The resolution follows:

RESOLUTION ON ENERGY MOBILIZATION BOARD

The DOE Environmental Advisory Committee is concerned about the proposal to establish an Energy Mobilization Board to accelerate permitting and construction of non-nuclear energy facilities. We believe that greater efficiency and streamlining in energy decision-making is desirable and that it would be appropriate to grant to a new government entity the authority to set reasonable and coordinated project decision schedules in consultation and agreement with Federal, State, and local agencies with authority designated/over priority energy projects.

However, we are opposed to granting an appointed Board the authority to waive procedural or substantive requirements of Federal, state, or local laws or regulations, environmental or otherwise. If the Board determines that certain laws stand in the way of an important energy project, the Board should recommend through the President to the appropriate legislative body a legislative remedy. Nor should the Board have authority to waive procedures which are often essential to the implementation of the intent and purpose of the law. Finally, while judicial review can be accelerated, we oppose suspension of timely judicial review of final agency actions relating to a priority energy project.

We therefore urge Secretary-designate Duncan, as an early order of business, to reexamine the proposed EMB and to recommend to the President and to Congress only such powers for the Board as are essential to avoid undue delay in decisions regarding national priority energy projects.

We further urge the Assistant Secretary for Environment to investigate the extent to which environmental laws and regulations have been the cause of delay relative to other causes of delay and to make this information available to the Secretary, the Congress, and the public as soon as possible. We further urge the Assistant Secretary to do everything in her power to assure that the integrity of environmental safeguards, present and projected, is maintained in the formulation of any approach to "fast-track" legislation.●

IT'S A CRIME

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. ASHBROOK. Mr. Speaker, a number of my colleagues from time to time try to remind us of the dangers of handguns and their role in crime in this Nation. In the last 24 hours two separate incidents have occurred that underscores how wrong they are in their diagnosis of the causes for violence in America.

Last night I learned of the tragic stabbing death of Pamela Moseley Carpenter, the younger sister of Redskin's star field goal kicker Mark Moseley. The alleged murderer is an ex-convict who had just been released from prison for rape. He broke into Mrs. Carpenter's home and proceeded to rape her and then stabbed her to death with a pair of scissors from her sewing kit.

Another news item on last night's news concerned the assault on a young woman in Manassas by a 12-year-old who had just been released from a youth detention facility. The boy entered her house and tried to stab the woman to death with a screwdriver. Thankfully the woman was able to survive the attack.

We must ask ourselves what can be done to stop such wasteful and tragic violence in this Nation. These cases deal with criminals who have been judged fit to reenter society by the justice system. In both cases the criminals took less than 1 week after being released to carry out worse crimes than the ones they were originally incarcerated for. In my mind I can see that there is an obvious lapse in the judgment of those criminal justice officials involved in these cases. These men should have never been allowed to visit such horror upon innocent victims.

The two incidents also underscore the sham put forward by those who advocate further control of guns. In both cases gun control would have had no effect as in one case the criminal used a screwdriver and in the other a pair of scissors from the victim's own sewing kit. It is clear to me that violence will occur when and where a violent person wants it to occur, the weapon or weapons used are inconsequential. The real need in this Nation is not the separation of criminals from potential weapons, but the separation of proven criminals from the potential victims. Only a system of justice and punishment that truly deters crime will prevent future tragedies. As long as criminals are coddled by the courts and the media there will always be the potential for the innocent to be confronted by the random violence of those not fit to be a part of society. As one observer once stated, who says punishment does not work; we have never tried it.●

LOW-INCOME ENERGY ASSISTANCE APPROPRIATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. DONNELLY. Mr. Speaker, yesterday the House passed legislation providing a critically important supplemental appropriation for low-income energy assistance. As you said in a letter sent to every Member of the House, Mr. Speaker, this legislation is "a national priority." The $1.35 billion appropriation will bring badly needed financial assistance to the elderly and low income who are struggling to meet the spectacular increases in energy costs that have taken place over the past year. In recent weeks every Member of Congress has recognized the need for such a program, whether they represent a congressional district located in a cold region of the country or not.

Members of the Massachusetts and New England congressional delegations have been aware of the severity of the problem for quite some time and have urged our colleagues in the House to address this issue. Yesterday's action demonstrated the House can resolve its differences over aspects within the bill and approve a plan of action for this winter. The resolution passed yesterday, increasing the Community Services Administration's fuel assistance program to $400 million, providing $404 million to SSI recipients and $791 million to be utilized both by the States and AFDC families, has my strongest support for speedy passage in the Senate.

At the same time, I must voice my disappointment with the Appropriations Committee and other committees of Congress which have been incapable of formulating a plan which offers financial assistance for the working poor and moderate-income people of this country. Mr. Speaker, as many of us know so well, the working men and women of the country are continually excluded from programs of Government assistance because they do not qualify as 125 percent below the poverty level.

These people are left out because they cannot meet established poverty guidelines which are inadequate to meet all programs and all circumstances. Of course, in many cases the eligibility requirements that Congress sets for Federal assistance programs are necessary and proper. Such requirements insure accountability, avoid abuses in the system and protect the taxpayer's money. But in the case of fuel assistance, there is a clear need for financial help at the middle-income level.

The price of fuel oil has skyrocketed 60 and 70 percent and households must spend upward of 35 percent of their income on fuel costs alone. Is not the welfare of the middle income as important as others who cannot pay their heating bills or are forced to choose between food or fuel? Moreover, why cannot the taxpayers who had to finance the Federal ernment's various social programs occasionally benefit from those same programs? The emergency program we have proposed does not accurately assist the people we are claiming to help.

For example, not all SSI recipents need fuel assistance money because they live in senior citizen housing where they are exempt from utility charges. Other SSI recipients living in warmer climates have no need for fuel assistance money to heat their homes. More specifically, it is the CSA poverty criteria which is inadequate to address the needs of the working poor and moderate income. As they currently exist, a nonframe family consisting of two adults and six hungry children at an income level of $11,125 would be ineligible for fuel assistance.

I do not understand or accept the failure of Congress, with all its staff and resources, to establish better guidelines for allocating energy assistance money. I submit to my colleagues that many near poor and moderate-income working people are not helped by this program and are going to suffer as a result. It is for this reason that I respectfully and earnestly urge the House–Senate conference committe which will have to iron out any differences in this legislation to add language allowing more flexibility in the program, so that money can be directed to people other than just the elderly and low income.

Furthermore, in the coming year when permanent programs of fuel assistance will be drafted, I think it is also esential that the working poor and and moderate income be given the proper, if not long overdue, attention.

In conclusion Mr. Speaker, I commend my colleagues in the House for passing the $1.35 billion supplemental appropriation. Certainly, the program will not be perfect, inequities will occur and money may be misdirected. Nevertheless, it is absolutely essential that a fuel assistance program be passed without further delay. These Federal funds are badly needed and the cold winter months are quickly approaching.●

RETIRED U.S. SPEAKER McCORMACK HONORED

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. MOAKLEY. Mr. Speaker, recently the Ukrainian, Lithuanian, and Latvian communities of Boston honored the Honorable John W. McCormack, retired U.S. House of Representatives Speaker, for his support of Captive Nations over the years.

The groups, Ukrainian Congres Committee of America—Boston Chapter, Lithuanian American Council of Boston and American National Latvian League in Boston, cited Speaker McCormack for "his leadership in the enactment of the Captive Nations Week resolution by the U.S. Congress in July 1959, and for his dedication to the cause of freedom and independence of all Captive Nations under Russian Communist domination."

In accepting the plaque, Speaker McCormack said—

Your presence and the presence of other gatherings throughout the United States and elsewhere is a message of hope to the people of the captive nations who know what liberty was, and they know what liberty is denied to them; but some day, with the help of God, liberty will be restored to them.

I am proud to share these words with my colleagues, for they affirm my commitment to work for reversal of the injustices and denial of human rights of all Captive Nations.●

GREEK CONTRIBUTION TO WESTERN CIVILIZATION

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. LUNGREN. Mr. Speaker, no American can fail to have noticed the tremendous contribution Greece has made to Western civilization, particularly to the culture and institutions of the United States.

The theory and practice of democratic government originated in Greece, as did the science of medicine and the philosophy of reason and logic, not to mention the visible contributions in the form of architecture, sculpture, and art. Familiar names such as Plato, Socrates, Aristotle, Hippocrates, Pericles, and Euclid dramatically illustrate this point.

The United States and Greece have long enjoyed amicable relations partly because of American respect for the Greek devotion to freedom.

Today we honor that democratic spirit and history of Greek Americans. The culmination of this spirit is expressed in the Greek national holiday "Ochi" Day, celebrated annually on October 28. On October 28, 1940, Greece said "Ochi"—No—to Mussolini's ultimatum that she surrender parts of her national territory to Fascist Italy. Such a surrender would have given the Axis Powers complete control over the eastern Mediterranean.

As Fascist divisions invaded Greece from Albania, they were met with stubborn opposition. Ten days after the initial attack, Fascist divisions were being surrounded and destroyed, and the whole invasion army was driven back to Albania with the Greeks hot on their heels. By November 10, every inch of Greek territory occupied by the Fascists had been recaptured.

For the first time since the beginning of World War II, the Axis was defeated. The world enthusiastically hailed this first Allied victory. The courage and determination of the Greek soldier proved an inspiration to embattled Britain and gave hope to the occupied people of Europe.

The tremendous fight put up by Greece gave them precious time to stabilize and strengthen their position in the Middle East, allowing Allied forces to concentrate and overpower Axis forces in Libya, Ethiopia, Syria, and Iraq. When, after 6 months of struggle against the combined might of Fascist Italy and Nazi Germany, Greece finally succumbed to

her fate, the Allies were firmly entrenched in the Middle East and the Axis plan for a rapid push to the Suez Canal was frustrated.

Since the liberation of Greece in 1944, October 28, the anniversary of Greece's rejection of the Fascist ultimatum, has been celebrated as a national holiday, and is observed by military parades and ceremonies.●

IMPORTANCE OF CONGRESS TO SELF-GOVERNMENT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. GINGRICH. Mr. Speaker, James Madison wrote in the Federalist Papers:

> As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration should have an immediate dependence on, and an immediate sympathy with, the people.

James Madison was not writing about the President—he was writing about the House of Representatives. Precisely because of that closeness to the people, this branch of Government can be truly termed "the first among equals."

But in order to keep that immediate sympathy with the people, people must understand how important Congress is to our system of self-government. They must understand we make the decisions which determine what the inflation rate is, what the tax rates are, and how much real take-home pay they will receive.

Some Members I know have felt discouraged—that we do not receive enough attention. But I think the focus is changing—people are beginning to understand that it is Congress which governs this Nation, and sets the budget, and authorizes the bureaucracies.

Opinion leaders are beginning to focus on our body. One of those, Roscoe Drummond of the Christian Science Monitor, wrote a particularly good summary of the need to pay attention to Congress. Here it is:

FORGET THE PRESIDENT

WASHINGTON.—I would like to advance a pretty radical idea and invite readers to ponder it carefully before casting it aside.

Perhaps it will not be turned aside and, like a stone tossed into the smooth waters of a lake, make waves in public thinking until the elections next fall.

For months now—and it will be the same during the coming months—we have been listening nightly on the TV and reading daily on the front pages of the newspapers all the maneuverings and all the thoughts and half-thoughts bearing on the contests for the presidential nominations in both parties.

I say forget it. It's time to begin thinking about something really important.

The pretty radical idea I am offering is this: that the choice of the next Congress is more important than the choice of the next president.

Let me repeat it a little differently: We have quite obviously reached a stage in our political system where Congress is more influential—more decisive—in shaping national policy than the president. If we continue to view the election of the president as all-important and the election of Congress as an afterthought, we will re-create what we have been getting for the past six years—a Congress unwilling and unable to work with a president on nearly everything and unable to transact the public business efficiently and on time.

Obviously the American people will want a Congress able and willing to enact legislation which reflects their demands and their dominant consensus.

This means that voters in every state and in every district better spend as much time or more in testing out which senatorial and congressional candidates—incumbents and challengers alike—come nearest to what they want them to stand for and in deciding whom to support.

Don't let them get away with bland answers and meaningless cliches.

Keep at them until you can feel reasonably sure that you know where they stand, what they think, and what they will likely do if elected.

One overriding need to get more responsive government in Washington is to find ways to strengthen party responsibility. The political system has become so "reformed" that the parties have little say in the nominations, help very little in electing their candidates, and achieve little loyalty from their members. Once elected, nearly every congressman seems to be on his own—and the end result is stalemate and near chaos.

One of the causes is our failure to appreciate how powerful Congress has become in defeating what needs to be done and how weak it has become in getting it done.

Of course, I am not suggesting that the choice of the president is unimportant. It is very important but it is not likely that its importance will be neglected. What gets neglected is the crucial importance of choosing congressmen and senators who reflect the priorities and convictions of those who put them there—and will act accordingly.

Mr. Carter has found that a Democratic president and a Democratic Congress do not automatically work together cooperatively. But the only way to get party accountability for the total functioning of the government is to make one party responsible for both and then throw them both out if their joint performance is unsatisfactory.

I would think that voters who want a Democratic president would try to nominate and vote for Democratic congressional candidates who seem most likely to support the president most of the time. And the same for the Republicans.

Divided government with one party controlling the presidency and the other controlling the Congress has worked badly most of the time. It would be well to try the other way more thoroughly; that is, give a Republican president a Republican Congress or give a Democratic Congress a Democratic president.

My central conviction is that the American people need to focus more thoughtfully on electing Congress.●

SORRY SITUATION AT GENERAL DYNAMICS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. DONNELLY. Mr. Speaker, I have received the following resolution from the mayor and city council of the historic city of Quincy, Mass., regarding the sorry situation at the General Dynamics' Quincy shipbuilding facility located in that city.

Although this resolution is dated September 17, 1979, I have just received it and request that it be included in today's CONGRESSIONAL RECORD.

The resolution follows:

SEPTEMBER 17, 1979.

Whereas, General Dynamics' Quincy Shipyard lost a one hundred seven million dollar cable ship contract for a 512 foot cable ship which was awarded to a San Diego firm even though General Dynamics' bid was nine million dollars lower, and

Whereas, General Dynamics' Quincy Shipyard is facing the loss of liquefied natural gas tanker (LNG) contracts because of action by the Air Force, and

Whereas, General Dynamics' Quincy Shipyard has been optimistic about the possibility of constructing up to six LNG tankers for an Indonesia to California route, but the Air Force has objected to a proposed LNG terminal to be constructed six miles from its Vandenberg Air Force Base in California, and

Whereas, Congressman Brian J. Donnelly has expressed his concern that these developments would have a devastating economic and social impact on the future of our City, and

Whereas, General Dynamics' Quincy Shipyard is the largest industry in the City of Quincy and employs approximately five thousand people, many of whom reside in the City of Quincy, and

Whereas, Quincy workers grow increasingly fearful for the security of their families and are apprehensive about their uncertain future and their ability to provide food and shelter for their families, and

Whereas, the people of Quincy continue to be concerned about the future of General Dynamics' Quincy Shipyard and the cataclysmic impact its loss would have on the City of Quincy and on the entire South Shore,

Now, therefore, Be it Resolved that the Mayor and Quincy City Council implore President Carter to intercede with the United States Air Force and any other private or governmental agency and exert whatever influence is necessary that would result in the awarding of contracts to General Dynamics' Quincy Shipyard in order to preserve the economic vitality of our community.●

A DEMAND FOR A NEW ADMINISTRATION SUGAR POLICY

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. JOHNSON of Colorado. Mr. Speaker, on Tuesday, October 23, the House overwhelmingly defeated H.R. 2172, the International Sugar Stabilization Act of 1979, thus dealing a tremendous blow to the domestic U.S. sugar industry. Those of us who supported this legislation considered it was necessary to maintain a viable domestic industry as well as to protect consumers against higher sugar prices in the future. Only time will tell who was right.

I think it is appropriate at this time to urge that the Department of Agriculture use its existing authority to support the domestic sugar industry at 15.8 cents per pound. While there will be many producers who will not be able to survive at this level of support, I think the Department's action in this regard would do much to maintain a continued supply of domestically grown sugar. The administration is on record as supporting H.R. 2172 which provided for a 15.8-cent price objective for the 1979 sugar crop plus a one-half cent payment per pound to producers.

On July 10, 1979, in testimony before the Subcommittee on Department Investigations, Oversight, and Research of the House Committee on Agriculture, Howard Hjort, Director of Budget, Planning, and Evaluation, stated that—

> If one has authority to be able to protect that [15.8 cents], I would think that the Department of Agriculture, at least, would recommend that we continue to support a market price objective of 15.8 cents for that year [1979].

Additionally, at that same hearing, Secretary Bergland stated:

> We think 15.8 cents is a minimum price at which a so-called viable industry can be maintained. Any market price objective below that will simply force the industry to wither and die. That is not in the national interest.

Therefore, an administration policy inplementing that 15.8 cents price objective in the marketplace—which it has the authority to do under existing law—is a policy which I believe all Americans would endorse.

Much will be written in the days ahead as to the effect this defeat will have on the domestic sugar industry and what the Congress and the administration may or may not do legislatively. I place in the RECORD an article which discusses this and which appeared in the Wall Street Journal of October 25.

The article follows:

SUGAR PRICES DROP IN RESPONSE TO DEFEAT OF PRICE-PROP BILL BUT A REBOUND IS SEEN

(By Maria Shao)

Sugar prices tumbled in the aftermath of Tuesday's late vote in the House defeating legislation that would have boosted price supports to U.S. growers of sugarbeets and cane. However, many analysts expect prices of raw sugar to rebound before long.

In the past, sugar quotes had been closely linked to the fortunes of the price-support legislation; falling chances for approval, meant falling prices. But the fate of the legislation doesn't matter as much any longer, analysts say, because the world sugar market changed during the time the legislation wended its way through Congress.

"There's a different psychology" now, says Kim Badenhop, research director for B.W. Dyer & Co., a firm of sugar brokers and economists. More sugar is expected to be consumed this year than is grown, the first time in six years that this has happened. This prospect should keep the market for raw sugar from "falling out of bed" due to the death of the legislation, says Mr. Badenhop. Indeed, after a knee-jerk reaction, analysts expect market fundamentals to reassert themselves.

Retail prices for refined sugar shouldn't change much either, just as they haven't changed much during raw sugar's sharp price gains in recent months; on Monday, the world price was 53% more than in early August. But Washington administers fees on imported sugar to keep the price of sugar landed in the U.S. at 15 cents a pound; when the world price rises, the import fees fall.

RETAILER'S VIEW

A spokeswoman for Foodarama Supermarkets Inc., which sells sugar in the New York area for about 26 cents a pound, said, "We are able to buy at a certain price where we don't have to raise" shelf prices. What's more, current world stocks of about 33 million tons would have to drop dramatically "before it starts pinching the consumer," noted George Hiral, sugar department manager for Bache Halsey Stuart Shields Inc.

On the Coffee, Sugar and Cocoa Exchange in New York, sugar prices fell sharply in early dealings, then recovered somewhat to finish with more modest losses. World-market sugar for January delivery ended at 12.94 cents a pound, down 0.38 cent, after being as low as 12.25 cents. Sugar for domestic delivery in November ended at 17.08 cents, down 0.5 cent. Some analysts suggested the late rebound was evidence that the selloff won't last. They noted current prices are above the 16.3-cent level in the proposed legislation.

While the domestic measures appear to be dead, there is still hope that Congress will ratify the International Sugar Agreement, a global pact that aims to support world prices at 11 cents a pound through a system of export quotas and international stockpiles. This would have the effect of supporting U.S. domestic prices.

In rejecting the support bill Tuesday, the House also killed companion legislation for the international agreement. This measure could be reintroduced, however. Rep. Charles A. Vanik, (D., Ohio), chairman of the House trade subcommittee, said he is willing to proceed if the Senate will show some sign of interest.

SENATE CONSENT NEEDED

The Senate must ratify the pact in principle in line with its treaty-making powers. Currently, the pact is being considered by the Senate Foreign Relations Committee, chaired by Sen. Frank Church (D., Idaho), a long-time advocate of strong price props for sugar growers in Idaho and other key producing states.

Yesterday, Sen. Church said through a spokesman that he hasn't had a chance to focus on the sugar issue since the House vote and can't say whether Mr. Vanik's suggestion would be satisfactory. But he promised to reach a decision "shortly."

Some analysts suggest Mr. Church won't push passage of the international agreement, because of his vigorous stance against Cuba, which would be a major beneficiary of the pact.

Analysts are divided on how effective an international agreement would be, with or without U.S. participation. If the U.S. doesn't ratify the pact, its important contribution to funds for stockpiling surpluses won't be available. That could be "the beginning of the end" for the pact, says Mr. Hiral of Bache, because financially pressed Third World growers might begin "cheating" by selling more than their quotas.

Another analyst, however, contends voluntary compliance with the pact has helped prices rise. The agreement is "very alive and very health" without the U.S., he says.●

CONGRESSIONAL MEDAL OF HONOR

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. CLAY. Mr. Speaker, on October 15, 1979, the House approved H.R. 3407, to insure that there is an opportunity for consideration of the Medal of Honor award to William James Tsakanikas, as well as appropriate awards to the other members of the 394th Infantry Regiment, 99th Infantry Division, in World War II.

I am taking this opportunity to declare my support for this bill and indicate why Private Tsakanikas should be awarded the Congressional Medal of Honor posthumously. Private Tsakanikas was one of the little-known heroes of the Second World War who risked his life, above and beyond the call of duty in combat operations during the Battle of the Bulge. The name Tsakanikas is Greek; in English, it means "Champion of fighters." Private Tsakanikas was truly a champion of fighters who exemplified the highest qualities of duty and honor.

Private Tsakanikas played a critical part in the opening stages of the Battle of the Bulge. Despite the physical injuries he sustained there, he continued to live out the remainder of his life with unsurpassed courage and dignity. The passage of H.R. 3407 will make it possible for us to finally give appropriate recognition to William James Tsakanikas for his unselfish contribution to our Nation and the cause of freedom throughout the world.●

STATE DEPARTMENT STRIKES A BLOW FOR COMMUNISM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. ASHBROOK. Mr. Speaker, once again the ugly head of appeasement has arisen out of "Foggy Bottom." Mr. Carter's State Department has taken it upon themselves to champion the cause of the Red Chinese by making sure the Communists are not put through the embarrassment of having Nationalist China in the 1980 winter Olympics. In a letter to Lord Killanin the State Department stated its resolution of the so-called problem of having both Communist China and Nationalist China in the Olympics:

> . . . we do not recognize as symbols of national sovereignty the flag and anthem of the Republic of China. However, we do continue to make visa facilities available to travelers from Taiwan.

What is going on here? I am glad that the State Department has found room in its heart to actually allow visa facilities to be available to travelers from Taiwan. What a great concession on the part of Mr. Carter to still let Americans travel to and from that nation.

I am ashamed to have Mr. Carter and his paid henchmen at the State Department representing this Nation. Their shabby posture on the status of our valiant friend and long time ally on Taiwan is one of the most heart rending lapses of moral judgment this sorry excuse for an administration has perpetrated on the world. The Olympics should never be a partner to political disputes. This symbol of world sportsmanship should allow any and all nations into the competition regardless of the country's name or political order as long as the athletes qualify for competition and the nation conducts itself in a fair and honest manner during the games. To exclude any nation for any other reason is to make the Olympics just one more tool of policy planners in the Kremlin or "Foggy Bottom." It is incredible that our Nation would cave-in to the point of allowing the politization of the Olympics under the auspices of a new pack of jackles coming from Peking. It is a sad day for this Nation and the free world.

The other point I would like to make is that we have before us further evidence of this administration's attempt to ignore reality. The Government on Taiwan exists. The Nationalist Republic of China exists. That courageous sovereign nation has existed for 68 years. To persist in trying to erase reality by terminating treaties and denying national symbols Mr. Carter only underscores the need to erase the stain of his administration from the foreign policy of the United States.

I include today's Washington Post news story to let my colleagues review the complete facts in this tragic new entry in the history of American appeasement:

IOC CALLS ON TAIWAN TO RENAME

NAGOYA, JAPAN, Oct. 25.—Leaders of the International Olympic Committee heeded an ominous letter from the U.S. State Department today and called on Taiwan to change its name and flag for the Olympic Games.

The letter implied there would be embarrassment for the United States if the athletes of Taiwan were to go to the Winter Games at Lake Placid, N.Y., in February under the name of the Republic of China.

Lord Killanin, president of the IOC, announced a decision by the Executive Board that athletes from Mainland China now should be allowed into the Games under the name of the Chinese Olympic Committee, using the name and flag of the People's Republic.

He said that athletes from Taiwan may go on competing but only under the name of the Chinese Taipei Olympic Committee, using a new flag and anthem, which must be approved by the IOC.

The full IOC of 89 members will be asked to approve the resolution by mail by Nov. 25. This would enable entries from both parts of China to be submitted for Lake Placid by the required date. Dec. 1.

Killanin said that about 120 countries now do not recognize the government of the Taiwan regime, which still calls itself the Republic of China and claims in its constitution to be the legal government of all China.

Taiwan's insistence on using the old name and flag caused a crisis at the 1976 Olympics at Montreal, and the IOC feared the crisis would be repeated at Lake Placid and at the 1980 Summer Olympics in Moscow.

A major factor in the board's decision was a letter sent by the U.S. State Department to the IOC through its American member, Julian K. Roosevelt. The letter said in part:

"Regarding China's participation in the Games, this is a decision for the IOC. As for government contacts, the United States as of Jan. 1, 1979, recognizes the government of the People's Republic of China as the sole legal government of China. At the same time, the United States withdrew diplomatic recognition of the authorities in Taiwan.

"In consequence of this withdrawal of recognition, we do not recognize as symbols of national sovereignty the flag and anthem of the Republic of China. However, we do continue to make visa facilities available to travelers from Taiwan.

"With respect to the Lake Placid Games, we hope that the IOC will find a solution that will avoid politicising the Games in a way that could cause embarrassment to the host country or to the IOC itself."

[In Washington last night, a State Department official told The Washington Post that the letter was sent last summer in response to an IOC request about the United States' position on the two Chinese governments. the IOC made the request through Roosevelt, the official said.

["We're not telling the IOC what to do," the official said. "We're just stating what the United States' position was."

[In Colorado Springs, F. Don Miller, executive director of the U.S. Olympic Committee, said, "The USOC has adopted the position that both Chinas should be afforded an opportunity to participate in the Games in accordance with IOC rules."

["I have recognized that this is a matter to be decided by the IOC," Miller added. "But I also must take exception to the apparent use of the State Department letter as the reported vehicle for making the decision which has been made.]

Killanin said the Soviet government had said it would admit athletes from any country recognized by the IOC.

During the three-day meeting of the Executive Board, representatives of the two parts of China stayed in the same hotel, but they were not called to the meeting and they have not spoken to each other.

Killanin said he had talked with both parties in the past and came to Japan via Taipei, where he met both government and Olympic representatives.

In making its recommendation, the board ignored Rule 64 of the Olympic charter, which says teams in the opening parade at the Games must be accompanied by the names and flags of their countries.

He emphasized "The IOC is the sole authority on all questions of the Olympic Games.

Dr. C. S. Shen, consultant to the Olympic Committee in Taiwan, apparently anticipated the board's decision and prepared a statement.

It said: "Fairness and conformity to rules are the basic cornerstones of athletic competition, and they are the most treasured by the athletes. Therefore, we are not satisfied with the proposal." ●

PERSONAL EXPLANATION

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. BALDUS. Mr. Speaker, on October 25, 1979, it was necessary for me to return to Wisconsin for a portion of the day. I very much regretted missing debate and votes on the low-income energy assistance bill, House Joint Resolution 430. Listed below are the votes I missed and how I would have voted had I been present.

Rollcall No. 600: Rule to consider House Joint Resolution 430. BALDUS, "yes."

Rollcall No. 601: Amendment to House Joint Resolution 430 that directs the States, in establishing priorities for awarding funds, to provide for determining the extent to which increases in rents are caused by increases in heating costs and consider such portions of increases in rents to be increases in heating costs. BALDUS, "yes."

Rollcall No. 602: Amendment to House Joint Resolution 430 that sought to provide for the distribution of all funds in the form of block grants to the States for energy allowances, BALDUS, "no."

Rollcall No. 603: Final passage of House Joint Resolution 430. BALDUS, "yes."

Rollcall No. 604: On agreeing to resolve itself into the Committee of the Whole to consider H.R. 4955, supplemental refugee assistance 'authorization. BALDUS, "yes." ●

HOME HEATING FUEL CRISIS PART VI

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. GILMAN. Mr. Speaker, I rise to draw to the attention of my colleagues what many consider to be a life or death matter; the home heating fuel crisis confronting our Nation this winter.

As I have indicated over the past several months, the two factors of the home heating fuel crisis which need to be addressed with the highest priority are, first, the problem of supplying the independent dealers with sufficient fuel shipments before winter weather hampers transportation, and, second, the problem of high and rising prices of home heating fuel.

Energy Secretary Duncan has recently assured us that since the targeted stockpile of 240 million barrels of heating oil by the end of October has already been reached, the major oil companies and the Department of Energy would be doing everything possible to insure prompt delivery to the independent dealers and their customers. I am hopeful that this will be accomplished before the cold weather sets in.

Nevertheless, I am still concerned with the possibility of many Americans freezing—not because of a lack of fuel, but rather, because of a lack of funds to purchase their fuel. Last year at this time oil consumers paid 48 cents a gallon—today they are paying 90 cents and more. It is obvious that many Americans are having a very difficult time adjusting their budgets to this 70-percent increase in heating costs. It is equally obvious that many Americans simply cannot meet these costs and will need some form of financial assistance.

Yet, while the American consumer is at odds trying to meet the most basic of human necessities, like a warm home, the major oil companies are enjoying record profits which many veteran market analysts characterized as "mind boggling." As an example, Exxon Corp., the world's largest oil company, reported Tuesday that their net income for the third quarter rose 119 percent. Above and beyond this, Exxon's improvement in foreign operations far outpaced their State-side endeavors. Even excluding a $200 million nonrecurring benefit from the United Kingdom tax legislation, their third quarter earnings rose more than 400 percent. In other quarterly releases we can see that every oil company is making enormous profits on the oil market. To give a better indication of just how extensive these profits are I would like to insert into the RECORD an annual oil company report for the years 1977 to 1978. In addition to this I would like to insert a chart of the recent quarterly reports of these same companies which clearly indicate the sharp climb in their profits as a result of the home heating fuel crisis:

OIL COMPANY ANNUAL REPORTS FOR 1978

Company	Gross sales—Operating revenue [1]				Net income				Total assets				Net income as percent of average stockholder equity	
	Add 000		Percent change		Add 000		Percent change		Add 000		Percent change			
	1978	1977	1977–78	1973 vs. 78	1978	1977	1977–78	1973 vs. 78	1978	1977	1977–78	1973 vs. 78	1978	1977
Amerada Hess Corp.	$4,739,592	$4,626,970	2.6	146.8	$142,418	$177,803	78.7		$3,177,803	$2,730,000	16.9		8.8	13.8
American Petrofina, Inc.	1,157,834	1,076,980	8.5	160.8	32,351	36,730	12.6	117.8	464,000	454,000	2.2	100.6	10.3	10.3
Ashland Oil Inc.	1,454,000	1,370,000	6.1	176.4	245,000	164,000	49.4	100.6	1,748,000	1,710,000	2.2	134.9	18.67	15.5
Atlantic Richfield Co.	12,736,000	11,413,400	11.6	218.3	865,000	710,200	21.8	134.9	8,257,000	7,800,000	5.8	136.3	15.3	11.3
Cities Service Oil Co.	2,685,000	2,618,000	2.5	129.1	114,000	211,000	46.0	25.6	1,539,000	1,500,000	2.6	113.1	6.0	12.6
Clark Oil & Ref Co.	4,688,000	4,398,000	6.6	135.3	16,025	13,930	15.1		1,000,000	1,000,000			13.1	
Continental Oil Co.	865,261	887,257	1.6		[1] (63,854)	[1] (18,209)								
Diamond Shamrock Oil & Gas Co.	9,330,742	9,330,542			451,340	390,526	15.6							
Exon Corp.	8,555,000	8,732,000	2.0	263.2	4,195,000	1,921,000	118.4	101.6	4,195,000	2,443,000	71.7		15.1	13.9
Getty Oil Corp.	1,693,000	1,630,000	3.9	143.6	327,751	305,115	7.4		2,700,000	2,300,000	17.4		14.0	13.1
Gulf Oil Corp.	20,097,000	19,416,000	3.5	146.2	2,700,000	752,000	258.5	100.2	791,000	719,000	10.0			11.5
Marathon Oil Corp.	3,519,740	3,157,743	11.5	138.8	118,196	119,157	1.0	133.3	1,125,000	1,000,000	12.5		9.8	11.9
Mobil Oil Corp.	64,886,000	54,460,000	19.1	184.7	1,126,000	997,000	12.9	130.0	7,000,000	6,000,000	16.7		16.5	16.2
Murphy Oil Corp.	3,319,420	2,919,754	13.7	125.2	46,580	47,133	1.2	115.5	710,479	750,344	5.3		7.0	6.2
Phillips Petroleum Co.	20,097,000	19,816,000	1.4	138.6	813,523	516,900	57.4	92.3	1,076,417	1,024,000	5.1		29.7	18.0
Shell Oil Co.	32,805,000	26,250,000	25.0	127.7	1,511,000	1,000,000	51.1	114.5	9,197,795	8,000,000	14.9		14.2	13.1
Standard Oil Co. of Calif.	11,000,000	10,000,000	10.0	226.5	1,191,034	1,000,000	19.1	86.6	6,000,000	5,000,000	20.0			18.3
Standard Oil Co. (Indiana)	24,961,499	22,000,000	13.4	176.2	1,076,417	1,024,000	5.1	92.3	9,197,795	8,000,000	14.9		15.8	16.8
Standard Oil Co. (Ohio)	5,197,714	4,823,223	7.8	250.7	450,205	391,940	14.9	114.2	3,000,000	2,500,000	20.0		14.2	15.2
Sun Oil Co.	5,425,238	5,116,117	6.0	224.9	365,393	301,000	21.4	115.7	2,000,000	1,800,000	11.1		18.2	16.7
Texaco Inc.	26,607,501	25,000,000	6.4	148.5	481,000	395,000	21.8	94.3	4,000,000	3,500,000	14.3		14.5	10.0
Union Oil Co. of Calif.	5,954,967	5,684,520	5.1	133.9	302,261	334,282	10.6	48.9	1,000,000	1,000,000			9.3	14.4

Company	Refinery crude runs, b/d				Total domestic production as percent of total domestic runs		Domestic refined petroleum product sales, b/d	
	Domestic [2]		Foreign					
	1978	1977	1978	1977	1978	1977	1978	1977
Amerada Hess Corp.	84,638	78,061			48.0	49.4	426,000	396,000
American Petrofina, Inc.					60.0	59.0	67,000	69,000
Ashland Oil Inc.					60.0	59.9	1,736,000	1,748,000
Atlantic Richfield Co.	3,009,000	2,999,000			116.3	119.4	257,000	242,000
Cities Service Oil Co.	45,000	45,000			25.4	27.9	259,000	257,000
Clark Oil & Ref Co.	821,000	852,000			27.4	27.9	539,000	539,000
Continental Oil Co.						57.6	846,000	846,000
Diamond Shamrock Oil & Gas Co.	64,498	58,656			45.3	45.3	116,000	112,000
Exon Corp.	1,276,000	1,307,000			115.7	114.9	1,183,000	1,183,000
Getty Oil Corp.	30,778	33,441			54.0	54.0	1,245,000	1,245,000
Gulf Oil Corp.	1,083,000	1,088,000			47.1	47.1	1,159,000	1,159,000
Marathon Oil Corp.	172,000	145,000			125.0	125.0	426,000	426,000
Mobil Oil Corp.	70,869	76,944			40.0	40.0	611,000	611,000
Murphy Oil Corp.					101.0	101.0	121,000	121,000
Phillips Petroleum Co.	1,791,000	1,851,000			[3] 53.9	46.9	[3] 1,252,000	[3] 1,235,000
Shell Oil Co.	302,282	301,000			45.1		454,000	450,000
Standard Oil Co. of Calif.								
Standard Oil Co. (Indiana)								
Standard Oil Co. (Ohio)								
Sun Co.								
Texaco Oil Inc.								
Texaco Inc.								
Union Oil Co. of Calif.								

Company	Product imports, b/d		Crude imports, b/d		Net crude production, b/d			
					Domestic [7]			
	1978	1977	1978	1977	1978	1977		
Amerada Hess Corp.	NA	NA	NA	NA	$3,990	$5,621	179,000	180,000
American Petrofina, Inc.			31,000	32,000	19,650	19,367	30,154	30,577
Ashland Oil Inc.					22,100	22,100	865,000	865,000
Atlantic Richfield Co.	631	400	246,000	365,000	526,000	607,000	275,000	275,000
Cities Service Oil Co.	0	0	94,711	86,613	140,000	141,000	402,000	402,000
Clark Oil & Ref. Co.			94,115					
Continental Oil Co.							34,677	37,847
Diamond Shamrock Oil & Gas Co.	NA	NA	136,719	163,512	165,000	175,000	180,946	180,946
Exon Corp.					1,000,000	1,000,000	177,777	177,777
Getty Oil Corp.	364,000	364,000			362,000	362,000	115,000	115,000
Gulf Oil Corp.					48,096	48,096	235,000	235,000
Marathon Oil Corp.	24,300	25,800	90,083	95,869	258,000	258,000	497,000	497,000
Mobil Oil Corp.			372,300	372,300	450,100	450,100	391,000	391,000
Murphy Oil Corp.	0	0	256,000	256,000	402,000	402,000	540,000	540,000
Phillips Petroleum Co.	NA	27,000	262,000	262,000	34,677	37,847	512,000	512,000
Shell Oil Co.	157		48,096	48,096	180,946	180,946	218,597	218,597
Standard Oil Co. of Calif.	200		83,000	165,000	235,000	235,000	497,000	497,000
Standard Oil Co. (Indiana)	23,000	NA	392,000	439,000	497,000	497,000	391,000	391,000
Standard Oil Co. (Ohio)	[4] 4,008	[4] 425,000	NA	301,000	540,000	540,000	512,000	512,000
Sun Co.	5,624	277,961			218,597	218,597	235,338	235,338
Texaco Oil Inc.					97,187	97,187	82,525	82,525
Texaco Inc.					[11] 511,000	[11] 554,000	[11] 2,699,000	[11] 2,711,000
Union Oil Co. of Calif.	NA	NA	159,000	186,000	194,400	211,900	117,500	117,500

[1] Excluding taxes.
[2] Net sales and operating revenues.
[3] Operating profit.
[4] All 1977 figures restated for revisions in accounting.
[5] Includes condensate and natural gas liquids.
[7] Excluding Canada.

[1] Includes natural gas liquids.
[2] Includes products that are finished oils imported under Standard Ind. license which may be sold, exchanged, used for blending purposes or processed into refined products.
[3] Includes crude imported under Standard Ind. license which may have been sold, exchanged or run at their refineries or processed into products.
[4] Includes interest in nonsubsidiary companies.

Source: NPN Questionnaire, company annual reports, 1978 and 1974 NPN Factbook issues.

QUARTERLY OIL COMPANY PROFITS [1]

[Dollar amounts in millions]

	Quarter						Percent changes [2] (quarters)		
	1st, 1978	2d, 1978	3d, 1978	1st, 1979	2d, 1979	3d, 1979	1st	2d	3d
Exxon	$695	$590	$525	$955	$830	$1,145	37	20	118
Mobil	241	293	258	437	404	595	81	38	131
Texaco	170	157		307	365		81	132	
Standard (California)	243	256		347	412		43	61	
Gulf	155	176	211	249	291	416	61	65	97
Standard (Indiana)	274	294	292	349	401	434	28	36	49
Atlantic-Richfield	150	211	221	242	260	320	61	24	45
Shell	193	179		224	277		16	55	
Continental	37	154	106	162	216	247	343	40	133
Tenneco	110	118		125	154		14	31	
Sun	84	101	109	120	159	174	43	57	54
Phillips	171	149		177	215		4	44	
Occidental	32	(68)	19	88	113	186	174		864
Union	79	87		114	128		44	47	
Ashland	16	44		27	395		75	798	
Amerada-Hess	32	35		116	115		258	234	
Cities Service	55	40	53	79	77	86	42	93	62
Marathon	50	51	50	81	85	80	61	67	60
Standard (Ohio)	42	118	126	168	201	366	303	70	190
Getty	76	56		108	140		42	150	

[1] 9-mo net income figures may be derived by adding the totals for one 1st 3 quarters together. Figures are provided by the companies and may be slightly revised from earlier estimates.

[2] The percent change figures compare quarterly net income for 1979 against quarterly net income for the same quarter in 1978.

In response to this crisis I have advocated a number of corrective measures, including the reimposition of price controls, tax credits for alternative sources of energy saving installations such as wood burning stoves and solar equipment, and various forms of financial assistance to help meet home fuel bills. I voted in favor of yesterday's bill, House Joint Resolution 430, enabling those 16 million American households who fall below 125 percent of the Federal poverty level to receive financial assistance in the form of fuel stamps or direct cash payments to meet their fuel bills. Although I am pleased that the bill passed, it is still imperative that the Congress take additional steps to insure assistance for those groups of people who are not below poverty level but are still having great difficulty paying their heating bills. House Joint Resolution 430 is designed to provide assistance to those most in need. Others will also need assistance and I am hopeful that they will also be assisted in one form or another.

The Senate Finance Committee completed their action on the windfall profits bill which would raise about $138 billion over a 10-year period to 1990. However, the comparable figure for the House bill that I voted in favor of and which passed on June 28, is about $273 billion, nearly twice as much.

The Senate has also passed a $1.2 billion plan to meet the soaring heating bills, however with a somewhat different distribution system. I am hopeful that the conferees will act expeditiously to iron out the technical differences and insure the prompt implementation of that program. In addition, the House is considering several other measures which will provide tax relief to all residential users of home heating oil.

Mr. Speaker, I urge my colleagues to continue their support for these energy assistance measures that are being considered by both the House and the Senate and to continue to gage their impact upon their constituents.●

JEANNIE OLIVER DAY

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. IRELAND. Mr. Speaker, on November 3, 1979, the mayor of Bradenton, Fla., will proclaim that day as Jeannie Oliver Day.

Jeannie Oliver is worthy of such an honor. She is a longtime civic leader and she has made a particular contribution in serving young people.

She was director of the Youth Center of Manatee County from 1956 through 1959 and from 1965 to 1968, during which time membership reached 1,700.

In 1970, she became executive director of the Manatee County Girls Club. She retired in 1976 and has since given up her retirement to serve until September 1980. During her tenure, this club grew from one unit to a three-unit organization helping many young people in our community.

Presently, Mrs. Oliver is a board member of the United Fund, member of District VI Human Rights Advocacy committee and conducts public relations for the Manatee County Chamber of Commerce volunteer services.

Due to her outstanding abilities I have asked her to work with me on my congressional classroom project, which provides the opportunity for high school students to spend a week in Washington, D.C.

Mrs. Oliver has also received many honors including the Beta Sigma Phi Sorority Order of the Rose, the Civitan "Builder of Good Citizenship Award," and the Sertoma Club's "Service to Mankind Award." She has also received the Beta Sigma Phi's "Girl of the Year Award" three times and holds the rank of a nationally accredited flower show judge.

Jeannie Oliver has served our area well and this honor is only a small way to repay her for the years of service she has given us.●

EMERGENCY FUEL ASSISTANCE: HOW CONGRESS MAY CREATE ONE PROBLEM TO SOLVE ANOTHER

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. BEREUTER. Mr. Speaker, yesterday I joined the majority of my colleagues in supporting House Joint Resolution 427, a bill making urgent appropriations available for an emergency fuel assistance program. While I voted for the resolution, I did so reluctantly. Having thought even more about the reasons for my reluctance, I think it is important to document my position for the record.

I think every Member of this body is very concerned about the effects of inflation, particularly high energy prices, on low-income families and the elderly who live on fixed incomes. When the average American family wonders how it will meet its heating bills this winter and still have room for other critical items in the family budget, one can only imagine the fears that low-income families must have when there is absolutely no more room in their budget for higher heating bills.

As one who has advocated for a long time that this Nation must have a comprehensive, effective energy policy, I also accept the fact that we will be paying a high price for the energy we consume. However, we must be fair as we design an energy policy, and we must recognize that we have an obligation to those, who through no fault of their own, will be especially hard hit by high energy prices. As we approach the winter season, we must take action to help the poor and elderly in meeting their heating bills.

I am concerned, however, that in our zeal to meet this need, we have acted without careful thought as to the direction in which we are headed and the potential problems that lie ahead.

House Joint Resolution 427, the urgent supplemental appropriations measure, will provide a total of $1.35 billion for

assistance to poor families. This money would be divided into three parts: An additional $150 million to the Community Services Administration's program of emergency fuel grants; $400 million to HEW to be distributed through HEW's supplemental security income program, and $800 million to the States to be distributed through their own welfare programs or through AFDC.

This bill and the formula by which it proposed to distribute funds never went through the normal authorization-appropriations process. The decision to report the resolution was made by the Appropriations Committee on Wednesday afternoon, and the leadership made it the first item of business on Thursday's agenda. As we went to the floor, a State-by-State breakdown of how the funds would be distributed was not available. The haste by which we were asked to consider this bill caused me great concern. No matter how eager we are to provide assistance—and quickly—I, for one, had great problems in spending over $1 billion of the taxpayers' money without some clear understanding of how effectively that money is going to be used.

I think it would have been appropriate, for example, to closely examine a formula that provided emergency fuel assistance payments to every State in the Nation—including Hawaii where the problem of paying high heating bills seems very remote.

I think it would have been appropriate to question a bill that divided moneys for a single-purpose program in at least three directions and under two Federal agencies. The potential for conflicting rules and regulations is staggering.

During debate on the House floor, my colleague, Congressman MICHEL, offered an amendment to alleviate this problem by having all of the moneys channeled directly to the Community Services Administration for distribution. His reasons made great sense. The program should be administered by one agency in order to minimize the administrative burden faced by the States. CSA has already finalized regulations for an emergency fuel assistance program and would be the appropriate agency to carry out such an expanded program as envisioned in this legislation. Unfortunately, the Michel amendment was defeated by a vote of 183 to 207.

I think it would have been appropriate to wonder how much money will actually be channeled into the hands of the poor after it works its way through the Federal and State bureaucratic structure.

I am very concerned that because of some arbitrary sense of timing we were asked to overlook some of these legitimate questions.

I did vote for the resolution because I believe we have an obligation to provide assistance to the elderly and low-income families or this year's winter will truly be a disaster. But, I confess that I was not proud of this vote.

We certainly raised hopes by our actions yesterday. But, we also have created the potential for turning those hopes into false expectations. That is the very real danger I see in passing this bill as we did.

I want a program in place this winter. It appeared this was the only alternative available. I just hope we have not made a $1 billion mistake. ●

A YOUNG WOMAN FARMER

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. COELHO. Mr. Speaker, I would like to share with my colleagues a recent newspaper article, from the Fresno Bee in my district, which profiles an enterprising young farmer—Ms. Jeanie Fletcher.

The backbone of the Nation's economy is American agriculture. Its future is in the hands of our young adults. With all the heavy burdens that face farmers, I find it particularly encouraging that this young woman has the vision and hard work to meet this challenge head on.

Following is the article which describes a normal day in the life of this young farmer:

FARMING MAKES A LONG DAY FOR MADERA WOMAN

FIREBAUGH.—It is 6 o'clock on a summer morning when she finishes a light breakfast and steps out into the relatively cool morning.

It will be 8 o'clock on a hot summer evening before the young woman wipes the San Joaquin dust from her comely face and calls it a day from the field work.

It will be almost 11 o'clock before she goes to bed. She's a Madera County Farm Bureau director and has a meeting to attend.

It's a typical day, except for the night meeting. Usually her evenings are filled with bookkeeping or reading, with an occasional look at the television before bedtime rolls around at about 10 o'clock.

She is renting her land because that is the only way a young farmer can get started today. She hopes to start buying the same land this year, her fourth year working the 200 acres in cotton, alfalfa, white corn and grapes and a few Morgan horses. Only occasionally does she hire a hand.

She owns a tractor and a few pieces of farm equipment, since 200 acres are too few in which to invest hard-to-come-by dollars in reapers and huge equipment. She contracts with neighbors and specialists for most of the harvesting.

Jeanie Fletcher is 27 and she's a farmer in all of the hard-work, long-hour and happy independence traditions of a farmer.

But she differs from almost anyone else in California. She is a woman starting out on her own to work the land, starting from scratch and intent on doing well. Other women work farms, but most are widows continuing their husband's career or gentlewoman farmers who have hired crews to do the gritty.

Today, her chosen career is some what unique among women. But a study by two scholars at the University of California, Davis hints that a revolution is occurring in agriculture, much like the ones which occurred in the fields of law, medicine and business. Women want in.

Prof. O. E. Thompson and Zoe McCandless-Grossman believe the newest facet of the women's revolution will be a success in agriculture, too. The signs, they claim, are infallible.

Women now make up 33 percent of the 100,000 persons studying agriculture. Enrollment of women at all levels in agricultural education programs has increased three times as fast as male enrollment.

In public secondary schools, community colleges and universities, both women and men enrollments in agricultural programs have grown several times as fast as overall enrollments.

Animal science and ornamental horticulture have been the traditional fields of study for women, but now agricultural economics, resource sciences and business aspects of agriculture are emerging areas of women enrollments. And so is agricultural production.

The figures tell why other Jeanie Fletchers will be in the cotton or rice or tomato fields in a few years:

Fifty-five percent of the female enrollment in California high schools, junior colleges and universities in 1977, or 11,000 women, were in the subject area of agricultural production. The traditional women's professional role in agriculture, ornamental horticulture, which includes floral production, had only about 33 percent of the women's enrollment. Not too many years ago it was close to the 90 to 100 percent mark.

Fletcher is surprised at the figures.

"I suspect, some of them don't know what they're letting themselves in for," Fletcher said during a brief lunch break from a field survey she was taking.

"I started out with a borrowed $6,000 scrounged from my parents and relatives and friends. After I got planted, I was able to go to PCA (Production Credit Association, a lender to farmers) and they've been good to me ever since. Of course, I've done well by them, too. I've paid my debts when due. I've bought a home on the east side of 99 (the highway) and although the ride home every evening seems a bit long, it frees me from the field for a little while.

"It's hard work, but it's still fun. And you can do rather well, if you can take risking a year's work on weather and market. My first year was a disaster, but since then things have perked up. Now, I think I can start buying land from my aunt in San Francisco, from whom I rent 40 acres at the going rate around here.

(She rents the rest from her retired father, also at the going rate. She is thinking about also renting some other non-family land next year.)

"I don't know if I'll stay in it for a lifetime, but I might. There are some other things I'd like to do," she said. "Irrigating and muddying yourself isn't everything."

Fletcher indicated she wasn't especially interested in other areas of agriculture that are beckoning to women—banking, farm management (except her own), real estate, plant sciences, agriculture economics, to name just a few.

Thompson, who directs the applied behavior sciences department at UCD, and McCandless-Grossman, a research associate, believe the influx of women into agriculture will require some drastic changes in attitudes among those now "in charge" in agriculture. They mean males.

"Employers are largely unaware of the increase in numbers of females who now and in the future will be qualified for positions in agriculture," Thompson said. "If they are to be accommodated (McCandless-Grossman says they have to be accommodated) the image of agriculture and agri-business as 'males-only' occupations must be changed."

He said that few, if any, administrative or management positions in agriculture or agriculture business are filled by women. Although managers of agricultural concerns must be informed of "possible opportunities to hire trained women for responsible positions," he also indicated that women seeking agriculture careers must be able "to understand and cope with deep-seated biases that they may encounter upon entering a traditionally male domain."

And the UCD scholars also cautioned their peers at schools and universities.

"Administrators of education programs in agriculture must also recognize the changes that may be necessary in their institutions to accommodate the changing sex composition of their student bodies. Because women have contributed significantly to the growing enrollment in agricultural programs, they will probably exert pressures for new instructional programs, faculty and teaching materials that reflect their interests," they said.

"I think the women will be able to find positions," Fletcher said. "I know I'm treated squarely by other farmers and will be as long as I play it square with them." ●

ENLIGHTENING VIEWPOINTS ON ENERGY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, this Congress has been acting on energy legislation from the viewpoint that Government action is far better than action in the private sector. To this Congress, profits are bad. What is wrong with profits? They only provide more jobs, more production to aid our economy, and more exports to decrease our balance of trade deficit.

When many of my fellow colleagues think of profits, they unfortunately think of dollar signs and increased revenues to be spent on more Federal programs and on increased bureaucracy. This is truly a regrettable point of view. Perhaps the following editorials which appeared in the Wall Street Journal will shed light where darkness hitherto prevailed.

THE BIG OIL RIP-OFF

Motorists fumed over gasoline lines in the summer, fuel prices soared, filling station service deteriorated—and now, Exxon reports its third quarter profits were up 119 percent from a year before. If the oil politicians had written the scenario for piling new taxes on the oil industry they couldn't have planned it better.

Indeed, Herblock had an anti-oil cartoon in the Washington Post the very morning of the Exxon announcement. Jimmy Carter said the big oil profits aren't "fair to the American people" and James G. Archuleta, of the Oil, Chemical and Atomic Workers Union called the Exxon profits "pornographic", which presumably is even worse than obscene. And yesterday the House reversed its previous decision to end gasoline price controls and allocations, apparently in the belief that keeping controls would punish the oil companies for their success.

To start to put this in perspective, you have to ask who gets these profits. Not Exxon's hired managers, as well compensated as they surely are. The profits go instead to shareholders, either directly as dividends or indirectly through share appreciation if profit is reinvested within the business. So who are these shareholders now so widely accused of greed?

Some 65 percent of Exxon's shares are held by institutions. These are pension funds, insurance companies, mutual funds and other mechanisms for small savers to pool their resources. Plus charitable and educational foundations, colleges and universities and the like. Employe pension funds alone own 26 percent of Exxon. Just what does Herblock have against retired people?

The question is even more pertinent if you notice that most of Exxon's profit gains were overseas, while most of the shareholders are Americans. If you insist on seeing profits as an income transfer, they were a transfer from European consumers to America's social welfare institutions for the retired aged. Hardly a cause for yelling or screaming on the New Jersey turnpike; maybe so on M1 to London.

But anyone who might wish to rise above penny dreadful analysis has to ask about the origin of these profits. Why are the oil companies making so much money? In fact, the companies themselves have little control over most of the variables—prices, exchange rates, taxes, Iranian politics—that govern their profit rates. They really do not even have the option of trying to lower their profits by cutting prices, since in the short run only so much oil is available, and since prices below market-clearing levels would leave them swamped with orders they could not fill. Gas lines and the like would return; this is also likely to be the actual effect of yesterday's House vote.

In any industry, when prices rise faster than the overall rate of inflation, as oil product prices did this last year, it reflects, in simplest terms, diminished competition. The diminished competition in the oil industry this past year resulted not from a lack of competitors—there are 28 sizable oil companies—but the political restraints that have been applied to the energy industry, including all the products that compete with oil.

The Natural Gas Act crimped domestic drilling of natural gas, which was rising healthily before the act was passed. Environmental laws have curtailed coal use and expanded demand for unleaded gasoline, which requires more crude oil to produce than leaded gasoline. Pressures from the "No More Nukes" Yippees have stalled nuclear power development.

All of this is now to be remedied by piling still more burdens on domestic energy production. The windfall profits tax, which has gotten such a marvelous boost from the Exxon numbers, will further discourage U.S. oil production, reducing the total world supply of oil and practically guaranteeing that world prices and the overseas profits of the major oil companies will continue to rise. This will bring more screaming and yelling and more Herblock cartoons from Washington. And with the screaming and yelling will come new regulation, new taxes, new restrictions on domestic energy production.

Oil industry executives, many of whom would probably like nothing better in this poisoned political environment than to report a 1 percent profit decline, will continue to be numbered by all the political and legal pressures that interfere with their fundamental goal of finding, producing and selling fuel.

The oil politicians, gearing up to run next fall on how forcefully they have championed the interests of the consumers, couldn't have written a better scenario. We wonder, however, if there won't come a point when the consumers and voters will begin to ask if they really need friends like these.

THE FUEL AID TURKEY

The administration and Congress have been falling all over themselves trying to provide fuel aid for the poor. The price of oil is going up, winter's coming, and everyone is haunted by visions of a little old widow someplace freezing to death because she couldn't pay the oil man.

We hesitate to interfere with these proceedings, given the reaction to our only commentary so far. We pointed out that federal income transfer programs grew by over $150 billion over the last decade, that many of them were in-kind payments not even counted in poverty statistics, and suggested that before we have energy aid for the poor we ought to find out if there are any poor left to give it to. Even our friends, even those of them who know the realities of poverty and welfare statistics, thought this illiberal.

Still, we were driven by curiosity. Wouldn't the poor most likely be renters? Aren't fuel bills a problem for landlords? Don't we already have rent subsidies and public housing? Do we really need to spend a billion or two in extra aid for the home-owning poor?

Such is the nature of this unprecedentedly prosperous society, that envelope-back calculations suggest something like 47 percent of those who meet the statistical test for "poverty" actually do own their homes. They are basically the retired. Of course, Social Security benefits are already indexed for inflation, which provides at least some protection for rising fuel costs.

But we had to dredge up these statistics on our own. The folks falling all over themselves in Washington aren't stopping to ask questions. Take, for example, the festivities in the Senate Finance Committee, which today will probably vote out a "windfall tax" bill provision dishing up $1.6 billion in fuel aid.

The Finance Committee decided not to worry about whether the poor actually have to pay fuel bills. The "fuel aid" will go to everyone enrolled on welfare, food stamps or supplemental Social Security for the elderly. That would make 25.7 million checks, and if it were equally divided it would come to $62.26 a check.

Of course a lot of people—estimates run to three to four million—are enrolled in more than one of these programs. There is no feasible way to sort out the duplication, and Senators are wondering whether to include a note asking people to return the second check if they get one. So under the Finance bill, a family living in public housing will have its oil bill picked up by the taxpayer, then would receive one $62 fuel aid check from the welfare rolls, and another $62 fuel aid check from the food stamp rolls—all financed by taking away the "windfall" that would otherwise go to the oil companies.

Senator Moynihan thought this unfair to the "working poor," so the Committee decided to hand out some tax breaks in addition. There will be tax credits worth perhaps $550 million to offset part of the increase in costs to homeowners using heating oil, propane or imported natural gas. Renters would be able to reduce their taxes by a percentage of the rent. Nine million households with incomes up to $22,000 a year would be eligible. In short, because of the "energy crisis," the "windfall" bill would tax the production of oil in order to subsidize its consumption by a large fraction of the population.

There is an alternative to the Finance Committee bill; Senator Javits of the Human Resources Committee is racing Finance to get his version approved. Last week he won an 85 to 11 vote on an appropriations amendment for $1.2 billion fuel aid beyond the $400 million already budgeted by the administration. An authorization bill will follow. The Javits approach is to vote the money, and let someone else worry about who gets it. The Community Services Administration would spread the $1.6 billion among state and local agencies, letting them use it, presumably for the home-owning poor whose fuel tanks are running low.

Now, we can easily enough believe that somewhere a widow will freeze to death this winter with an empty fuel tank. But it is beyond belief that such tragedies are caused by the lack of any program offering a solution. Laying aside churches and the like, the federal government already has some 182 programs for income maintenance and poverty prevention, funded at a level of some $250 billion a year. If the 182 programs don't work well enough to solve the widow's problem, it is not likely that a 183rd program will. It is even less likely that tragedy will be averted by scattering $62 checks out of airplanes.

The urgency behind the push for fuel aid, we suddenly recognize, has less to do with the approach of December's chills than with the approach of February's primaries. Congress and the administration are falling all over themselves to present a lot of voters with a Christmas turkey.●

MARTIN LUTHER KING, JR., NATIONAL HOLIDAY BILL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. CONYERS. Mr. Speaker, in each Congress from 1968 onward, I have introduced legislation to designate Dr. King's birth date a national public holiday. This year 125 House sponsors won a vote of approval in the Post Office and Civil Service Committee to report the bill for floor action. Thirty-eight Senators sponsor the legislation, which has the full support of the leadership and the President. Thirteen States, as well as most major cities, already honor Dr. King. On Tuesday, October 30, the House will decide whether Dr. King's birth date should be a national holiday.

By commemorating Martin Luther King, Jr.'s, birth date, we do more than honor one man, however extraordinary; we honor the profound spirit of love and concern for humanity that guided his life and inspired his fellow men. The meaning of his life—and what each of us needs to relearn and reflect upon—is captured in what he said in Stockholm in 1964 when he was awarded the Nobel Prize for Peace:

Non-violence is the answer to the crucial political and moral questions of our times—the need for man to overcome oppression and violence without resorting to violence and oppression. I accept this award today with an abiding faith in America and an audacious faith in the future of mankind.

Dr. King exemplified a very special ideal in human history—the ideal of service to one's fellow human being in the ways of freedom and justice. Designating his birth date a national public holiday would represent a step forward in reconciling the lives and aspirations of all Americans.

In the years since I first introduced this legislation, hundreds of thousands of citizens have sent me petitions calling for its enactment. Among the many expressions of support received for the Martin Luther King, Jr., national holiday bill, I want to share with my colleagues the following from the United Auto Workers, the American Federation of State, County, and Municipal Employees, and the National Urban League.

UNITED AUTO WORKERS,
Washington, D.C., October 23, 1979.

Hon. JOHN CONYERS, Jr.,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CONYERS: I am writing to reiterate the support of the International Union, UAW for legislation to make January 15 the anniversary of the birth of Dr. Martin Luther King, Jr., a national holiday.

At its 25th Constitutional Convention in Los Angeles in May of 1977, the UAW adopted a resolution urging the designation of a national holiday on Dr. King's birthday. That resolution said in part:

"In the course of American history there emerges on rare occasions a personality who is destined to provide unparalleled leadership to the nation and its people. Such a person was Martin Luther King, Jr. Such a time was the period of struggle for freedom by the victims of discrimination and denial of the basic constitutional guarantees of justice, human dignity and equal opportunity.

"Undeniably the time has come for America to give recognition to the man who awakened America to its duty to assure that freedom is extended to every American regardless of race, color, sex or national origin.

"There could be no greater tribute than for America to respond to the life's work of this great man by having Congress enact H.R. 1810, which would designate the birthdate of Martin Luther King, Jr., January 15th, as a national holiday. This would be fitting honor to this distinguished American who helped bring freedom and justice to the souls, to the hearts and to the minds of millions of Americans."

This remains the position of the International Union, UAW and we hope this legislation is speedily enacted.

Sincerely,

HOWARD G. PASTER,
Legislative Director.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,
Washington, D.C., October 25, 1979.

Hon. JOHN CONYERS, Jr.,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CONYERS: We at AFSCME are heartened to learn that H.R. 5461, the legislation to designate Dr. Martin Luther King, Jr's birthday, January 15 a national holiday is about to come to a vote in the full House of Representatives.

As you are aware AFSCME has long endorsed the effort to establish a national holiday recognizing Dr. Martin Luther King, Jr. At our 23rd International Convention held June 26–30, 1978, our membership approved a resolution stating:

"AFSCME will continue to work for the fulfillment of Dr. King's dream of dignity, justice and peace."

In honor of Dr. King and his outstanding place in history, AFSCME will continue to seek the observance of Dr. King's birthday, January 15, as a national holiday. AFSCME: (1) calls upon the President and the Congress to enact federal legislation proclaiming Dr. King's birthday a national holiday; and (2) urges AFSCME Local Unions and Councils to seek inclusion of Dr. King's birthday as a paid holiday in all contract negotiatons . . .

On behalf of the over 1 million members of AFSCME, I commend you for efforts to have legislation enacted which recognizes the significant contributions of Dr. Martin Luther King, Jr. We are proud to join in support of this worthwhile endeavor.

Sincerely,

JERRY WURF,
International President.

NATIONAL URBAN LEAGUE, INC.
Washington D.C., October 25, 1979.

DEAR REPRESENTATIVE: The undersigned organizations and their representatives are pleased to submit this letter urging your support for the passage of H.R. 5461—a bill to designate January 15, Dr. Martin Luther King's Birthday, a national holiday.

We believe that this would be a fitting tribute to a man who contributed so much to the masses of people in this country and around the world. Such a designation would establish a commemorative to the concepts of peace and justice everywhere. In so doing we as a nation would be supporting our affirmation and pursuit of international peace, justice, and goodwill among all people, without record to the superficialities of territorial boundaries, race, sex, age, or religion.

The establishment of a national holiday on the date of birth of this famous Nobel Prize winning civil rights leader is both symbolic and monumental. Today, Blacks and whites are barely beginning to recognize the significant contributions which Black Americans have made to this nation's progress. The establishment of a national holiday in honor of Dr. King would not only be a reminder which occurs on one specific day each year, but a daily reminder as well of the importance of the heretofore largely ignored contributions of Black Americans.

We, therefore, strongly urge you to be present at the October 29 vote, to lend your full support to this most important measure, and to urge your colleagues to do the same.

Yours very truly,

Ronald H. Brown, Vice President; James Carter, Jr., National Treasurer, National Pan Hellenic Council; Shirley A. Rougeau, President, National Hook-Up of Black Women, Inc.; O. S. Gumbs, Grandpolemarch, Kappa Alpha Psi Fraternity, Inc.; Nan D. Johnson, Director, the Links, Inc.; Leroy Nesbitt, Superintendent, American Methodist Episcopal Church; Robert Harris, President, National Bar Association; Norman Hill, Executive Director, A. Philip Randolph Institute; Elizabeth W. Stone, President, the Black Women's Agenda.

Victoria T. Street, Supreme Basileus, Alpha Kappa Alpha Sorority; Barbara Lett Simmons, President, National Caucus of Black School Board Members; Margaret Bush Wilson, Chairman of the Board, National Association for the Advancement of Colored People; Richard G. Hatcher, Mayor, City of Gary, President, National Conference of Black Mayors; Eddie N. Williams, President, Joint Center for Political Studies; Coretta Scott King, President, Martin Luther King Center; Mona H. Bailey, National President, Delta Sigma Theta, Inc.; M. Carl Holman, President, National Urban Coalition; Dorothy Height, President, National Council of Negro Women; Walter E. Fauntroy, Chairman, Board of Directors, Southern Christian Leadership Conference.●

GILBERT D. "GIL" SMITH—COUNCILMAN, CITY OF CARSON, 1968–79

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. ANDERSON of California. Mr. Speaker, it is a distinct pleasure for me

to announce that on November 2, 1979, the community of Carson, Calif., will pay tribute to Councilman Gilbert D. "Gil" Smith for his 11 years of spirited public service on the Carson City Council. He has decided to step down from the position and to pursue a promising career with the Southern California Association of Governments.

For many of us who know personally of his great contributions to the city, this news brings mixed feelings of regret and joy. His strong leadership on the council will certainly be missed, but we know his future career in government service will be rewarding for him, and beneficial for the governments which his organization serves.

Few can claim to have done more for the city of Carson than this man; he helped create it. As the first president of the Carson Dominguez Citizens Committee for Incorporation, he led the long and difficult process that made Carson an official, independent city. Even before this period Gil Smith was a strong advocate for community interests.

As founding president of the Centerview Homeowners Association he represented residents before various county boards and commissions. His work was instrumental in the successful campaign to win approval for the present site of California State University at Dominguez Hills.

Gil Smith has always had an active interest in education. He serves as an advisory board member for California State University at Dominquez Hills; Harbor Community College; Ambler Avenue and Glenn Curtiss Junior High Schools; and the Carnegie Junior High School. He is a community college district representative to the Los Angeles Regional Adult and Vocational Education Council, and a former member of the Los Angeles City Community Advisory Committee on Decentralization. In recognition for his dedicated work in this field and others he was presented the 1969 Community Service Award from the Association of Elementary School Administrators, and the 1973 Community Service Award from the Los Angeles Secondary School Administrators Association.

As a city councilman he worked diligently at his responsibilities. His effective representation of the city's interests in regional and statewide organizations and committees provides an example of this dedication. After being an active member for many years, he was chosen by his peers to be president of the Los Angeles division of the League of California Cities, the leading organization representing Los Angeles area cities. He was also selected chairman of the State Department of Transportation Advisory Committee, and chairman of the city manager/administrators and contract committees of the California Contract Cities Association.

Gil Smith has shared his wide experience in governmental affairs as a guest lecturer at a wide variety of colleges and universities including the University of California at Los Angeles, San Jose State University, California State University at Dominguez Hills, and Pepperdine University.

Mr. Speaker, the performance of this man as a public servant is truly remarkable. It shows all of us now far and effectively the efforts of a single individual, talented, and concerned, can reach. My wife, Lee, joins me in congratulating our good friend, Gil Smith, for his fine years of service with the city of Carson. We hope continued prosperity will fill the future for him and his three sons, Gilbert Jr., Jeffrey, and Christopher.●

SUPPORT UDALL-CLAUSEN-WIRTH BILL

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. MARKEY. Mr. Speaker, next week in the House we will consider the Priority Energy Project Act of 1979. I urge all my colleagues concerned with the Commerce version of the bill to support the Udall-Clausen-Wirth bill. The following articles, that I have submitted to the RECORD, convey the many reasons why the Udall-Clausen-Wirth bill must be accepted:

[From the New York Times, Sept. 13, 1979]

WHAT PRICE ENERGY?

(By Anthony Lewis)

WASHINGTON, September 12.—It is 1981. The Mobil Corporation announces plans for the country's biggest oil refinery, to be built on the New River in North Carolina.

A Federal law passed by Congress and signed by President Ford in 1976 protects the New River in its natural state. North Carolina laws protect the valley. But the Energy Mobilization Board says the refinery is more important. And under the Energy Act of 1979 the President, on the board's recommendation, can override both state and Federal law in order to build a critical energy facility.

President Reagan orders all contrary Federal laws and local zoning and health regulations overriden. The way is clear for an immediate start on the New River refinery.

A fantastic scenario? No. For the energy bill as it is now taking shape in Congress would allow future Presidents to do exactly that: override democratic decisions, local and national, and put aside the interests of health, safety and the environment.

It is an astonishing concept: one utterly contrary to the traditions of American federalism and constitutional democracy. Another amazing fact is that the idea is being supported by aides to Jimmy Carter, who has repeatedly said he is against any such Presidential power.

On Aug. 2 President Carter said his proposal for an Energy Mobilization Board was designed to "cut out excessive delay" in the approval of energy projects, by removing procedural roadblocks. He said: "With the exception of any new requirements imposed when construction of a critical facility is under way, the board could not waive substantive environmental standards."

But the House Commerce Committee has worked up a bill that would let Presidents nullify state and Federal substantive law that stands in the way of energy projects. And when members of the committee tried to cut back that sweeping authority with amendments, White House lobbyists fiercely and successfully opposed them. Key parts have been played by James C. Free, the Carter liaison man in the House, and Bertram Corp., Deputy Assistant to the President for Domestic Affairs and Policy.

Public health is a central question. For example, present technology for producing oil from oil shale leaves as a byproduct substantial quantities of arsenic. The bill as it now reads in the Commerce Committee would allow a future President to waive the Toxic Substances Control Act and allow an oil shale project to go ahead in, say, Colorado, even though there was no effective plan to keep arsenic from poisoning ground water in the area.

That example involves the overriding of a duly enacted Federal statute. Even more surprising, in our constitutional system, would be allowing a President to sweep away state law. If a coal liquefaction plant were to be built in Montana, requiring immense quantities of water, would the people of Montana and nearby states be content to have the crucial and complicated issues of Western water law decided by Washington lawyers?

The powers granted by the pending energy bill worry, among other people, the three leading environmental officials in the Carter Administration. Last week Secretary of the Interior Cecil Andrus, Douglas Costle of the Environmental Protection Administration and Gus Speth of the Council of Environmental Quality sent a memo to the President expressing their concern at Administration lobbying in favor of the bill as it stands.

"Such a posture is not only dangerous but unnecessary to achieve the 'fast track' legislation you outlined in your July 16 energy program," the memo said. It added that the position "undermines our credibility."

The President said this week that he is still against including in the energy bill a general power to override substantive law, state or Federal. Why, then have his people fought amendments that would remove that unprecedented power from the bill? The House Commerce Committee has now approved the Energy Mobilization Board legislation with the broad waiver authority included.

The answer heard around the Administration is that the lobbying policy was "tactics." The President needs a "strong" bill, it is said. Whatever comes out of this first stage may be weakened later, especially in the Senate, so it is best to start with the "strongest" possible version.

But the tactical premise may be wrong. Senate energy leaders had been chary of any power to brush aside state and Federal law. But now, after the White House failure to stand by the President's stated position, the Senators are moving toward the same sweeping authority as the House bill.

The troubling possibility is that White House aides are prepared to soil Jimmy Carter's impressive record in defending the environment for a short-term political gain. The President wants to look "strong" and has made the energy bill his political test. But when it's all over, will he want to be remembered for having distorted our constitutional tradition and opened the way for unaccountable damage to our health and surroundings?

[From the Christian Science Monitor, Sept. 17, 1979]

ENERGY MOBILIZATION MONSTER?

President Carter must take care that his proposed supergroup to speed up energy projects does not turn into a Frankenstein's monster laying waste the Constitution in a

manner the good doctor never intended. Some members of Congress seem to be transmuting Mr. Carter's planned Energy Mobilization Board into such a creature. He has not been opposing them sufficiently to satisfy Secretary of the Interior Andrus and other high-ranking officials who have reportedly expressed concern to the President. Mr. Carter ought to mobilise his own forces to keep the rush toward a fusion of increased federal authority with decreased federal accountability from getting out of hand.

Among the points at issue is whether the board should be authorized to override states' rights in seeking to achieve Mr. Carter's initially stated goal for it—"to cut through the red tape, the delay, and the endless roadblocks to completing key energy projects." The "roadblocks" have been widely seen as environmental and health laws, whether federal, state, or local. But some legislators have taken the ball and run with it to the extent of calling for power to waive labor laws, for example, and indeed any other kind that the board should consider an impediment to construction.

Mr. Carter has said he does not mean waiving "substantive" laws, presumably meaning such measures as those guaranteeing environmental protection. "We will protect our environment," he said in announcing the board. He ought to stick to this position. But the waiving of even "procedural" laws or regulations ought to be approached with the greatest care and concern for state, local, and individual rights. In environmental, health, and labor matters, for example, the statutory procedures are part of the effort to ensure the proper workings of the law.

It is the unnecessary bureaucratic delays that ought to be eliminated in the kind of strong energy policy that is demanded now. Though such delays may work to the advantage of a group protesting a nuclear power plant, for instance, the decision on whether to go ahead with the plant should be based on the merits of the case. At bottom the concern for sufficient appropriate energy are not antithetical. Both concerns would be fundamentally better served through expeditious governmental action wherever this is required.

Ideally, speeded performance would be achieved through carrying out laws under the kind of improved governmental organization and efficiency that Mr. Carter has sought. Overriding laws ought to be a last resort, hedged about with safeguards.

The bill that came out of the House Commerce Committee this week does have some safeguards. It gives the board power to recommend the waiving of federal, state, or local laws. But the President would have to go along. And then either house of Congress would have 60 days in which to veto the waiver. The Constitution could be invoked to challenge a waiver in court. Plaintiffs, however, could not make challenges on the basis that the board's actions had exceeded its authority.

This bill, despite its safeguards, goes too far beyond the President's apparent intentions. A preferable one would be along the lines of an Interior Committee bill that does not permit waiving existing laws but authorizes the board to shrink timetables for reaching necessary decisions.

As the debate goes on, however, the public and Congress—as well as the President—ought to be alert as to how much any board should be released from the statutory federal accountability that has been so often abused in the past. Among proposals are exemption of the Energy Mobilization Board from the Administrative Procedure Act requiring federal agencies to act fairly in accordance with the facts in front of them; exemption from the Freedom of Information Act; exemption from the ethics law requiring disclosure of conflicts of interest. The board could also have the power to prevent some court reviews.

Congress will need to be extremely thoughtful to ensure that any mobilization board's cures are not worse than the problem.

[From the New York Times, Oct. 14, 1979]

IS THIS TRIP NEEDED?

(By Tom Wicker)

WASHINGTON, Oct. 12.—When the Senate recently voted to create an Energy Mobilization Board, Senator J. Bennett Johnston of Louisiana remarked that it was necessary to get away from the "slow-moving, ponderous bureaucracy" of the Department of Energy and to "create a small, elite group . . . and give them some real powers to cut some red tape."

Maybe so. President Carter apparently agrees, as does Henry Jackson of Washington, the chairman of the Energy Committee. But some others, including Edmund Muskie of Maine and Representative Morris Udall of Arizona, have strong reservations. They note, among other objections:

A "small, elite group" all too easily can be an unresponsive, untouchable and uncontrollable power in itself—the sort of unchecked power American Government traditionally seeks to avoid.

"Real powers to cut some red tape" no doubt are needed. But should they include authority for "a small, elite group" to alter Federal, state and local laws and in some instances to act in place of Federal, state and local agencies, all in the name of the energy emergency?

The Senate thought so, and gave the board such powers by a 58-39 vote (against a substitute bill that would have eliminated them). But the controversy over the powers of the board will be renewed next week—or soon thereafter—when the House of Representatives chooses between an approach favored by Mr. Udall and a version giving the E.M.B. even more power than the Senate bill would.

The latter proposal, drafted in the House Energy and Power Subcommittee headed by John Dingell of Michigan, would give the E.M.B. unprecedented powers to expedite energy projects such as pipelines, synthetic fuels plants or refineries. The board could recommend that the President override any Federal, state or local health and environmental laws that got in the way. If the President did so, the law would be waived unless either House of Congress vetoed his action within 60 days.

That goes well beyond the powers President Carter has asked for the E.M.B. since he proposed the new agency in his mid-summer energy address. On the other hand, Mr. Udall's bill, drafted in the Interior Committee, of which he is chairman, apparently does not give the E.M.B. as much power to speed projects as the White House seeks.

Mr. Udall refers to his as the "fast-track approach." He would have the President designate certain projects—say a proposed synfuel plant—for the fast track. The E.M.B. then would act to consolidate hearings, to set a timetable for agency decisions, to expedite agency procedures, and to enforce the speed-up. Its significant difference from the Senate bill and the Dingell proposal is that it would give the E.M.B. power only to speed up procedures, but none to set aside or alter the substantive requirements of Federal, state and local health and environmental laws and regulations.

Mr. Dingell has proposed far more sweeping authority for the E.M.B. because he believes that only with such powers can the board make the hard choices necessary to overcome the energy crisis. That echoes Henry Jackson, who sees dependence on OPEC oil as "one of the gravest threats this nation has ever faced." At the same time, he says, "We have created an institutional crisis in this country. . . . Everyone has the power to delay decisions on energy projects, and too many decision-makers are unwilling to decide."

That argument has much force. But powerful points also were made against the Jackson bill—that such a strong E.M.B. not only would threaten environmental, health and safety standards but also invaded states' rights and the powers of local government. And in an age when "big Government" is widely deplored, it would be one of the most powerful Federal agencies ever established in peacetime.

Mr. Muskie questioned whether local people who objected, to, say, a refinery in their community, could be forced to accept a Federal decision overriding their state and local laws. Others pointed out that ultimately, considering the variety of projects that might be involved, the board would have to acquire a huge staff, probably slow-moving and ponderous. That would not necessarily guarantee speed.

Abraham Ribicoff of Connecticut pointed out that the E.M.B. might have to "decide a Clean Air Act question one day, a strip mining issue the next and a local zoning variance the third," demanding in one agency the expertise now shared among many, at Federal, state and local levels.

Above all, the question that ought to be asked in the House debate is whether the United States can produce itself out of its dependence on OPEC, even with an all-powerful E.M.B. Are refineries, pipelines and synfuel plants really the answer, or only one of many steps—the most important of which may be conservation, not production—needed for energy independence? If the latter, is there really a need to hand over to a new Federal agency powers that throughout their history a democratic people have jealously guarded as their own?

[From the Washington Post, Oct. 14, 1979]

POWER GRAB IN THE NAME OF ENERGY

(By David S. Broder)

On the face of it, the proposal seems to defy the supposed public resentment of intrusive, big-brother Washington bureaucracy.

The idea of a president of the United States seriously proposing that four of his appointees—three of them part-timers not even subject to the standard conflict-of-interest statutes—be empowered to substitute their judgment for that of independent federal, state and local regulatory bodies, and even, in certain instances, to block the application of federal or state law, seems far-fetched.

That such a proposal would be approved by the U.S. Senate and be moving toward passage in the House of Representatives is even more improbable.

But exactly that has happened, without a rumble of public protest, in the past few weeks. Under the guise of speeding vital energy projects, the federal government is about to accomplish the most significant power grab in recent years. It may or may not accomplish its stated goal of making the United States more energy-independent. But it will certainly damage the federal system and diminish the accountability of those exercising authority in Washington.

As part of his July energy program, President Carter proposed creation of a federal energy mobilization board, with authority to speed the development of high-priority projects, whether they be pipelines, refineries or exotic fuel plants. The measure was designed to deal with a real problem—the delays in federal, state and local licensing and siting decisions, which have, in some instances, held up important plans for years.

The need to slice through the red tape is recognized by everyone. The question is how to do it without creating a new center of arbitrary power in Washington and destroying the responsibility the Constitution gives states and localities for the welfare of their own citizens.

Two options were offered the Senate earlier this month, and the choice the Senate made—to the cheers of the Carter administration—was disturbing.

One bill would have limited the number of energy projects that could be cleared for "fast-track" action and would have restricted them to projects with a significant impact on reducing U.S. energy dependence. The other bill had no such limits.

The Senate chose the blank-check approach.

One bill would have let the new federal agency go to court to enforce a reasonable deadline (usually one year after submission of the plans) for decisionmaking by a state or local agency on the environmental, social and economic consequences of an energy project.

The other would let the presidential board substitute its own judgment for that of the local or state body, if the federal deadline was not met.

The Senate chose the second way—the path of federal preemption.

One bill would have forced the regulators to obey all the existing laws. The second would allow the federal energy expediters to bar the application of any law passed by Congress, state legislatures of city councils, subsequent to the start of work on a particular project.

The Senate chose the second course, embodying the daring constitutional assertion that four presidential appointees can nullify the enforcement of a statute passed by the elected officials of any level of government.

The vote was not close in the Senate. By a margin of 58 to 36, the senators gave Carter the power he sought, brushing aside vehement objections from such senators as Abraham A. Ribicoff (D-Conn.), Edmund S. Muskie (D-Maine), Gary Hart (D-Colo.), William V. Roth (R-Del.) and Charles H. Percy (R-Ill.).

They also ignored a chorus of protests from the nation's governors, mayors, county executives and state legislators, who see the proposal as a serious threat to their role in the federal system. They have threatened to challenge the legislation in court, if it is finally passed.

It is an understatement to say that it is extremely shortsighted to launch a national energy acceleration program with a bitter battle between Washington and leaders of state and local governments.

But the companion bill being prepared by a House committee is an even more extreme invasion of state and local authority by Washington, and even more glaring contradiction of the supposed public distaste for expanding bureaucratic power.

The governors and mayors and their Senate allies are trying to say we do not have to sacrifice the federal system to speed up energy production. But most of Washington is ignoring the message. The country will suffer the consequences for years to come.●

HERMENE HARTMAN'S REMARKS

HON. BENNETT M. STEWART

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. STEWART. Mr. Speaker, recently, President Jimmy Carter appointed Hermene D. Hartman as a member of the Advisory Committee for the John F. Kennedy Center for the Performing Arts.

At her swearing-in ceremony, Ms. Hartman made a statement which I thought might be of interest to my colleagues.

The statement follows:

STATEMENT BY HERMENE D. HARTMAN

Thank you for sharing this special moment with me this evening. My life has been blessed, having been nurtured by a loving family. I would like to introduce to you my very best friends, my mother and father.

As I moved into the world on my own accord, I was most fortunate to become friends with a group of most interesting persons. I speak particularly of those who graciously served as members of this reception committee. All of these people have been committee members in my life. They have all been role models for me at one time or another, making impressional impacts on my own expression. Let me introduce them: Dr. Arnita Boswell, Mr. Leon Davis, Dr. Effie Ellis, Dr. Erwin France, Mrs. Jody Heller, The Honorable Marshall Korshak, Mrs. Lucy Montgomery, Mr. Herb Nipson, Dr. Alvin Pitcher, Mrs. Amanda Rudd, Mr. Paul Serrano and Mrs. Thelma Shirley. My special thanks to a very special assistant for administrating this committee go to Mr. Albert Pritchett.

There's another group of persons I am most indebted to for my own personal development, and who influenced the quality of my life. During my college years, I had the privilege of studying politics with Dr. Salvatore Rotella, who is now the President of my College, where I am still studying politics. At the time, I also was associated with an organization known as SCLC's Operation Breadbasket. It was there I met and worked with a dynamic group of people—Reverend Jesse L. Jackson, Reverend Ed Riddick, Reverend Willie Barrow, Dr. Alvin Pitcher, Reverend Andrew Young, Dr. Martin Luther King, Jr., Mrs. Coretta King, Reverend Jim Bevel, Cirilo McSween, Reverend Ralph David Abernathy, Ben Branch and a host of others. From that group of folk my perspective and dedication was shaped and molded. I am eternally grateful to have had the benefits of their talents and energies influence my own. It was also there that I met my husband, Reverend David Wallace, whom I am most grateful to for sharing life itself. At Breadbasket I produced my first cultural projects, the most impressive being Black Expo.

I was most humbled when I received an invitation from President Carter to serve on his Advisory Committee on the Performing Arts. My artistic participation has been concentrated on the visual arts. However, the problems, concerns and interests of the art community are much the same, regardless of the art form. I fell in love with the performing arts watching and listening to a great artist perform, namely Johnny Hartman, alias "Uncle John," who taught me to live, to hear and to understand music.

In our nation's art world, we are back to the days of Shakespeare. What I mean by that is, due to tremendous cost, the artist requires a patron. That patron is either government or business. That kind of support is necessary before the artistic expression ever goes public. To solicit this support is somewhat difficult because, for the most part, we take art for granted—until it isn't available.

During my tenure on this committee, I see my contribution as lying in five areas. First, it is my intent to share with this nation the talents of Chicago artists. For the last year, I've had the pleasure of working with Mr. George Johnson, of Johnson Products Company, in touring an art exhibit of portraits, entitled "Great Beautiful Black Women." During the year, I personally visited major museums and cultural institutions throughout the country, and I have yet to see facilities or talent to surpass Chicago's. I wonder how our city became known as second.

Second, I hope I might encourage and influence artistic programs of all kinds for our youth—programs that will expose, express talent and create an environment for the nurturing of creativity. Again, I would like to showcase Chicago as a model, by citing the accomplishments of the Music and Cultural Division of the Department of Human Services, under the immediate direction of Ben Branch. Initiated by the now City Treasurer, Cecil A. Partee, it is under the current leadership of Commissioner Leonora T. Cartright.

Third, I would like very much to institutionalize the styles of the black performer. For example, in a structured systematic format, there should be programs dedicated to the likes of Duke Ellington, Paul Robeson, Nat Cole, Fats Waller, Mahalia Jackson, Quincy Jones and Gwen Brooks. I know if B.B. King can go to Russia and be relevant, he can certainly relate to all the people in his own country. And, if our kids can learn European culture, they most certainly can be taught American culture. In other words, if we can teach Europe's three B's—Bach, Brahms and Beethoven, we can also teach America's three B's—B.B., Basie and Eubie Blake.

Fourth, I hope to contribute to the decay of racism that exists in our cultural institutions. The most difficult task still, for the minority artist, is seeking a platform. We have to incorporate his place in these institutions as part of an ongoing program and stop reserving him space during Black History Month. We have given much more than a month's contribution.

Finally, I would like to recognize living artists in their lifetimes, rather than have them receive fame in death.

The artist and those of us interested in the arts must become political, because it is by serving on the boards as decision-makers that some of the problems will be addressed and erased.

I intend to be effective on this committee, and certainly hope my contribution is one that you will be proud of.●

ROLLCALL VOTES

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Ms. HOLTZMAN. Mr. Speaker, on Tuesday, October 16, I was unable to be present for the following vote. Had I been present, I would have voted, the following:

Rollcall No. 568, "yes." ●

HOUSE OF REPRESENTATIVES—*Monday, October 29, 1979*

The House met at 12 noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

OCTOBER 26, 1979.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Monday, October 29, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The earth is the Lord's and the fullness thereof, the world and those who dwell therein; for He has founded it upon the seas, and established it upon the rivers.—Psalms 24: 1, 2.

O gracious Lord in heaven, we offer our praise for this day and for the opportunity to begin a new week of endeavor. May the loveliness of Your whole creation cause us to see Your handiwork in the world about us. May we see the events and circumstances of our own day as opportunities to do Your bidding and occasions to share Your love. Where there is despair and frustration, let us share encouragement, where there is suspicion or anger, let us share trust, where there is peace and mutual accord, let us celebrate our unity, that each of us may know the healing power of Your presence, this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

CRAIG RAUPE

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, one of the ablest and most engaging persons whom I have known in public life is Craig Raupe, the assistant to the distinguished majority leader of the House of Representatives, Mr. WRIGHT, of Texas.

Mr. Speaker, as Members may know, Craig Raupe has indicated his intention to retire from service in the House of Representatives at the end of this session of Congress. I am sure that at that time there will be a number of tributes paid to him. I take this time only, Mr. Speaker, to draw to the attention of Members of the House a splendid article about Craig Raupe published in the Washington Post yesterday and written by another able and engaging Texan, Larry King.

The article is as follows:

[From the Washington Post, Oct. 28, 1979]

HE WALKED ACROSS THE HILL LIKE IT WAS TEXAS

(By Larry L. King)

Unless you are a Capitol Hill insider, a grizzled veteran of the Great Society or maybe of the New Frontier, then probably you never have heard of one Craig Raupe.

And according to the rules of the political game, that is the way it's supposed to be. Capitol Hill staffers are expected to hide their lights under a bushel and to keep their mouths shut. For 25 years Craig Raupe has been an expert at that.

B. (for Buel) Craig Raupe is the executive assistant to House Majority Leader Jim Wright (D-Tex.). Raupe's the man who has made the House wheels turn. For more than three years, he has performed what may be the toughest job in Congress. Now he is getting ready to pack it in when Congress adjourns, to retreat to his native Texas "and put my life in a lower gear." Those of us who have watched him run with the throttle wide open for a quarter-century frankly wonder how he will accommodate to lazy fishing.

You are going to have to forgive a lot of personal references in this. Craig Raupe and I came to Capitol Hill as young political firebrands on the same day, in late 1954; two green Texas gourds atwitter with ambition and foolish notions of saving the world. Before that first day was out we shared beers at the old Mike Palm's—it's gone now, and so is Mike—exchanged personal histories and laughed a lot.

I think we then thought of ourselves as socialists, a secret to be kept from the Texas electorate at all costs, to say nothing of our congressional bosses Jim Wright and J. T. Rutherford. They were old men of 32 and 34; consequently, they might not have understood the superior schemes of geniuses then 29 and 25. We saw it as our duty to manipulate them where possible, to trick or encourage them to vote as liberal and humanistic as we fancied ourselves to be. We didn't trust anybody over 30 long before that became the slogan of a later generation.

Now it is October 1979. Craig Raupe, 54, is viewing the milling members of the House of Representatives from a high perch in a visitor's gallery. A prying reporter is asking him to point out the House drunks and lechers and thieves, certain he knows the perfidies of our statesmen more clearly than their wives. Raupe says, "Come on now, you cynical son of a bitch. We've got 435 men and women in this Congress. They're subject to more pressures and temptations than any group of people in the world. I'm amazed not that an occasional crook or deviate or problem lush comes along—but that they're so relatively rare they're worthy of second-coming headlines when they surface."

Stuff and nonsense, old friend. Why, if the House Ethics Committee caught a representative stealing a hot stove its only concern would be whether their distinguished colleague had burned his hands.

He laughs. "Well, I guess people around here are reluctant to pass quick judgments on each other. There's a brotherhood, no doubt about it. But more than that, these guys believe that the ultimate jury should be a congressman's constituents. They all live and die by plebiscite. And that's the way they think it should be."

Raupe examines the Republican side of the aisle. "I don't know most of those people. God, look how young and bland they are! Buncha goddamn Jaycees."

He knows the Democrats to the last in number. They are on the phone wheedling and demanding and cajoling shortly after he arrives in the majority leader's Capitol Building suite each morning at 7 a.m. It is Raupe's primary job to schedule bills for floor action, to know always where each of hundreds of bills may be in the legislative process, and to subtly twist arms when the leadership must round up votes.

From his chair next to power he has the opportunity to influence, to one degree or another, everything from committee assignments to the fate of legislation to where and with whom Jim Wright may eat supper. Honey bees buzz about him seeking nectar; now and again one tries to sting him. Raupe has had his hand scratched and his coat torn by supplicants desperate to have their will worked in those final, hectic hours before adjournment. A representative from Appalachia once bunched and crushed Raupe's lapels on the House floor, cursed him and reminded him he was "nothing but a goddamn staffer." When the representative cooled down, he came wringing his hands to announce his intent to publicly apologize to Raupe, to the leadership and to the full House. "Please don't do that," Raupe said. "It would turn a molehill into a mountain. And it would be beneath the dignity of this place."

"Craig is a calming influence," says his counterpart in the office of House Speaker Tip O'Neill, Gary Hymel. "Maybe it's because he's been around so long and has been through so much. Maybe it's because of his Texas humor or because he's so practical and pragmatic. Anyhow, when everybody is hot under the collar and yelling he's always the one to step in and restore order. I don't know anybody's judgment I respect more. He's taught me to know what's important."

Majority Leader Wright, Raupe's direct boss, is not without a temper and sometimes frets excessively. When he is getting too worked up, Raupe takes him aside and tugs his sleeve and says, "Jim, don't forget the Roman emperor." It is an old private code between them, dating back to when both were rookies in the House on a day when Wright had gotten himself unusually exercised over a matter probably not as vital as he momentarily thought. That's when Raupe told him the story of the Roman emperor who after a winning battle reviewed his troops as they marched by "phalanx after phalanx" and then, suddenly, began to weep. A functionary inquired why. "Because a hundred years from today," the emperor wept, "those good proud men will all be dead."

Craig Raupe looks a bit like Harry Hopkins, the dyspeptic man Friday to Franklin D. Roosevelt. Lean and graying at 54, Raupe walks a tad stooped and with a slight hitch resulting from a stroke he suffered almost 15 years ago, a cerebral thrombosis that left him "terminal for two months" in Alexandria Hospital. Rep. Wright, Bill Moyers and others told President Lyndon B. Johnson of this desperation; LBJ immediately ordered Raupe admitted to Walter Reed Hospital

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

and "the best possible care." A second operation gave him a chance to live; thereafter, for weeks, he was kept alive "by drugs and machines." Almost two years passed before he recovered.

Then came a pretty good bout with the bottle. Though it has been many years since Craig Raupe has had a drink, he's reluctant to talk about those old dark days or the work he has accomplished with Alcoholics Anonymous. "If Craig sees a congressman chronically nipping," says Gary Hymel, "he writes him a private note or seeks him out for a chat. I don't know if I'm supposed to say this, but he meets with an A.A. chapter every week here on the Hill—members, staffers, patronage people. Anybody who's got a problem. And there's no doubt he's the guiding force behind those meetings."

Speaker Tip O'Neill is absolutely astonished. Sitting all huge and bulky and improbably white-haired in his ceremonial office in Room 209 in the Capitol, having disposed of a routine mass press conference, he waves a foot-long cigar like it might be a baton and asks, "Why in hell is Craig quitting? Hell"—the speaker says, sincerely puzzled—"he seems like a man in love with his job. He's brilliant at it. So why the hell is he quitting?"

Craig Raupe is embarrassed when told of the speaker's reaction and is astonished in his own right. "Well, no, I hadn't told him. My God, what an oversight on my part!" He picks up his telephone, using his direct line to the speaker's office, and urgently seeks an early appointment to assure the big man he hadn't meant to indirectly deliver an embarrassing surprise. "God-damn," he says, on hanging up, "I must be slippin."

But before that call is made the speaker is saying, "He had no leadership experience at all. Frankly, we thought it would take forever to train him. We didn't know anything about him—later, we'd find he'd worked for Kennedy's White House and with Lyndon Johnson, but we didn't know that then. But Craig picked up on his duties quicker than we could believe. I remember in a few weeks saying to Gary Hymel, 'He blends in better than if we'd chosen him personally.' Aw, he's a sweetheart. He's got this great sense of humor—full of Texas soliloquies. I wish I could remember one right now; he's full of them and not only are they funny, they always make a point." The speaker stops and chuckles and says, "And they're so well-timed. Geez, Gary, are we gonna miss that fellow?" He sits back and puffs his cigar and says, "I just don't understand why he'd want to quit."

No politician can. You don't get to the top of the churn, where the cream is, without having been long jousted down in the bottom while somebody else made the butter, shaped it and sold it at their own price. You don't get to be where Craig Raupe is—one of the four or five "super-staffers" in all of Congress, if that many—and then walk off from the $52,500 and the desk big enough to straddle a dray horse—sitting under impressive crystal chandeliers—and the best invitations and the perks and the goodies directly ahead. Jim Wright, for instance, is a vigorous 56; a term, two terms from now he'll likely be speaker. And Craig Raupe, if he wanted to, could go along on that merry ride and maybe wind up in the history books.

"Well, yes," Raupe says, "that's tempting. Franklin Roosevelt once spoke of 'those selfless young men with a passion for anonymity' the government needed. I've been one of those, and it hasn't been easy. Nobody really wants that when you get down to it.

"But it's probably proper. I'm older now, you know, than a God-awful percentage of the House is. But I believe in calling them 'Congressman' or 'Mr. Chairman' and it doesn't have a damn thing to do with obsequiousness. These people have been issued a little piece of the national sovereignty; I haven't. At least 500,000 people have elected them in the democratic process. I haven't been elected to s---. No matter what titles they lay on us, there are really two types of people on Capitol Hill: members and clerks. And I've always tried to remember that I'm a clerk."

Well, neighbors, I'm here to tell you it can't have been easy. I remember when we once argued, only half-jokingly, about which one of us would be required to settle for the No. 2 spot on the national ticket when our time came.

Raupe is puffing about his 39th cigarette of the morning, splashing ashes all down his conservative three-piece, only occasionally having to reach for the phone because it is Columbus Day and the government officially is closed; he has compromised with official idleness by coming to the office as late as 9 a.m.

"There is a time to stay and a time to go," he says. "It's simply time to go. This is a young man's job. I came to Washington at 29, running from the Depression and for God. Grabbin' for the big brass ring. And at some point—hell, it's natural—that kinda thing becomes less important to you.

"Look, I stood by JFK's gravesite when they lowered him down. I helped bury Sam Rayburn. For five years, every Thursday afternoon in the JFK and LBJ years, years. I went to the White House for policy meetings. Hell, you know my history." (Indeed: Hill administrative aide. Foreign Service officer in Vietnam and Indonesia. Director of congressional liason for A.I.D. Executve for Eastern Airlines. Director of ethnic activities for the Democratic National Committee in '64 and '68. Consort of the powerful and the mighty, and all the time nobody out there knowing about it).

"I been real lucky for an ol' Texas boy. I wouldn't take for it. But one day you wake up and realise you ain't gonna invent dynamite on the ballpoint pen. You ain't gonna write the Great American Novel. So you adjust. You go on back to teach and write, like you started out doing and meant to continue. I know Thomas Wolfe told everybody that 'you can't go home again' bull----. He was wrong. You can. And I'm going back where—as LBJ said—'folks know when you're sick and care when you die.'"

Jim Wright says, "Sure, I remember how I first met Craig. I was the mayor of the little Texas town of Weatherford. And Craig moved there to teach history and government at Weatherford Junior College—I wrote him a 'welcome-to-town' letter. Weatherford was small then, you knew when somebody moved in and hooked up to the public utilities system.

"So he got my letter—it was summertime—and called on me at city hall to say he didn't have a dime and had to get through the summer until school started, and damn if he didn't hit me up for a job. Well, he was obviously intelligent and full of energy, so I gave him a job running the city swimming pool that summer. And he was always coming around bringing good books and talking about them; he was full of ideas and he breathed politics. One day I said 'Craig, I'm gonna run for Congress. And I'd like your help.' And he laughed and said, 'I don't think you got a prayer, Jim. But I'm damn sure with you.' Now that impressed me. People who'll get out front when they don't believe you can win—well, they're rare. Craig worked in my congressional campaign night and day without a nickel. And when we upset the entrenched incumbent, much against the odds, he came to Washington with me."

Why, the majority leader is asked, did you single him out so long ago?

A long silence. Then Jim Wright says, "Well, I liked the fellow. And he was . . . obviously intellectual without preening it. He spoke straight. And his energy. I can't forget his energy."

That energy damn near killed men the first term I worked in Congress.

I didn't have a car in those poor days. Craig Raupe didn't have much of one—a wheezing green '37 Chrysler heading toward 20 years old—but it was my way to work from the Washington suburbs where we were neighbors. The trouble was, Raupe insisted on being in the office at 6 a.m.; on the average he consented to go home about 14 hours later. I was reasonably loyal to J. T. Rutherford and the republic for which he stood, and didn't truly mind giving an honest day for a honest dollar. But hell, man, there's a limit! I became a youthful budding drunk, lying around the bars waiting for my ride home. One night I charged into Jim Wright's office in the Longworth Building, bent on chewing him out for shackling his employees to their desks, and there found Craig Raupe to be the only soul on the semi-darkened premises. He was writing—in a leisurely looping longhand—in a notebook. "I try to keep a journal," he said, "in case Jim gets to be president. Somebody's gotta think of the historical record."

In 1960, Raupe abruptly went into the Foreign Service. "I hated to lose him," Jim Wright says, "If he'd been with me in '61, when I missed being elected to the U.S. Senate by a small margin, I've no doubt I would have won. But I would have been an S.O.B. to stand in his way."

Jim Wright hired me to replace Craig Raupe. No more doomed or dismal experiment ever was conducted. I'm more nervous and volatile than Wright and didn't even know about the Roman emperor. We shouted a lot and had a few shoving matches. I eventually quit in abrupt circumstances, much to the ultimate relief and good of all parties. Wright tried a few more of us, finding no Craig Raupes, alas. Then, a half-dozen years ago, all his dark days and varied adventures behind him, Craig Raupe came back.

"It wasn't much fun working for Eastern Airlines," Raupe says. "Yeah, they gave me raises and promoted me every time I turned around and the perks were so many as to be embarrassing. But, I dunno, so the goddam flight's on time and the company makes X million bucks. So what?"

Right away he began to agitate Jim Wright to run for the House leadership. Not that Wright hadn't thought of it in his own right—hell, he's tough and ambitious and bright—but can you imagine him risking it with me as his backup? I mean, if I had been a football coach we'd probably have had to forfeit our first home game because I would have forgotten to arrange for the game balls.

Jim Wright wasn't supposed to have any more chance of getting elected majority leader than Ella Grasso has to be named Miss America. Raupe went off and harangued everybody coast to coast, from labor leaders to Texas oilmen, and raised so much money for Wright it bordered on the illegal. They gave most of the money to all the Democratic nominees they could find in obscure congressional races around the nation, and Jim Wright—surely the best orator and most persuasive speaker in the House—paraded from Oshkosh to Pocatello and between, speaking on the stump for a bunch of strangers he hoped would wind up being Democratic representatives. Jimmy Carter won that year, as did a number of freshmen Democrats. The next thing you knew, Jim Wright was a pretty serious candidate.

Craig Raupe came to me at that point—late '76—and said, "Write an article saying Jim's got a chance to be elected. We're within a dozen votes of this thing. All we need is for some people to take us a little more seriously."

I was then writing a thrice-weekly column for a Washington newspaper other than this one. I frowned at Raupe and lectured about how I couldn't lend myself to propagandizing. Being an impartial, honest journalist, etc. He was far too polite to laugh. He just looked at me until I squirmed and said, "Well, hell . . . for old time's sake, maybe,

Craig. But I gotta have something to hang it on. I just can't write a column headlined 'Wright Pure as Baby Jesus.' You got to give me a hook."

He nodded and went away. I foolishly thought that was the end of it.

A few days later he brought me a Newsweek magazine. He had opened it to a catch-all story about how President-elect Jimmy Carter was down in Georgia praying a lot, playing softball and cleaning out fishponds while his crown got fitted. Deep in the story was an innocuous paragraph saying that, yes, the House had five or six folks running for majority leader and Jimmy had a personal favorite—but he just grinned and wouldn't say who.

Raupe said, "There's your hook. Write a column making a case why it's logical that Carter is for Jim Wright. It could help us in the Deep South." I fear I stared at him rather blankly. He said, in a hurry as if rushing to catch a bus, "Goddammit, they're both from small towns in the South. They're both born-again Christians. They speak in the same accents," Bla-bla-bla.

Well, let's face it. I propagandized. The newspaper published it on Sunday, before the Monday election. Craig Raupe bought copies for all House Democrats—sticking on page one a gaudy blue-and-white sticker calling attention to that story on page 16 or whatever—and had them on the desk of every House Democrat come dawn on caucus day. Jim Wright won, 147-146; I don't know if that story had anything to do with it at all. But I do know that Craig Raupe left nothing—absolutely nothing—to chance.

Raupe and his wife of 31 years, Joyce, whom he met and married when they were students at North Texas State University, live in the northern Virginia suburbs and go to bed early. It was not always so. In the Kennedy-Johnson years they queued up in receiving lines from Washington to Bangkok, suffered state dinners, danced at the White House. Then, later, when he was an Eastern Airlines executive, they did more of the same only with more boring people.

"And I guess it was a couple of summers ago," Raupe said, "when we were invited to a state dinner at the White House. And we got out the glitter and the shine and the starched stuff, with the patent leather shoes, and then Joyce said, 'What if we didn't go?'"

They did go, recently, to the White House lawn party at Easter or thereabouts. "Driving home," Raupe said, "it hit me, I'd seen every president from Eisenhower on, and for the first time I thought, 'I don't feel like I was in the presence of the president.' That man's a good campaigner, yes, but he's got to get by being tenacious and dogged. There's just no charisma about him."

Go back in time to early '56, I think. Anyhow, Harry S Truman was back in town for the first time since he'd left the White House to speak at a Jefferson-Jackson Day dinner. Raupe and I, remember, are young Capitol Hill innocents. Raupe comes to me in great enthusiasm: He had written a paper on how Truman had defeated Dewey in '48—back in college—and it was a good paper, one he wanted Truman to see, and he said, hell, King, let's go down there to the Mayflower Hotel and I'll give him a copy. And bring along your camera—I used it to take pictures of Rep. Rutherford with visiting constituents from the Texas outback—and snap ol' Harry and me.

Raupe called Truman's suite from the Mayflower house phone and said, "Lemme speak to Harry Truman."

And a flat, twangy voice said, "This is Harry Truman." Raupe stammered out his purpose; we got invited upstairs for coffee. HST let me take a dozen pictures of them together; Raupe thrusting his paper on Truman, Truman accepting it, them shaking hands over it, and so on. I wanted to hang around, but Craig was eager to see his pictures. He rushed me off to a studio where they promised instant wet-prints, this being long before Polaroid entered the language. The pictures all came back blank. I obviously had caught buck fever and mechanically malfunctioned. Raupe cursed and abused me at great length.

I was home sleeping away the shame when my phone rang in the middle of the night. "Listen," Raupe said, "get your ——— outa bed. Truman goes for a walk about dawn every morning. We're gonna be there to do those pictures again, and you better not screw up." Truman was again patient and receptive; we made the pictures, and that time I didn't screw up. I had a copy of the best one for years—Raupe in a flat-top hairdo and a speckled bow tie, skinny and younger than Shirley Temple, him and ol' Harry grinning at one another—but time passed and different things happened and I think I lost it in a divorce.

The majority leader's man sits with his feet on his desk, and near his feet are three thick piles of telephone messages he must return. ("You can't answer them fast enough to catch up. There's just no way. I have to be selective in my priorities.")

"I really love this House. That's no bull - - - -. There's a pull and a tug to it, a vigor to it. I love the trading off, the hammering out.

"You news bastards," he says, pointing a finger, "keep writing how Congress is dragging its a - - and has no leadership. Well, in the Senate, maybe. But not in this House. The House has passed everything of substance the president has sent up here. Back in '77 we passed his first energy bill in a matter of days—the Senate bogged it down.

"Tip O'Neill is the strongest speaker in modern times. Sam Rayburn is the only one to rival him, but Rayburn was hamstrung by not having effective control of the rules committee. That's changed. And O'Neill is a strong personality—big, burly, charismatic. He can talk to you about anything. He's just the politician's politician. And Jim—well, you know what I think of Jim Wright. He's simply A No. 1. The best persuader since Henry Clay, John Brademas, the majority whip; Dan Rostenkowski, the chief deputy whip. First-class men."

Why, then, does it seem to the outside observer that so many Democrats stray off the partisan range? That there is little or no party discipline?

Raupe squints through the smoke and says, "Well, to the extent that it's true—and it's *not* always true; hell, just the other day, the speaker told one nominal Democrat he's so useless he should go sit on the other side of the aisle, and I think you'll see that gentleman starting to come around—it's because of the Balkanization of politics. Single-issue politics. When I came here years ago there were automatics—if labor was for it it was 'good,' or if it had to do with civil rights it was 'good.' A liberal Democrat had guidelines to follow. The partisan positions were clear-cut. But now, on an emotional issue like abortion, for example, if you're on one side you're for murder and if you're on the other side you're forbidding a woman to do with her body and her life what she wants to. So what's the 'liberal' position on abortion? There are so many issues now that cut across party lines. And the pressure groups are so single-minded that you can vote with their general ideology 99 percent of the time and still catch hell because you didn't go along on their one big issue. Before you can force party discipline, you've gotta figure out what the party line is. And that's not always easy anymore.

"And the administration just ain't worth a damn at the inner workings of politics in this political town. You can't run against Washington once you've become a part of Washington, and they're still trying that. I'd barely know Hamilton Jordan or Jody Powell and those people if they rode in this office on stickhorses. If you're gonna have a cohesive party, somebody down there in that big white house has got to crack knuckles and slap backs. They can't expect Jim Wright and Tip O'Neill to carry the whole load."

Gary Hymel says, "Listen, I had Craig Raupe's job under Hale Boggs and Tip O'Neill before Tip got to be speaker. It's the toughest job in town. Craig has to organize out of chaos at its highest level. He's in the front-line trenches. Everything in the House starts with him. He's the buffer, the weeder-outer. People cry and whine at him all day long. What I most respect is his judgment, how his snap decisions stand up. Jim Wright calls him 'Judge,' you know. A lot of people do. A lot of 'em think he was a judge of some sort.

"He has to learn to reach each individual member. And to act on that knowledge. He's gotta know when to say to the speaker or the majority leader, 'Now, this guy's gonna pester you, but finesse him—his bill can wait a week or two.' Or he's gotta be ready to tell the leadership, 'Go with this guy. He's in a bind, he needs help, and he'll owe us one.'

"Craig's unflappable. He's a rock and a steady anchor. He's truly going to be missed around here."

"Will I miss the hurly-burly?" Raupe says. "Well, it's be kinda like missing being tarred and feathered, wouldn't it?" A grin. "Sure, I guess I'll miss it. There is an excitement. The job gives you a keen edge. But it's time to go. I've got a fear of catching 'Potomac Fever.' I don't want to be one of those pitiful old men who nod off at Washington parties and nobody remembers their names anymore. I've always been like the old sheriff's car: I just know two speeds, wide-open and standin' still.

"But don't make it sound like I'm going off to vegetate. I'm gonna teach legislation and public policy formulation at the University of Texas at Arlington. Details are being worked out for me to teach a couple of days a month at the LBJ School on the Austin campus. There are several other old Great Society types down there—John Grounouski, Wilbur Cohen, Walt Rostow.

"And since professors sometimes succumb to the blandishments of private firms—well, if the right consulting job came along I wouldn't necessarily run from it. I know my way around the Washington maze.

"Joyce and I are building this house, you know, right on the water in my old home town of Granbury. Near Fort Worth. But neither of us intends to sit and rock. She's been the budget fiscal officer for the Foreign Affairs Committee for several years, and she'll want to stay active. I'm sure we'll get involved in presidential compaigns. And maybe dabble in local politics."

Dabble-schmabble. Two-to-one the dude within four years runs for mayor of that little Texas town—or city councilman, or something. Offering himself for public office is about the only political experience Craig Raupe has not had. And, as he says, he ain't going home to vegetate.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am glad to yield to my friend, the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank my colleague for yielding.

Mr. Speaker, it leaves me in kind of a state of shock. When we get to the end of a session, the gentleman, Mr. Craig Raupe, whom the gentleman from Indiana (Mr. BRADEMAS) is referring to, seems to be the only one who really seems to know what is going on as far as scheduling is concerned, and I do not know what we are going to do.

Mr. BRADEMAS. There is no way, Mr.

Speaker, in which I can respond to my friend, the gentleman from Ohio (Mr. ASHBROOK) without getting myself into a great deal of difficulty and I, therefore, yield back the remainder of my time.

PERSONAL EXPLANATION

(Mr. YOUNG of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Missouri. Mr. Speaker, during consideration of the low-income energy assistance program last Thursday, I mistakenly voted against this bill. I would like the RECORD to show that I meant to vote in support of this legislation.

I feel that this is an important piece of legislation that will provide needed assistance to the many Americans who will be severely impacted by the higher prices of heating fuel.

THE PASSAGE OF HOUSE JOINT RESOLUTION 430

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, last Thursday this House passed what for some Americans will be the most important legislation of the 96th Congress. I refer to House Joint Resolution 430, the supplemental appropriation for low-income energy assistance.

Since the days of Franklin Roosevelt, a basic tenet of the Democratic Party has been that Government should be humane. We believe that Government has a responsibility to do more than police the free market. We do not believe that life is a footrace where diligent competitors will succeed and all others will justly fail.

The House action of last week shows that we are remaining true to this philosophy as we address the energy problem. We acknowledge the reality that the price of energy in the worldwide market has increased dramatically. We know that our policies on production and conservation must meet the challenge of that new circumstance. But we know also that some members of our society—the poor and the elderly, especially—are in danger of bearing an undue share of that burden. That is why we moved quickly to provide $1.35 billion to help those people make it through this winter.

The legislation we enacted had the strong support of President Carter. It moved rapidly in the House thanks to the initiative of the distinguished Speaker of this body. It showed that a Democratic administration and a Democratic Congress together will act when called upon to address a crisis and avert human suffering.

Hubert Humphrey said that a government and a society can best be judged by what they do for those in the dawn of life, the children; for those in the twilight of life, the elderly; and for those in the shadow of life, the poor, the sick, and the disabled.

By that standard, we can take justifiable pride in the choice we made last week. As we did with social security and medicare, with civil rights legislation and programs for the handicapped, we have taken another step to even out the inherent unfairness of life for those who suffer most. In doing so, I believe, we make America a better, more decent place to live.

O. C. FISHER FEDERAL OFFICE BUILDING

(Mr. LOEFFLER asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. LOEFFLER. Mr. Speaker, it is with great personal pleasure that I today introduce legislation to name the Federal Office Building located at 33 West Twohig in San Angelo, Tex., in honor of one of the most respected men ever to represent the 21st Congressional District of Texas, the Honorable O. C. Fisher.

I am certain that all of my colleagues here today who were privileged to serve with Clark Fisher will readily confirm the tremendous respect and admiration held for him by everyone in this great body.

O. C. Fisher was first elected to the House of Representatives in 1932 and voluntarily retired in 1974, after unselfishly giving 42 years of his life to public service. In addition to serving for 25 years on the important House Armed Services Committee, Clark assumed a leadership role in the areas of soil conservation and flood projects. He was the author of the Twin Buttes Reclamation project near San Angelo, and the Amistad Dam project on the Rio Grande River endearing forever his name to residents in these areas. Since retiring, Clark has been busy as a rancher and a successful historian in his beloved west Texas.

Mr. Speaker, I am proud to say the office which I now occupy in the Longworth Building was Mr. Fisher's for some 15 years of his service in the House of Representatives. In addition, the building in San Angelo which will bear his name was the site of Mr. Fisher's district office for much of his tenure in the Congress; it is now the location of one of my district offices. To now be serving the same people he served so long and so well it is a very special honor for me to introduce this legislation in tribute to O. C. Fisher for his most distinguished service to Texas and our Nation.

A RAILROAD CAN HELP AMERICANS CONSERVE ENERGY

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, during these times of an energy shortage we should utilize whatever sources are available to us. I have in my possession a letter from Bill Gandert who is a respected chairman and State legislative director of the Ohio State Legislative Board, United Transportation Union. He says as follows:

OCTOBER 26, 1979.

HON. SAMUEL L. DEVINE,
U.S. Representative,
Washington, D.C.

DEAR CONGRESSMAN DEVINE: A railroad as compared with other modes of transportation can help Americans to conserve energy. A ton of freight can be transported more than four (4) times further on a gallon of fuel on a railroad than by highway. A railroad is sixty (60) times more efficient energy wise than by air and is more efficient than water way transportation.

What you have just read is the best kept secret in our country today. You never see these facts in newspapers, magazines or other publications available to the general public. Nor, do you hear these statements of fact on radio or television.

With a nationwide roadbed network and properly maintained equipment, history has proven railroads to be the most safe way to move our nation's products. In addition, more than enough energy could be conserved to delay for several years the publicized two (2) dollar a gallon fuel.

Who knows if we study this system thoroughly we may even find a way to transport people efficiently.

Respectfully yours,
WILLIAM C. GANDERT.

At least now this information will be published in the CONGRESSIONAL RECORD.

CONGRESS SHOULD ESTABLISH STATUTORY TIME LIMIT ON EXECUTIVE BRANCH RESPONSES

(Mr. RUDD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RUDD. Mr. Speaker, on August 6 of this year, I wrote to the Secretary of Health, Education, and Welfare to register the pressing concerns of my constituents of the Gila River Indian community regarding the funding of a much-needed replacement hospital at Sacaton, Ariz.

A response to my letter finally reached my desk Friday, nearly 3 months after I had contacted the Secretary. A response, which is not responsive to the questions I raised at all, and pointedly not signed by the Secretary, personally.

Coincidentally the Secretary's reply reached my office only after the House had taken final action on the authorization for funding of Indian Health Service Hospitals for this fiscal year. These dilatory tactics in response to congressional inquiries must not be tolerated. As a result of this unwarranted delay, my constituents will be required to wait yet another year for a much-needed health care facility.

The Congress should give consideration to establishing a statutory time limit on executive branch responses to congressional inquiries. It seems appropriate to me, that substantial penalties should be imposed when Federal officials fail to take action in a timely manner when requested to do so on behalf of the public by Members of Congress.

THE FUEL ASSISTANCE PROGRAM LEGISLATION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. A few minutes ago the gentleman from Minnesota (Mr. SABO) spoke of the fuel assistance program legislation which passed this House last Thursday. Many of us supported that legislation, even though it was not legislation that truly meets the needs of the American people today. Unfortunately, that legislation primarily deals with people on Supplemental Security Income and fatherless homes with dependent children. But it excludes many people who are just on social security. It excludes many of the working poor who are becoming more and more financially pressed every day because of the rising cost of inflation and the rising cost of fuel oil. I criticized the rule that reported that bill to the House because it refused to allow amendments to that legislation which would have amended the Internal Revenue Code which would have given tax credit to those people, those senior citizens on social security, as well as giving tax credit to those people earning $10,000, $15,000, and even $20,000.

Mr. Speaker, I would hope that the legislation reported on the windfall profits tax would allow us to amend that legislation to include those people.

□ 1210

KOREAN PRESIDENT PARK CHUNG HEE

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. DERWINSKI. Mr. Speaker, I was shocked and saddened by the tragic death of South Korean President Park Chung Hee, who was assassinated Friday night. Just 5 years ago, in an earlier tragedy, President Park's wife was murdered during an attempt on his life.

I had the privilege of meeting the President on a number of occasions and respected his leadership, especially his vigorous and alert policy of maintaining his country's defenses against Communist aggression from North Korea. The free world has lost one of its most effective leaders.

President Park was dedicated to increasing the standard of living of the Korean people. Under his leadership, South Korea's free enterprise economy continued to grow, performing what has properly been called an "economic miracle." Today South Korea has one of the most spirited economies of the free world. The Korean economic growth has been marked by industrial diversity and positive export policies.

Under Park's leadership, South Korea has been a firm and steadfast friend. During the Vietnam war—despite threats to themselves—South Korea sent troops to Vietnam who fought bravely and effectively on our side against the forces of Communist North Vietnam. Today South Korea continues to be a vital ally of the United States in Asia—important to both our security interests in the area and those of Japan as well. South Korea is a true friend of the United States.

Mr. Speaker, in closing I would call attention to the suffering and the tragedy of the Korean people. They endured many years of harsh occupation by Japanese military forces prior to and during World War II. Today families are separated because the Korean nation is divided. And now their President is dead of an assassin's bullet, posing a threat to domestic stability.

Mrs. Derwinski joins me in extending our personal sympathy to President Park's family—his daughters, Miss Keun Hae Park and Miss Keun Yong Park, and his son, Mr. Chiman Park.●

CAMPAIGN CONTRIBUTIONS TO SENATOR KENNEDY

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, it now appears obvious that the senior Senator from Massachusetts will be a candidate for President. While he was a noncandidate, his committees organized on behalf of his potential candidacy were able to accept $5,000 from individuals, whereas the committees that work for declared candidates were able to accept only $1,000. Despite the fact that the noncandidate was a self-declared arbiter of congressional ethics in campaign spending, that loophole was taken advantage of.

Now that the candidacy appears imminent I hope that the candidate and his committee will make disclosures so that the world will know what those contributions were. In addition, some of the contributors may have indeed contributed $25,000 already and may be in danger of violating limits that apply to all contributors. Those ought to be revealed so that those people will have some idea.

There may also be people who support that candidate who do not want to violate the spirit of the law. Those, of course, would be ones that would not contribute more than $1,000.

Mr. Speaker, I hope we will now get some reasonable disclosure.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 109

Mr. WINN. Mr. Speaker, originally I was a sponsor of House Concurrent Resolution 109.

I ask unanimous consent that my name be withdrawn as a cosponsor.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

Such rollcall votes, if postponed, will be taken on Tuesday, October 30, 1979.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

NAVAJO-HOPI RELOCATION ACT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5262) to amend the act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d), as amended.

The Clerk read as follows:

H.R. 5262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (d) of section 6 of the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d), hereinafter referred to as the "Act of December 22, 1974", is amended by striking the period at the end thereof and inserting, in lieu thereof, a colon and the following: "*Provided further,* That the Secretary shall cause an appraisal to be made of any and all lands partitioned to the tribes pursuant to either section 4(a) or 8(b). Such appraisal shall be submitted to the appropriate United States district court and the tribes within one hundred and eighty days after the date of enactment of this proviso for such lands as are already partitioned, whether by interim or final order, or one hundred and eighty days after the entry of an interim or final order of partition as to lands not yet partitioned on such effective date.".

SEC. 2. Section 8 of the Act of December 22, 1974, is amended by striking all of subsection (c) and inserting, in lieu thereof, the following:

"(c)(1) Either as a part of or in a proceeding supplementary to the action authorized in subsection (a) of this section, either tribe, through the chairman of its tribal council for and on behalf of the tribe, including all villages, clans, and individual members thereof, may prosecute or defend an action for the types of relief, including interest, specified in section 18 of this Act, including all subsections thereof, against the other tribe, through its tribal chairman in a like representative capacity, and against the United States as to the types of recovery specified in subsection (a)(3) of such section 18 and subject to the same provisions as contained in said subsection, such action to apply to the lands in issue in the reservation established by the Act of June 14, 1934 (48 Stat. 960).

"(2) In the event of the Hopi Tribe or Navajo Tribe is determined to have any interest in the lands in issue, the right of either Tribe to recover hereunder shall be based upon that percentage of the total sums collected, use made, waste committed, and other amounts of recovery, which is equal to the percentage of lands in issue in which either Tribe is determined to have such interest.

"(3) Neither laches nor the statute of limitations shall constitute a defense to such proceedings if they are either prosecuted as a part of the action authorized by this section or in a proceeding supplemental thereto, if instituted not later than twenty-four

months following a final order of partition and exhaustion of appeals in an action filed pursuant to this section.".

SEC. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

"(c) Lands partitioned pursuant to this Act, whether by interim or final order of the court, shall be subject to the jurisdiction of the tribe to whom partitioned and the laws of such tribe, regulating land use, shall apply to such partitioned lands, except as may be otherwise provided in section 13(a) and 31 of this Act, as amended.

"(d) Any development of lands in litigation pursuant to section 8 of this Act and further defined as 'that portion of the Navajo Reservation lying west of the Executive Order Reservation of 1882 and bounded on the north and south by westerly extensions, to the reservation line, of the northern and southern boundaries of said Executive Order Reservation,' shall be carried out only upon the written consent of each tribe except for the limited areas around the village of Moenkopi and around Tuba City. Each such area has been heretofore designated by the Secretary. 'Development' as used herein shall mean any new construction or improvement to the property and shall include placement of mobile homes and buildings on the property and further includes public work projects, power and water lines, public agency improvements, and associated rights-of-way.".

SEC. 4. Section 11 of the Act of December 22, 1974, is amended by—

(1) striking the period at the end of subsection (a) and inserting, in lieu thereof, the following: ": *Provided*, That no lands in the State of Arizona, lying north and west of the Colorado River, shall be available for selection under this subsection.".

(2) striking all of subsection (b) and inserting, in lieu thereof, the following:

"(b) The Commission is authorized to purchase or otherwise acquire, except by eminent domain, not to exceed fifty-thousand acres of land for the benefit of the Navajo or Hopi Tribes which shall be used for the purpose of facilitating the resettlement of heads of households required to relocate pursuant to this Act or to otherwise accomplish the purpose of this Act. Any of such lands, which are contiguous or adjacent to the Navajo Reservation, shall be taken by the United States in trust for the Navajo or Hopi Tribe and shall be administered as a part of the Navajo or Hopi Reservation, as the case may be. Any independent authority to acquire lands which may be derived from section 5(a)(1) of this Act is hereby terminated. There is hereby authorized to be appropriated, effective in fiscal year 1981, not to exceed $10,000,000 to carry out this subsection.".

SEC. 5. Section 12 of the Act of December 22, 1974, is amended by—

(1) inserting in paragraph (1) of subsection (g), the phrase "and an independent legal counsel," after the phrase "Executive Director,".

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal and housekeeping services.".

(3) redesignating subsection (i) as subsection (j) and inserting a new subsection (i) as follows:

"(i)(1) The Commission may call upon any other department or agency of the Federal Government to assist it in carrying out its responsibilities under this Act and such departments and agencies shall, to the extent permitted by law, provide such assistance.

"(2) To facilitate the coordination of other Federal programs with the efforts of the Commission—

"(A) the area directors of the Phoenix and Navajo area offices of the Bureau of Indian Affairs and the Indian Health Service shall consult with the Commission on the proposed budget for the Navajo and Hopi Tribes for any fiscal year prior to the submission of any such proposed budget to the central office of each agency. The Commission shall comment on such proposed budgets with respect to the implementation of this Act. A copy of such comments shall be submitted by the Commission to the Committee on Indian Affairs of the United States Senate and the Committee on Appropriations and the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(B) no Federal grant to, or contract with, the Navajo or Hopi Tribe, other than by the Bureau of Indian Affairs or the Indian Health Service, shall be approved until the Commission shall have had forty-five days within which to review and comment on such grant application or proposed contract from the standpoint of compatibility with the intent and purposes of this act.

"(3) The Office of Management and Budget shall establish such procedures as may be necessary to insure compliance with the provisions of this subsection and shall insure that all relevant programs and services of the Federal Government are marshalled and coordinated toward the expeditious implementation of this act, as amended.".

SEC. 6. Subsection (a) of section 13 of the Act of December 22, 1974, is amended by adding at the end thereof the following sentence: "Nothing herein or in any other provision of law shall be construed as authorizing any person to retain, maintain, or graze livestock on such lands without the consent of the tribe to whom the lands are partitioned, except those members of the Navajo Tribe, residing on Hopi-partitioned lands, who have applied and have been certified by the Commission as eligible for relocation.".

SEC. 7. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting, in lieu thereof, the word "ninety".

SEC. 8. Section 15 of the Act of December 22, 1974, is amended by adding a new subsection (f) as follows:

"(f) Within one hundred and eighty days after the date of enactment of this subsection, the Commission shall review the economic and social conditions of the families of heads of households who were evicted from the Hopi Reservation as a consequence of the decision in the case of United States versus Kabinto (456 F. 2d 1087 (1972)). Based upon that review, the Commission may certify such heads of households as eligible for benefits under subsections (a), (b), and (d) of section 15 of this act, but the Commission, in its discretion, may make available less than the full amount of benefits authorized in such subsections. The Commission's determination under this subsection shall be final.".

SEC. 9. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c)(1) Conservation practices, including grazing control and range restoration activities in the joint use area as required by subsection (a) of this section, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned.

"(2) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands partitioned pursuant to section 4 of this Act and within twelve months after a final order of partition with respect to any lands partitioned pursuant to section 8 of this Act.

"(3) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.

"(4) All projects instituted by the Secretary or any other agency of the Federal Government in relation to conservation, range restoration, or reclamation on partitioned lands or otherwise in connection with the relocation plan shall be eligible for contract by either tribe.".

SEC. 10. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within ninety days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those who actually relocate within such period.".

SEC. 11. Section 25(a)(5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96-40), is further amended by striking the figure "$1,000,000" and inserting, in lieu thereof, the figure "$3,000,000": *Provided*, That no new budget authority for fiscal year 1980 is authorized to be appropriated.

SEC. 12. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"SEC. 27. (a) To facilitate and expedite the relocation efforts of the Commission, there is hereby authorized to be appropriated annually, effective in fiscal year 1981, not to exceed $6,000,000 as a discretionary fund.

"(b) Such funds may only be used by the Commission to—

"(1) match or pay not to exceed 30 per centum of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibilities or assist either tribe in meeting the burdens imposed by this Act.

"(2) engage or participate, either directly or by contract, in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this Act. Not to exceed 5 per centum of such funds may be used for the administrative expenses of the Commission in carrying out this section.

"(c) The Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection, to the funding and construction of the Hopi high school and a Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.

"SEC. 28. (a) No action taken pursuant to, in furtherance of, or as authorized by this Act, as amended, shall be deemed a major Federal action for purposes of the National Environmental Policy Act of 1969, as amended.

"(b) Any transfer of public lands pursuant to this Act shall be made notwithstanding any provision of the Federal Land

Policy and Management Act (Public Law 94-579; 40 U.S.C. 1701 et seq.).

"SEC. 29. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this Act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985, and each succeeding year thereafter until such litigation or court action is finally completed.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, or judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

"SEC. 30. (a) No payments, pursuant to section 14 and 15(b) of this Act, shall be made to any head of household who has not signed a contract for relocation under existing eligibility criteria of the Commission prior to enactment of this section and who did not, as determined by the Commission, physically reside within the joint use area on the date specified in section 14(c) or 15(c), as the case may be.

"(b) Any head of household who has not signed a contract for relocation under existing eligibility criteria of the Commission prior to enactment of this section and who, but for the enactment of this section, would have been eligible for benefits under sections 14 and 15(b) shall be paid $5,000 from funds appropriated pursuant to section 25(a)(1) or (4).

"SEC. 31. (a) In the event the District Court grants life estate leases pursuant to section 5 of this Act, the following standards shall apply:

"(1) eligibility for such life estate leases shall be governed by the following factors:

"(i) the applicant for a life estate lease must have been at least seventy years of age on December 22, 1974; or

"(ii) the applicant for a life estate lease must have been at least sixty-five years of age on December 22, 1974, and must establish to the satisfaction of the court that the probable long-term effects of the relocation would cause extreme personal hardship; or

"(iii) the applicant for a life estate lease must establish to the satisfaction of the court that he or she is more than fifty per centum disabled, as certified by a medical doctor.

"(2) all applications for life estate leases must be filed with the District Court on or before June 30, 1980.

"(3) the Court shall grant no more than fifty life estate leases.

"(4) each life estate shall include a fenced grazing tract of not more than twenty-five acres and an additional tract of up to three acres for a homesite. Such homesite shall be surveyed and monumented, but shall not be fenced unless requested by the life tenant.

"(5) the tenure of such life estate lease shall be for the life of the applicant or his or her spouse, whichever is longer.

"(6) the granting of a life estate lease to any person shall preclude that person, his or her spouse, and any dependent, minor children living in that household from receiving any relocation benefits except fair market value for improvements and actual moving expenses to be paid by the Secretary upon termination of the lease.

"(b) The Secretary shall pay, on an annual basis, the fair market rental value of such life estate leases to the tribe to whom the lands leased were partitioned: *Provided*, That the Secretary may, in his discretion, recover not to exceed one-half of such amount from the trust funds of the tribe of which such life tenants are members.

"(c) All other matters relating to life estate leases and/or tenants shall remain within the discretion and jurisdiction of the District Court which shall apply its own existing criteria to the extent such criteria are not inconsistent with the provisions of this section.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 5262 provides for extensive amendments to the act of December 22, 1974, which settled a long-standing dispute between the Navajo and Hopi tribes to approximately 1.8 million acres of land in northern Arizona.

This dispute grows out of an 1882 executive order which set aside over 2 million acres of land in Arizona for the Hopi tribe and "such other Indians as the Secretary of the Interior may see fit to settle thereon." As time past, many Navajo families began to move into and settle in this area without official sanction.

Down through the years, the Hopi tribe made continued complaints to Federal officials about the encroachment of Navajo and white settlers, but nothing was done.

Finally, in 1943, the Interior Department designated a 600,000-acre tract of that land as exclusively Hopi lands, but did not impair any rights the Hopi had in the remainder of the land.

The Hopi continued to complain that they were being deprived of their right to use the lands set aside for them and, in 1958, Congress enacted a bill which authorized the two tribes to litigate their respective interest in the land.

A 1962 Federal court decision held that the Hopi were entitled to exclusive possession of the 600,000 plus acre tract of land and that the Hopi and Navajo tribe had a joint, equal, and undivided ownership of the remaining 1.8 million acres. In fact, Navajo tribal members used the so-called joint use area to the total exclusion of the Hopi. The dispute continued.

Finally, in 1974, Congress passed the Navajo-Hopi Settlement Act. It did, basically, two things: First, it authorized and directed the Federal District Court to partition the surface of the joint use area lands between the tribes on a 50-to-50 basis and, second, it created a Navajo-Hopi Relocation Commission with authority and funds to relocate the members of one tribe residing on lands partitioned to the other tribe.

The lands have been so partitioned, with the result that hundreds of Navajo families must be relocated from lands partitioned to the Hopi tribe.

Five years experience with the 1974 act has disclosed numerous oversight and deficiencies in the act. New authorities and new funding is needed to relieve severe burdens and hardship which must be borne by members of both tribes.

H.R. 5262 will fill some of the gaps in the 1974 act and provide the new authorization and funds to meet the task of relocating over 3,000 people.

Major provisions of H.R. 5262 include:

First, a provision which would expand the authority of the district court to grant life estates to heads of households who must relocate. The provisions authorize life estates to persons who are 65 years of age and who can show a 50-percent disability. Not more than 50 such life estates can be granted and they are limited to 25 acres for grazing and 3 acres for a homesite.

Second, a provision which would authorize the purchase of an additional 50,000 acres of land for the purpose of relocating Navajo families.

Third, provisions which would increase the power of the Relocation Commission to coordinate other Federal efforts to aid in the relocation program, including a $6,000,000 annual fund for flexible Commission programing.

Mr. Speaker, the United States bears the major responsibility for the existence of the land dispute and, therefore, bears the major responsibility for resolving that problem.

In 1974, Congress finally bit the bullet and passed a law which would do so. It was a very harsh, but very necessary law.

As I said, it will result in the forced relocation of hundreds of Navajo families. This is a traumatic experience at best, and is a major catastrophe to these Indian people whose ancestors are buried in the lands from which they must move and whose whole life, culture, and religion is based upon such lands.

Yet the legal and cultural rights of the Hopi must be recognized and protected.

We in the Congress must do all that we can to insure that the resolution of this problem causes the least disruption and hardship to those concerned as possible.

That is the purpose and intent of H.R. 5262 and I urge the passage of the bill.

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Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5262 Navajo-Hopi Relocation Act. The basic purpose of this legislation is to provide additional authorities and funds for the Navajo and Hopi Indian Relocation Commission to carry out its duties under the Navajo-Hopi Land Settlement Act of 1974.

This legislation is needed because Congress, although aware in 1974 that as many as 6,000 people might have to be relocated as a result of the Settlement Act, did not adequately provide for the physical and human problems attendant to such a major social upheaval.

Hearing testimony taken from the Commission and the two tribes in Arizona provided the basis for many of the provisions in H.R. 5262, including land purchase and greater administrative authority for the Relocation Commission and expanded life estate criteria for use by the district court.

H.R. 5262 authorizes an estimated $67 million over 7 fiscal years. However, a provision in the bill redefining eligibility requirements for relocation benefits should result in substantial savings—perhaps as much as $40 million less than the cost of relocation benefits under existing criteria. This would make the net new cost approximately $27 million over 7 years, or approximately $4 million per year.

While the cost may seem high, it is essential to recall that the dispute between the tribes over the use of the 1882 Hopi Reservation lands was caused by what Congress found to be nearly a century of the Federal Government's indifference, inertia, and inaction. This legislation marks the third time Congress has acted to settle the issue. Hopefully it will be the last.

Before a final version of this bill comes to the House, a conference with the Senate will be necessary. The Senate passed S. 751 last week and it differs substantially from H.R. 5262.

Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I cannot pass up the opportunity to point out to the House that this really is an ill-conceived bill. In the first place, the title of it is the Navajo-Hopi Relocation Act. I do not want anybody to be misled. It is the Navajos that are being relocated; so, even at the very beginning of the title, it is misleading; but, Mr. Speaker, there are serious objections to this legislation. It was an ill-conceived piece of legislation in 1974 and it is not any better today.

Let me just point out to the House a couple of provisions that really are very, very unfair, that we are saddling on to the previously passed bad legislation, making it even worse.

For example, it authorizes the U.S. district court to grant up to 50 life estates for persons 70 years of age. Well, that sounds great. When you take into consideration, first of all, that there are 1,600 to 1,900 Navajo families there, 50 life estates are not very much; but when you consider that the life estate is granted to persons over 70 years of age and that the life expectancy of the Navajos is 58, that really does not make very much sense.

The Senate, of course, has a lower age requirement. So I would hope that that is taken into consideration in the conference and that the lower age be considered.

Now, there is also the question of where lands can be obtained by the Navajos. It bars the transfer to the Navajo Tribe of any Federal lands which are located north and west of the Colorado River in Arizona.

Now, why is that? It just really makes no sense at all. If the Navajos need additional land, then that land ought to be made available next to the reservation, wherever it may exist. Why should there be a particular reservation against going on to some particular land? I think it is gross discrimination, to say the least, and it is really a slap in the face of the Navajo nation to say, "Well, you can go anywhere you want to go on additional lands, but don't come over here near me."

I think just those two provisions would make it incumbent upon this House to reject the legislation, and if it is not rejected by the House, at least that those two provisions be taken out in conference.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time.

Mr. UDALL. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. SMITH of Iowa). The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 5262, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Navajo and Hopi Indians Relocation Amendments Act of 1979".

SEC. 2. Paragraph (4) of section 5(a) of the Act of December 22, 1974 (88 Stat. 1714), is repealed.

SEC. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

"(c) The Secretary of the Interior shall take such action as may be necessary in order to assure the protection, until relocation, of the rights and property of individuals subject to relocation pursuant to this Act, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to subsection (d) of section 14 of this Act.

"(d) With respect to any individual subject to relocation, the Secretary of the Interior shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

"(e) During the pendency of litigation in the United States District Court for the District of Arizona brought pursuant to section 8 of this Act, including the case of Sekaquaptewa against MacDonald (74-842-P.C.T.-W.P.C.), any new use or development of the lands contained within those lands lying west of the Executive Order Reservation of December 16, 1882, and bounded on the north and south by westerly extensions to the reservation line of the northern and southern boundaries of said 1882 Executive Order Reservation and on the west by the Colorado and Little Colorado Rivers, shall be carried out only upon the written consent of the two tribes or upon the written approval of the Secretary: *Provided*, That if the Secretary approves such use or development over the objection of one of the tribes, that tribe may petition the district court having jurisdiction over the litigation for an order or orders prohibiting such use or development, including an order staying any such use until such matter is finally resolved by the court. In reaching a final decision regarding such petition the court shall consider the matter de novo to determine whether the proposed use or development would adversely affect the ultimate legal right of either tribe to partition based on use of land.".

SEC. 4. Section 11 of the Act of December 22, 1974, is amended by striking out all of subsection (b) and inserting in lieu thereof the following new subsections:

"(b) The Navajo-Hopi Relocation Commission is authorized to purchase or otherwise acquire, except by eminent domain, not to exceed two hundred thousand acres of land contiguous to, or adjacent and within six miles of, the Navajo Reservation for the benefit of the Navajo Tribe to facilitate relocation. Such lands shall be taken by the United States in trust for the Navajo Tribe and shall be a part of the Navajo Reservation.

"(c) The Commission shall have the authority to enter into negotiations with the Navajo and Hopi Tribes with a view to arranging and carrying out land exchanges or leases, or both, between such tribes, and lands which may be acquired by the Commission under subsection (b) of this section may, with Commission approval, be included in any land exchanges between the tribes authorized under section 8(c) or section 23 of this Act.".

SEC. 5. Section 12 of the Act of December 22, 1974, is amended by—

(1) inserting, in paragraph (1) of subsection (g), the phrase "an independent legal counsel," after the phrase "Executive Director,";

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal and housekeeping services."; and

(3) redesignating subsection (i) as subsection (j) and inserting new subsection (i) as follows:

"(i)(1) The Commission is authorized to call upon any department or agency of the United States to assist the Commission in implementing its relocation plan and completing relocation within the time required by law, except that the control over and responsibility for completing relocation shall remain in the Commission. In any case in which the Commission calls upon any such

department or agency for assistance under this section, and such department or agency shall provide any reasonable assistance so requested.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commission shall report such failure to the Congress.

SEC. 6. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting in lieu thereof the word "ninety".

SEC. 7. (a) Section 14(b)(1) of the Act of December 22, 1974 (88 Stat. 1712, 1718), is amended by deleting "$5,000" and inserting in lieu thereof "$10,000".

(b) Section 14(b)(2) of such Act is amended by deleting "$4,000" and inserting in lieu thereof "$8,000".

(c) Section 14(b)(3) of such Act is amended by deleting "$3,000" and inserting in lieu thereof "$6,000".

(d) Section 14(b)(4) of such Act is amended by deleting "$2,000" and inserting in lieu thereof "$4,000".

(e) Subsection (b) of section 14 is further amended by adding paragraph (5) at the end thereof as follows:

"(5) The amendment made to paragraph (1) of this subsection on the date of enactment of the Navajo and Hopi Indians Relocation Amendments Act of 1979 shall be applicable with respect to any head of a household who would have been entitled to the $10,000 payment under section 14(b)(1) of this Act but for the fact that such head relocated prior to the date of the enactment of the Navajo and Hopi Indians Relocation Amendments Act of 1979.".

SEC. 8. Section 14 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this Act, the Commission shall make available to an eligible applicant, on timely application as set forth in paragraph (3) of this subsection, a limited tenure of such land as the Commission determines necessary in order to avoid the necessity of relocating such applicant, and his or her spouse and dependents, if residing with such applicant. The Commission shall grant up to one hundred-sixty life estates and shall give first priority to disabled applicants. Second priority shall be awarded on the basis of age with the oldest applicants given preference over younger applicants and among such older applicants, first priority shall be given to those residing in the Big Mountain area. Such tenure shall consist of the right of use and occupancy of one hundred-fifty acres of land in order to enable such applicant to raise livestock not to exceed twenty-five sheep units per year or equivalent livestock. The Commission upon the issuance of a life estate shall fence the boundaries of lands assigned for use by the recipient of such life estates. The life estate tenure shall end by voluntary relinquishment, or at the death of the applicant or the death of the spouse of the applicant, whichever last occurs: *Provided*, That such survivorship rights shall apply only to those persons who were married on or before the date of the enactment of this subsection. Nothing in this Act or any other law shall preclude such applicant from making improvements within the area covered by such tenure.

"(2) As used in this subsection, the term—

"(A) 'eligible applicant' means, with respect to a Navajo or Hopi individual, an individual—

"(i) who on December 22, 1974, and continuously thereafter has maintained a place of abode, and has been actually domiciled therein, in an area from which such applicant, but for this subsection, would be required to relocate; and

"(ii) who on or before the date of enactment of this subsection was at least forty-five years of age, or who is found by the Commission to be mentally or physically disabled.

"(B) 'dependent' means—

"(i) those members of the applicant's household who derive more than one-half of their support from the applicant; or

"(ii) those relatives, members of the immediate family, or other persons who are necessarily and customarily present to provide for the care of the life estate applicant.

"(3) In any case in which a Navajo or Hopi individual believes that he or she can qualify as an eligible applicant (as defined by paragraph (2) of this subsection), such individual is authorized to file an application with the Commission requesting that he or she be granted a life estate in lands in accordance with this section. Such application shall be submitted in such manner, and contain such information as the Commission shall prescribe by regulation, such regulation to be promulgated by the Commission within 90 days of the enactment of this subsection. Such application must be filed on or before January 1, 1981: *Provided*, That in exceptional cases the Commission may accept later applications where necessary to avoid inequity or hardship.

"(4) Within ninety days following the date of the enactment of this subsection, the Secretary, in consultation with the Commission, shall promulgate such regulations as may be necessary to assure that in the case of a life estate granted pursuant to this subsection, no person may reside on the land covered by such life estate other than the applicant, his or her spouse, and the applicant's dependents, except that such regulations shall provide that in case of illness or disability persons necessary to attend upon and care for such applicant, spouse, or dependent may reside on such lands during such illness or disability. Such regulations shall further provide for the right of all residents and visitors to the lands covered by such life estate to have access thereto by use of all established roads or ways leading thereto.

"(5) The Secretary shall make available to applicants receiving a life estate under this subsection such assistance, during that tenure, as may be necessary to enable such applicant to feed and maintain that applicant's livestock at an adequate nutritional level. Within ninety days of enactment of this subsection, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this subsection.

"(6) Any eligible applicant, and his or her spouse and dependents, so living on the Navajo Reservation shall be subject to the jurisdiction of the Navajo Tribe, and any such eligible applicant, and his or her spouse and dependents, so living on the Hopi Reservation shall be subject to the jurisdiction of the Hopi Tribe, except that the land laws of the Navajo Tribe shall not be applicable to any tenure granted to a member of the Hopi Tribe, and the land laws of the Hopi Tribe shall not be applicable to any tenure granted to a member of the Navajo Tribe.

"(7) Nothing in this subsection shall be construed as prohibiting any such applicant who receives a life estate under this subsection from relinquishing, prior to its termination such estate at any time and voluntarily relocating. Upon voluntary relinquishment of such estate, by such means or instrument as the Secretary of the Interior shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary comparable to those provided by section 15 of this Act. For life estates terminated by the death of the life tenant or his or her surviving spouse, compensation shall be paid to the estate of the deceased life tenant based on the fair market value of the habitation and improvements at the time of the expiration of such tenure and not before. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 15 of this Act. Assistance similar to section 15(b) of this Act shall be paid to the estate of such life tenant by the Secretary. Such compensation and assistance shall be paid and distributed in accordance with the last will and testament of the life tenant, or in the event no valid last will and testament is left, compensation shall be paid and distributed to his or her heirs in accordance with the laws of the tribe of which such life tenant is a member. Upon the termination of a life estate by whatever means, the dependents residing with the individuals having such life estate so terminated shall have ninety days following such termination within which to relocate.".

SEC. 9. Section 15 of the Act of December 22, 1974, is amended by adding at the end thereof a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law to the contrary, the Commission shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of this section to the head of each household of members of the Navajo Tribe who were evicted from district numbered 6 of the Hopi Indian Reservation in 1972: *Provided*, That such heads of households have not already received equivalent assistance from Federal agencies.".

SEC. 10. Section 16 of the Act of December 22, 1974, is amended by adding the following new subsections:

"(c) The Secretary is authorized and directed to receive, consider, and pay any claim received by him from the Navajo Tribe or Hopi Tribe for compensation for the reasonable rental value, losses or other expenses incurred by the tribe by reason of such life estates conferred by the Commission pursuant to section 14(d) of this Act. Such claims shall be submitted at such time, in such manner, and contain such information, as the Secretary may prescribe. Any payment made pursuant to a claim filed under this subsection shall be in lieu of rental payments from the tribes under subsections (a) and (b) of this section with respect to lands covered by such claim.

"(d)(1) In lieu of rental payments under the provisions of subsection (a), (b) or (c) of this section, the tribe upon whose reservation a life estate has been created may elect to accept compensation in lieu of lands out of the lands acquired by the Commission under section 11(b) of this Act. In any case in which a Navajo individual receives a life estate under this Act in lands of the Hopi Tribe, the Commission shall make available to the Hopi Tribe land of equivalent economic value out of the lands acquired for the Navajo under section 11(b) and shall permit the use of such land by the Hopi Tribe for a period ending upon the expiration of the ninety-day period following the termination of such life estate. Upon the expiration of such ninety-day period, the United States shall hold such land in trust for the benefit and use of the Navajo Tribe.

"(2) In the event a tribe elects to accept compensation in lieu of lands under this subsection, the Commission shall make diligent efforts to make such compensatory land available in consolidated parcels which will provide the greatest economic return.".

SEC. 11. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c)(1) Conservation practices, including grazing control and range restoration activities in the joint use area as required by subsection (a) of this section, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned, and all such grazing and range restoration matters on Navajo Reservation lands shall be administered by the Bureau of Indian Affairs, Navajo Area Office, and on Hopi Reservation lands

shall be administered by the Bureau of Indian Affairs, Phoenix Area Office, under applicable laws and regulations.

"(2) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands partitioned pursuant to section 4 of this Act and within twelve months after a final order of partition with respect to any lands partitioned pursuant to section 8 of this Act.

"(3) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.".

SEC. 23. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein, the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within ninety days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those actually relocate within such period.

SEC. 13. (a) Section 25(a)(4) of the Act of December 22, 1974, is amended to read as follows:

"(4) For the purpose of carrying out the provisions of section 14(b) for the period prior to October 1, 1980, there is authorized to be appropriated not to exceed $5,500,000. For the purposes of carrying out such provisions for the period commencing October 1, 1980, there is authorized to be appropriated an additional amount of not to exceed $10,500,000."

(b) Section 25(a)(5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96-40), is further amended by striking the figure "$1,000,000" and inserting, in lieu thereof, the figure "$5,000,000": *Provided*, That no new budget authority for fiscal year 1980 is authorized to be appropriated.

(c) Section 25(a) of the Act of December 22, 1974, is further amended by adding at the end thereof the following new subsections:

"(7) For the fiscal year beginning October 1, 1980, and for each of the two next following fiscal years, there is authorized to be appropriated such sum, not to exceed $1,000,000, as may be necessary to carry out the provisions of subsection (c) of section 16 of this Act.

"(8) For the fiscal year beginning October 1, 1980, there is authorized to be appropriated such sum, not to exceed $350,000, as may be necessary to carry out the provisions of subsection (d)(5) of section 14 of this Act. For the fiscal year beginning October 1, 1981, and the next following fiscal year, there is authorized to be appropriated for each such fiscal year such sum, not to exceed $600,000, as may be necessary to carry out such provisions.

"(9) For the purpose of carrying out the provisions of subsection (b) of section 11 of this Act, there are authorized to be appropriated, for the period beginning October 1, 1980, such sums not to exceed, in the aggregate, $31,250,000, as may be necessary.".

SEC. 14. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"SEC. 27. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe, and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs, and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under such section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, or judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

"SEC. 28. The Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection, to the funding and construction of the Hopi high school and a Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.".

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of the Senate bill, S. 751, and insert in lieu thereof the provisions of H.R. 5262, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d)."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 5262, was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

INDIANA DUNES

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2742, relating to the Indiana Dunes National Lakeshore, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (80 Stat. 1309), as amended (16 U.S.C. 460u), is further amended as follows:

(1) A new section is added at the end thereof to read as follows:

"SEC. 20. (a) The Indiana Dunes National Lakeshore is hereby dedicated to the memory of Paul H. Douglas in grateful recognition of his leadership in the effort to protect, preserve, and enhance the natural, scientific, historic, and recreational value of the lakeshore for the use, enjoyment, and edification of present and future generations.

"(b) To further accomplish the purposes of subsection (a) of this section, the Secretary of the Interior shall designate the west unit of the lakeshore as the 'Paul H. Douglas Ecological and Recreational Unit' and shall, subject to appropriations being granted, design and construct a suitable structure or designate an existing structure within the lakeshore to be known as the 'Paul H. Douglas Center for Environmental Education' which shall provide facilities designed primarily to familiarize students and other visitors with, among other things: (1) the natural history of the lakeshore and its association with the natural history of the Great Lakes region; (2) the evolution of human activities in the area; and (3) the historical features which led to the establishment of the lakeshore by the Congress of the United States.

"(c) To inform the public of the contributions of Paul H. Douglas to the creation of the lakeshore, the Secretary of the Interior shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate.".

(2) Section 1 of the Act is amended by changing "September 1976 and bearing the number '626-91007'" to "October 1979, and bearing the number '626-91010'".

Section 2(a) of the Act is amended by adding the following new sentence at the end thereof: "The Secretary is expressly authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands or interests therein which are owned for school or educational purposes by a State or a political subdivision thereof.".

(4) Section 2(b) of the Act is amended by changing the phrase "section 10" to "section 9".

(5) In the first sentence of section 4 of the Act, preceding the word "February" insert: "July 1, 1977, or, in the case of improved property located within the boundaries delineated on a map identified as 'Boundary Map, Indiana Dunes National Lakeshore', dated September 1976 and bearing the number '626-91007', before".

(6) The first sentence of section 5(a) of the Act is amended to read as follows: "Except for owners of improved property within the area on the map referred to in the first section of this Act as area II-B, any owner or owners of record as of October 1, 1979, having attained the age of majority, of improved property on the date of its acquisition by the Secretary, may retain the rights of use and occupancy of the improved property for noncommercial residential purposes for a term (1) ending on his or her death or the death of his or her spouse, whichever occurs last, or

(2) for a fixed term not to extend beyond twenty-five years from the time of acquisition, or beyond September 30, 2010, whichever is earlier, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary.".

(7) Section 5 of the Act is amended by adding a new subsection (c) as follows:

"(c) With respect to improved properties acquired prior to the enactment of this subsection and upon which a valid existing right of use and occupancy has been reserved for a term of not more than twenty years, the Secretary may, in his discretion, extend the term of such retained right for a period of not more than five years upon receipt of a payment prior to September 30, 1983, from the holder of the retained right. The amount of such payment shall be equivalent to the amount discounted from the purchase price paid by the Secretary for the identical period of time under the terms of the original sale adjusted by a general index adopted by the Secretary reflecting overall value trends within Indiana Dunes National Lakeshore between the time of the original sale and the time of the retained right of extension offered by this subection.".

(8) Section 7(a) of the Act is amended by changing "ten years after the date of establishment of the national lakeshore pursuant to this Act" to "on September 30, 1985".

(9) Section 7(b) of the Act is amended as follows:

(a) by striking out "eleven members" and inserting in lieu thereof "thirteen members";

(b) by striking out "one member who is a year-round resident" in clause (4) and inserting in lieu thereof "two members who are year-round residents"; and

(c) by striking out "one member who is a year-round resident" in clause (7) and inserting in lieu thereof "two members who are year-round residents".

(10) Section 9 of the Act is amended as follows:

(a) in the first sentence, change "$9,440,000 for development" to "$16,790,000 for development: *Provided*, That not more than $500,000 of said amount may be appropriated for the development of the Paul H. Douglas Environmental Education Center authorized pursuant to section 20 of this Act."; and

(b) at the end thereof, add a new paragraph as follows:

"In addition to any sums heretofore authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act, there are further authorized to be appropriated an additional $39,500,000.".

(11) Section 17 of the Act is amended by adding the following new subsections:

"(c) With respect to the area indicated as area I on the drawing numbered MS-172D and dated April 27, 1978, the Secretary is authorized and directed to acquire, without the consent of the owner, only such interests as he deems appropriate to assure the permanent retention of the integrity of the natural resource values of such area as exists on November 1, 1979, only if such integrity is degraded or threatened with degradation by actions of the owner or agents on his behalf: *Provided*, That any acquisition by the Secretary shall not in any way diminish the ability of the owner to exclude persons or property from this area. Any type of pipe or conduit transmitting polluting or foreign material into or through area I and/or into the lakeshore on or after January 1, 1981, shall constitute reason to institute acquisition proceedings pursuant to the provisions of this subsection. In the event of such acquisition, the boundary of the lakeshore shall, concomitant with such acquisition, be extended to embrace the area acquired.

"(d) Within one year of the date of enactment of this subsection, the Secretary shall submit in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan to assure the proper achievement and retention of the natural integrity of lands within the lakeshore in the vicinity of Cowles Bog and the 'Nipsco Greenbelt', (including proposals for mitigating actions to be taken outside the lakeshore designed to better protect the integrity of natural resources within the lakeshore) along with a detailed long-term plan for the continued monitoring of the natural resource integrity of this area of the lakeshore. A report on the results of the monitoring of the natural resource integrity shall be submitted annually to the above referenced committees through 1990, accompanied by indications of mitigating actions proposed and taken to address problems identified through monitoring activities. The Secretary shall expeditiously implement both the comprehensive plan and the monitoring plan described herein. It is the intent of Congress that the Secretary shall avail himself of all available remedies, both statutory and otherwise, that may be necessary or useful to protect the integrity of the natural resources within the lakeshore, including, where necessary, the performance of mitigating actions to be taken by responsible parties outside the lakeshore.

"(e) In the event that any interests are acquired in the area defined in subsection (c) of this section, and with respect to the acquisition of unit II-A, any such acquisition shall be subject to whatever deed reservations may be necessary to assure the full and unimpaired continued maintenance, operation, and modification of those instruments and structures existing in said unit or units as of the date of acquisition, or which may be later required by Federal law or regulation, as well as to carry out necessary environmental monitoring associated with power-generation activities. If any portion of such area or interest therein is acquired by the Secretary and if subsequent to such acquisition it is later determined by judicial decision or administrative determination that the construction, maintenance, or operation of the generating facilities in operation or under construction as of the date of enactment of this subsection will be prevented or substantially impaired, due to the lack of ownership or control over such area by the utility, the utility operator of such facilities shall have the option to purchase said area or interest therein from the Secretary at a cost equal to the amount originally paid by the Secretary to said utility for said area or interest therein.".

(12) A new section 21 is added to the Act as follows:

"SEC. 21. (a) The Secretary shall conduct a study of various modes of public access to and from the lakeshore which are consistent with the preservation of the lakeshore and conservation of energy by encouraging the use of transportation modes other than personal motor vehicles.

"(b) In carrying out the study, the Secretary shall utilize to the greatest extent practicable the resources and facilities of the organizations designated as clearinghouses under title IV of the Intergovernmental Cooperation Act of 1968 as implemented by Office of Management and Budget Circular A-95, and which have comprehensive planning responsibilities in the regions where the lakeshore is located. The Secretary shall make provision for timely and substantive consultations with the appropriate agencies of the States of Indiana and Illinois, local elected officials, and the general public in the formulation and implementation of the study.

"(c) Following the completion of the study, the Secretary shall designate a principal public entrance into the west unit of the lakeshore. The Secretary may also acquire such additional lands as he may determine are necessary to provide improved public access to the lakeshore. Such lands shall, upon acquisition, be included within the boundaries of the lakeshore.

"(d) The study shall be completed and presented to the Congress not later than September 15, 1981.

"(e) There is hereby authorized to be appropriated not to exceed $200,000 for this study.".

(13) A new section 22 is added to the Act as follows:

"SEC. 22. In exercising his authority to acquire property under this Act, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the lakeshore to sell such property, if such individual notifies the Secretary in writing that the continued ownership of such property is causing, or would result in, undue hardship.".

(14) A new section 23 is added to the Act as follows:

"SEC. 23. (a) The Secretary may acquire only such interest in that portion of area VII-A which is described in subsection (b) as the Secretary determines is necessary to assure public access over said portion of area VII-A.

"(b) The portion of area VII-A, as designated on the map referred to in section 1, to which subsection (a) applies is a parcel of land bounded—

"(1) on the east by a line three hundred feet east of the electrical transmission line crossing area VII-A on January 1, 1979;

"(2) on the west by a line fifty feet west of such electrical transmission line; and

"(3) on the north and south by the northern and southern boundaries, respectively, of area VII-A.".

SEC. 2. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 20 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2742 represents the continuing work of the Committee on Interior and Insular Affairs to resolve several issues concerning the Indiana Dunes National Lakeshore. No explanation of this legislation would be complete without pointing out the countless hours that have been put into settling the difficult problems confronting this national lakeshore by our colleague, the gentleman from Indiana (Mr. FITHIAN). Representative FITHIAN has now worked on these issues for a number of years.

I would also like to commend my distinguished colleague, the gentleman from Indiana (Mr. SHARP) who has ably represented the concerns of the Indiana delegation in committee on this issue.

Our distinguished majority whip, Mr. BRADEMAS, played a key role in our effort.

The gentleman from Indiana (Mr. BENJAMIN) has also brought his interest forcefully to bear before the committee.

I also wish to thank our ranking Republican on the subcommittee, Representative KEITH SEBELIUS, who has worked constructively on this issue for several Congresses. In this most recent effort, Representative SEBELIUS has taken the time to revisit the lakeshore personally, and our committee bill reflects his attention to detail in the lands we have recommended for addition to the area.

Finally, I want to commend the many private persons—environmentalists who have worked for years to protect this resource.

Most notably, Tom Dustin, of the Indiana Isaak Walton League, symbolizes this selfless effort.

Mr. Speaker, this legislation essentially was incorporated in the omnibus parks bill of last year. The item got hopelessly entangled over whether or not the area should be named after or not named after a former Member of that distinguished body, Senator Paul Douglas.

Our subcommittee and the full committee struggled with this item with limited success last year. This year we decided to put this matter on suspension so that the merits only of the legislation would be before us and not be encumbered by the understandable concern of those that felt the entire Indiana Dunes should be named after Senator Douglas.

I might note that my position on the subcommittee last year and the full committee was in support of that notion. Our colleagues from Indiana have supported very significant recognition of the efforts of Senator Douglas in preserving this unique resource.

I think we have before us an adequate accommodation on that, as well as the other major issues that we had to reconcile, leaving, if you will, to the other body to see how they may change, if at all, our treatment of this matter.

Congress first recognized the important natural and recreational resources of the shoreline and associated areas along the southeastern edge of Lake Michigan in 1966, when legislation was enacted authorizing the establishment of the Indiana Dunes National Lakeshore. The area was enlarged by Congress in 1976 to include additional lands representing the spectacular dunes, biologically significant bogs, and geologically significant former shorelines and associated features which have made this area important to both recreational visitor and researcher alike.

The national lakeshore has, however, been a creature born of repeated compromises. When the Indiana Dunes was first discussed as a potential unit of the National Park System, there was a magnificent sweep of untouched countryside for tens of miles along this portion of Lake Michigan. By the time a national lakeshore was actually authorized, the area had been greatly altered by both residential and industrial development. Land values in the area were extremely high, and the Congress had the difficult task of attempting to define a viable unit of the National Park System in an area which was compromised by various forms of development.

When the Congress again considered this matter in 1976, some 3,000 acres were added to the national lakeshore. Congress also directed that the National Park Service conduct studies of certain additional areas which were not included in the lakeshore. Those studies have now been completed, and Congress has the opportunity to resolve these issues.

The committee recommended additions to the lakeshore which total some 1,435 acres. While there are a great variety of tracts of land which have been proposed for addition at various times, the objective of the committee was to recommend a limited expansion of the area which would ultimately provide the National Park Service with manageable boundaries for the national lakeshore which would best serve the dual purposes of both protecting the significant natural resources of this area and enhancing the ability of this national lakeshore to provide high quality outdoor recreation experiences.

The Indiana Dunes National Lakeshore has had a long and difficult initial phase, as the Congress has struggled to provide an adequate land base for the park while recognizing the realities of existing development in the region. The National Park Service is now in the final stages of preparing a general management plan to guide the resource protection and recreation management for this area. The committee is hopeful that, with the additional land areas provided by H.R. 2742, as well as the direction for transportation planning and other features included in this legislation, the Indiana Dunes National Lakeshore can fulfill its purposes without the need for frequent reconsideration by the Congress.

Mr. Speaker, I urge approval of the legislation.

□ 1230

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support adoption of the bill now under consideration, H.R. 2742, to expand the boundaries of the Indiana Dunes National Lakeshore and to accomplish other objectives.

Issues associated with the Indiana dunes have remained sufficiently controversial since the initial legislation in 1966 to result in bills continuing to be introduced to resolve them. While this is not the first legislative remedy since 1966, I do hope that we have sufficiently dealt with the remaining issues by means of this bill to possibly have resolved everything for all time to most peoples' satisfaction.

Mr. Speaker, it must be pointed out that two Members of Congress whom have been particularly helpful in fashioning this bill are Mr. FITHIAN and Mr. BENJAMIN. The lakeshore lies partially in the districts of both, and they have worked hard to assist in bringing this bill to the floor. I would particularly like to single out the very admirable contributions made over many months and years to this issue by Mr. Warren Stickle, a staffman for Congressman FITHIAN. He has devoted a great deal of time helping to legislatively resolve problems and issues associated with the Dunes. Probably the most tenacious individual on the scene for many years has been Mr. Ed Osaan, who has so ably represented environmental interests through the Save the Dunes Council. And by no means least has been the good direction and leadership provided by our able subcommittee chairman, and ranking minority member, PHIL BURTON and KEITH SEBELIUS, respectively.

Mr. Speaker, Mr. SEBELIUS could not be here today, but there are a number of points I am sure he would like to have made on this bill, and I share these observations.

Each of the parcels of land added to the lakeshore boundaries by this bill had a good reason for being added. The general theme was to add all those lands which are contiguous to the existing boundary and which basically retain their natural values and/or could be used to help assist the use and enjoyment of the lakeshore by their careful development. It should be noted that the bill also grants authority for the Secretary to acquire Government-owned lands which are dedicated to school purposes, an action not heretofore possible, and it is the expectation that the Secretary will try to acquire such lands expeditiously. The acquisition of such lands will help make the lakeshore a more viable operation.

The committee chose to honor the earlier and important efforts of the late Senator Paul Douglas in his battle to preserve the dunes area by dedicating the lakeshore to his memory, and by naming several prescribed features after him. I hope this will be viewed by everyone as a far preferable way to handling this matter than by changing the name of the lakeshore itself to his name—an alternative prescribed by some earlier.

Finally, there should be some mention of the acquisition and protection approach to unit II–A, the Nipsco Greenbelt. The bill's provisions on this are a result of much searching and deliberation. The underlying theme was to add to the lakeshore only those contiguous parcels of II–A which yet retain their basic natural values, and in the process to be certain that such action would in no way incumber, threaten, or reduce the opportunity for the current land owner to continue to operate his existing and publicly announced future power generation facilities. With this criteria in mind, the bill intends the immediate acquisition of part of unit II–A, and further directs the acquisition of appropriate interests or fee over area I of part of the former unit II–A parcel, should such action become necessary by the Secretary to assure adequate protection of the natural resource values of that area.

Because of specific provisions of the language on this matter, the Secretary should document the level of natural resource integrity of area I as it exists on November 1, 1979, or immediately thereafter, and he should begin immediate discussions with the Northern Indiana Public Service Co. (NIPSCO) with regard to the drainage pipe which apparently runs from outside area I and into it.

Of most critical importance is that the National Park Service, in conformance with the bill's text, set out promptly to develop and implement a professional and comprehensive monitoring system and plan for protecting the natural resource integrity of the lakeshore in the Cowles Bog/Unit II–A vicinity. This should be done with close and continual consultation with NIPSCO, and the reports submitted annually to the congressional committees should be prompt and complete. The plan and report is also to identify what mitigating actions can and should be taken by entities outside the boundaries of the lakeshore, as well.

The committee purposefully left nearly all of the existing dike outside of the lakeshore, feeling that the liability for the dike should be left with its instigator—NIPSO. The committee intended that they should be permitted reasonable access by the National Park Service, should that be required of lakeshore property, to adequately maintain the dike or take whatever action appears to be appropriate in reference to the dike, with the principal objective of properly protecting the natural resource integrity of the lakeshore.

Mr. Speaker, with those remarks, I will say no more but to urge my colleagues to support the passage of this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I take this time to direct questions to any member of the committee who might be helpful.

If I may have the attention of the distinguished gentleman from California (Mr. PHILLIP BURTON), first, let me say that I am at a loss to translate a sentence in the report that we have received from our minority leader, the gentleman from Arizona (Mr. RHODES). It states, and I quote:

> The Administration supports the major acquisition in some but not all of the features of the bill.

Mr. Speaker, could the gentleman enlighten me as to just what features of the bill the administration does not support?

Mr. PHILLIP BURTON. Not particularly, Mr. Speaker, if the gentleman will yield. I do not know that I have ever brought a bill to this floor in the area of our subcommittee on which the administration signed off on all fours.

We have been working in a bipartisan way to fashion what we think is a most defensible and reasonable bill. I wish I could do more in the way of being directly responsive.

Mr. DERWINSKI. Mr. Speaker, I have directed my inquiry just generally, but for the benefit of other Members I have one specific point that has been called to my attention by some constituents, and if there is any member of the committee or subcommittee who could help me on this matter, I would appreciate it.

This is related to the area called Beverly Shores. There is a Lithuanian ethnic community there. It includes parks, ethnic facilities, family residences, and so forth. People there are concerned as to the impact of this bill on the future of that community.

Mr. Speaker, is there any information the gentleman could give me on that?

Mr. PHILLIP BURTON. Yes, there is, Mr. Speaker, if the gentleman will yield.

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, there is some difference of opinion in terms of the people from Beverly Shores, although they have a property association that is represented to be—and this representation was unchallenged—one that represents the overwhelming majority of all the people living there, and they support the inclusion of that area in the bill.

There were one or two individuals, as I recall it—possibly three, but I think two—who expressed their disagreement on the inclusion of Beverly Shores in the bill. These are people who were residents in the area.

Mr. Speaker, I am working on the assumption that the significant majority of the people in the community affected, at least as reflected by unchallenged reports as to the legitimacy of the representation—have informed our committee that they support that provision in the bill.

Mr. DERWINSKI. Mr. Speaker, I thank the gentleman for the information.

For the sake of the RECORD, I wish to state that I have been advised by the Lithuanian Institute of Education that there is strong opposition to the bill, primarily because of the adverse impact on Beverly Shores, Ind.

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman for his information.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, as the Hoosier member of the Committee on Interior and Insular Affairs, I rise in support of this legislation, but I must say that the work on this bill was done primarily by the subcommittee chairman, the gentleman from California (Mr. PHILLIP BURTON), and by the gentleman from Indiana (Mr. FITHIAN) and the gentleman from Indiana (Mr. BENJAMIN), in whose districts in Indiana the park is located.

I would simply like to indicate that the gentleman from Indiana (Mr. FITHIAN) hopes to be here momentarily. His airplane has been delayed. He had wished obviously to engage in this debate in support of the legislation. The gentleman has been a diligent worker on this matter ever since he arrived in the U.S. Congress. Those of us from Indiana who are eager to have a strong park are delighted with his efforts.

I particularly want to thank the chairman of the subcommittee, the gentleman from California (Mr. PHILLIP BURTON), whose efforts really have made possible negotiating among many of these very tricky and difficult questions so that we can legitimately balance the rights and the interests of the variety of people in the area who are concerned with this park.

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman from Indiana (Mr. SHARP) for his kind remarks, and I yield 2 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me say to my colleagues that I simply want to register support for this legislation. I was one of those, as the gentleman from California (Mr. PHILLIP BURTON) knows, who supported naming the park for Senator Paul Douglas who fought so hard to make this park a reality.

The committee has come up with a reasonable compromise here in dedicating the park to the memory of Paul Douglas and setting up the Paul H. Douglas Ecological and Recreational Unit and the Paul H. Douglas Center for Environmental Education. The committee has called upon the Secretary, through installing markers, to let the public know of the great contribution Paul Douglas made to this park.

Paul Douglas in his last years said:

> When I was a young man, I wanted to save the world, when I got a little older, I wanted to save the Nation, and, finally, I just simply want to save the Dunes.

Mr. Speaker, this bill is a step in that direction, and I thank the chairman of the subcommittee and the chairman of the committee, as well as the gentleman from Indiana (Mr. FITHIAN) and the gentleman from Indiana (Mr. BENJAMIN), for their work. I hope the bill will be supported.

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I have no further requests for time.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. Mr. Speaker, I thank my colleague for yielding this time to me.

Mr. Speaker, I hear discussion coming from the floor today about the naming of this park and parts of it after the late Senator Paul Douglas. What concerns me a little bit is not the fact that we name the Lakeshore for Paul Douglas, but I wonder, is this the camel's nose under the tent?

Are we eventually, 2 or 3 years from now, going to have all this park named, as it were, for Senator Douglas? Are we just going ahead and naming the entire park for Senator Douglas?

Mr. Speaker, is there any discussion of the fact that we might be advancing this concept?

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, as a long-time fan of Senator Douglas, I must affirm that I think our subcommittee and full committee have done justice to the memory of Senator Douglas. I would be indisposed to support further action. I do not want to affirm that I never would, but I would be indisposed to go further than the committee has done.

This is not an effort to seduce the people living in Indiana by taking this step as a means of laying the basis to

take the further step that has been a matter of contention.

We have worked this matter out equitably, I think. The members of the committee, which was divided right down the middle on this issue 2 years ago, were all satisfied that this is a compromise or an accommodation of the conflicting values at hand, and I am quite pleased and proud of the result. I would hope that our configuration would not be altered in the Senate. That is my position.

Mr. Speaker, I hope my answer has been essentially responsive.

Mr. MYERS of Indiana. Mr. Speaker, I thank the subcommittee chairman for his response.

Mr. Speaker, my next question is this: How many different parcels that are not contiguous will be making up the Indiana Dunes National Park?

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield further, they are all contiguous in this proposal.

Mr. MYERS of Indiana. They are all contiguous?

Mr. PHILLIP BURTON. Yes.

Mr. MYERS of Indiana. Mr. Speaker, I remember back in 1976, when we added about 3,000 acres to the park. At that particular time the National Park Service testified that 1,000 acres was all that was needed. This bill adds 1,435 additional acres on top of that 3,000.

Has the Park Service testified that the additional acreage is needed? Do they want these acres? I am referring to areas like Beverly Shores, which were discussed by the gentleman from Illinois (Mr. DERWINSKI).

Mr. PHILLIP BURTON. Mr. Speaker, we have constructed what I think is a vary rational proposal, one that is more limited than the one I thought we were going to be recommending on the floor, in the interest of getting bipartisan support.

I am working on the impression that if this legislation is passed unchanged, we probably will not be hearing about any further enlargement of the Indiana Dunes during the course of the service of perhaps the gentleman from Indiana, if not the gentleman from California.

□ 1240

Mr. MYERS of Indiana. Is the gentleman planning my retirement soon?

I have one more question relative to this.

As has already been testified here, I do not represent that particular area, but being a Hoosier, I am vitally concerned about the preservation of that area. My wife, as a child, lived in Chicago and as a teenager she used to go out there, and she tells me a lot about the dunes. I have visited the dunes. But I wonder about the complaint that the gentleman from Illinois (Mr. DERWINSKI) mentions about Beverly Shores and some other areas, where the land has been purchased, but the property has not been developed. Some homes and businesses are boarded up and their windows have been broken. They have been in that condition for several years. Even the Lake Shore Club, I understand, is being eroded somewhat by the wave action. There is $7 million authorized for development in this bill; are these funds going to be used to start doing something about the previously acquired property that has not been developed? Are we just going to continue to lay it to rest?

Mr. PHILLIP BURTON. It is intended that this increase for development will be used, in part, for initial developments in this area. Actually, the draft master plan called for the expenditure of a good deal more money. We decided that we would limit the amounts for development, as the gentleman sees in the bill. If this previous justified complaint that the gentleman has advanced is recognized by the National Park Service, we expect that the Agency will expend this authorization in a timely manner that makes this area more utilizable, if you will, for the people hoping to enjoy the dunes area. But we did decide we are not going to give the administration carte blanche, and we did cut back enormously on what was estimated would be their development moneys. I am not sure of the numbers, but I believe we cut 70 percent-plus out of what was anticipated might be needed for development if the tentative master plan was finally adopted. We did that as a way to alert the Park Service that we do want them to go ahead with the relevant development now, and we are going to watch with great care that they spend the money wisely and not foolishly; hence the dollars that we see placed in the bill.

Mr. MYERS of Indiana. In 1976 I opposed the acquisition of the additional 3,000 acres because the National Park Service had not used the land they had already purchased. I still feel that unless they are going to start developing this land instead of leaving it to depreciate, I am opposed to it.

The SPEAKER pro tempore. The time of the gentleman from Indiana (Mr. MYERS) has expired.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 additional minutes to the gentleman from Indiana.

Mr. MYERS of Indiana. If it is going to be a scar upon that community, I am opposed to it. But if they are going to develop it and make something out of it, that will be quite something different. I hope this committee will continue to exert its efforts and pressure on the National Park Service to use the land that they have already purchased.

Mr. PHILLIP BURTON. I appreciate the gentleman's suggestion. I am in accord with it. I might state that we tried to construct in the legislation a carrot as well as a stick. If the Park Service does not heed the gentleman's view and the view shared by my committee, they will be hearing from us, hopefully in a very effective way.

Mr. MYERS of Indiana. I thank the gentleman for his comments.

● Mr. BENJAMIN. Mr. Speaker, I rise in support of H.R. 2742. I commend the gentleman from California (Mr. PHILLIP BURTON) on his thorough preparation and development of this comprehensive bill dealing with the Indiana Dunes National Lakeshore. H.R. 2742 is a well developed proposal involving many man-hours of work and compromises. It has been the subject of protracted controversy and the fulcrum of intense competing interests.

I thank my colleague, Mr. FITHIAN, for his exceptional efforts since 1974 to provide the people of this country with one of its finest national parks. I also wish to thank Mr. SHARP of Indiana, a member of the Interior and Insular Affairs Committee, who has consistently extended himself to insure that the people we represent are best served by the bill being considered today.

In supporting H.R. 2742, I wish to address myself to two areas which I believe are critical for your proper consideration of it. The first deals with those elements that concern the development of the park for its use by people. The second regards the inclusion of certain "greenbelt" lands.

Section 12 of the bill provides for the study of various modes of public access to and from the lakeshore which are consistent with the preservation of the park and the conservation of energy by encouraging the use of transportation modes other than personal motor vehicles. Following this study a principal public entrance in the western lakeshore will be designated and the Secretary is authorized to acquire such additional lands as he may determine are necessary to provide improved access to the lakeshore.

The completion of this study is vital. Not only will it assist in defining the future relationship between the Chicago South Shore and South Bend Railroad and the Dunes National Lakeshore, but the designation of a western entrance will greatly enhance park accessibility and it would insure that those who travel to the lakeshore from the heavily populated regions of northeast Illinois and southeast Wisconsin would travel less distance in a shorter period of time to enjoy the park which should not be the private reserve of those in Indiana.

The implementation of this provision will lead to the full utilization of the park from its far western boundry abutting the great industrial resources of Lake County to Mount Baldy in the east.

The Nipissing addition of approximately 148 acres will preserve these unique wetlands unaltered.

The expansion of the Advisory Commission from 11 to 13 to include an additional representative from Gary and Michigan City respectively will enhance urban representation.

The increase of the developmental ceiling from $9.4 million to nearly $16.8 million will allow us to begin the careful development of this natural treasure in a manner consistent with the natural and recreational value for which it was established.

The inclusion of certain "greenbelt" lands is dealt with in section 11 of the bill.

I would have preferred that these lands not be included in the legislation.

However, Chairman BURTON and the committee believed that it was important to preserve these unaltered lands within the park. When I became aware of the chairman's decision I approached Mr. BURTON and he permitted me to address the subcommittee prior to their markup of this bill.

At all times prior to the markup, the Chairman and Mr. FITHIAN stressed their sincere conviction that inclusion of these lands in the Lakeshore and the construction of the Bailly Nuclear Generating Station I were distinct and independent questions; that the questions of including lands in the park and the construction and operation of the Bailly Station I should and do not affect the consideration of the merits of the other. The major advocate of the inclusion of the Greenbelt, the Save the Dunes Council has always maintained that its inclusions does not and would not be used to adversly affect the construction or operation of the generating station.

At the time of markup I sought to assure that the Chairman's position and the intent of the legislation were absolutely consistent by asking that the following provisions be included in the legislation prior to it's report by the full committee:

First. Inclusion of statutory language guaranteeing NIPSCO those rights of access and unprohibited use of the existing meterological tower and instrument box and the area immediately adjacent thereto which is necessary for their maintenance and operation and which conform to the requirements imposed by the NRC for the construction and operation of the plant.

Second. Inclusion of statutory language making these takings conditional to later reversion to the Northern Indiana Public Service Co. (NIPSCO) if any subsequent judicial decision or administrative determination prevents construction or operation of the plant because these parcels are not owned or subject to the control of NIPSCO.

Third. Inclusion of statutory language which would allow the company to repurchase those areas—and only those areas—subject to any aforementioned determination. The price is to be that paid by the Department of Interior at the time of initial take.

Following my remarks, Messrs. BURTON and FITHIAN again stressed their commitment that the inclusion of these lands in the park should not deter, delay, or present—in any way—the construction or operation of the Bailly Station I.

The Chairman further confirmed his position by causing section 11 of this bill to be amended in accord with the recommendations of the Nuclear Regulatory Commission.

These amendments safeguard northern Indiana Public Service Co.'s right to "control" activities within the north-south inclusion, maintain the necessary rights of access to the meterological tower for purposes of operation and maintenance, and they provide for the reversion of the properties to the corporation should any subsequent litigation prevail because of the passage of this bill.

At the conclusion of my remarks I will insert and make a part of the RECORD the original subcommittee version of section 11 and the amended committee version.

While I am convinced that the legislative language implements the intent of the committee, since a specific written reponse was not received from the Nuclear Regulatory Commission detailing exact language, I support the bill with the reservation and request that the Senate carefully examine the language regarding the north-south corridor, access to the tower and instrument box and the revision provision.

I would also urge our colleagues to examine the merits of making the revision contingent on the filing of any intervenor's petition based on the inclusion of these lands, since litigation in this area is often initiated with the intention of delaying—not prevailing.

I am also including herein the inquiry directed to the NRC by Congressman FITHIAN and myself and its response thereto.

My support of H.R. 2742 should not be construed as an absolute endorsement of the Bailly Generating Station I. My intention is to maintain the integrity of the two questions and to guarantee that the actions taken today do not, directly or indirectly, impact on Bailly Station I tomorrow.

I appreciate the resource represented by the Indiana Dunes National Lakeshore. It is a fine park administered by an exceptional staff headed by superintendent James R. Whitehouse.

It will contribute much to our area. It is an institution that will bring lasting happiness to the people of our land.

I commend it to you and ask for your support.

SECTION 11 OF H.R. 2742 AS REPORTED BY THE SUBCOMMITTEE ON NATIONAL PARKS AND INSULAR AFFAIRS, OCTOBER 19, 1979

Section 17 of the Act is amended by adding the following new subsections:

'(c) With respect to the area indicated as area I on the drawing numbered MS–1720 and dated April 27, 1978, the Secretary is authorized and directed to acquire, without the consent of the owner, such interests as he deems appropriate to assure the permanent retention of the integrity of the natural resource values of such area as exists on November 1, 1979, only if such integrity is degraded or threatened with degradation by actions of the owner or agents on his behalf. In the event of such acquisition, the boundary of the lakeshore shall, concomitant with such acquisition, be extended to embrace the area acquired.

'(d) Within one year of the date of enactment of this subsection, the Secretary shall submit in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan to be expeditiously implemented to assure the proper achievement and retention of the national integrity of lands within the lakeshore in the vicinity of Cowles Bog and the "Nipsco Greenbelt", (including proposals for mitigating actions to be taken outside the lakeshore designed to better protect the integrity of natural resources within the lakeshore) along with a detailed long term plan to be expeditiously implemented for the continued monitoring of the natural resource integrity of this area of the lakeshore. A report on the results of the monitoring of the natural resource integrity shall be submitted annually to the above referenced Committees through 1990, accompanied by indications of mitigating actions proposed and taken to address problems identified through monitoring activities.'.

SECTION 11 OF H.R. 2742 AS REPORTED BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, OCTOBER 24, 1979

Section 17 of the Act is amended by adding the following new subsections:

(c) With respect to the area indicated as area I on the drawing numbered MS–1720 and dated April 27, 1978, the Secretary is authorized and directed to acquire, without the consent of the owner, only such interests as he deems appropriate to assure the permanent retention of the integrity of the natural resource values of such area as exists on November 1, 1979, only if such integrity is degraded or threatened with degradation by actions of the owner or agents on his behalf: *Provided*, That any acquisition by the Secretary shall not in any way diminish the ability of the owner to exclude persons or property from this area. Any type of pipe or conduit transmitting polluting or foreign material into or through area I and/or into the lakeshore on or after January 1, 1981, shall constitute reason to institute acquisition proceedings pursuant to the provisions of this subsection. In the event of such acquisition, the boundary of the lakeshore shall, concomitant with such acquisition, be extended to embrace the area acquired.

(d) Within one year of the date of enactment of this subsection, the Secretary shall submit in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan to assure the proper achievement and retention of the natural integrity of lands within the lakeshore in the vicinity of Cowles Bog and the "Nipsco Greenbelt", (including proposals for mitigating actions to be taken outside the lakeshore designed to better protect the integrity of natural resources within the lakeshore) along with a detailed long term plan for the continued monitoring of the natural resource integrity of this area of the lakeshore. A report on the results of the monitoring of the natural resource integrity shall be submitted annually to the above referenced Committees through 1990, accompanied by indications of mitigating actions proposed and taken to address problems identified through monitoring activities. The Secretary shall expeditiously implement both the comprehensive plan and the monitoring plan described herein. It is the intent of Congress that the Secretary shall avail himself of all available remedies, both statutory and otherwise, that may be necessary or useful to protect the integrity of the natural resources within the lakeshore, including, where necessary, the performance of mitigating actions to be taken by responsible parties outside the lakeshore.

(e) In the event that any interests are acquired in the area defined in subsection (c) of this section, and with respect to the acquisition of unit II–A, any such acquisition shall be subject to whatever deed reservations may be necessary to assure the full and unimpaired continued maintenance, operation and modification of those instruments and structures existing in said unit or units as of the date of acquisition, or which may be later required by federal law or regulation, as well as to carry out necessary environmental monitoring associated with power generation activities.

If any portion of such area or interest therein is acquired by the Secretary and if subsequent to such acquisition it is later determined by judicial decision or administrative determination that the construction, maintenance, or operation of the generating facilities in operation or under con-

struction as of the date of enactment of this subsection will be prevented or substantially impaired, due to the lack of ownership or control over such area by the utility, the utility operator of such facilities shall have the option to purchase said area or interest therein from the Secretary at a cost equal to the amount originally paid by the Secretary to said utility for said area or interest therein.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 22, 1979.

Mr. LEE GOSSICK,
Nuclear Regulatory Commission,
Washington, D.C.

DEAR MR. GOSSICK: We are writing to you concerning the proposed legislation to include the so-called NIPSCO Greenbelt (section II–A) in the Indiana Dunes National Lakeshore Park, as recommended by the National Parks and Insular Affairs Subcommittee, chaired by Congressman Philip Burton, on Friday, October 19. The subcommittee has recommended that parcels numbered 41, 10, 42, 43, and one-half of 32 (on map numbered MS–1720 and dated April 27, 1978) be included in the lakeshore—an acquisition of fifty-seven acres.

We firmly believe that the potential acquisition of the NIPSO Greenbelt and the proposed construction and operation of the Bailly Nuclear Generating Plant No. 1 in Chesterton, Indiana, are two separate and distinct issues which must be resolved on their own merits or demerits. In 1976, the Nuclear Regulatory Commission issued an opinion that the acquisition of the greenbelt under the conditions of the Ruppe amendment did not directly or indirectly hamper the construction or operation of the plant. Now, we seek further clarification of the impact that H.R. 2742, as amended by the subcommittee, will have on the plant.

The intent of H.R. 2742 and the subcommittee action was that the inclusion of the acreage in the greenbelt would not directly or indirectly, affect the issuance or granting of any permits, licenses, or other necessary approvals for the construction or operation of the Bailly Nuclear Plant No. 1 in Chesterton, Indiana. We respectfully request a written communication from the Nuclear Regulatory Commission detailing in a specific and comprehensive manner the effect that these fifty-seven acres would have on the issuance or granting of any permits, licenses, or other necessary approvals for either construction or operation of the plant, now or in the future.

We also request a similar written opinion on the effect that the original NIPSCO Greenbelt, as defined by the National Park Service study submitted to the Congress on July 1, 1977 (a total of ninety-two acres) would also have on the construction and operation of the nuclear plant. We also ask that you comment on the possibility of preventing construction and operation of Bailly I by civil litigation initiated by a nongovernmental entity and what, if any posture, your agency would assume.

Although we both oppose the inclusion of statutory language concerning the so-called north-south arm (a strip 300 feet wide and 800 feet long adjacent to the existing park and section 43 of the greenbelt), the subcommittee included an amendment to section 17 of the act concerning this parcel. This statutory language has been sent to your office under separate cover. Does the potential inclusion of the north-south arm interfere, directly or indirectly, with the exclusion zone necessary for the construction and operation of the plant? We respectfully request a written statement regarding any effect the "conditional" inclusion of this amendment would have on the issuance or granting of any permits, licenses, or other necessary approvals for the construction and operation of the Bailly Nuclear Generating Plant No. 1.

If there is any possibility that this language might adversely impact on the plant or its construction, we would request corrective suggestions to remove any such possibility of any indirect or direct interference between the potential National Park Service acquisition of this land and the construction and operation of the nuclear plant.

It is also our intent that the company have full and complete access to and utilization of the Meteorological Tower and the Instrument Box located in section 43 of the greenbelt. Do the language in the 1976 legislation (regarding access to existing structures and easements for facilities) and the subcommittee report language adequately guarantee the company's use of these facilities? This subcommittee language was forwarded to your office under separate cover.

We both prefer that language incorporating the intent of this subcommittee report language be included as statutory language, and would welcome any suggestions and recommendations that the Nuclear Regulatory Commission has for possible revision of this language. It is our intent that the company be granted maintenance and operations of these facilities and that the acquisition of section 43 would conform to the requirement imposed by the NRC for the construction and operation of the plant.

We favor the inclusion of statutory language making this fifty-seven acre acquisition conditional to later reversion to NIPSCO if any future judicial decision or administrative determination would prevent construction or operation of the plant because these parcels are not owned or subject to the control of NIPSCO. In addition, we believe that under these conditions, NIPSCO should be allowed to repurchase those areas—and only those areas—at the price paid by the Department of Interior at the time of the initial acquisition. We specifically request your office's legal assistance in drafting suitable language which achieves these goals and conforms to the requirements imposed by the NRC for the construction and operation of the plant.

We greatly appreciate your help and assistance in resolving these important questions and look forward to working with you on these matters. Since the full committee mark-up is now scheduled for Wednesday morning, October 24, it is imperative that we receive a response to these matters before this date.

Sincerely yours,

FLOYD FITHIAN,
Member of Congress.
ADAM BENJAMIN,
Member of Congress.

NUCLEAR REGULATORY COMMISSION,
Washington, D.C., October 25, 1979.

Hon. ADAM BENJAMIN,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BENJAMIN: Your letter dated October 22, 1979, requested NRC's views and opinions on a number of matters related to the proposed legislation to acquire additional lands for the Indiana Dune National Lakeshore Park. This letter documents the telephone discussion of October 23rd on these matters between our respective staffs and the NRC review of the enclosed draft of the amendment to Section 17 of the Act.

With regard to area II–A which consists of the parcels numbered 41, 10, 42, 43 and the northwestern half of parcel 32 as shown on the map numbered MS–172D, dated April 27, 1978, it is our understanding that this land is to be acquired subject to the following two deed reservations:

1. All instrumentation related to meteorological monitoring, construction dewatering and ecological monitoring related to power generation (i.e., both construction and operation) should be accessible for operation and maintenance and replacement as necessitated by obsolescence or acts of God or man.

2. Dewatering effects resulting from construction activities by NIPSCO are to be assessed at the existing site boundary.

These same deed reservations should also apply to the land identified in the proposed legislation as area I, per MS–172D.

The proposed acquisition of the fifty-seven acres (area II–A) would have no effect on the issuance or granting of any permits, licenses or other necessary approvals for either construction or operation of the Bailly facility in accordance with the present rules and regulations of the NRC, provided that the suggested deed reservations are included in the statute and in the committee report on the legislation. Regarding the inclusion of the original NIPSCO Greenbelt in the proposed legislation as defined in the National Park Service report submitted to the Congress on July 1, 1977, we conclude that inclusion of this larger area (i.e., the ninety-two acre Greenbelt studied by the NPS) into the National Lakeshore would not adversely affect the licensing of the Bailly facility, provided that the deed reservations suggested above are also applicable.

Our conclusions and opinions are based upon our review of the draft amendment to the act (Enclosure) and our interpretation of our current rules, regulations and practices. In reaching our conclusions, we have considered the intent of the proposed legislation, the need for environmental monitoring and maintenance of an exclusion area boundary to protect the public health and safety, in addition to a number of subsidiary factors.

It is impossible for us to respond with assurance to your inquiry regarding the prevention of construction or operation of the Bailly plant by civil litigation initiated by a non-governmental entity. However, if the language of the legislation and its legislative history is clear that its intent is not in any way to impede the industrial growth on privately held land beyond the Lakeshore boundaries, we believe the litigation posture of the NRC would be greatly enhanced.

In response to your question whether inclusion of the north-south arm (i.e. area I of map M–172D dated April 27, 1978) would interfere, directly or indirectly, with the exclusion zone necessary for the construction and operation of the Bailly facility, the answer is yes. However, the deed reservations discussed above, with one addition, would address this issue. This additional deed reservation would be as follows:

3. Maintenance of NIPSCO's authority to determine all activities including the exclusion and removal of personnel and property from the area should be allowed.

Accordingly, the "conditional" inclusion of Area I in the proposed legislation would have no effect on the licensing of the Bailly facility if the deed reservations discussed above are included in the statute and in the language of the committee report.

We conclude that these proposed deed reservations would address our licensing concerns in the language of the 1976 legislaton regarding the NIPSCO Greenbelt.

If you have any further questions regarding these matters, please feel free to call upon either me or the members of my staff.

Sincerely,

LEE V. GOSSICK,
Executive Director for Operations.●

Mr. BRADEMAS. Mr. Speaker, I rise in support of H.R. 2742, legislation to expand the boundaries of the Indiana Dunes National Lakeshore.

Mr. Speaker, the Indiana Dunes, on the shores of Lake Michigan in northwestern Indiana, have been highly prized by Midwesterners for many decades.

In 1966, Congress, seeking to protect and preserve this valuable natural resource of dunes, beaches, and wetlands, enacted legislation to create the Indiana Dunes National Lakeshore, an 8,300-acre national park.

Three years ago in 1976, Congress further authorized the addition of 3,660 acres to the national lakeshore.

Mr. Speaker, since its establishment, the Indiana Dunes National Lakeshore has had one of the largest visitor increases of any area within the entire National Park System. A population of 10 million lives within 100 miles of the national lakeshore. Since the beginning of this year alone, 1¼ million people have visited the national lakeshore.

Increasing numbers of students and faculty are also looking to the national lakeshore as an important and unique resource for environmental education.

Mr. Speaker, the national lakeshore's increasing popularity has led to daily overcrowding of some beaches and dunes areas. Meanwhile, other areas of the park remain underutilized because of lack of visitor access.

I urge my colleagues, in recognition of the need to improve access to the national lakeshore, while continuing to insure the park's natural integrity, to support the expansion of the national lakeshore's boundaries as authorized by H.R. 2742.

Under this bill seven major areas, totaling 1,434 acres would be added to the national lakeshore.

Mr. Speaker, the Beverly Shores additions, areas III–A and III–C, which are in part, included in the congresional district I have the honor to represent, are vital to the development of the entire eastern end of the national lakeshore. The so-called island, some 650 acres surrounded on all four sides by the present park area, contains deep wooded ravines, broad expanses of marshlands, and commanding dune bluffs overlooking Lake Michigan. Yet this same area, if not taken into the national lakeshore by this bill, will pose a virtually insurmountable obstacle to the preservation of the lakeshore and its development for visitor use.

Mr. Speaker, visitor access to the eastern end of the national lakeshore presents substantial economic opportunity for the city of Michigan City, Ind., which is part of the district I represent. Park acquisition of areas III-A and III–C will not only resolve an uncertain and untenable situation for the residents of Beverly Shores but will, with the other additions authorized under this bill, particularly the campground and Mt. Baldy areas, areas III-D and III-C, secure the basic park resources so important for emerging tourist and service industries in Michigan City and other surrouding communities.

Mr. Speaker, I urge my colleagues to support the other major provisions of H.R. 2742, including provisions for 25-year leasebacks or life tenancy for those homeowners within the added areas, a transportation study to reduce dependence on automobile access to the national lakeshore, and the dedication of the park and the naming of a new environmental education center for the late distinguished Senator Paul H. Douglas of Illinois, who played a leading role in the establishment of the Indiana Dunes National Lakeshore.

Mr. Speaker, I warmly commend my distinguished colleague from Indiana, Mr. FITHIAN, for his sponsorship of this important bill. I urge my colleagues to support H.R. 2742, authorizing additions of land to the Indiana Dunes National Lakeshore, additions which will be of great benefit not only to my constituents in northern Indiana but to the citizens of the entire Midwest.

● Mr. UDALL. Mr. Speaker, it is with special pleasure today that I rise in support of H.R. 2742, which would expand the Indiana Dunes National Lakeshore. I was the floor manager of the very bill that created the lakeshore, and have visited this remarkable landscape several times.

The bill we are considering today is a good, balanced bill. By enlarging the lakeshore, it helps to realize the vision of a man for whom I had the deepest personal affections and respect, the late Senator Paul Douglas. We are not proposing to acquire all the lands that some have urged us to acquire, but we are intent on protecting those lands necessary to insure the environmental and management integrity of this lakeshore. It does so in a manner that protects the rights and security of homeowners in the area; in fact, it guarantees them more favorable terms than are presently available to them. We have taken special pains to guard the rights and interests of commercial and industrial property owners as well.

Mr. Speaker, there are few public recreation issues with as long and difficult a history as the Indiana Dunes. And certainly, no bill will ever offer a perfect path to untangling the many complex conflicts in this issue. But I believe that this bill is as excellent and as final a solution as we are likely to achieve. With this step, I think we can leave the Lake Michigan community, our Nation and future generations a unique and outstanding opportunity for urban recreation of which we can all be proud.●

● Mr. FITHIAN. Mr. Speaker, I rise today to support H.R. 2742, a bill to finalize the boundaries of the Indiana Dunes National Lakeshore Park and end the controversy that has divided northern Indiana for almost two decades. I want to express my appreciation to the Interior Committee, and to subcommittee Chairman PHILLIP BURTON for expeditiously moving this legislation.

I believe this legislation will enhance the ability of the National Park Service to preserve the significant natural values of the region, to provide high-quality recreational opportunities, to enlarge the homeowners' rights, and to allow much needed industrial growth and development.

The legislation includes 1258 acres, including the Beverly Shores "Island," the highway 12 strip, the Nipsco Greenbelt, and other lands, and authorizes $39.5 million for land acquisition and $7.35 million for park development. The funds for land acquisition will come from the land and water conservation fund, not from the U.S. Treasury, and are essentially derived from royalties on offshore oil rights—a means of replacing one natural resource with another. It is estimated that these funds would be spent at a rate of 17 percent the first year, 33 percent the second and third years, and 17 percent the fourth year. For land development, the funds will be spent in 5 fiscal years, with 6 percent disbursed in each of the first 2 years, and about 29.3 percent in each of the remaining years.

In 1966, the Congress enacted legislation to preserve the Indiana Dunes and establish the Nation's first urban national park. Ten years later legislation which I sponsored authorized an expansion of the Indiana Dunes park by nearly 4,000 acres but deferred action on three parcels pending a study by the National Park Service. The Park Service submitted its study to Congress on July 1, 1977. Senator BAYH, Senator LUGAR, and I introduced similar bills in 1978 incorporating these areas during the 95th Congress. This legislation passed the Senate in 1978 but unfortunately, there was not enough time for the House to act in the waning days of the session. In March 1979, Senator BAYH, Senator LUGAR, and I introduced similar legislation. The House subcommittee held hearings this summer and marked up the legislation in early October. Today's action by the House of Representatives completes my effort to resolve the boundaries of the Indiana Dunes National Lakeshore Park.

This legislation provides for inclusion of the Beverly Shores "Island," a 652-acre, low density population area. In fact, over 500 acres of this parcel are unimproved lands readily available for park use. The acquisition of this "island" would insure the preservation of this unique area, would facilitate development and management of the lakeshore, and would elimiate conflicts between park visitors and local residents. These lands are needed to promote the optimum utilization of the eastern portion of the lakeshore. Continuity of the high dune bluff, interdunal ponds, and wetlands in this portion of the lakeshore is disrupted by the "island." The inclusion of the "island" would facilitate the recreational development of the area, prevent noncompatible land use, and preserve a unique ecosystem for public use.

Although the acquisition of Beverly Shores may be expensive, its present inclusion is prudent and fiscally responsible. Since I am convinced that it will be necessary to add this "island" at some time, I believe it is imperative that we begin as soon as possible. By acting swiftly, we can combat rapidly escalating land and property values, fight inflation, and save the taxpayers some hard-earned dollars. Conversely, this acquisition will result in reduced Federal spending and void the need for any multimillion dollar plans for erosion control along the beach at Beverly Shores.

The acquisition of the Highway 12 strip would complete 6.7 miles of continuous frontage and would greatly enhance the scenic beauty of the area.

Since this acreage is inexorably linked to the "island," I am pleased that it was also included in this legislation.

The acquisition of 57 acres of the Nipsco Greenbelt would facilitate comprehensive management by the National Park Service. It would establish a definite boundary for the lakeshore without bisecting ponds and wetlands, would preserve the environmental integrity of the area, and would protect Cowles Bog, a national natural landmark. This addition includes 57 acres of unspoiled wetlands, and resolves all conflicts concerning the park expansion legislation and the proposed construction of the Bailly nuclear generating plant No. 1.

For many years, opponents and proponents of the plant have alleged that there was a conflict between park expansion and the nuclear plant. I firmly believe that these two issues are independent of each other and can and must be resolved on their own merits or demerits.

Since I came to Congress I have worked to keep these issues separate. In drafting the 1975 park legislation, I consulted with Nuclear Regulatory Commission officials, and I consulted them again when the legislation passed the House. On both occasions, the NRC indicated that there was no conflict between park acquisition of the Nipsco Greenbelt and the construction and operation of the Bailly plant.

In fact, Nipsco offered to donate the entire IIA—Greenbelt—section as a scenic easement in its initial 1975 position, but later withdrew the offer. The House passed a bill including the IIA area in the park. The Senate, however, referred the Greenbelt to a study commission, as a result of which it remains an issue in this year's legislation to complete the park boundaries left uncertain in 1976.

Prior to 1979 subcommittee consideration, I again consulted NRC officials about the impact of the proposed inclusion of 57 acres of Nipsco wetlands. After many discussions and some specific language recommendations from NRC, the legislation was approved by the House Interior and Insular Affairs Committee on October 24, 1979.

In the words of the Nuclear Regulatory Commission, adding the 57-acre Nipsco Greenbelt to the park, "would have no effect on the issuance or granting of any permits, licenses, or other necessary approvals for either construction or operation of the Bailly facility." Once again, as in 1975 and 1976, the NRC has declared clearly that there is no conflict between park acquisition and the nuclear plant. I ask that these letters be included in the RECORD.

The legislation takes into consideration all possible areas of conflict. It allows the company to maintain its dike, enlarge its substation capacity, build its transmission lines, access its meteorological tower, and enhance its security for the facility. It provides for flexibility in responding to future changes in laws or regulations for nuclear plants. Most importantly, it includes a reversion clause. If some future judicial or administrative mandate should impede the construction or operation of the plant because land taken by this legislation was no longer owned by or subject to Nipsco's control, then the land would revert to the company at the price the National Park Service had originally paid for it. This provision, of course, is the ultimate separation of the two issues.

The NRC statement and the language of this legislation should, for all reasonable people, put to rest allegations that the bill impacts in one way or the other on Bailly. There has not, in fact, been conflict between park expansion and the nuclear plant and there is none now.

Besides including the three study areas, the subcommittee approved a National Park Service recommendation to include other areas, especially the 64-acre parcel in Dune Acres and the 181-acre old Beverly Shores golf course, south of highway 12. I have said frequently that I am opposed to the inclusion of any acreage outside the 1977 study areas, and I am deeply disappointed that the subcommittee did not exclude these other areas from the bill. I am particularly concerned that the inclusion of the Dune Acres section will prevent much needed growth and development of the community, and will undermine the tax base for the town. I am hopeful that the Senate and the conference committee will delete these land acquisitions in Porter County.

H.R. 2742, as revised by the Interior Committee, improves and modifies the homeowner provisions previously included in the 1976 legislation. First, the bill extends the leaseback period from 20 to 25 years. Second, it establishes a life estate so that all residents can retain the use and occupancy of their home until the death of owner and his other spouse. Third, it designates a fixed date of September 30, 2010, when all leasebacks (except life estates) will terminate. This date establishes a 30-year period for local residents to work out the acquisition of their property with the National Park Service and allows for the orderly acquisition of these lands. Fourth, it allows for the extension of existing reservations of use and occupancy which do not exceed 20 years in length for all lakeshore residents, including those who received leasebacks under the 1966 and 1976 legislation. This extension up to 25 years must be secured prior to September 30, 1983, by paying an additional amount to be equivalent in value to that paid for a similar period at the time of the original acquisition. Fifth, it establishes a cutoff date of July 1, 1977, for the construction of all improved properties acquired under this legislation. Homes built after this date will not be eligible for a use and occupancy permit.

I am disappointed that the subcommittee and full Interior Committee did not provide an exemption from condemnation for the homeowners at Indiana Dunes. Homeowners enjoyed these rights of noncondemnation from 1966 to 1976, and the arbitrary revoking of these rights was unfair and discriminatory. I believe that the Congress and the National Park Service should not have changed the rules in the midstream of park acquisition, for it is necessary that all park residents be treated on a fair and equitable basis. There is widespread public support for this exemption from condemnation, and I am disappointed that the House committee did not include this provision in the amended H.R. 2742.

This legislation encourages the establishment of a community council, an intergovernmental forum for the discussion of mutual programs and problems, including such important aspects as police and fire protection, litter and garbage collection, traffic coordination, zoning regulations, and so forth. This council will encourage better communications between the local communities and the National Park Service and facilitate the resolution of mutual problems.

Another important aspect of H.R. 2742 that is extremely important to me is the dedication of the park to the late Senator Paul H. Douglas of Illinois. During the 95th Congress there were numerous efforts to rename the entire park for the late Senator. Admittedly, there would not be a national park for Indiana Dunes without his efforts, and no one, either in Indiana or Illinois, denies his important contributions to preserving the Indiana Dunes.

There are, however, many people who are opposed to renaming the park for Senator Douglas, including myself. Most of the Indiana congressional delegation is opposed, as are thousands of Hoosier citizens. The Governor of the State, elected officials, and community leaders are opposed. Newspapers in Illinois and Indiana have editorialized against renaming the park. Leading environmental groups, such as the Save the Dunes Council, are opposed. Lastly, the National Park Service and Department of the Interior are strongly opposed to renaming any monuments or national parks for specific individuals. National parks should bear the name associated with the region and its historical identity—in which case, the name should be Indiana Dunes.

An important question remains. I believe the entire park should not and will not be renamed for Senator Douglas. But how can we as a Nation recognize his lasting contribution to Indiana Dunes? I am hopeful that the provisions of H.R. 2742 will satisfy those who correctly desire to honor the memory of Senator Douglas. This legislation would dedicate the entire park to Senator Douglas. It would further designate the West Beach unit as the Paul H. Douglas Ecological and Recreation Area, authorize funds for the development of the Paul H. Douglas Center for Environmental Education, and require that the National Park Service publicize Douglas' contribution to the Indiana Dunes. I believe that these provisions are an acceptable compromise that will recognize Douglas' preservation efforts without renaming the entire park.

Visitors to the Indiana Dunes National Lakeshore Park have substantially increased in the last few years, and in 1978 reached 1.1 million for the first time. Last year the West Beach unit opened, and about 10,000 to 12,000 visitors per week are using these excellent beach facilities. During the first 6 months of 1979, park visitors increased by 81 percent and could approach almost 2 million by the end of the year. The acquisition of Beverly Shores and other areas in H.R. 2742 would stimulate interest in the Indiana Dunes and make this important natural resource available to the general public.

The struggle to save the Indiana dunes has been a long, hard-fought battle, a battle in which the Congress has played a leading role. We cannot afford to abandon the hopes and dreams of millions of our fellow Americans and become complacent about the Dunes. We must remain steadfast in our determination that future generations will, indeed, have a park to use and enjoy. It is a promise that we have made, not only to ourselves, but to the future generations of Americans.●

● Mr. QUAYLE. Mr. Speaker, I would like to go on record concerning H.R. 2742, the Indiana Dunes expansion bill. While I support the concept of expanding the national lakeshore at the Indiana Dunes, I have several reservations concerning this particular piece of legislation.

I, as a Hoosier, object to dedicating the park in memory of former Congressman Paul H. Douglas, a resident of Illinois. For years the city of Chicago and that city's politicians, Douglas, in particular, have looked eastward to Indiana for consumers, workers, and, now, recreation since the Chicago beaches are polluted and overcrowded.

We Hoosiers cannot place a gate at the entrance to Indiana and prohibit admittance to Chicagoans or Illinois politicians, that would serve no just purpose. But we can put our foot down when it comes to naming our parks after an Illinois politician. The Dunes properly belongs to Hoosiers, and we will not stand by while it is given the name of someone other than a native of our proud State.

In H.R. 2742, there was a concession made to Indiana. The park was "merely" dedicated to Paul Douglas, but not named after him. Instead, a $500,000 "environmental education" center at the west end of the park will be named in his honor. I only hope that this is not one step toward the final goal of naming the entire park after Douglas. If that is the case, we can look forward to the Paul Douglas West End Beach, the Paul Douglas Dunes Bog, the Paul Douglas Picnic Area, the Paul Douglas (Michigan) Lake, the Paul Douglas Dunes Park, and, finally, the Paul Douglas National Lakeshore.

It is also of concern that the rights of Beverly Shores residents are adequately considered as the Park Service moves ahead to expand the lakeshore park. The 300 residents of this 650-acre island surrounded by public property deserve to be protected against overzealous Park Service acquisition. In past instances property has been boarded up for years after the Government insisted it was immediately necessary for development. I sincerely hope that the National Park Service and the Department of the Interior avoid buying more property than it can use at one time.

It is also my wish that the Park Service act expeditiously and wisely in purchase of this property. I understand that the bill includes $39.5 million to acquire nearly 1,500 acres of territory to include in the park; however, estimates on the cost of obtaining Beverly Shores alone reach $50 million. I would hate to saddle American taxpayers with a bill of that magnitude for the purchase of beach property, when we have more pressing needs—like balancing the Federal budget and stemming inflation. This is a poor way to start.

Finally, I hope that the arguments concerning the inclusion of the 60-acre "greenbelt" which insulates an industrial area from the present park boundary in the park are separated from the question of building a nuclear powerplant at Bailly Station, just west of the greenbelt. The expansion of the park and the development of a nuclear powerplant are two separate issues and should remain so.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 2742, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNUITY PAYMENTS TO FEDERAL JUDGES

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2583) to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8344 of title 5, United States Code, relating to annuities and payment on reemployment, is amended by adding at the end thereof the following new subsections:

"(f) Notwithstanding the provisions of subsection (a) of this section, if an annuitant receiving annuity from the Fund, except a Member receiving annuity from the Fund, becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, annuity payments are discontinued during such employment and are resumed in the same amount upon resignation or retirement from regular active service as such a justice or judge.

"(g) A former employee or a former Member who becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8342 (a) of this title, the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.".

SEC. A present or former justice or judge of the United States, as defined by section 451 of title 28, United States Code, who, prior to the effective date of this section, voided his right to receive an annuity under subchapter III of chapter 83 of title 5, United States Code, by applying for and receiving a refund of his lump-sum credit while serving as such a justice or judge may, upon application filed with the Office of Personnel Management within one year following the effective date of this section, redeposit such refund with interest computed under section 8334(e) of such title 5 and thereby reestablish his right to receive an annuity under such subchapter effective on the date he otherwise was eligible to receive an annuity. The surviving spouse of any such justice or judge who dies before the effective date of this section may apply to make such redeposit within one year following the effective date of this section and receive both (1) the amount of the annuity which the justice or judge would have been entitled to receive before his death had application been made by him for the annuity and (2) any survivor annuity the justice or judge could have provided under the provisions of law in effect at the time of separation from the service on which title to the annuity is based.

SEC. 3. (a) The provisions of this Act shall take effect on—

(1) the date of the enactment of this Act, or

(2) October 1, 1979.

whichever date is later.

(b) The provisions of subsection (f) of section 8344 of title 5, United States Code, as added by the first section of this Act, shall apply only to an individual who becomes employed as a justice or judge of the United States on or after the effective date of this Act. The provisions of subsection (g) of such section, as added by the first section of this Act, shall apply to an individual employed as a justice or judge of the United States on the effective date of this Act and to an individual appointed as such a justice or judge on or after such effective date.

The SPEAKER pro tempore. Pusurant to the rule, a second is not required on this motion.

The gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it difficult to understand why, although there is so much opposition to "double dipping" by employees of the Federal Government, until now, apparently, there has been no opposition to the "double dipping" of certain Federal judges who receive both a full judicial salary and a civil service pension simultaneously. Can it be that some people in our Government are considered to be more equal than others? H.R. 2583 attempts to put all Federal retirees who take second jobs with the Federal Government on an equal plane. In doing so, we also reduce Federal expenditures.

Federal judges were never intended to be an exception to this policy. But they are, Mr. Speaker, as a result of a Comptroller General's decision and a legislative oversight that occurred in 1956. Exactly what happened takes a little explaining but I think it is worth going over.

Generally, when a Federal retiree is reemployed by the Federal Government a "double dipping" situation is avoided by simply reducing the retiree's active duty pay by an amount equal to the amount of the retirement annuity during the period of reemployment. That way, total compensation is equivalent to active duty salary, even though some of the retiree's compensation is in the form of a pension check.

One intentional exception to this general rule applies to former Members of Congress. If they are appointed or elected judges or justices of the United States, they receive only their judicial salaries. Their pensions are suspended completely for the period of their employment as a judge or justice.

Mr. Speaker, I believe it was intended that all other Federal judges entitled to Federal pensions be treated as Members of Congress are treated, that is, to have their civil service pension payments withheld during the time of their service as judges or justices.

In 1966, however, the Comptroller General ruled that the salary of a justice or judge of the United States could not be reduced in this manner. The reason given was the constitutional prohibition against diminishing the salary of this special group of Federal employees. I think all my colleagues are familiar with this constitutional prohibition as a result of our recent actions on the continuing resolutions covering fiscal year 1980 appropriations.

Because of the 1966 Comptroller General decision, the U.S. Civil Service Commission sought another way to handle the pay of Federal judges who are also entitled to a civil service pension. It decided to handle all these judges the same way it was handling former Members of Congress who were Federal judges; that is, it sought to suspend their civil service pensions for the period of their service on the Federal bench.

Unfortunately, in August of 1975, the Attorney General's Office of Legal Counsel advised the Commission that there was no legal authority to do this since in 1956, when the civil service retirement statute was being amended, this authority, inadvertently, was not included in the retirement law.

While H.R. 2583 cannot change mistakes of the past where courts are concerned, it will provide that, henceforth, for new judges or justices who are retired Federal employees, pension payments will be suspended while they receive their salaries as judges of the United States. This would put them on a par with their colleagues who are former Members of Congress.

It will eliminate the specific category of "double dipping" that currently permits Federal judges legally to receive a full judicial salary and a civil service pension at the same time.

In addition, Mr. Speaker, H.R. 2583 provides a way to reimburse certain judges who, based on erroneous advice that they were not eligible to receive their Federal pensions, earlier accepted a refund of money paid into the civil service retirement system. There are 70 some judges in this situation and this legislation would allow them, within 1 year of enactment of this bill, to redeposit the amount of the refund and become eligible for a civil service pension when their period on the bench comes to an end.

Mr. Speaker, this legislation is a logical way to close the loophole that permits this particular type of "double dipping." While it would reduce outlays in some categories over the next 5 years, it would increase them in others. During the first 5 years there will be a net outlay of $21,000; however, from that point on, the bill will bring about large annual savings.

Mr. Speaker, the administration strongly favors this legislation, and I urge my colleagues to join in support of this effort.

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Mrs. FENWICK. Mr. Speaker, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentlewoman for yielding and for such a clear and careful explanation of the legislation that we are considering.

I would like to ask the gentlewoman a question. I see that the estimated cost is $126,000 and then $30,000 a year. Why is there any cost? I should think there would be a saving.

Mrs. SPELLMAN. The result is in the net saving. The cost is incurred in enabling those judges who withdrew the funds from the retirement systems and, therefore, would not be eligible for retirement payments, to rejoin the system. They were given inaccurate information. That is the reason for a cost. The rest entails a savings, and the total bill would end in a saving.

Mrs. FENWICK. If the gentlewoman would yield, the report reads, on page 2, "the Congressional Budget Office estimates that the fiscal year 1980 outlays relating to section 2 would be approximately $126,000 with annual costs thereafter of $30,000 plus." Why?

Mrs. SPELLMAN. That does seem to be in error.

Mrs. FENWICK. Does that not seem odd?

Mrs. SPELLMAN. It would not work that way, I am quite sure. The cost for the first 5 years almost balances out with the savings. From that point on, the savings will grow dramatically.

Mrs. FENWICK. If the gentlewoman would continue to yield, that is a report on the Committee on Appropriations.

Mrs. SPELLMAN. I do not have that report before me. But I can assure the gentlewoman that there will be a net savings, without any question.

Mrs. FENWICK. Could we get some clarification of that?

Mrs. SPELLMAN. In just a moment, I will try to get for the gentlewoman the exact figures.

Mrs. FENWICK. I thank the gentlewoman. It is very interesting.

Mrs. SPELLMAN. I thank the gentlewoman.

I reserve the balance of my time.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the legislation.

I thank the gentlewoman from Maryland (Mrs. SPELLMAN) for a very scholarly explanation of the measure.

This bill, in identical form, was passed by the House in September of 1976, and was bogged down in the Senate with problems on amendments.

I urge adoption of the measure this afternoon.

Mr Speaker, I rise in support of H.R. 2583, which provides the necessary authority to suspend the payment of a civil service annuity to a person entitled to receive full salary as a justice or judge of the United States. Annuity payments would be resumed when the justice or judge retired.

I originally cosponsored similar legislation in the 94th and 95th Congresses because of the serious problem concerning the payment of dual compensation to some Federal justices and judges, but the matter was not resolved.

Prior to 1956, the Civil Service Retirement Act generally prohibited the reemployment of civil service annuitants other than in exceptional cases. The 1956 amendments to the Retirement Act enacted the present rules for reemployment of annuitants. While the law allows the reemployment of annuitants, the salary of that position must be reduced by an amount equal to the annuity received.

The former Civil Service Commission at the time considered the appointment of annuitants to Federal judgeships to be within the purview of this law, and such persons were treated accordingly.

However, because the Constitution prohibits the reduction of a judge's salary, the Commission accomplished the same end by suspending their annuity.

However, in 1975, the GAO and the Department of Justice concluded that the suspension of annuities of justices and judges was without authority in law.

H.R. 2583 resolves this anomaly by providing for the suspension of a judge's civil service annuity while he is in active judicial service. There is ample precedent for this legislation, for under the retirement law a former Member of Congress who is drawing an annuity has that annuity suspended upon appointment to a Federal position.

The legislation is prospective and will not affect those judges presently drawing civil service annuities. It also authorizes the Office of Personnel Management to accept within 1 year following enactment redeposit of refunds paid to active or retired justices or judges who obtained those refunds based on erroneous advice that such individuals were not entitled to an annuity.

Mr. Speaker, in the 95th Congress a similar bill, H.R. 4320, passed the House and the Senate but died when differences in the legislation were not resolved.

I urge enactment of this legislation.

I yield back the balance of my time, and I have no requests for time.

Mrs. SPELLMAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill, H.R. 2583, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

GENERAL ACCOUNTING OFFICE ACT OF 1979

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 24), to improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes, as amended.

The Clerk read as follows:

H.R. 24

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "General Accounting Office Act of 1979".

TITLE I—GENERAL ACCOUNTING OFFICE PROVISIONS

UNVOUCHERED EXPENDITURES

SEC. 101. Section 117 of the Accounting and Auditing Act of 1950 (31 U.S.C. 67) is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any provision of law heretofore enacted permitting an expenditure to be accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of an executive agency, the Comptroller General shall have access to such books, documents, papers, records, and other information relating to such expenditure as may be necessary to enable him to determine whether the expenditure was, in fact, actually made and whether such expenditure was authorized by law. The provisions of this paragraph shall not be superseded except by a provision of law enacted after the date of enactment of this paragraph and specifically repealing or modifying the provisions of this paragraph. In the case of an expenditure under section 102, 103, 105(d)(1), (3), or (5), or 106(b)(2) or (3), of title 3, United States Code, the provisions of sections 102, 103, 105(d), and 106(b) of such title shall govern the examination of such expenditures by the Comptroller General in lieu of the provisions of this subsection.

"(2) With respect to any expenditure accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of a department or establishment and notwithstanding any previously enacted provision of law, no officer or employee of the General Accounting Office may release the findings of its audit of such expenditure or disclose any books, documents, papers, records, or other information concerning such expenditure to anyone not an officer or employee of the General Accounting Office, except to the President or the head of the agency concerned or, in the case of unresolved discrepancies, to a duly established committee or subcommittee of the Congress.

"(3)(A) Nothing in this subsection shall be construed as affecting the authority contained in section 8(b) of the Central Intelligence Agency Act of 1949, as amended.

"(B) The President may exempt from the provisions of paragraph (1) of this subsection financial transactions which relate to sensitive foreign intelligence or foreign counterintelligence activities; such an exemption may be given for a class or category of financial transactions.

"(C) Information concerning financial transactions taken pursuant to section 8(b) of the Central Intelligence Agency Act of 1949, as amended, and information concerning financial transactions exempted from the provisions of paragraph (1) shall be reviewable by the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.".

ENFORCEMENT OF ACCESS TO RECORDS

SEC. 102. Section 313 of the Budget and Accounting Act, 1921 (31 U.S.C. 54), is amended by designating the existing paragraph as subsection (a) and by adding at the end the following new subsections:

"(b) Subject to subsection (d), if any information, books, documents, papers, or records requested under subsection (a) or any other provision of law or agreement granting the Comptroller General a right of access from any department or establishment have not been made available to the General Accounting Office within a period of twenty calendar days after the request has been delivered to the office of the head of the department or establishment involved, the Comptroller General, through any attorney designated by him, may, after twenty calendar days notice to the Attorney General, apply to the United States District Court for the District of Columbia for an order requiring the production of such material by the head of the department or establishment. The Attorney General is authorized to represent the defendant official in such proceedings. Any failure to obey an order of the court under this subsection shall be treated by the court as a contempt thereof.

"(c)(1) To assist in carrying out his functions, the Comptroller General, subject to subsection (d), may sign and issue subpenas requiring the production of contractor and subcontractor records pertaining to negotiated contracts and records of other non-Federal persons or organizations to which he has a right of access by any law or agreement. Service of a subpena issued under this subsection may be made by anyone authorized by the Comptroller General (A) by delivering a copy thereof to the person named therein, or (B) by mailing a copy thereof by certified or registered mail, return receipt requested, addressed to such person at his residence or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service or, in the case of service by certified or registered mail, the return post office receipt signed by the person so served, shall be proof of service.

"(2) In case of failure to obey a subpena issued under paragraph (1), the Comptroller General, through any attorney designated by him, may invoke the aid of any district court of the United States in requiring the production of the records involved. Any district court of the United States within whose jurisdiction the contractor, subcontractor, or other non-Federal person or organization is found or resides or in which the contractor, subcontractor, or other non-Federal person or organization transacts business, may, in case of refusal to obey a subpena issued under this section, issue an order requiring compliance therewith; and any failure to obey such order of the court shall be treated by the court as a contempt thereof.

"(d) The Comptroller General may not—

"(1) apply under subsection (b) for an order requiring the production of materials; or

"(2) issue a subpena under subsection (c) requiring the production of records;

if such materials or records relate to activities designated by the President as being foreign intelligence or foreign counterintelligence activities. This subsection does not affect the authority of the Comptroller General under any provision of law other than subsections (b) and (c).".

AVAILABILITY OF DRAFT REPORTS

SEC. 103. Section 312 of the Budget and Accounting Act, 1921 (31 U.S.C. 53) is amended by adding at the end thereof the following new subsection:

"(f)(1) No portion of any draft report prepared by the General Accounting Office shall be submitted to any agency for comment thereon for a period in excess of thirty days unless the Comptroller General determines, upon a showing by such agency, that a longer period is necessary and is likely to result in improvement in the accuracy of such report.

"(2) Failure of an agency to return comments by the conclusion of the comment period established under paragraph (1) of this subsection shall not result in the delayed delivery of any such report.

"(3) Whenever an agency is requested to comment on a draft report, the Comptroller General shall—

"(A) in the case of any report initiated, pursuant to subsection (b) of this section or otherwise, at the request of either House of Congress or by any committee or member thereof, make such draft report available on request to such House, committee, or member; or

"(B) in the case of any other report, make such draft report available on request to the Committee on Governmental Affairs of the Senate and to the Committee on Government Operations of the House.

"(4) The Comptroller General shall prepare and issue with the final version of any report of the General Accounting Office a statement of (A) any significant changes, from any prior drafts of such report, in the findings, conclusions, or recommendations which were based on an agency's comments on such a draft, and (B) the reasons for making such changes.".

APPOINTMENT OF THE COMPTROLLER GENERAL AND THE DEPUTY COMPTROLLER GENERAL

SEC. 104. (a) Section 302 of the Budget and Accounting Act, 1921 (31 U.S.C. 42), is amended to read as follows:

"SEC. 302. (a) There shall be in the General Accounting Office a Comptroller General of the United States and a Deputy Comptroller General of the United States who shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Comptroller General shall perform such duties as may be assigned to him by the Comptroller General. During the absence or incapacity of the Comptroller General, or

during a vacancy in that office, the Deputy Comptroller General shall act as Comptroller General.

"(9) Whenever, after the date of enactment of this subsection, a vacancy occurs in the Office of Comptroller General, there is established a commission to recommend individuals to the President for appointment to the Office of Comptroller General and whenever, after such date, a vacancy occurs in the Office of Deputy Comptroller General, there is established a commission to recommend individuals to the President for appointment to the Office of Deputy Comptroller General. Such commission shall in either case consist of—

"(1) the Speaker of the House of Representatives,

"(2) the President pro tempore of the Senate,

"(3) the majority and minority leaders of House of Representatives and the Senate,

"(4) the chairman and ranking minority member of the Committee on Government Operations of the House of Representatives and of the Committee on Governmental Affairs of the Senate, and

"(5) in the case of a vacancy in the office of Deputy Comptroller General, the Comptroller General of the United States.

Such commission shall submit to the President for consideration the names of not less than five persons for the office of Comptroller General. The President, within his discretion, may request that additional names be submitted.".

(b) The first paragraph of section 303 of such Act (31 U.S.C. 43) is amended by striking out the first sentence and inserting in lieu thereof the following: "Except as otherwise provided in this section, the Comptroller General shall hold office for fifteen years and the Deputy Comptroller General shall hold office from the date of his appointment until the date on which an individual is appointed to fill a vacancy in the Office of Comptroller General. The Deputy Comptroller General may continue to serve until his successor is appointed.".

(c) The amendments made by this section shall not apply to persons occupying the positions of Comptroller General and Deputy Comptroller General on the date of enactment of this Act, but shall apply with respect to any vacancy in such positions occurring on or after such date, and shall apply to any person appointed to fill such a vacancy.

TITLE II—CONFORMING AMENDMENTS WITH RESPECT TO THE INSPECTORS GENERAL OF THE DEPARTMENTS OF ENERGY AND HEALTH, EDUCATION, AND WELFARE

AMENDMENT TO PUBLIC LAW 94-505

SEC. 201. Section 203(b) of the Act of October 15, 1976 (42 U.S.C. 3523), is amended to read as follows:

"(b) In carrying out the responsibilities specified in subsection (a)(1), the Inspector General shall—

"(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

"(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

"(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).".

AMENDMENT TO PUBLIC LAW 95-91

SEC. 202. Section 206 of the Department of Energy Organization Act (42 U.S.C. 7138) is amended by inserting at the end thereof the following new subsections:

"(h) In carrying out the responsibilities specified in subsection (b)(1), the Inspector General shall—

"(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities and functions;

"(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

"(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

"(i) In carrying out the duties and responsibilities established under this section, the Inspector General shall give particular regard to the activities of the Comptroller General with a view toward avoiding duplication and insuring effective coordination and cooperation.

"(j) In carrying out the duties and responsibilities established under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. BROOKS) will be recognized for 20 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. H.R. 24, with an amendment I propose, will strengthen the General Accounting Office's ability to discharge its functions as an investigative and auditing arm of the Congress. The GAO, headed by the Comptroller General, is the principal means by which the legislative branch conducts oversight of executive branch activities.

Despite its clear statutory authority, the GAO has encountered serious difficulty in reviewing the activities of executive branch agencies and other organizations in which it has the right of access by law or agreement. In many cases GAO has encountered outright refusals by agencies to allow GAO audits of their activities. In many other cases the agencies simply refused to cooperate with a GAO investigation. This has effectively delayed or made impossible GAO's responsiveness to the Congress.

In recent years, Congress has found it necessary to increase its direction and control of executive branch expenditures as a means of promoting a sound Federal budget and healthy economy. This cannot be done effectively without increased oversight by the Congress with the assistance of GAO. It is therefore essential that GAO, in carrying out these responsibilities, be given the proper support and direction to insure its continued effectiveness to the Congress.

The provisions of H.R. 24 are designed to achieve this objective. First, it provides GAO with authority to audit most unvouchered expenditures. Second, it strengthens GAO's existing authority to enforce its statutory right of access to records of Federal agencies and non-Federal entities. Third, it makes changes in GAO's report issuance procedure to improve the timeliness and accuracy of such reports. Fourth, H.R. 24 provides a formal mechanism for congressional input in the appointment of future Comptrollers General and their deputies. Finally, H.R. 24 amends the auditing authority of the Inspectors General of the Departments of Health, Education, and Welfare and Energy to conform to the auditing authority provided in the Inspector General Act of 1978.

Subsequent to the committee's reporting this bill, the chairman of the Permanent Select Committee on Intelligence, Congressman ED BOLAND, advised me of his concerns over the provision of the bill which authorizes the Comptroller General to seek judicial enforcement of its access rights to agency records. He believes this provision might increase the risk of disclosure of intelligence secrets.

While I believe that GAO should continue to conduct audits of intelligence activities the Government Operations Committee certainly wants to act with caution to avoid jeopardizing the viability of intelligence programs. I have therefore proposed an amendment to exclude activities designated by the President as being foreign intelligence or counterintelligence from the judicial enforcement provision of the bill. Mr. BOLAND has assured me that this language fully meets his concerns.

I include in the RECORD at this point a letter, dated October 26, 1979, from the Honorable ED BOLAND to me:

PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C., October 26, 1979.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, Washington, D.C.

DEAR JACK: I want to express my appreciation for your agreement to propose the amendment to H.R. 24 appended to my letter to you of July 30. I believe that the language I proposed carves out a narrow exception to the remedial powers which the bill would give the Comptroller General. Further, as I have indicated to you, the amendment does not seek, nor should it be construed, to limit in any way the authority which the Comptroller General has under law to obtain information or materials from federal officials. If I am unable to be present at the time at which H.R. 24 is considered by the House, I would urge you to make this letter part of the record of the consideration of the bill.

With every good wish, I am
Sincerely yours,

EDWARD P. BOLAND,
Chairman.

In summary, Mr. Speaker, H.R. 24 will enhance Congress oversight responsibilities by insuring that the GAO has the ability to conduct thorough and effective investigations of executive branch activities.

I urge the House to support this bill.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 24, the General Accounting Office Act of 1979, is similar to a bill passed by the House in the last Congress but not acted upon by the Senate. It makes several important changes in GAO's statutory authority.

The bill provides GAO with the authority it needs to audit certain unvouchered expenditures and with the increased strength it must have to enforce its statutory right to access to records of Federal departments and of non-Federal organizations, such as contractors who receive Federal assistance. H.R. 24 also makes changes in GAO's report issuance procedure which will improve the timeliness and accuracy of draft reports issued by GAO. Finally, the bill establishes a formal mechanism for consultation by the President and congressional officials in the appointment of future Comptrollers General.

The major issue raised during the Legislation and National Security Subcommittee's hearings concerned the possible release of confidential or sensitive law enforcement or intelligence investigation information. I want to emphasize that under this bill the President may exempt the Central Intelligence Agency's financial transactions which relate to sensitive foreign counterintelligence activities. In addition, GAO may not apply for an order or issue a subpena requiring the production of information relating to activities designated by the President as being foreign intelligence or counterintelligence activities. This provision in the bill satisfies the security concerns of the Permanent Select Committee on Intelligence and of the intelligence community as to expenditures which go to the heart of our most sensitive intelligence efforts.

Mr. Speaker, this bill will greatly improve the effectiveness of the GAO and increase the ability of the Congress to carry out its oversight responsibilities. I urge my colleagues to support H.R. 24.

Mr. Speaker, I have no requests for time.

Mr. BROOKS. Mr. Speaker, I have no requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 24, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislaive days within which to revise and extend their remarks and to include therein extraneous matter on the bill just passed, H.R. 24.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONGRESSIONAL AWARD ACT

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2196), to establish a congressional award program for the purpose of recognizing excellence and leadership among young people, as amended.

The Clerk read as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Congressional Award Act".

ESTABLISHMENT OF THE CONGRESSIONAL AWARD BOARD

SEC. 2. There is established a board to be known as the Congressional Award Board (hereinafter in this Act referred to as the "Board"), which shall be responsible for administering the Congressional Award Program described under section 3 of this Act. The Board shall not be an agency or instrumentality of the United States, and the United States is not liable for any obligation or liability incurred by the Board.

CONGRESSIONAL AWARD PROGRAM

SEC. 3. (a) The Board shall establish and administer a program to be known as the Congressional Award Program, which shall be designed to promote initiative, achievement, and excellence among youths in the areas of public service, personal development, and physical and expedition fitness. Under the program gold, silver, and bronze medals shall be awarded to young people within the United States, aged fourteen through twenty-three (subject to such exceptions as the Board may prescribe), who have satisfied the standards of achievement established by the Board under subsection (b) of this section. The medals shall be of such design and materials as the Board may determine.

(b) In carrying out the Congressional Award Program, the Board shall—

(1) establish the standards of achievement required for young people to qualify as recipients of the medals and establish such procedures as may be required to verify that individuals satisfy such qualifications;

(2) designate the recipients of the medals in accordance with the standards established under paragraph (1) of this subsection;

(3) delineate such roles as the Board considers to be appropriate for the Director and Regional Directors in administering the Congressional Award, and set forth in the bylaws of the Board the duties, salaries, and benefits of the Director and Regional Directors;

(4) raise funds for the operation of the program; and

(5) take such other actions as may be appropriate for the administration of the Congressional Award Program.

(c) The Board shall arrange for the presentation of the awards to the recipients and shall provide for participation by Members of Congress in such presentation, when appropriate. To the extent possible, recipients shall be provided with opportunities to exchange information and views with Members of Congress during the presentation of the awards.

(d) The Board may award scholarships in such amounts as the Board determines to be appropriate to any recipient of the Congressional Award Gold Medal.

(e) The Board shall prepare and submit an annual report to the Congress before March 1 of each year summarizing the activities of the Congressional Award Program during the previous year and making appropriate recommendations. Any minority views and recommendations of members of the Board shall be included in such reports. The annual report shall contain the following items:

(1) Specific information regarding the methods used to raise funds for the Congressional Award Program and a list of the sources of all money raised by the Board.

(2) Detailed information regarding the expenditures made by the Board, including the percentage of funds which are used for administrative expenses.

(3) A description of the programs formulated by the Director under section 5(b)(1), including an explanation of the operation of such programs and a list of their sponsors.

(4) A detailed list of the administrative expenditures made by the Board, including the amounts expended for salaries, travel expenses, and reimbursed expenses.

(5) A list of individuals given awards under the program, and their place of residence.

(6) Such other information as the Board may consider significant.

MEMBERSHIP OF THE BOARD

SEC. 4. (a)(1) The Board shall consist of seventeen members, as follows:

(A) Four members appointed by the majority leader of the Senate.

(B) Four members appointed by the minority leader of the Senate.

(C) Four members appointed by the Speaker of the House of Representatives.

(D) Four members appointed by the minority leader of the House of Representatives.

(E) The Director of the Board, who shall serve as a nonvoting member.

(2) In making appointments to the Board, the Congressional leadership shall consider recommendations submitted by any interested party, including any member of the Board or the Committee for the Establishment and Promotion of the Congressional Award.

(3) Individuals appointed to the Board shall have an interest in one or more of the fields of concern of the Congressional Award Program.

(b) Appointed members of the Board shall serve for terms of six years, except that of the members first appointed—

(1) five shall serve for terms of two years;

(2) five shall serve for terms of four years; and

(3) six shall serve for terms of six years; as determined by lot when all such members have been appointed.

(c)(1) Any vacancy in the Board shall be filed in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(3) Any appointed member of the Board may continue to serve after the expiration of his term until his successor has taken office.

(4) Vacancies in the membership of the Board shall not affect its power to function if there remain sufficient members to constitute a quorum under subsection (d) of this section.

(d) A majority of the members of the Board shall constitute a quorum.

(e) Members of the Board shall serve without pay but may be compensated for reasonable travel expenses incurred by them in the performance of their duties as members of the Board.

(f) The Board shall meet annually at the call of the Chairman and at such other times as the Chairman may determine to be appropriate. The Chairman shall call a meeting of the Board whenever one-third of the members of the Board submit written requests for such a meeting.

(g) The Chairman and the Vice Chairman of the Board shall be elected from among the members of the Board by a majority vote of the Board for such terms as the Board determines. The Vice Chairman shall perform the duties of the Chairman in his absence.

(h)(1) The Board may appoint such com-

mittees, and assign to the committees such functions, as may be appropriate to assist the Board in carrying out its duties under this Act. Members of such committees may include the members of the Board or such other qualified individuals as the Board may select.

(2) Any employee or officer of the Federal Government may serve as a member of a committee created by the Board, but may not receive compensation for services performed for such a committee.

(i) The Board shall establish such bylaws and other regulations as may be appropriate to enable the Board to carry out its functions under this Act.

NATIONAL DIRECTOR

SEC. 5. (a) In the administration of the Congressional Award Program, the Board shall be assisted by a Director, who shall be the principal executive of the program and who shall supervise the affairs of the Board. The Director shall be appointed by a majority vote of the Board, and shall serve for such term as the Board may determine. The Director may be removed by a majority vote of the Board.

(b) The Director shall, in consultation with the Board—

(1) formulate programs to carry out the policies of the Congressional Award Program;

(2) establish such divisions within the Congressional Award Program as may be appropriate; and

(3) employ and provide for the compensation of such personnel as may be necessary to carry out the Congressional Award Program, subject to such policies as the Board shall prescribe under its bylaws.

REGIONAL AWARD DIRECTORS

SEC. 6. Regional award directors may be appointed by the Board, upon recommendation of the Director, for any State or other appropriate geographic area of the United States. The Director shall make such recommendations with respect to a State or geographic area only after soliciting recommendations regarding such appointments from public and private youth organizations within such State or geographic area.

POWERS AND RESTRICTIONS

SEC. 7. (a) Subject to such limitations as may be provided for under this section, the Board may take such actions and make such expenditures as may be necessary to carry out the Congressional Award Program, except that—

(1) the Board shall carry out its functions and make expenditures with only such resources as are available to the Board from sources other than the Federal Government; and

(2) the Board shall not take any actions which would disqualify the Board from treatment (for tax purposes) as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

(b) the Board may enter into and perform such contracts as may be appropriate to carry out its business, but the Board may not enter into any contract which would obligate the Board to expend an amount greater than the amount available to the Board for the purpose of such contract during the fiscal year in which the expenditure is made.

(c) the Board may seek and accept, from sources other than the Federal Government, funds and other resources to carry out its activities. The Board may not accept any funds or other resources which are—

(1) donated with a restriction on their use unless such restriction merely provides that such funds or other resources be used in furtherance of the Congressional Award Program; or

(2) donated subject to the condition that the identity of the donor of the funds or resources shall remain anonymous.

(d) The Board may accept and utilize the services of voluntary, uncompensated personnel.

(e) The Board may lease (or otherwise hold), acquire, or dispose of real or personal property necessary for, or relating to, the duties of the Board.

(f) The Board shall have no power—

(1) to issue bonds, notes, debentures, or other similar obligations creating long-term indebtedness;

(2) to issue any share of stock or to declare or pay any dividends; or

(3) to provide for any part of the income or assets of the Board to inure to the benefit of any director, officer, or employee of the Board except as reasonable compensation for services or reimbursement for expenses.

(g)(1) The Board shall provide for the establishment of a private nonprofit corporation for the sole purpose of assisting the Board to carry out the Congressional Award Program, and shall delegate to the corporation such duties as it considers appropriate.

(2) The articles of incorporation of the corporation established under this subsection shall provide that—

(A) the members of the Board of Directors of the corporation shall be the members of the Board, and the Director of the corporation shall be the Director of the Board; and

(B) the extent of the authority of the corporation shall be the same as that of the Board.

(3) No director, officer, or employee of any corporation established under this subsection may receive compensation, travel expenses, or benefits from both the corporation and the Board.

AUDITS

SEC. 8. The financial records of the Board and of any corporation established under section 7(g) may be audited by the Comptroller General of the United States (hereinafter in this section referred to as the "Comptroller General") at such times as the Comptroller General may determine to be appropriate. The Comptroller General, or any duly authorized representative of the Comptroller General, shall have access for the purpose of audit to any books, documents, papers, and records of the Board or such corporation (or any agent of the Board or such corporation) which, in the opinion of the Comptroller General, may be pertinent to the Congressional Award Program.

TERMINATION OF BOARD

SEC. 9. The Board shall terminate six years after the date of the enactment of this Act. Upon termination of the Board, the Board shall take such actions as may be required to provide for the dissolution of any corporation established by the Board under section 7(g). The Board shall set forth, in its bylaws, the procedures for dissolution to be followed by the Board.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this legislation.

The gentleman from Colorado (Mr. KRAMER) is the ranking member on the Subcommittee on Select Education, chaired by the gentleman from Illinois (Mr. SIMON). He has strongly supported this legislation, together with all of the members, I believe, of our committee, on both sides of the aisle.

I think this is good legislation, and I urge its adoption by the Members.

I reserve the balance of my time.

● Mr. DERWINSKI. Mr. Speaker, I am pleased that the House is taking up the Congressional Award Act today and urge its passage. I am one of the cosponsors of the bill and believe it to be an excellent way of recognizing outstanding young people in America.

The program to be established by this act will recognize excellence and leadership among young people ages 14 to 23 by awarding medals to those who complete successfully requirements in the areas of public service, an approved personal interest, or physical and expedition fitness.

Those between 14 and 16 would be eligible for a bronze medal; those between 16 and 19 a silver medal; and young people from 19 to 23 a gold medal. Rather than competing with other participants, young persons would be granted awards on the basis of individual performance, and handicapped people would not be deterred from participating in the program.

A board consisting of members appointed by the majority and minority leaders of the Senate and House as well as a nonvoting director would administer the program which would not entail any Federal funds.

Again, I believe this to be a worthy method of encouraging and awarding achievement among the young people of our country and urge the House to adopt the bill.●

● Mr. HOWARD. Mr. Speaker, consideration today of the Congressional Award highlights a process that has given me great satisfaction to initiate and be a part of.

Now, more than ever, our country needs the active commitment of its young citizens to look for new solutions and help resolve difficult problems facing the Nation. The young people of America embody the future of this country, yet today we are all too often confronted with the specter of lost youths. Lack of goals and motivation, and voter apathy among the young is symptomatic of a malaise—a lack of confidence in themselves and those around them. Through the passage of this legislation, we in Congress have a unique opportunity to encourage participation and leadership among young people on a broad scale. And, we will be in a position to listen and respond to their concerns.

The Congressional Award is designed to recognize and encourage achievements of young people, aged 14 to 23, in the areas of public service, to encourage compassion and social responsibility; physical and expedition fitness, to foster self-discovery and the rewards of adventure; and creative personal interests, which provide a long and lasting meaning to our lives. The program is not unlike the Duke of Edinburgh's Award program in Britain and Canada.

The U.S. Senate has unanimously passed its version of the Congressional Award under the guidance and leadership of Senator MALCOLM WALLOP. Our bill was unanimously reported out of the Education and Labor Committee and comes to the floor today with 113 cosponsors. The award program enjoys the

support of the National Governors Association and 32 individual governors, the U.S. Conference of Mayors and the mayors of 30 major cities, and approximately 70 of the most socially committed, active organizations of both young people and adults. Every State in the Union has manifested support on at least one level of Government.

Finally, there is a personal side to the story of the Congressional Award. A young physician from my district, Dr. Frank Arlinghaus, brought the idea to me about 10 years ago. Since then, he has traveled the country developing national support through a committee of intensely active and committed young adults. It is a personal saga of unusual proportions, but it underscores once again that America is still a country wherein individuals and groups can join together with their Government and apply their creativity and energies to bring forth progress and harmony.

I respectfully call upon my colleagues to pass the Congressional Award program.●

● Mr. KRAMER. Mr. Speaker, this Nation's youth are its most important natural resource. The Congressional Awards bill strives to encourage the development of qualities of leadership and excellence among our young people. It does this by establishing a national framework of a congressional awards program through which our youth participate under the aegis of sponsoring groups at the grass roots community level to achieve a bronze, silver, or gold Congressional Award.

Young people need examples, they need to test themselves, and to widen their horizons by participating in new and challenging experiences. Since the stability and impact of the family, school, and church with respect to character education and positive self development of youth has eroded during the past decade, through this legislation the Congress has an opportunity to fill in this gap by providing leadership by example.

Although the Congressional Awards bill bears the name of Congress, its role is really to set a moral tone to the program by lending the imprimatur of its name. The Congressional Award program itself would be made operative by the creation of a tax-free charitable organization known as the Congressional Awards Board. It would be the job of the Board, which is appointed by the leadership of the House and Senate, to raise funds from the private sector to run the program, to designate medal recipients and present the awards, and to set the duties of the program director, regional director, and staff. The role of the Board, then, is administrative. However, the program itself would largely be operated through established national agencies and community groups, such as the Boy Scouts. It is primarily through these sponsoring agencies and groups any youth age 14 through 23 could apply to participate in the category of their choice. The categories are public service, physical and expedition fitness, and creative personal interests.

The awards themselves are broken down to age groups. Participants work for a bronze medal from age 14 to 16, for a silver from age 16 to 19, and for a gold from 19 to 23. Funds permitting, a scholarship program will also be administered. Participating youth in all categories who have satisfied the standards of achievement established by the Board will receive medals. These may be presented by Members of Congress when appropriate.

The awards in the program are granted on the basis of individual performance, and not on the basis of competition with other participants. The goal of the Congressional Awards program is to give participating youngsters the opportunity to develop the self-discipline, character, and motivation that results in young leaders who inspire by examples and by their actions. By constructive self-help, learning-by-doing, and commitment to personal excellence, young Americans working for a congressional medal will be building the type of personal commitment that helps reinforce the values inherent in a strong and free America.

Since it is important that a program bearing the name of Congress be accountable to Congress for its actions, several important safeguards were built into this legislation in subcommittee. To insure that Congress will review the progress of this program in its oversight capacity, the act has a 6-year life unless reauthorized by Congress. To safeguard potential abuses related to fundraising with the imprimatur of the name of Congress attached to the Board, specific reporting requirements in the annual report to Congress are outlined in the bill. For example, there will be no anonymous donations. The Board must give Congress the methods they used to raise funds, and they must specifically account for expenditures. Additionally, the Comptroller General is empowered to audit the records of the Board, and it must act in accordance with the Internal Revenue requirements pertaining to tax-free organizations, or lose its tax-exempt status. The Board must also set the salaries of the program director and regional director and prescribe their duties.

These safeguards, then, provide an important link between Congress and the program even though it is designed to function as a nongovernmental tax-free entity like the Boy Scouts or Red Cross. Even though the Board is not federally funded, and is precluded from seeking Federal funds, it nevertheless will be accountable to Congress for its fundraising activities in the private sector since the Board will carry out its functions with the name of Congress. As the old axiom goes, "an ounce of prevention is worth a pound of cure."

Mr. Speaker, I hope my colleagues will pass this measure, as it offers a unique opportunity to help our youth develop a commitment to personal excellence by rewarding them with a congressional medal for honesty, integrity, initiative, good character, and leadership by example.●

● Mr. PERKINS. Mr. Speaker, H.R. 2196, proposing a Congressional Award program to recognize excellence and leadership among young people, is a bill every Member of this House can and should support.

Let me state at the outset H.R. 2196 will not cost the Federal Government a single cent. There are absolutely no Federal moneys involved in this legislation.

To the best of my knowledge, there is no controversy about H.R. 2196. We know of no opposition to the bill. On the contrary, there is strong support for it on both sides of the aisle.

Mr. Speaker, I want first to commend the distinguished chairman of our Subcommittee on Select Education, our able colleague PAUL SIMON, who has worked diligently to carefully develop and design responsible legislation.

I would be remiss if I did not also compliment our colleague JIM HOWARD, who is the principal sponsor of the bill. It should be noted that 113 Members of the House have cosponsored this legislation.

As I have indicated, this is a bipartisan effort and I want to commend committee members on both sides of the aisle who joined in the support of H.R. 2196.

Mr. Speaker, so much of the legislation which comes before us is designed to curb or eliminate problems. The Congressional Award Program Act, however, contrary to dealing with a problem situation, proposes to reward deserving young people for excellence and leadership.

This is a purely voluntary program. Those wishing to participate will be required to meet standards in three categories—public service, physical and expedition fitness, and personal interest. Recipients will range between the ages of 14 and 23 and awards are to be divided into three levels of achievement, designated by bronze, silver, or gold awards. Scholarships will be awarded, if funds permit, to recipients.

Encouraging the creative development of positive talents in our young citizens is in the highest tradition of our democracy, and is a process which can only benefit these young people—and ultimately our Nation. It is especially appropriate and significant that this important program be initiated and sponsored by the Congress of the United States.

The program is tightly designed and is to be administered by a well-structured Board accountable to the Congress. Yet, although the requirements of the bill insure very careful and precise management of funds—as I have said, the bill will not cost the Federal Government a penny. The Board is to seek funds and resources only from institutions and sources other than the Federal Government, yet precise fiscal guidelines and close monitoring by the Federal Government are integral to the act.

Mr. Speaker, this bill, H.R. 2196, was reported unanimously from the committee. It provides a very practical and well-structured program to encourage growth and development in our young people. I urge passage of the bill by the House today.●

Mr. SIMON. Mr. Speaker, and my colleagues in the House, I think we have a completely noncontroversial measure here, which has been introduced by our colleague from New Jersey (Mr. How-

ARD). It sets up a Congressional Award system designed to recognize excellence in leadership among young people.

It will cost the Federal Government not one penny.

We have had both the IRS and the Treasury Department go over it. They suggested some modifications, which have been incorporated in the legislation.

There are 113 House cosponsors of this bill. It passed in slightly different form in the Senate unanimously. It passed our committee unanimously.

I know of no objections to it. I will be happy to answer any questions that any of my colleagues might have.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD) that the House suspend the rules and pass the bill H.R. 2196, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to establish a Congressional Award Board to administer a Congressional Award program designed to encourage initiative and achievement among youths."

A motion to reconsider was laid on the table.

□ 1300

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

EDUCATION AMENDMENTS OF 1980

Mr. FORD of Michigan. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5191, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Michigan (Mr. FORD) will be recognized for 1 hour, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 1 hour.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members of the Committee, H.R. 5192, entitled the Education Amendments of 1980, is a comprehensive bill providing for the reauthorization, improvement, and modifications of the programs authorized by the Higher Education Act and related measures. This is, Mr. Chairman, I must say at the outset, a truly bipartisan piece of legislation which was fashioned during the last year and one-half with the complete and active cooperation of the minority on the Committee on Education and Labor. Before going any further, I would like to acknowledge that the efforts of Mr. BUCHANAN, the ranking member on the subcommittee, and Mr. ASHBROOK, the ranking member of the full committee, have at every stage made it possible for us to undertake what I believe to be the most thorough and exhaustive study of the ongoing postsecondary educational programs that has even been undertaken since their inception.

Mr. PERKINS, chairman of the full committee, has cooperated in every way possible to make possible this exhaustive examination and the preparation of this legislation.

Let me, if I may, describe the procedure that we followed in developing this legislation which we think, while unique, has been a very effective means by which we have reached the form of the legislation that comes to the floor today from our committee.

This bill came from the Education and Labor Committee with the unanimous vote of the committee and was reported this past week from the Rules Committee with a unanimous vote, which is a reflection of the hard work that has been expended by the minority in cooperation with the majority to develop a consensus on the legislation.

In September of 1978, in anticipation of the fact that we would be, of necessity, reauthorizing most of the then existing higher education legislation during this Congress, I directed an invitation to some 61 organizations and governmental agencies representing the interests of postsecondary education, calling their attention to the fact that most of the programs would require reauthorization in this Congress, and asking them to submit to us early in this year their specific recommendations with respect to those programs that should be discontinued, those that should be continued, and those that should be continued in a modified form, and particularly to give us their best advice with respect to the improvements that they perceive to be necessary in going forward into this decade of the 1980s with higher education legislation.

As a matter of fact, we did receive specific recommendations from some 60 groups and organizations. Unlike the resolutions that we have been accustomed to receiving from groups of this kind that advice us generally about the kind of nice things they would like to see happen, and sort of generally tell us why they think there ought to be more money in particular programs, we asked them to and they did respond in the form of very specific comments section by section on the existing law. Much to our surprise, and to their great credit, I must say, this group of 60 organizations responded in a timely fashion, which made it possible for our staff, by the end of February of this year, to compile a four-volume comparative print showing section by section the existing Higher Education Act, the proposed change that the organization or group was recommending and then to the right of that, the rationale given by the group or organizations for their proposed change. We had some 400 copies of that four-volume compendium prepared by the staff and distributed to all of the interest groups that we could identify as having had a direct hand in fashioning of higher education legislation.

In addition to that, this compendium was distributed to governmental agencies, to the administration, I must say, as well. Before we started the normal process of introducing legislation and holding hearings on it, we first asked everyone who we believed, on the basis of years of accumulated experience in this field, would know the most about how these programs were really working and where problems had developed, for their recommendations: As a result, we were able to act as a conduit whereby all of the organizations were telling each other what they had on their mind.

That information has been available to the administration and to the members of our committee from the very beginning. We did not introduce the forerunner of this legislation early in the session, but refrained from introducing specific legislation until we undertook hearings on the proposals that had been offered to us.

We began our hearings on March 20, and they were conducted in a framework to focus on individual programs and specific problems rather than on general concepts that we frequently spend so much time discussing in our committee.

The recommendations provided to the subcommittee by the higher education community as well as numerous bills dealing with specific parts of the legislation that were introduced by our colleagues were the bases for discussion of each program authorized by this proposed Higher Education Act, and already authorized by the existing law.

We held a total of 35 days of hearings, including seven field hearings at the request of individual members of the committee outside of the city of Washington in various parts of the country. Two hundred sixty-nine witnesses appeared at the hearings representing a broad cross-section of experts and professionals as well as the consumers of education, the students themselves.

□ 1310

I should say parenthetically that the students probably appeared more frequently and commented on more specific provisions in the consideration of this legislation than student organizations have ever done in the past. I think that anyone who had an opportunity to observe our hearings, or will take the time to read the records of those hearings, will be pleased with the quality of the presentations made by the students and the organizations which represent them.

Twenty-nine student witnesses participated in the hearings.

After this process had been concluded with respect to all of the recommendations that we had from the higher education community and the student groups, we were then made aware of a pending bill to be proposed by the administration. I say that we were made aware of the pendency because it was with no little bit of difficulty that we were able to induce the administration to release the Secretary of HEW to come to our committee and tell us what they had in mind with respect to reauthorization. Unfortunately, the day, that had been scheduled for the appearance of the Secretary of HEW to testify was also the day that he left, or was informed that he was leaving, his position; and we proceeded with the prepared statement of Secretary Califano to try to determine what the administration's proposal was going to be.

I must say that in light of the events of the last few days, that the administration did not yet on July 19 have a bill. At least, if they did, they did not present it to us, and it was some time later before specific legislation was presented for our consideration. But, on the basis of what they described to be the proposals that would be coming to us, we then scheduled an additional seven hearings.

We did something a little bit unusual in the handling of those hearings, specifically zeroing in on the concerns expressed by the Department of HEW, and through them the President and his administration. We convened panels, and on the panels we invited people who had indicated a specific reaction to the administration's proposals. We also invited the administration to put one or two or, in some instances, three of their experts working on this particular specific issue on the same panel. The members of the committee were able to consider not only the people reacting to the administration's proposals, but to give the administration an opportunity to react to those reactions from the community. We did not have to go through the much longer process of having a pro and con type of an exchange in separate hearings.

What we finally developed was a system where administration spokesmen interacted with spokesmen for various postsecondary education interests before the committee, and then both proponents and opponents of the particular points of view were subjected to extensive questioning by the members of the committee. We think that that was a very effective way in getting to the nub of the differences between the administration's proposal and what other people concerned with higher education believed should be done.

Then, at the end of this process, we prepared with the full cooperation of the majority and minority staff a bill to be introduced, which was H.R. 5192. I am proud to say that that bill was introduced with the cosponsorship of the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS), the ranking minority member of the full committee, the gentleman from Ohio (Mr. ASHBROOK), and all of the members of the Postsecondary Subcommittee on both sides of the aisle.

The subcommittee marked up the bill on September 13, 14, and 20, and 31 amendments to our very carefully tailored piece of legislation, developed after this long process which I have described, were in fact adopted. On September 26 the full Committee on Education and Labor, under the leadership of Chairman PERKINS, met and adopted some further amendments, and ordered H.R. 5192 reported by unanimous voice vote to the House.

The need for this legislation arises primarily from the expiration at the end of fiscal year 1981 of almost all of the Higher Education Act of 1965, the fund for the improvement of postsecondary education, and title VI of the National Defense Education Act. Thus, the bill reaffirms and continues the Federal role in support of postsecondary education.

The fundamental theme of Federal support for postsecondary education is assistance to achieve the goal of equal educational opportunity. The student assistance programs have increasingly become the dominant means by which the Federal Government pursues the goal of equal educational opportunity.

I might say at this point that if one goes back a decade, one will find that we were still supporting institutions of higher education with a substantial part of our higher education legislation, and an examination of this legislation will show that a natural progression that was started in the 1960's has now reached the stage where approximately 93 percent of all the funds generated by this legislation are in the form of student assistance, as distinguished from institutional assistance. This has been a very effective way in which we have reached ever closer to equity between students in public and private institutions.

H.R. 5192 seeks to advance the goal of achieving equal educational opportunity through student assistance, with several improvements in the equity of treatment of students in the presently existing programs. First, the bill continues a policy of providing assistance primarily based on financial need, while also recognizing the needs of middle income families for some help. For example, the size of the maximum basic grant award for low-income students is increased, and there is a new opportunity for parents to borrow under the guaranteed student loan program, so that the parents can more easily make a family contribution to the education of the young people from that family.

Second, the bill strengthens the balance of the student assistance programs so that students will be able to have not only access to a postsecondary education, but also the choice of the postsecondary education best suited to their needs, interests, and talents. It should be noted here that we take into account not only the needs of students in traditional higher education, but the needs as demonstrated to us during the last few years, during the last economic downturn in particular, of people who wanted to and do wish to return to school to acquire salable job skills or to finish an educational program that they started at one time and then interrupted with marriage and other responsibilities.

We place just as much emphasis on the efforts of that type of student to achieve his educational goals through equal educational access to the kind of institution or instruction that will best serve him as we do on the traditional 18-year-old student entering college for the first time. We make a number of changes in this legislation that are consistent with the commitment that the last Congress and the President, as an endorser of our activities in that Congress, made to the middle-income families in this country to provide access for them to higher education programs.

We do this by further strengthening the commitment we made at that time that while we wanted to broaden the universe in terms of providing access for people who are not classified as low-income or poor people to higher educational opportunities, we did not want to do that at the expense of low-income or poor people. We reinforce that commitment with some of the changes in the basic educational opportunity grant program that are proposed by this legislation.

There may be some quibbling about the cost of making these changes. I expect that there will be some from the Office of Management and Budget, but I would like to say at this point that we believe that we can justify every change that we are recommending here on the basis of the commitment made by many of us who were Members of the 95th Congress when we were fighting over a contentious issue called tax credits. In the last Congress, we came along with the then Middle-Income Student Assistant Act as an alternative to tax credits.

I do not believe that anybody on our committee on either side of the aisle believed that we had one thought about welching on any of the commitments we made to the citizens of this country and to our colleagues on this floor when they asked us to support that legislation. And I do not believe that any of the people who took credit for passing that legislation should now try to back away from the people to whom we have made that commitment. I do not believe that our committee has brought to the Members a bill that in any way is inconsistent with those commitments and in any way does anything but strengthen those commitments and reaffirms our desire to preserve and protect the rights of people who were directly involved in the improvements of 1978.

For example, this bill makes additional improvements in the treatment of independent students. You will recall that during the consideration of the Middle-Income Student Assistance Act we gave you an example of a young women who finds herself responsible for supporting a family of two or three children and who under the rules of the game as it was played up until that time, although clearly needing help to return and finish her education, could not have access to

the help because of artificial measures of eligibility that existed.

Now that persons, if she wanted to go to school, can receive help as an independent student. We found that even with the Middle Income Student Assistance Act legislation we will have some inequities in the treatment of independent students. Those were drawn to our attention rather quickly, and during the hearings they were reemphasized. This legislation attempts to answer those problems.

Let me mention one other very important area of this legislation. I know that the Members of this House as Representatives of the American people have been very concerned about the things they have been hearing about the loan programs that we have for students to attend postsecondary educational institutions. They have been concerned with stories about default rates. I want the Members to know that again on a bipartisan basis the Education and Labor Committee has worked very hard with this administration to develop strategies to clean up our act with respect to the previously terribly neglected responsibilities of the Federal Government to collect money due and owing to the Federal Government from people who had received student loans.

We have in this legislation, we believe, strengthened the ability of institutions and States, as well as the Federal Government, to get a better businesslike hold on this whole phenomena of student loan defaults and further reduce that phenomena hopefully to its irreducible minimum. Just as an example, I see the gentlewoman from the State of New Jersey (Mrs. FENWICK) sitting to my left. She made a very valuable contribution with legislation that she introduced providing that institutions that made student loans could share information with private credit organizations concerning people who defaulted on those loans. This makes it very clear that someone who gets a student loan now will know from the beginning that if he fails to meet his obligations, that is going to stay with him in later life and affect his ability to borrow money for other things.

I must say we added one little extra part to the gentlewoman's proposal. We also provide in this legislation that a student who volunteers to have it done and does not get in default will have the information about his successful repayment of the loan shared with private agencies as well. A person who borrows money to help himself get through school can by meeting the requirements of that borrowing relationship develop for himself a credit rating, a positive credit rating for the future.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding and for his kind remarks.

I would like to congratulate the committee on this addition. It is almost impossible for young people to have a credit rating unless they have borrowed and unless they have a clear record of repayment. People who have never borrowed in their lives because they were afraid to get in debt may try to do something perfectly legitimate, and if they have not got a perfect record of repayment, they find great difficulty in borrowing. This is a very good future step that the committee has taken, and I congratulate the Chairman and those responsible.

Mr. FORD of Michigan. I thank the gentlewoman for her contribution.

H.R. 5192 also seeks to serve the goal of equal educational opportunity by making it easier for students and their families to understand and obtain the assistance for which they are eligible. Increased administrative allowances to institutions, new student information requirements, and the mandating of a single form and a single system of needs analysis for Federal student assistance are all aimed at increasing the accessibility of these programs to those they are intended to serve.

Another basic theme of H.R. 5192 is the attempt to focus the categorical assistance programs in the Higher Education Act on serving contemporary needs. The new focus in title I is on serving previously underserved adult learners. In amending title III, strengthening developing institutions, the bill seeks to define more clearly developing institutions as well as to specify the types of activities to be undertaken by developing institutions with Federal assistance. The target populations and the services to be provided by the TR10 programs are more explicitly outlined. Title VI, international and foreign languages studies, focuses on the needs of our Nation as an actor in worldwide economic and political affairs. Title VII, construction, reconstruction and renovation of academic facilities, is directed toward the needs to upgrade research facilities, conserve energy, more effectively serve handicapped students and comply with health and safety standards. The new title XI, urban grant university program, will assist the urban university to work in partnership with local government to address urban problems.

Strengthening the Federal-State partnership in postsecondary education is another theme of H.R. 5192. Title I brings together five previously separate programs into a single, flexible State-based program aimed at the educational needs of adults. The State student incentive grant program is modified to provide realistic new incentives for increased State effort in supporting State grant programs. At the same time the flexibility for the States to design grant programs to meet the unique needs of their citizens is enhanced. The provisions for State planning are also made more flexible, and the assurances required from States for participation in Federal programs are consolidated and simplified.

The final major theme of H.R. 5192 might be characterized as legislative management. Where several programs now have expiration dates different from the great majority of the programs, all are now given a common expiration of fiscal year 1985. Several obsolete or unfunded programs are repealed. Consistency and simplicity in standards of student, institutional, and State eligibility for program participation is sought. The authorities for the fund for the improvement of postsecondary education and foreign studies and language development, which currently lie outside of the Higher Education Act, are brought within the ambit of that act. It has been acclaimed by student lobby groups and organizations, the widely divergent associations representing postsecondary education institutions and every sector of the higher education constituency. I know of no major opposition to its passage.

I look forward to prompt and positive action by my colleagues.

Mr. BUCHANAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this legislation and would associate myself with the remarks made by the distinguished chairman of the Subcommittee on Postsecondary Education, Mr. FORD, regarding H.R. 5192, Education Amendments of 1980. As ranking Republican on the subcommittee and a cosponsor of the bill, I can truly agree that the bill results from a bipartisan effort. This is indicated by the fact that all members of the subcommittee on both sides of the aisle are cosponsors of the bill.

Before discussing some of the issues debated during the past year and changes proposed by the bill to the Higher Education Act of 1965, I would like to commend Chairman FORD for the outstanding manner in which he has conducted the reauthorization process. This process could well be used as a model for other committees throughout the Congress. Early in the 96th Congress, all interested education organizations and associations were given the opportunity to submit written comments on the problems in existing law and recommendations on how these problems might be alleviated.

Responses from the 61 organizations which submitted material were printed in a form similar to that which is used for conference committee comparisons. Instead of using a draft bill, these recommendations became the basis subcommittee hearings.

Panels of representatives from various viewpoints were heard. From there, working groups were formed among representatives of the higher education community to work out consensus agreement on areas of disagreement. These recommendations and consensus agreements were submitted to the subcommittee and incorporated into H.R. 5192. Chairman FORD's initiative and leadership in this important area comes during a critical time when we are beginning to experience many changes in the needs of students and institutions involved in receiving and providing quality postsecondary education.

I would also like to commend the various higher education organizations and associations who have worked untiringly to provide consensus on what are often

complex and devisive issues. It is extremely unusual to have the high degree of consensus that has been demonstrated by the higher education community during this reauthorization process. There has been much give and take, and the results are significant.

The bill which we debate today does not make major structural changes to the existing programs in the Higher Educational Act. Instead, it builds on existing programs and alters them so as to improve the delivery of Federal services and funds to students, postsecondary education institutions, and States.

A major focus of the bill is to insure equal educational opportunity. The clear intent of this legislation is to provide access to postsecondary education for all persons in the United States who seek it and, hopefully, permit some degree of choice among different types of institutions and programs. The objectives of access and choice are best represented by the bill's continued emphasis on the role of student assistance in the Federal postsecondary education legislation. If this bill becomes law as proposed, approximately 95 percent of all Federal funding for postsecondary education will be directed to the ultimate beneficiaries of the education—students.

Many programs have been simplified by this bill. Some programs have been consolidated to provide greater economies of scale and better delivery of services. A few of the programs have been eliminated because they do not represent the true needs of postsecondary education during the coming decade. Several programs which previously existed outside of the Higher Education Act have been incorporated into the Act because they closely relate to postsecondary education issues.

This bill is a consensus document which represents the thinking of many of the best minds in higher education, both here in Congress and in the higher education community. The approach taken in the bill is a balanced one and serves the needs of the nonprofit and proprietary sectors and the public and independent sectors. I would like to briefly summarize the results of the recommendations made by the interested parties which were incorporated into the final committee bill.

Title I is the consolidation of several currently funded programs authorized by the Higher Education Act. The title is renamed "education outreach programs"—a name appropriate to the activities which it authorizes. Under the new title, the existing community services and continuing education/lifelong learning program, education information centers, and comprehensive statewide planning function are consolidated. Because all of these programs are now operated at the State level, it made sense to coordinate them and authorize them as a single outreach program. Important to note is the strengthened emphasis placed on the special education needs of nontraditional students which can be served under the new title I programs.

No funds under this title would go to assist these nontraditional students with student financial aid; rather it would go to institutions of higher education, businesses, and non-profit organizations who received grants from the State to establish programs of significance which would address the very special needs this group of learners has. The program has been reauthorized at a modest level of $100 million in the first fiscal year with increments of $25 million each year thereafter until the authorization expires.

The education and occupational information needs of both traditional and nontraditional students will be dealt with in a more comprehensive manner under the new title I program. H.R. 5192 requires that any educational and occupational information programs funded under title I be coordinated to the extent possible with other federally funded information programs such as the Vocational Education Act, the Comprehensive Employment and Training Act, the Older Americans Act, the Vocational Rehabilitation Act, the Career Education Incentive Act, the Adult Education Act, and other Federal, State, and local programs providing this service.

The continuing education activities which the new bill would provide for stress the importance of promoting access to postsecondary education programs for adults whose educational needs have been inadequately served. The types of programs that could be funded under this title are many and are as varied as the different needs of this clientele in the various States.

The Comprehensive Statewide Planning function was transferred to title I from title XII. Because the postsecondary education climate has changed so drastically in the last 15 years, and because of the changes that we can expect in the next decade given the predictions of declining enrollments, it was determined that postsecondary education planning cannot be conducted in a comprehensive manner without considering the needs of the nontraditional learner. The planning function is not limited, however, to the nontraditional students' needs; rather, it extends to the needs of all learners—both traditional and nontraditional.

In title II, the library programs were strengthened by restructuring several of the currently authorized authorities within title II. The most critical problem facing libraries in the past 5 years has not been the lack of adequate authorization to conduct programs to meet their special needs; rather it has been a declining level of appropriation to carry out those programs. For this reason, the committee looked closely at those programs which were authorized and attempted to strengthen them in a manner which was more consistent with current needs for libraries and institutions of higher education across the country. Since fiscal year 1968, the average cost of a book has increased by 137 percent, and the average cost of a periodical subscription has increased by 219 percent, according to the American Library Association.

These drastic increases, coupled with a decrease in the level of appropriations, has brought severe problems to the library communities. For this reason, in title II-A language was added to encourage the networking, or sharing of resources, between libraries. A new part D has been added which provides the authorization for a National Periodical Center. This Center would serve as a national resource and would contain a comprehensive collection of periodical literature necessary for research in some very esoteric areas.

The National Periodical Center would be a nonprofit corporation separate from an agency of the U.S. Government. It would be run by a board of directors and would assist in providing access to students attending both public and private institutions of higher education to those very costly periodical documents or copies on a cost reimbursable basis.

Title III, the strengthening developing institutions program, of the Higher Education Act has received more attention regarding its program than has any other program in this act. In the past few weeks, there have been reports in the newspapers regarding several of the problems which the General Accounting Office documented for this committee to have taken place in the past several years of program operation. The General Accounting Office recommendation provided the very foundation for the committee's hearings on this program which began last March. Several changes have been made to this program—changes which I am convinced take care of many of the problems which we all know have been part of this program's history.

There were two major questions which the Committee considered in regard to reauthorizing title III. First, what is a developing institution, and how should that be defined? Second, was the question of how to strengthen the program's administration.

With regard to defining a developing institution, the committee has suggested that two indices be used to determine on a relative basis whether or not an institution is developing. These two factors would be the average basic education opportunity grant for full-time equivalent student and the average education and general expenditure for full-time equivalent student at any given institution compared to other similar institutions. These are quantifiable factors which will take away much of the guesswork that was involved in determining whether or not an institution was developing.

As far as strengthening the opportunity for program administration, the committee determined that there were six types of development that would be given priority in making grant determinations. These activities include faculty development, funds and administrative management, development and improvement of academic programs, acquisition of equipment for use in strengthening funds management in academic programs, joint use of facilities such as libraries and laboratories, and student services.

These six areas of development were selected because in the committee's

judgment they are indicative of the types of critical development that need to take place in those institutions that are serving large numbers of students from low-income backgrounds. By establishing these specific development activities within the law, it is determined that the application review process will be strengthened because there is a definite priority for activities under this title.

Another criticism with regard to the administration of the program has been that no institution has "graduated." The committee has adopted a system of making grants for either 1 to 3 years or 4 to 7 years. If an institution desires to receive a renewable grant, it would apply for a grant in the 1-to-3-year category. These grants would be of amounts much smaller than the second category, which is the 4-to-7-year nonrenewable grant. It is hoped that by tying 25 percent of the appropriation to the 4-to-7-year grant package many institutions will be encouraged to move to a final grant with the program.

A final change which was incorporated into H.R. 5192 was the addition of the challenge grant program. This program would provide development money to institutions which could match on a 50-to-50 basis the funds they were being offered by the Federal Government. The challenge grant would be subject to all the requirements of title III applicable to grants under the already authorized program. It is hoped that the challenge grant program will encourage institutions to develop to a point where they can become independent and viable through State or private funds.

Twenty-four of the thirty-five hearings during the past year on the reauthorization of the Higher Education Act included some consideration of title IV, the student assistance program. Although many changes are made by the bill to title IV, they are not major ones. Most witnesses testified that the programs were basically sound and that only minor adjustments were necessary to insure proper functioning of these programs.

Considerable debate centered around the modification of the current basic grant half-cost limitation. As evidenced in testimony before the subcommittee, the half-cost limitation has the effect of reducing the awards of the lowest income students attending the least expensive institutions. Recognizing the controversy surrounding any modification to this limitation, the higher education community was challenged to come up with some type of agreement which would be equitable to all sectors of higher education.

A consensus compromise for dealing with the half-cost issue was incorporated in the original draft of H.R. 5192 and was modified in both subcommittee and full committee to more equitably reflect the needs of the postsecondary education community. The result is a modest and gradual approach in increasing the basic grant maximum and the percentage of costs which can be covered by the basic grant.

The supplemental educational opportunity grant program has been amended to more adequately serve the needs of diverse groups of students by giving greater flexibility to the institutions and providing increased grant awards and eligibility periods for the students.

Changes made to the State student incentive grant program are intended to stimulate increased State appropriations for student grants, while at the same time giving greater flexibility to the States in determining the needs of their State program. The bill provides new incentives to those States which are equally or undermatching the Federal contribution. By providing more funds to those equally or undermatched States, it is hoped that they will expand their State grant programs significantly.

Those States that are now contributing more State grant aid than the Federal SSIG contribution are rewarded for their efforts by allowing them to receive continued Federal funds without greatly increasing their State effort. The bill does provide, though, a general maintenance of effort requirement for all States to insure that, in this proposition 13 era, States will not retrench on their commitment to student aid.

The bill recognizes the impact of inflation on the costs of education. The grant maximums in both the SEOG and SSIG programs are increased from $1,500 per year to $2,000 per year. The basic grant maximum award increase is phased in over the reauthorized period from $1,800 to $2,700 by fiscal year 1985. In each of these programs students are given 5 years of full-time eligibility toward completion of their undergraduate studies, thus recognizing that the nontraditional student is becoming much more the norm in postsecondary education.

Two of the more popular and successful programs—college work study in title IV and cooperative education in title VIII—were reauthorized without major changes. The committee heard substantial testimony on the desirability of making student employment through college work-study more closely related to a student's educational program and career goals.

Although we retained the distinction between the student assistance objective of work-study and the educational relationship of cooperative education, it is hoped that institutions will encourage linkages between college work-study jobs and the educational goals of the student.

The special programs for students from disadvantaged backgrounds (TRIO) was amended to include new eligibility factors. For the talent search program, not less than two-thirds of the youths participating must be low-income individuals who are first generation college students. For the Upward Bound program, the same criteria would apply as did in the case of the talent search, except that the remaining one-third must be either low-income individuals or first generation college students. For the special services for disadvantaged students program, not less than two-thirds of the persons participating must be either physically handicapped or of low-income individuals who are first generation college students.

The same two-thirds requirement for low-income and first generation applies also to the education opportunity centers program. In spite of the fact that there have been appropriation increases in this program over the past several years, it is important to realize that a very small percent of the total eligible population is still being served. For this reason, H.R. 5192 allows talent search and education opportunity centers to serve students and adults interchangably if there is only one program in that area.

Reauthorization of the loan programs received a major portion of the attention during the reauthorization process. The administration recommended a rather major structural change in both of the loan programs, but I feel that the committee was correct in preserving the current structure and trying to improve it.

The 1976 Education Amendments have been successful in encouraging States to establish State guarantee agencies. Since 1976 the number of State agencies has increased from 25 to the current 40 and loan volume has increased appreciably. Recent regulatory and legislative changes have also significantly decreased the percentage of loans in default.

Five major problems with the existing guaranteed student loan program have been dealt with by the bill. First, a new parent loan program is established to provide parents with the ability to obtain the liquidity to pay a reasonable share of the costs of educating their children. Second, the Student Loan Marketing Association has been given new authority to make loans as a direct lender in areas where there is a severe shortage of student loan capital in addition to continuing its current role as a secondary market. Third, Sallie Mae may consolidate multiple student loans so that students will not be burdened by several monthly payments after they go into a repayment status. Fourth, repayment may now be extended past the 10-year period in current law and may be sensitive to the income of the borrower.

Hopefully, this will, in combination with the fifth major change to the program, reduce the number of defaults in the program. We are pleased to include the recommendation of Mrs. FENWICK that a system for sharing information on defaulted loans between the Secretary and the national credit bureaus should be established. I should note that many of these changes, including lender referral services, extended repayment, and income-sensitive repayment, were recommended by Mr. MAGUIRE of New Jersey.

The national direct student loan program was continued as a campus-based program. One of the major criticisms of the NDSL program was the current high default rates. I believe that the changes made in this bill and in previous legislation will result in a significant decrease

in the default rate in this program over the coming 18 months.

H.R. 5192 also makes it easier for students and their families to understand and obtain assistance for which they are eligible from the student assistance programs. Increased administrative allowances to institutions, new student information requirements, and the mandating of a single form and a single system of needs analysis for Federal student assistance are all directed toward increased accessibility of these programs to those they are intended to serve.

Title V was amended to provide authorization for the Office of Education to coordinate the 27 existing education professional development programs. This specific authorization is not an attempt to consolidate the various programs; rather it is an effort to enhance the exchange of information and to avoid duplication of effort where possible.

The bill repeals title VI of the National Defense Education Act and title I of the International Education Act and replaces them with a new title VI of the Higher Education Act, international and foreign language studies. Much of NDEA title VI and IEA title I have been incorporated into the new title. In addition, several new sections have been added to improve the administration of the program and to further stimulate interest in international and foreign language studies.

Several new purposes were included as allowable activities under title VII, the construction, reconstruction, and renovation of academic facilities title. An undergraduate or graduate institution can apply for funds under title VII to cover compliance activities with section 504 of the Rahabilitation Act of 1973; or to enable their institution to construct, reconstruct, or renovate a research facility or to acquire special research equipment; or to enable an institution with an unusual increase in enrollment to construct, reconstruct, or renovate the facility. In addition to these substantive changes, title VII was rewritten to provide a more organized structure which will hopefully be more readable and understandable to those affected by this title.

The bill extends all existing graduate programs with only minor modification, mandates data collection to annually assess the state of graduate education, mandates a special 2-year study of graduate students financing, and incorporates the law school clinical experience program now authorized in title XI. Later this week, I will offer an amendment to expand the 2-year study to examine and assess the financial and educational needs of individuals from disadvantaged backgrounds.

The new title X brings the fund for the improvement of postsecondary education into the Higher Education Act from the General Education Provisions Act. Although the program for the establishment and expansion of community colleges, currently authorized by title X, is repealed, we retain the only operative portion of title X, the Community College Unit in the Office of Education. No funds have ever been appropriated for other parts of the current title X.

The committee includes a new urban grant university program as title XI of the Higher Education Act. This program would provide funds to urban grant universities, or consortia thereof, which had developed a project with a local government to address problems that are critical in that urban area. For the purposes of this title, urban university is defined as an institution of higher education which is found in a standard metropolitan statistical area (SMSA) of 500,000 or more. In addition, the title provides that consortia can be established where at least one of the institutions involved is in such an SMSA. In the event that no SMSA of 500,000 or more exists in any State, the Secretary must designate one urban area for the purposes of the program.

Several days of hearings were held both in Washington and in the field on the need for this type of program. There exists much of the know-how in our major universities today to deal with those problems affecting urban areas, but little resources to bring them together. The Federal share in any project cannot exceed two-thirds of the cost of the current project.

The current law in title XII requires a State to designate a State commission with a specified structure called a "1202 Commission." H.R. 5192 replaces this structural requirement with the requirement for a State agreement with the Federal Government which allows the State to adopt an organizational structure appropriate to its needs and only requires that certain functions be performed as a condition for receiving Federal funds. This added flexibility for the States recognize the importance of the State role in the delivery of Federal Higher Education Act money and services.

Although the committee seriously considered the administration's recommendation to sever the link between accreditation and institutional eligibility for Higher Education Act programs, we did not feel comfortable about making such a major change in the eligibility process without fully understanding the impact on accrediting agencies, State authorizing procedures, and institutions of higher education. We hope to consider the proposal as separate legislation.

As noted in my views to the committee report and the views of several other of my colleagues, I am concerned about the projected costs of the basic grant program. I want to assure my colleagues here on the floor that these costs stem from our effort to achieve equity and to keep commitments to middle-income students and others, without, by doing so, taking from those in greatest need. Likewise, we sought to maintain agreement on issues which were resolved by interest groups with differing opinions working together to present compromise proposals. The Budget and Appropriations Committees, and indeed the whole Congress, will have an opportunity to make decisions pertaining to funding levels when this bill becomes law. Additionally, the Committee on Education and Labor will review annually the proposed expected family contribution schedule submitted by the new Department of Education.

Whatever the costs of this legislation, it will prove a good investment for our country. Many Members of Congress were able to attend college because of the GI bill after World War II. Few Americans would challenge the rightness of that national investment. The student assistance programs, which have been built upon that foundation, have continued to help our country make the most of our most precious resource—the minds and the fulfilled persons of its citizens themselves. This will also be true of the funds provided in this legislation.

I would like to express the hope that Members of the House will see H.R. 5192 for what it is and for what it is not. Legislation is often the result of piecemeal amendments. That is not the case with this legislation. Although nothing is sacrosanct in this bill, I hope that there will be regard for the very logical, orderly and comprehensive manner in which this legislation has been formed and that any additions to or subtractions from this proposal will be offered with regard to that process.

I strongly urge the passage of H.R. 5192.

□ 1330

Mr. FORD of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, in my judgment, we now have before us the best higher education bill ever brought to the floor of the House. It is a comprehensive measure which has strong support on both sides of the aisle and throughout the higher education community.

Under the effective leadership and through the hard work of the chairman of our Postsecondary Education Subcommittee—BILL FORD—diverse points of view have been brought together in support of a balanced package of aid to postsecondary education students and institutions. Chairman FORD has done an excellent job in a very difficult and trying situation.

All points of view were given full opportunity to be heard in the 35 days of hearings. Over 250 witnesses appeared before the subcommittee. In addition, 59 higher education organizations submitted detailed written recommendations which were carefully considered.

The management and development of this measure under the outstanding leadership of BILL FORD should serve as a model for the way in which a bill should be considered.

As I have mentioned, H.R. 5192 is a bipartisan effort and the ranking minority member of the subcommittee—JOHN BUCHANAN—has played a significant role. Throughout this comprehensive measure you will find important improvements in programs which JOHN has authored. Likewise, I wish to compliment

the ranking minority member of the full committee—our colleague, JOHN ASHBROOK—for his work and efforts in behalf of the bill.

This comprehensive measure is in fact a product of the work of members of the committee from both sides of the aisle—and I want to pay tribute to all for their support and efforts.

Mr. Chairman, H.R. 5192 builds upon the framework established in the 1972 landmark higher education bill. Those of my colleagues who were here in 1971 and 1972 will recall the great controversies which surrounded that legislation. The final compromise bill which was agreed to only after many, many weeks of a difficult House-Senate conference, established student aid as the principal channel for providing Federal money to the higher education sector. As a result, today over 90 percent of the higher education budget is in the form of student aid.

H.R. 5192 continues this approach to postsecondary education financing.

The 1972 Higher Education Act also guaranteed a balanced program of student aid with grants, work-study and student loans. The requirements of the 1972 act for interrelated funding of the various student aid programs has worked amazingly well. H.R. 5192 not only continues those guarantees but refines and updates them.

As we look to the future we can do so with the assurance that there will be three grant programs and effective programs of work-study and student loans.

H.R. 5192 extends and improves the basic educational opportunity grant program which is the cornerstone of our student aid programs. This year close to 3 million students will receive basic grants. Under the provisions of H.R. 5192, the program will be simplified for students and for colleges. Numerous provisions in the bill will make the program more equitable for independent students, for low-income students attending low-cost institutions, and in the treatment of family assets.

The State student incentive grant program and the supplemental grant program are extended with provisions guaranteeing expansion of the programs as the basic grant program expand: $500 million is authorized in fiscal year 1981 for the supplemental grant program. This is less than institutions requested in the program for the current year. The college work-study program, one of the most effective student aid programs, is made more flexible and authorized at levels which will allow for needed growth.

A fiscal year 1981 authorization of $670 million is established with increases provided each year to fiscal year 1985, when $990 million is authorized.

The national direct student loan program is also extended for 5 years to make sure that there is a college-administered loan program to adequately serve the needs of low-income students, and $400 million is authorized in fiscal year 1981 for the direct loan program. This year over $500 million was requested for the program by our colleges and universities. I am particularly pleased that the committee has resisted efforts to raise interest rates on this program. In this inflationary period, this is not the time to pass on additional costs to those students who are in greatest financial need.

The insured loan program under the improvements enacted in 1976 is today serving more financially needy students than ever before. Improvements in the terms of loans to students, continuation of a strong State role in the insured loan program and the extension of current interest subsidy benefits are among the important provisions of H.R. 5192.

In addition, provision is also made for borrowing by parents under the insured loan program. Under the bill, parents will be able to borrow in order to help meet the increasing costs of postsecondary education. This will mean that students will not have to assume as great an indebtedness as they otherwise would have to.

Mr. Chairman, turning to other portions of the bill, H.R. 5192 provides for a new title I program which brings together educational outreach programs. There are many members of the committee who contributed to the new title I. I particularly wish to recognize the work of our colleague, BILL RATCHFORD. The new title contains many of the provisions from legislation he sponsored in the area of lifelong learning. Congressman BIAGGI has also made many important contributions to the title, as did our colleague, Mr. JEFFORDS of Vermont.

One part of the new title is particularly important, the State allocation formula. Title I has not fared well in the appropriations process in part because of inequities in the current formula. The new formula corrects this by insuring growth in the program in both large and small States.

H.R. 5192 also continues and improves the important title II programs of support for college libraries. The continuation of the basic library grant program with an increase in the maximum grant to $10,000 is particularly important for small, private institutions. The cost of library materials has escalated substantially and these relatively small grants become extremely significant in the operation of library programs, particularly at our smaller institutions.

The title III program of support for developing institutions is extended for 5 additional years with significant improvements proposed for the administration of the program. The bill makes major revisions in title III, including many of the administrations recommendations.

In addition, H.R. 5192 establishes a new title III program of challenge grants. Congressman BUCHANAN was particularly attentive to the title III program and the challenge grant component along with other significant changes are the result of his efforts. One important aspect of the title III revision sets specific criteria for determining eligibility. This provision alone will help to curb many of the problems which have hampered the program in the past.

While setting specific criteria, the title III revision also allows for needed flexibility by allowing the Commissioner to waive the criteria in specific instances. I believe that that waiver authority is absolutely necessary. While the criteria in the bill of low-income students and the average expenditure per fulltime student identify most developing institutions, some will not be covered. The waiver authority is absolutely necessary for specific circumstances.

The remaining Higher Education Act programs are continued with many additional changes and improvements. Expansion in the TRIO programs including the Upward Bound program is authorized. The title V teacher training programs including the Teacher Corps are improved. Support of international and foreign language studies is continued. Our colleague—PAUL SIMON—has taken a particular interest in these programs and authored significant improvements.

There is one important new program which should be mentioned—the urban grant university program. This new proposal responds to the recommendations of urban institutions who wish to serve their communities as the land grant institutions have served our rural areas. I am pleased that this comprehensive measure includes this new program which will provide substantial help to our urban areas.

Mr. Chairman, this is a good bill. It is an excellent bill. With enactment of H.R. 5192, the Federal Government will continue to play a significant role in the financing of postsecondary education. I urge all of my colleagues to support the bill.

□ 1340

Mr. BRADEMAS. Mr. Chairman, will the gentleman from Kentucky yield?

Mr. PERKINS. Yes; I yield to the distinguished gentleman from Indiana (Mr. BRADEMAS), who has served with distinction on this subcommittee, and who has always done a tremendous job.

Mr. BRADEMAS. Mr. Chairman, I thank the distinguished chairman of the Committee on Education and Labor for yielding.

Mr. Chairman, I want to add my own to the tribute that has been paid to the gentleman from Michigan (Mr. WILLIAM FORD), the chairman of the Subcomittee on Postsecondary Education. I know of no member of any committee who has worked more diligently and effectively as a legislator than the gentleman from Michigan (Mr. BILL FORD). This year in this Congress, the gentleman has undertaken the responsibility of chairing this very important subcommittee of which I have been a member for 21 years. I want to commend the gentleman and all the members of the subcommittee for the fine job that they have done in bringing to the floor of the House legislation that is crucial to the future of American postsecondary education, to the students who attend those institutions and those who teach in them.

So, Mr. Chairman, I rise in support of

H.R. 5192, the Education Amendments of 1980, to amend and extend the Higher Education Act of 1965 which will expire at the close of fiscal year 1981.

I would like to commend the chairman of the Postsecondary Education Subcommittee, Congressman FORD, for his efforts in steering this bill through the Education and Labor Committee in an orderly and fair fashion. In 1978, Chairman FORD invited 61 organizations, associations, and governmental bodies to submit to the Postsecondary Education Subcommittee their legislative recommendations for reauthorization of the Higher Education Act. The subcommittee received recommendations from 60 respondents.

Mr. Chairman, hearings on this legislation began in the spring, and 35 sessions were conducted at which 269 witnesses appeared and presented a broad cross section of opinions representing the views of educational leaders as well as of consumers and students.

Mr. Chairman, I speak as a Member of the House with a longstanding commitment to the area of education, having been a sponsor of the Omnibus Education Act of 1972, and the Higher Education Amendments of 1976, both of which extended the Higher Education Act of 1965.

H.R. 5129 reaffirms and continues the Federal role in support of postsecondary education, the fundamental theme of which role is to provide assistance to achieve the goal of equal educational opportunity. This legislation seeks to advance this goal by improving the equity of the student assistance programs. H.R. 5192 seeks to achieve this purpose by strengthening the balance of student assistance programs so that students will be able to have the choice of the postsecondary education best suited to their needs, interests, and talents; by making more fair the evaluation of the students and his or her family's resources in determining their share of the burden of educational costs; and by making fairer the consideration of a student's educational costs in the determination of his or her eligibility for student assistance.

The bill also updates the eligibility criteria and program purposes more accurately to reflect the needs of nontraditional, adult, and part-time students. These students—who include the displaced homemaker and individuals changing careers in midlife—are fast becoming a majority of the students attending all postsecondary institutions.

Mr. Chairman, H.R. 5129 furthers the goal of equal educational opportunity by making it easier for students and families to understand and obtain the assistance for which they are eligible from the student aid program. One way in which this objective is accomplished is simplifying the process, though the use of a single form and a single needs analysis, by which students and their families apply for Federal assistance.

The reauthorization measure, before us today, also focuses the categorical assistance programs in the Higher Education Act on serving contemporary needs. An area in which I have a particular interest is title VI, international and foreign language studies. Title VI of H.R. 5192 incorporates much of NDEA title VI and title I of the International Education Act; several new sections have been added to the new title VI to improve the administration of the programs and further to stimulate interest in international and foreign language studies. The new title VI focuses on the interdependent nature of the world's economic and political affairs and the need for the United States to recognize its role.

Mr. Chairman, title IV on student assistance is perhaps the most visible program contained in the Higher Education Act, and H.R. 5192 makes several improvements in the student aid program. Let me then mention only a few of the numerous changes that would advance the goals of the Higher Education Act. The Education Amendments of 1980, H.R. 5192:

Increases the maximum basic grant award in steps to reach $2,700 by 1985;

Increases the supplemental educational opportunity grant (SEOG) and the State student incentive grant (SSIG) award to $2,000;

Modifies the half-cost limitation to 60 percent of the cost of attendance in fiscal year 1981, 67 percent in fiscal year 1983, and 75 percent in fiscal year 1985;

Expands eligibility for the BEOG and the SEOG from 4 to 5 years;

Permits institutions to use up to 10 percent of their SEOG and SSIG funds for less than half-time students, and for graduate students as well under the SSIG program;

Increases the threshold levels for SEOG, SSIG, and college work study (CWS);

Increases the authorization levels of the SEOG, SSIG, CWS, and the national direct student loan (NDSL) program;

Increases the authorization for the special programs for students from disadvantaged backgrounds (TRIO) from $200 million to $400 million;

Retains the current 3- and 7-percent interest rates for NDSL and GSL, respectively;

Eliminates home equity from the computation of assets; and

Abolishes subminimum wages for CWS.

Mr. Chairman, the Committee on Education and Labor did address the problem of student loan capital availability, but was unable to conclude that at the present time there is a serious shortage of student aid. The committee did, however find that there appear to be pockets of shortages in individual States and/or localities. To address this problem, H.R. 5192 gives the student loan marketing association (Sallie Mae) authority to make loans as a direct lender in areas where severe shortages exist, in addition to continuing its current role in the secondary market. However, provision is made in the bill to make sure that Sallie Mae does not displace or discourage State and local responsibilities in this field.

Mr. Chairman, I encourage my colleagues to support H.R. 5192.

Mr. PERKINS. Mr. Chairman, I wish to concur in the remarks of the distinguished gentleman from Indiana.

Mr. BUCHANAN. Mr. Chairman, I yield 10 minutes to the distinguished ranking minority member of the full committee, the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding. I certainly would want to concur in what our distinguished chairman has just said.

Mr. Chairman, I also rise in support of H.R. 5192, Education Amendments of 1980, and urge my colleagues to support its passage. As a cosponsor of this bill, along with my colleague, the gentleman from Alabama, Mr. BUCHANAN, all the other members of the Subcommittee on Postsecondary Education, I feel that it makes fundamental and important changes to the existing Higher Education Act. Chairman FORD and Chairman PERKINS have diligently worked to make this bill a reality. Although I may disagree with the majority party on many issues that come before the Congress, I find that with regard to education there is a great deal we have in common. In this particular bill virtually every improvement was made to help the student and the administration of these programs. More improvements have been made here than in any other legislation I can recall.

I am particularly pleased to see that the commitment that the Congress made to provide Federal student aid to students from middle-income families, which began with the enactment of the Middle-Income Student Assistance Act last year, is continued and reinforced by this legislation. I am convinced that one of the greatest assets this country has is its youth and that we should insure that all citizens have the opportunity to develop to their full potential. Just as I believe in a free market economic system, I also believe that providing students with the financial means to choose that type of institution they want is the best way that the Federal Government can assist in postsecondary education.

One of the biggest controversies during the reauthorization process was whether to centralize the current student loan programs into a federally run, Washington-based system as proposed by the administration. In its wisdom, the committee has retained the current structure of the guaranteed student loan and national direct student loan programs and has, more than ever, encouraged the use of private capital and a private corporation, the Student Loan Marketing Association, to deliver loans to needy students. The success of the 1976 Education Amendments has been demonstrated by the increase in the number of State guarantee agencies from 25 to 40 and the tremendous increase in loan volume provided by private lenders throughout the United States.

The expanded use of the Student Loan Marketing Association, better known as "Sallie Mae," will continue the efficiencies that the private sector can bring to a Federal Government program. H.R. 5192 modifies the capital structure and

financing authorities of Sallie Mae in order to enable it to more easily raise private equity. Because of these changes, the expiration date of the full faith and credit of Sallie Mae's debt obligations is extended only until October 1, 1984. This reflects the fact that Sallie Mae's volume of business will increase significantly as it expands its secondary market activity and assumes new primary lending responsibilities.

Perhaps the best indication of how a centralized Government-run loan program would work was demonstrated earlier this year while the Higher Education Technical Amendments of 1979 was being considered. The major provision in this bill was to completely remove the cap on the special allowance that was established, prior to passage of that bill, at an average of 5 percent over a four-quarter period.

Originally, it was intended that the cap would be removed effective for the third and fourth quarters of fiscal year 1979, but due to the lateness in passing the bill, it was only effective for the final quarter of fiscal year 1979. In spite of the fact that it was the single most debated provision in that bill and that everybody at HEW was well aware of its implication, checks were paid to lending instiutions as if the cap were removed for the third quarter. Realizing that they had overpaid the lenders by millions of dollars, they quickly told the lenders they must repay the overpayments or would be subject to high interest charges. This incident likely had some impact on the decision of the committee to retain the present loan structure instead of going with the administration's recommended loan program.

One of the most attractive features of this bill is that it consolidates those programs which are related in some way and eliminates those programs which heretofore have not been funded or no longer are necessary. For example, the new title I, education outreach programs, combines the reauthorization for comprehensive State planning from section 1203, the authority for education information centers from title IV, the current title I-A, community service and continuing education, and some essential elements of title VI, financial assistance for improvement of undergraduate instruction and title X, establishment and expansion of community colleges. The new title encourages State coordination of planning and information activities with a number of related Federal programs. The intent of these provisions is to promote consolidation of and collaboration in State efforts to the extent possible without any expectation that programs conducted under this title would or should have the authority to regulate activities or mandate cooperation of programs conducted under authorizations listed in those sections.

Under title I there is no requirement that a State submit a State plan describing activities to be undertaken in the coming year; rather the State is only required to submit, at the close of each fiscal year, a detailed analysis describing each funded project and a description of how the funding of each project was tied to the priorities established in the comprehensive statewide planning process.

Title I-B; subpart 5, part A of title IV; title VI; parts A and B of title X; and section 1203 of the current law are repealed. This provides a leaner Higher Education Act without destroying any of the program content of the act. Most of these programs have never been funded and are not likely to be funded in the future or their activities were integrated into other titles.

Steps taken in this legislation underscore the primary role of the States in providing education to students. Of particular interest to me is the change to the provision in the State student incentive grant program which mandates the States' statutes regarding State grant aid should be superseded by Federal law. In the Education Amendments of 1976, States were required to include all nonprofit institutions of higher education in their State grant programs in order to receive SSIG funds. In MISAA, this requirement was amended to exempt all States who had a constitutional prohibition against giving State grant aid to certain types of nonprofit institutions. H.R. 5192 exempts from the nonprofit requirement all State statutory prohibitions against State grant aid to students attending certain nonprofit institutions, if that statute was enacted prior to October 1, 1978. Earlier this month the House passed H.R. 5386, which would make this change for the allotment of fiscal year 1979 SSIG funds.

No longer will there be a requirement for a "1202 Commission" in order to be eligible for Federal assistance. Under current law, a "1202 Commission" is required for comprehensive statewide planning. Now the State would only be required to have an agreement with the Federal Government to adopt an organizational structure appropriate to its needs and inform the Federal Government what agencies or commissions within the State is carrying out certain functions. This change will provide more flexibility to the States and is certainly consistent with what should be all Federal education policy.

As I indicated earlier, the consolidation of State planning, information services and continuing education programs in a new title will hopefully lead to more efficient delivery of services and better coordination of Federal programs at the State level.

I cannot in good conscience complete my remarks without expressing some concern regarding the projected costs of the basic grant program. Eleven Republicans on the Education and Labor Committee signed either additional or dissenting views underlining the costs of the changes made in the bill.

The basic grant program does not have a specific authorization, but is subject to several controls which will probably result in lower funding levels than projected by the CBO. The bill mandates the development of a single system of needs analysis for the determination of student eligibility for financial assistance. This needs analysis system will produce the proposed expected family contribution schedule which will be reviewed and may be disapproved by Congress under strengthened review procedures.

Based on the expected family contribution schedule, decisions will be made during the appropriations process which will seek to resolve the continuous conflict between the need to exercise budgetary restraint and, at the same time, provide support for programs which assist students and their parents.

I want to see the new needs analysis system work, and I think it will work. The bill no longer establishes a 10.5-percent income assessment rate for families with dependent children that was put in the law by MISAA last year. The CBO estimates were made based on a 10.5-percent income assessment rate. It is very possible that the assessment rate will be higher, thus program costs will be reduced. Several other changes were made which gave flexibility to the system and did not put in legislative concrete allowances for certain expenses which are used in calculating the student's cost of attendance. Hopefully, the needs analysis system will result in a proper mix of assessment rates and expense calculations, and will provide an expected family contribution schedule which will be within reasonable budgetary guidelines.

Realizing that the CBO estimates were based on the highest cost possible and that Congress has other chances to influence BEOG costs through the appropriations process and review of the expected family contribution schedule, I hope that we will continue to be aware of the costs implications of the bill and insure that funds appropriated for the programs authorized by this bill are wisely spent. I put my colleagues on notice here today that, should the basic grant program costs become exorbitant, I will be the first person to raise the issue and fight for reductions in the program. I support H.R. 5192, because I believe it provides a balanced approach of financial assistance to students, and I will not seek to tamper with what appears on the face to be high costs in the basic grant program. I urge that my colleagues pass the bill, while, at the same time, join me in closely monitoring future program costs of the basic grant program.

Mr. FORD of Michigan. Mr. Chairman, I yield 10 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. Chairman, will the gentleman yield?

Mr. RATCHFORD. I would be happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, before the gentleman proceeds with his statement, I think it is very fitting and proper that the RECORD show that one of the areas where there are existing problems has finally been resolved in a way that will make our States very happy, for in title I of this legislation the gentleman in the well truly should be called the author of title I in this legislation as it was created, because it was virtually lifted in almost all its important parts

from legislation that the gentleman introduced earlier in this Congress.

I know the committee is very grateful for the gentleman's contribution.

Mr. RATCHFORD. Mr. Chairman, I rise today to add my strongest endorsement for the revisions and the reauthorization of the Higher Education Act as embodied in the Education Amendments of 1980.

It is hard to exaggerate the amount of time and effort which my distinguished colleague from Michigan, Congressman FORD, and the rest of the Subcommittee on Postsecondary Education have invested in the development of this complex and carefully drafted legislation. The process included wide-ranging invitations for written recommendations on the reauthorization, 35 hearings in Washington, D.C., and across the country, and ended with extensive consideration of amendments in subcommittee and committee.

In committing himself to this open participation at the expense of great personal effort and energy, the able chairman of the subcommittee has charted the development of a comprehensive reauthorization bill with unprecedented support in committee and throughout the educational community. The legislation reflects a careful balance of commitment to national needs in postsecondary education and accountability to the call for efficient and responsible Federal programs, and represents a landmark in the evolution of Federal policies in higher education. I remain deeply grateful to my colleague from Michigan for his strong and skillful leadership in this important legislation.

Mr. Chairman, having carefully monitored the development of the reauthorization bill throughout subcommittee and committee consideration, I heartily support H.R. 5192 and urge without reservation its adoption by my colleagues in the House. The bill responds to many of the inadequacies of current law, and makes a major commitment to the extension of educational opportunities to all segments of the American population. In a nation which prides itself in the quality of its higher education and in accessibility to people of all backgrounds and incomes, the importance of the Education Amendments of 1980 to the future of higher education in America is beyond question.

With these general comments in mind, I would like to turn my attention for a few moments to some less visible but vitally important aspects of the reauthorization bill. I have no doubt that the issues surrounding the revisions in student financial assistance programs and the goal of expanded educational opportunity will remain before the House throughout its consideration of this legislation. However, especially in this time of reduced budgets and serious fiscal restraint, I believe it is equally important to stress the ways in which the Education Amendments of 1980 respond to the call for greater accountability and effectiveness in the use of Federal resources.

One of the major ways in which the subcommittee attempted to address the need for greater accountability in Federal programs in postsecondary education was through the development of a sharper focus for categorical assistance programs now authorized under the Higher Education Act. As a freshman Member of Congress and the subcommittee, my involvement in the reauthorization centered on the complete revision of title I, community service and continuing education. After extensive work and discussion of a new direction for title I, we have arrived at a new focus on the educational needs of adults which deserves the careful consideration and final support of the 96th Congress.

Under current law, title I is a confused collection of programs and purposes with no clear focus or direction. With its emphasis on aid to colleges and universities, the present title has carried no compelling rationale for appropriations in Congress, and has faced increasingly difficult prospects for funding. Unfortunately, in the absence of a clear and compelling focus, the needs of the adults and the communities which title I was designed to serve have suffered greatly.

In many ways, the current title I is a classic example of what taxpayers consider to be wasteful Government spending. In subcommittee field hearings in Connecticut and Vermont, we repeatedly heard reports of valuable and creative programs supported by States through title I, and yet there was seldom a common theme or strategy in the overall program. Title I has never been tied to a well-defined national need, and thus the Congress has never had a basis for evaluating its effectiveness or measuring its importance. In H.R. 5192, we have responded to the need for accountability by focusing on a recognized national priority and need—that of improved access to higher education for adults.

The emphasis on educational access for adults is firmly rooted in historical precedents and present enrollment trends of higher education. One of the most widely accepted areas for traditional federal involvement in higher education has been in the development of equal educational opportunities for all Americans. A focus on adult access in title I extends this commitment to those adults who remain outside the mainstream of higher education in America. Perhaps more importantly, the focus on adults responds to the sharply declining enrollments now experienced and anticipated in our Nation's colleges and universities, and attempts to rechannel existing resources of postsecondary education into this emerging sector of unmet needs within the adult education.

I strongly believe that this title I revision offers new strengths in the annual appropriations process, providing a clear set of program needs and objectives to which the Congress can respond in setting national priorities. The adult access concept also vastly broadens the constituency of title I programs, opening participation in the grant process to a wide range of community groups, labor, business, and industry. With the support of such diverse groups as the United Auto Workers and the American Association of Retired Persons, the focus on access has the potential of creating a powerful new coalition in support of access to higher education for adults.

The revised title I will redirect existing funds in a manner which reaches out to Americans who previously felt no stake in Federal support for postsecondary education—the housewife in search of a career, the factory worker attempting to bolster his skills, the older individual preparing for or coping with retirement. The new title also attempts to lead struggling institutions out of a precipitous decline in enrollments and into a new area of service to adult populations. I firmly believe these initiatives are essential if we are to remedy the shortcomings of the current title I program.

In closing, Mr. Chairman, the subcommittee's work on title I is a timely response to many of the issues and concerns of this Congress. The revised title I targets scarce Federal dollars to serve national needs, and insures that Federal support for higher education is more efficient and effective. In addition, the title I reauthorization proposal works within the framework of existing programs, strengthening current efforts rather than launching expensive new Federal initiatives to serve adults. Finally, the title consolidates and develops linkages between a number of existing State-administered programs in the Higher Education Act, further bolstering the effectiveness of scarce Federal support for higher education.

Mr. Chairman, I have tried to briefly outline the details of one relatively small title of the reauthorization bill, and yet I believe the story of the revised title I is indicative of the care and the responsiveness with which the committee bill addresses the pressing issues of higher education in the 1980's. Throughout the legislation, there has been an attempt to clarify, to strengthen and to streamline Federal initiatives in higher education so that we can obtain the greatest returns on scarce Federal dollars. H.R. 5192 represents an extremely successful piece of legislation in this regard, while providing the framework for future progress toward national goals in higher education. In this context, the reauthorization bill deserves the careful consideration of the House, and has my unqualified support.

□ 1350

Mr. BUCHANAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, first I want to compliment and thank both the ranking minority member, my good friend, the gentleman from Alabama (Mr. BUCHANAN), and the chairman of the committee in particular for bringing the subcommittee to Vermont to become more acquainted with and aware of the problems of the small States and the problems of rural areas. I really appreciate that. By doing that, they provided a good deal of assistance to my people in learning how the system works. I am also pleased to have the opportunity to share with the Members some of my concerns along that line.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I am happy to yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, no member of the subcommittee has made a stronger contribution to this legislation than the gentleman from Vermont (Mr. JEFFORDS) himself. His concern for people in his State and, indeed, for people in all the States is reflected in this legislation. Some of the very finest provisions in the legislation came from the gentleman's own mind and were born of that concern.

Mr. Chairman, I want to commend the gentleman for his contributions to this bill.

Mr. JEFFORDS. Mr. Chairman, I want to thank the gentleman very much, and I likewise commend both the chairman of the committee and the ranking minority member for their efforts, especially the gentleman from Alabama (Mr. BUCHANAN).

Mr. Chairman, I reviewed the legislation just mentioned and investigated every title of it with respect to its application to and potential impact on small States, and I decided to cosponsor the legislation because it is well designed to serve the needs of all the States.

During subcommittee consideration of the bill, I worked to improve certain aspects of the bill, both to further protect the interests of small States and to take care of some of the concerns raised by the education commission of the States.

In title I of the bill, I offered an amendment to insure a reasonable minimum funding level that would guarantee small States sufficient money to operate title I programs. I also offered an amendment to change the way title I is structured. That amendment put in place a mechanism to require statewide planning but leaves it up to the individual States to decide who should do the planning. It does not require a finished plan but provides the money for the process of planning. Both of these amendments were adopted by the committee.

In title IV of the bill, I offered an amendment that removes the limitation on the number of children for whom families can simultaneously receive financial aid from the parental loan program. The committee agreed with this, and I appreciate that.

Also I had clarified the definition—and this is important to our State and to other rural States—of farm and business in the assets test section of title IV. The clarification insures that in counting assets, a farm shall be considered a business. Farmers will receive separate exclusions for a farm as a business property and for a house that stands on farm property.

Finally, in title XI of the bill, I recommended that at least one university in each State be eligible to participate in the urban grant university program in order to insure that small States without large urban areas are able to take advantage of this program.

I am pleased that my efforts have been so well received by the committee. I appreciate the committee's consideration of the needs of small States.

In addition, I have aired my concerns in other areas, including the needs of the handicapped. I appreciate the committee's concern in trying to insure that the Committee on Appropriations adequately distributes funds to enhance the ability of higher education institutions to cope with the demands of section 504.

Mr. Chairman, I think this bill takes a tremendous step forward in insuring more equity in areas of concern that I have shared with the committee. However, I remain concerned that our higher education programs still do not take into account certain significant social changes. Today, most young people are considered adults at age 18, and many believe that there is no longer any need or legal requirement for families to support their children when they have obviously become adults.

Mr. Chairman, there are still some equities to be reached in designing a program that aids those who are willing to help our young adults rather than just throw them out in the cold. I think we have made some improvements in this bill; it takes care of some of the inequities. We are gradually moving toward an equitable program in financing higher education.

Mr. FORD of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. SIMON).

□ 1400

Mr. SIMON. Mr. Chairman, first of all, I want to join in commending the chairman of the subcommittee, the gentleman from Michigan (Mr. FORD), for the work that he, as well as Tom and Pat and members of the staff did. I know it is a fairly routine gesture that we go through in this body that we applaud chairmen of subcommittees for the work that they do. But in fact I do not know of a finer example of working together, and it is a tribute to our colleague, the gentleman from Alabama (Mr. BUCHANAN), and members of the minority also. I do not know of a more significant bill where there has been more bipartisan effort and a really solid job done than in this particular act.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, the gentleman from Illinois is showing his typical statemanship. I am so pleased that he mentioned the work of the staff, because I would echo what the gentleman said, not only about the members of the committee itself, but about the staff on both sides of the aisle who worked very hard with persons from the education community and with members of the committee. I think they did an outstanding job on this legislation. I thank the gentleman for remembering them.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I would also like to echo those comments. Having served on many subcommittees, I know there is no subcommittee that has given me more assistance than the staff of this particular one. In fact, although we all kind of take credit for things, we all know that a lot of that credit really goes to staff. In this case, I think this is very true. I appreciate the fine efforts that both staffs have done in assisting me in this very complicated area.

Mr. SIMON. Mr. Chairman, I would join in commending the minority staff on this also.

Mr. Chairman, let me point out one minor area where, I hope in conference committee, after this passes, something can be worked out. I have this concern, as someone who works on the Budget Committee, that the interest rates established here are unrealistically low and may squeeze out some of the education programs that ultimately we will want to be moving on.

I would add just two other points. One is that we are in one of the few nations on the face of the Earth where you have to pay for a higher education. I think the day will arrive, and perhaps none of us are going to be Members of Congress when that happens, when higher education is going to be free for all Americans, and we will be a richer nation when that day arrives.

Initially, in the history of our country you had to pay for all education, and then we gradually got an elementary education free, and then gradually high school; and now we are halfway there on community colleges. I think we are getting there gradually as we left the level of BEOG support, but I hope we keep in mind that we are a long way from where a great many nations are in this respect.

Then, finally, one part of this legislation which is not likely to receive much attention but which is significant to the Nation is title VI, which assists international studies programs. What this legislation does is, for the first time, really coordinates that. What we have had up until this point is just kind of spasmodic programs. If a university somewhere wants to study Southeast Asia, they start a Southeast Asia program, but we have never really said in a concrete way, "Where is a place that can concentrate on Burma or New Zealand or Botswana," or whatever the country is. I think we will now finally not only have an aid to higher education, but literally an aid to the Nation that is going to evolve from this that will be a very constructive thing.

Again, my commendation to the chairman of the subcommittee, who really worked hard to bring about a very solid piece of legislation here.

Mr. BUCHANAN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the gentleman from Illinois (Mr. SIMON) has, by his modesty, neglected to mention that he is a member of the President's Commission on Foreign Language and International Studies, and that title VI of this legislation is largely his own contribution. I think it is a very fine contribution to this bill. If there is an area in which we can stand improvement in this country, it is in the area of international education. I think that title VI does make a contribution in that area that is greatly needed.

Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. FORD of Michigan. Mr. Chairman,

I yield 3 minutes to the Resident Commissioner from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 5192, and to commend the chairman of the Subcommittee on Postsecondary Education, BILL FORD, and the ranking minority member, JOHN BUCHANAN, for their excellent and conscientious work, spanning many days of hearings, which culminated in this fine piece of legislation. Ample testimony was received from a wide sector of our higher education community, and an active dialog followed with an aim toward compromise of divergent approaches to implement a Federal higher education policy.

This bill expands, modifies, and improves existing programs, providing necessary refinements where warranted, and represents a positive step in our efforts toward an equal educational opportunity for all. It is a bill which keeps up with the trends and changing patterns in our student population, as evidenced by the changes in title I, and the increases in maximum awards under titles II, IV, and VIII. It adequately responds to the existing lack of specificity in title III by a more clearly defined focus and more stringent accountability requirements which will be followed by a close monitoring by the committee of the manner in which this program is being administered. The changes in title IV reflect the increased costs of attendance to our institutions of higher learning. The compromise dealing with the half cost issue as well as the maximum award represent a willingness to respond to the needs of all students, regardless of the type of institution they attend.

I specially want to commend the chairman for his cooperation and insight in reviewing title VII, and I hope that we can make a case before the Appropriations Committee to allocate the necessary funds in an area where there is a documented need for relief under this title based on substantial increases in enrollment.

Finally, as a cosponsor of the urban grant university bill, I was gratified to see it incorporated into this reauthorization proposal. This effort will result in a better utilization of our Nation's urban universities to help resolve the critical societal needs of our day.

I urge my colleagues to recognize the hard work that has gone into the framing of this legislation and to give their strong support.

Mr. Chairman, I would like the chairman of the Subcommittee on Postsecondary Education to clarify a certain point in the bill. Mr. FORD, are we to assume that the disadvantaged categories in the bill include persons who come from environments where the dominant language is other than English?

Mr. FORD of Michigan. Yes, that is correct.

Mr. CORRADA. I thank the gentleman.

Mr. FORD of Michigan. Mr. Chairman, I yield 1 minute to the gentleman from Guam (Mr. WON PAT).

Mr. WON PAT. Mr. Chairman, I would like to take this opportunity to thank Chairman FORD and the other members of the Subcommittee on Postsecondary Education for including an amendment to H.R. 5192 dealing with the treatment of the territories. I am requesting inclusion of this amendment in the final version of H.R. 5192 because of the unique problems currently confronting postsecondary education efforts in the territories. As chairman of the Pacific Affairs Subcommittee, my concerns are primarily directed toward Guam, the Northern Mariana Islands, the Trust Territory and American Samoa, however, I have also discussed this measure with my colleague, Mr. EVANS, and he assures me that the Virgin Islands shares these concerns.

Because of geographic remoteness, physical isolation, lower levels of economic development, and uncertain and rapidly changing political statuses, the postsecondary education institutions of the territories are beset with deep and wide-ranging problems which deserve separate consideration by the Federal Government under the provisions of this act.

The proposed amendment would give the Secretary of Education the authority to more appropriately serve the territories by making those modifications in the programs available under this act which he and the territorial governments deem appropriate and in the best interests of the territories and the students they serve.

The major problems affecting the territories in dealing with their postsecondary education needs include: financing, inadequate facilities, lack of coordination between educational programs and development needs, the proliferation of nominal and oftentimes irrelevant education programs—most of which are spawned through Federal grants for programs designed to meet emerging or special categorical needs within the 50 States—combined with the related social problems of an increasing "brain drain" and soaring unemployment rates within the territories.

While it is not clear at this time as to what are the best and appropriate solutions to these problems, it is clear that to just extend the same Federal programs with the same regulations that apply to the 50 States without giving the Secretary the authority to make modifications where the territories are concerned would exacerbate these problems.

The territories within the Pacific region have already taken steps to address these problems on a regionwide basis through the formation of a Pacific Region Postsecondary Education Council. This Council, which is funded by FIPSE—the fund for the improvement of postsecondary education—has already begun to systematically assess these problems and to identify actions which can be taken to address them. It is anticipated that recommendations for Federal program modifications will emanate from this Council including requests for funding on a regional basis—that is, to support programs that will be developed to address regional needs as opposed to programs limited to the separate political jurisdictions. The individual territories are recognizing that they cannot afford to continue to duplicate scarce resources and that they must begin to cooperate in this area if they are to offer the quality programs which will attract their own young people and more adequately meet their regional development needs. The inability to modify Federal programs or to pursue Federal funding on a regional basis could frustrate these efforts.

In addition to regional funding, another issue which the territories will likely consider is the appropriateness of the current financial aid programs for students from the territories. There has been a growing concern that these programs have inadvertently contributed to the "brain drain" phenomenon in the territories. While the postsecondary education institutions in the territories are struggling to survive with lagging enrollments and bare bones budgets, thousands of island students are being actively recruited by marginal institutions throughout the States who are attracted by the Federal dollars these students bring with them in the form of BEOG, SEOG, and work study funds. The sad result is that many of these students never do return to the islands and those that do often become frustrated because of the lack of appropriate employment opportunities in the fields in which they have been trained.

I am hopeful the analysis and recommendations which the Secretary is required to submit as a result of this amendment will address this problem and contribute toward a long-term solution. To accomplish this the territorial institutions and governments should be fully involved in the study process and, in the Pacific territories, the Pacific Region Postsecondary Education Council should play a principal role in coordinating this study, in order to guarantee this local involvement.

There is no more crucial problem facing the long-term development of the territories than the education and training of our young people. I know you share my concern that the Federal role in this process be a positive one. I believe the adoption of this amendment today is an important step toward assuring that this will be the case.

● Mr. BIAGGI. Mr. Chairman, I wish to also rise in strong support of this bill, H.R. 5192, the Education Amendments of 1980. As an original cosponsor of this comprehensive piece of legislation, I also wish to congratulate the chairman of our Postsecondary Education Subcommittee, BILL FORD and the chairman of our full committee, Mr. PERKINS, for the tremendous effort they have made on behalf of postsecondary education in this Nation. Chairman FORD, it should be noted, made a concerted and successful effort to involve all elements of the higher education community in the construction of this legislation. In September 1978, 61 organizations and associations were invited to submit their proposals to our subcommittee. In addition, 35 hearings, lasting 7 months, were held on all titles of the Higher Education Act.

The bill that this committee has produced has the strong support of all the

members of our subcommittee and as the ranking New York member on the Education and Labor Committee, I feel it is important to note where we have made some important changes in this legislation which will not only benefit students in my home State of New York, but will also assist all students of all ages in obtaining a postsecondary education.

More importantly, H.R. 5191 seeks to enhance the traditional Federal role in education by increasing access to educational opportunities through expanded student financial assistance programs. We have removed many of the barriers that have hampered students from pursuing higher education by allowing for students to be able to choose the college of their choice which can best meet their own needs and abilities.

I am especially pleased to note that my impact upon this bill was substantial and many of my efforts were instrumental in helping us to produce a bill that has the support of both my Democratic and Republican colleagues on the committee as well as the educational community at large. My bill, H.R. 3513, which provides for student financial aid data banks, has been incorporated into title I of this bill, in both the State and Federal discretionary grant sections. I also offered an amendment to title I which would place an added emphasis on services to homemakers in the development of programs under this title.

The now historic "half-cost compromise" in this bill was in large part due to my efforts in rallying support for this proposal in both the public and the private sectors. I offered two amendments which were part of the foundation of this compromise, one which increased the threshold of the supplemental grant program so that increases in supplemental grants would be directly related to increases in basic grants. The second amendment would insure that in the development of regulations for the distribution of supplemental grant money to the States, the Secretary of Education does not formulate regulations which in effect penalize States with a high degree of effort in their campus-based programs, such as my own State of New York. I am confident that the grant proposal in this legislation will both expand financial assistance opportunities to more students and will also allow for a greater freedom of choice. I might add that this "half-cost compromise" has been supported by many of the major educational associations in this country, as well as receives widespread support from all segments of the educational community in New York.

The loan programs, both the national direct student loan and the guaranteed student loan programs have been retained and expanded. The interest rate for the national direct student loans remains at 3 percent. The guaranteed student loan program repayment schedule has been expanded to 20 years, the amounts that students may borrow has been increased and a new parent loan program has been introduced so that families will be less financially pressed in sending their children to college. I am sure that many of us here have felt this problem at one time or another.

I continue to be concerned over the shortage of loan capital in various parts of this country, a concern which is shared by the New York State Higher Education Services Corp., which is the largest guarantee agency in this Nation. It is my sincere hope that H.R. 5192 will serve to correct this problem so that all students in all parts of this country will have equal access to financial aid in order to further their education.

H.R. 5192 has also developed a more direct focus on the needs and problems of the adult learner, now known to many as the nontraditional student in title I of this bill, "educational outreach program." The subcommittee, under my chairmanship, held a field hearing on the needs and problems of the adult learner at Mercy College in Dobbs Ferry, N.Y., in early September. I was joined by my colleagues on this committee from New York, Mr. PEYSER and Mr. WEISS as well as my colleague from Connecticut, Mr. RATCHFORD, who has maintained a strong interest in title I from the beginning. I feel that the findings of this hearing provided a major contribution to the final development of title I, in which we also consolidated State planning from section 1203 and authority for education information centers, formerly in title IV-A, as well as some important elements of titles VI and X.

The thrust of this title is twofold: it enhances the Federal role in helping to serve adults who have otherwise been inadequately served by traditional educational institutions and also enhances Federal support of State planning efforts in higher education to insure that the needs of these adults are properly addressed. In our hearings, one of the common concerns of the participants was the lack of information on both educational opportunities and financial aid that was available to part-time adult students. To this end, my longstanding concern in the development of student financial aid data banks has been incorporated into this bill to create new and expanding existing programs. I feel that my efforts in this regard will prove to be beneficial to the growing adult student population as they will be able to receive financial aid information quickly and easily.

Another one of the concerns expressed in this hearing were the special problems that women faced in returning to school after having raised families, generally having been out of the educational mainstream for quite a few years. Recent studies indicate a dramatic increase of women participants in higher education, with the number of full-time female adults enrolled greater than the number of males enrolled full-time since 1974. My amendment in this regard, placed an added emphasis on the needs of homemakers, so that these women, who often have other family demands, will be assured that educational information will be available to them.

Since I am also a member of this growing "nontraditional" student population, I have continued to maintain an active concern for those students, who, in returning to school face real barriers, academic, financial and social. It is clear to us that changing demographic trends in this Nation show that we are growing older as a population. Translated, this means that in 20 years, we can expect a larger portion of our student population than ever before, to be over the traditional 18 to 22 age range. It is imperative that we be able to respond to this change and I feel that H.R. 5192 will provide the impetus for this change.

A recent study released by the National Institute of Education confirms many of our findings from our hearing at Mercy College. The majority of the students surveyed indicated that they were concerned about their financial situation. Financial aid administrators echoed this concern by acknowledging that financial aid information was a problem but that they were also plagued by fiscal constraints and therefore could not always respond adequately to their adult, part-time students. As a result of this hearing and this legislation, I am confident that the needs of our adult student population will be addressed in an appropriate fashion.

As an original cosponsor of the Urban Grant University Act introduced by Chairman FORD in the last Congress, I am pleased to note that we have included a new title XI in this bill, the Urban Grant University program. This title will assist urban educational institutions, such as those in my hometown of New York City, in providing research and services to the local community to address problems which are unique to urban centers.

I have also been a strong supporter for the developing institutions funded under title III of the Higher Education Act, such as the College for Human Services, which has a branch in New York City. While this title has come under some closer scrutiny of late, it is my feeling that we have produced a bill which will both encourage growth of these institutions as well as encourage their graduation from the program. I had requested that we include language in the final committee report which specifically addresses institutions such as the College for Human Services, a unique case in that although it does not meet the proposed criteria for a developing institution, it does fit the intent of this legislation. The grants in title III are to encourage institutions, such as the College for Human Services, to make use of their own resources so that they may be able to function as a strong, viable, and independent institution of higher learning.

Mr. Chairman, I feel that with this bill, H.R. 5192, we have come full circle in addressing the needs of the education community, both the public and the private sectors. Last year, this committee enacted the Middle Income Student Assistance Act which has proven to be a major step forward in helping middle income families lighten the burden of college costs by opening up both the grant and the loan programs. Earlier this year, this committee took another step in insuring that students would be able to secure guaranteed student loans, by helping to enact my bill H.R. 3554, which lifted the ceiling on the special

allowance paid to lenders who participate in this program. The Education Amendments of 1979, H.R. 4476, incorporated this bill and were instrumental in averting a potential student loan crisis this past fall when the demand for loans was the greatest. The bill before us today is but another step toward reaffirming this country's commitment to education for all our citizens. After 10 years on this committee, I have yet to witness another bill which enjoys the wide support from all segments of the community as this one does. It provides an important balance between the concerns of both the public and the private sector. It streamlines many of the existing programs of financial assistance which have worked well in the past and we are confident, will continue to do so in the future. More importantly, it solidifies our commitment to preserving the diversity and the pluralism of American education. This bill is the result of unanimous committee support and I urge that this body adopt H.R. 5192.●

● Mr. PEYSER. Mr. Chairman, as a member of the Postsecondary Education Subcommittee, I want to take this opportunity to wholeheartedly endorse H.R. 5192, the Education Amendments of 1980. I worked on and supported this bill during its consideration first in subcommittee and then in full committee and believe that it is a comprehensive education bill which will increase educational opportunities for students both in my native State of New York and throughout the country.

Chairman FORD is to be strongly commended for his diligent work on H.R. 5192 and particularly his efforts to encourage all organizations and groups within the educational community to participate in the drafting of this legislation. In the fall of 1978 the Postsecondary Education Subcommittee invited the comments and proposals of 61 educational organizations on reauthorization of the Higher Education Act. During this past year the subcommittee held 35 hearings on the Higher Education Act, including one in Dobbs Ferry, N.Y., which is located in my district.

I am particularly pleased with the improvements which we have made in H.R. 5192 to title IV of the Higher Education Act, which deals with student assistance. H.R. 5192 expands both the Federal grant and loan programs available to finance students' postsecondary education in this country. This bill increases the basic educational opportunity grant maximum award per student and modifies the limitation in current law which provides that a student's basic grant may not exceed 50 percent of the cost of attendance. This change, which takes into account the increase in educational expenses since the program was established in 1972, will serve to provide a more effective level of grant assistance to postsecondary students with financial need. This bill also extends the Federal guaranteed student loan program through fiscal year 1985. It increases the maximum loan available to students per year from $2,500 to $3,000, and the maximum aggregate loan available to a student to $12,500.

I have become increasingly concerned about the mounting costs of higher education and the wide gap between available student aid and the educational expenses faced by middle income families, many of whom have more than one child in college. Last year the Congress took a step toward alleviating the tremendous financial burden placed on middle-income families by removing income as a criterion for eligibility for participation in the guaranteed student loan program. Title IV of this bill further expands the Federal financial aid available to middle-income families for postsecondary education costs by instituting a parent loan program which will provide federally guaranteed student loans to the parents of college students. Under this program, parents will be able to borrow at a 7-percent interest rate up to $3,000 a year and $15,000 total for any one student which may be used for the costs of a student's education minus aid provided to the student. It is my hope that the new parent loan program combined with the existing guaranteed student loan program will ease the financial burden which middle income families face in educating their children.

This bill also makes an important change in the criteria used to measure a student's eligibility for Federal financial assistance by excluding the equity of a family's principal place of residence from consideration as an asset in determining eligibility for Federal financial assistance programs under title IV, excluding the State student incentive grant and the guaranteed student loan program. Under current law many needy students in New York State and throughout the country are excluded from participation in the basic grant program because the equity in the family's residence is counted as an asset in measuring financial need. A family's residence, which is a nonliquid asset is clearly distinguishable from other assets as an available source of financing postsecondary education. The removal of home equity as an eligibility criterion will insure a more accurate assessment of a family's ability to meet educational costs.

Also, this bill addresses the problem of default under the student loan programs. In making loans available to parents, providing for loan consolidation, and providing for extended and income sensitive repayment, the committee has taken steps to effectively prevent defaults. In addition, H.R. 5192 establishes a system whereby the Commissioner of Education will share information on default loans with credit bureaus. Under this system, the Commissioner will be aided in collection of default loans, and student borrowers will be prevented from contracting additional indebtedness which would further hamper their ability to repay loans.

In sum, H.R. 5192 will provide greater access for all students to postsecondary education. At the same time it strengthens the law to provide greater insurance that students repay their loan obligations to the Federal Government. I strongly urge its adoption.●

● Mr. HARRIS. Mr. Chairman, I am pleased to speak today on behalf of H.R. 5192—legislation reauthorizing the Higher Education Act. This bill modifies and improves many of the successful programs now in existence, and has the support of higher education associations and student groups in the Eighth District of Virginia.

Many of the grant programs have been expanded to provide larger maximum grants and to increase the proportion of the total cost of education that may be provided by these grants. At the same time, many of the college students in my district will benefit from an expanded guaranteed student loan program which will now provide loans to parents to assist in meeting the family contribution to the cost of postsecondary education.

H.R. 5192, which we are considering today, is responsive to the needs of all college students. Many of these individuals are 18- to 22-year-old, full-time students. In recent years, however, the number of part-time and older students has increased along with the number of students who receive no financial support from their parents. H.R. 5192 makes every effort to respond to their needs. Some of the changes are: Requiring that child care expenses be included in the calculation of a student's cost of education, allowing colleges the discretion to award aid to less than half-time students, and generally increasing assistance for low-income students.

I must add, however, that additional measures must be adopted to assist the middle-income families in my district and throughout the country who are finding it increasingly difficult to pay for college expenses. I have introduced the tuition tax credit bill (H.R. 4095) which would be a simple, direct and effective way of easing the burden. This is a feasible way of granting additional relief to these families. It simply would allow individuals to claim a tax credit for a portion of the expenses of higher education. With medical, food, housing, and energy costs escalating at double-digit inflation rates, increased costs for education are cutting into already tight family budgets. A tuition tax credit bill would help middle-income families ease their financial plights.

The reauthorizing legislation, which we will pass soon, reflects the hard work and input of the entire higher education community, including both public and independent institutions, students, financial aid officers, and State guaranty student loan agencies. I support their efforts and the legislation.●

Mr. FORD of Michigan. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BUCHANAN. Mr. Chairman, I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT), having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R.

5192) to amend and extend the Higher Education Act of 1965, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4985, PRIORITY ENERGY PROJECT ACT OF 1979

Mr. DODD, from the Committee on Rules, submitted a privileged report (Rept. No. 96-571) on the resolution (H. Res. 467) providing for the consideration of the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes, which was referred to the House Calendar, and ordered to be printed.

□ 1410

RULE CONCERNING H.R. 4985

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, I ask for this 1 minute to engage the gentleman from Connecticut (Mr. DODD) in a colloquy.

I notice that the rule which the Committee on Rules just filed requires that all germane amendments be printed in the CONGRESSIONAL RECORD of October 29, which is today.

Could the gentleman please inform the House when the Committee on Rules acted on the rule that was just filed now?

Mr. DODD. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Connecticut (Mr. DODD).

Mr. DODD. That was last Thursday, I believe, in checking with the staff. Last Thursday was the day, I believe, that we acted on the rule.

Mr. SENSENBRENNER. Is this the rule that was reported out of the Committee on Rules last Thursday or not?

Mr. DODD. Yes, it is, the same rule that was reported out last Thursday.

Mr. SENSENBRENNER. I thank the gentleman.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, are we talking about H.R. 4985?

Mr. DODD. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Connecticut (Mr. DODD).

Mr. DODD. Mr. Speaker, that is correct.

Mr. ASHBROOK. Mr. Speaker, if the gentleman will continue to yield, I notice in the CONGRESSIONAL RECORD of October 26, and I was on the floor at the time, our colleague from Texas (Mr. WRIGHT) indicated:

> Then we would begin the centerpiece for the next week, H.R. 4985, the Priority Energy Project Act of 1979 under an open rule with 2 hours of general debate.

We find nowhere in there any indication that we would be faced with an amendment cutoff of the type I see in this particular rule. I am just wondering if that is what we should expect in the future. It would give many of us concern. Many of the Members are not present on Monday. Many of the Members, when they know there is not going to be a vote, stay home. To be faced with a cutoff when many Members are not here would be a way of limiting amendments.

I am not obviously directing these remarks toward the gentleman, but since he is a spokesman for the Committee on Rules, I wonder if he might respond.

Mr. DODD. I might express that the gentleman raise this concern with the leadership so that there is in the future no limitation such as the gentleman is confronted with today, and in that manner the Members would be made aware earlier in the previous week so that the Members would be cognizant of it.

Mr. ASHBROOK. I thank my colleague for his concern, and I thank the gentleman for yielding.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5192.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MILK PRICE SUPPORT ACT

Mr. BALDUS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4167) to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 percent of the parity price therefor.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. BALDUS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4167, with Mrs. SPELLMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Wisconsin (Mr. BALDUS) will be recognized for 30 minutes, and the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Wisconsin (Mr. BALDUS).

Mr. BALDUS. Madam Chairman, H.R. 4167 amends title II of the Agricultural Act of 1949 to extend until September 30, 1981, the period during which the Secretary is required to support the price of milk at not less than 80 percent of the parity price therefor and provide adjustments at the beginning of each 6-month period after the beginning of the marketing year to reflect estimated changes in the parity index during such semiannual period.

As of March 31, 1979, the minimum level of support required by law is 75 percent of parity, and in the absence of new legislation the requirement for semiannual adjustments would terminate on March 31, 1981. Secretary Bergland set the support price for market year 1979–80 at 80 percent of parity on October 1. Thus, this bill would not have any impact until October 1, 1980. We feel that its impact at that time would be very limited.

The purpose of the milk support program, as prescribed by the Agricultural Act of 1949, is to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production and assure a farm income level adequate to maintain productive capacity sufficient to meet anticipated future needs. In recent years there has been a growing recognition that short-term price instabilities which may benefit consumers or producers may in the long-term damage both the dairy industry and the consumer.

Thus, it is in the national interest to seek stability in both supplies and prices of dairy products. The dairy price support program has helped provide this stability, particularly in the last 2 years during which 80 percent of parity has been the minimum support price. Both experience and research have shown that 80 percent of parity minimum support price has contributed to stability. Actual market prices have routinely been running in excess of the support price during the last 2 years.

Commodity Credit Corporation purchases have barely run in excess of needs for foreign and domestic commodity distribution programs. In 1978 only 3 days of milk production stood between having a surplus and a shortage of dairy commodities.

The dairy support program has been working well, particularly in light of its recent ability to continue to provide adequate supplies at a time when high beef prices provide an economic incentive to dairy farmers to cull the herd for a quick profit rather than continuing to sustain the herd for milking purposes.

Producers rely on the stability of the dairy industry and its price support system. High beef prices are likely to continue through the next 2 years. Any lowering of the support price as a percentage of parity could easily destroy this confidence and possibly result in a shortage of dairy products for consumers.

The committee fears that market stability would be disturbed if the support price were to be maintained below 80 percent. The average age of a dairy farmer is in the upper fifties. Thus, the dairy industry is top heavy with elderly farmers who might decide to sell off herds while cull cow prices are high and retire unless there are reasonable assurances of market stability. Seldom are circumstances as favorable as they are now for farmers wishing to leave dairying. Maintaining the support price could help forestall an exodus from dairying.

Retail prices of dairy products have been increasing at a rapid rate recently, particularly in relation to the historic price situation. These retail price rises have occurred in response to the market supplies and demand, and not as a result of support prices. Lower support prices would not likely result in lower retail prices even in the short term. It is expected that they would result in lower milk production and fewer dairy products in the long run if farmers perceived that they no longer have an assured minimum price at a reasonable level.

The real cost of dairy products has declined during the last 30 years. The retail dairy price index has consistenly increased less than the Consumer Price Index, the all foods index, the cost of goods and services that dairy farmers buy, and the cost of alternative beverages. The real costs—number of minutes of industrial labor required to buy 1 unit of product—of milk products have decreased since 1950. Dairy products continue to be an excellent food buy—to a great extent because of the stability brought to the industry by the dairy support program.

In the view of the committee, H.R. 4167 will extend needed protection to dairy producers without injury to taxpayers or consumers.

Director Rivlin of the Congressional Budget Office, stated that 80 percent of parity would provide price stability and, as compared with the recent situation, would not cause any major changes in dairy farmers' incomes, consumer prices, or Federal budget outlays but would result in adequate supplies of milk. If the support price is set at 75 percent, in her view, the risks of price instability and interruptions in supply would be considerably greater.

A representative of the Department of Agriculture estimated that at 80 percent of parity, milk production would increase at an average of 1 percent per year, but that consumption would also increase 1 percent per year. Thus, he estimated that Government-held surpluses would continue at current levels—2.2 billion pounds milk equivalent—and that 2.5 billion pounds could be utilized effectively by the Government.

The Secretary of Agriculture appeared before the subcommittee on May 31, 1979, to express the administration's position on the bill. He stated his belief that by and large the dairy program works well. It prevents wide fluctuations in milk prices by putting a floor on the downside and dampens sharp upswings by moving Government stocks back into the market as prices move up. For example, he stated that last year the Commodity Credit Corporation sold back to the industry 22 million pounds of butter and 5 million pounds of cheese—that these sales had an important impact on the market and that the strong demand we faced then would otherwise have moved prices up further than actually happened.

The committee agrees with the Congressional Budget Office's estimate that H.R. 4167 will have no budgetary impact. It is a simple 2 year extension of current law which CBO had projected that the administration would maintain with or without the legislation. There would, therefore, be no additional costs incurred by the Government by H.R. 4167 above what is already included in the budget to run the dairy program.

The committee estimates that enactment of H.R. 4167 will have no inflationary impact on the national economy.

□ 1420

Mrs. FENWICK. Madam Chairman, will the gentleman yield?

Mr. BALDUS. I yield to the gentlewoman.

Mrs. FENWICK. Madam Chairman, I thank my colleague for yielding.

I understand the intent of this legislation to regularize and stabilize the whole dairy industry. But I wonder if the committee had ever considered a stricture that in the application of this legislation no State could impose a penalty on those farmers who chose to sell below the stated price, and a consumer could only benefit if for one reason or another milk, which is standard as to quality, is sold below the stated support price by those who produce it? I know in some States that is against the law, that farmers have been arrested, fined, and threatened with imprisonment in any case, because the law provides they may be, because they are selling off their own premises in some little booth, properly refrigerated, that they may have leased, at prices below the support price.

Of course, this is tremendously valuable for low-income families. I do wonder if the committee has ever considered some kind of stricture that would prohibit such State laws passed by any State?

Mr. BALDUS. The committee has not considered prohibiting the States from doing that. I am not sure the history of it, but some of those laws are quite old. I would suppose they might even have been tested in Federal court to test their constitutionality. I think it is probably inappropriate—I am sure from the way the gentlewoman asked the question she is aware it is not a part of the Federal law, but rather a part of the State law—I think it is probably inappropriate for the Federal Government or for this committee at least to recommend the actions of those several States.

Mrs. FENWICK. If the gentleman will yield further, it seems so hard on the consumer. Here we are faced with a perfectly enormous inflation. I have already introduced legislation that would provide that the transportation of all food shall be exempted from the regulations of the Interstate Commerce Commission.

We must address ourselves to people who are trying to live on very often limited incomes in a time of terrible inflation. I do not think it would be wise to have no support for our farmers, but surely if the farmer himself wants to sell his commodity at a price that is convenient to him, and below the support price, it seems to me if we are going to have this rather antitrust, you might say antitrust exemption which is afforded to farmers to agree on a support price, those who wish to sell below it should be free to do so.

Mr. BALDUS. I think the gentlewoman is well aware these are State laws enacted by the States, and also that these laws are most likely to occur in the northeastern part of the United States and the far west, in California. Those are States that might not otherwise be and are not sufficient in milk from time to time. So I think if the gentlewoman examines the law far enough she will find they are, as this law is, to insure an adequate supply. They may from time to time have the appearance of supporting the price at higher than the consumer would otherwise be paying, but when the supply drops below demand, then we get the opposite effect, and that is a price higher than would otherwise have been if the law had not been there. I think that is the consideration of those States.

Mrs. FENWICK. I agree, and I do not mind the law that protects the farmer from losses. But I think if a farmer, local farmer wants to sell in a State in which he is situated at below the support price he ought to have the right to do so, because certainly it would benefit the consumer.

Mr. JEFFORDS. Madam Chairman, will the gentleman yield?

Mr. BALDUS. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Madam Chairman, I certainly think if we look at this State by State and look at the minimum supplies in some States the gentlewoman may have a valid argument, so long as the Federal price support program is in place. But if we were to take away the Federal price support program, which I do not think the gentlewoman is advocating, then I would just like to point out that individual type of selling at below market is what brought about the price support program, because it almost totally destroyed the dairy industry back when the price support programs were put in because of the inability of the industry itself to be able to control the cycle of the cows or whatever it is that brought about the destruction in the markets. The whole purpose of the price support program is to insure, as has been pointed out, an adequate supply of milk and to try and protect the consumer.

So I would agree we do not need State laws when we have the Federal price program, but I want to point out that it is essential that there be a support program.

Mrs. FENWICK. If the gentleman will continue to yield to me, I agree, I think it probably is necessary. I was a milk farmer, I used to produce 4 percent butterfat, 10,000 bacteria count, certified milk under the laws of the State of New Jersey, so I know something about it. But I do think that as good as the Federal support program might be, the freedom of the individual producer to sell within his own State at whatever he thinks is proper should not constitute a criminal act or a misdemeanor or any other kind of an offense. I wish our Federal support program would say we support it under those conditions. Maybe next year.

Mr. BALDUS. Perhaps we could undertake to make it not a Federal offense.

Mr. JEFFORDS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of

H.R. 4167, the legislation to extend

tion of circumstances demonstrates the

cember 1975 wholesale prices for butter

H.R. 4167, the legislation to extend, through September 30, 1981, the minimum 80 percent of parity dairy price support level provided in the Food and Agriculture Act of 1977. Extension of this provision is fully justified as a means of achieving the intent of the price support progam—

To assure an adequate supply of pure wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

The dairy price support program intent is often not fully understood. Its prime focus is on the assurance of an adequate supply. This, of course, can only be achieved by maintaining farm income at a level sufficient to induce farmers to make the investment, to accept the risk, to devote the labor and management to the production of milk to such degree as will result in the production of the quantities demanded.

The 80 percent of parity price support level has been functioning well. At the present time, milk supply and demand are in very close balance. As a matter of fact, the 119.2 billion pounds of milk marketed off the Nation's dairy farms last year exactly matched commercial disappearance. Commodity Credit Corporation purchases under the dairy price support program were only 55 percent of the level of the previous year. Stocks of dairy products, both Government and commercial, declined substantially and commercial stocks at the end of 1978 were at their lowest level since the serious depletion at the end of 1975.

Since farm marketings and commercial demand exactly equated in 1978, the commodities purchased by the Commodity Credit Corporation represented almost entirely unnecessary imported milk. This situation will only be aggravated by the multilateral trade agreement we passed in Congress this year. This will be equivalent to adding almost three-quarters of a billion pounds of milk to our supply. A fact which can only be offset by reducing production by our own, more efficient farmers, by that amount. This is a situation which America's dairy farmers cannot understand or accept as being reasonable. Passage of H.R. 4167 as reported by the Committee on Agriculture is the bare minimum that our American consumers and producers can accept to protect against increased imports.

While the 121.9 billion pounds of milk produced in 1978 was moderately below 1977's 112.7 billion, the major factor in the balance between marketings and consumption was strong demand. Per capita consumption of milk and milk products increased from 551 pounds in 1977 to 558 in 1978. While per capita consumption may moderate somewhat this year, total demand is expected to continue strong when one considers population growth.

There has been some moderate expansion of milk production in the past several months. This is needed to maintain supplies to serve the market and to rebuild commercial stocks. This combination of circumstances demonstrates the effective operation of the dairy price support program as a means of assuring the production of an adequate supply of milk.

In June of this year, the Congressional Budget Office released a detailed analysis of the dairy price support program. In addressing the question of extending the 80 percent of parity minimum support level, the CBO report stated,

In short, this option offers price stability and will not cause any major changes in current conditions for dairy farmers, consumers, or taxpayers.

Alice Rivlin, CBO Director, and her staff are to be commended for their assessment of this issue.

There is no magic or secret to what has to be done to secure the production of any commodity. Some means must be found to provide the return needed to induce producers to devote the resources necessary to obtain that production. In the case of milk, last year it took a total of $12.7 billion in farm income to bring forth the 119.2 billion pounds of milk demanded in the commercial market.

To meet the demand in the future, it will similarly be necessary to put the equivalent of 12.7 billion 1978 dollars on the Nation's dairy farms. More than this will result in milk supplies in excess of needs. Less than this will mean reduced milk production. The best way that has been found to equate the 1978 dollar with returns in future years is through the cost of things farmers buy. It is for this reason that Congress has written the index of prices paid by farmers for commodities and services, interest, taxes, and wage rates into the parity formula. Since it took a price support level of 80 percent of parity to achieve the balance of 1978, every indication points toward at least this minimum level of support being necessary to achieve such a purpose through 1979, 1980, and into 1981

Our Nation continues to face an inflationary spiral that has touched everyone. Food prices have risen. The costs of those items needed to produce, process, and transport that food have risen as well. Too often we hear that the single, simpler answer to inflation is to, in the case of the dairy industry, reduce milk prices. Such an assertion is based on the erroneous assumption that the same quantity of milk will be forthcoming from our farms at lower prices. This is simply not the case.

The dairy industry is all too familiar with the results of inflation control policies which seek to artificially restrain prices. During 1973 and 1974, a series of actions were taken specifically for the purpose of reducing the price of milk and dairy products. In each instance, it was said that these steps were not aimed at reducing milk prices at the farm. Unfortunately, this is the unavoidable result. The result was a reduction in milk production of almost 5 billion pounds a year. A drop of more than 22 percent in the basic farm price for milk took place during a 90-day period in mid-1974. And finally, the most rapid and uncontrollable rise in product prices the industry has witnessed as the depleted industry was unable to respond to market needs. From July 1974 to December 1975 wholesale prices for butter advanced over 70 percent. Cheese prices rose by 43 percent. This is the fruit of ill-conceived inflation control efforts which, because they attacked the basis for production, did, in fact, result in wildly escalating prices which neither the farmer nor the consumer sought. I urge support of this legislation today in an effort to preclude these things happening again.

The dairy price support program is operating, currently based on 80 percent of parity, so as to bring about the production demanded by the consumer—almost the exact amount demanded. The program has produced a stability in the dairy industry that permits farmers to plan their production with a degree of certainty and security. The program is working. It is successful. To quote an old farmer's admonition, "If it ain't broke, don't fix it."

□ 1430

Madam Chairman, I urge support of this legislation in an effort to preclude Members from casting a vote on an amendment that will be discussed shortly. The amendment will destroy the basis of the milk price support program that has historically functioned well at 80 percent of purity. I hope the Members will listen carefully to that argument that the gentleman from Illinois (Mr. FINDLEY) may propose.

This body, just a little while ago, thought it was wise and prudent to have the 80 percent of parity floor stay in through the 4-year period. The Senate, however, prevailed and said, "Let us take another look at it at the end of 2 years."

We have taken that look, and as has been pointed out by the chairman of the subcommittee, the look says, "Keep it in effect. It is working well, it is working well; do not change it."

Madam Chairman, before concluding I would like to commend the chairman of the subcommittee, Mr. BALDUS, and to say that there is no committee or which I have served where there is a more nonpartisan effort. The gentleman from Wisconsin has done a super job. It has been a pleasure working with him, and I know that that feeling is going to continue.

Mr. BALDUS. Madam Chairman, I have no further requests for time at this time.

Mr. JEFFORDS. Madam Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Madam Chairman, members of this committee may not be aware that dairy products are supported at a far higher level of parity than any other commodity—at least, any other commodity I can name. In fact, last week this committee saw fit to reject a bill which would have provided for higher price supports for sugar. I am glad the rejection did occur. I felt it was really against the long-term interests of the sugar interests, and certainly against the interests of the American consumer. But, the parity level of support for milk is substantially higher, even, than sugar. If this committee is consistent with the

work it did last week on the sugar bill, then it will reject this bill.

But, I have to face reality. Dairy cows seem to be more uniformly scattered throughout the United States than sugarcane fields or sugar beet fields and, therefore, there is a broader interest base for dairy price supports. Consumer interests are not nearly as well organized as producer interest—that goes almost without saying. So, I am not optimistic, in all candor, about this committee being consistent with its action on the sugar bill of last week, and in order to be consistent, rejecting the milk bill that is now pending.

Therefore, recognizing the lack of prospect for the defeat of this bill, I urge that an amendment be adopted by the committee which would at least provide a sort of relief valve for the interests of the U.S. taxpayers and consumers. My amendment is one that was recommended by the U.S. Department of Agriculture, an institution that certainly does not deserve to be called antidairy. It consistently takes note of the interests of dairy farmers and has generally supported all dairy legislation. But, it has come forth, with this amendment which would provide a trigger permitting the Secretary of Agriculture, under very tightly restricted circumstances, to reduce the level of supports from 80 percent of parity to 75 percent of parity.

Now, he could not easily take that option. He could not easily reduce the level of support below 80 percent, and in any circumstance he could not reduce it below 75 percent of parity. Still, considering in contrast with other commodities, 75 percent is an enormous level of price support.

□ 1440

Please bear in mind that my amendment would not be effective until certain supply circumstances occurred and even then the Secretary of Agriculture would be very tightly restricted on how much reduction in price supports he could authorize.

The trigger would not take effect until or if Government holdings of dairy products rose by the equivalent of 350 million pounds of nonfat dry milk or 3.5 billion pounds of milk. In other words, Government holdings of dairy products would have to increase by the equivalent of 350 million pounds of nonfat dry milk for the Secretary to be able to use the authority set forth in my amendment. If he did choose to reduce price supports he would not be able to reduce them more than 5 percent.

Now what does this mean in dollars? Well, the best estimate I can get from current data from the U.S. Department of Agriculture is that the Secretary could not touch this 80-percent parity floor until Government holdings of dairy products increased by an amount of at least $294 million. That figure is probably on the conservative side. It would probably be in the range of $300 million additional outlay.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JEFFORDS. Madam Chairman, I yield the gentleman 5 additional minutes.

Mr. FINDLEY. Madam Chairman, this means this relief valve for the taxpayers and the consumers could not be utilized unless the accumulation of new surplus stocks of dairy products amounted to approximately $300 million.

Madam Chairman, it seems to me that is the very least we owe to the taxpayers of this country. Instead of locking in dairy price supports at not less than 80 percent of parity regardless of where Government holdings go, there should be this reasonable condition, this very reasonable relief valve to enable the Secretary to adjust the level of price supports if surpluses become mountainous.

Mr. McCLORY. Madam Chairman, will the gentleman yield?

Mr. FINDLEY. I am glad to yield to my friend from Illinois.

Mr. McCLORY. Madam Chairman, I thank the gentleman for yielding. I note there is a great deal of support for this legislation from our colleagues in Wisconsin and since my district borders on Wisconsin and I have a big dairy farm constituency, I am keenly interested in this legislation. It does seem to me that the amendment of the gentleman from Illinois would offer the kind of adequate support which is necessary for the dairy industry to remain viable and prosperous without our getting into a stupendous Government subsidy program. The gentleman and I have agreed on so many farm issues in Illinois, and generally the views are advanced by the Illinois Farm Bureau and the Illinois Agricultural Association and the gentleman's amendment seems to me to be very reasonable and I intend to support it.

I thank the gentleman for yielding.

Mr. FINDLEY. I hope the gentleman can spread the word among his colleagues.

Mr. JEFFORDS. Madam Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Illinois.

Mr. JEFFORDS. Madam Chairman, I do not intend to support the amendment, as the gentleman knows, and I would hope that I could convince the other gentleman from Illinois that perhaps he ought to reexamine his position on this particular amendment, if he is a friend of the dairy farmer.

Madam Chairman, this amendment is very subtle in its concept. It sounds very good when you look at it until you examine it closely. However, I must say I have not examined this version so I hope what I say is exact. Is the gentleman's version the same as presented by the administration?

Mr. FINDLEY. My version is the Department version. The administration's spokesman gave an amazing performance on the amendment.

Mr. JEFFORDS. Never in my life have I seen anyone come before the committee and advocate an amendment and then spend the whole time explaining why it was unnecessary. That is what we saw. Obviously this amendment came not from the Secretary of Agriculture but out of nervousness from OMB, I might add totally forgetting the President's commitment to 85 percent of parity—not just 80 percent.

Madam Chairman, certainly the Secretary or the representative of the Secretary when he came before us gave all these reasons why it was perfectly all right to leave things the way they are, that things were working well and that the industry was doing fine and things were just great. And then he said, "By the way, we have to offer this little amendment."

If we examine the amendment, it totally decimates the 80-percent floor. At least the figures we were given at that time—I would have to check the gentleman's amendment—indicate that the trigger level is about at the normal level of purchase.

In other words, if there is any slight variance above the normal purchase level in order to keep things at 80 percent of parity, even though we almost balance out at the end of the year, the trigger would be in effect. In effect, what it does, it gives you 80 percent with one hand and with the other hand it takes it away. It says, "We do not really have 80 percent, we have 75 percent."

Madam Chairman, those who come from dairy areas and those around the country who are interested in a stable market and keeping prices in line should be very careful about this amendment. It sounds good until you examine it.

Another thing which bothers me, the only protection the dairy farmers have got against imports is the 80-percent floor, because it could be triggered off by imports coming in legally under the new multitrade agreements. For instance, get further increases in casein, which are now flooding and hurting our dairy industry very much, you could trigger this thing and hurt the dairy industry twice.

Madam Chairman, another thing that worries me is the nervousness of the administration, now, in this time of inflation. The Nixon administration fell for similar antics. They said, "Where can we go, what can we do right now that will look to the people in this election year like we were doing something to fight inflation? Well, let us sock it to the dairy farmer. Everybody drinks milk. Let us say we are going to bring the prices down." That is what they tried to do.

What happened was the opposite. We had the greatest destruction of the dairy market in modern history and the greatest increases in dairy prices in modern history.

Mr. FINDLEY. Madam Chairman, first of all, under my amendment price support could not go below 75 percent of parity. I cannot cite another commodity that is supported that high. Maybe peanuts is. It is up in that range. That would be the only exception. Dairy is given favored treatment, even at 75 percent of parity.

Now, Madam Chairman, the gentleman is outraged at the thought that the price support might under certain circumstances go below 80 percent of parity. Under my amendment it would require this new outlay for Government holdings for unneeded production of dairy products to the extent of $300 million. Is there a figure the gentleman

could go along with? If the outlay comes up to $500 million would he support a trigger? Or $1 billion, or is the gentleman simply wedded to price support at 80 percent of parity no matter how high the Government holdings of dairy products go?

Mr. JEFFORDS. Obviously, if the price support program gets to the extent it becomes overly burdensome on the taxpayer, of course we ought to consider modifying it.

What worries me about the gentleman's approach is that it is automatic at a time when people are looking around for things to try to do to keep the American public happy like the Nixon administration did in 1973 and 1974.

Mr. FINDLEY. By keeping food prices down.

Mr. JEFFORDS. What he did resulted in huge increases in dairy prices because they did not understand what they were doing. I think this administration, especially the Carter administration, in this time of infinite peril where their political lives are at stake are going to be looking for anything in the world they can find to try and get a little favor with the general public. This is the worst time we should allow such a tool to be placed in their hands. I hope the gentleman will not be wanting to assist the administration in furthering their political efforts by deceiving the public.

Mr. FINDLEY. Madam Chairman, I hope the gentleman will have some time for reflection overnight before we vote on this amendment, because in my view it is an entirely reasonable condition. It came from a department headed by one of our former colleagues, Bob Bergland, who certainly is not insensitive to the needs of dairy farmers, and I have seen nothing on the public record that indicates any lessening of support on the part of the Department of Agriculture for this amendment.

I do thank the gentleman for yielding.

Mr. JEFFORDS. Madam Chairman, the gentleman knows who dictates policy. As much as the Secretaries like to do it, if OMB says that is not your policy, then it is not your policy, and that is what we see here.

□ 1450

Mr. FINDLEY. The document came from the Department of Agriculture, not from OMB.

Mr. BALDUS. Madam Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Madam Chairman, I want to take this opportunity to express my support for the bill and to compliment the gentleman from Wisconsin, the chairman of the subcommittee and his colleagues, particularly the gentleman from Vermont, and associate myself with the views of the gentleman from Vermont in response to the proposed amendent by the gentleman from Illinois (Mr. FINDLEY).

I think this bill is in excellent shape and we ought to retain it just as it is.

Madam Chairman, I urge my colleagues to support H.R. 4167, which provides for a 2-year extension of the 80 percent of parity floor on dairy price supports. Passage of this legislation is essential to both consumers and producers of dairy products. Without it, price supports could drop to 75 percent of parity next year.

A 5 percent difference in the target price for milk may not seem like a major issue. However, the 80 percent floor has allowed us to achieve a reasonable balance between the demand for milk and supplies, while lower support levels in the past have resulted in major disruptions in the dairy industry.

Under the current 80 percent target, the demand for dairy products and supplies have been roughly equal, with the market price remaining at or above the support price. During the past 2 years, Commodity Credit Corporation purchases have been almost evenly matched with the needs of our foreign and domestic distribution programs. In fact, the House Agriculture Committee reports that "in 1978, only 3 days of milk production stood between having a surplus and incurring a shortage of dairy commodities." With continued assurance that they will receive a reasonable return on their investments, dairy farmers are expected to increase production gradually to keep pace with rising demand over the next few years.

Contrast this to the situation in 1974, when price supports were allowed to fall to 74 percent of parity. Farmers were losing as much as $2.30 for every hundred pounds of milk sold. Obviously, our dairy industry would have shrunk drastically if this situation had long continued.

The purpose of the price support program is to insure adequate production of agricultural commodities. Clearly, we are achieving that goal in the dairy industry. It would be foolish to abandon such a successful policy, especially in light of our past experiences with lower support levels. Agriculture Secretary Bob Bergland recognized this when he set the target price at 80 percent on October 1, even though the statutory requirement for an 80 percent floor expired on March 31.

Despite the obvious success of the current price support level, there are those who claim that dairy prices have been kept artificially high. Statistics simply do not bear this out. It is true that dairy farmers are now generally making modest profits. However, like most farmers, dairy farm incomes have declined relative to the rest of the economy, and the real price of milk is now 17 percent below what it was in 1974. In fact, even though dairy prices have risen by 12.4 percent during the past year, the cost of producing milk has risen even more—by 13.9 percent.

We are in no danger of giving dairy farmers a windfall at the consumers expense. On the contrary, dairy products are among the best buys in the supermarket today.

Even this limited farm prosperity and stability is threatened by the Trade Agreements Act signed by President Carter this summer. Under this legislation, cheese import quotas will be increased by 15,000 tons over 1978 levels.

The dairy concessions made by American trade negotiators allowed us to achieve many of our other objectives in the most recent round of trade negotiations. We cannot expect the American dairy producers to also accept lower price supports.

It is for this reason that I am particularly disturbed by the Department of Agriculture's proposal to introduce a "trigger" mechanism into the price support program. Secretary Bergland has asked that he be given authority to lower prices supports below the statutory minimum when the Commodity Credit Corporation's purchases of dairy products exceed 3.5 billion pounds of butter-cheese-milk equivalent or 350 million pounds of nonfat dry milk. In its simplest terms, the Secretary's proposal offers farmers an adequate level of assistance except when they need it most—when prices are extremely low and CCC removals high. The American dairy farmer deserves more from the Federal Government than such fair weather friendship.

The 80-percent price support floor is the absolute minimum we should accept under any circumstances. It has provided farmers with a modest profit level after years of losses, and has helped guarantee an adequate supply for consumers. I urge the House to pass H.R. 4167.

Mr. JEFFORDS. Madam Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Madam Chairman, I would like to associate myself with the remarks of my colleague, the gentleman from Wisconsin (Mr. KASTENMEIER).

This is a very good bill that ought not to be amended.

Madam Chairman, I rise in support of H.R. 4167, the Milk Price Support Act. I congratulate the gentleman from Wisconsin (Mr. BALDUS) for his work in bringing this bill to the floor.

The dairy industry is the economic base of my State and the central Wisconsin district I represent. In 1978, for example, the dairy industry bolstered the Wisconsin economy with a cash flow exceeding $2 billion. This represents about 17 percent of the Nation's total cash receipts from dairy farming.

It is important that Congress pass this bill to help insure the viability of the dairy farmer, especially in this time of economic uncertainty.

This legislation wisely sets the support price for milk at no less than 80 percent of parity. The 80 percent support price has worked well, and there is no reason to lower it.

By extending the 80 percent minimum support price, we guarantee a profit for the producers, stability in the dairy industry, and a steady supply of milk to consumers at a reasonable cost.

To do otherwise, and reduce the minimum support price level, could cause many dairy farmers to leave the industry. This would result in insufficient supplies and higher consumer costs.

The Agriculture Department has seen fit to set the support level at 80 percent of parity. By passing this legislation, we will be making clear the intent of

Congress to keep the price floor at its present level.

Mr. JEFFORDS. Madam Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Connecticut.

Mr. JEFFORDS. Madam Chairman, before the gentleman leaves, I would like to commend the gentleman. I have worked with the gentleman closely on matters of the dairy industry. I just want to say that I certainly appreciate the gentleman's support. The gentleman has provided an invaluable service to the people of his district for his continuing effort and awareness of the problems of the dairy industry.

Mr. PETRI. Madam Chairman, I thank the gentleman for his words of encouragement and for his understanding.

Mr. JEFFORDS. Madam Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Madam Chairman, I rise in support of this bill in its unamended version, as reported from the Committee on Agriculture.

I would like to particularly commend my colleague, the gentleman from Wisconsin (Mr. BALDUS), the chairman of the subcommittee, and the gentleman from Vermont (Mr. JEFFORDS) the ranking minority member of the subcommittee, for their hard efforts on behalf of this piece of legislation and on behalf of the dairy industry.

I further would like to associate myself with the remarks of my two colleagues from Wisconsin, Messrs. KASTENMEIER and PETRI, in support of this bill.

Madam Chairman, it is important during times of economic flux that we insure the continued stability of agriculture. We are being given that opportunity today. Stabilization of the dairy industry is the primary purpose for supporting an 80 percent minimum price support.

All businesses are suffering due to ever increasing costs, the dairy industry is no exception. It would be irresponsible, in the face of rising production costs, to reduce the support level on dairy products. In order for farmers to determine their future production levels, they must be given the security of adequate price supports.

With current high beef prices, liquidation of dairy herds is an extremely attractive option for dairy farmers. If we reduce the minimum support level, this option becomes that much more attractive, threatening the supply of dairy products and inducing higher costs for consumers. These fears are borne out by a recent CBO study concluding that a 75 percent minimum would incur a greater risk of instability and insufficient supply, while an 80 percent minimum would maintain a healthy dairy industry. Therefore, support at 80 percent of parity benefits both the producer and the consumer, assuring government support to farmers and preventing possible shortages and wildly fluctuating prices for consumers.

I would add that the dairy industry will suffer through increased imports of foreign cheese resulting from the enactment of the Multinational Trade Act in July. Consequently, passage of this bill is essential to provide our dairy farmers insurance against possible financial hardship should increased imports depress the price of domestic milk below the support price.

● Mr. WAMPLER. Madam Chairman. H.R. 4167 would extend the minimum 80 percent of parity dairy price support level provided for in the Food and Agriculture Act of 1977 through September 30, 1981. Mr. JEFFORDS, ranking minority member of the Dairy and Poultry Subcommittee, and Mr. BALDUS, chairman of the subcommittee, sponsored the legislation to extend the 80-percent parity. The legislation has wide support from dairy farmers and those representing the dairy industry. The following reasons form the base for my support of this bill.

First. The extension of the 80-percent parity minimum is justified as a means of achieving the intent of the price support program to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

In my opinion, a support level of 80 percent of parity will give some assurance of industry stability for a product which must be produced domestically and for an industry which in the long run is cyclical in nature. Because dairy farming is so capital intensive, I believe it must be guaranteed some stability. To let the supply fluctuate greatly would mandate higher costs to the consumer in the future.

Second. Consumer prices have not increased significantly under the existing 80 percent of parity price support.

Milk prices since the enactment in 1977 of the now expired amendment to the Agricultural Act of 1949, setting the price support level at a minimum of 80 percent of parity, have not increased at a rate equal to other foods or in terms of "real cost" to the consumer. There has existed for nearly two years a highly acceptable balance between supply and demand, serving the actual interest of the consumer and the dairy farmer. If 80 percent were inflationary, I do not believe Secretary Bergland would have administratively imposed that price support on October 1, 1979.

Third. In June of 1979, the Congressional Budget Office released a detailed analysis of the diary price support program. The CBO stated that the 80-percent parity option offers price stability and will not cause any major changes in current conditions for dairy farmers, consumers, or taxpayers.

Fourth. Passage of H.R. 4167 as reported by the Committee on Agriculture is the bare minimum that our American consumers and producers can accept.

Madam Chairman, I fear that in passing the multilateral trade agreement, Congress agreed to an international agreement signed by the President that may allow the importation annually of the equivalent of more pounds of milk to our domestic supply than many in the Congress anticipated. Therefore, passage of H.R. 4167, at the least, will show our domestic producers that Congress is indeed interested in the domestic dairy industry.●

Mr. JEFFORDS. Madam Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. BALDUS. Madam Chairman, I have no further requests for time. I yield back the balance of my time.

Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. VOLKMER) having assumed the chair, Mrs. SPELLMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4167) to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price therefor, had come to no resolution thereon.

GENERAL LEAVE

Mr. BALDUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4167.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HANSEN CHARGES FED MALPRACTICE HARMS ANEMIC AMERICAN ECONOMY

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, American consumers and business people have good reason to bring malpractice charges against the medieval witch doctors of the Federal Reserve Board who recently made a huge error in their blood count and have been excessively bleeding the anemic American economy. As the ranking minority member on the House Banking Subcommittee on Domestic Monetary Affairs. I must say the Nation cannot count on the FED when the FED cannot count.

Just this morning the Banking Committee held a hearing to find out from Federal Reserve witnesses just why they can be off $3.7 billion in money supply estimates and how much real damage this has had upon the Nation and individual citizens.

How do you explain to people who have been hurt by high interest and discount rates and lack of available money that it was all a mistake, that the economic doctors at the FED are so careless as to have miscounted the money supply by nearly $4 billion? How do you pacify the victim of serious Government-caused losses in the stock market by telling him you have to realize the Government medicine man might occasionally be a quack or at least be unable to do arithmetic?

The FED has dished out strong medi-

cine to American people in terms of tight money and high interest rates which hurts the consumer who must buy, the taxpayer who has to pick up the increased national debt interest, and the business community who is stuck with big inventories and high capitalization costs. But there is serious question of whether the FED is overreacting against the consumer without insisting upon equally stringent corrections in the area of Government deficit spending and the abnormal rise in energy costs.

Even worse is the fact that this huge blunder occurred at such a critical time when the dollar, the gold market, the stock market, and interest rates are all so sensitively interrelated that devastating psychological damage could be done even reminiscent of the crash of 1929.

For years, Congress and the FED's own outside consultants have been begging the FED to pay more attention to how it measures the monetary aggregates, and to be more open in how it operates. Up to October 6, 1979, the response of the FED has been one of utter aloofness. Many people thought that October 6 marked a new beginning. Yet it is now clear that the FED has still not done its basic homework, and is still operating in such a closed atmosphere that ordinary folks in the real world cannot figure out what to expect next.

We all know that high inflation has brought high interest rates. But in addition, market participants have to get even higher returns when there is additional risk, and unpredictable action by the FED aggravates that risk. By demonstrating that the FED cannot be counted on to count right, the FED itself has introduced a new higher risk factor in interest rates that serves no market or public purpose whatsoever.

The Federal Reserve must move to put its house in order. As the Nation's delegated monetary authority, it must take immediate steps to improve its measurements of the monetary aggregates. The recommendations of the committee it appointed some few years ago to study the monetary aggregates should be immediately considered.

Furthermore, the Federal Reserve must introduce more stability into markets by saying directly and simply what it is doing. This does not mean that we have to know how many dollars in reserve will be injected next week, but it does mean that we must be told exactly what targets the FED has in its operations.

In short, the FED has to pay more attention to measuring money, and has to be more forthright in telling us how and why it is operating in the open market.

MEAT INDUSTRY ACT TO PRESERVE COMPETITION

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Speaker, I am today introducing the Meat Industry Act To Preserve Competition, a bill which defines the rules of conduct to be permitted under antitrust laws in order to protect against so many efficiently operating packers from being eliminated that a noncompetitive or anticompetitive situation results.

Although antitrust laws supposedly would cover this situation, it now takes so long to enforce these laws that by the time a company is found guilty of antitrust violations, the competition has been eliminated. These smaller firms are being run out of business merely because they have fewer financial resources than the very biggest companies.

The bill sets the following limitations:

First. No packer shall slaughter more than 25 percent of the national production of steers and heifers, cows and bulls, or hogs in the United States.

Second. No packer shall control more than 25 percent of the boxed beef or the centrally cut beef market.

Third. No packer shall slaughter more than 30 percent of either beef or hogs in the 13 largest red meat producing States.

Fourth. The very largest firms in the industry are prohibited from operating retail outlets.

To determine the amount of beef a packer can slaughter, the carcasses that are purchased from other packers are included in the company's total. In determining whether a packer is in excess of its 30 percent limitation in the largest production States, plants located within 100 miles of the border are also included in the total.

In determining the national slaughter figures, the production from those that slaughter more than 10,000 head per year would be used. This is presently 220 of the largest firms which produce about 95 percent of the slaughter in the United States. The hundreds of other firms which only produce 5 percent would not be directly involved by the bill.

The Meat Industry Act To Preserve Competition is one of several bills resulting from the House Small Business Committee hearings and investigation into the meat industry practices.

The $40 billion a year meat industry is too important to leave the rules of conduct to a haphazard or uncertain interpretation. If concentration increases further, livestock producers will no longer have alternative markets for selling their products and consumers will lose the benefit of lower prices through competition in the slaughtering and wholesale end of the industry.

The 1920 consent decree, still in force today, prohibits what was then the five largest meat producing firms from engaging in retailing because they threatened to eliminate competition. It is important today to make similar prohibitions against whatever firms have grown so large that they too threaten to eliminate all retailers in the largest consuming areas.

With the introduction of this bill we are now at the stage where we welcome opinions from all segments of the industry. I am especially interested in comments about the appropriateness of limitations which are designed to preserve competition in the industry.

ADMINISTRATION'S ECONOMIC POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado (Mrs. SCHROEDER) is recognized for 5 minutes.

● Mrs. SCHROEDER. Mr. Speaker, I am beginning to wonder if President Carter is attempting to do away with the two-party system. Mr. Carter is a Democrat, but the economic policies which are being promoted by his administration would make any Republican proud. Several of the country's major banks have raised their prime lending rate to 15 percent and others are talking about raising the rate even higher. Now rates to most borrowers are rising. Mortgage rates at many savings and loan associations, for example, are at 14 percent and, in some parts of the country, mortgage money is becoming difficult to find at any price.

If we move much further down this road, either the Republicans are not going to have any issues left to run on or they will have to start pushing for a lower prime lending rate and lower interest rates to borrowers. What a turnabout that would be.

I think Mr. Carter should take a hard look at who is supposed to be in charge and who it appears is in charge. In other words, I question the wisdom of having a champion of conservative economic policies heading up the Federal Reserve Board and an administration which accepts these policies as the best way to deal with inflation. Inflation, which is now running at an annual rate of over 13 percent, is a serious problem which must be dealt with. The question is how and at what cost. There is, after all, the experience of the Ford administration, which was very successful in lowering the rate of inflation but at the cost of 9 percent unemployment and a lost bid for reelection. With 1980 fast approaching, I would hope that this lesson is not lost on the Carter administration.●

THE ENERGY MOBILIZATION BOARD: A SIMPLISTIC SOLUTION FOR COMPLEX PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

● Mr. BROWN of California. Mr. Speaker, as the House debate reaches its climax over the creation and powers of an Energy Mobilization Board, it is important to remember what the problem is. We have a conflict in values in this country, primarily over the quality of life versus quantity of production, but also over centralized, national control of power versus decentralized, local control.

The proposed Energy Mobilization Board, whether we talk about the Dingell-Commerce Committee version, or the Udall-Clausen-Wirth-Interior Committee version, is primarily being sold as a means to cut unnecessary redtape, and not as a means to resolve value judgments. Unfortunately, many of the proposed powers of either version will, de facto, require value judgments made in the name of energy production that

would otherwise be made in a more balanced fashion. It may be that our multiple levels of government need drastic revision to improve their efficiency. I certainly know of many cases where I think improvements can be made.

However, the proposed Energy Mobilization Board will not be working to improve government efficiency; rather it will be working outside the normal channels of government and be avoiding the tough problems real reform would bring. If we need a new Board for energy, do we not also need one for creating jobs, or fighting inflation? If we establish one for energy, where do we stop?

Mr. Speaker, in spite of these serious doubts about this new entity, I have reached the reluctant conclusion that we should try out the new Energy Mobilization Board concept, on an experimental basis but with limited powers and adequate checks and balances, in order to dispel the notion that redtape, rather than value judgments are in the way of controversial new construction projects. It is clear from even a cursory analysis that the Udall-Clausen-Wirth version is more in proportion to the need than the Dingell-Commerce bill, which opens up entirely too many areas to abuse.

Mr. Speaker, over the past several months there has been considerable editorial attention to this subject, with almost all of it coming down on the side of a limited powers Energy Mobilization Board. A sampling of this editorial comment follows:

[From the Los Angeles Times, Oct. 8, 1979]

ENERGY BILL: TOO ENERGETIC

A U.S. Senate bill to create a "fast track" for making government decisions on crucial energy projects was on a fast track of its own last week, which is too bad.

The bill would create an Energy Mobilization Board with extraordinary powers to select important projects and expedite the cumbersome process of getting permits and clearances from the dozens of government offices that must approve some aspect of all such projects.

There is no question that the United States must move faster than it has in the past to develop new energy sources that can help reduce its dependence on imported oil.

But the Senate bill and others before Congress represent drastic changes in the relationships between Washington and state and local governments.

In trying to appear decisive on energy, Congress represents drastic changes in the relationships between Washington and state and local governments.

In trying to appear decisive on energy, Congress has spent too little time examining the consequences of some of those changes. It is on the verge of creating a new super-agency with too much power and too few checks on that power. Now that the Senate has passed its fast-track bill and sent it to the House, the House should put it on a slower track until those consequences have been thought through.

For example, the Senate bill, sponsored by Sen. Henry M. Jackson (D-Wash.) and supported by the White House, would give the energy board the power to set strict deadlines for all agencies—federal, state or local—that make decisions on an energy project.

If any agency fell behind schedule, the energy board could ask a judge to order the agency to get cracking, or the board could step in and make the decision itself. The bill is clear that the energy board could not override state or local law. It would be obliged to act within the same legal framework that bound the offending agency.

We think giving the board the right to go to court in such circumstances would be power enough. In cases where a state agency was dragging its feet for no good reason, a court order would solve the problem.

Giving the board the power to act on its own could do more harm than good. It is common for government agencies to come across problems with permits that surprise both the agency and the applicant but that can be worked out with time. Barging into a case like that might mean that the energy board would have no choice but to deny the permit.

The Jackson bill would also set up one direct conflict with California law and perhaps the laws of other states. Under the bill, the energy board would have to act to get all clearances and permits for a project in two years. California law gives the state Energy Commission 30 months to decide on permits for power plants. We think the bill should be rewritten to let the federal energy board follow state deadline laws as long as they are reasonable.

The Jackson bill would give the board absolute discretion in deciding which projects should enjoy priority status. Its choices could not even be challenged in court.

Other versions of the energy board bill would give the President the authority to veto a board's choice and give Congress the right to override both. We think that is a more sensible approach.

Probably the most important section of the bill is one that would prevent repeated legal challenges of every important permitting decision on an energy project.

It was the threat of years of delay in court even after the project had all of its government permits that finally led Standard Oil of Ohio (SOHIO) to drop its plan to build a terminal at Long Beach to transfer Alaskan oil to pipelines for delivery to the Midwest.

The Jackson bill would consolidate all such challenges into one case that could be filed just before the final permit for a project was issued, and we think that is sound.

However, the Jackson bill also would channel all such challenges to a single court—the Temporary Emergency Court of Appeals, which now hears about 25 cases a year involving disputes over allocations of oil. We think that is a mistake.

The Senate Energy Committee said it chose the emergency court because it hoped that over time the justices would develop expertise in the energy field and be able to rule in complicated cases faster than other courts could.

One reason that appeals courts exist is that government officials make mistakes, particularly when they are pursuing narrow, urgent goals, like energy development.

There is a danger that a court with too much expertise in energy development would, over time, come to see itself as part of that urgent mission, as an advocate rather than arbiter.

That danger could be avoided by allowing any federal court of appeals to hear cases filed against proposed energy projects that would be built in the court's region.

We think Congress can build in these checks on the energy board's power without damaging the cause of energy development, partly because U.S. energy policy is not as clear as it seemed to be two or three months ago.

The Energy Mobilization Board was perceived originally as a body that would run interference for crash projects that would give the country a new synthetic-fuels industry.

Now the federal government is being advised by most energy-policy researchers to move more slowly, to build a few low-volume pilot plants to find the most cost-effective technology before making a major commitment to production.

Under the circumstances, an energy board's focus at least for the next few years probably would be on more conventional energy projects such as coal-fired power plants, pipelines and transmission lines.

For those, we think, a scaled-down version of the Jackson bill should be adequate.

[From the Riverside Press-Enterprise, Oct. 5, 1979]

POWERFUL BOARD

Although environmentalists in the Senate cautioned that the proposed Energy Mobilization Board might prove more a rampaging bulldozer than a bureaucratic tape-cutter in speeding new energy projects, the Senate didn't accept hard controls in moving toward its creation.

The worry from the start has been that the board, proposed by the president, would run roughshod over local, state and federal laws, and particularly the environment, in the rush to build new oil refineries, synthetic fuel plants, coal-burning energy facilities and the like.

While the board was not given power to waive substantive federal, state and local laws standing in the way of an energy project, it was given authority to step in if a local agency fails to meet deadlines for construction approval. The danger here is that the missing of a deadline could be due to local uncertainty over an energy plant's liabilities and that deadlines, not environmental hazards, would be mainly addressed by a build-we-must board.

"If the new energy facilities are to serve as a laboratory to test new and untried processes," said Sen. Edmund Muskie, "we ought to have some way to protect ourselves from the unintended byproducts we discover." The senator gave the example of a government powerless to act against an energy facility emitting chemical poisons once it has been board-approved and built.

In trying to reduce the power of the board in the interest of the environment, Senator Muskie said, "There is simply no reason to assume that a decision at the federal level will be a better decision than one made in a community or a state capital."

The arguments of the environmentalists weren't entirely lost. The Senate agreed to give the Environmental Protection Agency veto power over some projects when they are found to be hazardous, but only if state and local governments also seek to block construction. And the Senate also agreed that the board shouldn't have the power to override existing federal laws which inhibit the construction of new energy plants.

It is a wonder that such undemocratic and unprecedented power should have even been considered.

Still, the board remains powerful and environmentalists in the House ought to take up where those in the Senate left off.

This country already is under heavy siege by developers without creating a board that, if not closely controlled and freed from special-interest influences, could serve as their new battering ram.

[From the Los Angeles Times, August 13, 1979]

A NEW ENERGY BOARD COULD STEAMROLLER ITS WAY OVER OUR LIBERTIES

(By Curtis B. Gans)

The Supermen in Congress will return to Washington after Labor Day and, if President Carter has his way, will act faster than a speeding bullet to place the finishing touches on what may be the most dangerous single

piece of legislation in the past decade: Carter's Energy Mobilization Board.

Comprising three to five appointed officials (Congress has not yet agreed on the number), the board would be empowered to designate up to 75 energy research, development, production and delivery projects as priority national efforts and to remove all technical, procedural, legal or political obstacles in their way. But the concept behind such a board is fallacious: namely, that the best approach to remedying the nation's petroleum shortage and dependency on foreign oil is immediate, massive and indiscriminate production of petroleum and substitutes.

While the creation of an energy board would certainly put America's response to the petroleum crisis on a wartime footing, it is likely to leave the nation's environment and public health—and such democratic concepts as due process and judicial review—looking like Dresden after World War II.

For example, under the legislation now emerging from the House Commerce and Senate Energy committees, the board could conceivably suspend strip-mining regulations and allow substantial portions of West Virginia and the Rocky Mountain states to be laid waste in the pursuit of coal and oil shale. It could also abrogate mine-safety legislation in order to rapidly expand coal production and allow reduction of already scarce Western water reserves, by permitting the reserves to be used for the swift mining of oil shale and the development of synthetic fuels.

The board could also relax national and state clean-air standards and substantially increase pollution in order to permit the development, production and use of synthetic fuels and the burning of high-sulfur coal and minimally refined oil to generate electricity. And it could put into production petroleum substitutes whose social byproducts might prove dangerous to the environment and to natural resources. The cost of such risks may turn out to be substantially worse than the shortages that they were designed to relieve. And the political costs of the Energy Mobilization Board may prove even greater—for, if the legislation is passed as now written, the board will be granted virtual dictatorial reign. Indeed, the powers now outlined for this board are at once so vague and so encompassing that it could conceivably reverse 30 years of environmental law, 50 years of social legislation and two centuries of constitutionally mandated due process.

The board could, for instance, suspend regulations in any field relating to energy development, temporarily revoke state or local laws that impede production, and unilaterally suspend acts of Congress. In addition, it might suspend the right of administrative challenge, limit access to judicial review of its decisions, and abrogate the courts' right to adjudicate the validity of its actions.

That such a transfer of authority and power is even under consideration is testimony to times that are both difficult and dangerous—times in which the public seeks simple solutions rather than face complexity, and wants authority rather than cope with uncertainty. It would be far better to move more slowly and think more clearly.

For the vast majority of energy-production projects that should be undertaken now—expediting the development of solar energy; converting garbage or other wastes into methane; harnessing the tides, winds and heat of the earth; finding ways to cheaply extract shale oil without destroying the land or lowering the water table, and even exploring means of economically extracting unconventional oil and gas—could almost all proceed without delays or inconvenience.

Other energy-production schemes—such as expansion of nuclear energy, increased use of coal, development of synthetic fuels—should be undertaken only under the most stringent safeguards and only on a pilot basis until their safety as well as their efficacy has been assured beyond reasonable doubt.

If certain limited energy-development projects deserve more expeditious treatment than present procedures permit, specific legislation could be aimed at such limited problems.

However, unless Congress puts the brakes on its steamroller and acts with more restraint than it has so far shown, the only recourse against this dangerous precedent will be to test its constitutionality before the Supreme Court. And, given Richard M. Nixon's most lasting legacy, the Burger court, that is a slim reed on which to rest the hopes of a responsible legislative process.

Until now, even those who had reason to question President Carter's leadership took solace in his continuing respect for the environment, his refusal to tamper with due process and his capacity for restrained response even under intense pressure. In proposing the Energy Mobilization Board, he has destroyed this affirmative image.

As we move from an era of plenty to an era of limits and perhaps even scarcity, society's democratic values will be challenged. The Energy Mobilization Board represents a dangerous sacrifice of essential liberty in order to preserve prosperity. It doesn't take X-ray vision to see which is more important.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mr. WHITEHURST (at the request of Mr. RHODES), for October 24, 25, and 26, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BALDUS) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. RAHALL, for 5 minutes, today.
Mrs. SCHROEDER, for 5 minutes, today.
Mr. BENJAMIN, for 5 minutes today.
Mr. BROWN of California, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) and to include extraneous matter:)

Mr. GINGRICH.
Mr. WHITEHURST.
Mr. LATTA.
Mr. CONTE.
Mr. GREEN.
Mr. SYMMS.
Mr. JEFFORDS.
Mr. WILLIAMS of Ohio.
Mr. YOUNG of Alaska.

(The following Members (at the request of Mr. BALDUS) and to include extraneous matter:)

Mr. ANDERSON of California in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Ms. HOLTZMAN in 10 instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. BINGHAM in 10 instances.
Mr. BLANCHARD.
Mr. GARCIA in two instances.
Mr. COELHO.
Mr. STARK.
Mrs. SPELLMAN in two instances.
Mr. WIRTH.
Mr. AUCOIN.

ADJOURNMENT

Mr. BALDUS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at 3 p.m., the House adjourned until tomorrow, Tuesday, October 30, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2716. A letter from the President of the United States, transmitting requests for supplemental appropriations and budget amendments for fiscal year 1980 (H. Doc. No. 96–211); to the Committee on Appropriations and ordered to be printed.

2717. A letter from the Comptroller General of the United States, transmitting his review of the revised deferral of budget authority contained in the message from the President dated September 28, 1979 (H. Doc. No. 96–196), pursuant to section 1014(c) of Public Law 93–344 (H. Doc. No. 96–212); to the Committee on Appropriations and ordered to be printed.

2718. A letter from the Attorney General, transmitting the first report on the activities of the Interagency Coordinating Council on the Rehabilitation Act of 1973, pursuant to section 507 of the act, as amended (92 Stat. 2983); to the Committee on Education and Labor.

2719. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting proposed final regulations governing the Indian school equalization program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2720. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

2721. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2722. A letter from the Chairman, Federal Election Commission, transmitting proposed revised regulations governing Federal financing of Presidential nominating conventions, pursuant to section 9009(c) of the Internal Revenue Code of 1954, as amended (88 Stat. 1303); to the Committee on House Administration.

2723. A letter from the Comptroller General of the United States, transmitting the second in a series of reports on the classification of national security information (LCD–80–16, October 26, 1979); jointly, to the Committees on Government Operations, Armed Services, and the Permanent Select Committee on Intelligence.

2724. A letter from the Comptroller General of the United States, transmitting a report on the need for stronger emphasis on market development in the Department of Agriculture's export credit sales program (ID–80–01, October 26, 1979); jointly, to the Committees on Government Operations, Foreign Affairs, and Agriculture.

2725. A letter from the Comptroller General of the United States, transmitting a report on the Alaska Highway gas pipeline project and recommendations regarding Government analyses if Federal financial assistance is requested for the project (EMD–80–9, October 26, 1979); jointly, to the Committees on Government Operations, Interior and Insular Affairs, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 5441. A bill to amend the Tariff Schedules of the United States with respect to the tariff treatment of certain articles; with amendments (Rept. No. 96–569). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 4308. A bill to provide for the establishment of the Legionville National Historic Site in the State of Pennsylvania, and for other purposes; with amendments (Rept. 96–570). Referred to the Committee of the Whole House on the State of the Union.

Mr. DODD: Committee on Rules. House Resolution 467. Resolution providing for the consideration of H.R. 4985. A bill to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes (Rept. No. 96–571). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONABLE:

H.R. 5728. A bill relating to the tax treatment for purposes of the personal holding company tax of the interest received by securities brokers and dealers in connection with matched repurchase arrangements; to the Committee on Ways and Means.

H.R. 5729. A bill to amend the Internal Revenue Code of 1954 to provide for the amortization of startup expenditures paid or incurred in starting a new trade or business; to the Committee on Ways and Means.

By Mr. CONABLE (for himself, Mr. ARCHER, Mr. FRENZEL, and Mr. GIBBONS):

H.R. 5730. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion for income earned abroad attributable to certain charitable services; to the Committee on Ways and Means.

By Mr. GRADISON (for himself and Mr. COTTER):

H.R. 5731. A bill to provide that the retroactive change in method of accounting for life insurance companies which is permitted by Revenue Procedure 76–6 may be made for certain closed taxable years; to the Committee on Ways and Means.

By Mr. LOEFFLER:

H.R. 5732. A bill to designate the Federal building located at 33 West Twohig, San Angelo, Tex., as the "O. C. Fisher Building"; to the Committee on Public Works and Transportation.

By Mr. SMITH of Iowa:

H.R. 5733. A bill to amend the Clayton Antitrust Act to restore, preserve, and promote competition in the meat industry and to protect smaller businesses against the growth and use of monopoly power and unfair trade practices of major meat companies, and for other purposes; jointly, to the Committees on Agriculture and the Judiciary.

By Mr. SYMMS:

H.R. 5734. A bill to approve dimethyl sulfoxide for the treatment of escleroderma; to the Committee on Interstate and Foreign Commerce.

By Mr. COELHO (for himself, Mr. MINETA, Mr. BEDELL, and Mr. MARRIOTT):

H.J. Res. 434. Joint resolution to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COELHO:

H.R. 5735. A bill for the relief of Capt. John T. Tyrrell, U.S. Air Force; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.R. 5736. A bill for the relief of Marlin Toy Products, Inc.; to the Committee on the Judiciary.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 109: Mr. WINN.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. EVANS of Indiana, Mr. FOWLER, and Mr. JONES of Tennessee.
H.R. 990: Mr. COLLINS of Texas.
H.R. 1576: Mr. BAFALIS and Mr. BEARD of Rhode Island.
H.R. 1577: Mr. BAFALIS.
H.R. 1578: Mr. BAFALIS.
H.R. 1631: Mr. CHAPPELL and Mr. GIBBONS.
H.R. 2770: Mr. EDGAR.
H.R. 5327: Mr. STANGELAND, Mr. MILLER of Ohio, Mr. CARR, Mr. PANETTA, Mr. MAZZOLI, Mr. HOPKINS, and Mr. BLANCHARD.
H.R. 5591: Mr. CORRADA, Mr. DERWINSKI, Mr. DUNCAN of TENNESSEE, Mr. LAGOMARSINO, Mr. PEPPER, and Mr. PRITCHARD.
H.R. 5610: Mr. BADHAM, Mr. BENJAMIN, Mr. BEVILL, Mr. CARTER, Mr. COLLINS of TEXAS, Mr. DERWINSKI, Mr. DEVINE, Mr. FRENZEL, Mr. HUGHES, Mr. HYDE, Mr. KINDNESS, Mr. LEWIS, Mr. LOTT, Mr. LUNGREN, Mr. MILLER of Ohio, Mr. MOTTL, Mr. MURPHY of Pennsylvania, Mr. ROBINSON, Mr. ROTH, Mr. RUDD, Mr. THOMPSON, Mr. WALKER, and Mr. WHITTAKER.
H.R. 5660: Mr. STACK, Mr. PEASE, Mr. ECKHARDT, and Mr. BALDUS.
H. Res. 445: Mr. CONTE, Mrs. FENWICK, Mr. GLICKMAN, and Mr. ROUSSELOT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2608

By Mr. MARKEY:

(Page and line numbers refer to H.R. 5297.)

—Page 8, insert after line 11 the following new section:

SEC. 107. (a) No amount authorized to be appropriated under this Act may be expended by the Nuclear Regulatory Commission for the issuance of a contruction permit for any commercial nuclear powerplant during the first 6 months of fiscal year 1980. The preceding sentence shall not apply to any commercial nuclear powerplant for which a construction permit, or operating license, has been issued before the commencement of fiscal year 1980.

H.R. 4546

By Mr. ROBERT W. DANIEL, JR.:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert the following:

That the first proviso of section 12 of the District of Columbia Redevelopment Act of 1945 (D.C. Code, sec. 5–711) is amended to read as follows: "*Provided*, That any such modification which affects the use or development of an area or part thereof which has been sold or leased (as such use or development is governed by the project area redevelopment plan as approved before the date of the sale or lease) shall not become effective as to such area or part without the consent in writing of the purchaser or lessee thereof and of the owner or lessee of each tract of land contiguous to such area or part:".

SEC. 2. The amendment made by the first section of this Act shall not apply to any modification under section 12 of the District of Columbia Redevelopment Act of 1945 to any approved project area redevelopment plan under such Act if such modification was adopted by the National Capital Planning Commission before the date of the enactment of this Act.

H.R. 4985

By Mr. AKAKA:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 5, line 21, strike all of Section 201(c)(1) and insert in lieu thereof, "The Chairman shall have the power to appoint an Executive Director who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule. The Chairman shall have the power to appoint and fix the compensation of additional personnel, not to exceed 50 persons, as he deems necessary to carry out the functions of the Board."

—On page 6, line 1, section 201(c)(2), insert after the word functions., "Any personnel detailed to the Board from a Federal agency shall be included in the limit of 50 personnel appointed by the Chairman."

By Mr. ASHBROOK:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

Amendment to Udall-Wirth amendment to

—Page 6, after line 13, insert:

(f)(1) Within 90 calendar days of continuous session of Congress after the first meeting of the Board, the Board shall prepare and transmit to the President and the Congress a report which specifies each major Federal law and each major State law, regulation, or plan enacted in accordance with criteria set forth in Federal law, which significantly delays the planning, design, construction, or initial operation of energy projects. The Board shall not report on any

law, regulation, or rule described in section 215 of this Act. The report shall include recommendations for legislative action concerning any such law or regulation if the repeal or modification of such law or regulation would significantly enhance the capability of the Board to carry out the functions assigned to it by this Act.

(2) For the purposes of this subsection—

(A) continuity of session of Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

Redesignate the succeeding subsection accordingly.

On page 12, after line 12, insert the following:

"(f) No application may be filed under this section before the expiration of 60 days of continuous session of Congress after the date of transmittal of the report required by section 201(f) of this Act.".

By Mr. BAUMAN:

(Amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 23, after line 19, insert the following:

"(6) the will of the electorate as ascertained in any local or State initiative or referendum which was specifically related to the establishment of an energy project."

—On page 51, after line 2, insert the following:

"(6) have the effect of contravening the will of the electorate as ascertained in any local or State initiative or referendum which was specifically related to the establishment of an energy project."

By Mr. BROWN of Ohio:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 5, strike out line 21 and all that follows down through line 5 on page 41 and substitute:

(c)(1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he deems necessary to carry out the functions of the Board.

(2) Upon request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

(d)(1) The Board may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders, as may be necessary to carry out its functions under this Act. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this Act. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

(2)(A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within any State at any designated place of hearing within any State.

(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(e) Whenever the Board submits to the President or the Office of Management and Budget, any legislative recommendation or testimony, or comments on any legislation, prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs, on Interstate and Foreign Commerce, and on Science and Technology of the United States House of Representatives.

(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee on subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs, on Interstate and Foreign Commerce, and on Science and Technology of the United States House of Representatives fully and currently informed concerning its activities. The Board shall submit an annual report to such committees concerning the actions taken, or to be taken, under this Act. The report shall contain such other information relating to energy projects as the Board deems appropriate.

CERTAIN PROJECTS NOT COVERED

SEC. 202. Nothing in this Act shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974, or to any project which is, or may be, approved under the provisions of title V of the Public Utility Regulatory Polices Act of 1978 or under the provisions of 90 Stat. 2903; except that in the case of a proposed crude oil transportation system to transport crude oil to nothern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 203. (a) The Board shall promugate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this Act. Such procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

(1) enable it to make such a designation under this Act,

(2) identify each agency required to make an energy decision with respect to such project,

(3) enable such agencies to identify the agency decisions which they are required to make with respect to such project, and

(4) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

(1) an adequate design proposal for the project;

(2) economic data on the costs and benefits of the project; and

(3) an analysis of the environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce, on Interior and Insular Affairs, and on Science and Technology. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 204. (a) Not later than forty-five days after expiration of the comment period under section 203(d) with respect to any application under section 203, the Board shall—

(1) issue an order in accordance with this Act designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

(2) refuse to issue such an order.

(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce, on Interior and Insular Affairs, and on Science and Technology.

(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

(3) the extent to which the energy project would make use of renewable energy resources;

(4) the extent to which the energy project would conserve energy;

(5) the extent to which the energy project

would contribute to the development of new production or conservation technologies and techniques;

(6) the time that would normally be required to obtain all necessary agency decisions;

(7) the adverse impacts that would result from—

(i) the designation of the energy project as a Priority Energy Project, or

(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

(8) the extent to which the energy project would impinge upon presently available or future water resources;

(9) the comments received concerning the energy project;

(10) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

(11) the availability of significant economic, environmental, or technical data; and

(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

In the case of any order designating a project under this section, the order shall contain a statement of the basis on which such designation was made.

STATE PARTICIPATION

SEC. 205. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is proposed to be located, and each such Governor may appoint a nonvoting Member to serve on the Board to participate only in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 201(b) shall not apply to the Member of the Board appointed under this section.

COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 206. Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 209, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. If the Council determines that any such action relating to a Priority Energy Project will be a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council on Environmental Quality fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

EXTENSION OF DEADLINES

SEC. 207. The Board may extend the time for receiving comments under section 203(d), the time for making its determination and publication under section 204 in the case of any application for designation of any energy project as a Priority Energy Project, the time for agencies to transmit information under section 208, and the time for publication by the Board under section 209(a) of a Project Decision Schedule. Any such extension shall be consistent with the purposes of this Act and shall be for only such period as may be necessary, as determined by the Board.

AGENCIES TO TRANSMIT INFORMATION

SEC. 208. Not later than thirty days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any agency decision with respect to such Project or any part thereof, shall transmit to the Board—

(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements applicable to such actions and to the making of such decisions;

(2) a tentative schedule for completing such actions and making such decisions;

(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any Priority Energy Project at any time and in any manner.

PROJECT DECISION SCHEDULE

SEC. 209. (a) Not later than thirty days after agencies are required to transmit information under section 208 with respect to any Priority Energy Project, the Board, in consultation with the appropriate agencies, shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by such agencies.

(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 208 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination. The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.

(2) Whenever the Project Decision Schedule is not consistent with any schedule which would otherwise apply, such Project Decision Schedule shall apply in lieu of such otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

(3) In the case of agency decision or action subject to the Project Decision Schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule. No such agency may modify the Project Decision Schedule pursuant to the authority contained in this paragraph.

(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure adequate consideration of all matters concerning such Project under applicable law and to insure adequate participation by parties in applicable proceedings.

(5) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such Schedule.

(c) In consultation with any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

(d) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time. No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, taking into account the personnel and funds available to the agency for complying with such Schedule.

MONITORING OF COMPLIANCE BY BOARD

SEC. 210. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register, and may take such actions as it deems appropriate to bring such agency and other persons into compliance with the Project Decision Schedule. If the Board determines that any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such Project which is necessary before such agency decision may be made,

has failed or refused to promptly file such application or petition or take such other action, the Board shall either revise such Project Decision Schedule or revoke the designation of such Priority Energy Project under section 204.

AGENCY OBLIGATIONS NOT AFFECTED

SEC. 211. (a)(1) Except as may otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Board under section 209 or 212(a)(2)(A), or pursuant to the modification of a schedule by an agency under 209(b)(3), the Project Decision Schedule and each agency decision and other action with respect to

which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

(2) Paragraph (1) shall be subject to section 212.

(b) Except as permitted under the authorities referred to in subsection (a), nothing in this Act shall—

(1) affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law.

(2) affect the basis on which any agency decision is made with respect to such a project, or

(3) affect or influence the outcome of any such agency decision.

(c) Nothing in this Act shall be construed to affect the authority or independence of any independent Federal regulatory agency.

ENFORCEMENT OF PROJECT DECISION SCHEDULE

SEC. 212. (a)(1) If the Board determines, pursuant to its monitoring under section 210, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that Project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this Act—

(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

(ii) a previous extension has not been provided under this subsection for that agency decision;

(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this Act as may be necessary to obtain an adequate record for a final decision.

(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with the Board's recommended decision. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 214(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

(A) to the making of an agency decision, or

(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project.

(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this Act, transmit such recommendation to the Congress, if he determines—

(A) such a waiver to be in the national interest,

(B) that there is substantial evidence to support the Board's determination and recommendation, and

(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhance efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of the Energy Policy and Conservation Act, except that in applying the provisions of section 552 to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection, any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this act—

(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project.

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this Act, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

SEC. 213. (a) Nothing in this Act shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 209 or section 212(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

(b) No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 212, if such waiver would—

(1) waive any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives.

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) criminal laws, or

(D) civil rights laws;

(2) waive any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) have the effect of impairing or abridging any right or rights of any person arising under the Constitution of the United States;

(4) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights; or

(5) have the effect of abridging or impairing the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

(c) Notwithstanding any provision of this Act, no requirement may be waived under this Act, with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

JUDICIAL REVIEW

SEC. 214. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 204, the granting or denying of an extension under section 207, the establishment of a Project Decision Schedule under section 209, and any action of the Board under section 210, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(2) The making of any waiver recommendation by the board or waiver determination by the President under section 212 shall not be subject to judicial review, except as required by the Constitution or as permitted under paragraph (3).

(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after the approval of a determination transmitted by the President to the Congress under section 212 requesting the court to enjoin or grant other appropriate relief with respect to any waiver approved pursuant to such determination if such waiver is inconsistent with any prohibition contained in section 213, and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any other court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

EFFECTIVE DATE

SEC. 215. The Board shall promulgate regulations for carrying out its functions under this Act (including regulations establishing procedures and criteria under section 203) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this Act for designation of any project as a Priority Energy Project before promulgation of such regulations.

EXPIRATION OF AUTHORITY

SEC. 216. The Board shall cease to exist, and the authority provided to the Board under this Act, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this Act for any Priority Energy Project prior to the expiration of such authority, and, to the extent practicable, the other provisions of this Act applicable to such project, shall continue to be applicable to such project after September 30, 1985.

AUTHORIZATION

Sec. 217. There is authorized to be appropriated to the Board to carry out the provisions of this Act not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations.

By Mr. CARR:

(Amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Strike Sec. 204(e) and insert in lieu thereof the following language;

(e) No more than twenty-four Priority Energy Projects, no more than twelve of which may be designated in any one calendar year.

By Mr. CHENEY:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—On page 51, after line 11, add a new section 187 (renumbering succeeding sections accordingly) as follows:

WATER LAW

(a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

—Add a new section (renumbering other sections accordingly) as follows:

WATER LAW

(a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

By Mr. CORCORAN:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—In section 102, after paragraph (3), insert:

"(4) 'Department' means the Department of Energy."; redesignate paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively; after paragraph (7), insert:

"(9) 'Secretary' means the Secretary of Energy."; and redesignate paragraphs (8) and (9) as paragraphs (10) and (11), respectively.

In section 201, strike out subsection (a) and insert in its place the following:

"(a) There is hereby established within the Department an independent regulatory commission to be known as the Energy Mobilization Board.

"(b) The Board shall be composed of five members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated by the President as the Chairman.";

Redesignate subsection (b) as subsection (c);

Redesignate subsection (c) as subsection (d), and in that subsection—

Strike out paragraph (2) and insert in its place:

"(2) The Secretary shall provide to the Board such support and facilities as the Board determines it needs to carry out its functions.

"(3) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department, except the Secretary."; and redesignate paragraphs (2), (3), (4), and (5) as paragraphs (3), (4), (5), and (6), respectively."

Strike out paragraph (4); and

Redesignate paragraph (5) as paragraph (4), and in that paragraph, strike out "of the Department of Energy" and insert in its place: "of any other part of the Department";

Redesignate subsection (d) as subsection (e);

Redesignate subsection (e) as subsection (f), and in that subsection, strike out "Whenever the Board submits to the President or to the Officer of Management and Budget" and insert in its place the following:

"In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Board and include a statement by the Board (1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Board. Whenever the Board submits to the Secretary, the President, or the Office of Management and Budget,",

Redesignate subsection (f) and (g) as subsections (g) and (h), respectively; and

After subsection (g), insert the following:

"(i) For the purposes of chapter 9 of title 5, United States Code, the Board shall be deemed to be an independent regulatory agency.".

—At the end of section 174 page 33, line 19, insert:

"(g) Within one year after enactment of this Act and each year thereafter, the Board shall submit to the President and to the Congress a detailed report and recommendations for congressional and administrative action which shall include, but not be limited to, those provisions of Federal, State, and local statutes, regulations, or requirements which in the Board's opinion and through its experience in carrying out the provisions of this Act, have contributed most significantly to unnecessary delays in project approval, construction, and operation, and the Board's recommendations for changes in such provisions or for other action to expedite the decisionmaking process, without detracting from the intent and integrity of such statutes or regulations, and which would eliminate the need for such Board.

(1) On or before the date established for the submission of the report of the Board to Congress in section (g), the Comptroller General of the United States shall submit to Congress a report evaluating the performance of the Board. The report shall set forth findings and recommendations with respect to the program, and shall include:

(a) an assessment of the effectiveness of the program and the degrees to which the original objectives of the program have been achieved;

(b) an identification of any trends, developments, and emerging conditions which are likely to affect the future nature and extent of the problems or needs which the Board is intended to address;

(c) an assessment to the relative merits of alternative methods which could be considered to achieve the purposes of the program;

(d) an assessment of the energy supply, environmental, legal, and social impacts of the Board; and

(e) such additional information as may be requested by Congress.

—On page 28, after line 11, insert:

"(4) 'Department' means the Department of Energy.";

In line 12, strike out "(4)" and insert in its place "(5)"; and

In line 22, strike out "(5)" and insert in its place "(6)".

On page 29, in line 1, strike out "(6)" and insert in its place "(7)";

In line 7, strike out "(7)" and insert in its place "(8)";

After line 9, insert:

"(9) 'Secretary' means the Secretary of Energy.";

In line 10, strike out "(8)" and insert in its place "(10)";

In line 12, strike out "(9)" and insert in its place "(11)"; and

Strike out lines 18 through 20, inclusive, and insert in their place the following:

"SEC. 174. (a) There is hereby established within the Department an independent regulatory commission to be known as the Energy Mobilization Board.

"(b) The Board shall be composed of five members appointed by the President, by and".

On page 30, in line 3, strike out "(b)" and insert in its place "(c)";

In line 18, strike out "(c)" and insert in its place "(d)"; and

Strike out lines 22 through 25, inclusive, and insert in their place the following:

"(2) the Secretary shall provide to the Board such support and facilities as the Board determines it needs to carry out its functions."

On page 31, strike out lines 4 through 7, inclusive, and insert in their place the following:

"(4) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department, except the Secretary."; and

In line 8, strike out "(d)" and insert in its place "(e)";

On page 32, strike out lines 20 and 21, and insert in their place the following:

"(f) In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Board and include a statement by the Board (1) showing the amount requested by the Board in

its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Board. Whenever the Board submits to the Secretary, the President, or the Office of Management and Budget, any legislative recom-".

On page 33, in line 4, strike out "(f)" and insert in its place "(g)"; and

After line 19, insert the following:

"(h) For the purposes of chapter 9 of title 5, United States Code, the Board shall be deemed to be an independent regulatory agency.".

By Mr. DINGELL:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—Page 5, strike out line 21 and all that follows down through line 5 on page 41 and substitute:

(c)(1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he deems necessary to carry out the functions of the Board.

(2) Upon request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

(d)(1) The Board may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders, as may be necessary to carry out its functions under this Act. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this Act. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

(2)(A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within any State at any designated place of hearing within any State.

(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All processes of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(e) Whenever the Board submits to the President or the Office of Management and Budget, any legislative recommendation or testimony, or comments on any legislation, prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs, on Interstate and Foreign Commerce, and on Science and Technology of the United States House of Representatives.

(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs, on Interstate and Foreign Commerce, and on Science and Technology of the United States House of Representatives fully and currently informed concerning its activities. The Board shall submit an annual report to such committees concerning the actions taken, or to be taken, under this Act. The report shall contain such other information relating to energy projects that the Board deems appropriate.

CERTAIN PROJECTS NOT COVERED

SEC. 202. Nothing in this Act shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974, or to any project which is, or may be, approved under the provisions of title V of the Public Utility Regulatory Policies Act of 1978 or under the provisions of 90 Stat. 2903; except that in the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 203. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this Act. Such procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

(1) enable it to make such a designation under this Act,

(2) identify each agency required to make an agency decision with respect to such project,

(3) enable such agencies to identify the agency decisions which they are required to make with respect to such project, and

(4) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

(1) an adequate design proposal for the project;

(2) economic data on the costs and benefits of the project; and

(3) an analysis of the environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

(c) An application for and designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce, on Interior and Insular Affairs, and on Science and Technology. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 204. (a) Not later than forty-five days after expiration of the comment period under section 203(d) with respect to any application under section 203, the Board shall—

(1) issue an order in accordance with this Act designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

(2) refuse to issue such an order.

(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce, on Interior and Insular Affairs, and on Science and Technology.

(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

(3) the extent to which the energy project would make use of renewable energy resources;

(4) the extent to which the energy project would conserve energy;

(5) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

(6) the time that would normally be required to obtain all necessary agency decisions;

(7) the adverse impacts that would result from—

(i) the designation of the energy project as a Priority Energy Project, or

(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

(8) the extent to which the energy project would impinge upon presently available or future water resources;

(9) the comments received concerning the energy project;

(10) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

(11) the availability of significant economic, environmental, or technical data; and

(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

In the case of any order designating a project under this section, the order shall contain a statement of the basis on which such designation was made.

STATE PARTICIPATION

SEC. 205. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is proposed to be located, and each such Governor may appoint a nonvoting Member to serve on the Board to participate only in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 201(b) shall not apply to the Member of the Board appointed under this section.

COMPLIANCE WITH THE NATIONAL ENVIRONMENT POLICY ACT

SEC. 206. Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 209, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. If the Council determines that any such action relating to a Priority Energy Project will be a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council on Environmental Quality fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

EXTENSION OF DEADLINES

SEC. 207. The Board may extend the time for receiving comments under section 203 (d), the time for making its determination and publication under section 204 in the case of any application for designation of any energy project as a Priority Energy Project, the time for agencies to transmit information under section 208, and the time for publication by the Board under section 209(a) of a Project Decision Schedule. Any such extension shall be consistent with the purposes of this Act and shall be for only such period as may be necessary, as determined by the Board.

AGENCIES TO TRANSMIT INFORMATION

SEC. 208. Not later than thirty days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any agency decision with respect to such Project or any part thereof, shall transmit to the Board—

(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements applicable to such actions and to the making of such decisions;

(2) a tentative schedule for completing such actions and making such decisions;

(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any Priority Energy Project at any time and in any manner.

PROJECT DECISION SCHEDULE

SEC. 209. (a) Not later than thirty days after agencies are required to transmit information under section 208 with respect to any Priority Energy Project, the Board, in consultation with the appropriate agencies, shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by such agencies.

(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 208 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination. The objective of the Board in determining any different schedule under this paragraph shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.

(2) Whenever the Project Decision Schedule is not consistent with any schedule which would otherwise apply, such Project Decision Schedule shall apply in lieu of such otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

(3) In the case of agency decision or action subject to the Project Decision Schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule. No such agency may modify the Project Decision Schedule pursuant to the authority contained in this paragraph.

(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure adequate consideration of all matters concerning such Project under applicable law and to insure adequate participation by parties in applicable proceedings.

(5) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such Schedule.

(c) In consultation with any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such project which is necessary before such agency decision may be made,

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

(d) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time. No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time,

taking into account the personnel and funds available to the agency for complying with such Schedule.

MONITORING OF COMPLIANCE BY BOARD

SEC. 210. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register, and may take such actions as it deems appropriate to bring such agency and other persons into compliance with the Project Decision Schedule. If the Board determines that any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such Project which is necessary before such agency decision may be made,

has failed or refused to promptly file such application or petition or take such other action, the Board shall either revise such Project Decision Schedule or revoke the designation of such Priority Energy Project under section 204.

AGENCY OBLIGATIONS NOT AFFECTED

SEC. 211. (a)(1) Except as may be otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Board under section 209 or 212 (a)(2)(A), or pursuant to the modification of a schedule by an agency under 209(b)(3), the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

(2) Paragraph (1) shall be subject to Section 212.

(b) Except as permitted under the authorities referred to in subsection (a), nothing in this Act shall—

(1) affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law,

(2) affect the basis on which any agency decision is made with respect to such a project, or

(3) affect or influence the outcome of any such agency decision.

(c) Nothing in this Act shall be construed to affect the authority or independence of any independent Federal regulatory agency.

ENFORCEMENT OF PROJECT DECISION SCHEDULE

SEC. 212. (a)(1) If the Board determines, pursuant to its monitoring under section 210, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency

decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that Project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this Act—

(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

(ii) a previous extension has not been provided under this subsection for that agency decision;

(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this Act as may be necessary to obtain an adequate record for a final decision.

(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with the Board's recommended decision. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 214(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

(A) to the making of an agency decision, or

(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project.

(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this Act, transmit such recommendation to the Congress, if he determines—

(A) such a waiver to be in the national interest,

(B) that there is substantial evidence to support the Board's determination and recommendation, and

(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect that the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of the Energy Policy and Conservation Act, except that in applying the provisions of section 552 to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection, any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been acted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this Act—

(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial re-

view except as may be required by the Constitution of the United States.

(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this Act, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

SEC. 213. (a) Nothing in this Act shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a schedule established or modified by the Board under section 209 or section 212(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

(b) No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 212, if such waiver would—

(1) waive any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) criminal laws, or

(D) civil rights laws;

(2) waive any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) have the effect of impairing or abridging any right or rights of any person arising under the Constitution of the United States;

(4) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights; or

(5) have the effect of abridging or impairing the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

(c) Notwithstanding any provision of this Act, no requirement may be waived under this Act with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

JUDICIAL REVIEW

SEC. 214. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 204, the granting or denying of an extension under section 207, the establishment of a Project Decision Schedule under section 209, and any action of the Board under section 210, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(2) The making of any waiver recommendation by the board or waiver determination by the President under section 212 shall not be subject to judicial review, except as required by the Constitution or as permitted under paragraph (3).

(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after the approval of a determination transmitted by the President to the Congress under section 212 requesting the court to enjoin or grant other appropriate relief with respect to any waiver approved pursuant to such determination if such waiver is inconsistent with any prohibition contained in section 213, and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any other court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

EFFECTIVE DATE

SEC. 215. The Board shall promulgate regulations for carrying out its functions under this Act (including regulations establishing procedures and criteria under section 203) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this Act for designation of any project as a Priority Energy Project before promulgation of such regulations.

EXPIRATION OF AUTHORITY

SEC. 216. The Board shall cease to exist, and the authority provided to the Board under this Act, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this Act for any Priority Energy Project prior to the expiration of such authority, and, to the extent practicable, the other provisions of this Act applicable to such project, shall continue to be applicable to such project after September 30, 1985.

AUTHORIZATION

SEC. 217. There is authorized to be appropriated to the Board to carry out the provisions of this Act not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations.

—Page 38, strike out line 7 and all that follows down through the end of section 177 and substitute:

which such designation was made and such other information as may be appropriate.

"(d) Upon receipt of an application pursuant to section 176 of this part for the designation of an electric powerplant, as defined in section 103(a)(7) of the Powerplant and Industrial Fuel Use Act of 1978, as a Priority Energy Project and after an opportunity for public comment on such application pursuant to such section, the Board shall designate such powerplant as a Priority Energy Project, in accordance with section 177, if such powerplant is seeking, as determined by the Secretary of Energy, to use coal or a coal derived fuel as the primary energy source either (1) through conversion to such fuel from the use of oil or natural gas as the primary energy source for such powerplant, or (2) through construction of a new powerplant to replace an existing powerplant that uses oil or natural gas as the primary energy source.

"(e) The Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agency decisions with the appropriate agencies as soon as possible in order that agency decisions may be expedited."

By Mr. DUNCAN of Tennessee:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 53, after line 13 insert the following new section.

REPORT

SEC. 188. Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that significantly hinder the completion of energy projects, and which includes an analysis of why each law or regulation listed in the report is a significant hindrance to the completion of such projects.

And redesignate succeeding sections accordingly.

By Mr. ECKHARDT:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Strike out page 45, line 3 and all that follows down to line 13 on page 49 and substitute:

"AGENCY OBLIGATIONS NOT AFFECTED

"SEC. 184. Except as may otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Board under section 132 or 185(a)(2)(A) or pursuant to the modification of a schedule by an agency under 182(b)(3)—

"(1) the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule and with the rules and regulations promulgated by such agencies pursuant to their statutory obligations;

"(2) nothing in this part shall affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law.

"(3) nothing in this part shall affect the basis on which any agency decision is made with respect to such a project;

"(4) nothing in this part shall affect or influence the outcome of any such agency decision; and

"(5) nothing in this part shall be construed to affect the authority or independence of any independent Federal regulatory agency.

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept at any such hearing.

"(2) within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision; or,

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(C) A recommendation may not be made under this subsection if the agency has made the agency decision involved at the time of such recommendation.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such persons to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph(1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(d)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(e) In bringing any civil action in any court (other than the Supreme Court) to

enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

—Strike out page 46, line 1 and all that follows down through line 13 on page 53 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 163, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision; or,

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(C) A recommendation may not be made under this subsection if the agency has made the agency decision involved at the time of such recommendation.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(d)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the Project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project, the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(e) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

"PROHIBITION AGAINST WAIVER OR CERTAIN RIGHTS AND LAWS

"SEC. 186. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 182 or 185(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

(b) No order by the Board under Section 185(c) may modify or impair in any way—

(1) any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their represenatives.

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) crimes based on common law, or

(D) civil rights laws;

(2) any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) any right or rights of any person arising under the Constitution of the United States;

(4) any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(5) the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority

Energy Project for loss of any property interest as a result of the construction or operation of such Project.

"(c) Notwithstanding any provision of this part, no requirement may be waived under this part with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

"JUDICIAL REVIEW

"SEC. 187. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 177, the granting or denying of an extension under section 180, the establishment of a Project Decision Schedule under section 182, and any action of the Board under section 183, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2) No order by the Board under section 185(c) shall be subject to judicial review except as required by the Constitution or as permitted under paragraph (3).

"(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after an order by the Board under section 185(c) requesting the court to enjoin or grant other appropriate relief with respect to such order if such order is inconsistent with any prohibition contained in section 183 or is in excess of statutory jurisdiction, authority, or limitations or short of statutory right under this Act and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

"(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

"(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any other court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

"(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

—Strike out page 46, line 1 and all that follows down through line 2 on page 51 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision; or,

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(C) A recommendation may not be made under this subsection if the agency has made the agency decision involved at the time of such recommendation.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirements will present such an impediment, the Board may in furtherance of the purposes of this part order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(d)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impedi-

ment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project, the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(e) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

"PROHIBITION AGAINST WAIVER OR CERTAIN RIGHTS AND LAWS

"SEC. 186. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 182 or 185(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

(b) No order by the Board under Section 185(c) may modify or impair in any way—

(1) any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) crimes based on common law, or

(D) civil rights laws;

(2) any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) any right or rights of any person arising under the Constitution of the United States;

(4) any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(5) the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

Page 45, line 6, after "182" insert "or 185(a)(2)(A)".

—On page 51, lines 19 and 20, strike "except as may be required by the Constitution of the United States," and insert in lieu thereof: "except on the grounds that such actions deny rights under the Constitution of the United States or that such actions are in excess of statutory jurisdiction, authority, or limitations or are short of statutory right under this Act."

By Mr. EMERY:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 10, line 9, after the period insert: "Notwithstanding the preceding sentence and section 101(b), a project establishing a national program for permanent storage of radioactive waste materials may be eligible for designation as a Priority Energy Project under this Act.".

—Page 15, strike lines 16 through 18.

—Page 2, after line 22, insert the following:

"(c) The purpose of the Energy Mobilization Board, as defined in section 201, shall not be to overrule State and local laws and regulations."

By Mr. FUQUA:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—In section 201(f) after the words "Foreign Commerce" insert "and on Science and Technology".

In section 203(d) after the words "Insular Affairs" insert "and on Science and Technology".

—On page 27, strike all of line 16, and substitute the following: "including energy research and development projects.".

On page 33, line 13, following "Commerce", insert "and the Committee on Science and Technology".

On page 35, line 18, after "Affairs", insert "and Science and Technology".

On page 36, line 16, after "Affairs", insert "and Science and Technology".

By Mr. HOPKINS:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 17, line 21, strike "nonvoting" and insert in lieu thereof the word "voting."

—On page 38, lines 12–13, strike "nonvoting" and insert in lieu thereof the word, "voting."

By Mr. KRAMER:

(An amendment in the nature of a substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 29, line 17, after the word "Federal" strike the comma and the words "State, or local" and

On page 30, line 18, after "Federal" strike the comma and the words "State, or" and on line 19, strike the word "local" and the comma, and on line 20, strike the words "State, or local".

—On page 17, line 21, strike the word "nonvoting" and insert in lieu thereof the word "voting" and on line 22, after the word "in" insert the words "and vote on", and

On line 24, after the period insert the following: "Each such vote cast by such Member shall be counted in the proportion that the number of States represented by such Members bears to one. For purposes of tallying such votes, any fraction greater than .50 shall be counted as one vote and any fraction less than .50 shall not be counted.".

—On page 38, beginning on line 12, strike the word "nonvoting" and insert in lieu thereof the word "voting" and on line 13, strike the word "only", and insert after the word "in" the words "and vote on", and

On line 15 after the period, insert the following: "Each such vote cast by such Member shall be counted in the proportion that the number of States represented by such Members bears to one. For purposes of tallying such votes, any fraction greater than 0.50 shall be counted as one vote and any fraction less than 0.50 shall not be counted.".

By Mr. LUJAN:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 20, in line 20, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 24 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

—On page 41, in line 19, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 9 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

—Page 20, in line 20, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 24 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

—Page 41, in line 19, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 9 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

—On page 35, line 23, strike the words "that such decision or action has become final" and insert in lieu thereof the following: "of certification under section 204(e)".

On page 52, lines 17–18, strike the words "that such decision has become final" and insert in lieu thereof the following: "of certification under section 177(d)".

—On page 15, line 16, strike the number "75" and insert the number "24"; on line 17, strike the number "20" and insert the number "12".

On page 38, after line 7, add the following new subsection:

"(d) Not more than 24 Priority Energy Projects may be designated by the Board, and not more than 12 of such Projects may be designated in any one calendar year."

—On page 15, line 16, strike subsection (c) and insert in lieu thereof the following:

(e)(1) No more than 24 Priority Energy Projects, no more than 12 of which may be designated in any one calendar year, may be pending certification at any one time. For the purposes of this subsection only, the certification issued pursuant to paragraph (2), constitutes termination of priority status.

(2) When the Board determines that all agency preconstruction actions and approvals necessary for a Priority Energy Project have been granted, the Board shall certify the same to the project. Such certification shall indicate the expiration date of any approvals that have been granted to the project and shall be published in the Federal Register.

On page 38, after line 7, add the following new subsection:

(d)(1) No more than 24 Priority Energy Projects, no more than 12 of which may be designated in any one calendar year, may be pending certification at any one time. For the

purposes of this subsection only, the certification issued pursuant to paragraph (2), constitutes termination of priority status.

(2) When the Board determines that all agency preconstruction actions and approvals necessary for a Priority Energy Project have been granted, the Board shall certify the same to the project. Such certification shall indicate the expiration date of any approvals that have been granted to the project and shall be published in the Federal Register.

—On page 35, lines 18–19, strike "court of appeals for the circuit" and insert in lieu thereof the following: "District Court for the district".

On page 36, line 23, strike the words "Court of Appeals" and insert in lieu thereof the following: "District Court".

On page 37, lines 14–21, strike SEC. 216 and insert in lieu thereof the following:

SUPREME COURT REVIEW

SEC. 218. (a) The Supreme Court shall have exclusive authority to review any judgment or order (including interlocutory judgments or orders) of the district court pursuant to this title, and the party seeking review must file a petition for writ of certiorari within fifteen days after the decision of the district court or the appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date.

On page 52, lines 2–3, strike the words "court of appeals" and insert in lieu thereof "district court."

On page 52, line 14, strike the words "court of appeals for the cricuit" and insert in lieu thereof "district court for the district."

On page 53, line 507, strike the last sentence beginning with "Any" and add the following new Section:

SUPREME COURT REVIEW

SEC. 188. (a) The Supreme Court shall have exclusive authority to review any judgment or order (including interlocutory judgements or orders) of the district court pursuant to this title, and the party seeking review must file a petition for writ of certiorari within fifteen days after the decision of the district court or the appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date.

By Mr. MARKEY:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Add new subsection (d) at the end of section 177 as follows:

"(d) Not more than 75 priority energy projects may be designated by the Board, and not more than 20 of such projects may be designated in any one calendar year.

—Section 204, subsection (e), strike "75" and insert "24".

Section 204, subsection (e), strike "20" and insert "12".

By Mr. MAGUIRE:

(Amendment in the nature of a substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 4, line 11, strike "an energy project, or".

—Page 5, line 1, strike ", from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board".

—Page 11, line 2, strike "such additional information as it deems necessary, including".

Page 11, line 8, strike "and".

Page 11, line 13, strike "." and insert in lieu thereof: "; and

(5) such additional information as it deems necessary"

—Page 17, line 20, after "located" insert: "or which is contiguous to any such state and is likely to be substantially affected by the discharge of any contaminants, pollutants, or emissions, as determined by the Board".

—Page 20, line 16, add:

(2) No such different schedule shall—

(A) create unnecessary interference with other functions and actions required of an agency, or

(B) interfere with a reasonable opportunity for participation by interested parties in agency proceedings scheduled in accordance with a Project Decision Schedule.

And renumber the following sections accordingly.

—Page 23, line 14, strike "agencies, including Federal State, and local agencies" and insert in lieu thereof, "Federal agencies".

—Page 24, line 2, strike "and" and insert in lieu thereof "or".

—Page 24, line 16, after "argument;" insert "or"

Page 24, strike lines 17 through 20.

Page 24, line 21, strike "(6)" and insert in lieu thereof "(5)".

Page 24, strike lines 23 through line 7 on page 25.

Page 25, strike "(c)" and insert in lieu thereof "(b)".

—Page 26, strike lines 12 through 19 and insert in lieu thereof: "has failed or refused to file promptly or correctly such application or petition or take such other action, the Board shall revoke the designation of the project as Priority Energy Project. However, if the Board determines that such person has failed to file correctly or promptly such application or petition or take such other action despite having made a good faith effort to do so, the Board may revise such Project Decision Schedule by extending the applicable deadlines by an amount of time equivalent to the delay caused by such person.".

—Page 29, line 21, strike ", from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board".

—Page 31, line 17, strike "such order is originally issued" and insert in lieu thereof, "the date on which commercial operation of such facility commences".

—Page 34, line 24, strike "such additional information as it deems necessary, including".

Page 35, line 3, strike "and".

Page 35, line 7, strike "." and insert in lieu thereof: "; and

(4) such additional information as it deems necessary."

—Page 38, line 12, after "located" insert "or which is contiguous to any such state and is likely to be substantially affected by the discharge of any contaminants, pollutants, or emissions, as determined by the Board".

By Mr. MARLENEE:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 34, strike all after the comma following the number "1974" on line 1 through the number "1978" on line 3 and add the following new section:

PRIORITY ENERGY PROJECTS UNDER TITLE V OF THE PUBLIC UTILITY REGULATORY POLICY ACT OF 1978

SEC. 176. No provision of this Act shall modify, alter, or repeal any portion of Title V of the Public Utility Regulatory Policy Act of 1978 (Public Law 95–617). This Act shall however, apply to the extent that the provisions may be used to expedite construction of a crude oil transportation system approved by the President under Section 507 of the Public Utility Regulatory Policy Act of 1978.

—On page 10, after section 202, add the following new Section:

PRIORITY ENERGY PROJECTS UNDER TITLE V OF THE PUBLIC UTILITY REGULATORY POLICY ACT OF 1978

SEC. 203. No provision of this Act shall modify, alter, or repeal any portion of Title V of the Public Utility Regulatory Policy Act of 1978 (Public Law 95–617). This Act shall, however, apply to the extent that the provisions may be used to expedite construction of a crude oil transportation system approved by the President under Section 507 of the Public Utility Regulatory Policy Act of 1978.

By Mr. MOORHEAD of California:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 37, line 17, strike all after the word "upon" down through line 18, and insert in lieu thereof the following: "the quantity or quality of presently available or future water resources;".

—On page 34, line 7, after the word "way", insert the following: "any Federal contract for delivery of water or".

By Mr. OBERSTAR:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 40, after line 20, insert the following new section:

"PRIORITY ENERGY PROJECTS UNDER TITLE V OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

"SEC. 220A. In the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

—On page 34, line 5, strike out the period and insert in lieu thereof the following: "; except that in the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.".

By Mr. OTTINGER:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 5, line 6, after the period, add: "The Board shall include representation from environmental and consumer interest groups.".

—Page 29, line 24, after the period, add: "The Board shall include representation from environmental and consumer interest groups.".

—Page 17, line 21, strike "nonvoting" and insert in lieu thereof "voting".

—Page 24, line 2, strike "and" and insert in lieu thereof "or".

—Page 31, line 17, strike "such order is originally issued" and insert in lieu thereof, "the date on which commercial operation of such facility commences".

—Page 38, line 12, strike "nonvoting" and insert in lieu thereof "voting".

By Mr. RAHALL:

(Amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 13, after line 13, insert:

(e)(1) Upon the request of any person acting on behalf of an energy project which constitutes—

(A) the conversion of a fossile fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(B) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

(2) Any Project designated under this subsection shall not be taken into account for purposes of the limitations contained in subsection (d).

—Page 15, after line 19, insert:

(f)(1) Upon the request of any person acting on behalf of an energy project which constitutes—

(A) the conversion of a fossil fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(B) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

(2) Any Project designated under this subsection shall not be taken into account for purposes of the limitations contained in subsection (e).

—Page 38, after line 7, insert:

(d) Upon the request of any person acting on behalf of an energy project which constitutes—

(1) the conversion of a fossil fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(2) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

By Mr. SANTINI:

(An amendment to the substitute (text of H.R. 560) offered by Mr. UDALL.)

—Strike out page 46, line 1 and all that follows down through line 12 on page 49 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand the Board's recommended decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection,

any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than 45 days after the establishment of a project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

Page 45, line 6, after "182" insert "or 185(a)(2)(A)".

Page 49, line 19, after "182" insert "or 185a(2)(A)".

By Mr. SEIBERLING:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 32, line 4, strike out "or".

Page 32, line 5, insert "or" after the semicolon.

Page 32, after line 5, insert:

(E) providing access to, or acquisition of, information by any agency or other person;

—On page 32, line 18, following the word "interest" insert a comma and add "or death or personal injury".

By Mr. SYMMS:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 15, strike out lines 16, 17, and 18.

—Section 187(b), page 53, after line 13 insert the following new subsection (4):

"(4) In issuing a final order in any action for review of any final agency action which is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay."

By Mr. UDALL:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 34, line 12, strike out "granting or".

Page 35, strike out lines 9, 10, and 11, and substitute:

(3) Action by the Board granting any order designating a proposed energy facility as a Priority Energy Project under section 204 shall not be subject to judicial review except as to the requirements of the Constitution of the United States.

Page 27, line 22, strike out "district court" and insert in lieu thereof "court of appeals".

Page 37, line 17, strike out "60" and substitute "30".

—Page 15, line 20, strike out "203A" and substitute "205", renumber the succeeding sections accordingly and make the necessary conforming changes.

Page 22, line 17, strike out "(b)" and substitute "(c)".

Page 26, line 4, after "person", insert "(other than an agency)".

By Mr. VOLKMER:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 5, line 23, strike the words ", not to exceed 60 persons,".

—On page 31, line 20, following the period insert the following:

Regulations promulgated under this section shall be submitted to both Houses of Congress on the same day and shall take effect at the expiration of 60 calendar days of continuous session of Congress thereafter unless, before the expiration of such 60-day period, such regulations are disapproved in the same manner as an energy action may be disapproved under section 551 of the Energy Policy and Conservation Act.

In applying the provisions of section 551 of the Energy Policy and Conservation and Policy Act to a regulation under this subsection, any reference in such section 551 to an energy action shall be treated as a reference to a regulation transmitted under this section, subsections (a), (c)(2), and (f)(2)(B), and clauses (i) and (ii) of subsection (f)(5)(B) of such section shall not apply, any reference in such section to 5 days shall be treated as a reference to 15 days, and any reference to a 15-calendar-day period shall be treated as a reference to a 60-calendar-day period.

A regulation transmitted under this section may take effect at any time subsequent to the date specified in paragraph (1) if such subsequent time is set forth in such regulation.

—On page 38, line 20, following "SEC. 179", insert "a".

On page 39, following line 10, insert the following:

"(b) Notwithstanding any other provision of law, the Board, after consultation with the council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969.

—On page 38, following line 4, insert the following new subsection:

"(d) Not more than one hundred Priority Energy Projects may be designated by the Board, and not more than twenty of such projects may be designated in any one calendar year."

By Mr. WAXMAN:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 31, in line 7, after the word "authorized", insert the following: ", after consultation with the agencies responsible for implementing any such requirement,".

Page 31, line 9, after the period insert: "No order under this section applicable to any facility may be issued following completion of construction of such facility.".

Page 32, after line 19, insert:

(e)(1) In order to mitigate the risk to public health and safety from any orders issued under this section, any suspension of a requirement pursuant to this section shall be conditioned on the imposition of a less stringent requirement or other alternative to the requirement.

(2) No order under this section may be issued unless such order sets forth a schedule containing increments of progress which will result in compliance within the time period specified in the order.

(3) In establishing less stringent or alternative requirements under paragraph (1), and increments of progress under paragraph (2), the Board shall obtain, and give full consideration to, the recommendations of the agencies responsible for implementing the requirements to be suspended.

(4) The agencies responsible for implementing the requirements to be suspended

shall monitor and enforce the terms and conditions of any order issued pursuant to this section.

Page 32, line 20, strike out "(e)" and substitute "(f)".

By Mr. WEISS:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 32, after line 19, add the following new subsection:

"(6) the rights of any person under any provisions of the Freedom of Information Act (5 U.S.C. 552)."

—Page 51, after line 2, add the following new subsection:

"(6) Waive the requirements and procedures as provided in the Freedom of Information Act (5 U.S.C. 552) with respect to the Board's actions and deliberations concerning any proposed or designated Priority Energy Project."

By Mr. WIRTH:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 19, after line 10, insert the following new section:

"(5) In the case of agency decisions relating to water rights or to the appropriation, delivery or use of water pursuant to such rights, no transmittal by the affected agencies shall be required. Notwithstanding any other provision of this Act, Agency decisions related to water rights or to the appropriation, delivery or use of water pursuant to such rights shall not be subject to any provisions of this Act.

—Page 20, line 9, after the period insert:

": *Provided*, That, no decision deadline established in the Project Decision Schedule shall require an agency decision in less than 12 months after the adoption of the Project Decision Schedule except:

(i) where the tentative schedules transmitted to the EMB by an agency propose a shorter time period or

"(ii) where the Board finds that the agency, as a matter of policy, practice or statutory requirement, has required in the past a period of time for decision consistently less than 12 months.".

By Mr. WYDLER:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 2, line 20 strike "nonnuclear".

On page 10, strike lines 3 through 9.

—On page 3, line 17 following "project," insert "power generation plant,".

—On page 35 line 19 after the word "afford" add "not less than 30 days but not more than".

Add to the second sentence of section 185 (a)(1) following "45 days", "but not more than 90 days".

Add to the first sentence of section 185 (C)(3) following "30 days," "but not more than sixty days".

—Add to the second sentence of section 185 (a)(1) following "45 days", "but not more than 90 days".

Add to the first sentence of section 185 (C)(3) following "30 days," "but not more than sixty days."

—On page 27 line 14 and line 15 strike the word "non-nuclear."

Strike all beginning with the word "related" on page 33 through line 1 on page 34.

—On page 28 line 19 following "project," add "power generation plant,".

—On page 35 line 19 after the word "afford" add "not less than 30 days but not more than".

Strike out page 46, line 1 and all that follows down through line 12 on page 49 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days but not more than 90 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1) the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determintion by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any

agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days but not more than sixty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendations so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(E) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

Page 45, line 6, after "182" insert "or 185 (a)(2)(A)".

Page 49, line 19, after "182" insert "or 185(a)(2)(A)".

By Mr. YOUNG of Alaska:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—on page 4, lines 14–15, strike subsection 8 and insert in lieu thereof the following:

(8) "Special governmental authority" means an interstate or regional authority or any recognized government board of any Indian tribe or Alaskan Native Village which performs substantial governmental functions, except when acting or considering an approval with regard to any property to which the Indian tribe or Alaskan Native Village has legal or beneficial ownership.

On page 29, lines 10, 11, strike subsection 8 and insert in lieu thereof the following:

(8) "Special governmental authority" means an interstate or regional authority or any recognized government board of any Indian tribe or Alaskan Native Village which performs substantial governmental functions, except when acting or considering an approval with regard to any property to which the Indian tribe or Alaskan Native Village has legal or beneficial ownership.

—On page 34, line 3, insert a period after the number "1978", strike the remainder of the section through line 5, and add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 176. No provision of this Act shall modify, alter or repeal any portion of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719). This Act shall, however, apply to the Alaska Natural Gas Pipeline system to the extent that the provisions of this Act may be used to expedite the construction of such system.

Renumber subsequent Sections accordingly.

—On page 10, after line 9, add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 203. No provision of this Act shall modify, alter, or repeal any portion of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719). This Act shall, however, apply to the Alaska Natural Gas Pipeline system to the extent that the provisions of this Act may be used to expedite the construction of such system.

Renumber subsequent Sections accordingly.

SENATE—*Monday, October 29, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. BILL BRADLEY, a Senator from the State of New Jersey.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

This is the day which the Lord hath made; we will rejoice and be glad in it.—Psalms 118: 24.

Almighty God, we thank Thee for the priceless gift of a new day in which to serve Thee. Some days are dark and dreary, the pace is slow and accomplishments few. Other days are bright and cheerful, work moves briskly and achievements are many. But every day is a portion of eternity. Every day has its own value and pattern and is lived under Thy providence. May we enter upon the succeeding hours with a resolute faith and a daring hope to do all the good we can, in all the ways we can, and for all the people we can. Grant us grace and wisdom to complete only what accords with Thy will for this time and place.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 29, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL BRADLEY, a Senator from the State of New Jersey, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BRADLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORE ON TIGHT MONEY

Mr. ROBERT C. BYRD. Mr. President, on October 23, Mr. Paul Volcker, Chairman of the Federal Reserve Board, urged member banks of the Federal Reserve system to "take particular care that small businesses, consumers, home buyers, and farmers continue to receive a reasonable share of available credit."

In a letter to member banks, Mr. Volcker asserted that "the Board fully intends that sufficient credit will continue to be available to finance orderly growth in economic activity."

Mr. Volcker's assurances about the Fed's goals are timely. It is important that the persistent psychology of inflationary expectations not be replaced with an equally dangerous psychology of recession. If the recent extraordinary plummet of the stock market is an indication, the financial community is betting that the Federal Reserve is hitting the brakes too hard. American business needs to be assured that the Fed does not plan to throw the economy into the tailspin which was precipitated by overzealous money restraint in 1974 and 1975. To that end, Mr. Volcker's letter is particularly significant.

While historical precedents invite close scrutiny of tight money policies, I believe we need to give the Fed's new approach a chance to work. I see no reason to declare the program a failure when, essentially, its success or failure depends on the prudence with which it is implemented.

As I noted in my speech on the Senate floor on October 19, Congress will be watching the implementation of the new program with great interest. We will be watching to insure that the net which has been cast to catch speculative, nonproductive investments does not also restrict the flow of credit into vital, productive areas of the economy.

It is heartening, therefore, that Mr. Volcker has reflected a sensitivity to the necessity of insuring an adequate flow of credit.

This bodes well for a prudent, careful implementation of an anti-inflation program. It is my hope that America's bankers will take Mr. Volcker's advice to heart.

I ask unanimous consent that the text of Mr. Volcker's letter to the Fed's member banks be printed in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR SIR OR MADAM: As you know, on October 6, the Federal Reserve System took a number of actions designed to reduce inflationary pressures by providing greater assurance that growth in the money supply will be within our targets for the year and that recent excessive rates of credit expansion will be curbed. While I have written earlier about some of the implications of those actions, the Board of Governors, after consulting with the Federal Advisory Council, believes that a further amplification of its views may be useful as you make adjustments in your own policies to the new situation.

As a result of the Federal Reserve actions, growth in money and bank credit can be expected to moderate over the months ahead from the recent very rapid pace, however, consistent with the basic policies that have been pursued for some time, the board fully intends that sufficient credit will continue to be available to finance orderly growth in economic activity.

In that connection, I should emphasize that success in dealing with inflationary pressures offers the best prospect of an early return to more equable conditions in financial markets, a better balance between demands and supplies of credit and lower interest rates. That prospect can only be speeded by responsible policies during this critical period.

CONCERN ABOUT SEVERAL ASPECTS

The board has expressed particular concern about several aspects of credit extension under current conditions that I would like to bring to your attention. In doing so, I would underline our view that the effective distribution of credit among potential borrowers must, in the last analysis, rest with individual institutions responding to the continuing needs of those institutions, its customers and the national economy within the framework of the market mechanism and incentives. We strongly believe that sound decisions in these respects can only be made by your bank, and other banks, operating in the marketplace and able to evaluate the needs of millions of businesses and individuals. No regulatory agency can be in a position to substitute its own judgment in this area.

As I indicated in my letter of Oct. 10 to member banks with deposits in excess of $100 million explaining the new actions, the board does request that banks take care to avoid financing essentially speculative transactions in commodity, gold, and foreign exchange markets. In addition, except as they may clearly involve the improvement in the nation's productive capabilities, credits advanced for extraordinary financial transactions would be viewed as questionable by the board. Examples would include loans for the purpose of retiring stock or for corporate takeovers that simply substitute one source of financing for another and do not clearly promise improvement in economic performance. There should not, of course, be any questions about credit normally advanced to financial concerns and others in the ordinary course of business.

Conversely, lending institutions need to be alert to the continuing need for credit to finance the basic needs of the economy, in accommodating these needs, we believe banks should take particular care that small businesses, consumers, home buyers, and farmers continue to receive a reasonable share of available funds. Loans to such borrowers, as well as to larger business customers that require bank credit in support of their normal operations, will encourage an orderly process of economic adjustment toward greater stability and help to sustain key sectors of local and national economies.

In the judgment of the board, the basic requirements of established customers deserve priority over opportunities that may arise in a period of unusual strain to reach out into new lending areas or to seek competitive advantage over the institutions seeking to meet such priority needs.

The board is also conscious that, with its new operating procedures, there may be more volatility of money market rates from day-to-day or week-in-week, although we note that, within already established criteria, borrowing from the discount window remains available to help member banks in making short-term adjustments. We are also conscious that costs will be higher than otherwise for incremental additions to "managed liabilities" as a result of the new reserve requirements. In these circumstances, we believe banks should take care, as they adjust lending rates in response to market motion, to appraise carefully underlying demand and supply conditions. Sharp but clearly temporary variations in the cost of a small amount of marginal funds should not be the occasion for adjustments in the basic lending rates, although we recognize that movements in such rates will be related to the underlying trend in interest rates generally. In adjusting loan rates, the board would also call your attention to the desirability of considering the special problems of smaller customers who have limited financing alternatives.

As I indicated earlier, the board has consulted on this matter with the Federal Advisory Council, a statutory body established by the Federal Reserve Act, and with other lending bankers. I am convinced that adherence to the principles set forth in this letter by the banking community as a whole will contribute importantly to the success of our efforts to deal with inflation during a period of difficult economic adjustment, and will serve the longer range objectives of your institutions as well as the nation. I would appreciate it if you would share the contents of this letter with your lending, credit and money management officers.

Sincerely,

PAUL A. VOLCKER.

REDUCTION OF TIME FOR THE TWO LEADERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reduced to 3 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suppose I have used my 3 minutes.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I have no need for my time remaining under the standing order this morning, and I am prepared to yield it back, unless the distinguished majority leader has need for it.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader. I have no request for the time I have remaining, and I yield it back.

Mr. BAKER. I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois is to be recognized at this time for not to exceed 15 minutes.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, that Senators may speak therein up to 3 minutes each, that the period not extend beyond 10 minutes, and that it be without prejudice to the orders that have been entered for the recognition of Senators.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SALT II

Mr. MORGAN. Mr. President, I rise momentarily to comment on some mail that I have received this morning, which apparently is being disseminated all across the country in an effort to defeat SALT II, that is now pending in the Senate.

Mr. President, I have no objection whatsoever to all of my constituents in North Carolina being contacted and urged to contact me to vote for or against any matter. As a matter of fact, it is good to generate interest on issues that are pending before Congress.

I think there are great purposes that are often served by extended debate in the Senate, sometimes referred to by others as filibustering. When we debate an issue over a long period of time it does give the people across the country an opportunity to know what is pending in Congress and what is not.

One of my constituents sent me some mail which that constituent received, and it is of concern to me because it concerns the mood of the country. It sort of reminds one of the days back in the early fifties. I found nothing in the mailout at all that discussed the merits of SALT or the disadvantages of SALT. All that I found were statements such as this on the back of it:

NATIONAL CAMPAIGN TO DEFEAT SALT II

And the first question is:

Will you do nothing and let the Communist flag of Russia be our national emblem—

Implying by inference and innuendo, and more than inference and innuendo, that perhaps those who might favor SALT II might in fact be advocating the flying or the adoption of the Communist flag of Russia as our national emblem.

But then it goes on to say:

or return this form with the American flag and your contribution to support our national campaign to defeat SALT II in the U.S. Senate and mail your postcards. We don't have much time. If you want to prevent Jimmy Carter from rushing this treaty through the Senate and assuring the permanent Soviet military superiority of America, please act today.

And it urges the recipient to send generous contributions. Then on the postcard it has a Communist flag.

The ACTING PRESIDENT pro tempore. The period for morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, will Mr. MATSUNAGA get recognized under the order and yield a little bit of his time to Mr. MORGAN?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Hawaii is recognized for not to exceed 15 minutes.

Mr. MATSUNAGA. I yield 2 minutes to the Senator from North Carolina.

Mr. MORGAN. I thank my colleague.

The enclosure has a picture of the Communist flag with glue on the back and the picture of the American flag, and the instructions are to put this Communist flag on the postal card and mail it to those that they think who have been listed as either being undecided or may be for SALT, and it goes on to say:

DEAR SENATOR: Eight U.S. Senators who voted to give our Panama Canal to Marxist dictators were defeated in the last election. If you vote for the SALT II treaty, I will actively oppose you, and unless you speak out strongly on the need to increase our military strength, I will not consider voting for you now or any time in the future. I will urge my relatives, friends, and neighbors to watch closely how you vote on the SALT II treaty. America has never been in greater danger because of military weakness compared to the Russians and lack of our leaders.

That, with the Communist flag emblem, denotes or by inference seems to question the loyalty of those who might be inclined to vote for SALT.

I have not made up my mind. If I had to vote today, I suspect I would vote against SALT, but I just wanted to say for the record that it is this kind of literature that is certainly not persuasive to me. If it contained persuasive arguments and substantive arguments, it would be much more helpful.

I might say this sort of literature was helpful to me today because the lady who sent it to me also sent me a check for $50 for my reelection campaign.

So I just do not think this is the kind of democratic process that we should have in the country, whereby we impugn or question someone's loyalty who happens to disagree on a separate issue.

I thank my distinguished colleague.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I take this moment to congratulate the Senator from North Carolina on taking the floor to comment on this approach that I think can be and often is counterproductive. It

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

casts a reflection upon the judgment and intellectual integrity of Members of the Senate who, having taken their oath to uphold the Constitution of the United States, strive to live up to that oath when they seek out the facts and search the evidence and try to reach their judgment on controversial issues on the basis of a thorough and comprehensive examination.

I congratulate him for his statement.

Mr. MORGAN. I thank my leader.

SALT II—A HUMBLE IMPERATIVE

Mr. MATSUNAGA. Mr. President, this month of October marks the 30th birthday of the United Nations, and anniversary celebrations this year have featured the theme "The International Year of the Child." As we prepare in this great deliberative body to debate and to make a decision on the SALT II treaty, it would be most appropriate in this year of the child to ponder over what our legacy will be to this generation's children if we fail to consent to ratification of the treaty.

Only last Thursday our distinguished majority leader, ROBERT C. BYRD, announced his support of the SALT II treaty. In his characteristic role as a leader of leaders, Senator BYRD issued a warning to his colleagues in the Senate that their vote on the treaty "can have a profound effect on prospects for world peace for many years to come." For assuming this leadership role, as he did during the debate on the Panama Canal Treaties, the Senator from West Virginia deserves the undying gratitude of all Americans.

Unfortunately, Mr. President, the treaty is difficult for many Americans, including some of our colleagues, to accept, because it is based on what to them is an unacceptable concept of warfare—namely that of "no victory."

It is especially troublesome for a generation that has grown up idolizing John Wayne and Vince Lombardi, for whom victory was "the only thing." Nevertheless, however romantic this notion might be, it is inappropriate when applied to warfare in the nuclear age.

When the first atomic bomb was dropped on Hiroshima 34 years ago, the myth of glorious, victorious combat was destined to die with it.

Most thinking Americans have now concluded, at least intellectually, that we have come to that point in time when war between nuclear powers is literally suicidal. Robert McNamara, a decade ago when he was Secretary of Defense, clearly articulated this reality when he coined the acronym MAD—Mutually Assured Destruction—for an all-out nuclear war.

The great debate which is soon to begin in this body essentially pits two ideologies against each other. An astute political observer, Leon Sigal, called one group the "War Fighters" and the other the "Stable Balancers."

The basic arguments of each group are as follows:

The War Fighters argue that—

First. Nuclear weapons, like all previous advanced military technology, are usable and likely to be used;

Second. Deterrence will remain a viable means of controlling escalation after the outbreak of nuclear war, and even if it does not, such a war is still worth winning;

Third. Highly centralized command and control in nuclear war would facilitate bargaining; and

Fourth. Even marginal nuclear superiority will reassure allies and make opponents more cautious.

The counter arguments as posed by the Stable Balancers are that—

First. Nuclear weapons mark a distinct breakpoint in the historical evolution of warfare;

Second. First use of nuclear weapons will lead to reciprocal escalation, eventually spiraling into general holocaust;

Third. Command and control, precarious in the best of circumstances in conventional warfare, would be worse in nuclear war; and

Fourth. Marginal superiority in nuclear capability, under conditions of mutual assured destruction, has little, if any, political significance.

Mr. President, I like to believe that to most Senators, including myself, the holocaust proportions of nuclear war have invalidated any distinction between winning and losing. The inevitable consequence would render meaningless any thought of military strategy that includes the use of even the smallest most accurately targeted tactical nuclear weapon. The potential for escalation would simply be too great a risk. The certainty that nuclear weapons would result in unprecedented devastation of an unimaginable degree makes acceptance of the firebreak between conventional combat and nuclear warfare absolutely necessary.

This is why Paul Warnke, as director of the Arms Control and Disarmament Agency, in testimony before the Arms Control Subcommittee of the Senate Foreign Relations Committee in 1974, stated:

> To the extent that mininukes blur the distinction between conventional weapons they lower the nuclear threshold . . . and once the nuclear threshold is crossed the process of escalation could become irreversible.

As a U.S. Senator, I feel a keen sense of responsibility in the upcoming debate, and I have carefully examined the issues on both sides of the SALT argument. I have looked at the side of nuclear parity and have assessed whether SALT provides such parity. I have also explored the proposition that armed forces exist to fight wars, that in war there is no substitute for victory, that victory requires overwhelming the enemy with superior forces, and that maintaining a superior force is the best deterrent to war.

Mr. President, I believe that the SALT II treaty while it is not an instrument that provides for substantial reductions in nuclear arms is part of a process that can achieve that purpose. Without it the balance, which I view as absolutely necessary to world security, would mean escalation in armament, would result in alarming expenditures, and would greatly increase the risk of war—if for no other reason than that communication with the U.S.S.R. would be significantly curtailed.

SALT II can only be thought of as part of a beginning phase in reducing the nuclear terror with which we have so gingerly learned to live over the past three decades. As a treaty related to strategic arms it does not even begin to touch on the theater nuclear warheads of which we have an estimated 9,000 in Europe. What SALT II does do is to put for the first time real limits on the United States and the Soviet Union, so that by the end of 1981 neither we nor they may have more than a total 2,250 launchers. This agreement will actually require the Soviets to reduce their current stock of 2,504 by 254. Secretary of Defense Harold Brown has estimated that without SALT II the Soviet Union would have 3,000 strategic nuclear delivery vehicles by 1985.

The treaty also stipulates that within the 2,250 limit there shall be a limit on launchers that carry multiple independently targetable reentry vehicles (MIRV's), and heavy bombers carrying air-launched cruise missiles. The treaty further provides a sublimit of 820 on launchers for land based missiles which have multiple warheads that can be aimed at more than one target—MIRVed ICBM's.

Additionally, and perhaps at least as significant, what SALT II does is to maintain in motion a mechanism that already provides for SALT III negotiations, and hopefully a progeny of SALTS and arms reduction—not only arms limitation—treaties down the road.

In the eyes of many, advocates as well as detractors of SALT II, the treaty is a humble document. Nevertheless, for this moment in history, ratification of this humble treaty is absolutely imperative.

Billy Graham, not too long ago, said, in an article that describes his change of heart toward SALT II—

> I wish we were working on SALT X right now—total destruction of arms!

Mr. President, I could not agree with him more—and what better legacy could we leave our children than to continue the march toward an arms free future? Should we break the disarmament chain, what a mockery we would make of the year that we have labeled "the year of the child."

In closing, Mr. President, in order that readers of the CONGRESSIONAL RECORD may know of the quiet but effective role of peacemaker which Senator ROBERT C. BYRD has assumed, I ask unanimous consent that an article written by Robert G. Kaiser, which appeared in the Washington Post of yesterday, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATOR BYRD HUDDLED IN SECRET WITH SOVIET

(By Robert G. Kaiser)

Senate Majority Leader Robert C. Byrd—the one man who might still be able to orchestrate Senate approval of President Carter's SALT pact—has already played an extensive but hitherto secret role in backstage political and diplomatic maneuvering surrounding the treaty.

Byrd withheld his own formal endorsement of SALT II until Thursday, but long before that he had been engaged in secret diplomacy with the Soviet Union to try to prevent a premature demise of the strategic arms limitation treaty in the Senate. The West Virginia Democrat's direct contact with Soviet officials is an apparently unprecedented initiative by a Senate leader.

This account of Byrd's role was volunteered to The Washington Post. It reflects the majority leader's view of events that other sources confirm did take place. Byrd is presently preparing to play a major role in the SALT debate to try to ensure its passage—an uphill battle, in Byrd's view.

Byrd's most dramatic personal intervention in SALT-related diplomacy came on Sunday, Sept. 23 when the Soviet ambassador to the United States, Anatoliy F. Dobrynin, flew from New York at Byrd's request for a secret meeting in the majority leader's Capitol office.

This was a tense moment in Soviet-American negotiations over the Soviet combat troops in Cuba, whose presence had been revealed dramatically by Sen. Frank Church (D-Idaho) on Aug. 30. Preliminary talks between Secretary of State Cyrus Vance and Dobrynin had made no progress, and Vance was about to meet with the Soviet foreign minister, Andrei Gromyko, while both were in New York for the United Nations General Assembly. The Carter administration was still hoping that the Vance-Gromyko talks would produce some Soviet concession that would change the "status quo" in Cuba, which Vance and Carter both had said was unacceptable.

Byrd was gloomy about the prospects for these talks. He felt—and had told Carter—that the issue had already been blown far out of proportion, and that statements about the status quo being unacceptable were wrongheaded, since the United States didn't know what that status really was.

Although Byrd thought the flap over the Soviet troops was a phony issue, he also believed that because of it SALT was hanging by the proverbial thread in the Senate. He blamed the administration for creating this precarious situation, and felt that only by beating an elegant retreat from the mess it had created could the White House save its treaty.

This would require Soviet help, at least indirectly, which is why Byrd wanted to see Dobrynin. After deciding in a meeting with aides that he might be able to play a constructive personal role, the majority leader had called Vance the previous Friday night with a reminder that he had had useful talks with Gromyko and Soviet President Leonid I. Brezhnev on his own trip to the Soviet Union in July. Byrd asked the secretary if it would be useful now for him to see Dobrynin and ask him to try to calm the rhetoric from the Soviet side, while pointing out how precarious the treaty's chances had become because of the flap.

After considering this overnight, Vance called back to approve Byrd's proposed initiative. The majority leader then located Dobrynin in New York, where he had gone to meet with his boss, Gromyko. The ambassador agreed to come to Byrd's Capitol office at 11 a.m. Sunday.

Byrd, his foreign policy aide Hoyt Purvis, Dobrynin and one aide sat down around Byrd's mahogany conference table. The senator told Dobrynin he would like to make a statement and did not expect any comment or reaction from the Russian until he was finished.

He spoke for about 45 minutes. He said that he had still not made up his own mind on SALT II, but that the treaty would have no chance of approval unless the tense atmosphere created by the Cuban incident could be dissipated. He offered two recommendations.

First, Byrd said, it would be in everyone's best interest to avoid any more heated rhetoric about the Cuban issue. Second, it would be useful if the Soviet side could carefully evaluate its position with an eye toward some gesture that could help Carter out of the jam.

Byrd indicated to Dobrynin that he felt the American position in this flap was less than compelling. Nevertheless, he said, the political furor set off by Church's announcement that SALT II could not be approved until the Soviet troops were withdrawn had gravely endangered the treaty's prospects. Any positive gesture the Soviet side could make would be very helpful.

Byrd told Dobrynin that the idea for this meeting was entirely his own, and that his objectives were to try to improve the atmosphere for a debate on SALT on its merits, uncolored by the emotions surrounding the Cuban matter.

When the Soviet ambassador left, Byrd called Vance and said he would like to meet that night with the president. There was a party scheduled at the White House, but sometime after 9 p.m. Byrd sat down with Carter, Vance and Zbigniew Brzezinski, Carter's national security adviser.

Byrd repeated the message he had delivered to Dobrynin. Carter asked for Byrd's suggestions, and he gave three:

First, Byrd said, the United States should cool its rhetoric on the Cuban issue and try to let quiet diplomacy work. He said newspaper stories were unhelpful in suggesting harsh retaliations the White House was considering if the Soviets did not alter the status quo. He declared frankly that the president did not have a very strong case.

Byrd said it was inappropriate for a mighty nation to go into a delirium over about 2,300 Soviet troops that had neither airlift nor sealift capability to leave Cuba.

Second, said Byrd, there should be no more White House meetings with congressional leaders to discuss the Cuban situation. Byrd had personally boycotted such a meeting on September 20 after advising Vance that it could only contribute to the appearance of a crisis at hand—an appearance Byrd felt was unjustified.

Third, Byrd advised, do what you can to get this flap behind us. In his opinion, the Soviets would not withdraw the troops because they had been in Cuba for many years, and because Moscow thought the entire dispute was a political incident of no military significance. If they withdrew now, other countries would have to conclude that the Soviets had backed down.

Afterward Byrd felt his intervention might have done some good. He was pleased that subsequent Soviet public statements were relatively restrained, and that the Soviets did produce some last-minute "assurances" to Carter that helped the president cover his retreat from the "unacceptable status quo" stance. Byrd was pleased with Carter's final speech to the nation on the issue, which he felt helped provide a more realistic perspective.

The Carter administration and numerous pro-SALT senators are hoping Byrd can find a way to revive pro-treaty sentiment and win Senate approval. The majority leader appears eager to make this effort, though privately and publicly he refuse to make any predictions of success.

Byrd has already organized special committees of senators interested in defense spending and future arms reductions, both issues that could bear on some senators' final decisions. Byrd hopes to build a broad consensus on these issues that will help the treaty.

Before the Cuban flap, Byrd believes, SALT II was all but assured of Senate approval. Now the outcome remains problematical.

Mr. MATSUNAGA. Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I am happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Hawaii for his kind references to me. I congratulate him on his expression of support for the SALT II treaty, and I believe that this expression of support and the work that he will continue to do in support of the treaty will reflect great credit on himself and on the Senate. I personally commend him and thank him.

Mr. MATSUNAGA. As a humble citizen of this great country, I thank the Senator from West Virginia for the great leadership that he has exerted in this area.

DESIGNATION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois (Mr. PERCY) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Mr. PERCY, there be a period for the transaction of routine morning business of not to exceed 30 minutes, and that Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SALT II

TRIBUTE TO MAJORITY LEADER

Mr. PERCY. Mr. President, before beginning the colloquy this morning, I would like to pay tribute to the distinguished majority leader. On the way back to Illinois this weekend I read his remarks on SALT, I studied them very carefully, had copies made over the weekend, and distributed them widely. I hope everyone in this Chamber will read every word of his statement. It is the finest statement I have yet seen on SALT. It is updated, it is thorough, it is analytical and it is tough. It presents both the case that was put to the Soviet Union, and the case that was put, by the distinguished majority leader, to the President of the United States. The majority leader's statement outlines the conditions under which the distinguished majority leader could, and only with those conditions could, support ratification of SALT II.

I think I speak on behalf of all Senators in saying we are greatly indebted for the role the majority leader has played in this debate, the foresight he has displayed, the vision he has had, and the national interest he has kept uppermost in mind. Only after he was thoroughly satisfied did he come to this conclusion, and I wish to thank him for the leadership he has exerted in this area.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. PERCY. I am glad to yield to the distinguished Senator from New York.

NATO PARLIAMENTARIANS URGE SALT RATIFICATION

Mr. JAVITS. Mr. President, I wish to join the Senator in what he has said concerning the majority leader's very ra-

tional, reasoned, and closely knit statement.

I have some important news to report. After extensive debate in Ottawa, at the annual conference of the North Atlantic Assembly consisting of 220-odd delegates from the NATO parliamentarians, the parliamentarians voted 71 to 0, with 38 abstensions—for the full resolution urging us to ratify SALT II. The principal debaters were the principal debaters here—we had Senator JACKSON leading a team which is opposed to the treaty, and Senator BIDEN and I led a team which is for it, among the U.S. delegation.

With the permission of Senator PERCY, I ask unanimous consent that the resolution adopted on Friday last be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION ON THE SALT II TREATY

The Assembly,

Noting that the SALT II Treaty is the culmination of seven years of rigorous and complex negotiations by three U.S. Administrations, and represents adherence to the obligations of the two super-Powers under the Non-Proliferation Treaty;

Recognising that the Treaty places numerical restraints on Soviet strategic capabilities, in terms of both launchers and warheads, and enhances Western capabilities to predict and monitor the development and deployment of Soviet strategic forces;

Recognising further that the Treaty permits the United States to pursue all measures necessary to sustain the strength and credibility of the U.S.

Assured that neither the treaty nor the Protocol will inhibit necessary military and technological cooperation within the Alliance;

Convinced therefore that, in providing the framework for a secure and stable strategic balance between the United States and the Soviet Union, the Treaty reduces the possibility of nuclear war, contributes to international stability, and thereby promotes the security interests of the member nations of the North Atlantic Alliance;

Recognizing the SALT II Treaty as an essential step toward the goal of achieving more substantial reductions in the nuclear arsenals of both sides during a future SALT III negotiation;

Convinced that a SALT III negotiation provides the most promising forum for nuclear reductions in the European theatre and that progress in such a negotiation would facilitate collateral progress in related negotiations within the MCFR and CSCE frameworks;

Reminded that the twin precepts of the Alliance are defense and détente;

Recognising that the unanimous endorsement of the SALT II Treaty by the leaders of all member states of the Alliance reflects broad-based public support of the SALT process as a central element in the effort to stabilise the East-West military balance and simultaneously to improve East-West relations;

Concerned, with regard to defence, that failure to ratify the SALT II Treaty would have a seriously disruptive impact on the cohesion of the North Atlantic Alliance;

Concerned, with regard to détente, that failure to ratify SALT III would result in a deterioration in East-West relations, potentially negating many of such positive aspects of détente as expanded trade, cultural contacts, and reunification of families;

Respecting as an Assembly of Parliamentarians the sovereign right and the responsibilities of the U.S. Senate to decide on the ratification of SALT II;

Urges the United States Government:

To proceed to early ratification of the SALT II Treaty, with due respect to all requirements for credible deterrence, stable nuclear balance and future arms control negotiations;

To undertake SALT III negotiations aimed at accomplishing significant reductions in each side's nuclear forces;

To consult fully and regularly with the Allies on all aspects of the negotiation, in particular on those pertaining to theatre nuclear forces.

Mr. JAVITS. The abstentions were attributable to two major factors: First, the abstention by the whole U.S. delegation; we felt, rather than showing a divided delegation, we should abstain, which we did. Then, abstention by the French delegation as a matter of policy, and abstention by an important section of the German delegation, which did not want to anticipate its Government's attitude on the relationship between SALT II and nuclear theater weapons modernization.

The Senator from West Virginia has every reason to be gratified that what was challenged; to wit, that Europe wants SALT II, was eloquently and authoritatively answered, after full debate in the North Atlantic Assembly.

I thank my colleague.

Mr. ROBERT C. BYRD. Will the distinguished Senator from Illinois yield?

Mr. PERCY. Yes.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Illinois and the distinguished Senator from New York for their overly gracious, very charitable comments.

I did note with great interest the news reports with reference to the NATO Parliamentarians. I was gratified and encouraged by the action that was taken. I commend the Senator from New York, the Senator from Delaware (Mr. BIDEN), and the others, as a matter of fact on both sides of the question, for their zealousness, and particularly Mr. JAVITS and Mr. BIDEN, who were for the treaty, for the successful presentation that I am confident was made.

Again, I thank both Senators. I appreciate what they have said.

Mr. PERCY. Mr. President, because, as I understand it, there are about nine other Senators who would like to come over and personally speak, I will limit my comments to 5 minutes and yield the balance of my time to my colleagues who are on the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the comments with reference to the Ottawa meeting not be charged against the time of the Senator from Illinois.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PERCY. Mr. President, other Senators who would like to be on the floor now will not be able to make it, as some of them have not returned to Washington yet. I therefore ask unanimous consent that their comments follow those comments that will be given live on the floor so that there can be a continuity in these remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE 50TH ANNIVERSARY OF BLACK TUESDAY

Mr. PERCY. Mr. President, today marks the 50th anniversary of Black Tuesday, the day which saw the steepest decline in a stock market rout that had begun 5 days earlier, on October 24, 1929. This day, in short, marks one of the most significant turning points in the economy in this century.

Nearly every Senator in this Chamber has personal reminiscences of the 1929 stock market crash and the Depression that ensued.

In my own case, I was just 10 years old, but saw the effects of the crash and the Depression in a very real way. It was crushing not only to the economy, but to human beings all over their country.

My father was a banker in a small neighborhood bank in the city of Chicago. The bank failed. The depositors—all of them neighbors in our community in which we had lived all our lives—suffered irreparable losses and only received, ultimately, years later, 20 cents on the dollar. I shall never, ever forget the human misery that was caused by this—tremendous unemployment, lost creativity, and the crushed spirit of individuals. It has had a marked impact on my life and the need I have seen to help others and to prevent the recurrence of this kind of catastrophe.

Though we also have a soft economy now, none of us today foresees a repetition of the Depression of the 1930's. It would be literally impossible. To begin with, on bank deposits, there are no runs on the banks today. The Federal Deposit Insurance Corporation has made it possible for everyone to have free insurance coverage on their savings accounts.

Unemployment compensation removes the great fear that people are not going to have enough food on the table if they are out of a job. Certainly, welfare payments, food stamps, and other programs assist in tiding Americans over during economic slumps.

Certainly, there is also no real possibility of another 1929 style stock market crash. People are not buying on margin today as they were in 1929. They are essentially paying cash for what they are buying. And institutions are the largest buyers and sellers of equities on the market today. It is simply a different market than the one that existed in 1929.

The housing market is one area which we need to watch closely, but we do have the administrative tools available to us to prevent a collapse of homebuilding. Some analysts, for example, suggest we increase the FHA-VA home mortgage rate from 11½ percent to 12½ percent. Without an increase, they argue that borrowers will be unable to afford the large up-front capital that is required when 8 to 10 points are charged against each mortgage. Although HUD Secretary Landrieu increased rates a full percentage point last Friday, we may need to raise them again very soon to keep the lifeblood flowing to the housing market.

But what we are trying to prevent, and we are united in this effort, is another recession of the depth of 1974 and 1975. If we have to go through a recession, we are not going to be satisfied to have that

recession so deep that it does start to affect, in a truly adverse way across the country, families, businesses, farmers, banks, and consumers.

That is why a number of us are taking the floor today to talk about a positive Republican program which we hope will be a nonpartisan program. In the 1930's, the Republican Party seemed bankrupt of ideas and did not know what to do. The party seemed only to have cliches that "prosperity is around the corner," and we have a goal of "a chicken in every pot" and "two cars in every garage." Today Republicans are working hard to be creative, innovative, visionary, and to get a feel for the economy and what is needed to move us forward.

The country saw in the 1930's a jump in unemployment from 3.2 percent in 1929 to nearly 25 percent by 1933. It did not retreat to a single digit level until we were well into World War II. That was a tremendous loss of talent and resources and we should not let anything like it happen again, and we shall not, if we carry forward with an enlightened economic program.

Let us talk for just a moment about the economy of the 1920's. What was it like?

What is most apparent to these highly inflationary times is the relative price stability in the 1920's. Based on a Consumer Price Index of 1967 being 100, prices actually dropped from an index of 53.6 percent in 1921 to 51.3 percent in each of 1928 and 1929.

Mr. President, I ask unanimous consent that a chart reflecting the 1920's inflation rates be printed at this point in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Consumer Price Index (1967=100)

1920	60.0
1921	53.6
1922	50.2
1923	51.1
1924	51.2
1925	52.5
1926	53.0
1927	52.0
1928	51.3
1929	51.3

Mr. PERCY. In the last several years, by contrast, we have seen prices jump by 20 CPI points a year. In fact, just since 1967, the CPI has doubled. So far this year, we have been running at a rate of 13 percent and I expect that we will finish the year in the 12- to 13-percent range. This type of price behavior was not present in the years preceding the Depression.

Yet another factor that differs from 1929 is the demography of the population. More than 40 percent of U.S. families lived on farms at that time and borrowing and credit were not so widely used as today. What is more, consumers—a word hardly known at that time—lacked the inclination to go deeply into debt. Since 1971, consumer installment credit has more than doubled, growing faster than the CPI.

Unemployment was so low then that it was below the 4 percent that we now consider full employment. In 1929, unemployment stood at 3.2 percent. With inflation at about zero and virtually full employment, the economy looked like it was in perfect balance—at least to us, using our 1979 standards.

But, of course, the economy was not in perfect balance. There were only about 4 million common stock investors in 1929 and few institutional investors. There was no Securities and Exchange Commission and, consequently, little regulation of securities transactions. One analyst estimated the number of "margin" transactions in the New York Stock Exchange to be as high as 90 percent—in other words, 90 percent of the transactions were on credit and only 10 percent with cash. In short, business built largely on speculation came crashing down when the buoyant economy of the 1920's began to slow in 1929. The stock market was the hair trigger that set off the business decline.

The Dow Jones average dropped from a high of 381 in September 1929 to 198 in November—it had risen from 63 just 8 years before, indicating the rapid growth and speculation of the 1920's. To put it another way, all the inflation of the 1920's seemed to be in the stock market itself. At its peak in September 1929, stock prices measured by the Standard Statistics Index of 421 common stocks were 128 percent higher than just 3 years earlier.

The stock market crash of 1929 was seen at the time as so important because of what it did to investors' plans. Business firms were deprived of a cheap source of financing. The sudden drop in prices also made businesses wary of future capital spending. In short, the crash triggered a lack of confidence in the economy which culminated in 1933 with widespread bank failures and high joblessness.

Government finance was significantly different in the 1920's, too. For example, balanced budgets were the watchword of fiscal management. In fiscal year 1929, the Federal Government ran up a surplus of $0.8 billion, with revenues of $3.9 billion and outlays of $3.1 billion. That level of spending is exceeded by any executive agency now, but at that time, the gross national product was just over $103 billion, and Government spending was less than 3 percent of it.

The conventional wisdom of the day, in both parties, advocated a balanced budget. To maintain that balance, President Hoover and Congress, in 1932, raised taxes to cover a projected budget deficit. Just at a time when a more expansionary fiscal policy would have helped, the opposite course was taken.

What was called for in the early 1930's was a departure from the norm. The country had not encountered such a steep economic downturn since the 1890's, and few policymakers had a recollection of that era. Consequently, national leaders clung to tools that would not force a turn-around in the economy.

The economy of 1979 is considerably different from 50 years ago.

We are now living in an economy where consumer prices increase at 1 percent a month. September consumer prices, for example, increased by 1.1 percent—an annual rate of 13.2 percent.

Producer prices have also begun to increase more rapidly this summer. In September, producer prices jumped by 1.4 percent—a compound annual rate of 18.5 percent.

In both cases, rises in prices for energy, food, and housing were significant factors. Since just a year ago, home heating oil prices have climbed an astounding 72.8 percent according to the Labor Department.

Unemployment in September, on the other hand, showed a slight decrease from August. The jobless rate now stands at 5.8 percent, down from the 6 percent level of August. Black unemployment is still over 10 percent, however, and teenage unemployment exceed 16 percent.

The inflation in the consumer economy does not have a parallel inflation in the stock market, as 50 years ago. In fact, stock prices are depressed by and large. As the New York Times editorialized on September 18, stock prices have fallen 53 percent from 1968 to the second quarter of 1979—and this is after the prices have been adjusted for inflation.

This decline in stock values—which began more than 10 years ago—did not trigger the decline in the economy that it did in 1929. In fact, GNP has been growing throughout the last decade. Whereas GNP shrank from just over $100 billion in 1929 to $55 billion 4 years later, just the opposite has happened since 1968. GNP in 1968 was $868 billion then and stood at over $2 trillion last year.

Yet we know from the signs of high inflation and undervalued stocks, as well as the persistent flight from the dollar overseas, that the economy is not in balance.

Government policies to combat inflation have been largely based on the conventional wisdom of our day and age—just as the Government did in the 1930's. What is called for is an acknowledgement of where we are and a realization that a major part of our present economic malaise is due to inadequate saving, inadequate investment, and insufficient tax incentives for capital formation.

What is called for is a unified tax program that will rejuvenate the American economy, increase our productivity rate, and keep U.S. firms and workers competitive with other industrial nations.

There are a wide range of policies that should be pursued immediately: balancing the budget, requiring Federal regulatory bodies to consider the economic costs of their proposals, and improving the management of the Federal Government.

Perhaps most important, however, is the need to enact incentives for capital formation and investment. This, more than anything else, will get the private sector working again.

Our productivity rate, which grew at an annual rate of 3 percent between 1955 and 1965, has slowed to less than 2 percent in recent years. This year, we have had two consecutive quarters when we had absolutely no growth in productivity. In fact, productivity declined at

on agends to increase savings and investment

greater today than they were in 1929.

Mr. JAVITS. I yield myself 2 addi-

a statement of indepth analysis

one of the steepest rates ever. As productivity goes down, the unit prices of goods go up. Productivity can increase if we give workers the latest equipment and training. Our productivity rate is still higher than other industrial countries, but at the present rate, we will be eclipsed by Japan and Germany in a very few years.

Tax policy—encouraging business to undertake needed investments—is the best way to encourage productivity improvements.

Tax cuts to spur investment were tried in the 1978 tax cut bill. I strongly supported the Steiger capital gains tax cut and it has begun to have its effect already as venture capital—the lifeblood of innovation and job creation—is once again becoming available.

The Senate Republicans have introduced a package of tax bills that will move us toward a healthy economy.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a fact sheet on the Republican economic plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Passage of these bills will prevent the sharp economic downturn that we experienced in 1929 and will mark a departure from the way the Government has viewed the economy for the past 15 years. It is time we broke with that conventional wisdom.

EXHIBIT 1

FACT SHEET ON REPUBLICAN TAX PACKAGE (S. 1597)—SAVINGS AND INVESTMENT ENCOURAGEMENT ACT OF 1979

Introduced by Senator Danforth on July 30, 1979; includes three bills: S. 1542, Small Savers Incentive Act; S. 1435, Capital Cost Recovery Act, and S. 700, tax credits for research and development; cosponsored by all 41 Senate Republicans.

SMALL SAVERS INCENTIVE ACT—TITLE I

Introduced by Senator Percy on July 19, 1979.

Creates a $100 tax exclusion for interest earned from savings accounts like the existing exclusion for dividends from domestic corporations.

Provides additional exclusion for both dividends and interests up to $400 to the extent that interest and dividends are reinvested during the tax year.

Encourages Americans to save because—after the first $100 exclusion—bill requires dividends and interest to be reinvested and thus assures there is a net increase in savings and investment.

U.S. has lowest savings rate of all industrialized nations; according to the Organization for Economic Cooperation and Development (OECD) 1979 Economy Survey, the U.S. was last in household savings rates (savings as a percentage of household disposable income) in 1977:

Japan—21.2 percent.
West Germany—16.7 percent.
France—16.7 percent.
United Kingdom—13.7 percent.
United States—5.3 percent.

Small Savers Incentive Act will encourage Americans to save more and increase the amount of money available for expanded capital investment; higher levels of investment are key to fighting inflation and actively competing with foreign goods.

Will be subject to hearings on October 31, 1979 before Subcommittee on Taxation and Debt Management; hearing to be chaired by Senator Bentsen; one of five bills included on agenda to increase savings and investment incentives.

CAPITAL COST RECOVERY ACT—TITLE II

Introduced on June 27, 1979 by Senators Nelson, Bentsen, Packwood and Chafee.

Creates a 10–5–3 depreciation system; 10 years to write off structures; five years for equipment and three years for certain rolling stock.

Brings depreciation system more in line with true replacement cost and spur capital investment.

Current ADR system working wtih inflation hurting businesses in two ways: 1) money they get back in deductions is worth less each year; 2) by the time businesses recover cost of investment, the replacement equipment costs far more; result is no capital for expansion and modernization.

According to 1979 Report of the Joint Economic Committee and statistics compiled by the Labor Department, the United States ranks seventh (7th) in productivity, capital investment and economic growth after Japan, West Germany, Italy, France, Canada and the United Kingdom; also suggests that our low rate of capital investment and productivity is due in part to deficiencies in our capital recovery system.

ADR system particularly harsh on small and new businesses because of complexity; main reason small businesses use a straight-line, 10-year depreciation method even if they are entitled to more rapid recovery methods.

Data Resources Inc. in a study commissioned by the Committee for Effective Capital Recovery found that in 1984—the first year the proposal, if enacted next year, would take full effect—business fixed investment would be $20.9 billion more than under present system.

Senate Subcommittee on Taxation and Debt Management held hearings on October 22, 1979.

RESEARCH AND DEVELOPMENT TAX CREDIT—TITLE III

Introduced by Senator Danforth on March 21, 1979.

Provides a 10 percent tax credit for all research and development spending by business; identical to 10 percent investment tax credit available for private spending on capital investment.

Data gathered by the National Science Foundation shows:

(1) in 1964 R&D spending was three percent of GNP;

(2) every year since 1964, R&D spending has declined;

(3) in 1977 R&D spending was 2.2 percent of GNP and projections show that it will fall to 2 percent by 1985.

Mr. PERCY. Mr. President, at this point I yield to my distinguished colleague, the distinguished senior Senator from New York.

Mr. JAVITS. I thank my colleague.

Mr. President, I ask that the Chair let me know when I have consumed 5 minutes.

Mr. President, the Great Depression of 1929–32 is relevant but not analogous to the economic situation we are facing today. Therefore, it is worth our noting today and deriving such lessons as to current action that may be required today.

As Senator PERCY has already noted, the 1929–32 experience is relevant but not analogous because bank deposits are now insured. The speculation in the stock market which captured the imagination of the country like some great glistening bubble is absent, and indeed, the margin accounts, Mr. President, are not much greater today than they were in 1929, notwithstanding the vast growth of the economy. In addition, we have the underpinning of social security and the underpinning of great market demand for securities by pension trusts, which now have an estimated quarter of a trillion dollars in investment funds for this purpose.

But, Mr. President, that Depression is relevant because we now have grave threats to the confidence in money which characterized the Depression of 1929–30. It will be remembered that what touched off the great plunge downward which brought 25 percent unemployment to the country was the failure of a bank in Austria, which represented the money system of that time. It demonstrated a lack of confidence in the pledge of countries to redeem their currencies which caused a loss of confidence in all forms of value.

We have a somewhat analogous situation today, Mr. President, with the grave fall in the dollar, the grave uncertainties in foreign exchange markets, and the lack of confidence which seems to persist in the future, has caused unusual levels of spending for personal consumption, and which has caused astronomical prices for goods such as jewelry, gold, and works of art, et cetera.

Mr. President, it said that those who fail to learn from the lessons of the past are doomed to relive it. I would like to draw some analogies to the present situation.

One, we now have a moment of calm, as a result of some very costly financial arrangements made through the Federal Reserve, to right the economic ship of state. The latest Federal Reserve actions are essential in order to cut down on money issuance and credit activity which is not used for sound investments.

Let us remember that we went through a similar exercise to stabilize the dollar in November of 1978, and now we have had to undertake further strong measures in October of 1979. That is a pretty short span. This time, the markets may only give us 6 months, Mr. President, and it will take Herculean efforts in those 6 months to take advantage of the period which may be given us for constructive purposes.

The major problem which exists today, in my opinion, is the failure, the abject failure, of productivity growth of the American economic system, and the inability of the United States to deal with its energy problem. The latter forces us to remain both politically and economically at the mercy of external forces which are not too experienced and not too sophisticated in the world terms—countries with very small populations which are unaccustomed to handling the vast sums of money which are now being entrusted to them by the world in an excess price of oil.

Finally, the uncontrolled monetary situation in the world, that is the Eurocurrency market—is now estimated at $600 to $900 billions sloshing around in the world much of which can move in and out of different currencies at the slightest fear.

The ACTING PRESIDENT pro tempore. The Senator has used 5 minutes.

Mr. JAVITS. I yield myself 2 additional minutes, Mr. President.

In addition, Mr. President, the banks of the world and the banks of the United States have provided the nonoil developing countries with close to $200 billion in credits. We must be very wary and concerned about this credit, lest we deny the markets to these countries' goods which would permit them to earn the funds to service those credits.

Mr. President, a program has already been developed to deal with these programs, the economic program for the decade drafted on the Republican side has the express purpose of especially dealing with these particular problems. And I hope that as a Nation we will not miss the opportunity to put into operation an economic policy based on this program.

I express the hope that we on this side, though we are a minority, will have enough unity and enough wisdom to press our point, and that we shall have the internal fortitude to press what we know to be essential for the country. That is, in a word, what has been done now by the Federal Reserve only gives us a chance; it does not cure anything. We must use that chance to deal with our basic problems of productivity, of energy, and of confidence in money.

If we begin to deal with them effectively, then I think we shall be on the road back to economic health. If we do not, and do not learn from the dread tragedy of the past, the 50th anniversary of which we mark today. Mr. President, the economic crisis of 1929–32 can happen again; as I have been saying for the last 3 years.

Mr. STEVENS. Will the Senator yield to me for 30 seconds?

Mr. PERCY. Yes, I am glad to.

Mr. STEVENS. Mr. President, I ask unanimous consent that any Senator who wishes to place statements in the Record in support of this colloquy being led by the Senator from Illinois be permitted to have them printed in the RECORD at this point and my statement be printed following the statement of the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO RECOGNIZE CERTAIN SENATORS

Mr. PERCY. Mr. President, I ask unanimous consent that on the completion of the special order, the following Senators be recognized for 5 minutes each pursuant to the previous order for morning business in this order: DOMENICI, BOSCHWITZ, DURENBERGER, SIMPSON, and COCHRAN.

The ACTING PRESIDING pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am pleased to join today with my colleagues to discuss America's economic dilemma on this, the 50th anniversary of the Great Crash—an event that heralded the beginning of the Great Depression. In this regard, I ask unanimous consent to have printed in the RECORD at this time two editorials from today's Wall Street Journal, one about 1929's unlearned economic lessons and another speculating on the potential for a crash of 1979 if tight money policies are abandoned, and a statement of indepth analysis found in the Post of yesterday by James L. Rowe.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

1929'S UNLEARNED LESSONS

Today's 50th anniversary of the Great Wall Street Crash has, predictably, raised once more that awful question: Could it happen again?

There are many reasons to answer with a flat no. The world economy is more powerful and more diversified, and hence less vulnerable to the errors of a single nation. Nationalistic, beggar-thy-neighbor attitudes, a 1929 aftermath of World War I's carnage, are less in vogue. Communications and technology are much advanced.

But in 1979, a year when the leaders of both the administration and Congress were again, up until this month, neglectful of the nation's monetary responsibilities and continue to be blind to the imperatives of economic development and growth, it is not easy to say "it can't happen again" with full assurance. There are too many reasons to fear that today's political leaders have not absorbed the lessons of 1929, or worse, have drawn the wrong conclusions.

One such wrong conclusion that needs to be disposed of quickly is that the Depression was caused by federal policies of "laissez-faire." To believe that would require one to believe that the Smoot-Hawley Tariff Act passed in 1929 was something other than federal economic intervention and had nothing to do with converting an ordinary recession into a deep Depression. The crushing burden of this massive and sweeping tax on commerce was without a doubt a major cause of the Depression and laissez-faire was no more to be found in the late 1920s than it is today.

We are faced once again, in 1979, with a continuing accumulation of burdens that serve to drag the economy down. Taxes continue to climb despite promises of relief, penalizing production to subsidize nonproduction. Profits, another name for capital formation, are under heavy political attack—particularly profits of the vital energy industry. Regulatory costs, which often yield nothing in return, and another growing tax. Productivity, and hence the ability of the nation to produce its way out of economic adversity, has been declining.

Most worrisome of all is the set of attitudes that afflict Washington. Charles P. Kindleberger, an economic historian, once described "economic illiteracy" among top policy makers as a primary reason for the Depression. We would not go as far today, but there is no gainsaying the fact that an American Congress today proposes to treat the energy crisis by heaping new taxes on the energy industry and an American President was not so long ago asking his aides whether a sinking U.S. dollar was a good or bad thing.

Which brings up another Kindleberger point, covered in some detail by June Kronholz in her front-page Journal story October 23. He attributes the Depression in large part to the post-World War I decline of Great Britain as the nation willing and able to take responsibility for international monetary—and hence economic—order, combined with an unwillingness by the United States, the logical heir, to accept that responsibility.

The United States, of course, did accept that responsibility after World War II when the dollar became the base, along with gold, of the Bretton Woods monetary system and, hence, the world's reserve currency. But economic nationalism, not unlike the psychology that produced Smoot-Hawley in 1929 to "protect" American farmers, has persisted. In recent years, this has taken the form of an unwillingness by American political leaders to let the nation's international responsibilities for the dollar stand in the way of their efforts to buy domestic votes with social programs, federal deficits and easy money.

The U.S. reaffirmed its international responsibility last November only to slip back into its profligate ways. Now, under the leadership of Fed chairman Volcker, it is having another try at better dollar management. But it will be some time before world confidence is restored. And the risk, at this stage, is that Mr. Volcker's attempts to control credit expansion, combined with the tax and regulatory drags on the economy, will lead to a new political outcry and further reversion to isolationist, protectionist sentiment.

Before playing too heavily on this latent and highly dangerous force in the American political psyche we would strongly urge political leaders to hark back 50 years to when attempts to create an economic fortress America brought the U.S. and the world to grief. We are part of a world economy, just as we were in 1929, and it is a world economy in which the U.S. has to be willing to accept responsibility. The Crash could indeed happen all over again if we insist on ignoring that fact.

[From the Wall Street Journal]

THE CRASH OF 1979?

In one of those unfortunate accidents of history, the Federal Reserve's new efforts to get a grip on inflation come just as the nation is celebrating, if that is the word, the 50th anniversary of the great crash. Reawakening all the atavistic memories of another era can distract us from the real problems of our own.

Intellectually nearly everyone will agree that in 1979 the big threat is inflation. Yet emotionally, even without reawakened memories of 1929, we remain hypersensitive to the least whiff of recession. This hypersensitivity, it seems to us, is the real source of the chance that today's economy may unwind, the real root of the danger of a new crash.

Let us say immediately that we put no stock whatever in the Phillips curve, and very little in any form of the widely asserted inflation-recession trade-off theories. We are intrigued by, and will have more to say in the future about, the possibilities of combining tight money to fight inflation and the right kind of tax cuts to stimulate production. But all will be lost if fear of recession produces political pressures forcing the Fed to abandon its efforts to slow the recent runaway monetary growth.

Yet for over a year now, public dialog on the economy has consisted primarily of picking daisy petals—recession, no recession, recession. . . . As of the third quarter of this year, the most advertised recession in history still had not arrived. If history is any guide, the next cyclical recession will come in its own good time. Precisely when that date will fall is far from the most important question for economic policy. Rather, the whole question is, can we finally get this inflation under control?

Similarly, when the Fed finally moved to institute a credible anti-inflation policy four weeks ago, the question on everybody's lips was, will it cause a recession. This got so bad that when Fed Chairman Volcker mentioned declining living standards the other day, he drew headlines across the nation (though we are proud to say not in this newspaper) suggesting that he had declared a policy of deliberate recession. In fact, as the transcript reprinted nearby shows, he actually said that the declining living standards and the chances of recession arose quite independently of the Fed's policy changes.

Raw nerves about recession misdirect us, for if there is another economic debacle of 1929 dimensions, it surely will not be caused by overly restrictive policies at the Fed. Our

guess is that there are two possibilities for such calamity. One is a massive policy blunder on the order of the Smoot-Hawley tariff; we see the impending windfall profits tax as the most likely candidate, and wonder if its progress through Congress is more to blame than the Fed's policies for the recent weakness in stocks.

The other worrisome scenario for the Crash of '79 or '80 or '81 is this: The Fed is pushed off its efforts to control money growth. Something close to hyperinflation strikes the dollar. Flight from the dollar destroys this international currency. The world trading system collapses and takes all national economies with it. This is what we risk if, from fear that the next recession will come sooner rather than later, we force Mr. Volcker to back off from the course he has struck.

[From the Washington Post, Oct. 28, 1979]

THE 1929 STOCK MARKET CRASH: "THE LITTLE FLURRY DOWNTOWN"

(By James L. Rowe, Jr.)

NEW YORK.—The Great Depression.

Why did it happen? Can it happen again?

Those are the bottom-line questions, as Wall Street analysts would say.

But, frighteningly enough, although the 10-year worldwide depression is probably the most thoroughly studied economic event in history, the answer to both questions 50 years later is: No one knows for sure.

One cannot help but make comparisons between the performance of the stock market this month with its performance a half-century ago.

Stock prices have fallen sharply in recent weeks. Bond prices have collapsed.

Other comparisons to 1929 are apt as well.

Speculation once again is rampant in the United States, this time not to cash in on the boom, but to hedge against inflation.

But stocks have been replaced as the great speculative tool by metals (including gold, which played a similar role in the 1920s), trading in stock options and trading in futures.

Consumers and companies are carrying a heavy debt burden.

Once again the international economic order—after 25 years of post-war U.S. hedgemony—is in something of a turmoil.

Less developed countries are deep in debt and the industrialized countries are borrowing heavily, too. Countries, the United States included, are being swept by waves of protectionism, as workers and industries fight to keep out foreign competition.

Some new problems are on the horizon as well. Inflation is threatening at a double-digit rate and a worldwide cartel of oil producers holds the industrialized and nonindustrialized nations in thrall.

Most Americans date the beginning of the Great Depression to that Black Tuesday—50 years ago tomorrow—when the stock market collapsed.

And well they should. For the promise of getting rich quickly through investing in stocks had infected a large number of Americans.

Joseph P. Kennedy, the multimillionaire father of Sen. Edward Kennedy and the late President John F. Kennedy, pulled out of the stock market shortly before it crashed. Why? Because his shoeshine boy was giving him stock tips.

History has not recorded what happened to the bootblack's portfolio. Presumably his fortunes tumbled like those of many other Americans who believed the business leaders and economists who saw no reason why booming prosperity could not make every one rich.

Kennedy went on to head the Securities and Exchange Commission, set up in the aftermath of the depression to police the nation's stock trading.

While the great crash of Oct. 29, 1929, is the line dividing prosperity from poverty in the minds of many Americans, in fact, the recession started at different times for different Americans. And some citizens continued to work and prosper throughout the entire decade of the 1930s.

American farmers were in trouble throughout most of the 1920s. Worldwide overproduction of foodstuffs and a concerted attempt by Europeans to keep out foreign producers kept U.S. farmers from sharing in prosperity.

American homebuilding prospered throughout most of the 1920s—in part satisfying pent-up war demand for housing—but began to sag in 1927.

Even the average American consumer—despite the interest of bootblacks in the market—did not do all that well during the 1920s. Much more than today, the rich were getting richer and the poor poorer.

But the average American shared the optimism of the high-income American, even if he did not share in his weath.

And that optimism was dissipated when the market began to nosedive.

A stock market crash by itself would not have been so bad but for the shaky credit arrangements on which much stock was purchased and for the repercussions it had on banks—who were not only making many of the loans but were also into the securities themselves.

In 1928 and 1929 investors were buying stocks for as little as 10 percent down, financing the rest through loans from their brokers. At one point, more that a quarter of the loans outstanding in the nation were supporting stock purchases.

During the same period, the price of stocks nearly doubled, generating for many investors big profits, which they used to buy more stocks or to buy such products as automobiles, radios and household appliances with those newfangled electric motors in them.

This sent many consumer goods industries off on a binge that camouflaged some of the problems other sectors of the economy—notably farms and construction—were having.

The boom in stock prices was caused partially by the prosperity of many companies. But it was also caused by insider dealings and outright frauds.

For example, a pool of insiders in RCA stock kept buying one week, driving the price from $82 to $109 a share. Members of the pool then sold out, taking their profits, and the price dropped back to $87.

When the inevitable crash came, not only were individual investors hurt, the banking system that had made huge loans, wheeling and dealing along with everyone else, was hit hard.

The first round of bank failures, however was touched off in the agricultural sector, where continued low prices and drought forced many farmers into bankruptcy.

But the impacts of falling stock prices—and, then, falling consumption—were felt in other areas of the economy. With demand declining, prices fell. When prices fell, profits fell. Other loans became uncollectible.

The government did not understand what was going on. Instead of taking steps to pump money into the economy, the Federal Reserve took the opposite tack.

Politicians, even Roosevelt, strove hard to balance the budget.

Those actions drained even more buying power from the economy.

The depression might not have been as severe as it was—despite what economists like to call the imbalances that existed in the economy in 1929—had it not been a worldwide phenomenon.

It was not only U.S. farmers who were hurt by the depressed prices that resulted from overproduction of commodities. It was a worldwide problem.

Europe was hard-hit by war debts and reparations payments.

There was no longer a world leader to right the international economic system. Britain was too weak and the United States was still withdrawn into the isolationist cocoon it spun for itself after World War I.

Nations reacted to their own internal difficulties by setting up tariff barriers to keep out low-priced goods from their neighbors. Bank failures in Europe—starting with Austria's Creditanstalt in 1931—added the same waves of panic that bank failures did in the United States.

The Great Depression both in the United States and Europe, continued—with recoveries and new slumps—until World War II.

It left a scar on the world that has not yet been obliterated. In the U.S. it triggered serious stock market reforms and split commercial banks that accept deposits and make loans from investment banks that finance and deal in securities.

It set the stage for big government—a government from which many are today recoiling.

The depression also triggered a new wave of internationalism in the world economic order. The International Monetary Fund, the World Bank and other, less formal, institutions sought to ensure that the world would never again be trapped into the begger-thy-neighbor policies that made the Great Depression so much worse than it otherwise might have been.

But governments and economists, like generals, tend to plan for the last war, not the next one. That is why it is hard to say for sure that another depression could not occur.

The stock market has been cleaned up substantially.

But if it is harder to speculate in stocks, it is not hard to speculate in other areas.

Investors can contract in gold, copper or wheat futures for a fraction of the ultimate cost of the contract. If, in 1929, $10 could control stocks worth $100, today $10 can control contracts for commodities worth even more than $100.

Consumers are heavily in debt, as they were in 1929. Corporations, too, are carrying more debt than ever before.

Debt burdens are similarly heavy outside the U.S. Lesser-developed countries are borrowing heavily from U.S. and other multinational banks to pay oil bills. Industrial countries are also borrowing to pay their oil bills.

The U.S. banking system has been growing at a dizzy pace. The conservative banker who ran the financial institution in 1950 and 1960—and still had 1929 etched firmly in his mind—has been replaced by a new brand of manager.

Bankers learned some lessons in 1974 and 1975 when they faced severe loan losses.

They have put their houses in better order. But because of domestic restrictions on U.S. banks that date back to the recession, many big multinational banks are borrowing and lending heavily overseas, out of the reach of much regulation.

It doesn't matter much if it is Peru or Chrysler that defaults on a debt.

Furthermore, banking portfolios are beginning to feel the pinch of tighter Federal Reserve policy plus sharp declines in the value of the bonds they own. Credit still is not tight by any stretch, but if bond prices continue to slump, banks will find it harder to make new loans and might be forced to call in some outstanding ones.

And yet, the case for another Great Depression on the global scale of 1930 is hard to make.

Economics is a fuzzy science. It does not always see clearly even with hindsight. And it has a toucher time with the future. Even when economists offer the proper solutions, it is far from assured that the political leaders will accept them.

Mr. DOMENICI. Mr. President, I have had the opportunity to serve in a variety of capacities involving economics and budgetary matters during the past years—as coauthor of the Republican economic alternative that the distinguished Senator from New York, (Mr. JAVITS) and I devised to present the economic views of our party, and as members of the Senate Budget Committee. My work has brought me to several inescapable conclusions concerning our present economic situation: Federal spending is still largely out of control, in a fundamental sense, with worsening prospects; we are reaching a taxation level that will make productivity gains most unlikely; costs of increased Government regulation have grown so dramatically that unproductive inflation, inflation completely unrelated to either the production of goods or the consumption of them, threatens to stifle our economic growth; inflation in general, fueled specifically both by energy price increases and Government policies, has reached the crisis level.

Will this combination of factors lead to another great crash and Great Depression? I seriously believe that no one knows. In that regard, I have submitted for printing in the RECORD the Washington Post article of Sunday, October 28, 1978, "The 1929 Stock Market Crash: 'The Little Flurry Downtown.'" My personal suspicion is that a stock market crash-induced Great Depression is remote and practically impossible, but that a more fundamental worldwide depression of great intractibility seems almost inescapable unless America takes the economic lead in a new recovery.

I wish I could stand here and tell the world that things are going to get better, that this Congress is willing to take the lead, but the facts are unfortunately otherwise. If we look at the last 8 months, we see an unusual trend. At the beginning of this Congress, fiscal austerity was the rule. People who had never talked about balanced budgets or reduced Federal spending increases sounded like converts to our way of thinking. The spirit of proposition 13 and results of the last elections combined to give me and many who believe as I do the hope that this Congress would really bite the bullet. This has not been the case.

For example, under the first concurrent budget resolution passed by this Congress, Federal spending would have, for the first time in the history of the new budget process, been less for fiscal year 1980 than the projected inflation rate. We were embarking on an historic course. Alas, inflation and the inability of Congress to police its spending have diverted us from that new course. We will have a larger deficit than the policy advocated by the first concurrent budget resolution. We will have larger spending and more taxes.

So many of the savings through legislative reform and agency oversight improvements that the first concurrent budget resolution was based upon have failed to materialize. And, as recent revelations about medicaid in California and Pride, Inc., housing projects in Washington, D.C., reveal, much can be done to achieve multimillion-dollar savings in present programs.

So, where do we stand today? We stand thus: Congress has failed to move to cut Federal spending increases in meaningful ways; we still allow almost three-quarters of the Federal budget to be "uncontrollable" and subject to fraud, waste, and abuse; we are complacently facing huge new tax increases in 1980 and 1981 that will saddle individuals with about $69 billion in new taxes; and we have so botched the anti-inflation fight that the Federal Reserve Board has had to assume almost sole responsibility for attacking inflation, a dangerously one-sided approach that could have serious long-range implications for the Nation's economic health.

This failure of will has taken several forms, and it is interesting to me to see just how the Senate has divided itself when opportunities to really fight inflation and Federal spending have been offered. Let us look first at the proposal the Senator from Colorado (Mr. ARMSTRONG) and I offered, both in the spring and then again in the early fall of this year.

We proposed that we cut Federal spending in fiscal years 1980 and 1981 by about $17 to $20 billion, and, at the same time, return on a dollar-for-dollar basis those savings to the American taxpayer in a productivity-oriented tax cut. We received 38 "aye" votes the first time; and we got the same 38 the second time around. If we had received just a bit more support from the other side of the aisle, we would have passed this effort at fiscal restraint.

Senator BELLMON and I, with the unanimous support of our members of the Senate Budget Committee, offered an amendment this fall that would have required that all appropriations bills be held at the well so that we could cut them where necessary in order to reduce spending and effect savings. Again we were defeated despite very strong support from our side of the aisle.

Senator BELLMON, on numerous occasions, has attempted to cut appropriations bills in order to conform them to the fiscal austerity of the first concurrent budget resolution and has lost almost every time. The record on a whole host of other, related issues is clear: Congress is conducting business as usual and business as usual is failing.

My colleagues have spoken about the kinds of tax cuts, spending cuts, and reforms we need to really fight inflation at the congressional level. Let me close today by discussing very briefly the question of uncontrollables in the Federal budget. Uncontrollables, for those who wonder at the term, are those items in the budget that are, many of our colleagues say, out of our substantive control. Thus, they are allowed to increase wildly. They contribute to inflation in a classic sense, because they enhance demand for goods and services that are relatively stable in supply. A classic example is the host of housing programs we fund. By increasing demand through Government aid for a commodity that has increased in supply fairly slowly, these kinds of programs fuel inflation spectacularly. It is no coincidence that food, housing, and medical services have led the way over the past few years in the inflation index. Uncontrollables in the Federal budget are largely responsible for this kind of inflation.

I contend that nothing in this Federal budget is uncontrollable, if Congress is willing to show the will to act. We have the full power within our control to impose restraint on any program. We can begin to attack the problem of uncontrollables. We must have the courage to reform basic laws, to restructure programs. How can we go back to our constituents in this time of raging inflation and say, "Well, those programs are out of our control," when we were elected for the specific task of beginning to control these Federal systems? As a top priority for this Congress, I suggest this that we move aggressively to restructure present programs and reform present legislation so that spending rises will, once again, be within our control. I assure my colleagues that this will be one of my top economic priorities as I continue my work on the Senate Budget Committee.

Congress faces a relatively simple task if it is to do its part to fight inflation and restore economic stability: Cut individual and business taxes to enhance productivity and restore initiative; reform Federal programs to allow Congress to gain more control over programs and to force the bureaucracy to reduce fraud, waste, and abuse; place a moratorium on new Federal spending programs until inflation is under control; place a statutory limitation on the percent of gross national product that Government spending can constitute. Those all sound like fairly straightforward initiatives. They are not new and they have been suggested in the past. That they are still awaiting enactment into law is a measure of how Congress has really backed away from the essential decisions in the fight against inflation.

Mr. President, while I concur with those who have preceded me in saying that a great depression and a crash are remote and practically impossible, that does not make our appearance here nor America happy because, unless we do some very significant things in the very near future, I predict that a very fundamental worldwide depression of great intractability seems almost unescapable.

Mr. President, we can talk here at length about what has happened in the past. We can attempt to learn from the great crash and the depression that followed it, and we can make excuses and we can say it will not happen again. The truth of the matter is that the good Senator from New York is correct: If we believe that the activities of the Federal Reserve are going to bail America and the world economy out, we are badly mistaken. This is just a little, temporary cessation that they can help us with, giving us a little bit of time to do what we must do.

Likewise, we can talk about the world energy crisis and the fact that much of that is uncontrollable on the part of America. That has been said. Let me say

that we in Congress, as the policymakers for the greatest economic system and greatest economy in the world today and, basically, the greatest mankind has ever seen, had better make some decisions. If we think business as usual for the U.S. Congress will get us out of this mess because the Federal Reserve has created some kind of stalemate, then, indeed, we are foolish and we have learned nothing about what really has happened in America with its economy.

We speak much about its great potential for productivity and we act much the opposite way; more taxes rather than less; less incentive to produce rather than more; more taxes of the type which penalize those who produce rather than less, and on and on. More Federal programs rather than less; a Federal Government that is still out of control, spendingwise when all the signs indicate that we have to put some kind of moratorium on the activities of the Federal Government, especially in the areas of regulation and taxation and expenditures of the productivity of our people, taxation, which we seem to think has no end.

So while I am willing here today to talk about what happened in 1929 and why it cannot happen today, while I join with those who say there are great external forces impacting upon us, my reason for joining is to say that we have a rare opportunity, we on the Republican side who have proposed measures to bring back productivity to America, to say for a little while to those who want to argue what we ought to do with our taxes, "Won't you just sit on the sidelines for a minute and let America build its economy, the bedrock, back and then you can start fighting again about what we ought to do with its productivity—to wit, its taxes?"

I have outlined in detail a history of Republican effort that spans 2½ years, to call the attention of the American people to the need to move in the direction of productivity and to take Congress efforts here, in Congress, to produce the kinds of results that we know we can produce to make, once again, the American economy the idol of the world; to say once again to its great productivity potential, "We turn you loose again; we unshackle you from the things we have wittingly or unwittingly tied about you, yet demanding that you produce more." It is this we must learn and it is this kind of bedrock thing that we must do. It is these kinds of bedrock proposals that we must not only verbalize and speak of but make realities if we are going to let America lead the way out of the great international recession that is inevitable.

I yield the floor.

Mr. STEVENS. Mr. President, in conjunction with our recognition of the anniversary of the stock market crash of 1929 and of our discussion about the markets present reaction to the Fed's monetary policy, I should like to have printed in the RECORD a piece from this morning's Wall Street Journal. The article puts in context a recent remark by Chairman Volcker regarding the administration's anti-inflation policy and the decline in Americans standard of living. I think it is important that when we speak in macroeconomic terms about recession and monetary policy and interest rates, we do not forget about the personal side of our policies. When we say that higher oil prices and higher interest rates will lower Americans' standard of living, which Americans are we talking about? Whose standard of living will actually decline? Newspapers are already reporting that small businesses and other high-risk borrowers will be unable to get loans to finance business investments or buy homes. We hear countless stories lately about the poor being unable to purchase heating oil in preparation for this winter and of inflation forcing a choice between food and fuel.

The general consensus among experts in all sectors of the economy is that the recent steep increases in interest rates are necessary to stem the spiraling inflation rate. While I do not agree completely with these experts, it is clear to me that we should not now sit back and think that Government has done its part. We need to counter the decline in the living standard with appropriate fiscal policy. Carefully structured tax cuts can counter the decline in the living standard through incentives to encourage savings, provide investment capital, insure more efficient energy conservation, and spur production. Relief to those Americans who feel the recessionary squeeze the most must not be ignored. Tax initiatives, such as those mentioned in the Republican's economic policy can be important contributions to the Government's fight against inflation and recession.

We will all watch these developments carefully. Above all, we need to understand the relationships between our increasing purchases of foreign energy and our fiscal and monetary problems.

While I do not endorse Mr. Volcker's comments, I ask unanimous consent that the Wall Street Journal article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VOLCKER: "STANDARD OF LIVING HAS TO DECLINE"

(Federal Reserve Chairman Paul Volcker has been widely quoted as saying that in order to trim inflation, the U.S. standard of living must be reduced. These reports were based on his remarks in testifying to the Joint Economic Committee on October 17. The following transcript shows what Chairman Volcker actually said:)

Senator Bentsen: Mr. Chairman, I certainly agree with you that we have to have monetary restraint and fiscal restraint both. And reading and following you on the last part of your testimony today about the calling for some sacrifices, and we may have to suffer some pain to still inflation, I interpret that to mean that we will have lengthened unemployment lines, that we will have some loss of output in our economy, in order to correct the inflationary trend. President Carter, in a speech before the AFL–CIO, gave his assurance that he would not tackle the inflation problem by jeopardizing workers' jobs. Now, how is that possible?

Mr. Volcker: Let me break the two points, if I may make one general point in terms of the need for discipline and sacrifice, a point that doesn't refer to cyclical development at all, directly.

I would point out that productivity growth in this country is actually negative in a recent period, and we have had higher oil prices. And, of course, we import 5 percent of our oil, so that the higher revenues going abroad do not go to American citizens. Under those conditions, the standard of living of the average American has to decline. I don't think we can escape that when we're producing less with the same amount of effort, according to the statistics and we're paying high prices abroad.

Now, if we fail to recognize that and people try to catch up with the existing standard of living or try to increase their standard of living, you get a process going that only feeds the inflationary process, because wages move ahead of prices and then push up costs further, and up go the price levels some more.

I think there has been a good deal of common sense, as I suggested, on the part of the American people, and, all things considered, and particularly the increase in the price level recently, though restraining themselves from a big further increase in wage gains. That's one kind of sacrifice.

Now, on the cyclical question of unemployment, there has been a lot of talk about a downturn, a recession, for months now. It looks as though a real downturn has been somewhat delayed in terms of earlier expectations. But I share the concern that there are developments in the economy—pressures on consumer spending, rather fundamentally relevant to high level of inventories—that may lead to some adjustments and some unemployment.

But let me say this was true before we acted [on October 6 to tighten credit], as well, and it is still true today, and it's not altogether clear to me that the prospects over any reasonable length of time for unemployment specifically were worse after we acted than before, given that almost all economists were projecting sizeable increases in unemployment.

There was a certain indication in the economy that might have suggested that, both in the area of consumer buying and in the area of business behavior, that some expenditures were being made in anticipation of price increases. As pointed out, the savings rate was very low. Businesses have begun to build up inventory. Now, that kind of behavior can keep the economy going for a little while, but it's also the kind of behavior that's going to give you a bigger downturn eventually.

Now, if we take one effect of our action, it is to cut off some of the speculative-type behavior. I am hopeful that the total adjustment process, which I think we're entering into and have been in, that the total adjustment process may proceed more smoothly than would otherwise be the case. But that doesn't mean we are not going to have an adjustment process.

Mr. BOSCHWITZ. Mr. President, I also want to speak up on the 50th anniversary of Black Tuesday and talk about the vibrancy of our economy and the impact of taxes upon that vibrancy.

I think that the economic base we have built in this country has come, first, through research that has led to great additional productivity. It has also been predicated upon the availability of raw materials. Finally, it has been predicated on the idea of incentives. My short statement is directed at taxes and how raising taxes has the tendency to squelch incentives. I speak not only from personal

experience but also from the experience of history. My remarks are directed at the Revenue Acts of 1971 and 1975, the Tax Adjustment Act of 1975, the Reform Act of 1976, the Reduction and Simplification Tax Act of 1977, and the Revenue Act of 1978.

I am somewhat amused, Mr. President, by some of the words used in the titles of these acts—Tax Reduction and Simplification Act of 1977, and also the Tax Reform Act.

Most of these acts have not been reform or reduction or simplification acts. They have instead added credits, exemptions, deductions, revisions, rebates, and refunds to the code that have made the code much more complex; 25 years ago, only 18 percent of taxpayers needed help in the preparation of their tax returns. Today, 64 percent of the tax returns are prepared with the help of someone other than the taxpayer.

If these Revenue Acts had not been passed, and if the rate had instead just been reduced, the tax rate today would not be in the 14 percent to 70 percent range, but rather would be in the 10 percent to 53 percent range.

Mr. President, that includes only the new credits, exemptions, deductions, and revisions that were added by those acts. It does not include some of the meaningful tax reductions of capital gains, or the rate reductions.

The Revenue Act of 1971, Mr. President, reduced individual taxes by $2.7 billion which represented at that time 2.8 percent of the total individual income taxes collected. The corporation income tax was reduced by $4.5 billion through additional credits, exemptions, and deductions.

If they had just reduced the rate, they could have reduced individual income taxes that year by 2.8 percent, and corporate taxes by 14 percent.

This same type of "reform" went on again in the Tax Reform Act of 1975 and the Tax Adjustment Act of 1975.

I have here the Tax Reform Act of 1975, the report of the House Ways and Means Committee, which is 476 pages long. The Tax Reform Act of 1976, and this is the conference report, is 646 pages long, just trying to explain the changes. The report on the Revenue Act of 1978 is 283 pages long.

As we reform, as we bring new deductions, exemptions, and credits into the act, all we are doing is complicating the tax code.

What I would like to say is that we should just reduce the rates. If we only did that instead of adding new credits, new exemptions, new deductions, and new revisions, the tax burden on individuals today would not be in the 14 percent to 70 percent range. It would be in the 10 percent to 53 percent range. The tax burden on corporations would not be in the 17 percent to 46 percent range as it is today; it would instead be in the 15.5 percent to 42 percent range.

Lower taxes, Mr. President, I submit, create incentives. There is no question about that.

Again, I emphasize that the changes that took place in the code do not include the rate reductions, the bracket widening of the Revenue Act of 1978, or the capital gains tax reductions in the Revenue Act of 1978. Taxes could have been substantially lowered if we had not had new credits, new deductions, new revisions, new exemptions to the tax code. We should reduce the tax rates and thereby restore incentives to American society, to the American economic picture. This is what we so vitally need.

The PRESIDING OFFICER (Mr. McGOVERN). The Senator's time has expired.

Mr. BOSCHWITZ. I yield myself another 1.5 minutes, Mr. President, if I may.

The PRESIDING OFFICER. Under the rule, when the Senator from Minnesota was recognized (Mr. DURENBERGER), he should yield to the Senator.

Mr. DURENBERGER. I will yield from my time.

Mr. BOSCHWITZ. I thank the Senator.

Mr. President, this has been the experience from the Capital Gains Act. When the tax rate was increased, the revenue went down. When the tax rate was reduced last year, once again there has been great impact on the investment market, and venture capital has increased, the revenue went down. When the tax rate was reduced last year, once again there has been great impact on the the investment market, and venture capital has increased significantly.

Incentives work. If a person is able to keep a reasonable share of what he or she produces, they produce more. It is that simple.

There is a great need for tax reduction in this country. It can be achieved by simply not adding to the code new deductions, new credits, new refunds, new exemptions, or new rebates. Just reduce the rate and return incentives to the American society.

I thank the Chair and I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota (Mr. DURENBERGER) is recognized.

Mr. DURENBERGER. Mr. President, I rise to express my gratitude to the senior Senator from Illinois for his leadership in providing this occasion for each of us to remind the people of this country that there are public policy alternatives to the economic chaos which faces this country, and to express my gratitude to the senior Senator from New York for providing the leadership among Republican Senators which has produced the unanimous position statement on these alternatives.

I also wish to compliment my fellow Senator from Minnesota on his special insight into the impact of this Nation's taxing policies on the economic institutions and wage earners of this country.

Mr. President, 50 years ago today the bottom fell from the hopes and dreams of millions of Americans. It took 17 years, a Depression, and a World War before the Nation returned to peacetime prosperity. In the interim, an entire generation of Americans grew from childhood to adulthood without experiencing the peace and prosperity that are so much a part of the American dream.

In the succeeding half century, we have grown older, and significantly more knowledgeable in the workings of our economic system. We now understand the basic forces that led to the crash of 1929. We have mechanisms to stabilize the growth of the money supply, and sophisticated indicators to tell us when and how the economy should be finely tuned. But it is a sad reality that age and wisdom do not always go hand in hand. And the best tools of the brightest economists do us little good if we lack the wisdom to use them properly or the courage to use them at all.

The golden anniversary of the Great Crash finds gold prices at record highs throughout the international market. Inflation is moving toward the 16-percent level, with interest rates in hot pursuit. America's savings and productivity rates have rarely been lower, and not surprisingly, there is a consensus among economists that we are in a recession.

The greatest tragedy in all of this is the realization that once again, those who can least afford to are paying the greatest price for congressional inaction and administrative indecision.

For when Congress lacks the will to keep deficits from rising into the tens of billions of dollars, American families pay the price.

When the administration lacks the courage to keep a firm and reasonable hand on the growth of the money supply, inflation steals a greater and greater share from the retirement dreams of senior citizens.

When Government settles for piecemeal efforts to manage the price and supply of energy, the burden falls squarely on American business and the millions of working men and women who depend on it.

We hear so often about the effects of inflation on American wage earners—the erosion of fixed incomes, the lack of access to the housing market, the dilemma created by falling real wages in a time of rapidly escalating prices. But in the past few months, Americans have become increasingly aware of the toll inflation is taking on the economy as a whole.

The current congressional debate over the structure of America's banking system is evidence of the degree to which double-digit inflation has dismantled the equity in our financial system.

By destroying the value of savings, it has converted us from a society immersed in the savings ethic to one intoxicated with the desire to consume—a desire drawn from the fear that tomorrow's prices will exceed even today's.

Inflation has produced sharp increases in real business taxes and falling rates of return. By causing the understatement of depreciation and inventory costs, it boosts taxes on real capital gains to levels exceeding 100 percent, discouraging savings, investment, and in particular, the funding of small innovative firms.

As Harry B. Ellis wrote in last Monday's edition of the Christian Science Monitor:

As inflation persists, inequities spread through society, widening the perceived as well as the real gap between propertied and non-propertied citizens, and inflaming social tensions.

Mr. President, I have been tremendously impressed as I listened to the economic policies advocated this morning by my Republican colleagues. We have talked frankly and accurately about the need for fiscal and monetary restraint, and equally important, the need for basic changes in our long-term trade, energy, and economic management philosophies.

But it is equally important to emphasize that while we are pursuing long-term policies to stabilize the rate of inflation, there are actions we can take to blunt inflation's short-term impact on American employers and wage earners. The most important of these actions is immediate passage of tax indexing legislation.

Tax indexing is nothing more than a windfall profits tax on Government. It proceeds from the philosophy that any windfall created by inflation should remain with the taxpayer as a buffer against rising prices, rather than passing to the Federal Government. And this is a sound philosophy.

Under the pressure of double-digit inflation, the present tax system has demonstrated built-in inequities and an inherent tendency to fuel the inflationary cycle. Individuals receiving cost-of-living wage increases are penalized by a tax system which simply thrusts them into higher brackets, and often suffer actual losses in real dollar purchasing power. They end up falling behind the rise in living costs, forcing them to rob their savings and investments to feed, clothe, and shelter their families. This fuels the desire for even higher increases in the next round of bargaining, but the result remains the same. Without indexing, the present tax system guarantees progressive erosion of real income, as it spurs inflationary psychology.

In the absence of indexing, that system inevitably makes Government the prime beneficiary of inflation. For each 1-percent rise in the Consumer Price Index, Federal tax receipts rise by approximately 1.4 percent—signaling a redistribution of real income from the private to the public sector. This process cuts deeply into savings and investment, disrupting the balance of the economic system as a whole. It also permits Government to profit from annual tax increases without the necessity of congressional action—a paradox in this era of increasing demand for Government accountability. It is, in effect, a 1980 version of taxation without representation. Tax increases should neither be hidden nor automatic. Unless Congress chooses otherwise, the inflation divided should remain in private hands where it can be saved, invested, or used to mitigate the human hardships of inflation.

Frankly, Mr. President, I find it difficult to understand the argument that tax indexing is somehow a concession to inflation. On the contrary, tax indexing does nothing more than redistribute the tax implications of inflation, so that consumers no longer bear all of the burden, while Government reaps all of the benefits. In fact, there is empirical evidence that tax indexing has a positive fiscal effect in slowing down the increase in Government spending.

In Canada, where tax indexing became national policy in 1974, real dollar spending by the Canadian Parliament had been increasing at an annual rate of 15.9 percent prior to enactment of the indexing law. In the year following its enactment, that growth rate decreased to 10.2 percent, and over the next 3 years, it fell progressively to the 1978 level of 2.1 percent. These figures support the theory that by forcing revenue projections to be scaled down, tax indexing actually induces fiscal responsibility by placing a restraining effect of budgetary decisionmaking.

The Christian Science Monitor summed up the argument this way in an October 18, 1979 editorial:

> The most frequent argument of opponents is that indexing would tend to institutionalize inflation and insulate taxpayers, weakening their resolve to combat inflation. But we doubt it. Even with indexing, the average American taxpayer will still feel the pinch of inflation in the rising prices he pays for food, clothing, energy, and other necessities. Indexing won't do away with inflation—but it would help ease its bite on taxpayers and make Congress more responsible fiscally.

Tax indexing is not designed to combat inflation. It is designed not to insulate taxpayers against inflation, but to remove the insulation that an unindexed windfall tax provides Congress from the chance for fiscal restraint. It is designed to minimize the short term effects of inflation while we treat its causes with long-term remedies. And minimizing inflationary impact on human needs is by any standard the principal goal behind our anti-inflation policy.

The indexing concept has been endorsed by such diverse sources as the American Enterprise Institute, the Christian Science Monitor and the New York Times. In one form or another, it has become national policy in Brazil, Canada, Israel, the Netherlands, Argentina, Denmark, France, and Luxembourg. Earlier this year, under the leadership of Governor Al Quie, it became part of the tax system in my own State of Minnesota. The American people are demanding it, and with double-digit inflation, they need its relief as quickly as we can possibly provide it.

Mr. President, to meet this need I am this week introducing the Tax Indexing Relief Act of 1979, a bill to comprehensively index our tax and exemption system. I urge my colleagues to seriously consider this bill, and to demand immediate action on it and the various other indexing measures now before the Senate.

Every day we delay, the dreams and aspirations of another generation of Americans erodes even further. The loss may not be as sudden as it was in 1929, but it is every bit as real.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DURENBERGER. Yes.

Mr. JAVITS. Mr. President, I think it an excellent statement. I have rarely heard the matter discussed as intelligently.

I thank the Senator for his personal references to me, as I know Senator PERCY would, too.

But I regard this as an excellent contribution. I hope the Senator will continue with us on this to determine to do something affirmative with our party and with our economy.

Mr. DURENBERGER. I thank the Senator very much. I am committed to continuing.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. SIMPSON. Mr. President, let me add my appreciation to my very progressive colleagues, Senator PERCY and Senator JAVITS. I believe they have crafted a very significant message, one in which I concur.

Mr. President, the crash of 1929 was indeed a turning point in American history. On October 20, 1929, the Federal Government accounted for 3 percent of the Nation's GNP; in 1940, 9 percent; in 1950, 15 percent; in 1965, 17 percent, and today, 21 percent.

The depression experience was a deeply traumatic one to the American people. I saw some of this as a young boy, and I know of constant references to the suffering endured in those days.

In a sense, the Nation's economic policy since the depression has been one long response to that experience.

On this 50th anniversary of "the Crash," I want to state that I feel our obsession with the depression and our possible misunderstanding of its causes have led us to take a fundamentally wrong turn in economic policy.

As the years have passed, we have gone further and further beyond the attempts made early in the depression simply to assist those in need. The paternalism of the early days, which was quite limited, has expanded its aims, its arrogance, and its burdensome power over the American people.

Attempts have been made to "fine tune" the economy by the use of fancy econometric models based on questionable economic theories and assumptions.

Attempts also have been made to regulate most major aspects of American life and to redistribute wealth—in order to realize various visions of the good never really embraced by a majority of the people, then or now.

And somehow along the way we forgot what made us great. What made America great was what brought the early settlers here: Fredom, the chance to start a new life in a place where no ruler could tell a person what he must think or do.

Freedom was sought for its own sake in those early days. Yet freedom also gave America its prosperity—and this was no mere coincidence.

When men and women are allowed freedom of action—to work as they choose, in the service of their own goals and priorities; when they are left to prosper or to fail according to their success in providing goods or services which others value; when their government does not take away most of the fruits of their labor through taxes or regulation or inflation—well, under those conditions human beings work hard and well; they save for the future;

and they utilize resources most productively.

Mr. President, I believe most of us in this body recognize the symptoms of our economic sickness. They have been reviewed carefully by Senator JAVITS and Senator PERCY. They include the low rate of savings, the low rate of investment in new plant and equipment and in research and development, the declining productivity, the low rate of GNP growth, the budget deficits of billions of dollars, the double-digit inflation, the record-high interest rates, the balance of trade deficits, the weak dollar.

I also believe that many in this body recognize the path we should take to remedy the distressing state of the American economy. I have reread the many fine statements in the July 3 CONGRESSIONAL RECORD presented on behalf of the Republican economic program. I highly recommend them to all my colleagues. I certainly recommend them to those of the other faith, on the other side of the aisle, a good many of whom I believe would agree with many of the goals and approaches described in that remarkable presentation.

It is obvious that we must change the incentives—"disincentives" might be a better word—that now exist. The Republican program proposes tax incentives for increased savings and for increased investment in new plant and equipment and in research and development.

There is no doubt that approaches such as this would work. The capital gains tax reduction accomplished in the last Congress by Congressman Steiger and the very able former Senator from Wyoming, my good friend Cliff Hansen, has resulted in a restoration of venture capital availability to nearly the levels in effect before the disastrous capital gains tax increases required by the so-called Tax Reform Act of 1969.

Mr. President, we can tax the productive members of society for their success, but we cannot make them stay productive after our actions have eliminated their incentive for being so.

I for one would prefer to keep the Government out of the process entirely—not having Government provide incentives for what Government decides is good economic behavior. In an ideal world incentives would be left to the market—but of course this is not an ideal world. Among other things the Government distorts investment decisions by inflation and perverse tax policies such as inadequate depreciation.

Mr. President, I believe that what is important is not any particular proposal or set of proposals, but rather the basic approach: that economic policy be based on a fundamental reality, the behavior of real human beings, and on a fundamental truth—that freedom provides the conditions under which real people are most productive.

We all know what makes for a healthy, properous economy: First, energetic and skilled workers—which we would have if we adequately rewarded effort and skill; and second, the development and utilization of more efficient techniques and products—which we would have if we adequately rewarded efficiency and innovation and if we provided adequate capital through rewarding saving and not siphoning off excessive resources for Government use.

Mr. President, I trust that someday soon we will all recognize that attempts to "fine tune" the American economy are actually quite crude and cannot hope to equal market pricing in providing for an allocation of resources that maximizes public welfare. Our economy is far too large, complex, and dynamic to be efficiently managed in Washington, D.C.

I also trust that some day soon we will all recognize that efforts to redistribute wealth are not merely unfair and inconsistent with out traditional belief in freedom, but they are perverse as well. They reduce incentives for people to be productive and then hurt everyone by only making smaller the total social pie available to be divided.

However, even if we were to rid ourselves finally of the urge to "fine-tune" the economy and to redistribute wealth, thereby restoring healthy market incentives, we would still be faced with the problem of Government siphoning off excessive resources and by deficit spending creating pressure on the Federal Reserve System to inflate the money supply faster than the real growth of the economy.

I believe there is a serious institutional problem involved—and this point has been made many times. Whereas the lobbying pressure for any particular Federal spending project is likely to be focused and intense—from the special interest group that would be benefited—the lobbying pressure against the project is likely to be diffuse and weak—merely from the taxpayers, who are unlikely to be more upset about one unnecessary Federal project than another and who have neither the time nor the energy to be vocal about each of them. Furthermore, there is a vicious cycle at work—excessive spending causes deficits, which lead to inflation, which causes tax increases purely through "tax bracket creep," thereby making further spending increases possible even without greater deficits.

I believe that this institutional bias that creates increased Federal spending is inherent in our political process and requires a constitutional remedy. Either spending must be limited directly or political accountability must be firmly established by a requirement that spending be limited to tax revenues, so that any spending increase would require that Congress be willing to take the political heat resulting from a tax increase.

Mr. President, let me conclude with a summary. We would be a more prosperous country if, first, we overcame the depression experience and returned to the natural incentives of the free market, giving up our crude attempts at "fine-tuning," and our counterproductive efforts to redistribute wealth, and second, if the institutional bias in favor of Federal spending were eliminated by constitutional amendment.

Perhaps we could then stop the constant, pathetic, and pessimistic cries for sacrifice and belt-tightening. The American people want a new economic policy of bold growth, not timid retreat and wringing of the hands. America did not achieve greatness by accepting limitations. Americans have always met challenges head on with vigor and imagination.

Mr. President, we still control our own destiny. The most important first step is to lift the Federal Government from the backs of the American people in order that the natural incentives of the marketplace and the inherent energy of the American people will be released.

If the American people continue to be lured on by tunnel-visioned bureaucrats and their claims of the wonders of regulation and "econometric model" planning, we will continue to suffer from their inevitable and stifling mistakes. As other countries have acquired prosperity by imitating the best of our economic traditions, we unfortunately have acquired severe problems by imitating the worst of theirs.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 5 minutes.

Mr. PERCY. Mr. President, I yield myself 1 minute before the distinguished Senator from Mississippi speaks.

We appreciate very much the comments of the distinguished Senator from Wyoming. Incentives are the essence of our system. This is what differentiates us from the world's nonmarket countries.

Even a high-ranking Soviet like Chairman Mikoyan, when he was in Chicago one time, said to me, "What we must do is find some way to get some incentives into our system." It was a tacit acknowledgement that the Soviet system needed our Western incentives to keep going—an observation that has only become more apparent over the years.

Certainly, incentives are the essence of the Republican program.

Why do we have such a low rate of saving? There is not enough incentive for it. Why do we have a saver's tax bill now? To provide tax-free treatment for up to $500 interest earned on investments in equities and up to $500 interest earned on a savings account. If we pass this legislation, we shall start to create a new source of capital.

Incentives are the essence of the system. When we remove them, we are going against the very basis of the free enterprise system.

I thank the distinguished Senator for his fine statement.

I am happy to welcome to this colloquy the distinguished Senator from Mississippi.

Mr. COCHRAN. Mr. President, on the 50th anniversary of the beginning of the Great Depression, the day the stock market crashed in New York in 1929, our national leadership would be well advised to pay attention to more of the good, commonsense observations being made by average American citizens who are truly worried that we are on a collision course with a crisis that would be just as serious and harmful to our national health as the economic distress of the 1930's.

All of us in the Senate receive a lot of mail on a lot of subjects, and I realize it is a big job to keep up with all the concerns of the citizens back in our home States. I recently read a very thoughtful, down-to-earth appraisal of our Nation's malaise, not in a big city newspaper editorial, nor from a nationally known expert on economics, but in a letter from a plain, hard-working citizen in my State of Mississippi. He is no different from millions of other Americans on whom this country depends each day.

My constituent, in his letter to me, says:

The immediate concern to me is the economy. Once again the solution to inflation seems to be: put the screws to the small businessmen and the public but let's don't (sic) cut the federal gravy train.

The government continues to overwhelm us with rules, regulations, but worst of all, tight money policy. We all know that inflation is caused by a fall in productivity; it's when one unit of cost increases while productivity does not. The federal government has done more to contribute to this problem than any other single cause.

Tight money will not cure inflation any more than a tight girdle will cure obesity.

Those are some of my constituent's observations, and I think he makes some good points.

What current national policy is designed to effectively curb inflation? None. What current national program is designed to stimulate productivity? None. What is the majority here in this Senate recommending to improve our economic health? Nothing.

On the other side, however, there is a balanced, well researched economic plan of recovery. It is a Republican policy, and it offers hope for America. I am proud to be a cosponsor of the legislation and am happy to have the opportunity to join with my distinguished colleagues in strongly recommending it for adoption as national policy.

The Government has to realize that its own deficit spending spree and its own policy of more expensive regulations are the real causes of our economic woes. Disaster is around the corner unless a better job is done by our Government to do its part in this most important battle.

Looking at what is in vogue currently as national policy, I think we find an inherent suggestion on the part of our Government that inflation is really the fault of the workingman and woman, the businessmen and women of the country, and that they have to bear the sole burden for curbing inflation.

What has been recommended? Voluntary price and wage controls that are not working. No one is coming to defend that as the best national policy and the best that Government can do to help get us out of this quagmire of economic distress.

The point is that Government is suggesting that it does not have any responsibility in terms of its own behavior to help solve this problem. I think we need to take a hard look at some of the legislation that is pending in the committees now. There is a program to require agencies to submit to committees of Congress the regulations that are proposed to be implemented, together with an economic cost analysis, an economic impact statement, if you will, and let Congress decide whether it is really in the national interest, whether it is consistent with national policy to continue to implement the multibillion dollar regulations that cost this year Americans $600 for every person in the country to pay for the cost of compliance.

That is a dramatic inflationary impact. That is something the Government is doing to the American people and to our economic system, and it needs to be reassessed.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Mr. COCHRAN. Thank you, Mr. President.

Several Senators addressed the Chair.

Mr. JAVITS. Mr. President, if the Senator will yield me 10 seconds, I thank Senator COCHRAN for his very interesting and useful contributions to the aggregate of our debate on this matter.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois has the floor and has 6 minutes remaining.

Mr. PERCY. Mr. President, I am happy to yield 1 minute to my distinguished colleague from Minnesota.

Mr. BOSCHWITZ. Mr. President, I also concur in the statements of the distinguished Senators from Mississippi and Wyoming.

I was interested in Senator PERCY's remarks about incentives and how Chairman Mikoyan talked to him about incentives. It is interesting that the effect of incentives are best shown in Russia in the agricultural aspect of the Russian economy.

There are in Russia collective farms but each family on the collective farm is allowed 1 acre for that family to produce what he or she wants. They can consume what they produce, and sell what they produce. These 1-acre plots are sprinkled all over Russia and account for less than 1 percent of the farm land that is tilled in Russia. And yet, from less than 1 percent of the farm land comes 27 percent of the agricultural output of Russia.

So incentives do indeed work. When people are allowed to keep a reasonable share of what they produce, they produce more.

Free enterprise works. There is no question that restoring incentives must be an integral part to the recovery and renewed vigor in our economy.

Mr. PERCY. I thank my distinguished colleague and outstanding successful businessman, the distinguished Senator from Minnesota, who knows something about incentives and has utilized them well.

I thank also our distinguished colleague from Mississippi for his outstanding statement.

I am happy to be joined now by our distinguished colleague from New Mexico.

Mr. SCHMITT. Mr. President, I thank the Senator and I congratulate him and others who have spoken this morning on the issues and have taken the initiative to discuss these issues at this time. It is highly appropriate that we do so.

Mr. President, I am possibly undergoing a change of economic heart in watching the economy and the actions of the administration and others to deal with the economy. I view these activities with great interest as well as great uncertainty.

A CHANGE OF ECONOMIC HEART

When I was in graduate school in the early 1960's, anyone who believed that continents moved around on the mantle of the Earth was part of a radical fringe group. I scoffed at them like most other "right thinking" geologists.

Then new facts born of new technology and new insight proved beyond a reasonable doubt that the Earth's crust is indeed made up of gigantic, slowly moving plates among which are the continents. Now, those who do not believe in continental drift are the fringe group. To survive in my previous profession, I had to change my mind when incontrovertible new facts appeared.

Mr. President, when I became a member of the Banking Committee in early 1977, I quickly came to believe that if we gradually raised interest rates, the rate of growth of the money supply would gradually shrink until it was equal to the rate of growth of the GNP. Thus, inflation, or a great part of it, would disappear. Almost 3 years later we have done more or less what I thought should be done and inflation has increased, not decreased. The economic suffering of our people has thus increased, not decreased.

It may be that we have not raised interest rates high enough, although the psychological effect of their present level certainly cannot be ignored. Rising interest rates are either not working or are grossly inadequate.

Mr. President, I may again have to change my mind. Obviously I do not know everything there is to know about the economy, and I am afraid not everyone else knows everything that they should know about the economy.

Obviously, I viewed the problem too simply. Obviously, we all have viewed the problem too simply. Something else may be afoot that has overwhelmed the traditional monetary policy.

Changing one's mind was easier as a geologist then it is as a politician. As a geologist, I could not ignore new facts very long as I would be a failure professionally. As a politician, changing one's mind is much more difficult. We put, the media puts, our potential challengers put, great importance on being consistent. To stand up in public and say you are wrong means months or years of explanations. Yes, Mr. President, being a geologist and staring facts in the face and saying I was wrong was much easier than being a Senator and doing the same thing.

THE ECONOMIC FOREST

If we stand back and look at the total economy, the economic forest, if you will, a number of possibilities suggest themselves to explain the possible failure of classical monetary policy to arrest inflation even though it has helped to strengthen international confidence in our economy. However, so long as interest rates remain below the inflation rate, their technical effect on the money supply will be small. Their psychological effect on investment may be very serious.

The "nonclassical" factors of significance may be numerous. First, the measured money supply upon which we based our decisions to raise interest rates may not be accurate or may not be the "effective" money supply. This is possible even beyond the gross error recently discovered in the figures reported in October.

Second, rising interest rates in a highly inflated and low-growth economy may be causing an economic instability to develop which accelerates inflation rather than decelerating it.

I do not know yet if there is any factual base for that statement but we must always keep our eyes open for changing conditions and instabilities that may result because of those changing conditions. Objective analysis must always be on the alert for such instabilities when conditions are as aggravated as they are today.

Third, other factors, such as decreasing economic growth, decreasing productivity, increasing energy costs, increased taxes and Federal spending, increased costs of regulations and consumer response to inflation, may have overwhelmed any effect interest rates might have had in other, less aggravated times.

Fourth, the rate of movement of money in the economy, that is, the "velocity of money" may have increased to the point where it is a more critical factor in inflation than the traditional money supply. If money changes hands twice as fast in a month, it is the same as if there were twice as much money in circulation in that month.

And, fifth, all of the above may be true or there is something else happening that we have missed.

Out of this broad look at the present economy, two questions present themselves. First, what is the rate of growth of the "effective" money supply, defined to include the velocity of money? To this rate of growth of "effective" money supply must be compared the rate of increase in the true value of goods and services upon which that money is being spent. Obviously, the difference between these two rates is a major factor in inflation if the rate of growth of the "effective" money supply is the larger.

The second question is, what are the magnitudes of other factors contributing to inflation which are unaffected or made worse by high interest rates?

"EFFECTIVE" MONEY SUPPLY

Let us look more closely at the first question. It has become even more clear than ever that the Fed's ability to measure the actual money supply (M_1, M_2, and so forth) is a black art if not impossible. In addition to the major inaccuracies inherent in these measurements, the "effective" money supply must include consideration of the rate of use of money or its "velocity."

If one dollar moves through the economy twice as fast in 1979 than it was moving in 1969, then the "effective" money supply has doubled even though the actual money supply has not changed.

Many qualitative factors strongly suggest that there has been a major increase in the "effective" money supply due to recent increases in the velocity of money. First and foremost there is high inflation itself which encourages spending rather than savings or investment at interest rates less than the inflation rate.

Next, there is the fact that already high taxes pushed ever higher by inflation further discourage savings and investment.

The rate of financial transactions also have been greatly accelerated by new communications and computer technologies. Finally, there is the increasing acceptability of the credit buying ethic, itself now encouraged by static delayed payment, interest rates and, again, high inflation.

Put all of this together and the actual money supply may be only a part of the "effective" money supply which in turn may be growing at an ever increasing, as yet not measured rate. Also, interest rates might have no noticable effect on decreasing the rate of increase in the velocity of money, as well as having no technical effect on investment and thus have had no effect on inflation.

OTHER INFLATION FACTORS

Decreasing productivity and increasing energy costs are probably the two major contributors to our current inflation outside the high rate of increase in the "effective" money supply due to money velocity factors.

A decline in productivity in recent years can be related to many inadequacies in Government policy. As productivity declines relative to an increasing "effective" money supply, the goods and services produced are fewer in number and are bid upward in price by consumers who are understandably unwilling to save.

It is difficult to isolate any one factor that is mostly to blame for our declining productivity. The loss of a work ethic is often blamed but may actually be clearly the least significant if, in fact, it can be proved quantitatively. More important factors affecting productivity are those which discourage investment in new and more efficient production. Those adverse factors which Government could eliminate are counterproductive tax law, excessive and conflicting regulation, a decline in Federal and private research and development, repressive patent policies that discourage innovation, discouragement of low cost domestic energy production, and, now, excessively high interest rates. Obviously, these are things we could do something about if we would face the facts squarely and change those laws that have caused the current situation to develop.

CONCLUSION

Mr. President, the administration's anti-inflation policy is as bankrupt as was Hoover's antidepression policy 50 years ago. Today, to coerce business and workers to hold down prices and wages severely penalizes those who suffer most from inflation. To slow the production of goods and services by massive new taxes merely fuels the fire of inflation. The President's advisors, like quack doctors, have mistaken the symptoms of the disease for the disease.

Mr. President, the basic foundations of our economy remain strong in spite of all we have done to talk ourselves into a recession. Unemployment has decreased during most of the year; investment and consumer buying have been steady if not spectacular; orders for new plants and equipment are higher than expected.

The solution to inflation and our other economic problems will only come when we recognize that time and technlogy have changed the basic character of the economy. The only way to regain control, to stabilize, and then to move steadily ahead is to encourage a rapid increase in the growth of goods, services and productivity which can counter the rapid increase in the growth of our "effective" money supply and undercut artificially high foreign energy prices.

Less tax, not more is part of the cure.

Less Federal spending, not more, is part of the cure.

Less management by regulation, not more, is part of the cure.

Lower interest rates, not higher, is part of the cure.

Growth, not stagnation, is the cure.

(During Mr. SCHMITT's statement, the following colloquy occurred:)

The PRESIDING OFFICER. All time for morning business and special orders has expired.

Mr. JAVITS. Mr. President, I ask unanimous consent that the Senator have 1 minute, with the leader's permission.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withdraw his request?

Mr. JAVITS. I do.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from New Mexico have 2 minutes, and the Senator from Alaska have 5, and that morning business then be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I ask unanimous consent that my remarks not be interrupted by the previous discussion.

Mr. JAVITS. Mr. President, will the Senator yield me 30 seconds, just to thank Senator SCHMITT and all of those who have participated in this colloquy.

Mr. GRAVEL. Yes.

Mr. JAVITS. I think we have said things which needed to be said today on an anniversary like this in the interests of both the Congress and the country, and I thank my colleagues who participated, I thank them very much.

Mr. SCHMITT. I thank the Senator.

Mr. GRAVEL. Mr. President, I merely want to rise to make a statement on this side of the aisle. I was in my office listening to the colloquy among the Members of the minority party on this very fateful day, commemorating the events of 50 years ago.

I would just like to add my views, which are in slight variance, with theirs, and that I hope are not touched in any way with partisanship.

I think it should be noted that in 1929 Congress was under the control of the Republican leadership, and it was as a result of the passage of a piece of legislation that occasioned the depression. There was really only one force upon the market that caused the market to react markedly and that, of course, was the force of political action. It was the passage of the Smoot-Hawley Act in Congress that triggered the great loss in the stock market and also set this Nation on a course of a world depression.

That was most unfortunate in that regard, and to that end I would like to introduce, and I ask unanimous consent to introduce, in the RECORD at this moment in my statement an article by Jude Wanniski in the Wall Street Journal, and also a chapter from his book which details hour by hour the events which took place in 1929 around the world that precipitated this Nation into this most unfortunate crash.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CRASH AND CLASSICAL ECONOMICS

(By Jude Wanniski)

Fifty years ago, the great Wall Street "Crash of '29" ended the boom of the Roaring Twenties and ushered in the Great Depression. This most cataclysmic economic event of the century had many victims, but one of the most important casualties was classical economic theory. When classical theory could not explain the Crash, it was ridiculed and replaced by modern economic schools that have dominated global politics ever since.

In late March 1977, I found what I believe is the key to the Crash. At the time an editor of this editorial page, I had taken a leave to research and write a general theory of the world political economy. And because it was to be partially based on a revival of classical economic theory, it was necessary that I somewhow demonstrate that the Crash of 1929 was consistent with classical theory.

The importance of this discovery, outlined on this page two years ago (Oct. 28, 1977), is that it reaffirms the validity of Say's "law of markets," which is the keystone of classical theory. The discovery came just as the modern schools of Keynesianism and monetarism were in precipitous decline, unable to explain the Great Stagflation of the the 1970s. Now, for the first time in half a century, young economists can proudly proclaim themselves as "supply siders," referring to the classical side of the "laws of supply and demand." The modern schools grew out of the demand side of the equation, and it is suddenly no longer fashionable to be identified as such.

SURPLUS OF GOODS

The '29 Crash seemed to occur because of a surplus in the supply of goods, which is another way of saying a deficiency in the demand for goods. This negates Say's Law, named after Jean Baptiste Say, who formulated it between 1800 and 1810.

Say, the French popularizer of Adam Smith's "Wealth of Nations," wrote: "One can only buy with what one has produced," and "The one product constitutes the means of purchasing another," and "A product created offers, *from that instant*, a market for other commodities to the full total of its value." This became boiled down to others to: "Supply creates its own demand."

In other words, suppliers of goods come together in the marketplace to exchange goods. If a surplus appears in one place only, it's because in other places sufficient goods have not been produced to purchase that surplus. If a surplus appears everywhere, only an artificial barrier to commerce could have been the cause—some impediment to trade imposed by government. Thus the free-marketeer's dictum to government of "laissez faire," roughly "hands-off!"

In the last week of October in 1929 there were no signs that the dictum was being breeched. The market was simply collapsing around everyone's ears. The classical economists, without an explanation, were at the mercy of the modern economists who would argue that "Demand creates its own supply." Indeed, John Maynard Keynes would open his "General Theory," published in 1936, with a scathing denunciation of Say's Law. How could Say be correct, Keynes insisted, when everywhere there is excess supply? The problem, he argued, is insufficient demand!

In short order, the classical "supply side" school almost ceased to exist, except as a laughing stock. The Keynesians took over with their demand arguments: The Depression occurred because of insufficient purchasing power among demanders of goods—and excessive savings among producers of goods. Their answer: Have the government fix up this imbalance by borrowing or taxing goods away from the producers of surplus and distributing them via government programs. Through "demand management" the government can "fine tune" the economy, keeping production and consumption balanced.

A more conservative "demand school" was also founded. The monetarists argued that the U.S. government printed too much money prior to October 1929 and printed too little money after that date. Their form of demand mshagement is to have government money injected into or withdrawn from the private sector via bank reserves. In both liberal and conservative demand schools, by necessity, it is the government rather than the individual which has the central role, either through budgetary manipulation or monetary manipulation.

The classical economists of 50 years ago unfortunately did not have the benefit of "efficient markets theory" or they might have seen that it was the Smoot-Hawley Tariff Act of 1930 that caused the Crash of '29. The theory of efficient markets, developed in the 1960s, suggests the near instantaneously ability of markets to analyze new information and adjust prices accordingly. The concept would have led 1929's economists to look more closely at political news coming into the market.

That is, when news came to the 1929 marketplace that something bad was going to happen in 1930, it discounted these "rational expectations" into 1929 values, doing so expeditiously, efficiently. The market crashed in the last week of October 1929 as it absorbed the hard news that there would almost certainly be a tariff act passed into law the following year.

This was no puny tariff hike, but a huge increase in the duties on 20,000 commodities. American trading partners, outraged at this colossal protectionism, retaliated with tariff walls of their own. The efficiencies of the global marketplace were thus fractured and global trade shriveled. All economists agree the trade wars deepened a Depression that had already started. What I found in researching the period is the following:

On Sept. 3, 1929, the Dow Jones industrial average hit its peak of 381. The slow slide that commenced that day coincided with the return of the U.S. Senate from a summer holiday. Prior to the holiday, only 40 Republican Senators favored the steep tariff wall of Smoot-Hawley; surely the 56 Democrats and the Progressive Republicans in opposition would kill it. The bill, the only major piece of legislation before the Congress that autumn, had already passed the House of Representatives. By Oct. 21, when the bill came to the Senate floor after weeks of hearings, there were some gathering do bts about the ability of Democrats and Progressive Republicans to stop it. The DJI had dropped to 323.

Over the next eight days, Chairman Reed Smoot of the Senate Finance Committee, a Utah Republican, maneuvered amendments in a way that broke up the Democrat-Progressive coalition; the market churned dramatically during this splintering process. The news on the morning of Oct. 28, a Monday, was that the pro-tariff forces were now in the majority; the DJI fell 38 points that day.

The following day the reports out of Washington seemed aimed at assuring the stock market that the bill would pass, that the steep tariff would be good for American business. Another 30 points were lost as 16 million shares changed hands. On this Black Tuesday of 50 years ago, the DJI dropped to 230. But it was not until July 8, 1932, that it hit bottom, at 41. The market advance that then began coincided with Franklin Roosevelt's nomination on an anti-tariff platform.

Why would the market's anticipation of Smoot-Hawley cause such a crash in values? The answer lies within the framework of classical theory: When suppliers of goods come together in the marketplace to exchange goods, they are discouraged if the government takes a huge tax bite out of each transaction. The tariff is a tax on international trade, the only kind of tax the U.S. Congress can impose on foreign citizens, which explains why stock markets collapsed around the world in 1929, not only in New York.

The U.S. economy, after all, was integrated with the rest of the world economy. The rest of the world owed U.S. citizens $30 billion in 1929, and the only way these IOUs could be paid off was if foreigners could export their goods to the U.S. in payment. As the tariff wall was seen going up, it would be difficult to collect the debt via goods passing over it; the value of financial assets had to be discounted accordingly.

A MORE SATISFYING EXPLANATION

This seems a more satisfying explanation of the Crash of 1929 than the traditional one, which most of us learned in junior high school, that "speculators" bid the price up and the market fell because it was too high. This view, which overlooks the global simultaneity of the Crash, only fits the modern demand theories.

Yes, the Depression that followed was characterized by surpluses everywhere, but Say would have observed that it had all been triggered by an artificial barrier to commerce, an impediment to trade imposed by government in the form of a tariff wall. Having explained the Crash, Say would then be in a position to explain away the current stagnation and inflation: The stifling barriers to commerce caused by unnecessarily high tax rates, unnecessary regulation, and a rootless, inconvertible currency that is manipulated in a futile attempt to alter production when it should be maintained as a reliable medium of exchange.

THE STOCK MARKET AND THE WEDGE

World War I was a war of political succession, as opposed to a violent resolution of economic conflict. It in fact made the world "safe for democracy," in the sense that at its conclusion the global electorate's long experimentation with monarchy was at last over. There would still be crowned figureheads scattered over the terrain—in Britain, Italy, Japan, etc.—but for the first time in the history of civilization there was in 1918 no serious experiment in political aristocracy still underway. The Hohenzollerns gave away to an economically crippled democracy in Germany. The Russians had seen their last

czar as they embarked on a new kind of democratic experiment. Except in the colonies of the European powers, the political systems throughout the world were such that a boy of any economic class could grow up to sit behind a political desk at which the buck would stop. It would take a second great war to bring this same condition to the colonies.

The important economic fact at the conclusion of World War I was the magnitude of international war debts. Until 1914, the United States had been a debtor nation throughout its history, a recipient of cash from eager investors abroad. In other words, in 1914 the rest of the world owned more U.S. assets than the United States owned of the assets of the rest of the world. By the war's end, this condition reversed, as Europe not only sold U.S. assets to Americans to finance the war, but also sold European assets (bonds) to Americans to finance the enormously expensive conflict. Best-of-the-world debt to the United States in 1918 came to $11.9 billion, roughly a third of national income in the United States. Britain, which ran up $4.7 billion of this amount, in turn was owed $11.1 billion by the rest of Europe, much of it in worthless czarist bonds. France came out a net debtor to the amount of $3.5 billion. The rest of the world, excluding the United States, Britain, and France was in hock to these nations in the amount of $14.8 billion.

That wasn't all. The victors in the war spent three years calculating the war reparations that Germany would have to pay, and finally arrived at the figure of $33 billion. That amount, about equal to U.S. national income, was arrived at by an intricate process of adding up debt incurred by the allies as a result of the war—including pensions for veterans—and more or less approximated the net domestic and international indebtedness of the allies. The problem after every war is to figure out how to pay off the bonds floated to finance that cost not covered by war taxation. The allies sought to have the vanquished Germans pay it all.

The allies did not think they were being unreasonable. Germany had been left relatively unscarred by the war, which was largely fought on French soil. The way the allies worked it out, principal and interest on the $33 billion would amount to 7 percent of Germany's prewar national output. Not a stupendous amount.

The difficulty, not understood at the time, was that Germany like all other nations engaged in the war, had increased domestic taxation during the war and these high tax rates still remained in effect. Point E on the Laffer Curve, the turning point, had changed as Germany shifted from war to peace, and the tax rates thereby shifted into the prohibitive range. A further increase in tax rates to slice 7 percent of prewar output from the economy would only further contract output and revenues. Even if there had been no reparations, the economy could not return to prewar output as long as the tax rates remained in the prohibitive range. Germany actually made a payment of $250 million in the summer of 1921, not by raising taxes, but merely by printing reichsmarks (RMs) and using these to buy up foreign currencies equivalent to $250 million. This naturally flooded the market with reichsmarks without increasing the volume of goods and services they could buy and the price of goods in terms of RMs rose sharply. This burst of inflation caused internal convulsions in Germany. As the medium of exchange lost value as a lubricant to commerce, the economy became less efficient, output fell further, and revenues to the government fell too. The government then printed more currency to pay its domestic bills, repeating the process and inducing the hyper-inflation of 1922-23.

The effect of this hyper-inflation was to wipe out all domestic debt denominated in reichsmarks. This included the bonds Germany floated internally to finance World War I, and also all mortgages and contracts made in RMs. Before the currency was stabilized, the reichsmark supply came to more than 4 quintillion—RM 4,000,000,000,000,000,000. The currency stabilization was possible because government tax revenues did not have to cover internal debt finance, there no longer being internal debt. The savings and financial assets of the German people were wiped out, but so of course were their debts, and their human capital—intelligence, skills, and resourcefulness—remained. The international debt—denominated in gold reichsmarks—and including reparations, remained. It could not be inflated away.

The allies showed little sympathy for Germany even as it observed the hyper-inflation, seeing instead that because Germany had now wiped out its internal public debt, it should be all the easier for it to pay reparations. If it would only raise tax rates! As a result, the allies kept Germany bound to the upper range of the Laffer Curve, from which it would not escape until the 1950s.

The stubbornness of the allies grew out of the fact that they, too, had been pushed into the prohibitive range of the Laffer Curve during the war. With the exception of the United States, they all had to finance not only internal but international debt. Great Britain was in a net creditor position internationally, but how could she pay the $4.7 billion she owed the United States if she were not concurrently being paid the money owed her by the other allies? And how could the other allies pay Great Britain if Germany was not paying reparations?

The answer to these seemingly impossible questions is that if Britain, France, and Germany had reduced the tax rates imposed in war to pre-war levels, there would have been a European economic expansion that would have reduced the size of these international debts *relative to their national incomes*. Britain and France did not do so because they were mesmerized by their domestic and international indebtedness, and Germany did not because of the pressure of her creditors for reparation payments.

Only the United States pulled itself down from the upper reaches of the Laffer Curve. The Wilson administration imposed high tax rates in 1917: an excess profits tax on business, a doubling of the normal corporate rate to 12 percent, and sharp increases on personal income tax rates. The 15 percent rate on $2 million and above gave way to a 77 percent rate on incomes above $1 million. The lowest bracket, 2 percent on $20,000, gave way to a 6 percent marginal rate on $4,000. The domestic public debt grew to $24 billion from $1 billion because of war finance. This figure mesmerized the Democrats in power, and at the conclusion of the war the high tax rates were left in place with the idea that the revenues would go to paying off the $24 billion public debt. Instead, the United States slid into a recession, as peacetime put the tax rates into the prohibitive range.

In the 1920 elections, the Republican candidate called for a "return to normalcy" on tax rates, that is a return to the prewar rates. In his acceptance speech, Warren G. Harding, Ohio senator, told the GOP convention: "I believe the tax burdens imposed for the war emergency must be revised to the needs of peace, and in the interest of equity in the distribution of the burden." [1]

[1] There were other themes in the speech, including civil rights: "I believe the Negro citizens of America should be guaranteed the enjoyment of all their rights, that they have earned the full measure of citizenship bestowed, that all their sacrifices in blood on the battlefield of the Republic have entitled them to all of freedom and opportunity, all of sympathy and aid that the American spirit of fairness and justice demands."

Harding won by the greatest landslide in the history of presidential elections at the time, bringing in with him 303 Republicans to the House of Representatives. Harding's Treasury Secretary, Andrew Mellon, wanted the personal income-tax rates to come down to 25 percent as well as removal of the excess-profits tax, but Congress worried that the bite would be too deep into revenues and held him to a cut in the top personal bracket to 57 percent and elimination of the excess-profits tax. The economy crept out of the recession nevertheless.

Unhappily, the Republicans of the era had the same difficulty in seeing the symmetry between domestic tax wedges and international tax wedges that Napoleon had a century earlier. At the same time that Republicans argued for a lessening of the tax wedge between domestic transactions, they argued the need for a greater wedge in international transactions, i.e., the protective tariff. As the Harding administration was winning a lowering of the wartime tax rates in 1921, it was also pushing along the Fordney-McCumber Tariff of 1922. The Democrats, conversely, favored an expanded domestic tax wedge (explicitly on the well-to-do) and opposed tariff protection.

As protective tariffs go, the 1922 Act was not especially onerous, the rates going back up to where they were before the Democrats had reduced them in 1913. The tax-cutting more than compensated and the economy pushed ahead, Gross National Product climbing from $69.6 billion in 1921 to $74.1 billion in 1922. Treasury Secretary Mellon inveigled another round of tax cuts from Congress, now sufficiently impressed with the economic and revenue effects of the first round. The top bracket was cut to 46 percent from 56 percent and the income threshold at which the top bracket was encountered went to $500,000 from $200,000. The lowest bracket, $4,000, had its rate cut as well, to 1.5 percent from twice that. Again, the economy responded and revenues sufficient to produce another budget surplus came into the Treasury. GNP went to $85 billion, with no inflation. Consumer prices even inched downward from the 1920 level.

The really explosive growth of the decade was still to come. We can see its foundations in a speech by Calvin Coolidge, who succeeded Harding as President upon Harding's death in 1923. The speech, delivered on Feb. 12, 1924 before the National Republican Club in New York, may be the most lucid articulation of the wedge model by a politician in modern times. It is quoted at length here.

In time of war, finances, like all else, must yield to national defense and preservation. In time of peace, finances, like all else, should minister to the general welfare. Immediately upon taking office it was determined after conference with Secretary Mellon that the Treasury Department should study the possibility of tax reduction for the purpose of securing relief to all taxpayers of the country and emancipating business from unreasonable and hampering exactions. The result was the proposed bill, which is now pending before Congress. It is doubtful if any measure ever received more generous testimony of approval. . . .

The proposed bill maintains the fixed policy of rates graduated in proportion to ability to pay. The policy has received almost universal sanction. It is sustained by sound arguments based on economic, social and moral grounds. But in taxation, like everything else, it is necessary to test a theory by practical results. The first object of taxation is to secure revenue. When the taxation of large incomes is approached with that in view, the problem is to find a rate which will produce the largest returns. Experience does not show that the higher rate produces the larger revenue. Experience is all in the other way. When the surtax on incomes of $300,000 and over was but 10 percent, the revenue was

about the same as when it was at 65 percent. There is no escaping the fact that when the taxation of large incomes is excessive, they tend to disappear. In 1916 there were 206 incomes of $1,000,000 or more. Then the high rate went into effect. The next year there were only 141, and in 1918, but 67. In 1919, the number declined to 65. In 1920 it fell to 33, and in 1921 it was further reduced to 21. I am not making argument with the man who believes that 55 percent ought to be taken away from the man with $1,000,000 income, or 68 percent from a $5,000,000 income; but, when it is considered that in the effort to get these amounts we are rapidly approaching the point of getting nothing at all, it is necessary to look for a more practical method. That can be done only by a reduction of the high surtaxes when viewed solely as a revenue proposition, to about 25 percent.

I agree perfectly with those who wish to relieve the small taxpayer by getting the largest possible contribution from the people with large incomes. But if the rates on large incomes are so high that they disappear, the small taxpayer will be left to bear the entire burden. If, on the other hand, the rates are placed where they will get the most revenue from the large incomes, then the small taxpayer will be relieved. The experience of the Treasury Department and the opinion of the best experts place the rate which will collect most from the people of great wealth, thus giving the largest relief to people of moderate wealth, at not over 25 percent.

A very important social and economic question is also involved in high rates. That is the result taxation has upon national development. Our progress in that direction depends upon two factors—personal ability and surplus income. An expanding prosperity requires that the largest possible amount of surplus income should be invested in productive enterprise under the direction of the best personal ability. This will not be done if the rewards of such action are very largely taken away by taxation. If we had a tax whereby on the first working day the Government took 5 percent of your wages, on the second day 10 percent, on the third day 20 percent, on the fourth day 30 percent, on the fifth day 50 percent, and on the sixth day 60 percent, how many of you would continue to work on the last two days of the week? It is the same with capital. Surplus income will go into tax-exempt securities. It will refuse to take the risk incidental to embarking in business. This will raise the rate which established business will have to pay for new capital, and will result in a marked increase in the cost of living. If new capital will not flow into competing enterprise the present concerns tend toward monopoly, increasing again the prices which the people must pay.

The high prices paid and low prices received on the farm are directly due to our unsound method of taxation. I shall illustrate this by a simple example: A farmer ships a steer to Chicago. His tax, the tax on the railroad transporting the animal, and of the yards where the animal is sold, go into the price of the animal to the packer. The packer's tax goes into the price of the hide to the New England shoe manufacturer. The manufacturer's tax goes into the price to the wholesaler, and the wholesaler's tax goes into the price to the retailer, who in turn adds his tax in the price to the purchaser. So it may be said that if the farmer ultimately wears the shoes he pays everybody's taxes from the farm to his feet. It is for these reasons that high taxes mean a high price level, and a high price level in its turn means difficulty in meeting world competition.

Most of all, the farmer suffers from the effect of this high price level. In what he buys he meets domestic costs of high taxes and the high price level. It is essential, therefore, for the good of the people as a whole that we pay not so much attention to the tax paid directly by a certain number of taxpayers, but we must devote our efforts to relieving the tax paid indirectly by the whole people.

As it gradually became clearer through 1924 that the Coolidge bill, not the Democratic alternative had sufficient support for passage, and that Mellon would realize his aim of a 25 percent top bracket, the great Coolidge bull market got underway. It had taken four years for the New York Times index of industrial share prices to move from 90 to 106, floating around 100 for most of the period. Now it began to climb in earnest and by December, 1924 was at 134. At the end of 1925 it reached 181, pausing at that plateau through 1926, moving again in 1927 to 245 at year's end. Before the Times industrials peaked in Sept. 19, 1929, the index had more than quadrupled, to 469, in a mere five and a half years. The Dow Jones industrial average followed a similar track, doubling from 191 in early 1928 to 381 in September, 1929.

There is in the current history of that era no mention of the relationship between the Mellon tax cuts and the Coolidge bull market. In his book The Great Crash 1929, John Kenneth Galbraith makes no attempt to explain why the boom occurred. Charles Kindleberger, in The World in Depression, 1929–39, puzzles about the cause and, without much enthusiasm suggests that "the boom was built around the automobile," without saying what caused that boom. Goronwy Rees writes in The Great Slump; Capitalism in Crisis, 1929–1933 that the "restoration of political stability from 1925 onwards was accompanied by a spectacular economic recovery." Rees mentions the Mellon tax cuts, but only by way of denigrating them as reactionary. Two monetarist schools have differing views. Murray Rothbard has a broad definition of what constitutes "money," and so reckons the expansion from 1921–1929 as "an inflationary boom," the money supply by his reckoning having increased by 61.8 percent over the eight years. His America's Great Depression seems untroubled by the fall in the consumer price index over eight years, from 53.6 to 51.3. Because their definition of money is narrow, Milton Friedman and Anna Schwartz are forced to argue that while the stock market boomed, the economy did not. In The Great Contraction, they assert that "Federal Reserve policy was not restrictive enough to halt the bull market yet too restrictive to foster vigorous business expansion."

But of course the period was one of phenomenal economic expansion. GNP grew from $69.6 billion to $103.1 billion. And because prices fell, GNP grew even faster in real terms, by 54 percent over the stretch. On a 1947 index equaling 100, output per man hour of U.S. production workers grew from 44.6 to 74.3 in the decade, a percentage increase of 66.5. The Federal Reserve Board index of industrial production leaped from 12 to 23 between 1921 and 1929.

Modern Keynesians are as baffled by the boom as are the monetarists. From their theoretical vantage point, tax cuts will "stimulate" an economy only if they are concentrated in the lower income classes, which, according to this theory, have "a higher propensity to spend" than do rich people. In any case, the economy will contract if the government runs persistent budget surpluses, yet from 1920 to 1930, Mellon managed to cut the national debt to $16.9 billion from $24.3 billion. Lord Keynes himself never troubled to explain the boom, possibly because he resided in Cambridge, England, and in England there was no boom at all in the 1920s. Great Britain, after all, left the steep progressive income taxes it imposed in 1914 in effect during the peace, and to this day has not reduced them.[2]

One other nation came down from the prohibitive range of the Laffer Curve in the 1920s, and like the United States it enjoyed a boom. In 1922, Benito Mussolini, a socialist newspaper editor who turned conservative after the war, was invited by the King of Italy to take control of the government, in crisis as a result of severe economic contraction. Mussolini brought with him a finance minister, Alberto de Stefani, who had been a professor of classical economics at the Technology Institute of Vicenza. De Stefani slashed both tariffs and Italy's progressive income tax. The Italian economy went into immediate expansion and even during the 1930s suffered much less economic contraction than the other industrial nations. As we will later see, both Franklin D. Roosevelt and Adolph Hitler misinterpreted the source of the Italian boom, with World War II the result.

It is never possible to say with precision why the stock market rises or falls, any more than it is possible for any individual to precisely discern the wishes of the electorate. In a sense, the stock market is an instrument of the electorate, the most accurate and efficient forecaster of the economic component of the political economy. There are dozens of stock markets around the world, and each of them has some value in this regard, but the only one with the breadth and depth to stand as a gauge of the global political economy is the New York Stock Exchange. It is massive enough so that no group of individuals can manipulate it. The companies it aggregates do business in almost every corner of the globe, constantly feeding information of a political and economic nature back to this central marketplace. The marketplace itself exists in a free and uncontrolled information center. It is inconceivable that information that bears on profit or loss can be known anywhere in the world without soon being absorbed by this most sensitive intelligence, which is open to all intelligence directly or indirectly. People will speak of the market being "underpriced" or "overpriced," but there is no real sense in which this can be true. The market is composed of all the people who are active in the market and can with a telephone call become inactive, and also all the people who are inactive, and with a telephone call become active, either by buying shares or supplying information to someone who will buy shares. At any moment, the market is fully priced.

[2] France imposed a steeply progressive income tax in 1920 in the name of tax reform—which the French called a "sucker's tax" (impôt des poires)—to be paid only by those who could not escape it. As the government became more adept at enforcing the tax, the French economy contracted amid steady inflation, culminating in the 1924 financial crisis. Total government revenues, measured in prewar francs, were only a bit higher from 1920–25 than in 1913, when there was no income tax. The crisis ended in 1926 when the leftwing Herriot Cabinet fell and the center-right Poincare Cabinet one week later announced a new tax law, on August 3.

The highest rate of the general income tax was cut from 60 percent to 30 percent. The rates of the inheritance and estate taxes were cut, and at the same time made less steeply progressive. The annual transmission tax on securities was lowered by about 40 percent; the *carnet de coupons*, devised to check evasion of the general income tax as concerned revenue from securities, was abolished.

The franc stabilized, the economy revived, and in the first year of the reform, tax revenues jumped dramatically, from 5.4 billion prewar francs to 7 billion. In the six months from July to the end of 1926, the franc soared on the foreign-exchange market, from two cents to four cents on the dollar.

Technically, what the market measures in the process of absorbing information and translating it into a valuation of the market shares is the capital stock of the United States. Think of the market as an instrument that has a mind of its own, over and beyond the total of minds participating in it. The market is the most accurately programed computer on the planet, the closest expression of the mind of the electorate itself. It places a value on each company within it, based on its calculation of that company's future income stream. While the planet itself throws off information that is absorbed by the market pertinent to future income streams, planetary information is relatively trivial because planetary changes, when they occur, are glacial. Summer sooner or later follows spring. The most important information coming to the market is political news. War and peace, after all, can turn on the chemistry of a single mind. Political news is volatile, because it can instantly and dramatically alter the market's future income streams.

It is frequently possible to relate market shifts to political developments with a high degree of certainty, but the market's reasoning is still beyond comprehension. On November 22, 1963, when President Kennedy was assassinated, the Dow Jones Industrials fell 22 points. The market fell because of the assassination, but it recovered all the lost ground the following day and gained 11 more points. If we cannot tell the market's reasoning of why it recovered, how can we plumb its calculations of why it saw future income streams threatened by the assassination?

The Coolidge bull market ended in September, 1929; with finality the following month with the Crash. The most common explanation of the Crash to this day is that the market was overpriced because of speculation, as if this great, sensitive brain was somehow fooled into misjudging future flows of income. As if individuals could bid the market up without other individuals being present to assess value soberly and bid it down. The fact is, from the vantage point of the wedge model, the market at its peak was exactly where it should have been, and the Crash came because the chemistry of a few individual political minds turned the system toward stupendous error. The evidence of what went wrong is therefore magnificently encouraging, for it removes the burden of error from masses of people and places it on a tiny few, who can be forgiven because they were merely human.

The stock market Crash of 1929 and the Great Depression ensued because of the passage of the Smoot-Hawley Tariff Act of 1930.

When any economic unit becomes wealthier relative to the rest of the world, whether the unit be a family or a nation, it becomes uneconomic for members of that unit to persist in work consistent with the lower level of wealth. When Jones graduates from medical school, it soon is evident that his wife need no longer work as a typist unless she desires the non-monetary rewards. If Mrs. Jones should sell a successful novel, it is plain her children no longer need work their way through college.

As the United States became wealthier relative to the rest of the world during 1919–1929, the same happy condition applied, but with an unfortunate exception. A husband easily transfers the rewards of wealth to his wife and family, and so does the successful wife. In a nation, if there is no system for such transmittal, wealth brings its own problems. The system itself can advance to higher levels of prosperity even as a class of individuals within the system is being made obsolete.

So it was in the 1920s. The U.S. economy moved to higher levels of wealth. All segments of the economy became wealthier, but some became wealthier at a relatively slower pace. Throughout the economy, individuals became obsolete in the jobs they held at the lower level of wealth and had to adjust to new work. For most, this was a happy experience; promotion. What this invariably means is that the individual uses his physical capital less and his intellectual capital more. Instead of hammering out a widget, he makes one with a widget-making machine. The bank teller becomes a cashier. The laborer is recruited to be an apprentice plumber.

For some individuals, though, transition is not a happy experience. The economy as a whole must move to greater emphasis on intellectual capital and less emphasis on physical capital as it rises to a higher level of wealth. On the margin of society, those who would not make the transition voluntarily are forced to do so by the weight of expansion.

The textile mills of New England, for example, give way to machine tools or electronics manufacturing, which are more "capital intensive," and less "labor intensive." New England becomes too wealthy to produce textiles. Similarily, the Southern states face the same transition by moving small farmers who have been pushing plows into now transplanted textile mills, while other farmers turn in their plows and horses to buy tractors.

Those who resist transition, often because they are too old to begin new careers or must move too far from family and friends, are crushed by progress. This was the dynamic of the late 1920s. All segments of the economy were becoming wealthier rapidly, but the labor-intensive farmer was being wiped out by falling farm prices. That is, a non-farm worker could trade his labor for more farm goods than was the case prior to the expansion. On the other side of the coin, the farm worker could trade his labor for fewer non-farm goods and services. To adjust back to equilibrium, more farmers had to become industrial workers. They were indeed doing so, but the expansion required ever faster transition, and the political system felt this as an irritation.

The Republican Party in 1928 looked at this phenomenon as something to be corrected, as if "balanced" growth meant that the higher level of economic wealth should be enjoyed equally by all segments, industrial and agricultural. This problem, of course, is the primordial question of political economy: what do you do with the fisherman who breaks his leg or the marginal farmer who becomes obsolete? In a fragmented world economy, the question has special complications, for if the wealthiest nation becomes too wealthy to perform labor-intensive work, it must then rely on other nations to supply labor-intensive goods, and the supply becomes vulnerable. It is one thing to shift textile mills from Massachusetts to South Carolina; it is another to shift them to Taiwan and South Korea. The same is true of agriculture. As a political economy expands to a higher level of wealth, its impulse for survival drives toward expansion of its borders to take in land and population that can be committed to labor-intensive goods safely secured. Caesar solved Rome's problem in this fashion by conquest and empire. Great Britain built its colonial empire in the nineteenth century for this reason. When Sir Robert Peel, the British prime minister in 1843 faced the same problem that the Republicans and Herbert Hoover faced in 1928, his answer was repeal of the Corn Laws—the British protective tariffs on agricultural goods. The rest of the world would supply Britain with labor-intensive foodstuffs. Britain would be free to develop its intellectual capital. The supply line would be secured through colonial empire and the commonwealth agreements. The subsidized British farmers were forced to adjust.[3]

The Republican Party in 1928 went the other way. It sought to adjust the imbalance in wealth positions between farm and city by raising the protective tariff on foreign agricultural products, stating in its party platform:

> The Republican Party believes that the home market, built up under the protective policy, belongs to the American farmer, and it pledges its support of legislation which will give this market to him to the full extent of his ability to supply it. . . . It is inconceivable that American labor will ever consent to the abolition of protection, which would bring the American standard of living down to the level of that in Europe, or that the American farmer could survive if the enormous consuming power of the people in this country were curtailed and its market at home, if not destroyed, at least seriously impaired.

A tariff is of course nothing more than a tax on international transactions. A domestic tax—a sales or income tax—is a wedge between the trading of labor by Jones and Smith. The tariff is a wedge between the trading of labor by Jones, a national, and Schmidt, a foreigner. The effects on commerce are precisely the same. And just as Jones does not benefit when Smith is taxed or vice versa, neither does Jones benefit when Schmidt is taxed, or vice versa:

> Gain through freeing imports from taxation does not depend on other countries doing the same. For other countries to tax our exports to them is an injury to us and an obstacle to trade. For us to tax their exports to us is not a correction of that injury; it is just a separate additional obstacle to trade. . . . If one country has good harbours while all the rest have bad ones, it will not realize the advantages of good harbours so fully as if all the rest had good ones also. But it will realize some advantages; it will be better off than if it, too, sank rocks all round its coast.

The United States from its earliest days imposed tariffs as its chief source of revenue. The idea of a protective tariff took root in the Tariff of 1816, when the shoe was on the other foot. At the conclusion of the Napoleonic wars in 1815, the fear was that cheap manufacturers from Europe would wipe out the fledgling U.S. industries. Thomas Jefferson, who had opposed protectionism earlier, now, at seventy-three years of age, decided that conditions warranted a change: "To be independent for the comforts of life we must fabricate them ourselves. We must now place the manufacturer by the side of the agriculturist. . . . Experience has now taught me that manufacturers are now as necessary to our independence as to our comfort."

Jefferson's political rationale in defense of protectionism had small merit, then as now. It was one thing to protect then, when the United States was a small debtor nation and the revenue from the "protective" tariff was the chief source of financing legitimate government services. (Much of the revenues from the 1816 tariffs paid off the public debt, which meant a decrease in future domestic taxes.) It was quite another matter for the United States to protect when it was the most powerful creditor in the world. In 1928, the transition problems of marginal U.S.

[3] Karl Marx put his finger on the problem: "With the setting free of a part of the agricultural population, therefore, their former means of nourishment were also set free. They were now transformed into material elements of variable capital. The peasant, expropriated and cast adrift, must buy their value in the form of wages, from his new master, the industrial capitalist."

farmers were trivial. With hindsight, no GOP argument, political or economic, justified higher tariffs.

Hoover did not appreciate that, in addition to the interallied war debt, the rest of the world had borrowed an additional $11.8 billion from private U.S. sources between 1919 and 1929, although it was pointed out to him. On May 5, 1930, 1,028 American economists petitioned Hoover not to sign the tariff bill if and when it was enacted:

Our export trade, in general, would suffer. Countries cannot permanently buy from us unless they are permitted to sell to us, and the more we restrict the importation of goods from them by means of even higher tariffs, the more we reduce the possibility of our exporting to them. . . .

Many of our citizens have invested their money in foreign enterprises. The Department of Commerce has estimated that such investments, entirely aside from the war debts, amounted to between $12,555,000,000 and $14,555,000,000 on January 1, 1929. These investors, too, would suffer if restrictive duties were to be increased, since such action makes it still more difficult for their foreign debtors to pay them the interest due them.

Hoover signed the bill on June 16, 1930, but the stock market anticipated the act and crashed in the last days of October, 1929.

The first signs of distress came in December, 1928 as the market was hit a double blow in the space of two days. On December 5, after the market had closed, Coolidge announced that there would be no further tax cut in the budget he would send Congress for the next fiscal year. This was the influence of President-elect Hoover's hand-picked successor to Andrew Mellon at Treasury, Ogden Mills, who would be Undersecretary to Mellon in the new administration. Hoover, aware that Mellon disliked him and had privately worked against his nomination, could not simply bounce Mellon and replace him with Mills. Mellon was a Republican and a national hero by this time. Had Coolidge sought reelection and won, Mellon undoubtedly would have used the surplus in the budget to ask further tax reduction in 1929. As it was, Coolidge urged Congress to economize on spending in his no-tax-cut budget message, which The New York Times observed "sounded more like a message to President-elect Hoover than to Congress."

The stock market was disappointed. On December 6, the Dow Jones Industrials (DJI) dropped 11 points to 279. "Stock Prices Break in Day of Selling As Money Hits 12 Percent—Huge Profits Crumble," announced a front-page headline in The New York Times of December 7, 1928.

The market fell another eight points the following day as word got out that the House Ways and Means Committee had scheduled hearings of fourteen subcommittees to take up tariff testimony, and that the hearings would cover all commodities, not only agriculture. The New York Times reported the schedules on December 7 along with the news that the Republican members of Ways and Means were committed to take up all the items in the tariff law. The market fell twenty-two points in two days.

Having swallowed this news, the market nevertheless recovered. The bill was a long way from being written, let alone passed, and there was plenty of opposition to it. Lame-duck Coolidge allowed himself to think out loud, saying he didn't even think the farmers would be helped by tariff revision. And Mellon on November 23 actually cut the tariff on pig iron from Germany, thereby showing where his heart lay. The market climbed to 300 by year's end and continued marching upward to March 23, 1929, when trouble really began. The hearings were underway, Hoover had been inaugurated March 4, and on Sunday, March 24, the world got bads news on page 2 of the New York Times. The Senate, it seems, was now a problem:

Watson predicts tariff difficulties after conference with Hoover. Senate leader says industries seek wide revision. He will ask cement rise, other legislators will back own industries. Longworth supports President on limit.

Washington, March 23—The administration program to limit tariff revision to a few schedules is going to encounter much opposition in Congress, Senator Watson, Republican Senate leader said today after a conference with President Hoover on the legislative program for the special session.

"It will be the desire of the Republican leaders to cooperate with President Hoover in every way and prevent the revision of the tariff getting beyond control and opening up the schedules to wholesale revision," Senator Watson said. "Of course the making of a tariff law is always a difficult subject and it is going to be extremely hard to lay down a fixed program and hold revision to a few accepted schedules, since many industries are demanding higher duties, which they claim are necessary to meet the improved production situation abroad. . . ."

Senator Watson said that as the time for the special session approached, the demand for a more thorough revision of the tariff became greater. Senators, he said, were being deluged by industries in their district for changes in the schedules affecting them. He intends, he indicated, to ask for the placing of a duty on cement. The cement industry in Indiana and Pennsylvania, he said, is unable to meet the competition of Belgian manufacturers, who, despite ocean transportation costs, are able to lay cement on the Atlantic seaboard cheaper than it can be produced in the Middle West cement belt.

It is the belief of some Republican leaders that President Hoover will face a serious problem if he attempts to limit tariff revisions to a few schedules. They say they cannot with justice close revision to industry in their own districts. They also point out that tariff revision is accomplished by combinations of interests, and forecast that this practice may be found in the special session.

This was ominous news and the stock market reacted the following day, Monday the 25th, as the Times reported on its front page of March 26:

Stock prices break heavily as money soars to 14 per cent.

Tightening of country's credit causes one of broadest drops in exchange's history; 90 issues at year's low.

Tightening of the strings on the country's credit supply, a developemnt foreshadowed last week, but not considered seriously by speculators in the stock market, brought about yesterday one of the sharpest declines in securities that has even taken place on the Exchange. Only twice in the history of the Exchange have there been broader breaks.

As each hour yesterday brought a lower level of prices, the liquidation increased. Millions of dollars in slowly accumulated paper profits were wiped out as frightened speculators dumped their holdings overboard "at the market," or for what they would bring at a forced sale . . .

There were three principal causes for the break in stocks. They were:

Tight money, with the call rate advancing from 9 to 14 per cent, with acceptances up ⅛ and thirty day funds loaning at 8¾.

Fear of a drastic advance in the rediscount rates by the Federal Reserve Board, or the adoption of equally drastic means to divert the country's surplus credit back to its ordinary and normal commercial channels.

The continuance of an overwrought speculative position, with hundreds of thousands of small and easily frightened speculators in the market, prone to do the wrong thing at the right time and the right thing at the wrong time.

The *Times* was wrong about the reason the market sold off. Unable to see that the market had been forced to reassess the international credit structure as a result of the ominous tariff news from Washington, the *Times* and other Wall Street observers groped for an answer and looked to the Federal Reserve, which was also forced to deal with reaction to the tariff news without knowing it. Nobody could "think on the margin" although the market itself, representing everybody, acted on the margin. Foreigners, liquidating assets in the United States as the tariff news made their debt position worse, would of course produce an excess supply of dollars as they sought to convert dollars into their own currencies, and the Federal Reserve would, in line with practice, sell bonds in order to mop up this surplus dollar supply. The financial markets saw the effects of the tariff report and interpreted these as the causes of the market break.

In the same Tuesday, March 26, issue of the *Times*, on page 19, there was further bad news on the tariff for the financial community to read on the way to the market that day:

Give Hoover tariff data, Davenport and Treadway tell him of textile industry's needs.

Washington, March 25—President Hoover today received a report on the question of increases in tariff rates to protect rayon, cotton, and other industries in New York and New England states, submitted by Representatives Davenport of New York and Treadway of Massachusetts, as members of a subcommittee of the Ways and Means committee during a call at the White House. They declined to indicate the tenor of their report, but asserted that the textile tariff schedules should be greatly increased and that there was little opposition to such action in the Ways and Means Committee.

The Wednesday, March 27 *New York Times* front page gives the results:

Stocks crash then rally in 8,246,740-share day; money goes to 20 percent. Market sets new record. Stocks dumped as loan rate mounts, sending wide list down; bankers aid recovery.

Heavy buying orders in five pivotal securities help.

Stem tide in last hour—300 issues at year's low.

$13,874,000 bond sales also biggest for 1929, with many declines.

The references to "money" going to 20 percent referred only to spot loans to individuals who had bought shares on margin, i.e., who had paid only a portion of the full price of stocks and, with the falling market, had to borrow fresh funds to cover their accounts. Long term rates didn't rise.

This, of course, was not the famous Crash of '29, for the market needed more definite news on the tariff from Washington. The Dow Jones Industrials, which had opened the year 1921 at 72, climbed slowly through the Harding years and soared to 300 at the close of 1928, climbed to 311 before the Watson report brought it back to 281 in two days in March, then advanced to 300, where it hovered through the end of May. The market was sure enough that the House of Representatives would put through a broad tariff boost, which it did swiftly in May, but meanwhile opposition to the legislation began forming in the Senate. It began to appear that the upper body would have the numbers to kill the bill or keep the legislation limited to a few agricultural products. There were forty "Old Guard" Republican Senators, including Senator Reed Smoot of Utah, chairman of the Senate Finance Committee, and they favored high protective tariffs on all commodities. The other senators, thirty-nine Democrats and fifteen "progressive" Republicans, formed a coalition against broad tariff revision. The progressives were also in coalition with the Old Guard Republicans to push through a tariff hike on agriculture, which the Democrats opposed.

In June, Senator Borah of Idaho presented a resolution to the Senate that would give the "sense of the Senate" as reflecting a desire to keep tariff revision limited to agriculture. His resolution lost thirty-nine to thirty-eight, but was understandably counted a victory for the anti-tariff forces because almost all of the nineteen senators who were absent or not voting on the resolution were members of the Democratic-Progressive GOP coalition. Up went the stock market, to a 347 Dow Jones average on July 31, to 380 on August 30, and to 381 on September 3, when the summer recess ended and Congress came back to Washington from the grass roots. The Dow Jones Industrials would not see the number 381 again for more than a quarter of a century.

The decline over the next several weeks was "orderly and produced no panic," drifting to 352 on October 10. Pressure on investors who were on margin accounts increased in the following two weeks as call money tightened up in the New York banks, loans declining by $120 million, "largely as a result of withdrawals of funds by foreigners," who were again liquidating assets in either direct or indirect response to the tariff problem.

On October 21 the high-tariff bill that had been written in the Senate Finance Committee by Senator Smoot and the Old Guard Republicans, was on the floor for its first big test vote. Senator Thomas of Oklahoma offered a motion to recommit the bill to the Finance Committee with orders to bring back a bill limited exclusively to the farm tariff schedules. There was a problem, though, with this motion almost identical to the promising Borah resolution of the previous June. The Democrats had always wanted "consumer representation" on the Tariff Commission, and Smoot and the Old Guarders had put this provision into their bill. And the Progressives, who also liked this provision, now took up the argument that if they permitted only farm schedules in a new bill, they would be unable to reduce industrial rates. Senator LaFollette of Wisconsin took the lead in making this argument, and Senator Thomas warned him:

I will make the prophecy, that if this motion does not carry, you will not reduce the rates of existing law, you will not be able to muster upon this floor sufficient votes even to reducing many of the increases in the pending bill.

The New York Times headlines the following day tell what happened:

Senate firmly bars farm tariff limit; Thomas's recommittal plan lost 64-to-10 vote; Borah motion was 39–38 (column 2, p. 1).

Stocks slump again but rally at close on strong support; continuation of selling wave depresses most of list in day of excited trading (column 5, p. 1).

The DJI lost but 3 points, to 320, although the blue chips do not help the rest of the market. But there is still hope. Maybe LaFollette is right. Maybe Thomas is wrong.

Indeed, the front page of the Times of October 23 suggests that LaFollette may be right after all:

Stocks gain sharply but slip near close; vigorous recovery marks most of day and many issues show net advances (column 4).

Tariff cuts forced in chemical rates; Senate coalition wins test vote, 45 to 33, on first schedules taken up (column 5).

The Dow Jones Industrials gained 6 points, to 326, on this encouraging development, but on October 23, an hour before the market closed, it went into a nosedive and fell 21 points. The October 24 Times front page tells the story:

Prices of stock crash in heavy liquidation total drop of billions crash in final hour (columns 1–2).

Coalition breaks over carbide rate; 13 Democrats, 3 Republicans desert as Senate rejects, 42 to 37, halving the cent duty (column 2).

The crash occurred in the final hour after the vote in the Senate was known, although not a word appeared in the press making note of this remarkable coincidence. How could it make so much difference to the market whether the rate on carbide was one penny or a half-penny per pound? Morevoer, chemicals were only the first of 15 schedules involving more than 20,000 items.

Why should the market care about the next item, casein, a product made from skim milk and used in the manufacture of glue and slick paper? Was it a farm item or an industrial item? Maybe both. The old rate was 2½ cents a pound. The house left it at that. Senate Finance bumped it up a penny, to 3½ cents. What would the full Senate do?

The next day, Thursday, October 24, would be time enough for the full Senate to take up casein.

John Kenneth Galbraith describes that next day on Wall Street:

The panic did not last all day. It was a phenomenon of the morning hours. The market opening itself was unspectacular, and for a while prices were firm. Volume, however, was very large, and soon prices began to sag. Once again the ticker dropped behind. Prices fell farther and faster, and the ticker lagged more and more. By eleven o'clock the market had degenerated into a wild, mad scramble to sell. In the crowded boardrooms across the country the ticker told of a frightful collapse. But the selected quotations coming in over the bond ticker also showed that current values were far below the ancient history of the tape. The uncertainty led more and more people to try to sell. Others, no longer able to respond to margin calls, were sold out. By eleven-thirty the market had surrendered to blind, relentless fear. This, indeed, was panic.

The panic was over by noon and prices firmed. In the late afternoon there was even something of a recovery. The *Times* market headline the following day even pushed news of the tariff off the front page, to page 25, as the headline went half the page:

Worst stock crash stemmed by banks; 12,894,650-share day swamps market; leaders confer, find conditions sound.

Losses recovered in part; upward trend, start with 200,000-share order for steel.

Prices on markets in other cities also slump and rally.

What, after all, had happened on the Senate floor that morning? Would the rate be 2½ cents or 3½ cents? Senator Shortridge, a friend of the dairyman, argued that the rate should go to 8 cents a pound, so U.S. purchasers of casein will have to buy the U.S. product, thus using more skim milk, and raising the profitability of dairying. Notwithstanding protests from the senators from paper-making states, the Senate that morning worked out a compromise with Shortridge, raising the casein rate to 5½ cents—by one estimate an 87 percent ad valorem rate!! The vote was 52 to 19, with the anti-tariff forces claiming a victory in keeping the rate from going to 8 cents!

By afternoon, the anti-tariff forces had reassembled, pushing through amendments cutting other chemical rates, and putting crude chicle on the free list. Thus Black Thursday ended, with only a 6½ point drop in the DJI when the smoke had cleared, although the broader list of shares was down badly.

On Friday, the Senate coalition was still holding from its Thursday afternoon gains and the market improved:

More chemical rates cut in test vote of day, Chamber by 48–30 defeats rise in duty on non-shatterable glass (page 8).

Stocks gain as market is steadied; bankers pledge continued support; Hoover says business basis is sound; trading is near normal, officials are optimistic (page 1, columns 6–8).

The DJI enjoyed a gain of almost 2 points, to 301, and the next day lost only 2½ points, the market experiencing its quietest day all week with not much happening in Washington. On Sunday morning, the Times reported on page 14 that some of the Old Guard were worried that if more chemical rates were cut by the coalition, the bill might fail in the special session scheduled to end December 2. Senator Reed of Pennsylvania, who wanted high industrial tariffs for his manufacturing state, predicted the bill would fail in conference with the House because it would find changes being made by the Senate to be unacceptable. On the front page, there was only reassurance:

Debacle inevitable Wall St. now says. Market grossly overbought; consensus of economists, bankers and brokers; all are optimistic again.

From his "Watch Tower" column on the financial page, Times man Richard V. Oulahan quoted Senator Thurston's remark that "Nobody wants it and everybody is for it." Wrote Oulahan: " 'Everybody,' of course, means the Senate and not the American people, among whom there seems to prevail a decided apathy with regard to what the Senate is doing with the tariff."

On Monday morning, the financial community read in the Times that:

Leaders insist bill will pass; Smoot and Borah contradict Reed, who told Philadelphians bill was dead.

Washington, Oct. 27.—While the fate of the tariff bill admittedly is in doubt in the minds of many of the Senators now trying to agree on a measure that can be passed and meet the approval of the President, a statement made by Senator Reed of Pennsylvania in a Philadelphia speech last night that the bill would die in the present session came as a surprise to the Republican and Democratic leaders here.

Senator Smoot, Republican of Utah, chairman of the Senate Finance Committee, took direct issue with Senator Reed and, although agreeing that chances of the bill passing in the special session were dim, predicted that it would be acted on in the regular session opening in December. . . .

Senator Borah also took issue with Senator Reed.

"My opinion is that the tariff bill is not going to die," he said. "I believe it is going to be made into a good bill and that it will be passed. I think those who have the power to write the bill have the power to pass it."

Senator Simmons, leader of the Democratic forces, said that his party intended to see to it that the President's plan to relieve agriculture was carried out. He added that if the bill died, the Republican party would have to kill it.

The coalition guaranteeing a tariff bill now included the Republican leaders of the Old Guard *and* Progressives and the leader of the Democratic forces. Tuesday's front page of the *Times* reveals what the market did after absorbing this information:

Stock prices slump $14,000,000,000 in nation-wide stampede to unload; bankers to support market today.

Premier issues hard hit, unexpected torrent of liquidation again rocks markets; days sales 9,212,800—nearly 3,000,000 shares are traded in final hour—the ticker lags 167 minutes—new rally soon broken; selling by Europeans and "mob psychology" big factors in second big break.

The DJI lost a shade over 38 points, closing at 260, and over in the corner of the Times front page was a small story about senatorial pleadings with Hoover to tell what he thought about the tariff. Hoover said nothing. There was also a complaint from Senate Republican Leader Watson that the Democratic delays that held up passage of the tariff bill might be charged with responsibility for the crash in stocks. Senator Tydings, Maryland Democrat, responded by saying that the Republicans were causing the delay.

On Tuesday, October 29, all the reports coming out of Washington seemed to be aimed at assuring the stock market that the

tariff bill would not be killed, that it would be pushed through somehow, and this new coalition of Republicans and Democrats would see to it.

On October 30, the Times found room in column two to make this report (Coalition Fighting Move to Kill Tariff), even though so much of the front page reported on Black Tuesday:

Stocks collapse in 16,410,030-share day but rally at close cheers brokers; bankers optimistic, to continue aid.

The DJI settled at 230, and in the following days rallied weakly before reaching new lows until November 13, when it hit bottom for the year, at 198. On November 13, in a surprise move explicitly aimed at "showing confidence" in the business community and the strength of the nation, the Hoover administration announced a tax cut on personal incomes. True, it was only 1 percent but Andrew Mellon himself made the announcement, an indication that a shaken Hoover was hearing Mellon, not Mills. Congress whipped through the tax cut in less than a month. Before December was out, the Dow Jones Industrials climbed back to 263.

Congress did in fact adjourn its special session without completing work on the bill, but as Senator Watson predicted in October, work resumed with the regular session and through the spring the Senate completed the 15 tariff schedules. The Senate and the House then went into conference to work out differences in their two versions. The compromise that emerged in June reflected a one-third increase in the 1922 rates.

Through much of this period the stock market was heartened. The DJI rose to a high of 294 in April, as chances of defeating the bill improved. For one thing, the rest of the world was horrified at the prospect of passage and was applying vigorous pressure on the White House. Foreign governments filed thirty-four formal protests, and many began slapping on retaliatory rates in advance. The implied promise was that they would be repealed if Congress backed away at the last minute or if Hoover vetoed the bill. There was, for example, the protest from British India:

Please protest vigorously against states proposition of duty on cashews because 1000-percent increase unjustified whilst U.S. not producing cashews, otherwise cashew industry in British India will be destroyed.

And from Greece:

The Minister of Greece avails himself of this opportunity to point out that the export of American products, agricultural as well as industrial, holds the first place in Greece imports, and whatever changes occurring in the tariff would necessarily affect the purchasing power of Greece to the detriment of American goods.

Mussolini's Italy was furious. Congress had sharply increased the tariff on olive oil, not because it competed with a domestic product, for there was no U.S. olive-oil industry. U.S. packagers of raw imported olive oil worried that Italians were beginning to ship packaged oil, and pressed Senator Goldsborough of Maryland to push through a high rate on all but bulk oils of all kinds.

The Italian reaction took the form of indignant editorials charging that the United States was attempting to corner the gold supply and ruin the entire world, especially Italy. The campaign against American automobiles was especially bitter. Italian drivers were embarrassed and annoyed at having their tires punctured, their windows spat upon or broken, and further harassed by the Royal Automobile Club of Italy which wanted to publicize the names of all Italians buying American automobiles and to demand an official statement of reasons for their choice. The importation of new cars was stopped by unheard-of-duties. For example, a duty of $815.50 was imposed on each Ford car; $950 on a Plymouth; $1,385 on a Chrysler 77; and $1660 on each Chrysler Imperial. American agencies closed up by November 1930, and Ford closed his assembly plant.

The stock market began a slow slide again in April as such protests brought no new word from the White House. Head counts in the Senate showed that the one slim hope of defeating the bill on final passage lay with Senators Reed and Grundy of Pennsylvania. They were the two most fanatical advocates of high industrial rates, who were furious (or pretending to be furious) that the compromise rates were not higher! But this was a slim hope, and on June 13 the Senate voted, as the *Times* reported the following day:

Senate passes tariff bill by 44 to 42; five Democrats help "regulars" to win; Europe takes first move in reprisal.

Interests abroad combine copper firms of England, Germany and Belgium to stop buying here. Others expected to join; American experts interpret it as definite "answer" to our tariff program; heavy losses are feared.

House is set to act today; Republican leaders say Hoover will sign bill before July 1; Borah assails measure; crowded galleries hear; Watson lead in defense of highest rates in history.

On this news, the stock market broke 14 points on the bottom of Black Tuesday, October 29, 1929. The only possibility remaining was that Hoover, who still had not spoken, would veto at the eleventh hour. After the market closed Saturday, Hoover chose Sunday the 15th to make his announcement: "I shall approve the tariff bill."

Hoover says he will sign tariff bill; hails flexible clause as giving power to correct faults, end foreign protests; perfect act "impossible".

President sees a method of scientific adjustment at last against more agitation, uncertainty over measure only retards business recovery, he declares platform pledges cited.

Hoover, as the headlines indicate, rested much of his argument on the administrative features of the act, which permitted him to raise or lower any rate by 50 percent. In the years that followed almost no use was made of this provision, and when it was, the rate was more often raised than lowered.

On Monday, the stock market reacted to the loss of the last frail hope. The June 17 *Times* front page reported:

Democrats turn tariff fire on Hoover as Senate sends bill to White House; break in stock and commodity prices.

Selling swamps Exchange; leading issues tumble as Wall Street assails the new tariff; cotton and wheat down; former touches the lowest in three years with grain sagging in Chicago; many margins wiped out; much of the liquidation due to brokers calling in vain for further deposits.

The National Association of Manufacturers, though, predicted that the new tariff, when it became law, would bring "a breath of relief to all industry and all business." Organized labor also approved. Big business, big labor, and big government were in agreement.

The Great Depression was at hand, however, and as country after country took retaliatory tariff actions against the United States, the stock market sank lower, the Dow Jones Industrials finally hitting rock bottom on July 8, 1932, a few days after Franklin D. Roosevelt won the Democratic presidential nomination on an anti-tariff platform. On that day the DJI hit 41, against its September, 1929 high of 381. There were plenty of other reasons for the market to fall to that low level in the two years following Hoover's signing of Smoot-Hawley, however.

Mellon, for example, had become an embarrassment to Hoover. His magic had failed. The symbolic 1 percent cut in income tax rates had not done much to stem the collapse. In December, 1930, Hoover announced that the budget had gotten out of balance. With the sharp increase in tariff rates, revenues from customs fell sharply and in 1933 hit $250 million from 1929s $600 million at the lower rates. The 1 percent tax cut of the previous year was therefore allowed to lapse. In addition, a freshman senator from Texas, Wright Patman, brought impeachment proceedings against Mellon. The grounds were that the Treasury Secretary, who had been a multi-millionaire when he took office in 1921, became richer during his tenure as his financial assets appreciated. In return for Hoover's removal of Mellon, who was exiled to London to be Ambassador to the Court of St. James, impeachment proceedings were dropped and Ogden Mills stepped up to become Treasury Secretary in name, as he had been in fact since Hoover's election in 1928.

Hoover now had, as a result of the 1930 elections, a Democratic House and a Republican Senate (the electorate would have to wait until 1932 to pitch out Senators Smoot, Watson, and Reed). By the spring of 1931, it seemed that the United States was more or less back in equilibrium, having adjusted to the higher international wedge of the tariff act. Hoover and Mills, though, still worried about the budget. The government had run a deficit of more than $1 billion in the preceding 18 months, and Hoover and Mills believed this was causing a drag on business confidence. Hoover proposed an increase in the income-tax rates to remedy the situation.

Most one-term Presidents only have time for one truly disastrous decision, but Herbert Hoover squeezed in two. Having widened the international wedge, he proceeded to put the domestic tax wedge back where it had been when Harding took office in 1921. He did, though, have help from the Democrats who now controlled the House, 220 to 214, and had control of the tax-writing Ways and Means Committee. The personal income tax was pushed up to a 63 percent bracket at $1 million from 25 percent at $100,000, and to 4 percent at $4,000 instead of 1 percent at that income. A host of business taxes were piled on too. The House passed the bill on April 1, 1932, with 162 Republicans and 164 Democrats approving; 37 Republicans and 27 Democrats in opposition. On June 6, 30 Republican senators and 16 Democrats voted for a bill the Senate not only pushed higher, but also made retroactive to January 1, 1932: 11 Republicans and 14 Democrats opposed. Hoover signed the bill on June 6, 1932. The retroactivity feature of the tax boost was Hoover's last gift to Roosevelt. As the March 15, 1933 deadline approached for payment of 1932 tax liabilities, taxpayers throughout the nation had to withdraw funds from the banks. The bank panic of 1933 was the result. Roosevelt's "bank holiday," announced as soon as he was inaugurated March 4, 1933, merely enabled the Federal Reserve to reflow tax receipts to the banking system.

Roosevelt now only had to carry through on his campaign pledges and the Democratic platform of 1932. The platform had "condemned the Smoot-Hawley tariff and pledged reciprocal tariff agreements with other nations, and an international economic conference designed to restore international trade and facilitate exchange."

Roosevelt had gotten the Democratic nomination by expertly wooing the divided wings of the party, the internationalists and the "intranationalists." The former, led by Senator Cordell Hull of Tennessee, who had been ranking Democrat on the Ways and Means Committee of the House in 1929 when the tariff bill was written, believed the nation's economic problems had international roots. Hull himself was single mindedly devoted to repeal of the tariffs, but other members of the international wing were eager to join the League of Nations and recognize the Soviet Union. The *intranationalists* were

identified with newspaper publisher William Randolph Hearst, who argued that the United States should solve its own problems first, and only then look outward. Hearst and these Democratic conservatives were not especially opposed to tariff reductions, but rather focused on opposing the political and diplomatic aspects of internationalism.

In February, 1933, before his inauguration, Roosevelt named Hull Secretary of State. For the rest of the year, Roosevelt was an internationalist of the Hull variety. From April onward, Hull had the spotlight. The April 9 *Times* reported:

Roosevelt scraps policy of economic nationalism to assist world parley. Old course condemned. Hull lays world slump to 12 years of isolation by the Republicans; 11 nations invited here; trade revival is sought; agreement for lower tariffs will be urged to spur the exports of surpluses.

The stock market surged, and continued a steady advance throughout 1933, rising with almost every statement by Hull. The DJI finished the year at 100, from 59 on April 8.

Roosevelt, though, had no intellectual commitment to Hull's program, and was also listening to the intranationalists that he had assembled around him, the Brains Trust. These were three academics, Raymond Moley, Rexford Tugwell and A. A. Berle, plus Treasury Secretary Henry Morgenthau. Morgenthau most directly helped to unwittingly dynamite Hull by attempting to drive up farm prices through devaluation of the U.S. currency. The move was viewed for what it was in fact, a "beggar-thy-neighbor" act, with nationalistic motives of precisely the type that underlay the Smoot-Hawley Act. The Roosevelt-Morgenthau gold manipulations stunned international diplomats assembled in London at the World Economic Conference inspired by Hull, and U.S. efforts aimed at arranging instant truces on tariffs and exchange depreciations broke down in acrimony. Hull still had enough backing to win enactment of the 1934 Reciprocal Trade Act, which enabled him to chip away little by little at Smoot-Hawley rates over the rest of the decade. But by December, 1933, any real interest by Roosevelt in a Hull solution to the crisis had dissipated.

He turned instead to internal remedies, which meant national planning; the New Deal. The idea was to use the central government both to promote economic growth through regulation of business and to assure balanced growth between industrial and agricultural sectors. This meant a re-allocation of resources away from the direction they would normally flow in a free market, either by government direction, government partnership with business and labor (in syndicates, which is why the process is sometimes called syndicalism), or taxation and spending. The Brains Trust was impressed not only by the Soviet experiment in central government direction, but in 1933 there was a general interest in Washington and other world capitals in what Mussolini had accomplished in Italy:

Although his favorable reaction to Soviet developments in the mid-1920s moved Tugwell in new directions, it needs to be stressed that planning had taken hold almost everywhere in the industrial world outside of the United States. Beginning in the late 19th and early 20th centuries, Great Britain, without reference to Marxism, moved away from laisses-faire toward "planned prices, planned manpower, planned investments, planned allocation of materials—and the redistribution of incomes that has taken place through steeply graduated taxation".... Bismarck's backing of national railroads and health insurance in Germany, as well as the growingly dominant role of powerful industrialists also reflected prevailing economic and social trends in Europe.

In Italy, the laissez-faire policies of the years 1922-25 gave way in 1925-26 to the syndicalist state with workers and employers organized into twelve national syndicates. Business and government entered into a formal partnership under Fascism. The relationship that developed, in the opinion of one recent observer, represented an institutionalization of patterns followed by Western democracies in more disguised forms. "The difference was more in form than in substance with the Fascists shouting what the others, perhaps more wisely, preferred to whisper." While probably generally true of Europe, the United States remained an exception (in 1933).

Unfortunately for the global electorate, the virtues of syndicalism were a mirage. The Soviet economic advances of the mid-1920s should not be surprising, for the Soviet revolution had rid the nation of all domestic and international debt, which was simply repudiated. Central planning has its economic costs and inefficiencies, but these negative effects were for a while overwhelmed in Russia by the leap from the very top to the bottom of the Laffer Curve.

Enchantment with Mussolini's syndicalism was also misplaced. The rest of Europe was practising in whispers what Mussolini was shouting in Italy, but Mussolini was not practising what he was shouting. The economic foundations of Mussolini's power were built by his finance minister, De Stefani, in the first weeks and months after he climbed to power in 1922:

De Stefani's program was coherent. It was inspired by a laissez-faire philosophy which, in principle, was totally acceptable to business. Public enterprise was to give way to private initiative wherever possible. Public controls over production were to be abolished. Restrictions in the scope of governmental action would make it possible for the government to reduce and reform the bureaucracy, thereby gaining greater administrative efficiency and lowering operating costs. The reduction of public expenditures was to be accompanied by fiscal reforms, which was to increase governmental revenue by the paradoxical device of actually lowering tax rates and simplifying tax laws. De Stefani's rationale was that unrealistically high tax rates and complicated tax laws reduced revenue by encouraging widespread cheating and by making it virtually impossible for government officials to verify tax returns.

The economy boomed, revenues flowed into the treasury, the lira appreciated steadily, and in 1924 the Fascists won two thirds of the seats in the national legislature. Mussolini thus won a democratic vote that Hitler never could.

Mussolini adapted the trappings of syndicalism, and these imposed economic costs on Italy, but he was much less the central planner than he seemed to the outside world:

Far from being fully absorbed into the Fascist state as the idea of totalitarianism implies, organized industry managed to retain a degree of autonomy. If the Fascist state turned out to be considerably less totalitarian in practice than it was in theory, the reasons are to be found in Mussolini's political techniques and in the resistance and resourcefulness displayed by outside groups, foremost among them the industrialists.

Italy's real strength in the 1920's and early 1930s was in its tax and hard-currency policies, which remained in place even after De Stefani left the government in 1927. Not until late 1935 did Mussolini seriously begin chipping away at these fundamental benefits, and when he was forced to raise taxes to finance his Ethiopian campaign a year later the Italian economy soured. Mussolini introduced new taxes in October 1937 and his popular support faded with the economy.

Intrigued by Mussolini's seeming success with syndicalism as a basis for economic policy, both Roosevelt and Hitler tried it—Roosevelt with a whisper, Hitler with a scream. But neither noticed the De Stefani tax reforms, and, they gave no thought to cutting the high rates they inherited. They both chipped away at tariffs. Hull's most important reciprocal tariff treaty was finally negotiated with the British Commonwealth in December, 1938. Hitler's finance minister, Hjalmar Schacht, was successful in negotiating duty-free bilateral trade agreements with two dozen raw-material producing nations. But high domestic taxation in the United States kept the depression going.

Roosevelt surely could not have succeeded politically with his New Deal program of "Tax and tax, spend and spend, elect and elect," had the Republicans admitted their tariff errors of 1929–30. But they were still at it, as, for example, in the GOP platform of 1936:

The New Deal administration . . . secretly has made tariff agreements with our foreign competitors, flooding our markets with foreign commodities . . . We will repeal the present reciprocal trade agreement law. It is futile and dangerous.

The GOP was still pushing domestic and international wedge increases, so the voters looked upon Roosevelt as being at least half right, and they could still juggle the Congress to get what it wanted. In 1935, needing revenues for his spending programs and still unhappy about deficit finances, Roosevelt pushed through a major tax increase that lifted income-tax rates to a new high, 79 percent on incomes above $5,000,000. In 1936, he was back again for taxes and revenues, now hitting not only people with high incomes, but also successful business enterprises. Congress gave him what he wanted, the economy slid into the 1937 recession, and the new Congress, elected in the November, 1936 Roosevelt landslide, finally took matters into its own hands in 1938:

Despite the President's objection, the Congress passed in May a Revenue Act which reduced the capital gains tax and the undistributed profits tax and provided for the latter to expire at the end of 1939. The President criticized this action severely but, in a move unprecedented for him, allowed it to become law without his signature. In June, 1938, Congress enacted the appropriations for the spending program.

June was also the bottom of the recession. Thereafter the economy rose gradually but visibly. However, in August, 1939, just before the economic effects of the European War began to be felt, production and employment were still a few percentage points below their mid-1937 peaks.

Hitler had a marvelous opportunity to boom the German economy by riding down the Laffer Curve when he took power in the spring of 1933. In fact, his way to power had been paved by Hoover's 1929–30 error on Smoot-Hawley, compounded in Germany, which had the weakest economy in Europe, and was naturally the country on the margin when Hoover signed the tariff on June 16, 1930. The contraction in Germany was immediate, as financial assets fell and businesses cut back. The German Chancellor, Heinrich Bruning, in the spring had responded to a weakening of the economy by announcing an agricultural assistance program and protectionist measures by emergency decree. Now, in June, revenues fell and Bruning reached for austerity. On July 7, he

. . . introduced further financial proposals demanding heavy sacrifices from all classes. Government expenditure was cut; there were increases in direct and indirect taxation, including supplementary income tax of 5 percent, rising to 10 percent on unmarried persons; a special contribution, the *Reichshilfe*, involving a reduction of 10 percent on all public salaries; an increase in contribu-

tions to the unemployment insurance fund, producing a saving of 100 million marks on unemployment relief; and there were increases in municipal taxation.

This savage program of deflation was again passed by emergency decree. The Reichstag, however, which had allowed the first emergency decree to pass without opposition, now made use of the constitutional provision permitting it to nullify the decree. Bruning replied by dissolving the Reichstag.

This has been described as "one of the most fatal events in the history of the Weimar Republic". It brought to an end the last Reichstag in which there was a parliamentary majority for the Republic, and plunged Germany into an acute political crisis which lasted until the appointment of Hitler as Reichschancellor.

When Hitler came to power in 1933, fascinated with Mussolini's syndicalist style, he—like Roosevelt—left the tax rates where he found them. There was no way, then, for the private economy to expand as it had in Italy. There was, however, immediate economic relief from the mere fact that the cloud of war reparations disappeared with Hitler's ascendency. The Lausanne agreement of July 9, 1932, was the last try by the allies to arrange payment of at least a part of the war debts, and Hitler immediately announced that within months the agreement would not be worth three marks.

Although he left the explicit tax rates high, Schacht did chip away at the domestic and international wedges. The economy expanded, but in so distorted a fashion that it compressed the tension between agriculture and industry into an explosive problem that Hitler sought to solve through *Lebensraum*, or conquest.

The reduction of the international wedge came through Schacht's "New Plan" of September, 1934. This was a twisted version of Cordell Hull's reciprocal-trade approach. Schacht arranged twenty-five bilateral trade agreements with nations that produced primary resources. Those nations would send Germany raw materials and receive credits, which they could use to buy finished German goods. The arrangement eliminated the tariff wedge on both ends of the transactions, but tilted the German economy wildly toward industry and away from agriculture. In his autobiography, Schacht recalled:

This policy laid me open to vigorous attacks from abroad. It certainly was in direct contradiction to previous concepts of multilateral trading and to the most-favored-nation treatment. Scientists in every country stigmatized this system as a repudiation of every well-known economic theory. What mattered to me however was not the classical tradition of my economic theory but that the German people should be provided with the necessities of life. Today when the whole world thinks and acts in terms of bilateral treaties the reader will scarcely be able to imagine the turmoil created by Germany's trade policy in the thirties.

The second of Schacht's wedge reductions drove in the same direction, inflating industry at the expense of labor-intensive production, especially agriculture. Corporate dividend income was taxed both as corporate profits and as personal income at the high Bruning rates. Schacht imposed a scheme whereby corporate profits would not be taxed at all if they were reinvested. To encourage "efficiency," small corporations did not get this break, which meant they were swallowed up by bigger firms or disappeared. Industry was thus forced to grow whether it wanted to or not. Shareholders could liquidate their equity if they needed funds to live on, but always at distress sales, for the German stock market remained stagnant through the Hitler years—the country flooded with paper financial assets that the market worried might never be realized. Again, there was no such plowback provision for agriculture, so the effects also were to create a squeeze on the farm sector.

At the same time, Hitler's agriculture minister undertook a farm "reform," of which Schacht approved, that returned German peasantry to a feudal existence. In 1933, the average German farmer was paying 12 percent of his output as interest on his debt. Hitler "solved" the problem of farm bankruptcies merely by prohibiting foreclosure by creditors. Farmland henceforth could only be transferred by inheritance. There was, naturally, immediate farm relief, achieved by stripping creditors of the value of their mortgages. But the act tied the farmer to the land, discouraging the kinds of transfers, combinations, and investments that are necessary to increase productivity. By late 1935, Germany had been advanced 500 million marks worth of foodstuffs and raw materials which had yet to be redeemed in finished goods. Hitler pressed his idea of Lebensraum, i.e., that Germany's problem was that it was gifted intellectually and short-changed terrestrially. By absorbing land to the east, he would weld together German industry and finance with Polish and Russian mining and food, ending all problems of foreign exchange in the process.

The global electorate had come too far over 2,000 years of advancing democratic systems to countenance another Caesarian experiment in lowering trade barriers by conquest. Hitler got away with Anschluss, merging Germany and Austria in 1938, and thereby increasing the economic efficiency of both. Even there, however, he showed himself to be a poor leader. Where Caesar had lowered tax rates in the lands Rome absorbed, Hitler tried to manipulate money as a boon to the Austrians, against Schacht's correct advice that "an automatic rise in prices is bound immediately to cancel out any artificial overvaluation of money."

But the global electorate would not let him get away with any more than Anschluss. Where Caesar's empire lasted 500 years, Hitler's was wiped away in 7. In 1945, the world could again return to peaceful experimentation with political and economic ideas.

Mr. GRAVEL. Where I do differ is I think that right today, in historic irony, we are in exactly the same situation we were in 1929. I think we are about to launch ourselves into a national and global—I think we are going to call it this time—a prolonged recession.

It is going to be very tragic and very painful, and again has to parallel that which occurred back in 1929 when it was under the leadership of the Republican Congress, a law was enacted, and the Democrats at that time and the moderate Republicans were not successful in stemming that tide, and we are going to see a situation today where, unfortunately, my party will be the one that will precipitate us, and they will be joined totally in support of legislation that will cause this dilemma by the Republican elements of the Congress.

We have spoken of the fact that the bank deposits are now insured. There is nothing that insures the bank deposits of an individual from inflation, and when you just make the calculations of this year that a person lost 10 percent in his deposits if he held money in the bank, the precipitous drop in the stock values that have taken place have been masked recently by inflation because you can add 13 or 14 percent to the drop that took place.

The simple fact is that inflation and the fact that we do not have a currency tied to gold or something that can give us a measure, makes things very deceptive.

I merely want to quote the figures that from 1971 the price of gold has gone from below $50 to a figure in excess of $400, and in the same period that the dollar has gone from an index of 73 being 100, from 1971 from a figure of 120 to below 85.

This, in my mind, indicates the severity of the problem we have, which is totally masked, and which is going to become unraveled with the passage of the windfall profits tax. That tax is not a tax on windfall profits.

I ask unanimous consent to have printed in the RECORD proof of that fact.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WINDFALL PROFITS TAX: FROM DEMAGOGUERY TO DEPRESSION

If the price of peanut oil took a sudden leap, one wonders whether a righteous Jimmy Carter would take to the nation's television screens to demand a "windfall" tax on profits that peanut farmers "didn't earn."

I think we're safe to assume that he would not.

And it isn't just a question of who owns the Carter Peanut Co.

The President, who made his company successful through investment and a lot of hard work, would hardly consider the profits "unearned."

The cost of planting peanuts is undoubtably going up, along with everything else. And he would undoubtably argue that much of his "windfall" would be needed for "plowback"—literally.

He might even say that for years the price of peanut oil had actually been too low. The sudden surge in peanut prices, he might say, was just a case of one commodity catching up with the rest.

And in this hypothetical case, we would be wrong to assume cynically that just because the President was a peanut farmer, he was fibbing.

After all, he did make the investment. And the costs of doing business are going up. And except for utilities, the profits of private enterprise (especially, perhaps, in commodities) are not expected to flow evenly and predictably. So overtaxing a good year can jeopardize a company's ability to get through a bad one.

As with peanuts and peanut oil, so with petroleum and natural gas:

(1) The profits of the oil industry are not excessive.

Obviously, with many of these companies operating on a world-wide basis, their costs and investments as well as their profits are measured in billions of dollars. But their return on investment is not unfair. In fact, they make about the same return as most other segments of American industry—or less.

Over the past ten years, their return on capital investment has been about 10 percent. That's similar to publishing, slightly less than automotive average, and considerably less than the office equipment industry (13 percent) or the drug industry (16 percent).

Our financial magazines, like Forbes, Fortune and Business Week, report regularly on corporate profitability; and a glance at their charts will show that oil company profits average only in the middle range. Time and Newsweek have also pointed this out in recent editions.

Even with the current surge in oil and gas prices, profits have not become excessive.

Television reports have emphasized the percentage increase of profits in the second quarter of 1979 over profits in the same quarter a year ago. But this can't tell the whole story unless we're aware that last year's profits were relatively low.

Exxon's profits in the recent quarter were reported up 20 percent—but at that rate, Exxon's return on investment would average just 13.8 percent for the year. Gulf's profits were up 65 percent for the quarter—but at that rate, annualized return on investment for Gulf would be only 10.4 percent. Boeing, by contrast, was up 139 percent for an annualized return of 19.3 percent.

On a five-year average, Exxon's profits at the current rate would yield only a 12.9 per cent return—and Gulf's would yield only 10.8 per cent. Lockheed, with its tax-supported aircraft contracts, makes an interesting comparison. Its five-year return based on recent earnings would be 24.8 percent. And on the same basis, the Washington Post isn't doing badly either: 16.5 per cent.

The highest profit years for the oil industry in recent decades were 1974 and 1978, both the result of price increases by OPEC, not by the oil industry. In 1974, according to the Salomon Brothers investment house, return on investment for large oil companies averaged 17.5 per cent. This compares interestingly with performance by the most profitable of the Fortune 500, America's 500 largest corporations. More than 30 per cent of these companies earned better than 20 percent last year as defined by return on equity and/or return on total capital. Of these 152 corporations, only eight were oil companies.

(2) In energy, Americans have had one of their greatest bargains, and energy prices are still low in the United States.

While we are shocked at dollar-a-gallon gasoline, many countries are already paying in excess of $2 per gallon.

In real terms, the price of oil has remained remarkably steady. In 1949, it sold for $3.23 a barrel. Stated in 1949 dollars (that is, adjusting for inflation), oil in 1978 cost only about $4.50 a barrel. That's a real increase of less than 50 per cent in 30 years.

Meanwhile, gasoline prices stayed far below the rising Consumer Price Index from 1955 to 1973. The increases brought about by OPEC have now lifted gasoline prices to about the level it would be had it tracked the Consumer Price Index since 1955—in other words, gas prices in the 1970's have only caught up with other prices. And in fact, OPEC took the actions it did because member countries thought that they were being gouged by American oil companies when those companies were selling their product so cheaply to Americans.

(3) Exploration for new oil is increasingly expensive.

The cheap oil, especially in the United States, has been found. New oil sources are deep in the earth, or off-shore, or in areas of difficult access like Alaska's North Slope.

The average cost of drilling wells, measured in cost per foot, has doubled in the 1970's, and the oil industry must invest more money to get the oil and gas our economy needs.

And the industry is doing just that. Not only are the oil companies investing more, but they are investing more in relation to their profits. The major companies invested almost twice as much in new capital in 1977 ($28 billion) as they took in that year as net profits. A decade earlier, in 1965, the companies invested about 50 per cent more in new capital ($7.98 billion) than they took in as profits as a result of their depressed prices.

So the truth is that the profits of the oil companies are not excessive. And just as we might expect President Carter to explain in the hypothetical peanut case, the rising price of oil reflects real increases in the cost of finding new oil—as well as a kind of "catch-up" with the prices of other commodities which have been increasing for years while oil remained cheap.

It is unfair to single out the oil industry for the newly-volatile price of its commodity.

But fairness is not the only problem with President Carter's "windfall profits" tax. It is not even the most important problem.

President Carter's tax is part of a government-oriented solution to the energy crisis which I believe can only make our energy problems worse.

It is a dangerous step toward nationalizing the energy industry.

And as an impediment to solving our energy problems as well as a signal that American government may encroach at will on private enterprise, I believe the Carter energy scheme (and in particular the "windfall profits" proposal) threatens instability in financial markets around the world—and conceivably even another global depression.

Let's look at these one at a time:

First, the "windfall profits" tax, while cleverly named for purposes of propaganda, is not a tax on profits at all. It is a tax directly on oil as it comes out of the ground rather than on the profits of the company that extracts it. As has been widely pointed out, it is in truth an excise or severance-type tax.

The purpose of this tax is not to deny "excess" profits, but rather to transfer to the government the functions of our nation's energy industry. It is a raid on the capital that will be needed to develop future energy sources.

President Carter is anxious to have government take over the role of energy development, in particular by creating a huge government-financed effort to make synthetic fuels. The fuels would be made largely from coal, which it seems would be mined in several of the states where President Carter needs political support if he is to stay in the White House.

The more this proposal is examined, the worse it looks. It would produce relatively little fuel, at the highest price, with considerable environmental damage likely, and a maximum cost for bureaucratic overhead. Expensive as new oil will be, it will not come close to the cost of government-produced synthetic fuels.

The President proposes to take $140 billion out of the one industry that can solve our near and mid-term energy problem. And he proposes to transfer that money to the states where he needs votes, so that they—with tax support—can produce half the fuel that privately industry could, at twice the cost.

But even that doesn't convey the full picture. President Carter's plan for oil deregulation will by itself produce more than enough new tax revenue to finance the synthetic fuels effort he wants. So why does he want the additional "windfall profits" excise tax?

I do not rule out the possibility that he may actually want to impede the search for new oil, at least by the private sector. If he knows (as the evidence makes clear) that new oil sources could under-sell his synthetic fuels, then he might actually want to prevent the oil companies from finding this new oil. And without the capital to pay for the search, not much new oil is likely to be found.

This theory would also explain President Carter's passion for withdrawing public lands from oil and gas exploration. In the state of Alaska alone, he has unilaterally withdrawn 40 million acres of sedimentary basin—an area larger than all but five of our states. And he supports further withdrawals in Alaska that would either put public land off-limits to exploration directly, or would do so indirectly by impeding access.

In the most extreme case, the President supports a total ban on exploration in the one North Slope area where geologists say we have a chance of finding another Prudhoe Bay. When one considers that Prudhoe Bay contains more than a third of America's oil reserves, one gets a sense of President Carter's devotion to non-exploration.

But perhaps this is overstated. Perhaps the President simply believes (contrary to geologic evidence) that there is not a significant amount of new oil and gas to be found. And perhaps his "windfalls" excise tax is simply a revenue measure—a way to help him balance the budget at the expense of an unpopular industry.

Either way, his "solution" to the energy crisis is just what he promised: "Pay more, get less."

In addition to the self-defeating nature of the Carter energy plan, we should recognize that it moves us toward nationalization of the energy industry.

It says a great deal about the nation's attitude toward private enterprise that we so easily accept the idea that oil price decontrol produces "windfall" profits. When for six years the government holds the price of oil below its real-world level, and then finally acknowledges reality and raises the oil price ceiling, does that constitute a sudden windfall to oil companies? Or is it still just six years' denial of legitimate profits to those companies? Not to mention six years used less fully than they might have been in the search for replacement oil—and six years of deferral of the economic conditions that may eventually make energy alternatives viable.

The private market so far has judged against synthetic fuels on the basis of their costs and the lesser costs of alternatives. But President Carter has made his judgment on a different basis—a political one.

He is willing to:

(1) capitalize on the unpopularity of the oil industry rather than explain the difficult situation which really exists;

(2) overtax oil in order to balance his budget without having to make politically unpopular spending cuts; and

(3) order Congress to roll out a giant pork barrel, an energy development dole for those whose votes he needs in 1980.

Demagoguery is the appeal to base emotions and prejudice in the pursuit of personal power. Sad as it is, it is hard to think of President Carter's energy program as anything else.

Passage of this "windfall profits" excise tax would remove more than $100 billion from the nation's investment pool. Even worse, it would take the money from the area most needful of renewed investment, energy, to be devoured by the non-productive (even anti-productive) activities of an expanded energy bureaucracy. And even the money which did reach the energy development effort would likely be misspent, with politics and wishful thinking likely to overshadow the realities of economics.

The prospect of such an enormous self-inflicted wound on the central economic machine of the West is already causing great concern in the financial world. The reality of such a wound be reflected in a very unstable dollar, considerable economic constriction and increase inflation.

America has already tried directly for six years and indirectly since the beginning of natural gas regulation in 1954 to seal itself away from the realities of rising energy prices. Now President Carter seems determined to seal off any but the highest energy prices. And his recipe contains the ingredients that could turn recession into economic depression.

Government assistance to make basic scientific investigations into new, long-term energy sources is undoubtedly a good investment. Tax credits that encourage the

use of solar energy, especially at the individual level, as well as incentives to conservation are worthwhile. But in the short to mid-term—that is, until the turn of the century and perhaps much longer—oil and gas are the energy sources that will fuel our economy because of availability, price, and environmental impact.

And the energy industry needs nothing from government so much as it needs noninterference to get done the job of finding new oil and gas and making them available to the American people.

Mr. GRAVEL. What that tax is is a transfer of $150 billion or whatever the Congress decides, probably up to $270 billion, from one sector of the American economy, the energy sector, and that money will then be taken to Government and recycled by the Government. That is a tax increase, and it will eventually be passed on to the consumers of energy, so that regardless of how we try to hide it, the transfer of this kind of wealth over the next decade to the Government serves to alert the global community to the task of discounting the American public's productivity.

We make great statements about what we have to do to increase our productivity. We make statements lauding what is being done with respect to tight money, and all of that will go for naught when we turn around and calculatingly over a decade disadvantage ourselves to the rest of the world in terms of energy production, and thereby in terms of our total productive capacity.

Mr. President, I also ask unanimous consent to have printed in the RECORD a statement I wrote last July which deals in macro terms with the economy. The thesis I make there is a very simple one, and it is that regardless of whether it is a Democrat or Republican, a conservative or liberal who holds power in our Government, there is an onward movement of an enlargement of Government, and the reason for that is very simply that it is the American people who want this expansion of Government and all it entails.

The reason why the American people want this expansion is because the Government is the only one that can provide them with the necessary economic security.

There being no objection, the booklet was ordered to be printed in the RECORD, as follows:

A PAPER WRITTEN BY MIKE GRAVEL.

It is widely remarked and commented on these days that America is in decline. We have "a crisis of confidence," it is said. America's submergence into the ocean of history is widely predicted and blamed on morale or morals, or the lack of them.

Can anyone this worried about decadence really be that decadent?

We do have problems—serious problems. But it is hardly because we've become a nation of quitters.

Quite the contrary: as a nation, we are looking for the same things today that we have looked for throughout our history—political freedom and economic well-being—"life, liberty, and the pursuit of happiness."

There was nothing wrong with these goals before, and nothing now; and however uncertain we may feel about ourselves, the rest of the world—including the people of the communist countries—still looks to America as a land of freedom, opportunity and justice.

Not only are our goals laudable, but we are pursuing them with as much vigor and an even greater maturity than ever before.

It is within this context that I want to talk about what is wrong in America. Because I think there is indeed a serious problem—a structural flaw in our society that has been building for the last fifty years.

It is the nature of this structural flaw that we as people are more prone to use the tool of government to solve problems which it should not or it cannot solve.

I think this flaw accounts very much for the sense of malaise that we have today. And the flaw is dangerous and insidious—even potentially fatal. But it is not—not yet—a question of dissipation or purpose lost. So far, it is only apprehension—and a strong case of frustration.

And who wouldn't be frustrated? We don't seem to be able, these days, to get anything done. Our leaders are divided and want to take us in different directions. Even when we're all pretty much in agreement (which is rare enough), we don't seem to be able to move. As a nation with day-to-day and week-to-week tasks, whether it's getting energy or grazing cattle, we seem to have fallen into some dream-like slow motion machine.

We can't seem to make decisions. If we're not visibly floundering over a decision, then we're likely to be standing dead still, making no choice at all. Our society is too complex. We are awash with "data," afraid of "yes" and "no," and positively terrified of being wrong and of being held accountable.

I think that most Americans would recognise these traits as features of the malaise they feel about the country and its future. I think most of us, too, would concede that these are traits often associated with bureaucracy of all kinds, public and private.

It is no coincidence. Our over-sized government is at the heart of the problems that are causing our "crisis of confidence." And the structural flaw that I've mentioned is the continued constituency of the American people for growing government, even while we complain about its failure to solve the problems we've already consigned to it, and even when it has perpetuated or enlarged those problems.

I am not trying to set up federal bureaucracies as scapegoats. I know them to be as competent and as diligent and as sensitive as their counterparts in the private sector. Nor would I dare denigrate the rightful exercise of our national environmental maturity through the use of government. And the similar use of government in guaranteeing that responsiveness and responsibility are shown by private industry for its manufacture, called consumerism.

I think it right for government to seek the implantation of competition in our capitalist model where none exists. And attention should be given to countering the centripetal force of wealth rather than the present government inducement to its concentration.

Space will not let me deal with these areas where obviously government ought to do something. Nor will it allow me to properly treat the even more obvious extremes of government in their regulations as a result of inadequate checks and balances upon the government itself.

The oft stated cliche "the least government is the best government" has never felt comfortable to me because I think that "the best government is simply the best government." It's a tool, use it when you need it and put it down if you don't.

By way of emphasis, there are things our government ought to do, and things it ought not to do—and things it can't do. Time only permits me to deal somewhat with the inappropriateness of asking government to do what it ought not to do and what it can't do.

It can't give us a risk-free existence.

It can't duplicate the independent creativity of thousands of individuals and small firms.

And it can't replace the market system and decide for millions of people what is best for each, the way each can decide for himself.

It also can't distribute the goods and products of the nation as effectively, or even as fairly, as the private enterprise system, because it cannot duplicate for itself the incentive of profit and the discipline of loss or the freedom of the consumer-choice mechanism.

Yet we go to government more and more, asking it to do all these things.

The government can cause failure in some very creative ways. We have devised the Catch-22, a self-contradictory edict which usually boils down to this: "If you can't do it, it must be done; if it can be done, you can't do it." A particularly useful feature of the Catch-22, as we'll see shortly, is that it can transfer the appearance of blame from government to the individual or the company which failed to carry out the self-contradictory order.

Blameless, however, as the government may try to hold itself, we still perceive it as a delayer, a strangler—and a failer. And yet back we go, again and again, asking for more.

In a curious way, government even promotes its own growth and power by failing. The pattern is easy to see: if we gave a job to an agency and the job didn't get done, then the agency must need more authority, or another agency to see that the first agency gets the job done—like the "Energy Mobilization Board."

Two hundred years ago, physicians were in the same trap—or rather, their patients were. The physicians would bleed the patient, using leeches, in order to cure him. If the patient got worse, then we must need more leeches. If the patient died, then the conclusion was that they didn't use enough leeches fast enough. The problem is in the premise, but the premise goes unexamined.

If, through its own action (and inaction), the government causes failure in the private sector, then the government seeks authority in the future to prevent just such failures as the one if caused.

Here's one example I'm familiar with: the proposed Alaska natural gas pipeline.

This project is bogged down today in spite of its nearly universal support. A quarter of our nation's reserves of natural gas are at Prudhoe Bay, and that gas must be released in order not to interfere with the production of Prudhoe oil (which constitutes more than one-third of the nation's petroleum reserves). The Congress supports the project—it passed a law to "expedite" it. And the President supports the project—his policy, too, is "expedited handling." And, at this point, the project is delayed. In spite of the government's support, the government seems to be incapable of making decisions that would let the project move.

One series of decisions constitutes a classic Catch-22. By law, the pipeline must be built with private financing and no government guarantees. The oil companies are chided by the President because they won't financially back the gas pipeline when they are prohibited by law from owning any part of the line. Also the Federal Energy Regulatory Commission has indicated that the $2 billion cost for a conditioning plant cannot be passed on to the gas consumer, but must be absorbed by the oil companies, increasing their costs, thereby causing the oil consumers to pay more for oil, thereby subsidizing the

gas consumers. "If you can't do it, then it must be done." Catch-22.

We also have in the gas line a ladder of failure that has elevated the government to new power:

When the Alaska oil pipeline was built, government requirements as well as long delays that were mostly the government's fault combined to make the cost of that pipeline skyrocket ($1 billion to $8 billion). Having caused that cost overrun, the government was then handed new authority by Congress to prevent future cost overruns. It can now regulate the equity return that the investors in the gas line will receive. The higher any cost overrun, the less they can receive, regardless of the fact that the government may cause the overrun.

When all this fails and the pipeline cannot be built privately because of self-contradictory regulations, then the government will undoubtedly step in with guarantees. And in the process, no doubt, its authority over the whole project—and over all future pipeline projects—will expand and the market will never be able to judge the economic efficacy of the largest "private" project in the history of the world.

And one more example: the SOHIO pipeline through California. The company spent five years and $60 million trying to cut through the jungle of regulation and nondecision. They finally gave up, not only in frustration, but also because the economics dried up. And now that the government has killed it, suddenly the Congress is looking at having the government build the project in the face of poor economic risk. In any event, I doubt the government could get the necessary construction permits from government.

So, for the government, nothing succeeds like failure. We must be true believers because we keep coming back for more. And we get it: not more help, but more government—and more failure.

One more item: the Alaska Lands issue, known to those of us who are constantly involved in it as "(d)(2)." The expression "(d)(2)" comes from Section 17(d)(2) of the Alaska Native Claims Settlement Act. It's the section that orders the Secretary of the Interior to withdraw lands in Alaska—up to 80 million acres—for possible designation as parks, refuges, national forest, and wild and scenic rivers.

This issue is motivated by the Preservationist community, and has been taken on by the President as his Number-One environmental goal. Rep. Morris Udall has brought about passage of a bill in the House of Representatives that would set aside upwards of 120 million acres of land. This federal land is so strategically located that its withdrawal would deny economic use of additional federal lands, as well as state-owned and private lands, on the order of 100 million or more additional acres.

The proponents of this action have a set of cliches: "We're not going to make the same mistakes in Alaska that we've made before."

These claims are specious. Today there is more than sufficient environmental law already in place to protect Alaska. This bevy of environmental law that already exists assures that the mistakes of the past will not be repeated. No part of Alaska or the rest of the United States will be despoiled in the so-called "rape, ruin and run" fashion. The laws guarantee that the full environmental impact will be known and weighed before future economic activities are undertaken.

Recognizing that protection already exists, then we can see the real purpose of superimposing additional layers of government control and regulation on Alaska, at a cost of $1 billion: the purpose is not protection, but denial of any economic activity in the state. By creating bureaucratic barriers that cannot be reasonably penetrated by thoughtful and responsible economic actors, all economic action can be brought to a standstill.

The effort to lock up Alaska and to deny its many treasures to the American people seems to have acquired the force of a tidal wave. Not only did the House pass Congressman Udall's bill by a large margin, but President Carter has already acted unilaterally to create 56 million acres of national monuments in Alaska. This is happening, I think, because more Americans dont understand its implications.

Alaska is indeed a treasure chest. In this chest, we have wilderness, parks, game refuges, recreational areas—and also urban development, oil and gas potential, mineral potential, great fisheries and forest resources, and more. For one small group—the preservationists—through the exercise of disproportionate political strength, to reach into this chest and take only the wilderness treasure and then slam the lid shut is arrogant beyond belief. They are acting to the detriment not only of those who have pioneered and made their homes in this unusual land, but also of all Americans and of their economic and recreational needs.

The actions of the President and the prospective withdrawals by the Congress would take from our federal lands inventory millions of acres of potential oil and gas lands. Last December first, the President misused the Antiquities Act to create 56 million acres of monuments-wilderness. This action has effectively withdrawn from an energy inventory 40 million acres of sedimentary basin. All this in an effort to bully the people of Alaska into the acceptance of a much larger Congressional withdrawal. The recent House action would take from our energy inventory upwards of 100 million acres of oil and gas sedimentary basins. To appreciate the significance of these figures, we should note that Prudhoe Bay contains more than a third of our oil and a quarter of our natural gas in just 190,000 acres.

Little wonder that we Alaskans feel ravaged by the federal government and overreact to those Cassandras of self-fulfilling prophecy who state there is no point in permitting the flow of capital to the oil and gas industry . . . "the oil and gas is not there to be found."

Today's clearest case of government's "success through failure" is in energy. We are on the verge of nationalizing the energy industry, whether we call it that or not. And if success does come from failure in government, then we should expect nothing less. Nowhere else have government's failures been so spectacular. This country is going to continue to refuse to let a free market determine the proper economic time to bring on synthetic fuels. Instead, we are to withdraw billions in capital from the only sector in our economic system that can do anything to alleviate the energy crisis in the short term. Instead, we'll funnel our economic decisions through the government—in the process losing the vital discipline of the market—and wasting billions through government incompetence.

The Presidential and Congressional proposals that the government should direct the development of synthetic oil is the watershed of socialization of the energy industry in this country. Elements of business and labor seem naive enough to accept the offered "partnership of government." But for those who understand that there never can be a partnership with a generically superior power, they will be bludgeoned into accepting this through the windfall profits tax.

The word "windfall" with respect to a tax on the oil industry was first characterized by Richard Nixon and was used by Gerald Ford, and now is used by Jimmy Carter. It's an unfortunate characterization because it is really not true, because it is a severance or excise tax on crude oil.

To quote Howard Ruff who recently testified before my Subcommittee on Energy, "The windfall profits tax is a proposal by the politically astute to impress the economically ignorant." "Windfall profits" is a cosmetic term to shift the blame that might possibly fall on government to the energy industry for the energy crisis.

The use of this rhetoric does great violence to the American psyche, because it creates a perception that a major sector of the American industry has been grossly misbehaving, and that that sector must be controlled and punished by the government in order to protect the American people. This misperception also discourages the American people from truly understanding the real nature of the energy crisis—a crisis of cost and of price.

Americans are prepared to sacrifice if need be to meet this crisis. But if it's only the oil companies that are the problem with their "price gouging" behavior . . . then why sacrifice, let the government straighten out those oil companies . . . that will take care of the crisis. Obviously, our political and media demagogery has been counterproductive to the proper realization of the energy crisis.

This American misperception as to the problem and fault also incapacitates our moderate political leaders because of their fear of going against a strongly held view of the electorate in trying to solve the problem . . . "everyone wants the tax and I have to vote for it even though I know it's wrong."

The American energy industry is enjoying no windfall profits. These supposed profits are the figment of the imagination of those who are intent upon demonstrating the failure of free enterprise so as to rationalize a government takeover. The American energy industry has acted no differently than any other sector of American enterprise, and their range of profits are within the average of the return on all enterprise. This fact is easily proven and would be easily understood if there were faith in the free enterprise system.

But because of a colossal national misperception, the government is able to strike at the heart of the free enterprise system—in a word, going for the jugular on the neck of the golden goose.

Never mind that the oil company "windfall profits" don't exist—or that a higher price for a scarce commodity is the only way to increase its availability. It says a great deal about how far we've gone when people so easily accept and support the concept that the lifting of price controls after five years constitutes a "windfall profit" to a company rather than a five-year denial of legitimate profits to the company.

As we turn again and again to government for economic well-being—and wind up with failures—we undermine our other goal: individual political freedom.

And this road we're on does not lead only to economic inefficiency. If the government can tax non-existent windfall profits in the energy industry, can that same government be far from collecting non-existent profits from the rest of business which has no real constituency in this country?

We are ceding more and more power to our government. So far, this power is being used negatively, intervening and interfering in the private sector, but not taking an active role. Obviously, we are afraid to unleash government power in that way—and we should be.

But history makes it abundantly clear what will happen if we continue to relinquish power to a central government. Its appetite for more power will only grow—its muscle-bound paralysis will only frustrate the peo-

ple and the government itself all the more—feeding it more power and eventually the dam will break and this reservoir of power will sweep away our liberties.

If, by asking government to do things it really can't do, we are slipping backwards from our national goals, then why do we persist in turning to government? At bottom, I think, it is because people do not see their welfare protected anywhere else. The government may be a bungler—and the people may see it—but in seeking their own security, they see no one else who protects them.

To most of us, security means income. If we have a paycheck, we have some security. Our government does protect income. Americans may work in the private sector, but they live in the house of government.

For the indigent, government provides welfare. For those threatened by labor-saving technology, it tolerates "featherbedding." For those employed in failing corporations, it has soft loans and the government contracts to keep the corporation floating. And at the end of the spectrum, we have the prospect of the government as employer of last resort.

For the individual, whose economic security is his first responsibility, the government consciously or subconsciously is his friend. The corporate sector will cast him aside if he has no productive mission to fulfill. And if he has no capital to earn him an income when his labor is not needed, he can only face the stark terror of economic insecurity.

Our citizens have no direct stake in our free enterprise system. They only have a stake in a job working for the free enterprise system. Capitalism is without a meaning constituency in our democracy.

Consider these figures:

Approximately one percent of Americans own 25 percent of America's wealth—five percent own half its wealth. And that distribution has not changed appreciably during this century.

Little wonder that most people do not see their welfare in the free enterprise system—much less understand how they benefit from its natural efficiency. They barely care about the economy at all. They care about their jobs, their income, their economic security—and that's perfectly natural.

So how can people learn that free choice is generic to the market system? How do they learn that this is part and parcel of our larger goals—individual freedom and economic well-being?

Even though we are still pursuing our historic goals as a nation—our legitimate and laudable goals—and even though we are pursuing them as vigorously as ever, both for ourselves and for the rest of the world—we are doing so more and more by experimenting with socialism. This is self-delusion. Under an all-powerful central government, we will wind up with neither individual freedom nor economic well-being.

But if we are to turn back from the road to socialism, we are going to have to build a constituency for capitalism. It has little constituency today.

We must broaden the ownership of capital. When people own "a piece of the rock" and begin to receive dividends, their interest in the health of the private sector will grow dramatically.

I'm talking about the ownership of the new capital that must be created in the future to meet our needs—not the confiscation of existing wealth.

And I'm not suggesting that this ownership of capital wealth use the government system for distributing income—that is, transfer payments—but rather use the corporate and capitalist system, without the participation of government. Obviously, government can and should act as the check on abuse and arbiter of justice in the undertaking.

The fatal flaw of socialism—in trying to share wealth more widely—is that it centralizes power in the government without creating the checks and balances that impede government's tendency toward oppression.

We need to find a way, or many ways, for our citizens to participate in the free enterprise system—to see it working for them—to see the market economy working for their freedom.

How can this be accomplished? I think some of the tools are in our hands now, but I don't doubt that others remain to be acquired, remain even to be invented.

We have a variety of profit-sharing plans. We have Employee Stock Ownership Plans and other theories by Louis Kelso.

But I think most importantly, we have the corporation itself. The corporate structure can be molded to the purposes of broader capital ownership and greater economic vigor, both at once. The corporation, after all, is a ready-made tool for broad ownership.

In Alaska, the corporation has already been used for this purpose. In settling the aboriginal claims of the Alaska Natives in 1971, we took a novel approach. We ceded land to the Natives not in a reservation status, but rather in fee as an economic base—and, at the same time, we formed a dozen private, profit-oriented regional Native corporations, giving the Alaska Natives the tool they needed in a modern economy to truly shape their own destiny.

In addition, there is now an effort to start a general stock ownership corporation, which would be owned essentially by all Alaskans. This was made possible by a tax amendment I authored last year removing the corporate income tax as an incentive to broaden capital ownership. The corporation would be chartered by the state legislature, but would be a private enterprise at arm's length from government that would invest in Alaska. This is a first effort. But it's a step toward making everyone truly and visibly the beneficiary of the economic system that has delivered the world's highest living standard—complete with the personal and political freedoms we cherish.

Some may say this is not sufficient solution nor immediate enough to halt this year's inflation or unemployment. I know of no quick fix to a problem two generations in the making. We will be lucky to correct our structural flaw in a decade. In addition to my suggestion to create a constituency for capitalism, what we can do today is fight, and tomorrow fight again, to move the government roadblocks out of the way of private enterprise so as to let business do what it best. . . produce.

For me, the reason for this paper and I hope the reason for its reception whether by democrat, republican, liberal, moderate or conservative is . . . freedom.

I am not pessimistic about our future. If we can unleash our creative genius, nothing can stop our greater maturity and its concomitant reward. The fact that we struggle and flail around in solving our problem is a sign of true health. Only through conflict can we change, and only through change can we improve.

It's from our present cauldron of conflict that our great nation, and for that matter all people, can and will improve.

A MEETING WITH PRESIDENT FRANKLIN D. ROOSEVELT, MARCH 1933

Mr. RANDOLPH. Mr. President, during this break in the debate on H.R. 4986, the Depository Institutions Act of 1979, I appreciate the opportunity to comment briefly on that period following the economic disaster of 50 years ago, notably the crash of the stock market.

Fifty years ago I held no stocks that were listed on the New York Stock Exchange, the American Stock Exchange, or over the counter, I did have 50 shares of stock in the Randolph Oil & Gas Co., my father being the president and I was the secretary-treasurer. The stock was issued in 1922, when I was 20 years of age.

I regret to inform my colleagues—who always want me to do well as I wish them to do well—that the stock was of no value in the year 1929, even before October 29. We had drilled too many so-called dry holes for oil and gas in the hills and valleys of West Virginia. There is a certain hazard in drilling for oil and gas.

Apart from that quick discussion of the plight of the Randolph Oil & Gas Co., I do wish to say: I remember so very well what I was doing on the day of the stock market crash. I was doing what most Americans were doing then. They were working. I was at work in Elkins, W. Va., a small community of 10,000 men, women, and children. The impact of the crash, of course, as precipitous as it was within a period of minutes, or at least hours, was felt throughout the countryside as well as the financial centers of this country.

In 2 or 3 minutes I desire to indicate something for which I do not claim any credit, but simply to stress the importance of the date of March 4, 1933, in connection with the dramatic happenings that followed here on Capitol Hill and in the executive branch. The least dramatic was the fact that I was sworn in as a Member of the U.S. House of Representatives on that date. But it certainly was dramatic that the President Franklin Roosevelt took the oath of office here outside the Capitol on the date of March 4, 1933.

It is not my purpose to talk about the first 100 days, or the part that I and others as new Members of the 73d Congress had to do with that period. But I do wish to reflect that Franklin Roosevelt was a man, Mr. President, of action. The times demanded action. Nothing else would suffice.

In the latter part of March 1933, there were several new Members of the House of Representatives who had been elected in November 1932, as I had been, who attended a meeting with the President. We were there at the invitation of President Franklin Roosevelt.

The discussions had been going on day and night, really, with Members of the Congress, relative to legislation which was being drafted and passed and signed into law during those early days.

On that night in March, seven or eight new Members of the House of Representatives were privileged to talk with the President of the United States. I might say that the President did 95 percent of the talking. He usually did that. He took command of any situation. He was the leader of the United States of America then as he was during all the period of his Presidency. By and large he had the cooperation of the House of Representatives and the Senate of the United States during those years.

The President talked, there on the

second floor of the White House, sitting behind a big desk, a wood fire burning in the grate, about the matters of concern, the problems that were facing the Nation, and how he felt we must work together.

Finally, after one of our Members, well-meaning, kept saying in effect, "But, Mr. President, what you are telling about the legislation that should be passed, the laws that should be on the books, is well and good, but the American people can never digest it. You are trying to do too much too soon."

The President did not directly address that individual. Later, perhaps 15 or 20 minutes later. He looked at all of us, sitting in a circle. And he leaned forward and said, "But gentlemen, do you realize that we must act now? By acting now, we will make mistakes, but if we do not act now, perhaps we shall not even have the opportunity a little later of making the mistakes."

The President of the United States, Franklin Roosevelt, had something within his being that caused the spirit of people, although not satisfied by an immediate job, to believe that just beyond there was the opportunity for gainful employment and the opportunity as a man or woman to walk upright under the democratic form of government.

As a result of his leadership the President and the Congress acted. Much of the legislation was bona fide and valid. And even though the Supreme Court in its wisdom—or perhaps with less than wisdom—declared the National Recovery Act unconstitutional, within the framework of NRA there were programs of tremendous value in rebuilding the United States of America, and restoring faith among our citizenry.

That in itself was epoch-making. That in itself held America together, regardless of the other legislative enactments—some of them passed within a period of hours here—that would ordinarily, these days, take weeks and months to bring into being.

I do not desire to run through the list of the legislation that became law, except for one more measure. This was the rebuilding of the faith of the American people in the Government of the United States when the President and the Congress brought into being the guarantee of bank deposits through the Federal Deposit Insurance Corporation in June 1933.

Mr. President, there comes a time in the history of America—this may be such a time—when, if there is not aggressive action and less rhetoric here on the Hill, and downtown, America will be caught up in a situation that will hold us back from continuing to be a nation respected by the other nations and people of the world.

If I have talked in some generality, it was not my intention. I have been very specific in quoting, in essence, what the President of the United States said on that occasion in March 1933 and my general feeling about the so-called deepness of the Depression—and it was very, very deep. Today, with 230 million people we are wondering if we can handle unemployment of 6 or 7 percent or 8 percent. Then, of course we had about 135 million people in the country and we had unemployment of about 24 percent.

Our problems are very real now. Certainly this discussion today of interest rates and economic and financial concerns is important. But I step backward for a moment in history, not merely to reflect but to bring to the attention again of my colleagues that in an earlier period of time, we had action.

I suggest, in fact, I plead, for such action now.

Mr. CRANSTON. Mr. President, I want to say to the Senator from West Virginia (Mr. RANDOLPH) that that was a very interesting and illuminating statement that he made and I appreciate the opportunity to hear it.

Mr. RANDOLPH. I am very grateful.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator's time has expired and morning business is closed.

Mr. GRAVEL. I will yield the floor at this point in time, and I thank the Chair.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 4986, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at the depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the Senate takes up H.R. 4986 again today. Last Tuesday we had a debate on this legislation, and I hope the Senate is persuaded in favor of H.R. 4986.

The distinguished Senator from North Carolina (Mr. MORGAN) made an outstandingly thoughtful and well-organized presentation opposed to some parts of the bill, and I am sure he is going to press amendments later on today or tomorrow to try to modify the bill or change the bill I think rather drastically.

I hope the Senate will resist that kind of change. There are some amendments I think that the committee will be happy to take and accept, and that will improve the bill, but I think the amendments by the distinguished Senator from North Carolina, as he knows, would be a change that would make the bill entirely different and, in my judgment, strip down about 90 percent of what the bill tries to do.

This bill, as reported from the Banking Committee, contains the recommendations of President Carter made to the Congress in May for comprehensive financial reform legislation providing an orderly transition to a system where depositors can receive a fair rate of return on their savings and thrift institutions are strengthened to continue their traditional role as housing lenders.

H.R. 4986 provides for a 10-year phase-out of interest rate controls (regulation Q) along with augmented asset powers for thrift institutions (interest-bearing checking accounts, consumer loan powers, trust powers and enhanced home mortgage lending authority) all designed to maintain the viability of thrift institutions and their commitment to home mortgage lending while enabling depository institutions to pay the depositor a market rate of return on savings.

Regulation Q is inflationary and counterproductive. By mandating below market rates of return to savers that do not enable the saver to keep up with inflation, interest rate controls discourage saving and encourage consumption.

Mr. President, I cannot state that too clearly. That is what this bill tries to get at. We just had a very thoughtful and appropriate discussion by leading Republicans on the floor of the Senate and by the Senator from Alaska on the 1929 crash and on the present very serious inflationary situation.

One of the reasons we have inflation is that we have discouraged savings. I think it should be as obvious as it can be to anybody that when you have a regulation, which we have in our banking system, that you cannot pay small savers more than 5¼ percent if you are a bank or 5½ percent if you are a savings and loan institution, that people are not going to save when the inflation rate is 13, 14, and 15 percent. So this bill does go to the heart of fighting our inflation problem.

The distinguished Senator from Mississippi in his very fine remarks said that we have no program to fight inflation, and I think the program we have is certainly grossly inadequate. I think the Federal Reserve is trying to do something, but what they do is greatly inhibited by the fact that we do not permit savers to get a return on their savings, and that is what we are trying to do in this bill. Regulation Q fuels inflation and discourages capital formation and increases in productivity. Regulation Q also forces less wealthy savers to subsidize more prosperous borrowers. H.R. 4986 as reported by the Banking Committee will turn the situation around.

There is considerable evidence that savers are becoming more sophisticated and that they are investing funds outside the financial system in instruments that pay a market rate of return. Regulation Q is driving money out of financial institutions and, therefore, out of the housing sector. Our thrift industry will not be able to survive in the regulation Q atmosphere in the long run.

A partial solution to this dilemma was provided by regulatory adjustment whereby savers with $10,000 to invest in a money-market certificate have been enabled to earn a market rate of return.

A statutory solution is needed, however, to provide depository institutions with the capability to pay market rates to all savers without discrimination.

One provision of H.R. 4986 would require the minimum denominations on market certificates to be reduced to $1,000 within 2 years unless the Federal Reserve postpones the reduction because of economic conditions or after considering the effect on thrift institutions. This provision—which is very controversial; I understand an amendment will be offered which would delete it—is designed to end the discrimination against the small saver consistent with the discretionary safeguards designed to protect the safety and soundness of depository institutions.

I commend the provision of H.R. 4986 as reported to my colleagues as providing a reasonable legislative answer to economic problems that unless solved have the potential for severe adverse economic dislocations in the future. I hope the Senate will support all of the provisions of H.R. 4986.

Mr. GARN. Mr. President, having been involved as a member of the Banking Committee in discussions about financial institution reform for the past 5 years, I join with other supporters of H.R. 4986 in declaring that this legislation generally represents the most appropriate solution to some of the fiscal problems currently plaguing consumers and financial institutions.

By authorizing NOW and share draft accounts, and by directing the phaseout of deposit interest rate ceilings, the legislation provides for an expansion of financial services and establishes a more equitable and competitive environment in which funds are sought by financial institutions. The legislation also enhances the earnings potential of Federal savings and loan associations by broadening their investment powers, but in doing this the bill preserves the consumer and home financing orientation of associations.

During my first year on the Banking Committee, we considered S. 1267, the Financial Institutions Act of 1975, a comprehensive, transaction account, regulation Q bill, similar to the legislation before us. I supported that legislation, which passed the Senate but was not acted on by the House. In the last Congress, the Banking Committee reported out S. 2055, a bill which, among other things, would have authorized nationwide NOW accounts, but which did not address some of the issues, including interest rate ceilings and the differential, dealt with in the proposed 1975 act. Because S. 2055 did not cover matters such as the differential, I believed the bill defective and did not support it. Thus, it is because H.R. 4986 represents a more comprehensive, better balanced approach to financial reform that I have supported it.

In urging my fellow Senators to support this bill, I also recommend that consideration be given to certain floor amendments to the legislation which would strengthen and perfect it. The principal substantive amendment which I wholeheartedly endorse is Senator BENTSEN's proposal to delete the reduction in the minimum denomination of money market certificates and replace it with an amendment to exempt from income taxation limited amounts of interest earned on savings deposits. The proposal to delete the money market certificate provision is also being offered by several other Senators, principally because of the adverse consequences such an action would have on the stability of financial institutions. I believe Senator BENTSEN's proposal to not only strike that provision but to replace it with a proposal which would provide tangible benefits to small savers and promote the stability of financial institutions is especially commendable.

Critics of the interest exemption approach have argued that it would result in substantial revenue losses to the Treasury, ranging from between $1 billion to $1.5 billion for every $100 in exemptions allowed. As an advocate of fiscal restraint, I applaud such concerns for Treasury revenue losses; but I also believe that encouraging savings would increase capital information and business growth so that such projected revenue losses would, at the very least, be offset by gains attributable to income growth resulting from increased savings. Thus, I suggest that the interest exemption amendment be fully considered, particularly by members of the Finance Committee, that its real potential and consumer benefits be recognized, and that it be adopted.

In addition to mentioning the interest exemption proposal, I wish to highlight one of my concerns about the ability of our financial system to compete successfully for funds. Within the past 5 years, the sporadic periods of deposit growth and decline in our depository institutions, underscored by the current decrease in deposit levels at savings institutions, has been overshadowed by the growth and relative stability of money market mutual funds. While the level of savings deposits has ebbed, decreasing by $1.2 billion at savings banks and savings and loan associations during September, money market funds have grown to a record $34.2 billion, increasing by $1.7 billion just last month. I believe the great share of such funds would be placed in depository institutions if deposit interest rate ceilings imposed on such institutions were removed.

In my opinion, the removal of such restrictions is imperative to promote the continued viability of depository institutions. Attracting deposits back to savings institutions, coupled with other provisions in H.R. 4986 regarding the earnings potential of such institutions, would also insure the increased availability of mortgage credit at a more reasonable price than is now charged. In addition, by removing artificial barriers to competition for funds, savers would receive more interest from depository institutions than is now provided.

In sum, H.R. 4986 provides solutions to some of the major problems our financial system is experiencing. Consideration has been given to issues covered by the bill through several Congresses, and it is now time to finally act on them.

Mr. PROXMIRE. Mr. President, I understand the distinguished Senator from Mississippi (Mr. COCHRAN) has an amendment he would like to call up at this time. I have some technical amendments which I will offer a little bit later, but to accommodate the distinguished Senator from Mississippi, at this time I am happy to yield to him for that purpose.

Mr. TSONGAS addressed the Chair.

Mr. COCHRAN. Mr. President, has the Senator from Wisconsin yielded to me?

Mr. PROXMIRE. I would have to hold the floor in order to yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Mississippi is recognized. Is the Senator from Massachusetts also seeking recognition?

Mr. TSONGAS. Yes.

Mr. COCHRAN. I yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, can the chairman indicate to me at what point various amendments I have would be in order? Can the Senator give me some indication, since I have a pressing obligation?

Mr. PROXMIRE. I spoke to the Senator from Mississippi a little earlier. He has an amendment he would like to call up. I have some amendments I would like to get out of the way; I do not think they are controversial; the amendment I will call up first will not be, so that we can have something to work on. If the Senator from Massachusetts is in a hurry and would like to offer his amendments as soon as possible, I would be happy to do my best to accommodate him.

Mr. TSONGAS. I will indicate to the chairman that my bind is from 12 to 1. Would 1 o'clock be too late?

Mr. PROXMIRE. No, I am sure that is fine.

Mr. TSONGAS. I thank my friend.

UP AMENDMENT NO. 679

(Purpose: To authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes)

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes an unprinted amendment numbered 679.

Mr. COCHRAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 80, line 3, strike out all through page 88, line 15, and insert in lieu thereof the following:

TITLE VI—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

SEC. 601. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located.".

SEC. 602. The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by inserting after section 23 the following new section:

"SEC. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 603. Title IV of the National Housing Act (12 U.S.C. 1724–1730f) is amended by inserting after section 411 the following new section:

"SEC. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving to read as follows:

SEC. 604. Subsection (h) of section 308 of the Small Business Investment Act of 1958 is amended to read as follows:

"(h)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds to small business investment companies to small business concerns.

"(2) In the case of a business loan the principal amount of which is $25,000 or more, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraph (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law (determined without regard to the preemption of such State law).

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 5 percentage points plus the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which the principal office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law for such loans or there is a maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(3) A State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of—

"(A) July 1, 1981;

"(B) the date, after the date of the enactment of this paragraph, on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such States; or

"(C) the date on which such State certifies that the voters of such State, after the date of the enactment of this paragraph, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in this subsection.

"(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the most recent payment of interest.".

SEC. 605. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 606. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 607. The amendments made by this title and the provisions of this title shall apply only with respect to loans made in any State during the period beginning on the date of enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adops a law stating in substance that such State does not want the amendments made by this title and the provisions of this title to apply with respect to loans made in such State; or

(3) the date on which such State certifies that voters of such State, after the date of the enactment this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendments made by this title and the provisions of the title.

TITLE VII—APPLICABILITY OF STATE USURY CEILINGS TO CERTAIN OBLIGATIONS ISSUED BY BANKS AND AFFILIATES

SEC. 701. Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by inserting after subsection (j) the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.".

SEC. 702. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.".

SEC. 703. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by inserting after subsection (d) the following new subsection.

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.".

SEC. 704. The amendments made by this title shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title to apply with respect to such deposits and obligations; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations.

TITLE VIII—REPEALS

SEC. 801. Titles II and III of the Act entitled "An Act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes", approved October 29, 1974 (Public Law 93-501; 88 Stat. 1557), are hereby repealed, except that—

(1) the amendments made by title II of such Act and the provisions of such title shall apply to any loan made in any State during the period specified in section 206 of such Act; and

(2) the amendments made by title III of such Act shall apply to any deposit made or obligation issued in any State during the period specified in section 304 of such Act.

Mr. COCHRAN. Mr. President, the purpose of this amendment is to reach an emergency situation that has developed across the country as a result of the precipitous increase in the discount rate and the resulting high rates of interest which are being demanded by banking institutions, both State and Federal.

It has come to my attention, Mr. President, that there are around 15 or 16 States where the State usury laws now prohibit the charging by those States' banks of rates of interest in excess of the discount rate. At the present time, most rates of interest being charged by lending institutions are 3 to 4 percent, at least, higher than the discount rate. Under current Federal law, national banks are permitted to charge a percentage point higher than the discount rate for a rate of interest on loans.

This amendment seeks to provide a 1-year period during which State banks can be placed on a somewhat equal footing with the national banks as their loans relate to agricultural and business loans in amounts of $25,000 or more. The purpose of the amendment is to give a 1-year period within which State banks can charge those interest rates for that type of loan. During that period of time, any State legislature which desires to take out from under the provisions of this amendment and this law, if it is passed, the interest rate provision, can do so. So it is a permissive exception that would be granted by this legislation for only those types of loans.

I might add, Mr. President, by way of explanation, that there was recently passed by this body legislation which provided such an exception for the State of Arkansas. This amendment would seek to put other States on the same footing, as it relates to that exception that was granted to the State of Arkansas, since it has that restriction in the State constitution.

I will be happy to try to answer any questions that any of the Members of the Senate may have, but I would hope, because of the emergency nature of the situation, that this amendment could be accepted.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I have had a chance to discuss this amendment briefly with the Senator from Mississippi. I think this amendment is urgently necessary now. When the committee acted on September 24, of course, it was well before the decision by the Federal Reserve Board to have that massive increase in the discount rate and to announce other policies which are even more profound which will have a sure effect of driving interest rates up even further, at least for a short time. Interest rates, of course, since that date have also increased greatly. That is what puts these 15 or 16 States the Senator from Mississippi mentions in a much more difficult position.

What the Senator from Mississippi is proposing is entirely in keeping with what is in the bill at the present time. At the present time we have a provision in the bill that permits the usury rates applying to home mortgage loans to be overridden. It provides, of course, that that override by this legislation, however, can be, in turn, reversed or modified in any way by the State legislature. They can act any time before 1981 to provide that their usury law will stay on the books. We do this because we found in the State of Arkansas an absolute disaster, as far as the financial institutions were concerned, and particularly as far as the borrowers were concerned. Small businessmen, farmers, and other mortgage borrowers who wanted to borrow money simply could not get the funds. At least, if interest rates are too high you can decide whether to borrow at the high rate or not borrow at all, but in the case of Arkansas they could not borrow at all. In many States, as the Senator has pointed out, that is the position in which borrowers have found themselves.

The proposal by the Senator from Mississippi is logical, is sensible, and is needed. It is unfortunate that it is. There is no Member of this body, certainly nobody who has ever been in the financial industry, who wants high interest rates. We know that is a terrifically painful and difficult problem for borrowers. It inhibits business. It makes it difficult for farmers to operate. But I think we recognize that as long as we have a policy which we are following by the Federal Reserve rightly or wrongly—I think it is right but many people think it is wrong—as long as that policy is a realistic fact of life, there is no way that a State is going to be able to permit its economy to function if it is going to have an arbitrary law which mandates an interest rate which is below the general interest rates offered throughout the country.

The Cochran amendment would recognize that. For that reason, I think it is reasonable and I am happy, as far as I am concerned, to support the amendment.

Mr. GARN. Mr. President, I share the feelings of the chairman of the committee. We are in a difficult situation. I am sorry we have reached the point where interest rates are so exorbitantly high that we seem to have no choice whatsoever. People are getting into very difficult positions all over the country—homebuilders, borrowers, and lenders in my State, and I am sure this is true in other States—because of this crunch on credit that we have.

I am normally one who always takes a States rights position, feeling that the Federal Government really has no business to supersede State laws; but I feel very strongly that we have reached a

point where, with the high interest rates and the usury ceilings in some States, in their State constitutions, we must provide some relief.

Despite the fact that I feel that way and am willing to accept the Cochran amendment, I would not do so if we were not giving States the right to tell the Federal Government that they disagree. If it were just an override of State law without any recourse to them to come back and say, "No, we want to keep our usury ceiling as it is and not change it," I would not support it. But with that caveat in it which allows the States to disagree, I would be willing to accept the amendment on behalf of the minority.

Mr. MORGAN. Will the Senator from Mississippi yield for a question?

Mr. COCHRAN. I am happy to yield to the distinguished Senator from North Carolina.

Mr. MORGAN. How many of the States that would be affected have constitutional provisions with regard to usury or interest limitations?

Mr. COCHRAN. To my knowledge I know of only one, I will say to the Senator, and that is the State of Arkansas.

Mr. MORGAN. And I believe we did, by a bill passed a couple of weeks ago, suspend or preempt those laws because, in effect, none of the States that now have usury laws that would be affected by the Senator's amendment are bound by their constitutions and all of them could be changed by legislative action in the respective States.

Mr. COCHRAN. That is my understanding. There are about 18 States, I am advised, who do have restrictions under statutory law which have the effect of prohibiting State banks from making loans at the going rate of interest or at the rate at which national banks in those States can make such loans.

Mr. MORGAN. Is it the Senator's understanding that the national banks ought not to be bound by the State usury laws?

Mr. COCHRAN. My understanding is that the Federal laws governing the operation of national banks do have precedence. Someone who is more familiar with the legal effect of the Federal law in that regard may be better qualified to answer that question. I am advised that because of the disparity in the law national banks do in fact have a different set of rules under which to operate.

Mr. MORGAN. The Senator may be quite correct. During the last few years we must have preempted or changed State laws a thousand times. It is my understanding, however, that national banks are bound by State usury laws. I do not think that is necessary information, however, for my argument today. I thank the Senator for yielding.

Mr. President, I am reluctant to oppose this amendment of my distinguished colleague from Mississippi because I know that he shares many of my own views concerning the prerogatives and rights of respective States to enact laws for trade and commerce within those States. That is one of the fundamental principles upon which this country was founded.

All too often in recent years we have overlooked those principles and from time to time the Congress has preempted laws which were duly enacted by the elected representatives of the people of the States, many times without even a second thought as to what we were doing here in Washington. Some of those I concede were passed because of compelling, overriding national interest. Many of them were based upon laws having to do with racial discrimination, which conflicted with the 14th amendment and other amendments to the Constitution and should never have been enacted by many of the States of the South, from which I come. Just recently I voted to preempt State laws with regard to the Energy Mobilization Board only after the States had had 2 years in which to process environmental impact statements, and so forth, and laws in that regard, and only because I thought, and I still think, that the prevailing energy crisis in America warranted that preemption of State laws.

But I fail to see the national compelling interest for us here on the floor of the Senate in just a few moments to preempt the statutory enactments of 18 States, enactments or laws made by the representatives of those States.

I opposed the law which preempted the statutory provision of Arkansas. My distinguished colleague from Arkansas (Mr. PRYOR) and I had a colloquy on that. But perhaps there may have been some justification for his argument because, to amend the Constitution to remove the statutory interest limitation is a rather prolonged process and the present Federal Reserve policy does create a crisis that may cause hardship before the Constitution can be amended.

I am saying that there is some merit to that argument. I really do not think it was a compelling argument. But I say to the Senator that any State affected that feels its economy or its people are being damaged can amend those laws within a matter of a week or 2 weeks. In my State, and I am sure that my State is representative of all the States, the Governor of the State can call an emergency session of the legislature on 24 hours' notice. It takes about 1 day of the legislature to pass that act. It may be expensive; I grant that it would cost something. But I say that the expense of leaving it up to the State legislators to modify and change their own laws would pale into insignificance in comparison with the continuous violating of the principles of States' rights, rights upon which this country has been founded.

I say to my distinguished colleague that I know of no one in the Senate that I would rather yield to, but I sort of made a commitment to myself when I began to see, as I came to the Senate, time and time again, provisions inserted in the various bills preempting State laws, those provisions which, quite often and most often, were never even mentioned and never called to the attention of our colleagues on the floor of the Senate. I sort of made a commitment that whenever I spotted those preemptions, I was not going to sit idly by and watch it be done without, at least, bringing it to the attention of my colleagues and at least giving my colleagues the right and opportunity to have a rollcall vote on it.

I realize I may stand alone, but I still say that if the interest limitation poses a problem for your State and my State, the Governors of our respective States can remedy those within a week's time. It is rather hard for me to argue States' rights if I am willing to accede whenever we think some emergency exists.

It is interesting—I pointed this out before—that we preempted the constitutional provisions in Arkansas after the people in Arkansas recognized the problem and the legislature submitted an amendment to them and they voted it down. It was not a new problem in Arkansas, because I was there in 1975, meeting with the Arkansas Bankers Association. This was one of the most prevalent issues at that time, so it has been going on a long time.

What I am saying is that, as desirable as it might be, it is a matter that affects the trade and commerce of that State and the people of that State ought to be the ones to change it. As the chairman has pointed out, there is a provision in this bill that preempts it, as I understand it, with regard to housing and so on. It would seem eminently fair that if we are going to do it for that, perhaps we ought to do it across the board. But there also is a question of germaneness, because there is nothing in this bill that affects farming that I know of. Maybe that is something that ought to come under the farm bill.

I reluctantly oppose it, and I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER (Mr. LEVIN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PRYOR. Mr. President, will the Senator from Mississippi yield or does the Senator from Wisconsin have the time?

Mr. PROXMIRE. Go right ahead. I yield.

Mr. PRYOR. I should like to ask a question of the distinguished Senator from Mississippi, if I may.

One, is it the purpose of the amendment that he is offering today to extend this preemption to those States which not only have a restriction placed in the constitutional document but which merely cover usury by statute enacted in the State legislature?

Mr. COCHRAN. If the Senator will yield, my answer is yes. Not only does the amendment seek to reach those States which have constitutional restrictions on interest rates by State banks, but also those which have restrictions by statute as well.

Mr. PRYOR. I thank the Senator for answering that question for me. I got in in the middle of his statement, so I did not have the opportunity to hear all of his remarks.

Also, if I may, I should like to address myself just a moment to the remarks of the distinguished Senator from North Carolina relative to the issue of States rights. I should like to make a state-

ment so that the record can be clear on this matter, because I deeply appreciate what the Senator from North Carolina has said.

I am gratified by his interest in reserving the rights of the State. But because I do come from a State, the State of Arkansas, that has a unique situation—to wit, a State constitution adopted in 1874 that embodies a constitutional provision saying that no loan can be made drawing more than a 10-percent interest rate—this places us in a separate category from other States, especially since, on at least one and possibly more occasions, the people of our State have rejected any change in this document.

However, there will be an attempt to change the usury provision, I can assure my friend from North Carolina, in November of 1980, when we vote for or against a new constitution. The people of our State will have an opportunity, once again, at that time, about 13 months from now, to decide whether or not this provision will remain a part of the Constitution. Therefore, I want to state to the Senator from North Carolina and my colleagues that our State is attempting to address this issue, and the people of our State undoubtedly will work their will, up or down, on this issue in November of 1980. It is for the reason of uniqueness and certainly for the reason of commerce and, actually, survival in our State that we do need some relief from the Washington level in this regard.

Once again, I say I admire the Senator from North Carolina for making this his concern, the issue of States rights, but I want to set the record straight as it applies to the people and to the State of Arkansas.

I thank the Senator very much.

Mr. PROXMIRE. Will the Senator yield?

Mr. PRYOR. I am happy to yield.

Mr. PROXMIRE. I am informed that both California and Texas are in the same position as Arkansas in that they have this in their constitution, also. They have the same constitutional difficulty, therefore, with respect to time and so forth, to correct the situation.

The Senator from Arkansas, as he stated his position so well, has found his State in very, very serious economic and financial difficulty with respect not only to financial institutions, but the borrowers, is that correct?

Mr. PRYOR. That is correct, and there is presently pending litigation in the courts on how much the financial institutions can pay out in interest to depositors in the financial institutions. So that question is also under litigation at this point, and there is mass confusion about this part of the usury provisions that we are considering.

Mr. PROXMIRE. Does it not seem fair and realistic and sensible, then, to accept the Cochran amendment, which would do this: It would provide, of course, that the States, if they wish to do so, can reestablish their usury rate, put it back into effect. And, of course, in the case of California and Texas, as well as Arkansas, it would be one way in which you could provide an opportunity for the economies of all three of those great States to continue to function without being put in what appears to be, every day, a more and more difficult, painful, unfortunate position?

Mr. PRYOR. I say to the Senator from Wisconsin that I believe, just from looking at the amendment and hearing about the amendment, I have not actually had the opportunity to read it——

Mr. PROXMIRE. It is exactly like the Arkansas amendment, I understand, except it applies nationwide, not simply to one State.

Mr. PRYOR. If that is the case, I would join in support of Senator COCHRAN's amendment. I think it is a wise approach to a very complex and complicated problem.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I would like to thank my friend and distinguished colleague from Arkansas (Mr. PRYOR) for his indication of support for this effort.

I have the greatest respect, Mr. President, for the Senator from North Carolina (Mr. MORGAN). I have a great deal of sympathy, also, with the general arguments and observations that were made by him in opposition to the amendment, specifically, the statement relating to the rights of States under the Constitution, the concept of federalism.

So it is very difficult for me to rise and suggest that, because of the argument he so eloquently made, we ought not to adopt this suggestion.

But, Mr. President, this is not preemption, which is either permanent or without an exception that permits a State to take itself out from under the provisions we may enact if this amendment is accepted.

This amendment limits by time to July 1, 1981, the effective date of this so-called preemption, or I could call it permission.

Also, there is a condition to it that permits a State on its own volition to take itself out from the impact or the effect of the legislation. So that after we enact this amendment, this legislation, a State may, if it so chooses, have the legislature reenact or enact some other kind of law that would lower the legal rate of interest within that State, and that legislative act would be effective. So that at whatever rate of interest the State government chose to select as the legal rate within that State, it could be done notwithstanding the enactment of this legislation.

What the legislation seeks to do, though, Mr. President, is to provide emergency assistance and promote an environment of competition, an opportunity for competition, as it relates to the setting of interest rates and the making of loans to stimulate economic development, to provide opportunities for farmers to make a crop, and the other activities that would be included in this language which is restricted to loans of the type that involve business activity or agricultural activity, and the loan request is $25,000 or greater.

I think we can see, therefore, Mr. President, that this is not an effort to destroy the basic principles of federalism, to take away from States the rights they have to make their own laws that relate to intrastate commerce.

There is another point the distinguished Senator makes, Mr. President, that I would like to make a couple of observations about. That is the constitutionality, the right of the Federal Government under the Constitution to legislate in this way.

I do not pretend to be a preeminent scholar in that area. We have had many, I know, in this body in times past. But I do recall that even though the provision of the Constitution purports to extend the right of Congress to legislate as to business activity which is directly engaged in interstate commerce, the Supreme Court early on has construed that to mean that business activity, economic activity, which has a significant impact on interstate commerce, is subject to regulation, subject to legislative pronouncements of the Congress.

So that activities that might be perceived at first blush to be intrastate and, therefore, the business solely of a State government, have, through economic reality, become viewed as an essential part of interstate commerce and, therefore, subject to the regulations or pronouncements of the National Government, the Congress.

I remember that one case in law school where the fellow was growing corn in his backyard, had a small plot, and was using the corn not for sale in interstate commerce, but to feed stock or chickens on his place. The Supreme Court said that that activity had a significant impact on interstate commerce, so that that business activity, that agricultural activity, could properly be regulated by the Congress under the Constitution.

I have the greatest sympathy, Mr. President, for the argument the Senator from North Carolina makes against the legislation in general, that we want to protect States rights, we want to honor the provisions of the Constitution which restrict the Federal Government's ability to regulate in all aspects of economic activity in the United States. But, nonetheless, this is a unique situation we find ourselves in.

The Federal Reserve Board has decided we have to have a tight money policy and this is an essential part of our battle against inflation. Whether we agree with it or not, the fact is that this has an impact on the States, has affected State banking institutions, and, really, in a few short weeks, has made it impossible for State banks to loan money.

A State bank is owned by shareholders. A State bank has to earn a profit on its investments. If it cannot make a loan and charge a rate of interest greater than the discount rate, the rate at which it borrows money or can obtain money elsewhere, then that bank is not going to be able to stay in business. We will have banks collapsing all over the country unless they opt to take advantage of investments such as short-term

commercial paper where they can get a 10-percent or 11-percent return on their investment.

That is what is happening. Instead of making loans to business men and women in the State, farmers who need to have the money to operate, these banks are taking the money out of our State—in Mississippi, for instance—and sending it to New York, sending it to big Northeastern cities and some in the Midwest, where they can get these high rates of return, to help them operate that institution at a profit.

This will permit them, Mr. President, to have another alternative. This will permit them to be competitive with national banks and other financial institutions which are making loans at much higher rates of interests.

I would hope that the Members of the Senate would realize this is a unique situation. It is not an effort to permanently prescribe usury laws or rates for every State in this Union. It leaves that right within the States. They can make those decisions.

But it is an emergency situation that has a limited period of time for effectiveness.

I hope Senators will support it.

Mr. PROXMIRE. Will the Senator yield?

Mr. COCHRAN. I am happy to yield.

Mr. PROXMIRE. Is it not true that all the Senator's amendment does is to put business and agricultural loans on the same basis that mortgage loans are already put on in the bill?

The bill presently provides precisely what the Senator is suggesting for mortgage loans.

All this does is to say that we should treat loans to business, small and large, and loans to farmers the same way.

Mr. COCHRAN. The chairman is absolutely correct.

There is already an effort made here to recognize the emergency and unusual situation in which we find ourselves with respect to home mortgages.

This extends the same principle, the same effort, in the case of agricultural and business loans in excess of $25,000.

I thank the chairman for that observation.

Mr. MORGAN. Mr. President, I make the observation that the Senator from Mississippi is exactly right. It would put business and agricultural loans in the same position as the bill provides for housing. But I also advise the Senate that I have a printed amendment which would strike that provision from this bill, too.

The Senator makes some interesting arguments, and I ask if he will yield for one question, before I try to discuss it.

If the Senator's amendment is adopted, would there be any limitation on interest for agricultural or business loans above $25,000?

Mr. COCHRAN. Yes. The amendment provides for a 5 percent in excess of discount rate as a limitation on loans of the type described in the amendment. So there is an effective limitation.

It is not just carte blanche, that you could go out and rip off the public, or that kind of thing. It is a rate of interest which is not unlike that the banks around the country are now charging as their prime rate.

Mr. MORGAN. In that connection, would the distinguished chairman be willing to tell me whether he knows this: If the bill passes with the preemption in the bill with regard to housing, would there be any limitation on usury for housing and items covered under the bill itself?

Mr. PROXMIRE. The Senator knows the answer to his question, of course. There is no limitation in the bill with respect to mortgage loans. Of course, there is a market limitation.

As the Senator knows, we always have had a situation in which the mortgage rate is lower than business rates, for a good reason, particularly when interest rates are rising. The reason is that the mortgage rate is for a long period of time. People are going to get that high interest rate for many years. That is why the mortgage rate is well below prime.

We would rely on the market. I am sure the Senator from North Carolina, who is a solid free enterpriser and who believes in the marketplace and in determining interest not by legislative fiat or bureaucrats or politicians deciding what should be the case, but by letting the market work, agrees that the market should work in this case.

Mr. MORGAN. I suspected that that was the answer, but I really was not quite sure.

There have to be some exceptions in the marketplace, and I do not know of any better exception than here.

My distinguished predecessor, who held this seat for a long time, used to quote to the Senate many Biblical Scriptures to support his position, and I had intended to quote from "Exodus" this morning, where the Scriptures warn us of usury, but I lost my Scriptures. I think this would give me some valid exceptions to the marketplace. I believe there should be some limitations on interest, no matter where they come from.

However, I should like to comment on the argument of the Senator from Mississippi.

First of all, if I recall correctly, he said that for the last few weeks, in Mississippi, State banks were unable to make any loans because of the interest rate. I certainly do not question that at all. However, I am sure that the State of Mississippi has a very fine and distinguished Governor, who is just as concerned about the commerce and trade in the State of Mississippi as the Senate is, and is probably more aware of the conditions in the State of Mississippi with regard to industry and commerce than we are—perhaps not more than the distinguished Senator from Mississippi.

If this condition has existed for several weeks and if the Governor of that State felt that it was sufficient to warrant action, I am sure he could have brought the legislature into town and changed that.

The Senator referred to California and Texas. California may have a constitutional provision, but if there is, the limitation must be extremely high, because they have been charging high interest rates out there for a long time.

The Senator also talked about the interstate commerce clause of the Constitution. I recall studying a case in law school involving a farmer who grew a small patch of corn and was held to be involved in interstate commerce because it could affect interstate commerce.

That is interesting, because when I was in law school, we used to study the interstate commerce clause, and we were told that was the only real reason Congress could become involved in legislating in matters affecting trade and commerce in a State.

Perhaps I was in law school a few years before by colleague from Mississippi, but back in those days it used to be a very real question before the Supreme Court, frequently, as to whether or not a Federal act was unconstitutional on the ground that it did not involve the interstate commerce clause. But we know that, through the years, the Supreme Court has interpreted our Constitution more liberally. As a matter of fact, some people would say they have interpreted it so liberally that now Congress never even considers whether or not we have the authority to do anything.

If we go back and read some of the old bills—a few of them since I have been here—that purported to legislate with regard to trade and commerce, there would always be a preamble stating that it did involve interstate commerce, at least giving it the pretense of bringing it within the Constitution—although the Senator and I know that the statement in the bill that it involves interstate commerce was not sufficient in the old days. But, lo and behold, the provision has been interpreted so liberally now that no one ever alludes to that any more.

I doubt that 1 bill in 100 comes before Congress, relating to regulation of trade and commerce within the States, that even pretends or purports to relate to interstate commerce.

So I agree with the Senator's argument that Congress, under the Supreme Court decisions, probably has a right to set national usury laws if we want to. But I hope we never do.

I think it would be a catastrophe if the rural people of my State were required to pay the high interest rates that the trade and commerce center of New York is permitted to charge or has to pay.

All I am saying is that circumstances in one area of the country are so different that I do not think a nationwide usury law is wise or proper.

I do not want to prolong the debate, but there does not seem to be a great deal of hurry in discussing this matter.

My chairman has said on occasions in the past, and he has said today, that, after all, if the States do not like this, they can reimpose it; and that is true, under this law. But as a lawyer, as one who has practiced in the courts a long time, I point out that the person who has the burden of proof is in a much more difficult position than the one who can sit back and rest on the weakness of another's case.

The distinguished Senator from Ar-

kansas (Mr. BUMPERS) offered a bill some time ago—which I supported—which has been helped by business across the country and by the legal profession to be a giant step forward in deregulation. The bill provides that the Government, when suing a citizen in an effort to enforce a regulation, has the burden of proving that that regulation was adopted pursuant to law.

At the time, that seemed relatively insignificant to many people; but the Senate passed the bill, and I hope the House will do so, if it has not done so already. However, the person having to carry that burden of proof does have a burden, so what we are doing now is shifting it.

And those who wish to have State usury laws or State constitutional provisions now have the burden of carrying the majority in favor of their positions; whereas, in years past, since the laws were on the books or in the Constitution, those who felt that there was a real need for changing them had to prove that need.

So what we in Congress will be doing is just shifting the burden. We do not have to prove the need. We just have to prove there is not a need for it.

I think that really does not answer the problems that I am concerned with.

Mr. President, I say again that I am not unalterably committed to States rights to such an extent that I am willing to say there is never an occasion when this Congress should not preempt State laws.

But, as a matter of fact, even Thomas Jefferson, who was a great federalist and wrote quite a bit on this subject, recognized that there might be times when the national interest would compel an overriding of State laws.

I subscribe to that, and, as I mentioned earlier in the discussion, I voted for that in the Energy Mobilization Board. But even in light of the present energy crisis, I was not willing to vote for it on a blanket basis. I was not willing to vote for a provision which would override State laws until that provision provided that the States would have at least 2 years to act, and then I thought it was entirely reasonable that if the States had not acted within 2 years, then it was entirely reasonable that the Federal Government might preempt.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending amendment by Mr. COCHRAN be temporarily laid aside until the disposition of the Social Services bill this afternoon, at which time the Senate then resume consideration of the amendment by Mr. COCHRAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 680

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk—amendments, I should say, to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 680.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. I will explain them.

The amendment is as follows:

On page 32, between lines 20 and 21, insert the following:

SEC. 306. The Federal Credit Union Act is amended—

(1) in section 107(5)(A)(i)—

(A) by inserting ", including a cooperative," immediately following the word "dwelling"; and

(B) by inserting immediately after the word "Board" the following: ", except that a loan on an individual cooperative unit shall be adequately secured as defined by the Board";

(2) in section 304(b)(2) by striking out "those" and inserting in lieu thereof "participating";

(3) by striking out section 305(b)(3) and inserting in lieu thereof the following:

"(3) shall share in dividend distributions at rates determined by the Board. However, rates on the required capital stock shall be without preference; and";

(4) in section 307(15) by striking out the words ", to the extent or in such amounts as are provided in advance in appropriation Acts"; and

(5) in title III by striking out the word "Administrator" each place it appears and inserting in lieu thereof "Board".

(6) in section 107(5)(A)(vi) of the Federal Credit Union Act, 12 U.S.C. 1757, is amended to read as follows—

"the rate of interest (except as may be authorized by the Board of Agent members of the Central Liquidity Facility in carrying out the provisions of Title III) not exceed 1 per centum per month on the unpaid balance inclusive of all service charges".

(7) On page 39, line 23, after "banks" insert "(except to the extent state law requires directors qualifying shares)".

Mr. PROXMIRE. These are unprinted technical amendments concerning credit unions.

Mr. President, the amendments will do the following:

Allow credit unions to make real estate home mortgage loans on cooperatives as well as the other types of dwellings credit unions are now authorized to make.

Incidentially, very few people realize that credit unions can give you a mortgage loan. I took out a mortgage loan on my home in Madison 30 years ago, and credit unions have done a fine job in this field. They have been, of course, overshadowed by the commercial institutions, and I think more people should realize the fine job they do.

Make clear that credit unions who do not join the credit union liquidity facility are not obligated to make contributions to the CLF, and provide flexibility to the NCUA to set dividends on stock held in the CLF.

Delete the duplicative requirement that contract authority for the CLF must be exercised only after a separate appropriation since all expenditures of the CLF are subject to appropriations ceilings as the first instance.

Provide uniformity rates for credit union members borrowing from CLF's whether directly or indirectly.

Mr. President, these amendments are housekeeping in nature and I move their adoption.

Mr. GARN. Mr. President, I am willing to accept these amendments on behalf of the minority.

Mr. MORGAN. Mr. President, I am not sure I understood what the Senator was doing. Is what the Senator is doing just making the present practice legal, is that it? Credit unions down home are already engaged in the home mortgage business.

Mr. PROXMIRE. The first point I made—maybe because I departed from my prepared text, and I think that might have been a little confusing—but I simply referred to a personal experience in which I had taken a mortgage from a credit union and that very few people do that. This is legal and proper.

What this does is to provide that credit unions can make these loans on cooperatives, which they have not been able to do in the past. It is not much of an extension, because there are not that many cooperatives in the country, but there are some. So they can make it on cooperatives as well as other types of dwellings. It just broadens by a relatively limited amount allowing credit unions to make real estate home mortgage loans on cooperatives. I do not know of any objection to that. It simply would extend it to cooperatives.

Mr. MORGAN. Mr. President, I do not see any objection to it either.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

UP AMENDMENT NO. 681

Mr. PROXMIRE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 681.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 2, strike out "An" and insert in lieu thereof "Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts, an".

On page 25, line 15, strike out "Notwithstanding" and insert in lieu thereof "Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts, notwithstanding".

On page 26, line 1, strike out "An" and insert in lieu thereof "Effective upon the enactment of legislation expressly providing for the eliminiation of interest rate controls on deposits and accounts, an".

On page 26, line 5, after "Sec. 304.", insert "(a)".

On page 31, between lines 16 and 17, insert the following:

(b) Subsection (a) takes effect upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts.

On page 31, line 17; after "(a)(1)" insert "Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts,".

Mr. PROXMIRE. Mr. President, this amendment makes explicitly clear the intent of the Banking Committee on granting augmented asset powers to thrift institutions was only on the condition that regulation Q be phased out.

Accordingly, this amendment would make contingent upon the enactment of legislation expressly providing for the elimination of interest rate controls the authority of thrifts to make consumer loans, offer trust services, or expand real estate lending authority to that permitted to national banks.

Mr. President, unless regulation Q is phased out and savers are permitted to earn fair rates on their savings, thrift earning powers should not be augmented.

That amendment, of course, goes to the possibility that the Senator from North Carolina may prevail in knocking out regulation Q. Regulation Q limits the amount of interest savings and loans and banks pay on their accounts. It also gives the savings and loans a differential, an advantage.

If we are going to continue that advantage indefinitely and not phase it out, as the bill does, then I argue that we should not give the thrift institutions the authority to make consumer loans, offer trust services, or to expand their real estate lending authority to that permitted in the national banks.

I think on the basis of my knowledge of the position taken by the Senator from North Carolina that he would agree that these two should work together. That is all this amendment does.

Mr. MORGAN. At first blush it would appear that they should, but the problem in my mind is when is regulation Q going to be phased out? Is it going to be phased out in 10 years or is it going to be phased out in 2 years or are all these new consumer powers, the trust powers, not to become effective until 10 years?

Mr. PROXMIRE. The Senator raises a good point. The fact is that the consumer powers and other powers, trust powers, are given at once. It takes time, of course, for the savings and loan institutions to go into effect. Anyone who has been in a financial institution or operated one knows it takes years to establish a trust service that can compete effectively with the commercial banks. The same thing is true on a consumer loan basis. So those would go into effect at the same time that regulation Q would be phased out over a period of years. Ten years was what we contemplated; that may be changed, because we give some discretion to the regulators to modify the phaseout, depending on the institutions.

We certainly do not want legislation that would have the effect of making it impossible for these institutions to function. So we do provide discretion. We cannot predict how fast that phaseout will be. Also, we cannot predict what will happen in the level of interest rates. They may come down sharply; the Federal Reserve says they will. But if they remain at a high level, we figure that in about 10 years regulation Q would be phased out.

Mr. MORGAN. It would seem, as I read the amendment, that what the Senator is really saying is that if the phaseout of regulation Q legislation is not adopted, then the new powers would not be effective either?

Mr. PROXMIRE. The Senator is correct.

Mr. MORGAN. But the Senator is not saying that if the legislation is adopted, that would have to wait until regulation Q is actually out?

Mr. PROXMIRE. No; all we are saying is that if we knock out regulation Q—the Senator has an amendment to do that, as I understand—we knock out at the same time the additional powers given savings and loans.

Mr. MORGAN. I will say to the Senator that if I have to take this bill, maybe this provision will make it a little bit more palatable.

Mr. GARN. Mr. President, I am willing to accept this amendment, although I do not think it is necessary. The amendment the Senator from Wisconsin talks about was my amendment in the committee to expand the asset powers of thrifts. I think we took care of the linkage within the report language, and it is not necessary to put it into the statute; but I have no problem accepting it within the statute.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 681) was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 682

Mr. GARN. Mr. President, I send to the desk four amendments, and ask unanimous consent for their immediate consideration en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendments will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes, en bloc, four unprinted amendments numbered 682.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

TOLERANCE

To be added at the end of subparagraph (e)(1); insert after "is lower." in line 11 on page 49 add the following:

For the purposes of this subsection, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in determining whether a disclosure error has occurred and in calculating any adjustment, (A) each agency shall apply (i) with respect to the annual percentage rate, a tolerance of one-quarter of 1 percent more or less than the actual rate, determined without regard to subsection 107(c) of this title, and (ii) with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance provided under this subsection for the annual percentage rate; except that (B) with respect to transactions consummated after two years following the effective date of this section, each agency shall apply (i) for transactions that have a scheduled amortization of ten years or less, with respect to the annual percentage rate, a tolerance not to exceed one-quarter of 1 percent more or less than the actual rate, determined without regard to subsection 107(c) of this title, but in no event a tolerance of less than the tolerances allowed under subsection 107(c), (ii) for transactions that have a scheduled amortization of more than ten years, with respect to the annual percentage rate, only such tolerances as are allowed under subsection 107(c) of this title, and (iii) for all transactions, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerances provided under this subsection for the annual percentage rate.

FLEXIBILITY

The following provision would be added after the first sentence of subparagraph (e)(2); line 17 on page 49 is amended to read as follows:

tended. Notwithstanding the preceding sentence, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, an agency need not require such an adjustment if it determines that such disclosure error:

(A) resulted from an error involving the disclosure of a fee or charge that would otherwise be excludable in computing the finance charge, including but not limited to violations involving the disclosures described in subsections 106(b), (c) and (d) of this title, in which event the agency may require such remedial action as it determines to be equitable, except that for transactions consummated after two years after the effective date of this section, such an adjustment shall be ordered for violations of subsection 106(b);

(B) involved a disclosed amount which was 10 percent or less of the amount that should have been disclosed and (i) in cases where the error involved a disclosed finance charge, the annual percentage rate was disclosed correctly, and (ii) in cases where the error involved a disclosed annual percentage rate, the finance charge was disclosed correctly; in which event the agency may require such adjustment as it determines to be equitable;

(C) involved a total failure to disclose either the annual percentage rate or the finance charge, in which event the agency may require such adjustment as it determines to be equitable; or

(D) resulted from any other unique circumstance involving clearly technical and

nonsubstantive disclosure violations that do not adversely affect information provided to the consumer and that have not misled or otherwise deceived the consumer.

In the case of other such disclosure errors, each—

PERIOD COVERED

To be inserted in lieu of part of the text that appears in subsection (e)(3); delete everything on lines 7 through 9 inclusive on page 50 and insert in lieu thereof the following:

(i) with respect to creditors that are subject to examination by the agencies referred to in subsections 108(a)(1) through (3) of this title, except in connection with violations arising from practices identified in the current examination and only in connection with transactions that are consummated after the date of the immediately preceding examination, provided that where practices giving rise to violations identified in earlier examinations have not been corrected, adjustments for those violations shall be required in connection with transactions consummated after the date of the examination in which such practices were first identified;

(ii) with respect to creditors that are not subject to examination by such agencies, except in connection with transactions that are consummated after May 10, 1978; and

(iii) in no event after the later of (a) the expiration of the life of the credit extension, or (b) two years after the agreement to extend credit was consummated.

On page 51, delete lines 14 through 16, inclusive.

EFFECTIVE DATE

On page 48 line 24 after Sec. 508. add: (a)

On page 51 after line 16 add:

(b) This section shall take effect upon enactment.

Page 79 line 19 would be amended to read:

SEC. 524. Except as provided in section 508, the amendments made by this title shall . . .

Mr. GARN. Mr. President, title V of this bill (H.R. 4986) contains the provisions which simplify and reform the Truth in Lending Act. My distinguished colleagues may recall that these same provisions were adopted by the Senate without objection on May 1 of this year in the form of S. 108. As in the last Congress, the House has refused to even hold hearings on this very important measure, and therefore, the Banking Committee believes it is necessary to once again bring this issue to the attention of the House by including it in the bill under consideration today.

Subsequent to the passage by the Senate of the truth in lending provisions, it has been discovered that the section of the bill establishing parameters for restitution needs to be amended. Therefore, with the concurrence and support of the distinguished chairman of the Banking Committee who is also managing this bill for the majority, I offer four amendments to section 508 of H.R. 4986.

Mr. President, prior to explaining these amendments I believe it is important to give a very brief account of the history of restitution, so that my colleagues will understand why the distinguished Senator from Wisconsin, as chairman of the committee, and I, as the ranking minority member, are now recommending these amendments.

During the last Congress while truth in lending simplification was being considered by the Banking Committee, the five financial institutions regulatory agencies were independently developing enforcement guidelines for truth in lending. On January 4, 1979, these agencies finally adopted and put into effect the enforcement guidelines which very closely tracked the restitution provisions of this bill. However, in early September the agencies suspended the guidelines because they were unworkable, in many cases inequitable and were creating extreme administrative burdens. On October 5 the agencies proposed three amendments that they believe would alleviate many of the problems they were experiencing.

Since the restitution provisions in this bill are very similar to those of the guidelines, the experience of the agencies and their recent recommendations have demonstrated the need for amendments to the restitution section of this bill. It is not often that we have the benefit of observing firsthand the effect of a law prior to its enactment. Here where we do have such an opportunity, it would be irresponsible not to heed the experience of the agencies and follow their recommendations. Therefore, the amendments which we are proposing today reflect the agencies' proposals and give the agencies the flexibility that is necessary to deal with the restitution problem in a reasonable manner.

The first amendment would make the restitution section, section 508, effective upon enactment. While the rest of the provisions in title V would not take effect until 2 years after the date of enactment, it is important to have this section effective as soon as possible in order to make it clear that agencies have the authority to require restitution and to establish the parameters for such authority.

The second, and perhaps most important amendment, requires the agencies to apply a fourth of 1 percent tolerance to the annual percentage rate in determining whether disclosure errors have occurred and in calculating any adjustments. A corresponding numerical tolerance for the finance charge would also be required. These tolerances would have to be applied to all transactions consummated prior to 2 years after the effective date of this section.

With respect to transactions consummated after that 2-year period, the amendment establishes different tolerances depending upon whether transactions have a scheduled amortization—namely, the date from which the finance charge begins to accrue to the date of the final scheduled payment—of more than 10 years or 10 years or less.

For transactions of 10 years or less the agencies would apply a tolerance for the APR of not greater than one-fourth of 1 percent and a corresponding numerical tolerance for finance charges.

For transactions of more than 10 years, which are generally real estate transactions, no additional tolerances would be permitted for the annual percentage rate other than those tolerances provided for under section 107 of the Truth in Lending Act as amended by this title. Recognizing that irregular payments in real estate transactions, for example when mortgage guarantee insurance is involved, can result in very complex computations, I would hope that the Federal Reserve Board will exercise the authority granted to it under section 107 as amended to establish a greater tolerance where irregular payments are involved. Once again, the amendment would require commensurate finance charge tolerances.

The third amendment reflects the need for maintaining current agency flexibility in order to allow the agencies to deal with restitution in a reasonable manner. The amendment delineates three specific exceptions to the general reimbursement requirements where restitution would not have to be required, they are:

An exception for errors involving fees that are otherwise excludable from the finance charge. However, there is an exception to the exception for transactions consummated subsequent to 2 years after the effective date of this section, where reimbursement would be required for violations of the credit life insurance disclosure provisions contained in section 106(b) of the act. Since the regulation and not the act imposes the requirement that the insurance option be dated, it is contemplated that an omission of the date would not result in restitution;

An exception for disclosures that are 10 percent or less of the amount that should have been disclosed; and

An exception for a total failure to disclosure either the annual percentage rate or the finance charge.

This amendment would also allow for more individual agency flexibility so that the agencies could respond appropriately to unique situations which involve technical disclosure errors. It is necessary to give the agencies this type of flexibility in order to have workable and equitable implementation of restitution.

The final amendment would alter the provisions governing the time period during which corrective action would be required so that retroactive enforcement would be more appropriately tailored to the past performance of the individual institutions.

Restitution could be ordered only during the life of a credit extension or 2 years from its consummation, whichever is later. This would apply to creditors subject to regular examination only with respect to violations in transactions that are consummated during the time interval between the current examination and the immediately preceding examination, except that where practices giving rise to violations in earlier examinations have not been corrected by the next examination, adjustments for those violations would be required for transactions consummated after the examination in which the practice was first cited. With respect to creditors not subject to regular examination, only extensions of credit consummated after May 10, 1978 would be subject to adjustment. This date was chosen since it is the date when the truth-in-lending simplification bill first passed the Senate, thereby placing such creditors on notice that they would be subject to restitution.

Mr. President. Since these amendments are being proposed by the chairman of the Banking Committee and me as the ranking minority member, I ask that the Senate vote to adopt them. They are extremely important to workable and equitable implementation of the restitution provisions of this bill.

Mr. PROXMIRE. Mr. President, first I think we ought to recognize that this is very good legislation, the Truth in Lending Act to which we are addressing ourselves. We passed truth in lending some 11 years ago. I think it was one of the great consumer protection actions taken by Congress. I might say that the great Senator from Illinois, Senator Paul Douglas, was responsible very largely for our action in this. He fought for 7 long years to get truth in lending adopted by the Senate. Unfortunately, he left the Senate just on the eve of success. I carried through and I happened to be author of the bill at the time it passed.

The Federal Reserve Board has made a study of the effect of truth-in-lending legislation and finds that there have been dramatic increases in the understanding by borrowers. This is not only true of well-to-do people and well-educated people but of poorer people. Before truth in lending, studies indicated that even people with college degrees and advanced degrees did not really understand when they went to borrow money what kind of interest they were paying. We found abuses all over. We found particular abuses, of course, with respect to the less educated, and found in many cases that people buying second-hand furniture, for example, would be paying 50-percent, 100-percent, 200-percent interest, and more. Truth in lending, of course, requires that any lender has to say what the true annual rate is. It is a red flag that puts people on notice.

We find that about half of the poorest people now, where it was only about 2 or 3 percent before, understand what the true annual rate is, understand it and are able to act on it, and are able to shop for their credit. So we have accomplished a great deal.

At the same time there is no question that truth in lending has been too complicated, that many consumers are put off by it. When you have to buy something on credit, Mr. President, you get a sheet ever so long, and very few people are going to sit down and read the fine print. A few people will, to their great credit, but most people do not. Also, it is a great burden on the lender because he has to fill out long forms and it costs him money. That money eventually is paid by the consumer.

For all of these reasons, we felt simplification was necessary.

As the Senator from Utah pointed out, we passed simplification here in the Senate before, and the House did not agree to it. We hope this time, by attaching simplification to this bill, we can get the House to act and provide a much better and improved system for the consumer to understand what his true annual rate is, what his finance charge is, and to be able to shop and act on that basis.

I am pleased to accept these amendments offered by Senator GARN. I commend the Senator from Utah for his efforts in developing these proposals to clarify the restitution provisions of S. 108. He has worked hard and well, and I think in the interest both of consumers and lenders in this respect.

The need for this clarification was recognized following the difficulties recently experienced by the agencies in their efforts to require restitution through their uniform enforcement guidelines. This experience demonstrated that the agency programs, which mirrored to a large extent the restitution requirements of S. 108, may have been unnecessarily inflexible with respect to certain situations.

I believe these amendments are a reasonable attempt to balance the need to build in the flexibility necessary to permit a reasoned approach to restitution by the agencies while continuing to require the agencies to order restitution to protect consumers, where appropriate.

They did not do that for years under truth in lending. They simply let the law go. They did not really enforce it. They began to enforce it a few years ago and now we want the enforcement to be orderly, practical, and effective. That is what these amendments do.

I would like to take this opportunity to raise one point.

I am informed that there is some concern, by the staffs of several of the Federal financial regulatory agencies, that certain language in the amendments relating to the tolerance permitted under the restitution provisions may be construed to permit creditors a tolerance of one-half of 1 percent from the actual finance charge.

In response to that concern, I wish to point out that the language which permits a tolerance, for the purpose of restitution, one-quarter of 1 percent more or less than the actual rate, is not intended to provide a cumulative tolerance of one-half of 1 percent with respect to the finance charge. Would the Senator from Utah agree with that assessment of the tolerance provision?

Mr. GARN. Yes, I would. I am glad the chairman clarified that. It should be clarified. There is certainly no intent that that should be the case, that the tolerance should be cumulative and go to one-half of 1 percent. We make that very clear to the agencies now, that that is not the case.

Mr. PROXMIRE. I take it the amendment of the distinguished Senator from Utah is pending. Can we act on the amendment he has offered?

I withdraw the question, Mr. President.

Mr. GARN. The restitution provisions of truth in lending require reimbursement when a disclosure error results from "a clear and consistent pattern or practice of violations." I am very concerned about the application of this standard in certain situations, best exemplified by computer malfunctions, which naturally result in repetitive violations, but which in many cases are so obvious that the consumer could not possibly have been misled. Although our amendment creates an exception, I will call it the 10-percent exception, this would principally encompass obvious errors created by a slipped decimal point. Other obvious errors, for example the dropping of one of the digits in a two digit APR, which error appears in an open end credit periodic statement, would often not come within the exception. The distinguished Senator from Wisconsin, who is managing this bill, I understand recognizes the problems that can be created by a computer malfunction such as the one described, or other similar situations, but believes that this does not constitute a pattern or practice of violations and therefore would not have to be reimbursable. Is that a correct interpretation?

Mr. PROXMIRE. I would agree, to the extent that we are discussing a brief mechanical malfunction, such as a computer malfunction, resulting in an understatement of the APR or finance charge over a short span of time such as a single billing period.

Under these limited circumstances, it is reasonable to assume that the error should not automatically constitute a pattern or practice violation. At the same time, we should not foreclose the possibility that an agency may determine even under these limited circumstances that the creditor's actions, in a particular case, may justify a finding that the violation constituted a pattern or practice.

Mr. GARN. I believe this is a very important point since, to date, the agencies have only been requiring reimbursement for closed-end credit disclosure errors, and we do not know the effect that requiring adjustments for open-end disclosure errors or errors created by a malfunctioning computer or the like, will have upon institutions, especially retailers. Therefore, it is essential that "pattern or practice of violations" be interpreted with sufficient flexibility so that disclosure errors created by such things as computer malfunctions which could occur in both open- and closed-end credit, and which by their very nature will be extremely repetitive, are not necessarily errors subject to adjustment.

Mr. PROXMIRE. I agree. It seems that we have little, if any, information on the consequences of applying these restitution provisions to situations like a short term computer malfunctioning, and I believe there should be sufficient flexibility to permit the agencies to deal with these problems in a reasonable manner.

Mr. GARN. Mr. President, the present language in the committee report states that since most violations are repetitive in nature, we expect that the "pattern or practice of violations" criterion will encompass the majority of understatements. We are now saying that that is not necessarily so, since the types of errors we have just been discussing will generally be repetitive and it is contemplated that the agencies will deal with these situations in a reasonable manner.

Mr. PROXMIRE. Again, I would agree to the extent that we are discussing short-term mechanical malfunctions where an agency determines that an exception to the "pattern or practice" rule is appropriate under all the circumstances.

Mr. GARN. Mr. President, I would like to give a quick illustration of the problem we are talking about here. For example, a creditor has disclosed in both the initial disclosures and in regular periodic statements that the annual percentage rate is 18 percent. Then, 1 month, the computer fails to print the one and therefore the periodic statement has a disclosed rate of 8 percent. This is an obvious error, but it would not come within the 10 percent exception that is in our amendment. In addition, since the consumer has repeatedly received periodic disclosures stating a rate of 18 percent, the consumer is unlikely to have been misled. This is obviously an error created by a malfunctioning computer and is also repetitive in nature. However, it should not be automatically categorized as a "pattern of violations" just because it is repetitive.

LEASING HEARINGS

Mr. President, on another matter, it has been brought to my attention that there has been some interst in adding amendments to this bill to take care of problems that have arisen under the Consumer Leasing Act. I gather some of these amendments are only technical in nature, while others would merely reform certain leasing provisions in the same manner as we are now reforming the Truth in Lending Act. While I believe it is unfortunate that this was not brought to our attention earlier so that we could have included it with truth in lending reform, since I gather the amendments are in the same spirit of simplification, I believe we should not be short-circuiting the legislative process on a law as complex as the Leasing Act. However, it appears to me that there is a need to review the Consumer Leasing Act just as we have done with truth in lending. Can we agree at this time to conduct at least a day of hearings on this issue sometime in the next few months, and not consider any amendments of this kind on the floor.

Mr. PROXMIRE. I have known of these proposed amendments, Mr. President. It is clear, however, that these proposals by the leasing industry will require the benefit of hearings to permit public and agency participation. While some of the proposals appear to be in the spirit of simplification, others may raise substantive issues relating to the protections afforded consumer lessees.

I would, therefore, be willing to urge Senator TSONGAS, who is the chairman of the Consumer Affairs Subcommittee, to schedule a hearing on this issue within the next 4 to 6 months.

Mr. GARN. I appreciate that.

The PRESIDING OFFICER (Mr. EXON). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. I thank my neighbor, the distinguished Presiding Officer.

UP AMENDMENT NO. 683

Mr. PROXMIRE. Mr. President, on behalf of Senator GARN and myself, I wish to offer an amendment containing nine technical changes to the truth in lending section of this bill. These amendments were requested by the Federal Reserve Board.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) for himself and Mr. GARN, proposes an unprinted amendment numbered 683.

Mr. PROXMIRE. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. Sec. 505, page 46, line 11, insert the words "or lessee" after the word "borrower"; line 14, insert the words "or lessors" after the word "creditors"; line 16, insert the words "or lessor" after the word "creditor"; line 17, insert the words "or lessor" after the word "creditor"; line 20, insert the words "or lessor" after the word "creditor"; page 47, line 1, insert the words "or lessor" after the end of the word "creditor"; line 15, insert the words "or lessors" after the word "creditors"; line 17, insert the words "or lessors" after the word "creditors"; and line 20, insert the words "or lessor" after the word "creditor".

2. Sec. 509, page 51, line 20, strike out the words "This title does" and insert in lieu thereof the words "Chapters 1, 2, and 3 do".

3. Sec. 511, page 55, line 3, insert the words "or lessor" after the word "creditor"; and line 4, strike the word "chapter" and insert in lieu thereof the word "chapters" and insert "and 5" after the number "4".

4. Sec. 514(a), page 62, line 19, insert the words "before or" after the word "consumer".

5. Sec. 514(a), page 62, line 16, insert the word "and" after the semicolon; line 21, strike the semicolon and the word "and" and insert in lieu thereof a period; strike lines 22 and 23; page 63, line 7, strike the comma and the words following the word "financed"; and line 8, strike the remainder of the phrase "required deposit balance" and the comma preceding the word "and".

6. Sec. 514(a), page 64, strike lines 10 through 13 and insert in lieu thereof the following language:

"(11) A statement indicating whether or not the consumer is entitled to a rebate of any finance charge upon refinancing or prepayment in full pursuant to acceleration or otherwise, if the obligation involves a precomputed finance charge; a statement indicating if a penalty will be imposed in those same circumstances, if the obligation involves a finance charge computed from time to time by application of a rate to the unpaid principal balance.

7. Sec. 516(a), page 72, line 11, strike the comma and the words following the word "obligation" and insert in lieu thereof a period; and strike line 12.

8. Page 79, insert a new section after line 17 that reads as follows:

"SEC. 524. Section 185(b) of the Consumer Leasing provisions of the Truth In Lending Act is amended by deleting the reference in the second sentence of that subsection to section 115."

9. Page 79, line 19, renumber "SEC. 524" as "SEC. 525".

Mr. PROXMIRE. Mr. President, I ask unanimous consent that a statement in explanation of these technical amendments be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATION OF TECHNICAL AMENDMENTS TO TITLE V OF H.R. 4986

1. Section 505 directs the Federal Reserve Board to issue model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of Title I of the Consumer Credit Protection Act. Title I encompasses the Truth in Lending, Fair Credit Billing, and Consumer Leasing Acts. Section 505 refers, however, to model forms and clauses for credit contracts, but does not mention consumer lease transactions. In order to make clear that model forms and clauses also should be available for lease transactions and that lessors would be deemed to be in compliance when using those forms and clauses, the first series of proposed amendments inserts the appropriate references to lessors and lessees in section 505.

2. Section 509 deals with the interrelationship of the Truth in Lending Act and state law. The first sentence of paragraph (a)(1), however, broadly refers to Title I, which, as mentioned above, includes the Fair Credit Billing and Consumer Leasing Acts. Since each of those two acts has its own provision regarding the relationship with state law, section 509 should refer only to the Truth in Lending Act, which is found in Chapters 1, 2, and 3 of Title I. The second proposed amendment would accomplish that result.

3. Like the proposed amendments to section 505 regarding model forms and clauses, the third proposed amendment would make clear that lessors are covered to the same extent as creditors. In this case, a provision of section 511 permits creditors to supply additional information along with the disclosures required under the Fair Credit Billing Act (Chapter 4) and the Truth in Lending Act (Chapters 1, 2, and 3). The proposed amendment would extend the same authorization to lessors subject to the Consumer Leasing Act (Chapter 5).

4. Section 514 revises the basic closed-end, installment credit disclosures of the Truth in Lending Act. Paragraph (a)(2)(C) describes how a finance charge paid at consummation or withheld from the credit proceeds is to be treated. The fourth proposed amendment would make clear that a finance charge—such as a credit report or an appraisal fee—paid before consummation should be handled in the same fashion.

5. The proposed amendments to paragraphs (a)(2)(D) and (a)(5) of section 514 would delete the references to any required deposit balance. Since the amount of any deposit balance would already be reflected in the "principal amount of the loan" (or the cash price less downpayment and trade-in in the case of credit sales), it would not have to be treated separately to arrive at the correct "amount financed." As currently written, the required deposit balance provisions, in essence, would result in a deposit balance being counted twice, thus artificially inflating the amount financed. The amendment would not affect the treatment of transactions involving required deposit balances as multiple advance transactions for purposes of computing the annual percentage rate.

6. Currently, paragraph (a)(11) of section 514 requires the disclosure of whether or not a rebate will be given or a penalty imposed if a consumer debt is refinanced or prepaid in full. An unintended result of the language "whether or not" is that a credit offering credit on a simple-interest basis, without a penalty for refinancing or prepayment, would have to disclose, in addition to the fact that it did not impose a penalty, the fact that it did not offer a rebate. But that disclosure is misleading since a creditor imposing a finance charge on a simple-interest basis collects no additional finance charge that could be rebated. The proposed amendment would eliminate that anomaly.

7. Section 516 deals with the liability of assignees. Paragraph (c) indicates that a consumer may rescind a transaction even if an assignee has acquired the underlying credit contract. The last phrase of paragraph (c) suggests, however, that an assignee may also be a creditor under the law. That result would conflict with the new definition of creditor contained in section 502. Therefore, the amendment proposes striking the reference to creditor at the end of paragraph (c).

8.–9. The final proposed amendments would change the Consumer Leasing Act to reflect the repeal of section 115 of the Truth in Lending Act by section 516(b) of the simplification bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I have one final brief statement. The Senator from Alaska has been very patient. We shall then be happy to take up his amendment.

ENCOURAGEMENT OF ADVANCE DISCLOSURE OF CREDIT COST

Mr. President, the Federal Reserve Board has recently been working to simplify the regulation of truth in lending. In the course of their efforts, the Board's staff has proposed an early shopping disclosure to substitute for the transactional disclosures made at the time the loan is consummated.

If properly done, the benefit to consumer borrowers from such a proposal could be substantial. Under this proposal, the borrower could receive credit cost information when applying for credit, at a time when credit shopping is possible, rather than obtaining the disclosures at the loan closing.

While the bill before us does not specifically provide for alternative shopping proposals, it seems to me that this kind of an approach to improve the regulation is, at least on an experimental basis, within the authority of the Board to issue rules and regulations to carry out the purposes of the act.

The Truth in Lending Act was designed to provide borrowers with the means to shop wisely for credit. I commend the Board for seeking imaginative ways to encourage this credit shopping.

Mr. President, I yield the floor.

UP AMENDMENT NO. 684

(Purpose: To permit the continued membership of certain Alaska Natives in the Alaska USA Federal Credit Union)

Mr. STEVENS. Mr. President, I have sent an amendment to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 684.

Mr. STEVENS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . Any person who is a member of the Alaska USA Federal Credit Union prior to any termination date which is contained in section 5 of the charter of such Credit Union and which would otherwise apply to such person may continue to be a member of such Credit Union on and after such date. For purposes of this section, the term, "member of the Alaska USA Federal Credit Union", means any person who has an account at such credit union.

Mr. STEVENS. Mr. President, my amendment concerns a simple matter of equity for approximately 15,000 Alaska Natives. It allows these Natives to maintain their accounts at a federally chartered credit union in Alaska beyond the termination dates stated in section 5 of the credit union's charter. The amendment is simple, straightforward, and necessary to insure that the treatment afforded the Native members is consistent with the stated policy of both the Alaska USA Federal Credit Union and the National Credit Union Administration.

In order that the Senate may fully understand the need for my amendment, I would like to provide a brief summary of the circumstances which have led to the proposal I am offering today.

Mr. President, in 1971, with the passage of the Alaska Native Claims Settlement Act, Congress created 12 regional corporations to serve as profit making entities for the Eskimos, Aleuts, and Athabascans of Alaska. All quarter-blood Natives were eligible to enroll and become stockholders in the corporation operating within the region they considered home. In 1972, the then Administrator of the National Credit Union Administration, Herman Nickerson, initiated a program to bring Federal credit union service to the enrollees of these Native corporations.

Over a period of years, and after it became apparent that previously chartered Native credit unions were experiencing operational difficulties, 10 of the Native corporations were permitted to join the Alaska USA Federal Credit Union. This credit union, formerly called the Alaska Command Federal Credit Union, is chartered to serve mainly military and civilian personnel of the U.S. Government. The charter amendment which extended the field of membership to the Native groups specifically indicated that their inclusion was temporary. The intent of the inclusion was three-fold: First, to develop technical expertise among the Natives, second, to build a sufficient economic base for viable Native credit unions, and third, to allow the Natives to "spinoff" their accounts and form their own credit unions. When the 1978 termination date arrived, however, it was appearent that the goals had been only partially met and the viability of any spinoff was highly questionable.

In February of 1978, the general manager of the Alaska USA Federal Credit Union, Mr. James Brinker, requested of NCUA that the termination dates be deleted from the charter so that they could continue to serve the Natives. In response to this request, the present National Credit Union Administrator, Lawrence Connell, granted a 2-year extension, until 1980, before which time, Alaska USA had to conduct a training program to instruct the Natives in the management and operation of a Federal credit union. If any Native group chose not to participate in the program, their accounts were to be divested within 90 days. The Alaska USA training program is currently underway, all 10 groups having chosen to participate.

As the 1980 termination date approaches, I have received substantial amounts of correspondence, both from Native members and from Alaska USA officials, concerning the required divestiture and the original understanding held by the Natives who became members of Alaska USA. It appears that a great deal of confusion exists about the status of the Native accounts. This confusion stems originally from correspondence between the National Credit Union Administration and the Alaska USA Credit Union in which it was explained that the Native accounts would be divested at the option of the individual Native, not forcibly by the National Credit Union Administration.

Mr. President, at this time, I have here copies of correspondence between NCUA Administrator Nickerson and R. A. Kennard, President of the People's Bank & Trust. In this letter, Mr. Nickerson explains that the divestiture of the Native accounts would proceed in accordance with NCUA's "Procedure for Division of Assets, Liabilities, and Capital." This procedure states that—

> Members of the group to be served by the new credit union will be given the option * * * of authorizing the transfer of their share and loan accounts to the new credit union.

In addition, in correspondence between NCUA and Alaska USA concerning the procedures for divestiture, it was explained that if a member (of the credit union) does not authorize his account to be transferred to the new credit union, he may not be forced to close his account in the existing credit union. He may continue to be served under the "once a member" policy of the existing credit union. As a result of this information, Alaska USA openly advertised lifetime membership to its Native members and distributed literature stating this policy was in effect.

The majority of the corporation officials and enrollees who have contacted my office about the divestiture have specifically stated that they had understood that the "once a member" tenet was applicable to their membership. Realization of the required divestiture has caused some bitterness and raised claims that this action represents another example of Government neglect of its responsibility and commitment to the Alaska Native.

In addition to the confusion surrounding the terms of the Native membership, there exists a general lack of interest in a spinoff credit union for the Natives, as well as questions about the success of the training program. The many letters I have received verify the Natives desire to maintain their accounts with Alaska USA and their participation in the training program as one necessary to postpone the divestiture date. Moreover, the technical and financial capabilities of the regional corporations is such to make establishment of their own credit unions infeasible. While the training program could supply the necessary managerial

expertise and operational difficulties with their own regional entities and have stated that the initiation of a new undertaking would be a hardship at this time. Given that the original intent of the extension of Alaska USA's field of membership was to give the Natives the necessary economic and technical basis to "spinoff," one would assume that, without this basis, the Natives could not be expected to organize their own credit union.

After I became aware of the required divestiture and the confusion surrounding the status of the Native accounts, I met with NCUA Administrator, Lawrence Connell, to discuss the situation. Mr. Connell remained firm in his intention to the Native accounts divested at the end of the training program and feels that to allow the retention of the accounts would be counter to the credit union's "common bond" policy. It is my contention, however, that there exists an agreement between the Natives, Alaska USA, and the National Credit Union Administration to provide credit union service on a "once a member, always a member" basis. If policy errors were made in the original extension of the field of membership or in the stated procedure for eventual divestiture, I do not believe that the Native members should be the ones to bear the cost of these errors. Instead of forcing the Natives to close their accounts, my amendment would allow them to maintain their accounts while prohibiting any new members to join. This compromise is in keeping with the original goals of the program as well as with the terms of membership as understood by the Native members.

Mr. President, I urge the committee to accept my amendment.

Mr. President, I am happy to answer any questions the manager of the bill, my good friend from Wisconsin, might have, and also the ranking Member, the Senator from Utah, might have.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, what this bill would do that presents a real problem for us is that it would broaden the common bond.

As we know, how do credit unions protect themselves against charges they unfairly compete with banks and savings and loans, and so forth?

If one is a Senator, we run into that all the time. We go in and they say that the credit union does not pay taxes they pay, that they get all kinds of consideration, and it is not fair.

What we do is provide credit unions a common bond basis. That is, the people who belong to the credit union are people who work for one company or people who have some other association that is very close.

In this case, we have a so-called defense credit union, as I understand it, in Alaska and that defense credit union has included Indian members who, as far as I know, do not have any common identification with the other members.

This is one of the reasons why the Credit Union Administration opposes the legislation, why it was unable to provide a further extension.

On the other hand, I think the Senator from Alaska, who is a great champion of the Indians and has done a marvelous job protecting them, as well as the Alaskan interests generally, has a very good point.

The Indians have been members of this credit union, as I understand it. They certainly urgently need the kind of reasonable credit which credit unions provide and the kind of advice which credit unions can give, in many cases better than commercial institutions can.

We know Indian income is lower. Indians do not have the sophisticated training some others have in finance.

For all these reasons, the credit union has been a great friend of theirs and, from a practical standpoint, it is very desirable.

For these reasons, Mr. President, I would be willing to take the amendment to conference. But I would say to my good friend from Alaska that I anticipate this will be very strongly discussed in the conference. We will have to consider at some length the position taken by the credit union administrator and the common bond problem because we want to do all we can to preserve the integrity of the credit union system, and that common bond is essential to credit unions being able to have the kind of advantages they have.

Mr. STEVENS. Mr. President, I say to my good friend that I understand his statement and am pleased with his response. I want to do my best to convey to the House conferees of the need for an exception in this case so that the once a member always a member policy may apply to the Natives, notwithstanding the fact that the common bond policy would not be fully met.

I think the RECORD should show that as a result of the Natives being allowed to use this credit union on a temporary basis, the relationship of the Native people to the credit unions in Alaska has changed. The Alaska USA Credit Union has initiated a training program, for people from the Native portion of their clientele, and it has been very helpful to the Native people.

The goal of the training program is to provide the necessary expertise so that where there are enough depositors from a particular area, a new credit union could be formed and the common bond policies for a particular locale or a regional group could be met.

As the Senator from Wisconsin knows, in 1971 our Alaska Native Claim Settlement Act created regional profitmaking corporations. They are eligible to charter their own credit unions, if they desire to and in some instances, they have. The distances between villages and towns, however, often makes it impossible to run a credit union economically. That is why so many people decided to join the Alaska USA Federal Credit Union, during the period when membership was available to them.

I also say to my friend, we have seen changes in the defense policies in Alaska with regard to maintenance of some of the bases, and to employment of civilians to carry out some functions that previously were met by enlisted personnel. More and more Native people have been hired by the Department of Defense and more and more of a common bond is being built in these regional village areas every year.

Not all of the people who have joined under the membership policy that was initiated in 1975, however, are eligible and would not have the opportunity to become members under this common bond.

I hope my friend from Wisconsin would realize that those Natives falling outside of the common bond are those who are older and who were not in the job market when the Defense Department was hiring, or those who had memberships because their parents deposited money received from the Land Claims Settlement Act in this credit union for their children.

So two groups are most disadvantaged by the actions that would be required without my amendment would be the elderly and the very young.

I think it is wise to maintain this exception for these people under the once a member always a member policy.

I do understand the statement of the Senator from Wisconsin, however, and I understand that we must try to convince our colleagues from the House of the necessity to take care of this problem.

Mr. President, I thank the Senator for his kind comments concerning my relationship with our Alaska Native people. They are very interesting people to work with and in case the Senator is unaware of this the Natives have substantial representation throughout the State, representing approximately 22 percent of the electorate.

I am hopeful that this amendment will survive in conference.

I do not know if my friend from Utah has any questions concerning it.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I am prepared to accept the amendment of my distinguished colleague from Alaska.

Mr. STEVENS. I thank the Senator from Wisconsin and the Senator from Utah.

Mr. President, I ask unanimous consent that a series of letters previously mentioned be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL CREDIT UNION ADMINISTRATION,
March 17, 1975.

Mr. R. A. KENNARD,
Peoples Bank & Trust, Pouch 7007, 8th Avenue and G Street, Anchorage, Alaska.

DEAR MR. KENNARD: I am pleased to respond to your letter of February 26, 1975, regarding the Alaska Command Federal Credit Union.

The amendments to section 5 of the charter of the Alaska Command Federal Credit Union to serve enrollees of Native Regional Corporations who are eligible to participate in the Alaska Natives Claims Settlement Act were approved after a thorough review by members of my staff. It was determined that the inclusion of native groups in the above Federal credit union with a provision for "spin-off" was more economically feasible than the immediate organization of a separate Federal credit union for each native group. At the end of the period stated in section 5, it is proposed that each of these native groups will undertake an equitable division of their assets, liabilities and capital and charter a new Federal credit union in accordance with Part 709 of the National Credit Union Administration Rules and Regulations.

The amendment to include employees of the Alyeska Pipeline Service Company for a period ending June 30, 1978, also was approved after a thorough review by members of my staff.

The pipeline project has been given top national priority status by the Ford Administration. The Defense Production Act was invoked by the Federal Energy Administration to avoid construction delays because of a snortage of materials. The completion of the project is considered to be critical to national defense. In any war-related emergency, the service of the Alaska pipeline would be needed for defense requirements and national oil needs. While employment will be high during the next three years, upon completion there will remain only a skeleton force for maintenance purposes. The short life span of this project would make the chartering of a separate Federal credit union economically unfeasible.

Enclosed for your information is a copy of our publication "Organizing a Federal Credit Union" which covers the chartering policy of the National Credit Union Administration. Also, enclosed is a copy of the Administrator's Monthly Column (August 1974) which is a press release sent to approximately 150 trade publications and newspapers. This particular column dealt with recent interpretation of common bond concepts. In applying the definition of "common bond" to the review of individual charter applications and amendment requests, we answer two basic questions. Does the group have a commonality of interest and would the chartering of the group be economically advisable? In the review of the above charter amendments, it was determined that the amendments could be granted after analyzing the basic ingredients of economic feasibility and commonality of interest existing in each individual case.

In regard to the question on NOW accounts, the National Credit Union Administration has no such program. We currently have a pilot share-draft program for selected Federal credit unions, however, the Alaska Command Federal Credit Union has not been approved for participation at this date.

I hope the above information is satisfactory in answering your questions.

Sincerely,
HERMAN NICKERSON, JR.,
Administrator.

PEOPLES BANK & TRUST,
Anchorage, Alaska, March 27, 1975.

Mr. HERMAN NICKERSON, JR.,
Administrator, National Credit Union Administration, Washington, D.C.

DEAR MR. NICKERSON: Reference is made to your letter of March 17, 1975 addressed to Mr. Kennard, president of our bank.

Mr. Kennard is currently out of town, and I am writing this letter to let you know that the enclosures you mentioned were not with your letter. If you can send them upon receipt of this letter, perhaps they can reach us before his return next week.

I do not know what, if any, responses Mr. Kennard will wish to make to your letter, but I am taking the liberty of injecting a couple of questions and comments.

As you know, the Alaska Command Federal Credit Union advertises that once you become a member you are a member for life. What will be the status of those members who join under the expanded qualifications when these "spin-off" dates arrive? If they can no longer be members, I presume their deposits would then have to be returned to them, but what about the loans to the pipeline workers? And what is the anticipated impact on the credit union when these share accounts are refunded?

I find it difficult to concur with the reason given for the inclusion of native groups and pipeline workers. If the native groups can find it economically feasible to organize a commercial bank, which they are in the process of doing, it seems they should be able to find it economically feasible to organize a credit union. The pipeline workers are being hired through unions which have their own credit unions and subcontractors have a more permanent character.

I am glad to hear that the Alaska Command Federal Credit Union has not been approved for participation in any share-draft program, and I would hope that your office would permit the Ford Administration's proposed financial institutions legislation to control expanded powers for credit unions rather than granting them on a piecemeal basis.

Very truly yours,
R. W. BURGH,
Executive Vice President and Cashier.

NATIONAL CREDIT UNION ADMINISTRATION,
April 10, 1975.

Mr. RODNEY W. BURGH,
Executive Vice President and Cashier, Peoples Bank & Trust Pouch 7007, 8th Avenue and G Street, Anchorage, Alaska.

DEAR MR. BURGH: I am pleased to respond to your March 27, 1975, letter and to the additional questions raised in reference to my March 17, 1974, letter to Mr. Kennard. I also would like to apologize for the problem noted with the enclosures. These items are enclosed with this letter.

In response to your first question on the spin-off procedure, I have enclosed a copy of Form NCUA 8043, Procedure for Division of Assets, Liabilities and Capital. The answers to your specific questions are contained on pages 2–6 of this procedure.

The National Credit Union Administration has chartered separate Federal credit unions to serve several of the native groups. Although these credit unions are still in operation, they have been affected by various problems which raise questions in regard to economic feasibility. The only pipeline contractors and subcontractors that can be served by the Alaska Command Federal Credit Union are those that request service and are not eligible for membership in another occupational or labor union sponsored credit union.

My comments on the financial institutions' legislation have been rendered in support of President Ford's position.

I hope the above information and enclosures will be helpful to you.

Sincerely,
HERMAN NICKERSON, JR.,
Administrator.

PROCEDURE FOR DIVISION OF ASSETS, LIABILITIES AND CAPITAL

This procedure is designed for the guidance of a Federal credit union in assisting a well-defined segment of its membership to establish a separate Federal credit union and to divide its assets, liabilities, shares, reserves, and undivided earnings with the new Federal credit union in an equitable and proportionate manner. This separately identifiable group must have a common bond of occupation or association or be a separately identifiable group within a well-defined neighborhood, community, or rural district and in all respects fall within the chartering policies of the National Credit Union Administration as outlined in its publication, Organizing a Federal Credit Union, NCUA 8007.

The National Credit Union Administration Rules and Regulations, NCUA 8006, Part 709—Division of Assets, Liabilities, and Capital, prescribe the basic conditions under which an existing Federal credit union may be divided into two Federal credit unions whereby the assets, liabilities, shares reserves, and undivided earnings of the existing credit union may be equitably and proportionately divided with the new Federal credit union.

All of the requirements of Part 709 of the Rules and Regulations are set forth in the following procedure. Additional details are included so that this procedure may serve as a complete step-by-step guide to the credit union officials in effecting the organization of the new credit union and the division of assets, liabilities, shares, reserves, and undivided earnings in an orderly manner. Any deviations should be cleared in advance with the appropriate regional director. Otherwise, the deviation might result in an improper procedure that would violate the rights of some members. In such instances, the Administrator may find it necessary to disapprove the proposition until the proper steps have been taken in conformance with this procedure.

For the convenience of all concerned, this procedure is subdivided into sections that parallel the subdivision of Part 709 of the Rules and Regulations.

If the credit union officials have any question regarding the procedure, they should contact the regional director for needed information or assistance.

Definition of Terms. Several abbreviated titles or terms will be used in this procedure. Unless otherwise indicated, the following definitions will apply:.

"Administration" means the National Credit Union Administration.

"Administrator" means the Administrator of the National Credit Union Administration.

"Regional director" means a Regional Director of the National Credit Union Administration.

"Existing credit union" means the Federal credit union which proposes to divide its membership, assets, liabilities, shares, reserves, and undivided earnings.

"New credit union" means the new Federal credit union which is to be established and is to take over an equitable and proportionate segment of the existing Federal credit union.

"Division" means the voluntary division of membership, assets, liabilities, shares, reserves, and undivided earnings.

"Committee" means the committee appointed by the board of directors to assist in organizing the new credit union and to subscribe to the organization certificate.

A. Approval by Board of Directors and Appointment of Committee.

When it is determined that a new credit union should be established by division of an existing credit union, the following actions should be taken by the board of directors:

1. Approve a proposition for division.

2. Appoint a committee of at least three members representative of the separate, identifiable group, to assist in the preparation and execution of a plan for division, and to subscribe to an Organization Certificate for the proposed new Federal credit union. Comoliance with the provisions of Part 701.1 of the National Credit Union Administration Rules and Regulations is requisite.

3. Promptly notify the regional director of the above actions.

B. Preparation of Plan for Division of Assets, Liabilities and Capital.

If the regional director has no objection to the proposed division, he will forward to the board of directors copies of this procedure and Organizing a Federal Credit Union, NCUA 8007. The board may then proceed with the preparation and adoption of a plan for the division.

1. Standard Plan for the Division.

The following is the standard plan for division of assets, liabilities and capital and is recommended for adoption by the board.

(a) Option to Transfer. Members of the group to be served by the new credit union will be given an option, to be exercised in writing on or before a given date (not less than 30 days nor more than 60 days after the date of the notice), of authorizing the transfer of their share and loan accounts to the new credit union.

(b) Date for Closing the Books and Effecting the Division. The board will set a date for the closing of the books and completing the transfer. This date must be no more than six months after the date set for members to exercise their option for transfer.

(c) Transfer of Shares and Loans. Share and loan acounts of members who will be within the field of membership of the new credit union will be transferred simultaneously to the new credit union provided the member authorizes such transfer by exercising his option prior to the date fixed in the plan, and confirms his share and loan balances in writing.

Any such member may withdraw any portion or all of his unencumbered shares at any time prior to the proposed transfer, except during the period when operations are temporarily suspended during the process of transfer.

(d) Allowance for Organization Expense.—The board of the existing credit union will fix the amount, if any, which will be allowed the new credit union for organization expense. This amount will be set aside as a debit to Miscellaneous General Expense and a credit to Accounts Payable, prior to closing the books at the time of the division.

(e) Division and Transfer of Undivided Earnings.—The books will be closed as of the agreed date of the transfer in order to determine the amount of the undivided earnings which will be available for division. All current operating expenses for which the existing credit union is responsible will be taken into consideration and recorded as debits to expense and credits to accounts payable prior to the closing of the books.

Undivided earnings will be transferred in proportion to the ratio of transferred shares to total shares at the time of the transfer. Undivided earnings transferred will be set up in undivided earnings on the books of the new credit union.

[If the division is made as of the end of a dividend period, any dividend authorized by the board will be credited to members' share accounts and debited to undivided earnings before computing the division of undivided earnings.]

(f) Division of Reserve and Transfer of Loans.—The existing credit union will charge off all loans determined to be uncollectible. Adequate reserves will be provided for other loans considered to be collection problems so as to fully cover that portion of such loans which is not covered by pledged shares. Additional reserves will be allocated to meet reserve requirements for all other delinquent loans, according to the formula prescribed in Part 702, NCUA Rules and Regulations.

The remaining reserves will be divided in the same manner as provided in the preceding subsection for division of undivided earnings.

If for any reason the above formula is inequitable, a special analysis should be made to determine a more equitable plan for division of reserves.

The reserves allocated to any delinquent or collection problem loans will be transferred to the new credit union with such loans. All reserves transferred will be set up in similar reserve accounts on the records of the new credit union.

(g) Entrance Fees.—Entrance fees will be waived by the new credit union for those members whose shares are transferred from the existing credit union.

(h) Transfer of Other Assets and Liabilities.—The board of the existing credit union should determine the basis on which investments and other assets should be offered to the new credit union. It is preferable that assets transferred be limited to loans and cash to the extent possible. Notes payable may be used as a means of equalizing assets with liabilities and capital.

2. Clearance of any Deviations from the Standard Plan.

Any deviations from the standard plan for the division should be cleared with the regional director.

C. Notice of Option to Transfer to Each Member of Group.

The board will give notice of option to transfer to each member of the group which is to organize the new credit union. The notice will be handed to the member or mailed to him at his last known address as it appears on the records of the credit union. The following forms should be used for this purpose: NCUA 4217, Notice of Option to Transfer; NCUA 4218, Plan for Division of Assets, Liabilities and Capital; and NCUA 4219, Authorization to Transfer Shares and Loans. The use of these forms will assist the board in meeting the requirements of Part 709.4 of the Rules and Regulations.

The new credit union will need to obtain a membership card for each transferring member. New joint share account agreement cards will also be needed for all joint accounts transferred. The membership cards may be distributed at the time the Notice of Option is given to each member.

D. Submittal of Plan to Administration.

If, by the date fixed in the plan for exercising the option to authorize transfer of accounts, a number of members sufficient to make the division reasonable and feasible have authorized the transfer, the board of directors should promptly submit to the regional director the information shown below. If the number of transfer authorizations received is too small to warrant proceeding with the division plan, the regional director should be informed after the expiration date set for exercising the option to transfer.

1. Plan for Division of Assets, Liabilities and Capital, Form NCUA 4218. Additional pertinent information should be included in the letter transmitting the plan for division.

2. A current financial and statistical report.

3. A statement as to the total number of members of the existing credit union who are in the group to be served by the new credit union and the number of such members who have signed authorizations to transfer their accounts. Form NCUA 4220, Certification of Acceptance of Options to Transfer Shares and Loans, should be used for this purpose.

4. A schedule showing the share and loan balances of all members who authorized the transfer of their accounts to the new credit union.

E. Investigation and Charter and Insurance Application.

An examiner will make the necessary investigation of the proposed new credit union. If all requirements are met and the plan appears acceptable, the examiner will assist the committee in making application for a Federal credit union charter and insurance of member accounts. The requirements for organizing a Federal credit union are set forth in Section VI, of Organizing a Federal Credit Union, NCUA 8007. The examiner will assist in holding the charter-organization meeting and in completing the necessary forms.

The regional director will review the proposal and forward it to the Administrator for action.

F. Approval of Plan by Administrator.

If the Administrator finds that the plan complies with Part 709 of the Rules and Regulations, he will approve the plan and authorize the board of directors of the existing credit union to present the proposal to the members for approval.

G. Approval of Plan by Members of the Existing Credit Union.

If the Administrator approves the plan, the board of directors will present the plan to the numbers of the existing credit union for their approval. The Administrator will approve the applications for a Federal credit union charter and insurance of member accounts upon receiving evidence that a majority of the members who voted on the proposition approved the division.

1. Meeting of the Members of the Existing Credit Union.

The plan must be voted on at a meeting of the members of the existing credit union within six months after the expiration date of the option to transfer to the new credit union. If an annual meeting is to be held at a suitable time which will assure the consummation of the plan within the six-month period, the membership vote may be obtained at that meeting, provided mention of this item of business is included in the notice to the membership. If the plan is not presented at an annual meeting, a special meeting of the members, in accordance with the bylaws, will be called for that purpose.

2. Notice of the Meeting.

The notice of the meeting, whether annual or special, shall:

(a) State that one of the purposes of the meeting is to vote on the proposed plan for division of assets, liabilities and capital;

(b) Be handed to each member in person, or mailed to each member at his address as it appears on the records of the credit union;

(c) Include information similar to that illustrated on the Notice of Special Meeting of the Members, Form NCUA 4221; and

(d) Be accompanied by form NCUA 4218, Plan for Division of Assets, Liabilities and Capital.

3. Vote Required for Approval.

In order for the plan to be approved and acted upon, it must receive the affirmative vote of a majority of the members present and voting at the meeting.

H. Notification of Vote to Regional Director.

Two copies of Form NCUA 4222, Certification of Membership Approval of Division of Assets, Liabilities and Capital, will be completed by the president and secretary of the existing credit union and submitted to the regional director. Attached to the Certification will be a copy of the notice of the meeting sent to the members.

I. Issuance of Organization Certificate to the New Federal Credit Union.

If the plan was approved by the members of the existing credit union, the Administrator will issue the charter and certificate of insurance to the new Federal credit union. The share accounts of the new credit union will be insured as of the date of the charter. If the division is effected prior to the end of the calendar year, no premium will be assessed, since a premium for the shares transferred was paid in the previous January by the existing credit union. The new credit union will pay its first premium in January of the following year.

At this time the plan may be implemented and the division may take place.

J. Completion of the Division of Assets, Liabilities and Capital.

The division will be completed as of the date specified in the plan.

1. Examiner Assistance. An examiner will normally supervise the division at the time it is recorded on the records of the two credit unions. The regional director will inform the credit unions if the division is to be effected without the assistance of an examiner.

2. Examination. If an examination is to be made, it normally will be made of the existing credit union as of the effective date of the division. The standard examination fee will be paid by the existing credit union. The asset portion of the fee will be based on assets after the division has been effected.

3. Closing the Records. The closing entries will be made in the same manner as at the end of each accountng period. The division will be in accordance with the plan approved by the Administrator.

4. Temporary Suspension of Operations. Operations of the existing credit union may be suspended briefly, if necessary, for the purpose of facilitating the division. This may be immediately before or after the effective date of the division.

5. List of Members. A list will be prepared of all members who have authorized the transfer of their share and loan accounts to the new credit union. The list will contain a statement of individual account balances and will be accompanied by copies of the transfer authorizations.

6. Entrance Fees. Entrance fees of members whose shares are transferred will be waived by the board of directors of the new credit union.

7. Members' Records. The individual share and loan ledgers, membership cards, and other related records of the members transferring to the new credit union will be retained by the existing credit union. Copies of these records may be provided to the new credit union.

8. Dividends in New Credit Union. Information covering the share dollars from the last dividend date to the effective date of the transfer should be furnished the new credit union for each account transferred. This information will not be needed if the close of the last dividend period and the transfer have the same effective date. In that case, the dividend authorized by the board will be credited to members' share accounts and debited to undivided earnings, prior to the transfer.

The first dividend paid by the new credit union will be for a full, normal dividend period, even though the transfer may have occurred some time since the beginning of that dividend period.

9. Failure to Authorize Transfer. A member of the existing credit union who fails to authorize transfer of his account to the new credit union before the effective date of the transfer will not be permitted to transfer his account. He may apply for membership in the new credit union in accordance with its bylaws.

10. Receipting for Assets Transferred. The treasurer of the new credit union will give a receipt to the treasurer of the existing credit union for all assets transferred.

K. Notification of Completion of Division.

Promptly following completion of the division, the regional director will be notified. The board of directors of the existing credit union will submit the following in duplicate:

1. Certification of Division of Assets, Liabilities and Capital, NCUA 4223.

2. Financial and statistical report as of the effective date of the division, prior to the division.

3. Financial and statistical report as of the effective date of the division, after the division is completed.

The board of directors of the new credit union will submit the following in duplicate:

1. Certification of Completion of Division of Assets, Liabilities and Capital, NCUA 4223.

2. Financial and statistical report as of the effective date of the division, reflecting the balances of assets, liabilities and capital transferred.

The certification form, NCUA 4223, will be signed by the officers of both credit unions.

L. Effect of the Transfer.

Upon completion of the division, the new Federal credit union will be vested with all assets received and will be responsible for all liabilities and capital assumed.

M. First Examination of New Credit Union.

For its first examination, the new credit union will pay the regular examination fee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 684) was agreed to.

UP AMENDMENT NO. 685

(Purpose: To modify the standard to be applied by the Comptroller in determining whether to permit banks to expend funds for real estate development)

Mr. GARN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 685.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, beginning with "Upon" on line 14, strike out all through "subject" on line 16 and insert in lieu thereof the following: "Upon clearly extenuating circumstances, subject".

Mr. GARN. Mr. President, I am proposing an amendment to section 401(a) of title IV of the bill, which, in its present form, appears to impose a new and unnecessary paperwork burden on both banks and the Comptroller's Office by requiring banks to make a "showing of clearly extenuating circumstances and highly probable detriment to the bank" whenever a bank needs to spend some money on a piece of foreclosed or repossessed real estate in order to put it in condition for sale.

This requirement is vague and subjective. It sets up a most cumbersome regulatory process which, in all probability, would prove to be extremely difficult to manage, time consuming, and expensive.

This type of situation is now handled very well under regulations of the Comptroller. Those regulations were newly revised and updated earlier this year, effective August 8, 1979, after an 18-month process during which the regulations were issued for comment. The result is a realistic guideline that allows the banks to solve such problems efficiently under standards laid down by the Comptroller, but without going through the process of filing an application and proving their case for every single situation.

These newly updated regulations clearly make the present language in this bill unnecessary and burdensome. So I am proposing an amendment that would delete the unnecessarily vague language in the bill and retain the language which makes it clear that banks may improve repossessed real estate subject to limitations and conditions as the Comptroller of the Currency prescribes.

Let me remind my colleagues that section 408 of this bill before us gives the Comptroller rulemaking authority to carry out the responsibilities of his office, so should any problems arise in this area he has ample authority to deal with them. The language of my amendment was taken from the original draft of these amendments as submitted to the Senate by the Comptroller and introduced by Senator PROXMIRE as S. 1334.

Mr. PROXMIRE. Mr. President, the Senator's amendment leaves in the statute a standard of clearly extenuating circumstances under regulations set by the Comptroller without burdensome paperwork. I commend the Senator for cutting out needless paperwork in bank regulation. Heaven knows, there is enough of it—too much of it, by far—and this is a useful amendment that could save the banks of this country millions of dollars. I congratulate the Senator on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 686

(Purpose: To clarify the authority of the Federal Home Loan Bank Board with respect to real estate loans)

Mr. PROXMIRE. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 686.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 16, after "permitted" insert ", to such extent and subject to such rules and regulations as the Board may prescribe from time to time,".

Mr. PROXMIRE. Mr. President, this is a technical amendment to remove possible ambiguity about the authority of the Federal Home Loan Bank Board to issue regulations on residential real estate lending by Federal savings and loans. As part of a package to provide added flexibility to Federal savings and loans in order to increase their ability to compete given the phaseout of regulation Q, the committee adopted an amendment offered by the distinguished Senator from Utah to authorize to the same extent as national banks pursuant to section 24 of the Federal Reserve Act. The committee report makes clear the intent of the committee that these new powers would be subject to regulations of the Bank Board. However, the statutory language could be interpreted as raising

a question as to the Board's authority. The technical amendment would remove this ambiguity.

Mr. GARN. Mr. President, I am willing to accept this amendment.

Once again, I think the report adequately handles the problem, but I have no objection to putting it in statutory language.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 687

(Purpose: To clarify the authority of FNMA to purchase secured home improvement loans)

Mr. PROXMIRE. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 687.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, between lines 20 and 21, insert the following:

FNMA HOME IMPROVEMENT AUTHORITY

SEC. . Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(4) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for improvements to properties as to which the corporation may purchase a mortgage. To be eligible for purchase, any such loan (other than one described in paragraph (3)) not insured under title I of the National Housing Act shall be secured by a lien against the property to be improved. The maximum principal obligation of loans purchased pursuant to this paragraph shall not exceed the dollar limits prescribed by the Federal Home Loan Bank Board with respect to similar types of loans made by Federal savings and loan associations."

Mr. PROXMIRE. Mr. President, this amendment would clarify the authority of Fannie Mae to purchase secured home improvement loans. Last year, in section 1702 of the Financial Institutions Regulatory and Interest Rate Control Act, the Congress explicitly authorized Freddy Mac to purchase secured home improvement loans. At that time, Fannie Mae's Charter Act was not similarly amended because it was assumed that Fannie Mae's general authority under its Charter Act already encompassed such authority. However, also last year, in section 246 of the National Energy Conservation Policy Act, Fannie Mae's Charter Act was amended to give it explicit authority to purchase energy conserving improvement loans. In enacting this provision, it was certainly not the intent of Congress to remove existing authority of Fannie Mae to purchase secured home improvement loans. However, the enactment of an explicit authority for energy conserving home improvement loans in the absence of a similar explicit authority for other kinds of home improvement loans has raised a question regarding the extent of Fannie Mae's authority, under current law, to purchase home improvement loans. This amendment would remove any ambiguity by explicitly giving Fannie Mae authority comparable to the authority granted to Freddy Mac last year.

Mr. GARN. Mr. President, I support this amendment to the Fannie Mae Charter Act. As Senator PROXMIRE has noted, it has been understood that Fannie Mae is presently authorized to purchase home improvement loans under the general provisions of its charter act. However, some misunderstanding on this authority arose when Congress explicitly provided Freddy Mac with the authority to purchase secured home improvement loans last year. The legislative silence with respect to any similar authority of Fannie Mae opened to question the existence and extent of Fannie Mae's authority with respect to home improvement loans. Therefore, the purpose of this amendment is to resolve any misunderstandings and make it clear that Fannie Mae has the authority, comparable to that of Freddy Mac, to buy home improvement loans.

I think this is a good clarification, and I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I wish to engage in a colloquy with my chairman on the issue of money market certificates so that we may have a record to indicate what the intent of Congress is.

When the committee marked up S. 1347, I supported the chairman's amendment to lower the denomination of money market certificates from $10,000 to $1,000. This is now section 107(e). I share the chairman's concern for the so-called "small saver" and feel we must end the discrimination faced by those who do not have the resources for higher yield financial instruments.

In the weeks since our markup, I have spoken with a number of representatives of thrift institutions who fear dire consequences from too precipitious a drop in the MMC minimum. The specter of higher mortgage interest rates, lack of mortgage credit, and the demise of a number of thrift institutions has been raised.

It was my understanding when we passed this amendment that we provided safeguards that would prevent the serious dislocations feared by the thrift industry. I wish the chairman's assurance that the committee's intent and the Senate's intent when we pass this bill is that lowering the minimum will be postponed if the viability of thrift institutions is threatened. Furthermore, the language in the bill indicates the minimum will be lowered within 2 years to "not more than" $1,000. It may be that institutions will not be able to go so far so fast—in effect phasing out regulation Q at a faster pace than the 10 years provided in the bill.

I wonder if the chairman could respond.

Mr. PROXMIRE. Mr. President, may I say to my friend from Massachusetts that I am glad he raises this issue. I think it is one of the most significant and useful parts of the bill.

The difficulty is that while we phase regulation Q out over a period of 10 years, that is, the savers, instead of getting the 5.25 percent or 5.5 percent that they are getting now, will gradually get more each year, maybe a half-percent more as the years go by each year. It is not very quick and it is not very satisfactory.

As one witness said to our committee, "In 10 years I will be dead."

The older people just are not going to get much benefit out of this.

So what we do is we provide, as the Senator knows, that the money market certificate which is now only available if you have 10,000 bucks in cash, will be available for the small saver who has $1,000 or $2,000 or $4,000.

The overwhelming majority of the American people do not have $10,000 in cash and a far larger proportion have between $1,000 and $10,000 and, therefore, could invest and save their money.

This provision is anti-inflationary at the time we need it. We may not have inflation 10 years from now. We certainly have it now, and it means that people will be encouraged to save their money because they can get that high interest rate which they cannot get at the present time unless they happen to have $10,000 and, heaven knows, it is just because the people with low incomes and small amounts of wealth, who need this far more than people with higher incomes and higher amounts of wealth, will be accommodated.

My response to my good friend is that both section 107(e) of H.R. 4986 and the committee report clearly state that the regulator may postpone lowering the minimum MMC if certain conditions make a reduction not feasible.

The Senator from Massachusetts raises a very good point because it is one thing to say we like to see this go up to $10,000; it is something else to see the serious consequences this can have on savings and loan associations as people withdraw their money and put it into other instruments.

The language in the bill permits postponement if the regulator "determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions." The committee report states "the committee is mindful of the potential impact lower minimum denominations could have on the earnings of depository institutions. The regulators may find it to be in the best interest of the economy and the viability of thrift

institutions to foster lengthened deposit maturities at depository institutions. The regulators retain the power to phase out the 6-month market certificate altogether and to provide for longer term classes of deposits paying market rates in order to provide more stable sources of funds for thrift institutions." The regulators now have authority to lower the denomination of money market certificates. This legislation tries to prod them to end unconscionable discrimination against small savers by requiring them to lower the minimum denomination within 2 years unless specific findings are made which show good reasons for postponing the reduction and they come to Congress and specify what their findings are.

Mr. TSONGAS. I thank the chairman for the response.

I think the colloquy should assure those who believe we are throwing out the baby with the bathwater that what we are looking for is a common sense approach to the system.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. TSONGAS. I yield to the Senator from Kentucky.

Mr. FORD. Maybe all three of us will engage in this colloquy.

How much would lowering the money market certificates from $10,000 to $1,000 increase the interest rates that would have to be charged by the institutions based on the increased purchase of money market certificates? Do not tell me it will not raise it some now because it has to raise it.

Mr. PROXMIRE. It would raise it. Certainly it would raise it to the extent that savers would withdraw their money in some cases and put their money into the higher yielding certificates, and there would be a tendency, of course, on the part of the S. & L. to try and compete. They would have to do it. They would have to try to compete by offering a higher rate of interest.

They cannot do that unless we pass the phasing out of regulation Q. At the present time they are not allowed, under the law, to pay more than 5½ percent if they are a savings and loan association, or 5¼ percent if they are a bank. We phase that out and we do not permit this purchase to be made for 2 years so that there will be some increase in the interest rates that the S. & L.'s will be permitted to pay and that also will be on the basis of everything. We hope and expect a falling perhaps in the rate of interest that will be paid at the present time.

Mr. FORD. Mr. President, the Senator started out with the first part of his answer saying it would increase the mortgage interest rates, and then he said at the end of his statement he hopes it would phase out. If they are going to money market certificates, they are paying a higher rate of interest.

Mr. PROXMIRE. Yes. I am glad the Senator makes that point because what I said was not as clear at is should have been. There are many, many factors, as the Senator knows, that affect mortgage rates. One of the factors is how much the savings and loan association, has to pay for its money. But that is not the only one. It probably in most cases is not the decisive factor.

The decisive factor is what happens to interest rates generally and what the opportunity cost of money is.

Of course, as the Senator knows, when he and I were young interest rates were 4 percent on mortgages.

Mr. FORD. Speak for yourself. I still am young.

Mr. PROXMIRE. All right. When he and I were younger.

Mr. FORD. I will accept that.

Mr. PROXMIRE. Mortgage interest rates at one time were 4 percent. It is hard to believe that. I think even the younger Members, like the Senator from North Carolina and the Senator from Massachusetts, can remember when they were 6 percent. Now they have gone up, as the Senator knows, to 10 and 11 percent. Why? Not because the S. & L.'s are paying more for the money, but they are going up primarily because of inflation and because any lender is going to demand at least the inflation rate before he lends his money. Otherwise, he is not going to lend the money but put it into commodities that will rise with the inflation rate.

So the main cause right now causing interest rates to rise is the level of inflation, and the level is increasing.

Mr. FORD. But the increased sale of money market certificates, in the Senator's opinion, will increase the interest rates on the moneys that must be loaned by S. & L.'s.

Mr. TSONGAS. Mr. President, will the Senator yield on that point?

Mr. PROXMIRE. I am happy to yield.

Mr. FORD. I had just asked the Senator to yield.

Mr. TSONGAS. We are both through yielding. Let me then proceed.

The Senator will be interested to know that the reason for the colloquy today was the concern the Senator raises, as well as the concern of people who take their money out of their savings accounts and put it into these higher yield instruments and then savings banks do not have the money to lend out. Part of the rationale for the colloquy was to say that in implementing this provision, it be done in such a way that you take one step at a time and understand the consequences of what you are doing before you proceed to the next step.

This was the reason the colloquy took place. I think everyone on the committee was in support of that approach rather than dropping, for example, from $10,000 to $1,000 next week, and then trying to figure out what is going to happen to the system.

Mr. FORD. The Senator is just going to phase in higher interest rates.

Mr. TSONGAS. I think it makes sense to start the process. You can judge the impact as time goes on. I think there is a very serious argument here of equity. Why should someone who can plunk down $10,000 get one rate of return and one who cannot get another rate of return? The average person does not have that kind of money and he does not have access to the same rate. I think that is a larger question that can hopefully be solved without wrecking the system.

Mr. FORD. There is the other end of that spectrum, too. The younger people trying to get along, trying to raise a family and get started, those younger people do not have $1,000 to buy money market certificates with. They want to buy a home, and what I see us doing here is a phased-in increased interest rate which is now at 13¼ to 13¾, and it is almost impossible for young people to borrow money to buy a home with, yet we are doing that very thing.

Mr. PROXMIRE, Mr. President, will the Senator yield?

Mr. FORD. I will yield in a moment.

Mr. TSONGAS. Let me just make one point to my friend from Kentucky. The way the situation operates today, you have people going in and getting a mortgage on their home that is based in fact on the reality that there are people getting 5 or 5¼ percent on their money in the bank. You have, in essence, the small saver subsidizing the mortgage rate now being paid out by the borrower, so there are inequities on both sides.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I think the problem is this: In September the savings and loans experienced an outflow of $800 million, and savings banks $1 billion. In other words, they are losing their funds now because interest rates are so high. Unless we have a situation where the S. & L.'s find some way of retaining this money by phasing out regulation Q and by making these certificates available, they just are not going to have any funds to lend.

Mr. FORD. Let me just say that what the Senator is trying to do with this reform is that he is trying to get the banks into savings and loans and trying to get the savings and loans into banks, and doing the same thing to both of them.

We have a pretty good system in my State, and we get along very well. We have banks doing what savings and loans do, and we have savings and loans doing a pretty good job lending money. Then you have credit unions doing a pretty good job.

What we are doing with this reform is to take and merge them. You are trying to get NOW accounts, and the only people who are going to get hurt with the NOW accounts are those who have no money. They are going to absolutely be hurt. If you sit down and analyze it, those who do not have any money, they have small deposits, are going to get hurt through the NOW accounts because they are having to pay through their noses, and the fellow who draws interest, that money is going to go into a revolving fund.

You heard American Express advertise on radio and TV "Keep one check in your pocket for an emergency." Do you know why? So they can keep it in and draw interest on it. You will not draw your money out. You are going to have a credit card, and all your bills go into one account, and the fellow is going to write one check, if he has enough money. That is what you are driving at in this monetary institutions reform, you

are driving them to that, and you are making a mistake.

Mr. PROXMIRE. May I say to the Senator, before I yield to the Senator from Utah—and this will be my last interjection—the President's interagency task force had this to say about this regulation in recommending this legislation. It said:

> Regulation Q does not prevent distintermediation and the consequent curtailment of funds for housing finance.

In other words, it is not working, it just is not working. The Senator says it is, but the experience is that it is not.

Mr. FORD. In my State we just want to be left alone.

Mr. PROXMIRE. Regulation Q is unfair to small savers which we have been trying to establish, and there are small savers in Kentucky, North Carolina, Utah, Massachusetts, and elsewhere.

Regulation Q is responsible for inefficiencies in the marketplace.

For all these reasons we are trying to end this kind of regulation. We are trying to end this kind of bureaucracy, this kind of overregulation, this kind of determination, not by the marketplace but regulation by bureaucratic fiat. It just is not working well.

Mr. FORD. Well, will not this override a constitutional provision in the various States? I ask the Senator from Wisconsin will this override a constitutional provision in the various States as it relates to interest you can pay and the differential you have to pay, and that sort of thing?

Mr. PROXMIRE. The provision in the bill at the present time would override the constitutional provision in Arkansas, California, and Texas with respect to business and agricultural loans over $25,000 only.

The Senator from Mississippi is offering an amendment which would extend that to business loans and agricultural loans of over $25,000 all across the Nation, and I support that amendment. I think it makes sense. I think if we do not provide that kind of a situation you are going to have an impossible situation in the States, like the kind you have in Arkansas. I hope the Senator from Kentucky has an opportunity to sit down and talk to the Senators from Arkansas, Senators BUMPERS and PRYOR, and see the trouble that they have.

Mr. FORD. We are going to preempt the right of the States; and why will you not just exclude some States instead of overriding and preempting the States by legislation?

Mr. PROXMIRE. May I say to the Senator from Kentucky that if he wants to change their minds on this and reinstitute the usury statute they are free to do it, and we say in the legislation we invite them to do so.

Mr. FORD. The problem is you say that it is very easy, invite them to do it. What you are doing is changing the whole monetary system. You are preempting all the things we are doing with NOW accounts, money market certificates, you just name it, and you are changing the law. I regret that I have to take this position, but what you are doing is creating a device here that guarantees increased interest rates on money.

Mr. GARN. Mr. President, will the Senator yield?

Mr. FORD. Yes.

Mr. GARN. I would like to support the Senator from Kentucky on one of the points he made, and that is this matter of reducing the money market certificates from $10,000 to $1,000.

The Senator from Wisconsin's original amendment was to do that. Then it was modified in the Banking Committee, as outlined by the Senator from Massachusetts. But it certainly was not a unanimous agreement of the committee. I did not agree even with that procedure because I think the Senator from Kentucky is absolutely right. In the name of the small saver we get these populist things going on, and that is the big thing in the Banking Committee lately, let us do something for the small saver as long as it looks like it is helping the small saver, without regard to the costs and how that will be translated back, as the Senator so ably stated, in higher interest rates.

Last spring in testimony we had the savings banks testify that 70 percent of their money market certificates were coming out of their other accounts, so it was just transferring money from one pocket to another at a much higher cost of that money, and that has to be translated back into higher interest rates for everyone.

The Senator from Wisconsin just talked about the decrease in September of something over $1 billion or $1.2 billion in savings at savings and loan associations. I think it is rather interesting that money market mutual funds increased by $1.7 billion.

I think it is natural to assume that most of the flow out of savings institutions went to money market funds, so I think I know what the study is going to show. I think we are kidding ourselves, because it is just transferring money from one pocket to another in the name of the small savers, and it will raise the overall average level of interest rates. But I realize how politically popular it is to stand up and yell, "I'm trying to help the small saver." I do not really believe that it will.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I thank the Chair. The chairman of the committee——

Mr. GARN. He had to leave the floor for a few moments.

Mr. TSONGAS. I would like to raise a question of procedure. I have an amendment on the reserve requirements for NOW accounts that I think are inequitable to my State and New England where NOW accounts exist.

The problem I have is the amendment by Senator MORGAN would delete the section on reserves, so there is no point in my proceeding until that issue is resolved. I would ask the chairman what his preference would be at this point.

Mr. GARN. Mr. President, if the Senator will yield, I suggest that we have a quorum call while we get the chairman back because I do know he has some interest and he wishes to discuss this amendment with the Senator. At the present time there is no amendment before the Senate, only the Senator's colloquy—here Senator PROXMIRE is.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. If I could have the attention of the chairman, as the chairman knows, I have an amendment I would like to introduce on reserve requirements on NOW accounts. As I said earlier, I feel they have an undue impact on my State.

However, Senator MORGAN's amendment on NOW accounts would delete the entire section on reserve requirements, and it seems rather absurd to me to proceed with mine, and if I should win, it would still be subject to that subsequent amendment. I wonder whether the chairman can give me some guidance as to his preference.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I agree with the Senator that it would be wiser for him to defer bringing up that amendment, which he has discussed with me, on NOW accounts until after the Senator from North Carolina has offered his amendment and we determine what the result of that is.

Mr. CRANSTON. Mr. President, today the news is focused on the economy. We are in a period of extreme and rapid change. The challenge of the 1980's has begun. We are faced with OPEC price increases totaling more than 60 percent in this year with no end in sight. The Federal Reserve has initiated a strong initiative against the increased velocity of inflation with extraordinarily high interest rates. As a result, we can anticipate higher unemployment and recession. These ominous signs are indicators that the decade of the 1980's promises an era different in many respects from its predecessors.

Of serious concern here today will be the evolving competitive environment in which financial institutions will operate as we enter the closing decade of the 20th century.

Savings and loan associations exist to channel household savings into mortgages. Mutual savings banks are also major suppliers of housing credit. These institutions have been required by law and influenced by tax incentives to invest over the years primarily in long-term fixed-rate mortgages while their source of funds to finance these mortgages have consisted primarily of passbook deposits having considerably shorter maturities.

Because these institutions invest in long-term, fixed-rate mortgages, they are limited in their ability to pay competitive interest rates for savings when market interest rates rise. In 1966, interest rates rose sharply and sophisticated depositors fled many institutions to others who were able to pay higher rates. To prevent the failure of savings institutions and disruption of the mortgage and housing markets, deposit rate ceilings covering commercial banks were temporarily extended to thrift institutions. These ceilings have been extended 11 times since 1966.

The financial economic environment has changed substantially since these

limitations were first imposed on thrift institutions. The disintermediation that occurred in 1966 and again in 1969, that so adversely affected the savings and loan industry brought forth many studies and proposals for legislative and regulatory changes in the framework governing our financial system. We are all familiar with the Irwin Friends study of the S. & L. Industry in 1969, the study of the Commission on Money and Credit, followed by the Hunt Commission, the fine discussion principles in 1975, the U.S. Leagues study and in 1979, and the Inter-Agency Coordinating Committee Task Force on regulation Q. These studies sought to address the problems caused when market interest rates rose above interest ceilings on deposits in cyclical periods of inflation.

Historically, this country has never experienced long periods of sustained inflation and high interest rates as we are now and consumers overall received a comparably fair return on their passbook savings accounts during the cyclical ups and downs on interest rates during past years.

However, these studies show that at times like these, regulation Q interest ceilings are most unfair to the small saver, the one who has few alternative deposit sources or who lacks the knowledge to take advantage of higher yielding investment alternatives. It is also well known that regulation Q is interfering with the efficient functioning of our financial system and is ineffective in maintaining deposit flows to thrifts when Q ceilings are substantially below market interest rates. Inflation and high interest rates are spurning intense competition in the financial marketplace from a widening range of near banks; credit unions and finance companies, major retailers such as Sears, the aggressive money market funds, public utilities with their consumer denominated debt offerings, municipalities with their mortgage-backed securities, and so on, all diverting funds from housing.

Today we are debating H.R. 4986, a major financial reform bill, that attempts to address some of the issues that will be facing the thrift industry and consumers in the financial marketplace of the future. The bill, while highly controversial contains many new beneficial powers for thrifts that we hope will permit them to innovate and compete without impairing the potential for achievement of national housing policy objectives. The new powers include increased consumer lending, NOW accounts, trust powers, corporate paper power, freeing up of restrictions on real estate lending, in addition to an exemption from usury ceilings on mortgages.

I support the concept that interest rate ceilings must rise as fast as possible to market levels to satisfy consumer needs and to give financial institutions the ability to compete for deposits with unregulated financial competitors. However, it seems to me that it is unreasonable for the Congress to mandate a 50-basis-point-a-year increase in interest on deposit accounts over a 10-year period in view of the fact that average thrift industry earnings have never been over 20-basis-point-a-year according to the testimony presented during the hearings on this bill. Additionally, there is uncertainty as to whether the new powers in this bill will produce enough profits to permit thrifts to pay these mandated increased deposit costs. Nor does this bill specifically address the issue of the time and cost it will require for the thrift industry to market these new services effectively to generate a substantial volume of activity to produce profit.

One other item in the bill troubled me in the committee markup. The plan for phase up and out of regulation Q ceilings would have had in effect phased out the differential that permit thrifts to pay a quarter percent more in interest on passbook accounts than commercial banks when interest ceilings reach market levels. The differential has been the lifeblood of the thrift industry in terms of their ability to compete with commercial banks for deposits. My amendment to the bill to require that the regulators report to Congress on the effects of the removal of the differential on the viability of the thrift and housing industry before it is removed was adopted by the committee. We must have some assurance that the new powers given to thrifts in this bill are enough to make them competitive before we made a decision far into the future to abolish all regulation Q authority.

I restate that I am in favor of firm instructions to the regulators to raise regulation Q-imposed ceilings as fast as possible to market levels perhaps over a shorter period of time than this bill without telling the regulators that it must be raised by a specific amount. The regulators now have this authority but they have never received a clear signal from Congress to use it. I do not intend to debate this issue on the floor. However, I feel most certain that it can be resolved in the committee conference with the House on this bill.

While I may disagree with a few aspects of the bill, it is clear that the thrift industry must be given the ability to respond to change in this economic environment and to diversify their services with less legislative and regulatory restraint. I hope that the Congress can reach a consensus on how this can be done in an orderly manner. Certainly we all hoped that more and better housing could continue to be provided under the formula that had worked so well in the past but the marketplace is telling us that it cannot.

Let me say a few words about NOW accounts since several of my colleagues, Senators MORGAN and HARRY F. BYRD, JR. in a discussion on the floor of the Senate the other day referred to my amendment inaccurately as exempting the whole State of California from the NOW account provision of this bill. My amendment provides that federally chartered savings and loans in California cannot have NOW accounts until State chartered savings and loans are authorized by the State legislature to have them. I was faced with an unusual situation in my State where the banks and credit unions wanted NOW accounts and an overwhelming majority of savings and loan associations did not want them.

In introducing my amendment, I am satisfied that the California consumer will have an opportunity to have a NOW account from a bank or credit union if he or she so chooses even though the thrifts cannot offer them. I am aware that there is a great deal of controversy and disagreement over NOW accounts. Some argue that they will be very expensive to the institutions who offer them and to the consumers who use them because of high minimum balances that have been required by some institutions and the cost of operating the accounts.

However, in New England in spite of these alleged negatives, these accounts have been popular with consumers and most all of the financial institutions offer them. One fact is clear in this controversy over NOW accounts, consumer depositors are growing less security minded in their savings habits and are seeking high interest rate levels along with convenient access to their funds. Nonbanks competition from the unregulated financial market is growing at an alarming rate and responding to consumer demand with a variety of accessible money market funds. Given this environment, the issue surrounding NOW accounts is no longer whether giving NOW accounts to thrifts will make them more like banks, but whether banks and thrifts will have a tool to keep their present deposit base in the face of non-regulated competition in addition to being able to attract new deposit funds. I believe that the thrifts in California will eventually come around to this posture on NOW accounts as they continue to ponder this issue.

The decade of the 1980's will not be a time for the faint hearted or dilettantes in economic theories. The times will require hard work, level heads and the ability to persist through diversity. Together we must have a plan to achieve our goal of a healthy financial industry that can meet the needs of business and the consumers of our country. I see this bill as the beginning of that plan. It is not perfect, it is not a be all or end all, but a beginning. Mr. President, I will have several amendments to this bill during the course of this debate.

UP AMENDMENT NO. 688

(Purpose: To authorize Federal savings and loan associations to issue credit cards)

Mr. CRANSTON. Mr. President, I have four amendments which I understand there is no objection. I send to the desk the first of those amendments, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 688.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 1, strike out "(3)" and insert in lieu thereof "(4)".

On page 26, between lines 4 and 5, insert the following:

"(5) Without regard to any other provision of this section, an association is authorized, subject to such regulations as the Board may prescribe, to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.".

Mr. CRANSTON. Mr. President, this first amendment would explicitly authorize Federal thrift associations to engage in credit card operations which should provide them with additional income at a time when their earnings are under pressure from the need to pay increased interest on deposits.

Although Federal thrift associations can engage in credit card operations now, the procedure is cumbersome and involves the use of share draft loans. Explicit authority to engage in credit card operations is consistent with the authority to enter into consumer loans.

That is the purpose of the amendment.

Mr. PROXMIRE. Mr. President, I commend the Senator from California for this initiative. I think it is recognized that all kinds of institutions issue credit cards, and I cannot think of an institution that would be better equipped to do this responsibly, expertly, and appropriately than a thrift association.

I think many people will be surprised to learn that they do not have that power now. The Senator from California, I think, is performing a very helpful service.

I understand, however, that this also includes overdrafts.

Mr. CRANSTON. No, I am offering four amendments. That will be covered in another amendment.

Mr. PROXMIRE. All right. Well, then, before we get to overdrafts, this amendment, together with the subsequent amendment, it seems to me, should be contingent on the phaseout of regulation Q.

It is clear that if regulation Q is phased out, there must be some way in which the savings and loan associations can remain viable and can compete, and if we do not give them certain trust powers and some limited power to make consumer loans, and so forth, they will be in a weaker competitive position.

Mr. CRANSTON. I agree.

Mr. PROXMIRE. So I would hope that the Senator would make that contingent.

Mr. CRANSTON. I agree, in regard to the first two amendments.

Mr. PROXMIRE. Very good.

Mr. GARN. Mr. President, I am willing to accept this amendment on behalf of the minority with the same stipulation the chairman of the committee mentioned: I do think this needs to be linked to the phaseout of regulation Q.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

Mr. MORGAN. Mr. President, I have not heard of this amendment before today. I wonder if the Senator will yield and tell me whether this amendment was considered in the committee.

Mr. CRANSTON. No, it was not. The idea of it was developed after the hearings.

Mr. MORGAN. I am not sure I understand how a credit card system operates with a savings and loan association. I noticed in the Senator's statement he said that some of them do it now.

Mr. CRANSTON. We have given thrift institutions the power to make consumer loans in the legislation this would be used for that purpose.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I believe I can clarify that. On page 25, lines 1 to 4 of the bill, is the following statement:

CONSUMER LOANS AND CERTAIN SECURITIES.—An association may make unsecured loans for personal, family, or household purposes. . .

And so forth. I think that language, if liberally construed, might conceivably permit credit cards, and I think what the Senator from California is doing that is so useful is making it explicit that that is what we are doing, instead of just having the general notion, perhaps, that they could do it.

(Mr. PRYOR assumed the chair.)

Mr. MORGAN. Did I correctly understand the Senator, in his prepared statement, to say that they can do it now, but this would make it less cumbersome?

Mr. CRANSTON. They can do it now. Some do it now; they can engage in it now. What is cumbersome now is the use of share draft loans, and so on.

Mr. MORGAN. What confuses me, it seems to me that I have heard, through some advertisements, perhaps, here in the Washington area, that some Federal savings and loan institutions here have been doing it, and I just questioned it in my own mind. I wonder if we can get at the bottom of whether they do it now, and if they do it now, whether it is legal and necessary.

Mr. CRANSTON. Well, they do it now. It is legal. This clarifies the procedure and will make it less cumbersome and less costly.

Mr. PROXMIRE. The Senator from California is correct. They do do it now, as he has stated. The only difference is, they can do it only with a person who has an existing account in the thrift. This would permit them to do it with new customers who came in and wanted a credit card. Now they can only do it with persons who have established their credit.

Mr. MORGAN. Well, what is confusing me, and I would like to clear it up, where they give out a credit card, if they cannot do it with consumer loans, can they go down to a local store and say, "Charge this to my savings and loan?"

Mr. CRANSTON. They do that now. At the present time they have this power, in conjunction with a passbook account only, which would not be necessary under the new bill.

Mr. MORGAN. How do they do it now?

Mr. CRANSTON. You have to put up your savings account as a reserve to back up the use of the credit card.

Mr. MORGAN. Where do they use the credit card, is what I cannot understand. I do not understand how local savings and loans now are using the credit cards.

Mr. CRANSTON. It is done exactly like a bank does it.

Mr. MORGAN. Well, where do they use it, at local department stores?

Mr. CRANSTON. Yes, local merchants.

Mr. MORGAN. Is that the equivalent of a NOW account? How does that local grocery or department store get its money from the savings and loan association?

Mr. CRANSTON. It is the equivalent of a credit card. They can go into a store, buy something on that credit card and, in effect, it does come out of their account, like it was a check, but it is not a check. The Senator may have noticed that Chase Manhattan has just announced that they now have a credit card which is the equivalent of a check.

Mr. MORGAN. I can understand with Chase Manhattan, or people in the Northeast, where savings and loans have NOW account authority. I do not see how it could possibly be used in a savings and loan here, under the present law.

Mr. CRANSTON. With the present authority in the law, there can be savings account loans: "Loans on the security of its savings account."

Mr. MORGAN. Yes.

Mr. CRANSTON. Now, since we are granting broader powers and they will be more resembling banks with some of their authorities under this amendment and under the new law, they would be able to do it under the proposed bill; they would be able to do it without having an account in a thrift institution. It broadens their authority in that way.

Mr. MORGAN. I understand the share loans. I have several of them myself, where you go down and say, "I have got a little money in the savings and loan, and it is not the end of the interest period, and I do not want to draw it out right now, so I would like to borrow a little money and pledge my account," and you usually get a little better interest rate. But I still do not understand this credit card. Maybe if we had a brief recess by way of a quorum call, we could discuss it a little bit and I could understand it. Mr. President, for that reason I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I have a modification of the amendment now pending that is now at the desk. I ask unanimous consent that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

This section will not be effective unless the thrift institutions are given consumer loan authority.

Mr. MORGAN. Mr. President, for the purpose of legislative history, which I do not have a very high regard for because we country lawyers can never find legislative history when we get to practicing down in the States, the purpose of this amendment is to make sure that if this bill does not pass with consumer loan authority in it, then, of course, the amendment will be of no effect.

With that, I have no objection to the amendment.

Mr. CRANSTON. I think we have now reached agreement on the amendment. Do we have time to yield back?

Mr. GARN. Mr. President, there is no time limit.

Mr. President, I am going to accept the amendment on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified by the Senator from California.

The amendment as modified, was agreed to, as follows:

On page 26, line 1, strike out "(3)" and insert in lieu thereof "(4)".

On page 26, between lines 4 and 5, insert the following:

"(4) Without regard to any other provision of this section, an association is authorized, subject to such regulations as the Board may prescribe, to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.".

This section will not be effective unless the thrift institutions are given consumer loan authority.

UP AMENDMENT NO. 689

(Purpose: To authorize savings and loan associations, savings banks, and credit unions to grant overdrafts)

Mr. CRANSTON. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 689:

On page 13, line 5, before the quotation marks insert the following: "An association may grant overdrafts on negotiable order of withdrawal accounts. This shall not be effective unless thrift institutions are granted NOW account authority and the provision on the phase out of regulation Q becomes law".

On page 13, between lines 5 and 6, insert the following:

(c) Section 5 (a) of such Act is amended by adding at the end thereof the following: "A Federal mutual savings bank may grant overdrafts on negotiable order of withdrawal accounts. This shall not be effective unless thrift institutions are granted NOW account authority and the provision on the phase out of regulation Q becomes law".

On page 14, line 8 after "drafts" insert "and grant overdrafts thereon. This shall not become effective unless thrift institutions are granted NOW account authority and the provision on the phase out of regulation Q becomes law".

Mr. CRANSTON. I say to the Senator from North Carolina that I have added the same provisions to this measure that he added to the other.

Mr. MORGAN. I have no objection to the amendment.

Mr. CRANSTON. Mr. President, this amendment would permit Federal thrifts to grant overdrafts on NOW accounts. Commercial banks widely offer demand deposits with automatic overdraft or line of credit privileges. It is necessary for Federal associations to be able to provide this same line of service to customers to make their NOW accounts both attractive and competitive.

I believe there is no opposition to the amendment. I trust it can be accepted, Mr. President.

Mr. PROXMIRE. Mr. President, the only question I have for my good friend from California is whether or not he would make this conditional, as he and the Senator from North Carolina agreed to make the first amendment conditional, on regulation Q being phased out.

Mr. CRANSTON. Yes.

Mr. PROXMIRE. In that event, then, I am happy to support the amendment.

I think many people may be shocked at "overdraft." It does not mean anybody can then write a check for more than he has on deposit, unless he has an understanding with the bank and in that case, other securities or other moneys held by the check writer would be used to make good the check.

Mr. CRANSTON. Yes. Actually, the savings account would be used to make good the overdraft privilege.

Mr. GARN. Mr. President, I am willing to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT 690

(Purpose: To increase deposit insurance)

Mr. CRANSTON. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 690:

On page 32, between lines 20 and 21, insert the following:

INCREASED CEILING ON DEPOSIT INSURANCE

SEC. . (a) (1) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) The first sentence of section 3(m) (12 U.S.C. 1813(m)).

(B) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(C) The last sentence of section 11(a) (12 U.S.C. 1821(a)).

(D) The fifth sentence of section 11(i) (12 U.S.A. 1821(i)).

(2) The amendments made by this section are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

(b) (1) The following provisions of title IV of the National Housing Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) Section 401(b) (12 U.S.C. 1724(b)).

(B) Section 405(a) (12 U.S.C. 1728(a)).

(2) The amendments made by this section are not applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act, where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the effective date of this section.

(c) (1) The second sentence of section 207 (c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by striking out "$40,000" and inserting in lieu thereof "$50,000".

(2) The amendment made by this section is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(d) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

Mr. CRANSTON. Mr. President, this amendment provides for an increase in the Federal insurance of deposit limit from $40,000 to $50,000 for banks, credit unions and savings and loan associations. The last increase in deposit insurance was in 1974. Increases in the Consumer Price Index in the last 5 years would justify an increase today. The FDIC and FSLIC have no objection to this amendment.

I trust the floor managers feel the same way.

Mr. PROXMIRE. Mr. President, I commend the Senator from California, who is a member of our committee, a very valued member, for this amendment. It makes sense because, as the Senator points out, 1974 was the last time we increased the limit on insurance.

The only question I would have is whether or not $50,000 is enough, in view of the fact that, since 1974, there has been an inflation of probably more than 50 percent so that we can justify, on that basis, a $60,000 insurance.

Of course, I am happy to support this amendment, but I just wonder why it was not possible to go higher than that, given the situation.

Mr. CRANSTON. Mr. President, the FDIC is making a study as to whether something higher is justified. I would have no objection to going somewhat higher.

Mr. PROXMIRE. It seems to me that, back in 1974, we discussed the possibility of $100,000. I think the Senator from California, is right, in view of the fact that our information right now is limited. Let us make it $50,000, with the understanding that, perhaps early next year, we can get information from the FDIC and make it correspond to the increase in inflation.

Mr. CRANSTON. Fine. I suggest we do it that way.

Mr. GARN. Mr. President, I concur in this amendment. I also agree with the Senator from Wisconsin that we do need to move to make it higher. It represents no additional cost to the insurance fund and, in the past, when the FSLIC insurance has been raised, it has brought more savings in. If there is anything we need right now from what we have been discussing today, it is for people to put more money into savings institutions.

I commend the Senator from California, because I am sure that this increase will provide possibly billions of dollars of additional savings. I hope that we shall proceed with the FSLIC, and

also the FDIC early next year to consider raising insurance limits even higher.

Mr. CRANSTON. I thank both Senators very, very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOLE and Mr. CANNON addressed the Chair.

Mr. CANNON. Mr. President, I ask the Senator to yield to me 2 minutes.

UP AMENDMENT NO. 691

(Purpose: To permit the conversion of state stock associations to Federal stock associations)

Mr. CRANSTON. Mr. President, I send the fourth in the series of four amendments to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 691:

On page 32, between lines 20 and 21, insert the following:

SEC. . Section 5(1) of the Home Owners' Loan Act of 1933 is amended in the first paragraph by inserting after the words "Federal Savings and Loan Association" the following: "and any State Stock savings and loan type institution may transfer its charter to a Federal stock charter provided it has never existed in mutual form

Mr. CRANSTON. Mr. President, this amendment will provide for a State chartered stock savings and loan institution to convert to a Federal charter provided it has never been a mutual thrift association. This proposal is supported by the Federal Home Loan Bank Board as being consistent with our dual banking system.

I hope the managers will accept it.

Mr. PROXMIRE. We are happy to accept the amendment. It is an excellent amendment. I commend the Senator for offering it.

Mr. GARN. I am pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment——

Mr. MORGAN. Mr. President, I must say in all candor I am not sure what the amendment does.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, as I understand the amendment of the Senator from California, it would permit State chartered stock savings and loans to convert to federally chartered savings and loans provided they had never been a mutual savings and loan.

Mr. CRANSTON. That is correct.

Mr. MORGAN. In other words, a mutual savings and loan in a given State could not circumvent the present restrictions or reluctance, or whatever restraints of the Federal Home Loan Bank Board, to allow conversion by converting to a stock savings and loan in a State and then convert to Federal.

Mr. CRANSTON. The Senator is again correct. He understands the amendment perfectly.

Mr. MORGAN. Mr. President, I understand. I really have no objections to it, except if I had my preference I would not allow any conversion to stock savings and loans. I believe perhaps this is one time my distinguished chairman and I are in complete agreement.

I do think that my reluctance to accept change in the savings and loan business as a whole is based on the fact that they worked so well for so long over so many years. I have thus been very reluctant to support any legislation which would jeopardize that record of success.

In fact, I think I joined with my chairman, if I have not joined with him in his legislation I have certainly been supportive of it, to prohibit conversions of mutuals to stock companies because I cannot help but believe that somewhere along the way insiders will take advantage of such conversions. I cannot help but believe once they become stock companies and then the stocks get on the market, that the interest of the local communities will be in some way left by the wayside.

I am not so sure in the long run these savings and loans which have converted to stock companies will not be taken over by mortgage loan companies or mortgage bankers.

That matter is in litigation and is something that is beyond my control.

I did want my position clear on it. But if we have to have it, I guess this amendment is all right.

Mr. PROXMIRE. Mr. President, I appreciate the Senator's remarks, and I agree wholeheartedly on the conversion issue. He and I do see that this can be abused, and it has been abused at times in the past.

As the Senator from North Carolina made clear, the Cranston amendment does not go to that at all. It would not speak to conversions or authorize them.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 551

(Purpose: To simplify the regulation of financial institutions)

Mr. DOLE. Mr. President, I call up my amendment No. 551.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an amendment numbered 551.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE IX—REGULATORY SIMPLIFICATION

SHORT TITLE

SEC. 901. This title may be cited as the "Financial Regulation Simplification Act of 1979".

FINDINGS

SEC. 902. The Congress finds that many regulations issued by the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, and the National Credit Union Administration Board (hereinafter referred to as the "Federal financial regulatory agencies") often impose costly, duplicative, and unnecessary burdens on both financial institutions and consumers. Regulations should be simple and clearly written. Regulations should achieve legislative goals effectively and efficiently. Regulations should not impose unnecessary costs and paperwork burdens on the economy, on financial institutions, or on consumers.

POLICY

SEC. 903. Regulations issued by the Federal financial regulatory agencies shall insure that—

(1) the need for and purpose of the regulation are established clearly;

(2) meaningful alternatives to the promulgation of regulations are considered before any regulation is issued;

(3) compliance costs, paperwork, and other burdens on the financial institutions, consumers, and public are minimized;

(4) conflicts, duplication, and inconsistencies between the regulations issued by the Federal financial regulatory agencies are to be avoided to the extent possible taking into account differences in statutory responsibilities, the classes of financial institutions' regulation and methods of implementation of statutory or policy objectives;

(5) timely participation and comment by other Federal agencies, appropriate State and local agencies, financial institutions, and consumers are available; and

(6) regulations issued shall be as simple and clearly written as possible and understandable by those who are subject to the rules.

REVIEW OF EXISTING REGULATIONS

SEC. 904. The Federal financial regulatory agencies shall establish a program which assures periodic review of existing regulations to determine whether those regulations achieve the policy goals in section 903. Those regulations which are not in keeping with the policy goals shall be revised accordingly.

REPORTING

SEC. 905. Not later than six months after the effective date of this title and in subsequent annual reports, each Federal financial regulatory agency shall submit a report of its progress in implementing this title to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

TERMINATION DATE

SEC. 906. Unless extended, this title expires five years after its effective date.

Mr. DOLE. Mr. President, this amendment is aimed at eliminating unnecessary costs and burdens imposed on the financial community by Federal regulations.

It would add legislation I introduced earlier this year, the Financial Regulation Simplification Act of 1979, as a new title to H.R. 4986.

UNANIMOUS SUPPORT

These provisions have received the unanimous support of regulatory agencies and financial institutions alike. The American Bankers Association, the National Savings and Loan League, the Credit Union National Association, the National Academy of Mutual Savings Banks, and the Independent Bankers Association of America, the institutions to

be protected by this amendment, support these provisions.

Significantly, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Board of Governors of the Federal Reserve System, those agencies which must meet the requirements of this amendment, also support it.

This broad support indicates a growing awareness that this type of reform is needed.

Mr. President, this amendment both complements and corrects an omission of President Carter's Executive Order of March, 1977, "Improving Government Regulation," by requiring the financial regulatory agencies to initiate the same type of regulatory reform as all other executive agencies are now required to undertake.

REQUIRES PERIODIC REVIEW OF REGULATIONS

The Financial Regulation Simplification Act requires that the Federal financial regulatory agencies periodically review existing regulations in light of the bill's policy goals. Six specific policy criteria must be used as a standard in issuing any new regulations.

SIX GOALS

First, the need for and purpose of the regulation are to be established clearly.

Second, meaningful alternatives to the regulations must be considered before any regulation is issued.

Third, compliance costs, paperwork and other burdens on the financial institutions, consumers, and public are to be minimized.

Fourth, conflicts, duplications, and inconsistencies between the regulations issued by the Federal financial regulatory agencies are to be avoided.

Fifth, participation and comment by other agencies, financial institutions, and consumers must be available. This does not mean, however, that formal, trial-type hearings on each and every proposed regulation are required.

Finally, when regulations are issued they shall be as simple and clearly written as possible and understandable by those who are subject to the rules.

ANNUAL REPORT OF PROGRESS

Each agency is required to establish a program to insure the periodic review of existing regulations in order to achieve the objectives of the bill. So that agencies are held accountable to the Congress for implementing the provisions of this bill, each agency is to provide an annual report of its progress to the House and Senate Banking Committees. I would like to emphasize that we are not looking for another major report from the financial regulatory agencies. The required progress report can be included in the regular annual report each agency submits to Congress.

COSTLY AND DUPLICATIVE REGULATIONS HURT BANKS

Over the years, financial regulations have provided significant benefits to consumers. But, at the same time, Federal financial regulatory agencies have not achieved their regulatory objectives in an efficient and cost-effective manner. The result, all too often, has been the imposition of costly, duplicative, and unnecessary burdens on both financial institutions and consumers. At least 83 Federal agencies now issue regulations which directly affect financial institutions, and 216 Federal Government agencies have issued regulations which indirectly affect them. There are 64,000 pages of regulations which constitute an excess of 4,000 regulations that are time consuming and often inconsistent.

REGULATORY IMPACT ON ECONOMY

There is a growing library of research which demonstrates how staggering are the costs of Government regulation of business. However, the most disturbing aspect of this trend is that much more is involved than just direct costs of regulatory activities. Regulations contribute to our Nation's severe inflation problem. Productivity growth, a necessary ingredient of a healthy economy, is eroded. Innovation is stifled because of the smothering effect of cumbersome regulations.

While no accurate data is available as to the total cost of Federal financial regulation, the costs are certainly substantial. It is clearly a responsibility of Congress in its oversight activities of financial regulatory agencies to carry the regulatory process only to the point where these added costs equal the added benefits of regulation. This amendment would help do that by requiring the agencies to consider the impacts of regulations on the financial community and consumers.

URGE APPROVAL OF THIS AMENDMENT

By approving this amendment, we can confidently say that we have contributed to restoring our Nation's economic health. We can begin to ease the regulatory burden facing our financial institutions and streamline the regulatory process that now binds them in redtape at every turn. I urge my colleagues to adopt this amendment for the sake of both our financial institutions and the American consumer.

Mr. President, I do not know of any objection to this amendment. I hope it will be accepted. It does at least address one of the problems that many of us talk about, and that is trying to simplify regulations—first, to make certain that there is a need and, second, to look at the alternatives and the costs and the duplications and to make certain that there is timely participation by other Federal agencies; that, finally, once we reach the regulation stage, the regulation is drafted in such a way that the people subjected to it can understand it. That is the complaint the Senator from Kansas hears from time to time.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. PROXMIRE. Mr. President. I congratulate the distinguished Senator from Kansas on this amendment. It is a very good amendment. It obviously has strong support, not only by the distinguished Senator from Kansas, who is one of the outstanding Members of the Senate, but also by three members of the Banking Committee who are cosponsors—Senator ARMSTRONG, Senator LUGAR, and Senator HEINZ.

This is exactly the kind of amendment which the committee—and I apologize, as chairman of the committee—should have adopted. It provides that the regulation shall be simply and clearly written, and so forth.

We know that the regulatory cost is extremely high. Earlier today, we discussed the truth in lending bill. We have on this bill a truth in lending simplification amendment, which should not have been necessary, because the Federal Reserve should have written simple and clear regulations to begin with. That is a fine agency, But they have the same tendency to overwrite these regulations, requiring more paperwork than necessary.

This amendment is most welcome. I congratulate the distinguished Senator from Kansas, and I am happy to support this amendment enthusiastically.

Mr. DOLE. I thank the Senator, and I appreciate his comments.

We now have about 83 agencies issuing regulations which directly affect financial institutions, and 216 Federal Government agencies have issued regulations which indirectly affect them. So perhaps this will be of some small help.

I yield to the distinguished ranking Republican member of the committee, Mr. GARN.

Mr. GARN. Mr. President, I also congratulate the Senator from Kansas. This is a good amendment. It is something which, had it been brought to our attention in the committee, we would have accepted there.

This is a continuing problem we must work on—to simplify the rules and regulations and the paperwork burden that we impose on the financial institutions of this country.

I am pleased to accept this amendment on behalf of the minority.

Mr. PROXMIRE. Mr. President, one more word to the Senator from Kansas.

I have tried for a long time to simplify regulation of the banking industry by unifying the regulators. It is ridiculous. Here we have a situation in which one industry has three regulators—the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Reserve Board. All of them examine different banks. The banks play one regulator off against the other. It is inefficient, duplicative, and wasteful.

Some of the Federal Reserve experts have pleaded with us to enact legislation along that line, and I hope we can do it. As we move in that direction. I am delighted to see the Senator from Kansas offer his amendment, which should be helpful and which should save the banks and other institutions that are regulated hundreds of millions of dollars each year.

Mr. DOLE. I thank the Senator.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, we have been discussing various portions of this bill today piecemeal. On Tuesday of last week we discussed it at some length. Inasmuch as I understand that under the previous order we are going to some other matter at 3:45 p.m., I wish to discuss the bill for a little bit because, as I said last week, I think it is one of the most crucial pieces of legislation that will come before this Senate and this Congress this year.

As one of the witnesses said before our committee, "I think this bill could well be devastating to the thrift institutions of this country, to the savings and loan institutions." I think if this bill is enacted and is signed into law, that within a very short period of time the savings and loan associations as we now know them, those institutions that have made about 60 percent of all of the home loans in America, will not exist. They may exist in some form but they will not exist with the same kind of dedication that they now have of providing people with the opportunity to own a home.

I predict that if this bill is passed within a very short period of time about the only way that an individual will be able to obtain a loan to buy a home will be to go to some agency of the Federal Government. Unfortunately that is already pretty much the case.

But before I go into my remarks on this bill, let me say, Mr. President, that I am engaging in a little extended debate on this bill, not for the purpose of delaying any votes, because I am going to offer some amendments and I am going to call those amendments up at the appropriate time, but I am engaging in debate because I have the feeling that too many of my colleagues have been so busy with energy, SALT, defense, the Alaskan land bills and other matters that they simply have not comprehended the seriousness of this bill.

I have been somewhat encouraged by the response that we had to our extended debate last Tuesday. If after having engaged in this debate for a substantial period of time, then my colleagues fail to agree with me, I will be satisfied that I will have done my job and done my best. So for that reason I want to discuss the bill again at length and I want to encourage my colleagues who are listening in their offices and the various staffs who are listening in their offices to give some consideration to the bill and check with the people back home. I suspect if you check with the savings and loan associations that are going to be affected you are going to find that they are just as concerned as I am about their outcome. I suspect if you check with the small bankers or independent banks in America, you are going to find the same thing.

I do know that my friends in the American Bankers Association are calling around the country and encouraging support for this bill, and I can understand why. I do not fault them for it. But I do ask my colleagues and their staffs to consider the bill and its ramifications.

Before I go into that, I shall talk for a minute or two about housing because the S. & L.'s are primarily concerned with housing. Sixty percent, as I mentioned, of all home loans are made by S. & L.'s. But right now if there is ever a time in our history when we should be concerned about what is going to happen to the homebuilding business it should be now.

This morning I asked Mr. Malakoff, of the Housing Committee, to give me a memorandum of what is happening to housing. Housing starts have been, during the first three quarters of 1979, down about 11 percent from the previous year. Starts average about 1.8 million units according to seasonally adjusted rates. This is relatively good and is above the predictions as low as 1.2 million by recession-minded forecasters. But the outlook is for a great decline and because the housing decline may coincide with a more general recession, the outlook should be viewed very gravely. Sales of new homes went down about 10 percent, but homebuilders are asserting that inventories are growing dangerously large and dangerously fast.

The major problem that has been felt already is in the mortgage credit market. Disintermediation has already affected the ability of the savings and loan associations to make housing loans. Savings inflows are down from last year and withdrawals from savings actually exceeded new savings in the month of September by nearly a billion dollars alone, $800 million. The money market certificates are no longer providing the backstop for mortgage credit that they did last year. What makes this so dangerous is that most of the S. & L.'s across this country are loaded down with portfolios of loans that were made at interest rates from 6 percent, 8 percent, and some up to 9, but most of them in the 6 to 8 percent bracket, and therefore they are having to pay on money market certificates more money than they are receiving on the loans that they have out.

As I mentioned last Tuesday, I have a 6 percent loan on a house that I have. And the same savings and loan association is paying me more interest on my savings that I have in the same institution than I am paying them on my home loan. You and I know that S. & L.'s cannot long survive if that is going to happen. And that is why it has been rumored around and talked about here in the Chamber that if this bill passes, we are going to have a bailout amendment to save these institutions from going broke.

Savings receipts were down by 60 percent during the second quarter of 1979 from the same period earlier. Interest rates are at all-time highs. Mortgage loans now cost over 13 percent if you can get them at that. There are a number of large mortgage bankers that have already gone out of business within the last few weeks. And I am told that the loan windows at many S. & L.'s all across the country have closed up. They just are not open.

So, I am asking my colleagues to give serious consideration to this bill before they vote on it.

I tried to make clear during all of my conversations the depth of my feelings about this bill and to demonstrate as clearly as I can just why it is that I feel this bill constitutes unwise public policy. I wish to review again my arguments over the past week and recall for Senators the basic evidence which I hope they will consider as we proceed to discuss and vote on this important bill.

I have repeatedly called it far reaching. A quick review of its provisions demonstrates the truth of that statement. It is, in fact, an understatement because this bill does indeed constitute a major restructuring of our present financial system.

Let me read from the summary of H.R. 4986 contained in the report of the Senate Banking Committee. With regard to all NOW accounts:

> (1) Authority is provided for commercial banks, Federal savings and loan associations, and Federal credit unions to offer the equivalent of interest bearing checking accounts to individuals and non-profit organizations. Such interest bearing checking accounts are referred to as NOW accounts (negotiable order or withdrawal accounts) at banks and thrifts, and share draft accounts at credit unions. Since NOW accounts and share draft accounts are transaction accounts and are part of the money supply, they are subjected to the reserve requirements of the Federal Reserve Board.

I have argued that NOW accounts or checking accounts for savings and loans, and interest-bearing checking accounts at banks, et cetera, are of questionable benefit to the average consumer.

I have cited studies which demonstrate that the minimum balance required for all NOW accounts, to be profitable for financial institutions, is sufficiently high that the vast majority of the American savers would receive no benefit at all and, as was brought out during the colloquy between Senator FORD and the chairman a few minutes ago, it would actually cost most people who have a checking account of less than about $3,000 by way of additional service charges.

In the process, those same savers would end up paying higher fees for banking and financial services, and higher interest on loans.

As the chairman of the Subcommittee on Consumer Affairs in the House has warned, and I am quoting now:

> NOW accounts are accounts only for the wealthy. This legislation—

He warns—

> is the biggest consumer ripoff to come down the pike in a long time.

I want to return to each of these provisions in greater detail, but let me point out that a further far-reaching policy decision is contained in this authorization for nationwide NOW accounts. It is the decision to expand the authority of the Federal Reserve System to require reserves over all depository institutions which offer these new accounts. This is a significant and major policy decision which, as I pointed out last week, has been the object of controversy during the chairmanships of three separate Reserve Board Chairmen, Dr. Burns, Mr. Miller, and Mr. Volcker.

I believe it would be unwise to decide

this question in the context of this legislation when the same issue has been pending over this long period of time, and it is still pending in our present Banking Committee. At the appropriate time I will offer an amendment to delete that provision of this bill to the end that it may be decided when we decide the major issue in the Banking Committee. It may very well be that I will then vote for it, but it is not the appropriate place to come in through the side door.

Second, as to the regulation Q phase-out, I want to read now from the committee report:

> (2) Interest rate ceilings on time and savings deposits (commonly referred to as regulation Q) are phased out over a 10-year period. Current regulation Q authority is extended for 10 years. The bill directs that rate ceilings must rise by at least one-half of 1 percent each year—

Let me repeat that statement:

> Interest rate ceilings must rise by at least one-half of 1 percent each year

You see, if you are not careful, you read it to see that as a limitation. This means they have got to let them go up that much unless the increase is postponed—well, let me read the rest of this portion—

> from the 3d to the 10th year unless the increase is postponed or reduced by the Federal Reserve under the standards set forth in the legislation. At the end of the 10 year period all interest rate control authority expires subject to standby authority lodged in the Federal Reserve under specified economic conditions.

I was reading from the report. Regulation Q has been the basic governmental incentive for thrift institutions to maintain their active role in home finance, a situation which is by definition precarious. All S. & L.'s are in the business of borrowing short and lending over a long period of time. I believe it is most unwise to tamper with regulation Q at this time of tremendous economic uncertainty, a time when housing finance appears to have come to a standstill in many parts of the country, at a time when extraordinary measures have been necessitated to try to insure that mortgage money does not completely dry up.

As we live with historically unprecedented high interest rates, poised on the brink of what may become a prolonged and deep recession, I believe it is a highly questionable time to make sweeping changes in the rules of the game for financial institutions.

Later on in the afternoon, if time permits, I will have a substantial amount to say about regulation Q, but let me go on now to the third provision of this bill which concerns me, for the purpose of providing some continuity in my arguments. Reading now from the summary of the committee, and this is in connection with the reduction of the money market certificate denomination. We have had quite a colloquy this afternoon, but here again for the purpose of providing some continuity, let me go through with my remarks, and quoting from the report:

> (3) The regulatory agencies are required to provide greater equity to small savers by reducing the $10,000 minimum denominations on certificates of deposit to $1,000 within 2 years unless the Federal Reserve finds that economic conditions or the viability of thrift institutions, necessitates postponement. Any postponement must be reported to the Congress.

They have to be lowered unless these certain findings are made. As I understand the present law, the present law would allow them to be lowered. The U.S. Treasury could lower the denominations of their Treasury notes if they wanted to, but they have not.

I have received literally stacks of mail from savings and loan offices around the country saying flatly that such a change would prove disastrous for their associations.

I pointed out that any Senator who cares to read the transcript of the Banking Committee consideration of this question will see that the committee acted with no real knowledge of just what such a change would do. The data offered the committee were approximately 2 years old and inconclusive.

(Mr. RIEGLE assumed the chair.)

Mr. MORGAN. As pointed out to the committee, Federal financial regulators currently have the power to reduce the money market certificate denominations. Our bill, however, requires them to do so unless they make affirmative findings, certain affirmative findings.

If they have not done so, I think we can reasonably presume that the reason the Home Loan Bank Board did not do it was for good cause.

In a letter Federal Home Loan Bank Board Chairman Janis has spelled out that good cause. Such a change, he said, could prove "devastating" to many S. & L.'s around the country and particularly in the Northeast. So here I am supported by the Chairman of the Federal Home Loan Bank Board who says that such action could prove devastating to many S. & L.'s around the country, and especially those of moderately small size, $100 million assets or less.

Well, to go on, the bill provides increased savings and loan powers. Quoting now from the report:

> (4) Federal savings and loan associations are authorized to hold 10 percent of their assets in consumer loans, commercial paper, corporate debt securities or bankers acceptances; to offer personal trust services; and to make mortgage loans competitively with national banks.

Bringing them closer together to what a full commercial bank is like.

These changes are further evidence of the degree to which this bill restructures our financial system and sets the stage for the rapid homogenization of our traditionally separate financial institutions.

The 10 percent in consumer lending allowed savings and loans will prove woefully inadequate, and I have predicted that within a year we will be back in this very Senate asking that the limit be raised, so that savings and loans can successfully compete with commercial banks.

In the process, we have already begun the inevitable destruction of the institutions most devoted to helping Americans own their own homes. Already—mark this—already unprinted amendments are being discussed which would allow mutual savings banks to put 20 percent of their assets in anything they desire, and allow them to accept corporate deposits. As was pointed out before in committee, mutual savings banks began as institutions devoted to home finance, and they have changed. Evidence convinces me that savings and loans would also inevitably change in their basic orientation.

Let me point out why the need is going to be brought about to enlarge the consumer loan powers. Because as regulation Q is phased out, in order to be able to compete with commercial banks, that can make all kinds of consumer loans and charge interest rates as high as 20 to 30 percent—I do not know the exact limit now, but the last time I looked, if you financed a 3-year-old car at the local banks at home, you were paying an annual interest rate of 36 percent. So, you see, savings and loans are going to have to compete with them unless they are given this advantage. But the difficulty is, my friends think this regulation Q is not going to be phased out for 10 years. Technically they may be correct, but the interest limitations have to be raised a half a percent per year by the Federal Reserve Board.

Now, for the life of me I have never understood why various people in the Government have wanted to bring about this kind of financial reform. They did in 1975, when we passed it here in the Senate. Somebody down there wants to homogenize all of these institutions.

So let us suppose that the Federal Reserve Board decides to raise the interest limitation, not just a half percent but 2 percent or 3 percent. The differential may still be there, but the interest limitation rate may be so high that it will have no meaning at all, and all of them will be below that, so that, as a pragmatic matter, regulation Q could be phased out in just a matter of 2 or 3 years, or be of no effect.

In that case, savings and loans sure to goodness would have to be into consumer loans, trust matters, credit card business, and what have you.

There are a whole lot of provisions called miscellaneous matter that came up in this bill. Quoting from the committee report, now:

> Several miscellaneous matters are provided for, including Comptroller of the Currency housekeeping amendments; the text of the Truth-In-Lending Simplification Act passed by the Senate earlier in this Congress; an exemption from State usury limitations on residential mortgage loans for specified lenders unless the State reenacts ceilings within 2 years; and a temporary exemption from State usury limits applicable to business and agricultural loans in Arkansas.

We have discussed these earlier, but because my explanation is fairly brief, I am going to repeat it again.

In our report, under the heading of "Miscellaneous Matters," are several very significant and controversial matters. Included in the so-called housekeeping matters of the Comptroller of the Currency is a controversial policy decision on the question of interstate trust powers of holding companies.

It will be the subject of an amendment by Senator STEVENSON. This is something I never even heard of until we got over here on the floor of the

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, we have been discussing various portions of this bill today piecemeal. On Tuesday of last week we discussed it at some length. Inasmuch as I understand that under the previous order we are going to some other matter at 3:45 p.m., I wish to discuss the bill for a little bit because, as I said last week, I think it is one of the most crucial pieces of legislation that will come before this Senate and this Congress this year.

As one of the witnesses said before our committee, "I think this bill could well be devastating to the thrift institutions of this country, to the savings and loan institutions." I think if this bill is enacted and is signed into law, that within a very short period of time the savings and loan associations as we now know them, those institutions that have made about 60 percent of all of the home loans in America, will not exist. They may exist in some form but they will not exist with the same kind of dedication that they now have of providing people with the opportunity to own a home.

I predict that if this bill is passed within a very short period of time about the only way that an individual will be able to obtain a loan to buy a home will be to go to some agency of the Federal Government. Unfortunately that is already pretty much the case.

But before I go into my remarks on this bill, let me say, Mr. President, that I am engaging in a little extended debate on this bill, not for the purpose of delaying any votes, because I am going to offer some amendments and I am going to call those amendments up at the appropriate time, but I am engaging in debate because I have the feeling that too many of my colleagues have been so busy with energy, SALT, defense, the Alaskan land bills and other matters that they simply have not comprehended the seriousness of this bill.

I have been somewhat encouraged by the response that we had to our extended debate last Tuesday. If after having engaged in this debate for a substantial period of time, then my colleagues fail to agree with me, I will be satisfied that I will have done my job and done my best. So for that reason I want to discuss the bill again at length and I want to encourage my colleagues who are listening in their offices and the various staffs who are listening in their offices to give some consideration to the bill and check with the people back home. I suspect if you check with the savings and loan associations that are going to be affected you are going to find that they are just as concerned as I am about their outcome. I suspect if you check with the small bankers or independent banks in America, you are going to find the same thing.

I do know that my friends in the American Bankers Association are calling around the country and encouraging support for this bill, and I can understand why. I do not fault them for it. But I do ask my colleagues and their staffs to consider the bill and its ramifications.

Before I go into that, I shall talk for a minute or two about housing because the S. & L.'s are primarily concerned with housing. Sixty percent, as I mentioned, of all home loans are made by S. & L.'s. But right now if there is ever a time in our history when we should be concerned about what is going to happen to the homebuilding business it should be now.

This morning I asked Mr. Malakoff, of the Housing Committee, to give me a memorandum of what is happening to housing. Housing starts have been, during the first three quarters of 1979, down about 11 percent from the previous year. Starts average about 1.8 million units according to seasonally adjusted rates. This is relatively good and is above the predictions as low as 1.2 million by recession-minded forecasters. But the outlook is for a great decline and because the housing decline may coincide with a more general recession, the outlook should be viewed very gravely. Sales of new homes went down about 10 percent, but homebuilders are asserting that inventories are growing dangerously large and dangerously fast.

The major problem that has been felt already is in the mortgage credit market. Disintermediation has already affected the ability of the savings and loan associations to make housing loans. Savings inflows are down from last year and withdrawals from savings actually exceeded new savings in the month of September by nearly a billion dollars alone, $800 million. The money market certificates are no longer providing the backstop for mortgage credit that they did last year. What makes this so dangerous is that most of the S. & L.'s across this country are loaded down with portfolios of loans that were made at interest rates from 6 percent, 8 percent, and some up to 9, but most of them in the 6 to 8 percent bracket, and therefore they are having to pay on money market certificates more money than they are receiving on the loans that they have out.

As I mentioned last Tuesday, I have a 6 percent loan on a house that I have. And the same savings and loan association is paying me more interest on my savings that I have in the same institution than I am paying them on my home loan. You and I know that S. & L.'s cannot long survive if that is going to happen. And that is why it has been rumored around and talked about here in the Chamber that if this bill passes, we are going to have a bailout amendment to save these institutions from going broke.

Savings receipts were down by 60 percent during the second quarter of 1979 from the same period earlier. Interest rates are at all-time highs. Mortgage loans now cost over 13 percent if you can get them at that. There are a number of large mortgage bankers that have already gone out of business within the last few weeks. And I am told that the loan windows at many S. & L.'s all across the country have closed up. They just are not open.

So, I am asking my colleagues to give serious consideration to this bill before they vote on it.

I tried to make clear during all of my conversations the depth of my feelings about this bill and to demonstrate as clearly as I can just why it is that I feel this bill constitutes unwise public policy. I wish to review again my arguments over the past week and recall for Senators the basic evidence which I hope they will consider as we proceed to discuss and vote on this important bill.

I have repeatedly called it far reaching. A quick review of its provisions demonstrates the truth of that statement. It is, in fact, an understatement because this bill does indeed constitute a major restructuring of our present financial system.

Let me read from the summary of H.R. 4986 contained in the report of the Senate Banking Committee. With regard to all NOW accounts:

> (1) Authority is provided for commercial banks, Federal savings and loan associations, and Federal credit unions to offer the equivalent of interest bearing checking accounts to individuals and non-profit organizations. Such interest bearing checking accounts are referred to as NOW accounts (negotiable order or withdrawal accounts) at banks and thrifts, and share draft accounts at credit unions. Since NOW accounts and share draft accounts are transaction accounts and are part of the money supply, they are subjected to the reserve requirements of the Federal Reserve Board.

I have argued that NOW accounts or checking accounts for savings and loans, and interest-bearing checking accounts at banks, et cetera, are of questionable benefit to the average consumer.

I have cited studies which demonstrate that the minimum balance required for all NOW accounts, to be profitable for financial institutions, is sufficiently high that the vast majority of the American savers would receive no benefit at all and, as was brought out during the colloquy between Senator FORD and the chairman a few minutes ago, it would actually cost most people who have a checking account of less than about $3,000 by way of additional service charges.

In the process, those same savers would end up paying higher fees for banking and financial services, and higher interest on loans.

As the chairman of the Subcommittee on Consumer Affairs in the House has warned, and I am quoting now:

> NOW accounts are accounts only for the wealthy. This legislation—

He warns—

> is the biggest consumer ripoff to come down the pike in a long time.

I want to return to each of these provisions in greater detail, but let me point out that a further far-reaching policy decision is contained in this authorization for nationwide NOW accounts. It is the decision to expand the authority of the Federal Reserve System to require reserves over all depository institutions which offer these new accounts. This is a significant and major policy decision which, as I pointed out last week, has been the object of controversy during the chairmanships of three separate Reserve Board Chairmen, Dr. Burns, Mr. Miller, and Mr. Volcker.

I believe it would be unwise to decide

this question in the context of this legislation when the same issue has been pending over this long period of time, and it is still pending in our present Banking Committee. At the appropriate time I will offer an amendment to delete that provision of this bill to the end that it may be decided when we decide the major issue in the Banking Committee. It may very well be that I will then vote for it, but it is not the appropriate place to come in through the side door.

Second, as to the regulation Q phase-out, I want to read now from the committee report:

> (2) Interest rate ceilings on time and savings deposits (commonly referred to as regulation Q) are phased out over a 10-year period. Current regulation Q authority is extended for 10 years. The bill directs that rate ceilings must rise by at least one-half of 1 percent each year—

Let me repeat that statement:

> Interest rate ceilings must rise by at least one-half of 1 percent each year

You see, if you are not careful, you read it to see that as a limitation. This means they have got to let them go up that much unless the increase is postponed—well, let me read the rest of this portion—

> from the 3d to the 10th year unless the increase is postponed or reduced by the Federal Reserve under the standards set forth in the legislation. At the end of the 10 year period all interest rate control authority expires subject to standby authority lodged in the Federal Reserve under specified economic conditions.

I was reading from the report. Regulation Q has been the basic governmental incentive for thrift institutions to maintain their active role in home finance, a situation which is by definition precarious. All S. & L.'s are in the business of borrowing short and lending over a long period of time. I believe it is most unwise to tamper with regulation Q at this time of tremendous economic uncertainty, a time when housing finance appears to have come to a standstill in many parts of the country, at a time when extraordinary measures have been necessitated to try to insure that mortgage money does not completely dry up.

As we live with historically unprecedented high interest rates, poised on the brink of what may become a prolonged and deep recession, I believe it is a highly questionable time to make sweeping changes in the rules of the game for financial institutions.

Later on in the afternoon, if time permits, I will have a substantial amount to say about regulation Q, but let me go on now to the third provision of this bill which concerns me, for the purpose of providing some continuity in my arguments. Reading now from the summary of the committee, and this is in connection with the reduction of the money market certificate denomination. We have had quite a colloquy this afternoon, but here again for the purpose of providing some continuity, let me go through with my remarks, and quoting from the report:

> (3) The regulatory agencies are required to provide greater equity to small savers by reducing the $10,000 minimum denominations on certificates of deposit to $1,000 within 2 years unless the Federal Reserve finds that economic conditions or the viability of thrift institutions, necessitates postponement. Any postponement must be reported to the Congress.

They have to be lowered unless these certain findings are made. As I understand the present law, the present law would allow them to be lowered. The U.S. Treasury could lower the denominations of their Treasury notes if they wanted to, but they have not.

I have received literally stacks of mail from savings and loan offices around the country saying flatly that such a change would prove disastrous for their associations.

I pointed out that any Senator who cares to read the transcript of the Banking Committee consideration of this question will see that the committee acted with no real knowledge of just what such a change would do. The data offered the committee were approximately 2 years old and inconclusive.

(Mr. RIEGLE assumed the chair.)

Mr. MORGAN. As pointed out to the committee, Federal financial regulators currently have the power to reduce the money market certificate denominations. Our bill, however, requires them to do so unless they make affirmative findings, certain affirmative findings.

If they have not done so, I think we can reasonably presume that the reason the Home Loan Bank Board did not do it was for good cause.

In a letter Federal Home Loan Bank Board Chairman Janis has spelled out that good cause. Such a change, he said, could prove "devastating" to many S. & L.'s around the country and particularly in the Northeast. So here I am supported by the Chairman of the Federal Home Loan Bank Board who says that such action could prove devastating to many S. & L.'s around the country, and especially those of moderately small size, $100 million assets or less.

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Let me point out why the need is going to be brought about to enlarge the consumer loan powers. Because as regulation Q is phased out, in order to be able to compete with commercial banks, that can make all kinds of consumer loans and charge interest rates as high as 20 to 30 percent—I do not know the exact limit now, but the last time I looked, if you financed a 3-year-old car at the local banks at home, you were paying an annual interest rate of 36 percent. So, you see, savings and loans are going to have to compete with them unless they are given this advantage. But the difficulty is, my friends think this regulation Q is not going to be phased out for 10 years. Technically they may be correct, but the interest limitations have to be raised a half a percent per year by the Federal Reserve Board.

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It will be the subject of an amendment by Senator STEVENSON. This is something I never even heard of until we got over here on the floor of the

Senate, and it could have some very far-reaching ramifications. It may very well be good, and I certainly am not quite sure where I stand, but one of the problems that the banking community has been interested in for a long period of time is interstate banking powers.

I wonder what would happen in my State if Citibank of New York and Chase Manhattan Bank and the Bank of America, with all of their resources, were allowed to move into my hometown of Lillington—I doubt if they could find my hometown of Lillington, but if they were to move into the capital city of North Carolina, I wonder if my banking friends down in North Carolina would be so enthusiastic about this bill then.

You see, this bill is a foot in the door. As I say, it may be the bill itself may save us from those trust powers, but that certainly is debated, and I would urge anyone listening today to take a look at it, because when Senator STEVENSON brings it up, I want to be present and I want to hear. There were no hearings held on it in our committee. In all fairness, I understand there might not have been any hearings held on it when the matter was put in the conference committee report before, but nevertheless it is something I urge my colleagues to look at.

Beyond this, I feel strongly that the preemption of State usury laws is an unwarranted exercise of Federal power in an area where the State has long exercised primary authority. I have discussed the language with the Senator from Mississippi. I think preemption would have anticonsumer ramifications, and will, in the long run, prove extremely unwise.

I do not believe we should preempt State authority simply to make life easier for the mortgage bankers. We have already acted in that regard in Arkansas, but I firmly believe that should be viewed as an exception, and not as a precedent.

This, then, Mr. President, is an overview of what the Depository Institutions Deregulation Act would do; I want to examine this very carefully as we go along.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MORGAN. Yes.

Mr. PROXMIRE. I am very interested in the Senator's remarks, which, as always, are very thoughtful and well-organized, but I am concerned about this, because it seems to me what we are trying to do is deregulate, end the regulation and the bureaucratic control and interference with the marketplace we have by having the Federal Government come out and say, "Thou shalt not pay more than 5.25 percent of interest to a saver if he is small, or pay more than 5.5 percent if it is a savings and loan."

That just seems to me to be a bureaucratic interference. We put this into effect in 1966, I suppose with good heart and good reason, but the present circumstances indicate that is no longer serving a purpose.

Let me point out to my friends the groups that support this bill as it is. The administration; I have a letter from the White House indicating their strong support for it.

Mr. MORGAN. That I can understand.

Mr. PROXMIRE. The American Bankers Association.

Mr. MORGAN. I can understand the ABA.

Mr. PROXMIRE. The Home Builders.

Mr. MORGAN. The Home Builders tell me a little different story.

Mr. PROXMIRE. Well, they are pretty clear in what they tell me.

The Savings and Loan League. That is a little different.

Mr. MORGAN. Not the U.S. Savings and Loan League.

Mr. PROXMIRE. The National Savings and Loan League.

Mr. MORGAN. That is composed of about 383 institutions.

Mr. PROXMIRE. Every consumer group has spoken out on this: the savers, the Federal Reserve Board, the Comptroller——

Mr. MORGAN. That does not surprise me.

Mr. PROXMIRE. The FDIC, and the Home Loan Bank Board.

Mr. MORGAN. Of course.

Mr. PROXMIRE. The Home Loan Bank Board. Now, who are the Home Loan Bank Board? If the Senator will permit, I will just take a couple of minutes of the Senator's time. I have a letter here from the chairman of the Home Loan Bank Board, and it is a very powerful letter. I would hope that if Senators read no other document, they will read that letter before they vote on this bill. It reads:

> The Bank Board has become increasingly concerned that the complexity of H.R. 4986, the Depository Institutions Deregulation Act, and its significant scope, may cause some alarm when it comes to the Senate Floor, particularly in light of recent economic upheavals.

Mr. Janis says this:

> Let me state clearly and unequivocally that the Bank Board, charged by Congress with responsibility for the safety and soundness of thrift institutions, strongly supports passage of this legislation.

Mr. MORGAN. Do they not also say that reduction in the money market certificate denomination would create serious problems?

Mr. PROXMIRE. I will come to that in a minute. They are correct in all but one part, where they make an error, but in every other part they are correct.

They strongly support this legislation, and they are the agency charged by Congress with responsibility for the safety and soundness of savings and loan institutions. That is their responsibility and their job, and over the years I think they have done very well.

They go on to say this:

> Indeed, we see its underlying premises—gradual removal of rate control and expanded consumer powers for thrifts—to be of utmost urgency. In fact, the recent economic upheavals have made the Senate's passage of this bill all the more urgent.

This is the Home Loan Bank Board again speaking in favor of this bill that is before us, unamended. This is the one part the Senator from North Carolina cherishes. I think this is one part where they make an error but in all fairness I should read it.

> It is true that there are parts of this bill, such as lowering the cost of the money market certificate (MMC) to $1,000, that we do not support because we do not believe this to be possible nor desirable at this time.

I think they are wrong on that part. The Home Loan Bank Board has made only one error in this letter and that is it.

> Nevertheless, for thrift institutions to survive in the financial system of tomorrow, they must begin to prepare today, and there are new powers provided by this legislation that they must have now. Specifically, this bill would:
>
> Provide thrifts with expanded residential lending powers, such as those of commercial banks;
>
> Allow for an override of State usury laws, which are even more inappropriate now that the discount rate is near 14%;
>
> Authorize NOW accounts, without which thrifts will be the only segment of the financial system without a third-party payment mechanism;
>
> Expand the consumer lending authority of thrifts so that they may provide better family financial services; and
>
> If a Floor amendment is adopted, allow use of GNMA Tandem funds to purchase old, low-yield mortgages from the portfolios of financially-troubled mortgage lenders.

Mr. MORGAN. Is that the bailout provision? Is that one of these provisions which says that if this bill does not bankrupt the savings and loans, the FNMA or GNMA ought to bail them out?

Mr. PROXMIRE. I am glad the Senator voiced that. What is the Senator's position on that?

Mr. MORGAN If we are going to bankrupt them. I hope we can find some way to save them. But I cannot see, for the life of me, how this Senate can pass a bill and say in effect, "We may put you in financial trouble, but if we do, we will bail you out."

Mr. PROXMIRE. I am inclined to agree with the gist of what the Senator is saying because I oppose that provision, too.

There are two parts of this letter, I will correct myself, that I do not like. But there is overwhelming support for the rest of it, which I think is terrific. I think Chairman Janis deserves credit for writing a paper which I would grade about 85 percent. Eighty-five percent of it is right and 15 percent of it is wrong, and that is a lot better than most of us do on most days.

The Senator has heard of that movie about a girl who is rated No. 10 because she is perfect. Everyone knows there is not such a woman, I wish there were, except for my wife, but we just do not find situations like that in this world. Institutions and individuals are not perfect and Mr. Janis is a good example of that in this letter. But he does a good job.

Mr. MORGAN. To be a little facetious with my chairman, that provision is like the old saying, "Lie still, little catfish, I am just going to gut you. But if I hurt you, I will put you back together."

It reminds me of the Senator's cosponsor. Senator CRANSTON pushed this bill but, lo and behold, when it came out of committee, he took California S. & L.'s out of it.

Let me proceed with some other thoughts before my time runs out.

Let me answer the Senator's question with regard to regulation.

Mr. PROXMIRE. I just have one short paragraph to conclude.

> It is only through passage of this legislation that Congress can send the unmistakable signal that all financial institutions must prepare for tomorrow's different financial world, where competition will prevail and borrowers and savers will be treated equally.

I think in general that is a ringing endorsement of the bill with the single exception that is in the bill now. It is important in connection with an amendment which is pending that I oppose. But I think it is important as it is from the agency which is the only one that represents a group that has any opposition to the bill. As the Senator knows, the bankers favor it and the builders favor it.

Mr. MORGAN. The bankers favor it because one of these days they will own most of the savings and loans if this comes about.

Let me tell the Senator about the Home Loan Bank Board. First of all, it disturbs me that they take that position. It disturbs me that the feeling of this administration is for a homogenization of all of the financial institutions that have served this Nation so well over such a long period of time. When the then Secretary of the Treasury, Mr. Blumenthal, appeared before the committee, and the chairman and I were there, he was the one who set the policy. Mr. Janis is a recent appointee. Of course, he should support the administration.

I asked Mr. Blumenthal on two different occasions to describe for me or to tell me what the distinguishing characteristics would be between S. & L.'s, or thrift institutions and commercial banks if this bill was passed, and each time he begged the question and said, "Well, the distinction would be much narrower."

Somewhere, in some way, down the line in the Federal Reserve and the Comptroller's office, not only in this administration but in the last one, there has been a feeling that we should just make all institutions alike. I could not disagree with that more. I think they are wrong, and I believe that time is going to prove I am right.

Let me say with regard to deregulation, I think my chairman knows I oppose regulation as much as anyone up here.

Mr. PROXMIRE. On that point, before the Senator goes further, because this will only take a minute, I would strongly disagree that this homogenizes all financial institutions. There is no question that savings and loans will still be overwhelmingly housing financial institutions, that 70 to 80 percent of their assets are going to be in that. We provide for very limited opportunity for them to get into consumer loans. We provide them with some trust powers. But they will still be directed overwhelmingly into the area of home lending.

Mr. MORGAN. My chairman would not disagree with Secretary Blumenthal when he said that the characteristics which were different would be narrowed, I am sure.

Mr. PROXMIRE. Very, very slightly.

Mr. MORGAN. And also the chairman would not disagree with the fact that the old foot in the door adage certainly would apply here. Already the Senator from Massachusetts is about to offer an amendment to increase it to 20 percent for mutual savings banks. I am not saying that they are going to be homogenized tomorrow, but this is a significant step toward it.

With regard to regulation, it is nice to say this is a deregulation bill. I think on just about every bill that I have seen lately, at least a half-dozen or so bills in the Congress, there are fancy titles about deregulation. I am not sure what the title of this one is. It may be the same thing. "Depository Institutions Deregulation Act."

Well, that sounds good, but my chairman knows that he does not favor all deregulation. He is not for turning all institutions loose. I am not for taking off the Federal Drug Administration laws. What we are talking about deregulation, and what the American public is concerned about are those burdensome regulations which serve no useful purpose. Regulation of financial institutions since the days of Alexander Hamilton has always been considered to be in the public interest. Merely calling it deregulation does not make it any better, although it is sometimes good in our newsletters back home.

Let us talk about the value of regulation Q. We talk about who is supporting what and which consumer groups, but I want to read now from the statement of Mr. Henry Schecter, who is the director of the AFL–CIO Department of Urban Affairs, as he testified on this very bill. He said:

> THE VALUE OF REGULATION Q
>
> The proponents of the phase-out of Reg Q advance several arguments that relate to the fluctuations in residential construction. It is asserted that one of the unfortunate public consequences of Reg Q has been that during high interest rate periods funds have been shifted out of thrift institutions to higher-yield market securities.
>
> The first three post-Korea housing declines that were triggered by tight money occurred in 1955–57, 1959–60 and 1965–66, before the authority for interest rate ceilings on accounts at thrift institutions was enacted. The low points in the seasonally adjusted annual rate of new housing starts were below preceding peak points by 28 percent, 37 percent and 43 percent. All three declines were preceded by industrial expansion, substantial increases in business borrowing, and rising interest rates. The latter market development was reinforced by Federal Reserve restrictive monetary policies.
>
> The declines in seasonally adjusted annual rates of net mortgage lending from peak to trough quarters were 35 percent in 1955–57, and 29 percent in 1959–60, and 45 percent from the last quarter of 1965 to the last quarter of 1966. The latter decline reflected the drastic drop in net inflows to savings and time deposits, which was much smaller at commercial banks than at savings institutions. The commercial banks fared better, in large part, because the Federal Reserve Board raised the maximum allowable interest rates on time deposits at commercial banks in December 1965.
>
> In the summer of 1966, there were net outflows of savings at thrift institutions, and it was recognized that the Federal savings and loan system faced a potential liquidity crisis. Against the background of savings disintermediation, the liquidity problem and the drastic decline in homebuilding, Congress, in September 1966, enacted the authority for the present type of Regulation Q.
>
> In all three of the aforementioned periods, there were shifts of funds away from the thrift institutions into other channels, which led to sharp cyclical declines in homebuilding. These instances occurred before the 1966 authority for Reg Q ceilings on thrift institution savings accounts was established.
>
> Some of the proponents of the phase-out of Regulation Q point out that it has not prevented the housing industry from bearing the brunt of high interest rates plus tight money policies designed to cool off an overheating economy. They do, however, make the point that Reg Q, with the interest rate differential, has been of some help to the thrift institutions and the homebuilding industry, which would have suffered more without it. The latter point is supported by the contrasting record of the first and of the second credit-related cyclical downturns in residential construction that occurred subsequent to the implementation of the 1966 Reg Q legislation. In the first, Reg Q probably contributed to the much milder decline of savings inflows at savings institutions than at commercial banks in 1969, 35 percent versus 96 percent, respectively.
>
> The 1973–74 cyclical downturn pattern was different, reflecting a difference in magnitudes of non-housing credit demands, tight money and rise in interest rates, plus a regulatory action which destroyed the effectiveness of Reg Q for a few months. A major business expansion, which was underway in the latter part of 1972, gained momentum in 1973 and generated heavy credit demands, particularly for commercial bank loans, and a monetary restraint policy was adopted. From the beginning of January to the beginning of July, the commercial bank prime business loan rate and the Federal funds rate both rose from about 5½ to 8 percent. To relieve the liquidity problems faced by the banks, on July 1, 1973, the ceilings on interest rates on large certificates of deposits ($100,000 or more) were removed.
>
> In addition, the regulatory agencies eliminated Reg Q ceilings on certificates of deposit with a minimum of $1,000 and a maturity of at least four years. Such CDs were popularly identified as the "wild cards", as aggressive institutions offered interest rates to outbid competitors for savings. Commercial banks were generally more aggressive than savings institutions and gained a significantly greater share of aggregate savings flows. The savings instituitons experienced disintermediation in some months. In November, legislation was passed outlawing the "wild card" savings certificates. That was after seeing what happened.
>
> The 1973–74 wild-card experience illustrates how much worse things can be for homebuilding and the economy without an effective Reg Q. High interest rates and relative scarcity of mortgage funds produced the most prolonged and pronounced post-World War II decline in residential construction, which extended into the first half of 1975. A contributing factor was a moratorium, instituted in January 1973 on new approvals for Federally subsidized housing. It assured a short supply and inflation in housing in subsequent years. The accompanying general economic recession saw the unemployment rate rise from 4.9 to 8.9 percent and resulted in the loss of an estimated $100 billion in constant dollar GNP, which would have meant significant increases in tax revenues to reduce the Federal deficit, and in savings to support capital formation.
>
> Past experience demonstrates that a return to a "free market" for savings will lead to greater instability and economic inefficiency for residential construction and the economy as a whole. Those who advocate a return to the so-called free market conditions point to the use of the money market certificates since June 1, 1978, as the factor which pre-

vented the housing sector from bearing the brunt of the 1978–79 tight money and rising interest rates.

However, the housing market factors of high demand due to population composition and supply scarcity were far stronger than in previous periods preceding a housing downturn, as can be seen from 1973–1978 comparisons:

	1978	1973
Net increases in households over 12 months ending with March	1.9 million	1.6 million
National rental vacancy percentage	5.0 percent	5.7 percent

The dilemma of paying low enough interest rates on savings at thrift institutions to permit placement of funds in residential mortgages versus increased likelihood of disintermediation cannot be overcome with current or increased dependence upon market forces to channel the flow of available credit. Given the relatively weak position of many households relative to other prospective credit users, housing will continue to be subject to large cyclical fluctuations, with consequent destabilizing influences upon the general economy. That is a result of great disparities in incomes of households and the fact that those with higher incomes, who are generally well housed, can outbid homeseekers for scarce funds by paying higher interest rates.

It would be difficult to argue, moreover, that resort to tight money policies will not produce a predictable, selective impact. Repeated experience since World War II has demonstrated that Federal Reserve general tight monetary policies, adopted to cool off an overheating economy, have had a selective, deep adverse impact upon residential construction, which contributes significantly to subsequent economic slowdowns and recessions. Whether this repeated scenario is a "free market" is a question of definition.

To get out of this dilemma, a new tool to restrict credit flows and redistribute the impact in an overheating economy is needed. For this purpose, consideration should be given to the implementation of selective credit regulation, under authority of the Credit Control Act of 1969. As the term implies, selective credit regulation should involve a much more limited restriction on extension of credit for different uses than complete credit allocation. Decisions as to selective impact would be required. A shift to such regulation would be the sort of adaptation of the national monetary and credit system to changing conditions that has, over two centuries, reduced or eliminated practices that hindered stable economic growth.

As critics of Reg Q have pointed out, and as indicated by experience in 1974–75 and 1979, Reg Q has limited effectiveness during a credit crunch in countering the influence from outside of the depository institution structure in directing the flows and uses of loanable funds. Household savers have learned over the years to deploy their own savings to obtain the highest yield. There has been a long-term upward trend of direct household investment in market instruments which reached a seasonally adjusted annual rate of close to $100 billion in the first quarter of 1979. Part of this phenomenon is seen in the 3½ times multiplied growth of money market funds to a $23.2 billion total in the 12 months ending with May 1979. Minimum required amounts for participation in such funds range between $1,000 and $2,500.

The heaviest investment of these funds is in large certificates of deposit, issued mostly by commercial banks who can then finance business loans and consumer credit at higher interest rates than many mortgage borrowers can pay, and in commercial paper, which serves the same needs. The third largest form of investment by money market funds is bankers' acceptances, another form of business financing issued by banks.

The growth of money market funds is a vivid illustration that the depository institutions are not the only forms of investment intermediaries. Last week Merrill, Lynch began to offer a Cash Management Account Money Market Trust, combining checking and investment of cash in money market instruments. Competition for funds between different types of intermediary institutions reflects the basic competition between different credit users who are served by the different types of institutions.

In absence of ceilings on savings interest rates, when money became tighter, thrift institutions could compete more aggressively for funds by paying higher rates to attract savings.

The result would, of necessity, be higher mortgage interest rates. More rapid and intensive fluctuations in interest rates would increase the frequency and amplitude of homebuilding cycles, which help to maintain a high priced, shore supply of housing that feeds inflation. There would also be an increase in the frequency and intensity of economic slowdowns and recessions which have followed sharp declines in residential construction.

To help meet the nation's housing needs, and to avoid increased inflationary pressures and cyclical economic downturns, Reg Q should not be phased out, pending the development and implementation of money and credit policies that do not have interest rates as a central fulcrum.

I have further discussion, but in the interest of time I will make some other comments.

But no one can consider it as not being consumer oriented.

Wednesday I want to talk about the effect on the small saver. But now I want to say for the benefit of those who may be listening——

Mr. PROXMIRE. Mr. President, we only have a few minutes left. Will the Senator give me 1 minute to rebut a part of this?

Mr. MORGAN. I yield to the Senator for 1 minute.

Mr. PROXMIRE. Mr. President, I would like to call the attention of the Senator, as to his argument on regulation Q, the report of the President's interagency task force on regulation Q, which was put out 2 months ago after very careful study by a number of outstanding experts, including the Secretary of the Treasury, a number of people in the Department of Treasury, a number of people in the Department of Housing and Urban Development, the Office of Special Assistant to the President on Consumer Affairs, OMB, the Council of Economic Advisers, the White House domestic policy staff.

These are really experts who spent a great deal of time on this, and they said:

It is now widely agreed that the system of deposit rate controls has failed to prevent the sharp cyclicality of mortgage credit flows, buttressing the arguments for a change. It is also clear that the small saver has become increasingly unwilling to accept below market interest rates and has made this known both by pressing for changes and by transferring savings to investments not subject to regulation Q ceilings. The episodes of disintermediation that have occurred since the mid-1960s have in turn threatened the viability of some of the nation's savings institutions and banks. This report concludes that significant changes in the present system are desirable. It recommends a transition to a more unregulated environment, in which deposit interest rates are determined generally by market forces, and savings institutions are given the additional investment powers they need to compete for funds to counter the threat of disintermediation.

That is what this tries to do, and that is the basis——

Mr. MORGAN. I agree all the Federal regulators want to homogenize institutions. But I point out, and we will resume this tomorrow, the credit unions are vitally concerned that their share draft powers will expire because of the court decision on January 1.

I have been told they are going to have to begin to phase out share drafts pretty soon if something is not done.

Just last week, after our discussion here on the floor, the House committee, again by substantial voice vote, I understand with only two dissenters, reaffirmed that they were not going to accept this bill back in the House with all of these far-reaching and controversial provisions attached to it.

So if we send this back over to the House and it gets bogged down in conference, we may well jeopardize credit union share drafts, which were outlawed by the court decision. The court said we had until January 1 before share drafts must be discontinued as well as the automatic transfers and the remote service units.

So I am saying I will offer an amendment Wednesday to correct those matters, to strip this bill of all its extraneous matters, send it back over to the House and let us get the credit unions share drafts restored, and then talk about these other items.

This report came out 2 months ago. No one really has had adequate time to study it.

So I will offer that amendment Wednesday. I hope my colleagues will support it. In doing so, we will not be rejecting all these items but we will be saying we maintain the status quo, so that the credit unions and others affected by that court decision can go on and make some decisions.

This same Congress will be in session next year. Then we can have further time to work on the many provisions which the chairman supports.

It might be that my chairman may see the light and agree with him. I might eventually agree with him.

ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the hour of 3:45 p.m. having arrived, the Senate will now resume consideration of H.R. 3434, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 3434) to amend the Social Security Act to make needed improvements in the child welfare and social services programs, and so forth, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is on the amendment by the Senator from Kansas (Mr. DOLE) on which there shall be 15 minutes of debate, to be equally divided and controlled by the Senator from New York (Mr. MOYNIHAN) and the Senator from Kansas (Mr. DOLE).

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 692

(Purpose: To make a technical amendment in the bill)

Mr. LONG. Mr. President, I send to the desk a technical amendment to correct an ambiguity, and I ask unanimous consent that it be considered at this point.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 692:

On page 68, line 18, insert ", starting with fiscal year 1980," after "fiscal year".

Mr. LONG. Mr. President, it has been called to our attention that there is an ambiguity in the language of the bill.

Paragraph (3)(A) of section 474(b) of the Social Security Act would, under the bill, establish the limitation applicable to fiscal years 1980 and after for Federal funding of foster care. An alternative limitation for those years is allowed by the next subparagraph ((3)(B)). However, because these sections contain several references to various fiscal years, the meaning of the term "fiscal year" as used in subparagraph (3)(B) is ambiguous. The amendment I am offering would make it clear that the reference is to fiscal year 1980 or any subsequent fiscal year referred to in the earlier paragraph.

I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question occurs on the amendment by the Senator from Kansas.

Mr. DOLE. Mr. President, I wonder whether we might set aside the amendment. There may be some question raised by the distinguished Senator from New Mexico. If we could set aside the amendment and go to one of the other rollcall votes, perhaps by the time we have finished that, we could have any question resolved.

I ask unanimous consent that the so-called Dole amendment be set aside and that we proceed to the next amendment on which the yeas and nays have been ordered, and that the time not be charged against the Dole amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

● Mr. CRANSTON. Mr. President, I am sympathetic to what the Senator from Michigan (Mr. LEVIN) is attempting to accomplish with his amendment. As he has stated in the past, I have worked for many years for Senate passage of legislation that promised to offer significant opportunities for adoption of children once considered impossible to place with the prospect of House/Senate conference and final enactment clearly before us, this is a joyous day for me.

In the years I have worked on this legislation, and particularly during the past 2½ years, I have devoted an enormous amount of work to hammering out a bill that was acceptable to all parties involved and that would assure support from those whose support was most critical, particularly that of our colleagues on the Senate Finance Committee and that of the administration. The committee bill represents the product of those literally years of discussion and compromise—elements which are the very strength of the political process in our Nation. As I have stated previously, the committee bill is not all that I would like it to be, but it is a tremendously meaningful beginning. I have dealt in good faith with my fellow drafters of this legislation and they have dealt in good faith with me. The bill has moved. It is out of committee. It is a good bill. It is before us today, and for legislation proposing the kinds of reforms this bill proposes, that is a most significant development.

So, although I am sympathetic to the aims of my colleague's amendment. I feel constrained in this matter and cannot support him today. I am also convinced that some of the concerns that I share with my colleague from Michigan will have been favorably resolved when this bill emerges from conference.●

The PRESIDING OFFICER. The question now occurs on the amendment by the Senator from Michigan (Mr. LEVIN). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Alabama (Mr. HEFLIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Tennessee (Mr. SASSER) is absent on official business.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Missouri (Mr. DANFORTH) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER (Mr. METZENBAUM). Are there any other Senators wishing to vote?

The result was announced—yeas 60, nays 25, as follows:

[Rollcall Vote No. 374 Leg.]

YEAS—60

Baker	Glenn	Percy
Baucus	Hart	Proxmire
Biden	Heinz	Pryor
Boren	Huddleston	Randolph
Boschwitz	Humphrey	Ribicoff
Bradley	Jackson	Riegle
Bumpers	Javits	Roth
Burdick	Jepsen	Sarbanes
Byrd, Robert C.	Kennedy	Schmitt
Cannon	Laxalt	Schweiker
Chafee	Leahy	Simpson
Chiles	Levin	Stafford
Cohen	Lugar	Stevens
Culver	Magnuson	Stevenson
DeConcini	Mathias	Tsongas
Dole	McGovern	Wallop
Domenici	Melcher	Warner
Durenberger	Metzenbaum	Weicker
Durkin	Muskie	Williams
Ford	Pell	Young

NAYS—25

Armstrong	Goldwater	Morgan
Bentsen	Gravel	Moynihan
Byrd, Harry F., Jr.	Hatch	Nelson
Cochran	Helms	Nunn
Cranston	Hollings	Stennis
Eagleton	Johnston	Talmadge
Exon	Long	Thurmond
Garn	Matsunaga	Zorinsky
	McClure	

NOT VOTING—15

Bayh	Hayakawa	Pressler
Bellmon	Heflin	Sasser
Church	Inouye	Stewart
Danforth	Kassebaum	Stone
Hatfield	Packwood	Tower

So Mr. LEVIN's amendment (No. 553) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 558

Mr. DOLE. Mr. President, I ask unanimous consent that we continue to set aside the Dole amendment and go to the Bellmon amendment on which the yeas and nays have been ordered.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, we cannot hear.

The PRESIDING OFFICER. There is a request for unanimous consent to set aside the Dole amendment and go to the Bellmon amendment and vote it. Is there objection? The yeas and nays have been ordered.

Mr. DOMENICI. Mr. President, reserving the right to object, are we going to vote without any debate? If we are, I will object.

The PRESIDING OFFICER. There is no time for debate.

Mr. DOMENICI. There was on the Bellmon amendment, 10 minutes on each side.

The PRESIDING OFFICER. That would take unanimous consent.

Mr. DOLE. Mr. President, I ask unanimous consent that there be 10 minutes on each side on the Bellmon amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MOYNIHAN. I object.

Mr. LONG. Mr. President, I ask unanimous consent that there be 5 minutes granted to each side.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DOMENICI. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senator from New Mexico would not have control of the time. The proponent of the amendment, the manager of the bill, would be in control of the time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, Senator BELLMON is not present and asked me to propose the amendment and make the argument in his behalf, and I ask unanimous consent that I be in control of the time.

Mr. LONG. Mr. President, I ask unanimous consent that the control of the time on the amendment be under the Senator from New Mexico.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, as I indicated, this is not my amendment, although I wholeheartedly support it. It is an amendment that Senator BELLMON proposed.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. ZORINSKY). The Senate is not in order. Senators talking will please retire to the cloakroom or take their seats. Will Senators please clear the well and take their seats?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, on last Thursday Senator BELLMON offered amendment No. 558 to the pending bill and, as I indicated, he finds it impossible to be here at this time. He asked me to make a few comments in support of the amendment prior to the Senate's vote on the amendment.

This amendment has a very simple purpose. It is to improve the equity in the ceilings for Federal foster reimbursement to the various States.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the State-by-State ceilings under both the committee bill as reported and under the Bellmon amendment.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FEDERAL FOSTER CARE FUNDING

[In millions of dollars]

	Fiscal year 1978	Fiscal year 1980			Fiscal year 1978	Fiscal year 1980		
		H.R. 3434	Bellmon amendment	Change		H.R. 3434	Bellmon amendment	Change
U.S. total	211.95	278.14	279.84	+1.70	Missouri	1.50	2.20	2.68	+.48
Alabama	1.30	1.80	2.21	+0.41	Montana	.50	.60	.57	−.01
Alaska	.70	.84	.80	−.04	Nebraska	.60	.72	.72	(1)
Arizona	(1)	1.10	1.57	+.47	Nevada	.30	.36	.34	−.02
Arkansas	.40	1.00	1.27	+.27	New Hampshire	.50	.60	.57	−.03
California	29.30	35.15	35.15	(2)	New Jersey	.30	3.30	4.65	+1.35
Colorado	1.20	1.44	1.44	(2)	New Mexico	.08	.60	.85	+.25
Connecticut	1.60	1.92	1.92	(2)	New York	109.20	131.04	125.09	−5.95
Delaware	.40	.48	.49	+.01	North Carolina	.70	2.60	3.01	+.41
District of Columbia	.40	.48	.58	+.10	North Dakota	.40	.48	.46	−.02
Florida	1.10	3.50	4.15	+.65	Ohio	2.50	5.00	6.22	+1.22
Georgia	2.20	2.64	2.99	+.35	Oklahoma	.60	1.30	1.58	+.28
Hawaii	(1)	.40	.62	+.22	Oregon	3.70	4.44	4.24	−.20
Idaho	.30	.40	.40	(2)	Pennsylvania	6.80	8.16	8.16	(2)
Illinois	3.20	5.30	5.37	+.07	Rhode Island	.20	.40	.41	+.01
Indiana	1.20	2.60	3.31	+.71	South Carolina	.50	1.40	1.79	+.39
Iowa	1.10	1.32	1.32	(2)	South Dakota	.30	.36	.41	+.05
Kansas	2.40	2.88	2.75	−.13	Tennessee	2.10	2.52	2.80	+.28
Kentucky	1.80	2.28	2.42	+.14	Texas	1.00	6.30	6.30	(2)
Louisiana	2.60	3.12	3.12	(2)	Utah	.40	.70	.73	+.03
Maine	1.70	2.04	1.95	−.09	Vermont	.50	.60	.57	−.03
Maryland	3.00	3.60	3.60	(2)	Virginia	2.60	3.12	2.98	−.14
Massachusetts	.60	2.50	2.50	(2)	Washington	2.10	2.52	2.52	(2)
Michigan	10.20	12.24	12.24	(2)	West Virginia	.80	.96	1.04	+.08
Minnesota	3.20	3.84	3.76	−.08	Wisconsin	2.90	3.48	3.48	(2)
Mississippi	.80	1.30	1.50	+.20	Wyoming	.07	.20	.20	(2)

[1] Less than $0.05 million.

[2] No change.

Mr. DOMENICI. This is a correction of the table printed in last Thursday's RECORD on pages 29536 and 29537.

I might add, Mr. President, that this table also corrects a few mistakes in the table printed on pages 52 and 53 of the Committee on Finance report on this bill.

Mr. President, the adjustment that the amendment takes into account includes two factors: First, if a State varies by more than 50 percent from the national average monthly cost per foster child placement, it will receive a proportionate increase or decrease in its ceiling.

Second, if a State is more than 50 percent above or below the national average in the percentage of children placed in foster care as a proportion of its total AFDC population, it will also receive an adjustment in its ceiling.

Mr. President, Senator BELLMON offered this amendment to give the Senate an opportunity to redress somewhat the imbalances in the allocation of Federal funds that exist under the present law and which would be perpetuated under the committee bill.

We have a situation, Mr. President, as Senator BELLMON pointed out on Thursday, in which only four States are above the national average in costs per foster care placement. This means that those States that have high costs are getting a disproportionate amount of the Federal money.

Let me very blunt. New York received over half of the Federal foster care funds in fiscal year 1978, $109.2 million out of $212.05 million spent by the Federal Government.

Under the committee bill, it is estimated that New York will get 47 percent of the funds in fiscal year 1980. The Bellmon amendment would only change this to 45 percent.

But it would begin to redress the imbalance created by our favoring those States with extremely high costs in this area.

You may ask why Senator BELLMON has offered this amendment since the changes for the States are relatively modest. Mr. President, Senator BELLMON is trying to make a point, and I think it is a good one. The reported bill puts a ceiling on foster care expenditures at a time when the data show there are great imbalances among the States. Neither Senator BELLMON nor I disagree with the concept of a ceiling, but we are very concerned that the Federal Government is about to perpetuate inequities and perhaps reinforce inefficiency in some States that have very high costs. At the same time, the bill as it now stands may unfairly penalize other States which perhaps have held down foster care costs.

This amendment will adjust the ceilings of 36 States; 24 States will gain; 12 States will get less money than under the committee bill. New York would receive about $6 million less in fiscal year 1980 under the Bellmon amendment than under the reported bill, and that State would receive fully 45 percent of all the funds allocated for this program. The State with the next largest change would be New Jersey, which would gain $1.35 million.

So, despite the relatively small amounts of money involved in these

changes, the Bellmon amendment carries an important message. It puts the Federal Government clearly on record in favor of cost control and reduced reliance on foster care. The amount of money that a State can get from the Federal Government will be related to the success of that State in holding down the percentage of AFDC children placed in foster care and in holding down costs.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. May I have 30 seconds?

Mr. MOYNIHAN. Mr. President, I yield the Senator from New Mexico 30 seconds of my time.

Mr. DOMENICI. I thank my friend. This type of adjustment in State ceilings is quite consistent with the basic purposes of the bill that the Finance Committee has reported and indeed will help to achieve the purposes that the Finance Committee has in mind. The consistency of this amendment is to place the money and allocation on a trend line consistent with the goal of this bill, and the goal certainly is not to encourage maximum expenditure, but rather realistic curtailment. Unless we do this, we will be moving in the direction of giving the States with very high expenditures all the money, and those which have held costs down little or none.

I ask for the yeas and nays on the Bellmon amendments.

Mr. MOYNIHAN. The yeas and nays have been requested.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. MOYNIHAN. Mr. President, I believe I can summarize in 90 seconds the points which the Committee on Finance would wish to make in opposition to this well intentioned but, we feel, poorly advised amendment.

The committee has worked for almost 3 years on bringing to the floor an important piece of social legislation, the Adoption Assistance and Child Welfare Act of 1979. Our chief purpose here is to establish for the first time a Federal payment to families to adopt children and to encourage adoption instead of foster care, it being the judgment of persons who have deeply involved themselves in these matters that this ought to be done.

We have put a loose cap on foster care expenditures. The amendment of the Senator from Michigan has just been adopted, to provide that adoption assistance is available to all families, without regard to income. Now, if you will follow me for this one moment, if you are successful as a State in bringing about the largest possible number of adoptions, you are likely to have left behind in foster care the hard to adopt children, almost all of whom incur relatively high costs. It is because of their circumstances, often pitiable, that they cost more money to maintain.

This amendment would penalize those States which have successfully brought about adoption for the largest number of orphans and children who otherwise do not have families, and would penalize them for doing what our bill proposes to be done.

There is not a lot of money involved. There is an important principle, which is "Do not penalize States which effectively carry out good social programs."

Mr. President, if there is a question in the Senate I will be glad to answer it. Otherwise I would say that I do not know of a member of our committee who would support this amendment. We have addressed ourselves to these matters with, I hope, proper diligence over 3 years.

There being no questions, Mr. President, I yield back the remainder of my time.

Mr. DOMENICI. May I ask the Senator a question?

Mr. MOYNIHAN. Yes, of course.

Mr. DOMENICI. I would assume that when you asked the Senate to listen for just a short time, you were making the point that you were much more successful than other States in getting foster children adopted, and thus the children you have left over are that much more difficult, so you should get more money; is that the point?

Mr. MOYNIHAN. The average. Just as an average, not more money. If you had only one child in foster care, and its costs was above average, you would be penalized. This is not the total, but the average; and the more successful your adoption program the more your foster care program will cost, and the more it costs the higher will be the average.

Mr. DOMENICI. Then you should be more successful in getting children adopted, if that is the thrust.

Mr. MOYNIHAN. I do not know whom the Senator means by "you," when he addresses me.

Mr. DOMENICI. New York.

Mr. MOYNIHAN. The State of New York has a very successful adoption program, because it began paying its own subsidy 11 years ago. We are reaching this point in the Nation, if you want to get to that, sir, where the Nation is catching up with the social policies that began in my State. Yes, I will say that; I will admit that.

Mr. DOMENICI. Senator, I just want to ask, then, would you explain to me how, compared with the national average—that is, the percent of all AFDC children in foster care—the national average is 1.46 and New York is 3.09?

Mr. MOYNIHAN. That is a very simple thing, sir. It has to do with the mixture of populations that are subject to this kind of disability.

Mr. DOMENICI. I understand.

Mr. MOYNIHAN. It is a perfectly standard relationship across the Nation.

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. MOYNIHAN. Mr. President, the committee opposes this amendment, and asks the support of the Senate in this regard.

The PRESIDING OFFICER. All time on the amendment having expired, the question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 31, nays 57, as follows:

[Rollcall Vote No. 375 Leg.]

YEAS—31

Armstrong	Garn	Morgan
Biden	Glenn	Proxmire
Boren	Goldwater	Schmitt
Boschwitz	Hart	Simpson
Byrd, Harry F., Jr.	Hatch	Stevenson
Cochran	Helms	Thurmond
Danforth	Humphrey	Wallop
Domenici	Jepsen	Warner
Eton	Laxalt	Young
Ford	Lugar	Zorinsky
	McClure	

NAYS—57

Baker	Heflin	Nelson
Baucus	Heinz	Nunn
Bentsen	Hollings	Pell
Bradley	Huddleston	Percy
Bumpers	Jackson	Pryor
Burdick	Javits	Randolph
Byrd, Robert C.	Johnston	Ribicoff
Cannon	Kennedy	Riegle
Chafee	Leahy	Roth
Chiles	Levin	Sarbanes
Cohen	Long	Sasser
Cranston	Magnuson	Schweiker
Culver	Mathias	Stafford
DeConcini	Matsunaga	Stennis
Dole	McGovern	Stevens
Durenberger	Melcher	Talmadge
Durkin	Metzenbaum	Tsongas
Eagleton	Moynihan	Weicker
Gravel	Muskie	Williams

NOT VOTING—12

Bayh	Hayakawa	Pressler
Bellmon	Inouye	Stewart
Church	Kassebaum	Stone
Hatfield	Packwood	Tower

So Mr. BELLMON's amendment (No. 558) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 559

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Kansas. There are 8 minutes left on the amendment.

Who yields time?

Mr. LONG. I yield to the Senator from Montana.

Mr. MELCHER. Mr. President, I want to make a point of order on this amendment.

The PRESIDING OFFICER. A point of order is not in order until all time is used or yielded back.

Mr. DOLE. I yield back the remainder of my time.

Mr. LONG. I yield back my time.

Mr. MELCHER. Mr. President, I make a point of order on the amendment that the amendment is not germane.

The PRESIDING OFFICER. Under the unanimous-consent agreement under which the bill is being considered, there is a requirement that the amendment be germane. This amendment is clearly not germane and, therefore, the point of order is sustained.

The question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed for a third reading and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3434) was passed.

● Mr. CRANSTON. Mr. President, I wish to express my strong support for the provisions of title I of H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979. These provisions, which are derived from the legislation—amendment No. 392 to S. 966—which I introduced, with Senators MOYNIHAN and RIEGLE, on August 3, are aimed at improving the welfare of the estimated half million children now living in foster-care situations throughout this country. This legislation is very similar to legislation which was passed by the Senate on October 9, 1978—almost exactly 1 year ago today.

Unfortunately, however, favorable action was not completed on this measure before the adjournment of the 95th Congress. Thus, today, we are completing unfinished business which is of the utmost importance to those concerned with the welfare of dependent and neglected children throughout the Nation.

FINANCE COMMITTEE LEADERSHIP

Mr. President, at the outset, I want to express my deepest appreciation to my good friend, the Senator from New York (Mr. MOYNIHAN), who, as chairman of the Public Assistance Subcommittee of the Finance Committee, along with the distinguished chairman of the Finance Committee, the Senator from Louisiana (Mr. LONG), moved this legislation forward with extraordinary speed and dedication—a remarkable feat in light of the other issues of enormous magnitude which are pending before the Finance Committee and requiring its attention.

Although the administration submitted a child welfare reform proposal early this spring, the House did not act this year upon child welfare legislation until August 2—the day before the Senate recessed for the August recess. Nevertheless, soon after we reconvened, the Public Assistance Subcommittee scheduled a hearing with the intention of moving this legislation forward as rapidly as possible. The full Finance Committee—by ordering this measure reported on September 27—demonstrated the kind of commitment and sense of urgency which was needed to bring this important measure before the Senate.

Mr. President, it is estimated that 500,000 children are locked in the foster care system; according to HEW studies, over 100,000 of these children have been in foster care more than 6 years. Action by Congress to free these children—and to prevent other children from facing similar futures—should not be delayed another day. I am extremely grateful to Senator MOYNIHAN and Senator LONG, and the members of the Finance Committee for acting so rapidly on this legislation.

NEED FOR REFORM—BACKGROUND

Mr. President, when I introduced my legislation on August 3, I recounted some of the statistics and studies which document the need for reform of the foster care system. I described the evidence presented before my own Subcommittee on Child and Human Development on the problems of abuse and neglect of children residing in institutional settings, including foster care institutions. I reviewed the findings of the GAO's investigation, at my request, into the placement of foster children in foster homes and institutions run by the People's Temple and members of the People's Temple.

Mr. President, the studies and investigations of the foster-care system have been numerous. They range from investigations and hearings held by distinguished citizens' groups such as the National Commission on Children in Need of Parents to reports and investigations prepared by well respected children's advocacy organizations such as the Children's Defense Fund. Government agencies and investigation entities, such as the General Accounting Office and HEW's Audit Agency have also issued reports and reviews. In every single case they have condemned current foster care practices, and they have documented forcefully the abuse and neglect which the present system of foster care has imposed upon these innocent children.

Mr. President, let me say, however, that there are hundreds of thousands of foster parents throughout this country who provide loving and needed care to abused and neglected children. And, there are many foster care institutions that provide similarly important and necessary and sensitive care for foster children. Foster care is an essential child protection service and it would be a serious mistake not to recognize the necessity and importance of foster care in dealing with families in crisis.

Yet, study after study has shown that a vast number of children remain unnecessarily in long-term foster care. For far too many children, foster care has ceased to be a temporary, short-term child protection service and has been transformed into a form of long-term childhood imprisonment with the likelihood of a child returning to his or her home, or finding a new adoptive home, decreasing substantially as the months go by. The fact is that over half the children in foster care have been there more than 2 years.

Mr. President, what these studies and investigations have shown is that in many cases children are left to languish in foster care because the public and private agencies charged with the responsibility for their care and well-being have failed to carry out those responsibilities.

Mr. President, let me give you a few concrete examples of this failure on the part of the agencies responsible for foster children. The 1977 GAO study of foster care placements found that only one-third of the children surveyed had received the statutorily required semi-annual case reviews. Forty-five percent of the families from which children had been removed had not even been visited by representatives of the responsible agencies during the 6-month period of the GAO review. The GAO investigation also found a widespread failure to include in the case plans developed for foster children vital information in the case plans—as required under section 408(f) of existing law.

The 1977 HEW national study of social services to children and their families found that even in those cases where the responsible agency had developed a plan for returning a child home, in one-third of the cases there was no plan for visits between the child and the parent or another person who would care for the child if returned home. The Children's Defense Fund's study found that half of the counties they surveyed had no written policies about visits between children and parents while the children were in foster care, and when policies did exist, they were often restrictive or disregarded in practice.

The HEW study also found that nearly half of the children who have spent 2 or more years in foster care have had at least four different caseworkers and nearly one-fourth of the children had been in three or more foster homes.

In 1975, the Subcommittee on Children and Youth of the Labor and Public Welfare Committee—the predecessor of the Child and Human Development Subcommittee—published a report entitled: "Foster Care and Adoptions: Some Key Policy Issues." This report described the problem of losing children—"children adrift"—in the foster care system in the following terms:

> Because of the large caseloads and rapid turnover rates among case workers, some children in foster care "get lost". The word "lost" may seem a little dramatic, but it is appropriate. Given the pressures of a large caseload, the social worker usually has to concentrate on the clients that present immediate problems. As a result, the social worker often loses track of the non-problem child, is unaware of that child's needs, and develops no goals and provides no active services for the child or his family. Many other children drift in foster care, either because no worker is assigned to them, or because the worker is new to the job and has not gotten to each child's case yet.
>
> Massachusetts reported that 1,690 children did not have a case worker assigned to them at the time of the study. Many more children were essentially adrift in the system because their case workers simply had lost track of them. A more likely estimate of children adrift in the foster care system of that state was 8,000. This situation is typical of many states. In New York, it was estimated recently that 4,000 children are adrift in the system.
>
> What does it mean for a child to be adrift in the foster care system. It means that he is fed and has a place to sleep in a foster family home, a group home, or an institution. The board checks continue to come in and the child is cared for. But movement in the direction of adoption is likely to be slow, if there is any movement at all. Being adrift may mean that the problem that originally caused the child's placement in foster care has been solved and he could go home—but he won't because no one has put these two critical pieces of information together. The parents, either out of ambivalence, ignorance, or the false belief that their child has been taken from them permanently, do not ask for the child's return to them. The case worker has not kept tracks of the parents—much less the child—and so the child drifts in foster care.

Mr. President, the GAO's investigation—carried out at my request and the first phase of which was completed last May—into the placement of foster children with homes operated by the People's Temple or People's Temple members provided a very concrete example of how foster children can become lost. In one case, the GAO found that foster care checks continued to be mailed to one foster parent residing in California over 7 months after the child had emigrated to Guyana. In another case, the GAO found that a child's foster care payments had been stopped because the agency had "lost track" of the child. That child, unfortunately, turned up on the list of dead or missing after the Guyana tragedy.

FEDERAL RESPONSIBILITIES

Yet, Mr. President, I also believe that part of the fault lies at the Federal level: First, in not clearly articulating in Federal statutes the intention that foster care be a "temporary" placement for a child, except in the relatively rare instances where long term foster care placement is warranted; and, second, in perpetuating a Federal financial assistance program that provides fiscal incentives to keep children in long-term foster care placements without any corresponding fiscal commitment to providing the kinds of services and support necessary to free children from the foster care limbo—either by returning them to their original homes or freeing them for adoption.

Mr. President, the legislation we are considering today attempts to refocus Federal involvement in foster care away from the indiscriminate use of long-term foster care toward efforts to keep families together wherever possible, and, in those cases where reunification is impossible, to help find permanent new adoptive homes for these children.

Mr. President, I would like to outline some of the key components in the legislation being considered today. I refer my colleagues to my statement of August 3 at pages 22679–22692 of the CONGRESSIONAL RECORD for a more detailed explanation of the provisions of this legislation. The Finance Committee, in its markup of the legislation I introduced on August 3, made only two significant changes which I will highlight in my discussion of the bill before us.

SUMMARY OF FOSTER CARE, ADOPTION ASSISTANCE AND CHILD WELFARE PROVISIONS OF H.R. 3434 AS REPORTED

Mr. President, this legislation is designed to strengthen and improve the existing federally supported foster care system for dependent and neglected children, establish a new adoption assistance program to encourage the adoption of children with special needs, and improve the existing federally supported child welfare services program by stressing family reunification. The existing foster care program and the new adoption assistance program would be incorporated into a new title IV–E of the Social Security Act. A new section would be added to the existing title IV–B—child welfare services—program with provisions for earmarking of new title IV–B funds for funding of the services outlined in the new section.

IMPROVEMENTS IN THE EXISTING FOSTER CARE SYSTEM

Mr. President, let me summarize some of the important changes this legislation would make in the foster care program under the new title IV–E. First of all, it is explicitly stated in the proposed new section 470(b)(1) that it is the policy of the Federal Government, in providing funds to the States to carry out their foster care programs, that foster care should not ordinarily be regarded as a desirable form of permanent child care and that foster care should ordinarily be regarded as a temporary status. The various studies I cited earlier have demonstrated all too dramatically the necessity of reiterating the point that foster care ordinarily should be—and originally was—designed as a temporary placement, and is not, in most cases, a desirable way to care for a child for any substantial period of time.

There are, of course, exceptional cases where a child must reside permanently in a foster care situation. Far too many children, however, enter the foster care system during an emergency situation for a "temporary" foster care placement which turns into years of lingering in the foster care system, without any planning or efforts toward finding a permanent home for the child, either with his family or in a new adoptive home.

In an effort to take positive steps toward reducing the number of children in long-term foster care placements, the bill as reported would provide that each State shall establish on or before October 1, 1981, specific goals for each fiscal year as to the maximum number of children who will remain in foster care for more than 24 months, and provide a description of the steps which will be taken by the State to achieve such goals. This provision is intended to assist the States in focusing upon the problem of unnecessary long-term foster care and to facilitate a planning process at the State level for reducing long-term foster care.

PROVISION OF PREVENTIVE SERVICES AS A CRITERION FOR PARTICIPATION IN THE IV–E PROGRAM

Mr. President, a second major revision of the existing title IV–A program under the new title IV–E program is the requirement under the proposed section 471(a)(15), effective October 1, 1981, that in each case reasonable efforts are to be made prior to the placement of a child in foster care, to prevent the removal of the child from his or her home as well as reasonable efforts to make it possible for the child to return home after removal. This requirement in the State plan under the proposed section 471(a)(15) would be reinforced by the new requirement under the proposed section 472 that each State with a plan approved under title IV–E may make foster care maintenance payments only for a child who has been removed from a home as a result of an explicit judicial determination that reasonable efforts to prevent the removal have been made, in addition to the judicial determination required by existing law that continuation in the home would be contrary to the welfare of the child.

Mr. President, these two provisions, I believe, are extremely important to our efforts both to reduce the number of children who are unnecessarily placed in foster care and to reduce the length of time children remain in foster care situations. These provisions, along with the availability of extra resources for services to help keep families together or to reunite families under the title IV–B program, which I will outline shortly, are critical to our efforts to reform the foster care system.

STRENGTHENING OF CASE PLANS FOR FOSTER CARE CHILDREN

Mr. President, another important provision in the new title IV–E program is the requirement that for each foster child in the title IV–E program there be developed a detailed case plan which includes provision for periodic review of the necessity of the child's being in foster care.

Mr. President, existing law under title IV–A requires that each foster child have a plan developed to assure that the child receives proper care while in foster care and that services are provided which are designed to improve the conditions in the home from which he was removed. Unfortunately, the evidence is all to clear that there has been little, if any, compliance with this generalized requirement. As I mentioned before, the 1977 GAO investigation of foster care placements found a widespread failure to include vital information in the case plans developed for foster children. Indeed, only one-third of the children reviewed in the GAO investigation had received case reviews. The GAO report noted that current Federal requirements for case plans are "very general and do not require that the plans be documented."

The legislation as reported would strengthen the provisions in existing law by describing exactly what factors should be covered in the case plan. The bill provides under the proposed section 472(a)(5) that each child in foster care shall have a case plan. The proposed section 475(1) provides that this case plan must contain a description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement, a plan

of services that will be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, and facilitate return of the child, or bring about the permanent placement of the child, and must address the needs of the child while in foster care, including a discussion of the appropriateness of the plan of services provided to the child.

It is our hope that these specific requirements will assist in providing the kind of focus for case plans that is missing under current law and is needed to reduce unnecessary foster care.

ADOPTION PROVISIONS

Mr. President, the adoption provisions of this legislation are of enormous importance, and of particular significance to me. I have been working for adoption reform legislation for the past 7 years and previously introduced legislation toward this end in the 93d, 94th, and 95th Congresses. Hearings I conducted during the 95th Congress demonstrated that there are many, many families eager to adopt children with special needs and provide them with the warm, loving, and secure family life to which every child is entitled.

During the 95th Congress, we were successful in enacting the Adoption Reform Act—title II of Public Law 95–266. This act, which provides for the establishment of a national foster care and adoption data gathering and analysis system, a national adoption information exchange to assist in the placement of children awaiting adoption, the development of model adoption legislation, and the establishment of an administrative arrangement for planning and coordinating Federal activities affecting adoption and foster care, represented a first step toward eliminating the barriers inhibiting the adoption of thousands of children who have no other hope of leaving the foster care system.

IMPLEMENTATION OF THE ADOPTION REFORM ACT (P.L. 95–266)

Mr. President, for the benefit of my colleagues I would like to highlight some of the activities now underway to implement the provisions of title II of Public Law 95–266.

Title II, in section 203(a), called for the establishment of an administrative arrangement in HEW to provide a centralized focus for planning and coordinating all departmental activities affecting adoption and foster care. In response to this mandate, the responsibility for these programs has been delegated by the Secretary to the Commissioner for Children, Youth and Families, who in turn has placed the administrative responsibility in the Children's Bureau. In addition, the Commissioners for Children, Youth and Families, Administration for Public Services and Office of Family Assistance in the Social Security Administration have established a formal intradepartmental committee on adoption and foster care to enable these offices which provide services to children and families to exchange information, identify significant problems, and propose joint recommendations. This committee is already working on a number of issues, and is establishing a counterpart group in each Federal regional office.

Title II, in section 203(b), called for the establishment of a national adoption information exchange system so that waiting children could be matched with waiting parents. In response to this mandate, the children's bureau has funded 10 regional adoption resource centers to establish an exchange network that places primary emphasis on the responsibility and capacity of States to place their own children, but identifies those children with multiple problems who cannot reasonably be expected to be placed within their own States and communities. A small matching service at the national level will attempt to locate parents from the widest possible geographic scope for such children.

Section 203(b) also calls for the development of an education and training program on adoption. The regional adoption resource centers will be the principal network for regional and central office children's bureau staff to disseminate information, provide training and technical assistance, develop improved legislative and legal procedures in individual States, and provide assistance to local parent groups. As the adoption information exchange system develops, the resource centers will have the responsibility for developing the system at the regional level.

The Children's Bureau is also developing an in-service training curriculum, with audio visuals, on the adoption of children with special needs for use by State and local, public and voluntary agencies and is developing and disseminating a series of bilingual television spots and radio announcements supporting the recruitment of adoptive and foster parents for children with special needs.

The Children's Bureau has also provided demonstration grants to national adoptive parent groups working on behalf of children with special needs to enable them to advocate for the needs of waiting children, develop support systems for adoptive families and address unique problems of adoptive families working with children with special needs. In addition, each regional adoption resource center will make very small grants to local parent groups to accomplish these objectives at the local level.

Title II, in section 203(b), also calls for the establishment and operation of a national adoption and foster care data gathering and analysis system. In response to this mandate, the Children's Bureau has developed a concept paper providing the direction for establishing and operating the national system—which is designed to insure that children do not get lost in foster care and to identify those who could be freed for adoption. The development and implementation of the system is scheduled to get underway shortly.

Title II in section 202, calls for the designation of a panel to develop model adoption legislation and procedures. The panel has been meeting diligently over the past year and a half, and is about to submit its recommendations to the Secretary. The panel's recommendations will be published in the Federal Register for public comment, and after comments have been received and considered and the panel further consulted, the Secretary will issue the "HEW Model State Adoption Act and Model Adoption Procedures," to be considered for enactment by the individual States.

Mr. President, I am most pleased with the progress that has been made to date in the implementation of this groundwork legislation.

The adoption provisions before us today provides the second major step in the direction outlined in Public Law 95–266. Their enactment will eliminate the disincentives—created by current law and practices—to providing adoptive homes for those children in foster care who cannot return to their families and will complete the work we began through the enactment of Public Law 95–266.

MEDICAL ASSISTANCE

Mr. President, current law provides for medicaid coverage for children with special needs as long as they remain in foster care. But, under current law, if a family wants to adopt a child with special needs, medicaid coverage is terminated. It is devastating to think about how often over the years the decision has been made to leave a child in foster care in order to assure the continuance of Federal assistance for medical coverage.

The bill before us today would eliminate once and for all that tragic and totally counterproductive disincentive to adoption by providing for the continuation after adoption of medicaid coverage for medical conditions existing prior to adoption for children with special needs until the child is 18 years old. In addition, the committee bill provided that a State could provide eligibility for full medical coverage under the State's approved title XIX—medicaid—plan for such a child, if the State so chooses. These provisions are particularly important, Mr. President, because adoptive parents often find that their own insurance carriers will not assume coverage of preexisting conditions of children with special needs. The amendment adopted today mandates the full medical coverage.

OTHER SPECIAL ASSISTANCE

The Finance Committee bill also provides, in limited situations and on a case-by-case basis, for the continuation of foster care maintenance payments to help adoptive parents meet the unusual costs associated with caring for a child with special needs. The bill limits such payments to the amount of foster care maintenance payments that the child would have received in a foster family home, and in most cases experience has demonstrated that the maintenance payments under adoption assistance agreements will be less than they would be in foster care. The legislation I introduced on August 3, despite my own reservations on this score, provided for such financial assistance only in cases where the adopting parents' income did not exceed 150 percent of the State median family income. It included unlimited authority for the States to make all needed waivers of

this means test. The committee bill, however, imposed a means test of 125 percent of the State median family income, and limited waivers of the means test to 10 percent of the cases in each State.

Mr. President, on many occasions I have expressed in detail the reasons for my reservations about applying a means test to such an adoption assistance provision. Let me remind my colleagues that we are not talking about healthy infants. We are talking about assisting parents who want to adopt children with special needs who would otherwise be relegated to a life in foster care—in a foster home or institution.

It troubles me that we may be designing a program to encourage such adoptions only in those families with the least financial capacity to care for these special needs children. I continue to believe that the needs of the child should be the controlling factor, not the income of the adopting parents—although, of course, I recognize that the financial ability of the adopting parents must be taken into consideration.

But, Mr. President, I will not reiterate what I have already said so many times. I could live with the provisions in the committee bill since there is no means test for medical assistance and a provision for a waiver of the means test for the other adoption assistance was included. And I realized that other Members of Congress and the administration were committed to some means test.

However, as I indicated earlier, I had worked in good faith with the committee members in moving this legislation forward and although there were some provisions—such as the means test—which I did not personally believe appropriate—I respected the strongly felt views of the committee in this area and had committed myself to supporting the committee bill during its consideration by the Senate.

CHANGES IN THE TITLE IV–B CHILD WELFARE SERVICE PROGRAM

Mr. President, title IV–B of the Social Security Act provides for a mechanism of funding child welfare services by the Federal Government through State public welfare agencies. The child welfare moneys made available to the States through title IV–B can be utilized by the States for a wide variety of child welfare services, ranging from foster-care programs to child protection systems. One particularly important element of the title IV–B funded programs is the absence of a means test for assistance. In other words, State agencies have been able to extend child services, for example, where a child is being physically abused by his family, without the necessity of requiring an income eligibility test.

Moneys that the States have received under the IV–B program have been virtually unrestricted programmatically, and States are now free to utilize these funds for whatever child service programs they deem necessary.

Despite the potential for supporting innovative and constructive child services programs, the title IV–B program has never been as effective as its promise. First of all, although the IV–B authorization level has exceeded $200 million for the last 4 fiscal years and is currently at a level of $266 million, the appropriations level for title IV–B has never risen beyond $56.6 million. Second, although States have been free to utilize these funds for a wide range of child services, estimates indicate that as much as 80 percent of the title IV–B funds received by the States are expended on foster care maintenance payments for children who are not eligible for the title IV–A foster care maintenance program either because the children are in voluntary placements or are not AFDC eligible.

Thus, the potential for supporting innovative and useful child services programs under title IV–B has not been met.

Mr. President, in an effort to induce States to utilize title IV–B funds in a more productive fashion, the legislation would authorize the earmarking of new title IV–B funds through the appropriations process for specific services designed to protect children from unnecessary and prolonged foster-care placements.

Given the position of the administration in support of expansion of these title IV–B services, it is certainly reasonable to anticipate that such earmarking—at the entitlement levels proposed in S. 966 as introduced—would be requested and strongly supported by the administration. Moreover, I wish to stress that all of the new funds may—and I believe would—be so earmarked in the Appropriations Act, rather than only 50 percent as in the bill reported by the committee last year, H.R. 7200.

The legislation also would provide that States would not be permitted to spend any of new title IV–B funds on foster-care maintenance payments. States would thus be permitted to utilize their shares of the present $56 million Federal dollars for these programs but no new IV–B funds could be used for foster-care maintenance payments.

Mr. President, in order for a State to be eligible to receive the new funds appropriated under this earmark provision, a State must agree to expend these new funds on the specific services outlined in the proposed section 423, that I will describe.

INVENTORY OF ALL CHILDREN IN FOSTER CARE FOR 6 MONTHS

Under the committee bill, Mr. President, during the first year a State receives these new title IV–B funds, it must conduct an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months. As part of this inventory, the State must determine the appropriateness of and necessity for the current foster-care placement and whether the child can be returned to his or her parents or should be freed for adoption. The State must indicate in this inventory what services are necessary to facilitate either the return of the child or the placement of the child for adoption. The State could carry over funds from its first year's allocation to complete the inventory, if necessary.

Mr. President, I believe that inventories of this nature are essential to our efforts to deal with foster-care problems. Until States have taken account of their existing foster-care populations, the reforms hoped for in the foster-care system cannot take place in a meaningful fashion. It is disgraceful that this information is not currently available. The thousands of children who are frequently described as being "lost" in the foster-care system—in some cases, without even a caseworker assigned to them—must be found and helped as we begin our task of protecting the interests of children and families who enter the foster-care system in the future.

DEVELOPMENT OF STATEWIDE INFORMATION SYSTEM

The bill also would provide that during the first year that a State receives these new title IV–B funds, it must design and develop a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding 12 months can be readily determined.

This requirement is designed to provide a permanent mechanism for the tracking of children in foster care and to prevent the build-up which presently exists of children lost in the foster-care maze. The establishment of such a system is also important as a vehicle to maintain information on how well a State is moving its children into and out of foster care.

The State data collection systems developed under the provisions of this legislation would feed data into the national data collection mechanism established under Public Law 95–266. In that law, we required the establishment of a national data gathering and analysis system so that, for the country as a whole, we would have the ability to evaluate accurately problem areas in moving children from inappropriate foster-care placements, and have better accountability systems for determining how Federal dollars in this area are being spent. In years to come, it should be possible with these systems in operation to determine where foster children are on both a State and national basis.

A CASE REVIEW SYSTEM

States accepting the new title IV–B funds would also be required to design and develop a case review system to insure that each child receiving foster care under the supervision of the State has a case plan and that the status of each child is reviewed no less frequently than once every 12 months by either a court or administrative body. This review is designed to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

Mr. President, this case review system would also require the establishment of due process procedures designed to protect the rights of parents, foster parents, and children. These procedures must cover such situations as the removal of a child from his or her home, changes

in the child's placement, and any determinations affecting visitation privileges of parents.

The case review system must also assure that each foster child is afforded a dispositional hearing, either by a court or administrative body appointed by the court, no later than 24 months after the original placement, to determine whether the child should be returned home, requires continued placement for a specified period of time, should be placed for adoption, or should, because of special needs or circumstances, be continued in foster care on a permanent or long-term basis.

Mr. President, the provision for a dispositional hearing after a set period of time is, I believe, of critical importance. One of the prime weaknesses of our existing foster-care system is that, once a child enters the system and remains in it for even a few months, the child is likely to become "lost" in the system. Yearly judicial reviews of the child's placement too often become perfunctory exercises with little or no focus upon the difficult question of what the child's future placement should be. This provision requiring a dispositional hearing after a child has been in foster care for a specific period of time should assist States in making the difficult, but critical, decisions regarding a foster child's long-term placement.

PLACEMENT STANDARDS

Mr. President, the case review system provision also would require that each foster child have a case plan designed to achieve placement in the least restrictive, family-like setting and in close proximity to the parents' home consistent with the best interests and special needs of the child.

The provisions dealing with geographic placement of children are particularly important. The shipments of foster children to distant States where they have been placed in large, barren institutions has given rise to a legitimate outcry and demand for congressional action. These unfortunate children have been cut off from any contact with their families, deprived of the possibility of visitation, and effectively denied the potential for reunification with their families.

The committee bill also addresses the problem of overinstitutionalization of foster children by requiring that the child be placed in the least restrictive, most family-like setting consistent with the best interests and special needs of the child. Of course, there are some children for whom institutional care is the most appropriate placement. However, it is important that the possibility of placement in a family or family-like setting be explored as a potential placement for every child in need of foster care. This provision requires that such placements be considered—consistent with the child's best interests—in every case.

SERVICE PROGRAMS

Mr. President, the committee bill also would provide that States which accept these new funds must design and develop a service program designed to help children remain with their families, help children to return to families from which they have been removed, or, where appropriate to place children for adoption or in legal guardianships.

Mr. President, the establishment of a service program to prevent the removal of children from their homes, to reunify families, and, where appropriate, to find new adoptive homes for foster children is central to our efforts to reform the foster care system. Every study of the existing foster-care system has found a dismal absence of services provided to the family—services which could prevent the removal and long-term placement of children in foster-care. Yet, in recent years there have been demonstration service delivery programs throughout the country which have shown that we can dramatically reduce foster-care placements by providing services to the family and children in their own homes.

As I indicated earlier, Mr. President, these provisions for service programs are directly related to the proposed requirement under the new title IV–E foster-care program that a judicial determination be made for each child in the IV–E foster-care program that reasonable efforts have been made prior to the placement of the child in foster care to prevent the removal of the child from his or her home and to make it possible for the child to return to his or her home. Once these programs are instituted, unnecessary and prolonged foster-care placements should be greatly reduced—at a substantial savings to the taxpayer and an enormous benefit to the children and families involved.

FORWARD FUNDING OF TITLE IV–B APPROPRIATION

Mr. President, the Finance Committee in its markup of this legislation added a provision for forward-funding of the title IV–B appropriation so that States would have some advance notice of the level of appropriations for their child welfare programs and thus be able to plan their programs accordingly.

Mr. President, a number of individuals and organizations had urged the conversion of the title IV–B program to an entitlement program rather than continuing the current annual appropriation process. The House, however, by a rollcall floor vote on August 2, rejected the proposal to create any new entitlement program in title IV–B. The forward-funding concept, which the Finance Committee added to the legislation, attempts to address some of the concerns which had been expressed by the States regarding the need to have some advance knowledge of the amount of IV–B funds that would be made available to them.

REDUCING THE NEED FOR FOSTER CARE BY APPROPRIATE SERVICES: A TRUE-LIFE EXAMPLE

Mr. President, a few months ago, I received a letter from a constituent in California describing a foster care situation in her own family that could have been avoided with appropriate services. The letter describes exactly the type of problem we are trying to deal with in this legislation. Mr. President, I ask unanimous consent that the text of the letter be printed in the RECORD at this point, with the identity of the constituent deleted to protect personal privacy.

Senator ALAN CRANSTON,
Washington, D.C.

DEAR SENATOR: I have just read your report on Foster care for children in United States, and I think you have some very good ideas. I have a little information that might apply to the second item in the bill you are introducing.

Several years ago I had a call from a social worker in Southern California about a young relative who was unable to cope with six children, poor health, and, of course, no husband. The social worker was attempting to place the children in my home as foster placement. I was at the time caring for my elderly mother and told her it would be impossible for me to take the children, and asked why they were putting them in foster homes. It was because their mother was a poor housekeeper and the house was dirty and the children poorly fed, altho they seemed to get plenty of love and were happy at home. I suggested the social service dept. supply a housekeeper to teach the young mother how to manage better, to show her how to budget her money and prepare better meals for the children. The social worker informed me that the taxpayers would never "stand still" for such an expense. When I pointed out to her that it would cost a great deal less, and keep the family together as well, she agreed but said there is no provision in the law to cover such a situation. If the service had just provided a cleaning woman to come in once or twice a week and clean up the house, perhaps that alone would have been sufficient until the mother was back on her feet. Since the mother loved her kids and apparently wanted to make a home for them but was overwhelmed by her problems, the whole situation was being handled very badly it seemed to me. If your bill would prevent this kind of rigid thinking, it should be more humane and at the same time economical. I hope you will be able to get it passed into law, and I thank you for your efforts in behalf of these unfortunate children.

Yours truly,

_____.

COST-SAVINGS TO THE TAXPAYERS THROUGH IMPLEMENTATION OF THIS LEGISLATION

Mr. President, the National Commission on Children in Need of Parents observed in its recent report—

> Present public spending policies for foster care represent a rare instance where a better job can be done for the same or possibly less money. What is wanting is the energy to overcome the inertia of outdated practices, the courage to buck vested interests and the wisdom to see the folly and waste in mindlessly perpetuating the status quo.

Mr. President, I could not agree more.

It is clear that passage of this legislation will not only lead to better and more meaningful futures for hundreds of thousands of children now in the foster care system, it will result in substantial savings over time to the taxpayer as foster children are returned to their own homes or moved into adoptive homes.

Demonstration programs, such as the Nashville, Tenn. comprehensive emergency services program have shown that it is less costly to provide the kinds of services necessary to keep children in their own homes than it is to condemn them to long-term foster care.

The Nashville program resulted in a 56-percent reduction in the number of neglect and dependency petitions, 51-percent reduction in the number of children removed from homes, 85-percent reduction in the number of children placed in institutions, 100-percent reduction in the number of children under age 6 placed in institutions, 88-percent reduction in the recidivism rate for neglect and dependency, and, finally, a reduction in the percentage of children in long-term care—more than 2 years—from 94 percent to only 34 percent.

What is truly remarkable is that this program resulted over a 2-year period in a net savings of $68,000, a figure which does not even take into account the additional costs that would have been incurred in the future, had the children diverted from foster care by the project entered and remained in care until their majority.

Mr. President, this kind of savings—both in monetary and social terms—has been replicated in demonstration projects throughout the country.

Mr. President, adoption assistance programs also result in substantial savings to the taxpayer. In Los Angeles County alone, during the period 1975 through 1976, 873 children who had been in long-term foster care were placed in adoptive homes with 267 of these children placed with some financial assistance to their new families. The cost savings for that 1-year period was $1,327,523. It was estimated that if these 267 children had been carried in foster care until the age of 18, the additional cost to the county over that period would have been $16,777,651, not including the additional costs in service and administration.

Mr. President, these savings are not atypical. They are found in numerous demonstration programs and projects throughout the country. There is already evidence that we can help families and children by providing compassionate and practical services at far less cost in the long-run than the present system of long-term foster care. What we must do is shift the fiscal incentives away from placing children in foster homes and institutions to placing them in permanent homes with their original or adoptive parents. The legislation we are considering today moves in that direction.

FOSTER CARE CEILING

Mr. President, there is one major issue that has created some division among the supporters of this legislation. That issue deals with whether a ceiling should be placed upon the foster care maintenance program as a means of changing the Federal fiscal incentive structure which has in the past had the unintended effect of encouraging the placement of children in long-term foster placements.

Mr. President, the administration has urged a cap on Federal foster care funding as a key element of its reform package. I have supported this provision, although I recognize that there are legitimate differences of opinion over the use of a ceiling as a means of reducing unnecessary foster care placements. I believe, however, that the ceiling is an integral part of the reforms we are seeking to enact. The Federal Government has a limited ability to effectuate reform on the level where services are actually provided. Modification of the fiscal incentive system is one of the few meaningful tools available. It is also one of the clearest messages that the Federal Government can send to the States that continuation of unnecessary, long-term foster care is no longer acceptable.

Mr. President, I ask unanimous consent that the text of the letter Senators MOYNIHAN, DOLE, and RIBICOFF and I recently sent to our colleagues explaining our support for the foster care ceiling provisions relating to the Finance Committee's be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION

Mr. CRANSTON. Mr. President, the legislation we are considering today represents a long overdue restructuring of our existing federally funded child welfare program. It holds out the promise of more permanent, stable lives to the hundreds of thousands of children presently locked into our foster care system. Enactment of these reforms, I believe, will give these children a real future and an opportunity to grow and develop into productive and healthy citizens.

Mr. President, I want to express my personal appreciation to the members of the White House staff, Bert Carp, Gail Harrison, and Chris Edley, to Margie Siegel, Dick Warden, and Sandra Steigen from HEW, and David Kleinberg from the Office of Management and Budget, for their help on this legislation. I am also most indebted to Michael Stern and Joe Humphreys of the Finance Committee staff and Checker Finn of Senator MOYNIHAN's staff for their very able assistance and contributions to our efforts on behalf of this legislation for the past 2 years. Without their wise counsel then and today, we would never have been able to reach the point of successful action on these very important provisions.

I also want to express my appreciation to the staff members who have assisted me directly on this legislation—Susanne Martinez, Mary Lopatta, and Jon Steinberg, and, in particular, to Fran Butler, who has worked with me on adoption reform legislation for the past 7 years.

Finally, I must again recognize the leadership of Vice President MONDALE, whose continued commitment to the welfare of children has been instrumental to the success of our efforts. It was his intervention over 2 years ago that led to the administration's initial support for this reform effort.

COMMITTEE ON FINANCE,
Washington, D.C., October 9, 1979.

DEAR COLLEAGUE: The Senate will soon be considering H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979, which includes critical and long overdue provisions aimed at helping the estimated half million children in the existing foster care system. We hope you will give your support to this important child welfare measure.

During the floor debate, there will be discussion and possibly proposed amendments dealing with the provision to put a "cap" on federal matching funds for foster care under the A.F.D.C. program. We would like to explain why we support the Finance Committee's decision to impose such a cap.

Foster care is a singularly unsatisfactory situation for a child, particularly when it lasts a long time. Although many foster parents and institutions look after foster children conscientiously, foster care itself is an inconclusive, impermanent arrangement that denies children the emotional and psychological security that is associated with being part of a family.

For many years, federal policy has had the unintended effect of providing fiscal incentives to states to put children into foster care and keep them there, but not to restore children to their natural parents, to assist adoptable children to be adopted, or to provide support services to strengthen families so that children might not have to be removed from them in the first place.

Every responsible study that has ever been done on foster care has come to predictable conclusions: there are children languishing in foster care who should not and need not be there, and there is a dearth of assistance available to develop and implement good alternatives to foster care.

The Finance Committee bill seeks to reform this incentive structure so that—within the limits of the federal government's ability to influence such sensitive matters—needy children will be provided whenever possible with more satisfactory arrangements than foster care.

The bill approaches this objective in several ways. It creates a new, strong, adoption assistance program that makes federal matching funds available for this important purpose. It allows federal child welfare funds to be spent on specific services intended to make it possible for children to remain in their own homes, to be restored to their own parents, and to be adopted. It "forward-funds" the child welfare services program so that states and others will be able to plan effectively to provide these new services. It requires states to make serious efforts to retain a child is his home before foster care placement, and to try to return the child to his or her home as soon as possible if such placement is necessary. It requires initial court review of a foster care placement and regular case reviews thereafter. It requires states to examine the frequency for long-term foster care, to set targets for themselves for the maximum number of children to remain in foster care for more than two years, and to develop plans for attaining those targets.

These and many other provisions are explicitly intended to encourage states to redouble their efforts to keep children in their homes, to restore them to their homes, and to find adoptive parents for children who are able to be adopted.

But the principal dynamic force in this bill, and the principal signal that the Congress is serious about reducing the incidence of unnecessary foster care, is the provision to put a ceiling on the open-ended program of federal matching funds for A.F.D.C. foster care.

Changes in the fiscal incentive structure have been advocated for years by thoughtful reformers in this field: not because they wish to deny federal funds to those who need them, but because they realize that only with this kind of "leverage"—and this evidence that the federal government is serious—will an old, ingrained pattern be changed.

The Administration has urged a cap on federal foster care funding as a key element of its reform package. The Senate has previously approved such a provision, as an amendment to the 1978 tax bill. It is not a new idea, but it remains an important idea.

The foster care "cap" in H.R. 3434 is a loose one. It lasts only five years, at the end of which the Secretary of H.E.W. must report on how it—and other provisions—has worked, and the Congress must examine the whole program once again. In the first of these years (Fiscal 1980), each state's allotment will be 120 percent of its federal foster care funding in 1978. In each of the next four years, the state's allotment increases by another ten percent. States with exceptionally small foster care programs receive funds from a separate allocation which permits some growth in their caseloads.

Other modifications are likely to result from the Senate-House conference, as the House version of H.R. 3434 contains no cap on foster care funding. Within reason, we would accept some changes, but we feel very strongly that it would be a serious mistake, and a missed opportunity that will not soon return, if the reform impulse that led to the idea of a foster care cap were dissipated.

Finally, let us point out that during the five year period of the cap a state is free to transfer unneeded federal foster care funds into child welfare services. If A.F.D.C. foster care were instead to remain a simple federal matching program, this important option would not be available to the states, nor would that desirable incentive to find alternatives to foster care have the impact that it should.

We have pondered this matter long and hard. Putting a cap—even a temporary, loose and reasonable one—on an open-ended matching program is always a major decision. We are persuaded that the time has come for the Congress to make such a decision in this instance. Without it, chances of placing needy children in more suitable environments than prolonged foster care will be much diminished.

We seek your support for this provision of H.R. 3434 as reported by the Finance Committee.

Sincerely,

ALAN CRANSTON,
ABRAHAM RIBICOFF,
DANIEL PATRICK MOYNIHAN,
ROBERT DOLE.●

● Mr. DANFORTH. I strongly oppose a cap on the AFC foster care program. No one likes foster care. No one likes the implications of removing, by court order, a child from his or her natural parents and placing him or her in a temporary setting, whether the setting is a family or an institution. Nevertheless, there are situations where removal from the home and placement in foster care is clearly in the best interests of the child. When a child is the victim of vicious physical abuse, foster care may be the only short-term solution. When a child's parents abuse drugs or alcohol and provide a very unstable home, foster care may be the best solution while counseling is provided.

I support the program of adoption assistance authorized in this legislation and I support increased spending for counseling and other preventive services. However, even with the most effective preventive services and the most aggressive adoption program there will always be children who are in need of foster care.

Cutting back on the spending for foster care will not make this population of children disappear. An across-the-board cap on foster care is premature at best. Moreover, it is inflexible, and could harm children who through no fault of their own have no alternative to foster care.

It is for this reason that I opposed the cap on foster care in the Finance Committee. However, if it is the judgment of the Congress that a cap on the AFDC foster care program should be imposed, I believe the Bellmon cap is much more equitable and makes much more sense than the cap approved by the Finance Committee.

If it is the belief of Congress that some States have overused foster care and that fiscal restraint is the appropriate approach to correct that situation, I do not believe a formula which ignores past performance and limits all States to the same percentage increase is the best formula. I believe what makes more sense is to target the increases. It is for that reason that I have decided to vote for the Bellmon amendment, notwithstanding my strong opposition to any cap at all.●

Mr. ROBERT C. BYRD. Mr. President, today the Senate completed action on the Adoption Assistance and Child Welfare Act of 1979. This legislation will make important and needed revisions in Federal child care programs under the Social Security Act. For sometime, these programs have been reviewed by numerous congressional committees. The bill passed by the Senate today is the product of many hours of work—of examining the Social Security Act programs—by many Senators. I found the Senate debate of this measure to be particularly constructive and educational.

The Department of Health, Education, and Welfare estimates that there are between 90,000 and 100,000 children currently in the Nation's foster care system who are legally eligible for adoption. The basic thrust the Adoption Assistance and Child Welfare Act is that there are children languishing in foster care placement who should not or need not be there. Numerous revisions in existing programs will redirect Federal and State efforts toward finding permanent homes for these children; by returning them to their own families or, if this is not possible, finding them adoptive parents.

The bill will create one new Federal program of adoption assistance. The purpose of the program is to foster the permanent placement—in a family home—of children who are disadvantaged because of a condition which discourages their adoption. Most States are already subsidizing, in some form or another, the adoptions of children with special needs. For the most part it appears that without aid, many of these children would remain for years in federally-funded foster care.

The legislation will authorize increased funding for tracking and case review systems for children in federally-funded foster care, and services involved in returning children to their natural home. This funding is necessary to insure that children in foster care remain there only as long as is required.

Moving children from foster care to their own homes or to adoption will mean less cost to the Federal Government. Most importantly, it should mean that these children will have a permanent home and the emotional security of a family's care. The Senate passed a good bill and a restrained bill. The legislation included a variety of initiatives—incentives and disincentives aimed toward redirecting Federal child care policies.

I commend Senator LONG, chairman of the Finance Committee, under whose leadership the committee reported a well-reasoned and balanced bill. I wish to thank Senator MOYNIHAN, chairman of the Finance Subcommittee on Public Assistance, for his role in fashioning the legislation—in committee and floor-managing the bill last Thursday. Senator DOLE, ranking minority member of the Finance Committee, also deserves credit for his part in so ably managing the bill.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to establish a program of adoption assistance, to strengthen the program of foster care assistance, to strengthen the program of foster care assistance for needy and dependent children, to improve the child welfare, social services, and aid to families with dependent children programs, and for other purposes

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to the bill, and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. MOYNIHAN, Mr. BOREN, Mr. DOLE, Mr. HEINZ, and Mr. ROTH conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the bill be printed as amended by the Senate, and that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments, including corrections in section, subsection, and so forth designations, and cross-references thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The PRESIDING OFFICER. The Senate will now resume the consideration of the pending business, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at the depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The pending business is an amendment by the Senator from Mississippi (Mr. COCHRAN).

Mr. COCHRAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator will state it.

UP AMENDMENT NO. 679

Mr. COCHRAN. Is my understanding correct that the business now before the Senate is the amendment which I offered earlier today to the banking bill that is before the Senate, H.R. 4986?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. And the yeas and nays have been ordered? Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. Mr. President, I have no further wish to debate the amendment. It was fully debated earlier today.

Members were advised in a "Dear Colleague" as to the nature of this emergency and temporary legislation that would permit State banks to have an opportunity to charge up to 5 percent in excess of the discount rate on loans relating to agriculture and business that amount to $25,000 or more in value.

In my judgment, this is needed legislation.

Unless there are other Senators who wish to speak on the subject, I would hope we could go on and proceed to a vote.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator——

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Mississippi. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. INOUYE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER (Mr. TSONGAS). Are there any other Senators who wish to vote?

The result was announced—yeas 73, nays 13, as follows:

[Rollcall Vote No. 376 Leg.]

YEAS—73

Armstrong	Goldwater	Nunn
Baker	Gravel	Pell
Baucus	Hatch	Percy
Bentsen	Heflin	Proxmire
Biden	Heinz	Pryor
Boschwitz	Huddleston	Ribicoff
Bradley	Humphrey	Riegle
Bumpers	Jackson	Sarbanes
Burdick	Javits	Sasser
Byrd, Robert C.	Jepsen	Schmitt
Chafee	Johnston	Schweiker
Chiles	Kennedy	Simpson
Cochran	Laxalt	Stafford
Cohen	Leahy	Stennis
Cranston	Levin	Stevens
Culver	Long	Talmadge
Danforth	Lugar	Thurmond
DeConcini	Magnuson	Tsongas
Dole	Mathias	Warner
Domenici	Matsunaga	Weicker
Durenberger	McGovern	Williams
Durkin	Melcher	Young
Ford	Moynihan	Zorinsky
Garn	Muskie	
Glenn	Nelson	

NAYS—13

Boren	Hart	Morgan
Byrd, Harry F., Jr.	Helms	Roth
Eagleton	Hollings	Stevenson
Exon	McClure	Wallop
	Metzenbaum	

NOT VOTING—14

Bayh	Hayakawa	Randolph
Bellmon	Inouye	Stewart
Cannon	Kassebaum	Stone
Church	Packwood	Tower
Hatfield	Pressler	

So the amendment (UP No. 679) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I thank the Senator from Wisconsin (Mr. PROXMIRE) for his interest and concern, and I know he spent days on it in getting into the problem with reference to the interest rates on these loans of $25,000 and above, which are agriculture loans as well as business loans. It is a very sound amendment that I thought my colleague had carrying that provision that if any State legislature did not approve the concept of it they could exercise their constitutional rights and privileges.

Something had to be done. It underscores the situation we are in, though, with reference to these high interest rates. Small people cannot keep on paying these high interest rates.

I thank and commend the Senator and those who helped out for the concern they showed from time to time.

Mr. PROXMIRE. Mr. President, will the Senator from Mississippi yield briefly?

Mr. STENNIS. I yield.

Mr. PROXMIRE. I thank the distinguished Senator from Mississippi.

I say one of the reasons why we did support the Cochran amendment and we pressed hard for this action was because the Senator from Mississippi spoke to me very earnestly, deeply concerned about the effect on small borrowers in Mississippi, small farmers, businessmen, and others, as well as the institutions that would be so strongly affected by usury statutes that just overnight become a prohibition against lending money because interest rates have risen so rapidly.

So the Senator from Mississippi deserves great credit for the action we took. It was through his influence that we were very interested in supporting the Cochran amendment.

Mr. STENNIS. I thank the Senator and I commend my colleague for his interest and work, also.

RESUMPTION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of morning business, that Senators may speak during the period up to 5 minutes each, and that the period not extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TAIWAN TREATY ISSUE

Mr. THURMOND. Mr. President, the decision by the President to abrogate the treaty with Taiwan without the consent of the Senate has caused much concern. It took two-thirds to ratify the treaty and it should also take two-thirds to nullify it. I am delighted that a Federal judge ruled recently that the treaty was unconstitutionally terminated, and I am confident that his ruling will be upheld.

A recent editorial in the Greenville News on October 22, 1979, brings up the question of who has the authority to take the "supreme law" of the land in his hands and cancel the treaty.

Mr. President, in order to share this editorial with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHO REPEALS "SUPREME LAW"?

The Taiwan treaty issue before the federal courts is of fundamental importance: Who has the authority to change the treaty relations between the United States and foreign powers?

The Constitution clearly defines the power to make treaties, dividing it between the president and the Senate. But the Constitution is silent on the question of abrogating or repealing a treaty. The fundamental law does say, however, that treaties, once ratified by the Senate, become part of the "supreme law" of the land.

The constitutional question, therefore, could be asked in this way: Who has the power to change a supreme law of the United States?

President Carter claimed sole possession of that power by abrogating the treaty with Taiwan some months ago without asking for any action by Congress.

Sen. Barry Goldwater challenged the president in a federal court suit, claiming the Senate must be involved in any lawful abrogation action. A federal district judge upheld the senator's claim, ruling that a majority vote of House and Senate or a two-thirds vote of the Senate is required. The Carter administration is appealing to the Circuit Court in Washington.

We think the matter ought to go all the way to the Supreme Court, no matter which way the circuit judges decide. And we hope the outcome will uphold the right of the Congress to repeal as well as to enact a part

of the "supreme law" of the land. Putting all that awesome power in the hands of one man smacks of dictatorship.

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1979

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 239.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 239) entitled "An Act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Domestic Volunteer Service Act Amendments of 1979".

ASSIGNMENT OF VOLUNTEERS

SEC. 2. (a) The second sentence of section 103(b) of the Domestic Volunteer Service Act of 1973 (hereinafter in this Act referred to as the "Act") is amended by striking out "Prior to" and inserting in lieu thereof "Not later than 30 days after".

(b)(1) The first sentence of section 103(d) of the Act is amended—

(A) by inserting "and to the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned," after "of the State concerned,"; and

(B) by striking out "him" and inserting in lieu thereof "them".

(2) The last sentence of section 103(d) of the Act is amended by inserting ", or by the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned," after "the State concerned" each place it appears therein.

SUPPORT SERVICE

SEC. 3. The first sentence of section 105(a)(2) of the Act is amended to read as follows: "Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service.".

LIMITATION ON USE OF FUNDS FOR CERTAIN GRANTS

SEC. 4. Section 108 of the Act is amended by striking out "20 per centum" and inserting in lieu thereof "15 percent".

SERVICE IN UNIVERSITY YEAR FOR ACTION PROGRAMS

SEC. 5. Section 113(a) of the Act is amended by striking out "and" and inserting in lieu thereof the following: "except that volunteers serving in the University Year for ACTION program may be enrolled for periods of service of not less than the duration of an academic year. Volunteers serving under this part".

SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 6. (a) Section 114(a) of the Act is amended to read as follows:

"SEC. 114. (a)(1) In addition to the authority of the Director to provide for the operation of the University Year for ACTION program under this part, the Director is authorized to provide technical assistance and financial support to service-learning programs which—

"(A) assign volunteers to activities which meet the requirements of subsections (a) and (c) of section 103;

"(B) carry out the purposes of this part; and

"(C) provide opportunities for the enhancement of the personal, academic, and career growth of the volunteers involved.

"(2) The Director is authorized to provide such assistance and support through the establishment of a national office for service learning or in any other manner which the Director considers appropriate.".

(b) Section 114(c) of the Act is amended to read as follows:

"(c) The Director may provide volunteers serving under this section such support and allowances as the Director determines to be necessary to permit such volunteers to carry out their assignments.".

SPECIAL VOLUNTEER PROGRAMS

SEC. 7. (a) Section 122(a) of the Act is amended—

(1) by striking out "and" the first place it appears therein; and

(2) by inserting after "abusers" the following: "; programs to provide technical and management assistance and to provide volunteers and neighborhood organizations with the materials, tools, supplies, and administrative support necessary to carry out community betterment projects in urban areas, and other areas affected by problems of stress and deterioration similar to those found in urban areas; financial and consumer counseling for low-income and fixed-income persons; and a program to reduce the necessity of institutionalization and ameliorate the residential isolation of older persons, handicapped persons, and other similarly isolated persons".

(b) Section 122(c) of the Act is amended to read as follows:

"(c)(1) The Director, in accordance with regulations which the Director shall prescribe, may provide to volunteers enrolled for periods of part-time service of 20 hours or more per week for 26 or more consecutive weeks under this part such allowances, support, and services as are described in section 105(b) and as the Director determines are necessary to carry out the purpose of this part, and shall apply the provisions of section 104(c) and section 105(b) to the service of volunteers enrolled for full-time service under this part.

"(2) The Director, in accordance with regulations which the Director shall prescribe with respect to volunteers enrolled for periods of full-time service of one year or more under this part—

"(A) may provide to such volunteers such stipends, in total amounts not in excess of stipends provided under section 105(a) to volunteers serving under part A of this title, as the Director determines are necessary to carry out the purpose of this part; and

"(B) to the extent that the terms and conditions of the service of such volunteers are of similar character to the terms and conditions of the service of volunteers enrolled under part A of this title, shall apply to the service of such volunteers enrolled under this part the provisions of section 103(b) relating to low-income community volunteers, 104(d), and 105(a), to the extent such provisions are applied to the service of volunteers enrolled under such part A.".

PROHIBITION OF USE OF FUNDS FOR CERTAIN LOBBYING ACTIVITIES

SEC. 8. Section 403(b) of the Act is amended—

(1) by striking out "a manner supporting or resulting in the identification of such programs with" and inserting in lieu thereof "any manner for the purpose of providing assistance for";

(2) by inserting after "party office," the following: "(2) any partisan or nonpartisan attempt to influence any legislative action of the Congress, any State legislature, any local council, or similar governing body, or in connection with any referendum, initiative constitutional amendment, or similar procedure, or any other such activity which is prohibited by law, or by a published rule of any such legislative body, (3) any partisan or nonpartisan attempt to influence the issuance, amendment or revocation of any order, rule, regulation, or promulgation by any Federal, State, or local rulemaking or regulatory agency, or any other such activity which is prohibited by law, or by a published rule of any such rulemaking or regulatory agency,"; and

(3) by striking out "(2)" and inserting in lieu thereof "(4)", and by striking out "(3)" and inserting in lieu thereof "(5)".

RECEIPT OF ASSISTANCE OR SERVICES

SEC. 9. (a) Section 404(g) of the Act is amended by inserting "(1)" after "(g)", and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.".

(b) The amendments made in subsection (a) shall take effect on October 1, 1979.

COORDINATION WITH OTHER PROGRAMS

SEC. 10. Section 410 of the Act is amended by adding at the end thereof the following new sentence: "The Director, in consultation with the heads of appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment; and (2) to make provision for the listing and description of volunteer work on employment application forms.".

APPLICATION OF FEDERAL LAW

SEC. 11. (a) Section 415(b) of the Act is amended—

(1) by striking out "in programs under title I of this Act for periods of service of at least one year" and inserting in lieu thereof "as volunteers for periods of full-time service for eight or more consecutive weeks, or, to the extent the Director shall prescribe by regulation, for periods of part-time service of not less than 20 hours per weeks for 26 or more consecutive weeks, under title I of this Act";

(2) by striking out "and" at the end of paragraph (3) thereof;

(3) in paragraph (4)(A) thereof, by striking out "the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS-7 employee," and inserting in lieu thereof "the annual rate of pay of a volunteer enrolled for a period of full-time service shall be deemed to be that received under the entrance salary for a grade GS-7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service shall be deemed to be the entrance salary of a grade GS-2 employee,"; and

(4) by inserting before the period at the end thereof the following: ", and (5) be deemed employees of the United States for purposes of section 5584 of title 5, United States Code (and stipends and allowances paid under this Act shall be considered as pay for such purposes)".

(b) Section 415 of the Act is amended by adding at the end thereof the following new subsection:

"(f)(1) The remedy—

"(A) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code; or

"(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such title 28;

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, paramedical personnel (such as medical and dental technicians, nursing assistants, and therapists), or other supporting personnel in furnishing medical care or treatment while in the exercise of the duties of any such person as a full-time volunteer enrolled under title I of this Act shall, beginning on the effective date of this subsection, be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or the estate of such person) whose action or omission gave rise to such claim.

"(2)(A) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or the estate of such person) for any such damage or injury.

"(B) Any such person against whom such civil action or proceeding is brought shall deliver, within such time after the date of service or knowledge of service, as determined by the Attorney General, all process served upon such person or an attested true copy of such process to the immediate supervisor of such person or to any other individual designated by the Director to receive such process or copy. The supervisor or other individual shall promptly furnish copies of the pleading and process to the United States attorney for the district in which the proceeding is brought and to the Attorney General.

"(3)(A) Upon a certification by the Attorney General that the defendant was acting in the scope of the volunteer assignment of the defendant at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division in which it is pending. The proceeding shall be deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto.

"(B) After such removal under subparagraph (A), the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States.

"(C) If a United States district court determines on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of the volunteer assignment of such volunteer, then the case shall be remanded to the State court.

"(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.".

NONDISCRIMINATION PROVISIONS

SEC. 12. (a) Section 417(a) of the Act is amended—

(1) by inserting "handicap," after "age,"; and

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, and for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), any project or activity to which volunteers are assigned under this Act shall be deemed to be receiving Federal financial assistance.".

(b) Section 417 of the Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Director shall apply the nondiscrimination policies and authorities set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) to applicants for enrollment for service as volunteers and to volunteers enrolled by the ACTION Agency for service under title I of this Act. Any remedies available to individuals under such laws, other than the right of appeal to the Civil Service Commission authorized by section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or volunteers.

"(2) Not later than 90 days after the effective date of this subsection, the Director, after consultation with the Equal Employment Opportunity Commission with regard to the application of the policies set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) and with the Secretary of Health, Education, and Welfare and the Interagency Committee on Handicapped Employees, established by section 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. 791(a)), with regard to the application of policies set forth in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and not later than 90 days after the Secretary of Health, Education, and Welfare publishes final general regulations to carry out the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and after consultation with the Secretary with regard to the application of the policies set forth in such Act, shall prescribe regulations establishing the procedures for the application of such policies and the provision of such remedies so as to promote the enrollment and service of persons as volunteers without regard to the discriminatory factors prohibited in such laws.".

REGULATIONS: REQUIREMENTS AND ENFORCEMENT

SEC. 13. (a) Section 420 of the Act is amended to read as follows:

"SEC. 420. (a)(1) For the purpose of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by the Director. Any such rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by the Director pursuant to this Act shall not have the standing of a Federal statute.

"(2) Regulations issued by the ACTION Agency or by any official of such Agency, in connection with, or affecting, the administration of any applicable program shall contain immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

"(b)(1) No proposed regulation prescribed for the administration of any applicable program may take effect until thirty days after it is published in the Federal Register.

"(2)(A) During the thirty-day period prior to the date upon which such regulation is to be effective, the Director shall, in accordance with the provisions of section 553 of title 5, United States Code, offer any interested party an opportunity to make comment upon, and take exception to, such standard, rule, regulation, or general requirement and shall reconsider any such standard, rule, regulations, or general requirement upon which comment is made or to which exception is taken.

"(B) If the Director determines that the thirty-day requirement in paragraph (1) will cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. If neither committee disagrees with the determination of the Director within ten days after such notice, the Director may waive such requirement with respect to such regulation.

"(c) All such regulations shall be uniformly applied and enforced throughout the fifty States.

"(d)(1) Concurrently with the publication in the Federal Register of any final regulation of general applicability as required in subsection (b) of this section, such final regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such final regulation shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the final regulation is inconsistent with the Act from which it derives its authority, and disapprove such final regulation. Failure of the Congress to adopt such a concurrent resolution with respect to any such final regulation prescribed under any such Act, shall not represent, with respect to such final regulation, an approval or finding of consistency with the Act from which it derives its authority for any purpose, nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

"(2) The forty-five-day period specified in paragraph (1) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days, or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment which lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days has elapsed, unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives, or the Committee on Labor and Human Resources of the Senate, or both, shall have directed its chairman, in accordance with said committee's rules, and the rules of that House, to transmit to the Director a formal statement of objection to the final regulation. Such letter shall suspend the effective date of the final regulation until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this subsection. In no event shall the final regulation go into effect until the forty-five-day period shall have elapsed, as provided for in this subsection, for both Houses of the Congress.

"(e) Whenever a concurrent resolution of

disapproval is enacted by the Congress under the provisions of this section, the agency may thereafter issue a modified regulation to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the final regulation earlier disapproved and how the agency believes the modification disposes of the findings by the Congress in the concurrent resolution of disapproval.

"(f) Not later than sixty days after the enactment of any part of any Act affecting the administration of any applicable program, the Director shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Director has planned to promulgate final regulations implementing such Act or part of such Act. Such schedule shall provide that all such final regulations shall be promulgated within one hundred and eighty days after the submission of such schedule. Except as is provided in the following sentence, all such final regulations shall be promulgated in accordance with such schedule. If the Director finds that, due to circumstances unforeseen at the time of the submission of any schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such findings and submit a new schedule. If both such committees notify the Director of their approval of such new schedule, such final regulations shall be promulgated in accordance with such new schedule.".

REDUCTION OF PAPERWORK

SEC. 14. (a) Title IV of the Act is amended by adding at the end thereof the following new section:

"REDUCTION OF PAPERWORK

"SEC. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paperwork required under this Act. In accordance with chapter 35 of title 44, United States Code, the Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act.".

(b) The table of contents for the Act is amended by inserting after the item relating to section 422 the following new item:

"Sec. 423. Reduction of paperwork.".

TERMINATION OF PROJECTS

SEC. 15. (a) Title IV of the Act, as amended in section 14, is further amended by adding at the end thereof the following new section:

"TERMINATION OF PROJECTS

"SEC. 424. (a) The Director shall not renew any contract or grant to carry out any project under this Act upon the expiration of such contract or grant if the chief executive officer of the State in which such project is being carried out furnishes written notice to the Director (before the expiration of such contract or grant) specifying that such chief executive officer does not concur in the renewal of such contract or grant.

"(b)(1) If the executive authority of any local government submits to the Director, not later than 30 days before the expiration of any contract or grant to carry out any project under this Act, a statement which objects to the renewal of such contract or grant, then the Director shall review such statement and take it into account in determining whether to renew such contract or grant.

"(2) For purposes of this subsection, the terms 'executive authority' and 'local government' have the meanings given them in section 136.".

(b) The table of contents for the Act, as amended in section 14, is further amended by inserting after the item relating to section 423 the following new item:

"Sec. 424. Termination of projects.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a)(1) Section 501(a) of the Act is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

"(2)(A) In each fiscal year specified in paragraph (1), of the sums appropriated under this subsection, not less than $873,000 shall be available for the operation of service-learning programs under section 114.

"(B) Of the sums appropriated under this subsection for the fiscal year ending September 30, 1980, not less than $3,200,000 shall be available for the operation of the University Year for ACTION program under part B of title I. Of the sums appropriated under this subsection for the fiscal year ending September 30, 1981, not less than $2,200,000 shall be available for the operation of such program.".

(2) The first sentence of section 501(a)(1) of the Act, as so redesignated in paragraph (1), is amended by striking out "and" after "June 30, 1974,", and by inserting after "September 30, 1978," the following: "$42,415,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for the fiscal year ending September 30, 1981,".

(b) Section 504 of the Act is amended by striking out "and" after "September 30, 1977,", and by inserting "September 30, 1980, and September 30, 1981," after "September 30, 1978,".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 17. (a)(1) The table of contents for the Act is amended by striking out the items related to title III, section 301, section 302, and section 503.

(2) The amendments made in paragraph (1) shall take effect on October 1, 1979.

(b)(1)(A) The heading for title II of the Act is amended to read as follows:

"TITLE II—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS"

(B) The table of contents for the Act is amended by striking out the item relating to title II and inserting in lieu therof the following new item:

"TITLE II—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS"

(2) Section 221 of the Act is amended by striking out "Office of Economic Opportunity" and inserting in lieu thereof "Community Services Administration".

(c) Section 403(b) of the Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(d) Section 415(c)(2) of the Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(e) Section 418 of the Act is amended by striking out "titles II and III of this Act" and inserting in lieu thereof "part D of title I of this Act, or pursuant to titles II and III of this Act,".

REPORT RELATING TO RURAL PROGRAMS

SEC. 18. (a) The Director of the ACTION Agency shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives specifying the special needs and circumstances which the Director intends to address in designing programs under the Act for implementation in rural areas. Such report shall include a detailed statement of the manner in which the Director intends to address such needs and circumstances, together with a timetable for designing and implementing such programs.

(b) The report required in subsection (a) shall be submitted not later than February 1, 1980.

AMENDMENT TO OTHER LAW

SEC. 19. Section 5(b) of the Act entitled "An Act to amend further the Peace Corps Act, and for other purposes", approved November 14, 1975 (Public Law 94-130; 89 Stat. 681), is amended by striking out the last sentence thereof.

LIMITATION ON PAYMENT AUTHORITY

SEC. 20. Notwithstanding any other provision of the Act, any authority to enter into contracts or to make payments under the Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts in advance.

Amend the title so as to read: "An Act to amend the Domestic Volunteer Service Act of 1973 to authorize appropriations for programs under such Act, to facilitate the improvement of programs carried out under such Act, to authorize the establishment and operation of urban volunteer programs, and for other purposes.".

Mr. CRANSTON. Mr. President, I move that the Senate disagree to the amendment of the House to S. 239, agree to the conference requested by the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. WILLIAMS, Mr. CRANSTON, Mr. NELSON, Mr. RIEGLE, Mr. HUMPHREY, and Mr. ARMSTRONG conferees on the part of the Senate.

JUANITA KREPS

Mr. CANNON. Mr. President, Secretary Juanita Kreps has announced that she will relinquish her distinguished leadership of the Department of Commerce this week. As chairman of the Senate Commerce, Science, and Transportation Committee, I would like to state that I have enjoyed working closely with Secretary Kreps and am extremely sorry to see her depart.

The committee interacts with the Department of Commerce in a vast number of areas, including ocean policy, maritime policy, the scientific acitvities of the National Bureau of Standards, coastal zone management, product liability, communications policy, and many others. We, therefore, are well aware of the great complexity of trying to meld these diverse policy questions into a coordinated and meaningful program. Secretary Kreps has done an admirable job of seeing to it that these programs have gone forward effectively.

Secretary Kreps has been an innovator and trailblazer throughout her career. She made major contributions to the economic study of manpower, the problems of the aged, and resource, and trade policy. She was the first woman to be named Secretary of Commerce and the first economist to hold that position. Secretary Kreps from the outset of her tenure at the Department of Commerce demonstrated leadership, wisdom, and innovation.

Among her accomplishments, Secretary Kreps led a major trade delegation to Japan and worked diligently to lower

trade barriers within Japan to U.S. goods. Secretary Kreps was instrumental in facilitating improved trade relations with People's Republic of China—opening access to this enormous new trading area. She also expanded our national export policy and through the Economic Development Administration she greatly increased programs to improve our economy at home. Secretary Kreps also has facilitated the development of coastal zone management programs throughout the country and focused increased attention on the need to strengthen our merchant marine.

The Senate Commerce Committee has a reputation for carrying out diligent and detailed oversight of the agencies under our jurisdiction. In the course of this activity, we have found fault from time to time with various programs within the Department of Commerce; however, we believe that Secretary Kreps can leave Government with the feeling that she has attained an admirable record of success. We look forward to working with her in the future as she returns to the private sector.

Mr. President, I thank the Senator for yielding.

Mr. CRANSTON. Mr. President, I associate myself with the remarks of the Senator from Nevada regarding Secretary Kreps.

She was a very fine, outstanding member of the Cabinet. I, too, am very regretful she found it necessary to leave that responsibility in the Department of Commerce.

Mr. MORGAN. Mr. President, North Carolina 3 years ago made a valuable contribution to the Nation when it loaned the Federal Government and more particularly the Department of Commerce, one of its ablest administrators and finest citizens.

I refer, of course, to Dr. Juanita Kreps who served so well and so ably as Secretary of Commerce during the first 3 years of the present administration.

Dr. Kreps came here from Duke University where she served as vice president of that fine institution of higher learning.

North Carolina really got Juanita Kreps from Kentucky, because she was born in Lynch, Ky., in the middle of the coal fields in the eastern section of that State. She attended Berea College in Berea, also in eastern Kentucky, before coming to Duke where she furthered her education by obtaining a master's degree and where she joined the faculty in 1955. Before that, she taught for some years at Denison University.

Her rise at Duke was phenomenal. She advanced from instructor to a full professor and assistant provost before becoming vice president.

As an economics professor she became nationally known, and she made her way in the business world, being named to the board of the New York Stock Exchange, the first woman to sit on that board, and also to the boards of a number of the Nation's largest corporations.

And when President Carter formed his Cabinet immediately after his election, he had no trouble finding a Secretary of Commerce. He chose Dr. Kreps and I think, Mr. President, he chose exceedingly well.

Dr. Kreps served with distinction at the Commerce Department until personal considerations made her feel that she should resign.

North Carolina and Duke will welcome her back, but the Nation has lost a valuable leader and a devoted servant.

The Federal Government's loss of Dr. Juanita Kreps is North Carolina's and Duke University's gain in this instance. We had her in the National Government for too short a time and her presence will be missed by those of us who worked with her and who came in contact with her from time to time.

My State of North Carolina has many fine dedicated and outstanding citizens, but we sent you one of the very best when we sent you Dr. Kreps.

I know she will be happy to return to North Carolina but we shall miss her talents in the National Government, where for 3 years she served so well.

THE RESIGNATION OF SECRETARY JUANITA KREPS

Mr. BURDICK. Mr. President, Secretary of Commerce Juanita M. Kreps will leave her post in the Cabinet this week. In my judgment, she has served with distinction these past 2 years.

Secretary Kreps has been helpful to me as a subcommittee chairman in matters concerning the legislation to reauthorize the Commerce Department programs of the Economic Development Administration and the eight title V regional development commissions. As she leaves Federal service, I wish her good fortune and God's blessings. Secretary Kreps has been an outstanding Secretary of Commerce. She accepted a Department known to contain a basketful of disparate agencies and missions. She aggressively harmonized the various functions of the Department of Commerce toward the goal of improving the economic well-being of this country. She gave greater purpose and urgency to the promotion of foreign trade. Thanks to her leadership the President is proposing to upgrade and consolidate this important function in the Commerce Department.

Secretary Kreps is the first Secretary since 1965 to enthusiastically promote economic development assistance for lagging regions of this country as a legitimate Federal activity. As a result of her leadership, President Carter has proposed substantial increases in economic development programs.

As Juanita Kreps moves to her next challenge, I want to express my appreciation for her kindnesses and graciousness. Quick to listen and to cooperate, though committed and firm, she will be missed in this city.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Pursuant to order of October 25, 1979, the Secretary of the Senate, on October 16, 1979, received messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received on October 26, 1979, are printed at the end of the Senate proceedings.)

REPORT OF THE FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT—PM 128

Pursuant to order of October 25, 1979, the Secretary of the Senate, on October 26, 1979, received the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 205(f) of the Older Americans Act of 1965 (P.L. 93-29), I am transmitting to Congress the Annual Report for 1978 of the Federal Council on Aging.

This report has been prepared by the Federal Council on Aging and submitted to me as required by law. The Report describes the Council's activities in 1978 and those proposed for 1979.

JIMMY CARTER.

THE WHITE HOUSE, *October 26, 1979.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States, reported that on October 25, 1979, he had approved and signed the following act:

S. 567. An act to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorneys for the eastern district of New York to reside within 20 miles of the district.

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

Pursuant to order of October 25, 1979, the Secretary of the Senate, on October 26, 1979, received a message from the House of Representatives, reporting that the House has passed the bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also reported that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, mis-

siles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The message further reported that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4387) making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 79, 80, 81, 83, and 85 to the bill and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 5, 6, 19, 60, 72, 77, and 84, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

The message also reported that the House has passed House Joint Resolution 430, making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes, in which it requests the concurrence of the Senate.

MESSAGES FROM THE HOUSE

At 12:43 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, and 8 to the bill (H.R. 4249) to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes; and that the House agrees to the amendment of the Senate numbered 7 to the bill with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 1885. An act to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies;

H.J. Res. 3. A joint resolution designating November 4, 1979, as "Will Rogers Day";

H.J. Res. 428. A joint resolution designating December 1979 as "National Child Abuse Prevention Month."

At 2:50 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3000. An act to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980, and for other purposes.

HOUSE BILLS PLACED ON THE CALENDAR

The following bills were read twice by their titles and ordered to be placed on the calendar:

H.R. 1885. An act to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies; and

H.R. 3000. An act to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980, and for other purposes.

HOUSE JOINT RESOLUTIONS REFERRED

The following joint resolutions were read twice by their titles and referred as indicated:

H.J. Res. 3. A joint resolution designating November 4, 1979, as "Will Rogers Day"; to the Committee on the Judiciary.

H.J. Res. 428. A joint resolution designating December 1979 as "National Child Abuse Prevention Month"; to the Committee on the Judiciary.

H.J. Res. 430. A joint resolution making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2378. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Stronger Emphasis On Market Development Needed in Agriculture's Export Credit Sales Program"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2379. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and material for the third quarter of fiscal year 1979; to the Committee on Appropriations.

EC-2380. A communication from the Clerk of the United States Court of Claims, transmitting, pursuant to law, a certified copy of the Court's Judgement in the case of the Colorado River Indian Tribes, et al. v. The United States; to the Committee on Appropriations.

EC-2381. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on two construction projects to be undertaken by the Air Force Reserve; to the Committee on Armed Services.

EC-2382. A communication from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting, a draft of proposed legislation to amend title 37, United States Code, to authorize the Secretaries concerned to set mileage rates based on various considerations for uniformed members performing permanent change of station moves, and for other purposes; to the Committee on Armed Services.

EC-2383. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Continuing Problems in DOD's Classification of National Security Information"; to the Committee on Armed Services.

EC-2384. A communication from the Director of the Office of Science and Technology Policy, Executive Office of the President, transmitting, pursuant to law, the report on the National Earthquake Hazards Reduction Program, September 1979; to the Committee on Commerce, Science, and Transportation.

EC-2385. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on sales of refined petroleum products and the sales of retail gasoline for July 1979; to the Committee on Energy and Natural Resources.

EC-2386. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period ending October 25, 1979; to the Committee on Foreign Relations.

EC-2387. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new system of records for the Department of the Navy for implementating the Privacy Act; to the Committee on Governmental Affairs.

EC-2388. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on a new system of records for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-2389. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on Federal Activities on Alcohol Abuse and Alcoholism; fiscal year 1977; to the Committee on Labor and Human Resources.

EC-2390. A communication from the Chairman of the Federal Election Commission, transmitting pursuant to law, proposed regulations pertaining to the Federal financing of Presidential nominating conventions; to the Committee on Rules and Administration.

EC-2391. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the President's fourteenth special message for fiscal year 1979; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-484. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 396

"Whereas, an Interagency Task Force appointed by the President of the United States is preparing a report on making the territories of the United States more self-sufficient and has forwarded a draft of the report to Guam for review and participation by the people and the government leaders in the final report; and

"Whereas, the Legislature and the Governor by adoption of Resolution No. 395 expressed the views of the people of Guam on the first segment of the report which concerned political status; and

"Whereas, Guam's response to Task Force #1 included the following essential elements:

"(1) a reaffirmation of the people of Guam's right to self-determination of their form of government;

"(2) the necessity for creation of a Joint Guam-United States Commission to review the impact of all Federal laws and international treaties or agreements on the island and to prevent further application of Federal Laws and international treaties of agreements to Guam without her consent;

"(3) the removal of Federal constrains on the economic, political and social development of the island; and

"(4) most importantly—the need for immediate action toward commencing political status talks between representatives of the people of Guam and the United States of America; and

Whereas, with respect to Task Force #2 concerning economic development, Guam finds that the federal report is unacceptable as a serious study of the island's economic needs; that the report is misleading, erroneous and mistaken in some of its conclusions, and urges that it be not submitted to the President of the United States as the basis on which to formulate territorial policy; and

"Whereas, the federal government declares that one of its goals is to encourage economic self-reliance in the territories, and

"Whereas, the development of Guam's economy is considered to be a matter of survival and urgency for the people of Guam; and

"Whereas, plans for specific scheduled programs must be drafted to promote economic development. Guam recommends the following actions:

"(1) removing Federal restrictions and Federal controls over Guam's most valuable economic assets; such action being accomplished by:

"(a) annuling or exempting Guam from Federal laws which constrain her economic development;

"(b) returning natural resources to the people of Guam; and

"(c) providing capital (grants or loans) needed to construct an infrastructure which facilitates trade and commerce; and

"(2) assisting in the implementation of a ten-year economic development plan for Guam which will result in a healthy utilization of the island's natural resources and generation of sufficient local revenues to continue development of the island's infrastructure; and

"Whereas, it is imperative that the Federal and territorial governments act immediately to permit the Commercial Port at Apra Harbor to evolve into an international shipping center; to develop alternative energy resources and to create Joint Guam-United States Subcommittees to review areas of mutual concern; and

"Whereas, with respect to Task Force #3 concerning Financial Assistance, Guam resists any Federal action which would disrupt the island's economy and ability to provide essential services especially when such action is predicated on a study which fails to address reasons for Guam's present requirement for Federal assistance. Guam does support creation of a development bank as long as the bank provides additional capital and is not in lieu of current Federal financial assistance. Guam favors a block-grant system in lieu of Federal categorical grants-in-aid if the allocation to Guam is based on Guam's eligibility to participate in programs and if *ad hoc* grants are continued. Guam opposes Federal tax collection of local taxes and seeks authority to modify the Internal Revenue Code as it applies to Guam; and

"Whereas, with respect to Task Force No. 4 concerning Coordination of Federal Grants, Guam vehemently rejects the creation of a Federal "Coordinating Office" to oversee the granting of Federal funds to Guam. However, Guam does support expansion of territorial self-government through adoption of a system of Federal block grants to the territories. Guam has for many years and continues to advocate extension of certain social programs to her citizens so the citizens of Guam can be treated more like their fellow citizens on the Mainland; and

"Whereas, with respect to Task Force No. 5 concerning Federal Organization, Guam recommends that an Interagency Office in the Executive Office of the President be created to handle Guam's affairs and that the Department of Interior be relieved of its duty to administer territorial affairs for the Federal Government; and

"Whereas, with respect to Task Force No. 6 concerning Federal Presence, Guam protests the failure of the report to address the overwhelming importance of the Department of Defense's position on island and recommends with regard to the issues addressed in the report that the office of Federal Comptroller be abolished thus, causing Guam to be treated like States which receive Federal financial assistance. Guam continues to request legislative changes in Guam's Organic Act which will:

"(1) constitute the Guam District Court a court with jurisdiction over Federal matters only; and

"(2) authorize a local court system similar to those of states,—that is, creation of courts of general jurisdiction and a Territorial Supreme Court with appeal to the United States Supreme Court; now, therefore, be it

"*Resolved*, that the Legislature and the Governor of Guam jointly endorse the policy statements attached hereto as reflective of the views of the people of Guam; and be it further

"*Resolved*, that the President of the United States and the Congress of the United States are asked to consider the concerns and recommendations of the people of Guam with respect to the welfare of the island as such are reflected in the attached policy statements; and be it further

"*Resolved*, that once again the President of the United States and the Congress of the United States are called upon to enter into formal negotiations with authorized representatives of the people of Guam on Guam's relationship with the United States; and be it further

Resolved, that negotiations commence soon so that the disputes can be resolved and that the bonds of friendship and mutual respect existing between Guam and the United States can be strengthened; and be it further

Resolved, that the Speaker and the Governor certify to and the Legislative Secretary attest to the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the President pro tempore of the United States Senate; to the Speaker of the House of Representatives; to the Secretary of State; to the Secretary of Interior; to the Ambassador of the United States to the United Nations; to Congressman Philip Burton; to all members of the House of Representatives; to Senator Bennett Johnson and to all members of the U.S. Senate; and to Guam's Washington Delegate."

POM-485. A petition from a private citizen, relating to organized white collar crime; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 312. A bill to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties (Rept. No. 96-380).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

S. Res. 266. An original resolution authorizing the printing of the report entitled "The Cost of Clean Air and Water" as a Senate document. Referred to the Committee on Rules and Administration.

By Mr. MUSKIE, from the Committee on the Budget, without amendment, unfavorably:

S. Res. 232. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1716.

S. Res. 234. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1748.

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 254. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5218.

S. Res. 257. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1012.

S. Res. 258. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1668.

S. Res. 263. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 493.

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1905. A bill to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes.

MILWAUKEE RAILROAD RESTRUCTURING ACT

Mr. CANNON. Mr. President, on October 17, 1979, because of the pressing problems of the bankrupt Milwaukee Railroad, I introduced S. 1905, together with Senator LONG and Senator PACKWOOD. Senator MAGNUSON, joined by seven other Senators, introduced Senate Joint Resolution 114. A hearing was scheduled this morning to consider that legislation and difficult issues concerning the viability of a system larger than proposed by the trustee in his reorganization plan.

However, unexpected events occurred last week. The Department of Transportation and the trustee were unable to reach agreement on further borrowings. Just last Friday, the reorganization court authorized an embargo, effective November 1, 1979, based on the fact that the funding contemplated by House Joint Resolution 412, had not been made available. Obviously, this action increased the need for Congress to determine as soon as possible what further steps needed to be taken with regard to the Milwaukee. Accordingly, an executive session was held immediately following this morning's extensive hearing for the purpose of committee action on S. 1905 and amendments offered by Senators MAGNUSON and LONG.

The bill was ordered reported as amended by the committee with a request that the Senate consider the legislation today. A full summary of the bill as amended is submitted at this time to be inserted in the RECORD following my remarks.

I understand that the House will try to consider similar legislation tomorrow morning. I would like to stress at this time that the bill as reported by the Commerce Committee this morning contains a number of differences from that proposed in the House bill which we heard

testimony on today. I feel that S. 1905 as amended is a reasonable way to deal with a very difficult issue and hope that our colleagues in the House will agree.

I made a commitment today to the Senate that the Senate conferees will hold firm in not going beyond where we have already compromised in putting this delicate legislative package together. I would respectfully urge my House colleagues to seriously consider and act upon the Senate bill we are reporting today.

I ask unanimous consent that the bill as reported together with a summary thereof be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Milwaukee Railroad Restructuring Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, Saint Paul and Pacific Railroad Company (hereinafter referred to as the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (namely, the States of Washington, Montana, Minnesota, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(5) a cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare and reduce rail competition in the affected tier of states;

(6) a cessation of such services is imminent; and

(7) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cession of essential operations by the Milwaukee Railroad would otherwise cause.

COURT-APPROVED ABANDONMENT AND SALES

SEC. 3. (a)(1) Upon the occurrence of an event described in section 11(b) of this Act, or on May 10, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. When a rail carrier is involved in a transaction under this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of the employees who are affected by the transaction as that required under section 11347 of title 49, United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with paragraph (1) of this subsection.

(b) Section 11346 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision, when the proceeding involves the sale or transfer of a line of a railroad in reorganization, the Commission shall give the proceeding preference over all other proceedings related to that type of carrier and make its decision at the earliest practicable time, not to exceed 90 days if the proceeding does not involve a significant competitive impact, nor 210 days in any event: *Provided, however,* That this subsection shall not apply to proceedings commenced prior to the date of enactment of this subsection.".

(c) Nothing in this section shall be construed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

COURT-APPROVED ABANDONMENTS IN PENDING CASES

SEC. 4. Notwithstanding any other provision of law and except as provided otherwise in section 3(a), the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to such section 1170, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

"SEC. 5. (a)(1) No later than December 15, 1979, an association composed of representatives of national railway labor organizations, employees, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan, which may include one or more alternative system configurations, shall include a comprehensive evaluation of the prospects for the financial self-sustainability of that portion of the Milwaukee Railroad.".

(2) The Commission shall, within thirty days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5, United States Code.

(3) The Commission shall make a finding that the plan submitted under this subsection is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by May 10, 1980;

(D) that portion of the railroad covered by the plan can be operated on a self-sustaining basis; and

(E) the plan contains an assessment of all operating practices, and includes the implementation of changes designed to achieve the greatest possible labor productivity increases consistent with safe operations and adequate service.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate that will be released as part of implementation of the employee or employee and shipper ownership plan, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall immediately submit its finding to the bankruptcy court. Within ten days after the day of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall, no later than May 10, 1980, implement the plan.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or customer of the Milwaukee Railroad.

(f) In the implementation of any employee or employee and shipper ownership plan involving expenditures or guarantees of Federal funds as hereinafter provided, authorizations shall be conditioned upon an appropriate contribution from employees, including such measures as exchange of assets for relinquishing labor protection claims and changes in work rules to increase productivity: *Provided, however,* That the employee-shipper actual or in kind contribution shall be no less than 25 per centum of the total required financing.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 6. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)) is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term 'restructuring' includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(e)) is

amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system and as required to finance the operations which the Milwaukee Railroad continues from the date of enactment of this Act until the sixty-day period beginning on the date of the occurrence of an event described in section 11 (b) of this Act or on May 10, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)). The provisions of section 3(b)(3) and of the last sentence of section 3(d) of such Act shall not apply to the guarantee of trustee certificates under this section.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses found necessary by the trustee of such railroad for the maintenance and the continuation of service in accordance with subsection (d) of this section, and (2) the revenues of such railroad, both determined in accordance with the Uniform System of Accounts prescribed by the Commission.

(f) Notwithstanding any of the provisions of section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)), as amended by this Act, certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act. No payment of interest or principal upon certificates guaranteed under this section shall be required until the conclusion of the Milwaukee Railroad reorganization proceedings, or three years from the date of enactment of this Act, whichever first occurs.

NEW CAREER TRAINING ASSISTANCE

SEC. 7. (a) Any employee who elects to receive a separation allowance shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

(e) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this section.

(f) There is authorized to be appropriated for new career training assistance under this section not to exceed $1,500,000.

OBLIGATION GUARANTEES

SEC. 8. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Milwaukee Railroad for purposes of providing protection of employees affected by restructuring, transactions, or reduction in service by the Milwaukee Railroad. Such protection may include, but need not be limited to, moving expenses, compensation for employee relocation and separation allowances. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to subsection (a) of this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under subsection (a) of this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances.

(e) Pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, the Secretary of Transportation shall guarantee obligations to finance an equipment repair program for the Milwaukee Railroad, or its successors, during the remainder of 1979 and 1980. Obligations guaranteed under this subsection shall not exceed $30,000,000.

(f) Obligations guaranteed pursuant to subsection (e) of this section shall be subordinated to the claims of any creditor of the Milwaukee Railroad as of the date of enactment of this Act.

TRANSACTION ASSISTANCE

SEC. 9. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsection (a), (b), (c), (d) (1) and (2), and (e) of this section, the Secretary may purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person prior to November 1, 1980, or retained by the restructured Milwaukee Railroad, and that will be used for continuing rail service.".

APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 10. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to transactions carried out pursuant to this Act.

CONTINUATION OF SERVICE

SEC. 11. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the date of enactment of this Act, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 5(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 5(c) of this Act.

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD

SEC. 12. If an event described in section 11(b) of this Act occurs, resulting in the survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 or any other Federal legislation shall be conditioned upon good faith efforts by the Trustee and/or the Railroad to establish an employee stock ownership plan which plan shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee equal in value to 25 percent of the amount of such relief provided.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 13. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721 (e)) is amended by striking out paragraph (2) thereof and the sentence following that paragraph, and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association and receives a written commitment from the railroad that, by December 31, 1980, the railroad will adopt the employee stock ownership plan which will acquire qualifying employee stock with a fair market value of $250,000. The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

AMENDMENTS TO THE DEPARTMENT OF TRANSPORTATION ACT

SEC. 14. (a) Section 5(h)(3)(B) of the Department of Transportation Act (49 U.S.C. 1654(h)(3)(B)) is amended—

(1) in the second sentence thereof, by striking "In accordance with the formula stated in this subsection, the", and inserting in lieu thereof "The"; and

(2) by adding at the end thereof the following: "Notwithstanding the provisions of this subsection, funds available for reallocation as of October 1, 1979, shall be reallocated by the Secretary solely to States which require supplementary assistance to mitigate the effects caused by the filing of large-scale abandonments by railroads in liquidation or reorganization under the Bankruptcy Act. In making such reallocation, the Secretary shall give consideration to the amount of mileage in the State for which an application for abandonment or discontinuance has been filed with the Interstate Commerce Commission in accordance with the provisions of section 10903 of title 49, United States Code, but has not been approved or denied. Consideration shall also be given to the relationship which such mileage bears to the total rail mileage in each State requiring supplementary assistance under this subparagraph.".

(b) The second sentence of section 5(h)(2) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)) is amended by inserting immediately after "and" therein the following: ", except as otherwise provided in this subsection,".

SUMMARY OF S. 1905, AS ORDERED REPORTED BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

MILWAUKEE RAILROAD[1] RESTRUCTURING ACT

A brief summary of the attached bill follows:

ESOP (SECTION 5)

1. Not later than December 15, 1979, an employee or shipper-employee group may submit to the Interstate Commerce Commission a plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company, such plan to include a method for implementation and an evaluation of the prospects for self-sustainability of the Milwaukee Railroad.

2. The Commission is required to determine whether the plan is feasible within 30 days after submission. Feasibility is to be based on the following findings:

a. that adequate financing is available;

b. that the plan is fair and equitable to the estate of the Milwaukee;

c. that implementation will occur by May 10, 1980;

d. that the railroad can be operated on a self-sustaining basis;

e. that the plan includes changes in operating practices designed to achieve labor productivity increases.

If the plan is found to be feasible, it is to be submitted to the Bankruptcy Court.

3. The Bankruptcy Court shall hold a hearing within 10 days and determine whether the plan is fair and equitable to the estate of the Milwaukee.

4. If the I.C.C. and the Bankruptcy Court approve the plan, the proponents of the plan shall implement it by May 10, 1980.

5. Implementation of any plan involving expenditures or grants of Federal funds will be conditioned on an appropriate contribution from employees or employee-shippers. This contribution shall not be less than 25 percent of the required financing.

Section 11 of the bill provides for continuation of service at the level provided on the date of enactment until (1) the plan is not implemented, (2) the plan is not timely filed, or (3) there is an adverse finding by the I.C.C. or the Bankruptcy Court.

OTHER PROVISIONS

The bill also includes provisions for funding, labor protection, and expedited handling of abandonments and sales. The Emergency Rail Services Act of 1970 (ERSA) is amended by striking out the findings ordinarily required, including the finding that "the railroad can reasonably be expected to become self-sustaining." Certificates are not to be guaranteed under this section unless the certificate is treated as an expense of administration and receives the highest lien, except that this requirement is not applicable to certificates guaranteed for railroads engaged in "restructuring," which includes an ESOP plan. The ERSA funds provided the Milwaukee under the "restructuring" provision would be subordinated to the claims of creditors of the estate. Section 3(e) of ERSA is amended to revise upward the permissible outstanding aggregate principal amount of certificates from $125,000,000 to $200,000,000. ERSA certificates are to be issued to allow continued service until 60 days after May 10, 1980, or 60 days after occurrence of an event described in section 11,[2] whichever first occurs. (Section 6)

Training assistance for new careers is provided for employees displaced by the restructuring of the Milwaukee Railroad or a reduction in service over the line. (Section 7)

Under Title V of the Railroad Revitalization and Regulatory Reform Act, the Secretary is to guarantee obligations of the Milwaukee Railroad for employee protection purposes, including (but not limited to) moving expenses, compensation for employee relocation and separation allowances. Guarantees under this section are limited to $75,000,000; the obligations are to be treated as an administrative expense of the estate and not subordinated to creditors' claims. (Section 8)

The bill applies the expedited procedures of the new bankruptcy law, section 1170 of title 11, U.S.C., to pending abandonments, including the Milwaukee, the Rock Island and the Boston and Maine. However, the Bankruptcy Court cannot finally approve a Milwaukee abandonment until March 1, 1980 (unless an ESOP is not filed or there is an adverse finding by the I.C.C. or the bankruptcy court). With regard to sales and transfers by railroads in reorganization, expedited I.C.C. handling of all new cases would be required, but transactions of this nature would not be subject to the new bankruptcy provisions. (Sections 3 and 4)

In order to facilitate rehabilitation and improvement of Milwaukee Railroad property retained by the railroad or sold to another entity prior to November 1, 1980 for common carrier purposes, the Secretary is authorized to purchase redeemable preference shares or trustee convertible certificates. (Section 9)

The Regional Rail Reorganization Act of 1973 is amended to provide for an increase of $4,000,000 in the principal amount available to the Delaware and Hudson Railway Company, provided an ESOP is being established, subject to specified conditions including review and approval by the United States Railway Association. (Section 12)

Finally, the Department of Transportation is required (in a manner similar to S. 1781) to provide for reallocation of funds available as of October 1, 1979, to States requiring supplementary assistance under the "Branch Line" legislation revised last year. This provision is intended to mitigate the effects of large-scale abandonment filings by railroads in reorganization. (Section 13)

Mr. PACKWOOD. Mr. President, I join the distinguished chairman of the Senate Committee on Commerce, Science, and Transportation in reporting out the Milwaukee Railroad Restructuring Act of 1979. The committee met this morning in an emergency executive session immediately following a third oversight hearing on the financial condition of the Milwaukee Railroad. The transportation crisis now occurring throughout the 11-State Milwaukee territory requires our immediate attention. It had been expected that rail service would be continued throughout November 30, 1979, however, an adverse decision by the bankruptcy court having jurisdiction over the Milwaukee Railroad operations has resulted in an order terminating operations on November 1, 1979.

Mr. President, I am pleased to note that the bill, as reported, has been amended to some degree, but those amendments do not change the thrust of the original provisions of S. 1905. It is important that Members realize that the Commerce Committee's unanimous approval of this legislation is premised on the principle that this is the Senate position with regard to restructure the Milwaukee Railroad.

Senate Joint Resolution 114, which was also pending before the Senate Commerce Committee is very similar to the provisions of the measure now being contemplated in the House. The committee specifically chose not to report Senate Joint Resolution 114 as the vehicle for the restructure of the Milwaukee Railroad. The House provision (S.J. Res. 114) provides many substantial changes to the existing law regarding sales, transfers, mergers, and abandonments of portions of all railroads across the Nation, including the Milwaukee Railroad. The changes would have allowed bankruptcy judges the authority to terminate all such proceedings before the Interstate Commerce Commission and resolve the issue within the confines of their bankruptcy court jurisdiction. Members of the Commerce Committee hold the unanimous opinion that the bankruptcy court is not the proper entity to resolve these very sensitive restructure measures which have tremendous competitive and market implications.

Finally Mr. President, I should like to advise that Chairman CANNON and I are prepared to hold tight on the provisions of S. 1905. We envision this as the final compromise. We do not anticipate diverting from the basic provisions of S. 1905 and are prepared to insist on the Senate provisions. If the House should find itself in permanent technical disagreement, then we will have to resolve ourselves with the idea that directed service should be considered as the second best alternative to the provisions of S. 1905. I urge my colleagues to support the provisions of S. 1905 as reported and amended.

[1] Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

[2] See preceding paragraph.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

Ronald P. Laurent, of Illinois, to be President of the Government National Mortgage Association.

Gloria Cusumano Jimenez, of North Carolina, to be an Associate Director of the Federal Emergency Management Agency.

Jane McGrew, of Maryland, to be General Counsel of the Department of Housing and Urban Development.

(The above nominations from the Committee on Banking, Housing and Urban Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Francis Severin Johnson, of Texas, to be an Assistant Director of the National Science Foundation.

William Klemperer, of Massachusetts, to be an Assistant Director of the National Science Foundation.

The following-named persons to be Members of the Federal Council on the Aging:

Cyril Hilary Carpenter, of Minnesota;
John B. Martin, of Maryland;
Mary Crowley Mulvey, of Rhode Island;
Jean Jones Perdue, of Florida; and
Aaron E. Henry, of Mississippi.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

John Gunther Dean, of New York, a Foreign Service Officer for promotion from class 1 to the class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: John G. Dean.
Post: Career Minister.
Nominated July 27, 1979.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations: Samuel W. Lewis, of Texas, a Foreign Service Officer for promotion from class 1 to the class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Samuel W. Lewis.
Post: Career Minister.
Nominated July 27, 1979.
Contributions, amount, date, and donee:
1. Self, None.
2. Spouse, none.
3. Children and Spouses Names, Pamela G. Lewis, Richard W. Lewis, none.
4. Parents names, Grace M. Smoot, none.
5. Grandparents names, ——
6. Brothers and Spouses names, ——
7. Sisters and Spouses names, Mr. and Mrs. J. A. Miller, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Stephen Low, of Ohio, a Foreign Service Officer for promotion from class 1 to class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly consititued committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Stephen Low.
Post: Lagos, Nigeria.
Contributions, amount, date, and donee:
1. Self, Stephen Low, none.
2. Wife, Helen C. Low, $25; January 29, 1976, Morris Udall.
3. Sons Stuart C. Low, $25; March 3, 1976, Morris Udall.
Rodman M. Low, $20; May 28, 1976, Morris Udall.
Peter J. Low, none.
4. Mother, Margaret F. Low, $25, December 10, 1975, Bella Abzug; $25, July 3, 1975, Jimmy Carter; $25, September 30, 1975, Jimmy Carter; $25, December 10, 1975, Ramsey Clark; $25, September 30, 1975, Fred Harris; $25, April 24, 1976, Ramsey Clark; $185, May 20, 1975 to May 20, 1976, Morris Udall.
6. Brother and spouse, Martin L. Low, Alice B. Low, under $200 per year in 1975 and 1976.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. Although I have not yet had a reply from them, I am quite certain that none of my children has made contributions totalling more than $50 in the period 1976 to the present, that my brother and his wife have not made contributions of more than $200 per year, and that my mother (who is now ninety) has propably made fewer contributions than shown for 1975 and 1976. I will submit the precise information when I receive it. To the best of my knowledge, the information contained in this report is accurate and complete through the dates given.

By Mr. PELL, from the Committee on Foreign Relations: William H. Luers, of Illinois, a Foreign Service officer for promotion from class 1 to the class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: William H. Luers.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, separated.
3. Children and Spouses Names: Mark B. Luers, David L. Luers; None.
4. Parents names, dead.
5. Grandparents names, dead.
6. Brothers and Spouses names, none.
7. Sisters and Spouses Names: Mr. and Mrs. Richard Phelps, Dr. and Mrs. J. J. McCaffrey, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations: Richard W. Murphy, of Maryland, a Foreign Service Officer for promotion from class 1 to the class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Murphy, Richard W.
Post: Manila.
Nominated: July 27, 1979.
Contributions, amount, date, and donee:
1. Self, $100, October 1979, John Pittenger, Candidate for Democratic nominations for Senator, State of Pennsylvania.
2. Children and Spouses Names: Katherine, $100, July 1979 (Approximately), same.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations: James W. Spain, of Florida, a Foreign Service Officer for promotion from class 1 to the class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: James W. Spain.
Post: Ambassador.
Contributions, amount, date and donee:
1. Self, none.
2. Spouse, $100.00, $20.00 for 1975, 1976, 1977, 1978, 1979; Democratic National Committee.
3. Children and Spouses names, None.
4. Parents Names, None.
5. Grandparents Names, None.
6. Brothers and Spouses Names, None.
7. Sisters and Spouses Names, None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations: O. Rudolph Aggrey, of the District of Columbia, a Foreign Service information officer of class 1, for promotion to the class of career minister for information.

(The nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: O. Rudolph Aggrey.
Post: Bucharest, Romania.
Nominated July 27, 1979.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, Francoise F. Aggrey, none.
3. Children and Spouses Names, Roxane Aggrey, none.
4. Parents Names, N.A. (deceased).
5. Grandparents Names, N.A. (deceased).
6. Brothers and Spouses Names: Mr. and Mrs. Kweggis Aggrey, none.
7. Sisters and Spouses Names: Mr. and Mrs. S. W. Lancaster, none; Miss Rosebud Aggrey, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 1944. A bill for the relief of Peter Chi Hung Kwok, M.D., and Ping Chi Chau Kwok, husband and wife; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. BOREN):

S. 1945. A bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies; to the Committee on Governmental Affairs.

By Mr. CANNON (for himself, Mr. LONG, and Mr. PACKWOOD):

S. 1946. A bill to reform the economic regulation of railroads, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. RIBICOFF (for himself and Mr. MATHIAS):

S. 1947. A bill to amend title 5, United States Code, to extend the provisions of the Federal Physicians Comparability Allowance Act of 1978, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MATHIAS:

S. 1948. A bill to amend the act entitled "An Act for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson"; to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 1949. A bill for the relief of Asha A. Gangwani and her son, Anil A. Gangwani; to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. MOYNIHAN, Mr. SARBANES, Mr. MATHIAS, Mr. BAYH, and Mr. TSONGAS):

S. 1950. A bill to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge; to the Committee on Armed Services.

By Mr. MATHIAS:

S. 1951. A bill for the relief of Robert L. VanNess, of Gaithersburg, Md.; to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 1952. A bill for the relief of Elizabeth C. Zuill; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself and Mr. BOREN):

S. 1945. A bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies; to the Committee on Governmental Affairs.

AGENCY ACCOUNTABILITY ACT OF 1979

● Mr. LEVIN. Mr. President, I am very pleased to be introducing today along with Senator DAVID BOREN the Agency Accountability Act of 1979 which would establish a procedure for congressional review of agency rules and regulations. This legislative review procedure is different from what is commonly called "legislative veto".

Although I am new to the Senate, I have 8 years of recent experience with Federal regulations as applied to local communities. I served as a member and president of the Detroit City Council during those years. In that role I initially looked forward to working with the Federal Government to solve our community problems, to ease our financial burden, to reduce our urban blight. Instead of working with the Federal Government, however, I ended up battling it for much of that period.

For example, Detroit's experience with HUD programs has been a well-documented and publicized horror story. A large part of that story can be blamed on HUD regulations that were directed more at protecting the hide of that particular Department than at implementing the purpose of legislation.

While Detroit was writhing in pain from destructive HUD regulations and policies, HUD continued to follow rules that could not be bent and regulations which undermined legislative intent. And while the rules and regulations stood strong, the buildings continued to decay, the neighborhoods continued to deteriorate, the city continued to decline. And HUD was not the only one. From my 8 years in city government I could run down a list of agencies which displayed the same attitudes and the same orientation.

We too often lose control over the noble goals of our legislation in the bureaucratic and regulatory maze of huge executive departments. The public more and more becomes desperately frustrated by destructive implementation of statutes, and Congress often stands by impotently. I believe that a principle motivation behind measures to arbitrarily limit Government spending is not so much dissatisfaction with the purposes of Government programs as with the mismanagement, waste, arrogance, inflexibility, and loss of accountability connected to the implementation of those programs.

In the almost 50 years since the New Deal, we have seen valuable social programs created by Congress spawn a new administrative branch of government which is in some ways more powerful than Congress, the courts, and the President combined. That power comes, in part, from the administrative control these agencies have over the entire range of issues which pervade public life. But in larger part it comes from their structural independence—their exclusion from the delicate mathematics of our system of checks and balances.

The result of that independence is a branch of government which is not directly accountable to the political process and enforcing regulations not directly subject to effective review. Tolerating this situation is a mistake. It is my sincere hope that the introduction of this bill today marks a step toward wrestling the control of our Federal Government out of the hands of our bureaucracies and returning it to the elected representatives of the people of the United States.

I know of the controversy surrounding the so-called legislative veto, a controversy that centers for the most part on the constitutionality of a process that would omit the President from the congressional decision to disapprove a rule or regulation. This bill avoids that controversy because it does not use the device of a "one house" or a "one and one-half" house veto or a concurrent resolution. A disapproval of an agency rule or regulation under this bill would require the passage, within 90 days of final publication, of a bill or joint resolution—both of which require Presidential approval.

This bill gives the appropriate committee the power, during a 30-day period, to delay the effective date of a rule or regulation. If the power is exercised, Congress then has a 60-day grace period during which time it can review a rule or regulation before it takes effect. If Congress determines during that period that a regulation is contrary to the legislative intent, Congress can act to disapprove the regulation before it goes into effect. Under this bill, Congress need not consider each and every regulation.

This bill provides a system by which each committee having legislative jurisdiction over an agency or department is notified on a semiannual basis of the rules and regulations being studied by each department or agency. The committee is then free to chose to review those regulations which it feels may violate Congressional intent or which may in other ways be inconsistent with or different from the goals of the legislation sought to be inforced.

The bill would establish the following procedure for all agencies (with certain limited exceptions):

First. Every 6 months the head of each agency must submit to the Senate and House committee having legislative jurisdiction over it, an agenda of all regulations being developed by that agency.

Second. The chairperson of any such committee can request and the agency head shall then forward a copy of any proposed regulation.

Third. No regulation can become effective until 30 days after final publication.

Fourth. If during that 30-day period the appropriate committee of either house reports out a joint resolution or bill disapproving the regulation, the regulation cannot go into effect for another 60 days.

Fifth. Congress then has that 60-day period during which it can pass a joint resolution or bill of disapproval.

This procedure is very similar to the procedure we recently added to this year's authorizing language for the Department of Housing and Urban Development. It is too early to judge the results of this procedure on HUD regulations. This bill also contains a 3-year sunset provision so it will terminate on its own should it prove unworkable or unhelpful.

Opponents of legislative review of agency regulations often say that it places an inappropriate burden on Congress. As I understand this argument, they are really making two points. First, they claim that the task of the Congress is to make law and not to review the regulations of the executive branch. Second, they suggest that giving Congress this power is tantamount to giving special interest groups an unwarranted ability to influence regulations.

To the argument that Congress should pass laws and not review regulations, I say that when administrative implementation prevents a law from working as we intended it to work, then we have a special and particular obligation to exercise our oversight responsibility before the law which we have passed is so undermined.

This bill does not require congressional committees to examine every regulation of each agency—it simply gives us the practical ability to do so. The bill does not mandate action. I suspect we will only rarely decide to disapprove regulations, but at least the power to do so will be there. And, I believe that power, the power to protect the integrity of our legislation, will be a great deterrent to administrative abuse and is often just as important as the power to pass the initial legislation itself.

To the argument that special interest groups will have undue power and that Congress will have to make some tough decisions, I say that we ought to make those tough decisions. That is what we are here for. We cannot maintain the integrity of the legislative process if we abrogate our legislative powers and responsibilities to nonelected unaccountable bureaucracies. If we keep on passing laws and allow the agencies to unduly expand or contract them, or otherwise act inconsistently with their intent, then there is little accountability politically in this democracy of ours because the agencies are simply not subject to the collective will of the electorate.

I do not believe that the Founding Fathers conceived of a system in which unelected officials make basic legislative decisions. I do not believe that we will be unduly swayed by special interest pleadings during the grace period of legislative review any more than we were when we passed legislation in the first place. I have faith in our integrity to do what we believe is right. I also have faith in the checks and balances which exist between the special interest communities. We will continue to find vocal, powerful and potent interests on many sides of any issue.

Mr. President, Congress and the citizens of this country have been struggling for the past decade with the seeming omnipotence—and an all-too-often misguided omnipotence—of Federal bureaucracies. The good intentions that created the significant social legislation of recent decades have been lost in the rampant growth of government. This once "embryonic," then "growing," now "massive and entrenched" bureaucracy with 13 departments and hundreds of agencies has too often developed a cavalier attitude, and frequently engaged in conduct antithetical, to the intent of Congress. Local government officials, business people, and neighborhood residents often spend more time fighting the Federal entities that were created to serve and help them than they do the problems which these agencies were designed to solve. The fourth branch of Government is real; it exists; and we have created it. Now we have got to regain control of it. I believe that this bill is one of the more promising ways to do just that.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Agency Accountability Act of 1979".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that—

(1) there has been a continued expansion in the number and significance of rules promulgated by agencies;

(2) rules have been promulgated by agencies which conflict with or duplicate other rules or which do not conform with legislative intent;

(3) conflicting or duplicative rules contribute to governmental inefficiency, and rules which do not conform with legislative intent reduce the effectiveness of congressionally mandated programs; and

(4) conflicting or duplicative rules and rules which do not conform with legislative intent also exacerbate the relationships between the Federal Government and State governments.

(b) It is the purpose of this Act, therefore, to assure increased agency accountability to elected officials and adherence to legislative intent in the promulgation of agency rules as well as to facilitate agency policy, coordination and management of priorities through the establishment of a congressional oversight mechanism and the preparation and submission of semiannual regulatory agendas by the agencies.

AGENCY MANAGEMENT OF PRIORITIES

SEC. 3. Notwithstanding any other provision of law, the head of each agency shall prepare and transmit to each committee of the Senate and the House of Representatives having legislative jurisdiction over the agency an agenda describing all rules under development or review by the agency. The agenda shall be transmitted to each such committee within 30 days after the effective date of this section and at least semiannually thereafter.

TRANSMISSION OF AGENCY RULES TO CONGRESS

SEC. 4. (a) If the Chairman of any committee to which an agenda was transmitted under section 3 provides written notification to the head of the agency which submitted such agenda that the committee intends to review any rule or any portion thereof which appears on such agenda, the head of the agency shall transmit forthwith to each committee to which an agenda was transmitted under section 3 a copy of the rule in the form in which it is intended to be proposed by the agency.

(b) If any final rule served or published under section 553(d) of title 5, United States Code, was not included in an agenda required under section 3, the head of the agency promulgating such rule shall transmit a copy of such rule to each committee to which an agenda was transmitted under such section on the day the rule is published as final.

CONGRESSIONAL OVERSIGHT

SEC. 5. (a)(1) Notwithstanding any other provision of law, no rule may become effective until the expiration of a period of 30 calendar days of continuous session of Congress after the date on which a final rule is served or published as final under section 553(d) of title 5, United States Code. Notwithstanding any other provision of law, if, between the date of publication or service of such rule and the expiration of such 30 day period, any committee of the Senate or the House of Representatives to which a rule has been transmitted under section 4 has reported, or been discharged from further consideration of a joint resolution disapproving the rule or any portion thereof or a bill to modify or invalidate the rule or any portion thereof, the rule or portion thereof addressed by the resolution or bill may not become effective until the earlier of—

(A) 60 calendar days of continuous session of Congress after the date on which the committee reported or was discharged from further consideration of such resolution or bill; or

(B) any time after the expiration of the 30 day period described in the first sentence of this paragraph if the House to which such committee has reported or has been discharged from further consideration of such resolution or bill has rejected such resolution or bill, except that a rule may not become effective under this subparagraph if the other House of Congress has adopted a resolution or bill concerning such rule or such a resolution or bill is pending in such other House within the 60 day period specified in subparagraph (A).

(2) No rule may become effective under this section unless such rule otherwise complies with the provisions of section 553 of title 5, United States Code.

(b) The provisions of section 4 and section 5(a) may be waived with respect to a particular rule if—

(1) the head of the agency promulgating the rule determines that there is a compelling need for immediate agency action in promulgating the rule;

(2) the head of the agency submits to the chairmen and ranking minority members of the committees of the Senate and the House of Representatives having legislative jurisdiction over the agency a written request for the waiver of such provisions, including a statement for the waiver of such provisions, including a statement of his determination under paragraph (1); and

(3) such chairmen and ranking minority members agree to such request.

(c) Congressional inaction or rejection of any resolution or bill concerning a rule shall not be deemed an expression of approval of the rule involved.

(d) For purposes of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session of Congress.

DEFINITIONS

SEC. 6. For purposes of this section—

(1) the term "agency" has the same meaning as in section 551(1) of title 5, United States Code; and

(2) the term "rule" has the same meaning as in section 551(4) of such title, except that the term "rule" does not include a rule issued with respect to (A) a military or foreign affairs function of the United States, (B) agency management or personnel, or (C) agency organization, procedure or practice.

EFFECTIVE DATE

SEC. 7. (a) This Act shall become effective at the beginning of the first session of the Ninety-seventh Congress.

(b) This Act shall lapse at the adjournment sine die of the Ninety-ninth Congress unless renewed prior thereto.●

● Mr. BOREN. Mr. President, I am very pleased to join Senator LEVIN in cosponsoring the Agency Accountability Act of 1979.

I am in total sympathy with the objectives of this act. If I may quote directly from the act, Mr. President:

It is the purpose of this Act, therefore, to assure increased agency accountability to elected officials and adherence to legisla-

tive intent in the promulgation of agency rules as well as to facilitate enhanced agency policy, coordination and management of priorities through the establishment of a congressional oversight mechanism and the preparation and submission of semiannual regulatory agendas by the agencies.

The key word is "accountability." In August, I issued a press release concerning a bill of my own to deal with this issue. I said then that I strongly believe laws should be made by elected officials and not by unelected bureaucrats. No laws should be made by bureaucrats that no one can reach.

With the possible exception of inflation, I receive more mail on the abuses and cost of governmental regulations than any other issue and, I might add, there is a strong link between inflation, Government spending and the 7,000 new regulations Federal agencies are pouring out each year.

We are all familiar with the figures quoted by Dr. Murray Weidenbaum of the Center for the Study of American Business in St. Louis. In 1979, industry will spend $100 billion as the result of Government regulations.

I was very interested in an article recently published by the Heritage Foundation in their fall issue of Policy Review. The article was written by Jay Van Andel, chairman of the board for the Amway Corp., and chairman of the board of the U.S. Chamber of Commerce and Richard M. DeVos, president of Amway Corp., who holds a doctor of law degree from Oral Roberts University in my own State of Oklahoma.

These two distinguished men argue that Government regulation has, ironically, resulted in increased costs to the consumer and the denial of products that have value to the public. Small business people, in particular, find themselves stirred by Government regulations. The authors cite the cost of compliance to those rules as more than $3,600 per year for each small business person in the country; "for every dollar the government spends to enforce regulation," say the authors, "twenty are spent to comply. The capital invested in compliance cannot be used for new plants, equipment, or research, and costs must necessarily be passed on to the consumer." To reform this system of regulations which "has become so onerous that it wreaks havoc in the lives of all Americans," the authors suggest that Congress must assume veto power over regulation and enact sunset legislation, establishing the date upon which each regulatory body will be terminated.

I could not agree more, Mr. President. I know the difficulties I have in getting agencies to respond to inquiries about their decision and practices, I can only imagine the problems facing the citizens of any State in seeking the same information and I firmly believe that this lack of response stems from a prevailing feeling in the bureaucracy that they are not accountable. The Agency Accountability Act of 1979 is a giant step in rectifying that situation, Mr. President. And I am pleased to be associated with it.●

By Mr. CANNON (for himself, Mr. LONG, and Mr. PACKWOOD):

S. 1946. A bill to reform the economic regulation of railroads, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RAILROAD TRANSPORTATION POLICY ACT OF 1979

Mr. CANNON. Mr. President, in 1976, Congress enacted the Railroad Revitalization and Regulatory Reform Act—a measure which was intended to provide the railroads a substantial measure of regulatory reform and greater pricing freedom in competitive markets. The benefits of this legislation have been less than expected. The railroads' financial problems remain. The industry as a whole is earning a rate of return of less than 3 percent. The Nation's railroads have not been able to adequately maintain their facilities, and the quality of service has not improved.

Although the problems of the railroads are complex and may be attributed to many sources, most observers agree that economic regulation has exacerbated the railroads' problems. In March of this year, at the request of the administration, I introduced S. 796, the Railroad Deregulation Act. The bill provided for drastic changes, including virtually total deregulation after 5 years. The Surface Transportation Subcommittee and the full Committee on Commerce, Science, and Transportation held extensive hearings on S. 796, both in Washington and in the field. During the course of the hearings, it became apparent that substantial regulatory reform is needed. However, it also became apparent that S. 796 was not the answer. Based on those hearings and on discussions with the railroads, shippers, unions, and other interested parties, we have drafted legislation which will provide substantial reforms, yet I believe will be responsive to the needs of the public. The overall approach of the bill I am introducing today is to provide the railroads with more pricing flexibility while protecting captive shippers. In addition, the administrative process would be streamlined, to simplify rather than further complicate transportation regulation.

I would emphasize that these proposals do not represent the committee's final recommendations, but stress the need for all concerned to join together behind this bill as a good vehicle to complete our deliberations on this important issue.

There is one very important issue that the legislation does not address—the issue of through routes and joint rates. The administration bill proposed to eliminate the Commission's power to require the carriers to establish joint rates. Although we received considerable testimony in total opposition to the administration's proposal, the question of whether some change in this area was necessary was not specifically discussed in most instances. Many interested parties feel that the issue must be addressed in any reform legislation; others believe the status quo should not be disturbed. The railroads themselves are deeply divided on the issue. Because the issue is so important, I would like to specifically invite further comment on this matter. Certain of the railroads have suggested a compromise approach—to retain mandatory joint rates but permit changes—in the form of a surcharge—without the concurrence of connecting carriers when a railroad's divisions do do not exceed variable costs or if the proposed increase or decrease does not exceed 10 percent of the joint rate. To stimulate discussion, I am inserting in the RECORD language which would implement a compromise approach to joint rates. However, it should be stressed that neither I nor other members of the Commerce Committee have reached any decision on this important issue. I would also point out that various other alternatives are possible. For example, unilateral changes in joint rates could be limited to situations where the existing divisions over a route are below a carrier's variable costs.

The Committee on Commerce, Science, and Transportation will hold hearings on this legislation on the 7th, 8th, and 9th of November. Interested parties are urged to submit their views in writing to the committee prior to the hearings. I look forward to working with my colleagues and all affected parties in enacting effective and realistic rail regulatory reform legislation. We intend to move expeditiously to have this important legislation acted on by the Senate this session.

Mr. President, I ask unanimous consent that the text of the bill, together with the section-by-section analysis and the joint rate language be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

A bill to reform the economic regulation of railroads, and for other purposes.

S. 1946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Railroad Transportation Policy Act of 1979".

RAILROAD TRANSPORTATION POLICY

SEC. 2. Section 10101 of title 49, United States Code, is amended—

(1) in subsection (a), by striking the first word and inserting in lieu thereof "Except where policy may have an impact on rail carriers, in which case the principles of subsection (b) of this section shall govern, to";

(2) by redesignating subsection (b) as subsection (c); and

(3) by adding immediately after subsection (a) the following new subsection:

"(b) In regulating transportation provided by rail carriers, the Commission shall consider the following as being in the public interest:

"(1) development and maintenance of a healthy, efficient freight transportation system, in the private sector, in which various modes of transportation are subject to impartial regulation;

"(2) maximum reliance on competitive market forces and on actual and potential competition among all transportation modes to provide transportation services at fair prices and to enable efficient and well-managed carriers to earn adequate profits and to attract capital;

"(3) avoidance of undue concentrations of market power;

"(4) reduction of regulatory barriers to entry into and exit from the industry;

"(5) maintenance of fair wages and working conditions;

"(6) operation of transportation facilities and equipment without detriment to the public health and safety;

"(7) development and maintenance of a transportation system responsive to the needs of the public, in which regulatory decisions are reached fairly and expeditiously;

"(8) encouragement of the establishment and maintenance of reasonable rates for transportation without undue discrimination or unfair or destructive competitive practices;

"(9) cooperation with each State and the officials of each State on transportation matters;

"(10) elimination of noncompensatory rates for rail transportation; and

"(11) encouragement and promotion of energy conservation.".

TITLE I—RATEMAKING

REASONABLENESS OF RAIL RATES

SEC. 101. Section 10701(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking the last two sentences; and

(2) in paragraph (2)(B), by striking "and incremental".

MAXIMUM RATE REGULATION

SEC. 102. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(e)(1) A rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish any rate for such transportation if such rates yields a revenue-to-variable cost ratio that is equal to or less than the average ratio of revenue-to-variable cost established by the Commission pursuant to this subsection.

"(2) At regular intervals, but in no event less often than annually, the Commission shall determine and publish the average ratio of revenue-to-variable cost that the real carrier industry would be required to realize from all transportation provided by the industry in order to cover total operating expenses including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business.

"(3) Notwithstanding any other provisions of this subchapter, the Commission shall not have authority to find any rate for transportation authorized under this subsection to be unjust or unreasonable on the basis that such rate exceeds a reasonable maximum for the service rendered or to be rendered.".

RAIL COST ADJUSTMENT INCREASES

SEC. 103. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(f)(1) A rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may increase any rate for such transportation so long as the new rate is equal to or less than the adjusted base rate for such transportation.

"(2) For the purposes of this subsection—

"(A) the base rate for the transportation of a commodity shall be the rate in effect on January 1, 1980;

"(B) if no commodity rate existed for the transportation of a commodity on January 1, 1980, the base rate for the transportation of such commodity shall be the rate in effect on January 1, 1980, for the most nearly comparable service; and

"(C) the adjusted base rate for the transportation of a commodity shall be an amount determined by multiplying the base rate for the transportation of such commodity by the latest rail cost adjustment factor published by the Commission pursuant to this subsection.

"(3) As often as practicable, but in no event less often than quarterly, the Commission shall publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Material Prices and Wage Rates (which index shall be compiled or verified by the Commission) and the denominator of which is the same index for the fourth quarter of 1979.

"(4) Notwithstanding any other provision of this subchapter, the Commission shall not have authority to find any rate for transportation authorized under this subsection to be unjust or unreasonable on the basis that such rate exceeds a reasonable maximum for the service rendered or to be rendered.".

RATE FLEXIBILITY ABOVE COST INCREASES

SEC. 104. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(g)(1) During any calendar year a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may increase the rate for such transportation by an amount not exceeding 4 percent of the adjusted base rate for such transportation as defined in subsection (f)(2) of this section: *Provided,* That in no event shall the total increase under this subsection during the period from January 1, 1980 to December 31, 1984, or during each consecutive period of 5 years thereafter, exceed an amount equal to 12 percent of the adjusted base rate for such transportation as defined in subsection (f)(2) of this section.

"(2) Any part of a rate increase authorized under paragraph (1) of this subsection which is not implemented in a calendar year may be implemented in the next succeeding calendar year: *Provided,* That in no event shall the total increase under this subsection in any calendar year exceed an amount equal to 8 percent of the adjusted base rate for such transportation as defined in subsection (f)(2) of this section.

"(3) Notwithstanding the provisions of section 10707 of this title, the Commission may not suspend any rate increase authorized by this subsection pending final Commission action, nor may it begin an investigation proceeding under section 10707 of this title with regard to a rate increase authorized by this subsection: *Provided,* That an interested party may file a complaint under section 11701(b) of this title alleging that such increase violates the provisions of this subtitle.

"(4) Not later than 3 years after the effective date of this subsection, and at least every 3 years thereafter, the Commission shall submit to the Congress a report that analyzes the revenue needs of rail carriers and makes such recommendations for the modification of this subsection as the Commission determines may be necessary.".

GENERAL RATE INCREASES

SEC. 105. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(h)(1) A rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may put into effect a general rate increase described in section 10706(a)(3)(B)(i) of this title if the resulting rates do not exceed—

"(A) the adjusted base rates for such transportation, if such general increase is filed with the Commission in the 1st or 2d year after the effective date of this subsection;

"(B) the adjusted base rates for such transportation 12 months prior to the date of filing of such general increase, plus 90 percent of the difference between the adjusted base rates and the adjusted base rates 12 months prior to the date of filing of such general increase, if such general increase is filed with the Commission in the 3d year after the effective date of this subsection;

"(C) the adjusted base rates for such transportation 12 months prior to the date of filing of such general increase, plus 80 percent of the difference between the adjusted base rates and the adjusted base rates 12 months prior to the date of filing of such general increase, if such general increase is filed with the Commission in the 4th or 5th years after the effective date of this subsection; or

"(D) the adjusted base rates for such transportation 12 months prior to the date of filing of such general increase, plus 70 percent of the difference between the adjusted base rates and the adjusted base rates 12 months prior to the date of filing of such general increase, if such general increase is filed with the Commission in the 6th year after the effective date of this subsection: *Provided, however,* That in each of the first 2 years after the effective date of this subsection, general rate increase in the aggregate filed under this subsection shall not exceed the percentage change in the Index of Railroad Material Prices and Wage Rates during the preceding 12 months: *And provided further,* That in the 3d, 4th, 5th, or 6th years after the effective date of this subsection, a general rate increase filed under this subsection shall not exceed percentage change in the Index of Railroad Material Prices and Wage Rates during the preceding 12 months, subject to the further percentage limitations set forth in paragraph (B), (C), or (D) of this subsection.

"(2) For purposes of this subsection, the adjusted base rate shall be that rate defined in subsection (f)(2)(C) of this section.

"(3) The Commission shall promulgate regulations to implement the provisions of this subsection within 9 months after the effective date of this subsection.

"(4) Within 4 years after the effective date of this subsection, the Commission shall submit to Congress a report on the effect of this subsection, including the potential effects and feasibility of eliminating general rate increases, in accordance with the timetable proposed in this subsection together with recommendations for legislative changes, if needed, in this section and other sections, particularly subsection (g) of this section.

"(5) Six years after the effective date of this subsection, this subsection is repealed and section 10706(a)(3)(B) of this title is amended to read as follows:

"(B) Subparagraphs (A)(i), (ii), and (iii) of this paragraph do not apply to broad tariff changes that are of at least substantially general application throughout the area where the changes will apply.'".

CONTRACT RATES

SEC. 106. (a) Title 49, United States Code, is amended by inserting the following new section immediately after section 10701:

"§ 10701a. Authority for rail carriers to establish contract rates and service

"(a) One or more rail carriers may enter into contracts with one or more purchasers of rail services to provide specified services under specified rates and conditions. Such contracts may contain provisions on subjects including but not limited to, credit cancellation, service, safety and inspection standards, force majeure, and financing of or investment in railroad equipment.

"(b)(1) Service under such a contract

shall be deemed to be a separate and distinct class of service, and the equipment used in the fulfillment of such a contract shall not be subject to car service decisions under section 11123 of this title.

"(2) Notwithstanding paragraph (1) of this subsection, the existence of a contract shall not eliminate the obligation of a rail carrier to provide transportation or service on reasonable request, as set forth in section 11101 of this title. Upon complaint, the Commission may limit the right of a rail carrier to enter into future contracts under this section following a determination that additional contracts would impair the ability of the rail carrier to fulfill its obligations under section 11101 of this title.

"(c)(1) Within 90 days after the date of enactment of this section, and at least annually thereafter, the Commission shall determine the percentage of the equipment of each class I rail carrier (and other rail carriers upon a request from such carriers or on the initiative of the Commission) that may be made available for use in fulfilling such contracts without impairing the carrier's ability to meet its obligations under section 11101 of this title. The Commission shall determine such percentage for locomotives and other equipment owned or leased by the rail carrier by major car type including, but not limited to, plain boxcars, plain gondolas, covered hopper cars, open top hoppers, coal cars, and flat bed equipment (including TOFC/COFC). In making such determination, the Commission shall give consideration to such factors as (A) the supply of equipment on a national, regional, and individual carrier basis; (B) use and demand for each type of equipment during the preceding 2-year period; (C) plans to purchase or otherwise acquire additional equipment; and (D) such other factors as may affect the availability of equipment.

"(2) Any interested party may request modification of the Commission's findings upon a showing of changed circumstances or other good cause.

"(d) Except as expressly provided in this section or in other sections of this title, contracts authorized under subsection (a) of this section shall not be subject to the provisions of chapter 107, chapter 111, or section 11701 of this title. Such contracts shall be subject to the provisions of sections 10704, 10705, 10707, 10726, 10741, 10761, and 10762 of this title.".

(b) The index to chapter 107 of title 49, United States Code, is amended by inserting the following immediately after the item relating to section 10701:

"10701a. Authority for rail carriers to establish contract rates and service.".

EXPEDITIOUS DIVISIONS OF REVENUE

SEC. 107. Section 10705(e)(1) of title 49, United States Code, is amended to read as follows:

"(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(A) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceeding preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(B) in all cases other than those specified in subparagraph (a) of this paragraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this subparagraph, it must report its reasons to Congress.".

RATE BUREAUS

SEC. 108. Section 10706 of title 49, United States Code, is amended—

(1) in the first sentence of subsection (a)(2)(A), by inserting immediately after "facilities and equipment" the following: "and including intrastate rates that affect interstate commerce";

(2) in subsection (a)(3)(A)(i), by striking "or" at the end thereof;

(3) in subsection (a)(3)(A), by redesignating clause (ii) as clause (iii);

(4) in subsection (a)(3)(A), by inserting immediately after clause (i) the following clause:

"(ii) permit a rail carrier to participate in an agreement unless the terms of such agreement provide that all meetings of the parties to the agreement, other than meetings dealing solely with personnel matters or internal administrative matters, shall be open to the public and that all votes shall be open and not secret; or"; and

(5) by adding at the end of subparagraph (a)(3)(A) the following new sentences:

"Notwithstanding clause (i) of this subsection, a rail carrier may participate in discussions related to single-line rates proposed by another rail carrier or rates related to a particular interline movement. Such discussions may include such matters as whether the proposed rates are noncompensatory, would result in discrimination between shippers or localities, would adversely affect the movement of traffic, would result in violations of section 10726 of this title, or would necessitate adjustments in other rates. Such discussions shall be limited to comments upon the proposal and shall exclude any agreement, express or implied, to approve, modify, disapprove or withdraw the proposals, except that in the case of a proposed interline movement, such agreements may be made by a rail carrier that can practicably participate in that movement.".

INVESTIGATIONS AND SUSPENSIONS OF RATES AND ORDERS SETTING RATES

SEC. 109. (a) Section 10704(a)(1) of title 49, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", subject to the limitations of sections 10701 and 10701a of this title".

(b) Section 10707 of title 49, United States Code, is amended—

(1) in the first sentence of subsection (a), by inserting immediately after "party," the following, "subject to the limitations of sections 10701 and 10701a of this subchapter,";

(2) in subsection (b)(1), by striking "7th" each time it appears and inserting in lieu thereof "5th" in each such place; and

(3) in subsections (c)(1) and (d), by striking "7" and "10" and inserting in lieu thereof "5" and "8", respectively.

APPLICABILITY

SEC. 110. Section 10711 of title 49, United States Code, is amended—

(1) by designating the existing language as subsection (a); and

(2) by adding at the end thereof the following new subsection:

"(b) With respect to the relationship between water carriers and rail carriers, none of the amendments to this subtitle made by the Railroad Transportation Policy Act of 1979 shall be construed to modify the application of existing law with respect to competition and coordination, or to affect the authority and responsibility of the Commission to prohibit a competitive practice that is unfair, destructive, predatory or otherwise undermines competition that is necessary in the public interest.".

DEMAND-SENSITIVE RATES

SEC. 111. Section 10727 of title 49, United States Code, is amended to read as follows:

"§ 10727. Demand-sensitive rates

"A rail carrier may establish a tariff, subject to section 10701 of this title and other provisions of this chapter, for any movement or group of movements, under which rates may be raised and lowered, between published maximum and minimum levels, in response to either expected or actual fluctuations in demand for rail service. The Commission shall facilitate the establishment of such demand-sensitive rates.".

RELEASED RATES

SEC. 112. Section 10730 of title 49, United States Code, is amended—

(1) by designating the existing language as subsection (a);

(2) by inserting ", other than a rail carrier," immediately after "carrier" the first time it appears; and

(3) by adding at the end thereof the following new subsection:

"(b) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may, subject to the provisions and procedures set forth in this chapter, establish rates for the transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and the shipper.".

TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 113. Section 10731(b)(3) of title 49, United States Code, is amended by striking "and 1979," and inserting in lieu thereof "through 1984,".

NOTICE AND PUBLICATION OF TARIFFS

SEC. 114. Section 10762 of title 49, United States Code, is amended—

(1) in the first sentence of subsection (a)(1), by inserting immediately after "motor common carrier" the following: "or service by a rail carrier pursuant to a contract authorized under section 10701a of this title"; and

(2) in subsection (a), by adding at the end thereof the following new paragraph:

"(3) A rail carrier which has entered in a contract authorized under section 10701a of this title shall publish and file with the Commission, in such manner as the Commission may provide, the essential terms of such contract. Such filing shall constitute compliance with the provisions of section 10761 of this title. Such contracts shall not be subject to the normal tariff rules promulgated pursuant to this section (49 CFR 1300 et seq.), but the Commission may promulgate special tariff rules for such contracts. Any party to such a contract may elect to file with the Commission information in addition to the essential terms of the contract. In such cases, the Commission shall, upon the request of any party to the contract, place any such additional information (other than the essential terms of the contract) in a confidential file. Notwithstanding such a request, the information filed with the Commission and kept in a confidential file may, at the discretion of the Commission, be made available to any party to a proceeding based on the contract.";

(3) in subsection (b)(1), by striking the first sentence and inserting in lieu thereof: "Except in the case of a rail carrier, the Commission shall prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection under this section. In the case of a rail carrier, the Commission may, in its discretion, prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection.";

(4) in subsection (c)(3), by striking the second sentence and inserting in lieu thereof the following: "Except in the case of a rail carrier, a proposed change or a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section. In the case of a rail carrier, a proposed change or a new or reduced rate shall not become effective for 15 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section: *Provided, however*, That a tariff authorized under section 10727 of this title shall not become effective for 30 days, nor shall rates raised or lowered within the published minimum and maximum levels of such a tariff become effective for 5 days, after the notice is published, filed, and held open as required under subsections (a) and (b) of this section."; and

(5) in subsection (d)(1), by striking "30-day" and inserting in lieu thereof "notice".

REPEALS

SEC. 115. (a) Section 10709 of title 49, United States Code is repealed, and the item relating to section 10709 in the index to chapter 107 of title 49, United States Code, is stricken.

(b) Section 10729 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A proposed rate, classification, rule or practice for transportation by a rail carrier may not become effective under this section unless notice of intent to establish such rate, classification, rule, or practice under this section is filed with the Commission not less than 90 days prior to the date of enactment of this subsection.".

(c) Sections 15(3) (c) and (d) of the Interstate Commerce Act, as amended by section 401 of the Local Rail Service Assistance Act of 1978 (Public Law 95-607, 92 Stat. 3067), are repealed.

SAVINGS PROVISION

SEC. 116. (a) Notwithstanding any other provision of law, rates in existence on the date of enactment of this Act may not be challenged as exceeding maximum reasonableness, except in accordance with the procedures set forth in chapter 107 of title 49, United States Code: *Provided, however*, That the procedures set forth in section 11701 of title 49, United States Code, shall be available for a 6-month period following the date of enactment of this Act subject to the jurisdictional threshold of section 10701 of title 49, United States Code, as amended by this Act.

(b) Effective on the date of enactment of this Act, rate increases may only be challenged in accordance with the provisions of chapter 107 of title 49, United States Code, as amended by this Act.

TITLE II—STRUCTURE

MERGERS

SEC. 201. (a) Section 11344 of title 49, United States Code, is amended—

(1) in subsection (b), by inserting immediately after "section" the following: "which involves the merger or control of at least two class I railroads, as defined by the Commission"; and

(2) by adding at the end thereof the following new subsection:

"(d) In a proceeding under this section which does not involve the merger or control of at least two class I railroads, as defined by the Commission, the Commission shall consider—

"(1) whether as a result of the transaction, there is likely to be a substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

"(2) whether the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.".

(b) Section 11345 of title 49, United States Code, is amended to read as follows:

"§ 11345. Consolidation, merger, and acquisition of control: rail carrier procedure

"(a) If a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission and after a certified copy of it is furnished to the Secretary of Transportation. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final action of the Commission under section 10327 of this title. The published notice shall indicate whether the application involves:

"(1) the merger or control of at least two class I railroads, as defined by the Commission, to be decided within the time limits specified in subsection (b) of this section;

"(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

"(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

"(b) If the application involves the merger or control of two or more class I railroads, as defined by the Commission:

"(1) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 90th day after publication of notice under that subsection.

"(3) The Commission must conclude evidentiary proceedings by the end of the 24th month after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date on which is concludes the evidentiary proceedings.

"(c) If the application involves a transaction other than the merger or control of at least two class I railroads, as defined by the Commission, which the Commission has determined to be of regional or national transportation significance:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 60th day after publication of notice under that subsection.

"(3) The Commission must conclude any evidentiary proceedings by the 180th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

"(d) For all applications under this section other than those specified in subsections (b) and (c) of this section:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings.

"(e) If the Commission does not issue a decision that is a final action under section 10327 of this title, it shall send written notice to Congress that a decision was not issued and the reasons why it was not issued.

"(f) The Commission may waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final action under section 10327 of this title.

"(g) The Secretary of Transportation may propose changes in transactions governed by this section when a rail carrier is involved. The Secretary may appear before the Commission to support those changes.".

ABANDONMENT

SEC. 202. (a) Section 10903 of title 49, United States Code, is amended—

(1) in subsection (b)(1), by striking the first sentence;

(2) by amending subsection (c) to read as follows:

"(c) With respect to a carrier in bankruptcy, in the event of any conflict between the application of the provisions of this subchapter and section 1170 of title 11, United States Code, the provisions of such section shall prevail. Notwithstanding any other provision of law, the provisions of such section shall apply to any carrier in bankruptcy,

regardless of the date on which such carrier entered into bankruptcy.".

(b)(1) Section 10904(a) of title 49, United States Code, is amended—

(A) by striking all after "Commission" through "effective" in paragraph (1);

(B) by striking "and" at the end of paragraph (2)(A);

(C) by striking the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and";

(D) by adding a new paragraph (2)(C) to read as follows:

"(C) a statement that the line is available for subsidy or sale in accordance with section 10905 of this title; a statement that the carrier will promptly provide to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation, calculated in accordance with section 10905 of this title; and the name and business address of the person who is authorized to discuss sale or subsidy terms for the carrier."; and

(E) by inserting in paragraph (3)(E) immediately after "satisfied" the following: ", and certifying that clauses (A)–(D) have been satisfied within the most recent 30 days prior to the date the application is filed".

(2) Section 10904(b) of title 49, United States Code, is amended to read as follows:

"(b) If no protest is received within 30 days after the application is filed from shippers or other persons which have made significant use (as determined by the Commission) of the railroad involved during the 12-month period immediately preceding the filing of the application, or from States or political subdivisions of a State in which any part of the railroad line is located, the Commission shall find that the public convenience and necessity require or permit the abandonment or discontinuance. In such a case, the Commission shall, within 45 days after the application is filed, issue a certificate which permits the abandonment or discontinuance to occur within 75 days after the application is filed.".

(3) Section 10904(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) If a protest is received within 30 days after the application is filed, the Commission shall, within 45 days after the application is filed, determine whether an investigation is needed to assist in determining what disposition to make of the application.

"(2) If the Commission decides that no investigation is to be undertaken, the Commission shall, within 75 days after the application is filed, decide whether the present or future public convenience and necessity require or permit the abandonment or discontinuance, taking into consideration the application of the railroad and any materials submitted by protestants. If the Commission finds that the present or future public convenience and necessity require or permit the abandonment, it shall, within 90 days after the date of application, issue a certificate which permits the abandonment or discontinuance to occur within 120 days after the application is filed.

"(3) If the Commission decides that an investigation should be undertaken under this section, the investigation must be completed within 135 days, and an initial decision must be rendered within 165 days, of the date the application is filed. Thirty days after such decision, the initial decision shall become the final decision of the Commission unless, during the interim, the Commission decides to hear appeals. If an initial decision is appealed and considered by the Commission, the Commission shall issue a final decision within 255 days of the date of application. Whenever the Commission decides upon investigation that the present or future public convenience and necessity require or permit the abandonment or discontinuance of rail service, it shall, within 15 days of the final decision, issue a certificate which permits the abandonment or discontinuance to occur within 75 days of the date of the final decision.

"(4) The effective date of any certificate which permits abandonment or discontinuance may be stayed by the Commission pursuant to the provisions of section 10905 of this title.".

(4) Subsection (d) of section 10904 of title 49, United States Code, is redesignated as subsection (e), and immediately after subsection (c) the following new subsection is inserted:

"(d)(1) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

"(2) For applications approved by the Secretary of Transportation as part of a plan or proposal under section 5(a) through (d) of the Department of Transportation Act (49 U.S.C. 1654(a) through (d)), the Commission shall consider whether any detriment from the abandonment or discontinuance exceeds the transportation benefit from the plan or proposal as a whole.".

(5) Section 10904(e) of title 49, United States Code, as redesignated by paragraph (4) of this subsection, is amended by inserting immediately before the period at the end thereof the following: ": *Provided however*, That the requirement of such description or identification in such diagram may be waived by the Commission if the application was approved by the Secretary of Transportation as part of a plan or proposal under section 5(a) through (d) of the Department of Transportation Act (49 U.S.C. 1654(a) through (d)), or the application is filed by a railroad in bankruptcy".

(c) Section 10905 of title 49, United States Code, is amended to read as follows:

"§ 10905. Offers of financial assistance to avoid abandonment and discontinuance.

"(a) In this section—

"(1) 'avoidable cost' means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

"(A) working capital and required capital expenditure;

"(B) expenditures to eliminate deferred maintenance;

"(C) the current cost of freight cars, locomotives, and other equipment; and

"(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes.

"(2) 'reasonable return' means—

"(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Interstate Commerce Commission; and

"(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Commission.

"(b) Any rail carrier which has filed an application for a certificate of abandonment or discontinuance shall provide promptly to a party considering an offer of financial assistance and shall provide concurrently to the Commission—

"(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

"(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

"(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line; and

"(4) any other information that the Commission may deem necessary to allow a potential offeror to calculate an adequate subsidy or purchase offer.

"(c) When the Commission finds under section 10903 of this title that the public convenience and necessity require or permit abandonment or discontinuance, it shall publish the finding in the Federal Register. Within 10 days following the publication, any person may offer to pay the carrier a subsidy or offer to purchase the line. Such offer shall be filed concurrently with the Commission. If the offer to subsidize or purchase the line is less than the carrier's estimate provided under subsection (b)(1) of this section, the offer shall explain the basis of the disparity, and the manner in which the offer of subsidy or purchase is calculated.

"(d) If, within 15 days after the publication required in subsection (c) of this section, the Commission finds that—

"(1) a financially responsible person (including a government entity) has offered financial assistance to enable the rail transportation to be continued over that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued; and

"(2) it is likely that the assistance would be equal to—

"(A) the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line; or

"(B) the acquisition cost of that part of the railroad line;

the Commission shall postpone the issuance of a certificate authorizing abandonment or discontinuance in accordance with subsections (e) and (f) of this section.

"(e) If the carrier and a person offering financial assistance enter into an agreement which will provide continued rail service, the Commission shall postpone the issuance of the certificate for so long as the agreement, or an extension or modification of the agreement, is in effect. If the carrier and a person offering to purchase a line enter into an agreement which will provide continued rail service, the Commission shall approve the transaction and dismiss the application for abandonment or discontinuance. If the carrier and a financially responsible person (including a government entity) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Commission establish the conditions and amount of compensation. If no agreement is reached within 30 days after the offer is made and neither party requests that the Commission establish the conditions and amount of compensation during that same period, the Commission shall issue a certificate authorizing the abandonment or discontinuance.

"(f)(1) Whenever the Commission is requested to establish the conditions and amount of compensation under this section—

"(A) the Commission shall render its decision within 60 days;

"(B) where subsidy has been offered, the Commission shall determine the amount and terms of subsidy based on the avoidable cost of providing continued rail transportation, plus a reasonable return on the value of the line; and

"(C) where an offer of purchase has been made in order to continue rail service on the line, the Commission shall determine the price and other terms of sale. In no case shall the Commission set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services).

"(2) The decision of the Commission shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw his offer within 10 days of the Commission's decision. In such a case, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance, unless other offers are being considered pursuant to paragraph (3) of this subsection.

"(3) If a carrier receives more than one offer to purchase or subsidize, it shall select the offeror with whom it wishes to transact business, and complete the sale or subsidy agreement, or request that the Commission establish the conditions and amount of compensation prior to the 40th day after the date on which notice was published under subsection (c) of this section. If no agreement on subsidy or sale is reached within the 40-day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request that the Commission establish the conditions and amount of compensation. If the Commission has established the conditions and amount of compensation and the original offer has been withdrawn, any other offeror may accept the Commission's decision within 20 days of such decision, and the Commission shall require the carrier to enter into a sale or subsidy agreement with such offeror, if such sale or agreement incorporates the Commission's decision.

"(4) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the carrier from whom it was purchased prior to the end of the fifth year after consummation of the sale.

"(5) Any subsidy provided under this section may be discontinued on notice of 60 days. Unless, within such 60-day period, another financially responsible party enters into a subsidy agreement at least as beneficial to the carrier as that which was or was to be discontinued, the Commission shall, at the carrier's request, immediately issue a certificate authorizing the abandonment or discontinuance of service on the line.".

ENTRY

SEC. 203. (a)(1) Section 10901(a) of title 49, United States Code, is amended by striking "will be enhanced by" and inserting in lieu thereof "permit".

(2) Section 10901 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(d) Where a railroad has been issued a certificate of public convenience and necessity by the Commission authorizing the construction or extension of a railroad line, no other railroad may block the construction or extension by refusing to permit the carrier to cross its property: *Provided*, That (1) the construction does not unreasonably interfere with the operation of the crossed line; (2) the operation does not materially interfere with the operation of the crossed lines; and (3) the owner of the crossing line shall compensate the owner of the crossed line. The carriers are responsible for establishing the conditions of such compensation. However, if the carriers cannot agree, the Commission may establish conditions of compensation.".

(b) Section 11103 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Commission may require railroads to enter reciprocal switching agreements where it finds such agreements to be practicable and in the public interest. The carriers are responsible for establishing the conditions and compensation for such agreements. However, if the carriers cannot agree, the Commission may establish the conditions and compensation for such agreements.".

TITLE III—GENERAL PROVISIONS

CAR SERVICE

SEC. 301. (a) Section 11123(a) of title 49, United States Code, is amended by striking "in a section of the United States,", and inserting in lieu thereof the following: "of such magnitude as to have substantial adverse effects on rail service to the Nation or a substantial region of the Nation,".

(b) Paragraph (3) of section 11123(a) of title 49, United States Code, is amended by striking "terminals, including mainline tracks for a reasonable distance outside of those terminals,", and inserting in lieu thereof "facilities.".

(c) Section 11123 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(c) No action undertaken or order issued under the emergency powers of this section shall extend for more than 30 days from the date of initial Commission action unless, during the interim, the Commission has begun a proceeding to resolve the service problems on a more permanent basis. When the Commission has begun such a proceeding, an emergency order may be removed and extended by the Commission for a maximum of 60 days.".

EXEMPTION

SEC. 302. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service when the Commission finds that the application of a provision of this subtitle is not necessary to carry out the transportation policy of section 10101(b) of this title.

"(b) The Commission may where appropriate begin a proceeding under this section on its own initiative or on application by the Secretary of Transportaton or an interested party. The Commission may specify the period of time during which the exemption is effective.

"(c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class or transportation is necessary to carry out the transportation policy of section 10101(b) of this title.".

SECURITIES

SEC. 303. (a) Section 11301(a)(1) of title 49, United States Code, is amended to read as follows:

"(1) 'carrier' means a corporation or other entity described in section 11302(a) of this title, but does not include a rail carrier.".

(b) Subchapter IV of chapter 113 of title 49, United States Code (49 U.S.C. 11361 through 11367) is repealed, and the index to chapter 113 of title 49, United States Code, is amended by striking "Subchapter IV" and all that follows therein.

FEDERAL-STATE RELATIONS

SEC. 304. Section 11501 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking the first word and inserting in lieu thereof the following: "Where the Interstate Commerce Commission under other sections of this title has the authority to do so, the";

(2) in subsection (b)(2), by inserting the following immediately after "Commission" the second time it appears: ", subject to its authority as provided in the other sections of this title,"; and

(3) by adding at the end thereof the following new subsection:

"(d) Federal withdrawal from certain areas of regulation pursuant to this title shall not be construed as relinquishing Federal jurisdiction.".

[Section-by-section analysis]

RAILROAD TRANSPORTATION POLICY ACT OF 1979

Section 2. Railroad Transportation Policy.

The present National Transportation Policy was enacted in 1940, and has been interpreted to emphasize protection of each mode of transportation rather than the benefits that can result from increased competition among and between the modes. The Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) stressed fostering of competition as one of the purposes of the legislation, but it did not enact a separate transportation policy for railroads. At this time, there is a need for a separate railroad policy which incorporates many of the existing policy declarations but places increased emphasis on competitive market forces.

Subsection (a) of section 10101[1] embodying exsiting national transportation policy, is amended by limiting its application to modes of transportation subject to Subtitle IV other than rail carriers.

A new subsection (b) would be added to establish a separate national railroad transportation policy. That section states that in implementing Congressionally mandated policies, the I.C.C. shall consider, as being in the public interest, maximum reliance on competitive market forces, avoidance of undue concentrations of market power, reduction of barriers to entry and exit, maintenance of fair wages and working conditions, and encouragement of safe transportation operations. The Commission is also required to encourage reasonable rates for transportation without undue discrimination or destructive competitive practices, the elimination of noncompensatory rail rates and to promote energy conservation. In addition, the Commission is to be responsive to the needs of the public and to issue decisions expeditiously.

RATEMAKING: REASONABLENESS OF RAIL RATES

After almost a hundred years of railroad regulation, it is necessary to reassess once again a key question: what is the proper mix of regulation and the market place? The Commission has long held the power to investigate and hold down or change rail rate proposals. For many years, Congress attempted to resolve transportation problems by increasing regulation. However, the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) represented a significant shift in approach. This legislation was intended to inaugurate a new era of competitive pricing in order to revitalize the railroads. It stressed greater freedom for the roads to raise or lower rates in competitive markets. Through the threshold test of market dominance, maximum rate regulation was to be limited to situations where the public interest needed protection, while the railroads were to be free from such regulation where there is effective competition from other carriers or modes of transportation.

Unfortunately, the benefits of the 4R Act have been less than anticipated. The railroads have not achieved adequate revenue levels, and many of the rate provisions (i.e., peak period pricing and separate rates for

[1] Unless otherwise indicated section numbers refer to 49 United States Code.

distinct rail services) have been little used. Carriers and shippers alike are dissatisfied with the market dominance test; they point out that the concept is so complex as to be almost unworkable in view of the time available to the parties in the context of rate cases which must be completed within strict statutory deadlines. A recent study by consultants supports this viewpoint; the study concluded that there is no single satisfactory test to determine whether traffic is market dominant or non-market dominant.[3]

The new provisions of this bill are intended to simplify rate regulation, thus avoiding some of the difficulties that have arisen in the implementation of the 4R Act. The basic concept is the same: to provide protection for captive shippers where necessary in the public interest and to provide pricing freedom for the railroads in the many areas where competition exists. In the latter situation, free market forces should determine the prices to be paid and the conditions of service. The maximum rate provisions, in conjunction with the explicit authorization of contract rates and clarification of the Commission's exemption authority, are designed to provide an appropriate mix between regulation and the marketplace.

In general, the bill provides a free zone for rate increases which do not exceed the railroads' increased costs, based on a rail index to be compiled or verified by the I.C.C. In addition a 4-percent rate flexibility zone, subject to a 5-year maximum of 12 percent, is provided above cost increases. Increases within this zone cannot be suspended or investigated, but they may be challenged through formal complaint procedures.

No rate may be challenged as unreasonably high, except in accordance with the procedures set forth in the new rate provisions. A rate filing in excess of these zones is subject to investigation or suspension, but it would have to exceed the jurisdictional threshold described in section 102, namely a revenue-to-cost ratio higher than the average ratio established by the Commission as necessary for the railroad industry to cover total operating expenses, plus a reasonable and economic profits or return on capital employed in the business.

Section 101.

Section 101 amends section 10701(b) of the Code by deleting language which is no longer necessary in view of the jurisdictional tests set forth in the succeeding sections of the bill. The 4R Act material which will be deleted by the bill was intended to make it clear that the railroads were not prohibited from raising below-cost rates to a compensatory level, even if a finding of market dominance could be made. Since under the new procedures the Commission will not have jurisdiction to determine maximum reasonableness unless the rate exceeds the cost threshold set forth in section 102 of the bill, the deleted language is no longer relevant.

Section 102. Maximum rate regulation.

A new subsection (e) is added to section 10701, 49 U.S.C. Paragraph (1) provides that a rail carrier may establish any rate which yields to a revenue-to-variable cost ratio that is equal to or less than the average ratio of revenue-to-variable cost established by the Commission.

Paragraph (2) sets forth the standard to be followed by the Commission in establishing an average ratio. The Commission is required to determine, on no less than an annual basis, the average ratio-to-variable cost ratio the railroad industry (or group of railroads) would have to realize from all transportation to cover total operating expenses, plus a reasonable and economic profit or return on capital employed in the business. The level described in this paragraph is identical to the "adequate revenue" standard set forth in the existing section 10704(a)(2).

Paragraph (3) provides that no rate authorized under subsection (e) may be found to be above a reasonable maximum rate. Other statutory prohibitions, such as the provisions relating to discrimination, continue to apply.

Section 103. Rail cost adjustment increases.

The railroads' financial difficulties may be attributed in part to the time lag involved in recovering cost increases. This section will help assure that rail rates reflect a carrier's current costs by adding a new subsection (f) to section 10701 of the Code to provide a zone of rate freedom for adjustments not in excess of the carriers' increased costs, determined on the basis of an Index of Railroad Material Prices and Wage Rates (which will be compiled or verified by the Commission).

As provided in subsection (f)(2)(A), base rate is the rate in effect on January 1, 1980. In instances where no commodity rate is in effect on that date, paragraph (2)(B) of the new subsection provides that the base rate shall be in effect on January 1, 1980, for the most nearly comparable service. Subparagraph (C) sets forth the method for adjusting the base rate by the rail cost adjustment factor: the base rate is multiplied by the latest rail cost adjustment factor.

Subsection (f) describes the rail cost adjustment factor as a comparison of the latest Index of Railroad Material Prices and Wage Rates with the same index for the fourth quarter of 1979. This is to be set forth as a fraction in which the latest published index (to be published no *less* than quarterly) is the numerator and the 1979 fourth quarter index is the denominator.

Paragraph (4) makes it clear that any rate within the zone described in the preceding paragraphs of the subsection may not be found to be above a reasonable maximum. In other words, a rate increase may not be challenged if it is within the cost increase zone determined in accordance with the procedures set forth in this subsection.

Section 104. Rate flexibility zone above cost increases.

In order to assist the railroads in achieving adequate revenue levels and to provide additional flexibility for rate changes without regulatory interference, section 104 provides that a rail carrier may increase a rate by an amount not exceeding 4 percent of the base rate, adjusted as defined in section 103, free from suspension or investigation. Because of shipper concern that rates increased in this manner could become excessive, the new section provides that such rates may be challenged by the filing of a formal complaint under section 11701(b), 49 U.S.C.

Under the new section 10701(g)(2), any part of the authorized 4-percent increase not implemented during a particular calendar year may be implemented in the succeeding year, subject to the proviso that (1) the total increase in any year may not exceed 8 percent and (2) the total increase during any 5-year period (i.e., 1/1/1980–12/1/1984, etc.) may not exceed 12 percent. Of course, a carrier may file a proposed rate in excess of the 4 percent zone, and this filing will be subject to the existing suspension, investigation and complaint procedures essentially in effect today.

Finally, the Commission is to analyze the carriers' overall revenue levels and submit reports to Congress on this matter every 3 years. This will enable Congress to determine whether there is a need for modification of this section.

The bill does not propose changes in minimum rate regulation. The 4R Act incorporated new standards for minimum reasonableness under which no rate may be found unlawful (assuming it does not violate other provisions of the Act) if it contributes to going concern value. There is also a presumption that a rate that exceeds variable costs contributes to the going concern value of the carrier proposing the rate. Since the 4R Act provisions are being implemented without serious problems, further changes in the minimum rate area do not appear warranted at this time.

Section 105. General rate increases.

General rate increases, which have been used by the rail industry to recover yearly inflationary costs, are those increases which substantially all rail carriers together file for application to the movements of substantially all commodities. Under the present law, general increases are subject to review by the Commission for reasonableness, and the Commission reviews such increases in light of other increases on individual commodity movements to determine whether the resulting rate is unreasonably high. Section 10706(a)(3)(B)(i) of Title 49 of the United States Code grants rate bureau antitrust immunity for the discussion of and voting on general increases and also requires a pre-publication period of 15 days in addition to the normal 30-day notice period necessary before a rate becomes effective.

Section 105 of this bill would have the effect of phasing out general rate increases described in Section 10706(a)(3)(B)(i) of the Code over a six-year period. During this six-year period, a ceiling would be placed on the level of the increase to be allowed in any given year. The new subsection (h)(1)(A) of Section 10701 of the Code would provide that a general increase filed in the first or second year after the date of enactment of this Act could not result in a rate which would exceed the adjusted base rate for each movement affected. The adjusted base rate is defined in Section 103 of this bill as the amount determined by multiplying the base rate for the particular commodity, in effect at the date of enactment, by the rail cost adjustment factor, explained in Section 103 as the measure of rail inflation. In this way, the general increase would be limited to the cost of inflation. Under Subsection (h)(1)(B), a general increase filed in the third year after enactment would be limited to 90% of the increase in inflationary costs during an appropriate twelve-month period. Such inflation would be determined by taking the difference between the adjusted base rate calculated twelve months prior to the filing of the general rate increase at issue and the adjusted base rate figured at the time of such filing. This calculation would ensure that a general increase filed early in the year would be based on the actual inflationary increase since the last general rate increase. In similar manner, Subsection (h)(1)(C) would provide that for the fourth and fifth years, a general increase could not exceed 80% of inflation, and under Subsection (h)(1)(D), the increase would be limited to 70% in the sixth year. It is further provided in (h)(1)(D) that if general rate increases are taken more than once in a year, the sum of such increases in that year would not exceed the amount determined by limiting the recovery of inflationary costs to the respective percentages: 100% in the first and second years; 90% in the third year; 80% in the fourth and fifth years; and 70% in the sixth year.

Subsection (h)(3) would provide that the Commission promulgate regulations to implement Section 105 within 9 months of the effective date of this Act. As this section would alter the current procedure by which general increases are to be considered, conforming regulations would be necessary.

Subsection (h)(4) would provide that the Commission submit to Congress a study concerning general rate increases within 4 years after the effective date of this Act. This study would analyze the potential effect of eliminating general rate increases as provided in this Section, particularly in light of the maximum rate provisions in this bill and the attendant rate flexibility provided thereunder. This study should include any legislative recommendations necessarily following from the conclusions of the study.

At the end of the six-year phase-out period, Section 10706(a)(3)(B)(i) of the Code would be repealed as unnecessary. Under Subsection (h)(5) of this bill, Section 10706(a)(3)(B) as amended still would allow for continued filing of broad tariff changes, as distinguished from general rate increases.

This section is intended to encourage more extensive use of selective commodity increases to cover all increased costs. Over the six-year period during which general increases would be allowed, the use of such increases to cover inflation would necessarily diminish as the ceiling decreases, and selective commodity increases would have to be used in conjunction with the general increases to cover inflation. Both types of increases would be considered cumulatively in determining whether the inflationary zone free of regulation as provided in Section 103 of this bill has been exceeded.

The gradual change in the method of pricing over the six-year phase-out period would result in a more sophisticated pricing system in which individual rates would reflect more accurately individual costs on individual movements. The six-year period would allow sufficient time for the industry to make the necessary pricing adjustments in this regard. Furthermore, the study mandated under this section would provide the opportunity for a reevaluation of the feasibility of eliminating general rate increases, based on the experience of the first four years of the phase-out period.

Section 106. Contract provision.

A contract rate provision is one of the most important in the bill. Explicit authorization to enter into contracts, as provided in this section, offers great potential benefits to both carriers and shippers.

For many years, this type of ratemaking was thought to be prohibited by several Commission and court decisions. Although the I.C.C. recently issued a general policy statement indicating that contract rates are not unlawful *per se*, uncertainty still exists with regard to such matters as the relationship of contract rates to the railroads' common carrier obligation under other sections of the statute. The language of section 106 is intended to clarify the status of contract rate and service agreements in an effort to encourage carriers and purchasers of rail service to make widespread use of such agreements.

The new section provides that service under contract shall be a separate class of service, and the equipment used in this service shall not be subject to car service orders. Discrimination provisions remain applicable, however, and the existence of a contract is not a defense to a carrier's overall obligation to provide adequate service. Contract rates are not subject to maximum or minimum rate regulation, except that the Commission continues to have jurisdiction to determine issues of unfair or destructive competitive practices. Existing law governing relationships between rail carriers and water carriers remains unchanged. (See section 110 of the bill). Tariff filing requirements for contract rates are simplified as described in the analysis of section 107.

Subsection (a) provides specific authority for contract rate and service agreements. Under subsection (b), contract service is deemed to be a separate class; the equipment utilized is not subject to car service decisions under section 11123 of the Code. Subsection (b)(2) retains the railroads' overall common carrier service obligations in accordance with section 11101.

Subsection (c)(1) requires the Commission within 90 days of enactment and annually thereafter, to determine the percentage of locomotives and equipment (by major car type) owned or leased by each Class I carrier that may be made available for contract service without interfering with the carrier's ability to meet its common carrier obligations. The section also specifies the factors to be considered in making this determination, including the supply of equipment on a national, regional, and individual carrier basis. Historical data is to be considered together with any information concerning the proposed acquisition of additional equipment.

Under subsection (d), contracts authorized in this section will not be subject to the provisions of chapter 107 relating to rates or chapter 111 relating to carriers' operations of this title except as expressly provided. As indicated above, contracts will be subject to the antidiscriminating provisions of sections 10726 and 10741 and to prohibitions against destructive competitive practices. General tariff requirements of sections 10761 and 10762 are applicable, but the form and publishing provisions of these sections have been modified with regard to contract rate filings. While contract rates are not subject to minimum and maximum rate regulation generally, Commission jurisdiction to suspend or investigate is retained. Review prior to the effective date is intended to protect the shipping public, since contract agreements, once effective, are to be free from regulatory interference.

Subsection (e) is a technical conforming change.

Section 107. Expeditious divisions of revenue.

Joint rates assessed and collected by common carrier railroads for the transportation of freight from a point on one line to a point on another line must be divided among participating carriers. This division of revenue is ordinarily governed by private agreements negotiated by the concerned carriers. However, if the carriers cannot resolve their differences, they may file a complaint under section 10705, 49 U.S.C. requesting the Commission to prescribe just and reasonable divisions. The resulting divisions of revenue cases can involve hundreds of millions of dollars and are among the most complex proceedings the Commission must decide. Since these cases often involved extensive periods of time, the 4R Act added new provisions designed to expedite the handling of divisions proceedings. Nevertheless, the response by carriers has been extremely limited; no major divisions cases have been filed despite apparent carrier dissatisfaction with existing divisions agreements in some instances. In order to encourage expedited resolution of disputes in this area, existing time frames in section 10705 are being further shortened. The requirement of a "full hearing" would be deleted to avoid any implication that an oral hearing is required; a proceeding would still be involved but the evidence could be submitted orally or under modified procedure, as determined by the Commission.

Section 10705, as amended, generally provides for completion of all evidentiary procedures within 9 months if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding by the Commission on its own initiative.

The Commission is required to take final action by the 180th day after completion of the evidentiary proceedings. In addition, the proceeding must be further expedited and the decision issued within 100 days after close of the record (Subparagraph A) if there is an allegation that the divisions at issue do not exceed variable costs or if a railroad in reorganization is involved. Subparagraph (B) permits extension of the time frames upon report to Congress in cases other than those involving bankrupt carriers or below-cost divisions.

In subsection (e)(1), the requirement that action may be taken in divisions cases only after a "full hearing" has been deleted.

Section 108. Rate bureaus.

Rate bureaus are organizations of carriers whose express purpose is the joint consideration of rates and related matters. Under the Reed-Bulwinkle Act of 1948, Commission approval of a rate bureau agreement, based on a finding of furtherance of the national transportation policy, affords carrier members relief from operation of the antitrust laws with regard to the carrying out of such agreement. Rate bureaus provide a forum for shipper and carrier comment or complaint concerning proposed changes. In addition, the bureaus publish tariffs for member carriers. Joint carrier activities are permitted under the statute as a means of avoiding conflict between the carriers' responsibilities under regulatory provisions and the policies of the antitrust laws.

The 4R Act made important changes in the governing statute. It strengthened the right of independent action and prohibited approval of agreements permitting voting on single-line rates. A similar restriction applies on rates for interline movements unless a carrier can practicably participate in the movement. Periodic review of existing agreements is also mandated. In view of this recent legislation, which is still in the process of being implemented, extensive changes in section 10706 of the Code are not proposed here.

Subsection (a)(2)(A) of section 10706 would be amended to permit agreements to provide for consideration of intrastate rates that affect interstate commerce. This change codifies a recent Federal court decision (*Atchison, Topeka and Santa Fe Railway v. United States and the Interstate Commerce Commission*, U.S.C.A. 7th Cir., 1979). Under subsection (a)(3)(A) as amended, agreements may not be approved by the Commission unless they provide that all meetings, other than those of a purely administrative nature, be open and that all voting shall likewise be open.

Discussion of single-line rates and joint-line rates by carriers which cannot practicably participate in the movement is not prohibited under the terms of the statute. However, serious questions have arisen as to the type of discussions which should be authorized in approving rate bureau agreements. For clarification purposes, new language has been added to subsection (a)(3)(A) specifying the scope of permissible discussions. The remainder of the changes are technical conforming amendments.

Section 109. Investigation and suspension of rail carrier rates.

Under present law, the I.C.C. has the power to suspend rates if a verified complaint is filed showing that the proposed rate change will cause substantial injury and a likelihood that the complainant will prevail on the merits; an investigation may be instituted on the Commission's own initiative or on complaint of an interested party. Investigation and suspension proceedings must be completed within 7 months, unless a report to Congress is made explaining why the deadline can not be met, in which case a 3-month extension is available.

The suspension power is sparingly used by the Commission. Nevertheless, it is an important tool which can prevent excessively high rates from becoming effective and being passed on to the consumer. A refund provision alone is not a satisfactory substitute, since it is frequently not possible to pass through awards to the persons who actually paid the unlawful rates. With regard to investigation on the Commission's own motion, we note that this power is exercised only in extraordinary circumstances. However, the power is useful in that it permits inclusion of related tariffs in an investiga-

[3] A study to perform an in-depth analysis of market dominance and its relationship to other provisions of the 4R Act, Kearney, Management Consultants, April 10, 1979.

tion and it serves as an avenue to provide relief for small, unsophisticated shippers whose pleadings may not comply with technical filing requirements. Accordingly, the attached bill does not provide changes in the existing suspension and investigation power, except for the changes in maximum rate regulation in sections 10701 and 10701a, 49 U.S.C. (See descriptions of Sections 101–104 and 106 above).

Changes are proposed, however, in the existing time frames. Because of the importance of the suspension and investigation power, and in view of the fact that revenues lost to rail carriers during the suspension period cannot be recouped, expedited handling of proceedings under this section is essential. To insure that such proceedings are accorded "preference over all other proceedings" as now required by statute, subsection (b) of section 10707 is amended to require completion of the proceeding by the end of the 5th month after the time the rate was to become effective. If a report is made to Congress, completion is required within 8 months. Similar changes are made in subparagraphs (c) and (d); the suspension period is limited to 5 months or 8 months if an extension is sought in accordance with subparagraph (b).

Section 110. Applicability.

Section 110 of this Act amends section 10711 of Title 49 of the United States Code to clarify that this Act would have no effect on the law as applied to the relationship between water carriers and rail carriers. Specifically, Paragraph (2) of this section reaffirms that the current law under Title 49 with respect to rail-water route coordination and competition between the modes remain unchanged. Furthermore, the Commission still would have its present authority to prohibit unfair, destructive, or predatory competitive practices. Paragraph (1) is a conforming change.

Section 111. Demand-sensitive rates.

Demand-sensitive rates were first introduced in the 4R Act to encourage a system of pricing in the rail industry by which adjustments to fluctuating demand could be made to achieve better car utilization and increased revenues for the industry. Under Section 10727 of Title 49 of the United States Code, the Commission was mandated to formulate standards and procedures for the establishment of demand-sensitive rates, defined as seasonal, regional and peak-period rates, which would provide incentive to shippers to reduce peak-period shipments; generate additional revenue for rail carriers; make more efficient use of the national supply of freight cars; and improve the transportation of property by rail carriers, the level of employment by rail carriers, and the financial stability of markets served by rail carriers. The Commission also was mandated to do an annual report on the implementation of demand-sensitive rates and offer any recommendations for additional legislation which would facilitate such implementation.

In response to this mandate, the Commission decided Ex Parte 324 which further defined demand-sensitive rates and established certain procedures for the filing and review of such rates. Specifically, the Commission made demand-sensitive rates subject to suspension and investigation and the normal notice period of 30 days and required that certain cost data be supplied in support of the filed rates. The Commission decision has aroused much controversy with respect to these specific rulings. Such requirements are considered unnecessarily cumbersome, thereby preventing the use of such rates in response to sudden changes in the marketplace as originally intended. Few rates have been filed under this provision, and the Commission is reevaluating its original decision.

Section 111 of this bill would replace the provision in the current law and provide for the filing of a demand-sensitive tariff in response to expected or actual fluctuations in demand for rail service. The tariff would apply to a specified movement and would include a maximum and minimum rate level, which would be subject to the maximum and minimum rate regulation provisions in Section 10701 of the Code, as amended by this Act. Such tariffs also would be subject to the prohibition against discrimination and the notice and publication requirements, including the 30-day notice period provided in Section 114 of this bill. Within these published maximum and minimum rate levels, the carriers would be able to raise or lower rates without challenge, subject to a 5-day notice period as required in Section 114. The Commission is encouraged to do whatever is necessary to facilitate the establishment of these rates.

This section is intended to encourage the use of demand-sensitive rates as an integral part of an innovative and market-responsive pricing system which the rail carriers should endeavor to maintain. The establishment of a demand-sensitive tariff would provide an opportunity for the rail carriers to anticipate market changes in certain seasonal commodities and to have available a mechanism for adequate response to these predicted changes, and to be equipped to deal with other sudden and unanticipated changes. Shippers would be protected from unlawful rates because the maximum and minimum levels of the tariff would be subject to challenge during the notice period of 30 days. Also, shippers would be sufficiently on notice to adjust their operations if necessary because the movement or movements to which the tariff would apply and the range of possible rates would be known in advance through the publication of the tariff. The rail carriers would be able to respond quickly to the market through rate changes, within the published maximums and minimums, without delays resulting from challenges or prolonged notice periods. The unfettered nature of the process as established in this section would avoid the confusion and lengthy proceedings which have impeded the implementation of the demand-sensitive mechanism in the past.

Section 112. Released rates.

As a general rule, carriers are held liable (under common law and 49 U.S.C.) for the full actual loss, damage, or injury to property. In 1916, the Interstate Commerce Act was modified by the Cummins Amendment to permit the Commission to authorize released rates in cases where rates based on a declared or released value would be "just and reasonable under the circumstances surrounding the transportation." Under this section, no carrier may publish rates based on the declared or agreed value without specific authority from the Commission. Specific criteria, established in an early released rate case and still generally followed, require a detailed showing before released rates are authorized. Even where there is no opposition, the I.C.C. has been hesitant to authorize released rates. Delays in processing have also occurred.

In many instances, shippers have the resources to obtain insurance at a reasonable price and to bear at least a portion of the risk of lost or damaged cargo. Carriers and shippers should be allowed to agree on a fair rate which explicitly takes into account the risk of loss or damage. This can be accomplished by allowing the filing of released rates in the same manner as other rate changes.

Section 112 amends section 10730 by adding a new subsection which provides that rail carriers may establish released value rates subject to the provisions and procedures set forth in Chapter 107. The effect of this change is to authorize the filing of such rates without prior Commission authorization.

Section 113. Transportation of recyclable materials.

Congress has previously directed the I.C.C. to investigate the rail rate structure on recyclable or recycled materials and to remove any discrimination that may exist. Statutory directives of this nature are contained in the Regional Rail Reorganization Act of 1973 and the 4R Act of 1976. Section 10731 of the Code provides for annual reports to Congress on proceedings involving recyclables in 1978 and 1979 and other reports as appropriate. To insure that Congress is adequately informed on this important matter, the bill requires continuation of the filing of annual reports during the next five years. Section 10731(b)(3) is amended to provide for the filing of annual reports for the years 1980–1984. It should be stressed that the Commission has a continuing duty and adequate authority under the existing statute to remove discrimination against recyclables.

Section 114. Notice and publication.

Under Section 10762(a) of Title 49 of the United States Code, rail carriers must publish and file tariffs and related rules and practices, which are to be kept open for public inspection, and under Section 10761 of the Code the carriers cannot charge what has not been so filed and published in a tariff. A new or changed rate is likewise to be published, filed and kept open under Section 10762(c)(1) of the Code. Pursuant to Section 10762(b), the Commission must prescribe the form and manner of such publishing, filing and keeping open for inspection, subject to the provision in (b)(1) which mandates the filing and publishing of certain information on charges. Concomitant with this authority, the Commission under Section 10762(d)(2) of the Code has the power to prescribe rules for tariff simplification and abbreviated filings if consistent with the public interest.

With regard to notice, as provided in Section 10762(c)(3) of the Code a new or changed rate may not become effective for a period of 30 days after the notice of such change is published and filed. Under (d)(1) of this section, however, the Commission has the authority to reduce the 30-day period and any other requirements if cause exists.

Section 114 would amend Subsection (c)(3) of 10762 to provide for a reduced notice period of 15 days applicable to new or changed rail rates, except that for contracts authorized under Section 106 and demand-sensitive tariffs filed pursuant to Section 111 of this bill a 30-day notice period would be required, and that for rate changes within a demand-sensitive tariff only a five-day notice period would be required. Paragraph (5) is a technical conforming change. Attendant to this new notice provision would be the Commission's present power to reduce the notice period if cause existed.

Relating to the Commission's authority over the form and manner of publishing and filing of rail rates Subsection (b)(1) of 10762 as amended by Paragraph (3) of Section 114 would provide that this authority would be permissive with respect to rail carriers rather than mandatory as now provided. The Commission still would have the power to provide for tariff simplification and abbreviated filings.

Paragraph (2) of Section 114 would amend 10762 of the Code to establish special rules for the publishing and filing of contracts authorized under Section 106 of this Act. Contracts would be exempt from the normal tariff rules, and the Commission would have the authority to promulgate, if necessary, special rules applicable to contracts. At least, however, the essential terms of the contract, as the Commission may define, would have to be published and filed in lieu of a normal tariff filing. Information in the contract in addition to the essential terms could be filed at the option of a party to the contract, and at the request of any party the

Commission would place such additional information in a confidential file, made available at the discretion of the Commission only to a party in a proceeding based on the contract. Paragraph (1) is a conforming change, exempting contracts from normal tariff requirements.

The above provision for the publishing and filing of contracts is being proposed to avoid unnecessary regulatory scrutiny of contracts as a result of cumbersome and needless tariff rules. As the parties to the contract already would have had notice, the contract need only be filed for review by interested competitors and potential litigants, requiring less dissemination than normal tariffs. At a minimum, however, the essential terms of the contract should be filed, including but not necessarily limited to the rates, commodities, origin and destination, and parties to the contract. In some situations, a party might not want to take the risk of deciding which are essential terms and instead would choose to file the entire contract. In such cases, shippers might be concerned about revealing certain information to their competitors. The party concerned could request that any information other than the essential terms be kept in a confidential file and shown only to parties in a subsequent proceeding stemming from the contract.

Section 114 in general is intended to make the notice and publication requirements less combersome for the railroads. The shortened notice period of 15 days would facilitate the rail carriers' response to changes in the marketplace while providing the shippers with adequate time to adjust their operations or file protests. In the case of demand-sensitive tariffs, however, a longer notice period of 30 days would be required for adequate review and appropriate challenge of the range of rates, although for rate changes within the tariff no more than 5-days notice would be necessary, given that the tariff itself already would have been subject to notice. Contracts also would be subject to a longer notice period of 30 days to allow for adequate review and appropriate challenge, as no rate challenges would be permitted once a contract had become effective. It is expected that allowing the Commission to prescribe the form and manner of filing and publishing only if it so desires would encourage the Commission to use its discretion to relax cumbersome rules and facilitate an adjustment to new technology in tariff publication.

Section 115. Repeals.

Paragraph (a) would repeal section 10709 of Title 49, United States Code, pertaining to market dominance, in light of the proposed maximum rate regulation provisions in sections 102, 103, and 104 of this bill.

Paragraph (b) would repeal section 10729 of the Code pertaining to capital incentive rates. However, the provisions of Section 10729 would remain in effect with respect to notices of intent to establish such rates filed pursuant to section 10729 not less than 90 days prior to the date of enactment of this Act.

Paragraph (c) repeals sections 15(8)(c) and (d) of the Interstate Commerce Act, as amended by section 401 of the Local Rail Service Assistance Act of 1978, pertaining to "yoyo" rates established under the 4R Act.

Section 116. Savings provision.

Section 116(a) provides that rates in existence on the date of enactment of this Act would only be subject to challenge for exceeding maximum reasonableness by complaint under section 11701 of title 49, United States Code, for six months following the enactment of this Act. Such challenges would be based on the maximum rate provisions of this Act, which amend Section 10701 of the Code.

Paragraph (b) clarifies that rate increases filed after the effective date of enactment of this Act could only be challenged pursuant to Chapter 107 of title 49, as amended by this Act.

Section 201. Rail mergers and restructuring.

Section 201 would make no changes in the present law with respect to major rail mergers: the ICC would consider such proposals under existing standards and procedures, and the present time limit of about 31 months would be retained. However, section 201 makes two major changes in present law for all other restructuring transactions among railroads (including the purchase or sale of assets, trackage rights, and the like).

First, the Commission would have to decide such cases faster than under present law. Present law permits the Commission 15 months to decide such cases. For transactions which do not have regional or national transportation significance, the Commission would be required to reach a decision within 6 months. For transactions having regional or national significance, the Commission would be required to reach a decision within 10 months.

In order to meet these more stringent deadlines, the number of factors the Commission must consider in deciding such cases would be reduced. The Commission now applies the same test to all transactions as to major mergers.) Section 201 would require the Commission to balance the transportation benefits of the transaction against any anti-competitive effects. The simpler test and shorter procedural deadlines are intended to encourage the rationalization and restructuring of the rail system through actions less than merger.

Section 202. Abandonment.

The abandonment provisions of this bill are designed to accomplish three major objectives: significantly reducing the time spent processing such cases at the Commission; improving the process by which abandoned lines can be stabilized; and extending the changes made in the Bankruptcy Act of 1978 to all bankrupt railroads. No changes are made in the standards under which the ICC decides whether or not to grant the abandonment of railroad lines.

Section 202(a) makes two changes to present law. First, the changes in abandonment law which were made in the Bankruptcy Act of 1978 are extended to all railroads in bankruptcy, regardless of whether the railroad was in bankruptcy when that Act was passed. This means that these provisions will apply to railroads now in bankruptcy, primarily the Rock Island and the Milwaukee. The new Bankruptcy Act provides that, where a bankruptcy court has held a hearing and approved the abandonment of a rail line, the ICC will not be required to hold a separate hearing. Instead, the ICC participates in the deliberations of the bankruptcy court.

The second change eliminates the mandatory waiting period now required after an abandonment certificate is issued and before the abandonment can actually occur. The waiting period is now mandatory, and the Commission has no discretion to waive it even where no useful purpose would be served. Under the expedited procedures described below, the Commission would have the discretion to require railroads to continue service after abandonment is approved, but would have the discretion to waive that requirement.

Section 202(b) requires the ICC to process and decide abandonment cases within 9 months. Applications for abandonment which are not opposed would be granted within 75 days. With respect to unopposed applications, this would basically codify existing ICC practice. For applications which are opposed, ICC decisions would be reached more quickly than under present law.

Two other changes are made in section 202(b). First, for applications approved by the Secretary of Transportation as part of a restructuring action under section 401 of the 4–R Act, the Commission would be required to consider whether any detriment from the abandonment or discontinuance exceeds the transportation benefit from the restructuring plan as a whole. Second, the law now requires that rail lines potentially subject to abandonment be shown on system diagram maps for at least 4 months before the application is filed. The Commission would be given discretion to waive this requirement for lines of railroads which are in bankruptcy or for abandonment applications which are part of a 401 restructuring action.

Present law (section 10905 of title 49 of the U.S. Code) sets up a procedure where rail lines approved for abandonment may be purchased or subsidized in order to continue rail service. The Commission now has the power to stay the effective date of an abandonment for 6 months while negotiations to subsidize or purchase a line are conducted. However, if such negotiations are not successful, the abandonment becomes effective at the end of 6 months. Thus, a railroad unwilling to consider subsidy or sale of the line can frustrate the intention of section 10905 of 49 U.S.C. by simply refusing to negotiate in good faith.

Section 202(c) of this bill revises section 10905 to provide that, when a railroad and a potential subsidizer or purchaser cannot reach agreement, either party may request that the ICC establish the amount of subsidy or the purchase price of the line. If the amount of subsidy is set by the Commission, the potential subsidizer may accept the decision or withdraw his offer. The railroad, however, is obligated to accept the subsidy or purchase offer as established by the Commission.

Section 203. Entry.

Under present law, railroads may not construct new rail lines or extend their lines without the approval of the Interstate Commerce Commission. Tight control of entry is most appropriate for public utilities where prices and service offerings are also tightly controlled. As the government moves toward significantly less regulation of the services offered by railroads, the government should encourage, rather than discourage, competition among railroads. Competition among railroads, or at least the realistic threat of competition, can serve as an important safeguard against inadequate service or unreasonably high prices. Section 203 of the bill proposes three changes to current law.

(1) Under present law, the Commission may authorize the construction of a railroad line only if it finds that the public convenience and necessity (PC&N) "require or will be enhanced" by the construction. This is a more stringent test than that applied to either the abandonment of rail lines or mergers. There does not appear to be any reason why the Commission should apply a more difficult standard for the construction of new facilities than for the abandonment of old facilities. Section 203(a)(1) of this legislation will change the test applied by the Commission from "require or will enhance" to "require or permit". By making this change, the Commission would be required to apply the same standards to entry applications as to abandonment applications.

(2) Where a railroad has been issued a certificate of public convenience and necessity by the Commission and where the construction or extension of that line would cross another carrier, it is unclear whether the second railroad could block the construction by refusing to let the first railroad cross its property. The prevailing opinion is that, where the Commission has issued a certificate of public convenience and necessity, another regulated carrier cannot

block construction. However, the issue has not been clearly settled. Thus, section 203 (a)(2) of this legislation provides that, when a railroad has been issued a certificate of PC&N, no other railroad may block construction by refusing to let the first railroad cross its property, provided that the construction and operation do not materially interfere with the operation of the second railroad and the owner of the crossing line compensates the owner of the crossed line. If the railroads cannot agree on the terms of compensation, the Commission may establish the compensation.

(2) In many parts of the country, reciprocal switching agreements are in effect where carriers pick up and deliver traffic for other railroads. In areas where reciprocal switching is feasible, it provides an avenue of relief for captive shippers where service is inadequate. While the Commission now has the power to order joint use of terminal facilities, its power to order the more limited action of reciprocal switching is less clear. The Administration had proposed to require reciprocal switching in all standard metropolitan areas. Section 203(b) of this bill provides simply that the Commission may require the railroads to enter reciprocal switching agreements where it finds such agreements to be practicable and in the public interest.

Section 301. Car service orders.

Section 301 would alter the Commission's emergency powers to issue car service orders. The Commission's power to issue car service orders would be restricted in two ways. First, the power is restricted to emergencies "of such magnitude as to have substantial adverse effects on rail service to the nation or a substantial region of the nation." This is intended to ensure that the Commission restricts the use of its emergency powers to real emergencies and reflects a widespread consensus that the ICC issues far too many car service orders in situations where real emergencies do not exist. Second, the ICC's emergency powers are also restricted in that emergency orders would be limited to an initial 30 days, but could be extended to 60 days when the Commission has begun a proceeding to deal with service problems on a more permanent basis.

While section 301 restricts the circumstances under which the Commission may use its emergency powers to issue car service orders, this bill would expand somewhat the Commission's power to deal with true emergencies. Under present law, the Commission may suspend car service rules or practices, switch equipment among carriers, require the joint use of terminals, and give direction for the preference and priority of transportation. This bill would remove the limitation that joint use would be required only in terminal areas. Where a transportation emergency exists, the ICC's power would extend to ordering the joint use of all facilities rather than the joint use of only some facilities rather than the joint use of only some facilities.

Section 302. Exemptions.

Section 302 would expand the Commission's power to exempt rail carriers from regulation. Under present law, an exemption cannot be granted unless (1) the activity is of limited scope, (2) the regulation is not necessary to carry out national transportation policy, (3) the regulation would be an unreasonable burden, and (4) the regulation serves little useful public purpose. Section 302 would restate the Commission's exemption authority in broader terms and the Commission could exempt carriers whenever the Commission determined that regulation was not necessary to protect the public interest. Section 302 would also remove the requirement that proceedings be conducted in all cases before exemptions are granted.

Section 303. Railroad securities.

Section 303 of this bill would eliminate the concurrent jurisdiction over railroad securities now exercised by the ICC and the SEC. This would be done by eliminating the Interstate Commerce Commission's responsibility in this area. As a result, the Securities and Exchange Commission would have sole jurisdiction. As a result, railroad securities will be treated like the securities of other industries.

Section 304. Federal-State relations.

Under accepted legal principles of federalism, federal law preempts state law in areas which affect interstate commerce. More specifically, state regulations may not unreasonably discriminate against or place a burden on interstate commerce. State regulation will prevail over federal regulation when the interest affected is of particular local concern, as in the areas of health and safety, unless there is either discrimination against interstate commerce or a superseding national regulatory scheme. Federal law preempts state law when a state law either directly conflicts with a federal law or is inconsistent with a pre-existing federal scheme.

In the area of transportation, the concepts of federalism have been codified in Title 49 of the United States Code. Under Section 10501, the Commission has jurisdiction over carriers moving in interstate commerce but not over intrastate transportation unless otherwise provided in this title. As otherwise provided, under Section 11501 of the Code, the Commission can nullify state regulation which unreasonably discriminates against or burdens interstate commerce. As provided in Section 10501(c) and 11501(c) of the Code, any Commission action taken pursuant to its authority under this title supersedes conflicting state law or action even if such law or action is taken pursuant to the state police power to require reasonable intrastate transportation. No state law or action will have the force of law if it is in conflict with or prohibited under the federal scheme of regulation provided in Title 49 of the United States Code.

Section 304 of this bill would not change the present law with respect to federal-state relations. It would merely reaffirm both that the Commission's power in this area is only as otherwise authorized in the title and that the states' power cannot conflict with the federal regulatory scheme. Specifically, Paragraphs (1) and (2) would provide that the Commission could only prescribe a rate or effect other action which is consistent with its rate regulatory authority as limited under this Act, particularly in light of Sections 103 and 104 relating to the rail cost adjustment zone free of regulation and the no-suspend rate flexibility zone. Paragraph (3) reaffirms that where the Commission has no jurisdiction to regulate, as in the area of maximum rate regulation, the state could not assume jurisdiction. Federal law would preempt any such inconsistent state law or action in this regard, and no such state regulation would be allowed. In this way, the federal intent to limit regulation under this Act would not be frustrated.

JOINT RATE LEGISLATION

Set forth below is possible statutory language on joint rates prepared by committee staff, based on a compromise approach suggested by certain railroads. It would permit carriers to adjust joint rates where their share of the revenue was below variable costs. It would also permit a limited measure of relief for adjusting other joint rates. This language is put forth to generate comments and suggestions on this crucial subject, and it should be emphasized that, while this subject is of extreme importance, the committee is open to suggestions on how the issue should be resolved.

1. Notwithstanding any other provision of law, any carrier may publish a surcharge in order to bring its earnings over any route to a level that will cover its variable costs of handling the given traffic moving over that route under any joint rate, without the concurrence of its connecting carriers. The surcharge must be applied in equal dollar amounts to all of that carrier's routes under the rate and to all of its competing single line routes. Such increases shall accrue solely to that carrier.

a. Before increasing the rate, the carrier proposing the rate must give other carriers party to the rate 45 days notice. If a connecting carrier wishes to respond to a surcharge on the effective date of another carriers' surcharge, it may initiate its own surcharge no less than 25 days before that effective date. At this time only, a carrier responding to a surcharge which results in different charges applicable to different routes under the same joint rate, may make unequal surcharges applicable to its routes under the rate and any competing single line route in order to re-establish route parity.

b. In an investigation, the proponent carrier shall bear the burden consistent with 49 U.S.C. 10707, of showing that the surcharge is required to cover its variable costs.

c. Any further increases in the joint rate to which such a "variable cost" surcharge applies shall increase the surcharge in the same proportion as the proportion of the increases to the joint rate.

e. A carrier may not adopt a surcharge unless, for one year prior to the surcharge, it has participated in all increases in rates of general applicability agreed to by all other parties to the rates in question, or unless it agrees to participate in such increases for one year following adoption of a surcharge.

2. A carrier may otherwise publish and apply to a joint rate (in the form of a surcharge) an increase or decrease not exceeding ten (10) percent annually of the joint rate, subject to the following conditions:

a. The rate change must be applied in equal dollar amounts to all of the proponent carrier's routes under that rate. Rate decreases may and rate increases must also be applied in equal dollar amounts to all of its competing single line routes.

b. A surcharge must be divided with the proponent carrier's connections on the basis of existing divisions. A connecting carrier may refuse to accept all or any portion of its division of the surcharge, in which case, the surcharge applied to that route will be applicable in the amount of the proponent carrier's division, plus any amount accepted by its connections. The proponent carrier may, within ten days of receiving notice of any such refusal, decrease its surcharge over any competing route or routes to re-establish route parity.

c. Surcharges reflecting either an increase or decrease shall not be applicable to other carriers except as provided in paragraph (b).

d. Connecting carriers shall be given 45 days notice of an above variable cost surcharge.

e. If a connecting carrier wishes to respond to a surcharge on the effective date of another carrier's surcharge, it may initiate its own surcharge no less than 25 days before that effective date. At this time only, a carrier responding to a surcharge which results in different charges applicable to different routes under the same joint rate, may make unequal surcharges applicable to its routes under the rate and any competing single line routes in order to re-establish route parity.

f. A carrier may not adopt a surcharge unless, for one year prior to the surcharge, it has participated in all increases in rates of general applicability agreed to by all other parties to the rates in question, or unless it agrees to participate in such increases for one year following adoption of a surcharge.

Mr. LONG. Mr. President, today I join with Senator CANNON in cosponsoring the Railroad Transportation Policy Act of 1979. As chairman of the Surface Transportation Subcommittee, I can state that this bill is the result of a lengthy analysis of the testimony received during the several hearings the subcommittee held on S. 796, the administration's proposal to deregulate the railroad industry.

Examination of these issues began in February on the effectiveness of the reforms initiated in the 4R Act. At that time, we received testimony that the present concept of market dominance applied to protect the captive shippers was unworkable. We also heard testimony that certain other rate reforms of the 4R Act had not been fully implemented, either because of carrier lack of initiative or, regulatory restraints and complexities.

In March, Senator CANNON introduced by request of the administration, S. 796, the Railroad Deregulation Act of 1979, which represented the Department of Transportation's efforts toward legislative reform. Since that time, the subcommittee has held numerous hearings on this bill in Washington, D.C., as well as regional hearings in Nevada, Nebraska and South Dakota. At these hearings, we heard from a broad range of interests, including rail carriers, representatives of large and small shippers, local and Federal officials, water carriers, ports, and rail labor. The consensus reached as a result of these hearings was that S. 796 as drafted was not acceptable.

However, it was also clear from those hearings that there is a need for additional regulatory reform that would lessen the burden of existing Government control. It was brought out in testimony that existing regulation is slow, cumbersome, and restrictive. It was generally recognized by witnesses that the railroad industry must have the ability to compete effectively. A regulatory environment more responsive to changing market conditions was considered essential to this goal. The element of competition is elementary to an adequate transportation network. Where there is adequate and effective competition there is no need for regulation. On the other hand, without competition, regulation is essential to the prevention of monopoly abuse and inefficient transportation.

A failure to recognize this principle was a major flaw of S. 796. This was evident from the bill's treatment of maximum rate regulation. The staff draft which we are introducing today attempts to follow this principle, continuing competition where it presently exists and assuring adequate regulatory protection to shippers where competition is nonexistent. Hopefully, any deficiencies that the staff may not have given proper attention will surface from those knowledgeable in their field when we enter into the hearing process on the legislation when the issues involved will be addressed in greater depth.

● Mr. PACKWOOD. Mr. President, I am pleased to join the distinguished chairman of the Senate Committee on Commerce, Science, and Transportation in cosponsoring legislation dealing with our Nation's railroad industry. I should like to point out that our committee has held hearings over every operational and financial aspect of the railroad industry throughout the 96th Congress. We have especially held lengthy hearings in an effort to determine how to make the present rate structure more responsive to the actual cost of providing the transportation plus a reasonable return on investment for the carrier.

Our committee devoted a substantial amount of attention to the administration's bill—S. 796—which would have provided sweeping regulatory changes over the whole railroad industry. Testimony received from the hearing resulted in our committee's determination that we all have to go back to the drawing board and come up with a new solution. The bill Chairman CANNON and I are introducing today should be considered a new starting point. Members of the Commerce Committee and staff have held numerous and fruitful meetings with many representatives of the shipping public, the rail industry, the administration, and labor representatives regarding possible solutions to the rail dilemma which now faces us.

The culmination of all the meetings and hearings are represented in the legislation here before us today. In its present form, it does not have the specific endorsement of any members of the committee. As I said earlier, we look at this bill as a new starting point. Hearings have been scheduled November 7–9, 1979, with the expectation that testimony will help us to further refine this legislation until it is truly responsive to the needs of the industry and the shipping public.

Mr. President, it is most appropriate that all concerned interests—Congress, rail labor, rail carriers, and the shipping public—roll up our sleeves and work together to refine this legislation in an effort to insure that our Nation's rail industry can revive itself and continue to provide essential rail services upon which this country is so dependent.

In Oregon the shipping public means, generally, the timber and agricultural industries. While a small percentage of people are actually involved in day-to-day shipping operations, the rail industry has enormous implications for Oregon's economy. Being a net exporter of agricultural goods and timber products we are highly dependent on rail as a mode of transportation. Hence, we have a strong interest in maintaining a viable, service-oriented, nationwide rail system.

That is why I am deeply involved in this effort. We in Government are not trying to save the railroads, but we must make the changes necessary for the railroads to save themselves. We are trying to restore management by economic efficiency and end inefficiency by Government management and regulation. We only ask the continued excellent assistance of those who have contributed so much to the efforts exhibited in the legislation we offer today.●

By Mr. RIBICOFF (for himself and Mr. MATHIAS):

S. 1947. A bill to amend title 5, United States Code, to extend the provisions of the Federal Physicians Comparability Allowance Act of 1978, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE AMENDMENTS OF 1979

● Mr. RIBICOFF. Mr. President, together with Senator MATHIAS, I am introducing the "Federal Physicians Comparability Allowance Amendments of 1979."

This legislation, which has been requested by the Office of Personnel Management, would extend for 2 years, the authority of agencies to grant special allowances to physicians if the agency is experiencing recruitment and retention problems. The armed services and the Veterans Administration have previously experienced serious physician shortages due to recruitment and retention problems. As a result, both have been granted authority to enter into service agreements in exchange for bonus allowances. In similar fashion, Congress enacted the Federal Physicians Comparability Allowance Act of 1978 (Public Law 95–603), which authorized the heads of other Federal agencies and departments, experiencing a shortage of qualified physicians, to enter into service agreements, under which the physician agrees to remain with an agency in return for special allowances.

The authority to enter into agreements expired on September 30, 1979, and no agreement entered into by that date may extend beyond September 30, 1981. A 2-year extension of this program is necessary in order to assure that the Federal agencies will continue to have flexibility to compete in the labor markets for highly skilled and competently trained physicians. This legislation will not result in any additional costs.

I ask unanimous consent that the letter of transmittal from Alan K. Campbell, Director of the Office of Personnel Management, and a section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
July 11, 1979.

Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: The Office of Personnel Management submits herewith a legislative proposal, "To amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes." We request that you refer this proposal to the appropriate committee for early consideration.

The Federal Physicians Comparability Allowance Act of 1978, Public Law 95–603, authorizes the heads of agencies to enter into service agreements with certain Government physicians, under which the physicians will agree to remain with the agencies, in return for special allowances. These allowances may be paid only where the agencies are experiencing recruitment and retention problems. The authority to enter

into such agreements expires September 30, 1979, and no agreement entered into by that date may extend beyond September 30, 1981. We believe it is clearly in the public interest to extend this program by two years. Without such an extension the affected agencies would be at a serious disadvantage in competing for physicians in the labor market.

In addition, the proposal includes several technical changes, most of which are necessary because of the enactment of the Civil Service Reform Act of 1978.

The Office of Management and Budget advises that the enactment of this legislative proposal would be consistent with the Administration's program.

Sincerely yours,

ALAN K. CAMPBELL,
Director.

SECTION-BY-SECTION ANALYSIS

To accompany a draft bill.

"To amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes."

The first section titles the bill as the Federal Physicians Comparability Allowance Amendments of 1979.

Section 2 of the bill amends section 5948 (d) of title 5, United States Code, to extend through September 30, 1981, the period during which heads of agencies may enter into service agreements with physicians in exchange for special allowances, and to extend through September 30, 1983, the period of service which may be covered by such agreements. This section also amends section 5948 (g)(1) to reflect the enactment of the Civil Service Reform Act of 1978 by expressly listing the Senior Executive Service and the Merit Pay System among the pay systems qualifying individuals for coverage under the allowance program, and by changing a reference to a section of title 5 which was renumbered. In addition, the section adds a reference to a section of the Canal Zone Code which was inadvertently omitted from section 5948. Finally, the section amends section 5948(g)(2) to include the Library of Congress among the agencies that may utilize the comparability allowance authority.

Section 3 of the bill amends section 5383 (b) of title 5, United States Code, to reflect the inclusion of Senior Executive Service physicians under the comparability allowance program. Section 5383(b) limits pay and awards for Senior Executive Service employees to the rate payable for level I of the Executive Schedule. The amendment in section 3 would reflect the inclusion of any allowance under the comparability allowance program among the pay and awards subject to the level I ceiling.

Section 4 of the bill amends section 3 of the Federal Physicans Comparability Allowance Act of 1978, to provide for repeal of the Act on September 30, 1983, rather than on September 30, 1981.●

By Mr. MATHIAS:

S. 1948. A bill to amend the act entitled "An Act for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson"; to the Committee on the Judiciary.

● Mr. MATHIAS. Mr. President, during the 94th Congress, S. 3035 (Private Law 94-126), a private bill for the relief of Mrs. Alice W. Olson and her three children was enacted into law. As my colleagues may recall, S. 3035 was to compensate the Olsons for the death of Dr. Frank Olson, which resulted from his having been administered LSD by the CIA in 1953 without his knowledge, and for the Government's deception in failing to reveal for 22 years the true circumstances surrounding Dr. Olson's death.

In its original form, the private bill for the Olson family provided that Mrs. Olson and her three children would each receive $312,000—a total of $1,250,000 for the whole family. The bill explicitly provided that this compensation is "in lieu of" FECA benefits, which Mrs. Olson had received since Dr. Olson's death.

S. 3035 passed the Senate and was unanimously reported out of the House Subcommittee on Administrative Law and Governmental Relations and Committee on Judiciary. However, on the House floor, the bill, as written, did not have the unanimous consent of all of the Members and therefore would not have reached a vote without amendment. The bill was amended to reduce the amount of compensation for each of the surviving Olsons to $187,000—a total of $750,000 for the whole family and, as amended, passed in the House and Senate. The provision cutting off Mrs. Olson's FECA benefits was not amended. The amended bill was signed into law on October 12, 1976.

The reduction of Mrs. Olson's compensation to $187,000 leaves her no better off financially than she was prior to the private bill. Her FECA benefits provided her with $975 per month, or $11,700 per year, tax free. If she earns 6 percent interest on her $187,000, she will have an income of $11,250 per year, which is subject to taxation. If she lives on the principal, she would be without income or principal within 10 years. Instead of a guaranteed, tax-free income of $975 per month for the rest of her life, Mrs. Olson now faces the uncertainty of investments and insufficient income.

The private bill, as amended, has not compensated Mrs. Olson for the death of her husband, nor for the 22 years of pain during which she was callously deceived concerning the circumstances of his death. Indeed, contrary to our intent, it has added uncertainty and the possibility of financial constraints to her life.

The bill I now send to the desk would reinstate Mrs. Olson's FECA benefits (with provision for retroactivity to the time they were cut off), and would result in a total compensation more reasonable than currently provided and within the original amount of $1,250,000. I urge my colleagues to enact this legislation promptly to redress a grievance that weighs heavily on the Nation's conscience.

Mr. President, I ask unanimous consent that the text of S. 3035 and the floor statement I made at the time of its introduction on February 25, 1976, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MATHIAS

Mr. MATHIAS. Mr. President, of all the revelations emanating from the recent investigations of the Central Intelligence Agency, none was more appalling and distressing than the disclosure of the facts and circumstances surrounding the death on November 23, 1953, of Dr. Frank Olson. Not only was Dr. Olson unknowingly administered a dosage of the hallucinogenic drug known as LSD, which was determined by the Federal Government to be the proximate cause of his death, but in addition, the CIA purposefully concealed the true details of his demise and allowed his wife and children for 22 years to labor under the misconception that Dr. Olson had committed suicide. But for the recent investigations of the activities of the CIA, it is entirely conceivable that the Olson family would never have learned the truth.

I am introducing a bill today to authorize compensation to the surviving members of the Olson family; namely, his widow and three children in a total amount of $1,250,000. In addition to attempting to compensate the family for their suffering, I believe that this bill is an acknowledgement on the part of our Government of the deception and evasiveness perpetrated upon the Olsons and the absolute necessity of insuring that similarly inexcusable acts are never repeated.

This bill would discharge any and all responsibility of the United States with respect to the circumstances surrounding Dr. Olson's death. It would also negate the necessity of the Olson family resorting to prolonged and costly legal proceedings and is designed to streamline consideration by the Congress and, hopefully, to permit prompt passage.

As you are probably aware, Dr. Olson died as the result of injuries sustained after he had jumped from a hotel room in New York City on November 28, 1953. At the time of his death, he was a civilian biochemist with supervisory responsibilities and employed by a special unit of the Army Chemical Corps at Fort Detrick, Md. This unit maintained liaison with the Central Intelligence Agency, CIA, and participated in meetings with CIA personnel regarding its work.

At one such meeting on November 18-19, 1953, which was attended by seven representatives from Fort Detrick and three from the CIA, a number of those present, including Dr. Olson were administered lysergic acid dipthylamide—LSD—which had been introduced into a bottle of Cointreau liqueur without their knowledge by the CIA participants at the meeting. Dr. Olson and the others were told of the "experiment" 20 minutes later. Immediately after the experiment, Dr. Olson exhibited unusual sleeplessness, restiveness, and feelings of depression. Pursuant to arrangements made by the CIA, Dr. Olson, accompanied by a CIA employee, went to New York City, where he received psychiatric treatment from someone contacted by the CIA. During the period of treatment, Dr. Olson apparently threw himself from his 10th floor hotel room window and plunged to his death.

Not aware of the true facts and having been led to believe that her husband's death was an unexplained suicide, Mrs. Olson, at the urging of certain Army personnel, applied to the Bureau of Employee's Compensation, BEC, of the Department of Labor for benefits due her and her children under chapter 81—compensation for work injuries of title 5, United States Code—the Federal Employees Compensation Act, FECA—in lieu of civil service retirement benefits. BEC officials personally reviewed the records supplied by the CIA which described the circumstances leading up to and attendant upon the death of Dr. Olson. The BEC officials determined that the material furnished by the CIA was "sufficient to show that the condition responsible for self-destruction was proximately due to the conditions of his employment," and "from a medical standard there was a very definite connection between the illness and the act of self-destruction."

In part, BEC's determination was based on a statement by the General Counsel of the CIA that the death had resulted from "circumstances arising out of an experiment undertaken in the course of his official duties for the U.S. Government." A review of relevant CIA documents reveals that the CIA was eager to arrange payments to the Olson family under chapter 81 and thus end all questions relating to the death of Dr. Olson.

Between that time and November 30, 1975, the family has received $147,573.22 in benefits under chapter 81—compensation for work injuries, 5 U.S.C. 8101 et seq., the Federal Employees' Compensation Act, hereinafter cited as the FECA. The Olson family is currently receiving monthly benefits of nearly $800. Under the FECA, a widow is entitled to compensation until she dies or remarries before reaching age 60; and children are paid until each becomes 18 or if over 18 and incapable of self-support when each become capable of self-support. 5 U.S.C. 8133 (b).

Neither Mrs. Olson nor her children were told or knew of the involvement of the CIA or of all of the circumstances surrounding the death of Dr. Olson until the Rockefeller Commission Report on the CIA was published in June 1975. Although the report did not specifically identify Dr. Olson, it described the events leading up to his death.

On July 17, 1975, the surviving members of the Olson family, with the aid of their attorneys, David Kairys and David Rudovsky, of Philadelphia, filed a wrongful death claim with the CIA pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. In their letter the family requested, first, full disclosure to the family of the facts surrounding the death of Dr. Olson, second, an assurance that appropriate steps would be taken to forbid the kind of activities involved in the death of Dr. Olson; and third, monetary damages.

On July 21, 1975, the President met with the family of Dr. Olson. He expressed the sympathy of the American people and apologized on behalf of the U.S. Government for the circumstances of his death. The President also informed the Olsons that the Attorney General had been asked to meet with the Olson's legal representatives to discuss any claims they wished to assert against the Government by reason of Dr. Olson's death. Subsequent to the President's meeting with the Olson family, negotiations began between the Department of Justice and the Olson's attorneys.

In a July 24, 1975, letter, William Colby, Director of Central Intelligence, expressed his deepest personal sympathy to the family and apologized for their suffering and for the failure to inform them of the circumstances surrounding Dr. Olson's death. He further advised them that he was making available to their attorneys the information concerning the death which was available to the CIA. Since that time all of the documents which the CIA were able to find concerning Dr. Olson's death have been delivered to the Olsons along with a signed affidavit testifying as to their completeness.

As a result of the negotiations between the Department of Justice and the Olson family attorneys regarding the Federal Tort Claims Act suit instituted by the Olsons, it became clear that there existed certain potential technical obstacles, which might preclude recovery under the act. Accordingly, everyone concerned, including the President, the Attorney General and the Director of the CIA, agreed that it would be appropriate to proceed by way of a private bill for an amount which would adequately compensate the Olson family for damages suffered.

The private legislation now before us is premised on the assumption of responsibility by the United States with respect to the circumstances surrounding the death of Dr. Olson, and most significantly for the fact that the Olson family was deliberately not informed of these circumstances. I have been assured that the President, the CIA, and the Department of Justice all totally support the amount stated in the bill. Indeed, it must be stressed that this amount is a fairly arrived at negotiated figure, which the Department of Justice is satisfied represents fair compensation for the damages suffered.

This bill recognizes that, in view of the responsibility assumed by the Government, it would be inequitable to subject the Olson family, which has already been forced to live for over 20 years under the inexplicable shadow of Frank Olson's death, to the financial and emotional strains associated with long and protracted legal proceedings.

It should be noted that this bill does not increase compensation to the dependents of an employee under the FECA; rather it would authorize compensation for injuries which are unrelated to the benefits available under that act.

Furthermore, the payment to the Olsons under this bill shall be in full satisfaction of any claims of the entire family against the United States relating to the unique circumstances surrounding Dr. Olson's death and shall also be in lieu of further compensation otherwise due under FECA. It is to be additionally noted that this bill is predicated on the novel circumstances which led to Dr. Olson's untimely death and thus this legislation is by no means intended to establish a precedent for future private bills involving different factual patterns and FECA awards.

As I previously stated, I have been assured that the President, the Justice Department, and the CIA fully support this legislation and I trust that my colleagues will swiftly enact this bill.

S. 3035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $312,500 each to Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson, in full settlement of all of their claims against the United States arising out of the death of Doctor Frank R. Olson in November 1953. If all of them waive any and all rights arising out of such death. The payment of such sums shall be in full satisfaction of all claims of Alice W. Olson, Eric Olson, Lisa Olson Hayward, and Nils Olson of any nature whatsoever against the United States, or against any past or present employee or agent of, or person associated with, the United States, his estate or personal representative, in connection with the circumstances surrounding such death and such payments shall be in lieu of further compensation otherwise due under chapter 81 of title 5, United States Code, or any award thereunder.

SEC. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of this section is a misdemeanor punishable by a fine in any amount not to exceed $5,000.●

By Mr. JAVITS (for himself, Mr. MOYNIHAN, Mr. SARBANES, Mr. MATHIAS, Mr. BAYH, and Mr. TSONGAS):

S. 1950. A bill to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge; to the Committee on Armed Services.

MILITARY DECORATIONS FOR HEROIC ACTION IN WORLD WAR II

Mr. JAVITS. Mr. President, on April 9, 1979, I introduced Senate Resolution 135 for myself and Senators MOYNIHAN, SARBANES, MATHIAS, TSONGAS, and BAYH. Our introduction of this resolution and its referral to the Senate Armed Services Committee was intended to initiate a committee inquiry into the actions of Pfc. William James Tsakanikas and the Intelligence and Reconnaissance platoon of the 394th Infantry Regiment of the U.S. Army during the Battle of the Bulge during World War II. According to the information available, in December 1944, this platoon halted the advance of an entire German battalion at a vital crossroads in the Ardennes; the platoon of 18 men is reported to have held off an elite German battalion for almost an entire day, inflicted over 500 casualties, and made it possible for the 99th Infantry Division to regroup and hold on against this last German offensive until the Allied Armies could react and win the Battle of the Bulge. This action was the subject of a cover story in Parade magazine on March 25 of this year. I ask unanimous consent to have this article inserted in the RECORD at the conclusion of my remarks.

As the sponsors of this resolution, we hoped to initiate an inquiry into this event to determine authoritatively the appropriateness of awarding posthumously the Congressional Medal of Honor to William James Tsakanikas, or any other deserving individual involved in this incident. It was also contemplated that some other form of decoration might be found to be most appropriate to award the clearly heroic actions that took place in the incident in question.

Because of the extraordinary burden of business this year—including additional burden of its hearings on the SALT II treaty—the Senate Armed Services Committee has been unable to date to conduct the solicited inquiry. However, the Armed Services Committee in the House of Representatives has conducted hearings on legislation introduced in that body by Congressman OTTINGER concerning this matter. That committee favorably reported and the House has now passed H.R. 3407 to waive the time limitation on the award of "certain medals" to members of Private Tsakanikas' platoon who took part in this heroic action during the Battle of the Bulge. The bill, as passed by the House of Representatives, does not rule out the award of the Congressional Medal of Honor and leaves the matter of the appropriate form of any award, and its recipients, to the President, which is the traditional U.S. practice. I ask unanimous consent that the article mentioned be printed in the RECORD at the conclusion of my remarks.

H.R. 3407 was automatically referred to the Senate after its House passage and has been sent on to the Senate Armed Services Committee. That notwithstanding, I and the other Senate sponsors of the original Senate Resolution 135 believe this matter merits our reintroducing the House passed legisla-

tion for referral to the Senate Armed Services Committee.

We support Senate passage of H.R. 3407 as the inquiry we sought has been conducted by the House Armed Services Committee and appropriate legislative action in the light of that inquiry has been taken by the House of Representatives. We hope the Senate will act similarly.

Special note must be made of the role of William James Tsakanikas in this matter. While it would be preferable for the legislation to take specific notice of his own extraordinary heroism during the Battle of the Bulge, we believe that enactment of H.R. 3407 will effect the long overdue recognition for this now deceased citizen's valour performed in his service to the Nation.

Private Tsakanikas was very severely wounded in the action in Lanzerath, Belgium. After the war, he returned to the United States, completed his college education, and went to Cornell Law School. He married and had a family in Port Chester, N.Y. There he lived what has been described as the life of a model citizen and became Rye Town Republican committee chairman. He died in June 1977, shortly after the 36th operation he had resulting from his war injuries.

The sponsors of this legislation hope the Senate can act promptly on this bill. For 35 years the bravery demonstrated by Private Tsakanikas and the other members of his platoon have gone unrecognized, and that is long enough. The House of Representatives has shown its willingness to take appropriate action; I hope the Senate will agree.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY PRIVATE TSAKANIKAS SHOULD GET THE MEDAL OF HONOR

(By Jack Anderson)

The Lanzerath Incident should have gone down as one of the most valorous and pivotal actions of World War II. It was omitted from the histories because no one returned to tell the story until the war was over. Yet for an eternity of 18 hours, 18 stubborn Americans halted an entire column of German panzers, paratroopers and SS troops.

The GI's were ordered to hold a slope overlooking a strategic crossroads at a Belgian village called Lanzerath. Bullets whined around their heads, and artillery shells ravaged the landscape. Their hillside was a hell of gunfire and shrapnel. Yet they fought back, hugging the sides of their foxholes, until their guns burned up or ran out of ammunition.

When the Germans at last overran the position, they pulled the grimy GI's bodily from their foxholes. Their lieutenant, Lyle J. Bouck Jr., described the end tersely. "We never surrendered," he said. "We were captured." On the American side, miraculously, only two died in the firefight, although many were shot up badly. The German toll: an incredible 509 casualties.

Those few forgotten heroes disrupted the timetable and blunted the surprise of a Nazi strike through the snow-sheeted Ardennes. Had they not held the crossroads for that long December day, the Germans would have caught the untested 99th Division off balance and might have won the Battle of the Bulge.

Writing from retirement, Maj. Gen. Walter Lauer, the division commander, has declared: "Had we failed, there would have been no Bastogne, and the entire complexion of the war could have changed most drastically." He gave all the credit to his men. "Their heroism has been unsurpassed in history. I know it. Many of our soldiers know it. The German soldiers who met them know it. God knows it."

This epic stand of 18 men against overwhelming German might has gone unrecognized by the Pentagon for 35 years. Not a medal has ever been awarded the enlisted men for their extraordinary bravery. Only the lieutenant received an unsought Silver Star that came to him without explanation through the mail in 1965—21 years late.

Every member of the forgotten platoon deserves a medal. But if one soldier symbolizes the heroism of that last-ditch stand, it would be PFC William James Tsakanikas, known to the others simply as "Sak." At 19, he was the youngest of them—an aggressive, gung-ho GI who volunteered for all the tough missions. It took a German burp gun, fired point-blank into his face, to put him out of action.

Somehow the young soldier was saved by a German military doctor. Sak recuperated in a German prison hospital, made a break for freedom but was recaptured. Near the war's end, he was liberated by advancing U.S. forces. He returned home to a life of pain, dropped his tongue-twisting last name and died as Will James on June 27, 1977. He now lies in Arlington National Cemetery, an unremembered hero—but not to the 17 men who fought by his side or to the wife who witnessed the agony of 36 operations to reconstruct his face.

"Whatever he did in the war," she told us, "I knew my husband as a hero all of his life. He didn't talk about what happened that day until a little while before he died. But for me and my sons, he showed his heroism to us every day that he lived."

Seeking to make belated amends, Rep. Richard Ottinger (D., N.Y.) will introduce a bill this week authorizing President Carter to award Will James a posthumous Medal of Honor "for valorous acts performed at the risk of his life above and beyond the call of duty." The proposal has already encountered resistance from the Army bureaucrats behind their red-tape entanglements. They have noted stiffly that "the public law covering retroactive awards prohibits us from considering a recommendation for an award unless there is conclusive evidence that a formal recommendation for the award was entered into official military channels within two years of the act or service. . . ."

It would have been a bit difficult to meet the two-year deadline. Regimental headquarters believed the platoon had been wiped out, and those who knew the story had been dispersed to German prison camps. When they last saw James, he seemed unlikely to recover.

We tracked down Lyle J. Bouck in St. Louis, where he is now a chiropractor. He helped us get the story from other members of his World War II unit. From their accounts, we have pulled together the details of that day of courage.

It began before dawn on the bitter-cold morning of Dec. 16, 1944. The platoon had been handpicked to serve as the eyes and ears of the regiment. Almost all of them had college and athletic backgrounds. But their role had never been combat; they were an intelligence and reconnaisance platoon.

But they had been ordered to fill a gap in the front line. They settled into foxholes overlooking Lanzerath's eight or nine frame houses and a stretch of road leading to the strategic fork. One prong led like an arrow to the Meuse and the rear of their division. Beyond was the vital supply port of Antwerp on which Gen. Dwight D. Eisenhower and his armies depended.

At precisely 4:40 on the fateful morning, the men of the I&R platoon were jarred by the thunder and crash of a massive artillery barrage. The ground literally shook under their feet.

They had no way of knowing that they had ringside seats to the opening of Adolf Hitler's Ardennes offensive. He sought to encircle the American divisions in the Bulge and seize Antwerp. Nor did they know that they stood in the path of one of the spearheads of the Nazi assault.

During the next 18 hours, they would foul up the mission of a special panzer SS unit under Lt. Col. Joachim Peiper, who, furious over having his offensive stalled, later ordered the execution of 71 American prisoners at Malmedy.

The entrenched platoon survived the two-hour artillery baptism without casualties. It was followed by an ominous silence in the fields and woods around them. Minutes later, Bouck and James in the forward foxhole were appalled to see their closest support, a tank destroyer company about a mile away, beat a retreat toward the rear. Jeered James: "They might at least wave goodbye as they leave."

From the regiment came anxious instructions to scout out the situation east of Lanzerath. Four men—Bouck, James, Sgt. Bill Slape and Pvt. John Cregar—crept in a ditch toward the village and sprinted the last lap to the second floor of a house that had served as an observation post. They surprised a civilian talking German over a telephone; he had the look of a fifth columnist caught in the act.

James whipped out his bayonet and forced the stranger to drop the telephone. But Bouck had no stomach for a civilian execution. They let the suspected spy go, and he scurried down the stairs.

From their vantage point, the four Americans saw rolling toward them a German column in full battle array. Leaving the other two to keep watch, Bouck and James raced back to their foxholes. The lieutenant radioed headquarters the news that a massive attack was on the way. His superiors were skeptical. "Damn it," exploded Bouck, "don't tell me what I can see! We've got 20-20 vision here! There's a whole column of Krauts coming up that road!"

His demand for artillery fire on the road into Lanzerath went unheeded. Meanwhile, he received an urgent call from the two men in the observation post; they reported that Germans were already occupying the floor beneath them. Three men—Cpl. Aubrey McGehee, PFC Jordan "Pop" Robinson and Pvt. Jim Silvola—were sent to aid the trapped pair. But Slape and Cregar managed to sneak unnoticed through a rear, second-story window. In racing to safety across the icy road, Slape became the first casualty of the battle. He slipped and broke two ribs.

All too soon, the Germans appeared below, marching steadily on each side of the road, their weapons slung over their shoulders. Bouck ordered his men to hold their fire until the first command vehicle appeared. But at the last minute, a small girl ran out of a house and pointed to their location.

The Nazi commander, reacting instantly to the alarm, shouted a command, and the advancing Germans dove for cover. The advantage of an ambush was lost, but the Americans were so well hidden on the snow-covered slope that the Germans were unable to pinpoint their location.

From the forward position, James fired bursts from his grease gun. Slape manned the mounted machine gun on the jeep with deadly effect. From other foxholes, platoon members such as Risto Milosevich, Lou Kalil and Bill Dustman laid down lethal automatic rifle fire.

Separated from the outfit, Robinson, McGehee and Silvola took shelter behind a pile of cut timber and opened fire from another direction. The attacking Germans fell back, their ranks decimated, leaving their dead and wounded on the battlefield.

After a second repulse, a team of Germans approached waving a white flag. They sought a cease-fire so their medics could attend the wounded. Someone on the American side let go a defiant round of rifle fire at the feet of the Germans. This angered Bouck, who agreed to the cease-fire.

The third German attack began in the early afternoon. Heavy small-arms fire knocked out Slape's machine gun on the jeep and drove him to cover. He sprinted to the foxhole occupied by Milosevich. "Just as I reached his position and before I could get into the hole with him," Slape recounted, "two Germans opened up on me from about 50 yards. I got one of them and my carbine jammed—it was so hot I could barely hold it—so I threw it at the other German and dived into the bunker. I got him with a rifle."

The firefight was ferocious. The three behind the woodpile ran out of ammunition and were captured trying to make their way back to the platoon. Some Americans were wounded but continued to fight, in Slape's words, "like tigers." Two newcomers, Pvt. Cliff Fanscher and an unidentified GI from another unit were killed in the action.

The Germans again were driven off, but ammunition was running low. Bouck turned to James in their bunker. "My orders are to hold the hill at all costs," said the lieutenant. "But you take off with as many of the men that want to go." James shook his head fiercely. "Lieutenant," he said, "you stay, we all stay." They turned to meet the fourth attack, which they met furiously, according to Slape, "even up to eyeball-to-eyeball contact."

The end came for Bouck and James in a horrific lightning flash. A German burp gun was poked into the rifle slit of their makeshift bunker and fired directly in James' face. The blast tore out his eyeball and most of his right jaw.

Bleeding from a bullet wound in his leg, Bouck helped a German medic carry James down the slope past the German dead toward Lanzerath.

About 10 p.m., an incensed officer, wearing the death insignia of the SS, strode into the village cafe where Bouck and James had been deposited. The officer was in a rage. He demanded to know why a "battalion" of Americans had cost him a day. He shouted that his troops had spent the time milling uselessly around when they should have been driving toward their objective.

The enraged Nazi was Lt. Col. Peiper. He never noticed that only a few feet away lay the 20-year-old lieutenant and the savagely wounded James who, with 16 other GI's, had stopped Peiper's elite battalion. (Peiper was to serve a six-year war crimes sentence for the Malmedy massacre, then to be assassinated by a group calling themselves the Avengers at a French villa in July 1976.)

After Peiper stormed out, Bouck succeeded in getting medical attention for James from a German doctor who praised the American's bravery. Then Bouck was led off, leaving James apparently dying behind. The lieutenant heard a black wooden country clock in the tavern chiming midnight and realized that he had reached his 21st birthday with only one gift—the red badge of courage.

This same clock now hangs in the living room of the modest Port Chester, N.Y., home where James and his wife, Lucille, raised their four sons. Her husband went back to Lanzerath a few years before his death and returned triumphantly with the clock.

The widow, sitting proud and erect, took up the story after Bouck's departure. James was moved to a prisoner depot, she said, where other German doctors did their best under rudimentary war conditions to repair his face. En route, a Nazi soldier stole his shoes, remarking, "Amerikanischer, you won't need these anymore."

She told about James's escape, recapture and liberation. He returned home to a life of painful surgery. After one operation, he met an Army nurse, Lucille Cassell, a slim, brown-haired West Virginia girl. They were married in 1948 after his graduation from the University of Pennsylvania. Characteristically, he was on the track and wrestling teams. Then he enrolled in Cornell Law School and eventually took his family to Port Chester.

Will James is remembered in Port Chester as a model citizen who was active in community affairs, youth work, church activities and politics. He served for 16 months as Rye Town Republican chairman. But only a few knew he was in constant pain from his war wounds. In June 1977 he returned home from his 36th operation, still in agony. A few days later, he was found dead in his bedroom.

In his St. Louis office, Bouck reflected on the furious battle that helped stop the 1944 Nazi offensive. He endorsed Representative Ottinger's effort to get a Medal of Honor for James: "I'd like to see Will James get every possible honor he has coming to him. He spent a lifetime of mental torture and physical agony."

He had one more thing to say about the unheralded Lanzerath Incident: "I think every man who was there is entitled to a medal, red tape or no red tape."

ADDITIONAL COSPONSORS

S. 6

At the request of Mr. LEAHY, the Senator from Vermont (Mr. STAFFORD), the Senator from Georgia (Mr. TALMADGE), the Senator from North Carolina (Mr. HELMS), the Senator from Kentucky (Mr. HUDDLESTON), the Senators from Wisconsin (Mr. NELSON and Mr. PROXMIRE), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. BOREN), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. COCHRAN), the Senator from Kansas (Mr. DOLE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), the Senator from Michigan (Mr. RIEGLE), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), the Senator from North Dakota (Mr. YOUNG), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 6, a bill to amend the Agricultural Act of 1949 requiring that milk be supported at not less than 80 percent of parity.

S. 294

At the request of Mr. MATHIAS, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 294, a bill to repeal the social security offset provision.

S. 1204

At the request of Mr. RIBICOFF, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1204, a bill to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes.

S. 1304

At the request of Mr. BAUCUS, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 1304, the Legislative Oversight Act of 1979.

S. 1435

At the request of Mr. NELSON, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Colorado (Mr. ARMSTRONG) were added as cosponsors of S. 1435, the Capital Cost Recovery Act.

S. 1523

At the request of Mr. THURMOND, the Senator from Georgia (Mr. TALMADGE), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER) and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of S. 1523, the Veteran Senior Citizen Health Care Act of 1979.

S. 1598

At the request of Mr. NELSON, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1598, the State Social Security Deposit Act.

S. 1688

At the request of Mr. MATHIAS, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 1688, a bill to clarify the extent to which a State or political subdivisions may tax certain income from sources outside the United States.

S. 1724

At the request of Mr. WILLIAMS, the Senator from Maryland (Mr. SARBANES) and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 1724, the Home Energy Assistance Act.

S. 1754

At the request of Mr. MOYNIHAN, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1754, a bill to determine the causes and effects of acid precipitation throughout the United States and to develop and implement solutions to this problem.

S. 1775

At the request of Mr. TALMADGE, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 1775, the Agricultural, Forestry, and Rural Energy Act.

S. 1913

At the request of Mr. CRANSTON, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 1913, a bill to preserve the existing taxation of wine used in the production of distilled spirits.

SENATE JOINT RESOLUTION 107

At the request of Mr. RIBICOFF, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of Senate Joint Resolution 107, authorizing and requesting the President to issue proclamations designating the weeks of January 21 through January 27, 1979, and January 20 through January 26, 1980, as "Junior Achievement Week."

SENATE RESOLUTION 184

At the request of Mr. HELMS, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of Senate Resolution 184, a resolution with respect to the matter of Josef Mengele.

AMENDMENT NO. 557

At the request of Mr. STEVENSON, the Senator from Utah (Mr. GARN), the Senator from Ohio (Mr. GLENN), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of amendment No. 557 intended to be proposed to H.R. 4986, the Depository Institutions Deregulation Act.

SENATE RESOLUTION 266—ORIGINAL RESOLUTION REPORTED AUTHORIZING PRINTING OF "THE COST OF CLEAN AIR AND WATER" AS A SENATE DOCUMENT (S. DOC. NO. 96–ND)

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 266

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States in compliance with section 312(c) of the Clean Air Act, as amended, and section 516(b) of the Federal Water Pollution Control Act Amendments of 1972 entitled, "The Cost of Clean Air and Water" be printed, with illustrations, as a Senate document.

SEC. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Environment and Public Works.

AMENDMENTS SUBMITTED FOR PRINTING

DEPOSITORY INSTITUTIONS DEREGULATION ACT—H.R. 4986

AMENDMENT NO. 560

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. JAVITS, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them, jointly, to H.R. 4986, an act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan institutions to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs will hold a hearing on the bill S. 1411, the Paperwork and Reduction Act of 1979. This hearing will take place on Thursday, November 1, 1979, at 10 a.m. in room 3302 of the Dirksen Senate Office Building.

If anyone has questions concerning this hearing, they may contact the subcommittee office at 128 C Street NE, or 224–0211.●

SUBCOMMITTEE ON THE HANDICAPPED

● Mr. RANDOLPH. Mr. President, I wish to announce that the hearing scheduled for November 6, 1979 at 9:30 a.m. in room 4232 Dirksen Senate Office Building by the Subcommittee on the Handicapped has been changed to Monday, November 5, 1979. The hearing on November 5, 1979 will be held at 9:30 a.m. in room 4232 Dirksen Office Building. It will be an oversight hearing on Public Law 95–602, the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978.

Persons wishing additional information should contact Mrs. Patria Forsythe, staff director, Subcommittee on the Handicapped, (202) 224–9075.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT GENERALLY

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Taxation and Debt Management Generally Subcommittee of the Committee on Finance be authorized to meet during the sessions of the Senate on Wednesday, October 31, 1979 and Friday, November 2, 1979 beginning at 2:30 p.m. to hold hearings on miscellaneous tax bills and the Tax Court Improvement Act of 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate today beginning at 2:30 p.m. and tomorrow beginning at 10 a.m. to continue markup of the Alaska lands legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE FRENCH NUCLEAR PROGRAM

● Mr. McGOVERN. Mr. President, I am not an expert on nuclear energy. But because of the importance of the energy issue, I call the attention of my colleagues to an editorial in the St. Louis Globe-Democrat of October 17, 1979, entitled, "France, Others Have Nuclear Lead," the editorial follows:

FRANCE, OTHERS HAVE NUCLEAR LEAD

"France has jumped far ahead of a paralyzed United States in building not only conventional water reactor plants but also in developing a commercial fast breeder reactor, facilities for reprocessing spent nuclear fuel and a process for safely storing nuclear waste.

"The French, now 10 years ahead of the U.S. in developing nuclear power, have moved so rapidly that they plan to produce 60 percent of their electricity from atomic power by 1985. The straitjacketed U.S. nuclear industry will be lucky if it is producing 18 percent of the nation's electricity by 1985.

"The French, the British, the Soviet Union and other major industrial countries have recognized the great potential of the breeder technology that apparently has escaped President Carter and others in Washington.

"For the fast breeder has two enormous advantages over present reactors. First, it is able to use the abundant Uranium 238 which comprises about 99 percent of uranium fuel. Conventional reactors, by contrast, must rely on Uranium 235 which comprises less than 1 percent of the uranium fuel.

"Secondly, when the U–238 is bombarded with neutrons along with plutonium, the reaction produces more plutonium than is consumed—hence the name, breeder.

"Thus the fast breeder is able to get up to 80 times as much energy from the same uranium that now is used in present reactors. Another important factor is that the United States has an incredible amount of U–238 stored in drums at uranium enrichment plants since U–238 is a byproduct of this process.

"Opponents have argued that the U.S. shouldn't move ahead on nuclear power because the technology and facilities for storing nuclear waste haven't been developed. But, here again, the French have proven that this is phony argument. They not only have developed the technology but have built a plant that is busily engaged in enclosing hazardous nuclear byproducts in solid glass blocks that can be safety stored underground in a relatively small area for hundreds of years. The process is called vitrification.

"France, Britain, Soviet Russia and other countries all are doing the things in developing nuclear power that antinuclearites in this country say can't be done. They are moving steadily toward a future that is less and less dependent on oil and other scarce and costly fossil fuels. Meanwhile the nation that discovered atomic power has tied its own nuclear industry in knots and has put itself increasingly at the mercy of the OPEC oil pirates."●

WE DO NOT HAVE TO LIVE WITH TAXFLATION

● Mr. DOLE. Mr. President, the Consumer Price Index rose by over 1 percent in September, an annual rate exceeding 13 percent. Meanwhile, the Chairman of the President's Council on Economic Advisers believes that inflation is here to stay. Charles Schultze told the Washington Forum last week that sluggish productivity in American industry limits our ability to cut the inflation rate. Mr. Schultze feels we will be fortunate to get the rate down to a steady 9 percent. The administration's strategy, according to Schultze, is to target any tax reduction toward increasing investment and to improve the cost effectiveness of Government regulation. Schultze also reiterated the administration's call for economic austerity and wage and price restraint.

The Senator from Kansas would not quarrel with the goals of targeting tax reductions toward investment, or reducing the burden of Government regulation. But Mr. Schultze's other remarks seem to indicate a willingness to throw in the towel in the battle against inflation. It is that persistent underlying rate of inflation, rather than sudden price shocks induced by OPEC, that is our real enemy. We must publicly commit ourselves to a long-term battle against inflation, and we must be determined to win. Otherwise, we will never be able to break the inflationary psychology that grips the Nation. If the Government can set an example of monetary and fiscal restraint, then we have a fighting chance.

The Chairman of the Council on Economic Advisers acknowledged that real income and real purchasing power are declining. Mr. Schultze also said that this decline has so far caused consumers to cut their savings rather than consumption, but he anticipates a slowdown in sales in the near future.

Mr. President, it is unfortunate that Charles Schultze missed an opportunity to endorse a real reform that would help deal with the problems he identified. People could save more if they had a bit of tax relief, and they would be more inclined to moderate their wage demands. In addition, tax relief can be designed to eliminate a major incentive the Government has to keep inflating the economy.

This incentive is the windfall in tax revenues that the Government receives when inflation pushes people into higher and higher tax brackets. Income gains that merely keep pace with inflation are treated as real income gains under the tax code, with the result that people pay a higher rate of tax in periods of inflation. This tax penalty or "taxfiation," penalizes thrift and productivity as well as encouraging Government to inflate the economy, knowing that it will gain extra revenues as a result.

An end to taxfiation would help us beat inflation, and the administration would do well to consider that fact. The Tax Equalization Act, S. 12, would stop taxfiation by indexing the tax brackets, zero bracket amount, and personal exemption according to the rise in the Consumer Price Index. Tax liability would be assessed on a constant measure of real income, and Congress would have to act to raise taxes. In addition, Congress would not gain additional revenues by allowing inflation to continue.

Mr. President, the Senator from Kansas introduced the Tax Equalization Act in recognition of the devastating impact inflation has on the American people. To exact an inflation tax penalty as well, without any action by Congress, is unfair and unwise. It is high time we deal with this problem.●

SALT AND THE FUTURE OF FREEDOM

● Mr. JACKSON. Mr. President, at the 25th Annual Session of the North Atlantic Assembly, convened in Ottawa, Canada, October 22–27, I had the opportunity to address the assembled Parliamentarians from NATO countries in plenary session on the subject of the Strategic Arms Limitation Treaty (SALT).

I ask that the full text of my October 26 address be printed in the RECORD.

The address follows:

SALT AND THE FUTURE OF FREEDOM

(Address by Senator HENRY M. JACKSON)

Like so many others, I am disappointed at the outcome of the SALT II negotiations. What is required for the peace of the world is serious East-West arms reduction—a genuine stabilizing arms limitation. Tragically, the SALT II treaty submitted to the Senate turns out to be an unbalanced charter sanctioning the massive buildup of Soviet strategic power, advantaging the Soviets in critical respects, and containing provisions of great importance that we are unable to verify.

My friends, it is time for all men and women who cherish freedom to face reality. A decade of the "SALT process" has been accompanied by an unparalleled Soviet strategic buildup.

In 1969, the United States led the Soviet Union in every single indicator of strategic military strength: the number of land-based and sea-based missiles, the number of warheads, the megatonnage of its missile force, the accuracy of its weapons, the potential of its missiles to strike protected military targets, and so forth. Now, the Soviet Union leads the United States in every one of these same indicators with only one exception, the number of warheads. And the American lead in warheads is rapidly evaporating.

For the first time, after a decade of arms control negotiations, the Soviets have acquired the capability to destroy a significant portion of the American strategic retaliatory forces—something they were never able to do before—and something that we cannot do to their forces even now.

It is now generally recognized that the SALT agreement of 1972 did not, as its proponents hoped, moderate the growth of Soviet strategic forces. In fact, the Soviet devotion of resources to strategic forces actually increased after the 1972 agreement. Today they devote more than three times as much resources as the United States to strategic offensive and defensive forces, as measured in constant-dollar terms. Indeed, the Soviets have invested in the last decade over 104 billion dollars more than the United States in strategic nuclear forces alone.

In conventional weapons, the situation is also serious: the Soviets lead us in tanks by 5 to 1, in artillery pieces by 2.3 to 1, in attack submarines by 3.5 to 1, in ground forces divisions by 10 to 1, in medium bombers by 11 to 1, and in air defense missile systems by 278 to 1. And in this last decade we have begun to see the development of a sophisticated, ocean-going Soviet navy, including nuclear-powered surface combatants.

The adverse shift in the strategic and conventional equation is bound to have far-reaching effects upon world politics. As the Kremlin becomes confident of possessing strategic superiority—combined with Soviet conventional superiority in local situations—the willingness of the Soviet leaders to confront and intimidate the NATO nations and their vital interests will grow correspondingly. We are all aware that during this same period we in the West increasingly will be dependent on various countries in the Third World for raw materials, especially energy resources.

The great danger ahead is the Kremlin's political use of strategic superiority as an umbrella under which to pursue a series of probes—on their own or through the foreign legions of their surrogates—to expand Soviet power and weaken the position of the western nations. The fateful question for us is whether the NATO countries can conduct effective foreign policies—which will assure their national security—from a position of strategic and conventional inferiority. Can our leaders bargain confidently and stubbornly, can they stand up to Soviet blackmail, can they hold their ground in crisis situations—from a position of relative military weakness?

On October 6, 1938, following the Munich summit, as the policy of appeasement lay in ruins, Neville Chamberlain said in the House of Commons:

"Our past experience has shown us only too clearly that weakness in armed strength means weakness in diplomacy."

This year—four decades after Munich—what the world needed from SALT II was a treaty that would substantially reduce strategic forces—a move toward genuine arms control.

In 1974 and 1975 I outlined and urged just that sort of treaty. In March 1977 President Carter proposed significant mutual force reductions and a ban on the deployment of new ICBM's. Many of us in Congress warmly supported that proposal. But the Administration's initial position collapsed at the very first Soviet objection: it did not have the conviction to hold its ground with the Russians.

However, the SALT II agreement—which the Soviets did not object to—will permit them to continue unabated their huge increase in strategic forces, just as did SALT I. During the seven years of this treaty, Moscow is expected to add more than 5,000 strategic nuclear warheads to its already formidable arsenal. Far from limiting the Soviets to just one "new type" ICBM as has been claimed, a close reading of the treaty makes it clear that loopholes in the definition of the term "new" will enable the Soviets to continue to develop and deploy their very new ICBM's in the guise of modernization.

The new treaty allows the Soviets some 300 heavy missiles, each with 10 warheads. The United States is not allowed any heavy missiles nor are we compensated for the imbalance in throw weight. SALT II thus violates the Congressional mandate to provide for equal levels of strategic forces, taking into account missile throw weight. That mandate is contained in the Jackson amendment which has been part of American statute law since 1972.

And even our light missiles, which have a third the throw weight of the Soviet light missiles, are permitted to carry only half as many warheads—six on each missile for them and three on each missile for us. More important, we can no longer rely on our earlier advantage in accuracy to compensate for this quantitative imbalance.

The Soviets have a new supersonic bomber, the Backfire, currently in production. It doesn't count in the treaty. We have an old subsonic bomber, built 20 years ago, called the B–52. Each B–52 counts under the treaty—even those that have been cannibalized for spare parts.

There are more inequalities in this treaty. For instance, why is it "equal" for the Soviet Union to be allowed to deploy yet more SS–20's targeted against Europe during the same period that we are prohibited from deploying intermediate range cruise missiles? What is equal about a Protocol that codifies the notion that we must hold back on our most promising new theater systems, while the Soviets proceed to build up their theater nuclear capabilities? Both in public and in private the Soviets have made clear they regard the protocol limitations as not temporary in nature. And the current Soviet campaign of public pressure against NATO's theater modernization is only the beginning.

Already Dutch Parliamentarians and some others in Europe are telling us that ratification of SALT II is a prerequisite for adoption of the theater force modernization program. As Senator Nunn has responded:

"This reminds me of a Marx brothers movie where Chico, whose life is being threatened by armed thugs, points a gun at his own head and shouts, 'If you come any closer, I'll pull the trigger . . .'

"To accept this threat as a serious argument for SALT II ratification, one would have to conclude that our allies are not dedicated to their own defense. If this is the case, the future of the alliance is not bright, whether SALT II is ratified or rejected."

If the United States settles for an unequal SALT II agreement, what is going to persuade Moscow to accept an "equal" agreement in a SALT III or a SALT IV? Once SALT II sets the precedent for inequality, do you believe Moscow will give it up when dealing

with us collectively in some MBFR agreement, or in a SALT III which incorporates theater systems? The free nations will be far better off if the United States Senate insists on equality now, in SALT II, rather than hope that the "next time around" equality will be achieved. It won't be if we fail to demand it now. Just remember that SALT II was to have been the "next time" as a follow-on to SALT I.

Moreover, there are significant aspects of SALT II which cannot be verified sufficiently. The Protocol to the treaty, which deals with cruise missiles and mobile missiles, effectively cannot be verified—it's as simple as that. There are other areas where the treaty causes serious verification problems including: Brezhnev's Backfire statement, the number of re-entry vehicles deployed on the SS-18's, and the encryption of telemetry allowed the Soviets. Thus, many Senators believe that this treaty as submitted is not adequately verifiable.

As Lord Chalfont recently said:

"Those who support the treaty seem to suggest that it is in itself a Good Thing, like cricket or brotherly love, and that anybody who does not support it is either a cad or some kind of irredeemable right-wing reactionary."

My friends, the treaty is not like cricket or brotherly love. It is not a measure of disarmament. It is not a breakthrough of any kind. It is an unequal charter for the massive Soviet strategic buildup—an altogether ironic outcome for a so-called arms control agreement.

As Lord Chalfont went on to say:

"It is argued by people both in this country and in the United States that, if the Senate were to fail to ratify this treaty or outrage the Russians by demanding any form of amendment, the prestige of President Carter and of the whole American Presidency would be undermined; and that this would have effects upon the world balance of power altogether disproportionate to the importance of the SALT agreement. I find this argument difficult to follow. If the treaty itself is bad and ineffective, then it seems to me that it would be far more dangerous to accept it uncritically than to say so now while the Senate is in the process of debating the ratification. It will be no good saying it afterwards."

As you well know, the Senate of the United States has a constitutional responsibility not only to give or withhold its consent to the Administration's proposed treaty, but to give its advice as well. That is just what we are doing. And we are also taking a hard look at our overall defense posture.

Many of us in the Senate believe that the treaty as submitted is dangerously defective. And in our political system the means of bringing about change in a proposed treaty are numerous. They include Senate amendments and motions to recommit a treaty to the President with instructions to reopen the negotiations and with guidelines as to the outcome we should seek. Many of us believe that no SALT II treaty would be preferable to an unsafe one, and that the current treaty will not be safe unless its most serious deficiencies are corrected.

In short, a major undertaking is underway in the Senate to help fashion a balanced SALT II treaty that provides for equality and greater verifiability, and protects the bargaining position of the NATO alliance for genuine, mutual arms reduction.●

THE INTERCITY BUS: A VITAL MODE OF TRANSPORTATION

● Mr. McGOVERN. Mr. President, when either the administration or the Congress wants to encourage intercity mass transportation, they normally turn to Amtrak or the commercial airlines.

Certainly both of these transportation modes have their place, but I would hope that new consideration could be given to the most cost effective, most flexible system that we have—the intercity bus. Our privately owned intercity bus systems must compete on high volume routes with Amtrak that is subsidized with tax dollars. Yet the buses are also expected to serve all points in rural America with the only public transportation available for many communities.

In South Dakota, for example, we have never had any Amtrak service. Commercial airlines serve only nine boarding points in the entire State and we rely, completely, on a privately owned bus system to provide the only access most towns and cities have to any form of public transportation.

We must stop regarding the intercity bus system as the "poor country cousin" who must be satisfied with the "leavings" from the funding and attention given to other forms of public transportation. It is primarily the bus that utilizes our expensive network of interstate highways, meets a commitment to rural areas for both passengers and light freight and, in a general sense, gives our country the truly national public transportation system the times require. As more and more people are forced to make an economic decision to take public transportation, we need to have an intercity bus system in place that will respond to that need.

Here in our Nation's Capital, we need to insure that our intercity buses can utilize the transportation complex at Union Station—so that passengers can transfer easily between Metro, Amtrak, and our privately owned bus systems. In other major metropolitan areas, we need to encourage the location of attractive, convenient bus terminals that will further encourage passengers to take the bus. But, perhaps most importantly, we need to abandon the Federal mind-set that depresses the development of intercity buses. As the energy crisis worsens, it is the bus that will provide the most direct transportation assistance to the most people.

Writing in the October 28 edition of the New York Times, the respected columnist, Tom Wicker, spoke to these points in a thoughtful article.

I ask that Mr. Wicker's article be printed in the RECORD:

The article follows:

THE NECESSARY BUS

(By Tom Wicker)

LIMA, OHIO, October 26.—This Ohio industrial city is like a lot of other hustling American communities—it's easy to go somewhere else by car (Interstate 75 passes through, going north and south) but not so easy to get anywhere by public transportation.

The nearest airlines fly from Dayton or Toledo, each an hour and a half away. Amtrak, typically enough, serves the city only between midnight and breakfast, via daily long-haul trains between New York and Chicago. Eastbound service departs at 12:37 A.M., westbound at 5:45 A.M.

Greyhound bus service is more frequent—13 departures daily, two directly to Chicago. But if you want to go to New York, there's only one connection, requiring a change of buses in Pittsburgh.

With no more intercity public transportation than that, Lima—the center of an area population of about 87,000—must depend primarily on private automobiles (like the rest of the nation, in which over 85 percent of intercity travel is by auto, 10 percent by plane, 2 percent by bus, and under 1 percent by train). And that makes Lima and the nation vulnerable to renewed gasoline shortages and rising gasoline prices.

It might be supposed, therefore, that rail and bus lines would be expanding; but in fact, Amtrak has just reduced its route structure and intercity bus service has been dropping off in this country for the last decade (although not in Lima). During that time, bus company earnings have declined by about 50 percent, industry sources say, and more than 150 compaines that used to serve smaller communities have gone out of business.

Whatever the long-term need for renewed rail passenger service, a revivial of intercity buses offers more short-term energy conservation and speedier improvement in intercity public transportation. Buses can already go where cars can, on the nation's magnificent highway network; trains, in contrast, cannot properly be utilized until extensive and expensive roadbed work has been done.

Fully-loaded buses, moreover, operate at greater fuel efficiency than private autos or trains carrying no more passengers than Amtrak's do today, or will for years to come. And even, now, after a decade of decline, intercity buses are serving more than 15,000 communities—only about 1,000 of which have any other form of intercity public transportation.

Buses are also the transportation mode most used by people least able to do without public conveyances. Industry spokesmen say that more than 60 percent of bus travelers have annual family income of $10,000 or less—compared to 41 percent for intercity auto passengers, 38 percent for rail and 22 percent for the airlines.

More than 60 percent of bus passengers are 55 or older, or under 18 years of age. More than 60 percent are women, again a greater percentage than for rail, air or auto. And the 88 percent of bus riders on personal or family trips—rather than expense-account travel—actually exceeds the 84 percent of private auto passengers traveling for personal reasons.

Nearly a third of all bus passengers live in small communities or rural areas; about a third of all bus trips begin or end in rural areas. Yet, just such areas have suffered most from the decade of decline in bus service; West Virginia, for example, last 43 percent of its routes in that period. Kansas lost 28 percent.

Even after that disastrous decade, buses carried 335 million intercity passengers last year—more than the airlines and Amtrak combined. And, like Amtrak, the buses picked up ridership during the gas shortages of 1973-74 and 1979, which shows that people can be lured or threatened out of their autos and into public transportation—if public transportation is available. In all too many cases, it isn't.

The reasons for declining bus service are many—rising affluence that has produced multi-car families, urbanization that has taken people away from rural areas where only buses can provide service, high unemployment and inflation rates that have hit hardest at the people who make up most of the bus traveling public.

Industry spokesmen also insist that a subsidized Amtrak has cut into their market—perhaps by as much as 30 percent in the Northeast Corridor. Now they are urging Congress to grant intercity bus operators an additional 10 percent investment tax credit for the purchase of new buses to upgrade their operating fleet. That would cost about

$20 million in the first year, perhaps twice that after five years.

In addition, some Congressmen from smaller states are pushing for a Federal subsidy to preserve routes to rural areas (1,700 have been cut off in the past 10 years, and another 1,000 are now threatened). If the subsidy is approved, the industry will seek about $15 million the first year, compared to $70 million in Federal subsidies recently awarded five regional airlines serving only a few communities.

These relatively modest proposals could produce an important contribution to energy conservation; and in the decade to come, unlike the one just past, demand is likely to rise for widespread and efficient public transportation—bus as well as rail, in the nation's smaller communities as well as in its crowded urban corridors.●

THE HEAVY MISSILE ISSUE AND SALT II

● Mr. GARN. Mr. President, so far the Foreign Relations Committee has considered several amendments to the Salt II treaty. They were voted down. Two of the most important amendments would have allowed the United States to have the same number of "heavy" ICBM's as the Soviet Union. This important change is essential and the "heavy" missile amendments will be offered again on the Senate floor. Consequently, I would like to address this issue.

The most striking advantage allowed the Soviet Union in the SALT II treaty is a monopoly of 308 heavy missiles. These weapons have twice the payload of anything allowed the United States under the SALT II treaty—the proposed MX—and seven times the payload of the most modern deployed U.S. ICBM, the Minuteman III. The SS-18 heavy missile is supposedly limited to 10 warheads of about one megaton yield, but has been tested so that it can be deployed with 12 to 14 one-megaton yield warheads. This compares with our current capability of 3 warheads of 0.17 megaton on the Minuteman III and three weapons of 0.335 megaton on the upgraded Minuteman III to be operational by about 1980.

It is sometimes argued that the United States has had no interest in heavy missiles, and has no interest in them at the present. Hence, it is argued, the United States does not suffer any disadvantage from being excluded from these weapons. Furthermore, the Secretary of Defense argues that the MX, with 10 warheads of something like 0.5 megaton each, is almost the equal of the SS-18 heavy ICBM of the Soviet Union. The U.S. decision to opt for light ICBMs is often misunderstood. It was not based entirely on the U.S. advantage in accuracy. The U.S. Minuteman ICBM program was born in 1958, when we believe we were in a missile race with the Soviet Union and at the wrong end of an emerging "missile gap." The United States opted for smaller ICBM's of the Minuteman-size primary because they were relatively cheap and could be mass produced. This, coupled with technical advantages in accuracy and sophistication, made the smaller missile desirable and made a large force size possible. The original plans for Minuteman deployment dwarfed the Minuteman force that was ultimately built. The Strategic Air Command wanted many thousands of Minuteman ICBM's. Originally the Air Force planned on some 2,400. The figure of 1,000 was ultimately adopted when the Secretary of Defense Robert McNamara accepted the doctrine of mutual assured destruction and, therefore, abandoned any effort to retain strategic superiority.

If the United States had actually gone ahead and built the numbers of Minuteman ICBM's that the Air Force desired, we would currently have strategic forces comparable to those that will be possessed by the Soviet Union in the early 1980's, including an overwhelming capability against Soviet military forces.

Prior to the decision to accept mutual assured destruction as the U.S. doctrine for strategic nuclear forces, the United States had built 250 heavy missiles. Most of these were retired as the result of the adoption of the new doctrine—though publicly it was rationalized in the name of reducing costs.

The Minuteman III ICBM was specifically designed as the smallest vehicle capable of carrying its MIRVed payload. Its design was in effect dictated to the Air Force by Secretary McNamara. Had the Air Force designed the Minuteman III without the constraints dictated by the Secretary of Defense it would have been considerably larger than it turned out to be.

In the 1960's, the United States considered a heavy missile follow-on to the Minuteman III, the WS-120 system. It never got underway as a project, because of the upsurge of antimilitary feeling caused by the mismanagement of the Vietnam war. In a political environment where a major attempt was made to prevent even the U.S. deployment of the MIRVed Minuteman III, it was impossible to seriously consider a much more capable weapons system.

The MX system first was envisioned as a 10,000 pound throw weight missile, able to carry 14 warheads. The current version of the MX has the capability to carry more warheads than allowed by the treaty, although it was specifically designed down to be a "light" missile under the treaty.

The MX is currently being designed to have less than one-half the capability of the Soviet SS-18. Suggestions by the Secretary of Defense to the contrary are based on estimates which assume the maximum possible yield for the MX warhead and close to the minimum reasonable yield for the Soviet system, and on the assumption that the Soviets will not exploit the option to deploy the system with 12 to 14 reentry vehicles. Using comparable warhead technology the MX would carry 10 weapons of 0.5 megaton each while the SS-18 would carry 12 to 14 weapons of 1 megaton each. If the MX was not limited to the SALT definition of a "light" ICBM it could carry up to 14 weapons without a significant increase in its size.

This negotiating option was open to the United States when the Soviets tested the SS-18 with more warheads than is allowed by the treaty. Instead of demanding the right to do the same with the MX, the United States has, in effect, winked at the Soviet violation of the "spirit" of SALT II, which quite possibly represents Soviet preparations to violate the letter of the agreement by actually deploying the SS-18 with more warheads than are allowed. This seems even more possible, in view of very recent intelligence information which indicates that the new Mod 4 warhead for the SS-18 was specifically designed to carry 14 weapons.

If the United States ratifies the SALT II treaty in the present form, we will be accepting a gross inequality—a Soviet monopoly on heavy missiles. The United States will be accepting almost a one-third reduction in the potential effectiveness of the MX force in order to obtain an ineffective limit on the number of Soviet warheads on the SS-18.

I have proposed amending SALT II to give the United States the right to deploy heavy missiles and to improve U.S. ability to verify the warhead constraints under the agreement. I would prefer to abolish heavy missiles completely, but if we are going to have an arms control agreement that allows them, then the United States should have the option to build them. If they do not have military significance, as is claimed by the Carter administration, then the Soviets should not object to such an amendment. If they do have military significance, then this is an option that we should have. Or at least we should not allow the Soviets to have a unilateral right to these weapons. I believe that 308 missiles, each capable of delivering 10 to 14 warheads in the 1 megaton range, do have military significance and that the Senate of the United States should approve no SALT treaty that precludes such an option for the United States.●

TRIBUTE TO RAY GENET

● Mr. GRAVEL. Mr. President, it was with sorrow and disbelief that I learned of the death of my friend Ray Genet on Mount Everest. Ray was Alaska's foremost mountain climber and was known worldwide for his knowledge and climbs of Mount McKinley.

I met Ray shortly after his arrival in Alaska in 1967, and I have had the great pleasure of his company many times since. In his presence one was immediately struck by his physical strength and his sheer exuberance of life.

With Ray there was no such thing as "quiet conversation." His penetrating eyes constantly darted and probed, his muscles appeared to be constantly flexing with each new thought and comment, and his excitement and aggressive pursuit of an idea or a physical challenge were instantly contagious.

His participation in the first winter ascent of Mount McKinley is legendary. Immortalized in the book "Minus 148°" by fellow climber Art Davidson, "Pirate" Genet spent nearly a week in a small snow cave near the summit with little food waiting out a fierce winter snow in unbelievable cold. After that historic climb, Ray stayed on in Alaska and became the leading climbing guide for

Mount McKinley. Over the past years, Ray climbed the 20,300-foot mountain more times than any other person—in excess of 30 times.

Thus, it seems incredible that Ray was killed—even on Mount Everest, the ultimate mountain climbing challenge. For those who knew Ray, his physical abilities and capacity to cope with the most adverse situations were unsurpassed, even by those much younger than Ray's "young" 48 years. On October 2, Ray became the eighth American ever to reach the summit of the world's highest peak. The next morning he was found frozen to death just a couple of thousand feet below the summit, where the exhausted party had made camp on their descent. Another member of the summit party also died that day on the descent.

Ray loved the McKinley area and made his home in Talkeetna just south of the mountain. Although there is a small lake at his homesite called by his nickname, "Pirate." I think his memory should also be preserved by naming some previously unnamed physical feature on the McKinley massif itself after Genet. I will be asking the Board of Geographic Names to consider such a proposal.

With the death of Genet, we have lost a great mountain climber, a great Alaskan, and a great human being.●

MAKE ECONOMIC EDUCATION RELEVANT

● Mr. DURENBERGER. Mr. President, during the past several years it seems that everyone's favorite target has been business. Whenever government is not being blamed for the ills of our society, business bears the brunt of our attacks.

Why has business become one of our favorite scapegoats? Probably because the business community is so willing to accept the blame. Many of our business leaders have become defensive and they have done little to change the growing antibusiness sentiment.

Fortunately, in Minnesota, we have enlightened business people who recognize their responsibilities to their community and to the people they serve. Minnesota corporations like General Mills and the Minneapolis Star and Tribune are becoming involved in urban development. 3M has responded to the Nation's energy problems by promoting a van pool program for its employees. Control Data has developed high technology programs to meet basic needs in education, manpower training, and ex-offender rehabilitation.

This is only a small sample of Minnesota firms taking an active and important role in their communities. In addition to these public services, many corporations have recognized the need for public education about the free enterprise system and important issues of the day. They no longer are willing to be everyone's whipping boy. Instead, they are taking their cases to the public and demonstrating their roles as responsible members of society.

Significantly, many businesses are starting with their own employees. The employees are involved in their companies and given the opportunity to take part in the activities of the firms that employ them.

One of the leaders in public education on business is McQuay-Perfex. This firm has done an outstanding job of bringing information to its employees and, through them, to the public. Bob Macdonald, vice president of administration for McQuay-Perfex recently delivered a speech on this topic to the Minneapolis Rotary. I ask that the text of his speech be printed in the RECORD.

The material follows:

MAKE ECONOMIC EDUCATION RELEVANT

It is a real honor to be asked to appear before Minneapolis Rotary today. I am aware of the high caliber of your programs and am flattered to be included in your distinguished schedule of speakers.

Any time you give a speech before a group like this, it is an especially difficult challenge to prepare something that will offer a really fresh perspective on an important subject like economic education about which we all have some degree of familiarity. If you discover even one new piece of wisdom which may motivate you to do something in the future, it will have made the effort today worthwhile.

Mark Twain once said: "We should be careful to get out of an experience all the wisdom that is in it—not like the cat that sits on a hot stove lid. She will never sit on a hot stove lid again—and that is well; but also she will never sit on a cold one anymore, either".

Too many people in the United States today have been turned off by some bad experience with business, or by what they have heard about business practices, are like that cat—they don't even want to know what the business perspective is on many important issues, and that attitude must be changed.

Many of you probably don't know what to expect from today's topic, "Making Corporate Economic Education Relevant". Any skeptics among you are likely to think that this may be just another occasion to hear some general platitudes about how wonderful the free enterprise system is; that profits are good for the country and that the business community is the only real answer to solving our problems. If you don't come away today with something more than a few broad generalities of this type, then I will have wasted your time.

I realize how difficult it is with your busy schedules to find the time to communicate more with your fellow employees and with elected officials. There may be some real benefit, however, in making you more aware of present public attitudes toward business and to offer some perspectives on what has been happening in the field of corporate economic education as a result. I welcome this opportunity to discuss how social and political factors appear to be changing the economic environment and to present you with some new facts which you may wish to use in discussing some of these basic economic issues with your fellow employees, families and neighbors.

Identifying the most meaningful economic issues in clear and simple terms has been the basic purpose of the corporate economic education program at McQuay-Perfex over the last three years. Hopefully, it has given our employees a better perspective on inflation and taxes and other important influences on their daily lives. And in some cases it has even encouraged them to challenge some of the antibusiness rhetoric which occasionally appears in the media.

We also recognize the importance of our company developing the right attitudes at the workplace. Some of the young people coming out of school today have a far different understanding of business problems and opportunities than the older generation running corporations, so it is increasingly difficult for many of these new employees to feel any strong commitment to support their companies' activities. Developing a positive attitude among employees is certainly an important part of any company's success, and this is increasingly true at the clerical and factory levels. Economic education of employees and shareholders is not just good public relations, it may be essential to establish the support necessary for maintaining the existence of the private corporation, as we know it today.

There are several important areas that I would like to cover in today's talk: the attitudes towards business in the country as evidenced by public opinion and recent legislative actions in Washington, the thrust of economic education efforts by the business community, the experiences of McQuay-Perfex in implementing an economic education program, and finally, the outlook for corporate involvement in economic education in the future.

I. ATTITUDES TOWARD BUSINESS

Public opinion survey show that business has been evaluated in a decreasingly favorable way over the past 10 years, so that only about 15 percent of the U.S. public currently has confidence in business. This appears to have resulted from several factors—one is that many business executives avoid communicating the economic facts of life of their company's performance in anything but the most general terms. They are reluctant to talk about the bad things as openly as the good things, possibly because they may compare unfavorably with competitors who choose not to make this distinction. Even the unsophisticated investor will be suspicious of business complaints about government regulations and foreign competition if company activities and performances are always presented in the most favorable light possible. The key here is that business must talk openly in public about issues that worry them in private.

But the problem is more complex than simply developing better business communications and strengthening political lobbying muscle to win legislative victories. Recent bright spots, such as the defeat of the common situs picketing and labor law reform bills and passage of tax legislation granting some much needed investment incentives, are certainly only the first step. What is more significant is that in recent years business seems to have lost a view of itself as a valid social institution—and in the process, it may have yielded by default much of the public goodwill upon which its social legitimacy is based. In the absence of perceived legitimacy, government regulation of the corporation has become the preferred approach of the public and of politicians.

The recent anti-government mood in the country, therefore, cannot be viewed as an encouraging pro-business sign. Rather, the oppcsite may be the case. For all its faults, government is still seen as capable of reform through the democratic process. On the other hand, the fact that business motives are seen as questionable has resulted in a growing acceptance of the need for new legislation as the only means to check its power. Business's economic power is never doubted, but the loss of social legitimacy opens up some completely new issues: one is the increasing legislative protection of individual employees' rights, separate from the corporation's rights. Another is the public's questioning of who should really speak fcr the corporation—not just shareholders or management, but public interest groups which are seeking to have members placed on a corporation's board of directors. Corporations that pretend to infallibility in today's environment are seen as phony, so they will have to rethink how to approach their various publics in order to maintain their present legal forms and preserve their leadership roles in society in the future.

Despite the public's distrust of business, a 1979 Yankelovich survey showed that more than 90 percent of the public not only supports the U.S. economic system, but says it is willing to sacrifice in order to preserve it. That is quite a vote of confidence underlying our free enterprise system. What this means for corporate economic education efforts is that employees do not need to be directed to supporting the system itself.

Rather, businesses must increasingly concentrate on providing the clear cut, no-nonsense answers the public claims it has not been getting recently. The focus of economic education programs, therefore, must be directed more specifically to contemporary approaches for solving contemporary problems. Achieving support for company goals can take a variety of forms—special letters or pamphlets on topics involving timely economic issues; expanded annual and quarterly reports carrying more substantial information on the company; and newsletters from company political action committees appraising shareholders and employees of important political developments concerning new legislation and regulations. Some companies even prepare annual reports specifically written for employees.

Surveys by national business organizations show that only about 25 percent of the major corporations in the U.S. currently feel corporate economic education is important enough to have established meaningful, quality programs with their employees and shareholders. The most successful programs deal primarily with economic subjects and are usually simple enough to be used in basic teaching programs of various kinds. While such programs are not unbiased, they are generally even-handed in their explanation of the role of business in the economy. Political activity, such as greater communications with legislators, is often the desired result, although it may not be mentioned directly.

Programs directed at specialized subjects and specific audiences have the maximum impact and are usually considered the most effective according to subsequent surveys. Economic education efforts should also be regular—one shot speeches or letters can be perceived as self-serving, which may be worse than doing nothing at all.

II. M'QUAY-PERFEX

Let us now take a look at the economic education program at McQuay-Perfex. Although the corporation does not have a government affairs or public relations department, the top management decided that an improved internal communications program would help build a long-term credibility with employees and shareholders in understanding and even supporting management positions on legislative issues. Every year, since 1976, a new economic education program in the form of a live talk and slide show with questions and answers afterwards has been given to management and clerical employees at most major plants and administrative offices in the corporation. In addition, the pamphlets which you have on your tables were distributed to each employee and shareholder with the release of third quarter reports.

Our first publication in 1976, Business Profits Mean People Progress, looked at what profits are, how small profits are versus other expenses such as employee salaries and fringe benefits, and discussed why profit is in fact a cost. That was the basic concept of the pamphlet—that profit is a cost. It is a cost which is absolutely necessary to finance capital expenditures for new plants and equipment, to repay loans and to pay dividends necessary to attract and retain shareholders. The reaction to the pamphlet from shareholders and the business community was very positive, especially since very few companies had initiated this sort of program at the time.

The second publication, Inflation Hurts Everyone, was published in 1977. It discussed the three basic cases of inflation in the U.S. which are government deficits, the overall level of government spending and the high cost of foreign oil imports due to OPEC price increases. It was noted that such factors as union wage demands and corporate price increases were symptoms, rather than causes of the basic inflation problem, and were primarily attempts to stay even with the impact of inflation. Government-imposed wage and price controls are the wrong solution to the inflation problem, since they treat the symptoms, not the cause, of inflation. Wage and price controls tend to create inefficiences and shortages in the free market system by taking away the profit incentive to produce certain products.

The third pamphlet, Taxes—What Can We Afford?, was released last October. It noted the increasingly heavy burden of taxes on the family budget—on the average, taxes now total more than food, clothing and housing combined. It also pointed out the necessity for tax cuts just to keep people even each year because of progressive tax rates and increasing social security taxes. The necessity for tax cuts to encourage greater investment rather than just more consumption was the critical focus of the pamphlet. Such cuts will encourage expenditures for new plants and equipment which in turn create the new jobs in private industry necessary for the country to grow. Only then will there be more wealth which can be distributeed to help the poor. Since it is difficult to reduce the level of government spending or control OPEC oil prices, tax cuts designed to increase investment may also be the only way to balance the budget and reduce inflation to tolerable levels.

The 1979 pamphlet to be released in early November is titled, Energy—Facing the Tough Choices. It examines the availability and costs of various forms of energy in the rest of this century, the respective roles of private industry and government in meeting the country's energy needs, and the necessity for balancing conservation and environmental protection measures with discovering new domestic sources of energy. It advocates price decontrol as a key measure in developing the energy needed for the 1980's and moving the U.S. toward greater self sufficiency. If any of you who are not shareholders would like a copy of the Energy pamphlet, please give me your business card at the close of this meeting today or drop me a note, and I will be happy to send you a copy.

We were curious as to what our own employees thought of these publications. A survey was taken in the Berlin Foundry after the Profits pamphlet was sent to all 700 employees. It indicated that over half had read it and half of those had a very positive reaction. We feel that this was a surprisingly positive response from a hard-nosed, sometimes cynical group of foundrymen. New employees have also benefitted from this type of economic education program, especially with the opportunity to discuss both sides of an issue at the question and answer period which follows each live presentation.

The pamphlets have been more successful than we ever anticipated. Although originally targeted for employees and shareholders, this economic education effort has reached a wide variety of people in communities all over the United States. Junior Achievement Programs in Sioux Falls, South Dakota, and Milwaukee, Wisconsin, have utilized the profits pamphlet with their young people. Ralph Mason's column in the Skyway and Freeway News has included excerpts from each of the pamphlets, together with his comments. The National Association of Manufacturers has highlighted each of the pamphlets in its monthly Enterprise publication. It devoted a full page to excerpts of the tax pamphlet in the December, 1978, issue. College professors, corporate presidents, corporate public affairs departments and stock brokerage firms from all over the country have utilized all three pamphlets in various types of educational and promotional programs.

The annual cost to McQuay-Perfex of the preparation, printing and distribution of these pamphlets is about $8,000 to $10,000 a year. Is it worth it? I guess I would answer with another rhetorical question. Can we afford not to do it?

III. OUTLOOK FOR ECONOMIC EDUCATION

What is the outlook for economic education efforts? With the philosophy of entitlement growing more prevalent in both government attitudes and actions in the United States and the media often slanting coverage of business news so it appears unfavorable to private industry, business today must actively compete for the opinions of even its own employees. As the number of individual shareholders in American business declines, there are fewer people with a financial stake in ensuring that business continues to perform in the most efficient way.

Increasingly, business must divert some of its funds into economic education efforts for not only its own employees but the communities in which they live and work. The heads of major corporations are going to have to speak out and provide leadership on the many significant issues of the day which affect their businesses. I have been disappointed in the reluctance of many business leaders to use the media when it is necessary to answer unfounded charges against their companies and industries, or to express a deeply-felt point of view which will reinforce other corporate economic education efforts within their companies. They have left the public arena to politicians and many one-issue special interest groups who do not always represent the views of the majority of the public. We are talking about the public which overwhelmingly supports the free enterprise system and is even willing to sacrifice to preserve it.

Economic education of the general public and legislators is clearly not a luxury—it is as necessary and relevant as earning the profits which have given us all such an enviable standard of living in the United States. Grass roots lobbying of politicians by tuned-in business employees at all levels has become increasingly effective in recent years.

Ralph Nader now openly tells businessmen, "You are the enemy". As you can see, all of us really have no choice but to get involved. My challenge to you today is to be a participant in this vital battle to influence people's opinions. If business loses this battle, we are all going to lose. But we are not going to let this happen.

Thank you.●

THE NONALINED MOVEMENT

● Mr. McGOVERN. Mr. President, the Sixth Nonalined Summit Conference recently concluded in Havana. Most of the press attention in the United States focused on the efforts of President Castro to create a quasi-alliance between the nonalined movement and the Soviet Union. The Conference, however, issued a more moderate declaration than the Cuban Government had originally drafted. Understandably our Govern-

ment expressed its concern that Cuba's relationship to the Soviet Union was calling into question its nonalined status.

At the same time as we review these developments critically, we should not overlook the positive contributions of the nonalined movement. It would be shortsighted for us to fail to seek improved relations with nonalined nations and with the nonalined movement in order to punish Cuba or the Soviet Union. For what is important about the nonalined movement is its independence from the great powers.

More than 100 countries belong to the nonalined movement. Many of them joined not because they were hostile to the United States, but because they wanted to create a new political arena in which they could exercise independent control over their political institutions and economies in a world dominated by two ideological blocs.

The United States has nothing to fear from the nonalined countries or movement. We can develop good diplomatic relations and fruitful trade relations with these nations even if some of them at the same time seek to have relations with the Soviet Union as well. The world is no longer an exclusive and rigid system in which a nation must choose either East or West. It is more fluid and open and we need a creative diplomacy to respond.

To help us better understand the nonalined movement, I know of no better place to begin than with the speech presented by President Tito of Yugoslavia to the Summit Conference. He is one of the founders of the nonalined movement and he sums up the essence of the nonalined principle in his statement by saying:

> From the beginning we have consistently declared ourselves against bloc policy and foreign domination, and against all forms of political hegemony and we have consistently declared ourselves for the right of every country to freedom, independence and autonomous development. We have never allowed ourselves to be anybody's transmission belt or reserve because this is incompatible with the essence of the policy of non-alignment.

Mr. President, obviously we will not agree with all of the points in Mr. Tito's speech—especially his analysis of the Middle East and his rejection of the Egypt-Israeli peace treaty. But he does convey a strong sense of the original purpose of the nonalined movement.

Stated simply, nonalinement is a major political trend in the world which the United States must seek to understand. We need to engage nonalined countries in constructive diplomatic and economic relations. I ask that the text of President Tito's speech be printed in the RECORD for the benefit of my colleagues who may wish to study one explanation of nonalinement from a founder of this important movement.

The speech follows:

PRESIDENT TITO ADDRESSES HAVANA NONALINED SUMMIT

Mr. Chairman, dear friends: It is with a feeling of particular pleasure that I address this eminent gathering of the leaders of sovereign countries linked by a common struggle for the realization of the original [izvorni] principles and aims of the nonalined policy; for peace, independence and equality; and for new international political and economic relations. The leaders of liberation movements whose peoples and countries, I am convinced, will—in the shortest possible period—achieve their legitimate right to freedom and independence are also among us as equals among equals.

On behalf of the SFRY delegation and on my own behalf, allow me to express our gratitude to the government of Cuba and to President Fidel Castro for the cordial hospitality and the significant contribution to the preparations for the sixth conference. The peoples of Yugoslavia cultivate sincere friendly feelings for the friendly people of Cuba and highly appreciate their successes in the struggle for freedom and (? progress) in their country.

I take this opportunity to pay special tribute to Sri Lanka and its president who in the role of the chairman greatly contributed to the further affirmation and consistent implementation of the policy of nonalinement. I feel the need to express my exceptional pleasure that the summit meeting of the nonaligned countries is being held for the first time on Latin American soil. We highly value the struggle of the peoples of this continent for freedom and independence, and for political and economic emancipation, and we highly value their contribution to world culture and civilization.

I am particularly glad to be able to welcome in our midst the new members of our movement—Bolivia, Grenada, Iran, Nicaragua, Pakistan, Surinam, the Zimbabwe Patriotic Front and others. The fact that our gathering is attended by representatives of over 100 countries, which represents two-thirds of mankind, is in itself strong evidence of the historic value of the policy of nonalinement and the successful road which our movement has passed since its first conference in 1961 in Belgrade.

Even then we could see the indispensability—as it says in the Belgrade declaration—of making the transition from the old order based on domination to a new order which founded on freedom, equality and social justice and which leads to well-being. This historic document formulated the principles and goals of nonalinement, and contains our lasting strivings and visions as well as our determination that the policy and the movement of nonalinement should be an independent, nonbloc factor in world events.

Thinking about the days when nonalinement was being born, I can say that we were, as we are now, permeated with the realization that the struggle for national, political and economic emancipation is indispensable. The cold war, which threatened to spread to all the world and endanger its survival, clearly showed that the bloc policy was in sharp opposition to the interests and strivings of mankind. We have never equated the blocs, neither according to the sequence of their arising nor according to other characteristics. From the beginning we have consistently declared ourselves against bloc policy and foreign domination, and against all forms of political hegemony and we have consistently declared ourselves for the right of every country to freedom, independence and autonomous development.

We have never allowed ourselves to be anybody's transmission belt or reserve because this is incompatible with the essence of the policy of nonalinement. From the time it appeared as a herald of a new era, the policy of nonalinement has become a real force in the struggle for world peace and stability, and for building new international political and economic relations.

It is obvious now—especially when we remember the period preceding nonalinement—that any weakening of our movement and pushing aside its role would inevitably lead to the destabilization of overall international relations. After all, this is recognized increasingly frequently by many factors in the world which do not belong to our movement. The results of our activities so far are really very rich. In the past two decades, we have affirmed the original principles and aims of nonalinement as lasting values. We have resolutely struggled for peace, security and freedom in the world. We have made an essential contribution to the successful development and outcome of the anticolonial revolution. We have codified the principles of active and peaceful coexistence and have resolutely advocated their application. We have opposed the policy of force and foreign interference in all their forms. We have launched long-term actions to establish a new international economic order. We have contributed to the realization of the universality of the United Nations and to the strengthening of its role and importance. We have made notable steps in broaching the problems of disarmament. We have waged a resolute struggle for decolonization in the sphere of technology, information and culture in general.

Thus the policy of nonalinement has been objectively confirmed as the most progressive force in the world, as a force which is undermining the foundations on which the existing unjust international relations are based and a force which is creating the conditions for building a world of justice, equality and general progress.

Briefly, the time that has lapsed since the Belgrade conference justifies the statement that without the policy of nonalinement the world would look considerably more different, and something even worse might have occurred. In fact, any tendency toward a total bloc division and the further intensification of the cold war would unavoidably lead us to the brink of disaster.

The problems which burden international relations now are neither small nor simple. The danger of a world conflict has undoubtedly been reduced. However, we are still far removed from real peace, and this current peace is neither universal nor stable. It is constantly being shaken by crises and conflicts. The armaments race, the use of force and interference, the widening of the gap between the industrially developed countries (and the developing countries) and the inequality in international political and economic relations are undermining this peace.

The world's security, peace and stability cannot be realized without a radical change in international economic relations which expose the developing countries to discrimination and inequality.

The material possibilities which man has at his disposal now are—instead of contributing to the prosperity and harmonious development of all—being transformed into the opposite. The inequitable economic relations are becoming an increasingly dangerous source of new strained relations and conflicts.

We must note with indignation that colonialism and racism in South Africa continues to stubbornly exist with the support of imperialist forces. This is, regretfully, occurring despite the great changes in the contemporary world, which has universally adopted the principle of respect for human rights and basic freedoms. Let us ask ourselves: How can human rights be realized while at the same time the realization of the basic rights of entire peoples is being prevented? The peoples of Zimbabwe, Namibia and Azania and their legitimate representatives as well as the South West African People's Organization, the Patriotic Front, the African National Congress and the frontline countries can be assured of our full support for their just struggle and determination to realize their right to freedom and independence. We must do everything possible to hasten the day when colonialism will irreversibly belong to the past.

In the Middle East, the Israeli aggression and the occupation of the territories of Arab countries stubbornly continues. This represents an impudent challenge to the basic principles of the international legal system inscribed in the UN Charter.

The realization of the legitimate rights of the Arab people of Palestine has been prevented for years. It is precisely the Palestinian problem which is the heart of the Middle East crisis. Without a solution to this problem there can be neither a just peace nor lasting security. Taking a realistic view, we must openly say that throughout the region and farther afield, separate paths will not lead to this. A complete and just solution calls for the full participation of all interested sides, including the Palestinian Liberation Organization. It must insure the withdrawal of Israel from all occupied Arab territories and the realization of the right of the Arab people of Palestine to independence and their own state. This is the only path which leads to peace, to more secure borders and to the security of all countries of this region. We believe that this solution must be sought primarily within the United Nations.

We are also very concerned because of the deepening crisis in Southeast Asia, and the breaking out of armed conflicts and the use of force in solving existing disputes. This brings into question the security and independence of the peoples of this region and creates the danger of even wider conflicts. We must especially not reconcile ourselves to the imposition of foreign will on peoples through military intervention. This is in flagrant opposition to the principles of the UN Charter and the policy of nonalinement. Therefore, we see a way out of the crisis here, too, through the withdrawal of all foreign troops from foreign territories and respect for the independence, security and peaceful development of all countries of this region. These are the principles and approaches which also determine our views toward other hotbeds of crises in the world, such as Cyprus, Korea, West Sahara and others.

The nonalined countries attach great importance to the process of relaxation of tension in international relations because they also see in it their own vital interests. Unfortunately, this process is not stable and is passing through great trials. What is even more, it is seriously lagging. Its basic shortcoming is in the fact that it is still limited by bloc interests and this fact carries with it a danger of new confrontations with unforeseeable consequences. The policy of relaxation of tension must not be used by anyone as a basis for pressure against any country. It must not be carried out at the expense of third parties In a world which is united and in which peace is indivisible, detente must be comprehensive. This implies that all countries—including both the largest and the smallest—must participate in it on the basis of equality, that it must extend to all regions of the world and that it must include all key questions of international relations and development. It is precisely here that the nonalined policy has the greatest possibilities and obligations.

Of course, the big powers have a great role and responsibility in the process of detente. In this connection we call particular attention to the importance of settling relations and reducing the danger of rivalry and confrontation between the big powers and between the blocs. I remember very well that at the jubilee session of the UN General Assembly in 1960, we provided, together with Nehru, An-Nasir, Sukarno and Nkrumah, the initiative which called on the two big powers—instead of continuing confrontation—to open negotiations in the interests of detente. We thereby made it clear that their relations, which carry with them also consequences for others, are not just their own affair. We pointed out that the United Nations is the place where all essential problems of the contemporary world should be discussed. This is also valid today.

I think that it is necessary for the nonalined movement to advocate that the General Assembly regularly consider questions concerning the process of world detente and take measures for its advancement. We believe that there can be no strengthening of security in the world without advancing detente and without democratizing international relations. Positive development in this direction cannot be imagined without measures to strengthen trust and without starting real, general and complete disarmament.

We are deeply concerned over the continuation of the arms race. We welcomed the strategic arms limitation agreement between the U.S.S.R. and the United States—the SALT II—with the hope that this will provide encouragement to take measures toward real disarmament. It is a significant fact that the U.N. General Assembly held a special session on disarmament at the initiative of our movement. We must strive to the maximum to insure that the views and recommendations of this session will be consistently implemented.

Certain achievements have been made in Europe within the process of detente. They are reflected in the results of the Helsinki conference. This fact also undoubtedly has wider importance because it is precisely the conflicts in Europe that have jeopardized world peace. However, we must openly state that Europe cannot live in peace and security if peace and security are not secured throughout the world. We can note with satisfaction that the European nonalined and neutral countries represented here, play a prominent role in strengthening European cooperation and security and in overcoming bloc divisions in Europe.

The Mediterranean region occupies an important place from the viewpoint of strengthening peace and security in Europe and the world. All Mediterranean countries must participate in the transformation of the Mediterranean into a zone of peace and cooperation and they must participate in this on the basis of equality and in the spirit of the provisions of the Helsinki final act and the views of the declaration of the fifth conference of non-alined countries in Colombo. We consider the establishment of zones of peace and security, especially in the sensitive parts of the world, as important steps which would lead to reducing the areas of rivalry between the blocs and between the big powers. It is in this light that we also support efforts to establish such zones in the Indian Ocean, Latin America and elsewhere.

Mr. President, the establishment of a new international economic system represents the only way to overcome the acute problems of development and the deep crisis that has spread throughout the world economy. This is not in the interests of just one group of countries, but rather in the interests of the entire world. The leading industrial powers as well as other developed countries still do not want to understand this. They resist the essential changes in existing relations.

At the fifth UNCTAD session, certain developed countries even retreated from the decisions jointly adopted within the United Nations. At the same time the most highly developed countries are increasing their efforts to solve the problems of vital importance for the entire international community within closed circles in order to protect their own interests. This includes an aspiration to divide the nonalined and other developing countries. Various pressures are also being applied and the serious difficulties of the individual developing countries, especially those that are the least developed, are being abused.

Under such conditions we must continue our struggle more consistently and persistently and find the right answers for the difficulties and the opposition we face. It is my deep conviction that the concept which we elaborated at our Algiers and Colombo summit meetings continue to be the starting basis for this. Mutual cooperation between the nonalined and all other developing countries has extraordinary importance in the implementation of this concept. This is a vital economic interest and one of the priority political tasks of our movement. We have at our disposal great potential material possibilities which, if we are united, we can place in the service of the development of each individual country separately and of all of them together. At the same time, this will enable us to more successfully participate in the negotiations with the developed countries with the aim of establishing a new international economic order.

In this connection I think that we must focus the greatest attention to all the acute problems of energy. I am convinced that it will become evident that there are common interests. In some cases the solutions might be found in intensive financial investment or some other similar form of cooperation. In some other cases such as the least developed countries, it will be necessary to alleviate without delay their difficulties resulting from the constantly increasing prices of oil, modern technology and industrial products. We consider the appearance of certain initiatives along this line positive and we must seriously discuss these initiatives to reach generally acceptable solutions.

The forthcoming special session of the UN General Assembly and the adoption of an international strategy of development for the next decade have extraordinary importance for the struggle for a new international economic system. It would be very beneficial if this session were held at a political level which would be in accord with the seriousness of these problems. We justly expect that all developed countries, regardless of the groups to which they may belong, will demonstate in this respect greater political will and readiness to make their contribution in their own and in general interests.

Dear friends, nonalined policy has achieved a further strong affirmation in the period since the past summit meeting in Colombo. This is a consequence of intensified aspirations and of an even greater determination of the peoples to struggle for a better and more just world in the conviction that in such a world we are [Tito corrects himself] that it is only in such a world that they can successfully preserve their independence and insure more rapid progress and development.

It is not accidental that practically every country that has attained independence has joined our movement. It is also significant that individual countries, having freed themselves from military alliances and canceling agreements on bases in their territory, have freed themselves of what hindered them from deciding in favor of the policy of nonalinement and are here among us today. It also worth noting that the ideas of nonalinement are becoming the views of a growing number of democratic political movements and parties in Europe.

Along with the affirmation of our policy and the strengthening of our movement, we have also faced various difficulties. Some of these difficulties have been inherited from the past, or result from various conditions of development. Some of them are the consequence of foreign influences and varied views, which cause the danger of division in the movement. Particular concern is caused by the conflicts arising between individuals nonalined countries.

We must not for a moment lose sight of the fact every conflict between nonalined countries opens the door to outside interference. Such conflicts also hamper our efforts in building new democratic international relations. They do not concern only the countries directly involved but all of us. Therefore, it is the duty of the nonalined countries to offer aid in a suitable way through the appropriate machinery before disputes grow into conflicts.

If conflicts do arise, however, one should quickly find solutions through peaceful means because nothing is more natural than for the nonalined countries in their mutual relations to respect and consistently apply those principles and criteria for which they struggle in the international field. These are the principles of the UN Charter and of the nonalined policy.

Our striving to democratize international relations requires a further development of democratic relations in the movement itself, particularly when one has in mind the growth of our movement and the growing demands put before it. We must serve the world as an example of how to democratically reach accords. Therefore, we face the task of finding new forms of work and new forms of decisionmaking in our common activities.

In this connection we believe that the method of work of the coordination bureau is very important. The coordination bureau must work even more efficiently as an organ of coordination and of taking the initiative and expressing the views and positions of the movement as a whole. We attach special significance to the active and equal involvement of all members of our movement in the realization of the policy of nonalinement.

This also implies the application of consensus as the only possible way of harmonizing views and adopting decisions.

Dear comrades and friends, we are meeting here as the most responsible representatives of the majority of mankind. We face further great obligations. The eyes of the whole world are watching us. This demands of us mutual understanding and respect, full equality, good will and overcoming of differences, a full feeling of solidarity and the greatest degree of responsibility.

Our movement is directed at the key problems of the present world, and at the questions of peace, security, development and general progress. It expresses the essential interests of all mankind and not just one part of it. Therefore, its historic responsibility is that much greater. This responsibility rests on all of us. We must never lose sight of what is common to us and what joins us. We must oppose everything that divides us and everything that favors the penetration of alien interests in our ranks. Our lasting interest and our strategic aim at this moment is to further affirm the original principles of the nonalined policy and, on this basis, to strengthen the solidarity, unity and action ability of the nonlined movement.

These are reliable signposts of our moving into the future. It is only in this way that we can successfully build the world to which we aspire.

I personally have been guided by this, deciding to undertake this long journey and being guided by the responsibility which I have as one of the founders of the movement, and being firmly convinced that there is no sacrifice that should not be made when it concerns the high aims and noble ideals for which our movement struggles and for which all the peoples of the world are striving. I am convinced that this conference, as all the previous ones, will be successful, and that it will instill new strength and mark a new stage in the strengthening of the policy and the movement of nonalinement in international relations to the benefit of all of us and of all the mankind. Thank you.●

WOMEN'S SALARIES

● Mr. DOLE. Mr. President, much has been said about the discrepency between the salaries paid to women being less than those paid to men in comparable employment.

Mr. President, I ask that an article entitled "Exactly What To Say To Get The Salary You Want," be printed in the RECORD at the conclusion of my remarks. This article, written by Ms. Sherry Chastain, a former member of my staff, sets forth a positive approach to a very important part of the negotiation for employment. Ms. Chastain is producing a series of television shows designed to assist women, in a positive manner, in improving their professional status.

The article follows:

EXACTLY WHAT TO SAY TO GET THE SALARY YOU WANT

(By Sherry Chastain)

Do you believe that if you work hard on your job, you will be justly rewarded? If you do, look around. Women as a group still are earning only 59 cents* for every dollar earned by men. Although the Women's Movement has overcome many job and pay barriers with the mandates of Title VII and the Equal Pay Act, it is, nevertheless, often a "one on one" between a woman and her employer that determines whether she receives a fair return on her abilities. And to get that fair return, we need to know how to negotiate.

Employers who resist a recent trend toward the "equal pay for equal value" principle argue that they naturally pay the lowest possible rate they can get away with. They seem to be depending on our tendency to settle for less—or perhaps not to "settle" at all, but merely to acquiesce. For our part, if we don't know our own bargaining power, we may think that we must accept the first figure tossed our way or else decline the job. This assumption can be costly. Employers expect to negotiate salaries with potential employees. If you accept the first figure offered without bargaining, your new boss may be a little disappointed. He or she may think you would have worked for an even cheaper price.

As women, we face two basic problems in making successful salary demands. First, upbringing and conditioning may have handicapped us in our development of negotiating skills. Many of us still feel it is somehow in bad taste to make money demands for ourselves. We tend to see a challenge to what we ask as a personal affront instead of remembering that "it's only business."

Second, because we have been taught to defer, we may tolerate obvious salary inequities for years until we can no longer resist confrontation and erupt in anger with the ultimatum: "Raise my pay or I'm leaving!" This is the antithesis of negotiation—an ancient art built on accommodation, rather than confrontation. A successful negotiation is deliberate, not reactive, and both parties should come away feeling that they have gotten something of value.

Skillful bargaining for your fair worth before you accept a job is also the first step toward positioning yourself for fair treatment in the future. If you settle for less than you're worth, your future raises and benefits will be influenced by that starting pay deficiency. Over a career span of even 10 years, your loss could amount to many thousand of dollars.

*Department of Labor, 1977 (men and women full-time workers.)

YOUR TRUE MARKET WORTH

The source of self-confidence in a salary negotiation is an accurate knowledge of your true market worth. Of course, this has nothing to do with your worth as a valuable human being, but on the job market, your "worth" can be determined, though not easily. Although most major companies conduct salary surveys, they often squirrel them away, keeping their rates a secret in order to avoid the sizable cost of restructuring a pay system. So how do you go about establishing a realistic range for yourself? Make a thorough check of want ads in newspapers, trade journals, private employment agencies, state employment offices, companies employing workers with your skills (you don't know whether you can get the information until you ask), professional and trade associations and executive recruiters.

Careful research will aid you in setting your aspiration level (studies show that higher aspirations are linked to higher salaries): a mid-range figure you might find acceptable after making a concession or two, and a "bottom line" level—the lowest dollar figure you will consider for the job. Remember that an employer's budget usually has some flexibility, and that almost every salary is negotiable to some degree—from a few hundred dollars to several thousand.

As a side note, negotiations can give you insights into the character of a company. While we want to be paid our fair market worth, dollars aren't the only factors in job satisfaction. For example, if an employer hints that you might inflate an expense account from time to time to help offset a less than desirable salary, you might want to think twice about working there.

It doesn't help to enter negotiations beset by thoughts of possible limitations and shortcomings. A good antidote is to concentrate on the employer's problems. He, or she, has them. The first may be simple time pressure—desperation to get someone on the job immediately. In addition, there are a variety of more subtle things to remember about the employer. Your potential boss may need your talents in order to attract favorable reviews from higher-ups. Don't overlook human considerations such as the employer's probable desire just to complete the interviewing process and to be thought of as a fair and reasonable person. If you have made a high salary demand and have good explanations to back it up, the person with whom you are negotiating may be quietly rooting for you. After all, the money is coming from the company's till, not from personal funds.

THREE RULES THAT CAN BE GOLDEN

You can use many tactics and strategies to help achieve your salary goals in a negotiation, but three principles seem universal.

1. Resist any urge to raise the salary issue early in the meeting. This signals the employer that you are interested not solely in what you earn but what you do. In fact, don't discuss salary until you are certain or relatively certain you have a firm job offer. If the question of money comes up before you've received a job offer, say "It has been my guidance not to talk about salary unless I'm asked to consider a definite position. I'm sure you understand." In the initial stages of a negotiation, ask the employer about goals and how your role fits into the overall plans. This will help you pinpoint the attributes you possess that are important to the employer. If you listen carefully, you will know which of your qualifications to stress when you move on to press for the salary you think you deserve.

2. Get the employer to name a salary range first. After you've discussed the job and how you could perform, say: "This position sounds challenging—one in which my abilities could be put to good use. I'm sure you have a fair rate structure. What range do you have in mind?" This approach will protect you from the biggest mistake possible in salary negotiations: naming too low a figure. A woman who is a data-processing manager in New York used this technique to her advantage. She was prepared to ask for $23,000 when her potential employer named $25,000 first. Had she quoted her price first, she would have lost $2,000 right off the bat. Remember, you can retreat from a high figure but you are not likely to recoup from putting too low a price tag on yourself.

3. Emphasize your accomplishments, not your personal needs. Employers generally are trying to determine how much value you will be to the company, so describe your potential value by citing your accomplishments on past jobs. Don't think of this as an exercise in raw egotism. You are basically supplying evidence of why you are worth your asking price. The employer may need this information to convince others in the hiring procedure that you are a bargain at any price. Point to how productivity or profits increased at your last place of work as a result of your participation. For example: "My sales for last year showed a thirty-percent jump over the previous year." Or, if you are in clerical work trying to move to a higher-level job, say: "I was part of a team that recorded a twenty-percent increase in output over the past twelve months." If you are a fast copywriter in a business where deadlines are important, emphasize that you have never missed a deadline.

Since people frequently don't absorb everything that is said to them, don't be afraid to restate your accomplishments to the employer. An old advertising adage says: Tell them what you are going to tell them, tell them, and then tell them what you've told them.

If things start to go wrong . . .

The best way to maintain control in a negotiation is to anticipate problem questions and rehearse answers beforehand. You're likely to be asked about your past salary, and because employers tend to base offers on previous earnings, you might—if your history is typical—find yourself at a negotiating disadvantage when asked to reveal this figure.

On balance, the best approach is to answer the question truthfully. Evasiveness may cast doubt on the credibility of your past performance, not to mention your candor. Give the correct figure (along with other relevant information such as an expected raise and promotion) and, without saying "but I was underpaid," explain in firm terms whether that figure is representative of your worth. You might say you are prepared to assume more responsibility which you expect to lead to higher earnings. You might point out that women in your line of work are frequently paid less than men, and you are looking for employment where you feel the pay structure is fair.

If the employer expresses concern that your salary objective is without precedent in the company, you might want to be flexible. Alter the conditions of your demands. For example, go for the high amount but suggest part of it be paid at the end of a six-month period after you have demonstrated your worth to the company. Or faced with some other strong objection to the salary you demand, you might ask to have your job description broadened so that the salary would reflect your wider duties.

Experiments show that those who make higher demands and are slow to give concessions do well in negotiations. This is not an art that is tied to gender or one that requires military tactics. It is simply an awareness that you can have some control over the amount of money you earn. In the final analysis, the best negotiating skills are based on the ability to successfully demonstrate accomplishments and knowledge of what those accomplishments are worth on the job market.●

SALT AND STRATEGIC SUPERIORITY: DR. KISSINGER'S RECORD

Mr. BIDEN. Mr. President, central to our debate on SALT II is the way we think about nuclear weapons. In a very thoughtful article in the New Republic of October 20, Prof. Hans Morgenthau has argued that our debate shows many signs of "intellectual obsolescence," of an inability to distinguish between nuclear and conventional arms either in terms of building our strength or of controlling it.

The author's view is provocative. Moreover, his reference to Henry Kissinger's July 1974 discussion of the relationship between nuclear arms and strategic superiority is especially valuable because, as Professor Morgenthau noted, the former Secretary of State has tried to rearrange the historical record to fit his current analysis of the virtues of SALT II.

At that Moscow briefing, at the end of President Nixon's last summit session with Leonid Brezhnev, Dr. Kissinger did indeed say:

If we have not reached an agreement (on SALT) well before 1977, then I believe you will see an explosion of technology and exposion of numbers (of MIRV'ed missiles) at the end of which we will be lucky if we have the present stability. Then it will be impossible to describe what strategic superiority means. And one of the questions which we have to ask ourselves as a country is what in the name of God is strategic superiority? What is the significance of it—politically, militarily, operationally—at these levels of numbers? What do you do with it?

Now, as Dr. Morgenthau reported, the former SALT negotiator has told the Senate Foreign Relations Committee (but only in a footnote to his prepared statement of July 31) that his Moscow statement "reflected fatigue and exasperation, not analysis." Dr. Kissinger now says he has "come to regret" that statement, but his mea culpa is unconvincing and incomplete. Under less strenuous circumstances in 1974 he three times put forth a very similar analysis of the (in) significance of strategic superiority to the one he now regrets. At a news conference in Brussels on June 26, en route to Moscow, he was asked whether either superpower held a "military advantage." After discussing the Soviet lead in the number of missiles and in throw weight and the compensating U.S. strength in bombers, he replied:

I would say that these comparisons can be used for almost any purpose, but we are convinced that the United States probably has an advantage, but one that is not politically of any decisive importance, and it is our basic conviction that if the arms race is continued for another ten years, it will not yield either a strategic or a political advantage for either side but that it may well complicate the political relationships.

After the Moscow summit and President Nixon's resignation, Secretary Kissinger addressed the American Legion National Convention on August 20, 1974. Then he sounded very much like Dr. Morgenthau now. "Today," he declared:

We, as well as the Soviet Union, must start from the premise that in the nuclear era an increase in certain categories of military power does not necessarily represent an increase of usable political strength. When two nations are already capable of destroying each other, an upper limit exists beyond which additional weapons lose their political significance. The overwhelming destructiveness of nuclear weapons makes it difficult to relate their use to specific political objectives and may indeed generate new political problems.

A continual expansion of strategic forces by both sides will not result in greater security.

Finally, in testimony September 19 to the Senate Foreign Relations Committee, the Secretary laid out the features of the "historically unique competition" between the United States and U.S.S.R. and the premise of assured destruction which he then espoused. In part, he said:

When nuclear arsenals reach levels involving thousands of launchers and over 10,000 warheads, and when the characteristics of the weapons of the two sides are so incommensurable, it becomes difficult to determine what combination of numbers of strategic weapons and performance capabilities would give one side a militarily and politically useful superiority. At a minimum, clear changes in the strategic balance can be achieved only by efforts so enormous and by increments so large that the very attempt would be highly destabilizing.

If we are driven to it, the United States will sustain an arms race. Indeed, it is likely that the United States would emerge from such a competition with an edge over the Soviet Union in most significant categories of strategic arms. But the political or military benefit which would flow from such a situation would remain elusive. Indeed, after such an evolution it might well be that both sides would be worse off than before the race began. The enormous destructiveness of weapons and the uncertainties regarding their effects combine to make the massive use of such weapons increasingly incredible.

I share Dr. Morgenthau's view that the "heart of the SALT II debate is the issue of strategic superiority." I only wish, for the sake of coherence in this vital discussion, that key debators, such as Dr. Kissinger, were consistent enough to choose one side and stay on it.

Mr. President, Professor Morgenthau's essay is a fine reminder of the real issue we should be thinking about in the nuclear age. I ask that it be printed in full in the RECORD.

The essay follows:

FIGHTING THE LAST WAR

What Einstein said decades ago is still true today: "The unleashed power of the atom has changed everything except our way of thinking." The debate over the SALT II treaty demonstrated this truism once again. For all their disagreements over "first strike capability," verification, and so forth, the opposing camps in the startegic arms debate share an obsolete style of thinking about nuclear weapons. They both think and act, by and large, as though the atomic revolution of 1945 never occurred. This intellectual obsolescence is, in the long run, more dangerous to American security than all the issues the SALT debaters are arguing about.

Nuclear weapons fundamentally altered the traditional relationship between political aims and physical violence. From the beginning of history until 1945, a great power could rationally choose to wage all-out war against another great power in order to achieve political ends, as long as the calculus

of risk and advantage seemed favorable. Today, however, such a calculus counsels against the use of nuclear weapons, since their unprecedented destructiveness, both short and long term, heavily outweighs any possible political gain. The use of nuclear weapons, even if at first on a limited scale, would unleash an unmitigated disaster, which could lead only to the destruction of both belligerents.

The very application of conventional language to nuclear "weapons" and "war" is outmoded. By definition, a "weapon" is a tool for executing the tactics and strategy of battle; "war" is fought for the attainment of political goals. In Clausewitz' phrase, it is "politics by other means." In short, both words imply a rational relationship between the nature of the battle and the objectives for which it is fought. Yet how and for what ends can nuclear weapons rationally be used? How can nuclear war be fought? What is the meaning of—and what is the difference between—winning and losing a nuclear war? The conventional language conceals the new reality for whose novelty we have not yet found appropriate words.

The uncritical application of conventional language to the unprecedented phenomena of nuclear weapons not only obscures the truth, it also hinders rational policymaking. Thus it is fatal to the cause of nuclear arms control to deal with nuclear weapons and nuclear war as if they were simply larger versions of conventional weapons and conventional war. In truth, they are different in kind because they are instruments of total destruction, and therefore incapable of performing the traditional functions of conventional weapons and war.

A successful strategy for arms and control must explicitly recognize the distinction between nuclear and conventional arms. Starting with the Russian proposals of 1816, attempts at controlling conventional arms have been numerous and almost always unsuccessful. They have failed because the size and quality of a nation's stockpile of conventional weapons directly affects that nation's ability to pursue its political aims successfully. The more pieces of artillery a nation can put into the field, the more political power it can project. Hence, conventional disarmament remained impossible as long as the political issue that gave rise to the arms race in the first place remained unsettled.

Nuclear weapons radically transformed this conventional relationship between military destructive capacity and political power. Once you are able to destroy your enemy utterly even under the worst of circumstances, you have reached an optimum level of armaments beyond which it is obviously senseless to continue stockpiling. This distinction between conventional and nuclear armaments is what makes nuclear disarmament theoretically possible. For once you have enough nuclear weapons to assure the destruction of the enemy, you need no more; additional weapons beyond this point have no military or political significance.

Both the United States and the Soviet Union are today able to devastate the other's civilization many times over. Neither side gains anything militarily or politically by increasing its might beyond this already unprecedented level of destruction. Yet both sides, applying the concepts of conventional arms to the nuclear field, have ignored this fundamental fact, and have embarked upon a nuclear arms race which promises no military or political advantage to either side, and therefore is completely irrational.

In recognition of that irrationality, both sides have tried to control the nuclear arms race, and even proclaim total disarmament as an ultimate goal. Yet in the process they have revealed how much they are, in practice, oblivious to the distinction between conventional and nuclear arms. They have haggled for seven years over issues that might be relevant to conventional weapons but are mostly irrelevant to nuclear armament. Does it matter, for instance, that SALT II allows certain Russian missiles to carry only a specified number of independently targetable warheads? Would it make any strategic difference if they carried more, either by mutual consent or in violation of the treaty? As long as the number of warheads does not affect the mutual ability of assured destruction, the size and number of each side's weapons are irrelevant. As long as my enemy has one gun that can kill me, it is irrelevant to our relationship that he also has the finest collection of guns in town.

The military balance as a bean-counting exercise is just one concept among many, hallowed by tradition, that have been rendered obsolete by the nuclear revolution. Defense, limited war, victory, alliances, and the distinction between combatants and noncombatants also have lost most practical meaning. Yet our strategic experts disquietingly continue to think in obsolete terms, and thus construct obsolescent policies concerning the nuclear weapons that have transformed the condition of our existence.

The SALT II debate is the best recent example of this cultural lag, which has dominated the theory and practice of nuclear weapons policy since 1945. The history of nuclear military doctrine and practice is a story of successive futile attempts to adapt nuclear weapons to the conventional functions of the nation-state. For more than three decades—from the so-called "clean" H-bomb to the counterforce strategy and the neutron bomb, we have tried to make it appear that nuclear weapons are just conventional weapons writ large, to be manipulated in a conventional way.

The heart of the SALT II debate is the issue of strategic superiority between the United States and the Soviet Union. Both sides in the debate recognize in the abstract how irrelevant the concept of "superiority" is when applied to nuclear weapons. Henry Kissinger cried out during a press conference in July 1974: "What in the name of God is strategic superiority? What is the significance of it . . . at these levels of numbers? What do you do with it?" Yet speaking to the Senate Foreign Relations Committee this past July, Kissinger expressed regret over his rash statement of five years ago:

My statement reflected fatigue and exasperation, not analysis. If both sides maintain the balance, then indeed the race becomes futile and SALT has its place in strengthening stability. But if we opt out of the race unilaterally, we will probably be faced eventually with a younger group of Soviet leaders who will figure out what can be done with strategic superiority."

It hardly needs to be pointed out that this is a less than convincing argument in favor of seeking strategic superiority.

Kissinger and other witnesses, particularly Secretary of Defense Harold Brown, all admitted that the concept of nuclear superiority has no meaning in any conventional military sense. Yet they endeavored to give it a new political meaning. Increases in nuclear strength beyond the point of assured destruction have no military significance, they argued, but nuclear superiority can add significantly to a nation's political power. The reason is that what counts in the power calculus is not only the actual power available, but also the perceptions of one's power by other nations If the Soviet Union possesses more warheads than the United States, this does not make it militarily more powerful than the United States; but these extra warheads do increase Soviet political power compared to the United States because people perceive the USSR—albeit falsely—to have become more powerful militarily.

This argument assumes that other governments are in the hands of stupid people who cannot discern the superficial from the meaningful. Admitting that they themselves understand the difference between nuclear and conventional weapons, these policymakers argue that the difference shouldn't be reflected in policy because others are not so perceptive.

Besides this psychological argument, defenders of the intellectual status quo also advance a political and military argument typical of obsolete thinking. The strategy of assured destruction, they say, drastically limits the options of the president of the United States. In the event of a limited nuclear attack by the Soviet Union, the president is faced with two equally unacceptable choices: the slaughter of ten of millions of civilians or, if he is repelled by this barbarous alternative, appeasement. Nuclear arms beyond the level required for "assured destruction," so goes this argument, make it possible to wage limited nuclear war, a type of warfare that leaves in its wake the sort of limited destruction that is familiar from modern conventional war. There must be a way, so the prevailing argument runs, in which nuclear weapons can be used as instruments not of total destruction but of limited war. Consequently, there must be a way in which nuclear weapons can be used rationally for the purpose of victory rather than deterrence. It is to that conventional position that Kissinger, in his recent utterances, has returned. Most of our approaches to nuclear strategy have been predicated upon that position.

Since 1945 we have tried to adapt nuclear power to our conventional way of thinking. But as three decades of debate have shown, it cannot be done. Limited nuclear war with limited damage is conceivable only if the stakes of the war are also limited. But it is difficult to imagine a rational resort to nuclear weapons on behalf of interests that are not of supreme importance, justifying—initially or through escalation—unlimited nuclear commitment and potentially unlimited damage. This is why nuclear weapons have not been used since 1945. "Limited" nuclear war is a contradiction in terms: nuclear weapons are instruments of uncontrollable and potentially unlimited destruction, to be used only in defense of the most critical interests. Soviet military doctrine operates on the assumption that nuclear war begun on behalf of limited interests probably will escalate into all-out nuclear war. If nuclear weapons are used on behalf of critical interests, such as saving Western Europe, they surely will be used as instruments of total war.

Conventional modes of thought have not dominated the nuclear debate by accident. They are the symptoms of a pervasive unwillingness to part with conventions hallowed by all of history, and to apply to nuclear weapons the logic and policies appropriate to them. It is this gap between reality and subjective consciousness that not only reduces the SALT II debate to irrelevance, but also delivers us helplessly to the prospect of nuclear destruction.●

SYNFUELS AND THE ENERGY CRISIS

● Mr. GARN. Mr. President, last week, the Senate signaled at least a willingness to throw $20 billion into the production of synthetic fuels. The vote, occurring on the Interior Appropriations bill, was not definitive, in that there has been no authorizing legislation passed and specific appropriations will yet be required before any money can be spent. For that reason, the vote cannot be taken as the intention of Congress to create a program of this magnitude, but it does

indicate that such a possibility is not out of the question.

That is too bad, Mr. President. The last congressional response to the energy crisis, the Department of Energy, ought to stand as a monument to the inability of Government to handle the problem. We are dealing essentially with economic problems, and trying to solve them through political institutions. It cannot be done, and our attempts worsen the problems at every turn.

Congressman DAVID STOCKMAN has considered some of these problems in a short article in the October issue of Conservative Digest. As Congressman STOCKMAN points out, if we were to authorize a massive synfuel program today, it would have no effect on the world price of oil before the middle 1990's, and precious little effect even then.

Mr. President, the energy problem presents us with critical choices. It does not require that we create another bureaucratic monster. Before we legislate, I hope all Senators will carefully consider the real nature of the problem, and seek realistic solutions. The article I referred to will help us all in that effort, and I ask that it be printed in the RECORD.

The article follows:

SYNFUEL MADNESS

(By Representative DAVE STOCKMAN)

The current synfuels stampede is official Washington's version of tank-topping—a momentary eruption of the herd instinct based on yesterday's news and today's apprehensions. Fortunately, the nation's gasoline lines are already diminishing in response to improving news, marginally better fuel supplies and the recovery of public composure.

Our best interests now will be served if the synfuels line on Capitol Hill dissipates and if President Carter, if he is to avoid yet another bad idea, foreswears support for the synfuel stampede.

To be sure, synthetic fuels produced from heavy oils, tar sands, shale or coal will someday be as commonplace as imitation brick fireplaces. The energy appetites of industrial societies, the prodigious deposits of these substitutes that are available and our existing technical knowledge virtually guarantee this. But what will happen someday is not the issue.

The question is whether, on this side of the horizon, a $60 to $150 billion program to turn out 2 to 4 million barrels a day of synthetic fuels would accomplish any of its backers' aims. The answer, despite all the rhetoric and breast beating, is that it wouldn't.

A crash program of this kind would have virtually no impact on the OPEC oil cartel's power in the 1980s and little impact in the 1990s. It would not significantly enhance our national security or our energy independence. It would not lower the current high world oil price or appreciably slow future price increases. Most important, it would not reduce our vulnerability to Iranian-type oil supply interruptions resulting from political instability, which are currently at the heart of our problem.

Yes, there may well be reason for Washington to promote a few demonstration synfuel plants at present, and there are other important steps we can take. But the last thing we need is a multibillion-dollar illusion to satisfy our national macho, to stroke ourselves with the mistaken belief that, finally, we are "doing something" about the energy problem.

What's happened amid the current synfuels euphoria is that many inconvenient facts have been ignored. The proposed plants, for example, wouldn't come off some Department of Energy cookie cutter. They would require massive engineering and construction feats for "first of a kind" projects.

Coal-liquids and shale-plant technologies, feedstock characteristics and site potentials vary so widely that they are not likely to become standardized any faster than light-water nuclear reactors have been. Yet there are only a handful of world-scale engineering firms with the resources and specialized manpower to handle detailed, final plant designs and construction management.

These plants would also result in major environmental assaults, involving many air and water pollutants and, in the case of shale, the disposal of massive volumes of toxic tailings. Even a fast-track approval process by environmental regulators would likely take two to three years because of the irrational complexities of Clean Air Act preconstruction requirements.

In addition, simultaneous construction of 10 to 25 such plants would severely tax the skilled manpower and manufacturing capacity for a long list of critical components and subsystems. Finally, we should not ignore the experience of the only large-scale syncrude plant functioning today, the 130,000-barrel Canadian tar sands facility. It has been plagued with startup problems for nearly a year and is currently producing at substantially below rated capacity.

All this should make it clear that a massive synfuels program authorized this year would not affect the world oil price by so much as a dime before 1987. We would be fortunate to have 500,000 barrels a day of reliable output by the end of the next decade. That would be less than a 1 percent addition to the 50 million barrel a day world petroleum market—not much of a lever on oil prices. Even if we managed to turn out 2 million barrels a day by the early 1990s—which would take an estimated 40 synfuel plants—it would increase world supply by only 3 percent, again with only a modest impact on price.

Whatever the long-run prospects, then, a major U.S. synfuels program would do practically nothing about OPEC, and precious little about the world oil price, for at least a decade and a half.

Or you might want to consider the cost-benefit equation another way: A 2-miles-a-gallon increase in the average fuel economy of the U.S. auto fleet in 1985 would equal the annual output of 10 synfuel plants.

Another misleading notion of the synfuels crusaders is that the world oil price now is rising fast enough and production costs will be low enough for coal and shale liquids to be competitive by the time the synfuel plants are operating. The ease of taking giant risks with other people's money, of course, often makes bureaucrats and politicians overlook critical distinctions that private investors can ignore only at the peril of losing their own money.

Private investors, for example, do not believe the cost estimates derived from their own DOE-financed pilot projects. There is a world of difference between back-of-the-envelope estimates drawn from small-scale experiments and the detailed engineering specifications needed for full-scale plants.

The experience of the Colony Group that planned to build a surface retort shale plant shortly after the first oil embargo is instructive. The back-of-the-envelope estimate before November 1973 was under $7 a barrel. By the time the detailed engineering specifications had been completed in August 1975, the break-even price had jumped to $22 a barrel. That figure is now nearly $30 a barrel, and that doesn't include additional expenses stemming from toxic-substance and environmental regulations.

There should be no illusions, therefore, that most synfuels would cost anything less than the equivalent of $30 to $40 a barrel of crude oil—and that is in real dollars. If we keep inflating our economy at 10 percent a year, the nominal dollar cost would double to the $60 to $80 range before 1985.

Indeed, the naive assumption that the world oil price is rapidly closing in on the range at which synfuels will become competitive stems from our habit of measuring the world oil price in terms of the counterfeit money we print at home. What matters to foreign oil sellers, naturally, is not the nominal dollar price but the real terms of trade—the command over Western steel, engineering services and foodstuffs held by each exported barrel of a wasting asset.

In the context of that buying power, a substantial share of the oil price increase this year was necessary just to restore the terms of trade established in the fall of 1975. From then until last December, the real OPEC oil price—adjusted for dollar-exchange value loss and Western inflation—declined by a full 20 percent. If the new $19 average price sticks, by year's end the real price of oil will have risen by less than 9 cents a gallon over the past four years.

In short, it would take a 4 percent annual increase in the real oil price over the next 15 years to close the present competitive gap. In light of the prospects for new production outside OPEC and continued fuel substitution and energy efficiencies around the world, that rate of real price escalation is by no means guaranteed. Scratch another argument.

What the synfuel stampeders fail to recognize is that our current vulnerability does not stem from price pronouncements following the theatrics of the oil ministers' meeting in Geneva. The real dangers for us are unplanned and undesired convulsions in the producing areas themselves—the Iranian syndrome—and our failure to be prepared for them. The synfuels panacea would do almost nothing to ease this problem.

THE PIPELINE PROBLEM

Our vulnerability lies in the structure of the world production system, not in our absolute level of daily imports. There is simply no spare production capacity available now anywhere in the world, with the questionable exception of Saudi Arabia. This means that the mammoth free world oil supply is balanced precariously on a "ragged edge." Any significant production curtailment will touch off a worldwide scramble for suddenly scarcer supplies, with enormous upward pressure on prices until production is restored or a new price equilibrium is reached.

The key question here is whether the proposed new synfuel plants, if and when they are ever built, would be held in reserve as spare capacity or would simply become part of the world's base capacity.

It is inconceivable to me that synfuel crusaders intend for these multibillion-dollar giants to stand idle most of the time, waiting for a bomb-thrower in Baghdad to require a throttle-up to full production. Just a million barrels a day of standby synfuel capacity would cost nearly $100 million a week to maintain in idle plants, even at today's optimistic estimates of capital costs.

In a world in which the marginal sources of petroleum supply carry an exceedingly high cost, the only way to get off the "ragged edge" is with low-cost storage.

Crude petroleum can be stored in salt domes and other geological formations for substantially less than $1 a barrel. An internationally coordinated 2-billion-barrel storage program for all the non-Communist industrializer nations that are members of the Organization for Economic Cooperation and Development (OECD) would cover a production outage of up to 5.5 million barrels a day for a year—or two years' worth of last winter's net loss from the Iranian interruption.

There may well be a persuasive rationale for a few demonstration synfuels plants at present. But the suspicion that these plants are not yet competitive could be readily tested simply by taking bids at a guaranteed purchase price of no more than $5 a barrel above the world price over the life of the plants. If such a limited arrangement does not coax private capital out of the banks, it would be good reason to keep billions in public capital in the Treasury.●

MOTHER TERESA

● Mr. McGOVERN. Mr. President, with many others I am gratified by the recognition that has come to Mother Teresa in being awarded the Nobel Peace Prize. Her labor of love is a source of inspiration for all of us.

Following a visit to India in 1962 at the time that I was Director of the Food for Peace Program under President Kennedy, I wrote an article for Sign magazine describing Mother Teresa's work and American participation through our food distribution program.

With the thought that it may be of interest to my colleagues, I ask that the article from the December 1962 issue of Sign be printed in the RECORD.

Another article that I believe deserves notice is one by Ellen Goodman in the Washington Post of October 24, 1979. As she points out—

Mother Teresa reminds us how often we think of the poor of the world as sand.

Ms. Goodman suggests that "we need a broader definition of self-interest: one that sees the world as our neighborhood." I ask that her article be printed in the RECORD.

The articles follow:

COME, DO SOMETHING FOR GOD

(By GEORGE MCGOVERN)

A leprous mother in her early forties, her dark skin morbidly marked and her extremities deformed, fell against the wall in a half-faint. On the satin-smooth face of the only bit of perfection remaining in her cheerless existence—her two-year-old daughter—she had discovered a telltale, white spot.

She caught up the tiny girl in a panic and, clutching a rough, white sari around her own face and body so that only her fear-shrouded eyes could be seen. Six miles away—a painful six miles, through Calcutta's teeming streets and hostile cries—she tottered into a leper clinic and cried out feebly to an Indian nun in attendance:

"My baby! Look—my baby's face!"

The Sister, who wore a blue-edged, white sari which is the habit of the Order of the Missionaries of Charity, accepted the infant from the distraught mother with practiced calm and examined a minute blemish on its cheek. Then she turned to the woman and smiled reassuringly: "It's nothing," she said. "Maybe a liver spot."

Distressful situations, rarely with so agreeable an outcome as this one, are commonplace in troubled, underprivileged Calcutta. But never do they fail to evoke a compassionate reaction from Mother Teresa, the renowned head of the Missionaries of Charity. The fifty-two-year-old woman gave up a comfortable teaching post in favor of ministering alone to the needs of lepers and cripples, dying derelicts, abandoned children, and starving adults among the city's millions. Bishop Edward E. Swanstrom, executive director of N.C.W.C.-Catholic Relief Services, calls her "one of the most amazing women I have met in my world travels." I met her during a recent tour of the United States government's Food for Peace program.

Mother Teresa's work is one example of the numerous Food for Peace programs through which America, in the past eight years, has shared more than $17 billion worth of its stored-up abundance with needy people and developing nations abroad. Sixteen private, vountary relief agencies regularly channel these donations to 66 million people in 106 countries.

Food is important to her and, it goes without saying, to the hungry people she helps. Each Monday, the Missionaries of Charity distribute a week's ration of powdered milk and cornmeal to 700 Moslem and Hindu families, on Tuesday to 1,200 Catholic families, and on the following day to 400 or 500 Anglo-Indian families. Need is determined by nuns who visit the recipients' dwelling places.

The Missionaries of Charity in India operate fifty-five centers in which American food is distributed. Most of the centers serve other purposes as well: schools, Sunday schools, dispensaries, leprosaria, and so forth. The painful use to which one center in Calcutta is put is bluntly revealed by the lettering over its door: "Home for Dying Destitutes."

This means what it says. Sick and starving people often are picked up near to death on the streets. Having no place of their own, they are transported to the Home for Dying, where they are bathed and given food and clean clothing and, if it is not too late, volunteer medical attention. Nearly half of the more than 13,000 patients received in nine and one-half years of operation failed to leave the institution alive.

"But they did not die like animals in the street," said Mother Teresa. Unfortunately, those who survived had no place to go but to the streets once more.

We visited the Home for Dying one noon last winter. Only two of the hundred beds—actually, they are canvas cots without legs—were empty. "They are always occupied," Mother Teresa said. "Sometimes we have as many as 116 or 118 patients."

Those who die on either side of a partition dividing a single, large, high-ceilinged room—women on one side, men on the other—are removed to a small space near the door which is screened off from the survivors' view by a rude burlap curtain. That day, on the floor near the curtain, was the pallet of an old, old man, toothless, emaciated, and obviously near death. Mother Teresa bent over him. Tenderly she lifted his head and gave him a drink of water from the spout of a small, zinc teapot.

We first found Mother Teresa helping with the midday feeding of several dozen waifs at another of her centers, the Home for Sick, Crippled, and Unwanted Children: Shishu Bhavan, in Bengali. The principal dish on the menu was a thick, brownish porridge which she calls "black rice"—an innocent ruse to disarm the rice eaters of that area—but which is a parboiled and dried wheat called bulgur. The United States Department of Agriculture recently added bulgur wheat to its surplus stocks available for distribution overseas because the product possesses more food value than wheat flour and is more palatable to non-wheat eaters.

"They like it," said Mother Teresa. "You should see them thrive on it. It is again and again more nutritious than rice. Starving children, fed on it for two or three weeks, pick up right before your eyes."

Most of the eighty-three children at the home were orphans or abandoned tots. Some had first gone to the Home for Dying with a parent. They ranged in age from a few months to the early teens, and many were victims of tuberculosis and other diseases traceable to malnutrition.

In one of the cribs on the second floor was a dark-skinned infant called "Kalu," which in the Bengali tongue means "black." He was two weeks old when the Sisters heard him crying in a garbage pail near their door. Eighteen months later, he was fat and healthy but not pretty enough to have joined thirty-four other youngsters adopted by Catholic families whom the Sisters know and trust. Like the blind and crippled children in the home, Kalu has been "adopted" by an absentee sponsor in England. Each month, a small amount of money is banked in his name and will be turned over to him when he is ready for school.

Adoption is an uncomplex procedure in India. Mother Teresa signs a paper saying the child is given to the new parents, and the latter sign a paper saying they have received it.

The petite woman who holds the fate of so many underprivileged children and adults in her competent, workworn hands is quietly aggressive but mild and unassuming, business-like but kind and gentle, a capable administrator but deeply compassionate. Her movements are purposeful and confident. Her eyes and mouth, serene and thoughtful in repose, are quick to kindle into unrestrained laughter. She has a ready command of English.

Mother Teresa is a Yugoslav who traveled to Ireland in the twenties to join the Loretto Sisters, a teaching order of the Roman Catholic Church. Sent to Calcutta in 1929, she taught for two decades and then asked Pope Pius XII for permission to leave the order so she could go out by herself to work among the poor and afflicted. Her request was granted, and after three months' medical study with a church order in Bihar, she went to work alone in the slums and bustees (tenements) of Calcutta. One by one, other Sisters joined her until, in October 1960, they numbered 150 and the Church recognized them as an order, or congregation. They set up a motherhouse at 54 A, Lower Cicular Road, Calcutta.

"Our little group has brought so much happiness, so much unity," Mother Teresa says quietly. "India is doing her best. The climate here saps energy and causes disease. Too many people have empty stomachs and are ill.

"Ten years ago, people wouldn't do anything for each other. Under the old caste system, a Brahman lady would wash herself all over to remove the shadow of an outcaste who passed her. Now, three hundred non-Catholics help me. Protestants cut fingernails in the Home for Dying. I don't beg. I just say, 'Come, do something for God.'

"Charity begets charity. Poor people are being helped, but so are the rich people who help them. I never feel shy when I ask for something; it helps the giver, too."

[From the Washington Post, Oct. 24, 1979]

OF PRIZES AND PANGS

(By Ellen Goodman)

BOSTON—In the photograph, she is holding an emaciated child. There have been, surely, enough of them, a ready supply of emaciated children, in Mother Teresa's life She has lived in a sea of sick, a Black Hole of Calcutta's poor.

Even now, if she were to distribute every dollar of her $192,000 Nobel Peace Prize, one by one, she would run out of money long before she ran out of poor in that one teeming city.

The portrait of this woman is absolutely awesome. She is no statesman who makes a treaty in an air-conditioned chamber and then goes home to a ticker-tape parade. Here is a woman who gets up every morning of her life to tend endless streams of victims of life's longest war of attrition. Without an expectation of victory.

Most of us in her place could have stood a week or a two-year tour of duty before being overwhelmed by pain and a sense of futility. There are times when we all look at

good work and good workers as if they were shoveling sand into the wind. But here is a woman who always sees people.

So the awarding of the Nobel Prize for Peace to Mother Teresa is a pinch at our consciences—that unpopular and obsolete part of our ethical anatomy. People today don't talk about their consciences and how to appease them; they talk about guilt trips and how to avoid them.

But Mother Teresa reminds us how often we think of the poor of the world as sand. Most of us live according to self-interest. The truly selfless are as rare as Nobel Prize winners.

But it is a question of how wide our definition of self-interest is and how much it rules our lives.

It is hard, at a time when many Americans feel desperate about their heating bills, or their ability to buy a home of their own, to think about the emaciated child. It's hard when we haven't eliminated poverty in America to think about Calcutta. I don't fault this. It just is.

We can't measure one person's pain against another's. But it isn't hard to measure one person's standard of living against another. The anxiety of the couple worried about a 12 percent mortgage and the anxiety of the couple worried about food are utterly different.

When the Nobel committee awarded its peace prize to Mother Teresa (and I do not forget that they also awarded one to Henry Kissinger), they did so because "poverty and hunger and distress also constitute a threat to peace."

The gap between the rich and the poor of the world makes this country look like an egalitarian Utopia. The gap between the rich and the poor of the world is a true source of insecurity and hostility. We are the rich and it is harder and harder to get away from it.

It's odd to quote Fidel Castro and Pope John Paul II in one breath, but in their back-to-back visits to this country, they both gave the same message: some countries possess abundant resources while others have nothing.

However dubious Castro's credentials or motivations, his words ring true and we know it. "I have come to warn that, if we do not eliminate our present injustices and inequalities peacefully and wisely, the future will be apocalytic. Bombs may kill the hungry, the sick and the ignorant, but they cannot kill hunger, disease and ignorance. Nor can they kill the righteous rebellion of the people; and in the holocaust, the rich, who are the ones who have the most to lose in this world, will also die."

Mother Teresa said, "The great thing about the poor is that they are not discontented. They don't hate us despite their immense suffering. It is a mystery we cannot understand.

Perhaps she is right. Perhaps they are too tired or too concerned with survival for hatred. But I doubt it. When the "have-nots" see the "haves," they want to know why.

The Nobel Prize award and the words of two visitors from two different worlds suggest that each year we need a broader definition of self-interest: one that sees the world as our neighborhood, one that sees our conscience as a guide, not as a guilt trip.

"I have been told I spoil the poor by my work," says Mother Teresa. "Well, at least one congregation is spoiling the poor, because everyone else is spoiling the rich."

Few of us are or can be as selfless or dedicated as this woman. But perhaps, for a few minutes, she helped us wipe the sand from our eyes, so we could see the people.●

REACH

Mr. DURENBERGER. Mr. President, many of us have experienced the tragedy of watching a person close to our hearts suffer a debilitating disease. Our anguish is mixed with a feeling of helplessness and frustration. We ask ourselves, "Why can't I do more for this person I love?"

A Minnesota woman, Bobbie Glaze, is intimately familiar with these feelings. She lived with them for years while she watched her husband deteriorate from Alzheimer's disease, a progressive, irreversible brain disease for which there is no known cause or treatment.

Mrs. Glaze decided that hiding in a cloud of self-recrimination was pointless. When she could no longer care for her husband, she decided to help other people.

With persistence and a deep commitment to her cause, she started REACH—Reassurance to Each. The organization helps families cope with their problems and demand better professional care. Under Mrs. Glaze's direction, REACH has established 14 chapters in Minnesota and is spreading across the country.

REACH has offered support for countless thousands of people in their times of crisis. It is encouraging families to take positive action, to find the best care for their loved ones, rather than just becoming frustrated and angry.

Mrs. Glaze is a tireless worker and a remarkable person. Her story can bring hope to the people who are facing the challenges that she overcame years ago. I ask that Mrs. Glaze's story, printed October 14, 1979, in the Washington Post, be reprinted in today's RECORD.

The article follows:

REACHING OUT THROUGH PAIN AND FRUSTRATION

(By Phyllis Mensing)

MINNEAPOLIS.—Bobbie Glaze, wife of a corporate vice president, a mother of two grown daughters, a grandmother. The kind of homemaker happy to leave things like driving and family finances to her husband.

Happy until her husband was stricken with a brain-killer called Alzheimer's disease.

Now Kenneth Glaze lies helpless in a hospital bed, recognizing no one, slowly deteriorating. Bobbie Glaze had to learn to drive and to handle family finances. Now, she's trying to help other families of the mentally ill.

Mrs. Glaze started REACH, short for Reassurance to Each, two years ago for people with mentally ill friends or relatives. There are now 14 chapters in Minnesota, and the movement is spreading across the country, helping families cope with their problems and demand better professional care.

REACH is a product of pain and frustration, of Mrs. Glaze's determination that no one should have to go through what she went through.

Ten years ago, the Glazes lived in Watertown, S.D., where Kenneth, in his early 50s, was administrative vice president of an insurance company. Bobbie had known him in high school when she was a cheerleader and he was a star baseball player.

But Kenneth Glaze was changing. He was losing interest in his friends, his job, in everything.

"When we were alone, it was like I was talking to the wall," Bobbie says. "I walked around the block late at night wondering what to do."

She decided to move to Minneapolis, near her older daughter, to find more doctors and a different environment.

Two doctors diagnosed the illness: Alzheimer's disease, in which the brain cells die slowly. Two doctors diagnosed, but neither offered guidance.

Mrs. Glaze tried to care for her husband at home, but he started to throw things and push people and wander away. She finally decided a nursing home was the answer, but they said they didn't have the staff to handle him.

"I had been going through hell wondering if I was copping out, if I could have handled it if I gave up everything else," Mrs. Glaze said. "Then when professionals told me they couldn't handle it, I knew I couldn't either."

Mrs. Glaze made the rounds of professionals, looking for help. She got sympathy but no advice. Besides, her husband's insurance had run out.

Finally, someone suggested she call the Veterans Hospital in St. Cloud, Minn. Glaze has been there for five years now.

While Mrs. Glaze was regaining her emotional and financial strength—she sold her home and got a parttime job—she vowed someday to help others in her situation.

"This had kept building in me, and I decided that if I ever got where I was free and able, I would do something," she says.

When she first volunteered her services to mental health agencies, she was given envelopes to stuff. Then she met Karen Peterson, human resources director for the Mental Health Association of Minnesota. Miss Peterson listened to her, made suggestions, and the two started telephoning people.

"We wanted to find if a group like REACH existed," Mrs. Glaze said. "Everybody said, 'Are you sure it doesn't? It should.' "

They sent notices through churches and hospitals, and the first meeting was in a church basement. Twenty people showed up. At first the discussion was strained. But then one person broke down and said, "It's so good to know I'm not alone."

REACH is funded through mental health associations and volunteer work. Its members meet once or twice a month with mental health professionals who talk about treatment or with each other to share problems or just talk. Not all members come to all meetings, but they come when they need support.

"I feel such anger, and I don't even know who I'm angry with," a frustrated mother said at her first REACH meeting. Her teenage daughter is in a state hospital because she couldn't find another facility, she said. Others at the meeting suggested places she might check.

"Many times, we don't profess to have the answers," Mrs. Glaze says. "But the fact that we find other people, and we know we are not alone is such a relief."

Meanwhile, word of REACH has spread, through the mental health associations, and groups in other states are growing.

REACH in Providence, R.I., is only a year old, but it has grown from five to 100 members, and Richard Weir, director of the state mental health association, says it was instrumental in blocking an insurance company move to cut benefits.

The long-term benefits of REACH may evenutally be seen in the treatment of the mentally ill, as the state groups take a more active interest in research and the quality of care.

Last year, Bobbie Glaze received an award from national Mental Health Association. It brought mixed feelings.

"I'm reminded of why I'm doing it and it's very sad," she says. "It's nice to be recognized, but I didn't ask for this. I didn't expect it. I did it because the need is there and I'll continue to do it as long as I can."●

WALTER SHAPIRO AND THE CHEAP SHOT

● Mr. McGOVERN. Mr. President, yesterday's Washington Post magazine carries a piece by a defeated congressional candidate, onetime Carter speechwriter, and now an aspiring journalist named

Walter Shapiro which contends that liberal Democratic Senators running for election in 1980 are actually "running for cover." Unless Shapiro was paid by the rightwing or the GOP campaign committee for this hatchet job, he is at least sucking for their appreciation—although he adds a couple of Republicans to his hit list as an apparent afterthought.

My colleagues need no defense by me, but the case Shapiro alleges against me is so blatantly false and distorted that I assume the rest of his article is also filled with cheap shots. He accuses me of selling out on the issue of nutrition because I defended McDonald hamburgers against the charge that they are junk food.

I stand on my defense of the McDonald hamburger—not to please any voter but because it represents a justified correction of a false stereotype. The McDonald hamburger is of higher quality and contains less fat than the gourmet food in many high-priced restaurants.

As for the two nutrition labelling bills I have introduced, they are not a cover-up for anyone. They were carefully drafted by professional staff experts after long hearings and months of painstaking research. If passed, they can benefit every consumer in America without some of the useless regulations that now hamper our food labelling program.

During the past decade, I have learned more about nutrition, stood up to more special interests, and translated more of my findings into effective action for the public good than Mr. Shapiro is capable of grasping. The Senate nutrition leadership is one of the most dramatic success stories in recent American political history.

I also make no apology for objecting to an extremist group in my State called "Target McGovern" that is campaigning for my defeat under a logo showing a telescopic rifle sight over my heart. Mr. Shapiro is awfully bold hiding behind a poison pen, but I doubt that he would relish having his image widely advertised under a telescopic rifle sight urging aroused citizens to "Target Shapiro."

Every Senator knows that there is no way to refute fully a journalistic smear. There are always those who are willing to believe anything in print.

I would only say that as a liberal Democrat representing a generally conservative State, I have been accused for 25 years of being too liberal or too radical. For years my staff and many of my supporters have begged me to modify my liberal positions on such issues as arms reductions, opposition to the Vietnam war, labor reform, the Panama Canal, opposition to tuition tax credits, prayer in the schools, busing, abortion, and the recognition of Cuba, Angola, and Vietnam. I have refused to do so and I pay the political consequences. But even some of my most energetic critics have conceded that I stand up and speak for what I believe. I do not run for cover and I do not run from cheap-shot journalistic attacks.

I do not concede either courage or judgment to Walter Shapiro. I regard him as a small-bore hatchet man who unless he changes his present methods will never make it in the big time, either in politics or journalism.●

DR. VAN CLEAVE ON SALT II

● Mr. HUMPHREY. Mr. President, the following statement was given to the Senate Armed Services Committee by Dr. William R. Van Cleave, on October 11, 1979. It is the single most cogent and articulate analysis of the fatal flaws of SALT II and what to do about them that I have ever seen. Accordingly, I commend it to the attention of all my colleagues and their staffs for study and consideration, and ask that it be printed in the RECORD.

The analysis follows:

TESTIMONY OF WILLIAM R. VAN CLEAVE

Biographical: Dr. Van Cleave is Professor of International Relations, Director of the Defense and Strategic Studies Program, and 1979–1981 Associate of the Annenberg Center for the American Experience at the University of Southern California. He is also Chairman of the Strategic Alternatives Team and a member of the Board of Directors of the Committee on the Present Danger. He is on the Editorial Board of three scholarly journals. From 1969–1970 he was a member of the first SALT Delegation and a Special Assistant in the Office of the Secretary of Defense. In 1976 he was a member of the "B Team" which was charged with reviewing national intelligence on Soviet strategic capabilities and objectives. Dr. Van Cleave is the author of numerous publications on strategic, arms control, and national defense issues—most particularly on SALT—and is coauthor of the recent book, Strategic Options for the Early Eighties; What Can Be Done? Dr. Van Cleave testified before this Committee, as well as the Government Operations Committee, on the SALT I accords in 1972.

Mr. Chairman and distinguished members of the Senate Armed Services Committee, it is a distinct honor to be recalled to testify on the SALT II accord as I did on SALT I. I have a prepared statement that I will submit for the record and draw from my opening remarks.

The SALT II agreement clearly must be considered in the broader context of the history of SALT and of changes in the strategic balance. U.S. SALT objectives, Soviet strategic objectives and programs and their relationship to American security requirements and arms control aspirations are matters inseparable from SALT II. It is proper that the SALT II review be made part of an overall reconsideration of American national security efforts and policies, and of the Soviet challenge to them. Will the United States permit the Correlation of Forces to continue to shift in favor of the Soviet Union? Will the American leadership and public support a more vigilant and determined national defense effort to prevent that change? Or is the path of unilateral arms restraint and accommodation the one we will continue to pursue? The SALT II outcome may well answer such fundamental questions.

In this regard, the attention being given in the Senate to the inadequacies of the American defense effort and the need for an increase in defense funding is most welcome. Since it is acknowledged, even by the Administration, that we face the most serious and urgent strategic problems with or without SALT II, it is only fitting that consideration of SALT II be coupled with consideration of what changes in effort are necessary. I would like to advance some thoughts on this later. I would first, however, like to focus my attention on SALT itself. The defects of this agreement and the risks entailed in a continuation of SALT trends cannot be fully compensated by an increase in defense spending alone, but must themselves be addressed and rectified.

We have been actively engaged in SALT for a decade, and we have been practicing strategic arms control unilaterally for a much longer period than we have had SALT agreements. The benefits originally expected from this course of action have not come about, and, in fact, our strategic situation has steadily worsened in that time.

You have heard enough about the changes and trends in the strategic balance without my adding more numbers. What is abundantly clear is that, whatever analyses used, the trends during the ten years of SALT, and the seven years since the SALT I agreements, have been seriously adverse to the United States and we are now facing an unprecedented threat to our national security. In fact, as the Chairman of the Joint Chiefs has testified, the greatest increases in Soviet capabilities have come since SALT I and the trends will continue to move in the Soviet favor through the period that would be covered by SALT II. So there has been not only a clear failure in SALT to arrest the menacing Soviet build-up and constrain the threat to the U.S.; in fact, that build-up has gathered momentum and the trends have been more pronounced during the SALT decade. In many ways SALT has been an impediment to proper U.S. responses to this challenge.

From experience we know that SALT does not reduce the threat or appreciably constrain Soviet programs. It has done nothing to stabilize the strategic balance. It does not supplant—nor do I believe it usefully supplements—the need for a new U.S. effort to assure the stability of that balance. It is the belief that SALT agreements may do these things, however, a belief that the Administration has inevitably fostered in the selling of SALT II, that could be more harmful than the specific limitations themselves. I will develop this point later in my statement. I would like now to digress briefly to address a major problem in the SALT debate.

Arm control enthusiasts have commonly been careless with the realities of arms control agreements. They have tended to overstate both the advantages of such agreements and the consequences of non-agreement, and in so doing have distorted the role that such agreement can constructively play in international relations. In the process, they have successfully placed the onus on those who would oppose even unsound agreements. They have also managed to link the opponents in the minds of many to theatrically stated alternatives to agreement: a never-ending arms race, great waste, a return to the cold war, dissolution of alliance solidarity. The President has even used the term "war mongering" in connection with opposition to the SALT II agreement.

The debate over SALT should not be influenced by such false rhetoric. By posing arms control and an unrestrained arms race as clear-cut alternatives, and falsely linking them to acceptance or rejection of the SALT II agreement, SALT proponents have played emotionally upon normal arms control sentiments. They have asserted general benefits that all would wish to see realized and postulated dire consequences that all would wish to avoid, and they have linked these respectively to agreement and nonagreement. In such manner, the proponents of SALT II have sought to shift the burden of proof to the opponents precisely as a means of escaping the burden of proof that should be encumbent upon them. We should not allow ourselves to be persuaded by such a tactic.

The proponents of SALT would have people forget that there were no SALT limitations prior to the summer of 1972, but that there

has been unilateral U.S. restraint in arms programs since the mid-1960s; that, instead of an "arms race" prior to the SALT I accords, a profound change in the strategic balance took place precisely because the Soviet Union was racing and the United States was not; that SALT I not change that situation. Instead, the point has been reached where it is now necessary to act vigorously if we are to avoid being placed in a permanent position of inferiority and insecurity.

The choice we face now is not between a sound arms control agreement and an unstable arms competition. It may be a choice between an agreement that will continue the adverse trend, and no agreement, which would free the United States to change that trend.

Consideration of SALT II must begin with a clear understanding of the strategic trends since we have been engaged in SALT. They have been toward Soviet superiority, not essential equivalence; toward reduced, not enhanced strategic stability; toward increased vulnerability of our deterrent forces, not improved survivability; toward the need to spend more on our strategic forces, not less; toward a worsening relationship with the Soviet Union, not more cooperative Soviet behavior; and toward poorer, not better prospects for effective and helpful arms control.

These trends have been not only a concomitant of the SALT process, but in many ways a result of it. The Administration tells us to look at SALT "as a process." The suggestion is a good one, but let us look carefully. Let us not commit ourselves blindly to a harmful process merely because it is called "arms control."

In viewing this process, it might be helpful quickly to review it.

A DECADE OF SALT

When considering SALT agreements we should not forget those objectives for which we entered SALT. We wished to reach long term agreements equitably limiting strategic offensive and defensive arms in a manner to enhance strategic stability while lessening the need for future arms programs. SALT agreements, in the words of the State Department, would provide a measurable advance in national security, particularly by easing foreseeable strategic difficulties and reducing future threats to our deterrent forces. They would moderate the arms programs of both sides, particularly those regarded as most "destabilizing" in a strategic or competitive sense. In addition, SALT agreements would promote détente and lead us from an era of confrontation to one of international cooperation between the two superpowers. SALT, in fact, was to be the "litmus test of détente." To achieve these goals, the United States was willing to forego the stategic superiority upon which its strategic planning had rested and accept a situation of parity with the Soviet Union.

Without taking the time to trace the course of SALT I, I would only remind you that all U.S. proposals to establish meaningful and equitable offensive arms limitations were rebuffed by the Soviet Union. At the same time, Soviet arms continued to expand during the talks. As a consequence, the respective levels of arms established by the interim agreement were essentially the reverse of the relationship that had existed at the start of the talks; and to achieve even that the U.S. agreed to abandon a defense of Minuteman that had been deemed essential only two years previously. The latter was perhaps the primary Soviet objective in SALT I. It left our land based retaliatory force unprotected and assured the attainment of Soviet counterforce goals—especially since we had at the time no alternative program to provide the necessary Minuteman survivability.

As I told this Committee in 1972, the terms of the SALT I agreements were "a light year removed" from the outcomes contemplated and deemed acceptable during the SALT preparations of 1969. They represented a major erosion of our SALT goals.

Let us recall that the Administration's support of the agreements, and your approval of them, was conditional. That the Administration was not entirely happy with the agreements is clear from the formal declaration it appended; *i.e.*, if they were not superseded within five years by "an agreement providing for more complete strategic offensive arms limitations . . . U.S. supreme interests could be jeopordized," and there would be grounds for withdrawing from the ABM Treaty. Congress reaffirmed this by resolution. Secretary of Defense Laird and the Joint Chiefs based their support entirely on the premise of major new programs for timely force modernization, and Congress passed a resolution supporting such a condition.

The principal case for the agreement was based less on their merit than on their putative promotional value: They were the necessary first step in the SALT process and would lead, willy-nilly, to more satisfactory agreements. Moreover, it was argued, however unhappy the terms, looking ahead five years they were still better than no agreement. (As Henry Kissinger put it: The "question of whether the freeze perpetuates a Soviet numerical superiority is beside the point. The question is: What would the margin have been without the freeze?") That is to say, it was argued that the Soviets could and would do more in the absence of the agreements, while we could compete more effectively with the agreements.

These are by now familiar arguments. We must all have an acute sense of deja vu about the arguments being advanced for SALT II. They are remarkably similar to those for SALT I.

The United States went into SALT II again seeking Soviet agreement on basic objectives and basic principles of strategic stability; again emphasizing the importance of overall equivalence in key strategic indices; and again arguing for major reductions. Again it was unsuccessful. The Soviet Union sought only one-sided advantages. At the same time, Soviet strategic programs were not only not moderated by the presence of the SALT I agreements and the SALT II negotiations, they were given increased momentum, well beyond anything predicted in 1972. Soviet force modernization and expansion took place across the board, in both offensive and defensive systems. In many cases this modernization exploited loopholes and ambiguities in the SALT I agreement, even to the point of contravening U.S. interpretations of the agreement.

A good example of the failure of SALT to place meaningful constraints on Soviet force expansion and the failure of the United States to achieve its most basic SALT objectives is the issue of the heavy ICBM.

The U.S. in SALT II sought not only equal and reduced ceilings on numbers of launchers, but also substantially equal and reduced ceilings on missile throw-weight and MIRVed missile throw-weight. The key to achieving throw weight limits was the heavy ICBM. The original U.S. objective was that launchers for such ICBMs be phased out. (Later positions were that they be substantially reduced, and each side have the right to the same number; that there be a MIRV ban for heavy ICBMs; or that the U.S. be allowed a numerical MIRVed ICBM advantage to compensate for the Soviet throw weight advantage). Heavy ICBMs, according to the U.S. position attached to the SALT I agreement, were those larger than the Soviet SS–11.

In fact, it was apparently expected in 1972 that the SALT I agreements prohibited Soviet deployment of a larger number of heavier ICBMs than they had at the time. Dr. Kissinger told Congress that the agreement contained a "safeguard that no missile larger than the heaviest light missile that now exists can be substituted." It was on this basis, I would say, that Congress approved the SALT I accords.

The Soviet Union, however, began replacing the light SS–11 with the substantially heavier and greater throw weight SS–17 and SS–19. According to the U.S. position, which was essential to maintain if there were to be any chance of securing meaningful limits on ICBM throw weight, these were heavy ICBMs, just as the SS–18, which began replacing the SS–9.

This Soviet force modernization, along with the overall Soviet approach to SALT and to strategic programs, clearly doomed U.S. efforts to reach meaningful and equitable arms limitations. The types of limitations the Soviets were prepared to consider would not meet U.S. arms control objectives or ease future strategic problems. They were not consistent with true essential equivalence. They did not constrain the development of a Soviet first strike capability. Midway in SALT II a U.S. review reaffirmed the importance of equalizing MIRVed missile throw weight, and especially MIRVed ICBM throw weight, as near U.S. levels as possible. But by then it was clear that the Soviet approach would preclude arms limitations that materially helped the strategic balance and its future stability.

There was developing, reluctantly, a learning experience in the American SALT community. By the mid-1970s, the true level and nature of Soviet strategic programs were pretty well understood, as was—with emerging clarity—the fundamental difference between Soviet strategic concepts and goals and our own. It was clear that a dangerous strategic balance was shaping up given a continuation of existing trends, and that SALT would do little to change those trends. The basic problem now widely recognized was that the U.S. would be in a very bad strategic situation in the early to middle 1980s unless it took steps to prevent it. SALT agreements themselves could not do that.

Consequently, the U.S. approach to SALT changed. SALT agreements would be pursued, but without the previous enthusiasm. They would be acceptable only to the extent that they did not interfere, directly or indirectly, with the programs necessary to meet the rapidly developing Soviet threat. In fact, they were acceptable only assuming that we were proceeding in a timely fashion with those programs. Given the little that SALT could accomplish, we should certainly not pay much for it. It was possible that the Soviet Union would make some SALT concessions to stop M–1, MX, Trident, but by this time the Administration realized that such programs were essential and should not be used as "bargaining chips" for ineffectual SALT agreements.

That learning experience was apparently lost on the Carter Administration. After an abortive early attempt to "revive" SALT through a new "comprehensive" SALT proposal, the Administration allowed its position to be eroded in every major instance toward the Soviet position. Approaching strategic planning largely from the perspective of minimum deterrence, it allowed itself to become overly and naively enthusiastic about SALT, and—even worse, it allowed those programs previously designed to meet the threat of the early to middle 1980s to atrophy. In the case of B–1 it simply cancelled a major program without even seeking a SALT quid-pro-quo. (It is ironic that if the Administration had not done this, it would not be having the trouble with SALT II that it is now having. Those programs would have done much to mitigate the weaknesses of the agreement and would certainly have reduced the risks of the period to be covered by SALT II.)

Without going into the details of the Administration's handling of SALT II, and the erosion of its positions, let us return only to the issue of heavy ICBMs as an example.

The Administration's Spring 1977 comprehensive proposal again tried to obtain reductions in the heavies—the SS–17 and SS–19 as well as the SS–18. Dr. Brzezinski at the time even proclaimed that their "reduction is a necessary concomitant of stability; if they are not reduced . . . the Soviet Union would gain a very significant advantage." Moreover, he said, such reductions must be "of a greater scope than just symbolic." Yet, what do we see in the proposed agreement? We see not a reduction in heavy ICBMs but what is a substantial increase in them. SALT II would allow not only a unilateral Soviet right to the super-heavy SS–18 (itself a significant increase in capability over the SS–9 force of SALT I), without any reductions in that system, but would also allow the Soviets to count their SS–17 and SS–19 launchers as "light." Together, this allows an enormous increase of Soviet ICBM and MIRVed ICBM throw weight. This clearly makes a mockery both of American SALT II objectives and of the Administration's claim that SALT II reduces the level of Soviet forces.

With this background, I would like to turn to the SALT II agreement.

MAJOR FLAWS IN THE PROPOSED AGREEMENT

Before setting forth my general conclusions about the proposed agreement, let me specify some major flaws in it:

(1) The treaty does not limit the correct things. It limits "launchers" not weapons. Curiously, this is something that Vice President Mondale earlier criticized a previous Administration for doing at Vladivostok. In his 1974 Kennedy Lectureship Address (Johns Hopkins University, 3 December 1974), he said: "While Soviet silos will be minimally reduced in numbers, the Soviets are likely to increase the number of missile warheads by several thousand. And, as General Secretary Brezhnev once pointed out to us, no one was ever killed by a missile silo."

It has been recognized for some time that limitations on launchers alone are relatively meaningless. U.S. SALT II objectives, as I have said, were to limit and reduced overall missile throw weight, along with launcher limitations. SALT II fails to do this and fails to limit the number of missiles as well. Since missiles are unlimited, certainly warheads are also unlimited. Moreover, in focusing attention on launchers, SALT clouds the real threat picture.

An unlimited number of missiles may be produced and stockpiled under this agreement, and we know that the Soviet Union already has many more ICBMs than it has SALT counted launchers. It also has very active ICBM production lines, compared to none in the United States. When only 100 additional Soviet ICBMs could add the equivalent of our entire Minuteman force in MIRVed throw weight, this flaw in itself should be considered fatal to the treaty.

There are two other destabilizing aspects of this problem. In trying to limit the number of launchers, and in thereby prohibiting the construction of new fixed ICBM launchers, the Treaty is likely to have the effect of limiting the number of aim points into which we can redeploy our force. By failing to combine overall throw weight limits with limitations on launchers, the treaty encourages the deployment of larger missiles in order to maximize the capability on limited launchers. In other words, the treaty continues the movement of the SALT process in the wrong direction.

(2) Even in attempting to limit launchers, however, the Treaty fails. It contains no satisfactory definition of a launcher for the purposes of limitation, and therefore it has no effective, or verifiable, launcher limits. The exception, of course, is a unilateral one. The U.S. will unilaterally abide by the intent. The Soviet Union need not do so, and undoubtedly will not, especially since Soviet canisterized ICBMs lend themselves to adaptable or makeshift launch techniques. The canister itself may be the launcher; silo-launchers are not necessary.

The following picture shows the launch of a Minuteman ICBM from a crude "canister" and an open pad, using controls mounted in the rear of a jeep. Clearly, canisterized Soviet ICBMs, probably containing much of the essential launch equipment, can be stockpiled and launched from anywhere in the Soviet Union.

As it turns out, then, the Treaty does not reliably limit either missiles or launchers. The Soviets may be expected to increase both.

(3) Even without taking the foregoing two points into consideration, the agreement condones an increase in Soviet heavy ICBM launchers over that intended by SALT I. The U.S. SALT I and previous SALT II position was that "heavy" ICBMs are those larger than the SS–11, including both the SS–17 and SS–19, both of which have over three times the throw weight of Minuteman. Having failed in SALT I to get Soviet agreement to reductions in the number of launchers for heavy ICBMs, we set out again in SALT II to achieve such launcher reductions. Instead, by acquiescing in the Soviet insistence that we regard the SS–17 and SS–19 as "light" ICBMs, we have in this agreement permitted the Soviet Union to equip all SALT-counted ICBM launchers with what are really heavy ICBMs: an enormous increase in ICBM throw weight rather than the reductions sought throughout most of SALT II.

(4) In addition, the agreement fails to reduce the number of Soviet "super-heavy" ICBM launchers, the SS–18, and it establishes the unilateral right of the Soviet Union to such very large missiles.[1]

(5) The 820 limit on MIRVed ICBM launchers is a concession to the Soviet Union and a major retreat from the 550 ceiling the Administration proposed in 1977. It is also de facto unequal since the U.S. has no plans to deploy over 550 during the Treaty period.

(6) While thus allowing the Soviets to expand the ICBM threat, rather than reducing or constraining it, the agreement limits—at least, apparently de facto—the options available to the U.S. to secure its ICBM force against such a threat. The SALT I agreement forbids defense. Now we apparently cannot deploy in multiple vertical aim points, cannot proliferate numbers of missiles, and cannot conceal. We are left with an unsatisfactory quasi-mobile option, assuming that the Protocol does expire and that the Soviets do not successfully object also to this option.

(7) The agreement excludes the intercontinental range Backfire, leaving it as a free strategic system (despite the fact that the number expected by 1985 could add some 35 percent megatonnage to the known Soviet strategic offensive force), while it includes all U.S. strategic bombers, including some stored and dismantled. Adding insult to injury is the acceptance by the United States of an entirely separate statement by the Soviet Union that it will not give what we know to be an intercontinental bomber an intercontinental capability, which is then defined in terms of radius instead of range. According to General Rowny, the statement was not even signed or initialled by the Soviets.

(8) Having cancelled the B–1 program with (erroneous) rationale that we could substitute cruise missiles for that capability, this agreement would limit both the numbers of those cruise missiles and the numbers and types of carriers for them. In addition, counting cruise missile carriers with ALCMs as "MIRVed" vehicles forces the U.S. to reduce its true MIRVed systems if it exceeds 120 CMCs. At the same time, the agreement excludes Soviet cruise missile equipped aircraft (or for that matter other CM platforms) when the Soviets can claim that the cruise missiles carried do not have operational ranges over 600 km, even when our intelligence says they do.

(9) In so limiting our ALCMs, the agreement places limitations on U.S. bomber armaments without corresponding limits on Soviet air defenses. The failure to place limits on Soviet air defenses, along with the exclusion of Backfire, gives the USSR a major advantage in bomber forces, an area where it has always been maintained that we enjoy an advantage.

(10) The limit on testing and deployment of only one "new type" ICBM restrains only the U.S. (an unfortunate restraint at that) because of loopholes that permit the Soviet Union to proceed not only with its 5th generation of ICBMs, but to proceed with still others as well. Some of these loopholes are: (1) No agreed data base upon which to base the 5 percent rule, which, when coupled with our inability to measure such parameters within 5 percent with any confidence, makes it practically impossible to define a "new type" as such. (2) No limit on "SLBM" and "IRBM" testing allows new type ICBMs to be developed and tested as "SLBMs" or even as "IRBMs". The SS–N–8, SS–N–18, and our own C–4 are intercontinental range ballistic missiles; and we should recall our own interest in converting the C–4 into a common ICBM/SLBM. (3) There is no range stipulated for the 5 percent rule on throw weight. The Soviets could build a large ICBM, with great throw weight, and claim it to be an IRBM by testing it at ranges under 5500 km (perhaps by loading it with extra warheads, or even ballast, which could be offloaded to achieve intercontinental range.)

(11) The restraints on SLCM and GLCM in effect limit what would be U.S. and/or NATO theater systems, and without corresponding limits on what the USSR allows to be its modern theater systems, the Backfire and SS–20. Even though these limitations are in the Protocol and will presumably expire after 1981, the principle is establish and the precedent set. In both a political and negotiating sense, this seems to me to be a serious set back. Virtually the only position on which the U.S. has remained firm since the opening days of SALT I is that we will not accept one-sided restraints on our theater systems (the so-called forward based systems), and will not bilaterally with the Soviets establish restraints on sytems intended primarily for theater deployment and Allied security.

These are eleven specific major flaws that I would point out. Others could be added, e.g., uncertainty and ambiguity about the definition of future heavy bombers, lack of an adequate means to distinguish between a light and a heavy ICBM, inadequate and unagreed ways to determine the range of a cruise missile. But any of the eleven flaws mentioned could in itself justify serious questioning of the soundness of the agreement; there can be no redeeming value to offset the impact upon our national security of all those flaws.

MAJOR CONCLUSIONS CONCERNING THE PROPOSED AGREEMENTS

Based upon the foregoing discussion, it is necessary to conclude that:

(1) The agreement does not achieve the objectives for which the United States has looked to SALT, nor the specific limitations sought in SALT II. It neither reduces nor significantly limits the growth of the threat. It certainly does not help ease the need for American strategic responses; to the contrary, it contributes to an increased need. The agreement would continue the trend toward less rather than more stability.

(2) The agreement in no way constitutes the type of follow-on agreement called for at the time Congress approved SALT I. It represents a continued erosion of American SALT objectives and negotiating positions. The evidence should be clear by now that good agreements do not grow from bad ones. Acceptance of this agreement will not improve the chances for better future agreements or help the SALT process.

(3) The agreement specifically does not establish the equality called for by Congress in 1972, and is in many important respects an inequitable agreement.

(4) The agreement would constrain, directly and indirectly, the U.S. ability to respond effectively to the threat that it allows to develop during its duration.

This point is important enough to develop below. It is important because the usual response to the observation that the agreement does not help us very much is to say, "well, show us how it is harmful." Such a response at least implicitly acknowledges that the real question in the SALT II debate has come to be whether the agreement and the accompanying process are harmful to the United States, or merely worthless.

(5) The treaty contains too many ambiguities and loopholes that the Soviets can exploit and that are certain to cause future problems. It is a lawyer's nightmare as well as a strategist's.

(6) The treaty is not adequately verifiable in many important provisions, and the verification problem is further clouded by definitional ambiguities, lack of adequate data bases, and other loopholes. I place verification last since even a thoroughly verifiable bad agreement remains a bad agreement, and this is a bad agreement.

WOULD WE BE BETTER OFF WITH THIS AGREEMENT THAN WITHOUT IT?

Setting aside for the moment the question of the relative political consequences of agreement compared with no-agreement, the argument that we would be better off with this agreement than without it can be distilled to a three-fold proposition that:

(1) the Soviet threat would be greater in the absence of this agreement; i.e., that the agreement does in fact significantly prevent the USSR from doing what it would do if there were no such agreement;

(2) the U.S. is not constrained by the agreement from doing whatever it needs to do to meet the threat in a timely and effective fashion (and, presumptively, will do so); whereas,

(3) we would not be able to respond as effectively in a no-agreement case.

Let me examine those propositions.

As to the first, it is argued that the Soviet Union would produce XX more launchers, missiles, MIRVed missiles, bombers, warheads without SALT II. This argument is transparently self-serving. First of all, there is no real evidence of what the Soviets would do in the absence of an agreement. One must suspect that such non-SALT projections may be designed largely to help sell SALT by making an agreement appear to be better than it is. We had experience with this in SALT I.[2] Second, such an argument obscures the real threat, which is what the Soviets can and most likely will do under the agreement. Given the effort that the Soviet Union is expending, and the percentage of its GNP already going into arms, it is difficult to see how they could significantly increase what we project for them assuming SALT II.

We should recall that the same argument was used to sell SALT I.

I believe that what I testified in 1972 concerning the same SALT I arguments is pertinent, and I would like to recall it:

"To conclude that the situation five years from now would be much worse without these agreements requires the dual assumption that the Soviets will continue to deploy ICBMs and SLBMs (launchers) at a rate comparable to or higher than that of recent years (and that this represents more of a risk than Soviet force modernization), and that the United States does nothing in response. Yet, the President has suggested that we would do quite a lot in response (an additional $15 billion per year) if there were no agreements. It is difficult to see how these agreements change the threat $15 billion per year worth. In fact, while limiting such a U.S. response, the agreements do not much change the expected 1977 threat. If the Soviets do a lot in the presence of the agreements, and we do comparatively little—as seems probable—the agreements could lead to a situation in 1977 much worse than without the agreements."

"These agreements do not in fact substantially change what the Soviets can and would have done in the next 5 years. We did not forecast a continuing large scale buildup of ICBM launchers. What we expected and were most concerned about was the improvement of the existing levels of Soviet launchers in terms of new missiles, accuracy and multiple reentry vehicles. Those are the things that are not only allowed but encouraged by these agreements. It is difficult for me to see that there is much evidence to support the argument that the situation in the absence of the agreements would be much worse. It would be no worse than the situation in the presence of these agreements. If we would have responded in the absence of the agreements, and will not as effectively in their presence, the situation 5 years from now might be much better without the agreements."

We know very well by now that the only relationship between SALT agreements and what the Soviets will do in SNF programs is that those agreements reflect what the Soviets want to do. They do not prevent the Soviets from doing something they have otherwise planned, because the Soviets clearly plan first what they wish to do and then accept only those SALT limitations consistent with those plans. Limitations that would interfere are either rejected outright or so ambiguously worded that they will not interfere. Moreover, Soviet programs, set in a very rigid Five Year Defense Plan, are not much subject to major change and will not be much influenced by SALT or NO-SALT.

A primary lesson from SALT should be that the real threat is what the Soviets are allowed to do by the agreements, not what they might hypothetically do in the absence of the agreement.

I would only add here that the SALT II agreement does not in fact prevent the Soviets from producing and even deploying XX additional missiles, bombers, MIRVed vehicles, and warheads if they wish to do so. There are no limits on missiles, and no limits on the production of warheads; therefore, there are no limits on the numbers of warheads on missiles. There are not even well defined or satisfactory limits on launchers for missiles. There are no limits on Backfire bombers, and no limits on bombs. There are merely cosmetic limits on force improvement. So, what they can do within the agreement is not significantly different from what they could do in its absence. The Soviet threat will be essentially the same with or without the agreement. What really matters is not the proposed agreement, but what we do or do not do; which leads to the next proposition.

As to the second proposition, to argue that we are free to do what we wish under the agreement is, at the outset, a curious rationale for concluding a strategic arms limitation treaty. Do we need an agreement in order to be free to do what we wish to do? We need to remind ourselves what SALT agreements were supposed to do: not so much to leave us "free" to do something, but to reduce what we need to do, to reduce the threat, to ease strategic problems, to contribute substantially to stability and to arms moderation on both sides, and to do so equitably. Contending that we are "free" under SALT II to do something obscures the purposes of SALT and underscores its questionable value to American security.

We seem to have taken this argument a step further, so that it now implies that we need Soviet concurrence for what we would do. The record of this Administration's approach to resolving the ICBM survivability problem lends credence to that suggestion. After reaching the basic provisions of this agreement, the Administration wondered if it interfered with what was clearly the optimum approach to Minuteman rebasing. So it went to the Soviets for their tacit concurrence in the MAPS vertical silo plan. The Soviets refused to give it, and in fact raised objections. So the Administration discarded the option, while still maintaining publicly that it was permitted by SALT II. It then went to a hardened closed trench system, and then, after there was SALT objections to that also, briefly to an open trench scheme; and now we are guided by SALT to a more expensive, suboptimum "race track" design—which I predict will also be abandoned, either because we question it or because the Soviets will also not agree to it.

There are other major considerations as well concerning the argument that SALT II leaves us "free" to do as we wish.

(1) We may be free, but only the Soviets are doing. The Soviets continue to outspend us some three times in SNF. The $10.8 billion requested for SNF in the FY 1980 budget is less than that in the FY 1978 budget, and well less than that projected for this year by the FY 1978 budget plan. RDT&E on SNF is up a trivial $25 million, well less than inflation. Senator Nunn has pointed out that the Administration's Five Year Defense Plan for FY '80 through FY '84 is underfunded by over $60 billion. We have no programs for many of the things that we are "free" to do.[3]

(2) The argument that SALT II leaves us free to do what we wish is an inspired tautology since the Administration that has accepted the agreement also defines what we wish to do, and in accordance with the agreement.

(3) Many of the major "planned" programs, and most particularly MX and ICBM rebasing, are post-Salt II programs, and in their case SALT II is irrelevant in what it "frees" us to do.

(4) Contending that SALT II will not constrain what we can do ignores the very real indirect constraints that we have always experienced from the SALT process.

This is a very important point, which I raised in my introductory remarks, so let me develop it a little.

That SALT negotiating and anticipated limitations have had a constraining influence on our programs is clear, as, for example, is reflected in the following explicit statements in the FY 1976 and FY 1978 DoD Reports:

SCHLESINGER. "Pending completion of negotiations on the final details of the Vladivostok agreement we have continued to plan our forces within the general bounds of that agreement, as well as within the limitations of earlier agreements."

RUMSFELD. "Force planning under current policy is constrained by those limitations anticipated in light of the Vladivostok accord."

There are several concrete and documentable examples of how American programs have been indirectly constrained by SALT. Let me just mention a couple, while suggesting that this Committee might fruit-

Footnotes at end of article.

Footnotes at end of article.

fully hold Hearings on the extent of SALT impact on U.S. programs.

SALT I directed that we not deploy ABM (beyond one since abandoned site), but left us free to conduct R&D. In fact, one of the major arguments for the ABM Treaty was that we had not yet developed the optimum ABM system, while the Treaty left us "free" to do so. Within a year, however, with the first post-SALT I budget cycle, the argument was made: "Why spend much money on R&D on something we have agreed not to deploy?" So we did not. At the next budget cycle, the argument was, "since we have decided not to defend ourselves against the greater threat—ballistic missiles—why spend money defending against the lesser threat—strategic bombers?" So air defenses were cut way back and NORAD's mission was changed basically to early warning. And so forth. That is the indirect or ripple effect of SALT. It is substantiated by the following statements from the DoD reports quoted above:

SCHLESINGER. "If we cannot defend ourselves against strategic missiles there is little to gain from trying to defend ourselves against strategic bombers."

RUMSFELD. "Once SALT limited ABM deployment to one site . . . little (seemed) worth doing against the Soviet bomber force, and with the emphasis on active defenses reduced, it was considered almost pointless to advocate a major program of passive defenses."

There are other examples: The entire cruise missile program of the United States has been influenced by anticipated SALT constraints. ALCM range was planned with a 2500 km restraint in mind, to the point that even though that restraint was removed from SALT II it nonetheless established the parameters of the program. SLCM and GLCM test and deployment schedules have been influenced by SALT as well.

SALT did not require that the Administration cancel the B-1, delay MX and the resolution of ICBM basing, or string out other major programs. The SALT process and the pursuit of SALT II, however, were certainly part of the basis for those decisions. Comparing this with the unrestrained vigor of Soviet programs, we can see that SALT has been pursued by the two parties for radically divergent objectives. The U.S., hoping to promote stability and arms moderation, also hoped that unilateral restraint would be reciprocated and would further those SALT goals. The Soviet Union seeks strategic superiority and hopes that the SALT process will aid the quest. It is clear that the Soviet leaders have seen SALT not merely as a means of securing U.S. acceptance of Soviet gains, but also as a procedure to dampen American responses to those gains.

The specific limitations contained in an agreement, then, are not the only SALT constraint upon us: the process does have an inhibiting effect surpassing the precise limitations in an agreement. This impact, I believe, will become even greater in the event that SALT II is ratified and the trends in the strategic balance now expected during the period of SALT II are allowed to take place.

Consider: the Treaty would extend to 1985, and so presumably would negotiations on SALT III. Precedents established by SALT II would be difficult to overturn in the best of situations. But we will hardly be in the best of situations. As you have heard testified, a peak of relative Soviet capability vis-a-vis the United States will occur during the period covered by SALT II. Virtually all major strategic force indexes will favor the USSR, and most very heavily. Minuteman will be insurvivable in its present configuration; the aging B-52 force, whether or not equipped by then with ALCM, will be vulnerable on the ground and en route to target; U.S. C^3 has major vulnerabilities; Soviet active and passive defenses will have enjoyed a few more years of improvement; Soviet ASW may not permit smug confidence in the survivability of our at-sea subs over time, and in any case the specter of an overwhelming Soviet reserve would dissuade their use and mitigate their deterrent value. The Soviet Union will have real and perceptual superiority.

All of that assumes the continuation of Soviet programs as allowed under SALT II, without postulating any startling new developments or unknown (i.e., SALT uncounted) forces, and no major new steps by the U.S. to ward off the situation, other than what is now contained in the FY-80 Defense Report: The U.S., however, does have steps that it could take to avert or at least alleviate that situation. But are those steps likely to be taken if SALT II, as it stands, has been approved by the Senate, and SALT III negotiations are underway? Are we really likely to make the new effort necessary in the aftermath of the assurances being given in the selling of SALT III and the promises that SALT II moderates our needs? There is no doubt in my mind that the ratification of this SALT II agreement, and ongoing SALT III negotiations based upon this agreement, would forestall our ability to avert the threat of the early to mid-1980s. It would even, I perdict, inhibit those programs now suggested in the Defense Budget to meet the threat in the longer term. An article in the Armed Forces Journal earlier this year mused that the "FY 1980 Budget promises far more than it can deliver . . . It is far better suited to selling SALT than meeting the Soviet threat." I suspect that to be true, but I am certain that it will be if the situation I have described is permitted to come to pass.

(5) There are, in addition, specific SALT constraints that directly limit American options. I have identified some of these in the section of my statement dealing with major flaws. Other examples are noted in Appendix One.

Finally, at the risk of offending some, I would add one point. I have always found it curious that those who most often use the argument that we are "free" to do things under SALT are often those who oppose these programs when they do come up.

Turning finally to the third proposition I initially noted, i.e., that we would not be able to compete as effectively in a no-agreement case: I believe that the foregoing discussion strongly implies the answer to that. SALT has blunted our competitiveness. In the abstract it can be argued that there is no intrinsic reason why the U.S. could not accommodate all needed strategic programs within a SALT context, if determined to do so. The Soviets have certainly done so successfully. Logically, one would think that the determination of acceptable arms limitations would follow the determination of strategic force requirements (however novel that approach might seem in the U.S.). Unfortunately, there is nothing in our SALT record that gives much confidence in our ability to do this while SALT is proceeding.

I believe that the United State could more readily and effectively take the steps necessary to improve our strategic forces and turn around the dangerous trends if SALT II were not approved and if the SALT process were suspended until those steps had been taken.

CONCLUSION

There are basically four choices open to the Senate in acting on this agreement, as I understand them. It can consent to it as it stands, which is manifestly the worst of the options. What we can hope to accomplish in SALT is very limited, thanks to the Soviet Union, but that does not require us to settle for bad agreements. It can proceed to amend the Treaty in a way to correct what it decides are the greatest defects. I believe that this would require substantial and substantive amendment, however, and it is clear that the Soviet Union would not accept such amendment. I also have my doubts that all of the amendments necessary to make this a sound agreement would survive the legislative process. Nonetheless, I have appended a list of the types of amendments that I would commend to you should the amendment course be the one followed.

Another option is to recommit the agreement to the Executive branch with instructions, or suggestions, for renegotiation. Such renegotiation, as in the case of substantive amendments, would take time. It might also be based upon precedents in these agreements and in the SALT process which are not beneficial to us. Furthermore I fear that we would not carry through with the strategic nuclear force improvements we need while in the process of negotiating a new agreement; and if we do not we will improve neither our security nor our chances of obtaining a better agreement.

The fourth option, of course, is to reject this agreement. This course in itself does not assure that we will act as necessary any more than the preceding options; but, especially if coupled with a clarion Congressional call for an immediate effort to turn around the strategic trends, it would be the most likely catalyst.

I do not urge this course of action lightly. I well know the awesome responsibility entailed, and I know the potent political attraction of arms control. But this is unsound arms control. Consenting to it would promote neither national security nor sound arms control.

It is often charged by SALT II proponents that Senate refusal to consent to this agreement would be tantamount to rejecting arms control; it would cause the failure of arms control. Senate rejection or substantial amendment of this agreement would not cause a failure of arms control; it would reflect the failure of SALT that has already occurred. Arms control is supposed to contribute to American security; it fails if it does not. Soviet strategic and SALT objectives have not been compatible with successful arms control. U.S. restraint, to promote SALT, has been exploited for unilateral advantage.

In my view, if the SALT process is to be rescued, and if worthwhile and balanced agreements are to be negotiable in the future, it is essential that this agreement not be ratified, and that the U.S. move forthrightly to deprive the Soviet Union of the strategic advantages it expects. If accompanied by the right programs, this would announce to the Soviets (and the world) more clearly than anything else that the U.S. is not reduced to accepting unsound and unhelpful agreements or the continued adverse shift in the strategic balance. It would say that we have given SALT over a decade to succeed; i.e., to moderate the Soviet arms buildup and create strategic stability; and it has—unfortunately—not worked. It was worth the try, but it has not been successful. Consequently, we have been put in a position where we must act decisively to prevent an intolerable situation, and we are capable of doing so.

U.S. determination not to allow the Soviets to achieve the superiority they seek or to place American forces in jeopardy may have a more restraining influence on Soviet leaders in the long run than continued self-restraint. It could well convince Soviet leaders to reduce their ambitious strategic goals because the cost of pursuing them is prohibitive and the probability of success is low. Soviet goals are often adapted to the opportunities presented, or foreclosed. Far from precluding future arms control, this would restore American negotiating strength as nothing else. Perhaps the Soviets would see

then that they have more to gain from the mutual benefits of real arms control. Perhaps not. But there is really nothing in SALT II that leads in that direction.

It has been argued that, notwithstanding these considerations, you should still consent to this agreement because the political consequences of not doing so would be severe. In my judgment that is not as certain as the Administration would have us believe. Some unsettlement and uncertainty in our relations with Allies and with the Soviet Union, to be sure. At least for a while. But I am not at all convinced that the net long range political effects would be harmful, compared to what might result from ratifying this agreement.

A different possibility would be the following: Should the United States ratify this agreement, it could be seen as accepting the adverse trends in the strategic balance and acquiescing in an unsatisfactory SALT process. It would be seen as accepting an agreement that does not meet the objectives we set for it, because we have decided that there is little else we can do. On the other hand, refusal by the Senate to consent to this agreement, and concurrent action to improve our military capability, would be seen as determination to stop drifting with adverse currents, leading in the long run to more security for us and for our allies, and consequently to a better political situation.

I believe that the harmful political consequences that the Administration predicts if SALT II is not approved are actually more likely to occur if it is approved as it stands, and if the U.S. response to the clear and present danger is weak.

However, I acknowledge the uncertainty involved. Forecasting political consequences is a matter of speculation and judgment. But the Administration is speculating too, and in a manner that we must suspect is designed more to sell SALT than to portray the future objectively. So let us call this a standoff.

On what there should be no uncertainty is that we are in a very bad strategic situation; SALT II does not help us out of it, but rather contributes to it; we must get out of it; and we can do so more readily if we are not bound by this agreement.

Our first priority should not be SALT, but identifying and fixing the weaknesses in our strategic posture. Our strategic forces not only do not meet the requirements and objectives that we have officially set for them; they will not, in my judgment, meet the minimal requirements of strategic and crisis stability within a few years unless major actions are taken. I urge you, while withholding your consent to SALT II, to look carefully into those deficiencies and into what can be done to correct them in a timely fashion. Time is of the essence.

I recommend that you hold pro and con, no-holds-barred, comprehensive hearings on the status of U.S. forces, their readiness, survivability, C^3, and overall capability, and on the adequacy of present plans, programs, and budgets to overcome, in time, the weaknesses revealed.

For nearly two years, a group of defense experts, working as an independent "Strategic Alternatives Team", has been looking into these problems and exploring timely corrective actions for them. I believe some of the results could be useful to you, and I have presented a summary of them in an Appendix.

Thank you for the privilege of appearing before this Committee and for the courtesy of listening to my views.

Appendix One: Testimony of William R. Van Cleave, SALT II Hearings, U.S. Senate, Committee on Armed Services, 11 October 1979.

In connection with the issue of increased defense funding to meet the strategic threat projected for the near future it is often asked on what extra funds could usefully be spent. Some have suggested that there are no significant SNF options that could be effective in the near term anyway (and hence we need SALT II); others have merely argued that strategic programs are well in hand, proceeding as they should, and that we do not need significant additions to the SNF budget beyond what is now planned. The Administration seems to take both positions, and would apply a token 3 percent increase essentially to the GPF.

That there is little else that needs to be done to meet the early to mid-1980s is refuted in official statements. Administration charts show an improvement in the strategic balance in the late 1980s (assuming continuation on schedule of programs that remain doubtful). At the same time, however, it is acknowledged that, in the meantime, U.S. SNF will become severely vulnerable and that strategic force comparisons will increasingly favor the Soviet Union. The FY 1980 DOD Report states that "our most serious concerns—which we need to act now to meet—are about the period of the early-to-mid 1980s." In his annual report to Congress this year, General Jones warned that we are "another year closer to a potentially unstable and acutely dangerous imbalance," and further expressed the judgment that "regardless of U.S. actions, Soviet strategic capability will increase relative to that of the U.S. through the mid-1980s."[4]

Yet, Secretary Brown also acknowledges in the introduction to the FY 1980 Report that "our requests for FY 1980 are somewhat lower than we had projected a year ago, and our Long-Range Defense Projection runs slightly below the path forecast in the FY 1979 budget." It seems, then, that the prophecy of major near term problems is a self-fulfilling prophecy. Statements by the Chairman of the JCS and other military leaders that little can be done over the next few years, while at the same time they acknowledge the need, must clearly be budget driven.[5]

If we could, however, expect additional SNF funding in an effort to avert the most dangerous threats to our strategic forces in the short-to-mid term and to correct the strategic balance in the mid-to-long term, the only question would be: Do we have any options that promise to be feasible, timely, and effective?

This is a question that a group of defense experts, the Strategic Alternatives Team, has been examining under my chairmanship for nearly two years. On the basis of our analysis, we believe it to be irrefutably clear that there are significant options available for correcting many of the major deficiencies in our SNF and in the strategic balance trends before 1985—even in the early 1980s—given the determination and some additional SNF funding.

An early product of the Team's work, based upon a "quick fix" conference sponsored by the National Strategy Information Center, is contained in the book, Strategic Options for the Early Eighties: What Can Be Done?, edited by William R. Van Cleave and W. Scott Thompson (National Strategy Information Center, 1979), which examines the need and rationale for SNF "quick fixes" and presents analyses of certain options. I have copies of that book available for members of this Committee and their staffs.

Since that time, the Strategic Alternatives Team has continued this work. The following presentation is the product of further SAT work, which I am authorized to present to this Committee on behalf of the other members of SAT.

FOOTNOTES

[1] In this regard, the suggestion by Secretary Brown that it would not matter if all of the SS-18s were dismantled is absurd. That would cut silo-deployed Soviet ICBM throw weight in half and reduce deployed RVs by 3,000. Such a major reduction would place meaningful bounds on the threat and give the U.S. a richer and less costly range of ICBM survivability options. It is also inconsistent to suggest that this would not be a significant gain while arguing at the same time that limiting the SS-18 to "only" ten RVs is a significant accomplishment: I would only add that if our vulnerability is so bad that even a 50% reduction in the Soviet ICBM force will no longer relieve it, this Committee should ask why this has been allowed to come about.

[2] For example, Raymond Garthoff has noted that "Theoretically possible higher Soviet SLBM levels for 1977, developed after the April Moscow meeting, were later cited as support for the value of the limitation."

[3] E.g., General Ellis reported to this Committee that we do not have in the Five Year Defense Plan even those B52 improvements necessary to meet the penetration probability ascribed by Secretary Brown to the 1985 force.

[4] Considerable insight could be gained into the accuracy and effectiveness of present U.S. national security planning by reviewing how this state of affairs has been allowed to develop over the last decade.

[5] It is noteworthy in this regard that whenever certain of the fixes recommended below are suggested to the services, the response is quite often that there is not enough money for them. *Aviation Week*, in reporting on the B-1 derivative options (8-27-79) also reported that the Air Force is not interested because it is "concerned that any aircraft development would impinge on the MX deployment because of the cost impact of multiple strategic programs." Clearly then, consideration of options is constrained by funding expectations.

SOME FIXES TO U.S. STRATEGIC NUCLEAR CAPABILITY THAT COULD BE UNDERTAKEN WITH IMMEDIATE INCREASES IN THE STRATEGIC NUCLEAR FORCE PROGRAM BUDGET

(Strategic Alternatives Team)

(Summary discussion: First priority should go to rebasing the Minuteman III force in MAPS/MPS configuration; second to upgrading the Minuteman III and reopening its production lines; and third to development of a follow-on ICBM, presumptively the MX, but also a smaller ICBM option for air or land mobility future alternatives. SALT drives us toward larger ICBMs, as the MX, to obtain the necessary throw weight and countermilitary potential, whereas, without SALT, strategic logic would weigh heavily toward a larger number of smaller (possibly single RV) ICBMs. The latter would ease survivability problems and promote strategic stability far more than the larger ICBMs in relatively few numbers.)

ICBM FORCE	SALT COMMENTS
Significant Capability (SOC) in Short Term:	
Redeploy MMIII (and possibly MMII) in MAPS/MPS Verticle Silo Mode	The Administration, facing Soviet objections, has apparently decided that SALT II, in fact, rules out this option. If so, SALT is driving us toward less timely, less effective, and more expensive options for ICBM survivability; in essence, it prohibits us from solving this problem in time to meet the maximum threat in the early to mid 1980s. On this account alone SALT II should be rejected unless it is renegotiated or clearly amended to permit this option; or unless the Administration explicitly claims, under SALT II, the right to this deployment and then proceeds with it.
Upgrade MMIII and Reopen Production; Deploy More (in MAPS)	Major upgrading possible, e.g., for better accuracy and adaptability. Can produce all wish under SALT II (e.g., for breakout) but can deploy only 270 more on existing launchers, and that would force us to limit MIRVed SLBMs to 380 and ALCM CMCs to 120.
Accelerate and Increase MK12A (or improved RV) Production and Deployment plans.	No SALT constraint. Now plan to refit 300 MM, or less, with MK12A.
Improve Flight Test Program	Qualitative and quantitative upgrade necessary to any realistic expectation of improved accuracies. Ranges and range facilities also need improvement.
Significant Capability in Mid-Term:*	Comments:
Continue MX Development, Accelerate Pace Concurrent Development of New ICBM; e.g., smaller ICBM for land or air mobility options. Develop More Accurate C-4 and/or Accelerate D-5 Development as Possible ICBM Options	See prefatory summary comment. A major SALT II constraint is that it prohibits both the deployment of a larger number of smaller ICBMs and the development and testing of a small new ICBM or other alternative to the MX while the MX is being developed. Without SALT II we would undoubtedly be pursuing such development; to do so under SALT II would require test-development of a derivative of an ALBM, SLBM, or IRBM, if the U.S. would do that as a SALT failure hedge. C-4 and D-5 recommendation constitutes such a hedge, but is not as desirable as test-development of new small ICBM.
Larger Number Smaller ICBMs in MAPS	Prohibited by SALT
Increase Funding for ABM Development as Supplement to ICBM Rebasing	
Deploy ABM Defense as Necessary to ICBM Survivability	Prohibited by SALT I
Develop Long Range Alternatives or Supplements to MAPS/MPS	
Bomber/Air-Breathing Force	
SOC in Short Term:	
Accelerate and Increase Planned ALCM Production & Deployment	We now plan only 12 externally carried ALCMs on 120 B52-Gs. SALT II prohibits deployment on more CMCs without drawing down numbers of MIRVed ballistic missiles. Could still keep within SALT II and place 20 ALCMs on 120 Gs, or—without SALT—equip all 170 Gs with 20 or more ALCMs.* Program acceleration could produce such a force in 3 years, while accelerated development of a new CMC could be timed to absorb ALCM production thereafter (if no SALT).
*Three to four years is used as the dividing time between Short-and Mid-Term SOC.	*More variations possible depending upon numbers MIRVed ICBM/SLBMs deployed; e.g., by limiting those to 1020 could deploy 150 B-52G with 20 ALCM and 150 new CMC with 36 ALCM (8400 ALCM) and remain within SALT II constraints.
Go into Production with Both Competitive ALCMs	The purpose would be to increase ALCM production over time for more rapid and increased deployment, which would be severely constrained by SALT II. A variation would be to convert the 2nd-place ALCM competitor into a stretched version for interim longer range while new ALCM being developed.
Rebase B-52s Inland	An essential requirement: 20-40 new MOBs located beyond 700 nm of coast needed.
Re-engine 50-100% B52-G & H	Would greatly improve performance as CMC, enable more and better utilization runways/bases, and make planes tanker independent in CMC role. Boeing-Wichita will do so at fixed price, guaranteed performance.
Increase B-52 Alert Rate and Further Decrease Reaction Time	Extent may depend upon degree and success of rebasing, which should have higher priority for funding, but particularly those B-52s with ALCMs during the years before full operating capability should be placed on the highest practical alert rate. An increased ability to go more rapidly to higher alert rates and to sustain those rates would be part of the imprvoement.
Harden B-52 G/H	Extent, again, may depend upon success of above and of any follow-on bomber/CMC program, as well as consideration of priority given level of funding available.
	The last four suggestions face no apparent SALT II constraints.
SOC in Mid-Term:	

(Summary Discussion: A major issue is the question of trade-offs and funding priorites between such improvements to the B-52 force as suggested above and development of a follow-on penetrating bomber or CMC. With the improvements noted above, the B-52 would be an excellent ALCM-carrier, but many feel that a penetrating bomber is needed as well, and with good reason. On the other hand, many problems of penetrating Soviet air defenses in the future remain to be solved, if they can be satisfactorily. The optimum solution seems to be to proceed simultaneously with B-52 improvements oriented toward a CMC and with a B-1/B-1A program oriented toward a penetrating bomber; if the penetration problem, meanwhile, cannot be satisfactorily solved, or can be, later decisions can be taken accordingly. Clearly, this approach will require substantial additional funding.)

ICBM FORCE	SALT COMMENTS
Restart B-1 (or B-1A) Program, along with major R&D program to improve penetration	B-1 specified in SALT II as heavy bomber and therefore subject to aggregate limits and, as ALCM carrier, to MIRVed vehicle limits. SALT II constraints would not apply until production. Program should proceed as if production the goal.
Development of new CMC: AMST, or possibly B-1, derivative	
Tanker Force Improvements	Issue of tanker dependence rests upon resolution of some of foregoing points. Reengining B-52s frees from, or reduces, tanker dependence. Better to be able regard tanker capability as bonus than to have to rely upon; but to extent and need must modernize along same lines suggested for B-52 force. Reengined B-52G could be converted into more capable tanker if B-52G turns out to be transition to better CMC.
Advanced, longer-range ALCM	Development and early production a high priority as Soviets extend air defense perimeter. Threat of Backfire in interceptor role, e.g., requires much longer-range ALCM capability.
Sea Based Force	
SOC in Short Term:	
Improve Communications; e.g., Proceed with ELF	
Expedite and Increase Planned C-4 Deployment; Simultaneously Develop More Accurate C-4	
Product SLCM and Deploy on Available Platforms	Protocol governs only through 1981 after which, presumably, free deploy SLCM without constraint. As an early deployment made, e.g., might deploy on ten old Polaris boats at 6-8 per tube (and give to SACEUR?), or externally on subs.
SOC in Mid Term:	
Accelerate D-5 with Improved Accuracy	
Develop Advanced, Longer-Ranage SLCM	
Accelerate Prototype R&D Follow-On, or Alternative, SSBN	
Accelerate Prototype R&D on SSCN	
Work on Extending Life Poseidon Boats so no Dip Numbers SLBMs around 1985.	With SALT II MIRV limits depends upon MIRVed ICBM and ALCM choices (e.g., see footnote page 2.)
Other fixes: Defense, C^3	
(Note: Significant improvements in all of below could be accomplished in short term, but full impact probably by Mid Term.)	
Increase Funding and RDT&E for ABM: ICBM Defense (e.g., supplement to MAPS) and Defense and other Critical Targets Deploy as Needed	SALT I Treaty prohibits deployment beyond one site and prohibits development of sea-, air-, space-, or mobile land-based ABM. On other hand, 1972 U.S. statement appended to Treaty stipulates right to withdraw from Treaty if supreme interests jeopardized. Should at least develop rapid (6-month) depeloyment capability.
Revitalize Air Defense	Important not to allow Backfire a free ride. Options available for both Short and Mid Term resting on combinations of available and future SAMs, AWACS, Interceptors; e.g., Multiply AWACs and phase in F-14 with Phoenix; deploy Patriot in strategic air defense mode.
Civil Defense	Major improvements possible, beginning with suggestions in *Strategic Options* book and the Administration's initially announced but now defunct program; more advanced plans and options already exist.
C^3	Major improvements for wartime durability as well as early warning and initial exchanges have been an established, high DOD priority for some time. Despite that, little has been done. Should not wait for a master plan, but should proceed with obvious improvements to pieces of the problem. (FY 80 DOD Report acknowledges that secure and reliable C^3 for at least the SLBM and Bomber/ALCM force is lacking.)

Appendix two: Testimony of William R. Van Cleave.

POSSIBLE SALT II AMENDMENTS

To be truly equal, equal aggregates of limited offensive systems should be based upon missile throw weight as well as numbers of launchers or delivery systems. There should be a provision that ICBM and MIRVed ICBM throw weight be progressively equalized at levels as close to those of the U.S. as possible.

The Soviet Union shall be required to furnish current and verifiable information on the numbers and types of intercontinental range missiles it possesses in addition to those on counted launchers. The number of such missiles on either side shall not exceed the number of SALT-counted launchers by over 5 percent.

The term "launcher" must be adequately defined for the purposes of missile limitation and verifiability.

Until the U.S. is prepared to deploy a significantly larger ICBM, heavy ICBMs will be defined as those having a volume significantly greater than the Minuteman III. Heavy ICBM launchers shall be limited to 550. Or:

For the duration of this treaty, MIRVed ICBM launchers shall be limited to 550 and no more than a total of 4.0 million pounds throw weight.

Nothing in this agreement shall be interpreted to preclude the U.S. from deploying its ICBMs in a survivable mode. In lieu of the above limitations, the U.S. Government is required to deploy its ICBMs in a multiple aim point mode, sufficient to assure adequate survivability, within three years, and the ABM Treaty must be amended to permit defense of ICBM launchers.

The Soviet Backfire bomber, having unre-

fueled intercontinental capability from operational Soviet air bases, must be included in the aggregate limits. Otherwise, all bomber aircraft will be excluded from the limitations.

There should be no limits on aircraft armaments, including cruise missiles, without corresponding limits on air defenses.

There should be no limits on the numbers and types of carriers for ALCMs without corresponding limits on air defenses.

There should be no limits on cruise missile numbers, types, range, or deployment (unless numerical limitations are applied equally to all cruise missiles with ranges beyond 100 km).

Provisions relating to the testing and development of IRBMs, SLBMs, and "new type" ICBMs should be tightened to assure the effectiveness and verifiability of the provisions related to the development and deployment of new ICBMs during the period of the treaty. An adequate data base on the relevant characteristics of missiles tested must be provided by each party.●

YOUTH ART MONTH RESOLUTION—SENATE JOINT RESOLUTION 19

● Mr. DURENBERGER. Mr. President, I am pleased to cosponsor Senator WALLOP's resolution to designate March 1980 as Youth Arts Month.

Before coming to the United States Senate, I had the great privilege of serving with other Minnesotans on a citizens' commission to study and document the importance of the arts in the life of our State. The results of that study, sponsored by then Governor Wendell Anderson, speak to the purpose of this resolution and I would like to take a few moments to share our findings with my colleagues in the Senate.

Our most surprising finding was the level of commitment to arts instruction in the private and public educational institutions of the State. Minnesota is known throughout the nation for the excellence of its nonprofit arts organizations. The Governor's commission documented the importance of volunteer time and private contributions in sustaining this record of excellence. But we were amazed to find that the resources committed to the arts education of our youth exceeded our commitment to the nonprofit arts fivefold. In 1976 our elementary and secondary schools devoted $110 million, or 6 percent, of total educational expenditures to the arts.

Second, we found that arts education covers a broad spectrum of activities in most of our schools. In the intermediate grades, 90 percent of our students take a course in the visual arts or vocal music. Almost all Minnesota schools offered elective courses in the arts including instrumental music, dance, creative writing, drama, and poetry. Extracurricular activities including school plays, choir and band are an important part of the lives of thousands of Minnesota students.

Third, we found the participation in school arts activities at an early age led to a lifetime commitment and interest in the arts. Our study offered strong support for the commonsense judgment that those who sustain our cultural tradition as patrons, volunteers and contributors for the arts learned their appreciation and formed their commitment as young persons active in school programs and extracurricular events.

We Minnesotans are proud of our heritage and proud of the institutions, programs and personal achievements which make the arts a valued and important part of our life. We find that we owe much of this tradition and commitment to the arts education of our young citizens. It is for that reason that I am pleased to sponsor this resolution and urge its timely passage by the United States Senate.●

MAYFIELD REACHES OUT

● Mr. MATHIAS. Mr. President, we hear every day of mankind's selfishness and how greed has become part of our character but I must take issue with those who proclaim this a national malaise. The spirit of charity and cooperation, I am happy to report, is alive and well in the northeast Baltimore neighborhood of Mayfield.

Last year, when young Bernie Jorn was rendered a quadriplegic in a swimming accident, his friends and neighbors resolved to raise money for his medical bills and rehabilitation.

They did not take the easy way out and ask for donations but gave something more precious, their time, talent and love. For many weekends this past summer, they prepared food to be sold at the city's Italian festival.

The project was under the direction of Joe Broccolino who exhorted them to "work, work, work." And work they did. Last month the Mayfield Improvement Association turned over $11,000 to Bernie and his family. The money will be used to adapt their house to meet Bernie's special needs.

This summer I had the honor of meeting this young man who is the target of so much affection. Bernie is warm, helpful and always ready with a smile. He is currently a student at Lovola College in Baltimore and as if that were not enough, Bernie also works as a math tutor.

Mr. President I ask that an eloquent article about the heart of Mayfield by Michael Oleskar of the Baltimore Sun be printed in the RECORD.

The article follows:

A COMMUNITY IS REACHING OUT ITS HANDS—BECAUSE BERNIE JORN CAN'T

(By Michael Olesker)

In the steaming kitchen at St. Matthew's Church, Mayfield and Norman avenues, we see a couple dozen people locked in holy communion with cannoli and calzoni.

And with Bernie Jorn.

That's Joe Broccolino overseeing this makeshift congregation just of Harford road. With good-natured religious fervor, he's got them kneading and cutting and frying dough, cooking meat sauce, standing over big pots of boiling water.

Here are Anna Mooney and Beth Pacunas and Dennis Crawford deep-frying cannioli shells in the blistering kitchen heat.

Jack Frech and George Maraslek are cooking Italian sausage, and, over to the side, you've got Walter Willson, Mary Schwing, Joannie Jakubik, Pat Henry and the whole Kruelle family rolling dough for calzoni.

And for Bernie Jorn.

Good humor reigns. Working in this room is like living inside a pizza oven, but nobody complains.

Mary Staehle's been standing over the sink for several hours, washing pots and pans and dishes and handling them back out for reuse.

People like Linda Broccolino and Caroline Pacunas and Jim Henry are rolling and kneading dough, and then the dough's being cut by Rose Frebel and Marge Pacunas and Carolyn McCoy.

A community is reaching out its hands here.

Because Bernie Jorn can no longer reach out for himself.

Bernie used to be able to do just about anything. He was an honors student at Lake Clifton High. He was one of the premier swimmers in the Maryland Scholastic Association championships.

He was just days away from going off to Europe late last summer as an exchange student, sponsored by the Rotary Club.

He remembers vividly the moment everything changed.

"We were up in New England," he said, "and I dived into a lake, which turned out to be very shallow."

His head hit bottom and snapped forward.

"I knew pretty much what happened right off," Bernie said. "I couldn't move my body. I remember being very confused, and knowing I might die, but I didn't panic at all."

Ironically, he'd just finished taking a lifesaving course here.

"Funny thing," Bernie said, "in one lesson, they used me as a paralysis victim."

In New England, his brother Lester reached him in the water, but did not try to pull him out. He put Bernie on a board in the water, where he waited until an ambulance came.

"I kept trying to move by body," Bernie said, "and I realized I couldn't."

And it has not changed in the year since then.

Bernie Jorn is a quadriplegic today. He's a tall, blond, handsome kid who cannot move below the neck.

In the steamy kitchen at St. Matthew's Church, nobody can change that. But these people are trying to help. Thev've spent each Saturday for the past month in culinary frenzy.

All of this kneading and slicing and cooking is aimed at next week at the Italian Festival in the Inner Harbor area.

There, they're hoping to sell all these goodies and raise money for Bernie Jorn.

Bernie's father, John Jorn, is the minister at Holy Trinity Lutheran Church, on Sinclair lane. His mother, Pat, is a nurse at Union Memorial Hospital.

Bernie's medical expenses are terribly high.

At St. Matthew's Church the other day, in the heat of the kitchen, Pat Jorn tried to put words around her emotions.

"You can't really describe what this does," she said. "We're overwhelmed. For people to reach out like this—it renews your faith in human beings."

We live in an age of diminishing group sensitivity. This is the Look Out for No. 1 Generation.

What's hapoening here is different.

Much of this effort for the Italian Festival has been by folks from the Mayfield Improvement Association. But others have helped.

Two neighborhood supermarkets have donated freezer space to store the food for the festival.

The St. Francis of Assisi youth group staged a variety show that raised $800, and more money was raised at a neighborhood block party.

"He's our neighbor," explained Marge Pacunas, in the kitchen at St. Matthew's. "We want to help. It's as simple as that."

Bernie Jorn's trying to help himself. He hasn't quit living. Twice a week, he tutors kids in math. He's teaching English to a newly arrived Cambodian couple. He's being taught college physics.

And, in the fall, he'll begin taking classes at Loyola College.

Bernie Jorn's one of those rare people who refuses to quit on himself.

There's a whole community out there that refuses to quit on him, too.●

SALT AND THE NATO ALLIES

● Mr. BIDEN. Mr. President, last week in Ottawa, I chaired the U.S. delegation to the 25th annual session of the North Atlantic Assembly. The assembly, as my colleagues know, is the parliamentary adjunct of NATO and serves as a forum for parliamentarians from all 15-member states. Participants represent both governing and opposition parties, and all are free to express such views on policy as they see fit.

This year, among many subjects discussed by the assembly, the topic of primary interest was SALT, and after 2 days of committee meetings the assembly debated at length and voted on a significant resolution favoring early ratification of SALT II. Because of differences on SALT within the American delegation, the U.S. participants decided to abstain on this vote, as did the French delegation in accord with its custom on such matters. Setting aside these two bloc abstentions, however, the vote was 71 in favor, none against, and 15 random abstentions. Because I find highly significant this overwhelming endorsement of SALT II by a diverse group of our NATO counterparts, and also because the resolution expresses concern that failure to ratify SALT II would have a seriously disruptive impact on the cohesion of the North Atlantic Alliance, I request that the text of the resolution be printed in the RECORD for the information of my colieagues.

The resolution follows:

RESOLUTION ON THE SALT II TREATY

Noting that the SALT II Treaty is the culmination of seven years of rigorous and complex negotiation by three U.S. Administrations, and represents adherence to the obligations of the two super-Powers under the Non-Proliferation Treaty;

Recognising that the Treaty places numerical restraints on Soviet strategic capabilities, in terms of both launchers and warheads, and enhances Western capabilities to predict and monitor the development and deployment of Soviet strategic forces;

Recognizing further that the Treaty permits the United States to pursue all measures necessary to sustain the strength and credibility of the U.S. strategic deterrent;

Assured that neither the Treaty nor the Protocol will inhibit necessary military and technological cooperation within the Alliance;

Convinced therefore that, in providing the framework for a secure and stable strategic balance between the United States and the Soviet Union, the Treaty reduces the possibility of nuclear war, contributes to international stability, and thereby promotes the security interests of the member nations of the North Atlantic Alliance;

Recognizing the SALT II Treaty as an essential step toward the goal of achieving more substantial reductions in the nuclear arsenals of both sides during a future SALT III negotiation;

Convinced that a SALT III negotiation provides the most promising forum for nuclear reductions in the European theatre and that progress in such a negotiation would facilitate collateral progress in related negotiations within the MBFR and CSCE frameworks;

Reminded that the twin precepts of the Alliance are defence and détente;

Recognizing that the unanimous endorsement of the SALT II Treaty by the leaders of all member states of the Alliance reflects broad-based public support of the SALT process as a central element in the effort to stabilise the East-West military balance and simultaneously to improve East-West relations;

Concerned, with regard to defence, that failure to ratify the SALT II Treaty would have a seriously disruptive impact on the cohesion of the North Atlantic Alliance;

Concerned, with regard to détente, that failure to ratify SALT II would result in a deterioration in East-West relations, potentially negating many of such positive aspects of détente as expanded trade, cultural contacts, and reunification of families;

Respecting as an Assembly of Parliamentarians the sovereign right and the responsibilities of the U.S. Senate to decide on the ratification of SALT II;

URGES the United States Government:

To proceed to early ratification of the SALT II Treaty, with due respect to all requirements for credible deterrence, stable nuclear balance and future arms control negotiations;

To undertake SALT III negotiations aimed at accomplishing significant reductions in each side's nuclear forces;

To consult fully and regularly with the Allies on all aspects of the negotiation, in particular on those pertaining to theatre nuclear forces.●

SHE STOPPED THE TRAIN

● Mr. MATHIAS. Mr. President, the resourcefulness and quick thinking of Marylanders in situations of peril and public danger never fail to amaze me. The story of V. Kilena Loveless and the runaway Metro train is a perfect example.

Ms. Loveless, a Greenbelt accountant, and about 100 other passengers were riding Metro's red line when the train began pulling into the stations without letting anyone off. Upon inspection the passengers found, to their dismay, that the train had no operator.

Ms. Loveless immediately took charge and using her hair barette jimmied the lock to the driver's compartment. She coolly searched the control panel and finding the right switch brought the train to a stop and opened the doors so the passengers could leave the train.

Metro officials tell us the train would have automatically stopped at the end of the line but that should not detract from Ms. Loveless' actions. Even if the passengers had known a computer was in command of the situation, I am sure it would have been a small comfort.

Ms. Loveless is to be commended for her ingenuity and initiative. Last week when she visited the Senate there was a spontaneous burst of applause as she was introduced to the Transportation Subcommittee of the Appropriations Committee. It was eloquent testimony of the admiration she has won.

Mr. President, I ask that an account of this incident from the Washington Post and editorials from the Baltimore Sun and the Post commending Ms. Loveless be printed in the RECORD.

The material follows:

[From the Washington Post]

THE LITTLE HAIR CLASP THAT COULD

It's a metaphor, if you stop to think about it: the train slides smoothly through the black tunnel from station to station, stopping at each in perfect obedience to the computer. But it refuses to open its doors. No one can get on or off. What does the driver have in mind? Gradually word spreads among the passengers that there is no driver. He stepped out of the cab some time ago and is down that tunnel, far behind.

What would you do in a case like that? Bang on the glass? Scream? It wouldn't be very helpful. Take bets from your fellow passengers regarding what will happen when the train hits the end of the track?

(Metro deplores the use of the verb "hits"; its trains are well-behaved, it says, and the computer would have neatly parked this one, driverless, on an empty track at the DuPont Circle station. The computer is benevolent, according to Metro; you are wrong in thinking that it is out to get you.)

When all of that actually happened, on an otherwise uneventful Monday morning, one passenger—Kilena Loveless, a Greenbelt accountant—rose to the occasion. She did what all of us hope that we would have done—although some of us suspect, in our hearts, that we would have thought of it only afterward. Riding in the first car, she tried the door to the driver's compartment and, finding it locked, she jimmied it with a hair clasp. She first punched the button that stopped the train at the next station, then the button that opened the door.

It was a fine demonstration of initiative, citizen participation and the ability—increasingly important in our society—to find the right button. It was an example of what most Americans like to think is the American way. Metro's computer, on the other hand, is an example of the way we all seem to be going.

[From the Baltimore Sun]

BARRETTE POWER

Anyone going daily into the urban jungle should feel more secure knowing there are people like V. Kilena Loveless out there. She is the passenger, kidnaped by a driverless Washington Metro train, who pried the locked driver's booth open with a barrette and then figured out how to open the train doors.

It seems that the Moscow-on-the-Potomac subway is so ingeniously designed that its computer starts the train, stops it at each station, and prevents it from ramming the train ahead. What it will not do is notice the absence of the driver, or open the doors at station stops. (If the drivers do not actually drive but do open the doors, they should be called doormen.)

There is a lesson here for Baltimore's (currently driverless) Mass Transit Administration, which is trying to create a subway without Metro's mistakes: Clearly, the computer in charge of locomotion should be granted authority to open doors. And a passenger with a barrette and as much presence of mind as Ms. Loveless should be stationed in each train.

[From the Washington Post]

WOMAN HALTS A DRIVERLESS METRO TRAIN, FREES PASSENGERS

(By Joseph D. Whitaker)

"I thought for a minute that the train was going to crash like the runaway locomotive in the movie, 'Silver Streak,'" Frances Stevenson said yesterday.

"When we went through the first Metro stop and the doors didn't open, I thought the operator had just made a mistake," said

Deborah Piper. "But when we pulled into two more stations and the doors remained shut, I thought we'd been hijacked."

The fact was that Metro train 103-1068, scheduled for a routine run along the Red Line from Silver Spring to Dupont Circle, did not have a driver. He had stepped out of his cab after his train had cleared the Rhode Island station to visually check out another train.

He stood by helplessly on the tracks, seconds after he had descended from his cab, and watched his own train pull away without him. A woman passenger with a hair clasp finally forced her way into the operator's cab and stopped the train several stations later.

Cody Pfanstiehl, a Metro spokesman, said that the train was under "complete automatic control" at all times and that no passenger ever was in danger.

"At every second, the train was doing what it was supposed to do," said Pfanstiehl. "The only problem was that there was no human being at the controls to open the doors."

Pfanstiehl said that if the passenger, V. Kilena Loveless, 25, had not stopped the train at Metro Center, the train would have continued to the end of the line and parked on a side track at Dupont Circle.

The operator, whose name was not released, was suspended and the incident is under investigation, according to Pfanstiehl. Controls on the train that could have immobilized it when the operator got off apparently were not used, Pfanstiehl said.

The 15-minute driverless ride ended when Loveless, a passenger in the first car, used a barrette to jiggle open the operator's control booth. Once inside, she pressed an "automatic stop" button that brought the train to halt at Metro Center.

"We were about halfway between the Rhode Island station and Union Station when I heard someone tell the operator over his radio to stop and check something," said Loveless, a Greenbelt resident and privately employed accountant who was seated near the operator's booth.

"He stopped the train and got out," she said. "Then the train started to move. There was a really funny expression on the operator's face when he looked up and saw the train pulling away." Loveless could see him through a window in the passenger section.

"When the train pulled into Union Station, I didn't get too excited," Loveless said "I thought the computers would correct the problem and we'd be able to get out at the next stop."

But at the next stop—Judiciary Square—Loveless said the train stopped again and the doors did not open. When the train did not release passengers at Gallery Place, Loveless said she began to ask other passengers if they had a nail file or some other instrument that could be used to pry open the lock on the control booth. Nobody did, and she finally used her hair clasp.

At the time of the incident, the train had just gone into service on the Silver Spring-Dupont Circle route, and was carrying about 100 passengers. It is normally parked overnight near the Rhode Island Avenue station in the principal Metro train yard.

Piper, who was a passenger in the third car, said she began to feel a sense of panic when the train did not release passengers at Union Station.

"I was trying to suppress by nervous feelings and I got the idea that the other passengers were beginning to worry, too," Piper said.

"One man who had missed his stop walked to the front car," Piper recalled. "He came back a few minutes later shouting, 'We have a problem. We don't have a driver.' "

"Then we became very concerned about whether we would be able to get off the train at Metro Center," Piper said. "People were thinking of Metro Center as a point of no return, as if we'd never be able to get off if we didn't get off then."

As the train pulled away from Gallery Place, Loveless begin jimmying the lock on the control booth.

"She played with the lock for a few seconds and it opened," said Mary Salor, another passenger in the first car. "We walked into the booth and tried to figure out how to work the controls.

"We could hear central control attempting to reach the operator over the radio, but we couldn't talk back because we didn't know how to work the radio."

Then Loveless said she saw a red button that read "Auto Stop." She quickly pressed the button and the train, which was entering Metro Center, slowed to a stop. Loveless pressed another button—"open doors"—and she said the passenger doors opened and passengers quickly left the train.

Loveless said she held the "stop" button depressed tightly until a station attendant took charge of the train.

THE PUBLIC'S RIGHT TO KNOW

● Mr. MATHIAS. Mr. President, in recent months our Nation has experienced a constitutional confrontation unprecedented in its history. For the first time, a Federal judge has issued a preliminary injunction to stop the printing of an article thought to be contrary to our "National Security." I am referring, of course, to the recently concluded litigation brought by the Department of Justice against the Progressive magazine.

As my colleagues are well aware, last March the Justice Department went into Federal court seeking to enjoin the publication by the Progressive magazine of an article entitled "The H-Bomb Secret: How We Got It, Why We're Telling It." According to the Government, the article contained secret, technical data about the construction of the hydrogen bomb; which, if published would violate the secrecy provisions of the Atomic Energy Act, help other nations develop thermonuclear devices and undermine the arms control policies of the United States.

In response, the Progressive argued that the public's right to know required the magazine to publish the controversial article, especially at a time when the U.S. Senate was beginning its review of SALT II. Denying that the author of the article, Howard Morland, had used classified information in the preparation of his article, the Progressive contended the material was gathered from Government-guided trips to nuclear plants, from interviews, publicly available literature and simple deduction. As the Progressive's lawyer put it—

The information is out there, it is in the public domain. It's available to any person who takes the time to find it.

Thus, on its face, the Progressive case presented the ultimate constitutional dilemma: a direct conflict between the public's right to know and the Government's constitutional duty to preserve the national security. It was an extraordinary confrontation. One which many legal scholars and media representatives—fearful of a ruling adverse to the press—had hoped would never materialize. But, it did. And, it thrust upon the shoulders of Federal district Judge Edward Warren the awesome responsibility of weighing the competing arguments and rendering an historic decision. Reluctantly, Judge Warren concluded that:

A mistake in ruling against the Progressive will seriously infringe cherished First Amendment rights. It will curtail defendants' First Amendment rights in a drastic and substantial fashion. It will infringe on our right to know and be informed as well. But a mistake in ruling against the United States could pave the way for thermonuclear annihilation for us all. In that event, our right to life is extinguished and the right to publish becomes moot.

So, for the first time in our history, a claim of national security overrode the first amendment and a preliminary injunction was issued to stop the presses.

Dismayed over the court's decree, the publishers for the Progressive appealed the decision to the Seventh Circuit Court of Appeals. The litigation, however, was brought to an abrupt halt when the Madison, Wis., Press Connection published a letter apparently comparable to that of the Progressive. Given the similarities between the two pieces, the Government felt constrained to ask the court to dismiss the case. The court agreed, thus putting an end to this historic litigation. The case may be over, but questions remain. It is these questions that may well be the legacy of the United States against Progressive. Among these are:

Had the Government, in effect, confirmed the basic accuracy of the Progressive article by its forceful response to the possibility of publication?

Is it essential, as the Progressive claimed, for the American people to have before them the intricate details surrounding the construction of the bomb to make an informed judgment on urgent issues of public concern, including the pending SALT treaty?

Should the Progressive have shelved the article in light of the challenge to publication and claimed that it had achieved its main goal of showing that the great hydrogen bomb secret was not so secret after all?

These are not easy questions. They will not go away easily. Nor should they. They are sure to remain a source of public debate for some time to come. A wide variety of editorials and letters to the editor in newspapers throughout the country have contributed to this debate. Among the most informative and interesting of these has been an exchange between the New York Times and Ambassador Gerard Smith, U.S. Special Representative for Nonproliferation Matters, who took issue with a September 19, 1979, editorial by the Times. I commend the Times' editorial and Ambassador Smith's reply to my colleagues and request that they both be printed in the RECORD.

The material follows:

PRESS, BOMB AND PISTOLS

No grave danger to national security justified the unprecedented six-month suppression of The Progressive magazine's article about H-bomb design. That, at last, will be proved with its publication. If the Government had really lost a valuable secret, it plainly would—or should—have stood mute instead of alerting technicians the world over. As was quickly apparent, the feared damage lay mainly in the demonstration of how much weapons information can be collected and deduced from public sources. And that meant there was—or should have been—no basis for restraining an American publication.

This case was in fact a political contest for both sides. The Government raised dark fears about alleged instructions on "how to build" an H-bomb so as to dupe a Federal judge into suppressing the article. But even the judge found no how-to manual, only untested conclusions by Cabinet officials and famous scientists that the article "could possibly" help some nations already possessing an A-bomb to build an H-bomb too. Which nations? Had he asked, he would have been told India, or Israel, or South Africa—none that would need to add H-bombs to A-bombs and none that would need The Progressive's help. The Government's concern was more with power at home than abroad. It wanted to use this sensational-sounding case to have the courts declare it the sole arbiter of who may receive and disseminate nuclear weapons data, no matter how innocent their source.

For its part, The Progressive hardly expected its liberal readers to value dreary technical treatise on H-bomb concepts. Nor did it want to proliferate thermonuclear weapons. The magazine was out to prove that many nuclear secrets are not in fact secret. It thus wanted to show that the Government's elaborate classification system exists not so much to protect the nation as to confine discussion of nuclear policies, both military and civilian, to a small and certified group of experts.

One need not share the magazine's opinions to recognize its right to promote them as it did. One need not deny the Government's right and duty to protect some weapons secrets to deplore the resort to prior restraint against such an insubstantial threat. The Government again cried wolf at the sight of a mouse, thus offending and damaging true national security.

We congratulate The Progressive and the American Civil Liberties Union for resisting, against the advice even of some customary defenders of a free press. The Government's case simply collapsed when other publications began to print similar H-bomb information, found by other amateur students in public sources, including Government libraries, museums and a journal for model-airplane builders. But vindication for the defendants does not automatically bring satisfaction of their constitutional rights.

Before suffering a technical knockout, the Government had created some pernicious legal theory. Lacking evidence that anyone had stolen H-bomb secrets, it claimed the right to suppress all nuclear weapons information on the ground that it is "born classified"—even if born in the minds of free men. And lest this reading of the law fail, it then proclaimed that "technical" information—allegedly distinguishable from "political" ideas—was never entitled to the free speech and press guarantees of the First Amendment. If the courts now avoid ruling on them, these doctrines would lie around, in Justice Jackson's phrase, like loaded pistols. It would be wiser to unload them while they lie within reach.

WASHINGTON, *September 21, 1979.*

FALSE AND PERILOUS "NEED TO KNOW"
BOMB SECRETS

To the Editor:

I take exception to your Sept. 19 editorial "Press, Bomb and Pistols." Having dealt with questions of nuclear weapons for almost 30 years, I say with confidence that the recent and impending hydrogen bomb design disclosures will damage efforts to contain the spread of nuclear weapons around the world.

The Progressive magazine's purpose in seeking to publish this weapons data, according to The Times, is to show that Government's classification system exists not so much to protect the nation as to confine discussion of nuclear policies, both military and civilian, to a small and certified group of experts. My experience has been that while such matters as weapons capabilities, effects and deployments do play a part in policy discussion, the technical details of bomb design play little or none.

I understand that a rationale for publication is an alleged public need to have information indispensable to informed decision-making on such things as underground testing. In fact, knowing just how to blow up cities will only serve the interests of terrorists and aspirants abroad for possession of nuclear weaponry. Such knowledge is certainly not needed for informed public debate. The same rationale could be used to justify publication of data on how to spread the plague without the use of rats as necessary to public understanding of biological warfare issues

It is preposterous to characterize, as does The Times, the publication of hydrogen bomb technology and diagrams as "an insubstantial threat." The issue is not one of an ordinary leak giving a passing advantage to some foreign power. The burden of insecurity created by these pages of print describing how an instrument of mass destruction works will remain indefinitely on the shoulders of mankind.

I know of no reason to believe that this information is already known to all of those countries which are of present or potential concern to those of us responsible for nonproliferation matters. The editorial, with much greater assurance than any responsible intelligence agency would have, concludes that neither India nor Israel nor South Africa would need to add H-bombs to A-bombs and none would need The Progressive's help. In fact, it is virtually certain that this information will find its way into diplomatic pouches to many countries, where it will be worked over with intense care by scientists, engineers and military officers.

The Times has been a leading supporter of the nonproliferation treaty. Does it consider that the broadcasting of hydrogen bomb data is consistent with the requirement of that treaty "not in any way to assist" any state without nuclear weapons in acquiring nuclear weapons?

The damage already done cannot be undone. But I would expect that the effect of your congratulatory editorial will lead aspirants for the possession of nuclear weapons to believe that there is "more to come." Indeed, the editorial can only encourage further irresponsible revelations piously justified by a nonexistent need to know.

(Ambassador) GERARD SMITH,
U.S. Special Representative for Nonproliferation Matters.●

THE CUBAN CRISIS

● Mr. HUMPHREY. Mr. President, I call to the attention of my colleagues a resolution passed by the American Legion's National Executive Committee last October 17 and 18 at a meeting in Indianapolis, demanding that the Carter administration level with the American people on the real story about the purpose of the Soviet troops in Cuba.

The resolution also calls on the administration to make public any and all agreements which exist between the United States and the Soviet Union regarding the placement of Soviet personnel and equipment on that island.

I am concerned, Mr. President, that the administration has not revealed all agreements that were contained in the now famous Kennedy-Khrushchev agreements of 1962.

The resolution by the American Legion calls to mind my frustration in attempting to get answers to questions surrounding the Soviet presence in Cuba.

Last October 10, I wrote to the President expressing deep concern over the role of the Soviet combat troops in Cuba. Indications are that they number anywhere from 3,000 to 30,000. I was particularly troubled by arguments appearing in the press that the troops may indicate or foreshadow the clandestine introduction of nuclear weapons, mobile MRBM's or even cruise missiles in Cuba.

In seeking answers to these and other questions I posed to the administration, I requested a response 1 week from receipt of my letter. To this day, I have not heard from the Carter administration on this very critical issue. Just how much longer must the American people wait for answers and a resolution of this entire problem?

Silence from the administration is deafening, particularly in view of the grave threat that the presence of Soviet troops in Cuba pose to overall U.S. security and foreign policy interests. Numbers alone do not make that threat. It is the very presence of those troops, the slow buildup of submarine bases and the prospect of Soviet nuclear weapons in this hemisphere.

There is little doubt that the Soviet Union has undertaken a calculated effort to desensitize the American people to the Soviet military presence in the Western Hemisphere. If left unchallenged, the Soviets will surely increase their overt military presence in Cuba and, inevitably, prepare to move Soviet forces and equipment into other countries in this hemisphere. If we do not stand firm now and resolve the issue facing us in Cuba, we will be haunted by our inaction in the future, just as we have been by other misguided policies of the past.

Mr. President, I ask that the resolution passed by the American Legion Na-

tional Executive Committee be printed in the RECORD following my remarks.

I also ask, Mr. President, to print in the RECORD again a copy of my letter of October 10 to President Carter.

I thank the Chair.

The resolution and letter follows:

RESOLUTION No. 1

Whereas, agreements were made on October 28, 1962, between the governments of the Soviet Union and the United States which included, among other provisions, the establishment of Soviet bloc military forces and equipment in Cuba,

Whereas, large numbers of Cuban troops, technicians, and Soviet equipment have been deployed to Africa, Central and South American countries and other parts of the World during the past decade, and

Whereas, current estimates of Soviet bloc forces located in Cuba vary from 3,000 to 30,000 personnel and the sizes of Soviet fleets, air squadrons and military equipment also vary, and

Whereas, the Administration states that the United States has the capability of determining and verifying Soviet activities and military forces wherever they exist, and

Whereas, the real issue has been covered up—how many Soviet airplanes, bombers, missiles and submarines are stationed in Cuba and whether any submarines are stationed in Cuba and whether any submarine bases have been established there, are far more dangerous to our security and those neighboring nations than a few Soviet armed forces. The American People are entitled to know the truth in order to adequately counteract the spread of communism in the Western Hemisphere, now therefore, be it

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 17–18, 1979, that The American Legion urges the administration to determine and make public any agreements which exist between the Soviet Union and the United States regarding Cuba, and further determine, verify, and make public the size, types, and locations of any and all Soviet bloc military forces and equipment currently located inside and nearby Cuba and be it further

Resolved, that the United States Congress require the executive branch to make such information available to the public.

U.S. SENATE,
Washington, D.C., October 10, 1979.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: On September 13, 1979, I wrote to you expressing my deep concern over the presence of Soviet combat troops in Cuba. I am particularly troubled by arguments appearing in the press that Soviet combat troops may foreshadow the clandestine introduction of nuclear weapons, mobile MRBMs or even cruise missiles. I draw your attention particularly to an article (enclosed) by Paul Scott that appeared in the October 3, 1979 issue of the Manchester Union Leader. In his article, Mr. Scott makes some very serious accusations and reveals details about the nature of the Soviet military presence in Cuba that are very disturbing to me.

I plan to take this issue to the Floor given the urgency of the matter. I believe it is the responsibility of the Administration to respond to these allegations. Therefore, I request that you advise me as to the accuracy of the Scott article by October 18, 1979.

I respectfully request that you provide me with answers to the following questions:

1. Do the Soviet troops in Cuba bear any resemblance to those Soviet troops assigned to guard Soviet nuclear weapons in Eastern Europe? Have any of the Soviet combat troops now in Cuba previously been assigned the task of supervising and handling of Soviet nuclear weapons and missile systems in Warsaw Pact Countries?

2. Would you please delineate the precise location of Soviet troops in Cuba?

3. Are they situated in one particular area or scattered throughout Cuba?

4. How many Soviet troops and civilian and military advisers are in Cuba?

5. What is the deployment history of the Soviet Brigade which is presently in Cuba?

6. By service, please give me a detailed breakdown of the Soviet Union's military presence in Cuba (i.e., number of pilots, officers, enlisted men, equipment, etc.)

7. Would it be possible for the Soviets to clandestinely store nuclear weapons and even mobile missile systems in Cuba?

I would greatly appreciate a prompt handling of my request.

Sincerely,

GORDON J. HUMPHREY, USS.●

TEMPORARY EXTENSION OF CERTAIN FEDERAL HOUSING ADMINISTRATION AUTHORITIES

Mr. WILLIAMS. Mr. President, on behalf of Mr. PROXMIRE, Mr. GARN and myself, I send to the desk a joint resolution to extend until November 15, 1979, certain HUD and Farmers Home authorities now scheduled to expire on October 31, and I ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 117) To provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration and, without objection, the joint resolution will be considered to have been read the second time at length.

Mr. WILLIAMS. Mr. President, this 15-day continuing resolution is necessary in the absence of final agreement by conferees on the housing authorization bill for fiscal year 1980. Without a continuation, important programs such as FHA insurance authorities will come to a halt. I am hopeful that the conference committee will be able to complete its work during the 15-day extension. It is my understanding that the resolution has been cleared on both sides.

Mr. President, this proposed joint resolution would be a second temporary extension, through November 14, 1979, of the authorities of the Secretaries of Housing and Urban Development and Agriculture necessary to implement those provisions of law enumerated in Senate Joint Resolution 105, the first temporary extension, which passed the Senate on September 25, 1979.

This joint resolution is necessary to prevent the expiration of a number of vital housing authorities of the Departments of Housing and Urban Development and Agriculture. The resolution would extend these authorities beyond the October 31, 1979, deadline set in Senate Joint Resolution 105 to November 15, 1979, in order to allow completion of conference committee consideration of H.R. 3875, the Housing and Community Development Amendments of 1979, which continues programs through fiscal year 1980.

Included in the resolution under consideration today is a 15-day extension of all authorities continued under the previous extension. These include: HUD–FHA insurance authorities, GNMA's authority to make commitments to purchase mortgages; and the authority of the Secretary of Housing and Urban Development to make rehabilitation loans. It would also extend for 15 days the Secretary of Agriculture's authority under the section 515, 517, and 523 housing programs.

Mr. President, this proposed extension is required to prevent disruption of important housing programs and local community development activities.

The joint resolution (S.J. Res. 117) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S.J. RES. 117

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION. 1. (a) Section 2(a) of the National Housing Act is amended by striking out "November 1, 1979" in the first sentence and inserting in lieu thereof "November 15, 1979".

(b) Section 217 of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(c) Section 221(f) of such Act is amended by striking out "October 31, 1979" in the fifth sentence and inserting in lieu thereof "November 14, 1979".

(d) Section 235(m) of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(e) Section 236(n) of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(f) Section 244(d) of such Act is amended—

(1) by striking out "October 31, 1979" in the first sentence and inserting in lieu thereof "November 14, 1979"; and

(2) by striking out "November 1, 1979" in the second sentence and inserting in lieu thereof "November 15, 1979".

(g) Section 245 of such Act is amended by striking out "October 31, 1979" where it appears and inserting in lieu thereof "November 14, 1979".

(h) Section 809(f) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

(i) Section 810(k) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

(j) Section 1002(a) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

(k) Section 1101(a) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the Veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by striking out "November 1, 1979" and inserting in lieu thereof "November 15, 1979".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 3. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "November 1, 1979" and inserting in lieu thereof "November 15, 1979".

REHABILITATION LOANS

SEC. 4. Section 312(h) of the Housing Act of 1964 is amended—

(1) by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979"; and

(2) by striking out "November 1, 1979" and inserting in lieu thereof "November 15, 1979".

EXTENSION OF RURAL HOUSING AUTHORITIES

SEC. 5. (a) Section 513 of the Housing Act of 1949 is amended by striking out "October 31, 1979" where it appears in clauses (b), (c) and (d) and inserting in lieu thereof "November 14, 1979".

(b) Section 515 of such Act is amended by striking out "October 31, 1979" where it appears in paragraph (b)(5) and inserting in lieu thereof "November 14, 1979".

(c) Section 517(a)(1) of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(d) Section 523(f) of such Act is amended—

(1) by striking out "November 1, 1979" where it appears in paragraph (f) and inserting in lieu thereof "November 15, 1979"; and

(2) by striking out "October 31, 1979" where it appears in such paragraph (f) and inserting in lieu thereof "November 14, 1979".

Mr. WILLIAMS. I thank the Chair.

THE LONG WAIT FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Genocide Convention is an international condemnation of genocide as a crime against humanity. It seeks to declare that genocide, whether committed in peacetime or in wartime, is an act abhorrent to the community of civilized nations. This all seems universally commendable. And yet the Genocide Convention has been waiting for ratification for 30 years. Who is it waiting for?

The Convention is not waiting for our allies. France, Britain, West Germany—all of our major European allies endorsed the treaty long ago. In the Middle East, the Egyptians and Israelis have both ratified the Convention. The Saudis were among the first dozen states to sign.

Is the Convention waiting for our adversaries? Perhaps we want to be sure that they sign first. Well, the Soviets ratified the Convention in 1954. The Chinese, the Cubans, and the Warsaw Pact countries are among the 83 signatories to the treaty.

Perhaps, then, we are waiting for the American people to consider Genocide an important topic, something worthy of action on an international level. But our American values already provide us with that conclusion. Numerous national organizations, representing hundreds of thousands of citizens, are already on record as ferverently supporting the Convention. The American Civil Liberties Union tells us that the treaty's prohibition of incitement to commit genocide does not conflict with our freedom of speech. The American Bar Association, after years of deliberation, has finally concluded that entering into an international accord such as the treaty does not threaten the supremacy of the Constitution. And religious groups, from B'nai B'rith to the Episcopal Church, have advised us that to ratify the Convention would be morally right.

Then who is the Convention waiting for? Who has the power, and the responsibility, to see to it that 30 years of shameful inaction are ended? It is the U.S. Senate, of course. I urge my colleagues to see fit to end this long wait and ratify the Genocide Convention.

TOWARD A CREDIT CRUNCH IN 1980'S FIRST QUARTER

Mr. PROXMIRE. Mr. President, I think that Members of the Senate should be aware of the kind of high-interest rates and serious perverse effects on the economy we may be suffering in the future.

I favor what the Federal Reserve Board has done, but I hope those who are opposed to inflation and want to take effective action against it recognize there is no action we can take that will not have considerable pain.

The most recent issue of Business Week, the November 5 issue, carries an article which I would like to quote briefly. It says:

the real pain will probably not occur until the first quarter of next year.

That pain will come in the form of a good old credit crunch—a genuine shortage of lendable funds that will force the banking system to an actual rationing of credit. Such a crunch is precisely what the Fed has in mind, according to Leif H. Olsen, senior vice president and chief economist for Citibank.

He says, and I quote:

I do not believe that it is possible for the Federal Reserve to avoid a credit crunch and still retain the credibility of its anti-inflationary policy. The Fed's aim, he adds, is "to change expectations in the marketplace," and that cannot be done unless business is disabused of the notion that it can borrow as much, raise prices as much, or build inventories as much as usual.

The article continues:

Many economists now warn businessmen not to be fooled by signs that credit—albeit expensive credit—is available at the moment.

It will not be available long.

Finally, this article points out that:

The cash position of the U.S. Treasury—in surplus for the last few weeks—will now swing into deficit. This means that a large supply of new U.S. Government debt—including Federal agency issues—will soon begin to hit the market. This debt will probably cause severe problems in the financial markets.

The problems will arise for two reasons. The Federal Reserve, in an attempt to stay within the lowered targets for the growth of the money supply and bank reserves, will not buy its normal fraction of the new government issues. At the same time, the commercial banks will probably be dumping Treasury issues to accommodate business-loan demand.

It is these conditions that will produce a genuine, full-fledged crunch late this year and early next year. Historically, the key manifestation of such a crunch is an attempt by the Treasury to sell its debt to the public rather than to the commercial banks or the Federal Reserve. That is yet to happen despite higher interest rates. But it will happen later this year; when it does, the Fed's tight-money policy will really begin to draw blood.

I say that as a supporter of those policies, but one who recognizes there are going to be extraordinarily painful times, and that the moans and cries of anguish by Members of Congress and others, which are evident now, will be far more evident in about 2 or 3 months.

Mr. President, I ask unanimous consent to have printed in the RECORD this article from Business Week of November 5, 1979.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOWARD A CREDIT CRUNCH IN 1980'S FIRST QUARTER

The economy may already be reeling under the impact of the sharp escalation of interest rates engineered by the Federal Reserve, but the real pain will probably not occur until the first quarter of next year.

That pain will come in the form of a good old credit crunch—a genuine shortage of lendable funds that will force the banking system to an actual rationing of credit. Such a crunch is precisely what the Fed has in mind, according to Leif H. Olsen, senior vice-president and chief economist for Citibank. "I do not believe that it is possible for the Federal Reserve to avoid a credit crunch and still retain the credibility of its anti-inflationary policy," Olsen says. The Fed's aim, he adds, is "to change expectations in the marketplace," and that cannot be done unless business is disabused of the notion that it can borrow as much, raise prices as much, or build inventories as much as usual.

Many economists now warn businessmen not to be fooled by signs that credit—albeit expensive credit—is available at the moment. Right now the banking system is flooded with liquidity. For one thing, the Federal Reserve is always generous in supplying reserves to the banking system in the wake of an increase in reserve requirements. For another, foreign money is rushing into the U.S. because of the improvement in the dollar and the higher interest rates now available in New York. On some estimates, in fact, foreigners bought some $30 billion in U.S. securities last week. And when those purchases are paid for, those institutions that sold the securities will increase their bank deposits, giving U.S. banks more money to lend.

But the flood of liquidity released by Fed Chairman Paul A. Volcker's program will probably ebb soon.

Once the Fed is convinced that the banking system has absorbed the immediate shock of the higher reserve requirements, it will move to rein in the growth in bank reserves. A reasonable expectation is that it will provide the banks with only enough reserves to allow the money supply to grow by 4% from now until January's end. This is a sharp slowdown from the prevailing 9% growth rate of the last 12 months.

The cash position of the U.S. Treasury—in surplus for the last few weeks—will now swing into deficit. This means a large supply of new U.S. government debt—including federal agency issues—will soon begin to hit the market. This debt will probably cause severe problems in the financial markets.

The problems will arise for two reasons. The Federal Reserve, in an attempt to stay within the lowered targets for the growth of the money supply and bank reserves, will not buy its normal fraction of the new government issues. At the same time, the commercial banks will probably be dumping Treasury issues to accommodate business-loan demand.

It is these conditions that will produce a genuine, full-fledged crunch late this year and early next year. Historically, the key manifestation of such a crunch is an attempt by the Treasury to sell its debt to the public rather than to the commercial banks or the Federal Reserve. That is yet to happen despite higher interest rates. But it will happen later this year; when it does, the Fed's tight-money policy will really begin to draw blood.

USDA WINS OCTOBER GOLDEN FLEECE AWARD

Mr. PROXMIRE. Mr. President, I am giving my Golden Fleece of the Month Award for October to the U.S. Department of Agriculture (USDA) for awarding $90,000 for a 2-year study on "Behavioral Determinants of Vegetarianism." In my view, this subject is just not meaty enough to warrant such an expenditure of Federal funds. The taxpayers may, in fact, be getting something for their money which is neither fish nor fowl.

While I not only do not object to those who choose vegetarianism as their life style but would applaud it, "Hesitate, don't vegetate" should have been the motto of the free-spending bureaucrats at USDA in considering this outlay of Federal tax dollars.

I should point out that I am a member of the Agriculture Appropriations Subcommittee, which has jurisdiction over USDA's budget.

As Senators know, the Golden Fleece of the Month Award is given for the biggest, most ironic, or most ridiculous example of excessive or wasteful Federal Government spending for the period.

This study is part of a series of social behavioral research projects in human food preferences being funded by USDA. The nature of the studies being undertaken in these projects has been a cause of concern to the members of the Agriculture Appropriations Subcommittee, including myself. As a result, no new USDA funds in fiscal year 1980 will be spent for research efforts of this kind. The Senate and House conferees on the fiscal year 1980 agricultural appropriations bill recently decided that no new funds from the USDA's competitive grants program are to be used for social behavioral research projects, including research in human food preferences. The competitive grants program has provided the Federal funding for these social behavioral projects in fiscal years 1979 and 1978.

What is it about this kind of study—including the particular study that is the subject of this month's Golden Fleece Award—that has led to the cutting off of further USDA funding? The key word is priorities. In this period of rampaging inflation, it is imperative that taxpayers' dollars be spent only on those projects and purposes which are at or near the high-priority end of the spectrum. This study does not, in my view—and it is a view shared by the other fiscal year 1980 agriculture appropriations conferees—meet that test.

What are the purposes of the study on "Behavioral Determinants of Vegetarianism?" The project description summarized them this way:

In summary, demographic data, extent of nutritional knowledge, and physiological and psychological factor(s) will be studied for their relative influence on food-related behavior. The overall, long-term goals of the proposed research are as follows:

1. To understand behavioral determinants regarding the selection and perpetuation of vegetarianism as a lifestyle.
2. To differentiate behavioral and attitudinal differences regarding nutrition, food, self, and society between vegetarians and non-vegetarians.
3. To assess the influence of nutritional knowledge and attitudes on dietary behavior.
4. To evaluate the relationship between taste acuity and food preferences in vegetarianism.

In discussing "Significance," this same project description includes this statement:

A comprehensive study of the factors which motivate adoption and perpetuation of vegetarian practices can furnish a basis for forecasting appropriate modifications by government in food and nutrition policies.

I am not criticizing the methodology, the objectives, or the perceived significance of this research project. My objection, again, is one of priorities. In these troubled economic times, we must shut the Treasury door to all but the most essential expenditures. In the case of social behavioral research projects in human food preferences funded by USDA, that is exactly what the fiscal year 1980 agriculture appropriations conferees have done.

This notion of priorities and what the American taxpayer expects in the way of fiscal prudence can be illustrated in some words from a letter I received from a citizen irate over, ironically, yet another of these social behavioral research projects in human food preferencs funded by USDA.

The study in question—this time in the amount of $65,000 "to develop psychological profiles of nutrition enthusiasts, to contribute to knowledge about nutrition behavior and motivation"—was itself certainly worthy of a Golden Fleece Award and I hereby declare it to be this month's runner-up.

To quote from the letter I received:

I wonder what they would pay to know of my motivation and behavior not when buying or using health foods but trying to make ends meet? That $65,000 would have bought a lot of dinners for the elderly in this area who don't eat at the end of the month if the checks do not arrive until Monday.

I certainly cannot improve on this eloquent statement of the need for getting our priorities straight in Federal spending. For its contribution to misplaced spending priorities, I confer the October "fleece" on USDA.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. PROXMIRE. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 1885 BE PLACED ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 1885, civil service retirement for non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service, be placed directly on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SURFACE TRANSPORTATION ASSISTANCE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4249.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, and 8 to the bill (H.R. 4249) entitled "An Act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 7 to the aforesaid bill with an amendment as follows:

Page 3 of the Senate engrossed amendments, strike out all after line 4 over to and including line 8 on page 5, and insert:

SEC. 22. (a) Section 204(h) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of this title, where a State assumes or has assumed, pursuant to an agreement entered into under section 274 b. of the Atomic Energy Act of 1954, authority over any activity which results in the production of byproduct material, as defined in section 11 e. (2) of such Act, the Commission shall not, until the end of the three-year period beginning on the date of the enactment of this Act, have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated, suspended, or amended to provide for such Federal licensing. If, at the end of such three-year period, a State has not entered into such an agreement with respect to byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material.".

(b) Section 204(h)(1) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended to read as follows:

"(h)(1) During the three-year period beginning on the date of the enactment of this Act, notwithstanding any other provision of this title, any State may exercise any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to section 274 of the Atomic Energy Act of 1954) respecting (A) byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, or (B) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the date of the enactment of this Act, except that such State authority shall be exercised in a manner which, to the extent practicable, is consistent with the requirements of section 274 o. of the Atomic Energy Act of 1954 (as added by section 204(e) of this Act). The Commission shall have the authority to ensure that such section 274 o. is implemented by any such State to the extent practicable during the three-year period beginning on the date of the enactment of this Act. Nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under section 275 of the Atomic Energy Act of 1954 as may be necessary to implement title I of this Act.".

(c) The last sentence of section 83 a. of the Atomic Energy Act of 1954 is amended to read as follows: "Any license which is in effect on the effective date of this section and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination.".

(d) Section 204(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding after paragraph (1) the following new paragraph:

"(2) The provisions of the amendment made by paragraph (1) of this subsection (which adds a new subsection o. to section 274 of the Atomic Energy Act of 1954) shall apply only to the maximum extent practicable during the three-year period beginning on the date of the enactment of this Act.

(e) Section 83(b)(1)(A) of the Atomic Energy Act of 1954 is amended—

(1) by striking all that follows "transferred to—" down through "Unless" and inserting in lieu thereof the following:

"(i) the United States, or

"(ii) the State in which such land is located, at the option of such State,

unless"; and

(2) by striking "section 84 b." and inserting in lieu thereof "section 81 of this Act".

Mr. DOMENICI. Mr. President, on October 24, the Senate passed H.R. 4249, an act amending the Surface Transportation Assistance Act of 1978. H.R. 4249, as passed by the Senate, included an amendment which I offered to make certain technical changes in Public Law 95-604, the Uranium Mill Tailings Radiation Control Act of 1978. The purpose of these technical changes was to bring the language of the statute into accord with the intent of Congress when the legislation was passed last year. I am pleased to report that the House has agreed to accept my amendment with essentially one minor modification.

My amendment to H.R. 4249 makes it clear that the Nuclear Regulatory Commission would not exercise dual licensing authority during the period when the Agreement States are improving their regulatory programs for uranium mills and mill tailings to meet the new requirements of the Mill Tailings Act.

Thus, during this interim period, NRC would not have licensing authority for uranium mills or mill tailings in an Agreement State so long as the State continued to exercise licensing authority for mills or mill tailings pursuant to an agreement entered into under section 274 b. of the Atomic Energy Act. This change effectively ends any requirement for an NRC license for these activities in the Agreement States during the interim period.

My amendment also confirmed NRC's present interpretation of the Mill Tailings Act that the Agreement States would have a period of up to 3 years after the date of enactment where necessary to improve their existing regulatory programs to meet the new requirements of the statute. The section-by-section analysis accompanying my amendment emphasized, however, that the States were encouraged to meet the new requirements of the Act within that time to the maximum extent practicable.

The House has seen fit to include this direction in the language of the amendment itself, and to specify that NRC should insure that the State's regulatory program meets the new requirements to the extent practicable during the 3-year period beginning on the date of enactment.

Mr. President, I am willing to accept this modification to my amendment. However, because this is a new addition to the statutory language, some further explanation may be in order. First, as the legislative history to the Mill Tailings Act recognized, there may be several reasons why it is not practicable for a particular Agreement State to meet one or more of the new requirements of the act within the 3-year interim period. For example, action by the State legislature may be required to give the State regulatory agencies authority to meet certain of the requirements, or action of the State legislature may be needed to provide all the necessary funding to meet the new requirements. Because some State legislatures meet infrequently, the time needed to accomplish any necessary changes may vary considerably. Also, after NRC issues any new substantive standards for the control of mill tailings, a period of time may be required for the Agreement States to incorporate the new standards into their ongoing regulatory programs. These are just a few examples of factors which could make it not practicable for an Agreement State to meet one or more of the new requirements during the 3-year interim period.

With regard to NRC's role during the interim period, this amendment would not give the Commission any new authority over individual State licensing determinations. Thus, the Commission would not have the authority to issue, deny or revoke licenses in the Agreement States. Rather, NRC's role during the interim period will be to assist the Agreement States in upgrading their regulatory programs to meet the new requirements. One approach which has already been used effectively in this process is the offer of NRC technical assistance to the State on a consultant basis. Another useful tool is the grant program established by the Mill Tailings Act. The amendment provides an added directive to the Commission to work in cooperation with the Agreement States to improve the effectiveness of their regulatory efforts as soon as possible.

Mr. President, I believe that my amendment, as modified by the House, meets the intent of the Congress last year in enacting the Mill Tailings Act, and represents a workable and responsible means for assuring that the State and Federal programs in this area are improved in an orderly and timely manner.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the House amendments.

The motion was agreed to.

ORDER FOR RECOGNITION OF SENATORS YOUNG AND WARNER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders have been recognized under the standing order, the Senator from North Dakota (Mr. YOUNG) and the Senator from Virginia (Mr. WARNER) be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

S. 1871

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of the message from the House of Representatives on S. 1871, the International Energy Agreement, there be a time limitation of 2 hours, to be equally divided, on a motion to disagree to the House amendments with an amendment by Mr. JOHNSTON, and 1 hour to be equally divided on any amendment to the Johnston amendment; and that the time be equally divided between Mr. JOHNSTON and Mr. MCCLURE.

The PRESIDING OFFICER. The Chair will inquire. Does the Senator from West Virginia mean to say that the Senator from Louisiana (Mr. JOHNSTON) would move to agree to the amendment?

Mr. ROBERT C. BYRD. I beg the Chair's pardon.

The PRESIDING OFFICER. Did the Senator from West Virginia mean that the motion by Mr. JOHNSTON would be to disagree?

Mr. ROBERT C. BYRD. The motion by Mr. JOHNSTON would be to agree to the House amendment with an amendment.

The PRESIDING OFFICER. The Chair would inquire as to who is to be in charge of the time in opposition.

Mr. ROBERT C. BYRD. Mr. MCCLURE.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement:

Ordered, That when the Senate proceeds to the consideration of the House message on the bill S. 1871, providing antitrust exemptions for oil companies participating in certain international energy programs, there shall be not to exceed two hours of debate on a motion to be offered by the Senator from Louisiana, Mr. Johnston, to agree to the House amendment with an amendment, to be equally divided and controlled by that Senator and the Senator from Idaho, Mr. McClure; and one hour of debate on any amendment thereto, to be equally controlled and divided between the proponent thereof and the Senator from Louisiana, Mr. Johnston.

S. 1905

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 1905, the Milwaukee Railroad measure, is made the pending business before the Senate, there be a time limitation of 30 minutes on the bill, to be equally divided between the Senator from Nevada (Mr. CANNON) and the Senator from Oregon (Mr. PACKWOOD); that there be a limitation of 1 hour on an amendment by Mr. JEPSEN dealing with the Rock Island Railroad; that no other amendment be in order; that there be a time limitation on any debatable motion, appeal, or point of order if such is submitted to the Senate of 20 minutes; and that the agreement with respect to the division and control of time be in the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1905 a bill to provide for the restructuring of the Milwaukee Railroad and for other purposes, debate on an amendment (pertaining to the Rock Island Railroad) to be offered by the Senator from Iowa (Mr. JEPSEN), shall be 1 hour; no other amendments being in order; debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 min., to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of the amendment or a motion, the time in opposition thereto shall be controlled by the minority leader or his designee:

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 30 min., to be equally divided and controlled, respectively, by the Senator from Nevada (Mr. CANNON) and the Senator from Oregon (Mr. PACKWOOD): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of the amendment, debatable motion, appeal, or point of order.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for 1 minute, to consider nominations in the Coast Guard placed on the Secretary's desk.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the reservation is for the purpose of stating that the nominations identified by the majority leader are cleared on our calendar, and we have no objection to their consideration and confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS IN THE COAST GUARD PLACED ON THE SECRETARY'S DESK

The assistant legislative clerk proceeded to report sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move, en bloc, to reconsider the votes by which the nominations were confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER S. 1905 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators, the Senate proceed to the consideration of S. 1905, the Milwaukee Railroad bill, with the understanding that any rollcall vote on final passage, if ordered before 2:30 p.m., not occur until the hour of 2:30 p.m., and that paragraph 3 of rule XII be waived.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I thank the majority leader for accommodating a request from our side for a Member who cannot be here prior to that time and who very much wanted to record his position on that measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER S. 1873 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the disposition of the Milwaukee Railroad bill, or at such time as it is advanced to third reading and is awaiting a rollcall vote on final passage in the event that third reading occurs before 2:30 p.m., the Senate proceed to the consideration of Calendar Order No. 379, S. 1873, a bill to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will be taking up at least three measures, namely S. 1905, the Milwaukee Railroad bill; Calendar Order No. 379, S. 1873, a bill to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes, and the House message on S. 1871, the national energy agreement. There will be rollcall votes.

RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour of 11 o'clock tomorrow morning.

The motion was agreed to; and at 5:45 o'clock p.m., the Senate recessed until Tuesday, October 30, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate October 26, 1979, under authority of the order of the Senate of October 25, 1979:

UNITED NATIONS

Richard Wilson Petree, of Virginia, a Foreign Service officer of class 1, to be Deputy Representative of the United States of America in the Security Council of the United Nations, with the rank of Ambassador.

DEPARTMENT OF THE TREASURY

Michel E. Witt, of Colorado, to be Assayer of the Mint of the United States at Denver, vice Hildreth Frost, Jr., resigned.

DEPARTMENT OF JUSTICE

John H. Shenefield, of Virginia, to be Associate Attorney General, vice Michael J. Egan, resigned.

Alice Daniel, of the District of Columbia, to be an Assistant Attorney General, vice Barbara A. Babcock, resigned.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Carolyn L. Attneave, of Washington, to be a Member of the National Advisory Council on Women's Education Programs for a term expiring May 8, 1981, vice Mary Beth Peters, term expired.

DEPARTMENT OF TRANSPORTATION

William J. Beckhan, Jr., of Michigan, to be Deputy Secretary of Transportation, vice Alan A. Butchman, resigned.

DEPARTMENT OF ENERGY

Edward Allan Frieman, of New Jersey, to be Director of the Office of Energy Research, vice John M. Deutch, elevated.

DEPARTMENT OF STATE

The following-named person for appointments as a Foreign Service information officer of class 2, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

James H. Kirk, of California.

For appointment as a Foreign Service officer of class 4, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Carmen C. Suro-Bredie, of Florida.

For appointment as Foreign Service information officers of class 5, Consular Officer, and Secretaries in the Diplomatic Service of the United States of America:

Guy Burton, of New Jersey.
Robert E. McCarthy, of Virginia.
Dudley O'Neal Sims, of Florida.

For promotion from a Foreign Service information officer of class 7 to class 6:

Mary Ellen Connell, of Florida.

For reappointment in the Foreign Service as Foreign Service officers of class 6, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Robert S. Hagen, of Illinois.
Daniel Charles Kurtzer, of New Jersey.

For appointment as Foreign Service officers of class 6, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Fernando Sanchez, of California.
Martha Lucille Sardiñas, of Maryland.

For promotion from a Foreign Service information officer of class 8 to class 7:

Louise Bedichek, of New York.

For appointment as a Foreign Service information officer of class 7, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Robert Lee Earle, of Maryland.

Foreign Service Reserve officers to be Consular Officers of the United States of America:

Richard D. Broadway, of Arkansas.
James T. L. Dandridge II, of Maryland.
Luciano D'Angelo, of Colorado.
Myles R. Denny-Brown, of Virginia.
Herbert D. Deremer, of Virginia.
Peter H. Himmelberger, of Pennsylvania.
Berne M. Indahl, of Washington.
John H. Jomeruck, of California.
Judy Dianne Knowles, of Georgia.
John D. Markey, of Virginia.
James W. Meale, of Maryland.
Randall Speer, of New Jersey.

Foreign Service Reserve officers to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Thomas L. Ahern, Jr., of Virginia.
Margaret S. Astalos, of New Jersey.
Thomas N. Bandy, Jr., of Virginia.
Roby C. Barrett, of Virginia.
Dennis D. Bennett, of Virginia.
Joseph C. Bernard, of Virginia.
David P. Bocskor, of Pennsylvania.
Barbara A. Bryan, of Virginia.
Ronald M. Cinal, of Virginia.
John B. Conley, of Virginia.
Richard J. Cornish, of Maryland.
William J. Daugherty, of California.
Norman M. Descoteaux, of Florida.
William W. Douglass, of Kentucky.
Matthew K. Gannon, of California.
Roger J. Hartmann, of Wisconsin.
Thomas D. Hawbaker, of Missouri.
Barry Hilton, of Virginia.
Gordon J. Hopman, of Virginia.
Richard C. Jacobson, of Virginia.
Keith C. Johnson, of Idaho.
Malcolm K. Kalp, of Virginia.
Thomas J. Keenan, of Virginia.
Gilbert E. Kindelan II, of Virginia.
James M. Lanham, of Virginia.
David H. MacDonnell, of Virginia.
Theodore J. Michel, Jr., of Virginia.
Donna Mychalejko, of Pennsylvania.
William B. North, of Virginia.
George E. O'Keefe, of Maryland.
Richard L. Palmer, Sr., of Ohio.
Enrique Pérez, of Maryland.
William G. Potter, of Massachusetts.
Vincent A. Principe, of Florida.
Donald M. Richardson II, of Virginia.
Martin J. Sattler, of Virginia.
Conrad C. Schubert, of Virginia.
Robert W. Stanton, of Virginia.
Reynold F. Stelloh III, of Virginia.
Dorothy Sturges, of Rhode Island.
F. Anthony Whitehorn, of Virginia.
David R. Wilson, of Virginia.
Diane D. Windeler, of New Jersey.
Freddie R. Woodruff, of Oklahoma.

Foreign Service Reserve officers who are candidates for appointment as Junior Foreign Service officers to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Trent A. Bagley, of New York.
Elizabeth Barnett, of Connecticut.
Robert Stewart Barney, of Missouri.
Elizabeth Pritchard Barr, of New York.
Joyce Anne Barr, of Washington.
Scott D. Bellard, of Indiana.
Gregory L. Berry, of Oregon.
William M. Blaine III, of California.
Karl Edward Bohlmann, of California.
James Bradford Bond, of Oregon.
Donald Edgar Braum, of California.
Jill Farrelly Byrnes, of California.
Frank John Coulter, Jr., of Maryland.
Frances R. Culpepper, of Virginia.
Scott Danaher, of Florida.
Rebecca T. Diaz, of California.
Jeannette Dubrow, of Florida.
William A. Eaton, of Virginia.
Michael Paul Fleischer, of New York.
Robert Cornelius Friel, of Maryland.
Jeffrey Wood Garrison, of New Jersey.
Michael Patrick Glover, of Texas.
Carla Marie Gratz, of New Jersey.
Mason S. Green, of Massachusetts.
Britta Gundersen, of Washington.
Holly Helen Hamachek, of Wisconsin.
James Jay Hamilton, of New York.
William Thomas Harris, Jr., of Colorado.
James Thomas Heg, of Washington.
Debra D. Henke, of Kansas.
William Holway Hill II, of Virginia.
Emily Hodges, of California.
Robert B. Houston III, of Washington.
Clyde Lawton Jardine, Jr., of Georgia.
Carolyn Ruth Johnson, of Illinois.
Richard Garon Johnson, of the District of Columbia.
Laurence M. Kerr, of Ohio.
Alexander T. Kirkpatrick, of Michigan.
Barbara Ann (Jachna) LaBrie, of Virginia.
Richard B. LeBaron, of Virginia.
Edwin Thomas Lee, of Texas.
Craig Richard Lingel, of California.
John P. Markey, Jr., of Massachusetts.
Patricia L. McArdle, of California.
Lili Ming, of New Jersey.
Robin Jan Morritz, of Texas.
Anthony C. Newton, of New Jersey.
Steven S. Olson, of California.
Stephen Roy Pattison, of Texas.
Lucy Allan Perron, of Connecticut
Constance Ann Philpot, of Virginia.
Sarah See Pitts, of California.
David Reyes Ramos, of Texas.
Mark Adams Safford, of Virginia.
Miriam M. Saif, of Florida.
Camille Elizabeth Sailer, of Pennsylvania.
David Mayer Shapiro, of Florida.
Charles Bronson Skinner, of Florida.
Michael A. Spangler, of Arkansas.
Carolyn Smith Spillane, of Texas.
William Martin Strawn, of the District of Columbia.
J. Bradley Swanson, of Connecticut.
Bruce E. Thomas, of California.
Jeanne E. Topks, of Texas.
Eugene P. Tuttle, of New York.
Karen Jo Van Pelt, of Virginia.
Frederick John Vogel, of Maryland.
Stephen Gerald Wesche, of Oregon.
Arkell David Weygandt, Jr., of Illinois.
Kevin M. Whitaker, of Virginia.
Roy L. Whitaker, of Kansas.
James G. Williard, of Florida.
Mary Jo Wills, of Virginia.
Thomas Stephen Windmuller, of New York.
Mark F. Wong, of Maryland.
Brian Cha Kyung Woo, of Hawaii.

Foreign Service Reserve officers to be Secretaries in the Diplomatic Service of the United States of America:

Priscilla M. Boughton, of the District of Columbia.
Eliseo Carrasco, of California.
Bruce F. Duncombe, of Maryland.
Joseph M. Kemper, of California.
George J. Krieger, Jr., of Maryland.
John F. Purinton, of Maryland.
Aldelmo Ruiz, of Puerto Rico.
Anthony M. Schwarzwalder, of Maryland.
Robert E. Shepherd, of Virginia.

Foreign Service Staff officers to be Consular Officers of the United States of America:

Helen M. Collings, of Connecticut.
Naomi Sue Edwards, of Florida.
Antoinette C. Jackson, of New York.
Lucille G. McElhoe of Virginia.
Joseph C. Miles, of Indiana.
Dorothy A. Painter, of New Jersey.
Ingrid Pfanzelt, of California.

Executive nominations received by the Senate October 29, 1979:

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of Chapters 35 and 837, Title 10, United States Code.

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Baker, Bobby Jr., 448-24-5642.
Behuniak, John A., 053-28-1694.

Bishop, Clifton N., 246-38-9255.
Clinton, Daniel D., Jr., 455-52-8919.
Cook, Jerry W., 442-34-8051.
Corbell, Robert R., II, 450-48-9830.
Decamp, Dion E., 446-32-6931.
Doerge, Donald D., 491-30-6554.
Elliott, Thomas R., Jr., 416-46-1499.
Eriksen, Robert E., 476-16-6408.
Escanellas, Jaime, 582-34-6318.
Flick, Robert A., 177-22-0971.
Gallion, Phillip W., 470-32-7139.
Hanks, Douglas G., 518-34-4405.
Helms, Fred R., 420-36-8427.
Hurlock, Bernard W., 578-36-7621.
Kirk, Francis J., 277-24-8889.
Lamar, Edward B., 242-44-5252.
Langley, Myrle B., 403-44-7793.
Lanier, Jefferson B., 253-20-3208.
Layman, John R., 408-50-0211.
Mattox, Alvah S., Jr., 230-36-2008.
McMahon, James S., 065-26-4750.
McMerty, John F., 502-40-2017.
Michel, Fred L., 457-48-3111.
Mizumoto, Allen M., 576-32-4621.
Montz, Maxime J., Jr., 434-44-0463.
Moore, Clifford R., 501-26-1312.
Neary, Donald O., 521-36-7141.
Park, Ernest C., 004-26-3896.
Parsons, Edward E., Jr. 518-38-6906.
Peterson, Kenneth D., 336-28-0993.
Philbrick, Scott J., 024-26-4920.
Pierce, Marshall C., Jr., 410-54-1500.
Proctor, Tom H., Jr., 413-22-2270.
Roughgarden, James E., 141-14-0092.
Sealy, Bertram W., Jr., 409-46-7328.
Smith, Pinckney B., 250-64-1970.
Tate, David L., 526-26-3042.
Webb, Minor D., 448-18-6894.
Weidinger, Charles L., 290-26-9559.
Wernick, Ted, 442-30-5180.
Wickline, Harold W., 302-16-0200.
Wood, John W., 420-42-4595.

MEDICAL CORPS

Carson, Gordon C., 253-58-5386.
Coleman, Donald L., 347-26-2325.
Preston, James W., 528-44-1379.
Harris, Perry F., 245-44-4418.
Karibo, John M., 400-40-6904.
Key, James D., 461-52-2437.
Lang, Frank A., 264-36-1849.
Noble, Richard F., 516-32-9864.
Pate, George W., 034-14-3913.
Pennington, Richard D., 526-36-7379.
Sklenar, Donald E., 498-24-5666.

CHAPLAIN CORPS

Anderson, Caroll N., 475-18-2450.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be first lieutenant

Bousquet, Robert, 011-40-0484.
Davis, Richard D., 283-42-4434.
Earlin, David L., 166-36-7899.

The following persons for appointment as Reserve of the Air Force, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated.

MEDICAL CORPS

To be lieutenant colonel

Barreneche, Rodrigo J., 140-38-7725.
Castaneda, Tristan A., 452-56-2248.
Coburn, Bry H., 422-54-8833.
Donovan, Michael J., 012-22-3140.
Duszynski, Arnold J., 069-18-6866.
Esslinger, Valentine, 067-26-0329.
Fanning, John R., 443-14-9926.
Forker, Thomas, 144-14-8334.
Foster, Delbert R., 451-72-9199.
Guise, Charles W., 430-76-8643.
Hickman, James R., Jr., 232-68-6933.
Irick, Robert M., 306-34-1526.
Langley, Roland L., 484-34-1076.
Manansala, Antonio Q., 510-38-8817.
Martin, William L., 382-20-2241.
Nayak, Ramnath V., 100-32-3420.
Polsky, Marvin, 409-50-4602.
Ryan, Hewitt F., 133-22-6127.
Salan, Jerry, 218-26-5648.
Sherrer, Edward L., Jr., 270-26-7546.
Simeon, Rodolfo G., 353-34-9239.
Stelter, Gerald P., 392-26-5048.
Stinson, Henry W., 236-22-0066.
Strangio, Vincent J., 121-16-0828.
Stronach, Neil, 007-40-5634.
Villacorte Guillermo V., 276-44-1309.

The following person for appointment as Reserve of the Air Force in the grade indicated under the provisions of section 593, tite 10, United States Code.

LINE OF THE AIR FORCE

To be lieutenant colonel

Aler, Earl A., 289-28-7173.

The following persons for appointment as Reserve of the Air Force (ANGUS) in the grade indicated, under the provisions of sections 593 and 8351, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform duties indicated.

MEDICAL CORPS

To be lieutenant colonel

Irizarry, Jaime E., 579-34-9628.
White, James F., 460-44-0185.

VETERINARY CORPS

To be lieutenant colonel

Clark, Charles D., 197-30-7734.

The following officers for promotion in the Air Force Reserve, under the provisions of sections 593 and 8376, title 10, United States Code.

MEDICAL CORPS

Lieutenant colonel to colonel

Davis, Kingsley L., 499-16-9650.

LINE OF AIR FORCE

Major to lieutenant colonel

Armourlightner, Rosetta A., 257-56-4009.
Asmus, John J., Jr., 040-36-9012.
Bayha, Carl F., Jr., 170-32-9569.
Bayless, William E., 514-30-6677.
Bottorff, Garald L., 247-68-9468.
Byrd, Jack R., 545-66-5078.
Cecrle, William J., 314-40-6235.
Collins, William A., 187-32-4584.
Denis, Philippe C. J., 015-30-9687.
Goodwin, William S., 006-38-9423.
Green, Thomas A., 281-30-9939.
Gullett, Jeffrey L., 453-58-8713.
Hamilton, James R., Jr., 428-72-2611.
Johnson, Jimmy N., 418-54-4902.
Kossmann, Randolph I., 495-40-1299.
Kuzminski, Robert B., 350-30-8303.
Maddox, Roscoe, 538-36-7335.
Masenheimer, Philip G., 187-30-1442.
Meadows, Charles D., 449-62-4894.
Owens, Dennie L., 458-58-5920.
Pratt, Bruce S., 017-32-0374.
Purdy, Frank K., Jr., 245-58-7879.
Putman, Jerald L., 479-44-3452.
Raper, Richard O., 232-62-8836.
Risik, Daniel W., 008-28-5914.
Rogala, Frank A., Jr., 172-32-8670.
Rondholz, Frederick W., 036-32-2725.
Rose, William W., 357-30-2238.
Schulze, Harry D., 267-58-3928.
Simpson, James O., 465-62-0132.
Slater, Robert E. 052-32-2204.
Soares, Daniel C., 425-76-4678.
Stadheim, Terrance F., 457-64-6947.
Steinhart, Robert J., 163-30-1534.
Stewart, Robert C., 543-38-6108.
Vaughn, Louis M., 068-32-9644.
Whitman, Donald R., 470-36-5697.

CHAPLAIN CORPS

Major to lieutenant colonel

Kennedy, John B., 009-14-2062.

MEDICAL CORPS

Bellhar, Robert P., 573-54-9334.
Cabebe, Fernando S., 087-34-8748.
Fishburn, Frederick B., 299-30-0043.
Hidayat, Ahmed A., 152-46-7828.
Hilliard, George D., 261-62-4003.
Hoyer, Thomas V., 369-20-9998.
Lee, Dennis R., 228-56-4448.
Montgomery, Robert N., 293-14-2059.
Ngo, Narciso L., 105-42-3128.
Osterholzer, Heinz O., 152-32-2759.
Task, Steven A., 546-48-5857.
Wagner, Vernon P., 548-52-7933.
Weiss, Edward A., 131-26-8169.

NURSE CORPS

Baker, Darlene J., 550-46-6533.
Beers, Nelda J., 384-30-4243.
Cunningham, Donna J., 199-30-5291.
Pacheco, Gabriel C., 523-44-3708.

The following-named officer for promotion in the United States Air Force in the temporary grade indicated, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Hutto, William J., 265-58-1782.

The following-named Air Force officer for reappointment to the Active List of the Regular Air Force, in the grade of lieutenant colonel, Regular Air Force, under the provisions of sections 1210 and 1211, title 10, United States Code, with active duty grade of temporary colonel, in accordance with sections 8442 and 8447, title 10, United States Code.

LINE OF THE AIR FORCE

Francis, Bob L., 525-50-6183.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 29, 1979:

IN THE COAST GUARD

Coast Guard nominations beginning Robert C. Boetig, to be lieutenant, and ending Roger A. Whorton, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 1, 1979.

EXTENSIONS OF REMARKS

JOSEPH DISEASE

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. COELHO. Mr. Speaker, as the first Member of Congress of full Portuguese extraction, I would like to take this opportunity to make my colleagues aware of a little known disease which is found mostly in those of Portuguese descent from either the Azores Islands or continental Portugal. The disease is called Joseph Disease and is named after Anton Joseph who left the island of Flores in the Azores in 1845 and came to California. This is a neurological disease resulting from a genetic mutation, and in an effort to create an awareness of this tragic disorder, I would like to present a report which was prepared by Mrs. Mary C. Feliciano, R.N., M.S.N., who is the wife of a very good friend of mine. I believe that my colleagues will find the report informative, and I would especially urge my colleagues from California and Massachusetts to take note of this report since the majority of the known cases of Joseph Disease in this country are found in those States. In addition, those Members who would like more information about this tragic disease are urged to contact: International Joseph Diseases Foundation Inc., P.O. Box 2550, Livermore, Calif. 94550, (415) 455-0706.

The report follows:

JOSEPH'S DISEASE

HISTORY

Joseph's Disease is a neurological disease (disease of the central nervous system) which occurs in individuals of Portuguese, primarily Azorean, descent. The disease is named after Anton Joseph, a man of Portuguese ancestry, who emigrated to California from the island of Flores in the Azores Islands in 1845 (Rosenberg, Nyhan, Bay and Shore, 1976; Rosenberg, Thomas, Baskin, Kirkpatrick, Bay and Nyhan, 1979; Rosenberg, Nyhan, Coutinho and Bay, 1978). The neurological disorder manifested in Anton Joseph, in two of his six children and subsequently in at least forty-nine other direct descendants of the Joseph family.

It is surmised that Joseph's Disease is the result of a genetic mutation which occurred in an individual residing in the southern portion of Portugal prior to the colonization of the Azores Islands. This individual, an ancestor of Anton Joseph, emigrated to the island of Flores where the disease developed and was subsequently propagated to the United States and Brazil (Rosenberg, et al., 1978).

MODE OF TRANSMISSION

The occurrence of the disease in offspring identifies an autosomal dominant mode of inheritance (Coutinho and Andrade, 1978; Rosenberg, et al., 1976; Rosenberg, et al., 1979; Rosenberg, et al., 1978). This means that the disease is passed from parent to child through genes and that the disease can occur in the offspring if only one parent has the disease. This results in a 50% chance of all offspring having the disease if only one parent is affected, to a 75% chance of all offspring being affected if both parents have the disease. There is no correlation between sex of the affected parent and the sex of the affected child, nor any increased incidence in either sex.

PATHOPHYSIOLOGY

As previously stated, Joseph's Disease is a disease of the central nervous system. It involves slow degeneration of particular areas of the brain which consequently results in neurological impairment. The clinical terminology for the disease is Straitonigral Degeneration. This terminology identifies some of the major parts of the brain, the corpus striatum and substantia nigra, which are affected by the disease (Rosenberg, et. al., 1976). Autopsies performed on people with Joseph's Disease have also revealed degeneration in areas of the cerebellum, the midbrain and even atrophy of the spinal cord (Rosenberg, et al., 1976; Rosenberg, et al., 1979).

CLINICAL FINDINGS

This neurological disorder is not confined to the Joseph family. Similar neurological impairments have developed in several other families of Portuguese Azorean descent. Five families in Massachusetts—all descendants of Portuguese who emigrated from the island of Flores in the Azores—have manifested a neurological disorder similar to the Joseph family (Rosenberg, et al., 1978). In addition, family members descended from William Machado, a native of Bretanha on the island of Sao Miguel in the Azores Islands, have also developed a similar autosomal dominant neurological disease (Nakano, Dawson and Spence, 1972).

Epidemiological studies of these families and others who have manifested similar disorders has led researchers to theorize that these families do not have different diseases, but rather variants of the same genetic disorder (Rosenberg, et. al., 1978). Three variants of this autosomal dominant neurological disorders have been identified:

Type I. Type I begins about age twenty-five (25) with the initial clinical presentation of a lurching, unsteady gait. This is often accompanied by difficulty speaking (dysarthria) and muscle rigidity (Coutinho and Andrade, 1978; Rosenberg, et al., 1976; Rosenberg, et al., 1979; Rosenberg, et al., 1978). This clinical presentation has been compared to Parkinson's disease because of the lurching gait, and to intoxication because of the slurred speech and gait impairment. Gradually, the neurological deficit progresses and additional impairments develop including incoordinate contraction of the facial muscles (facial fasciculations) (Rosenberg, et al., 1978; Rosenberg, et al., 1979), progression of the muscle rigidity to muscle spasticity, and incoordinate volutional movement (Coutinho and Andrade, 1978; Rosenberg, et al., 1976; Rosenberg, et al., 1978).

Impairment of eye movements also occurs including limitation of upward gaze (ophthalmoparesis of vertical gaze), inability to turn the eyes inward (convergence) and a tendency for the eyes to vacillate back and forth (horizontal nystagmus) (Coutinho and Andrade, 1978; Rosenberg, et. al., 1979). The eyes also assume a bulging out appearance (exophthalmus) (Rosenberg, et. al., 1978). Difficulty in swallowing (dysphagia) usually develops later in the disease (Rosenberg, et. al., 1978; Rosenberg, et. al., 1979).

These neurological deficits progressively debilitate the affected individual but mental alertnes and intellect is preserved (Coutinho and Andrade, 1978). Death usually results from pneumonia about fifteen (15) years after the onset of symptoms (Rosenberg, et. al., 1978; Rosenberg, et. al., 1979). Occasionally the onset of the disease does not begin until above the age of forty (40). In these cases the debilitating course of the disease lasts approximately twenty-five (25) years (Rosenberg, et. al., 1978). In rare instances, the disease has manifest in children. It is suspected that this occurs when the child inherits the mutant gene from both parents (Coutinho and Andrade, 1978; Rosenberg, et. al., 1978).

Type II. Type II Joseph's Disease has also been traced to the island of Flores in the Azores. This form of the disease usually begins later in life, about age thirty (30) and is less rapid in progression than type I (Rosenberg, et. al., 1978). It resembles type I in its clinical presentation except that there appears to be a stronger cerebellar component (Rosenberg, 1977). The cerebellum is that part of the brain which controls balance, equilibrium, and the coordination, adjustment and smoothing out of movement (Ganong, 1975).

The initial symptom is usually ataxia of gait followed by other signs of cerebellar disturbance including truncal ataxia and incoordinate movement of the extremities with intension tremors, as evidenced in the ataxia of heel to shin and finger to nose maneuvers (Coutinho and Andrade, 1978; Rosenberg, et. al., 1978). Individuals with type II also develop dysarthria, dysphagia, opthalmoparesis, facial fasciculations and some muscle rigidity (Coutinho and Andrade, 1978; Rosenberg, et. al., 1978).

The duration of this disease is usually fifteen (15) to twenty (20) years.

Type III. Type III has also been referred to as Machado's Disease (Romanul, Fowler, Radvany, Feldman and Feingold, 1977). As previously discussed, William Machado, a native of Bretanha on the island of Sao Miguel in the Azores Islands, manifested a neurological disease very similar to Joseph's Disease. His children emigrated to Massachusetts in the 19th and early 20th centuries bringing the disease with them (Nakano, et al., 1972).

This form of the disease has a late onset, usually after age forty (40) and the mean duration of the disease is unknown (Coutinho and Andrade, 1978). The initial symptom is also ataxia of gait. The disease manifests other cerebellar deficits similar to Type II but its distinct difference from the other forms of Joseph's Disease is the occurrence of symmetrical sensory and motor disturbances in the arms and legs (peripheral neuropathy) and loss of muscle mass (muscle atrophy) in these extremities (Coutinho and Andrade, 1978; Nakano, et al., 1972; Rosenberg, et al., 1978). The former disturbance includes decreased sensory appreciation to pinprick, vibration and position of the distal extremities and decreased or absent deep tendon reflexes (Nakano, et al., 1972).

DIAGNOSIS AND TREATMENT

Presently there is no cure for Joseph's Disease. Care focuses on palliative treatment of the physical manifestations. Some individuals with Type III have benefitted from antiparkinson medication (Rosenberg, et al., 1978).

Research efforts have been directed at identifying a molecular marker for the disease which could be used to identify affected individuals. If these individuals could be identified prior to their reproductive years,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

genetic counseling could be utilized to acquaint these individuals with the exact percentage of risk of transmitting the disease to their offspring (Rosenberg, et al., 1976; Rosenberg, et al., 1978).

At this time there is a biochemical change noted in individuals who have manifested the disease, but as previously explained, most individuals with Joseph's Disease do not begin to show symptoms of the disease until after they have had children and thus unknowingly have transmitted the disease to their children.

The biochemical change is a reduced level of homovanillic acid (HVA) in the cerebrospinal fluid (Rosenberg, et al., 1976; Rosenberg, et al., 1978). Researchers believe that this reduced level of HVA reflects the loss of dopamine (a substance needed for normal brain functioning) synthesizing neurons in the substatia nigra portion of the brain and thus is a secondary effect of the disease (Rosenberg, et al., 1978). It also has been noted through research that individuals with Type III, referred to as Machado's Disease, have had an increased incidence of elevated blood glucose levels as well as abnormal glucose tolerance tests (Nakano, et al., 1972).

BIBLIOGRAPHY

1. Coutinho, P. and Andrade, C. Autosomal Dominant System Degeneration in Portuguese Families of the Azores Islands. *Neurology*, July, 1978, *28*, 703–709.

2. Garong, W., *Review of Medical Physiology*. Los Altos: Lange Medical Publications, 1975.

3. Izumi, K., Inve, N., Shirabe, T., Miyazaki, T. and Kuroiwa Y. Failed Levadopa Therapy in StriatoNigral Degeneration, *Lancet*, June 1971, *1*, 1355.

4. Nakano, K., Dawson, D. and Spence, A. Machado Disease, A Hereditary Ataxia in Portuguese Immigrants to Massachusetts. *Neurology*, 1972, *22*, 49–55.

5. Romanul, F., Fowler, H., Radvany, Jr., Feldman, R. and Feingold, M. Azorean Disease of the Nervous System. *New England Journal of Medicine*, 1977, *296*, 1505–1508.

6. Rosenberg, R. Azorean Disease of the Nervous System. *New England Journal of Medicine*, September, 1977, *297*, 729.

7. Rosenberg, R., Nyhan, W., Bay, C. and Shore, P. Autosomal Dominant Striatonigral Degeneration. *Neurology*, August, 1976, *26*, 703–14.

8. Rosenberg, R., Nyhan, W., Coutinho, P. and Bay, C. Joseph's Disease: An Autosomal Dominant Neurological Disease in the Portuguese of the United States and the Azores Islands. In R. Kark, R. Rosenberg, and L. Shut (Ed.) *Advances in Neurology: The Inherited Ataxias*. New York: Raven Press, 1978.

9. Rosenberg, R., Thomas, L., Baskin, F., Kirkpatrick, J. Bay, C. and Nyhan W. Joseph's Disease: Protein Patterns in Fibroblasts and Brain. *Neurology*, July, 1979, *29*, 917–926.●

A 12-MILE FUND RAISING WALK

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mrs. SPELLMAN. Mr. Speaker, a wise man once wrote, "you give but little when you give of your possessions. It is when you give of yourself that you truly give." In a few days, Mr. Speaker, some dedicated residents of my district will spend an afternoon "giving of themselves" so that those living in an underdeveloped area may enjoy a better life.

I am referring to a 12-mile fund-raising walk being sponsored by the community of Beltsville, Md., just a few miles from here in my congressional district. The walk will benefit the Training Center for Development of Human Resources at Pinalejo, Santa Barbara, Honduras. A year ago, a similar walk raised $14,000 to educate citizens in such fields as agriculture, health and housing. Simply put, the program teaches individuals in this disadvantaged Central American country to care for themselves and their families better.

Mr. Speaker, I am truly touched when I hear of such volunteer efforts by residents of my area. These people are not compelled in any way to participate in this event. They take part for one reason and one reason only—their personal desire to help those less fortunate than themselves. To my way of thinking, however, that is the best reason of all. Their participation is a testament to their concern, their compassion and their commitment to assisting others.

I sincerely regret that long-standing obligations will prevent me from being present at 1 p.m., Sunday, November 4, when these exemplary citizens begin their 12-mile walk at Beltsville's High Point High School. You can be certain I will be thinking of them as the hour for the start of the walk approaches and throughout the rest of the afternoon. To show my support and appreciation for their efforts, I have also agreed to "sponsor" one of the participants, Maryland State Senator Arthur Dorman of Beltsville, at a rate of $1 per mile.

Mr. Speaker, I know all my colleagues in the House will want to join me in wishing each and every participant well in this most worthwhile undertaking. And most of all, Mr. Speaker, I know they will want to join me in expressing deep appreciation and heartfelt thanks to all those involved in such a superb project. The walk organizers and participants alike truly know what it means to "give of themselves."●

NATIONAL ABORTION RIGHTS ACTION WEEK

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. GREEN. Mr. Speaker, this week, the week of October 22 to 29, is National Abortion Rights Action Week. It is a time dedicated to building public awareness to the widespread moral support for abortion rights. I am pleased to participate in some of the events marking this week, and to call to the attention of my colleagues the importance of this public education effort.

The issue of abortion is one of the most divisive facing this country today. The facts concerning abortion are also continually distorted. It is tragic to me that Congress has not faced reality when considering abortion legislation, or when unnecessary amendments are added to various legislative proposals, such as military appropriations bills. We must all recognize the tragic facts about the victims of rape and incest, the dangers faced by pregnant women with serious illnesses, and the horrifying effects of birth defects. In many instances abortion is the necessary means to preserve the physical and/or emotional welfare of an individual.

As I have stated before, I believe that abortion is a personal issue of moral choice. The fact that it is dividing our country on religious lines makes this a very difficult decision for everyone. I recognize the fact that some find abortion to be morally wrong, and this is their prerogative. However, at the same time, we must not deny the right of personal choice to those individuals, who for various personal reasons, find abortion to be a necessary alternative. I find the decision to continue or to terminate an unwanted, unplanned, or dangerous pregnancy to be a personal one that rests with the individual. I hope that as Congress continues to further consider legislation pertaining to abortion, my colleagues will join me in concluding that freedom of choice is the overriding issue. In that hope, I salute the organizers of National Abortion Rights Action Week and its efforts to educate the public on this crucial personal issue.●

QUESTIONNAIRE RESULTS

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. LATTA. Mr. Speaker, for the benefit of my colleagues in the House and the administration, I want to present the results of my annual questionnaire sent to citizens of the Fifth Congressional District of Ohio which I have the privilege to represent.

Thousands of my constituents not only took the time to register their views on the various issues of national interest but also added many thoughtful and informed comments which clearly demonstrate their concern and knowledge of our national problems.

I would like to call particular attention to the overwhelming majority of those who responded—86 percent to be exact—believe that the Federal Government must share a major part of the blame for the impending recession.

I am pleased that so many of my constituents participated and I submit for the RECORD the text of my 1979 questionnaire, together with the percentage results of those who responded:

QUESTIONNAIRE RESULTS

1. Do you agree with President Carter that America is facing a "crisis of confidence"? Yes, 84 percent. No, 14 percent. Undecided, 2 percent.

2. Do you think President Carter's reshuffling of his cabinet will help his presidency? Yes, 23 percent. No, 73 percent. Undecided, 4 percent.

3. President Carter's energy program is being criticized for placing too much emphasis on the production of more expensive synthetic fuels for the future and not enough emphasis on producing more domestic oil for today's needs. Is the criticism justified? Yes, 52 percent. No, 41 percent. Undecided, 7 percent.

4. Which of the following would you favor in dealing with the gasoline problem?

(a) the California plan of odd-even day sales. Yes, 10 percent.

(b) requirement that autos not be used one day per week. Yes, 11 percent.

(c) gasoline rationing by coupon. Yes, 17 percent.

(d) permit supply and demand to operate without restrictions. Yes, 52 percent.

(e) undecided, 10 percent.

5. Should the Dept. of Energy abandon its gasoline allocation program? Yes, 53 percent. No, 35 percent. Undecided, 12 percent.

6. Some are advocating a ban on the generation of electricity from nuclear power notwithstanding the fact that 13 percent of our electricity presently comes from this source. Do you favor such a ban? Yes, 18 percent. No, 79 percent. Undecided, 3 percent.

7. Do you think the monetary and economic policies the federal government has been pursuing must share a major part of the blame for the impending recession? Yes, 86 percent. No, 10 percent. Undecided, 4 percent.

8. Should Congress reduce federal deficit spending even though a higher rate of unemployment may result? Yes, 79 percent. No, 14 percent. Undecided, 7 percent.

9. Do you believe the Strategic Arms Limitation Treaty is in the best interests of the U.S. and should be approved by the Senate? Yes, 35 percent. No, 53 percent. Undecided, 12 percent.

10. Would you favor a Constitutional Amendment which would preclude the President of the United States from signing Treaties before they are approved by the Senate? Yes, 62 percent. No, 32 percent. Undecided, 6 percent.

11. Pres. Carter & Senator Kennedy have offered separate nationalized health plans. Do you favor:

(1) Carter plan. Yes, 8 percent.

(2) Kennedy plan. Yes, 19 percent.

(3) No government involvement. Yes, 58 percent.

(4) Undecided. Undecided, 15 percent.

12. Congress is considering a bill to require the registration under Selective Service of all young men becoming 18 years of age after December 31, 1980. Do you favor? Yes, 59 percent. No, 35 percent. Undecided 6 percent.

13. Should foreign ownership of farm land be prohibited? Yes, 80 percent. No, 16 percent. Undecided, 4 percent.

14. PRESIDENTIAL POLL

John Anderson, 1 percent.
Howard Baker, 10 percent
George Bush, 1 percent.
John Connally, 10 percent.
Phil Crane, 3 percent.
Bob Dole, 1 percent.
Ben Fernandez, 0 percent.
Gerald Ford, 13 percent.
Jack Kemp, 1 percent.
Ronald Reagan, 17 percent.
Jerry Brown, 4 percent.
Robert Byrd, 1 percent.
Jimmy Carter, 8 percent.
Frank Church, 1 percent.
Henry Jackson, 2 percent.
Ted Kennedy, 14 percent.
Walter Mondale, 2 percent.
George McGovern, 1 percent.
Ed Muskie, 1 percent.
Morris Udall, 1 percent.
Others, 6 percent.
Undecided, 2 percent.●

BLANCHARD REPORTS QUESTIONNAIRE RESULTS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. BLANCHARD. Mr. Speaker, in June I mailed a questionnaire to the residents of Michigan's 18th Congressional District. To date, I have received responses from about 8,000 citizens.

Although returns are still coming in, I would like to share the preliminary results of this survey with my colleagues. The responses, and my comments on the subjects raised in the questionnaire, follow:

1. Following the nuclear accident at Three Mile Island in Pennsylvania, a number of possible alternatives are being considered by Congress for dealing with the question of nuclear energy development. Which of the following do you favor? (You may check more than one.) (Answers add to more than 100 percent because many respondents chose more than one alternative.)

An end to nuclear power development, with a gradual phase-out of the nuclear plants now operating—17 percent.

A substantial increase in government regulation and monitoring of the nuclear industry—54 percent.

A five-year freeze on the opening of new nuclear plants, with a comprehensive study in the meantime to develop new safety standards and rules—35 percent.

Continued construction of nuclear plants without new studies or regulations—22 percent.

Comment: The plans of some nuclear power backers to seek a speed-up in the licensing of new nuclear plants have apparently been placed on the back burner indefinitely, in the wake of Three Mile Island. Meanwhile, several Congressional committees are working on proposals to slow or temporarily stop new plant openings while further safeguards are developed. In fact, the Senate July 17 approved a bill which would shut down on June 1, 1980, all nuclear plants in states without approved plans for dealing with nuclear emergencies. My own feeling is that these are healthy developments. Although nuclear power will continue to be needed in the future, stiffer government regulations are essential.

2. As part of his recent energy message, President Carter asked Congress to lift price controls on oil, and to pass a 50 percent windfall profits tax on oil producers. Money from the tax would go into an Energy Security Fund, which would be used partly for development of new energy sources. Which of the following alternatives do you prefer?

Keep price controls, and no windfall tax, 47 percent.

End price controls, no windfall tax, 10 percent.

End price controls, windfall profits tax of 50 percent, 21 percent.

End price controls, windfall profits tax of more than 50 percent, 22 percent.

Comment: At present, the Senate is considering the windfall profits tax, and an eventual end to price controls seems certain by virtue of the President's earlier decision on April 5. My own view is that price controls should be continued, at least until a tough windfall profits tax has been enacted. My votes in Congress reflect that position. In addition, I supported and voted for a permanent windfall profits tax of 85 percent. Unfortunately, the House of Representatives voted for a weaker 60 percent tax which will end in the year 1990. I intend to continue working to keep the American oil industry from profiting from the price increases voted by the Arab cartel.

3. I have introduced a bill to speed up research and development of wind energy as an electric power source. Do you favor or oppose this idea? Favor, 88 percent. Oppose, 12 percent.

Comment: Wind energy appears to be the most promising of all of the new, alternative energy sources which are being investigated. Although windmills vanished from American farms during the 1940's or 1950's with the advent of cheap electricity from fossil fuels, they are making a comeback, aided by new space-age technology. I believe the next 20 years will see wind energy come into fairly widespread use as a utility power source, particularly in high-wind areas like the Appalachian and Rocky Mountains.

4. President Carter has proposed a hospital cost containment program which would seek to limit cost increases to no more than 11.3 percent per year (at present, the rate of increase is about 14.4 percent). Do you favor or oppose such a proposal? Favor, 83 percent. Oppose, 17 percent.

Comment: I expect to support the hospital cost containment legislation.

5. Congress is now considering a number of different proposals for health care. Generally speaking, would you like to see some kind of a national health care program become law in the near future? Favor, 61 percent. Oppose, 39 percent.

Comment: I have been a supporter of comprehensive health insurance since being elected to Congress, because I believe it is the best way to ensure that all Americans are able to obtain decent, reasonably priced medical care.

6. Over the last few years, Social Security taxes have risen dramatically, largely because of the addition of a number of other programs, such as disability benefits and Medicare/Medicaid, to the Social Security Program. It has been proposed by some that these programs should be separated and paid for by income taxes, and that the Social Security Program should go back to being solely a retirement benefits program. Do you favor or oppose this idea? Favor, 54 percent. Oppose, 16 percent.

7. Would you rather see more or less of your tax dollars, or the same amount, spent on the following items next year:

Military and defense: More, 33 percent; same, 43 percent; less, 24 percent.

Foreign aid: More, 6 percent; same, 20 percent; less, 74 percent.

Programs to reduce unemployment: More, 39 percent; same, 30 percent; less, 31 percent.

Energy sources: More, 77 percent; same, 11 percent; less, 12 percent.

Education: More, 36 percent; same, 47 percent; less, 17 percent.

Environment: More, 34 percent; same, 40 percent; less, 26 percent.

Transportation: More, 41 percent; same, 33 percent; less, 26 percent.

Housing: More, 18 percent; same, 38 percent; less, 44 percent.

Agriculture: More, 33 percent; same, 44 percent; less, 23 percent.

Health: More, 47 percent; same, 33 percent, less, 20 percent.

Space science and research: More, 38 percent; same, 36 percent; less, 36 percent.

Social Security: More, 33 percent; same, 41 percent; less, 26 percent.

Crime control: More, 57 percent; same, 36 percent; less, 7 percent.

Comment: I have been extremely active in pushing for increased federal funding for energy, particularly on renewable and clean energy sources such as solar and wind. My wind energy bill, which was referred to in question 3, has been the subject of hearings in the House Energy Development and Appli-

cations Subcommittee and I expect the subcommittee, of which I am a member, will approve it soon. Meanwhile, a House Banking subcommittee on which I serve has given its stamp of approval to the "solar bank" bill, which would provide low-interest loans to homeowners who wish to install solar heating and hot water systems. I have also been a consistent supporter of adequate funding for crime control, health and education programs.

8. When various issues come before Congress, I often receive mass mailings of cards from citizens which have been preprinted for them by special interest groups. How strongly do you feel such mailings should be considered in comparison with individual letters?

Weigh all cards and letters, pro and con, in proportion to their numbers, no matter what form, 13 percent.

Consider the depth and content of mail, so that individual letters become more important than form cards, 53 percent.

Ignore pre-printed postcards, 14 percent.

Comment: Judging the value and significance of the telegrams, telephone calls, letters and cards I receive from people on the many issues which confront Congress is always a difficult problem. The answers to this question make that job a little easier, and I appreciate your help.

9. People often think in general terms about the way public officials perform their jobs. How would you rate the job President Carter is doing? Excellent, 3 percent. Good, 28 percent. Not so good, 39 percent. Poor, 30 percent.

10. How would you rate the job Congress is doing? Excellent, 1 percent. Good, 15 percent. Not so good, 46 percent. Poor, 38 percent.

11. Concern has been expressed about the problem of water quality in the Great Lakes and the effectiveness of the federal effort to clean up the Great Lakes. As a member of the Natural Resources and Environment Subcommittee, it would be helpful for me to know the following:

Do you or your family use the Great Lakes for recreational purposes? Yes, 56 percent. No, 44 percent.

Do you or your family own property on or near the Great Lakes? Yes, 18 percent. No, 82 percent.

Is your livelihood or that of a member of your family directly related to Michigan's tourism industry? Yes, 6 percent. No, 94 percent.

Are you or your family concerned about what some have called the water quality problem in the Great Lakes? Yes, 83 percent. No, 17 percent.

Would you support increased research aimed at speeding up the Great Lakes cleanup effort provided the research was conducted in a coordinated manner? Yes, 83 percent. No, 17 percent.

Comment: The Great Lakes contain 95 percent of the surface fresh water in the United States. The Great Lakes region supports one fourth of our nation's industry and one fifth of its population. Millions of the region's residents vacation annually along Michigan's 3200 miles of Great Lakes coastline and drink its water.

An unintended by-product of the economic growth and development that has been facilitated by this precious resource has been a decline in Great Lakes water quality. I am pleased that fully 83 percent of the respondents to this poll are concerned about the water quality problem in the Great Lakes. In the coming months I intend to take specific steps—including conducting field hearings in Michigan—to evaluate and, if necessary, improve the effectiveness of the federal role in combating threats to Great Lakes water quality.

12. A separate federal Department of Education has been proposed as a means of centralizing education programs and moving them out of the Department of Health, Education and Welfare. Do you favor or oppose such a proposal? Favor, 55 percent. Oppose, 45 percent.

Comment: The proposed Department of Education won final Congressional approval September 27. I supported and voted for the new agency, primarily because I believe it will help to produce a little more order and efficiency in the administration of federal education programs. At present, there are some 40 departments, agencies and bureaus which have a hand in education policy, and I believe a more unified structure is needed.

13. Which of the following actions do you believe will seriously help reduce inflation? (Answers add to more than 100 percent because respondents chose more than one alternative.)

Reduce federal spending and raise interest rates in order to restrict the money supply, 46 percent.

Balance the federal budget even if it means raising taxes or putting some people out of work, 33 percent.

Institute strict controls (but temporary) on prices, wages, rents and interest rates, 37 percent.

Continue the current voluntary program of wage-price guidelines, but also enact wage insurance and other incentives to reward workers and businesses who cooperate, 19 percent.

Deal with specific sectors of our economy separately, like keeping price controls on oil, passing hospital cost containment legislation, deregulating the trucking industry, etc., 47 percent.

Comment: Inflation continues to be the single most difficult problem facing the federal government. My own feeling is the Federal Reserve Board's latest efforts to limit the money supply will eventually slow inflation—the question is whether that can be done without triggering an economic recession and bringing about layoffs and increased unemployment. In addition to supporting hospital cost controls, as I indicated in my comment on question 4, I am backing a wide variety of proposals aimed at keeping prices down. They range from making the U.S. government the sole importer of foreign oil (to give us more bargaining power with the OPEC cartel) to trying to strengthen the powers of the Council on Wage and Price Stability (which is the single government agency in charge of monitoring and controlling inflation).

Finally, I am seeking to control Government spending and eliminate waste with my "sunset" legislation, which would require that all Federal spending programs be reviewed by Congress on a regular basis. The House Rules Committee is now considering the "sunset" bill, and at this time it appears that legislation may be ready for the full House of Representatives to consider by early next year.●

ROLLCALL VOTES

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable due to illness to be present for the following votes on September 26, 1979. Had I been present I would have voted as follows:

Rollcall No. 509, "Yes."
Rollcall No. 510, "No."
Rollcall No. 511, "Yes." ●

DEPARTMENT OF ENERGY SYNFUELS STUDY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. BINGHAM. Mr. Speaker, beginning tomorrow the House will consider the "fast track" energy legislation which would create an Energy Mobilization Board to expedite the consideration of certain non-nuclear energy projects. All of us can agree that unnecessary time delays and duplication should be cut from Federal, State and local agency operations in considering these projects. However, there is absolutely no justification for allowing the Board or the President to waive laws or to take over the decision-making authority of Federal and State officials. I therefore urge support for the Udall-Clausen-Wirth substitute, which will use the strong arm of the Federal courts to insure that agencies do not delay in processing energy project applications.

One of the most common arguments made by those favoring providing the Board with the power to waive laws is that this power is necessary for implementation of a synthetic fuels industry. However, a July 1979 study prepared by the Assistant Secretary for Environment at the Department of Energy indicates that this is indeed not the case. The report, entitled "Environmental Analysis of Synthetic Liquid Fuels" states:

Assuming application of the most effective environmental control technologies and practices, deployment of synthetic liquids facilities on an accelerated schedule to 1990 appears feasible in terms of current environmental constraints.

I am inserting the study's summary in the RECORD for my colleagues' consideration.

The summary follows:

FINDINGS

Assuming application of the most effective environmental control technologies and practices, deployment of synthetic liquids facilities on an accelerated schedule to 1990 appears feasible in terms of current environmental constraints. A set of first-generation technologies (surface oil shale retorting, indirect liquefaction, and biomass conversion) at the low (500,000 barrels per day (BPD)) and medium (1,000,000 BPD) levels of production have sufficient siting opportunities; the high level of production (2,000,000 BPD) brings rapidly increasing siting difficulties. Yet-to-be-defined regulations, in their stringent forms, could change this finding. These regulations include visibility, short-term nitrogen oxide ambient standard, extension of prevention of significant deterioration (PSD) regulations, hazardous waste standards, toxic product regulations, and occupational safety standards.

Any production level requires resolution of a number of institutional constraints, including permitting delays and the acceptability of the facility to the local population and state authorities. The greatest impediments for the first-generation technologies include long time delays, facility size limitations, and unwillingness to change the character of the community.

In reaching this general finding, the environmental analysis found that, within

present and anticipated environmental regulations and standards, and for a selected set of first-generation facilities.

There appears to be no absolute environmentally related constraint identified for any of the first-generation surface conversion technologies. Second-generation processes run greater risks of major environmental problems. For in situ processes, the major risk is leaching of hazardous materials into water; for direct liquefaction, concern is potential worker and public exposure to toxic substances.

Yet-to-be-defined regulations are perceived by developers as major technology development impediments. These include air quality standards (visibility, short-term nitrogen oxide, and new PSD regulations), regulation of hazardous wastes and toxic products, underground injection guidelines, and worker safety regulations.

Some risk exists that environmental R&D programs cannot fully satisfy all existing and expected regulatory demands, but these risks should be known by 1985 and it is expected that appropriate control adjustments can be made. Because of lack of data, one area of concern with indirect liquefaction is environmental emissions of processes following gas synthesis. However, as these and similar catalytic conversions are currently effected in the petrochemical industries, the primary impact of these adjustments is expected to have a minor effect on product cost.

Reduction of these uncertainties requires refocusing of environmental research and assessment programs to aggressively address these areas and to promptly identify environmental issues that may become future impediments.

There is a need for intermediate to long-term environmental health and safety monitoring of operations at all scales of development, especially with regard to anticipating the effect of equipment reliability and maintainability on fugitive emissions and the ultimate fate of solid wastes.

From the present state-of-the-art and from mitigation controls developed as part of the research and assessment programs, stringent environmental controls and engineering practices need to be determined. Based on these, guidelines and standards must be set early, followed by responsive periodic updating based on new information.

Sufficient siting opportunities exist within current regulatory and resource availability requirements, given that institutional impediments are reduced, to meet an accelerated deployment program. Practical maximum deployment levels, however, cannot be projected without much more detailed siting analyses than were carried out for this "siting opportunities" analysis.

Therefore, the primary environmentally related impediments that need to be addressed at the general program level are as follows.

Reduce existing institutional barriers such as water allocations and transport rights-of-way to allow available existing physical resources to be tapped by these new demands without overly constraining prior claims for these resources;

Improve the permitting processes and supporting technical information systems to significantly reduce the required permitting time schedules, including early conduct of broad locational surveys to determine the detailed siting opportunities; and

Simplify existing and establish new points of public review and comment and, further, specify more exactly the conditions for judicial review of permitting procedures in order to reduce probable delaying impacts of litigation.

While technology risks are not fully resolved, analysis of the interaction of stringent environmental regulations, critical resource availability, and site availability show that siting areas are sufficient to allow deployment of a synthetic liquids supply industry within other projected energy and industrial growth patterns. Therefore, programmatic and management activities to facilitate technology siting and deployment, reduce complexity in permitting requirements, reduce institutional constraints on critical resource allocations, and improve procedures for providing public involvement in the program appear most critical.

Table 1 provides a summary of the findings of the analysis grouped as follows:

Technology-specific results.
Siting opportunities.
Permitting process findings.

Because many results of this environmental analysis and the potential courses of action are discrete and do not lend themselves to summarization, a more extensive list of concerns (Table 5) is presented at the end of this summary.

The Office of Environment is now initiating a broader, more comprehensive assessment of the siting-related development capacity for synthetic fuels, which will address in detail all areas considered by the present siting analysis, including state and local institutional considerations. This more detailed assessment should be completed by October 1979 and will be made available to the public at that time.●

CONGRESSMAN YOUNG REPLIES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, while I have no particular desire to again debate the Alaska Lands bill passed by the House in May of this year, I feel that I must reply to Congressman SEIBERLING's comments that were printed in the October 25 RECORD.

In his statement, the gentleman from Ohio takes issue with an article that I had submitted for the RECORD dealing with the effect of the Alaska Lands bill on energy supplies in the United States. The article was written by Mr. Louis Overstreet, president of the Alaska Black Caucus, and expressed his concern that the Alaska Lands bill would seriously impair our ability to produce new energy supplies.

In his reply, my colleague from Ohio mentions the availability of the national petroleum reserve in Alaska for private development, and further waxes eloquent about the oil potential on Alaska's Outer Continental Shelf. He and I are in agreement regarding the NPR-A; however, I am shocked that the gentleman, whose environmental record is well known in this Congress, should callously disregard the effects of oil and gas development in such areas as Bristol Bay and Cook Inlet. Evidently he prefers the "rape, ruin, and run" approach on the most productive salmon area in the world to a sound onshore exploration and development program in the Arctic game range. The Alaska Lands bill reported by the Merchant Marine and Fisheries Committee had an excellent conservation program that would protect the porcupine caribou herd in the Arctic range while still allowing for energy development. Mr. SEIBERLING rejected this approach.

Mr. Speaker, Alaska has the ability to produce a tremendous volume of fisheries products. Fish are a renewable resource; their continued utilization will augment our economy, improve our foreign trade balance, and provide protein to people throughout the world. Unfortunately, rapid massive development of OCS areas can seriously impair development of our Nation's fisheries. In fact, the North Pacific Fishery Management Council has recently gone on record in opposition to OCS development in the Bristol Bay area. In spite of this, supporters of H.R. 39 continue to argue that the OCS areas are left open for development, thereby forcing increased activity in these sensitive areas.

Mr. Speaker, I hope that all Members will carefully consider the trade-offs involved in supporting the House-passed Alaska Lands bill. We can have a healthy environment and increased energy supply. However, we cannot do that if H.R. 39 is enacted into law.●

REFLECTION ON THE GREAT DEPRESSION

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. CONTE. Mr. Speaker, everyone in this Nation has been made aware that today marks the 50th anniversary of Black Tuesday, the day the bottom started to fall out from under the stock market, and our Nation and the majority of the world was plunged into a lengthy and arduous worldwide depression. I know that many commentators and would be pundits are making sweeping parallels between that era and this. They are predicting that a new depression is what lies in store for the American people. I submit that we must profit more from the wisdom of the great President who led us out of that depression, Franklin Delano Roosevelt, and remember that "the only thing we have to fear is fear itself."

Mr. Speaker, I believe that the American people and Government have the capability to profit from the mistakes of the past and to move forward to revitalize our now-stagnant economy. The solutions of the thirties are not necessarily the solutions of the eighties. Clearly the present times do not call for a new works project administration; but we must remember the need to secure employment opportunities and we can certainly remember the benefit to society and to the individual of public works that benefit us all.

The United States must be sure to avoid the isolationism that characterized both our trade and foreign policy in the 1930's, a retrenchment which only served to exacerbate and lengthen the depression. Today, even more than five decades ago, economic and political interdependence are realities which our policymakers must consider in the execu-

tion of their duties. The problems this country faces are global problems, and the solutions to them must in part be global too.

Most importantly, Americans must work hard and work together to solve the combined threat of inflation and recession. This will require sacrifice and hard work. Productivity and efficiency must increase. Americans will have to learn to consume less of certain nonrenewable energy sources. But Mr. Speaker, if there is one lesson we can learn from the Great Depression, it is that the American people are more than willing to meet this challenge, and more than able to do so.●

VIRLYN SMITH NIGHT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. GINGRICH. Mr. Speaker, on Tuesday evening, October 30, his many friends, family, and colleagues will gather to salute Virlyn B. Smith, representative of Georgia House of Representatives District 42, at a special dinner. The gathering is bound to be enthusiastic and it is more than well deserved.

The career of Virlyn Smith stands as a hallmark of what one individual, through dedication and tireless efforts, can contribute to the growth and enhancement of the community in which he lives.

When I think of the progress and development of the south Fulton County area over the years, I think of Virlyn Smith. South Fulton has always been close to Virlyn's heart. And Virlyn has been close to the heart of south Fulton, in fact since the day of his birth in 1922 in the Grove Park community of Fulton County. In 1934, his family moved to Fairburn, Ga., and has been an established part of that community since. Virlyn attended Fulton County public schools and graduated from Campbell High School in Fairburn. He attended Abraham Baldwin College in Tifton for 1 year before volunteering for military service to his country during World War II.

He married the former Dorothy Tanner of south Fulton. They have had a marriage of 31 years and have a fine family of two daughters, Sandra Rozes and Sheila Crawford, both living in Fairburn, and one son, V. B., Jr., who is a graduate of Georgia State University.

We who know him well know Virlyn as a steadfast family man, a well-respected businessman, and an active member of his church, the Fairburn First Baptist Church. Beyond these, he has found the time, and given it selflessly through the years, to the Fairburn Civic Club, the South Fulton Chamber of Commerce, the Fulton Board of Education, the Veterans of Foreign Wars, the Masons, the South Fulton Hospital, and the Campbell High School PTA. In all these he has served in valuable leadership roles.

In 1972, the citizens of house district 42 recognized that they could not find a man with better knowledge of their community, or more devotion to its welfare, than Virlyn Smith. They elected him their representative to the Georgia House of Representatives. They have never been disappointed.

A hard-working public servant. An effective legislator. A man of high principles and impeccable honesty. A man who cares for people and loves his community, his State, and his Nation. These are the things we think of when we think of Virlyn Smith. We cannot help but be proud of him. We cannot help but be enriched by our association with him. We cannot help but say we need more men like him.

It is not often we have the chance to make our feelings known. Let us take this opportunity to say, Virlyn, thank you for what you have given to all of us. We think the world of you.●

DIMETHYL SULFOXIDE

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. SYMMS. Mr. Speaker, today I am introducing legislation which would approve the usage of dimethyl sulfoxide for the treatment of scleroderma.

Scleroderma is a potentially terminal and very painful, debilitating disease. The term "scleroderma" literally means hard skin and it is thought to result from the narrowing of blood vessels, which in turn leads to fibrosis of skin and multiple organs.

It is classified as a collagen disease, although it is not primarily a disorder of the collagen molecule. Collagen is found to be in excess and this causes the hardening and thickening of the skin, particularly of the hands and fingers. Painful ulcerations generally appear in these areas, as well as the elbows and knees.

Dimethyl sulfoxide or DMSO is a drug that has the ability to penetrate tissue that is hardened, thereby preventing the ulceration and possible amputation of fingers and toes when applied topically. And, when given intravenously, tremendous results have occurred in the prevention of the hardening of tissue which surrounds organs.

The history of DMSO is the story of remarkable cures and government vacillation. Dr. Stanley Jacob of the University of Oregon Medical Center has been working with this drug since its inception in 1962. The drug, which is an inexpensive substance, was widely used for the treatment of various illnesses until 1965 when the FDA called a halt saying that animal studies showed that the lenses in the eyes of test animals clouded over when they were overdosed with DMSO. Although none of the persons who had used the drug had the eye problem, the FDA has persisted in its ban with the exception of its approval for the use of the drug in treating interstitial cystitis.

As a result, the nearly 300,000 individuals in the United States that have scleroderma do not have legal access to this drug. Consequently, there are patients in the United States that have had fingers and toes amputated unnecessarily. DMSO is not a cure for scleroderma, but it may have promise.

It seems incongruous that the United States Government is not only preventing research and development of new drugs but is also denying seriously afflicted individuals the right to life and limb.●

A SALUTE TO LT. GEN. THOMAS P. STAFFORD, USAF

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. WRIGHT. Mr. Speaker, it is appropriate and fitting today for the House to recognize the retirement on November 1 of Lt. Gen. Thomas P. Stafford, a distinguished veteran of more than 27 years in the U.S. Air Force.

General Stafford's exceptional service to the Nation as a test pilot, author, astronaut, leader, and salesman has taken him to the frontiers of aerospace and beyond. He began his career in 1952 following graduation with honors from the U.S. Naval Academy. He started flying as a fighter pilot and, later, went on to become an outstanding graduate of the Air Force Test Pilot School. He remained at the school where he instructed flight test procedures and authored basic textbooks and flight test manuals for the use of the staff and students.

In 1962, General Stafford was selected by NASA in the second group of astronauts. His work in the space program has become legendary. In four space flights, he pioneered the way for spacecraft rendezvous on two Gemini missions and, on Apollo X proved the feasibility of man's first landing on the Moon. He commanded the historic Apollo-Soyuz mission in 1975 which marked the first meeting of U.S. astronauts and Soviet cosmonauts in space. He served as the chief of the NASA astronaut group and as the commander of the Air Force Flight Test Center at Edwards Air Force Base, Calif.

We have been privileged to have General Stafford before many of our House committees while he was with NASA and in his most recent assignment as the Air Force Deputy Chief of Staff for Research, Development, and Acquisition.

Tom Stafford's quest for excellence has taken him farther, faster, and higher than most of us dare to dream. He has flown more than 7,000 hours in 110 different aircraft and 4 spacecraft—including more than 500 hours in space.

The numerous honors bestowed upon him reflect the gratitude and esteem of our Government and our people as well as that of many foreign countries. His counsel is sought by leaders of Government, business and industry. His

achievements reflect the pioneering spirit and boundless energy that have made this Nation great. He has set an example of inspirational leadership and devotion to the United States that deserves our highest praise and appreciation.

It is a privilege for me to be able to call Tom Stafford a personal friend. He will be sorely missed in the active duty ranks of the U.S. Air Force, but we all wish him well in his future endeavors.●

NORTH ATLANTIC ASSEMBLY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. WHITEHURST. Mr. Speaker, last week I was privileged to be one of the U.S. delegates to the North Atlantic Assembly meeting in Ottawa, Canada. Mr. Paul Thyness of Norway presided over the 25th annual session as president, and I had the pleasure of hearing his address. Mr. Thyness brought a message cogent not only to the European delegates but to all of us in the great Western alliance.

Essentially, the message is a warning, and because these words come from one of the smaller allies, I think that my colleagues in the Congress would do well to read them carefully. Mr. Thyness is a great patriot, and we are fortunate to have him as such an effective spokesman for the North Atlantic Assembly.

The message follows:

NORTH ATLANTIC ASSEMBLY

(By Mr. Paul Thyness)

Distinguished guests, fellow delegates to the North Atlantic Assembly, ladies and gentlemen,

We meet at a particularly crucial time in the life of the North Atlantic Alliance. Thirty years ago the Alliance was formed to give a weak and war-devasted Western Europe the protection of the world's then only nuclear power, the United States of America, and at the same time to provide a framework for co-operation in building a counterforce to the vast conventional superiority of the Soviet Union on the continent of Europe.

We never really succeeded in building that counterforce, but we did manage to narrow the gap both in actual numbers and by bringing our superior technology to bear. As long as the Alliance had a monopoly or a near monopoly of nuclear forces, some inferiority in conventional forces did not matter too much.

But sooner or later this situation had to change. There never was any way to prevent the Soviet Union from acquiring its own intercontinental nuclear capability. And when that happened it became of small importance whether our central systems were superior to theirs, or vice versa. Once both sides acquired a second strike capability—that is, the ability to inflict intolerable damage even after itself absorbing a first nuclear attack, or "mutual assured destruction"—we had in fact arrived at a plateau where incremental advantage in the area of central systems no longer paid political, diplomatic or military dividends. I would like to underline this point: a competition in throw-weight or numbers of warheads is not very relevant. We must do whatever necessary to preserve our second strike capability, but as long as that is intact there is not much more the central systems can do for us.

What then becomes of vital importance is the balance on the lower rungs of the ladder. If essential parity in central systems is married to a marked inferiority in the conventional, tactical nuclear and theatre nuclear fields we will find ourselves in an inherently unstable situation. To deter aggression the potential aggressor must recognize in advance that he cannot win, that sooner or later the war will escalate to a point where he would lose. Formerly that point was represented by the unmistakable threat of retaliation with intercontinental nuclear missiles. Winning on all other levels of conflict, there the aggressor would still lose it all.

Today, our adversary still cannot win on the level of central systems, but neither can we. No one will achieve anything by letting a war escalate to the very top: it will rob the winning side of the fruits of victory, but it will not prevent the losing side from losing. A war bringing these systems into play will be pointless, and will be recognized as such on both sides. The ultimate deterrent, as indispensible as it is, loses much of its force by losing much of its rationality. We face a situation where the lethal misconception could arise that a war against European members of the North Atlantic Alliance that does not threaten the survival of North America may be fought and won without ever escalating to the top.

This is the situation we may shortly find ourselves in if we do not soon make some very difficult decisions. For a long time the conventional gap has again been widening, not so much in numbers perhaps, but certainly in capabilities. Our lead in military technology has not been maintained, or at least not sufficiently utilised. We are now facing superior numbers of conventional forces abundantly equipped with weapons systems often more advanced than what we are able to bring into the field against them. And our edge in short and medium-range nuclear weaponry is gone, wiped out by the mobile, MIRV'ed and more accurate SS-20 missile deployed in steadily increasing numbers beyond the reach of our systems. In a few years' time, what will there be to prevent the Soviet Union from concluding that they could attack Western Europe with practically no risk of retaliation? And equally important—perhaps more important: what is there to prevent us from knowing the same thing, and tailoring our acts to fit this knowledge? What will our national sovereignty really be worth when we are unable to defend it successfully, and both sides know it?

Basically, there are three options open to us. First, we can let things go on as they are, hoping against all experience that nothing will happen, that the acquisition of a substantial superiority in conventional and nuclear capabilities in Europe will not influence Soviet policies and that the knowledge of substantial inferiority will not influence us. Second, we can embark on a massive rearmament of conventional and nuclear forces in Europe to match what the Warshaw Pact has done and is doing, hoping to meet somehow the heavy demands this approach will put on public opinions and national budgets. Or third, we can try to install by agreement a ceiling on conventional and nuclear force levels in Europe, just as SALT II has done with regard to the central systems.

The arms control approach is certainly the most attractive alternative, but simply choosing this alternative will unfortunately not automatically give us the security we seek. We must recognise that in the day of strategic nuclear parity, the present and near-future military balance on the continent of Europe is not something we can live with very long. We must also recognise that there is no reason to believe that the Soviet Union will ever accept any kind of ceiling, not to mention taking out some of what they have already deployed, unless we can make it in their interest to do so. For their part they are perfectly satisfied with the situation as it is, so satisfied that Mr. Brezhnev as a gesture can offer to withdraw 20,000 troops and 1,000 tanks from Eastern Europe without even bothering to link it to the MBFR negotiations that he has stalled for so many years.

Of course, Mr. Brezhnev's offer is interesting, and there can be no question but that the Alliance must take it up and turn it to our advantage, indeed to the advantage of humanity. But it is in itself far from sufficient to give us the stability and security we are searching for. It does not include Soviet nuclear forces in Europe; while they are modernizing at the rate of one nuclear warhead per day, we are to forgo modernizing our systems that border on obsolescence. The withdrawal of approximately two divisions and 1,000—presumably old—tanks, does not constitute a balanced deal.

So the arms control approach must be pursued, but we must clearly recognise that alone it will not suffice. It must be coupled with a modernisation of NATO forces that will restore a reasonable balance, and at the same time put the Warsaw Pact on notice that unless SALT III includes ceilings on nuclear forces in Europe we will be headed for an arms race that, given our relative economic and technological advantage, they cannot win.

This may seem to be a brutal awakening from our dreams of détente. And indeed it is. But we have no reason to feel cheated. By our own choice we have clung to our own perception of détente as a comprehensive concept, refusing to accept that our perception was not shared by the Soviet Union, and that we had no means of making them share it. In the end—at the very end of a long, long road—détente may become a comprehensive thing. But going down that road, as indeed we must, each milestone we reach is only a milestone reached. No more, no less. The CSCE conference relaxed tensions on the continent of Europe, but was accompanied by more strained relations in other parts of the world. The valuable achievements of SALT I and SALT II were accompanied by the development and deployment of the SS-20 and the Backfire bomber.

There was never any deception involved. We were always plainly told that the struggle between communism and our system of economic and political government was to go on. Only we did not listen. As with other unwelcome signals we did not choose to turn on the receiver.

Why is it so? Some would say contemptuously that we did not have the will and the courage to face the facts. That may be so. But I believe that this assertion underestimates the influence of our own ideals and values, values that make us recoil from the senselessness of war, that make us see the inherent pointlessness of the means of war, that make us recognise the threats to our ideals springing from tension and confrontational policies. Our concern for material well-being is not "softness". It may lead to "softness", but in essence it is a commitment to the idea of peace, a commitment to making the lives of all men richer, more meaningful, more secure; a commitment to free mankind from the degradations of poverty, hunger, disease, fear and war. These are worthy goals and if the price of pursuing them is the label of "soft" or "wooly-headed", so be it.

But as all politicians know the choices are rarely simple and clearcut, with all the good and valid arguments only on one side. Human nature, with all its contradictions, takes care of that. The basis for the pursuit of our ideals is our free and sovereign societies. We are the custodians of a value system

developed over thousands of years, and our societies have been painstakingly developed to serve this value system. Neither our societies nor our values are in any way perfect, but they are by far the best, the most humane and the most capable of improvement. The conflict between on the one hand improving our societies and living by our values and on the other, preserving both in a rough and tumble world, cannot be neatly solved. Politics is not an exact science, it has always been the art of finding and maintaining the best possible balance between competing and sometimes contradictory goals under constantly shifting sets of circumstances—and in our time also within the limits of current voter-perceptions.

For a long time now democratically elected politicians of all political hues have shown a strong reluctance to tackle the tough decisions. It is not very strange. On the wings of the spread of education and the instant transmission of news and information through electronic media, voters have become less and less willing to follow their elected leaders. The electorate has been fragmented into big and small special interest groups cutting across traditional party lines, sceptical, critical, suspicious and strident. Politicians, who are in the popularity business, and should properly be there, have understandably developed a stand-off attitude in the face of this welter of signals. Great skill has been used to explain away unpalatable facts and to construct sophisticated theories for not doing what might generate opposition. Only that which will go unnoticed—and that is not much in today's world of investigative journalism—or that which will please many and offend none, seems to be politically possible.

But decades of following the way of least resistance have finally brought us face to face not only with a great number of painful problems that do not lend themselves to easy, painless solutions, but also with a deep malaise in our societies that only a new kind of political leadership can cure.

Among the many things that worry our voters, our lack of military preparedness is not a main item. But then they were not worried about most of the problems they face today, when those problems were still small enough to be manageable. I believe our problems of defense still to be manageable, and I believe they should not be allowed to grow. If we, the elected leaders have not only the courage of our convictions, but also the courage to form convictions, I believe we will meet with a deep response from the same voters who now seem to refuse to be led, who now seem intent only on their own immediate gratifications.

Our generation has been called the "me-generation", and it certainly looks like that. But I believe that deep down there is a yearning in the me-generation for leadership at all levels. Not a feudal, arrogant sort of leadership that could suffice a generation ago. Leadership today is much more demanding. It is not enough just to act, and leave it to the results to justify the action. Today we must explain convincingly beforehand why action is necessary, and in what way. This requires that a politician be informed about facts and differing viewpoints.

For months the organisation of the North Atlantic Assembly has been working to gather facts in a number of fields where action is necessary. In addition to SALT II and modernization of theater nuclear weapons we are also confronted with other major problems demanding decisive action, such as the energy-problem and expanded economic cooperation with Portugal and Turkey. These are also areas where the lack of political skill and will within the Alliance may cost us dearly in a not too distant future. For two days our committees have sifted these facts and discussed them from different viewpoints as only an international body can do. They have reached some conclusions, and today and tomorrow we will debate them publicly and take a stand on them.

Acting as and through the North Atlantic Assembly we have no power to implement our decisions. Bureaucracies will not act on our resolutions and recommendations. But leadership is not always dependent on formal powers. At this crucial point in the life of the Alliance this body can sound a call to action that has every chance to be heard and heeded in a world where leadership is in short supply. This is our responsibility, this is our opportunity.●

COURT ENFORCEMENT IS THE BEST WAY TO FORCE AGENCIES TO MAKE ENERGY DECISIONS ON TIME

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. WIRTH. Mr. Speaker, as the House approaches decisions on the Energy Mobilization Board, debate over the alternative methods to force agencies to make decisions according to a project decision schedule established by the Energy Mobilization Board has intensified. I would like to take this opportunity to explain the primary enforcement mechanism contained in the Udall-Clausen-Wirth substitute, and to answer the concerns expressed by some Members as to both the power of the courts to enforce deadlines and the time required to do so when compared to other alternatives, such as waiving laws or allowing the EMB to immediately seize jurisdiction over a delayed decision.

The answer is not simple, for the procedures that the legislation seeks to expedite are as varied as the geographical areas they will affect. Agency permitting, licensing or ratemaking decisions rarely entail a simple "yes" or "no" to a clearly defined question. On the contrary, agencies normally exercise legislatively delegated authority to apply complicated statutory requirements to complex facts in order to develop detailed license or permit provisions. This process often involves the analysis of extensive technical data, tough negotiation with the applicant and the exercise of informed discretion.

Agency decisions reflect not only statutory requirements, but also policies and judgments based upon particularized expertise and experience. A surface mining or clean air permit is not like a driver's license which, once obtained, is simply carried in the holder's wallet. Rather, such permits contain explicit requirements of affirmative conduct designed to assure that the permittee complies with relevant statutes.

The proposed enforcement mechanisms can only be evaluated in light of this reality.

I. WHY THE SUBSTITUTE USES THE COURTS TO ENFORCE DEADLINES

We chose court enforcement because it is a far more effective way of enforcing agency compliance with a project decision schedule than either a waiver of the affected law or EMB seizing jurisdiction of agency decisions "bump-up." These latter two options are the enforcement mechanisms used by the Commerce Committee bill as amended by Mr. SANTINI.

A. "BUMP-UP"

Advocates of "bump-up" claim it is the only enforcement mechanism that will work, enabling the Board to police intransigent Federal, State, and local agencies while requiring the Board to—

> . . . apply the decision criteria in Federal, State or local law that would have been applied had the Federal, State or local agency made the decision [S. 1308, S21(a)(2)]

If agencies are faced with immediate bump-up when an EMB-imposed deadline is missed, they will have three bad choices: First, let the EMB preempt their authority; second, make a decision on what they view as an unreasonable timetable; or third, protect their jurisdiction by denying the permit—something no one wants to see. The bump-up proposal, now being suggested by Mr. DINGELL will thus encourage negative decisions on priority energy projects. Immediate bump-up to EMB has numerous other serious problems.

If the Board uses its takeover authority with any frequency, it will itself become a source of delay, for it will be compelled to master the relevant statutes, acquire the necessary technical expertise and analyze the record developed by the agency, obtaining additional data to fill in gaps in the record. That process is far from simple. The agency would already have months invested by the time the Board took over.

One of the major sources of delay in implementation of new Federal and State environmental laws has been the time necessary to hire and train staff and develop policy. But with bump-up the Board will not be faced with the problems of starting up a single program. Each priority energy project may require several hundred licenses and permits. Thus, using bump-up frequently, the Board would have to start up dozens of different permitting, licensing, ratemaking and planning programs as it enforced numerous deadlines.

The Board is generally conceived of as a relatively small, streamlined agency, but the burden of taking over decisions ranging from local zoning ordinances to hazardous waste disposal requirements would require the Board to grow very large very quickly. The result would not be speed, it would be bureaucratic chaos, long delays and poorly crafted decisions unsatisfactory to the parties and vulnerable to litigation.

Nor will the requirement that the Board apply the "decision criteria" the agency would have applied assure fulfillment of underlying statutory purposes. It does not require the Board to apply the displaced agencies' policies, nor follow its procedures. Most agencies exercise wide discretion. The Board is a single-mission agency. Its function is to get projects built fast. Inevitably the Board would bring to its decisions a strong bias toward the approval of applications and the issuance of permits

and licenses containing terms favorable to the applicant. Congress and the States have separated safety and health responsibilities from other governmental functions specifically in order to exclude the type of bias the Board would have. Promotion and regulation are distinct and incompatible functions.

Finally, the threat of Board takeover would injure the integrity of agency procedures and authority. Agencies faced with deadlines that they felt were inconsistent with responsible exercise off their authority would have two counterproductive but appealing options: To sit on their hands and leave all the work for the EMB, or to deny the application whatever the state of the record. Both options would engender delays, controversy and litigation. Neither is consistent with the goal of improving the process.

The Commerce Committee summarized the major problems with bump-up in its report on its own bill:

> The Energy and Power Subcommittee discussed extensively the proposal to allow the Board to make decisions on behalf of Federal, State, and local agencies with the Administration, and other, witnesses. That hearing indicated the existence of very serious problems with the concept.
>
> The Committee did not believe it wise to permit the Board or the President to substitute their judgment for those of the Federal, State, or local agencies. First, the Board is not impartial. The Board designates projects as Priority Energy Projects and, thus has necessarily concluded that these projects are in the national interest. It is scarcely likely later to conclude that its earlier judgments were wrong. Second, the Board lacks the experience and expertise of the agencies, particularly if its staff is limited to 60 people. It could not, in a short period of time, familiarize itself with all the laws, regulations and precedents of the agencies it would displace. The only alternative, and one which the Committee rejected, would be to retain a large staff already competent in these areas. The Committee believes a smaller staff will be more efficient.
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> Lastly, the Committee is concerned that more time might ultimately elapse if the Board were to take over a matter from an agency because the Board would then be required to complete a record, promulgate rules of practice and procedure, and make a well-reasoned decision that would withstand court challenge. The courts would examine with great care a record made by multiple agencies, under different sets of regulations and procedures, to insure that due process right had not been violated. Allowing the Board to make agency decisions would create a much greater risk of unfavorable court action, resulting in possible remand of the matter to the agency (or the Board) with a greater loss of time than if the agency had made the decision in the first place.
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> As the Justice Department said in a July 24, 1979, memorandum, "supplanting decisionmaking strikes at the heart of State and local sovereignty. Nothing is a more integral governmental function than government itself." The Committee amendment leaves decisionmaking to the proper levels of government. (Commerce Committee Report on H.R. 4985, September 21, 1979.)

B. WAIVERS DO NOT FORCE DECISIONS

Allowing the override of Federal, State, or local law does not force timely decisions, it eliminates them.

In the Commerce bill as amended by Representative SANTINI, these waivers could be initiated whenever the Board felt any agency review would not be timely, or would not grant project approval. This judgment would be the Board's alone, because it would not be subject to judicial review.

The concept of waiving laws that stand in the way of the swift completion of energy projects offers the appeal of brutal simplicity but it runs totally contrary to the notion expressed by Chief Justice Marshall a century and a half ago:

> The Government of the United States has emphatically been termed a government of law and not of man. *Marbury* v. *Madison*, 1 Cranch 137, 151 (1803).

It provides a system of special treatment for special interests administered by a new Federal superbureaucracy controlled by the President. It places in the hands of a political official with no expertise the power to balance public health and safety against industry demands of waivers that may be worth hundreds of millions of dollars.

To the extent the waiver proposal in the Commerce Committee bill is designed to eliminate delay, it is a bizarre solution. It punishes society for the sins of bureaucrats. It sweeps aside laws—often the result of years of debate and complex compromises—designed to protect the public because the agency charged with implementing those laws has been slow in fulfilling its obligations. It permits the law to be swept aside even if the delay is warranted and the issues complex and dangerous.

The Commerce Committee bill permits the waivers ordered by the President to include provisions to mitigate any adverse effects. But to the extent the President fulfills that obligation he will be making new law.

C. WAIVER AND PRE-EMPTION DO NOT FORCE DECISIONS

Under the Santini amendment, the Board would be able to step in whenever it wished—again not subject to judicial review—to take away State, local or Federal decisionmaking authority. A final decision by a State, Federal or local agency would not halt either a waiver or preemption process after the Board had recommended this action.

II. CAN JUDICIAL ENFORCEMENT WORK?

Yes. There is now no Federal statute in existence that explicitly commands the courts to use their broad powers to enforce specific deadlines, yet the courts have repeatedly and effectively enforced statutory deadlines for agency action, and, indeed, have compelled agencies to act expeditiously even in the absence of deadlines. Although it is true that courts have sometimes failed to adopt stringent remedies to enforce official compliance with deadlines, that failure has resulted from judicial perceptions of Congress intent, not from impotence. In the presence of an unequivocal expression of congressional intent that certain deadlines be swiftly and strictly enforced, the courts would act effectively.

A. POWER OF THE COURTS

The Federal courts have the power to requide action of Federal, State, and local officials.* That power has been exercised forcefully and effectively over the past several decades in a variety of areas. In *Baker* v. *Carr*, 369 U.S. 186 (1962), the Supreme Court held that it was within the power of the Federal courts to redress imbalances in voting rights. The Court explicitly approved district court intervention in the State and local political process even to the extent of ordering the State to follow a judicially developed electoral scheme. *Reynolds* v. *Sims*, 377 U.S. 533, 585–6 (1964).

In desegregating the Nation's schools, the courts have been bitterly attacked for the breadth and stringency of their intervention. The Supreme Court has plainly and consistently stated that the equity powers of the courts are broad and should be exercised however necessary to uphold the law. *Swann* v. *Charlotte-Meckleburn Board of Education*, 401 U.S. 1, 15–16 (1971).

The Supreme Court has upheld close involvement of the district courts in the management of Federal and State prisons to assure minimal rights for prisoners. In one such case, the Court observed "Federal courts are not reduced to issuing injunctions against State officers and hoping for compliance. Once issued an injunction may be enforced." *Hutto* v. *Finney*, 437 U.S. 678, 686 (1978).

And, of course, the courts have enforced the Federal laws against Federal officials in hundreds of cases. See, for example, *Kendall* v. *United States*, 37 U.S. (12 Pet.) 524 (1838); *United States ex rel. Accardi* v. *Shaughnessy*, 347 U.S. 260 (1954); *United States* v. *Nixon*, 418 U.S. 693 (1974).

B. ENFORCING DEADLINES

The above cases deal with matters far more complex than the single question of agencies acting according to deadlines. The right to sue to compel agency action unreasonably delayed was held to be established by the Administrative Procedure Act nearly 20 years ago. *Deering Milliken Inc.* v. *Johnston*, 295 F. 2d 856, 865 (4th Cir. 1961). See generally, note, "Judicial Acceleration of the Administrative Process: The Right to Relief from Unduly Protracted Proceedings," 72 Yale L. J. 574 (1963). Although the right is well established, many parties and their attorneys are reluctant to seek relief in court for fear of angering the decisionmaker. That concern will obviously not affect the Board in carrying out its statutory mandate under this act. Since *Deering Milliken* the courts have acted to create or enforce deadlines in dozens of cases, even where strict compliance with deadlines caused significant hardship. In *Bethlehem Steel Corp.* v. *Train*, 544 F.2d 657 (3d Cir. 1976), *cert denied*

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* The power of the courts to compel official action has been clear since Justice John Marshall's seminal opinion in *Marbury* v. *Madison*, 1 Cranch 137 (1803). *Federal Power Commission* v. *Transcontinental Gas Pipeline Corporation*, 423 U.S. 326 (1976) is irrelevant in this context. The Court there held that the circuit court had exceeded its authority in ordering the FPC to take certain actions, but these actions were ordered by the court on its own authority. They were not contained in the statute. 423 U.S. at 332–333.

430 U.S. 975 (1977), the court ordered the EPA to enforce a compliance deadline that the parties stipulated to be physically impossible within the time allowed.

Similarly, in *State Water Control Board* v. *Train*, 559 F.2d 921 (4th Cir. 1977), the Court rejected the contention of a sewage treatment facility that its inability to comply with a deadline was excused because the 75 percent matching funds provided by Congress for municipal treatment facilities had not in fact been made available. And in *United States* v. *Pennsylvania Industrial Chemical Corp.*, 411 U.S. 655 (1973), a polluter was held liable for failing to obtain a discharge permit under section 13 of the Rivers and Harbors Act at a time when there existed no means by which such a permit could be obtained.

In some cases, even where there was no deadline in the statute on regulation, Federal courts have set their own timetables for compliance with statutory duties, and have compelled agencies to meet them. *Natural Resources Defense Council, Inc.* v. *Environmental Protection Agency*, 475 F.2d 96B (D.C. Cir. 1973), illustrates the broad power of courts to establish such time schedules. In that case, the Natural Resources Defense Council challenged the EPA's administration of the Clean Air Amendments of 1970, 42 U.S.C. 1857 *et seq.* (1970), which required that each State formulate within a fixed period of time a plan to implement the environmental quality standards established by EPA. After determining that EPA had not followed proper procedures in granting States extensions under the act, the court set specific deadlines for both the States and the EPA to meet.

Numerous other recent cases have yielded similar results. The following is a partial list:

(1) *Natural Resources Defense Council, Inc.* v. *Train*, 411 F.Supp. 864 (S.D.N.Y.), aff'd, 545 F.2d 320 (2d Cir. 1976). The court found that the Administrator of EPA was required to place lead on a list of pollutants pursuant to § 108 of the Clean Air Amendments of 1970, since it was undisputed that lead met the prerequisites for such listing. When the Administrator refused to place lead on the list, the court directed him to do so, ordering "...that the Administrator place lead on the list of pollutants, in accordance with the mandate of § 108, within 30 days from the date of this decision." 411 F.Supp. at 871. See also *Naporano Metal and Iron Co.* v. *Secretary of Labor*, 529 F.2d 537 (3d Cir. 1976), and *National Treasury Employees Union* v. *Nixon*, 492 F.2d 587 (D.C. Cir. 1974).

(2) *Cherry* v. *Mathews*, 419 F.Supp. 922 (D.D.C. 1976). The court required the Secretary of HEW to issue regulations implementing § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794. Although that act contained no specific provision giving the federal agency rulemaking authority, the court determined that Congress intended that HEW promulgate regulations designed to further the goal of eliminating discrimination against people on the basis of a handicap.

(3) *Illinois* v. *Costle*, Civil Action No. 78-1689 (D.D.C. 1979). The court issued a writ of mandamus to compel expedited promulgation of overdue solid waste regulations.

(4) *North American Van Lines* v. *United States*, 412 F.Supp. 782 (N.D. Ind. 1976). The court ordered the Interstate Commerce Commission to grant or deny applications for new operating authority unlawfully withheld within 60 days.

(5) *Home Box Office, Inc.* v. *FCC* (D.C. Cir. 1977). The court held that the Commission had unreasonably delayed the completion of its "program exclusivity" rulemaking proceeding. Although only 18 months had elapsed since the publication of the notice of proposed rulemaking and 12 months since the close of the comment period, the Commission had been studying the problem for nearly six years. The court ordered the Commission to "terminate" its program exclusivity proceeding within 180 days. As ordered, the FCC acted within 180 days to terminate the proceeding.

(6) *Booth American Company* v. *FCC*, No. 23882 (D.C. Cir. 1970). Plaintiff's application for an emergency license had been pending before the Federal Communications Commission for 17 months. Even though there was no applicable statutory deadline, the court ordered the agency to act on the license request within 20 days or explain its failure to do so. Fifteen days after the court order the FCC granted the license.

(7) *Public Citizen Health Research Group* v. *Califano*, C.A. No. 77-0911 (D.D.C.) On April 22, 1977, a petition was filed to remove the drug phenformen from the market as an imminent hazard, pursuant to 21 U.S.C. § 355 (e). When no action occurred, suit was filed on May 27, and in mid-July, without a court order, the Secretary of HEW ordered the drug removed from the market.

(8) *Public Citizen* v. *Cook*, C.A. No. 743-73, D.D.C. A petition for rulemaking was filed with the SEC on March 15, 1972, and was denied on August 25, 1972. After a petition for review and a motion for summary reversal were filed in the Court of Appeals, the agency agreed to ask for comments on the proposal. All comments were due on December 1, 1972, and responses to them were filed promptly thereafter. Despite several promises of immediate action, nothing was forthcoming. Therefore, suit was filed on April 18 and within three weeks the action was taken by the agency.

(9) *PROD* v. *Train*, C.A. No. 74-999, D.D.C. EPA was required under the Noise Control Act to issue a report on the principal sources of noise, and to propose regulations for them, by April 27, 1974. When it failed to meet that deadline, PROD, a group of drivers of trucks and other vehicles, wrote the EPA on May 1, 1974, demanding that action be taken. The report, but not the proposed regulations, was issued on June 21, and on July 2 suit was filed. The government obtained several delays in responding, but after it did and before the court could rule, EPA issued the rules on October 15, 1974.

Unlike the situations which would arise under the Udall-Clausen-Wirth substitute, in none of these cases was the court able to rely on statutory language clearly evincing Congress' intent that the full powers of the courts be used to enforce immediate compliance with a deadline. Such language will enable the courts to act forcefully and unambiguously to require whatever steps would enable the agency to meet its deadlines.

C. INSURING QUALITY

Judicial enforcement would also insure the integrity of the agency decisional process. The Court would provide a neutral forum in which agency assertions that the time provided by the project decision schedule was inadequate for the agency to carry out its statutory functions could be evaluated. The compliance schedule, procedures, and other requirements imposed by the Court would reflect practical reality. The prospect of judicial evaluation of the causes of delay would discourage delay by either applicant or agency. The possibility of a waiver of law or decision by the Board might, on the contrary, encourage applicant delays.

III. THE UDALL-CLAUSEN-WIRTH HYBRID

The Udall-Clausen-Wirth bill provides for judicial enforcement with a safety valve. Under the substitute the EMB does not have to wait until a deadline has passed to act. It can go to the Federal court of appeals whenever it is reasonably likely that an agency will fail to meet a deadline. Under an expedited procedure, including 15-day filing requirements, the Court is directed to act quickly to require timely decisions. If the Court does not act to order a decision within 120 days after the deadline is missed, or an agency refuses to comply with a court order, then the extreme remedy of a Presidential decision in place of agency action can be invoked.

The Court is instructed to enforce the original deadline except for clear, limited exceptions when it can have the EMB establish a more reasonable deadline.

How much time is involved? Often no extra time because the Court may order compliance with the original schedule if the EMB sues before a deadline has been missed. At the outside, we will add 120 days, which is a small price to pay for having decisions made where they should be made—by the responsible agency. If the Court finds the original schedule was unreasonable and extends it, we will still benefit because this finding would have caused the final decision to be overturned later anyway, because of a bad schedule.

This is a workable compromise, for it establishes a symbiotic relationship between the two enforcement mechanisms. Judicial enforcement will work. Rarely if ever will the President have to intervene, but the possibility of Presidential intervention will animate the judicial enforcement proceeding.

The President will be insulated against an unmanageable burden of decisions and the Board protected against those few courts which will not obey this statute.●

TRIBUTE TO PAT VIVO

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. WILLIAMS of Ohio. Mr. Speaker, every community has its boosters, and on occasion an unusual citizen is found whose contributions are worthy of special note. Such is the case with Pat (Mrs. Anthony) Vivo of Youngstown, Ohio.

Chosen this year's Woman of the Year by the Truman-Johnson Democratic Club, Pat Vivo was cited especially for her untiring work with the hearing impaired, and with the cancer society.

Patricia Vivo is a woman with a wide variety of interests and involvement. She has served on the board of the American Cancer Society of Mahoning County in an outstanding way, chairing door-to-door campaigns, conducting "Stop Smoking Programs," giving anti-smoking seminars in area schools, speaking on breast self-examination and uterine cancer, and in the past 5 years has spoken to more than 6,000 Catholic school seniors on the subject of marriage. She has held high PTA offices in all three schools in which her children have been involved.

Mr. Vivo's parents, Mary and Leo Gilboy, were deaf and Pat is very interested in the education of the deaf in Ohio. She speaks frequently on the subject and serves on the State Advisory Committee for Deaf Awareness.

Holding a degree from Youngstown State University, Mrs. Vivo has taught in local schools. She is also a lay commentator and reader at St. Luke's Catholic Church.

But her proudest achievement appears to be her role as the wife of Anthony Vivo, and the mother of eight fine children. Our community is a better place because of them all.●

FTC WILL RULE ON FUNERALS

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mrs. SPELLMAN. Mr. Speaker, today the House approved the rule on the Federal Trade Commission making in order an amendment to delay or halt action on the funeral trade. While the majority of funeral homes adhere to high ethical standards, the public needs to be protected from the unethical fringe element of the trade. With this important legislation soon to be discussed in this Chamber I am submitting for the consideration of my colleagues an article by Sylvia Porter which appeared in the July 8 Washington Star. I hope they all will take the time to read it.

FTC WILL RULE ON FUNERALS

(By Sylvia Porter)

Before this summer ends, it is a virtual certainty that the owners of the nation's more than 20,000 funeral homes will be slapped with the toughest regulations ever imposed on their industry—rules directly aimed at outlawing the unscrupulous practices of the unethical fringe which cashes in on grief.

Despite the denials of the National Funeral Directors Assn. (it spent at least $800,000 in a vain effort to stop the FTC from issuing its sharply critical report, and it threatens to fight any rules through the courts), the existence of abuses in this industry, simply cannot be denied.

Sure, the majority of funeral directors in the U.S. are, as the FTC says, courteous, ethical and effective. But how can the funeral directors association defend those in its $6.4 billion industry who force the confused survivors to buy expensive caskets, even for cremation?

Or who proceed with a costly embalming process without permission? Or who refuse to provide vital information on prices and other relevant subjects to the bereaved survivors? Or who, in the FTC's own words, "have harassed and intimidated low-priced sellers . . . who aggressively compete or attempt to offer new services"?

But no matter what the outcome of the FTC's well-considered, five-years-in-the-making 526-page report, you will remain an easy target for the unethical minority unless you know the basic guides to protect yourself at a time of deep emotional turmoil.

All human cultures and some animal cultures as well have death ceremonies of one kind or another—and funeral directors correctly emphasize that these ceremonies do help meet the social and emotional needs of the survivors.

But the amount of money you spend on the death ceremonies bears little relationship to the effectiveness of those ceremonies in meeting your human needs. A thoughtful memorial service, held in a church, private home or other meeting place at little or no expense to you, can actually be more helpful than a costly funeral service.

There are two basic forms of death ceremony:

A funeral service which is, by definition, a service held in the presence of the body. Before you order a funeral service, you must be sure you are fully aware of exactly what services will be included and what each will cost.

Do not simply accept a "package deal." Insist on a written rundown on all costs and charges—no matter what the laws or regulations do or do not allow.

A memorial service which is, also by definition, a service held after the body has been removed. In the memorial service, attention is focused on the life of the person rather than the dead body—and the service offers greater flexibility in choice of location, timing and programming.

The use of a memorial service often can slash the expenses of a death to a fraction of what would otherwise be involved. If well handled, it can in most cases serve the human needs just as well as or better than a funeral service.

You have many optional procedures for handling this defiantly difficult situation. Here are your options in ascending order of cost, as prepared for me by Ernest Morgan, author of "A Manual of Death Education and Simple Burial" ($2 postpaid, Celo Press, Burnsville, N.C. 23714).

Bequeathal to medical school. Immediate removal of body, with memorial services to be held later if desired. Usually no cost at all involved.

Cremation. Immediate removal of body followed by memorial service if desired. Small cost, if properly planned.

Bequeathal to medical school after a funeral service. Usually more expensive, depending on type of service.

Burial. Immediate removal of body followed by memorial service if desired. May be either less or more expensive than above.

Cremation, after a funeral service. Comparable to the above two methods.

Burial after a funeral service. Most expensive of all.●

THE MUTUAL DEFENSE TREATY AND CONGRESSIONAL AUTHORITY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. DORNAN. Mr. Speaker, I would like to call to the attention of my colleagues an article which appeared in Human Events on October 27, 1979, concerning the rights of Congress in the termination of treaties. As you know, U.S. District Judge Oliver H. Gasch has ruled that President Carter, or any President, may not unilaterally terminate a treaty without the prior advice and consent of the Senate or the approval of both Houses of Congress. In Judge Gasch's words:

The decision cannot be made by the President alone.

Mr. Speaker, the judge has reaffirmed the powers of the Congress and has upheld the historical and legal precedents of congressional authority in the termination of treaties. The American people and the cause of Republican government have been clearly vindicated. I ask my colleagues to ponder the significance of this recent judicial determination.

The article follows:

GOLDWATER & CO. WIN ROUND ONE: JUDGE JEOPARDIZES CARTER'S CHINA POLICY

Who would have thunk it? While he has had few diplomatic triumphs, President Carter has been pretty well having it all his way in connection with his efforts to cuddle closer to Peking. Last December, the President announced he was breaking relations with Taiwan, establishing ties with Communist China and sundering the Mutual Defense Treaty of 1954.

While this was not greeted with the "massive applause . . . throughout the nation" that Carter had once predicted would be the case, the Congress, with only a minority in sharp disagreement, passed legislation fundamentally implementing the President's policy. Only last week, Marshall D. Shulman, the State Department's senior expert on Soviet affairs, testified that the Administration was now prepared to persuade Congress to extend most favored nation treatment to Peking, apparently feeling little embarrassment that the Chinese were in the process of sentencing a dissenter to 15 years' imprisonment, partly on the grounds that he strongly questioned the tenets of communism.

The Carter policy of rapprochement, however, has suddenly stumbled upon an obstacle, the federal court system. In a stunning legal and foreign policy setback to the Administration, U.S. District Judge Oliver H. Gasch upheld the suit brought last February by Sen. Barry Goldwater (R.-Ariz.) and 23 other lawmakers* who challenged the right of the President to unilaterally break the defense treaty with Taiwan.

Almost certainly, this suit will finally end up in the High Court, but, assuming Gasch's decision prevails, our whole China policy could unravel, for one of the major Peking demands—the price for "allowing" us to recognize it—was the demand that we sever the defense pact.

If eventually upheld, the Gasch opinion will have an impact far beyond the narrow confines of the China question, however. For what the judge has done is to greatly circumscribe the foreign policy powers President Carter had eagerly sought to assume.

As we noted in our January 6 issue, "What is startling about the suit is not that Goldwater and his conservative allies in Congress are backing it, but that very few liberals

*Senators Curtis (R.-Neb.), Garn (R.-Utah), Hatch (R.-Utah), Helms (R.-N.C.), Humphrey (R.-N.H.), Laxalt (R.-Nev.), McClure (R.-Idaho) and Thurmond (R.-S.C.) Also Representatives Ashbrook (R.-Ohio), Bauman (R.-Md.), Burgener (R.-Calif.), Collins (R.-Tex.), Robert Daniel (R.-Va.), Dornan (R.-Calif.), Edwards (R.-Okla.), Gingrich (R.-Ga.), Hansen (R.-Idaho), McDonald (D.-Ga.), Quayle (R.-Ind.), Rousselot (R.-Calif.), Rudd (R.-Ariz.), Stump (D.-Ariz.) and Symms (R.-Idaho).

are on record as favoring the Arizonan's position. Even if some actually believe that the President currently has the sole right to tear up a treaty, why aren't they out fighting to put major restrictions on such an awesome presidential prerogative?"

If the President is "allowed to unilaterally terminate the Taiwan pact," we noted, "virtually all of our major security agreements will exist at the whim of the White House." Indeed, policy analyst Samuel T. Francis of the Heritage Foundation—which widely distributed the Goldwater case in opposition to unilateral abrogation of the treaty before the President had actually moved on the issue—spotted at least seven other U.S. security treaties with the same type of cancellation clause as the Taiwan pact. Among the treaties Francis mentioned were NATO and our mutual defense treaty with South Korea.

"If it is resolved that the President alone has the authority to invoke the abrogation mechanism," said Francis, "it would then follow that he has the authority to do so with any other treaty with a similar clause."

The Gasch opinion virtually embraced the Goldwater case whole, in no small part because of the legal work done by Terry Emerson, the Goldwater aide who put together the major Goldwater speeches in opposition to the President's break with Taiwan, and the Washington Legal Foundation, a low-budget, non-profit firm that successfully challenged the entire State Department and Justice Department legal apparatus before Judge Gasch's court. The sparkplug of the foundation is 28-year-old Daniel J. Popeo, who contends that Sen. Gordon Humphrey (R.-N.H.) is his hero, since Humphrey kept helping the foundation raise the funds necessary to fight the case.

Asserting time after time that the government's arguments were "unpersuasive," Gasch contended—along with Emerson and Popeo—that the "President could not act unilaterally in terminating the treaty."

"The great majority of the historical precedents," said Gasch, "involve some form of mutual action, whereby the President's notice of termination receives the affirmative approval of the Senate or the entire Congress. Taken as a whole, the historical precedents support rather than detract from the position that the power to terminate treaties is a power shared by the political branches of this government."

Stressed Gasch: "The mere fact that the President has the authority to make an initial policy determination regarding the exercise of an option to terminate, and to notify the foreign state of termination, does not vest him with the unilateral power to complete the termination process and thereby effect the abrogation of the treaty. As two scholars have recently noted, 'it is inherently inconceivable that . . . a constitutional policy requiring joint action for external agreement and internal legislation could allow that agreement and law to be terminated by the president alone, against the intentions of the legislature.' "

"It would be incompatible with our system of checks and balances," said Gasch, "if the executive power in the area of foreign affairs were construed to encompass a unilateral power to terminate treaties. It is undisputed that the President is without power to amend the terms of a treaty. Any such amendment must be submitted to the Senate for its advice and consent. If the lesser power to amend the treaties is denied the President, *a fortiori*, the greater power to annul should also be denied.

"In the present situation, the President may very well be carrying out the wishes of the American people, but because the legislative branch has not participated in the treaty termination process, there is no way to ascertain this fact."

Narrowing his focus to the case at hand, Gasch concluded: "At least under the circumstances of this case—involving a significant mutual defense treaty with a faithful ally, who has not violated the terms of the agreement, and the validity of which has not otherwise been destroyed—any decision of the United States to terminate that treaty must be made with the advice and consent of the Senate or the approval of both houses of Congress. The decision cannot be made by the President alone. . . ."

Where does all this leave this nation legally? Last December, the President announced that the Mutual Defense Treaty would lapse at the beginning of next year. Gasch's decision includes an order enjoining the secretary of state and "his subordinate officers" from "taking any action" to implement the President's order of termination.

Meanwhile, the Justice Department says it plans to take the case to the U.S. Circuit Court of Appeals, which has just been packed with two extreme liberals—Patricia Wald and former Rep. Abner Mikva (D.-Ill.). Interestingly enough, Sen. Humphrey, who has been of considerable aid to the Washington Legal Foundation and is a party to the Goldwater suit, vigorously fought the confirmation of both individuals. Whether they will decide to remove themselves from the case because of possible prejudice, however, is unclear.

For the nonce, however, conservatives should profusely thank Goldwater & Co. for sticking to their guns on the issue and producing what could turn out to be a momentous victory for the American system of government.●

REPRESENTATIVE KEMP URGES A NEW LOOK AT CLASSICAL ECONOMICS ON THE 50TH ANNIVERSARY OF THE GREAT STOCK MARKET CRASH

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. KEMP. Mr. Speaker, 50 years today the bottom fell out of the U.S. stock market, marking the start of the Great Depression. On Black Tuesday, October 29, 1929, frightened stockholders rushed to sell out as trading volume soared to an unprecedented 16,410,030 shares, and the Dow Jones Average tumbled 31 points to 230, 151 points lower than the predepression high of 381 only a month before. It was clear to almost everyone involved that something catastrophic was taking place. The question then and 50 years later, is "Why?"

Why did the market come crashing down, after a decade of prosperity and increasing employment and noninflationary growth? The real terror of the "great crash" has been the failure of our economic theories to adequately explain it. Americans were left with the feeling that a massive economic contraction could occur at any time in a market free of Government intervention—without warning, without apparent cause. And yet, as Robert Heilbroner wrote in "Beyond Boom and Crash":

> Even giant [business] failures do not create more than temporary pauses in the ongoing accumulation process of the entire economy. A more likely candidate for the role of villain is mistaken or wrong-headed action by the government itself.

We know today that the Great Crash of 1929 and ensuing depression did not just happen. This was no spontaneous "collapse of democratic capitalism." In fact, they did not even have to happen. The "great crash and depression" were virtually enacted by national leaders—mostly Republicans, unfortunately—who made disastrously wrong choices about economic policy in the late 1920's and early 1930's.

Back in 1929, the choice was whether or not the United States Government should impose sweeping tariff increases, huge enough to destroy world trade. Congress and the administration did so, and in the last week of October, 1929, the stock market correctly anticipated the result, a worldwide recession. These same leaders turned that recession into the Great Depression with their shortsighted and unsuccessful attempt to balance the Federal budget by more than doubling income tax rates on all struggling Americans. This second error drove the Nation's unemployment rate to nearly 25 percent.

Today the United States faces a choice about the future similar to the one it faced in October of 1929 and similar disastrous blunders are being made by a Democratic administration and Congress, who, to be charitable, simply do not know what they are doing. Some of the mistakes being made—like raising tax rates in the midst of a recession—are frighteningly close to those which triggered the Great Depression. Other mistakes are new, like the policy of devaluing the dollar at the rate of 13 percent a year. In the 1930's, the problem was unemployment. Today, we face two problems: Unemployment and high inflation.

The irony here is that much of the economic theory guiding us today derives from the Keynesian model, which began as an attempt to explain the "great crash" of 1929. Yet the Keynesian model never fully explained why the crash occurred, any more than it can explain the stagflation of the 1970's. There is only one theory that can explain both, I believe, and that is the incentive-oriented economics of supply, which has grown from the foundations of classical theory. It was not until 1977, in Jude Wanniski's "The Way the World Works," that the crash of 1929 was convincingly explained. In his book, Wanniski established for the first time, in a day-by-day analysis, the critical link between the stock market's fortunes and the growing momentum for passage of the disastrous Smoot-Hawley Tariff Act of 1930. Speaking of the market's reaction to the "wedge," or the Government's share of any economic transaction—the tax rates, regulations and other methods by which the Government affects after-tax economic incentives—Wanniski explained:

> Looking back at the history of 1920, there is no dramatic increase in the domestic tax wedge to explain the market collapse. But there is also an international wedge—the tax on international transactions. And here there is a dramatic event, the gathering political momentum of what is now conceded to be the century's most disastrous piece of economic legislation. The Great Crash of 1929 anticipated the Smoot-Hawley Tariff Act of 1930. The calamitous declines of Monday, Oct. 28 and Tuesday, Oct. 29, followed immediately the collapse of the Senate coalition that had been the last barrier to the tariff.

Wanniski's analysis vindicates Say's law, the cornerstone of classical economics. As he wrote recently:

> The '29 Crash seemed to occur because of a surplus in the supply of goods, which is another way of saying a deficiency in the demand for goods. This negates Say's Law, named after Jean Baptiste Say, who formulated it between 1809 and 1819.
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> Say, the French popularizer of Adam Smith's "Wealth of Nations," wrote: "One can only buy with what one has produced," and "The one product constitutes the means of purchasing another," and "A product created offers, from that instant, a market for other commodities to the full total of its value." This became boiled down by others to "Supply creates its own demand."
>
> In other words, suppliers of goods come together in the marketplace to exchange goods. If a surplus appears in one place only, it's because in other places sufficient goods have not been produced to purchase that surplus. If a surplus appears everywhere, only an artificial barrier to commerce could have been the cause—some impediment to trade imposed by government. Thus the free-marketeer's dictum to government of "laissez faire," roughly "hands off."

Another way to put it is to say that individuals produce, work, save or invest for the real, after-tax reward of doing so—that is, for the goods and services for which they can exchange their labor. By diminishing the incentives for production through excessive tax rates or overregulation, the Government may discourage productive activities from occurring in the first place.

Yet when John Maynard Keynes published his general theory in 1936, he used the crash and depression to ridicule Say's law. Keynes restated Say's law in his own terms, announced that it was "equivalent to the proposition that there is no obstacle to full employment;" and because much unemployment existed at the time, Keynes had "disproved" Say's law. Classical economic theory could be dismissed.

According to Keynes, the real problem underlying the Great Depression was one of "overproduction" or "underconsumption." People were simply saving too large of a portion of their incomes he believed, refusing to spend their money on the excess goods being supplied. Therefore, he reasoned, it was the job of the Government to tax or borrow the savings away from private citizens and make sure it was all spent.

American policymakers eventually adopted this "lesson" from the crash and the ensuing depression, leading the Keynesian revolution of the 1940's and 1950's. Acting on Keynes' advice, policymakers soon discovered the potent drug of Government spending, and neglected savings, investment, indeed the entire supply side of the economy. Congress continues to rely on Keynesian models in the Congressional Budget Office and House Budget Committee for economic policy decisions. In comparing the effects of a major tax cut with Government spending of the same amount, for example, CBO argues and a majority in Congress agrees that it is better for Government rather than citizens to spend the money, because when Government spends, the money "multiples" faster throughout the economy.

In a recent publication, CBO put it this way:

> Generally speaking, (government) purchases of goods and services have more impact per budget dollar on output and employment than broadly based tax changes or changes in income-support programs.

In another background paper, the CBO explicitly argues, with charts and figures, that $10 billion spent on public service employment would stimulate both employment and the growth of the economy more than a $10 billion tax cut. CBO Director Alice Rivlin has even suggested that people are likely to work less after a tax cut, because they will earn the same amount of money in a shorter time. Stated in other words, this argument holds that improving productivity (producing more goods with the same input of labor and capital) would tend to slow rather than increase real economic growth.

Government spending is more stimulative than private spending, CBO says, because Government will spend all of the revenues it collects—and then some. Private citizens, on the other hand, will save part of their incomes; savings, in the Keynesian model, are anathema to an economy that is faltering.

As a result, Government policy today is enough to dissuade all but the most tenacious saver. This is so despite a high correlation among industrialized countries between high savings rates and high rates of economic growth. Japan, for example, has a 25 percent savings rate, and is enjoying a strong rate of growth each year. In ranking the 11 largest industrialized countries in the world, there is a perfect correlation between the savings and growth rates. The United States ranks dead last in both categories. Tax policies in the other countries are the opposite of those pushed by the CBO and other Government advisory groups. These countries encourage saving and investment; the United States does not.

The state of our economy is compelling disproof of the notion that Federal spending is what prompts Americans to work, save, invest, and be enterprising—that is, what causes economic growth. Today the new wave in economics begins with the commonsense notion that governments do not create growth—people do. Economic growth is not caused by Government spending but by the economic incentives that encourage work, investment, savings, productivity, thrift, initiative, and higher levels of technology. Only by reducing the tax wedge between effort and reward will the economy see increased growth and employment.

Mr. Speaker, let me read a quote from Prof. Kenneth Arrow of Harvard University, one of the most distinguished Keynesian economists in the country, a 1972 Nobel Prize winner. Upon leaving Harvard several months ago, Professor Arrow confessed to a reporter that:

> The role of the liberal activist economists has been greatly injured by the fact that we are unable to reconcile full employment with price stability.

Here is the world's leading Keynesian economist, who spent a lifetime working on demand management economics, arguing that spending and debt and deficit financing stimulate the economy, suggesting at the end of his tenure at Harvard that he and his colleagues are unable to duplicate conditions which used to be commonplace in America—to reconcile a high-growth economy and price stability.

I cannot say that he speaks for the rest of Keynesian theorists but he seems to be saying something about the general Keynesian model itself, the model that the CBO and the House Budget Committee are using. It simply cannot reconcile a healthy, growing, expanding, fully employed economy with price stability. In other words, they do not have an answer.

I challenge them, the idea that the economic policies based on this Keynesian model represent the best interests of the American worker. How can they represent America's working men and women when these policies will put 2.7 million more Americans out of jobs in the next year? How can they represent workers when they recommend a 7- or 8-percent wage limit while the Government continues to devalue workers' paychecks at 13 or 14 percent a year—and then taxes workers on the increase?

The administration's official answer to our problems of economic stagnation and inflation is a program of "austerity sharing." That term comes straight from the National Accord Between the Administration and American Labor Leadership, of September 28. Henceforth, according to the White House, all economic policy will be based upon "the principle of shared austerity."

Now when administration officials say that "austerity" is the answer to inflation, they mean exactly two things—higher unemployment through tax-rate increases, and lower real income through wage and price controls. For Keynesian economic theory says this is the only cure for inflation, and they believe their theory more than they believe in the American people. According to the former director of the Council on Wage and Price Stability, Barry Bosworth:

> If the restraints are really to have an impact on the rate of inflation, government expenditures must be reduced, and aggregate demand, production, and employment must also be reduced. The result will be to throw a few million people out of work. To be sure, if enough of them are out of work, they will cease asking for wage increases. No one likes to say that, but that is what lies at the heart of the proposal for fiscal and monetary restraint.

The most incredible thing is that the administration does not plan to do anything to prevent the increase in unemployment. Budget Director James McIntyre says economic policy will continue to be "steady as you go." Treasury Sec-

retary G. William Miller has ruled out any tax rate reduction for the next critical year. Steady as we go—into higher unemployment.

The Democratic budget which was pushed through last month will push this country to the brink of economic disaster. Even beyond the human suffering brought on by the loss of jobs, how can anyone accept an unemployment rate of 8.25 percent for 1980 when we know that high unemployment was no cure for inflation in 1969–70, nor in 1974–75? Furthermore, for each 1 million people the recession puts out of work, the Federal deficit will widen by $20 billion, due to loss of revenue and higher spending on unemployment relief. By this formula, what we face in the next 2 years with a steady-as-you-go budget is an increase in the Federal deficit of $50 or $60 billion. Anyone who believes we can reduce the deficit or cure inflation if unemployment rises is dreaming.

Unfortunately, the Democrats are not even giving Americans a choice between keeping today's destructively high tax rates on jobs and income or lowering them to restore incentives for production, employment, and real economic growth. Instead, the majority party continues to support tax law which uses the Government's devaluation of the dollar to push both labor and capital into higher tax brackets, automatically, every day. This steady-as-you-go policy is a vote for raising tax rates. For a typical family of four at current inflation rates this loss of income will amount to $939 in the next year alone. In addition, there are massive social security payroll tax increases enacted by the Democratic Congress, and the promise of $150 billion in new taxes on U.S. energy production. All told, the Joint Committee on Taxation estimates that planned tax increases will impose "austerity" on all Americans totaling $1 trillion in the next decade.

But if austerity is the answer to inflation, then Americans have been fighting inflation for the last 10 years. Where I come from, austerity is the problem, not the solution. I do not see the "average American" out causing inflation in a binge of self-indulgent prosperity, as President Carter has said. I see instead millions of Americans who are scared when the President's adviser on inflation, Alfred Kahn, tells them there is no way they can avoid a decline in their standard of living. I see working men and women, already strained to the limit in providing for their families, wondering whether they will number among the more than 8.6 million who will not have a job next year, or the year after.

And yet, what result does the administration predict from all this unemployment and loss of income, of this "equitable sharing of sacrifice"? In last Friday morning's paper, the Chairman of the President's Council of Economic Advisors, Charles Schultze, tells us that even after next year's recession, "inflation cannot be reduced below 8 or 9 percent." Some hope. At that rate, the value of all savings, investment, and income will crash by at least 54 percent in the next 5 years, and raising tax rates by 86 percent.

Mr. Speaker, this disastrous experiment in demand management has gone on long enough. Now is the time to stop and reconsider the basic economic theory upon which all of our policy decisions are based. It is time we recognize the supreme deficiencies of the theory that underlies all CBO estimates and analysis. We can no longer dismiss tax rate reductions out of hand as "inflationary" and continue to discourage savings and investment and inflate the money supply without restraint, merely because a defunct macroeconomic theory says that we must. We can no longer ignore the supply side of our economy and expect growth and productivity and employment to increase by magic.

It is time to realize that there is another, better way to solve our economic dilemma—that we can produce our way out of this inflation. If we increase the supply of goods in our economy while at the same time slowing the production of money, we will see results far superior to anything Government-forced "austerity" can produce. And the most direct and important way to immediately increase employment, investment, and production is to increase the reward on the next dollar an individual earns from working, investing, or producing. That means cutting personal income tax rates dramatically, across the board, for both labor and capital. Dramatic tax rate reductions of 30 percent or more for everyone and a return to some form of dollar convertibility must be the cornerstone of our policy answer to the unemployment and soaring inflation that plague America today.●

OBJECT LESSON ON TRADE DISINCENTIVES

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. AuCOIN. Mr. Speaker, as a representative of a State actively engaged in international trade and a member of the Export Task Force, I make a habit to inquire of firms involved in trade about export disincentives.

It is my view that the United States is unable to mount an aggressive export policy—regardless of how attractive the incentives—because of excessive barriers to trade.

While many agree with this view, it is hard to quantify the seriousness of the problem. Consequently, I was extremely impressed recently when the chairman of a major corporation laid out in graphic detail a bill of particulars concerning what is wrong with our trade policy. Through a series of 12 documented examples, this corporate official exposes some of the major impediments to a robust, coordinated and purposeful trade policy.

I do not agree that every obstacle identified should be changed. That is not really the point.

The point is that we have erected barriers to trade, especially as the administration is preparaing to release its findings from a year-long study of trade disincentives, and as Congress is evaluating numerous bills aimed at promoting trade and boosting productivity.

The following list of trade disincentives and their price to one company was submitted to the other body this summer by W. L. Wearly, chairman of Ingersoll-Rand Co. in Woodcliff, N.J. I commend it to your reading:

The list follows:

EXAMPLES OF U.S. EXPORT OBSTACLES

The following examples represent a cross-section of obstacles faced by U.S. firms in the export market. The illustrations can be classified generally as either (1) self-imposed government restrictions, or (2) inadequate government support. Items from both categories can be traced to an underlying cause of neglect—the low government priority given to export expansion. There has been no firm commitment nor strong trade leader to either challenge policies adversely impacting U.S. exports, or initiate programs to offset the government support given to foreign competitors. The U.S. government's structure has short-changed international business objectives. No mainline department is charged with the principal policy mission of strengthening U.S. competitiveness in world markets. As a result, the give-and-take between competing and at times conflicting policy objectives, U.S. export policy has suffered from lack of a strong organizational advocate.

1. In early 1978 Ingersoll-Rand lost $8 million worth of compressors for Acominas in Brazil to a Japanese firm. A major reason for the loss of the sale was that the Japanese government allows the development of country marketing strategies by consortiums of manufacturers. U.S. antitrust regulations would prohibit any similar joint planning between major U.S. companies to decide, for example, which firms would supply components for which plant on a rotating basis.

2. Ingersoll-Rand was offered an order from a Swedish international distributor for several compressors for use in hospitals in Vietnam. The order was eventually filled by a Swedish manufacturer when Ingersoll-Rand was turned down in its request to U.S. government for permission to ship this equipment.

3. In mid-1977 Ingersoll-Rand was negotiating with a European company, with whom they had previously done business, for $1 million worth of Rock Drills for Iraq. Because of restrictions relating to U.S. anti-boycott policy Iraq instructed the European buyer not to purchase from a U.S. company and the order was placed with a Swedish manufacturer.

4. In 1977 J. Ray McDermott Co., Inc., submitted a bid of approximately $25 million to Argentina for a gas pipeline. The contract was awarded to a French contractor for approximately $51 million. J. Ray McDermott Co., Inc.'s judgment is that the work was awarded to their French competitor because of payments which would have been illegal under U.S. law.

5. In mid-1977 Ingersoll-Rand was negotiating for $6 million worth of pumps and compressors with Fluor Corporation for Sasol plant expansion (including substantial technology and product duplication furnished by Ingersoll-Rand for the original coal conversion plant) in South Africa. Because of human rights considerations, Sasol decided not to consider U.S. manufactured equipment in view of the undependability of suppliers to obtain government authorizations to meet commitments. The U.S. government also refused financial support and

South Africa then obtained loans from Japan and France. Although some equipment was furnished by American-Japanese/French licensees, no major equipment was purchased from direct American sources.

6. In mid-1978 FMC Corporation had an order for fire trucks from South Africa. But since these were being ordered by the South African military, they could not accept the order under U.S. law. The only difference between these units and some they were already supplying to municipalities in South Africa was the color of the paint. In a state of emergency, the municipal units certainly could be preempted by the South African military. Thus, the U.S. government's regulations, in effect, excluded them from a significant volume of export business, with doubtful policy results. The real result was that the South African government ordered the units—$7 million worth of U.S. jobs and profits—from a German firm.

7. In early 1977 Ingersoll-Rand lost $3 million worth of compressors from Pemex in Mexico to Italian competitors. The Italian government and the Mexican government agreed upon a low interest loan partially repayable by barter which was more favorable than the Export-Import Bank was prepared to grant.

8. Babcock and Wilcox Division of J. Ray McDermott & Co., were negotiating with a Mexican company for $18 million worth of equipment for a power project. The Eximbank refused to offer financing unless the Mexican customer changed the specifications for the precipitator efficiency from the specified 97 percent to 98 percent as required by U.S. environmental standards. The customer refused to modify the specifications and the business was placed with a Swedish supplier.

9. In the fall of 1978 Ingersoll-Rand planned a private fair in Egypt to exhibit construction equipment. The U.S. Embassy in Egypt was asked to send a letter to the Cairo customs office to guarantee payment of customs duties on machinery not re-exported. The local commercial attache replied that his guidelines did not permit issuing such a letter unless the trade fair was controlled by a U.S. manager and had U.S. government participation. Ingersoll-Rand thus was denied the necessary letter and was unable to exhibit its products. A German competitor was able to get such a letter (a form letter) from the German Embassy in Egypt and therefore was able to exhibit and sell its products to Egypt.

10. The U.S. government has still done little in terms of exhibits, fairs, etc. for the U.S. businessman in the Peoples Republic of China. Last month Ingersoll-Rand, as an American corporation, had an exhibit in a British Energy Show to get our corporate presence advertised in the PRC. The United States is very late on this point and for years we have been riding on the coattails of our British and Canadian companies in Peking exhibits.

11. In 1972 Ingersoll-Rand Co. U.S.A. lost $2 million worth of gas engine machinery for Petrabras in Brazil to Ingersoll-Rand Co. Ltd. U.K. Eximbank terms were not competitive with the British terms which also specified that not more than 7 percent of the total job could be sources outside of the United Kingdom. Although it was not a real loss to Ingersoll-Rand Co., job hours in the U.S.A. were lost.

12. In early 1977 Ingersoll-Rand and other American companies were negotiating with the U.S.S.R. for over $200 million worth of equipment for a gas pipeline. Although the negotiations were successful the orders were held up and later placed with a European consortium because of human rights considerations and U.S.A. failure to grant most favored nation status to the U.S.S.R.●

ENERGY MOBILIZATION BOARD

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. JEFFORDS. Mr. Speaker, tomorrow we will take up consideration of the fast track energy legislation which would establish an Energy Mobilization Board. Expedited consideration of nonnuclear energy facility applications is in the best interest of our Nation. Energy Mobilization Board is one possible mechanism for reducing the inefficiencies in some agency procedures. However, I have major reservations about any proposed Energy Mobilization Board. To begin, any fast track program should be limited to more efficient application of existing and future laws and regulations to proposed energy facilities.

After months of debate on this issue, I have found absolutely no justification for having such a board or the President to waive Federal, State, or local laws or to assume the decisionmaking authority of Federal, State, and local officials currently responsible for energy facility siting or environmental protection.

I, therefore, urge my colleagues to support the Udall-Clausen-Wirth substitute and to oppose the Commerce Committee bill and the Santini-Lujan amendment to the Commerce bill. Under this substitute, the Energy Mobilization Board would establish a project decision schedule for the fast tracking of priority energy project applications by Federal, State, and local agencies. If any agency was dragging its feet, the Board could resort to the Federal courts to force the agency to comply with the decision schedule. Along with the more than 80 cosponsors of this substitute, I believe strongly that this enforcement mechanism is effective. Moreover, it is highly superior to the approach mandated by the Commerce Committee bill and perpetuated by the Santini-Lujan amendment: That of waiving established laws and preempting the decisionmaking authority of Federal, State, and local officials.

As I have indicated, the establishment of an Energy Mobilization Board is but one possible approach to eliminating undue duplication and delay from the processing of energy project applications. There is a significant danger that such a board will give little or no consideration to the environmental or social aspects of proposed facilities, and will instead do everything in its power to insure the implementation of proposed projects, no matter what their impacts or their merit.

In addition, I have found no evidence to suggest that the creation of yet another Federal bureaucracy will assist us in the delicate task of expeditiously balancing our need to reduce our reliance on foreign oil supplies with our pressing needs to control inflation and improve our Nation's social and physical environment.

For these reasons, I believe that an approach preferable to creation of an Energy Mobilization Board would be to establish carefully crafted programs and procedures under which existing Federal and State agencies would provide more efficient consideration of potentially important energy projects. Indeed, in April of this year President Carter ordered Federal agencies to do just that. Under Executive Order 12129, the Director of the Office of Management and Budget was directed to establish a critical energy facility program involving eight Federal Executive agencies, which would address the elimination of unnecessary duplication among Federal agencies and the establishment of joint Federal-State agency reviews.

On June 25, OMB placed a notice in the Federal Register requesting public comment on criteria for selecting critical facilities and on recommendations for specific facilities to be covered by the critical energy facility program. OMB received recommendations for 22 facilities to be given fast-track consideration. However, because the administration's proposal for an Energy Mobilization Board was sent to Congress at about this time, OMB decided not to proceess these recommendations or to take any further steps to implement the Executive Order.

There is every indication that, given a chance to work, OMB critical energy facility program would effectively provide expedited, yet balanced consideration of energy project proposals.

Unfortunately, political considerations regarding pending legislation have been a key source of delay in the Executive Office of the President. A positive and workable program proposed by the President in April has essentially been abandoned in favor of a dangerous and unworkable proposal contained in the Commerce Committee Energy Mobilization Board proposal now before the House.

I believe it is premature to assume we need drastic changes in laws passed to protect against proven disaster of the past. If future action is needed, let us consider it then.

I am submitting Executive Order 12129 and OMB's Federal Register notice for my colleagues' careful appraisal:

[Executive Order 12129, Apr. 5, 1979]

CRITICAL ENERGY FACILITY PROGRAM

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to provide for timely coordinated Federal decisions on critical energy facility permit applications, it is hereby ordered as follows:

1–101. The Director of the Office of Management and Budget shall establish a Critical Energy Facility Program.

1–102. The Director of the Office of Management and Budget, after consulting with the Executive agencies listed in Section 1–103, shall make recommendations to the President as to which non-nuclear facilities should be included in the Program. The President shall identify non-nuclear energy facilities which he deems to be of critical national importance and which need Federal permits for siting, construction, or operation. Those facilities shall be included in the Program. The Director of the Office of Management and Budget shall establish a system through which deadlines will be established

for final administrative decision-making by Executive agencies, consistent with statutory requirements.

1–103. The following Executive agencies shall participate in the Program and the Director of the Office of Management and Budget may invite others to participate where appropriate:

(a) Department of the Interior.
(b) Department of Agriculture.
(c) Department of Commerce.
(d) Department of Transportation.
(e) Department of Energy.
(f) Environmental Protection Agency.
(g) Council on Environmental Quality.
(h) Department of the Army.

1–104. Each Executive agency in the Program shall submit such data and information as the Director of the Office of Management and Budget may require with respect to a critical energy facility, including:

(a) Date a completed application is expected to be received from the sponsors of a critical energy facility project.

(b) Targeted final decision date for each significant permit or statutory review.

(c) Compilation of the actions required of other Executive agencies before a participating Executive agency may make a final decision.

(d) Compilation of significant actions required of non-Federal authorities before a participating Executive agency may make a final decision.

(e) Compilation of significant actions required of the applicant before a final decision may be made.

(f) Progress reports, including reasons for any changes in any targeted final decision dates.

1–105. On the basis of information received pursuant to Section 1–104, the Director of the Office of Management and Budget will provide to the President, to the participating Executive agencies, to the Governor of any affected State, and to the applicant a schedule of deadlines for Federal actions concerning each critical energy facility.

1–106. The Director of the Office of Management and Budget shall provide for appropriate interagency mechanisms for the conduct of multiple agency reviews; but, only where such reviews are consistent with the statutory obligations of the agencies, and only when such reviews will assist in the expeditious processing of facility permits.

1–107. The Director of the Office of Management and Budget shall assist participating Executive agencies with the establishment of joint Federal and State and local agency reviews. Such assistance shall be limited to those circumstances which are consistent with the legal obligations of the reviewing Federal and State and local agencies, and which will result in the expeditious processing of facility permits.

1–108. The Director of the Office of Management and Budget shall keep the President informed on agency performance in meeting scheduled decision deadlines.

1–109. The Director of the Office of Management and Budget shall, where appropriate, coordinate the procedures established herein with those procedures adopted by the Council on Environmental Quality pursuant to Executive Order No. 11991 (40 CFR Parts 1500–1508).

1–110. Nothing in this Order is intended to modify in any way (a) the review and decision-making responsibilities imposed by Federal or State statutes, or (b) the opportunity for timely State and local government and public participation in agency decision-making.

JIMMY CARTER.

THE WHITE HOUSE, *April 5, 1979.*

[Office of Management and Budget]

REQUEST FOR PUBLIC COMMENT ON PROPOSED CRITERIA FOR USE IN IMPLEMENTING EXECUTIVE ORDER 12129; CRITICAL ENERGY FACILITY PROGRAM

(June 19, 1979)

Agency: Office of Management and Budget.

Action: Request for public comment on proposal to implement the Critical Energy Facility Program.

Summary: Public comment is requested on the accompanying criteria, proposed by the Office of Management and Budget for use in selecting non-nuclear energy facilities for inclusion in the Critical Energy Facility Program pursuant to Executive Order 12129. (44 FR 21001, April 9, 1979).

Public recommendations are requested as to specific facilities which should be considered for inclusion in the program. Such recommendations should be accompanied by an explanation of the reasons why the recommended facility should be considered for inclusion under the proposed criteria or alternative criteria recommended by the commenting party.

Dates: Comments must be received on or before Friday, July 20, 1979.

Address: Send comments to: The Associate Director for Natural Resources, Energy and Science, Room 262, Old Executive Office Building, Washington, D.C. 20503.

For further information contact: Ron Kienlen, Room 465, Old Executive Office Building, Washington, D.C. 20503, Phone 395–5600.

Supplementary information: Executive Order 12129 directs the Director of the Office of Management and Budget to establish a Critical Energy Facility program in order to provide for timely coordinated Federal decisions on permit applications for non-nuclear energy facilities which the President deems to be of critical national importance. The following criteria are proposed for use by the Office of Management and Budget in fulfilling its responsibility to make recommendations to the President as to which non-nuclear energy facilities should be included in the Critical Energy Facility Program. Briefly, recommendations for inclusion will be based on the national importance of a facility, the degree of Federal involvement by covered agencies, and the need for timely, coordinated Federal decisionmaking as indicated by the number and complexity of Federal review requirements.

PROPOSED CRITERIA

Office of Management and Budget Executive Order 12129

Pursuant to Executive Order 12129, the Office of Management and Budget proposes to use the following criteria in developing recommendations to the President as to which non-nuclear energy facilities should be included in the Critical Facilities Program.

1. *Critical National Importance.* Those facilities will be considered for inclusion for which Federal agency decisions are of critical national importance because, if constructed and operated as proposed:

a. the facility's operation could yield a substantial reduction in oil imports; or

b. the facility would embody a new, untested technology with significant potential for substantial future import reductions; or

c. the facility could produce substantial national economic benefits; or

d. the facility could yield a substantial reduction in consumer costs; or

e. the facility could benefit the national security.

2. *Significant Federal Involvement.* Given that the purpose of the Critical Energy Facility Program is to provide for timely coordinated Federal decisions, a facility must be subject to significant Federal reviews by participating agencies with some likelihood of delay in order to be considered for inclusion. This criterion will exclude facilities for which decisions by covered Federal agencies are not essential to the facility's progress, and facilities for which there is little probability of delay due to Federal review process.

Issued in Washington, D.C., on the 16th day of June 1979.

ELIOT R. CUTLER,
Associate Director for Natural Resources, Energy and Science.

[FR Doc. 79–19856 Filed 6–22–79; 6:45 a.m.] ●

PROGRESS IN FUSION ENERGY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. STARK. Mr. Speaker, I would like to bring to the attention of my colleagues the following article from the Wall Street Journal about the development of fusion power. The article aptly describes the fusion process and the present state of our national fusion energy program.

The article follows:

[From the Wall Street Journal, Aug. 28, 1979]

PROSPECTS FOR ENERGY FROM NUCLEAR FUSION ARE IMPROVING AGAIN

(By Arlen J. Large)

PRINCETON, N.J.—For 28 years scientists have been struggling to re-create on earth the same source of sustained energy that powers the sun. After an initial glow of optimism, researchers on nuclear fusion went through a gloomy period of disappointment and frustration as experiments kept failing. Now, however, their mood is upbeat again.

So optimistic are fusion workers about recent scientific progress that they're getting impatient with the government's stately timetable stretching out research for another 40 years. Not until the year 2020, according to Energy Department plans, will fusion's tremendous heat be making electricity on a commercial basis.

One who would like to go faster is Melvin Gottlieb, director of the Princeton University Plasma Physics Laboratory here. "This is comparable to the effort to produce a bomb in the war," he says, "except that we aren't going at it on the same urgent basis." The pace "absolutely" could be speeded up, he says.

In fusion work, "plasma" is hydrogen gas so hot that its individual nuclei fuse together to produce helium and release energy. What's eye-catching for the layman is that the hydrogen can be obtained from a limitless supply of sea water, though the fuel source actually is more complicated than that. Fusion of the nuclei of hydrogen, the lightest natural element, releases more energy than the splitting (or fission) of uranium, the heaviest, which has been producing commercial electricty for years amid growing controversy.

FEW ENEMIES

Fusion fans say their method doesn't have fission's safety problems. While there are doubters among environmentalists, fusion probably won't attract many committed enemies until actual electricity-producing reactors are closer to reality. What's generally undisputed at this point is that fusion is

ready to make the leap from the scientific laboratory to the engineering drawing boards.

"This is the year in which we can finally say that man can make and control a plasma of burning fusion fuel on earth with reasonably sized and reasonably simple equipment," says Edwin Kintner, director of the Energy Department's office of fusion energy. "This is a thought which is shared worldwide by people working in the fusion field."

And world-wide the field is, reflecting the willingness of rich governments to spend money on what they see as a promising future source of energy. Outside the U.S., aggressive research programs are moving ahead in Western Europe, Japan and the Soviet Union. Indeed, the annual U.S. fusion-research budget of $510 million accounts for just one-third of the world-wide effort.

GOVERNMENT MONEY

Because most of the work has no military application, there is a free and easy exchange of research data. Japan this year is putting up $12.5 million for fusion work in California.

In this country and abroad, fusion research depends almost entirely on government bankrolls. Energy Department officials estimate that the U.S. government will have spent $18 billion on this technology by the time it's ready to produce commercial electricity in the next century. But in the coming decades fusion will have to compete hard for research dollars with other potential sources of energy for central electricity-generating stations: fission-breeder reactors, electrified coal gas, solar-power satellites.

So far the expensive machines needed for fusion research have been built at government laboratories or at university campuses like Princeton. John Deutch, research director at the Energy Department in Washington, would like to see contracts awarded to private companies to build and operate future fusion-research machines. The companies wouldn't, however, be required to put up their own money, and the government has no plan to try to recapture its fusion-development costs from electric utilities that eventually may use the technology. Early-stage development of these new energy sources, says Mr. Deutch, "is a national responsibility."

HOW THEY WORK

Researchers think a fusion reactor could make commercial electricity along these lines:

A hollow metal doughnut is filled with a special mixture of hydrogen gas and heated to more than 100 million degrees Celsius, four times hotter than the center of the sun. Magnets surrounding the doughnut keep the electrified plasma from burning the walls. Nuclei of the hydrogen atoms fuse together to make new helium atoms, while releasing a shower of the atomic particles called neutrons. The neutrons, carrying 80% of the energy of the fusion reactions, bang into an outside blanket of lithium metal, making it hot. The heat is turned into steam, which drives the generator that turns on your light bulb.

That's one of many different conceptions, none of which has actually been tried. Princeton scientists using test doughnut devices called tokamaks have been fusing hydrogen and making neutrons at temperatures of up to 75 million degrees, but they're putting more start-up energy into the machines than comes back out.

Under construction here is the biggest tokamak yet, scheduled for completion in 1982. The scientists here are increasingly confident that by 1984 the machines will pass the break-even point, producing more energy than goes in, and by a significant amount.

The tokamak doughnuts, invented in the Soviet Union, have seemed to solve the problem of keeping the hot hydrogen plasma inside a stable magnetic "bottle," safely away from the metal walls. A famous experiment here last summer, though put down by Science magazine as a "media event" because of excited reports of a "breakthrough," nevertheless was important because it showed that plasma in the doughnut wouldn't break up at high temperatures.

While tokamak technology is the furthest advanced, the Energy Department continues to put chips on other potential fusion methods. Its long-term plan for picking the winning technique for commercial development looks for all the world like the elimination brackets of a basketball tournament.

An alternative to the doughnut is a cylinder in which hydrogen plasma also is confined magnetically. To keep the plasma from seeping out the ends of the cylinder, magnetic fields or other devices serve as "mirrors" at each end. One such machine is being tested at the government-financed Lawrence Livermore Laboratory in California.

A DECISION IN 1984

The first elimination is scheduled to come in 1984, when the Energy Department chooses between tokamaks and mirrors. The winning concept will be incorporated into a new machine called an engineering test facility scheduled to start operating in 1992. Princeton's Mr. Gottlieb and others rooting for a faster pace think work could start right away on certain parts of this machine that will be needed either for tokamaks or mirrors, no matter how the decision goes.

In 1997, according to the current schedule, officials will decide the fate of an entirely different way of fusing hydrogen to make energy. Work is under way at Lawrence Livermore Laboratory, the Los Alamos Scientific Laboratory and elsewhere on zapping a hydrogen-filled pellet with high-energy beams, either of laser light or atomic particles. The temperature in the pellet gets so high that fusion occurs, releasing the telltale shower of neutrons. To produce commercial electricity, a way must be found to shoot new pellets continuously into a chamber to be zapped by the high-energy beams.

Some researchers complain that work on this technique is hampered because some of it is classified as secret. The exact design of the pellet is related to what makes a hydrogen bomb go off.

AN OPERATING PROTOTYPE

The Energy Department's Mr. Deutch says pellet fusion "isn't in the same state of maturity" as plasmas confined in tokamaks or mirrors, which are being engineered specifically for commercial electrical production someday. Whatever technique looks most promising in 1997, however, will become the basis for a $1 billion engineering prototype reactor that will start operating in 2004.

The government's final effort, a scaled-up "demonstration" reactor using the winning technology, is scheduled for operation in 2015. Thereafter, private utilities would be expected to start building their own fusion plants, using all the scientific and engineering data the government has developed.

This is too long a wait for fusion's go-faster faction. Democratic Rep. Mike McCormack of Washington, a leading fusion fan in Congress, wants to have "the first commercial demonstration fusion plant on line by the year 2000." Energy research boss Deutch tries to placate such proponents by saying the timetable for those distant years is "flexible" and could be stepped up if future Congresses and future energy bureaucracies choose.

Fusion also has, however, a go-slower faction that wants to make sure that technical and environmental problems are solved before the government commits itself to a final design. The problems most often mentioned deal with the hydrogen fuel of a tokamak or mirror reactor.

The reaction that can occur at the most easily reached temperature requires two special forms of hydrogen: isotopes called deuterium and tritium. Deuterium can be obtained from sea water. Tritium doesn't occur in nature, but it can be produced artificially from lithium when those neutrons hit the metal during a fusion reaction. So most of the contemplated machines will breed their own tritium.

Tritium, however, is radioactive and will require special handling techniques and disposal methods. This disturbs the go-slow faction.

For example, the Union of Concerned Scientists, which wants no more of the current fission reactors built until disposal sites for the nuclear waste are found, thinks the government should investigate fusion technologies other than the deuterium-tritium approach. Steven Nadis, a research analyst for the union in Cambridge, Mass., says that at higher temperatures than those currently planned some particles will fuse to produce direct electric current without any neutron bombardment or radioactivity. However, he concedes that use of these so-called "advanced" fuels at higher temperatures "admittedly will be more difficult to achieve." ●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 30, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 31

8:00 a.m.

Energy and Natural Resources

To hold hearings on the nominations of Ruth M. Davis, of Maryland, to be an Assistant Secretary of Energy (Resource Applications); William W. Lewis, of the District of Columbia, to be an Assistant Secretary of Energy (Policy and Evaluation); and Charles B. Curtis, of Maryland, to be a Member of the Federal Energy Regulatory Commission.

3110 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

To hold joint oversight hearings with the Select Committee on Small Business and the House Committees on

Small Business and Science and Technology to review proposed technical methods for industrial development.
1202 Dirksen Building

Select on Small Business
To hold joint oversight hearings with the Committee on Commerce, Science, and Transportation and the House Committees on Small Business and Science and Technology to review proposed technical methods for industrial development.
1202 Dirksen Building

Select on Small Business
To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and accessibility of information released by such services.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold oversight hearings on the truth-in-lending enforcement activities of Federal financial regulatory agencies.
5302 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To continue consideration of S. 703, to provide for the study, advanced engineering, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the U.S. and trust territories.
4200 Dirksen Building

Finance
Business meeting on pending nominations and calendar business.
2221 Dirksen Building

Foreign Relations
Business meeting, to resume markup of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

Judiciary
To hold hearings on the current refugee crisis in Cambodia.
2228 Dirksen Building

Rules and Administration
To hold hearings on S. 392 and 597, bills to assure access for the elderly and handicapped to polling and registration locations for Federal elections; and other legislative and administrative business.
301 Russell Building

Joint Economic
To hold hearings to examine the current unemployment trend in relation to the increase in criminal activity.
210 Cannon Building

2:00 p.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To hold joint hearings with the House Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs to receive a briefing from the President's Commission on the Three Mile Island nuclear accident.
318 Russell Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 246, 1488, and 1846, bills to allow taxpayers to exclude interest income earned from a savings account from gross income; S. 1638, to permit owners of new businesses to write off their initial expenditures; S. 1703, to provide a tax exclusion from personal income earned abroad from charitable services; S. 541, to provide that the election to use the alternate valuation date may be made on an estate tax return that is filed late; S. 999, to exempt taxpayers who file late tax payments from interest penalties; S. 555, to permit the owners of independent local newspapers to make tax deductible contributions to trusts established for the eventual payment of estate tax; and S. 1543, to defer current Federal income tax on dividends reinvested in original issue stock of a company.
2221 Dirksen Building

NOVEMBER 1

9:00 a.m.
Armed Services
General Procurement Subcommittee
To hold oversight hearings to review past and current Soviet defense expenditures and programs.
1114 Dirksen Building

9:30 a.m.
Appropriations
Military Construction Subcommittee
To mark up H.R. 4391, making appropriations for military construction programs of the Department of Defense.
S-128, Capitol

Judiciary
Constitution Subcommittee
To resume hearings on proposals advocating a balanced Federal budget or restricting in some way the growth of Federal outlays which include S.J. Res. 2, 4, 5, 6, 7, 9, 10, 11, 13, 16, 18, 36, 38, 45, 46, and 56.
6226 Dirksen Building

Select on Small Business
To continue hearings to review the impact of private and commercial credit reporting services on small business to focus on the accuracy, reliability, and accessibility of information released by such services.
424 Russell Building

Select on Small Business
To continue oversight hearings with the House Committees on Small Business and Science and Technology to review proposed technical methods for industrial development.
2318 Rayburn Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue oversight hearings on the truth-in-lending enforcement activities of Federal financial regulatory agencies.
5302 Dirksen Building

*Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
Business meeting on pending nominations and calendar business.
2221 Dirksen Building

Foreign Relations
Business meeting, to continue markup of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings on S. 1411, proposed Paperwork and Redtape Reduction Act.
3302 Dirksen Building

11:00 a.m.
Conferees
Closed, on H.R. 595, to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, and to provide for the deposit of money received from the sale of such tin.
Room S-126, Capitol

2:00 p.m.
Conferees
On S. 239, authorizing funds through fiscal year 1981 for programs under the Domestic Volunteer Service Act.
S-206, Capitol

NOVEMBER 2

9:30 a.m.
Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on a proposal to transfer the functions of the Cost Accounting Standards Board to the General Accounting Office.
5302 Dirksen Building

Finance
Business meeting on pending nominations and calendar business.
2221 Dirksen Building

Foreign Relations
Business meeting, to continue markup of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation and price data information for October.
6226 Dirksen Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 1691, to create an appellate court with exclusive jurisdiction over all Federal civil tax appeals.
2221 Dirksen Building

NOVEMBER 5

9:30 a.m.
Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

*Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings on the implementation of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).
4232 Dirksen Building

10:00 a.m.
Select on Indian Affairs
To hold hearings on S.J. Res. 108, to validate the effectiveness of certain plans for the use or distribution of funds to pay judgments awarded to Indian tribes.
Room to be announced

NOVEMBER 6

9:00 a.m.
Agriculture, Nutrition and Forestry
Agricultural Credit and Rural Electrification Subcommittee

To hold oversight hearings to examine the current operations of the Farmers Home Administration, focusing on recent problems relating to the outstanding debt to the agency and personnel problems associated with loan supervisions and counseling; also to examine the implementation of the guaranteed agricultural loan programs and the economic disaster loan program; and to review the installation of a management information system at the agency.
323 Russell Building

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To resume hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
3302 Dirksen Building

Judiciary
Business meeting on pending legislation and nominations.
2228 Dirksen Building

Select on Small Business
To resume hearings to examine the economic outlook for the small business.
424 Russell Building

NOVEMBER 7

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
1318 Dirksen Building

Labor and Human Resources
To hold hearings on S. 1089, to revise the reporting and recordkeeping requirements under the Employee Retirement Income Security Act (ERISA) and to enforce the IRS Code requirement with respect to pension plans.
4232 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To continue oversight hearings on the implementation of the Rehabilitation, Comprehensive Service, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).
457 Russell Building

10:00 a.m.
Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To resume joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Office Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on H.R. 2797, making technical, clerical, conforming, and clarifying amendments to provisions of the Revenue Act of 1978.
2221 Dirksen Building

NOVEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 1136, to develop an integrated program of financial assistance to provide States and local governments with greater flexibility in handling various environmental programs.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, the National Endowment for the Humanities, and Institute of Museum Services; and S. 1429, authorizing funds through fiscal 1982 for programs under the Museum Services Act.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1273, to restore Federal recognition to certain bands of Paiute Indians.
Room to be announced

10:30 a.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To mark up S. 988, authorizing funds through fiscal year 1983 to increase the effectiveness of research in biomedical sciences.
155 Russell Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

NOVEMBER 9

9:30 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

10:00 a.m.
Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To resume joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on title III, providing aid to developing institutions, of the Higher Education Act.
4232 Dirksen Building

NOVEMBER 13

10:00 a.m.
Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 14

9:30 a.m.
*Commerce, Science, and Transportation
To resume oversight hearings to review proposed technical methods for industrial development.
235 Russell Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
324 Russell Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
324 Russell Building

Governmental Affairs
To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 15

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To resume oversight hearings to examine the scope of the general revenue sharing policy.
3302 Dirksen Building

10:00 a.m.
Governmental Affairs
To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 16

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty

(Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

10:00 a.m.

Finance

Public Assistance Subcommittee

To hold oversight hearings on alleged fraud and mismanagement practices within HEW directed toward erroneous State payments to recipients of the Aid to Families with Dependent Children and Medicaid programs under the Social Security Act.

2221 Dirksen Building

NOVEMBER 20

9:30 a.m.

*Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of the U.S. maritime policy.

235 Russell Building

Select on Indian Affairs

To hold hearings on S. 1730 and 1832, bills to declare certain lands in the States of Arizona and New Mexico to be Indian reservation lands.

Room to be announced

NOVEMBER 26

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1855, authorizing funds through fiscal year 1982 to provide technical assistance for tribally controlled community colleges.

Room to be announced

NOVEMBER 28

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1466, to provide for distribution of certain judgment funds in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma.

Room to be announced

DECEMBER 4

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River and Lake Henshaw, California, to be operated and maintained by specified bands of Mission Indians.

Room to be announced

SENATE—*Tuesday, October 30, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. MAX BAUCUS, a Senator from the State of Montana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Our restless spirits yearn for Thee,
Wher-e'er our changeful lot is cast,
Glad when Thy gracious smile we see,
Blest when our faith can hold Thee fast.

—ANONYMOUS.

Our Father-God, amid the turbulence, peril and change of these uncertain days we lift our prayer to Thee for wisdom and grace. May the words of our mouths and the meditations of our hearts be acceptable in Thy sight. Keep our goals clear, our hearts pure, our spirits courageous, and grant us power to match great needs with great deeds. We pray in that Name that is above every name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 30, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MAX BAUCUS, a Senator from the State of Montana, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BAUCUS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be able to reserve my time under the standing order so as to follow Mr. YOUNG, who has an order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I make the same, identical request to follow with leader time after the distinguished ranking member of the Appropriations Committee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR YOUNG

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Dakota (Mr. YOUNG) is recognized for not to exceed 15 minutes.

S. 1953—A MEDAL FOR LOUIS L'AMOUR

Mr. YOUNG. Mr. President, I send to the desk a bill cosponsored by my colleagues, Senators BURDICK, WALLOP, KASSEBAUM, and THURMOND, which would authorize a specially struck gold medal for Louis L'Amour. This is in recognition of his distinguished career as a very outstanding author and his great contributions to the Nation through his historically based writings.

Louis L'Amour is very well known for his historical novels about the American frontier. Too often we only know of the great names in history, when so many others have done so much to build our country and the character of our people. It is these people whom he honors, by telling in his unique way the actual story of their struggle to survive in the wilderness and their success in shaping a great nation. In the hearts and minds of his readers, Louis L'Amour brings alive the story of this important era.

Although his books are fiction, they are based almost entirely on historical records such as diaries which, through extensive and exhaustive research, he has been able to find. These diaries, which were kept by a high percentage of the pioneers who ventured westward in the warlike Indian territory and other areas, are filled with important history of this very significant chapter in our Nation's past.

I am proud that Louis L'Amour is a native North Dakotan. Born in Jamestown, he grew up listening to stories of the hard and bitter life of the frontier days.

He left home at an early age, traveled extensively and experienced many walks

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

of life which served to enhance his understanding of the settlement of this vast land. He then began his writing career.

With over 95 million books sold, Louis L'Amour is now the best selling author of historically based novels about the American frontier. His 75th book will appear in January, and by June, his sales are expected to total over 100 million.

Millions of people throughout the United States read Louis L'Amour novels, and I understand that many of my colleagues in the Senate are among them. Of equal importance, his works have been translated into 19 languages and are read by an untold number of people around the world. His books are read by people from ages 9 to 98 and from all walks of life. His publisher estimates that each book printed will be read by five people. Successful motion pictures and television programs have been based on his novels.

A large part of Louis L'Amour's success can be attributed to his painstaking attention to detail. Although fictional, his novels are based on actual places, people, and events throughout all areas of the country. History and natural history are woven into the texture of each story. His works are authentic.

Louis L'Amour is an award-winning author. Among his more illustrious awards are the Golden Plate Award of the American Academy of Achievements; the William F. Cody Award; the Theodore Roosevelt Roughrider Award; the Western Writers of America Golden Spur Award; and the University of Oklahoma Professional Writing Award.

Louis L'Amour is an outstanding American. He has dedicated his life to writing the unwritten story of the American frontier. By nominating Louis L'Amour for the national gold medal, we are recognizing his great contributions to the Nation and affirming our continued dedication to our most cherished values. I am sure that when people, especially future historians, look back on his writings, they will find them to be among the most authoritative on the settlement of the American frontier.

Mr. President, innumerable letters expressing great commendations for Louis L'Amour and his work have been received and will be referred to the committee which will consider this bill. I ask unanimous consent to have printed in the RECORD as a part of my remarks the letter I received from the Honorable Arthur A. Link, Governor of the State of North Dakota.

I also ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 1953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to Louis L'Amour, a gold medal of appropriate design in recognition of his distinguished career as an author and his contributions to the Nation through his historically based works. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There are authorized to be appropriated not to exceed $15,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the appropriation used for carrying out the provisions of this subsection shall be reimbursed out of the proceeds of such sale.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

AUGUST 22, 1979.

Hon. MILTON R. YOUNG,
Dirksen Building,
Washington, D.C.

DEAR SENATOR YOUNG: I have been advised that consideration is being given to presenting Mr. Louis L'Amour with the Congressional Gold Medal.

Mr. L'Amour is one of our exceptional North Dakota citizens. I believe he is very deserving of this award and I assure you that such an effort on his behalf has my whole-hearted approval.

I would appreciate anything you can do. Thank you very much for your assistance.

With best regards,

Sincerely yours,

ARTHUR A. LINK,
Governor.

Mr. BURDICK. Will the Senator yield?

Mr. YOUNG. I am happy to yield to my colleague.

Mr. BURDICK. Mr. President, it is a pleasure for me to rise today in support of this legislation proposed by my distinguished colleague, the senior Senator from North Dakota (Mr. YOUNG). Recently, we have witnessed throughout the country a widespread growth in historical inquiry about our past, the many people and cultures who have built our country. The fine writing of Louis L'Amour, native of North Dakota, has made a significant aspect of that history vividly present for the great numbers of people across the Nation who have read his books. I urge my colleagues in the Senate to give favorable consideration to this proposal to acknowledge the memorable work of Mr. L'Amour.

Mr. YOUNG. Mr. President, I ask unanimous consent that the distinguished Senator from Alaska (Mr. STEVENS) be added as a cosponsor of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

● Mr. WALLOP. Mr. President, I am pleased to cosponsor Senator YOUNG's resolution authorizing a specially struck gold medal to Louis L'Amour for his significant contributions in the field of American frontier literature. This award would recognize his distinguished career as an American author who brought the life of the frontiersman to the attention of the American public.

Louis L'Amour is more than a successful writer with over 70 books to his credit. He is an American institution and an integral part of many Americans' understanding of the West. He is a prolific writer of American folklore creating a portrait of the hard working courageous breed of frontiersmen who made the West and helped build the foundations of America. The novels of Louis L'Amour are inspirational, portraying an important era of American history in a vivid manner. Although his books are fiction, he is renowned for his painstaking approach to detail. Each of his books maintains the high quality of historical detail and offers substantive accounts of actual occurrences.

Louis L'Amour has received numerous awards of distinction for his outstanding work in the area of frontier literature: The Theodore Roosevelt Rough Riders Award; the Old West Trail, William F. Cody Award; the Golden Plate Award from the American Academy of Achievement; the Western Writers of American Golden Spur Award; and the University of Oklahoma Professional Writers' Award.

Louis L'Amour is devoted to the glorious history of America and its value to our future. Through his writings Americans have gained a better understanding of our heritage. With worldwide sales of over 95 million books in 19 foreign languages, Louis L'Amour is the authority of the American West and the American dream of courage and expanding horizons. For countless people around the world the details of the early American life of the West have come alive and because of them America and the ideal of courage and decency have come to have one meaning. He deserves the honor and recognition of his countrymen. He has done much to further the spirit of America both at home and abroad.●

Mr. YOUNG. Mr. President, I want to read into the RECORD an important statement by my distinguished friend, Senator GOLDWATER.

Mr. President, it is no exaggeration for me to say I believe I have read every book or story that Mr. Louis L'Amour has written. Being a native westerner living in the part of the country where most of his stories have been written about, I can attest to their accuracy. He is a most unique author, thorough, well versed, knowledgeable, and tells a story in a fascinating way. I am happy to join Senator YOUNG in his commendations to this well deserving man.

Mr. President, I recently received a copy of the book, "Arizona." It is a beautifully done book, with gorgeous pictures by David Muench. The most interesting text was written by our colleague, BARRY GOLDWATER. It is an outstanding book. The prolog to it was also written by Senator GOLDWATER about his grandfather and his grandfather's brother, who came to this country in the middle of the last century and were among the first to go to Arizona. This prolog by Senator GOLDWATER is a fascinating story of how the Goldwaters first settled in Arizona. They were among the first to settle there and so typical of American pioneers.

I ask unanimous consent that that be printed in the RECORD also as a part of my remarks.

There being no objection, the prolog was ordered to be printed in the RECORD, as follows:

PROLOGUE

Having been born in the territory of Arizona and having lived in the State all my life, I feel well qualified to serve as a spokesman for Arizona, to praise its splendors, to celebrate the spirit of its people. My family's roots reach far back into Arizona's past, and both sides of my family embody the pioneer spirit that made possible the settlement and growth of the state.

My father's father, Michael Goldwater, was impelled not only by the enterprising spirit that drove people west to make new lives for themselves on the frontier, but also by the yearning for religious freedom and a democratic way of life that led so many Europeans to leave the world of their fathers and cast their lot with the New World. "Big Mike" and his brother Joseph left their native Poland and, after brief stays in Germany and England, came to the United States in 1852. Once in this country, they became part of the great wave of emigrants who were lured to the California goldfields. In England they had worked as capmakers, and they started out in a humble way in America too, selling goods to men at the mining camps. My grandfather decided to move on once more, to what would become Arizona Territory, and later my greatuncle joined him. In Arizona the two brothers pulled themselves up by their bootstraps, as the saying goes, progressing from peddling to merchandising on a much larger scale. They opened a mercantile store in Prescott in 1872, and as it grew it branched out into other cities. My father, Baron Goldwater, carried on the family's flair for merchandising.

Goldwaters were involved in the early political life of Arizona as well as in its early commercial life. Both my grandfather and my uncle Morris served as mayor of Prescott, my grandfather briefly and my uncle for many years. Morris was chairman of the Central Territorial Committee, vice-president of the state Constitutional Convention in 1910, and later served as a state senator.

My mother, Josephine Williams Goldwater, was the daughter of parents who had traveled from Illinois to Nebraska in a covered wagon. Born in Nebraska, she carried the pioneering spirit in her very blood. She came to Arizona to recover from tuberculosis, and the climate here completely restored her health. She brought along with her her own nursing background, having earned an R.N. degree in Chicago, and I believe she was Arizona's first registered nurse. It was my mother who gave me my wanderlust and my love of the out-of-doors. We used to travel around the state in every conveyance known to man, and she taught my brother, sister, and me how to shoot, fish, camp out, and be strong. Above all, she imparted to me her great affection and respect for this state.

As for myself, I carry on the heritage of love for Arizona that was transmitted to me by my father and my mother. I was born in Phoenix on January 1, 1909, when Arizona was still a territory, so I grew up along with the state. I have followed my uncle's example in choosing to serve Arizona in a political capacity, entering politics in 1949, when I was elected to the City Council of Phoenix. In 1952 I began my career in the U.S. Senate.

Before going further, I would like to acknowledge the help I received on this book from the following people: my secretary, Judy Eisenhower, who typed the rough drafts from my notes and comments; Dot Roberson, who worked through several versions of the manuscript; and Earl Eisenhower, who helped me verify the contents.

Mr. YOUNG. Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, I am delighted to join my distinguished colleague from North Dakota in cosponsoring his bill to create a gold medal honoring Louis L'Amour.

Louis L'Amour is a man of the West. Born in North Dakota, he has ranged over the entire West from Texas to Alaska. His books, detailing the struggles and challenges of the pioneers, who tied the oceans together into one Nation, are popular almost beyond imagination. Over 70 million books bear his name.

L'Amour depicts the real West—not the West of television but the West as it was with tough and rugged people struggling to survive and prosper. His demand for authenticity has led him to compile detailed biographies of over 1,000 gunfighters—a work which is of significant historical value itself.

As a writer of the West, L' Amour has detailed the westward expansion of the country, the desire of the pioneers for freedom and a fair chance to build their lives. The settling of the Nation has had a profound effect on the nature of the American spirit. There are now very few places left to be settled; few frontiers to be explored. My State prides itself on being the last frontier and L'Amour has written of our experience in his great novel "Sitka." But as we look back on those years of discovery, exploration and settlement, we should honor the man who has brought it all to life so vividly. As we honored John Wayne, we should honor Louis L'Amour for his important contribution to the American scene. I urge the Senate to promptly enact this bill.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, does the Senator yield back his time?

Mr. YOUNG. Yes.

Mr. ROBERT C. BYRD. I ask unanimous consent that the time yielded back by Mr. YOUNG be evenly divided between Mr. BAKER and myself.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I yield 3 minutes of my time to Mr. RIEGLE and the remainder of my time, which I think would approximate 10 minutes, I yield to Mr. SASSER.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. RIEGLE. I thank the majority leader for yielding his time to me.

CHRYSLER LOAN GUARANTEE ACT, S. 1937

Mr. RIEGLE. Mr. President, on October 24 I introduced the Chrysler Loan Guarantee Act, a bill to provide carefully controlled financial assistance to the Chrysler Corp. and therefore avoid the massive economic dislocation that would result from the collapse of the Nation's 10th largest industrial firm.

I am pleased that I have been joined in cosponsoring this bill by the distinguished Senators LEVIN, NELSON, BAYH, DANFORTH, EAGLETON, KENNEDY, MATHIAS, MCGOVERN, and MOYNIHAN. I expect other names to be added to the list soon.

The bill would create a tripartite board composed of the Secretary of the Treasury as chairman, and the Secretaries of the Departments of Labor and Commerce. The board would have the authority to guarantee loans to the corporation within the guidelines established by the legislation.

Before providing assistance to Chrysler, the board would have to find that the company has an actual need for loans. that failure to meet this need would adversely affect the economy or employment in the United States or any major region of the United States, that credit is not otherwise available, and that the lender would not make the loans without a Government guarantee.

Guaranteed loans could extend for up to 10 years and bear interest at rates controlled by the board. The board could impose guarantee fees and design other arrangements to compensate the taxpayers for any administrative expenses or risks incurred by the guarantee.

The bill would protect the Government's interest by requiring the full collateralization of any guaranteed loans, the suspension of payments to stockholders and certain lenders, the audit of Chrysler records by GAO and the imposition of other stringent protections. The board could require appropriate managerial and financial reforms of Chrysler before guaranteeing any loan. Moreover, the board would be authorized to take actions necessary to insure that unguaranteed lenders and other parties maintain or increase their current levels of support to the corporation.

The Board's authority to extend guarantees would terminate on December 31, 1983. A ceiling on outstanding loan guarantees would be established after the issue of suitable assistance levels is studied in Banking Committee hearings.

The bill would provide $250 million or 25 percent of the guarantee aid through an Employee Stock Ownership Plan (ESOP).

Mr. President, I ask unanimous consent that the full text of S. 1937 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Chrysler Corporation Emergency Loan Guarantee Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress hereby finds that—

(1) the domestic automotive industry is one of the most important segments of the economy of the United States;

(2) the jobs of millions of Americans depend upon the economic viability of the automotive industry;

(3) such industry provides work for automobile management and production employees, automobile dealers, employees of parts and equipment suppliers, and the owners and employees of many other related businesses;

(4) the increasing dependence of the United States on imported petroleum has forced the development of a national energy policy which requires a reduction in the consumption of gasoline;

(5) the continued and expanded domestic production of safe and fuel-efficient automobiles is necessary to the implementation of such national energy policy;

(6) the Chrysler Corporation, the Nation's third largest automobile manufacturer, is suffering severe losses and, without assistance from the Federal Government, the Chrysler Corporation faces financial collapse;

(7) such collapse would mean that thousands of employees would lose their jobs and the Federal Government and the many communities affected by the closing of Chrysler Corporation facilities would suffer a loss of revenue and an increase in expenditures;

(8) such collapse would also have a significant impact on the economy of the United States; and

(9) it is in the public interest for the Federal Government to assist in maintaining the jobs and productive capability of the Chrysler Corporation since such assistance will help to maintain a strong and competitive domestic automobile industry.

(b) It is the purpose of this Act—

(1) to prevent the severe impact on the economy of the United States and regions thereof that would result from the collapse of the Chrysler Corporation;

(2) to facilitate the return of the Chrysler Corporation to a position of financial viability;

(3) to maintain a strong and competitive domestic automotive industry.

ESTABLISHMENT OF THE BOARD

SEC. 3. There is established an Emergency Loan Guarantee Board (hereinafter referred to as the "Board") composed of the Secretary of the Treasury, who shall be the Chairman of the Board, the Secretary of Labor and the Secretary of Commerce. Decisions of the Board shall be made by majority vote.

AUTHORITY

SEC. 4. The Board, on such terms and conditions as it deems appropriate, may guarantee, or make commitments to guarantees, lenders against loss of principal or interest on loans which are guaranteed under this Act and may enter into such other contracts as it deems necessary to carry out the provisions of this Act.

LIMITATIONS AND CONDITIONS

SEC. 5. (a) Subject to section 6, the Board may make a guarantee under this Act only if—

(1) the Board finds that (A) the loan is needed to enable the Chrysler Corporation (hereinafter referred to as the "enterprise") to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy of or employment in the Nation or any region thereof, (B) credit is not otherwise available to the enterprise under reasonable terms or conditions, and (C) the prospective earning power of the enterprise, together with the character and value of the security pledged, furnish reasonable assurance that it will be able to repay the loan within the fixed time, and afford reasonable protection to the United States; and

(2) the lender certifies that it would not make the loan without such guarantee.

(b) A loan guaranteed under this Act shall be for a term determined to be reasonable by the Board, but not to exceed ten years.

(c) A loan guaranteed under this Act shall bear interest at a rate determined by the Board, taking into account the reduction in risk afforded by the loan guarantee and rates charged by lending institutions on otherwise comparable loans.

(d) The Board, in connection with each loan guaranteed under the Act, shall prescribe and collect a guarantee fee that is sufficient to compensate the government for all of the government's administrative expense related to the guarantee.

(e) The Board shall ensure that the government, to the maximum extent feasible, is compensated for the risk assumed in making a guarantee under this Act. Such compensation may be provided through one or more of the following means:

(i) a guarantee fee in addition to the fee required by Section 5(d) of this Act; and

(ii) other methods deemed appropriate by the Board.

EMPLOYEE STOCK OWNERSHIP PLAN REQUIREMENTS

SEC. 6. (a) In order to be eligible for the loan guarantee provided under this Act, the enterprise (referred to in this section as the "employer") shall establish in writing an employee stock ownership plan—

(1) which satisfies the requirements of section 4975(e)(7) of the Internal Revenue Code of 1954, and which acquires qualifying employer securities (as described in section 4975(e)(8) of such Code and paragraph (3) below), using all or portion of the proceeds of a guaranteed loan provided for in this Act,

(2) which is administered by a committee consisting of—

(A) 2 representatives of the employer,

(B) 2 representatives of employees who are participants in this plan,

(C) 1 representative of the trustee of the plan, and

(D) 2 representatives designated, one each, by the Secretary of the Treasury and the Secretary of Labor,

(3) which, will acquire only qualifying employer securities which—

(A) meet the requirements of section 409A(1)(3) of such Code, and

(B) are convertible to common stock (which meets the requirements of section 409A (l)(1) of such Code, at a price equal to its fair market value as of October 23, 1979, at the direction of the committee,

(4) under which qualifying employer securities having an aggregate value of not less than the greater of—

(A) $350,000,000, or

(B) an amount equal to 25 percent of the amount of the loan guarantee provided for in section 10 of this Act, will be purchased with the proceeds of a loan described in this Act and in section 4975(d)(3) of such Code,

(5) under which the employer agrees to make annual contributions sufficient to permit the plan to amortize such loan,

(6) which provides that each participant will have a nonforfeitable interest in all amounts allocated to the participant's account under the plan, and

(7) which provides for the allocation for each plan year of all qualifying employer securities transferred to it or purchased by it (or, with regard to qualifying employer securities acquired pursuant to paragraph (4) released from the appropriate suspense account and allocated to the accounts of all participants who are entitled to share in such allocation in substantially equal amounts.

(b) Notwithstanding the provisions of paragraph (3), at any time after the transaction contemplated by this section occurs, the plan may also purchase, or the employer may contribute to the plan, qualifying employer securities which are described in section 4975(4)(8) of such Code.

(c) Notwithstanding section 3(21) of the Employee Retirement Income Security Act of 1974, the Secretary of the Treasury and the Secretary of Labor shall not be deemed to be fiduciaries with respect to the plan described in this section.

SECURITY FOR LOAN GUARANTEES

SEC. 7. In negotiating a loan guarantee under this Act, the Board shall make every effort to arrange that the payment of the principal of and interest on any plan guaranteed shall be secured by sufficient property of the enterprise to collateralize fully the amount of the loan guarantee.

REQUIREMENTS APPLICABLE TO LOAN GUARANTEES

SEC. 8. (a) A guarantee agreement made under this act with respect to the enterprise shall require that, while there is any principal or interest remaining unpaid on a guaranteed loan to the enterprise, the enterprise may not—

(1) declare a dividend on its common stock; or

(2) make any payment on its other indebtedness to a lender whose loan has been guaranteed under this act.

The Board may waive either or both of the requirements set forth in this subsection, as specified in the guarantee agreement covering a loan to any particular enterprise, if the Board determines that such waiver is not inconsistent with the reasonable protection of the interest of the United States under the guarantee.

(b) If the Board determines that the inability of the enterprise to obtain credit without a guarantee under this act is the result of a failure on the part of management to exercise reasonable business prudence in the conduct of the affairs of the enterprise, the Board shall require, before guaranteeing any loan to the enterprise, that the enterprise make such managerial and fiscal changes and develop such long-range managerial and fiscal plans as the Board considers necessary to give the enterprise a sound managerial and fiscal base.

(c) A guarantee of a loan to the enterprise shall not be made under this act unless—

(1) the Board has received an audited financial statement of the enterprise; and

(2) the enterprise permits the Board to have the same access to its books and other documents as the Board would have under section 9 if the loan were guaranteed.

(d) No payment shall be made or become due under a guarantee made under this act unless the lender has exhausted all remedies which it has under the guarantee agreement.

(e)(1) Prior to making any guarantee under this act, the Board shall satisfy itself that the underlying loan agreement on which the guarantee is sought (A) contains all the affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the enterprise, and (B) cannot be amended, or any provisions waived, without the Board's prior consent.

(2) On each occasion when the enterprise seeks an advance under the loan agreement, the guarantee authorized by this Act shall be in force as to the funds advanced only if—

(A) the lender gives the Board at least ten days notice in writing of its intent to provide the enterprise with funds pursuant to the loan agreement;

(B) the lender certifies to the Board before an advance is made that, as of the date of the notice provided for in subparagraph (A), the enterprise is not in default under the loan agreement, except that if a default has occurred the lender shall report the facts and circumstances relating thereto to the Board and the Board may expressly and in writing waive such default in any case where it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee;

(C) the enterprise provides the Board with a plan setting forth the expenditures for which the advance will be used and the period during which the expenditures will be made, and, upon the expiration of such periods, reports to the Board any instances in which amounts advanced have not been expended in accordance with the plan; and

(D) the enterprise provides the Board with a plan which demonstrates that such expenditures will contribute to the domestic economic viability of the enterprise.

(f) (1) A guarantee agreement made under this Act shall contain a requirement that as between the Board and the lender, the Board shall have a priority with respect to, and to the extent of, the lender's interest in any collateral securing the loan and any earlier outstanding loans. The Board shall take all steps necessary to assure such priority against any other person.

(2) As used in paragraph (1) of this subsection, the term "collateral" includes all assets pledged under loan agreements and, if appropriate in the opinion of the Board, all sums of the enterprise on deposit with the lender and subject to offset under title 11 of the United States Code.

INSPECTION OF DOCUMENTS; AUTHORITY TO DISAPPROVE CERTAIN TRANSACTIONS

SEC. 9. (a) The Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents of the enterprise concerning any matter which may bear upon (1) the ability of the enterprise to repay a guaranteed loan within the time fixed therefor; (2) the interests of the United States in the property of the enterprise; and (3) the assurance that there is reasonable protection to the United States. The Board is authorized to disapprove any transaction of the enterprise involving the disposition of its assets which may affect the repayment of a loan that has been guaranteed pursuant to the provisions of this Act.

(B) The Comptroller General of the United States shall make a detailed audit at least annually of all accounts, books, records, and transactions of the enterprise with respect to which an application for a loan guarantee is made or is outstanding under this Act. The Comptroller General of the United States shall report the results of such audit to the Board and to the Congress no later than 90 days after such audit is completed.

MAXIMUM OBLIGATION

SEC. 10. The value of loans guaranteed under this Act shall not exceed amounts set in advance in appropriations Acts, provided that the maximum obligation of the government under all outstanding loans guaranteed by the Board shall at no time exceed $——.

EMERGENCY LOAN GUARANTEE FUND

SEC. 11. (a) There is established in the Treasury an emergency loan guarantee fund to be administered by the Board. The fund shall be used for the payment of the expenses of the Board and for the purpose of fulfilling the Board's obligations under this Act. Monies in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

(b) The sums realized from the guarantee fees required by section 5 of this Act shall be deposited in the emergency loan guarantee fund.

FEDERAL RESERVE BANKS AS FISCAL AGENTS

SEC. 12. Any Federal Reserve Bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

PROTECTION OF GOVERNMENT'S INTEREST

SEC. 13. (a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this Act. Any sums recovered pursuant to this section shall be paid into the emergency loan guarantee fund.

(b) The Board shall be entitled to recover from the enterprise, or any other person liable therefor, the amount of any payments made pursuant to any guarantee agreement entered into under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(c) The Board shall make every reasonable effort to ensure that lenders and other persons maintain their unguaranteed financial assistance to the enterprise at or above the highest level provided during the period beginning on October 1, 1978 and ending on October 31, 1979.

REPORTS

SEC. 14. The Board shall submit to the Congress annually a full report of its operations under this Act. In addition, the Board shall submit to the Congress a special report not later than six months after date of enactment, which shall include a full report of the Board's operations together with its recommendations with respect to the need to continue the guarantee program beyond the termination date specified in section 15. If the Board recommends that the program should be continued beyond such termination date, it shall state its recommendations with respect to which agency should administer the program.

TERMINATION

SEC. 15. The authority of the Board to enter into any guarantee or to make any commitment to guarantee under this Act terminates on December 31, 1983. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this Act prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act.

RECOGNITION OF SENATOR SASSER

The PRESIDING OFFICER (Mr. HEFLIN). The Senator from Tennessee is recognized for 10 minutes.

Mr. SASSER. Mr. President, I wish to express my appreciation to the distinguished majority leader for yielding his time this morning to me and my distinguished colleague from Montana.

THAILAND REFUGEES

Mr. SASSER. Mr. President, last week Senator DANFORTH, the distinguished and able Senator from Missouri, Senator BAUCUS, my able friend from Montana, and I were dispatched to Southeast Asia by the leadership of the Senate. We were sent to that area initially on a fact-finding mission to determine the true status of refugees in Thailand and also in an effort to understand and report back to the Senate what is happening in Cambodia.

It was stressed to us, Mr. President, that ours was a humanitarian mission. We attempted to keep political considerations totally and completely out of our efforts.

We arrived in Thailand and went immediately to visit three refugee concentration areas along the Thailand-Cambodian border.

I use the term "refugee concentration areas" advisedly because I do not think we could dignify these gatherings of miserable people with the term "refugee camps."

What we found there was beyond my worst imagination. We found people who were suffering from the final stages of malnutrition. We found disease in these refugee concentration areas to be rampant. Eighty percent of the people were suffering from malaria. Tuberculosis was affecting many of the people in these camps. Intestinal disorders, particularly amebic dysentery, were widespread.

We walked through the makeshift hospitals, which were nothing more than people lying side by side on the ground. These "hospitals" consisted of plastic sheets which were held up by roof poles which had been cut in an effort to give the people lying on the ground some minimum of comfort.

We found lying in these hospitals the dead and the dying together. We saw many young children suffering from the final stages of malnutrition. We saw babies in mothers' arms obviously either dying from malnutrition or dying from disease. We saw mothers with babes in arms who could not breast-feed the babies because the mothers themselves were too malnourished to produce milk for the children.

What we are seeing, Mr. President, is the possible extinction of an entire race of people, the Khmer race.

I might say that at a time when the British Isles had a population of 3 million, there were 14 million Khmers, and there was a Khmer Empire in Southeast Asia in the 13th century. They are a proud and gentle race of people. But they are slowly starving to death and dying by disease day by day.

In the poor areas of Thailand, there are presently over 200,000 refugees living in the most miserable conditions imaginable.

We saw people lying in fields too weak to move any further. We saw people too weak to make the last 100 or 200 yards to the makeshift hospitals and too weak to go to the area where food was being parceled out.

We did see some good work being done there. The international relief agencies, particularly UNICEF the ICRC, the International Red Cross, were doing what they could in these areas. The Catholic Relief Organization, the relief arm of the Southern Baptists, and other nondenominational relief organizations, were working effectively and with great devotion.

After visiting the three refugee concentration areas, my colleagues and I met with Prime Minister Kriangsak of Thailand and we expressed to the Prime Minister our appreciation for his magnanimous gesture in granting at least temporary asylum to these miserable people who were fleeing across the border from Cambodia into Thailand.

We also met with the Vietnamese Secretary of State for Foreign Affairs, Mr. Thach, and from there journeyed to Phnom Penh for a meeting with Phnom Penh's Foreign Minister.

We were told by all of the responsible officials in the area that it would take a minimum of 30,000 tons of food a month, food and medicine, to relieve and to alleviate the conditions in Cambodia.

Presently, only 12,000 tons per month can be delivered by ship or by aircraft.

We were told that it was imperative that a land route or a land bridge be opened from Thailand, moving into Cambodia.

We were also told that 500 trucks could

be moving in the space of 3 to 5 days, bringing food and medicines into Thailand, along Highways 5 and 6, running from the border of Thailand to Phnom Penh.

We discussed with the Vietnamese Secretary of State for Foreign Affairs the feasibility of moving these trucks along these routes. We asked him if the Vietnamese Army, which has many divisions operating in that particular area, would guarantee the safety and security of the trucks. The response was that security would be—and I quote Mr. Thach precisely—the response was that security would be no problem. That is a direct quotation.

He stated further that the decision was up to the authorities in Phnom Penh. If they asked the Vietnamese to protect the trucks, the Vietnamese Army would do so.

We journeyed the next day to Phnom Penh. We met there with the foreign minister and discussed with him the possibility of opening the truck route. The authorities in Phnom Penh freely admitted to us they could not feed 2,250,000 of their own people. They told us that in 1969, the population of Kampuchea or Cambodia, stood at 8 million. Today, the population stands at approximately 4 million. With the rice harvest which the Kampuchean, or Cambodian authorities will harvest in November of this year, they feel that they can feed 1,750,000 of their people, but this leaves 2,500,000 without adequate food.

They also conceded that malaria was raging at epidemic proportions. They admitted that tuberculosis had infected many of their people.

When we met with the Foreign Minister at Phnom Penh, my able colleagues and I emphasized that ours was a purely humanitarian mission, that we had no wish to enter into the political considerations which might have visited this disaster on the people of Cambodia and, indeed, on the people of Southeast Asia.

As persuasively as we could, we argued that this land route should be open in order to save the people of Cambodia.

The response we received in Phnom Penh that afternoon we thought was encouraging. The Foreign Minister indicated to us that he would take up this matter with the Central Committee and that he would advise us.

We asked the Foreign Minister to be an advocate for our cause, to be an advocate for our point of view, and in doing so be an advocate for the starving people of Cambodia. We now have received what appears to be a negative response from the authorities in Phnom Penh.

With every day that passes, thousands of people—men, women, and children—are perishing from starvation. They are perishing from the ravages of malaria, tuberculosis, amebic dysentery.

We submit, Mr. President, that the authorities in Phnom Penh must take the responsibility for the thousands who are dying every day.

Just yesterday, Senator DANFORTH, Senator BAUCUS, and I journeyed to New York, to meet with the Secretary General of the United Nations, Mr. Kurt Waldheim. Mr. Waldheim assured us that he wished to do all in his power to bring relief to the people of Cambodia. He also indicated to us that he would support wholeheartedly a land bridge or a land route to bring supplies into Cambodia.

Mr. President, something must be done. The authorities in Phnom Penh have the ability to do that by saying one simple word, and that simple word is "yes."

Mr. President, I ask unanimous consent to have printed in the RECORD our report on the refugee situation in Thailand and Cambodia.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE REFUGEE SITUATION IN THAILAND AND CAMBODIA

OVERVIEW

We went on this humanitarian mission at the direction of the leadership of the Senate and the President of the United States. We went to see first-hand the nature of the refugee problem, to learn what more should be done, and to report our findings.

Over the past few days, we have witnessed a human tragedy of enormous and unfathomable proportions. Without a massive and prompt international relief effort, the situation will continue to deteriorate. Inside Cambodia today, and in refugee camps located in the Thailand near the Cambodian border, hundreds of thousands of Cambodians face death by starvation and disease. The survival of the Khmer race is in jeopardy.

At three refugee camps on the Thai-Cambodian border, we saw human suffering of a kind so deep and pervasive as to defy our ability to describe it adequately.

We walked through encampments of thousands of Khmer who stared at us in silence. No one smiled, and no one laughed. Indeed, they seldom spoke to each other. We saw the swollen bellies and stick-like legs of children suffering from acute malnutrition. Even at the hospital areas where physical suffering was greatest, they didn't cry. We saw people protected from elements by only a plastic sheet strung up on sticks.

In makeshift hospitals, we walked among hundreds of comatose patients, crawling with flies. The people were suffering from prolonged malnutrition and malaria. We were told by those to whom we talked that the conditions were even worse on the Cambodian side of the border. Only the strongest survive the trip across the border.

Yet, amidst this appalling scene of human suffering, we had reason to feel a degree of encouragement. The government of Thailand has magnanimously promised to permit entry to all refugees who arrive at the border. The relief efforts by international organizations are beginning to provide food, medical supplies, and personnel. The international relief agencies are making a valiant effort to bring aid to those in need of assistance, but their efforts are still inadequate. The voluntary agencies stand ready to increase their assistance as soon as it is possible.

We are absolutely convinced that a practical means exists to provide the food and medical supplies needed to save hundreds of thousands of lives. That means is the immediate establishment of an overland route—a "land bridge" linking Cambodia to relief supplies in Thailand. The international relief agencies estimate that as many as 2.25 million Cambodians face serious food shortages. They estimate that nearly 30,000 tons of food and medical supplies are required to meet this need each month. Currently only 12,000 tons can be brought in by sea, and 300 by air per month. This is less than half the estimated need. The establishment of an overland route could, within three to five days, more than double the current capacity.

During our visit, we devoted much of our energies seeking to establish this "land bridge". We discussed it with Thaland's Prime Minister Kriangsak, with Vietnamese Vice Foreign Minister Thach, and with representatives of the international relief agencies. We traveled to Phnom Penh to discuss the land bridge with the authorities there. We were encouraged by what we heard. The challenge now is to open the overland route. The decision currently rests with the Phnom Penh authorities. We are committed to prepare to pursue this goal anywhere and on an urgent basis. To delay is to prolong the suffering and loss of life we have seen.

A more detailed description of our experiences, our findings, and our recommendations follows.

Conditions in the refugee camps

We visited three refugee areas located at Khlong Gai Thuen, Tap Phrik and Nong Samet. More than 150,000 people were in those areas and estimates are that another 100,000 to 200,000 are concentrated just inside the Cambodian border. Persons of all descriptions, including some former combatants wander across the border into the areas. Intensified fighting or continued lack of food may force additional Cambodians across the border in the days and weeks ahead.

In the areas visited, we saw children near death from acute malnutrition and disease. We saw men and women lying on the ground in makeshift "hospitals." We saw people too weak to walk the last hundred yards to food distribution points. The eerie quiet strikes a visitor. Emaciated and sick people lay on the ground in a silence interrupted only by the coughs of those with tuberculosis.

These areas are not "camps." They are places where people stopped running from war and deprivation inside Cambodia. They have no sanitary facilities, little water, and little shelter. "Hospitals" are places where the very ill and the dying lie on the ground. We were told that 5 to 10 per cent of the people in the hospital die every day. A large portion are beyond help and some of those we saw last Monday are not alive today.

Food distribution points, operated by a variety of relief agencies are scattered through the areas. Those strong enough to walk to the distribution points are fed. Those who cannot, go hungry, unless relatives or friends help. The social order among these people has so deteriorated that they are not helping those outside their immediate family group.

The principal constraint in the effort to aid the refugees in the areas we visited is insufficient staff. We were told by physicians in the camps that they had adequate medical supplies and food but they did not have enough people to distribute either. Without adequate staff, there is no organized system for allocating and distributing supplies of food or medicine.

Conditions in Cambodia

Our nine-hour visit to Cambodia enabled us to observe the rice planting situation around the capital, to see the condition of the city, and to test the reaction of both government cadre and ordinary people to discussions with a delegation of Americans. In addition we met with the Heng Samrin regime's Foreign Minister to make a specific proposal that Phnom Penh permit the International Red Cross (ICRC) and the United Nations Children's International Emergency Fund (UNICEF) to truck emergency food and medical supplies from Thailand to Cambodia.

Phnom Penh authorities received us courteously and hospitably. Our guide for the day was a middle-level Foreign Ministry Of-

ficial. On the streets we were met with curiosity, friendliness, and a few suspicious looks.

The shambles that was Phnom Penh can hardly be called a city. The rundown condition of this once-graceful city betrays both the neglect of the past four years and deliberate destruction by the previous regime; both the National Bank and the Roman Catholic Cathedral were destroyed, presumably for political reasons. Phnom Penh residents estimate that its population is between 30,000 and 70,000. A few vehicles travel the deserted streets. Whole sections of the town are still barricaded shut. We saw few foreigners.

Rice is scarce. In the capital, in the absence of currency, a small can of rice acts as the medium of exchange for the few street hawkers we saw. No organized central market exists. Food is distributed through local street markets. The former Central Market area has been planted in coconuts. Our brief aerial view of agricultural areas around Phnom Penh showed small plots of vegetables and many fields of rice. A large number of paddies remain fallow. This, combined with the comments of more knowledgeable international officials and short interviews with passers-by during our tour of the city, leads to conclude that the government's claim that 2.0 million acres of rice have been planted is too optimistic.

ICRC/UNICEF officials in Phnom Penh confirmed the desperate food situation of the country. To date their programs have dealt successfully with hospital and supplementary feeding. Only very recently have the two agencies been faced with the logistical problems created by bulk arrivals of rice.

There was general agreement that approximately 30,000 tons of rice per month are needed inside Cambodia. The best estimate we heard was that under current circumstances only 13,000 to 15,000 tons of food stuffs could be moved inside Cambodia. Transportation within Cambodia is the major problem. Less than 5,000 tons of food per month can now be moved from the port of Kompong Som. The port of Phnom Penh has the potential to handle an additional 8,000 tons if inland transportation is available. The present airlift to Phnom Penh adds only fractionally to available supplies.

CONCLUSIONS

Our principle conclusion is that thousands of Cambodians will die unless a massive expansion of relief efforts proceeds on an emergency basis.

This finding is based on our personal observation of refugees, our discussions with the international relief agencies, and our discussions with the Phnom Penh authorities.

Our interviews indicated that as many as two-thirds of those who try to reach Thailand from Cambodia may not make it. They die along the way from starvation and disease. Given the conditions in Cambodia, we expect the flow of refugees to continue into Thailand. The need to provide assistance will accelerate in the months to come.

The refugee problem is compounded by the arrival of large numbers of Lao who further flood the refugee camps. Reports of an extensive shortfall of food in Laos will undoubtedly increase the refugee flow from there unless relief is available at the source.

The most serious problem inside Cambodia and along the border with Thailand is the lack of sufficient food and medical supplies. Under the best circumstances, the shortfall in total supplies is about 15,000 tons per month. The current situation is even worse, and not likely to improve much in the near future.

We have concluded that this condition need not exist. There is a practical solution which can be implemented immediately. An all-land route can be opened between the Thai border and Phnom Penh along highways 5 and 6.

This plan could increase transport capacity by as much as 1,000 tons per day within three to five days of the opening of the route into Cambodia.

The essential considerations for opening such a route were: first, security of the shipments; and second, authorization and cooperation from the authorities involved, i.e., the international agencies, the Thai government, the authorities in Phnom Penh, and the Vietnamese.

In an effort to open up the land route to Cambodia, we met with the head of government of the Thai kingdom; a representative of the Socialist Republic of Vietnam; representatives of the Phnom Penh authorities; and representatives of the international agencies.

Meetings with the voluntary agencies

We met with representatives of UNICEF, the ICRC, and the World Food Program (WFP). They agreed unanimously that the key to solving the situation inside Cambodia and on the Thai border was to establish a land bridge. They stand ready in every way to implement the planning and shipment of the needed supplies. Other aspects of those meetings appear throughout the report as appropriate.

Meeting with Thailand's Prime Minister Kriangsak Chomanan

At the time of our meeting, we were just beginning to explore the possibilities of a land bridge to Cambodia via the road from Aranyaprathet near the Thai-Cambodian border. The Prime Minister was totally supportive of the idea.

He felt that adequate quantities of most of the needed supplies were available in Thailand. He also expressed the view that there were enough trucks in Thailand to send convoys in immediately.

The dominant subject of our meeting was the desperate situation of the Cambodian refugees. The day before our meeting with the Prime Minister, he had taken a trip to the border and had witnessed first-hand the suffering. He said he had been touched by this experience and had decided to open the border to admit all refugees from Cambodia. This was an unpopular decision, he said, because it would result in the displacement of 60,000 Thais.

The Prime Minister told us that he was planning to move the refugees from the border to a nearby holding area. In fact, the movement of the refugees began before we left Thailand. It should be noted that the Prime Minister made it clear to us that the fleeing Cambodians would be granted only temporary status.

He expressed hope that it would be possible for the Khmer to return home when conditions improve. He was not optimistic that this would occur soon. He told us that he welcomed the growing involvement and support of the international relief agencies. He stressed the importance of close coordination of that effort.

We expressed our appreciation and gratitude for the Prime Minister's humanitarian policy toward the refugees, notably his decision to allow unlimited entry to the Khmer.

Meeting with Nguyen Co Thach of the Socialist Republic of Vietnam

At the Vietnamese Embassy in Bangkok we met with Secretary of State for Foreign Affairs Nguyen Co Thach. We explained that we did not want to raise political questions. We expressed our appreciation for his help in obtaining a favorable reply to our request to visit Phnom Penh. We noted that our purpose for wanting to visit Phnom Penh was to meet with representatives of the international relief agencies and get a more complete view of the problems of refugees. We emphasized in our discussions that U.S. assistance to needy Cambodians would be provided through the international organizations.

We asked Mr. Thach if his government would cooperate in providing security for truck convoys on an overland route between Thailand and Cambodia. He replied first by saying that he could not speak for the Cambodian people. But, he added: "If the Cambodian people or the Cambodian government asked us for help we will agree. There is no problem on this. You can be sure any humanitarian actions without ulterior motives we will welcome."

Mr. Thach emphasized that the truck convoy proposal was no problem for his government, but was a question that had to be addressed by Phnom Penh. He said that Vietnamese troops would not fire on trucks that were on humanitarian missions.

Meeting with the officials in Phnom Penh

We presented the proposal for a land route to Phnom Penh's Foreign Minister, emphasizing the humanitarian need and our desire to make political considerations secondary to the fundamental problems of life and death. With regard to the security of food convoys, he agreed that Phnom Penh could insure security for the shipments and drivers. He said that he would take the proposal to the Central Committee for decision. In the meantime, relief supply by sea and air should continue. We urged him to recommend the speedy and favorable decision. We pointed out that to delay is to prolong the human suffering.

Subsequently Hun Sen issued the following statement to the press: "In case of a substantial increase in the aid, we are ready to study with the two organizations the improvement of our means of reception and transportation and to think about other access routes in case of need." We view his statement as a positive reference to the land bridge because the only way practical of substantially increasing aid is by a truck route along highways 5 and 6.

Our Ambassador in Bangkok has been in contact with officials of ICRC/UNICEF requesting that they follow through on this directly with the officials in Phnom Penh.

RECOMMENDATIONS

1. The United States should provide strong support for the creation of a "land bridge" operated by the ICRC and UNICEF to bring food and medicine into Cambodia. We should strive to do the following:

Achieve agreement to permit up to 1,000 tons of food and medical supplies to be carried daily by truck into Cambodia from Thailand;

Acquire by lease or purchase a sufficient number of trucks to establish the necessary distribution network. (One international relief official believes a total of 500 trucks is needed);

Assure the security of the truck convoys; and

Establish storage centers at regional distribution points on the main highways between the border and Phnom Penh;

2. In order to develop an international program of food relief for Indochinese refugees, the United States should:

Expedite implementation of the full 69 million dollar 6-month aid package announced by President Carter on October 24.

Assess funding requirements for a longer range program of food and medical relief.

Name a senior level White House coordinator with specific responsibilities for implementation of the food and medical relief program in Cambodia.

Utilize emergency relief funds to provide sufficient logistic support to the ICRC and UNICEF to get food and medicine to where it is needed.

3. The President should call on other nations and American citizens to support the efforts of international organizations and voluntary agencies. Both money and volunteers are needed.

4. The United States Government should make diplomatic efforts and mobilize world opinion in support of the opening of the land bridge to Cambodia. The role of the Secretary General of the United Nations is critical to the success of this effort.

5. The United States should assist the international relief agencies as appropriate to:

Increase and regulate distribtuion of food and medicine on the border areas.

Increase immediately the staff in the border areas.

Increase capacity of the ports to handle shipments by sea.

Provide air transportation for critically needed items.

Establish a system for equitable distribution from central storage facilities to local areas inside Cambodia.

Secure agreement that the international agencies have staff and access to insure that food is used effectively.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SASSER. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I apologize for interrupting the remarks of the distinguished Senator, but I rise to commend him and to commend Senator BAUCUS and to commend Senator DANFORTH for the dutiful and dedicated and purposeful way in which they went about the assignment that was given to them. They acted in a way that I believe reflects good on the Senate and good on the American people.

I regret that the Phnom Penh authorities have, to the moment, rejected the humane request that was presented to them by these three fine Senators.

It is inconceivable—inconceivable—that any government would turn its back on a humanitarian request of this kind. The American people only want to help people to live.

For any government to deprive tens of thousands of innocent men, women, and particularly children, who are the victims of circumstances, of the bread of life and the breath of life is unbelievable. It is simply inconceivable that any government that would approach being a civilized government could say "No" to a humanitarian request of this kind.

I say to the Senator and his colleagues who went on this journey that they have done everything they can do: They have gone to the U.N.; they have presented their case to the world and to the American people and to the government in Phnom Penh. These Senators are to be complimented and thanked. I express my personal gratitude and gratitude on the part of the U.S. Senate for the humanitarian effort in which they have engaged and which they are continuing to press.

Mr. SASSER. I thank the distinguished majority leader for his kind remarks.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. SASSER. I yield.

Mr. BAKER. Mr. President, I take this opportunity, following the remarks of the distinguished majority leader, to pay my respects and my compliments and to express my appreciation to my colleague from Tennessee for undertaking this trip, together with the distinguished Senator from Missouri and the distinguished Senator from Montana.

I know of no higher purpose of the U.S. Senate to be served in the humane undertaking just completed by this three-man delegation—Senator SASSER, Senator DANFORTH, and Senator BAUCUS. They have performed in a tradition that goes back almost to the beginnings of the Senate—that is, to exercise the responsibility of oversight and compassion that resides in a legislative body in a constitutional form.

I hope and trust that their dedication of effort and energy and their time and travel will heighten the sensitivity of the Senate, Congress, and the country to the humane imperative that we remain conscious and aware of the acute human suffering in another part of the world and that we will dedicate our efforts to its alleviation.

I expect that more will be heard on this floor about the steps we should take. For my part, I will follow with great interest the recommendations of this delegation of three Senators as to how we should proceed next.

I have asked for this interruption only so that I can take the opportunity, following the majority leader's statement, to commend Senator SASSER, Senator BAUCUS, and Senator DANFORTH for their great contribution to the function and purpose of the Senate of the United States and to pledge to them my efforts to try to effectuate the purposes they have served so nobly.

Mr. SASSER. Mr. President, I thank the distinguished minority leader for his remarks and I wish to express my appreciation to the leadership, both the majority and minority leadership, for the splendid cooperation that they afforded the three of us who have undertaken this mission and for their perception in urging that this mission be undertaken and that Senator BAUCUS and Senator DANFORTH and I return to the floor of the Senate.

Mr. President, I yield the remainder of my time to my distinguished colleague, Senator BAUCUS.

The PRESIDING OFFICER. The time has expired. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Missouri now get recognition and yield time to Senator BAUCUS?

Mr. BAUCUS. Will the Senator yield 2 minutes?

Mr. DANFORTH. Yes, I am happy to.

Mr. BAUCUS. I thank the Senator from Missouri.

Mr. President, the Senator from Tennessee has given a thumbnail sketch of the misery that we three saw when we visited the Cambodia and Thailand border.

It is our opinion that we in the United States can perform virtually two missions. First, we can help provide the aid, the medical supplies and food that is necessary to alleviate suffering so widespread and massive that it is virtually incomprehensible to understand or impossible to describe.

Cambodia is a country with a population of about 8 million people as few years ago as 1975. The estimated population of the Khmers, the Cambodia people, now is about 4 million, a loss of 4 million people in the short period of 4 years, 4 million people who have starved to death, died of disease, were exterminated, or who fled the country.

Now, it was not too long ago that this world unfortunately experienced a holocaust of massive proportions, and that occurred at a time when the world tended to turn a deaf ear, tended to turn its back on atrocities that were being committed in a certain part of the world at that time.

It is easy to use words like "genocide" and "holocaust" and it is easy to cheapen those words in comparing various calamities that befall the world in various parts of our country and our world but, Mr. President, in my opinion this tragedy that has visited upon the Cambodian people approaches the same kind of calamitous proportions as occurred not too many years ago.

It is for that reason that we have a moral, we have a religious, we have a humanitarian obligation to focus world opinion on what is happening in Cambodia. The more we can perform that role, the more that we as Americans and, more important, the more we as human beings can describe what we saw and encourage other people in the world to take some action alongside of us, then I think that the Phnom Penh authorities, the people who in one degree or another are in charge in Cambodia, will open up. They, too, will see the need and they will allow their people to receive the aid and help that we are trying to give them.

Mr. President, briefly let me just say that I can think of very few more noble, more necessary efforts that we can undertake as Americans and as people than to try and help focus world opinion on the problem of Cambodia so that the Khmer people not only do not become extinct but flourish and survive as very proud people.

I thank my colleague from Tennessee who led our delegation very, very ably as well as Senator DANFORTH of Missouri who I might add, Mr. President, is the real conscience of the Senate and the driving force in this mission to this part of the world and I think that all in the Senate should know of the tremendous role he has played.

I thank the Senator for yielding time.

Mr. DANFORTH. Mr. President, I join my colleagues from Tennessee and Montana in expressing our gratitude to both the majority leader and the minority leader for arranging for this trip to Thailand and Cambodia and for their constant support for our efforts over the last 2 weeks.

I also state that it was a privilege for me to accompany Senator SASSER and Senator BAUCUS on this trip. Two more sensitive and dedicated Members of the Senate would be hard to imagine.

It has been pretty well described by the Senator from Tennessee and the Senator from Montana what we saw. I think most people have seen photographs in news magazines and newspapers of emaciated children, of people who are dying of starvation and when you see it in a photograph it seems so very distant. It seems so isolated as though there perhaps is only one person or maybe just a few who are in such a wretched state.

But, Mr. President, for hour after hour, after hour, after hour, we walked through the refugee areas on the Cambodia-Thailand border. For hour after hour, after hour, after hour, we saw children wizened up like little old men, children with distended stomachs; we saw people so weak that they could not get off the ground; we saw people so weak that they could not even travel 100 yards or so to get what little medical attention was available to them. We saw them by the thousands, Mr. President, and what is even more shocking is that we were told by those who have knowledge of such things that the situation within Cambodia is even more wretched than it was on the border, that it was the relatively strong people who were able to walk out of that country, that the weaker people and the more decrepit people are still in Cambodia.

And when we talked to representatives of the Intenational Red Cross and when we talked to representatives of UNICEF, we were told that people inside Cambodia are dying each day by the thousands.

Mr. President, there is no reason on Earth why this situation has to exist. There is no reason on Earth why the people of Cambodia have to be doomed to this miserable death. The means exist to deliver food and medical supplies to the starving and wretched people of Cambodia.

While we were on this trip, we talked to officials of the United Nations, of UNICEF, of the Red Cross, of the Thai Government, of the World Food program, and it was the unanimous opinion of all that a truck route, a land bridge, could be established from Thailand into Cambodia, capabale of delivering 1,000 tons of food a day along Highways 5 and 6. Mr. Noby, of the World Food program, told us that trucks could be made available immediately, that rice could be purchased immediately and within 3 days of being given notice trucks could be traveling Routes 5 and 6 with food to save these starving people.

It can be done. And when we visited with the officials of Vietnam and when we visited with the officials of the Phnom Penh regime, we presented to them this specific proposal for a land bridge of truck convoys moving from Thailand to Cambodia. We raised the question of security and were told by the Vietnamese and by the Cambodians that security was no problem at all.

We raised every conceivable practical objection. We were told that there was no practical objection, and we put it to the officials of Vietnam and the officials of Cambodia, and we said to them if they would just give the word the truck convoys could be moving along Highways 5 and 6, and lives could be saved.

So far the word we have received, Mr. President, has been negative, and the result of this is that every day thousands of people are dying who do not have to die, and the result of this is that if steps are not taken soon, if the trucks are not permitted to leave Thailand soon, hundreds of thousands of people are going to die for no reason other than some political purpose of the powers-that-be in Phnom Penh.

What we told the officials in Phnom Penh was this: that the decision was theirs; that the ball is in their court; that the responsibility for the lives of hundreds of thousands, maybe millions, of people is on their hands, and that the decision they make, Mr. President, is not going to be made in a closet, it is not going to be made in the dark. It is going to be made in the arena of world opinion under the full spotlight of world attention.

Therefore, Mr. President, it is the intention of this Senator and it is the intention of my colleagues to keep this matter in the public forum, to talk about it at every available opportunity, to rivet the attention of the world on the situation of Cambodia until the regime of Phnom Penh allows those trucks to start rolling and those lives to be saved.

AMENDMENT NO. 561

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH. Mr. President, on behalf of myself, the Senator from Tennessee (Mr. SASSER) and the Senator from Montana (Mr. BAUCUS) I send an amendment to the desk to S. 1668, which amendment we intend to offer at the appropriate time when S. 1668 is before the Senate. Now this amendment is the Senate counterpart of the so-called Zablocki amendment which has been adopted by the House of Representatives, and which would provide an additional $30 million of funding for disaster relief in Cambodia.

Mr. President, the House of Representatives recently passed the migration and refugee assistance supplemental authorization bill, H.R. 4955. The bill included a Cambodian disaster relief assistance amendment offered by Representative ZABLOCKI. This amendment would authorize the President of the United States to furnish disaster relief assistance for the tragic illness, starvation, and human suffering in Cambodia. The amendment authorizes $30 million for this purpose.

I would like to commend Mr. ZABLOCKI and the other distinguished Members of the House for their favorable action on this amendment. I fully endorse the spirit of this amendment and the authorization of new funds which are necessary to meet the needs of this devastated nation.

However, the language and some provisions of the House amendment to H.R. 4955 may pose certain obstacles to the relief effort. The Zablocki amendment requires that "monitoring procedures shall include end use monitoring of deliveries on a periodic basis by the individuals having freedom of movement where the assistance is being distributed within Cambodia." Mr. President, such monitoring may not always be possible. Given the continuing conflict within Cambodia and the xenophobia of Pol Pot and the Vietnamese, freedom of movement may be difficult to insure in any area. We must avoid establishing any restrictions which could seriously impair distribution and relief efforts. Although I agree with the goals of the House language, we must be prepared to risk the diversion of some food and supplies. The alternative is death for hundreds of thousands of innocent people.

Furthermore, the House amendment limits the assistance available to the civilian population. If, for example, some minimal food or medical supplies were diverted to former combatants of either side in the conflict, it is conceivable that all aid would stop under the provisions of the House amendment.

Mr. President, there will be risks in this program. But if we are to reduce the starvation and suffering of this nation, we must accept those risks.

As a response to the potential impediments to the relief effort contained in the Zablocki amendment, Senator SASSER, Senator BAUCUS, and I will, at the appropriate time, introduce an amendment to S. 1668, the Senate supplemental authorization bill for the migration and refugee assistance fund. This amendment would authorize $30 million in new funds for the purpose of disaster assistance in Cambodia. Assistance would be provided in accordance with the policies and general authority contained in section 491 of the Foreign Assistance Act of 1961. We see no reason to expand on the existing monitoring language of this section which requires that, "the President shall insure that assistance provided by the United States shall, to the greatest extent possible, reach those most in need. * * *"

Mr. President, if this is to be an effective humanitarian effort by the United States, the one risk which we cannot afford is inflexibility and rigidity in our public policy.

Mr. President, I ask unanimous consent that this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 561

At the bottom of page 2, add the following:

Section 3. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"SEC. 495H. Cambodian disaster relief assistance.—

"(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate human suffering arising from famine, disease, and war in Cambodia, authorizes the President to furnish humanitarian assistance, on such terms and conditions as he may determine, for the people of Cambodia. Such assistance may include food, medicine and medical care, clothing, housing an other forms of shelter, and transportation for emergency supplies and personnel. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for the fiscal year 1980 for the purposes of this section $30,000,000, which amount is authorized to remain available until expended.

"(b) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

"(c) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing humanitarian assistance to the people of Cambodia may be charged to the appropriations authorized under this section.

"(d) Nothing in this section shall be interpreted as endorsing the Vietnamese invasion of Cambodia or as recognizing any group claiming to be the government of Cambodia."

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senator from Montana (Mr. MELCHER) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. DANFORTH. Yes; I yield to the Senator from Montana.

THE REFUGEE TOTS DO NOT PLAY NOR CRY . . . THEY DIE QUIETLY

Mr. BAUCUS. Mr. President, an article recently appeared in the Tennessean written by the Senator from Tennessee (Mr. SASSER). I ask unanimous consent that a copy of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Tennessean, Oct. 28, 1979]

THE REFUGEE TOTS DO NOT PLAY NOR CRY . . . THEY DIE QUIETLY

(By JIM SASSER)

NEAR THE CAMBODIAN BORDER.—In the refugee camps at the border of Thailand and Cambodia, the children do not smile, they do not play and they do not cry.

And, they die quietly.

The people seem traumatized by illness, malnutrition and hunger at these camps, which have an eerie silence. Many of those in the camps, particularly in the makeshift "hospitals," bear a striking resemblance to those victims of the German death camps—faces sunken, eyes wide open, rib cages protruding, legs and arms like sticks.

During my visit to the first of three camps, I vividly recall seeing one little girl clad in peasant rags and struggling along a path with a bowl of rice in her hands.

I leaned over to ask her name, but she did not respond to the intepreter. She showed no emotion at all and continued to stare listlessly, the rice bowl clutched a little closer to her chest.

I reached out to her and touched her arm, reassuringly. I got no response. She continued to stare with that fixed expression that never changed.

The silence in the camps is overwhelming, and almost everyone who traveled in my party made mention of it at one time or other. Normally, there is quite a bit of noise around crowds, but the only break in the silence was the hacking cough of the tubercular patient, for tuberculosis and malaria are rampant.

The human suffering at these camps is so deep and pervasive that I have not been able to adequately describe it to my friends and constituents. At the camps at Klong Lai Thuen, Tap Phrik and Nong Samet, my fellow senators—Max Baucus of Montana and John Danforth of Missouri—and I were shocked and appalled at the sight of children and adults dying from hunger and disease.

We had been sent on a humanitarian fact-finding mission by the majority and minority leadership of the Senate. We were given only a few hours notice before flying halfway around the world, landing in Bangkok, Thailand, after a 24-hour flight. We then left immediately by helicopter and jeep for the Cambodian border.

But after seeing the horror of the 150,000 people in the refugee camps we visited, we quickly went beyond the fact-finding mission and began to work on the problem of finding food and getting the food and medicine to the dying people.

Immediate action is imperative; every day's delay means the death of many people, especially inside Cambodia. What we are facing here is the possible extinction of an entire race of people—the Khmer people.

The plight of those who are able to reach the refugee camps is desperate—but those who do struggle into the camps represent the strong. The weak are still inside Cambodia, unable to travel, waiting for death or for food.

The tragedy that I saw is the result of a decade of war, political struggles and finally savage conflict between Cambodian communism and Vietnam-style communism. The economic life of the nation, which is in shambles, is as desperate as the plight of the people. Where rice normally grows, the fields lie fallow; where commerce normally takes place, there is none now.

When we were taken to the Cambodian border, we were told by Thai officials that they were doing the best they could, but that they did not have the resources to cope with the problem.

"This problem is too much for our government to handle," a Thai army officer said.

The first camp, Khlong Lai Thuen, contained 30,000 Cambodian refugees. There were Red Cross and United Nations relief personnel present, as well as private relief groups, such as the Catholic Relief Organization and the relief arm of the Southern Baptists. They are all working effectively and with great devotion.

Prior to the arrival of the relief personnel, the refugees had simply wandered into the area and found shelter as best they could—under bushes, against trees, in weeds and along dusty roads. Most had lost contact with their families, and in their weakened, listless state, most of the family magnet had lost its pull. Many were sole survivors of families still in Cambodia or dead.

The lack of any social structure was obvious because it seemed as if every person was an island, waiting for the inevitable, whatever it was. Most had to care for themselves, and some did not have the strength to do so, relying on relief personnel for all their needs.

From this camp, I walked down the main path for refugees toward the border. Two men were carrying the body of a woman on a makeshift stretcher consisting of a pole and a blanket. I was told that bodies were collected daily.

As I approached the border, the path narrowed and I found a boy slumped against a tree. He said he was 14. His clothes were ragged; he had no shoes.

He said he began his trek a year ago and had walked the length of Cambodia, losing his family along the way. I told him through an interpreter that food and medical supplies were just down the path—just a few hundred yards more.

He looked up at me and shook his head. "I can't go on," he told the interpreter.

I went back down the path and commandeered a Thai colonel's jeep.

As I helped lift the boy into the vehicle, I felt his arms through the filthy long-sleeved shirt he wore—his arms were pencil thin. As he sat in the jeep, he seemed to show his first emotion, a tear in his eye. He disappeared into the mass and I did not see him again.

I visited a second camp where the refugees appeared to be in somewhat better condition. They showed a little more life—a bit more animation here and there. They had been receiving help a few days longer than those in the first camp. Most everything else was the same, though.

The third camp we visited was the largest, containing an estimated 100,000 people. It was located in a disputed border area where there had been shelling by the Vietnamese the day before.

As we neared the camp, thousands of the refugees came out to greet us. Showing the first real emotion we had seen all day, the refugees actually applauded as they lined a path on both sides. On the previous day four persons had been killed and seven wounded from shelling. The Vietnamese were threatening to launch a major attack during the dry season in Cambodia. Artillery fire could be heard in the distance as the fighting continued in a nation ravaged by war.

This camp, the oldest of the three we had visited, had some structure and some organization. But disease was killing people in droves every day and the camp leader told me with horror that cholera had been added to the list of diseases.

We met with representatives of various relief organizations and with government officials the next day prior to our departure for Phnom Penh, the capital of Cambodia. We became the first American officials allowed there since 1975.

It is a ghost city, a city of the dead, a memorial to the policies of destruction and deprivation for political purposes. World famous for its beauty in former years, this once-bustling city of 400,000 is now populated by not more than 15,000 ragged people.

We appealed to the foreign minister in Phnom Penh to agree to a "land bridge"—a truck route for the transportation of food and medicine into Cambodia. At first the officials we met seemed to react favorably, but there are problems yet to be solved.

We are hoping that our trip has focused world attention on the Cambodian tragedy. The effort to alleviate the human misery and suffering is international in scope. British French, Swiss and Japanese aid is apparent and they are ready to do more. But I noticed that whenever my colleagues and I were introduced as United States senators there were smiles and a stir of hope.

Thomas Jefferson said more than 200 years ago, "America is the last, best hope of mankind."

It still is, for us and the deprived people of the world.

Mr. EXON subsequently said:

Mr. President, I first wish to add my thanks for the excellent work and report that I heard this morning from our colleagues from Tennessee, Montana, and Missouri, for the work that they attempted to do in a very difficult part of the world. I hope that their efforts will be fruitful, and I certainly think that all Members of the Senate, all Members of Congress, and, for that matter, the people of the United States will hope and pray that our good offices will be accepted by less than understanding rulers in that section of the world now.

THE CAMBODIAN TRAGEDY

Mr. JAVITS. Mr. President, we have finally begun to focus attention on a crisis which threatens the entire Cambodian population and for which we bear also a responsibility. We have finally begun to realize that the warnings we have been hearing about food shortages in Cambodia mean that 4 million Cambodians face imminent starvation—a situation of genocide. As a result, we—the Congress, the administration and the American people—have begun to take the measures necessary to insure that another genocide does not occur in this century. My deep concern is that we may be already too late.

For too long, the world watched and waited while the politics of the Cambodian situation dictated who in Cambodia would live and who would die. When it became clear that years of war and deliberate government policies meant that virtually no food was being produced in the country, the world was slow in reacting to the devastating effect that fact was having on the Cambodian people. Indi-

vidual governments, reluctant to involve themselves in the pitfalls of Cambodian politics, decided to let the intergovernmental international organizations take the lead in negotiating a program of humanitarian assistance with the Vietnamese-backed Cambodian regime. The United States also pressed the Soviet Union, Vietnam, and China to urge their respective allies to allow food and medicines to reach Cambodia's starving population. But diplomacy takes time. It took UNICEF and the International Committee of the Red Cross several months to reach a shaky understanding with the Heng Samrin regime. In the meantime, it is impossible to calculate how many people have died.

Even now, supplies have been moving into the country, but no one is certain in what numbers and how quickly and widely they are being distributed within Cambodia. It has been estimated that by the end of October, 10,000 tons of food will have been shipped over a 10-day period to the Cambodian port of Kompong Son. The port is, however, unable to handle the massive influx of supplies and lacks the manpower and machinery needed to unload and distribute the food. The Cambodian railway system is also incapable of handling the amounts of supplies required to feed the population.

Senators DANFORTH, BAUCUS, and SASSER are therefore to be highly commended for taking the bold political move of talking to the Heng Samrin government about their eminently sensible and humanitarian proposal for opening an immediate truck convoy. Such a land bridge from Thailand into Cambodia could move food quickly and efficiently to the people most in need of it and could overcome the insoluble logistical problems that have plagued the relief efforts up to now. Heng Samrin's rejection of the proposal raises the additional questions of whether his government simply lacks regard for the fate of the people and whether political concerns can override the life of millions.

The front-page pictures of dying Cambodian children take on an even more tragic dimension when one considers the fertile land that once was Cambodia. Inhabited by 7 million people just a few years ago, estimates are that the continuous warfare and two tyrannical regimes have left the country with a population of less than 5 million. Now those 5 million face the threat of extinction.

President Carter has pledged $69 million in relief assistance to the international organizations working in Cambodia. His offer is one long-awaited response. Another is to offer Government assistance to the voluntary, as well as the intergovernmental organizations which are operating within the country. Yet another is to stress again to the Soviet Union the urgency with which the United States views the situation and the importance of the opening of a truck convoy from Thailand.

Other, more dramatic answers have also been suggested. The United States could quitely work to pool the world's resources of large cargo planes to loan to the international organizations and begin airdrops of food and medicine. The United States could establish a fund that would subsidize doctors, medicines, and the opening of hospitals at the Thai border. What needs to be remembered is that the urgency of the situation in Cambodia demands an urgent response.

I ask unanimous consent to have printed in the RECORD two editorials from the Washington Post and the New York Times which underline the need for more immediate, direct actions on the part of the United States. Now is clearly a time when political considerations need to be put aside for the more compelling humanitarian reasons which face the world about the Cambodian people.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 28, 1979]

A BURST OF AID FOR CAMBODIA

Many Cambodians have starved to death while the United States and the rest of the world worried about which government rightfully represents them. Now, at last, President Carter has shown a practical desire to help with a pledge of about $70 million for aid.

Even this belated response managed to get caught up in Presidential politics. Senator Kennedy, speaking from a Congress not exactly brimming with humanitarian concern, condemned the Administration for being tardy. Moments later, the President announced the new aid pledge.

About $10 million of Mr. Carter's aid package would go to Thailand, to which hundreds of thousands of Cambodian refugees have fled. The rest—including $30 million already authorized by the House—would be for direct relief in Cambodia, mostly through the International Red Cross and Unicef, which have had some success in persuading the Vietnamese-backed authorities in Phnom Penh to admit them. And beyond the Carter package may come an even larger, volunteer effort. Father Theodore Hesburgh, president of Notre Dame, has announced that religious and refugee groups will try to raise more than $100 million.

Money is not the whole answer. There are technical and political obstacles to getting food and medicine into Cambodia. Once the men who try to govern there agree to let aid in, there is the problem of distribution in a country of broken roads, trucks and even bodily strength. Something can be learned from the rough and ready tactics of the private aid groups and Unicef. While Washington held out for guarantees of delivery, they flew in, talked to officials, toured the devastated countryside—and distributed some food. They were not very demanding about precisely where it would go. They knew it would be spread around.

That seems to be the only humane way to proceed. The huge airlift proposed by Father Hesburgh and others would not be possible until the supplies can be handled better on the ground. The first airborne missions, however, could determine whether more trucks and other equipment would help. Convoys of trucks from Thailand might be able to move toward the Cambodian enclaves held by the deposed forces of Pol Pot. But the presumed obstacles cannot be dealt with until the money is at hand and the rice, penicillin and other goods are ready to roll.

What the situation in Cambodia requires is quite simply a burst of aid, imaginatively given. Only the Administration can coordinate the humanitarian energies now released. Ships, planes and trucks full of food converging on Cambodia would exert a heavy pressure on the cynical men who rule that terrorized land.

[From the Washington Post, Oct. 26, 1979]

THE FAMINE: IS IT TOO LATE?

A lot of backs were being patted in Washington Wednesday—though they didn't deserve to be. A hastily scheduled presidential meeting with church and secular leaders ended in smiles all around as the president pledged $69 million in emergency aid for Cambodia. But the cold reality behind the recent flurry of speeches and headlines is that it all comes much too late. The money is welcome, though tardy. But no amount of money will help unless the food and medicine it buys get to the people who need them. And unless the diplomatic and logistical situation in Cambodia can be changed dramatically—and fast—nothing will get there in time.

In a nutshell, the diplomatic bottleneck is that famine is being used as a weapon in the continuing war in Cambodia—by both sides. The government in Phnom Penh keeps the quiet negotiations to open up relief channels limping along just enough to prevent the West from completely giving up hope that agreement can be reached. The message from Western diplomats is always the same—"Things are going better" and "Just a week or two more and we should have an agreement." Phnom Penh has been working this quite successfully for months now, and there is scant reason to think that anything has changed. If any additional proof is needed, it is provided by Phnom Penh's cool reception to the proposal made Wednesday by three U.S. senators to establish a "land bridge" over which aid could be trucked in from Thailand. After an inconclusive discussion that left one senator optimistic and another depressed, the delegation was dismissed with the statement that the Central Committee would consider their proposal at some future, unspecified date.

Compounding the diplomatic problems are staggering logistical difficulties. One thousand tons of food aid are needed daily, not to provide an adequate diet, but to prevent starvation. Cambodia's major port can unload about 240 tons. The unloading equipment at the airport is weak human bodies: boxes must be limited to what one man can manage. Trucks are almost non-existent (the estimate is two per province) and roads are spotty. Trucks that do get loaded with food make beautiful targets for ambush by soldiers of both sides.

The only relief effort that will really make a difference in this situation is a much more committed and imaginative one than those considered thus far. Spending more weeks in quiet negotiations might work, but more likely it will not, and there is no margin for failure. Some proposal has to be made that will break through the diplomatic and logistical barriers at once. It must take into account the miserable fact that none of the governments directly involved in Cambodia really wants the problem solved. So it must be a commitment, from the outside, to do something, not to necotiate something. And it must be announced in front-page news, not in quiet diplomatic discussions. To make it palatable, whatever is proposed should be carried out by the apolitical relief services—the International Red Cross, Catholic Relief Services, Oxfam and others—with government financial support, but not military equipment. A direct airdrop—like that successfully used in the Sahel—to people located by satellite photography continues to look like the most promising approach, although every possible avenue should be explored.

As it so often is, a pledge of money may be the easiest and cheapest step. The true measure of the West's commitment to prevent the extinction of the Cambodian people will be the effort it makes to ensure that the money is well spent.

RECOGNITION OF SENATOR WARNER

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized for not to exceed 15 minutes.

SENATE JOINT RESOLUTION 118—PAYLESS PAYDAYS FOR CONGRESS: A CASE OF SIMPLE JUSTICE

CONGRESSIONAL PAY DEFERRAL RESOLUTION

Mr. WARNER. I thank the Chair and I thank the leadership for the time granted to me this morning.

Mr. President, I send to the desk, for appropriate referral, a joint resolution submitted on behalf of myself and my distinguished colleague from Georgia (Mr. NUNN).

Mr. President, earlier this month the Nation and, indeed, the world were witness to a regrettable incident of congressional delay, deadlock, and inaction.

Many of us who serve in this distinguished body were embarrassed and unwilling participants in the unseemly wrangle between the Senate and the House of Representatives over the continuing resolution—a wrangle which resulted in payless and partial paydays for thousands of innocent Federal employees and recipients of Federal program benefits.

It would be difficult to overstate the consternation and hardship which gripped literally millions of American families—military and civilian—as the new fiscal year began and Congress had not acted.

Faced with an ever-escalating cost of living, vast numbers of families are living from paycheck to paycheck. Deferral of even one check, even for a few days, can wreak havoc in their lives.

Rent must be paid. Mortgage payments must be made. Creditors must be satisfied. Children must be fed and clothed and schooled.

Mr. President, to be a Member of the Senate of the United States—which, along with the House of Representatives, had the power to resolve the impasse and avert financial and personal tragedy for countless numbers of our fellow citizens—and yet to be largely powerless, as one individual Senator, to turn aside that rising tide of human suffering—was one of the most profoundly frustrating experiences I have encountered since I took my oath of office as a Member of this body. I have spoken with many of my colleagues, and I know the same was true for them.

Mr. President, in all candor, it is unconscionable that the paychecks of innocent Americans should be held hostage in any dispute between the Senate and the House.

It was not coincidental—but it surely was ironic—that the question of a congressional pay raise was one of the chief points at issue in that struggle.

Many Americans seriously question whether Members of Congress were deserving of the pay they were receiving, let alone meriting a raise. The behavior of the Congress on the continuing resolution certainly provided them with little reassurance.

But, Mr. President—regardless of how individual Members may view the merits of a pay raise for the Congress—we surely have a responsibility not to embroil the livelihood of others in a dispute over our own pay scale—or, for that matter, over any other extraneous and contentious issue.

Unhappily, this has happened before. I submit that we must not allow it to happen again—not on November 30, when the continuing resolution expires—not next September, when the current fiscal year expires—not then, not ever.

However, Mr. President, it is one thing for Senators, individually or collectively, to offer such assurances—but it is something altogether different to make those assurances credible to an increasingly skeptical public.

Even procedural changes which Congress in good faith may adopt, seeking to prevent the recurrence of such painful situations, may not be foolproof.

Accordingly, I am submitting this Senate joint resolution, with the cosponsorship of the distinguished Senator from Georgia (Mr. NUNN). It would defer the pay of Members of Congress in the same manner and to the same extent as the pay and benefits of other employees and individuals are deferred, whenever funds are not available due to congressional inaction or delay.

The joint resolution, if passed by both Chambers and signed by the President, would have the force of law.

It would mean, in practice, that—if Congress ever again delays providing funds to pay Federal employees and Federal benefits—then Congress itself would have its pay delayed.

If our failure to act ever again results in the deferral of even a single dollar in Federal pay or benefits rightfully due to other citizens, even for a single day—then our own pay would be deferred for a like period of time.

If Federal employees and benefit recipients ever again are made to suffer because we fail to do our job—then we too would bear a measure of the burden.

If we ever again hold their paychecks hostage—then ours, along with theirs, would be held hostage.

This, in my judgment, is nothing more nor less than simple justice.

With enactment of this joint resolution, we in the Congress will be laying not only our reputations but our paychecks on the line—as earnest of our determination to avoid ever again such disruptions of the lives and livelihood of innocent Americans.

The Congress as an institution is continually on trial before the supreme bar of the Republic—the citizens we serve.

Enactment of this joint resolution would be a clear and unmistakable signal to the Nation that the Congress is dead serious. It would be graphic evidence of our recognition that we, too, are employees of the people, and are prepared to share a measure of the consequences of our actions.

Accordingly, Mr. President, I commend this joint resolution to the careful consideration of my colleagues. I respectfully request that the Senate move quickly to enact it and send it to the House.

I ask unanimous consent that the text of the joint resolution I have submitted be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 118

Whereas, the Congress of the United States failed to timely enact a number of appropriation bills for fiscal year 1980, thereby necessitating the passage of a Continuing Resolution;

Whereas, the House of Representatives and Senate of the United States repeatedly failed to resolve their differences over certain provisions of the Continuing Resolution, and were unable to reach agreement for a number of days after the beginning of the new fiscal year;

Whereas, the delay by Congress in approving the Continuing Resolution resulted in deferral of paychecks and benefits for thousands of Federal employees and other individuals, disrupting their lives and livelihood and causing severe hardship and stress to innocent people and their families;

Whereas, Congressional inaction necessitated the cutting off or curtailing of funds for the operation of numerous Federal programs, many of which serve those among our citizens who are most in need of help;

Whereas, the recent failure on the part of Congress to timely enact a number of appropriation bills was not the first time that Congress had failed to timely enact appropriation bills: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case in which the employees of any Federal department, agency, or other instrumentality of the United States fail to timely receive their compensation for services to such department, agency, or instrumentality, in whole or in part, or in any case in which individuals fail to timely receive any annuity, pension, or other benefit, in whole or in part, which such individuals are entitled to receive under law, solely due to the unavailability of funds to pay such employees or individuals by reason of the failure of Congress to appropriate such funds—

(1) the Secretary of the Senate, notwithstanding any other provision of law, shall defer the pay of the President pro tempore of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, and each other Senator from the date that such pay is otherwise due until the expiration of a period of days equal to the number of days that such employees or individuals are required to be without such pay, annuity, pension, or benefits, or any part thereof, and

(2) the Clerk of the House of Representatives, notwithstanding any other provision of law, shall defer the pay of the Speaker of the House of Representatives, the Majority Leader of the House of Representatives, the Minority Leader of the House of Representatives, each Member of the House of Representatives, each Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico from the date that such pay is otherwise due until the expiration of a period of days equal to the number of days that such employees or individuals are required to be without such pay, annuity, pension, or benefits, or any part thereof.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business not to extend beyond 15 minutes, and Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 403, 404, 405, 406, 383, and 399.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to provide an opportunity to advise the majority leader that all of the items identified by him are cleared on our calendar and we have no objection to their consideration and passage.

BUDGET ACT WAIVER

The resolution (S. Res. 254) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5218, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5218, a bill to authorize special Caribbean hurricane relief assistance for the fiscal year 1980. Such waiver is necessary to allow the authorization of $25,000,000 in additional budget authority for fiscal year 1980 to provide relief and reconstruction assistance to people in the Caribbean who were affected by hurricanes David and Frederic.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline because the hurricanes occurred in August and September of 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 257) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1012, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1012, a bill to provide for the participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes. Such a waiver is necessary to allow the authorization of $20,800,000 in additional budget authority for fiscal year 1980 to carry out United States participation in this exposition.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline, because of a delay in the presentation of the administration's position on this legislation.

The effect of defeating consideration of this supplemental authorization will be a disruption of United States efforts to prepare for this exposition.

The desired authorization will not delay the appropriations process.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 258) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1668, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1668, a bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal year 1980. Such a waiver is necessary to allow the authorization of $207,290,000 in additional budget authority for fiscal year 1980 for migration and refugee assistance. The amount previously authorized for this purpose, $248,951,000 has proven inadequate to fund the United States refugee effort.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline, because of the unexpected increases in the flow of refugees from Southeast Asia.

The effect of defeating consideration of the supplemental authorization will be a disruption of the United States refugee program.

The desired authorization will not delay the appropriations process.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 263) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 493, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 493, a bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto. Such waiver is necessary because the five committees with referrals of this bill were unable to report the measure prior to the May 15 deadline due to business related to other issues. The committee intends to offer an amendment to S. 493 postponing the authorization of appropriations until fiscal year 1981 in order to comply with section 402(a) of the Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SPECIAL HURRICANE RELIEF ASSISTANCE

The bill (H.R. 5218) to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILWAUKEE RAILROAD RESTRUCTURING ACT

The Senate proceeded to consider the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with amendments as follows:

On page 2, line 24, after "welfare" insert "and reduce rail competition in the affected tier of States";

On page 3, line 14, strike "March 1, 1980" and insert "May 10, 1980";

On page 4, line 23, after "this" insert "section";

On page 4, line 24, strike "labor" and insert "employee";

On page 5, line 2, after "law," insert "and except as provided otherwise in section 3(a),";

On page 5, beginning with line 17, strike through and including page 6, line 2, and insert in lieu thereof the following:

SEC. 5. (a)(1) No later than December 15, 1979, an association composed of representatives of national railway labor organizations, employees, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan, which may include one or more alternative system configurations, shall include a comprehensive evaluation of the prospects for the financial self-sustainability of that portion of the Milwaukee Railroad.

On page 7, line 4, strike "March 1, 1980" and insert "May 10, 1980";

On page 7, line 5, after "(D)" insert "that portion of";

On page 7, line 5, after "railroad" insert "covered by the plan";

On page 8, line 3, strike "creditors" and insert "estate";

On page 8, line 4, strike "March 1, 1980" and insert "May 10, 1980";

On page 8, line 22, after "competitor" insert "or customer";

On page 9, line 3, strike "labor," and insert "employees";

On page 10, line 11, strike "for purposes of financing" and insert "as required to finance";

On page 10, line 13, strike "for" and insert "from the date of enactment of this Act until";

On page 10, line 15, strike "March 1, 1980" and insert "May 10, 1980";

On page 10, line 19, after the period, insert the following:

The provisions of section 3(b)(3) and of the last sentence of section 3(d) of such Act shall not apply to the guarantee of trustee certificates under this section.

On page 11, line 1, after "with" insert "subsection (d) of";

On page 13, line 7, after "to" insert "subsection (a) of";

On page 13, line 11, after "under" insert "subsection (a) of";

On page 14, line 1, after "to" insert "subsection (e) of ";

On page 14, line 6, strike "revitalization" and insert "Revitalization";

On page 14, line 11, strike "(a)" through (e)" and insert "(a), (b), (c), (d)(1) and (2), and (e)";

On page 14, line 14, after "section" insert "as necessary";

On page 14, line 17, after "the" insert "restructured";

On page 15, line 2, strike "occurrance" and insert "occurrence";

On page 15, line 16, strike "3(a)" and insert "5(a)";

On page 15, line 18, after "feasible" insert "or the Commission does not act within 30 days";

On page 15, line 24, strike "3(c)" and insert "5(c)";

On page 16, beginning with line 1, insert the following:

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD

SEC. 12. If an event described in section 11(b) of this Act occurs, resulting in the survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 or any other Federal legislation shall be conditioned upon good faith efforts by the Trustee and/or the Railroad to establish an employee stock ownership plan which plan shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee equal in value to 25 per centum of the amount of such relief provided.

On page 16, line 16, strike "12" and insert "13";

On page 16, beginning with line 20, strike through and including page 17, line 10, and insert in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association and receives a written commitment from the railroad that, by December 31, 1980, the railroad will adopt the employee stock ownership plan which will acquire qualifying employee stock with a fair market value of $250,000. The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

On page 18, line 3, strike "13" and insert "14";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Milwaukee Railroad Restructuring Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, Saint Paul and Pacific Railroad Company (hereinafter referred to as the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which Milwaukee Railroad principally operates (namely, the States of Washington, Montana, Minnesota, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(5) a cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare and reduce rail competition in the affected tier of States;

(6) a cessation of such services is imminent; and

(7) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential operations by the Milwaukee Railroad would otherwise cause.

COURT-APPROVED ABANDONMENT AND SALES

SEC. 3. (a)(1) Upon the occurrence of an event described in section 11(b) of this Act, or on May 10, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. When a rail carrier is involved in a transaction under this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of the employees who are affected by the transaction as that required under section 11347 of title 49, United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with paragraph (1) of this subsection.

(b) Section 11346 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision, when the proceeding involves the sale or transfer of a line of a railroad in reorganization, the Commission shall give the proceeding preference over all other proceedings related to that type of carrier and make its decision at the earliest practicable time, not to exceed 90 days if the proceeding does not involve a significant competitive impact, nor 210 days in any event: *Provided, however*, That this subsection shall not apply to proceedings commenced prior to the date of enactment of this subsection.".

(c) Nothing in this section shall be construed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

COURT APPROVED ABANDONMENTS IN PENDING CASES

SEC. 4. Notwithstanding any other provision of law, and except as provided otherwise in section 3(a), the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to such section 1170, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 5. (a)(1) No later than December 15, 1979, an association composed of representatives of national railway labor organizations, employees, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan, which may include one or more alternative system configurations, shall include a comprehensive evaluation of the prospects for the financial self-sustainability of that portion of the Milwaukee Railroad.

(2) The Commission shall, within thirty days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5, United States Code.

(3) The Commission shall make a finding that the plan submitted under this subsection is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by May 10, 1980;

(D) that portion of the railroad covered by the plan can be operated on a self-sustaining basis; and

(E) the plan contains an assessment of all operating practices, and includes the implementation of changes designed to achieve the greatest possible labor productivity increases consistent with safe operations and adequate service.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate that will be released as part of implementation of the employee or employee and shipper ownership plan, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall immediately submit its finding to the bankruptcy court. Within ten days after the day of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall, no later than May 10, 1980, implement the plan.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this

subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or customer of the Milwaukee Railroad.

(f) In the implementation of any employee or employee and shipper ownership plan involving expenditures or guarantees of Federal funds as hereinafter provided, authorizations shall be conditioned upon an appropriate contribution from employees including such measures as exchange of assets for relinquishing labor protection claims and changes in work rules to increase productivity: *Provided, however,* That the employee-shipper actual or in kind contribution shall be no less than 25 per centum of the total required financing.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 6. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)) is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term 'restructuring' includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(e)) is amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system and as required to finance the operations which the Milwaukee Railroad continues from the date of enactment of this Act until the sixty-day period beginning on the date of the occurrence of an event described in section 11(b) of this Act or on May 10, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)). The provisions of section 3(b)(3) and of the last sentence of section 3(d) of such Act shall not apply to the guarantee of trustee certificates under this section.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses found necessary by the trustee of such railroad for the maintenance and the continuation of service in accordance with subsection (d) of this section, and (2) the revenues of such railroad, both determined in accordance with the Uniform System of Accounts prescribed by the Commission.

(f) Notwithstanding any of the provisions of section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)), as amended by this Act certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act. No payment of interest or principal upon certificates guaranteed under this section shall be required until the conclusion of the Milwaukee Railroad reorganization proceedings, or three years from date of enactment of this Act, whichever first occurs.

NEW CAREER TRAINING ASSISTANCE

SEC. 7. (a) Any employee who elects to receive a separation allowance shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

(e) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this section.

(f) There is authorized to be appropriated for new career training assistance under this section not to exceed $1,500,000.

OBLIGATION GUARANTEES

SEC. 8. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Milwaukee Railroad for purposes of providing protection of employees affected by restructuring, transactions, or reduction in service by the Milwaukee Railroad. Such protection may include, but need not be limited to, moving expenses, compensation for employee relocation and separation allowances. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to subsection (a) of this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under subsection (a) of this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances.

(e) Pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, the Secretary of Transportation shall guarantee obligations to finance an equipment repair program for the Milwaukee Railroad, or its successors, during the remainder of 1979 and 1980. Obligations guaranteed under this subsection shall not exceed $30,000,0000.

(f) Obligations guaranteed pursuant to subsection (e) of this section shall be subordinated to the claims of any creditor of the Milwaukee Railroad as of the date of enactment of this Act.

TRANSACTION ASSISTANCE

SEC. 9. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsections (a), (b), (c), (d)(1) and (2), and (e) of this section, the Secretary may purchase redeemable preference shares of trustee certificates convertible to redeemable preference shares under this section as necessary to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person prior to November 1, 1980, or retained by the restructured Milwaukee Railroad, and that will be used for the continuing rail service.".

APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 10. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to transactions carried out pursuant to this Act.

CONTINUATION OF SERVICE

SEC. 11. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the date of enactment of this Act, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 5(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 5(c) of this Act.

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD

SEC. 12. If an event described in section 11(b) of this Act occurs, resulting in the survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 or any other Federal legislation shall be conditioned upon good faith efforts by the Trustee and/or the Railroad to establish an employee stock ownership plan which plan shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee equal in value to 25 per centum of the amount of such relief provided.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 13. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(e)) is amended by striking out paragraph (2) thereof and the sentence following that paragraph, and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association and receives a written commitment from the railroad that, by December 31, 1980, the railroad will adopt the employee stock ownership plan which will acquire qualifying employee stock with a fair market value of $250,000. The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

AMENDMENTS TO THE DEPARTMENT OF TRANSPORTATION ACT

SEC. 14. (a) Section 5(h)(3)(B) of the Department of Transportation Act (49 U.S.C. 1654(h)(3)(B)) is amended—

(1) in the second sentence thereof, by striking "In accordance with the formula stated in this subsection, the", and inserting in lieu thereof "The"; and

(2) by adding at the end thereof the following: "Notwithstanding the provisions of this subsection, funds available for reallocation as of October 1, 1979, shall be reallocated by the Secretary solely to States which require supplementary assistance to mitigate the effects caused by the filing of large-scale abandonments by railroads in liquidation or reorganization under the Bankruptcy Act. In making such reallocation, the Secretary shall give consideration to the amount of mileage in the State for which an application for abandonment or discontinuance has been filed with the Interstate Commerce Commission in accordance with the provisions of section 10903 of title 49, United States Code, but has not been approved or denied. Consideration shall also be given to the relationship which such mileage bears to the total rail mileage in each State requiring supplementary assistance under this subparagraph.".

(b) The second sentence of section 5(h)(2) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)) is amended by inserting immediately after "and" therein the following: ", except as otherwise provided in this subsection.".

● Mr. BAUCUS. Mr. President, I rise to support S. 1905 and to commend the fine efforts of Senators CANNON, MAGNUSON, and others who have worked diligently to develop this well-balanced response to the Milwaukee bankruptcy.

This legislation will prevent a November 1 curtailment of service on some 6,000 miles of Milwaukee lines in Washington, Montana, Minnesota, Idaho, North Dakota, South Dakota, Illinois, and Iowa.

S. 1905 provides essential time for development of an employee and shipper stock ownership plan that may preserve service on the Milwaukee's transcontinental route.

This bill was reported unanimously by the Senate Commerce Committee on October 29. The committee accepted several of the essential provisions of Senate Joint Resolution 114 introduced by Senator MAGNUSON, myself, and others. With these important amendments, S. 1905 is acceptable to Western shippers and employees.

DESCRIPTION OF S. 1905

S. 1905 will provide loans to the Milwaukee Railroad under the Emergency Rail Services Act to prevent an immediate embargo or abandonment.

Not later than December 15, 1979, an employee or shipper-employee group may submit a plan for converting all or a substantial part of the Milwaukee Railroad into an employee or shipper-employee owned company. The Interstate Commerce Commission will have 30 days to determine whether the plan is feasible.

If the plan is approved by the Interstate Commerce Commission and the bankruptcy court, proponents will have until May 10, 1980 to implement the plan.

If a plan is not submitted, or found not feasible, abandonments may proceed under an expedited procedure.

Finally, the legislation gives the Secretary of Transportation authority to guarantee obligations of the Milwaukee Railroad for purposes of providing labor protection. Any obligation so guaranteed will be an administrative expense of the estate of the Milwaukee Road, having the highest priority for repayment under the bankruptcy proceedings.

These labor protection guarantees provide a framework that may result in prompt cash settlements with employees who may otherwise have to wait until the conclusion of bankruptcy proceedings to receive their valid claims.

NEED FOR RESTRUCTURING LEGISLATION

Mr. President, if this bill is not enacted, the Milwaukee Road's transcontinental lines will be immediately embargoed and will not likely be included in any reorganized railroad.

Congress must avoid this event for two reasons. First, the Western Lines are an essential part of the transportation system in that part of the country.

Second, the trustee's proposed "Milwaukee II" reorganization, which operates in a region of intense competition and substantial rail overcapacity is at best marginally viable. Before committing the 330 million Federal dollars the trustee's proposed reorganization requires, Congress must provide ample opportunity for alternative reorganization plans to be examined.

Abandonment of the Milwaukee's Western Lines would leave a single railroad providing service from Minneapolis to the west coast. The Burlington Northern would have a virtual monopoly for transporting bulk commodities from Montana and other Northern Tier States. The Department of Agriculture, Interstate Commerce Commission, and Office of Rail Public Counsel have all stressed the need for railroad competition to insure reasonable freight rates and adequate levels of service.

The proposed "Milwaukee II" would retain service to Kansas City, which is served by eight class I railroads, Minneapolis, which is served by four class I railroads, and Louisville, which is served by four class I railroads. All of these corridors have been identified as corridors of excess capacity by the Department of Transportation.

Testimony presented at congressional hearings and Interstate Commerce Commission proceedings strongly supports the argument that significant new traffic opportunities are developing for coal, grain, and other products along the Northern Tier. There is an increasing need for rail services which provides important potential revenues for a reorganized or successor Milwaukee Railroad.

SPECIFIC PROVISIONS OF S. 1905

I would like to briefly discuss two specific provisions of S. 1905 that could be misinterpreted without some clarification of congressional intent.

Subparagraph 5(a)(3)(C) of S. 1905 states that "implementation of such plan will occur on May 10, 1980." Nowhere in this subparagraph or anywhere else in the committee's bill where the term "implementation of the plan" is used is there a definition of what constitutes implementation. We need to address this point.

I do not want to see an employee-shipper acquisition plan survive the Interstate Commerce Commission and bankruptcy court review process, obtain adequate public and private financing, but then fail due to the fact that the last "i" has not been dotted and the last "t" not crossed on, for instance, rehabilitation loan financing documents which the Federal Railroad Administration has not completely processed by the deadline. In other words, the fact that necessary financial commitments have been made, but not all of the funds have been disbursed by May 10, 1980, should not render the plan's implementation a nullity.

Subsection 5(f) of S. 1905 provides that Federal funding to be used for the purposes of implementing an employee or employee-shipper ownership plan is conditioned upon an appropriate contribution from the railroad's employees, including such measures as "an exchange of assets for relinquishing labor protection claims." I understand that this language would cover the case where employees' labor protection claims were transferred to the new employee or employee-shipper owned railroad. In other words, the new railroad company would assume the labor protection obligation instead of the present Milwaukee Railroad estate.

Such a transfer of labor protection obligations should meet criteria established in subsection 5(f).

LABOR PROTECTION

Mr. President, I am extremely disappointed that the committee did not accept labor protection provisions of Senate Joint Resolution 114. I believe that provisions of Senate Joint Resolution 114 provide a constructive framework for mitigating the impact of possible Milwaukee abandonments on employees as well as minimizing the burden on the railroad estate.

Regretfully, S. 1905 does not contain these provisions which are necessary to provide effective protection to the thousands of Milwaukee employees and their families who may be severely impacted by the Milwaukee reorganization.

The obligation guarantees contained in section 8 of S. 1905 conceivably could be used by the trustee as an offset against his ultimate obligation to employees under section 11347 of the Interstate Commerce Act.

The supplemental unemployment insurance provided by Senator MAGNUSON and myself in section 8 of Senate Joint Resolution 114 is particularly important. This provision affords considerably less protection for employees than they have traditionally received under earlier acts of Congress; however, this lesser protection would be provided when it is needed

most—at the time the employee's job is terminated.

I hope that if S. 1905 is enacted in its present form, the Secretary of Transportation will regard labor protection provisions of Senate Joint Resolution 114 as guidelines for the types of labor protection that may be guaranteed.●

Mr. DURENBERGER. Mr. President, throughout congressional debate over the future of the Milwaukee Road, those of us living in the region served by the Milwaukee have shared a common objective—preservation of this rail company, along with every mile of service that can possibly show potential for long-term viability. Because we have different visions of the Nation's long-term transportation policy, and differing needs in our home States and congressional districts, varying proposals emerged from the debate. But as someone who has been actively involved in the effort to restructure the railroad since the inception of its financial difficulties, I am rising to urge my colleagues to unite behind S. 1905, because it represents the fairest compromise for the States, shippers, employees and creditors concerned with preserving the Milwaukee Road.

It resolves the uncertainties that have haunted the railroad for the past 2 years by setting out clear, specific criteria to govern its reorganization.

It provides those seeking to invest their assets in the purchase of the railroad with sufficient time to complete the details of their proposals, and arrange the necessary financing.

It takes politics out of the decision-making process by directing the Interstate Commerce Commission to evaluate those proposals, and analyze the conflicting results of the studies projecting the Milwaukee's future viability.

Finally, it provides the mechanisms necessary to ease the transition from the bankrupt Milwaukee of today, to an economically self-sustaining railroad that can serve our region in the 1980's.

Mr. President, this bill will provide a mechanism for preserving not only rail service, but a rail company. And whether it be the New Milwaukee, the Milwaukee II, or some combination of both concepts, that surviving company will provide the competition needed to preserve incentives for efficient service throughout the region it serves. The Midwest needs raillines; they are the lifeline that connects our grainfields with the rest of the Nation, and the rest of the world. This bill is the first step toward restoring vitality to Midwestern railroads, and I am pleased to be a cosponsor.

I want to commend Senators LONG, CANNON, PACKWOOD, and MAGNUSON for their efforts in consummating this compromise during Commerce Committee deliberations. I also want to commend all of the Senators from our region who have worked so diligently to resolve the Milwaukee's crisis; I say this with particular gratitude toward Senators NELSON, PROXMIRE, BAUCUS, and MELCHER, whose work on the issue is known to all of us. These efforts have finally produced a compromise that can serve our common interest, and I urge everyone of my colleagues to join in supporting it.

● Mr. MCGOVERN. Mr. President, the legislation we are considering today is critical to a fair and equitable restructuring of the Milwaukee Railroad. Immediate action on this bill is required to prevent a planned embargo of more than half of the railroad's 9,800 mile system, which would go in to effect this Thursday.

Many of my colleagues have expressed concern over the possibility that this legislation would preclude any potential directed service order for portions of the Milwaukee Railroad. Specifically, questions have been raised concerning the possibility of the court authorizing massive and sudden abandonments of noncore trackage which would create serious hardships to Milwaukee shippers. Although the House bill presently contains language which could prohibit directed service, the Senate Commerce Committee has dropped that provision from the proposal we are considering today. Therefore, in the event that the court does take action at sometime to either abandon or embargo major portions of the system, directed service would still be available as a last resort option to continue service.

This legislation represents a major compromise of the rail needs of all States served by the Milwaukee. It does not meet the complete needs of any single State. I, for one, have serious reservations about the committee's decision to modify the provision providing preference share financing to rehabilitate segments of Milwaukee track acquired by other railroads or shipper organizations. I believe that the original language of this provision directing the Secretary to provide such assistance was essential. The new language making this provision discretionary gives me little hope that the Department will give serious consideration to shipper organizations who are attempting to acquire Milwaukee branchlines.

However, after months of effort to strike a compromise agreeable to all of the affected States, as well as the legislative committee, I believe this bill represents the best we can achieve through the Congress. It is certainly far better than the proposed embargo, which could create critical service disruptions regardless of how quickly the Commission could act on a directed service order.

We must be mindful of the fact that this legislation does set a timetable—it does not provide for the indefinite continuation of the Milwaukee system. Rail user organizations and local or State governments who have expressed an interest in obtaining portions of the Milwaukee, must take immediate action to proceed with negotiations for the purchase of lines and equipment. I doubt that the Congress will provide further extensions.

I would like to take this opportunity to express my sincere appreciation to the distinguished chairman of the Senate Commerce Committee, Senator CANNON, who has acted quickly in order to bring this legislation to the floor. While I have some concerns about provisions of the House bill, I would also like to thank Congressman FLORIO for his continued efforts to deal with this issue in a fair manner.

In sum, this legislation should provide for a restructuring of the Milwaukee that will meet the needs of most shippers, while not significantly jeopardizing the reorganization of the Milwaukee's proposed core system. It represents a very carefully crafted balance. I would hope that no further amendments are offered and urge my colleagues to support the bill in its present form.●

Mr. PRESSLER. Mr. President, I wish to express my deep concern over the need for swift action by the Congress to insure continued transportation services in many Western and upper Midwestern States and to insure an orderly restructuring of the Milwaukee Railroad which operates a network of almost 10,000 miles in the region.

S. 1905, which would achieve these objectives, was unanimously approved by the Commerce Committee yesterday and I urge the support of my colleagues for this urgently needed legislation.

As a result of a decision of the bankruptcy court judge this past Friday, October 25, to allow embargo of service on approximately 6,000 miles of track in the western extension of the Milwaukee Road effective November 1, 1979, S. 1905 takes on immediate and serious importance. I deeply regret the actions of the Federal Rail Administration which thwarted the intentions of the Congress in approving a compromise which would have insured continued operations on the entire Milwaukee system through November 30. That compromise, which I strongly supported, would have provided time for the orderly restructuring of the seriously ailing railroad.

It is vital now that immediate action be taken on S. 1905, the Milwaukee Railroad Restructuring Act. I wish to commend the chairman of the Commerce Committee, Senator CANNON, who sponsored S. 1905 and Senator MAGNUSON, whose efforts have been directed toward preserving vital rail service on the Milwaukee and who was instrumental in achieving agreement on this measure.

S. 1905 will prevent a November 1 embargo of over half of the Milwaukee system. This massive abandonment would have serious adverse consequences in the Midwestern and Western States affected.

My State of South Dakota stands to suffer the heaviest losses in economic and social stability. Not only would agricultural activity be enormously impaired, opportunity would be lost for industrial growth and new investment in the State.

As in many other Western and Midwestern States, agriculture is South Dakota's major industry and provides the livelihood for the greater portion of the State's citizens. Farm investment and planning for expanded grain loading and marketing facilities cannot go forward without a reliable rail system to support these activities.

The agricultural producer in our Nation already suffers from increased costs of production and inflation. As we continue to leave the burden of the costs of inadequate transportation systems on the farmer, the industry will be stifled and the small farmer forced out of existence.

Most important to our national economy is the impact of rail service on expansion of our grain exports. To take advantage of the promise of expanding export markets for our Nation's grain, it is essential that arteries to the west coast and the gulf continue to serve our grain producing States.

Future energy development in South Dakota, Montana, and many other States served by the Milwaukee Railroad is dependent on continued service along major lines. While plans are underway for expansion of coal conversion facilities that will substantially increase transportation needs in the West and Midwest, there is also great interest in construction of alcohol fuels and wheat processing facilities, a venture which holds great benefits for the economy and which I am working to promote. These developments can be successful only if supported by an adequate transportation network.

Certainly, our primary puropse in considering S. 1905 is to assure sufficient time to protect the concerns of all interested parties dependent on the bankrupt Milwaukee Road and to insure an orderly restructuring of the railroad.

This legislation has the consensus of the Commerce Committee and Senators from affected States. It offers a well-balanced approach to the Milwaukee bankruptcy that avoids both a total bailout by the Federal Government and the immediate massive abandonment of essential rail services.

While providing for the orderly restructure and transition of the bankrupt railroad, we must grant ample opportunity to those who seek alternatives in the purchase and continued operation of the Milwaukee Road. Having long been an advocate of cooperative ownership of rail bed and tracks and having introduced S. 839, legislation to promote the formation of rail cooperatives, I endorse the goals of the coalition of shippers and employees who are working on a plan for acquisition of major segments of the Milwaukee. I believe that it is our responsibility to give every opportunity to those who are attempting to help themselves.

S. 1905 offers that opportunity by providing for consideration of an employee stock ownership plan that may preserve service and competition in Northern Tier States.

Adequate time for continued operations must be provided in order to allow shippers to make alternative arrangements. Immediate abandonment of lines will bring chaos to remote communities dependent on rail service. We must insure that operations will continue uninterrupted and that shippers receive adequate notice before services are terminated.

Mr. President, S. 1905 is no unreasonable request for unlimited Federal funds. It is consistent with national transportation policy that an orderly transition be insured for all rail users and employees dependent on the Milwaukee Road.

I want to express my strong support for S. 1905, which provides for these concerns. I urge that my colleagues take immediate action to support this legislation.

Thank you.

Mr. MELCHER. Mr. President, this legislation is critical to our Nation. The Milwaukee Road cannot be allowed to go down.

Our present agriculture policies are encouraging greater grain production. This incentive to produce is provided by the U.S. Agriculture Department's curtailment of the set-aside program and the increasing sales of wheat and barley abroad, much of which will move through the Northwest ports. This increased production can have two major benefits for our Nation; first, sales of surplus grains helping producers and second, strengthening of the dollar with improved balance of payments. However, it is quite clear that without the ability to move the grain in the area served by the Milwaukee, to move grain both east and west, the two benefits I have mentioned cannot take place.

Additionally, the Milwaukee is now a modest hauler of coal and will in the immediate future have an increased role for moving this essential source of energy. As we all know, coal is an important substitute for foreign oil and is being mandated for use by the Power Plant and Industrial Fuel Use Act of 1978 better known as the Coal Conversion Act.

Finally, Mr. President, I am particularly gratified in that the legislation we pass today includes the key parts of my legislation, S. 1286. While title II of S. 1286 is yet to be enacted, I hope the Commerce Committee will focus on this provision at a future date. This provision does not apply only to the Milwaukee and is not an immediate concern but I hope the Commerce Committee will focus on this for inclusion in future legislation coming before this committe.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the unanimous-consent agreement on the bill (S. 1905) is vitiated.

RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of the period for routine morning business, that Senators may speak therein up to 5 minutes each, and that the period not exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A BRAZEN INVASION OF STATES RIGHTS

Mr. EXON. Mr. President, I wish to call to the attention of my colleagues and refocus attention on the final Senate vote of late yesterday afternoon on which, by a vote of 73 yeas, 13 nays and 14 not voting, the Senate passed an amendment that authorized what certainly must be one of the most brazen invasion of States rights in history.

While carefully doctored, colored, postured, framed and explained as necessary emergency legislation to meet the problems of rising interest rates across the land, Mr. President, the amendment does sheer and devastating violence to fundamental States rights in the setting of usury rates within State boundaries.

I suspect there are few, if any, Americans who believe that we here should usurp the traditional role of State citizens, through their States' elected officials, in determining maximum interest rates. Since the highly contagious Potomac fever malady is not generally known to produce symptoms of restraint, most would agree that State usury rates should not be fixed anywhere but at home or in Heaven, but definitely not in Washington.

Mr. President, I have consulted with some of my colleagues in the Senate and with Second District Representative JOHN CAVANAUGH of Nebraska, a member of the House Banking Committee on this matter.

Many of us feel that the Senate should definitely take another look at what appears to many as our hasty and ill-advised action of yesterday in this regard. We shall be working toward that end and ask the cooperation and consideration of our colleagues.

I thank the Chair.

The PRESIDING OFFICER. Is there further morning business?

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12:19 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 12:04 p.m., recessed until 12:19 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BOREN).

JUDICIAL CONDUCT AND DISABILITY ACT OF 1979

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, the Senator from Arizona inquires what the matter is which is pending before the Senate.

The PRESIDING OFFICER. In accordance with the previous order, the Senate will now proceed to the considera-

tion of S. 1873, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1873) to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes.

The Senate proceeded to consider the bill.

Mr. DECONCINI. Mr. President, it is with great pleasure that I initiate discussion of S. 1873, the Judicial Conduct and Disability Act. S. 1873 is a supplement to, but not a substitute for, the impeachment process set forth in the Constitution of the United States. It is principally designed to deal with those matters which do not rise to the level of an impeachable offense by providing a simple and clear procedure for the resolution of alleged disability or misconduct of a member of the Federal judiciary.

Legislation on this subject is not new to the Senate. Similar bills have been introduced periodically since the 1940's. More recently, efforts were commenced in the 90th and 91st Congresses by Senator TYDINGS, while Senator NUNN subsequently renewed these efforts in the 93rd, 94th, and 95th Congresses. Last Congress, the Senate for the first time ever passed a bill on this subject which was entitled the Judicial Tenure Act. Unfortunately this bill died a quiet death in the House of Representatives when no further action was taken by that body. An identical judicial tenure proposal, S. 295, was introduced this Congress by Senator NUNN and myself. Two other proposals, S. 522 and a part of S. 678, have also been introduced on this subject earlier this Congress. As a result of comprehensive hearings, analysis, and debate, the Judiciary Committee, by an overwhelming majority, agreed to report an original committee bill for our review today. This proposal, S. 1873, the Judicial Conduct and Disability Act, incorporates the best features of the three bills which have been introduced this year.

Since 1966, the Subcommittee on Improvements in Judicial Machinery has heard from approximately 60 witnesses, gleaning valuable information and insightful comments in the development of this legislation. Legislation on this subject has attracted a significant amount of attention and thought-provoking analysis. These efforts have resulted in a greatly improved and more arguably constitutional procedure which the committee views as more operatively feasible than the existing method of impeachment.

Mr. President, I want to take this opportunity to thank several members of the Judiciary Committee who have been most helpful with the development of the proposal that is before us today. Senators KENNEDY, BAYH, and THURMOND have given a great amount of their time and assistance. It is their support that has made possible this markedly superior committee bill. I also wish to thank Senator NUNN, without whose interest and support we would not be discussing this proposal at this time.

Today's public demands that all branches of Government be made accountable for their actions, including the Federal judiciary. In light of this fact, it would be unwise to ignore this general national concern for accountability since the success of the system depends on the support of the public. Although, on the whole, the general caliber of the Federal judiciary has been extremely high, the problem of the unfit judge is a serious challenge to our judicial system. The Federal courts must remain free from doubt in order to be effective. Recent incidents and publicity regarding several Federal judges have created an unhealthy atmosphere that is threatening the integrity of the judicial branch. The public, therefore, should be provided with a means to allege judicial disability or misconduct that is contrary to the maintenance of an effective and efficient governmental system. The judiciary, as well, should be provided with a less drastic means of discipline than impeachment. In the long run this will actually strengthen the judicial branch.

It has been stated that the only existing method for dealing with an unfit judge is removal by impeachment pursuant to the U.S. Constitution. This procedure has seldom been used in the past and today it seems unreasonable to assume that the Senate and the House of Representatives could lay aside all legislative business for a period of weeks or even months for the House to impeach and for the Senate to provide a fair trial for an obscure, yet misbehaving judge. In the course of 200 years only eight judges and one justice have been impeached, resulting in the conviction and removal of a mere four judges. It seems unreasonable to assert that only four Federal judges in our history have misbehaved. An even more significant indicator is that the last impeachment was in 1936, more than 40 years ago.

When the Founding Fathers created the impeachment provision they were envisioning a Nation comprised of a handful of States and a Congress with a limited workload. This is no longer the situation. For many years Congress has been too absorbed in legislative matters and as a result has been very reluctant to utilize the impeachment process.

To further complicate the problem, the recently enacted Federal Omnibus Judgeship Act will increase the number of article III judges to approximately 850 court of appeal and district court judges. The projections of the Federal Judicial Center estimate that there will be a need for 1,000 district judges and 250 circuit judges by 1990. If Congress has not been able to effectively utilize the impeachment process to date, these additional factors prove that future dependence on impeachment to discipline Federal judges is no longer viable.

The proposed legislation will establish a procedure for investigating and resolving allegations against members of the Federal judiciary. Any person can file a complaint with the circuit Judicial Council alleging that a judge is unable to discharge efficiently his or her duties by reason of mental or physical disability or that the judge is engaging in conduct inconsistent with the effective and expeditious administration of justice. The proposed legislation places primary responsibility for the resolution of allegations of disability or misconduct with the Federal judges of the Judical Council in the respective circuits. These Councils will be able to dismiss, certify disability, request voluntary retirement, temporarily not assign further cases, privately and publicly censure or reprimand, or order other appropriate action, other than removal from office.

The filed complaint, unless it is without jurisdiction, frivolous, or insufficient under the standards prescribed by the legislation, will be handled by the Judicial Council of the circuit subject to review by the Court on Judicial Conduct and Disability. This court can either review the matter on the record and dismiss, affirm, modify, reverse and remand, or hold a de nova hearing. After the hearing, the court can dismiss, certify disability, temporarily not assign further cases to the judge, publicly censure or reprimand, or order other appropriate action, other than removal from office. The court can also report to the House of Representatives on conduct which, in its view, would constitute an impeachable offense. The committee has concluded that these procedures will allow the judicial branch to receive complaints, investigate, and resolve those which need resolution in a timely and appropriate fashion.

Although legislation of this type is greatly needed, S. 1873 is not without its opponents. Some believe that this bill is unconstitutional on several grounds. Most of the doubts have arisen from the view that impeachment is the only method of investigating and remedying judicial misconduct that is expressly authorized under the Constitution. It is argued that since the Constitution refers only to impeachment, it has, by implication, excluded all other modes of judicial discipline. In analyzing the constitutional arguments, both for and against the bill, however, an overwhelming majority of the members of the Judiciary Committee have concluded that the language of the Constitution does not prohibit enactment of the Judicial Conduct and Disability Act.

Opponents who take the exclusivist view believe that the expression of one thing is the exclusion of another, that is, that the impeachment provisions found in the Constitution exclude all other forms of judicial discipline. The Supreme Court, however, applies a commonsense approach to constitutional construction. Ths method results in strict construction in accordance with the exclusivist view in some cases and the finding of an implicit grant of authority in other instances.

Taking the commonsense approach, it is very unlikely that the intent of the Constitution was to leave Federal judges unaccountable for their behavior. Furthermore, the First Congress, whose Members included many of the Constitution's framers, enacted a law which

provided for the fining and imprisonment, at the court's discretion, of any judge convicted of accepting bribes. This statute is clearly inconsistent with the concepts of the exclusivists.

Appellate courts have powers to overrule the illegal decisions of lower courts and judges. This type of review, however, is an inappropriate remedy in the event of judicial aberrant behavior, as well as problems caused by a mentally or physically disabled judge.

Although the great majority of our judges perform their duties in a dedicated and a capable manner, in a very real sense the problem addressed in this legislation is more one of perception than actuality—the need to assure the public that formal procedures are in place to deal with the rare instance justifying a disciplinary inquiry. Testimony received by the Judiciary Committee indicates that problems do exist and have existed in the past. These difficulties that have not been adequately resolved have created the need for this type of legislation.

Currently, a judge who is unable to discharge efficiently the duties of his or her office by reason of mental or physical disability or whose conduct is inconsistent with the effective and expeditious administration of justice may remain on the bench for a lengthy period of time before his or her peers eventually convince the judge to retire.

If this peer influence is not effective, the only resolution may rest with the eventual passing away of the judge. This is the current situation because there is no statutory authority which provides that complaints may be filed and matters be resolved with adequate due process safeguards. It is important that the American people continue to be confident in their Federal judiciary. The perception of a viable, healthy judiciary is of critical importance to our system of justice.

The Judicial Conduct and Disability Act helps to fill the gap between impeachment and doing nothing at all by establishing a procedure for disciplining members which is designed to be totally within the judicial branch—that is, judges will be judging judges.

There has been some concern expressed regarding the filing of frivolous complaints by dissatisfied litigants for the sole purpose of harassing judges. This proposed legislation will stop complaints in the first stages of the proceedings if they are frivolous, not consistent with the standard prescribed in the statute, or without jurisdiction. Furthermore, it is not expected that the filing of a complaint will always result in formal procedures. Another provision in the legislation allows each judicial council to investigate and take informal action even though no formal complaint has been filed. In those rare cases where there is need for disciplinary proceeding, there are the much needed assurances of confidentiality.

It has been argued that the utilization of any other method, short of impeachment, to discipline judges, even within the judicial branch itself, would ignore the concerns of the framers of the Constitution that members of the judiciary should be unconstrained from public pressures or threats from the other branches of Government.

This legislation protects the fragile independence of the judiciary since the creation of a measure to investigate and discipline judges does not interfere with the doctrine of separation of powers, nor the theory of judicial independence, if the judicial branch has sole control over the proceedings.

It should be noted that there are two statutes which currently authorize the judiciary to apply some very general disciplinary measures. Sections 332(d) and 372(b) of title 28 of the United States Code are similar to the two-part standard found in S. 1873. Neither of these statutes has been alleged as being a threat to the independence of the judiciary.

Further, Congress has been granted the power to enact appropriate legislation by the necessary-and-proper clause of the Constitution. This clause gives Congress the power to enact legislation to enable it to effectively carry out the spirit and letter of the Constitution.

Opponents of the nonimpeachment methods for judicial discipline argue that some forms of discipline are tantamount to removal and, thus, unconstitutional if not conducted by impeachment. The most onerous sanction imposed for judicial misconduct under S. 1873 would be a report of the Court on Judicial Conduct and Disability to the House of Representatives that it has found conduct which, in its view, would be an impeachable offense. Upon receipt of a record of impeachment from the court, the House of Representatives shall make its best efforts to take final action within 90 days. Clearly, this bill is not unconstitutional, since it leaves removal to be instituted by the House of Representatives, followed by a trial in the Senate.

Finally, S. 1873, in providing for disciplinary measures short of impeachment, eliminates the trauma and stigma attached to such proceedings. Short of impeachable offenses, we all know that there are some problems which are grave enough to merit sanctions less serious than impeachment.

Before concluding my statement, I would like to insert in the RECORD a comprehensive analysis regarding the constitutional issues that could be raised relating to S. 1873, the proposed Judicial Conduct and Disability Act of 1979. The analysis, which was initiated at the request of the committee staff, was prepared by Mr. Johnny H. Killian, specialist in American public law of the Library of Congress. Mr. Killian's paper develops a well-reasoned argument in favor of the constitutionality of the bill.

I ask unanimous consent to have the analysis printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

CONSTITUTIONAL ISSUES RAISED BY THE PROPOSED JUDICIAL CONDUCT AND DISABILITY ACT OF 1979

In S. 1873, the Judicial Conduct and Disability Act of 1979, it is proposed to establish a procedure for investigating and resolving allegations that a member of the federal judiciary is unable to discharge efficiently all the duties of office because of mental or physical disability or has engaged in conduct which is inconsistent with the effective and expeditious administration of the business of the courts. See S. Rept. No. 96-362.

Although the bill does not permit removal of judges by means other than impeachment—the focus of constitutional discussion heretofore—questions of judicial independence and issues of separation of powers may be raised to offer constitutional challenges to the bill as now written. Many of the arguments that must be confronted present matters of first impression, as to which there are no decided cases and little in the way of historical practice that may be used to inform a discussion of the constitutionality of the bill. This report therefore proceeds on the basis that a reasoned argument in favor of constitutionality which is drawn from general principles and analogy and which is then tested by application of objections and counter-arguments will be most productive in reaching an evaluation of the constitutionality of the bill. The report deals only with the constitutional issues, of course, and does not concern itself with the merits of the bill, except insofar as they may be referred to in the course of making a constitutional argument.

THE STATUTORY SCHEME

Complaints of disability or misconduct of federal judges would be handled in the first instance by the judicial council of the circuit in which the judge sits. The council would review, either on its own motion or the complaint of any person, the allegations with respect to a judge and dismiss the matter if it did not come within the standards set out. If the council proceeds and finds the allegations merited, it may take several steps to rectify the situation, including certifying disability, requesting the judge to retire voluntarily, ordering that no further cases be assigned to the judge, censuring or reprimanding the judge either privately or publicly, or taking other necessary action (not including removal). Created by the bill is a Court on Judicial Conduct and Disability, to be composed of five Article III judges, to which either the complainant or the judge could appeal adverse action of the council on the complaint.

The court could act either on the basis of the petition filed before it or on the basis of a *de novo* hearing on the complaint. If it acts without a hearing, it could dismiss the complaint as failing to meet the standards set forth in the bill, affirm or modify any action of the council, or reverse and remand to the council. After a hearing *de novo*, the court could dismiss the complaint, determine that the judge is unable to discharge efficiently the duties of office and call for appointment of an additional judge, or, upon finding that charges of misconduct or disability have been established, order that no further cases be assigned to the judge, censure or reprimand the judge publicly, or order other necessary actions (not including removal). The court could also submit to the House of Representatives a record of the matter if in the court's view an impeachable offense had been committed. No judicial review of the court's actions is to be had.

CONGRESS POWER TO ACT

Basic learning under our constitutional theory is that the Constitution separated governmental powers into tripartite divisions. *Wayman* v. *Southard*, 10 Wheat. (23 U.S.) 1, 46 (1825). From this assignment of functions within the Federal Government, it might be argued that Congress lacks the authority to legislate with respect to internal discipline within the judiciary, that whatever power there exists aside from impeachment is either

inherent in the judiciary or if there is none it may not be legislatively created and devolved upon judges. There would be present in such an argument two interrelated but separate arguments as to Congress' power to legislate at all and what limitations the separation of powers doctrine may impose. The response to the argument is interrelated as well.

While there are opinions of the Supreme Court that ascribe to the constitutional scheme of separation a rigidity which in fact it does not have, *Kilbourn* v. *Thompson*, 103 U.S. 168, 190–191 (1881), the more considered opinions recognize the flexibility that underlies the concept. *Springer* v. *Philippine Islands*, 277 U.S. 189, 201–202 (1928); *Myers* v. *United States* 272 U.S. 52, 116 (1926). "[T]he Constitution by no means contemplates total separation of each of these three essential branches of Government. The President is a participant in the lawmaking process by virtue of his authority to veto bills enacted by Congress. The Senate is a participant in the appointive process by virtue of its authority to refuse to confirm persons nominated to office by the President. The men who met in Philadelphia in the summer of 1787 were practical statesmen, experienced in politics, who viewed the principle of separation of powers as a vital check against tyranny. But they likewise saw that a hermetic sealing off of the three branches of Government from one another would preclude the establishment of a Nation capable of governing itself effectively." *Buckley* v. *Valeo*, 424 U.S. 1, 121 (1976).

The Court's language is reflective of Madison's philosophy which found in "a constitutional discrimination of the departments on paper" an insufficient security against encroachment of one on the others. Rather "a balance of powers and interests" was to be prescribed. 1 M. Farrand, *The Records of the Federal Convention of 1787* (rev. ed. 1937), 77. To those purists who objected that the blending achieved in the Constitution was a violation of the doctrine, Madison replied that Montesquieu, the foremost expounder of separation of powers, "did not mean that these departments ought to have no *partial agency* in, or no *controul* over the acts of each other." The philosopher had instead meant that the whole power of one department must not be exercised by another department. The Framers had acted on the principle, Madison said, that unless these departments be so far connected and blended, as to give to each a constitutional controul over the others, the degree of separation which the maxim requires as essential to a free government, can never in practice, be maintained" *The Federalist*, Nos. 47, 48, J. Cooke ed. (1961), 323, 325–326, 332 (emphasis in original).

Examination of the constitutional document reveals many examples of the connections and blending and as well underscores where the Framers placed the responsibility for fleshing out the government they had created. Article I contains fairly detailed provisions setting out the structure and organization of the legislative branch and sets out in some detail the powers assigned to Congress. In contrast is the paucity of specific provisions defining and powering the President and the courts; rather, the power to develop the potentialities vested in Articles II and III is, within limitations, placed with Congress.

Thus, for example, the executive power is vested in the President and Article II, § 2, confers a number of express powers ranging from the authority to command the armed forces to the surprisingly enumerated power to require the opinion in writing of his principal executive officers. With Justice Jackson, we "may be surprised at the poverty of really useful and unambiguous authority applicable to concrete problems of executive power as they actually present themselves. Just what our forefathers did envision, or would have envisioned had they foreseen modern conditions, must be divined from materials almost as enigmatic as the dreams Joseph was called upon to interpret for Pharaoh." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 634–635 (1952) (concurring opinion).

In the face of this vagueness, the Court has managed to divine some standards of decision. In *Myers* v. *United States*, 272 U.S. 52 (1927), Chief Justice Taft, himself a former President, held unconstitutional a law requiring senatorial concurrence in the removal of postmasters. He found in the grant of "the executive power" a conferral of all executive power as to which the succeeding more specific grants merely elaborated and in some cases limited, rather than a specification of a locus of the residency of executive power, and in the authorization to execute the laws a necessity that the President alone control his subordinates through whom he executed the laws. But even this most latitudinarian interpretation of presidential powers was laced with a recognition of congressional authority. "To Congress under its legislative power is given the establishment of offices, the determination of their functions and jurisdiction, the prescribing of reasonable and relevant qualifications and rules of eligibility of appointees, and the fixing of the term for which they are to be appointed and their compensation—all except as otherwise provided by the Constitution." *Id.*, 129. And in *Youngstown Sheet & Tube Co.* v. *Sawyer*, *supra*, 587–588, it was observed that "[i]n the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. The first section of the first article says that 'All legislative Powers herein granted shall be vested in a Congress of the United States. . . .' "

What is true of the executive is even more the case of the judiciary. In Article III, the "judicial power of the United States" is vested in one supreme court "and in such inferior Courts as the Congress may from time to time ordain and establish." Separately, Congress is specifically authorized in Article I, § 8, cl. 9, to "constitute Tribunals inferior to the supreme Court". Article III, § 2, cl. 1, defines and describes the jurisdiction which *may* de devolved on the courts *by Congress*. A small class of cases is made subject to the original jurisdiction of the Supreme Court, but "[i]n all the other Cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." *Id.*, cl. 2. Anr that is all that Article III provides. It does not say anything about the makeup of the Supreme Court (that there will be a chief justice appears from the provision directing that he preside over the Senate when the President is tried on impeachment), nor does it place any limitation upon Congress' discretion in deciding whether to create lower federal courts or instead to rely on state courts.

In the Judiciary Act of 1789, 1 Stat. 73, Congress provided not only for the size and composition of the Supreme Court but also for the times and place for sitting, its internal organization, and other matters. It created inferior courts and prescribed membership, terms, places of sitting, and jurisdiction. The history of the courts in this country is one of continuous legislative provision with respect to every aspect of the conduct of business. See generally F. Frankfurter & J. Landis, *The Business of the Supreme Court* (1928).

Resulting from Article III's generality and its vesting of authority in Congress is the fact that federal courts have only such jurisdiction and consequently such power to act as Congress devolves upon them; it may give or withhold any or all jurisdiction from the lower federal courts and may leave the Supreme Court with but a shadow of its present burgeoning docket. See, e.g., *Turner* v. *Bank of North America*, 4 Dall. (4 U.S.) 8 (1799); *Ex parte Bollman*, 4 Cr. (8 U.S.) 75 (1807); *Cary* v. *Curtis*, 3 How. (44 U.S.) 236 (1845); *Sheldon* v. *Sill*, 8 How. (49 U.S.) 441 (1850); *Ex parte McCardle*, 7 Wall. (74 U.S.) 506 (1869); *Kline* v. *Burke Construction Co.*, 260 U.S. 226, 233–234 (1922); *South Carolina* v. *Katzenbach*, 383 U.S. 301, 331 (1966). A corollary of the power to create is, of course, the power to abolish courts, again in Congress' discretion. *Stuart* v. *Laird*, 1 Cr. (5 U.S.) 299, 308–309 (1803); F. Frankfurter & J. Landis, *supra*, 25–32, 153–174; W. Carpenter, *Judicial Tenure in the United States* (1918), 78–94.

Extending beyond creating courts and providing for their jurisdiction are congressional enactments which prescribe and regulate the procedure of federal courts and empower with limitations the courts to alter procedure. *Wayman* v. *Southard*, 10 Wheat. (23 U.S.) 1, 21 (1825); *Bank of the United States* v. *Halstead*, 10 Wheat. (23 U.S.) 51, 53 (1825); *Beers* v. *Haughton*, 9 Pet. (34 U.S.) 329, 359, 361 (1835); *Fink* v. *O'Neil*, 106 U.S. 272, 280 (1882); *Sibbach* v. *Wilson*, 312 U.S. 1, 9–10 (1941). Moreover, Congress has long provided for the recusal or disqualification of judges in order to guarantee fairness to litigants, a regulation directly bearing upon judges who have constitutionally protected tenure and compensation. See Act of May 8, 1792, ch. 36, § 11, 1 Stat. 278, now codified at 28 U.S.C. § 455; and see 28 U.S.C. § 144. *Cf. United States* v. *Berger*, 255 U.S. 22 (1921). The standards thus statutorily imposed have been recognized to be more stringent than the Constitution demands, e.g., *United States* v. *Haldeman*, 559 F.2d 31, 130 n. 276 (C.A.D.C. 1976) (*en banc*), *cert. den.*, 431 U.S. 933 (1977), and thus come within congressional discretion to regulate.

In the Administrative Office Act of 1939, 53 Stat. 1223, Congress created judicial councils of the circuits, composed of the active circuit judges of the circuit, and authorized them to "make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district court shall promptly carry into effect all orders of the judicial council." 28 U.S.C. § 332(d). See P. Fish, *The Politics of Federal Judicial Administration* (1973), 125–165; Wallace, "Must We Have the Nunn Bill? The Alternative of Judicial Councils of the Circuits," 51 Ind. L.J. 297, 311–315 (1976); Comment, "The Authority of the Circuit Judicial Councils; Separation of Powers in the Courts of Appeal," 5 Seton Hall L. Rev. 815 (1974). Pursuant to this authorization, the circuit councils have undertaken extensive regulation of the activities and conduct of judges. S. Flanders & J. McDermott, *Operation of the Federal Judicial Councils* (FJC, 1979); R. Wheeler & A. Levin, *Judicial Discipline and Removal in the United States* (FJC, 1979), 32–42. While the exercised powers have not yet been tested on the merits in the Supreme Court, see *Chandler* v. *Judicial Council of the Tenth Circuit*, 398 U.S. 74 (1970), the lower federal courts have proceeded on the basis that the authorization is broad-ranging and valid. *In re Rodebaugh*, 10 F.R.D. 207 (Jud. Coun. of 3d Cir., 1950); *In re Imperial "400" National, Inc.*, 481 F.2d

41 (C.A. 3, 1973), *cert. den.*, 414 U.S. 880 (1973); *Hilbert* v. *Dooling*, 476 F.2d 355 (C.A. 2, 1973) (*en banc*), *cert. den.*, 414 U.S. 878 (1973).

Although the Supreme Court did not reach the merits in *Chandler*, in dicta it clearly recognized both the propriety and the necessity for congressional regulation of the judicial process and for authorization to a body to act to effectuate those regulations. "There can, of course, be no disagreement among us as to the imperative need for total and absolute independence of judges in deciding cases or in any phase of the decisional function. But it is quite another matter to say that each judge in a complex system shall be the absolute ruler of his manner of conducting judicial business. The question is whether Congress can vest in the Judicial Council power to enforce reasonable standards as to when and where court shall be held, how long a case may be delayed in decision, whether a given case is to be tried, and many other routine matters. As to these things—and indeed an almost infinite variety of others of an administrative nature—can each judge be an absolute monarch and yet have a complex judicial system function efficiently?

"The legislative history of 28 U.S.C. § 332 and related statutes is clear that some management power was both needed and granted. . . .

"Many courts—including federal courts—have informal, unpublished rules which, for example, provide that when a judge has a given number of cases under submission, he will not be assigned more cases until opinions and orders issue on his 'backlog'. These are reasonable, proper, and necessary rules, and the need for enforcement cannot reasonably be doubted. These internal rules do not come to public notice simply because reasonable judges acknowledge their necessity and abide by their intent. But if one judge in any system refuses to abide by such reasonable procedures it can hardly be that the extraordinary machinery of impeachment is the only recourse."[1] *Chandler* v. *Judicial Council of the Tenth Circuit*, *supra*, 84–85.

While not dispositive, of course, and not going to the kinds of authority S. 1873 would confer on the councils and the new court, the quotation recognizes both the propriety of congressional legislation with respect to internal court management and to the council's administrative powers to exercise the powers delegated. Congress has over the years consistently devolved upon the council's a large number of powers, some of considerable importance and some minor. Of the former kind is 28 U.S.C. § 372(b), under which the Council of the Circuit may certify to the President that a judge is disabled and the President can appoint an extra judge. The certified judge loses all seniority and apparently would not be assigned any judicial business, but he would retain his office and his compensation. S. Flanders & J. McDermott, *Operation of the Federal Judicial Councils* (FJC, 1979), 31–32; R. Wheeler & A. Levin, *Judicial Discipline and Removal in the United States* (FJC, 1979), 34; Kaufman, "Chilling Judicial Independence," 88 Yale L. J. 681, 708–709 (1979).[2]

In sum, the Constitution created a government of separated powers, each with the power and the incentive to check the abuses of powers of the others. But the Constitution did not provide a detailed checklist of authorizations and instructions to the departments. "To have prescribed the means by which government should, in all future time, execute its powers, would have been to change, entirely the character of the instrument, and give it the properties of a legal code. It would have been an unwise attempt to provide, by immutable rules, for exigencies which, if foreseen at all must have been seen dimly, and which can be best provided for as they occur." *McCulloch* v. *Maryland*, 4 Wheat. (17 U.S.) 316, 415 (1819). Inasmuch as the Constitution is not a prolix code, the power must reside somewhere to provide for the exigencies as they occur and to make the rules guiding governmental action. "[T]he constitution of the United States has not left the right of Congress to employ the necessary means for the execution of the powers conferred on the government to general reasoning. To its enumeraiton of powers is added that of making 'all laws which shall be necessary and proper, for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department thereof." *Id.*, 411–412. Article I, § 8, cl. 18 thus confirms the role of Congress in legislating to effectuate not only its own powers but those powers reposed in other branches of government as well. "We admit, as all must admit, that the powers of the government are limited, and that its limits are not to be transcended. But we think the sound construction of the constitution must allow *to the national legislature* that discretion, with respect to the means by which the powers it confers are to be carried into execution." And the Chief Justice continued with the passage so much quoted it seems trite but which remains the standard for judging such exercises of congressional power. "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional." *Id.*, 421. The Court has on numerous occasions recognized the authority of Congress under the necessary and proper clause to regulate the courts. E.g., *Wayman* v. *Southard*, 10 Wheat. (23 U.S.) 1, 22 (1825); *Bank of the United States* v. *Halstead*, 10 Wheat. (23 U.S.) 51, 53-54 (1825); *Rhode Island* v. *Massachusetts*, 12 Pet. (37 U.S.) 657, 721 (1838); *Embry* v. *Palmer*, 107 U.S. (1882); *Hanna* v. *Plumer*, 380 U.S. 460, 472 (1965). The authority conferred by the clause appears to be as sweeping with respect to the powers of the executive and the judiciary as it has been with respect to the enumerated powers of Congress. See Van Alstyne, "The Role of Congress in Determining Incidental Powers of the President and of the Federal Courts: A Comment on the Horizontal Effect of 'the Sweeping Clause,'" 36 Ohio St. L.J. 788 (1975). Of course, it would violate the separation of powers doctrine and unconstitutionally intrude into the province of the judiciary were Congress to attempt to dictate the disposition of cases before the courts. *United States* v. *Klein*, 13 Wall. (80 U.S.) 128 (1872), and the courts as an independent branch undoubtedly have spheres of power not touchable by Congress. See *National Mutual Ins. Co.* v. *Tidewater Transfer Co.*, 337 U.S. 582, 590-591 (1949).[3] But these are matters of degree to be evaluated and do not go generally to the power of Congress to legislate over a wide range of issues.

It would appear, and should Congress enact S. 1873 the courts would appear unlikely to disagree with Congress' assessment, that the ends sought to be achieved are legitimate and that the means are appropriate. *McCulloch* v. *Maryland*, *supra*, 421. The due process clauses of the Fifth and Fourteenth Amendment mandate a "fair trial in a fair tribunal." *In re Murchison*, 349 U.S. 133, 136 (1955). And since "justice must satisfy the appearance of justice," *Offutt* v. *United States*, 348 U.S. 11, 14 (1954), litigants are entitled to the assurance of disinterested and competent administration of the courts. E.g., *Tumey* v. *Ohio*, 273 U.S. 510 (1927; *Ward* v. *Village of Monroeville*, 409 U.S. 57 (1972); *Mayberry* v. *Pennsylvania*, 400 U.S. 455 (1971); *Reserve Mining Co.* v. *Lord*, 529 F.2d 181 (C.A. 8, 1976). Irrespective of the constitutional standards, it would seem to be within Congress' discretion to conclude that certain conduct and activities of federal judges would rise to a level that not only individual litigants would be harmed but the integrity of the courts would be impaired.

The real question is with respect to the second part of the *McCulloch* test, whether the means are prohibited by express or implied provisions of the Constitution.

SEPARATION OF POWERS AND JUDICIAL INDEPENDENCE

While the doctrine of separation of powers does not wholly preclude one branch from having some say in the performance of another branch and does not impose a barrier to general congressional legislation respecting the affairs of either the executive or the judiciary, the doctrine is not irrelevant when legislation is considered on its merits. In *Nixon* v. *Administrator of General Services*, 433 U.S. 425, 441–446 (1977), the Court set out the standard for judging a claim of invalidity based on separation of powers. Congress had provided for custody of the papers and tapes of Former-President Nixon to be in GSA and for the sorting, cataloging, and disposition of them, with eventual public access to some. Rejecting an argument of absence of congressional power, the Court continued: "Rather, in determining whether the Act disrupts the proper balance between the coordinate branches, the proper inquiry focuses on the extent to which it prevents the Executive Branch from accomplishing its constitutionally assigned functions." *Id.*, 443. In assessing whether there was a "potential for disruption," the Court thought it "highly relevant" that the law provided for custody within the Executive Branch; indeed, when considered in that context combined with assurances of proper screening and protection of privileges, the fact that control and disposition was with the Executive Branch appeared dispositive with the Court in finding little likelihood of disruption of executive functions. *Id.*, 444–445.

Thus, it may be deemed "highly relevant" that the entire enforcement machinery of S. 1873 reposes within the judicial branch. Charges against a federal judge are to be

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[1] The opinion of the Chief Justice was joined by three other Justices, but the opinion of Justice Harlan concurring, *id.*, 89, 118–129, is as strong if not stronger in support of the Council's powers and of the validity of congressional authorization.

[2] For partial lists of other granted powers to the Councils, see *Chandler* v. *Judicial Council of the Tenth Circuit*, *supra*, 109–110 (Justice Harlan concurring); Comment, "The Authority of the Circuit Judicial Councils: Separation of Powers in the Courts of Appeals," 5 Seton Hall L. Rev. 815, 825 n. 51 (1974).

[3] *See United States* v. *Howard*, 440 F. *Supp.* 1106 (D.C.D. Md. 1977), in which the court strongly expressed the view that Congress did not have the constitutional power to impose time limits on federal courts under the Speedy Trial Act. Since the court found the time limits had not been exceeded in this case, the expression is dictum. For critical commentary on the case, see Note, "The Speedy Trial Act and Separation of Powers," 91 Harv. L. Rev. 1925 (1978).

brought into a forum made up of sitting judges who may resolve the matter to everyone's satisfaction and if there is no such resolution the matter may be taken to other judges sitting formally as a court. Rather than containing a "potention for disruption," the bill is presented by the Committee as designed to facilitate the judiciary in "accomplishing its constitutionally assigned functions."[4] Of course, the fact that this is the intention and the design does not establish that the powers conferred can never be abused, that a federal judge can never be victimized. But these "future possibilities for constitutional conflict" lie in the improper utilization of the law and have no bearing upon the facial validity of the bill at this point, *id.*, 444–445, although they can be policy considerations on the issue of desirability.

One may object to the transposition of an argument addressed to the situation of the executive branch, with its single head, to the judicial branch. "Once a federal judge is confirmed by the Senate and takes his oath, he is independent of every other judge. He commonly works with other federal judges who are likewise sovereign. But neither one alone nor any number banded together can act as censor and place sanctions on him. . . . [T]here is no power under our Constitution for one group of federal judges to censor or discipline any federal judge and no power to declare him inefficient and strip him of his power to act as a judge." *Chandler* v. *Judicial Council of the Tenth Circuit, supra*, 136, 137 (Justice Douglas dissenting). The issue of judicial independence thus raised has an important place in our history and constitutional theory. It is relevant to note, however, that Chief Justice Burger in the plurality opinion of the Court and Justice Harlan, concurring, both rejected the principle that each federal judge is autonomous and viewed the judicial council order at issue in less serious terms than did the dissent. *Id.*, 84–85 (quoted above), 129.

There is no precedent either affirming or denying Justice Douglas' view in *Chandler*. Several considerations may be addressed which call into question the breadth of the assertion there made.

First, with respect to the legislative branch which share the feature of numerous, coequal members with the judiciary, the Constitution simultaneously guarantees immunity from executive or judicial retribution for legislative acts, Article I, § 6, cl. 1, and empowers each House to punish its Members even extending to expulsion of them. Article I, § 5, cl. 2. The protection of individual legislators and individual judges was designed with the same end in mind, not so much the benefit of the individual legislator or judge but the promotion of the general good by giving each of them the independence that permits the impartial and courageous discharge of the functions delegated to them. Compare *Kilbourn* v. *Thompson*, 103 U.S. 168, 203 (1881), and *United States* v. *Brewster*, 408 U.S. 501, 507 (1972), with *O'Donoughue* v. *United States*, 289 U.S. 516, 531–533 (1933), and *O'Malley* v. *Woodrough*, 307 U.S. 277, 282 (1939). The Framers did not think it inconsistent with the independence of the legislative branch to vest expressly authority over Members in their respective bodies.

[4] Also relevant on this point as set out in the *Nixon* opinion are statutory assurances designed to minimize conflict. Notable in this respect is S. 1873's proposed 28 U.S.C. § 372 (c)(3) which precludes the council or the court from considering "complaints relating to the merits of any decisional or procedural ruling of a judge, or any matter reviewable under any other provision of law on the record."

It is the Constitution which so authorizes the Senate and House of Representatives and it is silent with respect to the judiciary. But, as we have seen, Congress is authorized to legislate in respect of judicial matters and if its imposition of such a system is valid legislation it is as much the law of the land as is the Constitution. Article VI, cl. 2. But the comparison was cited primarily as an example that the principle of independence of a branch is not impaired under the Constitution by the vesting of some power over the members of that branch in the branch itself.

Second, within the context of case and controversy, the Federal courts now have and exercise considerable supervisory powers over Federal judges in their conduct of cases. *LaBuy* v. *Howes Leather Co.*, 352 U.S. 249 (1957); *Hilbert* v. *Dooling*, 476 F. 2d 355 (C.A. 2), *cert. den.*, 414, 878 (1973). Under the disqualification statutes, 28 U.S.C. § § 144, 455, Federal appellate courts can determine that a judge may not sit on a particular case. *E.g.*, *United States* v. *Ritter*, 540 F. 2d 459 (C.A. 10), *cert. den.*, 429 U.S. 951 (1976). Under 28 U.S.C. § 372(b), a judge's peers may certify his disability to the President and obtain the appointment of a new judge. While this statute is rarely invoked, Chief Judge Kaufman of the Second Circuit, who has argued strongly that removal provisions in the predecessors of S. 1873 are unconstitutional, Kaufman, "Chilling Judicial Independence," 88 Yale L.J. 681 (1979), perceives no constitutional problem with it. "This statute, it should be noted, was framed with sedulous regard for constitutional limitations. It does not attempt to remove or discipline him. It fulfills one entirely proper purpose; to ensure that the bench has its full complement of able members so that it may administer justice properly." *Id.*, 709. In other words, Judge Kaufman looks to the absence of removal and of diminution or loss of salary as marking the boundary of the protected preserve of a federal judge, because "the certified judge loses all seniority, and presumably would not be assigned any judicial business by his court." R. Wheeler & A. Levin, *Judicial Discipline and Removal in the United States* (FJC, 1979), 34.

Third, and following on this point, the Constitution is silent with respect to the independence of a judge from his fellow judges. While not dispositive because of its equal silence with respect to authorization of judges to act on other judges, the Constitution's authorization in the necessary and proper clause for Congress to legislate with respect to the powers of the other branches is not an insignificant consideration to place in balance with the absence of a prohibition. It appears, therefore, that the inquiry must return to the analysis of the *Nixon* case with which this section began. Is there a "potention for disruption" of the functions assigned the judiciary?

THE EXCLUSIVITY OF IMPEACHMENT

Legislative provision for judicial supervision over misconduct and impairment of ability in the judicial branch raises an interrelated issue also touched on by Justice Douglas. "Under the Constitution the only leverage that can be asserted against a federal judge is impeachment, . . . What the Judicial Council did when it ordered petitioner to 'take no action whatsoever in any case or proceeding now or hereafter pending' in his court was to do what only the Court of Impeachment can do." *Chandler* v. *Judicial Council of the Tenth Circuit, supra*, 136. And see *id.*, 141–142 (Justice Black dissenting). Often alluded to is the language of Hamilton in *The Federalist*, No. 79, J. Cooke ed. (1961), 533. "The precautions for their responsibility are comprised in the article respecting impeachments. They are liable to be impeached for malconduct by the House of Representatives, and tried by the Senate; and, if convicted, may be dismissed from office, and disqualified for holding any other. This is the only provision on the point which is consistent with the necessary independence of the judicial character, and is the only one which we find in our own Constitution in respect to our own judges.

"The want of a provision for removing the judges on account of inability has been a subject of complaint. But all considerate men will be sensible that such a provision would either not be practiced upon or would be more liable to abuse than calculated to answer any good purpose."

It must first be noted that the bill under consideration does not, as prior legislation did, authorize removal of federal judges by means other than impeachment; in fact, both the councils and the court are forbidden to order removal. S. 1873, proposed 28 U.S.C. §§ 372(d)(2)(F), 372(i)(2)(C)(iii). "Although the question has never been finally settled, the Committee has respected the position that removal of federal judges by any means other than impeachment is arguably unconstitutional." S. Rept. No. 96–362, p. 4. Thus, the issue in point is not whether there is an alternative means of removing federal judges from office, but rather whether the impeachment process is the only means by which federal judges can be made accountable in any respect. Are they immune from any action taken by anyone, even by their fellow judges?

Nowhere in the Constitution is this expressly provided. The only express guarantee is in Article III, § 1, in which it is stated that "[t]he Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour; and shall, at stated times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office." It has long been accepted, and acted upon, that federal judges are "Civil Officers" within the meaning of the impeachment clause of Article II, § 4, *Shurtleff* v. *United States*, 189 U.S. 311, 316 (1903); *United States* v. *Isaacs*, 493 F.2d 1124, 1142 (C.A. 7), *cert. den.*, 417 U.S. 976 (1974), thus bringing into play the provision in Article I, § 2, cl. 5, that the House of Representatives has the "sole" power to impeach and the provision in Article I, § 3, cl. that the Senate has the "sole" power to try impeachments.

Federal judges are expressly protected from reductions of their salaries and from removal except, by the seeming consensus, through impeachment; the purpose of the guarantees is the assurance of judicial independence in the trying of cases and the protection of rights of all litigants. But the protection of independence is not under the Constitution extended to the right to hear particular cases or to sit on particular courts. Thus, as we have seen, judges may be ordered off particular cases by higher courts and may be statutorily required to recuse themselves upon the filing of proper papers by litigants. Congress has authorized judges to certify the disability of fellow judges in proper cases, with substantial consequences. The entire jurisdiction of the lower federal courts and the appellate jurisdiction of the Supreme Court are subject to regulation by Congress and, whatever limitations the Constitution may place upon the exercise of that power in order to accomplish certain things, e.g., *United States* v. *Klein*, 13 Wall. (80 U.S.) 128 (1872); *Battaglia* v. *General Motors Corp.*, 169 F.2d 254, 257 (C.A. 2), *cert. den.*, 335 U.S. 887 (1948), Congress may withdraw jurisdiction over a case while it is pending before a court, necessitating its dismissal. *Ex parte McCardle*, 7 Wall. (74 U.S.) 506 (1869); *Insurance Co.* v. *Ritchie*, 5 Wall. (72 U.S.) 541 (1866); *Railroad Co.* v. *Grant*, 98 U.S.

398 (1878). In fact, entire courts, once established, may be, and have been, abolished by Congress. See Act of March 8, 1802, 2 Stat. 132, abolishing the circuit courts created in the Act of February 13, 1801, 2 Stat. 89, and making no provision for the judges occupying the offices, and the Act of October 22, 1913, 38 Stat. 208, 219, abolishing the commerce court created by the Act of June 18, 1910, 36 Stat. 539, and redistributing the judges among the circuit courts.

In other words, the Framers apparently deemed it a sufficient guarantee of the independence of judges to afford them security of tenure and of salary. S. 1873 does not trench on either of these securities. Either the councils or the court can issue a certificate of disability under present law, can request that a judge voluntarily retire, can censure or reprimand him privately or publicly, can order that no further cases be assigned to him on a temporary basis, or can issue other appropriate orders (but not including removal). For our purposes, the censure or reprimand and the halting of assignment of cases may be deemed to raise the most serious new issues.[5] In particular, the order that no new cases be assigned was perceived by Justice Douglas as being equivalent to impeachment. *Chandler* v. *Judicial Council of the Tenth Circuit, supra*, 136.[6]

Impeachment, however, is removal from office. A judge who is not receiving any new cases, even one who has had his pending cases taken from him, retains his office; he is not removed from office and he continues to be paid. He is the functional equivalent of a judge who has been disqualified from sitting on his cases, or who has been certified as incapable, or who has had his court abolished by act of Congress, or who has lost his cases because of repeals or alterations of jurisdictional statutes. He is, to be sure, not functioning in the way a judge normally functions, but it is important to note what the charges must consist of that lead to this point.

A charge must allege that (1) the judge is unable to discharge efficiently the duties of office because of mental or physical disability or (2) the judge is engaging, or has engaged, in conduct inconsistent with the effective and expeditious administration of the business of the courts. Moreover, it may not deal with, and must be dismissed if it does deal with, complaints relating to the merits of any decisional or procedural ruling of a judge or any matter reviewable under any other provision of law on the record. Properly administered, the statute would reach precisely those situations in which in any event a judge is not functioning in the way a judge normally functions, and it would operate in the large to effect the same results that follow from the exercise of an appellate court's supervisory powers in particular cases. That is, inasmuch as federal courts are limited to acting in the course of a case or controversy, abuse of judicial power, bias, or other conditions or conduct of judges are reachable only as they occur in particular cases with respect to litigants who have standing to raise these matters. The bill under consideration, by excepting out these cases, would not alter

[5] The certification of disability raises a significant issue as well, but inasmuch as it already is law we pass over it here.

[6] Justice Douglas melded in the revoked order taking away already assigned cases with the one relating to new cases but the principle should not be altered. S. 1873 does not expressly deal with pending cases unless the authorization to "order such other actions as it considers appropriate under the circumstances" comprises the taking away of pending cases.

an appellate court's supervisory powers but would empower the councils and the new court to act over the whole course of the judge's condition or conduct insofar as it related to his judicial function and was unrelated to the merits of particular cases.

Another argument from analogy may shed some light on the issue. The impeachment clause applies, of course, to the President and Vice President and all other "Civil Officers" of the Executive Branch. Because the President and Vice President are given a term of years, they are situated like the judges with their "good Behaviour" tenure (interpreted, as we assume above, to guarantee life tenure subject to impeachment), but the fact that all other "Civil Officers" in the Executive Branch are subject to impeachment does not immunize them from removal by the President (or a lesser appointing office) nor immunize them from other kinds of discipline. The power to remove or take lesser disciplinary actions flows from the constitutional obligation imposed on the President to execute the laws and carry out the executive function. *Myers* v. *United States*, 272 U.S. 52 (1927). The point is that the same constitutional language which is not exclusive with respect to "Civil Officers" can only take on exclusivity with respect to judges by reference to other language in the Constitution; that other language is the guarantee of tenure during "good Behaviour" which goes expressly to tenure and not to lesser forms of action.

Certainly, neither the plurality in *Chandler*, *supra*, 84–85, nor Justice Harlan, *id.*, 129, deemed the Tenth Circuit Judicial Council's orders directing that no future cases be assigned to Judge Chandler as either the functional equivalent of removal or as some other forbidden action although it must be noted that the plurality's language is dicta.

To the extent that Hamilton's language in *The Federalist* suggests that impeachment and removal constitute the only permissible action that can be taken against a judge, it may be balanced against the precise language of the Constitution which does not expressly go so far. Whether it impliedly goes beyond the express language is a matter for determination upon the analysis set out above.

THE DUE PROCESS CLAUSE

Before government takes action against someone to deprive him of some protected interest, it must afford him due process. The course of adjudication over the last several years has resulted in numerous uncertainties with respect to the nature of the interests which are protected, what elements of due process are required to be observed and the timing of the observance.[7] Because of the constitutional status of federal judges, it may be assumed without analysis that the kinds of adverse actions authorized to be taken against them by the councils and the new court implicate protected interests and necessitate the observance of procedural due process under the Fifth Amendment. The elements of procedural due process are commonly held to be notice, hearing, impartial tribunal, confrontation and cross-examination, discovery, decision on the record, and right to counsel, *Goldberg* v. *Kelly*, 397 U.S. 254, 267–271 (1970), although it must always be remembered that due process tolerates variances in form "appropriate to the nature of the case." *Mullane* v. *Central Hanover Trust Co.*, 339 U.S. 306, 313 (1950).

The bill, by virtue of considering council action somewhat less formal than the action of the court, does not spell out the procedures to be followed by the councils as fully as it does the court procedure, but neither does it prevent the councils from according the full panoply of rights; indeed, proposed 28 U.S.C. § 372(c)(1) would authorize the Judicial Conference to promulgate rules of procedure for the councils for discharging their duties or to authorize the councils to promulgate their own rules. The bill itself requires adequate notice, the right to appear, maintenance of a record of the proceedings, and written findings. As rules are promulgated, other procedural protections can be built in. In the court, the judge is given adequate notice, the right to attend the hearings, assistance of counsel, the right to testify and to present evidence, and the right of confrontation and cross-examination, and the right to a written decision.

It appears, therefore, that no procedural due process problems are presented by the bill, at least facially, and that if additional procedural features are found necessary they may be adopted through regulation.

With respect to public censure or reprimand, it appears that reputation *per se* is not protected by the due process clause, *Paul* v. *Davis*, 424 U.S. 693 (1976), but to the extent that "reputation plus" is a protected interest, *Wisconsin* v. *Constantineau*, 400 U.S. 433 (1971); *Goss* v. *Lopez*, 419 U.S. 565 (1975); *Bishop* v. *Wood*, 426 U.S. 314, 347–350 (1976); *Codd* v. *Velger*, 429 U.S. 624, 627 (1977), it is not a substantive protection but a procedural one requiring the observance of the same guarantees set out above. To the degree that the procedures are sufficient generally to withstand constitutional challenge, they would appear sufficient with respect to public censure or reprimand.

THE ENFORCEMENT MACHINERY

The judicial councils, as now constituted, are composed of the circuit judges in active service in each circuit. 28 U.S.C. § 332(a).[8] If the judicial councils are considered Article III courts, that is, as the particular court of appeals sitting *en banc*, there is doubt that Congress may vest non-Article III judicial business in Article III courts, *O'Donoghue* v. *United States*, 289 U.S. 516 (1933); *National Mutual Insurance Co.* v. *Tidewater Transfer Co.*, 337 U.S. 582 (1949). Although Justices Harlan, Douglas, and Black in *Chandler* v. *Judicial Council of the Tenth Circuit, supra*, 89, 95–111 (Justice Harlan concurring), 129, 133–135 (Justices Douglas and Black dissenting), believed the councils to be courts, at least when acting in the capacity which the Supreme Court was reviewing, the remaining four Justices who participated thought that the councils were administrative bodies functioning as a "board of directors" in each circuit. *Id.*, 86 n. 7. These Justices perceived on constitutional difficulty in this arrangement.

The question is of some importance because, as noted above, the councils do perform a number of administrative functions. And while they may act as a court would in receiving and reviewing complaints filed against judges by outside persons, the bill also authorizes them to investigate on their own motions allegations that come within the standards prescribed.

It appears that individual Article III judges may participate in functions which could

[7] See *The Constitution of the United States of America—Analysis and Interpretation*, S. Doc. No. 92–82 (1972), 1429–1439, and 1978 Supp., S. Doc. No. 96–26 (1979), for a review of the cases.

[8] S. 1477 which has been considered and approved in the Senate (but held in order to add the provisions of S. 1873 to it before final passage) would create councils composed of appeals and district judges in numbers fixed by a vote of the appeals judges in active service.

not be given to an Article III court. *United States* v. *Jones*, 119 U.S. 477 (1886); *Glidden Co.* v. *Zdanok*, 370 U.S. 530, 579–580 (1962); McKay, "The Judiciary and Nonjudicial Activities," 35 Law & Contemp. Prob. 9, 33–35 (1970); Comment, "The Authority of the Circuit Judicial Councils: Separation of Powers in the Courts of Appeals," 5 Seton Hall L. Rec. 815, 832–835 (1974). The judicial councils which these judges sit on would be analogous to Article I judicial tribunals exercising both administrative and non-Article III judicial powers, such as those created in the territories, *American Ins. Co.* v. *Canter*, 1 Pet. (26 U.S.) 511 (1829), or in the District of Columbia. *Palmore* v. *United States*, 411 U.S. 389 (1973). As such bodies, the councils could issue orders which federal judges would be obligated to follow. *Chandler* v. *Judicial Council of the Tenth Circuit*, *supra*, 86 n. 7.

The new Court on Judicial Conduct and Disability would qualify as an Article III court, inasmuch as its member judges have constitutionally guaranteed tenure and security of compensation. *Glidden Co.* v. *Zdanok*, 370 U.S. 530 (1962). As such, it would only hear cases and controversies brought to it from the judicial councils, just as review is now sought of administrative agency action.

Under the bill, proposed 28 U.S.C. § 372(1)(3), there is no judicial review of the orders or actions of the new court. While the absence of a right to take a case "all the way to the Supreme Court" may strike one today as strange and aberrational, the Constitution, as was noted above, leaves the jurisdiction of the inferior federal courts and the appellate jurisdiction of the Supreme Court in the discretion of Congress, See, e.g., *Palmore* v. *United States*, 411 U.S. 389, 400–404 (1973); *Swain* v. *Pressley*, 430 U.S. 372 (1977). Moreover, even in criminal cases, where constitutional protection is at its highest, absent affirmative provision for it, there is no guarantee of any right of appeal. "A review by an appellate court of the final judgement in a criminal case, however grave the offense of which the accused is convicted, was not at common law and is not now a necessary element of due process of law." *McKane* v. *Durston*, 153 U.S. 684, 687 (1894); *Griffin* v. *Illinois*, 351 U.S. 12, 18 (1956); *Ross* v. *Moffitt*, 417 U.S. 600, 606 (1974). Congress for a hundred years did not provide for a right of appeal to the Supreme Court in criminal cases, except upon a certification of division by the circuit court; at first appeal was provided in capital cases and then in others. F. Frankfurter & J. Landis, *The Business of the Supreme Court* (1928), 79, 109–120.

The Supreme Court in dicta in recent cases has hinted that preclusion of judicial review of constitutional claims might raise constitutional questions, *Johnson* v. *Robison*, 416 U.S. 361, 366–367 (1974); *Weinberger* v. *Salfi*, 422 U.S. 749, 761–762 (1975), but its concern appears to be that litigants at some point have access to an Article III court, *Territory of Guam* v. *Olsen*, 431 U.S. 195, 201–202, 204 (1977), and the Court on Judicial Conduct and Disability would be an Article III court.

REPORT TO THE HOUSE ON IMPEACHABLE CONDUCT

The new court is directed to submit to the House of Representatives a record of all proceedings which reveals conduct "which, in its view, would constitute an impeachable offense. . . . "Proposed 28 U.S.C. § 372(k). It has been suggested that in some sense this authorization may interfere with congressional prerogatives. First, if the bill is enacted, it will be congressional direction to the court and the role of Congress thus detracts from any argument of violation of separation of powers. *Nixon* v. *Administrator of General Services*, 433 U.S. 425, 441 (1977). Second, it is not at all clear what constitutes the interference. The report of the court may be a more formal way of making known to the House of Representatives a complaint of impeachable conduct than it may usually receive, but in any event the House retains full discretion to decide whether the conduct is indeed impeachable and freedom to act.

Mr. THURMOND. Mr. President, I ask unanimous consent that Peter Chumbris, Emory Sneedon, and Sally Rogers, of the Senate Judiciary staff, have the privilege of the floor during the consideration of and votes on S. 1873 and S. 1871.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I make the same request for Debbie Neirinck.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I make the same request for Mike Klipper and Grace Rienhoff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I would like to express my support for S. 1873, the Judicial Conduct and Disability Act of 1979. I am a cosponsor of this piece of legislation along with a number of my colleagues from the Judiciary Committee.

S. 1873 establishes a simple, yet effective procedure for the processing of allegations that members of the Federal Judiciary are not efficiently performing their duties by reason of physical or mental disability or that they have engaged in conduct inconsistent with the effective and expeditious administration of the business of the courts. Complaints may be filed by any person with the judicial council of the circuit in which the judge who is the subject of the complaint serves. Any complaint alleging conduct which does not violate the standards set forth in the bill shall be dismissed, as well as any complaint which is regarded as frivolous or which is outside the jurisdiction of the council. If the council determines that there is a violation of the standards established in S. 1873, it may certify disability pursuant to existing law found in 28 U.S.C. 372(b), request that the judge voluntarily retire, order that on a temporary basis no further cases will be assigned to that judge, censure or reprimand the judge publicly or privately, or order other appropriate action.

Review of the council's action lies with a court created in S. 1873 which is designated as the Court on Judicial Conduct and Disability.

This court is to be composed of five existing article III judges appointed to serve on this panel by the Chief Justice of the United States. Should the court decide to grant a petition for review, it may dismiss the complaint; or it may affirm, modify, or reverse and remand any action taken by the council. Aside from its appellate functions, the court may conduct a hearing and determine the matter de novo if it decides that the interests of justice so require. Finally, the court is required to forward to the House of Representatives a record of all proceedings in any case involving conduct which, in its view, would constitute an impeachable offense.

That is a broad outline of the procedures established by S. 1873. I shall comment briefly on the two standards contained in this legislation. Under the new section 372(c)(1)(A), a complaint may be filed alleging that a judge is, or has been, unable to discharge his duties efficiently by reason of mental or physical disability. This language is very similar to that found in existing law under section 372(b) which allows the President to appoint an additional judge should a majority of the members of the judicial council certify that an existing judge suffers from a permanent mental or physical disability. S. 1873 allows the disability issue to be raised by a complaint, but provides that the existing procedures of section 372(b) must still be complied with if permanent disability is to be certified. If the disability is not permanent, the council may select one of the other options available to it under S. 1873, such as temporarily assigning no further cases to that judge.

A complaint may be filed under the new section 372(c)(1)(B), the second standard set forth in S. 1873, if the judge is engaged, or has engaged, in conduct inconsistent with the effective and expeditious administration of the business of the courts. Again, the source for this particular language is existing law and therefore not totally unfamiliar to the Judiciary. Section 332(d) of title 28 grants to each judicial council the power to make all necessary orders for the effective and expeditious administration of the business of the courts. I might add that section 332(d) is currently being utilized as the statutory basis for the procedural processes established in 10 of 11 circuits for the handling of complaints alleging judicial misconduct. It is my belief that this section is insufficient statutory authority for the establishment of a comprehensive judicial disciplinary procedure. Aside from that concern, however, I feel that it is desirable to have at least some uniformity in the procedures and standards being utilized from circuit to circuit. Passage of S. 1873 would obviously resolve both of these concerns.

I feel it is also appropriate to comment on the standards which were not included in the final draft of S. 1873. During the full committee markup of this bill, the members of the committee agreed, at the suggestion of the senior Senator from Indiana, to delete a third standard which allowed the filing of a complaint if the judge had engaged in conduct prejudicial to the administration of justice by bringing the judicial office into disrepute. This so-called disrepute standard was dropped because it was felt that this standard could be too intrusive on the judge's personal life and was subject to possible abuse. The deletion of the disrepute standard was also requested by the Administrative Office of the U.S. Courts.

Having addressed the standards and procedures contained in S. 1873, I think it would be useful to point out some of the major differences between S. 1423,

the Judicial Tenure Act, which passed the Senate during the 95th Congress, and S. 1873. The most significant change is undoubtedly the absense of a provision which would allow removal of a Federal judge by means other than impeachment. There has been a great deal of discussion and debate in hearings and on the Senate floor concerning the constitutionality of removing or even disciplining a judge by some means other than impeachment. The most heated constitutional debate has focused on the alternative removal provision.

While I believe such a removal provision to be arguably constitutional and took this position on the Senate floor during consideration of the Nunn-DeConcini bill last year, I have come to the conclusion that a more moderate piece of legislation would stand a better chance of actually becoming law and would be more enthusiastically accepted by members of the judiciary who will have to live with and implement the provisions of S. 1873. It is my opinion, which I believe to be shared by other members of the Judiciary Committee, that we can have an effective piece of legislation without including provisions which raise serious constitutional questions.

S. 1873 would, I believe, be effective in two ways. First of all, as the committee report points out, there are situations where the disability or misconduct involved does not rise to the level of an impeachable offense. S. 1873 provides clear statutory authority for a number of other intermediate sanctions which will give needed flexibility to the judicial council to find solutions in these instances. Second, while impeachment is admittedly a cumbersome and time-consuming process, S. 1873 would serve to isolate the most serious instances of misconduct and to actually set before the House of Representatives a record of proceedings revealing misconduct which might constitute an impeachable offense. I think it is likely that the existence of such procedures would provide an incentive for Congress to take appropriate action where no such incentive has previously existed.

Other significant differences between last year's bill and the legislation presently being considered include the procedural mechanisms established, with S. 1423 creating an independent Judicial Conduct and Disability Commission to investigate and report on complaints. In the area of standards of judicial misconduct, S. 1423 significantly differs from S. 1873 by requiring that a complaint must allege conduct which violates the good behavior clause found in article III of the Constitution, a standard which is not as familiar as those found in S. 1873 and which has generated far more controversy. Finally, S. 1873 contains no provisions covering the conduct of U.S. Supreme Court Justices, such as were found in S. 1423.

Mr. President, during the committee's consideration of S. 1873, several arguments against this legislation surfaced. Since I am relatively certain that they will be repeated here on the floor today, I would like to briefly address them at this time. Although the removal provision was deleted from this year's bill, several members of the committee have still voiced concerns about the constitutionality of disciplining Federal judges by means other than impeachment. Having previously argued for the constitutionality of a removal provision, an argument which I will not repeat at this time, I am unconvinced by those who see constitutional difficulties with more moderate sanctions.

There is certainly no explicit language in the Constitution which would prohibit the establishment of a mechanism for the judiciary to implement its own disciplinary procedure. The Constitution provides for impeachment as a means for Congress to remove judges found guilty of very serious misconduct, more specifically of treason, bribery, or other high crime and misdemeanors. S. 1873 does not alter that impeachment process other than to require that the Court on Judicial Conduct and Disability forward a record of proceedings to the House of Representatives in cases involving, in its view, an impeachable offense.

There are, however, other situations involving judicial misconduct which does not warrant impeachment of that judge; and I think that the Senate should pass this legislation giving clear statutory authority to the judiciary to deal with these situations. I do not believe that the Founding Fathers, in establishing impeachment as the method for Congress to remove a member of the Federal judiciary, meant to totally preclude other means of discipline which do not involve removal.

In addition to raising the constitutionality of S. 1873, some members of the committee have questioned the need for this type of legislation. There is absolutely no question that the vast majority of our Federal judges are highly competent, hard-working, conscientious men and women; but there remains a need, I believe, to establish a mechanism to deal with that occasional judge who does suffer from a mental or physical disability or whose conduct has been interfering with the efficient and expeditious administration of the business of the courts.

Impeachment, because of its time-consuming and cumbersome nature and because it may be too severe a sanction, simply might not present a realistic alternative. I am aware of the disciplinary procedures which have been established by rule in 10 of 11 circuits, and I commend the judges for their efforts in this regard. I do believe, however, that the statutory authority for this activity is less than clear. S. 1873 establishes that authority and provides the overall structure of a disciplinary system which still gives a great deal of flexibility to the individual circuit councils.

A final issue which has been frequently raised is the effect which this legislation would have on the independence of the Federal judiciary. S. 1873 will not, in my opinion, compromise that necessary sense of independence. Under its provisions, unlike those of the Nunn-DeConcini bill which passed the Senate last year, a Federal judge can neither be removed nor involuntarily retired. Frivolous or insufficient complaints, or those outside the jurisdiction of the judicial councils, should be promptly dismissed. This bill offers a great deal of flexibility in terms of the procedures to be utilized by the various councils. It would be possible, for example, for a particular judicial council to establish a screening process in which the chief judge of the circuit would initially evaluate the complaint.

Moreover, a judge need have no fear that he will be disciplined under this legislation because he is of a particular judicial philosophy or because there is disagreement with a particular ruling. The committee has made more than clear, through both statutory and report language, that a complaint related to the merits of any decisional or procedural ruling or any matter reviewable under any other provisions of law on record is outside the jurisdiction of the council. This point, however, should be emphasized; and I would like to read a portion of the committee report dealing with the issue of judicial independence.

> Under the provisions of the Act, judges are shielded from the influence of public disapproval with the substance of the law itself and judicial interpretations of it. It is made clear that with this legislation judges need not feel threatened by frivolous complaints or those growing out of dissatisfaction with one of their decisions or procedural rulings. These insufficient complaints will be screened out and dismissed. . . . The subject of this legislation is to remedy matters relating to a judge's condition or conduct which interferes with his performance and responsibility.

It should also be kept in mind that, under the provisions of S. 1873, the conduct of a judge is reviewed only by other judges. Because they also serve on the Federal bench, I am sure that they will be extremely sensitive to the need to preserve the vitally important independence of all judges.

Mr. President, in recent years there has been a significant increase in the amount of business flowing into our Federal courts. From 1960 to 1978, for example, the number of civil suits filed in Federal court increased from 87,321 to 138,770. In addition to their burgeoning caseloads, judges have assumed some unfamiliar roles in the course of interpreting Federal statutes and defining constitutional rights. Federal judges have, in some instances, ended up virtually running school boards, welfare agencies, prisons, and other institutions. While I do not approve of their usurping such authority, I feel one cannot argue with the premise that we need judges of the highest caliber.

As I pointed out earlier, I strongly believe that the vast majority of Federal judges are equal to the duties and responsibilities which our society has given to them. Our judicial system, however, can further be improved by establishing a mechanism for resolving situations in which the conduct or disability of a particular judge impairs the efficiency and effectiveness of that system.

Mr. President, I would also like to express my support for the titles of S. 1477 to which S. 1873 will be attached if it is passed by the Senate. The most signifi-

cant provision of these titles of S. 1477 is that establishing a new Federal court of appeals entitled the Court of Appeals for the Federal circuit. This new court essentially combines the jurisdiction of the Court of Claims and that of the Court of Customs and Patent Appeals. It will be an appellate court whose jurisdiction is based on subject matter rather than on geography. The creation of this new intermediate appellate court is an idea which has been championed by former Assistant Attorney General Daniel Meador of the Justice Department's Office for Improvements in the Administration of Justice. It was his strong belief that such a court would improve the efficiency of our judicial system by providing an existing forum where Congress could route appeals in certain categories of cases where there might be a special need for national uniformity. Other important provisons of titles I, II, III, V, and VI include those dealing with chief judge tenure, the judicial councils, interlocutory appeals, prejudgment interest, and transfer of cases.

In closing, I would urge my colleagues in the Senate to support S. 1873, the Judicial Conduct and Disability Act. Although some members of the committee are opposed to this legislation, it was reported out by a vote of 11 to 4. I believe that S. 1873 is constitutional, that it is necessary, and that it will not compromise the independence of the Federal judiciary. This legislation takes a reasonable, moderate approach to the problem of dealing with that occasional judge who suffers from a physical or mental disability or whose conduct has been interfering with the effective and expeditious administration of the business of the courts. I would like to thank the able Senator from Arizona (Mr. DECONCINI) for the fine work which he has done in bringing this compromise legislation to the floor of the Senate.

Mr. President, I yield the floor.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Pete Velde and Ken Feinberg of the Judiciary Committee staff be granted privileges of the floor during the debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, the legislation we have before us today represents a meaningful compromise between most of the individuals who opposed last year's legislation and those of us who supported it. The details of this compromise were developed over a long, tedious process of consultation among our various staffs.

I would like to take this opportunity to pay special tribute to those individuals who, through their untiring efforts, have made this bill a reality so it could come to the floor today.

Michael Altier, of the subcommittee which I chair, deserves the lion's share of the credit for the immense amount of work he put in. I know firsthand of many, many hours, late nights, that he put in on behalf of this bill.

Also Romano Romani, my staff director, deserves a great deal of credit for his tireless negotiations with various Senators' staffs, with Mr. Altier's assistance.

Both the staff of Senator KENNEDY and Senator BAYH deserve the utmost credit for their willingness to work with us in a positive sense to find mutually acceptable solutions, particularly Ken Feinberg and Marcia Atcheson who must be singled out for praise because I know the difficulty they have had with this bill and other legislation and for their patience and willingness to continue to work toward an objective that we all wanted, which is finally before us today.

As usual, of course, the minority staff has been cooperative and helpful at every point. Senator THURMOND, as usual, has given us great counsel and advice, has always been willing to be there and to assist in resolving issues, not just to prevent something from happening. Emory Sneeden and Sally Rogers of that staff deserve a great deal of credit for their tireless effort in putting this legislation together.

I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I would just like to concur in commending the splendid work that the staff has done on this bill. The members on the majority, who have been cited by the Senator from Arizona, have done an outstanding job, and on the minority Sally Rogers has done most of the work. She has had able assistance and counsel from General Sneeden, who is the minority counsel for the Committee on the Judiciary, and I would especially like to commend him.

Mr. LAXALT. Mr. President, Federal judges are the least "controlled" people in public life in America today. Although I often disagree with their decisions individually, although I often criticize the scope of their decisions collectively, and although I often decry the trend toward a more activist judiciary which plays an increasingly legislative role in modern life, I nevertheless strongly feel that the Federal bench should be immune from the political pressure which I believe will be the result of this legislation.

Lifetime appointments and a slow and cumbersome system of impeachment have insured us of a Federal judiciary which remains free and independent, and has helped to assure us that cases are decided on their merits and on the law. Where unpopular decisions are warranted by the law, as they often are, a judge may render such a decision knowing that he will be free of pressure from the public, from the press, and from the rest of the judiciary. Such a system helps to assure that the case will be decided as it should be, and according to law.

The Federal courts are the final link in our system of checks and balances. They are the last to act, and the last to change. After the political pressure groups have lobbied, after the legislature and executive branches have acted, after the press has analyzed, reported and commented, and even after the public has experienced changes and additions to our system and to our laws, the courts finally rule on the legality, and constitutionality, and application, and the scope of those changes and laws. That review follows the debate on the need for and the advisability of such changes with good cause. Making that process more susceptible to political pressure will not, in my opinion, improve our system of Government.

Historically, judges have remained independent; that independence has helped to preserve our system of Government of laws rather than of men. Even a cursory examination of the Constitution and of the Federalist Papers tells us that the Founding Fathers wanted the system to work that way, and a cursory glance at the way the system has worked tells us that they knew what they were doing.

Judge Irving Kaufman, Chief Judge of the U.S. Court of Appeals for the Second Circuit, in his compelling article in the Yale Law Journal, "Chilling Judicial Independence," states:

> If there is any lesson to be drawn from the political turmoil of recent years, it is the indespensable need for a judiciary able to serve, in the words of Edmund Burke, as a "safe asylum" during times of crisis.

The Federal courts, as part of our political structure, do become involved in issues with profound political repercussions; in recent years, such cases have certainly increased. As those cases affect more and more people, and affect the lives of those people to a greater degree, independence becomes more critical.

Judge Kaufman, in the same piece said:

> The courts have always adjudicated thorny issues in America, but until modern times the most well-known and controversial exercises of judicial power were negative actions limiting the scope of government. In recent years, the judiciary has often been an accelerator of governmental activity rather than a brake. In the last few decades the courts have given broad construction to affirmative personal rights and manifested an increasing willingness to articulate and implement new ones. The toll call of causes dealt with by the judiciary sounds like a litany of the most vexing questions in current American political history: racial discrimination and segregation, school admissions and affirmative action, busing, free speech and political protest, internal and foreign security, the rights of criminal defendants, church-state relations from prayers in public schools to public funding for parochial schools, legislative reapportionment, obscenity, the draft, abortion, the death penalty, women's rights, and ecology.

The hearing record for this legislation is replete with incidents of judicial misconduct of the sort so famously established by Judge Ritter of Salt Lake City. I do not deny that there have been such incidents; however, such incidents are the exception rather than the rule. To subject the entire Federal judiciary to the pressures of the political world thereby risking the necessary independence of the judiciary, seems to me to be tragically shortsighted, and to be a tragic mistake.

As I said at the executive session of the Judiciary Committee when this legislation was marked up, the political situation in this country is vastly different today than it was even 10 years ago. There are single issue constituencies and single issue groups which do not hesitate to bring to bear pressure, wherever needed,

to win their cause. As all of us in the political world know, those single issue constituencies are able to, and willing to, make themselves felt to an extraordinary degree.

The Federal courts have, until now, been able to remain free of the pressure which such groups are able to bring, and as a result their decisions, which often deal directly with the issues such groups are concerned with, are more likely to be on the merits and on the law, and not based on such pressures. With this legislation, however, we are likely to open up the judiciary to the political world, and make them suddenly more susceptible to such single issue constituencies.

The bills' sponsors tell us that such complaints will be dismissed. Maybe they will. But nevertheless, the simple fact that the procedure exists for such complaints to be filed will give dissatisfied litigants, and those single issue constituencies who support them, grounds to make themselves heard, and thereby to effect the independence of the judge.

Federal judges are called to account, in a way, to a degree far beyond those of us who hold elective office: Each one of their decisions can be appealed. That is a higher degree of accountability than in the Senate, because when I cast my vote here, there is no appeal of that.

Mr. President, the system we now have works relatively well, and I see no reason to change it, particularly where change may introduce a new set of problems that we do not now have.

SENATE RESOLUTION 267—COMMENDING THE PITTSBURGH PIRATES FOR THEIR WORLD SERIES VICTORY

Mr. HEINZ. Mr. President, would it be in order to obtain unanimous consent to call up a resolution, and to ask for its immediate consideration?

The PRESIDING OFFICER. With unanimous consent that could be done.

Mr. HEINZ. Mr. President, I ask unanimous consent to call up a resolution.

Mr. DECONCINI. I have no objection.

Mr. MATHIAS. Mr. President, reserving the right to object, I would like to know the subject of this resolution.

Mr. HEINZ. Mr. President, the subject of the resolution is to commend the Pittsburgh Pirates for their World Series victory against the very, very able Baltimore Orioles from the great State of Maryland, and to join Pittsburgh Pirates fans everywhere, including those in the State of Maryland and other States, territories, and possessions, in congratulating the Pittsburgh Pirates team, managers, and so on.

That is the subject of the resolution, I say to my good friend and colleague from Maryland.

Mr. MATHIAS. Mr. President, further reserving the right to object—and I would like to object—I will not object if it is clear that the request of the Senator from Pennsylvania will include a reasonable time for rebuttal on the part of the Senator from Maryland.

Mr. HEINZ. Mr. President, I am willing to divide the time equally between myself and the Senator from Maryland for any amount of discussion that he chooses to have on this subject.

So with that agreement, Mr. President, I renew my unanimous-consent request.

The PRESIDING OFFICER (Mr. STEVENSON). Is there objection? Without objection, the Senate will proceed to the consideration of the resolution.

Mr. HEINZ. Mr. President, I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 267) to commend the Pittsburgh Pirates for their World Series victory and to join Pittsburgh Pirates fans everywhere in congratulating the team management, players, and coaches.

Mr. HEINZ. Mr. President, we are very honored here in the Capital City today to have and to note the presence of the Pittsburgh Pirates. It is to commend the Pittsburgh Pirates not only for their fine teamwork, sportsmanship, and play during the baseball season and their thrilling series with the Baltimore Orioles—in which they kept us all in suspense until the seventh game—but for the purpose of recognizing what the Pirates uniquely have brought, I think, into so many living rooms: a sense not only that baseball is still our national sport, not only that it can be played with enjoyment and spirit and be observed, but that there is something else besides just that joy and good feeling we get.

What the Pirates have demonstrated this year is something they call "Family." They are together. They work together. They have a common purpose. And at a time when, I think, everybody in the United States would like this entire country to work much better together, much closer together, with a common purpose, the fact that they stand for and practice what is called "Family" in Pittsburgh is very meaningful to all Americans.

We were also privileged today to honor the manager of the Pirates, Chuck Tanner, the owners, Dan and John Galbreath and Tom Johnson, and the other members of the team who were over in the Dirksen Building just a few minutes ago. These included Willie Stargell, Dave Parker, Ed Ott, Bill Garner, Bruce Kison, and Grant Jackson, among others.

As you know, Mr. President, it is not in order for any Senator ever to refer to the presence of anyone in the galleries at any time, so I shall not do that. But we are pleased to have them here in Washington, D.C., and we were privileged to be able to present Willie Stargell's uniform, including his hat, bat, and other very important paraphernalia which he earned as the most valuable player in the series to the Smithsonian Institution, where it will be displayed and kept for posterity.

Mr. President, I appreciate the opportunity to offer this resolution. We are all very proud throughout our State to claim the Pirates as our own. I will be happy to yield any such time the Senators from Maryland might require.

Mr. MATHIAS. Mr. President, first of all, I have a question of the Senator from Pennsylvania.

We all know, as a result of his remarkable record in athletic events, that he has earned the title of the best athlete in Congress. He has also earned our salute as one of the best-dressed Members of the Senate.

But today I notice that in his apparel there is something added, in his hip pocket, and I wonder if the Senator from Pennsylvania would tell us what is in his pocket, which seems to be unusual and a departure from his customary well-dressed appearance.

Mr. HEINZ. Well, first, Mr. President, as the Senator from Maryland well knows, it would be inappropriate for me to appear on the Senate floor wearing anything other than normal Senate attire—coat, shirt, tie, and the rest. So I want to make it very clear——

Mr. MATHIAS. There is something very unusual about the Senator's appearance today.

Mr. HEINZ. I want to make it very clear to such members of posterity as may read the CONGRESSIONAL RECORD—as some are accused of doing—that what is in my hippocket is under my coat, but the Senator from Maryland is perceptive. It is a Pittsburgh Pirates hat, which was presented to me earlier today. I am proud to be the recipient of it, just as I know the Senator from Maryland would have been equally proud to receive a Baltimore Orioles hat, which perhaps on another occasion he will have a shot at.

Mr. MATHIAS. Further along that line, Mr. President, the 1979 World Series provided excitement for baseball fans everywhere. It was played between the teams with the best records in baseball and the outcome was in doubt until the last innings of the last possible game. So in a very real sense, everyone was a winner.

Though my team, the Baltimore Orioles, came out short on home runs, they still gave the fans of Baltimore much to cheer about. Baltimore proved that when 250,000 Oriole fans turned out to salute the team on the day after the series.

When the baseball season started, few people believed the Orioles would finish higher than third place. But to the pleasant surprise of many they finished first in their division, beat the California Angels for the American League pennant and went on to the World Series.

However, in the series the Birds came up against unprecedented early snow and the talented and formidable Pittsburgh Pirates led by their captain, Willie Stargell. It looked bleak for the Pirates when they were down three games to one, but they picked themselves up and went on to win.

It is no disgrace for the Orioles and the Baltimore fans to lose to a team like the Pirates. Everybody can take pride in that the Most Valuable Player Award of the Series went to such a fine gentleman and player as Willie Stargell.

So I offer my congratulations to the Pittsburgh Pirates for their victory and to the Baltimore Orioles for making 1979 a memorable season for all Marylanders.

But I must remind my colleagues from Pennsylvania that had the Pirates lost, they would have missed being introduced to that fine Maryland delicacy, the Maryland beaten biscuit.

I remind my colleagues from Pennsylvania that the Birds will fly again in 1980.

Mr. HEINZ. Mr. President, let me thank my colleague from Maryland for his kind words. I think he has most generously expressed himself.

Mr. President, I ask that all further time on the amendment——

Mr. SCHWEIKER. Mr. President, will the Senator yield?

Mr. HEINZ. I yield 2 minutes to my colleague.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to make an inquiry? How much time are we going to have on this?

Mr. HEINZ. Mr. President, I ask that any further discussion be limited to not more than 3 minutes.

Mr. ROBERT C. BYRD. All right.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I commend my colleague, the distinguished Senator from Pennsylvania, for his resolution to make this Pirates day in the Senate.

I also want to say I guess some people would call it family day in the Senate. But whatever we call it in the Senate, I, as a Pennsylvanian, am very proud.

I had the opportunity to be in Johnstown last evening, and all I had to do was mention the word Pirates and it brought the house down. That is exactly the way Pennsylvanians feel no matter what part of the State they come from in terms of the Pirates' victory and the world championship, which we are so proud to see the Pirates have, which they so rightly deserve.

Mr. President, I was a little concerned when my colleague from Maryland reserved the right to object. At first I thought there was a little poor loser coming through in that phrase. Then I am glad to see that even though giving it twice, our good colleague has backed off.

I was disappointed. All we could get out of my good colleague in the way of a consideration for a bet was Maryland beaten biscuits. I have nothing against Maryland beaten biscuits, but I was at least hoping for Maryland soft-shell crabs. I thought it would be better if we had Maryland soft-shell crabs. But I have eaten my biscuits and my teeth hurt accordingly. I hope the next time we get something a little better than beaten biscuits.

Mr. MATHIAS. If the Senator will yield, there is nothing better than beaten biscuits.

Mr. SCHWEIKER. Mr. President, I appreciate the sentiment, but the taste is otherwise.

Back in 1971, as my colleague will recall, we had another bet.

Mr. MATHIAS. If the Senator will again yield, he is sounding like a poor winner.

Mr. SCHWEIKER. We are very good at being good winners.

Back in 1971, we had another bet about riding elephants and getting elephants for the winner. The Senators had to rent elephants from the circus. The winners rode them in triumph across the Capitol grounds, and the losers had to take shovels to make sure the area was environmentally safe and sound after the elephants went through.

I commend the Senator, Mr. President. He did a great job on that occasion. He is very good at that. We are always glad to have those kinds of bets.

I thank goodness that we had Willie Stargell who saved us on both occasions in 1971 and 1979 so we did not have to carry the shovels. But we do hope that next time the Senator will get something a little better for Senator HEINZ and I to enjoy.

I do commend my colleague for his resolution, and I strongly urge its unanimous adoption.

Mr. HEINZ. Mr. President, does the Senator wish to be added as a cosponsor?

Mr. SCHWEIKER. Yes, I do. Mr. President, I ask that I be added as a cosponsor to the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, Senator THURMOND wishes to be added as a cosponsor also.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution.

The resolution (S. Res. 267) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 267

Whereas the World Series is played every year to determine the World Champion baseball team;

Whereas the Pittsburgh Pirates won the 1979 World Series by defeating the Baltimore Orioles by four games to three;

Whereas Willie Stargell broke the World Series record for extra base hits, and was chosen most valuable player; and

Whereas the Pittsburgh Pirates have shown perseverence, teamwork, sportsmanship and family. Now, therefore, be it

Resolved, that the Senate of the United States commends the Pittsburgh Pirates for their World Series victory and joins Pittsburgh Pirate fans everywhere in congratulating the team management, players, and coaches.

Mr. HEINZ. I thank the Chair.

JUDICIAL CONDUCT AND DISABILITY ACT OF 1979

The Senate continued with the consideration of the bill S. 1873.

Mr. MATHIAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MATHIAS. Mr. President, have we returned to the consideration of the pending bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. MATHIAS. Mr. President, I think one of the first things which is useful to do in a discussion of the issues presented by the Judicial Conduct and Disability bill is to put this bill into its historical perspective.

No Member of the Senate should believe that this is simply a housekeeping bill which relates to the daily administration of the Federal courts. It is not. This bill is another chapter in a long debate on a subject of fundamental importance to human freedom, the question of the independence of judges.

We do pass legislation from time to time dealing with the daily administration of justice in the courts of this country. But this is not that kind of a bill. This is a different kind of a bill. This is a historic and important step dealing with the organic law of this Nation. It is one in a long series of debates on the subject of the independence of judges, a series of debates which goes back far beyond the establishment of this Republic, even beyond the history of Anglo-American jurisprudence, back into the mist of time.

It is a matter of regret to me that I must respectfully dissent from the action of the majority of the Committee on the Judiciary in reporting a judicial conduct and disability bill favorably to the Senate.

Earlier this year, I urged my colleagues, when considering any legislative proposals dealing with judicial discipline, to pay particular attention to a number of fundamental questions. I think those questions are fundamental. I think they are important. I hope the entire Senate will pay attention to those critical fundamental questions. I will take the time to enumerate them very briefly here.

The first is the question of the nature and the extent of the problem of judicial misconduct.

We really have to look at what is the nature and the extent of the problem as we consider what is appropriate by way of a solution.

The second question is, What type of disciplinary mechanism would best remedy such problems as may, in fact, exist?

The third question is, What is the impact of such proposals for the remedies on the independence of the Federal judiciary?

Finally, the fourth question is whether or not impeachment is the sole constitutional means of disciplining a Federal judge. I hope that Members of the Senate will note that I did not say the sole means of removing a Federal judge; I said of disciplining a Federal judge.

So, with these four questions in mind, in the months that have intervened since I first propounded them, I have reviewed the hearing records that have been compiled by the Senate Judiciary Subcommittees on the Constitution and Improvements in Judiciary Machinery as well as the views expressed by our Founding Fathers and by noted legal scholars in law schools and universities all across this country. As a result, and trying to be as objective as I can, I have been forced to conclude that the Judicial Conduct and Disability Act of 1979, is of dubious constitutionality, is unnecessary, and is unwise as a matter of public

policy. Let us examine first the question of whether the Judicial Conduct and Disability Act is constitutional.

Is the Judicial Conduct and Disability Act of 1979 constitutional?

I do not believe there is a single Member of the Senate—certainly, no member of the Senate Judiciary Committee—who would not acknowledge the serious constitutional questions that surround any legislatively devised scheme to remove Federal judges by means other than impeachment. The committee has, in my judgment, wisely excluded from this bill the authority to remove Federal jurists from office.[1] I certainly supported this exclusion. It is not an insignificant step. It was a significant decision to eliminate removal from the procedures contemplated under this legislation. But it is not enough, and merely the fact that we have excised removal as one of the procedures contemplated under this bill should not and must not end our inquiry into the constitutionality of this proposed legislation because, in my view, the bill still fails to pass constitutional muster.

In expressing this view, I do not mean to imply that I have any greater reverence for the Constitution than other members of the committee or any greater knowledge of the Constitution than other members of the committee; but it does seem to me to be so clear that impeachment is not only the sole constitutional means of removing judges who have offended, but it is the sole constitutionally permissible method of disciplining Federal judges.

If there is any doubt about this, we only have to go to witnesses who were present at the creation. Alexander Hamilton, writing in Federalist No. 79, underlined this point. The Federalist papers were an integral part of the constitutional contract that the American people entered into in 1787. Alexander Hamilton said this in explaining the Constitution to his fellow countrymen of his generation:

They—

By "they," he meant Federal judges—

They are liable to be impeached for malconduct by the House of Representatives and tried by the Senate; and, if convicted, may be dismissed from office and disqualified from holding any other. This is the only provision on the point which is consistent with the necessary independent of the judicial character, and is the only one which we find in our own Constitution in respect to our own judges.

Alexander Hamilton, who was an original witness, who was there, has made it clear that impeachment is the unique mechanism for disciplining Federal judges.

It is perfectly clear that the Founding Fathers were deeply concerned over the conflict between judicial independence and judicial accountability, just as the distinguished Senator from Arizona (Mr. DECONCINI) is concerned about it to this day. This is a concern which has persisted throughout our history. As I suggested a minute ago, it is a concern which existed even before the history of the Republic began.

Footnotes at end of article.

The Founding Fathers were well aware, as Justice Black noted in his dissent in Chandler against Judicial Council, which is a case decided just 9 years ago, to quote Justice Black:

That the judges of the past, good, patriotic judges, had occasionally lost not only their offices but had also sometimes lost their freedom and their heads because of the actions and decrees of other judges.

Because of the action and decrees of other judges—

they were determined that no such things should happen here.

I think Justice Black stated that historical record very accurately.

The Founding Fathers came to the Constitutional Convention with the lessons from history well in mind. The Founding Fathers debated the issue of judicial independence versus judicial accountability and they provided us with an unusually detailed legislative history of their efforts.[2] So we are not dealing here with a case of constitutional vacuum, a case where the Founding Fathers overlooked an important element of Government such as the question of the Presidential succession we dealt with by constitutional amendment recently. They thought about this and they dealt with it and, in the end, they carefully crafted a specific procedure for dealing with judicial misconduct.

They specified in the Constitution that Federal judges would be accountable for their actions through a single process, and that process was impeachment.[3] And I submit, Mr. President, that that process is impeachment.

Our former, very distinguished colleague, the Senator from North Carolina (Mr. Ervin), has written that they, the Founding Fathers, "very carefully provided for a Federal judiciary that operates completely independent of everything but the Constitution."[4]

Completely independent of everything but the Constitution. In my view, Sam Ervin was right. In my view, impeachment is the only constitutionally acceptable method of disciplining Federal judges.

Again, I do not rely on my own sense of respect for the Constitution, but I look at how others have felt about it.

This view of exclusivity of the impeachment clause has the ringing endorsement of Justice Douglas and of Justice Black. In his dissent in Chandler against Judicial Council, Justice Douglas, writing for himself and for Justice Black, provided us with a very explicit statement of this view of the Constitution. In that case he said:

An independent judiciary is one of this Nation's outstanding characteristics. Once a Federal judge is confirmed by the Senate and takes his oath, he is independent of every other judge. He commonly works with other Federal judges who are likewise sovereign. But, neither one alone nor any number banded together can act as censor and place sanctions on him. Under the Constitution the only leverage that can be asserted against him is impeachment, where pursuant to a resolution passed by the House, he is tried by the Senate, sitting as a jury.[5]

I think there are some words in Justice Douglas' language that are worth repeating because they are so important to understand the legislation before us. He says:

Under the Constitution the only leverage that can be asserted against him is impeachment.

That is very significant language. The only way we can bring pressure on a Federal judge, the only way we can discipline a Federal judge, is by impeachment, so says Justice Douglas.

It has been argued that one of the primary reasons for this legislation is that the impeachment process is cumbersome, that it is unwieldy, and it is time consuming.

Certainly, I would not deny that it is difficult to impeach a Federal judge. But I think that it ought to be hard to impeach a Federal judge. I think that was the intention of the Founding Fathers and that that was the way that they carved the Constitution, and that is the way it was and that is the way it is.

It is inconceivable to me that our Founding Fathers who took such care to develop the impeachment process and to otherwise safeguard judicial independence would have endorsed the type of sanctions and disciplinary procedures contained within this Judicial Conduct and Disability Act.

I cannot believe that this bill would have survived the scrutiny of the Constitutional Convention.

Concern over the difficulty of employing the impeachment process should not blind our judgment. It ought not, in the name of efficiency and expediency, lead us to adopt proposals that are basically unconstitutional.

But, Mr. President, if Congress should conclude that some mechanism is necessary to supplement the impeachment process, Congress is not without a remedy. It does not have to resort to the legislative route with the obvious constitutional obstacles.

Rather, it can follow the Constitution explicitly. It can employ the amendment process which was so meticulously devised by the Founding Fathers.

That, to me, is not only the preferable way to proceed, it is the only way to proceed.

All too often in the past Congress has enacted legislation of questionable validity, assuming that the determination of the bill's constitutionality is within the sole province of the judiciary.

In effect, we say—I have heard this said many times here on the floor of the Senate, or in the cloakrooms, or in the corridors—"Well, I am not certain about the constitutionality of this bill. I don't know whether it is constitutional, or not. But I think it is a good idea, so I am going to vote in favor of it. I hope the Congress passes it. I hope the President signs it. Then we will let the courts worry about whether it is constitutional or not."

That is a very tempting kind of way to do it. But I hope that in this case we do not succumb to that temptation, because we have a responsibility, independent of that of the judiciary, to consider carefully the question of a legislative proposal's constitutionality.

Before we enter upon our duties in this Chamber, we take an oath to support and defend the Constitution of the United

States. I do not think we can ignore that duty.

We can be wrong in our judgment about constitutionality. We can be in error on the question of constitutionality, just as I suspect the Court is in error on some occasions. But we have sworn an oath to discharge our duty as Senators in accordance with the Constitution. I do not believe we can perform those duties responsibly without coming to a conclusion about whether some contemplative action is constitutional.

Chief Justice Burger has reminded us that—

> In the performance of assigned constitutional duties, each branch of Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others.[6]

I concur with that wholeheartedly. Every Member of Congress has a solemn duty to assess the constitutionality of the Judicial Conduct and Disability Act, and I have tried to do so. I have concluded that the bill is unconstitutional.

Mr. HEFLIN. Will the Senator yield?

Mr. MATHIAS. I am happy to yield to the distinguished Senator from Alabama.

Mr. HEFLIN. I would like to inquire of the Senator from Maryland, that when an issue of constitutionality comes before the Congress, which affects the judiciary, should there not be a higher standard of care—if we could use those words—on the part of Congress in looking at the constitutionality of proposed legislation when we realize that if it affects the branch that would have to consider and determine whether or not it is constitutional? It would seem to me to place a higher degree of care on Congress, not to just flippantly or haphazardly pass on the constitutionality of a bill that affects the judiciary, because the judiciary can be criticized for declaring unconstitutional a congressional enactment which affects the judiciary alone. Because of that, does the Senator agree that a higher degree of care should be exercised by Senators and Representatives in determining, in their own minds, at the congressional level, whether a proposed act is constitutional or unconstitutional if it affects the judiciary?

Mr. MATHIAS. The Senator is correct. There is a much higher standard of care required here.

In the case of some routine legislation about which a Senator's mind may be in balance on the question of constitutionality, he may shrug off the constitutional question and say, "Well, on the merits, I like the bill. I am going to let the courts decide."

However, in this case, we are projecting into the judicial forum an issue which is a fundamental issue, an organic issue with the judiciary itself; and we should be extremely careful about sending any questionable legislation on that subject.

I think the point the Senator from Alabama makes is very important.

IS THE JUDICIAL CONDUCT AND DISABILITY ACT OF 1979 NECESSARY?

Mr. President, a most striking aspect of the hearing record is the virtual absence of documented examples of serious judicial misconduct which are necessary to justify this radical alteration of our judicial system contemplated by the Judicial Conduct and Disability Act of 1979. The most that can be said of the hearing record is that it shows that throughout our national history, at any given time, perhaps a handful of Federal judges has engaged in seriously objectionable behavior. But in this bill, a kind of spectre is raised, and I think it is a spectre that does not exist. A remedy is provided where I am not convinced one is needed.

Significantly, the majority report of the committee seems to concede this. The majority says:

> The Committee recognizes that the great majority of our existing federal judges perform their duties in a dedicated and capable manner. In a very real sense the problem addressed in the Act is more one of perception than actuality—the need to assure the public that procedures are in place to deal with the rare instance justifying an inquiry related to the condition or conduct of a member of the judiciary. Stated another way, the growing public demand for the accountability of public officials should extend to the judicial branch.[7]

That is what the majority of the Judiciary Committee said.

Certainly, there is a kind of tide moving in the direction of making every element of our society, both public and private, accountable in some way. Here, in Congress, we have seen this trend. We see it in the enactment of sunshine legislation, in the financial disclosure requirements. But simply because there is this kind of trend does not make it necessarily right to carry it over to the Federal judiciary, because Federal judges have been given a special status. They have been constitutionally granted judicial independence.

Throughout our history, this grant of independence has been debated back and forth; but, interestingly, the final conclusion always has been that the independence of the judiciary was more important than the ability to discipline judges and to call into question the integrity of their decisions or the purity of their motives.

If Congress is to break with that tradition and to enact legislation such as the Judicial Conduct and Disability Act—and it would be a break in our historic tradition—then it must clearly demonstrate the overwhelming need for this legislation. It must not pass such far-reaching legislation when it admits that the problem it addresses is—and again I quote the majority committee report on this measure—"more one of perception than of actuality." Are we going to legislate on that basis?

I think the burden of proving the need for the bill is on the proponents, and I believe they will find that this is not and should not be easy to satisfy; by their own admission, the proponents of the bill have not met the burden. To legislate on such a thin basis would be a very grave error.

In addition, Mr. President, it would be premature for Congress to adopt the Judicial Conduct and Disability Act at the very time when the Judicial Conference and virtually every judicial council have taken concrete action to clarify and strengthen the authority of the councils to deal with instances of judicial misconduct. The judges are dealing with the problem effectively.

On March 9, 1979, just a few months ago, the Judicial Conference adopted a resolution calling for the promulgation by the 11 judicial councils of procedural rules to process complaints alleging judicial misconduct inconsistent with the effective administration of the business of the courts within the circuits.[8] In response to the conference's March 9 resolution, 10 of the 11 judicial counsels have adopted rules to implement the conference recommendations.[9]

I think it is fair to say that the actions taken by both the conference and the various councils are attributable, in large measure, to the congressional concerns regarding judicial discipline, and especially the fact that the Senate last year passed S. 1423, the judicial tenure bill.

I salute the efforts of Senator DECONCINI in having pressed hard on this matter. I believe his message has been heard across the land, and he has received response—a reasonable and rational response—from the judges themselves. But I think that, given this response, Congress should avoid precipitate action now. It should follow very closely the progress of these newly implemented council procedures, rather than embark on what has to be an uncharted course which is promised by the Judicial Conduct and Disability Act.

It is entirely possible that these new procedures, the ones that have been called for the conference, which have been enacted by 10 of 11 councils, will satisfy the call for a mechanism to supplement the impeachment process and to negate the perceived need for congressional action.

So I say, Mr. President, let us tread slowly. Let us recognize that we are treading on historic ground, constitutional ground, ground in which the founding fathers of this republic have preceded us. Let us give the judiciary a sufficient opportunity to deal with the issues of judicial misbehavior, to deal with it on its own.[10]

IS IT WISE FOR CONGRESS TO ENACT THE JUDICIAL AND DISABILITY ACT OF 1979?

Finally, Mr. President, I believe that the enactment of the Judicial Conduct and Disability Act would be unwise as a matter of public policy. It would pose a direct and serious threat to the time-honored and constitutionally enshrined is a principle worth preserving, and it certainly is not a new principle. In fact, it is a very ancient principle. Its origins can be traced back for 2,000 years before the Constitution of the United States was written.

Herodotus, the Greek historian, in his History of Ancient Persia, wrote:

> The Royal judges are men chosen from among Persians, who continue in office until they die or they are convicted of some injustice. They determine causes between the Persians and are the interpreters of ancient constitutions and all questions referred to them.

Our Founding Fathers were worldly men. They were scholars. They knew Herodotus and they were aware that by

Footnotes at end of article.

grafting judicial independence into the Constitution, they were embodying the wisdom of the ages into our organic law. In this area, they were not creating a new experiment in government.

Another very disturbing feature of the Judicial Conduct and Disability Act of 1979 from the standpoint of judicial independence is its failure to deal with clearly frivolous and nonmeritorious complaints with expediency and finality. Unlike the proposal of the Judicial Conference, the bill does not provide the chief judge of the circuit with the authority to dismiss frivolous complaints, thus putting a quick end to nonmeritorious allegations. Rather, under the committee's bill, a complainant is not only assured that the full council will review his allegations, however frivolous they may be, but also that if he appeals the council's actions, he can compel the court on judicial conduct and disability to decide whether to hear the appeal—a decision which requires the Court to review the complaint and the record compiled by the council.

This system insures that the disgruntled litigant whose primary purpose is to harass Federal judges will have an unnecessarily extended opportunity to work his mischief. This process can only have a chilling effect on Federal judges. The question is, Will they be deterred from taking courageous stands on unpopular issues by the fear that a dissatisfied litigant will seek vengeance through the complaint process established under the bill? I ask the Senate, Is it worth the risk, especially when we are addressing what the committee calls a perception rather than an actuality? I have to say that the answer to that question is I think not.

CONCLUSION

I am not insensitive to the concern that has prompted the sponsors to push for enactment of the Judicial Conduct and Disability Act of 1979. Both its proponents and its opponents share one common goal: That the Federal judiciary be free of corrupt or misbehaving judges. Where I differ is over the scope of the problem and the constitutionally permissible means of addressing it, if it warrants congressional action at all.

FOOTNOTES

[1] In its Report, the Committee notes "Although the question has never been finally settled, the Committee has respected the position that removal of federal judges by any means other than impeachment is arguably unconstitutional. Therefore, the proposed legislation is designed to avoid this important issue, and removal of federal judges short of impeachment." S. Rept. 96-362, "The Judicial Conduct and Disability Act of 1979;" at 4.

[2] Illustrative of the attention paid by the Founding Fathers to this issue is their rejection of both "address" as an alternative mode of judicial removal and the trial of impeachments by the Judiciary. Specifically, on August 27, 1787, Mr. Dickinson proposed that federal judges be removable by the Executive on the application of the Senate and House of Representatives. The motion was defeated by a vote of seven States to one. 2 M. Farrand, "The Records of the Federal Convention of 1787" at 428-29. Moreover, during the Convention, efforts were made to place the trial function of impeachments in the hands of the Judiciary. After much discussion, the authority was vested in the Senate. 2 Farrand, at 551-52.

[3] As my distinguished colleague, Senator Heflin points out, significantly, while the Founding Fathers gave the Congress the authority to discipline its own members Article I, Sec. 5, cl. 1 and 2, they provided no comparable provision for the Judiciary to police itself. Given both the amount of time devoted to the issue of judicial accountability and the specific grant of Congressional authority for internal discipline, I believe it highly unlikely that our Founding Fathers intended to sanction the types of procedures and remedies set forth in the Judicial Conduct and Disability Act.

[4] Ervin, "Separation of Powers: Judicial Independence", 35 Law and Contemporary Problems (1970) at 108, 121.

[5] 398 U.S. at 136. Later in his dissent, Justice Douglas returned to this theme:

> It is time that an end be put to these efforts of federal judges to ride herd on other federal judges. This is a form of "hazing" having no place under the Constitution. Federal judges are entitled, like other people, to the full freedom of the First Amendment. If they break a law, they can be prosecuted. If they become corrupt or sit in cases where they have a personal or family stake, they can be impeached by Congress. But I search the Constitution in vain for any power of surveillance that other federal judges have over these aberrations. Some of the idiosyncrasies may be displeasing to those who walk in more measured, conservative steps. But, these idiosyncrasies can be of no constitutional concern to other federal judges. 398 U.S. at 140-41.

[6] *United States* v. *Nixon*, 418 U.S. 683, 704 (1974).

[7] Senate Rept. 96-362, *supra* note 1, at 5.

[8] Judicial Conference resolution of March 9, 1979, (Report of the Judicial Conference of the United States, 1979 at 4-7). Subsequently, the Judicial Conference adopted a draft bill incorporating the recommendations contained in the March 9 resolution.

[9] Only the judicial council for the District of Columbia has not yet promulgated such rules; such action is expected shortly.

[10] My comments regarding the actions of the judicial councils should not necessarily be read as an endorsement of the constitutionality of such procedures; rather, they are merely in recognition of the fact that these procedures are in effect and should not be curtailed by the enactment of legislation of dubious constitutionality.

Mr. President, this bill has aroused the concern of thoughtful people across the country, one of whom is Gerald Gunther, Cromwell Professor of Law at Stanford University, and just yesterday I received a letter from him which is so forceful, well reasoned, and brief that I will read it at this point.

Professor Gunther says:

STANFORD LAW SCHOOL,
October 25, 1979.

Hon. CHARLES McC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: I have followed with great interest the deliberations on the Judicial Conduct and Disability Act of 1979, and I have just examined with some care the bill as reported out by the Judiciary Committee and the Report and Additional Views accompanying the bill.

In my view, the Act is of questionable constitutionality and of even more doubtful wisdom. It creates hazards to judicial independence without any showing that there is a problem of sufficient magnitude to warrant such novel and dangerous legislation. Its submission to the Senate pays inadequate attention to the fact that less hazardous means are now in place (as a result of recent action by the Judicial Conference and by the Circuit Judicial Councils) to deal with the alleged problem—the problem which even the majority report concedes to be "more one of perception than actuality."

My own serious interest in the problem of judicial discipline goes back to the summer of 1978, when I participated in a conference called by the American Judicature Society and the Aspen Institute, a conference primarily concerned with a discussion of the then pending Nunn-DeConcini bill. Though the majority of the participants in that conference began with an inclination to support such a bill, the careful discussion of its features and implications raised grave doubts about its wisdom and constitutionality among many of those in attendance. My own reaction was one of doubt from the beginning, for it seemed to me that the proponents had made no adequate case for its enactment. My continuing attention to the problems raised by judicial discipline legislation has reinforced my grave doubts.

It is true that the proposed 1979 Act eliminates some of the most objectionable provisions of last year's bill. But highly questionable aspects remain; and the case for the enactment of any comprehensive legislation of this sort has in the interim been sharply weakened by the response in the Circuits to the Judicial Conference resolution of March 1979 encouraging the promulgation of Circuit-wide procedural rules to process complaints alleging judicial misconduct.

From the outset, the pervasive constitutional doubt has of course concerned the authority of Congress to enact disciplinary legislation that would bypass the constitutionally prescribed impeachment route. The removal sanction included in last year's Nunn-DeConcini bill seemed to me to fly in the face of the constitutional scheme. Though the Committee version of the 1979 Act does not include the removal sanction, it authorizes the refusal to assign further cases to a judge on a temporary basis. That kind of barrier to the exercise of the power of duly appointed federal judges seems to me of doubtful constitutionality; and the doubts are surely strong enough to give Congress reason to pause before acting unless the proposed legislation is demonstrated to be of compelling necessity.

My strongest objection to the bill stems from the fact that nothing even approaching a showing of such compelling necessity has been made. As a result, the proposed legislation strikes me as creating an unjustified threat to judicial autonomy.

Federal judges are inevitably in the business of rendering controversial decisions. Important issues and interests are at stake in the cases before them; and the losing side frequently and understandably feels aggrieved. With the proliferation of federal statutes and regulations, the federal judges' involvement in controversy is bound to grow. Setting up an unnecessary new channel which may lend itself to the harassment of those judges is a profoundly disturbing departure from one of the most cherished values of the American constitutional scheme, that of judicial independence. I recognize that the bill is not intended to offer a channel for losing litigants and interests to challenge the merits of a judicial decision. Yet over the years, and particularly in recent months, I have been increasingly troubled by remarks I have heard that there are people who look forward to the enactment of judicial discipline legislation as a way of getting at judges whom they consider to be too much to the right or too much to the left or unpalatable in their viewpoint in some other respect. It would not require great imagination for an aggrieved litigant to formulate complaints formally consistent with the limited scope of the proposed Act, yet in substance motivated by disagreements on the

merits—complaints which, even though they are dismissed as frivolous, may be appealed; procedures which, even if they do not result in sanctions against the judge, as they presumably would not, would surely serve as harassment and would open the way for one more crack in the fragile framework of judicial independence.

Whatever the case for such legislation might have been a year ago, surely it has disappeared with the newly announced judicial resolve, beginning with the resolution of the Judicial Conference, to improve the Judicial Councils' machinery for the handling of complaints. That new system has not had a chance to work, and no one I have encountered has suggested that there has been more than a very scattered handful of federal judges in our history who have warranted any kind of judicial discipline. Given that background, how can Congress responsibly add this potentially powerful new threat to judicial independence to the federal statute books?

Recently, my concern about the pending legislation has been increased by reports that Senator Nunn may offer an amendment on the floor to reinstate something akin to the removal provision of last year. Everything I have said about the doubtful constitutionality and lack of wisdom of the 1979 Act applies with multiplied strength to any such removal proposal. Even more than the pending Act, it is ill-considered overkill. And even more clearly than the sanctions in the 1979 Act, the removal sanction would in my view be unconstitutional.

To argue that a carefully considered structural provision of the Constitution needs to be de facto amended by congressional action because it has proved "inefficient" and "unworkable" seems to me the most dubious and most dangerous kind of constitutional interpretation. Many members of Congress are accustomed to criticizing the federal courts, and especially the Supreme Court, for taking an excessively organic view of the Constitution and for occasionally operating as a continuing constitutional convention without adequate regard to the constitutional text, history and structure. (I have frequently uttered criticisms of that sort myself, throughout my professional career.)

However, the Supreme Court can at least often point to rather vague phrases of uncertain meaning, such as "due process," in defense of its actions. The 1979 Act, by contrast, tampers with a basic structural provision, a provision designed to assure judicial independence, and a provision which, I am quite confident, neither the framers nor constitutional commentators throughout most of our history would ever have dreamed of being subject to "supplementation" by the legislative branch. It would seem to me ironic indeed if any Senator who has ever expressed criticism of the Supreme Court for exceeding the bounds of proper constitutional interpretation were to engage in even more dubious interpretation of his own by casting an affirmative vote in support of the 1979 Act and, even more so, the threatened Nunn amendment.

May I close with a personal note. I have just seen your minority statement on the Committee Report on the 1979 Act. I was particularly delighted to find your emphasis on the independent responsibility of members of Congress to consider carefully a pending bill's constitutionality. In nearly 25 years of teaching of constitutional law, and in the course of writing my teaching book in the field—the book most widely used in American law schools—, I have sought to educate a generation of students and practitioners in the need to confront constitutional questions in all three branches of the national government, and to avoid the frequent temptation to pass the buck by leaving such issues simply to the courts. I appreciate your eloquent reaffirmation of the congressional duty to consider constitutionality, and I hope that your colleagues will take your message to heart. I believe that a careful consideration of the constitutionality and wisdom of the pending legislation will persuade all thoughtful members of Congress to vote against it.

With high regards,

Faithfully yours,

GERALD GUNTHER.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Pete Velde and Mr. Ken Feinberg, of the Senate Judiciary staff, be allowed on the floor during the consideration of this bill, S. 1873, and on the votes thereon.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise to speak in opposition to S. 1873, the Judicial Conduct and Disability Act of 1979. I am fully cognizant of the fact that alternative methods of judicial discipline have been a point of debate in this Chamber and among legal scholars long before I became a Member of the Senate. Because of the profound and long-lasting impact that any legislation in this area will have on the Federal judiciary, however, I feel it important to express my concerns.

Let me say at the outset that I am in full agreement with the philosophy and motivation behind this bill. I believe that the impeachment method of judicial accountability is ineffective and too cumbersome for this, the latter part of the 20th century.

In fact, prior to my Senate career, I participated in judicial reform movements not only in my home State of Alabama but also on a national level in which a great deal of study was given toward judicial disciplinary procedures. My own State adopted a new judicial article to its constitution which contained procedures dealing with judicial discipline.

Whenever I use the term "judicial accountability" I want it clearly understood that I make a distinction between the nondecision and the decisionmaking functions of judges. The decisionmaking functions of judges can only be reviewed through the appellate process. In no way do I suggest that a method of judicial accountability allow disciplinary measures to be taken against a judge because some might disagree with his decisions or his judicial philosophy. I share the concern voiced in committee that the greatly enlarged size of the Federal judiciary, as well as its expanding role in today's society, demands the formulation of some method of judicial accountability other than the time-consuming process of impeachment. Because of this, my remarks will not address the merits of the system of judicial discipline which this bill seeks to establish. I am, however, compelled to comment on the power of Congress under the Constitution to create such a system.

Within the Judiciary Committee, as well as among legal scholars throughout the country, there have been divisions on the issue of whether Congress can constitutionally establish a mechanism for judicial accountability short of a constitutional amendment. I am persuaded by those who feel that impeachment is the sole method of judicial discipline that this bill is unconstitutional, for which reason I must vote against it.

The constitutional objections that I have against this bill have been well documented by others who have researched this issue and reached the same conclusion. I beg the indulgence of my colleagues to review some of these objections.

The intent of the Founding Fathers to guarantee judicial independence is unmistakably clear.

The framers of the Constitution believed that independence of the judiciary is essential to insure "inflexible and uniform adherence to the rights of the Constitution, and of individuals." The Federalist No. 78 (Hamilton) 502, 508–510 (Mod. Lib.). With that goal in mind, the framers of the Constitution sought to establish what Hamilton referred to as virtual "permanency in office" and "permanent tenure" for Federal judges. The Federalist No. 79 (Hamilton) 512, 513 (Mod. Lib.). This is not to say that the framers of the Constitution sought to make it impossible to remove Federal judges; they simply sought to make it difficult so as to give them the independence needed to exercise their constitutional duties. As I shall develop later, the mechanism for guaranteeing that independence was impeachment.

We must recall from history that the framers of the Constitution were painfully aware of the encroachments on judicial independence that would follow if secure tenure were not fixed for the Federal Judiciary. In fact, denial to the colonies of the benefits of an independent judiciary enjoyed in England was one of the grievances against King George III listed in the Declaration of Independence:

> He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

Our Founding Fathers became determined that the judiciary of the new Republic would not be so feeble. In article III of the new Constitution, they provided that the salaries of Federal judges must not be diminished during their tenure and that they should continue in office "during good behaviour." This interpretation of intent of the framers of the Constitution has been given sanction by none other than Mr. Justice Black when he pointed out in his dissent in *Chandler v. Judicial Council*, 398 U.S. 74, 143 (1970), "That the judges of the past * * * good, patriotic judges * * * had occasionally lost not only their offices but had also sometimes lost their freedom and their heads because of the actions and decrees of other judges. They were determined that no such thing should happen here."

Mr. NUNN. Mr. President, will the Senator yield just for a very brief question?

Mr. HEFLIN. Yes.

Mr. NUNN. In the form of an observation? The Black language that the Senator from Alabama is referring to was a dissenting opinion in the Chandler case; that is the language the Senator

from Alabama is referring to, is that correct?

Mr. HEFLIN. That is right; but if the Senator will read the case, they did not reach this issue.

Mr. NUNN. It was reached on a procedural ground.

Mr. HEFLIN. It was reached on a procedural ground, and was not discussed—in the dissent of Justice Black and Justice Douglas, they addressed the overall issue. The overall issue was not addressed in the majority opinion of the Court.

Mr. NUNN. Frequently, though, Justice Black and Justice Douglas are not in the majority on the Court; and that has historically been the case, has it not? I find it a little strange that we have a case here, the Chandler case, where the Court did not reach the conclusion that there was anything improperly done in the case, whether on constitutional grounds or otherwise; and yet the people who hold this illegal on unconstitutional grounds constantly cite it in support of their opinion.

Mr. HEFLIN. I think that is a narrow construction of dissenting opinions, concurring opinions, and majority opinions. One may find language within a dissenting opinion that everyone will agree with. That does not mean that the language that is cited here for this purpose was language that every other justice disagreed with. You have opinions, judicial opinions that can encompass many, many pages; and the fact that they were dissenting opinions does not mean that every word, every "t" and every "i" the majority disagreed with.

Mr. NUNN. But the fact is that procedurally or otherwise, the Court upheld the action and the sanction taken against Justice Chandler; is that not correct?

Mr. HEFLIN. Well, the majority did not reach the issue with respect to the constitutionality, and that is the purpose for which I am citing the language from the dissent of Mr. Justice Black.

Mr. NUNN. Would not the Senator from Alabama agree that if a majority of the Court had clearly felt this was unconstitutional, they would have based their decision on that question? I am not saying they felt it was constitutional, but it is clear that a majority did not come to the conclusion that Justice Black came to.

Mr. HEFLIN. I do not understand the question.

Mr. NUNN. Is it not true that the lower court was upheld by the majority opinion, and that it is a minority dissenting opinion that the Senator from Alabama and the Senator from Maryland are citing in support of their opinion that without any doubt whatsoever this is unconstitutional?

Mr. HEFLIN. Well, that is a matter of opinion. I think you can get different opinions of the Court in reading a decision.

Mr. NUNN. Well, there is no doubt about that. I just thought Senators ought to understand that these opinions of their fellow Senators who hold that this is an unconstitutional approach are, on the record, based on the dissenting and minority opinion in the Chandler case, whereas the majority of the Court, on procedural grounds, held the very opposite.

Mr. HEFLIN. I would strongly disagree with that conclusion on the part of the Senator from Georgia. Those of us who believe this bill is unconstitutional base our opinion on many other forms of proof which I will develop as I go along. The purpose of citing this language is merely to point out one point, that the clear intention of the Founding Fathers was to give independence to the Federal judiciary.

Mr. NUNN. I understand. I read the Senator from Alabama's complete statement in the committee report, which I respect. I would just want to ask the Senator from Alabama one other question. In his presentation today, and in his minority views in the committee report, I believe he does point out that even though he believes this is unconstitutional, he does agree with the overall direction that this bill is going; he simply believes it ought to be done by constitutional amendment. Is that correct?

Mr. HEFLIN. That is correct, and I so stated in the first part of this statement.

Mr. NUNN. Does Alabama have a procedure?

Mr. HEFLIN. Yes.

Mr. NUNN. Similar to what——

Mr. HEFLIN. Yes; we did it by constitutional amendment, and we have it divided, the charging and investigative function separate from the trying function. We have a judicial inquiry commission which acts, in effect, as a grand jury, and we have a trying body which is called the court of the judiciary, which is in effect the trier of facts.

Mr. NUNN. How long has Alabama had that? Has that been something of recent years?

Mr. HEFLIN. Well, we first started out in 1971 by a constitutional amendment, in which we adopted something similar to the California Judicial Disciplinary Commission which put the grand jury and the petit jury, in effect, in one commission. We thought that there were constitutional problems with that. And then, in 1973, when we adopted a new judicial article, we separated those two functions.

Mr. NUNN. Has the procedure worked in Alabama?

Mr. HEFLIN. Yes, it has worked well.

Mr. NUNN. Have there been abuses where judges have been harassed by it? Have they been able to fulfill their mission without getting into the harassment of judges?

Mr. HEFLIN. Not to my knowledge. I have never seen it in the newspapers and never have heard of it. I think I would have, if it had served as a harassment medium.

Mr. NUNN. I understand the Senator, and I agree completely with the Senator. If I worded my remarks in a sense to imply that the Black opinion was the only thing he was basing his views on, I wish to correct the record on that point. I did not intend to imply that.

The question I have for the Senator from Alabama on the constitutional issue is: Does the Senator from Alabama see a distinction constitutionally between the committee version, which does not provide for removal but provides for the sanction of censuring or taking away the caseload on a temporary basis? Does the Senator see a constitutional distinction between that and the Nunn substitute, which provides for removal? Or is the Senator's opinion directed at both of those?

Mr. HEFLIN. I have made the threshold decision as to whether I though the DeConcini procedure was constitutional.

I think if I reach a decision that the proposal by Senator DECONCINI is unconstitutional, I think it would apply even more so to the Nunn proposal.

Mr. NUNN. There is no doubt about that. If the DeConcini Judiciary Committee proposal is unconstitutional, there is no doubt about the fact that the Nunn substitute is unconstitutional.

What I am trying to gather from the Senator from Alabama is where we cross, in his opinion, the line as far as constitutionality is concerned. Does it relate to the sanctions? Does the Senator believe removing the casleoad, even though temporarily, is unconstitutional?

Mr. HEFLIN. In my judgment, the language "good behavior" related to language historically at the particular time and meant that if you misbehaved you were guilty of a misdemeanor. "Misdemeaning yourself" and "misbehaving yourself" are interchangeable words, in my judgment. And there is a historical basis for that concept which is not in my minority views in the committee report but which I intend to mention here today, as to statements made at a fairly contemporaneous time with the adoption of this. I therefore look upon impeachment as the sole and only method of discipline, which in my judgment would take care of the proposal that Senator DECONCINI has very intelligently and very adroitly drafted. In my own opinion, it is unconstitutional, and therefore the Senator's proposal is also. I think in the courts the proposal of the Senator from Arizona would have a better chance of passing constitutional muster than the proposal of the Senator from Georgia.

Mr. NUNN. One other question. As I understand it, the Senator is saying that misbehavior is an impeachable offense?

Mr. HEFLIN. Yes, as misbehavior was thought of during the time of the framers of the Constitution.

Mr. NUNN. And you do not have to have any kind of crime, whether it be a felony or misdemeanor, to have committed an impeachable offense in the view of the Senator from Alabama?

Mr. HEFLIN. What the definition of misdemeanor may include—misconduct has been interpreted by judicial opinions to be violations of the laws, by some jurisdictions. The language, where it says "misbehavior," I relate the words "misbehavior" and "misdemeaning" to be the same. The Constitution provides for impeachment for bribery, treason, or high crimes, and misdemeanors.

What does the word "misdemeanor" mean? At the historical time that the Constitution was adopted, I think that the word misbehavior and misdemeanor were used interchangeably and were

basically synonymous. Therefore, concerning the word misdemeanor, I think our interpretation of misdemeanor today maybe has a little different connotation than it did at the time the Constitution was adopted. But it is the latter interpretation which governs in a question of the constitutionality of a proposal of Congress.

Mr. NUNN. It is interesting to note the House Judiciary Committee adopted what I would consider to be the rather narrow view of misdemeanor in the sense that they would have had to commit some kind of a crime. What the Senator is saying is that he does not agree with that narrow interpretation but, rather, the historical or broad interpretation saying misdemeanor and misbehavior were almost synonymous.

Mr. HEFLIN. Yes. In fact, that position is supported by Gouverneur Morris, which appears in 11 Annals of Congress, page 90 (1802), in which he says:

> Misbehaviour is not a term known in our law; the idea is expressed by the word misdemeanor; which word is in the clause respecting impeachments. Taking, therefore, the two together, and speaking plain old English, the Constitution says: "The judges shall hold their offices so long as they demean themselves well; but if they shall misdemean, if they shall, on impeachment, be convicted of a misdemeanor, they shall be removed.

So that is the language in which they used the words misdemeanor and misbehavior largely as interchangeable.

Mr. NUNN. So the view of the Senator from Alabama would be, then, that the judge could be impeached under the Constitution for, for instance, having an alcohol problem which interfered with his duties on the bench?

Mr. HEFLIN. Yes.

Mr. NUNN. That would be a misbehavior or a misdemeanor as the Senator from Alabama interprets it but would not be a crime, per se, under our law.

Mr. HEFLIN. Yes.

Mr. NUNN. What would the view of the Senator from Alabama be about a senile judge, a judge who was disabled, mentally or physically, but who remained on the bench? Would that fit under the definition of the Senator from Alabama of misdemeanor or misbehavior?

Mr. HEFLIN. The Senator is asking my views as they relate to contemporary time and to contemporary interpretation. I think the Founding Fathers not only looked at things as they existed at that time but recognized that we would live in a changing society and, therefore, the amendment process was allowed. To be in a position to answer the question as to senility, I would have to go back and look at what might have been said about senility in relationship to misdemeaning or misbehavior or the absence of good conduct as it existed at that time.

I think as we look at our modern day society and look at senility, we will have to relate the issues now to the language. But to say that they intended at that time that you could remove through impeachment a senile judge, or whether or not they thought that that was something that through the amendment process as times change would occur, I do not know. I would have to go back and look at the relationship of senility within the context of misdemeaning as it existed at the time of the Constitutional Convention.

Mr. NUNN. I thank the Senator from Alabama.

Mr. MATHIAS. If the Senator from Alabama will yield for a moment, I think the point of the Senator from Georgia is very interesting and one which I would be happy to address at some length after the Senator from Alabama has concluded his remarks.

Mr. HEFLIN. In its only substantial debate on the question of judicial tenure, the Constitutional Convention manifested an unmistakable intention to make judicial removal even more difficult here than in the Mother Country. The records of the Federal Convention of 1787 reveal that John Dickinson of Pennsylvania moved to amend the judiciary article to provide for the removal of Federal judges by joint address of the Congress, but he encountered vigorous opposition, particularly from John Rutledge and James Wilson. The proposal was rejected by a vote of one State "for" and seven States "against," with three "abstentions." ("The Records of the Federal Convention of 1787," at 428–429 (M. Farrand rev. ed. 1937).)

Impeachment is the sole constitutionally permissible means of removing and disciplining a Federal judge.

It was this desire on the part of the Founding Fathers to guarantee judicial independence which underlies the belief that impeachment is the sole constitutionally permissible means of both removing and disciplining a Federal judge. If I am correct in this assertion—that impeachment was intended to be the sole means by which a Federal judge can be either removed or disciplined—then this bill is clearly, clearly unconstitutional. The evidence for such a conclusion is also unmistakably clear. For example:

> Opponents of the Constitution argued as one reason for its rejection that it allowed no alternative to impeachment for the removal of federal judges. "Brutus," The Power of the Judiciary (pt. 1), in the Antifederalist Papers Nos. 78–79, at 222, 224 (M. Borden ed. 1965).

Alexander Hamilton stated in the Federalist, No. 79:

> They (federal judges) are liable to be impeached for malconduct by the House of Representatives and tried by the Senate; and, if convicted may be dismissed from office and disqualified from holding any other. This is the *only* provision on the point which is consistent with the necessary independence of the judicial character, and is the *only* one which we find in our own Constitution in respect to our own judges." (Emphasis added.)

The proceedings of the First Congress on removal of executive officers and on the first Judiciary Act contain such unambiguous statements as that of Abraham Baldwin, who had been a delegate to the Constitutional Convention, who stated:

> The judges are appointed by the President, by and with the advice and consent of the Senate; but they are only removable by impeachment. 1 Annals of Cong. 579 (Gales & Seaton eds. 1789).

The first Judiciary Act gave flesh to the skeletal structure of our Nation's courts as established by the Constitution. As such, it was discussed in depth by Congress. The common assumptions underlying these debates of 1789, in which many of the Framers participated, are persuasive and compelling evidence of the intentions of the Convention of 1789. *Myers* v. *United States*, 272 U.S. 52, 136 (1926). As a result, it is not surprising that we find that the Congressmen agreed that judges with good behavior tenure could only be removed by impeachment. A few examples will suffice to prove the point. Mr. Smith of South Carolina stated:

> The judges are to hold their commissions during the good behavior, and after they are appointed, they are only removable by impeachment. 1 Annals of Cong., 828 (Gales and Seaton eds. 1789).

No less an authority than James Madison said during these debates:

> The judges are to be removed only on impeachment, and conviction before Congress. See 11 Annals of Cong., 738 (1802) (Rep. Rutledge, quoting unattributed statement by Madison).

To further insure judicial independence, the framers specifically rejected during the Constitutional Convention efforts to place the trial of impeachments in the hands of the Judiciary itself. After much discussion, the authority was vested in the Senate. 2 M. Farrand, The Records of the Federal Convention of 1787 at 551–552.

That impeachment is the exclusive method for judicial discipline and removal also has the endorsement of both Mr. Justice Black and Mr. Justice Douglas. In dissenting in the Chandler case, Justice Douglas, writing for himself and Justice Black, stated:

> An independent judiciary is one of this Nation's outstanding characteristics. Once a federal judge is confirmed by the Senate and takes his oath, he is independent of every other judge. He commonly works with other federal judges who are likewise sovereign. But, neither one alone nor any number banded together can act as a censor and place sanctions on him. Under the Constitution the only leverage that can be asserted against him is impeachment, where pursuant to a resolution passed by the House, he is tried by the Senate, sitting as a jury. 398 U.S. at 136.

And so, Mr. President, it seems manifestly clear that impeachment is not only the sole constitutionally permissible means of removing Federal judges, but is also the sole constitutionally permissible means of disciplining Federal judges.

I base this conclusion not only on such direct evidence as the statements of the framers from the record of the constitutional debates, but also on other, more indirect evidence. Our Constitution is not the type of document from which issues can always be interpreted by focusing on a single clause or section. Rather, in many instances, we must look to the document as a whole. The subject of judicial discipline is such an issue.

In this regard, it is important to look at what the Constitution says as well as what it does not say. The legal maxim expressio unius est exclusio alterius—the expression of one thing is the exclusion of another—is central to the constitutional objection to this bill. Unlike the legislative and executive branches of our Government, the judicial branch was given no power—either express or implied—to discipline its own members.

The Congress was the only branch of Government that was specifically granted the power within the Constitution to discipline one of its members. Article I, section 5, clauses 1 and 2, specifically grants each House of Congress the power to discipline one of its Members on a majority vote or expel one of its Members on a two-thirds vote. There is, however, no similar procedure for the judiciary.

The President also has the power to discipline the members of the executive branch. As expressed by the Supreme Court in *Myers* v. *United States*, 272 U.S. 52 (1926), the President has the power to remove one of his subordinates who exercises only executive responsibilities. This power is easily implied from the hierarchical pyramid that characterizes the executive branch. In this regard, discipline other than impeachment would seem both essential to and consistent with the structure of that branch of Government designed to promote maximum efficiency and consistency of policy. No such inference, however, can be made from the structure of the judicial branch.

While the judiciary has no power to discipline its members for their nondecisionmaking authority, it does have a form of accountability over judges for their decisionmaking authority. Unlike the President, the judiciary can perform its constitutional function whether any particular judge cooperates. Higher courts historically have had the ability to overrule lower courts or issue writs of mandamus to judges who continue to ignore the law. It was unquestioned at the time of the adoption of the Constitution that higher courts and appellate judges exercise a form of accountability over the decisionmaking function of lower courts and judges.

There is historical evidence to support the above conclusion that the judiciary is distinctively different from the executive and legislative branches regarding power to discipline its own members. James Madison, the leader in the congressional debate over the Judiciary Act of 1789, as well as in the Constitutional Convention, made such a distinction, 1 Annals of Cong., 389 (Gales & Seaton eds. 1789), as did Madison's colleague Elias Boudinot. Ibid, at 390–391. Throughout the debate, the speakers contrasted executive officials with judges who held office during good behavior.

"Good Behavior" and "high crimes and misdemeanors."

Mr. President, I would like finally to focus my attention to the argument advanced by some proponents of the judicial power to discipline Federal judges that there is a distinction between "good behavior" and "high crimes and misdemeanors." Much attention has been focused on article III, section 1 of the Constitution which states:

> Judges of both the Supreme Court and the Inferior Courts shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their term of office.

Many have interpreted the "good behavior" clause as imposing a higher standard of conduct on the judiciary than that required by impeachment. The great weight of historical authority clearly indicates, however, that the Founding Fathers based this clause on their concern for restricting the powers of the executive over judges. The same concern had been resolved in England with the Act of Settlement of 1701, and it was the arbitrary power that the monarchy held over judges who held their office "at the King's pleasure" which led to the inclusion in the list of grievances against the king in the Declaration of Independence the following:

> He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

It thus clearly appears that the "good behavior" clause as it appears in the Constitution was meant to restrict the executive power of removal, differentiating it from tenure "at the King's pleasure" rather than imposing a separate standard of conduct. Moreover, if this clause was intended to establish a separate standard of conduct which would allow discipline short of removal, it seems odd to me that the framers did not include a separate procedure for such discipline as they did for Members of Congress.

Those who do not subscribe to the exclusivity of impeachment argument maintain that since article III does not explicitly refer to article II's impeachment clause, there might be a transgression of the good behavior standard that would not rise to the level of an impeachable offense but for which a judge might otherwise be disciplined. As a result, some constitutional scholars argue it is constitutionally permissible to establish disciplinary procedures other than impeachment for judges whose conduct falls in the substantive gap between "high crimes and misdemeanors" and violations of "good behavior."

The response to this argument, I feel, is quite simple. The very absence of a removal provision in article III indicates that the framers must have implied a reference to the impeachment clauses and thereby intended that bad behavior be dealt with exclusively by impeachment. Otherwise, the silence of article III would leave no restriction whatsoever on the identity of the persons to whom Congress might delegate the power of discipline. I think this is important. Even the President or, under this interpretation, a lesser official, might be authorized to discipline a judge on a finding of malconduct. If such a procedure for judicial discipline is appropriate for judges in whom article II vests the judicial power of the United States, then the entire doctrine of judicial independence—in which the Founding Fathers believed so fervently—becomes illusory.

On this point, I do not ask, Mr. President, that my colleagues accept my opinion as final. The historical evidence for such a conclusion is convincing. Throughout the constitutional debates, the terms "misbehavior" and "misdemeanor" were used synonymously. Those who would maintain that misbehavior and misdemeanor are distinctively different and, more importantly, that they permit different forms of discipline, bear the burden of proving that the framers regarded it as clear that the substantive "good behavior" standard refers to a disciplinary procedure other than impeachment. The evidence, Mr. President, points unmistakably in the opposite direction. The framers believed that the tenure of judges should be established in terms of good behavior and that the remedy for a breach thereof should be impeachment. In an essay published in 1776—before the Declaration of Independence—and widely distributed in the South, John Adams, a prominent lawyer, declared:

> The judges * * * should hold estates for life in their offices; or, in other words, their commission should be during good behavior * * *. For misbehavior, the grand inquest of the colony, the house of representatives, should impeach them before the governor and council * * *." J. Adams, Thoughts on Government, in 4 *The Works of John Adams*, 189, 198 (C. Adams ed. 1851).

These words were quoted verbatim, and apparently without attribution, in a letter by Thomas Jefferson the same year. See Kaufman, "Chilling Judicial Independence," 88 Yale Law Journal at 699, note 111 (1979).

The framers never explicitly discussed how breaches of good behavior were to be determined, but the explanation by Gouverneur Morris leaves no doubt that impeachment was the intended remedy for a violation of the standard of good behavior:

> Misbehaviour is not a term known in our law; the idea is expressed by the word misdemeanor; which word is in the clause respecting impeachments. Taking, therefore, the two together, and speaking plain old English, the Constitution says: "The judges shall hold their offices so long as they demean themselves well; but if they shall misdemean, if they shall, on impeachment, be convicted of a misdemeanor, they shall be removed." 11 Annals of Cong., 90 (1802).

The statement by Gouverneur Morris is significant. As pointed out by Judge Irving Kaufman in an article in the Yale Law Journal in March of this year, Gouverneur Morris was regarded as the most important member of the Committee on Style and Revision, and he was generally regarded as having had the last word on the choice of language on the Constitution. 88 Yale Law Journal at 701.

There is one final reason why I believe that it was not intended by the framers of the Constitution that Federal judges be disciplined by any means other than impeachment. We all know, Mr. President, that the Constitution provides that Federal judges shall hold their offices during good behavior. We have already looked at the term "good behavior," but I think it necessary that we look at the phrase "shall hold their offices." If we pass this particular piece of legislation, it is possible thereunder for a Federal judge to be disciplined by having his caseload removed from him and/or to have his duties significantly curtailed in other ways.

It would seem that any bill creating a court that has the power to take away the work which a judge is supposed to perform in the discharge of his constitutional duties, even on a temporary basis, would certainly be an indirect violation

of this provision of the Constitution. It is important to remember that a Federal judge is a civil officer serving in the public interest. I do not feel that any judge that has been stripped of his duties and responsibilities is "holding office" in the spirit of public service that pervades the Constitution.

SUMMARY

It has been argued by proponents of this bill that it preserves the notion of judicial independence which was so fixed in the minds of the framers of the Constitution, and to which we are all committed. They further argue the need for such a disciplinary mechanism based on the size of the judiciary as well as the inefficiency of the impeachment process. But such arguments do not go to the constitutionality of the procedure that this bill would establish. Rather, they are merely justifications for its implementation.

Mr. President, I do not think it wise to pass a bill on the mere hope that it is constitutional, especially when the differences of opinion among members of the legal community are as great as they are here. More importantly, I do not think it wise to conform constitutional arguments to the mere desire or need for implementing such legislation. The framers of the Constitution recognized the need for our Government to change according to the needs and challenges of a growing society. One of the methods by which such changes are implemented is embodied in the amendment process of article V. Admittedly, this process is also one that is tedious and time consuming. We must not, however, circumvent any constitutional mandate merely to achieve more quickly a desired goal. It should be remembered that a large majority of those States that have implemented legislation of this type for their own court systems have done so through means of a constitutional process. I feel that it is imperative that we should likewise move through the amendment process when seeking to establish a mechanism for judicial accountability other than impeachment.

In summary, it clearly appears that the framers of our Constitution, after careful debate of all the alternatives, intended the following disciplinary framework: that the legislative branch have the express power to discipline its members; that the executive branch, by its very nature, includes the implied power of the President to discipline his subordinates; and that, because the judiciary was given neither the express nor the implied powers to police itself in nondecisionmaking functions, the sole constitutionally permissible method of removing or disciplining a Federal judge is by impeachment.

Mr. President, for these many reasons I must respectfully vote against this bill.

● Mr. BAYH. Mr. President, I rise today to support S. 1873, the Judicial Conduct and Disability Act of 1979, a bill to provide for discipline of Federal judges. Just about a year ago, I rose to oppose S. 1423, the Judicial Tenure Act, a proposal which would have allowed for removal of Federal judges by means other than impeachment. I questioned the Judicial Tenure Act on the grounds that it was of doubtful constitutionality, and in my opinion, a serious threat to judicial independence. At the same time, I acknowledged the concerns which had motivated Senators NUNN and DECONCINI in their proposal. We all want the highest standards for a wise, conscientious and responsible judiciary, and must have some worry that the growing numbers of Federal judges might increase the chances for cases of judicial misconduct. Most of us also share a belief that judges should not be without some degree of accountability on those rare occasions when they betray the trust of their office.

In leading the opposition to S. 1423, I urged those of us in the Senate not to neglect our constitutional responsibilities toward insuring that there is an effective and responsible Federal judiciary, to play our role in the selection process wisely, and to see that the impeachment and trial process work in the few cases where they should be employed. I also suggested that we should be taking a look at other means by which the disciplinary process could be strengthened, trying to find an approach that would be clearly constitutional and at the same time less threatening to Federal judges in the performance of their duties than S. 1423.

In the search for an acceptable approach to this complex area, several bills varying in their approach were introduced this year. Mr. President, I would like to commend my distinguished colleague from Arizona, Senator DECONCINI, who has exhibited a rare degree of commitment and leadership in his efforts to solve the dilemmas present in any legislative attempt to address this difficult issue. He has chaired several days of joint hearings before the Subcommittees on Improvements in Judicial Machinery and the Constitution, seeking the views of scholars, judges and others on the different proposals. More, he has taken the lead in the attempts to put together the best aspects of all proposals which would satisfactorily meet the concerns of all. S. 1873 is the result of these combined efforts.

Mr. President, to my mind S. 1873 is a reasonable and successful compromise. Although it has several aspects which were not in the proposal which my colleague and friend from Maryland, Senator MATHIAS, joined me in introducing S. 522, I do not personally feel that the principles which we were seeking to make into law have been compromised. This is a judgment call, but if after traveling so long together on this issue, Senator MATHIAS and I have reluctantly decided to go different directions, I personally do not feel uncomfortable making that decision.

The goal of a discipline bill, it has seemed to me, was to achieve a balance of accountability for responsible behavior by Federal judges, on the one hand, and on the other, a guarantee for the judicial independence which is essential for the performance of their constitutional role. For Congress to do nothing to establish a disciplinary procedure fails in the first respect; to enact a judicial tenure act with removal of judges or excessive bureaucracy is to err in the second. The ideal is to create a mechanism for handling discipline problems in as simple and unintrusive a manner as possible, still making sure that legitimate complaints will be addressed. While not perfect, S. 1873 largely succeeds in achieving this balance.

Since we are now hearing criticisms of our efforts from both ends of the spectrum of views about this issue, I can only conclude that we were successful in finding the middle.

Opponents on the one side maintain that S. 1873 has no teeth in it, that without the sanction of removal from office, any reform is meaningless. I respectfully disagree. The bill before us today is designed to handle misconduct by a judge which interferes "with the effective and expeditious administration of the business of his court," in other words his behavior as it affects his job as a judge: For example, whether he is behind in handling cases, or having a drinking problem, or suspected of having a conflict of interest in the cases before him. The circuit council has several sanctions available to it to correct this kind of misconduct, and I think we can be sure that judges regard any of these as of the most serious importance. If, however, the misbehavior rises to the level of a possible impeachable offense, S. 1873 provides that this case shall be reported to the House. The House then has before it a record of a situation which it may decide warrants its investigation for impeachment proceedings, and the gears set in place by the Constitution for removal of judges are allowed to go into motion. Mr. President, S. 1873 is not a toothless disciplinary procedure.

For a bill to go further than this and provide for removal, in my opinion raises very serious constitutional questions. Proponents of last year's S. 1423 take the position that since the constitutionality of S. 1423 is a question which can ultimately only be decided by the Supreme Court, Congress should not hesitate to pass the law and let the Court make its decision. However, there is a great difference between legislation which is arguably unconstitutional and that which is very probably unconstitutional. A proposed law which poses serious constitutional issues demands the most careful scrutiny by the legislative branch. If it is very probably unconstitutional, it should not be passed. With no prescience of what a decision by the Supreme Court might be, I feel the case against a proposal allowing removal of judges to be so strong that we should not approve it.

Mr. President, without reiterating all the arguments against such a proposal, I would say only that the weight of scholarly authority is that impeachment is the sole means of removal of judges allowed by the Constitution. To maintain otherwise is to rely on the slender reed of the precedent in English common law of the obscure writ of scire facias. The theory of scire facias was that a grant imparted an office for the life of the grantee terminable by his death or a

breach of good behavior. The judiciary was empowered to issue a writ of scire facias to initiate a civil proceeding for the termination or forfeiture of the office.

Most authorities cite a lack of historical evidence that the framers of the Constitution even had knowledge of the generally discarded writ of scire facias, which had admittedly never been used to remove a judge. Scire facias was never included in any revolutionary state constitution, nor was it considered at the Constitutional Convention.

It is admitted by all the scholars that there is no record of the writ having ever been used to attack a letter patent (granting "good behavior tenure") in a colonial court. Further, the positions subject to removal by the writ were only of minor court officials, not full-fledged judges. Officials so removed included such obscure officers as filazers, remembrancers of the Exchequer, cord recorders, postmen, and auditors. No judge was ever removed by scire facias in England or America although the writ stayed in effect until fairly recent times.

The proponents of removal claim that the "good behavior clause" of article III provides a higher standard of conduct for judges than that required for impeachment. If a judge falls away from good behavior, he should no longer hold office. The great weight of historical research done by constitutional experts, however, argues that tenure during good behavior was intended to differentiate from tenure "at the King's pleasure." It was rebellion against tenure "during the King's pleasure" which had led to the Act of Settlement in England in 1701, and it was the monarchy's arbitrary power over their judges which led the Colonists to include in their list of grievances against the King in the Declaration of Independence, "He has made Judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries." In other words, to the Founding Fathers, a good behavior grant of tenure means that the executive was restricted in its powers of removal. It was a not a separate standard of conduct.

Finally, removal by other judges, as proposed by Senator NUNN, is an infringement on the congressional power of removal. The Congress is given a clear grant of authority for impeachment if misconduct reaches a standard laid down in article II, that is, treason, bribery, or other high crimes and misdemeanors. If misconduct meets that standard, Congress is given sole authority to act. If a proposal such as Senator NUNN's has a standard for removal which meets that of article II, then it is in clear conflict with and infringes on the constitutional standard of impeachment. If it on the other hand says that it applies to conduct which is somewhere between "good behavior" and impeachable behavior, an ironic incongruity is the result. Congress would be creating a relatively easy mechanism by which it might rid itself of judges who have been guilty of "bad behavior" falling below the level of impeachable behavior. For the serious misconduct arising to the strictest standards of high crimes and misdemeanors, that is, indictable offenses, the cumbersome mechanism of impeachment remains. So S. 1423 would have created a system for relatively easy removal of judges for failing to behave properly, but if criminal conduct was involved, the more difficult path of impeachment would be required.

Finally, Mr. President, in my opinion, to provide for removal of judges by other judges strikes at the independence of the judiciary which the Constitution's framers so clearly treasured and intended to protect. Proponents of judicial removal argue that the other branches of government are empowered to remove their own. There are compelling differences, Mr. President. The Constitution is explicit in the provisions whereby Members of Congress can expel their fellow Members. That there is no such provision regarding members of the judiciary is a clear indication that the framers intended to treat them differently. The President can remove certain members of the executive branch, for the reason that he has appointed them. The Supreme Court has said that other appointees, however, such as commissions of the FTC who have quasi-judicial, quasi-legislative functions, cannot be removed by the President, because they require greater independence to fulfill their responsibilities. The 25th amendment provides that a President may be removed for inability to perform his duties only on the judgment of the Congress, not the determination of his own Cabinet.

Mr. President, in my opinion the Constitution is clear that judges are protected against removal by members of their own branches because judicial independence requires such protection. Proponents of removal legislation tell us, however, that without the ability to get rid of one of their own, any disciplinary system within the judicial branch is ineffective. I cannot agree.

Some opponents of S. 1873 on the other side, however, are telling us that the bill has gone too far, that any legislative attempt to discipline misconduct is suspect from constitutional and policy points of view. They argue that the impeachment is the sole constitutional means of disciplining Federal judges, not just removing them. Let me say just a few words in response to this position, Mr. President.

First of all, I think the only significant constitutional question in this area is the issue of removal. S. 1873 answers that concern. Certainly other lesser constitutional issues are raised, but in our drafting of S. 1873 we have tried very hard to avoid these constitutional problems and I am satisfied we have. It is satisfying to know that a memo prepared by Johnny Killian of the Congressional Research Service and editor of the Constitution Annotated supports the constitutionality of S. 1873. The inconsistency of raising the specter of unconstitutionality at this point is apparent when one recognizes that the judges now discipline their own, deriving their authority, they say, from section 332 of title 28. I believe the Judicial Conference itself would be the last to seek the repeal of section 332 on the grounds of unconstitutionality. They depend on it and in fact urge us in the Senate as the first alternative to do nothing else but leave them with section 332 to handle their problems with fellow judges. If these are indeed serious constitutional questions with any legislative grants of authority to the judicial branch to practice discipline, then in all good conscience, Mr. President, we should act today to strike section 332 from the United States Code. However, I believe the judicial branch itself would vigorously oppose such a move.

There is a problem with the judicial conference position, however; that is, it is unresolved whether section 332 does in fact grant the councils of the circuit the authority to discipline their fellow judges. Judge Chandler some 10 years ago sought to get the Supreme Court to answer that exact question. The Court finally found the question moot since at the Court's urging the council had modified its order and Judge Chandler had acceded to its terms. However, the Court discussed the issue and concluded by inviting the Congress to make its intention plain. Chief Justice Burger writing for the majority said:

> Standing alone section 553 is not a model of clarity in terms of the scope of the judicial councils' powers or the procedures to give effect to the final sentence of section 332. Legislative clarification of enforcement provisions of this statute and definition of review of Council orders are called for.

Mr. President, S. 1873 is a response to that invitation.

Mr. President, we have worked very closely and amicably with the judicial conference in our efforts to draft this legislation. We have made many accommodations to their views and on the whole I think our proposal and theirs move very closely together toward the goal of a responsible but not repressive disciplinary system. I was somewhat disappointed therefore to learn a few days ago that the Judicial Conference Committee working on the issue has informed the Members of the Senate by letter that it considers S. 1873 unacceptable. Further, it seems somewhat ironic that the same committee has taken no position on the proposal to remove judges, although surely it would find such a bill a greater threat than S. 1873.

The draft formulated by the judicial conference and S. 1873 are in principle extremely close and the few differences between them become matters of judgment. To my mind, S. 1873 offers advantages, and if the conference proposal were before the Senate in open debate, I believe it could be shown that S. 1873 is preferable. For example, the conference objects to the manner of review provided in S. 1873, that is, discretionary review in a special, national court. The conference prefers review in the judicial conference. Mr. President, surely there are good reasons not to place reviews in the judicial branch's own highest administrative body. From the perspective of the judge who feels that his own circuit has treated him unfairly below, can he feel confident that those on the next step of the hierarchy will treat him any more fairly? From the perspective of the member of the public who has placed the complaint, can there be assurance that

the appeal will not be whitewashed as in "in-house" proceedings? The fact that the court is outside the administrative structure gives it an objectivity and credibility not to be found in the conference itself.

The conference agrees with S. 1873 that in those cases where an administrative remedy is not adequate, impeachment should be utilized. However, it is critical of S. 1873 in that in their words, the court would "prejudge" the question before reporting the case onto the House. The conference's own proposal does virtually the same thing: The conference itself determines that an impeachable offense may exist, and it refers the case to the House. This is also "prejudgment" in any meaningful sense of the word; the difference is in who is doing the judging.

Finally, the conference criticizes the review process of S. 1873 because it says it will be slow and time consuming. The difference between S. 1873 and the conference's proposal is that S. 1873 allows discretionary review at every stage, for complainant and judge. The conference would not allow these appeals. This again is a judgment call between two approaches, and I am personally happier with S. 1873, assuring both parties that they will give reasonable assurance of attention by a higher body.

Mr. President, let me sum up briefly my thoughts on S. 1873. I had three concerns approaching the drafting of such an original and far-reaching piece of legislation. The first was that it meet the test of constitutionality. This I am confident S. 1873 has done. By avoiding removal as a sanction, the principal constitutional obstacle is crossed. So long as independence is not severely threatened, and I do not believe it is, we are within the framework created by the Founding Fathers.

The second concern was that the bill provide for some measure of accountability by those on the Federal bench to the citizens they serve. It is being claimed by some opponents of S. 1873 that there has not been a strong enough showing that any legislation is warranted, that there are so few cases of judicial misconduct that a disciplinary mechanism is legislative overkill. It is true that no extensive record of misbehavior by Federal judges exists. For this I think we may all be thankful for the generally high caliber of the Federal bench. No other group of Government officers in the country has probably served so ably so consistently. We must also recognize, however, that there is little way for the public or the Congress to know when those few errant judges have strayed. There has been no way for complaints to be registered other than the occasional newspaper exposé which does discredit to the entire judiciary. For the sake of all the exemplary judges, those few who betray the dignity and trust of their office should be checked.

Finally, and most importantly, Mr. President, I was concerned that by attempting to meet one goal, the opportunity for legitimate complaints to be heard, we would not be intruding on the independence of the judiciary. I am convinced with Senator Ervin that "an independent judiciary is perhaps the most essential characteristic of a free society." I believe that S. 1873 is faithful to that constitutional change—S. 1873 allows Federal judges to render their decisions without outside pressure. It is critical that the bill prominently and explicitly provides that the merits of a decision on a ruling are not cause for a complaint. Much as all of us from time to time disagree with a court's ruling, the means to correct that opinion is through the route of appeal. This is as it should be, for the tides of public opinion ebb and flow, and as Alexander Hamilton said in Federalist 79, for Federal judges there must not be "too great a disposition to consult popularity."

It is even possible under this proposed legislation that judges may enjoy more independence from pressure groups than they do at present. I think we all know that the judges in our home States are subject to public and private attacks by groups single-mindedly devoted to one point of view or another. S. 1873 would openly make irrelevant the legitimacy of these kinds of personal attacks.

S. 1873 also allows judges to be independent to live their personal lives as they see fit. Extrajudicial habits and behavior are outside the reach of the bill. It is only when a judge's behavior affects his performance on the bench that a complaint is valid. This again is as it should be.

The only kind of independence which S. 1873 would curtail is the freedom of those few members of the Federal bench who take advantage of the lifetime tenure given to them by the Constitution and choose to shirk or misuse the high responsibilities it places upon them.

Mr. President, I urge the passage of S. 1873.●

ENERGY POLICY AND CONSERVATION ACT ANTITRUST PROVISIONS

Mr. JACKSON. Mr. Speaker, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1871.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1871) entitled "An Act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

TWO-YEAR EXTENSION; TRANSCRIPTS

SECTION 1. (a) Subsection (c)(4) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(4)) is amended by adding at the end thereof the following: "Such access to any transcript that is required to be kept for any meeting shall be provided as soon as practicable (but not later than 14 days) after that meeting.".

(b) Subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "October 31, 1979" and inserting in lieu thereof "October 31, 1981".

REPORT

SEC. 2. The Secretary of Energy, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Federal Trade Commission, shall prepare and submit to the appropriate committees of Congress, a report concerning the actions taken by them to carry out the provisions of section 252 of the Energy Policy and Conservation Act. Such report shall examine and discuss—

(1) the extent to which all, or part, of any meeting held in accordance with section 252(c) of such Act to carry out a voluntary agreement or to develop or carry out a plan of action should be open to interested persons in furtherance of the provisions of section 252(c)(1)(A) of such Act;

(2) the policies and procedures followed by the appropriate Federal agencies in reviewing and making public or withholding from the public all, or part, of any transcript of any meeting held to develop or carry out a voluntary agreement or plan of action under section 252 and in permitting persons, other than citizens of the United States, to review such transcripts prior to any public disclosure thereof;

(3) the extent to which the classification of all, or part, of such transcripts should be carried out by one agency;

(4) the adequacy of actions by the responsible Federal agencies in insuring that the standards and procedures required by section 252 are fully implemented and enforced, including the monitoring of the program concerning any anticompetitive effects, and the number of personnel, and the amount of funds, assigned by each such agency to carry out such standards and procedures;

(5) the actions taken, or to be taken, to improve the reporting of energy supply data under the international energy program and to reconcile such reporting with similar reporting that is conducted by the Department of Energy;

(6) the actions taken, or planned, to improve the reporting required by section 252(i); and

(7) other actions under such section.

The Secretary of Energy shall transmit such report to such Committees within 180 days after the date of the enactment of this Act and shall make such report available to the public.

Amend the title so as to read: "An Act to amend the Energy Policy and Conservation Act to extend for 2 years certain authorities relating to the international energy program, and for other purposes.".

Mr. JACKSON. Mr. President, the United States and 15 other oil consuming nations signed an agreement on an international energy program on November 18, 1974. To accomplish its objectives, that agreement created the International Energy Agency, an autonomous institution within the Organization for Economic Cooperation and Development. The IEA is headquartered in Paris and is administered by a Secretariat consisting of Ministers or their delegates from each of the participating countries. There are presently 20 nations which participate in the IEA.

Recognizing the need for cooperation with and information from the major international oil companies, the IEA has established major industry advisory bodies. The so-called Reporting Company Group currently consists of 21 U.S. oil companies and 11 foreign-based oil companies. The Industry Advisory Board consists of seven U.S. oil companies and six foreign oil companies.

Since the exchange of sensitive trade information and the participation of the oil companies in the IEA allocation program would be highly suspect under U.S. antitrust law, the participating American

oil companies were granted a limited antitrust defense by section 252 of the Energy Policy and Conservation Act of 1975. This section of that statute provides for the adoption of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program.

Some 21 U.S. oil companies have agreed to participate in the voluntary agreement which was created in March 1976. The voluntary agreement sets forth the procedures the oil companies must follow in order to qualify for the antitrust defense.

Under existing law, the antitrust defense provision of the 1975 act expires on October 31—tomorrow. On October 17 the Senate passed S. 1871 which extends the expiration date to June 30, 1980. On October 22 the House passed S. 1871, with an amendment that, among other things, extended the antitrust defense provision for 2 years until October 31, 1981.

This is longer than is necessary to give the General Accounting Office an opportunity to complete its ongoing investigation of the effectiveness of the International Energy Agency. The GAO report is expected to be available to Congress in May 1980, and will be valuable to the Committee on Energy and Natural Resources and the Committee on the Judiciary in their consideration of S. 1413, a proposal by the administration to extend the antitrust defense proviso until January 19, 1986.

Mr. President, the distinguished Senator from Louisiana (Mr. JOHNSTON) will offer an amendment reaffirming the position taken by the Senate earlier in the month, extending the provisions until June 30, 1980; and in addition will offer with that amendment a further amendment covering the provisions relating to allocations and fees on the importation of oil.

I yield to the distinguished Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

UP AMENDMENT NO. 693

(Purpose: Amendment to Section 252(j) of the Energy Policy and Conservation Act of 1975, and for other purposes)

Mr. JOHNSTON. Mr. President, I move to concur in the House amendment with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The amendment is as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. DOMENICI, proposes an unprinted amendment numbered 693.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Strike all after the enacting clause and insert, in lieu thereof, the following:

SEC. 1. Section 252(j) of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6272(j)) is amended by striking out "October 31, 1979" and inserting in lieu thereof "June 30, 1980".

TRANSCRIPTS

SEC. 2. Subsection (c)(4) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(4)) is amended by adding at the end thereof the following: "Such access to any transcript that is required to be kept for any meeting shall be provided as soon as practicable (but not later than 14 days) after that meeting.".

REPORT

SEC. 3. The Secretary of Energy, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Federal Trade Commission, shall prepare and submit to the appropriate committees of Congress, a report concerning the actions taken by them to carry out the provisions of section 252 of the Energy Policy and Conservation Act. Such report shall examine and discuss—

(1) the extent to which all, or part, of any meeting held in accordance with section 252(c) of such Act to carry out a voluntary agreement or to develop or carry out a plan of action should be open to interested persons in furtherance of the provisions of section 252(c)(1)(A) of such Act;

(2) the policies and procedures followed by the appropriate Federal agencies in reviewing and making public or withholding from the public all, or part, of any transcript of any meeting held to develop or carry out a voluntary agreement or plan of action under section 252 and in permitting persons, other than citizens of the United States, to review such transcripts prior to any public disclosure thereof;

(3) the extent to which the classification of all, or part, of such transcripts should be carried out by one agency;

(4) the adequacy of actions by the responsible Federal agencies in insuring that the standards and procedures required by section 252 are fully implemented and enforced, including the monitoring of the program concerning any anticompetitive effects, and the number of personnel, and the amount of funds, assigned by each such agency to carry out such standards and procedures;

(5) the actions taken, or to be taken, to improve the reporting of energy supply data under the international energy program and to reconcile such reporting with similar reporting that is conducted by the Department of Energy;

(6) the actions taken, or planned, to improve the reporting required by section 252(i); and

(7) other actions under such section.

The Secretary of Energy shall transmit such report to such Committees within 90 days after the date of the enactment of this Act and shall make such report available to the public.

OIL IMPORT RESTRICTIONS

Sec. 4. (a) FINDINGS.

Congress finds that—

(1) action by the President establishing a volumetric quota or a substantial fee on imports of petroleum into the United States will have far-reaching effects on the energy policy of the United States;

(2) such action may require the imposition of Federal petroleum price and allocation controls or other Federal intervention in domestic fuels markets to insure the attainment of the public policy objectives set forth in the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 751 through 760), as amended;

(3) such action may significantly affect the rates of production of domestic energy resources and alter the pace of the development and commercialization of alternative forms of energy;

(4) such action may significantly influence policy planning and capital construction decisions for the domestic fuels supply system, including the domestic refining industry;

(5) such action may have severe effects on interstate commerce, the domestic economy, and the national security of the United States; and

(6) the implications of such action should be examined by Congress and the public and an opportunity afforded Congress to veto any proposal by the President to establish a fee or quota on imports of petroleum.

(b) PURPOSE.—It is the purpose of this title to require the President to submit to Congress for review under expedited procedures any rule, regulation or order which establishes volumetric limits on petroleum imports into the United States or any fee on such imports.

(c) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Part A of title I of the Energy Policy and Conservation Act (Public Law 94-163) is amended by inserting at the end thereof a new section as follows:

"LIMITATIONS ON OIL IMPORTS

"SEC. 108. (a) Notwithstanding any other provision of law, the President may not make effective any rule, regulation or order establishing volumetric limits on the amounts of crude oil, residual fuel oil or any refined petroleum product imported into the United States or any fee, duty or tariff on such imported crude oil, residual fuel oil or any refined petroleum product unless such rule, regulation or order—

"(1) has been transmitted as if it were a rationing contingency plan to Congress in accordance with section 552 and

"(2) has not been disapproved by a joint resolution adopted into law after passage by both Houses of Congress in accordance with such section 552, as amended by the Emergency Energy Conservation Act of 1979.

"(b) As used in this section the term 'United States' means the States, the District of Columbia, Puerto Rico and the territories and possessions of the United States."

Mr. JOHNSTON. Mr. President, what this amendment does, as the distinguished Senator from Washington indicated, is strike out October 31, 1979, as the termination date for the antitrust defense under the IEA, and insert in lieu thereof, by June 30, 1980. The amendment also provides that the transcripts of any meetings of the IEA be provided as soon as practicable after said meetings, but no longer than 14 days. It further requires a report from the Secretary of Energy within 90 days to the Congress on certain IEA activities.

Mr. President, most important, however, this amendment provides for congressional input into the question of quotas and fees which the President presently has power to invoke under the Trade Expansion Act of 1962.

Under the present law, Mr. President, the President of the United States has power, without consultation with Congress, without any resort to public hearings or any other procedure, other than his own action, to put a quota upon the importation of foreign oil. He also has the power to impose a fee upon the importation of foreign oil.

The implications of this power are vast and staggering when considered in the context of the macroeconomic policy of this country.

The President at present has the power, in effect, to cause a gasoline shortage, a heating oil shortage, a diesel oil shortage, a shortage of all petroleum products, by the invocation of this quota which, in effect, is a rationing device. Or, conversely, if he went in the direction

of fees, he could enact a tax upon oil of unlimited amount.

The President has had this power for some time, the Trade Expansion Act having been enacted in 1962. It was enacted at that time in order to prop up the price of domestic oil, not to restrict the entry for the purpose of a conservation measure.

In his recent speech on energy, the President of the United States very emphatically stated that the United States would never, never—using the word twice for emphasis—import more foreign oil than this country imported in 1977. We imported in 1977 8.5 million barrels a day.

He also set a goal for importation for this year of 8.2 million barrels a day. He did not outline at that time, nor has he outlined since, what the mechanism for restricting those imports would be—whether it would be a quota or a fee, and if a quota, what kind of quota it would be.

There are some alternatives presently under consideration by the Departments of Energy and Treasury which explore the possibility of three different kinds of quota mechanisms, such as an auction for free tickets and their mechanisms, which are not fully fleshed out in their detail but which do indicate a clear intention on the part of the administration to invoke quotas as a means of restricting those imports.

In the Committee on Energy and Natural Resources last week, we adopted an amendment which would prohibit the President from invoking fees or quotas under the authority of the Trade Expansion Act unless both Houses of Congress, by joint resolution, gave him the authority to do so, acted affirmatively in giving him the authority to do so. Since that time, we have had extensive conversations with the White House.

There remains a vast difference of opinion between this Senator and other Senators on the committee, other Senators in the entire body, as to whether or not fees and quotas can ever work under any circumstances, can result, under any circumstances, in anything other than economic chaos, increases in prices, and other distasteful and unwanted consequences.

There is, however, a recognition on our part of the international responsibility of the President to show to other members of the International Energy Agency, to the world community, to our allies—particularly Germany, Italy, France, Japan, and other free world consumers of energy—that this country is serious in showing a resolve to conserve energy, a resolve to reduce our ever-increasing requirements for Middle Eastern oil.

We recognize the Hobson's choice of the President. He has committed himself to these goals through the use of the Trade Expansion Act, through the invocation of quotas or, alternatively, fees, to hold consumption to this level. At the same time, if we deny him totally that authority, it will make it appear that the White House does not have the ability to carry through on its international promises.

I am happy to tell the Chair that we have worked out a compromise, as represented by this amendment, which I think well serves the interest of those of us who oppose quotas and fees under almost any circumstance and those of us who also recognize that we do not want to take away from the President his credibility in international relations.

Therefore, what we have done is to provide a mechanism similar to the gasoline rationing, whereby any proposals to invoke quotas or to raise fees must be submitted first to Congress. Within 30 days, Congress would have the authority to enact a joint resolution, under the expedited procedures as provided by law. That joint resolution, in turn, would act as a veto of the President's action and would make impossible the President's action, unless the President then vetoed the joint resolution of Congress. Upon such a veto, Congress would have the right to override that Presidential veto by a vote of two-thirds of each House.

This is a recognition and a vindication of the President's authority, by giving him the last word in the invocation of quotas or fees, subject only to the overriding of that veto. But it is also, in a greater sense, a vindication of the power and authority—and I think the constitutional role—of Congress to be involved in any such major economic decision.

I cannot conceive of a circumstance in which the President of the United States would offer Congress quotas or fees, which we would veto, and which he then would force down the throats of the American public, over the objection of Congress. I simply cannot conceive of that. I cannot conceive of it because this should be a corporate decision between the President and Congress. I believe that any such decision would be almost cosmic in its effect on this economy.

A study was done for the Committee on Energy and Natural Resources by the Congressional Budget Office as to what the effect of quotas would be. Taking the figure of a 1-million-barrel-a-day cutoff or a 1-million-barrel-a-day quota reduction, it would result, according to the Congressional Budget Office, in an increase in the price of gasoline of some 40 cents a gallon, an increase in the price of home heating oil of approximately 36 cents a gallon, a $6 billion loss in the gross national product, and an increase of not less than .3 of 1 percent in unemployment—all because of the invocation of quotas.

Some Members of this body think we should not deny the President's authority at all, because they say, "Those quotas would never bite. Don't worry about it. Let's have the smoke and the mirrors of Presidential authority. Don't worry. He's never going to use it, anyway."

Mr. President, our projections show that these quotas will become binding. In testimony just last week before the Energy Committee, the Energy Information Agency stated three scenarios for imports for next year, and one of those scenarios was 8.2 million barrels a day, not counting the additions to the strategic petroleum reserve. So that according to one of their three scenarios, the quotas would bite next year.

According to other projections, the quotas surely will bite by 1985, according to our figures, by not less than 900,000 barrels a day and not less than 1.4 million barrels a day in 1990.

This assumes only a medium growth in demand for energy and assumes a healthy domestic petroleum production scenario.

So whether or not the quotas will bite this year, they will surely bite sometime in the future.

Mr. President, what the country would be faced with in the event of quotas is one of two scenarios, a control scenario whereby the invocation of quotas would involve a massive amount of Federal control of all forms of energy, including the allocation of scarce energy resources to every segment of the economy, every refiner, everyone dependent upon energy, or alternatively a free market scenario with unregulated gasoline, unregulated home heating oil and other products where the scarce product would be rationed through the mechanism of price and there the price could go up as much as I indicated at 40 cents a gallon for gasoline. Either one of these scenarios is unacceptable.

It seems to me that it is almost unthinkable that the President would voluntarily and intentionally cause a crisis of 1979 similar to last summer with the gas lines, with the shortages at the truckers' pumps, with the whole country almost falling apart in chaos because of the gas lines and shortages. It is just inconceivable to me that that would voluntarily be done. As it were, it would be the country shooting itself in its foot and saying, "Unfortunately, you know, we made this promise and we therefore have to stick to it."

I am not excluding the possibility that Dr. Sawhill, in whom I have great confidence, and for whom I have great respect can put together, as he says, some mechanism for invoking quotas that will work which we will not object to. He has told me as late as last night that he would do so, that he feels confident he can make one that is agreeable to us. As I say, I have great confidence in him. But I think the best description of making a workable quota was given by one of our witnesses before the committee a couple of weeks ago who said. "A workable quota is like requiring men to line up alphabetically by height; it simply cannot be done."

I am, nevertheless, optimistic as hope springs enternal that perhaps something can be worked out. In the meantime this compromise will give input to Congress but will preserve to the President that final authority which admittedly can be exercised only under the most difficult of political situations, that is, trying to cram it down the throats of the American people over the objection of Congress. I do not believe he will do that. I believe that this mechanism, jointly agreed to by this Senator, by the distinguished Senator from New Mexico (Mr. DOMENICI), by the distinguished Senator from Idaho (Mr. MCCLURE), and the distinguished Senator from Washington, the chairman of the full committee, will be workable and will save us from the difficult conse-

quences caused by the invocation of quotas and fees. At the very least, it will insure a meaningful and proper role for Congress in undertaking what would be a tremendous change in macroeconomic policy to this country.

Mr. President, I am pleased we were able to work out this compromise. I believe it is in the best interest of the country.

I yield to my distinguished friend from New Mexico.

Mr. DOMENICI. Mr. President, will the Senator yield 5 minutes to the Senator from New Mexico?

Mr. JOHNSTON. I yield.

Mr. DOMENICI. Mr. President, I am pleased to join as a cosponsor in this amendment. I am going to speak briefly to that part of the amendment that has to do with the authority of the President, this President and any President, to impose import quotas and fees on imported oil.

In the committee, so the Senate will know, I did not support the position that won by a 10-to-8 vote. The position that won was basically going to say to this President and any President, "We do not really care how diligently you want to cause America to cut back on its insatiable appetite to import oil. We are going to say to you that if you have any approach to limiting that, if you have any system of fees that might diminish that appetite and cause us to import less, you will have to submit that to both Houses of Congress for their approval," as was experienced in the first attempt to come up with the gas rationing plan. That approach, requiring both Houses to affirmatively approve before the plan was effective, was an utter failure. Obviously, that was a total tying of the hands of this President or any President.

So I did not support that. I will not support it here today.

But I do support the proposition that the President should have significant authority in this area while we are beginning to spend millions and millions of dollars to back off imported oil. I think it would be an absolute shame if we came here to the Chamber and said to the President "However, we are taking away all your authority in the area of import fees and import quotas. Even if you could come up with something reasonable, we are going to take that away from you and let both of us approve by affirmative vote."

So we did not do that, and I am pleased that the White House and a number of Senators have discussed this matter. What we have come forth with here today indeed leaves significant if not total authority in the President in this field, because when you are through looking at all of the attempts by Congress to get into this business of restricting the President, ultimately the President can have his way unless both Houses of Congress by a two-thirds vote want to override him.

I am willing to compromise to that extent because it will have some input from us and it will say to this President, "We do not want to take your authority away at a point in time when we are trying to make it more difficult rather than easier to import more oil into America, at a time when we are saying to those who import, 'we do not want to continue in the path of more and more imports if there is any possible way to avoid it.' "

I personally do not want to immediately say to a President who told the American people we have a goal, we are not going to exceed that goal in imports, however, on the other hand, "You have to send that up to Congress and both Houses have to approve of any and everything you might do." Having experienced that it appears to me that we would indeed extract more than a pound of flesh there. We would end up with nothing. We would end up with a President who could do nothing.

So I support this approach because it indeed permits this President and any President to move forcefully with plans, with approaches, with ideas, with new schemes that we have not yet tried, to limit the number of barrels of crude oil that will be imported into America. If a scheme or approach for taxation which will minimize this is thought by a President to be politically doable and in the interest of our country, I am for letting this President and any President try it and make it very difficult for Congress to overrule or override. This is what this amendment does. It does not take away nearly the amount of authority and power that would have been taken away under the committee's recommended approach. It vests him with much of what he had and yet gives us an opportunity to be heard.

Mr. President, I am authorized in behalf of Senator HATFIELD, who is absent because of personal reasons, in this statement to say while he opposes the committee 10-to-8 vote, taking away the President's authority, vesting it under that portion of the law which required both Houses to affirmatively approve of his plan, he supports this approach which gives the White House significantly most of the authority that it thinks it needs.

I yield the floor.

The PRESIDING OFFICER (Mr. BAUCUS). Who yields time?

Mr. WEICKER. Is the time equally divided between those in favor and those opposed to the amendment?

The PRESIDING OFFICER. The Senator from Idaho controls the time in opposition.

Mr. WEICKER. Is the Senator from Idaho opposed to the amendment?

Mr. MCCLURE. Mr. President, I ask unanimous consent that the time in opposition be given to the Senator from Connecticut who is opposed to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. I thank the Senator from Idaho.

Mr. President, you are hearing on the floor of the Senate the results of a deal cut between the White House, which felt it did not have the votes, and the distinguished Senator from Louisiana and his cohorts regarding the Presidential power to restrict imports of oil, either by quotas, fees, or license.

Herein lies the entire difficulty of the situation for this country. Instead of constructing an energy policy in the national interest, as the term is used by the distinguished Senator from Louisiana, we have devised an energy policy that is in the interests of various economic, geographical, philosophical, and political groups.

This fact has not been misjudged by the world. It certainly has not been mistaken by the OPEC nations. It is the reason why prices continue to soar, supplies remain unstable, and economic havoc rules the land. There is anarchy, total anarchy, in the governmental process of this Nation when it comes to energy.

I find it incredible that the Senator from Louisiana can stand here and speculate on the economic chaos, the rise in prices, and the instability of supplies that would take place were the President to limit our oil imports. What in heaven's name do you think exists at the present time?

In some report cited by the Senator from Louisiana, it states that there will be a 40 percent rise in the price of gasoline and a 34 percent rise in the price of home heating oil. Has anybody calculated as to just what has happened in the past year to both these items? Never mind the speculation as to what would happen if the President conducted himself in a certain way. The fact is that everything he predicts that would come to pass as a result of a Presidential action has come to pass through congressional nonaction or congressional action which throttles the ability of our Government to put together a cohesive energy policy.

We hear terms like "cosmic effect," and "macro economics." To put it out very simply, due to the lack of commitment, self-discipline or policy, prices continue to rise for oil and gas. There is a question of whether domestic supply will increase, and the Nation sinks further and further into a recession.

I do not think the national interest is served by cutting deals that favor anyone in this situation. Never mind the oil and gas producers. Never mind the various geographic sections of the country. Never mind those who have an interest in the automobile and all of its aspects. What about the American people? What about that national interest?

The Senator from Louisiana has consistently led the opposition on this floor to any kind of conservation. Obviously, I expected——

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WEICKER. Of course.

Mr. JOHNSTON. The Senator is totally in error in saying that the Senator from Louisiana has opposed conservation. If he will check the record, every conservation bill that has passed I have been the floor manager of it, the author of it or in support of it. I have not supported every conservation bill the Senator from Connecticut has approved of, but every one that has passed the Senate, of which there were a number, including S. 1030, including conservation in homes, schools, and hospitals last year, the Senator from Louisiana has supported.

Mr. WEICKER. The present measure

before the Senate will result in minimal or no conservation. I think we are in the middle of an emergency and chaos now, Senator. Maybe it is not chaotic enough for the Senator from Louisiana—a little more chaos, a little more economic disruption is necessary for him. We went through this exercise with the President on the emergency rationing plan, and faced the same kind of opposition. Tie him up in a knot so that he cannot do anything. They ought to erect a statue to all of you fellows in Riyadh. Every time we cut a deal and further weaken the ability of the United States to respond to the direct national threat imposed by OPEC, every time we buckle under, we are just further down that road to where the final result will be the harshest remedy of all.

I honestly cannot believe the statements that were made here this afternoon about what would happen should the President use his powers. You want some statistics? Ten years ago the Nation imported $5 billion worth of petroleum products; last year we imported $39 billion; this year we will import more than $50 billion. Ten years ago we were 22 percent dependent on foreign petroleum; we are 44 percent dependent now. Ten years ago OPEC accounted for 7 percent of our petroleum; today 38 percent. Ten years ago the inflation rate was under 6 percent, today our inflation is raging well above 12 percent. And we talk about the cosmic effect of what the President might do. How preposterous! "Macroeconomics" that would fall on our heads should he do something. There is no recognition at all of the difficulties we are in now.

I know exactly what happened here. The President's people felt, and they are probably absolutely correct, that the numbers were not here to let him have the powers that are his under law. Actually, were it argued through the judicial process, I have no doubt that the President would be sustained under the Constitution.

But there is no time, Senator. There is no time for that. We hold the President by the throat and say, "Unless you deal with us, unless you deal with our various interests, you do not get the commitments which you made to the world."

That is why this deal was approved. Let us make it very clear. This is nothing that the White House is enthusiastic about. They do not have the votes. OPEC is relying on the fact that the White House does not have the votes in Congress and, therefore, the United States cannot act.

But what I find so difficult to take is that it should be that branch of government, which is my branch of government, that is causing the disruption. We are holding the President hostage and, therefore, the Nation hostage.

Presidential powers in this area are well-established. They come under section 232 of the Trade Expansion Act that was passed in 1958 by Congress, and no congressional review of Presidential action is required under this provision.

I think Congress, when it enacted that, clearly saw the need for the President to act in an expeditious and unfettered manner in circumstances which threatened to impair the national security.

I think that is what we are talking about here. Is there anyone who does not believe we are in such circumstances today? I think the time has come to engage in those acts of self-discipline.

We have done nothing on the floor, just nothing. We have passed the Energy Mobilization Board and synfuels bill from committee.

Where is the conservation? Where is the tough conservation for today when it comes to gasoline? It does not exist. Where is the real commitment to producing oil as a source of energy? Senator METZENBAUM stood out here on the floor as manager of the bill to call for higher efficiency standards for small electric motors that would not even come into effect until 1983. It passed by four votes.

The bill that the President requested on restrictions on lighting for outdoor advertising failed. The only conservation measure beside the one that passed by four votes, I believe, was the heating and cooling bill.

Never mind my extreme measures: The 6-day week for the automobile which was defeated 79 to 10. That really goes far out. The President asked for standby authority. We narrowly passed it in the Senate; it was defeated in the House. We narrowly came to a compromise between the two Houses, and are asked to approve it here again today.

I will not approve it; not this one. And the same ones who stood up here 4 years ago and 5 years ago and said "the time is not now" still do not think the time has come.

The OPEC nations tomorrow could go ahead and impose a 10-, 15-, or 20-percent increase on the price of their oil, and we would have to swallow it. We would have to swallow it. We could have a cutoff of supply tomorrow. We would swallow that, in terms of human misery this time instead of price. We are as flabby and unprepared today as we were yesterday, as we were last week, as we were last year, as we were 4 years ago. If you think that is speculation on my part, just take a look at the prices you are paying and the lack of security that you are going to have any gasoline supplies at all.

I do not know what it is that is going to have to happen before we level in the sense of a policy. Synthetic fuels; let us make it clear to the American people that nothing is going to come of that until the end of the decade. By that, I mean into the 1990's, maybe even beyond the year 2000.

As far as the prospects on discovery and production of fossil fuels are concerned, there is a possibility of that, I suppose, in several years. Maybe not even then. In the meantime, the economy is being just wrecked to a fare-thee-well. Make no mistake about it, the inflation that we are burdened with is the inflation of energy. This is not a recession; this is an "enercession": a recession brought about by energy, pure and simple. It will not go away until we resolve this particular problem.

Obviously, if the administration has agreed to this compromise and various Republican and Democratic Senators have agreed to the extent where it would now appear a majority of the Energy Committee will be for it, it will probably be passed this afternoon. But we are not kidding anybody except ourselves. I say to the Senator from Louisiana, "You have specifically encouraged OPEC to raise their prices again this year; you and those who have hammered out this compromise have specifically encouraged them to go ahead and cut back their production."

That is what we do every time we go through one of these exercises where the self-discipline that was proclaimed to the world is not the self-discipline that is exercised on this floor.

It is sickening. It is not in the national interest. This amendment is sickening. It is against the national interest. It is a compromise in the interest of self-interest and in the economic interests of a few in this Nation.

Let it pass. But I hope the same ones who have hammered out the compromise will be here to stand up and take the consequences.

Mr. JOHNSTON. Mr. President, I am sorry that the distinguished Senator from Connecticut saw fit to criticize my record on conservation and, by implication, the record of the Committee on Energy and Natural Resources, because the Committee on Energy and Natural Resources and I have, I think, put together a good record on conservation. Those matters include a gas rationing bill, which was unanimously adopted by the conferees, both Republican and Democratic, House and Senate, in S. 1030. And we passed a tough bill out of the Senate. It did not survive in as tough a form, but it did become public law.

I was willing to go even further. We passed conservation in schools, homes, and hospitals; automobile standards under EPCA, cogeneration, temperature standards—I led the floor on that—the Utility Conservation and Fuel Use Act.

We recently got out the whole package on conservation in S. 932. And I even proposed a gasoline tax of 50 cents a gallon, not joined by my colleagues on the Energy and Natural Resources Committee, but I even proposed that as a conservation measure.

Mr. President, this may not meet altogether with the wishes of the distinguished Senator from Connecticut. I do not know what the Senator from Connecticut is talking about as to all of the things that I and other Senators have opposed, except when he says he wants gas rationing now and he wants weekend closings now.

Mr. President, I did not, out of deference to the distinguished Senator from Connecticut, really characterize those measures at the time they came up. But, Mr. President, gas rationing now, not in the face of an emergency, is—well, Mr. President, I probably should not use the adjective to describe how silly that kind of a proposition is. At least it is silly in my mind, and it is silly in the minds of 90 or more of the Members of the Senate who may disagree with the Senator from Connecticut. But, Mr. President, they

have the national good in mind no less than does the distinguished Senator from Connecticut. He is not the only one in this body, Mr. President, who is willing to be tough, who is willing to have discipline for the American people and discipline for Congress. And, Mr. President, I think it is unfair to characterize me and the other members of the Senate Energy and Natural Resources Committee as being less committed to the patriotic American view than is the Senator from Connecticut.

We did not get everything we wanted in all these conference committees, but we got it enacted into law. If we had stuck with the proposition of the Senator from Connecticut on gasoline rationing, we still would have been arguing about it, because it would never have been approved. That is the essence of the congressional process, Mr. President, that you have got to get a majority of both Houses in order to get something passed. If the Senator from Connecticut thinks he can do a better job of getting a proposition through, then let him get the votes, and I wish him well.

Mr. President, this is a reasonable compromise. I do not apologize for one second on the fact that it is a compromise, Mr. President. This country runs on compromise. The Constitution implies a system of compromise. It is one that I think in this case serves the interests of the President as well as the interests of the Nation.

I think it is a proper compromise.

Mr. President, I yield to the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, for this Senator we have just about gone full circle now. My interest in the field of energy, and from what I became convinced was an emerging energy crisis, was first stimulated by looking at the effects of the first Presidential action under the Trade Expansion Act of 1958, the predecessor of the 1962 act which has now been amended in the Trade Act of 1974.

I was then in the other body and serving on the Committee on Interior and Insular Affairs. We were listening to the complaints of the people from New England about the effects of an oil import quota program invoked by President Eisenhower in 1958 in order to protect the American petroleum industry. The people of New England were complaining about the effects of that action because they wanted that flood of cheap foreign oil.

It was that which stimulated my interest as I was trying to determine whether or not that action should be supported or opposed. I watched what has happened since then as in 1973 President Nixon modified that Presidential order originally made by President Eisenhower, and again in 1975, when President Ford modified that order.

Mr. President, there are two things that ought to be said about this action before us today: First, is it a justified action of the Congress to want to exercise some control over Presidential discretion, or shall we just disband? Maybe that is what some of the people would like us to do—give the President a broad, general, discretionary authority and all go home. Well, I know there are a lot of people around the country who would just as soon see the Congress all go home, but I am not sure that a precondition on that wish on their part is giving the President power to do everything he wants.

This amendment is a compromise. I support it because it is the best we can get from my standpoint of wanting to put some limits on the President's authority to do what the people of New England thought was wrong in 1959 and what a great many other people may think is wrong in 1979 or 1980.

Mr. President, there is no doubt but that the action that could be taken by the President could not only affect energy supplies but have a tremendous impact upon the economy of this country.

Let us stop for just a moment to think what would happen if we put a $5 fee on every barrel of imported oil. Let us trace that through for a moment. Does that stimulate conservation in this country? Yes, it probably does, but what else does it do? Does it strike a blow against OPEC? You can hardly imagine how they would greet that with greater glee, Mr. President, because that simply indicates to them how much more they can charge for the oil they are now selling.

An answer to the OPEC cartel will not be found in artificially raising the prices by import fees, because they will match it.

Suppose the OPEC import price is $30 a barrel and we put on $5 a barrel. Immediately, OPEC says, "If you can charge your people $35 a barrel for our oil, we can charge $35 a barrel for our oil," and the immediate effect will be to indicate to OPEC they ought to raise the price of oil $5 a barrel. If you want the price of foreign oil to go up, Mr. President, go ahead. OPEC will not suffer. OPEC will not even be disturbed by that action, and they will not be deterred for more than about 30 days, the amount of time it takes them to have another meeting in Vienna or wherever else they decide to meet before they raise the price to match it.

What does it do domestically? It says, "All right, we have a new target for domestic oil to hit." So we raise the price of foreign oil by the imposition of fees and the price of domestic oil by the imposition of fees, and immediately you will have all those people in this Chamber and elsewhere who will say, "Now we have to get back into the business of controlling the American oil industry because their prices are too high and their profits are going up too fast."

So if you want to help OPEC and really destroy the American industry, go ahead and impose these fees. You will succeed in both.

That is why this Senator, Mr. President, wants to have some constraints upon the Presidential authority to do that, with that kind of effect upon the international and domestic energy industries.

Mr. President, I think that the Trade Expansion Act of 1962, as used by the Presidents of the United States, and as construed by the courts, is far too broad an authority to have been granted in the first place. It should have been limited when it was first passed in 1958. It should have been limited when it was amended in 1962. It should have been limited when it was amended in 1974. But this Congress has evaded its responsibility and now seeks to continue to evade its responsibility by delegating the authority to the President of the United States. I know some people who do not want to constrain the President's authority to impose import quotas because they want him to do it. They do not have the courage to do it and they do not think the Congress has the courage to do it either.

Mr. President, I would have preferred that we had stuck with the language the Senator from Louisiana had proposed in the committee. I think this country would be better off if the Congress were fully participating in that decision and not just in this kind of a constrained veto. But it became obvious, after the Energy Committee had completed its action, that the President would veto that action if it ever reached his desk. And with the veto, where would we stand? I do not think there is any prospect that we would muster a two-thirds vote which would be necessary to override that Presidential veto, and the President would continue to have the authority which it has been said by the courts, was granted to him by the action of the Congress.

Mr. President, I support the compromise amendment as a compromise because I think we have an agreement that says it can become law. We have, as a compromise, some constraint on the power of the Presidency. It is not total, but it is some. And as far as this Senator is concerned, the original language was overbroad and ought to be constrained.

I thank the Senator for yielding.

Mr. DOMENICI. Will the Senator from Louisiana yield 5 minutes to the Senator from New Mexico?

Mr. JOHNSTON. Mr. President, I promised to yield to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. I thank the Senator.

Mr. President, I am in support of the amendment of the distinguished Senator from Louisiana, which would provide an opportunity for the Congress to examine a Presidential constraint on oil imports or fees imposed by the President. While I am not prepared to take a position against the President exacting a fee or imposing a quota, I am very much against the absence of a congressional review.

May I suggest just one very difficult circumstance that could obtain without such a review?

The State of Florida generates most of its electricity by the use of oil, a great preponderance of that oil imported from OPEC countries.

In most of our State it would be infeasible and excessively costly to convert those boilers to coal.

They can burn natural gas, but they cannot burn coal. If a President adopted an import plan or a fee plan that took no cognizance at all of that special

circumstance in a State like Florida, we could be subjected to interruptions of service, brownouts, and unbelievably high rate paying costs to our electric bill payers. Therefore, the chance for Congress to look over any such Presidential proposal is vital. We need it. For that reason, the Senator from Florida is very much in support of the amendment of the Senator from Louisiana.

Mr. President, can you just imagine how difficult it would be, for example, for Congress to place in the hands of a President the right to promulgate a national building code, where the climate in one part of the country is so different from another? This is not exactly that difficult, but the circumstances in the use of oil do vary widely as to region. Since we represent States within regions, we are in a position to look over such a Presidential proposal or plan and bring to light the difficulties, if any; the arbitrary impacts, if any; the unfairness, if any; the extra costliness, if any; and make the corrections, if any such are indicated.

Without it, we could get some thinkers sitting in their offices in Washington devising a plan which looks good on paper but by the time it gets to one of the regions or more, one of the States or more, it could wreak havoc. That would not happen with the check and balance proposed by the amendment of the Senator from Louisiana.

So I urge my colleagues, let us support the amendment of the Senator from Louisiana and reserve all our rights either to support or oppose all or part of such a presidential plan if one is ever instituted.

I yield the floor.

Mr. DOMENICI. Mr. President, will the Senator yield me 3 minutes?

Mr. JOHNSTON. I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to make just one or two points.

When it comes to giving a President, this one or any President, authority to make major decisions under generous and general guidelines established by Congress, I do not take a back seat to anyone. Anything that has been said about that here to the contrary is just not true. But I remind a few that it is pretty easy to be on all sides, both sides, three sides—whatever number of sides there are—to an argument when you do not have to think back to the way you argued a month ago or the way you voted 2 months ago.

I just want to remind some Senators in this Chamber that there was a conservation measure here, Senate bill 1030. We brought it to the floor of the Senate on the simple basic proposition that we ought to give to this President and any President the authority to impose for the sovereign States, if they did not impose it for themselves, a mandatory conservation plan in any energy that was deemed scarce. I remember that quite vividly. There were those who got up and said, that is too much authority to the President; we do not want to face up to it; I am not for that; Congress ought to do it.

I remind some here in this Chamber that they voted that way and they voted against giving the President the kind of authority that many of us said was necessary in S. 1030, probably the most far-reaching conservation measure to hit this floor since the oil embargo.

It passed. It passed rather handsomely out of the Senate, without the votes of some who are here arguing today that we are taking away the power of the President here, in this measure, which basically says, "Before you can impose tariffs and quotas which have never been done before under this kind of shortage, under this kind of cartel pricing, two-thirds of the Congress would have to overrule you." That is ultimately what this compromise does.

I say there is plenty of blame to go around for the energy crisis, but when Senators who want Presidents to have appropriate authority to deal with crises attempt to impose a very reasonable congressional input, I do not think it is fair to say to those Senators, "Because you have compromised to get that, you're responsible for everything that has gone wrong heretofore and that will go wrong in the future as far as America's energy crisis and its problems are concerned."

I just do not believe that kind of argument, I do not believe that kind of rhetoric befits this great institution.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, the difficulty is that OPEC is as one—one. They are not concerned whether the Mickey Mouse Clubs can get together in Disneyland or whether there is going to be enough fuel to get there. They are not interested in the producers of Louisiana or Texas. They act as one. We come onto the Senate floor, each one with our Mickey Mouse hat on, or our producer's hat on, or whatever, and we carve up legislation 50 different ways.

We are so proud that we are compromising. You can believe they are not compromising, not OPEC. We are going to compromise ourselves into bankruptcy.

There are some common elements that hold us together as a Nation regardless of where we live or what the temperature is. We all work—or almost all of us did until recently. We all eat. We are all housed. Yet these elements, one by one, start slipping by us as we divide, rather than unify, on the issue of an energy policy.

I remember at the outset—this was about 4 or 5 years ago when I first mentioned my rationing scheme—I got a torrent of letters in protest, a torrent of protests from the motel and hotel industry in this country. That was 4 or 5 years ago. They did not want to have any sort of conservation whatsoever. I made the comment then, "Do you think maybe 1 or 2 percent conservation now might not save 50, 60, 70, or 80 percent of your business in the future?"

I am not out here fighting for a crazy Weicker scheme. I am fighting the President's battle for him. This is his plan, not mine. But on the common thread of self-discipline that runs through his request, that runs through mine and the requests of others on this floor, I am united with him.

We are not arguing to the distinguished Senator from Louisiana the radical Weicker plan. I got beaten then. I got beaten 83 to 7 in 1977 on that 6-day week for the automobile. I got beaten 73 to 10 in 1979. I am well aware of the figures. It certainly shows the responsiveness of the Congress in the 2 years intervening between 1977 and 1979; and I agree that several things have changed.

People can say, "Well, Senator, that is progress, 83 to 7 in 1977 and 73 to 10 in 1979." We shall not be around much longer with that kind of progress as a nation.

I am not fighting for that. I am fighting the President's battle here, for the fact that he would have the authority in an emergency to impose quotas.

Now, the statement is made, "Well, we do not want to give all this power to the President."

I am quite aware, believe me, as a matter of my own history, as to Presidential power and the curbs that should be placed on it.

But the question I have to ask my colleagues is: Where is the bill on the floor of the U.S. Senate where we impose import quotas? We are not going to find that.

Where is the bill that limits imports? Where is the senatorial rationing plan? There is not going to be any senatorial rationing plan. All we want to be able to do is to override the President's plan. We do not have the guts to come forth with one ourselves. We do not have the courage to go ahead and limit imports.

Do you want to know how to get ahead? Place a 50 percent limit on imports and institute a very severe gas rationing plan at the same time. Then, and only then, will we have told OPEC what they can do with both their product and their raises in price.

Until then, we can beat our chest and rant and rave, and all the politicians can run around blaming the Arabs, OPEC, and everybody else, and they will sit there and smile and raise their prices, and they will cut down their production.

We are all well aware of what it is we are doing. The courage does not exist on this floor to institute rationing and to limit imports.

My other friend, the other distinguished Senator from Louisiana, Senator LONG, is on the floor. I remember in the great energy bill of 1978—the great nothing bill—when, very kindly, the distinguished Senator from Louisiana agreed to make a pilot program out of an energy stamp proposal I brought to the floor of the U.S. Senate. Thanks to his efforts, at least, it was in pilot form and went to conference. He fought for it and he lost.

That was 2 years ago. Now we are here, scrambling around with the crisis intervention program when we knew full well what was going to happen to the disadvantaged of this country, while somebody offered an alternative 2 years ago which would have been a well-organized attack on the problem. We have to wait until now, a month before the cold weather hits, to come through the Community Services Administration with a crises intervention program that might have no bearing on the situation.

It is indicative of what has happened in this area of an energy program, that the President, in his great wisdom, came forth with a proposal to cut back 43 percent of the Amtrak routes with every train full, and we could not get him on the telephone to ask: "Why the cutback?"

When were they put together?—1977. This was in July 1979. So that goes down the drain.

Is anybody going to come to grips with the situation in time in 1979?

Some severe economic problems have taken place and we have not responded effectively to the OPEC challenge. We cannot until we conserve, until we develop alternate sources of energy and alternate sources of transportation.

Now we will be stuck with a higher trust fund that originated in 1956. We will be stuck with the divisional approaches toward energy conservation, tie up the hands of the President even though Congress will not go ahead and offer an alternative, and on and on and on.

I heard the Senator from Idaho, obviously by implication, talk about New England. I have had to take my flack there.

For 6 years, I was the only New England Senator to advocate decontrol and deregulation.

I do not plead any special New England cause. They plead their own cause for so long, that they are out in the cold now. But so will the Nation if we adopt that kind of tactic.

Production and conservation, it will cost money and it will cost changes in lifestyle. There is no way around that.

If each one comes in with his own ax to grind, we will get our heads chopped off by the one ax, which is OPEC.

I have said I have wasted enough time pleading the President's case. I am prepared to yield back the remainder of my time in a few minutes. I have a couple of requests to speak against the amendment.

But I must confess I would rather save my own breath for my own amendments and position rather than waste it on what the President's position is. But here we are.

Again, I do not have to prove my case. The world has proven it for me.

Are prices going up? Yes.

Are supplies questionable? Yes.

Is the prospect of anything different for the future? No.

Are we in a recession? Yes.

Is it getting worse? Yes.

If we were all doing so much that was effective, why these responses to the rather basic questions?

Mr. THURMOND. Mr. President, I rise in support of S. 1871 as amended by the House.

I was a cosponsor of the Senate bill 1871 and I recognize the importance of extending the limited antitrust exemption for oil companies that participate in the agreement on an international energy program. While the Senate-passed bill provided an antitrust extension for 8 months, that is, from October 31, 1979, until June 30, 1980, I feel that the language of the bill as substituted by the House, that is, to extend the antitrust exemption for 2 years—until October 31, 1981—is entirely appropriate and further strengthens the measure. Additionally, the other changes made by the House in the bill's language constitute improvements in the methods and procedures by which the legislation will be administered.

Mr. President, there has been discussion of other possible amendments to S. 1871. With consideration for the expiration date of October 31, 1979, that is immediately upon us and the need to move expeditiously toward final action on this measure, it is my feeling that the Senate proceed to vote its approval on the House-approved version of S. 1871, without further amendment.

While the other possible amendments under consideration undoubtedly have merit, it seems that they should be withheld from S. 1871 so that this measure can be moved forward without further delay.

However, if good cause can be shown that an amendment can be added to S. 1871 without causing the existing exemption to die after October 31, 1979, then I shall give due consideration to such an amendment.

Mr. JOHNSTON. Mr. President, I yield 3 minutes to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, I think the Senator for yielding because I have listened to all this discussion—I almost called it debate, and it really is not that—this discussion about energy prices, with a great deal of interest. Yet it seems to me we are missing two or three points about this legislation.

Nobody has said anything about the International Energy Agency and the need for the United States to continue to cooperate in that international effort. Perhaps it has not been discussed because it is no issue. Everybody understands it and, therefore, supports it. I hope that is true.

I was not trying to belabor my friend from Connecticut by mentioning that the oil import quota program had struck at New England and the people in New England were the ones who had objected to it. That was a fact.

But when the Senator from Connecticut says that he is pleading the President's case here, which case is he pleading? The President himself cannot make up his mind which one of three alternative plans he wants to submit. All he wants us to do is say, "Take whichever one I give you."

I think we ought to have at least the right to have a look at whether or not there are going to be quotas. Will we again create an artificial shortage where there is a shortage already existing, and impose that shortage on the American people by way of quotas? That is one alternative.

Or will the President choose instead to submit an entitlements program that takes away from one group of people in order to give to another group of people in energy as we are already beginning to do, to some extent, under existing programs? That is another alternative the President has suggested.

Or will we do the other, which is by way of license fees or import duties, raise the price to the American people and, therefore, encourage OPEC to raise theirs, and to create the scenario by which we probably would reimpose price controls on the domestic industry?

Those are serious questions, serious differences of approach to a very plaguing problem.

All this amendment does is to say Congress plays some role in doing it.

I think the amendment does not go as far as it should. I wish we had been able to persuade the administration to accept the full partnership of the Congress in this debate and in the policy decision that must be made.

But the President, apparently, does not want it. There are other Members of the Senate who do not want that responsibility, but want to leave it to the President to exercise that responsibility.

To the Senator from Idaho, that responsibility ought to be curbed and this amendment is a realistic way of beginning to move in the direction of imposing some congressional reason.

Mr. JOHNSTON. Mr. President, will the Senator yield, so that we can ask for the yeas and nays?

Mr. McCLURE. I yield.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I will not belabor the subject any longer, except to say that the International Energy Agency has a number of very important responsibilities, as we try to find a way to cooperate with our allies in Europe and in Japan, in meeting what could be a completely destructive shortage of necessary energy to fuel the economies of all the Western industrialized world and Japan.

It is important, therefore, that we do expand that authority. Let us not allow ourselves to become diverted from the subject by wide-ranging rhetoric about all the energy problems, the opportunities that exist, the opportunities that have been missed, the actions that have been taken, the actions we have failed to take, and let us focus for just a moment on what it is we are called upon to do today—to pass a bill that extends the IEA, to pass a bill that allows Congress to work in conjunction with the President of the United States in determining what should be done with respect to the levels of imported energy supplies, by way of quotas, by way of entitlements, by way of fees for licenses, or by any other alternative which the President may suggest at this time or in the future.

It seems to me that we really should go forward with voting on this amendment, which I support, and I hope that my colleagues will support it.

Mr. WEICKER. Mr. President, I yield 4 minutes to the distinguished Senator from Minnesota.

Mr. DURENBERGER. I thank the Senator.

Mr. President, I oppose the amendment offered by the Senator from Louisiana because I am deeply concerned about our continuing and increasing dependence on imported oil from OPEC nations.

Import quotas are usually introduced to protect an American industry from

low-priced competition and to guarantee an artificially high domestic price. Unlike other commodities for which quotas might be considered, the world supply of crude oil is not sufficient to meet demand at current prices. And the world price of petroleum creates windfalls rather than bankruptcy for domestic producers. These circumstances occur because the pricing and production decisions are made by a cartel of OPEC ministers and not within an international commodity market. So long as demand for crude oil continues to grow and the OPEC nations have the power to restrict supply, the world price of crude oil will continue to escalate at rates that spell disaster for the nations of the West.

Mr. President, we as a Nation must realize that it is not only our economy that we put in peril when American oil imports rise without limit. Our pressure on the international oil market has consequences for our European allies, as well—consequences that are perhaps more severe than those we see, because those societies are more dependent upon imported oil. It is not surprising then, that Europe—where imports have not increased since the embargo of 1973—should demand that the United States take a stand to protect their economies, as well as ours, by imposing a limit on our oil imports.

I have reviewed the analysis of the Library of Congress and of the General Accounting Office both of whom found that a quota program like that proposed by President Carter would raise the price of domestic crude oil above prices that might otherwise occur. I found that both studies were based on rather modest assumptions as to future OPEC price increases and do not consider the national security costs or the threat of economic chaos that are a part of our continued dependence on the OPEC cartel. If these externalities had been factored into the cost of imported oil. I am sure that any domestic price rise resulting from quotas would seem small by comparison.

Mr. President I am the only Member of the Senate who has introduced legislation to impose a quota on imported oil. I drafted this legislation before the Tokyo summit in the belief that this issue was so central to our energy policy that it ought to receive a thorough review by Congress. Senator JOHNSTON proposes such a review by his amendment, but with the intention of killing rather than implementing President Carter's quota program. Therefore, I oppose the amendment.

Mr. JOHNSTON. Mr. President, I yield 3 minutes to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I wish to address myself to another part of this amendment, and that is to indicate my strong views with respect to that portion of the amendment.

When the House had this measure before it, it changed the exemption on the antitrust portion of the legislation from June 1980 for a period of 2 years—I think a year and a half beyond that date. The amendment as drafted by Senators JOHNSTON and DOMENICI, which is before us at the moment, would restore the limited exemptions to June 30, 1980. I think this is a highly appropriate date in view of the fact that the GAO is conducting a study.

There is a clear question in the minds of many of us as to whether there is any reason for the IEA's total existence and a stronger question as to whether or not the oil companies who participate with the IEA should be given the benefits or the exemptions from the law that are provided.

In order to determine that with fairness, in order to take a good look at it, the GAO is doing a study on the subject. The Subcommittee on Antitrust of the Committee on the Judiciary has conducted some hearings and will conduct additional hearings.

I am pleased to note that the Senate will restate its position and that the exemption will be only until June 30, 1980. It is to that portion of the amendment that I address myself, and I support it.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEWART). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, will the floor manager yield me 5 minutes?

Mr. WEICKER. I yield 5 minutes to the distinguished Senator from Arkansas.

Mr. BUMPERS. Mr. President, I oppose the amendment of the Senator from Louisiana for the very same reasons I opposed it in committee. Even though it has been changed ever so slightly. I do not think it changes it enough to make it acceptable, certainly not to me.

I simply wish to make a few comments regarding the kind of congressional mentality that has developed in the past few years and what it is bringing us.

We have been in this "post-Watergate" mentality now for almost 5 years. Congress avowed, I think correctly so, never again to permit the possibility of an imperial Presidency. In the process of making certain that this country never experiences an imperial Presidency we have been doing very foolish things, and today with the passage of this amendment we will simply be adding another foolish act to the many we have already perpetrated on the American people in the name of that famous system of checks and balances which our Founding Fathers so thoughtfully provided us.

But we no longer have a system of checks and balances. We have a Congress which is vetoing every sensible, thoughtful thing that comes from the White House, vetoing everything that can be perceived by the American people as bringing on any unpleasantness.

Mr. President, I personally would be much happier trusting the President to make those politically unpopular decisions. I have a lot greater trust in his willingness to do that than I have in the congressional willingness to ratify what the President chooses to do.

The Senator from Connecticut made a very stirring speech a moment ago about gas rationing and most of us remember when I introduced the gas rationing amendment here in 1976. We received 15 big votes for it. It was not offered in the hopes that the American people were going to love us for it. It was not even offered in the hopes that there was a shortage of supply but that energy prices were going up at an exponential rate and our imports were going up accordingly, as they fed upon each other. The American people, especially the working people, were the ones who were paying through the nose.

I can remember 9½ years ago when I first ran for Governor of my State. No one had then heard of me, and I finally got an opportunity about 3 weeks after the campaign started to speak to a thousand people at a big Democratic rally one night. Eight people were on the Democratic primary, and I had 1 percent name recognition. I thought about what to say to this crowd so that they would remember me, so that I would stand out in a group of eight candidates.

This little town we were in was celebrating its centennial. Behind me, a sign read "1870, Russellville, 1970." Each candidate had 4 minutes to tell all he knew and why he wanted to be Governor.

I made a short talk about where we wanted to go in the State of Arkansas during the decade of the seventies, which was approaching, and the options seemed to be unlimited for our State, which has indeed grown very significantly in the past 9 years.

But now a question haunts this country, brought on by these tremendous energy problems which confront as. They are unique. They are unprecedented. We have never dealt with them before. We do have nothing to guide us. But the real problem now is not what we want to do but what can we do?

I am telling Senators we are reaching the point very quickly where the political system of this country is going to be put on trial. I tell Senators that at the rate we are going there is going to be a social upheaval resulting from the economic chaos developing in this country, and that social upheaval is going to put this system to the test. Why do we stand here idly debating who has the bigger ego when the President is willing to make these decisions and say we must cut imports because they are contributing 4 percent to the inflation in this country?

The PRESIDING OFFICER. The Senator will suspend. His 5 minutes have expired.

Mr. BUMPERS. Mr. President, will the Senator yield me additional time?

Mr. WEICKER. I yield 2 additional minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, everyone recognizes that the most insidious thief in our society is inflation, but every proposal I have heard by the President or Members of this body which would have the effect of dealing with it in a meaningful way must necessarily tell the American people some unpleasant things.

We have not been willing to bite into the bullets, and, I might say, I am not here totally defending the President because he consistently bites into the softest bullet he can find, also. When he says we are not ever going to allow imports to exceed what they were in 1977, that is easy. That was a big year for imports, because it was before Alaskan oil came onstream. We do not have any need to import more than we imported in 1977 until well past the 1980 elections. That will be the easiest campaign promise he ever made.

It goes much deeper than that. I am telling Senators the American people are crying out for someone to point the way, for someone to call on them. I think they would find gas rationing very liberating. Last spring when we had a 17 percent shortfall in this city, Washingtonians found a certain snob value in beginning to cope with it. My staff was carpooling. Seventy-five thousand more people in the city rode the Metro, and they were learning to love it.

It is even possible that the oil companies were afraid we were going to get used to it, and that is when more fuel began to appear in the city where the long lines had been.

Mr. President, maybe it is good politics to vote for this amendment. I think not. But politics, aside, I wish to say to my colleagues that we are running out of time, 1980 is an election year. Traditionally nothing happens in an election year, and 1980 will not be any different. But I suspect strongly that the President, Jimmy Carter, is willing to limit imports if we just give him a chance to.

If he tries to limit imports and submit it to Congress, it will be vetoed so fast he will wish he had never signed the order. Vetoes are not the answer to the problem.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. I thank the Senator from Connecticut for yielding.

Mr. WEICKER. Does the Senator wish additional time?

Mr. BUMPERS. No.

Mr. BAYH addressed the Chair.

Mr. WEICKER. Mr. President, I yield a minute to the Senator from Indiana.

Mr. BAYH. The Senator from Indiana is on the other side from the Senator from Arkansas.

Mr. WEICKER. All right. I yield a minute.

Mr. BAYH. Mr. President, I listened with a great deal of interest, and I do not want to get involved in this debate at length with my colleagues on the Energy Committee.

I am prepared as one Senator to bite this bullet and support the President and limit the amount of oil we can import when he is willing to limit the price the oil companies may charge us, but I am not going to sit still and let an artificial supply shortage run up the price further than OPEC has already run it right now. It is just that simple. We have to have both of them hand in hand or we are going to have $40 or $50 a barrel crude oil to replace the $30 a barrel spot market that is about to drive us into bankruptcy right now.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

I hope, in summary, simply to point out to my colleagues that this matter does not take away Presidential authority but simply provides that Congress may veto the Presidential imposition of quotas or fees by joint resolution of both Houses, but the President, in turn, has the power to veto that joint resolution. That, in turn, can be overridden by the Congress only by a two-thirds vote.

This is a compromise put together with the support and assent of the White House. It is not depriving the President of all his power, Mr. President; it simply gives this Congress the kind of input it ought to have, and, I submit, not the power to veto except by a two-thirds vote, but the power to have an input in what could be the most important economic decision taken this decade if the President sought to invoke it.

So, Mr. President, I am ready to yield back the remainder of my time if the Senator from Connecticut is ready.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. I yield, Mr. President, 10 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas will take the time he has to discuss a matter that I think is of significant importance. We have been trying to figure out some apropriate amendment to address the problem, and the Senator from Kansas thinks it may not be best to do it on this proposal but rather to wait for the DOE authorization bill.

Mr. President, very seriously, in all of the flurry with which we debated the President's energy synfuels proposals during the last few weeks, a very dangerous element of our energy situation was barely addressed. The Senator from Kansas finds this fact highly disturbing. I speak of our strategic oil reserve, which President Carter mysteriously stopped buying oil for last November.

However much we may talk of building a synthetic fuels program, however much we may talk about the need for "energy conservation," we cannot escape the fact that throughout the 1980's, we will be dangerously dependent on foreign oil. So long as we are so dependent, it is imperative that we build up a viable strategic petroleum reserve. Common prudence requires that we build up this reserve in order to have a cushion in the event of an oil embargo, or a temporary interruption to our supply of foreign oil. We need only remember the consequences of the Iranian shutdown to see need and must possess an oil reserve if the need for such a backup. Indeed, we are to remain independent from foreign domination and continue strong in our geopolitical position.

Mr. President, the Senator from Kansas is highly disturbed to learn that the President has discounted these dangers, and has made the imprudent decision to stop building our reserve.

I am even more disturbed at hearing reports that Mr. Carter decided not to build up our reserve because of a threat by the OPEC states to cut back their oil production. Indeed, these stories are circulating saying that this was the quid pro quo which the current administration paid to secure OPEC's recent promise to keep up crude oil production. I think specifically of Saudi Arabia.

Mr. President, I do not know how accurate these stories are, but they do cast some doubt as to how energy policy is made in the country. I do know that OPEC oil ministers have expressed as recently as October 3, 1979, their strong displeasure at our plans for building up our strategic oil reserve, and I can only hope that their displeasure was not a factor in halting our SPR program. On April 20, 1977, Mr. Carter pledged to the Nation that he would build up our reserve to a billion barrels by the early 1980's. But today there exists no concrete evidence of his rhetoric being put into action.

I may add, Mr. President, that 1980 is not far off and we have approximately 92 million barrels in our strategic reserve. This is barely enough to provide for a 12-day supply. There are many questions which must be addressed before the Congress is asked to consider any energy legislation that does not include provisions to insist and insure that the SPR, a vital link in our energy policy, be built up to the proper levels. The question which needs to be addressed is the following: Why has the administration's policy changed toward our oil reserve?

Frank Zarb, a former administrator of the Federal Energy Administration during the Ford Presidency, recently stated that "the A-1 priority of the United States must be to build up our strategic oil reserve." Mr. Zarb, as FEA Administrator, submitted a plan establishing such a reserve to the Congress, in 1976. During this time, OPEC applied continued pressure on the Ford administration to not build our strategic petroleum reserve. Despite this pressure, the Ford administration proceeded to submit a formal SPR plan, and began implementing the plan by contracting with the Army Corps of Engineers to construct oil reserve storage facilities in Texas and Louisiana.

Indeed, under President Ford, the Congress passed the "Energy Policy and Conservation Act" of 1975, Public Law 94-163, which mandated that a SPR be built up, and that it contain 150 million barrels (later amended to 250 million barrels) within 3 years after its enactment.

Mr. President, if President Ford's plan to build our SPR had continued to be carried out under the Carter administration, our reserve would today have contained at least 300 million barrels, well on the way to the 1-billion-barrel goal. But President Carter has apparently acqui-

esced to OPEC's pressure. Faced with a weak administration in retreat everywhere, OPEC's sheiks pressed their advantage. They have succeeded in getting the United States to violate the very provisions of the Energy Policy and Conservation Act of 1975, Public Law 94-163, by ceasing to build up this reserve as of last November.

The Carter administration tried to mask the fact that it has given into OPEC's demands in stopping the SPR, by raising specious arguments about "budgets" and "pushing up the price of oil." But the one thing which the administration cannot mask is the catastrophic economic impact which its decision to stop maintaining the SPR is causing.

If our OPEC oil supplies are shut off for any reason, such as a deliberate embargo or an unforeseeable circumstance, such as internal "revolution" or an act of terrorism aimed at the supply routes, our economy will be devastated beyond belief. We need a viable SPR to act as a cushion in such circumstances.

In such an eventuality, our only alternative without this cushion will be to intervene militarily in the Middle East in order to seize the oilfields, or else sit back and suffer massive economic chaos, and unprecedented unemployment which no President whether he be Democrat or Republican could hope to pull us out of.

While President Carter tells us he is a "man of peace" his policy of ceasing to build and maintain the SPR is laying the very foundations for military intervention in the Middle East. Mr. Carter tells us he has "never panicked in a crisis," but it is clear that with respect to the OPEC oil crisis his administration has placed the United States second to the dictates of the oil-producing states. Our oil situation is indeed a crisis. Oil is the lifeline of our economy, and the current ill-conceived U.S. policies are those of a desperately weak and timid administration.

The Senator from Kansas is highly disturbed about another aspect of our oil reserve policy namely; the fact that our Armed Forces do not have their own oil reserve. President Ford, in his "Energy Independence Act of 1975," provided for a separate reserve to be set aside for the military. By 1988, according to the Ford plan, there would have been a total SPR of 1.3 billion barrels, and 300 million of this would have been set aside exclusively for the military. But President Carter rejected the Ford plan. Accordingly, today our military is totally dependent on the general SPR, which has barely 92 million barrels—not enough to last 2 weeks. What will we do if our planes and ships and tanks are forced to stay idle during a military emergency if OPEC shuts off our crude oil faucet?

Indeed, even the Elk Hills Naval Petroleum Reserve is not stockpiling any oil for an emergency. Oak Hills is in fact depleting the oil in the ground now at the rate of 100,000 barrels per day, and is selling most of this oil to private companies, at a time when our Armed Forces are desperately vulnerable to an oil shut-off.

The Democrat-controlled Congress today is resisting plans to nuclearize our Navy's ships. Failure to nuclearize the Navy only leaves our ships entirely dependent on OPEC oil which in light of the cessation of our SPR program can only place them in a dangerous condition of dependence on OPEC oil.

I would like to urge my colleagues to consider a recent CIA study which says that the Soviet Union will soon start to buy OPEC oil, as their own oil supplies are running out. When this happens, we can expect a Soviet-OPEC "axis" to strangle us and apply oil pressure in any conceivable military emergency situation.

It is common knowledge that the Department of Energy bought oil for this reserve for about a year, and then abruptly ceased purchases in November 1978. I want to stress once again that our reserve now has only 92 million barrels—a far-cry from the President's promise of 1 billion barrels by the 1980's. What circumstances have changed to alter U.S. policy? I am one Senator who feels that no circumstance could ever exist which would be compelling enough to place us at a strategic disadvantage.

Mr. President, in light of the clear and present danger to our national security posed by our dependence on OPEC oil, the Senator from Kansas finds it highly disturbing that President Carter has stopped building our reserve, and that in his July 15, 1979, television address he pledged to impose oil import quotas of 8.5 million barrels per day, which may further constrain our ability to build up our strategic petroleum reserve. It does not make sense to limit our intake of foreign oil and thereby create a shortage, when by the imposition of that very same policy you fail to adequately protect our citizens from such a severe shortage by ignoring the need for a strong well-stocked oil reserve.

Mr. President, this Nation does not have a truly comprehensive national energy policy. We are being asked to enact crash "synfuels" programs, and to sanction an "energy mobilization board" of dubious constitutional legitimacy all in the name of solving our energy problems. Mr. President, I can only say that an irresponsible approach which does not take into view the totality of the energy crisis with its far-reaching ramifications may be a worse cure in the long run than the disease itself. By exacerbating inflation, reducing the purchasing power of the consumer, riding roughshod over State and local laws and blatantly ignoring the cries of the American people for a cohesive, consistent energy policy we are doing no one any favor.

The President's proposed synfuels program estimated to cost over $88 billion when in full swing will turn out at most 2 to 4 million barrels per day of synthetic fuel, by the 1990's. Yet, it is important to note that today we import over 8 million barrels of oil per day, half of our daily requirement of oil. Therefore, even by realizing the maximum results of the synfuel program, we cannot escape our dependence on foreign oil in the foreseeable future. Once again, we can see that without a strategic petroleum reserve, even with our possibly reduced future dependence on foreign oil we will still be placed in a dangerous position.

A 10-percent shortfall occurring during full scale synfuel production would place the United States in an unhealthy position without an SPR. Synfuels are not our only alternative. But new and untried technologies are necessary to develop these fuels, and until these are developed, we will be dependent on foreign oil. Until we are able to substantially reduce this dependence, we must have, as part of a national energy plan, the serious commitment by our Government to build and maintain our SPR.

Mr. President, a synfuel program is needed but at best is a long-term prospect and may quite possibly do little to address our short-term problems as to how do we get over the energy needs of the next 10 years. To deal with these problems, we need a national "energy security policy" to protect the United States against attempts by OPEC to use the oil weapon in dictating our national policy. The key element of such a plan must be to build up our oil reserves to the point where we can withstand an interruption in the supply of oil, and where we can let our potential adversaries know that we have such a reserve.

Otherwise, the OPEC states may threaten to suspend oil sales to us at any time in order to coerce us to alter our Middle East policies or any other policy with which they are not happy. The linkage between the "oil" weapon and our foreign policy is being made stronger each day that we fail to build up our reserves.

Mr. President, in discussions with the Department of Energy and in reviewing the testimony of Deputy Under Secretary Jay R. Brill given before the House Subcommittee on Energy and Power on September 10, 1979, it is apparent that we will have a total storage capability of 248 million barrels by year's end. Currently, we possess only 92 million barrels in the reserve and therefore have the capacity to store an additional 156 million barrels. With this storage capability it bothers me that the administration stopped purchasing oil for our SPR 1 year ago next month.

The amendment the Senator from Kansas tried to work out, so that it would be satisfactory and still be effective, would have simply sought to direct DOE to reinstate the acquisition process and procure the necessary oil for storage on either an immediate delivery or on a deferred delivery basis.

I am concerned, as the administration is, that the state of the world crude market has created problems with the strategic petroleum program but I remain firm in my belief that we cannot wait any longer to embark on the swift completion of this program. The Naval Petroleum Reserve at Elk Hills is currently selling oil at a rate of approximately 100,000 barrels a day to private oil companies. In view of our current position of vulnerability with respect to crude oil dependence this is a foolhardy policy.

Mr. President, it would be my intention, because of the rather significant time constraints involved for the adequate consideration of the proposal of the distinguished Senator from Louisiana, to refrain from offering such an amendment now; but I hope that perhaps, with the cooperation of the Senator from Louisiana and other Senators who share my concern, we can effectively draft some legislation that could be added to the DOE authorization bill later this year.

Mr. JOHNSTON. Mr. President, I share the concern of the distinguished Senator from Kansas with respect to the deterioration in our plans for fulfilling the strategic petroleum reserve. I personally believe that is one of the most important single factors in a standby strategy to deal with what appears to be an ever more likely cut off of oil from the Middle East caused by an interdiction of the Straits of Hormuz by one of the suppliers of oil, or by any one of a number of scenarios which could give us a need to have the strategic petroleum reserve.

The Senator from Kansas is correct; we have only 94 million barrels in storage. We have the capacity for 248 million barrels which is ready for filling; there is money appropriated for that phase I of 248 million barrels, and there is money to complete the leaching on phase II, which would provide storage for an additional 280 million barrels. That is where you have to leach out the storage area by the injection of water and washing out the salt. But there is no money for the purchase of oil for the phase II 280 million barrels, and no money, of course, for phase III.

We must put together, in my view, a strategy, a plan for meeting, ultimately, this 1 billion barrels that we should have in the strategic petroleum reserve storage.

I am frank to say that there has been a dissolution of the resolution of Congress to provide the moneys for SPR. The Budget Committee has put lower limits on budget authority. Various committees, including the authorization committees, have urged transfers out of the SPR account, and I think it is fair to say that Congress has become frustrated and disillusioned with the problems that have been presented with the SPR program.

I agree that there are great problems with that program. We must straighten out the administration of the program, and there have been steps taken in that direction, although not completely enough and not quickly enough.

Nevertheless, I share with the Senator from Kansas the view that we must reaffirm our commitment to the SPR program; but certainly the DOE Authorization Act is a more appropriate vehicle for that, rather than doing it within the time constraints as presented by this amendment.

So, speaking for myself, and I know for a number of other Senators on the committee, we would be very pleased to join with the Senator from Kansas in seeking a solution to the problem of fulfilling the SPR program.

Mr. DOLE. Mr. President, the United States drastically needs to have a strong strategic petroleum reserve. To achieve this goal an intensive, disciplined and coherent effort will be required. This effort will not only entail the commitment of Government, but also of the taxpayer and consumer as well. The Department of Energy sees the necessity for such a reserve as evidenced by testimony before the House Subcommittee on Trade of the House Committee on Ways and Means given on October 10, 1979, by Assistant Secretary for Policy and Evaluation, C. William Fischer. Mr. Fischer stated during his testimony that "this Nation must rely on building a strategic petroleum reserve and increasing domestic oil and gas production to preserve our national security, our economic strength, and our independence as a free nation."

Mr. President, it is for those reasons that I had planned to offer an amendment which would have directed the President to resume immediately the purchase of crude oil by contract for the strategic petroleum reserve at a rate necessary to insure that the SPR contains 500 billion barrels by January 1, 1983, and 1 billion barrels by January 1, 1988. This goal is 250 billion barrels more than projected by the Department of Energy. My amendment would also have directed the Secretary of DOE to secure non-OPEC crude oil sources in addition to OPEC sources to be used in the build-up program, and that any import quotas imposed by the President under EPCA should not be applied to the strategic petroleum reserve program.

Mr. President, my amendment is essential. It is a commonsense amendment which I hope my colleagues will support. I will state once more that it merely would direct the President to immediately resume the SPR program, and that the crude oil used in this plan not be counted as part of any imposed quota system.

Mr. President, almost everyone in this country owns an insurance policy, to protect himself against unforeseen circumstances over which he has no control. But we as a nation do not have a national energy insurance policy to cover the lifeblood of our economy, because we do not have a viable strategic oil reserve. Aside from the long-term solutions to our crisis such as synfuels, what type of administration do we have which does not even possess the prudence to provide our country with the very type of insurance every man and woman knows is needed? The SPR is America's insurance policy against an unforeseen, unexpected energy supply interruption. The amendment proposed by the Senator from Kansas would insure that this vital aspect of our overall energy policy would be reinstated and maintained. If the U.S. Senate is to be regarded as a responsible body doing all it can to ease the energy crisis, this amendment is a bare essential.

However, in bargaining with OPEC to stabilize or reduce oil prices, we cannot take advantage of their vulnerability if we do not have a viable strategic oil reserve to enable ourselves to withstand a stoppage. Without such a reserve, OPEC need only snap their fingers to make the United States listen to their every dictate. I am afraid that unless a viable strategic oil reserve exists we cannot play our economic ace, and in the final analysis we will by continued U.S. acquiescence give all the leverage to OPEC.

Mr. President, we hear much talk today about the need to strengthen our military defense posture. But what about our energy defense posture? To operate without a strategic oil reserve is like operating without a military reserve. Prudence only dictates that we proceed forthwith to build up this reserve.

Accordingly, Mr. President, I strongly recommend that the Senate adopt this amendment proposed by the Senator from Kansas which will put the administration on notice as to our concern over their failure to adequately and responsibly address the Nation's energy crisis.

Mr. JOHNSTON. Mr. President, very briefly, in conclusion, I simply wish to point out to the Members of the Senate that this amendment, which has been approved by the administration—this is a compromise with the administration—is simply a means of giving congressional input through the vehicle of a joint resolution to be adopted by both Houses, a resolution of veto, which joint resolution, in turn, may be vetoed by the President, and that veto may be overridden only under the constitutional provisions of a two-thirds vote of each House.

It is agreed to by the White House. It is an appropriate means and mechanism for giving Congress input into what could be a very important, perhaps the most important, economic decision of the decade. I trust the Senate will approve it, and I yield back the remainder of my time.

Mr. WEICKER. Mr. President, before I yield back the remainder of my time, I would only say this is an inappropriate compromise of the national will. It is no more than that, except that tomorrow it will translate itself into further rises in the price of oil, further shortages in supply, and further economic tragedies for the Nation.

I yield to the distinguished majority leader.

AUTHORIZATION TO FILE COMMITTEE REPORTS UNTIL MIDNIGHT

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Connecticut.

I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee on Banking, Housing, and Urban Affairs may have until midnight tonight to file committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield back the remainder of my time.

IMPORT QUOTAS

● Mr. BAYH. Mr. President, I wish to express my support for the efforts led by my distinguished colleagues from Louisiana, Senator JOHNSTON, and the chairman of the Energy Committee, Senator JACKSON, to provide for congressional consultation in any decision to restrict oil imports either through the imposition of quotas or the imposition of import fees. While I certainly feel that restricting oil imports is critical to our efforts to formulate a responsible energy policy, I also feel strongly that the Con-

gress should be consulted before any such limits are finally adopted.

Three options for import quotas are currently under consideration, with the Secretaries of Energy and Treasury scheduled to present recommendations to the President shortly. The various schemes under review include an auction system, wherein the Government fixes the quantity of oil which could be imported each quarter and licenses importers, a license-fee system in which the Government would collect a tariff theoretically set high enough to discourage demand and keep imports below the 8.5 million barrels/day ceiling the President has indicated his commitment to meeting by 1985, and an allocation program which allows the Government to apportion the right to import crude and refined petroleum products according to past usage. But regardless of which of these alternatives is chosen, Mr. President, oil import quotas could well be inflationary, and could have anticompetitive effects.

When the President recommended in July that oil imports be limited to 8.2 million barrels/day this year and 8.5 million barrels/day by 1985, energy imports were expected to run at about the 7.8 million barrels/day level this year, substantially below the quota. However, recent revisions have moved this estimate upward to 8.1 million barrels/day, bringing us much closer, much sooner, to the quota level than we had anticipated. Given this, I have serious reservations about taking an approach to this situation which would in effect force us to create a shortage, just at the time when more and more domestic oil is being decontrolled.

Limits on imports before we are ready for them, combined with decontrol of domestic crude oil, will guarantee skyrocketing prices, since shortages will occur well before the United States can reduce demand to accommodate the limits. This is an invitation to economic disruption and still higher energy prices which I do not think we can ask the American people to accept. It is bad enough that our people have had to bear the added burdens of continual OPEC price increases. But it is an entirely different matter when we ask them to accept price increases that are planned by our own Government, and not the result of action by a foreign cartel. What is more, we must not overlook the incentive to further OPEC price increases which import quotas will provide.

Mr. President, if import quotas are imposed before supplies are increased, or demand reduced, the costs will be enormous. A study prepared by the Library of Congress, in addition to indicating that demand may well exceed the quota by some 400,000 to 1 million barrels as early as 1982, concludes that if import rights were to be auctioned by the Government, prices could increase between 7 and 17 percent. This would translate to an additional $3 to $8 above the world oil price in 1982. The effects of such planned shortages would be reflected in slower economic growth, greater inflation, and increased unemployment. We must also remember, Mr. President, that these projections were made without reference to what must now be considered inevitable future OPEC price hikes.

Under present law, the President has the authority to restrict imports, if the Secretary of the Treasury determines that such an action is critical to the national security. This finding was made in March of this year. Because of the very substantial impact that the imposition of such quotas would have in this country, I believe that Congress simply must play a role in making this decision. The compromise amendment which Senator JOHNSTON has offered provides for congressional participation in this process. It does not prohibit an import reduction program, but it does give Congress the opportunity to disapprove, by joint resolution within 30 days, the President's recommendations for quotas or fees.

The economic effects of oil import quotas, Mr. President, will be significant. The GAO has estimated that a 1 million barrel per day shortfall by 1985 would result in the following impacts: Gasoline prices up by $16.80 per barrel, heating oil prices up another $14.20 per barrel, the gross national product down by $6 billion, increases in inflation and unemployment, higher manufacturing costs meaning our export capacity will be reduced and our balance of trade will decline. It is clear, then, that Congress ought to have an opportunity to closely examine any program having such far-reaching effects. And I am confident that should future recommendations be forthcoming, the Congress will responsibly discharge its obligations.●

● Mr. MCGOVERN. Mr. President, as one of the original sponsors of this amendment, I would like to reaffirm my support and urge my colleagues to vote for reinstating controls on crude oil.

When this administration first contemplated executive action to end price controls, the public was advised that decontrol would not trigger any dramatic price increases. The administration's original proposal for a windfall profits tax was, in fact, based on the assumption that prices and oil company profits would not soar as a result of their action.

Yet, today fuel prices have increased more than 60 percent since last year. Farmers in South Dakota are paying upwards of $1.10 per gallon for diesel fuel—twice what they paid last year. And the administration has now revised their own figures regarding the cost of decontrol to the American consumer. Prices have skyrocketed to such an extent that Congress has had to enact emergency legislation to prevent millions of elderly and those who live on fixed incomes from either starving or freezing to death this winter.

Against this backdrop, the third quarter financial reports of the major oil companies show increases in net income of up to 191 percent.

Many industry officials, as well as the Department of Energy, have tried to explain away the massive price increase. We have heard that the cutoff in Iranian oil imports necessitated major purchases on the spot market where prices are substantially higher. Yet the Department of Energy's own figures show that the Iranian cutoff had very little impact on the gasoline shortage we experienced this summer or the prices paid for additional imports.

When the Department finally acquiesced to congressional demands that possible oil industry hoarding and price gouging be investigated, the Department relied solely on the industry's own data for their report.

Perhaps even more alarming are the recent news reports indicating that the oil companies are now producing the more profitable—and deregulated—jet fuel, at the expense of critically needed home heating oil and diesel fuel.

Mr. President, these rapidly escalating fuel prices and record oil industry profits are intolerable in light of the fact that there is no reliable justification for such increases. While permanent controls on crude oil may not be desirable, I believe we owe it to the public to reinstate controls until we have conducted a full scale public investigation of the oil industry and their role in the recent fuel shortages and price increases.●

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

Mr. ROBERT C. BYRD. Mr. President, what is the motion?

The PRESIDING OFFICER. That the Senate concur in the House amendment with an amendment.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Hawaii (Mr. MATSUNAGA), are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 70, nays 23, as follows:

[Rollcall Vote No. 377 Leg.]

YEAS—70

Armstrong	Glenn	Muskie
Baker	Goldwater	Pell
Baucus	Gravel	Percy
Bayh	Hatch	Pressler
Bentsen	Hayakawa	Pryor
Biden	Heflin	Riegle
Boren	Heinz	Roth
Boschwitz	Helms	Sarbanes
Bradley	Humphrey	Sasser
Burdick	Jackson	Schmitt
Byrd, Harry F., Jr.	Javits	Schweiker
Chafee	Jepsen	Simpson
Chiles	Johnston	Stafford
Cochran	Kassebaum	Stevens
Cohen	Kennedy	Stone
Culver	Laxalt	Thurmond
Danforth	Leahy	Tower
DeConcini	Levin	Tsongas
Dole	Magnuson	Wallop
Domenici	McClure	Warner
Durkin	McGovern	Williams
Eagleton	Melcher	Young
Exon	Metzenbaum	Zorinsky
	Moynihan	

NAYS—23

Bellmon	Long	Randolph
Bumpers	Lugar	Ribicoff
Byrd, Robert C.	Mathias	Stennis
Durenberger	Morgan	Stevenson
Ford	Nelson	Stewart
Hart	Nunn	Talmadge
Hollings	Packwood	Weicker
Huddleston	Proxmire	

NOT VOTING—7

Cannon	Garn	Matsunaga
Church	Hatfield	
Cranston	Inouye	

So the motion to concur in the House amendment with an amendment (UP No. 693) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that the Senate concur in the amendment of the House to the title of S. 1871, which amendment I send to the desk.

Mr. President, this merely conforms the title to the amendment just adopted.

The PRESIDING OFFICER. The question is on agreeing to the title amendment.

The title was amended so as to read:

An Act to amend the Energy Policy and Conservation Act to extend until June 30, 1980, certain authorities relating to the international energy program, and for other purposes.

JUDICIAL CONDUCT AND DISABILITY ACT OF 1979

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1873, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1873) to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, it is the intent and hope of the leadership to complete action on the judicial tenure bill today, so we may be around for a little while, with some rollcall votes yet today.

Mr. DECONCINI. Mr. President, I am pleased to yield to my distinguished colleague from Utah.

Mr. HATCH. Mr. President, I rise in support of S. 1873, the Judicial Conduct and Disability Act. In particular, I should like to comment upon the constitutional propriety of this legislation, a matter that has been called into question by some observers.

There are two distinct provisions of the Constitution that relate to the removal of sitting Federal court judges. article II, section 4 provides that,

The President, Vice President, and all civil officers of the United States shall be removed from office of impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

The term "Civil Officers of the United States" has been thought to encompass Federal judges since the impeachment of U.S. District Court Judge, John Pickering in 1803. Nine of the 12 impeachment trials that have since been conducted in the Senate have involved Federal judges.

Judicial tenure is also one of the subjects of article III, section 1 of the Constitution which states:

The judges, both of the Supreme and Inferior Courts, shall hold their offices during good behaviour . . .

Thereby the grounds, but not the mechanism, are established for removal under the judicial article. It is the direct implication, however, of this section that some means of judicial removal be established unless, in the words of Harvard law professor Raoul Berger, "we attribute to the framers the Dickensian design of maintaining a misbehaving judge in office."

The purpose of S. 1873 is to give full effect to article III, section 1 by establishing a constitutionally permissible procedure for disciplining judges who have not satisfied the "good behaviour" standard. Although the immediate act does not permit removal, I would have no doubts about the constitutionality of such a sanction for largely the same reasons that I believe justify the imposition of discipline of any kind upon Federal judges.

Impeachment, it is clear to me, is not the exclusive means for disciplining Federal judges; it is coexistent with the "good behaviour" clause. These are alternative means for achieving discipline, replete with differing standards and differing mechanisms for implementation. The impeachment provision, situated in the legislative article of the Constitution, imposes a limitation upon the ability of the legislative branch to effect judicial removal. Such an action is subject to the "high crimes and misdemeanors" standard. It is a much more rigid and demanding a standard than one which simply requires misbehaviour.

As Professor Corwin has noted, "few provisions of the Constitution were adopted from English practice to the degree the section on impeachment was." Both the concepts of impeachment and that of tenure during "good behaviour" have their genesis deep within English law. Impeachment has traditionally been subject to some formula similar to that of "high crimes and misdemeanors," while "good behaviour" is associated with the old act of settlement which granted judges tenure for so long as they conducted themselves properly. It is a standard that, unlike the impeachment standard, contemplates simple maladministration, judicial indiscretion, and lesser forms of abuse of position. In English law, the writ of scire facias was available to execute the "good behaviour" standard.

To accept the contention that impeachment is the sole means of judicial discipline or removal prescribed by the Constitution is to interpret the "good behaviour" provision as nothing more than a simple admonition, incapable of being given effect. It certainly cannot have been the intention of the framers that judicial misconduct, that fell short of the "high crimes and misdemeanors" standard was immune from sanction. It was clearly the intent that such judges be held accountable for their actions in some manner. As Professor Berger has noted, a grant during "good behaviour" is simply an "estate on a condition subsequent which is defeated or forfeited by nonperformance of the condition."

The contention that impeachment was never contemplated to be the sole means for disciplining or removing Federal judges is not based simply upon a reading of the clear terms of the Constitution. There is also strong historical evidence to this effect. The first Congress—undoubtedly that most appreciative of the intentions of the framers—approved legislation in 1790 providing that, upon conviction in court for bribery, a judge shall be "forever disqualified to hold any office." Nothing is said of the need to undergo the impeachment and conviction process described in article I.

In the Federalist No. 79, further, Alexander Hamilton stated that "insanity may be safely pronounced to be a virtual disqualification for a judge." This, despite the clear language of the impeachment provision limiting its applicability to "treason, bribery, or other high crimes and misdemeanors." In fairness, it should be noted however that other language contained in the same Federalist Paper seems curiously to suggest that impeachment may be an exclusive remedy. There is surprisingly little documentary evidence to show that the framers gave great discussion, one way or the other, to the issue of judicial removal.

Mr. MATHIAS. Will the Senator yield?

Mr. HATCH. Yes.

Mr. MATHIAS. I do not want to interrupt the Senator's statement, but I feel I cannot leave it unchallenged. I am prepared at a later time in the course of the afternoon, or evening, or night, as the case may be, to give a good deal of detail to one of the most fundamental questions of the American Revolutionary period the question of judicial independence and the conditions under which the judges might be removed.

But I will not interrupt the Senator any further except to say I would part with him that that was not considered very carefully and in great detail by the Founding Fathers.

Mr. HATCH. I did not mean to imply, and I think the Senator made an appropriate point if I was implying that was considered, the fact they wanted to have an inviolate judiciary. I certainly did not mean to imply that.

But that was the one-half of the equation I was talking about that they did give great consideration to and that was providing as we recently have done, that their salary should not be reduced during their tenure in office.

On the other hand, not much consideration was given to the fact of judicial removal. That is the point I make today, other than some mention in the Federalist Papers. I mentioned this and brought out that they really——

Mr. MATHIAS. No. 78 of the Federalist

Papers. The Senator is exactly right. It explains exactly what the Founding Fathers had in mind as traditional discipline and makes it clear, in my judgment, they thought impeachment was the sole remedy.

Mr. HATCH. They thought both ways. Alexander Hamilton made clear that insanity was not grounds necessarily for impeachment and, by necessity, may be a qualified judgment, under certain circumstances, and was a virtual disqualification for a judge.

But as my good friend from Maryland has indicated, even in the same Federalist No. 79, it was indicated that maybe they did feel only treason, bribery, and other high crimes and misdemeanors were the only reason a judge could be disqualified and removed from the bench, and I have mentioned that.

But I have to believe the reason they did not spend an awful lot of time on this was because they were concerned on this other half of the equation with protecting the rights of the judges to be independent, to be free, and to be able to make decisions without overrule by the central form of government, because they had seen the Crown overrule a number of decisions and overrule a number of the approaches of the earlier colonists before they wrote these particular papers.

I might add one other thing with regard to the Senator from Maryland's point, and that is that although there is a virtual dearth of exactly what these two provisions of the Constitution mean, there are equal arguments on both sides that they probably meant, one way or the other, and there is an equally strong argument, that treason, bribery, or other high crimes and misdemeanors was not the only standard by which judges could be removed from office.

The purpose of S. 1873 is to establish procedures for dealing with conduct that falls short of impeachability, but which nevertheless violates the "good behaviour" requirement. Where impeachment may be considered an appropriate sanction by Congress, there is, of course, nothing in this bill that would serve as an impediment.

Impeachment remains the sole means of legislative removal of judges. In enacting this act, Congress is implementing the judicial power of the United States which is described in article III. It is a power that has been exercised in the past by Congress to grant jurisdiction to "tribunals inferior to the Supreme Court" to adjudicate certain issues, as well as in defining the scope and procedure for the exercise of the inherent judicial power. Congress here is exercising its rights under article I, section 8 to "make all laws which shall be necessary and proper for carrying into execution * * * all powers vested by this Constitution." It is recognizing that the question of judicial discipline or removal for misbehaviour is a justiciable issue, but one with respect to which the judicial power to act must derive from congressional enabling legislation.

By establishing the process for judicial discipline or removal, Congress itself is no more disciplining or removing judges that may be subject to the process than it is trying a criminal defendant when it acts upon rules of evidence or rules of criminal procedure. Impeachment remains the sole means of legislative sanction; while action pursuant to the judicial conduct and disability act remains the some means for giving effect to the "good behaviour" standard of the judicial article of the Constitution.

I would like to conclude by stating briefly my reason for rejecting the contention that this legislation somehow interferes with the independence of Federal judges and is thereby violative of the separation of powers doctrine that undergirds our Constitution.

Implied in this doctrine, it seems to me, is another principle important to our Constitution—that of checks and balances. None of the three branches of our National Government is completely independent from the others; there are limitations and constraints placed upon each of them designed to insure a measure of accountability. As James Madison observed in the Federalist No. 48:

> Unless these departments be so far connected and blended as to give to each a constitutional control over the others, the degree of separation which is required, as essential to a free government, can never in practice be duly maintained.

Therefore, the judicial branch is not exempt from these limitations and constraints.

At a time when it is apparent to almost everybody that the impeachment sanction has become an exceedingly cumbersome and impractical remedy to apply to run-of-the-mill judicial misconduct, I believe that it is more imperative than ever that Congress provide some effective means for enforcing the "good behaviour" mandate of article III. There is a balance that must be drawn here, as in so many other areas of public policy, between protecting the independence of judges for the protection of the public, and absolving them of all accountability for their actions to the detriment of the public. I strongly believe that S. 1873, within the bounds of the Constitution, draws such a balance.

I also acknowledge the fact that there are intelligent Members of the Senate who have studied the Constitution, who have made it the study of their lives, who have intelligent points of view on the other side of this point of view. But it is difficult for me, having lived through an extensive trial practice during my career prior to coming to the Senate, to really think that we would have no other means of removing judges who otherwise should be removed for judicial misconduct except by the impeachment process. I think that has been hamstringing the courts in many ways, and perhaps that misconception has been one of the basic reasons why we have had problems with so many judges in the past.

Let me be fair to those who sit on the Federal bench. I think that, by and large, they are tremendously outstanding people and are among the leading judicial pillars of our society. They are also, by and large, tremendous lawyers who had good experiences in the practice of law and who were very capable before they came to the Federal bench.

However, that does not negate the fact that there have been those who have been extremely intelligent, extremely well-versed in the law, tremendously talented in the procedural aspects of the law and the evidentiary rules, but who nonetheless became tyrants on the bench. We have had tyrants on the bench in this country and we basically have been unable to do anything about it. I think it is time we consider the enlightenment this bill may bring to the judiciary.

Last, but not least, I think it is important to add that this may be a protection to the judges themselves that they would not have otherwise. I believe this bill provides an enlightened approach which will allow judges to get rid of the frivolous claims against them in basically peremptory proceedings, instead of having every little antagonistic issue against them decided in the courts of public opinion, in the newspapers of our country.

I believe this is a good approach. I think the judges of this country probably will be against it. On the other hand, if they think it through, they may find that this bill may be an asset to them rather than the liability some of them have felt it to be.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. HATCH. I yield.

Mr. THURMOND. Mr. President, I commend the able Senator from Utah for the remarks he has made on this subject.

I think most people have high respect for the courts; but there is general feeling that once a judge is appointed, he is there forever and nothing can touch him. Of course, the Constitution explicitly provides for impeachment; but there is nothing in the Constitution I have seen that would prohibit taking other disciplinary action short of impeachment. In other words, the impeachment provision does not appear to be exclusive. Is that the Senator's opinion?

Mr HATCH. That is correct. Article 3, section 2 indicates that there is another methodology which could be inferred from that section, where it says, "The Judges, both of the supreme and inferior Courts, shall hold their offices during good Behaviour." That is one point I have been making.

This question of good behavior seems to me to be a less onerous standard than impeachment for treason and other high crimes and misdemeanors.

Mr. THURMOND. Under the pending bill, a complaint would be initially processed within the judicial council of each circuit, and the council would be empowered to take remedial action.

Mr. HATCH. That is correct.

Mr. THURMOND. A variety of effective remedies are provided, such as temporarily not assigning further cases to the judge. That action would have some disciplinary impact.

Mr. HATCH. It certainly would.

Mr. THURMOND. Publicly or privately censuring or reprimanding the judge would also be a form of discipline.

Mr. HATCH. It certainly would.

Mr. THURMOND. Certifying permanent disability, mental or physical, would be another option available under S. 1873.

Mr. HATCH. Yes.

Mr. THURMOND. With regard to retirement, the council cannot make a judge retire, but the council members can request that he do so. I think a judge would consider it seriously, if retirement were requested. In other words, there are a number of options under S. 1873 that do not go so far as to remove a judge, an action which would raise serious constitutional questions.

Removal by means other than impeachment is, however, arguably constitutional; and I do not believe there is a case exactly on that point. Does the Senator know of such a case?

Mr. HATCH. I do not know of any case exactly on the point.

Mr. THURMOND. On the other hand, the Constitution does not explicitly say that you cannot do anything but impeach. S. 1873 is, I believe, middle ground between removal of the judge who has life tenure, and taking no action at all—thereby allowing a judge, for example, who has an alcohol or drug addiction problem to continue to handle cases, or to allow a judge to be unreasonable in dealing with jurors, or to be discourteous or hostile in dealing with lawyers.

Under this bill, there would be a reasonable means of discipline without going so far as to remove a judge. Does the Senator feel that that is a reasonable way to approach the problems of judicial misconduct or disability?

Mr. HATCH. There is no question in my mind about it.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. HATCH. I yield.

Mr. MATHIAS. This is one of the things we need to concentrate on, and I agree with the Senator from South Carolina, in looking at reasonable ways to deal with this problem.

On March 9 of this year, the Judicial Conference adopted a resolution; and pursuant to that resolution, 10 of the 11 judicial councils have established what I believe is a reasonable middle ground. It is a very comprehensive provision, and I will discuss it later. I do not want to interrupt the Senator from Utah more than is necessary.

I wonder if the Senator thinks that the machinery established by the resolution of March 9 is, in fact, a reasonable approach to this difficult problem, which, as we discussed earlier, has been troublesome to the American legal system since the founding of the Republic.

Mr. HATCH. I think it is more reasonable than the present system; certainly, a step in the right direction. I believe this bill is a better approach than that.

However, I will also say that part of the reason that approach has come about is because of this bill.

Mr. MATHIAS. Precisely.

Mr. HATCH. So, in a very real sense, this bill already has served its purpose.

However, I still believe, in all honesty, that there is need for this bill and there is every propriety on the part of the United States Congress to enact legislation such as this, under the separation of powers doctrine.

Mr. MATHIAS. I salute the Senator from Arizona, as I have earlier today, because I think his consistent interest in this matter has been extremely salutary. I believe he has awakened the bench to the need for the kind of self-policing which is inherent in the March 9 resolution.

It occurs to me that we are here in October, and the effectiveness of the new system really has not yet had a good test, that we have a new system, a rather revolutionary approach within the Judicial Conference.

If we are talking about being reasonable, the side of reason would be to allow them with the new system to have a little longer period in which to see if it will in fact be effective. I think it will.

Mr. HATCH. Let me just add this to my colleague's good comments, and certainly that is a step in the right direction, and I concede that point and never reputed that point or rebutted it. I certainly hope that my colleague is correct because if he is correct then we will never need to have this bill become operative even if we pass it here which I believe we will. And nothing would please me more.

Mr. MATHIAS. The difficulty is that once we pass this bill in this Senate we lose control over whether it becomes operative or not.

Mr. HATCH. This would become operative but the courts could still set up their own mechanisms to avoid the application of this bill, is that not correct? Of course they do. They could still do exactly what they were called to do in that Judicial Conference and use that as a way to get around this particular bill by enforcing their own approach.

Mr. MATHIAS. The laws of the land will take precedence over any order of court.

Mr. HATCH. But the courts have a right to do some judicial self-policing in anticipation of never having this bill become really applicable to them. I suggest that that is what they should do. But this bill will be on the books to take care of untoward situations such as drunkenness, insanity, obstreperousness.

Mr. MATHIAS. I do not view this bill as a discretionary procedure. I think if we pass this bill, the House of Representatives passes it, and the President signs it, then we are stuck with it.

Mr. HATCH. I think that the judges will accept that, but there is nothing to stop them.

Mr. MATHIAS. They will accept it. They are sworn to accept it.

Mr. HATCH. But there is nothing to stop that.

Mr. MATHIAS. Let me ask the Senator if he would have any objection at this point, because I think it is right on target with what he is saying and what he is saying is important, to include at this point in the RECORD a copy of the resolution which was adopted by the Judicial Conference of the United States and which deals with the steps that they would take.

Mr. HATCH. I have no objection.

Mr. MATHIAS. Mr. President, I ask unanimous consent that a copy of the resolution of March 9 of the Judicial Conference be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION I

1. The Judicial Conference of the United States expresses its approval of the following principles to be reflected in any legislation dealing with procedures for inquiries into the conduct of Federal judges:

(a) Removal of an Article III judge from office by any method other than impeachment as provided in Article I of the Constitution would raise grave constitutional questions which should be avoided.

(b) The primary responsibility for dealing with a complaint against a United States judge should rest initially with the chief judge of the circuit as presiding judge of the Judicial Council, who may dismiss the complaint if it is frivolous or relates to the merits of a decision or procedural ruling, or may close the complaint after assuring himself that appropriate corrective action has been taken.

(c) Any complaint not dismissed or closed by the presiding judge should be referred to a committee appointed by the presiding judge, consisting of an equal number of circuit and district judges and the presiding judge.

(d) The joint committee should report its findings and recommendations to the Judicial Council, which should take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

(e) The Judicial Council may, in its discretion, refer a complaint and the Council's recommended action to the Judicial Conference of the United States.

(f) If the Judicial Council concludes that grounds for impeachment may exist, it should transmit the record upon which its conclusion is based to the Judicial Conference of the United States; the Judicial Conference shall then determine whether, in all the circumstances, the matter should be referred to the House of Representatives.

2. The Judicial Conference recommends that the Judicial Councils of the several circuits, at their earliest opportunity, consider the formulation and promulgation of rules of procedure for the receipt and processing of complaints against judges in accordance with the principles expressed in paragraph 1; such rules and regulations should be announced in such manner as to assure that the public and the bar will be informed.

3. The Chairman of the Court Administration Committee and the members of the Executive Committee of the Conference are directed (1) to review and revise, in accordance with the principles stated in paragraph 1, the Court Administration Committee's proposed amendments to 28 U.S.C. § 332, and (2) to transmit the revised proposed amendments to all members of the Conference for their approval. Following approval by the Conference, the Chairman of the Court Administration Committee, if called upon by the Congress to testify upon pending legislation, is authorized to inform the Congress that, if legislative action is to be taken, the Conference recommends amendments to 28 U.S.C. § 332 as approved by the Conference in accordance with this paragraph.

4. All previous Judicial Conference resolutions or comments upon legislation dealing with the conduct of Federal judges are superseded by this resolution.

Mr. MATHIAS. I do not think we need to spend a lot of time discussing it but the question really is so important that

we should see exactly what they did propose.

Mr. HATCH. Why do I not do this? I am prepared to yield the floor, and I think I will be happy to yield the floor to the distinguished Senator from Maryland with just the proviso that everything the distinguished Senator from Maryland has said is true except that I think he would take the position that this particular bill is unconstitutional and I take the opposite position; that is, it is constitutional, that the Constitution allows for judicial removal for lack of good behavior and that this bill makes it a reasonable and I think effective legislative approach to that particular problem.

I yield the floor.

Mr. THURMOND. Does the Senator from Maryland agree to yield?

Mr. MATHIAS. I yield the floor at this time.

Mr. THURMOND. I believe that section 332(d) of title 28 is the section that is being utilized as the statutory basis for the procedural processes that have been established in 10 of the 11 circuits for the handling of complaints alleging judicial misconduct.

Mr. MATHIAS. I have the same understanding as the Senator from South Carolina.

Mr. THURMOND. The question is whether this section is sufficient statutory authority for the establishment of a comprehensive judicial disciplinary procedure. The procedure in this bill is comprehensive, and some people feel there is a question as to whether 332(d) is broad enough to provide the statutory authority that is needed here.

Also, there would be some uniformity among the circuits with passage of a statute of this kind. The bill now under consideration appears to be a middle ground between the Nunn bill which contains a removal provision and doing nothing except what the Judicial Councils have done in 10 of the 11 circuits.

Mr. MATHIAS. With the greatest respect I suggest to the Senator from South Carolina that we now are standing on middle ground and the middle ground is the Judicial Conference resolution of March 9.

Mr. THURMOND. I think what the councils have done is good, and I commend the judges for their efforts. I prefer, however, to pass this bill to make the statutory authority clear and to provide an overall structure for a comprehensive disciplinary system.

Mr. MATHIAS. Let me say to the distinguished Senator from South Carolina, the ranking minority member of the Judiciary Committee, that as to the question of whether or not there is sufficient statutory foundation for this resolution I think we have to give a strong presumption of validity to this act taken very seriously, very deliberately by the members of an equal separate and coordinate branch of Government and the judges, including the Chief Justice of the United States, felt that they had the legal authority to adopt this resolution of March 9 and they have adopted it and it is, I think, based on law and it is uniform. It is uniform throughout the country; 10 of the 11 circuits have adopted it and I know of no reason why the 11th will not. The 11th, I am advised, is about to adopt it. So we will have statutory foundation, we will have uniformity, and I suggest to the Senator that we are in fact in middle ground today.

Mr. THURMOND. We are more so than we have been. I just think this would further improve the situation and I would prefer to pass the comprehensive authority that this legislation provides. That is the reason that I favor this bill.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Sandra Walsh be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I am willing to yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I ask my colleague from Arizona if there are any other amendments pending now or if it would meet with the approval of the Senator from Arizona for the substitute to be sent to the desk now and discussed?

Mr. DECONCINI. That would be quite satisfactory, and I thank the Senator. There are no other amendments that I know of.

UP AMENDMENT NO. 694

(Purpose: To establish a procedure in addition to impeachment for the discipline of members of the Judiciary of the United States and the removal of those whose condition or conduct is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution, and for other purposes)

Mr. NUNN. Mr. President, I have a printed substitute and if it is not at the desk I will send it to the desk. If it is at the desk, I call it up. It is an amendment in the nature of a substitute.

The PRESIDING OFFICER (Mr. CHILES). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes unprinted amendment numbered 694 in the nature of a substitute.

Mr. NUNN. I ask unanimous consent that the reading be dispensed with.

The PRESIDING OFFICER. The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Judicial Conduct and Disability Act of 1979".

JUDICIAL DISCIPLINE AND DISABILITY PROCEDURES

SEC. 2. (a) Title 28, United States Code, is amended by adding immediately after chapter 17 the following new chapter:

"Chapter 18.—JUDICIAL DISCIPLINE AND DISABILITY PROCEDURES

"Sec.
"381. Judicial Conduct and Disability Commission; establishment.
"382. Committees; selection of members; receipt of complaints.
"383. Complaint concerning condition or conduct of judges; filing and processing.
"384. Procedure before the Judicial Conduct and Disability Commission.
"385. Court on Judicial Conduct and Disability.
"386. Disqualification of judges.
"387. Confidentiality of proceedings.
"388. Standard of good behavior.
"389. Involuntary retirement or removal.
"390. Claims of involuntarily retired judges relating to judicial duties.
"391. Rules of procedure; Court on Judicial Conduct and Disability, Judicial Conduct and Disability Commission, and committees.
"392. Intervention; amicus curiae; mandamus.
"393. Justices of the Supreme Court; report of impeachment or censure.

"§ 381. Judicial Conduct and Disability Commission; establishment

"(a)(1) There is established in the judicial branch of the Government a body which shall be known as the Judicial Conduct and Disability Commission. The mandate of the Commission shall be to further the honest, impartial, and efficient administration of justice in the courts of the United States in accordance with the duties imposed upon it by law.

"(2) The Commission shall be composed of one member from each judicial circuit, and one member selected collectively by the judges of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court. Each member shall be a judge of the United States in regular active service or senior status. Members from the circuits shall be elected by circuit and district judges of the respective circuit who are in regular active service or senior status at a judicial conference of the circuit held under section 333. The member representing the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court shall be elected by the judges of those courts who are in regular active service or senior status.

"(3) A judge of any court created by an Act of Congress in a territory which is vested with the jurisdiction of a district court of the United States may not take part in any election or be elected as a member of the Commission. A judge who is a member of the Judicial Conference may not serve simultaneously as a member of the Commission.

"(b)(1) The members of the Commission shall elect one of its members as chairman of the Commission. The term of each member of the Commission shall be three years except that when the Commission is initially selected, four of the members shall serve a two-year term and four of the members shall serve a one-year term. The chairman shall decide who shall serve each of the initial terms. The term of any member shall automatically be extended until his successor has qualified. A member selected to fill a vacancy shall commence a full three-year term. A judge may serve on the Commission any number of terms but may not serve consecutive terms.

"(2) The term of a member of the Commission shall automatically expire upon the imposition of any sanction under section 384(f)(1) (A) through (G).

"(c) The Judicial Conference of the United States shall appoint an executive director of the Commission, whom it may remove for cause shown. The Judicial Conference shall fix the compensation of the executive director at a rate not to exceed the lowest annual rate of pay payable for grade 16 of the General Schedule (GS-16) prescribed under section 5332 of title 5. The executive director shall be eligible for increases in pay corresponding with those provided for by section 5335 of title 5.

"(d) The chairman may appoint, pursuant to rules promulgated under section 391, a panel of seven members of the Commission to carry out the duties of the Commission under this chapter.

"(e) For the purposes of section 456, the performance of duties as a member of the Commission shall constitute the transaction of official business.

"(f) The Commission, and any committee selected under section 382, may utilize existing staff employed by the circuit or court, or employees of another circuit or court or may request the Director of the Administrative Office of the United States Courts to procure personal services of experts and consultants as authorized by section 3109 of title 5, as may be necessary to carry out the duties of the Commission or a committee in any particular case under this chapter.

"§ 382. Committees; selection of members; receipt of complaints

"(a) Each circuit, the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court shall have a committee of judges in regular active service or senior status to receive, process, and review any complaint against a judge of their respective circuit or court transmitted from the Judicial Conduct and Disability Commission under section 383 (a) (3). Judges of a district court and the court of appeals shall be represented in the case of a circuit committee.

"(b) The chief judge of the circuit, the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court, as the case may be, shall sit as the presiding officer of the respective committee. During consideration of a complaint filed by or against a chief judge, the next most senior member of the circuit, or of the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court, shall sit as the presiding officer of the committee. Members other than the presiding officer shall be selected in accordance with the rules promulgated under section 391.

"(c) The committee shall conduct its proceedings in accordance with the rules promulgated under section 391.

"§ 383. Complaint concerning condition or conduct of judges; filing and processing

"(a) (1) Any person may file a complaint with the Judicial Conduct and Disability Commission setting forth the condition or conduct of a judge of the United States, alleging that such condition or conduct is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution. Each complaint shall be in writing and certified or subscribed in the manner set forth in section 1746.

"(2) The Commission, acting through its executive director, shall dismiss by written order any complaint which is frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission. Complaints which are outside the jurisdiction of the Commission include, but are not limited to, complaints relating to the merits of any decisional or procedural ruling of a judge or any matter reviewable under any other provision of law on the record, and complaints relating to the condition or conduct of a judge which is not connected with his judicial office or which does not prejudice the administration or justice by bringing the judicial office no disrepute.

"(3) Any complaint not initially dismissed by the Commission acting through its executive director shall be transmitted within seven days of the filing of the complaint to the presiding officer of the committee of the respective circuit or court. A judge whose condition or conduct is the subject of such a complaint shall receive a copy of the complaint and shall be notified in writing by the Commission of his right to submit to the committee within ten days a written statement in his own behalf and of any other rights provided under the rules promulgated under section 391.

"(b) Upon receipt of the complaint from the Commission, the committee shall conduct a preliminary investigation to determine the nature and existence of any of the grounds specified in section 372(c) for the involuntary retirement of a judge, or in section 388 for any other sanction available under section 384 (f).

"(c) (1) Each committee, after completion of its investigation and on the basis of the grounds specified in section 372(c) or section 388, shall, by majority vote, recommend to the Commission—

"(A) dismissal of any complaint which it finds to be frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission; or

"(B) further investigation by the Commission of any complaint for which the committee finds sufficient cause to believe that the condition or conduct of the judge may be inconsistent with the good behavior standard required by Article III, section 1 of the Constitution; or

"(C) that there be a reasonable period of time in which the committee be authorized to attempt to address the specified matter raised in such complaint.

"(2) A copy of the recommendation of the committee under this subsection, accompanied by a written explanation, shall be forwarded to the Commission and the judge under inquiry.

"§ 384. Procedure before the Judicial Conduct and Disability Commission

"(a) (1) Upon receipt of the recommendation of a committee under section 383, the Judicial Conduct and Disability Commission or a panel acting on behalf of the Commission shall, pursuant to rules promulgated under section 391 and by majority vote—

"(A) dismiss any complaint which it finds to be frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission; or

"(B) initiate an investigation of its own to determine the nature and existence of any of the grounds specified in section 372(c) for the involuntary retirement of a judge or in section 388 for any other sanction available under subsection (f) of this section.

"(2) The committee shall have no longer than thirty days from the receipt of the complaint from the Commission in which to make a recommendation under section 383(c), except that the Commission, in the interest of justice and for cause shown, may grant a reasonable extension upon application made by the committee.

"(3) Upon the conclusion of the time period, the committee shall recommend that the case be dismissed or that the Commission conduct a further investigation.

"(4) Any judge whose condition or conduct is the subject of an investigation under this subsection shall be notified in writing of the pending investigation, and of his right to submit a written statement in his own behalf and of any other rights provided under the rules promulgated under section 391.

"(b)(1) The Commission or the panel is authorized to administer oaths, order and otherwise provide for the inspection of books and records, and issue subpenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony relevant to the conduct of any investigation under this chapter. Attendance of witnesses and the production of evidence may be required from any place within the United States and its territories at any designated place of hearing within the United States upon the payment of fees and expenses as prescribed by law.

"(2) The Commission or the panel may arrange for the attendance of witnesses, including witnesses not subject to subpena. Each witness, other than an officer or employee of the United States, shall receive the same attendance fees and other amounts allowed by law to a witness in a civil case as provided in section 1821. The amount shall be paid by the United States marshal for all witnesses for the Commission upon certification of the clerk of the court.

"(3) If a person who is the subject of a subpena issued under paragraph (1) of this subsection refuses to obey such subpena, the Commission or the panel may invoke the aid of the district court of the district in which the subpensed party resides or may be found. The district court may issue an order requiring such person to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the district court may be punished by such court as contempt.

"(4) Whenever a person, other than the judge who is the subject of an inquiry, refuses to give or produce evidence on the basis of his privilege against self-incrimination, the Commission or the panel may issue an order requiring that person to testify or produce evidence. The testimony given or evidence produced in compliance with that order, and any information directly or indirectly derived from that testimony or evidence, may not be used against the person so ordered in any criminal case, except a prosecution for perjury, giving a false statement, or for otherwise failing to comply with that order. The Commission or the panel shall not issue an order compelling a person to testify or produce evidence under this paragraph until thirty days after notification of the Attorney General of the United States of its intention to do so.

"(c) The Commission or the panel, after completion of its investigation and on the basis of the grounds specified in section 372 (c) or section 388, shall, by majority vote—

"(1) dismiss any complaint which it finds to be frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission; or

"(2) determine to hold a hearing on any complaint for which the Commission finds sufficient cause to believe that the condition or conduct of the judge may be inconsistent with the good behavior standard required by Article III, section 1 of the Constitution.

"(d) Whenever a complaint is dismissed under subsection (a) or subsection (c)(1) of this section, or under section 383(a), the judge against whom the complaint was filed and the complainant shall be notified in writing of the action taken and the reason for the order of dismissal. Within ten days after such notification, the complainant may petition the Court on Judicial Conduct and Disability to review the order of dismissal.

"(e) Upon a determination under subsection (c) (2) to hold a hearing, the Commission or the panel shall convene at the earliest practical date to hear and decide the merits of the complaint made against the judge. The judge whose condition or conduct is the subject of the hearing shall be given adequate notice of such hearing, shall be admitted to the hearing, may be represented by counsel, offer evidence in his own behalf, confront and cross-examine any witness against him, and have the right to compulsory process to obtain evidence or witnesses.

"(f)(1) After a hearing in accordance with subsection (e), the Commission or the panel shall order one of the following:

"(A) Censure or reprimand the judge by means of private communication.

"(B) Censure or reprimand the judge by means of public announcement.

"(C) Suspend temporarily, for a time certain, assignment of further cases to the judge.

"(D) Certification of disability in accordance with the procedures and standard provided under section 372(b).

"(E) Involuntary retirement of the judge under section 372(c).

"(F) Removal of the judge from office.

"(G) Such other action as it considers appropriate under the circumstances.

"(H) Dismissal of the complaint.

"(2) Each order under paragraph (1) of this subsection shall be subject to the provisions of section 388, shall be made by a majority of the members of the Commission or the panel, and shall be supported by clear and convincing evidence on the record.

"(3) Each order of the Commission or the panel shall be in writing and the complainant, and any judge affected by such order shall receive a copy. The complainant or the judge whose condition or conduct is the subject of the hearing may, within ten days of receipt of the order, petition the Court on Judicial Conduct and Disability for review of such order.

"(g)(1) All proceedings of the Commission or the panel under subsection (f) shall be recorded verbatim by shorthand, mechanical means, or electronic sound recording by an official court reporter. The court reporter shall transcribe and certify the record of proceedings and shall deliver the original records and transcript to the clerk of the court upon the timely filing of petition for review to the Court on Judicial Conduct and Disability. Notwithstanding the provisions of section 753, if the proceedings are reported and transcribed by the reporter appointed by the district court under that section, the Director of the Administrative Office of the United States courts shall pay the court reporter a fee for the transcript at the rates established under section 753(f).

"(2) The Federal Rules of Evidence shall apply to all proceedings before the Commission or the panel.

"(h) An order of the Commission or the panel under subsection (f) shall become final upon either the denial of a petition for review by the court on Judicial Conduct and Disability, affirmance of the order by the Court on Judicial Conduct and Disability, or expiration of the time for filing the petition. Upon filing the petition with the Court on Judicial Conduct and Disability, any sanction imposed under subsection (f) shall be automatically stayed and the clerk of the Court shall prepare an order to confirm the stay.

"(i) The Commission shall prepare an annual report to the Congress that includes a summary of the number of complaints filed with the Commission, indicating the general nature of such complaints and the final disposition of those complaints.

"§ 385. Court on Judicial Conduct and Disability

"(a)(1) There is established under Article III of the Constitution of the United States a court of record to be known as the Court on Judicial Conduct and Disability. The Court may exercise all appropriate judicial powers incident or necessary to the jurisdiction conferred upon it. The Court may prescribe such rules for the conduct of its proceedings as it considers appropriate. Attendance of witnesses and the production of relevant material may be required from any place in the United States and its territories at any place designated for holding court.

"(2) The Court shall be composed of five Federal judges, including at least one district court judge, to be appointed by the Chief Justice of the United States. Each member shall be a judge of the United States in regular active service. The Chief Justice shall designate the chief judge of the Court.

"(3) A judge of any court created by an Act of Congress in a territory which is vested with the jurisdiction of a district court of the United States may not be a member of the Court. A member of any committee or the Commission which conducted any investigation or proceeding relating to the condition or conduct of the judge shall not sit as a member of the Court in a matter concerning the same judge.

"(4) The term of each member shall be three years, except that when the Court is initially appointed, three of the members shall serve a three-year term and two of the members shall serve a two-year term. The term of any member shall automatically be extended until his or her successor has been appointed. A member selected to fill a vacancy shall commence a full three-year term. A judge may serve on the Court any number of times, but may not serve consecutive terms.

"(5) The clerk and marshal of the district court for the District of Columbia shall be the clerk and marshal of the Court and shall be responsible for the maintenance of all records of the Court, service of process, and execution of all orders of the Court. When the Court is sitting outside the District of Columbia, the clerk and marshal of another district court, with the approval of the Court, may act as the clerk and marshal of the Court.

"(6) The Court may hold court at the District of Columbia and at such other places within the United States and at such times as the Court may designate by rule or order. Whenever possible, the Court shall sit in the district or circuit in which the judge who is the subject of the complaint serves. If the judge who is the subject of the complaint serves on the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court, the Court shall sit, whenever possible, in the location in which that court is usually held.

"(b)(1) The Court shall grant a petition filed under subsection (d) or (f) of section 384 upon the concurrence of two of its members.

"(2) Upon the grant of a petition under paragraph (1), the Court shall—

"(A) affirm any action taken by the Commission which is supported by clear and convincing evidence on the record; and

"(B) reverse and remand to the Commission for further proceedings any action taken by the Commission which is unsupported by clear and convincing evidence on the record.

"(c) Each action taken by the Court under subsection (b) shall be made by a majority of the members of the Court. Each order or action of the Court shall be in writing and the complainant and the judge who is the subject of the complaint shall receive a copy. There shall be no judicial review of any order or action of the Court taken under subsection (b).

"§ 386. Disqualification of judges

"A judge who is a member of a committee, of the Judicial Conduct and Disability Commission, or of the Court on Judicial Conduct and Disability shall not sit in any proceeding of the respective body when it inquires into his own condition or conduct, or when it inquires into a complaint filed by him against another judge or Justice.

"§ 387. Confidentially of proceedings

"(a) All matters filed with, all testimony or evidence given before, and all deliberations of a committee under this chapter shall be confidential unless authorized in writing by the judge whose condition or conduct is the subject of an inquiry under this chapter.

"(b) All matters filed with, all testimony or evidence given before, and all deliberations of the Judicial Conduct and Disability Commission shall be confidential—

"(1) unless authorized in writing by the judge or Justice whose condition or conduct is the subject of an inquiry; or

"(2) unless the Commission determines to hold a hearing under section 384(c)(2) or section 393(b)(2); at which time all such documents and proceedings before the Commission shall be open and a matter of public record.

"(c) All matters filed with, all testimony or evidence given before, and all proceedings before the Court on Judicial Conduct and Disability shall be open and a matter of public record.

"(d) Any participant who violates the provisions of this section shall be fined not more than $5,000, imprisoned not more than one year, or both.

"§ 388. Standard of good behavior

"(a) Any sanction available under section 384(f)(1) or section 393(d)(1) may be imposed only upon a finding that the condition or conduct of such judge or Justice is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution.

"(b) Condition or conduct which shall be deemed to be inconsistent with the good behavior standard includes, but is not limited to, willful misconduct in office, willful and persistent failure to perform duties of the office, habitual intemperance, or any other condition or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

"§ 389. Involuntary retirement or removal

"(a) If a judge is involuntarily retired or removed under this chapter, the Commission shall, at the time its order becomes final, certify to the President that a vacancy exists in the office from which the judge has been involuntarily retired or removed. The President shall appoint, by and with the advice and consent of the Senate, a successor to fill any such vacancy.

"(b) Upon a final order of removal, the entitlement to the salary of the office shall terminate. For the purposes of section 376(g), a judge removed from office shall be deemed to be a judge who resigned from office without entitlement to retirement salary.

"§ 390. Claims of involuntarily retired judges relating to judicial duties

"(a) The Court on Judicial Conduct and Disability shall hear and determine any claim for assignment as authorized under section 294 filed by a judge retired under section 372(c) who alleges that his mental or physical disability has improved to the extent that he is able to efficiently perform the duties of the judicial office from which he was retired.

"(b) The Court may prescribe by rule such procedures as may be appropriate for the consideration and disposition of such claims. The Court shall, by majority vote, issue an appropriate order with respect to such claim and shall transmit such order to the authority responsible for the assignment of judicial duties to retired judges within the circuit or court of the judge affected by such order.

"§ 391. Rules of procedure; Court on Judicial Conduct and Disability, Judicial Conduct and Disability Commission, and committees

"(a) The Judicial Conference of the United States shall promulgate rules of procedure for the Court on Judicial Conduct and Disability and the Judicial Conduct and Disability Commission.

"(b) The Judicial Conference of the United States shall promulgate rules of procedure for the committees established under section 382, or authorize the judicial council of each circuit, the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court to promulgate rules of procedure for their respective committees. Such rules shall be consistent with the rules promulgated for the Court and the Commission under subsection (a).

"(c) All rules promulgated under this section may be modified at any time by the Judicial Conference of the United States and shall be a matter of public record.

"§ 392. Intervention; amicus curiae; mandamus

"(a) No person shall be granted the right to intervene or appear as amicus curiae in any proceeding before a committee, the Judicial Conduct and Disability Commission, or the Court on Judicial Conduct and Disability.

"(b) Notwithstanding any other provision of law, the Court on Judicial Conduct and Disability shall have exclusive original jurisdiction to hear any action in the nature of mandamus directed against a committee or the Commission.

"§ 393. Justices of the Supreme Court; report of impeachment or censure

"(a)(1) Any person may file a complaint with the Judicial Conduct and Disability Commission setting forth the conduct of a Justice of the United States, alleging that such conduct is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution. Each complaint shall be in writing and certified or subscribed in the manner set forth in section 1746.

"(2) The Commission, acting through its executive director, shall dismiss by written order any complaint which is frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission. Complaints which are outside the jurisdiction of the Commission include, but are not limited to, complaints relating to the merits of any decisional or procedural ruling of a Justice or any matter reviewable under any other provision of law on the record, and complaints relating to the conduct of a Justice which is not connected with his judicial office or which does not prejudice the administration of justice by bringing the judicial office into disrepute.

"(b)(1) Any complaint not dismissed by the Commission, acting through its executive director pursuant to subsection (a) of this section, shall be investigated by the Commission, or a panel acting on behalf of the Commission, to determine whether there is sufficient cause to believe that the conduct of the Justice is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution. A Justice whose conduct is the subject of an investigation under this section shall receive a copy of the complaint and shall be notified in writing of the pending investigation, of his right to submit within ten days a written statement in his own behalf, and of any other rights provided under the rules promulgated under section 391.

"(2) The Commission, or a panel acting on behalf of the Commission, after completion of its investigation, shall by majority vote—

"(A) dismiss any complaint which it finds frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission; or

"(B) determine to hold a hearing on any complaint for which the Commission finds sufficient cause to believe that the conduct of the Justice is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution.

"(3) Whenever the Commission dismisses a complaint under subsection (a) of this section or under paragraph (2)(A) of this subsection, the Justice against whom the complaint was filed and the complainant shall be notified of the action taken and the reason for the dismissal. Within ten days after such notification the complainant may petition the Court on Judicial Conduct and Disability to review an order of dismissal.

"(c) Upon a determination under subsection (b)(2)(B) to hold a hearing, the Commission or the panel shall convene at the earliest practical date to hear and decide the merits of the complaint made against the Justice. The Justice whose conduct is the subject of the hearing shall be given adequate notice of such hearing, shall be admitted to the hearing, may be represented by counsel, offer evidence in his own behalf, confront and cross-examine any witness against him, and have the right to compulsory process to obtain evidence or witnesses.

"(d)(1) After a hearing in accordance with subsection (c), the Commission or the panel shall—

"(A) report to the House of Representatives a record of all proceedings revealing conduct which, in its view, would constitute an impeachable offense as defined in Article II, section 4 of the Constitution; or

"(B) report to the House of Representatives a record of all proceedings revealing conduct which, in its view, warrants censure in that such conduct is inconsistent with the good behavior standard required by Article III, section 1 of the Constitution; or

"(C) order dismissal of the complaint.

"(2) Each order under paragraph (1) shall be subject to the provisions of section 388, shall be made by a majority of the members of the Commission or the panel, and shall be supported by clear and convincing evidence on the record.

"(3) Each order of the Commission or the panel shall be in writing and the complainant, and any Justice affected by such order shall receive a copy. The complainant or the Justice whose conduct is the subject of the hearing may, within ten days of receipt of the order, petition the Court on Judicial Conduct and Disability for review of such order.

"(4) An order of the Commission or the panel under paragraph (1) shall become final upon the denial of a petition for review by the Court on Judicial Conduct and Disability, affirmance of the order by the Court on Judicial Conduct and Disability, or expiration of the time for filing the petition. Upon filing the petition with the Court on Judicial Conduct and Disability, any sanction imposed as a result of an order under paragraph (1) shall be automatically stayed and the clerk of the Court shall prepare an order to confirm the stay.

"(5) Whenever the Commission or the panel reports to the House of Representatives under paragraph (1), it shall prepare a written report which includes the complaint made against the Justice, the order of the Commission, a copy of the transcript of the hearing, and any specific findings made by the Commission. Such report shall be submitted to the House of Representatives for appropriate action. A copy of the report shall be forwarded to the Justice under inquiry and to the complainant.

"(e)(1) The Court on Judicial Conduct and Disability shall grant a petition filed under subsection (b)(3) or (d)(3) of this section upon the concurrence of two of its members.

"(2) Upon the grant of a petition under paragraph (1), the Court shall—

"(A) affirm any action taken by the Commission which is supported by clear and convincing evidence on the record; and

"(B) reverse and remand to the Commission for further proceedings any action taken by the Commission which is unsupported by clear and convincing evidence on the record.

"(f) Each action taken by the Court under subsection (e) shall be made by a majority of the members of the Court. Each order or action of the Court shall be in writing and the complainant and the Justice who is the subject of the complaint shall receive a copy. There shall be no judicial review of any order or action of the Court taken under subsection (e).".

(b) The table of chapters for title 28, United States Code and for part I of title 28, United States Code, are amended by inserting immediately after the item relating to Chapter 17 the following:

"18. Judicial discipline procedures".

INVOLUNTARY RETIREMENT

SEC. 3. Section 372 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Whenever any judge of the United States appointed to hold office during good behavior is eligible to retire and does not so retire, and a majority of the Court on Judicial Conduct and Disability finds, pursuant to a complaint filed under section 383, that the judge is unable to discharge efficiently the duties of his office by reason of a permanent mental or physical disability, the Court shall order the involuntary retirement of the judge. Habitual intemperance shall constitute a disability for the purposes of this subsection. Such judge shall be entitled to salary as specified in subsection (a) of this section.

"(2) An involuntarily retired judge shall be deprived of all powers of the office except that an involuntarily retired judge who has been determined again able to undertake judicial duties under section 390 may be designated and assigned under section 294.

"(3) The President shall, by and with the advice and consent of the Senate, appoint a successor to any judge retired involuntarily under the provisions of this subsection. After the successor has been appointed, the vacancy subsequently caused by the death or resignation of the judge involuntarily retired shall not be filled.".

ASSIGNMENT OF RETIRED JUDGES

SEC. 4. (a) Section 294(c) of title 28, United States Code, is amended to read as follows:

"(c) Any voluntarily retired judge of the United States, or any involuntarily retired judge who is determined again able under section 390 to undertake judicial duties, may be designated and assigned by the chief judge or judicial council of his or her circuit, or the chief judge of his or her court, to perform such judicial duties within the circuit or in such court as that judge is willing and able to undertake.".

(b) Section 294(e) of title 28, United States Code, is amended to read as follows:

"(e) Neither a Justice or judge who has voluntarily retired nor a judge who was involuntarily retired but has been determined again able under section 390 to undertake judicial duties shall perform judicial duties, except as specifically designated and assigned.".

MISCELLANEOUS

SEC. 5. (a) Section 569(b) of title 28, United States Code, is amended by inserting "and of the Court on Judicial Conduct and Disability and the Judicial Conduct and Disability Commission under chapter 18 of this title" immediately after "Canal Zone.".

(b) Section 604 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(f) The Director shall provide facilities and pay necessary expenses incurred by the Judicial Conduct and Disability Commission under chapter 18 of this title, including mileage allowance and witness fees, at the same rate as provided in section 1821, and fix the compensation not otherwise fixed by law of employees, experts, and consultants of the Commission.".

(c) Section 610 of title 28, United States Code, is amended by striking "the Customs Court." and inserting "the Customs Court, and the Court on Judicial Conduct and Disability.".

SEPARABILITY

SEC. 6. If any provision of this Act or any amendment made by this Act, or the application of such provision or amendment to any person or circumstances, shall be held

invalid, the remainder of this Act or such amendment or the application of such provision or amendment to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

AUTHORIZATION

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out this Act, and the amendments made by this Act.

EFFECTIVE DATE

SEC. 8. This Act shall become effective on October 1, 1980.

Mr. NUNN. Mr. President, first let me thank my colleague from Arizona and my colleague from South Carolina for the diligent work and tremendous job they have both done in bringing this bill to the floor.

I make it absolutely clear from the beginning of my discussion of the substitute that if my substitute fails, I will vote for the bill that is now before the Senate. I think it is a step in the right direction. I think it is a strong step in the right direction. I do not believe it goes as far as we should go, and I am hopeful that the Senate will pass my amendment as a substitute. I know the Senator from Arizona can speak for himself, but I also realize that he, along with the Senator from South Carolina, last year supported this bill, the substitute, which I am now offering. It was then in another form but it did pass the Senate in September of last year. I believe it was then known as S. 1425.

What I am proposing today as the substitute is almost identical to the bill that passed the Senate last year.

I regret that, as one of the cosponsors of this legislation and an advocate of judicial tenure reform since my first year of service in this body, I am now compelled to offer an amendment in the nature of a substitute to S. 1873, the Judicial Conduct and Disability Act of 1979. I am compelled to this action, because I believe this legislation which we are considering today is only a half loaf compared to the progressive action of this body taken last year when we passed, on September 7, S. 1423, the Judicial Tenure Act of 1978. That act—which established a procedure in addition to impeachment for the retirement of disabled justices and judges of the United States, and the removal of justices and judges whose conduct is or has been inconsistent with the constitutional standard of good behavior—represented the climax of a decade's struggle for this much needed judicial improvement.

The Judicial Tenure Act of 1978 set up a procedure within the Federal judiciary to investigate allegations that a Federal judge was not conforming to the constitutional standard of good behavior or that a judge was suffering from a permanent mental or physical disability that seriously interfered with the performance of his official duties.

The procedure for the processing of complaints directed against Federal judges contained in the present committee bill does not include the sanction of removal for judges who have been found to violate the constitutional standard of judicial conduct nor provide for the involuntary retirement of judges who have become physically or mentally incapacitated. Because I believe that the inclusion of these sanctions is essential to any meaningful judicial tenure reform, I have offered a substitute for S. 1873 which will incorporate such procedures.

My amendment also differs from the committee bill in that it includes justices of the Supreme Court under its provisions.

Due to the uniqueness of the Supreme Court, as compared to other article III courts, the proposal establishes a slightly different procedure for complaints filed with the Commission regarding the conduct of a justice. Upon filing a complaint with the Judicial Conduct and Disability Commission, the Commission can either dismiss the case or initiate an investigation. If the Commission finds sufficient evidence that the conduct of the justice may be inconsistent with the good behavior requirement of the Constitution, it recommends to the House of Representatives: First, the censure of any justice whose conduct is found inconsistent with the good behavior clause; second, the impeachment of any justice whose conduct is found to be an impeachable offense; or third, orders the dismissal of the case.

Another major difference between my amendment and the committee bill deals with retirement. Under my substitute, the Judicial Conduct and Disability Commission may order the involuntary retirement of a judge who is eligible to retire and who is found unable to efficiently discharge his duties because of a physical or mental disability, subject to review by the court on judicial conduct and disability. The committee bill simply restates existing law in this area, which does not provide for the ordering of involuntary retirement.

A final difference that I would like to note between my amendment and the committee bill involves the procedure whereby complaints are handled. The committee bill provides that the initial investigation and disposition of a complaint would be processed by the judicial council of the circuit of the judge against whom the complaint was filed. My amendment, however, would create a new body to handle the initial investigation and disposition of a complaint. This new creation, the Judicial Conduct and Disability Commission, would be composed of one judge from each Federal circuit and one judge selected collectively from the three special national courts.

Mr. President, we all must recognize the unfortunate fact that public confidence in government has ben eroded over the past few years for many reasons, and it will continue to decline unless affirmative steps are taken, in each branch of government, to stimulate renewed trust in public officials and institutions. It is imperative that all governmental officials act to restore and maintain the public trust. I believe very strongly that in no branch of government is public confidence and respect more vital than in the Federal judiciary.

It would be exceedingly shortsighted to focus reform efforts on insuring that members of the executive and legislative branches of our Federal Government conform to legal, moral and ethical standards of the highest order and, at the same time, to ignore the conduct and capabilities of members of the branch of government which possesses the authority to interpret, delay, and discontinue the actions of the other two. As former Attorney General Griffin Bell stated during past hearings on judicial tenure:

> We are living in a time when our public institutions are under examination and the courts are not exempt. A citizen should be afforded a clear method for complaining against the courts.

Our appointed Federal judges enjoy a high degree of independence; they are not required to answer periodically to the electorate, as are the President and Members of Congress. Although the need for a substantial degree of judicial independence is clear, experience has vividly demonstrated that no one person, or group of people, can be assumed perfect and therefore left completely unchecked. Despite the overall competence and integrity of members of the Federal judiciary, an occasional judge does misbehave or become physically or mentally disabled and yet continues to exercise the authority of his office. This problem has motivated my study of the subject of judicial tenure and discipline and my introduction of this legislation.

Historically, the sole procedure which has been employed to remove a Federal judge who has misbehaved, or is disabled, for one reason or another, has been the impeachment power which is housed in articles I and II of the Constitution. A few selected statutory provisions, which generally provide administrative authority with regard to the operation of the Federal judiciary, have also been suggested as potential sources of additional disciplinary authority.

The recent enactment of the Federal Omnibus Judgeship Act has resulted in an increase of 152 authorized district and court of appeals judgeships which, together with approximately 170 judges who have assumed senior status, creates over 850 article III judges. Future forecasts by the Federal Judicial Center estimate that there will be a need for 1,000 district judges and 250 circuit judges by 1990. It is equally unreasonable to assume that there will be either no further violations of the constitutional standard of good beheavior by these judges or that the House or Senate could or should lay aside all legislative business for weeks or months in order to impeach and try an obscure yet misbehaving judge.

The analogy of impeachment to a heavy piece of artillery, which was made by Lord Bryce, is eminently appropriate. The impeachment procedure is cumbersome and ponderous and is only practical in the most serious and flagrant cases of abuse. As a result, indiscretions which should be addressed are regularly ignored. Commonsense requires that a balance be struck between the necessity for institution of impeachment proceedings and the resultant interruption in the important legislative process. There must be a logical relationship between

the importance and power of the respondent and the time required by the House to impeach and the Senate to conduct the trial.

History has borne out Thomas Jefferson's characterization of impeachment as an "impractical thing" and a "mere scarecrow." Over the course of our 200 years as a Nation, only 54 judges and one justice have been officially investigated. Of these only eight judges and one justice have been successfully impeached by the House, resulting in the conviction and removal of a mere four judges in two centuries. The last impeachment and conviction occurred in 1936. While I am among the first to appreciate the overall quality of the Federal bench, it seems unreasonable to assert that only four Federal judges in our history have misbehaved or been disabled. On the contrary, the record is filled with substantial allegations levied against judges who continued to serve on the Federal bench.

I think we also should look at the question of what happens in the impeachment procedure when it does take place.

The facts clearly demonstrate that impeachment has not been utilized to insure compliance with the constitutional standard of "good behavior" imposed on the Federal judiciary by article III. Moreover, except in the most flagrant and publicized cases, it is questionable whether impeachment is an appropriate means through which to decide the merits of such serious allegations. Examination of the fifth amendment and its due process safeguards raises some interesting questions regarding the propriety, if not the constitutional sufficiency, of a trial where, as former Congressman Hatton Summers described the scene—

> At one time only three Senators (jurors) were present and for 3 weeks we presented evidence to what was practically an empty Chamber.

A point of view which is too often ignored is that of the accused judge. There is no question that society's rights must be protected, but is impeachment, with its attendant public humiliation and loss of pension a proper remedy to address the problem of a senile or disabled judge who has served well but fails to recognize that the time to step down has arrived?

I believe that a thorough analysis of the impeachment procedure leads one to the inevitable conclusion that, in practical as well as legal terms, impeachment has not insured and cannot effectively insure judicial compliance with the constitutional "good behavior" standard; Woodrow Wilson stated this premise most succintly as follows:

> Judging by our past experiences, impeachment may be said to be little more than an empty menace.

In their report accompanying this bill, the Judiciary Committee recognizes that the impeachment process has become unduly cumbersome and ineffective. But while this report explicitly states that the impeachment of a judge requires more time than either the House of Representatives or the Senate may realistically be able to provide; under this piece of legislation, impeachment remains the only method for the removal of a judge who is engaged in illegal or unethical conduct.

The purpose of my substitute amendment is to provide a mechanism within the judicial branch itself to enforce the good behavior standard which is imposed on the Federal judiciary by article III, section 1, of the Constitution. It establishes a procedure to investigate allegations that Federal judges have failed to exercise good behavior or charges that a judge is suffering from permanent physical or mental disability that seriously interferes with the performance of his duties. I believe this amendment represents a comprehensive and reasoned approach which, if enacted, would address many of the insufficiences in judicial discipline which I have described.

Constitutional questions have been continuously raised by those who oppose creation of a procedure which would allow meaningful implementation of the good behavior standard. My intention is certainly not to cut off constructive discourse on the subject; however, the time has come to recognize the practicalities of this issue and to examine it in a broad perspective with reason and logic. Opponents rely upon the assertion that impeachment is the solitary means of removal permissible under the Constitution. I believe that it is productive to examine exactly what the Constitution says on this issue—and, what it does not say.

The Constitution does say in article I, that the Houses of Congress shall have the sole powers of impeachment and trial of all civil officers. It does not say, however, that Congress shall have the sole power of removal of these officers. As a matter of fact, it was determined early in our Nation's history that lesser executive branch officials could be removed by order of the President. The Supreme Court ruled in 1897 that the President had the authority to remove a U.S. Attorney despite the fact that the impeachment clause provides for the removal of civil officers. How can it reasonably be argued that impeachment is exclusive with regard to some civil officers, such as judges, and not exclusive with regard to others? Moreover, if the framers had intended impeachment to be the sole method of removal, it would have been a simple matter to employ specific language to that effect.

It is interesting to note that the extreme remedy of impeachment is provided for in article I, the legislative article, and article II, the executive article. No mention of this procedure is made in article III, the judicial article. In view of the fact that the debate by the framers on the subject of impeachment focused almost totally on the President and that the term civil officers was included almost as an after thought, one could easily assume that the framers intended to further address the subject of tenure of Federal judges in the appropriate place, article III.

Our Federal system of Government is predicated upon the doctrine of separation of powers. The interrelating system of checks and balances was devised by a group of men concerned by abuses produced through the dominance of one branch of government, the English monarchy, over the remaining two branches.

They took great care to provide elaborate safeguards to insure against history repeating itself in the American Government by formalizing the separation of powers doctrine. I believe that impeachment of Federal judges was authorized, not as an exclusive means of disciplining the judiciary, but rather as one of the limited checks by one branch of government on another.

Impeachment was not intended to preclude the judiciary from disciplinig itself; rather it was intended as a carefully circumscribed exception to the doctrine of separation of powers to be used in extreme cases of abuse or as a safeguard against judicial branch inaction.

If we accept the principle that impeachment of Federal judges is a limited authority granted to the legislative branch as part of the system of checks and balances it seems logical that the framers must have contemplated a disciplinary mechanism that would be available for less than extreme cases of abuse and in the normal course of maintaining the integrity and efficiency of the judiciary branch. This mechanism was contemplated and it was logically placed in article III of the Constitution.

Prof. Raoul Berger, the noted constitutional scholar, who testified on behalf of this legislation during the 94th Congress has compiled a detailed analysis of the history and precedent on which the good behavior clause is based. In his testimony before the Subcommittee on Improvements in Judicial Machinery, Professor Berger documented the technical legal distinction between impeachment and good behavior tenure.

His analysis generates the unavoidable conclusion that the grounds for impeachment and the good behavior requirement are two distinct standards of conduct and that good behavior is a much more stringent standard than a prohibition against bribery, treason or other high crimes and misdemeanors. That is, not all forms of bad behavior constitute impeachable offenses. Professor Berger pointed out that impeachment, at common law, was a criminal proceeding brought by the House of Commons in the House of Lords on charges of "treason, bribery, high crimes, and misdemeanors." Berger further documented the fact that the term "high crimes and misdemeanors" had a limited technical meaning which referred to serious offenses and did not encompass all forms of misbehavior.

As the House Judiciary Committee wrote in their report on the grounds for impeachment during the Nixon impeachment deliberations:

> High crimes and misdemeanors has traditionally been considered a term of art . . . The Supreme Court has held that such terms must be construed, not according to modern usage, but acuording to what the framers meant when they adopted them.

Although the framers departed from the English model in separating the im-

peachment proceeding from a criminal proceeding, they intentionally retained the limited technical grounds of "high crimes and misdemeanors." Furthermore, there is no indication that the framers intended the impeachment provisions to be a complete recitation of the causes justifying removal from office.

In contrast to impeachment, removal for breach of "good behavior" was a judicial, not legislative proceeding. Good behavior tenure originated in the Act of Settlement in 1700 in an effort to isolate the judiciary from the arbitrary whims of the monarch. Professor Berger points out that the words "good behavior" in all commissions and grants, public and private, imparted an office or estate for the life of the grantee terminable only by his death or breach of good behavior.

This termination was declared by the judiciary in a civil proceeding for forfeiture of the office which was initiated by a writ of scire facias. Its sole objective was to remove the existing officer with no penalties or disqualifications involved.

When the framers employed "good behavior," a common law term of ascertainable meaning, with no indication that it was being used in a novel fashion, they must have assumed the inclusion of similar procedures for its implementation. Such an assumption is supported by Madison's explanation to the Virginia Ratification Convention that "where a technical word was used all the incidents belonging to it necessarily attended."

Mr. President, I am not saying that the House Judiciary Committee is the final judge of what good behavior means and what the overall impeachment clause means regarding the distinction between high crimes and misdemeanors and good behavior. I do believe, though, that this body should pay close attention to the House Judiciary Committee deliberations. Certainly they spent more time and went into more detail as to what impeachment means, what high crimes and misdemeanors mean, and what the other terms in the Constitution mean, than probably any other group of legislators in this century, when they examined the overall impeachment of President Nixon.

A gap between the two standards, "good behavior" and the grounds for impeachment must, therefore, exist. To assume otherwise would be to claim that the grounds for impeachment and good behavior tenure are the same and thereby render the good behavior clause meaningless. The longstanding constitutional principle that no clause in the Constitution is intended to be without effect will not permit this result. Therefore, an alternative method to impeachment to accomplish the removal of Federal judges must have been contemplated by the framers to provide for the removal for misbehavior or disability less serious than an impeachable offense but in derogation of the good behavior standard. The substance of what constitutes "misbehavior" may be open to interpretation but it is completely clear that procedurally, "good behavior" was a term involving the judicial process, and that is why it was placed in the judicial article.

In light of the evidence, it certainly cannot be logically maintained that the framers would have rejected a process of judicial removal other than impeachment. It seems apparent that the term "good behavior" was employed with the eminently logical intention of providing a disciplinary means, within the judicial branch itself, in addition to the power authorized to the legislative branch through impeachment. Simple logic indicates that if an office is conferred during good behavior it is relinquished upon bad behavior and some means of enforcing that end must be available.

Some commentators assert that the enactment of legislation of this nature would dramatically dilute the independence of our Federal judiciary. Arguments of this kind are superficial and misleading. Judicial independence, a principle which we all agree is a precondition to an effective system of justice, has historically referred, not to the independence of judges from one another but rather to the independence of the judiciary as an institution from other branches of Government.

The assertion that a disciplinary mechanism, totally restricted within the judiciary, infringes on judicial independence simply does not make sense.

The time has come to recognize the practicalities of the issue and to examine it in a broad perspective with reason and commonsense. It is clear that impeachment, in practical terms, is not an effective disciplinary mechanism. It is clear that the existing statutory authority is ambiguous and insufficient in this regard. It is clear that substantial authority exists indicating that the procedure which I propose in this amendment is constitutional.

I believe this amendment fashions the most appropriate mechanism for defining and dealing with judicial unfitness by accommodating both the need to preserve judicial independence and the need to deal with judges who cannot or will not properly discharge the functions of their office.

Mr. President, let us do what we have set out to do. Let us establish, as the committee proposes, a "simple and clear procedure for the resolution of alleged disability or misconduct of a Federal judge." Let us provide a mechanism to accomplish, in fact, the purposes that I believe we all agree upon in principle.

Unless we give the Court on Judicial Conduct and Disability the authority and the power to back up its words with action, I believe that we will have fallen short of our goal.

Mr. President, I would like to add, by unanimous consent, the name of the Senator from Oklahoma (Mr. BOREN) as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, unless there are questions, I will yield the floor.

Mr. DECONCINI. Mr. President, I believe the record will show that the Senator from Georgia has been a leader in this particular legislation. When I came to the Senate in the 95th Congress I became interested in the subject matter and I found out that the Senator from Georgia had, indeed, pursued this matter in the 94th Congress and had drafted legislation. I was very pleased to join Senator NUNN at that time, as I have with this particular bill that we have today.

The Judiciary Committee carefully considered the substitute bill and various other drafts of provisions which would include removal. Quite frankly, this Senator has feelings along the lines of the Senator from Georgia. But it was the strong consensus on both sides of the aisle that the compromise legislation which was before us prior to the substitute was what was most practical and most realistic for this body to give serious consideration to, and it was reported by the committee.

I do not think the Senator from Georgia has really lessened at all the significance of the Judicial Tenure Act. Though the removal provisions in the bill reported by the Judiciary Committee were not included, indeed that bill is truly the Nunn bill. It has almost all of the functions that were introduced in the 94th Congress by Senator NUNN and myself. It goes toward the real problem of having some kind of responsibility placed on the Federal judiciary within the Federal judiciary. It is a realistic approach.

The Nunn substitute today is also a realistic approach, from this Senator's point of view.

The Judiciary Committee, however, felt otherwise and followed the Senator from Georgia's commitment to a disciplinary procedure and having sanctions available but would not proceed far enough along the line to include the removal provision.

I think history will show, whether this becomes enacted into legislation or not, that the Senator from Georgia, because of his persistence, because of his very, very eloquent arguments, and his ability to research the subject matter extremely well, provided the momentum today that brings us to the floor of the Senate to debate a judicial tenure act, which is, in my judgment, as expressed before, absolutely necessary.

Mr. President, I yield the floor.

Mr. NUNN. Will the Senator yield 10 seconds to me?

Mr. DECONCINI. I yield.

Mr. NUNN. Mr. President, my senior colleague from Georgia (Mr. TALMADGE) has been a cosponsor of this legislation since 1974 and has been one of the prime movers behind this legislation. I ask unanimous consent that his name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. BAYH. Mr. President, I would like to add my word of gratitude to the Senator from Georgia and, indeed, to our colleague from Arizona for the special attention they have given over a good, long period of time to the matter which is now before us.

I say that without the slightest cynicism or twinge of sour grapes I hope my two friends realize my sincerity. I believe they have alerted us to this problem, and they have really provoked us and prodded us on the Judiciary Committee to give more serious attention to this than otherwise would have been the case.

I think both of my friends know that from the time we discussed this measure last year the Senator from Indiana has had a differing opinion with them on the correct course to follow. I find myself more in tune with and supporting the bill which was reported by the committee than the course of action suggested by our distinguished colleague from Georgia and supported by our colleague from Arizona.

(Mr. HARRY F. BYRD, JR., assumed the chair.)

Mr. BAYH. It seems to me we have a dual goal to accomplish here and we are treading a very narrow line, walking through a minefield which is rather carefully camouflaged. We do a good deal of discussing in debate about what history has shown or what our constitutional fathers intended. But if, indeed, that intention is as clear as it has been articulated here today, it is difficult to find it written anyplace in the constitutional debates. Indeed, precedent for it is almost nonexistent.

Of course, on the one hand, I believe all of us understand the critical importance in our system of Government of maintaining the independence of the judiciary. Regardless of how we want to get at the judge who is not doing his job, I think every one of us understands that we must avoid the temptation of weakening the independence of the judiciary. That has been one of the solid foundation blocks, cornerstones, of our free system.

We have to look no further back than the moment of Watergate to see that independence displayed at its finest where you had a Republican judge by the name of Sirica appointed by a Republican President by the name of Eisenhower, and who, because of his independence and his courage, was able to stand up and say to another Republican, "Mr. President, in all respect, this is not the way I see the Constitution."

Whether they are Republicans or Democrats, I want us to maintain that kind of independence for judges. I want us to avoid the temptation that might come within the judiciary to find a way to discipline someone who had fallen out of favor, who might have been a little different than the other judges thought he should be.

That, It seems to me, is on one side of the scale, the independence of the judiciary.

On the other side of the scale is also a very important goal, that of finding a way to ascertain when judicial conduct, judicial performance, is realy jeopardizing the administration of justice. If we look at the large number of Federal judges who presently serve, I think we have to admit that most or nearly all of them serve very well, but, on occasion, I suggest on very rare occasions but on occasion, there have been those who have created real problems in their districts or circuits. The question is how we get at those relatively few who have created problems without creating a larger problem of eroding the independence for the many who are doing their job and doing it rather well.

My good friend from Georgia—quoted an authority for the proposition that impeachment is heavy artillery. Indeed it is heavy artillery. It is the ultimate sanction. But one thing we have to say about impeachment is that it is constitutional. There is no question about whether it is constitutional or not. With all due respect to those who might disagree, we do not have any test on any course of removal so far as constitutionality is concerned.

Mr. NUNN. I submit to my colleague—first, let me say how thankful I am that he has taken the interest in this legislation that he has. I went back and read—I guess we had about a 4-hour debate last year on this same subject. I found it instructive. The opinion of the Senator from Indiana I value greatly, particularly on constitutional matters.

I submit, as I did last year, that none of us is going to be able to determine on the floor of the Senate the question of constitutionality. There are arguments on both sides, historically and otherwise. I believe it is constitutional. I think those who believe it is unconstitutional will and should vote against it. I believe that, for those who are in doubt, the best way is to pass the legislation and let the Supreme Court decide.

I submit to the Senator from Indiana that if the Federal judges of this country felt that this was unconstitutional, they would not have been on the telephone the last 10 days calling everybody in the U.S. Senate.

I do not know whether it is finally, in the long run, going to be ruled constitutional or not. But I do know there are an awful lot of Federal judges in this country who must believe it is constitutional; otherwise, they would not have been lobbying so hard against it. I must say they have done a pretty effective job of it, but if we do not resolve the constitutionality, I believe we should at least take notice of the fact that there are a great number of Federal judges who believe it is constitutional. Otherwise, they would simply lie back and wait for the Supreme Court to so adjudicate.

We cannot solve that issue today. I do believe myself that it is constitutional, although I must add again that I greatly respect the knowledge and the study that the Senator from Indiana has given this and other constitutional issues. I believe we have a rather complete legislative history of the varying views on that from last year's RECORD.

Mr. MATHIAS. Will the Senator from Indiana yield to me for just a moment to ask a question of the Senator from Georgia?

Mr. BAYH. I should be glad to. I might observe that there are at least twice as many Senators on the floor now listening to our debate as there were last year when we had that 4-hour mind-expanding dialog on the constitutionality of this issue.

Mr. NUNN. I am sure they all read it in the CONGRESSIONAL RECORD.

Mr. BAYH. I would not like to bet on that.

Mr. MATHIAS. I did not want to interrupt the train of thought of the Senator from Indiana. I am sure the Senator from Georgia would not want the possibility to stand that he had precluded the fact that perhaps the Federal judges who may have made a call, if any did, were merely trying to save us from error and were not, in fact, implying that they felt that if we slipped into this error, we were passing a constitutional bill. They may have felt that it is so unconstitutional that they wanted to save our reputations as constitutional lawyers.

Mr. NUNN. I must say to my good friend and colleague from Maryland that I considered thoroughly that possibility and I reject it.

Mr. BAYH. Which shows again that this body has room for differing opinions on almost everything.

Mr. President, I, too, have had some rather serious discussions with judges from my State and other States about this matter.

The Senator from Maryland has an outstanding jurist whom I talked with. I am persuaded that at least the judges I have talked to are deeply concerned about the constitutional question. They come at it from a perspective of those who are working within the judiciary who probably have a pretty good idea of the kind of peer pressure that they fear might be exerted on judges to decide cases on something other than their independent judgment if there were the possibility of removal.

Here again, I get back to the question that concerns me, how we maintain the independence of the judiciary and still get those judges who may have gone to seed, who may have stopped serving effectively as judges, how we deal with those individuals in ways short of impeachment and preserve the right of impeachment to this body.

I do not accept the contention that the way to determine constitutionality is to whip out here and pass something and then let the Supreme Court decide whether it is constitutional or not, particularly since it is this body, which is the jury of impeachment. I am not prepared to let the Supreme Court alone determine the constitutionality of that, because I feel very strongly that our Founding Fathers intended for the elected representatives of the people, in the House and in the Senate, to play the critical role in determining how people should be extricated from office by the method they called impeachment.

My statement that impeachment was constitutional, even though it was heavy artillery, but that we had no other basis for removal that had been declared constitutional was made because, as I look at history, that is true. That is the only way we have removed people from office, through impeachment. There have been no other means available to us.

I am not suggesting that the Senator from Indiana has infinite wisdom and can look into the minds of our Founding Fathers and that there might not have been something else in their minds, but I must say I have difficulty finding an intention that there were other means of removal. We are told that impeachment is designed to be preserved for major infractions—high crimes and misdemeanors.

However, if one would care to look at history and look at the early Congress, which contained some of those Founding

Fathers that wrote the Constitution, he will find that, in those early days, misdemeanors were almost synonymous with misbehavior. In fact, if you look at 1804, you find that Judge John Pickering was impeached and convicted on several charges, including drunkenness and blasphemy. I do not call that high crimes and misdemeanors.

We look further and see that Judge John English was impeached but subsequently resigned for conduct bringing the administration of justice into contempt and disgrace.

Certainly, that is an all-encompassing kind of description that, I suppose, could include high crimes and misdemeanors, but it certainly would not necessarily do so.

We find that in 1936, the Senate convicted Judge Halsted Ritter on a count of misbehavior.

So we have found that impeachment has been used as a vehicle to remove judges who, the Congress—House and Senate—had thought, had misbehaved or were guilty of misbehaving.

With all respect to Prof. Raoul Berger, I must say that I think the preponderance of constitutional thought and writing on this score would disagree with him. I say that with all respect. Most of the constitutional writing I find comes down on the side of good behavior being interpreted a different way.

I cite very quickly, as a reminder to my colleagues, what article III, section 1 says:

> The Judges, both of the Supreme and inferior courts, shall hold their offices during good behavior.

What does "good behavior" mean? If one looks at the historical precedent of the times, one finds that the normal way of appointing judges was at the sufferance of the King, at the pleasure of the King. In fact, there was the Act of Settlement in England in 1701, and in the specific charges made against the King himself by our Founding Fathers in the Declaration of Independence, they were after that particular way of appointing judges, namely, at the King's pleasure. So it is the opinion of the Senator from Indiana, I must say supported by constitutional scholars and authorities who know a good deal more about it than the Senator from Indiana, that rather than good behavior as we interpret it—namely, not misbehaving—good behavior was to be an alternative to serving at the pleasure of the King. In other words, judges could serve there for lifetime subject to the impeachment provisions.

I have already spoken longer than I intended to. I think we have all had a chance to look at last year's debate, and I will not get into an extended discussion of the writ of scire facias. But I must say that I think if anyone cares to follow the history of that procedure, we would have to grant that writ has never been granted, has never been utilized in this country, or in the old country from which it came, to remove a judge.

Indeed, that writ was used to remove relatively insignificant, nonconsequential officeholders. There is very little to sustain that our Founding Fathers when they wrote the Constitution even knew about that writ because it was not in the constitution of any of the States.

It has not been used to this date to remove a judge.

So, with all respect, I find that a very slender reed to suggest that misbehavior, as the opposite of "good behavior," is a vehicle to circumvent the removal by impeachment.

I like what I think is a very delicate balance contained in the measure that has come through the Judiciary Committee, S. 1873. I had certain other ideas of my own which were in another bill, but dropped in this bill, perhaps because they were not as good as those presently contained. However, some of the ideas the Senator from Maryland and I had in our proposal are in S. 1873, along with the ideas of the Senator from Massachusetts, and some of our other colleagues.

But I think this is a pretty good compromise. What it does is let the Federal judiciary clean up its own act, to discipline judges and get them on the stick, so to speak, to use a very nonjudicial term, except when the grievance is sufficient that they ought to be removed, and if they are going to be removed, then, of course, it will be done by the Congress.

But the court of judicial conduct is going to bring this kind of conduct to the attention of the House. It seems to me that has been one of the shortcomings of the present procedure, that there has not been anything to prod the House to move in the isolated instances where it seems, perhaps, the procedure should be utilized.

So, to cease any further prolongation of this discussion from the Senator from Indiana, it seems to me that the report language and the bill from the Judiciary Committee permit the judiciary to clean its own house and thus maintain its independence. It has the means to discipline judges: temporarily to remove their caseloads, to try to persuade them to retire, to censure them and do other kinds of things short of impeachment.

At the same time the bill allows the judges to remind the House that here is a critical case of misconduct in which a judge should be impeached. Then it is our responsibility, it seems to me, in the House and in the Senate, to exercise the responsibility we have under article 1, section 2 and section 3.

One last thought. In talking to judges I think I have gotten a little better idea of some of the pressure that judges are under than I did before. I am sure no one fully appreciates this kind of pressure unless he or she has had a chance to wear judicial robes.

But we are used to pressure in this body, pressure from a constituency which elects us and to which we sometimes yield rightly, and somtimes we are tempted to yield at the wrong time.

I feel that we are of the mistaken impression that judges are not under similar pressure just because they are not elected.

From talking to judges, I have come to the conclusion that the opinion of the Senator from Maryland and the Senator from Maryland last year is closer to right than we dared believe, that if we give to judges the right to remove other judges from office, we are then going to create a peer pressure on judges to conform, to make decisions based on what their peers might feel is right and wrong, or constitutional, rather than what they themselves feel is right or wrong, or constitutional.

Frankly, I do not want that to happen. Although I have not always agreed with the Supreme Court or the various district court judges in my State, I think the present system gives them the kind of independence they need and should have under our Constitution. I think that is critical if we are to have justice meted out on a scale without political pressure.

Mr. President, I yield the floor and I thank my colleagues for their tolerance.

Mr. NUNN. Will the Senator from Maryland let me have the floor for about 30 seconds?

Mr. MATHIAS. Yes.

Mr. NUNN. Mr. President, I ask unanimous consent that the Senator from Florida (Mr. CHILES) and the Senator from Wyoming (Mr. SIMPSON) be added as cosponsors to my substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

Mr. MATHIAS. Mr. President, at an earlier point in the debate today the Senator from Georgia (Mr. NUNN) asked the question of the Senator from Alabama, what would we do about a senile judge?

I promised him before the afternoon was over I would tell him what we do about a senile judge.

In order to give him that answer, I would refer him to title XXVIII of the United States Code at section 372(b), because right there the law tells us what to do about a senile judge.

The law provides that whenever the President finds that a judge is unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge is necessary for the efficient dispatch of business, the President may make such appointment by and with the advice and consent of the Senate.

I will not take the time of the Senate to read all of that section. But I ask unanimous consent that section 372(b) be printed in the RECORD at this point.

There being no objection, the section was ordered to be printed in the RECORD as follows:

SECTION 372

> (b) Whenever any judge of the United States appointed to hold office during good behavior who is eligible to retire under this section does not do so and a certificate of his disability signed by a majority of the members of the Judicial Council of his circuit in the case of a circuit or district judge, or by the Chief Justice of the United States in the case of the Chief Judge of the Court of Claims, Court of Customs and Patent Appeals, or Customs Court, or by the chief judge of his court in the case of a judge of the Court of Claims, Court of Customs and Patent Appeals, or Customs Court, is presented to the President and the President finds that such judge is unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge is necessary for the efficient dispatch of business, the President may make such appointment by and with the advice and consent of the Senate. Whenever any such additional judge is appointed, the vacancy subsequently caused by the death, resignation, or retirement of the disabled judge shall not be filled. Any judge whose disability causes the appointment of an additional judge shall, for purpose of precedence, service as chief judge, or temporary performance of the duties of that office, be treated as junior in commission to the other judges of the circuit, district, or court. As amended May 24, 1949, c. 139, § 67, 63 Stat. 99; Feb. 10, 1954, c. 6, § 4(a), 68 Stat. 13; Sept. 2, 1957, Pub. L. 85-261, 71 Stat. 586.

Mr. NUNN. If I may respond briefly to my colleague from Maryland, I agree with that section. As the Senator knows, to certify disability basically takes the caseload away, as I understand it, and at least the thinking is that it can be done constitutionally.

I would simply submit to my friend from Maryland that that is tantamount to, in many respects, removal. I think it would be so from a constitutional point of view.

I submit that if section 372(b) is constitutional, the Nunn substitute is also constitutional. But I know, of course, that gets into a matter of opinion.

Mr. MATHIAS. I think the Senator would take note of the fact that that is a statute which has been on the books for some time. It has been used, I believe, on four occasions, and it has not been challenged.

I am sure a constitutional purist could find objection. But, nonetheless, it has stood the test of a generation. It was passed, I believe, about 25 years ago. It is on the books.

Now, if there is, in fact, a constitutional question about it, then I would say it raised a very serious question as to whether we ought to go on and adopt the pending amendment, which raises further constitutional questions.

Mr. NUNN. I do not think there is a constitutional question about it. I believe it stands on the basis of the same constitutional foundation that the Nunn substitute stands on, also the DeConcini bill that is before the Senate. I think they all would rise or fall on the same constitutional basis.

Mr. MATHIAS. It is on these conscientious differences of opinion that we are able to maintain the court system.

Mr. President, there is an extremely interesting discussion of this question in the Yale Law Journal for this year, volume 88, 1979, at page 681, written by Judge Irving Kaufman. Judge Kaufman says:

> If the disability is permanent, the judge will often recognize it and retire. If he does not, his fellow judges may—unless he is a Supreme Court justice—invoke 28 U.S.C. § 372(b) by certifying the judge's disability to the President and authorizing him to appoint an extra judge.

This is the point that Judge Kaufman makes which I think the Senate should note with care. He says:

> This statute, it should be noted, was framed with sedulous regard for constitutional limitations.

This is the difference I think the Senator from Georgia will find between section 372 and his amendment.

It does not act against the judge; it does not attempt to remove or discipline him. It fulfills one entirely proper purpose: to ensure that the bench has its full complement of able members so that it may administer justice properly.

Judge Kaufman goes on to say:

> Recognition of the constitutional infirmities that would attend any procedure dissolving the lines between the branches of government has dissuaded Congress from attempting to design a legislative removal procedure simpler than the extraordinary one of impeachment. But the proponents of facile removal believe that at last they have found the solution to their frustrations. They have embraced the notion that all constitutional impediments might be avoided by establishing the disciplinary power within the judiciary itself. This has been the conception behind the series of judicial tenure bills introduced over the last decade—including the one recently passed by the Senate.

I think that speaks very eloquently to the pending amendment, but I believe that the philosophical background which Judge Kaufman notes is also worth noting. He says:

> The federal legislature, it is important to note, is not hierarchical, and the executive is not collective at the top. Only the judiciary, which because of its independence provides its own corrective mechanism, protects against its own errors by both hierarchical structures and collective decisionmaking. These are effective mechanisms, designed only to correct, not to punish: they act only against judge's opinions and decisions, and not against him personally.

Of course, the pending amendment does act against the judge personally. It violates the philosophical background which is concisely stated by Judge Irving Kaufman.

Mr. President, we have had a great deal of discussion today about the constitutional history, and I do not think it needs a great deal of further exposition. But I do think we have to recognize that we are reacting today as our predecessors have reacted over a long period of history, in attempting to secure judicial independence.

One of the most famous instances in history in which we moved toward a concept of judicial independence was occasioned by the removal of Sir Edward Coke, who had angered King James in 1616. In order to end such instances of judicial dependence, the British Parliament passed the Act of Settlement in 1701, which provided that judges' commissions be made during good behavior and their salaries ascertained and established, but upon address of both Houses of Parliament, it may be lawful to remove them. That was a tremendous step forward. That meant that you could not have the removal of a judge as King James removed Sir Edward Coke.

While this Act of Settlement was a major step toward judicial independence, it did not actually achieve an independent judiciary, because although judges were freed from the power of the throne, they were not freed from the power of Parliament.

The Founding Fathers of this Republic were fully conscious of this history, fully conscious of the threat to judicial independence posed by the procedure of the address to Parliament, and they specifically refused to incorporate it into our Constitution.

Although the British had opted for judicial tenure during good behavior, they failed to go beyond this, and they also failed to extend this measure of judicial independence to the colonial judges. That soon became a cause for discontent in the colonies and was one of the basic grievances which brought about the American Revolution.

Mr. President, I ask unanimous consent to have printed in the RECORD several brief documents of importance in American history which deal directly with this case. They are as follows: "Causes of the American Discontent," by Benjamin Franklin; the concerns of the inhabitants of Boston in 1772 to delineate their grievances against the British Government (as set forth in Smith, "An Independent Judiciary: The Colonial Background" 124 Univ. of Penn. L. Rev. 1104 (1976)) and a letter from the Pennsylvania Committee of Correspondence to Benjamin Franklin in 1768, commenting on the danger of tying judicial salaries to the Crown.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAUSES OF THE AMERICAN DISCONTENTS BEFORE 1768[1]

> The waves never rise but when winds blow.—*Prov.*
>
> SIR:—As the cause of the present ill-humor in America, and of the resolutions taken there to purchase less of our manufactures, does not seem to be generally understood, it may afford some satisfaction to your readers, if you give them the following short historical state of facts.
>
> From the time that the colonies were first considered as capable of granting aids to the crown, down to the end of the last war, it is said that the constant mode of obtaining those aids was by requisition made from the crown, through its governors, to the several assemblies, in circular-letters from the Secretary of State, in his Majesty's name; setting forth the occasion, requiring them to take the matter into consideration, and expressing a reliance on their prudence, duty, and affection to his Majesty's government, that they would grant such sums, or raise such numbers of men, as were suitable to their respective circumstances.
>
> The colonies being accustomed to this method, have from time to time granted money to the crown, or raised troops for its service, in proportion to their abilities; and during all the last war beyond their abilities, so that considerable sums were returned them yearly by Parliament, as they had exceeded their proportion.
>
> Had this happy method of requisition been continued (a method that left the King's

[1] This paper appeared in the *London Chronicle* of Jan. 7, 1768, and was reprinted the same year as a postscript to a pamphlet entitled *Sentiments of America*. For the circumstances which led to its publication see Franklin's letters to his son, dated Dec. 19, 1767, and January 9, 1768, and his letter to T. Wharton, Feb. 20, 1768. In the latter letter to his son he complains that the editor of the *Chronicle*, "one Jones," "has drawn the teeth and pared the nails of my paper, so that it can neither scratch nor bite. It seems only to paw and mumble."

subjects in those remote countries the pleasure of showing their zeal and loyalty, and of imagining that they recommended themselves to their sovereign by the liberality of their voluntary grants), there is no doubt but all the money that could reasonably be expected to be raised from them in any manner might have been obtained, without the least heart-burning, offence, or breach of the harmony of affections and interests that so long subsisted between the two countries.

It has been thought wisdom in a government exercising sovereignty over different kinds of people, to have *some regard to prevailing and established opinions* among the people to be governed, wherever such opinions might, in their effects, obstruct or promote public measures. If they tend to obstruct public service, they are to be changed, if possible, before we attempt to act against them; and they can only be changed by reason and persuasion. But if public business can be carried on without thwarting those opinions; if they can be, on the contrary, made subservient to it; they are not unnecessarily to be thwarted, however absurd such popular opinions may be in their nature.

This had been the wisdom of our government with respect to raising money in the colonies. It was well known that the colonists universally were of opinion that no money could be levied from English subjects but by their own consent, given by themselves or their chosen representatives; that, therefore, whatever money was to be raised from the people in the colonies, must first be granted by their assemblies, as the money raised in Britain is first to be granted by the House of Commons; that this right of granting their own money was essential to English liberty; and that, if any man, or body of men, in which they had no representative of their choosing, could tax them at pleasure, they could not be said to have any property, any thing they could call their own. But as these opinions did not hinder their granting money voluntarily and amply, whenever the crown by its servants came into their assemblies (as it does into its parliaments of Britain and Ireland) and demanded aids, therefore that method was chosen, rather than the hateful one of arbitrary taxes.

I do not undertake here to support these opinions of the Americans; they have been refuted by a late act of Parliament, declaring its own power; which every Parliament however, showed wisely so much tender regard to those inveterate prejudices, as to repeal a tax that had militated against them. And those prejudices are still so fixed and rooted in the Americans, that it has been supposed not a single man among them has been convinced of his error, even by that act of Parliament.

The person, then, who first projected to lay aside the accustomed method of requisition, and to raise money on America by stamps, seems not to have acted wisely, in deviating from that method (which the colonists looked upon as constitutional), and thwarting unnecessarily the fixed prejudices of so great a number of the King's subjects. It was not, however, for want of knowledge that what he was about to do would give them offence; he appears to have been very sensible of this, and apprehensive that it might occasion some disorders; to prevent or suppress which, he projected another bill that was brought in the same session with the Stamp Act, whereby it was to be made lawful for military officers in the colonies to quarter their soldiers in private houses.

This seemed intended to awe the people into a compliance with the other act. Great opposition, however, being raised here against the bill, by the agents from the colonies and the merchants trading thither (the colonists declaring that under such a power in the army no one could look on his house as his own, or think he had a home, when soldiers might be thrust into it and mixed with his family at the pleasure of an officer), that part of the bill was dropt; but there still remained a clause, when it passed into a law, to oblige the several assemblies to provide quarters for the soldiers, furnishing them with firing, bedding, candles, small beer or rum, and sundry other articles, at the expense of the several provinces. And this act continued in force when the Stamp Act was repealed; though, if obligatory on the assemblies, it equally militated against the American principle above mentioned, that money is not to be raised on English subjects without their consent.

The colonies nevertheless, being put into high good-humor by the repeal of the Stamp Act, chose to avoid a fresh dispute upon the other, it being temporary and soon to expire, never, as they hoped, to revive again; and in the meantime they, by various ways, in different colonies, provided for the quartering of the troops; either by acts of their own assemblies, without taking notice of the act of Parliament, or by some variety or small diminution, as of salt and vinegar, in the supplies required by the act; that what they did might appear a voluntary act of their own, and not done in due obedience to an act of Parliament, which, according to their ideas of their rights, they thought hard to obey.

It might have been well if the matter had then passed without notice; but, a governor having written home an angry and aggravating letter upon this conduct in the Assembly of his province, the outed proposer[2] of the Stamp Act and his adherents, then in the opposition, raised such a clamor against America, as being in rebellion, and against those who had been for the repeal of the Stamp Act, as having thereby been encouragers of this supposed rebellion, that it was thought necessary to enforce the quartering act by another act of Parliament, taking away from the province of New York, which had been the most explicit in its refusal, all the powers of legislation, till it should have complied with that act. The news of which greatly alarmed the people everywhere in America, as (it had been said) the language of such an act seemed to them to be: Obey implicitly laws made by the Parliament of Great Britain to raise money on you without your consent, or you shall enjoy no rights or privileges at all.

At the same time, a person lately in high office[3] projected the levying more money from America, by new duties on various articles of our own manufacture, as glass, paper, painters' colors, &c., appointing a new board of customs, and sending over a set of commissioners, with large salaries, to be established at Boston, who were to have the care of collecting those duties; which were by the act expressly mentioned to be intended for the payment of the salaries of governors, judges, and other officers of the crown in America; it being a pretty general opinion here, that those officers ought not to depend on the people there for any part of their support.

It is not my intention to combat this opinion. But perhaps it may be some satisfaction to your readers, to know what ideas the Americans have on the subject. They say then, as to governors, that they are not like princes, whose posterity have an inheritance in the government of a nation, and therefore an interest in its prosperity; they are generally strangers to the provinces they are sent to govern; have no estate, natural connexion or relation there, to give them an affection for the country; that they come only to make money as fast as they can; are sometimes men of vicious characters and broken fortunes, sent by a minister merely to get them out of the way; that as they intend staying in the country no longer than their government continues, and purpose to leave no family behind them, they are apt to be regardless of the good-will of the people, and care not what is said or thought of them after they are gone.

Their situation, at the same time, gives them many opportunities of being vexatious, and they are often so, notwithstanding their dependence on the assemblies for all that part of their support that does not arise from fees established by law; but would probably be much more so, if they were to be supported by money drawn from the people without their consent or good-will, which is the professed design of the new act. That, if by means of these forced duties government is to be supported in America, without the intervention of the assemblies, their assemblies will soon be looked upon as useless; and a governor will not call them, as having nothing to hope from their meeting, and perhaps something to fear from their inquiries into, and remonstrances against, his maladministration. That thus the people will be deprived of their most essential rights. That it being, as at present, a governor's interest to cultivate the good-will, by promoting the welfare, of the people he governs, can be attended with no prejudice to the mother country; since all the laws he may be prevailed on to give his assent to are subject to revision here, and, if reported against by the Board of Trade, are immediately repealed by the crown; nor dare he pass any law contrary to his instructions, as he holds his office during the pleasure of the crown, and his securities are liable for the penalties of their bonds if he contravenes those instructions. This is what they say as to governors.

As to judges, they allege that, being appointed from this country, and holding their commissions, not during good behaviour, as in Britain, but during pleasure, all the weight of interest or influence would be thrown into one of the scales (which ought to be held even), if the salaries are to be paid out of duties raised upon the people without their consent, and independent of their assemblies' approbation or disapprobation of the judge's behaviour. That it is true, judges should be free from all influence; and, therefore, whenever government here will grant commissions to able and honest judges during good behaviour, the assemblies will settle permanent and ample salaries on them during their commissions; but, at present, they have no other means of getting rid of an ignorant or an unjust judge (and some of scandolous characters have, they say, been sometimes sent them) left, but by starving them out.

I do not suppose these reasonings of theirs will appear here to have much weight. I do not produce them with an expectation of convincing your readers. I relate them merely in pursuance of the task I have imposed on myself, to be an impartial historian of American facts and opinions.

The colonists being thus greatly alarmed, as I said before, by the news of the act for abolishing the legislature of New York, and the imposition of these new duties, professedly for such disagreeable purposes, (accompanied by a new set of revenue officers, with large appointments, which gave strong suspicions that more business of the same kind was soon to be provided for them, that they might earn their salaries,) began seriously to consider their situation; and to revolve afresh in their minds grievances which, from their respect and love for this country, they had long borne, and seemed almost willing to forget.

They reflected how lightly the interest of all America had been estimated here, when the interests of a few of the inhabitants of Great Britain happened to have the smallest competition with it. That the whole American people was forbidden the advantage of a direct importation of wine, oil, and fruit,

[2] Mr. George Grenville.

[3] Mr. Charles Townshend.

from Portugal, but must take them loaded with all the expense of a voyage one thousand leagues round about, being to be landed first in England, to be re-shipped for America; expenses amounting, in war time at least, to thirty pounds per cent more than otherwise they would have been charged with; and all this, merely that a few Portugal merchants in London may gain a commission on those goods passing through their hands (Portugal merchants, by the by, that can complain loudly of the smallest hardships laid on their trade by foreigners, and yet, even in the last year, could oppose, with all their influence, the giving ease to their fellow subjects laboring under so heavy an oppression!). That, on a slight complaint of a few Virginia merchants, nine colonies had been restrained from making paper money, become absolutely necessary to their internal commerce, from the constant remittance of their gold and silver to Britain.

But not only the interest of a particular body of merchants, but the interest of any small body of British tradesmen or artificers, has been found, they say, to outweigh that of all the King's subjects in the colonies. There cannot be a stronger natural right than that of a man's making the best profit he can of the natural produce of his lands, provided he does not thereby hurt the state in general. Iron is to be found everywhere in America, and the beaver furs are the natural produce of that country. Hats, and nails, and steel are wanted there as well as here. It is of no importance to the common welfare of the empire, whether a subject of the King's obtains his living by making hats on this or that side of the water. Yet the hatters of England have prevailed to obtain an act in their own favor, restraining that manufacture in America; in order to oblige the Americans to send their beaver to England to be manufactured, and purchase back the hats, loaded with the charges of a double transportation. In the same manner have a few nail-makers, and a still smaller body of steel-makers (perhaps there are not half a dozen of these in England), prevailed totally to forbid by an act of Parliament the erecting of slitting-mills, or steel-furnaces, in America; that the Americans may be obliged to take all their nails for their buildings, and steel for their tools, from these artificers, under the same disadvantages.[4]

Added to these, the Americans remembered the act authorising the most cruel insult that perhaps was ever offered by one people to another, that of emptying our gaols into their settlements; Scotland too having within these two years obtained the privelege it had not before, of sending its rogues and villains also to the plantations. I say, reflecting on these things, they said one to another (their newspapers are full of such discourses):

"These people are not content with making a monopoly of us, forbidding us to trade with any other country of Europe, and compelling us to buy every thing of them, though in many articles we could furnish ourselves ten, twenty, and even to fifty per cent cheaper elsewhere; but now they have as good as declared they have a right to tax us *ad libitum* internally and externally; and that our constitutions and liberties shall all be taken away if we do not submit to that claim.

"They are not content with the high prices at which they sell us their goods, but have now begun to enhance those prices by new duties; and, by the expensive apparatus of a new set of officers, appear to intend an augmentation and multiplication of those burdens that shall still be more grievous to us. Our people have been foolishly fond of their superfluous modes and manufactures, to the impoverishing our own country, carrying off all our cash, and loading with debt; they will not suffer us to restrain the luxury of our inhabitants, as they do that of their own, by laws; they can make laws to discourage or prohibit the importation of French superfluities; but though those of England are as ruinous to us as the French ones are to them, if we make a law of that kind, they immediately repeal it.

"Thus they get all our money from us by trade; and every profit we can anywhere make by our fisheries, our produce, or our commerce, centres finally with them; but this does not signify. It is time, then, to take care of ourselves by the best means in our power. Let us unite in solemn resolution and engagements with and to each other, that we will give these new officers as little trouble as possible, by not consuming the British manufactures on which they are to levy the duties. Let us agree to consume no more of their expensive gewgaws. Let us live frugally, and let us industriously manufacture what we can for ourselves; thus we shall be able honorably to discharge the debts we already owe them; and after that, we may be able to keep some money in our country, not only for the uses of our internal commerce, but for the service of our gracious sovereign, whenever he shall have occasion for it, and think proper to require it of us in the old constitutional manner. For, notwithstanding the reproaches thrown out against us in their public papers and pamphlets, notwithstanding we have been reviled in their senate as rebels and traitors, we are truly a loyal people. Scotland has had its rebellions, and England its plots against the present royal family; but America is *untainted with those crimes;* there is in it scarce a man, there is not a single native of our country, who is not firmly attached to his King by principle and by affection.

"But a new kind of loyalty seems to be required of us, a loyalty to Parliament; a loyalty that is to extend, it is said to a surrender of all our properties, whenever a House of Commons, in which there is not a single member of our choosing, shall think fit to grant them away without our consent; and to a patient suffering the loss of our privileges as Englishmen, if we cannot submit to make such surrender. We were separated too far from Britain by the ocean, but we were united to it by respect and love; so that we could at any time freely have spent our lives and little fortunes in its cause; but this unhappy new system of politics tends to dissolve those bands of union, and to sever us for ever."

These are the wild ravings of the, at present, half-distracted Americans. To be sure, no reasonable man in England can approve of such sentiments, and, as I said before, I do not pretend to support or justify them; but I sincerely wish, for the sake of the manufactures and commerce of Great Britain, and for the sake of the strength which a firm union with our growing colonies would give us, that these people had never been thus needlessly driven out of their senses. I am yours, &c.,

P.S.

MASSACHUSETTS

This will if accomplished compleat our slavery. For if taxes are raised from us by the Parliament of Great Britain without our consent, and the men on whose opinions and decisions our properties liberties and lives, in a great measure depend, receive their support from the Revenues arising from these taxes, we cannot, when we think on the depravity of mankind, avoid looking with horror on the danger to which we are exposed? The British Parliament have shewn their wisdom in making the Judges there as independent as possible both of the Prince and People, both for place and support: But our Judges hold their Commissions only during pleasure; the granting them salaries out of this Revenue is rendering them dependent on the Crown for their support. The King upon his first accession to the Throne, for giving the last hand to the independency of the Judges in England, not only upon himself but his Successors by recommending and consenting to an act of Parliament, by which the Judges are continued in office, notwithstanding the demise of a King, which vacates all other Commissions, was applauded by the whole Nation. How alarming must it then be to the inhabitants of this Province, to find so wide a difference made between the Subjects in Britain and America, as the rendering the Judges here altogether dependent on the Crown for their support.

The Letter of Correspondence, after an introductory expression of alarm "at the plan of *Despotism*, which the enemies of our invaluable rights have concerted," launched

[4] I shall here give the reader the note at the end of the fourth paragraph of the Farmer's Seventh Letter, written by Mr. Dickinson.—B. V.

"Many remarkable instances might be produced of the extraordinary inattention with which bills of great importance, concerning these colonies, have passed in Parliament; which is owing, as it is supposed, to the bills being brought in, by the persons who have points to carry, so artfully framed, that it is not easy for the members in general, in the haste of business, to discover their tendency.

"The following instances show the truth of this remark.

"When Mr. Grenville, in the violence of reformation and innovation, formed the 4th George III. ch. 15th, for regulating the American trade, the word 'Ireland' was dropped in the clause relating to our iron and lumber, so that we could send these articles to no other part of Europe, but to Great Britain. This was so unreasonable a restriction, and so contrary to the sentiments of the legislature, for many years before, that it is surprising it should not have been taken notice of in the House. However, the bill passed into a law. But when the matter was explained, this restriction was taken off in a subsequent act.

"I cannot say how long after the taking off this restriction, as I have not the acts, but I think in less than eighteen months, another act of Parliament passed, in which the word 'Ireland' was left out, as it had been before. The matter, being a second time explained, was a second time regulated.

"Now, if it be considered, that the omission mentioned, struck off, with one word, so very great a part of our trade, it must appear remarkable; and equally so is the method by which rice became an enumerated commodity, and therefore could be carried to Great Britain only.

"'The enumeration was obtained' (says Mr. Gee, on Trade, p. 32,) 'by one Cole, a captain of a ship employed by a company then trading to Carolina; for several ships going from England thither, and purchasing rice for Portugal, prevented the aforesaid captain of a loading. Upon his coming home, he possessed one Mr. Lowndes, a member of Parliament (who was frequently employed to prepare bills), with an opinion, that carrying rice directly to Portugal was a prejudice to the trade of England, and privately got a clause into an act to make it an enumerated commodity; by which means he secured a freight to himself. But the consequence proved a vast loss to the nation.'

"I find that this clause, 'privately got into an act, for the benefit of Captain Cole, to the vast loss of the nation,' is foisted into the 3d Anne, ch. 5th, entitled, 'An Act for granting to her Majesty a further subsidy on wines and merchandises imported'; with which it has no more connexion, than with 34th Edward I., 34th and 35th of Henry VIII., or the 25th Charles II, which provide that no person shall be taxed but by himself or his representatives."

into the matter of judicial salaries, as follows:

But, when in addition to the repeated inroads made upon the Rights and Liberties of the Colonists, and of those in this Province in particular, we reflect on the late extraordinary measure in axing stipends or Salaries from the Crown to the Offices of the Judges of the Superior Court of Judicature, making them not only intirely independent of the people, whose lives and properties are so much in their power, but absolutely dependent on the Crown (which may hereafter, be worn by a *Tyrant*) both for their appointment and support, we cannot but be extremely alarmed at the mischievous tendency of this innovation; which in our opinion is directly contrary to the spirit of the British Constitution, pregnant with innumerable evils, and hath a direct tendency [t]o deprive us of every thing valuable as Men, as Christians and as Subjects, entitled, by the Royal Charter, to all the Rights, liberties and privileges of native Britons. Such being the critical state of this Province, we think it our duty on this truly distressing occasion, to ask you, What can withstand the Attacks of mere power? What can preserve the liberties of the Subject, when the Barriers of the Constitution are taken away?

A report of the proceedings of the town meeting was printed and widely disseminated. The letters of correspondence sent from Boston evoked comparable resolutions in over one hundred towns in the province. At a December 14, 1772 meeting the freeholders and inhabitants of Cambridge voted instructions to their representative in the House containing the following passage:

[I]n the midst of our distress, we are still further alarmed with seeing the governor of the province made independent of the people, and the shocking report that the judges of the superior court of judicature, and other officers, have salaries affixed to their offices, dependent on the crown and ministry, independent of the grants of the commons of this province. By this establishment, our lives and properties will be rendered very precarious; as there is the utmost danger that through an undue influence the streams of public justice will be poisoned. Can we expect the scales will be held equal between all parties? Will such judges be unmoved by passion or prejudice, fear or favor? What a miserable situation will the man be in, under a corrupt administration, who shall dare to oppose their vile measures? Must he not expect to feel the keenest resentment of such administration, by judges thus bribed to pursue the plan of the ministry?

THE PAPERS OF BENJAMIN FRANKLIN

(Pennsylvania Assembly Committee of Correspondence to Benjamin Franklin and Richard Jackson.)

Printed in The Votes and Proceedings of the House of Representatives . . . 1767–1768 (Philadelphia, 1768), pp. 132–4.

PHILADELPHIA,
September 22, 1768.

GENTLEMEN: In our Letter of the twentieth of February last, we communicated the Directions of the House, that you would unite with the Agents of the other Colonies in such Measures as might be pursued with respect to the obtaining a Repeal of the Act of Parliament imposing Duties on Glass, Paper, &c. in America.

The Assembly, in their present Sitting, resuming the Consideration of that Act, and continuing of Opinion, that it is extremely inconsistent with the Rights of the Freemen of the Province, have thought it a necessary Duty to petition the different Branches of the British Legislature for Redress. Those Petitions are herewith transmitted, which you are desired to lay before His Majesty and the two Houses of Parliament, to whom they are respectively directed.

You will perceive, on perusing the Petitions, that the Reasons, offered to induce a Repeal, are very much confined to the Right of the Colony in being exempted from Parliamentary Taxation; little is said on the Inexpediency of the Regulation adopted by the Act, lest seeming to rely on the latter should weaken the Arguments in Support of the former. However, the House think it necessary to observe, that, were they convinced the Parliament had a constitutional Right to tax the Subject, which they never can have, in America, yet they conceive the Act under Consideration is liable to several material Objections, founded on the Welfare of the Mother Country, as well as the Colonies.

A little Attention to the natural Effects of the Act must shew its bad Policy. The Colonies are prohibited, by divers Acts of Parliament, from importing Commodities of the Growth and Manufacture of Europe, save from Great-Britain, a few Articles excepted. They have hitherto in a great Measure contented themselves with supplying their Wants from their Mother Country, to the great Advantage of her Commerce. But should the Act be continued, and with it the heavy Duties on the Commodities therein enumerated, it will naturally induce the Americans, either from the Principles of Necessity, Interest or Conveniency, to set up Manufacturies of those Articles, and desist from any further Importation from Britain. Hence, a virtual, if not an actual, Repeal of the Statute will follow; and instead of leaving the Colonies to their natural and proper Business, the Improvement and Cultivation of their Lands, and of Course increasing the Demand for British Commodities among them, it will operate as a Bounty to raise and manufacture them here, to the great Loss of the British Merchant and Manufacturer.[1]

Another Objection to this Statute, which is equally applicable to several others, laying Duties on Commodities for the Regulation of Trade, is, that they are all to be paid in Silver. This Restriction, in the Payment to one Species of Currency, has already laid the Importers under the greatest Difficulties. The Balance of Trade, in Favour of Britain, has already drained the Colonies of that Article, insomuch that the Merchants can now scarcely collect sufficient to pay the Duties, and in a short Time it will be impossible to pay them at all, as the Colonies have no Trade which can supply them with the Materials appointed in the Act for the Payment. A Stop to the Importation of those enumerated Commodities must from thence follow, as no Person will choose to give Orders for Effects which he will not be permitted to land without paying Duties for them in Silver, when it is out of his Power to procure it.

A third Objection arises from the Appropriation of the Monies to be levied by the Act. They are to be applied to the Payment of the necessary Charges of the Administration of Justice, and to the Supoort of the Civil Government, in such Colonies where it shall be judged necessary. This Regulation, the House apprehends, may be attended with the most dangerous Consequences. Should the Proprietaries of this Province continue to hold the Nomination and Appointment of the Governor, and his Salary to be paid by the People, without their Consent, be certainly fixed, he will be rendered altogether independent of them, and thereby that Check on his Conduct, which is necessary to the Support and Preservation of their Rights, be intirely lost.

The Establishment of Salaries, in the same Manner, on the Judges holding their Commissions during the Pleasure of the Proprietaries, who are universal Landlords, and must of Course have Controversies in the Courts of Justice with the People, will be attended with Mischiefs little, if any, inferior.[2] In England, and by a late Act in Ireland, the Judges have independent Livings, but the Tenure of their Commissions is during good Behaviour, and they hold Estates for Life in their Offices.[3] Thus they are freed from the Influence and Control of Power, and under them the People have a rational Surety of impartial and upright Decisions in all Cases where either Liberty or Property is concerned. But should the Judges of this Province, already dependant on the Will and Pleasure of the executive Part of Government for their Commissions, be rendered altogether independent on the Legislative for their Salaries, whenever either weak or bad Men may be in Office, or the Proprietaries, or their Governors, shall think proper to interfere in judicial Determinations, the Liberties and Properties of the People must be in the most imminent Danger, if not totally destroyed.

But the Act provides, that the Monies shall be applied to the Purposes before-mentioned, in such Colonies where it may be judged necessary. Should it be thought unnecessary to apply any Part of it to the Use of this Province, it must appear on the least Reflection extremely unjust that the Duties levied on the People here, without their Consent, should be appropriated to the Uses of the other Colonies, without our deriving the least Benefit from the Application.

Should any Surplus happen after these Purposes are answered, the Residue of the Monies is to be expended in the general Defence of the Colonies; but the House cannot conceive that the Parliament can have a Right to tax so large a Body of the King's Subjects without their Consent; and had they that Authority, they apprehend the People of this Province have ever heretofore rendered the Exercise of it over them unnecessary, by the Liberality of their Grants the Crown, whenever required.

Former Assemblies having received repeated Proofs of your warm and steady Regard for the just Rights and Privileges of this and the other American Colonies, the House entertain the fullest Confidence that you will pay all due Attention to the important Matters now committed to your Care, by exerting your utmost Influence and Abilities to obtain a Repeal of the beforementioned Act, which they conceive to be equally prejudicial to the true Interest of Great-Britain and her Colonies.

They also request that you will not be unmindful of the several Matters heretofore recommended to your particular Attention, with Respect to the Trade of the Colonies to Spain, Portugal, the West-Indies, &c. and that you will omit no favourable Opportunity of obtaining Relief from the many injudicious Restrictions which have been laid on our Paper Currency, the Exportation of Iron, and other Branches of our Commerce, to the manifest Prejudice of both Countries; for the Particulars whereof we refer you to our former Instructions.

Signed by Order of the House,
JAMES PEMBERTON,
WILLIAM RODMAN,
ISAAC PEARSON,
JOSEPH GALLOWAY,
Speaker.

JOSEPH FOX,
JOSEPH RICHARDSON,
THOMAS LIVEZEY,

[1] An argument which BF had made earlier, and upon which he elaborated in "The State of the Trade with the Northern Colonies" below, Oct. 20, 1768.

[2] This fear proved to be groundless: governors and judges in Pennsylvania, unlike those in Massachusetts, never were paid from revenues collected under the Townshend Acts.

[3] True of England, under the Act of Settlement of 1701, but not of Ireland. Although a Judges' Tenure Bill had been introduced into the Dublin parliament in 1767 and approved in outline, it was rejected in London. The substance of the bill did not become law until the Irish reforms of 1782.

NEW YORK,
September 24, 1768.

ALS: American Philosophical Society
From James Parker
Honoured Sir:

Altho' it be many Months since I have had the Pleasure of one Line from you, yet as I have some Room to think you are not on the Return home now, as all your Friends expected, I will once more scribble to a few Lines more to ask, How you do?

At the same time, it may not be displeasing to receive Word, that your Son being gone to Albany, as you will see in the News papers, I heard he got well to Sir Wm. Johnson's, and they expected the Treaty about this Time. Your Son and Daughter Bache you will doubtless hear from, they being now in this City, just returned from Boston in their Way home, she I see is very well.[4]

We continue to struggle along thro' the World, And if I can make both Ends meet, I shall be happy. I am much as I used to be in Health, and tho' I meet with hard Fare, I am determined to Conquer my Adverse Fortune, or die in the Attempt.

The Publick Affairs and Commotions you will probably learn from the Papers and others. I do not love to arraign the Conduct of my Superiors, tho' I can't help thinking some actings are strangely absurd.

We complain the Nation is deeply in Debt, and yet those at Helm send 5 or 6 Commissioners to Boston with the Charge or Pension of about £3000 sterling per An. which might every Farthing been saved, and all the Business done as well as before, and much more to the Satisfaction of every Officer here.[5] Those besides kicking up a Dust, by their haughty Behaviour, imitate their Superiors in Absurdity, or shall I call it Chicanery. They have ordered all the Money collected for Duties to be first sent to them to Boston, and those Officers who receive Pay as such here, are to send a Power to some of their Dependants there, for them to receive it, and to send it back here, by which Means they are to stop (or their Dependants do it) 2½ per Cent. out of all our small Allowances, besides paying Freight and Risk of the Money's coming here. Now as the Money first goes from hence, could it not be better paid here without any of this Risk or Charge? And is not such a Conduct absurd; as well as cruel to one who has but a small Allowance at best, and some of that to be decolated[6] from them. I could wish it had remained to be paid in England, tho' I have never had a Copper yet of any sort from that Office.

When I begin to scribble, I know not when to stop. I have only to add, all our respectful Compliments from Your most obliged Humble Servant.

JAMES PARKER.

Addressed: For/Dr Benjamin Franklin/Craven-Street/London
Endorsed: Mr Parker Sept. 25.

Mr. MATHIAS. Mr. President, concerns over the need for judicial independence were also reflected in the various State constitutions. Many of the Constitutions provided for judicial tenure during good behavior. Perhaps the best statement of this concern was contained in the Bill of Rights of the Massachusetts Constitution of 1780.

It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, and of every citizen, that judges hold their offices as long as they behave themselves well; and that they should have honourable salaries ascertained and established by standing laws.

Some of the State constitutions provided for removal by address. Virtually all contained provision for the impeachment of officials, including judges, although the grounds for such impeachments varied. For example, a few including Pennsylvania, set forth maladministration as a grounds for impeachment. This is a significant fact since the Founding Fathers specifically rejected "maladministration" as a grounds for impeachment during the convention.

It was against this background that the Founding Fathers met in Philadelphia in the summer of 1878 to revise the Articles of Confederation and ultimately to draft a Constitution.

The Founding Fathers also provided that judges should hold their offices during good behavior, should receive a salary that shall not be diminished during their continuance in office, and that they should be removable only through the impeachment process. They had learned the lessons of history. I hope that today we will not forget the lessons of history. They specifically rejected address as a basis for removal and maladministration as a grounds for impeachment. And, by doing so, they recognized that neither of these was consistent with a truly independent judiciary. They knew that the provision for good behavior commissions in the Act of Settlement was a limited grant of judicial independence since the judges could be removed by the Parliament. They chose not repeat such a procedure here. And, they rejected maladministration as a basis for impeachment—a grounds found in some State constitutions—since as Madison stated "so vague a term will be equivalent to a tenure during the pleasure of the Senate." Thus the Founding Fathers went beyond the historical precedent. They decided that the form of republican government that they envisioned required a truly independent judiciary and that neither address nor maladministration fit in with their conception.

The question has been raised as to how far the Constitutional Convention meant to incorporate these lessons of history in our Constitution, and I think I can summarize this in a very succinct way with a brief quotation from Federalist Paper No. 78, in which Alexander Hamilton wrote:

According to the plan of the convention, all the judges who may be appointed by the United States are to hold their offices during good behavior, which is comfortable to the most approved of the state constitutions; and among the rest, to that of this state [New York]. Its propriety having been drawn into question by the adversaries of that plan, is no light symptom of the rage for objection which disorders their imaginations and judgments. The standard of good behavior for the continuance in office of the judicial magistracy is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince: In a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government, to secure a steady, upright and impartial administration of the laws.

That, Mr. President, is what I hope we will maintain, and that is why I hope we will defeat this amendment and this bill.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. MATHIAS. I am happy to yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, although I totally support the goal of S. 1873, which is to maintain the integrity of the Federal judicial system, I oppose the proposed Judicial Conduct and Disability Act of 1979 because implementation of this judicial review legislation would harm the independence of our court system and for a similar reason I cannot support the amendment of the distinguished Senator from Georgia.

The purpose of this proposed legislation as outlined by the committee report—

Is to establish a procedure for investigating and resolving allegations that a member of the Federal judiciary has been unable to discharge efficiently all the duties of his or her office by reason of mental or physical disability or has engaged in conduct which has been inconsistent with the effective and expeditious administration of the business of the courts.

An investigation of a complaint filed against a judge of the United States may result in the dismissal of the complaint, a certification of disability, a request that the judge voluntarily retire, an order that, on a temporary basis, no further cases be assigned to the judge, private or public censure or reprimand, the filing of a report to the House of Representatives suggesting the possibility of impeachment, or other action as deemed appropriate under the circumstances.

As we are all aware, the Constitution provides for the removal of Federal judges by impeachment. Impeachment by Congress of a member of the judiciary as set forth in article I of the Constitution has been seldom used. It is my understanding that the procedure contained in S. 1873 is designed to deal with those matters which do not rise to the level of impeachment offenses. It is also my understanding that retirement for disability and discipline is currently considered part of the general administrative functions of the judicial councils of the respective circuit.

Although the current procedures may not always provide an appropriate remedy, I do not believe that adoption of S. 1873 is in the best interest of our judicial system or of the country. All too often citizens question a judge's competency because of an unpopular deci-

[4] For BF's journey to attend the conference that produced the Indian treaty at Port Stanwix see below, Thomas Wharton to BF, Nov. 7, and Samuel Wharton to BF, Dec. 2, 1768. The visit of the Baches to Boston was reported in the *Mass. Gaz.*, Aug. 11, 1768.

[5] Parker elaborates on the imposition of the customs commissioners in his letter to BF below, Nov. 22, 1768. See also Gipson, *British Empire*, XI, 117–20.

[6] Literally, beheaded, hence refuced.

sion. There is reason to believe that disgruntled litigants would file numerous, frivolous complaints that could distract from the independence of our judicial system that the framers of the Constitution worked to insure. Public pressures cannot be allowed to encroach upon the constitutionally mandated independence of the members of our judicial system.

Mr. President, there is no question that occasionally Federal judges abuse the power of their office or become incompetent to discharge the responsibilities of office. Fortunately, these occasions are rare and I feel that it would be a serious mistake to place the entire judicial system in jeopardy in an attempt to create a more expedious way of dealing with a few bad apples in the judicial barrel. I would favor an age limit for Federal judicial service, but I am opposed to actions which will subject judges to political pressure or harassment which could make it difficult for them to interpret the Constitution and laws objectively.

For these and other reasons set forth in my statement I cannot support the bill or the Nunn amendment.

Mr. President, enactment of S. 1873 will have a chilling effect on the independent judgment of our judicial system. I urge that this bill be defeated.

Mr. GOLDWATER. Vote.

Mr. NUNN. Mr. President, if there be no further discussion on the amendment, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina (Mr. THURMOND) is recognized.

Mr. THURMOND. Mr. President, I am opposed to the substitute measure being offered by the able Senator from Georgia for reasons which I basically set forth in my opening statement on S. 1873. During the course of the year since Senate passage of S. 1423, I have participated in further committee deliberations on this type of legislation and have conversed and corresponded with a number of interested persons. Through this additional debate and study, I have come to the conclusion that it would be preferable for the Senate to enact a more moderate piece of legislation than S. 1423 or the very similar Nunn substitute.

Senator NUNN's substitute bill includes, as did S. 1423, a provision allowing removal of a judge by means other than impeachment. This provision has raised serious constitutional questions. I have, for example, received correspondence from Judge Clement Haynsworth and from the faculty of the University of South Carolina Law School expressing their doubts as to the constitutionality of such a removal provision. I see no reason to push a bill to its constitutional limits if effective legislation, as I believe S. 1873 is, can be developed which does not contain questionable provisions. As I stated earlier, I feel that a more moderate, less controversial bill would stand a better chance of actually becoming law and would be more readily accepted by the judges themselves.

S. 1873 also establishes a simpler system than that created by the Nunn substitute. It provides for initial action to be taken at the circuit council level, with appellate review by, or a de novo hearing held by the Court on Judicial Conduct and Disability. The provisions of S. 1873 are more similar than those of the Nunn substitute to procedures which have been established by rule in 10 of 11 circuits. S. 1873 would, therefore, come closer to being a statutory codification of existing practice in the circuits. The Nunn substitute, on the other hand, establishes both a Judicial Conduct and Disability Commission and a Court on Judicial Conduct and Disability. Complaints are initially filed with the Commission which then refers them to a Circuit Council Committee. After Committee action, complaints are once again returned to the Commission for final adjudication. Review then lies with the Court on Judicial Conduct and Disability which has purely appellate functions. In my opinion, it would be preferable to enact a system which is more similar to those procedures which the judges themselves have developed unless and until the need for stronger, more controversial legislation becomes evident.

Mr. President, the members of the Judiciary Committee have labored long and hard to develop legislation which would be more readily accepted by Members of the House and Senate and by the judges who are to implement it. I hope that this more moderate approach to the problems of judicial misconduct or disability will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia (Mr. NUNN).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON) the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Oregon (Mr. HATFIELD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Does any Senator wish to change his vote?

The result was announced—yeas 30, nays 60, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—30

Armstrong	Goldwater	Roth
Bentsen	Hatch	Sasser
Boren	Hayakawa	Schweiker
Byrd, Harry F., Jr.	Helms	Simpson
Byrd, Robert C.	Jackson	Stennis
Chiles	Johnston	Stevens
Danforth	Long	Stone
DeConcini	Morgan	Talmadge
Domenici	Nunn	Zorinsky
Eagleton	Packwood	
	Ribicoff	

NAYS—60

Baker	Hatfield	Muskie
Baucus	Heinz	Nelson
Bayh	Hollings	Pell
Bellmon	Huddleston	Percy
Boschwitz	Humphrey	Pressler
Bradley	Javits	Proxmire
Bumpers	Jepsen	Pryor
Burdick	Kassebaum	Randolph
Chafee	Kennedy	Sarbanes
Cochran	Laxalt	Schmitt
Cohen	Leahy	Stafford
Culver	Levin	Stevenson
Dole	Lugar	Stewart
Durenberger	Magnuson	Thurmond
Durkin	Mathias	Tower
Exon	McClure	Tsongas
Ford	McGovern	Wallop
Glenn	Melcher	Warner
Gravel	Metzenbaum	Weicker
Hart	Moynihan	Williams

NOT VOTING—10

Biden	Garn	Riegle
Cannon	Hatfield	Young
Church	Inouye	
Cranston	Matsunaga	

So Mr. NUNN's amendment (UP No. 694) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The Senator from Massachusetts may proceed.

Mr. DECONCINI. Mr. President, will the Senator yield, so that I may ask for the yeas and nays on passage?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

Mr. KENNEDY. Mr. President, I want first of all, to commend the distinguished Senator from Arizona for the work that he has done in this particular area of judicial policy. As the chairman of the Subcommittee on Judicial Administration, he has tackled what is an extraordinarily—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats so the Senate may proceed.

The Senator from Massachusetts may proceed.

Mr. KENNEDY. Mr. President, there is involved here an area of enormous importance and consequence of public policy, and that is how we are to deal

with rare and isolated actions that have occurred in the judiciary throughout the history of our country that fall below the level of an impeachable offense.

We have passed legislation during the last year adding some 152 new judges to the Federal judiciary. It seemed only appropriate for this body, in exercising its judgment and making its recommendations to the administration, to devise a mechanism which was both constitutional and also appropriate for dealing with particular problems such as have been documented during the course of the DeConcini hearings.

This is an extremely delicate problem, but the approach recommended by Senator DECONCINI has had the overwhelming support of the members of the Judiciary Committee, and seems to me to be a fair, equitable, and an entirely rational process to deal with the problems that we are facing, however isolated they may be.

Mr. President, I therefore commend to the Senate the support of this legislation. It seems to me to be responsive to the need, and to give the American public the kind of confidence in their judicial system which they rightly deserve.

So, Mr. President, S. 1873 is a carefully crafted compromise measure which establishes a procedure for the processing of complaints directed against Federal judges. The bill received the overwhelming endorsement of the Senate Judiciary Committee and is designed to fill a vacuum in existing law—the absence of a procedure for disciplining judges who have engaged in conduct inconsistent with the effective and expeditious administration of the business of the courts. Senator DECONCINI and the other members of the Judiciary Committee have fashioned a fair, workable, and balanced approach to the problem. S. 1873 avoids sanctions which threaten the independence of our Federal judiciary; at the same time the bill has sufficient teeth to eliminate the appearance of a whitewash or coverup.

Evidence of the delicate balance struck in S. 1873 can be found in analyzing what the bill does not do. The bill does not provide for any removal sanction; thus, the greatest threat to judicial independence has been removed from this year's legislation. The Constitution alone provides for removal through a process of impeachment. That is as it should be. Our Federal judges—the vast majority of whom perform their duties in a just and dedicated manner—must not be confronted with a threat of removal unless and until the impeachment process mandated by the Constitution is followed. S. 1873 recognizes this. It provides for the imposition of various sanctions—for example, public and private censure, a request that the named judge voluntarily retire, and temporary removal of a judge's caseload. If the conduct of the judge warrants removal, impeachment is available for that purpose.

On the other hand, I agree with the distinguished Senator from Arizona that a new mechanism is needed to deal with those rare and isolated instances of judicial misconduct that do not rise to the level of an impeachable offense. That is the purpose of S. 1873. The legislation establishes a procedure—wholly within the judicial branch—for the processing and investigation of citizen complaints. These complaints must be based upon conduct that impairs the effective and expeditious administration of justice, or the existence of some physical or mental impairment.

The procedures established by the bill leave the subject of discipline in the first instance to the judicial councils of each circuit. If either the complainant of the judge disagrees with the council's action, an appellate procedure is available. And, when it appears warranted, a procedure is provided for transmission of a report to the House of Representatives stating that, in the view of the appellate body, facts are made out for an impeachable offense.

Mr. President, during the last decade a consensus has slowly evolved that there is a real need for some form of disciplinary mechanism in Federal law. The recent passage of the omnibus judgeship bill—creating 152 new judgeships—reinforces the need for this legislation. The bill does not provide for removal; at the same time a new, workable disciplinary procedure is established. I am convinced that S. 1873 will in no way threaten the independence of our Federal judiciary. Yet, it will be an effective way of assuring the public that no one, including the judges of our Federal courts, is above the law. I urge the enactment of S. 1873.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

UP AMENDMENTS EN BLOC NO. 695

(Purpose: To make certain conforming changes made necessary as a result of recent legislation with respect to bankruptcy and Federal magistrates)

Mr. DECONCINI. Mr. President, I have two technical amendments that will bring the bill into conformity with existing law. I send them to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes unprinted amendments en bloc numbered 695.

The amendments are as follows:

On page 2, line 19, strike out the first comma and insert in lieu thereof "or".

On page 2, beginning on line 19, strike out the second comma and "or a bankruptcy court or a magistrate".

On page 9, line 19, strike out "with the assistance of counsel" and insert in lieu thereof a comma and the following: "may be represented by counsel".

Mr. DECONCINI. Mr. President, these amendments conform with the existing bankruptcy law and magistrates' law as to existing provisions, or have no significant effect on this legislation. I move that they be approved.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments of the Senator from Arizona.

The amendments (UP No. 695), en bloc, were agreed to.

Mr. DECONCINI. Mr. President, I would like to comment just one more time on the efforts of the Senator from Georgia in this area. Though his substitute was not approved, I think the record should show very distinctly that it is because of his efforts that we are even here today with a vital bill coming before this body for a vote. I thank him for his tireless efforts in this area.

Mr. NUNN. Mr. President, I thank the Senator from Arizona. The bill is the product of his leadership. I do plan to vote for this bill; it is half a loaf, but I think it is a step in the right direction.

Mr. MATHIAS. Mr. President, I join with the Senator from Arizona in commending the Senator from Georgia (Mr. NUNN), and I commend the Senator from Arizona as well, because their work over the past several years has brought about a substantial change in the way judges and lawyers and the general public view the question of judicial discipline.

In fact, Mr. President, they have been so successful in fostering a hard, searching look at this problem of judicial discipline that I believe they have made it unnecessary to pass this bill tonight. A very different element in the administration of justice in this country—different from when we considered this same problem last year—is the adoption by the Judicial Conference of the United States, on March 9 of this year, of a resolution which provides internally for judicial discipline.

That resolution has been implemented by 10 of the 11 judicial councils in the country, and I am advised that the 11th council is about to adopt procedures which will then make it unanimous and uniform across the country, so that we will have a working system of judicial discipline implemented by the judges themselves. It is only about 6 months old. I think when it has had time to operate a little longer we will find it is an effective system.

I think a further reason why we should not pass this bill tonight is that it is unconstitutional. That can be stated very simply. What the Founding Fathers did in the Constitution was deal with the question of judicial salaries and provide that judges serve during good behavior, and that otherwise they should be impeached. What they did not do was provide for a method of internal discipline of judges.

They did provide for a method of internally disciplining Members of Congress, but not judges. They rejected maladministration as a grounds for removal, and they rejected the British practice of an address of the legislature as a means of removing judges. So the Constitution is very clear, in my judgment, and raises serious constitutional doubts about this bill, which I believe makes it unwise to adopt it tonight.

I would further feel as a matter of policy it is unwise. As the Senator from

Massachusetts has just said, we are dealing with a phenomenon which is very rare in American legal history, so rare that I believe it will be unnecessary to adopt this bill tonight.

As Professor Gunther, of Stanford University has said:

> Federal judges are inevitably in the business of rendering controversial decisions. Important issues and interests are at stake in the cases before them; and the losing side frequently and understandably feels aggrieved. With the proliferation of federal statutes and regulations, the federal judges' involvement in controversy is bound to grow. Setting up an unnecessary new channel which may lend itself to the harrassment of those judges is a profoundly disturbing departure from one of the most cherished values of the American constitutional scheme, that of judicial independence.

For those reasons, Mr. President, I would hope the Senate would not adopt this bill tonight, and that Senators would vote "no."

Mr. PERCY. Will the Senator yield for a comment?

Mr. MATHIAS. I am happy to yield.

Mr. PERCY. It is not that the word of the Senator from Maryland on constitutionality is not adequate, but I think it should be noted that Phil Kurland, a noted constitutional authority from the University of Chicago, assured me today that in his judgment this bill is unconstitutional.

Mr. MATHIAS. Professor Kurland is not only a noted constitutional authority but he has frequently been an adviser to the Senate Judiciary Committee.

Mr. THURMOND. Mr. President, I want to say a word or two. I believe this bill ought to be adopted. If the Senate had before it legislation providing for removal, there would have been an arguable constitutional question. Much has been written that such a provision would be constitutional, but there is much question about it.

With passage of S. 1873 we will have adopted a middle course. It is a question of, on one side, providing for total removal of a judge, which is one extreme, and doing nothing is yet another. With S. 1873, we are taking a reasonable approach to the problem.

The Judicial Council will have the power, for example, to temporarily not assign cases to a judge; to publicly or privately censure or reprimand a judge; to certify permanent mental or physical disability; to request voluntary retirement of a judge; or to take other appropriate action.

I feel this is very reasonable. I feel S. 1873 is a constitutional bill, and I hope the Senate will adopt it.

Mr. DECONCINI. Mr. President, the question of constitutionality has been discussed at great length today, as it was in the committee. I think it is important to note that several members of the Supreme Court of the United States have indicated that legislation providing for judicial discipline is, in fact, constitutional. Those include the Chief Justice and Justice Rehnquist. Also, the former Attorney General, Judge Bell, has supported this as constitutional, even with the removal provisions in the legislation, which are not in the particular bill before us today. Prof. Raoul Berger testified and indicated that in his judgment it is constitutional. I could go on and on.

The ABA has studied the bill and has indicated that it is constitutional. They have passed a resolution supporting the bill with the removal provisions. So I think it is clear that the constitutional question has been thoroughly discussed.

The removal clause is not part of the bill which is now before us. Certainly, it is constitutional without the proposal, and I submit it is even constitutional with it. We only have the question here of a procedure to discipline judges, not remove them.

Mr. President, I ask unanimous consent that an article by Clark Mollenhoff and Gregg Rushford, appearing in the Washington Post last April on the subject matter, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT CAN BE DONE ABOUT UNFIT JUDGES?—ONLY FOUR HAVE EVER BEEN REMOVED FROM THE FEDERAL BENCH

(By Clark Mollenhoff and Greg Rushford)

Late in the afternoon of Friday, Dec. 12, 1975, Chief Judge Willis W. Ritter of the U.S. District Court in Utah notified U.S. Attorney Ramon M. Child to be ready to try 23 criminal cases by the following Thursday.

It was an impossible order. Three of the first four cases were criminal tax prosecutions involving approximately 100 witnesses, many of whom lived outside Utah. Even if subpoenas could be prepared and served and the Christmas travel crush surmounted, an airline strike made it impossible to get the witnesses to Salt Lake City in time. Child asked for 21 more days to prepare.

But the judge refused, and for several weeks the frustrated U.S. attorney and his staff struggled to try the cases properly. Ritter dismissed four cases outright that Thursday morning because the government witnesses were not present.

These decisions were later reversed by the 10th U.C. Circuit Court of Appeals in Denver, which declared that Judge Ritter's behavior "was utterly unreasonable and constitutes a gross abuse of discretion." It was not the first unreasonable action by Ritter, whose controversial career spanned nearly three decades until his death last month. Nor is his case an isolated example.

While there is no reason to doubt the ability or integrity of the vast majority of our nearly 700 federal judges, some unquestionably are unfit to serve, whether because of abuses of power, misconduct, corruption, senility, alcoholism or other reasons. The problem is that it is impossible to remove such judges from the bench short of going through the cumbersome impeachment process.

Attorney General Griffin Bell, himself a U.S. circuit judge for more than 14 years, told a Senate Judiciary subcommittee last September that "there is an urgency" about the need to create a workable mechanism to remove unfit judges. "Not every judge who perhaps should be impeached can be impeached," Bell added. "Congress does not have that much time."

Presumably referring to several criminal investigations conducted by the Justice Department against federal judges in the past two years, Bell also said, "Not everyone who perhaps should be can be indicted. There are some things that judges might do that might cause me to think that they ought to be indicted. However, that is a serious business, particularly since you have got to indict somebody in their own court."

Testifying after Bell, John A. Sutro, chairman of the American Bar Association's standing committee on judicial selection, quoted a 10-year statement by Chief Justice Warren Burger, then a Court of Appeals judge, that "I would not presume to say how many United States judges now in active service are not physically able to perform their work adequately, but every observer knows there are more than a few." Sutro said Burger's assessment "unquestionably is true" today as well.

Bell and Sutro were both endorsing the judicial tenure bill which the Senate Judiciary Committee is expected to approve this spring. The legislation, sponsored by Democratic Sens. Sam Nunn of Georgia and Dennis DeConcini of Arizona, would create within the judiciary a commission to investigate complaints against federal judges, who are appointed for life, and it would also create a special court to hear cases of misconduct or inability to serve. The court could dismiss the complaint or censure, involuntarily retire or remove the judge from office.

Only nine federal judges in our history have been impeached, and only four have been convicted and removed from office, the last more than four decades ago. This is chiefly because the impeachment process is so cumbersome and time-consuming.

A House Judiciary Committee report in 1940 termed it a "governmental absurdity" when applied to a single judge. Last fall Democratic Rep. Robert W. Kastenmeier of Wisconsin, a leading Judiciary Committee sponsor of judicial tenure legislation, said that "although instances of judicial misconduct are often brought to our attention, the Judiciary Committee's heavy workload makes it difficult, if not impossible, for us to set aside all other legislative activity to conduct an impeachment inquiry."

Impeachment also carries political liabilities. Federal judges by tradition are appointed under the patronage of senators. The resulting close judicial ties to Congress, as former Maryland Sen. Joseph Tydings acknowledges, make dealing with the unfit judge "a very sticky political thicket." In past impeachment trials the final votes were often divided on partisan grounds.

A more fundamental and still-unresolved issue is the belief that an unfit judge still could be immune to impeachment. Harvard's Raoul Berger, a prominent impeachment authority, for example, contends that a judge may breach the constitutional "good behavior" standard by "abuse of office, neglect of duty, nonattendance and the like." But the constitutional grounds for impeachment are treason, bribery and "other high crimes and misdemeanors," a more exacting standard. Berger says that "while all high crimes and misdemeanors might constitute a breach of good behavior, not all breaches of good behavior amount to high crimes and misdemeanors."

RISING TO THE OCCASION

The career of Judge Ritter reveals how difficult it is to curtail even bizarre judicial conduct, or what Washington attorney and author Joseph Borkin has called the "morbid legal tradition" of not moving against unfit judges.

Ritter, a Phi Beta Kappa from the University of Chicago and Harvard, was a law professor when appointed to the bench in 1949 by President Truman. Ritter was a strong individualist who frequently took the side of the "little guy" against the federal government.

From the moment he was appointed, Ritter became embroiled in squabbles. One of the more famous was his 1951 threat to jail a group of federal postal workers with

whom the court shared office quarters; he was angered by their noisy elevators. Last year he ordered U.S. marshals to jail some noisy courthouse workers. But it was Ritter's injudicious attitude toward the law which became the most serious problem.

Salt Lake City lawyers who were friendly to Ritter almost always won the cases they tried in his court. One Utah attorney says that Ritter's "attitude toward justice was based on tremendous personal emotions. If he didn't like you, you would lose, and in effect be disbarred from representing clients in Utah. The only way justice was reached was when two lawyers appeared before Ritter and he liked them both; then he would rise to the occasion."

Over the years the 10th Circuit Court in Denver fought Ritter's excesses by reversing many of his decisions. The circuit's Judicial Council took control of the assignment of cases in Ritter's court. (Each of the nation's 11 regional judicial circuits has a council headed by the chief judge and empowered to supervise court administration).

But Ritter continued to try cases, and his conduct became a Utah scandal. By the late 1960s U.S. attorneys and their staffs were in frequent contact with the Justice Department "about the Ritter problem," says a former prosecutor. "But we learned how reluctant Washington is when discussing legal moves against a federal judge. We were always told to try to live with the situation."

After the 1975 Christmas trial episode, U.S. Attorney Child urged the Justice Department to file a petition with the 10th Cricuit Court to bar Ritter from trying federal cases. But the Ford Justice Department did not approve such a strong step.

In the meantime, the Ritter problem intensified. In 1976 Ritter didn't wait until Christmas. For eight months prior to October he set no criminal cases for trial. Then, on Oct. 5 he scheduled 50 trials beginning four days later. When Child obtained an order from the Judicial Council directing Ritter to schedule trials with at least 15 days notice, the judge held no criminal trials at all for the first six months in 1977.

ARBITRARY AND ERRATIC AUTHORITY

Finally, Washington agreed with Child that piecemeal methods would no longer contain Ritter. Solicitor General Wade H. McCree, a former 6th Circuit judge from Detroit, painted a damning portrait of Ritter last July in a six-page letter to the 10th Circuit's chief judge, David T. Lewis.

The solicitor general stated bluntly that for 28 years Judge Ritter's conduct had been "inimical to the standards of judicial conduct that ought to be observed." Step-by-step countermeasures, McCree said, "cannot be truly effective so long as Judge Ritter continues to exercise arbitrary and erratic authority in individual cases. The power of a trial judge is too great and the opportunities for abuse of that power too frequent to allow effective appellate supervision in the run of cases."

McCree told Judge Lewis that Ritter had "paralyzed" the administration of criminal justice, and said he would petition Lewis for a writ of mandamus to bar Ritter's participation in any federal cases. But in a paragraph reflecting the legal establishment's sensitivities, McCree wrote:

"I have deferred authorizing the filing of these formal requests, however, because I am concerned that the publicity attendant on requests might go far toward bringing the administration of justice into disrepute. They would publish, for the world to see a story of judicial indiscretion that ought not lightly be broadcast, and the attendant publicity would place both the court of appeals (in passing upon the requests) and the Department of Justice (in presenting them) in unfortunate positions: any legal action, for any reason, would be a subject for public scrutiny and to questions about motivation."

The solicitor general told Judge Lewis an experience from his service on the 6th Circuit. A judge's behavior, although "not by any stretch of the imagination as improper" as Ritter's, became intolerable. The circuit's chief judge after consulting with his fellow judges, "approached the district judge informally" and asked him to step down "before it was necessary to institute public proceedings that could only hurt his reputation and stature in the community." The offending judge retired.

McCree asked Lewis to consider applying similar pressure on Ritter. But Lewis made no such attempt because he felt it would be fruitless.

Finally, on Oct. 5, 1977, McCree and Child petitioned the 10th Circuit to remove Ritter from all federal cases. Ritter died March 4 while the 10th Circuit was considering the petition.

JUSTICE DEPARTMENT INVESTIGATIONS

Before Ritter's death, the Justice Department also had investigated whether he had defrauded the government. For four months in 1974 Vickey Jolley, Judge Ritter's clerk and secretary, allegedly was absent from work following an auto accident, but Ritter instructed the clerk of the court to continue paying her full salary. For another six weeks in 1975, and at various unknown times since 1970, Jolley allegedly was absent from work but continued to receive her full salary.

The Justice Department dropped this aspect of the investigation for lack of evidence directly inculpating Judge Ritter. Child complained that the investigation wasn't aggressive enough, and he later stepped down as U.S. attorney to practice law in Salt Lake City.

At least three other federal judges have been investigated by the Justice Department in the past two years.

In one case a cloud over the judge's reputation was removed only because he himself requested the investigation. Robert E. Varner, 56, a former Montgomery, Ala., bar association president, was appointed to the federal bench in 1971 by President Nixon. Varner was suspected of judicial misconduct amounting to bribery. The allegation stemmed from a four-year probation sentence Varner imposed on James Payton Judge III, who pleaded guilty to interstate transportation of stolen property. Before the sentencing Judge Varner had purchased 630 acres of land at $300 an acre from the defendant's great-aunt. After questions were raised in the Alabama press about whether the lenient sentence was in exchange for the land deal. Varner asked the 5th Circuit Judicial Council in New Orleans to investigate.

On June 10, 1976, the council issued a report criticizing Varner for not having stepped down in the case. But it found the charges of misconduct "groundless," even though the land price was "possibly favorable." The council noted that there was no evidence of collusion and that the relationship between the offender and his great-aunt was distant. Moreover, federal prosecutors had recommended the sentence of probation. That recommendation appeared "thoroughly responsible, and made probation the advisable and likely sentence," the council said.

The Justice Department agreed and did not seek to indict Varner.

No official acknowledgement has been made that John V. Singleton Jr. was even investigated or why. Singleton, 60, a Houston lawyer and longtime associate of John Connally, was appointed by President Johnson in 1966 to the Southern District of Texas in Houston.

A Houston television station reported on June 9, 1977, that a federal grand jury was "believed to be looking into allegations concerning" Singleton, and that "apparently this grand jury has been investigating banking matters involving Judge Singleton for some time." Justice Department sources confirmed that Singleton had testified before the grand jury but refused to elaborate on the nature of the testimony or to confirm reports that the department had sought an indictment.

The Singleton case raises important questions. Singleton's rulings have often angered Justice Department officials. In 1970, for instance, Organized Crime Strike Force officials were upset when the judge reduced a two-year prison term for New Orleans mobster Carlos Marcello, who had assaulted an FBI agent, to six months. Is the judge the target of a vendetta by unknown Justice officials who simply resent his liberal (by Texas standards) record?

When a judge is accused of some conduct serious enough to justify calling him before a grand jury, should there be a public explanation? If the suspected conduct was not indictable, should the Justice Department have notified the House Judiciary Committee of possible misconduct which might violate the constitutional "good behavior" standard? The committee has not been so notified.

Judge Singleton has declined to comment.

THE SPEEDY CONFIRMATION

Another federal judge known to have been the subject of a Justice Department criminal investigation is Herbert A. Fogel, 48, a former political fundraiser and Philadelphia law partner of former Senate minority leader Hugh Scott. Fogel was appointed to the Eastern District of Pennsylvania in 1973 by President Nixon.

He was investigated for his actions as a private attorney before his appointment to the bench, and his case raises serious questions about the judicial confirmation process.

Fogel was the lawyer for and part owner of the Gateway Corp., which won a controversial February 1971 contract from the General Services Administration. The contract was worth $78 million for 30 years' rent to federal offices in a Gateway building in West Philadelphia.

Because Gateway's winning bid was $27 million higher than the lowest bid submitted to GSA, and because key GSA officials were also close to former Sen. Scott, the contract raised eyebrows. In March 1972, the General Accounting Office, Congress' watchdog, reported the award had been "improper" because Gateway had failed to comply with various criteria in its bid submission.

Despite widespread publicity surrounding the Gateway case, the Senate Judiciary Committee confirmed Fogel in a routine 10-minute hearing in February 1973. Republican Sen. Roman Hruska of Nebraska, who chaired the hearing, asked Fogel no questions about Gateway. The only other senators present were Pennsylvania's Richard Schweiker and Scott, who took up most of the 10 minutes with effusive praise of the nominee.

But a civil lawsuit brought by a losing bidder, John W. Merriam, brought out additional facts about Gateway. Judge Fogel admitted in a sworn deposition that he had backdated documents submitted to GSA, and Justice launched a criminal investigation in 1975. Although the exact date is still obscured in secret grand jury proceedings, sometime in late 1975 or early 1976 Fogel refused to cooperate with a grand jury by invoking his Fifth Amendment rights against self-incrimination.

The Justice Department dropped the investigation in 1976, but the Carter administration revived it last year. Attorney General Bell wrote Rep. Allen Ertel of Pennsylvania on Oct. 19 that he was reviewing the evi-

dence to see if the case should be referred to the House Judiciary Committee for impeachment proceedings or "other possible alternatives."

Bell never referred the case to the committee and he will not comment on what he meant by "other possible alternatives." But on Jan. 20 Fogel announced his resignation, effective May 1. The announcement came eight days after two former Philadelphia policemen who were convicted of robbery filed a petition in federal court accusing Fogel and two other federal judges of being "owned" and on their lawyer's "payroll." Those charges are currently under investigation.

UNEXAMINED COMPLAINTS

Each year dozens of complaints against federal judges go unexamined for lack of an appropriate investigative mechanism.

Judicial councils in the regional federal circuits have no investigative staffs and are not capable of dealing with complex cases. Although a review committee established by the policy-making Judicial Conference of the United States has been diligent and effective in resolving simpler conflict-of-interest and ethical questions, it too is not equipped to deal with difficult cases.

Nor is the Supreme Court able to police the federal judiciary, as illustrated by one 1976 complaint lodged with it by a Pennsylvania businessman named John A. Nard. Nard complained about alleged political corruption by several federal judges in Pennsylvania, but Supreme Court Clerk Michael Rodak Jr. replied: "I regret to inform you that this court has no authority to institute or conduct investigations as mentioned in your letter. Neither can we suggest an investigative body."

It is precisely such mechanisms that would be set up by the pending judicial tenure legislation, which has also been endorsed in principle by the Judicial Conference. Indeed, the value of such a procedure has already been demonstrated at the state level. Since adopting such legislation in 1961, California has become the model for over 44 state judicial tenure commissions. Rather than face formal hearings, 67 California judges have resigned since 1961. Five others have been censured by the California Supreme Court, and three more have been removed from office.

Mr. DECONCINI. Mr. President, I am prepared to have a final vote.

Mr. President, prior to that, I would be remiss if I did not thank the Senator from Maryland today for a number of things, not only his eloquent arguments on the other side of this matter, but his willingness to address a very sensitive problem to him and to all of us here, and his staff willingness to work on the problem with amendments. We did incorporate some in the committee. His historical background, as demonstrated today, is second to none. I thank the Senator for his efforts. I am prepared to vote.

Mr. THURMOND. Mr. President, I would like to again take this opportunity to commend the able Senator from Arizona for the fine leadership he has shown in this bill. I also want to commend the able Senator from Georgia, Mr. NUNN, for his interest in this bill and the great amount of work he has done on this type of legislation; also the distinguished Senator from Maryland for the study he has given to this bill and the fine knowledge he has brought to the Senate debate today on S. 1873. I would also like to thank Senators HATCH, LAXALT, BAYH, and HEFLIN for their fine contributions to the deliberations on this legislation.

Mr. MATHIAS. I am very grateful to the Senator from Arizona and the Senator from South Carolina, but much of the credit goes to my staff, Mr. Klipper, and Ms. Rienhoff, who have both been very helpful.

● Mr. DOLE. Mr. President, today we consider the Judicial Conduct and Disability Act of 1979. This bill establishes a procedure for the processing of complaints against the Federal judges of our Nation.

THE BENCH MUST BE ACCOUNTABLE

During the 93d, 94th, and the 95th Congresses, consideration has been given to legislation that would establish an alternative to the traditional right of impeachment. In light of the fact that, the recently enacted Federal Omnibus Judgeship Act has resulted in an increase of 152 authorized district and court of appeals judgeships along with the 170 senior judges, there are over 850 Article III judges. Clearly the American people have a basic interest in the conduct of these 850 life tenured judges. Although most of the members of the bench are competent, dedicated individuals the public has a right to resolve the occasional problems that arise. Without a means to make the bench accountable the public could lose confidence in the judiciary. That confidence is essential to the effectiveness of our judiciary system.

THE CONSTITUTION

The Founding Fathers were aware of this potential threat to judiciary and they incorporated provisions for the impeachment of Federal judges. Article II, section 4 of the Constitution provides that—

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Mr. President, it is not difficult to conceive of instances that a judge should be required to account for that would fall short of this high constitutional standard. This bill creates an effective alternative to impeachment.

IMPEACHMENT—A CUMBERSOME PROCESS

In addition to requiring a high standard of misconduct, impeachment is a difficult procedure to implement. It is cumbersome and time consuming. This process requires more time than either the House of Representatives or the Senate may realistically be able to provide. An average impeachment trial in the Senate lasts 16 days and some have taken as long as 6 weeks. Consequentially this process is rarely used since the Legislature cannot possibly afford the amount of time that the impeachment procedure requires.

MECHANICS OF THE BILL

The Senator from Kansas supports this vital legislation. It will enable the public to file a complaint against a Federal court of appeals judge, a Federal district judge, a Federal bankruptcy court judge, or a Federal magistrate with the judicial council of the circuit in which the judge serves, alleging that the judge has been unable to discharge efficiently all the duties of his or her office by reason of mental or physical disability, has engaged in conduct inconsistent with the effective and expeditious administration of the business of the courts, or has engaged in conduct prejudicial to the administration of justice by bringing the judicial office into disrepute. The bill wisely makes no provisions for disgruntled litigants to file complaints based on their displeasure in the manner in which their case was resolved.

I encourage my colleagues to support this legislation to insure that the American people continue to place their trust in our judiciary system.●

Mr. MATHIAS. Mr. President, I ask unanimous consent that the testimony of Monroe H. Freedman on behalf of the American Civil Liberties Union be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

REMOVAL AND DISCIPLINE OF FEDERAL JUDGES

(By Monroe H. Freedman) *

Mr. Chairman:

Thank you for inviting me to testify on behalf of the American Civil Liberties Union regarding proposals affecting judicial tenure.

The American Civil Liberties Union opposes the pending legislation that would provide for removal or other discipline of federal judges by any means other than impeachment. ACLU shares the view of those who founded our system of government, that the independence of the judges is essential to ensure "inflexible and uniform adherence to the rights of the Constitution, and of individuals."[1] Toward that end, the framers of the Constitution sought to establish virtual "permanency in office" and "permanent tenure" for the federal judges.[2]

As Alexander Hamilton explained, there was a single constitutional provision for dealing with a lack of "responsibility" on the part of individual judges:

The precautions for their responsibility *are comprised in the article respecting impeachments.* They are liable to be impeached for malconduct by the House of Representatives, and tried by the Senate; and, if convicted, may be dismissed from office, and disqualified for holding any other. *This is the only provision on the point which is consistent with the necessary independence of the judicial character,* and is the only one which we find in our own Constitution in respect to our own judges.[3]

The same proposition has been stated unequivocally by eminent authorities from that time forward.[4] James Madison said:

"The judges are to be removed only on impeachment, and conviction before Congress."[5] Thomas Jefferson first supported life tenure for judges so that they "should not be dependent upon any man or body of men," but he then sponsored the impeachment attacks against Federalist judges and sought constitutional amendment to eliminate life tenure—thereby reaffirming in the most emphatic way his understanding of the relevant constitutional provisions.[6] After a century of experience with the Constitution, Lord Bryce concluded that, "The Fathers of the Constitution studied nothing more than to secure the complete independence of the judiciary,"[7] and accordingly, "impeachment is the only means by which a Federal judge can be got rid of."[8] More recently, the Supreme Court has described Article III courts as "presided over by judges appointed for life, subject only to removal by impeachment."[9]

In the face of those authorities, and numerous others,[10] how could it be supposed that Federal judges can be removed from office by

Footnotes at end of article.

means other than impeachment? As Congressman Celler observed, "It scarcely can be believed that the framers intended vesting Congress with an important power [to provide for removal other than by impeachment] and then so skillfully concealed it it could not be discovered save after 150 years."[11] Professor Raoul Berger (the principal academic opponent of judicial life tenure) has retorted that the framers' true intention was concealed "only from those who did not pause to turn the pages of history" and ask the right questions[12]—a category that includes, as we have seen, Hamilton, Madison, Jefferson and others who participated in drafting and explaining the Constitution before "the accumulated dust of generations"[13] had settled upon it to confound understanding.

Like other critics of judicial life tenure,[14] Professor Berger begins his argument by pointing to the awkwardness of impeachment as a method of removal.[15] In short, he argues that impeachment is not the exclusive removal procedure because it is so clumsy that (in his view) it should not be the only means of ousting a venal judge. But that, of course, is precisely the point. The framers quite consciously and explicitly sought to assure an independent judiciary by making judges removable only by the extremely difficult process of impeachment. As Hamilton expressed it, the purpose was thus to provide "permanency in office" and "permanent tenure" for federal judges.[16] To protest as Professor Berger does, therefore, that impeachment is not a very efficient means for removing a judge from office, is simply to confirm that the framers' purpose has been achieved.

Professor Berger's principal contention, however, derives from the fact that there are two relevant clauses in the Constitution, and that they use different phrases to express the standard for judicial tenure. Article II, section 4, provides for impeachment of all civil officers of the United States for treason, bribery, or other "high crimes and misdemeanors." Article III, section 1, provides that the judges shall hold their offices "during good behavior." Thus, Professor Berger argues that the "good behavior" standard is broader than the "high crimes and misdemeanor" standard,[17] and that, therefore, impeachment is not the exclusive procedure for removal.

As Professor Austin Scott used to say, I understand everything except the therefore. That is, even if there be two standards for removal, it does not follow that there cannot be an exclusive procedure for removal. Put otherwise, assuming that Professor Berger is correct in his inference of a double standard of judicial removal, the Constitution appears to say simply that all civil officers can be impeached for high crimes and misdemeanors, and that judges can also be impeached for lack of good behavior. It is therefore a non sequitur when Professor Berger says:

When the Framers employed "good behavior," a common law term of ascertainable meaning, with no indication that they were employing it in a new and different sense, *it might be presumed that they implicitly* adopted the judicial enforcement machinery that traditionally went with it.[18]

Professor Berger's conclusion, therefore, is a mere presumption dangling from a "might" and tied tenuously to an "implicitly."

More importantly, there is solid historical evidence that the framers used the phrase "good behavior" in a special sense, without intending to broaden the standard of high crimes and misdemeanors, and without intending to carry with it any "judicial enforcement machinery" other than impeachment. First, the framers never said that they had adopted any other procedure. Second, on the contrary, they expressly provided for only one procedure, and they expressly explained repeatedly that only one was intended.

In addition to the previously quoted statements, consider the observation of Gouverneur Morris, the most important member of the Committee of Style and Revision of the Constitutional Convention:[19]

Misbehavior is not a term known in our law; the idea is expressed by the word misdemeanor; which word is in the clause respecting impeachments. Taking, therefore, the two together, and speaking plain old English, the Constitution says, "The judges shall hold their offices so long as they demean themselves well; but if they shall misdemean, if they shall on impeachment be convicted of misdemeanor, they shall be removed."[20]

Similarly, Bryce defined good behavior as synonymous with impeachment: "[The justices] hold office during good behavior, *i.e.,* they are removable only by impeachment."[21]

Finally, Professor Berger suggests that Hamilton conceded the propriety of removal by means other than impeachment in cases of insanity.[22] Again, Professor Berger is demonstrably wrong. This is what Hamilton said:

The want of a provision for removing the judges on account of inability has been a subject of complaint. But all considerate men will be sensible that such a provision would either not be practiced upon or would be more liable to abuse than calculated to answer any good purpose. The mensuration of the faculties of the mind has, I believe, no place in the catalogue of known arts. An attempt to fix the boundary between the regions of ability and inability, would much oftener give scope to personal and party attachments and enmities than advance the interests of justice or the public good. The result, except in the case of insanity, must for the most part be arbitrary; and insanity, without any formal or express provision, may be safely pronounced to be a virtual disqualification.[23]

A careful reading of that important passage shows that the Constitution had been attacked in 1788 by those who believed, as Professor Berger does, that there should be provision for removing judges for "inability" as distinguished from impeachment for malconduct. Significantly, Hamilton did not respond as Professor Berger would have wanted, by saying that Congress has the power to provide for judicial removal of judges for disability under the necessary and proper clause.[24] On the contrary, Hamilton met the criticism head-on by defending the want of an alternate procedure in cases of disability. He gave two reasons: (1) the line between ability and inability cannot be drawn, and (2) the opportunity to draw such a line would more frequently give scope to partisanship than would it advance the interests of justice or the public good.

Accordingly, Hamilton explained the result of a decision based upon disability would, for the most part, be arbitrary. Concededly, he added, such a decision would not be arbitrary in the case of insanity—the extreme form of disability—but such cases are simply not going to arise often enough to justify an alternative to impeachment for malconduct as the exclusive removal procedure. Insanity, after all, is a "virtual disqualification," that is, literally it is not in fact a ground for disqualification, but for practical purposes it is not going to happen with any significant frequency.

That is not my reading alone. Explaining in his Commentaries why judges are not constitutionally removable other than by impeachment for malconduct, Justice Story repeated almost verbatim Hamilton's argument quoted above. However, Story paraphrased the last clause of Hamilton's argument to read: "and instances of absolute imbecility would be too rare to justify the introduction of so dangerous a provision."[25]

Thus, even the problem of insanity on the part of a judge (even though such a determination could be made without arbitrariness) is not sufficiently serious to have justified alternative constitutional standards or procedures for judicial removal. The threat to judicial independence was deemed to be too great.

One might well conclude that the text of the Constitution and the explanations of the framers are so clear that any argument based upon policy is superfluous. Indeed, a major concern of the American Civil Liberties Union is that the integrity of the Constitutional language and structure be respected. That policy, in itself, is sufficient ground to oppose the proposed legislation. The policy of judicial independence, however, and its inevitable relationship to civil rights and liberties, cannot be overstressed. It was the expressly reiterated purpose of the framers, and it is of paramount concern to the ACLU. As Professor Kurland has observed, "When dealing with so fundamental and so fragile a notion as the independence of the judiciary, one ought to tread warily lest the ultimate cost far outweigh the immediate gains."[26]

Moreover, there is good reason to believe that any novel and looser removal power would be directed against those judges who are most zealous in safeguarding the rights and liberties of unpopular minorities and individuals. Judges in New York who regularly violate the constitutional rights of citizens accused of crimes are reappointed without difficulty, but one who takes that constitutional right seriously has been threatened by the mayor with nonreappointment. As Justice Douglas has testified from personal experience, retaliation against the more libertarian judge is not "a rare instance; it has happened to other federal judges who have had perhaps a more libertarian approach to the Bill of Rights than their brethren." As a result, "the nonconformist has suffered greatly at the hands of his fellow judges."[27] On the other hand, judges who have joined in hysterical anti-radicalism, or who have fought against civil rights and liberties, have been rewarded with judicial appointments and promotions to higher office.

Finally, Chief Judge Irving Kaufman of the Second Circuit has given two additional policy reasons against looser removal standards and procedures: first, judges would be exposed to harassment through complaints by disgruntled litigants;[28] second, disciplinary schemes "pitting judge against judge . . . would also disrupt the sense of community so essential to a functioning court."[29]

Is there, then no judicial accountability? Are there no checks on the insane judge, the corrupt judge, or the incompetent one? Of course, there are. One, obviously, is impeachment. Another check is even closer to home, that is, more care and conscientiousness in the appointment process. Ironically, the members of the Senate who support looser removal procedures have themselves helped to create the problem they now decry—either by their own selections or by their tolerance, through "senatorial courtesy," of the irresponsible selections of their colleagues. Another check, within the judiciary, is appellate review.

Yet another check on the judiciary is the right of freedom of speech and press. Only yesterday, for example, the New York Times gave prominent front-page coverage to the severe appellate criticism of two trial court judges who had abused the powers of their

Footnotes at end of article.

office. Such public condemnation cannot be ineffective.[29]

For those reasons, Mr. Chairman, the American Civil Liberties Union opposes the proposals before this Committee to remove or to discipline federal judges by procedures other than impeachment.

FOOTNOTES

* I have been asked to state for the record my background and qualifications. I am a member of the National Board of the ACLU, a Professor of Law at Hofstra University (where I was Dean of the Law School from 1973–1977), and counsel to the New York law firm of Orenstein, Snitow, Sutak & Pollack. In practice, my work is principally litigation before federal courts and agencies. As a law professor, my relevant areas of specialization are Constitutional Law and Lawyers' Ethics. I also served as Legislative Consultant to Senator John L. McClellan in 1959, and have testified on several occasions before this Committee and the Senate Judiciary Committee.

In preparing this testimony, I have received valuable research assistance from Guido Gabriele, a third-year student at Hofstra Law School.

[1] The Federalist No. 78 (Hamilton) 502, 508–510 (Mod. Lib.).

[2] The Federalist No. 79 (Hamilton) 512, 513 (Mod. Lib.).

[3] Id. at 513–514 (emphasis added).

[4] I do not want to burden the record with multiple quotations. Numerous other authorities are cited in Kaufman, "Chilling Judicial Independence" (Thirty-Fourth Annual Cardozo Lecture of the Association of the Bar of the City of New York, 1978); Ervin, "Separation of Powers: Judicial Independence," 35 L. & Contemp. Prob. 108 (1970); Ziskind, "Judicial Tenure in the American Constitution: English and American Precedents," 1969 Sup. Ct. Rev. 135; Kurland, "The Constitution and the Tenure of Federal Judges: Some Notes from History," 36 l. of Chi. L. Rev. 665 (1969); Kramer & Barron, "The Constitutionality of Removal and Mandatory Retirement Procedures for the Federal Judiciary," Selected Readings, Judicial Discipline and Removal (Winters, ed.; Amer. Jud. Soc., 1973); W. S. Carpenter, Judicial Tenure in the United States (Yale 1918); B. Bailyn, Pamphlets of the American Revolution 1750–1776 (Belknap, 1965).

[5] Quoted by Rep. Rutledge in 11 Annals of Congress 738 (1802); Kaufman, *supra*, p. 32 and n. 111.

[6] Kurland, *supra*, pp. 694–695.

[7] Bryce, The American Commonwealth, vol. I, p. 268.

[8] Id., p. 107; see also p. 226.

[9] *United States ex rel. Toth v. Quarles*, 350 U.S. 11, 16 (1955); see also *Glidden Co. v. Zdanok*, 370 U.S. 530 (1962).

[10] See n. 4. *supra*.

[11] 81 Cong. Rec. 6171 (1937); Kurland, *supra*, p. 691, n. 63. The reference is to Shartel, "Federal Judges—Appointment, Supervision, and Removal—Some Possibilities under the Constitution," 28 Mich. L. Rev. 870 (1930).

[12] Berger, Impeachment: The Constitutional Problems 179 (Harvard, 1973).

[13] The quoted phrase (on this occasion) is Professor Berger's. Id., p. 178.

[14] *E.g.*, Shartel, *supra*.

[15] Berger, *supra*, p. 122–123. Illustrative of Professor Berger's misleading selectivity in the use of authorities, he quotes Bryce on the clumsiness of impeachment, but fails to note Bryce's approval of life tenure as an essential safeguard of judicial independence, and Bryce's conclusion that impeachment is the exclusive constitutional procedure for removal. See n. 7 and 8, *supra*.

[16] See n. 2, *supra*.

[17] Berger, *supra*, p. 125.

[18] Berger, *supra*, p. 131 (emphasis added).

[19] He is so characterized by Ziskind, *supra*, p. 150.

[20] Annals of Cong. 90 (1801). Professor Berger replies that Morris was wrong, because "misbehavior" was used in two colonial constitutions. Surely, however, Morris' understanding—or even misunderstanding—of the words he used is more significant than Professor Berger's emendation. And again, apart from the standard to be applied, Morris is clear that the sole procedure intended by the framers is impeachment.

[21] Bryce, *supra*, p. 226.

[22] Berger, *supra*, p. 139. Once again, the contention rests upon an unfounded "presumably." In this instance, Dr. Ziskind shares Professor Berger's misreading. See Ziskind, *supra*, p. 152.

[23] The Federalist No. 79, *supra*, p. 514.

[24] Art. I, sec. 8. See Berger, *supra*, pp. 180, 178.

[25] Story, Commentaries, sec. 1619.

[26] Kurland, *supra*, p. 666.

[27] *Chandler* v. *Judicial Council* (II), 398 U.S. 74, 129, 137 (1970) (Douglas, J., dissenting).

[28] Kaufman, *supra*, p. 48.

[29] Id., p. 55.

[30] The attitude of the established bar to criticism of judges is illustrated by the ABA Code of Professional Responsibility, in which lawyers are required to volunteer unprivileged knowledge of another lawyer's misconduct, but must reveal knowledge of judicial misconduct only upon request of an official body. DR 1–103.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote tonight.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER (Mr. BUMPERS). Are there any other Senators wishing to vote?

The result was announced—yeas 56, nays 33, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—56

Armstrong	Gravel	Pressler
Baucus	Hatch	Pryor
Bayh	Hayakawa	Ribicoff
Bentsen	Helms	Roth
Boren	Huddleston	Sasser
Bumpers	Jackson	Schweiker
Byrd, Harry F., Jr.	Jepsen	Simpson
	Johnston	Stevens
Byrd, Robert C.	Kennedy	Stewart
Chiles	Leahy	Stone
Cochran	Levin	Talmadge
Danforth	Long	Thurmond
DeConcini	Magnuson	Tower
Dole	McClure	Tsongas
Domenici	Meicher	Wallop
Durenberger	Morgan	Warner
Eagleton	Nunn	Weicker
Exon	Packwood	Williams
Glenn	Pell	Zorinsky

NAYS—33

Baker	Heflin	Moynihan
Bellmon	Heinz	Muskie
Boschwitz	Hollings	Nelson
Bradley	Humphrey	Percy
Burdick	Javits	Proxmire
Chafee	Kassebaum	Randolph
Cohen	Laxalt	Sarbanes
Culver	Lugar	Schmitt
Durkin	Mathias	Stafford
Ford	McGovern	Stennis
Hart	Metzenbaum	Stevenson

NOT VOTING—11

Biden	Garn	Matsunaga
Cannon	Goldwater	Riegle
Church	Hatfield	Young
Cranston	Inouye	

So the bill (S. 1873), as amended, was passed, as follows:

S. 1873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Judicial Conduct and Disability Act of 1979".

PROCEDURES WITHIN JUDICIAL COUNCILS; COURT ON JUDICIAL CONDUCT AND DISABILITY

SEC. 2. (a) Section 372 of title 28, United States Code, is amended by adding the following at the end of the section:

"(c)(1) Any person may file a written complaint against a judge, as defined in paragraph (2), with the judicial council of the circuit in which the judge serves, alleging that—

"(A) the judge is, or has been, unable to discharge efficiently all the duties of his or her office by reason of mental or physical disability; or

"(B) the judge is engaging, or has engaged, in conduct inconsistent with the effective and expeditious administration of the business of the courts.

"(2) For the purposes of this subsection through subsection (o), other than subsections (g) and (j), 'judge' means a judge of a court of appeals or a district court.

"(3) Complaints which are outside the jurisdiction of the judicial council include, but are not limited to, complaints relating to the merits of any decisional or procedural ruling of a judge, or any matter reviewable under any other provision of law on the record. The judicial council shall dismiss any complaint which is outside its jurisdiction.

"(4) The judicial council shall, with respect to judges within its circuit, process and investigate each complaint not dismissed under paragraph (3), and may investigate on its own motion any other allegation which meets the standards provided in subparagraph (A) or (B) of paragraph (1). After investigation on its own motion, the judicial council may, if appropriate, file

a complaint under paragraph (1). The judicial council shall notify the complainant when it receives the complaint, and shall forward a copy to the judge who is the subject of the complaint. The judicial council shall take action on each complaint in an expeditious manner.

"(5) After review of the allegations, the judicial council shall dismiss any complaint, the allegations of which are frivolous or which do not meet the standards provided in subparagraph (A) or (B) of paragraph (1), or proceed in accordance with subsection (d). If the judicial council dismisses a complaint under this paragraph or under paragraph (3), it shall notify in writing the complainant and the judge who is the subject of the complaint of the action taken and the reasons for the order of dismissal.

"(6) The complainant may, within ten days of receipt of the notice under paragraph (5), petition the Court on Judicial Conduct and Disability (hereinafter in this section referred to as the 'Court') for review of any order of dismissal under paragraph (3) or (5).

"(d)(1) If the complaint is not dismissed under subsection (c)(3) or (c)(5), the judicial council shall notify the complainant and shall give the judge who is the subject of the complaint an opportunity to appear before the judicial council, if desired.

"(2) If the judicial council finds that the allegations meet the standards provided in subsection (c)(1)(A) or (B), it shall—

"(A) certify disability pursuant to the procedures and standard provided under subsection (b);

"(B) request that the judge voluntarily retire with the provision that the length of service requirements under section 371 of this title shall not apply;

"(C) order that, on a temporary basis for a time certain, no further cases be assigned to the judge;

"(D) censure or reprimand the judge by means of private communication;

"(E) censure or reprimand the judge by means of public announcement; or

"(F) order such other action as it considers appropriate under the circumstances, but in no circumstances may the council order removal from office.

"(3) The judicial council shall maintain a record of any proceedings conducted under paragraph (2), and each action taken shall be accompanied by written findings, including a statement of the basis upon which such action was taken.

"(4)(A) The judicial council shall notify in writing the complainant and the judge who is the subject of the complaint of the action taken under paragraph (2). A complainant or the judge who is the subject of the complaint may, within ten days of receipt of such notice, petition the Court for review of any such action.

"(B) Upon the timely filing of a petition for review under this paragraph or under subsection (c)(6), the judicial council shall certify and transmit to the Court its action and findings with respect to that action, and a record of the proceedings. For purposes of a petition under subsection (c)(6), the record shall, at a minimum, consist of a copy of the complaint and the written notification to the complainant and the judge who is the subject of the complaint of the action taken and the reasons for the order of dismissal.

"(C) Except as provided in this section, there shall be no judicial review of any action taken by the judicial council under this subsection or subsection (c).

"(e)(1) The Judicial Conference of the United States shall promulgate rules of procedures for the judicial councils for discharging the duties under subsections (c) and (d), or authorize the judicial council of each circuit to promulgate rules of procedure for its respective circuit.

"(2) The Judicial Conference of the United States shall also promulgate rules of procedure for the Judicial Council of the District of Columbia Circuit and the chief judges of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court, for discharging the duties under subsection (j).

"(3) Any rule promulgated under this subsection may be modified by the Judicial Conference of the United States and shall be a matter of public record.

"(f)(1) Administrative, professional, and financial assistance from the Administrative Office of the United States Courts and from the Federal Judicial Center may be requested by—

"(A) each judicial council for discharging the duties under subsections (c) and (d); and

"(B) the Judicial Council of the District of Columbia Circuit and the chief judges of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court, for discharging the duties under subsection (j).

"(2) The Administrative Office of the United States Courts and the Federal Judicial Center are authorized to provide assistance requested under paragraph (1) and to expend funds to insure such assistance, within the limits of its available resources.

"(g)(1) There is established a court of record to be known as the Court on Judicial Conduct and Disability. The Court may exercise all appropriate judicial powers incident or necessary to the jurisdiction conferred up it. The Court may prescribe such rules for the conduct of its proceedings as it considers appropriate. Attendance of witnesses and the production of relevant material may be required from any place in the United States and its territories at any place designated for holding court. Whenever possible, the Court shall sit in the district or circuit in which the judge who is the subject of the complaint serves. If the judge who is the subject of the complaint serves on the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court, the Court shall sit, whenever possible, in the location in which that court is usually held.

"(2) The Court shall consist of five Federal judges, including at least one district court judge, to be appointed by the Chief Justice of the United States. Each member shall be a judge of the United States in regular active service. The Chief Justice shall designate the chief judge of the Court.

"(3) A judge of any court created by an Act of Congress in a territory which is vested with the jurisdiction of a district court of the United States may not be a member of the Court.

"(4) The term of each member shall be three years, except that when the Court is initially appointed, three of the members shall be serve three-year terms and two of the members shall serve two-year terms. The term of any member shall automatically be extended until his or her successor has been appointed. A member selected to fill a vacancy shall commence a full three-year term. A judge may serve on the court any number of times, but may not serve consecutive terms.

"(h)(1) The Court shall grant a petition filed by a complainant under subsection (c)(6) or (d)(4), or a petition filed by a judge who is the subject of the complaint under subsection (d)(4), upon the concurrence of two of its members.

"(2) Upon the grant of a petition under paragraph (1), the Court shall—

"(A) dismiss any complaint, the allegations of which do not meet the standards provided in subsection (c)(1)(A) or (B), and any complaint relating to the merits of any decisional or procedural ruling of a judge or any matter reviewable under any other provision of law on the record;

"(B) affirm any action taken by the judicial council if the action is supported by clear and convincing evidence on the record;

"(C) modify any action taken by the judicial council if such modification is supported by clear and convincing evidence on the record, but no such modification may include an order of removal from office;

"(D) reverse and remand to the judicial council for further proceedings any action which is unsupported by clear and convincing evidence on the record; or

"(E) when required in the interests of justice, conduct a hearing under subsection (i)(1) to determine the matter de novo, and any action taken under subsection (i)(2) shall be supported by clear and convincing evidence.

"(i)(1) If the Court decides to hear the matter de novo, the judge who is the subject of the complaint shall be given adequate notice of the hearing, shall be admitted to the hearing, may be represented by counsel, may testify and present testimony at the hearing in his or her own behalf, and may confront and cross-examine any witness.

"(2) After a hearing de novo under paragraph (1), the Court shall—

"(A) upon a determination that the allegations do not meet the standards provided in subsection (c)(1)(A) or (B), order dismissal of the action;

"(B) upon a determination that the judge is unable to discharge efficiently all the duties of his or her office by reason of permanent mental or physical disability and that the appointment of an additional judge, in the manner provided in subsection (b), is necessary for the efficient dispatch of business, certify disability; or

"(C) upon a determination that the allegations meet the standards provided in subsection (c)(1)(A) or (B)—

"(i) order that, on a temporary basis for a time certain, no further cases be assigned to the judge;

"(ii) censure or reprimand the judge by means of public announcement; or

"(iii) order such other action as it considers appropriate under the circumstances, but in no circumstances may the Court order removal from office.

"(3) Each action taken under subsection (h)(2) and under paragraph (2) of this subsection shall be made by a majority of the members of the Court. Each order or action of the Court shall be in writing, and the complainant and the judge who is the subject of the complaint shall receive a copy. There shall be no judicial review of any order or action of the Court taken under this subsection or subsection (h).

"(j)(1) Any person may file a written complaint—

"(A) with the Judicial Council of the District of Columbia Circuit, with respect to the chief judge of the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court; or

"(B) with the chief judge of the applicable court, with respect to any judge of the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court;

alleging that the conduct of the judge meets the standards provided in subsection (c)(1)(A) or (B).

"(2) The Judicial Council of the District of Columbia Circuit or the chief judge, as the case may be, shall proceed in accordance with the provisions of paragraphs (3) through (6) of subsection (c) and the provisions of subsection (d). If a complainant or judge who is the subject of the complaint petitions the Court for review, the provi-

sions of subsections (g), (h), and (i) shall apply. For purposes of this paragraph, all references to 'judicial council' in paragraphs (3) through (6) of subsection (c), subsections (d), (h), and (i), shall be treated as referring to 'the Judicial Council of the District of Columbia Circuit or the chief judge, as the case may be,'.

"(k)(1) The Court shall submit to the House of Representatives a record of all proceedings by the council, the Judicial Council of the District of Columbia Circuit or a chief judge under subsection (j), or the Court, revealing conduct which, in its view, would constitute an impeachable offense as defined in Article II, section 4, of the Constitution of the United States. The record shall be accompanied by the complaint made against the judge and any order or findings made by a judicial council, the Judicial Council of the District of Columbia Circuit or a chief judge under subsection (j), or the Court.

"(2) The Committee on the Judiciary of the House of Representatives shall give timely consideration to such record and accompanying materials, and shall make its best efforts to take action within 90 days of receipt of such record.

"(l) A judge shall not sit in any proceeding as a member of a judicial council or of the Court, or under the provisions of subsection (j), when it inquires into his or her own conduct, or when it inquires into a complaint filed by him or her against another judge.

"(m) No person shall be granted the right to intervene or appear as amicus curiae in any proceeding before a judicial council, the Judicial Council of the District of Columbia Circuit or a chief judge under subsection (j), or the Court.

"(n)(1) All matters filed with, all testimony or evidence given before, and all deliberations of, a judicial council under subsections (c) and (d), the Judicial Council of the District of Columbia Circuit or a chief judge under subsection (j), or the Court under subsection (h), shall be confidential—

"(A) unless authorized in writing by the judge who is the subject of a complaint;

"(B) unless the judge is censured or reprimanded by means of public announcement under subsection (d)(2)(E); or

"(C) unless final adverse action is taken against a judge, not including an order of dismissal.

"(2) For the purposes of subparagraph (C) of paragraph (1), an action is final—

"(A) if no petition for review is filed, on the date of expiration of the time period during which a petition for review may be filed; or

"(B) if a petition for review is filed, the date on which—

"(i) the Court denies a petition for review; or

"(ii) the Court grants the petition for review and takes action under subsection (h)(2)(B), (C), or (D).

"(3) If the Court determines under subsection (h)(2)(E) to hear the matter de novo, all proceedings conducted by the Court pursuant to subsection (i) shall be open and shall be a matter of public record.

"(o) The Director of the Administrative Office of the United States Courts shall include in its annual report filed with the Congress under section 604 of this title a summary of the number of complaints filed with each judicial council under subsection (c), and with the Judicial Council of the District of Columbia Circuit or a chief judge under subsection (j), indicating the general nature of such complaints and the disposition of those complaints in which action has been taken, including any action taken by the Court.".

(b)(1) The section heading for section 372 of title 28, United States Code, is amended to read as follows:

"§ 372. Retirement for disability; substitute judge on failure to retire; judicial discipline".

(2) The table of sections for chapter 17 of title 28, United States Code, is amended by amending the item relating to section 372 to read as follows:

"372. Retirement for disability; substitute judge on failure to retire; judicial discipline.".

ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

SEC. 3. Section 604 of title 28, United States Code, is amended by adding at the end the following:

"(1) The Director shall provide facilities and pay necessary expenses incurred by the Court on Judicial Conduct and Disability under chapter 17 of this title, including mileage allowance and witness fees, at the same rate as provided in section 1821 of this title.".

SEPARABILITY

SEC. 4. If any provision of this Act or any amendment made by this Act, or the application of such provision or amendment to any person or circumstances, shall be held invalid, the remainder of this Act or such amendment or the application of such provision or amendment to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

AUTHORIZATION

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATE

SEC. 6. This Act shall become effective October 1, 1980.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, regarding this bill, may I have a clarification on S. 1477 and the relation to this bill?

The PRESIDING OFFICER. Pursuant to the order of September 6, 1979, the text of S. 1873, just passed by the Senate, will be added as an amendment to S. 1477, and third reading and passage of that bill is considered to have occurred, as amended.

Mr. DECONCINI. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider on the passage of the House bill. Was that included in the order?

The PRESIDING OFFICER. The Senator's motion to reconsider is in order. It was not included.

Mr. ROBERT C. BYRD. I make that motion.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent there be a brief period for the transaction of routine morning business, not to exceed 20 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 125TH ANNIVERSARY OF COLUMBIA COLLEGE

Mr. THURMOND. Mr. President, Columbia College of Columbia, S.C. is celebrating its 125th anniversary this year. This outstanding institution of higher learning has produced many able graduates.

A recent editorial in the State newspaper, Columbia, S.C., discusses this fine institution.

Mr. President, in order to share this article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COLUMBIA COLLEGE NOTES ITS 125TH YEAR

The anniversary being observed by Columbia College this year might generate more interest if it were described as a centennial celebration marking 100 years, or—more impressive yet—as a sesquicentennial, for 150 years.

Nevertheless, we concur with President Ralph T. Mirse, the college authorities, and the thousands of alumnae (most of whom live in the Columbia area) that a 125th anniversary likewise is deserving of attention. And 1979 marks such an occasion. Indeed, special services held Sunday at Washington Street United Methodist Church commemorated the 1854 action in which South Carolina Methodists voted—at that very church—to charter the college.

During the long span of years since then, the college has experienced high points and low—one of the most dismal being the destructive fire which ravaged Old Main and adjacent structures 15 years ago.

Today, however, the college is at a new height of performance and prestige. More than 1,000 young women are enrolled, availing themselves of broader-than-ever curriculum offerings. While still retaining a traditional emphasis on teacher training, they include business, economics, and other subjects so essential to the success of young women in today's complex workaday world.

Also to its credit is the fact that the college is operating on a balanced budget, a state of fiscal health made possible in part by the financial support given by individuals, organizations and business firms throughout the state. Most of that backing understandably comes from the Columbia area, where the college and its personnel are best known and where, let it be noted, most of that $4 million budget is spent. (That figure does not include the additional thousands spent by students and faculty in the area.)

But Columbia College's worth to the community, the state and the region is not to be measured in terms of dollars and cents. Rather, the college's greatest contribution lies in the quantity and quality of well-educated young women who benefit from the wholesome Christian atmosphere which characterizes the institution.

Today, there are only 122 women's colleges among the 3,000 or more institutions of higher learning in the United States. Both as undergraduates and as graduates, the young women of these schools reflect traits and training which corroborate the worth of women's colleges, as is certainly true with Columbia College.

But even as we compliment "C-Square" on this particular occasion, we make it a point to extend similar felicitations to another Methodist-related college which also is observing its 125th anniversary this year. We refer to Wofford College at Spartanburg.

These two schools, and the other independent colleges and universities in the state, constitute a balance to South Carolina's tax-supported institutions and insure a continuing and healthy alternative in higher education. Both the state and the nation benefit from the dual system. Now is a fitting time for Columbians and South Carolinians to express their appreciation for and support of this truly American arrangement.

OPPOSITION OF NAVAL RESERVE ASSOCIATION TO SALT II TREATY

Mr. THURMOND. Mr. President, at the recent annual national conference of the Naval Reserve Association meeting on October 6, 1979, in Buffalo, N.Y., four important resolutions were adopted by the membership.

Of particular interest were resolutions in opposition to SALT II and a call on the administration and Congress to improve readiness of the Naval Reserve.

Mr. President, I ask unanimous consent that the resolutions, forwarded to me by Rear Adm. Philip Smith, president of the USNR, be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

SALT II TREATY

Whereas the Naval Reserve Association previously resolved that the Administration and the Congress were encouraged to: Preserve a posture that does not relegate the United States to a position of military inferiority; Develop and maintain strategic forces which represent a credible deterrent, and one which denies the Soviets any perception of military superiority; Recognize that no SALT II Agreement is better than one which does not provide for our national security, strategic deterrence and well-being; and

Whereas congressional testimony has established that there are serious flaws in the SALT II agreement as now constituted in the areas of verification, and

Whereas the provisions of the protocol with respect to CRUISE missiles amount to an unrelated renunciation of an American capability, and

Whereas a linkage between SALT negotiations and Soviet worldwide political and military activity needs to be established by a national political and military policy, and

Whereas the SALT II Treaty as presently constituted locks the United States into strategic inferiority, and

Whereas no true arms reduction is accomplished by the SALT II Agreement,

Now therefore be it resolved that: the Naval Reserve Association urges the Senate of the United States to reject the present SALT II Agreement.

NAVAL RESERVE READINESS

Whereas: There are serious present and projected manpower shortages in the Reserve components, and

Whereas: In the absence of instituting a draft to obtain Reserve manpower involuntarily, or other actions to obtain volunteer Reserve manpower, such serious manpower shortages are expected to continue, and

Whereas: There is widespread opposition to the concept of drafting young persons for military service except in a national emergency requiring mobilization, and

Whereas: Traditionally, the Reserve components have relied primarily on volunteers and should continue to do so in the interest of optimum effectiveness, and

Whereas: The combat hardware and equipment, including ships and aircraft for the Naval Reserve is approaching a serious level of obsolescence and poor material condition due to overage and lack of funding for adequate maintenance, and

Whereas: Naval Reserve training facilities, equipment and programs are inadequate or marginally adequate and/or not being improved sufficiently to attain and maintain the optimum training and readiness of Naval Reserve personnel to meet immediate mobilization requirements, and

Whereas: The Reserve components must be fully manned, trained and equipped to fulfill immediate mobilization requirements in a national emergency,

Now therefore be it resolved that: The Naval Reserve Association urges the Department of Defense and the Congress of the United States to develop, support and enact the legislation necessary to institute and accelerate the following program improvements for the Reserve components:

(1) Acquisition and maintenance of modern equipment, ships and aircraft capable for immediate deployment in a combat environment,

(2) Acquisition and maintenance of modern and effective training facilities and equipment, plus the RPN funds required: (a) to make Naval Reserve training effective and meaningful, and (b) to maintain Naval Reserve personnel in a condition of optimum readiness for immediate mobilization,

(3) Development of a system of Reserve compensation and benefits for Reserve personnel which is sufficient to attract and retain the voluntary manpower required to maintain the Naval Reserve and other Reserve and National Guard components at their required strength levels.

MOBILE INSHORE UNDERSEA WARFARE UNITS

Whereas: Active duty IUW groups are scheduled for deactivation in FY 1980 and a similar proposal has been made for the deactivation of all Reserve MIUW units on the East Coast with consequent loss of the only current capability for surveillance and command and control in inshore areas, and

Whereas: Loss of this capability, if extended to the West Coast involves 1,400 Selected Reserve billets and on the order of $8,000,000 of recently acquired hardware, and

Whereas: Loss of this capability is particularly critical in light of the widely recognized enemy capacity for mine warfare and the equally well known inadequacies of United States mine countermeasure capabilities.

Now therefore be it resolved that: The Naval Reserve Association strongly encourages the Secretary of the Navy and the Chief of Naval Operations to:

(1) Reject any proposal to substantially scale down the current Reserve MIUW Program capability until such time as:

A comprehensive review has been conducted of the threat to Naval and merchant ships transitting CONUS and out-CONUS coastal waters and the energy assets on the continental shelf;

A clear division of responsibility for defense of inshore areas is agreed to between the U.S. Navy and the U.S. Coast Guard; and

A meaningful alternative capability suitable for dealing with threats to the inshore areas is identified.

(2) Turn over management of the current Reserve MIUW units to newly established Naval Reserve IUW groups on each coast.

(3) Implement the establishment of the long proposed Naval Reserve Harbor Defense units which are intended to facilitate the coordination, planning and exercise of contingency plans applicable to CONUS and out-CONUS high priority port areas.

SEA BASED MOBILE PLATFORMS

Whereas: The Naval Reserve Association takes cognizance of the necessity to protect the silo based counterforce MIRVed missile force with an advanced mobile counterforce missile system (MX), and

Whereas: The possibility of basing the counterforce strategic ICBM system on sea based mobile platforms appears to be substantially more cost effective than any newly proposed land based system and offers improved safety and diminished detection, and

Whereas: The sea based system would furnish a most appropriate alternative to any mobile land based MX system,

Now therefore be it resolved that: The Naval Reserve Association urges full consideration of the sea based MX system over any new land based system.

S. 1246, THE ENERGY ANTIMONOPOLY ACT OF 1979

Mr. THURMOND. Mr. President, I feel sure that the Members of the Senate are aware of the numerous proposals, by the administration and by the Congress, that are intended to deal directly with the severe energy problems of the United States. These energy problems are major, and certainly we desire to contribute as best we can to the solutions. Senate bill 1246, however, is not the proper vehicle for legislation regarding this particular problem. Neither is it, as written, a legitimate bill for consideration as antitrust legislation.

In these times when our Nation is experiencing an intolerable rate of inflation—due to a large extent to our energy problems—it is unconscionable that we should be spending our time and efforts on a bill, such as S. 1246, which is so obviously counterproductive to our economy and to the public interest. S. 1246 offers only negative results—at a time when we must have some positive programs and answers.

The enactment of S. 1246 would make the United States more dependent on foreign oil, would reduce economic growth, would reduce research and development activity, and could actually prove to be anticompetitive. Additionally, there is no credible justification for enacting arbitrary restrictions, as S. 1246 does, against a specific group of companies in a single industry.

In order that we not create for ourselves, and for the citizens of this Nation, a much worse long-run energy situation than we already face, I urge my colleagues in the Senate to reject this ill-conceived measure.

In the weeks since May 22, 1979, much excellent and convincing testimony in opposition to S. 1246, the "Energy Antimonopoly Act of 1979" has been provided from a wide array of expert witnesses. Mr. President, these witnesses who testified in opposition to S. 1246 were not just representative of the oil industry. The majority of them were nonoil industry professionals of the highest integrity and responsibility. They represented many lifetimes of dedicated service in the public sector, in the private sector,

in the academic area, and other professional areas. They represented bipartisan views, with Members from both sides of the aisle participating. They represented institutional and technical views, as well as business and consumer views. Several of them had careers that spanned careers from Government service to the private sector, while other careers were from the private sector to high levels of Government service. Certainly this outstanding group of uniquely qualified and respected opposition witnesses provides a level of credence such as has seldom been assembled and experienced in expressing individual and concerted opposition to proposed legislation such as S. 1246.

Testimony from the hearings on this bill provides convincing and unequivocal evidence that the enactment of S. 1246 would not be in the public interest because:

First. It is discriminatory, in that it is directed to only one segment of an industry in the overall economy.

Second. It would reduce domestic oil production, rather than increase it. Since oil companies would be restrained in their investments to their own high risk oil ventures, S. 1246 would be detrimental to the Nation's energy program.

Third. It would increase, rather than decrease, concentration in the petroleum industry, since the major oil companies would invest only in a very limited way in outside ventures.

Fourth. It would cause the United States to increase oil imports, due to cutbacks or lack of domestic production under the restraints imposed by S. 1246.

Fifth. It would reduce input by oil companies in research and development activities, thus cutting back on the emergence and application of new technology.

Sixth. It would prevent needed help to "failing companies" that, in many instances, could otherwise be merged into successful companies to the benefit of both companies involved, as well as in the best public interest.

Seventh. It would slow the development of a domestic synthetic and nonpetroleum fuels industry in the United States.

Eighth. It would result in decreased U.S. and world energy supplies by imposing harmful restrictions, distortions, and rigidities on the whole structure of international arrangements by which oil is found, developed, refined, and distributed.

Ninth. It would cause major foreign policy problems through its extraterritorial reach.

Tenth. It would contravene national security interests by resulting in increased foreign control of essential sources of energy supply.

Eleventh. It would raise the cost of capital needed to finance new energy production.

Twelfth. It would cause the Federal Government to make market and managerial decisions about where to invest private capital on the premise that the Government, somehow, knows how to manage money and the energy industry better than do private entrepreneurs and our system of private markets.

Those who proposed and support this bill purport it to be a protection against the growth of monopoly of major petroleum companies. The expert testimony in hearings on this bill, however, clearly demonstrated that this proposed legislation would actually cause the opposite to occur. While there are undoubtedly some aspects of the major oil companies' activities that do need some special attention during these days of critical shortages, this particular legislative proposal conflicts directly with the types of action needed to help solve the energy problem.

Many serious questions are raised by S. 1246 for which the proponents have provided no satisfactory answers. These questions include the following:

First. Why should we enact legislation that could prevent a financially solid and efficiently managed big firm from taking over a faltering firm that might be revitalized and saved with an infusion of capital and better management?

Second. Why should we enact legislation that could stifle the growth of large companies by saying to them that when they reach a certain size they cannot look around for another profitable venture?

Third. Why should we enact legislation that may increase the flow of American capital abroad? If big companies are foreclosed from investing in the United States, it is reasonable to expect them to look overseas. Not only could this result in American jobs being wiped out or exported, it could lead to greater pressures on our Federal Government to prop up failing companies.

These, and other similar questions, lead me to feel very strongly that the Congress must not, by enacting legislation such as S. 1246, increase the already formidable obstacles to energy development in this country—especially at a time when we are so vulnerable to energy supply disruptions.

The proponents of this proposed legislation have failed to provide any convincing evidence with respect to the need for such legislation. Further, the proponents have not shown that any positive results would be forthcoming from the implementation of the legislation.

On the other hand, many knowledgeable and responsible witnesses have testified and factually supported the strongly adverse effects of this discriminatory and counter-productive measure aimed at curtailing activities of the Nation's large oil companies. The bill combines poor business economics with a bad precedent. While its proponents attempt to make political hay with a popular move against "big oil," the really adverse effects would, in fact, be felt by two large groups in our society. One would be the investing public which owns the oil firms and the other would be the vast oil-consuming public which would pay higher prices as a result of the legislation.

Diversification is essential to insure returns on investments and risk-reducing efficiencies in publicly held companies. Penalizing success and discouraging investment are not appropriate or satisfactory ways to face inflation and recession threats.

Unnecessary and undesirable Federal regulations imposed on American business are already widely recognized. If enacted, S. 1246 would be yet another unneeded intrusion by Government into the private sector. The additional burdensome Federal Government regulations imposed by S. 1246 would contribute more to our inflation problem and would force our U.S. business to charge consumers higher and higher prices for their products. Our American companies also would be even further disadvantaged when they attempt to compete with foreign firms in international markets.

Further, S. 1246 is simply a particularized version of S. 600, the general antimerger bill, directed at specific large oil companies. Its introduction suggests that S. 1246 has more to do with politics than with antitrust reform. It is a punitive measure, born out of frustration at our energy problems, but unrelated to their solution.

After careful deliberation of all the testimony, the discussions, and other directly related information, it is my conclusion that this bill S. 1246, is very definitely not in the best public interest and should not be enacted.

Mr. President, I feel that it is extremely important that my colleagues have the opportunity to read and consider some of the excellent testimony that was presented in the S. 1246 hearings. I hope they will take the time to read and give careful consideration to the statements of Mr. George W. Ball and Mr. John J. McCloy. Both these witnesses, as is well known, are individuals of highest integrity and possess unusual competence and experience from which they can speak knowledgeably and authoritatively on this particular issue.

Mr. Ball is currently involved with important duties and responsibilities in the private sector and many of us recall the several high level positions in Government that he filled so ably.

Similarly, Mr. McCloy is now engaged in activities in the private sector and he, too, had a truly outstanding career in Government service.

Mr. President, in order to share these two informative and convincing statements with my colleagues, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF GEORGE W. BALL

Mr. Chairman, I appear this morning solely as a private citizen. I do not represent any company or industry association, nor do I speak for the investment banking firm of Lehman Brothers Kuhn Loeb Incorporated, of which I am a Senior Managing Director. I do have, however, certain deeply-felt views with regard to S-1246, as amended by the Subcommittee, which I would like to reflect to this Committee.

My opinions are based on forty-seven years of professional experience. During that long time-span, I have spent almost thirteen years in various departments and agencies of the Executive Branch of our Government, including the Department of State, where I

was for six years the Under Secretary of State (the post now called Deputy Secretary) and subsequent United States Permanent Representative to the United Nations. My work in the private sector has been even longer—twenty-two years as a practicing lawyer and twelve years as an investment banker.

During the years I spent in the State Department and other government agencies, I dealt primarily with problems of foreign political and economic policy, and, during my career as lawyer and banker, my professional activities were concentrated on the political and economic aspects of international commerce and finance.

I mention this record not to disclose the sordid fact that I have never been able to hold a job very long but, rather, to explain the basis for the concerns that have led me to appear here this morning. Having had extensive experience in both the public and private sectors, I have no bias for or against either.

I hold no brief for the oil companies, and I am not speaking for them here. My deep concern is that we come to realistic grips with the world energy problem, and, in my view, we shall find a solution only by the full cooperation of the major non-Communist oil-consuming nations, as well as by working closely with the oil-producing countries. We must, therefore, avoid unilateral actions that, by placing narrow limits on the activities of our worldwide oil companies, disable them from operating effectively within the intricate framework of delicate international relations that characterize the world oil industry. Moreover, we must avoid unilateral legislative actions that could embarrass our nation's economic, financial—and, ultimately, political—relations with other nations.

I am convinced that the proposed legislation would interpose harmful restrictions, distortions and rigidities on the whole structure of arrangements by which oil is found, developed, refined and distributed. The efficiency of the oil industry depends on maintaining the maximum mobility of the factors of production which means, in practice, the ability to shift oil (which is, by its nature, fungible)—from one market to another as the occasion requires, to move technical personnel around the world, to process the material by refining it where that can be done most efficiently, and to sell it in the markets that are most attractive. Moreover, because of the huge cost commitments required in oil exploitation, the use of joint ventures and consortia has become an indispensable practice. Such joint ventures know no nationality. British, Italian, Japanese, French, German, American interests freely come together in different combinations to provide the capital and technology necessary for the development of new oil fields and to build the expensive downstream facilities required. They are subject to the laws and regulations of many host and domiciliary governments. They must be good corporate citizens of the countries where they do business or they will get into trouble.

The proposals before this Committee represent an attempt to extend the jurisdiction of the United States all over the world. That simply cannot be done without creating great mischief in our relations with other countries.

Apparently those who designed these proposals assumed that these abrasive problems could be avoided by adroit draftsmanship. But the various drafts already before the Committee—the original bill and successive amendments proposed by the Department of Justice—show that the problem is fundamental, that, in fact, it derives from the nature and structure of the industry. Thus, our government cannot, without creating major and costly international frictions, place special restrictions on the worldwide activities of companies just because they are incorporated in the United States and produce a certain amount of oil in this country.

Consider the Committee's experience so far. In the form as first introduced, S-1246 sought to restrict the right of major oil producers—those who produced in the United States 35 million barrels of oil in 1976—to acquire companies "engaged in commerce" in the United States. It soon became clear that this legislation would have the effect of encouraging major American firms to acquire companies outside of the United States, since they would be foreclosed from acquiring companies "engaged in commerce" with this country. That would, of course, directly contravene the Committee's objective of encouraging those firms to channel their funds into further oil development here.

Presumably because of this, and for other reasons, the Assistant Attorney General, by his letter of July 31, suggested a new approach. He proposed amending S-1246 to provide that firms incorporated in the United States which produced 150,000 barrels of oil a day anywhere in the world would be precluded from acquiring companies with assets exceeding $100 million, whether or not those companies "engaged in commerce." Moreover, since the Justice Department wished major oil companies incorporated outside of this country (such as Shell and British Petroleum) to be subject to the same restrictions as the major American companies, it sought to extend the reach of the act not merely to corporations that were incorporated in the United States but also to their affiliates, which would include any "person who controls, is controlled by, or is under common control with such major producer."

The Department of Justice bill thus proposed to stop major companies, such as Shell and British Petroleum, incorporated in Great Britain and Holland, from acquiring controlling interests in companies with assets exceeding $100 million anywhere in the world just because they had U.S.-incorporated subsidiaries producing a specified amount of oil in the United States.

That proposal would, of course, have created a major international outrage and played havoc with our foreign economic relations. It would have inevitably provoked the domiciliary governments, such as Britain and Holland, into enacting legislation forbidding companies under their jurisdiction to comply with a United States statute that sought to limit them in acquiring companies outside the United States. The grotesquery of the proposal is shown by the fact that the law, as the Assistant Attorney General first proposed it, would have prohibited either Shell or British Petroleum (which is, in part, owned by the British Government) from acquiring controlling interests in joint ventures organized to exploit their own North Sea or Dutch off-shore fields.

Apparently the absurdity of the proposal came to the Justice Department's attention, for it has now backed away from that attempt to extend the extraterritorial reach of American law. In a letter to the Committee dated September 18, the Assistant Attorney General has, instead, recommended that S-1246 be further amended to "eliminate coverage of foreign firms that control major American producers, and the other subsidiaries of such foreign firms." As a result, major foreign oil companies would be permitted to produce oil in the United States in direct competition with American companies, yet—unlike their American counterparts—would be free to move freely around the world, extending their market penetration—and, in many countries, their market domination—by acquiring local companies. Foreign subsidiaries of American oil companies would, in contrast, be forbidden to acquire, by purchase or acquisition, controlling interest (and control is presumed at 15 percent) in any sizeable producing, refining or distribution company or any other type of enterprise anywhere in the world.

Never before, to my knowledge, has a great nation deliberately hobbled its own enterprises for the benefit of the competition, but that apparently has not bothered the Assistant Attorney General. What has disturbed him is the belated recognition that the proposal would infuriate foreign governments and that they simply would not put up with it. The foreign subsidiaries of our major oil companies are, in many cases, huge enterprises; in Germany, for example, they dominate the entire German oil industry, and in many cases they have local partners or substantial local minority shareholders. Sometimes, the governments of oil-producing countries insist that they join local interests in building refineries and other downstream facilities. Thus, no self-respecting government of a foreign country would be likely to sit idly by while the largest oil company in that country (a subsidiary of EXXON or Mobil, for example) rejected that government's request on the ground that it was forbidden by United States law to undertake such an operation.

When this fatal flaw was finally shown to the Assistant Attorney General, he found no way to resolve the problem by redrafting except by providing a wholesale exemption of acquisitions by foreign subsidiaries of major American producers, which he was not prepared to do. So he consoled himself with the contention that the statute would, in any event, be subject to the principles of international law and comity. Thus, no matter how it was worded, if it cut across the laws—or even the policies—of countries where the foreign subsidiary was domiciled, the Department of Justice could always decide, in its wisdom, not to seek action to apply it, or the Federal courts might, in accordance with "principles of international law and comity" decide that the application of the statute was "inappropriate."

What an extraordinary bureaucratic copout! Even though it is clear that many foreign governments would promptly block the application of a statute, why not enact it anyway and let the poor litigants fight it out in court? Can one conceive of a better prescription for international chaos and for building up international resentments. Countries all around the world—wherever, in fact, subsidiaries of American companies are incorporated—would rush to enact laws to nullify the application of the American statute. Litigation would be profuse, protracted and confused. The Department of Justice would waste countless hours trying to decide whether, with the advice of the State Department it could safely proceed in a particular case without blowing up an international storm. That is no way for a great, responsible nation to behave.

The tenuousness of the excuse for extending the reach of American law is emphasized by the fact that, under the Department of Justice amendments, a foreign company which a major American oil company controls (which presumptively means holds at least a 15 percent interest) would be precluded from acquiring companies, even though those companies engaged in no business whatever with the United States.

To be sure, the Assistant Attorney General, in his letter of September 18, suggests that the prosecutor might decide not to try to enforce the statute where "a merger of a foreign subsidiary of a major producer with another foreign firm does not entail any drain on the producer's revenues, is, instead,

supported entirely by the resources of the foreign firms involved and would enhance the competitiveness of the resulting firm to the clear benefit of foreign public policies." But how could the prosecutor determine that such an acquisition did not "entail any drain on the producer's revenues"? One of the keys to efficiency of the multinational firm is its ability to deploy its resources freely all over the world and our country has a major responsibility for promoting the free transfer of capital. Yet, the implications of the Assistant Attorney General's comment are that America would now seek to place restrictions on the movement of capital earned in the United States.

When one considers specific transactions, the awesome implications of the proposed legislation become clear. For example, in developing great oilfields such as the North Sea, companies of different nationalities band together in consortia, with each participant taking a specific percentage—10 percent, 15 percent, 20 percent, 30 percent, and so on. Every year some companies drop out; percentage participations are revised; other companies buy in; it is a continuous process.

Without the new amendment suggested by the Assistant Attorney General, the proposed law would preclude any major oil company owned by, or owning, an American producing company of the requisite size from taking a controlling interest in a consortium involving more than $100 million (and no one knows how that valuation would be established). Even under the further amendment suggested by the Assistant Attorney General in his September 18 letter, subsidiaries of major American companies would be forbidden to take participations when the $100 million figure was exceeded. That would mean, in effect, that our major oil companies would be effectively kept out of most of the North Sea, or any other large field which may be developed anywhere in the world. Such an exclusion would constitute a blow to the American economy, not only because of the direct loss to our balance of payments but because the participation of our oil companies in oil development results in the export of a substantial amount of American services and technical equipment.

Subsidiaries of American companies should be assisted, not forbidden, to participate in consortia organized to develop foreign oil fields, but the proposed legislation would make it almost impossible. Even though a company might ultimately be saved from the restrictions of the proposed statute by the intervention of a host government, the statute would still cast a cloud on the inclusion of the company in consortia. If there were any possibility that American law might force the company to divest its interest at some future time, it would be a very unwelcome partner.

Since the world oil picture is constantly changing, all the possible implications of such a restriction cannot be foreseen clearly. Let us suppose, for example, that the oil fields off the China coast are opened for Western participation. Under S-1246, as it would be amended by the Assistant Attorney General, there would be serious doubt that American companies—or even their foreign subsidiaries—could participate in consortia for their exploitation. Not only would that mean a loss of revenues from oil, as well as from oilfield equipment, it might critically hamper our efforts to build an effective economic and political relationship with China. Moreover, it might well jeopardize our access to any Chinese surplus oil. In the present atmosphere of vaulting prices and potential stringencies, oil is an acutely sensitive subject for every nation. We should be extremely careful not to strangle our own enterprises with special restrictions, in a wistful hope of thereby forcing investment capital into domestic oil production. That could result in substantial cost not only to our larger financial, economic and political interests but also to our own energy supplies.

That this problem now worries the Department of Justice is shown by the fact that in his September 18 letter, the Assistant Attorney General writes: "Some concern has been raised that the new statutes might inhibit major producers' activities in petroleum exploration, development and production, particularly their participation in joint venture activities overseas. We do not have sufficient information at this time to evaluate this concern, or determine whether the statute, as it would be amended by the Administration's proposals, would be sufficiently flexible to deal with it."

Well, if the Assistant Attorney General does not know whether the statute would apply or not, who does? The proposed statutory provisions would certainly seem to do so, particularly in the light of the established interpretation of the anti-trust statutes.

But oilfield consortia are not the only problem. Consider another situation where, in order to gain access to preference crude—for example, in Saudi Arabia—the host government requires—or at least expects—a major oil company to invest or participate with local interests in important local industrial projects—a new refinery, or a petrochemical operation—or even to bail out a shaky local enterprise. Already over the past years, the access of American companies to preference crude has declined disturbingly; yet reduced access would mean less oil for the United States and higher prices through increased purchases in the spot market. In West Germany, the government has been encouraging the subsidiaries of major United States oil companies to invest in activities that would result in their diversification. The proposed legislation would presumably disable them from responding to West German Government policy.

In Canada, where there are important new oil finds, as well as tar sands and shale and other possible energy sources to be developed, the proposed legislation would presumably prevent the Canadian subsidiaries of major American firms from joining in most joint ventures, mergers or acquisitions aimed at increasing the production and sale of energy to the United States. Since the Canadian Government insists that Canadian subsidiaries of American companies be opened to substantial local equity participation, the application of the proposed law could have the effect of restricting the investment polices of companies partially owned by Canadians. In view of current Canadian hypersensitivity to United States economic domination, American business interests in Canada would be subject to devastating reprisals.

I cite these few examples as typical of the type of difficulty the proposed legislation would create for us all over the world. To be sure, in some cases the rule of comity might be interposed in the Federal courts. But that would not placate enraged foreign governments and, in any event, what kind of an answer is that? Though it might prevent the application of the statute, how would one measure the cost? Balance on such vague principles and on the differing views of individual judges would mean, in practical terms, that affected companies would pass up profitable transactions—to the great disadvantage of our country.

During my years in the State Department, I encountered no set of problems that evoked greater frustration and exasperation from foreign governments than our occasionally excessive bureaucratic zeal in trying to extend American laws and regulations extraterritorially. That is hardly surprising, since we, ourselves, would, as a proud nation and people, resent it deeply if these nations should try to impose their own peculiar prejudices and policies on us. Our anti-trust laws, the Trading with the Enemy Act, our efforts to regulate shipping and various bits of our labor legislation have long since created a climate of annoyance and opposition and the proposed legislation before this Committee would inflame already aroused feelings.

During the 1960s, the United States, as you will recall, flatly forbade exports to China, at a time when the Canadian Government was actively encouraging Canada's China trade. I was personally involved in trying to limit the damage in one case where subsidiaries of American companies controlled the only portable loading and unloading machinery in Canada—machinery that would be carried aboard the ship and used for wheat-handling at either end of the voyage. The United States Treasury, which administered the Trading with the Enemy Act, forbade the American companies to permit their subsidiaries to make this apparatus available to, I believe, the Canadian Wheat Board. That seriously threatened the movement of Canadian wheat to China.

A highly abrasive exchange took place between our governments until, finally, as I recall, we look the other way while the Canadian subsidiaries (which had local minority ownership) permitted the loading apparatus to be used. But that was only after an angry and awkward encounter that was widely used by anti-American elements in Canada to support the charge that we were seeking to impose economic tyranny on their country. There were other situations of that kind with regard to Canada.

I recall another case, where a French company had obtained an order from China for trailer trucks. Though the tractor component of those trucks was built by French-owned companies, the trailer vans were made by a subsidiary of the Freuhauf Corporation. When our Treasury Department ordered the American parent of Freuhauf-France to suspend its execution of the contract for truck vans, it incited serious attack on American economic imperialism in the French press. Tense exchanges took place between the highest levels of our two governments. In the end, a French court appointed a judicial administrator and expressly directed him to execute the original contract. The judgment of the French court was upheld by the Court of Appeals of Paris, thus over-riding the attempt of the Treasury Department to interfere with the sale.

Perhaps the most acrimonious exchanges have arisen over our attempts to apply our anti-trust laws extraterritorially. In a speech made recently in California, Mr. John Nott, the Trade Secretary in the new British Government, announced that he would propose legislation to the British Parliament to protect British companies and individuals against attempts by the United States to impose its own domestic economic policies and regulations on British companies (and that includes British subsidiaries of American companies). The proposed legislation would block the enforcement of judgments of American courts and cut back on the information British companies are now compelled to provide to help American authorities in their anti-trust investigations. As I understand it, the British Government has just made stern representations about the very legislative proposals this Committee is now considering.

Present tense feelings have resulted from a series of irritating incidents. British shipping companies were indicted under American statutes. We insisted that any company controlled 25% or more, directly or indirectly, by American shareholders was subject to American law, even if it did no business in the United States. Foreign companies complain at the disclosure requirements

imposed on them by the Securities and Exchange Commission; they resent the attempt to subject them to the Commerce Department regulations relating to the Arab boycott, which, they maintain, is restricting their companies' trade with the Middle East. Foreign commodity futures brokers are complaining that U.S. agencies are trying to enforce regulations that would force foreign brokers to help them catch Americans engaging in commodity transactions abroad that would be forbidden under American law. What has capped it all is the anti-trust suit brought by Westinghouse against an alleged uranium cartel; this has roused strong nationalistic feelings, infuriating the governments of both Australia and Canada.

If we continue to try to extend the jurisdiction of American law beyond our borders, the whole system of comity may break down. We can expect widespread legislation forbidding foreign courts to enforce the judgments of American courts. Both Britain and Canada are considering such legislation and other countries can be expected to follow suit.

In anti-trust cases, the courts can apply the American law to foreign companies only if they find that the proposed violations affect United States trade or commerce; under the proposed legislation before this Committee, not even that tenuous connection need be established to make the proposed statute applicable by its terms. Since other countries do not share our desire to try to limit the investments of oil companies—and, indeed, would not even understand it—we can claim no tacit international agreement that such a limitation serves a desirable economic purpose. American efforts to enforce such legislation would be considered idiosyncratic.

In my view, the proposed legislation reflects an obtuse disregard for the interests of foreign nations. In fact, had it been deliberately drafted to offend their sensitivities, it could hardly have been improved upon. How, for example, would we explain to a foreign government that a subsidiary of a major American oil company domiciled in that country could avoid U.S. statutory restrictions on its right to acquire other companies, or even to join international consortia, only by showing that such an acquisition or participation would result in increased energy imports for the United States, regardless of the effect it might have on the economy of the host country? Even our most skillful diplomats could hardly defend that position.

Let us consider the present state of the proposed legislation. The Assistant Attorney General has been forced, finally, to concede that one major aspect of the proposed legislation must be totally eliminated—the provision that would apply the proposed statute to foreign companies controlling United States subsidiaries—and, by falling back on vague rules of comity, has implicitly recognized that there is no way to write provisions that would apply the statute to subsidiaries or affiliates controlled by American majors without inviting international carnage. That, it seems to me, well illustrates the point I made at the outset, that the problem is not one of drafting but of conception. It is, in my mind, impossible to develop legislation that would effectively limit major domestic oil producers from exercising their managerial judgment to invest in controlling interests in other firms without either encouraging American firms to invest overseas rather than in the United States, poisoning our international economic relations with friendly foreign governments, or precluding American firms from participating effectively in the exploration and development of new fields, the penetration of new markets and the maintenance of a preeminent position in relation to other major world oil companies. That is an inescapable fact resulting from the international structure of the world oil industry. One cannot treat American major companies as though they were discrete, separable entities; the international oil business is world-ranging.

In this statement, I have directed my attention to the problem of extraterritoriality because any expansion of the practice could critically harm our international economic relations. Extraterritoriality is peculiarly explosive because it touches the ultra-sensitive nerve of national sovereignty. Since the United States is the most powerful nation in the world, we need to be especially careful not to appear as trying to coerce other nations—or the nationals of other nations—to accede to our own policies when the policies of their governments are likely to be totally different.

But if sovereignty is a sensitive issue, so is energy. In the face of a potential world stringency, it is essential for the major oil-consuming nations to coordinate their policies and band together if we going to avoid conditions of chaos and discrimination. In creating the International Energy Agency, we sought by common agreement to work out some ground rules that would enable us to mitigate the hardships of an oil shortage by providing for an equitable sharing of available oil supplies. In agreeing to this, we promised to take account of the needs and interests of our partners and to create a favorable environment for energy investment. We promised further to avoid actions that would cause problems on the world energy market. Recognizing that interference with the flow of investment could be deeply upsetting to the interests of other nations, we promised to consult with other members of the OECD under those circumstances.

The legislation now before this Committee contravenes the spirit of that agreement. It is, in essence, a nationalistic approach to a problem international in scope. It could create major distortions in the international oil industry, where interdependence is not merely a slogan but an operational fact.

It could do critical damage to our national interests.

STATEMENT OF JOHN J. MCCLOY

I am a practicing lawyer and partner of the firm of Milbank, Tweed, Hadley & McCloy of New York City. I was recently asked by an official of an American oil company as to my views on S. 1246, the so-called Energy Antimonopoly Act of 1979. I stated that I had some very definite views. When asked whether I would be prepared to give them to this Committee, I indicated I would. I very much appreciate the opportunity you have given me to appear before you now and to express the views which result from my governmental and private experience with the oil industry.

I should state at the outset what my experience and qualifications have been, to justify my having an opinion on this bill. For a large part of my life I have practiced law in New York City and for a number of years I have advised certain members of the oil industry in regard to their overseas operations mainly in connection with the production and distribution of oil from Middle East sources as well as generally from the countries represented in the Organization of Petrolum Exporting Countries, familiarly known as OPEC.

I have also had substantial experience as a government official during which I became familiar with U.S. governmental policies in regard to the production and distribution of oil from overseas sources. During World War II as The Assistant Secretary of War I dealt with problems in connection with the ready availability of oil to our armed forces and those of our allies in the conduct of the war. Following the war I became President of the International Bank for Reconstruction and Development, commonly called the "World Bank," whose operations included assistance in the financing of production, transportation and distribution of oil. Thereafter, I became the U.S. Military Governor of Germany and later the first U.S. High Commissioner to the Federal Republic of Germany. During this period I served as the Administrator of the Marshall Plan in Germany and as such became generally familiar with the vital role oil played in th reconstruction of Germany and Europe. I attended many meetings with representatives of the European Economic Community in which the distribution of oil was a constant preoccupation.

Following this period I returned to private life and served for eight years as Chairman of The Chase National Bank which subsequently became The Chase Manhattan Bank (National Association). This bank was engaged in extensive financing of operations of a number of oil companies and other entities related to oil production and consumption in both domestic and international trade. I was for a substantial period Chairman of the Council on Foreign Relations which actively considered and studied problems relating to the supply of oil and oil products in international trade, our monetary affairs, the status of our trade balances as well as the political and economic conditions in the oil producing and developing countries.

I have visited most of the oil producing countries of the Middle East at one time or another and I have had discussions with the leaders of these countries, as well as with officials of our own Government, all in the interest of developing means to ensure, as far as possible, a dependable flow of oil at reasonable prices to the Free World, mainly but not exclusively from Middle East producing sources.

My remarks will be addressed mainly to the effects of S. 1246 on the nation's interest in the international aspects of oil production and distribution. I do this because I understand that other witnesses have given substantial testimony as to the bill's effect in the domestic field. Moreover, my experience and knowledge regarding the production of oil and its distribution as well as my background have been largely in the international field. I have views regarding the domestic effect of the bill and I do not wish to have my failure to refer to the domestic field taken as an indication that I believe the bill is desirable from a domestic point of view. I do not.

I have come to realize from my experience that the flow of oil from the ground to the consumer is a complicated process particularly in its international aspects. Many political and economic conditions determine the course of this flow. Many different countries and their laws and politics are apt to affect and be affected by it. I recall how in times of emergency such as the first Suez crisis, as well as at other times it required the greatest cooperation between the oil companies and the governments involved to achieve the prompt and fair distribution of oil so as to enable the consuming countries to adjust to the adverse effects of energy losses on their welfare and economic stability arising from the interruption of their normal flow of oil.

My first exposure to our dependence on a steady flow of oil was during World War II. This country then had a very well defined energy policy. It was based on our substantial domestic production in large degree. This had been built up over the years and with the aid of vigorous exploration and a number of incentives it had become more than a self-sufficient energy source. It is interesting to recall now that up till 1948, we were

an exporter of oil. But the war had intervened and the demands on our production were greatly increased. Due in large part to the discernment of President Franklin Roosevelt the attention of our Government was directed to our need of a solid position in the great reserves of the Middle East. We had largely "oiled the war" as the saying went, and as heavy drains on our reserves began to be fully realized, the significance of the Middle East reserves to our future and that of the Free World became increasingly apparent. President Roosevelt also went to great effort to establish good relations with the rulers of the producing countries, particularly Saudi Arabia. The result was that our companies did assume a significant presence in the production of oil from these great reserves and there began an extensive relationship with the countries on the Arabian peninsula, and in the Middle East generally, which has persisted in spite of many vicissitudes and political developments in respect of the Middle East, until today.

The continued flow of oil at reasonable prices was a critical factor in the rehabilitation of Europe and in the reconstruction following the devastations of World War II. I have often felt this joint contribution of the oil companies and the governments has been lost sight of since the advent of our present shortages. Subsequent Presidents, notably President Kennedy, continued this constructive and far-seeing policy in the development and productivity of the Middle East reserves. Even though our Government policies in the Middle East did not always please the Arab producing countries our relations have remained generally friendly and very valuable to them and to us. The benefits we have derived from these countries have enhanced our security and the progress of our economy as well as that of our allies, during the whole post-war rehabilitation period.

In turn the proceeds of oil production have been applied in a substantial degree to the development of the economy of the producing countries, frequently taking the form of joint ventures with others including the producing country. These have involved the production of oil, the development of so-called down-stream operations flowing from the production of oil and in other cases programs only indirectly, if at all, related to oil or even energy.

Not only American oil companies but foreign oil companies as well have been engaged in these ventures and today they are in active competition with each other in participating in such ventures. As the sensibilities of the local sovereignties have developed the producing countries have demanded participation in the ventures while seeking investment on the part of the oil companies to help defray their costs and share the risks. In short, joint ventures have become a definite and effective pattern of overseas oil operation.

Let me now turn to S. 1246. The original bill would have completely prohibited all acquisitions, whether in the course of joint venture or otherwise, by major U.S. oil producers and their subsidiaries of control of any company wherever located having assets in excess of $100,000,000. When the crippling effect of the restrictions came to be realized, a series of proposed amendments was hurriedly put forward to cure the obvious defects of the bill. They have all failed to do so. The proposed amendments establishing affirmative defenses and those attempting to alleviate extra-territorial concerns by application of certain rather vague references to international law are quite inadequate. The great impediment which the bill's basic prohibition imposes on the ability of American oil companies and their subsidiaries to compete for participation in overseas joint ventures, still remains.

There is nothing sinister about joint ventures. They are a well established mechanism in various industries where capital requirements are very large—and in the petroleum industry those requirements typically involve billions of dollars for each undertaking—and where lead times and financial payouts are decades long. They permit the sharing of large costs and the spreading of unknown risks among several companies in order to develop resources which no single company, however large, could prudently undertake by itself. The results have generally been beneficial to our national economy and that of the Free World.

It is interesting to note that a recent study by the staff of a Subcommittee of the House of Representatives Judiciary Committee relating to joint ventures in the domestic crude oil industry found that often, in order to develop oil reserves effectively, ". . . it is necessary for separate working interest owners to join together." Stating that "such joint venturing should be encouraged", the Report concluded, "It is doubtful that the anticompetitive effects of such cooperation are so severe that they outweigh the benefits of this most efficient manner of production." (Staff of House Comm. on the Judiciary, "Interdependence in Domestic Crude Oil: Joint Ventures, Farm Outs, Exchanges, and Gathering Lines", at p. 29, (Comm. Print), 96th Cong. 1st Sess. (1979)).

If this is so in the case of domestic ventures, considering the size and variety of interests involved in the intricate international aspects of oil production it is even more apparent that such ventures are constructive, and indeed necessary, in overseas operations.

It is not surprising therefore that in the past foreign joint ventures by American companies for oil exploration and production have been encouraged by our government, which has deemed them to be consistent with the antitrust laws. Pre-eminent among these were, of course, the Aramco partnership and the Iranian Consortium.

But in his presentation to this Committee on October 4, Mr. James Atwood, Acting Legal Adviser of the Department of State, noted the concerns expressed by oil producers that the bill might well stand in the way of their acquiring an interest in joint ventures to develop the North Sea, the Persian Gulf, or other similar foreign locations where petroleum resources are thought to exist. He pointed out that the vast majority of exploration and development of foreign petroleum resources is done in some form of joint venture undertaking.

As he stated, "The joint venture form for largely energy transactions is frequently an efficient way to proceed; indeed, the capital requirements for new energy production often compel use of joint ventures." I am told, for example, that the Sullom Voe land-based terminal for Northern North Sea crude oil could not have been financed by any single company, and that the massive undertaking in TAP's pipeline required multiple ownership to allow financing. Many other examples could certainly be found.

The significance of joint ventures in the production of oil from foreign sources is even more pronounced. I understand that during the first half of this year Free World crude oil production, excluding that in the United States and Saudi Arabia, averaged approximately 30 million barrels per day, of which 15 million barrels were produced by government oil companies operating directly in the various countries, 14 million barrels were produced by various kinds of joint ventures including private oil and industrial companies, and only 1 million barrels were produced by private companies working alone.

In addition, my information is that heavy oil or tar sand production is largely conducted by joint venture operations which involve both government and private companies. I am also advised that of nine operating overseas LNG plants five were developed by joint ventures involving private oil companies, and the joint venture formula is the pattern very apt to be applied in China's off-shore developments.

This bill, however, as presently drafted, even with the provisions for affirmative defenses (which ostensibly would permit such ventures where they would have "the likely effect" of "substantially" promoting energy), presents a heavy and debilitating barrier to participation by American companies and their subsidiaries in this normal and frequently necessary shared approach to the production of energy. The affirmative defenses would clearly shift the entire burden onto the venturing company to show that the "likely" effect of the joint venture would be to "substantially" promote energy development.

No foreign producing country is likely to entertain American participation in its joint ventures if it has to face the delays and uncertainties presented by possible Justice Department objections, interpretations or conditions regarding the joint venture. Most surely would this be the case where the validity of the transaction depended on the outcome of litigation. There will always be companies or agencies based in England, Germany, France and Japan (and perhaps eventually in the Soviet Union) all of which will stand ready, willing and able to partake in such joint ventures. They will be subject to no such uncertainties and probable delays as would be presented by this bill even in its amended form. On the contrary, they will in the greatest probability be affirmatively aided by the active and vigorous support of their respective governments.

The United Kingdom pointed out in its recent protest to an earlier draft of this bill that the joint venture prohibition "could hinder the United Kingdom in an off-shore exploration and development programme for oil and gas." The British government also indicated that the strictures of the bill might conflict with the actions of foreign governments in specifically approving certain foreign mergers or acquisitions. In addition the British government critically noted the unrealistic nature of the $100 million limit when viewed in terms of inflation and the three-year time period contained in the bill.

The bandaid type of amendment providing for an affirmative defense falls far short of curing the bill's defects. It would in all probability not meet the basic objections of the British government. Certainly it will not relieve the major United States oil companies and their foreign subsidiaries from restrictions which will severely hinder if not prevent their ability to compete with foreign oil companies for participation in the development of foreign energy resources through joint ventures. And if the major companies are prevented from joining in these undertakings, which require massive infusions of capital, the enforced side-lining of the larger companies would make it impossible for smaller U.S. oil companies to take part in such ventures.

In addition to requiring joint ventures in the direct development of energy sources overseas, many foreign countries have required the participation of American companies in developing both "downstream" petroleum processing facilities and non-energy related industries in their countries as a "quid pro quo" for access to their crude oil supplies or to their acreage.

Today in Saudi Arabia I am advised there is a total of seven joint venture petrochemical plants in various stages of development or consideration. In each case the joint venture involves a Saudi company—government

related—and one or more foreign oil companies. Each petrochemical plant joint venture includes a crude oil entitlement as an incentive for the foreign partners. Each of the seven plants involves commitments in excess of $1 billion and most of the joint venture agreements propose formulas of approximately 1,000 barrels a day crude oil entitlement per million dollars of investment. This would entail crude oil entitlements of 300,000 to 400,000 barrels a day for anticipated investments of $300 to $400 million by the foreign participants. If the Saudi government sensed potenial difficulties or delays in the development of one of these downstream or industrial joint ventures as a result of the prohibitions represented by this bill, it would in all probability turn from any U.S. company participant to, let's say, the Japanese or British interests which are actively seeking access to petroleum in the Persian Gulf.

Norway has an express requirement of cooperative industrial partnerships for obtaining access to crude oil. The government's announcement of the fifth licensing round of off-shore fields of Norway issued in June of this year required applying companies to present information relating to plans of "the applicant or its affiliated companies" to set up a business or businesses in Norway and "cooperation with Norwegian companies" in order to "increase the market possibilities for Norwegian industry."

I have read the statement of Mr. George Ball before this Committee on the effects of S. 1246. Mr. Ball's main emphasis in his opposition to the bill, as I read his statement, is placed on the international complications which would or could arise from the bill's attempt to impose restrictions on the freedom of investment by our oil companies and their subsidiaries operating abroad. He placed much stress on the unwisdom of attempting to extend the application of such restrictions abroad in an industry as complicated, as interdependent and as internationally oriented as the oil industry has become. He speaks, of course, out of his abundant experience in the State Department of the irritations and hostility often engendered among foreign governments to our attempts to extend our laws to the conduct of their nationals abroad. My experience, though somewhat different from his, still roughly parallels it. It enables me I believe to subscribe generally to his views. I therefore endorse the substance of what he had to say and I share his view of the essential unworkability of the bill, in its effort to restrict overseas investment of oil companies to the pattern the bill seeks to apply domestically. While subscribing generally, as I say, to his views, my objections are based on what I consider to be the even more fundamental conflicts which the bill presents to some of our paramount national interests.

In this regard I would like to refer first to what I consider to be the unfortunate tone of the bill.

I am aware, as I suppose everyone is, of the criticisms and attacks which have been made against the oil companies following the imposition of the oil embargo and the shortages and higher costs generally brought about by the oil exporting nations. These criticisms have become more severe as gasoline and fuel oil prices have increased and as gasoline has become less plentiful. At the same time reports regarding the profits of the oil companies have appeared and they have not helped the public attitude toward the companies. While recognizing this attitude, we should not in this atmosphere lose sight of either our national interests or the major contributions which the American oil industry has made to the security of this country and the rehabilitation of Western Europe after the devastations of World War II.

I believe the bill reflects this attitude of hostility to the oil companies, particularly the American ones, and as a result it embodies a generally punitive note. It stresses a negative rather than affirmative approach which I believe is out of pace with both our present needs and interests. I say this because instead of placing American oil companies abroad in a better position to find oil and in so doing to cooperate with the oil producing countries in their desire to develop their economies, the bill paradoxically imposes discriminatory restrictions on American oil companies and their domestic and foreign subsidiaries wholly inconsistent with what one would assume to be our main objective—that is, more oil. And this condition is prescribed for an area where the competition for strategic positions in the world's greatest known reserves takes on perhaps its most intense form.

More significant than even this, I believe the bill represents in its international aspects a striking reversal of U.S. policy with regard to Middle East oil reserves and the countries in which they are located. I refer to a policy which goes back at least to President Franklin Roosevelt's administration, if not to President Wilson's after the breakup of the Ottoman Empire occurred. This to me is absolutely incomprehensible. I can only conclude that this paradoxical result is due to the pervading feeling that our shortages and high oil prices are somehow due to the machinations of oil companies, particularly American ones, and that their activities should accordingly be circumscribed more than they are now.

The fact that shortages and high prices occurred after forces over which the companies no longer could exert control, took over, appears to be ignored. These forces were governmental and political. They were not in accordance with the wishes, or indeed, in the interests of the oil companies. We are also prone to forget that when the oil companies were in a position to control to a substantial degree the price they were paying to the producing governments for the oil they were distributing to consumers they showed, by and large, consistent restraint and sensitivity as to the prices which consumers were being charged for oil products.

One of the constant complaints made by the producing countries was that the "take" they received as well as the prices were too low. Our former Secretary of State, Dr. Kissinger, said (in the light of hindsight, to be sure) that they had been kept too low. Judged by present prices they do appear very cheap. The companies fought a sort of rear guard action for a number of years to keep costs down as constant threats and demands for higher "take" were being made by the producing countries.

Even after the OPEC demands in 1970 were made and the Teheran Agreement (later disregarded by the producing countries) was entered into in February of 1971 the increase agreed to was only 35 cents a barrel, as I recall it. This was before the roof fell in and while the oil companies had some control.

I am deeply disturbed over the state of American trade and commerce both at home and abroad. I am particularly distressed about our lowered productivity ratios as compared with those we used regularly to record. I am troubled by the debilitating effects of inflation and what seems to be the erosion of our competitive capacities. I am shocked at the depreciation of our currency. As I read this bill in the light of these concerns, I am much disturbed by its basic philosophy and import.

While its major objective should be to produce more oil, it seems primarily designed to strike from the hands of what perhaps is our country's most vigorous and productive industry, and one on which our economy greatly depends, the means to compete effectively for greater sources of energy. The flexibility which others possess to compete for foreign oil would be denied to our companies. As part of an energy program we are taking a negative approach when what we need is an affirmative one. We are at a period in our history when we should seek to revive a cooperative attitude on the part of the Government with the oil industry in order to assist all of us to meet our energy needs and to restore our productivity and re-envigorate our economy.

Incidentally, I believe the title of this bill is misleading. It is called an antimonopoly bill. I think I would better understand the propriety of the title if it were called "Control of Investment Bill" or "Bill to Reduce American Overseas Competition for Oil". The bill by its title seems to seek to identify monopoly with size, at least so far as it relates to the American oil industry. Clearly, the bill's restrictions are based solely on size criteria. The acquisition of $100 million of value seems to be the magic figure. Due to the title of the bill, by implication, it might be argued that it fosters incursions into the existing antitrust laws since today the law is that mere size does not create a monopoly.

In my effort to locate a definitive draft of the bill I found that it had been subject to a number of amendments, some of a rather substantial character and most dealing with the international aspects of the bill. These were introduced during the course of a relatively few months, the latest of which I only saw the latter part of last week. I suggest that the necessity for the flow of these amendments and the substantial character of some of them indicates that the serious consequences of the bill particularly relating to the international aspects of the oil business simply have not been well thought through. I also suggest that the quantity of the amendments and their substance indicates that the basic principle of the bill itself may be unsound and that it cannot adequately be amended into a constructive one.

In his testimony Mr. Ball expressed grave doubts as to whether a government can successfully go about coercing a business corporation into certain investments by inhibiting its ability to invest in others. Since it is return on capital that prompts investment and not coercion, one would imagine that it would be much more productive to induce investments by creating incentives rather than to take this negative approach.

I have heard that it is being urged by the proponents of the latest amendments that the affirmative defenses now provided for are so liberal that there should be little objection to the bill as so amended. I do not believe the amendments cure the defects nor are they helpful, for the reasons I have given, but if they are all that liberal why should the restrictions be imposed in the first place?

Already we have a veritable arsenal of antitrust weapons to which no other country in the world that I know of subjects its nationals. Do we need to pile Pelion on Ossa because it is American oil companies which are here involved? According to a distinguished former Undersecretary of State we have been irritating sovereignties abroad for some time in our attempts to apply some of our antitrust stringencies to corporations or nationals operating within their jurisdiction. None of the oil companies, so far as I am aware, is asking for any exemption from our existing antitrust laws. But apart from all this, what conceivable national benefits to us are to be derived by placing these crippling restrictions on our overseas oil companies in their competition for overseas oil?

I cannot escape the conclusion, as I have indicated, that this bill reflects an adversarial if not a hostile attitude toward the oil industry. We need a positive energy policy today quite as much as we did so successfully apply during and after World War II. It has been my experience in my practice as well as

in my political and business contacts with other Governments and oil companies that it is difficult to find where, say, Japanese, German or French, or for that matter, English oil companies' interests end and where their respective Governments' interests begin.

Their policies and interests seem rarely to conflict and there is no reason, as I see it, why ours should so frequently appear to do so. I cannot conceive that any of the foreign governments with which I have been in contact would for a moment consider placing such restrictions on their nationals competing for oil overseas as this bill, in spite of the amendments, would do.

Let me add one more note before I close. I have referred to the farsightedness which Presidents Roosevelt and Kennedy showed in regard to the importance of our active interest and presence in the areas of Middle East oil production. I have referred to the important security aspects as well as the economic aspects of that policy. Both Presidents were keenly aware of the strategic character of the Middle East and its oil reserves and they both adopted affirmative measures in recognition of that fact.

I have spent a good bit of my life dealing with matters affecting the defense and security of the country. Perhaps I am oversensitive to our security interests but when I hear from our intelligence that there are some 48,000 to 50,000 Soviet trained Cuban troops, scattered about the periphery of the Arabian Peninsula and the African oil producing areas, prepared, trained and accustomed to advance the interest of the Soviet Union in such areas, I suggest that this is no time to create the impression that our oil companies' continued participation in the development of that area or indeed of any other area such as the North Sea, China or Southeast Asia in a competitive fashion is, in any way, contrary to our national interest.

BERLIN AIRLIFT NEEDED FOR CAMBODIA

Mr. PELL. Mr. President, President Carter has proposed a very worthy humanitarian effort on the part of the United States in support of a program being organized by the International Red Cross and U.N. agencies to provide urgently needed famine relief to Cambodia. The President and three of our colleagues who recently visited Southeast Asia, have backed the idea of a land bridge of trucks to carry food from Thailand into Cambodia. Others have called for a U.S. contribution to augment Red Cross airlifts into Cambodia.

Both of these approaches to the problem have merit, and I could support either one of them, or both of them, if there were any real prospect that the Cambodian Government would agree to either of them. The Cambodian Government's attitude so far, however, does not give me much encouragement that a land bridge will prove feasible or that the Red Cross will be permitted to augment its flights sufficiently to do the job.

Accordingly, I believe that if by the end of this week the Cambodian Government does not give its approval either to a land bridge or to augmented Red Cross flights, the United States should, in concert with any other like-minded governments, mount a massive unilateral effort of the kind involved in the Berlin airlift, to drop food to the starving people of Cambodia. Already, some 1,000 Cambodians are dying every day; and if we wait much longer for the Cambodian Government to act, there may soon be very few Cambodians left to help. These people need our help at least as much as the people of Berlin three decades ago.

I realize that what I am proposing is an extreme action that involves the violation of Cambodian airspace, but the desperate plight of the Cambodian people requires an extreme approach if the Cambodian Government will not cooperate in an effort to save the lives of its own people. In such a barbaric situation, civilized diplomatic niceties are irrelevant. Our Government certainly was not bothered by diplomatic considerations in 1970 when we occupied part of Cambodia without permission in our effort to clean out a Vietcong force.

I also realize that much of the food in an airdrop would be seized by Government or guerrilla forces, but that is also likely to be the case with a land bridge or augmented Red Cross air effort. In any event, whatever reaches the starving millions in Cambodia via an airdrop would be better than nothing. We cannot stand by idly and simply bear witness to another holocaust.

KHMER REFUGEES IN CAMBODIA

Mr. COHEN. Mr. President, will America be like the "man with no shoes who pitied himself until he saw a man with no feet?"

So many of us are preoccupied with the problems of modern affluence—raging inflation, the high cost of energy, the low value of the dollar. In the midst of our economic troubles, have we shown indifference to the 3 million Khmer refugees in Cambodia who are dying of starvation, malaria, tuberculosis, and prolonged conditions of utter destitution?

We have. Hundreds of thousands of Cambodians have died while the United States and the rest of the world debated about which government actually represents them. The fact is that they have no government to represent them and only the conscience of mankind to protect them.

My conscience is troubled. We have seen the man with no feet through the eyes of Senators DANFORTH, BAUCUS, and SASSER, who have just returned from Cambodia. Their message is urgent.

There is no time in this country to rekindle the debate of whether we should have ever set foot in that part of the world, or haggle over whether we have contributed to the plunder and devastation of Cambodia. Perhaps those who predicted a bloodbath in Southeast Asia if South Vietnam fell to the North can feel vindicated by the course of history, but not at the expense of millions more Cambodians who require immediate humanitarian relief.

The lessons of history should not be confined to textbooks or memorials. The children, whose stomachs distend as if carrying a great weight, cannot be relegated as mere footnotes to a shocking and disgraceful chapter in the annals of man. We cannot erase from our minds the emptiness of hunger that bloats their bellies, which their emaciated sticklike frames cannot carry, or the sight of women, walking skeletons themselves who embrace the skeletons of their children. Thousands of others who have collapsed along the refugee route from Cambodia to Thailand mark the road like grisly human milestones. Not even the thousands of miles walked by all these refugees together can measure their suffering or the immensity of the crime that will rest with the world if more are permitted to die.

If we do not act, Kampuchea will take its place beside the names of Auschwitz, Buchenwald, Treblinka, and the Warsaw Ghetto as memorials to man's indifference to man. We are witnessing a genocide. Three million people are in immediate danger of extermination. Two hundred thousand refugees will die every month unless food and medical aid is rushed to their relief.

We cannot watch in silence while many more fall from weakness and suffer the horrible death to starvation.

We must transcend political differences with the North Vietnamese and their regime in Cambodia and we must act to bring relief to the refugees. A dying, homeless people should not be held hostage to a debate that is rendered absurd in the face of horror. It is absurd, as well, that the North Vietnamese should deny our offer of aid. Can we not prevail on the Soviet Union to bring its ally to reason? And is it not equally unreasonable that the Soviet Union, dependent on American wheat for sustenance, should assist an ally through its silence in the systematic starvation of millions of people?

The highest levels of our Government should be required to resolve these diplomatic problems so international relief will arrive in time.

ABUSE OF SENATE COMMITTEES

Mr. PROXMIRE. Mr. President, there have been recent disclosures of serious abuses of the Senate committee process. Last week, the Wall Street Journal published an article that detailed the efforts of Textron, Inc.'s Bell Helicopter Division last year to keep the Committee on Banking, Housing, and Urban Affairs from learning about payoffs that it made to foreign government officials.

According to the article, company officials:

In anticipation of the Senate hearings—

To be conducted by the committee into the nomination of G. William Miller, Textron's chairman, to to be Chairman of the Federal Reserve System—

say they were told to look through correspondence files with dealers overseas. The stated purpose was to make sure that nothing in the files would be "misinterpreted" by Mr. Miller's critics, chiefly Banking Committee Chairman William Proxmire of Wisconsin. To some managers, these instructions meant that the files should be cleaned out.

These developments greatly disturb me. The committee had learned within 3 months of the end of its Miller confirmation hearings that Textron-Bell officials had destroyed at least one document that was central to the committee's investigation of the company and that other key documents had not been

given to it pursuant to a subpena. The article indicates that the company was engaging in what appears to be a deliberate coverup. The withholding and destruction of documents cannot be explained away as isolated instances or the result of actions undertaken by overzealous employees.

A report prepared by the Securities and Exchange Commission for the Banking Committee last summer provides additional evidence of the activities of Textron-Bell and its executives to withhold information from the committee at the time it was conducting its investigation in January and February of 1978.

Textron-Bell's activities must be treated with utmost gravity. Congressional committees simply cannot carry out their very serious responsibilities if relevant information is systematically destroyed, if witnesses lie under oath or if subpenas are not complied with. Committees must protect themselves against illegal actions that obstruct the conduct of their work and undermine the committee process. In the case of the Banking Committee's hearings, there is increasingly strong evidence that Textron-Bell and its officials obstructed the committee's investigation.

After the committee first learned of the destruction and withholding of documents, I wrote then-Attorney General Bell twice, on May 10 and June 26, 1978, asking the Justice Department to investigate possible obstruction of the committee's investigation by Textron-Bell and its employees.

I am referring additional material to the Justice Department that provides serious evidence on the conduct of Textron-Bell and its officials. I am also asking Attorney General Civiletti for a substantive report on this matter within 90 days.

This issue must be addressed without hesitation. I ask unanimous consent that the Wall Street Journal article of October 24, 1979, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW EVIDENCE APPEARS IN SEC INVESTIGATION OF PAYOFFS BY TEXTRON

(By Jerry Landauer)

FORT WORTH, TEXAS.—Margaret Hernandez, a secretary for the Bell Helicopter division of Textron Inc., was unusually busy in early 1976. At the command of her superiors in Bell's international-marketing department, Miss Hernandez was removing and revising confidential correspondence indicating payoffs by Bell to sell helicopters in Latin America. These files were identified by the code name "White Rose."

Specifically, the White Rose files mentioned officers in the air force of Colombia who were acting as "advisers" or "consultants" to Bell's dealer in Bogota. One officer who got paid for providing inside information about his government's military-procurement plans worked at the Colombian Embassy in Washington.

First, Miss Hernandez removed a dozen or so letters and telegrams from the Bell dealer, whom she identifies as Antonio Angel. She also removed copies of English translations that had been circulated to headquarters executives here. Then she replaced the discarded Spanish documents with a fresh, backdated set provided by Mr. Angel. These didn't mention "advisers" or "consultants." And to make the White Rose files appear complete again, she retranslated the phony Spanish documents into English.

WARDING OFF INVESTIGATIONS

One reason for these secretive maneuvers was to protect the company against the probability of a U.S. government investigation—several other aerospace concerns already were under scrutiny for making questionable foreign payments. Textron subsequently did become the target of several federal investigations, especially after President Carter chose company Chairman G. William Miller to head the Federal Reserve Board early last year. During Mr. Miller's confirmation hearings, allegations were leveled that Bell had made payoffs in Iran and Ghana. Mr. Miller testified that he knew nothing about foreign bribery, and he was overwhelmingly confirmed by the Senate. Last July, he was named Secretary of the Treasury.

Now, evidence is surfacing that the doctoring of the White Rose files (which never came up during any of Mr. Miller's confirmation hearings) was but one of several efforts within Bell over a period of years to hide traces of payoffs abroad. Other countries were involved besides Iran and Ghana, and the cover-up continued even after Mr. Miller took over as head of the Fed. Company officials say they have testified about many of these matters to the Securities and Exchange Commission, which has been investigating Textron for the past 20 months. SEC officials refuse to discuss the case. But some at Textron expect the agency to issue a complaint soon. The company itself is withholding comment until the SEC investigation is concluded.

CLAIMS OF INNOCENCE

There isn't any indication that Mr. Miller, working far away at Textron headquarters in Providence, R.I., knew about the questionable goings on at Bell. But while they were occurring, he was repeatedly asserting Textron's innocence of payoffs.

For example, just a few weeks after Miss Hernandez doctored the White Rose files, Mr. Miller addressed shareholders at Textron's annual meeting. "We will live by the highest standards," he assured, "and I can tell you that so far as we know, there have been no payments that are illegal, or any payments that are improper, anywhere throughout the company."

In 1977, Mr. Miller went further, although Textron at that time hadn't conducted an in-house investigation, as scores of other companies had, to discover and stamp out questionable practices. "We know of no case in Textron where there have been any improper payments, illegal payments," he told the annual meeting that year. "We've made a survey of the company. . . . I think we should all feel proud of shareholders and directors and officers."

Mr. Miller didn't explain that the company survey covered just one year, 1976. Nor did he mention, as Textron has subsequently reported, that "employees were simply asked to sign statements asserting that they were unaware of improper practices; they were not requested to provide information regarding any knowledge they might have had of the existence of such practices."

SOME UNEXPLAINED INCIDENTS

Here at Bell Helicopter, largest of Textron's 26 divisions, no one who participated in or suspected bribery abroad gave any information for the survey. The details of most payments remain locked in files such as the White Rose correspondence or in the recollections of those who participated.

For example:

An officer in the Mexican air force, Col. Enrique Gomez, once traveled to Fort Worth to pick up a check for $150,000. A Bell employee who watched the transaction says his superiors knew that Col. Gomez worked for Gen. Solitro Beltran, chief of the Mexican air force. Gen. Beltran approved an order for 10 Bell helicopters.

In Jamaica, Bell sacked its sales agent, David Nunes. On the recommendation of a senior officer in the Jamaican defense forces, the company hired a reserve officer, Andrew Bogle, who at times performed special duties for the minister of national security. Mr. Bogle sold helicopters to the defense forces from his home and, like Col. Gomez from Mexico, he came to Fort Worth for his commissions; Bell complied with his instructions never to send checks to Jamaica.

In pushing a $10 million sale to the armed forces of a North African country, believed to be Morocco, Bell's Washington office allowed an officer attached to the country's embassy to pick the overseas dealer in Morocco who would get and "redistribute" sales commissions. Correspondence describes the dealer as a "front man" for a high defense official.

Bell's dealer in Ceylon once rushed a letter to Fort Worth saying he needed commissions in advance, to pay government officials, including Air Force Commander Patrick Mendis. But the helicopters that Bell intended to sell were being financed by the U.S. Defense Department, requiring Bell to certify that it wasn't paying commissions. To slip around this certification, the company hurriedly signed a consulting agreement with Brown & Co., the dealer in Ceylon. It then routed payoffs disguised as consulting fees through banks in Europe. Whether Mr. Mendis got any money isn't known.

In 1976, Bell transferred about $500,000 to a Swiss account so that a company dealer in the Persian Gulf could, as he put it "honor my long-standing commitments." In one sheikdom, Bell's dealer was owned at least in part by officials in the ministry of defense.

In the Philippines, Bell contemplated payoffs through its dealer to a high official. "Arrived just in time to sign commissions and to eliminate Brand X," a Bell salesman cabled from Manila. The salesman was alluding to a competitor.

THE COMPANY'S ANALYSIS

Some or perhaps most of the bribes paid by Bell, or paid by Bell dealers with the knowledge of the company, were extorted rather than volunteered. And more often than not, the company resisted payoff demands. Moreover, in comparison to the tens of millions of dollars funneled into foreign purses by other aerospace concerns such as Lockheed Corp., the payments by Bell appear relatively small.

"It would be misleading to conclude that questionable payments were the rule in Bell's foreign-marketing practices," says a report issued last July by a special committee of the Textron board. "The committee found evidence of questionable payments as to relatively few of Bell's international sales."

But the company report doesn't identify places where payments were made, except the Iranian and Ghanaian episodes previously disclosed. Last July, Textron also pleaded guilty to violating currency laws in bribing a government official in the Dominican Republic.

"I know my company didn't bribe anybody!" Mr. Miller had declared at the Senate hearings in 1978. He evidently was unaware of the cover-up at Bell Helicopter to make such statements appear accurate.

FEAR OF SENATOR PROXMIRE

In anticipation of the Senate hearings, sales managers in the international-marketing department now say they were told to look through correspondence files with deal-

ers overseas. The stated purpose was to make sure that nothing in the files could be "misinterpreted" by Mr. Miller's critics, chiefly Banking Committee Chairman William Proxmire of Wisconsin. To some managers, these instructions meant that the files should be cleaned out.

One sales manager, George Gonzalez, actually searched the White Rose files, ostensibly to detect signs of improper activity that should be reported to superiors. Naturally he found nothing suspicious; Miss Hernandez, his secretary, had done her job well.

Then a subpoena arrived from the Senate committee demanding all information in the files about Bell's relationship with Gen. Mohammed Khatemi, former chief of the Iranian Air Force. The committee was investigating reports that Gen. Khatemi was a secret owner of a Tehran sales agency to which Bell paid $2.9 million as commissions on a $500 million helicopter sale to Iran in the years 1973 to 1975.

HANS WEICHSEL'S FILES

Bell supplied reams of material, and at the hearing Bell and Textron officials said they didn't have any knowledge that the Iranian commander owned part of the sale agency. But Bell didn't produce a U.S. Commerce Department trade report stating that Gen. Khatemi "reportedly has financial interests" in the Tehran agency. According to the Commerce Department, the report was sent to Forth Worth, on request, two or three months before Bell hired the sales agency. The document can be read as putting the company on notice that commissions paid to the sales agency might flow in part to the influential general.

The people at Bell who were responsible for providing subpoenaed information also were slow to search the files of Senior Vice President Hans Weichsel, who often handled foreign-marketing matters. Mr. Weichsel's files contained an "eyes-only" trip report identifying Gen. Khatemi as the "real influence" behind the sales agency. The document wasn't supplied to the Senate panel until after Mr. Miller had been confirmed. And when Textron disclosed its existence, certain executives in Fort Worth scurried for cover.

One, Frank Sylvester, vice president for international marketing, had told the Senate committee under oath that he didn't know about or even suspect Gen. Khatemi's ownership interest. But after discovery of the confidential trip report, he decided against reiterating his denial. Instead, associates confide, Mr. Sylvester invoked Fifth Amendment privileges against self-incrimination in testimony to the SEC's enforcement staff.

John Carberg, a Textron spokesman, says the company can't answer questions about foreign payments until the SEC's investigation is over.

DESTROYING SOME EVIDENCE

Another foreign payment that wasn't confirmed until after the Senate vote on Mr. Miller's nomination involved a $300,000 kickback to a general in Ghana in connection with a helicopter sale. During the confirmation hearings, George Gallerstein, Bell's chief legal officer, prepared a statement for the Senate Banking Committee—"No officer of Bell was involved with or aware of the transaction"—that several other executives knew to be plainly false.

Sen. Proxmire mentioned the possibility of a kickback in Ghana at the start of the hearings. He asked Mr. Miller to look into the transaction and to report back "as fully as you can." Mr. Miller didn't inquire personally, but Textron requested information from Bell. The following May, Textron reported that a Bell executive had destroyed a memorandum dealing with the Ghana payment.

Here's what happened, according to company officials:

Dee Mitchell, a 25-year-veteran at Bell, knew that a payoff had been made. He spotted a revealing memo in the correspondence files on the day after Sen. Proxmire questioned Mr. Miller. Mr. Mitchell destroyed the memo; as he later confided to associates, the document was embarrassing. Three managers who reported to Mr. Mitchell also read the memo, and at least one knew it had been torn up. All three men kept silent. Textron says it didn't discover the existence or destruction of the memo until May, seven months after Mr. Miller had been sworn into office.

TO DEFEND HUMAN RIGHTS IN THE STRONGEST POSSIBLE TERMS: PASS THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, on October 23, in a Prague courtroom, six Czechoslovak human rights activists were sentenced to prison terms ranging up to 5 years. They were convicted of "subversion of state."

The result of the trial prompted worldwide criticism from defenders of human rights. Italian President Sandro Pertini reflected global sentiment when he explained that the trial "shocks the Italian people."

The U.S. Helsinki Watch Committee denounced the affair as "further proof of the pattern of human rights abuses" in Eastern Europe. Appealing to all defenders of human rights, the committee issued the following statement.

We call on the governments and signatories of the 35-nation Helsinki conference on European security and cooperation to join with us in our efforts to obtain the release of those imprisoned Czechoslovak activists.

Some world leaders have already begun applying diplomatic pressure on the Czechoslovak Government. European Parliament President Simone Veil requested that Common Market foreign ministers intercede on behalf of the defendants.

The United States, having always placed a high priority on human rights, was also quick to respond. State Department officials called in the Czechoslovak Ambassador to protest the trial in the "strongest possible terms." It appears that in this case the forces of justice are rallying to defend the principles of humanity.

Unfortunately, America's contribution to this crusade is not all it could be. Despite over 200 years of being a leader in the field of human rights, there is a blemish on our record. We have failed to ratify the Genocide Convention.

How can we expect other nations to respond to the Helsinki Watch Committee's plea for defense of human rights when our own record is inconsistent? How strong can the State Department's "strongest possible terms" be when we have failed to defend the most fundamental right—the right to live?

Let us return America to a position of maximum credibility. If we are to fully participate in the defense of human rights, we must ratify the Genocide Convention.

PUERTO RICO STATEHOOD

Mr. STEVENS. Mr. President, Puerto Rico Governor Carlos Romero Barcelo, a proponent of Puerto Rico statehood, if reelected in 1980 will hold a plebiscite on the statehood issue in 1981. The issue is a longstanding one which President Gerald Ford brought to the forefront several years ago when he publicly advocated statehood. Legislation addressing this issue has been pending before Congress since 1977.

A recent Gallup poll indicated that a majority of Americans support statehood for Puerto Rico. Alaskans, recalling the long debate preceding Alaska's admission into the Union, are especially interested in the future of Puerto Rico. I would hope that all Americans, recognizing Puerto Rico's right of self-determination, would remain receptive to the possibility of Puerto Rico statehood.

Mr. President, I ask that the following editorial from the October 25, 1979, Wall Street Journal be printed in the RECORD.

The editorial follows:

PUERTO RICO RORSCHACH

Since President Carter's release last month of four Puerto Rican nationalists jailed for shooting up the House of Representatives and trying to kill Harry Truman, more people have been sitting up to notice that we may have to act fairly soon on the political future of Puerto Rico. The debate on what to do is already taking shape. So far it looks as if it's going to reveal less about the Puerto Rican situation than it will about the state of America's political culture.

Until recently, it didn't seem necessary or appropriate for Americans outside Puerto Rico to concern themselves much with the island's political questions: It was enough to know that there was a substantial Puerto Rican consensus in favor of the island's half-autonomous Commonwealth form of association with the U.S.

But in recent years the consensus and the atmosphere of relative peace have disappeared. Puerto Rico's present governor, Carlos Romero Barcelo, outpolled the pro-Commonwealth forces and won office on a pro-statehood platform. He is favored to win re-election in 1980; if he does, he intends to hold a plebiscite on the statehood issue in 1981.

But while growing numbers of Puerto Ricans call for statehood, there's an increasingly vociferous demand from other places that Puerto Rico be freed from the colonialist, imperialist U.S. altogether. The independence movement in Puerto Rico is small. But it includes terrorists who have been doing political as well as physical damage with their bombs. And it can take comfort from the fact that the UN has now adopted the issue of Puerto Rican self-determination.

The Puerto Ricans are going to have to make up their own minds, of course, about whether they want to be a U S. state. But the rest of us should avoid trying to make up their minds for them. Already we're beginning to hear that the U.S. should discount the results of any plebiscite they hold on the subject, because many Puerto

Ricans are afraid to expose their island to an abrupt cutoff of U.S. benefits.

We're also hearing that a plebiscite won't properly reflect the political volatility of the island. The independence supporters may be few, it's said, but we must also take account of the intensity of their feelings. They and other anti-statehood forces can create so much discord on the island that any attempt to implement statehood, plebiscite or no plebiscite, would be turned into an occupation instead of a marriage.

We're also beginning to hear from the cheerful doomsayers of the realpolitik school. They themselves aren't against statehood for Puerto Rico, they tell us, but as they analyze the situation, Congress is never going to let in another state that will siphon off congressional representation and offend constituents with its undesirable poorness and foreignness. So why create bitterness, say these analysts, by letting the Puerto Ricans get their hopes up only to have them inevitably disappointed?

These are arguments that shouldn't be allowed to determine the outcome of our Puerto Rico debate. There are some very real problems that the issue presents: Everyone is going to have to know more precisely just what the new financial obligations and benefits on both sides are going to be, and there is a legitimate concern over Puerto Rico's bilingualism.

But Puerto Rico has enough benefits to bring us, and enough of a moral claim on us, so that there shouldn't be any insuperable obstacles to settling the specifics. Certainly there's no reason to assume that U.S. national sentiment on the question is anti-statehood or to recommend U.S. policy on the basis of that assumption. Certainly we should not be saying that a violent minority can hold veto power over the wishes of most Puerto Ricans, or that the experience of association with us has been so corrupting that Puerto Ricans are no longer capable of giving us a straightforward, rational account of their own feelings on the subject.

If after all these years with us Puerto Rico wants to be a state, we should welcome it. To assume that we cannot—that we have become too ungenerous to be able to absorb anything new or too weak to defend the authority of majority rule in Puerto Rico—would say something very sad indeed about the nation we've allowed ourselves to become.

SALT II

Mr. BELLMON. Mr. President, many years ago during the time I served as Governor of Oklahoma, I had the opportunity to become acquainted with Dr. Edward Teller, one of this Nation's most eminent and respected scientists. Consequently, I was pleased and flattered to receive his letter of September 19, 1979, regarding SALT II, the treaty which will soon be before the Senate.

A great deal of what Dr. Teller says should be of interest to Members who will be making a decision regarding the ratification of the SALT treaty. Especially, I was impressed by his statement that the United States should "immediately take steps to shift the entire basis of the competition to take advantage of our tremendous latent capacity for innovative research and development."

As Members well know, I have not supported the proposal to simply add 3 percent or 5 percent to our defense spending. I believe that a thorough review of both our defense policy and foreign policy should be conducted before SALT is ratified or before defense spending is increased. I believe Dr. Teller's letter supports this point of view and I ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 19, 1979.

Senator HENRY L. BELLMON,
Russell Building,
Washington, D.C.

MY DEAR SENATOR: On September 7, 1979, I testified before the Senate Committee on Foreign Relations on the matter of ratification of the SALT II treaty. I believe the issues far transcend the particular provisions of the treaty. They also transcend the question of whether or not the defense budget should be increased by a few percent. They involve the whole framework within which we pursue our security, and how we spend our creative energies.

We are at a watershed. The security and even the survival of our nation is called into question. The pattern of the last decade has been to try to compensate for the Soviet build-up by patching up an increasingly obsolescent triad of forces, while trying to limit the Soviet forces by the minor and often illusory measures prescribed in SALT I and II. To continue this pattern means that we will be spending more on systems of increasingly doubtful value, leading to a quantitative arms race that we will eventually lose. The only alternative is to mobilize our one advantage—our dormant genius for technological innovation—and to outmatch the Soviet Union in the technological competition of quality, not quantity, thereby developing an array of new types of stable and secure strategic forces. The Russians are already pressing as hard as they can in developing new military technology, but it is a race that we will not lose if we harness the scientific and technical skills in our universities and industries that are not now applied to defense. By refusing to ratify the SALT II treaty, even if amended, the Senate could start to change our course from the old and dangerous one to the new, more promising one. The ensuing debate could create the resolve among Americans and our allies necessary to pursue such a new cause.

There can be no doubt that we are faced with the most serious challenge in our history. The most credible government witnesses testified that Soviet and American strengths at the present time are balanced, but an imbalance in favor of Russia will develop unless appropriate action is taken. Many nongovernment witnesses stated that such an imbalance already exists. This is the first time that such a dark picture has emerged.

Even if SALT II were amended and an improved version ratified, this would not reverse the long and dangerous trend which has brought us from the secure position of 1960 to the increasingly insecure situation of 1980. Our strategic posture today is based on the idea of mutually assured destruction and therefore on the reliability of our TRIAD of forces. The fact is that the TRIAD rests today, not on three secure foundations, but on a single shaky leg. According to government statements our land-based missiles will lose their survivability in the early 1980's and according to our present plans cannot possibly stand up under a Soviet attack until well after the expiration of SALT II. Our bombers are endangered on the ground, on takeoff, in midcourse, and on arrival. We can hardly call them reliable. The danger to our missile-launching submarines is less clearly defined. We know of intense Soviet efforts at unconventional methods to defeat our submarines. They might survive in spite of such efforts. But since in these methods the Soviets appear to be qualitatively ahead of us, and since it is hard to tell from intelligence when or whether they become able to defeat our submarines, this last leg of the TRIAD can hardly be called "assured and firm."

Our allies, whose fate is intertwined with our own, are faced with large Warsaw Pact tactical forces, the Backfire and the SS-20, and are dependent on oil from the Middle East where neither they nor we any longer have real military influence. If the present trend continues, they will have no choice but to develop their own independent nuclear deterrent, or to capitulate, probably in several stages.

The SALT II treaty does little to address these problems, and the treaty is flawed in other important ways. The limitations on the Soviet forces come too late to keep our Intercontinental Ballistic Missiles from becoming vulnerable. The treaty provisions limit missile launchers but no missiles, and thus do almost nothing to address the serious problem of missiles produced secretly and hidden, to be launched from hidden soft launchers (as a first strike force can be). Worse yet, the verification formalism will cause us to impose artificial conditions on our own second-strike forces, making them very expensive and less survivable (and a second-strike force must survive). The treaty does not impede Soviet improvements in missiles in an effective manner, since the most worrisome improvement—in accuracy—can be accomplished within the allowed size limits. The treaty does essentially nothing to reduce the threat to our bombers and submarines.

Neglecting to limit SS-20 and Backfire, whatever effect it may have on the United States, necessarily produces extreme pressure on our allies. Articles XII and XIII, which severely affect our collaboration with NATO and with Japan, will make it much easier for the Russians to extend their power step by step.

Beyond technical issues, the recent disclosures of the presence of Soviet troops in Cuba raised doubts in many minds. I believe this matter is important but not decisive. The presence of the troops is directly relevant to SALT in two ways:

(1) If we are slow to notice Soviet troops in Cuba, can we be really confident of verifying SALT II?

(2) Secretary Brezhnev has assured us that the Backfire is not equipped and will not be equipped to fly to the United States, deliver a load of atomic explosives and return to the Soviet Union without refueling. We have not been assured that a similar operation will not be carried out with refueling in Cuba. If that should be a serious military alternative for the Soviets, the troops in Cuba may be most convenient to look after the safety and proper handling of the Backfires.

Of course, the presence of the troops demonstrates how the Soviets use their growing military power. I find it impossible to separate these issues from the matter of ratification.

However, even if these troops were not in Cuba, the disadvantages of the SALT II treaty would remain. Withdrawal of the troops should not qualify as a concession with which the Russians can buy ratification.

Instead of ratifying the SALT II the United States should immediately take steps to shift the entire basis of the competition to take advantage of our tremendous latent capacity for innovative research and development. The Soviet Union is already bending every effort toward military research and development. The United States has not brought the full weight of our scientific and technical community to bear on national defense problems since World War II. In particular, the university research community is perhaps least involved; it has become unfashionable to work on defense matters. We must close ranks within the United States and with our allies to mobilize science. Respected figures in and outside of government must speak out and become involved. Young people must be inspired to work constructively, within the defense community, on these problems vital to their future.

In this regard, it is clear that a Soviet objective in the whole process of "arms control" negotiations has been to limit the full deployment of our advantage in technology. SALT I limited ABM, where our advantage in electronics and solid-fuel rockets gave us a clear lead. SALT II will limit our exploitation of cruise missile technology, much of which derives from our superior capabilities in electronics. A Comprehensive Test Ban would keep us from using our computer and instrumentation technology to design needed new types of warheads, and would keep us from catching up with the Soviets in many areas where they probably have an advantage. Indeed, the Soviets are even now preparing for a Comprehensive Test Ban by a current vigorous nuclear test program.

There are many fruitful areas of new technology to pursue: remotely piloted vehicles (RPVs), advanced air defense and anti-tactical ballistic missile systems, laser and particle beam defensive weapons, nuclear warheads of advanced design, and many others that can build on our advantages, particularly in electronics and computer technology but also in other areas. Such developments will not necessarily be the forerunners of a further quantitative arms race of another type in the future. They are of such potential diversity that we can pick and choose those which will help to stabilize the strategic relationship between the United States and the Soviet Union.

To help this new approach, we should initiate open and unrestrained negotiations with all allies, but especially with the advanced free nations, whose interests are practically identical with our own. If we can get to a full understanding on complete cooperation on defense, sufficient strength can be produced so that the continuing expansion of the Soviets can be brought to a halt. Such full cooperation, however, is compatible neither with the spirit of SALT II, in which the main emphasis is placed on the balance of terror (which is gradually being replaced by a retreat before terror), nor with the letter of the treaty, in Articles XII and XIII.

A renewed technological effort will not succeed without a full realization in our own country of the nature of the danger that we are facing. This danger is greater than the one from Hitler. At that time our ocean barriers provided protection. At that time, also, we were faced with an adventurer who acted precipitously. Today the danger is less obvious and more serious and comes from a power more cautious and more formidable.

The first and foremost problem to be solved is how to awaken the healthy instincts of survival and how to mobilize American and allied inventiveness. I recall that my own efforts for defense were enlisted by a speech by Roosevelt in 1940, when he said that unless scientists in the Free World will work for weapons to defend freedom, freedom will be lost. Today there is no one in high position to talk to Americans and the other free people in such a manner. The Senate by discussing and eventually defeating SALT II could make the first resounding statement in such a campaign.

If SALT II could be brought to a vote and decisively defeated, this would assure that debate on national preparedness will continue. We need such a debate if we want the American people to recognize existing dangers and to take the steps necessary if peace is to be maintained and safety is to be achieved.

If on the other hand SALT II is ratified, further steps are apt to follow. The Comprehensive Test Ban might come next. A further sequel might well be SALT III imposing even more restraints that the Russians can evade and we cannot.

I want to conclude by an illustration of the results of the SALT process. Several highly placed individuals in government argue with considerable effectiveness that we must launch our land-based missiles on warning, otherwise they cannot survive. On the other hand we are doing next to nothing about civil defense in which the Soviets are thoroughly engaged. In the name of peace many argue that the saving of American lives by evacuating our citizens from the cities (when we observe Soviet evacuation) is provocative; some of the same people argue that launch on warning is a necessity.

I hope that you will make sure of the maintenance of peace in a more realistic manner. If we believe that safety can be obtained by a real arms limitation on our side and imagined arms limitation on the Soviet side, we will be driven into an increasing number of contradictions. In the end we will not survive if these contradictions persist.

Sincerely,

EDWARD TELLER.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Richard Cavins Matheron, of Califo.nia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland, which was referred to the Committee on Foreign Relations.

MESSAGE FROM THE HOUSE

At 6:56 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House further insists upon its disagreement to the amendment of the Senate numbered 137 to the bill (H.R. 4389) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 24. An act to improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes;

H.R. 2196. An act to establish a Congressional Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths;

H.R. 2583. An act to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes; and

H.R. 2742. An act relating to the Indiana Dunes National Lakeshore, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 24. An act to improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2583. An act to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2742. An act relating to the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Energy and Natural Resources.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by title and placed on the calendar:

H.R. 2196. An act to establish a Congressional Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths;

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2392. A communication from the Comptroller General of the United States, reporting, pursuant to law, on estimated revenues to be deposited in the Panama Canal Commission's fund as estimated by the Secretary of Defense; to the Committee on Armed Services.

EC-2393. A communication from the Director, Federal Emergency Management Agency, reporting, pursuant to law, that no real or personal property was acquired during the quarter ending September 20, 1979; to the Committee on Armed Services.

EC-2394. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Housing Leased to Lower Income

Persons: Better Federal Guidance and Management Could Improve Quality," October 30, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-2395. A communication from the Chairman, Federal Energy Regulatory Commission, reporting, pursuant to law, on Commission Order No. 533, program for process and feedstock users of natural gas; to the Committee on Energy and Natural Resources.

EC-2396. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2397. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of the Financial Statements of FHS Insurance Operations—Fiscal Year 1978," October 29, 1979; to the Committee on Governmental Affairs.

EC-2398. A communication from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, notice of proposed rulemaking to add a new Part 31h to Chapter 1, Subchapter E, of Title 25 of the Code of Regulation; to the Select Committee on Indian Affairs.

EC-2399. A communication from the Director, International Communication Agency, transmitting a draft of proposed legislation to amend Section 212 of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 268. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 932. Referred to the Committee on the Budget.

By Mr. LONG, from the Committee on Finance, witnout amendment:

S. Res. 269. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 1543. Referred to the Committee on the Budget.

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S. 405. A bill for the relief of Run Sik Sanderson (Rept. No. 96-381).

S. 919. A bill for the relief of Jennifer Ferrer (Rept. No. 96-382).

H.R. 3319. An act for relief of Jose Quintana Dominguez Sendejas (Rept. No. 96-383).

By Mr. KENNEDY, from the Committee on the Judiciary, with an amendment:

S. 1374. A bill for the relief of Lynn Rufus Pereira (Rept. No. 96-384).

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 1543. An act to improve the operations of the adjustment assistance programs for workers and firms under the Trade Act of 1974 (Rept. No. 96-385).

By Mr. LONG, from the Committee on Finance:

Special report entitled "Finance Committee Revised Allocation of Budget Totals for Fiscal Year 1980" (Rept. No. 96-386).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment; and by Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 932. An act to extend the Defense Production Act of 1950, as amended (together with additional, supplemental and minority views) (Rept. No. 96-387).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary:

Arthur L. Alarcon, of California, to be U.S. Circuit Judge for the Ninth Circuit.

Harry Pregerson, of California, to be U.S. Circuit Judge for the Ninth Circuit.

Thomas A. Clark, of Florida, to be U.S. Circuit Judge for the Fifth Circuit.

Stephanie K. Seymour, of Oklahoma, to be U.S. Circuit Judge for the Tenth Circuit.

Juan Guerrero Burciaga, of New Mexico, to be U.S. District Judge for the District of New Mexico.

Anna Diggs-Taylor, of Michigan, to be U.S. District Judge for the Eastern District of Michigan.

Alcee L. Hastings, of Florida, to be U.S. District Judge for the Southern District of Florida.

Neal P. McCurn, of New York, to be U.S. District Judge for the Northern District of New York.

Alan N. Bloch, of Pennsylvania, to be U.S. District Judge for the Western District of Pennsylvania.

Scott E. Reed, of Kentucky, to be U.S. District Judge for the Eastern District of Kentucky.

Robert H. Hall, of Georgia, to be U.S. District Judge for the Northern District of Georgia.

Terence T. Evans, of Wisconsin, to be U.S. District Judge for the Eastern District of Wisconsin.

Barbara B. Crabb, of Wisconsin, to be U.S. District Judge for the Western District of Wisconsin.

Frank Howell Seay, of Oklahoma, to be U.S. District Judge for the Eastern District of Oklahoma.

Lee Roy West, of Oklahoma, to be U.S. District Judge for the Western District of Oklahoma.

Thomas Rutherford Brett, of Oklahoma, to be U.S. District Judge for the Northern District of Oklahoma.

James Oliver Ellison, of Oklahoma, to be U.S. District Judge for the Northern District of Oklahoma.

Harold Arnold Ackerman, of New Jersey, to be U.S. District Judge for the District of New Jersey.

Dickinson Richards Debevoise, of New Jersey, to be U.S. District Judge for the District of New Jersey.

H. Lee Sarokin, of New Jersey, to be U.S. District Judge for the District of New Jersey.

Anne Elise Thompson, of New Jersey, to be U.S. District Judge for the District of New Jersey.

Dale Emerson Saffels, of Kansas, to be U.S. District Judge for the District of Kansas.

By Mr. LONG, from the Committee on Finance:

Nathan J. Stark, of Pennsylvania, to be Under Secretary of Health, Education, and Welfare.

William Brownlee Welsh, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare.

Billy M. Wise, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare.

(The above nominations from the Committee on Finance were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

SENATE BILLS JOINTLY REFERRED

Mr. MELCHER. Mr. President, I ask unanimous consent that the bills, S. 341, S. 1795, and S. 1796, be referred to the Select Committee on Indian Affairs.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that this request has been cleared with the minority leader. It has been cleared with me.

Mr. BAKER. Mr. President, we have no objection to the referral.

Mr. MELCHER. I thank the Senators.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. YOUNG (for himself, Mr. WALLOP, Mr. BURDICK, Mrs. KASSEBAUM, Mr. THURMOND, and Mr. STEVENS):

S. 1953. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAXALT:

S. 1954. A bill to amend titles 18 and 28 of the United States Code to eliminate, and to provide an alternative to, the exclusionary rule in Federal criminal proceedings; to the Committee on the Judiciary.

By Mr. MELCHER (for himself, Mr. BAUCUS, Mrs. KASSEBAUM, Mr. CHURCH, Mr. MCGOVERN, and Mr. HATCH):

S. 1955. A bill to provide indemnity payments to certain farmers and other persons suffering losses due to contamination by polychlorinated biphenyls; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. EAGLETON:

S. 1956. A bill to amend the Internal Revenue Code of 1954 to provide for partial exclusion of interest from gross income; to the Committee on Finance.

S. 1957. A bill to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATSUNAGA:

S. 1958. A bill to amend the Employee Retirement Income Security Act of 1974 for the purpose of facilitating the investment by employee pension benefit plans in qualifying employer real property; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

By Mr. LUGAR:

S. 1959. A bill to amend certain Federal regulatory statutes affecting automobiles in order to reduce the cost to the consumer of achieving the goals established in such statutes, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works, jointly, by unanimous consent.

By Mr. WARNER (for himself and Mr. NUNN):

S.J. Res. 118. A joint resolution to defer the pay of Members of Congress in the same manner and to the same extent as the pay and benefits of other employees and individuals are deferred due to the unavail-

ability of funds; to the Committee on Government Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. YOUNG (for himself, Mr. WALLOP, Mr. BURDICK, Mrs. KASSEBAUM, Mr. THURMOND and Mr. STEVENS):

S. 1953. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold meal to Louis L'Amour; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. YOUNG when he introduced the bill appear elsewhere in todays proceedings.)

By Mr. LAXALT:

S. 1954. A bill to amend titles 18 and 28 of the United States Code to eliminate, and to provide an alternative to, the exclusionary rule in Federal criminal proceedings; to the Committee on the Judiciary.

EXCLUSIONARY RULE IN CRIMINAL PROCEEDINGS

● Mr. LAXALT. Mr. President, I am introducing today a bill to amend the United States Code by providing a new section dealing with the exclusion of evidence in Federal criminal cases. This is similar to a proposal submitted by Senator GRIFFIN during the last term concerning the exclusionary rule.

The exclusionary rule is a shorthand description for the rules of evidence which require the courts to suppress any evidence which is acquired as a result of a search and seizure found to be in violation of the fourth amendment to the Constitution. The rule was first elicited by the Supreme Court in United States against Boyd,[1] in which the Court held that the personal papers of an individual seized as a result of an illegal search could not be used against him at trial.

In the early part of this century, the Supreme Court decided the Weeks[2] case which made the exclusionary rule applicable to all Federal cases. The Court stepped beyond Boyd and held that any material, not just personal papers, obtained in violation of the fourth amendment should be excluded.

It was not until the Warren Court decided Mapp against Ohio,[3] in 1961, that the exclusionary rule, as defined in the Weeks case, was made applicable to the States by way of the fourteenth amendment's "due process" clause. Up to this time, well over half of the States had chosen not to utilize the rule as elicited in Weeks. The Court decided that the exclusionary rule was the only method of preventing the law enforcement agencies from violating the fourth amendment. The Court came to this decision without any empirical data to substantiate its position.

The rationale for establishing the exclusionary rule was twofold: To preserve judicial integrity and to punish the violating police officer. The Supreme Court felt that if a court used evidence obtained illegally, judicial integrity would be compromised and the public's confidence in the court system destroyed. However, the deterrent aspect of punishing the respective police officer later became the primary reason for retaining the rule. The Court has continually drawn upon the deterrence argument in upholding the rule.

Mr. President, if those goals have been served and if the exclusionary rule does in fact protect against unconstitutional searches then it would have my full support. However, as can be readily seen, the rule accomplished neither of these goals and in reality its effect is just the opposite as that desired. To show the fallacy of deterrence as a reason for continual acceptance of the rule it is appropriate to recall the case of Stone against Powell.[4] In that case, one of the defendants was convicted of murder based on evidence recovered from a search pursuant to a warrant. The Supreme Court found the warrant to be defective and the evidence obtained pursuant thereto was suppressed. The conviction was reversed and the guilty criminal went free. Is this deterrence? What more can a policeman do when he gets a warrant? Who are we deterring? The police officer? The magistrate?

So here we have the dilemma. The rule did not deter police conduct in the situation outlined above. The rule certainly cannot uphold judicial integrity and public confidence in the court system. Upon seeing obviously guilty criminals freed, public confidence in the courts erodes rapidly.

How many times has every law student in the United States heard the words on the venerable Justice Cardozo—

> The criminal is to go free because the constable has blundered * * *?

So many times that they have become a cliche. Yet, the protracted use of the exclusionary rule by courts in the United States has turned criminal trials into a procedural game rather than a quest for the truth. I am aware that there are abuses in our law enforcement system and we must guard against them. But we must find a more effective and equitable protection than the exclusionary rule.

I need not go into the horror stories resulting from the application of the exclusionary rule. We need only read the daily papers to see how guilty criminals are released, no matter how heinous the crime, because the constable blundered. The rule as now enforced in every American jurisdiction, has resulted in the acquittal of a countless number of guilty defendants after appeals, and a failure to prosecute many more. It is the major cause of delay in criminal cases because of suppression hearings, and is probably considered the most controversial procedural rule of criminal law.

If the rule worked, I might be inclined to concede that this is the price we must pay for enforcing the fourth amendment. However, the number of illegal searches has not diminished, as can be verified by an examination of any criminal court or appellate court docket.

The whole concept of the exclusionary rule is based on an illogical argument. The willful violators of fourth amendment rights are going to perform the illegal search whether the evidence is going to be excluded or not. Yet only the guilty criminal has any recourse. He is released. Suppression of probation evidence certainly cannot aid an innocent individual who is subjected to an illegal search. Is this the way we want our criminal justice system to function, benefiting only the guilty while giving no recourse to innocent victims of illegal searches?

Not only is the guilty criminal freed and an innocent victim of a fourth amendment violation left without recourse but the recalcitrant police officer is subjected to no disciplinary action. If the evidence is suppressed on appeal, or worse yet on a habeas corpus hearing, is the officer disciplined in any way? By that time, the case is long forgotten in his mind as he has probably made hundreds of searches and seizures in the interim. Also, even if he were to read the appellate opinion, chances are he could not comprehend the law as stated in the Court's decision. Nor should he be expected to understand the appellate opinion; it takes lawyers 3 years of law school to be able to read and understand them. By releasing the criminal to discipline the police officer, we are in actuality punishing society as a whole by sending a guilty criminal back into the streets. This is not rational.

No less than the Chief Justice of the Supreme Court of the United States has challenged the Congress to take a look at the problems posed by the rules and to provide a legislative solution. Justice White and other Justices have also expressed their disillusionment with the rule and voiced a willingness to endorse a viable alternative. The Court has refrained from overruling the suppression doctrine because they, admittedly, lack the constitutional power to legislate an alternative.

The Chief Justice has suggested, and I have proposed, that the Federal Torts Claims Act be amended to allow defendants, as well as anybody else whose fourth amendment rights have been violated, to sue the Federal Government in a civil action for damages incurred in an illegal search and seizure. Similar provisions were proposed in previous Congresses by Senators BENTSEN and Griffin.

Instead of suppressing probative evidence, my bill would provide the individual with a remedy against the officer who violated his fourth amendment rights in the course of a search and seizure. If the fourth amendment violation was willful or a result of gross negligence, the bill provides for a civil action against both the law enforcement body and the officer who committed the violation.

In this way, probative evidence will not be denied the Court, whose object is truthfinding, and the aggrieved individual will be provided civil relief whether he is guilty or entirely innocent. Under the present situation, the innocent victim of a fourth amendment violation has no relief whatsoever. All types of intended harassment searches go unpunished, as the exclusionary rule does not touch them. However, as a result of the civil action against the law enforcement agency encompassed by my bill, the violating officer can be disciplined and corrected with relative swiftness. Such a situation is impossible with the exclusionary rule as the only form of relief.

By removing the exclusionary rule straightjacket we would allow the States to consider different alternatives. In giving the States this freedom, which they once had, they will be able to fashion more effective protections for fourth amendment rights. We then will be able to tap their resourcefulness in order to aid in more effective protections on the Federal level.

Mr. President, the exclusionary rule must be modified. We must restore a balance between the treatment accorded the victims of crime, that being society as a whole, and the protection afforded the perpetrators of crime.

My bill does this and I urge that the Senate give it prompt and favorable consideration.●

[1] *United States* v. *Boyd*, 116 U.S. 616.
[2] *Weeks* v. *United States*, 232 U.S. 383.
[3] *Mapp* v. *Ohio*, 767 U.S. 643.
[4] *Stone* v. *Powell*, 428 U.S. 465.

By Mr. MELCHER (for himself, Mr. BAUCUS, Mrs. KASSEBAUM, Mr. CHURCH, Mr. MCGOVERN, and Mr. HATCH);

S. 1955. A bill to provide indemnity payments to certain farmers and other persons suffering losses due to contamination by polychlorinated biphenyls; to the Committee on Agriculture, Nutrition, and Forestry.

AID FOR PCB VICTIMS

● Mr. MELCHER. Mr. President, I have just introduced a bill for myself, Senators BAUCUS, KASSEBAUM, CHURCH, MCGOVERN and HATCH to authorize the Commodity Credit Corporation to make payment of indemnities to persons who have suffered losses as a result of PCB's (polychlorinated byphenols) getting into the food chain from a Montana packing plant.

Several hundred persons have lost chickens, eggs, hogs, and food products, and a substantial number face liquidation of their operations, because they have had to destroy poultry and livestock, or products, contaminated by the chemical.

Damages have been very roughly estimated at $4 million in Montana and $10 million overall in the 19 States where the PCB's were spread.

The PCB's were released into the food chain as a result of the rupture of an electrical transformer in storage at the Pierce Packing plant in Billings, Mont. They contaminated a high protein meat scrap feed supplement which went to feed mixers; the feed contaminated chickens, hogs, and cattle, and food products produced from them.

Unfortunately, the danger of PCB's to human health has been known to Federal agencies for some time, but inadequate steps have been taken to destroy existing stocks or to warn persons with mechanical equipment of the danger of allowing any of the element to get into the food chain. Production of polychlorinated byphenols has been stopped, and warning labels have now been ordered on all equipment containing it—but too late to prevent the Pierce Packing tragedy.

If it is determined that there is civil liability for any of the damages done, rights to those damage claims can be assigned to the Government by those who receive indemnities. Meantime, many of them will be saved from liquidation for lack of capital to replace their poultry and livestocks, or to continue their operations.

In order to expedite handling of the indemnities, the bill I have introduced provides for use of funds and facilities of the Commodity Credit Corporation, which can get into operation speedily. Unless indemnities are speedily provided, the financial damage to operators without assets to get back into operation will have been done—they will be out of business. Use of the CCC in such instances is out of the ordinary but, in this instance, is essential to avoid the delays of authorization, congressional budget procedures and apropriations.●

By Mr. EAGLETON:

S. 1956. A bill to amend the Internal Revenue Code of 1954 to provide for partial exclusion of interest from gross income; to the Committee on Finance.

● Mr. EAGLETON. Mr. President, the Senate currently finds itself in the midst of debate on H.R. 4986, the Consumer Checking Account Equity Act. This bill, if passed, will have a far-reaching impact on the banking industry, the housing industry, and the consumer. I am very concerned about the implications such a bill could have, especially during a time when we find such chaos in domestic and international money markets.

One of the purposes of this bill is to assist the small saver whose been the hardest hit of all by current double-digit inflation. I support that purpose; however, I question the manner in which this bill goes about it. I am apprehensive about an attempt to help the small saver when it will come at the expense of our savings and loan associations and ultimately the housing industry. A recent Wall Street Journal article which discussed the tight mortgage market in the Midwest announced that mortgage lending has virtually dried up in that part of the country.

The article quoted Randy Ney of the Home Savings Association of Kansas City, Mo. as saying—

> Up until now it may have been a question of expensive credit, but now it may be a question of credit availability.

Consequently, I believe that it is wrong for Congress to help the small saver at the expense of our S. & L.'s and the homebuilding industry. I believe there is another alternative and I believe it is much more constructive.

The bill that I am introducing today is truly a small saver bill. My bill would allow a tax exclusion on interest income earned only from passbook savings accounts at commercial banks, mutual savings banks, S. & L.'s and credit unions. Individuals would be allowed a deduction up to $500 and $1,000 for married couples who file a joint tax return. As a double test to insure that only the truly small saver will benefit from this exclusion, the bill provides that only those taxpayers who earned an aggregate of $500 or less in interest and dividends from all reportable sources can qualify for the tax exemption.

I propose this second test to preclude the case of an individual who may be earning a sizeable return on high yielding investments and then decides to place some money in a passbook account to receive the tax benefit. The small saver does not have such an option—his only alternative is his passbook savings account. It is this individual we want to help.

At the present time, there are several other bills pending before the Finance Committee which are also small saver bills. I believe my bill is an improvement over these bills because of its reduced revenue costs and the fact that it is so explicitly targeted to the small saver. S. 246 proposes an outright $500 exclusion in interest and dividends for any and all individuals—$1,000 for joint returns. S. 1846 is similar to S. 246 but would permit an exemption of $250—$500 for joint returns. S. 1488 allows an exclusion of up to $500 on interest and dividends earned—$1,000 for joint returns—only to the extent that the interest and dividends received during the taxable year exceed the interest and dividends during the preceding taxable year.

Thus, someone who earned $2,000 in interest in 1979 and $2,500 in 1980 would be allowed a $500 exclusion. On the House side, H.R. 3712 allows a $100 exclusion on interest for individuals; $200 for joint returns. While I commend the purposes of these bills, I believe they favor the wealthy saver as much as the small saver.

In addition, these other bills will be more costly than my bill. Some very rough estimates from the Department of the Treasury indicate the following:

S. 246 will cost approximately $4.6 billion by 1984; an alternative proposal to phase the $500 exclusion in over 5 years would lower initial costs to about $1.1 billion in 1980.

S. 1488 will cost roughly $900 million the first year and will cap after 5 years at about $1.3 billion.

S. 1846 will cost roughly $2.0 billion in 1980 and about $2.6 billion in 1984.

H.R. 3712 will cost roughly $1.1 billion in 1980; $1.3 billion in 1984.

According to the Treasury Department my bill will cost approximately $850 million in 1980—and only $1 billion in 1984. As you can tell, this would mean the least costly bill in terms of revenue lost by Treasury.

Once again, let me say that my bill would be targeted to the small saver and therefore would be less costly. It would specifically help the people I call the "Aunt Hazels" of the world who have placed all or nearly all of their savings in a bank, S. & L., or credit union. I urge my colleagues to take a look at my "Aunt Hazel bill." I think it is an effective means to assist the beleaguered small saver.●

By Mr. EAGLETON:

S. 1957. A bill to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT ACT OF 1979

● Mr. EAGLETON. Mr. President, today I introduce the Recreational Boating Safety and Facilities Improvement Act of 1979. The bill will promote increased use of our Nation's waterways and respond to the continued need for recreational boat safety. The 1971 Federal Boat Safety Act established a significant piece of legislation to help reduce boating fatalities and accidents.

With the current energy crunch, Americans are turning to recreational facilities closer to home. There is now one privately owned boat in the United States for every 10 automobiles, buses, and trucks on the Nation's highways. The recreational boating population has grown and changed significantly in numbers and character since 1900 when privately owned boats in the United States numbered only 15,000. Fifty million Americans now take to the 25 million miles of waterways in the United States.

In my State alone this year, over 28 million people used Missouri lakes, rivers, and streams for recreation. Boat users range from motor boat users, to fishermen, to the neighborhood kids floating the river in a used innertube. Recreational boating is big business today. The 2,500-odd boat and equipment manufacturing companies employ some 550,000 persons, and generates $6.5 million in sales. The number of boat users has more than doubled since 1971, and has led to overcrowding and congestion of these waterways.

The Recreational Boating Safety and Facilities Improvement Act of 1979 takes steps to address the current concerns of the American boater; need for additional boat launching sites and dockage space; educational and licensing programs for boatowners, and better policing of the Nation's waterways.

The grants to States program under the 1971 Federal Boat Act accomplished a great deal in focusing on boating safety. The joint Federal and State complementary role in boat safety education has reduced boat fatalities from 1,582 in 1971 to 1,321 in 1978. In Missouri this year the Division of Water Safety has recorded 16 fatalities and 148 drownings. The Coast Guard, the acting Federal agency in boating safety, estimates $12.3 million in property damage yearly from boating accidents. The modest expenditure of Federal funds has been multiplied many times over in tangible accomplishments in the reduction of boating accidents. Last year Missouri's Division of Water Safety and the Coast Guard gave 3,980 safety programs with over 121,000 people in attendence.

This program, however, terminates in fiscal year 1980. Anticipating no further funds, this act would become the successor program of Public Law 92-75, to continue the existing Federal/State partnership in promoting boating safety. The central feature of the bill is the returning of Federal marine fuels tax revenue to the States on a matching basis—to be utilized by States for recreational boating safety and facilities improvement programs. Over 50 States already have similar State marine fuels tax revenue for these purposes. Under the provision of this bill, $30 million is provided annually on a matching basis with the States in proportion to the nationwide distribution of numbered vessels. A third of the funds available from the fund established in this bill will be allocated and distributed to States for conducting boating safety programs, while the remaining two-thirds of the funds will be devoted to boating facility improvement.

This bill is the next step in boating legislation, and will certainly enhance one of America's greatest recreational assets. An identical bill has been introduced in the House on June 5, 1979 (H.R. 4310) by Congressman BIAGGI of New York.●

By Mr. MATSUNAGA:

S. 1958. A bill to amend the Employee Retirement Income Security Act of 1974 for the purpose of facilitating the investment by employee pension benefit plans in qualifying employer real property; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

● Mr. MATSUNAGA. Mr. President, I am introducing a bill to amend the prohibited transaction rules of the Employee Retirement Income Security Act of 1974 (ERISA).

ERISA permits a qualified pension plan to invest in employer real property only if the investment is in multiple parcels which are geographically dispersed. This geographical dispersion rule was intended to safeguard plan investments; however, it is unduly restrictive.

In effect, the present rule allows investment in employer real property only for large plans with large employers. A small plan with an employer owning a single plant or office, cannot invest in employer real property.

Recent experience has demonstrated the wisdom of investing in real estate. Moreover, workers' ownership of the workplace enhances their sense of participation in the business. Plan ownership of the plant or office tangibly shows the workers' stake in the concern. This identity of interests stimulates productivity and the workers materially share in the growth of the business.

The acquisition and holding limitations for defined benefit plans as well as the prudent man rule and exclusive benefit standard will still protect the plan's financial integrity. In addition, my bill codifies the safeguards now administratively applied.

I urge quick action on my proposal and ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Employee Retirement Income Security Act of 1974 is amended—

1. By striking out subclause (iii) of clause (A) of Section 407(d)(3) and inserting in lieu thereof the following:

"(iii) a money purchase plan which was in existence on the date of enactment of this Act and which on such date invested primarily in qualifying employer securities or on such date invested in qualifying employer real property."

2. By striking out paragraph (4) of Section 407(d) and inserting in lieu thereof the following:

"(4) The term 'qualifying employer real property' means one or more parcels of employer real property—

(A) if, in the event a plan holds more than one parcel of employer real property, a substantial number of such parcels are dispersed geographically within or without a State;

(B) if each parcel of real property and the improvements thereon are suitable (or adaptable without excessive cost) for more than one use;

(C) even if all of such real property is leased to one lessee (which may be an employer, or an affiliate of an employer);

(D) if the acquisition and retention of such property comply with the provisions of this part (other than section 404(a)(1)(B) to the extent it requires diversification, and sections 404(a)(1)(C), 406, and subsection (a) of this section);

(E) if, in the event a plan holds only one parcel of employer real property, such parcel is subject to a lease—

(i) which provides that the lessee pays all costs relating to such property, including maintenance, utilities, taxes and insurance;

(ii) which provides that obligations for principal and interest under any mortgage with respect to the property and for liability for tax under section 511 of the Internal Revenue Code of 1954 are to be paid fully from rents generated by such property, and under which the amount of such rents is sufficient to pay such obligations;

(iii) which provides that lease rentals are personally guaranteed by one or more persons described in Section 3(14); and

(iv) which provides that, in the event of default, with respect to lease rentals the trustee may, in its sole discretion, relet the property or sell the property to any party, including a party described in Section 3(14);

(F) (i) if, in the event a plan holds only one parcel of employer real property (i) in the case of property which is acquired by the plan without incurring acquisition indebtedness, the cost of such property does not constitute more than fifty percent of the current value of plan assets as of the later of the date of acquisition or June 30, 1984;

(ii) if, in the case of property which is acquired by the plan with acquisition indebtedness, the cost of such property does not constitute more than fifty percent of the current value of plan assets as of the later of the date of acquisition or June 30, 1984 and the acquisition indebtedness does not constitute more than fifty percent of the current value of plan assets as of the later of the date of acquisition or June 30, 1984.

(G) if, in the event a plan holds only one parcel of employer real property, the annual rate of return on such property is at least as favorable to the plan as the annual rate of return on such property would be if such property was leased to an unrelated party in an arm's-length transaction;

(H) if, in the event a plan holds only one parcel of employer real property, legal title to such property is held by an independent professional trustee;

(I) if, in the event a plan holds only one parcel of employer real property, such property is administered by an independent professional trustee; and

(J) if, in the event a plan holds only one parcel of employer real property, such lease is approved by an independent fiduciary which is unrelated to any party in interest and which has no other interest (other than its interest as trustee or nondiscretionary service provider) with respect to the transaction which might affect its best judgment.

Clause (iii) of subparagraph (E) shall not apply if the employer maintaining the plan is a corporation and the corporation is owned by more than fifteen shareholders and no shareholder owns ten percent of more of the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation. For purposes of subparagraph (G), the comparability of the return shall be determined annually as of the last day of the plan year by an independent, qualified appraiser.

These amendments shall take effect on the date of enactment.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Hawaii (Mr. MATSUNAGA) to amend the ERISA Act of 1974 be referred jointly to the Committee on Finance and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. LUGAR:

S. 1959. A bill to amend certain Federal regulatory statutes affecting automobiles in order to reduce the cost to the consumer of achieving the goals established in such statutes, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works, jointly, by unanimous consent.

MOTOR VEHICLE REGULATORY IMPROVEMENT ACT OF 1979

● Mr. LUGAR. Mr. President, today I am introducing the Motor Vehicle Regulatory Improvement Act of 1979, which is intended to address the current problems of the Chrysler Corp. It is my strong belief that enactment of this legislation will enable Chrysler to save millions of dollars which will otherwise be spent on complying with unnecessary or excessive Federal regulation.

In addition, and most importantly, this legislation will increase the profitability of Chrysler's product offerings.

This bill is identical to H.R. 5413, which was introduced in the House on September 26, 1979 by Congressman DAVID STOCKMAN. The bill would:

First, require progress toward the 1985 fuel economy standard goal of 27.5 miles per gallon to be achieved in equal annual installmentes, rather than the present "front-loaded" schedule;

Second, repeal the authority of DOT to require airbags; and

Third, freeze tailpipe emission standards at 1979 levels.

In August 1979, Chrysler estimated its compliance costs with these regulations to be $500 million annually for the next 2 years.

Each of these regulations deals with an important social goal, and was written with the best of intentions. However, the combination of all of them, simultaneously, has been devastating to Chrysler. Except for the airbag requirement, no regulation need be repealed—only adjusted. These commonsense revisions will give Chrysler the breathing room it needs and will improve its prospects for borrowing in the private markets without taxpayer subsidy.

The provisions would apply to the entire automobile industry, however, they should prove of particular benefit to Chrysler Corp. Chrysler has been forced to spead the cost of regulations over a smaller number of cars, resulting in a disproportionately heavy financial burden. A recent Library of Congress report calls these regulations discriminatory, and reports:

To the extent that the investment necessary to satisfy these requirements is fixed, regardless of the firm's size, Chrysler's small scale (relative to General Motors and Ford) makes its per unit cost of compliance much higher, its competitive position worse, and its profitability lower.

Congress should support relief for Chrysler because, fundamentally, it was Congress which fostered this crisis. Washington has demanded pollution reductions, drastically, without regard for cost or genuine health benefits; airbags, senselessly, without regard for clear evidence of vastly preferable alternatives; and fuel economy, immediately, without regard for other Government policies which run directly counter to this goal.

FUEL ECONOMY STANDARDS

The Energy Policy and Conservation Act of 1975 mandates that by the 1985 model year, the average fuel economy for passenger automobiles must be 27.5 miles per gallon. In administering this law, the National Highway Transportation Safety Administration has required the largest increases in miles-per-gallon standards early in the schedule. This so-called "front loading" is negatively affecting all auto producers, but particularly Chrysler. This legislation provides that from now on, progress toward the 27.5-miles-per-gallon goal be achieved in equal 1.5-miles-per-gallon increments. This provision of my amendment requires no change in the final miles per gallon goal stipulated by Congress, only a redesign of the compliance schedule.

	NHTSA schedule	Proposed schedule
1981	22.0	21.5
1982	24.0	23.0
1983	26.0	24.5
1984	27.0	26.0
1985	27.5	27.5

On May 3, 1979, the Department of Commerce reviewed DOT's front loaded schedule, and recommended the "straight line" approach which I propose in this bill. This report concluded that the DOT schedule is not cost effective. Using a conservative costing approach, it found that—

The costs of the front loaded standards over a straight line alternative exceed the benefites by approximately $2 billion.

Included in this incredible waste is a cost of between $645–$1,000 per vehicle which could be foregone by using the schedule proposed in this bill.

Unquestionably, the restructuring of this regulation will allow Chrysler to defer capital spending and to reduce per unit fixed costs dramatically, without any change in the mileage goal or the date of its attainment.

REPEAL THE AIRBAG MANDATE

Section 3 of this bill prohibits the Secretary of Transportation from mandating the use of the airbag. This regulatory adventure has been dubious from its inception.

GAO Report No. CED-79-93, issued on July 27, 1979, confirms much of what critics have long suspected; the airbag is likely to cost five times more than NHTSA predicts; it will not provide an adequate level of protection, and may increase the risk of occupant injury in many types of crashes; and is not likely to result in lower insurance premiums.

NHTSA estimated the cost of the airbag at $112 per vehicle. The GAO study estimates $580 per car. Ford Motor Co. estimates a cost of $750 per car at high volume production, but $825 per car at expected 1982 volume.

The per unit cost of the airbag has been shown to be inversely proportional to production volume. So, we can expect that Chrysler's per unit cost for the airbag will be higher than G.M.'s and Ford's, and that per unit profit will be reduced by the difference.

It is absolutely senseless to place this burden on Chrysler and to force an increase in the price of cars by mandating a so-called safety device the effectiveness of which remains in question, and for which the alternatives are far less expensive.

EMISSIONS STANDARDS

The Clean Air Act Amendments of 1977 renewed the congressional intent to reduce auto pollutants by 90 percent of the base year (1970) levels. The "90-percent provision" in conjunction with subsequent EPA revision of the NO_x standard would result in 96 percent reductions in HC and CO from uncontrolled levels and a 76-percent reduction in the NO_x level.

Section 4 of this bill freezes the emission standard at 1979 levels:

Pollutant	1979 level	Percent reduction from uncontrolled levels
HC	1.5 gpm	86
CO	1.5 gpm	82
NO_x	2.0 gpm	51

The 1979 standards have produced reductions in exhaust emissions of 86 percent for HC, 82 percent for CO, and 51 percent for NO_x from uncontrolled levels. This represents great progress and cause for public satisfaction.

But, especially in view of today's problems in the economy and the auto industry, these 1979 levels should be frozen. No clear scientific evidence supports the proposed 90 percent reduction. It was, from the beginning, an arbitrary figure. That public health will be enhanced by insisting on the small remaining marginal reductions in auto emissions has not been demonstrated. What has been

shown is that the cost of achieving these last few percent will be very high.

Ford Motor Co. estimates that it will spend $59 million per percentage point of pollution reduction to meet post-1979 standards, compared with $7.7 million per point spent between 1968–1977. This represents a 760 percent cost increase for each increment of pollution reduced.

In addition, there are other opportunity costs associated with enforcing the post-1979 reductions such as losses in fuel economy caused by antipollution systems.

It is clear that the merely suspected benefits of reducing exhaust emissions to extreme levels is far outweighed by the certain costs which are exacerbating the decline of the auto industry. No further reductions should be required until such time as the Congress receives substantial evidence proving significant health benefits.

With specific regard to Chrysler, the costs required to develop the technology and engineer the equipment required to meet the post-1979 emission standards are predominantly fixed costs which are roughly equal throughout the industry.

If these more stringent standards are enforced, Chrysler must spread its fixed costs over its 10-percent share of the market, while GM apportions its costs over a 46-percent share and Ford over a 21-percent share.

As matters stand, the Nation's consumers face the worst of two worlds. Having paid hundreds of extra dollars for their American cars because of Government-mandated standards, they are now asked to pick up the bill for the companion consequences of those same standards on Chrysler, leaving the cause of their mutual problems unreformed.

Mr. President, Chrysler's future success and creditworthiness depends on the profitability of its product. The most appropriate Government response, therefore, is to remove existing Government regulations which have forced Chrysler into a marginal operating position.

The reform of these regulations and the resultant increase in per-unit profits will assist Chrysler Corp. in gaining a firmer financial position. Furthermore, passage of this legislation will mark the beginning of a new era of growth in the American automobile industry.

I sincerely urge my colleagues in the Senate to join me in this effort.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Indiana (Mr. LUGAR) amending certain laws relating to automobiles and emission standards be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. WARNER (for himself and Mr. NUNN):

S.J. Res. 118. A joint resolution to defer the pay of Members of Congress in the same manner and to the same extent as the pay and benefits of other employees and individuals are deferred due to the unavailability of funds; to the Committee on Government Affairs.

(The remarks of Mr. WARNER when he submitted the joint resolution appear elsewhere in today's proceedings.)

ADDITIONAL COSPONSORS

S. 76

At the request of Mr. STONE, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 76, to amend the Social Security Act to authorize payment under medicare for certain services performed by chiropractors.

S. 531

At the request of Mr. BENTSEN, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 531, to allow State inspected meat plants to sell their products to federally inspected meat plants.

S. 1163

At the request of Mr. DOLE, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1163, a bill to repeal the carryover basis provisions.

S. 1383

At the request of Mr. MELCHER, the Senator from South Dakota (Mr. PRESSLER) and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 1383, a bill to amend title 23, United States Code, to establish uniform national standards for weight and length of vehicles using the National System of Interstate and Defense Highways, and for other purposes.

S. 1467

At the request of Mr. DOLE, the Senator from Wyoming (Mr. WALLOP) and the Senator from Georgia (Mr. TALMADGE) were added as cosponsors of S. 1467, a bill to amend the Internal Revenue Code of 1954 to provide that the retirement placement betterment method of accounting for property used by a common carrier is an acceptable method for determining depreciation allowances.

S. 1724

At the request of Mr. WILLIAMS, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1724, the Home Energy Assistance Act.

S. 1783

At the request of Mr. DOLE, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 1783, a bill to provide Small Business Administration loans to fuel oil dealers.

S. 1861

At the request of Mr. STONE, the Senator from South Carolina (Mr. HOLLINGS), the Senator from Texas (Mr. BENTSEN), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1861, a bill to amend the Internal Revenue Code of 1954, and for other purposes.

S. 1905

At the request of Mr. DURENBERGER, his name was added as a cosponsor of S. 1905, a bill to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes.

S. 1937

At the request of Mr. RIEGLE, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 1937, to provide financial assistance to the Chrysler Corp.

S. 1942

At the request of Mr. MCGOVERN, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 1942, a bill to provide for a resource conservation and development program in the U.S. Department of Agriculture.

SENATE RESOLUTION 268—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 268

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 932. Such a waiver is necessary because S. 932 authorizes the enactment of new budget authority which would first become available in fiscal year 1980, and such bill was not reported on or before May 15, 1979, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible in this instance because proposals to enhance the national security by reducing the political and economic vulnerability of the United States from dependence on oil imports by increasing the production and conserving the supplies of domestically available renewable and non-renewable energy supplies through (1) the demonstration of a domestic synthetic fuels production program, (2) the production of gasohol, (3) the establishment of a domestic energy policy plan, (4) the mandating of an energy conservation program, (5) the development of domestic geothermal energy, (6) the achievement of commercial solar applications, (7) the performace of wind energy systems commercialization and utilization, and (8) the creation of a solar energy development bank had not been formulated by May 15. This measure represents the details of the national energy program and new energy initiatives for which accommodation was made in the revised concurrent resolution on the budget. Neither the magnitude or the impact of the rises in the cost of imported fuel nor the resulting potential threat to the national security or the immediate and direct threat to the individual health and welfare of the American people could be anticipated and a comprehensive energy program developed prior to May 15.

The effect of defeating consideration of this authorization would be to seriously impede efforts to reduce oil imports and rapidly rising residential and commercial utility bills, further imperil the national security of this nation, and gravely endanger the health and welfare of individual Americans.

SENATE RESOLUTION 269—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. LONG, from the Committee on Finance, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 269

Resolved, That (a) pursuant to section 402 (c) of the Congressional Budget Act of 1974, section 402(a) of such Act shall not apply with respect to the consideration in the Senate of the bill H.R. 1543 to improve the operation of the adjustment assistance program for workers and firms under the Trade Act of 1974; and

(b) That waiver of such section 402(a) is necessary in order to enable the Senate to consider such bill inasmuch as it includes both "authorization" provisions which under section 402 of the Congressional Budget Act are ordinarily required to be reported prior to May 15 and "new spending authority" provisions which under section 303 of such Act may not be considered by the Senate until after the adoption of the first concurrent budget resolution. The "new spending authority" provisions are of substantially greater budgetary impact than the "authorization" provisions. The bill as a whole, therefore, is more properly considered at the time in the Congressional budget schedule which is appropriate for legislation providing "new spending authority."

AMENDMENTS SUBMITTED FOR PRINTING

MIGRATION AND REFUGEE ASSISTANCE—S. 1668

AMENDMENT NO. 561

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself, Mr. SASSER, Mr. BAUCUS, and Mr. MELCHER) submitted an amendment intended to be proposed by them, jointly, to S. 1668, a bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981.

(The remarks of Mr. DANFORTH when he submitted the amendment appear earlier in today's proceedings.)

HOME ENERGY ASSISTANCE ACT—S. 1724

AMENDMENT NO. 562

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to S. 1724, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to State in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

● Mr. HUMPHREY. Mr. President, I submit an amendment to S. 1724, the Home Energy Assistance Act. This amendment would make the fuel assistance program for 1981 and 1982 more truly a block grant program. Flexibility at the State level would be enhanced, and bureaucratic requirements would be reduced.

At a time when the need for fuel assistance is so critical and Federal resources are so strained, we cannot afford to waste money on spurious reporting requirements and manipulation from Washington. Administrative costs must be minimized. The block grant approach is the most effective means to that end. Also, if the program is to remain crisis intervention, it is best not to establish a weighty Federal apparatus. To create such a fixture would be to promote a permanent entitlement, and I do not believe that this is the Senate's intention.

My amendment would require each State to submit a simplified plan to HEW. Mandated redtape would be minimized. The Secretary would evaluate whether a State is addressing the goals of the legislation, but she would not concern herself with dotting i's and crossing t's. The States do not need HEW to tell them their duty toward their citizens. The States should not have to follow a specific Federal design.

The States are best able to administer a fuel-assistance program. The argument is no longer valid that they do not have the organization to complete a large agenda. The States have been implementing large Federal programs for years now. They have the means, and they know local situations and local needs.●

NOTICE OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will hold a hearing on the "Business Economic Outlook." The hearing will begin at 9:30 a.m. on Tuesday, November 6, 1979, in room 424 RSOB. Senator STEWART will chair. The witnesses will be Mr. Vondal Gravlee, president, National Association of Home Builders; Mr. Allen Sinai, Data Resources, Inc.; and a panel consisting of Mr. David H. Hovey, associate dean, School of Business, Indiana State University; Mr. Stahrl Edmunds, dean, Graduate School of Administration, University of California, Riverside; and Mr. Lionel Kunst, president, Fabri-Quilt, Inc., North Kansas City, Mo.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, on Tuesday, November 20, 1979, the Subcommitee on Energy Regulation of the Committee on Energy and Natural Resources will hold hearings on S. 1684, the Domestic Refinery Development and Improvement Act of 1979. These hearings will begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Questions about these hearings should be directed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224-9894.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate today beginning at 3 p.m., to hold a markup session on S. 10, "The Rights of the Institutionalized Persons."

This request has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ALEKSANDR SOLZHENITSYN'S ANALYSIS OF MORAL DISTINCTIONS BETWEEN COMMUNISM AND CAPITALISM

● Mr. ARMSTRONG. Mr. President, in preparation for the SALT debate, I recently reviewed an article by the distinguished Russian author, Aleksandr Solzhenitsyn.

In December 1975, Reader's Digest published Solzhenitsyn's insightful analysis of the moral distinctions between communism and capitalism, between Russian totalitarianism and American concepts of self-government. The insights of this towering moral leader are, if anything, more relevant today than when they were first published. I hope that every Member of the Senate will take the time to reflect upon Solzhenitsyn's warning.

WAKE UP! WAKE UP!

(By Aleksandr Solzhenitsyn)

Is it possible to transmit the experience of those who have suffered to those who have yet to suffer? Can one part of humanity learn from the bitter experience of another? Is it possible to warn someone of danger?

How many witnesses have been sent to the West in the last 60 years? How many millions of persons? You know who they are: if not by their spiritual disorientation, their grief, then by their accents, by their external appearance. Waves of immigrants, coming from different countries, have warned you of what is happening. But your proud skyscrapers point to the sky and say: It will never happen here. It's not possible here.

It can happen. It is possible. As a Russian proverb says: "When it happens to you, you'll know it's true."

Do we have to wait until the knife is at our throats? Isn't it possible to assess the menace that threatens to swallow the whole world? I was swallowed myself. I have been in the red burning belly of the dragon. He wasn't able to digest me. He threw me up. I come to you as a witness to what it's like there.

Communism has been writing about itself in the most open way for 125 years. It is perfectly amazing. The whole world can read but somehow no one wants to understand what communism is. Communism is as crude an attempt to explain society and the individual as if a surgeon were to perform his delicate operations with a meat-ax. All that is subtle in human psychology and the structure of society (which is even more delicate) is reduced to crude economic processes. This whole created being—man—is reduced to matter.

Communism has never concealed the fact that it rejects all absolute concepts of morality. It scoffs at "good" and "evil" as indisputable categories. Communism considers morality to be relative. Depending upon circumstances, any act, including the killing of thousands, could be good or bad. It all depends upon class ideology, defined by a handful of people. In this respect, communism has been most successful. Many people are carried away by this idea today. It is considered rather awkward to use seriously such words as "good" and "evil." But if we are to be deprived of these concepts, what will be left? We will decline to the status of animals.

FREEDOM'S TAX

But what is amazing is that, apart from all the books, communism has offered a multitude of examples for modern man to see. The tanks have rumbled through Budapest and into Czechoslovakia. Communists have erected the Berlin Wall. For 14 years people have been machine-gunned there. Has the wall convinced anyone? No. We'll never have a wall like that. And the tanks in Budapest and Prague, they won't come here either. In the communist countries they have a system of forced treatment in insane asylums. Three times a day the doctors make rounds and inject substances into people's arms that destroy their brains. Pay no attention to it. We'll continue to live in peace and quiet here.

What's worst in the communist system is its unity, its cohesion. All the seeming differences among the communist parties of the world are imaginary. All are united on one point: your social order must be destroyed.

All of the communist parties, upon achieving power, have become completely merciless. But at the stage before they achieve power, they adopt disguises. Sometimes we hear words such as "popular front" or "dialogue with Christianity." *Communists* have a dialogue with Christianity? In the Soviet Union this dialogue was a simple matter: they used machine guns. And last August, in Portugal, unarmed Catholics were fired upon by the communists. This is dialogue? And when the French and the Italian communists say that they are going to have a dialogue, let them only achieve power and we shall see what this dialogue will look like.

As long as in the Soviet Union, in China and in other communist countries there is no limit to the use of violence, how can you consider yourselves secure or at peace? I understand that you love freedom, but in our crowded world you have to pay a tax for freedom. You cannot love freedom just for yourselves and quietly agree to a situation where the majority of humanity is being subjected to violence and oppression.

The communist ideology is to destroy your society. This has been their aim for 125 years and has never changed; only the methods have changed. When there is détente, peaceful coexistence and trade, they will still insist: The ideological war must continue! And what is ideological war? It is a focus of hatred, a continued repetition of the oath to destroy the Western world.

I understand, it's only human that persons living in prosperity have difficulty understanding the necessity of taking steps—here and now—to defend themselves. When your statesmen sign a treaty with the Soviet Union or China, you want to believe that it will be carried out. But the Poles who signed a treaty in Riga in 1921 with the communists also wanted to believe that the treaty would be carried out; they were stabbed in the back. Estonia, Latvia and Lithuania signed treaties of friendship with the Soviet Union and wanted to believe that they would be carried out; these countries were swallowed.

And those who sign treaties with you now, at the same time give orders for sane and innocent people to be confined in mental hospitals and prisons. Why should they be different? Do they have any love for you? Why should they act honorably toward you while they crush their own people? The advocates of détente have never explained this.

You want to believe, and you cut down on your armies. You cut down on your research. You eliminated the Institute for the Study of the Soviet Union—the last genuine institute which actually could study Soviet society—because there wasn't enough money to support it. But the Soviet Union is studying you. They follow what's going on in your institutions. They visit Congressional committees; they study everything.

NUCLEAR CHECKMATE

The principal argument of the advocates of détente is that détente is necessary to avoid nuclear war. But I think I can set your minds at ease: there will not be any nuclear war. Why should there be a nuclear war if for the last 30 years the communists have been breaking off as much of the West as they wanted, piece after piece? In 1975 alone, three countries in Indochina were broken off.

You have theoreticians who say: "The United States has enough nuclear weapons to destroy the other half of the world. Why should we need more?" Let the American nuclear specialists reason this way if they want, but the leaders of the Soviet Union think differently. In the SALT talks, your opponent is continually deceiving you. Either he is testing radar in a way which is forbidden by the agreement; or he is violating the limitations on the dimensions of missiles; or he is violating the conditions on multiple warheads.

Once there was no comparison between the strength of the U.S.S.R. and yours. Now theirs is becoming superior to yours. Soon the ratio will be 2 to 1. Then 5 to 1. With such a nuclear superiority it will be possible to block the use of your weapons, and on some unlucky morning they will declare: "Attention. We're marching our troops to Europe and, if you make a move, we will annihilate you." And this ratio of 2 to 1 or 5 to 1 will have its effect. You will not make a move.

A WORLD OF CRISIS

In addition to the grave political situation in the world today, we are approaching a major turning point in history. I can compare it only with the turning point from the Middle Ages to the modern era, a shift of civilizations. It is the sort of turning point at which the hierarchy of values to which we have been dedicated all our lives is starting to waver, and may collapse.

These two crises—the political and spiritual—are occurring simultaneously. It is our generation that will have to confront them. The leadership of your country will have to bear a burden greater than ever before. Your leaders will need profound intuition, spiritual foresight, high qualities of mind and soul. May God grant that you will have at the helm personalities as great as those who created your country.

Those men never lost sight of their moral bearings. They did not laugh at the absolute nature of the concepts of "good" and "evil." Their policies were checked against a moral compass. They never said "Let slavery reign next door, and we will enter into détente with this slavery so long as it doesn't come over to us."

I have traveled enough through your country to have become convinced that the American heartland is healthy, strong, and broad in its outlook. And when one sees your free and independent life, all the dangers which I talk about indeed seem imaginary; in your wide open spaces, even I get infected. But this carefree life cannot continue in your country or in ours. A concentration of world evil, of hatred for humanity is taking place, and it is fully determined to destroy your society. Must you wait until it comes with a crowbar to break through your borders?

NO MORE SHOVELS!

We in the Soviet Union are born slaves. You were born free. Why then do you help our slaveowners? When they bury us in the ground alive, please do not send them shovels. Please do not send them the most modern earth-moving equipment.

The existence of our slaveowners from beginning to end depends upon Western economic assistance. What they need from you is absolutely indispensable. The Soviet economy has an extremely low level of efficiency. What is done here by a few people, by a few machines, in our country takes tremendous crowds of workers and enormous masses of materials. Therefore, the Soviet economy cannot deal with every problem at once: war, space, heavy industry, light industry, and at the same time feed and clothe its people. The forces of the entire Soviet economy are concentrated on war, where you won't be helping them. But everything that is necessary to feed the people, or for other types of industry, they get from you. You are helping the Soviet police state.

Our country is taking your assistance, but in the schools they teach and in the newspapers they write, "Look at the Western world, it's beginning to rot. Capitalism is breathing its last. It's already dead. And our socialist economy has demonstrated once and for all the triumph of communism."

I think that we should at last permit this socialist economy to prove its superiority. Let's allow it to show that it is advanced, that it is omnipotent, that it has overtaken you. Let us not interfere with it. Let us stop selling to it and giving it loans. Let it stand on its own feet for 10 or 15 years. Then we will see what it looks like.

I can tell you what it will look like. It will have to reduce its military preparations. It will have to abandon the useless space effort, and it will have to feed and clothe its own people. And the system will be forced to relax.

The Cold War—the war of hatred—is still going on, but only on the communist side. What is the Cold War? It's a war of abuse. They trade with you, they sign agreements and treaties, but they still abuse you, they still curse you. In the depths of the Soviet Union, the Cold War has never stopped for one second. They never call you anything but "American imperialists." Do I call upon you to return to the Cold War? By no means, Lord forbid. What for? The only thing I'm asking you to do is to stop helping the Soviet economy.

In ancient times, trade began with the meeting of two persons who would show each other that they were unarmed. As a sign of this each extended an open hand. This was the beginning of the handclasp. Today's word "détente" means a relaxation of tension. But it would say that what we need is rather this image of the open hand.

Relations between the Soviet Union and the United States should be such that there would be no deceit in the question of armaments, that there would be no concentration camps, no psychiatric wards for healthy people. Relations should be such that there would be an end to the incessant ideological warfare waged against you and that an address such as mine today would in no way be an exception. People would be able to come to you from the Soviet Union and from other communist countries and tell you the truth about what is going on. This would be, I say, a period in which we would truly be able to present "open hands" to each other.●

MISSING OR DEAD IN ARGENTINA

● Mr. KENNEDY. Mr. President, it is a tragic comment on the condition of human rights in Argentina that a new word has entered the language of that country. That word is "desaparecido," which describes the condition of an estimated 15,000 Argentinians who have "disappeared" from society, whose whereabouts are unknown to their anguished families, and whose very existence is unacknowledged by the Government of Argentina.

"Disappearance" is a continuing phenomenon. The pattern of its execution is chillingly persistent. A person who is suspected of opposition to the government, sometimes on the most tenuous grounds, is kidnapped without warning from his or her home or off the streets by uniformed personnel or plainclothesmen. That is the last that is seen of them.

The pleas of anguished family members, the writs of habeas corpus, the international appeals on behalf of the missing persons are answered by a simple denial of any knowledge of them or responsibility for their disappearance. Thus the crime of abduction—and often torture—of Argentine citizens is compounded by anguish that the families of the desaparecidos feel. They must suffer in silence, not knowing if their loved ones are dead or alive, are subject to torture, are in ill or in good health, or are being treated well. Furthermore, many of them dare not approach the Government on behalf of their missing loved ones, for even innocent relatives asking for information about their loved ones have disappeared, never to be seen again.

Recent events in Argentina have confirmed the worst fears of the families of the disappeared. Last June, army commander in chief, Gen. Roberto Viola, made an ominous reference to "los ausentes para siemore," or "those who are gone forever." While General Viola refused to elaborate, this was taken by many to be an indication that many are classified as disappeared because they have been executed. These fears were increased after a recent decree by the Argentine Government that allows the Government to declare dead any person who has been missing for over 90 days. While this law may serve to clear up the legal problems of many of the families of the disappeared, it is feared that it may also be a further means for the Government to rid itself of the embarrassment of the searches by these families for their loved ones.

Mr. President, it is clear that at least part of the rationale for the tactic of "disappearances" is to lessen international concern and pressure on the Argentine Government. Insofar as such measures are directed at the United States, I would like to unequivocably say that concerned Americans will neither forget the disappeared nor will they cease to hold those responsible for the fate of 15,000 disappeared Argentinians accountable for their actions.

Mr. President, I would like to commend to my colleagues an outstanding article published on this subject in the New York Times magazine, entitled "Missing or Dead in Argentina." Written by Paul Heath Hoeffel and Juan Montalvo—the latter name being a pseudonym for an Argentine who fears reprisal should he ever return to his country—this article provides a detailed and clear account of disappearances in Argentina. It describes the phenomenon against the background of political life under the military junta that has ruled Argentinians since 1975, and through accounts of individual Argentinians who have become "los desaparecidos." And it reminds us of the responsibility of humanity for the return of the disappeared to their families, and for bringing to account the perpetrators of "los ausentes para siempre."

Mr. President, I request that "Missing or Dead in Argentina," published in the October 21, 1979, edition of the New York Times magazine, be printed in the RECORD at the conclusion of my remarks.

The article follows:

MISSING OR DEAD IN ARGENTINA

(By Paul Heath Hoeffel and Juan Montalvo)

On the hot summer afternoon of Dec. 24, 1975, Dr. Laura Bonaparte, a psychologist in Buenos Aires, received an anonymous telephone call. She was told that her daughter Noni, 24, had been picked up by an army patrol in the slum area outside the city, where the young woman worked as a teacher. Dr. Bonaparte was alarmed because on the night before the army base of Monte Chingolo, near the same slum, had been attacked by urban guerrillas, and a fierce battle had taken place. News reports acknowledged that more than 100 persons had been killed.

Dr. Bonaparte went immediately to the slum, where frightened residents recognised her because of her strong resemblance to Noni. They described how soldiers in an army jeep had stopped Noni, apparently in a routine identity check, as she left a student's home. They decided to detain her.

Dr. Bonaparte then embarked on a Kafkaesque search for her daughter. She filed a writ of habeas corpus without results. She traveled each day from Buenos Aires to the provincial capital, La Plata, 35 miles south, to press the courts for news of her daughter. That failing, she enlisted the help of a national senator, also a family friend, who approached the army command directly. He was informed by a colonel that there was no possibility of discovering the whereabouts of Noni. She had become one of the desaparecidos.

Desaparecido is one of the more familiar terms of a new Argentine argot, a strange, forbidding vocabulary invented by an underworld of military and police personnel in their extralegal duties. The literal translation into English has a curiously passive sense to it: "to be disappeared." It disguises the ugly reality of clandestine abduction, torture and execution affecting tens of thousands of Argentines in recent years.

The desaparecidos are persons who, usually after being detained by teams of well-armed men, vanish without a trace into a world beyond all legal and human rights. They represent a broad cross section of Argentine society which opposes the right-wing military regime. The targeted victims are leftist extremists and their sympathizers, suspected of abetting the guerrilla violence against the regime. Others are innocent professionals, clergy, housewives, students and children unlucky enough to be caught up in a vast dragnet against subversion.

One of the most recent and visible examples of the ongoing terror is Jacobo Timerman, the 57-year-old newspaper publisher expelled from the country by the military junta last month. For many Americans, his plight dramatizes the issue of human rights in Argentina. Timerman, accused of subversive as editor of La Opinión, a Buenos Aires newspaper, suffered arrest, brutal torture and prolonged detention despite his acquittal by court investigators. Because of the complete breakdown of Argentina's judicial system in the area of human rights, only enormous international pressure—including appeals from President Carter and Secretary of State Cyrus R. Vance—saved him from the common fate of the desaparecidos.

Since the military government of Gen. Jorge Rafael Videla took power in March 1976, Argentine and international human-rights organizations have accused the Government of the disappearances of thousands of persons. Amnesty International estimates the number of desaparecidos at 15,000, a figure which high United States and Argentine Government officials acknowledge privately. Publicly, however, the Argentine Government denies any responsibility for the disappeared persons. Although in recent months it has acknowledged the existence of 5,000 such cases, it claims to know nothing about them.

What is the truth about the desaparecidos? Is it possible that the military government has an unwritten policy of eliminating its enemies, real or potential, simply by causing them to disappear? The Argentine Government is under growing domestic and international pressure to clarify the status of the disappeared persons. Because of its reluctance to do so, many observers now fear the worst.

The summer of 1975 was the last for both Noni Bonaparte and the Government of 43-year-old María Estela Martínez de Perón, better known as Isabel. It marked yet another stage in the bitter struggle between Argentina's main seats of power: the armed forces and Perónism, which have taken turns abusing popular mandates almost continually for the last 35 years.

After an 18-year exile, the aging Juan Domingo Perón wrested power from a military dictatorship through national elections in 1973, sharing the Presidential ticket with his third wife, Isabel. Perón promised to continue his populist policies of state capitalism, introduced when he ruled with his charismatic second wife, Eva Perón, Argentina's unofficial patron saint and the inspiration for his most progressive social and labor reforms.

When Perón died in 1974, Isabel became Latin America's first female chief of state. Her shrill efforts to duplicate Eva's popular appeal barely concealed the takeover by extreme right-wing Perónists in her Government. Government corruption and erratic economic policies quickly alienated all but the most fervent adherents to the working-class movement. The leftist Perónists, led by the Montonero guerrillas, who had harassed the previous military government for Perón's ill-fated return, resumed their attacks, this time directed at her increasingly violent regime.

Unable to control the nation by normal constitutional means, Mrs. Perón declared a state of siege in November 1974, handing over considerable power to the armed forces. Despite the growing temptation to restore order, the generals were in no hurry to take over the Government again. They had been humiliated by Perón's return and were determined to see the Government itself discredit Perónism once and for all.

The military also wanted to destroy the highly organized guerrilla groups, the leftist peronist Montoneros and the Marxist People's Revolutionary Army, or E.R.P., largely inspired by the ideas of Ché Guevara, an Argentine who had gone elsewhere to make revolution. By this time, the insurgent groups were reeling from intelligence operations by the military. In an effort to demonstrate its continuing military capacity, the E.R.P. mounted a full-scale assault against the army base of Monte Chingolo. The guerrillas made their move after dark, but because of a leak to army intelligence, they were the ones caught by surprise. The rout went on much of the night. Helicopter gunships equipped with searchlights and rockets hovered over the nearby slum area where Noni Bonaparte was later picked up, while troops made house-to-house searches for fleeing guerrillas.

Though Dr. Bonaparte knew that many people had died at Monte Chingolo, there was no reason for her daughter to have been killed, especially since she had been picked up the day after the raid. Dr. Bonaparte continued her search. On Dec. 30, through an-

other army contact, she was told to check the cemetery of Avellaneda, a major industrial area nearby. "I started out to the cemetery to see if my daughter was on the list of dead, but I didn't dare go beyond three or four blocks of the cemetery because the stench of the bodies in decomposition was truly terrible. I couldn't continue. I was very scared and everything seemed so unbelievable and so horrendous."

On Jan. 8, a judge in La Plata told her that it would be necessary to sign a statement saying that Noni had died in the battle of Monte Chingolo. "I refused to sign it," Dr. Bonaparte remembers. "The judge told me that if I didn't, I wouldn't be able to retrieve my daughter's body. I demanded that they prove to me that she was dead. He told me that he had a paper with a number of a jar and that in that jar were the severed hands of my daughter, her identification."

At another point in her search, a local chief of police who had seen Noni's body told her: "But, Señora, you couldn't even call what was turned over to us a body." Finally he told her where Noni was: grave No. 28 in the Avellaneda cemetery, assuring her that all the dead were in individual coffins with crosses and identified by name. The following day she went to the cemetery with an armful of carnations. "It was horrifying what I saw. There were no crosses, no separate graves. There was an area about 18 feet square, the earth recently turned, covered with a pool of green water. I asked the undertaker: why the pool? He told me that it came from a depression made by the weight of the bodies, which had been brought in with power shovels and dumped there until the grave was dug. Then they were all thrown in at the same time. The undertaker wanted to count out 28 steps but only reached 16, stopped and said, 'Here it is.' I was shaken to see him walk over the grave. It was as if he were walking over my own body, as if I were buried underneath him, his steps hurt me so." Laura Bonaparte and her husband filed suit against the army for Noni's murder, a move which the authorities cautioned her against.

That March, the military moved to fill the vacuum of power created by Mrs. Perón. The economy was a shambles, with inflation out of control, reaching an annual rate of 330 percent. It was a long-awaited, bloodless, calculated coup. The military had considerable support to restore law and order. Order arrived—the law got lost in the shuffle. A few days before the military junta officially deposed Isabel Perón, Noni's husband, Alrian Saidon, also 24 years old, was gunned down in the street when he did not obey the command to halt. His body was never recovered.

Dr. Bonaparte decided to leave for Mexico. For her, the coup had brought no relief. In June, her husband, from whom she was separated, Dr. Santiago Bruchstein, 59, was abducted from his apartmant in downtown Buenos Aires. A nurse who witnessed the raid told Dr. Bonaparte that the kidnappers were furious about the murder charges that the Bonapartes had filed. "How could a rotten Jew dare accuse the military of assassination?" one abducter yelled at him. Dr. Bruchstein was taken to one of the vehicles used to cordon off the street for the raid. He has not been heard from since that day. The apartment, as is customary in such cases, was looted. The property of the desaparecidos is considered war booty, a considerable incentive in the abductors' work.

On May 11, Dr. Bonaparte learned in Mexico City that army personnel had made a predawn raid on her daughter Irene's apartment, where she lived with her husband, Mario, an architect, their daughter, Victoria, and Noni's orphaned son, Hugo. At 6 A.M. the security forces left with Irene and Mario. The two children were found in the lobby of the building with the address of their paternal grandparents pinned to their clothing. Irene and Mario have not been heard from again. Dr. Bonaparte contines to live in Mexico City without any word concerning her family's "disappearances."

Political violence during the Peronist period had reached unprecedented levels, yet in comparison with the past three years there was something curiously reassuring about it. The bloodletting between 1973 and 1976 was public, explicit and somehow comprehensible to most Argentines. Even the most sinister death squads, the Argentine Anti-Communist Alliance (A.A.A.), dedicated to the elimination of leftists, intellectuals and politicians, carried out their executions with chilling but open efficiency, often telephoning the news agencies to explain their actions. Bodies were dynamited, mutilated or carbonizados—burned beyond recognition. But there were funerals, there were mournings. The Government death squads' unmarked Ford Falcons parked in front of the presidential palace were a national disgrace, but everyone knew where they stood.

The Marxist guerrillas, the E.R.P., and the Montoneros, numbered perhaps 8,000 at their peak in 1975, with as many as 50,000 sympathizers drawn mostly from working-class and middle-class youth. They represented one of the largest guerrilla forces ever assembled in Latin America. Once on the defensive, their violence lost its theatrical quality and acquired a ghoulish edge of vengeance which finally degenerated into terrorist killing.

Toward the end of 1976 military clashes with the E.R.P. and the Montoneros had virtually ceased, while the number of reported disappearances had risen to an average of 15 a day. Soon it became clear that only the Government's security forces could carry out such flawless, elaborate operations.

The experience of 31-year-old Estrella Iglesias, a worker at the Squibb pharmaceutical plant outside Buenos Aires, is special because she is one of the disappeared who has reappeared after a year *afuera de la sociedad*, "outside of society," as it is put. Her release last May was a condition set by the Spanish Government for King Juan Carlos's state visit to Argentina earlier this year. Miss Iglesias, who had come to Argentina as an infant, technically remained a Spanish national. Aside from her release, her experience is typical of the *desaparecidos*.

In August 1976, 12 heavily armed men with a police dog came to her high-rise apartment and detained her for suspected connections with a small illegal Maoist group. Her abductors pushed her into one of several waiting cars. Familiar with the area through which they drove, Miss Iglesias realized that she was being taken to La Tablada Infantry Regiment, an army installation on the outskirts of Buenos Aires.

"When they took me from the car, they led me through a series of rooms until we reached one where, hitting and pushing me, they removed my clothes and tied me to a table. They began to torture me with applications of electric current to my genitals, breasts, toenails, mouth and gums; stretching my arms, mostly my right arm until they dislocated it; putting rats on my face and between my legs. All this was accompanied by questions as to my political activity, and my knowledge of other political groups and activists."

Torture and summary execution are policies which make "disappearances" necessary in the first place. Such activity must be untraceable, beginning with illegal abductions and the use of clandestine detention centers, usually at military installations.

Invariably, the clandestine centers described in scores of testimonies have torture areas, or, using the slang, *quirófanos* ("operating rooms"). The *picana*, or electric cattle prod, is the most common means of torture after beatings and psychological abuse. Another readily available method is the *submarino*—nearly drowning victims in vats of filthy water. The torture and the interrogation are methodically coordinated.

Prisoners are almost always chained and encapuchados, forced to wear tightly fitting hoods which serve the dual purpose of disorienting the prisoners and preventing them from identifying their surroundings and their torturers.

After three days of torture, Miss Iglesias lost track of time. Between sessions, she was taken to another building within the army base and shackled half-naked to a wall. She repeatedly witnessed uniformed officers in the area. The officer who took charge of her transfer from la izquierda a la derecha—from illegal detention to legal status in a Federal prison—was a lieutenant colonel in the army.

While Miss Iglesias "was disappeared," her family's writ of habeas corpus, filed on her behalf, was rejected by the courts. A letter from the Ministry of the Interior in response to their inquiries assured them that she was not being held in any state facility. Not until Miss Iglesias was transferred to a Federal prison was she put in touch with her family. Charges against her were then dismissed by a court martial of four air-force officers and she was flown out of the country last spring.

Confronting the charges that the military is directly responsible for the disappeared persons and their fate, spokesmen for the Videla Government claim that the few legitimate cases which do exist represent excesses by groups "beyond its control." As Gen. Roberto Viola, army commander in chief and intimate of President Videla, has repeatedly claimed to visiting Americans, the human-rights organizations' lists of the disappeared largely comprise subversives killed in clashes with security forces who remain unidentified. Others on the lists, according to official explanations, are subversives killed as traitors by fellow guerrillas, and persons who have gone underground or who have slipped out of the country.

The lists compiled by human-rights groups, such as the Permanent Assembly for Human Rights in Argentina, Amnesty International and the Argentine Information Service Center in the United States, all politically independent organizations, are dismissed by the same Argentine officials as inflated and inaccurate. Yet, according to one Western diplomat who has carefully monitored the existing evidence: "The lists are assembled on the basis of different criteria—some are based on more concrete documentation than others. Whatever inaccuracies there are, they represent a tiny fraction of the total number of desaparecidos on the lists."

The Government's "out of control" hypothesis was widely accepted until well after the coup. The efficiency with which the E.R.P. and the Montoneros were brought under control, however, left little doubt that no unofficial group, left or right, remains capable of the type of paramilitary operations involved in thousands of disappearances.

The "out of control" theory, furthermore, presupposes a breakdown in the traditional military hierarchy where captains and colonels would exercise more authority than generals. Many observers reject this possibility as an intolerable situation which would pose a far greater threat to national security than any insurgent group might. According to the same diplomat cited above: "I think it would be more accurate to say that these groups are out of command, not out of control. Everyone is following orders there."

There is, however, evidence of a real breakdown in the traditional system of accountability in the Argentine military. The crisis is among the military commanders themselves rather than between senior and junior officers. Within the army, the central branch of the armed forces, the splits are between the

so-called duros, or hard liners, and the blandos, those led by Videla and Viola, who recognize the limits of military power in Argentina. The duros, who maintain that subversion should be wiped out at any cost, see their more politically oriented peers as orchestrating their own demise.

The conflicts over command are reflected in the very structure of the Videla Government, which is considerably different from its numerous military predecessors. Notably absent is the traditional caudillo, the army commander with sufficient charisma to forge some unity within his government. President Videla is an upright officer with considerable political talents, but he is no caudillo. His overriding concern is to lend his Government some semblance of stability, particularly to investors abroad.

Videla's power as President ranks below that of the junta, whose power, also for the first time, is equally divided among the three branches of the armed forces. Today, the real power lies in the hands of the junta's commanders in chief, and especially in the four corps commanders of the army.

The disappearance of Héctor Hidalgo Solá illustrates how the power struggles within the junta have begun to over-shadow the military campaign against the Argentine left. Ambassador Solá, one of the key financial backers of the centralist Radical Civic Union Party, was pressed by President Videla to accept the post of Argentina's Ambassador to Venezuela. In Caracas, Solá spoke frequently about Argentina's imminent return to democratic rule. He was instrumental in arranging President Videla's state visit to Venezuela in May 1977. It is said that a Venezuelan condition for Videla's image-boosting visit to one of the few democratic states left in South America was the release of an ex-Radical Party senator, Hipólito Solari Yrigoyen, a critic of the regime who had been disappeared by the army in August 1976. Villas, commander of the Fifth Army Corps in the southern city of Bahía Blanca, Solari Yrigoyen was reluctantly returned to society.

In July 1977 Ambassador Solá returned to Buenos Aires for his daughter's wedding. On the morning of July 18, he was driving through the intersection of Libertador Avenue and Pueyrredón Avenue, a fashionable area of the city, when armed men in several vehicles stopped his car and abducted him. The ensuing diplomatic uproar over Solá's disappearance caused considerable embarrassment to President Videla, as was intended. One hypothesis is that Solá's kidnapping was an action by the duros as a warning to President Videla for having obliged the security forces to release Solari Yrigoyen. Since the incident (Solá is presumed dead), neither the President nor other blandos in the Government have seriously challenged the duros over the release of disappeared persons.

A more recent disappearance of a diplomat caused considerable alarm among well-born Argentines who thought that for the time being their problems were over. Forty-eight-year-old Elena Holmberg, who had recently returned from a diplomatic assignment in the Argentine Embassy in Paris, was driving her Fiat in Buenos Aires last Dec. 20 when a car with three men forced her off the road and abducted her at gunpoint. Miss Holmberg, a friend of President Videla's, had expected to dine that evening with Argentina's Ambassador to France.

On Jan. 11, Miss Holmberg's decomposed body was found floating in the Luján River. Unlike most of the 45 bodies which had washed up along the coast the month before, her body was identifiable because her head and arms had not been severed.

She had been an outspoken duro on the subject of wiping out subversion in Argentina. This fact fueled the concern of Government supporters that internal military feuds were deepening. Although Miss Holmberg's murder remains an official mystery, it is well known that she had denounced suspect financial dealings by naval officials who were working in Paris. More serious, she had reported the well-publicized meetings between navy strongman Adm. Emilio Massera and Montonero guerrilla leaders in Paris.

Aside from the economic headaches inherited by the junta, the disappeared person remains the central issue eroding the credibility and viability of military rule in Argentina. Since Government officials declared their total victory over armed insurgents nearly two years ago, popular pressure has steadily mounted for clarification of the status of the desaparecidos. As Patricia Derian, Assistant Secretary of State in charge of President Carter's human rights policy and central target of the Argentine junta's complaints against the United States, requested recently: "If only for humanitarian reasons, tell the families of the living where they are, tell the families of the dead what they need and deserve to know." The junta has remained silent.

The only military commander clever enough to get political mileage out of the issue is Adm. Emilio Massera, former chief of the navy and a member of the junta until last October. Massera, a *duro* turned *blando*, is precisely the man who would be *caudillo* had he chosen an army career. Ruggedly handsome, articulate, at ease in the labyrinthian world of Argentine politics, Massera has, since his retirement, stepped up contacts with the Peronists in an aggressive campaign to present himself as a populist Presidential candidate. His break with junta policies has earned him the enmity of anti-Peronist army officers, as well as more than one assassination attempt.

Admiral Massera took his campaign one dangerous step further by proposing to the junta that it make public the lists of the disappeared. He offered the navy's lists on the condition that the army and the air force submit theirs. His proposal, which found some echo among the *blandos*, was to end speculation about the disappeared once and for all, providing the next Government with a clean slate. "He sees the issue as a time bomb," explains a Massera intimate. "As the political situation gets more complicated, time is running out for the junta. Eventually the lists will surface and it's better for the military to release them now than have them fall into the wrong hands in several years."

Official rejection of the Massera proposal lent credence to many observers' worst suspicions—that the majority of the disappeared have been executed. The high cost of such an admission remains out of the question for much of the military. The same Massera intimate, when asked about the possibility of mass executions, responded: "There's no way you can hide 10,000 or 15,000 persons—even satellites would detect them. No, I wouldn't count on seeing them again."

In his Army Day speech last June, General Viola made an ominous reference to *los ausentes para siempre*—those who are gone forever—a term which was widely interpreted as a message about the disappeared. When human-rights groups requested a clarification of his term, Viola indicated that this was as far as the Government would go on the subject of the disappeared persons.

At the same time, word began to circulate in foreign embassies that those disappeared who had not already been eliminated by the *duros* were being executed in preparation for the investigation by the Organization of American States' Inter-American Committee on Human Rights, which arrived in September. A form of elimination repeatedly reported is the injection of curare into unsuspecting prisoners, causing death by suffocation. The bodies are then loaded onto aircraft and their bellies slit before being dumped into lakes or the ocean so they will sink permanently. *Comida para los pescados*—fishfood—is what they call the corpses.

When Bruce Alan Kiernan, the human-rights coordinator for the American Association for the Advancement of Science, visited Argentina last year, senior advisors to President Videla acknowledged the executions: "They told me that many persons in military custody were thrown out of helicopters into rivers and lakes, a tactic learned, they claimed, from the American experience in Vietnam."

A number of the more notorious torture centers have been closed down in recent months, causing more alarm as to the fate of their former inmates. The Navy Mechanics School in Buenos Aires, described in some detail in a number of testimonies, has been reconverted so that "even the Ping-Pong tables in the officers' lounge are back in place" according to one diplomatic source.

The visit last month by the O.A.S. mission is cited for this flurry of activity, which reached a feverish pitch last summer. In August, federal police raided the offices of four human-rights organizations, including the Permanent Assembly, the group working closely with the O.A.S. investigators.

Orville H. Schell, attorney for Aleksandr Godunov and chairman of the New York City Bar Association's mission to Argentina last April, characterized the break-ins as "a crude attempt by the Argentine Government to intimidate these groups from providing important information to the Human Rights Commission of the Organization of American States."

A State Department spokesman, Tom Reston, indicated that the American Embassy in Buenos Aires had been ordered to investigate charges of alleged secret detention centers and alleged execution of prisoners prior to the September O.A.S. investigation.

Shortly after the raids on human-rights offices, the junta passed a law designed to relieve pressure around the issue of the disappeared without actually acknowledging it. It reduces to a few months the period of time necessary for a disappeared person to be declared legally dead. Those affected would be the disappeared persons formally reported by their families in the period between the declaration of a stage of siege in 1974 and the promulgation of the law. Significantly, the law empowers the Government to initiate this process, thus short-circuiting the legal options of families in their search for disappeared relatives. The bill represents an indirect acknowledgement that the disappeared are indeed ausentes para siempre.

While recognized as a concrete improvement, the law remains a half measure. Washington's Patricia Derian says: "Because it does not deal with the central problem—accounting for the disappeared—it is only a Band-Aid which will eventually generate even more legal problems." Former Federal District Court Judge Marvin Frankel, who was a member of the New York City Bar Association mission to Argentina last spring, maintains: "This law represents a ghoulish evasion of Government responsibility. The Government is manipulating the relatives and the courts to avoid facing the issue of the disappeared."

The terror which the disappearances have produced is at once calculated and incalculable. The disappearance of a relative or friend has a different impact from that of a legal arrest or even an outright death. The families, often directly terrorized in the initial raid, live in fear that the abductors will return. Any protest, even the filing of a writ of habeas corpus, could destroy the

chances of the disappeared person's release. Not only is the disappeared person taken fuera de la sociedad, but fear effectively neutralizes those close to the victim.

Alicia, a 34-year-old Argentine now living anonymously in New York with her 5-year-old son, fled Argentina two years after her husband, Daniel, was taken away and disappeared. She is still tormented by not knowing what happened to him: "My entire family has been paralyzed since Daniel was abducted. The authorities told us to wait, not to make any trouble. That would be the best insurance for his return."

While they are detained, there is clear effort to dehumanize the prisoners—in part to punish them, in part to break the societal bonds which control human exchange. A person who has been reduced to crazed incoherence by torture and deprivation makes continued neglect, abuse and eventual elimination much easier.

Evidence exists that the instillment of terror has not been completely effective in crushing the junta's opposition. The most dramatic example of the mobilization which the desaparecidos have inspired is the phenomenon of La locas de Plaza de Mayo—the so-called Mad Women of Plaza de Mayo.

On April 1976, scarcely a month after the military coup, the mother of disappeared persons began gathering every Thursday in the plaza in front of the Presidential palace. The women stood in silent vigil waiting for news of their children. The gathering soon became a defiantly public protest against the Government for it refusal to release names and information about the disappeared. Last October, Bruce Alan Kiernan asked the head of the Human Rights Working Group in the Argentine Foreign Ministry about the mothers. He was told, "Out of more than 200 mothers, only 25 are legitimate; the rest are crazy. They're mad women who don't even have children." Mr. Kiernan, however, reports, "Having personally interviewed about 70 women, I can categorically state that his assertion is not true. One cannot," he continues, "but feel insulted by these kinds of statements, which are such obvious distortions of the facts."

As the numbers of mothers grew (they have recently been nominated for a Nobel Peace Prize by the Spanish Socialist Party), so did Government harassment. On Dec. 8 and 9, 1977, 13 women and men, including two French nuns, were abducted during raids on meetings of mothers and supporters of desaparecidos. French reaction to the disappearances of 60-year-old Sister Léonie Duquet and Sister Alice Domon marked a turning point in international concern over the Argentine situation.

The nuns' abductors made a crude attempt to attribute the kidnappings to the Montonero guerrillas. A communiqué, supposedly from this organization, with a picture of Sister Alice and Sister Léonie sitting under their banner was sent to news agencies, only to be disclaimed by the Montoneros in a cable to United Press International a few days later. Even personal inquiries by President Valéry Giscard d'Estaing could not effect the reappearance of the nuns or the mothers. Privately, Admiral Massera acknowledged to Emilio Mignone—one of the Permanent Assembly for Human Rights and parent of a disappeared daughter—that the nuns had been executed. This presumably, has also been the fate of the nine mothers and two men.

The unending police raids and the reports of new disappearances have been sufficient warning to Argentines that no immediate changes are in store. From the hard liners' point of view, the tactic of making people disappear has been too successful to abandon under pressure. They are willing to pay the relatively high price of becoming international pariahs, along with Chile and South Africa, in order to purge the nation of what they see as godless subversives. Their policies, however, may be counterproductive in the long run. By trying to eliminate the threat of subversion through these violent means, they may actually be encouraging it. Nobel Peace Laureate Mairead Corrigan's words may very well prove to be prophetic. "I am afraid," she said, "that with each disappearance the Government has planted the seeds for future violence."●

PRESIDENTIAL CAMPAIGN COVERAGE

● Mr. GOLDWATER. Mr. President, as the 1980 political season begins, the perennial problems, like the perennial candidates, are beginning to appear. One of these problems that refuses to go away is the need for reasonable access by Federal candidates to the Nation's electronic media. Whether we like it or not, the effectiveness of this country's electoral process is heavily dependent on the whims of those who run our electronic media. A candidate's fortune can rise or fall depending on whether he or she is covered by the local television or radio station.

As the situation now stands, broadcasters are required to provide "reasonable access" or permit the purchase of reasonable amounts of air time by legally qualified candidates for Federal office. It is up to the Federal Communications Commission (FCC) to enforce this provision. In the past that agency has had substantial difficulty answering questions such as what is reasonable access? What is a legally qualified candidate? What are reasonable amounts of time?

The result has been that the broadcasters—and particularly the networks—have been left with the discretion to decide when the political season begins. Because of the nature of our electoral process, which could be described as ongoing, this is necessarily an arbitrary decision. The implications of leaving it in the hands of the networks are profound.

Some cynics might say that the networks have an interest in delaying the beginning of the political season as long as possible. If it starts in the fall of the year preceding the election and the networks are required to honor requests for political time, the popularity of network entertainment shows could suffer. The networks are faced with a conflict of interest: They must balance the public interest against their private interest.

Apparently these issues will be considered by the FCC. The networks have refused to completely honor requests for airtime from the Carter, Reagan, and Connally campaigns. The Carter campaign described their refusal as a "blatant denial" of reasonable access and filed a complaint with the FCC. The Congress will be watching the Commission's deliberations with interest. If the Commission and the networks do not produce a satisfactory solution, it will be incumbent on the Congress to attempt to solve the access question once and for all.

While awaiting the Commission's decision, I intend to write the campaign managers of the active Presidential candidates and the chairmen of the Republican and Democratic committees to solicit their recommendations for a legislative solution.

Mr. President, I ask that the story describing the networks' refusal, which appeared in the October 30, 1979 edition of the Washington Post, be printed in the RECORD.

The article follows:

CARTER CAMP SEEKS ORDER TO OBTAIN TV PRIME TIME

(By Edward Walsh)

President Carter's reelection campaign committee filed a complaint with the Federal Communications Commission yesterday, charging the nation's three commercial television networks with "a blatant denial" of Carter's right to purchase time on the networks for a political message.

The complaint asked the FCC to direct the networks to make available a 30-minute time slot during prime time between Dec. 4 and Dec. 7 for purchase by the Carter committee.

An FCC official yesterday said the commission is likely to consider the complaint Nov. 20, unless a special meeting is called before then.

Officials at CBS and ABC in New York said they had not seen the complaint and could not comment. But an NBC spokesman said the complaint has no merit and noted that "because of the problems inherent in the equal time law, presidential candidates in past elections have confined their early television buys to local stations in the states where primaries were being held."

The complaint was instigated by Gerald M. Rafshoon, the president's campaign advertising director, who was turned down by the networks when he asked to buy time for the first week in December. At issue is the Carter committee's desire to use national television time as a fund-raising device the first few days after Carter announces for reelection on Dec. 4.

Rafshoon is now producing a 30-minute film on the Carter presidency that is planned to be shown on network television between Dec. 4 and Dec. 7 in connection with hundreds of fund-raising parties the Carter campaign is planning across the country that week. The parties would be held when the film was to be shown.

In letters to Rafshoon that were included with the complaint, network executives generally pleaded that it was too soon before the 1980 presidential campaign to sell network time for political purposes.

CBS offered to sell the Carter committee five minutes at 10:55 p.m. Dec. 8, a Saturday night, and a five-minute segment during the day.

CBS has already sold five-minute segments at 10:55 p.m. to Republican presidential contenders John B. Connally and Ronald Reagan, but, like the other networks, turned down their requests for 30 minutes of prime time.

The Carter committee charged that the networks' refusal to sell it 30 minutes of prime time violated a requirement that candidates for federal office be given "reasonable access" to the airways.

The complaint also argued that the networks are devoting large amounts of their news programming to the presidential campaign, and therefore do not consider it "too early" in the political season, and that the CBS offer of five minutes on Dec. 8 is "insufficient in amount and unsuitable to the needs of the candidate."

An FCC official said there are no known precedents for the action by the Carter committee, although the FCC has ruled in other cases that the networks cannot be forced to sell time for nonpolitical purposes.●

HIGH INTEREST RATES DOWN ON THE FARM

● Mr. McGOVERN. Mr. President, just a few days ago there appeared in the Wall Street Journal an advertisement which even a year ago would have been unthinkable. The 37 Federal farm credit banks, the 13 banks for co-ops, the 12 Federal intermediate credit banks and the 12 Federal land banks announced the offering for sale of $3,350 million of consolidated system-wide bonds at an interest rate of approximately 14.4 percent. These were short term notes, 6 to 8 months. Consider for a moment what these banks must charge farmer borrowers.

The interest rate offered to lenders is symptomatic of the economic difficulties we are in. Inflationary pressures and the erosion in the value of the dollar relative to other major currencies spurred actions by the Federal Reserve Board in the form of discount rate hikes and restrictions regarding reserves held by banks. This shift in Federal Reserve policy is designed to dampen inflationary expectations by slowing the growth in the money supply. The immediate effects are higher interest rates and the reduced availability of credit.

There is discontent abroad in the land over inflation and an aversion by foreigners to accepting depreciating dollars. Interest rates are extremely high in terms of our historic experience. Yet farm families must have access to adequate and reasonably priced credit if they are to continue to produce at record levels. Each year farmers borrow tens of billions of dollars.

Just what does this mean for farmers? First, they must consider the risk of sharply increasing their debt in order to buy farm land and machinery. The risks have gone up with the cost of carrying the debts and the possibility of the much advertised recession. The new policy may reduce the upward rate of farmland prices.

Many livestock producers may already be adjusting their production plans. Cattle feeders are examining carefully the potential effects of feeder prices plus high interest rates on their profit picture. Hog producers are reappraising the desirability of borrowing money to pay for hundreds of thousands of dollars of high cost housing for their animals. Also, what will the much advertised recession do to demand for red meat?

Productivity is declining in various sectors in the United States. While output is decreasing, total employment keeps increasing. This indicates that more people are currently producing less than in the past. Thus, it is not surprising that inflation is rampant domestically, and the dollar vulnerable internationally.

According to the Bureau of Labor Statistics of the U.S. Department of Labor, the U.S. manufacturing productivity increased only 2.5 percent in 1978 over 1977. This compares with 8.3 percent in Japan, 4.9 percent in France, 4.2 percent in Canada, 3.7 percent in West Germany, 2.9 percent in Italy, and 1.8 percent in the United Kingdom.

For the 10 years through 1977, the U.S. manufacturing productivity increased 26.1 percent compared with 99.2 percent in Japan, 71.7 percent in France, 69 percent in West Germany, 67.8 percent in Italy, 46.1 percent in Canada, and 26.5 percent in the United Kingdom. The increase in the U.S. productivity was the lowest among the seven. In 1979, productivity in the private business sector declined 3.8 percent in the second quarter at a seasonably adjusted annual rate—the second decline in a row and the largest decline since the first quarter of 1974.

There is no way for farmers to escape the impact, in the short run, of higher interest costs on their factors of production. However, the farmers are a special case who need consideration. Farmers' productivity has gone up in a failing national productivity environment. Farmers need tremendous quantities of rising-cost energy, especially petroleum.

The really basic question is how to maintain the incentives needed for a continued high level of farm production when farmers are being caught between the scissors of higher costs of interest, machinery and energy and lower prices for farm products. This is especially true for would-be borrowers who are in the worst financial situation. These are the people that banks will consider the poorest financial risks.

I intend to ask the chairman of the Senate Agriculture Committee to call a hearing to hear witnesses on the financial situation affecting farmers. Out of this informational input, I hope that we can develop an economic strategy for agriculture and the Nation's food supply.●

THE ENERGY SECURITY CORPORATION

● Mr. ARMSTRONG. Mr. President, in a few days, the Senate will vote on whether to create an $88 billion Energy Security Corporation (ESC). The administration says such an agency is needed to stimulate an organized synthetic fuel production. Some proponents go so far as to suggest that a vote against ESC is a vote against synthetic fuel. Nothing could be further from the truth.

The Energy Security Corporation has considerable superficial appeal. The Nation needs synthetic fuel. And with OPEC becoming more and more intransigent, a crash program seems like a symbol of our moral and financial commitment to get unhooked from foreign energy sourecs. It is bold. Dramatic.

But the Energy Security Corporation is a seriously flawed concept. ESC would probably turn out to be one of the costliest boondoggles of all time. ESC would be likely to impede, rather than stimulate, synthetic fuel production. It also threatens seriously adverse environmental consequences.

MASSIVE GOVERNMENT BUREAUCRACY NOT NEEDED

The ESC is an idea which originated with people who have little or no direct experience in production of synthetic fuel. It is not supported by those who are knowledgeable of what it takes to stimulate meaningful production of energy from oil shale, tar sands, coal and so forth.

During the last several months, the Senate Energy Committee and other committees of the House and Senate have heard much testimony from industry experts, economists, engineers, financiers, scholars, and consultants. In effect, we have said to these authorities "what will it take to get synthetic fuel production moving?" Interestingly, almost none has suggested creation of the "Energy Security Corporation" or similar massive bureaucracy. Instead they have recommended measures designed to cut redtape and provide incentives for the private sector:

Fast track permitting process.

Decontrol of oil and natural gas prices.

Production tax credits (such as $3 per barrel tax credit).

Accelerated depreciation.

Guaranteed purchased plans or similar incentives.

INADEQUATE FINANCIAL CONTROLS

No one knows the ultimate cost of developing synthetic fuels. Consultants point out that the estimated cost per barrel of synthetic fuel is increasing rapidly. "Although there are many contributing factors, the most important single influence seems to be a steadily increasing knowledge of costs, as a result of more detailed engineering design," according to PACE consultants.

Synthetic fuel developed by the private sector will be subject to the stringent discipline of market economics. Many diverse ideas will be considered. But only when individual firms or consortia are willing to risk their own money on an idea will large sums be spent. Government administrators, on the other hand, often push expensive large scale programs when technological or economic factors do not warrant such development.

ESC IS NOT NEEDED

Hundreds of millions of dollars have already been committed by private sector companies to the production of synthetic fuel. Some companies say they are awaiting only the release of Federal lands for development. Another company states it will proceed at once with a large scale synthetic fuel production plant immediately upon the enactment of a $3 per barrel tax credit which, as you know, has twice been approved by the Senate and for which there is growing wide spread support in the House. Under the circumstances, it may turn out that creation of another large government bureaucracy would slow down, rather than stimulate, existing and contemplated synthetic fuel production plans. After all, what company will proceed on its own to do something without subsidy the same task for which it might obtain subsidy?

INAPPROPRIATE ANALOGIES

ESC has often been compared with the Manhattan and Apollo projects. However, both of these projects had a single customer for their output: the U.S. Government. And for these projects cost and economic factor was not a pri-

mary consideration. There was no substitute product on the shelf that could be used if the new product turned out to be too costly. If the devices worked technically, the projects were deemed a success. But energy technology, such as synthetic fuel development, will be successful only if many individual users, each considering a different situation, decide that the new technology has economic advantages over a wide array of alternatives available in the market.

POLITICAL CONSIDERATIONS

As long as the Government holds the purse string, ESC will be subject to political pressure. If past experience is any guide, there is every danger that decisions of project funding and research will be heavily influenced by political considerations rather than sound economics and technology.

ENVIRONMENTAL CONCERNS

If the Government bulldozes ahead with large scale programs, the impact upon the environment is likely to be far more adverse than if multiple, diverse, small scale efforts are undertaken within the discipline of the private economic market. A crash program—based on political rather than economic or technological considerations—is likely to have seriously adverse environmental and social consequences.

I look forward to the opportunity to discuss each of these and other considerations with you in detail. After careful study, I believe you will feel as I do that the Energy Security Corporation is a costly, unnecessary and undesirable approach to the Nation's synthetic fuel needs. If enough Senators will seriously study this issue I believe a majority will reach the same conclusion.●

DRUG REGULATION REFORM ACT OF 1979

● Mr. KENNEDY. Mr. President, during our consideration on September 26, 1979, of S. 1075, the Drug Regulation Reform Act of 1979, the distinguished Senator from Utah (Mr. HATCH) offered an amendment which would prohibit "a prescription drug in tablet, capsule, or other solid finished form that—

(1) contains the same active ingredients in the same strength as another prescription drug in the same finished form;

(2) is introduced into interstate commerce after the other drug was lawfully introduced into interstate commerce; and

(3) is so nearly identical in overall appearance to the other drug as to create a substantial likelihood that ultimate consumers will not be able to distinguish between them.

The distinguished Senator from New York (Mr. JAVITS) was concerned that this amendment might adversely affect the pioneer substitution law of New York State. In urging that the amendment be accepted, I assured Senator JAVITS that the amendment would not impair New York's substitution law. I concluded by stating:

If two products have different marks on them, even though they are the same color, size, and shape, they are not affected.

Senator HATCH, the author of the amendment, concurred in the statement I had made.

It has since come to my attention that Senator HATCH feels that "some confusion" has arisen over the precise meaning of the amendment. Accordingly, in the October 12, 1979, CONGRESSIONAL RECORD, the Senator has sought to "make clear" the effect the amendment will have. Specifically, he states that there may be instances where, compared to a previously marketed version of a drug, a subsequent generic competitor with the same color, size, and shape, but with a different trademark, name or the like, may in fact be prohibited.

This interpretation of the amendment differs entirely from the explanation which Senator HATCH and I agreed upon during consideration of the bill on the Senate floor. It is I believe, unacceptable.

Senator HATCH is concerned—if I understand him correctly—about the situation which arises when two versions of a drug are identical in color, size, and shape, and have marks which are so nearly identical that the two products cannot be distinguished by normal observation, but under very close scrutiny may turn out to have some slight variation in their marks. It is Senator HATCH's objective, I believe, to insure that in this circumstance the generic competitor is prohibited.

Let me assure Senator HATCH that, in precisely such a circumstance, the generic drug's mark would not be "different" as that word is used in ordinary conversation—and as I used it on the Senate floor. In such a circumstance, therefore, the generic product would be prohibited. The generic drug's mark would have to have something more than a slight variation to be "different" and to render the product itself legal.

Therefore, I believe that the explanation of Senator HATCH's amendment which he and I agreed upon on the Senate floor is altogether adequate when the ordinary meaning of words is taken into account, as we took them into account on the Senate floor.●

REGULATORY IMPACT STATEMENT ON S. 751

● Mr. MELCHER. Mr. President, on October 17, 1979, the Select Committee on Indian Affairs reported S. 751, a bill to amend Public Law 93–531, the Navajo-Hopi Land Settlement Act.

Through an oversight, the report 96–373 of the committee failed to include a regulatory impact statement, as required by rule 29.5 of the Standing Rules of the Senate.

Mr. President, S. 751 provides up to 160 life estates to be granted to certain individuals for whom relocation required under Public Law 93–531 would result in serious hardship. The Navajo-Hopi Relocation Commission must draft regulations governing applications for life estates.

The Secretary of Interior is directed to write regulations governing residency and visitation requirements on the life estates as well as regulations relating to feeding and grazing of livestock owned by life tenants. The committee considers that S. 751 will have a very limited regulatory impact, affecting, at most, 160 families.●

ADDRESS BY JAPANESE FOREIGN MINISTER TO THE UNITED NATIONS GENERAL ASSEMBLY

● Mr. KENNEDY. Mr. President, like many other Americans, I have observed and welcomed the increasingly active and constructive role Japan is playing in international affairs. This role has grown importantly in recent months, as our two governments have worked together to address virtually every issue of regional or global importance.

Our positions are not always identical, but our objectives are the same: A more peaceful, prosperous, and democratic world. Our governments consult—and cooperate—to a degree unique in postwar history on issues from Indochina to the Middle East, and from Africa to Latin America.

On September 25, Japanese Foreign Minister Sonoda addressed the U.N. General Assembly in New York. His theme was the need to wield economic strength and political influence in the cause of world peace and prosperity.

Mr. Sonoda summed up the essence of Japanese foreign policy over the last 2 years and laid out a course for the future. He explicitly noted that it is not only in the usual catalog of global issues—Indochina, Korea, southern Africa, the Middle East, SALT—that Japan can make a contribution to progress and stability.

The Foreign Minister addressed an area that has been particularly troublesome in recent times, economic relations, and gave full recognition to Japan's responsibility in that area. Specifically, he pledged that Japan will continue to foster international cooperation, including through the further opening of its domestic markets. This statement is welcome not only because of the favorable trend it portends for the future, but because, coming as it does in the context of a major foreign policy address, it signifies a new, long term and positive approach by Japan to its role in the world.

Mr. Sonoda's speech is an important statement by the Foreign Minister of one of our closest friends and most crucial allies. I commend it to my colleagues and request that it be printed in the RECORD.

The address follows:

STATEMENT BY H. E. MR. SUNAO SONODA

Mr. President: On behalf of the Government and the people of Japan, I should like to extend warm congratulations to Your Excellency, Mr. Salim, on your election as President of the Thirty-fourth Session of the General Assembly. I am confident that, under Your Excellency's impartial guidance based on superb wisdom and wealth of experience, this Session will be a most fruitful one.

I should also like to express my heartfelt appreciation to His Excellency, Ambassador Lievano, who contributed greatly to the successful conclusion of the Thirty-third Session of the General Assembly.

I take this opportunity also to pay sincere tribute to His Excellency, Secretary-General

Kurt Waldheim. We deeply appreciate his dedicated efforts toward the maintenance of international peace and security as well as toward the promotion of international cooperation, thus helping to realize the goals of the United Nations.

Mr. President: May I also take this opportunity to express my sincere welcome to St. Lucia on its admission to the United Nations. My country looks forward to deepening its cooperation with St. Lucia within the United Nations as well as in other contexts.

Mr. President: 1979 is significant as the transitional year from the 1970s to the 1980s. As we recall our experiences of the 1970s and reflect upon their implications for the future in our quest for world peace and prosperity, this Session of the General Assembly, held at such an important time, should in my view provide us with a new vigour and perspective for the coming decade.

Looking back on the 1970s, I consider it a time mixed with promise and disappointment in terms of world peace and prosperity.

While tensions have relaxed among certain States with different political systems—as seen, for example, in the progress in the strategic arms limitations talks between the United States and the Soviet Union, and in the normalization of relations between the United States and the People's Republic of China—elsewhere, in such areas as the Indochinese Peninsula, the Middle East, and Africa, regional confrontations and conflicts are continuing. In some regions, we have even witnessed the intensification of tensions.

While there have been real international efforts to promote the stable expansion of the world economy, as exemplified by the five Summit Meetings of the major industrial nations and the Tokyo Round Trade Negotiations, energy problems cast a vast and gloomy shadow over the future of the world economy and there is no solution in sight to such problems as inflation and recession.

While nation-building programmes of developing countries are progressing, the non-oil producing developing countries are experiencing extremely serious economic difficulties stemming from sharp increases in the price of oil. Prospects concerning North-South problems are complicated by a great number of difficulties due in part to the stagnation of the economies of industrialized countries.

While in the international political and economic arenas, interdependent and complementary relationships among nations are generally deepening, cooperative relationships between oil-producing and oil-consumming countries have not yet taken hold. Industrialized and developing countries continue to grope for an international order that is mutually beneficial.

These are no more than simple illustrations. Yet, as we look ahead on the basis of these experiences to the coming decade, the prospects for the international community do not allow us to be totally optimistic. At the same time, we need not be unduly pessimistic.

As I pointed out last year at the Thirty-third Session of the General Assembly, mutual dependence among nations and regions of the world transcends differences in social systems, size, abundance of natural resources, or stage of development, and this interdependence is growing at an increasingly rapid pace. Thus, no nation can maintain peace within its own borders unless peace prevails elsewhere in the world. And no country can plan its own economic prosperity in isolation from the development of the world economy as a whole.

These are the realities which all the countries of the world must approach dispassionately. In our quest for world peace and prosperity we must recognize the interdependence among nations as well as regions, and help each other and complement each other in a spirit of accommodation. If each nation bases its foreign policy on this recognition, I am convinced there will be a way to solve the difficult problems besetting all of us. One of the major tasks for the 1980s will be for each of us to renew our efforts in this direction.

Mr. President: My country maintains as its fundamental national principle the pursuit of peace and the refusal to become a military power that could pose a threat to another country. Thus, the basic objective of Japan's foreign policy is to contribute to world peace and prosperity by fully wielding its economic strength and political influence. This policy of course is based on the recognition that there can be no peace and prosperity throughout the world. We are determined to strengthen Japan's diplomatic efforts in international political, economic and social areas in order to contribute further to the peace and prosperity of the world community in the coming decade.

In so doing it is the policy of my Government to actively explore from a global perspective the ways in which it can help to achieve the stability and development of countries in various parts of the world, giving attention to the Asian and Pacific region in particular, but also recognizing the importance of the Middle East, Africa, and Latin America.

Mr. President: With this perception of the present and looking ahead to the future, I should like at this time to explain briefly my Government's position on the major problems confronting the international community today.

Mr. President: I should like to comment first of all upon the situation in Asia.

One of the most urgent tasks confronting us now is to secure peace and stability in Southeast Asia.

The ASEAN nations are steadily pursuing courses of national development based on the progress of regional cooperation. However, serious anxiety regarding the security of these nations is resulting from the conflicts and tensions in the Indochinese Peninsula and from the outflow of the refugees from that area.

In particular, the problem of Indochinese refugees is no longer solely a matter of humanitarian concern, but has become a destabilizing element in the Asian and Pacific region.

Although the United Nations Conference on Indochinese Refugees held in Geneva last July achieved significant results, thanks to the efforts of the Secretary-General and other United Nations officials, as well as to those of the various countries concerned, the problem has not been fundamentally resolved. Indeed, each country is called upon to strive even harder in its own way to help alleviate the difficult situation.

First, it is necessary that Viet Nam continue to exert every effort to stop the illegal departures of its people as it stated it would do at the Geneva Conference.

Second, in order to provide relief for the refugees as well as to lighten the burden of the first asylum countries, international cooperation should be further strengthened in the fields of the permanent resettlement of refugees and of financial contributions to UNHCR.

Determined to take an active part in this international endeavour, Japan decided to provide half the funds required this year for the UNHCR Assistance Programme for Indochinese Refugees. At the same time, we are making efforts to promote the resettlement of refugees in Japan and intend to expand gradually the target figure for resettlement in Japan, depending on the progress of the programme.

I feel it is important to stress, however, that the Indochinese refugee problem cannot be solved in any real way unless the peace and stability of this region is assured. In order to secure peace and stability in Indochina, it is essential that lasting peace in Kampuchea be restored. I am of the opinion that the only way to accomplish this is for all foreign forces to withdraw from Kampuchean territory so that the Kampuchean people may determine their own political future, free from any foreign intervention.

This is not in any sense an easy task, but we must do everything possible to accomplish it. I think it is important for us, as a first step, to make utmost efforts to promote the common recognition of the importance of restoring lasting peace in Kampuchea among the countries concerned, including all the parties to the Kampuchean conflict. It is on the basis of this belief that I have repeatedly proposed that a conference be convened in which the countries concerned, including all the parties to the Kampuchean conflict, would participate.

Mr. President: In conjunction with these long-range efforts, I should like to call attention to the very urgent task that demands immediate action in Kampuchea. In the devastated nation of Kampuchea, millions of people are stricken with disease and are in danger of starvation. There is undoubtedly a wide range of diverse political positions and opinions regarding Kampuchea's future. But whatever political position one may take, one cannot ignore the millions of Kampuchean people facing death due to starvation and disease.

I am convinced that humanitarian concerns must transcend political differences, and that it is of absolute importance for all parties, both inside and outside of Kampuchea, to take concerted action to bring to the Kampuchean people relief from the starvation and disease that is a living hell for them. What the Kampuchean people urgently need right now is not an exercise in political polemics, but rather food and medical supplies. It is our responsibility as human beings to see that the Kampuchean people get the supplies they need.

I should like to appeal, first of all, for the cooperation of all the parties to the conflict in Kampuchea in assuring that these humanitarian relief supplies reach those who are in need of them. I call specifically upon all the parties to the conflict to come to an immediate agreement with the international organizations concerned on a practical arrangement to ensure that such international relief measures be implemented safely and promptly.

Second, I should like to urge strongly that all the countries concerned make every possible effort to make such an arrangement, and that as many countries as possible participate in and cooperate with such international relief measures.

The Government of Japan is prepared to cooperate to the fullest extent of its abilities in these international relief measures.

Given the widespread and profound sympathy the Japanese people have for the Kampuchean people as they suffer catastrophic privation, the Government of Japan is determined to do everything possible, mobilizing the resources of both government and private sectors, to extend such cooperative assistance and relief.

Mr. President: Even as I am expressing these views on the Kampuchean problem—the most serious problem in Asia today—the implementation of relief measures is being further delayed. What is profoundly distressing are the movements that appear to be starting in Kampuchea which might lead again to an intensification of the fighting there.

No action must be allowed which would further aggravate the situation in Kampuchea, whatever the reason for such action may be.

I therefore strongly urge all the parties, including Viet Nam, who are directly involved

in the conflict in Kampuchea to exercise prudence and restraint, and I reiterate my appeal to all the countries and parties concerned to make their utmost effort for the achievement of peace in Kampuchea.

Mr. President: Another major task confronting us in Asia is the relaxation of tensions on the Korean Peninsula.

At present, the dialogue between South and North Korea is suspended. The tripartite talks proposed jointly to North Korea by President Park of the Republic of Korea and President Carter of the United States, have not yet come about. Since the building of genuine peace and stability on the Korean Peninsula is a matter of deep concern to Japan, we hope that a substantive dialogue between South and North Korea will be resumed as promptly as possible. We, on our part, will continue to cooperate with all countries concerned to foster an international climate that is conducive to the relaxation of tensions on the Peninsula.

Mr. President: The problem in the Middle East is one of the most serious problems confronting the world today.

Japan maintains the position that it is essential that peace in the Middle East be just, lasting, and comprehensive. Thus, Japan thinks the Peace Treaty between Egypt and Israel should be a first step toward achieving a comprehensive peace in the area. We believe that such a peace should be achieved through the complete implementation of Resolutions 242 and 338 of the United Nations Security Council and the recognition of and respect for the legitimate rights of the Palestinians, including the right of self-determination in accordance with the United Nations Charter.

We believe that the future development of the negotiations now under way between Egypt and Israel on the question of the autonomy of the West Bank and Gaza will have a serious influence upon whether or not a comprehensive peace will be achieved in the Middle East. From this point of view, we strongly hope that, to avoid further delay in establishing peace in the area, the participation of the Palestinian Liberation Organization in the peace process will be realized, with Israel and the PLO mutually recognizing each other's position.

I strongly call on the participants involved in the talks regarding the autonomy of the West Bank and Gaza to display courage and flexibility in the negotiations in accordance with the relevant United Nations resolutions in order to achieve a result that is satisfactory to all the parties concerned. In this connection, I should like to urge Israel to refrain from any measures that would be detrimental to the atmosphere of the negotiations, such as the establishment of Israeli settlements in the occupied territories and its military actions in southern Lebanon.

Firm in the belief that stability and development in the Middle East are essential to the peace and prosperity of the entire world, Japan will continue, in accordance with its independent policy, to cooperate actively in the development efforts of the countries in that region. Out of this concern as well, we strongly hope that a just and lasting peace will be established as soon as possible.

Mr. President: The nations of Africa are Japan's vital partners in promoting world peace and prosperity. It is thus my country's policy to extend vigorous cooperation to the nation-building programmes of the African States.

The situation in Africa is, however, troubled in some areas. In particular, it is a matter of deep concern to Japan that a great number of people in southern Africa continue to suffer under the yoke of racial discrimination. I am profoundly distressed that progress toward the elimination of apartheid policies in South Africa has been so meager.

Regarding the question of Namibia, the Government of South Africa has embarked upon a dangerous course by seeking an internal settlement and totally disregarding the efforts of the United Nations. This is a serious situation and must be considered a challenge to the international community. I strongly urge South Africa to reconsider its policies and to cooperate wtih the United Nations in achieving Namibia's independence through elections held under the supervision of the United Nations. I should like on this occasion to confirm once again Japan's readiness to actively participate in and cooperate with the United Nations efforts to foster Namibia's peaceful transition to independence.

With regard to Southern Rhodesia, Japan sincerely hopes that independence under genuine majority rule will be peacefully realized as early as possible, and thus highly appreciates the agreement reached at the last Commonwealth Heads of Government Meeting. On the basis of this agreement, I earnestly hope that the parties concerned will continue, in a spirit of accommodation, their constructive talks at the Constitutional Conference now under way in London with the aim of establishing genuine majority rule in Southern Rhodesia.

Mr. President: The nations of Latin America are extremely important and are expected to assume increasingly greater responsibilities and roles in working for world peace and prosperity.

Recently I visited several Latin American nations, and was encouraged by the efforts they are making toward economic and social development and democratization. There is a growing trend among the nations of Latin America to search for peace and prosperity in a broader scope of interdependence that extends beyond a regional framework. I believe it will be the task in the 1980s of nations in other regions of the world to cooperate with the nations of Latin America as they strive to attain their aspirations.

There have been movements to direct attention and criticism to specific issues in the democratization processes of certain countries. I rather feel that democratization in these countries would be best promoted if we tried, while making conscious efforts to understand the positions and processes unique to each country, to help them with their democratization efforts.

Mr. President: Concurrent with the efforts to resolve the various regional problems which I have just mentioned, our important task is to effect, step by step, feasible disarmament measures.

I therefore welcome the signing of the SALT II Treaty by the United States and the Soviet Union, and I wish to express the hope that future negotiations on SALT III will result in further concrete progress in the quantitative reduction and qualitative control of strategic arms. I should like at this time to make a strong appeal once again for strengthening the regime for the non-proliferation of nuclear weapons, establishing as soon as possible a comprehensive nuclear test ban, and promoting disarmament negotiations relating to non-nuclear weapons, including the prohibition of chemical weapons.

Mr. President: Efforts exerted solely in the areas I have mentioned will not suffice to secure world peace and prosperity. Problems pertaining to the world economy present us with important and urgent tasks.

First, the world economy is beset with a number of difficult problems, notably those having to do with energy, inflation, and unemployment. In order to foster the stable expansion of the world economy under the current difficult circumstances, it is imperative that each country seek to strengthen its efforts toward international cooperation with a view to achieving its own economic prosperity within the framework of the stable expansion of the world economy as a whole, and in consideration of the interdependence between domestic and world economies.

Fully recognizing the responsibility and the role it must assume in the world economy, Japan will continue to make efforts that will foster international cooperation, including those designed to further open its domestic markets.

With regard to the energy question which will surely have a major impact on the future of the world economy, I should like to point out that it is very important for industrialized countries to assure that the various measures agreed upon at the Tokyo Economic Summit are faithfully implemented. These relate, in particular, to restraints in petroleum imports, the increased utilization of nuclear and other alternative sources of energy, as well as to the research and development of new sources of energy.

I believe that restrained oil consumption by industrialized countries, including my own, will help foster mutual trust between oil-producing countries and oil-consuming countries and thus lead to the creation of a more cooperative relationship between them regarding the efficient utilization of energy, which is a task for all mankind.

Further, because the energy problem is an important matter that concerns countries throughout the world, I believe it would be useful for the United Nations to consider how it could be best dealt with. Thus I shall follow with interest the initiatives to be taken by Secretary-General Waldheim on this subject.,

Another area of importance is the "nation-building" and "human resources development" efforts of developing countries. The qualitative improvement and quantitative expansion of economic and technical cooperation with these efforts must continue to be one of the most important policies of industrialized countries, including Japan. I should like particularly to emphasize that these efforts are all the more important at this time when the world economy is confronted with many difficult problems. Further, industrialized countries should make positive efforts to respond to the expectations and aspirations of developing countries for stabilizing their export of primary commodities and for the stable expansion of their export of manufactured products.

Japan, itself an Asian country, was late in joining the modern international community, and thus had to struggle resolutely in order to catch up with developed countries. Consequently Japan has deep sympathy with the desires and aspirations of developing countries for economic and social development. We believe that it is the responsibility of industrialized countries—including Japan—to respond to the legitimate expectations of developing countries regarding their economic and social development.

Accordingly, Japan makes it a basic policy to cooperate to the utmost of its capabilities with developing countries in their self-reliant efforts to promote their economic and social development.

The fact that Japan is making efforts to double its Official Development Assistance (ODA) within three years; that it is working toward untying assistance as well as softening the terms; and finally, that it has taken an active role for the establishment of the Common Fund, are all in conformity with its basic foreign policy. Japan will continue to firmly maintain this basic policy, and, in particular, intends to make greater efforts to expand the volume of its Official Development Assistance and improve the ratio of its ODA to its GNP.

In order to solve North-South problems, a continuous dialogue is necessary. In my assessment, UNCTAD V, held last May, was an important process for lending a future orientation to the North-South dialogue against the background of the agreement on the basic elements of the Common Fund.

Through this dialogue an increasing awareness of the interdependent and complementary relationship between the North and South should be developed from a long-term perspective, thus laying the foundation for genuine cooperation. This in my view is a prerequisite to the solution of the problem.

On the basis of these considerations, I believe it is important that the new International Development Strategy which we are about to formulate provide targets for the efforts of the international community in promoting the economic and social development of developing countries. In this sense, the new International Development Strategy should be a joint undertaking involving both developing and developed countries.

Furthermore, the new International Development Strategy should be formulated on the basis of realistic and practical considerations, giving due attention to the alleviation of absolute poverty, which is said to still be affecting more than 800 million people throughout the world, and in a manner which would enable relatively advanced developing countries to make further progress and thereby contribute to the expansion of the world economy as well.

Mr. President: Finally, I should like to say a few words regarding measures to strengthen the role of the United Nations in the maintenance of international peace.

It is a regrettable truth that the role played thus far by the United Nations in the maintenance of world peace has fallen far short of its original goals.

It will be difficult to try to change all at once the way in which the United Nations has functioned since its establishment more than thirty years ago. However, the role of the United Nations must be expanded to meet the changing needs of the international community, where worldwide interdependence continues to develop and the need for international cooperation and harmony is becoming increasingly urgent.

Therefore, as a first step in expanding the role of the United Nations in the maintenance of international peace, I should like to propose that its fact-finding functions regarding international disputes be strengthened. If the United Nations could maintain a firm grasp upon situations involving international disputes and present the international community with objective facts, it would be able, by appealing directly to world opinion, to exert pressure on countries concerned and thus facilitate the settlement of disputes.

For example, if I may at this point suggest a measure to be taken, each time an important dispute arose, a representative of the Secretary-General would be stationed in the area for a certain period to investigate the facts of the situation, and would report to the Secretary-General from time to time. The need for measures of this kind may be readily understood when one considers the developments in Indochina this past year.

Therefore, I believe that the United Nations should make maximum use of the fact-finding functions conferred upon the various organs under the United Nations Charter. In this way the United Nations would be able on its own to investigate the facts which would serve as a basis for debate in the world body. I should like to particularly point out that this is something the United Nations could start doing today if its Member States were willing to have it do so.

Mr. President: As I have previously mentioned, I am convinced that, as interdependent relations among countries and regions continue to grow, it will be our task in the 1980s to develop a basis for international cooperation that will lead to world peace and prosperity.

This is a tremendously difficult undertaking. But now, with the existence of weapons capable of annihilating all of mankind and with the emerging recognition that the natural resources and space available for man's use are limited, the people of each country must consider their own peace and prosperity as inseparable from that of the world. Each country must realize its responsibility and play an active role accordingly in achieving this common goal of mankind. This is, in my view, the only path open to the international community.

There are indeed a great number of problems in the international community, including those between East and West, North and South, and among industrialized nations as well.

I am convinced that solutions to all these problems could be found if each country would refrain from adopting attitudes of confrontation by insisting on its own views and interests and would enter discussions openheartedly for the shared goal of achieving world peace and prosperity—a long-cherished and common hope of mankind. I believe that the willingness of each country to open itself to such discussions will be the key to determining the course for the international community in the 1980s.

In closing, I should like to reaffirm my belief in man's powers of reason and innate wisdom. On the basis of this belief, I am confident that, as we look ahead to the decade of the 1980s, the prospects for the international community are promising.

Thank you.●

CAPT. WILLIAM AMSDEN, USN

● Mr. PELL. Mr. President, I regret to say that Capt. William Amsden, USN, a very distinguished naval officer with a long and gallant record, recently died in my State. He was a living example of the best traditions that the U.S. Navy typifies and served the Navy for almost half of his long life of 95 years.

I believe his career might be of interest to my colleagues and so ask that the attached article be printed in the RECORD.

The article follows:

[From the Newport Daily News]

CAPT. WILLIAM AMSDEN

JAMESTOWN.—Retired Capt. William Faulkner Amsden, 95, of Whittier Road died yesterday morning in Peace Dale.

Capt. Amsden was born in Washington, D.C., while his father, Navy Lt. Charles Heath Amsden, was naval aide to President Cleveland.

He was graduated from Lake Forest Academy and entered the Naval Academy in 1904. He served several tours of duty at the Newport Naval Station, and on the Asiatic Station. When the United States entered World War I, he had command of the destroyer Barry in Manila, and he sailed her to Brest, France, where she was on convoy duty throughout the war.

After the war Capt. Amsden was commanding officer of the Newport Training Station, and studied at the War College. When the Spanish Civil War broke out he had command of the heavy cruiser Quincy that he had just commissioned. Quincy was ordered to proceed to Gibraltar to evacuate American citizens from the war zone, and she carried thousands from the various Spanish ports to safety in French Riviera ports.

Capt. Amsden was on duty at the Great Lakes Naval Training Station when the United States entered World War II and he quickly was assigned to convoy duty in the Pacific. Later he was ordered to establish and command the Waves Training School in the Bronx, N.Y., and while there 78,000 Waves were graduated.

He retired at the close of the war and settled in Jamestown. In the Navy he was renowned as a superb ship handler, a fine marksman of Olympic quality, and an able diplomat in crisis situations from China to Spain. His many decorations included the Navy Cross.

He leaves a daughter, Mrs. Samuel Wood Bryant of Jamestown, two grandsons and two great-grandsons. The funeral service will be private.●

FINANCE COMMITTEE ACTION WILL ENCOURAGE GASOHOL USE

● Mr. BAYH. Mr. President, last month I submitted, along with my distinguished celleagues, Senators MCGOVERN, CHURCH, and STEWART, three printed amendments to H.R. 3919, the Crude Oil Tax Act of 1979, designed to promote the production and use of gasohol. Last week the Finance Committee completed action on this bill and happily saw fit to include the changes proposed in my amendments in the bill they reported for Senate consideration. I would like to take this opportunity to express my appreciation to Senators NELSON and BAUCUS for sponsoring my amendments before the committee, and to thank the other members of the committee who supported these important proposals.

I am hopeful that these provisions will further encourage rapid development of a domestic alcohol fuels industry. They provide for simplified Federal regulation of alcohol fuel production, the replacement of the current excise tax exemption with a tax credit for alcohol used in producing gasohol, and a mechanism to grant refunds for excise taxes already paid on gasohol.

REGULATORY SIMPLIFICATION

The need for regulatory simplification is pressing, Mr. President, and provisions of S. 1200 incorporated by the Finance Committee into H.R. 3919 directly address barriers to production and distribution of alcohol fuels caused by Federal redtape and paperwork. These provisions respond to a demonstrated need; they are supported by the administration as well as the Finance Committee; and deserve the support of the full Senate and House.

Existing Bureau of Alcohol, Tobacco, and Firearms regulations were designed to apply to alcohol produced for use as a beverage or industrial feedstock, and not as a fuel. They are not designed to meet the needs of farmers interested in onfarm production of alcohol, or joint community or cooperative efforts to build small stills to meet local market demand, and they do not take into consideration the unique characteristics of the infant alcohol fuels industry. Unfortunately, the complexity of existing regulations has too often produced frustrating, irritating, and time-consuming delays for those wanting to get started in the field, or placed heavy regulatory burdens on potential producers.

The amendment adopted by the Finance Committee embodies the text of S. 1200, the Alcohol Fuels Regulatory Simplification Act of 1979, which I introduced along with 20 of my colleagues earlier this year. To make gasohol production and use a widespread reality, the amendment will permit the Secretary of

the Treasury to waive some regulations, and simplify others, which are unnecessary when alcohol is being produced for use as an energy source.

This legislation was mandated by provisions in the 1978 Energy Tax Act which required the Bureau of Alcohol, Tobacco, and Firearms to send legislation to Congress recommending changes in current BATF regulations on alcohol to be used for energy purposes. As drafted by the Treasury Department, the new regulations would divide producers into three categories—small, medium, and large producers—with regulations varying according to the size of the facility. Regulatory requirements would be further adjusted depending on the ability of the producers to comply and the risk of revenue loss to the Government. For example, under the regulations drafted by the Department, small producers would no longer be required to post a bond, a requirement which has proven to be an obstacle to many individuals seeking to produce small quantities of alcohol for use as a fuel.

This amendment will be particularly valuable for farmers desiring to produce alcohol on their own farms to meet their own energy needs. The Treasury Department is currently issuing permits, under temporary and experimental authority, for such purposes. The number of applications for small scale production has increased dramatically, and presents further evidence of the growing interest in the country for gasohol and alcohol fuels generally. I shall ask that the proposed Treasury Department regulations and related materials pursuant to S. 1200 be printed in the RECORD at the conclusion of my remarks.

REPLACEMENT OF GASOHOL EXCISE TAX EXEMPTION WITH A PERMANENT TAX CREDIT

Mr. President, the 1978 Energy Tax Act further provided that gasoline used in gasohol be exempt from the 4 cents per gallon Federal motor fuels excise tax. This exemption was designed to last for 5 years, until the end of 1984. However, since the passage of this legislation, we have found that this mechanism for providing a tax incentive for gasohol has been lacking in several respects:

First, the exemption was available only for alcohol-gasoline blends that contained 10-percent alcohol and 90-percent gasoline, thereby providing no incentive for blends that contained more or less than 10-percent alcohol.

Second, the limit duration of the exemption created uncertainty among private sector investors who were considering capital investments in alcohol fuel production enterprises. Lending institutions were also hesitant to provide long-term financing that would outlive the duration of the Federal tax benefit.

Third, the tax benefit was available for alcohol produced abroad, or from foreign feedstocks. This made no sense, since the benefit was specifically designed to stimulate development of a domestic alcohol industry.

By taking positive action on several amendments offered to H.R. 3919, the Finance Committee has corrected these deficiencies. The committee has acted to replace the existing 4 cents per gallon excise tax exemption for gasohol with a 40 cents per gallon income tax credit for each gallon of alcohol mixed with gasoline. This credit will apply only to domestically produced alcohol derived from domestic sources. An additional 10 cents per gallon credit for alcohol produced from coal would also be established under the committee proposal.

The committee's action in extending this credit to the year 2000 is responsive to the need for an assured long-term Federal tax policy on gasohol. Additionally, since the credit applies to each gallon of alcohol used to produce a fuel, it encourages the use of alcohol in gasohol at the most practical proportion. The following chart shows how the price advantage of a gallon of gasohol increases under this tax credit provision when the amount of alcohol blended increases.

Percent per gallon of gasohol		Alcohol price reduction (in cents) due to tax credit
Alcohol	Gasoline	
5	95	2
10	90	4
20	80	8
30	70	12
40	60	16

So that the Congress may be continuously aware of the impact of this tax credit on the alcohol fuels industry, the Finance Committee language also requires the Treasury Department to periodically report to the Congress on several subjects related to this provision, including: a comparison of the costs of alcohol produced from different sources and added to fuels; an analysis of the effect on the alcohol fuels industry of a termination or reduction in this tax credit; the amount of revenue lost to the Treasury as a result of this credit; and any recommendations as to the appropriate level of subsidy to the alcohol fuels industry.

Mr. President, the exemption of gasohol from the 4 cents per gallon Federal excise tax has been a significant factor in the growing acceptance of gasohol by the consuming public. Unfortunately, as I noted above, that exemption has not proved to be as comprehensive a tax mechanism as originally believed, or as is now needed. The tax credit provided for in the Finance Committee bill goes far toward correcting these shortcomings.

My only concern about the Finance Committee's action is that the credit will now go to alcohol producers, not blenders themselves. This administrative change may indeed be helpful in eliminating paperwork for jobbers, co-ops, and service station dealers distributing gasohol. However, for the incentive to continue to stimulate gasohol sales, it is imperative that the tax savings associated with the new credit be passed along to consumers at the retail level. I have written to Senator LONG, the distinguished chairman of the Finance Committee about this concern, and received assurances that this issue will be addressed in the committee's report. I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks. With this assurance, I strongly urge adoption of these provisions when H.R. 3919 is before the full Senate.

REFUND MECHANISM FOR EXCISE TAXES PAID

Finally, Mr. President, the Finance Committee adopted the tax refund provisions of S. 1746. I introduced this legislation earlier this year to permit gasohol distributors to receive excise tax refunds due them by the Treasury Department but denied them because of departmental delay in issuing regulations for the excise tax exemption which went into effect on December 31, 1978. During the first several months of 1979, no IRS regulations were in effect to allow gasohol retailers to take advantage of the exemption. Hence the tax was paid with assurances to some from the Treasury Department that a refund would be granted at a later date. Unfortunately, Treasury officials subsequently realized that no authority existed in law to grant the refund, even if it was deserved. The amendment adopted by the Finance Committee remedies this situation by establishing a procedure to allow a taxpayer to obtain a direct refund by filing a refund claim prior to July 1, 1980. This is a noncontroversial provision, Mr. President, which merely permits the Government to return funds due to taxpayers which have been denied them by slow Treasury implementation of the excise tax exemption.

Mr. President, adoption of these provisions by the Finance Committee are vital to the continued growth and development of our Nation's alcohol fuels industry and the public's use of this alternate fuel. Our experience with gas lines earlier this year, and predictions of further shortages in the future, tell this Senator that it is in the Nation's best interest to encourage the use of gasohol to the maximum extent possible. These amendments will encourage such use, and I urge their inclusion by the Congress in the Crude Oil Tax bill when it is sent to the President for his signature.

I submit for the RECORD the material to which I have referred.

The material follows:

U.S. SENATE,
Washington, D.C., October 22, 1979.

Hon. RUSSELL LONG,
Chairman, Senate Committee on Finance, Washington, D.C.

DEAR RUSSELL: I would like to take this opportunity to commend the Committee for the interest it has shown in alcohol fuels development during consideration of HR 3919, the Crude Oil Tax Bill. I am pleased that two proposals I made to provide for regulatory simplification as well as a method for refunding excise taxes paid on gasohol were adopted as amendments to this legislation. I was also quite pleased that the Committee extended the existing excise tax incentive to the year 2000.

I would, however, like to raise a concern with you about the amendment adopted by the Committee which would replace the existing excise tax exemption with a tax credit. It is my understanding that this credit will most likely be made available only to those firms actually producing alcohol, rather than those buying alcohol for blending in order to make gasohol for retail sale. If the credit is to be limited to alcohol producers, it is imperative to assure that the benefit of this tax incentive will be directly passed along to those at the retail level. If this is not assured, I am concerned that much of the recent stimulus to gasohol sales, attributable to the incentive provided by the excise tax exemption, may come to a halt.

I hope that the Committee will address this issue in the Committee report on H.R. 3919. By its action, the Committee has demonstrated its commitment to using the tax laws to encourage alcohol fuels production. It seems to me, however, that if we are truly interested in providing a tax incentive to alcohol fuels, we must assure that benefits be reflected in retail gasohol prices. I understand the Committee view that a tax credit limited to a few producers would be easier to administer than one available to a fairly large number of blenders. But, unless we can assure that the tax benefit is passed along to consumers, much of the momentum we have achieved toward the establishment of a nationwide gasohol sales network will be lost. If this is the case, the Committee's very worthwhile aim in extending and enlarging the credit will surely be frustrated.

I hope the Committee can address this issue before formally reporting the Crude Oil Tax Bill and I would be happy to work with you to accomplish our joint goals.

Sincerely,

BIRCH BAYH,
U.S. Senator.

BILL ANALYSIS

The proposed bill would amend the Internal Revenue Code of 1954 to vest in the Secretary the authority to simplify pursuant to regulation the present statutory controls applicable to distilled spirits plants established solely for producing distilled spirits exclusively for fuel use.

Over the past year or so considerable interest has been expressed by persons to produce and use distilled spirits for fuel. The concept of using distilled spirits and blends containing distilled spirits and gasoline as motor fuel has been periodically discussed since World War I. Anticipating that existing production of petroleum and gasoline will not remain static, experts have constantly sought alternate energy sources. Successful experiments have been made with distilled spirits blended with gasoline as a motor fuel. A notable recent example is the Nebraska Gasohol Program, sponsored by the Agricultural Products Industrial Utilization Committee of the State of Nebraska. The "gasohol" tested in the Nebraska program is favorable. Others are also testing the expanded use of gasohol and the Treasury Department has received numerous requests concerning the possible establishment of plants of varying sizes.

The Internal Revenue Code of 1954 (chapter 51) establishes a detailed regulatory scheme for distilled spirits plants and persons involved in production of distilled spirits whether those spirits are intended for beverage or industrial use. The current regulatory scheme requires persons to follow qualification procedures, including registrations of distilled spirits plants, obtaining a permit for operation, and filing an operational bond and documents concerning construction and operation of the distilled spirits plants. In addition, the scheme provides for production of distilled spirits in a closed distilling system which requires on-premises supervision, by a Government officer. Presently, distilled spirits can be withdrawn free of distilled spirits excise tax ($10.50 per proof gallon) if it is first denatured by adding certain substances to render it unfit for beverage purposes.

The requirement in existing law that denaturing occur before the distilled spirits are removed from the bonded premises is intended to guard against the diversion of non-taxed paid distilled spirits to beverage use. The primary objective of the proposed bill is to simplify pursuant to regulation the present statutory controls applicable to distilled spirits plants established solely for producing distilled spirits exclusively for fuel use, while maintaining adequate safeguards to protect the revenue.

New section 5181 will vest authority in the Secretary to prescribe regulations for the establishment of distilled spirits plants solely for producing, processing, storing, using, and distributing distilled spirits exclusively for fuel use. The Secretary will have the authority to waive by regulation any provision of chapter 51 to facilitate the establishment and operation of such distilled spirits plants. For example, subsection (b) would authorize the Secretary to minimize the present qualification requirements for such distilled spirits plants and reduce the amount of bond requirements otherwise applicable to such an operation. However, the Secretary will not have authority to waive the payment of any tax provided for by chapter 51. Attached is the Treasury Department's proposed administrative action plan which sets forth the regulation envisioned over distilled spirits plants established under the provisions of this bill.

Subsection (c) will permit distilled spirits produced exclusively for fuel use to be withdrawn free of tax pursuant to new section 5214(a)(11). Subsection (d) prohibits the withdrawal, use, sale, or disposition of distilled spirits produced under the new section 5181 for other than fuel use. Additionally, for the protection of the revenue, subsection (d) requires that such spirits be rendered unfit for beverage use by addition of substances which will not impair the quality of the spirits for fuel use under such regulations as the Secretary shall prescribe prior to withdrawal from the bonded premises of a distilled spirits plant. Distilled spirits which are improperly withdrawn, used, sold, or disposed of will be subject to all provisions of law relating to taxable distilled spirits including those provisions imposing taxes and criminal penalties.

Subsection (e) defines the term "distilled spirits" for purposes of section 5181 as not to include distilled spirits produced from petroleum, natural gas, or coal. Section 221 of the Energy Tax Act of 1978 establishes an exemption in sections 4041(k) and 4081(c) of the Internal Revenue Code from the Federal motor fuels excise tax for fuels mixed with "alcohol" which is defined as not including alcohol produced from petroleum, natural gas, or coal. Additionally, section 221 of the Energy Tax Act of 1978 requires the Treasury Department to recommend legislation to simplify the regulation of persons producing ethanol for use in producing gasoline or liquid fuel as described in section 4081(c). Thus, the definition of "distilled spirits" in subsection (e) of section 5181 corresponds with the definition of "alcohol" in section 4081(c).

Section 2 of the proposed bill amends section 5601(a) by adding a new paragraph (15) to provide criminal penalties for any person who withdraws, uses, sells, or otherwise disposes of distilled spirits except as authorized under section 5181. Section 3 adds a section 5214(a)(11) to authorize the withdrawal free of tax of distilled spirits produced under section 5181. Because of the nature of the withdrawal, free of tax, conforming amendments of a technical nature in sections 4 and 5 are required to section 5004(a)(2)(B) relating to termination of statutory liens on spirits withdrawn free of tax and section 5005(d) relating to relief from tax liability when spirits are withdrawn free of tax.

In addition, section 5025, relating to exemption from rectification tax, would be amended by adding a new subsection (m) to make it clear that processing of distilled spirts for fuel use under section 5181 would not constitute rectification and thus be taxable.

A cross reference to new section 5025(m) is added to section 5063, which lists exemptions from taxes under sections 5021 and 5081.

The attached package is the proposed administrative action plan setting forth the regulations envisioned for distilled spirits plants established under the provisions of this bill. Following the passage of this legislation this plan will be published in the form of proposed regulations. Comments from the Congress and the public as to possible improvements on this plan will be sought.

Basically, the plan defines the three categories of producers the Department anticipates will produce alcohol for fuel. Then, the general requirements for all producers are broadly outlined. The plan proceeds to delineate the specified requirements for each type of producer concerning the application for a distilled spirits plant permit and the bonding, security, and auditing requirements. The plan also explains the requirement to denature the alcohol and identifies some approved denaturing methods. In addition, the ATF inspection and oversight is described.

It is the Department's intention to have the regulatory package sufficiently developed to initiate the rulemaking process as soon as Congress approves the waiver authority. The Department estimates it will require an additional four to six months to finalize and implement the action plan.

ADMINISTRATIVE ACTION PLAN

CONTROL ON ALCOHOL FOR FUEL PLANTS

In the future, we anticipate that a diversity of individuals and organizations will apply to the Bureau of Alcohol, Tobacco and Firearms (ATF) for a permit to establish a plant for the production of alcohol to be used as a fuel. Some producers of this alcohol will use it to produce gasohol—a mixture of alcohol and gasoline—that can be used as a fuel. ATF desires to facilitate the production of fuel alcohol, while at the same time, to minimize resource costs for the individual and the Government and to sustain ATF's statutory responsibilities and obligations.

We envision three potential categories or sizes of gasohol producers. They are:

Small producers (producing less than 5,000 (100 proof) gallons of alcohol per annum).

Medium producers (producing less than 100,000 (100 proof) gallons of alcohol per annum) and,

Large producers (producing over 100,000 (100 proof) gallons per annum).

While specific ATF controls will vary at each production level, all gasohol production plants will be expected to:

File an application to obtain a permit to operate an alcohol production plant.

(Except for the small producers) file a surety bond to cover any tax liability on the alcohol produced

Destroy the beverage character of the alcohol by adding gasoline, kerosene or other approved chemicals.

Maintain security to prevent the diversion of the alcohol for purposes other than fuel and

Maintain auditable records regarding production and disposition of the alcohol.

Outlined below are the specific controls for each level of production that ATF will apply.

APPLICATION FOR PERMIT

Small Producer: This applicant will be required to fill out a form (see Attachment A) identifying the owner(s) and operator(s) of the plant, the location of the plant, the production process used, and the environmental impact of the process.

Medium Producer: This applicant will submit the same application form as a small

producer. All applicants are, in addition, required to submit proof that the applicant has obtained the requisite surety bond based on his expected volume of production. The applicant must have the owner of the property stipulate, through submission of another form, that the United States taxes on distilled spirits produced, has the priority over any claim against the property.

Large Producer: This applicant will submit a basic application supplemented by additional documentation. This documentation includes, but is not limted to, precise and accurate information concerning the plant facilities, production processes, principals operating the plant, statement of title to the premises and interest in the equipment, source of funds invested in the facility, and diagrams depicting the operating facility. With additional experience, ATF will try to simplify the large producer's application requirements.

It is estimated that a completed application for a small or medium producer, will take ATF 30 days to process. The large producer's completed application should be processed in about 45 days.

BOND REQUIREMENTS

Individuals entering in the business of distilling alcohol are required to file bond to cover the liability for the excise taxes on the alcohol produced. This bond and the security requirements are designed to—

Prevent the loss of any tax revenue, and

Assure the alcohol produced is not diverted to illegal purposes.

ATF ascertains the bond by determining the volume of alcohol produced at a specific proof level over a specific period of time. The present rate is $10.50 per (100 proof) gallons produced over a period of 15 days. In general, the formula used to determine the bond is designed to minimize the financial burden on the producer and to also minimize the risk the Government takes regarding potential loss of tax revenue. The producer, in actuality, pays an annual premium which is less than the actual tax liability by securing a surety bond for the tax liability with an approved Treasury bonding company. (See Table 1 at Attachment B.)

Small Producer: There is no bond requirement for this producer. It is believed the risk to the revenue by this producer is limited because of the volume of alcohol production (5,000 at 100 proof gallons) and the probability of detection if significant quantities of production are diverted to illegal purposes.

Medium Producer: ATF will determine the bond based on the potential tax liability incurred by the producer during 15 days production of distilled spirits. For example, if the producer produces 100,000 (100 proof) gallons annually (the maximum allowable under this category) his tax liability will be $60,576. The approximate cost of a surety bond to the producer is $730 annually.

Large Producer: ATF will determine the bond requirement for this producer based on the potential tax liability incurred by the producer during a 15 day period. For example, if he produces 200,000 proof gallons annually, his potential tax liability is $121,-154. However, the maximum sum of the bond would be $1,200.

CONSTRUCTION AND EQUIPMENT

Small Producer: ATF requires this producer to have equipment by which he can regularly and accurately determine the quantity and proof level of the alcohol produced. Basic equipment needed for gauging production is a receptacle with a calibrated sightglass installed or a calibrated dip stick, a cylinder, a thermometer, and a hydrometer. This requirement does not necessitate expensive or sophisticated gauging equipment. In addition, the applicant must have a storage facility for the alcohol produced which he can either lock or seal.

Medium Producer: While ATF will require medium production operations, owned/operated by a number of individuals (e.g. cooperatives), to have a closed production system, the individually owned medium operation will not have to have a closed production system. ATF will require a medium producer with a closed system to secure the system with his locks and seals accessible only to responsible personnel. ATF will, however, not levy any additional restrictions regarding the maintenance and security of the closed distilling system.

In general, the medium producer must have equipment to regularly and accurately determine the quantity and proof level of the alcohol produced. Basic equipment needed for gauging production is a receptacle with a calibrated sightglass installed or a calibrated dip stick, a cylinder, a thermometer, and a hydrometer. This requirement does not necessitate expensive or sophisticated gauging equipment. In addition, the applicant must have a storage facility for the alcohol produced which he can either lock or seal.

Large Producer: This producer is required to have a distilling system that is closed at all points and is designed to prevent the unauthorized removal of alcohol from the system without detection. The security of the system shall be maintained, and at present, ATF will control removal of alcohol from the system by meters or other devices such as locks and seals.

Legislation implementing the wine gallon concession negotiated as part of the MTN, however, will repeal joint custody and would replace it with a system of "all-in-bond" tax administration. If this legislation is passed then the large producer would maintain the security of the alcohol with his locks and seals.

SECURITY

ATF desires that producers provide security which will deter the unauthorized removal of the alcohol and its diversion to illegal purposes. Moreover, ATF anticipates that the producers will also be concerned with providing sufficient security to protect his product.

ATF will require producers to retain the alcohol produced either in a storage tank or some enclosure which he can lock and restrict the access of unauthorized personnel to the alcohol or the diversion of the alcohol to illegal purposes.

If the above security measures are not maintained or if ATF discerns a consistent pattern of inadequate security identifiable by frequent break-ins by unauthorized persons or diversion of the alcohol to unauthorized purposes, then ATF will require the producer to implement additional security measures

It is recognized, however, that the specific measures required to limit the risk of unauthorized intrusion will vary dependent on:

The volume of production.

The location of the facility (e.g., urban versus rural),

Type and construction of plant (e.g. concrete building versus wooden shed), and

The availability of local security (e.g. regular police patrols of area).

ATF could require one or any combination of the following additional security arrangements:

The erection of a fence around the plant or alcohol storage facility,

Flood lights,

Alarm systems,

Watchman service, and

Locked or barred windows.

The exact additional security requirements would depend on the extent of security problems, the volume of alcohol produced, the risk to tax revenue, and safety requirements

If an individual fails to implement the requisite security measures, then ATF may revoke his permit to produce alcohol for fuel. The impetus is on the producers to actively try to prevent unauthorized access to the alcohol; however, ATF will work with the individuals in choosing the appropriate security measures to correct any problems.

RECORDS AND REPORTING

ATF will require each producer to maintain records of his production process and the disposition of the alcohol. At regular intervals, the producer will provide information to ATF for verification and auditing. ATF would not require the producer to maintain a separate set of records if he maintains commercial records that contain the needed information. Commercial records maintained for accounting and tax purposes will suffice.

Small Producer: This producer would be expected to maintain records of:

The quantity and proof of alcohol produced,

The quantities and types of materials added to the alcohol to destroy the beverage character of the alcohol, and

The disposition of the denatured alcohol.

Once a year, the small producer will file a report with ATF stating the volume and proof of alcohol produced annually and the disposition of the denatured alcohol.

Medium Producer: This producer will maintain records of:

The volume and proof of alcohol produced,

The quantities and types of materials used to destroy the alcohol's beverage character, and

The disposition of the denatured alcohol.

Twice a year, the producer will file a report with ATF delineating the volume and proof of alcohol produced monthly, and its disposition.

Large Producer: This producer will maintain records of:

The materials received and used to produce alcohol,

The volume and proof of alcohol produced,

The quantities and types of material added to the alcohol to alter its beverage character, and

The disposition of the denatured alcohol.

Four times a year, the producer will file a report with ATF delineating the volume and proof of alcohol produced monthly and its disposition.

DESTRUCTION OF THE ALCOHOL'S BEVERAGE CHARACTER

ATF will require all producers of alcohol for use as a fuel to add substances to the alcohol destroying its beverage character—make it unfit for human consumption. This technique is called denaturing the alcohol. All alcohol produced by the producers must be denatured before it leaves the premises on which the production facilities are located.

There are many substances such as gasoline, kerosene, or other chemicals, which can destroy the beverage character of the alcohol. In addition, there are several different formulas for the destruction of the beverage character of alcohol. ATF, however, is willing to work with a producer to develop an acceptable formula which will meet his specific needs.

For example, either of the two following formulas, is acceptable for the destruction of the beverage character of alcohol.

Formula No. 1

To every 100 gallons of alcohol add 15 gallons of gasoline.

Formula No. 2

To every 100 gallons of alcohol add 15 gallons of kerosene.

AUDIT INSPECTIONS

ATF will inspect each category of producer and review his records periodically. The frequency of these inspections is based upon the volume of production, type of operation, type of organization, construction and security provided, and the producer's record of compliance with laws and regulations. These

inspections will determine that the operations are being conducted in accordance with the laws and regulation. Depending on available resources, generally, we can anticipate an audit/inspection schedule no more frequently than now utilized for permittees with similar controls and tax liabilities. Existing audit/inspection periods vary from six months to three years.

ON-STAFF SUPERVISION

Small Producer: ATF would provide no direct on-site supervision. Proprietor would, without ATF supervision, measure production and add materials to destroy the beverage character of the alcohol.

Medium Producer: ATF would not provide direct on-site supervision. Producer would measure production and add materials to destroy the beverage character of the alcohol without ATF supervision.

Large Producer: In an effort to minimize the need for on-site Government supervision, ATF will require the producer to install a meter system which will accurately record alcohol production and monitor the addition of substances to destroy the beverage character of the alcohol.

ATTACHMENT A

APPLICATION FOR OPERATION PERMIT FOR PRODUCTION OF ALCOHOL FOR FUEL

1. Which type of alcohol will you produce? Ethanol——— Methanol——— (If an individual plans to make methanol he does not need to apply for a permit. Only ethanol or ethol alcohol producers are required to apply for a permit.)

2. Date of application.

3. Name, home address and phone number, principal business address of applicant and phone number. Social Security Number.

4. Name and address of plant if different from above location.

5. Identify any partners/others that will be involved in operations.

6. Provide the address of above.

7. Has any person listed above:

Ever been convicted of a felony or misdemeanor under Federal or State law? Yes——— No———

Ever been arrested or charged with any violation in the last three years of Federal or State law (convictions or arrest or charges for traffic violations need not be reported if such violations are not felonies)? Yes——— No———

Ever applied for, held, or been connected with a permit issued under Federal law, to manufacture, distribute, sell, or use spirits, or products containing spirits, whether or not for beverage use, or held financial interest in any business covered by such permit? Yes——— No———

Ever compromised, by payment of penalties or otherwise, any violation of any Federal law relating to Internal Revenue or Customs taxation of distilled spirits, wines, beer, or tobacco products? Yes——— No———

8. If the answer to any of the above questions is Yes, provide specific details below:

9. Are you a citizen of the U.S. Yes——— No———

a. If naturalized, give date and location where naturalization papers were issued.

b. If not a citizen, give current citizenship status.

10. Provide the names and addresses (No., Street, City, State, Zip Code) of five references, including at least one bank reference, as to your character and business responsibility.

1.

2.

3.

4.

5.

11. List your residences for the past ten years (Give Street Address, City, County, State, and Zip Code)

Period:

From: To:

Addresses:

12. State the amount of your investment, if any, in the business and sources of the funds invested. (Personal savings, loans, etc.; give name and addresses of institutions in which funds are on deposit or name and address of tender).

13. Describe the type of operation you desire to operate:

Equipment used.

Facilities used for plant operation.

Draw a diagram of the plant.

14. Environmental Data.

A. Heat and Power:

1. Describe types of heat and power to be used and their sources.

2. Note any air pollution that might result.

3. Identify any air pollution equipment proposed for use.

B. Solid Waste:

1. Describe approximate amount and composition of all solid waste to be generated.

2. Discuss proposed methods of disposal.

C. Liquid Waste:

1. Describe amount and content of any liquid waste to be generated, including the biological, chemical, thermal, or other discharge and the location at which such discharge may enter marginal waters.

2. Describe proposed method of disposal.

D. Noise:

1. Describe operational noise that may result from operation of plant.

E. Give the date or dates this activity will begin and end, if known.

F. Describe any methods or means used to monitor quality and characteristics of the discharge and the operation of equipment or facilities employed in the treatment or control of wastes or other effluence.

15. Statement of truthfulness of information provided and signature of applicant.

ATTACHMENT B

TABLE 1.—BOND AMOUNTS

Daily production (gallons)	Annual	Proof	Bond required for 15 days' production	Annual bond premium
5	1,250	160	$1,260	$24
5	1,250	190	1,496	24
10	2,500	160	2,520	36
10	2,500	190	2,993	36
12.5	3,125	160	3,150	48
12.5	3,125	190	3,751	48
20	5,000	160	5,040	72
20	5,000	190	5,985	72
100	25,000	160	25,200	312
100	25,000	190	29,925	360
1,000	250,000	190	100,000	[1] 1,200

[1] Maximum premium.

COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY PROPOSED BILL

Changes in existing law proposed to be made by the bill are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is underscored):

Title 26—Internal Revenue Code.

Chapter 51—Distilled Spirits, Wines, and Beer.

* * * * *

"§ 5004. Lien for tax

"(a) Distilled spirits subject to lien

* * * * *

"(2) Exceptions

The lien imposed by paragraph (1), or any similar lien imposed on the spirits under prior provisions of internal revenue law, shall terminate in the case of distilled spirits produced on premises qualified under internal revenue law for the production of distilled spirits when such distilled spirits are—

* * * * *

"(B) withdrawn from bonded premises free of tax under provisions of section 5214(a)(1), (2), [or (3),] (3), or (11), section 7510; or"

* * * * *

"§ 5005. Persons liable for tax

* * * * *

"(d) Withdrawals free of tax

All persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability as to distilled spirits withdrawn free of tax under the provisions of section 5214(a)(1), (2), [or (3),] (3), or (11), or under section 7510, at the time such spirits are so withdrawn from bonded premises."

* * * * *

"§ 5025. Exemption from rectification tax

* * * * *

"(m) Distilled spirits for fuel use

The processing of distilled spirits exclusively for fuel use produced under section 5181 shall not be deemed to be rectification within the meaning of section 5021, 5081 and 5082.

"[(m)] (n) Cross references"

* * * * *

"§ 5083. Exemption

"For exemption from tax under section 5021 or 5081 in case of—

* * * * *

"(16 Processing distilled spirits for fuel use, see section 5025(m)."

* * * * *

"Subchapter B—Qualification Requirements for Distilled Spirits Plants"

Table of Sections

* * * * *

"5181. Distilled spirits for fuel uses.

"§ 5181. Distilled spirits for fuel use.

* * * * *

"§ 5181. Distilled spirits for fuel use.

"(a) General

On such application and bond and under such regulations as the Secretary may prescribe distilled spirits plants may be established solely for producing, processing, storing, using, and distributing distilled spirits exclusively for fuel use.

"(b) Authority to exempt.

The Secretary, to the extent deemed necessary to effectuate the purposes of this section, may by regulation provide for the waiver of any provision of this chapter (other than this section) for distilled spirits plants established solely for producing, processing, storing, using, and distributing distilled spirits exclusively for fuel use. Nothing in this section shall be construed as authority to waive the payment of any tax provided for in this chapter.

"(c) Withdrawal free of tax

Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises of a distilled spirits plant exclusively for fuel use pursuant to section 5214(a)(11).

"(d) Prohibited withdrawal, use, sale or disposition.

Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use. For protection of the revenue, distilled spirits produced under this section shall be rendered unfit for beverage use by addition of substances which will not impair the quality of the spirits for fuel use under such regulations as the Secretary shall prescribe prior to withdrawal from the bonded premises of a distilled spirits plant.

"(e) Definition

For purposes of this section, the term 'distilled spirits' does not include distilled spirits produced from petroleum, natural gas, or coal."

* * * * *

"[§ 5181.] § 5182. Cross references

* * * * *

"§ 5214. Withdrawal of distilled spirits from bonded premises free of tax or without payment of tax

"(a) Purposes

* * * * *

"(10) without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distillery operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue[.]; or

"[11] free of tax in the case of distilled spirits produced under section 5181."

* * * * *

"§ 5601. Criminal penalties

"(a) Offenses

* * * * *

"(14) Distilling after notice of suspension

After the time fixed in the notice given under section 5221(a) to suspend operations as a distiller, carries on the business of a distiller on the premises covered by the notice of suspension, or has mash, wort, or beer on such premises, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on such premises; or

"(15) Unauthorized withdrawal, use, sale, or distribution of distilled spirits for fuel use.

Withdraws, uses, sells or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;"

ENERGY SELF-SUFFICIENCY NOW

(Mr. Lance Crombie of Webster, Minnesota is a farmer * * * he even carries business cards which attest to that fact. Crombie, however, has a number of sidelines that aren't exactly typical of a tiller of the soil.

(Lance is, for instance, a former cancer researcher who holds a Ph.D. in microbiology, the inventor of a low-cost solar collector, a partner in the firm that distributes his invention, the chairman of the Minnesota State Heart Fund, an associate professor of pharmacy at the University of Minnesota, a member of the New York Academy of Science * * * and he's listed in Who's Who in the Midwest and Outstanding Young Men in the Midwest.

(Lance is also a moonshiner.

(A moonshiner? Yep, you read it right. You see, Crombie is the kind of guy who gets things done when they need doin', and he's not at all hesitant to back the system or throw out the "accepted" answers when he feels he can find a better solution by himself.

(So—when his family's fuel bills became more than their budget could bear—Lance sat himself down, designed a sun-powered still, and began to produce corn alcohol * * * which he planned to use to heat his home and power his farm machinery.

(It wasn't long, however, before his experiments brought about a head-to-head confrontation between Crombie and the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms * * * the "revenuers".

(Surprisingly enough, Lance won that battle (he obtained permission to operate his still) and—in the process—he became a spokesman for the alcohol fuel "movement" * * * a group of people who feel that our continued dependence upon fossil fuels is the quickest possible route to energy bankruptcy, and that agriculture ought to be given the chance to take a whack at solving America's fuel problems.

(In order to find out more about Crombie, and about alcohol's use as a fuel, MOTHER sent staffer Bruce Woods to the Gopher State to interview the Minnesota Moonshiner. While there, Bruce managed to wedge some questions in among the corn combining, volunteer work, and alcohol "public relations" activities that had kept Lance awake for the previous 30 hours.

(In this transcript of Bruce and Lance's exchange, you'll discover that Lance Crombie is—indeed—a farmer * * * but a farmer who—quite possibly—holds the key to individual total energy self-sufficiency in his hands.)

PLOWBOY. Lance, it's obvious from everything that's gone on since we arrived at your home—the constant phone calls, the people stopping by for information and advice, etc.—that your distillation experiments have attracted a lot of attention. Just how did a Minnesota corn farmer wind up in the middle of this home-produced alcohol controversy?

CROMBIE. Well, to go back to the very beginning, I was born and raised on a dairy farm in North St. Paul, Minnesota. By the time I got out of high school I'd milked one heck of a lot of cows, so I decided to go to college . . . to try my hand at something other than udders for a while. I eventually graduated from the University of Minnesota with a Ph.D. in microbiology and a biochemistry minor. That was in the spring of 1968.

I went into lab work after graduation and was employed—for the next few years—doing research in the areas of immunization and cancer prevention. It wasn't long, though, before I began to realize that the job market for Ph.D.'s was getting pretty glutted . . . there were more people holding the degrees than there were positions for those men and women to fill. So, since I really wanted to get back to farming anyway, I bought a small place here in Webster in 1974. I've been able to expand it through the years, and now I run a little more than 600 acres of corn and wheat. I plan to switch some of it over to sunflowers next year and then maybe I'll make some money from farming for a change.

PLOWBOY. And after you returned to farm life you became interested in solar energy?

CROMBIE. I had to! You see, while we were adding to our acreage, we lived in a little house. My family was too big to stay in such cramped quarters for long, though, so I looked around and eventually found this monster home here. It had been a parish house, and the church offered it to me for $200 . . . on the condition that I move it.

Everybody I talked to told me that it would be impossible to transport a brick house of this size all the way out here to my property, and I always tend to get a little riled when I'm told that something's impossible. It took me a while, but I finally found a company that was willing to tackle the job. And, although those guys lost money on the contract, the publicity generated by the move brought them a lot of new business.

Anyway, the house became our bicentennial project. We had built a new basement for it before we moved it out here, and we went on to refurbish the whole structure . . . all of which added about $40,000 to the original $200 price tag.

And then the winter of 1976–77 came along. Our heating bill for January alone was over $450, and it had been running right around that figure for months. I didn't have that kind of money to burn. In fact—what with the house expenses on top of several years of non-profit farming—I didn't have much money at all! So I did a little research, gave the problem some thought, and designed an inexpensive, temporary, all-plastic inflatable solar collector . . . just to help us survive the winter without going broke.

The thing worked fine, too. I mean, it really helped, although we would have needed a number of collectors to heat this house. My brother and I decided that other folks might be interested in a solar heating system that wouldn't cost an arm and a leg to set up, though, so I redesigned the collector—made it more durable—and got a patent on the design. Then we formed a company called Chicago Solar and started traveling to various energy shows to market the units.

Whenever I demonstrated the collector, somebody would be sure to ask me, "But what do you do when the sun doesn't shine?" After a while I started telling 'em that I'd perfected a method of collecting moonbeams and that I'd supply a free bottle of moonshine with every solar collector I sold . . . because I didn't want my customers to get cold at night.

That joke, you see, started the whole alcohol thing . . . because it set me to thinking. My heating bills were still high, of course, and I needed to come up with something I could use to augment our solar heaters . . . or to fill in for them on cloudy days and such.

At the same time, I had about 45,000 bushels of corn sitting out there in my bins. It was worth around $1.60 a bushel on the market, and—since it had cost me almost $2.00 a bushel to grow—I wasn't about to sell the grain at that price.

So, I put two and two together and decided to turn all that corn into alcohol. I figured that I could use the fuel to heat my house, run my tractors, and all that.

There didn't seem to be much information available on alcohol stills per se, but I managed to find out a good bit about fermentation . . . which is just yeasts and bacterial action, stuff that I was pretty familiar with. So I built a crude little solar still, whipped up a batch of mash, and was ready to go.

I wasn't looking to get into trouble. In fact, I even went so far as to talk to the local sheriff before I started distilling. I asked him if he thought it would be OK if I experimented with solar stills and so forth . . . and he said that he didn't think I should.

But—one Sunday last March—I went ahead and set up the contraption anyway. I ran a batch of mash through the still and produced some crude 60- to 100-proof alcohol—ethyl hydroxide—just to test my design and find out what it could do.

Two Treasury Department Bureau of Alcohol, Tobacco, and Firearms agents—escorted by the sheriff—dropped by to see me the very next day. We had a three-hour "discussion"—really going back and forth—about the energy crisis, the cost of fuel, all sorts of things. The agents got pretty hot a couple of times, too, because I thought the whole situation was ridiculous and I kept needling them. I told the feds, for instance, that I was going to have them charged with armed robbery . . . after all, they had guns and they were trying to take my property. Eventually, they did decide that my setup was a still and—though I was never charged with anything—the agents confiscated the whole works.

PLOWBOY: Did you make any effort to get your still back from them?

CROMBIE. Oh, yeah! I kept in pretty close touch—by phone and letters—with the ATF Bureau. I tried to convince those guys that they might as well return my solar still, 'cause if they didn't I was just going to make another one. About a month later, though, the Bureau sent me a letter which said, in effect, that my still wasn't a still! They had decided that the design was much too primitive—that it was sort of like counting on your fingers as compared to operating a computer—and that it probably wouldn't work anyway.

So I drove right over to the ATF office in Minneapolis. The whole place went quiet when I walked in. They don't get to make many moonshine busts around here anymore, I guess, and everybody in the place knew about the confiscation, and—of course—about me.

PLOWBOY. The Untouchables ride again.

CROMBIE. Yeah, exactly. I told them—since they'd decided my "culture warmer" wasn't a still—that they had no right to keep it. (I called it a culture warmer—warming a yeast culture is a step used in producing high-quality feed—so they wouldn't get all upset again.) I was told that I couldn't have it because it was a container for illegal mash. So I politely suggested they dump out the mash and then return my invention to me, because I might want to patent it.

In order to get the still back, the ATF people told me, I'd have to post a bond for a hearing. (They claimed they were going to destroy the device if I didn't, but I think they just wanted to play with it.) Well, I only had about $18 invested in the thing, so it hardly seemed worth posting a bond. I talked to a few attorneys—to see what my options were—and got just about nowhere . . . until one of them suggested that I apply for an experimental distilled spirits plant permit. So I did just that . . . I mailed in my application on July 12.

PLOWBOY. Since other folks might want to follow your lead, please tell me how you went about applying for that permit.

CROMBIE. Sure, I want other people to apply. I wrote to the Office of the Director, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pensylvania Avenue, Washington, D.C. 20044. I simply asked for a special variance—for a period of two years—of section 201.63, 201.64, 201.65, and 201.66 of Title 27 of the Alcohol, Tobacco, and Firearms Code.

I wrote, "It is my desire to test several sources of fermentable carbohydrates (corn, wheat, barley, and cellulose) with various bacteria and yeasts. I plan to build and experiment with solar stills of differing designs, efficiencies, materials, and costs . . . and to compare these with a classic boiling still. I will test farm uses of alcohol, including use in an oil-fired furnace, in diesel engines, in a corn dryer, and in automobiles."

Now using homemade alcohol in cars is a touchy situation because of the state and federal road taxes, which apply to any fuel powering any vehicle on public roads. Minnesota still has such a tax—it runs about 11¢ a gallon—although some states no longer levy road taxes on alcohol.

For that reason, I concluded my letter by saying that I would use this fuel on my farm, and that I planned to sell the solid fermentation by-products to my neighbors as hog feed. I assured the Bureau that the only waste matter produced would be carbon dioxide, and that all liquids would be used and recycled.

I received my permit last August 12, and now I can make "legal" alcohol for two years. Of course, this ATF approval is subject to a few conditions: I will—if I choose to sell any of the materials that I produce—need to post a bond to cover 15 days' worth of production. I also have to describe my plant . . . which will be two solar stills, hooked up in series, that feed into a storage tank.

PLOWBOY. The second still, then, will further refine the alcohol produced by the first one?

CROMBIE. Right. It'll allow me to produce a higher-proof fuel. I've written back to the Bureau a few times, just to see if I could get them to drop the bond requirement, but they won't back down on that. The bond will cost me $25—as near as I can figure it—which puts the cost of the permit (including postage and the like) right around $30.

What's important about my permit, though, is that it means that anyone can make his or her own alcohol . . . if that person cooperates with the appropriate agencies. Personally, I think the permits are unnecessary and that the requirement will be dropped. It may take a lot of pressure to do it, but I think the law will have to change.

PLOWBOY. You mentioned that you plan to sell your mash by-products to hog farmers . . . can you tell me more about that mash-based feed?

CROMBIE. It's available on the market . . . all of the big distillers produce it. The feed is called distiller's dried grains and solubles (DDGS). It's nothing new.

For that matter, there's nothing new about most of what I'm doing. Dr. William Jay Hale of Dow Chemicals predicted—way back in the 1930's—that we would one day be using alcohol as a fuel. He said that all we as a nation, would have to do is turn the farmers loose . . . make it profitable for them to grow starch crops for alcohol production. Hale calculated that it would take about 56 pounds of mixed grains to produce five gallons of "farmer's alcohol". This would leave 26 pounds of residue which, he said, would represent more nutritional value than was contained in the original grain!

In fact it's been claimed—I haven't had time to check the figures—that a group in Iowa has shown that hogs will gain weight up to 20 percent faster—when fed these distillation by-products—than they would on the same amount of whole grain.

PLOWBOY. That's not hard to believe. The University of Nebraska has demonstrated that young cattle fed on DDGS gained weight 12.8 percent more rapidly than did a control group fed equivalent quantities of grain.

But what about the still that produces this feed while it's perking out alcohol? Can you tell me how your little device works?

CROMBIE. Sure. This one here is about the simplest of several designs I've played with. It's just a 4′ x 8′ piece of plywood—any type of rigid form would do—that has 1½-inch wooden sides around its edges. The inner surface of the shallow box is painted black, or covered with black plastic, and then lined with a black cloth which absorbs the liquid as it trickles down. Of course, the dark surface heats up and causes the mash to evaporate rapidly.

PLOWBOY. The alcohol evaporates before the water does?

CROMBIE. Yeah, it vaporizes much more rapidly than water does. And, once the alcohol is in its vapor phase, it condenses on the still's clear cover (which could be glass, plastic, or fiberglass), adheres to the cover, and flows down the surface . . . because the still is set up at a slight angle.

The alcohol then drips off the lid and into the bottom of the still . . . below a one-inch-high partition which prevents any liquid mash from running into the holding area and contaminating the fuel.

PLOWBOY. How much can one of these little "distilleries" produce on a sunny day?

CROMBIE. Just as a rough estimate, I'd say that it'll turn out about eight to ten gallons a day, depending upon the mash mixture used.

PLOWBOY. What types of mash have you experimented with?

CROMBIE. My first concoction included corn, molasses, water, and baker's yeast . . . I don't even know what the concentrations of each ingredient were. I let it ferment for a few days, until it smelled sort of like beer, and then poured it into the still.

Since that first attempt I've tried wheat, straight sugar, oats, and commercially available cereals (which work great because they have so much white sugar in 'em). Ideally, you want between 12 percent and 15 percent sugar in your mash. In fact, I've found that the mixture itself isn't all that important as long as it makes sugar available to the yeasts.

PLOWBOY. Do any of these mash materials require special preparation?

CROMBIE. Some of 'em. If you start with corn, for instance, you have to break it down to "free" its sugar. This is usually done by cooking it or by adding acid to the mash. On a farm plant, though, corn could be most easily prepared by malting . . . which simply means sprouting the kernels. When the corn sprouts, its enzymes go to work on the starches and produce the necessary sugar.

PLOWBOY. One of the major advantages of this form of energy production seems to be the fact that most any organic material can be used to make alcohol.

CROMBIE. Yeah, it's incredible! Of course, some substances require a few extra steps before you can ferment 'em. You could even use cellulose—waste paper, wood, that sort of thing—for example, by introducing bacteria, Trichoderma derde (which produce enzymes that break the cellulose down into glucose), into the mash. If you have a sugar product though—say, certain fruits and pumpkins, sugar cane, or sugar beets—you can just dump it in a container and ferment it.

In fact, sugar beets would be the ideal crop for a person who has land and wants to produce his or her own fuel. If that farmer could grow five acres of the beets, dump 'em in a tank, and then distill the fermented mash, he or she could probably produce a full year's supply of alcohol.

PLOWBOY. I'm curious about some of the uses to which you've put this homemade fuel. How, for example, did you go about converting your car so it could run on "corn likker"?

CROMBIE. There are a number of ways to switch an auto over to alcohol. About the easiest method is to put a "T" fitting into the fuel line—like I've done—and add an auxiliary fuel tank which will hold a small amount of gasoline. Then you just start the car on gas, and—after its all warmed up—flip the "T" switch to shut off the gas flow and supply alcohol to the engine. The car will run just fine. Now, if you could design an alcohol tank in such a way that its contents would be warmed by their proximity to the engine, the system would work even better.

PLOWBOY. Why is this preheating necessary?

CROMBIE. Because alcohol doesn't vaporize as readily as gasoline does. You don't have to heat the alky, though. You can produce the same effect by modifying the car's carburetor. If, for instance, you enlarge the jets and put screens in 'em, or use a fuel injector, the end result will be the same . . . the liquid will vaporize easily and away you'll drive.

PLOWBOY. Is it that easy to convert an oil heater to run on alcohol?

CROMBIE. Sure. Anything down to a 70 percent-alcohol/30 percent-water solution will burn beautifully in an oil furnace. All you have to do is increase the size of the heater's fuel nozzle about 25 percent—a 90-degree nozzle works best—and then decrease the air adjustment until the flame is tuned in". Once you do that, you can just pump your alcohol into the furnace. It'll burn with a clean, hot, almost invisible yellow fire.

PLOWBOY. I've seen your furnace operate on alcohol—very effectively, it seems—but how efficient is the corn product as compared to fuel oil?

CROMBIE. Let me explain that in terms of the almost 70 percent (140-proof) alcohol that I burn . . . since even the simplest still can produce a fuel of that quality. Now, fuel oil only contains a substantially greater number of Btu's, per given amount, than alcohol. This means—in theory—that you'd have to burn a whole lot more alcohol to produce the same heat that a smaller amount of oil would provide. And that's exactly what would happen, too, if you burned pure (200-proof) alcohol. But as I said, the 70 percent alky solution contains 30 percent water. So you can "burn" that water along with the alcohol and still have a very hot flame. The water doesn't actually burn, of course, but you do end up consuming less pure alcohol than fuel oil to get the same amount of heat. And, as you saw in my furnace, the "corn likker" burns cleaner, too. It's a more "housebroken" fuel than oil is.

Incidentally, that water content comes into play when you compute the miles per gallon of alcohol used in autos, also. You might need more alcohol than gasoline to drive a certain distance, but you can run an automobile engine on a 60 percent-alcohol/40 percent-water solution . . . which—because the water extends the alcohol—can actually give pure alcohol an mpg advantage over certain types of gasoline.

PLOWBOY. The oil establishment has tried to discount the value of alcohol fuels by stating that more energy is used in the distillation process than is contained in the finished alcohol. It would seem that your solar still takes the wind out of that particular argument.

CROMBIE. I've seen figures which show that the energy expended in the production of 190-proof alcohol fuel makes up about 40 percent of the cost of the entire distillation process. But solar energy is virtually free. And that means, if you can wait for the sun to shine—which isn't much of an inconvenience to a home alcohol producer—you can use a solar still and save 40 percent on the cost of your fuel right there. That's a big plus in my book.

PLOWBOY. Do you feel, then, that home-made alcohol can be a major energy source? For instance, can the average American farmer produce alcohol for his or her own use and for sale at a profit?

CROMBIE. Definitely. In fact, I think that alcohol is—in many cases—a more important fuel source than solar energy or any of the other "alternatives". The United States in general—and our agricultural system in particular—needs a liquid fuel. After all, we're not going to be able to go back to horse-drawn plows and so forth without cutting our production drastically. We have to be able to use our tractors because they're the keys to our efficiency. And we can't run these farm implements on coal or geothermal energy or anything like that.

And farmers are in a better position than anybody to produce this "new" liquid fuel. Just take a look at the typical corporation. What does it take for one of those firms to manufacture anything? They have to have a president, a board of directors, secretaries, a corporation headquarters, stocks and stockholders, and any number of other people and items that cost money and add to the price of the goods produced.

The farmer, on the other hand, has cheap labor (in my case, anyway, that means mostly myself and my family). Almost all of the equipment that he or she would need is stuff that's on the farm already, the farmer's transportation costs wouldn't amount to much, and a farm has no bosses, no unions, none of that expensive organization. Can farmers compete with Mobil Oil in energy production? Damn right they can! Of course, Mobil Oil—or any of the fuel companies—could produce alcohol, too. But they'd have to buy our corn, wheat, and so forth to do it.

PLOWBOY. Which would help stabilize crop prices.

CROMBIE. That's right, that's right . . . and just in the nick of time, too. Last year, for instance, I raised the best corn crop of my life, about 140 bushels per acre, and I lost thousands of dollars on that harvest because the market prices were so low. If the corn were being converted to alcohol, though, the demand would always meet or exceed the supply, and we'd have prices for our crops that we could count on from one year to another.

PLOWBOY. Now that you have your permit, you can take steps to bring that new agricultural market into being. How about it? Where do Lance Crombie and his incredible solar still go from here?

CROMBIE. I'm going to convert one of my outbuildings . . . make its roof into one big, double-stage solar still that will produce between 10,000 and 20,000 gallons of alcohol a year.

PLOWBOY. How much will it cost you to set up that rooftop distillery?

CROMBIE. I've got it all figured out. You see, I have the buildings and the storage tanks already—most any farmer has spare outbuildings and a tank or two lying around—so the job won't involve much more than adding some clear fiberglass and a pump. The entire system won't cost me more than $1,500.

Even if somebody were to set up a similar still from scratch—a plant that would produce at least 10,000 gallons of alcohol a year—he or she could buy all new materials and still be ready to roll for somewhere in the neighborhood of $5,000.

PLOWBOY. That's a reasonable initial investment, but what would the economics of running such a still be? Since each different mash base would cause the figures to vary, let's stick with corn for the purpose of estimation.

CROMBIE. OK. I've done more pencil pushing with corn than with anything else, so that's easy.

Right now I could sell the DDGS feed produced by fermenting a bushel of corn for around $2.00 . . . which is about what it costs me to grow the corn. That same bushel will yield approximately five gallons of alcohol, though, and I can sell that for at least 50c a gallon. So, my gross income from one bushel of corn would be around $4.50. Now, I figure that the alky costs me about 10c a gallon to produce. If we add that 50c production cost (for five gallons) to the $2.00 that I spend growing the corn, we get a total expenditure of $2.50. That means I can make a $2.00 profit on every bushel that I ferment!

And there's another angle, too: The gasohol people are buying alcohol for around $1.30 a gallon, to mix with gasoline. Unfortunately, they need anhydrous alcohol, 200-proof stuff, because anything much below that percentage won't mix with the gasoline if it contains any water at all. But by forgetting the gasoline altogether and just burning a mixture of alcohol and water in the first place, I don't need 200-proof "corn squeezin's" anyway. The 140-, 160-, and 180-proof batches I'm makin' are plenty good enough for my needs.

PLOWBOY. Those are very impressive facts and figures. And I know they've led you to formulate some ideas about the economics behind the alcohol tax laws (the laws that were responsible for your run-in with the Alcohol, Tobacco, and Firearms people). Could you explain these views and tell me how they relate to the future of home-produced alcohol?

CROMBIE. OK, here are the facts: The United States government takes in approximately seven billion dollars a year in revenue from the alcohol tax. But—what with enforcement, bureaucratic red tape, and so forth—the government spends at least five billion dollars annually collecting those taxes. So, as taxpayers, our net take-home pay from alcohol taxation is about two billion dollars a year.

Now, during 1978 the government paid farmers—including me—a total of more than 22 billion dollars to not grow crops! So, if we eliminate the tax on booze and get rid of all of the farm subsidies—which would allow farmers to go into total crop production and make alcohol out of the surplus—the taxpayers, and the nation, will have a net income gain of 20 billion dollars . . . without even taking into consideration the decreased dependence on imported oil, the fact that we'll be switching some of our economy to renewable fuels, and so forth. It seems like a commonsense move to me.

PLOWBOY. What you're proposing, in effect, is a radical rethinking of the role of the farmer in this country.

CROMBIE. Exactly. You see, I feel—and this isn't just my idea, there are a lot of people who are thinking this way—that it's time for American agriculture to be set free, to be allowed to fill the dual role that it's capable of. Sure, farmers can produce food, they've always done that . . .

PLOWBOY. And food is just a form of stored energy.

CROMBIE. Right. But now, at the same time, those farmers can convert some of their extra "vegetable energy" into valuable liquid fuel.

And alcohol is the easiest to produce, least dangerous, most practical liquid fuel imaginable. It can be manufactured without a lot of expensive equipment and with very little specialized know-how. About all anyone really needs to learn is how to make a mash, and people could just fiddle around and figure that out for themselves . . . or get the basic information from any library that has beer- or winemaking books. Home alcohol plants are loaded with advantages, too. They can be just about any size; they produce no pollution, and they aren't likely to explode or anything like that . . . especially if they're solar powered.

Just imagine? The American farmer has always overproduced everything that he or she has tried to grow. However, if we put that farmer in the energy business (or, actually, recognize that agriculture has been an energy producer all along), before you know it there'll be so much fuel around that we'll have to have federal price supports for gasoline! Hell, we might even be able to buy Los Angeles back from the Arabs.

PLOWBOY. But, as you've said, agricultural alcohol production isn't a new idea. Why hasn't something been done before now?

CROMBIE. I guess the main reason is that the whole concept of alcohol as a fuel has never been promoted . . . not by the government and certainly not by the oil companies. Still, although you don't hear as much about alcohol as you might about the other forms of alternative energy, this fuel has already captured the interest of a large group of people.

You wouldn't believe the number of folks who are planning—as soon as possible—to construct 50- or 60-million-dollar plants . . . installations that could produce as much as 100,000 gallons of alcohol a day!

And there are other things that could swing the public toward this fuel, too. For instance, MMT-methlcycopentadienar manganese tricarbonyl (which is an octane-boosting additive used in unleaded gas)—has been found to be a pollutant and to be harmful to catalytic converters. It's supposed to be removed from the market any day now. And alcohol is the only alternative—at this point anyway—that has been approved to replace MMT.

PLOWBOY. Is there enough alcohol produced today to fill that need?

CROMBIE. No, not yet, but you'll be amazed by what's going to happen in the near future. Five years from now people will look back and wonder where all the alcohol plants came from. The fact is that everyone I know who understands anything about alcohol is trying to build a plant.

PLOWBOY. And why haven't we heard more about this groundswell?

CROMBIE. Because the public isn't interested! Most people don't know that alcohol burns well enough to fuel cars and heat homes, for one thing. And for another, folks just don't believe that it's possible to get a permit and actually produce alcohol. We've got this crazy stigma on moonshining, on top of an absolutely ridiculous law that says we can't make this liquid fuel.

The public is allowed to make all the methane it wants. People are free to use solar power, wind power, small hydroelectric power, and they're free to buy oil from the oil companies. Those firms have made an awful lot of money in the past, but now

we've got a chance to decentralize liquid fuel production.

Think of the possibilities of having one alcohol plant in every township, or to supply any one small area. You see, the service range of these plants would be dictated by transportation costs. The most economical service area for an agricultural plant—as best I can figure—would be within a 40-mile radius of the distillery. These "neighborhood" outfits could be run cooperatively, or on a family-business basis . . . there's room for everybody!

And the effects that this decentralization could have on our energy supply, or on our balance of trade, are incredible.

Take all that damaged grain we ship overseas, for instance. We could use that moldy stock for the production of alcohol, and then ship quality grain overseas and sell it at a premium price. As it is we're peddling damaged merchandise, and we're not making any money or international goodwill from the transaction.

PLOWBOY. And the groundwork for a system of small-scale alcohol plants is being laid today?

CROMBIE. Yeah. Some of 'em are already in operation, and others are being organized all over the country. Believe me, gasohol—which is about the best-known side of the alcohol movement—is just the tip of a very large iceberg. People are getting involved in this, doing things on their own.

That guy who was around here today, for example, produces sorghum molasses down by the Iowa border. He drove all the way up here just to give me some of the stuff . . . so that I can test it and see how well it'll produce alcohol. He wants to set up a plant as a sideline to his sorghum operation.

PLOWBOY. The potential is certainly there . . . molasses should make an excellent mash. But what about you? Do you have any personal goals concerning this alcohol movement?

CROMBIE. All I want to do is make enough alcohol to run my farm and heat my house, with some left over to sell for a profit at a competitive price.

And I'd be really pleased if your magazine—through this article—could convince even a hundred more farmers to do the same thing . . . to just go ahead and start making alcohol for themselves.

PLOWBOY. What advice would you give to those hundred farmers?

CROMBIE. First. I'd tell 'em to learn all they can about basic fermentation rules and techniques. Then they should write to the Bureau of Alcohol, Tobacco, and Firearms and make a formal application—in triplicate—for a permit to make alcohol fuel and DDGS feed for their own use and for sale.

I can sum up my advice this way: Cooperate with the government agencies, because you don't have much choice right now. Be out front, tell 'em what you're going to do, and go ahead and do it.

Then, just set your still up on the front lawn, lean back, and let the sunshine make your moonshine! ●

VIETNAM VETERANS

● Mr. HEINZ. Mr. President, our Nation has a strong tradition of coming to the aid of those in need, of those who suffer from some disadvantage beyond their control. One of the foremost principles upon which our society is based is that all should have an equal opportunity to move forward and to achieve a decent standard of living.

Notwithstanding these traditions, we have presently in our society a group of men and women who are disadvantaged and who have not experienced the same progress as their peers. These men and women have been put in this position because of the sacrifices they have made for their country. I am referring to the thousands of Vietnam veterans whose readjustment problems have denied them the achievements and successes they would have had had they not served. It is time we stopped turning our backs on these men and women and provided them with the assistance they need to put them on a parity with their nonveteran peers.

The problems and needs of Vietnam veterans were described in an article which appeared today in the Washington Post. The article is truly an insight into the view of the Vietnam veterans as expressed by Robert Muller, the Executive Director of the Vietnam Veterans of America and a tireless, responsible advocate of the rights of these veterans. It is not necessary to agree with all the views in this piece to agree with its major point, the need for greater assistance to Vietnam veterans. I request that it be printed in the RECORD.

The article follows:

CASUALTIES STILL

(By Colman McCarthy)

Robert Muller, the former Marine Corps officer who has become the country's most tireless advocate for Vietnam veterans, is uneasy about getting mixed up with partisan politics.

But he can't help noticing which way the wind is blowing. "The people who have been coming forward with money and support," he said in a long conversation with me the other morning, "have been the more conservative groups. The Republicans are courting us, not the liberal Democrats."

Ten years ago, Muller came home from the war permanently crippled. He became one of the more prominent veterans against the war. His thinking was embraced by the leaders of the antiwar movement. "But where are these anti-war people now?" he wonders. "I can't find them. I'd like to take a full-page ad in the newspapers and say, 'Dear Liberals: For years your slogan was Bring the Boys Home. Well, we're home. Now where are you?' "

In the past, all of my meetings with Muller were marked by the intensity of his energy and hope. He was as driving as ever this time, but his spirit of hopefulness appeared to be under strain. A government-sponsored study, released the day before, confirmed that the psychological and social problems of Vietnam veterans were as severe as Muller and others had been saying all along. Now they even seemed worse.

Forty percent of the veterans studied still endure major emotional disorders. Seventy-five percent complain of readjustment problems in their jobs and marriages.

The findings are devastating enough, but they surface at least a decade after they were obvious to anyone—psychiatrists, family members, social workers—who took the time to listen to the veterans. The weight of this 10-year delay has itself become a crushing burden. It symbolizes to the veterans that those policy-makers who sent them to war have become deserters themselves—fleeing to the Swedens and Canadians of new issues like stronger national defense and the increasingly heard "Let's get tough with the Russians."

Muller has contempt for the politicians and military analysts who are pushing the country to new ventures in militarism. "We paid too great a price to get the lessons of Vietnam to ignore them. Yet here we are in 1979 willing to invest a minimum of $30 billion on what is a psychological crutch for the nation—the MX missile system. It's ludicrous to be talking about a new draft and another generation of soldiers to follow in the footsteps of the last group."

On the level of public relations, Muller has done well in winning legitimacy for his organization, the Vietnam Veterans of America. He helped on the film "Coming Home." He has been photographed with President Carter. Time magazine hails him as a young leader with a future.

But these pats on the back are nothing against the slaps in the face. In the past year, Muller has had seven meetings with a major corporation to get funds to keep his group going. He has yet to get a dollar. He has had five personal assurances of financial support from a former policy-maker who is now a corporation executive. No money has come. A major foundation was "deeply interested" but then backed off.

Muller, with constant pressures to meet a payroll for his small staff, is about to seek funds through national membership (Vietnam Veterans of America, 329 8th St. NE., Washington, D.C. 20002). Little question exists that the potential members are out there. But how many have it in them to be stirred, when nearly all the evidence points to massive national indifference?

As the recent study concludes, "a determined call" will be necessary, "one that will not be deflected by an initial cold reception. For part of the challenge is to pierce the shell of once hopeful young men who have responded to past disillusionment by restyling themselves as jaded realists."

The realism of the moment points in the opposite direction of healing the wounds of Vietnam. Muller's fears about the wave of new militarism sweeping the country are not groundless. In a Washington Post story last week on the stalled SALT II debate, a senator said, "We seem to have this low-grade chauvinistic fever since Vietnam. We're spoiling for a fight, trying to regain our lost manhood."

Forget that, Robert Muller says from his wheelchair. Let's just try to regain our lost men.●

ADDRESS BY PRESIDENT CARTER AT NORTHEAST SUMMIT ON ENERGY

● Mr. PELL. Mr. President, yesterday President Carter visited Providence, R.I., and addressed the Northeast Summit on Energy hosted by the Coalition of Northeast Governors.

President Carter's address to the Northeast Summit was a concise and well-reasoned presentation of the actions our Nation must take to meet its energy needs and to eliminate the threat to our national well-being and our national security posed by our excessive reliance on imported oil.

I was especially pleased at the President's recognition of the particular problems of oil price and supply confronting the Northeast and his assurances of prompt Federal Government assistance to prevent hardship and suffering.

The overriding message delivered by the President, however, was not a regional one for the Northeast, but a national message—that all parts of the Nation, oil producing and oil consuming, must work together both to conserve energy and to produce energy.

As the President said:

Now is the time for us to work together, to recognize that we have a common prob-

lem, a common challenge, that we face common questions.

Mr. President, I believe President Carter's address is an important one, and I ask that the text of his address be printed in the RECORD.

The address follows:

Governor Brendan Byrne, Governor Grasso, other members of this group who are distinguished leaders throughout the Northeastern part of our country: I can't think of any more appropriate subject for a summit conference anywhere in our Nation and particularly in this part of our country than you have chosen. Summits are ordinarily called when there is a matter of grave significance to a nation or to a group of nations.

I had a summit meeting with President Breshnev in Vienna not long ago to talk about the peace of our generation throughout the world and the control of nuclear weapons. There was an economic summit earlier this year in Tokyo when the leaders of seven industrialized and democratic nations met to talk about the future of the Western World. And today we are addressing a subject that is equally as important because there are two things involved. One is the well-being of the people of our country and the other is the security of our Nation.

I don't make a statement like that lightly. When a President, the Commander-in-Chief of our Armed Forces says that the security of our Nation is at stake, the words should be chosen carefully and I choose them very carefully.

Our Nation has become overly dependent on foreign oil. This is a subject of grave importance to us.

In January of 1973, oil was selling freely around the world about $2.00 a barrel. That was about six or seven years ago. Now oil prices are more than ten times as great; on the spot market, 20 times as great, about $40 per barrel.

We relied on uncertain sources. We import half the oil we use. Along with oil, we import inflation and unemployment. Next year we will send from our country to foreign oil suppliers $70 billion. Think of the jobs and investment and a better life for the American people that could be bought with that kind of money.

Inflation is an all-pervasive burden on the American people. The driving force behind inflation is our overdependence on oil and the high prices paid for it. Four percentage points of our present inflation rate are directly attributable to one item—energy. If it weren't for the rapid increase in energy costs in the last six or eight months, the inflation rate now would be the same as it was in 1978 or the same as it was in 1977.

The people of our country are losing confidence in the future because they see that we rely on an undependable source which provides oil for a thirsty nation at uncontrollable prices.

This is a very serious subject and the fact that all of you would assemble here is proof that you agree with me about my expression of concern. In April of 1977, about 90 days after I had been sworn in as President, I presented to the people and to the Congress an analysis of the energy question and presented also to the Congress a proposal for a comprehensive national policy on energy. Mine was a lonely voice. I referred to the energy problem as the moral equivalent of war. This statement was ridiculed by the press, discounted by many people in our country, and after a year and a half, the Congress, after one of the most divisive and bitter and difficult debates in the history of our Nation, finally passed last year about 85 percent of the energy package that I had presented to them—not one word, however, about oil; not one word.

So here we sit, seven years after the first oil embargo, two-and-a-half-years after a comprehensive package had been presented to the Congress, still needing vital action by our Legislative Branch of the government and our country is still vulnerable.

There have been some beneficial changes made, however. The American people are now becoming aroused and the Congress is beginning to take action, even on oil. I am not discouraged about the future.

One very bright light throughout all this process has been the awareness of the Northeastern Governors and those who work with them, that this was indeed a serious problem.

I have had strong allies among the men and women at this table from the very beginning, and the fact that you are here indicates that their influence has been all-pervasive throughout the Northeastern part of our country.

You saw the dangers early, and you began to act. One of the things that has been a serious problem politically and otherwise has been the artificial controls on the prices of oil and natural gas, which have caused Americans to continue to depend upon oil to an unwarranted degree, to the exclusion of conservation, the shifting toward renewable supplies of energy like solar power and the realization among our Nation that we did have a serious problem on hand.

The most important single action that every single person in this country can take is to save energy, to conserve energy, to stop wasting energy. This is something that can be done at the national level, state, local levels of government, in private industry, in every community, in every family, in the life of almost every person. And I hope that everyone listening to my voice here in this room, or on television, or otherwise, will make an assessment today with family members; "What can I do as a patriotic American, and to help my Nation, yes, but also to help my community, my family and myself? What can I do to save energy in my home, going to and from work, to and from shopping, on my job?" There are myriad different ways that Americans can save energy if we make up our minds that it is important enough to do it.

And I might point out to you that this is not an unpleasant thing, it is not an unwarranted sacrifice. It will not even be an inconvenience. It will certainly not weaken our family structures, our community, our state or our Nation. It can be an exciting and productive and positive action. It can bring families together in a closer unity. It can strengthen communities. It can strengthen our nation. It is a patriotic gesture. It can be pleasant, not an unpleasant sacrifice.

The crux of the issue in conserving, meeting the needs of the American family, developing new supplies of energy is the windfall profits tax. The windfall profits tax is now being considered by the House and the Senate of the U.S. Congress. The House has passed a reasonable windfall profits tax, not as strong as I advocated, not as strong as I would like. The revenues are not as great as what I proposed, and the House put a ten-year limit on the application of the tax. It should be permanent, and the lost revenues below what I advocated should be restored.

The Senate Finance Committee has reported out a framework only of a tax structure that can be built on the floor of the Senate in the conference committee and ultimately by the Congress.

The House would give back to the oil companies as a portion of the unearned profits over a ten-year period $151 billion. The Senate Finance Committee would give back to the oil companies in unearned profits $374 billion, at the present price of oil as projected, and at the present inflation rate.

This could become a one trillion dollar giveaway to the oil companies. I hope that every one of you will help me to convince the Congress that an adequate and acceptable windfall profits tax should be levied on the oil companies to take away a major portion of their unearned profits because that would give us a reserve supply of money to be used for things that are crucial: First of all, to meet the needs of our American families, to pay the increased costs of energy. The increasing costs are inevitable. The poor families of our nation must have added financial help to pay those costs.

And the second need, of course, is to have a strong, consistent, permanent conservation program, to encourage Americans to do what is best for them, through tax credits, home audits, shifting away from the scarcer supplies of energy to more plentiful supplies of energy, the evolution of new kinds of energy from supplies which in our country are adequate, synthetic fuels from coal, geothermal supplies, biomass, low-level dams which have been abandoned in the past that can now be reconstituted, a heavy dependence upon insulation of homes, more efficient automobiles, research and development.

These things are all possible; in fact, in our country they are inevitable, provided we have adequate incentives and those incentives financially must be derived and can be derived only from a windfall profits tax.

It sounds so logical, it is so clearly to the advantage of our country that you might say, why the doubt, why the delay, why must the President continue to pound on this one subject for two-and-a-half years, yet without success?

I represent and lead, in effect, two different nations. One is the largest oil-consuming nation on earth. And the other nation is one of the largest oil-producing nations on earth. And in the past there has been one strong all-pervasive voice on Capitol Hill, and that has been the oil companies' lobbies.

Now, in the last couple of years, we have built up an effective countervoice as the American people have become aroused to protect their own interests. The third quarter oil company profits are adequate proof of the need for a rapid passage of the windfall profits tax in an acceptable form for me and for you.

We must meet the needs of the poor families, particularly in the northern part of our Nation. In April of this year, I made two basic pledges. One was that this winter we would have an adequate supply of home heating oil. At that time we were far below the reserve supplies needed. We have been successful with that. Our goal was 240 million barrels in reserve supply in October. We have already passed that point. We will have adequate fuel oil supplies for homes during this winter. That is a notable achievement. But the other part of that commitment was to provide from Federal revenues assistance for poor families, to help meet the rapidly increasing costs of home heating oil brought about by OPEC price rises.

Very quickly now, $250 million will be distributed throughout the country, particularly the northeast, for Governors to allocate through their own mechanisms for poor families. This is a growth of a program that I established the first year I was President, with the help of the Congress. It has been effective so far. We are advocating that this be increased substantially and that we add to the $400 million from this program another $1.2 billion to be paid out through other means to the poor families of this country.

In addition to that, we have advocated $2.4 billion per year for ten years to have a permanent stable predictable program, to meet these high needs of the poorer families in our midst. These revenues will come ultimately from the windfall profits tax, but in order to expedite the process, and not delay the payments until the windfall profits tax is passed, they will be paid out of general revenue funds and then repaid when the windfall profits tax is collected from the oil companies.

I would like to remind you again, however, that the best way, the cheapest way, the quickest way to cut down on costs, to make our Nation more energy-secure, and to reduce oil imports, is conservation—conservation. Every family can help. It is one of the most important and patriotic challenges that we have ever faced.

If we could just insulate, for instance, all the buildings in our country adequately, we would, in effect, have another Prudhoe Bay supply of oil, equivalent to the oil that we are deriving now from the recent discoveries in Alaska.

The tax credit for insulation of homes was passed a year ago. They are already in an embryonic stage of use of this ability for families to take credit on the income taxes to insulate their own homes—which they should do anyhow—about 10 percent of the middle- and upper-class families, the ones who pay the most income taxes, are already participating. That percentage will undoubtedly grow.

I would like to point out one other thing to you.

We have established, to make sure that energy supplies are distributed quickly and equitably in your region, a Fuel Oil Management Group. The headquarters for this group will be in Boston. It has already been constituted. It is comprised of representatives from the Department of Energy, the Department of Agriculture, the Department of Transportation, and to make sure that in cases of heavy snowfall or icing of waterways that we can overcome those difficulties rapidly, the Coast Guard and the Corps of Engineers.

The primary coordinating effort will be through the Governors so that if a distribution problem should arise during this winter, this group is already in existence, planning carefully to avoid mistakes and to avoid interruptions in supply, but eager to correct defects in the distribution whenever they should become apparent.

Our Nation is in a state of transition—from a time when fuel was so cheap that we never gave it a thought to a time when fuel is becoming so expensive that we can think of little else.

And it is very important that all of us—leaders with an effective voice and effective influence—unite. The delays have been unwarranted. They have damaged our country. We should have had a national energy policy five, six years ago. The challenges have not been easy to overcome. The questions have not been easy to answer. The problems have not been easy to solve. But it is too late to try to find scapegoats, to try to affix blame for delays. Now is the time for us to work together, to recognize that we have a common problem, a common challenge, that we face common questions.

All the Governors on this platform and I represent the same people. We are in it together. We need not fear the future. It may be that the early warnings and the increasing prices which were inevitable in any case have come at a time to restore our Nation's integrity, and to improve our Nation's security.

We have been blessed beyond all other nations, even in the field of energy. In its totality, our country has about 24 percent of all the energy supplies known on earth. The OPEC nations all put together have about 5 percent.

But ours are in forms that have not yet been adequately tapped—hydroelectric power, wood, coal, oil geothermal supplies natural gas, shale, tar sands. They are ready to be tapped by a nation that can marshal its resources in an effective way, which can unite with one another and not be divided from one another as we grasp for some selfish advantage in a time of transient shortage or transient inconvenience.

We have been blessed not only with reserve supplies of energy. We have been blessed with a form of government that makes us quickly sensitive to the needs and demands of the American people and we've been blessed with the free enterprise system which encourages innovation, dynamism, competition and flexibility.

So we have everything on our side. And with the passage of the proposals that I submitted to the Congress in April of 1977 and again in July of this year, our country will have the framework, with a comprehensive energy policy based on financing with the windfall profits tax to meet this challenge successfully. There is no reason for us to fear. We are going through a temporary time of inconvenience and rapid change. We were not adequately prepared for it by past action. But now we understand the problem much better.

My only plea to you in closing is this: that we not be divided one from another, that we not be confused or deluded, that we not dream of the restoration of past times when oil was plentiful and cheap. It will never come back. The chances are in the future that oil will be less plentiful and it is certain that oil will be more expensive. But we can accommodate this change because God has given us such tremendous blessings in our free Nation; an opportunity to cooperate. And we should not be distracted by allegations of impropriety among those who occupy positions of leadership.

We all have the same motivations, to have a Nation strong, competent, united, determined, concerned about those who are less fortunate than we, recognizing that we are a world leader, and recognizing that our Nation should be secure.

All these goals can be achieved if we work together and I have no doubt that you and I together and other Americans who share our common purpose can assure without further delay that we will make the greatest Nation on earth even greater in the future.

Thank you very much.●

JUANITA KREPS, SECRETARY OF COMMERCE: JANUARY 1977–NOVEMBER 1979

● Mr. MUSKIE. Mr. President, I rise to pay tribute to Juanita M. Kreps, the 25th Secretary of the U.S. Department of Commerce.

Mrs. Kreps has an excellent record of service as a member of the Cabinet, an educator, economist, and as a board member of some of the Nation's largest corporations.

As the first woman to be Secretary of Commerce, she has distinguished herself as an imaginative and innovative administrator.

As a member of the Senate Committee on Environment and Public Works, I have enjoyed the opportunity to work closely with Dr. Kreps. Her efforts to strengthen and expand the Economic Development Administration and the implementation of the coastal zone management program have been of tremendous value to my State of Maine. In particular, her efforts to promote a unique fish pier development program for Maine, combining the expertise of EDA, NOAA, and the Maritime Administration, will reap economic benefits for the State for many years to come. Maine citizens are especially appreciative of her efforts.

However, Mrs. Kreps will probably be best remembered for her tireless work to increase trade with Japan and the People's Republic of China.

Her negotiations with officials of the People's Republic of China will result in a substantial increase of American exports to the People's Republic of China within the next few years.

I regret that Mrs. Kreps will be leaving the Federal Government this week. She certainly will be missed. Yet, she leaves knowing that she has made a sizable contribution toward improving the well-being of our country.

I particularly appreciate her efforts for Maine and the country and I wish her every success in her future challenges.●

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 335, which has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 217) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1110.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JAVITS. Mr. President, although the Budget Committee agreed to grant a waiver for S. 1110, the committee expressed concern that amendments could be adopted which would impact upon the fiscal 1980 ceilings established in the second concurrent budget resolution and, further, that House conferees may try to combine S. 1110 with H.R. 79.

Mr. BELLMON. Mr. President, I commend the managers of the bill for their responsiveness to the provisions of the Budget Act, especially the section 402 reporting requirements. Their agreement to offer a technical amendment to move forward by 1 year the effective date of this legislation eliminates the "late reporting" problem. While the impact of this bill would have been small in fiscal year 1980 our committee does not lightly recommend waiving the May 15 reporting requirement for authorization legislation.

I am aware that the House recently passed H.R. 79, the omnibus Postal Service legislation providing rate reductions for other classes of mailers. H.R. 79 also provides for an increase in the public service cost appropriation, and changes the management structure of the Postal Service. It appears that the costs of the House legislation would be substantial. CBO estimates costs to be approximately $0.4 billion in fiscal year 1980 and $2.6 billion over a 4-year period. A bill of this magnitude could only be accommodated within fiscal year 1980 ceilings established in the second concurrent resolution by forcing out other spending that now appears likely. Therefore, I would like to ask the distinguished ranking member of Energy, Nuclear Proliferation and Federal Services Subcommittee of the Governmental Affairs Committee about his intention and that of the committee regarding amendments to this legislation and the possibility that

the House conferees may try to combine it with H.R. 79.

Mr. JAVITS. I thank Senator BELLMON for his kind remarks. Because my committee has not yet held hearings on these matters, it would be premature to speak to the provisions of the House bill. However, I can assure the Senator that my committee does not intend to use this legislation as a vehicle for a conference on H.R. 79. I have no intention of accepting any amendments which would make this legislation comparable to the House bill.

As I also have agreement that no amendments containing fiscal year 1980 authorizations will be offered, I can further assure the Senator that this bill will not pose any threat to the recently passed second concurrent resolution on the budget.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution is as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1110, a bill to include home delivery of children's publications in the existing rate for children's publications sent to schools. Such waiver is necessary because the Governmental Affairs Committee was unable to report the measure prior to the May 15 deadline due to priority business related to energy and nuclear waste issues. The committee intends to offer an amendment to S. 1110 postponing the effective date of enactment until fiscal year 1981 in order to comply with section 402(a) of the Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. JAVITS. I move to lay that on the table.

The motion to lay on the table was agreed to.

HOME DELIVERY OF CHILDREN'S PUBLICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed, for not to exceed 15 minutes, to the consideration of Calendar No. 302, S. 1110.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1110) to include home delivery of children's publications in the existing rates for children's publications sent to schools.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment on page 2, line 1, strike "(c)" and insert "(f)", so as to make the bill read:

S. 1110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3626 of title 39, United States Code, is amended by adding the following new subsection at the end thereof:

"(f) In the administration of this section, the rate for a religious, educational, or scientific publication, other than a publication of a qualified nonprofit organization (within the meaning of former section 4358(j)(2)), which is designed specifically for use at home as supplemental, educational reading by children fourteen years of age and younger, and which does not contain paid advertising, when mailed between a publisher or a distributor and the residence of the child, shall be the rate currently in effect for a classroom publication (within the meaning of former section 4358(j)(1) of this title).".

Mr. JAVITS. Mr. President, S. 1110 will allow certain children's publications to be mailed to the home at the same reduced rate which is currently in effect for publications which are mailed to the classroom.

Rising postal costs are a concern to all magazines, but present a particular problem to children's magazines which depend on subscription circulation for their revenues. Few, if any, juvenile magazines are sold on the newsstands. Thus, the mailing of subscription copies, plus the mailing of bills and direct mail subscription solicitation, are all affected directly by rising postage rates.

Furthermore, the current rate structure of second-class postage ignores the fact that children's magazines carry virtually no advertising. This is reflected in the per piece second-class postage charge which is the same for all magazines regardless of whether they carry advertising or not. Mass magazines, most of which enjoy very substantial advertising revenue, pay the same per piece charge as children's magazines which carry no advertising.

By redefining the classroom rate, my bill will provide the necessary relief to the children's publishers to allow them to continue. This bill will extend the current classroom rate to include those religious, educational or scientific publications that are designed specifically for use at home as supplemental, educational reading by children up to 14 years of age. Additionally, the bill will prohibit those publications that contain paid advertising from receiving the reduced rate, thus precluding publications which may be viewed as having questionable educational value.

Furthermore, I believe that this bill recognizes the importance of supplemental reading to the educational process. Juvenile magazines offer children hours of reading each month which is designed to challenge their minds, develop language skills, and stimulate creativity.

1979 has been proclaimed, "International Year of the Child" and I believe it would be appropriate to enact legislation which will benefit the development of the children of this Nation.

I note for the RECORD that joining me in cosponsorship of the bill are Senator JACKSON and Senator DANFORTH.

Mr. President, I thank Senator GLENN for facilitating the ability to pass this bill in the Senate. I thank Senator STEVENS, who had some deep concerns about something he wanted in the bill and held off because of his respect for the purpose of the bill.

I also thank Senator RANDOLPH for his wonderful cooperation in the same regard, and I thank the majority leader and the minority leader for allowing us to call up the bill.

Mr. STEVENS. Mr. President, I wish to join my good friend, the distinguished senior Senator from New York, in support of S. 1110. There is no question that the publishing industry in this Nation has been dealt a serious blow by the constantly rising postal rates. These rising postal rates, by the way, are as a result of the Postal Reorganization Act of 1970 requiring that each rate and the mailers who use that rate pay their fair share of postal costs as well as generally increasing prices.

Newspapers and magazines in particular have been the hardest hit because of their dependence on the U.S. mails as their primary mode of distribution. Individuals living in rural areas continue to look upon the U.S. Postal Service as the prime delivery service of information enabling them to keep abreast of current events and cultural activities throughout the world. If we are unable to assist all magazine and newspaper publishers, we at least can help the publications covered in this legislation—children's magazines.

I am pleased that the Senator from New York has expressed such strong interest in the welfare of our Nation's young people. Children's publications have contributed to the intellectual and cultural advancement of many of our youths. I know Senator JAVITS strongly believes in this bill and the individuals who will benefit most by its enactment. I believe we have an obligation to insure efficient and inexpensive delivery of magazines and newspapers to every segment of the American public.

Mr. President, as I stated before, there are a number of other classes of magazines which deserve similar consideration. I am the principle sponsor of one bill, S. 1096, which awaits final markup in the Governmental Affairs Committee. I am also a cosponsor of S. 1425, the substance of which forms the amendment to S. 1110. This amendment is to assist the very small publications whose subscriptions are less than 250,000 nationwide. It is the fate of these magazines that concerns me for they provide the American public with specialized journalism to meet particular needs. In addition, the new and upcoming publications with fresh and stimulating ideas would also benefit greatly by this amendment. Finally, the small daily and weekly newspapers throughout the Nation who supplement the major newspapers with important community events would benefit.

Mr. President, we cannot afford to price out of existence the specialized publications, the new and upcoming pieces of journalistic endeavors nor allow the local newspapers to diminish in importance when there are effective and logical ways to assist these publications. The amendment, offered by my good friend, the senior Senator from West Virginia, embodies such a remedy. I urge my colleagues to support the amendment, as well as final passage of S. 1110.

Mr. DANFORTH. Mr. President, home-delivered children's publications provide valuable, worthwhile, and educational information to all children. Not

only are these magazines a means of enjoyment for young people, away from the television set, but they help to improve reading skills outside the classroom.

Without some kind of financial relief for the publishers of children's magazines, subscription rates will skyrocket, sending the cost above that affordable by the average American family, particularly for those living on lower incomes who might benefit most from these publications. At worst, publishing houses will have to shut down, thereby depriving all children the educational value of their publications.

As a father of five children, and as one who is very concerned about the quality of education for young people now and in the future, I strongly support passage of this legislation.

Mr. GLENN. Mr. President, S. 1110 is identical to a provision that was contained in H.R. 7700 as reported to the Senate last year by the Committee on Governmental Affairs. At that time, the Congressional Budget Office estimated the costs for fiscal years 1980 and 1981 at $3 million. I believe that estimate remains valid, though I understand that fiscal 1980 costs will be eliminated.

The costs would be incurred by permiting children's magazines sent to the home to receive reduced rates equal to applicable classroom rates, which are lower. The difference would be made up out of the Treasury as revenue foregone appropriations, assuming no failure by the Congress to appropriate.

Mr. President, S. 1110 has been approved at both the subcommittee level and the full committee level. And, while I have not been this bill's advocate, let me say that I do have sympathy with the publishers of the magazines in question. They do not share in the bounty provided by advertisers. Almost without exception, they carry little, if any, advertising at all. Their increased costs, specifically postage costs, have not been offset by advertising income. Nor are they apt to be.

The PRESIDING OFFICER. The committee amendment should be disposed of before an amendment is in order. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

AMENDMENT NO. 493

(Purpose: To reduce postal rates for small newspapers and magazines)

Mr. RANDOLPH. Mr. President, I call up amendment No. 493, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH), for himself, Mr. GOLDWATER, Mr. DURKIN, Mr. PACKWOOD, Mr. BURDICK, Mr. SCHWEIKER, and Mr. GRAVEL, proposes an amendment numbered 493.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 3, insert "(a)" after "That".

On page 2, line 11, strike out the end quotation marks and the end period.

On page 2, after line 11, insert the following:

"(g) Notwithstanding any other provision of this title, the per piece rate on the first 250,000 pieces of each issue of a publication subject to the highest per piece rate in rate schedules 200, 204, and 250 of the mail classification schedule established pursuant to section 3623 of this title shall be the category B per piece rate in the rate schedule 200 and the per piece rate for each piece of each issue of a publication subject to the highest per piece rate in rate schedules 205 and 206 of such mail classification schedule shall be the category E per piece rate in such schedule.".

(b) The amendments made by subsection (a) shall apply with respect to matter mailed after September 30, 1980.

Mr. RANDOLPH. Mr. President, this amendment is offered by me, and I am joined by Senators GOLDWATER, and DURKIN, PACKWOOD, BURDICK, and GRAVEL. I ask unanimous consent that the name of the distinguished Senator from Alaska (Mr. STEVENS) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Will the Senator include me?

Mr. RANDOLPH. Mr. President, I am delighted to ask unanimous consent that the name of the Senator from New York (Mr. JAVITS) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, the Senator from New York has been of service not only to the Senate in connection with this measure but to the country as well.

I think it is very important that we extend to small circulation newspapers and magazines the lower second-class rates approved by the Postal Rate Commission in its last postal rate case. Except for its effective date, my amendment is identical to S. 1425 which I introduced on June 27. Its purpose is the same as that offered in S. 1110 which is to provide the urgently needed postal rate relief to small publications. I say to the knowledgeable Senator from Ohio (Mr. GLENN), who handles the legislation, that without such relief we will not afford to a large segment of the American reading public the opportunity to do the reading that we now know is important to them.

The amendment applies to the small weekly and daily community newspapers published throughout West Virginia—in fact, in all our 50 States. It also covers the small magazine journals of opinion, such as the New Republic, Commonwealth, Nation, Atlantic, and Harper's.

All these publications richly nourish the flow of information and ideas in our society and stimulate citizen interest in the concerns and issues that often provide leadership and policy for the future of our country.

I feel strongly that these publications are the pamphleteers of the print media. Their contributions to public understanding are very essential. Knowledge would be diminished if readers were denied the opportunity to have these well reasoned and provocative materials vital to an informed and alert citizenry.

I make no further comment except to say that I believe that the able chairman who is now handling the legislation has the same feeling as do I.

Mr. GLENN. Mr. President, this amendment, incorporating the provisions of its sponsor's bill, S. 1425, is very similar, though not identical, to a provision in the postal bill reported to the Senate by the Committee on Governmental Affairs last year. That bill was not acted upon.

I understand the purpose, in short, is to provide some rate relief, primarily for small publications that cannot take advantage of presort discounts accorded by the Postal Service for bulk mailers who presort their mailings. The thrust is to give some relief to the first 250,000 copies of each issue of a publication otherwise subject to the highest rate applicable because they are not eligible for any statutory or regulatory subsidy or discount.

Mr. President, the various cost estimates on this amendment range between $12 million and $16.5 million a year, to become effective with fiscal year 1981. I believe, however, that it is possible that the cost may be somewhat lower because of very recent changes made by the Postal Service in the regulations governing the preparation of bulk mailings. Those changes would appear to offer the benefit of presort discounts to a wider range of mail.

Under the revisions, those mailers capable of complying with the new standards immediately can take advantage of the discounts they afford immediately. Others are given until February 3, 1980, to comply, to the extent possible, with the new standards for bulk mail preparation. To the extent that compliance is possible, those mailers will then get the benefits of the discounts.

I ask the sponsor one question in this regard. That is, does the sponsor agree with me that there is nothing in his amendment to permit mailers to choose noncompliance with the presort regulations when compliance is possible for them?

Mr. RANDOLPH. I am glad to respond. The Senator is correct. The amendment that I offered would not absolve any mailer from meeting the requirements of what we call "presortation." Our proposal provides that the rate relief be to publications, mostly small publications—such journals do not have a large number of subscribers or the density of circulation in certain areas, they are unable therefore to meet the minimum standards of up to 250,000 copies of any edition.

Mr. GLENN. I thank the Senator for making that very clear. I also make the point that there is no doubling of benefits because of this amendment to S. 1110. The publishers who benefit from the Senator from New York's bill will not get a second discount because of this amendment, since they already will have become the beneficiaries of a preferred rate.

Mr. RANDOLPH. The Senator is correct.

Mr. GLENN. Mr. President, if there are no further comments, I am happy to yield back my time.

Mr. RANDOLPH. I yield back my time.

Mr. JAVITS. I yield back my time.

Mr. GLENN. I move the adoption of the amendment of the Senator from New York as amended by the Senator from West Virginia.

The PRESIDING OFFICER. All time having been yielded back the question is on agreeing to the amendment of the Senator from New York, as amended by the amendment of the Senator from West Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1110), as amended, was passed, as follows:

S. 1110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a section 3626 of title 39, United States Code, is amended by adding the following new subsection at the end thereof:

"(f) In the administration of this section, the rate for a religious, educational, or scientific publication, other than a publication of a qualified nonprofit organization (within the meaning of former section 4358(j)(2)), which is designed specifically for use at home as supplemental, educational reading by children fourteen years of age and younger, and which does not contain paid advertising, when mailed between a publisher or a distributor and the residence of the child, shall be the rate currently in effect for a classroom publication (within the meaning of former section 4358(j)(1) of this title).

(g) Notwithstanding any other provision of this title, the per piece rate on the first 250,000 pieces of each issue of a publication subject to the highest per piece rate in rate schedules 200, 204, and 250 of the mail classification schedule established pursuant to section 3623 of this title shall be the category B per piece rate in the rate schedule 200 and the per piece rate for each piece of each issue of a publication subject to the highest per piece rate in rate schedules 205 and 206 of such mail classification schedule shall be the category E per piece rate in such schedules.".

(b) The amendments made by subsection (a) shall apply with respect to matter mailed after September 30, 1980.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, if Mr. HUMPHREY and Mr. TSONGAS will bear with me briefly I will yield the floor just within 2 minutes. I realize they have been patiently waiting.

REQUEST FOR AUTHORITY FOR COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate tomorrow.

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 o'clock meridian tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BUMPERS AND SENATOR MOYNIHAN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Messrs. BUMPERS and MOYNIHAN be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING THE FILING OF A REPORT ON S. 932

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that both Senators JACKSON and PROXMIRE be permitted to file a joint report on the House message on S. 932 for their two committees, that they have until midnight tonight to file the joint report on the House message on S. 932 for their two committees, the Banking, Housing, and Urban Affairs Committee and the Energy and Natural Resources Committee respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRECTING THE SENATE LEGAL COUNSEL TO REPRESENT SENATOR JACKSON AND THE SECRETARY OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a Senate resolution and ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 270) directing the Senate Legal Counsel to represent Senator JACKSON and the Secretary of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, Senator JACKSON and Secretary Kimmitt have been subpenaed by counsel for John F. Arens in *United States of America* v. *Arens*, No. 79-154, pending in the U.S. District Court for the Eastern District of Pennsylvania. The subpenas request that various documents be produced.

Today the Senate need only resolve, pursuant to section 704(a)(2) of the Ethics in Government Act of 1978, Public Law 95-521, that the Office of Senate Legal Counsel be directed to represent Senator JACKSON and Secretary Kimmitt in respect to these subpenas. At a future date, it may be necessary to address the propriety of producing the documents in question.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 270) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 270

Whereas, in the case of United States of America v. John F. Arens, (No. 79-154), pending in the United States District Court for the Eastern District of Pennsylvania in Philadelphia, subpoenas have been issued to United States Senator Henry M. Jackson and Secretary of the United States Senate J. Stanley Kimmitt, directing them to produce documents.

Whereas, title VII of the Ethics in Government Act of 1978, Public Law 95-521 ("the Act"), establishes the Office of Senate Legal Counsel and provides that the Senate may direct its counsel to represent the Senate, its committees, Members, officers, or employees.

Resolved, That pursuant to section 704(a)(2) of the Act the Senate Legal Counsel is directed to represent Senator Jackson and Secretary Kimmitt in respect to these subpoenas.

Mr. ROBERT C. BYRD. Mr. President, I thank both Mr. TSONGAS and Mr. HUMPHREY for their kindness and courtesy in patiently waiting for recognition.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

SOVIET SUBMARINE AND BOMBER BASES IN CUBA

Mr. HUMPHREY. Mr. President, on October 10, I wrote to President Carter asking for information on Soviet military activities in Cuba. I have still heard nothing from the White House. I think that as newspapers around the country continue to divulge new details of Soviet activities in Cuba, the President has an obligation to level with the American people about the Soviet threat from Cuba.

Mr. President, we have just gone through a Cuban crisis of sorts over the belated discovery of a Soviet combat brigade in Cuba. We have yet to conclude this Cuban crisis, however, because Soviet actions in Cuba have long been endangering U.S. security in ways that far transcend the significance of the troops.

Twice, in 1972 and 1974, the Soviets reportedly sent *Golf* class diesel submarines to Cuba carrying long-ranged, nuclear-armed, submarine-launched ballistic missiles. Further, they have reportedly sent an *Echo* class nuclear submarine to Cuba carrying long-ranged, nuclear-armed, cruise missiles. Moreover, the Soviets have reportedly recently completed at the Cienfuegos Submarine Base a facility which may well be intended for the handling of nuclear warheads.

Moreover, the Soviets, in the last year have deployed a dozen Mig-23 fighter-

bombers to Cuba which can quickly be adapted to deliver nuclear weapons. The Soviets have long been flying reconnaissance versions of the Bear intercontinental bombers back and forth from the U.S.S.R. to Cuba. These bombers fly surveillance up and down the U.S. east coast. These Bear bombers have established the dangerous precedent that long-range bombers can operate out of Cuba. There are also reports that special Soviet troops have recently been deployed to Soviet airfields in Cuba. Previously, these troops guarded nuclear weapons in East Germany.

Taken together, this activity suggests that the Soviets have created in Cuba both a strategic submarine base and a strategic bomber base. These bases could be activated against us very quickly. Given the difficulty U.S. intelligence had in discovering the Soviet brigade, we might not be able to detect the covert delivery of nuclear warheads to these bases.

I believe that these bases may constitute a violation of the United States-Soviet understanding which ended the 1962 Cuban missile crisis. This understanding prohibited Soviet offensive nuclear weapons of any kind in Cuba. These bases also violate the secret 1970-71 Cienfuegos understanding which specifically prohibited establishment of a Soviet strategic submarine base in Cuba.

Other Soviet actions in Cuba of a provocative nature include the use of up to 300 Soviet pilots to fly Cuban air defense interceptors, the presence of the Soviet combat brigade, and the introduction of more than 20 Soviet AN-26 long-range air transports capable of air lifting the Soviet brigade to Latin America. Thus, in addition to strategic bomber and submarine bases, the Soviets have in Cuba bases from which they can project force throughout Central and Latin America.

Mr. President, in 1977, Soviet General Beletsky told visiting U.S. Congressman CHARLES WILSON at the SALT negotiations that if the United States deployed cruise missiles in Europe after the SALT II protocol expires, the Soviets would feel free to introduce similar weapons into Cuba. This threat could imply deployment of Backfire bombers to Cuba. There are recent reports that the Soviets are strengthening and lengthening the runways at several airfields in Cuba, possibly for eventual Backfire deployment. There are also reports that they have sent Backfire aircraft mechanics to Cuba.

Cuba has thus become a bastion of Soviet military power at our very doorstep, in clear violation of solemn United States-Soviet understandings.

To add insult to injury, Mr. President, the Soviets are thought to be lying to the U.S. President about the function of their combat troops in Cuba, just as they lied to our Presidents about their Cuban activities in 1970 and 1962.

In conclusion, Mr. President, I think that the White House owes the American people an explanation for all these activities. The real Cuban crisis has yet to be addressed. Accordingly, I again call upon President Carter to respond to my letter of October 10.

I ask unanimous consent that a copy of my letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 10, 1979.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: On September 13, 1979, I wrote to you expressing my deep concern over the presence of Soviet combat troops in Cuba. I am particularly troubled by arguments appearing in the press that Soviet combat troops may foreshadow the clandestine introduction of nuclear weapons, mobile MRBMs or even cruise missiles. I draw your attention particularly to an article (enclosed) by Paul Scott that appeared in the October 3, 1979 issue of the *Manchester Union Leader*. In his article, Mr. Scott makes some very serious accusations and reveals details about the nature of the Soviet military presence in Cuba that are very disturbing to me.

I plan to take this issue to the Floor given the urgency of the matter. I believe it is the responsibility of the Administration to respond to these allegations. Therefore, I request that you advise me as to the accuracy of the Scott article by October 11, 1979.

I respectfully request that you provide me with answers to the following questions:

1. Do the Soviet troops in Cuba bear any resemblance to those Soviet troops assigned to guard Soviet nuclear weapons in Eastern Europe? Have any of the Soviet combat troops now in Cuba previously been assigned the task of supervising and handling of Soviet nuclear weapons and missile systems in Warsaw Pact Countries?

2. Would you please delineate the precise location of Soviet troops in Cuba?

3. Are they situated in one particular area or scattered throughout Cuba?

4. How many Soviet troops and civilian and military advisers are in Cuba?

5. What is the deployment history of the Soviet Brigade which is presently in Cuba?

6. By service, please give me a detailed breakdown of the Soviet Union's military presence in Cuba (i.e., number of pilots, officers, enlisted men, equipment, etc.).

7. Would it be possible for the Soviets to clandestinely store nuclear weapons and even mobile missile systems in Cuba?

I would greatly appreciate a prompt handling of my request.

Sincerely,

GORDON J. HUMPHREY,
U.S. Senator.

DEPRESSION COMMEMORATION

Mr. HUMPHREY. Mr. President, as we commemorate the 50th anniversary of the Great Depression, we reflect on the current recession in our country and ask ourselves whether another Great Depression can occur here.

No doubt, there have been many changes since that fateful day on October 29, 1929, ranging from a greatly changed business structure to improved monitoring of economic activity and tighter Federal regulation of the activities of all financial institutions.

Events leading up to the crash of '29, however, did not occur in a single day, nor arise from a single cause. Instead, the crash and the depression which followed were the culmination of a series of events over a long period of time. Among these events was the enactment in 1929, of the Smoot-Hawley tariff, a levy which stifled business activity in our country and around the world.

The crash in the stock market was not the cause of the depression, but rather was a portent of it. The depression was deepened by an enforced contraction of the money supply by the Federal Reserve, which allowed a 27-percent decline in the money supply after the crash.

Mr. President, the more assurances I hear that a depression could not recur in America, the less I believe it. Let us not delude ourselves. Just as impediments to business thrown up by Government induced in the 1930's the severe business contraction known as the depression, today's impediments to business have the potential of causing another time of economic hardship for America.

To be sure, there is a distinct difference between monetary conditions of the 1930's and those of today. Ours is a problem of excessive expansion of the money supply by the Government, one of inflation, not one of contraction. But there is a worrisome similarity between today's economic situation and that of the incipient depression, namely the creation by the Government of impediments to business. Today's impediments are: An undependable currency, already alluded to; punitive taxation; inadequate allowance for depreciation; over-regulation; and capital made scarce by disincentives to its formation and by its being devoured by an insatiable government which can scarcely find enough of it to satisfy its enormous appetite for borrowing.

The statistics tell the story. Only 13.5 percent of U.S. gross domestic product went into the nonresidential or business investment from 1966 to 1976. This is only one-half the 26.4 percent rate of business investment in Japan during the same period. It is also substantially below West Germany's 17.4 percent, Canada's 17.2 percent, France's 16.7 percent and even below the United Kingdom's 14.9 percent.

Capital can only come from profit. Savings and investment capital provide the tools and machinery for increased production and the creation of more productive jobs for our workers. Capital is the energy of the economy for financing new businesses and modernizing existing plants. By demagoging against profit and penalizing success, our Government is destroying capital and killing the incentive to save and invest in new jobs which increase the wealth of all of our citizens.

What has happened to productive capital in the United States? It has been hogged by big government. People and companies which are not allowed to profit cannot invest. People and companies which are forced by the bureaucracy to waste their resources on mountains of Government-mandated paperwork cannot invest. People and companies which are overregulated by big government cannot invest. People and companies which feel themselves threatened by confiscatory taxes and politically inspired hate campaigns will not invest, even if they could afford to. Why should they take any risk of investment?

The cumulative effect of big government's inflation, steeply graduated taxes, double taxation of dividends, regulatory policies, controls over energy production,

increased Government spending, and hate targeting of profitable activity has been to destroy much of the growth and progress which have in the past fueled the American economic success. These activities of big government have bought us a major slump in productive output and a deepening recession. Unless reversed, these factors will bring us increasing scarcity and the bitterness toward each other which comes from economic failure and stagnation.

It is now time to turn around the effect of 40 years of economic policy that has resulted in a built-in bias against savings and investment. It is an effort that we in Congress must begin immediately. Without immediate corrective action to stem the tide of increasing Government activity in our economic policy, fewer and fewer people will save and invest. And we will face deeper recessions, thereby recreating in the 1980's the spectre of the Great Depression years.

The choice is ours, Mr. President, a bright economic future, insured by policies which reward work, savings, investment, and entrepreneurism, or a dismal future toward which we are presently being led by punitive economic policies. It is not enough to pat ourselves on the back for having avoided so far another Great Depression and not enough to insist such a period of hardship could never befall the American people again. What is needed is action in emplacing policies of economic growth.

The PRESIDING OFFICER. The Senator from Massachusetts.

ARMS TO MOROCCO

Mr. TSONGAS. Mr. President, last week the Carter administration decided to permit the sale of OV-10 armed reconnaissance planes and Cobra helicopter gunships to Morocco. This followed months of heated debate, both within the administration and here in the Congress. This has been a controversial issue, Mr. President, but there now appears to be a wide acceptance of the President's decision here in the Senate. I, however, must speak out on this matter when so much is at stake. I oppose this sale of arms, Mr. President, and I want my views known.

This is not a routine purchase of American weapons, Mr. President. King Hassan of Morocco has committed his underdeveloped nation to a debilitating and ultimately unwinnable war in the former Spanish colony of the Western Sahara. The arms in question would be used directly in the conflict.

Morocco's thinly stretched forces face a determined and resourceful opponent in Polisario, a Western Sahara liberation group. The war is being fought for control of this mineral rich area in the Sahara. Morocco claims that the region is historically linked to the Moroccan throne and has annexed the entire region. The Polisario argue that the Moroccan annexation clearly violates the principle of self-determination for the region's inhabitants. They are fighting for the independence of the Western Sahara.

Mr. President, the history of this small, but dangerous war is complex. King Hassan's claims cannot be dismissed easily. The King has widespread domestic support for the war among his people. Historically, he can cite precolonial antecedents to a wider Morocco. More recently, Spain did confer control over most of the region to Morocco.

The Polisario, however, is right to contest the Moroccan annexation. Spain, Morocco, and Mauritania did not conduct a referendum in the Western Sahara before dividing the region between Morocco and Mauritania in 1976. Morocco's annexation of the Mauritanian sector in August of this year was a flagrant violation of decolonization practices. The people of the region are entitled to the basic right of self determination.

These contending arguments fuel a conflict of rival nationalisms. A resolution of this war will not come easily or soon.

It seems to me that neutrality in this war is the appropriate course for the United States to take. There are several reasons for this.

First, the principle of self determination is entirely consistent with our own national ideals and with accepted international standards. A plebescite for this region would allow the 75,000 inhabitants of the Western Sahara to express their will. A policy of U.S. neutrality will not interfere with this just solution.

Second, America has good relations with both Morocco and Algeria, the Polisario's major sponsor.

We have supported King Hassan with the sale of defensive weapons and grants of military aid. He, in return, has been supportive of the U.S. position in the Middle East. We have an obligation to assist the King in the defense of his country.

Algeria, on the other hand, has become a helpful and moderate force in Third World affairs. She supplies the United States with 9 percent of our crude oil imports. President Chadli Benjedid is a pragmatist seeking improved bilateral relations with our country.

We should not consciously alienate either of these two states. The partisan American approach which President Carter supports can only lead to a decrease in American stature in northwest Africa. What we need is a policy of neutrality to guide us through this conflict between two friends of the United States.

Finally, the Polisario has obtained widespread support for its cause in the Third World and Africa. Meeting in July of this year, the Organization of African Unity voted overwhelmingly in favor of a referendum and self-determination for the people of Western Sahara. At last count, 35 nations have recognized the Polisario's political arm, the Saharan Arab Democratic Republic. There seems to be little justification for openly supporting the aims of Morocco when that country enjoys so little support internationally.

This is a delicate and sensitive issue, Mr. President. I recognize the merits on both sides of the question. Yet, there is no doubt in my mind that the decision of the President is contrary to our interests in Africa and the world. There is no justification for throwing our support behind one side in this conflict. A policy of neutrality which strongly supports the principle of self-determination makes sense because it is right and because it is effective.

I bring to the attention of my colleagues two articles on this subject: One printed in Monday's Boston Globe, and the other in the October 12 edition of the New York Times. I request unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 12, 1979]

U.S., IN SHIFT, MAY SELL ARMS TO MOROCCO FOR SAHARA WAR

(By Bernard Gwertzman)

WASHINGTON, October 11.—The Carter Administration is nearing a decision whether to change its policy and supply arms, and possibly counterinsurgency training, to help Morocco in its conflict with guerrillas in Western Sahara.

A Cabinet-level meeting involving Secretary of State Cyrus R. Vance, Zbigniew Brzezinski, the national security adviser, Defense Secretary Harold Brown and other officials is to be held Tuesday to prepare recommendations for President Carter on the issue.

Pending the Tuesday meeting of what is known as the Presidential Review Committee, the Administration had no official comment on whether the policy would be changed.

Much seemed to hinge on the position to be taken by Mr. Vance. He is said to oppose any shift in policy but he is under pressure from within the Administration to bolster King Hassan of Morocco, a longtime friend of the United States.

In July, the Administration privately presented key Congressional committees with five options for responding to Morocco's wid ning conflict with Polisario guerrillas, and to Morocco's urgent requests for American aid to offset what it contends is Soviet and Algerian assistance to the Polisario.

SPAIN RELINQUISHED TERRITORY

The Polisario wants independence for Western Sahara, the former Spanish Sahara. The front, which depicts itself as a nationalist group representing the estimated 75,000 inhabitants of Western Sahara, has been waging war ever since Spain withdrew from the 105,448-square-mile territory in 1975 and turned it over to Morocco and Mauritania.

Last summer, Mauritania announced it was dropping out of the fight against the Polisario. Morocco then occupied the Mauritanian third of Western Sahara, in addition to its two-third.

Washington's policy toward the dispute has been ambiguous. It voted with a United Nations General Assembly resolution that called for self-determination in the region and has refused to recognize Morocco's annexation. But it has not turned its back on King Hassan and has not protested vigorously or publicly his Government's use of American equipment in Western Sahara, even though a 1960 aid agreement bars use of American equipment outside Morocco.

As the conflict wth the guerrillas intensified, Morocco, a longtime supporter of the United States, has urgently sought military equipment to help in the battle.

Last year, the Administration, under pressure from Saudi Arabia and Egypt to aid Morocco, considered modifying its 1960 aid agreement to sell Morocco armed reconnaissance planes and helicopters for use in the desert war. It withdrew from such a move as a result of Congressional opposition.

U.S. DRAFTED 5 OPTIONS

Three months ago, after the guerrillas had carried out attacks against Moroccan territory, as distinct from Western Sahara, the Administration presented the Senate Foreign Relations Committee and the House Foreign Affairs Committee with the options.

These ranged from the first option of adhering to the same policy of not providing arms for use in Western Sahara all the way to the fifth, supplying equipment such as OV-10 armed reconnaissance planes and Cobra helicopters and giving counterinsurgency training.

Congressional sources said that the National Security Council staff, headed by Mr. Brzezinski, and the Defense Department favored the fifth option on the ground that the United States could not risk being accused of "doing nothing" to aid King Hassan.

The State Department is divided because the African Bureau opposes additional aid, preferring to support the Organization of African Unity's call for a plebiscite in the territory.

On Sept. 20, the Senate Foreign Relations Committee held an unpublicized closed-door meeting and voted 6 to 4 to support selling American arms to Morocco for use against the Polisario but to oppose any counterinsurgency training.

The issue has become a troublesome one in the Administration. Those who would like to help King Hassan stress how reliable an American friend he has been, even though he at present opposes the Egyptian-Israeli peace treaty, and they say that if the United States does not come to his aid it will reflect poorly on Washington around the world. They also regard the Polisario as radical, supported by the Soviet Union and Cuba and armed by Libya and Algeria.

[From the Boston Globe, Oct. 29, 1979]

THE WAR IN MOROCCO SPREADS TO CAPITOL HILL

(By Cody Shearer and Maxwell Glen)

WASHINGTON.—There are few indications that Morocco is at war. In the crowded bazaars and sidewalk cafes, one hears little chatter about the $1 million-a-day military effort that, according to CIA estimates, is gradually bankrupting the country.

There is much talk and bruised feelings between the State Department and the National Security Council over President Carter's foolish decision to seek congressional approval for the sale of helicopter gunships and armed reconnaissance planes to Morocco's King Hassan II, who plans to use them against the Polisario guerrillas in the Spanish Sahara.

For four years, approximately 80,000 Moroccan soldiers have been tied down in a no-win war in the Spanish Sahara, the 150,000-square-mile phosphate-rich desert to the south. Since Spain ceded the territory in halves to Morocco and Mauritania in 1975, the indigenous Algerian-backed Polisarios have resisted incorporation by either country.

Several months ago, Mauritania relinquished its lower half of the territory to Rabat, but the Polisarios have refused to acquiesce. Recently, Morocco announced plans to make this lower half its 37th province and to hold elections—an action that has fueled more Polisario attacks.

These events have weakened the hand of Hassan, who for four years has tried to create a national, anti-Polisario consensus. Even though he now finds himself with a promise of more arms, he still faces debt and domestic criticism over his handling of the war—a situation not too dissimilar from what President Lyndon B. Johnson faced in 1968. In fact, diplomats have labeled this war "Morocco's Vietnam."

Unlike most chiefs of state, Hassan is directing this war himself. Two unsuccessful military coups in 1971 and 1972 prompted Hassan to deny his top-level generals any control over the on-site military operations.

Hassan's strong-handed control has produced a split within the military command. Top-echelon officers would like the monarch to take off his gloves and give them complete control over the war effort. Middle- and lower-level officers, faced with day-to-day combat, would prefer a negotiated settlement.

Hassan also fights a war with poorly trained and unmotivated troops. Recently the air force command removed parachutes from Morocco's expensive US-built F-5s as a subtle hint to its ejection-prone pilots.

The king's recent request to President Carter for more arms posed a difficult decision for the Administration. Both the State Department and the National Security Council agreed that Hassan couldn't win the war, but there was disagreement about the United States' proper course of action.

Carter was presented with three options: to give Hassan nothing, to give him weapons on a case-by-case basis; or give him whatever he would like.

In deciding to seek congressional approval of the third option last week, Carter shocked most foreign-policy observers and makers, including Secretary of State Cyrus Vance. On the other hand, he did manage to please Hassan, National Security adviser Zbigniew Brezezinski, the Joint Chiefs of Staff and the Carter-Mondale re-election committee.

A disgruntled analyst involved in the President's Moroccan decision said the President was swayed by Brzezinski and the Joint Chiefs, who convinced him that after the loss of U.S. influence in Iran, and Nicaragua, "We couldn't afford to turn our backs on another friend"—especially since Hassan has provided the U.S. with an excellent intelligence-monitoring site within his country.

Not surprisingly, Carter was particularly influenced by campaign aides who persuaded him that he would appear, in the words of one, "tough and strong, like a real leader," if he agreed to sell arms to Morocco.

But such a campaign pitch could backfire before its effects are felt in the first primaries.

For one thing, Carter's decision especially upset the moderate government of Morocco's neighbor, Algeria. Under the regime of Houari Boumedienne's successor, Benjedid Chadli, Algeria has pleased the U.S. by condemning Russian and Cuban intervention in Africa. Carter has thus irritated a country that supplies 9 percent of U.S. crude oil needs.

U.S. Rep. Stephen J. Solarz (D-N.Y.), chairman of the House subcommittee on Africa, after a recent trip to North Africa urged President Carter to give Morocco arms only for its defense and not for expansionary purposes in the Western Sahara. Solarz suggested that the Administration quietly encourage efforts by intermediaries to bring the parties to a peaceful settlement and that prohibitions against diplomatic contact wih the Polisarios be removed. Solarz now predicts that by agreeing to commit arms to a no-win for the sake of America's image, Carter has guaranteed another foreign policy battle on Capitol Hill.

It's too bad the President based his decision on 1980 politics and not common sense.

SPEECH BY SENATOR JEPSEN BEFORE DES MOINES, IOWA CHAPTER OF NAACP

Mr. BAKER. Mr. President, on August 25 of this year my good friend and colleague, Senator JEPSEN, had the occasion to address the Des Moines, Iowa Chapter of the NAACP. In that speech he addressed a number of issues of great concern to every American. I believe my colleagues will find Senator JEPSEN's remarks thought provoking and I commend their attention to this speech.

I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

SPEECH BEFORE THE DES MOINES CHAPTER OF THE NAACP

I greatly appreciate the invitation of the Des Moines NAACP to this year's "Freedom Fund Banquet" . . . .

Your gracious invitation has afforded me my first opportunity as a United States Senator to meet and address a major Civil Rights organization and its representatives. You may be interested in knowing that the United States Senate was asked to vote on an amendment which would have prohibited any money appropriated to the Fiscal Year 1980 Labor-Hew Appropriations Act (H.R. 4389), from being used for the purpose of complying with any "timetable, goal, ratio, quota or other numerical requirement related to race, creed, color, national origin or sex in the hiring, promotion and admissions policy or practices of any individual or entity such as business, labor and institutions of higher education and vocational training.

The purpose of the amendment was to prohibit the use of race and sex quotas in the hiring and admissions practices of all aspects of American life. The amendment however, as drafted did not merely prohibit quotas . . . it also prohibited the use of goals, and timetables which would severely limit affirmative action and other remedies which were so strongly and courageously fought for by participants in the Civil Rights movement and community.

The United States Senate is firmly on record in opposition to quotas, and I concur with that position. However, I also concur with the Senate that we should not dismantle or be against a policy of the United States which seeks to address a historical practice of unlawful discrimination. Such a change in policy would be inconsistent with the civil rights that this nation proposed to guarantee in the Civil Rights Act of 1964.

Furthermore, I opposed this amendment because of the manner in which it was brought to the floor of the United States Senate. Affirmative Action, equal access to opportunities, and Civil Rights generally, are very sensitive issues today. These issues have been literally on trial, most recently in the U.S. Supreme Court in *United Steelworkers vs. Weber*.

In fairness to all interested parties, and the respective Congressional committees, any action by the Senate on the issue of Affirmative Action on a Friday evening at 10 minutes to 7:00 without the proper oversight and input of everyone concerned, would have been a sad commentary on justice and representative democracy.

In closing . . . I feel that it is very important to recognize here in this room the many representatives of the Des Moinse area business community. I have been a businessman for over 25 years. I understand your concerns as well as your goals and aspirations. I applaud your participation with the various civil rights organizations, particularly your involvement with the NAACP in Iowa.

The Civil Rights Movement in America is at a critical crossroad as to whether the great strides and accomplishments of the past, particularly the past 25 years, can be continued without the loss of lives, and great personal sacrifice and destruction to American cities and communities. A point as to

whether in the next 25 years the Civil Rights community and America will keep pace with the unfinished agenda of insuring that all Americans will be treated equally under the laws, this is one of the challenges of the future.

Personally, in my opinion . . . there are adequate laws and constitutional guarantees already in place in our statutes and Codes. One of the next major steps in this nation's Civil Rights agenda is to make the law work in a manner which is fair and equally applied to all and partial to none.

It is going to take greater minds and equally greater patience and understanding to meet this agenda and the challenges of change which confronts us all . . . . The most significant and far reaching thing we can all do together is to have a meeting of the heart as well as a meeting of the minds. This is where progress can be truly made . . . . within our hearts. No law, regulation or rule can overcome the power of the heart. This is where I believe change must come in order to . . . . truly be one nation under God, indivisible, with Liberty and justice for all. There are tremendous problems facing this nation of which we "all" must seek to solve. Americans. I appreciate the recent position of the NAACP in supporting the deregulation of the oil industry, and also the promotion of a "full-growth" as opposed to a "no-growth" society.

America (especially Black America) needs "jobs". The energy crisis and the lack of an effective energy policy threatens existing and future job opportunities.

The "tax structure" is unfair to the poor, the elderly, and to families (especially young families). Property taxes are being raised in the name of preserving and providing social and essential services to the public when in reality services are either lacking or do not reach those who really need them most.

You and I, . . . all of us . . . must work together, we must talk to each other, and make a conscious and deliberate effort to resolve our differences. This is why I am here tonight, . . . and that is why the doors of my office will always be open to you for service.

Finally . . . I do not want to live in an America which is divided amongst the rich and the poor, the young and the elderly, the rural versus the urban, or the blacks against the whites.

I want to live in an America in which everyone (regardless as to whether you came here on the "MayFlower", or in chains as in "Roots", or as "Boat People") . . . will share in the advantages and opportunities this country has to offer.

Thank you.

ROGER W. JEPSEN,
U.S. Senator.

RECESS UNTIL TOMORROW

Mr. TSONGAS. Mr. President, I move that the Senate stand in recess until 12 o'clock tomorrow in accordance with the previous order.

The motion was agreed to; and at 7:49 p.m., the Senate recessed until Wednesday, October 31, 1979, at 12 meridian.

NOMINATION

Executive nomination received by the Senate October 30, 1979:

DEPARTMENT OF STATE

Richard Cavins Matheron, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

HOUSE OF REPRESENTATIVES—*Tuesday, October 30, 1979*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

OCTOBER 26, 1979.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Tuesday, October 30, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Reverend William A. Holmes, D.D., senior minister, the National United Methodist Church, Metropolitan Memorial, Washington, D.C., offered the following prayer:

Almighty God, Judge of the Nation, Intercessor of the poor, Protector of the weak, and Shepherd of us all, we invoke Thy presence in this House. Where there is deliberation, may it be for the good of all. Deliver us from special interests that betray our common interests. Where there is debate, may it be on matters of density and substance. Deliver us from triviality and triteness, and where there is decision, may it be the hammered wisdom of a fiery process—a searing, searching, struggling process to shape the Nation to Thy purposes and will. Deliver us from serving other gods, O Thou who art the God above all gods, and the only God who is. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ASHBROOK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 370, nays 10, answered "present" 2, not voting 51, as follows:

[Roll No. 612]

YEAS—370

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dixon
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mataui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Moakley
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Hatchford
Regula
Ritter
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Symms
St Germain
Taute
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
Whitten
Williams, Mont
Wilson, C. H.
White
Whitehurst
Whittaker
Whitley
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—10

Dickinson
Goodling
Grisham
Harkin
Holt
Jacobs
Mitchell, Md.
Quayle
Schroeder
Walker

ANSWERED "PRESENT"—2

Forsythe
Neal

NOT VOTING—51

Anderson, Ill.
Ashley
Andrews, N.C.
Boggs
Brown, Calif.
Burton, John
Clinger
Cavanaugh
Collins, Ill.
Coughlin
Crane, Philip
Diggs
Donnelly
Dougherty
Eckhardt
Edwards, Calif.
Fary
Flood
Ford, Mich.
Fowler
Frenzel
Holland
Holtzman
Hutto
Ireland
Jenrette
Jones, N.C.
Kastenmeier
Leach, La.
Lloyd
Luken
McCloskey
McDade
Mathis
Miller, Calif.
Moffett
Murtha
Pursell
Rodino
Rosenthal
Runnels
Sabo
Scheuer
Stockman
Stokes
Synar
Treen
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn

□ 1210

Mr. YOUNG of Missouri changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 7 to a bill of the House of the following title:

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 239) entitled "An act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes," agrees to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. CRANSTON, Mr. NELSON, Mr. RIEGLE, Mr. HUMPHREY, and Mr. ARMSTRONG to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 117. Joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

□ 1220

DR. WILLIAM A. HOLMES

(Mr. JOHNSON of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Colorado. Mr. Speaker, our guest chaplain today was Dr. William A. Holmes, National Methodist Church, Metropolitan Memorial, here in Washington, D.C.

He is no stranger to many of our colleagues who attend his services regularly. He is widely known in our area for his powerful and eloquent sermons.

I would recommend to all of the Members who did not have the opportunity to hear Reverend Holmes' prayer, to examine it when it appears in the RECORD tomorrow, and I invite the Members to greet Dr. Holmes while he is here on the floor.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs be permitted to sit today while the House is in session under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, what is the gentleman going to be doing?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, we are going to be considering the Chrysler legislation. This is done as a convenience for the gentleman from Florida (Mr. KELLY), and at his request.

Mr. ROUSSELOT. Further reserving the right to object, will the gentleman be marking up a bill while we have all this important legislation on the floor?

Mr. MOORHEAD of Pennsylvania. We are first going to meet to hear a witness. Then if we have the position from the Treasury, yes, the purpose of the request is to permit marking up the legislation. Otherwise, the gentleman would not make the request.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SENATE'S NOISY AIRCRAFT BILL

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, as one who has sought over the years to control nuisances which impede on the public health, I have urged the adoption of water and air pollution controls and legislation to restrain the noise pollution that has reached intolerable levels at most American airports which are unfortunately located in close proximity to populated concentrations in the metropolitan areas.

The Senate, in its work on the airport development bill, substituted the language of its aircraft noise bill to relax rules on aircraft noise abatement.

America is threatened by another decade of damaging decibels which would adversely affect the conduct of business and the pursuit of normal life in areas near our major airports throughout the Nation.

In addition, this legislation would give the CAB authority to impose a 2-percent surcharge to be utilized by the aircraft and air transport industries to develop quieter planes with user taxes. The commercial airline industry struggled for years to bring about the decontrol of the commercial airlines in America. This effort would permit the terminating CAB to extend its hands from the grave into the public purse and transfer surcharge taxes to the air transport industry.

I hope that the House leadership will hold this bill up until the House has a little more time to see the dreadful direction this legislation is taking. In the alternative, the House conferees should be instructed not to permit the retreat from good sense in aircraft noise control or permit the CAB to have the testamentary capacity to reach into the pockets of the air traveling public for the benefit of the industry.

HELP FOR HEAT

(Mr. STEWART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEWART. Mr Speaker, I rise to commend the membership of this House and our able leadership for the judicious consideration and prompt passage last week of an urgent supplemental appropriation for energy assistance to low-income people.

Too many Americans will suffer severe and possibly tragic hardships this winter unless they can obtain some help in facing soaring energy costs for home heating.

As a member of the House Appropriations Committee, I voted to appropriate $1.35 billion to provide home heating assistance for low-income people.

This appropriation is a small price to pay to help alleviate the burdens im-

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

posed on the poor by increased heating costs.

Mr. Speaker, I know that this winter people in Chicago and across the Nation will appreciate the speedy action on this measure taken by the House.

COL. COMMANDANT MICHAEL KOVATS MEMORIAL DAY

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, on this, the 203d anniversary of the establishment of the U.S. Cavalry, I am proud to introduce a joint resolution today honoring its founding father—Col. Commandant Michael Kovats.

In January of 1777, Colonel Kovats—who at the time was a distinguished Hungarian war hero—contacted Benjamin Franklin to offer his superior military expertise to the cause of American independence. He was appointed to serve under Polish Gen. Casimir Pulaski, and later was elevated to colonel and given the task of forming the first U.S. Cavalry, fashioning it after its European counterpart, the Huszar regiments.

It was while serving as commander of the newly organized Continental Cavalry that he led the successful effort to save the city of Charleston, S.C., from British occupation. He was killed during that battle on May 11, 1779—200 years ago. Many have hailed his heroics during that battle as a turning point in the development of American freedom.

Certainly, the significant contribution Colonel Kovats made to American independence should not go unnoticed, especially during this, the bicentennial anniversary year of his heroic death. That is why I am offering a joint resolution today, designating November 30, 1979, as "Col. Commandant Michael Kovats Memorial Day" and calling on the President to issue a proclamation urging the people of the United States to observe that day with appropriate ceremonies and activities.

Mr. Speaker, as one who has long advocated the need to more fully recognize the contributions made to our great Nation by ethnic Americans, I would like to respectfully acknowledge the efforts of Dr. Andrew T. Udvardy, president of the Col. Commandant Michael de Kovats Historical Society, and his colleagues who are in attendance here today. They have dedicated themselves, and worked successfully to focus much deserved attention on the supreme sacrifice Colonel Kovats made in the name of American independence. Further, the society has been able to convert the life and death of Colonel Kovats into an inspiration and renewed hope for the many courageous people throughout the world who are being denied even the most basic freedoms—including the proud people of their ancestral homeland, Hungary.

I am confident that our remembrance of Colonel Kovats will help to further our own efforts in the area of human rights and self-determination, and I urge my colleagues to join me in supporting this important resolution.

AS HEAD OF WORLD BANK, ROBERT McNAMARA SHOULD NOT BE ACTIVE IN POLITICAL CAMPAIGNS

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, as we all know the 1980 Presidential election has been underway for months. A number of outstanding Members of this House have declared their candidacies, as well as a number of Senators and veterans of past campaigns. We can all look forward to an interesting election year.

Yesterday the distinguished Senator from Massachusetts made official what has been apparent for some time: He will compete with President Carter for his party's Presidential nomination.

Last evening, in reporting on this development, CBS Evening News showed Robert McNamara, the President of the World Bank, leaving a luncheon attended by Senator KENNEDY's campaign organizers and advisers. CBS News recalled that Mr. McNamara had been one of "the best and the brightest" of previous administrations and showed pictures of Mr. McNamara retreating down a stairwell eluding questions from reporters.

Mr. Speaker, Mr. McNamara has a right to support anyone he wants for President of the United States but if the nonpolitical status of the World Bank is to be preserved, its President should not be active in American political campaigns while he serves as President of the World Bank.

Mr. McNamara repeatedly has said the World Bank should not be politicized. He has refused to testify before congressional committees to explain World Bank policies. He does not have time to respond to questions about the World Bank's $60 million loan to Vietnam. Yet he does have time to return to the political arena for a gathering of the "best and the brightest" to help organize a campaign for President.

No matter how informal Mr. McNamara's relationship is to this campaign or how much he attempts to keep his efforts behind the scenes, it is clearly improper for him to retain his position as head of the World Bank while advising and supporting any political effort.

Mr. Speaker, Robert McNamara should not be allowed to have it both ways. Clearly he should resign as President of the World Bank before he continues any further participation in any Presidential campaign.

McNAMARA OUT

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I support what the distinguished gentleman from Florida (Mr. YOUNG) has called for: The resignation of Robert Strange McNamara from the World Bank. Only one Member of the Congress of the United States has ever negotiated the Chappaquiddick Channel by swimming it. Only one Member of Congress has ever made it across that channel on his own power. And he was not a Member of the U.S. Senate. That person is this Congressman standing here before this body, me.

As a television investigative reporter, I went from Los Angeles to Martha's Vineyard about 2 weeks after the tragic death of Miss Mary Jo Kopechne and proved to this Member's satisfaction beyond a doubt in a thorough investigation, all on film, that a massive coverup took place, including the blocking of an autopsy and the denial to the Kopechne parents of the control over the body of their own daughter for 2 days.

When will that coverup be uncovered by the great press of this great United States?

The foreign policy architects who gave us Vietnam—rallied in Massachusetts that tragic July 1969 weekend and controlled all subsequent press releases. One of the leaders was Robert McNamara. He was very much an integral part of that fictitious series of statements that successfully, to date, perpetrated a hoax upon a naive American public. This coverup must end before there is any credibility to this current campaign for the Presidency of the United States.

I thank the gentleman from Florida for his courage in calling for McNamara's resignation because of involvement in yet another Presidential race. I realize I will have to sanitize and depersonalize some of the aforementioned remarks later today to bring them into conformity with House rules and precedents. However, I remind my former colleagues of the fourth estate: You do have access to unexpurgated color video film, gavel to gavel.

□ 1230

PARLIAMENTARY INQUIRY

Mr. SEIBERLING. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SEIBERLING. Mr. Speaker, is it a violation of the rules of the House to attack a Member of the other body?

The SPEAKER pro tempore. It is a violation of the rules of the House to attack the character or integrity of a Member of the other body and the rule of comity also prohibits references either directly or indirectly to words or actions of a Member of the other body, with respect to his actions in that body. There is a delicate line which lies sometimes almost invisibly between a Member in his capacity as a Member of Congress, and that same individual in his capacity as a candidate for the Presidency or other office.

The Chair hopes and trusts that Members will exercise sufficient prudence and sufficient good taste that they will respect that difference.

Mr. SEIBERLING. Mr. Speaker, I will not demand that the secretary take down the words of the previous speaker, but in the light of the ruling that the Chair just made, if similar outbursts occur I will make that demand.

BIG OIL COMPANIES MUST BE DEALT WITH SOON

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the big oil companies continue to receive the attention of the press, and rightly so. An article in the Washington Star newspaper last night informs us of the fact that the cost of decontrolling U.S. oil has been underestimated by the administration. The additional cost to the consumer is now estimated to be nearly $25 billion for the period between January 1, 1980 and October 1, 1981; with the major oil companies reaping a substantial windfall profit from this decontrol boondoggle.

This morning's Washington Post has an article entitled, "Plenty of Heating Oil: Price Is Rising." Mr. Speaker, I submit that this is exactly what the major oil companies intended to happen when it decided to comply with the administration's request to stockpile 240 million barrels of home heating oil for this winter's needs. The big oil companies were fully aware of the profit ramifications once it began to store this large amount of heating oil.

The average price of this basic necessity has increased by 70 percent since the beginning of the year; however, the increased cost to the major oil companies which purchase this product has not risen by nearly that figure. The oil cartel which exists in this country is as interested in keeping OPEC prices down as the Middle Eastern cartel—not one bit.

Big Oil must be dealt with soon. The most effective vehicle which this membership poseesses is the passage of a stiff windfall profits tax. We must pass this legislation immediately.

CONGRESS SHOULD BACK BILL TO CHANGE TITLE XIX

(Mr. GRASSLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRASSLEY. Mr. Speaker, it is a shame that we have a law on the Federal books that allows a widow lady in my State to give away a farm worth almost a million dollars to qualify for nursing home care under title XIX.

This weekend I visited nursing homes in the State of Iowa and continuously I had thrown at me the proposition: "Why should we allow this to happen?" There is presently a bill introduced in Congress that has bipartisan support that will change this portion of title XIX. I would urge everybody in this House to get behind that bill and get the law revised so that only those people in the country who have the need of title XIX do, in fact, qualify for title XIX and benefit from it.

The very wealthy should not be allowed to benefit from that law by subterfuge.

AID TO CAMBODIA SHOULD BE QUICK AND UNOBSTRUCTED

(Mr. ERDAHL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ERDAHL. Mr. Speaker, the decision of this Congress and our President to extend humanitarian aid to the starving and desperate people of Cambodia is to be commended. Now everything possible must be done to see this needed food and medicine is quickly delivered and properly distributed.

Reports that the Government of Cambodia is reluctant to accept this aid when millions of their own people are in danger of starvation is incomprehensible.

A recent column by Jack Anderson in Monday's Washington Post is equally disturbing. Mr. Anderson contends that officials in our own State Department are deliberately sabotaging our plan to aid these dying people because of feelings on Vietnam and Southeast Asia.

If even a part of Mr. Anderson's column entitled "State Department Obstructing Cambodian Aid" is true, it ought to disturb every compassionate American.

I will include this article in the appropriate section of the RECORD.

DICK CLARK RESIGNATION UNTIMELY

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, today it was announced that Dick Clark, President Carter's Special Ambassador for Refugee Affairs, will resign that position on November 1 in order to join the Presidential campaign of Senator KENNEDY.

Mr. Speaker, it is disturbing that this occurs at this very crucial time when the refugee question is so acute when it confronts us in a way which has not confronted this country or this world in many, many years. I would hope that Mr. Clark might reconsider this, or at the very least do everything in his power to insure that the transition is a good one.

It is also very troublesome that this occurs at a time when the whole subject of refugee problems has the potentiality of becoming a highly politicized issue, which it ought not to be. We need the support of all Americans on this crucial issue, and I would hope we would all act to try and facilitate the efforts of the United States in relieving the tremendous problem that is now occurring in all of Southeast Asia, but most specifically in Cambodia.

PERSONAL ATTACKS ON HOUSE FLOOR DEPLORED

(Mr. BEARD of Rhode Island asked and was given permission to address the House for 1 minute.)

Mr. BEARD of Rhode Island. Mr. Speaker, a short while ago one of the members of the California delegation, Mr. DORNAN, got up and made a vicious attack on Senator KENNEDY.

I do not believe that this is the forum for that. In the 5 years that I have been here, very seldom have I ever heard attacks made on individuals. I do not think this is the forum for any of us, Democrats or Republicans, to play politics. This is a forum to deal with issues, not to attack another's personality or put out a set of innuendoes that could hurt a person.

I could in my own party, if I wanted to, attack our President daily, but I do not do that. This is not the forum for it. This is the forum for legislation.

I think Mr. DORNAN of California should apologize before this body and apologize to Senator KENNEDY to try to make an issue out of a campaign issue here.

That is all I have to say.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which concurrence of the House is requested.

S. 1905. An act to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes.

LABOR, HEW, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. NATCHER. Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 4389) making appropriations for the Departments of Labor, and Health, Education, and Welfare and related agencies for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendment No. 137 thereto, and insist on disagreement to the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The Clerk will report the Senate amendment No. 137.

The Clerk read the Senate amendment No. 137, as follows:

Page 47, strike out lines 9 to 12 inclusive, and insert:

SEC. 209. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House insist on its disagreement to the amendment of the Senate numbered 137.

The SPEAKER pro tempore. The gen-

tleman from Kentucky (Mr. NATCHER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MICHEL) will be recognized for 30 minutes.

PREFERENTIAL MOTION OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. WRIGHT moves that the House recede from its disagreement to the amendment of the Senate numbered 137 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following:

SEC. 210. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or Public Health Service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, this is the same, identical amendment, word for word, provision for provision, that the House adopted in an attempt to resolve this impasse when we had before us the continuing resolution only short days ago.

I know of no perfect language; I know there is no language which can satisfy every Member of the House. I honestly believe, however, that the language embodied in this amendment comes as near as any possibly can come to being a workable and an acceptable compromise of two somewhat irreconcilable, deeply felt, and perhaps uncompromisable sets of convictions.

For that reason, because it would prohibit the use of any Federal funds to perform abortions except where the life of the mother is endangered or where rape or incest has occurred, I believe it is language that the House could embrace, and I urge its adoption as a means of resolving the impasse presently before us.

Mr. NATCHER. Mr. Speaker, I have no further requests for time at this time.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, once more I understand and appreciate what the distinguished and able majority leader seeks to do. This is without question the most volatile and difficult and emotion-laden issue before this House. The problem is, the compromise that is offered does result in Federal funding of some abortions, and this is a position that I must resist and that I cannot accede to.

You know, it is interesting that we recently celebrated the 100th anniversary of the birth of Margaret Sanger, the patron saint, if you will, of birth control. Her birthday was celebrated by feminists across this country. It is also interesting to note that she opposed abortions. She always during her lifetime opposed abortions.

It is also of great interest that recently another woman was awarded the Nobel Prize, and this woman—I may be criticized by the American Civil Liberties Union for adverting to this woman because she is religious, but this woman lives in Calcutta, India, and she knows something about poverty and population and death. She is Mother Teresa of Calcutta. She is one of the most adamant opponents of abortion, and when you ask her about poverty, she says there is a special kind of poverty involved in saying we do not have room for one more baby.

□ 1250

Again, I understand and appreciate the effort being made, but I cannot support it, and I urge my colleagues to resist the acceptance of this proposed compromise and that we stand fast for the amendment that says no abortion except to save the life of the mother.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding and for his brief but eloquent statement in behalf of the right to life. I concur in what he says. The House has taken a strong position on this issue this year on repeated votes, and it should do so again. It seems to me it behooves us to go to the other body with the strongest possible language against abortion. I would also oppose the motion of the gentleman from Texas.

Mr. HYDE. I thank the gentleman.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding. I want to add my support to the gentleman's valiant defense of life and urge defeat of the compromising motion of the gentleman from Texas.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding. I, too, wish to congratulate the gentleman for his leadership on this position. I do think we owe a debt of gratitude also to the members of the subcommittee who worked so earnestly for the language of the gentleman in the well, and I feel strongly about this issue—and I know the gentleman does—that I believe that when the issue does come before the House in a few minutes on a vote, I plan to ask for a recorded vote.

Mr. HYDE. The subcommittee has been heroic with a capital "H." I thank the gentleman.

● Mr. DONNELLY. Mr. Speaker, before casting our votes on this matter I would like to point out that our intent with regard to this restriction on Federal funds for abortion has been misrepresented and distorted by many of the Federal courts.

On one hand, some courts have held that the States must use their own funds to pay for whatever abortions the Congress is willing to fund. Otherwise, in the view of these courts, the States would be in violation of the medicaid title, title XIX of the Social Security Act.

On the other hand, several Federal courts have held that, regardless of what restrictions the Congress enacts on abortion funding, the States must in effect fund all so-called medically necessary abortions under the Social Security Act and under the regulations promulgated under it. In other words, these courts have held that the States do not have the right that we are exercising here today to decide what abortions they are going to fund.

The confusion in the courts is based upon the notion that the medicaid title of the Social Security Act somehow requires the States to fund abortions in the first place and that State refusal to fund abortions is somehow "unreasonable" under the Social Security Act and its regulations.

The fact is that Congress enacted the medicaid title into law in 1965 when practically every State made abortion a crime except to save the mother's life. Therefore, the medicaid title could not have been intended as a mandate to the States to fund "medically necessary" abortions, or any abortions. Any other conclusion would mean that the Congress intended to force the States to violate their own abortion laws, or change them if the States wished to receive Federal funds to enable them to provide care to their impoverished citizens. To impute such an intent to Congress is obviously nonsense. The Social Security Act does not require the States to use their funds for any type of abortion service. Yet, absurdly enough, there are courts in this Nation who are saying that this is in effect what the Congress actually intended when it enacted the medicaid title into law.

I think it is important to make it crystal clear that what we are dealing with now is the extent to which the Federal Government will pay for abortions. We do not intend to restrict the power of the States to refuse to pay for abortions to the extent they deem appropriate, any more than we intend to restrict their power to pay for abortions with their own funds to the extent that they may desire. The States are absolutely free to fund or refuse to fund abortions as they see fit, as they always have been. Whether the States fund or refuse to fund abortions is not a matter dictated by the Social Security Act or its regulations and, until such time as the Social Security Act is amended by Congress to require the States to fund abortions, the States are not required to do so.

The Congress has debated the extent to which Federal funds should be used for abortions for 4 years now. Many of the courts apparently believe that these heated and protracted debates represent nothing more than arguments on whether the costs of abortion should be borne by the Federal Government or shifted to the States. But anyone who has honestly read the record of these debates would know that we have understood our actions here would have

some real effect. They would know that we have not regarded a Government-funded abortion to be in any sense an absolute right this body has ever conferred upon anyone. They would know that this body does not regard and has not regarded abortion to be like any other medical procedure and that we have not regarded it to be a benefit which ought to be financed by the Government except in the most extreme circumstances.

But some courts seem determined to convert our serious deliberations on this matter into a farce—full of sound and fury but signifying nothing—by requiring the States to pay for the very abortions for which we have refused Federal funds. In fact, the Congress has presumed all along that the States have the same authority that we have to decide the extent to which public funds should be used for abortions. This should have been self-evident from the history of our deliberations and of the medicaid title. However, because some courts and perhaps some administrators of the Social Security Act seem to be determined to override our will and the will of the legislatures of the States on this matter, I believe that this fact should now be plainly stated for the record once and for all.●

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The question is on the preferential motion offered by the gentleman from Texas (Mr. WRIGHT).

CALL OF THE HOUSE

Mr. MICHEL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 613]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kocovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Motl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Rudd
Russo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1300

The SPEAKER pro tempore. On this rollcall, 368 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

LABOR, HEW, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. NATCHER. Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Texas (Mr. WRIGHT).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. DORNAN. Mr. Speaker, on that I demand a division.

On a division (demanded by Mr. DORNAN) there were—ayes 108, noes 66.

PARLIAMENTARY INQUIRY

Mr. DORNAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DORNAN. Mr. Speaker, in that 66 is more than a sufficient number to stand for a recorded vote, may I ask if it is within the rules of the House to ask for a recorded vote now?

The SPEAKER pro tempore. A recorded vote was requested.

Mr. DORNAN. The yeas and nays were asked for.

The SPEAKER pro tempore. The yeas and nays were requested and were refused.

The gentleman is certainly within his rights.

RECORDED VOTE

Mr. DORNAN. Mr. Speaker, I demand a recorded vote, and hope that the same 66 will stand courageously.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 219, not voting 27, as follows:

[Roll No. 614]

AYES—187

Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Anthony
Ashley
AuCoin
Barnes
Bellenson
Bennett
Bingham
Blanchard
Bolling
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burton, John
Burton, Phillip
Butler
Carr
Chisholm
Clay
Cleveland
Coelho
Conable
Conyers
Corman
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Evans, Del.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frenzel
Frost
Garcia
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Hollenbeck
Horton
Howard
Hughes
Hutto
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McHugh
McKinney
Maguire
Marks
Martin
Matsui
Mattox
Mica
Mikulski
Mineta
Mitchell, Md.
Mollohan
Moorhead, Pa.
Neal
Nolan
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Pritchard
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Ritter
Roberts
Rose
Rosenthal
Roybal
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa

Snowe	Swift	Whitley
Solarz	Udall	Whittaker
Spellman	Ullman	Whitten
Stack	Van Deerlin	Williams, Mont.
Stark	Vanik	Wirth
Steed	Vento	Wolff
Stewart	Walgren	Wolpe
Stokes	Waxman	Wright
Stratton	Weaver	Yates
Studds	Weiss	

NOES—219

Ahdnor	Fithian	Mottl
Albosta	Fuqua	Murphy, Ill.
Ambro	Gaydos	Murphy, N.Y.
Andrews, N. Dak.	Gephardt	Murphy, Pa.
	Gibbons	Murtha
Annunzio	Gingrich	Myers, Ind.
Applegate	Goodling	Myers, Pa.
Archer	Gore	Natcher
Ashbrook	Gradison	Nedzi
Aspin	Gramm	Nelson
Atkinson	Grassley	Nichols
Badham	Guyer	Nowak
Bafalis	Hagedorn	O'Brien
Bailey	Hall, Tex.	Oakar
Baldus	Hammer-schmidt	Oberstar
Barnard		Pashayan
Bauman	Hanley	Patten
Beard, R.I.	Hansen	Paul
Beard, Tenn.	Harsha	Perkins
Bedell	Heckler	Petri
Benjamin	Hightower	Quayle
Bereuter	Hillis	Quillen
Bethune	Hinson	Rahall
Bevill	Holt	Regula
Biaggi	Hopkins	Rinaldo
Boggs	Hubbard	Robinson
Boland	Huckaby	Roe
Boner	Hyde	Rostenkowski
Bonior	Ichord	Roth
Bouquard	Jeffries	Rousselot
Bowen	Jenkins	Royer
Breaux	Jones, Tenn.	Rudd
Brinkley	Kazen	Russo
Broomfield	Kelly	Satterfield
Brown, Ohio	Kemp	Sawyer
Burgener	Kildee	Schulze
Burlison	Kindness	Sebelius
Byron	Kramer	Sensenbrenner
Campbell	LaFalce	Shelby
Carney	Lagomarsino	Shumway
Carter	Latta	Shuster
Cavanaugh	Leath, Tex.	Skelton
Chappell	Lederer	Smith, Nebr.
Cheney	Lee	Snyder
Clausen	Lent	Solomon
Clinger	Lewis	Spence
Coleman	Livingston	St Germain
Collins, Tex.	Loeffler	Staggers
Conte	Long, La.	Stangeland
Corcoran	Lott	Stanton
Cotter	Lujan	Stenholm
Courter	Luken	Stump
Crane, Daniel	Lungren	Symms
D'Amours	McClory	Tauke
Daniel, Dan	McDade	Taylor
Daniel, R. W.	McDonald	Traxler
Dannemeyer	McEwen	Trible
Davis, Mich.	McKay	Vander Jagt
de la Garza	Madigan	Volkmer
Deckard	Markey	Walker
Derwinski	Marlenee	Wampler
Devine	Marriott	Watkins
Donnelly	Mathis	White
Dornan	Mavroules	Whitehurst
Duncan, Tenn.	Mazzoli	Williams, Ohio
Early	Michel	Wyatt
Edwards, Okla.	Miller, Ohio	Wydler
Emery	Minish	Wylie
Erdahl	Mitchell, N.Y.	Yatron
Erlenborn	Moakley	Young, Alaska
Ertel	Montgomery	Young, Fla.
Evans, Ga.	Moore	Young, Mo.
Evans, Ind.	Moorhead, Calif.	Zablocki
Fish		Zeferetti

NOT VOTING—27

Anderson, Ill.	Ireland	Stockman
Collins, Ill.	Jones, N.C.	Synar
Coughlin	Leach, La.	Thomas
Crane, Philip	Miller, Calif.	Thompson
Dougherty	Moffett	Treen
Fary	Pursell	Wilson, Bob
Flood	Rodino	Wilson, C. H.
Goldwater	Runnels	Wilson, Tex.
Holtzman	Sabo	Winn

□ 1320

The Clerk announced the following pairs:

On this vote:

Mr. Anderson of Illinois for, with Mr. Dougherty against.

Mr. Pursell for, with Mr. Coughlin against.

Mr. Thomas for, with Mr. Goldwater against.

Mr. Moffett for, with Mr. Philip M. Crane against.

Mr. Jones of North Carolina for, with Mr. Fary against.

Mrs. Collins of Illinois for, with Mr. Runnels against.

Mr. Thompson for, with Mr. Treen against.

Until further notice:

Mr. Rodino with Mr. Stockman.

Mr. Charles H. Wilson of California with Mr. Synar.

Ms. Holtzman with Mr. Flood.

Mr. Ireland with Mr. Bob Wilson.

Mr. Charles Wilson of Texas with Mr. Winn.

Mr. MARLENEE changed his vote from "aye" to "no."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on today's debate on Senate amendment No. 137 to H.R. 4389.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. NATCHER).

The motion was agreed to.

A motion to reconsider was laid on the table.

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1979

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2282) to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, with Senate amendments thereto, and to concur in the Senate amendments with House amendments to Senate amendments which are at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendments and the House proposed amendments to Senate amendments.

The Clerk read the Senate amendments and the House amendments to Senate amendments, as follows:

Senate amendments: Strike out all after the enacting clause and insert: That (a) this Act may be cited as the "Veterans' and Survivors' Benefits Adjustment Act of 1979".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended by—

(1) striking out "$44" in subsection (a) and inserting in lieu thereof "$49";

(2) striking out "$80" in subsection (b) and inserting in lieu thereof "$89";

(3) striking out "$121" in subsection (c) and inserting in lieu thereof "$134";

(4) striking out "$166" in subsection (d) and inserting in lieu thereof "$184";

(5) striking out "$232" in subsection (e) and inserting in lieu thereof "$258";

(6) striking out "$292" in subsection (f) and inserting in lieu thereof "$324";

(7) striking out "$346" in subsection (g) and inserting in lieu thereof "$384";

(8) striking out "$400" in subsection (h) and inserting in lieu thereof "$444";

(9) striking out "$450" in subsection (i) and inserting in lieu thereof "$500";

(10) striking out "$809" in subsection (j) and inserting in lieu thereof "$899";

(11) striking out "$1,005" and "$1,408" in subsection (k) and inserting in lieu thereof "$1,117" and "$1,564", respectively;

(12) striking out "$1,005" in subsection (l) and inserting in lieu thereof "$1,117";

(13) striking out "$1,107" in subsection (m) and inserting in lieu thereof "$1,230";

(14) striking out "$1,258" in subsection (n) and inserting in lieu thereof "$1,398";

(15) striking out "$1,408" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,564";

(16) striking out "$604" and "$900" in subsection (r) and inserting in lieu thereof "$671" and "$1,000", respectively;

(17) striking out "$905" in subsection (s) and inserting in lieu thereof "$1,005"; and

(18) striking out "$175" in subsection (t) and inserting in lieu thereof "$194".

ELIGIBILITY FOR AID AND ATTENDANCE ALLOWANCE FOR CERTAIN VETERANS

(b) Subsection (r) of section 314 is further amended by—

(1) striking out "the" the first place it appears;

(2) striking out "or" after "this section" and inserting in lieu thereof a comma;

(3) inserting "or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section," after "subsection (p) of this section,"; and

(4) striking out "compensation under subsection (o) or (p) of this section—" and inserting in lieu thereof "compensation—".

INTERMEDIATE RATES

(c) Subsection (p) of section 314 is further amended by inserting before the semicolon at the end thereof a period and "Any intermediate rate under this subsection shall be established at the arithmetic mean between the two rates concerned".

AUTHORITY FOR ADMINISTRATIVE ADJUSTMENTS IN CERTAIN CASES

(d) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38 United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended by—

(1) striking out "$49" in clause (A) and inserting in lieu thereof "$54";

(2) striking out "$83" in clause (B) and inserting in lieu thereof "$92";

(3) striking out "$110" in clause (C) and inserting in lieu thereof "$122";

(4) striking out "$137" and "$27" in clause (D) and inserting in lieu thereof "$152" and "$30", respectively;

(5) striking out "$34" in clause (E) and inserting in lieu thereof "$38";

(6) striking out "$61" in clause (F) and inserting in lieu thereof "$68";

(7) striking out "$88" and "$27" in clause (G) and inserting in lieu thereof "$98" and "$30", respectively;

(8) striking out "$40" in clause (H) and inserting in lieu thereof "$44";

(9) striking out "$89" in clause (I) and inserting in lieu thereof "$99"; and

(10) striking out "$75" in clause (J) and inserting in lieu thereof "$83".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$218" and inserting in lieu thereof "$242".

EFFECTIVE DATE

SEC. 104. The amendments made by sections 101 (a), (b), and (c), 102, and 103 of this title and the provisions of section 101 (d) of this title shall take effect on October 1, 1979.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. Section 411 is amended by—

(1) amending subsection (a) to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the persons upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E-1	$330
E-2	341
E-3	349
E-4	371
E-5	381
E-6	390
E-7	409
E-8	431
E-9	[1] 451
W-1	418
W-2	434
W-3	447
W-4	473
O-1	418
O-2	431
O-3	462
O-4	488
O-5	538
O-6	604
O-7	655
O-8	718
O-9	771
O-10	[2] 844

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $486.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $904.";

(2) striking out "$35" in subsection (b) and inserting in lieu thereof "$39";

(3) striking out "$89" in subsection (c) and inserting in lieu thereof "$99"; and

(4) striking out "$45" in subsection (d) and inserting in lieu thereof "$50".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended by—

(1) striking out "$150" in clause (1) and inserting in lieu thereof "$167";

(2) striking out "$216" in clause (2) and inserting in lieu thereof "$240";

(3) striking out "$278" in clause (3) and inserting in lieu thereof "$309"; and

(4) striking out "$278" and "$56" in clause (4) and inserting in lieu thereof "$309" and "$62", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended by—

(1) striking out "$89" in subsection (a) and inserting in lieu thereof "$99";

(2) striking out "$150" in subsection (b) and inserting in lieu thereof "$167"; and

(3) striking out "$76" in subsection (c) and inserting in lieu thereof "$84".

EFFECTIVE DATE

SEC. 204. The amendments made by this title shall take effect on October 1, 1979.

TITLE III—MODIFICATIONS OF CERTAIN VETERANS' LIFE INSURANCE PROGRAM PROVISIONS

ASSIGNMENTS OF NATIONAL SERVICE LIFE INSURANCE POLICY PROCEEDS BY BENEFICIARIES

SEC. 301. Subsection (b) of section 718 is amended by—

(1) striking out "his" and inserting in lieu thereof "such person's"; and

(2) inserting at the end thereof the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.

SEC. 302. Section 753 is amended by—

(1) inserting "(a)" before "Any";

(2) striking out "his" and inserting in lieu thereof "such person's"; and

(3) inserting at the end thereof the following new subsection:

"(b) In any case involving a dispute between two or more persons each of whom is claiming proceeds of a policy maturing on and after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to persons other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

SEC. 302. Section 753 is amended by—

(1) inserting "(a)" before "Any";

(2) striking out "his" and inserting in lieu thereof "such person's"; and

(3) inserting at the end thereof the following new subsection:

"(b) In any case involving a dispute between two or more persons each of whom is claiming proceeds of a policy maturing on and after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to persons other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

AUTHORITY FOR DIVIDENDS—VETERANS' REOPENED INSURANCE

SEC. 303. Section 725 is amended by—

(1) inserting "and" after the semicolon in clause (6) of subsection (b);

(2) striking out before the period in subsection (b) the semicolon after "practicable" and all of clause (8);

(3) striking out clause (4) in subsection (c) and redesignating clauses (5), (6), and (7) as clauses (4), (5), an (6), respectively;

(4) inserting "and" after the semicolon in clause (5) (as redesignated by clause (3) of this section); and

(5) striking out in the first sentence in paragraph (1) of subsection (d) "shall be made from that fund" and inserting in lieu thereof a comma and "including payments of dividends and refunds of unearned premiums, shall be made from that fund and the interest earned thereon".

AUTHORITY FOR HIGHER INTEREST RATES FOR AMOUNTS PAYABLE TO BENEFICIARIES

SEC. 304. (a) Subchapter I of chapter 19 is amended by inserting at the end thereof the following new section:

"§ 726. Authority for higher interest rates for amounts payable to beneficiaries

"Notwithstanding sections 702, 723, and 725 of this title, where the beneficiary of an insurance policy issued pursuant to the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in the appropriate section of this subchapter. The Administrator may, from time to time, establish such higher rate only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 725 the following new item:

"726. Authority for higher interest rates for amounts payable to beneficiaries.".

SEC. 305. (a) Subchapter II of chapter 19 is amended by inserting at the end thereof the following new section:

"§ 761. Authority for higher interest rates for amounts payable to beneficiaries.

"Notwithstanding section 744(b) of this title, where the beneficiary of an insurance policy issued pursuant to the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in such section. The Administrator may, from time to time, establish such higher rate only in accordance with a determination that such

higher rate is administratively and actuarially sound. Such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 760 the following new item:

"761. Authority for higher interest rates for amounts payable to beneficiaries.".

EFFECTIVE DATE

SEC. 306. The amendments made by this title shall take effect on the date of enactment of this Act.

TITLE IV—EXEMPTION OF VETERANS' ADMINISTRATION HOME LOANS FROM STATE ANTI-USURY PROVISIONS

SEC. 401. (a) Chapter 37 of title 38, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1828. Exemption from State anti-usury provisions

"If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, loans and mortgages guaranteed or insured under this chapter shall also be exempt from the application of such provisions.".

(b) The table of sections at the beginning of such chapter is amended by inserting at the end thereof the following new item:

"1828. Exemption from State anti-usury provisions.".

(c) The amendments made by this title shall be effective on the date of the enactment of this Act.

TITLE V—MISCELLANEOUS PROVISIONS

TECHNICAL AMENDMENTS

SEC. 501. (a) Paragraph (1) of subsection (c) of section 611 is amended by striking out "recognized by the Administrator for the purposes of" and inserting in lieu thereof "named in, or approved by the Administrator under,".

(b) Subsection (d) of section 612A is amended by striking out the comma after "this title)".

(c) Section 620A is amended by—

(1) striking out "of" after "treatment facilities" in paragraph (1) of subsection (a) and inserting in lieu thereof "for"; and

(2) striking out the comma after "such request" in paragraph (2) of subsection (d).

(d) Subsection (d) of section 663 is amended by striking out "order to carry" and inserting in lieu thereof "carrying".

(e) Subsection (a) of section 5005 is amended by striking out "section 5031 of this title" and inserting in lieu thereof "subchapter III of this chapter".

ASSISTANCE IN LOCATING CERTAIN INDIVIDUALS EXPOSED TO OCCUPATION HAZARDS DURING MILITARY SERVICE

SEC. 502. In order to effectuate more fully the policy underlying the enactment of section 6103(m)(3) of the Internal Revenue Code regarding the location, for certain purposes, of individuals who are, or may have been, exposed to occupational hazards, the Director of the National Institute of Occupational Safety and Health, upon request by the Administrator of Veterans' Affairs (or the head of any other Federal department, agency, or instrumentality), shall (1) pursuant to such section 6103(m)(3), request the mailing addresses of individuals who such Administrator (or such department, agency, or instrumentality head) certifies may have been exposed to occupational hazards during active military, naval, or air service (as defined in section 101(24) of title 38, United States Code) and (2) provide such addresses to such Administrator (or such department, agency, or instrumentality head) to be used solely for the purpose of locating such individuals as part of an activity being carried out by or on behalf of the Veterans' Administration (or such other department, agency, or instrumentality) to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards.

SEC. 503. (a) The Secretary of Health, Education, and Welfare, in consultation with the heads of other appropriate Federal departments and agencies, shall conduct a scientific, epidemiological study of various populations to determine if there may be long-term health effects in humans from exposure to the class of chemicals known as "the dioxins", especially those dioxins produced during the manufacture of the various phenoxy herbicides including those used during the period of the Vietnam conflict.

(b) The report of the study shall include (1) a comprehensive review and professional analysis of the literature covering other such studies conducted or underway of such long-term health effects; and (2) a description of the results of epidemiological studies conducted by the Secretary of populations of chemical workers, agricultural workers, Service personnel and veterans, and others exposed in connection with the production or use of such phenoxy herbicides. Such report, together with such comments and recommendations as the Secretary and such department and agency heads may deem appropriate shall be submitted to the appropriate Committees of the Congress not later than two years after the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide for a cost-of-living increase in the rates of service-connected disability compensation for veterans and dependency and indemnity compensation for surviving spouses and children of veterans that reflects an actual increase in the Consumer Price Index; to modify certain veterans' life insurance programs; and to exempt Veterans' Administration home loans from State anti-usury provisions; to provide for certain assistance in locating individuals who were exposed to occupational hazards during military service; and for other purposes.".

House amendments to Senate amendments: In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979".

SEC. 2. Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$44" in subsection (a) and inserting in lieu thereof "$48";

(2) by striking out "$80" in subsection (b) and inserting in lieu thereof "$88";

(3) by striking out "$121" in subsection (c) and inserting in lieu thereof "$133";

(4) by striking out "$166" in subsection (d) and inserting in lieu thereof "$182";

(5) by striking out "$232" in subsection (e) and inserting in lieu thereof "$255";

(6) by striking out "$292" in subsection (f) and inserting in lieu thereof "$321";

(7) by striking out "$346" in subsection (g) and inserting in lieu thereof "$380";

(8) by striking out "$400" in subsection (h) and inserting in lieu thereof "$440";

(9) by striking out "$450" in subsection (i) and inserting in lieu thereof "$495";

(10) by striking out "$809" in subsection (j) and inserting in lieu thereof "$889";

(11) by striking out "$56", "$1,005", and "$1,408" in subsection (k) and inserting in lieu thereof "$62", "$1,104", and "$1,547", respectively;

(12) by striking out "$1,005" in subsection (l) and inserting in lieu thereof "$1,104";

(13) by striking out "$1,107" in subsection (m) and inserting in lieu thereof "$1,217";

(14) by striking out "$1,258" in subsection (n) and inserting in lieu thereof "$1,383";

(15) by striking out "$1,408" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,547";

(16) by striking out "$604" and "$900" in subsection (r) and inserting in lieu thereof "$664" and "$989", respectively;

(17) by striking out "$905" in subsection (s) and inserting in lieu thereof "$995"; and

(18) by striking out "$175" in subsection (t) and inserting in lieu thereof "$192".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. (a) Section 315(1) is amended—

(1) by striking out "$49" in clause (A) and inserting in lieu thereof "$54";

(2) by striking out "$83" in clause (B) and inserting in lieu thereof "$91";

(3) by striking out "$110" in clause (C) and inserting in lieu thereof "$121";

(4) by striking out "$137" and "$27" in clause (D) and inserting in lieu thereof "$151" and "$30", respectively;

(5) by striking out "$34" in clause (E) and inserting in lieu thereof "$37";

(6) by striking out "$61" in clause (F) and inserting in lieu thereof "$67";

(7) by striking out "$88" and "$27" in clause (G) and inserting in lieu thereof "$97" and "$30", respectively;

(8) by striking out "$40" in clause (H) and inserting in lieu thereof "$44";

(9) by striking out "$89" in clause (I) and inserting in lieu thereof "$98"; and

(10) by striking out "$75" in clause (J) and inserting in lieu thereof "$82".

(b)(1) Clauses (I) and (J) of such section (as amended by subsection (a)) are further amended by striking out "subsection" each place it appears and inserting in lieu there "section".

(2) Section 315(2) is amended by inserting "of this section" after "paragraph (1)"

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$218" and inserting in lieu thereof "$240".

ELIGIBILITY FOR AID AND ATTENDANCE ALLOWANCE FOR CERTAIN VETERANS

SEC. 104. Section 314(r) is amended—

(1) by striking out "the" the first place it appears;

(2) by striking out "or" after "this section" and inserting in lieu thereof a comma;

(3) by inserting "or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section," after "subsection (p) of this section,"; and

(4) by striking out "compensation under subsection (o) or (p) of this section—" and inserting in lieu thereof "compensation—".

DETERMINATION OF INTERMEDIATE RATES

SEC. 105. Subsection (p) of section 314 is amended by inserting before the semicolon

at the end thereof a period and "Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E-1	$326
E-2	337
E-3	345
E-4	367
E-5	377
E-6	386
E-7	404
E-8	426
E-9	[1] 446
W-1	413
W-2	430
W-3	442
W-4	468
O-1	413
O-2	426
O-3	457
O-4	482
O-5	532
O-6	598
O-7	648
O-8	710
O-9	763
O-10	[2] 835

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $480.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $895.".

(b) Subsection (b) of such section is amended by striking out "$35" and inserting in lieu thereof "$38".

(c) Subsection (c) of such section is amended by striking out "$89" and inserting in lieu thereof "$98".

(d) Subsection (d) of such section is amended by striking out "$45" and inserting in lieu thereof "$49".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended—

(1) by striking out "$150" in clause (1) and inserting in lieu thereof "$165";

(2) by striking out "$216" in clause (2) and inserting in lieu thereof "$237";

(3) by striking out "$278" in clause (3) and inserting in lieu thereof "$306"; and

(4) by striking out "$278" and "$56" in clause (4) and inserting in lieu thereof "$306" and "$62", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended—

(1) by striking out "$89" in subsection (a) and inserting in lieu thereof "$98";

(2) by striking out "$150" in subsection (b) and inserting in lieu thereof "$165"; and

(3) by striking out "$76" in subsection (c) and inserting in lieu thereof "$84".

TITLE III—AMENDMENTS TO CERTAIN VETERANS' LIFE INSURANCE PROVISIONS

AUTHORITY FOR DIVIDENDS—VETERANS' REOPENED INSURANCE

SEC. 301. (a) Subsection (b) of section 725 is amended—

(1) by inserting "and" after the semicolon at the end of clause (6); and

(2) by striking out the semicolon at the end of clause (7) and all that follows in such subsection and inserting in lieu thereof a period.

(b) Subsection (c) of such section is amended—

(1) by striking out clause (4);

(2) by redesignating clauses (5), (6), and (7) as clauses (4), (5), and (6), respectively; and

(3) by inserting "and" after the semicolon at the end of clause (5) (as so redesignated).

(c) The first sentence of subsection (d) of such section is amended by striking out "shall be made from that fund" and inserting in lieu thereof a comma and "including payments of dividends and refunds of unearned premiums, shall be made from that fund and the interest earned on the assets of that fund".

AUTHORITY FOR HIGHER INTEREST RATES FOR AMOUNTS PAYABLE TO BENEFICIARIES

SEC. 302. (a) Subchapter I of chapter 19 is amended by adding at the end thereof the following new section:

"§ 726. Authority for higher interest rates for amounts payable to beneficiaries

"Notwithstanding sections 702, 723, and 725 of this title, if the beneficiary of an insurance policy receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in the appropriate section of this subchapter. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 725 the following new item:

"726. Authority for higher interest rates for amounts payable to beneficiaries.".

SEC. 303. (a) Subchapter II of chapter 19 is amended by adding at the end thereof the following new section:

"§ 761. Authority for higher interest rates for amounts payable to beneficiaries

"Notwithstanding section 744(b) of this title, if the beneficiary of an insurance policy issued under the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in such section. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 760 the following new item:

"761. Authority for higher interest rates for amounts payable to beneficiaries.".

TECHNICAL AMENDMENTS

SEC. 304. Sections 718(b) and 753 are amended by striking out "his" and inserting in lieu thereof "such person's".

TITLE IV—EXEMPTION OF VETERANS' ADMINISTRATION HOME LOANS FROM STATE ANTI-USURY PROVISIONS

SEC. 401. (a) Chapter 37 is amended by adding at the end thereof the following new section:

"§ 1828. Exemption from State anti-usury provisions

"If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, then loans and mortgages guaranteed or insured under this chapter are also exempt from the application of such provisions.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1828. Exemption from State anti-usury provisions.".

TITLE V—MISCELLANEOUS PROVISIONS

TECHNICAL AMENDMENTS

SEC. 501. (a) Section 611(c)(1) is amended by striking out "recognized by the Administrator for the purposes of" and inserting in lieu thereof "named in, or approved by the Administrator under,".

(b) Section 612A(d) is amended by striking out the comma after "this title)".

(c) Section 620A is amended—

(1) by striking out "of" after "treatment facilities" in paragraph (1) of subsection (a) and inserting in lieu thereof "for"; and

(2) by striking out the comma after "such request" in paragraph (2) of subsection (d).

(d) Section 663(d) is amended by striking out "order to carry" and inserting in lieu thereof "carrying".

(e) Section 5005(a) is amended by striking out "section 5031 of this title" and inserting in lieu thereof "subchapter III of this chapter".

ASSISTANCE IN LOCATING CERTAIN INDIVIDUALS EXPOSED TO OCCUPATIONAL HAZARDS DURING MILITARY SERVICE

SEC. 502. In order to effectuate more fully the policy underlying the enactment of section 6103(m)(3) of the Internal Revenue Code of 1954 regarding the location, for certain purposes, of individuals who are, or may have been, exposed to occupational hazards, the Director of the National Institute of Occupational Safety and Health, upon request by the Administrator of Veterans' Affairs (or the head of any other Federal department, agency, or instrumentality), shall (1) pursuant to such section 6103(m)(3), request the mailing addresses of individuals who such Administrator (or such department, agency, or instrumentality head) certifies may have been exposed to occupational hazards during active military, naval, or air services (as defined in section 101(24) of title 38, United States Code), and (2) provide such addresses to such Administrator (or such department, agency, or instrumentality head) to be used solely for the purpose of locating such individuals as part of an activity being carried out by or on behalf of the Veterans' Administration (or such other department, agency, or instrumentality) to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards.

TITLE VI—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 601. (a) The amendments made by titles I and II, and the provisions of section 101(b), shall take effect as of October 1, 1979.

(b) The amendments made by titles III, IV, and V shall take effect on the date of the enactment of this Act.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation paid to veterans with service-connected disabilities and in the rates of dependency and indemnity compensation paid to survivors of veterans, to modify certain veterans' life insurance programs, and to exempt Veterans' Administration home loans from State anti-usury laws; to provide for certain assistance in locating individuals who were exposed to occupational hazards during military service; and for other purposes.'".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the proposed House amendments to Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

□ 1330

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object—and I do not plan to object—I would ask the gentleman from Mississippi (Mr. MONTGOMERY) to explain what the amendments are, and I yield to the gentleman from Mississippi for that purpose.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, on July 16, the House by a vote of 350 to 0 passed and sent to the Senate H.R. 2282, a bill that would have provided an 8.3-percent cost-of-living increase in disability compensation paid to service-connected veterans and the dependency and indemnity compensation paid to eligible survivors of veterans who died of service-connected disabilities. The cost of the bill as passed by the House was $577 million.

Mr. Speaker, the 8.3-percent increase in the rate was recommended based on a February Consumer Price Index projection by the Congressional Budget Office. As we all know, the rate of inflation has been much higher than anyone had estimated earlier this year. According to the latest Congressional Budget Office projection, the Consumer Price Index is expected to reach 10.9 percent since the last cost-of-living adjustment in compensation paid to our Nation's service-connected disabled veterans. The House-passed bill was amended by the Senate to raise the cost-of-living increase from 8.3 to 11.1 percent. This additional increase in compensation by the Senate would cost another $182 million.

Mr. Speaker, the House committee realizes the situation we face with the budget and we are very concerned with increasing Federal outlays. Nonetheless, no Member of the House desires to give our service-connected veterans a less than adequate cost-of-living adjustment. I can assure my colleagues that service-connected disabled veterans are not complainers. They recognize the serious problem confronting all of us today with inflation being what it is. They understand it is a serious issue and are willing to make certain sacrifices along with everyone else. I personally appreciate this attitude and the amendment we are proposing today is a compromise between the 8.3-percent cost-of-living adjustment previously passed by the House and the 11.1 percent passed by the Senate. The proposed amendment would provide for a 9.9-percent rate increase at a cost of $675.4 million in fiscal year 1980. This proposed compromise is about $83 million less than the amount proposed by the Senate. I think it is a reasonable compromise, Mr. Speaker. Under the circumstances, I think it is an adequate increase.

Mr. Speaker, in years past the Congress has provided increases beyond the amount reflected in the Consumer Price Index. On other occasions, we have provided less than the increase in the Consumer Price Index. Although the proposed increase this year would be about 1 percent less than the Consumer Price Index increase since last October, I want to point out, Mr. Speaker, that overall the service-connected disabled veterans have on balance received adequate adjustments in compensation rate increases.

For example, since 1917, the cumulative increase in the Consumer Price Index for the 100 percent service-connected disabled veteran drawing benefits has increased approximately 430 percent. The cumulative increase in compensation provided by the Congress during that period of time is approximately 911 percent. I make this point, Mr. Speaker, to show that although there may be a few years when the cost-of-living adjustment was not sufficient to meet the increase in the Consumer Price Index, overall the increases have been substantially more than the rise in the cost of living. I am, therefore, pleased, Mr. Speaker, to recommend the increase contained in the proposed House amendments.

In addition to the 9.9-percent cost-of-living adjustment in disability compensation and DIC rates, the proposed House amendments would also provide:

First. Payment of dividends on World War II veterans reopened insurance—VRI—policies. The VRI fund is not currently authorized by law to pay dividends. Since premium payments and interest coming into the fund exceed the cost of claims, a large surplus has accumulated in the fund which would allow the payment of dividends at no cost to the Federal Government. The payment of premiums would, however, increase the outlays from the fund. The estimated outlay increase shown for fiscal year 1980 only reflects the impact for three-fourths of the year, as the fund operates on a calendar year basis. The first dividend, therefore, would not be declared until January 1980.

Second. Higher monthly payments to payees of matured World War II national service life insurance—NSLI—and World War I U.S. Government life insurance—USGLI—policies. The beneficiary of a NSLI or USGLI policy has the option of receiving the proceeds of that policy in a limited number of monthly installments rather than in a lump sum. Interest is paid on the unpaid balance of such proceeds at the rate of 3 percent per annum. These unpaid balances are earning interest, however, at an average rate of 6.8 percent. The excess interest currently goes into the surpluses of the two funds and is paid out in dividends to policyholders. This provision would allow the administration to adjust the rate at which interest is paid to beneficiaries to the rate at which interest is actually being earned. There would be no Federal cost associated with this amendment, nor any significant change to total outlays, because the provision would only change the recipients of the outlays but not the total amount.

Third. Exemption of VA loans from limitations imposed by State constitutions and State usury statutes. This provision is almost identical to H.R. 411 which was introduced by the distinguished minority member of the committee, the Honorable JOHN PAUL HAMMERSCHMIDT, and which passed the House on June 25.

Fourth. Require the National Institute of Occupational Safety and Health to request from the Internal Revenue Service current mailing addresses of persons the Veterans' Administration certifies may have been exposed to health hazards while serving in the Armed Forces. The provision of such addresses is to be used solely for the purpose of locating certain veterans as part of an activity being carried out by or on behalf of the Veterans' Administration or other Federal agency to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards. This amendment would be expected to result in some net savings to Federal expenditures as it would eliminate the need for these addresses to be obtained by the Veterans' Administration through less efficient means. Neither the increase in costs to NIOSH and IRS nor the savings to VA should be significant. If these changes are absorbed in the current funding levels of the three agencies, there would be no budgetary impact.

Mr. Speaker, as you are aware, the basic purpose of the disability compensation program throughout its history has been one of providing relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability which in turn is required by law to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations.

To be eligible to receive disability compensation, a veteran must have contracted a disease, suffered a nonmisconduct injury, or aggravated an existing disease or injury in the line of duty during active wartime or peacetime service and have been discharged under other than dishonorable conditions.

The following tables reflect how veterans, their dependents and their survivors will be benefited by the 9.9-percent cost-of-living increase:

	Increase (monthly rate) From—	To—
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$44	$48
(b) 20 percent	80	88
(c) 30 percent	121	133
(d) 40 percent	166	182
(e) 50 percent	232	255
(f) 60 percent	292	321
(g) 70 percent	346	380
(h) 80 percent	400	440
(i) 90 percent	450	495
(j) 100 percent	809	889
Higher statutory awards for certain multiple disabilities:		
(k) (1) Additional monthly payment for anatomical loss or loss of use of, any of these organs: 1 foot, 1 hand, blindness in 1 eye (having light perception only), 1 or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction) for each loss	56	62
(2) Limit for veterans receiving payments under (a) to (j) above	1,005	1,104
(3) Limit for veterans receiving payments under (l) to (n) below	1,408	1,547
(l) Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes (5/200 visual acuity or less), permanently bedridden or so helpless as to require regular aid and attendance	1,005	1,104
(m) Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance	1,107	1,217
(n) Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes	1,258	1,383
(o) Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service connected) in combination with total blindness (5/100 visual acuity or less)	1,408	1,547

	Increase (monthly rate) From—	To—
(p) (1) If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed	1,408	1,547
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rates at 40 percent or more disabling (impairment of either or both ears service connected) next higher rate is payable, or (b) service-connected total deafness of 1 ear next intermediate rate is payable, but in no event may compensation exceed	1,408	1,547
(3) Anatomical loss or loss of use of 3 extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	1,408	1,547
(q) This subsection repealed by Public Law 90-493.		
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or (effective Oct. 1, 1979) at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	604	664
(2) If the veteran, in addition to need for regular aid and attendance, is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	900	989
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	905	995
(t) Additional monthly allowance for a veteran in receipt of compensation for a disability not evaluated more than 90 percent disabling who has suffered a service-connected loss or loss of use of an extremity evaluated not less than 40 percent and has suffered a non-service-connected loss or loss of use the paired extremity evaluated as not less than 40 percent	175	192

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80, or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate) From—	To—
If and while veteran is rated totally disabled and—		
(a) Has a spouse but no child living	$49	$54
(b) Has a spouse and 1 child living	83	91
(c) Has a spouse and 2 children living	110	121
(d) Has a spouse and 3 or more children living	137	151
(Plus for each living child in excess of 3)	27	30
(e) Has no spouse but 1 child living	34	37
(f) Has no spouse but 2 children living	61	67
(g) Has no spouse but 3 or more children living	88	97
(Plus for each living child in excess of 3)	27	30
(h) Has a mother or father, either or both dependent upon him for support for each parent so dependent	40	44
(i) For a spouse who is a patient in a nursing home or who is so helpless as to require regular aid and attendance	89	98
(j) For each child who has attained age 18 and who is pursuing a course of instruction at an approved educational institution	75	82

The proposed amendments would increase the annual clothing allowance from $218 to $240 for veterans whose service-connected disabilities require the wearing or use of a prosthetic or orthopedic appliance which tends to wear or tear the clothing.

The following chart depicts the 9.9-percent rate increase provided for surviving spouses of deceased veterans whose deaths are service connected and who are receiving dependency and indemnity compensation (DIC) payments:

	From—	To—
Pay grade:		
E-1	$297	326
E-2	307	337
E-3	314	345
E-4	334	367
E-5	343	377
E-6	351	386
E-7	368	404
E-8	388	426
E-9	[1] 406	[1] 446
W-1	376	413
W-2	391	430
W-3	402	442
W-4	426	468
O-1	376	413
O-2	388	426
O-3	416	457
O-4	439	482
O-5	484	532
O-6	544	598
O-7	590	648
O-8	646	710
O-9	694	763
O-10 [2]	760	[2] 835

[1] If the veteran served as sergeant major of the Army, senior enlisted adviser of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps or master chief petty officer of the Coast Guard, the surviving spouses' rate is increased from $437 to $480.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff; Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, the rate for the surviving spouse is increased from $814 to $895.

Increases from $35 to $38 monthly the additional DIC rate payable to surviving spouses for each child of the veteran under age 18.

Increases from $89 to $98 monthly the spouse's aid and attendance rate.

Increases from $45 to $49 monthly the spouse's housebound rate.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates are increased as follows:

	Increase (monthly rate) From—	To—
1 child	$150	$165
2 children	216	237
3 children	278	306
Each additional child	56	62

Increases from $89 to $98 monthly the additional rate payable to a child who has attained the age of 18 but who became permanently incapable of self-support while under such age.

Increases from $150 to $165 monthly the rate payable concurrently with DIC payment to a widow with a child who has attained the age of 18 but who became permanently incapable of self-support while under such age.

Increases from $76 to $84 the rate payable to a child who has attained the age of 18 but who is no more than 22 and pursuing a course of instruction at an approved educational institution concurrently with DIC payment to surviving spouse.

Mr. Speaker, today there are approximately 2,255,000 veterans drawing service-connected compensation benefits each month from the Veterans' Administration. The breakdown of those who will receive benefits under this bill is as follows:

10 percent	876,424
20 percent	352,849
30 percent	314,730
40 percent	183,880
50 percent	114,646
60 percent	80,547
70 percent	38,795
80 percent	19,870
90 percent	6,151
100 percent	209,141
Schedular 100 percent rating	89,199
Due to individual unemployability	119,942
Total	209,141

Mr. Speaker, there follows a current cost estimate from the Congressional Budget Office on the proposed House amendments. The cost of these amendments is well within the ceilings established by the second budget resolution recently adopted by the House.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 26, 1979.

Hon. RAY ROBERTS,
Chairman, Committee on Veterans' Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate to H.R. 2282, the Veteran's Disability Compensation and Survivors' Benefits Amendments of 1979.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE.
September 26, 1979.

COST ESTIMATE

1. Bill number: H.R. 2282.

2. Bill title: Veteran's Disability Compensation and Survivors' Benefits Amendments of 1979.

3. Bill status: A possible amendment to the version of H.R. 2282 as passed by the Senate on August 3, 1979.

4. Bill purpose: This bill would increase the monthly rates of disability and survivors compensation by an average of 9.9 percent. In addition, it would extend eligibility for aid and attendance allowances to certain disabled veterans and would amend certain provisions in the veterans housing and insurance programs.

5. Cost estimate: This bill would result in additional future federal liabilities through extensions of existing entitlements and would require subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the estimated outlays that would result from enactment of H.R. 2282. Only those sections of the bill with a cost impact are addressed in the cost estimate.

	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Required budget authority	675.4	682.5	690.0	697.9	705.9
Estimated outlays	624.2	685.7	693.4	701.2	709.3

(Detail shown under "Basis for Estimate" may not add to total due to rounding.)

The cost of this bill would fall within function 700.

6. Basis for estimate:

Title I

Sections 101–103: would increase the monthly rates of veterans' disability compensation by an average of 9.9 percent. The cost of the increase was calculated by multiplying the projected average benefit level in each year by 9.9 percent, then multiplying the result by the anticipated caseload level for that year.

	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Required budget authority	555.3	562.8	570.3	577.8	585.4
Estimated outlays	510.8	561.9	569.5	577.4	585.4

Sections 104–105: would extend eligibility for aid and attendance allowances to veterans who are entitled to compensation at an intermediate rate between the rates provided by section 314(n) (title 38, U.S.C.) and section 314(o) and who are also entitled to additional compensation under section 314(k). According to the VA there were only 58 such cases receiving compensation in fiscal year 1978. There are no data available upon which to estimate the number of these veterans who would qualify for aid and attendance allowances. The maximum possible cost of this provision would be $688,000, if all the affected cases were determined to be eligible for the higher level aid and attendance allowance of $969 a month. This is not expected to be the case, however, since the types of disabilities involved are not likely to require the higher level of attendant care. If it is assumed that 50 percent of the newly eligible veterans would qualify for regular aid and attendance and an additional 10 percent would require the higher level care, the annual cost of this provision would be approximately $300,000.

Title II

Sections 201–203: would increase the monthly rates of disability and indemnity compensation by an average of 9.9 percent. The cost of the increase was calculated by multiplying the projected average benefit level in each year by 9.9 percent, then multiplying the result by the anticipated caseload level for that year.

	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Required budget authority	120.1	119.7	119.8	120.1	120.5
Estimated outlays	110.6	120.0	120.0	119.9	119.9

Title III

Section 301: would authorize the payment of dividends from the Veterans Reopened Insurance (VRI) fund. The VRI fund is not currently authorized by law to pay dividends. Since premium payments and interest coming into the fund exceed the cost of claims, a large surplus has accumulated in the fund which would allow the payment of dividends at no cost to the federal government. The payment of dividends would, however, increase the outlays from the fund. The estimated outlay increase shown for fiscal year 1980 only reflects the impact for three-fourths of the year, as the fund operates on a calendar year basis. The first dividend, therefore, would not be declared until January 1980.

	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Estimated budget authority	0	0	0	0	0
Estimated outlays	2.8	3.8	3.9	3.9	4.0

Sections 302–303: The beneficiary of a National Service Life Insurance (NSLI) or United States Government Life Insurance (USGLI) policy has the option of receiving the proceeds of that policy in a limited number of monthly installments rather than in a lump-sum. Interest is paid on the unpaid balance of such proceeds at the rate of 3 percent per annum. These unpaid balances are earning interest, however, at an average rate of 6.8 percent. The excess interest currently goes into the surpluses of the two funds and is paid out in dividends to policyholders. This provision would allow the Administration to adjust the rate at which interest is paid to beneficiaries to the rate at which the interest is actually being earned. There would be no federal cost associated with this amendment, nor any significant change to total outlays, because the provision would only change the recipients of the outlays, but not the total amount.

Title IV

Section 401: would exempt VA home loans from state anti-usuary laws and constitutional provisions. According to VA information, only the state of Arkansas would be significantly affected by this amendment. Other states either have state laws that exempt federal home loan programs from the restrictions of their usury laws or have interest ceilings high enough to avoid conflict with current interest rates. Although enactment of the provision would increase loan activity in Arkansas, the increase should not significantly raise total program costs.

Title V

Section 502: would require the National Institute of Occupational Safety and Health (NIOSH) to obtain from IRS current addresses of persons who may have been exposed to radiation or other occupational hazards during military service. This amendment would be expected to result in some net savings to federal expenditures as it would eliminate the need for these addresses to be obtained by VA through less efficient means. Neither the increase in costs to NIOSH and IRS nor the savings to VA should be significant. If these changes are absorbed in the current funding levels of the three agencies, there would be no budgetary impact.

7. Estimate comparison: None.

8. Previous CBO estimate: On June 21, 1979, CBO submitted an estimate of H.R. 2282 (shown below) as ordered reported by the House Veterans Affairs Committee. This earlier version of the bill provided for an 8.3 percent rate increase, and did not contain the provisions relating to the insurance and housing programs found in the current bill.

As passed in House, July 16	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Required budget authority	577.0	581.6	588.9	596.2	603.5
Estimated outlays	530.9	581.2	588.3	595.6	602.9

On July 23, 1979, CBO submitted an estimate of S. 689 to the Senate Veterans Affairs Committee. H.R. 2282 was later amended by the Senate Committee to reflect the language originally contained in S. 689. This version of the bill provided for an 11.1 percent increase in compensation benefits as well as most of the housing and insurance amendments found in the current version. The original cost estimate of S. 689 is shown below.

As passed in Senate, Aug. 3	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Required budget authority	758.1	765.5	773.6	784.1	792.3
Estimated outlays	700.2	768.7	776.8	787.1	795.6

9. Estimate prepared by: K. W. Shepherd (225–7766).

10. Estimate approved by: C. G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS PROPOSED TO BE AMENDED

Mr. Speaker, for the information of the Members, changes in existing law made by the bill, as proposed to be amended by the House amendments to the Senate amendments, are shown as follows (existing law proposed to be omited is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART II. GENERAL BENEFITS

* * * * *

Subchapter II—Wartime Disability Compensation

* * * * *

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be [$44] *$48;*

(b) if and while the disability is rated 20 per centum the monthly compensation shall be [$80] *$88;*

(c) if and while the disability is rated 30 per centum the monthly compensation shall be [$121] *$133;*

(d) if and while the disability is rated 40 per centum the monthly compensation shall be [$166] *$182;*

(e) if and while the disability is rated 50 per centum the monthly compensation shall be [$232] *$255;*

(f) if and while the disability is rated 60 per centum the monthly compensation shall be [$292] *$321;*

(g) if and while the disability is rated 70 per centum the monthly compensation shall be [$346] *$380;*

(h) if and while the disability is rated 80 per centum the monthly compensation shall be [$400] *$440;*

(i) if and while the disability is rated 90 per centum the monthly compensation shall be [$450] *$495;*

(j) if and while the disability is rated as total the monthly compensation shall be [$809] *$889;*

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafnes of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be [$56] *$62* per month for each such loss or loss of use independent of any other compensation provided is subsections (a) through (j) or subsection (s) of this section but in no event to exceed [$1,005] *$1,104* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by [$56] *$62* per month for each such loss or loss of use, but in no event to exceed [$1,408] *$1,547* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,005] *$1,104;*

(m) if the veteran, as the result of service-connected disability has suffered the anatomical loss or loss of use of two extremities at a level, or with complications, preventing natural elbow or knee action with prosthesis in place, or has suffered blindness in both eyes, having only light perception, or has suffered blindness in both eyes, rendering such veterans so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,107] *$1,217;*

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss of two extremities so near the shoulder or hip as to prevent the use of a prosthetic appliance or has suffered the anatomical loss of both eyes, the monthly compensation shall be [$1,258] *$1,383;*

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling and the veteran has also suffered service-connected total blindess with 5/200 visual acuity or less, the monthly compensation shall be [$1,408] *$1,547;*

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of [$1,408] *$1,547.* In the event the veteran has suffered service-connected blindness, with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 40 per centum disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear, the Administrator shall allow the next intermediate rate, but in no event in excess of [$1,408] *$1,547.* In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of [$1,408] *$1,547. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned;*

(r) Subject to section 3203(e) of this title, if any veteran, otherwise entitled to [the] compensation authorized under subsection (o) of this [section or] *section,* at the maximum rate authorized under subsection (p) of this section, *or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section,* is in need of regular aid and attendance, then, in addition to such [compensation under subsection (o) or (p) of this section—] *compensation—*

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of [$604] *$664;* or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of [$900] *$989,* in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician. For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability;

(s) If the veteran has a service-connected disability rated as total and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be [$905] *$995.* For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward of clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime;

(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 per centum or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 per centum or more, the monthly rate of compensation payable to such veteran shall be increased by [$175] *$192;*

(2) If a veteran described in paragraph (1) of this subsection receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child living, [$49] *$54;*

(B) has a spouse and one child living, [$83] *$91;*

(C) has a spouse and two children living, [$110] *$121;*

(D) has a spouse and three or more children living, [$137] *$151* (plus [$27] *$30* for each living child in excess of three);

(E) has no spouse but one child living, [$34] *$37;*

(F) has no spouse but two children living, [$61] *$67;*

(G) has no spouse but three or more children living, [$88] *$97* (plus [$27] *$30* for each living child in excess of three);

(H) has a parent dependent upon such veteran for support, then, in addition to the above amounts, [$40] *$44* for each parent so dependent;

(I) notwithstanding the other provisions of this [subsection] *section,* the monthly payable amount on account of a spouse who is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be [$89] *$98* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this [subsection] *section;* and

(J) notwithstanding the other provisions

of this [subsection] *section*, the monthly payable amount on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be [$75] *$82* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this [subsection.] *section.*

(2) If and while rated partially disabled, but not less than 30 per centum, in an amount having the same ratio to the amount specified in paragraph (1) *of this section* as the degree of disability bears to total disability. The amounts payable under this paragraph shall be adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar.

* * * * *

Subchapter VI—General Compensation Provisions

* * * * *

§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of [$218] *$240* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses a prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

* * * * *

Subchapter II—Dependency and Indemnity Compensation

* * * * *

§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the [persons] *person* upon whose death entitlement is predicated, at monthly rates set forth in the following table:

Pay grade	*Monthly rate*
E–1	$297
E–2	307
E–3	314
E–4	334
E–5	343
E–6	351
E–7	368
E–8	388
E–9	[1] 406
W–1	376
W–2	391
W–3	402
W–4	426
O–1	376
O–2	388
O–3	416
O–4	439
O–5	484
O–6	544
O–7	590
O–8	646
O–9	694
O–10	[2] 760

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $437.

[2] If the veteran served as Chairman of Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $814.

Pay grade	*Monthly rate*
E–1	$326
E–2	337
E–3	345
E–4	367
E–5	377
E–6	386
E–7	404
E–8	426
E–9	[1] 446
W–1	413
W–2	430
W–3	442
W–4	468
O–1	413
O–2	426
O–3	457
O–4	482
O–5	532
O–6	598
O–7	648
O–8	710
O–9	763
O–10	[2] 835

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $480.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $895.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by [$35] *$38* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$89] *$98* if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$45] *$49* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

* * * * *

§ 413. Dependency and indemnity compensation to children

Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, [$150] *$165;*

(2) two children, [216] *$237;*

(3) three children, [$278] *$306;* and

(4) more than three children, [$278] *$306,* plus [$56] *$62* for each child in excess of three.

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by [$89] *$98.*

(b) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$150] *$165.*

(c) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$76] *$84.*

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

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§ 611. Care during examinations and in emergencies

(a) * * *

* * * * *

(c)(1) The Administrator may contract with any organization [recognized by the Administrator for the purposes of] *named in, or approved by the Administrator under,* section 3402 of this title to provide for the furnishing by the Administrator, on a reimbursable basis (as prescribed by the Administrator), of emergency medical services to individuals attending any national convention of such organization, except that reimbursement shall not be required for services furnished under this subsection to the extent that the individual receiving such services would otherwise be eligible under this chapter for medical services.

* * * * *

§ 612A. Eligibility for readjustment counseling and related mental health services

(a) * * *

* * * * *

(d) The Chief Medical Director may provide for such training of professional, paraprofessional, and lay personnel as is necessary to carry out this section effectively, and, in carrying out this section, may utilize the services of paraprofessionals, individuals who are volunteers working without compensation, and individuals who are veteran-students (as described in section 1685 of this title) [,] in initial intake and screening activities.

* * * * *

§ 620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities; pilot program

(a)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may conduct a pilot program under which the Administrator may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities [of] *for* eligible veterans suffering from alcohol or drug dependence or abuse disabilities. Such pilot program shall be planned, designed, and conducted by the Chief Medical Director, with the approval of the Administrator, so as to demonstrate any medical advantages and cost effectiveness that may result from furnishing such care

and services to veterans with such disabilities in contract facilities as authorized by this section, rather than in facilities over which the Administrator has direct jurisdiction.

* * * * *

(d)(1) Any person serving in the active military, naval, or air service who is determined by the Secretary concerned to have an alcohol or drug dependence or abuse disability may not be transferred to any facility in order for the Administrator to furnish care or treatment and rehabilitative services for such disability unless such transfer is during the last thirty days of such member's enlistment period or tour of duty, in which case such care and services provided to such member shall be provided as if such member were a veteran. Any transfer of any such member for such care and services shall be made pursuant to such terms as may be agreed upon by the Secretary concerned and the Administrator, subject to the provisions of the Act of March 4, 1915 (31 U.S.C. 686).

(2) No person serving in the active military, naval, or air service may be transferred pursuant to an agreement made under paragraph (1) of this subsection unless such person requests such transfer in writing for a specified period of time during the last thirty days of such person's enlistment period or tour of duty. No such person transferred pursuant to such a request may be furnished such care and services by the Administrator beyond the period of time specified in such request [,] unless such person requests in writing an extension for a further specified period of time and such request is approved by the Administrator.

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Subchapter VII—Preventive Health-Care Services Pilot Program

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§ 663. Preventive health-care services

(a)(1) * * *

* * * * *

(d) In [order to carry] *carrying* out the program provided for in this subchapter, the Administrator may not expend more than $10,000,000 in fiscal year 1980, more than $12,000,000 in fiscal year 1981, more than $13,000,000 in fiscal year 1982, more than $14,000,000 in fiscal year 1983, or more than $15,000,000 in fiscal year 1984.

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CHAPTER 19—INSURANCE

SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE

Sec.
701. Definitions.
702. Premium rates and policy values.
703. Amount of insurance.
704. Plans of insurance.
705. Renewal.
706. Policy provisions.
707. Payment or use of dividends.
708. Premium payments.
709. Effective date of insurance.
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718. Assignments.
719. National Service Life Insurance appropriation.
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724. In-service waiver of premiums.
725. Limited period for acquiring insurance.
726. Authority for higher interest rates for amounts payable to beneficiaries.

SUBCHAPTER II—UNITED STATES GOVERNMENT LIFE INSURANCE

* * * * *

761. Authority for higher interest rates for amounts payable to beneficiaries.

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Subchapter I—National Service Life Insurance

* * * * *

§ 718. Assignments

(a) Assignments of all or any part of the beneficiary's interest may be made by a designated beneficiary to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured, when the designated contingent beneficiary, if any, joins the beneficiary in the assignment, and if the assignment is delivered to the Veterans' Administration before any payments of the insurance shall have been made to the beneficiary. However, an interest in an annuity, when assigned, shall be payable in equal monthly installments in such multiple of twelve as most nearly equals the number of installments certain under such annuity, or in two hundred and forty installments, whichever is the lesser. The provisions of this subsection shall not be applicable to insurance maturing on or after the date of enactment of this sentence.

(b) Except as to insurance granted under the provisions of section 722(b) of this title, any person to whom insurance maturing on or after the date of enactment of this sentence is payable may assign all or any portion of [his] *such person's* interest in such insurance to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured when the designated contingent beneficiary, if any, joins the beneficiary in the assignment. Such joinder shall not be required in any case in which the insurance proceeds are payable in a lump sum.

* * * * *

§ 725. Limited period for acquiring insurance

(a) * * *

(b) If, notwithstanding the applicant's service-connected disability, he is insurable according to the standards of good health established by the Administrator, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) five-year level premium term insurance may not be issued; (2) the net premium rates shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table, increased at the time of issue by such an amount as the Administrator determines to be necessary for sound actuarial operations, and thereafter such premiums may be adjusted as the Administrator determines to be so necessary but at intervals of not less than two years; (3) an additional premium to cover administrative costs to the Government as determined by the Administrator at times of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto, and thereafter such costs may be adjusted as the Administrator determines to be necessary but at intervals of not less than five years; (4) all cash, loan, extended and paid-up insurance values shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table; (5) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; (6) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ per centum per annum; *and* (7) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable [; (8) the insurance and any total disability income provision attached thereto shall be on a nonparticipating basis]

(c) If the applicant's service-connected disability or disabilities render him uninsurable according to the standards of good health established by the Administrator, or if the applicant has a non-service-connected disability which renders him uninsurable according to the standards of good health established by the Administrator and such person establishes to the satisfaction of the Administrator that he is unable to obtain commercial life insurance at a substandard rate and such uninsurability existed as of the date of approval of this section, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in standard policies of National Service Life Insurance, except (1) five-year level premium term insurance may not be issued; (2) the premiums charged for the insurance issued under this subsection shall be increased at the time of issue by such an amount as the Administrator determines to be necessary for sound actuarial operations and thereafter such premiums may be adjusted from time to time as the Administrator determines to be necessary; for the purpose of any increase at time of issue or later adjustment the service-connected group and the non-service-connected group may be separately classified; (3) an additional premium to cover administrative costs to the Government as determined by the Administrator at the time of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto (for which the insured may subsequently become eligible) and thereafter such costs may be adjusted as the Administrator determines to be necessary but at intervals of not less than five years and for this purpose the service-connected and non-service-connected can be separately classified: [(4) the insurance and any total disability income provision attached thereto shall be on a nonparticipating basis; (5)] *(4)* all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; [(6)] *(5)* all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ per centum per annum; and [(7)] *(6)* the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(d)(1) All premiums and collections on insurance issued pursuant to this section and any total disability income provision attached thereto shall be credited to the Veterans Reopened Insurance Fund, a revolving fund established in the Treasury of the United States, and all payments on such insurance and any total disability provision attached thereto, *including payments of dividends and refunds of unearned premiums,* shall be made from that fund *and the interest earned on the assets of that fund.* For actuarial and accounting purposes, the assets and liabilities (including liabilities for repayment of advances hereinafter authorized, and adjustment of premiums) attributable to the insured groups established under this section shall be separately determined. Such amounts in the Veterans Special Term Insurance Fund in the Treasury, not exceeding $1,650,000 in the aggregate, as may hereafter be determined by the Administrator to be in excess of the actuarial liabilities of that fund, including contingency reserves, shall be available for transfer to the Veterans Reopened Insurance Fund as needed to provide initial capital. Any amounts so transferred shall be repaid to the Treasury over a reasonable period of time with interest as determined by the Secretary of

the Treasury taking into consideration the average yield on all marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt.

* * * * *

§ 726. Authority for higher interest rates for amounts payable to beneficiaries

Notwithstanding sections 702, 723, and 725 of this title, if the beneficiary of an insurance policy receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in the appropriate section of this subchapter. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.

Subchapter II—United States Government Life Insurance

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§ 753. Assignments

Any persons to whom United States Government life insurance shall be payable may assign [his] *such person's* interest in such insurance to the spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law of the insured. Insofar as applicable, the definitions contained in section 3 of the World War Veterans' Act, 1924, in effect on December 31, 1958, shall apply to this section.

* * * * *

§ 761. Authority for higher interest rates for amounts payable to beneficiaries

Notwithstanding section 744(b) of this title, if the beneficiary of an insurance policy issued under the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in such section. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.

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CHAPTER 37—HOME, CONDOMINIUM, AND MOBILE HOME LOANS

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SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

1820. Powers of Administrator.
1821. Incontestability.
1823. Direct loan revolving fund.
1824. Loan guaranty revolving fund.
1825. Waiver of discharge requirements for hospitalized persons.
1826. Withholding of payments, benefits, etc.
1827. Expenditures to correct or compensate for structural defects in mortgaged homes.
1828. Exemption from State anti-usury provisions.

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Subchapter III—Administrative Provisions

* * * * *

§ 1828. Exemption from State anti-usury provisions

If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, then loans and mortgages guaranteed or insured under this chapter are also exempt from the application of such provisions.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

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Subchapter I—Acquisition and Operation of Medical Facilities

* * * * *

§ 5005. Structural requirements

(a) Each medical facility (including each nursing home facility for which the Administrator contracts under section 620 of this title and each State home facility constructed or altered under [section 5031 of this title] *subchapter III of this chapter*) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing structure is acquired for use as a medical facility, it shall be altered to comply with such standards.

* * * * *

In summary, Mr. Speaker, the proposed House amendments, in my opinion, reflect a reasonable compromise—one which I believe will enhance the lives of our service-connected veterans and many other veterans who have served our country.

I urge that the amendments be adopted.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to compliment the gentleman from Mississippi, the distinguished chairman of the Veterans' Affairs Subcommittee on Compensation, Pension, Insurance and Memorial Affairs, for his exposition of the amendment before us. I would also like to acknowledge the forthright leadership of committee Chairman RAY ROBERTS in surmounting the many obstacles that lay in its path.

As the result of the informal conversations with the other body, the amendment's provisions, I understand, are now acceptable to the Veterans' Affairs Committees of both Houses.

As the distinguished subcommittee chairman has said, the Veterans' Disability Compensation and Survivors Benefits Act of 1979 will grant a 9.9-percent rate increase to veterans drawing compensation from the Government for service-connected disabilities and to survivors drawing dependency and indemnity compensation.

The other body recently approved a higher rate, while our own compensation bill, passed July 16, specified an 8.3-percent increase. The behavior of the national economy during the intervening months has been such that it is evident the committee was overly optimistic in estimating the rate of inflation. Early this year, I had misgivings about the administration's ability to slow inflation and I introduced a bill providing a 10-percent increase in compensation rates. This bill differs from it by only one-tenth of 1 percent.

Many of you as well as myself are very concerned about bringing economy to Government; however, we cannot, in good conscience, shortchange veterans with service-connected disabilities. Social security recipients received a 9.9-percent increase. Certainly, we can provide no less for the service-connected and their survivors.

I am particularly pleased that this bill raises the rate of monthly compensation paid the so-called "K" award. This group of disabled veterans have not had an increase in their statutory award since 1976. I am also gratified that the committee adopted the substance of a bill I introduced to make a small group of seriously disabled veterans, previously overlooked, eligible for consideration by the Veterans' Administration of the aid and attendance allowance. At present only 58 veterans in the Nation come under this provision and its maximum cost is estimated at $679,000. Both these provisions will grant a measure of relief to veterans who have suffered disproportionately.

Mr. Speaker, we can never repay these veterans and survivors for their losses suffered as a result of military service to the Nation. We can, however, ease the economic difficulties caused by their disabilities. I recommend that our colleagues act favorably on the amendment before us.

Mr. Speaker, I will yield briefly, under my reservation, to the distinguished ranking minority member of the subcommittee, the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Arkansas in complimenting the chairman of the Committee on Veterans' Affairs and the chairman of the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs for their leadership and commitment in bringing this amendment before us.

As ranking member of the subcommittee, I can tell you it has not been an easy task. I have been examining closely every spending bill brought before Congress, probing for soft spots, trying to save every dollar of Federal funds possible. The proposal of the other body for a compensation increase was unacceptably high, yet no group of citizens has a better claim on the government than service-disabled veterans.

I believe the rate of increase included in the amendment now before us is reasonable. Compensation, throughout the history of this program, has been paid to veterans disabled as the result of their military service to make up earning capacity lost as the result of those disabilities. The amount paid monthly, therefore, varies according to the degree of impairment and the pay structure of civilian occupations. It follows that adjustments must be made in these payments during a time of inflation such as the one we are now going through.

A service-connected disability is one that has been so adjudicated by the Veterans' Administration. It is based on military medical records and other relevant evidence that may be presented by the veteran. Once service connection is granted, the percentage of disability is based on a physical examination by the VA.

The agency has established a schedule of rating disabilities as a guideline for measuring the degree of disability. Additional compensation may be paid for severe disabilities like blindness, or loss of a limb. These are the so-called statutory awards. For example, the amendment before us increases the statutory "K" award for the loss of a hand, foot, or eye.

It is evident, then, that compensation to be paid under this amendment, far from being charity or welfare, is payment for loss of capacity brought about by special service to the Nation. The amount required is $82.7 million less than would be necessary to finance the increase passed by the other body. I believe it to be equitable, meeting our obligations to service-connected veterans and their survivors; striking a reasonable compromise with the other body. I support the amendment, Mr. Speaker, and urge its adoption.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York (Mr. WOLFF), a member of the committee.

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Speaker, let me echo the sentiments of my colleagues here in congratulating the conference for coming up with this type of answer to the problem. I want to ask only one question. Will this have also an effect, however, on the social security payments of these people, and are we taking steps to remedy this problem that has existed where we have an increase in disability payments?

Mr. HAMMERSCHMIDT. Mr. Speaker, if I may respond to the gentleman, this has nothing to do with social security, since this is a compensation bill. However, I will say that the 9.9-percent increase is exactly the same as was indexed for the social security bill.

Mr. WOLFF. I thank the gentleman.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, actually one other matter should be brought to the attention of the Members of the House. This bill would be retroactive back to October 1, and the veterans, if we pass this legislation, in their checks will get this 9.9-percent cost-of-living increase back until October 1, but it will show up in their December 1 checks.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I wish to commend the distinguished subcommittee chairman, ranking majority member, (Mr. MONTGOMERY), and minority member, (Mr. HAMMERSCHMIDT), of the subcommittee, for their continuing efforts for our veterans and in bringing this measure back to the floor so expeditiously. I know that the committee is concerned about the October payments to our Veterans.

Mr. Speaker, I rise in support of the legislation, H.R. 2282, the veterans disability compensation and survivors benefits amendments which is before the House.

This legislation provides a deserving cost-of-living increase in disability compensation for veterans and also grants increases in the rates of dependency and indemnity compensation for survivors of disabled veterans. This increase is a 9.9-percent increase which is retroactive to October 1, 1979. The Congressional Budget Office estimates recommended this percentage, and all indications support this figure as an accurate one, taking into account the inflation rate and the escalating cost-of-living demands which have been faced by all Americans.

Mr. Speaker, let us not be hesitant in approving this legislation directly benefiting our veterans. Our veterans have sacrificed for our Nation, and our disabled veterans continue to make sacrifices even after their terms of service have expired. The disabled veteran, and his survivors, are symbols of a free America, an America free from threat. They are an inspiration to all of us. We owe them our gratitude. This 9.9 increase is barely comparable to the ever-rising inflation rate. Accordingly, I urge my colleagues to join in supporting the conference report on this legislation.

Mr. HAMMERSCHMIDT. I thank the gentleman for his contribution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MURPHY of New York). Is there objection to the request of the gentleman from Mississippi (Mr. MONTGOMERY) that the Senate amendments and the proposed House amendments to Senate amendments to be considered as read and printed in the RECORD?

There was no objection.

● Mr. ROBERTS. Mr. Speaker, I rise in strong support of the proposed amendments of H.R. 2282 being offered by the distinguished gentleman from Mississippi (Mr. MONTGOMERY).

The gentleman from Mississippi has explained in detail the proposed amendments—all of which are designed to enhance the lives of our service-connected disabled veterans and their eligible survivors. All Members are very concerned about the continuing rise in the cost of living. Inflation affects all of us; however, the most severe impact is to those on fixed incomes. I think the Congress has treated our Nation's service-connected disabled veterans well as the gentleman from Mississippi (Mr. MONTGOMERY), has pointed out.

Over the years, the record will show that on balance the cumulative increase in the compensation rates paid to the totally and permanently service-connected disabled veteran has exceeded the rise in the Consumer Price Index.

Mr. Speaker, we have been delayed in bringing this measure to the floor for consideration by the House because of the continuing debate between the House and Senate conferees on the ceilings to be established in the second budget resolution.

We have decided to proceed with the measure for several reasons. First, although the Budget Committee conferees continue to meet on issues still in disagreement, it is my understanding there is no disagreement on function 700 pertaining to veterans' benefits and services.

Second, our Nation's veterans are in dire need of the increase in compensation rates which would be retroactive to October 1, 1979. I think we should proceed to pass the measure so that this rate adjustment can be reflected in the December checks.

The bill as amended by the Senate has been pending in the House for several weeks awaiting final action by the Budget Committee. I am confident the compromise to be reached on the second concurrent budget resolution will be sufficient to provide the 9.9-percent rate increase as proposed in the House amendments, and I urge my colleagues to support the proposal offered by the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. Speaker, I want to thank the chairman of our Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs for bringing this measure to the floor. I also want to acknowledge the dedicated service of the very able ranking minority member of the subcommittee, the distinguished gentleman from Ohio (Mr. WYLIE). I also want to pay tribute to my good friend, the very able ranking minority member of the full committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT). All of them have worked very closely with the other body in trying to bring about a reasonable compromise between the bills as passed by the House and Senate. We are most grateful for their continued good work on behalf of our Nation's service-connected disabled veterans.●

● Mr. DASCHLE. Mr. Speaker, 8.8 million veterans, almost one-third of the veterans in the United States today served during the Vietnam era; 57,000 died in Vietnam and over 530,000 are receiving compensation for disabilities, both physical and psychological, sustained while serving our country during the conflict in Southeast Asia. Vietnam produced more casualties for the Marine Corps than World War II. Because of the guerrilla nature of the fighting itself, with extensive use of mines and booby traps, and also because of improved medical treatment, Vietnam veterans often sustained and survived more serious crippling injuries than veterans of previous wars; 30,000 Vietnam veterans, including those with the most catastrophic injuries, are totally disabled.

Mr. Speaker, it is not our intention on the House Committee on Veterans' Affairs to single out one group of veterans as being more deserving than another.

Obviously, the amendment to the compensation bill we are considering today affects all veterans, no matter what their age, their service, or their disability. We have well over 2 million veterans from five wars currently receiving compensation for service-connected disabilities and close to 321,000 survivors eligible for an increase in DIC payments. I use the Vietnam era veteran as an example; as a reminder, from the recent past, of not only what the horrors of war can inflict upon a generation of Americans but as a reminder of our obligation to compensate for that sacrifice with our gratitude.

In many instances, unlike those from previous wars, the Vietnam veteran came home without the open appreciation of the American people. In many respects, he was welcomed more with a sense of relief than an upsurge of gratitude. As a result, the process of readjustment, especially for the disabled, has not been easy. I believe we can show our commitment to the Vietnam era veteran, and ease this readjustment process for the disabled, by maintaining the integrity of the compensation program provided for them. By acknowledging the service of the Vietnam veteran in this way, we pay tribute to the sacrifice of all those who have served our country in time of war.

Mr. Speaker, I wholeheartedly endorse the amendment as proposed by the gentleman from Mississippi.●

● Mr. ABDNOR. Mr. Speaker, I rise to take the opportunity to join the distinguished members who have so eloquently explained the provisions included in this legislation. Back in July when we overwhelmingly adopted the House version of the bill, it appeared that the 8.3-percent increase would be sufficient. That, unfortunately, has not been the case. This amendment, which the gentleman from Texas has offered, is most important. Its expeditious handling is necessary to provide assistance to those service-connected veterans and their dependents who depend on compensation and DIC.

The Veterans' Administration has indicated that any further delay will cost a significant amount of money to administratively activate a retroactive payment. I see no need to spend money simply because we have not acted in an expeditious manner.

Before yielding back the balance of my time, I would also note that H.R. 2282 contains language similar to H.R. 411, which this House unanimously passed earlier this year. As you will recall, this measure exempted loans made, guaranteed, or insured by the VA from State-imposed usury limits. As ranking member on the House subcommittee, I am most concerned that the loan guarantee program be available to every eligible veteran. I am also concerned that our actions do not deprive any State from exercising its responsibilities. The language in this bill does both. It guarantees the veteran an opportunity to utilize the benefit if he so chooses, and it provides the mechanism for the State to override this law if it so chooses.

Mr. Speaker, in closing, I would urge my colleagues to join in supporting the amendment offered by the chairman.●

● Mr. EDGAR. Mr. Speaker, as a cosponsor of the original House bill, H.R. 2282, I would like to give my full support to the amendment proposed by the honorable chairman of the House Veterans' Affairs Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs. Our bill, H.R. 2282 was introduced last February and called for an 8.3-percent increase in compensation and DIC rates as recommended by the Congressional Budget Office. Since that time the members of our committee have watched the Consumer Price Index rise to the point where we felt we had to recommend raising that original cost-of-living increase projection.

Recently, the administration raised their cost-of-living wage increase due to go into effect for Federal employees for fiscal year 1980 from 5.5 percent to 7 percent; a jump of 1.5 percent. Our proposed raise in the compensation rate from 8.3 percent to 9.9 percent represents a hike of 1.6 percent and closely parallels the precedent set by the administration. A 9.9-percent increase would cost $98.4 million above our original estimate, but would still be well below the compensation guidelines accepted for the second budget resolution. In addition, the 9.9-percent increase proposed by this amendment is the same cost-of-living allowance granted to veteran pension recipients on June 1 of this year, as well as to all those receiving social security benefits.

Mr. Speaker, in my own State of Pennsylvania there are 128,000 service-connected disabled veterans, and close to 20,000 survivors of those who have died of service-connected causes presently receiving compensation and DIC benefits. These men, women, and children live every day of their lives with the tangible reminder of a sacrifice made in service to our country. Their pain and their loss does not decrease. I believe our Government must maintain our commitment and insure the compensation provided for them against devaluation at the hands of inflation.●

● Mr. MICA. Mr. Speaker, Florida has the fastest growing veteran population of any State in the Union. Of the 1.3 million veterans who have come to live in my State, 129,000 are currently receiving compensation for service-connected disability. Also, in Florida our government pays dependency and indemnity compensation to 26,691 survivors of those who have died of service-connected causes.

Our country has an historic obligation dating from Revolutionary War times to compensate those who have paid a price while serving our Nation in time of war. Compensation programs are designed to offset a veteran's decreased earning capability caused by service-connected disease or disability. In addition, surviving spouses and dependent children of veterans who die of service-connected causes are eligible for compensation payment to help make up for the loss of the family breadwinner.

Mr. Speaker, a large percentage of veterans who come to live in Florida do so to spend their retirement years. It is a know fact that service-connected disabilities tend to worsen or become more aggravated as time goes by, and coupled with problems associated with the aging process, can become even more disabling. There are now almost 13 million veterans from World War II, average age 60, who will soon be reaching retirement age in Florida and around the county. With older veterans faced with declining health and the prospect of living on a fixed retirement income we should make certain that their disability compensation is not arbitrarily reduced by inflation.

A 9.9-percent increase in compensation would raise from $44 to $48 the monthly payment to veterans with a 10-percent disability, while those with the most crippling disabilities, those rated 100 percent, would receive an increase from $809 to $889 per month.

I join with my colleagues on the House Committee on Veterans' Affairs both Democrats and Republicans, to endorse this amendment.●

● Mr. GRAMM. Mr. Speaker, I would like to offer my strong support for H.R. 2282, a bill introduced by my colleague from Mississippi, Mr. MONTGOMERY, to grant a 9.9-percent increase in compensation and DIC rates to service-connected disabled veterans and their survivors. But first, I would like to express my appreciation for the dedication of the gentleman from Mississippi, the chairman of our Compensation Subcommittee, in working to see this matter resolved in a manner both acceptable to the veterans of this country and in keeping with the guidelines of fiscal responsibility set down by the leadership of the House.

I would also like to offer my special thanks to the chairman of the full committee, the gentleman from Texas, who has worked long and hard in resolving this legislation, and whose position in this body has made him a powerful guardian of the rights and entitlements of over 30 million veterans in the United States today.

Mr. Speaker, I believe adopting a 9.9-percent increase in compensation and DIC rates to be a fair decision. Last year the Congress granted a 7.8-percent increase for service-connected disabled veterans and the widows and children of those who have died as a result of service-connected causes. We know that inflation, as evidenced by the Consumer Price Index has gone well beyond the figure. In his budget request to the Congress in January, the President recommended a 7.3-percent increase. At the time of the mid-session budget review the administration raised that estimate to 9.4 percent. Inflation has already surpassed that mark. I believe the 9.9-percent increase, as proposed by this amendment, is a much more realistic figure, and one that will be acceptable to the Senate and to the veterans we represent.●

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi (Mr. MONTGOMERY)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

MISCELLANEOUS CHANGES IN INTERNAL REVENUE CODE

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5505) to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "TAX Administrative Provisions Revision Act of 1979."

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. PAYMENT OF INTEREST WHERE LEVY HAS BEEN WRONGFULLY MADE AND MONEY RECEIVED BY UNITED STATES.

(a) IN GENERAL.—Section 6343 (relating to release of levy and return of property) is amended by adding at the end thereof the following new subsection:

"(c) INTEREST.—Interest shall be allowed and paid at an annual rate established under section 6621—

"(1) in a case described in subsection (b)(2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

"(2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 6621 is amended to read as follows:

"(a) IN GENERAL.—The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b)."

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to levies made after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 3. REPEAL OF REQUIREMENT THAT TRANSFERORS OF CERTAIN PROPERTY TO EXEMPT ORGANIZATIONS MUST FILE RETURNS.

(a) GENERAL RULE.—Section 6050 (relating to returns relating to certain transfers to exempt organizations) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 4. REPEAL OF ADDITION TO TAX IN CASE OF JEOPARDY.

(a) GENERAL RULE.—Section 6658 (relating to addition to tax in case of jeopardy) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the item relating to section 6658.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations (or attempted violations) occurring after the date of the enactment of this Act.

SEC. 5. REPEAL OF REQUIREMENT THAT INFORMATION BE FURNISHED TO THE SERVICE IN CONNECTION WITH CERTAIN OPTIONS

(a) GENERAL RULE.—Section 6039 (relating to information required in connection with certain options) is amended to read as follows:

"SEC. 6039. INFORMATION REQUIRED IN CONNECTION WITH CERTAIN OPTIONS.

"(a) FURNISHING OF INFORMATION.—Every corporation—

"(1) which in any calendar year transfers a share of stock to any person pursuant to such person's exercise of a qualified stock option or a restricted stock option, or

"(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

"(A) acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

"(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.

"(b) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT BY EMPLOYER TO BE DETERMINATIVE.—Any option which the corporation treats as a qualified stock option, a restricted stock option, or an option granted under an employee stock purchase plan shall be deemed to be such an option.

"(2) SUBSECTION (a)(2) APPLIES ONLY TO FIRST TRANSFER DESCRIBED THEREIN.—A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

"(3) IDENTIFICATION OF STOCK.—Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

"(c) CROSS REFERENCES.—

"For definition of—

"(1) The term 'qualified stock option', see section 422(b).

"(2) The term 'employee stock purchase plan', see section 423(b).

"(3) The term 'restricted stock option', see section 424(b)."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6652 is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2), and

(C) by striking out "return referred to in paragraph (2) or (3)" and inserting in lieu thereof "return referred to in paragraph (2)".

(2) Section 6678 (relating to penalty for failure to furnish certain statements) is amended to read as follows:

"SEC. 6678. FAILURE TO FURNISH CERTAIN STATEMENTS.

"In the case of each failure—

"(1) to furnish a statement under section 6042(c), 6044(e), 6049(e), or 6052(b), on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), 6049(a)(1), or 6052(a), respectively, or

"(2) to furnish a statement under section 6039(a) on the date prescribed therefor to a person with respect to whom such a statement is required,

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so furnish the statement $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to calendar years beginning after 1979.

SEC. 6. EXTENSION OF TIME FOR FILING GIFT TAX RETURN FOR FOURTH CALENDAR QUARTER.

(a) GENERAL RULE.—Paragraph (1) of section 6075(b) (relating to due date for gift tax returns) is amended to read as follows:

"(1) GENERAL RULE.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before—

"(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or

"(B) in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter."

(b) EXTENSION OF DATE FOR FILING INCOME TAX RETURN TREATED AS EXTENSION OF DATE FOR FILING GIFT TAX RETURN.—Subsection (b) of section 6075 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXTENSION WHERE TAXPAYER GRANTED EXTENSION FOR FILING INCOME TAX RETURN.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for the fourth calendar quarter of such taxable year."

(c) TECHNICAL AMENDMENTS.—Paragraph (2) of section 6075(b) is amended—

(1) by striking out "the 15th day of the second month after" and inserting in lieu thereof "the date prescribed by paragraph (1) for filing the return for", and

(2) by striking out "the close of" in subparagraphs (A) and (B).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 7. TIME FOR PAYMENT OF MANUFACTURERS EXCISE TAX ON RODS, CREELS, ETC.

(a) GENERAL RULES.—Section 6302 (relating to mode or time of collecting tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TIME FOR PAYMENT OF MANUFACTURERS EXCISE TAX ON RODS, CREELS, ETC.—The tax imposed by section 4161(a) (relating to manufacturers excise tax on rods, creels, etc.) shall be due and payable—

"(1) in the case of articles sold during the quarter ending December 31, on March 31,

"(2) in the case of articles sold during the quarter ending March 31, on June 30,

"(3) in the case of articles sold during the quarter ending June 30, on September 24, and

"(4) in the case of articles sold during the quarter ending September 30, at such time as the Secretary may by regulations prescribe."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles sold on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 8. TRANSFER OF DOMESTIC WINE TO CUSTOMS BONDED WAREHOUSE FOR CERTAIN PURPOSES.

(a) TRANSFER TO CUSTOMS BONDED WAREHOUSE.—Paragraph (4) of section 5362(c) (relating to withdrawals of wine free of tax or without payment of tax) is amended to read as follows:

"(4) without payment of tax for transfer to any customs bonded warehouse;".

(b) WITHDRAWAL FROM CUSTOMS BONDED WAREHOUSES FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—Section 5362 is amended by adding at the end thereof the following new subsection:

"(e) WITHDRAWAL FROM CUSTOMS BONDED WAREHOUSES FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, wine entered into customs bonded warehouses under subsection (c)(4) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported wines from such warehouses free of tax. Wines transferred to customs bonded warehouses under subsection (c)(4) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported wines.

"(2) WITHDRAWAL FOR DOMESTIC USE.—Wine entered into customs bonded warehouses under subsection (c)(4) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Wines so withdrawn shall be treated as American goods exported and returned.

"(3) SALE OR UNAUTHORIZED USE PROHIBITED.—Wine withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain wine free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provisions of paragraphs (1)(B) and (3) of section 5043(a) are hereby extended and made applicable to any person selling, disposing of, or possessing any wine in violation of the preceding sentence, and to the wine involved in any such violation."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

SEC. 9. EXCISE TAX REFUNDS IN CASE OF CERTAIN USES OF TREAD RUBBER.

(a) REFUNDS FOR CERTAIN USES.—Subparagraph (G) of section 6416(b)(2) is amended to read as follows:

"(G) in the case of tread rubber in respect of which tax was paid under section 4071(a)(4)—

"(i) used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)),

"(ii) destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process,

"(iii) used in the recapping or retreading of a tire the sale of which is later adjusted pursuant to a warranty or guarantee, in which case the overpayment shall be in proportion to the adjustment in the sales price of such tire, or

"(iv) used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use,

unless credit or refund of such tax is allowable under paragraph (3);".

(b) USE IN FURTHER MANUFACTURE, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 6416(b) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) in the case of tread rubber in respect of which tax was paid under section 4071(a)(4) used in the recapping or retreading of a tire, such tire is sold by the subsequent manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, unless credit or refund of such tax is allowable under subparagraph (C);".

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (E) of section 6416(b)(2) is amended by inserting after "paragraph (3)" the following: "(or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)),".

(B) Subparagraph (C) of section 6416(a)(1) is amended by striking out "(b)(3)(C)" and inserting in lieu thereof "(b)(3)(C) or (D)".

(C) Subparagraph (A) of section 6416(b)(3) is amended by inserting "(D)," after "(C),".

(D) Subparagraph (A) of section 6416(b)(4) is amended by striking out "section 4071" and inserting in lieu thereof "section 4071 or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading".

(c) STATUTE OF LIMITATIONS.—Section 6511 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULE FOR CERTAIN TREAD RUBBER TAX CREDITS OR REFUNDS.—The period for allowing a credit or making a refund of any overpayment of tax arising by reason of subparagraph (G)(iii) of section 6416(b)(2) with respect to any adjustment of sales price of a tire pursuant to a warranty or guarantee shall not expire therefor is filed before the date which is 1 year after the day on which such adjustment is made."

(d) IMPORTED RECAPPED OR RETREADED UNITED STATES TIRES.—Section 4071 is amended by adding at the end thereof the following new subsection:

"(f) IMPORTED RECAPPED OR RETREADED UNITED STATES TIRES.—

"(1) IN GENERAL.—For purposes of subsection (a)(4), in the case of a tire which has been exported from the United States, recapped or retreaded (other than from bead to bead) outside the United States, and imported into the United States—

"(A) the person importing such tire shall be treated as importing the tread rubber used in such recapping or retreading (determined as of the completion of the recapping or retreading), and

"(B) the sale of such tire by the importer thereof shall be treated as the sale of such tread rubber.

"(2) EXCEPTION FOR CERTAIN TAXABLE SALES.—Paragraph (1) shall not apply with respect to the sale of any tire if such tire is sold on or in connection with the sale of an article on which tax is imposed under section 4061."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

SEC. 10. APPLICATION OF SECTION 1034 IN CASE OF CERTAIN MEMBERS OF ARMED FORCES.

(a) GENERAL RULE.—Subsection (h) of section 1034 (relating to sale or exchange of residence by members of Armed Forces) is amended to read as follows:

"(h) MEMBERS OF ARMED FORCES.—

"(1) IN GENERAL.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of the sale of the old residence, except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence.

"(2) MEMBERS STATIONED OUTSIDE THE UNITED STATES, ETC.—

"(A) FURTHER EXTENSION OF PERIOD.—In the case of any taxpayer who, during any period of time the running of which is suspended by paragraph (1)—

"(i) is stationed outside of the United States, or

"(ii) is required to reside in Government-owned quarters,

any such period of time as so suspended shall not expire before the later of the date provided for in paragraph (1) or the date 1 year after the date on which the taxpayer is no longer stationed outside of the United States or is no longer required to reside in such quarters, as the case may be.

"(B) REQUIREMENT OF NOTICE.—No extension shall be granted with respect to any residence by reason of subparagraph (A) for any period unless the taxpayer has filed notice (in such form and at such time as may be prescribed by regulations) claiming the benefits of subparagraph (A) for such period. The notice described in the preceding sentence, with respect to any residence, shall not be required to be filed more than once a year.

"(3) EXTENDED ACTIVE DUTY DEFINED.—For purposes of this subsection, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1954) after December 31, 1979.

SEC. 11. EXEMPT STATUS OF AUXILIARIES OF CERTAIN FRATERNAL BENEFICIARY SOCIETIES

(a) GENERAL RULE.—Subsection (i) of section 501 is amended by adding at the end thereof the following new sentence: "The preceding sentence to the extent it relates to discrimination on the basis of religion shall not apply to an auxiliary of a fraternal beneficiary society if such society (1) is described in subsection (c)(8) and exempt from tax under subsection (a), and (2) limits its membership to the members of a particular religion."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after October 20, 1976.

SEC. 12. EXTENSION OF CERTAIN TEMPORARY TAX PROVISIONS

(a) GOVERNMENT HEALTH PROVISION SCHOLARSHIP PROGRAMS.—Subsection (c) of section 4 of Public Law 93-483, as amended, is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981", and

(2) by striking out "1984" and inserting in lieu thereof "1985".

(b) NATIONAL RESEARCH SERVICE AWARDS.—Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to national research service awards) is amended by striking out "1979" and inserting in lieu thereof "1980".

(c) DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers to the handicapped) is amended by striking out "January 3, 1980" and inserting in lieu thereof "January 1, 1983".

(d) CONTROVERSIES INVOLVING WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF THE EMPLOYMENT TAXES.—

(1) IN GENERAL.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1980 is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

(B) by striking out "1980" in the subsection heading and inserting in lieu thereof "1981", and

(C) by striking out "1979" in the heading for paragraph (3) and inserting in lieu thereof "1979 and 1980".

(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1981".

(e) ADDITIONAL 2-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.—Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) are amended by striking out "1980" each place it appears and inserting in lieu thereof "1982".

The SPEAKER pro tempore. Is a second demanded?

Mr. DUNCAN of Tennessee. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5505, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill currently before the House, H.R. 5505, makes various miscellaneous changes in the tax laws. In brief, the bill consists of three basic parts.

Sections 2 through 6 of the bill amend several provisions of subtitle F of the tax code to make certain modifications and otherwise eliminate certain unnecessary provisions. These provisions are part of the committee's ongoing effort to provide tax simplifications. Sections 2 through 6 were originally a part of H.R. 3900, a tax simplification bill introduced by Chairman ULLMAN and the ranking Republican member, Mr. CONABLE.

Sections 7 through 11 of the bill make five minor adjustments in the tax code. They were originally introduced and considered at the subcommittee level as individual bills. I will go into greater detail on these provisions later in my statement.

The final section of the bill, section 12, contains five extensions of certain tax provisions that are about to expire generally at the end of the current calendar year.

Let me now take the opportunity to briefly review the individual provisions contained in H.R. 5505.

Section 2 of the bill provides for the payment of interest when the Internal Revenue Service administratively determines that a wrongful levy of property has been made and money is returned to the owner of the property. This extends the same type of relief in the administrative rules of the code as is now available to a property owner who sues to recover the proceeds from property mistakenly taken by the service to satisfy someone else's delinquent tax liability.

Section 3 of the bill repeals a provision of existing law that requires the transferor of certain income producing property to an exempt organization to file an information return. This return is no longer necessary since the information is currently attainable from the transferee organization.

Section 4 of the bill repeals the 25-percent penalty imposed when a taxpayer violates the special termination of a taxable year jeopardy assessment provision under present law. Repeal of this penalty had been recommended by the Treasury Department in connection with legislation enacted in 1976. The repeal amendment was inadvertently omitted in that legislation.

Section 5 repeals the requirement that information relating to certain qualified and restricted stock options be furnished to the Internal Revenue Service. This is designed to eliminate unnecessary paperwork with respect to these options which are being phased out.

Section 6 provides that the due date for filing a gift tax return for the fourth calendar quarter or the calendar year would be April 15 of the following year. Thus the gift tax return due date would be consistent with the income tax due date for calendar year taxpayers. These changes are designed to facilitate voluntary taxpayer compliance.

Section 7 of the bill would make certain adjustments in the time for payment of the excise tax on fishing equipment to better coordinate such payments with the unique seasonal nature of this industry.

Section 8 would conform the treatment of domestic wine with imported wine so that transfers of such wine could be made to custom bonded warehouses without payment of tax. In addition, tax-free sales of such wine would be authorized under the same circumstances as currently authorized for distilled spirits under present law.

Section 9 would provide for certain adjustments in the excise tax paid on tread rubber.

Section 10 would extend the replacement period for nonrecognition of gain on the sale of a personal residence for members of the Armed Forces in certain cases where such individuals are stationed outside the United States or are required to reside in Government-owned quarters.

Section 11 would allow certain social clubs which are affiliated with fraternal beneficiary societies, currently exempt from tax under section 501(c)(8), to retain their exemption even though membership in those affiliated social clubs is limited to members of a particular religion in the same manner as membership is limited by the fraternal beneficiary society.

Section 12(a) would extend for 1 year the present exclusion from gross income of amounts received by participants in the uniformed services health professions scholarship program. It is my hope that the Select Revenue Subcommittee will be able to develop a permanent rule on the appropriate treatment of these Government grant programs early next session.

Section 12(b) would extend for 1 year the scholarship exclusion for National Research Service Awards.

Section 12(c) would extend for 3 years, section 190 of the Internal Revenue Code, which provides an incentive for the removal of architectural and transportation barriers for the handicapped and elderly by allowing a limited current

deduction for capital costs incurred in removing these barriers.

Section 12(d) would extend for 1 year interim relief provided by section 530 of the Revenue Act of 1978 with respect to the clarification of certain workers for employment tax purposes. The Subcommittee on Select Revenue Measures is currently considering in executive session, H.R. 5460, legislation designed to provide a permanent solution to the worker classification problem. It is clear, however, that the controversial nature of the issue will preclude enactment of a permanent solution this year.

Section 12(e) would defer for an additional 2 years the effective date of provisions of the Tax Reform Act of 1976 relating to special limitations on net operating loss carryovers.

I have taken the time to detail each of the provisions in H.R. 5505 only because the diversity of the provisions precludes a general characterization which provides an adequate description. This bill was reported from the committee by a voice vote and I know of no substantive opposition to the provisions of the bill. In fact, in the two limited areas where controversy arose, amendments were adopted to address the concerns expressed. I urge the adoption of the legislation.

□ 1340

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5505 which contains several bills passed by the Select Revenue Subcommittee of the Committee on Ways and Means. Of particular interest are the provisions of the bill which: First, extend the date on which certain gift tax returns may be filed to correspond with the filing date for income tax returns; and second, allow members of the Armed Forces, who sell their home and are stationed overseas, additional time to purchase a new principal residence and qualify for tax-free rollover treatment.

The bill also incorporates the provisions of H.R. 5530, extending certain temporary provisions of the Internal Revenue Code of 1954. Included in this group of provisions are an extension: First, of the delay of the effective date of the net operating loss rules enacted under the Tax Reform Act of 1976; and second, of the prohibition on the Internal Revenue Service issuing new rules or regulations concerning the classification of an individual as an employee or independent contractor for tax purposes. The extensions will allow the Committee on Ways and Means additional time to study several controversial and technical provisions and establish permanent rules for them.

The bill is supported by Treasury and I urge its immediate adoption.

Mr. Speaker, I have no further requests for time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 5505, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PASSENGER SHIP INDUSTRY REVITALIZATION

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5472) to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel *United States*, steamship vessel *Oceanic Independence*, steamship vessel *Santa Rosa*, and the steamship vessels *Mariposa* and *Monterey* into the trade, as amended.

The Clerk read as follows:

H.R. 5472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), and any other provision of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel *Oceanic Independence* (official Coast Guard numbered 261147) and the vessel steamship *Santa Rosa* (official Coast Guard numbered 276598) to be documented as vessels of the United States entitled to engage in the coastwise trade, so long as—

(1) in the case of the *Oceanic Independence*—

(A) the vessel is in compliance with all other requirements for vessels engaging in the coastwise trade,

(B) any rebuilding of the vessel or repair work constituting a rebuilding, accomplished after enactment of this Act, shall be effected within the United States, its territories (not including trust territories), or its possessions, except that the vessel shall not lose its coastwise privileges by reason of having work necessary to install bow thrusters in the vessel and to equip it with a marine sewer sanitation system performed outside the United States, its territories (not including the trust territories) or its possessions before the vessel engages in the coastwise trade following enactment of this Act,

(C) the vessel is owned by a citizen or citizens of the United States as defined in the applicable laws prescribing the qualifications for vessels to engage in the coastwise trade, and

(D) for hire carriage in such trade is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful.

(2) in the case of the steamship Santa Rosa—

(A) prior to such documentation the owner of the steamship *Santa Rosa* repays to the Secretary of Commerce, upon such terms and conditions as the Secretary may prescribe, an amount which bears the same proportion to the total construction differential subsidy paid for such vessel as the remaining economic life of the vessel computed from the date of documentation bears to the total economic life of the vessel, and

(B) for hire carriage in such trade is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful.

SEC. 2. Section 2 of Public Law 92-296 (86 Stat. 140), as amended by Public Law 94-536 (90 Stat. 2497), is further amended by inserting after the words "American flag" the following: "in the coastwise and/or foreign commerce of the United States and/or between foreign ports notwithstanding the provision of section 506 of the Merchant Marine Act, 1936: *Provided*, That for hire carriage in coastwise commerce of the United States is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any single coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful.".

SEC. 3. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), and any other provision of law or of prior contract with the United States, the steamship *Mariposa* and the steamship *Monterey* may, subject to the approval of the Secretary of Commerce, be allowed to remain under the American flag and operate totally both the coastwise and foreign commerce of the United States and/or between foreign ports: *Provided*, That for hire carriage in the domestic commerce of the United States is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any single coastwise trade: *Provided further*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful. In the event the operator should elect to transfer either or both vessels to foreign-flag operation, nothing in this Act shall be construed as permitting these vessels in such circumstances to have any rights or ability whatsoever to operate in the United States coastwise trades.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5472, which we are about to consider.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5472, a bill to revitalize the domestic passenger cruise ship industry, provide jobs for American seamen, and return the U.S.-flag to operating cruise ships.

The entire cruise trade generates annual revenues of $20 billion. The industry has doubled in the last 10 years, and is still growing. Current estimates are that revenues will increase by 35 percent within 4 years, if there are enough vessels to carry the passengers.

In 1978, more than 1.2 million passengers sailed on cruises from North American ports. That was a 10-percent increase over 1977. Unfortunately, virtually all of the revenues went to foreign-flag companies. This legislation will change that situation by clarifying and waiving certain restrictions in the Merchant Marine Act, 1920, and the Merchant Marine Act, 1936, to open the coastwise trade routes to five flag passenger vessels, the *United States*, *Mariposa*, *Santa Rosa*, *Oceanic Independence*, and *Monterey*. These vessels were all built in the United States with construction differential subsidy (CDS) funds.

A recent court decision, involving a CDS-built vessel, has created some concern about whether the proposed operations could proceed. This legislation will resolve those concerns and put these ships into our sailing waters.

Since four of these vessels are more than 25 years old, their statutory economic life has expired, and this legislation simply makes it clear that the restrictions in the Merchant Marine Act, 1936, have no application. As for the *Santa Rosa*, which is only 22 years old, these same restrictions would be waived. As a condition for operating in the coastwise trade, the *Santa Rosa*'s operators will repay that portion of subsidy which remains unused.

With regard to the *Oceanic Independence*, certain provisions of the Jones Act, which restrict the operation of foreign-flag vessels off U.S. shores, must be waived. The *Oceanic Independence* sailed under foreign registry at one time, and right now is being "rebuilt" in the statutory sense. Without this legislation, the Jones Act would be a legal bar to its operating in the coastwise trade.

H.R. 5472 was reported out of the committee unanimously, with strong support from all elements of the industry. Similar legislation unanimously passed the Senate earlier this year (S. 1281).

I strongly urge my colleagues in the House to support this important legislation.

□ 1350

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I thank the chairman for yielding and want to commend the chairman, the gentleman from New York (Mr. MURPHY) for producing this legislation. He has been in the forefront of the merchant marine of the United States in a valiant, if not almost futile fight to change its direction from a rapidly diminishing Merchant Marine to hopefuly reasserting it into the international commerce on a substantial basis.

This legislation deals with only five vessels, but the change of direction is most significant. It would provide the American flag ship with the opportunity to engage in the profitable cruise trade where some foreign flags are now plying the waters of the world.

I am hoping that this legislation will pass, but even more significantly, the gentleman's efforts in this area are to be commended. I thank him.

Mr. MURPHY of New York. Mr. Speaker, I thank my colleague from New York, who is also the chairman of the Coast Guard and Navigation Subcommittee.

I might also note at this time that these ships meet the Coast Guard Safety Standards and will probably be, despite their age, the safest passenger vessels in the cruise trade, notwithstanding the younger age of many of the foreign flag vessels.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MCCLOSKEY), the ranking minority member of the Committee on Merchant Marine and Fisheries.

Mr. McCLOSKEY. Mr. Speaker, I thank the gentleman for yielding.

I am glad to support this legislation, but I would like to direct one or two questions to the chairman of the full committee, if I may.

In this bill we are limiting the cargo to be carried on these five passenger ships to incidental cargo and putting a limit of 1,000 measurement tons per year.

I have been contacted by the people who want the privilege of operating these ships in passenger trade who indicate some concern that they had hoped for a greater share of cargo flexibility in order to profitably operate passenger ships.

I wonder what the chairman's feeling is on that? If these five passenger vessels do not actually go into operation because of the limit on cargo capacity, will we not have to come back and consider this legislation further or supplementary legislation?

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I am happy to yield to the chairman of the committee.

Mr. MURPHY of New York. Mr. Speaker, in response to the gentleman I might say that the gentleman had offered an amendment in the committee that permitted incidental cargo to be carried by these passenger vessels. In that these vessels will be participating in the coastwise trade of the United States, and the fact that they were to come in as passenger vessels, and that is the intent of the legislation, to revitalize the U.S.-flag passenger operation, we did not want to conflict with ongoing cargo operation and perhaps impact existing companies that are not receiving subsidies but that are viable cargo carriers. We, therefore, limited it to 1,000 measurement tons per year per ship in our definition of incidental cargo. I think that is valid and wise. I frankly do not think we will have to come back later on for this reason: The ships were built as passenger vessels some 22 to 27 years ago and the cargo doors are placed in such a position that in order to move any type of cargo under existing cargo-handling mechanisms, one would have to enter through the forward part of the vessel. The cargo hold would be under where the bridge is at the present time, and it would be most difficult for any substantial amount of cargo to go in at this compartment.

I think we are not going to see any major modifications of the vessels with the intent to carry cargo. I think these vessels are purely designed for the purpose of carrying passengers, and I think the incidental cargo would be to carry such small amounts that would in the true sense of the word be incidental to the passenger operation.

Mr. McCLOSKEY. If I may respond to the chairman, I applaud the purpose of the bill and I support the bill because I think it is in the national interests of the United States if we have operating passenger vessels, even though they are over 25 years of age, operating, so should we be caught in a national emergency situation we would have operating passenger ships of value for defense purposes. But I do want to say if it turns out, as a practical matter, that the operation of the passenger ships requires that they get revenue from as much as 5,000 measurement tons per voyage, which is the capacity of the *Mariposa* and the *Monterey*, I would be prepared later to join in legislation that would permit a loosening of this cargo restriction because, as I understand it, they will be competing in the coast-side trade with nonsubsidized cargo ships. As I understand it, the capacity of 5,000 measurement tons per voyage compares, say, with 80,000 or 100,000 measurement tons on regular cargo ships, and I do not think the competition will be so great as to bear the burden of not allowing these ships to operate at all if that cargo carriage is necessary to their profitable operation.

On balance I agree with the chairman and I support the legislation. I hope we do not have to come back.

Mr. MURPHY of New York. If the gentleman will yield further, in response to my distinguished colleague from California, I might point out that all five of these ships, according to the testimony, would be operated from the gentleman's home State of California and would be operating in the Hawaiian trade. Right offhand, if we were to authorize 5,000 tons per ship per year, that would be 25,000 tons of cargo or probably two complete sailings on one of the existing domestic lines, Matson particularly, that has been bearing what I would call the extraordinary burden of funding with little assistance, the pension and welfare funds for the entire west coast labor contracts. I think we would have to go into some extensive hearings to insure that we were not impacting or impeding the viable economic operation of that dedicated domestic cargo carrier.

But I would say to my colleague I would entertain the reopening at some time in the future, if it was pointed out that perhaps a more incidental cargo movement was justified in that operation.

Mr. McCLOSKEY. I thank the chairman for his response and yield back the balance of my time.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Speaker, today we all have an opportunity to support legislation that will mark the beginning of the rebuilding of the once-proud U.S. passenger fleet.

With the passage of H.R. 5472, five passenger ships will be allowed to reenter the U.S. coastwide trade. Our citizens will be able to enjoy cruising on vessels flying the U.S. flag.

New jobs will be provided for our merchant seamen. U.S. shipyards are already working to renovate these vessels.

I urge your support for H.R. 5472.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. AKAKA. I yield to the chairman of the committee.

Mr. MURPHY of New York. Mr. Speaker, I would like to commend my distinguished colleague from Hawaii for his tremendous influence in helping guide this legislation through the committee. The committee is acutely aware of the needs of the great State of Hawaii, the only State outside of California that does not have a viable Federal highway interstate system. We, therefore, hope we are compensating somewhat by bringing this passenger operation to the gentleman's State and, therefore, offering another great economic opportunity for American flags and American companies to participate in that very lucrative cruise trade.

Mr. AKAKA. I thank my chairman for his work on this bill and his tremendous leadership.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill (H.R. 5472), as amended.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will state that this is the last suspension, and this is the reason the Chair did not postpone the vote.

The vote was taken by electronic device, and there were—yeas 405, nays 0, not voting 28, as follows:

[Roll No. 615]

YEAS—405

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gialmo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—28

Anderson, Ill.
Collins, Ill.
Conable
Coughlin
Crane, Philip
D'Amours
Diggs
Eckhardt
Fary
Flood
Goldwater
Holtzman
Horton
Ireland
Jones, N.C.
Leach, La.
Miller, Calif.
Mitchell, N.Y.
Pursell
Rodino
Runnels
Sabo
Stockman
Synar
Treen
Williams, Mont.
Wilson, Bob
Winn

□ 1410

The Clerk announced the following pairs:

Mr. Rodino with Mr. Goldwater.
Mr. Fary with Mr. Sabo.
Mr. D'Amours with Mr. Mitchell of New York.
Mr. Ireland with Mr. Williams of Montana.
Mr. Jones of North Carolina with Mr. Synar.
Ms. Holtzman with Mr. Horton.
Mr. Runnels with Mr. Anderson of Illinois.
Mr. Diggs with Mr. Conable.
Mrs. Collins of Illinois with Mr. Pursell.
Mr. Miller of California with Mr. Winn.
Mr. Flood with Mr. Coughlin.
Mr. Leach of Louisiana with Mr. Bob Wilson.
Mr. Eckhardt with Mr. Stockman.
Mr. Philip M. Crane with Mr. Treen.

So (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from the further consideration of a similar Senate bill (S. 1281) to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the vessels SS *United States*, SS *Oceanic Independence*, and SS *Santa Rosa* into the trade, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), and any other provisions of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel *Oceanic Independence* (official

Coast Guard numbered 261147) and the vessel steamship *Santa Rosa* (official Coast Guard numbered 276598) to be documented as vessels of the United States entitled to engage in the coastwise trade, so long as—

(1) in the case of the Oceanic Independence—

(A) the vessel is in compliance with the usual requirements for vessels engaging in the coastwise trade,

(B) any rebuilding or repair work on the vessel shall be accomplished after documentation as a vessel of the United States, except that the vessel shall not lose its coastwise privileges if the work necessary to install a bow thruster in the vessel and to equip it with sewage holding tanks to comply with international standards is performed outside the United States, its territories (not including the trust territories) or its possessions before the vessel engages in the coastwise trade following enactment of this Act,

(C) the vessel is owned by a citizen or citizens of the United States as defined in the applicable laws prescribing the qualifications for vessels to engage in the coastwise trade, and

(D) for hire carriage in such trade is limited to passengers and their accompanying baggage.

(2) in the case of the steamship *Santa Rosa*—

(A) prior to such documentation the owner of the steamship *Santa Rosa* repays to the Secretary of Commerce, upon such terms and conditions as the Secretary may prescribe, an amount which bears the same proportion to the total construction differential subsidy paid for such vessel as the remaining economic life of the vessel bears to the total economic life of the vessel, and

(B) for hire carriage in such trade is limited to passengers and their accompanying baggage.

SEC. 2. Section 2 of Public Law 92-296 (86 Stat. 140), as amended by Public Law 94-536 (90 Stat. 2497), is further amended by inserting after the words "American flag" the following "in the domestic and/or foreign commerce of the United States and/or between foreign ports notwithstanding the provision of section 506 of the Merchant Marine Act, 1936: *Provided*, That for hire carriage in the domestic commerce of the United States is limited to passengers and their accompanying baggage.".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate Bill, S. 1281, and to insert in lieu thereof the provisions of H.R. 5472, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: To revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel *United States*, steamship vessel *Oceanic Independence*, steamship vessel *Santa Rosa*, and the steamship vessel *Mariposa* and steamship vessel *Monterey* into the trade.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5472) was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 341, MILWAUKEE RAILROAD SERVICE CONTINUATION

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 439 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 439

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 341) to require continuation of rail service by the Chicago, Milwaukee, Saint Paul, and Pacific Railroad for a period of forty-five days, and the first reading of the joint resolution shall be dispensed with. After general debate, which shall be confined to the joint resolution and the amendment made in order by this resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the joint resolution shall be read for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill, it shall be in order to consider the amendment in the nature of a substitute printed in the Congressional Record of September 28, 1979, by Representative Florio, said substitute shall be considered as an original joint resolution for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI and clause 5 of rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the joint resolution or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.J. Res. 341, the House shall proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the joint resolution S.J. Res. 81, and it shall then be in order in the House to move to strike out all after the resolving clause of the said Senate joint resolution and to insert in lieu thereof the provisions of H.J. Res. 341 as passed by the House.

□ 1420

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 439 is an open rule providing for the consideration of House Joint Resolution 341 to require the continuation of rail service by the Chicago, Milwaukee, St. Paul & Pacific Railroad. The resolution provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce.

The Milwaukee Road, the Nation's seventh largest rail system, winds through 16 States on a 9,800 mile track from Indiana and Illinois on the East to Washington and Oregon on the West. In December 1977, the Milwaukee Railroad filed a petition for reorganization under bankruptcy laws in U.S. district court, and on April 23 of this year, the court-appointed trustee requested that the court embargo all but 3,500 miles of the 9,800 mile system. Such an embargo would have virtually eliminated all service west of Minneapolis. In order to give the Federal Government and private sector interests time to evaluate what might be done to salvage the system, the Committee on Interstate and Foreign Commerce reported House Joint Resolution 341 on May 30 as a committee amendment which placed a 45-day moratorium on the embargo of lines stretching through South and North Dakota, Montana, Idaho, Washington, and into Oregon.

However, on June 1, the bankruptcy judge rejected the embargo request contending that he did not have the authority to approve the embargo and gave the trustee until August 9 to submit a new reorganization plan. In August, the trustee submitted a reorganization plan that called for the embargo of service over the 6,400 miles of the system west of Miles City, Mont.

In September, a substitute to the reported resolution was drafted by the Transportation Subcommittee that would require the railroad to maintain full service pending the submission, approval and implementation of an employee or employee-shipper stock ownership plan. The substitute requires that such plan must be approved by the Interstate Commerce Commission by January 1, 1980 and implemented by March 1. The substitute also grants the bankruptcy court the authority to abandon and sell the Milwaukee Road lines should such a plan not be approved by the ICC, and provides for Federal loan guarantees and other Federal assistance. To the affected States, this new substitute became all the more critical when on September 27 the bankruptcy court ruled that the Milwaukee Road was facing a state of cashlessness and ordered abandonment effective November 1, 1979.

To address this situation, the Committee on Rules adopted House Resolution 439 which provides that in lieu of the amendment in the nature of a substitute recommended by the Commerce Committee now printed in the bill, it shall be in order to consider the amendment in the nature of a substitute which was printed in the CONGRESSIONAL RECORD of September 28 by Representative FLORIO, chairman of the Transportation Subcommittee. The substitute shall be considered as an original joint resolution for the purpose of amendment under the 5-minute rule.

The rule further waives points of order against the substitute for failure to comply with clause 7, rule XVI, the germaneness clause, and clause 5, of rule XXI,

which prohibits appropriations in a legislative bill. The resolution also provides that upon conclusion of consideration of the resolution for amendment, a motion to recommit with or without instructions shall be in order.

Should the House pass House Joint Resolution 341, the rule provides that the House shall consider Senate Joint Resolution 61, the companion joint resolution passed by the Senate last May. A technical waiver of section 402(a) of the Congressional Budget Act is provided to enable the House to take up the Senate joint resolution since, as passed by the Senate, section 3 of the Senate resolution would authorize the enactment of new budget authority effective upon enactment and the Senate resolution was not reported on or before May 15, 1978.

However, since we are now in fiscal year 1980, and since it is the intention of the Commerce Committee to offer the House joint resolution as an amendment to the Senate measure, the Budget Act violation has been cured. The resolution also permits the House to strike all after the resolving clause of the Senate joint resolution and to insert in lieu thereof the text of House Joint Resolution 341 as passed by the House.

Mr. Speaker, the timely consideration of House Joint Resolution 341 and disposition of this matter by the Congress is a matter of grave concern to the residents of those States served by the Milwaukee Road. The Commerce Committee will more fully explain the critical nature of the Milwaukee Road situation and I would urge my colleagues to adopt this resolution so that the House may proceed to the consideration of House Joint Resolution 341.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman from Texas yield?

Mr. FROST. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I notice that this resolution makes in order a nongermane amendment that was put in the CONGRESSIONAL RECORD of September 28; the amendment being offered by our colleague from New Jersey (Mr. FLORIO).

Can the gentleman inform the House whether this amendment was considered in the Committee on Interstate and Foreign Commerce or whether there is any Congressional Budget Office estimate on how much the amendment would cost and other such pertinent details as are usually found in committee reports but which are not forthcoming because of the waiver contained in the rule?

Mr. FROST. Mr. Speaker, I will yield to the gentleman from New Jersey (Mr. FLORIO), a member of the committee, to answer those questions.

Mr. FLORIO. Mr. Speaker, would the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from New Jersey.

Mr. FLORIO. The question is, whether these matters were considered by the committee. The answer to that question is no. These matters were brought to our attention as a result of some developments that occurred concerning the Milwaukee Road just a few days ago.

Mr. SENSENBRENNER. The amendment of the gentleman from New Jersey was offered by him on September 28. If this is such a crisis situation, why do we wait until today, a month and 2 days later, to bring up this rule and bring up this bill?

Mr. FLORIO. Mr. Speaker, may I ask for some clarification. There were two measures. The basic bill we are talking about, the substitute, is what the gentleman has in mind? There is another amendment to be offered by me as well.

Mr. SENSENBRENNER. The waiver applies to the substitute.

Mr. FLORIO. The basic bill that we are talking about today is a substitute in lieu of the resolution that was enacted by the full committee. The developments in this situation have been occurring on a daily basis. Last week the court provided the authority to the trustee to embargo, as of this coming Thursday, to offer an embargo, which is a termination of service, over the vast majority of this line.

□ 1430

So conceivably the trustee can terminate service on Thursday; hence the emergency nature of the bill we have today.

Mr. SENSENBRENNER. It is my understanding, if the gentleman from New Jersey would yield further, that the substitute which the gentleman is planning on offering provides a certain preference in bankruptcy for moneys that are advanced by the Federal Government to pay for the labor protection provisions of the substitute.

It is my understanding that there is a law on the books, called the Tucker Act, which prohibits the Federal Government from dissipating the assets of a bankrupt.

This is a matter that is usually under the jurisdiction of the Committee on the Judiciary. I am wondering if the Commerce Commitee had given consideration as to the effect of this law relative to the Tucker Act.

Mr. FLORIO. Mr. Speaker, if the gentleman will yield further, the gentleman is addressing a question that had previously been discussed, but which has been resolved, because the moneys we are talking about are severance pay which will come out of the estate. There is no Federal Government money involved, and hence no ultimate Federal liability.

Mr. SENSENBRENNER. Mr. Speaker, if the gentleman will yield further, the Tucker Act applies in that particular instance, because the money that is being provided for the severence pay is coming from the estate of the bankrupt railroad. That gives a preference claim against the estate of the bankrupt railroad over and above the existing creditors of the bankrupt railroad.

I am asking if the Commerce Committee gave any consideration as to whether the Tucker Act would be violated by the arrangement the gentleman has just described.

Mr. FLORIO. Mr. Speaker, if the gentleman will yield further, the provision is not, as we interpret it, in violation of the Tucker Act. The trustee, incidentally, who has the responsibility of the creditors as one of his responsibilities, has agreed this is in the interest of the estate and in the interest of the creditors.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the able gentleman from Texas (Mr. FROST) has thoroughly explained the provisions of the rule and to an extent the provisions of the bill itself.

The measure provides a way to restructure the Milwaukee Railroad. I think that is important for commerce.

The bill also provides a means of shipper-employee and/or employee purchase of the railroad itself; so it does have some favorable factors.

Mr. Speaker, I have no requests for time. I urge the passage of the resolution and the bill when it is before us.

I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. BONIOR).

(By unanimous consent, Mr. BONIOR of Michigan was allowed to proceed out of order).

THE CRISIS IN CAMBODIA

Mr. BONIOR of Michigan. Mr. Speaker, I do this very reluctantly because I am reluctant to interrupt the debate; but what I want to talk about I think is important enough to do that.

I have a "Dear Colleague" letter that I am circulating this afternoon and it is necessary, because of the situation, that Members know about the letter. I am talking about the situation over in Cambodia. As time goes by, every second, literally hundreds of people are starving. We do not have to go into that this afternoon. I think people are very well aware of it. The letter I am requesting Members to sign would help alleviate some of the problem by letting the United States and the Soviet Union cooperate jointly in an airlift.

I would like to read the letter, if I could, to the Members right now and if Members wish to cosign the letter with me and other Members of the House, will be available on the floor for signatures this afternoon.

The letter reads:

DEAR MR. PRESIDENT: We urge you to take immediate steps to launch a joint U.S.-Soviet airlift of trucks, food, medicine and other humanitarian and relief supplies to the people of Cambodia. The statistics on starvation and death in that country are well known to you, to the Congress and to the American people. We applaud your announcement on increased aid, and we note that the House has passed legislation authorizing some of that aid. Yet to date the U.S. contribution of food has been negligible. In fact, all western countries have supplied only 200 tons of emergency supplies over the past months of devastation.

Despite much talk, diplomats have failed to reach agreement with the Cambodian government on any large scale food distribution plan. Given the history of western and U.S. military involvement in Southeast Asia, we understand the reservations. Likewise, we understand the reservations over the possible use of U.S. aircraft for personnel returning to their country. We therefore believe that only a joint effort under which the U.S. and the U.S.S.R. share responsibilities is workable. Cooperation might take the following form: The U.S. would provide supplies, food and medicine, trucks and distribution and the Soviets would provide the planes to carry them.

We believe this is a feasible plan, since the Soviets already fly transports in and out of the area. Additional planes for humanitarian purposes would not post major logistical problems. While we have no guarantee that they would agree to the specifics of such a plan, we believe they would at least consider close cooperation.

The plan is not a panacea. It is expensive and the distribution of food and supplies will be monitorable by U.S. officials. Some of it may be even eaten or used by soldiers of one side or the other.

But such reservations at this late date must not deter us. We must remember above all that more food will get to starving people under this plan than is getting there now. We urge that you undertake immediate discussions with representatives of the Soviet Union to offer our help in delivering supplies without delay to the people of Cambodia. We believe that such a joint endeavor will underline the true meaning and true value of detente.

Mr. Speaker, I thank the House for its attention and for letting me address this issue and I thank especially the gentleman from Texas (Mr. FROST) for letting me speak out of order. I will be available on the floor for signatures on this letter to the President.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in reluctant opposition to the rule that is before us. My purpose for engaging the gentleman from New Jersey (Mr. FLORIO) in a colloquy was to try to settle whether some of the legal issues that are raised by the gentleman's substitute have been resolved.

I do not believe that the gentleman's answer was convincing that there has been serious consideration into possible violations of the Tucker Act. The waiver that is contained in this rule of germaneness on the substitute amendment that the gentleman from New Jersey will offer bypasses the committee system entirely. There was no committee consideration within the Committee on Interstate and Foreign Commerce of the substitute.

Furthermore, there are items in this substitute relating to bankruptcy preferences which are properly in the jurisdiction of the Committee on the Judiciary.

We all want to make sure that the job is done to provide railroad service for those communities that have been served by the Milwaukee Railroad; but it is important that the job be done right, so that the fight that has gone on in court for the last 2 years will not go on in court for the next 10.

The continuing resolution attempted to resolve the problem of providing train service for a limited period of time along the Milwaukee route and that was improperly drafted, which is one of the reasons why this resolution is before us today.

I hope that we will not compound the error by passing this rule and bringing up a substitute out of order waiving the germaneness rule which has not been thoroughly thought out for all the legal consideration; so I would hope that this rule be defeated and we could go back and try again.

Mr. FROST. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 373, nays 33, answered "present" 1, not voting 26, as follows:

[Roll No. 616]

YEAS—373

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Deschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gialmo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gray
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Setberling
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—33

Archer
Ashbrook
Bauman
Broomfield
Burgener
Butler
Collins, Tex.
Dannemeyer
Devine
Dingell
Dornan
Gore
Gramm
Hansen
Heftel
Holt
Kelly
Kindness
Lewis
Lott
Lungren
McClory
McDonald
Martin
Myers, Ind.
Ottinger
Paul
Petri
Rousselot
Runnels
Sensenbrenner
Shumway
Stenholm

ANSWERED "PRESENT"—1

Green

NOT VOTING—26

Abdnor
Anderson, Ill.
Bellenson
Collins, Ill.
Conable
Coughlin
Crane, Philip
Diggs
Erlenborn
Fary
Flood
Holtzman
Ireland
Jones, N.C.
Leach, La.
Leland
Miller, Calif.
Mitchell, Md.
Pursell
Rodino
Sabo
Synar
Treen
Wilson, Bob
Wilson, C. H.
Winn

□ 1450

The Clerk announced the following pairs:

Mr. Rodino with Mr. Bob Wilson.

Mr. Mitchell of Maryland with Mr. Pursell.

Mrs. Collins of Illinois with Mr. Conable.

Mr. Fary with Mr. Winn.

Mr. Ireland with Mr. Erlenborn.

Mr. Jones of North Carolina with Mr. Philip M. Crane.

Mr. Miller of California with Mr. Coughlin.

Mr. Charles H. Wilson of California with Mr. Abdnor.

Mr. Bellenson with Mr. Anderson of Illinois.

Mr. Leland with Mr. Leach of Louisiana.

Ms. Holtzman with Mr. Synar.

Mr. Sabo with Mr. Diggs.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, I move that

the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 341) to require continuation of rail service by the Chicago, Milwaukee, St. Paul & Pacific Railroad for a period of 45 days.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 341) with Mr. DOWNEY in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the rule, the first reading of the joint resolution is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. FLORIO) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to address the complex problem of reorganizing and restructuring a railroad which is vital to the Midwest, we have put together an amendment to the original House Joint Resolution 341 which is offered as a substitute. The substitute establishes the means to expedite the restructuring of the Milwaukee so as to provide the most efficient service to the maximum number of shippers. We believe it offers a model for restructuring railroads in bankruptcy, an occurrence we may see more of in the future.

At this point I think it is appropriate to recognize the assistance and cooperation of the ranking minority member, the gentleman from Illinois (Mr. MADIGAN), for his assistance in drafting this piece of legislation.

The substitute would give to the Bankruptcy Court the authority to order abandonment and sales. It would allow the trustee, in consultation with the Secretary of Transportation and the ICC maximum authority and time to arrange for the sale of lines to other carriers. It further establishes the authority of the Bankruptcy Court to order abandonments without time-consuming ICC procedures.

The substitute also provides that during the period when restructuring activities will be occurring employees and shippers may prepare and present to the Interstate Commerce Commission a proposal for an employee or employee/shipper purchase of the railroad.

To allow for restructuring to take place and the employee/shipper plan to be prepared, Federal funds under the Emergency Rail Services Act are available to maintain the operation of the railroad. The ERSA funding would be available until the Interstate Commerce Commission determined that an ESOP plan is, or is not, feasible—but in no event beyond March 1, 1980.

ERSA funds are made available in lieu of directed service, which is service ordered by the Interstate Commerce Commission, provided by other carriers over the Milwaukee property, but paid for by the Federal Government. The alternative directed service order would be available for 240 days, maintaining most of the present Milwaukee system through June of 1980 without any guarantee that restructuring would take place. I believe the provision of ERSA funds and the restructuring mechanisms included in the substitute make it far preferable to directed service.

The substitute also contains incentives for employees to remain in the railroad industry. It establishes a job placement program administered by the Railroad Retirement Board, and it requires other carriers to hire displaced Milwaukee employees. It provides moving expenses to employees who move to other carriers and unemployment benefits if they are then laid off.

Perhaps most importantly for the Milwaukee and the employees, the substitute establishes a severance pay arrangement which will allow the Milwaukee to reorganize into a smaller more efficient railroad. The employees presently have potential claims of approximately half a billion dollars against the Milwaukee estate. If the estate is required to pay those claims, there would be no remaining assets with which to continue the operation of the railroad.

In this substitute we have offered employees the option of taking severance pay figured at a reduced industry standard. They would be guaranteed the severance pay figure, to be advanced by the Federal Government but paid by the estate. The advance by the Federal Government would be guaranteed as an expense of administration of the estate.

The employees' choice of labor protection settled by litigation years down the road would not be prejudiced. But we have offered each employee a better option, and provided the estate with the ability to use its assets to reorganize the railroad. I have personally talked with the trustee, and the severance pay option is one which he strongly endorses.

Presently, the other body is considering its own Milwaukee legislation. While they have patterned their attempts after this substitute their proposal contains substantial differences. One such bill would freeze the entire Milwaukee system, at the expense of the Federal Government, until May 1980. Not only would this additional time result in a higher cost to the taxpayer, but also seriously hamper, if not prevent the Milwaukee from restructuring. Such action would cause a further drain to the Milwaukee that cannot be justified.

The committee believes that the substitute to House Joint Resolution 341 represents a reasonable and comprehensive approach to the problems confronting the Milwaukee, a tool for providing continued service to shippers and an innovative incentive package to keep employees in the railroad industry.

I would urge your support for this measure.

□ 1500

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, nearly 2 years ago the Milwaukee Railroad filed bankruptcy. Last May the trustee for the Milwaukee Railroad filed a reorganization plan with the bankruptcy court which called for a massive restructuring of the Milwaukee Railroad system so as to stop the total erosion of the Milwaukee estate. When we acted in committee on House Joint Resolution 341 the judge was considering whether or not to prevent the abandonment of all service on the Milwaukee Railroad which was not necessary for the implementation of the trustee's plan to create a smaller railroad. At that time I was concerned about Congress and the Federal Government slipping into an easy, but costly solution for the Milwaukee Railroad. The easy, but costly solution to the problem of the Milwaukee Railroad would be to freeze the entire 10,500-mile system and create a ConRail-West by providing massive sums of Federal money to keep the railroad going.

The Senate passed Senate Joint Resolution 81 in May which would have frozen the Milwaukee Railroad system for a period of 90 days. House Joint Resolution 341 was a companion bill considered by the Interstate and Foreign Commerce Committee in May. I opposed House Joint Resolution 341 in committee because I did not feel that a total freeze of the Milwaukee system for any period of time solved any problems. As a matter of fact, I was convinced at that time that a 45- or 90-day freeze would only encourage subsequent freezes which would eventually lead to ConRail-West.

Mr. Chairman, it became clear that there were two major problems that had to be dealt with before any permanent solution could be found for the Milwaukee Railroad. First, there was a necessity of providing a mechanism for restructuring which would guarantee the shippers of the Midwestern and Northwestern part of the United States adequate rail service. Second, there was a necessity to face up to the fact that traditional labor protection had become so expensive that it was impossible to both restructure the Milwaukee Railroad and pay those labor protection costs.

Chairman FLORIO and I began a series of negotiations with the trustee of the Milwaukee, the Department of Transportation, the Railroad Brotherhoods, and many of the States served by the Milwaukee Railroad. It became clear that if a reasonable method could be found for selling parts of the Milwaukee Railroad to other railroads, the vast majority of shippers in the States served by the Milwaukee would continue to receive rail service because many lines would be bought by other railroads serving that part of the country. Under existing law, however, it is not an easy matter to sell railroad lines. Lengthy procedures are required before the Interstate Commerce Commission, and those procedures inevitably become bogged down in litigation and appeals making the process unworkable.

The substitute amendment proposed by Chairman FLORIO and I permits the prompt restructuring of the Milwaukee Railroad by establishing a process for orderly restructuring. The process first requires the Interstate Commerce Commission to consider the feasibility of converting the Milwaukee Railroad into an employee-shipper owned railroad.

Proponents of such a proposal must submit that proposal to the Interstate Commerce Commission on or before December 1 of this year. The Commission then has 30 days to determine whether or not such a proposal is feasible. Several studies have already been done concerning such a proposal and indicate that it is unlikely to be feasible. However, in an effort to carefully examine every possible solution for the Milwaukee Railroad problem, the Florio-Madigan substitute contains this final review of an employee-shipper ownership option.

If the Commission finds that such a proposal is feasible, the change of operating contract of the Milwaukee Railroad must take place no later than March 1 of next year. If the Commission finds that such a proposal is not feasible, the Milwaukee Railroad may begin the restructuring process as early as January 1.

Under the restructuring process, the bankruptcy judge in the Milwaukee case is given the authority to authorize sales of lines to other railroads as quickly as possible. The Secretary of Transportation is directed to assist the bankruptcy judge and the Milwaukee estate in attempting to find purchasers for Milwaukee lines which are not included in the trustee's proposal for restructuring the Milwaukee.

Since the process of finding purchasers for rail lines which the Milwaukee can no longer afford to maintain has been an ongoing one, I am convinced that nearly all of the shippers presently served by the Milwaukee Railroad will continue to have rail service. For example, both the Burlington Northern and Union Pacific Railroads have expressed interest in purchasing a number of Milwaukee lines. It is also my understanding that the Chicago and Northwestern Railroad has likewise expressed interest in a number of Milwaukee lines. The adoption of the substitute amendment will permit that restructuring process to go forward. It will also permit the prompt abandonment of those lines for which there is not a continuing need. The States in the region will also be given the opportunity to assist through their own programs and under the branchline subsidy program in assuring better rail service throughout the area. The Senate should accept the proposal in order to avoid a court order.

Under the trustee's proposal of reducing the size of the Milwaukee Railroad from a 10,500-mile railroad to a railroad slightly over 3,000 miles, one of the impediments to the reduction has been the high cost of traditional labor protection. Traditional labor protection in the railroad industry has been guaranteed both by law and contracts between railroad labor organizations and railroad management. Let me take a minute to describe traditional labor protection.

In 1933, the Federal Government froze all railroad jobs in an effort to stem the rising unemployment of the depression. In 1935, the Federal Government, the railroad industry, and the railroad labor organizations worked out what has become known as the Washington Job Agreement. Under the Washington Job Agreement, railroads were permitted to abolish jobs through normal attrition, but were required to protect an employee if a job was abolished because an abandonment, sale, or merger. That labor protection was eventually made part of the law. For example, both the Amtrak legislation and the 4-R Act require traditional labor protection when a railroad employee loses his job as a result of an abandonment, sale, or merger.

The specific labor protection under the Washington Job Agreement is 16½ months' separation pay or 6 years' guaranteed annual income, depending upon an election by the employee. In the case of the Milwaukee Railroad, traditional labor protection could run anywhere between $300 million and $1.2 billion depending upon the employee's election of an option. If the estate were required to pay that kind of labor protection, there would be not enough money to have any kind of reorganization of the Milwaukee Railroad.

Under the substitute amendment, labor protection has been radically changed by providing an option for the Milwaukee employee between taking his chances in receiving traditional labor protection or receiving certain specified labor protection under the amendment. Since traditional labor protection from the Milwaukee Railroad would be subject to lengthy litigation it is our belief that most employees would elect to receive the labor protection provided under this bill.

Mr. Chairman, it has been estimated that as a result of restructuring the Milwaukee Railroad to form a viable company, approximately 5,600 employees would lose their jobs. Under the substitute amendment, all of those employees would be given incentives to take a job with another railroad or receive a prompt but scaled down lump sum payment in lieu of traditional labor protection.

Labor protection benefits under the bill fall into two categories. First, an employee may elect to receive severance pay equal to $2,000 for each year of service he has up to a maximum for $25,000. If he elects severance pay, he is also entitled to new career training assistance in order to become qualified for a new job. The new career training assistance would be paid for by the Federal Government and would be limited to not more than $3,000 per employee.

The preferable option for the employee is to take a job with another railroad or the restructured Milwaukee. The bill contains incentives such as moving expenses and displacement allowances which encourage the employee to take another job in the industry.

One of the most important features of the substitute amendment is the determination of who pays for which benefit. All of the labor protection benefits except for supplementary unemployment insurance and new career training would come out of the assets of the Milwaukee estate. There is an aggregate cap placed on benefits from the Milwaukee estate of $75 million. The bill provides that the Government shall loan the Milwaukee the $75 million in order to make prompt payment of the benefits, but that the loan shall be considered as a cost of administration of the estate. In simple terms, that means that the Government would be paid back the $75 million before any other claims against the Milwaukee estate are paid.

I should add, Mr. Chairman, that at this point in time, the Milwaukee estate is sufficiently large to assure the repayment of this loan. The longer we force the Milwaukee Railroad to continue operation of all its railroad lines, the smaller the estate becomes because the Milwaukee Railroad is losing between $10 and $20 million each month that it presently operates.

The Federal expenditures for labor protection are limited to $5 million for the supplementary unemployment insurance and $1.5 million for new career training. Both of these programs are financed by the Federal Government in that they are designed to encourage employees to work rather than receive guaranteed annual income under traditional labor protection. The supplementary unemployment insurance benefit is limited to a period of 3 years and would become operative only when an employee is out of work. In addition, the supplementary unemployment insurance benefit is limited to an individual in an amount sufficient to bring an unemployed worker's income up to 80 percent of his normal compensation with the Milwaukee Railroad. Since unemployment in the railroad industry is relatively low, it is unlikely that the demand for supplementary unemployment benefits will be very great. In my judgment, the $5 million authorized in this bill will be more than sufficient to cover the total expenses under this program. At the same time, the existence of the program will provide the necessary security for a displaced Milwaukee employee to move his family to another area in order to take another job.

Mr. Chairman, it is never easy to solve the problems brought about by railroad bankruptcy. In my judgment, however, the substitute amendment provides the best available solution to the problems presented by the bankruptcy of the Milwaukee Railroad. I, for one, do not want to see a ConRail solution for the Midwest or Northwest. As you know, the Federal Government has already authorized and appropriated billions of dollars in order to keep ConRail operating. The same situation could develop in the Midwest and Northwest if we do not move promptly to permit the restructuring of the Milwaukee Railroad. Today, we have the opportunity to do just that in that the substitute amendment has been agreed to by all of the parties affected by the Milwaukee Railroad bankruptcy. The longer we wait, the more difficult it will be to provide a responsible and reason-

able solution. I urge the adoption of this substitute and ask unanimous consent that a series of questions and answers concerning the amendment which I have prepared be inserted in the RECORD immediately following my remarks.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I would like to take this opportunity to express my support for the substitute amendment offered by Mr. FLORIO and Mr. MADIGAN to House Joint Resolution 341, which provides for full service continuation on the Milwaukee Road.

As ranking minority member of the Transportation Subcommittee of the House Committee on Appropriations, it has been a pleasure to work with both Mr. FLORIO and Mr. MADIGAN in seeking solutions to the rail problems that plague our Nation today.

The Chicago, Milwaukee, St. Paul & Pacific Railroad, more affectionately known as the "Milwaukee Road", declared bankruptcy on December 19, 1977. Last April, the trustee submitted a plan to the Bankruptcy Court to restructure the railroad and embargo the services on approximately 7,000 miles of the 9,400 mile system. Because of the possible adverse effect on shippers and employees of the railroad, the Commerce Committee reported out the original version of House Joint Resolution 341, which provided for the 45-day continuance of the entire railroad.

A number of alternatives to embargo have been proposed for providing continued operations on the Milwaukee Road. Many of the alternatives call for large expenditures of Federal funds without achieving restructuring or reorganization of the Milwaukee Road. It has also become increasingly obvious that some legislative solution to the question of labor protection is critical to the avoidance of the Milwaukee Road's dependence on Federal funds.

We have before us today an amendment in the nature of a substitute which will go a long way in achieving an equitable, and well-considered solution to the problems facing the Milwaukee Railroad. Mr. FLORIO and Mr. MADIGAN have developed a legislative package that is designed to: First, relieve the uncertainty of the employees and customers of the railroad; second, provide employees with fair treatment and opportunity to find other employment; third, restructure the railroad with a minimum use of Federal funds; and fourth, maintain the continuation of service essential to the majority of shippers who depend on the railroad.

Mr. Chairman, the House has spent a great deal of time over the past several years analyzing and reanalyzing the many difficulties the railroad industry is faced with as compared to other modes of transportation. We are increasingly cognizant of the need to maintain a viable rail network in this country. The lack of certainty facing the agricultural community in the Midwest with respect to getting their harvest to market is but one example of the urgent need to develop a mechanism which will provide certainty in the near future.

Mr. Chairman, the preservation of our Nation's network of rail transportation is dependent upon a variety of regulatory changes, as well as far reaching across the board improvements in the system of labor protection. This bill as amended by the Florio-Madigan amendment in the nature of a substitute will be a positive step in the right direction.

Mr. MADIGAN. I want to thank the gentleman for his contribution and also make note of the tremendous and diligent work done by the gentleman from New Jersey (Mr. FLORIO).

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I would like to commend the work of the gentleman from New Jersey (Mr. FLORIO), and also the gentleman from Illinois (Mr. MADIGAN) who I think have worked very hard to come up with what I think is a very reasonable and very acceptable compromise.

Mr. Chairman, I rise in support of the Madigan-Florio substitute to House Joint Resolution 341 regarding the Milwaukee Railroad. Employees of the Milwaukee Railroad who are working in Savanna, Ill., which is part of the 19th Congressional District of Illinois have urged me to support this legislation because a significant number of them stand to lose their jobs due to the elimination of trackage from Council Bluffs, Iowa to Savanna, Ill.

The passage of this substitute to House Joint Resolution 341 will provide these employees with adequate labor protection and will give them the possibility of implementing an employee stock ownership plan. For this reason, I urge you to support a substitute to House Joint Resolution 341.

Mr. MADIGAN. I want to thank the gentleman for his contribution.

Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, the Milwaukee Road does not serve my district, but I rise in support of the substitute, House Joint Resolution 341 and commend the gentleman from New Jersey and the gentleman from Illinois for bringing it to us.

Mr. Chairman, this legislation will assure that fair treatment will be given to the employees of the Milwaukee Railroad, as well as the many customers on that line. With the restructuring of this railroad through this legislation we will be able to maintain essential services to the majority of shippers who depend on this railroad, and at a minimum cost to the Federal Government.

Mr. Chairman, I would especially draw the committee's attention to section 5 and section 18 of this legislation.

Section 5 will, appropriately, increase from $125 million to $200 million the amount of the allocation in the Emergency Rail Services Act of 1978. This will assist in solving problems involved in the bankruptcy of the Rock Island Railroad.

Section 18 will make applicable certain portions of the new Bankruptcy Act, which became effective October 1, 1979, to any railroad bankruptcy case, including the Rock Island Railroad, that was pending prior to that effective date.

I urge my colleagues to support this substitute.

Mr. FLORIO. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I fully support the Commerce Committee's substitute to House Joint Resolution 341.

The resolution's solution for the problems of the bankrupt and cashless Milwaukee Road, a procedure to allow the Milwaukee Road quickly to abandon light-density, money-losing lines, is sound. It is the solution which was provided in my bill, H.R. 4686, which the Judiciary Committee approved September 13. It is, furthermore, the solution which we approved in the Bankruptcy Reform Act of 1978 for all railroad bankruptcies initiated after October 1, 1979.

But in the legislative process we began last May, we have grafted on to this sound concept so many delays, conditions, precedents, and side issues, that we have come close to torpedoing the idea of quick abandonments and the Milwaukee Road with it.

A little history illustrates why prompt implementation of the quick abandonment remedy is so important. Like many Midwestern railroads, the Milwaukee labors under the burden of a route structure more than a century old, a structure which was developed before trucking had cut deeply into rail's share of the Midwestern agricultural transportation market. After the middle of this century, cargo on Midwestern railroads dropped, but the route structure, propped up by the ICC and its antiquated railroad regulatory scheme, was pruned back. The Milwaukee's problems are compounded by its improvident expansion to the west coast in 1906 to 1909. Since that expansion the railroad has always been marginal, and has declared bankruptcy three times. With trucking's inroads, the Milwaukee's situation has moved from marginal to serious to desperate.

Chronically short of cash, the Milwaukee has deferred half a billion dollars of maintenance, increasing derailments, and slowing speed on many routes. The cash shortage led also to an equipment shortage, which impaired service, and business dropped off as service declined. The railroad was locked into a descending spiral of cash shortage, deferred maintenance, poor service, and even lower revenues.

Help seemed close at hand when, in early 1978, Stanley E. G. Hillman was appointed the Milwaukee's bankruptcy trustee. Hillman made it clear that the railroad's only hope was to get out from under the money-losing mainlines in the West, and some equally hopeless agricultural branch lines in the Midwest. The Milwaukee could then, Hillman reasoned, concentrate scarce resources and equipment on the profitable Louisville-Chicago-Milwaukee-Twin Cities mainline. Shortly after taking office, Hillman moved to abandon those money-losing lines which were bleeding the railroad dry.

But he was stymied by the ICC's leisurely, business-as-usual pace. The winters of 1978 and 1979 brought service to a standstill in the Midwest. Equipment which could have kept freight moving along the industrial Midwestern mainline was out of order or snowed in and there was no money for maintenance. The manufacturers and shippers in my district of Milwaukee, whose products can only be moved by rail, began to reexamine expansion plans in Milwaukee. Thousands of jobs and millions in investment hung in the balance.

But even though the Milwaukee Road abandonments were processed by the ICC under the provisions of the 4-R Act of 1976, which we passed to expedite abandonments, the process dragged interminably, and Milwaukee Road operating capital was inexorably drained.

By spring of 1979, cashlessness was imminent. The Milwaukee often had less than a day's cash in its accounts. On April 23, the trustee petitioned the bankruptcy court—the Federal District Court for the Northern District of Illinois, under Judge John McMillen—to discontinue service on 75 percent of the railroad's lines under the authority of the "embargo" section, 49 U.S.C. 11125.

While Judge McMillen and his special master, Chicago attorney Milton Gray, heard arguments for and against the embargo, last May, those who believed that the railroad might be profitable if run by an employee-shipper stock ownership plan (ESOP), were at work in Congress. If only the embargo could be delayed a little while, they said, ESOP backers could put together the capital to make their dream a reality.

In May they passed through the Senate Joint Resolution 81, providing for a 60-day moratorium on the embargo, financed by Federal loan guarantees. A similar measure, House Joint Resolution 341, cleared the Commerce Committee, also last May, but never reached the floor.

Before House Joint Resolution 341 could be acted upon, Judge McMillen ruled, on June 1, that he lacked power to order the embargo the trustee sought. Instead, he ordered the trustee to apply for $20 million in Federal loan guarantees under the Emergency Rail Services Act (ERSA) and to draw down all available funds from internal sources to keep the entire 9,800-mile system going. The judge's decision was clearly reluctant. He recognized that most of the obstacles to rational reorganization of the Milwaukee Road were placed there by the Federal Government, and that the only hope lay in congressional action.

On June 28, 1979, with 18 cosponsors, I introduced H.R. 4686. That bill would have allowed the court to do that which it had held it could not—order abandonment of money-losing lines—and would also have protected affected employees and shippers against adverse consequences of abandonments. Through the quick and helpful action by Chairman Don Edwards and the members of the Judiciary Committee's Subcommittee on Civil and Constitutional Rights, H.R. 4686 was favorably reported on August 1, 1979. The full Judiciary Committee likewise reported H.R. 4686 favorably on September 13.

Acting Transportation Secretary Graham Claytor on July 30 released four reports the Department of Transportation had commissioned on the Milwaukee Road, and in a cover letter summarized the reports' findings—that the Milwaukee Road was not potentially profitable as a transcontinental carrier, and that proposals for operating all or part of the railroad as an ESOP were not feasible. Consequently, Claytor said, the Federal Government would approve no further loan guarantees for the western lines and other unprofitable routes, and would oppose legislation seeking to prolong operation of the entire 9,800-mile system. The full text of Secretary Claytor's letter follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C.

Hon. HENRY S. REUSS,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to transmit the enclosed studies and analyses concerning the "Western Lines" of the Milwaukee Railroad. This letter also discusses the conclusions we draw from them and outlines for you the course of action which we propose to follow concerning the Milwaukee Railroad, and particularly the "Western Lines."

First, let me summarize the contents of the enclosed documents.

The document titled "A Review of Booz-Allen & Hamilton's Milwaukee Road Strategic Planning Studies" (the BAH Review) discusses a report prepared for the Trustee (BAH Study) to assist him in determining whether any part of the Milwaukee system is reorganizable. The BAH Review was prepared by FRA staff and addresses the fundamental integrity of the BAH Study assumptions and procedures concerning the viability of the various segments of the Milwaukee Railroad.

Specifically, regarding the Western Lines, the report to the Trustee finds that the Western Lines configuration would provide significantly less traffic potential than other options for the Milwaukee Railroad while requiring a substantially higher level of rehabilitation investment. The report concludes that the 1977 contribution of the Western Lines was negative and held out little hope that a system configuration built around the transcontinental extension would generate sufficient cash flow over the long-term to justify the investment in rehabilitation required to become competitive with other railroads in the market.

In fact, according to the consultant, rehabilitation alone would not permit the Western Lines to generate a positive net operating income, leaving aside any coverage of fixed charges. Under a speculative scenario of rehabilitation plus long-term growth, the consultant calculated that a small operating profit could be achieved in 1986. However, the amount would not be sufficient to make up for operating losses incurred in the meantime or to service rehabilitation-related debt issued, even assuming that it were issued on very favorable terms. After summarizing and analyzing the BAH Study, the FRA-prepared BAH Review finds its underlying assumptions and methodology to be reasonable and consistent.

The consultant study titled "Traffic Effects Study: The Viability of the Western Lines of the Milwaukee Railroad" (Lines West Study) was commissioned by FRA in satisfaction of Section 303 of the Local Rail Services Assistance Act of 1978. The Lines West Study: 1) attributes a substantial operating loss to the Western Lines for 1977 and estimates that the lines generated revenue per route mile well below the Milwaukee system average; 2) identifies traffic flows on a commodity basis within the region served by the Milwaukee's Western Lines; and 3) examines the ability of the Western Lines to attract traffic through 1985. The study concludes that a significant portion of the 1977 traffic base is potentially susceptible to capture by other modes (trucks and barges) on the basis of comparative costs, and that the traffic could be retained only through uneconomic ratemaking.

The study titled "Assessment of the Financial Self-Sustainability of the SORE Lines West Proposal" (the SORE Study) was commissioned by the Office of the Secretary of Transportation in response to a request from several Members of Congress. The study assesses a proposal by a number of Milwaukee Railroad employees and former employees to acquire and operate the Milwaukee's transcontinental line and associated facilities west of St. Paul, Minnesota. The study analyzes the SORE proposal over a broad range of issues, technical subjects and assumptions.

The consultant generally accepts SORE's traffic and revenue projections with slight adjustments, but judges SORE's projected expenses as being overly optimistic (i.e., too low) in relation to the traffic to be recaptured. In addition, SORE's proposed method for acquiring the assets (i.e., by the assumption of $152 million of existing Milwaukee debt) is considered infeasible. Finally, the study argues that SORE would not be able to acquire and operate the Milwaukee's trans-Company to help finance its proposal.

In total, the study concludes that the SORE proposal, as presently constituted, cannot achieve self-sustainability and that pursuit of the proposal would require $1.092 billion in external financial support, including $370 million for rehabilitation, operating losses and establishment of an Employee Stock Ownership Plan, $84 million for branch line rehabilitation and $638 million for purchase of the Western Lines and associated facilities.

It should be noted that the latter amount is premised upon financing of the purchase of the assets through Government guarantees of securities redeemable in 10 years, with the amount adjusted for the time value of money. The report attributes a present value of $246 million to those assets. Thus, if the assets could be purchased outright by SORE, the total amount of external financial support needed would be $700 million instead of $1.092 billion.

The study goes on to state that in order to achieve self-sustainability SORE would have to significantly reduce operating expenses, essentially through innovative work rule changes; avoid paying for the initial assets assumed from the Milwaukee, perhaps by foregoing all labor claims to the Milwaukee estate in exchange for the assets; and receive Federal financial support of about $286 million for the required main and branch line rehabilitation programs as well as an initial loan to finance the employee stock ownership plan.

The study titled "Financial Analyses of the Impact on Labor and Labor Protection of the SORE Lines West Proposal" (Labor Impact Study) was commissioned by the Office of the Secretary of Transportation to examine the impact on labor of various approaches to dealing with the Milwaukee Western Lines and to explore the relevance of the Employee Stock Ownership Plan (ESOP) concept to these approaches.

The consultant examined four potential scenarios for the disposition of the Western Lines and the effect each would have on the affected Milwaukee employees. These were: 1) An embargo on all Western Lines traffic; 2) the Western Lines to be abandoned under existing ICC procedures; 3) the Western Lines to be reorganized in accordance with the SORE proposal; and 4) the SORE proposal

to be implemented in the form of a traditional leveraged Employee Stock Ownership Plan.

Recognizing the difficulties inherent in estimating the actual job loss impact on the Milwaukee work force and the possible resultant cost to the estate, the consultant established a gross range of labor protection costs. In an embargo situation judged not to be subject to ICC authority, the consultant assumed that few employees would have separation payment rights.

The range of labor protection costs was thus only $31–$167 million. The range grew to $83–$521 million in the situation where all employees would be eligible for separation payments or guaranteed wages under ICC abandonment regulations. (The low end of the range assumes that all employees agree to a one time, front end settlement, versus a six-year earnings guarantee.)

The study also contains a discussion of Employee Stock Ownership Plans and evaluates the concept in relation to the SORE proposal and the SORE Study. The consultant's general conclusion is that any Western Lines reorganization must first demonstrate economic feasibility before an ESOP is considered.

From these studies and analyses we reach three major conclusions. First, the Western Lines of the Milwaukee are not likely to become self-sustaining, either independently or as part of a reorganized Milwaukee system. Whether one takes the optimistic traffic outlook of the SORE Study, the more moderate assumptions of the BAH Study, or the more pessimistic views of the Lines West Study, the conclusions in this regard are similar.

Even under optimistic assumptions, only minimal operating income can be generated by the Western Lines, and then not until the fifth year. Moreover, the analyses make no provision for paying interest or principal on the initial capital investments, costs which would be included in any normal business or public investment analysis. Even if the capital investments are assumed to be covered by external sources, total operating losses through 1985 far exceed total profits in all studies.

Thus, we conclude that the Western Lines have little if any likelihood of ever becoming self-sustaining and would not be able to generate sufficient income to repay, or even to pay the interest on, the large amounts of financing that would be necessary for rehabilitation and operating expenses and, in the case of the SORE proposal, for purchase of the involved properties.

Second, the concept of an Employee Stock Ownership Plan for the Western Lines of the Milwaukee does not appear to be practical. As is well demonstrated in the Labor Impact Study, for the sake of the employees and the public, operations of the Western Lines must be shown to be economically feasible before an ESOP can be deemed appropriate for consideration. Based upon these studies, we cannot say that Milwaukee employees should invest their personal assets or rights to labor protection in an ESOP for the Western Lines.

We make that statement in full recognition of the general effectiveness of employee ownership in improving operating efficiencies. However, the Western Lines lack the profitability potential to take advantage of the ESOP. On the other hand, it may well be that an ESOP will assist in the reorganization of a Milwaukee "core" railroad. In that case, the feasibility and benefits of an Employee Stock Ownership Plan should be determined in the reorganization process itself.

Third and given all of the above, the most responsible course of action appears to be to preserve selected Milwaukee Western Line services through the transfer of those services and necessary facilities to other railroads to the maximum extent possible.

To attempt to maintain the Western Lines operations, either as part of the reorganized Milwaukee Railroad or as an independent rail enterprise which would be dependent on large Federal financial contributions, would be inconsistent with the weight of sound economic analysis and would be an unjustifiable burden on the nation's taxpayers.

Before outlining the course of action which we propose to follow to achieve maximum preservation of economic rail service, let me review the recent activities of the various parties.

First, the Milwaukee Reorganization Court, as you know, denied a request from the Trustee to embargo the Western Lines on June 1, 1979. In denying that request, the Court ordered the Trustee to take immediate steps before the Interstate Commerce Commission to abandon the entire Milwaukee system, and to file a preliminary plan of reorganization with the Court before August 6. Previously the Court had permitted the Trustee to apply for $20 million in assistance under the Emergency Rail Services Act of 1970 (ERSA).

The Trustee has appealed the Court's denial of the embargo and the Indenture Trustees, representing major creditors, have appealed the Court's decision regarding ERSA borrowing. Decisions by the Court of Appeals are not expected until this fall.

The Trustee has taken the abandonment steps and is expected to file a preliminary reorganization plan with the Court by August 6. The plan will be based upon continued operation of a "core" railroad, along the lines outlined in his previous submissions to the Court. The Trustee also applied to us for the $20 million in ERSA assistance and we approved such assistance in an agreement dated July 12, 1979.

The Department has taken several steps to maintain the Milwaukee's services while appropriate arrangements are being worked out, and to assist in implementation of those arrangements.

First, the $20 million in ERSA assistance which we approved will be used to operate the system while the Trustee prepares his reorganization plan and presents it to the Court. We expect those funds to be sufficient to maintain the railroad's operations through the month of August and possibly through September.

Second, we and the Milwaukee have been looking for willing buyers for the Railroad's line in Iowa, under the authority of Section 401 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). That process has involved the State of Iowa, four major railroads and two short lines. We have made progress and are optimistic that we can bring this restructuring in Iowa to a successful conclusion.

Third, and in connection with the Section 401 process, we have indicated to the parties our willingness to make funds available under Title V of the 4R Act to assist in the transfers of those properties.

This assistance would include, where applicable and justifiable on economic grounds, the funding of acquisition costs through loan guarantees under Section 511 and the funding of rehabilitation and labor protection costs incurred as part of an otherwise fundable project through the purchase of preference shares under Section 505, subject to legislation extending the preference share program. Enclosed for your information is a letter to the Milwaukee Trustee, dated June 18, 1979, that spells out our commitment to make the Section 401 process work.

That brings you up to date on the recent activities of the various parties. Let me now outline for you the general course of action which we intend to follow over the next several months.

Until now, we have felt it inappropriate to proceed with the Section 401 process on the Milwaukee's Western Lines, since the studies enclosed with this letter were not completed. However, based upon those studies, it is now appropriate to expand the Section 401 process to expedite the transfer of Milwaukee's services on the Western Lines to other railroads. In fact, we understand that the Milwaukee has been actively negotiating sales of portions of the Western Lines with other railroads for some time, and several of those sales may be consummated shortly.

In addition to using the Section 401 process, we intend to work with the states served by the Milwaukee's Western Lines to mitigate any negative effects of the cessation of Milwaukee service through the use of the Local Rail Service Assistance Program. In that regard, the Federal Railroad Administrator, who oversees that program, will work with affected states in their rail planning process and will be prepared to expedite applications for funds, whether they be for rail planning purposes or for project related purposes.

As a specific example of what can be done under that program, we have been working closely with the State of South Dakota to ensure that a major coal movement from Gascoyne, North Dakota to an electric utility plant in Big Stone City, South Dakota will continue uninterrupted. We have advised South Dakota that it may incur up to $2.3 million in costs for rehabilitation of the Milwaukee line over which the coal moves and we are hopeful that we will shortly be able to obligate those funds.

One other feature of the Local Rail Services Assistance Program which can be considered by the states in dealing with the cessation of Milwaukee service is the provision which allows states to "rail bank" lines which are abandoned but which may have future potential. That feature may be particularly relevant to states wanting to keep in place rail lines which serve potential future traffic growth areas.

Finally, we will continue to work closely with you and other members of Congress to determine what legislative action may be necessary to facilitate all of the steps that I have outlined above. For the moment, we endorse two provisions contained in legislation currently before the Congress. First, it is important that the Administration's proposals for rail deregulation and restructuring assistance be enacted as quickly as possible.

To the extent that enactment is delayed, however, the extension of the 4R Act Title V preference share program beyond September 30, 1979 is acceptable as an interim measure. That extension is provided for in both versions of the pending Amtrak Authorization Bill. We favor the House version of the extension which expands the program to include all railroads.

Second, we favor amending the Bankruptcy Act for railroads now in reorganization to provide their reorganization courts with the ability to order necessary abandonments without first obtaining the ICC's approval. This would bring existing bankruptcy procedures regarding abandonments into line with the new Bankruptcy Act, which becomes effective for bankruptcies occurring after September 30, 1979.

We are opposed to any legislation that would freeze the entire Milwaukee system and provide further Federal funds to support systemwide operations. ERSA funds for continuation of the existing system have so far been provided because of the desirability of completing our studies, of providing the Trustee and the Court the time to develop a reorganization plan, and of providing a period of notice and adjustment for affected shippers.

Those purposes will largely have been accomplished by the time that the $20 million in current ERSA assistance has been fully utilized. We envision, therefore, that we will require any future assistance to the Milwaukee to be used only for those portions of the system which are reorganizable.

Thank you for this opportunity to present you with our views.

Sincerely,

W. GRAHAM CLAYTOR, Jr.,
Acting Secretary.

Mr. Chairman, the effect of the July 30 Claytor letter was immediate. Because only Federal funds had stood between the Milwaukee Road and cashlessness, the imminent withdrawal of those funds for use on money-losing lines meant that the railroad would shortly be cashless with respect to those lines. This cashlessness would satisfy the condition precedent Judge McMillen had found lacking in June 1979. On August 10 the Milwaukee again asked to be allowed to embargo its money-losing lines and reduce its system to a profitable core. After another round of hearings, Judge McMillen found on September 27, 1979, that the Milwaukee was cashless and could begin its embargo on November 1.

On October 2, 1979, the U.S. Court of Appeals for the Seventh Circuit ruled on the Milwaukee Road's appeal of Judge McMillen's June 1 ruling on the first embargo request. Judge McMillen, the Seventh Circuit found, had erred in refusing to allow the Milwaukee Road to implement its embargo.

But a new obstacle to the obvious and sensible solution to the Milwaukee Road's problems materialized. As part of the continuing appropriations resolution which became law on October 12, 1979, the Senate passed, and the House acquiesced in, a preservation of the 9,800-mile system until November 30, 1979, a preservation paid for with federally-guaranteed funds.

All in all, to date the Federal Government—executive, legislative, and judiciary—has guaranteed that a wasteful 9,800-mile railroad system will be continued at least 6 months beyond the time it could have been reduced and made potentially profitable. The cost of the delay has been added debt for a bankrupt railroad, added liability for the taxpayers who guarantee the railroad's debt, and months of uncertainty for mainline shippers in the Milwaukee Road core, uncertainty which has forced them to reexamine commitments to stay and expand in the region.

Why have all these delays been sanctioned? In May, ESOP enthusiasts asked for 60 days delay to implement their plan. Although the resolutions enacting the delay did not become law, events have given ESOP backers a delay now guaranteed to be at least 180 days. The financing needed to underwrite an ESOP of all or part of the railroad appears to be no closer to reality than it was 6 months ago.

I yield to no one in my enthusiasm for employee-owned businesses. I worked to get an ESOP for the Chicago North Western several years ago. But the DOT studies—and, more important, the inability of ESOP advocates to make significant progress in their efforts to bring an ESOP to the Milwaukee Road—have convinced me that the chances of success for a Milwaukee Road ESOP are small. We should not be squandering additional millions of taxpayers' dollars pursuing the ESOP will-o'-the-wisp.

The committee's substitute for House Joint Resolution 341 will delay abandonment of money-losing lines up to 90 days beyond the delay—to December 1, 1979—enacted by the continuing appropriations resolution. The Milwaukee Road will be forced to undertake debt it cannot afford, the Federal taxpayer will be forced to guarantee that debt, with less chance of repayment than before, and Milwaukee Road shippers may be forced to go through another winter of uncertain service.

But despite my reservations, I support the committee's measure.

First, although the measure extends the potential delays of reorganization to March 1, 1980, a negative decision by the ICC on the ESOP proposal will end the delays no later than December 30. Every impartial study to this point has found an ESOP not to be feasible. An ICC decision to this effect will quickly deliver us from this endless source of delay.

Second, for the first time in this substitute measure we will set a date certain for the conclusion of the 9,800-mile Milwaukee Road system—no later than March 1, 1980. Previous delays have promised no relief at their conclusion, only a vague hope that with more delay a solution might be found.

Third, this bill represents a hard-won compromise on the labor protection question—a consummation devoutly to be wished.

Today's measure represents the outer limits to which a Milwaukee Road measure should go. Should a House-Senate conference produce a bill which further extends the delays, such a bill could be worse than none.

I am frequently asked by my colleagues: How is it that this country can have galloping inflation and incipient recession at one and the same time? My answer is that no longer can overall, boxcar, macroeconomic policies solve our problems, but we need the micro approach, the team approach, the cooperative planning approach.

Far broader than the issue of the Milwaukee Road today, important though that is, is that here we have on a bipartisan basis—and I commend Mr. FLORIO and Mr. MADIGAN and those who have worked with them—a proposal which is humane to the workers on the railroad, which cuts the bureaucratic red tape which has been a noose around the Milwaukee Road's neck for so many years, and which gives a great opportunity that the entire Milwaukee Road's economically viable trackage, in whatever hands, will operate so that shippers may send their goods to market and get the raw materials that they need.

I think this a great achievement: It uses the cooperation, planning approach that I believe is essential. I have been very pleased to work closely with Mr. FLORIO and Mr. MADIGAN and others on it. As I have said, it follows very closely the bill which I and 22 cosponsors introduced last June, when the railroad was breathing its last, a bill which was approved by the Subcommittee of the Judiciary Committee on Bankruptcies, and by the full Judiciary Committee.

The two fundamental elements of Florio-Madigan are that it allows the court at long last to order an abandonment, and that it blows the whistle on the interminable delays. Sure, if I had had my ideal in this bill, I would have wanted to have had that whistle blow in a few weeks, rather than possibly extending for the month or two that the bill extends it. But we live in a real world, and I understand precisely the motives of the authors in doing this.

So I think it is a splendid substitute amendment and I am all for it.

I would just ask the sponsor, Mr. FLORIO, this question: The other body has given some indication that it will not go along with the excellent principles entailed in the gentleman's substitute resolution. In my judgment, since the U.S. district court, in the absence of legislation, is perfectly empowered to do the right thing by the railroad and its workers, I would hope that the House conferees would—if it comes to a conference, and the other body is so improvident as not to accept our bill, which I hope we are presently going to pass—I would hope the House conferees could be steely of nerve and stout of spine, and simply tell the other body if it does not want our bill, no bill at all will serve the Nation perfectly well.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman.

Mr. FLORIO. Mr. Chairman, it is our hope and expectation that this bill has so much to commend it that when the other body sees what is in the bill they will accept this bill. We are hopeful that will happen.

Mr. REUSS. I am delighted to hear that.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Mr. Chairman, I thank the gentleman from New Jersey for allowing me this time to comment.

I rise in support of H.R. 341 and the substitute by the gentleman from New Jersey and the gentleman from Illinois. I want to congratulate them for the truly outstanding job they have done in devising a pragmatic solution to the problems that are facing us with respect to the Milwaukee Railroad. It is all-important that we enact into law a rational plan to give the Milwaukee Railroad every opportunity to survive, to serve the people along the line all the way from the Midwest to the Northwest, and to give the workers an opportunity to do what they can to help make it function.

The substitute is a most commendable proposal, Mr. Chairman. There are areas in Washington State where serious harm will be done to farmers and businessmen if this or similar legislation is not enacted into law, legislation to keep the railroad service available. There are large agricultural areas in eastern Washington, west of Spokane, and east of Ellensburg where there is a distinct need for transportation such as the Milwaukee Railroad has provided especially for agricultural products such as wheat. So this legislation would make a great contribution to the area that I represent; and I am certain that this picture is repeated over and over again across the country, showing the importance of the railroad to the region and to the workers and to the economy and the country.

Ultimately the time will come when our reliance on rail traffic will grow again and we will use the railroads more than we have in recent years. So it is crucially important to keep them functioning today.

This resolution, if enacted into law, would accomplish this goal. So I congratulate the authors of this substitute, and urge that all Members support it.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. Mr. Chairman, I thank the gentleman from Illinois for yielding. I very much also want to congratulate the people on this committee for the hard work they have put into this legislation.

Legislation like this offers many dilemmas and it is often difficult to hammer out satisfactory answers. We in this House appreciate the time and the effort that the gentleman has devoted to this project and this legislation.

While I am concerned, and many of you are concerned, about the fiscal wellbeing of this Nation, we do have many responsibilities. This is one of them. I am concerned, and I know in speaking with other Members, many of you are concerned about some of the negative features in this bill.

For example, should we give $7 million in loan guarantees to a railroad that is declared bankrupt?

□ 1520

We are concerned about requiring other railroads to give first preference to employees of the Milwaukee Road. We are also concerned about a special $6.5 million in unemployment benefits and training provided for one bankrupt industry. But, after all is considered, I think support of this substitute amendment is the only course of action left to us.

There are some compelling reasons for this. First, we must save the Milwaukee Road; we have no other alternative. Second, I believe this legislation will go a long way to make the Milwaukee Railroad solvent again. The alternative, of course, would be devastating to the Milwaukee Road and to our Federal Government. If there are no loan guarantees, we then have the traditional bankruptcy proceedings as the only other avenue. We cannot allow that to happen. Thus, if we are concerned about the railroad, concerned about the people and needs of our respective States, concerned about the best dollar of value for the dollar invested, then I think this is the only feasible solution left to us.

I urge the Members of this body to give an overwhelming vote to this legislation.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I rise in support of House Joint Resolution 341, which requires for the continuation of the Milwaukee Railroad over existing routes and at current levels of service through March 1, 1980. Certainly I want to commend the chairman of the subcommittee, Mr. FLORIO, and the members for their efforts.

The Milwaukee Railroad has and continues to play a major role in the transportation patterns of this country. Since its inception, this line has been a major mover of goods and resources in the Midwest. The expansion of the line to the Pacific Coast has increased the number of users and has provided an important link for transporting goods along the northern tier States. Farmers, consumers, miners, utilities, logging interests, and construction operations all depend upon the Milwaukee line to transport essential products. Without this line, farmers in many parts of the Midwest would not be able to send their produce to market; northwest timber could not be sent to the Midwest; and the coal of Montana, upon which we will rely more and more, will lie unmined because of a lack of adequate transportation.

The Milwaukee Road is a major carrier of grain and coal in this country. In 1978, the Milwaukee carried 68,681 carloads of grain and 111,253 carloads of coal. Without this alternative, the pressure on other already overburdened carriers would be too great. In all likelihood they would be unable to fill the void created by a discontinuance of the Milwaukee line and the increase in demand of a limited commodity will result in higher transportation costs.

The discontinuance of the Milwaukee line has serious economic repercussions. It will affect the livelihood of farmers, loggers, builders, consumers, bakers, all industries dependent upon Montana coal for power and the employees of the railroad.

The bill that we are now considering recognizes those negative impacts and is a statement that we must explore every alternative before allowing the Milwaukee Road to cut back its service. The procedures established in this bill give the employees and shippers of the Milwaukee Road an opportunity to assume management of the line and to maintain full service. It is in the interest of this country to explore these possible options to insure that every reasonable effort to continue service is permitted.

I am happy to see that House Joint Resolution 341 also contains extensive incentives and protections for the employees of the Milwaukee Road. If there is a cut back in service, these employees will suffer very greatly. We must try to alleviate any impacts that a service reduction will have on employees and the provisions of this bill adequately protects their interests. The orderly reforming of service is paramount to the varied economic interests that seek stability and predictability.

It is my hope however, that the employee incentive and protection provisions of this bill will never be implemented. That would mean that the Milwaukee Road has maintained its current service level and is continuing to make its full and positive contribution to American transportation. I urge my colleagues to support House Joint Resolution 341.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DAVIS).

Mr. DAVIS of Michigan. Mr. Chairman, I rise in support of the amendment offered by the gentlemen from New Jersey and Illinois. I believe there is some concern, especially on the part of some of my midwest colleagues, that by allowing continued operation of the entire system we may be hurting our own area. Most of us are probably aware of the Department of Transportation report which recommended discontinuing service on western lines because they are a drain on the rest of the system. This report has been challenged as inadequate. However, I will not dwell on this. The point is, it is feared that maintaining the western lines may cause the collapse of the whole system and that we should, therefore, abandon those lines to save the lines in the Midwest.

I do not agree with this view. The problem faced by those communities in the Western States by the threatened abandonment means the disappearance of an integral part of their economy. It is a problem that has been faced by many of us in one form or another. In this case it happens to be a railroad abandonment and at this time it directly affects mainly the Western States. In other circumstances, though, it may be a military base closure, an airline pullout or an industry layoff. When something of this magnitude happens, it has a devastating impact on a community's economy.

With this amendment, we have an opportunity to save these communities from suffering this economic disaster by giving us a chance to provide a viable alternative to abandonment.

I believe it is a mistake to support abandonment of rail lines. The railroad industry needs to be supported and revitalized, particularly in view of the energy situation. Abandonment of this track would have a serious impact on efforts to reestablish an effective national railway system. I would also caution those Members who would support abandonment as a means of protecting lines within their district. While those lines may not be slated to be discontinued presently, who knows whether the same will hold true in the future? I urge my colleagues to examine closely the long-range consequences of this issue and to support this amendment.

Mr. FLORIO. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Chairman, I rise in support of the committee substitute to House Joint Resolution 341, the Milwaukee Railroad Service Act. Included in the committee substitute is language extending the time limit for 1 year on the development of an employee stock option plan for the Delaware & Hudson Railway.

As you know, last year we adopted legislation to allow the Delaware & Hudson to continue receiving U.S. Railway

Association section 211(d) loans on the condition that an employee stock option plan be put into place. The USDA was in charge with overseeing the approval of such an ESOP, which was to be finalized by December 31, 1979. Unfortunately, while the D. & H. made a good faith effort the USRA was simply not in a position to pass judgment on the D. & H. plan. Contained in this substitute is language to extend the deadline by 1 year until December 31, 1980. As such, it will not authorize the granting of any loans in excess of what Congress laid out in last year's legislation and all principals to the situation are in concurrence on the need for this basically technical change.

I want to emphasize that the D. & H. is the last competitor to ConRail in the Northeast and its continued viability until Federal reorganization efforts can be carried out is vital to the economic well being of the Northeast and the communities the railroads serve.

Mr. FLORIO. Mr. Chairman, I yield 3 minutes to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Chairman, I would like to add my support to the substitute to House Joint Resolution 341. This legislation provides a very credible opportunity for the employees and shippers of the Milwaukee Road, through an employee stock ownership plan, to purchase and run the Milwaukee.

Failure to pass this bill would mean that the Interstate Commerce Commission, on November 1 of this year, will begin directive service on the Milwaukee—a very expensive and chaotic undertaking, filled with uncertainties with regard to cost, jobs, employee benefits and service. There is no reason to believe that after the 8-month directive service period the Milwaukee would want to continue service on anything but the 3,000 mile core system it has identified in its reorganization plan. In addition, the cost of directive service is $50 to $60 million in grants. By contrast, the legislation we are considering today would provide ERSA loans to the Milwaukee while the employee stock ownership plan is being finalized. The ERSA loans are money being spent for a reason and have a chance of repayment to the Government.

The possible loss of 6,400 miles of the Milwaukee through the Nation's great grain and coal producing area—and the loss furthermore of the railroad's transcontinental shipping capability as we are increasing exports to the Far East—is ludicrous. Everyone knows that trains are the most fuel-efficient means by which to transport freight over long distances. Depending on the miles traveled and other factors, rail is up to 10 times more fuel efficient than trucks. Not only is it less expensive to ship by rail, but just as importantly, precious fuel is conserved. In the case of grain it costs approximately 20 cents more per bushel to ship by truck than rail. We can't have rail lines into every town in America, but generally speaking, where the rail lines already exist, it is senseless not to utilize them, or at least preserve the rights of way for future use.

If the Milwaukee management had its way, 6,400 miles of line would be abandoned. In South Dakota alone, nearly 1,000 miles of track, representing three-fourths of our rail lines, is up for abandonment. And while the main Milwaukee line in my State is included as part of the Milwaukee's core system, it seems very likely that the railroad will want to drop that line in a couple years, leaving South Dakota without a single main line railroad. Imagine trying to pick up all those grain shipments with trucks.

If we pass this substitute to House Joint Resolution 341, directive service will not be necessary and massive rail abandonments may not occur. Instead, the Milwaukee employees and shippers will complete their plan to purchase the railroad by December 1 and submit it to the ICC for approval. Under the provisions of this bill, the employee stock ownership plan must be operational by March 1, 1980. So as you can see, this legislation is not meant to prolong the uncertain fate of the Milwaukee. If the ICC disapproves the plan, the Secretary of Transportation, who will have already been conducting negotiations regarding the sale of Milwaukee lines to parties who intend to continue service on them, will expedite those sales. The court will have the authority to rule on abandonments, also in an expedited manner.

Another part of this bill concerns employee protection benefits. There are approximately 10,000 Milwaukee Road employees who currently have very little employee protection under a court-ordered abandonment. My office receives a great number of calls from Milwaukee employees who have lived in uncertainty about their jobs for several years, and in particular since the trustee went to court last spring to ask for an embargo on two-thirds of the system. It is estimated that half of these 10,000 employees would lose their jobs if the Milwaukee is able to abandon all but the core lines.

Under this bill, employees who lose their jobs or are transferred elsewhere would receive immediate benefits, provided they forego other traditional labor benefits which are usually accompanied by litigation and years-long delays in receiving claims. Every effort will be made to keep Milwaukee employees in the railroad business, including preferential hiring and moving expenses—I think this is an important provision. Railroading is a special industry and, as in farming, entire families, going back many generations, are often employed in the rail industry. Very often one of the first things a railroader tells me is how many years his family has been in the rail business.

Unfortunately, the deteriorated physical and financial condition of the Milwaukee Road is not a unique situation, and this legislation cannot address our national railroad problems. It is very clear that other railroads, in all sections of the country, are in deep financial trouble. Whatever the reasons for these circumstances, it is obvious that the private rail companies are neither inclined, nor in a position to, undertake the revitalization work necessary to bring the lines to the point where they can provide safe, fast, and reliable service.

The time for a national rail plan arrived years ago, but it has required the recent rolling barrage of rail bankruptcies and abandonments to bring this fact home to Members of Congress, Governors, and political decisionmakers across the Nation. We must have a rail plan based on a national rail network—an extensive rail system to which there is a definite Federal commitment. It must be a rail network to which there is relatively easy access for both transportation of people and to freight. If shippers and local governments know there is a permanent and good main line to which they can connect, they will have the incentive to maintain and use the branch lines which feed into those main lines. This is the same basis on which our Federal highway system works—federally owned and maintained interstate roads with State and county governments responsible for the lines that connect with them—I feel certain from talking with many colleagues and constituents that this is an idea whose time has come. I am actively studying this type of legislation, and expect to have colloquies on the House floor as part of a national debate on this issue.

But again, let me urge passage of the substitute to House Joint Resolution 341. It is a bill steeped in the realities of the short time frame in which we are operating. It is legislation which provides a chance for a highly motivated group of people to purchase, rehabilitate and run the Milwaukee Road, and failing that, it gives incentives to others who wish to purchase the Road, and finally it provides protection for Milwaukee employees.

□ 1530

Mr. MADIGAN. Mr. Chairman, I yield 4 minutes to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, I, too, commend the committee for the valiant effort to achieve an 11th-hour compromise in the best interests of all concerned: The employees, the shippers, and the creditors of the Milwaukee Road alike.

The bankruptcy of the Milwaukee Road is perhaps the single most pressing issue facing the State of South Dakota. We stand to lose in excess of 900 miles of rail. That is more than any other State, as well as a greater percentage of our total rail trackage than any other State.

We are between a rock and a hard place, as they say; and, while I commend my colleagues from New Jersey (Mr. FLORIO) and Illinois (Mr. MADIGAN) for their efforts to address this dire situation legislatively, I am concerned as to the practical effect of this particular bill—the amendment in the nature of a substitute—upon rail service in my State.

Under existing law, which would be modified by the measure before us shippers along lines scheduled to be abandoned in South Dakota have been given to believe they would receive up to 240 days of directed service following

termination of service by the Milwaukee Road. This impression has been conveyed by ICC's draft directed service orders, by pronouncements by public officials, and by unwillingness upon the part of shippers to recognize that service could very well, in fact, cease in a matter of days or weeks. The history of regulation of the railroads is too long and the existence of rail service, however inadequate, too much taken for granted for shippers to believe otherwise. The provisions of existing law with respect to directed service and the knowledge of actions taken to support other bankrupt railroads have contributed to the sense of disbelief in the immediacy of the threat of total loss of service as well.

I am not suggesting the creation of a ConRail West. Furthermore, I recognize that 240 days of directed service is not assured under existing law, nor is sufficient funding assured even if the ICC wished to provide for such an extended term of service. The fact remains, however, that 60 days of directed service is virtually guaranteed under existing law, with the clear possibility of an additional 180 days, for a total of 240 days.

According to a briefing paper put out by the Republican Policy Committee in support of the Florio-Madigan substitute, the directed service requirements of existing law "would probably be for at least 8 months and cost between eighty and one-hundred million dollars." My amendment, on the other hand, would only guarantee directed service for 2 months and would cost much less.

My constituents have made business commitments based upon the well-known provisions of existing law with respect to directed service and will incur unforseeable economic losses if it is not provided; yet the measure before us expressly precludes any directed service prior to March 1, 1981. This is inconsistent with the Senate bill, which does not foreclose the possibility of directed service. In the interest of reaching a speedy agreement with the Senate, I hope my colleagues will accept the amendment I am proposing.

If this measure is enacted without amendment, service on lines which are not included in the restructured system could be terminated as soon as December 1, if a plan for employee-shipper ownership is not submitted to ICC by that time. Surely, a plan will be submitted by that time; but, even so, service could terminate on January 1 if ICC finds the plan to be infeasible. In either case shippers could lose service sooner than they could have anticipated, taking into account existing directed service law and funding provided by Congress to keep the Milwaukee in operation with loans under the Emergency Rail Service Act.

It is simply not fair to keep shippers in a state of uncertainty over whether an ESOP will be approved and, if so, what it will look like and then, within a matter of hours or days, bring them face to face with the stark and final reality of total loss of service. That could very well be the effect of the Florio-Madigan substitute.

By freezing existing service by the Milwaukee with ERSA loans, it will provide a disincentive for good faith negotiations for transfers and sales of lines which have potential. Then, after January 1, if the ESOP is disapproved, there will be a further economic disincentive for the Milwaukee to take out optional further ERSA loans to continue service on lines they wish to abandon.

The measure before us offers a period during which shippers will be in a state of limbo and then slams them with the likely prospect of immediate loss of service thereafter. It does not provide a favorable climate for sales negotiations, and its timeframe for a final decision on all lines is unrealistic.

For example, the South Dakota Legislature, which will be considering creation of a regional rail authority, does not even convene until mid-January, after the January 1 date by which abandonments could occur if the ESOP is not found feasible. Likewise, shippers who may wish to pursue alternatives besides the general employee-shipper ownership plan will be denied a realistic opportunity to do so. Again, it is just not fair to put them in limbo and tie their fate solely to a plan in which they may have little voice.

Mr. Chairman, a primary purpose of the legislation before us today is to afford employees and shippers the opportunity to present a plan for ownership and operation of the Milwaukee rail system. The presumption is that such a plan will entail preservation of service on more lines than are included in the trustee's plan for reorganization, and I certainly endorse the proposition that the employees and shippers ought to be given every opportunity to present a plan toward that end. I strongly and sincerely hope such a plan is found by the ICC to be feasible. In that case, service will be maintained with ERSA loans until March 1 or until such time as the employee-shipper ownership plan is implemented.

It is the other possible outcome—that the plan is found to be infeasible—which concerns me, however. In that case, the legislation before us would after January 1 permit immediate sales, transfers, and abandonments, subject only to the approval of the bankruptcy court. In other words, the longstanding responsibility of the ICC to approve abandonments and to provide for directed service would be explicitly revoked—until March 1 of 1981.

Mr. Chairman, both the Milwaukee trustee and the director of South Dakota's Division of Railroads have taken the position that an employee-shipper ownership plan will not be viable. They believe, therefore, that any Federal moneys devoted to preserving service should be put into lines which will remain once the restructuring has been completed. While their arguments have some validity, I believe the measure before us takes the proper position in not prejudging the issue of feasibility but, rather, providing for an expeditious and decisive review by the ICC of employee-shipper ownership plans. In my view, the employees and shippers should be given the benefit of the doubt until the ICC issues its ruling.

I am greatly concerned with the present language of the bill, however. In providing the opportunity for presentation of the case for implementation of an employee-shipper ownership plan we should avoid the actual, unintended effect of curtailing service more quickly than might be the case under existing law. If that is to be the effect, I might be better advised to oppose this legislation.

I will offer an amendment to deal with this issue, and I hope that it will receive the committee's support.

Mr. FLORIO. Mr. Chairman, I yield 4 minutes to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. I thank the gentleman from New Jersey for yielding and commend him for his diligent work on this important matter.

Mr. Chairman, unity has always been the hallmark of this Nation, and that unanimity has not always been easy to comprehend for we are 50 separate States, many hundreds of local and separate legal jurisdictions. We are a people who come from nations scattered throughout the world, and so some ask how we have achieved this unanimity which has characterized this Nation since its birth. The American people have always understood that the fabric of America can only be maintained in its entirety if it is preserved in all of its parts, and they through this Congress have never allowed the unraveling of a single thread of that fabric.

How do we maintain this fabric? We have various mechanisms. This Congress has always viewed equal opportunity as one of the mechanisms. A somewhat less emotional and perhaps more parochial mechanism has been the promoting of unanimity and of economic opportunity through the establishment of our arteries of commerce. This Congress has always been willing to help a little to dig the canals, to pave the highways, to pave and construct the airports, and to lay the railroads. It is that latter artery of commerce which has been found so important by our people who thought it was good business because it connected us one with the other. So how will this abandonment affect our whole fabric, our whole economic fabric? I maintain it affects each of our districts. It affects us through diminishing the development and delivery of our vital coal resources. The Department of Energy recently estimates that the demand for Fort Union coal—that is the coal from Montana, Wyoming, and the Dakotas—will increase to 75 million tons a year through 1995; 75 percent of that is hauled by rail. Ten million tons was unshipped last year because the railroads could not carry it. Railroad abandonment will affect the Nation because the price of grain will decrease. This railroad is vital in the hauling of western and midwestern grain.

The continental aspect of the Milwaukee must be preserved if we are to provide a proper market for the Midwest goods to the west coast. The continental nature of this railroad must be preserved if each of us in our own congressional districts and our own States is to benefit.

I urge my colleagues to support what I think is a nationally important bill to continue the unanimity which has long characterized this Nation.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Chairman, I rise in support of House Joint Resolution 341 and wish to express my thanks to the distinguished chairman of the Commerce Committee, Mr. STAGGERS, and to Mr. FLORIO, chairman of the Transportation Subcommittee as well as the ranking member, Mr. MADIGAN, for the hard work and hours of devoted effort they have put into this legislation.

We in the Congress must recognize the national importance of the Milwaukee and pass this measure which will insure the continuation of this line for the present and future transport of agricultural and fuel commodities.

What we have on our hands today is a railroad that is attempting to commit suicide. A railroad that would die to collect the insurance benefits. And that my colleagues is the motive behind the bankruptcy.

What is the motive? The liquidation value of the railroad is estimated at $832 million. The debts of the railroad are about $400 million. And the value of the stock is about $217 million. The net return on liquidation after paying debts and over the value of the stock is $215 million. Why would they not grab the $215 million.

And it makes me mad that they would commit this evil deed. For when the railroad dies so does competition, and small towns become ghost towns and shippers are left with few alternatives.

I ask my colleagues, does it make sense to sever this artery at a time when the energy shortage is worrying and crippling every citizen of this country, does it make sesnse to abandon a major transporter of fuel commodities? At a time when agricultural products stand as our Nation's single best hope for getting us back to a favorable position in our international balance of payments, does it make sense to shut down a major transporter of our agricultural commodities?

We as a Congress spent millions to implement that treaty. Why? Essentially to keep the canal a vital, viable transportation link. A link to move goods from coast to coast.

Why should we not consider it just as important to keep the Milwaukee a transcontinental link?

Does it make sense to sever that transcontinental artery that transports vital fuel energy products? Does it make sense to sever that transcontinental artery that is vital to agricultural transportation.

The only people that this would make sense to is the Milwaukee management that have been trying to commit suicide by planned deterioration of roadbeds and service. Management calls it deferred maintenance—I call it suicide, and I do not think we should allow these people to cause this irreversible harm to our Nation.

The Milwaukee Railroad is the Nation's sixth largest carrier with 10,000 employees required to operate its 9,800-mile system. In December of 1977 the railroad filed a petition for reorganization under chapter 77 of the Bankruptcy Act. This came after years of low cash flow which has been attributed to increasing operating costs, and a policy of deferred maintenance which resulted in operating difficulties. Simply put, the railroad filed bankruptcy because of poor management.

Policies that include no marketing, no followup, no advertising; deferred maintenance—a fancy term for "let the roadbed go to pot," and no effort to find new customers. Following filing their petition, a trustee was appointed who made the initial determination that the Milwaukee would not be able to emerge from reorganization as a profitable carrier without withdrawing service from the vast majority of lines west of Minneapolis.

Since that time, the trustee has proposed an application to reduce the Milwaukee line to about 3,000 miles and cut the work force from 10,500 to 5,600 employees. This application for abandonment is presently undergoing the ICC's comprehensive abandonment process. Recently public hearings were held throughout the States that would be affected by such action and time and time again concerned citizens, shipper, employees, and community leaders testified as to the shortsightedness of this action.

To discontinue the Milwaukee west of Miles City as proposed by the trustee would in Montana mean the loss of 580 jobs, the further deterioration of an already burdened highway system. It would mean a slowup in industrial development. It is difficult for me to calmly discuss this move. Calmly discussing it is equivalent to calmly discussing slashing a major artery in our body. It might not kill us but it is going to be difficult to recover.

I want to impress to you that the possible loss of this service is not just a parochial problem affecting Montana; it has national and even international significance. The commodities that are carried on the Milwaukee are sold on the international market. Grains alone coming from the Northern States are significant in this country's trading with foreign nations and make up a major portion of our position in the world's marketplace and is becoming an increasingly important factor in our balance of payments. Our northern tier grain is moving in increasingly larger quantities west for export to the Orient through the west coast port facilities.

Of major concern also is the movement of coal. The Fort Union deposit which underlies the area adjacent to the Milwaukee roadbed is the largest known deposit of low sulphur coal in the country. The report of the National Transportation Policy Study Commission chaired by our colleague from Pennsylvania, Mr. SHUSTER, tells us that coal production will increase from 48 million tons in 1975 to over 500 million tons in the year 2000 in that region. The report shows that there will be a dramatic shift to western coal. However, the development of these western coal reserves while still in its infancy could be stifled if the Milwaukee is allowed to be abandoned. Due to the Power Plant and Industrial Fuel Use Act, which mandates that powerplants convert from oil to coal; the precarious nuclear energy situation and our national energy independence policy, even on a domestic scale we are going to become with each passing year more and more reliant on this deposit. And now Far East countries are becoming actively interested in western coal reserves via the west coast port facilities. They recognize the importance of the deposit as a world source of coal.

For some time now a group of concerned people—shippers and employees have been working together to see that the transcontinental line is preserved. This coalition made up of shippers, employees, and affected States formed the New Milwaukee Lines organization. The bill we have before us provides a vehicle for New Milwaukee Lines to take over the line at a minimum of Government expense. It provides for the coalition to present their plan to the ICC for its determination of the feasibility of an employee-shipper owned railroad to take over the Milwaukee's operation.

The bill also addresses the very serious area of labor protection. It provides that jettisoned employees who are affected with Milwaukee restructuring are afforded the benefit of moving expenses, supplemental unemployment benefits, relocation compensation and retraining allowances. It allows an employee to choose the option of receiving labor protection benefits quickly or waiting to receive traditional labor protection through the ICC process. Most of the labor protection benefits provided in the bill come from the Milwaukee estate—not the taxpayers.

This legislation is not and I repeat not an effort to produce a Western ConRail. It is a fair and inexpensive way to continue valuable rail service. The alternative is for the ICC to direct other carriers to operate over the line is estimated at a cost in excess of $100 million. Directed service grants are just that, grants—funds that cannot be recovered. ICC Chairman Dan O'Neal in a letter to Senator WARREN MAGNUSON said:

> In our judgment, it (directed service) is likely to be the most costly method by which the federal government can maintain railroad service where a railroad fails to generate sufficient cash for operations.

Some of you are going to point out that this is the third time this century that the Milwaukee has gone into bankruptcy. Some of you are going to point to the reports issued by the Department of Transportation that have all been nega-

tive. But the fact is those DOT-Federal Railroad Administration reports do not recognise how poor management has been. In Montana if it looks like a skunk and smells like a skunk we generally give it credit for being one. Present Milwaukee management has the stripes. A change of management is needed for the survival of what I think is a nationally important transportation link.

The Rail Labor Executives Association and New Milwaukee Lines commissioned the Policy and Management Association—a reputable consulting firm to do an independent analysis of the Milwaukee lines. The conclusions in the PMA study represent a departure from the conclusions offered by DOT. In addition to demonstrating the tremendous revenue potential of the Milwaukee's western lines based on shipping coal, grain and overseas containerized cargo, the PMA study found that "implementation of the system proposed by the trustee in his reorganization plan would have signficant adverse impacts on economic growth in the Plains and Western States, foreign trade through Seattle-Tacoma Port, energy consumption by the transportation sector, the highway system and air quality." The PMA report shows that the trust's plan is shortsighted. It states that to allow the Milwaukee to abandon its western lines before considering every reasonable alternative might mean temporary security for States served by the trustee's core proposal but they face unavoidable disaster because without its transcontinental link the Milwaukee is doomed to fail.

This Congress just spent almost $500 million to implement the Panama Canal treaties. We did that basically to keep a viable transportation link open from East to West. I tell you the Milwaukee is just as important a transcontinental link.

I hope that the Congress recognizes this so that future generations will not look back when they desperately need the food along the northern tier and puzzle how we could let such a valuable transportation link die.

I urge my colleagues to vote for this bill.

□ 1540

Mr. FLORIO. Mr. Chairman, I yield at this point to the very distinguished chairman of the full Committee on Interstate and Foreign Commerce (Mr. STAGGERS) who, along with the ranking member (Mr. BROYHILL), has been of very great help to our subcommittee.

I yield such time as he may consume to the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I thank the chairman of the subcommittee (Mr. FLORIO) for yielding to me.

Mr. Chairman, I think this is an important subject. I would not be here to speak if it were not and if I did not think so.

I would like to congratulate the gentleman from New Jersey (Mr. FLORIO) and the gentleman from Illinois (Mr. MADIGAN) for the hard work that they have done. They have been congratulated by several others but I know of the work they did in meeting with the trustees and with the Department of Transportation and others in trying to work out some kind of a compromise and it has been a purely bipartisan effort to help all of America. They worked that out with great care and concern for all interested parties.

Mr. Chairman, I would also like to congratulate the gentleman from Montana (Mr. MARLENEE) and the gentleman from Montana (Mr. WILLIAMS) for the work they have done and that their staffs have done on this project. They have worked hard. In fact, all of the northern tier Congressmen representing those States across the northern tier have shown an interest in this legislation and have worked toward keeping this railroad going because they know of the importance of it.

I was asked just a few moments ago why I was interested in this railroad, because it does not come close to my district. Well, I am interested in it, Mr. Chairman, because it is important for the transportation of the essential goods from this region for the rest of the country. Anything that affects that section of the country, which is part of the "breakbasket" of America, as was said by the gentleman from Montana (Mr. WILLIAMS) is bound to affect the rest of the Nation.

Now the gentleman from Montana (Mr. WILLIAMS) spoke about unity and justice in this land and the five words our forefathers selected as the most important words in America. They are engraved right on this dias right here. The first two words are union and justice. It has been said without unity we could all be picked off one at a time and we would have no strength.

We must stand together as a nation. If something affects the northwest section of America, the rest of the Nation must come to their aid.

Mr. Chairman, there is no large amount of money involved. Some talk like there is a great amount of money involved here. There is a $6.5 million guideline for the supplemental unemployment insurance and retraining benefits and qualifying employees will be entitled to these benefits, notwithstanding these guidelines. We give that away to foreign countries many, many thousands of times over. Here we are trying to help a great section of the country that has done so much to build up this country in an economic, social, and every other way, to be a great and mighty nation. This is the least we can do.

If we were to go to the directed service as has been suggested, it would cost us an extra $80 million to start with for just a short period of time. I think that the authors of the bill have done a real job in working this out. It affects so many States in the northwest tier; Washington, Montana, Idaho, North and South Dakota, Minnesota, Wisconsin, Illinois, Iowa, Missouri, Indiana, and Michigan.

Mr. Chairman, I would like to say just before we came into the Committee of the Whole House on the State of the Union we received a message from the Senate saying they had passed their version of this bill just now and have sent it over to the House. The Senate has done their part. We need to pass this. We need to pass it now so we can get something done.

Mr. Chairman, I agree with the gentleman from Illinois (Mr. MADIGAN) that if the Senate is made up of reasonable men, they will accept our bill and ask the President to sign it so it will be in force by Thursday when the time limit is up. I hope they do and I think they will. I think the Senate is made up of men of reason and good judgment when they consider the House bill.

With that, Mr. Chairman, I will just say I think every Member of Congress should vote for this bill unless they have some particular reason for not voting for it. I can think of no reasonable reason that they should not vote for it. If this railroad goes down, they will have to use trucks and those trucks use four or five times the amount of energy that the railroad does. That does not make good sense. I do not know how they can explain to their people back home that they voted against the bill. I do not think there should be any votes against the bill.

Mr. Chairman, I hope the House will vote unanimously to pass the bill.

Mr. MADIGAN. Mr. Chairman, before yielding to the gentleman from Illinois (Mr. MCCLORY), I want to express my appreciation to the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from North Carolina (Mr. BROYHILL) for the guidance that they consistently and repeatedly provide to the gentleman from New Jersey (Mr. FLORIO) and myself and to other members of the subcommittee working on these transportation problems. It is a much easier job when you have people with the experience and knowledge of the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from North Carolina (Mr. BROYHILL) around to give assistance when assistance is needed. On behalf of all the minority members of the subcommittee I want to express that appreciation.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, I am in somewhat of a dilemma as are perhaps some other Members, especially those who have testified in the reorganization proceedings, urging that by retention of part of its trackage the Milwaukee Railroad might become a viable, self-supporting operation. Several of us suggested that if it was impossible to save the whole line, we ought to save that part which can be self-supporting.

Mr. Chairman, in my congressional district it is estimated that the Milwaukee Road serves 11 million commuters a year, those who ride the passenger trains to and from Chicago. We also have a

great deal of freight traffic which is served by the Milwaukee Road in my congressional district. I certainly have nothing aginst those other parts of the country that are served by the Milwaukee Road. I tend to agree with the distinguished gentleman from West Virginia that we have a national problem here and we want to take a national, overall view. That is what I think we are doing here this afternoon.

Mr. Chairman, this legislation—it is the substitute bill, I believe we are talking about—should provide the best possible answer to the Milwaukee Road dilemma by permitting it to continue the maximum amount of its railroad service.

□ 1550

I think it is vital to the farm communities, to the urban areas, and the suburban areas, and likewise I think, foremost perhaps, our national security that we save what we can of the Milwaukee Road.

We can enter into this whole discussion, the subject of energy conservation, because if you take these 11 million riders from my congressional district and put them in automobiles on the highways, you are certainly going to damage our effort to provide energy self-sufficiency.

So I am hopeful that through this legislation, the delays that are involved, and the rethinking that we are going to engage in, as well as the retention of jurisdiction in the court with regard to future decisions, our regard for the welfare of the employees and the efforts of the employees to take over the railroad, I hope that all these considerations will redound to the maximum benefit of the entire Nation, as the gentleman from West Virginia states it, so that not only my constituents, but the people of the entire Nation may be well served.

Mr. Chairman, my congressional district includes large areas of Lake McHenry, and Kane Counties, Ill., which are served by the Chicago, Milwaukee, St. Paul & Pacific Railroad. I am vitally interested both as a citizen and as Representative of my constituents in the continued operations of the railroad.

My district includes the cities of Elgin (part), Fox Lake, Grayslake, Gurnee, Ingleside, Lake Forest (part), and Libertyville (part), all of which are served by the Milwaukee Road. Under a contract with the RTA, the Milwaukee provides a suburban passenger service on two lines of the railroad, one extending westerly 37 miles from Chicago through Cook, DuPage, and Kane Counties to the city of Elgin. The other line extends northerly 74 miles from Chicago through Cook, Lake, and McHenry Counties to Walworth, Wis.

On the west line the Milwaukee Road operates 44 trains on weekdays, 24 on Saturday, and 12 on Sunday, handling a total of 5,130,248 riders in 1978. Its projected ridership on this line for the current year is 5,700,000 riders.

On the north line the Milwaukee Road operated 43 trains on weekdays, 18 on Saturday, and 12 on Sunday, handling a total of 4,704,028 riders in 1978. Its projected ridership for the current year is 5,400,000 riders.

In addition to the use of the Milwaukee's trains by residents of communities directly served they are used by residents of other nearby communities in my district, including Carpentersville, East Dundee, Fox Lake Hills, Gages Lake, Mundelein, Round Lake Beach, Round Lake Park, Sleepy Hollow, South Elgin, Valley View, and West Dundee.

In view of the energy crisis and the evercontinuing problem of road repairs and improvements to accommodate highway traffic, it would be tragic were the estimated 11,000,000 annual riders of the Milwaukee Road forced to drive their automobiles to and from work, an average of perhaps 50 miles per day round trip, or even perhaps an additional 10 miles per day round trip to reach other public transportation.

The Milwaukee Road is also an important freight carrier in my District. According to the company's statistics, the Milwaukee Road in 1978 originated or terminated a total of 2,989 carloads of freight at Libertyville, Grayslake, Round Lake, Ingleside, Fox Lake, Rondout, Abbott Park, Gurnee, Elgin, and Hampshire. The commodities included farm implements, petroleum products, chemicals, lumber, brick, boxes, iron and steel, and food products.

From my examination of pleadings and other information relating to the pending proceedings for the proposed reorganization of the Milwaukee Railroad, it is my view that the granting of an embargo to permit the discontinuance of operations of all but 3,400 miles of trackage of the Railroad would be in its best interests and in the best interests of the public.

It is reported that the retention of these 3,400 miles of railroad trackage for passenger and freight operations could, following reorganization of the railroad, permit a profitable operation of the railroad within the areas where it serves my constituents as well as other rural, urban and suburban areas where there is a maximum public need for its passenger and freight service.

As a Member of Congress I am intimately acquainted with the serious financial threats to virtually all railroad passenger service and to much of the freight railroad service throughout the entire country. Preservation of railroad service to the extent it is economically feasible through private financial support as well as some public assistance is in the national interest. Our Nation's economy and military security are directly involved in the preservation of our railroads to the maximum extent possible.

It seems clear to me that the best interests of my constituents will be served if the present passenger and freight service which the Milwaukee provides should continue. I have been informed that if the Milwaukee is required to continue to operate its entire 9,800 mile system, it soon will be depleted of cash unless funding is provided from Federal or other sources.

The pending measure may provide an answer to that financial dilemma.

It is primarily for these reasons of an overall interest in the public welfare as well as in the individual interests of those thousands of my constituents who are served by the Milwaukee Railroad as shippers, passengers, employees and shareholders that I express thoughtful and earnest support for legislation or other action to save the Milwaukee Road. I should add that the interest of the automobile owners are well served when passenger and freight services of the railroad are utilized and the highways are freed of the traffic which moves on the railroad tracks.

Mr. Chairman, I am hopeful that this legislation will enable us to preserve all—or that part of the Milwaukee Road which would be served by the 3,400 mile of trackage which the embargo would preserve.

● Mr. KASTENMEIER. Mr. Chairman, I support the Commerce Committee amendment to House Joint Resolution 341, providing for the orderly restructuring of the Chicago, Milwaukee, St. Paul & Pacific Railroad, commonly known as the Milwaukee Road. While not an ideal solution to the problems caused by the bankruptcy of one of the major freight railroads in the Midwest and Northwest, this legislation is a reasonable attempt to protect the interests of shippers, labor, creditors, and the affected States and communities. I hope, however, that the Congress will be persuaded to look beyond this particular situation to the desperate need for additional assistance to the entire rail industry.

In 1977, the Milwaukee Road declared bankruptcy for the third time this century. The collapse of this 9,800-mile system threatens 16 States and 10,500 employees with serious economic disruption.

Despite this, there has been great reluctance on the part of the Congress and the administration to create a western version of ConRail out of the Milwaukee Road and the other ailing railroads in the region. Federal assistance has come in the form of loans exceeding $80 million under the Emergency Rail Services Act. Unfortunately, massive amounts of additional aid will be needed to maintain the Milwaukee Road as it now exists, having lost $82 million in 1978 and $64 million during the first half of 1979.

Clearly, the Milwaukee Road cannot long continue under these circumstances. In fact, the U.S. Department of Transportation opposes further assistance, except for those heavily traveled lines which can be organized into a smaller, economically viable railroad.

The Milwaukee Road has received court approval to do just that. Under a decision by a U.S. district court and the Court of Appeals for the Seventh Dis-

trict, the railroad may eliminate service on all but approximately 3,800 miles of its rail network on November 1 without going through normal Interstate Commerce Commission abandonment proceedings.

The resolution before us today, if amended as proposed by the Commerce Committee, provides one final opportunity to keep the Milwaukee Road operating in its entirety past October 31. The committee plan gives employee and shipper groups the option of submitting to the ICC a proposal under which they would take over operation of the Milwaukee Road.

If the ICC finds that this proposal is feasible, an employee-shipper organization must take control of the railroad no later than March 1, 1980. If the ICC rejects the plan, the Milwaukee Road may proceed with its court-approved reorganization on January 1, 1980.

In the event that the employee-shipper proposal is rejected, the committee amendment provides important protections to labor and shippers.

First, the ICC and the bankruptcy court are given authority to expedite sales of lines outside the core system to other railroads wishing to operate those segments.

Second, employees of the Milwaukee Road who are terminated as a result of the reduction in service will be given special assistance in finding employment with other railroads.

Third, employees who lose their jobs will be given the option of receiving separation pay quickly if they waive their rights to traditional labor protection benefits in the future.

Fourth, the Federal Government will pay supplemental unemployment insurance for those employees who find jobs with other railroads, but subsequently lose their new jobs. Those who take the separation pay option and are unable to find other railroad employment will be eligible for Government-funded new career training.

Finally, under the committee amendment, House Joint Resolution 341 increases the Emergency Rail Service Assistance Act loan ceiling by $75 million to allow the Department of Transportation to deal with the Milwaukee Road situation.

Frankly, it is difficult to be enthusiastic over any of the possible options for resolving the Milwaukee Road problem. If a workable employee-shipper ownership proposal is not forthcoming, the only other alternative to abandoning some or all of the railroad's operations is a huge Federal bailout. However, I commend the Commerce Committee for fashioning a reasonable compromise on a difficult and complex issue.

Looking past the specific problem we face with the Milwaukee Road, one fact is painfully clear. Our Government programs are not equipped to deal effectively with the massive abandonment of rail service throughout the country.

The U.S. Department of Transportation predicts that railroads will incur a shortfall in needed capital investment of at least $13 billion over the next few years. In his message to the Congress on railroad deregulation, President Carter stated that "without major changes in structure and operation, the railroads will be unable to generate the funds needed to sustain themselves. Within a few years, this shortfall could become so severe that it will paralyze the private railroad system and jeopardize its existence."

While deregulation of the industry is a needed first step, additional measures will be required. For example, the congressional Joint Economic Committee is holding hearings on a proposal for a national railroad trust fund to help provide needed capital.

I hope that the appropriate committees in both the House and Senate will give serious consideration to such ideas. We cannot continue to watch the Nation's railroads crumble one by one. We must look for new alternatives to revitalize the railroad industry, an industry which remains an essential part of our transportation system.●

Mr. HAGEDORN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Jersey and the gentleman from Illinois and I commend them on their diligent efforts to construct a workable solution to this perplexing issue. The problems of the Milwaukee Road have been with us for many years and we all look forward to an equitable arrangement to cope with them.

I do not have to reiterate the importance of the Milwaukee Road to the economy of the upper Midwest and indeed, the entire Nation. Suffice it to say that the agricultural community of this area is dependent upon an economically efficient and reliable transportation system. The Milwaukee Road constitutes a vital cog in that system, which if disrupted, can cause problems of major proportions; 1978 has been a particularly hard year for farmers in the upper Midwest in terms of their ability to move their crops to market. We have had to deal with a grain strike, the Milwaukee bankruptcy and the collapse of the Rock Island Railroad. If nothing else, these crises have illustrated the interrelationship between agriculture and transportation.

But while I am concerned that we reach a meaningful solution to the Milwaukee's problems, I am equally concerned that we do so in a manner that is least burdensome to the American taxpayer and least dependent upon the Federal Government.

In my opinion, half of this amendment conforms to this standard and half does not. Ironically, I find myself in support of the labor protection provisions of this substitute, which in my estimation constitute a reasoned, responsible approach to a difficult problem. Under current labor protection laws, the costs of reducing the Milwaukee's work force by the amount envisioned could cost the railroad anywhere from $300 million to $1.2 billion.

The expenditure of this amount of money for labor protection would seriously impair the Milwaukee's ability to reorganize into a smaller railroad. If this amendment passes, however, the bulk of the labor protection cost will be paid for by the Milwaukee estate, with the total benefits not to exceed a cap of $75 million. These funds will be loaned to the estate of the Government, but with the assurance that the loan will be given top priority for repayment.

Furthermore, the labor protection offered by this substitute places an emphasis on finding a job for displaced Milwaukee employees rather than paying them for not working. The Federal involvement in this area is limited to $5 million for supplementary unemployment insurance for those who take a job with another railroad and are subsequently laid off.

I am dismayed, however, with that part of this amendment which seeks to provide continued service over the entire Milwaukee system. The amendment provides an opportunity for a review by the Interstate Commerce Commission of the feasibility of an employee-shipper owned railroad to take over the Milwaukee Road's operations. It stipulates that such a plan must be submitted to the ICC by December 1, evaluated by December 31, and, if found to be feasible, implemented by March 1. My concern is that the Federal Government must bear the expense of keeping the railroad open for the 60-day period from now until December 31. I am not even sure where these funds, estimated to be between $20 and $40 million, will come from, but I assume they will come from the ERSA fund, which has its loan guarantee ceiling raised by this amendment from $125 million to $200 million.

Continued service along the Milwaukee lines is important. I have argued all along that only those lines which have proven to be economically efficient should be maintained as part of the scaled-down version of the Milwaukee. Therefore, I applaud those sections of the amendment which call for expedited sale of Milwaukee lines to other carriers where there is an interest in such purchases.

In short, Mr. Chairman, we are faced with a situation that requires immediate attention. The answer is not to freeze the entire Milwaukee system and support it with Federal dollars. The answer is not directed service by the ICC, which would cost the taxpayers hundreds of millions of dollars. Although I do not know what the total answer is, I believe part of it lies in this substitute amendment.

While I disagree with providing time at Federal expense for the study of an employee-shipper ownership plan, which most already concede is unfeasible, I support the labor protection provisions of the amendment. These measures do require some Federal involvement, but that involvement is necessary to insure continued service along at least the core of the system. And the authors of the system have taken great care to keep Federal expenditures to a minimum.

On balance, Mr. Chairman, I believe the advantages of this substitute outweigh the disadvantages and I urge my colleagues to lend their support to it.

Mr. BEDELL. Mr. Chairman, I am pleased to have this opportunity to speak in support of the Milwaukee Railroad legislation proposed by my distinguished colleague from New Jersey (Mr. FLORIO).

I would like to briefly state my position with respect to both this specific piece of legislation and the general problem of our Nation's railroads. First, as I am sure my colleagues are aware, the Milwaukee Railroad has been bankrupt since late 1977. To date, the Government has advanced over $80 million to the Milwaukee which is attempting to reorganize. I believe that the availability of Federal funds is important to provide assistance to prevent serious disruption of service to Iowa shippers and untimely termination of employment for those who work for the Milwaukee.

Because the Milwaukee is losing substantial amounts of money, however, a long-term solution that does not require the massive infusion of taxpayers money will have to be devised. The Milwaukee trustee has submitted a plan to the bankruptcy court which calls for reducing the current 10,500-mile system, extending from Chicago to Seattle, to a reorganized core of 3,400 miles. The Milwaukee's reorganization plan hits Iowa hard—calling for the embargo, sale, or abandonment of all but 141 of its 1,500 miles in Iowa. The only Iowa line retained in the Milwaukee core system is the gateway line running from Davenport through Ottumwa enroute to Kansas City.

There is thus, both a short-term and a long-term dimension to the problem presented by the Milwaukee Railroad. Admittedly, the most pressing question for the moment is how to proceed with the Milwaukee line, or more specifically, how to insure that transportation service on this line is continued. Obviously, the Milwaukee rail line is a vital link in the transportation of Iowa grain. It comprises some 21 percent of Iowa's total track rail mileage, and every effort should be made to see that transportation service is not interrupted during the harvest season. Because of the Milwaukee's reorganization plan however, the sooner a viable buyer is found for the abandoned and embargoed lines, the sooner long-term reliable service can be restored.

These are the reasons that I am happy to join in support of Mr. FLORIO's proposal. This legislation would provide the Milwaukee Railroad employees and shippers an opportunity to purchase the railroad, and barring that, would permit the bankruptcy court to authorize abandonments and sales of the lines to other railroads.

There are a number of well managed, aggressive, and well financed rail lines interested in taking over the Milwaukee lines, and Iowa badly needs an infusion of healthy rail service.

In the final analysis it must be apparent to all that there are great difficulties involved in seeking solutions to our Nation's rail transportation problems. The rail industry will continue to need financial help from the Government. The purpose of such assistance, however, should be to seek long-term efficiency and to facilitate change.

Mr Chairman, I strongly urge my colleagues to join in support of this measure to provide continued transportation service on the Milwaukee lines while also moving to assist and encourage a permanent long-term solution to this problem.

Mr. FLORIO. Mr. Chairman, I have no further requests for time.

Mr. MADIGAN. Mr. Chairman, I have no further requests for time and yield back the balance of my time.

The CHAIRMAN. Pusuant to the rule, the Clerk will now read the amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of September 28, 1979, by Representative FLORIO as an original joint resolution for the purpose of amendment in lieu of the committee amendment printed in the joint resolution.

The Clerk read as follows:

Amendment in the nature of a substitute:

Strike out all after the resolving clause and insert in lieu thereof the following:

CONGRESSIONAL FINDINGS

SECTION 1. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) experienced railroad employees make a valuable contribution toward strengthening the railroad industry;

(5) other railroads have the ability and willingness to employ displaced Milwaukee Railroad employees;

(6) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(7) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(8) cessation of such services is imminent; and

(9) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this resolution must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential operations by the Milwaukee Railroad would otherwise cause.

SALES AND TRANSFERS

SEC. 2. (a) The Milwaukee Railroad, in consultation with the Secretary of Transportation, may negotiate and enter into agreements to sell all or any portion of its railroad system to any other rail carrier or to any other person. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 23(b) of this joint resolution, or March 1, 1980, whichever first occurs.

(b)(1) The Secretary of Transportation, under the authority of section 5(a)-(e) of the Department of Transportation Act, may develop plans and enter into negotiations for the sale or transfer of any portion of the Milwaukee Railroad. In developing such plans and entering into such negotiations, the Secretary shall give preference to financially responsible persons, including governmental entities, negotiating for the purchase of any lines with the intent of providing common carrier service.

(2) The Secretary shall submit to the court having jurisdiction over the reorganization of the Milwaukee Railroad (hereinafter the "bankruptcy court") any proposal developed under paragraph (1) of this subsection for the sale or transfer of any portion of the Milwaukee Railroad. Such a proposal may in no event become final or effective until the occurrence of an event described in section 23(b) of this joint resolution, or March 1, 1980, whichever first occurs.

COURT APPROVED ABANDONMENTS AND SALES

SEC. 3. (a)(1) Upon the occurrence of an event described in section 23(b) of this joint resolution, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b)(1) Upon the occurrence of an event described in section 23(b) of this Act, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the sale or transfer of lines of the Milwaukee Railroad, subject to paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action

or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5. An application may be initiated with the Commission prior to the date specified in paragraph (1) of this subsection.

(3) The bankruptcy court may, on a preliminary basis, authorize the sale or transfer of lines of the Milwaukee Railroad to another rail carrier. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the Milwaukee Railroad to the extent such purchasing carrier deems necessary for the operation of such service. The bankruptcy court may take final action authorizing any such sale or transfer only in accordance with paragraph (1) of this subsection.

(c) Nothing in this section shall be deemed to affect the priorities or timing of payment of labor protection which might have existed in the absence of this joint resolution.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 4. (a)(1) No later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or substantially all of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan shall include a comprehensive evaluation of the prospects for the financial self-sustainability of the Milwaukee Railroad.

(2) The Commission shall, within 30 days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5 of the United States Code, and for purposes of making such finding the plan as submitted shall be presumed to be feasible.

(3) The Commission shall make a finding that the plan submitted under this section is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the creditors;

(C) implementation of such plan will occur by March 1, 1980; and

(D) the railroad can be operated on a self-sustaining basis.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent and which the proponent is likely to obtain.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall submit its finding to the bankruptcy court. Within 10 days after the date of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the creditors of the Milwaukee Railroad. The Commission's determination with respect to that issue shall be rebutted only by clear and convincing evidence.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the creditors of the Milwaukee Railroad, the proponents of such plan shall, no later than March 1, 1980, take such steps as may be necessary to implement the plan.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor of the Milwaukee Railroad.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 5. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term "restructuring" includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1978 is amended by striking out "$125,000,000" and inserting in lieu thereof $200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system in accordance with section 23 of this joint resolution, and for purposes of financing the operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 23(b) of this joint resolution or on March 1, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses incurred by such railroad attributable to the maintenance and the continuation of service in accordance with this section, and (2) the revenues of such railroad.

(f) Notwithstanding of the provisions of section 3(c) of the Emergency Rail Services Act of 1970, certificates guaranteed under this joint resolution shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this joint resolution.

RAILROAD PREFERENTIAL HIRING

SEC. 6. Notwithstanding any provision of law which affects the granting of preferences or priorities or equal treatment in employment, each rail carrier shall give preference in hiring to any employee of the Milwaukee Railroad who is separated from his employment by reason of any reduction of service by such railroad occurring prior to March 1, 1981. For purposes of this section, "reason of any reduction of service" does not include resignations, retirement, or discharge for cause.

MOVING EXPENSES

SEC. 7. (a) Any employee of the Milwaukee Railroad—

(1) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is required to make a change of residence prior to April 1, 1981, in order to maintain his employment with such railroad; or

(2) who is separated from his employment by reason of any reduction of service by the Milwaukee Railroad prior to March 1, 1981, and is required to make a change of residence, prior to April 1, 1981, in order to obtain employment with another rail carrier,

shall be entitled to receive moving expense benefits in accordance with this section.

(b) The benefits to which an employee described in subsection (a) of this section shall be entitled are as follows:

(1) The actual expenses of moving such employee's household and personal effects.

(2) The actual, necessary traveling expenses of such employee and members of his family.

(3) The closing costs involved in disposing of a residence and acquiring a new residence, including a realtor's fee of not more than $3,000.

(4) If the employee holds an unexpired lease on a dwelling occupied by him as his home, reimbursement for all loss and cost in securing the cancellation of such lease.

(c) Claims for moving expense benefits under this section shall be paid by the Milwaukee Railroad, and shall be treated as administrative expenses of the estate of such railroad.

(d) Any claim of an employee for moving expense benefits under this section shall be filed with the Railroad Retirement Board. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

SUPPLEMENTARY UNEMPLOYMENT INSURANCE

SEC. 8. (a) Any employee of the Milwaukee Railroad—

(1) who (A) is employed by the restructured Milwaukee Railroad, and (B) is separated from that employment by reason of any reduction of service by the Milwaukee Railroad occurring prior to March 1, 1984; or

(2) who (A) is separated from his employment with the Milwaukee Railroad by reason of a reduction of service, and obtains employment, prior to March 1, 1981, with another rail carrier, and (B) is separated from employment with such other carrier prior to March 1, 1984,

shall be entitled to receive monthly supplementary unemployment insurance in accordance with the provisions of this section.

(b) Each employee described in subsection (a) of this section shall be entitled to receive supplementary unemployment insurance during each month in which such employee is not employed, for all or a portion of such month, by the Milwaukee Railroad or another rail carrier. Each such employee shall be entitled to receive such insurance for a total of not more than 36 months, except that—

(1) the period of entitlement for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad; and

(2) no compensation shall be provided under this section after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such insurance, but after such date, such employee only shall receive such 8-month minimum if such employee is not employed continuously after such date.

(c) Supplemental unemployment insurance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this joint resolution, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(d) Entitlement to monthly supplementary unemployment compensation under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(e) Any supplementary unemployment insurance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

(f) The provisions of this section shall not apply to an employee in the event of his resignation, retirement, or discharge for cause from the employment of any rail carrier.

(g) As used in this section, the term "restructured Milwaukee Railroad" means the entity which operates the lines of railroad of the Milwaukee Railroad after March 1, 1980, as reduced or modified by the bankruptcy court.

(h) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "The" and inserting "Notwithstanding any other provision of law, the" in lieu thereof; and

(2) by inserting "and the joint resolution entitled 'Joint Resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad' " immediately before the period at the end thereof.

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES

SEC. 9. (a)(1) Within 60 days after the date of enactment of this joint resolution, and at the end of each of the 16 following 30-day periods, the Milwaukee Railroad shall submit to the Railroad Retirement Board a list of individuals separated from employment with the Milwaukee Railroad who at the time of such separation indicated a desire to appear on a list to be distributed to all rail carriers. Each such list shall include the class or craft qualifications of each employee listed, his seniority status with the Milwaukee Railroad, and such other information as the Board considers appropriate. The first list shall include only individuals separated after the date of enactment of this joint resolution and before the date on which the list is submitted pursuant to this paragraph. Each subsequent list shall include only those individuals separated after the submission of the previous list and before the submission of such subsequent list.

(2) Within 5 days after each day specified in paragraph (1) of this subsection, the Railroad Retirement Board shall mail a copy of the list submitted to the Board by the Milwaukee Railroad by such date to all other rail carriers. In addition, the Board shall maintain a current copy of such list in each office of the Board.

(b)(1) Within 60 days after the date of enactment of this joint resolution, and at the end of each of the 16 following 30-day periods, each rail carrier shall submit to the Railroad Retirement Board a list of employment, by class and craft, available with such carrier as of the date of the submission of such list. Each such list shall set forth such information with respect to such employment as the Board considers appropriate.

(2) Within 5 days after each date specified in paragraph (1) of this subsection, the Railroad Retirement Board shall prepare a compilation of all of the positions of employment by class and craft submitted by each rail carrier by such date, and shall mail a copy of such compilation to each employee who, pursuant to subsection (c) of this section, notifies the Board of such employee's interest in such compilation. In addition, the Board shall maintain a copy of such compilation in each office of the Board.

(c) Any employee of the Milwaukee Railroad described in section 6 of this joint resolution may notify the Railroad Retirement Board that he is interested in receiving a copy of each compilation of positions of employment by class and craft prepared by the Board pursuant to subsection (b)(2) of this section.

(d) Within 20 days after the Railroad Retirement Board mails a compilation of employment positions to employees pursuant to subsection (b)(2) of this section, any such employee may submit a bid on any position contained in such compilation to the rail carrier which listed the position.

(e) Any rail carrier which, during the 20-day period after a compilation of positions is mailed, receives one or more bids on any employment position listed by such rail carrier in such compilation shall offer such employment position to the employee who submitted a bid on such position during such period who has the most seniority in the class or craft within which such position is listed. Such offer shall be made to such employee whether or not such rail carrier hired another person for such employment position during the period of time beginning on the date of the submission to the Board of the list containing such position and the last date on which bids were submitted by employees for such position pursuant to this section.

(f) Nothing in this section shall impair the seniority rights or other interests under a collective bargaining agreement of any person employed by a carrier which offers employment positions pursuant to this section, unless otherwise specifically authorized or required by applicable union law.

EMPLOYEE RELOCATION INCENTIVE COMPENSATION

SEC. 10. (a) Any employee of the Milwaukee Railroad—

(1) who is employed by the restructured Milwaukee Railroad; or

(2) who is separated from his employment with the Milwaukee Railroad by reason of a reduction of service, and obtains employment, prior to March 1, 1981, with another rail carrier,

shall be eligible for employee relocation incentive compensation in accordance with this section.

(b) Each employee described in subsection (a) of this section shall be eligible to receive a total of not more than 36 months of employee relocation incentive compensation under this section. No such compensation shall be provided after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such compensation, but after such date such employee shall only receive such 8-month minimum if such employee is employed continuously after such date.

(c)(1) Employee relocation incentive compensation shall be payable to each employee described in subsection (a) of this section in any month in which—

(A) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this joint resolution; exceeds

(B) such employee's compensation for that month from his new position with the Milwaukee Railroad.

(2) The amount of compensation payable to an employee shall be the amount by which the monthly compensation described in paragraph (1)(A) of this subsection exceeds the monthly compensation described in paragraph (1)(B).

(d) An employee shall not be eligible to receive compensation under this section during any month in which such employee receives supplementary unemployment insurance under section 7 of this joint resolution.

(e) Employee relocation incentive compensation under this section shall be paid by the Milwaukee Railroad, and shall be treated as an administrative expense of the estate of such railroad.

(f) Any claim of an employee for employee relocation incentive compensation under this section shall be filed with the Railroad Retirement Board. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

(g) As used in this section, the term "restructured Milwaukee Railroad" has the meaning given to such term in section 8(q) of this joint resolution.

SEPARATION ALLOWANCE

SEC. 11. (a) Any employee of the Milwaukee Railroad described in section 6 of this joint resolution may, no later than April 1, 1981, elect to receive a separation allowance from the Milwaukee Railroad, in an amount equal to $2,000 for each year of completed service and, in addition thereto, full payment for all vacation time earned but not previously taken and of deferred compensation. The amount of separation allowance payable to an employee under this section shall not exceed $25,000.

(b) Any separation allowance under this section shall be paid by the Milwaukee Railroad, and shall be treated as an administrative expense of the estate of such railroad.

NEW CAREER TRAINING ASSISTANCE

SEC. 12. (a) Any employee who elects to receive separation allowance under section 11 of this joint resolution shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or

educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

ELECTIONS

SEC. 13. (a) Any employee who receives moving expense benefits under section 7 of this joint resolution, supplementary unemployment compensation under section 8, or employee relocation incentive compensation under section 10, shall not be eligible for a separation allowance under section 11 or for new carrier training assistance under section 12.

(b) Any employee who receives a separation allowance under section 11 of this joint resolution shall not be eligible for assistance under section 7, 8, or 10.

(c) Any employee who receives any assistance under section 7, 8, 10, or 11 of this joint resolution shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) There is authorized to be appropriated to provide supplementary unemployment insurance under section 8 of this joint resolution not to exceed $5,000,000.

(b) There is authorized to be appropriated for new career training assistance under section 12 of this joint resolution not to exceed $1,500,000.

(c) There are authorized to be appropriated to the Railroad Retirement Board to carry out its administrative expenses under this Act not to exceed $750,000.

(d) Amounts appropriated under this section are authorized to remain available until expended.

OBLIGATION GUARANTEES

SEC. 15. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, shall guarantee obligations of the Milwaukee Railroad for purposes of providing moving expenses under section 7, employee relocation incentive compensation under section 10, and separation allowances under section 11. Such guarantee shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible under sections 7, 10, and 11 of this joint resolution, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances provided under sections 7, 10, and 11 of this joint resolution.

TRANSACTION ASSISTANCE

SEC. 16. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 845) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsections (a) through (e) of this section, the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person or retained by the Milwaukee Railroad and that will be used for common carrier rail service.".

ASSESSMENT OF COAL HAULING NEEDS

SEC. 17. The Secretary of Energy shall immediately conduct an assessment of present and potential coal hauling needs in the area served by the Milwaukee Railroad and report his findings to the Congress within thirty days after the date of enactment of this joint resolution.

COURT APPROVED ABANDONMENT AND SALES IN PENDING CASES

SEC. 18. (a) Notwithstanding any other provisions of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of the joint resolution may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to such section 1170, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49 of the United States Code.

(b)(1) Notwithstanding any other provision of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of the joint resolution may authorize the sale or transfer of rail property, subject to the approval of the Interstate Commerce Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

(2) The court described in paragraph (1) may not authorize a sale or transfer pursuant to such paragraph unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5.

(3) The court described in paragraph (1) may, on a preliminary basis, authorize the sale or transfer of lines of the carrier subject to the bankruptcy proceeding to another rail carrier. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the carrier subject to the bankruptcy proceeding to the extent such purchasing carrier deems necessary for the operation of such service.

(c) The authority of the court having jurisdiction over the reorganization of the Milwaukee Railroad to authorize abandonments, sales, and transfers of lines of such railroad shall be governed by the provisions of section 3 of this joint resolution, rather than the provisions of this section.

(d) Nothing in this section shall be deemed to affect the priorities or timing of payment of labor protection which might have existed in the absence of this joint resolution.

DIRECTED SERVICE

SEC. 19. Until March 1, 1981, the provisions of this joint resolution shall be in lieu of any directed service under section 11125 of title 49 of the United States Code.

APPLICABILITY OF NEPA

SEC. 20. The provisions of the National Environmental Policy Act shall not apply to transactions carried out pursuant to this joint resolution.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 21. (a) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this joint resolution.

(b) In carrying out its duties under this joint resolution, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the provisions of this joint resolution.

PUBLICATIONS AND REPORTS

SEC. 22. (a) Within 30 days after the date of enactment of this joint resolution, the Board shall publish, and make available for distribution by the Milwaukee Railroad to all its employees, a document which describes in detail the rights of such employees under sections 7 through 13 of this joint resolution.

(b) During the 2-year period beginning on the date of enactment of this joint resolution, the Railroad Retirement Board shall submit a report to the Congress every 6 months describing its activities under sections 7, 8, 9, 10, 11, and 12 of this joint resolution.

CONTINUATION OF SERVICE

SEC. 23. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the date of enactment of this joint resolution, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 4(a) of this joint resolution;

(2) the proposed plan is found by the Commission not to be feasible;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 4(c) of this joint resolution.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 24. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711(e)) is amended by striking out paragraph (2) and the sentence following that paragraph and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is establishing an employee stock ownership plan which will be reviewed and approved by the Association, and assures that by December 31, 1980, the railroad will contribute to the employee stock ownership plan an amount of convertible preferred employer stock, or cash used to purchase convertible preferred employer stock, equal to the lesser of (A) 20 percent of the amount made available under this paragraph, or (B) 20 percent of the fair market value of the railroad as of that date.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 25. (a) CONSIDERATION OF APPLICATIONS.—Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting immediately after the comma at the end of clause (A) thereof the following: "except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided,"; and

(2) by amending clause (C) thereof to read as follows: "(C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs.".

(b) DEFINITION.—Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) 'restructuring' means any activity (including a consolidation, coordination, merger, or abandonment) which (A) involves rehabilitation or improvement of a facility or the transfer of a facility, (B) improves the long-term profitability of any railroad, and (C) results in the enhancement of the national rail freight system through the achievement of higher average traffic densities or improved asset utilization.".

Amend the title so as to read: "Joint Resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad".

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLORIO: Page 11, immediately after line 7, insert the following new section:

INTERIM EMPLOYEE ASSISTANCE

SEC. 7. (a) Any employee of the Milwaukee Railroad who is separated from his employment at any time during the six-month period beginning on (1) the date of the occurrence of an event described in section 25(b) of this joint resolution, or (2) March 1, 1980, whichever first occurs, shall be eligible to receive interim employee assistance under this section for the remainder of such six-month period, except that the period of eligibility for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad.

(b) Interim employee assistance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this joint resolution, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(c) Any claim for interim employee assistance under this section shall be paid by the Milwaukee Railroad in accordance with section 17 of this joint resolution, and shall be treated as an administrative expense of the estate of such railroad.

(d) Any claim of an employee for interim employee assistance under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under this section and shall certify such amount to the Milwaukee Railroad for payment.

(e) Any interim employee assistance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, this amendment makes several technical changes in the substitute which I think are noncontroversial. It does make one substantive change, which cures a problem brought to our attention after the rule made the substitute in order.

As it stands, the substitute provides incentives for employees of the Milwaukee to move to other rail carriers. The incentives were designed so that workers had to work for another carrier to take advantage of the benefits. The substitute overlooks the fact that employees may want to move and eventually will move, but may not be able to do so for several months. We have provided no incentive for them to wait for up to 6 months for a job elsewhere in the industry.

To cure the problem, this amendment provides for 6 months of unemployment insurance for all displaced Milwaukee employees. If the employee eventually moves, his eligibility for other unemployment programs under the bill are reduced by the number of months of benefits he received under this program.

If, after 6 months of these unemployment benefits, the employee does not find employment elsewhere in the industry, the amount he received under this program is deducted from the severance pay to which he is otherwise entitled.

The 6 months of benefits in this amendment come from the estate of the Milwaukee, and will not cost the Federal Government a thing. The additional expense to the Milwaukee estate will be negligible since the payments are all deductible from other benefits to which employees are entitled.

The 6 months of unemployment benefits provide employees with the time to search for other employment in the industry, as we all want them to do. If they find that employment or do not, the benefits they receive are eventually subtracted from other benefits for which they are eligible.

I think it is a good and necessary change in the substitute, and I urge your support.

Mr. MADIGAN. Mr. Chairman, would the gentleman yield?

Mr. FLORIO. I would be happy to yield.

Mr. MADIGAN. Mr. Chairman, we have had the opportunity to review the gentleman's amendment on this side, and observe that it does not affect the $75 million cap contained in the substitute and we are supporting the amendment of the gentleman from New Jersey as being a good initiative.

Mr. FLORIO. Mr. Chairman, I thank the gentleman from Illinois.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. MADIGAN: On the first page, line 4, strike out "Chicago," and all that follows through "Railroad')" on line 6 and insert "Milwaukee Railroad" in lieu thereof.

On the first page, line 13, insert "Minnesota," immediately after "Indiana,".

Page 2, line 1, strike out the period and insert in lieu thereof a semicolon.

Page 2, line 20, strike out "operations" and insert "services" in lieu thereof.

Page 2, immediately after line 21, insert the following new section:

DEFINITIONS

SEC. 2. As used in this joint resolution—

(1) the term "bankruptcy court" means the court having jurisdiction over the reorganization of the Milwaukee Railroad;

(2) the term "Board" means the Railroad Retirement Board;

(3) the term "employee"—

(A) includes any employee of the Milwaukee Railroad who worked on a line of such railroad the sale of which became effective on October 1, 1979; but

(B) does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

(4) the term "Milwaukee Railroad" means the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; and

(5) the term 'restructured Milwaukee Railroad'—

(A) means the entity operating the lines of the Milwaukee Railroad after the 6-month period beginning on (i) the occurrence of an event described in section 25(b) of this joint resolution, or (ii) March 1, 1980, whichever first occurs; but

(B) does not include (i) any line of the Milwaukee Railroad which is the subject of a proposed sale, transfer, or abandonment pending on the expiration of the 6-month period described in subparagraph (A) of this paragraph, or (ii) any entity formed pursuant to section 5 of this joint resolution.

Page 2, strike out line 23 and all that follows through "person." on line 2 of page 3, and insert in lieu thereof the following:

SEC. 3. (a) The Milwaukee Railroad may negotiate and enter into agreements to sell, to another rail carrier or any other person, all or any portion of its rail properties which are used in railroad operations as of the date of enactment of this joint resolution.

Page 3, line 4, strike out "23(b)" and insert "25(b)" in lieu thereof.

Page 3, line 5, immediately after the period insert the following new sentence: "In taking action under this subsection, the Milwaukee Railroad may consult with the Secretary of Transportation.".

Page 3, line 8, strike out "develop plans" and all that follows through "negotiations," on line 11 and insert in lieu thereof the following: "develop plans, participate in negotiations, and recommend to the trustee proposals for the sale or transfer of any rail properties of the Milwaukee Railroad which are used in rail operations as of the date of enactment of this joint resolution. In taking action under this paragraph,".

Page 3, strike out lines 15 through 19 and insert in lieu thereof the following:

"(2) Any sale or transfer proposal developed under paragraph (1) of this subsection shall be submitted to the bankruptcy court.".

Page 3, line 21, strike out "23(b)" and insert "25(b)" in lieu thereof.

Page 3, line 25, strike out "SEC. 3." and insert "SEC. 4." in lieu thereof.

Page 4, line 1, strike out "23(b)" and insert "25(b)" in lieu thereof.

Page 4, line 22, strike out "23(b)" and insert "25(b)" in lieu thereof.

Page 4, strike out line 24 and insert in lieu thereof the following:

transfer of a line of the Milwaukee Railroad to be used in continued rail operations, subject to the approval of the Interstate Commerce Commission under

Page 5, line 17, insert "of the United States Code" immediately after "title 5".

Page 5, line 20, strike out "The" and insert "Pending review by the Commission pursuant to paragraph (2) of this subsection, the" in lieu thereof.

Page 5, strike out line 23 and all that follows through line 1 on page 6 and insert in lieu thereof the following: "purchasing carrier to operate interim service as a common carrier over the lines to be purchased, without regard to section 10901 of title 49 of the United States Code. In operating such service, the purchasing carrier shall use employees of the Milwaukee Railroad to the extent necessary for the operation of such".

Page 6, line 6, strike out "labor" and insert "employee" in lieu thereof.

Page 6, line 10, strike out "SEC. 4." and insert "SEC. 5." in lieu thereof.

Page 7, line 9, strike out "creditors" and insert "estate of the Milwaukee Railroad" in lieu thereof.

Page 8, line 1, strike out "creditors" and insert "estate" in lieu thereof.

Page 8, line 6, strike out "creditors" and insert "estate" in lieu thereof.

Page 8, line 7, strike out "shall," and all that follows through "plan" on line 9 and insert "shall implement the plan no later than March 1, 1980" in lieu thereof.

Page 9, line 1, insert "or customer" immediately after "competitor".

Page 9, line 4, strike out "SEC. 5." and insert "SEC. 6." in lieu thereof.

Page 10, line 4, strike out "23" and insert "25" in lieu thereof.

Page 10, line 5, strike out "for purposes of financing the" and insert "as required to finance" in lieu thereof.

Page 10, line 8, strike out "23(b)" and insert "25(b)" in lieu thereof.

Page 10, line 17, insert "subsection (d) of" immediately after "with".

Page 10, strike out line 23 and all that follows through line 7 on page 11 and insert in lieu thereof the following:

RAILROAD HIRING

SEC. 7. Each person who is an employee of the Milwaukee Railroad on October 26, 1979, and who is separated or furloughed from his employment with such railroad (other than for cause) prior to March 1, 1981, as a result of a reduction of service by such railroad, shall have the first right of hire by any other rail carrier that is subject to regulation by the Interstate Commerce Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

Page 11, redesignate section 7, as added by the amendment offered by Mr. FLORIO, as section 8.

Page 11, line 9, strike out "SEC. 7." and insert "SEC. 9." in lieu thereof.

Page 11, strike out lines 15 through 19 and insert in lieu thereof the following:

(2) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is separated from his employment with such railroad and is required to make a change of residence, prior to April 1, 1981, in order to obtain employment with another rail carrier,

Page 11, line 20, strike out "entitled" and insert "eligible" in lieu thereof.

Page 11, line 23, strike out "entitled" and insert "eligible" in lieu thereof.

Page 12, line 11, strike out "Claims" and insert "Any claim" in lieu thereof.

Page 12, line 12, insert "in accordance with section 17 of this joint resolution" immediately after "Railroad".

Page 12, line 13, strike out "administrative expenses" and insert "an administrative expense" in lieu thereof.

Page 12, beginning on line 16, strike out "Railroad Retirement Board" and insert "Board, in such time and manner as the Board by regulation shall prescribe" in lieu thereof.

Page 12, line 17, strike out "to" and insert "for" in lieu thereof.

Page 12, line 18, strike out "entitled" and insert "eligible" in lieu thereof.

Page 12, line 21, strike out "SEC. 8." and insert "SEC. 10." in lieu thereof.

Page 13, beginning on line 2, strike out "by reason of a reduction of service," and insert "in connection with a restructuring transaction carried out by such railroad," in lieu thereof.

Page 13, line 20, strike out "and".

Page 14, line 1, strike out the period and insert "; and" in lieu thereof.

Page 14, immediately after line 1, insert the following new paragraph:

(3) there shall be deducted from such 36-month total one month for each month such employee received interim employee assistance under section 8 of this joint resolution.

Page 14, strike out lines 16 through 19 and insert in lieu thereof the following:

(d) An application for supplementary unemployment insurance under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe.

Page 15, line 3, insert "(1)" immediately after "(f)".

Page 15, after line 5, insert the following new paragraphs:

(2) An employee shall not be entitled to receive supplementary unemployment insurance under this section if he has failed to exhaust all seniority rights or other employment rights under applicable collective bargaining agreements.

(3) An employee shall not be entitled to receive supplementary unemployment insurance under this section for any month or portion of a month in which such employee is unemployed due to normal seasonal unemployment patterns in the railroad industry.

Page 15, strike out lines 6 through 9 and insert in lieu thereof the following:

(g) For purposes of this section, any employee of the Milwaukee Railroad who is furloughed shall be considered to be separated from his employment.

Page 15, strike out line 20 and all that follows through line 15 on page 18 and insert in lieu thereof the following:

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES

SEC. 11. (a) The Board shall prepare and maintain—

(1) a list of individuals separated from employment with the Milwaukee Railroad who indicate a desire to appear on a list to be available to rail carriers; and

(2) a list of employment, by class and craft, available wih rail carriers,

based upon information submitted to the Board by the Milwaukee Railroad and other rail carriers. Upon the request of any rail carrier, the Board shall make available to such carrier a copy of the list described in paragraph (1) of this subsection.

(b) The Board shall maintain the lists required by subsection (a) of this section through December 31, 1984.

Page 18, line 17, strike out "SEC. 10." and insert "SEC. 12." in lieu thereof.

Page 18, line 21, strike out "by reason of a reduction in service," and insert "in connection with a restructuring transaction carried out by such railroad," in lieu thereof.

Page 19, strike out lines 4 through 9 and insert in lieu thereof the following:

under this section, except that—

(1) no such compensation shall be provided after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such compensation, but after such date such employee shall only receive such 8-month minimum if such employee is employed continuously after such date; and

(2) there shall be deducted from such 36-month total one month for each month such employee received interim employee assistance under section 8 of this joint resolution.

Page 19, line 19, insert "or another rail carrier" immediately after "Railroad".

Page 19, strike out lines 20 through 23 and insert in lieu thereof the following:

(2) Employer relocation incentive compensation under this section shall be payable to an employee on a monthly basis in an amount equal to (A) the amount described in paragraph (1)(A) of this subsection, as computed for that employee, less (B) the amount described in paragraph (1)(B) of this subsection, as computed for that employee.

Page 20, line 1, insert "is eligible for or" immediately after "such employee".

Page 20, line 4, insert "in accordance with section 17 of this joint resolution" immediately after "Railroad".

Page 20, line 9, strike out "Railroad Retirement Board" and insert "Board, in such time and manner as the Board by regulation shall prescribe" in lieu thereof.

Page 20, strike out lines 13 through 15.

Page 20, strike out lines 17 through 25 and insert in lieu thereof the following:

SEC. 13. (a) Any employee of the Milwaukee Railroad described in section 7 of this joint resolution may, no later than April 1, 1981, elect to receive a separation allowance from the Milwaukee Railroad in accordance with this section.

(b) A separation allowance under this section shall be payable to an employee in an amount equal to $2,000 for each year of completed service and, in addition thereto, full payment of back pay and for all vacation time earned but not previously taken, except that—

(1) the total amount of separation allowance payable to an employee shall not exceed $25,000; and

(2) the amount of separation allowance payable to an employee shall be reduced by the amount of any interim employee assistance received by such employee under section 8 of this joint resolution.

Page 21, line 1, strike out "(b)" and insert "(c)" in lieu thereof.

Page 21, line 2, insert "in accordance with section 17 of this joint resolution" immediately after "Railroad".

Page 21, immediately after line 3, insert the following new subsection:

(d) The Milwaukee Railroad shall submit to the Board, in such form and manner as the Board by regulation prescribes, a report of each separation allowance paid by the Milwaukee Railroad under this section. The Board shall review each such report to determine whether such allowance was paid in accordance with this section.

Page 21, line 5, strike out "SEC. 12." and insert "SEC. 14." in lieu thereof.

Page 21, line 6, strike out "11" and insert "13" in lieu thereof.

Page 21, beginning on line 7, strike out "Railroad Retirement".

Page 21, line 15, strike out "Railroad Retirement".

Page 21, immediately after line 17, insert the following new subsection:

(d) No assistance may be provided under this subsection after March 1, 1984.

Page 21, line 18, strike out "(d)" and insert "(e)" in lieu thereof.

Page 21, line 21, insert "and" immediately after the semicolon.

Page 21, line 24, strike out the comma immediately after "title 38" and insert "of the" in lieu thereof.

Page 22, line 2, strike out "SEC. 13." and insert "SEC. 15." in lieu therof.

Page 22, line 3, strike out "7" and insert "9" in lieu thereof.

Page 22, line 4, strike out "8" and insert "10" in lieu thereof.

Page 22, line 5, strike out "10" and insert "12" in lieu thereof.

Page 22, line 7, strike out "11" and insert "13" in lieu thereof.

Page 22, line 7, strike out "carrier" and insert "career" in lieu thereof.

Page 22, line 8, strike out "12" and insert "14" in lieu thereof.

Page 22, line 10, strike out "11" and insert "13" in lieu thereof.

Page 22, line 11, strike out "7, 8, or 10" and insert "9, 10, or 12" in lieu thereof.

Page 22, line 13, strike out "7, 8, 10, or 11" and insert "8, 9, 10, 12, or 13" in lieu thereof.

Page 22, line 19, strike out "SEC. 14." and insert "SEC. 16." in lieu thereof.

Page 22, line 20, strike out "8" and insert "10" in lieu thereof.

Page 22, line 23, strike out "12" and insert "14" in lieu thereof.

Page 22, line 25, strike out "are" and insert "is" in lieu thereof.

Page 23, line 1, strike out "Railroad Retirement".

Page 23, line 6, strike out "SEC. 15." and insert "SEC. 17." in lieu thereof.

Page 23, line 9, insert "interim employee assistance under section 8," immediately after "providing".

Page 23, line 10, strike out "7" and insert "9" in lieu thereof.

Page 23, line 11, strike out "10" and insert "12" in lieu thereof.

Page 23, line 12, strike out "11" and insert "13" in lieu thereof.

Page 23, line 15, insert "an" immediately after "as".

Page 23, line 24, strike out "7, 10, and 11" and insert "8, 9, 12, and 13" in lieu thereof.

Page 24, line 1, immediately after the period insert the following new sentence: "The total liability of the Milwaukee Railroad for benefits and allowances under sections 8, 9, 12, and 13 of this joint resolution shall not exceed $75,000,000.".

Page 24, line 5, strike out "7, 10, and 11" and insert "8, 9, 12, and 13" in lieu thereof

Page 24, line 8, strike out "SEC. 16." and insert "SEC. 18." in lieu thereof.

Page 24, line 11, insert "(1)" immediately after "Service.—".

Page 24, line 18, insert "restructured" immediately after "by the".

Page 24, line 19, strike out the closing quotation marks and the following period.

Page 24, immediately after line 19, insert the following new paragraphs:

"(2) The Secretary may not take any action under this subsection—

"(A) prior to (i) the occurrence of an event described in section 25(b) of the joint resolution entitled 'Joint Resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employee of such railroad', or (ii) March 1, 1980, whichever first occurs; or

"(B) after March 1, 1981.

"(3) Funds received from purchases by the Secretary pursuant to this subsection may not be used for the rehabilitation and improvement of any line of railroad which carried less than 3,000,000 gross tons of freight per mile during the previous calendar year.".

Page 24, line 21, strike out "SEC. 17." and insert "SEC. 19." in lieu thereof.

Page 25, line 2, strike out "SEC. 18." and insert "SEC. 20." in lieu thereof.

Page 25, line 12, strike out "such section 1170" and insert "this section" in lieu thereof.

Page 25, line 19, strike out "rail property" and insert "a line of railroad to be used in continued rail operations".

Page 26, line 13, insert "of the United States Code" immediately after "title 5".

Page 26, line 14, strike out "The" and insert "Pending review by the Commission pursuant to paragraph (2) of this subsection, the" in lieu thereof.

Page 26, strike out lines 23 through 25 and insert in lieu thereof the following:

(c) The authority of the bankruptcy court to authorize abandonments, sales, and transfers of lines of the Milwaukee Railroad.

Page 27, line 1, strike out "3" and insert "4" in lieu thereof.

Page 27, line 5, strike out "labor" and insert "employee" in lieu thereof.

Page 27, line 9, strike out "SEC. 19." and insert "SEC. 21." in lieu thereof.

Page 27, line 10, insert "on any line of the Milwaukee Railroad" immediately after "service".

Page 27, line 13, strike out "SEC. 20." and insert "SEC. 22." in lieu thereof.

Page 27, strike out line 17 and all that follows through "rules" on line 18 and insert in lieu thereof the following:

SEC. 23. (a) The Board may prescribe such regulations

Page 28, line 2, strike out "SEC. 22." and insert "SEC. 24." in lieu thereof.

Page 28, line 6, strike out "7 through 13" and insert "8 through 15" in lieu thereof.

Page 28, line 9, strike out "Railroad Retirement".

Page 28, beginning on line 11, strike out "7, 8, 9, 10, 11, and 12" and insert "8, 9, 10, 11, 12, 13, and 14" in lieu thereof.

Page 28, line 14, strike out "SEC. 23." and insert "SEC. 25." in lieu thereof.

Page 28, line 17, strike out "the date of enactment of this joint resolution" and insert "October 15, 1979" in lieu thereof.

Page 29, line 5, insert "or the Commission does not act within 30 days" immediately after "feasible".

Page 29, line 7, strike out "creditors' and insert "estate" in lieu thereof.

Page 29, line 10, strike out "4(c)" and insert "5(c)" in lieu thereof.

Page 29, line 13, strike out "SEC. 24." and insert "SEC. 26." in lieu thereof.

Page 29, line 14, strike out "711(e)" and insert "721(d)" in lieu thereof.

Page 29, strike out line 20 and all that follows through line 5 on page 30 and insert in lieu thereof the following: "paragraph (1)(B) of this subsection and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association. Any such approval shall be conditioned upon a written commitment that by December 31, 1980, the railroad will adopt an employee stock ownership plan which will acquire employer stock with a fair market value of $200,000.".

Page 30, strike out line 10 and insert in lieu thereof the following: "SEC. 27. (a) Section".

Page 31, line 4, strike out "DEFINITION.—".

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, I rise to offer an amendment to the substitute amendment offered by Chairman FLORIO. The amendment I offer is essentially technical changes to the Florio substitute. It includes the addition of a section setting forth definitions of certain key terms used in the bill, and clarifications of provisions contained in the original substitute as introduced by Congressman FLORIO and myself.

For example, section 10 of our substitute amendment went into considerable specificity as to how the Railroad Retirement Board would proceed in matching available jobs throughout the railroad industry to specific separated Mil-

waukee employees who wanted to continue employment in the industry. This amendment clarifies that procedure and gives greater discretion to the Board in implementing the job bank concept.

The technical amendment also insures that hiring of Milwaukee employees by other railroads will not violate any provisions of existing civil rights statute.

Mr. Chairman, since the amendment contains technical changes which affect several sections of the bill, I ask that it be considered and approved en bloc.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield.

Mr. FLORIO. Mr. Chairman, I would just reaffirm the representations that have been made. The amendment is a very helpful amendment. It will be of assistance in implementing the clear intent of the committee and the majority supports the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. MADIGAN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. DASCHLE

Mr. DASCHLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DASCHLE: Page 31, after line 21, add the following new section:

OFFICE OF RAIL PUBLIC COUNSEL

SEC. 26. The Office of Rail Public Counsel may appear and be heard in the case before the bankruptcy court involving the reorganization of the Milwaukee Railroad, for purposes of representing affected shippers, localities, and municipalities with respect to the proposed abandonment of any lines of the Milwaukee Railroad.

Mr. DASCHLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. DASCHLE. Mr. Chairman, this amendment would simply propose that we insure that the Office of Rail Public Counsel may represent shippers and other affected parties in this rail abandonment proceedings in bankruptcy court.

The counsel is currently working in South Dakota and Montana and Idaho, Washington, Wisconsin, and Michigan, helping the public gather information and present testimony for the very complicated process of rail abandonment proceedings; but with the passage of this law, rail abandonment rulings regarding the Milwaukee will be moved to the jurisdiction of the court. According to the GAO in a letter to Senator MELCHER of Montana, the Office can appear in court only on behalf of shippers after abandonment application has been through the ICC and then has been appealed to the court. Now we are bypassing the ICC on abandonments, and so this amendment is necessary to insure that the Office of Rail Public Counsel can continue the process it has begun of serving the public in the proposed Milwaukee abandonment.

Preparing and presenting testimony in a rail abandonment case is a very complicated matter—a shipper needs information on carloads shipped and received, effects of abandonment on employment, the effect of reduced employment on the local tax base, energy costs, and alternate forms of transportation. Most complex of all is the costing issues—these are issues requiring cost analysts. Three such analysts were employed in the recent hearings on the proposed Miles City west abandonment.

Shippers must know how the rail abandonment process works, how to participate, what kind of information is needed for testimony. The ICC holds public hearings, but does not help people with the process. You must remember that these local shippers are pitted against railroad attorneys in their testimony. The Office of Rail Public Counsel is needed in court to help shippers and others effected by possible abandonments, and to present testimony on behalf of others. To deny the public aid because authority for abandonment rulings has been switched from the ICC to the courts is simply unfair.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I would be happy to yield.

Mr. WILLIAMS of Montana. Mr. Chairman, with regard to the Rail Public Counsel, I have a report that indicates that a group called Rail Public Counsel has recently determined that this year the Milwaukee earned $2½ million as a positive profit contribution to their operation on the lines that they wish to abandon. Is this the same Rail Public Counsel that the gentleman wishes to have intervene in the abandonment hearings?

Mr. DASCHLE. The gentleman from Montana is absolutely right. They have done an incredible job in coming up with information and working with the shippers and certainly working with the States in our region to insure that this kind of information is made public.

Mr. WILLIAMS of Montana. Well, Mr. Chairman, I encourage my colleagues to support the gentleman's amendment and encourage the chairman to accept the gentleman's amendment.

The Rail Public Counsel, it seems to me, is the only Federal agency which has been able to identify the profit which the Milwaukee has indeed made on the lines they want to abandon.

Mr. DASCHLE. That is correct.

Mr. WILLIAMS of Montana. Mr. Chairman, I thank the gentleman.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I would be happy to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I have reviewed the gentleman's amendment. There is some question as to whether the authority, that is, the Office of Rail Public Counsel, really has the authority to do what the gentleman seeks to do. I am of the opinion that it does, and in the interests of expediting procedures here today I am pleased to accept the gentleman's amendment.

Mr. DASCHLE. Mr. Chairman, I thank the gentleman.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I would be happy to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, concurring with the remarks that the chairman of the subcommittee has made, I am under the impression that the Office of Rail Public Counsel would have the right to appear in these proceedings in Federal court in Chicago and I would interpret the gentleman's amendment as simply clarifying the intent of Congress as that intent should have been represented to everyone; so we certainly have no objection to the amendment.

Mr. DASCHLE. Well, Mr. Chairman, I certainly want to thank the gentleman and the chairman.

My only concern is that the GAO interpretation left some need for clarification and I think this amendment does that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota (Mr. DASCHLE).

The amendment was agreed to.

□ 1600

AMENDMENT OFFERED BY MR. ABDNOR

Mr. ABDNOR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ABDNOR: Page 27, line 9, strike out "Until" and insert in lieu thereof "(a) Except as provided in subsection (b) of this section, until".

Page 27, after line 11, insert the following new subsection:

(b) The Interstate Commerce Commission shall order directed service under section 11125 of title 49 of the United States Code for a period of 60 days, and may order such directed service for an additional period of 180 days, on any line of the Milwaukee Railroad over which such railroad does not continue operations, prior to March 1, 1980, with financial assistance made available under section 5(d) of this joint resolution.

Mr. ABDNOR. Mr. Chairman, simply stated, my amendment would require 60 days of directed service on any line which the Milwaukee Railroad does not choose to continue to operate with ERSA loan funds after January 1. It would also preserve the option of the ICC to direct service on such a line for an additional period of up to 180 days, or a total of 240 days, consistent with existing law.

If the employee-shipper ownership plan is deemed by the ICC to be feasible, under the existing provisions of the Florio-Madigan substitute, the entire Milwaukee system will be maintained with ERSA loan funds until March 1 or until the plan is implemented, whichever occurs first. If the plan is found to be not feasible, my amendment would insure the continuation of service for a minimum of 60 days.

My amendment will provide another tool to facilitate the necessary restructuring of the Milwaukee system. It will afford the option of directed service to smooth the transition for sales and

transfer of service to other railroads, and it will do so on lines which might otherwise fall by the wayside without deliberate consideration. It will enable the Milwaukee to embargo service on these lines and, thereby, avoid further encumbering the estate.

I am sure the creditors will like that, and the shippers should not object either because they will in all likelihood receive more service under my amendment than under the existing provisions of the law.

In my view, it is little to expect—considering the history of the regulatory morass which has contributed to the dire straits in which employees, shippers, and the Milwaukee Railroad find themselves—that a minimal period of 60 days directed service would be assured. Such a period would do more to facilitate reasonable consideration of sales offers, without unduly delaying the inevitable.

Mr. Chairman, let me say to the Members of the House that it was not too long ago that again we included funding in the continuing appropriations to sustain loans until November 30, and so people out in the hinterlands were led to believe that they were assured of that much. They were led to think then that they had directed service for another 60 days after that. At the very minimum, they were led to believe that they were going to have railroad service through the end of January.

In my part of the country, many sales are contracted for delivery in January, at the start of the new year. Contracts have been made, and now, on the basis of a change in railroad service, we may be working a real economic hardship on many businesses in my State.

Mr. Chairman, I think this is an absolutely necessary amendment.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to my friend, the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I want to associate myself with the remarks of my colleague. I think this amendment adds some certainty to the shippers.

We are going into a time right now when our shippers are not going to know the status of their future, given the fact that if ESOP is rejected a month or so down the road, they simply are not going to have even directed service.

So this amendment gives them that security and takes them through the harshest period of the winter, during that period when certainly truck traffic is almost nonexistent in some parts of the upper Midwest. This amendment simply provides that kind of security.

Mr. Chairman, I think this is an excellent amendment and certainly one that deserves the support of the whole House.

Mr. ABDNOR. Mr. Chairman, I thank my colleague, the gentleman from South Dakota, and I urge support of the amendment.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I would like to associate myself with the gentleman's remarks and say this in addition: Although the legislation is very fine tuned and the committee has done a wonderful job in bringing this legislation out, I think this amendment goes a little bit beyond that and extends the protection that many of the people need who are using this railroad and who have obligated themselves at this time.

This amendment gives them the protection and the assurance they need to wind up their business if we do not have a reorganization plan or if one is not finally put together.

Mr. ABDNOR. Mr. Chairman, I thank my colleague for those remarks.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. ABNOR. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. Mr. Chairman, I, too, support this amendment, and I thank the gentleman for offering it. I encourage my colleagues to support the amendment.

Without the amendment, we are in effect granting the ICC authority which I believe should remain here in this House. Without this amendment, we are allowing the ICC to determine the fate of this railroad in a mere 60 some days, and I believe that we should retain that power in the House.

The CHAIRMAN. The time of the gentleman from South Dakota (Mr. ABDNOR) has expired.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise reluctantly in opposition to the amendment because I know of the sincerity of the proponent and of those who are called upon to speak for it because of their own geographic considerations. However, I am just not sure that some of the proponents of the amendment fully understand what it is that is being advocated, and that 60 days of directed service will in fact probably provide less coverage to the affected areas than will the provisions in this bill, because if in fact this bill is enacted into law, we are talking about insured total service until at least January 1.

That at this point is in excess of 60 days, and then we are talking about potential extended full service until at least March 1.

The gentleman from South Dakota (Mr. ABDNOR) is asking for directed service for a 60-day period, and it is the intention of the ICC, as I understand it, to consider a number of different options for directed service, none of which will continue full service. The different options they have and the different packages they have will provide some proportion of full service but will not provide full service to the affected area.

In addition to that, the cost of the directed service, which will be less than full service, will be in excess of the full service that we are providing under this bill. That is to say our cost for full service is approximately $10 million a month. The expectation of the ICC is that the cost for directed service, which is less than full service, is approximately $15 million per month.

So unfortunately, what will happen is that there will be more Federal money expended for less service for the shippers in that area. Therefore, I am just at a loss to understand what the motivation is for this particular amendment.

Over and above that, at the end of the period of directed service there is no opportunity for restructuring. What will happen at the end of the period of directed service is that we will be back here in the Congress asking for a continued bail-out.

What I am suggesting is that what we have done is to try to strike a very delicate balance between those who would say, "Do nothing, have the embargo this Thursday and cut off 6,000 or 7,000 miles of service, eliminating the transportation needs of 5,000 people," and those who would say, "Freeze the system, have directed service for the system during this period of time, and at the end of that time we will come back to the Congress and ask for massive amounts of money to continue and to freeze the system."

Mr. Chairman, that is not acceptable as far as I am concerned and as far as I perceive the feelings of the House. We have struck a delicate balance, and unfortunately the gentleman's amendment will upset that balance. In addition, I am concerned about its working an adverse impact upon the area about which the gentleman is concerned.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the distinguished subcommittee chairman for yielding.

If I might just add to what the gentleman has said, we are aware that the Union Pacific Railroad, the Burlington Northern Railroad, and the Chicago & Northwestern Railroad are all interested in buying railroad lines presently belonging to the Milwaukee Railroad. I presume those are all in the area about which the gentleman is concerned.

But if the prospective purchases by those three railroads still do not take into account some individual lines in which the gentleman is interested, we already have a program under the 4-R Act that would allow the States, including the gentleman's home State or the State of Montana or whatever other State is involved, to go in and pick up that railroad line and continue to operate it with Federal assistance.

□ 1610

So we think, as the gentleman from New Jersey has suggested, that with existing Federal programs and with what we propose here through the restructuring, that we are providing the opportunity for better rail service than what would be provided by the amendment offered by the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from South Dakota.

Mr. ABDNOR. I would like to ask the gentleman from New Jersey a few questions so that I can get this in proper order.

First, let me say that I do not intend to change the gentleman's plan. If it is

going to do everything the gentleman says it will do, that will be fine. What I am suggesting is that this directed service be added in case the ESOP is found to be unfeasible.

Let me address one point, one statement, that I think needs clarifying. It is quite possible for areas of the railroad to be out of business within 30 days, by December 1, if the employees do not come up with a plan. We are saying, "Within 30 days from tomorrow you better present a plan to the ICC so that they can pass judgment." If not, service may cease on any part of the line the Milwaukee chooses to abandon.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. FLORIO) has expired.

(On request of Mr. ABDNOR and by unanimous consent, Mr. FLORIO was allowed to proceed for 2 additional minutes.)

Mr. ABDNOR. It could be out of service within 30 days, is that correct, in some instances?

Mr. FLORIO. The expectation is that when the plan is submitted, by the 1st of January the ICC must make a determination. So the system will keep running until the 1st of January.

Mr. ABDNOR. What if they do not have a plan proposed by that time, by December 1? Then what happens?

Mr. FLORIO. Moneys are provided under the ERSA program, the ERSA fund, for continuation for 60 days beyond that.

Mr. ABDNOR. Is that absolutely correct? Can we depend on that?

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I would like to make a point here. That ERSA money would be available, but it goes directly to the Milwaukee, and the Milwaukee has the jurisdiction, as I understand it, on where that money is spent. It would not have to be spent in any given area that we would so direct or that we would see fit in our own judgment. That judgment is left entirely up to Milwaukee, which really makes the ERSA money somewhat valueless.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I would just make this point. First of all, I think that the ESOP study will be ready by December 1. I think it is likely that it could even be ready before then. It has been studied previously on three occasions in three different ways, and I do not think it is going to be too difficult to put together a fourth study. I fully anticipate that that study will be ready by December 1. I do not think that we need to be concerned about that here.

Mr. FLORIO. Mr. Chairman, I would just reinforce the gentleman's point that in fact it has been represented to me that the study is virtually ready to be submitted to the ICC.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield to me again?

Mr. FLORIO. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, the gentleman does realize that abandonments could take place almost immediately after ICC determines that the ESOP is not feasible?

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. FLORIO) has again expired.

(On request of Mr. DASCHLE and by unanimous consent, Mr. FLORIO was allowed to proceed for 3 additional minutes.)

Mr. ABDNOR. I ask the gentleman to bear in mind what I said earlier, that many agreements and contracts have been made in good faith—I am speaking principally of farmers in this case, and elevator operators up and down the line—assuming, under the power we had before, up until just recently, that they could go ahead and plan on having rail service available to them until at least the end of January. How are we going to have that now? The gentleman is talking about how many millions of dollars this is going to cost. Let me assure the gentleman that with agriculture and rural America being such as it is, you are going to see how it will hurt individuals in this situation if this line goes out of existence prior to when they had anticipated.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, if I may say, in response to the gentleman from South Dakota, the ESOP study is presented to the Commerce Commission. The Commerce Commission makes the determination as to whether or not it is feasible. While that study is ongoing, while the Commerce Commission is making that determination, the bankruptcy judge in Chicago is on a conditional or interim basis approving sales which can take place if and when the ESOP study is determined to not be feasible. If that is the eventuality, that the ESOP study is determined to not be feasible by the Commerce Commisison, up until that point no rail service has stopped. At that point, when that determination is made, the judge may then order the sales to proceed. They then are no longer interim things being considered or being conditionally approved by the judge, but they are finally approved. So, on many of those routes there is not any reason that there would be so much as 1 day of lost service.

I would remind the gentleman that there are three railroads which have expressed an interest in buying these lines. But there is not anything in this legislation at all that prohibits any shipper from coming forward to buy another line or any group of employees from coming forward to buy another line, or any of the States affected from making application to take over this line under the provisions of the 4-R Act branch line subsidy program.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, I agree with everything the gentleman said. But bear in mind again that if the plan is turned down, service may end on January 1. My State of South Dakota has gone into great study and detail and has prepared a number of rail plans. Our legislature does not even go into session until mid-January. What do we do in the meantime? We know you cannot run every mile of track. We do not intend to do so in South Dakota. But they have a pretty practical plan coming up that they can make work, given the opportunity.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota (Mr. ABDNOR).

The question was taken; and on a division (demanded by Mr. ABDNOR) there were—ayes 7, noes 16.

So the amendment was rejected.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like in support of the substitute amendment offered by the gentleman from New Jersey (Mr. FLORIO) and express congratulations to him and to the gentleman from Illinois (Mr. MADIGAN) for making the best of a very difficult situation. Without the substitute amendment that is before us today, the cost of providing service on the lines that will be abandoned by the Milwaukee Railroad will become prohibitively expensive, so prohibitively expensive, in fact, that many of the potential buyers of these lines might not be willing to invest their time and their money in taking the lines over and providing service.

The reason this bill is before the Committee of the Whole today is due to two decisions made by the Federal court in Chicago relating to the Milwaukee Railroad bankruptcy trustee's petition. In September Federal District Judge Thomas McMillan granted the trustee's petition to embargo approximately two-thirds of the lines presently being operated by the Milwaukee Railroad.

In the continuing resolution passed by the Congress earlier this month, the trustee was directed to make application to the Federal Railway Administration for a loan to continue service over the existing lines for another 30 days beyond the November 1 date set by the court. But those negotiations broke down, the application was rejected, and the court this past week stated that the railroad could embargo certain lines as of Thursday, November 1, 1979.

Particularly significant in the court's September decision, which I inserted into the RECORD on September 28, was the fact that the deficit of the Milwaukee Railroad was found by the court to be approximately $350,000 per day; and, furthermore, that over 80 percent of that deficit was attributable to those lines that were proposed to be embargoed.

The concern that I wish to express on the floor here today stems from the fact that this substitute amendment will continue service over the lines that are proposed to be embargoed until as long as the 1st of March. That will cost an average of $15 million per month.

The obligation to repay the loans which the Federal Government is advancing to provide this service will rest

on the core of the reorganized Milwaukee Road. Most of the lines will be spared from embargoing during this interim period are in the Northwest and in States such as Montana, Iowa, and South Dakota. But the obligation to repay the loans that will continue service over those lines will largely rest with midwestern shippers over the remaining core of the railroad, particularly those in the States of Wisconsin, Illinois, Indiana, and Minnesota.

□ 1620

So with the understanding that there will be no further embargo extension requests beyond the time frame that is established in this bill, it is my intention to support the substitute that has been proposed by the gentleman from New Jersey (Mr. FLORIO).

It is my hope that those people who represent districts where lines will be embargoed under reorganization will get on with the show of reorganizing, so that the taxpayers initially and the shippers and consumers eventually along the lines of the Milwaukee core railroad will not be picking up the tab for continued service in an area of the country aside from their own.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Are there further amendments? If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOWARD) having assumed the chair, Mr. DOWNEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 341) to require continuation of rail service by the Chicago, Milwaukee, Saint Paul & Pacific Railroad for a period of 45 days, pursuant to House Resolution 439, he reported the joint resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. HOWARD). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute, as amended, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, in lieu of the present consideration of Senate Joint Resolution 81, provided by House Resolution 439, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Milwaukee Railroad Restructuring Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, Saint Paul and Pacific Railroad Company (hereinafter referred to as the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (namely, the States of Washington, Montana, Minnesota, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(5) a cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare and reduce rail competition in the affected tier of States;

(6) a cessation of such services is imminent; and

(7) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential operations by the Milwaukee Railroad would otherwise cause.

COURT-APPROVED ABANDONMENT AND SALES

SEC. 3. (a)(1) Upon the occurrence of an event described in section 11(b) of this Act, or on May 10, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. When a rail carrier is involved in a transaction under this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of the employees who are affected by the transaction as that required under section 11347 of title 49, United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with paragraph (1) of this subsection.

(b) Section 11346 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision, when the proceeding involves the sale or transfer of a line of a railroad in reorganization, the Commission shall give the proceeding preference over all other proceedings related to that type of carrier and make its decision at the earliest practicable time, not to exceed 90 days if the proceeding does not involve a significant competitive impact, nor 210 days in any event: *Provided, however,* That this subsection shall not apply to proceedings commenced prior to the date of enactment of this subsection.".

(c) Nothing in this section shall be construed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

COURT APPROVED ABANDONMENTS IN PENDING CASES

SEC. 4. Notwithstanding any other provision of law, and except as provided otherwise in section 3(a), the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to such section 1170, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 5. (a)(1) No later than December 15, 1979, an association composed of representatives of national railway labor organizations, employees, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan, which may include one or more alternative system configurations, shall include a comprehensive evaluation of the prospects for the financial self-sustainability of that portion of the Milwaukee Railroad.

(2) The Commission shall, within thirty days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5, United States Code.

(3) The Commission shall make a finding that the plan submitted under this subsection is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by May 10, 1980;

(D) that portion of the railroad covered by the plan can be operated on a self-sustaining basis; and

(E) the plan contains an assessment of all operating practices, and includes the implementation of changes designed to achieve the greatest possible labor productivity increases consistent with safe operations and adequate service.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate that will be released as

part of implementation of the employee or employee and shipper ownership plan, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall immediately submit its finding to the bankruptcy court. Within ten days after the day of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall, no later than May 10, 1980, implement the plan.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section——

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or customer of the Milwaukee Railroad.

(f) In the implementation of any employee or employee and shipper ownership plan involving expenditures or guarantees of Federal funds as hereinafter provided, authorizations shall be conditioned upon an appropriate contribution from employees including such measures as exchange of assets for relinquishing labor protection claims and changes in work rules to increase productivity: *Provided, however*, That the employee-shipper actual or in kind contribution shall be no less than 25 per centum of the total required financing.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 6. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)) is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term 'restructuring' includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(e)) is amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system and as required to finance the operations which the Milwaukee Railroad continues from the date of enactment of this Act until the sixty-day period beginning on the date of the occurrence of an event described in section 11(b) of this Act or on May 10, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3 (a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)). The provisions of section 3(b)(3) and of the last sentence of section 3(d) of such Act shall not apply to the guarantee of trustee certificates under this section.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses found necessary by the trustee of such railroad for the maintenance and the continuation of service in accordance with subsection (d) of this section, and (2) the revenues of such railroad, both determined in accordance with the Uniform System of Accounts prescribed by the Commission.

(f) Notwithstanding any of the provisions of section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)), as amended by this Act, certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act. No payment of interest or principal upon certificates guaranteed under this section shall be required until the conclusion of the Milwaukee Railroad reorganization proceedings, or three years from the date of enactment of this Act, whichever first occurs.

NEW CAREER TRAINING ASSISTANCE

SEC. 7. (a) Any employee who elects to receive a separation allowance shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

(e) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this section.

(f) There is authorized to be appropriated for new career training assistance under this section not to exceed $1,500,000.

OBLIGATION GUARANTEES

SEC. 8. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Milwaukee Railroad for purposes of providing protection of employees affected by restructuring, transactions, or reduction in service by the Milwaukee Railroad. Such protection may include, but need not be limited to, moving expenses, compensation for employee relocation and separation allowances. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to subsection (a) of this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under subsection (a) of this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances.

(e) Pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, the Secretary of Transportation shall guarantee obligations to finance an equipment repair program for the Milwaukee Railroad, or its successors, during the remainder of 1979 and 1980. Obligations guaranteed under this subsection shall not exceed $30,000,000.

(f) Obligations guaranteed pursuant to subsection (e) of this section shall be subordinated to the claims of any creditor of the Milwaukee Railroad as of the date of enactment of this act.

TRANSACTION ASSISTANCE

SEC. 9. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsections (a), (b), (c), (d) (1) and (2), and (e) of this section, the Secretary may purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person prior to November 1, 1980, or retained by the restructured Milwaukee Railroad, and that will be used for continuing rail service.".

APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 10. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to transactions carried out pursuant to this Act.

CONTINUATION OF SERVICE

SEC. 11. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the date of enactment of this Act, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 5(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 5(c) of this Act.

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD

SEC. 12. If an event described in section 11(b) of this Act occurs, resulting in the

survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 or any other Federal legislation shall be conditioned upon good faith efforts by the Trustee and/or the Railroad to establish an employee stock ownership plan which plan shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee equal in value to 25 per centum of the amount of such relief provided.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 13. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(e)) is amended by striking out paragraph (2) thereof and the sentence following that paragraph, and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association and receives a written commitment from the railroad that, by December 31, 1980, the railroad will adopt the employee stock ownership plan which will acquire qualifying employee stock with a fair market value of $250,000. The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

AMENDMENTS TO THE DEPARTMENT OF TRANSPORTATION ACT

SEC. 14. (a) Section 5(h)(3)(B) of the Department of Transportation Act (49 U.S.C. 1654(h)(3)(B)) is amended—

(1) in the second sentence thereof, by striking "In accordance with the formula stated in this subsection, the", and inserting in lieu thereof "The"; and

(2) by adding at the end thereof the following: "Notwithstanding the provisions of this subsection, funds available for reallocation as of October 1, 1979, shall be reallocated by the Secretary solely to States which require supplementary assistance to mitigate the effects caused by the filing of large-scale abandonments by railroads in liquidation or reorganization under the Bankruptcy Act. In making such reallocation, the Secretary shall give consideration to the amount of mileage in the State for which an application for abandonment or discontinuance has been filed with the Interstate Commerce Commission in accordance with the provisions of section 10903 of title 49, United States Code, but has not been approved or denied. Consideration shall also be given to the relationship which such mileage bears to the total rail mileage in each State requiring supplementary assistance under this subparagraph.".

(b) The second sentence of section 5(h)(2) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)) is amended by inserting immediately after "and" therein the following: ", except as otherwise provided in this subsection,".

MOTION OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. FLORIO moves to strike out all after the enacting clause of the Senate bill, S. 1905, and to insert in lieu thereof the provisions of the joint resolution (H.J. Res. 341) as passed by the House, as follows:

CONGRESSIONAL FINDINGS

SECTION 1. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Milwaukee Railroad threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, Minnesota, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) experienced railroad employees make a valuable contribution toward strengthening the railroad industry;

(5) other railroads have the ability and willingness to employ displaced Milwaukee Railroad employees;

(6) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(7) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(8) cessation of such services is imminent; and

(9) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential services by the Milwaukee Railroad would otherwise cause.

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "bankruptcy court" means the court having jurisdiction over the reorganization of the Milwaukee Railroad;

(2) the term "Board" means the Railroad Retirement Board;

(3) the term "employee"—

(A) includes any employee of the Milwaukee Railroad who worked on a line of such railroad the sale of which became effective on October 1, 1979; but

(B) does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

(4) the term "Milwaukee Railroad" means the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; and

(5) the term "restructured Milwaukee Railroad"—

(A) means the entity operating the lines of the Milwaukee Railroad after the 6-month period beginning on (i) the occurrence of an event described in section 25(b) of this Act, or (ii) March 1, 1980, whichever first occurs; but

(B) does not include (i) any line of the Milwaukee Railroad which is the subject of a proposed sale, transfer, or abandonment pending on the expiration of the 6-month period described in subparagraph (A) of this paragraph, or (ii) any entity formed pursuant to section 5 of this Act.

SALES AND TRANSFERS

SEC. 3. (a) The Milwaukee Railroad may negotiate and enter into agreements to sell, to another rail carrier or any other person, all or any portion of its rail properties which are used in railroad operations as of the date of enactment of this Act. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 25(b) of this Act, or March 1, 1980, whichever first occurs. In taking action under this subsection, the Milwaukee Railroad may consult with the Secretary of Transportation.

(b)(1) The Secretary of Transportation, under the authority of section 5(a)-(e) of the Department of Transportation Act, may develop plans, participate in negotiations, and recommend to the trustee proposals for the sale or transfer of any rail properties of the Milwaukee Railroad which are used in rail operations as of the date of enactment of this Act. In taking action under this paragraph, the Secretary shall give preference to financially responsible persons, including governmental entities, negotiating for the purchase of any lines with the intent of providing common carrier service.

(2) Any sale or transfer proposal developed under paragraph (1) of this subsection shall be submitted to the bankruptcy court.

Such a proposal may in no event become final or effective until the occurrence of an event described in section 25(b) of this Act, or March 1, 1980, whichever first occurs.

COURT APPROVED ABANDONMENTS AND SALES

SEC. 4. (a)(1) Upon the occurrence of an event described in section 25(b) of this Act, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b)(1) Upon the occurrence of an event described in section 25(b) of this Act, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the sale or transfer of a line of the Milwaukee Railroad to be used in continued rail operations, subject to the approval of the Interstate Commerce Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of the United States Code. An application may be initiated with

the Commission prior to the date specified in paragraph (1) of this subsection.

(3) Pending review by the Commission pursuant to paragraph (2) of this subsection, the bankruptcy court may, on a preliminary basis, authorize the sale or transfer of lines of the Milwaukee Railroad to another rail carrier. The court may permit the purchasing carrier to operate interim service as a common carrier over the lines to be purchased, without regard to section 10901 of title 49 of the United States Code. In operating such service, the purchasing carrier shall use employees of the Milwaukee Railroad to the extent necessary for the operation of such service. The bankruptcy court may take final action authorizing any such sale or transfer only in accordance with paragraph (1) of this subsection.

(c) Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 5. (a)(1) No later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or substantially all of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan shall include a comprehensive evaluation of the prospects for the financial self-sustainability of the Milwaukee Railroad.

(2) The Commission shall, within 30 days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5 of the United States Code, and for purposes of making such finding the plan as submitted shall be presumed to be feasible.

(3) The Commission shall make a finding that the plan submitted under this section is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by March 1, 1980; and

(D) the railroad can be operated on a self-sustaining basis.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent and which the proponent is likely to obtain.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall submit its finding to the bankruptcy court. Within 10 days after the date of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad. The Commission's determination with respect to that issue shall be rebutted only by clear and convincing evidence.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall implement the plan no later than March 1, 1980.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or customer of the Milwaukee Railroad.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 6. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term 'restructuring' includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1978 is amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system in accordance with section 25 of this Act, and as required to finance operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 25(b) of this Act or on March 1, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses incurred by such railroad attributable to the maintenance and the continuation of service in accordance with subsection (d) of this section, and (2) the revenues of such railroad.

(f) Notwithstanding of the provisions of section 3(c) of the Emergency Rail Services Act of 1970, certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act.

RAILROAD HIRING

SEC. 7. Each person who is an employee of the Milwaukee Railroad on October 26, 1979, and who is separated or furloughed from his employment with such railroad (other than for cause) prior to March 1, 1981, as a result of a reduction of service by the such railroad, shall have the first right of hire by any other rail carrier that is subject to regulation by the Interstate Commerce Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

INTERIM EMPLOYEE ASSISTANCE

SEC. 8. (a) Any employee of the Milwaukee Railroad who is separated from his employment at any time during the six-month period beginning on (1) the date of the occurrence of an event described in section 25(b) of this Act or (2) March 1, 1982, whichever first occurs, shall be eligible to receive interim employee assistance under this section for the remainder of such six-month period, except that the period of eligibility for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad.

(b) Interim employee assistance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this Act. less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(c) Any claim for interim employee assistance under this section shall be paid by the Milwaukee Railroad in accordance with section 17 of this Act, and shall be treated as an administrative expense of the estate of such railroad.

(d) Any claim of an employee for interim employee assistance under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under this section and shall certify such amount to the Milwaukee Railroad for payment.

(e) Any interim employee assistance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

MOVING EXPENSES

SEC. 9. (a) Any employee of the Milwaukee Railroad—

(1) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is required to make a change of residence prior to April 1, 1981, in order to maintain his employment with such railroad; or

(2) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is separated from his employment with such railroad and is required to make a change of residence, prior to April 1, 1981, in order to obtain employment with another rail carrier, shall be eligible to receive moving expense benefits in accordance with this section.

(b) The benefits to which an employee described in subsection (a) of this section shall be eligible are as follows:

(1) The actual expenses of moving such employee's household and personal effects.

(2) The actual, necessary traveling expenses of such employee and members of his family.

(3) The closing costs involved in disposing of a residence and acquiring a new residence, including a realtor's fee of not more than $3,000.

(4) If the employee holds an unexpired lease on a dwelling occupied by him as his home, reimbursement for all loss and cost in securing the cancellation of such lease.

(c) Any claims for moving expense benefits under this section shall be paid by the Milwaukee Railroad in accordance with section 17 of the Act, and shall be treated as an administrative expense of the estate of such railroad.

(d) Any claim of any employee for moving expense benefits, under this section shall be filed with the Board, in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under this section and shall certify such amount to the Milwaukee Railroad for payment.

SUPPLEMENTARY UNEMPLOYMENT INSURANCE

SEC. 10. (a) Any employee of the Milwaukee Railroad—

(1) who (A) is employed by the restructured Milwaukee Railroad, and (B) is separated from that employment by reason of any reduction of service by the Milwaukee Railroad occurring prior to March 1, 1984; or

(2) who (A) is separated from his employment in connection with a restructuring transaction carried out by such railroad, the Milwaukee Railroad and obtains employment, prior to March 1, 1981, with another rail carrier, and (B) is separated from employment with such other carrier prior to March 1, 1984.

shall be entitled to receive monthly supplementary unemployment insurance in accordance with the provisions of this section.

(b) Each employee described in subsection (a) of this section shall be entitled to receive supplementary unemployment insurance during each month in which such employee is not employed, for all or a portion of such month, by the Milwaukee Railroad or another rail carrier. Each such employee shall be entitled to receive such insurance for a total of not more than 36 months, except that—

(1) the period of entitlement for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad;

(2) no compensation shall be provided under this section after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such insurance, but after such date, such employee only shall receive such 8-month minimum if such employee is not employed continuously after such date; and

(3) there shall be deducted from such 36-month total one month for each month such employee received interim employee assistance under section 8 of this Act.

(c) Supplementary unemployment insurance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this Act, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(d) An application for supplementary unemployment insurance under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe.

(e) Any supplementary unemployment insurance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

(f)(1) The provisions of this section shall not apply to an employee in the event of his resignation, retirement, or discharge for cause from the employment of any rail carrier.

(2) An employee shall not be entitled to receive supplementary unemployment insurance under this section if he has failed to exhaust all seniority rights or other employment rights under applicable collective bargaining agreements.

(3) An employee shall not be entitled to receive supplementary unemployment insurance under this section for any month or portion of a month in which such employee is unemployed due to normal seasonal unemployment patterns in the railroad industry.

(g) For purposes of this section, any employee of the Milwaukee Railroad who is furloughed shall be considered to be separated from his employment.

(h) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "The" and inserting "Notwithstanding any other provision of law, the" in lieu thereof; and

(2) by inserting "and the Act entitled 'An Act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad'" immediately before the period at the end thereof.

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES

SEC. 11. (a) The Board shall prepare and maintain—

(1) a list of individuals separated from employment with the Milwaukee Railroad who indicate a desire to appear on a list to be available to rail carriers; and

(2) a list of employment, by class and craft, available with rail carriers, based upon information submitted to the Board by the Milwaukee Railroad and other rail carriers. Upon the request of any rail carrier, the Board shall make available to such carrier a copy of the list described in paragraph (1) of this subsection.

(b) The Board shall maintain the lists required by subsection (a) of this section through December 31, 1984.

EMPLOYEE RELOCATION INCENTIVE COMPENSATION

SEC. 12. (a) Any employee of the Milwaukee Railroad—

(1) who is employed by the restructured Milwaukee Railroad; or

(2) who is separated from his employment with the Milwaukee Railroad in connection with a restructuring transaction carried out by such railroad, and obtains employment, prior to March 1, 1981, with another rail carrier,

shall be eligible for employee relocation incentive compensation in accordance with this section.

(b) Each employee described in subsection (a) of this section shall be eligible to receive a total of not more than 36 months of employee relocation incentive compensation under this section, except that—

(1) no such compensation shall be provided after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such compensation, but after such date such employee shall only receive such 8-month minimum if such employee is employed continuously after such date; and

(2) there shall be deducted from such 36-month total one month for each month such employee received interim employee assistance under section 8 of this Act.

(c)(1) Employee relocation incentive compensation shall be payable to each employee described in subsection (a) of this section in any month in which—

(A) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this Act; exceeds

(B) such employee's compensation for that month from his new position with the Milwaukee Railroad or another rail carrier.

(2) Employer relocation incentive compensation under this section shall be payable to an employee on a monthly basis in an amount equal to (A) the amount described in paragraph (1)(A) of this subsection, as computed for that employee, less (B) the amount described in paragraph (1)(B) of this subsection, as computed for that employee.

(d) An employee shall not be eligible to receive compensation under this section during any month in which such employee is eligible for or receives supplementary unemployment insurance under section 7 of this Act.

(e) Employee relocation incentive compensation under this section shall be paid by the Milwaukee Railroad in accordance with section 17 of this Act, and shall be treated as an administrative expense of the estate of such railroad.

(f) Any claim of an employee for employee relocation incentive compensation under this section shall be filed with the Board, in such time and manner as the board by regulation shall prescribe. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

SEPARATION ALLOWANCE

SEC. 13. (a) Any employee of the Milwaukee Railroad described in section 7 of this Act may, no later than April 1, 1981, elect to receive a separation allowance from the Milwaukee Railroad in accordance with this section.

(b) A separation allowance under this section shall be payable to an employee in an amount equal to $2,000 for each year of completed service and, in addition thereto, full payment of back pay and for all vacation time earned but not previously taken, except that—

(1) the total amount of separation allowance payable to an employee shall not exceed $25,000; and

(2) the amount of separation allowance payable to an employee shall be reduced by the amount of any interim employee assistance received by such employee under section 8 of this Joint Resolution.

(c) Any separation allowance under this section shall be paid by the Milwaukee Railroad, in accordance with section 17 of this Act, and shall be treated as an administrative expense of the estate of such railroad.

(d) The Milwaukee Railroad shall submit to the Board, in such form and manner as the Board by regulation prescribes, a report of each separation allowance paid by the Milwaukee Railroad under this section. The Board shall review each such report to determine whether such allowance was paid in accordance with this section.

NEW CAREER TRAINING ASSISTANCE

SEC. 14. (a) Any employee who elects to receive separation allowance under section 13 of this Act shall be entitled to receive from the Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Board on the basis of an application therefor filed by an employee with the Board.

(d) No assistance may be provided under this subsection after March 1, 1984.

(e) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000; and

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38 of the United States Code.

ELECTIONS

SEC. 15. (a) Any employee who receives moving expense benefits under section 9 of this Act, supplementary unemployment compensation under section 10, or employee relocation incentive compensation under section 12, shall not be eligible for a separation allowance under section 13 or for new career training assistance under section 14.

(b) Any employee who receives a separation allowance under section 13 of this Act shall not be eligible for assistance under section 9, 10, or 12.

(c) Any employee who receives any assistance under section 8, 9, 10, 12, or 13 of this Act shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) There is authorized to be appropriated to provide supplementary unemployment insurance under section 10 of this Act not to exceed $5,000,000.

(b) There is authorized to be appropriated for new career training assistance under section 14 of this Act not to exceed $1,500,000.

(c) There is authorized to be appropriated to the Board to carry out its administrative expenses under this Act not to exceed $750,000.

(d) Amounts appropriated under this section are authorized to remain available until expended.

OBLIGATION GUARANTEES

SEC. 17. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, shall guarantee obligations of the Milwaukee Railroad for purposes of providing interim employee assistance under section 8, moving expenses under section 9, employee relocation incentive compensation under section 12, and separation allowances under section 13. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible under sections 8, 9, 12, and 13 of this Act, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section. The total liability of the Milwaukee Railroad for benefits and allowances under sections 8, 9, 12, and 13 of this Act shall not exceed $75,000,000.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances provided under sections 8, 9, 12, and 13 of this Act.

TRANSACTION ASSISTANCE

SEC. 18. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 845) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsections (a) through (e) of this section, the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person or retained by the restructured Milwaukee Railroad and that will be used for common carrier rail service.

"(2) The Secretary may not take any action under this subsection—

"(A) prior to (i) the occurence of an event described in section 25(b) of the Act entitled an 'Act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad' or (ii) March 1, 1980, whichever first occurs; or

"(B) after March 1, 1981.

"(3) Funds received from purchases by the Secretary pursuant to this subsection may not be used for the rehabilitation and improvement of any line of railroad which carried less than 3,000,000 gross tons of freight per mile during the previous calendar year.".

ASSESSMENT OF COAL HAULING NEEDS

SEC. 19. The Secretary of Energy shall immediately conduct an assessment of present and potential coal hauling needs in the area served by the Milwaukee Railroad and report his findings to the Congress within thirty days after the date of enactment of this act.

COURT APPROVED ABANDONMENTS AND SALES IN PENDING CASES

SEC. 20. (a) Notwithstanding any other provision of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of the act may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49 of the United States Code.

(b)(1) Notwithstanding any other provision of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of the act may authorize the sale or transfer of a line of railroad to be used in continued rail operations, subject to the approval of the Interstate Commerce Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

(2) The court described in paragraph (1) may not authorize a sale or transfer pursuant to such paragraph unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of the United States Code.

(3) "Pending review by the Commission pursuant to paragraph (2) of this subsection, the" in lieu thereof. The court described in paragraph (1) may, on a preliminary basis, authorize the sale or transfer of lines of the carrier subject to the bankruptcy proceeding to another rail carrier. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the carrier subject to the bankruptcy proceeding to the extent such purchasing carrier deems necessary for the operation of such service.

(c) The authority of the bankruptcy court to authorize abandonments, sales, and transfers of lines of the Milwaukee Railroad.

PUBLICATIONS AND REPORTS

SEC. 24. (a) Within 30 days after the date of enactment of this Act, the Board shall publish, and make available for distribution by the Milwaukee Railroad to all its employees, a document which describes in detail the rights of such employees under sections 8 through 15 of this Act.

(b) During the 2-year period beginning on the date of enactment of this Act, the Board shall submit a report to the Congress every 6 months describing its activities under sections 8, 9, 10, 11, 12, 13, and 14 of this Act.

CONTINUATION OF SERVICE

SEC. 25. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the October 15, 1979, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 4(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the estate of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 5(c) of this Act.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 26. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by striking out paragraph (2) and the sentence following that paragraph and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association. Any such approval shall be conditioned upon a written commitment that by December 31, 1980, the railroad will adopt an employee stock ownership plan which will acquire employer stock with a fair market value of $200,000.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 27. (a) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting immediately after the comma at the end of clause (A) thereof the following: "except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided,"; and

(2) by amending clause (C) thereof to read as follows: "(C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs.".

(b) Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) 'restructuring' means any activity (including a consolidation, coordination, merger, or abandonment) which (A) involves rehabilitation or improvement of a facility or the transfer of a facility, (B) improves the long-term profitability of any railroad, and (C) results in the enhancement of the national rail freight system through the achievement of higher average traffic densities or improved asset utilization.".

SEC. 28. The Office of Rail Public Counsel may appear to be heard in the case before the bankruptcy court in the reorganization of the Milwaukee Railroad, for purposes of representing affected shippers, localities, and municipalities with respect to the proposed abandonment of any lines of the Milwaukee Railroad.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An Act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad."

A motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 341) was laid on the table.

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION, CROSS-REFERENCES AND OTHER TECHNICAL AND CONFORMING CHANGES IN ENGROSSMENT OF HOUSE JOINT RESOLUTION 341

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that, in the engrossment of the joint resolution, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the joint resolution (H.J. Res. 341).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PRIORITY ENERGY PROJECT ACT OF 1979

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 467, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 467

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider, immediately after the enacting clause of the bill is read, the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill, said amendment shall be considered as having been read, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI, are hereby waived. It shall be in order to consider the text of the bill H.R. 5660 if offered by Representative Udall as a substitute for the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, and said substitute if offered shall be considered as having been read. No amendment to said amendment or to said substitute shall be in order except pro forma amendments for the purpose of debate and germane amendments printed in the Congressional Record by October 29, 1979. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. In the event that the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce has been adopted, any Member may demand a separate vote in the House (1) on any amendment adopted to said amendment, in the event that the substitute offered by Representative Udall has been rejected; or (2) on any amendment adopted to the substitute offered by Representative Udall, if said substitute has been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 4985, the House shall proceed, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill S. 1308, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 4985 as passed by the House.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 467 provides for the consideration of the bill, H.R. 4985, which would establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities. The resolution waives all points of order against the bill for its failure to comply with the May 15 deadline for reporting new spending authority for the current fiscal year which is contained in section 402(a) of the Budget Act of 1974.

The resolution provides for 2 hours of general debate with 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce.

The resolution also provides that the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce and the substitute to be offered by Representative UDALL shall be open to germane amendments which have been printed in the CONGRESSIONAL RECORD by October 29, 1979.

Mr. Speaker, the resolution also provides that immediately after the enacting clause of H.R. 4985 is read, the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill shall be considered as having been read and all points of order against the amendment for failure to comply with the provisions of clause 7 of rule XVI, the germaneness rule, shall be waived. The resolution also makes in order the text of H.R. 5660 if offered by Representative UDALL as a substitute for the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce.

The resolution also permits a separate vote in the House any amendment that has been adopted in the Committee of the Whole to either the Commerce Committee's amendment in the nature of a substitute or the Udall substitute dependent upon which substitute is adopted. In other words, if the Udall substitute is adopted, the rule would allow separate votes on perfecting amendments to the Udall substitute. However, if the Udall substitute is rejected, the rule would allow separate votes on amendments to the Commerce amendment in the nature of a substitute. The only way a separate vote could be acquired on per-

fecting amendments to the Commerce substitute would be if Udall is rejected by the House.

The rule also permits a motion to recommit with or without instructions.

Finally, Mr. Speaker, the resolution provides that after the passage of H.R. 4985 the House shall proceed, sections 401(a) and 402(a) of the Budget Act to the contrary notwithstanding, to the consideration of the bill S. 1308. It shall then be in order in the House to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 4985 as passed by the House.

Mr. Speaker, today we begin consideration of H.R. 4985, a bill to create an Energy Mobilization Board. We are all aware that the American people have grave concerns about the future strength of this Nation. These concerns stem partially from our continuing dependence upon foreign sources of oil. This dependence can only be detrimental to the continued growth and health of our nation. We have a responsibility today to act boldly and swiftly, but we must act with great care to build a national energy policy which will make us less dependent on nondomestic energy sources in generations to come.

The centerpiece of the administration's energy policy is the proposal to fast-track energy projects and at the heart of this fast track approach is the Energy Mobilization Board. The issue we face today is not whether or not we need this Board, but rather, how effectively we can develop new energy resources at a time when the Federal regulatory process is large and disjointed, causing in some cases extreme decision delays in the development of new energy sources.

The basic premise behind both the Udall-Clausen-Wirth and the Commerce Committee proposals today is a smooth streamlined decisionmaking process to expedite the development of new resources. We must carefully consider these approaches, from both the short-term and the long-term impact as they relate to our energy needs.

Mr. Speaker, the two proposals approach the expedition of priority energy projects in distinctly different ways. I would like to briefly summarize them. Both versions of the bill create a five-member Energy Mobilization Board to be appointed by the President, and both versions grant the Board considerable flexibility in choosing energy projects. The Commerce Committee version set no limits on the number of priority energy projects while the Udall-Clausen-Wirth verson limits the total number of projects under consideration by the EMB to 75, with no more than 20 projects designated in a year.

The two bills differ substantially on the issue of establishing and enforcing timetables for fast track energy projects, the issue of waiving laws which might delay fast tracked projects, and the issue of judicial review of EMB decisions.

The Commerce Committee version grants the Board the power to waive Federal, State and local substantive law. The Commerce Committee version does not establish binding agency decision schedules and bars judicial review of the EMB's decision to give fast track designation to any energy project.

On the other hand, the Udall-Clausen-Wirth proposal does not allow the waiver of substantive laws but instead establishes binding decisionmaking timetables with a court enforcement provision and allows a limited and expedited judicial review of EMB decisions.

Mr. Speaker, I would urge my colleagues to adopt House Resolution 467 so that we may proceed to the consideration of this critical legislation.

□ 1630

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statement just made by the gentleman from Texas (Mr. FROST), but I would like to point out something that concerns me about this rule. The rule requires amendments to be printed in the RECORD by October 29. When the rule was voted out on October 25, it looked as if Members would have a sufficient notice of the need to have their amendments printed in the RECORD. Unfortunately, however, the rule was not filed until October 29; it was not available in printed form until October 30, the day after amendments had to be printed in the RECORD. Therefore, it is possible that some Members may not have received a timely notice of the requirement to have their amendments printed in the RECORD.

Ordinarily, a Member who did not have a printed copy of the rule could look in the Daily Digest part of the RECORD to see what kind of a rule was reported. But in this case the summary of the Rules Committee action in the Daily Digest described the rule as an open rule. Mr. Speaker, my concern is that some Members may have been precluded from offering amendments solely because they were not aware of the printing requirements. This Member is unable to tell my colleagues why this rule was not filed until October 29.

Mr. Speaker, the other provisions in this rule are more routine.

The rule provides 2 hours of general debate for the consideration of H.R. 4985, the legislation to create an Energy Mobilization Board.

Section 402(a) of the Budget Act is waived, because the bill provides authorizations for fiscal year 1980, but it was not reported by May 15, 1979, as the Budget Act requires. A majority of Budget Committee members recommended a waiver, since the President did not even propose this part of his program until after May 15. The Rules Committee agreed with the recommendation.

The 2 hours of general debate is to be equally divided between the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce.

The rule first makes in order H.R. 4985 as introduced. The rule then provides that immediately after the enacting clause is read it will be in order to consider the amendment in the nature of a substitute reported by the Committee on Interstate and Foreign Commerce. Points of order are waived against this substitute for failure to comply with the germaneness rule. The germaneness waiver is necessary because the waiver of State and local law provisions in the Commerce Committee bill goes farther than the waiver in the introduced bill.

The rule then provides that it will be in order to consider the text of a new bill, H.R. 5660 to be offered by the gentleman from Arizona (Mr. UDALL) if it is offered as a substitute for the Commerce amendment. Amendments to each of these versions could then be offered, if they are germane and if they were printed in the CONGRESSIONAL RECORD by October 29. Pro forma amendments could also be offered.

After passage of the House bill, the rule also provides that it will be in order to insert the House passed language in the Senate bill S. 1308. Two waivers of the Budget Act are necessary in order to allow consideration of the Senate bill.

First section 401(a) of the Budget Act is waived. This waiver is necessary because the Senate bill includes contract authority not subject to the appropriation process.

Second, section 402(a) of the Budget Act is waived. This is necessary because the bill was not reported by the May 15, 1979, authorization deadline.

Since the House-passed language will replace the language in the Senate bill, the chairman of the House Budget Committee has written that he has no objection to these last two Budget Act waivers.

Mr. Speaker, the primary purpose of the legislation made in order by this rule is to establish an Energy Mobilization Board to expedite the Federal review of major nonnuclear energy projects.

While I will not try to go into the variations in the two main substitutes which are to be considered under this rule, I will mention cost. Both the Interstate and Foreign Commerce Committee version and the Udall version authorize $2 million for fiscal year 1980.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman.

Mr. MICHEL. Mr. Speaker, the gentleman has appropriately described the rule and answers in part the question I had intended to raise because, let us face it, yesterday, a Monday, Members were all given to understand there would be no rollcalls. Very few Members, if any, unless they had a bill to manage here on the floor, were present; there was no need for them to be here yesterday, Monday the 29th. The conclusion of business was 3 o'clock, as I understand it, and the rule was filed about 2:15 p.m., only 45 minutes' time in which Members could submit amendments for printing in the RECORD.

This is totally unfair and not altogether appropriate for this body to operate in this fashion. If that is the kind of machinery we are going to use as we get to winding up this session, then I suggest maybe we might have to employ whatever tactics are at our disposal under the rules to curb this kind of roughshod manner of running over the minority particularly, or any Member who has some legitimate amendment he might want to propose to this legislation.

Mr. LATTA. I could not agree more with the gentleman from Illinois. Hopefully no Member who is really interested in this legislation and has an amendment to be printed in the RECORD has been precluded under this process from doing so. I do not know whether there are any amendments floating around or not, but it is unfair to the Members of the House who are not aware of this printing requirement because of the late filing which has precluded them from offering their amendments.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I share the concern expressed by the distinguished minority whip about the rights of Members being protected on this legislation, because it does impose the abnormal requirement of the preprinting of amendments, and they had to be printed by yesterday.

PARLIAMENTARY INQUIRY

Mr. Speaker, I wish to propound a parliamentary inquiry to the Chair. I cannot speak for other Members, but the gentleman from Maryland noticed that two amendments he had filed were either misprinted or printed erroneously as being both amendments to the same bill. The fact of the matter is one amendment was clearly labeled to the Udall substitute and one to the other substitute. I am wondering whether or not an amendment will then be in order if, in fact, it has been printed by the deadline but not printed correctly?

The SPEAKER pro tempore. The Chair would like to advise the gentleman that the Chair understands that corrected printings of the amendments will appear in today's RECORD.

Mr. BAUMAN. And that will not prevent Members from offering those amendments?

The SPEAKER pro tempore. The gentleman will be protected under the rule.

Mr. BAUMAN. I thank the gentleman. I think this serves as an example of the problem that occurs when enough time does not elapse before the deadline with proper notice to Members.

Mr. LATTA. Mr. Speaker, I have no further requests for time and reserve the balance of my time.

Mr. FROST. Mr. Speaker, I would like to make one comment and then I have a request for time.

In response to the points raised, there was a notice of the action of the Rules Committee that was published on October 25 and it was distributed to the minority, to the cloakroom and to the minority leader.

□ 1640

There was discussion in the CONGRESSIONAL RECORD on October 26, last Friday, in which Mr. RHODES, the distinguished minority leader, described the action taken by the Rules Committee and commented upon the fact that amendments had to be published in the RECORD prior to the consideration of the bill.

Mr. Speaker, at this point I yield 3 minutes to the distinguished gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank the distinguished manager of the rule for his kindness in yielding this time to me.

Mr. Speaker, there has been a great deal of discussion about what goes into the legislation that would be before us under the rule. I would like to take a few minutes time, not to talk about what is in the legislation, but rather to talk about what is not in the legislation reported by the Commerce Committee and how the Commerce Committee bill is clearly the only fast-track bill.

Mr. Speaker, the first thing that should be known about the Commerce Committee bill is that it does not authorize the Board to do anything regarding waivers except to recommend to the President with regard to positive actions as regards substantive or procedural law. Second, the President is only afforded the power to recommend actions to the Congress. The only people that make a decision under the Commerce Committee bill with regard to waiver of procedure or with regard to waiver of substance is the Congress of the United States. That is done under the one-House veto provisions which are identical to the provisions used in forcing energy actions to the floor, which were crafted by a Congress to insure that any one Member could force the question to the floor and so that neither filibuster, nor archaic rule, nor recalcitrant format, nor time consideration could foreclose matters of that kind from coming before this body and the Senate for consideration.

The next thing is, there are a number of matters which cannot be waived. They include all labor laws, including working contracts—at page 50 of the bill; health and safety, worker compensation, activities of workers or their representatives—those cannot be impacted upon by the Board. Antitrust laws, criminal laws, waiver of any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act also may not be waived.

Also, any action which would enjoin or abridge the right or rights of persons arising under the Constitution cannot be waived. Last of all, water rights under State law, under Federal contract, compact may be waived by the Commerce Committee bill. The quality as well as quantity of the water is protected.

Under the amendment which will be offered by our colleagues from New Mexico and Nevada, Mr. LUJAN and Mr. SANTINI, a two-House affirmative action would be required for any waiver and it does not permit waivers of State or local laws. For that reason, I would urge my colleagues to note clearly what is at stake here, and urge them to support both the Commerce Committee bill and the Santini-Lujan amendment.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Just so that we are not setting any kind of precedent here, in view of the remarks made by the gentleman from Texas about the notice sent out by the Rules Committee, that is a very limited notice and does not go to all the Members. So, we do not want to follow that in the future as notice to the Members.

Mr. Speaker, I have no further requests for time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4985, with Mr. FOLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes; the gentleman from California (Mr. CLAUSEN) will be recognized for 30 minutes; the gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from North California (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself 5 minutes.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I have a great deal of respect for the gentleman and his ability to orate. Would the gentleman like to have anyone here in the Committee of the Whole to listen to him?

Mr. UDALL. Oh, I will leave it up to the good judgment of the gentleman. I have found that with the advent of television sets in our offices where we can watch these debates, that sometimes we have bigger audiences than we really know about.

Mr. BAUMAN. I accede to the judgment of the gentleman, but I think seeing him in person is much more impressive, really.

Mr. UDALL. I thank my friend for his concern.

Mr. Chairman, our country is in trouble. We have serious energy prob-

lems. Usually, in a crisis, Americans are pretty good. The day after Pearl Harbor we rolled up our sleeves and went to work. Nobody thought the war was a hoax; nobody said that a bunch of oil companies were hiding our fleet in the Pacific. We knew that our fleet was at the bottom of the harbor.

I think that we are not so good, sometimes, in responding to a crisis that is not obvious and where there are deep divisions as we have today. But, as I read the American people, they want action. They would like the Federal Government and the State governments to start cooperating with private enterprise and the rest of our people in doing something about our energy problem. The American people have had a lot of lectures about conservation, and it is important and a lot of the solution is going to be in vigorous conservation, but I think that Americans also want some action on the supply side, to get going on supply.

That is why I supported the synthetic fuels bill that went through here a few weeks ago. I think the American people also want a couple of other things. They want action about increasing energy supplies. I believe they want to keep advances we made in these last couple of decades in safety on the job, in health, environmental protection and in real concern for the limited national water supply.

I think, second, the American people want to keep respect and concern for local laws, for States' rights, for the obligations and the privileges of our separate States. I do not think they want to overrun the Western States and make them national sacrifice areas and tear up the landscape.

Since 1973, with the first Arab oil embargo, we have been in a kind of national paralysis and indecision, seemingly unable to make decisions and to make them stick. What we badly need is a decision of consensus and harmony and constructive action on the energy front. So, it seemed to me last summer this idea of a fast track, which I first broached to the majority and the leaders, to the President and to the leaders of the Senate, that maybe we could get a consensus moving on the supply side of the equation on energy.

□ 1650

I hoped we could find something that could appeal to liberals and conservatives, to the Western Governors and to the Governors of the other States, and, indeed, to our friends, the environmentalists, who get kicked around so much about the problem of delay. So I envisioned a program in which we agree that no one is really served by delay or by institutional paralysis. To my surprise, some of the major environmental organizations came in and said, "We do not object to fast track. We do not object to decisions being made. We are willing to help cut through this institutional paralysis."

In your business or in your personal life sometimes getting a decision, any decision, a yes decision or a no decision, is better than paralysis or waiting 10 years and maybe not getting an answer even then. A classic case which will be mentioned in this debate is the Sohio pipeline. Our country had a glut of Alaskan oil on the west coast. There were simply no refineries and no adequate facilities to use that extra oil, and we desperately needed to get it to the Middle West where it hooked into the pipeline system. And here we go. We did not have to build a new pipeline.

It was not necessary to build a new pipeline at all because the Almighty, looking out for this country, had put a pipeline in the ground. This was an old gas line constructed back 20 or 30 years ago to bring natural gas from Texas to California when the supplies of gas were running out, and the line was unused. All we had to do was not fight for a new pipeline and go to the expense of building a new pipeline and getting the rights-of-way; all we needed was the national will to reverse the decision and get the pumps to move the oil from the Midwest to the rest of the country. What happened?

This oil company, ready to build the pipeline and put it into operation, was bogged down with 700 individual permits, many of them small, many of them overlapping, but 700 permits. And here we are with a country unable to make a decision on this pipeline. We could not find the will. Finally the oil company threw up its hands and said the heck with it and backed away, after an expenditure of $50 million.

It seemed to me that we could get a consensus and move out on the question of similar situations if we would deal only with procedure, and that we could get these energy projects, these high-priority energy projects, and move them up and get a yes-or-no decision in several months instead of several years. Our bill, the Udall-Clausen-Wirth-and many others-bill, gives this new Emergency Mobilization Board the power to do that job. What I foresaw as the right kind of an approach was to get a super expediter or mobilizer such as we had in World War II, who could cut through the redtape, knock heads together, and if we needed aluminum, steel, or some other product, go get that product.

I envisioned an expediter schedule where he could call in all units of local government and sit down and say, "We are going to get a yes-or-no decision on this time track. Two years from now we will have a decision." The thought was if this expediter could, combine hearings, and if one piece of paper could do the job, do one piece of paper instead of three, if we could do something in 1 month rather than 44 or 50 months, we would do that. We would combine environmental impact statements, hearings, and all the rest, and really cut through the redtape.

But there was a critical aspect of our proposal in the Committee on Interior and Insular Affairs, and that was we would not attempt to change substantive laws, Federal or local, and we would deal only with procedure. Years of debate have gone into the State and Federal laws. Many times the State legislatures have voted on an energy policy, and we should not carelessly or quickly overturn these laws in the States and at the Federal level, and we in our bill do not attempt to grant piecemeal, case-by-case, overrides of major laws on the Federal level.

There is a deep concern and suspicion among western Governors and western State legislators about federalism. The State develops a coastal zone policy, and along comes the Congress or Federal judges to override this, and we did not like this. This is why the western Governors are so concerned that we write a sound law that deals only with procedure. So we produced a bill in the Committee on Interior and Insular Affairs last summer, and it carried with a vote of 40 to 1.

We moved with dispatch because we thought the country needed a decision on the fast-track idea, and who have worked on our bill good solid conservatives like the gentleman from California (Mr. CLAUSEN), the gentleman from Idaho (Mr. SYMMS), and many others. The Committee on Interstate and Foreign Commerce has a joint referral. They got their bill out in September. Since then both committees have moved to blend the differences and to arrive at a kind of consensus bill, and we have made a number of changes, and we are willing to make others.

We believe the Committee on Interstate and Foreign Commerce can do likewise. The Committee on Interstate and Foreign Commerce, I am told, is prepared now to accept the Santini-Lujan amendment to take out overrides of State and local law. But they still have the Federal override, and even their State override is not complete. It still leaves considerable authority—the Santini-Lujan amendment—to override State laws, even though they profess not to do that, and we had better take a good look at that law.

One of the hookers in the Santini-Lujan approach is that State powers derived from basic Federal law, like the Strip Mining Act, or the Clean Air Act, or Clean Water or Toxic Substances, or Coastal Zone, or the Outer Continental Shelf, because the States are administering these laws under their own State rules and State laws, the Santini-Lujan amendment would treat these as Federal laws and permit broad and far-reaching overrides of the laws in your States. What makes many of us particularly fearful is the possibility of wholesale dismantling of important laws that took years to get on the books.

If you have two things, one, no limit on the number of projects, and, two, the power to waive existing laws, then you have a formula that could gradually override all the environmental and resource decisions of the State and Federal governments over the last several years.

So we ask support for our version of the bill. We think it is better; we think it will get the job done; we think it will not create tension and division between the Federal Government and Congress to override State and local laws.

Mr. CLAUSEN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, our Nation can no longer afford to delay the development of new energy resources. The skyrocketing energy costs we have been facing are more than an inconvenience, they are squeezing middle and lower income families to the point of financial disaster.

As ranking minority member of the full Interior Committee and the Oversight and Investigations Subcommittee, I have had the opportunity to see how critical projects like the California pipeline which would have moved Alaska oil can be unreasonably delayed and even killed by redtape.

Consequently, our Nation's economic and security requirements are not being adequately addressed.

We need an energy distribution network which will effectively meet our energy needs in the decades ahead. This must be given priority attention by both the President and by Congress.

In the Interior Committee, we leaned over backwards in a bipartisan effort to develop what we believe to be an effective compromise which will satisfy the concerns we all have.

The basic objective of our substitute is to provide the Energy Mobilization Board with the authority and flexibility to speed up the decisionmaking process on priority energy projects at all levels of government.

The legislation—

First, establishes a Board to select priority energy projects.

Second, empowers the Board to streamline and enforce decision schedules and timetables for Federal, State, and local Agencies.

Third, empowers the Board to streamline Federal Agency procedures.

Fourth, preserves the rights and responsibilities of each level of Government for administration of the laws it has enacted.

Fifth, contains vital protection of State water rights.

We cannot rely on foreign supplies so we must move toward the rapid development of our own. We are a nation rich in coal, geothermal, solar and other fuels which are just waiting for us to develop them. We are also a nation blessed with a talent for innovation. We must encourage our scientists and engineers to find new ways to conserve energy and new ways to better utilize what resources we have.

Unfortunately, many of our scientists and innovative companies are being stymied by redtape and delay which make it uneconomical for them to move toward construction of new facilities or development of new techniques.

There are many examples which can be sited of projects which have been unduly delayed, but the one which comes to mind first is the SOHIO pipeline. The company worked for over 4½ years and spent approximately $58 million seeking the more than 700 permits that would allow the project to begin construction.

The SOHIO case has been both frustrating and tragic. Despite our attempts to pry the project loose from the bureaucratic stranglehold placed on it, the company was crippled by the delays and forced to abandon the project. The working out of new air pollution regulatory procedures was a major cause of the delays; however, at the time the project was abandoned these had been overcome, and it appears that environmental requirements would not have foreclosed construction. It was, instead, a case where delays caused the economics of a project to worsen to the point of it being unacceptable.

We are left with an abundance of crude oil on the west coast which exceeds our present refinery capacity and a lack of any adequate transportation network to move the oil eastward. An Energy Mobilization Board will assist in the development of a domestic energy transportation system. An effective network should include pipelines, seaports, terminal facilities and refineries. The Board will have authority over projects of this type.

The Congress has taken a bold step in creation of legislation establishing an EMB. We have a bipartisan effort to establish a mechanism which will allow us to cut through red tape and make the decisions necessary to bring more energy projects on line.

We will be making decisions. At times the Energy Mobilization Board might choose to reject a project because it is environmentally unsafe, ill-planned, misplaced, or incapable of producing the type of energy needed at the right time. These projects should be rejected but they should be rejected promptly, so we can concentrate our efforts on those that are acceptable.

The Interior and Insular Affairs Committee and the Interstate and Foreign Commerce Committee have both spent considerable time developing Energy Mobilization Board legislation. We have some differences which will unfold as we debate the specifics of our different bills and amendments to them.

At this time, I would like to emphasize the importance of our alternative, H.R. 5660 which was developed by the distinguished chairman of the Interior and Insular Affairs Committee, the gentleman from Arizona (Mr. UDALL), my colleague from Colorado (Mr. WIRTH), and myself. We did not simply reject the project of the Interior Committee but rather we took the best of our bill, the best of the Commerce Committee bill and the best of the Senate passed bill and molded them together into what we believe is an improved alternative.

Our bill has been cosponsored by more than 80 Members ranging in philosophical views and committee membership. This wide and diverse support demonstrates the degree to which we have been successful in arriving at the best possible vehicle for accomplishing our goal—prompt development of our domestic energy resources.

Under both versions, the EMB would set a "priority decision schedule" as a timetable for all decisions on projects designated as priority projects. The key issue is how this timetable is enforced and what powers the Board is given to bring about a decision.

Under the Commerce Committee bill, the enforcement includes the waiver of laws. If any agency of the Federal Government, States or local governments fails to meet the timetable laid out by the Board, the Board has the power to waiver the law or laws involved. This unprecedented power in the hands of people appointed not elected is a threat to our basic form of government. Many Governors, mayors, county officials, State legislators and others are deeply concerned over this granting of power to the EMB.

The so-called Udall-Clausen-Wirth bill adopts a more reasonable approach. We provide for court enforcement. If an agency fails to meet its assigned timetable for a decision, then the EMB is empowered to seek prompt court action to enforce the timetable.

If after 120 days, the court has not resolved the conflict and the agency has still not acted then the President is empowered to make the decision. This type of enforcement mechanism is not new. It has been used before and worked successfully as in the case of the Alaska Natural Gas Pipeline Act.

In addition, our substitute grants the EMB the authority to order Federal agencies to streamline a specific list of procedures such as hearings. State and local agencies may be ordered to employ streamlined procedures if they miss the project schedule deadline but only by the court not the Board.

The substitute is the only version which allows for the consolidation of Federal environmental impact statements. The substance of all environmental laws will be protected. We simply avoid the duplication of effort which occurs so often when multiple EIS's are required.

The Commerce Committee bill places no limit on the number of projects which can be designated as priority projects. In drafting our substitute bill we adopted a limitation of 75 total with no more than 20 designated each year. We believe a limitation on the number of projects is mandatory to avoid overloading the Board and preventing it from being able to act quickly on the most critical projects.

Our original Interior Committee bill limited the number to 24 total with no more than 6 in 1 year. Our substitute is a compromise between the two positions.

Our substitute also places a ceiling on the number of personnel which can be hired by the Board. We restrict the total to 60 people. Our objective is to mobilize an effective group of people which can move this country closer to energy independence. We do not intend to create another large bureaucracy which will mire itself in personnel, regulations, and its own redtape. A simple limitation on personnel will help prevent this. Coupled with this requirement is a phase out of the Board after 7 years.

I strongly support H.R. 5660 in that it represents a balanced approach in establishing an Energy Mobilization Board to cut through bureaucratic redtape when addressing domestic energy projects.

Over the past 2 years, I have served as the ranking minority member of the Subcommittee on Special Investigations.

This subcommittee was given in the 95th Congress the responsibility of overseeing the disposition of crude oil transported to Valdez, Alaska, through the Trans-Alaska Pipeline. The subcommittee has been interested in seeing to it that section 410 of the Trans-Alaska Pipeline Authorization Act (Public Law 93-153) is implemented.

This section provides, in part, that—

(t)he President shall use any authority he may have to insure an equitable allocation of available North Slope and crude oil resources and petroleum products among all regions and all of the several states.

Last October the Special Investigations Subcommittee filed a formal report entitled "Disposition of Alaska North Slope Oil."

In that report within the supplemental views, I addressed the need for streamlining the decisionmaking process with respect to pipelines and the establishment of an effective domestic energy distribution network:

We believe it is in the national interest that at the beginning of the first session of the 96th Congress, the Committee on Interior and Insular Affairs consider legislation to place in a priority category the various domestic alternatives to transport the West Coast surplus of Alaska North Slope crude to the inland regions of the United States. The Federal Government must eliminate the unnecessary bureaucratic red tape with respect to processing oil pipeline applications.

This proposed Congressional action should in no way preempt States' rights concerning pipeline projects. However, whether it be Federal or State actions, interested parties must approach environmental issues in an equitable and reasonable manner.

In cosponsoring H.R. 5660, I believe the bill addressed the need to establish an Energy Mobilization Board to eliminate unnecessary delays while not preempting States' rights concerning energy projects. I am hopeful environmental issues will be addressed by the Board in an equitable and reasonable manner.

Hopefully, the Energy Mobilization Board will also develop a domestic energy transportation system. In the Special Investigations Subcommittee report of last October, I commented on the need for a network to address our domestic energy requirements in distributing energy equitably to all regions of the United States:

An effective domestic energy distribution network, including pipelines, railroads, and tankers is the vital part of our overall energy program which fulfills that promise. In turn, a domestic energy distribution network assures the security of our Nation, as well as the economic well-being of the entire United States. It was for these purposes the Congress created our Interstate Defense Highway System.

The more completely we design our domestic energy distribution network, the more efficient our use of energy. And that, in turn, is one avenue to energy independence, an urgent national need * * *. There is an apparent need for a domestic oil distribution network which at the present time is sadly lacking. Our oil mobilization systems leave much to be desired * * *.

It was due to these beliefs that I supported and cosponsored H.R. 5660. The Board is needed to chart a course for this Nation in establishing an energy distribution network second to none in the world.

I urge my colleagues to pay close attention to the amendments we will be offering and to support the so-called Udall, Clausen, Wirth substitute. You will be casting a wise vote which is in the best interests of our Nation.

□ 1700

Mr. DINGELL. Mr. Chairman, I yield myself 7 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, H.R. 4985 was introduced on July 27, 1979, and referred jointly to the Interior and Insular Affairs Committee and the Commerce Committee. It was reported by the Interior Committee on August 2 and by the Commerce Committee on September 21 with an amendment in the nature of a substitute.

H.R. 5660—THE LAWYERS FULL EMPLOYMENT ACT

Until Friday, October 19, 1969, these were the only two bills before the House. However, on that day, the Wirth-Udall bill (H.R. 5660) was introduced.

H.R. 5660 is a conglomeration of parts of bills, including provisions from the Commerce Committee's reported bill and the Senate-passed bill. But, unfortunately, these parts do not fit together. It has technical and substantive flaws. It is a lawyers dream. The Wirth-Udall bill will insure ample employment for Washington law firms and many other lawyers for years to come. It provides a rich opportunity for delay of critical energy projects. It is not a fast-track bill. It is a slow-track bill.

PURPOSE OF THE COMMERCE COMMITTEE BILL

This legislation is intended to provide coordination and expedition in the making of decisions by all levels of government that are crucial to approving critical nonnuclear energy production and conservation projects. It is not intended to create another bureaucracy but to insure that timely decisions are made, whether favorable or unfavorable. It will help avoid the need for separate legislation for energy projects, like the Sohio pipeline, long after applications for permits have been made.

Critical nonnuclear energy production and conservation projects include small and large hydroelectric projects, pipelines, utility projects, refineries, coal mines, and most importantly, conservation projects. No energy project can be initiated without securing approvals at all levels of government. State and local approvals are essential. Any delay in securing decisions at any level is costly and may well doom a project. The Commerce bill seeks to develop a process to overcome such delays.

THE BOARD AND ITS POWERS UNDER THE COMMERCE COMMITTEE BILL

The Commerce Committee bill provides for a five-member Energy Mobilization Board. The Board is not an independent agency. It is subject to the Sunshine Act, the Freedom of Information Act, the Administrative Procedure Act, the Federal Advisory Committee Act and other laws applicable to Federal agencies. There is no limitation on the number of personnel the Board may employ because such a limitation would be arbitrary and would hamstring the Board.

In carrying out its functions, the Board is authorized, among other things, to hold hearings, sue, intervene in agency proceedings, and issue subpenas. Within 60 days after all members of the Board are confirmed by the Senate, the Board must promulgate regulations governing its operations, including criteria and procedures to be followed by applicants seeking the designation of nonnuclear energy projects as priority energy projects. The Board will terminate on September 30, 1985.

The Wirth-Udall bill has similar provisions, except it establishes a 60-position limitation on the Board which is clearly unrealistic in light of the Board's functions and responsibilities. In addition, all regulations of the Board are delayed for 60 calendar days to provide an opportunity for either House of Congress to veto them.

PROJECT DESIGNATION AND EXPEDITED DECISIONS UNDER THE COMMERCE COMMITTEE BILL

The Commerce bill provides that—

After an application for designation of an energy project is received by the Board, 45 days is afforded for written comments by States, local agencies, and the public;

Within 45 days after the public comment period, the Board must decide on the application using criteria set forth in the bill and designate energy projects that are of sufficient national interest to be called priority energy projects;

After designation, the affected States may appoint members to serve on the Board as nonvoting members to participate in all decisions of the Board concerning that project;

When the Board designates a project as a priority energy project, the affected Federal, State, and local agencies have 30 days to transmit to the Board tentative schedules for making final agency decisions concerning the designated project;

Within 30 days after receipt of the tentative schedule, called a "project decision schedule," the Board must issue a schedule outlining the dates for final decisionmaking for all agencies;

The Board can adopt a schedule, in consultation, and hopefully in agreement, with the agencies that is shorter than that proposed by the agencies, but it cannot change agency procedures for hearings, notice, or cross-examination, nor can it change substantive law; and

The designation of a project as a priority energy project is not intended to tilt the agency decision for or against the project.

All of these deadlines, including the project decision schedule, can be extended by the Board on its own motion or on petition.

The Commerce bill does not, unlike Wirth-Udall, seek to set an arbitrary limit on the number of energy projects to be designated. Clearly, only those that are critical should be designated. It

should be designated. It should not be easy to obtain a designation. But we cannot forecast how many should be designated.

NO JUDICIAL REVIEW OF DESIGNATION OF PROJECT UNDER COMMERCE COMMITTEE BILL

In furtherance of the objective of expedited decisionmaking, the Board's decisions to designate an energy project as a priority energy project, to revoke a designation, to extend deadlines, to establish a project decision schedule, or to act to insure compliance with that schedule, is not subject to judicial challenge, except as required by the Constitution.

All of these actions are administrative in nature. To subject to judicial review would result in significant delay. Of course, once an agency issues a decision and the decision is challenged, the court would not be precluded from considering actions of the Board in setting the schedule and its impact on the agency decision.

WIRTH-UDALL BILL PROVIDES FOR JUDICIAL REVIEW OF DESIGNATIONS OF PROJECT

Section 217(a) of the Wirth-Udall bill (H.R. 5660) provides that an action by the Board "granting or denying any order designating a proposed energy facility as a priority energy project * * * shall be subject to judicial review" for failure to comply with any requirement of the act, as well as for any violation of the Constitution. One requirement of the act is that the order designating the project contain a statement of the basis on which the designation was made addressing 14 criteria which the Board "shall consider." Any State or person who does not like a project may challenge the designation. Moreover, there is no time limit for bringing the action.

Section 217(b) of the Wirth-Udall bill provides that final agency actions and Presidential decisions must be filed within 60 days after notice thereof, but the 60-day period does not apply to challenges to a designation. Thus, a law suit for that purpose is never barred.

The administration advises me that this provision could add 2 years to the process. That is not fast track.

WIRTH-UDALL BILL PERMITS PROCEDURAL SHORTCUTS WITHOUT CONGRESSIONAL REVIEW

Section 211(a) of the Wirth-Udall bill attempts to give Federal, State, and local agencies authority to establish "special procedures" applicable to decisions in order to expedite decisions. The bill, however, does not state in what manner or to what extent State or local agencies, or for that matter, Federal agencies would establish such procedures. Normally, Federal procedures are established by statute or by rule. The rulemaking process is often time-consuming and is usually general in nature, and not project specific. Many States have a similar procedure. In our judgment, the Wirth-Udall bill provision is largely hortatory for State and local agencies because it fails to spell out how the changes will be made.

In the case of Federal agencies, the Wirth-Udall bill appears to provide a blanket waiver of Federal law and authorizes each agency to—

Consolidate proceedings;

Establish special filing requirements;

Substitute legislative-type hearings for trial type hearings; and

Establish special procedures to avoid issuance of preliminary decisions.

The Commerce Committee and the Santini-Lujan amendment recognize that such procedural changes are often substantive in nature and directly affect the ability of parties, including competitors, consumers, and environmental organizations, to challenge the need for, or adequacy of, a project. They should not be lightly changed. Thus, the Commerce Committee bill as amended by the Santini-Lujan amendment requires that such changes be accomplished only as part of a congressional process. Also, we do not try to delineate what procedures may be modified, because the procedures differ widely among agencies.

Section 211(c) of the Wirth-Udall bill gives the board blanket power to order a Federal agency, but not a State or local agency, to use any or all of the above procedures to meet the schedule without any congressional review. No opportunity for public input is provided. No judicial review of the Board's order is provided. It would apply to independent agencies like FERC and the ICC. It is a sweeping provision.

ENFORCEMENT OF THE PROJECT DECISION SCHEDULE

The controversial issue in this debate is how to enforce a project decision schedule for an energy project once established. Without an effective method of enforcement, it probably will be ignored. There have been numerous suggestions for enforcement, including reliance on the courts. Most of these approaches have flaws and could result in further delay.

If an agency misses a deadline, a court can only provide a new schedule establishing a new decision date. This order could be appealed. If the agency fails to meet the second deadline, the court could, of course, cite the agency head for contempt, but it is not likely that a court would put a Governor, the Administrator of the Environmental Protection Agency, or other governmental officials in jail or fine them.

Clearly, the enforcement procedure must work and not result in new challenges and further delays.

ENFORCEMENT UNDER WIRTH-UDALL BILL UNCERTAIN AND SLOW

Under the Wirth-Udall bill (H.R. 5660), if a Federal, State, or local agency fails to comply with project decision schedule, or it is "reasonably likely to fail" to comply, the Board is authorized, but not required, to go to an "appropriate" Federal district court and seek an order requiring the Federal, State, or local agency to comply with the schedule. Obviously, compliance is impossible if the decision deadline under the schedule has passed. The court cannot make the decision for the agency because the decision is discretionary with the agency. Thus, the court would have no recourse but to set a new schedule or tell the Board to do so.

However, in filing such a suit, the Board acts at its peril. Because the Wirth-Udall bill tells the court to examine the project decision schedule as part of that suit and if the court finds that agency action in accordance with the schedule, "would not insure adequate consideration of all matters * * *, would not insure adequate participation by parties * * *, would clearly be impracticable, or would deny any person due process of law," then the court must order the Board to revise the schedule which might result in further delay.

The Wirth-Udall proponents contend that the district court must act in 120 days. However, that is not so in every case. If the Board instituted the action on the basis that the agency is reasonably not likely to comply with the schedule by the decision date, the 120-day requirement will not apply until there is an actual failure to comply and a notice from the Board. Section 214(e)(3) of the Wirth-Udall bill states:

If the court fails to act pursuant to subsection (b) or (c) of this section within 120 days of the filing with the court of such notice, the President may act . . .

Thus, the court proceedings cannot be aborted by the President until the Board files a notice with the court stating that—

First. The agency decision deadline passes and the agency has not decided;

Second. The national interest requires expeditious enforcement of the deadline; and

Third. The court is given an additional 120 days from the date such notice is filed with the court.

At this point the President may decide in lieu of the Federal, State, or local agency after giving notice to such agency.

One can readily observe that court enforcement will not result in a prompt decision. The administration advises me that it may take 5 years to reach a final decision under this process. Even if it took half that time, it is a slow and an uncertain process.

COMMERCE COMMITTEE ENFORCEMENT

The Commerce Committee bill seeks to avoid the legal morass of court enforcement. The bill requires that the Board monitor compliance and, in appropriate cases and under careful criteria, extend the schedule if needed. The Board can intervene in agency proceedings to insure compliance with the schedule. It can also go to court, if appropriate. The Commerce bill also authorizes waivers of procedural laws and regulations that impair decisionmaking in a timely fashion, but only subject to a one-House veto. It also authorizes waivers of substantive impediments, subject to a one-House veto.

SANTINI-LUJAN ENFORCEMENT

The Santini-Lujan amendment does not change the monitoring, intervention, or court enforcement provisions of the Commerce bill. It provides that if the Board finds, as part of its monitoring effort, that an agency has failed to comply with the decision deadline under the project decision schedule or that it is reasonably unlikely that it will comply with it, the Board shall—

Notify the agency and others of the failure;

Wait a minimum of 45 days; and

Then hold an expedited hearing to determine the reasons for the failure.

After the hearing, the Board has the option to—

Extend the deadline; or

Provide that the Board make a recommended decision in lieu of the agency; or

In the case of Federal law, waive the procedural or substantive impediment to decisionmaking subject to a two-House approval of the waiver by the Congress.

When the Board decides, it must complete the record and it must follow the same law, regulations, and precedents that the Federal, State, and local agency must follow. The Board makes a recommended decision to the President who has 45 days to affirm it or remand it back to the Board with instructions. If the President does not act within that period, the Board's decision becomes final. The final decision of the President or the Board is treated as an agency decision for purposes of judicial review. Such judicial review must be conducted under applicable Federal, local, or State law.

SANTINI-LUJAN WAIVER

The Santini-Lujan amendment establishes a narrowly drawn, limited procedure to waive certain Federal procedural and substantive requirements that present a substantive impediment to making a decision or to making a decision in a manner that will permit implementation of the project. Such waiver is possible after designation of a project, but before compliance by an agency subject to such Federal requirements with the project decision schedule. The waiver is subject to the following conditions:

It applies to Federal law and regulations only; it does not apply to State laws and regulation, such as those relating to siting.

Waivers must be on a project-by-project basis; they only apply to priority energy projects.

Waivers are not to be recommended by the Board or the President where reasonable alternatives exist, even if those alternatives are more costly, or where the delays associated with compliance would not be unreasonable.

Agency decisions cannot be waived.

Waivers cannot change or modify the laws or regulations on which the decision is based after the decision has been made.

Certain laws, relating to water rights, constitutional rights, labor, worker health and safety, civil rights, and antitrust and primary air quality standards cannot be recommended to be waived or waived under any provision of the bill with the Santini amendment; constitutional rights are protected.

The Board cannot waive any procedural or substantive provisions, it can only recommend waivers of such provisions to the President.

The President cannot waive any procedural or substantive provisions; he can only recommend such waivers to Congress.

The President must wait at least 30 days after receipt of the Board's recommendation before he can act on it.

The President can reject the Board's waiver recommendation, adopt it, or modify it.

The President must, among other things, find that national interest requires the waiver and that the public health and safety would not be unduly endangered.

The relevant laws or regulations need not be waived in their entirety; the waiver can include a less stringent requirement, and must include terms and conditions deemed necessary to minimize any adverse effects and to provide enhancement.

The Board does not make the final decision on the waiver, and the President does not make the final decision on the waiver—that decision is made by the Congress, which has 60 calendar days of continuous session to consider the waiver. Any Member can force a vote on the issue.

Congress must approve the waiver by two-House resolution of approval or it will not go into effect.

Congress has the final word.

There is precedent for the Santini-Lujan waiver provision in the Alaska Natural Gas Transportation Act of 1976 approved by the Interior and Commerce Committees. Indeed, the Santini-Lujan amendment affords added safeguards.

Waivers will not and should not be easy to obtain under these conditions. No one is anxious to see a waiver of any part of any law or regulation. However, the plain fact is that we lack an effective mechanism to resolve problems that arise when a law or regulation, or portion thereof, appears to prevent a needed and desirable energy project. We should not have to wait until the situation is desperate, as in the Sohio case, to seek a legislative solution. We should provide a procedure that includes adequate safeguards and provides the necessary safety valve from an all out effort to modify or repeal important environmental and other laws and regulations.

At every turn there are efforts to weaken these laws in one way or another. On several occasions, NEPA has been weakened by the Congress. This year Congress overrode the Endangered Species Act. Recently, the other body passed weakening amendments concerning strip mining. Regulatory reform and the one-House veto of regulations also could seriously undermine these laws. We can anticipate more efforts in this direction unless we provide a needed safeguard to permit needed energy production and conservation projects to proceed for our benefit and the benefit of future generations.

The National Governor's Association, in an October 29, 1979, letter to me, said that the NGA supports the Santini-Lujan amendment. The administration and labor support it also.

COMMERCE COMMITTEE DOES NOT CHANGE SUBSTANTIVE LAW APPLICABLE TO REVIEW BY COURTS OF AGENCY DECISIONS

The Commerce Committee has steadfastly resisted efforts to make wholesale changes in Federal, State, or local statutes establishing judicial review of decisions by Federal, State, or local agencies. The Commerce bill merely requires that actions under Federal law occur in the court of appeals for the circuit where a project is located and that such action be filed within 90 days after the final agency decision.

WIRTH-UDALL BILL CHANGES FEDERAL, STATE, AND LOCAL LAW APPLICABLE TO JUDICIAL REVIEW OF FEDERAL, STATE, OR LOCAL AGENCY DECISIONS—IT INVITES UNLIMITED LITIGATION

First, under Wirth-Udall, any Federal, State, or local agency action subject to a project decision schedule—whether or not it arises under Federal law—must be filed in the Federal Court of Appeals. Such actions must be filed within 60 days after notice that such agency action is final.

In addition, the Wirth-Udall bill introduces a wholly new and ambiguous standard of judicial review that invites extensive litigation and confusion. It is a lawyer's dream.

Under all the proposed "fast track" bills, energy projects that have been designated as priority energy projects and put on a fast track must still obtain all necessary Federal, State, and local agency permits and authorizations. If an applicant believes that an agency has unlawfully denied its application for a permit or other approval, or if an interested party believes that an agency has unlawfully granted an application, judicial review of the agency decision is available.

When a court reviews an agency decision, the court must determine whether the decision meets all the requirements of the particular law under which the agency operates. These laws may specify the conditions under which the court may set aside agency decisions. For example, some of these laws specify that an agency's decision may be set aside by a court if the agency decision is not supported by "substantial evidence." In other words, Federal, State, and local laws will establish the scope of court review of agency actions. The standards of review will be different from law to law and agency to agency.

The Wirth-Udall bill significantly limits the scope of court scrutiny of agency decisions. The grounds for judicial review of Federal, State, and local agency decisions are limited in that bill to actions which are in violation of the Constitution or actions which are "in excess of, or fall short of, statutory jurisdiction, authority, or limitations, or short of statutory right." Thus, the judicial review standards normally applicable to a project under Federal, State, or local law would be inapplicable to a priority energy project. The Wirth-Udall bill provides that a reviewing court could not hold unlawful and set aside agency action, findings, and conclusions which were: First, arbitrary, capricious, or an abuse of discretion; second, without observance of procedure required by law; or third, unsupported by substantial evidence. Thus, the bill deprives parties of important rights of review; rights which they would have retained had the energy project not been designated a priority energy project by the Board.

Several undesirable effects flow from this severe restriction of judicial review:

First, it will discourage energy project sponsors from seeking designation as priority energy projects and being put on a fast track because they will not be entitled to the full protection of the law that they would otherwise have had. Applicants trying to build energy projects would have to be particularly wary of getting on the fast track under the Wirth-Udall bill because there is a greater likelihood that an agency, faced with an approaching deadline, would issue a negative decision to avoid being hauled into court or superseded by the Board or the President. Thus, an applicant trying to build an energy project would face a stark Catch-22 decision: If he gets on the fast track he runs a serious risk of a negative agency decision and simultaneously decreases his ability to have a court overturn hastily reached or unsupported negative agency determinations. His fast track could rapidly become quicksand.

In addition, those who oppose an affirmative agency decision are similarly disadvantaged by this limitation of judicial review which is interested in the courts.

Second, the Wirth-Udall bill's limitation of grounds for judicial review constitutes an unacceptable intrusion into, and change of, State and local laws. This limitation reaches to any governmental action in the United States. The bill eliminates essential protection against arbitrary and capricious action by State and local agencies everywhere, even if a State or local government had seen fit to provide for greater court protection. This unnecessary trading on State, and local autonomy violates traditional notions of fair play and justice.

In addition, the judicial review standard of the bill differs significantly from that of the Administrative Procedure Act. The Administrative Procedure Act (APA) provides that a reviewing court shall set aside agency action, findings, and conclusions found to be, among other things, "in excess of statutory jurisdiction, authority or limitations, or short of statutory right." The wording of the judicial review provision of the Interior bill differs from the APA language: it provides judicial review for action which is "in violation, exceeds or falls short of statutory jurisdiction, authority, limitations, or right." The statutory provision for review of actions that fall short of statutory authority is ambiguous. It could be argued that this would permit appeal, and perhaps require reversal, of any agency decision which grants less than the full amount of relief authorized. In any event, the bill establishes a new standard of review, never before applied. This invites extensive litigation and confusion as the courts struggle to discern the meaning of this new standard of judicial review.

CONCLUSION

Mr. Chairman, I believe that the Commerce Committee bill with the Santini-Lujan amendment is superior to the Wirth-Udall bill. It provides greater protections, while expediting decisionmaking. Labor, industry, and business support the Commerce Committee bill. The administration supports the Commerce Committee bill.

At this point I want to provide the administration's evaluation of the delay expected by the Wirth-Udall bill (H.R. 5660). It is as follows:

ANALYSIS OF DELAY CAUSED BY JUDICIAL REVIEW PROVISIONS OF UDALL-WIRTH EMB PROPOSAL (H.R. 5660)

The Udall-Wirth EMB bill (H.R. 5660) would add years of delay to the fast-track process by injecting the courts into the process at two key points.

First, their bill subjects decisions of the EMB to designate specific projects for fast-track treatment to judicial challenge. This approach invites litigation by any interest that might object to a project, and could add over 2 years to the permitting process (see Attachment 1).

Second, the Udall/Wirth bill requires use of the courts to enforce deadlines for permitting decisions established by the EMB. If an agency misses a deadline, the EMB must seek an order from the U.S. District Court either enforcing the existing deadline or establishing a new one. If the agency thereafter fails to comply with the court order, the President is authorized to take over the decision. Assuming that it would not be necessary for the Board to seek a second court order to determine whether a violation of the first court order had occurred and that such a determination would be made by the Board (or President), the Udall/Wirth proposal could add as much as 3½ years of additional delay (see Attachments 2 and 3).

The relevant time requirements are summarized below:

	Minimum		Maximum	
	Years	Months	Years	Months
Udall/Wirth:				
Review of designation decision		4.5	2	1
Court enforcement of deadlines	1	2	5	5
Total	1	6½	7	6
Commerce Committee bill (with Santini-Lujan amendment): EMB enforces deadline by taking over decision		5.5	2	1
Additional time required under H.R. 5660 compared to amended Commerce Committee bill	1	1	5	5

TIME REQUIRED TO ENFORCE DEADLINES UNDER THE UDALL/WIRTH PROPOSAL

Trigger: Agency misses deadline for decision:

	Days
Step 1: Seek district court enforcement	15–30
Step 2: District court decides	15–120
Step 3: Appeal to court of appeals	15–60
Step 4: Court of appeals decides	15–180+
Step 5: Petition for certiorari to Superior Court	15 60
Step 6: Decision on petition	15–180
Step 7: Argument heard	60–90
Step 8: Decision	15–180
Step 9: State and local again fail to decide per order	90–180
Step 10: Return to district court to seek contempt	15–30
Step 11: District court agrees agency has violated court order	30–120
Step 12: Appeal to court of appeals	15–60
Step 13: Court of appeals decides	15–180+
Step 14: Petition for certiorari	15–60
Step 15: Decision on petition	15–180
Step 16: Argument heard	60–90
Step 17: Decision	15–180
Step 18: EMB completes record	15–90
Step 19: EMB/Pres. decides	15–30
Step 20: EMB decision to court of appeals	15–60
Sept 21–25: Appeals	120–690
Total	[1] 610–2,850

TIME REQUIRED TO ENFORCE DEADLINES UNDER ADMINISTRATION PROPOSAL

Trigger: Agency misses deadlines for decision:

	Days
Step 1: EMB completes record	15–90
Step 2: EMB decides	15–30
Step 3: File appeal of decision in Court of Appeals	15–60
Step 4: Court of Appeals decides	15–90
Step 5: File petition for certiorari with Supreme Court	15–30
Step 6: Decision on petition	15–180
Step 7: Argument heard	60–90
Step 8: Supreme Court decides	15–180
Total	[2] 165–750

[1] 1½ yr to 7½ yr.
[2] 5½ mo to 2 yr 1 mo.

Mr. DINGELL. Mr. Chairman, Secretary of Energy Duncan, in an October 30, 1979 letter to the Speaker, supports the Commerce Committee bill with the Santini-Lujan amendment and opposes the Wirth-Udall substitute.

U.S. DEPARTMENT OF ENERGY,
Washington, D.C., October 30, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The President deeply appreciates the prompt action taken by the Interstate and Foreign Commerce Committee and Interior Committee on legislation to establish an Energy Mobilization Board (EMB). If we are to avoid a growing and wholly unacceptable dependence on foreign energy sources, we must secure "fast-track" legislation to cut through the permitting maze that confronts domestic energy projects.

When the House takes up this important measure, the Administration's position will be as follows:

(a) The Udall-Wirth substitute (H.R. 5660), while in many ways close to the Administration's request, contains additional opportunities for judicial review which could cause significant and unnecessary delay. Accordingly, we oppose the Udall-Wirth substitute.

(b) The Commerce Committee bill, with the addition of the Santini-Lujan amendment, would substantially achieve the Administration's objectives. However, the bill would still contain a procedure for waiver of certain Federal laws subject to approval by Joint Resolution of Congress. As we have consistently stated, the Administration would strongly prefer a bill with no provision for waiver of substantive laws, except for those which might be covered by a "grandfather" provision. We therefore will support an amendment by Mr. Eckhardt which would remove the provision for substantive law waivers, as well as provide for judicial review of decisions to "grandfather" projects against changes in substantive law after establishment of a Project Decision Schedule.

As stated above, the Administration does not seek authority for any substantive waiver, and will support efforts to delete this authority on the House Floor. However, should the choice ultimately fall between the Udall-Wirth substitute and the Commerce Committee bill as amended by the Santini-Lujan amendment, we would support the latter as closest to our position, because it avoids the delays inherent in the addition of new opportunities for judicial review.

In closing, I wish to stress our appreciation for the leadership of Representative Udall and Representative Dingell who have worked so diligently to bring this important legislation before the House.

Sincerely,

C. W. DUNCAN, Jr.,
Secretary.

□ 1710

Mr. BROYHILL. Mr. Chairman, I yield 11 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, it is now axiomatic that the country is facing severe energy problems. Congress inability to rationally deal with these problems is threatening the economic and military security of our Nation.

In large part, our energy problems can be traced to a lack of commitment on our part to greater production of domestic sources of energy and to greater conservation. Over the next 2 days, this House will be called upon to show the American people how seriously committed it is to greater production and conservation of our precious energy resources.

Two alternative approaches to the Energy Mobilization Board are before the House: the Commerce Committee reported bill and the Udall-Wirth substitute. The Commerce Committee bill represents a realistic and workable approach to energy facility siting and implementation. The Udall-Wirth alternative is no alternative at all. It promises us endless litigation and unnecessary years of delay. In fact, the administration estimates that it would take anywhere from 1 to 5 years longer to build an energy facility under the Udall-Wirth approach than it would under the Commerce Committee bill.

There are many fundamental problems in the Udall-Wirth amendment that make it worse than no bill at all.

First, the Udall-Wirth amendment would permit the Energy Mobilization Board to designate only 75 projects during its 7 years of existence. This limitation insures that only the biggest and costliest projects will be given priority treatment.

Those of us who favor the Commerce Committee reported bill believe that the Board should have the authority to help implement a large variety of projects, including smaller projects such as solar, biomass, or hydroelectric projects. Although such projects may not be the most grandiose energy projects, they will contribute to a reduction in our Nation's oil imports and should, therefore, be eligible for consideration by the Board.

An additional disadvantage of the Udall-Wirth limitation on the number of projects is that their amendment does not define whether a coal mine, the railway spur to move that coal, the coal gasification plant and the gas pipeline to hook the plant up with the national natural gas pipeline would be considered as one or four "projects" against which the 75 project limitation applies. Thus, the Udall-Wirth bill invites litigation on the very first step of the fast tracking process.

Worse still, the Udall-Wirth bill permits immediate, full judicial review of the Energy Mobilization Board's decision to designate a priority energy project.

Those of us who support the Commerce Committee's fast track approach want the Board to have the discretion to speed the implementation of a worthy solar collection project, with the adjacent electric generating facility and its transmission lines, without having to become embroiled in delaying and debilitating litigation over whether such fast tracking exceeds some arbitrary, numerical limitation.

In addition, the Udall-Wirth amendment is worse than no fast track bill at all because their amendment not only invites but requires litigation anytime the Energy Mobilization Board tries to enforce the project decision schedule. Under their approach, the Board is required to go into court to seek an order requiring the tardy agency to issue its permit. Such an order is of course subject to appeal to the circuit court of appeals and the Supreme Court. The White House estimates that this judicial process alone can add between 6 months and 2½ years of delay. When this litigation is over and the court-ordered agency schedule is finalized, the Udall-Wirth bill permits the "bump-up" of the still delinquent agency decision to be made by the President.

However, under this bump-up approach, the President still has to finish the agency record for the decision and then make the decision using the same laws the agency would have used if it had made the decision when it was supposed to. Accordingly, if the decision ends up negative, the Udall-Wirth bill will have done little but add a layer of bureaucracy and years of litigation to the agency licensing process. Some "fast track."

This Nation needs an Energy Mobilization Board that can do more than perform cosmetic surgery on our energy problems. You are all familiar with the Sohio pipeline project. It was abandoned after the requirement of 700 separate permits and dilatory agencies delayed the construction date to the point that Sohio abandoned the pipeline project as uneconomic. There are other, less well known, examples of the need for fast tracking our needed energy projects.

Let me discuss another energy project—our strategic petroleum reserve. During hearings before the Subcommittee on Energy and Power on the SPR, I asked the Department of Energy to provide for the hearing record a discussion of how agency licensing contributed to the inexcusable delays experienced by the strategic petroleum reserve program. Although this Nation was supposed to have 500 million barrels of oil in storage by the end of next year, it only has 90 million barrels in storage today. Moreover, since April of this year, there have been no purchases of crude oil.

Part of the reason that our Nation is facing this problem with its SPR is that there was no "fast track" procedure to move the program through the labyrinth of agency permits. However. the Udall-Wirth bill would not have been much help. For example, the Federal EPA permitting process for ocean discharge of brine from the Bryan Mount SPR facility in Texas consumed 28 months, which resulted in increased construction and operation costs of more than $28 million. This delay also caused a storage shortfall of 20 million barrels during the last nine months of 1978. Because the Udall-Wirth bill encourages additional litigation whenever a project is designated or an agency is not meeting its deadlines, it is doubtful whether this EPA decision would have been more timely under the Udall-Wirth approach.

Another example of agency caused delays in the SPR program is the case of the West Hackberry SPR facility in Louisiana. There, a Corps of Engineers' permit to construct a portion of the permanent pump withdrawal system was delayed for 2 years because of the failure of the State of Louisiana to make a final decision on a siting proposal by the corps. Thus, withdrawal pumps were not available to the SPR facility until after the gasoline lines of this summer were gone. Because of the years of litigation opportunities associated with the Udall-Wirth amendment, their "fast track" approach would have afforded only modest expedition of this State agency siting permit process. Under the Commerce bill, as amended by the Santini-Lujan amendment, the Energy Mobilization Board could have designated the SPR project a priority project without costly litigation, and it could have required the State to make a decision—without having first to waste from 6 months to 2½ years in court.

I hope these real-life examples will demonstrate the practical need to adopt a fast track bill with some actual capacity for expediting the implementation of needed energy projects.

The American people are getting tired of the Congress passing cosmetic legislation. The overwhelming rejection of the proposal to reimpose price controls on middle distillates by this body 3 weeks ago is a good example of the Nation's growing awareness that cosmetic solutions to energy problems do more harm than good in the long run. Adoption of a superficial fast track bill that does not really accomplish anything will be worse than adopting no fast track legislation at all—because this Nation will lose 5 years or more waiting around to see that the quickie fast track approach we adopted will not work. I urge that you vote with me for the Commerce Committee-reported bill and the Santini-Lujan amendment, and vote against the Udall-Wirth amendment and the Interior Committee-reported bill.

□ 1720

Mr. Chairman, the time is late for our dealing with this problem. If we have a major energy shortage in the next few years and the Congress does not address the need to bring about these critical energy development projects in a timely fashion, we can properly be blamed by those who stand in the gasoline lines, by those who are standing in employment lines because their factories do not have power, by those who are in the schools and other institutions that need power to operate in our society with its usual social conscience oriented activities, and by those whose homes are cold, because we do not have the energy this country needs.

Mr. Chairman, I urge my colleagues to do something to create a real fast track piece of legislation.

Mr. CLAUSEN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I strongly support adoption of H.R. 5660, the Udall/Clausen/Wirth substitute "fast track" legislation, which I have cosponsored. I believe that this bill offers the most reasonable and just approach to expediting priority energy projects while preserving the integrity of State and local governments for enforcing their own laws and stimulating increased cooperation among all levels of government.

I think most of us agree that establishing a sound fast track procedure to expedite crucial energy projects is an integral part of our responsibility for meeting our domestic energy demands.

Among other things, the Udall/Clausen/Wirth proposal limits to 20 the number of new projects per year to be considered by a five-member Energy Mobilization Board. The bill provides the EMB with authority to set timetables for decisions and to streamline procedures. But the Board may only temporarily suspend Federal, State, or local laws promulgated after project construction, if such suspension poses no threat to public health and safety. In addition, the act provides mechanisms for accelerated judicial review.

Mr. Chairman, I think the Udall/Clausen/Wirth substitute empowers the Energy Mobilization Board with the flexibility necessary to coordinate, streamline, and expedite priority energy projects without jeopardizing the rights and jurisdiction of State and local governments, or preempting substantive Federal, State, or local laws. As you know, it is strongly supported by State and local governments and the environmental community. The substitute also contains a unique sunset provision; that is, the Energy Mobilization Board under Udall/Clausen/Wirth expires after 7 years. Prior to expiration, the EMB is directed to submit a comprehensive report to Congress identifying those Federal, State, or local requirements which it deems to be the cause of unnecessary delays in energy projects, accompanied by its recommendations for improving such requirements. In short, the substitute offers a process for expediting key energy projects in a timely manner, forcing agencies to streamline their decisions without altering the fundamental laws upon which these decisions are made.

Mr. Chairman, I urge that my colleagues support and vote for the Udall/Clausen/Wirth substitute fast track legislation.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, let me say to my colleagues, to the gentleman from Michigan (Mr. DINGELL), and my good friend, the gentleman from Arizona (Mr. UDALL), that I believe this, without any question, is the most important issue that we have had come before this Congress this year, and we are sort of wobbling around, trying to work our way out of our energy problems and get something done to protect the future security of our Nation.

To me, the Commerce Committee bill on which the gentleman from Michigan labored so hard, will give us a goal, a light somewhere at the end of the tunnel that we can work toward and it shortens that tunnel very considerably. It gives us the chance to do something and get something done. If we do not do something, America is going to come to an impasse within the next few years, and the people are not going to tolerate the failure of the Congress to act.

I would say that if we do not do something to resolve our energy problems, something drastic is going to happen among the American people. The time has come for us to take some action, and the action is to adopt the Commerce Committee bill.

This must not be approached on a regional basis or a State basis; this is for America.

Let us remember the first words of our forefathers when they founded this Nation. They felt the most important word that we had in the English dictionary was "union," and the next most important was "justice" for all people. Now, "union" means that we have got to work together.

We cannot have any regionalism or statism or anything else in this energy matter. We have had enough of that.

As I understand it, under the Udall bill as proposed, approval of an urgently needed energy project can take up to 7 years, with all the delays the bill permits. I believe in the courts using them to assure justice, but I say the time has come for action. If America is going to meet its responsibilities, we are going to have to act now, not 5 years or 10 years from now.

If we do not do something and we face an emergency without energy, we could be in very serious trouble. If we are caught in war without adequate energy resources, then God help America. Let us try to solve our problems now and help ourselves just a little bit.

I am the author of the environmental protection bill, and I am proud of it. But I say there comes a time when specialized concerns cannot stand in the way of progress in this land, and cannot stand against our national security. Under the Commerce Committee bill we can work out a system that would be compatible with environmental protection and produce energy for the Nation. The time to do that has come and it is now, not in the next few weeks and not next year. The responsibility lies with each one of the Members of this Congress to act now.

□ 1730

So I say, just as an example take the Sohio project. After 3 or 4 years they could not get approval. Everybody admitted the project would improve the environment of the Los Angeles air basin and, yet, after millions of dollars being spent, they just gave up. These same delays face us if we take the Udall bill. I say that under the Commerce Committee bill this would not be allowed to happen.

If you think our energy problem is serious and it is urgent that we act, you are going to vote for the Commerce Committee bill. If you do not think it is urgent vote for the Udall bill and you can go back home and tell your people that we are going to take the same easy, lazy way that we have taken for years and years and years, and we will not act to provide them the energy they need.

We need to develop our coal. Ninety-eight percent of our energy in this Nation is in coal. We must do something to develop quickly this resource for our people, Mr. Chairman we need to do it now, and not in the future. I hope that the Congress will see, in its wisdom, to vote for the Commerce Committee bill, which will speed up the progress. If there are environmental problems we can work them out at any time. Adoption of the Commerce Committee bill, will make it possible for us to get the energy that we need desperately in this country now.

The American people and the people of the rest of the world are watching us today. They are wondering whether we will have the courage and the foresight to take the responsibility that is rightfully ours. They will be reassured if we adopt the proposal of the Commerce Committee.

Ours is a sound and responsible proposal, which comes to the House with the strong, bipartisan support of the committee.

There is no question that there are going to be conflicts between priorities as we move in the future to meet our energy problems. There is also no question that we must have a better tool for resolving those conflicts, a tool that will protect the best interests of the American people and will allow us to proceed with urgently needed energy projects. The committee proposal does just that. It would place the responsibility for setting national priorities here where it belongs, with the Congress, the elected representatives of the people of this Nation.

There is no question that we need this tool. Time after time we have seen urgently needed energy projects stalled or abandoned because of pointless bureaucratic and judicial delay.

This does not mean that energy projects should or will be allowed to ride roughshod over environmental and other concerns. Quite the contrary, it will mean that decisions on priorities will be made by the elected representatives of the people, the very representatives who shaped the laws which now protect our lands and waters.

We have had the courage and wisdom to enact those laws. Now, when the security of the Nation is at stake, we should trust ourselves to have the courage and the wisdom to weigh priorities and make the decisions that are best for

the Nation. That is what we have been elected to do. Let us do it now by adopting the Commerce Committee bill.

Mr. UDALL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I really want to protest, before we go home tonight, the kind of shabby treatment we have had at the hands of the administration on this bill and to correct a statement that was made here two or three times by my colleagues earlier.

You talk about 7 years under the Udall-Clausen-Wirth bill, and you talk about all of this delay. In order to appease the administration, we advised the gentleman last Friday, his good staff last Friday, that the gentleman from Florida (Mr. FUQUA), the chairman of the Committee on Science and Technology, would offer an amendment to the judicial review section, which would, one, take away any review on an order designating the project as a fast track; second, cut the time for filing with the Supreme Court of all decisions from 60 days to 30 days, and, third, in order to appease the administration we move the enforcement action from the district court to the court of appeals to cut out one level of appeal.

Knowing that, the administration continues to peddle this phony letter which says that some lawyer, some junior lawyer, down at the Justice Department, assumes that every judge is stupid, is an idiot, that every conceivable delay that might be asked for would be granted, and come up with this 7-year period. It is nonsense.

We shortcut the judicial process in these three additional ways. The gentleman from Florida will also have an amendment. I hope the Members will all support him and we will not hear these kinds of complaints any more.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

Mr. Chairman, I just wanted to note that this pattern of shabby treatment, in the good words of the chairman of the Committee on Interior and Insular Affairs, has characterized my opinion of the administration throughout the development of this fast-track process and their ambivalence and inability to decide where will be coming down on the bill.

I will be putting in the RECORD tonight, when the committee goes back into the full House, a complete record of this and a letter that I today sent to the President of the United States, outlining the tremendous ambiguity they displayed, resulting in the kind of shabby treatment the gentleman described.

Mr. DINGELL. Mr. Chairman, I yield myself 1 minute to reply to my good friend, the gentleman from Arizona.

The gentleman is telling us that he has found defects in his proposal. He apparently proposes to cut off, first of all, one instance of judicial review, namely the review of the designations of projects and bring his bill closer to the Commerce bill. He is indicating to us that by that amendment 2 years would be saved. That still leaves 5 years and 5 months of judicial review which would take place, according to the administration. He apparently plans to reduce the time for filing appeals by consumers, environmentalists, project competitors, the sponsors, and others from 60 days to 30 days. I wonder if these groups will like that change. It will, however, reduce the administration estimate to 5 years, 4 months. He also plans to move enforcement from the district court, which is the normal trial court, to the court of appeals which has no experience in trying questions of fact.

I just wanted the gentleman to know that he is still wasting 5 years and 4 months instead of 7 years and 6 months.

Mr. UDALL. If the gentleman will yield, that is a distortion of what the Fuqua amendment will achieve.

Mr. DINGELL. I want to make it very clear to the gentleman that all I am doing is quoting what the administration has said about the Wirth-Udall bill. If the gentleman has a difference with the administration, he can take it up with the administration. The Wirth-Udall bill will still cause 5 years, 5 months of delay. It is a slow track.

I also want to point out that our staff has reviewed the record and we find no such Fuqua amendment. Although we observe such an amendment by the gentleman from Arizona, but maybe we missed it.

Mr. CLAUSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I appreciate the fact that my colleague, the gentleman from Colorado (Mr. WIRTH), is going to put in the RECORD tonight what he considers was the shabby treatment of the administration. I was going to ask my colleague, the gentleman from Arizona, who I thought had excellent rapport with the White House, what was the shabby treatment, but if my colleague, the gentleman from Colorado, is going to list them all, I think we will all read it with great interest. But that surprises me, after I was down at the White House last night and listened to the description by the White House of all of the fine things this bill was going to do.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, does the gentleman have the phone number of the "Draft Kennedy" headquarters in case some of us want to call it?

Mr. ROUSSELOT. No; I do not. I am, as the gentleman knows, thinking about other things in California.

Mr. UDALL. I think the President has been battling the staff on this whole issue; they have deliberately distorted the provisions of the bill and they have deliberately ignored the major amendment that has been in the RECORD for the last 4 days.

Mr. ROUSSELOT. Will the shabby-treatment list that my colleague, the gentleman from Colorado, is putting in the RECORD adequately cover what has happened on this?

I certainly want to yield to my colleague, the gentleman from Colorado, to see what the shabby-treatment list is.

Mr. WIRTH. I have sent to the President today a letter outlining the development of this legislation from the time that it was first considered in the Commerce Committee when the Subcommittee on Energy and Power became involved with the legislation, when the administration suddenly was lobbying for substantive override, after the President had said very clearly that they were opposed to this kind of substantive override or waiver, a pattern which has existed from July until today, and that pattern is outlined in the letter which I will put in the RECORD tonight.

Mr. ROUSSELOT. Mr. Chairman, I do not have the Kennedy phone number. Does the gentleman have it?

Mr. WIRTH. Do I have the Kennedy phone number? No; I do not.

Mr. ROUSSELOT. My colleague, the gentleman from Arizona, wants the Kennedy phone number. I am wondering if the gentleman from Colorado can give it to him.

Mr. WIRTH. Would the gentleman like to have my phone number?

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I have yielded myself this time not to provide the Kennedy phone number to anybody or to talk about the shabby treatment that the administration may or may not have given to the gentleman from Arizona (Mr. UDALL) or the gentleman from Colorado (Mr. WIRTH); but I would say that I have observed shabby treatment of the committee system in this process because I am under the impression that, after reporting out an Interior Committee bill on August 2, 1979, that really is not the subject of discussion by anybody here. The Commerce Committee legislation has been presented for consideration by this body, and so has the Interior Committee bill. But that seems to have been abandoned, like a baby on the doorstep, and the committee, or at least parts of it, has gone down the street looking for other business. The other business is the Udall-Wirth substitute. I would suggest that it has been very difficult for those of us who do try to draft legislation in committee to know precisely where the bouncing ball is going to wind up. I gather that we are now going to have some other kind of version of this bill that will be taken care of by an amendment to be offered by the gentleman from Florida (Mr. FUQUA). It seems to me that the administration is not the shabby problem. The problem is whether or not we are going to pay attention to committee procedure.

Mr. UDALL. If the gentleman will yield, did the gentleman follow the committee procedure in the case of the 1-pound Santini amendment? Is that a product of the committee?

The CHAIRMAN. The time of the

gentleman from Ohio (Mr. BROWN) has expired.

Mr. WIRTH. Mr. Chairman, I include a letter which I sent to the President of the United States along with several comparisons dealing with the aspects of the pending legislation.

DEAR MR. PRESIDENT: I enjoyed the wide-ranging discussion of the energy crisis we had at dinner last night, and appreciate the growing sense of urgency you have helped instill in the Congress and throughout the country.

As you noted in your remarks, I disagree with your comments about the Energy Mobilization Board and the Udall-Clausen-Wirth substitute. The controversy between the Administration and the sponsors of our approach to the EMB continues. Again I want to point out the basic flaws that continue to plague the Administration's position—the differences between your stated EMB principles and the actions of White House and Department of Energy.

You have stated repeatedly that you do not favor the waiver or override of existing substantive law. I believe that all of the nearly 90 co-sponsors of the Udall-Clausen-Wirth substitute would agree with that position. Problems in federal, state, county or local substantive law should be corrected by the appropriate legislative bodies. It is entirely inappropriate for an appointed board to act in lieu of the Congress, State Legislatures, County Commissioners, City Councils, or to initiate a "fast-tracked" legislative process which has the same effect. In fact, such action by an appointed administrative board goes far beyond the design of our Federalist system and is, in my opinion, unconstitutional.

Unfortunately, your stated policy has not been and is not being, carried out by the Administration's operatives on the Hill:

1. In July, without previous notice, White House and DOE lobbyists worked in subcommittee to defeat my amendments to the Commerce Committee legislation which would delete the substantive waiver or override powers.

2. A similar pattern was apparent during full committee consideration of the EMB legislation in September. At that time, Stuart Eisenstat stated that the Administration was taking this apparently contradictory position for "tactical" reasons. With the passage of a Senate bill, which you strongly supported, this justification has disappeared, but the Administration's tactics have not changed.

3. Following completion of the Commerce Committee bill, I began discussions with Congressman Udall to join the best of the Interior and Commerce Committee bills. On six different occasions I contacted the policy-making staff in the White House, offering to try and come to some accommodation. None of these offers was answered. Weeks later after the intervention of third parties we finally had discussions with Bert Carp.

4. After Congressman Udall and I introduced our substitute, a lawyer at DOE developed an analysis of the court review and enforcement sections of the bill. The result was an incorrect interpretation of the legislation, arguing that our bill would delay decisions by 2–7 years. Despite agreement by Administration officials that, in several respects this was an incorrect analysis, the paper was widely distributed and has never been corrected. Obviously that incorrect information weighed heavily on your decision to oppose our bill.

5. In briefings by the Administration, reference is still made to this incorrect analysis, but the time frame has now been expanded to 8 to 10 years! These were the figures you used last night. Administration officials directly responsible for this legislation refuse to admit publicly the inaccuracy of their analysis, and are giving you faulty information. They appear to be bent on scuttling the Udall-Clausen-Wirth substitute through incorrect information.

6. Congressman Dingell has now agreed to accept Rep. Santini's amendment, which reputedly solves all the problems of the waiver of state and local law; this is being widely touted by Administration lobbyists. They have not made clear, however, that the Santini amendment does not change the provision allowing the override of Federal law (and state and local law dependent on Federal law). Nor, despite clear commitments to do so, are they fighting against this waiver of Federal law in the Commerce Committee legislation. Instead, Administration efforts are being directed entirely against our bill.

7. In fact, it was clear from the meeting Mo Udall's and my staff had with Mr. Carp and Lynn Coleman of DOE last Friday, that there was no Administration interest in compromise or in understanding that our approach might well be more effective. Despite the agreement by Congressman Udall and myself to amend our substitute on the floor, deleting judicial review of project designation and tightening our enforcement section (i.e. enforcement actions to be brought directly in the court of appeals instead of district court), no reference has been made by any of your staff to these changes.

8. It is inconceivable to me how the Administration can justify supporting the Commerce Committee bill which contains substantive waiver authority, while opposing our bill which is (1) stronger procedurally, (2) contains no waiver authority, and (3) differs only in its inclusion of the expedited, flexible weapon of court enforcement of deadlines.

9. The National Governors Association, the National Association of Counties, the League of Cities, and the Conference of Mayors are all strongly in support of Udall-Clausen-Wirth substitute. Why? Because they find that, even with the waivers aside, the enforcement provisions in the Commerce Committee bill, as amended by Santini, is completely unacceptable. The provisions allow the EMB to become a super-decision making body whenever a local polity does not act. Under the so-called "bump-up" provision, the authority to make decisions is taken over by the EMB; thus this appointed group must become expert in such diverse areas as California coastal management, Colorado water law, or Long Island zoning. This is a spread of expertise that is simply impossible without creating a super-bureaucracy, and a concentration of decision-making never envisioned in our Federalist system.

10. In our substitute we allow the use of this unprecedented authority; but only in the rare circumstances when a court failed to act within 120 days or an agency violated a court order. Unlike what you have been told, there can be no lengthy court enforcement proceedings under our bill. What we avoid are unnecessary denials of permits by state and local agencies who refuse to either give up jurisdiction to the EMB or make a decision on what they believe is an unreasonable time schedule.

Mr. President, it is important to you, to the credibility of the Administration and to the future of our country's energy policy that you understand the divergence between the Administration's stated goals and its actions. This disparity has been so consistent that I can only assume that your own oft-stated position is not shared by many people working for you. The result is considerable misunderstanding that leads to outright hostility, does not serve the Administration well, and certainly does not help develop the framework of trust and cooperation that should characterize our national efforts toward a broad energy policy.

Again thank you for your efforts and I hope that after this unfortunate episode has passed (and the Udall-Clawson-Wirth substitute becomes law), we can again work together on the urgent energy issues facing the nation.

With best wishes,

Sincerely yours,

TIMOTHY E. WIRTH.

Mr. WIRTH. Mr. Speaker, a summary comparison of the Udall-Clausen-Wirth version of H.R. 4985, the Energy Mobilization Board "fast track" legislation, with the Commerce Committee version as amended by Santini-Lujan was printed in the October 25, 1979, CONGRESSIONAL RECORD (page E5271). That comparison was a balanced statement for the portions of the bills it addressed, but it failed to address several other important provisions. The following comparison of the two versions is submitted as a supplement to, not a replacement for, the October 25 comparison. The Udall-Clausen-Wirth substitute, now H.R. 5660, is a rational and practicable means to expedite decisionmaking on priority energy projects. It does not give unprecedented powers to the Energy Mobilization Board to waive Federal, State, and local laws. It does enable swift judicial enforcement of project decision deadlines while retaining the legislative function where it belongs—in Congress, and in the State legislatures.

SUMMARY COMPARISON OF CERTAIN PORTIONS OF THE UDALL-CLAUSEN-WIRTH BILL (H.R. 5660) ESTABLISHING AN ENERGY MOBILIZATION BOARD AND THE COMMERCE COMMITTEE BILL (H.R. 4985) AS AMENDED BY THE SANTINI-LUJAN AMENDMENT

UDALL-CLAUSEN-WIRTH BILL	COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT
Size and independence of Energy Mobilization Board	
Limits to 60 the number of personnel to be employed by the Energy Mobilization Board.	No comparable provision.
Specifies that members and personnel of the Board shall not be responsible and subject to supervision or direction of any officer, employee or agent of the Dept. of Energy.	No comparable provision.

UDALL-CLAUSEN-WIRTH BILL	COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENTS
Application procedures and criteria for project design	
Board shall keep copy of application for priority status available for public inspection or copying.	No comparable provision.
Requires Board to consider fourteen criteria in determining whether or not to designate a Priority Energy Project. These criteria include: (a) Magnitude of adverse environmental impacts and alternatives with fewer adverse impacts. (b) Extent to which applicant has filed required information with Board and extent to which project financing, insurance and labor requirements will be available. (c) Assessment of project in terms of cost effectiveness and energy efficiency.	Requires Board to consider twelve criteria. Criteria essentially the same as those in Udall-Clausen-Wirth bill, with exception of three criteria noted at left, which are not found in Commerce Committee bill as amended.
Early action requirements for applicants	
Board shall encourage applicants to file application with permitting agencies as soon as possible in order to expedite agency action.	No comparable provision.
Assistance to State and local governments	
Federal agencies are authorized to detail personnel to State and local agencies covered by Project Decision Schedule upon request on a reimbursable basis; Board and Federal agencies may provide assistance to State and local agencies to comply with such schedule.	No comparable provision.
State and Indian tribe participation	
Board must notify Governor of each State and Indian tribes in States in which Priority Energy Project is to be located; Governor and tribe may appoint a nonvoting member to serve on Board and participate in decisions respecting such project.	Does not require notification or EMB participation for Indian tribes.
Relationship to National Environmental Policy Act (NEPA)	
NEPA does not apply to: (a) decisions by Board whether or not to designate a Priority Energy Project. (b) promulgation or revision by Board of Project Decision Schedule. (c) action by Board or any agency to streamline procedures under Section 211 of bill. Board can require that one environmental impact statement may be prepared and used by all Federal agencies to satisfy NEPA.	No comparable provision. Does include same provision as H.R. 5660 that following designation of a Priority Energy Project, the Council on Environmental Quality determines whether a major Federal action is involved, chooses a lead agency; and allows the EMB to step in if CEQ fails to act.
Promulgation of Project Decision Schedule (PDS)	
Agencies are given 45 days after designation of a Priority Energy Project appears in the Federal Register to submit specified information to the Board for use in preparing a Project Decision Schedule.	Agencies have only 30 days to submit information.
Board has 45 days to consider information submitted by agencies before promulgating a Project Decision Schedule.	Board has only 30 days to consider agency information.
Consultation between Board and agencies on PDS	
Board must "conduct discussions with affected agencies and the applicant seeking mutual agreement on a practical and expedited Project Decision Schedule." (Sec. 209(a)).	Board must only "consult" with appropriate agencies. (Sec. 182 (a)).
Modification of Project Decision Schedule	
Board may not grant extensions of time under Project Decision Schedule to an agency or an individual unless that agency or individual has exercised "all due diligence in attempting to comply with the Schedule and is unable to comply with such schedule." (Sec. 210).	Addresses extensions applicable to agencies only. (Sec. 182).
Expiration of authority	
Board's authority expires seven (7) years after date of enactment.	Board's authority expires on Sept. 30, 1985 (six years).
Six months prior to expiration of its authority, Board shall submit to President and Congress a report and recommendations for Congressional action, including: (a) provisions of Federal, State, and local laws and regulations which have contributed most to unnecessary delay and the Board's recommendation for changes in such laws and regulations, or for other action to expedite decisionmaking. (b) reduction of imported oil attributable to Board action. (c) savings of time and expense in government and private sector due to Board actions. (d) activities of Board, status of designated projects, effectiveness in expediting projects, and any significant delays in Priority Energy Projects. (e) recommendations as to whether or not Board should be reauthorized.	No comparable provision.
At the same time, there shall be a report from the Comptroller General to Congress evaluating the performance of the Board.	No comparable provision.

WEAKNESSES OF THE COMMERCE COMMITTEE BILL AND THE SANTINI AMENDMENT

Sponsors of the Commerce Committee bill will accept a floor amendment to be offered by Rep. Santini which modifies the power to waive laws included in the original Commerce bill. As modified, the Commerce bill would still authorize the Board to waive federal laws. Instead of waiving state and local laws, the Board could seize jurisdiction over virtually any federal, state or local agency decision at almost any time and make the decision in place of the agency. State and local governments are adamantly opposed to this provision, as they are to waivers of law.

1. Even with the Santini amendment, the Commerce Committee bill provides the Energy Mobilization Board with little independent authority to speed agency decisions.

The Board would have no authority to streamline agency procedures on its own. To consolidate two federal agency hearings, for example, the Board would have to waive the federal requirement involved, receive Presidential approval and obtain concurrence by both Houses of Congress.

To enforce decision deadlines on state and local agencies, the Board would be forced to assume responsibility for the decision itself, learn the applicable state or local law, review the record already compiled in the case, make the decision, and then submit it to the President for approval—an incredibly cumbersome and time-consuming enforcement process.

2. Even with the Santini amendment, the Commerce Committee bill authorizes broad waivers of state and local law.

By continuing to authorize the Board to override federal laws subject to two-House concurrence, the modified Commerce Committee bill allows any state plan or law flowing from a federal requirement to be overridden as well. State policies adopted under the Coastal Zone Management Act and the Solid Waste Disposal Act are two examples.

Even with the Santini amendment, the Board continues to have the power to postpone or override any federal, state or local requirement issued after a Project Decision Schedule is imposed (i.e. before agencies review the specific project!). State and local governments could be rendered powerless to deal with the potential impact of rapid new energy resource development. The Board, on its own, can postpone a new requirement even if public health and safety is threatened and this decision cannot be overturned in court.

3. The power to waive laws and broad authority to take decisions away from state and local agencies expose the entire process to court challenges which would tie up energy projects for years.

The broad waiver authority, initiated by a five-member appointed board, is unprecedented and rests on shaky constitutional ground; any project granted a waiver of law would be the target of interminable constitutional court challenges.

The authority for a federal agency to make decisions in place of responsible state and local agencies is also unprecedented and should only be used in the rarest and most serious of cases. Board decisions would be subject to challenge on constitutional grounds and on their substance: the Board would not have the expertise required to make quick and proper decisions on the intricacies of Western water law, Massachusetts health law, Long Island zoning law, and the host of other statutes it would be in the position of administering. On the other hand, "quick and dirty" Board decisions in these cases would not stand up in court.

4. Waiver power and broad authority to seize jurisdiction over decisions will encourage agencies to deny permits for energy projects.

Many state and local agencies have already said that if they are faced with making a decision on an unreasonable time schedule or having the EMB take the decision away from them (or waive laws), they will simply deny the permit. This is why court enforcement makes far more sense.

Mr. UDALL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. FOLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4935) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes had come to no resolution thereon.

PERMISSION TO REVISE AND EXTEND

Mr. WIRTH. Mr. Chairman, I ask unanimous consent that I may be permitted to revise and extend my remarks and to include extraneous matter in the RECORD relating to the debate today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I did not hear the gentleman's request.

The SPEAKER pro tempore. The gentleman asked unanimous consent to revise and extend his remarks and to insert into the RECORD extraneous material related thereto.

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I did not want to discommode the gentleman. The only reason I asked is in view of the fact of his intention to print a compendium of the shabby treatment of the administration. I did not know how much this was going to cost the taxpayers in terms of RECORD pages and printing costs.

Mr. WIRTH. If the gentleman will yield, for the gentleman's edification, it is a letter of 1½ pages single-spaced, 2¾ pages double-spaced.

Mr. BAUMAN. That is a lot of shabby treatment, but I will not object.

Mr. WIRTH. It is very concise, I will assure the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. BROWN of Ohio. Reserving the right to object, Mr. Speaker, is the gentleman saying "shabby" or "shaggy"?

Mr. WIRTH. If the gentleman will yield, I was looking forward to more of the shabby discussion tomorrow morning.

Mr. BROWN of Ohio. I thought the whole thing was a shaggy dog story, and I was getting confused.

Mr. WIRTH. Mr. Speaker, I thank the gentleman for his shaggy comments.

Mr. BROWN of Ohio. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

□ 1740

ENERGY CRISIS ASSISTANCE PROGRAM SHOULD BE IMPLEMENTED QUICKLY

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, last week, the House of Representatives passed and sent to the Senate a bill which includes $150 million for the energy crisis assistance program administered by the Community Services Administration. That amount, together with $250 million appropriated earlier, will provide a total of $400 million for fiscal year 1980.

All Americans are feeling the effects of the decontrol of domestic oil prices and the price increases instituted by the OPEC countries. The poor are particularly hard hit. Although their energy consumption is lower than average, their expenditures for fuel and utilities represent a considerably larger than average share of their income. Furthermore, low-income families have little flexibility to adjust their budgets for higher fuel prices, and remain able to pay for food, shelter, clothing, and other necessities.

In the winter of 1978–79, heating oil was costing in upstate New York 48 cents a gallon. Right now, in upstate New York it is costing 87 cents a gallon. I know personally from having talked with literally hundreds of my constituents, many of whom are elderly or are on fixed incomes, that they are not able to absorb this additional cost.

Since the end of last winter, consumers have witnessed dramatic increases in the price of all petroleum-based products. The impact, however, of rising home heating oil prices has a special and potentially devastating meaning for the 16 million American households who fall below 125 percent of the Federal poverty level. A 13 percent inflation rate combined with a doubling of last year's heating oil costs have seriously eroded their incomes, and thus their ability to meet their most basic needs.

With the onset of winter approaching rapidly, these Americans and many middle income wage earners will face some new and harsh realities. In addition to cost, oil users may be required to pay cash on delivery. In the past, fuel oil delivery companies have allowed customers to pay their bills 30 days after delivery. This changed circumstance, coupled with minimum purchase require-

ments, will only worsen an already serious situation.

New York State will be particularly hard hit by high home heating oil costs and cold temperatures. The New York State Department of Energy reports that our State's petroleum consumption is significantly greater than that of the Nation. The State's reliance on petroleum products accounts for approximately 66 percent of its total energy consumption. More than half the counties in New York State depend on oil for home heating. More importantly, all households in New York pay about one-third more than the national average for energy.

The $400 million earmarked by the House for the Community Services Administration program will be given out to States in block grants through this agency. This money can be used in a variety of ways to help low-income individuals who are having problems dealing with the cold, harsh winter. This money can be made available through vendor payments for heating charges, or even for supplying blankets and heaters to families in need.

This is not the only aid the House has approved. It also has appropriated $404 million to be distributed by the Department of Health, Education, and Welfare to all social security recipients in the country. Of course, individuals in the colder States will receive more than those in the warmer ones, but all SSI recipients will receive some payment, since it is believed that increased energy costs land particularly hard on the needy elderly.

The legislation which the House has passed now must go to a conference committee so that differences with the Senate bill can be ironed out. Because of the seriousness of this matter, I urge there be no long delays, and I am hopeful that the measure will be on the President's desk for his signature within the next 2 weeks.

STATEHOOD FOR PUERTO RICO

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CORRADA. Mr. Speaker, I am very pleased with the results of a Gallup poll which indicates that 59 percent of the American public will favor admitting the island as the 51st State of the Union if a majority of the people of Puerto Rico vote in favor of statehood, while only 25 percent would oppose it and 16 percent had no opinion. These results are much better than I would have expected, particularly since we have not yet started a full fledged campaign in favor of statehood for Puerto Rico. I am sure that when the majority of our people vote for statehood, as we expect in a 1981 plebiscite, and as we take our case in support of statehood to Congress and the American people, there will be overwhelming support for it.

Recently Congress approved a concurrent resolution committing itself to the principle of self-determination for the people of Puerto Rico and the right of the people of Puerto Rico to decide their own political future. Similar commitments have been made by the last six American Presidents beginning with President Eisenhower in 1953 and most recently by President Carter.

The natural and spontaneous support of 59 percent of the American people for statehood if the majority of the people of Puerto Rico support it and the moral commitment of the President of the United States and Congress to the principle of self-determination and majority rule, leave no doubt in my mind that the people of Puerto Rico should feel absolutely confident that a petition for statehood supported by the majority will receive favorable consideration in Congress.

It is really up to us, the people of Puerto Rico, to move toward full political dignity and equality as citizens of the United States while we retain our Hispanic heritage and the traditions and values of our Puerto Rican culture so endeared to all of us. I enclose copy of the release of this poll by George Gallup:

POLL REFUTES CASTRO'S CHARGE OF "COLONIALISM"

PRINCETON, N.J.—Gallup Poll findings provide a rebuttal of Fidel Castro's charge, made at the United Nations, that the United States is trying to perpetuate the "colonial status" of Puerto Rico.

U.S. citizens, in the survey, vote by a four-to-one ratio, to grant Puerto Rico its independence if a majority of Puerto Ricans vote for it. The American people would also favor giving Puerto Ricans statehood if they want it.

In his speech, the Cuban Premier claimed the U.S. government regards Puerto Rican independence as an "internal" problem for the U.S. to solve. The poll findings suggest that independence is, in fact, an internal problem for Puerto Rico, and independence has never had much support from the Puerto Rican people.

In a survey completed before Castro, in his role as Chairman of the Non-Aligned Countries, delivered his U.N. address the following questions were put to a representative sample of the U.S. public.

"If a majority of the people of Puerto Rico vote in favor of becoming the 51st U.S. state, would you favor or oppose having Puerto Rico admitted as a state in the Union?"

"If a majority of the people of Puerto Rico vote in favor of becoming a separate and independent nation, should the United States grant Puerto Rico its independence or not?"

Statehood for Puerto Rico, if the islanders want it, has the backing of 59 percent of Americans, with 25 percent opposed.

Independence is favored by an even larger majority of the U.S. public, 67 percent, with 17 percent opposed.

COMPARISON WITH 1962 SURVEY

The same survey questions were first asked in 1962 on the occasion of the 10th anniversary of Puerto Rico's commonwealth relationship with the U.S.

While majorities of Americans at that time approved of either statehood or independence for Puerto Rico, depending on the will of its people, statehood was the more popular of the two governmental forms, with 65 percent of U.S. citizens saying they would favor the admission of Puerto Rico as the 51st state of the union if the Puerto Rican people asked, with their votes, for statehood. Today, 59 percent of Americans support statehood.

On the other hand, independence was backed by 55 percent of the U.S. public in 1962, compared to 67 percent today.

The following table summarizes the survey results from both the 1962 and 1979 studies:

[In percent]

	1979	1962
Statehood for Puerto Rico?		
Favor	59	65
Oppose	25	18
No opinion	16	17
Should U.S. Grant Independence?		
Should	67	55
Should not	17	21
No opinion	16	24

PUERTO RICAN VIEWS

Under their current commonwealth political status, Puerto Rican citizens enjoy about the same degree of control over their internal affairs as do residents of the 50 states of the U.S. Puerto Ricans vote in their own primaries although they cannot participate in U.S. national elections. Most federal taxes, including federal income tax on locally-earned revenues, are not levied in Puerto Rico.

A recent expression of popular sentiment can be found in Puerto Rico's 1976 election results. The political party endorsing continuation of the commonwealth affiliation with the U.S. earned 45.3 percent of the popular vote; the party advocating statehood received a plurality of the vote, 48.3 percent, and the two parties espousing independence got 6.4 percent.

STATEHOOD, INDEPENDENCE GET WIDE U.S. BACKING

The current U.S. survey results indicate that if a change to either statehood or independent status is mandated by the Puerto Rican people, it would have widespread support among Americans in all major demographic groups.

Following are the national results and the findings by key demographic segments of the U.S. population.

[In percent]

	Favor	Oppose	No opinion
National	59	25	16
Men	62	27	11
Women	57	22	21
College	68	24	8
High school	59	25	16
Grade school	42	25	33
Under 30 years old	65	24	11
30-49 years old	65	23	12
50 years and older	49	27	24
Profession & business	66	24	10
Clerical & sales	55	29	16
Manual workers	62	23	15
Non-labor force	50	24	26
Republicans	61	24	15
Democrats	58	25	17
Independents	61	25	14
East	63	25	12
Midwest	58	26	16
South	54	26	20
West	63	19	18

Should U.S. Grant Independence?

[In percent]

	Should	Should not	No opinion
National	67	17	16
Men	69	19	12
Women	65	16	19
College	77	17	6
High school	67	18	15
Grade school	49	17	34
Under 30 years old	74	15	11
30-49 years old	71	17	12
50 years and older	58	19	23
Professional & business	74	16	10
Clerical & sales	71	15	14
Manual workers	68	17	15
Non-labor force	57	20	23
Republicans	66	20	14
Democrats	64	20	16
Independents	74	12	14
East	67	20	13
Midwest	67	17	16
South	66	16	18
West	69	16	15

The U.S. results reported today are based on personal interviews with 1,520 adults, 18 and older, interviewed in more than 300 scientifically-selected locations across the nation during the period September 28–October 1.

ST. NICHOLAS RUSSIAN ORTHODOX CHURCH DEDICATION

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, a week ago Sunday, October 21, I had the deep honor and privilege to join with the members of St. Nicholas Russian Orthodox Church, on Bridle Path Road in Bethlehem, Pa., as they dedicated and consecrated their beautiful new church.

The new St. Nicholas Church is a magnificent structure, certainly one of the most inspiring and lovely places of worship in the Lehigh Valley, with its five golden cupolas shining in the Sun to grace the rolling hills.

Being there witnessing the service and listening to the choir was, for me, a deeply moving experience, one that I will forever remember.

Coincidentally, this very special day for the parishioners of St. Nicholas Church happened to be my own birthday as well. Having lived in the Soviet Union as an exchange scientist for a year, having studied the Russian language, history, and culture, and having as I do, a deep interest in preserving the various ethnic cultures of my congressional district, it is easy to imagine why that sunny autumn day was so special to me.

In the broader sense, Mr. Speaker, the dedication of St. Nicholas Church in Bethlehem had a meaning even beyond the Lehigh Valley, extending to deeply held ideals of faith that go far back in time, far away in distance, and far ahead into the future. For, as I noted in my remarks on Sunday, there is today one unshakable force that no amount of persecution by the Communist Government in the Soviet Union can diminish—and that unshakable force is embodied in the church, which now as much as ever before, still stands between the people who live in 1979 and a society without justice.

Today, Mr. Speaker, the Communist rulers in the Soviet Union, Eastern Europe, and elsewhere are continuing their calculated campaign, begun many years ago, to effectively wipe the church off the face of the Earth in those areas under their control. But as we in the Lehigh Valley know, not only have they failed to conquer the church in the past, they will always fail to do so in the future.

With respect to giving support to Christian brothers and sisters who worship under the shadow of Communist rule, all Americans would do well to reflect upon the help and inspiration that churches such as St. Nicholas Russian Orthodox Church provide. As long as congregations such as St. Nicholas continue to grow and thrive and speak proudly of their faith—through such acts as the construction and consecration of such inspiring places of worship as the Bridle Path Road Church—governments and peoples around the world, be they friendly or unfriendly, will know that the continuity of faith will never be broken, and that the strength of human devotion to God will forever remain undiminished.

From 1916 to 1979, the congregation of St. Nicholas worshipped in a church located at 1521 East Sixth Street in Bethlehem. Now, in moving to the golden-spired new structure dedicated Sunday, the members of the church are in a symbolic way looking with great confidence to the future. In the words of Rev. Dimitri J. Voytilla, pastor of St. Nicholas:

> As we have inherited from our parents and forefathers, so shall we bequeath to our children a living example of devotion, courage and sacrifice.

I again extend my deepest congratulations and warmest wishes to the Reverend Voytilla and to each and every member of the congregation. And finally, let me again express my deepest thanks for the warmth of the welcome I received, and my gratitude for being allowed to participate in such a moving and inspiring milestone in the history of the Orthodox Christian faith in the Lehigh Valley.

CIVIL AERONAUTICS BOARD MAKING HARMFUL DETERMINATIONS FOR LOCAL COMMUNITIES

(Mr. DAVIS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAVIS of Michigan. Mr. Speaker, yesterday, an article appeared in the Washington Post dealing with safety in the commuter airlines field. In comparing the safety of commuters with that of commercial airlines, the article stated that the accident rate for commuters is three times greater. In addition to this, an even more alarming statistic is that the number of fatal accidents involving commuters has doubled this year over last.

This information points up one of the very real concerns with the ongoing airline deregulation process. The Civil Aeronautics Board is presently making determinations as to what kind of airline service small and medium-size communities will be left with in the future. One of the factors which the Board appears to be counting on is the ability of commuter airline companies to fill the void left in service by the pullout of the commercial companies.

Last month, I submitted a statement to the Public Works Aviation Subcommittee criticizing the CAB for its unilateral actions in determining air service. The Board is moving forward following its own idea of what constitutes "essential service," regardless of the opinion of people at the local level.

And with statistics such as those that appeared in the Post, is it any wonder that people at the local level are concerned over the prospect of being left with commuter service?

Another point of concern is whether commuter airlines would even be able to survive. The Post article noted that commuters are experiencing a crackdown in safety regulations. While I applaud any moves which will make this situation safer, tougher regulations are causing a number of commuters to drop from the market because of the high cost of compliance. Therefore, we are faced with the possibility of some areas being left with no air service at all.

This is, of course, a secondary concern to that of safety. In the words of the article, flying is "the most unforgiving form of transportation." I urge my colleagues to look closely at this situation as it is one which could easily return to haunt us.

IN THE AIR: COMMUTER SURGE PROMPTS SAFETY CRACKDOWN

(By Douglas B. Feaver)

The commuter airline pilot realized he had big trouble immediately after takeoff. He could not lower the nose and was in immediate danger of crashing. So he turned around and hollered to some young passengers, "Want to see the takeoff? Run up here!" They did.

With the passengers' weight shifted to the front of the plane, the nose went down and the Puerto Rico International Airline (Prinair) pilot was able to land. The problem was that too much baggage had been loaded in the rear of the plane.

The incident happened in August 1977, according to testimony last week at a National Transportation Safety Board hearing in San Juan. It is one of many incidents involving improperly loaded planes and other problems that underline basic questions about commuter airline safety and the Federal Aviation Administration's willingness and ability to police the burgeoning commuter industry.

In this age of airline deregulation, many persons who fly for work or play are likely to find themselves aboard a commuter airliner. Big-name airlines such as United and American, and smaller ones like Ozark and Piedmont, are pulling out of small- and medium-sized cities, leaving commuter lines to fill the gaps.

Many of the commuter airlines are well run and have excellent safety records. Nonetheless, the standard of safety expected of commuters was not as high before deregulation as that expected of major airlines. Congress ordered the Federal Aviation Administration to beef up commuter safety, and new regulations are taking effect this year as commuter traffic increases.

Using statistics that the commuter airline

industry thinks are most fair—accidents per 100,000 takeoffs—the accident rate for commuter airlines is three times that of their bigger brothers. Using other perfectly valid numbers it is easy to show that commuter accidents occur seven times as often.

Not all incidents aboard commuter flights have happy endings. For example:

On July 24, a Prinair flight took off from St. Croix, Virgin Islands, suddenly pitched upward, then fell to the runway. It was found to be more than 1,000 pounds overweight, and the center of gravity—the airborne fulcrum on which the airplane must balance—was 11 inches aft of tolerance because of improperly stowed baggage. Eight persons died.

On March 1, a Universal Airways flight took off from Gulfport-Biloxi Regional Airport in Gulfport, Miss., climbed to about 100 feet, turned sharply right and crashed, killing all eight persons on board. The safety board said the pilot failed to react properly to an emergency that started when the nose baggage door flew open and was hit by a propeller.

On March 10, a Swift Aire Lines flight ditched in Santa Monica Bay shortly after leaving Los Angeles International Airport. Three persons were killed. The safety board said the crew accidentally shut down the good engine after the other engine malfunctioned.

In the first seven months of this year, 48 persons have been killed in 10 accidents involving commuter aircraft. In 1978, five accidents in the same period killed 22 persons.

Domestic Airline Passenger Growth
[Millions of Passengers]

Year	Trunk airlines	Commuter airlines
1970 --------	152.5	4.3
1971 --------	155.2	4.7
1972 --------	171.8	5.3
1973 --------	182.5	5.7
1974 --------	188.9	6.8
1975 --------	187.7	6.7
1976 --------	205.2	7.3
1977 --------	221.3	8.5
1978 --------	252.7	10.1
1979* --------	275	12.0

* Projected.

SOURCES: Civil Aeronautics Board. Air Transport Association of America. Commuter Airline Association of America.

The safety board's investigations have found instances of improper maintenance, poor pilot training and lax supervision in the most unforgiving form of transportation.

Safety board chairman James B. King said in an interview that "the problem is the commuter accidents we are seeing now are no different from the ones we saw seven or eight years ago. They involve weight and balance questions, maintenance and training.

"We want to create a climate in which safety becomes a very important part of the operation."

King's job is to prod and complain—the safety board has no regulatory powers. The responsibility for commuter airline safety rests with the FAA.

What has the FAA been doing? It is in the process of imposing tougher regulations on commuter airlines.

The new rules are supposed to insure "to the maximum feasible extent" the level of safety provided by the big airlines. They emphasize the upgrading of training and maintenance, establish minimum management criteria for commuter airline operators and impose more paperwork. Most commuter airlines will be under those new regulations by the end of this year.

"I am confident," FAA Administrator Langhorne M. Bond said in a recent letter to interested parties, "that commuter safety will improve substantially" because of the regulations and stepped-up surveillance.

There are more than 200 commuter airlines flying regular schedules in the United States. They bear such names as Astro Airways Corp., Cochise Airlines and Trans Mountain Air Ltd.

These airlines fly about 1,200 aircraft and have been carrying increasing numbers of people during the last decade. They project a 19 percent rate of growth this year, from 10.1 million passengers in 1978 to more than 12 million.

That growth is encouraged by deregulation, which permits both commuter and major airlines to add or subtract cities from their routes with a minimum of governmental hassle.

The financial pressures on small operators to cut corners to survive stronger competition are regarded as real and disturbing.

On May 30, while the aviation community's attention was riveted on the Chicago DC10 crash that killed 273 persons five days earlier, a Downeast Airlines flight crashed just short of the airport in Rockland, Maine, killing 17. The pilot was making an instrument approach in foggy weather.

Downeast Airlines President Robert L. Stenger was asked at a safety board hearing:

"When an aircraft . . . has to fly to an alternate airport on account of weather, is that an extra expense to the company?"

"Definitely . . . ," he replied.

Several questions later, Stenger was asked if it was Downeast's philosophy that the pilot had the final authority to cancel a flight because of weather.

Stenger replied: "That is the philosophy, yes. But if he—that's his prerogative. If he wants to cancel the flight due to his discretion, then as far as I'm concerned it better be a legitimate reason, not just because he wants to do it. And [if] everyone else is willing to fly, and other companies are still flying, and he decides not to, then I don't feel that he's using his best judgment to his fullest capacity either."

The new FAA regulations, according to a number of commuter operators contacted, probably will improve commuter airline safety.

"I would say it is a significant increase [in safety] with the requirement for formality in the [training and maintenance] systems," said Ted Bell, director of operations for Commuter Airlines, which flies between Washington National and Binghamton, N.Y., among other places.

Richard X. Knipe, president of Mall Airways, which connects Albany to New York City area airports, said, "I think we're probably more safe. We have more people. I had to hire a director of maintenance and an operations manager," jobs he did himself before the regulations. "I'm paying them more money than I am myself," he added.

The other central question is whether the FAA is doing a decent job of enforcing its new regulations. The answer to that will not be known for a while, but all the commuter operators contacted said they had seen more FAA people in recent months than they ever wanted to.

The FAA is seeking to add 190 inspectors next year just to help with the extra load imposed by the commuter airlines.

Rep. John J. Burton (D-Calif.), chairman of the House Government Operations transportation subcommittee and a critic of the FAA's Bond, asked him at a recent hearing why more people were needed now when none were needed a year earlier.

"I changed my mind," Bond said.

□ 1240

YES, VIRGINIA, THERE IS LINKAGE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, the other body is about to begin its deliberation on the SALT II treaty. There has already been substantial debate on this major issue and some definite patterns are emerging. The foremost pattern is that a double standard has been established concerning SALT. The administration has contended for months that the SALT II agreement should be considered on its own merits and that Soviet intentions in the world should be ignored for the sake of the broader issue of world peace. Now we find out that this antilinkage position is only supposed to apply to the critics of SALT. As for Mr. Carter and company they are linking ratification of SALT to everything including Mr. Carter's political survival, the existence of NATO, defense spending, intelligence considerations, and other quid pro quos.

This is very preposterous. Since when does one set of linkages have relevance while another set does not? I am a little suspicious of this ground rule when it is the appeasers in Foggy Bottom who are calling the plays. The issue of SALT is clearly not on the rhetorical ground staked out by the administration. It is on whether the Soviets can be trusted to carry out the terms of any agreement with the United States and whether it is in America's interest to limit its strategic arsenal if the Soviets are found to be trustworthy.

This is a tall order. We have already seen how the Kremlin has been able to circumvent SALT I. The violations regarding missile replacement and the Kremlin's ignoring U.S. protests are already legend. A recent article in the Washingtonian magazine even raises the prospect that we have not verified if all the missiles were removed from Cuba in 1962. With a track record like this only a fool or a dupe would sign his country's life away to such a pack of thieves and scoundrels. However, this is exactly what happened in June when Jimmy signed on the dotted line in Vienna. Now only the Senate has the ability to stop the White House from consigning America into the footnotes of history.

The U.S. Senate would do well to look at the world situation as it stands today. The troop situation in Cuba is but a small part of a broader move by the Kremlin to choke the economic life out of America. Iran is moving closer to the Soviet sphere providing the Kremlin with a major base of operations in the richest oil region of the world. There have already been signs that the oil blackmail weapon may be used by Iran to force the United States to extradite the shah. If this happens what would come next? The U.S.S.R. lost its hold on Suez in the 1967 war, but now it has combat troops stationed in Ethiopia and South Yemen poised to close off the Red Sea at will when the signal is given. Panama and Cuba now hold the Caribbean in check, and Castro is on the move to further consolidate his hold on the region in order to repay the many favors the Kremlin has done for him.

The prospect of the Soviets actually utilizing these regional positions is quite

real. I know the Kremlin is not stupid enough to exploit all of their advantages at one time, as that would signal their intentions and shock the free world into mobilizing to meet the threat. Instead there will be an ongoing pressure to push America and its allies back. Some of these moves will masquerade as peace moves or nationalism, as it has so often before. Other times it will be straightforward demands for concessions through oil blackmail or threats to trade routes. Whatever the demands or the timing you can be sure it will come next year or in the next 5 or 10 years. We are dealing with an aggressive and persistant force that will only respond to a counterforce. Whether this is diplomatic or military is not as important as the act of having the United States draw the line and mean it when we say "go no further."

A message must be sent to the Soviets that America is still capable of standing up for freedom. A strong America is the only Nation able to meet the Soviets head on and still check their advances. SALT II is a sham on the scale of a nuclear Munich agreement. Only by its death in the Senate will the world be saved from the living hell of having the globe dominated by communism sometime in the next 20 years.

THOMAS ALVA EDISON

The SPEAKER pro tempore (Mr. SANTINI). Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 60 minutes.

Mr. DINGELL. Mr. Speaker, I am pleased to request time in our schedule today to honor Thomas Alva Edison on this Centennial of Light. A century ago, the world witnessed the genius and vision of this great American who turned darkness into light and night into day with the invention of the incandescent light bulb. Edison's invention not only laid the foundation for the utilization of electric power but provided the underpinnings for innumerable scientific advancements of the modern industrial age.

In cities and towns across the country a yearlong commemoration of Edison's invention and legacy has been coordinated by the International Committee for the Centennial of Light. At Greenfield Village in Dearborn, Mich., which is in my 16th Congressional District, ceremonies began October 21 with the reenactment of the invention of the electric light bulb at the Menlo Park Compound. Greenfield Village has long served as a looking glass into this Nation's early industrial beginnings, of which Edison's Menlo Park Laboratory is a significant part. Greenfield Village, which is renowned for its preservation of Edison's inventions largely through the efforts of Edison's cherished friend, Henry Ford, has enabled generations to recall with pride the accomplishments of American ingenuity.

Although Edison is commonly heralded for his most notable achievement, the light bulb, it is astounding to examine the scope of his creativity, which is manifested in his 1,093 U.S. patents. The list is incomparable and I mention only a few:

1868: Invented electric vote recorder.

1869: Invented electric stock ticker.

1872: Invented Motograph and duplex, quadruplex, sextuplex and multiplex telegraph systems.

1874: Invented "electric pen" and manual duplicating press.

1875: Discovered "etheric force." Twelve years later this was recognized as the foundation of wireless telegraphy or radio.

Invented automatic copying machine (mimeograph).

1877: Invented telephone transmitter and microphone.

Invented the phonograph.

1878: Invented the microtasimeter, a device indicating minute heat variations by electrical means:

1879: Invented the incandescent electric light.

1880: Invented magnetic ore separator.

Invented and installed first electric railway for freight and passenger use.

1885: Invented system of wireless telegraphy for use between moving trains and railway stations as well as ship-to-shore.

1891: Invented the motion picture camera.

1896: Invented the fluoroscope, using principles of x-ray for medicine and surgery.

1899: Invented the fluorescent light.

1902: Invented the alkaline storage battery.

1903: Invented the rotary kilns for cement production.

1912: Introduced the Kinetophone (talking motion picture).

1914: Invented a method for producing synthetic carbolic acid.

Invented the Telescribe, combining the telephone and the dictating phonograph.

Patented electric safety lanterns for use by miners.

We the benefactors of these valued contributions take inspiration from the brilliance and determination of Edison's life. In his lifetime, he changed the course of our Nation's destiny and shaped a quality of life unparalleled in the world.

Like Edison, who rekindled the light of the future, this historical observance rekindles our faith and confidence in mankind and the future for generations to come. The Centennial of Light hopefully will generate a new century of produtiveness and invention in finding solutions to the challenges of the future.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. PEASE. I thank the gentleman for yielding.

Mr. Speaker, today I would like to commemorate the 100th anniversary of the invention of the incandescent light bulb and the man who invented it, Thomas Alva Edison. Thomas Edison was an inventor, industrialist, and a great individual who helped make the United States the richest and most technologically advanced Nation in the world. The electric light bulb has illuminated homes, schools, and industries in our Nation and countries throughout the world.

Thomas Edison was born in my district in Milan, Ohio, in February of 1847. He was the youngest in a family of seven children.

He always asked questions, although often he found the answer for himself. His curiosity got him into trouble a number of times. His father once found him sitting on a nest of goose eggs in the family barn trying to make them hatch; his father thought he was stupid. Once, while he was experimenting with fire, the family barn caught fire and was destroyed. He received a severe thrashing from his father.

Edison's family moved to Michigan when he was 7. After 3 months in school his teacher told him his brain was "addled" and he left. His mother taught him to read and he set up a simple laboratory at home to work on science projects. This is where he developed his great interest in electricity.

During his teens, he worked on the railroad, first as a newspaper boy and later as a telegraph operator. He loved working with the telegraph and invented several devices to improve it. All his earnings he reinvested in more inventions.

When Edison was 30, he had patents on a voting machine, stock ticker, automatic telegraph, telephone transmitter, phonograph, and numerous other inventions.

Then, Edison was presented with a new and challenging problem: The creation of the electric light and a system to deliver the electricity to homes and industries. During the fall of 1878, Edison tested his incandescent lamp with a platinum filament. The platinum filament was heated by electricity and gave off a glow. This was what Edison was after, but the platinum melted after 10 minutes.

Edison tried 1,600 different materials for a suitable alternative to the platinum filament. He finally experimented with carbon soot, mixed it with tar, and molded it into a filament. The carbon filament was inserted into the bulb and the bulb was exhausted of air. On October 11 and 12, 1879, Edison's carbon filament burned for 45 hours. It was heralded as one of the greatest discoveries of mankind.

In 1880, a year after he developed the carbon filament lamp, the Edison Electric Illuminating Co. was established to produce electric power for the city of New York. Edison's electrical system, besides providing light to homes and industries, made electricity available to machines and buildings.

Thomas Edison's genius shows that innovative ideas and hard work are essential to the solution of many problems facing our Nation. The young Edisons of today and tomorrow must be nurtured to insure that America fully develops its resources and remains an example of

creativity and ingenuity to the rest of the world.

● Mr. CARR. Mr. Speaker, among the hardware, the light bulb filaments, the patents, the meters, and the generators that can be seen at the Smithsonian's Thomas Edison display, there is an exhibit with no gadgets at all—just a message.

This exhibit explains that not everyone was enthusiastic about the race to invent a practical incandescent light. Even in the face of an advancement so uncontroversial, there were those who were ready, out of self-interest, to stand in the way. The gas companies, who at the time had a monopoly on home and street lighting, felt threatened. They fought Edison's discovery and its practical application vigorously, but in vain.

If we are to commemorate the Centennial of Light with more than a celebration (though there is much to celebrate), perhaps we can learn a lesson from this chapter in the Story of Edison.

One of our greatest technical problems now confronts us: Keeping Edison's light bulb lit. Let us be skeptical of those who decry "wacky" alternative energy sources. Let us check to see who is paying their bills. Also, let us not place all of our energy eggs in the basket of those who control its old sources. Edison did not wait for the gas companies to develop the electric light.●

● Mr. RODINO. Mr. Speaker, I want to recognize the public participation that has been happening across the country to celebrate the centennial of Thomas Edison's invention of the incandescent light bulb. I also want to join in my colleagues' tribute to this great man for his countless contributions to human advancement.

The citizens of New Jersey's 10th Congressional District which I represent and those from every part of our State have been reeducating themselves on Thomas A. Edison, his life and work and its meaning for today's society. During the past week, the New Jersey Historical Commission hosted a Thomas A. Edison Symposium on Science and Technology at the Robert Treat Hotel in Newark; the Public Service Electric and Gas Co. conducted a special ceremony in Military Park, Newark, commemorating a "century of light;" and the Newark Public Library opened a new exhibit on the great inventor and his work.

Mr. Speaker, New Jersey's involvement in the Centennial of Light celebration is well-founded, for in the town of Menlo Park, just 15 miles from Newark, Thomas Edison worked night and day to unfold the mysteries of electric current. It was there, in 1879, that he invented the incandescent light bulb and then worked to perfect it.

Edison came to Newark in 1871, and started two factories to make laboratory supplies for his inventions. These factories were instrumental in his over 1,000 inventions which included the electric power system, the phonograph, motion pictures, the storage battery, and the mimeograph that have helped to enrich the lives of generations.

After he had made the light bulb a practical commodity, he opened his first lamp factory in 1881 in East Newark, just across the Passaic River from the city of Newark. That town, now known as Harrison, remains a home for industry in a region that has become America's industrial center, due to the ongoing development of Edison's inventions.

The State of New Jersey continues to honor this great American not only for his inventions which changed the way we all live on this planet, but for his inspiration that there are answers to our most difficult problems. Edison found answers to help his fellow man through courage, thought and perseverance. One-hundred years later, the same formula can be used to solve our problems.

Mr. Speaker, I am proud of New Jersey's continuing commitment to the lessons of Thomas Edison, and I am happy to join my colleagues in this public salute to another century of scientific initiative.●

● Mr. ROE. Mr. Speaker, I take great pleasure today in saluting the genius of Thomas Alva Edison during the 100th anniversary celebration of the invention of the incandescent electric light.

I join with the people of New Jersey who, like myself, take special pride in the fact that Edison's historic achievement took place in a small laboratory in Menlo Park, N.J. To this day, Edison, who must be recognized as America's greatest inventive mind, is referred to as "the Wizard of Menlo Park."

Soon after his invention of the electric light, Edison moved to a more modern and larger laboratory in West Orange, N.J., where he later developed the motion picture camera, which like the light bulb, would also have a far reaching effect on modern society. Among his other achievements at the West Orange lab were the invention of the storage battery, a cement mixer, the dictaphone, a duplicating machine and a method of making synthetic rubber from goldenrod plants.

Edison's achievements in New Jersey were recognized in 1956 when President Dwight D. Eisenhower signed a proclamation making Edison's research laboratory in West Orange a national monument. Glenmont, Edison's home in West Orange, became part of that monument in 1959. In 1962, both were redesignated as the Edison National Historic Site, under the management of the National Park Service.

Edison was very concerned with energy related matters. His major contribution to the world, the electric light, was further enhanced through his development of the world's first electric power station, making electricity available to millions of people for the first time.

It is most appropriate that we celebrate the genius of Edison at this time in our history when America faces an energy crisis that is the greatest threat to its survival since the Revolutionary War. Edison defined genius as "1 percent inspiration and 99 percent perspiration." We must take hold of that spirit in our efforts to alleviate the stranglehold being placed on this great Nation by the greed of the oil producing nations. Edison's determination to find answers to problems should be an inspiration to this Congress as it seeks to find a way to once again make America an energy-self-sufficient Nation.●

● Mr. CLINGER. Mr. Speaker, I rise in recognition of one of the great, seminal thinkers and inventors in the history of the American Republic—Thomas Alva Edison.

Unlike most of my colleagues, however, my remarks this afternoon will not focus on Mr. Edison's extraordinary and unparalleled contributions to American technology. Instead, I would like to acknowledge Mr. Edison's intimate association with the Chautauqua Institute, Chautauqua, N.Y.

Mr. Speaker, it is entirely appropriate that Thomas Edison and the Chautauqua Institute be commemorated together. Edison married the daughter of one of Chautauqua's principal founders, Mr. Louis Miller, and often spent his summers along the shores of Chautauqua Lake. Indeed, the "Wizard of Menlo Park" was an integral part of the early years of the institute; he remained one of Chautauqua's biggest benefactors well into the 20th century.

Both Edison and Chautauqua flourished in the aftermath of the American Civil War. As Edison sought to advance American society through technological invention, so Chautauqua sought to refine American culture through intellectual and spiritual yearning. Thomas Alva Edison embodies the genius of 19th century American industrialization; by the same token, Chautauqua embodies the reawakening of the American conscience.

It goes without saying that both Edison and Chautauqua contributed enormously to the legacy of modern America. Our magnificent heritage would not be the same without either one of them. Like Edison, my family and I are enamored of the Chautauqua Institute. For years now, the Clingers have literally grown up at Chautauqua; like the Edison family, the Clinger family is deeply indebted to Chautauqua.

Mr. Speaker, it has been my privilege to praise both Thomas Alva Edison and the institution with whom he had a unique and lasting liaison—Chautauqua.●

● Mr. STANGELAND. Mr. Speaker, the United States of America has been made great by people like Thomas Alva Edison, and it is an honor and a real pleasure to salute this distinguished gentleman who had such a tremendous impact on the lifestyle of people all over the world. He had one of the greatest minds to ever bless this country and his uncanny ability to visualize a concept and later put it into being was extraordinary and will probably never be duplicated. We owe so

much to this gentleman who labored in his workshop to develop so many of the things we now take for granted. I think we should all be honored to know that the accomplishments of Thomas Edison, a truly great American, will be remembered and enjoyed for centuries to come. This is a true example of how the freedom we enjoy permits those who are creative to think and work to benefit all mankind.●

● Mr. McCLORY. Mr. Speaker, there are two reasons why it is appropriate for us to honor Thomas Alva Edison on the occasion of the 100th anniversary of his invention of the incandescent light bulb.

We honor him first for the enormous number and range of his inventions. While America has had other great inventors, the prodigality of Edison's inventive genius puts him clearly in a class by himself. With 1,093 patents to his name, Edison easily holds the record for most patents held by a single individual.

And the fields in which Edison did his greatest work—electricity and the reproduction and transmission of light and sound—have formed the foundation for vast new industries in electronics, in communications, and in information processing, which are continuing to change the technology of our society in revolutionary ways.

Mr. Speaker, there is a second reason why we should honor Thomas Edison. When we think of those qualities of personal nature which we believe to be characteristically American, we think of such qualities as persistence, diligence, and practical imagination, which Thomas Edison symbolized to a high degree. Edison once said that genius was 99 percent perspiration and 1 percent inspiration. In his case, at least, this was surely an exaggeration since, in addition to a capacity for hard work, Edison had to an extraordinary degree the American talent for practical know-how, for making things work, for finding new solutions to old problems. He was a tinkerer and a fixer and he was never satisfied that a thing could not be improved on.

Mr. Speaker, throughout this year, the International Committee for the Centennial of Light has engaged itself in bringing to the attention of the public, both here and around the world, the many legacies of Thomas Edison. Two of my constituents serve on that committee. They are Mr. William T. Ylvisaker, chairman and chief executive officer of Gould, Inc., and Mr. Albert B. Dick III, the chairman of A. B. Dick Co. Mr. Dick has special reason to appreciate Edison's inventive genius, since the early history of A. B. Dick Co. was closely connected with an Edison invention, the Edison mimeograph.

Mr. Speaker, I join with them and with my colleagues in honoring America's greatest inventor, Thomas Alva Edison.●

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

JOHN W. WYDLER BEFORE THE AMERICAN INSTITUTE OF PHYSICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 15 minutes.

● Mr. GOLDWATER. Mr. Speaker, my good friend the ranking minority member of the Committee on Science and Technology, JOHN W. WYDLER of New York, gave a particularly interesting speech this month to the corporate associates group of the American Institute of Physics in Schenectady, N.Y.

Mr. WYDLER called for participation of the scientists and technologists in the public education process so that our citizens can obtain objective views of the real risk of energy technologies. Mr. WYDLER's comments on the difference between the administration and the Congress on nuclear policy are particularly informative.

I recommend his speech as required reading on U.S. energy policy:

SCIENCE AND THE PUBLIC TRUST

I speak to you tonight as a layman without extensive scientific training and I speak to you as a legislator that knows he needs your help. More important—the country needs your help. One of the most controversial aspects of our national energy policy revolves around the question of public trust. Public pressure results in political decisions that often ignore the scientific fact because the public is uninformed or misinformed. The public must be informed and it is your responsibility—and opportunity—to play an important role.

The question of public trust is dramatized, and the public's sensitivity to such issues is heightened, when technology moves from the research laboratory into the arena of demonstration, development and operation. A good example is the public reaction to the recent Three Mile Island nuclear accident. Public confidence in the nuclear physicist was not at all affected. But many of the people interviewed since TMI have indicated reservations about nuclear engineering.

The environmental effects of a technology do not become controversial until the government or industry is ready to demonstrate and utilize the technology. The Clinch River Breeder Reactor is striking proof of this fact. As long as the breeder concept was explored on a small scale, and on an experimental basis the environmentalists did not show great concern. But, when government and industry proposed to build a breeder plant which would actually generate 375 megawatts of electrical power, then the "hue and cry" resounded from the no-growth camp.

Such breakdowns of public trust adversely affect the formulation of national energy policy. The public perception of advanced technology must be improved to develop the public trust that will permit technology demonstration, without which all research is an academic exercise.

Strong national leadership and responsible public education are key requirements for maintaining public trust in science and technology. Without them, the citizenry can be subjected to scare stories with no foundation in reality. Such distortions misinform the public and distort the facts about the country's technological choices.

The broader question, of course, is whether this country will continue, as some perceptive technologists have recently noted, "to believe that science and technology have continually pushed the limitations of man's ability to live in the circumstances provided by nature" and that "there arts can continue to do so." Sustaining this belief will require public education to dispel current apprehensions about perceived negative impacts of science and technology.

In other words, how well we handle the public trust question in energy may determine our prospects for reaping future fruits from promising advanced technologies. Without public acceptance, technology will wither—and science will suffer. Whether we advocate nuclear fission or magnetic fusion power, we are all in this together. We are squared off against people who feel that any central power generation is morally wrong.

Let me cite a major instance of national energy policy where—based on gross misperceptions of real risks—the Administration decided to forsake advanced technology. They made this unfortunate choice chiefly on a visceral basis without any real comparative study. And in doing so, they contributed to the huge gap between perception and reality.

Just as technology historically has enabled man to tap increasingly large resources, the breeder reactor provides an avenue to a virtually limitless energy using natural uranium. However, the present Administration has steadfastly refused to make a commitment to demonstrate breeder reactor technology as a reasonable insurance policy on our energy future. It talks "solar" and "conservation" because they are sugar-coated words without adverse public reaction.

"Perceived risk" was cited as a major factor in the President's position on the Breeder. He began with a stated concern about the proliferation aspects of breeder technology and reprocessing. Although he has since given other reasons for killing the Clinch River Project, the President's rationale was first adopted in response to strong environmental pressures. His view is based on the assumption that the international community cannot arrive at a combination of proper technical fixes and collective safeguard agreements to minimize proliferation risks even within several decades.

In the near-term nuclear arena, the recent Three Mile Island accident is now serving as a reason for delaying rapid deployment of light water reactors. Certainly public perception of the consequences of a catastrophic nuclear accident calls for enhanced safety measures. Unfortunately, there is a climate of mistrust surrounding the nuclear industry since the early days of government involvement and this public perception has recently been exploited by nuclear opponents. The distorted picture which is displayed to the public may even have reduced the chances of using the accident results in a positive way so that nuclear safety can be improved.

We have heard calls for a nuclear moratorium in various states, including our great State of New York, based on the same unreasoned fear which the anti-nuclear zealots have shown and the Administration has reinforced. In addition to safety, the anti-nuclear critics have continued to use the nuclear waste management issue with great effectiveness. The Administration again has compounded the felony by refusing to state reasonable goals for terminal isolation of nuclear waste.

Anti-nuclear governors have seized upon this indecisiveness as a major reason for foreclosing the nuclear option. And yet the over-

whelming facts are that in disposing of nuclear waste we have nothing to fear but fear itself.

It has become clear to us on the Committee on Science and Technology that a combination of sound waste treatment technology and careful geology can achieve reasonable terminal isolation goals. The Administration's mishandled study by the Interagency Review Group on waste management not only failed to stress the past federal experience in handling nuclear waste, but also left ambiguous the question of what really constitutes adequate isolation of nuclear waste. The average man thinks the problem is insoluble, while Edward Teller describes it as a non-problem.

The man in the street can hardly feel confident about the nuclear option when officials at the highest levels of government have provided such a warped and cloudy view of the real risks of the technology, and the President seems afraid to mention the word nuclear.

A classic case where we are just beginning to see efforts to kill a technology by creating public distrust is magnetic fusion energy. The Union of Concerned Scientists recently showed us "the tip of the iceberg" when they voiced concern about tritium as a fuel for fusion reactors.

I have been warning the fusion community for the past two years to expect increasing environmental "flak" as this concept moves into the technology development phase. I predict that, once it is announced that a fusion plant is to be built to demonstrate the technology in an integrated fashion and to generate electricity, then the attack will begin in dead earnest. It happened to Clinch River. It will happen to magnetic fusion. And I even predict it will happen to solar energy if and when it really becomes productive. Already attacks on the Solar Satellite are heard in Congress on environmental grounds.

The public will be told that tritium is the most sinister substance known to man—even more sinister than that devilish substance plutonium—and that fusion also raises proliferation concerns. The environmentalists will stress the technical possibility of a fission/fusion hybrid machine and the prodigious amounts of plutonium such a device would be capable of generating.

So will go the attack.

My warning is simple: the fusion community must begin now to counter all of these criticisms and emphasize the inherent safety of their reactors so that the public develops substantial trust in the concept. Some of the breeder reactor controversy could have been avoided if that sector of the fission community had laid more extensive ground work in informing the public on real and perceived proliferation concerns.

Realistically, of course, the approach taken in educating the public on these topics can slant public perception one way or another. The desire to sensationalize will always be present and we must assume that the real story will be distorted. Thus, we must utilize the devil's advocacy approach to work out rational counterpoints early in the game.

The most important ingredient to public trust in science and technology is the public perception of the scientist or technologist. Also, we must realize that, although the citizenry may hold the scientist in high regard, the technologist will undoubtedly come under suspicion whenever it appears that developed technology will affect the citizen in an adverse way. This may involve overlooking the obvious benefits of technology and focusing on its perceived environmental impacts or on safety concerns surrounding its use.

The bottom line is that strong leadership and responsible information which give the people the facts are absolute requirements if the public is to retain trust in science and technology. Public education must not be based on perceived risks which are misinterpreted by the extremists, but must be founded on the real technological risks derived from systematic comparisons of alternatives.

We have seen an extreme perception gap in nuclear power and the Administration is allowing it to grow. It would be fair to say the government should lead, but it will not. Politics will ensure a split voice or forked tongue—the media will stress the negative, and the decision will hang in the balance.

The public still trusts the scientists and that, for you, is both a burden and an opportunity. You must fill the perception gap with responsible public education because the citizenry will look to you for the facts.

Every scientist involved in the future of energy has a common stake in this battle for the minds of our citizens.

It will be little comfort if the fusion program grows, while the breeder program is killed. That would simply make fusion the next battleground. Science is merely a means to an end. The scientific community must mobilize its forces to educate the public.

As a nation, we must continue to believe that complex technology can be controlled and we must go forward with its development. Otherwise, technology will be curtailed all the way back to the laboratory bench.

I have been informed of both your visiting scientist program and the American Physical Society's visiting physicist program to provide hands-on experience to university scientists in an industrial environment. These are positive, proper activities for your organizations and I commend you.

It seems to me, however, that you must do more. A program intended to provide industrial lecturers to present the real costs and benefits of energy technology would be a natural extension of your existing programs. It would be logical for you, the AIP Corporate Associates, to sponsor such an information program. The AIP would make the decisions on lecturers and schedules and could provide a list of available lecturers and suggested topics to universities.

This would be a supplement to your existing programs. But just as important, as individuals and in your corporate capacities, you must expand your efforts in carrying the message to the American people. As scientists, you can present the facts about energy technologies.

You must insist that technologies be compared on an objective basis. You must use every reasonable mechanism of public education to push for reasonable choices.

Public education is your duty. Don't shrink from it. The future of America's technology and progress is at stake.●

COTTON, INC. RAISES QUESTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, following is a list of questions which I believe must be answered in order to dispel the cloud of suspicion which currently engulfs the cotton research and promotion program. Each day new evidence of impropriety surfaces. So desperate is the situation that the Inspector General of USDA concluded his recent report on the program with this terse statement:

Should all affected parties fail to address and resolve the issues and improve communications and information exchanges, we concluded that an option may be for the USDA to seek repeal or amendment of the Cotton Research and Promotion Act, removing the Federal Government from the program, and returning to a producer controlled voluntary program.

Recent evidence of conflict of interest that has come to light since the report was issued includes:

Discovery that the company owned by L. Don Anderson, the chairman of the Cotton Board which is charged with overseeing Cotton, Inc.'s budget and activities, sold between $4 and $5 million worth of cotton to foreign textile mills based upon side information obtained from Cotton, Inc.

The fact that a current member of the Cotton, Inc. executive committee and a former board member of Cotton, Inc. also sold millions of dollars worth of cotton based on inside tips provided by the Cotton, Inc. staff.

Documented in the USDA Inspector General's report and Cotton, Inc. internal memoranda are other examples of improprieties by Cotton, Inc. including:

Evasion by Dukes Wooters of the congressionally imposed limit on his salary.

Contribution of funds to the National Cotton Council in violation of a USDA General Counsel's memorandum advising against such contributions and contrary to a congressional prohibition against participation by Cotton, Inc. in any cotton referendum.

Encouraging the Cotton Board to violate the congressional prohibition against divulging the names of producers who request refunds.

Use of check-off funds to hire private detectives to harass Cotton, Inc. employees by ordering them to take lie detector and fingerprint tests.

Use of public and check-off funds for frivolous and unnecessary purposes, for example, a trip to the Olympics, football games, airfare on the Condorde, et cetera.

Throughout a decade of mismanagement, USDA has stood by as a silent partner in this whole affair.

There is more, much more, but I am certain my colleagues have the picture by now. Therefore, I have requested that the Agriculture Committee hold hearings to determine the full extent of impropriety, conflict of interest, mismanagement and waste of taxpayers and cotton growers funds that has plagued this program. It is time for Congress to give USDA unquestioned authority over the expenditure of funds under the cotton check-off program.

QUESTIONS FOR ASSISTANT SECRETARY BOBBY SMITH

(Numbers in ( ) refer to pages of the Inspector General's report.)

1. You are aware of the sale by Mr. Anderson's company of more than 15,000 bales of cotton as a result of inside tips from Cotton, Inc.

Mr. Anderson has more than just an appearance of a conflict of interest—he has actually had the opportunity to line his pocket based upon inside tips given to his firm by Cotton, Inc., information which instead

should have been shared with all cotton producers.

You have been quoted in the press as stating, "Certainly, on the surface, this would indicate there could be a conflict of interest on Anderson's part." Will you recommend to the Secretary that Mr. Anderson be removed from the Cotton Board? Is Mr. Anderson being considered for reappointment to the Cotton Board? Wouldn't any employee of the Department of Agriculture who has even the appearance of such a flagrant conflict of interest be summarily dismissed?

2. Can you expect Congress, cotton producers, or the American people to believe that you are committed to cleaning up the mess at Cotton, Inc. when the man you put in charge of that task has such a flagrant conflict of interest as has Mr. Anderson?

On January 22, 1979 Dan Davis was appointed to the Cotton Board, presumably at your recommendation. Less than six months previously Mr. Davis was suspended from trading on the commodity futures market by the Commodity Futures Trading Commission because he was found to have manipulated cotton prices. Can you expect a man like that to help clean up the mess at Cotton, Inc.?

4. You were on the Cotton, Inc. board of directors when the board worked out its arrangement with the Boswell Company to supplement Wooters income above the statutory limit by using refunds of the cotton check-off program. Were you aware at any time that such an arrangement was under consideration?

5. The Inspector General reports that "In August, 1977 the Department significantly reduced its budget review process" of Cotton, Inc. Did you or anyone else at USDA participate in that decision? Who? Why was it made?

6. The Inspector General quotes the General Counsel of USDA as follows: "Whether these particular projects [in the 1978 budget] are proper or suitable projects for the program . . . are matters for initial administrative determination." Did you or anyone else at USDA participate in the decision to approve the 1978 budget for Cotton, Inc.? (17)

7. Did you participate in the change in regulations which gave Cotton, Inc. and Cotton Board members the right to participate in activities of the National Cotton Council as it attempted to drum up support for the cotton referendum? (37)

8. When did you begin work at the Department and when did you finally relinquish your seat on the board of directors of Cotton, Inc.?

Wasn't there approximately a six-month overlap? If so, did that present you with a conflict of interest? Were any of the decisions in questions 5–7 made during that period?

9. In 1975 the Inspector General concluded: "The Cotton Board needed to exercise additional oversight of Cotton, Inc. activities." (21)

In 1976 an independent study of Cotton, Inc. authorized by USDA concluded: "During the years which the Cotton Board has administered the cotton research and promotion order it has not exercised sufficient control, in our judgment, over the activities and expenditures of Cotton, Inc." (19)

In 1979 the Inspector General concluded: "Departmental involvement in the affairs of Cotton, Inc. was reduced in 1976 with the transfer of major oversight responsibilities to the Cotton Board and the discontinuance of departmental budget review committees. However, the Cotton Board has not effectively carried out these added responsibilities." (5)

The Inspector General also concluded that the Cotton Board "may not have the expertise in certain areas to adequately rule on the propriety of Cotton, Inc.'s research and promotion projects." (18)

With such an abysmal record concerning oversight, and with leadership that has such a checkered past, how can you justify giving the Cotton Board responsibility for cleaning up the mess at Cotton, Inc.?

10. Will a formal committee be appointed within the Agricultural Marketing Service to review Cotton, Inc. budgets as occurred prior to 1978 and as recommended by the Inspector General in his report? (11)

11. Will the Department insist that Cotton, Inc. combine its "own funds" with producers check-off funds in one account with all expenditures from that account subject to the approval of the Department of Agriculture? (29) (24)

12. Did Cotton, Inc. violate the law (7 USC 2106) when it gave funds to the National Cotton Council for supporting the cotton referendum in 1977? The General Counsel of USDA issued an opinion recommending that Cotton, Inc. not contribute its funds to the National Cotton Council. What steps did USDA take to insure that Cotton, Inc. abided by the General Counsel's opinion and did not violate the law? (36)

13. Did the fact that the Cotton Board divulged names of those requesting refunds to non-employees of the Cotton Board constitute a violation of law? Please provide me with the names of the part-time Cotton Board employees and any others who received this confidential information. (33)

14. Did the Joint Producer Information Committee, formed in February, 1978, have access to names of those cotton producers requesting refunds? (31)

15. The Cotton Board set aside 25 percent of its 1979 budget for the purposes of reducing refund requests. If that money were instead used to supervise Cotton, Inc. so that it did not generate so much bad publicity, refunds would automatically go down. Should the Cotton Board be permitted to use its funds for the purpose of reducing refund requests? The Inspector General recommends that Cotton, Inc. not use its budget for disseminating information or trying to reduce refund requests. (34) Will the Department insist that Cotton, Inc. abide by this recommendation?

16. Will the Department take whatever steps are required, including initiating or recommending the initiation of a law suit, to establish ownership of the Vapor-Phase Process, as the Inspector General recommends? (40)

17. The Inspector General reports that Cotton, Inc. provided "five items of information to the J. G. Boswell Company [which] resulted in one sale of 12,000 bales of cotton and a commitment of 12,000 additional bales." James Fisher, Boswell's Executive Vice President, is a member of the Executive Committee of Cotton, Inc. Do you believe it is appropriate for Fisher/Boswell to receive these inside tips, which result in the sale of millions of dollars worth of cotton, when the knowledge of these foreign sales opportunities is derived through the expenditure of cotton check-off funds provided by all cotton farmers?

18. The Inspector General reports that Cotton, Inc. also provided inside tips to Keith Walden, a former member of CPI and a member of the Board of Directors of Cotton, Inc. until 1972. The Inspector General states "12 referrals resulted in 30 shipments or commitments for a total of 13,941 bales of cotton between 1/77 and 4/79." Do you believe this kind of inside dealing is appropriate?

19. Was the issue of any conflict of interest that you may have had as a result of your membership on the Cotton, Inc. Board discussed in any internal memoranda? Please provide copies to me.

QUESTIONS FOR L. DON ANDERSON CHAIRMAN OF THE COTTON BOARD

1. The Inspector General has provided me with evidence of six inside tips your company received from Cotton, Inc. which resulted in the sale of more than 15,000 cotton bales through your company to foreign mills during the period of October, 1978 to June, 1979. What was your company's gross receipt for that cotton? What was your company's profit?

While you have been a member of the Cotton Board, have there been any other sales opportunity referrals for your firm from Cotton, Inc.? Describe them.

One of these inside tips which your firm received carried the notation at the bottom: "Will release this information to American Cotton Shippers late next week." Thus, your firm knew that you were being given preferential treatment well ahead of all other cotton producers.

2. Do you think it is proper for Cotton, Inc. to give your company these inside tips on cotton sales when the knowledge of these sales opportunities results from their activities which are funded entirely from check-off funds contributed by all cotton producers? Should your firm get a special advantage over other cotton producers?

3. As the person designated by Secretary Bergland as the chief watchdog of Cotton, Inc. and the person responsible for approving all of their expenditures, all of their activities, and their entire annual budget, how do you expect anyone to think you can maintain your objectivity when you have the opportunity to make thousands of dollars from inside tips which Cotton, Inc. gives your firm? Isn't this an enormous conflict of interest which would result in the immediate dismissal of any federal employee?

4. What is the name of the first individual at the Department of Agriculture who informed you, either directly or indirectly, of my request of October 17 for information in the Department's files concerning sales opportunity referrals from Cotton, Inc. to your firm?

5. When did you first learn that an arrangement was under consideration or had been made which effectively evaded the Congressional limitation on Mr. Wooters' salary by using a portion of Boswell's check-off funds to supplement Wooters' salary?

6. Were you aware of the Cotton Board's program of providing the names of producers requesting refunds to non-employees of the Cotton Board so that they could "educate" these producers and put pressure on them not to request refunds in the future? When did this practice stop? I have a letter dated August 28, 1978 from the manager of the Cotton Board, E. C. Gillespie, indicating that names were being divulged in violation of law even at that late date. (29–35)

7. Is it a violation of law to divulge information about refund requests to non-Cotton Board employees? (6)

8. Do you approve of Mr. Wooters' use of check-off funds to hire two private detectives to spy on Cotton, Inc. employees, demand that they take lie detector tests, and harass them so that ultimately two were forced to leave Cotton, Inc.?

9. Did you approve of the lavish fringe benefits accorded to Mr. Wooters and other top Cotton, Inc. executives, such as: use of automobiles, payment of club dues, payment for babysitting services, providing in-town accommodations, first-class travel and travel on the Concorde, payment of wives travel expenses, and a pension program that does not peg years of service to benefits re-

ceived? (43, 61) What steps have been taken to eliminate these lavish benefits as the Inspector General recommends? (42–45)

QUESTIONS FOR L. C. UNFRED, ACTING CHAIRMAN OF THE COTTON, INC., BOARD OF DIRECTORS

1. According to the Inspector General's report, when foreign buyers were brought to the United States, they were generally taken to see three specific producer/suppliers. (55) What are the names of the three producer/suppliers?

2. The Inspector General reports that Cotton, Inc. prepared background papers on two cotton producers which were then given to a European textile executive, and that these background papers "could be interpreted as Cotton, Inc.'s endorsement." Who were the two producers upon which you prepared background papers? (56)

3. The Inspector General states that Cotton, Inc. discourages using the Raleigh testing facility by producers who want to test their cotton, but that "a considerable number of such tests were conducted for one producer." (65) Who was the producer? Is this the same producer whose cotton was used in 4,830 of the 7,106 samples tested by Cotton, Inc.? (66) Was this producer's cotton stored in Cotton, Inc. warehouses? What is the current per bale charge for testing at the Cotton, Inc. facility?

4. The Inspector General states that Cotton, Inc. helped "a major U.S. supplier" take foreign sales away from another U.S. supplier. (72) Which U.S. supplier benefited when the foreign mill switched from one supplier to another? Which supplier lost out? (71)

5. Does Cotton, Inc. think it is appropriate to use the check-off money derived from all cotton farmers to benefit only these few cotton producers?

6. In your response to the subcommittee's letter, you stated "As a matter of company policy, procedures of this sort [that is, referrals of foreign sales opportunities] have been terminated since a year ago [that would be September of 1978]." However, Mr. Anderson's firm received six of these inside tips from Cotton, Inc. between October, 1978 and June, 1979 and sold 15,000 bales of cotton as a result. J. G. Boswell also received inside tips after September, 1978, one of which acknowledged that "their price may be too high . . . and possibly a merchant could ship at a less expensive price."

Did Cotton, Inc. lie to Congress? If this part of the Cotton, Inc. response to Congress is inaccurate, how can we be certain that other parts are not filled with inaccuracies?

7. Has Cotton, Inc. given similar inside tips and special advantages to other members of the Cotton, Inc. board of directors? Do you think it is proper for Cotton, Inc. to use check-off money derived from all cotton farmers to benefit the members of its board of directors to the exclusion of the cotton farmers who provide the money?

8. In your response to the subcommittee's letter, you stated "a single employee [of Cotton, Inc.] was asked if he would volunteer to take a polygraph test. When he declined, as was his privilege, the matter was dropped." In fact, at least four employees were asked to take polygraph or voice stress examinations—George Slater, Herbert Willcut, William Eickhoff, and a secretary. All declined. Yet the matter was not dropped. Employees were asked on two succeeding days to take polygraph or voice stress examinations and to submit to fingerprint tests. All refused. Did Cotton, Inc. lie to Congress? If this part of the Cotton, Inc. response to Congress is inaccurate, how can we be certain that other parts are not filled with inaccuracies?

9. Will Cotton, Inc., in the future, voluntarily release detailed budget and expenditure information, not only to the Cotton Board and the Department of Agriculture, but also to members of the House Agriculture Committee who request it? (18)

10. Is Cotton, Inc. charging itself rent for the Neal Street testing facility? Is this rent being paid from producers' check-off funds? Is this rent, together with rent from other leasors, being deposited in Cotton, Inc. "own funds"? (26)

11. Is income generated from patents, royalties, rents, earned interest, and all other sources returned to the Cotton Board or instead deposited in Cotton, Inc.'s "own funds" account? (41) Is not some of this income, if not most of it, derived, at least in part, from the expenditure of producer check-off funds?

12. The Inspector General recommends that Cotton, Inc.'s "own funds" be melded with check-off funds and that expenditure of all funds in the future be subject to approval of the Department of Agriculture. Will you abide by that recommendation? (29)

13. Has Cotton, Inc. provided the itemized listing of Cotton Producers Institute funds and check-off funds used in the development of Vapor/Phase process patents? Please send me a copy of the itemized list. (39)

14. Do you approve of Mr. Wooters' use of check-off funds to hire two private detectives to spy on Cotton, Inc. employees, demand that they take lie detector tests, and harass them so that ultimately two were forced to leave Cotton, Inc.?

15. Were you aware of the arrangement between Mr. Wooters and executive of the J. G. Boswell Company which effectively evaded the Congressional limitation on Mr. Wooters' salary by using a portion of Boswell's checkoff funds to supplement Wooters' salary?

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, due to official business I was not present for rollcall No. 611 on Friday. If I had been present, I would have voted "yes" on House passage of H.R. 1885, to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, due to a longstanding commitment in my congressional district—the 50th anniversary of the Boston College Law School—I was unavoidably absent from the House during the afternoon of Friday, October 26.

Had I been present, I would have voted as follows: "Yea" on rollcall No. 607, the rule providing for the consideration of H.R. 2313, authorizing appropriations to the Federal Trade Commission; "yea" on rollcall No. 608, the rule providing for the consideration of H.R. 4167, a bill to increase milk price supports; "yea" on rollcall No. 609, the conference report to accompany H.R. 4387, making appropriations to the Department of Agriculture and related agencies for fiscal year 1980; "no" on rollcall No. 610, the conference report to accompany S. 428, authorizing appropriations to the Department of Defense for fiscal year 1980; and "yea" on rollcall No. 611, providing retirement preference for certain employees of the Bureau of Indian Affairs.●

HEALTH COST RESTRAINT ACT OF 1979: H.R. 5740

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, under the special order granted me today, I am pleased to provide information to my colleagues in the House and to those who read the CONGRESSIONAL RECORD on the very significant Health Cost Restraint Act of 1979 which I have introduced today. I am including at this point a series of documents which describe the proposal which I have introduced.

STATEMENT OF REPRESENTATIVE AL ULLMAN UPON INTRODUCTION OF THE "HEALTH COST RESTRAINT ACT OF 1979," H.R. 5740

Over the last decade, America's health bill has more than tripled—from $60.6 billion in 1968 to $192.4 billion last year. For every dollar of GNP, we're spending almost a dime for health care. Last year's annual jump was 13.2 per cent. This year's increase will be greater.

These are staggering statistics on paper. But in reality, most employees and employers are rarely faced with the actual cost of health insurance. The cost of America's health care is virtually invisible—"someone else pays."

The national debate on health has recently centered on health insurance for everyone. Certainly, most workers and their families would be protected. The cost to the taxpayer would rise billions of dollars. In the end, though, the illusion of "free" health care—paid by the government or an insurance company—will remain.

In short, we have come to expect almost unlimited health benefits at almost any price. National health insurance may give us more health insurance, but it certainly won't give us more health insurance for our dollar.

President Carter has asked Congress to initiate standby penalties for hospitals that don't hold cost increases to a national minimum. I support his goal, but the regulatory club only falls on one segment of the health cost system.

If we want to tie down health costs in this country, we must work back to the first step in the financing chain—the benefit package, and the incentives to increase its size.

That means asking consumers to take a look at exactly what the "last dollar" of health insurance really buys—and whether it is best spent elsewhere. That means forcing the consumer, the doctor, the hospital, and the insurance company to consider the wide range of health benefits and their price tags—and then decide exactly how much health protection a worker wants for his dollar.

To that end, I am introducing the Health Cost Restraint Act of 1979.

The proposal restructures the financing of our health care industry. It encourages competition within the health industry to offer more economic policies. It would check and stabilize the rising proportion of the GNP spent on health. By modest estimates, the proposal will reduce health care spending by more than $3 billion a year in 1984.

My plan is not a national health insurance proposal. It does not mandate broader health protection. It does not increase the layer of benefits. Nor does it cost the Federal government one added dollar.

The major cost constraint in my proposal imposes a limit on the tax free premium that an employer can contribute to a health plan.

Today, employee health benefits provided by the employer—whether direct payments or insurance policies—are not treated as taxable income to the employee. Moreover, the tax subsidy has no limit. Thus, employees would rather have a dollar of health insurance than a dollar of wages. While this tax incentive is largely responsible for the dramatic improvement in heatlh insurance coverage in this country over the last 30 years—it has also encouraged employees and employers to select the most expensive and comprehensive insurance available. Most employees today want "first dollar" coverage. That means health care without ever opening a checkbook. They never see a doctor's bill or a hospital check-out sheet. Health care is paid for by an invisible "third party."

With an increasing demand for more benefits covered by virtually automatic insurance payments, today's health finance system holds little incentive for anyone—including doctors and hospitals—to hold down costs.

By putting a cap on the tax free portion that an employer can contribute to an employee health plan, we can halt the runaway demand for expanding health benefits. The $120 monthly limit is sufficient to cover comprehensive care through a traditional insurance policy with modest deductibles or copayments—as well as a health maintenance organization (HMO). The limit will encourage employees to look for better buys in the insurance market and more carefully examine whether insurance for dental work, eye care, and prescription drugs is worth the extra expense.

If they choose a plan that costs more than the employer's $120 fixed contribution, they would pay the difference themselves. If they choose a plan that costs less than the employer's contribution, they would receive the difference in cash. If, for instance, employees wanted a low option plan costing $80, they would receive the $40 difference in their pay.

A second cost restraint in the bill requires employers to offer a low-cost health plan with consumer cost-sharing, or an HMO—as well as a traditional full-benefit insurance policy. Given today's tax structure, the employee is rarely given a choice of a low cost option that contains a comprehensive set of benefits.

Over the years, the employee has come to demand extraordinary health coverage as a national right. Rarely has he been forced to choose between a dollar spent on health and a dollar spent on something else. Consequently, today's health system has built-in incentives for doctors and hospitals to increase costs. They enjoy the finest billing system one could theoretically design. It reimburses all costs. The higher the fee, the more revenue that quietly flows from the employer and his insurance company. The patient and his doctor have no incentive to carefully choose the most economical approach to good care.

The emergence of HMO's has demonstrated that high quality, comprehensive health care can be provided at less expense than a traditional indemnity plan which relies on "fee for service" reimbursement. This new and efficient delivery concept eliminates the excuse for an open-ended tax subsidy for less efficient health plans.

Studies of private health plans that require even modest cost sharing by the employer—whether co-payments or deductibles—reveal discriminating use of health services. As cost sharing becomes wider spread, the selection of costlier benefits will certainly be determined by economy, rather than popularity.

In summary, my proposal strikes at several areas. It will reverse the incentives created by our tax system to select the most expensive health care coverage. It will create incentives for employees and employers to choose plans that contain cost incentive features. It will encourage, and ultimately force, employers to offer their employees a choice between plans that are prepaid and plans with substantial co-payment features. Unions and employers can work together to establish broad prepaid plans with substantial cost-reducing capability.

This proposal does not force anyone to join prepaid plans. It does not end the tax subsidy for medical care. It simply encourages competition. Ultimately, it would encourage doctors to form alternative health care delivery systems and actively compete in the marketplace for the patronage of employee groups.

SUMMARY OF THE HEALTH COST RESTRAINT ACT OF 1979

I. PROPOSED CHANGES TO TAX LAW

A. For all health plans a dollar limitation ($120 for family coverage) would be placed on the employer contribution to a health plan which is excluded from the employee's gross income;

B. In the case where the cost of any option offered under a health plan exceeds a trigger point ($75 for family coverage) the plan would have to meet certain requirements:

(a) the plan would be required to offer the choice of either an HMO (health maintenance organization) or a low cost option as an alternative to the higher cost option,

(b) all options under the plan would be required to provide specified minimum coverage, and

(c) the employer contribution to a health plan could not depend upon the option chosen by the employee.

If the above three requirements were not met, all employer contributions to health plans would be included in the employee's gross income.

II. PROPOSED CHANGES TO THE HMO ACT

Amend the HMO Act to allow more prepaid health plans to qualify for the mandatory dual choice provisions.

III. PROPOSED CHANGES TO MEDICARE

Modify reimbursement to HMO so that Medicare would pay on a prospective capitation basis 95 percent of the cost Medicare would otherwise incur in a geographic area in providing benefits to enrollees.

IV. PROPOSED CHANGES TO MEDICAID

Mandate a demonstration project of alternative health care delivery systems for the low income population.

EXPLANATION OF THE HEALTH COST RESTRAINT ACT OF 1979

I. TAX LAW CHANGES

A. Maximum health benefit exclusion

The maximum contribution to an employee's health plan which could be excluded from the employee's gross income and from wages for FICA and FUTA purposes would be $120 per month for family coverage for calendar year 1981. Correspondingly lower limits would apply for coverage for single individuals and married couples. These amounts would be indexed each year thereafter by the Medical Care Component of the Consumer Price Index.

Health plans would be defined to include plans for the provision of all types of medical care, including hospital, physician, surgical, dental, drug, eye and psychiatric care, but would not take into account disability coverage (i.e., periodic benefits in cash). Further, the definition of a "health plan" for any employee includes the aggregation of all health benefits regardless of the number of specific policies, insurance companies, or other arrangements.

B. Requirements for health plans in which the cost of any option exceeds a trigger point

If the cost (including both employer and employee contribution) for family coverage exceeds $75 per month under any option offered under a health plan, the plan would be required to provide (1) a choice of either an HMO or a low cost option, (2) minimum coverage, and (3) an employer contribution which would not vary substantially according to the option chosen by the employee.

1. Choice of Either Prepaid Health Plan or Low Cost Option

The plan would be required to offer employees the choice of either a prepaid health plan (see II, below) or a low cost option. A low cost option would be any option which costs less than the trigger point ($75 for family coverage) and which provides at least the minimum coverage described below. The plan could offer additional options.

2. Minimum Coverage

All options offered under the plan would be required to provide catastrophic coverage; specifically all options offered would have to cover hospital, physician, X-ray, diagnostic, and inpatient drug benefits, and would limit copayments and deductibles for the employee's family to $2,000 per year (also indexed by the Medical Care Component of the Consumer Price Index). This requirement would not apply to mental or psychiatric services, alcohol and drug abuse rehabilitation programs and certain other medical services. If a plan could not meet the requirements for minimum coverage for a family for $75 per month or less, then the $75 trigger would be increased to the cost required to provide minimum coverage.

3. Approximately Equal Contributions

If the mandated choice and minimum coverage requirements apply to a health plan, the employer contribution to a health plan for any given employee could not vary substantially according to the option chosen by the employee. With respect to any two options, the employer contribution for the less expensive option could not be less than that for the more expensive option minus 10 percent of the difference in total cost between the two options and could be no greater than the contribution for the more expensive option.

If the option chosen by an employee costs less than the employer contribution for the most expensive option, then the employer would be required to rebate to the employee the difference between the employer contribution to the more expensive option and the cost of the less expensive option minus no more than 10 percent of the difference in cost between the two options. The rebate would be subject to Federal income tax but would not be subject to FICA or FUTA taxes (except as provided in A above).

This rule would not require the employer contribution to be equal for all employees, but only for employees covered by the same health plan. Thus, the health plan and the employer contribution could vary by tenure, geographic area, salary level, etc.

4. Tax Impact of Failure to Meet Requirements

If the requirements for options, minimum coverage, or approximately equal contributions were not met, all employer contributions to health plans would be included in an employee's gross income. The employer and employee would also have to pay FICA taxes and the employer FUTA and withholding taxes.

II. HMO ACT CHANGES

A. Expanded definition

A firm would have to offer up to two "prepaid health plans" which desired to be offered. These plans would be defined to include plans which meet the requirements of Title XIII of the Public Health Service Act and plans which meet the requirements of that Act except for any or all of the following:

1. The requirements that at least one-third of the membership of the policymaking body of the plan be members of the organization,

2. The requirement to provide mental health services and medical treatment and referral for the abuse of or addiction to alcohol and drugs, and

3. The requirement that premiums not be adjusted to reflect the demographic characteristics of members.

This amendment would apply only to the mandatory dual choice provisions. Developmental loans and grants would continue to be available only to the organizations eligible under current law.

B. Modification to dual choice provision

A firm would have to offer an individual practice association (IPA) or a closed panel plan, as Title XIII currently requires. If no closed panel plan is offered, the firm would have to offer two IPA type plans. Conversely, if no IPA is offered, a firm would have to offer two closed panel HMOs. The two prepaid plans could not be offered by the same organization.

III. MEDICARE REIMBURSEMENT TO HMOS

The proposal would institute prospective Medicare reimbursement of HMOs ("prepaid plans" as defined in II.A. above) to conform to prevailing HMO practices. The proposal would provide that an HMO be paid, on a prospective basis, 95 percent of the costs of rendering the Medicare part A and B services in the community by providers other than HMOs. This risk reimbursement rate would be available to all HMOs that qualify for the dual choice provisions described above. The Secretary of HEW would estimate the HMO's cost of providing Medicare benefits by adjusting the HMO's "community rate" to reflect the higher utilization rates of the elderly. The difference between the risk reimbursement rate and the adjusted community rate would be used by the HMO to reduce cost sharing or finance broader benefits for enrolled beneficiaries. This difference would be agreed to in negotiation between the HMO and the Secretary on a prospective basis. A study evaluating the effect of these changes upon HMOs and enrollees would be mandated.

IV. MEDICAID EXPERIMENTS

The Secretary of Health and Human Services would implement demonstration projects at selected locations to determine the effect of a competitive reimbursement procedures on the Medicaid program (categorical and medically needy) and its beneficiaries. The demonstration project shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully:

(1) the relative advantages and disadvantages of using a central broker concept, either at the state or substate level, to assist beneficiaries in selecting among competitive health plans,

(2) the feasibility and effectiveness of equal dollar contributions from Medicaid to competing delivery systems. The waivers necessary to implement these demonstrations are authorized.

SECTION-BY-SECTION EXPLANATION OF THE HEALTH COST RESTRAINT ACT OF 1979

I. HEALTH COST RESTRAINT TAX ACT OF 1979

A. New rules and requirements relating to health plans

(Sec. 102 of the bill, new sec. 86 of the Code)

1. Inclusion in Income of Excess Employer Contributions to Health Plans

Under present law, generally the amount paid by an employer to a health plan for an employee (through insurance or otherwise) is not includible in the employee's gross income.

a. General rule: The bill, under certain circumstances, would cause some or all of the employer's contribution to a health plan on behalf of an employee to be treated as an excess contribution to the plan, includible in the employee's gross income.

b. Trigger point: The bill would apply only to health plans containing an option, the cost of which exceeds a trigger point. (The cost of a plan would include both employee and employer contributions.) Health plans which cost more than the trigger point would be subject to several requirements. If any of these requirements were not satisfied, the full amount of the employer contribution to such a plan on behalf of an employee, would be includible in the employee's gross income. Generally, the trigger point would be $75 per month for family coverage for calendar year 1981. If, for any reason, an employer could not purchase family coverage which met the minimum coverage requirement (see 2.b. below) for $75, then the trigger point would be increased to the cost of providing this coverage. Lower trigger points would apply to employees who had employee only or employee and spouse only coverage under a health plan.

Under the bill, the term health plan means an employer plan which provides (through insurance, reimbursement or otherwise) medical care for employees and their families. The definition of a health plan, with respect to any employee, would include the aggregation of all health benefits offered by employers under common control regardless of the number of specific policies, insurance companies or other arrangements.

Under the bill, if a group of one or more employers is offered a choice of coverage which differs from the choice of coverage offered to a second group of one or more employees, each such group would be treated as covered by a separate plan.

c. Exclusion limit: The bill would place a limit on the amount of the exclusion for employer contributions to a health plan on behalf of an employee. Any amount of employer contribution above the exclusion limit would be includible in the employee's gross income. The exclusion limit would be $120 per month for family coverage for calendar year 1981. Lower exclusion limits would apply to employees who had employee only or employee and spouse only coverage under a health plan.

d. Cost determination: Under the bill the employer could elect whether the determination of the cost of health coverage would be made on the basis of (1) all employees categorized by employee only coverage and employee and family coverage, or (2) employees categorized by employee only coverage, employee and spouse only coverage and employee and family coverage.

Employee cost within category would be determined on an average basis. Only employees covered by the plan could be taken into account. The employer contribution to the plan would be that portion of the cost per employee paid by the employer.

Under the bill, self-insured plans could determine the cost per employee per month annually on the basis of a reasonable estimate of the cost of providing the coverage for the record.

The cost of a health plan does not include any cost properly allocable to workmen's compensation or for a purpose other than providing medical care (e.g., certain disability payments).

2. Requirements for Health Plans Which Cost More Than the Trigger Point

a. In general: Under present law, there are no statutory requirements with respect to the specified health benefits under a plan, the availability of options under a health plan, or the amount of the employer contribution paid toward a health plan.

Under the bill, if the cost of a health plan exceeded the trigger point, the health plan would have to meet certain requirements with respect to (1) specified health benefits under a plan, (2) the options available to employees under the health plan, and (3) the amount of the employer contribution made to the plan on behalf of individual employees.

b. Minimum coverage: If the cost of any option offered under a health plan equals or exceeds the trigger point, all options offered under that plan would have to provide minimum coverage. Minimum coverage means benefits under a health plan for specified health care services. The specified health care services under the bill include, but are not limited to, (1) hospital inpatient and outpatient services, (2) physicians' services, (3) diagnostic, X-ray and laboratory services and (4) some home health services. Minimum coverage would not include benefits available under other insurance, the diagnosis and treatment of a mental condition, most cosmetic surgery, travel expenses (other than by ambulance) and various other services. In addition, under a plan providing minimum coverage, any deductibles and copayments required with respect to an employee for reasonable charges for specified health care services could not exceed $2,000 per year for 1981.

c. Low-cost option or HMO coverage: If the cost of any option under a health plan exceeds the trigger point, the health plan would have to offer either low cost coverage or an HMO (health maintenance organization) which meets the criteria of section 1310 of the HMO Act (as amended by Title II of the bill). Low cost coverage means a health plan which provides minimum coverage and which costs no more than the trigger point.

For example, if the cost of an employer provided health plan was $100 per month for family coverage in 1981 and the employer did not offer a qualified HMO, the employer would have to offer a low cost option which provided at least minimum coverage for $75 per month or less. If for any reason the employer could not obtain the required coverage for $75 or less, the employer would have to provide the required coverage at a greater cost, but the requirement would not apply if the cost of the minimum coverage were in excess of $100.

Employees would have to be given the choice of taking the low cost option (or the HMO) at least one time every 12 months.

d. Employer contributions to different options must be approximately equal: If the cost of a health plan has reached the trigger point, an employer would be required to make approximately equal contributions to all options offered under the plan. Employer contributions would be considered to be approximately equal if the employer contribution to the lower cost option was no less than the employer contribution to the highest cost option reduced by 10 percent of the difference in cost between the highest cost option and the lower cost option. The employer contribution to the lower cost option could not exceed the contribution to the next higher cost option.

For example, if the cost of an employer provided health plan was $100 per month for family coverage in 1981 and the cost of the lower cost family option was $50 per month, an employer would be considered to be making approximately equal contributions if the employer contributed $50 toward the highest cost option and an amount between $45 and $50 toward the lower cost option.

e. Rebates: If the cost of a health plan has reached the trigger point, an employer would be required to rebate to an employee the difference between the employer contribution to the highest cost option and the employer contribution to a lower cost option selected by the employee. For purposes of determining whether an employer has satisfied the requirement that employer contributions to all options offered under a plan are approximately equal, the amount of the rebate would be considered to be part of the employer contribution. The rebate would be included in gross income except to the extent it has already been included as an excess employer contribution under 1(c) above.

For example, assume that the cost of an employer provided health plan was $100 per month for family coverage in 1981 and the cost of the lower cost family option was $50 per month. If the employer paid the full cost of the highest cost option ($100), the employer would have to rebate at least $45 and no more than $50 to employees choosing the lower cost option in order to comply with both the equal contribution rule described above and the rebate requirement.

3. Adjustments for Increases in Medical Care Costs

The bill contains three different kinds of dollar limitations: (1) the trigger point which determines, based on cost, health plans subject to minimum coverage, choice of options and equal employer contribution requirements, (2) the limitation on the amount of the employer contribution excludable from gross income, and (3) the $2,000 limitation on deductibles and copayments for purposes of minimum coverage. Under the bill, these three types of dollar limitations would be increased annually based on the increase in the medical care component of the Consumer Price Index.

B. Employment tax amendments (sec. 103 of the bill, new sec. 3508 of the Code)

1. Treatment of Excess Employer Contributions

Under the bill, in the case where an amount is includible in an employee's gross income because either (1) the amount of the employer contribution exceeded the exclusion limit on such contributions, or (2) the plan did not qualify because certain requirements relating to minimum coverage, choice of options or equal employer contributions were not met, the amount includible in gross income would be treated as a cash payment to the employee and thus would be subject to Federal withholding tax, FICA, FUTA, and the railroad retirement tax.

2. Treatment of Rebates

Under the bill, rebates, to the extent they are not taxed as excess employer contributions, would be subject to Federal withholding tax, but would not be subject to FICA, FUTA, and the railroad retirement tax.

C. Effective date (sec. 104 of the bill)

1. In General

The provisions would apply to calendar months beginning after December 31, 1980.

2. Collective Bargaining Agreements

For health plans maintained pursuant to a collective bargaining agreement entered into before the date of introduction of the bill, the provisions of the bill which would require the inclusion of the entire employer contribution in an emoloyee's gross income where the plan did not meet certain requirements relating to minimum coverage, choice of options and equal employer contributions would not apply to calendar months ending before January 1, 1984 covered by the collective bargaining agreement.

II. HEALTH MAINTENANCE ORGANIZATION'S AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

This section amends section 1310 of the Public Health Service Act by providing that if one staff model HMO and one IPA model HMO are currently not offered to employees and there are at least two qualified health maintenance organizations engaged in the provision of basic and supplemental health services in the area in which the employees of an employer reside, and have, in accordance with regulations of the Secretary, stated their willingness to be included in health benefits plans offered by such employer, and are not owned or controlled by the same legal entity, then such employer shall offer to its employees the option of membership in at least two such organizations.

The section also defines a qualified HMO for the purpose of the mandatory dual choice provision to include plans which meet the current requirements of Title XIII of the Public Health Service Act and plans which meet the requirements of that Act except for any or all of the following:

1. the requirement that at least one-third of the membership of the policymaking body of the plan be members of the organization,

2. the requirement to provide mental health services and medical treatment and referral for the abuse of or addiction to alcohol and drugs,

3. the requirement that premiums not be adjusted to reflect the demographic characteristics of members.

III. PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS UNDER THE MEDICARE PROGRAM

Under the proposal, an HMO would be reimbursed, on a prospective basis, 95 percent of the per capita amount the Secretary estimates would be paid for services provided to medicare beneficiaries by other providers in the geographic area of the HMO. The 95-percent payment would be based on the cost of providing services to different actuarial groups. For example, the HMO would receive a lower per capita payment for a female aged 65 than a female aged 80. The Secretary would also estimate the amount that the HMO would charge its medicare members if that amount were determined using a community rating system, adjusted for utilization characteristics of medicare beneficiaries. If that amount were lower than the amount of medicare reimbursement, the HMO would have to return the difference to its medicare members in reduced premium payments and extra benefits. The HMO would determine what additional benefits are most appropriate for its enrollees.

Members of an HMO which has elected to be reimbursed under this new risk formula could not receive medicare payments for services not furnished by or through the HMO; the HMO would be responsible for providing all medicare-covered services to medicare enrollees. However, medicare beneficiaries enrolled in an HMO at the time the new method was first applied to the HMO could continue to seek medical care outside the HMO and be reimbursed by medicare in the usual manner unless the Secretary, because of the administrative costs or other administrative burdens involved, required the new method to apply to all members of a particular HMO.

An HMO would be defined as an entity which (a) provides all covered medicare benefits to medicare enrollees and (b) is organized and operated in the manner prescribed in Title XIII of the Public Health Service Act as amended by Title II of this bill. The requirements related to the benefits which must be offered to non-medicare enrollees would not be applicable.

The HMO would be required to have an open enrollment period at least every year during which it accepts medicare beneficiaries up to the limits of its capacity and without restrictions (except as may be authorized in regulations) in order in which they apply for enrollment. However, no HMO would have to accept proportionately more medicare enrollees than are represented in the population in the geographic area served by the HMO.

The section would mandate a study evaluating the extent of, and reasons for, the termination by Medicare beneficiaries of their membership in health maintenance organizations. The study would focus special emphasis on the quantity and quality of medical care provided in health maintenance organizations and the quality of such care when provided on a fee-for-service basis.

IV. MEDICAID DEMONSTRATION PROJECT

The Secretary of Health, Education, and Welfare would conduct at selected locations demonstration projects to determine the effect of a competitive marketplace model on reimbursement under the medicaid program. The demonstration projects would be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully:

1. the relative advantage and disadvantage of using a central broker concept, either at the State or substate level, to assist beneficiaries in selecting among competitive health plans;

2. different methods of incentives, and the effectiveness of each, which could be used to encourage alternative delivery systems to participate in a competitive environment;

3. the feasibility of equal dollar contributions from the medicaid program to competing delivery systems; and

4. the effectiveness of financial or other incentives to medicaid beneficiaries to enroll in alternative delivery systems, including, but not limited to, incentives such as (A) guaranteed medicaid eligibility, (B) coverage of additional services, and (C) sharing of savings.

Waivers necessary to implement these demonstrations would be authorized, including waiver of the applicability of incentive payments toward income eligibility criteria for public assistance, medicaid, and food stamp programs.

The Secretary of Health, Education, and Welfare shall issue a preliminary report to the Congress within 30 months after the date of the enactment and a final report no later than 63 months after enactment. There is authorized to be appropriated $10,000,000 for the administrative and research duties to be carried out under this section.●

YOUNG MEN AND WOMEN SHOULD BE ENCOURAGED IN THE PURSUIT OF SCIENTIFIC CAREERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, 100 years ago, Thomas Alva Edison forever lifted the darkness of night with his invention of the incandescent lamp. This was by no means the first, nor would it be the last of Edison's many discoveries. But it is the invention of the light bulb for which we most honor him. When we speak of American ingenuity, we speak of Thomas Edison.

Because of the increasingly complex nature of technology, many Americans find present day scientific discoveries to be only remotely connected with their daily lives. This was not true of Edison's light bulb, it had an almost immediate impact on American society. Though it would be some time before transmission

cables would reach into all areas of the country, eventually the great rural electrification program established by this Congress in 1936 led to the fulfillment of Edison's dream of making inexpensive light available to all Americans. From the beginning, Edison's vision extended beyond the simple invention of the light bulb to the creation of a complete electrical lighting system.

As chairman of the Select Committee on Aging, I am pleased to note that Thomas Edison continued working throughout his later years, obtaining several of the 1,033 patents he received during his lifetime after he had passed his 80th birthday. Edison's example should remove any doubt from those who believe that genius, much less simple competence, need dim with age.

Thomas Edison pioneered the idea of establishing research laboratories with employees paid to invent new products or improve those already on the market. Today, in the research laboratories of American industry, scientists continue to develop new products which will improve the quality of life. We must continue to encourage young men and women to pursue scientific careers in the spirit of Thomas Edison, the Wizard of Menlo Park. By doing so, we will insure that the United States remains in the vanguard of technological progress.●

PERSONAL EXPLANATION

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I take this time to state my position on several rollcall votes that I missed on Wednesday, October 24, and Thursday, October 25, 1979.

The votes are as follows:

WEDNESDAY, OCTOBER 24

Rollcall No. 598, on an amendment to H.R. 3683, the Consolidated Farm and Rural Development Act, offered by Mr. MADIGAN of Illinois. The amendment was adopted by a vote of 326 to 84. Had I been present, I would have voted for this amendment.

Rollcall No. 959, on final passage of H.R. 3683, the Consolidated Farm and Rural Development Act. The bill passed by a vote of 393 to 14. I was paired for this bill and had I been present, would have voted for it.

THURSDAY, OCTOBER 25

Rollcall No. 600, on House Resolution 464, the rule providing for consideration of House Joint Resolution 430, Emergency Fuel Assistance Appropriations. The resolution was agreed to by vote of 355 to 47. I was paired for this resolution and had I been present, would have voted for it.

Rollcall No. 601, on an amendment to House Joint Resolution 430, emergency fuel assistance appropriations, offered by Mr. HUGHES, of New Jersey. The amendment was agreed to by a vote of 381 to 17. Had I been present, I would have voted for the amendment.

Rollcall No. 602, on an amendment to House Joint Resolution 430, emergency fuel assistance appropriations offered by Mr. MICHEL, of Illinois. The amendment was rejected by a vote of 183 to 207. Had I been present, I would have voted against the amendment.

Rollcall No. 603, on final passage of House Joint Resolution 430, emergency fuel assistance appropriations. The resolution was agreed to by a vote of 290 to 105. I was paired for this resolution and had I been present, would have voted for it.

Rollcall No. 604, on a motion offered by Mr. FASCELL, of Florida, that the House resolve itself into the Committee of the Whole for further consideration of H.R. 4955, supplemental refugee assistance authorization. The motion was agreed to by a vote of 342 to 8. Had I been present, I would have voted for the motion.

Rollcall No. 605, on an amendment to H.R. 4955, supplemental refugee assistance authorization offered by Mr. ZABLOCKI, of Wisconsin. The amendment was agreed to by a vote of 362 to 10. Had I been present, I would have voted for the amendment.

Rollcall No. 606, on final passage of H.R. 4955, supplemental refugee assistance authorization. The bill passed by a vote of 301 to 69. I was paired for this bill and had I been present, would have voted for it.

THE SOCIAL SECURITY REFINANCING AMENDMENTS OF 1979

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. SEIBERLING. Mr. Speaker, I am introducing legislation today to reform the way in which social security is financed. In lieu of an extensive introductory statement, I am submitting for the RECORD a copy of the testimony I gave before the Social Security Subcommittee, along with a summary of the bill's provisions.

The social security refinancing amendments would eliminate the portion of the payroll tax currently used to fund medicare. The tax, which under current law is scheduled to increase rapidly from the current 6.13 percent on both employees and employers to 7.15 percent by 1986 and ultimately to 7.65 percent by 2001, would be reduced to 5.5 percent and held there until 2005, when it would rise to 7.5 percent. For the self-employed, the new tax rate would be 7.62 percent through 2004, when it would rise to 10 percent. These rates would actually bring a revenue increase over current law for the OASDI trust funds, and would eliminate the likelihood of a shortfall by 1983–84, as administration and congressional officials have forecast.

Under my bill, medicare would be funded from personal and corporate Federal income taxes, but the method of financing while unique is carefully crafted. The bill would establish an earmarked, or dedicated, portion of the income tax. Each taxpayer would be notified on his annual tax return of the amount of his tax earmarked to medicare, that is, the percent of his taxes which will be employed to fund the program. Use of an earmarked income tax guards against the temptation, in future Congresses, to increase medicare benefits without informing the taxpayers how much of their individual income tax will be used to pay for the increases. It also protects the concept that eligibility for medicare benefits is a right which workers earn through their tax contributions.

Since I do not propose an increase in Federal income taxes to fund medicare, the result of the bill's enactment would be a $13 billion tax reduction in 1980 (after subtracting the increased taxes from the OASDI rate increases). I believe that a tax cut in 1980 will be necessary and probably inevitable. Most economists are agreed that a payroll tax cut would be the most desirable kind, both because it would be counter-inflationary (in lowering business costs) and because it would increase the overall equity of our Federal tax system. I discuss these issues in greater detail in my testimony that follows these remarks.

Mr. Speaker, the use of an earmarked income tax to fund medicare was recently recommended by the Social Security Advisory Council, whose formal report is due in November. This proposal makes sense from a numbeer of viewpoints, and I hope that we will have a chance to consider it in the House in the near future.

STATEMENT OF CONGRESSMAN JOHN F. SEIBERLING ON SOCIAL SECURITY FINANCING REFORM, BEFORE THE HOUSE SOCIAL SECURITY SUBCOMMITTEE, OCTOBER 11, 1979

Mr. Chairman and members of the Social Security Subcommittee, I appreciate the opportunity to testify before you today on social security financing improvements.

Thanks to the many benefits of modern society, our population is living longer today, and the ratio of retirees to workers is constantly increasing. Men reaching age 65 today will live an average of 13.7 more years; women will live an average of 18 more years. Eleven percent of the current U.S. population is age sixty-five and older. By 2000 13% will have reached age 65, and by 2025, 18%—forty-nine million out of a population of 267 million—will be 65 or older.

In 1971, my first year in Congress, I introduced a bill to provide for one-third financing of social security from general revenues. In my introductory statement, I said that "the present system of financing social security has reached the breaking point, and unless the program is significantly reformed, it cannot continue to meet its goal of providing financial security for retired persons. In the long run, if we can continue to rely on the payroll tax as the sole source of social security revenues, when the postwar generation reaches retirement age, the tax burden on their children will become unbearable. While tinkering with the financing mechanism may bring shortrun relief, it will not solve our problems in the long run."

If that statement was true in 1971, it is even truer today. In the intervening years, Congress has increased, not decreased, social security's reliance on the payroll tax to fund benefits. Since 1971, we have had four social security tax increases, from 5.2% to 6.13% for employers and employees. The wage base has risen even more rapidly, from $7,800 to $22,900. A family of four whose income has remained at the median level from 1971 ($10,618) to 1979 ($17,105) has experienced a social security payroll tax increase from $406 to $1,160. And the worst is not over. Because of tax and wage base increases which Congress approved in 1977, the maximum social security tax payment will rise 41% from 1979 to 1981, from $1,404 to $1,975.

Economic developments of the 1970's add urgency to the demographic arguments for social security financing reform. Our paramount domestic concern today is inflation, which has been running this year at an annual rate of 13%. The devastating effect of inflation on retirees is difficult to exaggerate. In five years, a 10% inflation rate will reduce the purchasing power of a retiree's fixed income by about 40%. At the end of fifteen years, which corresponds roughly to the lifespan of a worker retiring today, a 10% inflation rate will have reduced the purchasing power of a dollar by 76%. Even a 7% inflation rate—which we would all welcome at this point—would result in a doubling of prices in only ten years, well within the average lifespans of today's retirees.

Ironically, we have been repeatedly warned that social security taxes are a significant cause of inflation. In 1977, the Bureau of Labor Statistics testified before the Joint Economic Committee that the 1977 payroll tax increase accounted for 1.1% of the 14% annual increase in hourly compensation. In 1978, G. William Miller, then Chairman of the Board of Governors of the Federal Reserve System, testified before the Senate Finance Committee that "the Board's staff has estimated that the scheduled [1979] increase in employer contributions to social security would add about one-half a percent to inflation next year, and one-half is a large number." In spite of these warnings, we are facing even larger tax increases in the near future.

For many years, Congress assumed that the payroll tax paid by employers was either absorbed out of profits or shifted backward to the worker in the form of smaller wage increases. Economists now believe that the employer's share is shifted forward, to the consumer, in the form of higher prices. In fact, Arthur Okun, a former chairman of the President's Council of Economic Advisers, testified last year before the Senate that "the payroll tax levied on employers is basically a hidden federal sales tax on consumers."

This did not matter much when the payroll tax was small, but under current law the combined employer-employee payroll tax exceeded 12% for the first time in 1978, and it will exceed 13% in 1981, 14% in 1985, and 15% in 1990, on larger and larger wage bases. These tax increases cause real consumer spending to decline and production and employment to fall. To counter higher prices, the Federal Reserve applies the monetary "brakes." Even if the Fed does not slow the growth of the nominal stock of money, the real value of the money stock will automatically decline because of the higher price level.

How has Congress handled the economic problems associated with an increase in the payroll tax? We have reduced the federal income tax, as if an income tax reduction cancels out a payroll tax increase. It does not. The payroll tax is regressive; the income tax is progressive. The payroll tax covers income of employees up to a specified amount; the income tax covers virtually all income, regardless of source, with no limitation. To raise the payroll tax while lowering the income tax is to reduce the progressivity, and thus the equity, of our overall tax systems while leaving unremedied the inflationary aspects of the payroll tax.

Two arguments are generally put forth against general revenue financing of social security. The first is that using general revenues would be a formal admission that social security is not "insurance," but a mechanism for income redistribution. I believe that such an admission is long overdue. Social security is a program to provide income security and health benefits for eligible retired persons, disabled workers, and their dependents.

Its benefits are not financed by past contributions; they are paid for by a mandatory tax on current income: A retiree's benefit is a worker's burden. Nor does tying a retiree's current benefit to his part contributions make the system an "insurance" system. The adequacy of any benefit, whether from social security or a public or private pension, is measured by the percentage of lost earnings which it replaces, so that any financing method would still have to depend on this or a similar mechanism to establish an appropriate benefit level. The "insurance" view of social security is further weakened by the progressive benefit structure, under which proportionately more of a lower-income worker's lost wages are replaced than are those of an upper-income worker. Final proof that social security is an income redistribution system is the fact that medicare benefits have no relation whatever to contributions.

For over a generation, the "insurance" myth of social security has led us to treat the payroll tax as a special creature, not to be judged by the same standards we seek to apply to the rest of our tax structure. As long as the payroll tax was a nominal one—even as late as 1965, when it was still only 3.6% on the first $4,800—we could persist in this myth without inflicting great harm on the taxpaying public. But it is time to recognize the payroll tax for what it is and reform it along with the rest of our tax structure.

The second argument generally put forth against general revenue financing is that without the discipline of the payroll tax, Congress would be unable to resist the political advantage of increasing benefits while forgoing the tax increases necessary to pay for them. I cannot believe that we distrust ourselves so much that we dare not make needed reforms, and harm the economy in the bargain. However, I believe that I have a proposal which satisfies those on both sides of this argument, as I will explain later.

On December 15, 1977, the same day that I reluctantly voted to approve the conference report on the social security financing amendments, I introduced a bill to provide an income tax credit for up to one-third of a worker's social security payroll taxes. This credit would have been reduced one-half percent for each $500 by which a worker's income exceeded the current wage base. The credit was to be refundable, and the IRS was to have adjusted withholding rates so that the amount of the credit would never have left the worker's paycheck or the economy. In this bill, I expanded on the earned income credit which Congress approved in 1975 "to offset the impact of the social security taxes on low-income persons," as described in the Ways and Means Committee report.

The concept of a credit for social security taxes has been introduced this year by Congressman Gephardt, a member of this Subcommittee. I am a cosponsor of his bill, H.R. 4990, and believe that it is an improvement over my 1977 proposal, because it allows businesses as well as individuals to claim the credit, which will help in the fight against inflation. Of course, the credit in H.R. 4990 is only for two years, so that Congress can re-examine the entire area of social security funding and seek the best permanent solution.

I believe that a tax cut will be necessary next year, and it goes without saying that I would prefer the Gephardt approach to another reduction in federal income taxes, for both its tax equity and its non-inflationary qualities. President Carter has also indicated his preference for a reduction in payroll taxes if there is a 1980 tax cut.

However, I do have one concern with the Gephardt approach. Social security's financing problems received a great deal of attention in the mid-1970's, and as a result, public confidence in the system plummeted, and has never recovered. Sixty-seven percent of respondents to a 1978 CBS/New York Times poll said that they doubted they would get enough out of social security to justify what they pay into it. This year, a major Lou Harris survey of American attitudes toward pensions and retirement found that 42% of respondents have hardly any confidence that the present social security system will be able to pay them benefits when they retire.

The fact that social security can indeed be put on a sound financial basis, and that the 1977 amendments need improvement because of unexpectedly high inflation and unemployment, are not the issues. The issue is public confidence in social security, and I believe that repeated congressional amendments to the system's finances will not improve that confidence. I think that the Subcommittee should adopt the Gephardt two-year credit as a fall-back position, and work first on permanent, long-term refinancing legislation which addresses all of the facets of this complex issue—the need for a tax reduction, the need to improve equity in our tax system, and the need to reduce inflationary pressures in our economy.

The public is ready for reform in social security financing; 50 percent of respondents to an ABC/Harris Survey this year favored using general revenues to fund a one-third cut in payroll taxes. With 13 percent inflation, the economy is ready for it. And I believe that Congress is ready for it; the House Democratic Caucus has endorsed a cut in payroll taxes for the past two years.

I am introducing legislation which I believe meets the three criteria we should be looking for in a social security refinancing bill. The broad outline of this proposal has been discussed many times before. It has been tentatively endorsed by the Social Security Advisory Council as one option to solve the system's short-term financing problems, and will probably receive final approval as a recommendation at the Council's meeting this weekend.

A similar proposal was suggested to this Subcommittee by CBO Director Alice Rivlin in her September 28 testimony. It is also quite similar to one proposed in legislation by distinguished members of this Committee, including Barber Conable and Abner Mikva, who recently resigned to become a U.S. Circuit Court judge. However, my bill has several features which I believe make it unique, and for which it warrants serious consideration by this Subcommittee.

My bill would cut payroll taxes in 1980 by $13 billion, from 6.13 percent to 5.5 percent. The entire income from this rate would go to the cash benefits portion of social security OASDI, which would constitute a tax increase for these two accounts over current law and eliminate any possibility of a short-term deficit, as CBO has projected under current OASDI tax rates for 1983–84. This 5.5 percent rate would remain in place until 2005. A tax cut of this type would be considered by practically all economists to be the best kind of cut.

This past July, the Democratic Steering and Policy Committee, of which I am a member, met with Michael Blumenthal, then Secretary of the Treasury, G. William Miller, then Chairman of the Federal Reserve Board, Nancy Teeters, a member of the Fed's Board of Governors, and Alice Rivlin, CBO Director. While none of them was prepared to endorse a tax cut at that time, each of them agreed that if a tax cut package became desirable, then it ought to include a cut in the payroll tax, which they agreed would be the least inflationary and would produce the quickest stimulus to a lagging economy.

Under my bill, medicare funding would be shifted to an earmarked, or dedicated, por-

tion of existing personal and corporate income taxes. The earmarked portion of the individual tax would be computed by taking a flat percentage, as determined each year by the Treasury in consultation with HEW, of the individual taxpayer's tax payment, not to exceed $275 per taxpayer.

Use of a dedicated income tax protects both the earned-right concept of medicare and the "fiscal discipline" inherent in an earmarked tax. Since the earned-right concept is inapplicable to corporations, the portion of the corporate income tax dedicated to medicare would be computed simply by directing the Treasury to dedicate from corporate and business income tax revenues an amount equal to the total earmarked from individual taxes toward medicare.

The contribution base increases, now scheduled to rise from $22,900 to $25,900 in 1980 and $29,700 in 1981, would not be changed.

For the self-employed, the new tax rate is computed by applying the same percentage increase to the current OASDI rate as was applied to the employer/employee rate to yield 5.5 percent. The self-employed payroll tax would thus be 7.62 percent.

If any current social security program should be funded by general revenues, certainly it is medicare. Medicare is not a cash-benefit program: It provides health benefits, not money, to the elderly. Benefits bear no relation to a worker's contributions, but are determined solely by medical need.

To summarize the benefits of my legislation: It provides a tax cut of $13 billion for 1980. The tax cut provided is not only noninflationary, it is anti-inflationary and pro-employment. Businesses could pass on their labor cost savings immediately to consumers. Reduction of the payroll tax will help small businesses particularly, since the overwhelming majority of their employees are within the wage base and a small-business employer thus pays the social security tax on the full amount of a much larger percentage of the payroll. Finally, the method in which the new medicare tax is collected ensures fiscal stability on the part of Congress and also guards against introduction of a means test.

Mr. Chairman, our system of retirement income has been compared to a three-legged stool, with social security, private pensions, and personal savings comprising those legs. Today, inflation is seriously jeopardizing all three. It is incumbent upon us to act quickly to reduce inflation and stop the destruction of our retirement security triad. Even under the best of circumstances, today's workers face an uncertain future. We owe them our best efforts to make their retirement as secure as possible.

Thank you.

SECTION-BY-SECTION ANALYSIS OF THE SOCIAL SECURITY REFINANCING AMENDMENTS

Section 101 (a) and (b) establish the new social security tax rates for employees and employers of 5.5 percent until 2005 and 7.5 percent thereafter.

Section 101(c) establishes the rate for self-employed, 7.62 percent until 2005 and 10 percent thereafter.

Section 102 allocates a portion of the new rate to the disability insurance trust fund, in accordance with figures supplied by actuaries at the Social Security Administration.

Section 201 provides that the medicare tax rate be terminated after 1979.

Section 202(a) provides for a new medicare financing system of matching corporate taxes with amounts collected from individuals under the provisions of 202(b). It also gives the Treasury authority to transfer from general revenues to the medicare trust fund as much money as the fund needs in the case of estimating errors by HEW or Treasury or unforeseen economic conditions.

Section 202(b) establishes the new method for medicare funding. Under this subsection, the Treasury Secretary (1) estimates the medicare trust fund's revenue need for the year; (2) establishes the percentage which, when applied to all individual returns, will raise one-half the needed revenue (the other half to be raised by matching corporate tax receipts); and (3) earmarks that amount for medicare. The subsection also sets a contribution limit of $275, to rise with increases in social security contribution and benefit bases.

Section 301 provides for notification on each taxpayer's return of the percentage of his or her taxes which will be earmarked to fund medicare.

Section 302 makes the effective date 1980.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. FARY (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for this week, on account of medical reasons.

Mr. MILLER of California (at the request of Mr. WRIGHT), for today, on account of medical reasons.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. WINN (at the request of Mr. RHODES), for an indefinite period, on account of attending the 34th United Nations General Assembly as a congressional delegate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SHUMWAY) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 15 minutes, today.
Mr. FINDLEY, for 5 minutes, today.

(The following Members (at the request of Mr. PEASE) to revise and extend their remarks and include extraneous material:)

Mr. NELSON, for 5 minutes, today.
Mr. DRINAN, for 5 minutes today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ULLMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SHUMWAY) and to include extraneous material:)

Mr. LEACH of Iowa.
Mr. CLINGER.
Mr. CONTE.
Mr. ROYER.
Mr. ROUSSELOT.
Mr. CONABLE in two instances.
Mr. ABDNOR.
Mr. DANIEL B. CRANE.
Mr. ASHBROOK in three instances.
Mr. HAMMERSCHMIDT.
Mr. ROTH.
Mr. GRASSLEY.
Mr. VANDER JAGT.
Mr. GINGRICH.
Mr. GREEN.
Mr. PHILIP M. CRANE.
Mr. DORNAN.
Mr. KEMP in two instances.
Mr. MCCLORY.
Mr. MICHEL in two instances.
Mr. HYDE.
Mr. SOLOMON.
Mr. LAGOMARSINO.
Mr. STANGELAND.

(The following Members (at the request of Mr. PEASE) and to include extraneous matter.)

Mr. MINETA.
Mr. STARK.
Mr. MARKEY in five instances.
Mr. ROE.
Mr. YATRON.
Mr. DONNELLY.
Mr. EDGAR.
Mr. MOAKLEY.
Mr. CORRADA.
Mr. MURPHY of Illinois.
Mr. SKELTON.
Mr. EVANS of Indiana.
Mr. VENTO.
Mr. COTTER.
Mr. WALGREN.
Mr. LONG of Maryland.
Mr. GARCIA.
Mr. NICHOLS.
Mr. DOWNEY.
Mr. PEPPER in two instances.
Mr. SOLARZ.
Mr. ECKHARDT.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 25, 1979, present to the President, for his approval, a bill of the House of the following title:

H.R. 4394. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

ADJOURNMENT

Mr. PEASE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 51 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 31, 1979, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third quarter of calendar year 1979 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1, AND SEPT. 30, 1979

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Hon. George Miller	7/20	7/21	Switzerland		192.00					313.35	192.00
Flew on special U.S. Air Force plane with rest of delegation.											
Committee total					192.00						192.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Oct. 29, 1979.

CARL D. PERKINS,
Chairman, Committee on Education and Labor.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Barnes, M. D.	6/30	7/5	Mexico		450.00						450.00
Commercial transportation							467.00				467.00
Bierman, E.[3]	8/20	8/22	Spain		141.33						141.33
	8/22	8/24	Portugal		142.40						142.40
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		261.76						261.76
Military transportation							948.16				948.16
Bonker, D.	7/7	7/10	England		225.00						225.00
Commercial transportation							1,671.00				1,671.00
Bowen, D. R.	6/30	7/7	Mexico		450.00						450.00
Commercial transportation							467.00				467.00
Total					2,354.49		3,553.16				5,907.65
	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		70.20						70.20
	8/17	8/24	Soviet Union		225.00						225.00
Military transportation							1,451.93				1,451.93
Brady, J. J.[3]	8/20	8/22	Spain		154.00						154.00
	8/22	8/24	Portugal		150.00						150.00
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		321.00						321.00
Military transportation							948.16				948.16
Total					2,285.20		2,473.26				4,758.46
Broomfield, W.[3]	8/20	8/22	Spain		154.00						154.00
	8/22	8/24	Portugal		150.00						150.00
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		312.22						312.22
Military transportation							948.16				948.16
Carson, J.	8/6	8/8	Liberia		15.00		243.00				258.00
	8/8	8/9	Spain		77.00						77.00
Commercial transportation							1,391.00				1,391.00
Collins, C.	7/3	7/8	Martinique		156.00		713.00				869.00
Fenwick, M.	8/26	8/31	Italy								
	8/31	9/4	Belgium								
Commercial transportation							1,550.00				1,550.00
Totals					1,548.22		4,845.16				6,393.38
Finley, M.	7/3	7/18	Soviet Union								
Commercial transportation							952.00				952.00
Fithian, F.[3]	8/20	8/22	Spain		154.00						154.00
	8/22	8/24	Portugal		150.00						150.00
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		321.00						321.00
Military transportation							948.16				948.16
Galey, M. E.	7/20	7/22	Switzerland		96.00						96.00
Military transportation (W.H.)							680.84				680.84
Total					1,405.00		2,581.00				3,986.00
Goodman, M.	8/4	8/12	Thailand		477.57						477.57
	8/12	8/18	Sri Lanka		329.39						329.39
	8/18	8/23	India		450.00						450.00
	8/23	8/24	England		110.00						110.00
Commercial transportation							3,275.00				3,275.00
Gilman, B. A.	8/8	8/9	Hong Kong		152.10		73.17				225.27
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		221.77						221.77
	8/15	8/17	Pakistan		139.90						139.90
	8/17	8/24	Soviet Union		170.90						170.90
Military transportation							1,451.73				1,451.73
Total					2,351.63		4,799.90				7,151.53

Footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979—Con.

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [3]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [3]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [3]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [3]
Guyer, T.	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		150.00						150.00
	8/17	8/24	Soviet Union		199.31						199.31
Military transportation							1,451.93				1,451.93
Holstine, J.	7/19	7/22	Switzerland		192.00						192.00
Military transportation							680.84				680.84
	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		98.16						98.16
	8/17	8/24	Soviet Union		98.30						98.30
Total					2,099.79		2,279.11				4,378.90
Military transportation							1,451.93				1,451.93
Hyndman, P. V.	8/4	8/13	Thailand		536.33		1,232.00				1,768.33
	8/13	8/14	Burma		75.00						75.00
	8/15	8/18	Sri Lanka		193.10						193.10
	8/18	8/23	India		421.89						421.89
	8/23	8/24	England		124.10						124.10
Military transportation							3,339.00				3,339.00
Ingram, G.[2]	8/20	8/22	Spain		154.00						154.00
	8/22	8/24	Portugal		150.00						150.00
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		321.00						321.00
Military transportation							948.16				948.16
Total					2,659.42		6,971.09				9,630.51
Ireland, A.	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		70.71						70.71
	8/17	8/24	Soviet Union		161.66						161.66
Military transportation							1,451.93				1,451.93
Jewell, K.[2]	8/20	8/22	Spain		154.00						154.00
	8/22	8/24	Portugal		150.00						150.00
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		484.00						384.00
	8/31	9/3	Belgium		321.00						321.00
Military transportation							948.16				948.16
Total					2,222.37		2,473.26				4,695.63
Johnson, V.	6/30	7/5	Mexico		369.12						369.12
Commercial transportation							414.00				414.00
Lagomarsino, R. J.	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		135.00						135.00
	8/10	8/12	Vietnam		115.00						115.00
	8/12	8/15	Sri Lanka		210.00						210.00
	8/15	8/17	Pakistan		126.00						126.00
	8/17	8/24	Soviet Union		209.54						209.54
Military transportation							1,451.93				1,451.93
Mann, J.	9/9	9/13	Kenya		238.86						238.86
	9/13	9/16	Liberia		150.00						150.00
	9/16	9/21	Senegal		390.00						390.00
Commercial Transportation							1,483.50				1,483.50
Total					2,099.52		3,422.60				5,522.12
Nelson, C.	8/7	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		150.00						150.00
	8/17	8/24	Soviet Union		127.63						127.63
Military transportation					1,451.93						1,451.93
Palmer, E. J.	7/19	7/22	Switzerland		192.00						192.00
Military transportation (W.H.)							680.84				680.84
Perugino, R.[2]	8/20	8/22	Spain		76.73						76.73
	8/22	8/24	Portugal		148.56						148.56
	8/24	8/28	Yugoslavia		300.00						300.00
Total					3,127.85		745.01				3,881.86
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		252.91						252.91
Military transportation							948.16				948.16
Pritchard, J.	7/19	7/22	Switzerland		192.00						192.00
Military transportation							680.84				680.84
	8/18	8/20	Philippines		210.40						210.40
	8/21	8/25	Thailand		320.60		175.51				496.11
	8/26	8/27	Malaysia								
	8/27	8/29	Singapore		225.00						225.00
	8/30	8/31	Hong Kong		78.00						78.00
Commercial transportation							1,850.00				1,850.00
Schlundt, V. M.	7/20	7/22	Switzerland		192.00						192.00
Military transportation (W.H.)							680.84				680.84
Solarz, S. J.	7/20	7/22	Switzerland		192.00						192.00
Military transportation (W.H.)							680.84				680.84
Total					2,046.91		5,016.19				7,063.10

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [3]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [3]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [3]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [3]
	8/6	8/8	Liberia		40.00		243.00				283.00
	8/8	8/9	Spain		77.00		41.73				118.73
	8/9	8/14	Morocco		300.00						300.00
	8/13	8/13	Mauritania								
	8/14	8/14	France		35.30						35.30
	8/14	8/17	Algeria		17.05						17.05
	8/17	8/19	Greece		150.00		90.23				240.23
	8/19	8/20	Cyprus								
	8/20	9/4	Turkey		525.00						525.00
Commercial transportation							2,768.00				2,768.00
Van Ermond, A.	7/20	7/22	Switzerland		192.00						192.00
Military transportation (W.H.)							680.84				680.84
Total					1,336.35		3,823.80				5,160.15
Weissman, S.	8/6	8/8	Liberia		13.00		243.00				256.00
	8/8	8/9	Spain		77.00		41.73				118.73
	8/9	8/14	Morocco		300.00						300.00
	8/13	8/13	Mauritania								
	8/14	8/14	France		35.25						35.25
	8/14	8/17	Algeria		33.72						33.72
	8/17	8/18	Italy		75.00		19.01				94.01
Commercial transportation							2,463.00				2,463.00
Wolff, L. L.	7/19	7/22	Switzerland		192.00						192.00
Military transportation (W.H.)							680.84				680.84
	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
Total					1,181.97		3,521.55				4,703.52
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		150.00						150.00
	8/17	8/24	Soviet Union		200.58						200.58
Military transportation							1,451.93				1,451.93
Zablocki, C. J.[4]	8/20	8/22	Spain		154.00		1,128.98				1,282.98
	8/22	8/24	Portugal		150.00		2,133.00				2,283.00
	8/24	8/28	Yugoslavia		300.00		3,420.10				3,720.10
	8/28	8/31	Austria		384.00		5,908.88				6,292.88
	8/31	9/3	Belgium		321.00		3,206.46				3,527.46
Military transportation							948.16				948.16
Total					1,884.58		18,197.51				20,082.09
Grand total for this quarter											93,314.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Traveled with Codel Zablocki—Transportation expenses for entire delegation filed on report of C. Zablocki for each country visited.
[4] Zablocki transportation figures represent in-country transportation expenses for the entire delegation in each country visited.

CLEMENT J. ZABLOCKI,
Chairman, Committee on Foreign Affairs.

Oct. 30, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOUSE ADMINISTRATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1, AND SEPT. 30, 1979

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [3]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [3]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [3]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [3]
Representative Charles Rose	9/24	9/26	Switzerland		200.00		849.00	0	0		1,049.00
Total					200.00		849.00		0		1,049.00

[1] Per diem constitutes lodging and meals.
[3] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FRANK THOMPSON, JR.,
Chairman, Committee on House Administration.

Oct. 16, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [3]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [3]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [3]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [3]
Howell, Martin D.	7/15	7/18	Costa Rica	2,562	300.00		509.00				809.00
	8/10	8/12	Great Britain	152-31	345.00		[3] 3,719.85				5,467.85
	8/13	8/14	Belgium	6,232	214.00						
	8/15	8/16	West Germany	338.52	186.00						
	8/17	8/20	South Africa		300.00						
	8/21	8/26	Kenya	3,333.65	450.00						
	8/27	8/28	Hong Kong	790.60	156.00						
	8/29	8/30	Japan	21,490	97.00						
Kronmiller, Theodore	7/15	7/19	Costa Rica	640.50	[4] 300.00		390.00				690.00
McCloskey, Hon. Paul N.	7/9	7/11	England		318.00		821.00				1,139.00
Williams, Donna J.	7/8	7/14	England		636.00		821.00				1,457.00
Totals					3,302.00		6,260.85				9,562.85

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] $3,444.00—air fare $275.85—transportation by car from London to Antwerp to Frankfurt paid by State Department.
[4] Returned £1,060 ($124 U.S. dollars) to Embassy.

JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries.

Oct. 15, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1, AND SEPT. 30 1979

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Nicholas Wullich	7/6	7/8	Canada [3]	0	100.00	0	82.66	0	22.50	0	205.16
Charles Szuka	7/6	7/8	Canada [3]	0	100.00	0	82.66	0	10.50	0	193.16
Totals					200.00		165.32		33.00		398.32

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Trip included stops in New York, N.Y., and Boston, Mass.; amounts listed represent travel from Boston to Montreal to Boston.

NEAL SMITH,
Chairman, Committee on Small Business.

Oct. 18, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1, AND SEPT. 30, 1979

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Hon. Wyche Fowler, Jr.	7/1	7/3	France	1,139.40	270.00		624.00				894.00
Hon. Fortney H. (Pete) Stark	7/20	7/21	Switzerland	313.35	192.00						192.00
Transportation furnished by Department of Defense.											
Hon. Charles A. Vanik	8/4	8/7	Czechoslovakia	2,349	225.00		177.00				402.00
Totals					687.00		801.00				1,488.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

AL ULLMAN,
Chairman, Committee on Ways and Means.

Oct. 30, 1979

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2726. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting a report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and material for the third quarter of fiscal year 1979, pursuant to section 813 of the Defense Appropriation Act, 1979; to the Committee on Appropriations.

2727. A letter from the Comptroller General of the United States, transmitting his certification of the Defense Department's estimate of revenues to be deposited in the Panama Canal Commission's fund for fiscal year 1980, pursuant to section 1302(c)(2) of the Panama Canal Act of 1979; to the Committee on Merchant Marine and Fisheries.

2728. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the insurance operations of the Federal Housing Administration, Department of Housing and Urban Development, for fiscal year 1978, pursuant to section 106 of the Government Corporation Control Act (H. Doc. No. 96-213); jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, and ordered to be printed.

2729. A letter from the Acting Comptroller General of the United States, transmitting a report on the Department of Housing and Urban Development's section 8 existing housing program (CED-80-7, October 30, 1979); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

2730. A letter from Director, Office of Science and Technology Policy, Executive Office of the President, transmitting a report on the national earthquake hazards reduction program; jointly, to the Committees on Interior and Insular Affairs and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 5037. A bill, to amend the Federal Reserve Act respecting the positions of Chairman and Vice Chairman of the Federal Reserve Board; with amendment (Rept. No. 96-572). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM (for himself, Mr. WOLFF, Mr. JEFFORDS, Mr. BONKER, Mr. MICA, Mr. BARNES, Mr. HALL of Ohio, Mr. WOLPE, Mr. FINDLEY, Mr. GILMAN, Mr. GUYER, Mr. GOODLING, and Mr. PRITCHARD):

H.R. 5737. A bill to amend the International Claims Settlement Act of 1949 to allow recovery by U.S. nationals for losses incurred in Vietnam; to the Committee on Foreign Affairs.

By Mr. FRENZEL (for himself and Mr. HEFTEL):

H.R. 5738. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the deduction allowable for certain moving expenses; to the Committee on Ways and Means.

By Mr. MARLENEE (for himself and Mr. WILLIAMS of Montana):

H.R. 5739. A bill to authorize the Secretary of Agriculture to provide indemnity payments to producers and processors who suffer property losses attributable to contamination by polychlorinated biphenyls; to the Committee on Agriculture.

By Mr. ULLMAN (for himself, Mr. GIBBONS, Mr. GEPHARDT, and Mr. DOWNEY):

H.R. 5740. A bill to amend the Internal Revenue Code of 1954 to encourage cost restraints in employer-provided health benefit plans, to amend the Public Health Service Act and title XVIII of the Social Security Act to further encourage enrollment in health maintenance organizations, and to establish demonstration projects to determine the effect of marketplace competition on the medicaid program; divided and referred as follows: Title I to the Committee on Ways and Means; title II to the Committee on Interstate and Foreign Commerce; and titles III and IV concurrently to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. ULLMAN (for himself, Mr. CONABLE, Mr. CORMAN, and Mr. MOORE):

H.R. 5741. A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage subsidy bonds will not be exempt from Federal income tax, and to exempt interest on certain savings from Federal income tax; to the Committee on Ways and Means.

By Mr. SETBERLING:

H.R. 5742. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to reduce social security taxes and apply the proceeds thereof exclusively to the financing of the old-age, survivors, and disability insurance program, with the medicare program being hereafter financed from general revenues (earmarking a portion of Federal income tax receipts for that purpose) rather than through the imposition of employment and self-employment taxes as at present; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. SCHEUER, Mr. REUSS, Mr. DELLUMS, Mr. WEAVER, Mr. MITCHELL of Maryland, Mr. WEISS, Mr. GARCIA, Mr. FAUNTROY, Mr. MCCLOSKEY, Mr. CLAY, Mrs. SCHROEDER, Mr. LELAND, Mr. CONYERS, Mr. DIGGS, Mr. NOLAN, Mr. STEWART, Mr. WAXMAN, Mr. RANGEL, Mr. GRAY, and Ms. HOLTZMAN):

H.R. 5743. A bill to redesignate the Federal building known and designated as the "J. Edgar Hoover FBI Building" as the "FBI Building"; to the Committee on Public Works and Transportation.

By Mr. BIAGGI:

H.J. Res. 435. Joint resolution designating November 30, 1979, as "Colonel Commandant Michael Kovats Memorial Day"; to the Committee on Post Office and Civil Service.

By Mr. LOTT (for himself, Mr. MONTGOMERY, Mr. STOCKMAN, Mr. WINN, Mr. PEPPER, Mr. COLLINS of Texas, Mr. HUTTO, Mr. HALL of Texas, Mr. WHITTAKER, Mr. KEMP, Mr. LAGOMARSINO, Mrs. HOLT, Mr. KINDNESS, Mr. JONES of Tennessee, Mr. HANCE, Mr. GOLDWATER, Mr. PATTEN, Mr. BURGENER, Mr. GUARINI, Mr. SAWYER, Mrs. FENWICK, Mr. LIVINGSTON, Mr. MCDONALD, Mr. PASHAYAN, Mr. BROWN of Ohio, Mr. CHENEY, Mr. MARRIOTT, Mr. HINSON, Mr. ROBERT W. DANIEL, JR., Mr. JENRETTE, Mr. CORCORAN, Mr. DICKS, Mr. EVANS of Delaware, Mr. MADIGAN, Mr. FRENZEL, Mr. ROUSSELOT, Mr. ESTES, Mr. EVANS of Georgia, Mr. DORNAN, and Mr. CAMPBELL):

H.J. Res. 436. Joint resolution to authorize the President to proclaim November 16, 1979, as "American Enterprise Day"; to the Committee on Post Office and Civil Service.

By Mr. STUDDS:

H. Con. Res. 205. Concurrent resolution disapproving the sale of construction and modification services to Saudi Arabia; to the Committee on Foreign Affairs.

By Mr. MOAKLEY (for himself, Mr. WRIGHT, Mr. RHODES, and Mr. ROUSSELOT):

H. Res. 468. Resolution to amend the Rules of the House of Representatives to provide greater flexibility in the establishment of the periods during which pages of the House may be employed, including authority to reduce the number of pages' positions during recesses or adjournments; to the Committee on Rules.

By Mr. ZABLOCKI:

H. Res. 469. Resolution providing for the printing as a House document of the study entitled "Soviet Diplomacy and Negotiating Behavior: Emerging New Context For U.S. Diplomacy" which was prepared at the request of the Committee on Foreign Affairs by the Congressional Research Service of the Library of Congress; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Rhode Island:

H.R. 5744. A bill for the relief of Lawrence Lau, Marilyn Lau; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 5745. A bill for the relief of Michael Chinwen Ke; to the Committee on the Judiciary.

H.R. 5746. A bill for the relief of Harold William Merritt; to the Committee on the Judiciary.

By Mr. GRADISON:

H.R. 5747. A bill for the relief of Carol Heather Guthrie and Annie (Scott) Boyle; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1429: Mr. CARTER and Mr. ANDREWS of North Dakota.

H.R. 1776: Mr. CHENEY, Mr. ROYER, and Mr. BAILEY.

H.R. 2445: Mr. GRISHAM, Mr. GOLDWATER, and Mrs. HECKLER.

H.R. 2653: Mr. BINGHAM, Mr. BUCHANAN, Mrs. CHISHOLM, Mr. COLEMAN, Ms. FERRARO, and Mr. TAUKE.

H.R. 3883: Mr. PHILLIP BURTON, Mr. LUKEN, Mr. SOLARZ, Mr. RICHMOND, Mr. OBERSTAR, Mr. MOFFETT, Mr. CHARLES H. WILSON of California, Mr. SCHEUER, Mr. MOAKLEY, Mr. YATRON, Mr. CORLISS, Mr. HALL of Ohio, Mr. JACOBS, Mr. GARCIA, Mr. PANETTA, Mr. DIXON, and Mr. MURPHY of New York.

H.R. 4056: Mrs. FENWICK.

H.R. 4128: Mr. STACK.

H.R. 4624: Mr. WEISS.

H.R. 4760: Mr. LOTT.

H.R. 4917: Mr. MOAKLEY.

H.R. 4939: Mr. MCCORMACK and Mr. FORSYTHE.

H.R. 5166: Mr. BUCHANAN, Mr. CAVANAUGH, Mr. NICHOLS, Mr. NOLAN, Mr. ROTH, and Mr. YATRON.

H.R. 5225: Mr. KEMP, Mr. CHAPPELL, and Mr. GRASSLEY.

H.R. 5306: Mr. ABDNOR, Mr. ALBOSTA, and Mr. LOTT.

H.R. 5389: Mr. MITCHELL of Maryland, Mr. BINGHAM, Mr. HUGHES, Mr. DIGGS, Mr. WEISS, Mr. PATTEN, Ms. OAKAR, Mr. FLOOD, Mr. STOKES, Mr. AMBRO, Mr. ZEFERETTI, Mr. HOLLENBECK, Mr. RODINO, Mr. RINALDO, Mr. HOWARD, Mr. NOLAN, and Mr. FORD of Michigan.

H.R. 5478: Mrs. FENWICK.

H.R. 5548: Mr. STARK, Mr. GREEN, Mr. ROSENTHAL, Mr. BRODHEAD, Mr. MOAKLEY, Mr. MOORE, Mr. LEDERER, Mr. LOEFFLER, Mr. BARNES, Mr. HEFTEL, Mr. EVANS of the Virgin Islands, Mr. WAXMAN, Mr. BINGHAM, Mr. WOLPE, Mr. SCHEUER, Mr. DOWNEY, Mr. RANGEL, Mr. HORTON, Mr. KEMP, Mr. PANETTA, and Mr. MOFFETT.

H.R. 5689: Mr. GREEN.

H.J. Res. 374: Mr. SKELTON, Mr. MURPHY of Pennsylvania, Mr. BONIOR of Michigan, Mrs. CHISHOLM, Mr. CORCORAN, Mr. GUYER, Mr. BERKLEY, Mr. BEILENSON, Mr. STANGELAND, Mr. CORRADA, Mr. MATHIS, Mr. DODD, Mr. YOUNG of Alaska, Mrs. FENWICK, Mr. PEPPER, Mr. HYDE, Mr. PREYER, Mr. MCCLOSKEY, Mr. RICHMOND, Mr. WAXMAN, Mr. KEMP, Mr. ADDABBO, Mr. GRASSLEY, Mr. NOLAN, Mr. BROWN of Ohio, Mr. MOAKLEY, and Mr. GRADISON.

H. Con. Res. 202: Mr. IRELAND, Mr. WIRTH, Mr. HALL of Ohio, Mr. WHITEHURST, Mr. EDGAR, Mr. HUGHES, Mr. HARRIS, Mr. MINETA, Mr. BENJAMIN, Mr. HUBBARD, Mr. GRAY, Mr. MATTOX, Mr. PEASE, Mr. BUCHANAN, Mr. PRITCHARD, Mr. BONKER, Mr. YATRON, Mr. BROOMFIELD, Mr. PHILIP M. CRANE, Mr. GOODLING, Mr. EDWARDS of Oklahoma, Mr. GUYER, Mr. WEISS, Mr. LUNGREN, Mr. SIMON, Mr. SENSENBRENNER, Mr. MURPHY of Illinois, Mr. KOSTMAYER, Mr. ROUSSELOT, Mr. DICKINSON, Mrs. CHISHOLM, Mr. FORD of Tennessee, Mr. RICHMOND, Mr. RINALDO, and Mr. HORTON.

H. Res. 446: Mr. BLANCHARD, Mr. WIRTH, and Mr. GRAY.

H. Res. 453: Mr. HUGHES.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3398

By Mr. FOLEY:

—On page 2, line 17, redesignate "SEC. 3" as "SEC. 4" and immediately before such line insert a new section 3 as follows:

"SEC. 3. Section 1001 of the Food and Agriculture Act of 1977 is amended by adding at the end thereof a new subsection (c) as follows:

"(c) Notwithstanding any other provision of law, the established price for wheat of the 1980 crop shall be $3.63 per bushel and the established price for corn of the 1980 crop shall be $2.25 per bushel for any producers who do not exceed the acreage on the farm normally planted to crops designated by the Secretary, adjusted as determined necessary by the Secretary to be fair and equitable among producers: *Provided*, That the established price for any producers of such crops who exceed such acreage shall be computed under the applicable provisions of the Agricultural Act of 1949. The payment rate for grain, sorghum, and barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.".

By Mr. SEBELIUS:

—On page 2, line 17, redesignate "SEC. 3" as "SEC. 4" and immediately before such line insert a new section 3 as follows:

"SEC. 3. Notwithstanding any other provision of law, the established price for wheat of the 1980 crop shall be $3.88 per bushel and the established price for corn of the 1980 crop shall be $2.51 per bushel for any producers who do not exceed the acreage on the farm normally planted to crops designated by the Secretary, adjusted as determined necessary by the Secretary to be fair and equitable among producers: *Provided*, That the established price for any producers of such crop who exceed such acreage shall be computed under the applicable provisions of the Agricultural Act of 1949. The payment rate for grain, sorghum, and barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.".

H.R. 4904

By Mr. GRADISON:

—On page 66, after line 18, insert the following new section (and conform the table of contents):

IMPOSITION OF WORK REQUIREMENTS BY STATES AS CONDITION OF AID TO FAMILIES WITH DEPENDENT CHILDREN ELIGIBILITY

SEC. 114. Section 402 of the Social Security Act (as amended by sections 111(a)(2) and 118(b)(2) of this Act) is further amended by adding at the end thereof the following new subsection:

"(f) Nothing in this part or part C, or in any State plan approved under this section, or in any regulation prescribed to implement this part or part C or any such State plan, shall be construed to prevent a State from imposing (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with subsection (a)(19) or part C) a requirement that an individual or relative, or any other person (living in the same home) whose needs are taken into account in making the determination under subsection (a)(7), perform employment (as defined by the State) as a condition or additional condition of eligibility for aid to families with dependent children, provided that a single parent or other relative of a child under the age of six who is caring for the child shall not be required to perform employment unless appropriate care is available for such child while the parent or relative is performing such employment.".

H.R. 4985

By Mr. YOUNG of Alaska:

—On page 34, line 3, insert a period after the number "1978", strike the remainder of the section through line 5, and add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 176. No provision of this Act nor any

action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system."

Renumber subsequent Sections accordingly.

(To the amendment in the nature of a substitute offered by Mr. Udall) (H.R. 5660)

—On page 10, after line 9, add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 203. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system."

Renumber subsequent sections accordingly.

H.R. 5192

By Mr. ERLENBORN:

—Page 95, after line 16, insert the following new subsection:

(d) Section 428(a)(2) of the act is amended by adding at the end thereof the following new subparagraph:

"(C)(i) A student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income at the time of execution of the note or written agreement evidencing such loan—

"(I) is less than $40,000; or

"(II) is equal to or greater than $40,000 and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

"(ii) For purposes of this subparagraph, the adjusted family income of a student shall be determined pursuant to regulations of the Commissioner in effect at the time of execution of the note or written agreement evidencing the loan. Such regulation shall provide for taking into account such factors, including family size, as the Commissioner deems appropriate. In the absence of fraud by the lender, such determination of the need of a student under this subparagraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.".

—Page 115, after line 7, insert the following new section:

INTEREST RATE INCREASE

SEC. 436. Section 464(c)(1)(D) of the Act is amended by striking out "shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum" and inserting in lieu thereof "shall provide, for a loan issued prior to October 1, 1980, that such loan shall bear interest, on the unpaid balance, at the rate of 3 per centum per annum, and shall provide, for a loan issued on or after October 1, 1980, that such loan shall bear interest, on the unpaid balance, at the rate of 7 per centum per annum".

By Mr. PETRI:

—Page 95, line 18 redesignate section 417 as 418, and immediately before line 17 insert the following new section:

CANCELLATION FOR MILITARY SERVICE

SEC. 417. Section 437 of the Act is amended—

(1) by amending the heading of such section to read as follows:

"REPAYMENT BY THE COMMISSIONER"

And

(2) by adding at the end thereof the following new subsection:

"(c)(1) From the amount appropriated under paragraph (4) which are available for this subsection, the Commissioner shall, subject to the allocation schedule established under paragraph (4)(B), repay the per centum or the amount specified in paragraph (3) of this subsection of the total amount of any loan described in clause (A), (B), or (C) of section 428(a)(1) and made after October 1, 1975, for each complete year of service after October 1, 1980, by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be eligible to be repaid under paragraph (1)—

"(A) for service as an enlisted member of the Selected Reserve of the Ready Reserve of the Armed Force; or

(B) for service on active duty as an enlisted member of the Armed Forces.

"(3)(A) The per centum or amount of a loan which shall be eligible to be repaid under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) of paragraph (2), 10 per centum or $500, whichever is more, for each year of qualifying service; or

"(ii) in the case of service described in clause (B) of paragraph (2), 20 per centum or $1,000, whichever is more, for each year of qualifying service.

"(B) If a portion of a loan is repaid under this subsection for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(D) Any individual who transfers from service described in clause (A) or (B) of paragraph (1) to service described in the other clause of such paragraph during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Commissioner.

"(4)(A) There are authorized to be appropriated for the purposes of this subsection and section 465(b)—

"(i) $7,000,000 for fiscal year 1981;

"(ii) $11,000,000 for fiscal year 1982;

"(iii) $13,000,000 for fiscal year 1983;

"(iv) $14,000,000 for fiscal year 1984; and

"(v) $15,000,000 for fiscal year 1985.

"(B) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds available under subparagraph (A) during any year for which such appropriation is not sufficient to pay the sum of the amounts eligible for repayment under this section and for cancellation among the various services and military occupational specialties, but first priority shall be given for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.

"(C) The Commissioner shall equitably distribute the amount appropriated under subparagraph (A) between this subsection and section 465(b)."

—Page 115, after line 7 insert the following new section:

CANCELLATION FOR MILITARY SERVICE

SEC. 436. Section 465 of the act is amended—

(1) by adding at the end of paragraph (3) of subsection (b) the following new subparagraph:

"(D) Notwithstanding any other provision of this paragraph, the amount of a loan which shall be cancelled in the case of any service described in clause (D) of paragraph (2) shall be reduced by the amount by which the loan is cancelled under subsection (b) by reason of the same service."; and

(2) by redesignating subsection (b) as subsection (c) and by inserting immediately before such subsection the following new subsection:

"(b)(1) The per centum or the amount specified in paragraph (3) of this subsection of the total amount of any loan made after October 1, 1975, from a student loan fund assisted under this part shall be eligible, subject to paragraph (4)(B), to be cancelled for each complete year of service after October 1, 1980, by the borrower under circumstances described in paragraph (2).

"(2) Loan shall be eligible to be cancelled under paragraph (1)—

"(A) for service as an enlisted member of the Selected Reserve of the Ready Reserve of the Armed Forces; or

"(B) for service on active duty as an enlisted member of the Armed Forces.

"(3)(A) The per centum or amount of a loan which shall be eligible to be canceled under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) of paragraph (2), 10 per centum or $500, whichever is more, for each year of qualifying service; or

"(ii) in the case of service described in clause (B) of paragraph (2), 20 per centum or $1,000, whichever is more, for each year of qualifying service.

"(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such portion for such year shall be canceled.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(D) Any individual who transfers from service described in clause (A) or (B) of paragraph (1) to service described in the other clause of such paragraph during a year shall be eligible to have canceled a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Commissioner.

"(4)(A) Funds for the purposes of this subsection shall be drawn from the appropriations made under section 438(c).

"(B) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds available under subparagraph (A) during any year for which such appropriation is not sufficient to pay the sum of the amounts eligible for cancellation under this subsection. Such schedule shall allocate priorities for cancellation among the various services and military occupational specialties, but first priority shall be given for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.".

By Mr. WALKER:

—Page 210, after line 15 insert the following new section:

RESTRICTION ON QUOTAS

SEC. 1202. Title XII of the Act is further amended by adding at the end thereof the following new section:

"RESTRICTION ON QUOTAS

"SEC. 1204. The Secretary is authorized to utilize affirmative action programs to promote equal opportunity within higher education, and issue rules, regulations, standards, guidelines, recommendations, and orders for purposes of compliance with such programs pro-

vided that such programs do not utilize any ration, quota or other numerical requirement related to race, creed, color, national origin, or sex to require any individual or entity to take any action with respect to (1) the admission policies or practices of such individual or entity, or (2) the hiring or promotion policies or practices of such individual or entity.".

H.R. 5297

By Mr. WEAVER:

—Add a new section in title II:

"No amount authorized to be appropriated under this Act may be expended for the issuance of an operating license for a nuclear power plant unless the Commission has received from the State in which the power plant is sited, and has approved, an emergency evacuation plan for such State or, if applicable, a multi-State region."

EXTENSIONS OF REMARKS

LAVELLE SCHOOL FOR THE BLIND CELEBRATES ITS 75TH ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. BIAGGI. Mr. Speaker, I am pleased to bring to the attention of my colleagues a special event in my hometown of the Bronx which recently took place. The Lavelle School for the Blind celebrated its 75th anniversary last week—a celebration marked by glowing tributes from students, educators, and public officials who have been touched by its work for the blind and visually handicapped.

The Lavelle School was begun in a small apartment in 1904. According to the original charter, the purpose of the school is to perform such work among the blind as will tend to promote their mental, moral and physical development, welfare and advancement. The school is administered by the Sisters of St. Dominic of Blauvelt, largely due to the fact that the first pupil of the school went on to become the first Dominican nun. From there, Mary Davis, who then became Sister Mary Benigna, went on to receive an honorary doctor of humane letters degree from Fordham University in 1963.

It is truly a unique philosophy which guides the activities of the people who work at the Lavelle School. One of their policies demonstrates their belief that the home environment can provide a useful and supportive partner in the development of their students. Students are encouraged to go home daily whenever this is possible. The social development of the child can be enhanced by having his family and siblings accept him or her in familiar surroundings as an individual. However, a child with a handicapped condition due to visual impairment needs special attention as well. This is where the Lavelle School provides its most valuable assistance to these students—in the classroom.

Special education is provided so that the Lavelle students are able to achieve their full potential. The program offered to students is enriched by educational aids and tools, coupled with individualized instruction so that each pupil can develop at a rate commensurate with his own abilities. Class size is kept small, and each class is equipped with radios, tape recorders, and television to insure that students benefit from all forms of media communication and more importantly, they are learning what goes on daily in the world around them.

Over the years, the Lavelle School has been successful in producing a special kind of graduate, one who has reaped the benefits of specialized attention from both family and instructors. It is this kind of educational system—unique in form and style—that is a testimony to the diversity of the educational system of this country. As the ranking New York member on the House Education and Labor Committee, I have been witness to many different methods of teaching the handicapped, in both the public and the private arena. The Lavelle School is a sterling example of a small, but effective alternative educational method.

I also wish to note another fitting tribute paid to the Lavelle School by Terrence Cardinal Cooke, Archbishop of New York:

It is so fitting that in this very month we have all shared the momentous and joyous occasion of the visit of our Holy Father to New York. He reminds us in clear words that our faith in the Lord and his Gospel calls us to loving service of all our brothers and sisters, especially the poor and sick.

What a beautiful witness the Lavelle School has given for the past seventy-five years of dedicated people ready to answer the call of service to the blind and visually handicapped. Through creative and caring programs you have provided your students the full opportunities of life to which they are entitled. And we all know the marvelous way in which they have responded!

I wish to congratulate the faculty, the members of the board of trustees and the students of this unique educational institution. Through loving support and understanding combined with innovative programs, the members of the Lavelle School have built a reputation that we of the Bronx and all of New York City can be proud of.●

SCHOOLS ARE IN TROUBLE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. MICHEL. Mr. Speaker, Phi Delta Kappa magazine has published the results of a survey undertaken by the National Assessment of Educational Progress. Predictably, the results are grim: "* * * the Nation's high schools and their students are in real trouble."

At this point I want to insert in the RECORD, "NAEP at Age 10 Says: Schools Are in Trouble," from Phi Delta Kappa magazine, November, 1979:

NAEP AT AGE 10 SAYS: SCHOOLS ARE IN TROUBLE

The once-controversial National Assessment of Educational Progress (NAEP) is ending its first decade of measuring education achievement and reassessing periodically for possible change. After spending $55.2 million in federal tax dollars and after involving 810,000 students in assessment exercises, what is its message to the American people?

NAEP results since 1969 indicate clearly that the nation's high schools and their students are in real trouble. They also say that the first signs of trouble show up with 13-year-olds in the intermediate or junior high school. All is not grim, however, because the news is more positive from the assessments of 9-year-olds in elementary schools across the country.

The latest assessment results, which provide NAEP's first opportunity to measure change in mathematics achievement, illustrate this point. A comparison of 1973 and 1978 results shows a slight decline for 9-year-olds, a moderate decline for 13-year-olds, and an appreciable decline for 17-year-olds.

Here, in quick summary, is what NAEP has found in other subject areas assessed:

In science, achievement of all three age groups declined between 1970 and 1973; however, between 1973 and 1977 achievement of 17-year-olds continued to fall while that of both younger groups stayed about the same.

In reading, 9-year-olds displayed a slight improvement between 1971 and 1975, while achievement of 13- and 17-year-olds remained unchanged.

In writing, achievement as displayed in written paragraphs stayed about the same for 9-year-olds between 1970 and 1974, but the quality and coherence of 13- and 17-year-olds declined. Basic mechanics of writing—spelling, punctuation, and capitalization—showed few changes at any grade level.

In social studies, achievement of 9-year-olds did not change from 1972 to 1976; some declines were evident for 13-year-olds and larger drops occurred for 17-year-olds; both teenage groups also declined in their knowledge and attitudes regarding politics.

"While patterns across subject areas are not completely consistent," an NAEP spokesman pointed out, "some trends are apparent. There is a fairly strong pattern of declines for 17-year-olds, the only exception being in the area of reading. Results for 9-year-olds, however, usually did not change greatly between the early and mid-1970s, and improved somewhat in reading.

"Thirteen-year-olds," he continued, "were between these extremes, showing declines in some areas and not in other areas. Generally, their declines were not quite as large as those seen for the older teenagers."

The new math results, comparing 1973 assessments with 1978 assessments, show that on average 17-year-olds performed four percentage points lower than 17-year-olds five years ago and 13-year-olds performed two percentage points lower. The decrease in 9-year-olds' performance was about one percentage point.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Results for skill in computing with whole numbers were mixed. Although there were fluctuations in computational abilities over the five-year period, performance was generally high and declines were, in large part, offset by gains.

Serious declines, however, were noted in problem-solving ability. Here are some examples:

In 1978, 56 percent of the 17-year-olds, compared to 65 percent in 1973, answered this problem correctly: "A car traveled eight kilometers in five minutes. At this speed, how many kilometers could it travel in one hour?"

In 1978, 52 percent of the 17-year-olds, compared to 60 percent in 1973, answered this problem correctly: "A hockey team won five of the 20 games it played. What percent of the games did it win?" Twenty percent of the 13-year-olds in both 1973 and 1978 answered it correctly.

In 1978, 13 percent of the 9-year-olds, 49 percent of the 13-year-olds, and 73 percent of the 17-year-olds, compared to 18 percent, 56 percent, and 81 percent respectively in 1973, answered this problem correctly: "What does ⅔ of 9 equal?"

In 1978, 36 percent of the 13-year-olds and 53 percent of the 17-year-olds, compared to 43 percent and 61 percent respectively in 1973, solved this problem: "Express 9/100 as a percent."

One of the few bright spots in the math results was a significant improvement of 9-year-old blacks between 1973 and 1978. In 1973 an average of 18 percentage points separated black and white 9-year-olds' performances; by 1978 this difference had decreased to 13 percentage points. Although the 13-year-old blacks did not improve between the two assessments, their achievement did not decline as did their white counterparts'. By age 17, however, the favorable trends for blacks were no longer evident.

Another bright spot: Knowledge of metric terminology improved substantially between assessments. In 1978, 63 percent of the 13-year-olds, compared to 37 percent in 1973, correctly identified a kilometer as the largest measure of length in a list of metric units. Also, in 1978, 71 percent of the 17-year-olds correctly gave the English unit most nearly equivalent to a given metric unit—an improvement of 12 percentage points from 1973.

A panel of math experts assembled by NAEP to study the results was highly concerned with the generally low performance on problem-solving items and with the declines on these items that had occurred since 1973. It pointed out that the new emphasis in many schools on "the basics" has often resulted in a narrowing of the curriculum, with more attention focused on computational skills and knowledge of facts and definitions, and in less time spent on problem solving. It also noted that new textbooks have adopted a simplified approach to problem solving.

Unfortunately, in its press release disclosing the results, NAEP made time-pressed news reporters wade through four pages of copy before they could find out the changes that took place between assessments, which, after all, is the main purpose of NAEP. This is dangerous business, because it gives the impression that an attempt is being made to hide bad news. In recent years NAEP has tended to give good news equal billing with bad news, even though the importance of the negative results is often far more significant. Since nothing is more important to NAEP than its credibility, the appearance of possible slanting in the reporting of results is something to avoid at all costs. And instead of following NAEP's lead, the press played up the changes reported on page 5 of the press release.

NAEP, funded by HEW's National Institute of Education, releases detailed reports on the results of each assessment. Reports include useful recommendations to educators on actions they can take to eliminate weaknesses pinpointed by the studies, making them must reading for district and school staffs. Reports of the math assessment are *Changes in Mathematical Achievement, 1973–87* ($1.75); *Mathematical Skills and Knowledge* ($4.65); and *Mathematical Applications* ($4.50). They may be ordered from NAEP, Suite 700, 1860 Lincoln St., Denver, CO 80295.●

THE TRUTH ABOUT ALCOHOL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. DORNAN. Mr. Speaker, Prohibition was a dismal failure. But there is nothing utopian about promoting the truth: health warning labels on alcohol bottles. Alcoholism in this country has become a major debilitating disease. Seventeen million alcoholics. One of the greatest hazards posed by alcohol is the danger to the unborn. Far too few pregnant women are aware of the dangers posed to their unborn children by the consumption of alcohol. Twin Circle has published a special report on the subject in the November 4, 1979, Sunday edition. I invite my colleagues to please take time from their busy schedules and read the following piece.

The report follows:

MODERATION MESSAGE MISLEADING—"FOR MOTHERS-TO-BE ANY ALCOHOL IS DANGEROUS" SAY MEDICAL EXPERTS

SEATTLE, WASH., November 4, 1979.—Government health experts are now urging Congress to require warning labels on all alcohol bottles.

"The health experts are to be commended, but I'm seriously concerned about the wording of the proposed label," states James W. Smith, M.D., president of the Schick Shadel Hospitals for the Control of Alcohol Addiction in Seattle, Washington.

"The main problem," asserts Dr. Smith, "is the use of the word 'excessive.' The proposed label reads 'Caution: Excessive use of alcoholic beverages may be harmful to your health, may be habit forming, and during pregnancy may cause birth defects. Heavy, rapid consumption can cause death.'

"The words 'excessive use' have such widely differing interpretations," explains Dr. Smith. "It might mean over two fifths of Scotch to one person, and two glasses of wine to another.

"The word 'excessive' is particularly hazardous to the 10 percent of the population who are genetically predisposed to alcohol addiction. For these people, any alcohol is dangerous."

Like Dr. Smith, Ruth Little, M.D., psychiatry professor at the University of Washington, has problems with the phraseology of the proposed warning label. One of the leading authorities on fetal alcohol syndrome, Dr. Little asserts, "There is no safe limit on the amount of alcohol a pregnant woman can drink.

"There is plenty of evidence showing a strong link between as little as one or two drinks a day and increased risk of lower birth weight, stillbirth, and other problems.

"For the mother-to-be, the wisest and safest course is to abstain.

"Sure, there are women who drink alcohol during their pregnancy and have beautiful babies, but the fact is they're taking a very dangerous risk.

"Many women just don't know about the dangers of alcohol. A new mother visited us last week. During her pregnancy, she drank a few beers a day. Her baby was born with central nervous dysfunction and facial abnormalties—typical fetal alcohol syndrome characteristics. She kept asking, 'why didn't anyone tell me?' "●

STATE DEPARTMENT OBSTRUCTING CAMBODIAN AID

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ERDAHL. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

OBSTRUCTING CAMBODIA AID

Jimmy Carter's sanctimonious sermons on human rights have become a cruel mockery to millions of Cambodians, who are dying of starvation and disease—helpless pawns being sacrificed in the deadly chess game of big-power politics.

Despite assurances from the Carter administration that the United States would give food to Cambodians "irrespective of their political authority," officials within the Sate Department have deliberately sabotaged this humane policy, according to a wide variety of sources.

"The problem has been that people in lower levels, specifically in the East Asian desk, have been doing nothing but obstructing efforts to aid the Cambodians," one Capitol Hill source told our reporter Lucette Lagnado.

The Foggy Bottom bureaucrats have been blaming legal and congressional roadblocks for their inaction, But the real reason, according to our sources, is a deep-seated anti-Vietnam bias in the State Department.

Apparently it was feared that some relief supplies might fall into the hands of the Vietnamese invaders, helping them solidify their authority in Cambodia. Rather than run the risk, our callous diplomats chose not to implement the massive food program needed to prevent the virtual extinction of the Cambodian people.

The anti-Vietnamese "tilt" in the State Department was recently reflected in the shameful U.S. vote to seat the infamous Pol Pot regime in the United Nations, despite the evidence—which we have been reporting for more than four years—that is was responsible for the slaughter of millions of Cambodians since it seized power in 1974.

For reasons of global strategy, the United States deems it important to join the Chinese in support of Pol Pot, and oppose the rival government set up by Soviet-backed Vietnamese troops. "It was more important for us to give the Soviets a diplomatic kick than it was for us to feed the people," charged one knowledgeable source.

It's not as if the horrors of Cambodia's starving millions came as any surprise to our policymakers. The State Department has known since at least March that the unhappy country was facing a food shortage of catastrophic proportion, according to sources in the department and Congress. Intelligence reports informed the administration that only 5 to 10 percent of Cambodia's arable land was being planted last spring.

This was confirmed by a secret CIA report in early August, which offered the harrowing prediction that as many as 3.5 million people would starve to death as a result of poor harvests next December and January. Other reports indicated that typhus and malaria were decimating the population. There are virtually no children under age 5, and for every birth there are 10 deaths.

Footnote: Robert Oakley of the State Department's East Asian bureau denied that his office had failed to implement the policy on food aid to Cambodia. "The Vietnamese wouldn't let us" distribute the relief supplies, he said, and the program was hampered by strict monitoring procedures insisted on by Congress.●

PAY CONTINUITY ACT OF 1979

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. FISHER. Mr. Speaker, I have introduced a bill to assure the continuity of pay for Federal civilian and military personnel whether or not Congress has approved the appropriations bills or continuing spending resolution for their agencies in a timely fashion. If enacted, this proposal will put an end to the annual autumn aggravation suffered by thousands of Government employees. For the last several years, as September ends, their worrying begins: Will they get all, some, or none of the pay due them? This situation is becoming as predictable as the changing of the leaves. And it places an uncalled for and unnecessary burden on the employees.

The bill provides an appropriation for paying Federal employees and military personnel when no appropriation or continuing resolution has been enacted. Pay raises would be held in abeyance until the regular legislation was passed, at which time the raises would be paid retroactively. All these provisions would be triggered automatically and would require no further congressional action.

Despite the move several years ago, of the beginning of the fiscal year from July 1 to October 1, Congress seems to be unable to complete work on all the appropriations measures in time for the new fiscal year. This delay puts employees' pay in jeopardy. They are expected to continue to work as usual even though they are not assured that they will be paid on time and in full for their efforts. Usually the delay in passing the appropriations bills has little or nothing to do with the pay of Government employees. This is no way to run a Government. My bill would do away with the employees' uncertainty without interfering with the right of the House and Senate to debate fully the important program and other issues involved in the funding of executive agencies.

I believe that this pay continuity proposal is fair to Federal employees, both civilian and military. I urge its speedy adoption.●

NATIONAL SALES TAX AS A SOLUTION?

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. VENTO. Mr. Speaker, I want to call to the attention of my colleagues in the House an excellent article by Melvyn B. Krauss which appeared in the October 24 Wall Street Journal, zeroing in on the arguments for and against a national sales tax and the VAT system proposed by our respected colleague from Oregon, Mr. ULLMAN.

It seems to me that Mr. Krauss correctly identifies potential problems that might arise should the United States follow the lead of France in adopting a "value added tax." Krauss does not knock the concept for France where it most certainly is well suited to their tax environment, but he emphatically warns that what might work well in one economy, does not mean success in another—in this case the United States.

I think Mr. Krauss, while not so stating, believes, as do I, that we are at a crossroads in our history that clearly mandates the serious consideration of an alternative method of Federal taxation. None of us need sift through the letters we receive daily from our constituents reminding us that the Federal income tax is beleaguered with loopholes and inequities. At most, we have only applied Band Aides and we have avoided the necessary surgery to make our Federal tax system fair and equitable.

It may well be that Mr. Krauss' assessment that our serious problems of low savings, high inflation, and persistent trade deficits might be remedied, at least in part, by a national sales tax to replace corporate and personal income tax. It is well worth our consideration.

I submit Mr. Krauss' astute article for insertion in the RECORD at this time:

U.S. SALES TAX IS PERMISSIBLE TO VAT SYSTEM

(By Melvyn B. Krauss)

The imposition of a major new tax by a leading country appears to create inexorable pressures on other countries to adopt the same tax. The less-developed countries often have copied the tax structures of industrialized nations even though the taxes were not well-suited to their situation. And now Al Ullman, chairman of the House Ways and Means Committee, has proposed that the U.S. adopt Europe's value-added tax (VAT).

The first point to recognize about VAT is that it is a method of taxation rather than a tax per se. As applied in Europe, VAT is a complicated way of collecting a retail sales tax on consumption goods. Instead of taking the tax in one fell swoop at the retail level, VAT collects it piecemeal at every stage in the production-distribution process. But only the value added at each stage is taxed, so that no part of the total value of the goods sold to the final consumer is taxed more than once.

The reason the Europeans collect their sales tax in such a complicated way relates to the special tax situation of France, the country in which VAT was first introduced. VAT is well suited to the French tax environment where the large number of tax-recalcitrant retailers makes collection of a retail sales tax impractical. The value-added-tax cleverly avoids this problem by taxing a relatively small number of large producers rather than a large number of small sellers. French retailers are willing to collect VAT because it's the only way a refund can be obtained on the tax they themselves must pay on their own purchases.

The American tax environment, however, is not the French one. The administrative apparatus for imposing a national retail sales tax if we wanted one already exists in most areas. All that is required of the shopkeeper is to piggy-back the federal tax on top of the state and (sometimes) local sales taxes. The administrative cost of this would be an infinitesimally-small fraction of that of introducing the complicated VAT system. Businesses of all sizes will be right to consider the record-keeping costs of VAT as yet another burden imposed on them by Washington bureaucrats. And many small producers could go out of business because of these costs.

The real question, however, is whether we want a federal retail sales tax. If we do, there must be political guarantees that the new tax will not increase the overall federal tax burden. That is, that the federal sales tax will substitute for one of the other major federal taxes (the personal or corporation income tax, for example) at a constant level of government revenues. The record shows that the introduction of a new tax all too often serves as a back door for raising taxes rather than reforming them. Chairman Al Ullman of the House Ways and Means Committee says he'd link his VAT to an equivalent reduction in federal income and Social Security taxes, but that's easier said than done.

Assuming that such back-door tax increases can be avoided, there are at least three reasons to believe that there would be real economic benefits from substituting a national retail sales tax for, say, the personal income tax.

First, replacing the income tax by a sales tax would remove a considerable amount of the tax burden from savings. The sales tax specifically exempts savings from the tax. The income tax does not. The tax substitution therefore could be expected to increase the now deficient ratio of savings to national income in this country. The same argument applies if the sales tax were to replace the corporate income tax, though it would be less certain should the substitution be for the Social Security tax.

Second, shelving the income tax for a sales tax would provide automatic indexation of federal taxes for inflation. Since the sales tax would be imposed as a flat rate, inflation would increase the tax and tax base (consumption expenditure) in proportion. Thus, real taxes—the cost of taxes to the taxpayer in terms of goods and services—would be independent of inflation. It is well known that inflation increases real taxes with the present progressive personal income tax.

Finally, substituting the retail sales tax for any one of these three federal taxes—the personal and corporate income taxes or the Social Security tax—could be expected to improve the U.S. trade deficit and the value of the dollar. All three of these taxes are reflected in the price of the goods we export, while European exporters receive a rebate on VAT from their exports. International rules forbid export tax rebates for so-called "direct taxes," such as the income tax. Even should these rules be changed, it would be difficult for us to identify the precise amount

of direct tax carried by the export and thus the rebate.

Under a VAT system, a complicated procedure must be set up for making export tax rebates. But under a national retail sales tax, the tax is imposed only at the retail level, no tax is levied on prior stages in the production and distribution process. Hence, no tax is levied on exports and no system need be established for rebates.

The retail sales tax and VAT have been labeled unfair by many "experts" on the grounds it is regressive. Because poor people are alleged to consume a larger part of their incomes than richer ones, the ratio of tax to income falls as income rises with both types of consumption taxes. But this argument is seriously incomplete. Over time, savings are converted into consumption either by the saver or his heirs. Thus ultimately income will be equal to consumption for rich and poor alike. Consumption taxes aren't regressive when the proper analytical framework is used.

Given the current U.S. problems of low savings, high inflation and persistent trade deficits, the time could not be more opportune for retiring the income tax (both corporate and personal) in favor of a federal tax on consumption. But we don't need VAT to accomplish this.●

WHAT ABOUT THE REPUBLICAN CANDIDATES?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ASHBROOK. Mr. Speaker, now that Senator KENNEDY has all but announced that he will be a candidate for President, I wonder if those media wizards at the three major networks will begin to give a little coverage to the other candidates for that office. I generally try to watch the evening news, time permitting, and in the last couple of months, I have not seen too much of the Republican candidates. I have talked to some of them and I know that they are out there campaigning but from the amount of news coverage they get, you would never know it.

It is not every day that I get a chance to see a John Connally or a Ronald Reagan out there on the stump. It is not often that I get to hear what a George Bush or a PHIL CRANE or a HOWARD BAKER is going to do about this mess that the Democrats have gotten us into. Or even my friend, Ben Fernandez, who tells everyone he is the man.

Last night, I watched Stephen Smith, Senator KENNEDY's brother-in-law/campaign manager but I did not see any of the Republican candidates reacting to the news. I heard all about Mayor Byrne's endorsement of the Senator but if I counted on the networks, I would never know who was supporting who for the Republican nomination. In fact, if I did not read the newspapers, I probably would not know who was running aside from President Carter and Senator KENNEDY.

It would seem to me that if the President is as unpopular with the American public as he appears to be, then the networks, in good conscience, could devote a little of their coverage to the alternatives rather than concentrating on a man who has virtually echoed Mr. Carter's voice in the Senate. I for one, would like to hear what my Republican friends have to offer but if those guardians of the first amendment at CBS, ABC, and NBC have their way, I will never know.

A couple of weeks ago, I heard George Bush say that he did not like to argue with the media because they always have the last word. He is probably right but if the public is to have a choice for President next year, it would be nice if they would let us have our first word.

Come on networks, let us hear what the Republicans have to say.●

ENERGY CONSERVATION IN NEW ENGLAND

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. MOAKLEY. Mr. Speaker, the need to conserve energy is paramount if we are to ever truly develop an energy program which is stable and effective. I am pleased to report that according to a recently released study done by the New England Regional Commission, New England has done a better job of conserving distillate fuel oil since the embargo of 1973 than has the United States as a whole.

TABLE 1.—SALES OF DISTILLATE IN NEW ENGLAND

[Millions of barrels] [1]

	1976	1977	Percent of total sales for 1977
Heating	106.156	101.178	85.7
Industrial	2.530	4.087	3.5
Oil companies	0.173	.232	.20
Railroads	1.182	.945	.80
Electric utilities	0.464	.568	.48
Other [2]	13.665	13.090	9.3
Total sales	124.17	120.10	100.
SALES OF DISTILLATE IN THE UNITED STATES			
Heating	543.895	537.530	43.7
Industrial	79.956	104.244	8.5
Oil companies	14.523	19.954	1.6
Railroads	97.467	99.306	8.1
Electric utilities	60.570	76.681	6.2
Other [2]	354.589	393.382	31.9
Total sales	1,151.000	1,231.97	100.

[1] Includes diesel fuel and kerosene-type jet fuel for electric utilities.

[2] Includes on- and off-highway diesel, vessels and military sales.

Source: Energy data reports, "Sales of Fuel Oil and Kerosene in 1977," DOE/EIA, Nov. 1978.

This news is particularly significant since the New England region relies on the use of distillates more than the rest of the country and most of the fuel, 86 percent, is used for heating purposes. Approximately 71 percent of the housing stock in New England relies on distillates as a primary fuel compared to 26 percent for the United States.

The New England Regional Commission study shows that distillate consumption per household has decreased in New England over the past decade. For the 1977–78 heating season, New England experienced more degree days—a 24-hour period during which the average temperature is 1° less than 65°—than other regions of the country while household energy consumption was not proportionately as high. Nationwide, households used only 2.3 percent fewer gallons of home heating oil on the average than residents in New England during the 1977–78 heating season while the number of degree days was 19.4 percent lower.

TABLE 2.—DISTILLATE CONSUMPTION PER HOUSEHOLD FOR 1970 TO 1978

Heating season	New England [1]	Heating degree days in New England [2]
1969/1970	1,591	6,805
1970/1971	1,655	6,824
1971/1972	1,601	6,550
1972/1973	1,533	6,421
1973/1974	1,421	6,329
1974/1975	1,477	6,470
1975/1976	1,319	6,178
1976/1977	1,422	5,982
1977/1978	1,328	6,875
1978/1979	1,271	

[1] Source: "Fuel Oil Heat and Solar Systems," September issue of each year.

[2] Source: U.S. Department of Commerce, National Climatic Center, "State, Regional and National Monthly and Seasonal Heating Degree Weighted by Population (July 1931–June 1978)."

TABLE 3.—REGIONAL AVERAGE RESIDENTIAL CONSUMPTION AND DEGREE DAY VARIATION

[1977/1978 heating season]

	Gallons consumed per residential customer [1]	Percent fewer gallons than New England	Heating season degree days [2]	Percent fewer heating season degree days than New England
New England	1,328		5,332	
Metropolitan New York	1,642	—23.6		
New York State			5,107	4.2
Other Mid Atlantic	1,294	2.6		
Mid Atlantic			5,082	4.7
South Atlantic	973	26.7	3,141	41.7
Midwest	1,294	2.6		
West	867	34.7		
All sections	1,297	2.3	4,300	19.4

[1] Source: Martha Mantho, "Margins Improve to Offset Rising Costs," from "Fuel Oil, Oil Heat and Solar Systems," vol. 37, No. 9.

[2] Source: American Gas Association, Gas Facts, 1977 data, 1978.

The energy conservation record of New England is good, but there still lies much room for continued improvement. As the Congress considers energy production and conservation bills in the future, it is important to remember the impact that increased incentives for home energy conservation and use of alternative energy sources can have on improving the conservation record of the whole country.●

NEW AMERICAN CITIZENS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. LONG of Maryland. Mr. Speaker, it is with particular pleasure that I congratulate 15 residents of Maryland's Second Congressional District who have chosen to become American citizens, accepting all of the responsibilities that freedom and citizenship entail. I hope that my colleagues will join me in welcoming these new Americans and extending to them our wishes for a happy and prosperous life in the land we love.

They are:

Mr. Julius Y. Grunwald, Mrs. Myung H. Chon, Mr. Kin T. Chon, Mrs. Claudine M. Caralis, Mr. and Mrs. Jack Childers, Jr. in behalf of Elizabeth Childers, Mr. Jiri Vaclav Hradsky, Mrs. Seung N. Kim, Mr. Bambino I. Martins, Mrs. Zilca N. Efford, Miss Shou-Pin Lee, Mr. Eui-Seo Koo, Mrs. Inja Koo, Mr. Se B. Chang, Mrs. Yang S. Park, Mrs. Malwina Fastman.●

THE CRASH AND CLASSICAL ECONOMICS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. KEMP. Mr. Speaker, Jude Wanniski owns the distinction of first pointing out the direct connection between the great stock market crash which occurred 50 years ago today, on October 29, 1929, and the heavy-handed Smoot-Hawley Tariff Act. In his book, The Way the World Works, Wanniski demonstrated that the immediate cause of the great crash was the market's anticipation of this sweeping tariff increase upon most traded goods. The market crashed in the final week of October on the news that the antitariff coalition in the Senate, the last major obstacle to passage of the bill, had collapsed.

Our major European trading partners, who depended heavily on trade with the United States to repay their vast war debt to mostly American creditors, retaliated with their own protectionist barriers. The world economy soon dipped into recession. Later, the same ill-advised Republican administration and Congress compounded their first mistake with a misguided and unsuccessful attempt to eliminate a recession-caused Federal deficit by more than doubling all income tax rates. What began as a recession turned into the worst economic catastrophe in our history, the Great Depression.

Far beyond merely satisfying the historical curiosity of a few economists, Wanniski's seminal contribution to modern supply-side economic theory has an important lesson for national economy policy today. History warns that excessive increases in economic disincentives can destroy the individual productivity on which our whole economy and society rests. Everyone loses—the individual American, the American Government, and the whole society. This message is especially relevant as a Democratic Congress and a Democratic administration experiment on a grand scale with tax-rate increases—in the income tax, in the social security payroll tax, and in new taxes on energy production. An article by Wanniski on the lessons of the crash appeared in last Friday's Wall Street Journal. I submit it for my colleagues' interest, hoping that we can learn enough from history to prevent another unnecessary economic debacle.

The article follows:

THE CRASH AND CLASSICAL ECONOMICS

(By Jude Wanniski)

Fifty years ago, the great Wall Street "Crash of '29" ended the boom of the Roaring Twenties and ushered in the Great Depression. This most cataclysmic economic event of the century had many victims, but one of the most important casualties was classical economic theory. When classical theory could not explain the Crash, it was ridiculed and replaced by modern economic schools that have dominated global politics ever since.

In late March 1977, I found what I believe is the key to the Crash. At the time an editor of this editorial page, I had taken a leave to research and write a general theory of the world political economy. And because it was to be partially based on a revival of classical economic theory, it was necessary that I somehow demonstrate that the Crash of 1929 was consistent with classical theory.

The importance of this discovery, outlined on this page two years ago (Oct. 28, 1977), is that it reaffirms the validity of Say's "law of markets," which is the keystone of classical theory. The discovery came just as the modern schools of Keynesianism and monetarism were in precipitous decline, unable to explain the Great Stagflation of the 1970s. Now, for the first time in half a century, young economists can proudly proclaim themselves as "supply siders," referring to the classical side of the "law of supply and demand." The modern schools grew out of the demand side of the equation, and it is suddenly no longer fashionable to be identified as such.

SURPLUS OF GOODS

The '29 Crash seemed to occur because of a surplus in the supply of goods, which is another way of saying a deficiency in the demand for goods. This negates Say's Law, named after Jean Baptiste Say, who formulated it between 1809 and 1819.

Say, the French popularizer of Adam Smith's "Wealth of Nations," wrote: "One can only buy with what one has produced," and "The one product constitutes the means of purchasing another," and "A product created offers, from that instant, a market for other commodities to the full total of its value." This became boiled down by others to: "Supply creates its own demand."

In other words, suppliers of goods come together in the marketplace to exchange goods. If a surplus appears in one place only, it's because in other places sufficient goods have not been produced to purchase that surplus. If a surplus appears everywhere, only an artificial barrier to commerce could have been the cause—some impediment to trade imposed by government. Thus, the free-marketeer's dictum to government of "laissez faire," roughly "hands off!"

In the last week of October in 1929 there were no signs that the dictum was being breeched. The market was simply collapsing around everyone's ears. The classical economists, without an explanation, were at the mercy of the modern economists who would argue that "Demand creates its own supply." Indeed, John Maynard Keynes would open his "General Theory," published in 1936, with a scathing denunciation of Say's Law. How could Say be correct, Keynes insisted, when everywhere there is excess supply? The problem, he argued, is in sufficient demand!

In short order, the classical "supply side" school almost ceased to exist, except as a laughing stock. The Keynesians took over with their demand arguments: The Depression occurred because of insufficient purchasing power among demanders of goods—and excessive savings among producers of goods. Their answer: Have the government fix up this imbalance by borrowing or taxing goods away from the producers of surplus and distributing them via government programs. Through "demand management" the government can "fine tune" the economy, keeping production and consumption balanced.

A more conservative "demand school" was also founded. The monetarists argued that the U.S. government printed too much money prior to October 1929 and printed too little money after that date. Their form of demand management is to have government money injected into or withdrawn from the private sector via bank reserves. In both liberal and conservative demand schools, by necessity, it is the government rather than the individual which has the central role, either through budgetary manipulation or monetary manipulation.

The classical economists of 50 years ago unfortunately did not have the benefit of "efficient markets theory" or they might have seen that it was the Smoot-Hawley Tariff Act of 1930 that caused the Crash of '29. The theory of efficient markets, developed at the University of Chicago in the 1960s, suggests the near instantaneous ability of markets to analyze new information and adjust prices accordingly. The concept would have led 1929's economists to look more closely at political news coming into the market.

That is, when news came to the 1929 marketplace that something bad was going to happen in 1930, it discounted these "rational expectations" into 1929 values, doing so expeditiously, efficiently. The market crashed in the last week of October 1929 as it absorbed the hard news that there would almost certainly be a tariff act passed into law the following year.

This was no puny tariff hike, but a huge increase in the duties of 20,000 commodities. American trading partners, outraged at this colossal protectionism, retaliated with tariff walls of their own. The efficiencies of the global marketplace were thus fractured and global trade shriveled. All economists agree the trade wars deepened a Depression that had already started. What I found in researching the period is the following:

On Sept. 3, 1929, the Dow Jones industrial average hit its peak of 381. The slow slide that commenced that day coincided with the return of the U.S. Senate from a summer holiday. Prior to the holiday, only 40 Republican Senators favored the steep tariff wall of Smoot-Hawley; surely the 56 Democrats and the Progressive Republicans in opposition would kill it. The bill, the only major piece of legislation before the Congress that autumn, had already passed the House of Representatives. By Oct. 21, when the bill came to the Senate floor after weeks of hearings, there were some gathering doubts about the ability of Democrats and Progressive Republicans to stop it. The DJI had dropped to 323.

Over the next eight days, Chairman Reed Smoot of the Senate Finance Committee, a Utah Republican, maneuvered amendments in a way that broke up the Democratic-Progressive coalition; the market churned dramatically during this splintering process. The news on the morning of Oct. 28, a Monday, was that the pro-tariff forces were now in the majority; the DJI fell 38 points that day.

The following day the reports out of Washington seemed aimed at assuring the stock market that the bill would pass, that the steep tariff would be good for American business. Another 30 points were lost as 16 million shares changed hands. On this Black Tuesday of 50 years ago, the DJI dropped to 230. But it was not until July 8, 1932, that it hit bottom, at 41. The market advance that then began coincided with Franklin Roosevelt's nomination on an anti-tariff platform.

Why would the market's anticipation of

Smoot-Hawley cause such a crash in values? The answer lies within the framework of classical theory: When suppliers of goods come together in the marketplace to exchange goods, they are discouraged if the government takes a huge tax bite out of each transaction. The tariff is a tax on international trade, the only kind of tax the U.S. Congress can impose on foreign citizens, which explains why stock markets collapsed around the world in 1929, not only in New York.

The U.S. economy, after all, was integrated with the rest of the world economy. The rest of the world owed U.S. citizens $30 billion in 1929, and the only way these IOUs could be paid off was if foreigners could export their goods to the U.S. in payment. As the tariff wall was seen going up, it would be difficult to collect the debt via goods passing over it; the value of financial assets had to be discounted accordingly.

A MORE SATISFYING EXPLANATION

This seems a more satisfying explanation of the Crash of 1929 than the traditional one, which most of us learned in junior high school, that "speculators" bid the price up and the market fell because it was too high. This view, which overlooks the global simultaneity of the Crash, only fits the modern demand theories.

Yes, the Depression that followed was characterized by surpluses everywhere, but Say would have observed that it had all been triggered by an artificial barrier to commerce, an impediment to trade imposed by government in the form of a tariff wall. Having explained the Crash, Say would then be in a position to explain away the current stagnation and inflation: The stifling barriers to commerce caused by unnecessarily high tax rates, unnecessary regulation, and a rootless, inconvertible currency that is manipulated in a futile attempt to alter production when it should be maintained as a reliable medium of exchange.●

WHAT MAKES AMERICA GREAT

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. HANLEY. Mr. Speaker, a lot has been said and printed about the alleged weakening of the American spirit. Surveys have shown that for the first time in our history a majority of Americans feel that the next 5 years will be worse than the last 5 years. Even the President of the United States complains that there is a malaise in the country.

Fortunately, not all the people of our great land feel this way. There are still some optimists, who speak out and write of an America still greater than any other nation on Earth. One of them is from my home district.

James Nolan of Sidney, N.Y., has composed an essay expressing his feeling about our country. It is entitled "What Makes America Great," and I offer it now to my colleagues.

The essay follows:

WHAT MAKES AMERICA GREAT

(By James Nolan)

To be an American is a gift, not something one is entitled to.

Our forefathers planted the acorn of Liberty and Justice for all, and since then, a mighty oak of freedom spreads out its majestic limbs as a haven for all who believe in the pursuit of happiness and peace.

"In God we trust" an ever present shadow of our destiny of greatness.

Like thunder coming from the heavens above, the name "America" awakens even the lost souls of humanity, that tomorrow could very well be their day of triumph.

Success and fame is not an impossible dream in America, it's an every day occurrence.

Most of us, from time to time, incur the trials and tribulations of life, still, in spite of our discomforts, we wouldn't trade any of them for all the promises of the master's of chains and slavery.

In America, we sleep at night without fear of enemy bombers flying overhead.

We have the right to vote for the party of our choice without fear of retaliation.

Any American, if he so desires, can attend the church of his choice without fear of prejudice.

A trial by a citizens' jury is a law of the land, something many other nations are denied, by their system of a hand-picked jury who are mere puppets of the state.

In the United States, our universities have an open door policy, the poor as well as the wealthy have equal opportunity.

In America, the right to disagree by peaceful protest is the privilege of every citizen.

The boy or girl who lives on the mythical "The wrong side of the tracks" has all the opportunity to some day, build their castle on "The right side of the tracks."

In America, the word impossible is never accepted as a final decision, it just takes a while longer to achieve.

I can't help but to stand with pride and tears of humility in my eyes, as the stars and stripes pass by, never once forgetting that each star represents the sacrifice, dedication and love that free men and women gave of themselves down through history to make this nation, my nation, the greatest country in the world.

Let no one who truly cherishes freedom, scar or defame the good earth that we were, as Americans, given the privilege of calling, "Our own native land, one people, one land, with a common cause to serve God and country.

We, all of us, must be on our guard to prevent anyone or any outside force from dethroning the United States as the greatest champion of all humanity.

Last but not least, we are not entitled to the honor of being called, "An American"—it was given to us as a gift.●

ASSOCIATION OF THE UNITED STATES ARMY RECOGNITION TO PUERTO RICO CHAPTER

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. CORRADA. Mr. Speaker, the Association of the United States Army (AUSA) has just concluded its 1979 annual meeting in Washington, D.C.

AUSA is a private, nonprofit educational organization whose members, civilian and military, join in supporting all aspects of national security. This organization has 118 worldwide chapters, who support the Army and AUSA objectives by sponsoring among other things: programs, social events, meetings, and rewarding activities for both the military and civilian communities. In Puerto Rico we have a chapter with 700 members dedicated to the objectives of the organization.

It is with great pride that I announce here that the Puerto Rico chapter of the AUSA received the following recognitions:

AWARDS

The Council of Trustees Award: Best Chapter Overall; Runner-up.

The Council of Trustees Award: Chapter Most Active in Pursuit of AUSA Objectives; Runner-up.

The General George H. Decker Award: Greatest Percentage Increase in Membership; Runner-up.

The Frank Pace, Jr. Award: Greatest Percentage Increase in Civilian Membership; Runners-up.

The Elvis J. Stahn Award: Greatest Corporate Member Participation; Commendable Performance.

The Ltg. Walter L. Weible Award: Best Overall Chapter Meetings; Honorable Mention.

The General John E. Hull Award: Best Chapter Support of Reserve Components; Winner.

It is quite obvious that the AUSA Puerto Rico chapter has been working hard toward excellence. This is a characteristic which clearly depicts the Puerto Ricans whenever they enter into any endeavor. It is the first time that such a recognition is made to the Puerto Rico chapter since it was formed.

It is worth praising their efforts and to commend them for having achieved these recognitions. It is not only the participation in the activities of the organization to which I refer; it is also to their sense of responsibility and pride in accomplishing their goals. To them my sincere congratulations.●

JOHN J. NEVIN

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. MURPHY of Illinois. Mr. Speaker, on October 19 John J. Nevin announced his retirement as chairman and chief executive officer of Zenith Radio Corp. During his years as chairman of the company, John Nevin led the fight against the dumping of color television sets by Japanese manufacturers. His efforts were fruitful, evidenced by the recent reductions in dumping, and by congressional passage of a trade bill last July that tightens up existing antidumping and countervailing duty laws.

John Nevin recognized the problem of dumping long before the U.S. Government was willing to take any action against it. After 10 years of dumping—during which time 60,000 American TV workers lost their jobs—the Treasury Department belatedly moved to collect some dumping penalties only last March. What is more, the duties assessed by Treasury come nowhere near the figure that was originally recommended by the Customs Service in 1977.

John Nevin leaves Zenith Radio Corp. at a propitious time. Third quarter estimates show that Zenith has regained its position as the Nation's leading manufacturer of color TV's. Clearly, John's long and hard efforts to stem the flow of dumping did not interfere with his effectiveness in overseeing the day-to-day operations of his company.

Mr. Speaker, I wish John Nevin the very best as he pursues a new career outside the electronics industry. Those of us in Congress who know John will miss him, as will the people at Zenith. And I know that whatever position John takes, he will bring to it the same talents, imagination and energy that he exhibited as an outstanding officer of Zenith Radio Corp.●

FOREIGN EARNED INCOME ACT OF 1978

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. CONABLE. Mr. Speaker, last year, after exhaustive deliberation, the Congress adopted the Foreign Earned Income Act of 1978. A detailed analysis of the legislation's effect probably must await the Treasury Department's report on the first 2 years' application of the law. That report will not be available until the spring of 1981. However, it is clear that one adjustment is required now in order to avoid substantial harm.

Since the adoption of the 1978 act, one year's tax returns are already in and the second, current, year's may be projected. From this data, it is evident that Americans working abroad for nonprofit institutions such as religious, humanitarian relief, and academic research organizations have suffered a significant increase in their tax burdens. These increases have been so severe as to cause difficulties in sustaining the many worthwhile programs sponsored by the employing institutions. Trained personnel are more difficult to recruit. Limited budgets which rely on donations, Government grants, et cetera, for funding are being strained to the breaking point in order to meet these rising costs. As a result, programs are threatened with curtailment.

It is to remedy this hardship that my colleagues and I introduced H.R. 5730 to correct the difficulties created for American charities overseas by last year's Foreign Earned Income Act. Let me state at the outset that by no means do I favor wholesale revisions in the legislation enacted last year. Many Members of Congress involved in last year's legislation strongly feel that more time must pass in order to get a clear idea of what, if any, broad changes may be required. However, in this case, it is clear that an adjustment is urgently required to avoid great harm to the programs of charities abroad.

These problems arose when the method by which these employees compute their taxes was changed. In 1978, taxpayers had the option of choosing between a $20,000 exclusion—$15,000 for noncharity employees—or certain deductions, as specified, for such items as cost of living differentials, employer payments for extraordinary housing, schooling, and home leave expenses, et cetera. These deductions have been of little value to charity employees, particularly at their generally low rates of compensation and prerequisites.

Last year the system was changed and the right to use an exclusion was eliminated for all employees overseas, including charity workers, except for one very limited class of individuals; namely, those living in camps. These camp workers still have the choice of taking either a $20,000 exclusion or the deductions. The net effect of eliminating charity workers has been devastating.

Just how serious these increases have been is made clear by a few simple examples. Figures have been obtained from six of the International Agriculture Research Centers—the multinationally funded organizations which developed the new strains of miracle rice and wheat and which use, among others, American scientists on their staffs—indicating that the U.S. income taxes for their American employees have risen from 1977 to projected 1979 by approximately 526.6 percent. Income rose 21.06 percent during the same period. The average taxes paid went from $1,372 to $7,225. Indications are that the tax figures for university and religious employees have risen by roughly the same order.

Serious as these problems are for the individuals involved, they are not the primary reason why action is needed. The primary reason is that it is in our National interest to continue the efforts of these organizations and the effect of last year's legislation is to severely undercut them. These nonprofit organizations are confronted with very inelastic budgets. Unlike profitmaking organizations in the private sector, they lack a product which they can either market more widely or charge more to provide. There is no way, therefore, they can pass through increased labor costs. They must either reduce their programs or eliminate vitally needed personnel. Such a result is directly contrary to previously established Congressional policy as set forth in the Foreign Assistance Act. That basic document requires reliance on the charitable sector to the maximum extent possible in providing overseas assistance. Hampering the ability of these organizations to provide such services conflicts with this previously established policy. Furthermore, it will only lead to new pressures to expand our Federal relief programs at far higher net cost to American taxpayers. There is also some question as to whether similar relief and training programs would be as effective in the host countries in the Third World if run by the U.S. Government directly rather than through charitable organizations in our private sector.

Some persons question using the tax law to achieve social and foreign policy objectives. But as we all know, the tax law is used in many ways today for precisely those purposes. So, if it is in the National interest to maintain our labor competitiveness in the construction industry by allowing camp workers overseas to continue to use an exclusion in computing their taxes, surely it is of equal interest and value to our foreign policy and to our society to provide similar treatment for American charitable employees abroad.

Among the groups concerned with this problem are the International Agricultural Development Service; the National Association of State Universities and Land Grant Colleges; and the American Council for Voluntary Agencies for Foreign Service, Inc.—ACVS—whose members include Care, the Catholic Relief Fund, Lutheran World Relief, Christian Children's Fund, Baptist World Alliance, the Salvation Army, and most other prominent international service organizations.

Mr. Speaker, the effective and compassionate work carried forward by these organizations in coming to grips with such problems as malnutrition, lack of education, and outmoded agricultural production methods cannot begin to be replaced by Federal Government programs. These dedicated people serve in difficult conditions at low rates of pay because of their commitment to their ideals. Let us not undo their good works by failing to enact this corrective legislation.●

AGRICULTURAL DUST

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. GRASSLEY. Mr. Speaker, I recently received a copy of Accent, the newsletter of the Iowa Farm Bureau Federation, containing their policy on rural agricultural dust. Since this is an issue of such great importance to Midwestern and Southwestern States, I include their observations on EPA's policy in the RECORD at this point:

DUST POLICY

The Iowa Air Quality Commission has made a good move in resisting some changes the U.S. Environmental Protection Agency wants made in the state's clean air plan.

EPA has so far refused to approve Iowa's air quality plan because state officials want to subtract an allowance for rural fugitive dust as it applies to property and visibility. Iowa already has taken into consideration the important human health aspect which should be the major concern to EPA.

Rural fugitive dust is that dust generated from farm fields on the 34 million acres of farmland and from the 78,000 miles of unpaved rural roads.

We simply cannot farm without a certain amount of dust. This is especially true during times of hot, dry, windy conditions.

There are going to have to be drastic and unfavorable trade-offs if EPA wants to push the more stringent regulations. The cost to farmers and consumers of taking farmland out of production in order to control wind-blown dust from farm fields will be reflected in less food and higher food prices.

Many rural roads too would have to be closed to meet the unreasonable guidelines. This would inhibit the movement of farm products to market, greatly accelerate the cost of bus transportation for school dis-

tricts, and place more demand on limited fuel supplies by forcing all vehicles to use certain designated routes. The cost of resurfacing or treating Iowa's extensive rural road system would be prohibitive.

In addition, industrial development and expansion in Iowa would be stified.

Iowa's air quality record has been good and the Iowa plan recognizes the health related standards. EPA does not understand situations inherent in an agricultural state.

This is just another example of a federal agency assuming too much power. Iowa's environmental agency is better qualified to deal with specific air quality problems within the state than an outside agency that attempts to write one series of regulations to fit every part of the country.●

THE ENERGY SHORTAGE—WHO IS TO BLAME?

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, to date no single reason for the outrageous gasoline lines a few months ago has emerged from the various congressional inquiries on this subject. The Iranian revolution, increased American driving, bungling by the Department of Energy, and oil industry miscalculation or greed, have all been hurled as contributing factors. Recently, the noted columnist, Jack Anderson, authored an editorial which I believe was exceedingly well done and worthy of readership by everyone interested in the true cause of our inflationary spiral and the severity of our energy problems. If our energy crisis is indeed the moral equivalent of war, are we withholding ammunition to defeat the enemy? The text of the Anderson article follows:

ENERGY SHORTAGE

WASHINGTON, D.C., October 16, 1979.—If you suspected that the Carter administration was lying about the reason for those infuriating lines at the gas pumps a few months back, you were absolutely right.

The official explanation, dished out by then-Energy Secretary James Schlesinger and other Carter minions, was that the gas "shortage" had been caused by the disruptions of the Iranian revolution and a subsequent drop in overall imports of some 2 million barrels of oil a day.

The shocking truth, according to closely held intelligence documents we've obtained, is this: Not only was there no shortage, but the United States was actually importing MORE oil in every month from January to July than it did in the same period of 1978. During the crucial first three months of this year, when the loss of Iranian supplies was supposedly making the gas lines inevitable, U.S. imports were 250,000 barrels a day more than in the first quarter of 1978.

The cold, hard facts—which expose the administration's deceit—are detailed in a secret CIA report in our possession. Coupled with an internal White House memo, the figures in the CIA report reveal that Jimmy Carter was playing politics with the American motorists' frustration, cynically trying to aim their wrath at foreign oil producers—and away from Big Oil and the White House.

Incredibly, U.S. oil production in the first three months of this year was 150,000 barrels a day less than it was a year before, the CIA report shows. Domestic oil production in the months before the gas lines averaged 8.55 million barrels a day, compared to 8.7 million barrels a day in the quarter of 1978.

The 39-page CIA report, titled "International Energy Statistical Review" and dated Sept. 5, shows that world oil production in January, February and March was 60.2 million barrels a day, compared to the 59.9 million daily average for 1978. And in April and May, when Americans first began lining up for gasoline, world production had increased to 62 million barrels a day.

The CIA confirmed what was no secret—the Iranian revolution resulted in a dramatic drop in that country's oil production, from 5.2 million to 1.1 million barrels a day.

But that was more than made up by other oil-producing nations (with the notable exception of the United States). Saudi Arabia alone made up a huge chunk of the Iranian shortfall, increasing production from its 1978 daily average of 8 million barrels to 9.5 million.

Other nations that made their oil available to the United States were Mexico, Venezuela, Kuwait, Libya, Nigeria and the United Kingdom—even the Soviet Union and Red China. And America consumers eagerly bought it to the tune of 6.5 million barrels of imported crude per day during the first quarter of 1979.

What consumers also bought was the Carter administration's myth that the gas lines were all the fault of the greedy Organization of Petroleum Exporting Countries. An internal memo from the president's chief domestic adviser, Stuart Eizenstat, spelled out the political hay that could be made from the motorists' misery.

"We have a better opportunity than ever before," he wrote the president on June 28, "to shift the cause for inflation and energy problems to OPEC. . . . With strong steps we can mobilize the nation around a real crisis and with a clear enemy—OPEC."

If there had indeed been a "real crisis," such an administration ploy would be permissible political fun and games. But the CIA report shows there was no crisis, least of all one that could be blamed on OPEC. This raises the cynical administration tactic to the status of the Big Lie.

"Eizenstat was taking deadly aim at all those dirty Arab so-and-sos in his memo, but they came to our aid," a congressional energy expert commented to our associate Dale Van Atta.

Another expert concluded, after being shown the CIA report: "There was no worldwide shortage, and no shortage of imports. This is shocking, considering what Schlesinger was telling Congress at the time."

The real villains, it turns out, weren't the OPEC nations at all, but U.S. oil companies, which cut back production—and the Carter administration, which lied about it.●

EXPLANATION OF VOTES

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. GREEN. Mr. Speaker, for clarification I wish to note that members of my immediate family have a financial interest in a corporation affected by the legislation currently pending before the House—House Joint Resolution 341, Milwaukee Railroad service continuation. Shares of stock in the Chicago-Milwaukee Corp., the parent company of the Milwaukee Railroad, are owned by a trust for my children, for which I am a trustee, the estate of my father, for which I am an executor, and another member of my family. Consequently, I will be voting "present" on the rule providing for consideration of this matter and on all substantive rollcalls.●

STATEMENT CONCERNING THE ASSASSINATION OF CONGRESSMAN LEO RYAN AND THE JONESTOWN TRAGEDY

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ROYER. Mr. Speaker, as we near the first anniversary of the tragic death of Representative Leo Ryan, I am asked, from time to time, whether I am satisfied with the investigation into his death that has taken place to date, and whether I am satisfied that the Jonestown tragedy could not occur again. My reply, unfortunately, as to both questions, is that I am definitely not satisfied with the investigation, nor am I assured that, given the same facts and circumstances, another Jonestown tragedy could be averted. In point of fact, with the exception of the Foreign Affairs Committee staff report, what has gone on to date under the guise of "investigation" by virtually all parties concerned, is appalling. The administration seems totally indifferent to the fact that a U.S. Congressman was killed in the line of duty, but also that 900 plus Americans died in a foreign country, and I want to know why.

I am told that the FBI investigation into the death of Representative Ryan has concluded with the finding that no charges can be brought against any person in the United States at this time. The only person who is being held for trial by any government for the death of Representative Ryan is being held in Guyana, and it is unclear when, if ever, he will be tried. And yet, there were several survivors of Jonestown, and several members of the People's Temple who have returned to the United States. Based upon the facts as I know them, it is inconceivable to me that no one else who was affiliated with the People's Temple has been charged with some sort of criminal behavior. The apparent indifference with which the Department of Justice has treated this matter is wholly incredible. I can only speculate as to the reason for this attitude.

Accordingly, I am asking Congressman PETER RODINO, chairman of the Judiciary Committee, to immediately hold oversight hearings, in which the Department of Justice will appear and explain the exact nature of the investigation to date, why it has been terminated, and under what circumstances would they see fit to reopen the investigation and report to the American people who the killer or killers of Representative Ryan were.

Insofar as preventing a recurrence of the tragedy, the situation now is perhaps a bit more promising, but still woefully inadequate. The Foreign Affairs Committee staff report recommendations have, with possibly one exception, not been implemented, or even studied. In my opinion it is imperative that the

various House committees which have jurisdiction over the several recommendations contained in the staff report immediately undertake the review and legislative action necessary to implement them.

I have cosponsored H.R. 5129 which will, if passed, remove some of the ambiguities in the Freedom of Information and Privacy Acts which gave rise to much of the initial confusion concerning how and in what form sensitive information concerning American citizens abroad could be transmitted to the State Department and appropriate law enforcement agencies. I call upon Representative Ryan's colleagues on the Foreign Affairs Committee to undertake all necessary action so that the staff recommendations may be implemented.

I have been informed by officials of the Department of State that they are in liaison with the Department of Justice to arrive at implementation measures for the State Department's recommendations on the matter, and that is heartening. But what I want to know is, what is going on within the Department to change the attitude toward consular affairs? I want to know why the Secretary of State was so indifferent toward the welfare of a substantial number of American citizens in a hostile foreign nation, living under conditions which could, at best, be described as peculiar. It appears to me that the State Department, under Secretary Vance, is only concentrating on the mechanism which was faulty instead of departmental attitudes, which all agree played a monumental part in the failure to accurately and correctly handle the matter.

Again, the impression that is indelibly printed in my mind is the indifference of the State Department to the plight of the Americans in Jonestown, the consequent failure of the Department to adequately prepare and conduct the congressional visit to Guyana, and the continued inability of the Department to come to grips with the root causes of this failure.

Therefore, I am requesting Chairman ZABLOCKI of the Foreign Affairs Committee to immediately convene oversight hearings in which the State Department will set forth the precise measures they have taken as a result of their own investigation, report and recommendations, and further, to answer some of the questions that linger in my mind. I will request that I be permitted to attend all of the oversight hearings, as an ex officio member so that I may hear the responses first hand, and ask the questions that have to be asked.

I am concerned that the basic problem which prevented the clear and unambiguous communications which were necessary between the Embassy and the Department, and between the State Department and Justice has not yet been addressed. I am concerned that there are no liaison precedures between the State Department and the Justice Department. I am concerned that both Departments have displayed such a lack of initiative and foresight that all future congressional delegations may be imperiled where unusual situations occur.

In that regard, I call upon the President to amend Executive Order 12036, which deals with surveillance of American citizens abroad, in light of what occurred in Guyana, and in the perspective of both the State Department and Foreign Affairs staff investigations and recommendations.

I call for the hearings I have mentioned immediately. It has been 1 year, almost, since that tragic death, and yet, if anything, the mystery grows deeper and deeper. If these hearings are not held within a reasonable time, and if they do not produce the answers to the questions I have outlined above, I will call for open, public hearings, so that every person who was, in any way involved, or affected by the Jonestown tragedy, and the assassination of Representative Ryan may be heard. It is high time that the administration faced this issue, and gave the answers that the American people deserve. I will do everything in my power to see that this is done.●

PERSONAL EXPLANATION

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. YATRON. Mr. Speaker, due to long-standing commitments to address the Berks County Bar Association and to attend several meetings in my congressional district, I was unable to be present and voting on a number of matters before the House on October 25 and 26. Had I been present, I would have voted in the following way:

Rollcall No. 601: On an amendment to House Joint Resolution 430 that directs the States, in establishing priorities for awarding funds, to provide for determining the extent to which increases in rents are caused by increases in heating costs and consider such portions of increases in rents to be increases in heating costs, "yea."

Rollcall No. 602: On an amendment that sought to provide for the distribution of all funds in the form of block grants to the States for energy allowances, "nay."

Rollcall No. 603: On final passage of House Joint Resolution 430, low-income energy assistance, "yea."

Rollcall No. 604: On consideration of H.R. 4955, supplemental refugee assistance, the House agreed to resolve itself into the Committee of the Whole, "yea."

Rollcall No. 605: On an amendment to H.R. 4955 that authorizes $30 million for use in furnishing assistance to alleviate the human suffering and starvation among refugees and other victims of the famine in Cambodia, "yea."

Rollcall No. 606: On final passage of H.R. 4955, "yeas."

Rollcall No. 607: On House Resolution 456 providing for the consideration of H.R. 2313, Federal Trade Commission authorization, "yea."

Rollcall No. 608: On House Resolution 385, providing for the consideration of H.R. 4167, milk price supports, "yea."

Rollcall No. 609: On the conference report on H.R. 4387, Agriculture appropriations, "yea."

Rollcall No. 610: On the conference report on S. 428, Department of Defense authorization, "yea."

Rollcall No. 611: On the passage of H.R. 1885, retirement preference for certain BIA employees, "yea." ●

WELFARE REFORM

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ROTH. Mr. Speaker, for over a decade welfare reform has been a major national issue. There have been many proposals offered and examined by Government and Congress, but a true reform measure still has not been enacted. In my view, effective welfare reform is long overdue.

This becomes clear when you consider the amount of the taxpayers' money devoted to welfare. In 1977, Federal and State spending on welfare was estimated at $70 billion for some 55 programs. Some estimates place spending at over $80 billion in 1978 for 59 programs

There is a difference of opinion as to which programs comprise the welfare system. I suspect that better definition of Federal assistance programs would raise the total spending figure even more. But effective reform can only come from such an understanding. For example, in referring to welfare reform some persons think in terms of making the present system more effective, improving delivery of services, reducing fraud and abuse. Others think of welfare reform as spending even more money to provide more and more benefits. Let me hasten to add that I belong to the first group. I believe that we must do a better job in administering the present system in order to spend less money.

FRAUD AND ABUSE

Let me illustrate this with a few examples:

First, the Department of Health, Education and Welfare's "best estimate" of money wasted by fraud and abuse in key HEW programs in fiscal year 1977 was $6.3 to $7.4 billion. Compare that with the entire general revenue budget for the State of Wisconsin for fiscal years 1977 and 1978 at $4 billion and you quickly understand the need to improve the present system.

Second, many of the welfare benefits go to the nonpoor because some programs such as aid to families with dependent children (AFDC), food stamps, public housing, and supplemental security income (SSD) are designed to encourage recipients to supplement welfare with wages. As a result of the provisions of the welfare system, many recipients can remain eligible for welfare supplements even after their earnings have risen well above the poverty line. According to information from the Library of Congress, eligibility cutoffs are as high as $12,000 for families of four in some States.

Third, there is reason for concern about the number of persons who receive benefits from several programs at the same time. An HEW staff study shows

18 pecent of welfare recipients receive benefits from five or more welfare programs. In testimony before Congress in 1978, the Secretary of HEW estimated that about 30 million Americans received aid from just three of the major welfare programs sometime during 1977 (SSI, AFDC, and food stamps).

REDUCE COSTS TO TAXPAYERS

It seems to me that true welfare reform in its simplest terms must seek to change the system. To improve it, we must reduce its cost to the taxpayers. But the administration's latest welfare reform proposal is a fiscal disaster. It would cost approximately $6 billion more than the existing system. It would also be a giant step toward greater federalization of the welfare system.

Some believe that the aim of the welfare program is to eliminate poverty. But the program is not designed for this goal. Millions of American poor, such as working poor families and able-bodied childless couples, are excluded from Federal cash welfare because they are employable.

I recall, only too well, dealing with the basic questions of welfare reform on the State level. At that time, the Governor of Wisconsin called upon the State legislature to centralize the welfare assistance programs at the State level in his effort to gain efficiency and equality in benefits. I opposed such moves; however, they became law. But it was only a few years later that the same Governor stood before the press and public calling upon the Federal Government to pick up the total costs of our welfare system. He had determined the program was then too expensive for the State to carry.

WELFARE GOALS AND PRIORITIES

As we approach the concept of welfare reform, we must first determine the goals and priorities of our effort. We must determine whether the goal is total elimination of poverty or temporary assistance to those in need. We must determine whether the program should be assistance and incentives, or permanent subsidies. We must determine whether our goal is simple distribution of funds in the name of humanity, or an efficient, caring system. Most importantly, we then must decide how such a system can best be implemented.

If we have confidence in people, and we have confidence in our local governments, then we must begin the effort to reform the welfare system and return it to our local governments. If the people on the local level carry out the programs in a proper manner, as I am confident they will, we will then accomplish a more sensitive and a more efficient system for all.●

ENERGY BOARD RULE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ASHBROOK. Mr. Speaker, I am constantly amazed at the imagination displayed in drafting rules for this Chamber. The rule for H.R. 4985 definitely ranks as one of the most bizarre seen in this House for some time. It was not filed until after 2 p.m. yesterday. It put a deadline of 3:15 on Monday as the time for all amendments to be submitted into the RECORD. Yet we are not voting on the rule until today.

I have heard of putting the cart before the horse but this is ludicrous. There has been a lot of discussion about how important and how complex this bill is. We are going to have two substitutes in order and possibly the basic bill if the substitutes fail. The amendment process will be very complex given two different substitutes. I fail to see why there has to be a deadline for amendments. If this bill is as important as the leadership says it is, I wonder why they have closed the option of developing amendments as we debate the bill. Surely none of my colleagues are prepared to say that every possible fault in this bill and its substitutes have been discovered and that amendments have been drafted to cover all eventualities. What happens if a major flaw is unearthed during floor consideration? How do we deal with the flaw if no amendments are in the RECORD? The leadership assumes that we possess an incredible degree of foresight if they think all aspects of this bill have been assessed and weighed prior to floor consideration. Why have floor consideration if that is the case?

This Congress is becoming infamous for the erosion of openness in floor consideration. I see the stirring of King Caucus that reigned here for so many years. Do we really want the king to return to his throne? I think not. Quality Government comes from quality in the rules of lawmaking. Let us not have this fast-track bill become another spur in the railroad that is being established in this House.●

TAXES RISING TWICE AS FAST AS INFLATION

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, I am sure not many of us are aware that there is something rising faster than prices these days—taxes.

In fact, taxes are now going up at a rate nearly twice that of inflation. Americans are paying more in taxes than they do for food, housing, and clothing.

Many candidates were elected to Congress last year on platforms that included tax cuts. The Republican budget of hope includes large tax cuts to stimulate the economy, similar to successful actions taken by President John Kennedy in the early sixties.

Recently the Mount Carmel, Ill., Daily Republican-Register pointed out these facts and others about the burden of taxation that every American must bear, and I would like to call the October 12, 1979, editorial to the attention of the American people.

The editorial follows:

TAXFLATION IS HERE

If you want to see real inflation power, take your eyes off the gas pump meters and supermarket cash registers for a moment and study your tax statements.

Taxes—federal, state and local, the whole bundle—have been going up at a rate now approaching twice that of consumer prices. The comparative figures for 1978 were taxes up 13.2 percent, prices as measured by the Consumer Price Index up 7.6 percent in the 1968–78 period, the tax take swelled by 155.3 percent while price inflation was 87.5 percent.

And if that bottom line is bad news, some of the statistical details as laid out by Industry Week magazine are even worse.

Three major expenditures—food, housing and clothing—traditionally get the largest of consumer budgets. But as a consequence of taxflation, Americans are now shelling out more in taxes than they do for the three basics—$624.3 billion as compared to $575.1 billion last year.

The difference was $49.2 billion, about triple what it was only two years ago.

Tax growth while general, is uneven. State and local levies have increased more rapidly than federal—187.5 percent during the past decade compared to Uncle Sam's 133.9 percent. But while they may be gaining state and local government still take in only about half of what Washington extracts from the economy every year.

The fastest growing category is social insurance. Up 249 percent in 10 years, Social Security and kindred programs accounted for 26.3 percent of the total tax load in 1978.

On an individual basis, as Industry Week figures it, each American contributed $1,814 to the federal and $1,043 to state and local governments last year for a total tax payment of $2,857, which represented 57 percent of the per capita income from wages and salaries of $5,047.

And as a final measure of taxflation, the 1978 tax total of $624.3 billion was larger than the entire Gross National Product had been years earlier.

Of course, to be completely fair and accurate the figures would have to be adjusted for changes in the value of the dollar, that of 1978 being worth considerably less than that of 1963 as a result of inflation.

But then, that's what we're talking about, isn't it? ●

ENERGY MOBILIZATION DOES NOT REQUIRE A SELLOUT

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. EDGAR. Mr. Speaker, an excellent editorial on the fast track legislation the House is currently considering appeared in the Tuesday, October 30, edition of the Philadelphia Inquirer. In the opinion of that prestigious paper, the House should oppose the bill recommended by the Commerce Committee, even if Representative SANTINI's amendment thereto is adopted. To quote from the editorial:

Taken to their most probable extension, the Dingell bill's provisions even with the Santini amendments would be dangerous—and should be unacceptable to anyone prudently concerned not only with preserving the protections of land, air and water, but with preserving due process of law.

The editorial continues by endorsing

the substitute bill offered by Representatives UDALL, CLAUSEN and WIRTH. I completely agree with the Philadelphia Inquirer that this bill must be adopted in lieu of the Commerce Committee bill. It is unacceptable and irresponsible—if not unconstitutional—to create a Federal board which could act, together with the President, to waive substantive Federal, State or local laws that stand in the way of priority energy projects.

I strongly urge my colleagues to read this editorial and to adopt the more responsible piece of legislation before them, the Udall-Clausen-Wirth substitute.

The editorial follows:

ENERGY MOBILIZATION DOESN'T REQUIRE A SELLOUT

Debate is scheduled to begin in the House of Representatives today on a measure of profound consequence to the nation's energy future and its physical environment. Important as the energy considerations are, and they are important, there is grave danger that the Congress will arm and fuse a time bomb.

The dispute concerns the makeup of a federal Energy Mobilization Board. The new agency is intended to give the government a method for cutting through red tape to expedite major projects to provide the U.S. with energy: Pipelines, synthetic fuel development, generating facilities, etc.

The Senate already has passed a bill which would establish the EMB, one of the Carter administration's energy proposals which is being plugged hardest this season. Today, two separate and fundamentally different bills will be taken up by the House.

There are a number of dangerous elements in the Senate bill. There will be strong lobbying by commercial interests and others to produce a House bill which is at least as dangerous. If that happens, there will be little or no hope that a responsible bill can be fashioned by the ultimate Senate-House conference committee.

Thus, the last-ditch effort to preserve environmental protections which the worst EMB proposals threaten almost certainly will come in the House today and tomorrow. The White House, eager to get some bill through, clearly has put primary emphasis on that showing signs of backing off prior commitments on basic environmental protection.

Most of the objectionable elements which the House will consider are in the Senate bill. They begin with the establishment of the Board itself, a five-member panel which would be dominated almost completely by its chairman, with its other members virtually powerless. All would be exempt from federal ethics and conflict of interests requirements, raising a real danger of commercial exploitation in the name of efficiency.

Another major defect of the Senate bill is that it establishes no prudent criteria for determining what a "priority" energy program or project is, leaving the board with the enormous power of deciding on what it will push forward with extraordinary leverage.

The most important element of the dispute, however, involves the ultimate power of the Board. There is heavy pressure to empower it to propose to the President and for the President to be able to suspend virtually all federal, state and local laws and regulations which are thought to be slowing down an energy project.

The bill recommended by the House Commerce Committee, and named for its chairman, John D. Dingell (D., Mich.), would allow waiver of all such laws—a potentially disastrous measure and a dreadful precedent.

There is an effort afoot to "improve" the Dingell bill with amendments sponsored by Rep. James D. Santini (D., Nev.). Taken to their most probable extension, the Dingell bill's provisions even with the Santini amendments would be dangerous—and should be unacceptable to anyone prudently concerned not only with preserving the protections of land, air and water, but with preserving due process of law.

There is a responsible alternative, and it will be before the House today, along with the Dingell bill. That is a measure which has been put forward by the House Interior Committee and designated the Udall-Clausen-Wirth substitute, after Reps. Morris K. Udall (D., Ariz.), Don H. Clausen (R., Calif.), and Timothy E. Wirth (D., Colo.).

The Udall *et al* bill is a sound proposal, restricting the unacceptable powers which the more dangerous propositions would grant. It deserves broad support, and should be the form of the bill which the House passes.

To have the House's decision be otherwise would be to invite abuses of power which are neither necessary to the expediting of energy projects nor acceptable to the basic system of legislative and regulatory due-process in this country.●

SUGAR STABILIZATION ACT

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. FISHER. Mr. Speaker, on October 23, the House considered the Sugar Stabilization Act of 1979, finally defeating this legislation by a vote of 249 to 158. I applaud this action by the House, and would like to clarify my reasons for consistently voting against this legislation both on the floor and in committee.

Supporters of this legislation have painted a rosy picture of the bill's purpose. The sugar bill, they say, would stabilize the domestic price of sugar for the consumer and guarantee a profitable return to the producer. Failure to pass the legislation, the supporters warn, will result in dire consequences—the most dire being the bankruptcy of the domestic sugar industry and the creation of an OPEC-like sugar cartel that will choke off supply and keep sugar prices high.

I do not agree with the arguments presented by the bill's supporters. The simple purpose of this bill, as I see it, is to keep low-cost foreign sugar from getting a larger share of the U.S. market. The method would be to protect the industry by enforcing a high price and providing a direct subsidy to producers. The final effect of these measures would be that the American consumers might be paying as much as $4 billion more for sugar in the next half decade.

There is no question but that passage of the Sugar Stabilization Act would have some of the effects that its supporters say it will. For instance, the bill would certainly stabilize prices for the consumer, but at artificially high levels. Stabilized prices are not necessarily the same thing as fair prices. Passage of the Sugar Stabilization Act would undoubtedly assure producers a return on their crops; it would also encourage stagnation and noncompetitiveness in sugar production. The agriculture industry in this country is the most resilient and efficient in the world; it has remained so in part because of its ability to adjust to changing conditions and markets, and I believe it must maintain this flexibility. As for the possibility of a sugar cartel, a cartel requires a finite supply which is controlled by relatively few nations; the sugar industry does not meet these conditions.

The arguments raised by the sugar bill supporters are not new ones. They are raised by every domestic industry that is seeking protection from foreign competition. In this case, I do not believe they are justified. I continue to think that, in the case of sugar, the marketplace and not the Government should determine the price.

One of the casualties of the defeat of H.R. 2172 is the failure to implement the International Sugar Agreement, a measure contained in title 1 of the bill. The United States signed this agreement on December 9, 1977, and for 2 years has failed to pass implementing legislation. On June 4, Congressman VANIK introduced a bill that would provide for the implementation of this international agreement, separate and apart from the provisions of the Sugar Stabilization Act. I urge my colleagues to give full consideration to Mr. VANIK's legislation and to pass it.●

JOAN MAYNARD

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mrs. CHISHOLM. Mr. Speaker, I would like to share with you the achievements of one of my constituents, Joan Bacchus Maynard. Ms. Maynard is the executive director of the Society for the Preservation of Weeksville and Bedford-Stuyvesant History. Her accomplishments with this organization were recently enumerated in the following article which appeared in the March/April 1979 issue of Historic Preservation.

The article follows:

I'M A PRESERVATIONIST

(By Joan Maynard)

The road that led to my involvement in historic preservation threads through a wealth of experiences from simple chance encounters to the complex birthright of my family.

The simplest factor was the suggestion nine years ago by an acquaintance met on a street corner that I might attend a meeting of a new group dedicated to the preservation of black history in Brooklyn. This group was the nucleus of the Society for the Preservation of Weeksville and Bedford-Stuyvesant History.

The president was Jim Hurley, who had recently discovered evidence to substantiate the existence of Weeksville, a 19th-century black community in Brooklyn. A senior citizen native to the area, William Harley, provided valuable insight into the project. They had discovered four frame farmhouses of pre-Civil War vintage located at the eastern boundary of Weeksville. This inspired the children of Public School 243 to suggest that the houses be saved and converted into a black history museum.

My interest in black history prompted me to join the group. At the time, they were in

the process of having the houses declared New York landmarks. I was asked to serve on the architectural committee because of my art background. I worked closely with architect Harley Jones, who was completing a feasibility study for museum adaptation through a grant from the National Trust for Historic Preservation.

The more complex factor contributing to my interest in preservation began with my birth to two extraordinary people. My parents gave me the greatest gift through their example of hard work, sacrifice and information, a legacy their parents had passed on to them. They made me aware that black history began not with slavery but with the African culture, which made significant contributions to world civilization in areas of agriculture, metallurgy, government and philosophy.

My father, John W. Cooper, was born in Brooklyn in 1873, the son of pioneer ex-slaves moving north after the Civil War. He was a ventriloquist and had been in show business since 1895. In the early years, he played the vaudeville circuit and traveled with the minstrel shows. During World War II, he toured all 48 states with the USO, seeing the changes taking place in the United States. Because of my father's experience, as a child I learned firsthand what it was like to be a proud, intelligent black man traveling through parts of America where lynching was the accepted norm.

My mother gave me another insight. She was born Juliana St. Bernard in the West Indies and came to the United Sattes in 1921. Her skin color precluded her working in any but a domestic position. She was a great lady and the most industrious person I ever knew.

Our home, though modest, offered many books and much educational conversation. At school I was often able to rebut with facts and quotations erroneous remarks about black people or African history made by uninformed teachers. From the time I was nine years old my uncle took me to meetings of the Universal Negro Improvement Association (UNIA), an international organization founded by Marcus Garvey for the improvement of the lives of blacks. In short, I received a cultural vaccination to protect me against ignorant and racist people who could cause great emotional devastation and feelings of unworthiness and destructiveness, including self destruction, especially in young people.

The Society for the Preservation of Weeksville and Bedford-Stuyvesant History fulfills an important need: It preserves old buildings; but more than that, it saves a tangible part of the past and brings history alive to the people of Bedford-Stuyvesant.

I believe that it is important for historic preservation to assist in the recovery of cities to benefit not only the affluent but all people. The Weeksville project does this and, on a more personal level, provides an opportunity for me to share the gifts of cultural survival my parents left as my heritage.●

PERSONAL EXPLANATION

HON. WILLIAM P. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. CLINGER. Mr. Speaker, on October 26, 1979, I was absent for the last vote of the day because of a death in my family. Had I been present, I would have voted in the following fashion:

Rollcall No. 611: H.R. 1885, retirement-preference for certain BIA employees. The House passed the measure to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies, "yea."●

NEW DIRECTIONS IN TAX POLICY

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. CONABLE. Mr. Speaker, I would like to bring to the attention of the membership the fact that on Monday and Tuesday, November 5 and 6, the gentleman from Oklahoma, Mr. JONES, myself and the National Journal will be sponsoring a conference entitled "New Directions in Tax Policy" at the Capital Hilton Hotel. The conference will run from Monday until Tuesday noon and will include major discussions on tax issues which will face not only the Congress, but the Executive branch, and the private sector in the next session. In addition to participation by Mr. JONES and myself, the chairman of the Ways and Means Committee, the gentleman from Oregon, Mr. ULLMAN, will deliver a major speech on his newly developed value added tax proposal. Senator PACKWOOD from Oregon will speak on the subject of the Federal budget and tax policy and the Secretary of the Treasury will speak at the luncheon on Monday. We expect a large turnout and thought that we would advise our colleagues of this conference.

I anticipate that the issues to be discussed will be important to the development of a new tax policy and enclose the schedule of this conference in the RECORD at this point:

SCHEDULE OF "NEW DIRECTIONS IN TAX POLICY"

MONDAY, NOVEMBER 5

9:00–9:15. Introduction: Hon. Barber B. Conable, Jr. (R-NY); Hon. James R. Jones (D-OK); John Fox Sullivan, Publisher, *National Journal*.

9:15–10:15. Economic Policy and America's Future: Speakers: Rudy Penner, Robert Eisner. Moderator: John Fox Sullivan.

10:15–10:30. Break.

10:30–11:15. Federal Budget and Tax Policy: Speaker: Senator Robert Packwood, (R-OR), Member, Senate Finance Committee. Introduced by Hon. Barber B. Conable, Jr.

11:15–12:15. VAT and the Restructuring of Tax Policy: Speaker: Hon. Al Ullman (D-OR), Chairman House Committee on Ways and Means. Introduced by Hon. James R. Jones.

12:15. Luncheon Speaker—Secretary of the Treasury G. William Miller.

2:00–3:15. Capital Cost Recovery and Economic Expansion, 10/5/3: Speakers: Ernie Christian, Patton, Boggs & Blow. Richard Schubert, Bethlehem Steel. Moderator: Hon. Barber B. Conable, Jr.

3:30–5:00. Capital Formation Alternatives to the 10/5/3: Speakers: Bill Ballhaus, Beckman Instruments. Gordon Corey, Commonwealth Edison-Dividend Reimbursement. Robert H. B. Baldwin, Chairman, Morgan-Stanley. Moderator: Hon. James R. Jones.

5:00–7:00. Reception, Congressional Room.

TUESDAY, NOVEMBER 6

9:00–10:30. Impact of Inflation and Indirect Taxes on Capital Formation: Speakers: Mike McKevitt, NFIB. Fred Hickman, Chicago. Jack Meyers, AEI. Moderator: John Meagher.

10:30–10:45. Break.

10:45. Tax Policy for the '80s: Speakers: Hon. James R. Jones. Hon. Barber B. Conable, Jr. Moderator: Charls Walker.●

COMMENTS OF JAMES J. KASTER OF TEXAS SUPPORTING THE FTC FUNERAL INDUSTRY RULE

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ECKHARDT. Mr. Speaker, I have been asked by the chairman of the Consumer Protection and Finance Subcommittee of the House Commerce Committee, JIM SCHEUER, to place the following letter in the record.

Its author, James Kaster, who is the legislative liaison for Gov. William P. Clements of Texas, writes in strong support of the proposed Federal Trade Commission Funeral Rule. As many of my colleagues know, this body will shortly be asked to vote on an amendment which would strip the Commission of its authority to regulate the funeral industry. I intend to strongly oppose such a measure and urge my colleagues to permit the FTC to continue its much needed regulation of this critical consumer area.

The letter follows:

OFFICE OF THE GOVERNOR,
Austin, Tex., October 19, 1979.

Hon. JAMES H. SCHEUER,
Chairman, Subcommittee on Consumer Protection and Finance, Washington, D.C.

DEAR CONGRESSMAN SCHEUER: Please consider this a letter of support for the proposed Federal Trade Commission rulings regarding the funeral industry. It is my understanding that your committee is considering revoking the proposed rulings. I am a licensed funeral director and embalmer in the State of Texas and have been so licensed since 1968. I am currently not acting in the funeral business. Prior to becoming a funeral director and embalmer I was in the casket manufacturing business and called on approximately 70 funeral homes on a regular basis for 9 years.

I was also in the State Legislature as a Representative for 8 years. I give you this background so you will understand I think I know how the funeral business operates and I know the power that funeral directors have over State Legislatures. I fully support the proposed rules of the Federal Trade Commission as I think there is real abuse in too many instances in this business. Most funeral directors are reputable but a far too great a number are not reputable.

The government, in its wisdom has placed various protections for the consumer such as the truth in lending provisions when one borrows money. These provisions are there when a person is not emotionally upset and

has all their normal economic defenses present. In contrast there is absolutely no protection for a person making one of the largest purchases in their lifetime, only behind the purchase of a home and an automobile when they are emotionally upset and all enomic defenses are down. It is ludicrous to offer a protection to people when they are perfectly all right and may or may not need it and to offer no protection to a person when they are at their most vulnerable.

I testified before the Federal Trade Commission in Los Angeles and would suggest that you obtain a copy of my testimony from the FTC if you need any further information.

I would also be glad to testify, should you so desire.

Sincerely,

JAMES J. KASTER,
Legislative Liaison.●

H.R. 5505

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. VANDER JAGT. Mr. Speaker, today the House of Representatives has under consideration H.R. 5505, Tax Administrative Provisions Revision Act of 1979. While this is not a major piece of tax legislation, the bill does make several needed changes in the Internal Revenue Code which are of great interest to the affected individuals and businesses.

Two provisions of H.R. 5505 are derived from legislation which I had sponsored earlier this year, and represent rather minor changes in tax law which do have a significant impact to those concerned. Section 10 of H.R. 5505 extends the period for rollover of capital gain on the sale of a residence for members of the Armed Forces who are stationed overseas or are otherwise required to live in Government-owned housing. Section 7 provides for a change in time for payment of excise taxes on fishing equipment.

Section 10 of H.R. 5505 dealing with treatment of servicemen's residences is virtually identical to H.R. 2667 which I introduced on March 6, and provides relief to those members of the Armed Forces who are faced with a substantial tax liability as a result of their lengthy tour of duty overseas or the Government's requirement that they reside in base housing. Under present law, a member of the Armed Forces serving on extended duty is generally not required to recognize the gain on the sale of a principal residence if he or she purchases and uses a new home within 4 years after the sale of the old one. However, with today's emphasis on reenlistment and extended tours of duty, in order to maximize the trained manpower we have now in our uniformed services, individuals sometimes have difficulty in repurchasing a new home within that 4-year period. Consider the situation of a military family which must relocate after transfer orders are given. Their home must be sold, sometimes in a rather short period. Then there is an overseas tour of duty, lasting up to 3½ years in many cases, and even longer in some. Then there is usually a period of additional training or schooling back in the United States, followed by an interim period before orders for a permanent assignment are made. That process can easily take more than 4 years, and is becoming more and more common as members of the Armed Forces are encouraged to extend their overseas tour of duty.

In addition, many service families are now required to reside in Government owned housing in order to maximize the utilization of these quarters. These families are similarly in a situation where they cannot repurchase a new residence in which they can roll over the gain from the sale of their old one.

In both of these situations, highly trained career service personnel are faced with the prospect of either continuing their service career and owing a substantial tax liability of their capital gain or resigning from the service in order to purchase a new principle residence. I think it is obvious that the U.S. Government should do everything possible to encourage, rather than discourage, skilled service personnel to remain in the Armed Forces, and section 10 of H.R. 5505 removes one small hindrance which has bothered many individuals by extending the period for rollover to 1 year after reassignment back to the United States and after which time they are no longer required to reside in Government owned housing.

Section 7 of H.R. 5505 changes the time for paying excise tax on fishing equipment as called for in H.R. 2459 which I cosponsored. Although the retail sale of sport fishing equipment is seasonal in nature, manufacturers of such equipment produce throughout the year to maximize use of capital and labor. The manufacturers frequently offer extended credit terms to wholesalers and retailers to encourage early purchases, thereby avoiding storage costs.

Although the extended credit delay collection of the sale proceeds of the fishing manufacturers equipment, the Federal Government has required payment of the excise tax relatively soon after the sale of the tackle. This has caused the fishing equipment industry some hardship, which can easily be overcome by changing the date for payment of the excise tax to more closely coincide with the period the manufacturers will receive their payment for the goods. Section 7 of H.R. 5505 establishes a revised schedule for collection of the excise tax that will not reduce the Government's revenues, but will be more convenient for the manufacturers to meet.

I do want to thank the distinguished gentleman from Illinois, Mr. ROSTENKOWSKI, who as chairman of the Subcommittee on Select Revenue Measures of the House Committee on Ways and Means gave deliberate and prompt attention to these two measures, as well as several other miscellaneous changes in the Internal Revenue Code. The gentleman from Oregon, Mr. ULLMAN, also deserves praise for scheduling consideration of H.R. 5505 in an expeditious manner.●

NATO IN MAJOR SEA MANEUVERS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. DONNELLY. Mr. Speaker, in the Friday, October 19, 1979 edition of the Boston Herald American, there was an excellent article entitled, "NATO in Major Sea Maneuvers." Mr. Richard Lamere, the very able author of this thought-provoking article, in no uncertain terms draws the reader's attention to the evident need for a strong shipbuilding program in our great Nation. We cannot forget the relationship between a healthy shipbuilding capability and a secure national defense.

I insert the timely article by Mr. Lamere at this point in the RECORD:

Aboard H.M.S. *Hermes*—NATO nations engaged in "Ocean Safari," a major maritime exercise underway the past two weeks in the Norwegian Sea and North Atlantic, have the strength presently to meet a challenge by the Soviet Navy for control of the sea lanes, the Commander of the NATO fleet said.

However, Vice Admiral Thomas J. Bigley, USN, a native of Everett, Mass., and Commander Striking Force Atlantic, warns that by the mid-1980's the Soviet naval forces could be a much greater threat if NATO nations fail to keep pace with accelerated Russian shipbuilidig. "Unless NATO nations continue to improve their sea capabilities, there could be deterioration in the 1980s," Admiral Bigley said as he visited the British helicopter carrier *Hermes* in the Norwegian Sea following "strong interest," he noted, by Soviet warships and planes in the big NATO fleet comprised of 70 ships from eight nations, 17,000 men and 200 aircraft.

The admiral noted that the Soviets have significantly increased their intelligence-gathering sorties by Bear and Badger aircraft over the NATO ships, compared to a year ago when a similar exercise (Northern Wedding) was conducted in the North Atlantic.

More than 50 Soviet planes flew over the NATO ships during the first week of the exercise. Several Soviet guided missile ships of the Krivak and Kresta Classes, along with trawlers, also watched the maneuvers. Although the Soviet pilots flew over the NATO fleet, Bigley said they did not make any low-level simulated attacks, although one Bear passed *Hermes* at an 800-foot altitude and another Bear flew nearby as the American admiral was being transported to the *Hermes* by helicopter. A Soviet destroyer also passed within a few hundred yards of the British helicopter carrier. "They (the Soviets) haven't trained their guns," Bigley said. "It's more intelligence," he explained.

Some of the Russian warships, Bigley said, had moved from the Caribbean to the Norwegian Sea and North Atlantic to observe the ships from several NATO countries—Belgium, Canada, the Federal Republic of Germany, The Netherlands, Norway, Portugal, the United Kingdom and the United States. The United Kingdom committed 25 ships to the exercise while the United States and the Netherlands each had 12 ships engaged in anti-submarine warfare, gunnery and replenishing-at-sea activities during the two-week period.

Ocean Safari 79 was scheduled by Admiral Harry D. Train, II, USN, Supreme Allied Commander Atlantic whose headquarters is in Norfolk, Va., to demonstrate and improve

NATO's capability to provide maritime support to Europe in time of crisis or war.

Admiral Bigley, the son of Mrs. William C. Bigley and the late Mr. Bigley, flew his flag aboard the Mayport, Florida based guided missile cruiser U.S.S. *Dale* (CG 19). "The Soviets in recent years have become a blue water navy, operating worldwide," Bigley said. "In Ocean Safari, we're getting close to part of their operating area. They want to gather intelligence of our forces . . . our smartness in seamanship and give us a subtle message that we don't control the ocean alone, and that they're out here also. The Soviets now operate a tremendous number of ships that continue to grow in size and sophistication."

"But we're also able to get a look at how they operate and their capabilities," Bigley stresses, adding, "It's a morale booster for our people. Our men know they are providing a deterrent force when they see the Soviet ships." The Everett-born three star admiral said the Soviets have a superiority in some of their long-range missiles, but he said the Russians can't match the U.S. and NATO's aircraft carrier striking force. Bigley said the Russians are concentrating approximately 12 percent of the Soviet Union's gross national product into building a fleet of worldwide proportions. The United States spends 6 percent of its G.N.P. for its defense posture.

"I'm excited with this Ocean Safari exercise," Bigley said. "I'm pleased with the capabilities of our people. They operate very sophisticated, complicated equipment and the young men maintaining the equipment are bright and intelligent. It's all very fast-moving, but we have the professionals to do the job." ●

THE CAMBODIAN FAMINE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. MARKEY. Mr. Speaker, imagine a country whose population has dwindled from 8 to 4.7 million people over the past 10 years. Where there is no currency, no transportation system, and no communication system. A country where 80 percent of the children are suffering from severe malnutrition. Imagine a country where for every birth there are 10 deaths. This country, Mr. Speaker, is Cambodia—today.

It is estimated that 3 million Cambodians are suffering, mainly from starvation. Approximately 200,000 of them will die each month if something is not done to ease their situation. As a country who professes a firm belief in human rights, we must provide these people with at least the basic necessities of life. Is that too much to ask? If we truly believe in the prospect of human rights for everyone, we have an obligation to provide aid to these people.

There are no medical facilities in Cambodia, no doctors, and no supplies for medical treatment. Orphanages are filled with little children too weak to move. Their eyes are vacant and hollow. Their bellies swollen and distended. War and poverty are all these children know, it has been their life. We are in a position to stop all of this. We cannot look the other way, we must hold out our hand and share our wealth. It is desperately needed.

This crisis is much like that of the boat people. We can help, but it would be unreasonable for the United States to do this alone. We need help from other countries as well as various relief agencies. All nations should, and must, join in to give international support to the people of Cambodia. We must save them from almost certain death. I urge all nations to join in this common cause.

We, as a nation, have the opportunity to respond to the critical needs of others. We know what it is to be clothed and well fed. We must be generous in our action, and when we give aid, may we give in the spirit of survival for everyone. This is a crisis of a people more than of a country. We should be proud to help others. It is the nature of the United States.●

OLYMPIC IDEALS POLITICIZED

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. SOLOMON. Mr. Speaker, Olympic ideals were sacrificed to political expediency recently as the International Olympic Committee announced Taiwan may participate in the upcoming games only after adopting a flag and anthem other than its own. In making this demand the IOC was forced to discard Olympic Charter rule 64 which requires teams in the opening parade at the games must be accompanied by the names and flags of their countries.

The IOC went a step further and presumptuously claimed the right to approve any new flag and anthem Taiwan might substitute. Taiwan is a nation of 17 million people and its sovereignty is recognized by 21 countries of the world. It is not surprising Dr. C. S. Shen, Republic of China consultant to the Olympic Committee in Taiwan responded by stating:

> Fairness and conformity to rules are the basic cornerstones of athletic competition, and they are the most treasured by athletes. Therefore, we are not satisfied with the proposal.

The most sobering aspect to this decision is that the International Olympic Committee (IOC) was responding to pressure from the Carter administration. The Washington Post reported:

> Leaders of the IOC heeded an ominous letter from the U.S. State Department today and called on Taiwan to change its flag and anthem. The letter implied there would be embarrassment for the United States if the athletes of Taiwan went to the Winter Games.

The embarrassment is, instead, that the United States acquiesced to the pressures of the People's Republic of China and in turn unnecessarily applied pressure to the IOC to exclude Taiwanese young men and women athletes who have been working diligently for an opportunity to participate in a competition that should symbolize impartiality and international good will.

How far will the administration go to insult and discredit our former ally? This is a new low in State Department policy.

In recent years we have complained bitterly as other nations have interjected politics into the Olympics. It is sad but true that this time it is the United States applying the pressure.

Let the record show that over one-hundred Members of Congress co-signed a letter I sent to the IOC Executive Board urging a nonpolitical solution whereby Taiwan would have been able to participate under the same conditions and procedures as any other country.

This effort to isolate Taiwan will not go unnoticed. American credibility will suffer as a result, and understandably so. It is indeed ironic that a nation which has always championed freedom and equality should play such a key role in the denial of rights to another nation which is developing in democratic principles and free enterprise.●

TITLE III

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mrs. CHISHOLM. Mr. Speaker, I believe that the following remarks, which I will circulate as a "Dear Colleague" this week, will help to clarify a number of misconceptions about the title III program contained in H.R. 5192, the Higher Education Reauthorization Act of 1979. I hope that my colleagues will review these remarks as they consider H.R. 5192 this week.

This week the House will consider H.R. 5192, the Education Amendments of 1980. This bill will reauthorize and improve programs authorized by the Higher Education Act and other related measures. Over the last several weeks, recent newspaper reports have appeared which purport to reveal for the first time deficiencies in the focus and administration of title III, "The Strengthening Developing Institution Program," of the Higher Education Act. These news articles, while they have highlighted and rehashed findings contained in an 8-month-old report published last spring by the General Accounting Office, have omitted any discussion of the steps already taken by the Subcommittee to address many of these issues in the new legislation. In order to place these stories in their proper perspective, we have summarized below the specific actions the subcommittee has taken to respond to the allegations of abuse and mismanagement of the title III program.

In keeping with the subcommittee's careful review and close scrutiny of all programs during the reauthorization hearings, the subcommittee held 3 days of hearings which involved a detailed review of the management of the title

III program as well as the findings and recommendations in the GAO report. Witnesses at the hearings included GAO investigators who prepared the report, HEW administrative personnel, analysts from the National Center for Education Statistics, presidents of grantee institutions, and representatives of assisting agencies. Based on information gathered at these hearings, including a number of recommendations made in the GAO report, the subcommittee redrafted and significantly modified key title III statutory provisions.

The subcommittee heard testimony regarding the vagueness of the criteria used for determining eligibility for grants under the title III program. Convinced that incorporating a precise definition of a developing institution into H.R. 5192 would help improve administration of the program, the subcommittee included language in the bill which defines such institutions based upon an institution's low-income student enrollment and average educational expenditures per student. This firm and objective criteria will aid in streamlining the administration of the title III program.

Management considerations also motivated the subcommittee to provide a more clearly delineated focus for use of program funds by requiring participating institutions to use title III moneys to improve academic quality, institutional management and fiscal stability. H.R. 5192 expressly restricts use of title III funding to those purposes authorized in the bill. To further guide HEW in the selection of applications for funding, the subcommittee's bill lists a range of program activities such as faculty development, administrative management and improvement of academic programs to receive priority funding consideration. In direct response to a GAO recommendation, H.R. 5192 mandates that grantee institutions report yearly on their progress toward completing development activities and establish specific priorities to be achieved with title III funding. Of particular importance is a provision in the bill requiring each participating institution to submit a detailed analysis of its fiscal control and accounting procedures. The subcommittee also made it clear that it will take steps under its oversight authority to insure that the Secretary more carefully monitors disbursement of title III funding by program managers.

Testimony was also presented to the subcommittee concerning the role and operation of consortia and consultants specializing in providing title III assistance. Because the subcommittee was persuaded that irregularities and misuse of funds have occurred in conjunction with these arrangements, the requirement that institutions participate in such arrangements was deleted. Institutions which choose to continue to receive such technical assistance must now submit detailed reports on accounting procedures governing this arrangement, according to language in the report on H.R. 5192.

The subcommittee heard comments regarding the failure of institutions to progress and graduate from the title III program. Carefully constructed funding categories inserted into H.R. 5192 provide a new structural framework which includes incentives to enhance long-range institutional planning and movement through the program. The legislation is designed to restrict the length of participation in the program by creation of three new grant categories. For example, an institution may apply for a competitive, 1- to 3-year grant which is renewable. A new 4- to 7-year, nonrenewable grant is established with 25 percent of the program's appropriation reserved for this category. The reserve feature will insure availability of substantially larger grants to encourage multiyear planning which anticipates movement out of the program. Institutions receiving nonrenewable grants are foreclosed from applying for the renewable funding. The distinction in funding levels and duration of awards will provide important incentives for institutions to progress through the program.

A third component in the comprehensive title III funding package, challenge grants, is aimed at stimulating institutions to move away from dependency on Federal funding and seek alternative resources. By requiring that Federal funds be matched, the challenge grant program is designed to promote State and private sector investment in developing institutions. Implementation of the challenge grant program is delayed until 1982 to permit dissemination of information and development of solid proposals. The challenge grant initiative will involve a competitive application process with funding priority for institutions in the nonrenewable title III grant category. The challenge grant proposal provides a new mechanism and further incentive to eligible institutions in their quest for self-sufficiency and fiscal stability.

We urge our colleagues to carefully compare published criticism of the title III program with the improvements already made in H.R. 5192 and the accompanying committee report. These legislative modifications along with a new, aggressive management attitude in the Office of Education can achieve effective and efficient administration of the title III program.●

VETERANS' DAY

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. COTTER. Mr. Speaker, Veterans' Day, November 11, 1979, is a day we should all set aside to pay tribute to the men and women of the Armed Forces who fought so hard to defend our Nation, our Government, and to preserve the freedoms which we all enjoy.

Thousands of veterans in my district alone are still in hospitals suffering from illness and wounds received in battle in foreign lands.

We can never fully express our gratitude to this group who made such great sacrifices to protect our freedom.

I urge all Americans, but especially my constituents, to take time to visit on Sunday, November 11, these men and women in veterans hospitals or veterans homes, and to show their gratitude, respect and honor for all those who know the real meaning of Veterans' Day.●

FATHER JAMES C. FINLAY—25 YEARS OF SERVICE TO GOD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues a special event which has recently occured in my home State of New York. A very special man in our community of the Bronx, has recently celebrated his 25th anniversary of his ordination into the Jesuit order. To those of us who know him well, those 25 years have not only been spent in service to God, but also in service to his fellow man and his community.

Father Finlay is known as a distinguished author and educator as well as a great humanitarian whose concern for his fellow man has never waivered in his daily activities. Since becoming President of Fordham University in 1972, he has worked to insure that the interests of private institutions are properly represented in the community, the city, the State and the country. He is chairman of the Legislative Committee of the Commission on Independent Colleges and Universities and I have had the privilege and the pleasure of working together with him on important issues which face the higher education community in New York State.

As the ranking New York member of the House Education and Labor Committee, I have become accustomed to hearing his name mentioned when crucial issues facing private institutions are discussed. He is known throughout the educational as well as the governmental community as a man who is familiar with the issues. Father Finlay is a most appropriate voice in the educational community in the State of New York for nonpublic schools and he is respected for his intellect as well as his appreciation of the problems which plague our educational system today.

Father Finlay did not arrive at Fordham University upon becoming president in 1972 for the first time. He attended college at Fordham from 1940–42 and was ordained a priest at the university on June 19, 1954. He became an instructor in political science in 1960, went on to become an assistant professor in 1961 and was named chairman of the department from 1963 to 1967. Upon becoming an associate professor in 1968, he was also named dean of the Graduate Schools of Arts and Sciences, where he remained from 1968 until he was named president of Fordham University in 1972.

While many people could make many observations about Father Finlay, I feel

that a more appropriate tribute is best expressed in the words of a former student of Fordham who has retained many ideas about this man:

A man with a special quality . . . a student knew that they were being addressed by a very learned man, but one who could make each concept taught so easily understood, and lead the student to feel the importance of the idea and become enthusiastic and emphasize with the circumstances of the idea or concept.

He has great warmth and appeal . . . so open-minded and interested in everything . . . good wit . . . never passed a chance to bring up the lighter side of something when teaching or otherwise.

You got the feeling when talking to him that he was secular, as well as priestly and that he had great experience in all professions . . . He was a very refined person, almost shy, but not really . . . He could be just as at home at a basketball game, as in the classroom.

Father Finlay always went out of his way to contact students and do things for them that would enhance their classroom experience and education. It was such the case for me, when he made me a public affairs columnist for the campus newspaper, which was practically unheard of at the time.

While the words of colleagues and friends would also do justice to a tribute to Father James Finlay, it is often the words from the heart of the student which seem most appropriate. As an educator, Father Finlay has touched the lives of many who have had the privilege of knowing him as a teacher and a scholar, and more importantly, as a priest in service to God and his fellow man. It is my sincere wish that Fordham University and the Bronx community be blessed with his wisdom and guidance for many more years to come. He is truly a man for the people.●

TAXES AND THE INDEPENDENT CONTRACTOR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, on September 13, 1979, I introduced H.R. 5266 to clarify the tax status of the self employed and this bill was referred to the Ways and Means Committee on which I serve. I previously had the opportunity to study this issue as the ranking minority member of the 1978 Task Force on the Independent Contractor. As the Select Revenues Subcommittee continues to consider the tax status of independent contractors, they will profit from examining the new concepts in my legislation.

Fortunately, the very able ranking minority member of that subcommittee, the gentleman from Tennessee, Mr. DUNCAN offered an amendment based on a provision in my bill, to establish the tax status as independent contractors of workers who have a substantial investment in the tools of their trade.

In fact, my provision and the Duncan amendment are based on an employment tax ruling issued by the IRS in 1976, which I include at this point:

TRUCKING INDUSTRY—CONTRACT OPERATORS

(1) The issue of whether contract operators of trucking equipment are independent contractors of employees of a carrier for purposes of the Federal Insurance Contribution Act (FICA), the Federal Employment Tax Act (FUTA), and the Collection of Income Tax at Source on Wages (WT) will, under present law, be decided in favor of an independent contractor relationship where the facts are substantially similar to those in the cases of *United States* v. *Mutual Trucking Co.*, 141 F. (2d) 655 (6th Cir., 1944) and *United States* v. *Silk* and *Carter H. Harrison* v. *Greyvan Lines, Inc.*, 331 U.S. 704; CT. D. 1683, 1947-2 C.B. 167.

(3) The combined effect of the above is to create a strong inference that a contract operator is an independent contractor when the following six factors are present:

(a) he/she owns the equipment or holds it under a bona fide lease arrangement;

(b) he/she is responsible for the maintenance of the equipment;

(c) he/she bears the principal burdens of the operating costs, including fuel, repairs, supplies, insurance, and personal expenses while on the road;

(d) he/she is responsible for supplying the necessary personal services to operate the equipment;

(e) his/her compensation is based upon a division of the gross revenue or a fee based upon the distance of the haul, the weight of the goods, the number of deliveries or combination thereof; and

(f) he/she generally determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier and specifications of the shipper;

(4) The factors in (3)(a) through (e) above give contract operators substantial opportunity for profit and loss and the risks of enterprise, which are indications of independent contractor relationships.

The first four criteria (a-d) are specifically included in H. 5266 as criteria that one must satisfy in order to qualify unquestionably as independent contractors. Item (e) of the IRS ruling was not included because it is no longer valid. A 1977 case decided in the 9th Circuit Court of Appeals stated:

The owner-operator keeps track of his own time and presents a bill for his services to the contractor or over-lying carrier. This is then compared against the records kept by the contractor or over-lying carrier to prevent padding of the bill.

The court ruled that owner-operators could be paid by the hour or by a fee based on mileage and tonnage.

The sixth criteria (f) in the IRS ruling was not included because it was too narrow. It referred only to shippers and carriers, and the safe harbor in my bill is intended to apply across-the-board to all who meet the assets test, not just shippers and carriers.

Mr. Speaker, in subcommittee markup, the Duncan amendment providing for an independent contractor status safe harbor based on invested assets was criticized because its opponents claimed it only applied to one occupation. This argument is directly contrary to the very reason we excluded item (f) from the IRS ruling. Moreover, I have received from the Bureau of Labor Statistics detailed occupation tables regarding the self employed.

These tables show that over 30 occupations can meet the assets test—also called economic reality—under the law, but most of the time could not come in under the control test safe harbor in H.R. 5266 and H.R. 3245.

In these 30 occupations, the individual does not always control the number of hours worked, and substantially all of the scheduling. In light of this additional information, I hope the subcommittee reconsiders its 5 to 4 vote against the Duncan amendment. Moreover, reconsideration would give statutory recognition to those concepts regarding the independent contractor which have judicial recognition.

Mr. Speaker, the courts have acknowledged at least two safe harbors—one based on the common law control test and the other based on the common law assets test—economic reality. For reasons I mentioned above, these two are not compatible in H.R. 5460 and H.R. 3245 and cannot be merged into one.

The Supreme Court has recognized two legal tests for independent contractor status in the Mutual Trucking case which is cited in the aforementioned IRS revenue ruling. The Court ruled:

In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor.

For example, a Member of Congress could retain an independent photographer to take and develop pictures on specific days, at specific times and places. Because of the substantial investment in assets—expensive photography equipment—the photographer would meet the assets test, to be an independent contractor, but would be ruled out of consideration under the single, safe harbor in H.R. 5460 and H.R. 3245 because he would not control the scheduling or the hours worked.

Edward B. Miller, former chairman of the National Labor Relations Board, spoke on the law of the independent contractor at a recent meeting of the American Bar Association Institute. His comments verify the judicial strength of the assets test for independent contractor status:

But the Congress, in 1947, reined in this Court-approved expansionist interpretation of the word "employee." It voiced its displeasure with the Hearst case and wrote into the statute a specific exclusion of independent contractors from the definition of employed. In so doing, it made abundantly clear that the common law tests should be applied in determining whether any person alleged to be an employee was in fact an employee or was instead an independent contractor.

Instead, it told the Board and the courts to revert to the traditional common law definitions and let the chips fall wherever they might.

I will soon conclude these background remarks, but I cannot do so without pointing out, as I did in my dissent in the Deaton case, relatively early in my career at the Board that even under the economic reality test and before the 1947 amendments, the Supreme Court, in the Greyvan case, had found truck owner-operators there to be independent contractors and not employees.

On these facts the Supreme Court concluded, and I quote: "Where the arrangements leave the driver-owners so much responsibility for investment and management . . ." they must be held to be independent contractors.

Thus, even under the interpretation of the law followed before the 1947 amendments, under the liberal economic reality test, a person who owned his own tractor and leased it to a trucking company in exchange for a percentage of the revenue obtained for hauling on orders solicited and obtained by the trucking company was deemed an entrepreneur, not an employee.

Other factors included in the common law test include a sort of economic reality point—that is, whether the one alleged to be employed is in fact engaged in a distinct occupation or business.

This last comment by Miller should receive special attention because there are many independent contractors—loggers, for instance—who may not have substantial investments, but are recognized as distinct occupations.

The Greyvan case, also decided by the Supreme Court, includes an important warning relevant to this issue. Justice Rutledge, in his concurring opinion, wrote:

Here the District Courts and the Circuit Courts of Appeals determined the cases largely, if not indeed exclusively, by applying the so-called "common law control" test as the criterion. This was clearly wrong, in view of the Court's present ruling.

Mr. Speaker, this is exactly what the Select Revenue Subcommittee has done so far in their markup sessions—applied the control test as the sole criterion for determining who is independent—and this is clearly wrong.●

SOVIET PERSECUTION OF CATHOLICS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ROUSSELOT. Mr. Speaker, the persecution of Jews in the Soviet Union has gotten increased and deserved attention in recent years. But religious persecution in the Soviet Union is not limited to those of the Jewish faith alone. Religious freedom, a fundamental human right, is also systematically denied to Protestants and Catholics, among others.

Recently, one of my constituents, Mr. James L. Nichols of Alhambra, Calif., brought to my attention an article from the Visitor, the national Catholic family magazine, which relates quite graphically the persecution of the Catholic Church in the Soviet Union, particularly in the Ukraine and Lithuania.

It is my belief that we who live in a free and prosperous country should be reminded periodically that "all is not well" in many other parts of the world. Perhaps this article will inspire us to continue helping those who do not share in the blessings of liberty, and to remain ever vigilant against the forces of totalitarianism.

Mr. Speaker, I would like to share this article, "Modern Martyrs," by Fr. Albert Nevins, with my colleagues.

MODERN MARTYRS

(By Father Albert J. Nevins)

In all the talk about human rights little is said about the Catholic Church in the Soviet Union. Although the Russians signed the Helsinki agreement to gain concessions from the West, the Russians had no intention of giving up the total control of its citizens. Jewish intellectuals have been released to emigrate to Israel and the West largely because of constant pressure of publicity focused on them by free Jewish communities outside Russia. To gain Western concessions for the SALT Treaty the Soviets have let some Jewish dissidents go but only because it suits their own purposes. As for the Catholic Church, the persecution of religion continues unabated.

Catholics were always a minority in the Soviet Union and rather localized minorities at that. The Ukraine had a substantial Catholic population but bishops and priests were imprisoned and many Catholics were forcibly moved from the Ukraine. Large numbers were sent to Siberia where they are priestless. There is no seminary open in the Ukraine and the priests are getting old. There is rumored to be a strong underground movement. The general policy of the Soviets seems to be to avoid direct persecution where possible and to let time put the Church to death. This policy is effective. In Minsk, where there are 40,000 Catholics, there is not one functioning church. In Para, Catholics have kept their church open but have no priest. Belorussia is a region of closed churches with priests about 70 years old. One priest covers what was formerly 28 parishes. Seminaries have been closed and those which exist outside of Russia proper refuse to accept Russian candidates for fear that they are KGB agents. There have been cases where KGB agents were ordained and then given the job of sabotaging from within.

One of the saddest situations is in Lithuania which is predominantly Catholic. Seized by the Reds at the time of World War II, the West legitimatized its seizure in the Helsinki Accord which was what the Russians wanted. Since the Red takeover, the Church has been systematically persecuted. Typical of what is happening there is the case of the Diocese of Panevezys, where three priests were murdered by the KGB and six died in jail or in Siberia. Twenty priests who served more than five years in jail or Siberia died almost immediately after their release. Another 23 priests who are still alive served prison terms of five years or more, with the longest being 23 years. The Russians have denied another 12 priests the right to exercise their ministry. There are 10 parishes in the diocese now without priests.

The result of the persecution is that the Catholic Church has had to go underground. It is generally believed in Rome that the cardinal Pope John Paul created *in petto* (in secret) at the recent conclave was a Lithuanian bishop who would be further persecuted if publicly named. The underground Church in Lithuania has been smuggling out information to Lithuanian communities in the United States and Europe. The stories tell of homes of Catholics being searched for religious literature, of priests called before officials for talking to children, of children being punished and ridiculed in school by teachers for believing in God. One story concerned a government worker who was fired from his job because he knelt at the funeral of his mother.

The reports that reach the West show a Church of the catacombs but one that is vibrant. There are abundant vocations to the priesthood and religious life. Eucharistic devotion is strong and the people are united in resisting Russian interference. As one report of the recent date states: "The soul of the apostolate is alive, thirsting to spread the Catholic Faith throughout a vast land which has been subjected to atheism. The Catholic Church is working effectively in catacomb fashion: an underground press is flourishing, catechisation is going on in a broad scale, in spite of all kinds of sacrifices." All of this is not done without cost. Four bishops have been martyred, two others are in exile. Some 600 priests have served or are serving prison terms. Hundreds of Catholics have been jailed and many martyred. Pray for Lithuania.●

AMERICAN MEDICAL RECORDS ASSOCIATION

HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. EVANS of Indiana. Mr. Speaker, during this week, the American Medical Record Association is holding its annual meeting in Washington, D.C. I would like to share with my colleagues some remarks by the chairman of the Subcommittee on Government Information and Individual Rights, Mr. PREYER. Mr. PREYER's comments discuss the issue of the privacy of medical records, an important matter which the subcommittee is currently considering.

The American Medical Record Association was founded in 1928, and has 23,000 members who are medical record practitioners. There people are interested in the field of medical record and health data.

As our society progresses into the age of computers and becomes more mobile, quick and accurate transmission of medical information will become critical. Medical record practitioners and the American Medical Record Association have an important role in the future of medicine. It is the purpose of the American Medical Record Association to promote the art and science of medical record administration and to improve the quality of comprehensive health information services for the welfare of the public.

REMARKS OF REPRESENTATIVE RICHARDSON PREYER BEFORE THE CONVENTION OF THE AMERICAN MEDICAL RECORDS ASSOCIATION, OCTOBER 23, 1979

An area of current legislation that may be of special interest to the American Medical Records Association is the confidentiality of medical records. In the House, the leading bill on this subject is the Federal Privacy of Medical Records Act which I introduced in March. In addition, Senator Javits has introduced a bill in the Senate, and the Carter Administration has offered its own proposal. All of these bills are based on the recommendations of the Privacy Protection Study Commission.

The American Medical Records Association is a recognized leader on the issue of confidentiality of medical records. The Association testified before the Privacy Commission in 1976, and recently testified on the current legislation before the Subcommittee on Government Information and Individual Rights which I chair. I also understand that AMRA has appeared before a Senate committee as well.

In reviewing the testimony before my subcommittee, I was especially interested in the statement of AMRA's goals. One of those goals is "to provide leadership in promoting appropriate use of health record information

in the best interests of the public." I was struck by this because I think that it summarizes in one sentence the general purpose of medical privacy legislation. There are many different people interested in using medical record information for many different purposes. In each case, we must carefully consider whether the use of the information is appropriate and in the best interests of the public. This is not an easy task.

Looking a little more closely at the bills before the Congress, I see three basic objectives. The first is to give individuals the right to inspect and to correct medical records. While there appears to be general agreement on the broad principles of patient inspection and correction, there is some dispute over how these rights should be qualified. The Subcommittee has received testimony, especially from psychiatrists, that unrestricted access to records could be harmful to the patient in some cases. Similarly, we have learned from medical records administrators that procedures for record corrections must be carefully structured so as to preserve the integrity of the record as a history of medical treatment. We are looking for an appropriate way to balance the different interests.

The second objective of the legislation is to restrict the disclosure of medical information without the consent of the patient. Limiting the disclosure of information by law is a complex and delicate task. The point is well illustrated by a recent Oregon law on criminal history records. The law prohibited the disclosure of information about arrests. Since a person is assumed to be innocent unless found guilty, information about an arrest is not always meaningful until there has been a conviction.

However, when this law took effect, it was discovered that the police were prohibited from telling anyone that a person had been arrested—even the person's husband or wife. This produced such an impossible state of affairs that, within a week of the effective date of the law, the Oregon legislature met to repeal it.

This story demonstrates the pitfalls of carelessly drafted legislation. It also explains why the Subcommittee has taken such a deliberate approach to the medical record privacy issue. It is not always easy to determine whether disclosure should be permitted or under what conditions the information should be used. Auditors, medical researchers, and law enforcement officers all claim to have a need to use medical information for an important purpose. Auditors seek to protect the fiscal integrity of government health programs. Researchers use information to protect the public health. Law enforcement officers want information to protect the public welfare. In each case, we have to decide whether the use of information is in the best interests of the public. This requires us to consider a multitude of factors.

The difficulty of these decisions can best be illustrated by a specific example involving the Secret Service. One of the functions of the Secret Service is the protection of the President. The Director of the Secret Service testified that information about phychiatric patients who may pose a threat to the President is very useful in performing this vital function.

The need of the Secret Service must be measured against the confidentiality interests of the patient in his relationship with his psychiatrist. Obviously, if confidentiality cannot be preserved, those in need of psychiatric help will be reluctant to seek treatment. We have not yet resolved this dilemma. However, we are exploring a solution that would permit disclosure of information to the Secret Service but that would severely restrict the use of the information by the Secret Service.

I would like to emphasize that my bill never requires disclosure of medical records unless the disclosure is required by another law. Thus, if disclosure to the Secret Service is permitted under the legislation, the decision to disclose will be made by the psychiatrist and not by the government.

The third objective of the legislation is to make it a crime to obtain medical information under false pretenses. We have received testimony suggesting that the acquisition of records from hospitals by false pretenses or by theft may not be uncommon. Some of the most interesting evidence came from the Royal Commission of Inquiry into the Confidentiality of Health Records in Ontario. The Royal Commission found that private investigators used false pretenses routinely to obtain medical records.

The role of investigative agencies and insurance companies came to light primarily as a result of the suspicion of a nurse in a small hospital near Niagara Falls. One night, the nurse received a phone call from someone claiming to be employed in a Toronto emergency room. The caller said that information about a patient—who had previously been treated at the Niagara Falls hospital—was needed for emergency treatment.

The nurse was suspicious and said that she would return the call. However, when she checked the phone number, she found that it did not belong to the Toronto hospital that the caller named. Several additional calls for the information were made, but the nurse refused to release any data.

Because the nurse had written down and kept the phone number, she was later able to give it to the Royal Commission staff. Based on this lead, the staff was able to trace the phone number to a specific investigative firm and gather enough evidence to apply for a search warrant of the firm's offices. The search produced evidence that medical information was obtained through false pretenses on a wholesale basis. The firm even hired registered nurses to make the pretext phone calls.

Using this information, the Royal Commission obtained search warrants for insurance companies that used the services of the investigative firm. This in turn led the Commission to other private investigative firms that had similar operations and then to other insurance companies. In this manner, the entire practice, which had not even been suspected at first, was exposed.

I am not sure how widespread these practices are in this country. Regardless, it is important that those who traffic in medical information be subject to strict criminal penalties.

Despite all the problems with drafting a medical privacy bill, we have been making steady progress. The Subcommittee which I chair has held seven days of hearings, and has heard from dozens of agencies, organizations, and individuals. Based on everything we have learned during the hearing process, a new bill is being drafted. If things go well, I hope to be able to introduce it in the next few weeks. Future activity is hard to predict at this time, but I am hopeful that we will be able to report a bill to the House floor sometime early next year.●

INFLATION CONTINUES TO PLAGUE AMERICAN FAMILIES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. GINGRICH. Mr. Speaker, as we all know, our country's economy is presently suffering from the ravages of inflation, and the future does not look promising. To date, Congress has not made a real effort to combat this problem. Recently I received a letter from one of my constituents which succinctly summarizes the plight of the American family. Her plea for an effective solution is one which merits attention, one which cannot go unheeded.

ELLENWOOD, GA., *Sept. 12, 1979.*

DEAR MR. GINGRICH: During the past year, my husband has been promoted to a supervisor and has received two raises for his exceptional work at his company, National Linen. But what good does it do? Really, a person finally gets a decent raise and the electric company increases their rates or the telephone company theirs, or taxes, or some unexpected bill.

I cut out coupons to use at the grocery store. We have only one car, a 1970 Chevrolet, and we can't afford to buy an economical car. Only one television and we try religiously to conserve energy and keep our utility bills down. Even with these sacrifices, we're just getting by. I would even go to work, but a babysitter costs a fortune.

As I look at our daughter, who'll be a year old this month, I feel sad that we can't give her a birthday party without going into debt. But we're going to because she shouldn't suffer from the mistakes others have made. And Mr. Gingrich, a mistake has been made, a costly and degrading one. Our country's economy is the mistake and with it inflation is rampant. I don't know who made this awful mistake but it has to be corrected!

If I had a crystal ball that had all the answers, I would gladly give it to you, because I trust and know that you would help. But I don't, and the answers don't come easy. But for our daughter's future and her children's future, please find "the" answer. I know it is a lot to ask, but we need your help.

Sincerely,

MRS. BETTY JACKSON.

Mrs. Jackson's dilemma is clearly one which all Americans share. But what has Congress done to solve this problem? Very little, Mr. Speaker. I think our failure to halt inflation and the steadily eroding value of the dollar speaks for itself.

This year a coalition of conservative Democrats and Republicans proposed a budget which would cut Federal spending, cut taxes, and bring the budget under control. We lost the battle for people like Mrs. Jackson, but that does not mean that in the future we cannot succeed.

Inflation will continue to plague the American people until Congress balances the budget and cuts taxes.●

WHAT'S IN A NAME?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. STARK. Mr. Speaker, today I am introducing a bill which is intended to open to debate in the House an issue which was never discussed by this body—the decision by the Congress to memorialize J. Edgar Hoover, the late director of the Federal Bureau of Investigation, by naming the headquarters of this Nation's most important law enforcement agency for him.

The 1972 Senate committee report on legislation naming the new FBI building said:

> Mr. Hoover's life clearly reflected the ideals and virtues which he held so dear and worked so hard to preserve for all Americans. His patriotism, his devotion to duty, and his perseverance served him and this country well.

Whatever good may have been accomplished during the half century Hoover served as FBI director is overshadowed by the pervasive and enduring sense that his tenure was a reign of terror over certain segments of our population. The FBI, at and under his direction, "adopted tactics unworthy of our democracy and occasionally reminiscent of totalitarian regimes," the 1976 Senate Select Committee on Intelligence found. It concluded that—

> Unsavory and vicious tactics were employed—including anonymous attempts to break up marriages, disrupt meetings, ostracize people from their professions, and provoke target groups into rivalries that might result in deaths.

Thanks to previously classified documents released under the Freedom of Information Act and elaborated upon in the press, it is clear the legacy of Mr. Hoover's term as Director of the FBI is not one of outstanding law enforcement, but of systematic and deliberate violations of both constitutional rights and statutory law.

The list of abuses by the Hoover FBI is a long one, stretching over decades and touching groups all along the political and social spectrum. Under its counterintelligence program (COINTELPRO), recently released files show that the FBI infiltrated and agitated a number of the more active social groups in the mid-1960's. It is now hard to tell whether the actions of the Ku Klux Klan, the Black Panthers and other groups were original ideas or planted by the FBI.

The FBI became a cause of the problems it was trying to confront.

Under COINTELPRO, the FBI mailed anonymous letters to the spouses of intelligence targets in order to destroy their marriages.

The FBI worked to discredit student activists by publishing photographs of the intelligence targets at rallies and sending anonymous letters to their parents and employers.

The Director received reports and kept files on all newly elected Governors and Congressman. These files are still active. The FBI also kept data on persons (that is, reporters) who were critical of the Director, but otherwise not "guilty" of any wrongdoing.

From 1940–73, the FBI conducted mail opening campaigns resulting in the illegal opening of hundreds of thousands of first-class letters.

To discredit actress Jean Seberg's outspoken support for civil rights activity in the United States, the FBI planted rumors that she was pregnant by a member of the Black Panther Party.

The FBI investigated such "extremist" groups as the American Christian Action Council, the National Council of Churches, the Council on Racial Equality, and the Southern Christian Leadership Conference.

The FBI conducted warrantless microphone surveillance against civil rights groups.

The FBI conducted "black bag jobs"—sureptitious, illegal entries. These operations required the direct approval of Hoover. The authorization memo, in each instance, was not filed but destroyed. An internal FBI memo stated the FBI did not seek outside authorization because the procedure was clearly illegal.

From late 1963 until his death in 1968, Martin Luther King, Jr., was the target of an intensive campaign by the FBI to neutralize him as an effective civil rights leader. This campaign involved many of the documented, illegal techniques already described.

J. Edgar Hoover mocked every right he swore to uphold. Removing his name from the FBI building is the first step in facing up to one of the most threatening and scary episodes in recent American history. There is no better time to remove his name than during this Congress, when we will produce a charter for the FBI, a set of principles and guidelines for Federal law enforcement which has been made necessary because of our knowledge of what the FBI did at Hoover's direction, without the consent of Congress.●

THE CHILDREN ARE CRYING

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. GARCIA. Mr. Speaker, I deem it of single importance to share with my esteemed colleagues information about critical problems facing the poor in our urban centers. One of these problems is the availability and quality of medical care and health services for the children of the poor. In my own district, which includes the South Bronx in New York City, the infant mortality rate is staggering when compared to more affluent areas of the city. Problems of disease, mental retardation, and viral infections haunt the lives of many of the children who survive birth and infancy.

I recently read an article that graphically describes the health care problems of the urban poor in my district. It is entitled "The Children Are Crying" and is written by Clinton Cox.

Mr. Speaker, I ask that this article be entered in the RECORD so that as this body deliberates about an appropriate form of national health insurance, it can be reminded that any such program must be sufficiently comprehensive to provide vastly increased health services for the children of the urban poor.

The article follows:

THE CHILDREN ARE CRYING

(By Clinton Cox)

"The child was less than 2 years old and had diarrhea for three weeks. All that time his mother carried him around to different places trying to get help and all the time the child kept losing weight. Not once did a doctor or nurse do a medical history on him. Not once did anyone care enough to sit down and really try to find out what was wrong with the little fellow. Finally he got better, but some of the children around here die for lack of adequate medical care."—Day care center director.

There is a place nearby where too many infants die at birth; a place where they often weigh less than two and a half pounds and where, growing up, they develop asthma because of their small congested living quarters and pneumonia because there is no heat in winter.

Yet the government there is shutting down more and more of the few medical facilities, and private doctors have long since fled to pastures where the sick are able to pay for their healing.

The place is called the South Bronx, 3.2 square miles packed with 450,000 people at last official count, though each day brings several fires, more abandoned buildings and fewer people. But the number of sick children and the pain they carry never seems to lessen.

It was an average weekday night. The emergency room at Lincoln Hospital was crowded and noisy and looked more like the Port Authority bus terminal on a weekend than a place for treating the sick. Junkies wandered unchallenged through the hallways, stumbling in and out, taking naps on empty stretchers, starting fights. Three stumbled into a room off the main corridor near the entrance. There were loud noises, shouts, the sound of a chair being overturned. Only two walked out. Nobody bothered to look in the room.

The child was carried in by his mother. The time-honored ghetto strategy of trying to get quick medical help from the police by reporting a crime in progress failed to work when the police failed to respond. And so she hailed a passing gypsy cab. The boy was perhaps 4 and his forehead was bruised and bleeding. His left leg was twisted at too sharp an angle and every move brought a scream, though his mother carried him as gently as possible. He had fallen from a window, she said. They took their places in chairs among the various degrees of age and pain. A long time later they were still there . . . still waiting.

There are a few hopeful developments in the area—and one of them has come, not from the city or institutions that are supposed to look after the health needs of children, but from a small group of black and Hispanic mothers.

Five years ago Mrs. Gladys Valdivieso began the Child Care Health Project in Morrisania, an area with no private doctors and an infant mortality rate of 28.7 per 1,000 births compared to 11.1 in better-protected parts of Manhattan. Mrs. Valdivieso and the women who work with her are all employes of the Dr. Martin Luther King Jr. Health Center, which specializes in medical care and education for the area's low-income residents. They know from first-hand experience the difficulties of raising children in the South Bronx.

"We used to sit in the waiting room at Morrisania Hospital for hours," says Mrs. Valdivieso, "and the doctors treated you like dogs. By the time they got around to you, the child's nosebleed had stopped and the fever was gone. Since it was a city hospital you didn't have to pay any money, but you paid with your dignity. My kids survived. That's it—they survived."

The situation today is not that different for thousands of parents and youngsters, a fact the project is struggling to change. Mrs. Valdivieso and her staff work with half a dozen day care centers in trying to prevent sickness by early detection and by giving health education to day care staff, parents

and children. But the city's budget trimming often undercuts them. At one point the city fired most of the day care staff the project was training. Another time the city closed some of the centers involved in the project. Still, Mrs. Valdivieso and her coworkers persevered.

"Health to us in the South Bronx is everything," Mrs. Valdivieso declared. "It's housing, community resources, what we eat, what we drink—everything."

Many parents didn't know how to use a thermometer and the staff of three family health coordinators taught them. Many mothers were overwhelmed by housing and school problems, so they were helped to solve some of the problems that kept families constantly on the verge of physical or emotional disintegration.

Over 70 percent of the children had undetected or inadequately cared-for health problems. Up to three undetected major physical problems, ranging from sickle cell disease to severe congestion to heart trouble, and emotional problems, too, were discovered in 119 of the initial 350 children who were given the first complete physicals of their lives. Dozens of youngsters had not been immunized against major contagious diseases.

Gradually project members began to make inroads and help children who had been ignored by society.

"For the first time someone has shown these parents how to begin taking control of the lives of their children and themselves in the area that's most important to them: their health," said Harold McCants, a widower with three children in the project.

"There's nobody else out there doing this kind of thing," said Miss Salynn McCullom, director of the Gramercy Day Care Center on West Tremont Ave. "In fact, we need a lot more from them or from somebody." She added that before the project began, youngsters in her center and others received a total of 15 minutes doctor time a year from the city.

But the project, which is funded by the Robert Wood Johnson Foundation in Princeton and will run another year at most, can reach only a fraction of the health-starved children in the South Bronx. The majority will continue to receive what they have been receiving all their lives: nothing.

"During the summer we had a large number of accidents and window falls," said Dr. Padma Patel, Lincoln's acting director of pediatrics. "This is peculiar to our neighborhood. In the spring we have a lot of pneumonia and meningitis. In the winter we have respiratory and viral infections. The children have trouble breathing and can be very sick. We have a very large number of asthma cases, some of it because of congested living quarters. Because of the lack of heating in cold weather we have a lot of pneumonia. Even when kids are improved they don't want to go home because they're in a warm comfortable room for the first time in their lives."

Sixty per cent of the 4,000 births a year at Lincoln are high-risk, according to Dr. Patel. "If there are problems in the mother then the baby may develop problems," she said. "There is a lack of pre-natal care for the mothers in our area, plus nutrition problems and toxemia. We have a fairly large number of drug-addicted mothers and the babies are addicted in the uterus. How badly they're addicted depends on how long the mother's been on drugs and how much she uses. Some mothers cut down on drugs even if they can't cut them out because they know it'll harm the baby. Lately drugs have been on the decrease and alcohol is on the increase, so many babies suffer from fetal alcoholic syndrome. They can be totally hyperactive and mildly retarded. These babies suffer from acute withdrawal symptoms if it's not detected that the mother is addicted. But many of the problems here are just basic nutritional problems."

The fight of the very young for life centers around the smallest of the small. There are 18 respirators in the hospital for babies who can't breathe, eat or swallow on their own, and more respirators are needed but probably won't be forthcoming because of budget cuts.

From inside the respirators tiny bewildered people look out at you with wrinkled faces and wise old eyes like beings born ancient, the tiny temples of their bodies housing the ills society says it can't afford to prevent or cure. They won't be able to leave until they weigh at least five pounds and can swallow and eat on their own. Some will never make it. Those who do will have to struggle for life in the increasingly hostile environment of the South Bronx.

"The children in a lot of these apartments eat the peeling, lead-based paint and it causes brain damage," said Dr. Lilia Evangelista, head of the Children Evaluation and Rehabilitation Clinic which is based at Lincoln. "There's a lot of crime in the streets and a lot of noise, so most kids are kept at home because the parent is afraid to let them out. So if she has four or five kids all cooped up, you can imagine the chaos and sickness."

Dr. Evangelista said many children "fall between the cracks. They get to be 13, 14 or 15 without anyone diagnosing their retardation or whatever. It takes time to make a referral and many teachers don't care. That is a crime. We have cases where the mother enrolls the kid in school and they say, "Don't bring him back here, he has problems." On the other hand, sometimes when a principal sees a retarded child he calls me right away."

But the clinic, like the project, can reach only a small part of those who need help. In 1970 there were 1,030 youngsters diagnosed as mentally retarded in the South Bronx and many more who had never been diagnosed. Many families hid their mentally retarded offspring away from the world in shame, and some still do. There were programs for 27 children in 1970. Today the situation is worse. Programs are being destroyed while the number of children with mental and physical disabilities is rising.

The clinic itself has less money and staff now than it had two and a half years ago when it was associated with the prestigious Albert Einstein College of Medicine of Yeshiva University. The future holds little promise for improvement as the city steadily slashes medical facilities.

And so the few doors still open for children who need medical care are being slammed in their faces in an area where there was little hope to begin with. And as each door is slammed, parent and child alike are increasingly cut off from a future likely to hold much hope of happiness. For some this lack of a future makes the present too bleak to endure.

"How many times we have had parents tell us they were ready to give up their child for adoption!" said David Goldberg, psychologist at the clinic.

Still some people continue to try to help, believing that the cries of pain from these children are as important as any others. "I'm hoping we'll get more money so we can continue the child care health project—and not just with six day care centers but with as many as possible," Mrs. Valdivieso said.

Goldberg motioned toward the world outside the hospital walls. It is a world where more than $100 million was spent by the city to rebuild a baseball stadium a few blocks away—and where hospital beds are being closed because the city doesn't have enough money to keep them open. It is a world where a youngster can reach the age of 15 before anyone officially notices he is mentally retarded. It is a world where children have a greater opportunity of being offered dope than regular medical care.

"What is our future going to be like if we don't help our own kids?" he asked.●

SOVIET TROOPS IN CUBA

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. HYDE. Mr. Speaker, the recent flurry of activity and rhetoric in Washington over the "sudden awareness" by the administration that there were approximately 3,000 Russian combat troops in Cuba, has subsided. Nevertheless, serious issues remain to be addressed.

In January 1977, as a goodwill gesture toward Fidel Castro, President Carter canceled overflights of Cuba by the SR71, our sophisticated intelligence/reconnaissance aircraft. In addition to denying our intelligence community the use of detailed photographs produced by overflights of the SR71, Mr. Carter signaled to the intelligence community itself that information on Cuba no longer had a high priority in his administration, and scarce technical and human intelligence resources were shifted to areas considered more urgent.

The discovery of Russian combat troops in Cuba resulted in some official floundering such as Senator CHURCH making the announcement dramatically, and the President asserting the status quo was unacceptable, then later minimizing the whole affair.

However a Chicago Tribune editorial as early as February 15, 1978, noted that—

> The news from Cuba grows more astonishing by the day. Soviet pilots and technicians are appearing in Cuba by the thousands, we now learn, to help "defend" Cuba (against whom?) and enjoy its balmy climate while Fidel Castro ships more and more Cubans off to do the Soviet Union's dirty work in the deserts of Africa.

The fact that the U.S.S.R. subsidizes Cuba at a rate of $8 million per day should be recognized as proof that Cuba, far from being "nonalined" is a Soviet puppet state.

The Carter administration, in its drive to have the Senate ratify the SALT II agreement, downgrades Russian-backed Cuban intervention in Angola, Ethiopia, South Yemen, Mozambique, Tanzania, Sierra Leone, Guinea, Rhodesia, and Zaire, as well as Central and Latin America.

One must wonder at the Soviets' dedication to peace and disarmament while fomenting wars and revolution all around the globe.

By his ambiguous response to the Russian presence of 3,000 combat troops in Cuba, Mr. Carter has signaled our impotence over this gradual military buildup only 90 miles from our shores. He has failed to use economic weapons such as withholding transfers of technology and grain to the U.S.S.R. (both of which the Soviets need badly) or announcing to them that certain trade

concessions such as "most-favored-nation" status cannot be granted so long as Soviet provocations continue.

President Carter has exhibited dangerous naivete over the failures of our intelligence community to effectively monitor the Russian presence in Cuba. Never before has the United States been so reticent in asserting its own interests in an area so close to our shores.●

WHAT OIL PROFITS SHOULD AND SHOULD NOT BUY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. DOWNEY. Mr. Speaker, the oil companies have tried to make the American public think that the huge increase in profits they are earning are both necessary and well deserved. The New York Times today printed a letter from Senator HOWARD METZENBAUM, of Ohio, that indicates how unjustified this price gouging really is. I agree completely with the Senator's views on this subject and commend his letter to the attention of my colleagues.

The text of the letter follows:

WHAT OIL PROFITS SHOULD AND SHOULD NOT BUY

To the Editor:

Mobil Oil recently spent some of its huge profits to respond to me with a paid advertisement in your newspaper [Sept. 27]. The ad attacked an article I wrote about a bill Senator Edward M. Kennedy, I and 11 other senators introduced to impose a 10-year moratorium to keep 16 oil companies from acquiring other giant companies.

The point of the bill is simple: The national interest requires the oil companies to use their enormous profits to produce and develop oil and energy. And those profits are going to swell even more in future years. Decontrol of oil prices will take from the American consumer and hand over to the companies as much as $160 billion in the next decade, even with a windfall profits tax.

These vast sums should be used to produce more energy and develop new technologies. They should not be used to buy up insurance companies, retailers, box manufacturers, truckers, hospital-supply, office-equipment, electric motor companies and the like, as the oil companies have done. Gulf even considered buying Ringling Brothers Circus.

As usual, the industry's tactic is to accuse its critics of misrepresentation. Let's see who's misrepresenting what.

Mobil says decontrol is no special favor because other industries are not controlled. But only the oil industry has been the beneficiary of tightly restricted supply by means of import quotas, production controls and now foreign cartels. These restrictions, incidentally, kept American oil prices well above foreign prices for many years.

Mobil says non-energy acquisitions were only 2 percent in 1977. But there is a trend, as many observers have noted, that will get stronger with the added cash billions in the next 10 years. In the first four months of 1979, for example, the oil majors proposed to spend over $2.6 billion on 21 acquisitions.

Mobil says it spent $86 million on research and development in 1978, no "paltry sum." But as a percentage of its $1.2 billion after-tax profits, it is a very small fracion of what many other industries regularly spend on research and development.

Mobil says it's not "fair play" to single out the oil industry in this legislation. But no other industry will get such huge unearned profits. And the oil companies have other special privileges, which have made them into what one investment analyst called "great cash-flow machines, expected to flow into the early 1980's on a sea of cash." What other industry so totally controls the supply of such a vitally needed product?

The oil industry is trying to have it both ways: It attempts to justify its resistance to a windfall profits tax on its excess profits arising from decontrol in the name of energy development, but then insists on its right to use these profits to buy up large businesses not related to energy.

While the average American is wondering how to pay for huge increases in heating oil and gasoline prices, the oil industry is wondering what to do with all its profits.

Mobil headlined its advertisement, "Senator Metzenbaum ought to know better."

Mobil does know better.

HOWARD M. METZENBAUM,
U.S. Senator from Ohio.●

IGNORANCE PLUS OPPORTUNISM EQUALS INFLATION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. MICHEL. Mr. Speaker, in one of the most extraordinary statements ever made by a former high Government official, W. Michael Blumenthal, former Secretary of the Treasury in the Carter administration, has characterized the administration's inflation policies as "schizophrenic." Blumenthal, whose insider's knowledge cannot be doubted, has stated that Carter, afraid of alienating traditional Democratic constituencies by fighting inflation too hard, wanted to "tighten the belt" but not cut out "any important programs," cut down "on Government regulations," but not "offend any special interest groups."

In short, Blumenthal is saying the Carter administration wants to fight inflation but lacks the will and the knowledge necessary to make that fight.

I urge everyone to read Blumenthal's words. They are an indictment of the Carter administration. They are proof, if any were needed, that this administration is the single most inept, incompetent, and economically illiterate administration our Nation has ever endured. If Blumenthal is correct—and there is no reason to doubt him—from the very beginning, before the President-elect was inaugurated, Jimmy Carter and his closest advisers misunderstood the realities of the American economy. Millions of American families have had to pay dearly for the economic ignorance and political opportunism that have marked the Carter administration's handling of the inflation issue, according to the former Secretary of the Treasury.

While the President and his good old boys go around the country, showering tax dollars on every primary State, the results of their economic ignorance and political opportunism have made a disaster area of every family budget.

At this point I wish to insert in the RECORD, "Blumenthal: Schizophrenia Crippled Economic Policy" from the Washington Post, October 30, 1979.

The article follows:

BLUMENTHAL: "SCHIZOPHRENIA" CRIPPLED ECONOMIC POLICY

(By Hobart Rowen)

In an extraordinary on-the-record analysis of where the Carter administration "went wrong" in the formulation of economic policy, former treasury secretary W. Michael Blumenthal said that the president has never developed "a clear, simple, single economic philosophy" devoted to fighting inflation.

Blumenthal, one of four Cabinet members dismissed by President Carter last summer, blamed this on "a basic schizophrenia within the administration." On the one hand, he said, the president and his advisers are sincerely committed to an anti-inflation effort "if for no other reason than they know [inflation] is politically damaging."

On the other hand, Blumenthal said, "the liberals [in the administration] believe that high interest rates are bad, that fighting inflation hurts poor people and that we have to be very careful how we fight inflation in order not to hit 'the natural constituency of the Democratic Party.'"

This led to temporizing with the inflation problem, Blumenthal said. "So there has been an effort to fight inflation, but not too hard. It was tighten the belt, but don't cut out any important programs; cut down on government regulation, but don't offend any special interest groups. It made it difficult for the president to stand up and say: 'My economic philosophy is that inflation is the No. 1 problem, and that's what I'm going to stick to.'"

Blumenthal made these remarks, duplicating what he has been saying privately, in an extemporaneous public speech Friday night to the Washington Forum, a private business consulting group.

He said jokingly that he and three other Cabinet members fired at the same time had a meeting to create "an alumni association. But it didn't work out, because [Secretary of Energy] Jim Schlesinger insisted he should be chairman because he had been fired by two presidents."

Blumenthal said he was willing to list "a litany" of the administration's mistakes "in a spirit of letting it all hang out." As a preliminary, he gave a gloomy assessment of future prospects, predicting "more pressure" on the dollar, higher unemployment," high interest rates "for many months to come," and a 1980 federal budget deficit "closer to $50 billion than $40 billion."

He brusquely rejected as meaningless a suggestion made earlier in the week by Council of Economic Advisers Chairman Charles L. Schultze that "the underlying" inflation rate is 8 to 9 percent. "The real rate is what it is—13 percent," Blumenthal said. "When Charlie says 8 to 9 percent, that's what he'd like to see the rate drop to."

Blumenthal, who recently joined the Burroughs Corp. as a vice president and is scheduled to become that company's chief executive officer next year, traced the Carter administration's economic decision-making problems to "the very first meeting" at the Pond House in Plains, Ga., late in 1976 after the election.

"I think there is no doubt we underestimated the basic strengths of the American economy," Blumenthal said. "In Plains, all of the talk was about the necessity to stimulate the American economy. All of the con-

cerns had to do with making sure that unemployment would not rise again."

In retrospect, Blumenthal said, this judgment—that unemployment was more of a danger than inflation—which he noted was common among private economists, and even endorsed by the outgoing Ford administration advisers—was wrong, and the programs to deal with it were a "misconception."

"The real problem was not a major slowdown, but really an endemic, inbuilt, growing inflationary pressure [but] we occupied ourselves with developing stimulus packages," he said.

He recalled that the "first big issue" was whether the president in 1977 "should change his mind" over a proposed $50 tax rebate.

"Heaven forbid that a president should ever change his mind!" Blumenthal said with a touch of sarcasm. "For the president ever to change his mind and admit it—that's a 'no, no' in government. You must never admit that you must change your mind about something."

For the first time publicly Blumenthal also admitted that one of the key mistakes related to the administration's policy on the dollar, and that as treasury secretary, he shared in the blame.

Blumenthal said that "we did not appreciate early and fully enough the potential for trouble in the currency markets," and that "we did not understand the impact of electronic communications." That, in essence, means foreign exchange markets never close down—when the East Coast U.S. markets close down, for example, others are open in Asia.

He denied, as he has before, that he tried to "talk the dollar down" in 1978 blaming that widely made accusation at that time on "some of the press." But he conceded that "saying that we recognized and understood that there would be these ups and downs clearly turned out to be an error."

He added that the administration failed to catch on early enough that there was "a vicious circle," in which inflation creates a weaker dollar "which in turns leads to more inflation and even an avalanche effect in the international currency markets."

Some of Blumenthal's administration colleagues have said privately that the former secretary's "naivete" contributed to this process. As the nation's chief financial officer, according to one official, Blumenthal didn't realize that if he said that the dollar had gone down only 2 or 3 percent, he was inviting the conclusion that he was willing to see it go down some more.

In addition to what he suggested was an understandable underestimate of the energy problem ("no one expected Iran to blow up the way it did"), Blumenthal also said that the administration never understood—and still doesn't—"how deeply ingrained is the inflationary psychology among American consumers and businessmen."

"We looked at our computer runs, which are based on earlier and past relationships with inflation much lower than it is today, and said:

"'If we have so much stimulus, we will have so much unemployment, and so much growth, and so much economic activity, and if we raise or lower taxes by such and such an amount, it will have such and such an effect.'

"But it never really worked out that way, because Americans began to believe in inflation, and expect inflation, and act so that they developed a stake in inflation, and that unfortunately happened—and is happening today."

Some of his sharpest words were reserved for unnamed persons in "the internal councils" who early fought "even very small" increases in the Federal Reserve Board's discount rate, fearing that economic growth and employment would be damaged. In the period, Blumenthal mentioned, this fight against higher interest rates was led by Schultze and White House assistant Stuart Eizenstat. Earlier this year, before his dismissal, Blumenthal also argued that the then chairman of the Federal Reserve Board, G. William Miller, was not following a strict enough monetary policy. Miller succeeded Blumenthal at Treasury.●

CONGRESSIONAL SALUTE TO THE HONORABLE HENRY GEORGE JACOBS OF NEW JERSEY, 1979 MAN OF THE YEAR—BOYS' CLUB OF PATERSON

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ROE. Mr. Speaker, on Friday, November 2, the residents of the city of Paterson, my congressional district, State of New Jersey, will join together in testimony to an outstanding community and business leader, distinguished citizen and good friend, the Honorable Henry George Jacobs of Paterson, N.J., whose standards of excellence throughout his lifetime have earned him the most highly coveted citizen's award of the Boys' Club of Paterson—the Man of the Year. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to him, his good wife Dorothy, sons Brian and Mark, daughter-in-law Nancy, and granddaughter Rebecca, as we celebrate this milestone of achievement in their family endeavors.

The Boys' Club of Paterson is one of our Nation's most prestigious affiliates of the Boys' Club of America, serving 1,300 boys between the ages of 7 and 17 in the Greater Paterson area.

Mr. Speaker, we are all familiar with the noble traditions of the Boys' Clubs of America and their outstanding public service to the people of our Nation in helping our young men to achieve leadership qualities of self-reliance, character building, sportsmanship, fairplay, and eagerness to serve others. Their deeply committed endeavors in exercising measures to keep America beautiful, and attain greater communion and understanding in friendship and good will among all mankind are a significant investment in the enrichment and excellence of the quality of our way of life here in America.

Henry George Jacobs has by his example and lifetime of dedication to these same true American ideals personified exemplary leadership in his outstanding responsible service to our people which has truly enriched our community, State, and Nation.

Mr. Speaker, our Man of the Year George has brought great honor and prestige to the city of Paterson with his lifetime of good works and we are particularly proud of his compassion, dedication, and untiring efforts on behalf of our young people. He was founder and is currently president of Paterson's INCCA program, a major summer youth development and recreation program. He has established an annual scholarship at Don Bosco High School and has been a longtime contributor and strong supporter of the activities of the Boys' Club of Paterson. He is presently a member of the Boys Club's board of directors.

Mr. Speaker, his personal commitment to the economic, social, and cultural enhancement of our community has been a way of life for him. His business acumen and expertise has enabled him to achieve national recognition in the manufacturing industry. He is founder and chairman of the board of American Polymers, Inc., a major Paterson plastics firm. I was privileged and honored to appoint him as my delegate to the White House Conference on Small Business to represent our congressional district at this most important conference dedicated to seeking ways and means of providing an improved climate and way of doing business for our Nation's small business men and women in the private sector of our economy. He was recently presented with the William Paterson State College's "President's Medallion" for his outstanding service to the community.

Some of his additional affiliations with professional and civic organizations and in public service to our people include: trustee, Barnert Memorial Hospital, and the Daughters of Miriam Home for the Aged; past president, Passaic County Planned Parenthood, the Greater Paterson Chamber of Commerce, SANE Educational Development Fund, and the Greater Paterson Development Corp.

He also serves on the executive board of the New Jersey American Civil Liberties Union, Better Business Bureau of Passaic, Bergen, and Rockland Counties, Willowbrook Ministries and the Plastic & Metal Products Manufacturers Association. His affiliation also includes the National Catholic Honor Society, Institute of Applied Politics at Princeton, Philharmonic Society of Northern New Jersey, Paterson Rotary Club, Society of Plastics Engineers, New York Institute of Technology, Easter Seal Committee, NAACP, and the World Federalist. Recently he was elected chairman of Paterson's Private Industry Council.

Mr. Speaker, the fulfillment of the purpose, goals, and aims of the Boys' Clubs of America could not be achieved without the leadership of people like Henry George Jacobs and the strong team effort of volunteer and professional leaders of our communities who participate unselfishly and willingly of their busy schedules in passing these sterling traditions along to our youth of America.

The Boys' Club of Paterson, a private, nonprofit organization, was first opened in an abandonel Paterson firehouse in March of 1964. The membership quickly outgrew the dimensions of the building and in October of 1969 it opened the doors of a new, modern, million-dollar Boys' Club facility to the youngsters of the city.

Its year-round programs include athletics, crafts, health, education, recreation, and guidance, supervised by a professional staff, aided by part-time college staff and volunteers.

I wish to commend to you the following officers of the Boys' Club of Paterson

who are leading citizens from the private, civic, and business sectors of the community currently serving on the governing board of the Boys' Club of Paterson:

The Honorable: Walter Porter, Jr., President; Eugene E. Babcock, Board Chairman; Allan Mikola, Vice President; William F. Papke, Vice President; Richard Mainardi, Vice President; Kenneth J. Arkind, Secretary; Donald F. Lesko, Treasurer; Dominic S. Padula, Assistant Secretary; Rodger L. Rickenbrode, Assistant Treasurer.

Mr. Speaker, it is with deep personal pride and pleasure that I take this opportunity to call your attention to this year's recipient of an award of excellence that expresses appreciation for the untiring, unselfish, herculean efforts of a highly compassionate individual. We do indeed salute an outstanding citizen, good friend and great American—the Boys' Club of Paterson's "Man of the Year"—the Honorable Henry George Jacobs.●

FUNDS FOR RESEARCH IN SPINAL CORD REGENERATION

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. WALGREN. Mr. Speaker, recently I introduced legislation, H.R. 4358, to provide funding for research into the area of spinal cord regeneration. I would like to recommend the following article from the Washington Post to my colleagues, in the hopes that it will increase all of our awareness of the urgent need for such a measure.

The article follows:

SPLICING SEVERED SPINAL CORDS: THE IDEA EXCITES SCIENTISTS

(By Victor Cohn)

A soldier, an athlete, a Gov. Wallace, a motorcycle rider—anyone—is shot or gets into an accident that crushes or cuts his spinal cord.

The result has always been an irrevocable sentence to lifelong paraplegia: paralysis from the waist down, the fate of 150,000 Americans today.

The reason is simple and blunt: the main nerve cells of the spinal cord, once severed, cannot grow back together.

Or can they? Scores of the world's best neuroscientists have almost suddenly begun asking this question.

In the last five years there has been an almost complete reversal of opinion about this once hopeless area, several leading scientists agreed at a specially called symposium at the Wilson Center of the Smithsonian Institution last week.

"Let's not raise any false hopes—we don't know how to solve the problem yet," said Dr. Donald Tower, head of the government's National Institute of Neurological and Communicative Disorders and Stroke, part of the National Institutes of Health.

"But the view that there is no hope of restoring the nerve pathways—the view you would have heard from virtually every scientist not long ago—is no longer held."

Two scientific leaders—Dr. Lewis Thomas, president of Memorial Sloan-Kettering Cancer Center, and Dr. Arthur Upton, head of NIH's National Cancer Institute—agreed that the time is ripe for what Thomas called a crash effort to collect information.

"I don't," Thomas emphasized, "mean a crash effort" like an Apollo or Manhattan project to produce a product—the product here being the ultimate way to make the nerves grow—but "a crash program to ask the questions" that could make that goal achievable.

"There is an awareness within the scientific community," he explained, "that an opportunity exists," that "it's time to go."

The "product," the method or knowledge that might make a paraplegic walk, could be "40 or 50 years off" or "a decade off" or "five years off," various scientists said.

But in the last five years, they reported, spending at NIH's neurological disease institute on the needed research has grown from $1 million to $7.6 million a year. The Veterans Administration has begun a $1 million-a-year program as a result of a strategy conference last year. Related scientific papers in world literature increased from a handful in 1970 to nearly 500 last year.

What has happened in the scientists' laboratories to make so amazing a shift possible?

Beginning in the 1950s, said Tower, "A number of observations began to show that the mammalian nervous system does show evidence of attempts to regenerate itself. The machinery for regeneration seems to be there."

The machinery, in essence, is the nerve cell, a main cell body with long axons (or arms) often stretching, in the case of the central nervous system, the brain and spinal cord, very long distances. The spinal cord has millions of such cells, with axons reaching from the brain as far as the base of the spine, 2 or 2½ feet away.

Tower said that in the last half-decade, in some cases the last few months:

"A lot of work" has helped scientists understand the molecular mechanisms, the processes that turn on and support the development of the central nervous system in infants.

Many studies, particularly those of Dr. Carl Cotman at the University of California at Irvine, have shown that in at least one area of the mammalian brain, severed nerve cells can sprout new connections.

Many people are looking at the "trophic factors," the elements or biochemical environments that make it possible for a severed nerve cell not only to sprout new connections but to make the right ones. It's no good for a nerve cell to sprout new fibers, Tower said, if they don't go to the right place to establish useful, not just random, motions.

Malcolm Wood and Melvin Cohen of Yale University reporting in the Oct. 19 issue of the magazine Science, have shown that if they sever the spinal cord neurons or nerve cells of lampreys—eel-like sea creatures—their axons regenerate and successfully form new synapses, or connections, with adjacent cells. And the lampreys again swim.

Wood and Cohen showed this by a promising new method—a way of marking specific nerve fibers "so you know which ones you're looking at," Tower said, "and that you're really looking at the important central nerve cells," not less important "local cells" that are easier to revive. The marking method is injection of a protein called HRP—for horseradish peroxidase—because it comes from the common horseradish.

Finally, Tower said, scientists have discovered new "nerve growth factors," proteins that combine with elements in the cells to help them grow. Rita Levi-Montalcini of the Laboratory of Cell Biology in Rome injected one such factor into the brains of young rats, and achieved not only growth of nerve cell axons but growth in a specific, desired direction.

Some researchers have attacked the problem more directly—cutting the spinal cords or nerve cells of dogs, cats or rodents and trying to restore growth and function.

Last year Dr. Carl Kao, now of the Veterans Hospital and Georgetown University here, told of his work on dogs in Wisconsin, surgically destroying 40 dogs' spinal cords, then transplanting nerves to restore function—even, apparently, walking—in four dogs.

Critics say he did not prove regrowth of the important long axons in the nervous systems, and probably stimulated only some useless walking-like reflexes in the animals' limbs.

Kao and his group are working with cats now, but he warned that there can be no application yet to human paraplegics.

"The science is not ready," he said at the Smithsonian. "We need more basic scientific information."

Dr. Albert Aguayo of McGill University, Montreal, who has also worked with small mammals—rats and mice—said, "You can get the axons to grow a few millimeters. But how do you get them to fill the gap"—to grow enough to cross the synapse or connection between cells—"so that's where we need basic research."

Dr. Richard Wyatt of St. Elizabeths Hospital and the National Institute of Mental Health told of his group's striking new work in grafting brain tissue from healthy to brain-damaged rats to alleviate movement disorders. It is possible, he said, that a grafting method might eventually help implant new nerve cells to correct human movement problems.

One thing scientists cannot say, these scientists emphasize, is where any new science will really take them.

The same facts that may or may not make nerve regeneration or nerve implants possible might combat diseases that attack nerve cells, like rabies and tetanus. Or the same information might combat the many nerve disorders that destroy normal movement speech and intelligence.

"What we can say," said NIH's Tower, "is that we've now got a lot of very bright people interested and working hard. And that's really the exciting thing. That's really the essential ingredient.

"We're now building up a critical mass that's inevitably going to pay some handsome dividends."●

THE DIVERSITY OF THE OLDER SET

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. SOLARZ. Mr. Speaker, throughout my legislative career, I have been deeply concerned with the problems confronting the elderly. Citizens over 65 years old are an increasing segment of the population in this country—11.2 percent of the total population. Unlike many stereotypes which portray older Americans as unproductive and forgetful, senior citizens are an important and richly diverse part of our society. Both for economic and personal reasons, the number of those over 65 who are working is increasing; and many of us in the Congress are continuing efforts to raise or eliminate mandatory retirement requirements based solely on age.

The medical profession believes that older people who stay active remain alert longer, and are happier as a whole than are those who are forced to stop working. For the benefit of my colleagues, I ask that we insert into the RECORD the following article which examines many of the problems associated with growing

older. This piece, which appeared in the Wall Street Journal, indicates the tremendous potential of the elderly, if given the chance to remain productive.

The article follows:

AGING AMERICANS: DIVERSITY OF OLDER SET UNDERSCORED IN STUDIES OF HEALTH AND WELFARE

(By Gail Bronson)

No one can accuse 91-year-old Judge Harold S. Medina of slipping into his dotage.

As a senior judge in the federal appellate court in New York, he regularly hears some of the court's most significant cases. He also studies Latin and Spanish. And he drinks martinis with zest. Until he was 85, he had never been in a hospital. Then he suffered a stroke, a heart attack and blinding glaucoma in his right eye, all in quick succession. But he has scarcely slowed down.

"I'm a person who meets things face to face and deals with them without getting all excited," he says while driving a golf cart around his Westhampton property on Long Island. "I think this has a lot to do with being able to go on working. I may not be able to bathe or dress myself, or walk hardly, but my mind still seems to be working."

Judge Medina is a rather extraordinary member of a segment of the population that is getting increasing attention from social scientists and the medical profession these days—the over-65 set.

One reason for the attention is the increasing number of people in this group. Nearly 25 million Americans, or 11.2 percent of the population, are over 65, up from 20 million, or 9.8 percent, a decade ago. The increase will continue because of medical advances and the eventual effect of the postwar baby boom. Moreover, a man reaching age 65 today has an average life expectancy of 13.9 years and a woman 18.3 years—levels undreamed of a generation ago.

The increased attention is leading to a plethora of research and studies about aging—some of which are providing new insights into the aging process and some of which are dispelling ancient myths about older people.

The past lack of information about aging has caused older people to be misunderstood and stereotyped, gerontologists say, but for every archetypically senile senior there is an uncommonly capable old-timer, if not an Artur Rubinstein, a George Burns—or a Harold Medina.

"The study of aging and health is an exploding area," says Dr. Rubin Andres, clinical director of the National Institute of Aging, a federal agency. "In the past, scientists were grappling with conquering communicable diseases," and little attention was paid to the special problems of old age. With many of the diseases now defeated, he says, the health of the growing population of old people is attracting more and more interest.

MORE COMPLICATIONS

But researchers have a long way to go. "The aged are a more diverse, heterogeneous group than any other," says Dr. Robert N. Butler, the director of the institute. "We become more complicated as we grow older."

Dr. Andres adds, "People not only don't age at the same rates, but one person has many different ages within him, because different organ systems degenerate at varying speeds."

Although research on the complicated and profuse problems of aging is scarce, the National Institute on Aging has tracked some 1,100 men for varying periods over more than 20 years in Baltimore and recently added 200 women to the study. The study has confirmed some basic observations about longevity: the muscles lose mass over time, lungs move less air in and out, and the intensity of taste declines.

The study has also dispelled any notion that physical and mental health start to drop off sharply at a given age. Most of the men in the study begin to show some decline in mental processes after age 70, as determined by one test in logical reasoning. But many don't—and the institute is seeking to determine why.

"Despite physiological changes, the vast majority of elderly people can function quite well on their own," says Dr. Albert Fisk, medical director of the Regional Wisconsin Geriatric Center in Milwaukee. "These people are healthy despite the normal slowing down of their organ functions."

Some people's functions slow more rapidly than other people's, of course, and disease can have a debilitating effect on the most robust old-timer. But Dr. Butler says, "A lot of illness is self-engendered because people don't maintain themselves." And an important part of this maintenance, he says, is "keeping busy."

People who are forced to retire, for instance, often perceive of themselves as useless; they fail to get involved in activities, he says, and their health often suffers.

Judge Medina agrees. "If you use your mind," he says, "it has a perceptible influence on your well-being. If you just sit around chit-chatting about how bad Carter is, your mind loses its strength, and you gradually go downhill."

Dr. Ernest Gruenberg, the 63-year-old chairman of the mental-hygiene department at Johns Hopkins University's School of Hygiene and Public Health, says, "When I'm forced to retire as chairman, at 65, I'll look for another job. I enjoy work—it's always been a major part of my life. I don't just work to make a living."

Max Storch, 86, who has worked in New York's garment district for 60 years, still opens his shop for four hours a day. "It's to have a place to hang out," he says. "It gives me an outlook. I'd rather do that than nothing." And it partly accounts for his relatively good health, he adds.

A HOBBY FOR EVERYONE

Also attributing his good health to steady work is comedian-actor George Burns. About the time when he was resuming his film career four years ago, he underwent open-heart surgery. But three months later, to the amazement of his doctors, he went to work on a film.

"I feel fine, and I enjoy what I'm doing," says the 81-year-old Mr. Burns, who arises every day at 6 a.m., does exercise and then works, generally from 9 a.m. to 6 p.m. "What does it mean to retire?" he asks. "It means to do nothing—to collapse. Everyone should have something that gets them out of bed. A hobby, a girl." When he is home in Los Angeles, Mr. Burns plays bridge religiously, every afternoon.

"Aging of the brain is the prime evidence of growing older," says Dr. Leslie Libow of Long Island Jewish Hospital's Institute for Geriatric Care, but even that symptom is noticeable in relatively few people. Only about 10% of the population over age 65 shows some mental deterioration, such as partial memory loss.

Most older people remain capable of considerable physical activity, too, Dr. Libow says, and they should do whatever they are capable of doing that makes them feel good.

Remaining active members of the community, as most older people prefer to do if they are given the opportunity, "tends to slow the mental and aging process," Dr. Libow says. "It's a mystery as to how the mind affects the body, but it does."

THE JUDGE'S WISHES

"I hope that when I begin to get a little senile that somebody will take care of me at home instead of sticking me in an institution," Judge Medina broods. "A lot depends on tender loving care whether or not the mental process get better instead of just worse and worse. It's inhuman to take these nursing homes. It troubles me sometimes to think of what may happen to me, but as long as I've got Rosa (his 84-year-old companion) and my grandson, Ford, I think I'm going to be safe."

Although senility, or dementia, is one of the most feared diseases of old age, it is actually one of the least common. Dementia is a group of illnesses that cause a decline in intellectual function. Dr. Gene Cohen of the National Institute for Mental Health says studies indicate that up to 8% of the population over 65 may suffer dementia to some degree.

Alzheimer's disease, or senile dementia (formerly thought to be separate but now thought to be the same illness), accounts for 50% to 75% of the dementia cases. A progressive deterioration of brain tissue causes gradual breakdown in intellectual capacities such as short-term memory and abstract thinking. Apathy and personality alteration are also common.

The symptoms can be treated with drugs and psychotherapy, and physicians usually project an average life expectancy of eight to 10 years after diagnosis.

Physicians are encouraged by the results of therapy on patients like James Hughes of Dundalk, Md. The 79-year old widower was referred by his family physician to Johns Hopkins University Hospital for treatment over a year ago, when he was severely depressed by his wife's deteriorating health. He was then diagnosed with Alzheimer's disease as well.

"They (the physicians) helped me to keep from destroying myself," the retired Bethlehem Steel worker says. "They've helped me control my temper. Isn't it wonderful that my train of thought hasn't broken while talking to you?"

DOCTOR'S ANALYSIS

His physician, Peter Rabins, who is director of Hopkins's psychogeriatric inpatient service, says Mr. Hughes is in good physical condition, but is emotionally "a needy guy." He adds, "But I can only give him the support he gets from talking to me. He has improved tremendously over the past year. His depression has cleared up. But he can't live by himself because he can't organize his time; he gets confused. He doesn't understand that. Such impaired judgment is often characteristic of Alzheimer's disease."

Depression and dementia are often mistaken for each other, and, as in Mr. Hughes' case, that may occur together. Pseudo-dementia is a severe but reversible form of depression that can appear identical to senile dementia. Dr. Cohen at the mental-health institute says investigators believe that a quarter of all dementias occur in conjunction with ailments such as thyroid disease, diabetes and chronic infection. Treatment of the other diseases can curb the dementia as well.

New hope in the fight against senile dementia is provided by several research groups in Britain that have identified a biochemical defect in dementia patients—a defect that might be treatable.

But far outstripping dementia as an illness in older adults is ordinary depression—the No. 1 mental disorder in older adults. Dr. James Nininger of the Paine Whitney Clinic at New York Hospital says older people are often hit with feelings of malaise and

loss of appetite. They have trouble sleeping, and they express feelings of guilt and hopelessness.

TREATMENT OF DEPRESSION

The symptoms of depression among the elderly are similar to those among younger people, but, Dr. Cohen says, "So often the serious psychological symptoms in young adults are considered nontreatable symptoms of old age in the elderly. Older people should seek help and not just accept these things as normal aging."

Outpatient treatment of depression is typical, but some patients are hospitalized for treatment with electroshock or drugs. Involutional depression (not caused by some stressful event in the patient's life) can occur and recur without apparent reason.

Norma Gottlieb, 77, of Queens, N.Y., who was hospitalized for depression seven years ago, had a recurrence recently and was admitted to the Paine Whitney Clinic. "I came in because I found fault with myself," she says. "I don't want to live. What's the use. I don't deserve to be helped. Electric shock treatments may be my last chance." She recalls that she resisted the treatments seven years ago but adds that she "felt like a newborn person afterwards."

Rivaling senility as a cause for concern among older people is the subject of sexual abilities. "Sexual desires and performance are central to their concept of health and well-being," Dr. Libow of Long Island Jewish Hospital says. But he says surveys show that two-thirds of all men over 65 continue to be sexually active—and all of the women who have partners available are potentially active.

"It isn't true" that just because you grow old you can't have sex, says comedian George Burns. "I haven't given it up, but I'm not as good as I used to be," he says. "Nobody pays me any more."

"PSYCHOLOGICAL" PROBLEM

Myrna Lewis, co-author with her husband, Dr. Butler, of "Sex After Sixty," says that emotional stress can precipitate a spell of impotence in men. "But it's strictly psychological," she says. "The sexual arousal process for men may be slower," but the ability to perform isn't affected.

Miss Lewis points to a sociological consideration as well. "This generation of older people has to pioneer the idea that they are interested in sex so that young people and families will accept those interests," she says. "Children carry a double standard that older people should be monogamous or celibate just because they're old."

Lee and Anna Strasberg haven't any problems with this. A 77-year-old drama teacher and actor, Mr. Strasberg has two children, ages eight and 10, by his fortyish wife. Did they plan to have the children? "It was simply the result of natural activity," Mr. Strasberg says glibly. He believes that aging is largely a state of mind. "In fact, I'm worried that all my children (he has two others by a previous marriage) don't think I'm old at all and that I'm going to live forever."

EATING AND SLEEPING

Immortality isn't in the cards, but plenty of research is under way to try to prolong and enrich lives. The research includes studies on eating and sleeping patterns. "One's gut feeling," says Dr. Andres in Baltimore, is that nutrition should have profound effect on disease development and aging. However, he adds, at this point "it's impossible to define an ideal diet for older people with any confidence."

Sleeping patterns tend to be different in older people, but they don't necessarily sleep less. "Their 24-hour sleep cycle changes so that instead of large rhythms of waking and sleeping, it's broken into smaller time segments," says Dr. Elliot Weitzman at Montefiore Hospital in New York. Although older people may clip an hour or so off their nightly sleep, they often make up for it with afternoon naps—as Mr. Burns and Judge Medina often do.

George Burns tells a story about Jack Benny always complaining that he couldn't sleep last night. "I'd ask him how he slept the night before last. He'd say fine. So I'd tell him to sleep every other night. I feel that if I sleep, fine. If I don't, fine. If you can't sleep, try to stay awake. You won't be able to do it." ●

THE RED CROSS CERTIFICATE OF MERIT IS PRESENTED TO OFFICER DONNA BARNES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. SKELTON. Mr. Speaker, a constituent of mine, Officer Donna Barnes, has recently been named to receive the Red Cross Certificate of Merit and the accompanying pin. You will recall that this is the highest award given by the American Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a volunteer training program offered by the Red Cross.

On August 11, 1978, Officer Barnes, trained in Red Cross first aid, was dispatched, with her partner, to a residence to investigate a report of an illness. On arriving, they found a man sitting in a chair, apparently unconscious. After they placed the victim on the floor, the victim ceased breathing, so Officer Barnes began mouth-to-mouth resuscitation. Soon the victim responded, and was taken to a hospital. Without doubt, the use of first aid by Officer Barnes saved the victim's life.

Mr. Speaker, I bring this incident to the attention of this body as Officer Barnes' action exemplifies the highest ideals of the concern of one human being for another. I commend Officer Barnes on her meritorious action.●

DEMOCRATIC OPPORTUNITY FOR KOREA

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. LEACH of Iowa. Mr. Speaker, the world was shocked last Friday by the brutal assassination of President Park Chung Hee of the Republic of Korea. As one of our closest allies in Asia, Korea occupies one of the great strategic vortexes of the world. Events there have once and could again vitally affect the strategic position of the United States.

For almost two decades President Park was the dominant figure in Korea, leading his country to its present economic vitality and military strength. Yet his strongly autocratic style of leadership and failure to provide for a peaceful transition of political power seem to have contributed to his death and denied him the opportunity to retire and rest on his significant accomplishments.

As Korea prepares to select its next President, many in the world will be watching to see if a more liberal style of political leadership evolves in this critical Asian state. Korea has set an enviable economic example in moving from poverty to prosperity.

It is not too much to hope that from its present tragedy Korea will adopt more democratic processes more compatible with its international economic position and with its relationship with the United States and other major industrialized democracies.●

MISS PEARL CHASE—A LEGEND IN HER TIME

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. LAGOMARSINO. Mr. Speaker, heavy hearts and deep sorrow prevail in Santa Barbara, Calif., throughout the State and, indeed, in many parts of our Nation. Dr. Pearl Chase is dead at age 90. There is no way, given the time we have here, to adequately describe and to honor this amazing lady.

She was a champion of civic improvement and beautification. She was a devoted servant to all mankind. Her will to serve, her breadth of vision and power of initiative and organization were brought to bear in almost every phase of community life in Santa Barbara, and throughout the State.

In this age of urban and ecological crises, there are certainly those who would argue that our predecessors have failed in their efforts to develop our cities and to preserve our environment. But the failure would have been more grievous and the problems of the future even more awesome had it not been for the efforts of men and women who, like Miss Pearl Chase, have devoted their lives, without prompting or pressure, to the betterment of the human condition.

It is difficult to imagine Santa Barbara without Pearl Chase. Her long career is so intertwined with the growth and development of her beloved Santa Barbara as to be inseparable.

Because of this long and distinguished career I ask the Members of the House to join with me, and the multitude of those who have lost a dear and personal friend, in honoring the memory of Miss Pearl Chase.

SENATE—*Wednesday, October 31, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, in the solemn quietness of this midday devotion, help us to look upward, and inward, and outward. May we look upward to behold Thy majesty and glory. May we look inward to know our perverseness and willfulness, our need of the new birth and spiritual renewal. May we look outward to embrace all humanity. Keep us sensitive to human suffering and responsive to human need, not only in the moment of prayer but in daily living. Make us good workmen for Thy kingdom's sake. And in the end may we hear Thee say, "Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me."

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 31, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ELIMINATION OF CERTAIN REQUIREMENTS FOR MEMBERSHIP ON THE SELECT COMMITTEE ON ETHICS

Mr. ROBERT C. BYRD. Mr. President, I am about to offer two resolutions on behalf of myself and Mr. BAKER. Before offering these resolutions, I would like to explain them.

The first resolution would waive the class requirements governing appointment to the Ethics Committee. Under existing rules regarding appointment of Members to the Ethics Committee, one Member from the majority party and one Member from the minority party shall have served in the Senate for less than 6 years. One Member of the majority party and one Member of the minority party shall be Members who have served in the Senate for less than 12 years but not more than 6 years. One Member of the majority party and one Member of the minority party shall be Members who, at the time of their initial appointment to the committee, shall be Members who have served in the Senate for 12 or more years.

Mr. President, the minority leader and I are jointly introducing a resolution to waive these class requirements and to end the restrictions governing the appointment of Members to the Ethics Committee. We have found it not only difficult, but virtually impossible at times to fill vacancies on this committee as they occur, when we are so restricted as to which Members can be appointed.

We feel these rules are unworkable and unnecessary, and that they impose a burden, a difficult hardship, upon the leadership as we attempt to fulfill our duties to appoint Members to fill vacancies on this committee.

Mr. President, I send the resolution to the desk and ask that it be stated by the clerk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 271) eliminating certain requirements for membership on the Select Committee on Ethics.

Resolved, That the first section of Senate Resolution 338, 88th Congress, agreed to July 24, 1964, is amended by striking out subsection (d).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, I wish to express my support for the resolution and to commend the majority leader for presenting it at this time.

I agree with him entirely that the present state of the situation is impossible to deal with. It creates conflicts, it limits the authority and the ability of the two leaders to select people who are qualified to serve and willing to serve on the Ethics Committee. At best, it is a thankless job. I think this will materially improve the situation, and I wish to support the resolution as offered by the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 271) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF MEMBERS OF THE SELECT COMMITTEE ON ETHICS

Mr. ROBERT C. BYRD. Mr. President, I now send to the desk the second resolution which appoints Senator HOWELL HEFLIN as chairman of the Senate Ethics Committee vice ADLAI STEVENSON, and appoints Senator MALCOLM WALLOP to fill a minority vacancy on the committee vice HARRISON SCHMITT.

This resolution is offered by me on behalf of myself and the distinguished minority leader, and I ask that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 272) appointing members of the Select Committee on Ethics.

Resolved, That the following Senators are appointed to the Select Committee on Ethics: the Senator from Alabama (Mr. HEFLIN), Chairman, vice Mr. STEVENSON; and the Senator from Wyoming (Mr. WALLOP), Vice Chairman, vice Mr. SCHMITT.

A MAN TRULY WORTHY OF HIS TASK

Mr. ROBERT C. BYRD. Mr. President, one of the most important and sensitive committees in the Senate is the Select Committee on Ethics; and one of the most demanding positions to which a Senator can be appointed is to the chairmanship of that committee.

The resolution that I have introduced on behalf of myself and Mr. BAKER names our distinguished colleague from Alabama (Mr. HEFLIN) to serve in that capacity.

Senator HEFLIN is, I believe, uniquely qualified to fill this role with distinction. As a former chief justice of the Supreme Court of Alabama, he demonstrated a degree of integrity, skill, wisdom, compassion, and fairness that won the respect of members of the bar and judiciary, not only in his home State, but throughout this country, as well.

Since his election to the Senate, HOWELL HEFLIN has quickly won the admiration and respect of his colleagues in this Chamber. I might add that his assumption of the chairmanship of the Select Committee on Ethics would be a historic event, for it has been more than 70 years since a freshman Senator has been appointed to serve as a chairman of a standing Senate committee during his first year in office.

The Ethics Committee, although it is a select committee, is a standing committee.

Senator HEFLIN received his undergraduate education at Birmingham-Southern College, and earned his law degree at the University of Alabama Law School, after serving in the Marine Corps and being wounded during World War II. He practiced law in Tuscumbia, Ala., from 1948 until 1971, when he won the election for the office of chief justice. Throughout his public career, he has shown himself to be a man of profound character, intellect, and ability. I am confident that his personal qualities and professional experience equip him distinctively to fulfill the enormous responsibilities that might be his as chairman of the Select Committee on Ethics.

In addition, I do not want to let this opportunity pass without expressing my own sincere appreciation to Senator ADLAI STEVENSON for the outstanding service that he has rendered in his term as chairman of the select committee. Senator STEVENSON has shown extraordinary maturity, diplomacy, and dedication in executing his responsibilities, and I am certain that I speak for all our colleagues in extending thanks to him for the caliber of his service and efforts.

Mr. President, the Select Committee on Ethics is one of the most significant parts of the structure of the U.S. Senate, for it serves as a concrete symbol to the Nation of the high standards expected and demanded of a Senator. In its functioning, it must proceed with delicacy, honor, and meticulousness. In Senator HEFLIN, we are fortunate to have a man eminently qualified to perform the important duties required of the chairman of this committee, and I believe that the Senators will concur in this judgment.

Mr. BAKER. Mr. President, I wish to pay special tribute to four of the most courageous and conscientious men in the Senate.

My colleague from New Mexico, Mr. SCHMITT, has just relinquished his duties as ranking Republican on the Senate Ethics Committee, after helping to lead that committee through one of its most difficult and challenging assignments. His fairness, his firmness, his sense of duty—even when that duty was most unpleasant—has won the respect of every Member of this body.

The Senator from Oregon, Mr. HATFIELD, has rendered similar distinguished service on the same committee under the same difficult circumstances. He is, for many of us, the standard of public morality, and his contribution to this committee has only enhanced that well-deserved reputation.

My friend from North Carolina, Mr. HELMS, has agreed to continue his service on the Ethics Committee, and I am grateful to him for that decision. Mr. HELMS is well known in his State as a man of great personal compassion, a man of strong religious principle, a virtuous man and a courageous one. His colleagues in the Senate have come to know him for these same qualities, and his continued service will be a considerable asset to the work of this committee.

I have reserved until last the gentleman from Wyoming, Mr. WALLOP, who has agreed to serve as the new ranking Republican on the Ethics Committee, succeeding Senator SCHMITT.

MALCOLM WALLOP has taken on one of the most sensitive responsibilities in the Senate. As we have seen on two occasions in recent months, the duties of the Ethics Committee demand the most of a Senator's power of reason, his sense of justice, his loyalty to this institution.

These duties fall hardest on the leadership of the committee, and Mr. WALLOP, having seen what is demanded, has agreed to assume these duties willingly.

These are four special men, Mr. President, and I thank them and commend them all.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 272) was agreed to.

EXTENSION OF CERTAIN AUTHORITIES RELATING TO THE INTERNATIONAL ENERGY PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I yield the remainder of my time to Mr. JACKSON.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 5506, and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5506) to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the committee will be discharged and the Senate will proceed to its consideration.

Mr. JACKSON. Mr. President, H.R. 5506 would extend the limited antitrust defense provided by section 252 of the Energy Policy and Conservation Act of 1975 to the American oil companies which participate in the voluntary agreement established under the international energy program. Under existing law, the antitrust defense provision expires at midnight tonight. As passed by the House, H.R. 5506 would extend the expiration date for 2 months to December 31.

Mr. President, yesterday, the Senate considered and passed S. 1871 which deals with this same subject. As amended yesterday, S. 1871 would extend the antitrust defense until June 30, 1980, and would also place certain limitations on the President's authority to impose quotas or fees on oil imports. It is my understanding that the House of Representatives intends to go to conference on S. 1871. Obviously, action in the conference cannot be completed today. Therefore, I believe we should enact a short-term extension of the defense during the time the differences between the Senate and House versions of S. 1871 hopefully can be resolved.

Mr. President, in this connection, I send to the desk an amendment to H.R. 5506 which would extend the term of the antitrust defense for 1 month until November 30, 1979. I ask unanimous consent that the amendment be adopted.

UP AMENDMENT NO. 696

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 696:

On line 6 strike "December 31, 1979" and insert "November 30, 1979".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 696) was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5506) was read the third time, and passed.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, do I have a little time remaining?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is now recognized.

DEATH OF MRS. DOVIE ODOM HATFIELD, MOTHER OF SENATOR HATFIELD

Mr. BAKER. Mr. President, it was with deep regret and sorrow I learned that the mother of our friend from Oregon, Mr. HATFIELD, has passed away.

Dovie Odom Hatfield was a Tennessean before she was an Oregonian. She was born in Morristown, Tenn., in 1893, and moved to Oregon 10 years later.

There she graduated from the Oregon Agricultural College, met and married Charles Hatfield, bore a handsome son, and served for many years as a school teacher and an active member of the Baptist Church.

Her son has surely made her proud. As the Governor of Oregon, and now as

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

its senior Senator, he has built a reputation for enlightened leadership which few can equal. But he is known as well, perhaps better by some, as a man of faith, a man of principle, a man of integrity.

His mother's influence must surely have played a major part in both his intellectual and spiritual growth, and so we know we have lost an exceptional woman with the passing of Dovie Hatfield.

I know my colleagues join Joy and me in extending our deepest sympathy to MARK and his family in this time of sorrow.

Mr. President, I find it necessary to leave the floor at this point and return to the executive session of the Foreign Relations Committee, where they are considering an amendment that I have previously offered. Therefore, I now yield control of my time under the standing order to the distinguished majority leader for whatever purposes he sees fit.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader for his kindness.

PROLIFERATION OF NUCLEAR WEAPONS

Mr. ROBERT C. BYRD. Mr. President, in recent days it has been revealed that a small-yield nuclear device may have been detonated somewhere off the coast of South Africa about a month ago. These reports come at a time when there is growing international concern that Pakistan may be pursuing a nuclear weapons option. Less-well-documented but equally ominous reports circulate about half-a-dozen other nations that are suspected to be on the path toward a nuclear weapons capability.

The spread of nuclear weapons threatens world security. Proliferation of nuclear weapons introduces new sources of instability into a world already dangerously unstable. And the spread of nuclear weapons threatens to vastly increase the level of death and destruction that could result from international conflicts taking place around the world.

American security is particularly threatened by the spread of nuclear weapons because our international interests are so wide and varied: Any regional conflict fought with nuclear arms would threaten to draw in us and other outside powers. For this reason the United States assumed a leadership role in constructing a nonproliferation regime, especially in sponsoring the Nuclear Nonproliferation Treaty (NPT) that went into effect in 1970. This treaty has been signed and ratified by over 100 nations. And it is important to note that in the nonproliferation effort, the United States has had the support not only of our major allies, but also of the Soviet Union. As the major nuclear weapons states, the United States and the Soviet Union have realized that they have a particular responsibility for seeking to slow the spread of nuclear weapons. We have successfully cooperated in this effort for nearly 15 years.

The SALT II treaty that we will soon consider in the Senate is in part an implementation of the promise of the United States and Soviet Union under article VI of the NPT "to pursue negotiations in good faith on effective measures relating to the cessation of the nuclear arms race at an early date." This commitment is the political quid pro quo that we have offered in return for other nations' forswearing of nuclear arms. Unless we can show progress in slowing the nuclear arms completion between the United States and the Soviet Union, we open ourselves to the charge of not having kept our end of the nonproliferation bargain. Without progress in limiting the Soviet-American nuclear arms race, some other nations may begin to reassess their commitments to nonproliferation in an increasingly uncertain world.

The Carter administration's nonproliferation policy is particularly deserving of praise. It has been based on multidimensional approach to a problem that has complex technical, political, economic, and military components. Recent news is no reason to despair of our nonproliferation effort; rather, it is a reminder that we must continue on all fronts in seeking to slow the spread of nuclear weapons. Without the efforts of the last 3 years, it is almost certain that we would face a world in which several nations would be openly pursuing nuclear weapons options without substantial impediments. Such a world would be even more uncertain and dangerous than the one in which we live today.

SALT II's ratification is important for many reasons, and its beneficial impact in reinforcing our nonproliferation efforts is one of the most important. SALT II's ratification will not by itself resolve the proliferation problem any more than SALT II will by itself solve the problem of Minuteman vulnerability. However, in both cases, SALT II's ratification will make it easier to deal with these problems than it would be in the absence of SALT II. In our deliberations on the SALT II treaty, we naturally focus on the Soviet-American perspective. But we should not overlook the broader implications of the treaty, and the worldwide consequence of a failure to ratify it.

Mr. MOYNIHAN. Mr. President, will the majority leader yield for a moment?

Mr. ROBERT C. BYRD. Mr. President, I yield the remainder of my time to the distinguished Senator from New York.

Mr. MOYNIHAN. I thank the majority leader.

I have reserved some time this morning to speak to the subject the distinguished Senator has so ably addressed. I would like to make two comments, or perhaps three.

First, the majority leader is absolutely correct in calling attention to this event in the Southern Hemisphere. As it happens, I was the U.S. Ambassador to India at the time the peaceful nuclear device was exploded in the Rajasthan Desert, that device known throughout New Delhi as the bomb. As I said at the time to the Indian Government, and have said before, what a great mistake they made, that there they were in complete control of the subcontinent of India, no one could challenge them, but having gone nuclear they had opened the way for Pakistan to do the same in a situation where, in conventional arms, there was not the remotest danger of Pakistani aggression, but if a situation of nuclear arms exists there, because nuclear arms equalize, it is like the appearance of gunpowder in the age of armor.

The second point I would like to make is that many will wonder what implications for verification should be read from the uncertainty of our awareness of just what did happen in what appears to have been the Antarctic seas. I would say to the contrary, having spoken with Admiral Turner, and as a member of the Committee on Intelligence, I have been struck with how effective our detection devices were to pick up a microsecond flash in the most remote parts of the world and bring it back immediately to the attention of the President of the United States. And because we have not been able to find nuclear debris does not mean there was not a nuclear explosion. We have learned where the French have tested in the South Pacific that a small kiloton device need not produce debris.

But I would also point out the technology, that small devices are examples of advanced technology as against large devices, such being the nature of physics.

But, lastly, I would dare say to the majority leader, on the question of proliferation, that SALT II and SALT III are going to cause problems in the world, because of the letter the President wrote the Senator on Friday in response to his very careful assertion that a strong defense and a willingness to negotiate meaningful arms reductions are complementary components of a sound national security policy.

The President wrote back to say that nothing would make him cease from the development and deployment of the MX missile and the cruise missile. I will say that this has caused great problems for the protocol in the SALT II treaty and for the statement of principles, supposed to govern SALT III. If we are going to deploy our first "hard kill counterforce missile system" as a mobile missile the sort mentioned in the protocol, that will not be a message to the rest of the world that the joint statement's references to arms reductions will be implemented.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. ROBERT C. BYRD. I think the President's response should be read in the context of my letter, the whole context of my letter. I do not say in my letter that we should do thus and so. I tie both together, the upbuilding of our defense and the proceeding to arms reduction. What I am saying is how can we expect the Soviets to give concessions in SALT III unless we are in a position to have something that they want to concede. If we do not go ahead, if we stop now with cruise missiles, if we stop and never deploy them, if we de facto delay the deployment of the MX missile so that it would not be deployed until the year 2000, we cannot expect to meet the Soviets around the table in negotiating SALT III and expect them to give up anything because we will not have anything that they want us to give up. That was the purpose of my letter.

I think we ought to proceed in a parallel course. I should think, may I say to my dear friend from New York, that the President's response should be read in the light of the context of my letter to him. I see his response in a little different light than the Senator has construed it.

Mr. MOYNIHAN. I will take the liberty of providing the majority leader with a copy of the statement which elaborates on the point I am making this morning. I would like him to hear me say this: I wish the President was as clear on this point as the majority leader is.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, I have had discussions with respect to this question. I am very satisfied with his letter. It is clear, it is unequivocal, but I think it has to be read in the light of the question which was posed to the President.

I thank the distinguished Senator.

ORDER OF BUSINESS

Mr. MOYNIHAN. Mr. President, am I correct that there is time reserved for me under an order?

The ACTING PRESIDENT pro tempore. There is.

Under the previous order, the Senator from Arkansas is to be recognized at this point for 15 minutes, and then the Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

RECOGNITION OF SENATOR BUMPERS

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Arkansas is now recognized for not to exceed 15 minutes.

CONSERVATION IGNORED AS A SOLUTION TO ENERGY PROBLEMS

Mr. BUMPERS. Mr. President, I want to spend a few moments talking about something that is near and dear to my heart as it deals with the present energy problems of the country and as those problems relate to the economic conditions of the country. It deals with conservation.

Mr. President, it has been said that conservation is prosaic or even boring, which may explain why it has been noted and quickly ignored as a solution to this country's energy problems. Billion dollar construction projects, such as pipelines, synfuels plants and reactors may seem more attractive, because they appear to provide tangible demonstrations that we are doing something about the problem.

Conservation, on the other hand, is not tangible. It is not exciting. It leaves no grand monuments to our resolution to solve the energy problems, because there are no monuments to thrift and efficiency. Still, conservation is our answer between now and 1990. We are the Saudi Arabia of waste. Everybody recognizes that we waste nearly 40 percent of the energy we use. If we eliminated that waste today, we would today eliminate the need to import any oil.

We have been slow in recognizing the value of conservation because of a popular misconception that our gross national product is proportional to energy consumption. A recent study conducted by the Harvard Business School demonstrates that this relationship did not exist in the past, and recent experience shows even more clearly that no such connection exists now. This is understandable, because energy which is wasted cannot contribute to the gross national product. Only productive uses of energy make such a contribution. There is also an assumption that conservation means discomfort or an unwanted change in lifestyle, but the opposite is true.

Mr. President, a preliminary study by the Mellon Institute concluded that if the United States had adopted a "least cost" energy policy 10 years ago, we could now be using 24 percent less energy. That policy would have been based upon conservation and the efficient use of fuels. It declared that a materially rewarding life is not dependent upon consuming quantities of energy, but upon sensibly deriving goods and services from it.

Since the oil embargo of 1973, there have been numerous examples of the powerful role that conservation can play. In 1973, the citizens of Los Angeles faced possible blackouts, so they set a target of reducing electricity use by 12 percent; they saved 18 percent. IBM instituted a conservation program, and at the end of 1977 it was consuming 39 percent less energy than in 1973, for a savings of $90 million. Ashland Chemical became more efficient and reduced its electricity use by 25 percent, with little inconvenience.

The transportation sector provides a huge reservoir of potential savings. It accounts for 26 percent of this Nation's total energy consumption. In fact, gasoline used daily in our cars amounts to one-ninth of the world's daily consumption of oil. One main source of conservation is mass transit. A greater source is better gas mileage in private automobiles. The savings resulting from the mileage targets set by the Energy Policy and Conservation Act of 1975 could save 20 billion barrels of oil between 1975 and 2000. That is twice the estimated reserves of the Alaskan North Slope.

The greatest source of possible conservation is in the Nation's 80 million private residences, one-third of which were built before 1940, when little or no insulation was installed. Retrofitting these houses can save huge amounts of energy. The Mellon study found that altering residential buildings a decade ago would have reduced fuel consumption in 1978 by 25 to 38 percent. In Portland, Oreg., expenditures of less than $1,000 per house reduced fuel use by 50 percent. In the area around Pudget Sound, expenditures of $200 reduced heating requirements by 22 percent. These are enormous returns upon relatively small investments.

In the area of industrial conservation, there is relatively little need for congressional stimulus, because the profit motive will dictate conservation.

In transportation the most important step, the imposition of mileage standards, has been taken, though in my opinion these standards should be more stringent.

More action, however, is needed to encourage residential conservation.

It is necessary not only for economic reasons, that is, to reduce imports of oil, but for humanitarian reasons. In 1973, energy costs constituted 18 percent of the costs of operating the average home. In 1975, that rose to 28 percent. It will undoubtedly be painfully higher this winter. For poor people, who already spend an average of 19 percent of their incomes on energy, some of whom spend 45 percent of their incomes for energy, these increases are becoming unbearable. Since the poor also tend to live in older, uninsulated houses, they need conservation assistance more and they will benefit most from an aggressive conservation program.

Mr. President, the Senate's Committee on Energy and Natural Resources has just reported S. 932, which may become commonly known as the "synfuels" bill. It should, however, become known for much more, because it establishes an energy plan not only to develop the Nation's resources, but also to call upon its resourcefulness to conserve our resources. The most important aspect of the conservation provisions is that they do not attempt to impose a monolithic plan upon the varying localities of the country. The bill avoids such inflexibility by adopting three separate approaches which call upon the initiative of the people, with the Government as a willing and ready partner.

One approach, modeled after a plan used successfully in Oregon, allows a utility to install conservation devices in

its customers' homes. The utility will recover its costs in whatever manner the local utility commission provides. The theory is that installing the conservation devices is the equivalent to installing generating capacity which would otherwise have been necessary. Customers would be saved from rate increases necessary to pay for that construction.

A second approach is the Bradley plan, the plan of our distinguished colleague from New Jersey, which involves government participation. Under that plan, the Secretary of Energy designates an agency, which can be a unit of local government, to contract with local "energy conservation companies," which are private, profitmaking corporations, to conduct door-to-door energy audits.

Following the audits, the companies will offer to install energy savings devices at no cost to the owners of the buildings. The Secretary will pay the energy conservation companies for the energy they actually save the customer, pursuant to a rate initially negotiated between those energy conservation companies and the designated contracting agencies. Local utilities will pay the Secretary for energy actually saved, calculated according to the cost of capacity which otherwise would have been installed or fuel which otherwise would have been purchased to produce the conserved energy.

In addition to these two plans, which are mutually exclusive, there are matching grants and subsidized loans to the owners or tenants of buildings who install conservation devices and whose incomes are below specified levels. It is, in fact, the national median income. This program utilizes existing Federal agencies, so it does not create a new bureaucracy. It provides grants up to $300 to owners who spend up to $750 to install conservation equipment. The grant is calculated according to a sliding scale which is designed to induce people to do a complete job in insulating their homes, but it also recognizes that a great deal of conservation can be accomplished for a relatively small amount of money. Therefore, the grant is larger for the first $250 of expenditure, for example, than the second $250. This is to guarantee that the high-return measures are taken. The total grant is slightly higher for a renter, because greater incentives are required to induce someone who does not own a home to make improvements in that home.

There may be some people who will regard this conservation program as a mere giveaway, but that is not the case. Noting the ripple effect of importing large amounts of oil, the Harvard Business School study concluded that a barrel of foreign oil actually costs the economy between $30 and $80, and that calculation was based upon prices prevailing in early 1979, which ignores subsequent increases. That cost harms the entire economy by increasing inflation, the most insidious thief of all. In response to those harmful effects, we have provided tax credits for those who install energy conservation devices. But tax credits do not help the poor because they have no tax liability. So we have had to appropriate over a billion dollars—we just did it last week—to help them pay their energy bills this coming winter.

Conservation is a quick, cheap, certain and permanent method to reduce our harmful dependence upon foreign oil.

We can save a barrel of oil at a cost of $2 in some instances, and this is infinitely preferable to paying $30 to $80 a barrel.

Conservation involves tried and true technologies. We know it can be done. It is competitive with current energy sources at every stage. It will provide large numbers of permanent jobs. It will stimulate small businesses. It will enhance the environment. Above all, it will benefit those who need the benefit most.

I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, before the Senator from Arkansas departs to other appointments, may I congratulate him for his remarks? The force of the argument is overpowering and one only wonders at the inability of some people to see the urgency of the argument also. It is elemental that what we save, we do not have to purchase and what we can produce at home, we do not have to buy abroad.

With respect to conservation, we are in a period immediately following a generation unprecedented in the history or the experience of mankind, in which Americans practically had free energy. I know in my part of the world, the U.S. Government, during World War II, financed the construction of a natural gas pipeline, natural gas having previously been just flared in Texas. Tenneco built it. It arrived in 1945 and natural gas sold for 6 cents per thousand cubic feet.

At about the same time, the production from the Persian Gulf began to appear in earnest on the East Coast of the United States, at a time when other nations had no demand for it. The wartime economies of Japan and Europe were devastated and they were still coal-burning in many respects. Oil sold at $1.50 a barrel. We had a generation of that. That was practically free energy. It is over.

But a period of free energy meant we wasted it and the problem of conserving it has to be made a much more attractive prospect after a period of profligate use, profligate by people who, being human, could not know that winter was coming. It has come, of course. The Senator from Arkansas speaks with energy and truth, and is probably not always welcome for that.

Mr. BUMPERS. I thank the Senator from New York for his comments.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York is recognized for not to exceed 15 minutes.

RIGHTS OF THE LARGE AS WELL AS THE SMALL

Mr. MOYNIHAN. Mr. President, some will recall that shortly after the Second World War, a collection of essays was published in Great Britain, with the title "The God That Failed." It consisted of reminiscences and reflections by a series of distinguished Europeans who found themselves caught up in the radical totalitarian left politics of the 1930's and who had broken with that, such affiliations that they had acquired, and become reflective about the whole thing, and they described it. It was the first such event of its kind in intellectual history, not unimportant.

I was, as it happened, a student at the London School of Economics in those days and read this collection with great interest. I always remembered a particularly striking passage of the poet, Stephen Spender, the English poet, who described how, early in the Spanish Civil War, he was brought to Spain and shown the atrocities of the Falangists, then came back to Britain and became an active supporter of the Loyalist cause, as that was called, denouncing these atrocities and calling as much attention as he could to them.

Such was his success, as it were, being brought back again and again, and began, as he became more familiar with Spain at that time, to realize there were atrocities on all sides.

Then he said in a passage that remains with me, and I am sure others:

> It came to me that unless I cared about every murdered child indiscriminately, I did not really care about children being murdered at all.

That is a great lesson of truthfulness which the experience of the lives of this political age taught us. It is a good standard by which a public person might judge his own behavior.

It is against that standard, Mr. President, that I would like to have printed in the RECORD at this point a letter from Mr. Walter B. Wriston, who is chairman of Citibank, one of the most distinguished financial leaders of this age. I say "distinguished" with more than the casualness which sometimes accompanies that honorific in this body.

He has written a long letter in response to Senate 1246, a bill which would prohibit the 16 largest domestic oil companies from acquiring control, or merging with any other company having assets of $100 million, or more.

Mr. Wriston says that this is a bill of attainder and commands our concern as a constitutional issue.

It may sound aberrant, but it seems to me that there is something of a lynch mob surrounding the question of the rights of any corporation that can be called an oil company and that we become rather casual about their rights.

I do not attest to the accuracy of the constitutional assertion. Others would have different judgment, no doubt. While I do not associate myself of necessity, I

should like to stand on the floor of the U.S. Senate and say that if we care about the rights of any individual, or any corporate individual, unless we care about all such rights we do not really care about such rights at all.

What Walter B. Wriston says about the constitutionality of this bill needs to be heard and deserves to be part of the RECORD, where it will be accessible to the Members of this body as they consider this legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 16, 1979.

I am writing this letter to communicate to you my views opposing S. 1246. This bill would prohibit the sixteen largest domestic oil companies from acquiring control, or merging with, any other company having assets of one hundred million dollars or more.

I am aware that you have received extensive expert testimony and statements from others opposing enactment of this legislation. Most of this opposition is, quite appropriately, directed to the counter-productive consequences which the legislation would have for our domestic energy development as well as its potentially adverse impact on certain important international relations. To the extent that we have been able to review such opposing testimony and statements, we at Citibank concur in the views expressed therein.

However, I am writing this letter not merely to add Citibank's voice to views already expressed, but also to convey to you two broad and basic concerns that I have with the proposed legislation which transcend even its significant energy development and foreign affairs impact.

The proposed legislation would enact into law a Corporate Bill of Attainder. It would single out a few corporations in one industry and pronounce them guilty of an alleged crime (prospective monopoly) without trial or conviction. Were those corporations to be individuals, the law would conflict with Article I, Section 9 of the United States Constitution which denies Congress the power to pass any Bill of Attainder.

Why are these sixteen companies made the target of such a discriminatory legislative proposal? The reason is, obviously, that these companies happen to be engaged in a business activity—the domestic production and distribution of increasingly expensive and increasingly costly petroleum products—which has incurred general unpopularity. The pervasive danger of this kind of "Special Act" legislation is that, while today sixteen unpopular oil companies are the target, tomorrow the target could be a different but newly unpopular group of enterprises, or individuals.

The perceived offense committed by these sixteen target companies is that they exercised their liberties in ways which are different from those which some would have preferred them to. I am greatly concerned with any precedent that would punish selected companies, groups or individuals and deprive them of their rights simply because they have engaged in proper and lawful endeavors which, when viewed by hindsight now offend some members of our society. A bill of this kind adopts an ex post facto legislative approach offensive to our Constitutional order.

The sixteen target companies are already subject in all respects to existing anti-trust laws, regulations and policies. If any of them should enter into any merger or acquisition deemed to be anti-competitive, then the Department of Justice, Federal Trade Commission or other appropriate government authority is entirely free to challenge the transaction in the same manner and through the same procedures as any other supposedly anti-competitive transaction. A Special Act is not necessary.

It is part of our constitutional heritage for our legislators to be chosen through the popular elective process. But it is contrary to that heritage for the legislators, so chosen, to enact discriminatory laws which punish particular segments of our society based upon their current unpopularity.

Of equal concern to me is that the proposed legislative effort would prevent enterprises which are doing business in what we like to call a free marketplace from employing their resources and energies in such manner as they deem best. This effect of the bill offends both America's traditions and, in my judgment, its best interest.

In our society, private enterprise should be free to decide how to allocate its resources and energies so as to survive and to grow in the future. These decisions should be made on the basis of the particular enterprise's own judgment rather than on the basis of political aspiration or fear. So long as this nation adheres to a free market philosophy in preference to a centrally planned system, we must recognize that capital will flow from areas of less return to areas of greater return, just as water flows from high ground to low. We may attempt to enact laws to overcome this law of economics, but we shall be no more successful than if we were to enact laws to overcome this law of nature. This lesson was learned long ago by King Canute as he sought to hold back the tides on the shores of Britain.

Traditionally, our government has exercised its judgment in allocating economic resources through the instrumentality of taxation. However, the proposed legislation takes a quantum leap from that conventional process and dictates how private enterprises shall or shall not utilize their resources while continuing to own them. Such direct governmental interference in determining how private enterprise shall utilize its property is a dangerous step toward central state planning. What is proposed to be done today to sixteen oil companies could as well be done tomorrow to five bakeries or ten union pension funds.

Governments, ancient and modern, have repeatedly been seized with an urge to make resources appear at a time or place where they would not otherwise go through some form of mandated allocation. Yet the exercise almost universally proves just as futile as trying to make the grass grow taller in sparse patches of a lawn by cutting it shorter elsewhere. The result inevitably is that the poor patches remain so while the rich patches are damaged.

In a free market, the participants vigorously pursue their respective self interests. The interaction of competing market forces is the essence of our economic system. Efforts to allocate resources within the system by government fiat come into inevitable direct conflict with the very human, but relentless forces which drive the system. The central allocator's quandary is that, in the final analysis, he cannot hope to control anything unless he controls everything. The failure of such state planned economics is a lesson we cannot afford to ignore.

So I urge you not to enact this bill.

I urge you not to enact it because it is unfair and inappropriate legislation. This approach is offensive to our legal system and will not achieve what is hoped for.

Sincerely,

WALTER B. WRISTON.

SALT II TREATY

Mr. MOYNIHAN. Mr. President, on August 1, I introduced an amendment to the SALT treaty which would require the achievement of significant and substantial reduction in strategic arms in negotiations to be concluded by the end of 1981, or the SALT II treaty itself would lapse. The practical effect of this proposal would be to take the advisory language of a joint statement on SALT III—currently a nonbinding attachment to the treaty—and make it part of the treaty text itself. The purpose here is, quite unambiguously to force the pace of arms reduction in the SALT III negotiations.

The time limit established in my amendment, December 31, 1981, is drawn from the protocol to the treaty, an addition to the text, whose provisions expire on that date. The protocol says, among other things, that neither side will deploy mobile launchers for ICBM's, and that neither will deploy ground-launched cruise missiles with a range in excess of 600 kilometers. We have been assured by the administration that there is no intention of extending the protocol, and that the American weapon systems affected by it would not be available for deployment until 1982 in any event.

This is a rather complex introduction to a simpler point, but one needs the specifics in order to follow recent developments bearing on the fate of the SALT treaty in the Senate. In the first place, the majority leader has—in that manner we have come to associate with him—seen into the complex set of issues surrounding the SALT treaty, and has encouraged his colleagues to begin grappling with them. There are, as he has indicated in his approach to the treaty, two groups of issues which must be resolved if the treaty is to be ratified. The first affects our military programs, the second addresses the prospects for serious arms reductions in SALT III.

There is a sense in which the treaty itself joins these two questions together but not, I am beginning to believe, in the most useful and constructive way. Let me elaborate. I have referred to a joint statement of principles presumed to govern the next round of the SALT negotiations. That statement says that the parties will seek "significant and substantial reductions" in strategic offensive arms. But the statement also pledges the parties to seek a "resolution of the issues included in the protocol," that is, the issues of mobile ICBM's and ground-launched cruise missiles.

It is these two weapons systems which form the subject of a letter sent to the

Senate majority leader by the President on October 26. The purpose of the letter is to remove doubts as to the strength of the President's commitment to these two systems. The President writes:

. . . I am prepared to assure you that none of our cruise missile programs (air, ground, or sea-launched) nor the MX program will be delayed or inhibited by the SALT II Protocol which will expire at the end of 1981.

It is my firm intention to proceed with the testing, development, and deployment of the recently approved sheltered ground mobile MX basing system, and with the currently programmed cruise missile deployments. Both are needed for our defense, and I cannot envisage any circumstances under which there would be any de facto extension of the Protocol which would interfere with our firm intention to deploy these systems.

On the face of it, that is surely a "resolution of the issues included in the protocol," which the Soviets will no doubt seize upon to claim that the issue of reductions cannot be addressed either. They will attempt to give equal weight to the declaration on the protocol, a weight comparable to that we say we will give to reductions.

Now this is surely a curious development. If, in the judgment of the administration, the MX and cruise missiles programs are of such importance to the United States that nothing can interfere with their deployment, why in the world was their fate gratuitously attached to the problem of arms reductions? If, as the President suggests, the systems addressed in the protocol will not be affected by subsequent negotiations, why have a protocol whose substance appears to offer the Soviets something of an out on the question of reductions? Or was any of this considered at the time the fate of reductions somehow became linked to the "issues included in the protocol"?

It seems, on the face of it, that the relationship between the various parts of the treaty on the one hand, and the recent statement of the President on the other, seriously diminish the prospect for reductions in SALT III. Is this, in fact, what the President is trying to tell us?

There are, of course, powerful arguments to be advanced in support of the two military programs the President has endorsed, and in an era of rapid increases in Soviet military forces of all kinds, those arguments cannot be denigrated. Yet the manner in which these seem now to be developing suggests to me that the case for making the "reductions" aspect of SALT II obligatory has become more compelling. If the administration understands that its intentions regarding the MX and the ground-launched cruise missiles have compromised the prospects for strategic arms reductions, it should tell us. If it feels otherwise, it should so explain. If it feels that diminishing the prospects for reductions is justified by the necessity of deploying these two systems, it should explain that also. There are, after all, arguments to be made in all these areas, yet clarification of the prospects for SALT III has now become, in my judgment, an urgent matter.

For myself, I have become much influenced by the fate of unilateral declarations by the Senate in these areas, and their ineffectuality as seen over time. In 1972, for example, three declarations of congressional policy—advisory in nature—were attached to the resolution which ratified the Interim Agreement.

The first, proposed by Senator JACKSON, urged the President to conclude a second SALT agreement which would not leave the forces of the United States inferior to those of the Soviet Union. Whether that criterion has been met is, of course, arguable. But with regard to the two other instances of congressional "advice" there is no argument.

For the second declaration, originating with Senator CRANSTON, urged the convening of "Strategic Arms Reduction Talks" to reduce arms. Yet 7 years of SALT II negotiations have produced an agreement which allows for enormous increase in strategic weaponry.

As for the third declaration, it concerned so-called counterforce weapons. It was originated by former Senator Edward Brooke and called upon both the Soviet Union and the United States not to develop a first-strike potential.

At that time, which is to say 7 years ago, technological innovations were contemplated which would have given to our land-based missiles an improved "hard target kill capability"—which, in the general view, they did not then have to a meaningful degree. One could, of course, debate how much of this capability was already present in those forces at that time. But about the proposed MX system, there is no ambiguity.

It is also unambiguous that, in the past 7 years, the Soviets have made an unrelenting effort to acquire the kind of "counterforce" capability of which Senator Brooke spoke. Now, 7 years later, the decision to proceed with the MX indicates that the United States feels it, too, must establish a similar capability.

Whether any of these worthy objectives written into the SALT I proceedings in 1972 might have influenced reality if given real legislative "teeth," I, of course, cannot say. But surely, that history as we now know it argues for not replaying such episodes in our consideration of SALT II.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the President of the United States to our distinguished majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD).

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., October 22, 1979.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: Thank you for your letter of October 19. I agree with you that "a strong defense and a willingness to negotiate meaningful arms reductions are complementary components of a sound national security policy."

During my Administration, I have energetically sought to enhance our overall defense capabilities and also to promote arms control negotiations with the Soviet Union. I have done so because it is my firm view that our defense programs and arms control are the twin pillars of our national security. Accordingly, I am prepared to assure you that none of our cruise missile programs (air, ground, or sea-launched) nor the MX program will be delayed or inhibited by the SALT II Protocol which will expire at the end of 1981.

It is my firm intention to proceed with the testing, development, and deployment of the recently approved sheltered ground mobile MX basing system, and with the currently programmed cruise missile deployments. Both are needed for our defense, and I cannot envisage any circumstances under which there would be any de facto extension of the Protocol which could interfere with our firm intention to deploy these systems.

Sincerely,

JIMMY CARTER.

Mr. MOYNIHAN. Mr. President, I would like to expand somewhat further on this point. It is an understandable and not unworthy concern to obtain a SALT agreement, a strategic arms agreement. The President seems to have taken a step which could preclude reductions in SALT III, because of the nature of the agreement itself. As I mentioned earlier, the MX missile—even if it were not the counterforce weapon it is designed to be—is a mobile ICBM, one of the systems which forms the subject of the protocol to the treaty. Meanwhile, according to the joint statement governing SALT II, that protocol—at least the issues in that protocol, and there really are not issues in it, but rather weapons systems—is one of the subjects agreed upon for negotiation in SALT III. The issues in the protocol and arms reductions are supposed to be discussed in SALT III, as the joint statement prescribes. So the issues are linked, and it is not as such the counterforce capability of the MX which links them, but rather the fact that the MX is a mobile ICBM. Now at the same time, of course, the MX will be a counterforce weapon, which raises other profound questions.

I recall for the Chair some of these numbers. In 1967 when the United States proposed SALT talks to Premier Kosygin, the Soviet Union had 700 warheads. Today it has 5,500. By the time of SALT II, it shall have 12,000 warheads—four warheads for every county in the United States, and we will have the same number in response.

That is not arms limitation, Mr. President. That is a legalized arms race, an arms race that acquires some acceleration from the fact that it is confirmed by joint agreement.

For the President to tell us that the MX will be deployed no matter what, without reference to its seeming inclusion as a subject for SALT III, is to suggest that he may be losing sight of the objective, of the goals of the process, and that he had been caught up in the process, or that he does not fully understand how the parts of SALT II relate to each other.

George Santayana described a fanatic as a man who redoubles his effort when he has forgotten his purpose.

This is almost beyond comprehension. When the Senate approved the joint resolution indicating approval of the SALT I interim agreement, Senator Brooke, that distinguished colleague we miss so much in this Chamber, arose and amended the resolution to say that the United States would never deploy a counterforce weapon, nor would the Soviet Union, and we, the Senate, made it clear this was so. We were making clear that we would not do this.

Mr. President, I ask unanimous consent to have printed in the RECORD that joint resolution so Senators may see what we said.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

JOINT RESOLUTION

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby endorses those portions of the Declaration of Basic Principles of Mutual Relations Between the United States of America and the Union of Soviet Socialist Republics signed by President Nixon and General Secretary Breshnev at Moscow on May 29, 1972, which relate to the dangers of military confrontation and which read as follows:

"The United States of America and the Union of Soviet Socialist Republics attach major importance to preventing the development of situations capable of causing a dangerous exacerbation of their relations . . ." and "will do their utmost to avoid military confrontations and to prevent the outbreak of nuclear war" and "will always exercise restraint in their mutual relations," and "on outstanding issues will conduct" their discussions and negotiations "in a spirit of reciprocity, mutual accommodation and mutual benefit," and

"Both sides recognize that efforts to obtain unilateral advantage at the expense of the other, directly or indirectly, are inconsistent with these objectives," and

"The prerequisites for maintaining and strengthening peaceful relations between the United States of America and the Union of Soviet Socialist Republics are the recognition of the security interests of the parties based on the principle of equality and the renunciation of the use or threat of force."

SEC. 2. The President is hereby authorized to approve on behalf of the United States the interim agreement between the United States of America and the Union of Soviet Socialist Republics on certain measures with respect to the limitation of strategic offensive arms, and the protocol related thereto, signed at Moscow on May 26, 1972, by Richard Nixon, President of the United States of America and Leonid I. Breshnev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.

SEC. 3. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the five years of the interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program as required by a prudent strategic posture.

SEC. 4. The Congress hereby commends the President for having successfully concluded agreements with the Soviet Union limiting the production and deployment of antiballistic missiles and certain strategic offensive armaments, and it supports the announced intention of the President to seek further limits on the production and deployment of strategic armaments at future Strategic Arms Limitation Talks. At the same time, the Senate takes cognizance of the fact that agreements to limit the further escalation of the arms race are only preliminary steps, however important, toward the attainment of world stability and national security. The Congress therefore urges the President to seek at the earliest practicable moment Stategic Arms Reduction Talks (SART) with the Soviet Union, the People's Republic of China, and other countries, and simultaneously to work toward reductions in conventional armaments, in order to bring about agreements for mutual decreases in the production and development of weapons of mass destruction so as to eliminate the threat of large-scale devastation and the ever-mounting costs of arms production and weapons modernization, thereby freeing world resources for constructive, peaceful use.

SEC. 5. Pursuant to paragraph six of the Declaration of Principles of Nixon and Brezhnev on May 29, 1972, which states that the United States and the Union of Soviet Socialist Republics: "will continue to make special efforts to limit strategic armaments. Whenever possible, they will conclude concrete agreements aimed at achieving these purposes"; Congress considers that the success of the interim agreement and the attainment of more permanent and comprehensive agreements are dependent upon the preservation of longstanding United States policy that neither the Soviet Union nor the United States should seek unilateral advantage by developing a first strike potential.

Mr. MOYNIHAN. Mr. President, that section 5 said:

Congress considers that the success of the interim agreement and the attainment of more permanent and comprehensive agreements are dependent upon the preservation of longstanding United States policy that neither the Soviet Union nor the United States should seek unilateral advantage by developing a first strike potential.

That is SALT I. Here we are in SALT II already and the President is saying that we will develop that first strike potential regardless of anything that happens.

This is madness.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield?

Mr. MOYNIHAN. I am happy to yield to the majority leader.

Mr. ROBERT C. BYRD. Will he please let me have a copy of my own letter and the response?

Mr. MOYNIHAN. Unhappily, I do not have a copy of the Senator's letter, only the response.

Mr. ROBERT C. BYRD. No, he has a copy of both.

Mr. MOYNIHAN. The Senator has; I do not.

Mr. ROBERT C. BYRD. Oh, I do? I do not have——

Mr. MOYNIHAN. The Senator must have a copy of the letter he sent to the President. I only have——

Mr. ROBERT C. BYRD. Not in my hand at the moment. I thought the Senator had a copy of my letter.

Mr. MOYNIHAN. I am sorry, only that quotation. If the President were as clear as the majority leader, the Senator from New York would be a happier and more confident man today.

Mr. ROBERT C. BYRD. I beg the Senator's pardon.

Now I have had delivered to me a copy of the letter which I wrote to the President, and a copy of the President's response.

I know the distinguished Senator will not take umbrage at my attempting to point out something in the letter which he has read a number of times, but I think for the RECORD I should say, with the Senator's indulgence, that the President, in the very first paragraph of his response to me says:

Thank you for your letter of October 19. I agree with you that "a strong defense and a willingness to negotiate meaningful arms reductions are complementary components of a sound national security policy."

So the President recognizes we have to go further on a parallel approach to arms reduction and toward maintaining a strong defense.

He goes on and says in the second paragraph:

During my Administration, I have energetically sought to enhance our overall defense capabilities and also to promote arms control negotiations with the Soviet Union. I have done so because it is my firm view that our defense programs and arms control are the twin pillars of our national security.

So it seems to me that the President is agreeing with the premise which I laid in my own letter and is assuring me and the public, through this letter, that we intend to continue on that twin approach, working for arms reduction and at the same time for a strong defense. Without the strong defense and without proceeding to look beyond the protocol period, it seems to me that we would not be enhancing the prospects of meaningful arms reduction in connection with central strategic systems and in connection with nuclear theater forces in Europe.

Mr. MOYNIHAN. Mr. President, I say to the distinguished majority leader—and I cannot repeat it too often—that if the President were as clear as he is, the Senator from New York would be a much relieved man. But I have to offer my statement that what the President says in the first paragraph is not what he says in the second and the third.

I say to the Senator that the outcomes of this process are rarely what we expect and genuinely desire them to be. When Secretary Kissinger began the SALT negotiations, one of his principal objectives was that neither side acquire a mobile missile; and here we are, 9 years later, with one.

Mr. ROBERT C. BYRD. Is the Senator maintaining that we should not proceed with the development and testing and deployment of an MX missile?

Mr. MOYNIHAN. No; I am not.

Mr. ROBERT C. BYRD. Is the Senator maintaining that we should not proceed to close the protocol and in the meantime say that at the termination of the protocol, we can indeed deploy sea-launched and land-launched cruise missiles with a range in excess of 600 kilometers?

Mr. MOYNIHAN. I assert to the Senator that the MX will never be built. The Soviets will know how to prevent it from being built in this country.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. ROBERT C. BYRD. I hope the Senator's prophecy will not come true. It disturbs me to think that the Soviets, in the words of the distinguished Senator, will not permit the MX to be built. I would rather take the word of the President of the United States. I am sure the Senator does not misunderstand what I am saying. I say it with all respect to the Senator, and I am sure he agrees with it. I am sure that we would both rather take the statement of the President of the United States and what we believe to be the right foresight on the part of Congress in dealing with these strategic systems in the future.

The Soviet Union already has these SS-20's, already has the Backfire, the theater nuclear weapons; and we have to go ahead with the development of the land-launched and the sea-launched cruise missiles in excess of 600 kilometers, if we hope to be in a position at the bargaining table with the Soviet Union to get concessions out of them.

I think we have to proceed with the MX, determined to build it. In the meantime, as we go through the negotiating process, if we find that the Soviets will offer concessions that are in the strategic interests of the United States, in the interests of our national security, and that those concessions may be based upon our making concessions, then I think that is the thing for the negotiators to decide upon. However, unless we have something that the Soviets are concerned about and with which we can bargain, we never will get any concessions out of them.

So I believe we have to proceed with the idea that we are going to build it, but with the full understanding and intention that as negotiations go forward, we are going to negotiate in the security interests of this country and our NATO allies and make our judgments from time to time based on the circumstances and the prospects of concession.

Mr. MOYNIHAN. Perhaps the majority leader will hear me briefly on three points.

First, I am concerned that this process never produces the outcomes desired.

We can see in our resolution in 1972, in Secretary Kissinger's negotiating positions, how we ended up with exactly the opposite of what we hoped to get. That is why I say reductions must be made obligatory in SALT III, or they will not happen.

Second, I would like to amend my statement to say that I did not intend to say that the Russians would not allow us to deploy an MX. I would like that to say for the record that the Russians will do their best to prevent it, by threatening to drop the warhead limits on their SS-18, the 10 limit, and by using their capacity for propaganda around the world against what will be asserted to be a nuclear first-strike danger by the United States.

They have said that the MX is against the spirit of SALT; they have said it cannot be verified. I expect, as I have tried to say in my statement, that they will hold that the joint principles agreed upon for SALT III are violated by the President's letter. They will. I think I know these people somewhat. They will.

Mr. ROBERT C. BYRD. I do not doubt that they will. We are seeing this effective propaganda talent that the Soviets have—we are seeing it demonstrated in Europe now, as they attempt to discourage NATO countries from proceeding with modernization.

Mr. MOYNIHAN. That is right. They are seeking to control our defense policy.

This is the third point and the last. The majority leader has been much too generous with his time and attention to a junior Senator. The years of deterrence doctrine educated the United States to think that strategic superiority was not in fact a viable or useful conception.

As Secretary Kissinger said in 1974, in what he has since said was an emotional moment: "What in the name of God is strategic superiority? What do you do with it?"

I will tell the Senator what strategic superiority is for. Strategic superiority is for making other people do what you want them to do.

We are going to have a taste of this in the 1980's such as we never have experienced, and it is not going to be a pleasant taste.

My only concern—and the Senator knows my concern—is limited to the fact that we have to find out very soon whether the Russians ever will agree to reductions in strategic nuclear weapons. I think it is very questionable whether they will. But if they are not going to, we cannot in conscience or duty or honor go on telling the American people that we have achieved an international regime in which strategic arms are limited, because in fact they are not.

I thank the majority leader for his courtesy and his attention. He is more than generous.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New York for his fine statement.

I always marvel at the Senator's equanimity and his ability to articulate his deep thoughts so interestingly and so well.

I appreciate the work he is doing in the Senate for his State and for the country. His experience, which he brings to bear as he serves here from day to day, is invaluable to the Senate.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, H.R. 4986, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AGRICULTURE APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on H.R. 4387 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4387) making appropriations for the Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 24, 1979.)

Mr. EAGLETON. Mr. President, Senator BELLMON, the ranking minority member on the Agricultural Appropriations Subcommittee, is on his way, and I have some introductory remarks to make while awaiting his arrival.

Mr. President, the conferees on H.R. 4387, the Agricultural appropriations bill for 1980, met on September 13 and 18, and October 25. After a total of about 10 hours of very careful deliberations involving a number of significant issues, they agreed to what I think my colleagues will agree is a very reasonable compromise. I wish to compliment Chairman WHITTEN and the other House conferees, as well as my fellow Senate conferees for their careful work and reasoned effort. A particular note of thanks is due the staffs of the two Appropriations Committees—Bob Foster, Chip Hardin, and Toni Perla of the House committee staff, and Dick Lieberman, Ken Auer, Stephen Kohashi, Irma Hanneman, and Cathy O'Connor of the Senate committee staff—for their thorough and commendable efforts to craft a compromise in some very difficult areas.

Mr. President, the conference agreement includes new budget authority of $16,697,854,000 and transfers from the section 32 of $1,831,086,000 for total obligational authority of $18,528,940,000. There is a direct and insured loan level of $8,112,600,000, a guaranteed loan level of $1,600,000,000 and an authorization for spending in the rent supplement program of $393 million. As reported by the conference committee the bill is $2,961,000 less than the House bill, but $39,203,000 more than the Senate bill. It is $1,505,677,000 less than the President's budget request, but I must caution my colleagues that that is an illusory saving, since at least that much—and probably over $600 million more will be needed in a supplemental in order to maintain benefits in the food stamp program. Unfortunately, the conferees could not properly fund the food stamp program because of the current authorization ceiling on food stamp appropriations. I am hopeful that the House will take speedy action, as the Senate has done, to pass a new higher authorization, so that the Appropriations Committee can act on the $2.1 billion in food stamp requests now pending.

Mr. President, I ask unanimous consent that a table showing the specific amounts in the conference agreement, as well as the differences between the House and Senate versions, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (−) conference recommendations compared with— 1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE I—AGRICULTURAL PROGRAMS									
PRODUCTION, PROCESSING AND MARKETING									
Office of the Secretary	$4,415,000	$4,534,000	$4,400,000	$4,534,000	$4,470,000	+$55,000	−$64,000	+$70,000	−$64,000
Departmental Administration	19,105,000	20,909,000	19,609,000	19,723,000	19,423,000	+318,000	−1,486,000	−186,000	−300,000
Working capital fund	(1,252,000)					(−1,252,000)			
Office of the Inspector General	23,095,000	34,151,000	24,727,000	25,527,000	25,527,000	+2,432,000	−8,624,000	+800,000	
Transfer from food stamp program	(8,922,000)		(8,924,000)	(8,924,000)	(8,924,000)	(+2,000)	(+8,924,000)		
Total, Office of the Inspector General	(32,017,000)	(34,151,000)	(33,651,000)	(34,451,000)	(34,451,000)	(+2,434,000)	(+300,000)	(+800,000)	
Office of the General Counsel	10,598,000	11,305,000	10,786,000	11,136,000	11,000,000	+402,000	−305,000	+214,000	−136,000
Federal Grain Inspection Service: Salaries and expenses	22,680,000	23,372,000	22,872,000	23,372,000	23,122,000	+442,000	−250,000	+250,000	−250,000
Science and Education Administration									
Agricultural research	343,416,000	344,872,000	363,142,000	372,479,000	370,573,000	+27,157,000	+25,701,000	+7,431,000	−1,906,000
Special fund (reappropriation)	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Buildings and facilities	36,740,000					−36,740,000			
Scientific activities overseas (special foreign currency program)	5,750,000	7,500,000	5,750,000	5,750,000	5,750,000		−1,750,000		
Cooperative research	174,395,000	178,317,000	178,027,000	198,484,000	189,045,000	+14,650,000	+10,728,000	+11,018,000	−9,439,000
Extension activities	275,399,000	259,227,000	285,835,000	274,767,000	285,537,000	+10,138,000	+26,310,000	−298,000	+10,770,000
Technical information systems	7,527,000	7,835,000	7,835,000	7,835,000	7,835,000	+308,000			
Total, Science and Education Administration	845,227,000	799,751,000	842,589,000	861,315,000	860,740,000	+15,513,000	+60,989,000	+18,151,000	−575,000
Animal and Plant Health Inspection Service	237,319,000	220,976,000	237,583,000	248,241,000	245,631,000	+8,312,000	+24,655,000	+8,048,000	−2,610,000
Food Safety and Quality Service	279,531,000	279,930,000	278,430,000	278,430,000	278,430,000	−1,101,000	−1,500,000		
Economics, Statistics and Cooperatives Service	82,562,000	87,903,000	86,050,000	86,090,000	86,070,000	+3,508,000	−1,833,000	+20,000	−20,000
World food and agricultural outlook and situation board	1,009,000	1,045,000	1,045,000	1,045,000	1,045,000	+36,000			
Agricultural Marketing Service									
Marketing services	47,854,000	50,707,000	48,302,000	45,586,000	47,643,000	−211,000	−3,064,000	−659,000	+2,057,000
Payments to States and possessions	1,600,000		2,000,000		1,600,000		+1,600,000	−400,000	+1,600,000
Total, Agricultural Marketing Service	49,454,000	50,707,000	50,302,000	45,586,000	49,243,000	−211,000	−1,464,000	−1,059,000	+3,657,000
Total, Production, Processing and Marketing	1,574,995,000	1,534,583,000	1,578,393,000	1,604,999,000	1,604,701,000	+29,706,000	+70,118,000	+26,308,000	−298,000
FARM INCOME STABILIZATION									
Agricultural Stabilization and Conservation Service									
Salaries and expenses	227,527,000	190,586,000	190,586,000	182,546,000	186,586,000	−40,941,000	−4,000,000	−4,000,000	+4,040,000
Transfer from Commodity Credit Corporation	(99,865,000)	(152,389,000)	(152,389,000)	(152,389,000)	(152,389,000)	(+52,524,000)			
Total, salaries and expenses, ASCS	(327,392,000)	(342,975,000)	(342,975,000)	(334,935,000)	(338,975,000)	(+11,583,000)	(−4,000,000)	(−4,000,000)	(+4,040,000)
Dairy and beekeeper indemnity programs	3,240,000	400,000	3,290,000	400,000	3,290,000	+50,000	+2,890,000		+2,890,000
Total, Agricultural Stabilization and Conservation Service	230,767,000	190,986,000	193,876,000	182,946,000	189,876,000	−40,891,000	−1,110,000	−4,000,000	+6,930,000
Federal Crop Insurance Corporation									
Administrative and operating expenses	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000				
Federal Crop Insurance Corporation fund	(13,229,000)	(13,557,000)	(16,500,000)	(16,480,000)	(16,500,000)	(+3,271,000)	(+2,943,000)		(+20,000)
Total, Federal Crop Insurance Corporation	(25,229,000)	(25,557,000)	(28,500,000)	(28,480,000)	(28,500,000)	(+3,271,000)	(+2,943,000)		(+20,000)

See footnotes at end of table.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (—) conference recommendations compared with— 1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE I—AGRICULTURAL PROGRAMS—Continued									
FARM INCOME STABILIZATION—Continued									
Commodity Credit Corporation									
New borrowing authority	$4,509,100,000					−$4,509,100,000			
Limitation of contract authority	(990,900,000)					(−990,900,000)			
Total, new authority to borrow	(5,500,000,000)					(−5,500,000,000)			
Reimbursement for net realized losses	990,900,000	$3,056,189,000	$3,056,189,000	$3,056,189,000	$3,056,189,000	+2,065,289,000			
Limitation on administrative expenses	(50,100,000)	(50,700,000)	(50,700,000)	(50,690,000)	(50,700,000)	(+600,000)			(+510,000)
Total, farm income stabilization	5,742,767,000	3,259,175,000	3,252,065,000	3,251,135,000	3,258,065,000	−2,484,702,000	−$1,110,000	−$4,000,000	+$6,930,000
Total, title I, new budget (obligational) authority, agricultural programs	7,317,762,000	4,793,758,000	4,840,458,000	4,856,134,000	4,862,766,000	−2,454,996,000	+$69,008,000	+$22,308,000	+$6,632,000
TITLE II—RURAL DEVELOPMENT PROGRAMS									
RURAL DEVELOPMENT ASSISTANCE									
Farmers Home Administration									
Rural housing insurance fund:									
Direct loans	(24,000,000)	(24,000,000)	(24,000,000)	(24,000,000)	(24,000,000)				
Insured loans	(3,776,000,000)	(3,406,000,000)	(4,059,000,000)	(3,766,000,000)	(3,979,000,000)	(+203,000,000)	(+573,000,000)	(−80,000,000)	(+213,000,000)
Guaranteed loans	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)				
Construction defects authorization	(1,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(+4,000,000)			
Rent supplement authorization	(425,500,000)	(393,000,000)	(393,000,000)	(393,000,000)	(393,000,000)	(−32,500,000)			
Home ownership assistance (authority to borrow)		954,960,000					−954,960,000		
Reimbursement for interest and other losses	320,192,000	320,209,000	320,209,000	320,209,000	320,209,000	+17,000			
Reimbursement for rent supplement payments	47,040,000	76,580,000	76,580,000	76,580,000	76,580,000	+29,540,000			
Home ownership assistance payments		60,000,000					−60,000,000		
Total, rural housing insurance fund	(4,668,232,000)	(5,346,749,000)	(4,984,789,000)	(4,691,789,000)	(4,904,789,000)	(+236,557,000)	(−441,960,000)	(−80,000,000)	(+213,000,000)
Agricultural credit insurance fund:									
Insured real estate loans	(875,600,000)	(879,600,000)	(949,600,000)	(949,600,000)	(949,600,000)	(+74,000,000)	(+70,000,000)		
Soil conservation loans	(30,000,000)	(22,400,000)	(30,000,000)	(30,000,000)	(30,000,000)		(+7,600,000)		
Operating loans	(925,000,000)	(700,000,000)	(875,000,000)	(875,000,000)	(875,000,000)	(−50,000,000)	(+175,000,000)		
Emergency loans [1]	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)				
Reimbursement for interest and other losses	143,565,000	272,809,000	272,809,000	272,809,000	272,809,000	+129,244,000			
Total, agricultural credit insurance fund	(2,174,165,000)	(2,074,809,000)	(2,327,409,000)	(2,327,409,000)	(2,327,409,000)	(+153,244,000)	(+252,600,000)		
Rural development insurance fund:									
Reimbursement for losses	107,276,000	91,874,000	91,874,000	91,874,000	91,874,000	−15,402,000			
Water and sewer facility loans	(900,000,000)	(700,000,000)	(700,000,000)	(700,000,000)	(700,000,000)	(−200,000,000)			
Industrial development loans	(1,100,000,000)	(1,000,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)		(+100,000,000)		
Community facility loans	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)				
Total, rural development insurance fund	(2,357,276,000)	(2,041,874,000)	(2,141,874,000)	(2,141,874,000)	(2,141,874,000)	(−215,402,000)	(+100,000,000)		
Rural water and waste disposal grants	282,500,000	265,000,000	300,000,000	300,000,000	300,000,000	+17,500,000	+35,000,000		
Very low-income housing repair grants	19,000,000	24,000,000	24,000,000	24,000,000	24,000,000	+5,000,000			
Rural housing for domestic farm labor	33,000,000	25,000,000	25,000,000	25,000,000	25,000,000	−8,000,000			
Mutual and self-help housing	13,500,000	5,000,000	5,000,000	5,000,000	5,000,000	−8,500,000			
Self-help housing land development fund	1,000,000					−1,000,000			
Rural community fire protection grants	3,500,000		3,500,000	3,500,000	3,500,000		+3,500,000		
Rural development planning grants	5,000,000		5,000,000	9,000,000	7,000,000	+2,000,000	+7,000,000	+2,000,000	−2,000,000
Rural housing supervisory assistance grants	2,500,000	1,200,000	2,500,000	1,200,000	1,500,000	−1,000,000	+300,000	−1,000,000	+300,000
Rural development grants	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Salaries and expenses	225,245,000	225,818,000	232,318,000	228,278,000	230,518,000	+5,273,000	+4,700,000	−1,800,000	+2,240,000
Transfer from loan accounts	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)				
Total, salaries and expenses	(228,745,000)	(229,318,000)	(235,818,000)	(231,778,000)	(234,018,000)	(+5,273,000)	(+4,700,000)	−(1,800,000)	(+2,240,000)
Total, Farmers Home Administration	1,213,318,000	2,332,450,000	1,368,790,000	1,367,450,000	1,367,990,000	+154,672,000	−964,460,000	−800,000	+540,000

See footnotes at end of table.

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TITLE II—RURAL DEVELOPMENT PROGRAMS—Continued									
RURAL DEVELOPMENT ASSISTANCE—Continued									
Rural Electrification Administration									
Rural electrification and telephone revolving fund: [2]									
Electric loans	($850,000,000)	($735,000,000)	($850,000,000)	($850,000,000)	($850,000,000)		(+$115,000,000)		
Telephone loans	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)				
Total, loans	(1,100,000,000)	(985,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)		(+115,000,000)		
Capitalization of Rural Telephone Bank [2]	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)				
Salaries and expenses	25,061,000	25,970,000	26,045,000	26,045,000	26,045,000	+984,000	+75,000		
Total, Rural Electrification Administration	25,061,000	25,970,000	26,045,000	26,045,000	26,045,000	+984,000	+75,000		
Total, rural development assistance	1,238,379,000	2,358,420,000	1,394,835,000	1,393,495,000	1,394,035,000	+155,656,000	−964,385,000	−800,000	+540,000
CONSERVATION									
Soil Conservation Service									
Conservation operations	262,402,000	253,902,000	259,747,000	272,043,000	264,747,000	+2,345,000	+10,845,000	+5,000,000	−7,296,000
River basin surveys and investigations	16,487,000	15,810,000	17,061,000	15,801,000	16,487,000		+685,000	−574,000	+685,000
Watershed planning	11,847,000	6,023,000	12,293,000	6,023,000	10,500,000	−1,347,000	+4,477,000	−1,793,000	+4,477,000
Watershed and flood prevention operations	169,607,000	184,908,000	172,524,000	162,524,000	167,524,000	−2,083,000	−17,384,000	+5,000,000	−5,000,000
Resource conservation and development	25,441,000	2,943,000	32,000,000	32,000,000	32,000,000	+6,559,000	+29,057,000		
Great Plains conservation program	18,689,000	8,426,000	18,689,000	18,689,000	18,689,000		+10,263,000		
Rural clean water program [3]		75,000,000		75,000,000			−75,000,000		−75,000,000
Total, Soil Conservation Service	504,473,000	547,003,000	512,314,000	582,080,000	509,947,000	+5,474,000	−37,056,000	−2,367,000	−72,133,000
Agricultural Stabilization and Conservation Service									
Agricultural conservation program:									
Liquidation of contract authority	(115,000,000)					(−115,000,000)			
Appropriation	190,000,000	125,000,000	190,000,000	190,000,000	190,000,000		+65,000,000		
Forestry incentives program	15,000,000	10,000,000	15,000,000	15,000,000	15,000,000		+5,000,000		
Water Bank program	10,000,000		10,000,000	10,000,000	10,000,000		+10,000,000		
Emergency conservation measures	10,000,000	20,000,000	20,000,000	10,000,000	15,000,000	+5,000,000	−5,000,000	−5,000,000	−5,000,000
Rural clean water program [4]					50,000,000	+50,000,000	+50,000,000	+50,000,000	+50,000,000
Total, Agricultural Stabilization and Conservation Service	225,000,000	155,000,000	235,000,000	225,000,000	280,000,000	+55,000,000	+125,000,000	+45,000,000	+55,000,000
Total, Conservation	729,473,000	702,003,000	747,314,000	807,080,000	789,947,000	+60,474,000	+87,944,000	+42,633,000	−17,133,000
Total, title II, rural development programs: New budget (obligational) authority	1,967,852,000	3,060,423,000	2,142,149,000	2,200,575,000	2,183,982,000	+216,130,000	−876,441,000	+41,833,000	−16,593,000
TITLE III—DOMESTIC FOOD PROGRAMS									
Food and Nutrition Service									
Child nutrition programs	1,402,035,000	1,450,218,000	1,330,215,000	1,275,215,000	1,279,215,000	−122,820,000	−171,003,000	−51,000,000	+4,000,000
Transfer from sec. 32	(1,411,575,000)	(1,711,083,000)	(1,831,086,000)	(1,831,086,000)	(1,831,086,000)	(+419,511,000)	(+120,003,000)		
Total, child nutrition programs	(2,813,610,000)	(3,161,301,000)	(3,161,301,000)	(3,106,301,000)	(3,110,301,000)	(+296,691,000)	(−51,000,000)	(−51,000,000)	(+4,000,000)
Special milk program	142,000,000	32,000,000	142,000,000	142,000,000	142,000,000		+110,000,000		
Special supplemental food program (WIC)	569,500,000	771,500,000	771,500,000	749,500,000	757,700,000	+188,200,000	−13,800,000	−13,800,000	+8,200,000
Food stamp program [5]	6,679,200,000	6,926,520,000	6,188,600,000	6,187,600,000	6,188,600,000	−490,600,000	−737,920,000		+1,000,000
Food donations programs:									
Needy family programs	12,800,000	39,790,000	39,790,000	39,790,000	39,790,000	+26,990,000			
Elderly feeding program	57,000,000	50,500,000	50,500,000	50,500,000	50,500,000	−6,500,000			
Total, food donations programs	69,800,000	90,290,000	90,290,000	90,290,000	90,290,000	+20,490,000			
Food program administration	76,424,000	84,422,000	80,000,000	84,382,000	82,000,000	+5,576,000	−2,422,000	+2,000,000	−2,382,000
Total, title III, new budget (obligational) authority, domestic food programs	8,938,959,000	9,354,950,000	8,602,605,000	8,528,987,000	8,539,805,000	−399,154,000	−815,145,000	−62,800,000	+10,818,000

See footnotes at end of table.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (—) conference recommendations compared with— 1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE IV—INTERNATIONAL PROGRAMS									
Foreign Agricultural Service	$54,215,000	$54,929,000	$56,129,000	$56,807,000	$56,427,000	+$2,212,000	+$1,498,000	$+298,000	—$380,000
Office of International Cooperation and Development	199,000	2,964,000	2,964,000	1,864,000	1,864,000	+1,665,000	—1,100,000	—1,100,000	
Public Law 480:									
Title I and III—Credit sales	339,400,000	280,776,000	280,776,000	222,050,000	280,776,000	—58,624,000			+58,726,000
Title II—Commodities for disposition abroad	466,500,000	438,700,000	438,700,000	438,700,000	438,700,000	—27,800,000			
Sales manager	(4,202,000)	(4,608,000)	(4,608,000)	(4,598,000)	(4,608,000)	(+406,000)			(+10,000)
Total, Public Law 480 [6]	805,900,000	719,476,000	719,476,000	660,750,000	719,476,000	—86,424,000			+58,726,000
Total, title IV, new budget (obligational) authority, international programs	860,314,000	777,369,000	778,569,000	719,421,000	777,767,000	—82,547,000	+398,000	—802,000	+58,346,000
TITLE V—RELATED AGENCIES									
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Food and Drug Administration									
Salaries and expenses	301,954,000	316,296,000	316,296,000	307,796,000	312,796,000	+10,842,000	—3,500,000	—3,500,000	+5,000,000
Buildings and facilities	10,459,000	4,372,000	4,372,000	29,372,000	4,372,000	—6,087,000			—25,000,000
Total, Food and Drug Administration	312,413,000	320,668,000	320,668,000	337,168,000	317,168,000	+4,755,000	—3,500,000	—3,500,000	—20,000,000
INDEPENDENT AGENCIES									
Commodity Futures Trading Commission	15,836,000	16,366,000	16,366,000	16,366,000	16,366,000	+530,000			
Farm Credit Administration (limitation on administrative expenses)	(10,925,000)		(11,897,000)	(11,897,000)	(11,897,000)	(+972,000)	(+11,897,000)		
Total, title V, new budget (obligational) authority, related agencies	328,249,000	337,034,000	337,034,000	353,534,000	333,534,000	+5,285,000	—3,500,000	—3,500,000	—20,000,000
RECAPITULATION									
Title I—Agricultural programs	7,317,762,000	4,793,758,000	4,840,458,000	4,856,134,000	4,862,766,000	—2,454,996,000	+69,008,000	+22,308,000	+6,632,000
Title II—Rural development programs	1,967,852,000	3,060,423,000	2,142,149,000	2,200,575,000	2,183,982,000	+216,130,000	—876,441,000	+41,838,000	—16,593,000
Title III—Domestic food programs	8,938,959,000	9,354,950,000	8,602,605,000	8,528,987,000	8,539,805,000	—399,154,000	—815,145,000	—62,800,000	+10,818,000
Title IV—International programs	860,314,000	777,369,000	778,569,000	719,421,000	777,767,000	—82,547,000	+398,000	—802,000	+58,346,000
Title V—Related agencies	328,249,000	337,034,000	337,034,000	353,534,000	333,534,000	+5,285,000	—3,500,000	—3,500,000	—20,000,000
Total, new budget (obligational) authority	19,413,136,000	18,323,534,000	16,700,815,000	16,658,651,000	16,697,854,000	—2,715,282,000	—1,625,680,000	—2,961,000	+39,203,000
Transfer from sec. 32	1,411,575,000	1,711,083,000	1,831,086,000	1,831,086,000	1,831,086,000	+419,511,000	+120,003,000		
Total obligational authority	20,824,711,000	20,034,617,000	18,531,901,000	18,489,737,000	18,528,940,000	—2,295,771,000	—1,505,677,000	—2,961,000	+39,203,000
Consisting of:									
1. Appropriations	19,411,136,000	18,321,534,000	16,698,815,000	16,656,651,000	16,695,854,000	—2,715,282,000	—1,625,680,000	—2,961,000	+39,203,000
2. Reappropriations	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
3. Direct and insured loan level	8,081,600,000	7,172,000,000	8,192,600,000	7,899,600,000	8,112,600,000	+31,000,000	+940,600,000	—80,000,000	+213,000,000
4. Guaranteed loan level	1,600,000,000	1,500,000,000	1,600,000,000	1,600,000,000	1,600,000,000		+100,000,000		
5. Rent supplement authorization	425,500,000	393,000,000	393,000,000	393,000,000	393,000,000	—32,500,000			
Memoranda:									
1. Appropriations to liquidate contract authorizations	1,105,900,000					—1,105,900,000			
2. Appropriations, including appropriations to liquidate contract authority	20,519,036,000	18,323,534,000	16,700,815,000	16,658,651,000	16,697,854,000	—3,821,182,000	—1,625,680,000	—2,961,000	+39,203,000
3. Transfers from sec. 32	1,411,575,000	1,711,083,000	1,831,086,000	1,831,086,000	1,831,086,000	+419,511,000	+120,003,000		
4. Transfers from Commodity Credit Corporation	99,865,000	152,389,000	152,389,000	152,389,000	152,389,000	+52,524,000			

[2] The budget request and bill provide no limitation for emergency loans. Funds are available in amounts necessary to meet the needs resulting from natural disasters.
[3] These amounts are excluded by law (Public Law 93-32) from the budget totals.
[5] A similar program is funded under the Agricultural Stabilization and Conservation Service.
[4] Funds for a similar program were requested under Soil Conservation Service.
[5] A budget amendment for an additional $1,411,454,000 for food stamps was received but passed over without prejudice by the conferees because of the lack of legislative authorization.
[6] A budget amendment for an additional $205,800,000 was passed over without prejudice by the conferees and will be considered at a later date.

Mr. EAGLETON. Mr. President, I do not intend to go into the details of the bill at this time. The action of the conferees is well detailed in the conference report and the statement of the managers, both of which appeared in the CONGRESSIONAL RECORD, October 24, 1979, pp. 29457–29464, and also as House Report 96–553. I ask unanimous consent to have printed in the RECORD a summary highlighting many of the key programs and the conference agreement relating to them.

There being no objection, the highlights were ordered to be printed in the RECORD, as follows:

HIGHLIGHTS OF MAJOR ACTIONS TAKEN BY THE CONFERENCE COMMITTEE ON H.R. 4387, FISCAL YEAR 1980 APPROPRIATIONS FOR AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

SCIENCE AND EDUCATION ADMINISTRATION

The conferees restated their view of the importance of a well-managed and well-coordinated agricultural research program that maintains and strengthens the long-term partnership between in-house resources and agricultural experiment stations at colleges and universities. The bill includes an increase in agricultural research, along with language directing the ways in which quality and efficiency of agricultural research can be improved through such methods as placing national research goals and priorities into sharper focus, improving coordination, utilizing peer review processes for both in-house, formula and special research funds, and improving productivity through sound program evaluation and appropriate changes in the scope and orientation of research programs.

Within the Science and Education Administration, funding for specific divisions and programs included:

Agricultural Research.—Provides $370,573,000 for agricultural research instead of $363,142,000 as proposed by the House and $372,479,000 as proposed by the Senate. The conferees split differences in funding for improving energy efficiency in crop and animal disease and production, tropical and subtropical research, and funded most of the Senate increases for aquatic weed research and yellow-star thistle research. Budget and House funding levels for operation of the USDA Human Nutrition Centers at Tufts University and Baylor College of Medicine at $2 million and $1 million respectively, were included in the agreement. The conferees provided $3,750,000 for small farms research, including $850,000 for establishment of a South Central small farms research center in Booneville, Arkansas. The conferees also provided for establishment and funding of a western nutrition center at Letterman Institute of Research in California, including staffing by 19 nutrition experts to be transferred from the Department of the Army.

Cooperative Research.—The conference agreement provides $189,045,000 for Cooperative Research, instead of $177,527,000 as proposed by the House and $198,484,000 as proposed by the Senate. The conferees agreed to $118,566,000 for Hatch Act grants—$3.5 million over the House figure, and $9.5 million more than the budget request. Seven million dollars was provided for special grants for animal health and disease research under P.L. 89–106, and $6 million for formula grants for animal health and disease research under Section 1433 of P.L. 95–113. The conferees also agreed to a competitive grants program of $16 million in lieu of the $25 million proposed by the Senate. Further, instead of $15 million in special grants proposed by the House, the conferees agreed to $2.5 million for high priority agricultural research.

Extension Activities.—Provides a total of $285,537,000 for Extension, instead of $285,835,000 as proposed by the House and $274,767,000 proposed by the Senate. Included within this agreement are $189,331,000 for grants under the Smith-Lever Act ($9.5 million over the budget, and $3.5 million over the House allowance), $51,810,000 for the Expanded Food and Nutrition Education Program, $3 million for urban gardening, $1,020,000 for the farm safety program, $11,500,000 for grants under the Bankhead-Jones Act, and $2.5 million for rural development education.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

The conference agreement provides $245,631,000 for the Animal and Plant Health Inspection Service instead of $237,583,000 as proposed by the House and $248,241,000 as proposed by the Senate. The conferees agreed to the House position providing $2 million for imported fire ant control, $1,325,000 for poultry diseases, $6,848,000 for tuberculosis eradication, and $4,730,000 for cattle tick control. The House receded to Senate adjustments providing $1.7 million for noxious weed control, $5,290,000 for eradication of scabies, $35,653,000 for control of screwworm, $6,512,000 for the Mediterranean fruit fly program, $4,041,000 for the citrus blackfly program, an $200,00 for the multiflora rose cooperative program. The conferees also agreed to provide $77,695,000 for eradication of brucellosis, in lieu of $70,195,000 proposed by the House and $85,195,000 proposed by the Senate.

AGRICULTURE MARKETING SERVICE

The conference agreement provides $47,643,000 for marketing services instead of $48,302,000 as proposed by the House and $45,586,000 proposed by the Senate. The agreement restores language deleted by the Senate which provides for the administration and coordination of payments to States, also includes $2,057,000 for wholesale market development work as proposed by the House and $12,712,000 for market news reporting as proposed by the Senate.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Appropriates $186,586,000 for salaries and expenses for the Agricultural Stabilization and Conservation Service instead of $190,586,000 as proposed by the House and $182,546,000 as proposed by the Senate. The reduction is based on higher commodity prices and an anticipated reduced workload in 1980 in county offices.

Dairy and Beekeeper Indemnity Programs.—The conference continues the Beekeeper Indemnity program in FY 1980, pending completion of the detailed review by the House Surveys and Investigations staff, due in January 1980.

CCC Loan Limits.—The conference accepts the Senate limitation of $500 million on loans that can be guaranteed by the CCC for production and marketing of industrial hydrocarbons and alcohols from agricultural commodities.

FARMERS HOME ADMINISTRATION

In the Rural Housing Insurance Fund, the conference agreement includes $2,280,000,000 for section 502 low-income rental housing loans as proposed by the House, and $868,000,000 for section 515 rural rental housing loans as proposed by the Senate. In the Rural Development Insurance Fund, the conferees deleted the Senate proviso that all business and industrial loans be guaranteed, and permits up to $10 million of such loans to be insured, compared with the House proposal that up to $50 million be insured.

The conferees agreed to $7 million for rural development planning grants, and $1.5 million for rural housing supervisory assistance grants. For FmHA salaries and expenses, $230,518,000 was provided instead of $232,318,000 proposed by the House and $228,278,000 proposed by the Senate. The conferees further expressed their strong concern over very serious abuses in the emergency loan program, involving the making of multi-million dollar loans to individuals at interest rates significantly below commercially available loan rates. The conferees directed that the Department hold in abeyance the approval of all large loans relating to the emergency disaster loan program until Congress has an opportunity to act on this matter in the authorizing legislation.

SOIL CONSERVATION SERVICE

For Conservation Operations, the conferees agreed to $264,747,000, the amount necessary to support the current level of permanent SCS staff. In the two other large programs, the conferees agreed to $167,524,000 for Watershed and Flood Prevention Operations instead of $172,524,000 as proposed by the House and $162,524,000 proposed by the Senate, and with respect to Resource Conservation and Development, the conferees agreed to continue the program and authorize six new area authorizations. The Senate had proposed using the $32 million appropriation to close out existing areas.

For the Rural Clean Water Program, the conferees agreed to provide $50 million to the ASCS instead of $75 million to the SCS as proposed by the Senate, and no funds as proposed by the House. These funds are to be used to fund highest priority projects and are to be selected primarily from applications previously submitted to the Secretary and approved by him in consultation with the Environmental Protection Agency Administrator.

CHILD NUTRITION PROGRAMS

The conferees agreed to provide $3,114,301,000 for child nutrition programs instead of $3,165,301,000 proposed by the House and $3,110,301,000 proposed by the Senate. This agreement was reached by reducing food service equipment assistance to $24 million, tightening up summer feeding operations and reducing the program by $47 million, and including various Senate legislative provisions mandating a sanctioning and administrative review system and making State administrative expenses contingent upon State cooperation in studies directed by Congress and requested by the Secretary.

SPECIAL SUPPLEMENTAL FEEDING PROGRAM (WIC)

The conferees provided a total of $771,500,000 for the WIC programs, utilizing $13.8 million of carryover balances to partially defray the new appropriations required.

FOOD STAMPS

The conferees agreed to provide $6,186,600,000, the legally authorized ceiling, but specifically stipulated that benefits are not to be cut in order to give Congress time to enact new authorizing legislation and to appropriate additional funds.

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The conferees provided $901,730,000 for titles I and III as proposed by the House, instead of $843,004,000 as proposed by the Senate. Conferees also indicated that within the title II funds there is enough to carry out humanitarian aid to Cambodia and agreed to act expeditiously on the pending request for additional funds.

FOOD AND DRUG ADMINISTRATION

The conferees provided $312,796,000 for FDA salaries and expenses, a figure that was $3.5 million below the House bill, but did not make the full $8.5 million reduction recommended by the Senate. The conferees deferred a Senate-recommended appropria-

tion of $26 million for the first phase of a new FDA laboratory, but this was done without prejudice and with the full expectation that the Department will provide reasonable buildings and facilities budget requests in the future.

Mr. EAGLETON. I am very pleased with the conference outcome. I believe the bill is fully acceptable to the administration—even though we did not do this exactly the way they wanted—but we did them in a very thorough and responsible fashion which will maintain our agriculture, rural development and feeding programs at needed levels in fiscal year 1980.

I want also to commend our distinguished colleague from Oklahoma, who with his experience as a practical farmer and long interest in agricultural matters, has been able to provide far more in expertise, sage advice and wise counsel than I could ever contribute to this bill.

I am pleased to yield to my distinguished colleague, Senator BELLMON, of Oklahoma.

Mr. BELLMON. Mr. President, I thank my friend, the Senator from Missouri.

I would like to begin by complimenting Senator EAGLETON for the splendid job he did in looking after the Senate's interests in our lengthy conference with the House. He had a singularly difficult task in dealing with this bill because of the adamant position almost always taken by the House conferees. I feel Senator EAGLETON did an extraordinarily good job in working out the serious differences that existed, and in bringing us a bill that is so close to the objectives that the Senate had in its original measure.

Mr. President, the bill as agreed to by the committee of conference totals $16,697,854,000 in new budget authority. This is within the subcommittee's allocation under the first concurrent budget resolution, so this bill is not a budget buster. It is within the ceiling that was set in the first resolution, and it conforms with the ceilings that have been tentatively agreed to by the conferees in the second budget resolution. We are locked now in a tough conference with the House on the second budget resolution, and this bill fits within the ceilings tentatively agreed to.

I must add, however, that anticipated later requirements for programs funded in this bill threaten to exceed the functional totals contained in the budget resolution. Among these later requirements are crop insurance subsidies, child nutrition, special milk and food stamp program supplementals.

Clearly the task confronting this subcommittee, and indeed, that of Congress is well spelled out for us, if we are to ever achieve the goal of a balanced Federal budget. It is the discipline in deferring program initiation and curbing program growth. It is the difficult work to make sure ongoing activities are managed in the most efficient manner possible. It is the resolve to set priorities and to stick with them.

Mr. President, I cannot recall a more extended and intensive consideration of the Agriculture Appropriations Act. As we grapple with increasing constraints on the Federal budget, the margin for tradeoffs and accommodation are rapidly disappearing. There are preciously few easy solutions left and the prolonged consideration of this bill reflects the difficulty of our task.

As I have already said, I am deeply indebted to the distinguished senior Senator from Missouri for his leadership, hard work and dedication as chairman of the Agriculture, Rural Development and Related Agencies Subcommittee of the Committee on Appropriations. I would also like to thank the staff of the subcommittee—Dick Lieberman, Ken Auer, and Irma Hanneman on the majority side, and Stephen Kohashi and Cathy O'Connor on the minority side—for their fine efforts on this measure.

Since the chairman has already provided a thorough summary of the conference agreement, I would only like to highlight a few issues.

Mr. President, the bill, as agreed to by the conferees, contains more than $8.5 billion for USDA domestic food programs. These activities constitute more than 55 percent of the total obligational authority contained in the bill. It is my hope that Congress will examine these programs more closely in the coming session than it has in the past and initiate the management improvements and programs changes that are necessary to contain the dramatically rising costs of these programs.

I am encouraged by the progress toward reducing costs in the summer feeding program reflected in this conference agreement. The conferees directed the Department of Agriculture to accelerate its efforts to eliminate fraud, abuse and waste and, accordingly, have reduced the funding for the program by $47 million.

However, I remind my colleagues that the first concurrent budget resolution assumed savings of $300 million in the special milk, summer feeding, school lunch, and WIC programs based on recommendations by the President. The Reconciliation Instruction which the Senate approved 90 to 6 in the second concurrent resolution continues to assume savings of approximately $250 million through actions to be initiated by the Agriculture and Appropriations Committees—in addition to the $47 million already achieved in this conference agreement. The only savings that have been achieved thus far are the result of Appropriations Committee action. If the additional $250 million in savings is also to be achieved, there must be further action by the Appropriations Committees and related action by the authorizing committee.

FMHA LOAN ACTIVITIES

The Farmers Home Administration is now the largest direct lending agency in the Federal Government, obligating almost $12 billion annually and piling up nearly half of the direct loan interest subsidy cost in the Federal budget. Additionally, this agency has a rapidly growing guaranteed loan account with $41 billion in outstanding commitments. Demand for FmHA assistance can only be expected to expand further with the constraints on private credit markets and the increasing capital requirements of rural areas.

Recently, a national network news program aired a shocking story on abuse in the FmHA disaster loan program where multimillionaire borrowers were obtaining huge subsidized loans. Congress intended such loans to help family farmers who could not get financial assistance elsewhere.

This TV program merely touched the tip of the iceberg, but it served to bring badly needed attention to the virtual explosion of Federal lending assistance. While most of these lending programs never show up in the budget process, they represent a potentially devastating influence on the private credit markets and are being expanded at an incredible pace. Beyond the macroeconomic impact of these programs, the Federal Government is exposing itself to huge contingent liabilities and expanding commitments for future loan subsidies. By the end of fiscal year 1980, the Federal Government will have over $400 billion in outstanding loan guarantees and be committed to nearly $17 billion in new loan subsidies on a discounted basis.

These activities must be brought under control. I am pleased that the Agriculture Appropriations Subcommittee has taken an active role in not only conducting oversight hearings on the management of the loan programs within its jurisdiction, but more importantly, it has succeeded in enacting annual ceilings on direct and guaranteed loan obligations. These steps must be adopted by other appropriations subcommittees. Hopefully, steps taken by the administration and Congress in connection with the fiscal year 1981 budget will yield a comprehensive mechanism to assert budgetary control over these costly activities.

Mr. President, I would also like to note the degree in which the conference agreement meet critical needs in maintaining and increasing our Nation's agricultural productivity. The cornerstone of our farmer's success is scientific and technological leadership and the bill contains urgently needed funds to maintain both the Federal and State agricultural research programs. The President's budget would have singled out agriculture for cuts in Federal outlays for research and development despite the proven effectiveness of agricultural research in improving products and productivity. I ask unanimous consent that a table showing research and development outlays contained in the President's budget be inserted in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CONDUCT OF RESEARCH AND DEVELOPMENT BY SELECTED MAJOR DEPARTMENTS AND AGENCIES

[Outlays dollars in millions]

Department or agency	Fiscal year 1979	Fiscal year 1980	Change	Percent change
DOD—Military	$12,145	$13,433	+1,288	+10.6
Energy	4,508	4,639	+131	+2.9
NASA	4,224	4,412	+188	+4.5
HEW	3,218	3,566	+348	+10.8
NSF	773	856	+83	+10.7
USDA	620	604	−16	−2.6
All other	2,090	2,157	+67	+3.2
Total	27,577	29,668	+2,091	+7.6

Source: Special Analyses, Budget of the United States Government, Fiscal Year 1980. Special Analysis "L", p. 304.

Mr. BELLMON. The bill includes an increase of $61 million over the President's budget for agricultural research. This sum will provide the modest investment necessary to keep pace with inflation and will, over time, yield many times its cost in higher commodity yields and lower production costs.

The bill also contains increases for plant and animal pest control programs which are needed for optimum efficiency in Federal expenditures. These programs, like Brucellosis eradication and noxious weed control, are ongoing efforts which can further reduce production costs and lower the costs of food to consumers.

Mr. President, the bill as agreed to by the conferees represents a balanced approach between pressing needs and the imperative to reduce Federal outlays. I urge my colleagues to join in its support.

Mr. EAGLETON. Mr. President, I want to return the compliment to my distinguished colleague, Senator BELLMON. Without his intimate knowledge of agriculture, and I mean intimate and practical knowledge, it would have been very difficult for me and others on this committee to have fashioned as rational and as reasonable a bill as we now have before this body. I am always deeply in his debt.

● Mr. BAYH. Mr. President, the 1980 appropriations bill for the Department of Agriculture represents one of the most important appropriations bills passed by the Congress each year—vital to our Nation's farmers, to our Nation's consumers, to our and to the world's economy and well-being. The traditional role of the Department, to assist the Nation's farmers, is important. But in addition to producers of food, consumers of food, particularly the undernourished, are also served by the food assistance and educational programs of the USDA. And third, the housing and rural development programs of the Department assist in providing a better standard of living to rural residents.

Major events of the past several months have demonstrated again the crucial role that this Nation's agricultural productive capacity plays in the economy of the United States. Commercial sales of U.S. farm products abroad will earn more than $20 billion in foreign exchange this year. This is foreign exchange badly needed to offset the trade deficit brought by our massive oil imports. I would also mention the food being provided to refugees and to the starving people in other parts of the world.

Our ability to respond to the food needs of our people and of other countries of the world is no accident. The agricultural sector of the United States, more than 4 million persons working on more than 2.6 million farms, is the most productive in the world. The technology is the result of more than 100 years of research and extension by the agricultural experiment stations, State extension services, and land-grant universities. The public investment in developing and teaching improved farm methods has repaid itself many times over in terms of an abundant supply of food at reasonable prices. It has been one of our wisest investments.

The services of the State extension services are not limited to farm families however. This appropriation bill contains special grant money to fund the food and nutrition education program with $51.8 million in funds. Recent census data identified about 5.3 million families in poverty and studies indicate that many of these families lack the means or knowledge to obtain a balanced diet. This educational program is targeted to the needs of these families.

More than 1.5 million low-income families, representing 6 million family members, have been enrolled in this in-depth program. Families are taught to improve their diets through increased knowledge of nutrition, how to select and buy food, how to prepare and serve balanced meals, how to better manage their resources including gardens, food stamps, and improved food preservation, storage, and sanitation. Emphasis is placed on homemakers with young children.

The urban gardening program, funded at $3 million, is reaching out to city dwellers by training and sending out master gardeners—urban gardeners who receive 30 hours of training and agree to return at least 60 hours in service to other gardeners. Each urban garden is estimated to return about $200 in food savings above costs.

The total appropriations for our agricultural extension service for fiscal year 1980 is $278.9 million, or $3.6 million over last year. It is needed and will be well used, as it always has been.

The continued productivity of the agricultural sector requires adequate amounts of farm credit. The rural banking system, the Farm Credit System, and other lending institutions have done a capable job of providing farmers with the funds needed to acquire and improve farms, purchase machinery and equipment, and to finance production expenses. The Farmers Home Administration in the USDA provides credit for new farmers or those with limited resources, who cannot obtain funding from conventional lending sources. In addition, the Farmers Home Administration makes disaster assistance loans to assist farmers restore production after they suffer damages from natural disasters.

The Farmers Home Administration also plays a major role in rural housing. Credit assistance is provided for the repair or purchase of homes. The section 502 loans, for example, with a loan level of $2.28 billion in fiscal year 1980, are particularly important in that they are targeted to low- and moderate-income applicants—those for whom credit is seldom available in the commercial credit sector under reasonable terms. Section 502 loans are available for the construction, alteration, or improvement of dwellings in rural areas. These loans bear interest at less than market rates and under certain provisions a portion of the interest can be waived. The housing purchased under the section 502 program is modest in size, design and cost, but the program provides the opportunity for farm owners and other rural residents of limited financial means to obtain adequate housing. This year approximately 100,000 families will receive loans to purchase or upgrade their dwellings through this program.

The Department of Agriculture has always been a department of the people. Its programs have always reached out and involved people at the grassroots. Programs, such as the extension service and Farmers Home Administration that I have just described, are serving people in both rural and urban America with the very basic necessities of life—food and shelter. This appropriation bill recognizes and supports the great variety of needs which are served by USDA programs. While budgetary constraints have limited the funding that can be made available, the important program initiatives of recent years are maintained.●

RURAL CLEAN WATER PROGRAM

Mr. CULVER. Mr. President, the agricultural appropriations bill now under consideration provides funding for many important programs. A number of the ongoing efforts funded by this bill are vital to maintaining a strong and healthy food production system in this Nation.

I am particularly pleased that this legislation contains $50 million of initial funding for the rural clean water program. I believe this action by the Congress is a recognition that even in these years of tight budgets and fiscal restraint some national problems are too compelling to postpone for future consideration. The dual problems of soil erosion and pollution from agricultural runoff are, in my opinion, certainly deserving of immediate and serious attention.

The rural clean water program was created by an amendment I introduced in 1977 to the Federal Water Pollution Control Act. Hearings which I held in LeMars, Iowa, and hearings held by other members of the Environmental Pollution Subcommittee have established firmly the need for Federal assistance to help farmers control nonpoint source pollution from agricultural runoff and other rural sources. Agricultural runoff is the largest single source of water pollution in the Nation today. If it is not brought under control, we will continue to face both the degradation of our streams, rivers and lakes, and the declining productivity of our rich topsoil. This appropriations bill provides funds for the rural

clean water program on an "experimental" basis. In light of the history of the debate concerning this program, I am hopeful that the Department of Agriculture will, in fact, "experiment" in a truly creative fashion and not simply treat it as an extension of current programs. The problem to be addressed by the rural clean water program has unique qualities, both with respect to the nature and geographic location of the most severe water pollution sources and with respect to the administrative aspects of the program's implementation.

The most important participants in the rural clean water program, of course, are farmers. Without a commitment on their part to controlling erosion and water pollution from their operations, no program can have much effect. The Agricultural Stabilization and Conservation Service and its local farmer-elected committees have long played an important role in encouraging farmers to participate in a wide range of Federal programs including soil conservation programs. I am convinced that they can effectively promote participation in this new program as well.

Other partners in this effort include the Soil Conservation Service, the Cooperative Extension Service, conservation districts, State and local "208" agencies, and both the State and Federal environmental protection agencies.

While a Federal assistance program must provide some mechanism for evaluating the areas of greatest need from among the various State proposals, section 208 of the Federal Water Pollution Control Act makes it clear that the States have the chief responsibility for developing and carrying out area- or statewide plans for reaching our clean water goals.

The Water Pollution Control Act established a framework within which these areas could be identified in each State. Many States have completed this task and have submitted to the Secretary of Agriculture Rural Clean Water Project applications. The process by which these applications were developed involved extensive research and study by the States. It also involved broad public participation by local farmers and other citizens interested in developing feasible approaches to solving local problems of water pollution.

I think it is extremely important that in implementing this experimental phase of the rural clean water program the Department of Agriculture take maximum advantage of the local initiative and interest that has grown out of the "208" planning effort. While the Federal Government must establish national priorities, it is still the local farmers and those who have worked with them in developing their pollution control plans that can most effectively implement these plans at the local level.

I believe that the appropriations bill report language on this point is consistent with the provisions of my amendment which created the program and hope that the Department can move ahead rapidly to begin implementation of these initial rural clean water projects.

One of our major objectives in creating this new program was to provide the States and the Nation's farmers an alternative to mandatory measures to control erosion and water pollution from farms. We have much to learn about the practices that will be most cost effective in meeting the nonpoint source pollution challenge. We have much to learn about the combination of incentives that will stimulate the needed conservation measures under a voluntary approach to erosion and water pollution control. Our past efforts have not been in vain, but they have been woefully inadequate to do more than slow the pace of a steadily worsening problem.

The problem of soil erosion and water pollution are not problems of the farmer alone. They are problems that affect the quality of life for all of us today and for generations to come. The economic costs of controlling these problems are likely to be substantial. For this reason it is imperative that every dollar of both private and public money invested in this effort be spent in a manner that will yield cost-effective results. This, in my view, can best be achieved if the program is carried out with broad local support and participation.

This initial funding for the rural clean water program represents a major step toward restoring to its proper place in national priorities the objective of protecting our soil and water. I urge my colleagues to support this appropriations bill and give our rural communities the opportunity to demonstrate their ability to provide creative solutions to pressing national problems.

BOONEVILLE SMALL FARMS RESEARCH CENTER

Mr. BUMPERS. Mr. President, I would like to thank the conferees for their many hours of hard work on this conference report. This report represents an effort to fund the necessary programs in the Department of Agriculture and related agencies for the next fiscal year and at the same time exhibit fiscal restraint by setting the appropriations for fiscal 1980 some $1.6 billion below the 1980 budget estimate.

One part of this appropriations bill and conference report is of particular interest and concern to me. It is the appropriation for the Small Farms Research Center in Booneville, Ark. The conference report appropriates some $850,000 in fiscal 1980 for the operation of the center.

There is a very pressing need today, Mr. President, for a small farms research and extension center. Over 65 percent of the farms in America are classified by the U.S. Department of Agriculture as small, with annual sales of $20,000 or less. Additionally, the number of small farms in this country is rapidly declining. Last year alone, we lost 40,000 farms or about 800 per week. Therefore, a research facility is desperately needed to disseminate information and new technologies in the area of small farm research.

The Bonneville Small Farm Research Center will be an ideal location and setting for conducting of small farm research. There is available some 2,000 to 3,000 acres, with buildings, located in a small farming community in the western part of my State. This availability of land and buildings coupled with the existing facilities at the University of Arkansas at Fayetteville make the Booneville site an excellent one for this research. This reason can be a tremendous step in developing and disseminating small farm production and marketing technologies. Also, the feasibility study conducted last year noted that this site could serve an area of 10 Southern and Southeastern States. The research center will, therefore, serve many persons conducting small farm operations in our Southern States.

In conclusion, Mr. President, I thank the members of the Appropriations Committee and the Senate conferees for developing the Small Farm Research Center at Bonneville. This center will constitute a new and greatly needed effort in the special problems facing the small or part-time farmer.

Mr. EAGLETON. Mr. President, I move the conference report be adopted.

The PRESIDING OFFICER (Mr. BRADLEY). The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$7,772,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$19,423,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$16,548,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: "of which $10,000,000 shall be for insured loans and $1,090,000,000 shall be for guaranteed loans".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "Agricultural Stabilization and Conservation Service Rural Clean Water Program".

"For necessary expenses for carrying out an experimental Rural Clean Water Program, $50,000,000, to remain available until expended and to be targeted at areas with identified and significant agricultural nonpoint source water pollution problems to be selected by the Secretary: *Provided*, That practices under the above program shall be recommended by the County Committees, approved by the State Committees and the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, or recommended by the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, and approved by the State Committees and the County Committees: *Provided further*, That such program shall be in addition to the regular Agricultural Conservation Program, and coordinated therewith, with the Soil Conservation Service and others providing technical assistance and the Agricultural Stabilization and Conservation Service providing administrative services for the program, including, but not limited to, the negotiation and administration of contracts and the disbursement of payments: *Provided further*, That such funds as may be required shall be transferred to the Soil Conservation Service, or others, for necessary technical assistance".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert "$1,279,215,000 is hereby appropriated,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert "of which $757,700,000 is hereby appropriated and $13,800,000 is to be derived from prior-year balances,".

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senate concur en bloc in the amendments of the House of Representatives to the amendments of the Senate numbered 5, 6, 19, 60, 72, 77, and 84.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The Senate resumed the consideration of H.R. 4986.

Mr. PROXMIRE. Mr. President, this afternoon we take up again H.R. 4986, as reported by the Banking Committee. This is landmark legislation which will deregulate our financial institutions, making them more competitive in the future and enabling them to better serve the public interest.

The thrust of this bill is on deregulation and enhanced competition between financial institutions. Currently our financial institutions are so overly compartmentalized and fenced off with competition from one another that they are inhibited from fulfilling their public interest purposes.

For example, thrift institutions cannot offer checking accounts, consumer loans, or trust services. They cannot, therefore, offer the homeowner all the services he needs.

The homeowner, therefore, finds it more convenient to place his funds at commercial banks. To compensate for this defect the regulators have had to gerrymander a rate control structure that gives thrifts a differential advantage in what they can pay on deposits over what commercial banks are permitted to pay and interest rate controls in general have been pegged at below market rates—and I mean far below market rates—for most savers.

Perhaps the worst aspect of interest rate controls—or regulation Q as they are known in the marketplace—are that they discriminate against savers and are inflationary because they reward consumption at the expense of saving.

If you save money, you lose. It is ridiculous for the saving rate to be a maximum of 5¼ percent at a bank for a small saver, or 5½ percent at a savings and loan, when the inflation rate, as we all know, is about 13 percent. I do not know anybody who expects it to be much below 10 percent next year. That means that anybody who saves money is going to have less money at the end of the year than he had at the beginning, in real terms.

At the same time, regulation Q has failed because it has not prevented a collapse of the housing industry in periods of tight money except when the regulation is applied in a blatantly discriminatory way against small savers.

Mr. President, it is clear that the time has come to update our financial institutions and to make them more responsive to the public interest.

H.R. 4986 as reported by the Banking Committee will do the job that needs to be done now. I hope my colleagues will join with me in supporting this legislation.

Mr. TOWER. Mr. President, I support H.R. 4986, as reported by the Banking Committee, although I believe it is far from a perfect bill. Nonetheless, it does represent a major step in the direction of comprehensive financial reform which I have supported in the past.

The history on this legislation has been a long and tortuous one. The issues covered in it have been studied and debated at great length over the past decade.

It began in 1970 when President Nixon appointed the Hunt Commission to study the structure and regulation of our Nation's financial system. In 1975, the Senate passed the Financial Institutions Act, which contained many of the recommendations made by the Hunt Commission. The House Banking Committee also conducted a thorough review of this matter in 1975 in its study of financial institutions and the Nation's economy—the Fine study. Since then, a number of other studies have been conducted in this same area, the most recent being the President's interagency task force on regulation Q. H.R. 4986, which we are considering today, embodies many of the issues discussed in these and other studies.

H.R. 4986 would authorize interest-bearing transactions accounts for all depository institutions. These include share drafts at credit unions, automatic transfers at commercial banks, and remote service units at savings and loan associations. The authority for offering these accounts was ruled invalid last April by the U.S. court of appeals. The court gave Congress until January 1 of next year to authorize these services in statute. If Congress does not act by then, these services could no longer be offered to the public. The legislation also authorizes NOW accounts, which were not affected by the court decision.

In the past, I have been very concerned over the extension of NOW accounts to all depository institutions. It is quite clear that NOW accounts will raise the costs of funds to depository institutions. Those costs would be borne by the customers of those institutions in the form of higher borrowing rates or in increased charges for checking accounts or other financial services. In addition, high minimum balances could be required on NOW accounts in order to make them profitable. In other words, NOW accounts will not be very beneficial to account holders with a small amount of funds or those individuals with accounts which turn over rapidly.

In addition, efforts to authorize NOW accounts in the past have not always provided for competitive equity between different types of depository institutions offering similar types of financial services to the public. This is a principle which I strongly support.

For those reasons, I have not always supported legislation authorizing NOW accounts. However, the situation is far different today than it has ever been in the past. On the basis of the authority granted earlier by the financial institutions regulatory agencies, interest-bearing transactions accounts are now part of the Nation's financial fabric. There are nearly 2½ million individuals with either share drafts, automatic transfers or remote service unit accounts. It is obvious that Congress is not about to deny them these services in the future. In view of that, it seemed appropriate and essential that all institutions be given similar authority to offer interest-bearing transactions accounts in the form of NOW accounts.

H.R. 4986 also provides for an orderly phaseout of interest rate ceilings on deposits over a 10-year period. This will eventually allow all depository institutions to compete on the same basis for deposits and it will allow small savers to earn a market rate of return on their savings.

This bill also expands the powers of thrift institutions. This is important because those institutions need to be given the flexibility they need to compete in a world without interest rate ceilings.

While I support this legislation, I do have some reservations about certain provisions. I am particularly concerned over the requirement that the minimum denomination of money market certificates be reduced from $10,000 to $1,000 in 2 years.

I feel that this could significantly raise the costs of funds to depository institutions without generating any new savings in the process, and it could be particularly disruptive to the housing market. I intend, therefore, to support an amendment to strike this provision from the bill.

Of course, the real solution to financial stability and a healthy financial system is not addressed in this legislation. The real solution lies in prudent and responsible fiscal and monetary policies designed to reduce inflation. The changes made to the financial system in this bill are reactions to an unstable economic environment. They are designed to equip depository institutions to adjust to that unstable environment. All of this is a poor substitute for fundamental changes in economic policy that would lead to more stable economic conditions through a reduction in inflation and lower interest rates.

Of course, the House has passed a much narrower bill, which deals only with NOW accounts and the other interest-bearing transactions accounts struck down by the court. I, for one, believe that a much broader bill, along the lines of the bill we are considering today, is appropriate. If all institutions are going to offer interest-bearing transactions accounts, then they should compete fairly for those and other deposits. The bill reported by the Senate Banking Committee addresses this issue by phasing out interest-rate ceilings on all deposits over a 10-year period. I believe this is an essential part of this legislation, and I would hope that our colleagues in the House will agree.

UP AMENDMENT NO. 697

(Purpose: To amend Senator CRANSTON'S unprinted amendment No. 688, adopted October 29, 1979, to make clear that credit card authority is to be granted only after the Regulation Q provision is adopted)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 697.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, between lines 4 and 5 insert after "(5)" effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts".

Mr. PROXMIRE. Mr. President, this amendment would clarify the understanding that all of us on the floor had at the time the Cranston amendment was agreed to on credit cards, permitting credit cards to be issued by savings and loans.

It provides that credit card authority would only be effective when regulation Q is phased out. I think we agreed that all of those powers that we are giving to the savings and loans are necessary if regulation Q is phased out.

This would be consistent with that principle, which I believe we agreed to.

The PRESIDING OFFICER. If the Senator wishes to amend an amendment already agreed to, it takes unanimous consent.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the amendment be in order in spite of the fact that it amends an amendment already agreed to by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I am prepared to accept the amendment on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 698

(Purpose: To permit Savings and Loan Associations to invest in certain types of Money Market funds)

Mr. TOWER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from TEXAS (Mr. TOWER) proposes an unprinted amendment numbered 698.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 9, strike the final quotation mark and period in section 301 and insert the following:

"(F) INVESTMENT COMPANIES.—An association may invest in, redeem, or hold shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such management company's investment policy, changeable only if authorised by shareholder vote, solely to any such investments as an association by law or regulation now or hereafter may, without limitation as to percentage of assets, invest in, sell, redeem, hold or otherwise deal with. The Board shall prescribe rules and regulations to implement the provisions of this subparagraph (F)."

Adding the following section 306:

"SEC. 306. Section 5A(b) of the Federal Home Loan Bank Act, as amended, is amended [by the italicized provisions] to read as follows:

'(b) Any institution which is a member or which is an insured institution as defined in section 401(a) of the National Housing Act shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Board, is appropriate: (1) cash, (2) to such extent as the Board may approve for the purposes of this section, time and savings deposits in Federal Home Loan Banks and commercial banks, (3) to such extent as the Board may so approve, such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Board may approve, *and (4) to such extent as the Board may so approve, shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in the preceding clauses (1) through (3) of this subsection.* The requirement prescribed by the Board pursuant to this subsection (hereinafter in this section referred to as the "liquidity requirement") may not be less than 4 per centum or more than 10 per centum of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less, or in the case of institutions which are insurance companies, such other base or bases as *The Board shall prescribe rules and regulations to implement the provisions of this subsection.*'"

Mr. TOWER. Mr. President, this amendment would allow savings and loan associations to invest in money market funds which in turn invest in the types of securities permitted for those associations. The amendment would, in other words, allow savings and loans to do indirectly, through a money market fund, what they can presently do directly. This amendment would merely provide an alternative means for savings and loans to invest in certain types of securities.

This amendment would provide savings and loan associations with the advantage of diversification, high liquidity, and higher yields offered on securities sold only in very large denominations. It would be particularly useful to small savings and loan associations who may not be able to devote the necessary time and expense to managing a sophisticated and high-yielding securities portfolio.

The Federal Home Loan Bank Board has no objection to this amendment. Mr. President, I ask unanimous consent that a letter from Chairman Janis to this effect be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL HOME LOAN BANK BOARD,
Washington, D.C., September 20, 1979.

Hon. JOHN G. TOWER,
Committee on Banking, Housing, and Urban Affairs, Subcommittee on Financial Institutions, U.S. Senate, Washington, D.C.

DEAR SENATOR TOWER: We have been asked by your staff for comments on a proposed amendment to S. 1347, which would allow

Federal associations to invest in, sell or hold shares in mutual funds so long as the associations could invest directly in the instruments comprising the funds' portfolio. The Bank Board has no objection to its inclusion in the Bill. We find that the proposal may have potential benefits in the form of: (1) lower liquidity portfolio management costs; (2) higher liquidity portfolio yields; and, (3) greater flexibility in the management of liquidity portfolio cash flows.

Our principal concern relates to the unregulated nature of money market funds. We feel strongly that appropriate legal safeguards must be taken to assure that S&L associations investing in such funds do not face the possibility of fund redemptions being frozen or of partial default of principal or interest arising from improper management practices. It is essential that the liquidity of these funds be at least as great as current association investment practices. Bank Board regulations would have to deal with these concerns.

Please feel free to call on me or my staff if you have any further questions.

Sincerely,

JAY JANIS,
Chairman.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. PROXMIRE. Mr. President, I commend the Senator on this amendment. As I understand it, this would not give the savings and loans any new power that they could not exercise by going into the market and buying the component parts of the funds. All this does, as I understand it, is to make it more efficient so that a small savings and loan, and most are reasonably small, would be able to get the diversification without having to get in and buy a whole series of different securities. Is that correct?

Mr. TOWER. The Senator's analysis of the amendment is absolutely correct. It does not, I repeat, permit savings and loans to do anything indirectly that they are not already permitted to do directly. It really is primarily to assist the small S&L's which do not have the resources to participate directly. I believe the amendment should be accepted on those grounds.

Mr. PROXMIRE. Mr. President, I support the amendment.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, at first blush this would sound like it might be a good amendment. Will the Senator give me an example? The amendment says an association may invest in, redeem, or own shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Act of 1940. Will the Senator give me an example of one of those? I am not quite sure I understand what the Senator is talking about.

Mr. TOWER. There are a number of investment companies, commonly known as money market funds at the present time, including the Fund for Government Investors, Government Securities Services, Dreyfus Money Market, Inc., Merrill, Lynch Government Funds, Inc., and so forth.

The proposed legislation would not expand the categories of investment which associations are permitted to make. It would simply allow an alternative means by which associations may make such permissible investments.

Mr. MORGAN. Mr. President, if we could have a quorum call for a minute or two so I may read the amendment, it is a pretty long amendment.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, if the Senator from Texas will yield for a very short colloquy, I think maybe we can clear this up.

Mr. TOWER. I yield to the Senator from North Carolina.

Mr. MORGAN. Mr. President, as I understand the Senator's amendment, an S. & L. could not invest in any money market certificate or fund that held instruments which an S. & L. could not already invest in directly.

Mr. TOWER. That is correct. In other words, this would not permit an S. & L. to do something indirectly that it would not permit it to do directly.

I think it is good that we establish that as legislative history so that there will be no question.

Mr. MORGAN. That is what I am seeking to do.

In other words, if S. & L.'s want to invest in a money market certificate or fund registered with the Securities and Exchange Commission, the assets of that fund would have to be limited to those instruments or debentures or bonds, whatever it is, that the S. & L. can now presently invest in.

Mr. TOWER. That is correct.

Mr. MORGAN. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POSITION OF THE NATIONAL ASSOCIATION OF HOMEBUILDERS OF H.R. 4986

Mr. MORGAN. Mr. President, on Tuesday during the closing seconds of the discussion of H.R. 4986, the Depository Institutions Deregulation Act, Chairman PROXMIRE and I disagreed as to the position of the National Association of Homebuilders. For the record, and for the understanding of my colleagues, I want to clarify just exactly what the Homebuilders have had to say about this bill.

On October 10, the National Association of Homebuilders issued a "Legislative Flash" to their members urging their opposition to this bill, based on their concern that the elimination of regulation Q would "mean higher cost mortgage money, thus eliminating even more families from the ability to acquire a home of their own," and on their concern that "elimination of the differential could force thrifts to operate more like banks and focus less on housing."

Moreover, the President of the National Association of Homebuilders, Mr. Vondal S. Gravlee, and his counterpart at the National Association of Realtors, Mr. Donald I. Hovde, signed a letter which warned that "the reform of this Nation's financial institutions is a complex issue and could possibly threaten the economic viability of a Nation which is already suffering the grave hardships of inflation and the shrinking value of the dollar."

The Depository Institutions Deregulation Act, they said, "will lead to an unprecedented increase in interest rates for home mortgages which could put costs, finally, beyond the ability of people to own their own homes."

I want to repeat that, because I personally feel very strongly that this will be the ultimate effect of the bill that we are about to pass. They said that it will lead to an unprecedented increase in interest rates for home mortgages, which could put costs, finally, beyond the ability of people to own their own homes.

Long-term interest rates in the range of 12 to 16 percent are likely, they say, if this bill is adopted.

Mr. President, I ask unanimous consent that the full text of the letter signed by the president of the National Association of Realtors and the president of the National Association of Homebuilders be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 17, 1979.

Hon. ROBERT B. MORGAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORGAN: In the near future you will likely be addressing an issue which will affect the more than fifty million Americans who will be purchasing homes in the next decade. The Financial Reform proposals (S. 1347, the Depository Institutions Deregulation Act of 1979) which will phase out Regulation Q, lower the money market denominations from $10,000 to $1,000, and broaden consumer powers for savings and loan associations has one key drawback: It will lead to an unprecedented increase in interest rates for home mortgages which could put costs, finally, beyond the ability of people to own their own homes. We are likely talking about mortgage interest rates in the range of 12–16 percent long-term.

The reform of this nation's financial institutions is a complex issue and could possibly threaten the economic viability of a nation which is already suffering the grave hardships of inflation and the shrinking value of the dollar. While studying these proposals it is important to look beyond the immediate benefits to the saver and consider who is going to be affected by the higher mortgage interest rates that would surely follow a lifting of savings interest ceilings.

We feel that the bill as now written is incomplete. In 1975 the Senate passed similar legislation but made its action conditional on the consideration by the Finance Committee of a tax credit proposal to accompany the phase-out of Regulation Q and the loss of the differential. No similar provision is being contemplated by the Senate this year, even though there is a strong current running toward encouraging savings in America by use of tax incentives.

Not to consider financial reform and tax incentives to savers in tandem would be a lost opportunity indeed. Just when the tide is moving in the direction described, just when a national commitment to savings and not consumption alone is close to realization, the Senate of the United States is being asked to deal with the wholesale reform of the financial structure of this nation in a vacuum. Tax incentives could help replace current powers for thrift institutions which would be lost under the bill approved by the Senate Committee on Banking, Housing, and Urban Affairs.

We are in favor of permitting savers to share in interest returns which more accurately reflect the rising cost of inflation. However, we feel that the concepts embodied in this legislation are not the way to achieve this end and that a distinction should be made between transient funds and permanent funds. It is our fear that while this legislation would certainly permit small savers to enjoy higher rates, these savings would not represent a simple transfer of existing passbook funds. The result would be no increase in the supply of available funds, but merely an increase in cost incurred by financial institutions, a cost which inevitably must be passed on to the consumer.

The position of our collective membership of more than 800,000 opposes the lowering of minimum money market certificate denominations and recommends following the precedent of the 1975 Financial Institutions Act in not permitting this bill to be considered until additional tax provisions, such as tax incentives for savers becomes a part of that consideration.

Next year, it is our understanding that Congress will be considering major tax legislation. There is time enough to take the fateful step contemplated in S. 1347 when this tax legislation is up for consideration.

With the potential dangers of this legislation harshly affecting the savings pool which supplies mortgage money to the public, we sincerely hope you will oppose passage of S. 1347, certainly until such a time when depository institutions can offer consumers incentives to save and investors be encouraged to make mortgage loans.

The National Association of Realtors and the National Association of Home Builders appreciate the opportunity to share their views on S. 1347 and urge you to seriously consider its effect on the cost of housing to the American home buyer.

Sincerely,

VONDAL S. GRAVLEE,
President, National Association of Home Builders.

DONALD I. HOVDE,
President, National Association of Realtors.

Mr. MORGAN. Mr. President, yesterday, when we concluded our debate on this bill, we were talking about the effects on the small saver and on the consumer by the reduction of money market certificates from the minimum of $10,000 down to $5,000. I had read to the Senate a portion of Mr. Henry Schechter's statement. He, as I mentioned earlier, is the director of the AFL–CIO Department of Urban Affairs. His statement, I think, presents one of the clearest analyses, the only clear analysis, of this matter that I have found in the records of the hearings of the Committee on Banking.

I think that, at this time, I should like to continue to read from that statement, because I think it shows that the majority of consumers, with and without savings, particularly families of low income, including one-half of the elderly families, would probably suffer a net economic loss as a result of higher interest payments on savings under prevailing market conditions and monetary policies. So, now, I am going to read from that statement again:

EFFECT ON THE "SMALL SAVER"

Beside the potential increased economic instability that can arise from the unsound financing induced by an intensified competitive escalation of interest rates on savings, the latter process can also have an inequitable impact on low-income families. This would be the opposite of the intended effect of the recently popularized cause of providing greater equity for "small savers" who are concentrated in low-income brackets. A competitive escalation of interest rates on savings paid by lenders will be reflected in higher rates on mortgage and personal loans paid directly by consumers, and higher business loan rates that will be passed on to consumers in increased prices.

One of the main justifications presented for payment of higher interest rates on savings is the inequity suffered by "the small saver", who is precluded from receiving as high a rate of interest as the larger saver who can invest in $10,000 savings certificates. Removal of Reg Q regulatory ceilings on different types of savings accounts and leaving it to the gentle mercies of the free market, however, will not give the small saver the same options as the holder of larger amounts of savings. The latter can buy floating rate notes issued by large banks, or shares in a money market fund, or U.S. Treasury bills and notes, whenever those or other securities will yield higher returns.

More importantly, in the context of providing greater equity, the "small saver", who has not been described or defined by proponents of higher rates on savings, must also be considered as a consumer and a borrower. And the costs resulting from higher interest rates that would have to be borne by consumers, as well as benefits, should be examined. Direct and indirect impacts, upon different categories of consumer borrowers, non-savers as well as savers, should be considered.

As the interest rates on savings at depository institutions are raised, they will demand higher yields on their loans and other investments. Competition will force other types of intermediaries seeking household funds to pay higher rates. In order to maintain operating margins about costs of funds, all intermediaries will raise loan rates; so will households on direct investments that they make. Yields to household investors would be increased on money market fund participation shares and on large certificates of deposit bought by such funds, on Treasury bills and commercial paper, etc. Higher money costs borne by depository institutions paying higher rates on savings would be reflected in their loan interest rates. Higher loan interest rates, in turn, will be reflected in higher prices for goods and services. Increased loan rates will be borne by consumers directly in mortgage, personal and installment loan credit, and indirectly in the prices of goods and services.

The incidence of benefits and costs of higher interest rates, that would be engendered through the increased payments of interest via new savings instruments, can be gleaned in broad outline from the appended table, "Savings Accounts by Income and Age", from the 1977 Survey of Consumer Credit conducted by the Survey Research Center of the University of Michigan. Certificates of deposit are included in the savings accounts amounts.

Mr. President, I ask unanimous consent the table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SAVINGS ACCOUNTS [1] BY INCOME AND AGE

[Percentage distribution of families]

	Savings accounts						
	None	$1 to $499	$500 to $1,999	$2,000 to $4,999	$5,000 to $12,499	$12,500 or more	Total
All families	37	16	13	11	10	13	100
Total family income:							
Less than $5,000	58	17	9	6	5	5	100
$5,000 to $9,999	40	23	13	11	6	7	100
$10,000 to $14,999	28	24	17	10	9	12	100
$15,000 to $19,999	20	23	19	15	11	12	100
$20,000 to $24,999	17	14	21	17	20	11	100
$25,000 or more	16	6	10	14	19	35	100
Age of family head:							
Under age 25	30	43	15	8	2	2	100
25 to 34	31	26	21	11	6	5	100
35 to 44	30	16	16	14	14	10	100
45 to 54	31	12	12	14	14	17	100
55 to 64	43	10	6	9	13	19	100
65 or older	50	4	7	10	10	19	100

[1] Including certificates of deposit.

Mr. MORGAN. Mr. President, obviously the 37 percent of all families with no savings accounts would have no benefits of increased interest income from savings. However, they would have to absorb the costs of higher loan interest rates, directly in credit obligations assumed and indirectly in the prices of purchased goods and services whose production or marketing had been at least in part credit-financed.

Parenthetically, I might add, that includes most consumer goods on the market today. The nonsavers, as might be expected, are a relatively high proportion of families with incomes of less than $10,000. It is interesting to note also that among families with age of head 65 years or older, 50 percent were found to have no savings.

So a large portion of the nonsavers, or those earning less than $10,000, who have no savings, and over half of those 65 years of age who have no savings, would not benefit at all, but would be penalized by having to pay higher costs for consumer goods manufactured by those industries who borrow and use credit, and that includes practically all of them, as well as the actual cost of money they might borrow to buy consumer products, such as a new refrigerator, or a new stove, or a new automobile, or those who try to buy a home.

Another 29 percent of all families have savings accounts, but in amounts of less than $2,000. An increase of 1 to 3 percentage points in interest paid on $500 to $2,000 of savings would mean from $5 to $60 more annually in interest income for such savers, who account for a high proportion of families in the $10,000 to $20,000 family income bracket. Their annual expenditures are apt to total 10 times their annual average amount in savings accounts. Increases in prices of, for example, 0.1 to 0.3 percent, reflecting higher interest costs to producers, distributors and servicers, would offset any savings interest income gains; any greater price increases due to higher interest rates would more than offset the gains from increased rates on savings.

Even among the 21 percent of households who have savings accounts of between $2,000 and $12,500, there probably are many in the 25- to 44-year age brackets who would be obtaining mortgage loans who would have a net cost increase as a result of a higher structure of interest rates. Considering the fact that an average mortgage loan is apt to be more than four or eight times as much as $10,000 or $5,000, respectively, in savings; if mortgage interest rates rise by more than one-fourth as much as average savings interest rates—which would be likely—the new mortgagor household would be a net loser.

The group having mostly net gainers would be among the families with savings of $12,500 or more, representing 35 percent of those with incomes of $25,000 or more and about one-fifth of those aged 55 or more. They are unlikely to obtain new mortgage loans, since most of this group is probably well housed.

The contours of the distributions of family savings by income and age found in the 1977 survey were similar to those found in similar surveys by the University of Michigan Consumer Research Center in the sixties and seventies. The surveys have all been financed by the Federal Reserve Board.

In summary, therefore, the majority of all consumers—with and without savings—particularly families of low income including one-half of elderly families—would probably suffer a net economic loss as a result of higher interest payments on savings under prevailing money market conditions and monetary policies.

Mr. President, that concludes the statement. I think it is perhaps the finest analysis of who will benefit and who will suffer from the lowering of the money market certificates.

Mr. President, at this point I ask unanimous consent that the Senator from Kentucky (Mr. FORD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from North Carolina (Mr. HELMS), be added as cosponsors of printed amendments numbered 542, 543, 544, 545, and 546 to H.R. 4986, the Depository Institutions Deregulation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, this bill was called up last Tuesday, and we began some extended debate on the bill. I said to my colleagues then—if I did not say it on the floor—that I was not engaging in extended debate for the purpose of preventing the issues from coming to a vote, but that I was trying to engage in a debate in order to alert my colleagues in the Senate to some of the provisions of this bill. That is what I have tried to do.

One of my distinguished colleagues said to me yesterday afternoon: "You know, there are a number of provisions in this bill that I think are bad. Why hasn't somebody lobbied me on this? Why hasn't somebody been to me and told me this bill was bad?"

About the only explanation I could offer him was that there is a little good for almost every group; therefore, they were willing to accept it, to get what little good there was. But after about a week's debate, some of them decided that maybe the overall bill was not in the best interests of the country, the consumer, or the financial institutions.

As I mentioned several times, the bill before us, if enacted, will tend to homogenize all financial institutions in this country by doing a number of things.

First of all, it would put the thrift institutions, the savings and loan institutions, into the checking account business. They are called NOW accounts—Negotiable Order of Withdrawal. But for all practical purposes, it is nothing in the world but a checking account.

In addition, this bill will say to the savings and loan institutions—which historically have devoted their assets and resources to home loans, thereby enabling 60 percent of the homeowners in America to own their homes—it will say to them: "Because we know you are going to be damaged by this bill in your ability to attract savings, we are going to let you get into the consumer loan business. Up to 10 percent of your assets can be put into financing consumer loans and other types of investments."

That kind of financing carries a much higher rate of interest. The proponents of this bill have said, "We know that if we eliminate regulation Q, the interest differential, you are going to have to pay higher interest rates in order to compete with the banks. Therefore, we are going to let you get into the consumer loan business."

Mr. President, I have said since 1975 that once you put the foot into the door with respect to changing the nature of the savings and loan institution and making it a consumer loan outfit, then, in effect, the next year it will be 20 percent; the next year, 30 percent. Lo and behold, my prophecy came true before we even passed the bill.

The Senator from Massachusetts already has an amendment pending on the floor to increase the amount of assets of mutual savings banks to 20 percent saying, of course, "we cannot quite get along with 10 percent."

Mr. President, it was just last year that the mutual bank bill was passed and authorized 10 percent of assets in other lending for mutual savings banks—and these institutions exist mostly in the Northeast. But it was last year that the bill was passed which authorized them to have 10 percent of their assets in consumer loans, and there was a colloquy on the floor between the distinguished Senator from Massachusetts (Mr. Brooke) who was sponsoring it and, if my memory serves me correctly, my chairman, Mr. PROXMIRE, but I stand to be corrected on that, as to whether or not they would not be back here asking for an increase.

The crux of the colloquy was that Mr. Brooke assured us that, no, 10 percent would be adequate. But in just 1 year the mutual savings banks are already back here saying, "Raise the limit."

So I say to my colleagues if we pass this bill today, the ultimate effect would be that year after year after year we will be extending the investment rights of savings and loans to the consumer field to the point where they will no longer be interested or will not be able to make home loans.

What else are we saying in this bill? We are not only saying "you can offer checking accounts," saying this to savings and loans, but "you can finance automobiles and household furniture at high interest rates." We are also saying that "you can get into trust powers," a field historically reserved to banks.

So on the savings and loan side, Mr. President, what we are doing is saying, "Move closer to the commercial banks," and I am telling you they are going to move, and they are going to move fast.

Let me say something else, Mr. President: With the exception of a few S. & L.'s in the northeastern part of this country, which sort of had the situation forced on them, I have not heard a hue and cry from savings and loans anywhere across America for NOW accounts.

I spoke to a group of savings and loan officials in Denver, Colo., earlier this year, a stock savings and loan group, and I expected to find a hostile audience. I expected them to be pushing for NOW accounts, so I started off my speech by saying, "I am going to tell you what I think about them and then you try to convince me I am wrong."

Well, I told them, and they came up and said, "That is exactly what we agree with." They said in the whole State of California there probably were only two S. & L.'s that favor checking accounts, and I think one of them was the one that ran the ad the chairman referred to. So there has been no hue and cry by the savings and loans for it because they know, Mr. President, that once they are made to look like a bank and to act like a bank, they are going to lose the competitive edge given to them by regulation Q, which this Congress did in the sixties in order to enable them to invest in home loans. That is exactly what happened.

This bill today purports to phase out regulation Q over a period of 10 years. But mark my words, even if it is not done under this bill, phased out within 2 or 3 years, as soon as savings and loans get into the checking account business, the interest of the commercial banks will be so strong in eliminating that edge that this Congress will eliminate it, and I probably would go along with them because it is not fair for them to have their cake and eat it, too. In other words, it is not fair for them to have the advantage of regulation Q and also be competing directly with commercial banks.

So again let me say on the savings and loan end we are moving them into the commercial bank area. What are we doing on commercial banks? We are saying, "All right, you can pay interest on savings accounts, you can have transactional accounts," or whatever you call them. "You can have automatic transfers."

(Mr. BAYH assumed the chair.)

So, as then Secretary Blumenthal said before our committee when I questioned him on two different occasions, "The distinguishing characteristics between commercial banks and thrift institutions once this bill is passed will be much, much narrower."

There are some other provisions in this bill which I think are extremely dangerous. One of them is the provision that I have been talking about earlier, which lowers the money market certificates from $10,000 down to $1,000. As was so ably pointed out by Mr. Schechter, the economist from the AFL-CIO, at first blush this idea sounds great, you are helping the little saver. But, as he also pointed out, they are exactly the ones who are going to have to bear the brunt of the increased cost. Over half of the people in America 65 years of age and older have no savings accounts. They are going to have to pay for this increased cost by way of groceries they buy in the grocery store, and in consumer products.

Most of the people who have small savings accounts that would be benefited are those who are earning above $20,000 a year. So I am saying that instead of being a small-saver provision it is going to be one that is going to cost the small consumer, and what it is going to do is to make a mass withdrawal—I think the financial world has a fancy word, that I finally learned how to say, called disintermediation. What it means is when these people start taking their $1,000 out of passbook savings and putting it into 10, 11, and 12 percent money market certificates, it means those savings and loans which have been willing to make commitments for 20, 30, and 40 years at 4, 5, 6, and 8 percent interest are going to go busted.

That is what is recognized by some of the proponents of this bill because there is a printed amendment on our desks, called amendment No. 560, which might very well be called the bailout amendment. In other words, when these institutions get into trouble financially because of this bill, we are going to let the Government bail them out again. It is sort of like a doctor cutting a man up so he will have a chance to sew him up. In other words, we want to bankrupt them, bust them, so we will have a chance to get them indebted to the Federal Government and then let the Federal Government bail them out.

I had a letter yesterday afternoon from a savings and loan here in Arlington which said they still had some loans that were made years ago at 4.5 percent.

Now, I can tell you one that I know about very personally. I still have a loan on my home in Lillington that I put on in 1960 at 6 percent and, as I told my colleagues yesterday, I have got a little savings account in that bank, some money in there, that they are paying me 8 percent on in a certificate, while I am paying them 6 percent on borrowed money.

So when you draw out all these passbook savings, there is no way in the world they can hold these 6 percent mortgages, 7 percent mortgages, and 8 percent mortgages without going busted. That is why the bailout amendment is here.

The impact of all these things cannot be fully foreseen at this time when we have an unstable and unpredictable economic situation.

What about regulation Q? Some of my friends in the S. & L.'s have said, "Well, regulation Q is going to be phased out over 10 years." Well, it might, but the chances are that if this Congress does not act at all, it will be gone in a couple of years because this says that the limitations on interest shall be raised at least a half percent per year—at least. Well now, it is theoretically possible that there is going to be a difference between S. & L.'s and banks until the end of the 10-year period. But what happens when it gets beyond the market? Then they are both paying the same thing. The differential might still be there, but if the rates or limitations are higher than the market will bear, then they are both going to be competing for the same money, and S. & L.'s are not going to have that differential.

So, Mr. President, there are other objectionable provisions in this bill. However, I now want to talk about the practicality of what we are doing. All of us know that this year the Federal courts ruled that share drafts of credit unions were illegal, that is, federally chartered credit unions, that there was no legal authority for Federal credit unions to have checking accounts.

Now, I am using "checking accounts" loosely, but that is roughly what share drafts are. And that they had to stop these accounts by January 1, which is only 2 months from tomorrow.

The court also said that banks were not authorized to have automatic transfers from savings accounts to checking accounts, which they had been doing. But they also said, "You have until January 1 for Congress to correct this situation, and if Congress does not do anything by January 1, then you have got to stop it."

They said also that remote service units of savings and loans were not authorized by Federal law, and therefore unless Congress did something between now and January 1, they would have to go out of existence.

Those things are corrected in the House bill that was sent over here, and they are also corrected in the pending bill. I think in all fairness that they ought to be authorized. Practicality demands that we go ahead with these services which millions of consumers use.

The thing about it is that credit union people tell me that if they are going to have to quit on January 1, they are going to have to begin to phase down almost immediately. So they are going to have to know, and know very soon.

What the House has said to the Senate, and made it perfectly clear, is that they are not going to accept all these ornaments, such as the elimination of regulation Q, or the reduction of money market certificates, and the effective mandatory participation in the Federal Reserve. The House bill did include nationwide NOW accounts, but they are not going to accept all of these other controversial things.

So what is going to happen? We are going to get it back in conference, we are going to get bogged down, the Senate will be involved in a debate on SALT, and January 1 is going to roll around, and those credit union people are going to be awfully upset when they lose their checking privileges. They have been to my office and I am sure they have been to every Senator's office in Washington, because it is greatly disturbing to them.

So what I am about to do, Mr. President, is offer an amendment that I think we can all live with, that will take care of these emergency matters, and then it will give us next year to consider the Federal Reserve question and others in this bill. I understand the chairman is preparing now to mark up the bill that is pending in our committees having to do

with our reserve requirements for the Federal Reserve, and that will give us an opportunity for further consideration of permanent legislation.

So, Mr. President, I am going to send up an amendment in the nature of a substitute. And this is what my amendment would do: I think it takes all the emergency matters into consideration. It takes two or three items that the Senate spoke very clearly on yesterday and puts them into one bill. It, first of all, will authorize Federal credit unions to continue to use share drafts. It will authorize federally chartered banks to continue automatic transfers from savings to checking. It will authorize federally chartered savings and loans to continue the practice of remote service units; in other words, it will prevent a disruption of the services offered by these financial institutions prior to the court order.

Yesterday the distinguished Senator from California offered an amendment increasing the Federal deposit insurance on savings accounts at savings and loan institutions and banks from $40,000 to $50,000. I think, in the light of the inflationary times, that this is an entirely reasonable proposition. I think it would enable savings and loan institutions to attract some more money. So my amendment in the nature of a substitute will include that.

Now, last year the Banking Committee, on which I serve, worked long and hard to try to simplify one of the most complex and complicated of all laws, the Truth in Lending Act—that is the form that you get when you go to a bank and they have to tell you what the interest rates and charges are, and so forth. It is so complex now that a lawyer would have to sit down and read it to understand it, and then I am not sure he or she could understand it.

We came out last year with a very fine bill, and that was added to this bill yesterday. So my amendment in the nature of a substitute includes truth in lending.

It is going to include another provision, Mr. President, which I do not like, which I have voted against every time, but nevertheless the Senate decidely defeated my efforts yesterday by preempting State usury laws. The Senate voted for preemption, I believe, 70-some to 13. And trying to be pragmatic and being a realist, I know that there are some Members in the Senate who could not vote for my amendment in the nature of a substitute unless that matter is taken care of. So, while I personally object to preemption of State laws, as this body knows, and have gone on record as often as I could against preemption of State laws, I have included that.

UP AMENDMENT NO. 699

So, Mr. President, I send forward an amendment in the nature of a substitute which incorporates the matters that I have just talked about.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment in the nature of a substitute numbered 699.

Mr. MORGAN. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and substitute therefore the following:

TITLE I

Sec. 101. It is the purpose of this Act to provide specific authority—

(a) for Federally-chartered savings and loan associations to establish remote service units;

(b) for Federally-chartered credit unions to utilize share draft accounts;

(c) for Federally-insured banks to automatically transfer funds from savings accounts to checking accounts; and

(d) to specify that the utilization of this service does not constitute the payment of interest on demand accounts within the meaning of 12 U.S.C. 1832(a).

Sec. 102. § 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following:

"Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank and under such terms and conditions as the Board shall prescribe for such accounts".

The operation of the automatic transfer services described herein shall not constitute the payment of interest on demand accounts.

Sec. 103. § 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds deposited to the credit of and in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or transfer of credit to a demand or other deposit account of the same depositor pursuant to a written authorization from the depositor authorizing such payments or transfers in connection with checks or drafts drawn by the depositor upon the bank, pursuant to terms and conditions prescribed by the Board of Directors".

The operation of automatic transfer services as described herein shall not constitute the payment of interest on demand accounts.

Sec. 104. § 5(b)(1) of the Home Owners Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following:

"Nothing contained in this section prohibits the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board. Transactions with such remote service units may be accomplished through written, oral, telephonic, or electronic means or any combination thereof which may be authorized by the Board. Such remote service units shall not constitute a branch of an association."

The operation of remote service units described herein shall not constitute the payment of interest on demand accounts.

Sec. 105. § 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by inserting after "prescribed by the Board" the following: ", and to permit negotiable or nonnegotiable drafts to be utilized to withdraw shares from a share draft account subject to such terms, rates, and conditions as may be prescribed by the Board".

The utilization of share drafts as described herein shall not constitute the payment of interest on demand accounts.

Sec. 106. The amendments made by this Act shall take effect on January 1, 1980.

TITLE II—INSURANCE OF ACCOUNTS

Sec. 201(a). The following provisions of the Federal Deposit Insurance Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) The first sentence of section 3(m) (12 U.S.C. 8113(m)).

(B) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(C) The last sentence of section 11(a) (12 U.S.C. 1821(a)).

(D) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(2) The amendments made by this section are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

Sec. 201(b). The following provisions of Title IV of the National Housing Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) Section 401(b) (12 U.S.C. 1724(b)).

(B) Section 405(a) (12 U.S.C. 1728(a)).

(2) The amendments made by this section are not applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act, where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the effective date of this section.

Sec. 201(c). The second sentence of section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)), is amended by striking out "$40,000" and inserting in lieu thereof "$50,000".

(2) The amendment made by this section is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 206 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(d) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

TITLE III—TRUTH IN LENDING SIMPLIFICATION

SHORT TITLE

Sec. 301. This title may be cited as the "Truth in Lending Simplification and Reform Act".

DEFINITIONS

Sec. 302. (a) Section 103(f) of the Truth in Lending Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required; and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the foregoing, a person who regularly arranges for the extension of consumer credit, which is payable in more than four installments or for which the payment

of a finance charge is or may be required, from persons who are not creditors is a creditor, and in the case of an open end credit plan involving a credit card the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors."; and

(2) by redesignating the references to sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(9), and 127(b)(11) in the next succeeding sentence as references to sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(8), and 127(b)(10), respectively.

(b) The first sentence of section 103(g) of the Truth in Lending Act is amended to read as follows: "The term 'credit sale' refers to any sale in which the seller is a creditor.".

EXEMPTED TRANSACTIONS

SEC. 303. (a) Section 103(h) of the Truth in Lending Act is amended by striking out "household, or agricultural" and inserting in lieu thereof "or household".

(b) Section 103 of the Truth in Lending Act is amended by redesignating subsection (s) as subsection (x), and by inserting a new subsection (s) as follows:

"(s) The term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming, and the term 'agricultural products' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.".

(c) Section 104 of the Truth in Lending Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.";

(2) by amending paragraph (3) to read as follows:

"(3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer, in which the total amount financed exceeds $25,000."; and

(3) by striking out paragraph (5).

OPEN END CREDIT PLAN

SEC. 304. Section 103(i) of the Truth in Lending Act is amended to read as follows:

"(i) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.".

MODEL FORMS

SEC. 305. Section 105 of the Truth in Lending Act is amended by inserting "(a)" before "The", and by adding at the end thereof the following:

"(b) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by creditors of data processing or similar automated equipment. Nothing in this title may be construed to require a creditor to use any such model form or clause prescribed by the Board under this section. A creditor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor does not affect the substance, clarity, or meaningful sequence of the disclosure.

"(c) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

"(d) Any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure different from that previously required by this chapter, chapter 4, or chapter 5, or regulation of the Board promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Board may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors to adjust their forms to accommodate new requirements or shorten the length of time for creditors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the foregoing, any creditor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.".

COMPONENTS OF FINANCE CHARGE

SEC. 306. (a) Section 106(a) of the Truth in Lending Act is amended by striking out ", including any of the following types of charges which are applicable" and inserting in lieu thereof the following: ". The finance charge does not include charges of a type payable in a comparable cash transaction. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable".

(b) Section 106(d) of the Truth in Lending Act is amended by striking out paragraphs (3) and (4).

ACCURACY OF ANNUAL PERCENTAGE RATE

SEC. 307. (a) Subsection (c) of section 107 of the Truth in Lending Act is amended to read as follows:

"(c) The disclosure of an annual percentage rate is accurate for the purpose of this title if the rate disclosed is within a tolerance not greater than one-eighth of 1 per centum more or less than the actual rate or rounded to the nearest one-fourth of 1 per centum. The Board may allow a greater tolerance to simplify compliance where irregular payments are involved.".

(b) Subsection (e) of section 107 of the Truth in Lending Act is amended by striking out "(c) or".

(c) Subsection (f) of section 107 of the Truth in Lending Act is repealed.

RESTITUTION

SEC. 308. Section 108(a) of the Truth in Lending Act is amended by adding at the end thereof the following:

"(e)(1) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c), in cases where an annual percentage rate or finance charge was inaccurately disclosed, shall notify the creditor of such disclosure error and is authorized in accordance with the provisions of this subsection to require the creditor to make an adjustment to the account of the person to whom credit was extended, to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

For the purposes of this subsection, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in determining whether a disclosure error has occurred and in calculating any adjustment, (A) each agency shall apply (i) with respect to the annual percentage rate, a tolerance of one-quarter of 1 percent more or less than the actual rate, determined without regard to subsection 107(c) of this title, and (ii) with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance provided under this subsection for the annual percentage rate; except that (B) with respect to transactions consummated after two years following the effective date of this section, each agency shall apply (i) for transactions that have a scheduled amortization of ten years or less, with respect to the annual percentage rate, a tolerance not to exceed one-quarter of 1 percent more or less than the actual rate, determined without regard to subsection 107(c) of this title, but in no event a tolerance of less than the tolerances allowed under subsection 107(c), (ii) for transactions that have a scheduled amortization of more than ten years with respect to the annual percentage rate, only such tolerances as are allowed under subsection 107(c) of this title, and (iii) for all transactions, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerances provided under this subsection for the annual percentage rate.

"(2) Each agency shall require such an adjustment when it determines that such disclosure error resulted from (A) a clear and consistent pattern or practice of violations, (B) gross negligence, or (C) a willful violation which was intended to mislead the person to whom the credit was extended. Notwithstanding the preceding sentence, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, an agency need not require such an adjustment if it determines that such disclosure error:

(A) resulted from an error involving the disclosure of a fee or charge that would otherwise be excludable in computing the finance charge, including but not limited to violations involving the disclosures described in subsections 106 (b), (c), and (d) of this title in which event the agency may require such remedial action as it determines to be equitable, except that for transactions consummated after two years after the effective date of this section, such an adjustment shall be ordered for violations of subsection 106(b);

(B) involved a disclosed amount which was 10 percent or less of the amount that should have been disclosed and (i) in cases where the error involved a disclosed finance charge, the annual percentage rate was disclosed correctly; in which event the agency may require such adjustment as it determines to be equitable;

(C) involved a total failure to disclose either the annual percentage rate or the finance charge, in which event the agency may require such adjustment as it determines to be equitable; or

(D) resulted from any other unique circumstance involving clearly technical and

nonsubstantive disclosure violations that do not adversely affect information provided to the consumer and that have not misled or otherwise deceived the consumer.

In the case of other such disclosure errors, each agency may require such an adjustment.

"(3) Notwithstanding the above paragraph (2), no adjustment shall be ordered (A) if it would have a significantly adverse impact upon the safety or soundness of the creditor, but in any such case, the agency may require a partial adjustment in an amount which does not have such an impact, (B) if the amount of the adjustment would be less than $1, except that if more than one year has elapsed since the date of the violation, the agency may require that such amount be paid into the Treasury of the United States, or (C) except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in the case of an open-end credit plan, more than two years after the violation, or in the case of any other extension of credit, (i) with respect to creditors that are subject to examination by the agencies referred to in subsections 108(a)(1) through (3) of this title, except in connection with violations arising from practices identified in the current examination and only in connection with transactions that are consummated after the date of the immediately preceding examination, provided that where practices giving rise to violations identified in earlier examinations have not been corrected, adjustments for those violations shall be required in connection with transactions consummated after the date of the examination in which such practices were first identified; (ii) with respect to creditors that are not subject to examination by such agencies, except in connection with transactions that are consummated after May 10, 1973; and (iii) in no event after the later of (a) the expiration of the life of the credit extension, or (b) two years after the agreement to extend credit was consummated.

"(4)(A) Notwithstanding any other provision of this section, an adjustment under this subsection may be required by an agency referred to in subsection (a) or (c) only by an order issued in accordance with cease and desist procedures provided by the provision of law referred to in such subsections.

"(B) In the case of an agency which is not authorized to conduct cease and desist proceedings, such an order may be issued after an agency hearing on the record conducted at least thirty but not more than sixty days after notice of the alleged violation is served on the creditor. Such a hearing shall be deemed to be a hearing which is subject to the provisions of section 8(h) of the Federal Deposit Insurance Act and shall be subject to judicial review as provided therein.

"(5) Except as otherwise specifically provided in this subsection and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments for errors in any requirements under this title, except with regard to the requirements of section 165.

"(6) A creditor shall not be subject to an order to make an adjustment, if within sixty days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and adjusts the account so as to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

(b) This section shall take effect upon enactment.

EFFECT ON OTHER LAWS

SEC. 309. Section 111(a) of the Truth in Lending Act is amended to read as follows:

"(a)(1) This title does not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether such inconsistencies exist. If the Board determines that a State-required disclosure is inconsistent, creditors located in that State may not make disclosures using the inconsistent term or form, and shall incur no liability under the law of that State for a good faith failure to use such term or form, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(2) The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether any disclosure required under the law of any State is substantially the same in meaning as a disclosure required under this title. If the Board determines that a State-required disclosure is substantially the same in meaning as a disclosure required by this title, then creditors located in that State may make such disclosure in compliance with such State law in lieu of the disclosure required by this title, except that the annual percentage rate and finance charge must always be disclosed as required by section 122.".

ANNUAL REPORTS

SEC. 310. (a) Section 114 of the Truth in Lending Act is amended by striking out "Not later than January 3 of each year after 1969" and inserting in lieu thereof "Each year".

(b) Section 18(f)(5) of the Federal Trade Commission Act (15 U.S.C. 58a(f)(5)) is amended by striking out "not later than March 15".

(c) Section 707 of the Equal Credit Opportunity Act is amended by striking out "Not later than February 1 of each year after 1976" and inserting in lieu thereof "Each year".

GENERAL DISCLOSURE REQUIREMENTS

SEC. 311. Sections 121 and 122 of the Truth in Lending Act are amended to read as follows:

"§121. General requirement of disclosure

"(a) Subject to subsection (b), a creditor or lessor shall disclose to the person who is obligated on a consumer lease or a consumer credit transaction the information required under this title. In a transaction involving more than one obligor, a creditor or lessor, except in a transaction under section 125, need not disclose to more than one of them if the one given disclosure is a primary obligor.

"(b) If a transaction involves one creditor as defined in section 103(f), or one lessor as defined in section 181(3), that creditor or lessor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures. The Board shall by regulation specify which creditor or lessor must make the disclosures.

"(c) The Board may provide by regulation that any portion of the information required to be disclosed by this title may be given in the form of estimates where the provider of such information is not in a position to know exact information.

"(d) The Board shall determine whether tolerances for numerical disclosures other than the annual percentage rate are necessary to facilitate compliance with this title, and if it determines that such tolerances are necessary to facilitate compliance, it shall by regulation permit disclosures within such tolerances.

"§ 122. Form of disclosure; additional information

"(a) Information required by this title shall be disclosed clearly and conspicuously, in accordance with regulations of the Board. The terms 'annual percentage rate' and 'finance charge' shall be disclosed more conspicuously than other terms, data, or information provided in connection with a transaction, except information relating to the identity of the creditor. Regulations of the Board need not require that disclosures pursuant to this title be made in the order set forth in this title and, except as otherwise provided, may permit the use of terminology different from that employed in this title if it conveys substantially the same meaning.

"(b) Any creditor may supply additional information or explanation with any disclosures required under chapter 4 and, except as provided in section 128(b)(1), under this chapter.".

RESCISSION

SEC. 312. (a)(1) Subsection (a) of section 125 of the Truth in Lending Act is amended to read as follows:

"(a) Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.".

(2) Section 103 of such Act, as amended by section 3(b), is amended by adding at the end thereof the following:

"(v) The term 'material disclosures' means the disclosure, as required by this title, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amount of payments, and the due dates or periods of payments scheduled to repay the indebtedness,".

(3) Subsection (b) of section 125 of the Truth in Lending Act is amended by striking out "ten" in the second and final sentences thereof, and inserting in lieu thereof "20".

(4) Subsection (b) of section 125 of the Truth in Lending Act is amended by adding at the end thereof the following new sentence: "The procedures prescribed by this subsection shall apply except when otherwise ordered by a court.".

(5) Subsection (c) of section 125 of the

Truth in Lending Act is amended by inserting "information, forms, and" after "whom".

(6) Section 125 of the Truth in Lending Act is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e) This section does not apply to (1) a residential mortgage transaction as defined in section 103(u); (2) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property; (3) a transaction in which an agency of a State is the creditor; or (4) advances under a preexisting open end credit plan if a security interest has already been retained or acquired and such advances are in accordance with a previously established credit limit for that plan.

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the information and forms required under this section or any other disclosures required under this chapter have not been delivered to the obligor, except that if (1) any agency empowered to enforce the provisions of this title institutes a proceeding to enforce the provisions of this section within three years after the date of consummation of the transaction, (2) such agency finds a violation of section 125, and (3) the obligor's right to rescind is based in whole or in part on any matter involved in such proceeding, then the obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the earlier sale of the property, or upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

"(g) In any action in which it is determined that a creditor has violated this section, in addition to rescission the court may award relief under section 130 for violations of this title not relating to the right to rescind.".

(b) Section 103 of the Truth in Lending Act is amended—

(1) redesignating subsection (t) as subsection (w); and

(2) by inserting after subsection (s) the following:

"(t) The term 'dwelling' means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

"(u) The term 'residential mortgage transaction' is one in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of that dwelling.".

OPEN END DISCLOSURES

SEC. 313. (a) Section 127(a) of the Truth in Lending Act is amended—

(1) by adding at the end of paragraph (1) thereof the following new sentence: "If no such time period is provided, the creditor shall disclose that fact.";

(2) by striking out paragraph (5), and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(3) by amending redesignated paragraphs (5) and (6) to read as follows:

"(5) Identification of other charges which may be imposed as part of the plan, and their method of computation, in accordance with regulations of the Board.

"(6) In cases where the credit is or will be secured, a statement that a security interest has been or will be taken in (A) the property purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.".

(b) Section 127(b)(2) of such Act is amended to read as follows:

"(2) The amount and date of each extension of credit during the period, and a brief identification, on or accompanying the statement of each extension of credit in a form prescribed by the Board sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161. In lieu of complying with the foregoing requirements, in the case of any transaction in which the creditor and seller are the same person, as defined by the Board, and that person's open end plan has fewer than 15,000 accounts, the creditor may elect to provide only the amount and date of each extension of credit during the period and the seller's name and location where the transaction took place if (A) a brief identification of the transaction has been previously furnished, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161.".

(c) Section 127(b) of the Truth in Lending Act is amended by striking out paragraph (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(d) Redesignated paragraph (7) of section 127(a) of the Truth in Lending Act is amended by striking out "each of two billing cycles per year, at semiannual intervals" and inserting in lieu thereof "one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months".

(e) Subsection (c) of section 127 of the Truth in Lending Act is repealed.

(f) Section 143 of the Truth in Lending Act is amended by striking out "or the appropriate rate determined under section 127(a)(5)".

(g) Section 161(a) of the Truth in Lending Act is amended by redesignating the references to sections 127(b)(11) and 127(a)(8) as references to sections 127(b)(10) and 127(a)(7), respectively.

OTHER THAN OPEN END DISCLOSURES

SEC. 314. (a) Subsection (a) of section 128 of the Truth in Lending Act is amended to read as follows:

"(a) For each consumer credit transaction other than under an open end consumer credit plan, the creditor shall disclose each of the following items, to the extent applicable:

"(1) The identity of the creditor required to make disclosure.

"(2) The 'amount financed', using that term, which shall be the amount of credit which the consumer has actual use. This amount shall be computed as follows, but the computations need not be disclosed and shall not be disclosed with the disclosures conspicuously segregated in accordance with subsection (b)(1):

"(A) take the principal amount of the loan or the cash price less downpayment and trade-in;

"(B) add any charges which are not part of the finance charge or of the principal amount of the loan and which are financed by the consumer, including the cost of any items excluded from the finance charge pursuant to section 106;

"(C) subtract any charges which are part of the finance charge but which will be paid by the consumer at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit; and

"(D) subtract any required deposit balance, in accordance with regulations of the Board.

"(3) The 'finance charge', not itemized, using that term.

"(4) The finance charge expressed as an 'annual percentage rate', using that term. This shall not be required if the amount financed does not exceed $75 and the finance charge does not exceed $5, or if the amount financed exceeds $75 and the finance charge does not exceed $7.50.

"(5) The sum of the amount financed, any required deposit balance, and the finance charge, which shall be termed the 'total of payments'.

"(6) The number, amount, and due dates or period of payments scheduled to repay the total of payments.

"(7) In a sale of property or services in which the seller is the creditor required to disclose pursuant to section 121(b), the 'total sale price', using that term, which shall be the total of the cash price of the property or services, additional charges, and the finance charge.

"(8) Descriptive explanations of the terms 'amount financed', 'finance charge', 'annual percentage rate', 'total of payments', and 'total sale price' as specified by the Board. The descriptive explanation of 'total sale price' shall include reference to the amount of the downpayment.

"(9) Where the credit is secured, a statement that a security interest has been taken in (A) the property which is purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.

"(10) Any dollar charge or percentage amount which may be imposed by a creditor solely on account of a late payment, other than a deferral or extension charge.

"(11) A statement indicating whether or not the consumer is entitled to a rebate or credit, or is subject to a penalty, if the obligation is refinanced or prepaid in full pursuant to acceleration or otherwise.

"(12) A statement that the consumer should refer to the appropriate contract document for any information it provides about nonpayment default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties.

"(13) In any residential mortgage transaction, a statement whether a subsequent purchaser or assignee of the consumer may assume the debt obligation on its original terms and conditions.".

(b) Section 128(b) of such Act is amended to read as follows:

"(b)(1) Except as otherwise provided in this chapter, the disclosures required under subsection (a) shall be made before the credit is extended. Except for the disclosures required by subsection (a)(1) of this section, all disclosures required under subsection (a) and any disclosure provided for in subsection (b), (c), or (d) of section 106 shall be conspicuously segregated from all other terms, data, or information provided in connection with a transaction, including any computations or itemization.

"(2) In the case of a residential mortgage transaction, as defined in section 103(u), which is also subject to the Real Estate Settlement Procedures Act, good faith estimates of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before the credit is extended, or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. If the disclosure statement furnished within three days of the written application contains an annual percentage rate which is subsequently rendered inaccurate within the meaning of section 107(c), the creditor shall furnish another statement at the time of settlement or consummation.".

(c) Section 128(c) of the Truth in Lending Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "deferred payment price" and inserting in lieu thereof "total sale price"; and

(3) by adding at the end thereof the following new paragraph:

"(2) If a creditor receives a request for a loan by mail or telephone without personal solicitation and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due.".

(d)(1) Section 129 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 129 and inserting in lieu thereof:

"129. [Repealed].".

(e)(1) Section 126 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 126 and inserting in lieu thereof :

"126. [Repealed].".

(f)(1) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 128 and inserting in lieu thereof:

"128. Consumer credit not under open end credit plans.".

(2) The caption of section 128 of such Act is amended by striking out "Sales" and inserting in lieu thereof "Consumer credit".

CIVIL LIABILITY

SEC. 315. (a) Section 130 of the Truth in Lending Act is amended—

(1) by striking out "In such action" in subsection (a)(2)(B) and inserting in lieu thereof "under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same creditor";

(2) in subsection (a)(3), by inserting "or in any action in which a person is determined to have a right of rescission under section 125" after "liability";

(3) by amending subsections (b), (c), and (d) to read as follows:

"(b) A creditor or assignee has no liability under this section or section 108 or section 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if within sixty days after discovering an error, whether pursuant to a final written examination report or notice issued under section 108(c)(1) or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section or the receipt of written notice of the error from the obligor, the creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(c) A creditor or assignee may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors, but an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

"(d) When there are multiple obligors in a consumer credit transaction or consumer lease, there shall be no more than one recovery of damages under subsection (a)(2) for a violation of this title.";

(4) by adding at the end of subsection (e) the following new sentence: "This subsection does not bar a person from asserting a violation of this title in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.";

(5) by inserting ", section 108(b), section 108(c), section 108(e)," after "this section" in subsection (f);

(6) by adding the following new sentence at the end of subsection (g): "This subsection does not bar any remedy permitted by section 125."; and

(7) by amending subsection (h) to read as follows:

"(h) A person may not take any action to offset any amount for which a creditor or assignee is potentially liable to such person under subsection (a)(2) against any amount owing by such person, unless the amount of the creditor's or assignee's liability under this title has been determined by judgment of a court of competent jurisdiction in an action of which such person was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action to collect amounts owed by the consumer brought by a person liable under this title.".

(b) Section 130(a) of the Truth in Lending Act is amended—

(1) by inserting ", including any requirement under section 125," immediately after "this chapter"; and

(2) by adding at the end thereof the following: "In connection with the disclosures referred to in section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of section 127(a) or of paragraph (4), (5), (6), (7), (8), (9), or (10) of section 127(b) or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in section 127(a) or any of those paragraphs of section 127(b). In connection with the disclosures referred to in section 128, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of paragraph (2), (3), (4), (5), (6), or (9) of section 128(a), or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in any of those paragraphs of section 128(a). With respect to any failure to make disclosures required under this chapter or chapter 4 or 5 of this title, liability shall be imposed only upon the creditor required to make disclosure, except as provided in section 131.".

LIABILITY OF ASSIGNEES

SEC. 316. (a) Section 131 of the Truth in Lending Act is amended to read as follows:

"§ 131. Liability of assignees

"(a) Except as otherwise specifically provided in this title, any civil action for a violation of this title or proceeding under section 108 which may be brought against a creditor may be maintained against any assignee of that creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, violations apparent on the face of the disclosure statement include, but are not limited to (1) disclosures which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) disclosures not made in the terminology required by this title.

"(b) Except as provided in section 125(c), in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgement of receipt by a person to whom a statement is required to be given pursuant to this title shall be conclusive proof of the delivery thereof and, except as provided in subsection (a), of compliance with this chapter. This section does not affect the rights of the obligor in any action against the original creditor.

"(c) Any consumer who has the right to rescind a transaction under section 125 may rescind the transaction as against any assignee of the obligation, regardless of whether such assignee is a creditor under this title.".

(b) Section 115 of the Truth in Lending Act is repealed.

(c)(1) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 115 and inserting in lieu thereof:

"115. [Repealed].".

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 131 and inserting in lieu thereof:

"131. Liability of assignees.".

LIABILITY OF CREDIT CARDHOLDER

SEC. 317. Section 133(a) of the Truth in Lending Act is amended to read as follows:

"(a) A cardholder shall be liable for the unauthorized use of a credit card only if the card is an accepted credit card, the liability is not in excess of $50, the card issuer gives adequate notice to the cardholder of the potential liability, the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided on the face or reverse side of the statement required by section 127(b) or on a separate notice accompanying such statement, the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or otherwise, and the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it. For the purpose of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.".

DISSEMINATION OF ANNUAL PERCENTAGE RATES

SEC. 318. (a) Chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following new section:

"§ 136. Dissemination of annual percentage rates

"(a) The Board shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Board, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Board is authorized to require creditors in such areas to furnish information necessary for the Board to collect, publish, and disseminate such information.

"(b) The Board is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsection (a) and to furnish financial assistance in support thereof.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"136. Dissemination of annual percentage rates.".

CREDIT ADVERTISING

SEC. 319. (a) Section 143 of the Truth in Lending Act is amended to read as follows:

"§ 143. Advertising of open end credit plans

"No advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

"(1) Any minimum or fixed amount which could be imposed.

"(2) Where periodic rates may be used to compute the finance charge, the periodic rates expressed as annual percentage rates.

"(3) Any other term that the Board may by regulation require to be disclosed.".

(b) Section 144 of the Truth in Lending Act is amended by striking out paragraphs (1) through (4) of subsection (d) thereof, and inserting in lieu thereof the following:

"(1) The downpayment, if any.

"(2) The terms of repayment.

"(3) The rate of the finance charge expressed as an annual percentage rate.".

CORRECTION OF BILLING ERRORS

SEC. 320. (a) Section 161(b) of the Truth in Lending Act is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

"(6) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.".

(b) Section 161(c) of such Act is amended by inserting after "account" the first time it is used a comma and the following: "which may include finance charges on amounts in dispute,".

CREDIT BALANCES

SEC. 321. (a) Section 165 of the Truth in Lending Act is amended to read as follows:

"§ 165. Treatment of credit balances

"Whenever a credit balance in excess of $1 is created in connection with a consumer credit transatcion through (1) transmittal of funds to a creditor in excess of the total balance due to an account; (2) rebates of unearned finance charges or insurance premiums; or (3) amounts otherwise owed to or held for the benefit of an obligor, the credit shall:

"(A) credit the amount of the credit balance to the consumer's account;

"(B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and

"(C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, but no further action is required in any case where the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.".

(b) The table of sections of chapter 4 of the Truth in Lending Act is amended by striking out item 165 and inserting in lieu thereof:

"165. Treatment of credit balances.".

GOVERNMENT EXEMPTION

SEC. 322. (a) Section 113 of the Truth in Lending Act is amended to read as follows:

"§ 113. Effect on governmental agencies

"(a) Any department or agency of the United States which administers a credit program in which it extends, insures, or guarantees consumer credit and in which it provides instruments to a creditor which contain any disclosures required by this title shall, prior to the issuance or continued use of such instruments, consult with the Board to assure that such instruments comply with this title.

"(b) No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision.

"(c) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under this title where the violation results from the use of an instrument required by any such department or agency.

"(d) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under the laws of any State (other than laws determined under section 111 to be inconsistent with this title) for any technical or procedural failure, such as a failure to use a specific form, to make information available at a specific place on an instrument, or to use a specific typeface, as required by State law, which is caused by the use of an instrument required to be used by such department or agency.".

(b) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 113 and inserting in lieu thereof:

"113. Effect on governmental agencies.".

ORAL DISCLOSURES

SEC. 324. (a) Section 146 of the Truth in Lending Act is amended to read as follows:

"§ 146. Use of annual percentage rate in oral disclosures

"In responding orally to any inquiry about the cost of credit, a creditor, regardless of the method used to compute finance charges, shall state rates only in terms of the annual percentage rate, except that in the case of an open end credit plan, the periodic rate also may be stated and, in the case of an other than open end credit plan where a major component of the finance charge consists of interest computed at a simple annual rate, the simple annual rate also may be stated. The Board may, by regulation, modify the requirements of this section or provide an exception from this section for a transaction or class of transactions for which the creditor cannot determine in advance the applicable annual percentage rate.".

(b) The table of sections of chapter 3 of the Truth in Lending Act is amended by striking out item 146 and inserting in lieu thereof:

"146. Use of annual percentage rate in oral disclosures.".

EFFECTIVE DATE

SEC. 324. The amendments made by this title shall take effect upon the expiration of two years after the date of enactment of this Act. All regulations, forms, and clauses required to be prescribed under the amendments made by this title shall be promulgated at least one year prior to such effective date. Notwithstanding the foregoing, any creditor may comply with the amendments made by this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.

TITLE IV—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

SEC. 402(a). Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located.".

SEC. 402(b). The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by inserting after section 23 the following new section:

"SEC. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 402(c). Title IV of the National Housing Act (12 U.S.C. 1724–1730f) is amended by inserting after section 411 the following new section:

"(a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving to read as follows:

SEC. 402(d). Subsection (h) of section 306 of the Small Business Investment Act of 1958 is amended to read as follows:

"(h)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds to small business investment companies to small business concerns.

"(2) In the case of a business loan the principal amount of which is $25,000 or more, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraph (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the Federal Reserve rate or the maximum rate authorized by applicable State law (determined without regard to the preemption of such State law).

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 5 percentage points plus the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which the principle office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law for such loans or there is a maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(3) A State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of—

"(A) July 1, 1981;

"(B) the date, after the date of the enactment of this paragraph on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such States; or

"(C) the date on which such State certifies that the voters of such State, after the date of the enactment of this paragraph, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in this subsection.

"(4) (A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the most recent payment of interest."

SEC. 402(e). In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a) the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 402(f). If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 402(g). The amendments made by this title and the provisions of this title shall apply only with respect to loans made in any State during the period beginning on the date of enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title and the provisions of this title to apply with respect to loans made in such State; or

(3) the date on which such State certifies that voters of such State, after the date of the enactment this Act, have voted in favor of, or to retain any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendments made by this title and the provisions of the title.

SEC. 402(a). Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by inserting after subsection (j) the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regarding or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.".

SEC. 402 (b). Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.".

SEC. 402(c). Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by inserting after subsection (d) the following new subsection.

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.".

SEC. 402 (d). The amendments made by this title shall apply only with respect to deposits made or obligations issued in any

State during the period beginning on the date of the enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title to apply with respect to such deposits and obligations; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain any law, provision of the constitution of such State, or amendment to the constitution of State which limits the amount of interest which may be charged in connection with such deposits and obligations.

SEC. 403 (a). Title II and III of the Act entitled "An Act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes", approved October 29, 1974 (Public Law 93-501; 88 Stat. 1557), are hereby repealed, except that—

(1) the amendments made by title II of such Act and the provisions of such title shall apply to any loan made in any State during the period specified in section 206 of such Act; and

(2) the amendments made by title III of such Act shall apply to any deposit made or obligation issued in any State during the period specified in Section 304 of such Act.

SEC. 404. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located,".

SEC. 405. The Federal Deposit Insurance Act (12 U.S.C. 1811-1831) is amended by adding at the end thereof the following:

"SEC. 26. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 406. Title IV of the National Housing Act (12 U.S.C. 1724-1730(f)) is amended by adding at the end thereof the following:

"SEC. 414. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

SEC. 407. Section 308 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661), is amended by adding at the end thereof the following:

"(1)(1) In order to facilitate the orderly and necessary flow of long-term loans and equity funds to small business concerns, as defined in the Small Business Act, if the maximum interest rate permitted by the Small Business Administration exceeds the rate a small business investment company would be permitted to charge in the absence of this subsection, such small business investment company may in the case of business loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the small business investment company is located.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such small business investment company would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the small business investment company taking or receiving such interest.".

SEC. 408. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates, if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 409. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 410. The amendments made by this title shall apply to any loan made in any State after the date of enactment of this title, but prior to January 1, 1981.

Mr. MORGAN. Mr. President, this amendment might be labeled the "Emergency Financial Institutions Act of 1979." It would eliminate the problems of millions of our citizens who have special accounts in credit unions, banks, and savings and loan associations that were outlawed by the Federal court decision on April 20 of this year.

This amendment will also take care of the emergency problems that many financial institutions have with State usury laws, as modified by the Cochran amendment that was adopted by this body by a vote of 73 to 13 on Monday, October 29.

This amendment would also take care of the truth-in-lending problems that were worked out between Senator GARN and Senator PROXMIRE.

Finally, this amendment would include the insurance of accounts increase from $40,000 to $50,000, which is currently in the bill. This provision would help to raise an additional $10 to $12 billion for home financing.

These four amendments take care of the genuine emergency problems that currently exist among the customers of financial institutions. It is simple, straightforward, timesaving and costsaving amendment that will allow a quick solution to our present problems.

Leaders in the House of Representatives have already stated several times that they do not have time to properly

process all the provisions of H.R. 4986, now before the Senate.

As a matter of fact, the House Banking Committee voted overwhelmingly to send back a skeleton bill to the Senate if we pass H.R. 4986 in its present form.

This amendment will save dollars and time and will take care of almost all the badly needed financial legislation for 1979. We can then carefully address ourselves next year to the other provisions in this bill which need additional study and consideration, including a host of amendments which will be offered to this bill if we continue.

Mr. President, I urge a vote in favor of this amendment.

Mr. PROXMIRE. Mr. President, I strongly oppose the pending amendment. Senator MORGAN's amendment strikes most of the bill reported by the committee and substitutes a provision that would merely authorize the continuation of share draft accounts in credit unions, automatic transfer accounts in commercial banks, and remote service units in savings and loan associations, and preserves the status quo with all of its unfairness and inefficiency. It does leave in place the Federal override of State mortgage usury laws which passed the Senate overwhelmingly with the support of the managers of the bill on Monday, and it leaves in place the truth-in-lending simplification provision that has passed the Senate before.

Mr. President, this amendment would scuttle a 6-year effort by both Houses of Congress and three administrations to restructure our financial system so as to achieve greater equality between competing institutions and preserve the viability of thrift institutions. If we do not act now, these thrift institutions are going to be in much more severe trouble as the months go on.

This bill, if it were not amended by the Morgan amendment, would stabilize the flow of mortgage credit and provide depositors with an equitable return on their savings.

A similar financial reform bill was passed by the Senate in 1975 by a vote of 79 to 14. We voted on most of these provisions before. It did not clear the House and that is why we have to act on it again. But it passed overwhelmingly, by about a 5-to-1 vote.

If the Morgan substitute amendment passes, here are some of the vital provisions that will be dropped from the bill:

One, we would no longer have new lending powers for Federal savings and loan associations, including the power to make consumer loans and broaden mortgage lending authority on a par with national banks. These powers are essential for preserving the future viability of savings and loan associations.

On Monday I read to the Senate in response to Senator MORGAN a letter from the Chairman of the Home Loan Bank Board speaking for the entire Board, in which he said that this legislation was imperative and urgent if savings and loan associations are going to be able to continue. Nobody speaks with more authority or knowledge than the Chairman of the Home Loan Bank Board. That is his job. He is our expert on it.

Also, this bill would knock out the nationwide NOW accounts for households and nonprofit organizations. That is a bill that passed the House 10 to 1. It is a bill which would put into national effect a provision that has been in effect for New England now for a number of years, to the satisfaction of virtually everybody up there. The consumers, of course, like it, and the bankers have found it is something they can support. Most of the really strong opposition in the Senate and House has come from New England, where they have had experience with it. We know for years on the Banking Committee that the New England Senators on the Banking Committee, who fought so hard for NOW accounts, Senator McIntyre, Senator Brooke, and now Senator TSONGAS and others, have been the leading advocates. They know it from practical experience. They have lived with it. They feel it is something that is appropriate and necessary.

Also, these NOW accounts will allow banks and savings and loans to compete equally with credit unions offering share drafts. I might say these provisions in the bill which would be knocked out by the Morgan amendment are strongly supported by credit unions. The credit unions feel they need it, too, for those institutions to be able to grow and develop and provide the kind of service they provide.

The Morgan amendment would knock out a gradual lifting of interest rate ceilings on savings deposits so as to provide savers with an equitable return on their savings. The gradual lifting of these ceilings will also permit financial institutions to compete with unregulated intermediaries, including the money market and mutual funds.

Mr. President, the issues contained in H.R. 4986 will not disappear if the Morgan amendment succeeds. There is always enormous pressure not to change, to keep everything the way it is. Obviously, the facts have changed, the economy has changed, the level of interest rates unfortunately has changed dramatically. The competition for these funds is growing very rapidly. We have to recognize that. If we stand still, it is going to mean very, very serious problems for thrift institutions, for borrowers, and for the housing industry.

The market will not let these issues go away. Everyday money flows out of thrift institutions, out of housing, and into money market funds. We demonstrated the other day that it is flowing out at the rate of about $1 billion a month. The Senate has the responsibility to act now to protect the long-term viability of thrift institutions and their commitment to housing. As I say, both Houses of Congress and three administrations have extensively studied these issues for the last 6 years. Higher interest rates and the resulting flow of funds away from depository institutions have accentuated the need for financial reform. The need for timely action has never been greater. I therefore urge the Senate to vote against the Morgan amendment.

I would like to say one more thing. The Morgan amendment does nothing for the small saver whatsoever. H.R. 4986 is a package designed to give the small saver a fair return on savings and give the thrifts added earnings. That is so important, in the first place as a mater of sheer, simple, economic justice. If you have $10,000 you can get a 13- or 14-percent return. If you have $5,000 or $1,000 you are a small saver and no way, you just cannot get it. You have to settle for 5 percent.

So from that standpoint it is essential.

Mr. President, there is nobody in public office today who does not recognize that the No. 1 problem of this country is inflation. The way to meet inflation is to encourage people to save money, to give them a reward. Let us use these interest rates. Nobody likes high-interest rates but if you have them, let us make sure that people get a reward for saving their money, so they do the anti-inflationary job they are supposed to do. They are ineffective if people only get 5 percent on their money when inflation is 15 percent.

Senator MORGAN's amendment is one sided. It overrides mortgage ceilings, giving higher rates, but does nothing for the saver. The lack of balance is fatal and I oppose the amendment for that reason.

The Federal Home Loan Bank Board has authorized variable rate mortgages for thrifts. H.R. 4986 sanctions those variable rate mortgages but requires the saver to be paid a fair rate of return.

The Morgan amendment would give an unconscionable windfall to thrifts so I hope the Senate would reject it.

I might mention the list of supporters: The President of the United States, The President's task force on regulation Q, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Comptroller, the agency that is more responsible for our thrifts than any other, the Home Loan Bank Board, the American Bankers Association, the Credit Union Trade Association, the credit unions, the National Savings & Loan League, a whole series of groups of savings people including the Grey Panthers, the Association of Retired Persons, and the National Credit Union Administration.

Mr. FORD. Will the Senator yield for one question? Are all of these associations just named in support of the committee's legislation?

Mr. PROXMIRE. That is correct.

Mr. FORD. They are all in favor of it?

Mr. PROXMIRE. That is correct.

Mr. RIEGLE. Is the Senator sure of that?

Mr. PROXMIRE. Will the Senator point out one I have listed that is not?

Mr. RIEGLE. I want to take a look at the list. I just wondered if the list did contain only people who were endorsing this.

Mr. PROXMIRE. Well, that is right. We have telegrams, letters, statements from them. I have just received it from the staff, who have gone over this material very carefully.

Mr. MORGAN. Will the Senator yield for a moment on that point?

Mr. PROXMIRE. I yield.

Mr. MORGAN. I spoke earlier with regard to this and put in the RECORD the

letter from the Home Builders and also the National Association of Realtors. Yesterday, the Senator from Wisconsin read a letter from Mr. Janis. It is really interesting. I want to quote from yesterday's Washington Star, October 30, 1979. Mr. Janis, who is Chairman of the Home Loan Bank Board, whose letter the Senator read yesterday, had this to say:

> Among the other key points made at yesterday's opening session:
>
> Janis said the proposed reduction of the minimum deposit on six-month money-market certificates from $10,000 to $1,000 is "disastrous, stupid and silly and what's more, I think the people who proposed it know it."

Mr. PROXMIRE. As the Senator will recall, in our colloquy on Monday, we made it very clear that Janis opposed that particular portion of the legislation, but supported everything else in it.

Mr. FORD. Will the Senator yield for a question?

Mr. PROXMIRE. Yes.

Mr. FORD. I think the Senator has been relating to the Bank Board today as endorsing the whole package. I am not sure who of those he represents out there is going to endorse the whole package.

Mr. PROXMIRE. Let me read what Janis said:

> Let me state clearly and unequivocally that the Bank Board, charged by Congress with responsibility for the safety and soundness of thrift institutions, strongly supports passage of this legislation.

Mr. FORD. Then he is quoted as saying there are parts of it he is against.

Mr. PROXMIRE. Then I read to the Senate the other day—

> It is true that there are parts of this bill, such as lowering the cost of the money market certificate (MMC) to $1,000, that we do not support because we do not believe this to be possible nor desirable at this time.

That is the position I told the Senate about. But in general, the other parts of the legislation, he supports.

Mr. TOWER. Mr. President, I can add little to what the distinguished Senator from Wisconsin has said in opposition to the amendement in the nature of a substitute, which in fact only authorizes share drafts, automatic transfers, and remote service units and, therefore, deals only with the three financial services that were struck down by the U.S. court of appeals last April. What is proposed by the Senator from North Carolina is, I think, just a piecemeal and inadequate answer to the very complex and significant developments that are occurring in our Nation's depository system. Therefore, I join with the Senator from Wisconsin, the chairman of the committee, in urging that the Senate reject the amendment of the Senator from North Carolina.

Mr. FORD. Mr. President, I rise in support of the substitute amendment presented by the distinguished Senator from North Carolina. I think we have to listen to those people whom we represent and their attitude as it relates to this piece of legislation. I believe I am relating what the Senator from North Carolina said about the piece of legislation that he is attempting to amend by presenting a substitute amendment. He said that there is just a little bit of sweep through the whole piece of legislation that people are saying, if we do not take this, we do not get anything.

I have heard about NOW accounts and how important it is. If I read right or my information is correct, the New England banks, those institutions in New England who now are authorized NOW accounts, said if they do not keep regulation Q, they do not want the NOW accounts.

I think the Senator from North Carolina needs to be complimented, because the further we go along in the debate on this legislation, more bubbles are coming to the surface to indicate what is wrong with this piece of legislation. We hear the endorsement of the Federal Home Loan Bank Board that it is all right, but—they do not approve of this, they think this would be disastrous to the institutions. It is awfully hard for me to take an endorsement when, at the same time, they are saying that if this goes through, it will be disastrous to our institutions and our ability to have money to lend at a reasonable rate of interest.

I think I am quoting correctly that when I asked the distinguished Senator from Wisconsin yesterday about reducing the money market certificates from $10,000 to $1,000, that more of the passbook savings would come out of the institutions, there would be less money to lend as it relates to mortgages on homes, which is the S. & L.'s basic responsibility, and that would increase the interest rates, he said the whole piece of legislation basically would increase the interest rates on mortgage loans. It seems to me that is an indictment on the total piece of legislation.

Also, we are saying to all of our lending institutions, "We want you to be the same. We want the banks to be savings and loans, the savings and loans to be banks, Federal credit unions to do everything the banks and savings and loans can do." What we are doing is saying that from now on, you are going to get interest on your bank account if this original piece of legislation passes—and I hope it does not—so the bank is going to start charging. I do not know what it is going to cost per check, but they are going to start charging. And the only people that are still going to be able to come out on top are those with a sizable bank deposit, probably at $1,000 or more in their deposit.

We are talking about helping the little fellow; always, we are talking about helping the little fellow, and we start adding up additional charges on that small depositor and it is going to cost him money. So as we pound our fists and raise our voices in defense of the little depositor, the small fellow out there, we find in the record that we are increasing his interest rates; we find in the record it is going to cost him more to write a check; we find in the record that we are going to credit cards and the one account, write one check. People are again going to corner the market as relates to plastic cards.

I am very, very concerned, Mr. President, that if we do not accept the Morgan amendment and we look at what the House has said—and I think we have had enough experience with the tenacity of the House of Representatives in conference lately—that we are going to hurt the Federal credit unions by not allowing a piece of legislation that will be acceptable to the House to go with so they cannot have their share drafts. I want to help the Federal credit unions. I want them to have their share drafts. But I cannot vote for a piece of legislation that has regulation Q, NOW accounts, all these other good things that we are now imposing on the people in our States and they do not want it.

Even in a letter of endorsement, they point out the bad features of the bill and why do we not take them out, why do we not start rendering?

Mr. President, I hope my colleagues will accept the hard work of the distinguished Senator from North Carolina and give a vote that will give us additional opportunity. Sure, we say it has been going for a long time. I am sure many of those who have been around this body longer than I have and probably will stay longer than I will have been working on legislation that has taken longer than 6 years. So, Mr. President, I support the position of the distinguished Senator from North Carolina (Mr. MORGAN).

Mr. PROXMIRE. Mr. President, unless other Senators want to speak, I am going to move to table the amendment.

Mr. EXON. Mr. President.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I should like to engage in a colloquy with my friend from North Carolina, possibly my friend from Kentucky, my friend from Wisconsin, and my friend from Texas, and anyone else who may care to join in.

Yesterday, I rose on the floor and called attention to the fact that when the Senate approved, by a lopsided vote, 73 to 13, the Cochran amendment the day before yesterday, I thought it was one of the worst invasions of States rights that we had seen in the U.S. Senate. I have been here only a short time now, but I have been here and I have heard Senators get up on this floor and talk about States rights and what it is all about. It seems to me, Mr. President, that with regard to the amendment that is being offered by the Senator from North Carolina—and if I can get things worked out, I intend to offer an amendment to his amendment if necessary to try to do something about the wholesale violation of States rights that was rushed through the U.S. Senate the day before yesterday without public hearing.

What we have done, I suspect the Chair might know, Mr. President, is to say to the States that big brother in Washington knows best, that the usury laws in the States of this Union, where they have them, just do not amount to anything for a year and a half, until July 1.

I have seen States rights advocates on top of States rights advocates stand up in the well of the U.S. Senate the other day and vote to do away with fundamental States rights on such a fundamental thing as the usury rate.

I am talking about this in hopes that the small number of Senators on this floor, and hopefully their aides, or other Senators not on the floor at the present time, will hear my voice and take another look, hopefully, if we can, at a very fundamental and very serious invasion of States rights—if we are really interested in States rights.

I certainly know and realize and recognize that we have a rather critical situation in some parts of the United States today, Nebraska included, with ever-rising interest rates.

In the State of Nebraska, Mr. President, for example, we have a usury law and from time to time we have to raise the usury rates in Nebraska to keep up with the national money market.

At this time, Mr. President, the Governor of the State of Nebraska and members of the Nebraska Legislature are in discussion as to whether or not they should have a meeting of the Nebraska Legislature for the purpose of raising the usury rate in Nebraska, which now, for the most part, is 12.5 percent per annum.

It has been the decision of the Governor of the State of Nebraska, despite several appeals, not to hold a special session of the Nebraska Legislature. Although I have not been brought up to date in the last day or so, it is my understanding that most of the members of the Nebraska Legislature, who would have the responsibility to pass such an increase in the usury law, do not want to hold a special session of the Nebraska Legislature where they could, rather easily, raise the usury rate.

There are probably many reasons why they do not wish to do this, not the least of which might be the fact that they do not want to take the political heat to raise the interest rates.

But aside from that fact, which is mere speculation on my part at the present time, the Nebraska Governor and the Nebraska Legislature are saying, the Nebraska Legislature comes into session immediately after the first of January next year, and that during this time of especially high intrest rates, while everybody is panicking, assuming the interest rates will keep as high in the immediate future, at least, we better have a little cooling off period here. Nebraskans being cautious people, being people who do not panic very easily, are similarly saying, "Let's just cool it. Let's just cool it until January when the Nebraska Legislature in its regular process comes into session, and if we are facing the situation we possibly could be facing for November and December, it is time then for the Nebraska Legislature to act under the Nebraska statute and under what has traditionally been considered States rights."

I would hope, therefore, that my colleagues on the floor of the U.S. Senate would not feel that it is imperative upon them to override the wishes of the people of the State of Nebraska, the Governor of the State of Nebraska, and most of the members of the Nebraska Legislature, by saying that big daddy in Washington, D.C., on the banks of the Potomac, knows best once again, and what we are going to do here with this measure we rushed through, without public hearing, is that we will take care of you and you do not have to pay any attention to your usury rates for a year and a half, until July 1, 1981. Let us just take care of this for you like big papa has always done in Washington, D.C.

It seems to me that Senators who are concerned about States' rights should be joined by Senators who may not be traditionally as much concerned about States rights as some of us and say, "Now, wait a minute, what are we doing in this matter of dictating to the States who have usury laws, that they do not have to pay any attention to those usury laws for a year and a half, and some 2 or 3 months after that?"

I am speaking to my friend the Senator from Wisconsin on the bill. I intend to offer an amendment. Before I do that, I would like to engage in colloquy with my friend from North Carolina, or any others, on the matter I have brought out, particularly with regard to the usurpation of States rights with regard to usury rates.

I yield, Mr. President, to my friend from North Carolina.

Mr. MORGAN. Mr. President, I am delighted to participate in such a colloquy because I could not agree more with the Senator from Nebraska than I do.

I stated as emphatically and as strongly as I could on Monday when this amendment was adopted that I thought it was one of the most flagrant abuses of Federal power that I had seen.

Usury laws have historically been the prerogatives of States. I say to my colleague from Nebraska that I doubt that many of our colleagues who voted to preempt State usury laws last Monday realized that in many cases they were increasing the interest limitations from something like 12 or 10 percent to as high as 17 percent. I believe it ran 5 percent above discount rates. So that was a substantial increase in the usury rates.

I say to my colleague, the only reason I included it in this substitute bill was in an effort to try put together a package, an emergency package, that I thought they could support, the Senate having spoken 73 to 13 on the usury preemption question. If the Senator sees fit to offer an amendment to my substitute, I will vote for it.

Mr. EXON. I thank my friend from North Carolina.

Mr. President, I would like to ask the manager of the bill a question or two, if I might, at this time. Will the Senator from Wisconsin yield?

Mr. PROXMIRE. Yes; I am happy to yield to my friend from Nebraska.

Mr. EXON. Could the manager of the bill advise me, maybe it is in the RECORD already, could he advise me what was the consideration in the committee with regard to waiving the States' usury rates?

Mr. PROXMIRE. Well, what the committee did, the committee provided this override would go only to mortgage loans.

Mr. EXON. Would only go to what? I am sorry.

Mr. PROXMIRE. We provided two things. In the first place, we provided in the State of Arkansas there be an override of both agricultural and business loans.

Then we provided in committee that there would be an override on home mortgage loans nationwide.

I think the Senator from Nebraska has made an excellent point, one that many from the committee share, that we should be very reluctant at any time to override any State law, let alone any constitutional provision.

I might tell my good friend from Nebraska that I was asked by Arkansas Senators as long as 3 years ago, and I refused to do it on the grounds we should not impose our judgment on a State government. But the situation became so very serious in Arkansas, so tough for their lending institutions and for the whole economy, that they felt it was absolutely imperative we act. So we took the action with respect to Arkansas.

With respect to mortgage loans, we find there are a number of States in which the usury laws are going to be just very quickly made so restraining it will be virtually impossible to get a mortgage loan.

Therefore, the committee felt they should act with respect to mortgages.

When Senator COCHRAN offered his amendment, as manager of the bill I supported it, and other members of the committee supported it, because as the Senator knows, after the committee made its report on October 6, we had that "Saturday Massacre" by the Federal Reserve Board, in which the Federal Reserve Board made a decision to adopt very stringent restraining policies, which everybody expects to raise interest rates sharply over the next several months.

Under those circumstances, we felt that Senator COCHRAN was correct, that we had to override the usury statute, but we were very careful again in how we did it. We provided that the override would expire after a year and a half, and we provided that the State government itself could reverse the override at any time by simply having the State legislature act.

Mr. EXON. I thank the Senator. Perhaps I can follow up on that a little.

It is true, then, that when the bill came to the floor for action, there was no consideration on the part of the committee to override any usury rates by the States, whether they were in the statute or whether they were in the Constitution.

Mr. PROXMIRE. The bill did contain an override on home mortgage loans nationally and on business and agricultural loans in Arkansas.

Mr. EXON. They had it on mortgage loans but not on business or other commercial loans?

Mr. PROXMIRE. Agricultural loans.

Mr. EXON. Then it came to the floor, and I believe 2 or 3 weeks ago, by voice vote, we adopted an amendment to help Arkansas out of its particularly peculiar problem. If I understand the Arkansas law correctly, it is in the constitution at

the present time that before you can have a change in the constitution, you have to go through some kind of process, probably an initiative petition or, more likely, action by the Arkansas Legislature, to change the constitution, to change the usury rate. That, in turn, as I understand it, would have to go to a vote of the people.

Since this would be a process of many months, I recognize that because of Arkansas' peculiar situation, they were entitled to some consideration, possibly, since the request, as I understood it, came from Arkansas elected officials through their U.S. Senators.

Does the Senator from Wisconsin know whether that is an accurate scenario?

Mr. PROXMIRE. The Senator is exactly right. That is precisely what happened.

Mr. EXON. Can the Senator from Wisconsin explain to me how California and Texas got into the picture?

Mr. PROXMIRE. Because they both have constitutional provisions.

Mr. EXON. Do those States find themselves similarly situated?

Mr. PROXMIRE. It is not quite the same, but it was somewhat similar. They both have usury provisions in their constitutions.

Therefore, you cannot simply have the legislatures meet and take an action which would be effective. You have to have an extraordinary amendment to the constitution, which, as the Senator knows, takes time. I cannot tell the Senator how long it would take, but it would take time. In the meantime, it not only would be punishing for the financial institutions in the States but also devastating for the local business people who could not get credit.

Mr. EXON. Aside from California, Arkansas, and Texas, many other States in the Union—I do not have the number—have no usury laws at the present time. Is that correct?

Mr. PROXMIRE. Some do, some do not; that is correct. There are 16 or 18 that have usury laws on the books, but many States do not. The Senator is correct.

Mr. EXON. I say to the Senator from Wisconsin that I have read part of the CONGRESSIONAL RECORD of the day before yesterday, when the Cochran amendment was adopted. I noticed that the explanation for the adoption of that amendment had to do with an emergency situation, that, basically, with the rising interest rates, we had caught the States off guard. Many of their legislatures could not be called into session conveniently. Therefore, because of the emergency situation, we had to make some provisions through Congress, so that they could escape these dire circumstances with which they were confronted—in some cases, legitimately so. Is that correct?

Mr. PROXMIRE. That is correct.

Mr. EXON. If we have an emergency situation, why did we pick the date of July 1, 1981, more than a year and a half away, to correct an emergency situation? I think most of us here recognize that all or most of the States will have a regular session of their legislature coming up sometime shortly after the first of the year.

Mr. PROXMIRE. The Senator is correct.

I think the Senator makes a perfectly proper challenge of that date. That date was related to the date we had for Arkansas. It will take Arkansas until July 1, 1981, as I understand it, to make that change. Therefore, that was in the legislation for Arkansas, and we simply adopted that date for the other States.

I cannot tell the Senator how long all the other States would be likely to take in the ordinary course of events for them to be able to change the law; but it was our feeling that it would give them enough time to do so and that no States would be in a position in which they could not change the law conveniently, if they wished to do so.

Mr. EXON. My question has to do with this: Except for Arkansas, which I recognize has a special problem—and I made no objection when we voted by voice vote on special consideration for Arkansas, and I would have no objection to making some special considerations for California and Texas, if that is necessary. I understand that they are the only two other States that have some special problems.

I get back to the situation I mentioned. The Senate was told over and over in debate the other day, in explanation of why the Cochran amendment was necessary, that we had an emergency situation. Then we followed with action that I am not sure that all the Members of the Senate understood, by delaying a year and a half any action the States would have to take on their own or under their usury laws.

Mr. PROXMIRE. The Cochran amendment, which was adopted and is part of the bill, states as follows:

> A State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of—
>
> (A) July 1, 1981;
>
> (B) the date, after the date of the enactment of this paragraph, on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such States.

So that it would be possible for the State to meet within a week or a few days and restore their usury statute. They can act very promptly, if they wish to do so.

Mr. EXON. I thank the Senator from Wisconsin for the explanation.

The fact still remains that if what we have adopted in the Senate with the Cochran amendment—what we would be doing, in essence, would be saying to any State that wished to do so, "You don't have to touch your usury rates. You can slide along on what Big Brother has done out of Washington, D.C., to as long as July 1, 1981."

Is that correct?

Mr. PROXMIRE. The Senator is correct.

Mr. EXON. I want to get back to one other point. Why was the date of July 1, 1981, chosen? What is magical about that date? Can anyone explain that to me?

Mr. PROXMIRE. Yes; there is nothing magical about the date except with respect to the State of Arkansas, as I understand it, and the Senator from Arkansas can correct me if I am wrong. This is the date prior to which they could not amend their constitution, complete the amendment and provide for a change in their usury laws that would put them back into business before that date. So we had established that for Arkansas. I realize the rest of this amendment does not apply to Arkansas, but we simply took that from the Arkansas statute, applied it here because we felt it was a limited period. After all, it is not forever, it is 18 months, and it would give every State legislature, virtually, an opportunity to meet in due course and act on it.

I do not think there is anything magic about it. If the Senator would like to amend it to make that date earlier I would not personally see an objection to it; others might.

Mr. EXON. I guess I have an objection. I thank my friend from Wisconsin for that explanation. I think I have spoken about the invasion of the States rights issue. I think, therefore, after the explanation I have just listened to, that, it seems to me, all of the States in the Union are having an invasion of their right to set their own usury rates by the Federal Government only to accommodate Arkansas.

It would seem to me that while I agree that Arkansas has some problem, and while I would be in favor of granting them—and, as I said before, possibly California and Texas—some special consideration, I just do not like the fact, and I would think that most of my colleagues on the floor of the Senate would not like the fact, of their States being dictated to, that they do not have to do anything about the usury rates until July 1, 1981, which happens to be a special consideration to Arkansas.

I am hopeful, I say to the floor manager of the bill, that possibly we could work out some reasonable compromise on this matter. I am opposed unequivocally to the matter of the Federal Government telling Nebraska, which has a usury rate and has the wherewithal under its law to raise that usury rate if it wants to, "Please understand we are not telling you, Nebraska, what to do, but we are saying that effective with this legislation, if it passes and if it is signed by the President of the United States, any lender in the State of Nebraska could go above the usury rate established for over 200 years of Nebraska State law," and that the only way Nebraska could rescind that would be to have a meeting of the legislature and say, "No, we do not want that. We are going to change it."

I suggest to the Senator I think we are putting the cart before the horse when we adopt legislation up here on a supposed emergency basis that is over a year and a half down the road, and then being good enough to say, "But if you do not like it you can change it at the State level."

I suspect that most of the people in Nebraska and most of the people in all of the other States of the Union would believe that that certainly is a matter of putting the cart before the horse.

Mr. President, I have worked out an amendment that might be able to partially work us out of this dilemma. While saying once again I am opposed to it in total, I suspect realistically speaking—and I try to be a realistic individual—when 73 of my colleagues, knowing what they were doing or not, on the floor of the U.S. Senate the day before yesterday voted for the Cochran amendment, I suspect it would not be reasonable for me to think they are going to come in here and turn it around.

However, I hope that just as a small token in recognition of what we are doing or not doing in the Senate we would realistically face the situation that the July 1, 1981 date is not a realistic date under any terms of an "emergency" and I think we could agree that maybe we could shorten that period down to something like July 1, 1980, which certainly would be less than the year and a half figure we used in passing the Cochran amendment the other day.

The only explanation the Senator has given me is one of convenience. I suspect somewhere along the line that July 1, 1981 date happened to be in the bill that came over from the House of Representatives, that we happened to tack on the amendment by the Senator from Mississippi.

Therefore, I suggest to the manager of the bill that if we have a true emergency—a true emergency could not possibly, except for the States of Arkansas, possibly Texas and California—last more than 6 months.

I am about to offer an amendment to cut down the time, and if I may suggest to the manager of the bill we suggest the absence of a quorum for 5 minutes, we might be able to work it out.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 700

Mr. MORGAN. Mr. President, after listening to my colleague and reading his proposed amendment, I believe I could modify my substitute amendment and still keep faith with my colleagues with whom I talked, because it would preempt all usury laws, just as the Cochran amendment did on Monday, until July of next year, which would give legislatures the right to consider it in regular session.

If there is a State that does not have a regular session in the even year—and I think most of them do now—they would still have adequate time to have a special session. So this would take care of the situation in Senator COCHRAN's State, and then with those with constitutional amendments it would give them an additional year in which to take care of it.

So, Mr. President, I ask that my substitute amendment be modified to incorporate the provision of the amendment as prepared by the Senator from Nebraska.

The PRESIDING OFFICER. The Senator has the right to modify his amendment, and it will be so modified.

The modification is as follows:

> At the end of title IV add a new section:
>
> Notwithstanding the provisions of this act to the contrary, the preemption of State usury laws provided by this Title shall expire on July 1, 1980 except in those States having a constitutional provision establishing maximum interest rates in which case the preemption shall expire on July 1, 1981.

Mr. MORGAN. Mr. President, unless someone else has something to offer, I believe that the issue has been fairly debated. But I do wish to summarize what my amendment in the nature of a substitute does and what it does not do, so that my colleagues who are listening in their offices and their staff members may know exactly what it would do.

My amendment in the nature of a substitute contains four basic provisions. First, it overturns the court of appeals decision permanently and first, authorizes the credit union share draft, second, authorizes automatic transfers, and third, authorizes savings and loan remote service units. Parenthetically, those are the three things that the court decision outlawed. This would restore the status quo, and do it permanently.

The second provision of my proposal retains the provision adopted on Monday increasing the insurance of deposits from $40,000 to $50,000 per account. That is, the second provision retains the provision which increased the insurance of deposits from $40,000 to $50,000. Third, it retains the truth-in-lending simplification portion of the measure which was adopted yesterday; and fourth, it maintains the usury override provision until July of next year with regard to those States that have statutes, and until July of 1981 for those States which have constitutional provisions. So every State should have adequate time to take care of the usury law.

Those are the four provisions.

Now, the amendment in the nature of a substitute omits some important things which I think my fellow Senators are concerned about. First, it omits the phase-out of regulation Q and nationwide NOW accounts. Those are two very controversial issues. It omits the provision that lowers the money market certificates from $10,000 to $1,000. It omits the Federal Reserve authority over nonmember institutions; and it omits all other provisions other than the four contained in the first part of my explanation.

I believe, subject to correction by anyone who is listening, that that is what my amendment in the nature of a substitute would do.

Mr. PROXMIRE. Mr. President, I move to lay on the table the Morgan amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Hawaii (Mr. MATSUNAGA) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

I also announce that the Senator from Oregon (Mr. HATFIELD) is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—57

Bellmon	Hayakawa	Pell
Bentsen	Heinz	Percy
Boren	Humphrey	Proxmire
Boschwitz	Jackson	Ribicoff
Bradley	Javits	Riegle
Burdick	Jepsen	Roth
Chafee	Johnston	Schmitt
Church	Kassebaum	Schweiker
Cochran	Kennedy	Simpson
Cohen	Laxalt	Stafford
Cranston	Leahy	Stevens
Culver	Levin	Stevenson
Danforth	Long	Tower
Dole	Magnuson	Tsongas
Durenberger	Mathias	Wallop
Garn	McGovern	Warner
Glenn	Moynihan	Weicker
Hart	Muskie	Williams
Hatch	Packwood	Zorinsky

NAYS—38

Armstrong	Exon	Morgan
Baucus	Ford	Nunn
Bayh	Goldwater	Pressler
Biden	Gravel	Pryor
Bumpers	Heflin	Randolph
Byrd, Harry F., Jr.	Helms	Sarbanes
Byrd, Robert C.	Hollings	Sasser
Chiles	Huddleston	Stennis
DeConcini	Inouye	Stewart
Domenici	Lugar	Stone
Durkin	McClure	Talmadge
Eagleton	Melcher	Thurmond
	Metzenbaum	Young

NOT VOTING—5

Baker	Hatfield	Nelson
Cannon	Matsunaga	

So the motion to lay on the table was agreed to.

UP AMENDMENT NO. 701

(Purpose: To lengthen the repayment period for a bank stock loan from 12 to 25 years and prohibits the Federal Reserve from denying an application to form a one-bank holding company because the repayment period is up to 25 years)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Oklahoma (Mr. BOREN) proposes an unprinted amendment numbered 701.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add a new section, 413, to Title IV, on page 40, between lines 12 and 13, as follows: Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, the Board shall not follow any practice or policy in the consideration of any application for the formation of a one-bank holding company if following such practice or policy would result in the rejection of such application solely because the transaction to form such one-bank holding company involves a bank stock loan which is for a period of not more than 25 years. The previous sentence shall not be construed to prohibit the Board from rejecting any application solely because the financial arrangements are considered unsatisfactory."

Mr. BOREN. Mr. President, the purpose of this amendment is to ease the debt-servicing burdens of small one-bank holding companies and to insure that bank ownership will not become limited to only those with large amounts of wealth.

This amendment lengthens the repayment period for a bank stock loan from 12 years up to a maximum of 25 years and prohibits the Federal Reserve Board from denying an application for the formation of a one-bank holding company solely because the repayment period for the loan is greater than 12 years. I want to emphasize, however, that the Board will still have the authority to reject any application if the financial arrangements are considered unsatisfactory.

One-bank holding companies have been used effectively in serving the financial needs of small community-based banks and promoting the local ownership of banks. While I share the concern of the Federal Reserve in wanting to insure that one-bank holding companies are sound financial institutions, I believe we must recognize the increased financial pressures placed upon them and their banks.

Since 1972, the Federal Reserve has required bank stock loans acquired through one-bank holding companies to be repaid within 12 years. During this same period of time, however, changes in economic conditions have contributed to the increase in the cost of these loans. In 1972, the prime rate charged by banks for bank stock loans ranged from 4¼ percent to 5⅞ percent, today the rate is over 14 percent. In 1972, the inflation rate was about 3 percent and today it exceeds 13 percent.

These increases, coupled with the added cost of the Financial Institutions Regulatory and Interest Rate Control Act passed by Congress last year, have resulted in a heavier debt burden for bank acquisitions. The higher cost of financing, combined with the short-term 12-year payout schedule, are making it nearly impossible for capable individuals who do not have large amounts of money ever to own a small bank in their community.

Mr. President, I urge the acceptance of this amendment. I believe it may be acceptable to the managers of the bill.

Mr. PROXMIRE. Mr. President, as I understand this amendment, it eases the debt service burden of bank holding companies by extending the time of repayment from 12 to 25 years.

Mr. BOREN. That is correct.

Mr. PROXMIRE. As I understand it, the Federal Reserve Board is reluctant about this amendment. In fact, they oppose it. But I am inclined to take the amendment to conference for a full discussion of it, including the Federal Reserve Board's position.

I understand the amendment does not prohibit the Board from denying bank stock acquisition loans on safety and soundness grounds. Is that correct?

Mr. BOREN. The Senator from Wisconsin is correct. The Board would still have full authority to deny them on the basis of soundness. This is simply to say that they could not deny them on the basis of the payout period alone.

Mr. PROXMIRE. Mr. President, as I say, I am willing to accept the amendment, with the caveat that we have to discuss this at some length with the Federal Reserve and it would be discussed in conference.

Mr. BOREN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I yield to the Senator from Texas.

Mr. TOWER. Will the Senator from Nebraska yield to the Senator from Iowa for the purpose of introducing a distinguished parliamentarian who is visiting the Senate today?

Mr. EXON. Certainly, I will yield to the Senator from Iowa.

VISIT TO THE SENATE BY MEMBER OF NATIONAL ASSEMBLY, LAGOS, NIGERIA

Mr. JEPSEN. Mr. President, it is my privilege to introduce to the Senate and welcome to the Senate 'Lere Adesinsa from Nigeria, who was a new senator on October 1. He is in the back of the room. I would like to give Senators the opportunity to say hello.

RECESS

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes without the distinguished Senator from Nebraska losing his right to the floor so that Members might meet our guest.

There being no objection, the Senate, at 3:41 p.m., recessed until 3:43 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

Mr. EXON. Mr. President, I yield for 2 minutes to my friend from South Dakota.

Mr. McGOVERN. Mr. President, I ask unanimous consent that this brief intervention on behalf of Senator CHAFEE and I be placed in the RECORD after the disposition of the bill now pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Pursuant to the above order, the proceedings which occurred at this point relative to the introduction of a declaration to the resolution of ratification on the SALT treaty are printed under routine morning business.)

Mr. CHAFEE. Mr. President, I thank the Senator from South Dakota and the Senator from Nebraska for this time.

Mr. McGOVERN. I thank the Senator from Nebraska for yielding to Senator CHAFEE and I. I appreciate his consideration.

I appreciate the remarks of the Senator from Rhode Island.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The Senate continued with consideration of H.R. 4986.

UP AMENDMENT NO. 702

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an unprinted amendment numbered 702:

At the end of the committee substitute add a new section:

Notwithstanding any provision of this Act to the contrary, the preemption of State usury laws provided by this Act shall expire on July 1, 1980 except in those States having a constitutional provision establishing maximum interest rates in which case the preemption shall expire on July 1, 1981.

Mr. EXON. Mr. President, I do not think it will take a great deal of time for debate on this amendment. I do not know whether the managers of the bill have anything to say about it. We have debated it at great length on the last issue.

The amendment I have offered was offered as a part of the amendment by the Senator from North Carolina, which failed on the tabling motion. I will offer a brief explanation.

The measure before the Senate, as it presently reads, has invaded the States rights issue on the matter of States rights usury laws.

I have made several statements on the floor and explained how badly I think the Senate has been mistaken in its action.

All this amendment would do would be to shorten the time for the invasion of the States' usury laws from the July 1, 1981, date, as it presently stands, to July 1, 1980—1 full year. In other words, rather than saying we are going to knock out the State usury laws for a year-and-a-half-plus, we are saying that we will do it for 6 months-plus.

It seems to me that most of us would agree that if we are taking this action because of an emergency, then certainly 6 months-plus will give the States more than adequate time to meet any emergency situation that might exist. Most States, if not all, will have regular sessions of their legislature well before July 1, 1980. Therefore, I am not satisfied that we should do this at all. But in a spirit of compromise, and recognizing that there may be some places where there is an emergency, we are extending

the States' waiver of the usury laws only until July 1, 1980, except that, as the amendment clearly states, those States that have difficulty in their constitution with usury laws have until July 1, 1981.

In summary, all the amendment does is to cut down from July 1, 1981, to July 1, 1980, the time period in which States must act on the usury laws in their own right, as they historically have, except the States that have constitutional problems, and I believe those States are Texas, Arkansas, and California. Those States have until July 1, 1981, as the bill now calls for.

I yield the floor at this time, but I will be asking for the yeas and nays on this vote.

Mr. PROXMIRE. Mr. President, the Senator from Nebraska, the Senator from North Carolina, and I have been discussing this matter for some time. We debated it at considerable length when the Morgan amendment was pending, and I think Senators understand it. It does sharply modify the time provided in the Cochran amendment.

I think we should rely to some extent on the advice of the author of the amendment which was adopted by the Senate by a vote of 72 to 13. If the Senator from Mississippi is willing to accept the amendment, I think we can take it by voice vote.

Mr. COCHRAN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. COCHRAN. I appreciate very much being notified of the pending amendment. I wish I could have had the benefit of the statement by the Senator from Nebraska in support of the effort. I know that it was attached a moment ago to the Morgan amendment, which was tabled.

The only problem I have with the amendment is that it sets up two kinds of rules. One for States where there are constitutional impediments; another rule for States where there are legislative restrictions as to interest rates.

Other than that difficulty, which we got into when we made one special rule for the State of Arkansas, I have no problem with the 6 months, except that there are a few States which probably will feel squeezed by that time limit. I can think of at least two or three States where the legislature is scheduled to go into session next year in April. If this bill is passed and becomes law quickly, that may impose some tighter squeeze on them. I do not know.

For example, the legislature in my State goes into session in January, and I do not think it would impose any hardship. So it is not from a parochial standpoint that I am even suggesting that that might be a problem.

Mr. PROXMIRE. Mr. President, if the Senator will yield on that point, in the course of the debate it was suggested that in the event a State is constrained as to time, it could have a special session, if necessary. This is such a vital issue for many States that the feeling is that they would do so.

The Senator from Nebraska raises the fact that we are overriding State law. I know that the Senator from Mississippi feels strongly about that, too. So we should make the override as limited and as brief as possible and give the States the most immediate opportunity and incentive for standing up and taking their own position.

Mr. COCHRAN. I have no real problem with this, because I respect the intentions and admire the initiative of the Senator from Nebraska in trying to insure that this is interpreted as what it is meant to be—an emergency and temporary measure on the part of Congress because of the unusual circumstances caused by the precipitate increase by the Federal Reserve Board in the discount rate. Many people in our States are simply out of business, unable to do business, because of the circumstances we have right now.

So, with the understanding that the chairman of the committee is recommending that we accept this amendment—is that his recommendation?

Mr. PROXMIRE. The Senator is correct.

Mr. COCHRAN. And if the Senator from Texas concurs in that, I will offer no objection to accepting the amendment.

Mr. TOWER. I am prepared to concur.

Mr. PROXMIRE. Mr. President, I will be happy to have a voice vote.

Mr. MORGAN. Mr. President, I just want to thank my distinguished colleagues, especially the Senator from Nebraska, who has helped work out this difficult problem in an admirable way.

I would still argue that the State legislatures, in an emergency session, could have remedied this. But I think this can be justified on a need of compelling interest, and it limits the time. More important, it does not shift the burden, which is one of the big things about which I have been concerned.

So I thank the chairman and the Senator from Mississippi, and I thank the Senator from Nebraska for offering this amendment.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. EXON. I yield.

Mr. BUMPERS. Does the amendment go to the preemption of usury on housing, or does it go only to the Cochran amendment that was adopted yesterday?

Mr. PROXMIRE. The amendment, as I understand it, goes only to business and agricultural loans, not to home mortgage loans.

Mr. BUMPERS. Does the sponsor of the amendment agree with that?

Mr. EXON. I do agree with this. The Senator is correct.

Mr. BUMPERS. I thank the Senator.

Mr. EXON. Mr. President, I thank my colleagues for their consideration. Since there seems to be general agreement, I will be pleased if we can accept this amendment.

I appreciate the Senator from Mississippi coming to the floor. He was the sponsor of the original amendment. He made the point that one of the objections he had was the fact that it did not treat all States alike.

I point out in that regard that California, I believe, has been excepted in the bill so far as NOW accounts are concerned. So I am not sure that it is necessarily too inconsistent.

Also, the Senator from Mississippi made a statement that I think should be emphasized: that it may put a squeeze on some States to act. Again, that is one of the reasons for the amendment; because I think if we take the statements that have been made that the Senate is acting in good faith on an emergency basis, then we have given enough time. If it requires some squeezing in the States to get the job done, that is their responsibility.

I thank the distinguished majority and minority managers of the bill for their cooperation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TSONGAS). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEWART. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMBODIA

Mr. STEWART. Mr. President, I take this opportunity to commend my distinguished colleagues, Senator SASSER, Senator DANFORTH and Senator BAUCUS, for their just concluded trip to Bangkok and Phnom Penh. I believe that their efforts to expedite relief efforts in Cambodia reflect a great degree of courage and compassion. I am hopeful that the trip will pave the way for swift international reponse to the continuing tragedy in Indochina.

I would like to applaud the Carter administration for its commitment to provide close to $70 million in relief assistance to the Cambodians. This pledge, in response to calls for massive aid from the world community, is essential if international relief efforts in Cambodia are to be effective.

There is no need for me to recount in detail the grim situation in Cambodia, where famine and disease currently threaten the lives of millions of men, women and children. Torn by war, brutal political oppresssion and starvation, the population of that country has already been reduced from 8 million in 1970 to between 4 and 5 million at present. The Cambodian people now face the real possibility of complete extinction.

Reports indicate that food production this harvest will be at most 20 percent of normal; only 5 percent of the rice paddies appear to be in cultivation, and the main rice crop, due to be harvested in December and January, is virtually nonexistent. Observers also point out that there is a severe shortage of doctors, medicine and medical facilities in Cambodia; one estimate is that there are only 55 practicing physicians in the entire country; 80 percent of the children in Cambodia are suffering from the severest form of malnutrition. Without massive international aid, it is believed that 2.5

million people face the prospect of immediate starvation.

The recent response of the world community to the Cambodian tragedy has been encouraging. The United States has pledged to provide one-third of the $100 million in aid requested by the major relief organizations; Japan, Sweden, and other Scandinavian and Western European nations have also agreed to donate significant amounts of money for the assistance efforts.

Unfortunately, as we are all aware, the relief efforts have been greatly hampered by the continued fighting between the Vietnam-backed government of Heng Samrin, and the ousted forces of Pol Pot, who still claim to be the legitimate rulers of Cambodia. Each faction has sought to prevent relief from being given to the other side; the Heng Samrin government has refused to grant relief workers visas unless it was assured control over distributing all the food and medical supplies. It is only in the past 2 weeks that an understanding was reached, and the government agreed to let officials of UNICEF and the International Red Cross monitor the delivery of relief aid. I am heartened that assistance now seems to be going to both sides in the fighting, and that food from Thailand is being channeled directly into the areas of Cambodia still under Pol Pot's control.

There are, however, enormous logistical problems which remain to provide relief. The physical infrastructure of Cambodia has been decimated by years of fighting; the country's major seaport, Kompong Som, is in very poor condition. There is, moreover, an enormous shortage of cars, trucks, and barges to distribute the aid, as well as fuel and spare parts to keep these vehicles operating. While airplanes can bring substantial amounts of relief into Cambodia, it is estimated that such flights could only provide one-half of the required 1,000 tons of rice which the Cambodians need to receive each day. Given the great amounts of aid that must be distributed in the next several months, overland shipment of supplies now represents the most efficient form of transport.

It is in this light that the efforts of Senators SASSER, DANFORTH, and BAUCUS are so crucial. They discussed with Cambodian officials the possibility of opening a "land bridge" for convoys of food supplies between Thailand and Cambodia, a move that would greatly expedite the delivery of food and medical supplies. Unfortunately, members of the Heng Samrin government now appear reluctant to allow such a route to be established. This refusal is particularly disheartening, given the fact that Vietnamese officials initially approved the idea, and that these officials also expressed their willingness to guarantee the security of the convoys passing through areas of Cambodia under the control of Pol Pot's forces.

Like everyone else, I am still hopeful that the "land bridge" can be opened in the near future, and that through this and other means, the United States and the rest of the international community can bring a halt to the sufferings of the Cambondian people. Without such swift action, thousands of Cambodians will continue to die each day for the next several months. I want to again strongly commend my colleagues for their efforts to avert this holocaust.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I call up——

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The Senate continued with consideration of H.R. 4986.

AMENDMENT NO. 557

(Purpose: To strike out section 412)

Mr. STEVENSON. Mr. President, I call up amendment No. 557.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON), for himself, Mr. PERCY, Mr. TSONGAS, Mr. LUGAR, Mr. MORGAN, Mr. MOYNIHAN, Mr. JAVITS, Mr. LEVIN, and Mr. DURENBERGER, proposes an amendment numbered 557.

On page —

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, strike out lines 6 through 12.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Andrew Carothers of my staff be accorded the privileges of the floor during consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, this amendment to H.R. 4986 would strike section 412 of the Depository Institutions Deregulatory Act. That section makes an important change in the Bank Holding Company Act by prohibiting, for the first time, the establishment of national banks limited to trust services by a bank holding company outside the company's home State. This change was not discussed in hearings on the bill, was not included in S. 1334 and S. 1347 (the original bills dealing with financial deregulation), and was not brought to the attention of committee members prior to, or at the time of, markup.

The Federal Reserve Board and the Comptroller of the Currency oppose the new restriction embodied in section 412. I ask unanimous consent that a letter from Chairman Paul Volcker of the Federal Reserve Board dated October 23, 1979, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENSON. As Chairman Volcker states, section 412 would adversely affect the availability of trust services. It is anticompetitive and discriminates against federally chartered institutions.

Despite the significance of the issue, the restrictive provision was offered in the committee markup as the last section of a lengthy amendment entitled "Comptroller's Housekeeping Amendments." S. 1334, the original "Comptroller's Housekeeping" bill, does not include such a provision, and in fact the Comptroller opposes it.

Mr. President, I ask unanimous consent that another letter, this one stating the opposition of the Comptroller and addressed to me, also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. STEVENSON. Mr. President, wholly apart from the merits of this prohibition, it seems to me that before Congress enacts such a significant change in the law, we should hold some hearings, we should receive comments, hear from all sides, debate the issue, and then make a reasoned judgment. That is not the case at this point.

The new section 412 was buried in the "Termination of Closed Receivership Fund" title of that amendment and was not germane to closed receivership funds. To say the least, this provision has received little attention in committee. Before such a significant change is approved, we should hold hearings, receive comments, and debate the issue.

Section 412 would narrow the scope of activities which the Federal Reserve Board may approve for bank holding companies by adding to the Bank Holding Company Act the definition of a bank which may not be acquired by a holding company outside its home State, a national bank limited to trust operations. Under the Bank Holding Company Act, interstate banking is prohibited—not interstate trust operations. This section would prevent a bank holding company from operating a trust company in another State even though it did not take deposits or make loans or otherwise engage in banking.

It is argued that section 1504 of the Financial Institutions Regulatory Act—FIRA—passed last year inadevertently provided new authority for establishing federally chartered trust company subsidiaries by out-of-State holding companies. In fact, under authority contained in the National Bank Act, the Comptroller has chartered seven trust banks since 1973. Only recently, in litigation challenging the exercise of that authority brought by competitors of a national trust bank in New Jersey, has the Comptroller's authority been challenged. Section 1504 of FIRA was enacted as an amendment to the National Banking Act to affirm the old authority. It did not confer new authority. The interstate establishment of banks limited to trust functions was already permitted by law.

Section 412 of this bill fundamentally changes Federal law by amending the law that was in existence prior to FIRA

and is now the law in section 3 of the Bank Holding Company Act.

Mr. JAVITS. Will the Senator yield?

Mr. STEVENSON. Yes, I yield.

Mr. JAVITS. I would like to express my support of this amendment, but perhaps more important, I would like for the Senator, if he would, to note two arguments made by the chairman of the Federal Reserve Board, Paul Volcker, in a letter which he sent to our colleague in the House, Congressman ST GERMAIN. He said:

> It should be noted that section 412, intended to make nationally chartered trust organizations subject to the interstate prohibition of the Bank Holding Company Act, would have an anticompetitive effect in the provision of trust services. Moreover, it would appear to be discriminatory against national banks since presumably a State chartered limited trust organization would not be subject to the same prohibitions.

I ask my colleague, the author of the amendment, if he would be good enough to comment on those two points: One, the fact that it would reduce the competition for trust business by barring out of State national banks, and, two, that it would discriminate against such banks because they are national since State chartered organizations would not be subject to the same prohibitions.

Mr. STEVENSON. Mr. President, the Senator from New York makes a wise point. Not only did the chairman of the Federal Reserve Board make the same point, that this is anticompetitive legislation, but it is also made by the Comptroller of the Currency. Both of these authorities oppose this measure, and for the reasons mentioned by the Senator from New York. It is anticompetitive. It would deprive the public of trust services, and it poses more regulation at a time when most Members of the Congress have some inclination to deregulate.

Finally, in response to my good friend from New York, I would simply suggest that before such a major change is made in the law with its anticompetitive implications, there should be some hearings. Some attention should be given to the issue in the committees of the Congress before the action is taken. That has not been the case.

While the final opinions of Senators on interstate competition in the provision of financial services may differ, the matter warrants an opportunity to hear all sides and reach informed opinions on the issue.

This issue is part of a larger issue involving the financial industry's market structure and all interstate bank holding company activities. The administration will shortly send to the Congress a report on geographic restrictions on bank and holding company activities, as required by the International Banking Act. When we have had a chance to review this report and hold hearings on all facets of the issue, it would be timely to legislate. It is not today.

We may find that competition, with consumers given the opportunity to choose their financial services, is the best way to improve the financial system and protect against undue concentrations of power. Section 412 is anticompetitive. It requires more Government reguation.

Mr. President, we should not approve this unexamined prescription for regulation at the expense of competition without an opportunity for the public to be heard.

I urge support for the amendment.

EXHIBIT 1

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
Washington, D.C., October 23, 1979.

Hon. ADLAI E. STEVENSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: Your letter of October 22 requests our views on an amendment to section 5169 of the Revised Statutes contained in section 412 of the "Depository Institutions Deregulation Act of 1979," H.R. 4986, recently reported by the Senate Banking Committee.

Last year, section 5169 of the Revised Statutes was amended by section 1504 of the Federal Institutions Regulatory and Interest Rate Control Act of 1978, to provide that a National Bank Association heretofore or hereafter chartered "is not illegally constituted solely because its operations are or have been required by the Comptroller of the Currency to be limited to those of a trust company and activities related thereto." Section 412 of H.R. 4986 would further amend this section of the Revised Statutes to provide that such a nationally chartered limited purpose trust company "shall be deemed an additional bank within the contemplation of section 3 of the Bank Holding Company Act of 1956."

Section 3(d) of the Bank Holding Company Act of 1956, as amended, provides that a bank holding company may not acquire "any additional bank located outside of the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on the effective date of this amendment. . . ." However, this interstate prohibition would not be applicable to a limited purpose trust company because the Bank Holding Company Act now defines a bank to be an institution that (1) accepts demand deposits, and (2) engages in the business of making commercial loans.

Under the Bank Holding Company Act and Regulation Y issued thereunder, a trust company is considered to be a nonbanking activity and trust company activities are one of the activities determined by the Board to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.

The proposed amendment in section 412 of H.R. 4986 represents an attempt to protect present providers of trust services from prospective competition. In general, the Board has found that both *de novo* and across State lines entry into authorized nonbanking activities add an extra competitive dimension. Consequently, the limitations proposed in section 412 have anticompetitive implications and, as such, threaten to have an adverse impact on the public interest in the availability of competitive sources of trust services.

Moreover, it should be noted that section 412 introduces a distinction between Federally chartered and State chartered institutions in the Bank Holding Company Act. Under the provisions of this amendment, State chartered limited purpose trust organizations would not be subject to the limitation on banks under section 3(d) of the Bank Holding Company Act, but would continue to be subject to the nonbank provisions of that Act.

I trust that these views will be helpful to you in your consideration of this amendment.

Sincerely,

PAUL A. VOLCKER.

EXHIBIT 2

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, D.C., October 25, 1979.

Hon. ADLAI E. STEVENSON III,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: In response to your request, we are pleased to have the opportunity to express the concern of this Office with proposed Section 412 of H.R. 4986 which has recently been favorably reported to the Senate floor by the Committee on Banking, Housing, and Urban Affairs. As explained in the Senate Report accompanying the Bill, that particular provision is intended to make clear that special purpose national banking associations may not be chartered across state lines. See S. Rep. No. 96-368 (October 15, 1979), at 23.

In 1978, the Congress clarified the authority of the Comptroller to charter national banking associations with powers limited to the offering of trust services. That clarification, contained in Section 1504 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRA), Pub. L. No. 95-630 (November 10, 1978), was enacted in response to a judicial challenge regarding the establishment of a limited charter association in New Jersey. In fact, our Office had chartered seven such institutions since 1973. Only that particular litigation necessitated seeking statutory clarification of our authority to do so.

Proposed Section 412 of H.R. 4986 is presumably intended to prohibit the chartering of a national banking association with limited trust powers from being established by a bank holding company across state lines. We remain unconvinced, however, that the issue of the interstate establishment of trust companies subsidiaries of bank holding companies has been afforded sufficient Congressional consideration to justify the proposed provision especially as it relates to the broader questions involving all forms of interstate holding company activities. Moreover, the proposed section is itself technically inadequate to effect its announced purposes.

The chartering of national trust companies is a matter wholly separate from the establishment of bank holding company subsidiaries across states lines. The authority of holding companies to establish trust companies—either state or federally chartered—on an interstate basis is derived entirely from the provisions of the Bank Holding Company Act. That law bars bank holding companies from acquiring out-of-state commercial banks, that is, banks which accept deposits and make commercial loans, but does permit their engaging across state lines in a limited range of other activities commonly associated with banking, including trust services. Section 1504 of FIRA does not affect that authority in any way. In fact, before the enactment of FIRA, at least two holding companies with the approval of the Federal Reserve Board had established trust company subsidiaries on an interstate basis, under both national and state charters.

In our opinion, it would be most premature at this time to enact a new restrictive prohibition against any one form of holding company activity without re-evaluating the principles which have long been applied equally to other types of permissible interstate activities of holding companies. The broader issues involving all forms of interstate bank holding company activities and the existing market structure should, in our opinion, be reconsidered before any further prohibition upon interstate holding company activities, which is designed to protect particular local interests, is enacted. In fact, the Administration is nearing completion of a study, which was undertaken at the request of Congress, to review the

entire issue of geographic restrictions on bank and holding company activities. We recommend that any legislative action on the issue of interstate trust operations at least await the completion of that report. As you know, this Office has a long standing policy of favoring a free and open system of competition among all providers of financial services. We believe that any geographical restraints on competition should over time be eliminated, and further statutory restraints upon competition not be enacted.

In recognition of the need to more fully consider the entire issue of interstate holding company activities, and the inappropriateness of enacting a provision which fails to address both federal and state chartered trust companies, the House Subcommittee on Financial Institutions Supervision, Regulation & Insurance recently removed a provision similar to proposed Section 412 from proposed H.R. 5280, to be more appropriately considered together with amendments to the Bank Holding Company Act. It is my understanding, that the House Subcommittee has taken the issue under advisement to be considered in light of the need for amendment to the Bank Holding Company Act.

In conclusion, we believe that the proposed prohibition regarding the interstate establishment of national banking associations with limited trust powers is essentially anticompetitive and should not be enacted. The Congress should, in our opinion, more fully consider the issue in the light of the soon to be completed study regarding all geographical restrictions on bank and holding company activities. Finally, the specifically proposed provision is inadequate to accomplish its intended purposes because it fails to address the establishment of state-chartered trust companies to be acquired by out-of-state holding companies.

Sincerely,

JOHN G. HEIMANN,
Comptroller of the Currency.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, right now there are seven national bank holding companies attempting to open trust companies in Florida. These include Bankers Trust, Continental Illinois, and Morgan Holding Corp. The trust assets of the seven money-center banks amount to $116.6 billion. The trust assets of all the banks in Florida amount to only $9 billion. So those seven holding companies have nearly 13 times our trust assets.

Florida's total banking assets are $37.6 billion compared with $148.3 billion for just these seven bank holding companies. How in the world can the banks in my State, or very many other States, even begin to compete with the awesome power of these giants? The answer is that they could not. They would be wiped out in the trust arena because all the lucrative trust accounts would go to the bank holding companys' in-State trust company.

These money-center banks have made it clear they are after the cream of the accounts. Let me quote to you from the testimony of Mr. Samuel Hunt, who appeared as a witness for Continental Illinois Corp. at its hearing on its application before the Office of the Comptroller of the Currency:

We feel it appropriate to direct our marketing effort at that segment of the market which we feel we can serve best; that happens to be individuals who have a net worth of about $1 million, or who have manageable assets of about a half million dollars.

We do not have any minimum size accounts which we accept or reject; but, our pricing policy is designed to appeal to those who want the highest quality service, and who are willing to pay a significant price to achieve that.

In some respects, that limits the availability of our service to individuals who have relatively less wealth, or assets to manage.

These money-center banks do not want to serve the trust needs of the people of Florida or of Iowa or of Texas. They want to come in and raid our banks of the big accounts that make it possible for our banks to handle any size trust—right down to the smallest. Small trusts just are not as profitable as large trusts. If our banks do not have a mixture of large and small accounts, they will not be able to do trust work at all.

I do not think the Comptroller is following the law or the clear intent of the Congress in reviewing applications for out-of-State branches by national bank holding companies. Section 412 of H.R. 4986 makes our intent unmistakable—the Comptroller does not have this authority.

Mr. President, I urge my colleagues whose States do not have money-center banks (and that is most States) to oppose this amendment.

The PRESIDING OFFICER. The Senator from Alabama.

UP AMENDMENT NO. 703

(Purpose: To amend the Bank Holding Company Act of 1956)

Mr. STEWART. Mr. President, I send to the desk an amendment which is a substitute for the language proposed to be stricken by the Stevenson amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 703 as a substitute for the Stevenson amendment numbered 557.

Mr. STEWART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, strike out lines 6 through 12 and insert in lieu thereof the following:

SEC. 412. (a) Section 5169 of the Revised Statutes is amended by adding at the end thereof of the following: "Notwithstanding the provisions of the preceding sentence, a national banking association the operations of which are limited as provided in the preceding sentence shall be deemed an additional bank within the contemplation of section 3 of the Bank Holding Company Act of 1956.".

SEC. 413. Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2)(A) Except as provided in subparagraph (B), the restrictions contained in paragraph (1) regarding the acquisition of shares or assets of, or interests in, an additional bank shall apply to the acquisition of shares or asset of, or interests in, a trust company.

"(B) Subparagraph (A) shall not apply with respect to the acquisition of shares or assets of, or interests in, a trust company if such acquisition was approved by the Board on or before November 1, 1979, and if such trust company opened for business on or before November 1, 1979.

"(C) For the purpose of this paragraph, the term 'trust company' means any company whose powers are limited to the powers specified in subsection (a) of the first section of the Act entitled 'An Act to place authority over the trust powers of national banks in the Comptroller of the Currency', approved September 28, 1962 (12 U.S.C. 92a), for a national bank located in the same State in which such trust company is located.".

Mr. STEWART. Mr. President, the amendment I have just offered contains the language that is already in the bill and has already been spoken to by the Senator from Florida, the Senator from Illinois, and the Senator from New York. The further addition we have made in the amendment we have offered would simply allow States the same rights they have with respect to trust companies which they presently have with respect to banks. Each State, in other words, under this amendment, can decide whether it wishes out-of-State entry.

Section 412 of the bill that is presently before us is only half the loaf. It will prevent the Comptroller of the Currency from chartering trust companies across State lines. However, many States charter trust companies at the State level. Under the same Federal court decision, recently handed down by a Federal district court, which was discussed by the Senator from Florida, States will be compelled to charter trust companies across State lines unless Congress acts.

In response to the statement made by the Senator from New York that national trust companies were being discriminated against by the language presently in the act, I say that this would make the act a uniform-type situation as it would apply, in the manner in which we have worded it, to State-chartered trust company entries the same as nationally chartered trust companies.

Mr. STONE. Will the Senator from Alabama yield for a short question and comment?

Mr. STEWART. Certainly.

Mr. STONE. I thank the Senator.

Is it not the fact that the State banking associations from the Senator's State of Alabama and from the following States oppose the Stevenson amendment but support the amendment of the Senator from Alabama: Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, Wisconsin, and Wyoming?

Mr. STEWART. It is my understanding that that is correct.

Mr. STONE. I thank the Senator.

Mr. STEWART. I think we need to answer the question that was raised by the Senator from New York about the discriminatory element of the amendment as it presently stands in this substitute. In addition, I think, in all fairness to the Senator from Illinois and the Senator from New York, they raised questions about the competitive situation that should be addressed. Those things were, I assume, in the substitute amendments.

It goes without saying that the trust industry is already highly concentrated. I think we need to recognize that when we talk about competition. The top 30 trust entities in this country have as much under management as the remaining 3,000 trust entities in this country. This concentration is increasing. Without adoption of the language that we are talking about here today, certainly, that possibility would be enhanced.

The Senator from Florida indicated that they are having difficulties in his State today. I point out to my colleagues in the Senate that that possibility would not only be limited to Florida. If we do not pass the language that we are considering here today in the substitute amendments, I suggest that that would be true in the majority of the States save, possibly, three. Those are the States that contain the money-center banks. The State of New York would be one. With all due respect, the State of Illinois, which is represented ably by the Senator from Illinois who spoke earlier, would be one, and perhaps California. But in Florida, I think we need to know exactly what has happened.

Three applications for national bank charters limited to trust powers have been filed there with the Comptroller of the Currency. Five trust company applications have been filed with the Florida Comptroller's office. And let us see who is making applications for those trust privileges.

On March 20, 1979, Bankers Trust, a New York corporation, with affiliate banking assets of $24.4 billion and trust assets of $30 billion, filed an application.

On May 14, 1979, the United States Trust Corp., with affiliate bank assets of $1.7 billion and trust assets of $11.7 billion, filed a trust company application for Palm Beach, Fla.

On May 14, the Detroit Bank Corp., with affiliate bank assets of $4 billion and trust assets of $2.7 billion, filed a trust company application.

On April 30, 1979, Continental Illinois Corp., with affiliate bank assets of $31.1 billion and trust assets of $6.9 billion, filed an application for a national bank limited to trust powers.

On April 23, 1979, Manufacturers Hanover Corp., with affiliate bank assets of $38.4 billion and trust assets of $12.5 billion, filed a trust company application for Miami, Fla.

I could read on and on. Those applications were filed, Mr. President, at a time when the assets—it is my understanding, the total assets in Florida, and I stand to be corrected on this—of all the institutions in that State, were no more than $9 billion.

I think it speaks to the fact that those institutions are not going to be able to meet the competition. They are not going to be able to secure the size of trust accounts that give any capability to compete. I think when we talk about competition, we need to talk about not only the fact that these large-sized banking institutions have the capability to move into other States but that, also, the competition that they will face in those States from the State institutions, will not have the capability to compete with them. The concentration of the trust industry, in my opinion, is something that will also have an effect on us in this country. It is something we need very much to be concerned about.

Institutional investors control almost 50 percent of the Nation's capital markets and 8 of the top 10 institutional investors are bank trust departments. I am quite sure some of them are involved in attempts to acquire banking institutions with trust capabilities in the State of Florida. As I have said, it is not going to be limited to the State of Florida. They are heading elsewhere.

Further concentration in the trust industry, in my opinion, will further concentrate the equity markets. It will hinder capital formation for small- and medium-sized regional corporations. A recent Library of Congress study found that trust institutions have a tendency to invest in the largest and best-known blue chip companies. Companies such as Morrison's in Mobile, Ala., which is a company that is fairly large sized in my State, but certainly would not come to the attention, I think, of most money-center trust company analysts, would have difficulty finding financial aid or raising equity capital to enhance its capabilities as far as the company is concerned.

They would just be out of reach and out of consideration by these large-sized, money-centered trust institutions that are making a move in Florida now and could be doing it in Alabama next week and in Utah the week after that.

If we want to talk about what effect this will have on competition, I think we need only look at certain other industries in this country to see what the concentration, as far as the holdings of those institutions, has done to prices.

Just take oil, for instance. Plenty of people are still concerned about that, concerned about the centralizing of decisions in energy. Now we are talking about the same thing in the financial world.

Frankly, I would urge my colleagues to take that into consideration when they are voting on it. I ask that they support this amendment.

Mr. President, at this time I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, everybody is for deregulating the other fellow, and on it goes. More regulation; less competition.

This substitute amendment proposes more regulation than section 412. It proposes to regulate the interstate activities of State trust companies by bank holding companies.

The issue raised by this substitute to my amendment goes back all the way to the Articles of Confederation. I do not know how far this process could go. It contemplates States hiding behind their boundaries, protecting their trust facilities and other industries from competition, all at the expense of not only the people of those States, but the national welfare.

This is an anticompetitive substitute for an amendment which seeks to enhance and enlarge competition in the provision of trust services.

I emphasize trust services because it has nothing to do with banking services. A lot of figures have floated around that are irrelevant.

These are not interstate banking activities. My amendment and the substitute are addressed to interstate trust services.

All my amendment proposes to do is to permit holding companies to continue providing the same trust services they are already permitted by law. Let the people choose their trust services; let them benefit from the competition the interstate provision of trust services offers.

If, for some reason I cannot see, there is some need to change the law in order to impose more regulation on the activities of banks and to stifle competition in the provision of trust services, then we ought to have hearings. We ought to consider the issue and not make a major change in the law with no careful consideration of the arguments on both sides, no opportunity for debate in committee, and against the advice of the Comptroller of the Currency and the Chairman of the Federal Reserve Board.

Mr. President, the amendment that is offered as a substitute for my amendment would compound the anticompetitive implications of section 412 in the bill by preventing State banks, as well as national banks, from providing trust services across State lines.

As such, it is more anticompetitive and proposes more regulation. Before acting on it and on section 412, I suggest to the Senate that we should hold some hearings and hear both sides.

I urge the Senate to defeat this substitute and to approve the amendment which I originally offered.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I favor the Stewart substitute to the Stevenson amendment. I oppose the Stevenson amendment for a number of reason.

First, section 412 of the bill that is now pending provides that when the Comptroller charters a national bank to get in the trust business, that national bank may not be chartered across State lines.

Therefore, it carries out the spirit of the McFadden Act. The McFadden Act is going to be debated and discussed in our committee at great length. It is an act that has been on the books for 40 years. Maybe it should be repealed. But we ought to wait for the judgment of the

administration, which has studied this very carefully for a long time.

It is coming down shortly. We should have hearings on it and decide on the basis of whether or not we feel we ought to have the kind of local ownership, or we ought to have the kind of competition, the Senator from Illinois is championing.

There is a lot of merit in what the Senator from Illinois argues for. It may be that banks in the big cities, Chicago, Milwaukee, Boston, and so forth, are more efficient. It may be their trust services are better and more efficient and more competent and can provide a better service.

But there is a great deal of merit in the local ownership of banks and trust companies. I think that is attested to by the fact that we have in this country 14,000 banks. We have a very large number of trust companies now. Local ownership means the local owners can know the character of the people in their community. That is not true in big cities, of course. But it is in many small towns in every one of our States.

I think it is something we should be very careful about changing.

We have a banking system that is quite different from that of any country in the world. Canada has five big banks. Most of the countries have a very small number of banks.

Of course, we, as I say, have proliferated in our banking system. I think it served our country and our needs very well.

So I hope we do not act in favor of the Stevenson amendment. If we do, I think we are prejudging the McFadden Act, a determination that should be made deliberately by the committee at a later time.

As I say, I support the Stewart amendment because I think that is in keeping with the spirit of the McFadden Act inasmuch as it would provide that neither federally chartered nor State-chartered trust companies could be able to operate across State lines.

For that reason, I favor the amendment by the distinguished Senator from Alabama (Mr. STEWART).

● Mr. CHILES. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Alabama. I wholeheartedly endorse the thrust of this amendment to include States-chartered trust companies under the prohibition against interstate acquisition or branching of trust operations by national bank holding companies.

Recently, considerable attention has been focused on the question of geographical limitations currently imposed on our Nation's financial and banking institutions. Because the answers we finally arrive at will have a significant impact on these institutions and our economy in general, a very thoughtful and deliberate approach has been taken in this matter. Now, however, the Comptroller of the Currency has, singlehandedly, decided to alter this process and essentially take matters in his own hands by chartering national bank holding associations limited to trust powers across State lines. I think this a very premature move and one that flies in the face of congressional intent.

When Congress passed the Financial Institutions Reform Act last year, section 1504 was included to affirm the Comptrollers authority to charter trust operations within the same State. There was, however, no menion that this section would allow the Comptroller to charter a trust operation across State lines. The Comptroller took it upon himself to interpret section 1504 in this manner. I believe he is completely wrong in this interpretation. In addition to my concern, I think it is important to note that the Comptroller's actions were also questioned by the distinguished chairman of the Senate Banking Committee, Senator PROXMIRE and his counterpart in the House, Congressman REUSS. In a joint letter dated August 14, 1979, they expressed their concern and indicated in no uncertain terms that they knew of no intention by either the Senate Banking Committee or the House Banking Committee to provide the Comptroller with the authority to charter trust operations on an interstate basis.

While I am concerned about the Comptroller's actions relative to their unknown consequences on our Nation's financial institutions and our economy, I am also concerned about the impact on the State of Florida and other non-money-center States, especially in the South and Midwest. Already this year, the Comptroller of the Currency and the Florida comptroller have received some 10 applications by money-center banks to open interstate trust operations in Florida. This, I believe, threatens the competitive balance that now exists in Florida and threatens to undermine the basic pluralistic, nonconcentrated banking structure that has enabled us to enjoy the most successful, secure financial system in the world.

Since the competitive balance is viewed as a positive element of our system, let us see what Florida bankers would have to contend with should interstate branching or acquisition of trust operations be approved. First, the total banking assets of the money-center banks attempting to do business in Florida amount to some $148 billion. Total assets held by Florida banks amount to only $37.6 billion. Second, the trust assets of the money-center banks total $116.6 billion compared to Florida's total trust assets of approximately $9 billion. Looking at these figures, I would say it would be awfully tough for Florida's bankers to compete with the financial resources of the Nation's money-center banks. I am sure the same situation holds true for other States and I am concerned that we are only seeing the tip of the iceberg in the applications filed for interstate trust operations in Florida.

I am in complete agreement with section 412 of H.R. 4986 and firmly believe that we have a responsibility to put an end to the Comptroller's actions until such a time as Congress has the opportunity to completely review this practice and its impact on our financial institutions. My only regret is that section 412 as it currently reads, does not go far enough. Accordingly, I am pleased to support my colleague from Alabama in his efforts to include State-chartered trust companies in the prohibition against bank holding company acquisition of trust operations located outside their principal place of business unless a State has passed legislation expressly permitting such an acquisition.●

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alabama.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Hawaii (Mr. MATSUNAGA) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

I also announce that the Senator from Oregon (Mr. HATFIELD) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators who wish to vote on this amendment?

The result was announced—yeas 61, nays 32, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—61

Bayh	Goldwater	Pryor
Bellmon	Gravel	Randolph
Bentsen	Hart	Ribicoff
Biden	Heflin	Riegle
Boren	Helms	Roth
Bumpers	Hollings	Sarbanes
Byrd,	Huddleston	Sasser
Harry F., Jr.	Inouye	Simpson
Byrd, Robert C.	Jackson	Stafford
Chiles	Johnston	Stennis
Church	Laxalt	Stevens
Cochran	Leahy	Stewart
Cohen	Long	Stone
Culver	Magnuson	Talmadge
Danforth	Mathias	Thurmond
DeConcini	McClure	Tower
Dole	McGovern	Warner
Eagleton	Metzenbaum	Weicker
Exon	Morgan	Young
Ford	Muskie	Zorinsky
Glenn	Proxmire	

NAYS—32

Armstrong	Hayakawa	Packwood
Baucus	Heinz	Pell
Boschwitz	Humphrey	Percy
Bradley	Javits	Pressler
Burdick	Jepsen	Schmitt
Chafee	Kassebaum	Schweiker
Cranston	Kennedy	Stevenson
Domenici	Levin	Tsongas
Durenberger	Lugar	Wallop
Garn	Melcher	Williams
Hatch	Moynihan	

NOT VOTING—7

Baker	Hatfield	Nunn
Cannon	Matsunaga	
Durkin	Nelson	

So Mr. STEWART's amendment (No. UP 703) was agreed to.

The PRESIDING OFFICER. The substitute amendment offered by the Senator from Alabama (Mr. STEWART) having been agreed to, under the precedents of the Senate the amendment of the Senator from Illinois is not acted upon.

Mr. STEWART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is no amendment pending.

Mr. ROBERT C. BYRD. Does a Senator wish to call up an amendment?

Mr. MORGAN. Mr. President, I have an amendment.

Mr. BELLMON. Mr. President, will the Senator from North Carolina yield to me?

Mr. ROBERT C. BYRD. I have the floor. I yield to the Senator from Oklahoma.

WILL ROGERS DAY

Mr. BELLMON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 3. It is a joint resolution having to do with designating November 4 as "Will Rogers Day."

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, the Committee on the Judiciary acted favorably last night on a joint resolution (S.J. Res. 32) which I understand is identical, word for word, with the House resolution, and I presume the Senator wants to take up the resolution passed by the House, since it has already passed that body.

Mr. BELLMON. That is right.

Mr. THURMOND. We have no objection to that.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the Senator from Oklahoma has cleared it on this side, and I understand it has been cleared with the Judiciary Committee. He therefore may proceed.

The PRESIDING OFFICER. The joint resolution will be stated.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 3) designating November 4, 1979, as "Will Rogers Day."

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice, and the Senate will proceed to its consideration.

Mr. BELLMON. Mr. President, next Sunday marks the 100th anniversary of the birth of Will Rogers a humble Oklahoman who became one of the most famous and beloved personalities of the 20th century.

From his birth on November 4, 1879 on his father's ranch near Oologah, Indian Territory, till his death in a plane crash at Point Barrow, Alaska on August 15, 1935, his life was an inspiration for all Americans.

Will Rogers was a study of contrasts. Born of Cherokee Indian heritage, of which he was most proud, he always thought of himself as a cowboy. He got his start as an entertainer by doing rope tricks. Although he rose to become the companion of presidents and kings, he disdained the trappings of stardom and preferred an old blue serge suit to fancy dress. Despite the lack of a formal education, he displayed a wisdom that has survived through the ages.

Many of his comments are as pertinent today as they were a half-century ago. His observations are particularly applicable to Congress and the Federal Government.

For example, consider what he had to say about bureaucracy:

The government has not only hundreds but literally thousands in Washington to see that no man can personally tend to his own business. They go there to do it for him and a mob always gets panicky quicker than an individual.

And that was before many of the present Federal regulations were written.

Will Rogers commented frequently about U.S. foreign policy. Here are some typical remarks:

There's one thing no nation can ever accuse us of and that's secret diplomacy. Our foreign dealings are an open book . . . generally a check book.

America has a unique record. We never lost a war and we never won a conference in our lives.

Another favorite subject was politics, which he called the best show in America. Some of today's candidates would do well to remember these sayings:

You can't beat an administration by attacking it. You have to show some plan of improving it.

Conditions and not oratory is going to settle the next election.

Everybody is trying to save the country, only they're trying to do it in different ways, and it's too big. The country is too big for all of them put together to spoil.

Will Rogers was a frequent visitor to Washington, which he called a "joke factory" and he could often be seen in the Senate or House gallery watching the proceedings with a grin, or having a bowl of chili in a Capitol dining room.

As a journalist, he covered every national political convention, Democrat and Republican, from 1920 to 1932, and both parties felt the sting of his barbed wit. He said:

I generally give the party in power the more digs, because they are generally doing the country the most damage.

Several efforts were made to draft him for public office—even President—but he firmly resisted. Yet he has been remembered far longer than many politicians of his era.

One of Oklahoma's two statues in the Capitol is the Jo Davidson bronze of Will Rogers which stands just outside Statuary Hall. When this statue was dedicated on June 6, 1939, the late Alben Barkley, then a Senator from Kentucky, had these insightful comments:

It has been in America sometimes the idea that greatness was limited largely to men who hold public station, that the ermine of public office was an indispensable thing to American greatness, and those of us who hold office even for a temporary period sometimes are prone to imagine that we are more powerful and more august, and are to be revered more than those who are not entrusted by their fellow man with official robes; but I have sometimes wondered whether the man who occupies the Governor's chair or the Senator's toga or the judicial robe has, after all, rendered greater service to mankind than the man who walks in the humble ways, sometimes in the valley where the sun never shines upon him.

Throughout his life, Will Rogers walked in the humble ways. Although he became world famous as an actor, author, humorist, critic, businessman, aviation enthusiast, and world traveler, he never lost the common touch.

He was a shining example of one of his most popular sayings:

It's great to be great, but it's greater to be human.

Mr. President, on Sunday, November 4, in his hometown of Claremore, Okla., this Will Rogers Centennial celebration will be brought to a climax with the issuance of a special commemorative stamp and other ceremonies.

Last February Members of the Oklahoma congressional delegation introduced a joint resolution authorizing and requesting the President to designate November 4, 1979, as "Will Rogers Day." That resolution was passed by the House of Representatives last Friday, October 26, and is now before the Senate for approval.

Mr. President, Will Rogers gave a great deal to this country. During the tumultuous years in which he lived, no one did more than he to help Americans understand themselves, their opportunities, and their responsibilities. He was truly an American legend.

Mr. President, the Congress of the United States can do no less than recognize the contributions which this great American made to this country and to our citizens, by creating a special day in his honor.

I urge the approval of this joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I yield to the junior Senator from Oklahoma.

Mr. BOREN. Mr. President, I am honored today to cosponsor this resolution offered by my distinguished colleague from Oklahoma, Senator HENRY BELLMON, calling on the President to designate November 4, 1979, as Will Rogers Centennial Day in the United States.

This humble Oklahoman, an Indian-cowboy born in Indian territory who received little formal education, captured the hearts of millions of people, both in our country and abroad.

But only we as Oklahomans can, and do, claim him for our own.

Will Rogers continues to be Oklahoma's

favorite son. In a poll conducted by a national wire service recently, Oklahomans overwhelmingly listed Will Rogers as the most well-known Oklahoman in history.

It is a fitting tribute to him and to his many accomplishments that the Nation honor Will Rogers on the 100th anniversary of his birth.

During his lifetime—which began near Oologah, Okla., on November 4, 1879, and ended in the tragic plane crash with Wiley Post near Point Barrow, Alaska, on August 15, 1935—Will Rogers became internationally known as a humorist, newspaper columnist, entertainer, radio announcer, and timely commentator on the events of the day.

He was one of the best read men in America. Will Rogers was a man who spoke the common language, and his words of humor touched the lives of Americans both during his lifetime, and continuing to today.

President Franklin D. Roosevelt spoke of Will Rogers and of his "kindly humor which, while seeing facts, could always laugh at fantasy." Of Rogers' commentaries on the world, President Roosevelt said:

> While I had discussed European matters with many others, both American and foreign, Will Rogers' analysis of affairs abroad was not only more interesting but proved to be more accurate than any other I have heard.

As Will Rogers himself said in one of his most well-known statements, "I never met a man I didn't like." Lesser known is his comment, which speaks much of Will Rogers the man, "It's great to be great, but it's greater to be human."

The spirit of Will Rogers lives on, not only in his films, newspaper columns, and other published works, but in the Will Rogers Memorial which is located on the site where he had planned a home overlooking Claremore, Okla.

Will Rogers is buried on that site, overlooking Rogers County, Okla., a county named for the Rogers family. Thousands will be on hand this Sunday to honor him and to wish him a happy 100th birthday.

One of those persons who will attend the memorial service for Will Rogers is Maggie Culver Fry of Claremore, Oklahoma's poet laureate.

Mrs. Fry has penned lyrics to a song entitled "Will of the Oologah Country" which has been used to publicize this anniversary year of Will Rogers' birth.

Her song is as follows:

Once a boy was born in Cherokee land, Will Rogers was his name. And the range he rode was the whole wide world as he roped his way to fame.

This homey sage loved rich and poor; he knew the ways of state. When his life was done under midnight sun he was numbered with the great.

Every golden fall at the round-up call, in Claremore town today. They talk of Will who spoke no ill of the ones who came his way.

Everybody knew Will—of the Oologah Country. Where the skies are clear, and the prairies wide. And he roped the world with the ring of his laughter. But nobody knew how far he would ride.

I urge my colleagues in the Senate to support this resolution which recognizes Oklahoma's favorite son, Will Rogers.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 3) was read the third time, and passed.

The preamble was agreed to.

Mr. BELLMON. Mr. President, I ask unanimous consent that the text of the joint resolution, with its preamble, be printed in the RECORD.

There being no objection, the preamble and the joint resolution were ordered to be printed in the RECORD, as follows:

H.J. RES. 3

Whereas Will Rogers, in a lifetime of wise and humorous commentary on events in this nation and throughout the world, made a tremendous contribution to human betterment through his gentle yet penetrating wisdom;

Whereas from Cherokee Indian and European ancestry, born on an Indian Territory farm, he was a true product of the frontier civilization of our Great Plains as well as its unique combination in Oklahoma;

Whereas he became world famous as rodeo performer, Broadway entertainer, movie and radio star, and above all as daily columnist for some 350 newspapers throughout the United States;

Whereas he became Oklahoma's best known native son and the most celebrated private citizen of the United States in his lifetime;

Whereas Will Rogers possessed the priceless gift of being able to judge people and events both kindly and keenly, personifying affection for his fellow man;

Whereas he improved the standard of public life throughout America by his witty and constructive commentary, making this a better place in which to live; and

Whereas the approaching 100th anniversary of his birth is a fitting occasion to dedicate ourselves to a rebirth of the goodwill and public spirit he exemplified: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate November 4, 1979, as "Will Rogers Day" in commemoration of the one hundredth anniversary of the birth of William Penn Adair Rogers, noted American philosopher-humorist.

Mr. BELLMON. I ask unanimous consent that Senate Joint Resolution 32 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The Senate continued with the consideration of H.R. 4986.

Mr. BUMPERS. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield to the Senator from Arkansas.

Mr. BUMPERS. I just thought the majority leader might take a head count on amendments remaining, and give all of us an idea of how long we are going to be in session tonight, and so on.

Mr. ROBERT C. BYRD. Yes; Mr. President, I will respond to the question by asking the Senator from North Carolina (Mr. MORGAN) and the manager of the bill (Mr. PROXMIRE) how long they need on the amendment Mr. MORGAN is about to call up.

Mr. MORGAN. Mr. President, the amendment I am about to call up is the one that would eliminate the provision reducing money market certificates down from $10,000 to $1,000. I have argued it extensively, and I do not anticipate taking over 5 or 10 minutes, at the most. I understand one or two of our colleagues have statements on it.

Mr. PROXMIRE. Mr. President, I will have a substitute for the Morgan amendment.

Mr. ROBERT C. BYRD. Can we agree to a time limit on the Morgan amendment and the substitute at this time?

Mr. PROXMIRE. It is fine with me.

Mr. MORGAN. As far as I am concerned, 10 minutes would be adequate, but there are probably two or three other statements, and I do not want to exclude anyone else.

Mr. ROBERT C. BYRD. Would this be agreeable: Thirty minutes on an amendment by Mr. MORGAN, to be equally divided between Mr. MORGAN and Mr. PROXMIRE, and 30 minutes on the substitute, to be equally divided between Mr. PROXMIRE and Mr. MORGAN, and then have a vote, and after those votes we will resume tomorrow on the bill, because there are a number of Senators who have promises they have made to their children tonight, and to their wives, perhaps, about this important time?

So I make that proposition. I make that request.

Mr. JOHNSTON. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Could we get that question stated, first?

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. JOHNSTON. Mr. President, reserving the right to object, did the Senator say that those two votes would be back to back?

Mr. ROBERT C. BYRD. I did not, but I am constrained to so request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in answer to the question of the Senator from Arkansas, once these two amendments are disposed of, the Senate will go over until tomorrow and resume consideration of the pending measure at about 12 noon.

AMENDMENT NO. 546

(Purpose: To strike the section mandating a reduction in the minimum denomination of money market certificates from $10,000 to $1,000)

Mr. MORGAN. Mr. President, I call up my amendment No. 546, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. TOWER. Mr. President, may we have order?

The PRESIDING OFFICER. Will the Senate please be in order? May we have order in the Senate?

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes amendment numbered 546.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 17, line 20, strike all which follows through page 18, line 10.

Mr. STONE. Will the Senator yield for a unanimous-consent request?

Mr. MORGAN. I yield.

Mr. STONE. Mr. President, I ask unanimous consent that I be listed as a cosponsor of the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, this is the amendment that most Members know about. It would delete that part of the bill which reduces money market certificates from $10,000 down to $1,000, all in the name of the small saver.

Mr. President, I am offering this amendment because I think the provision would be devastating to the homebuilding business in America, it would be devastating to the savings and loan industry, and, as a matter of fact, there is an amendment lying on the desk which would provide for bailouts if this provision in the bill is passed.

It has been argued that this reduction is for small savers, but the most analytical discussion of this contention that I have seen anywhere was prepared by Mr. Schecter, the economist for the AFL-CIO, who points out that the small savers are the ones who will be hurt by it. Over half of the people over 65 in America have no savings accounts. Those who would benefit are those making above $15,000 and $20,000 a year.

What happens if you eliminate these and put all of them under the higher interest rate is that those elderly persons, those small savers, so called, are going down to the grocery store and they are going to have to pay higher prices for their groceries and other goods because the grocer is operating on credit and the manufacturer is operating on credit. So, in effect, the reduction really only benefits those who are able to handle their savings on their own.

I want to read briefly the letter from Mr. Janis, the president of the Home Loan Bank Board with regard to this. It sets out the effect far more clearly than I can.

> DEAR SENATOR CRANSTON: In response to your request, we have analyzed the impact of implementing the provision of S. 1347 that could lead to a lowering of the minimum denomination on money market certificates to $1,000.
>
> The results on earnings would be highly adverse. A reduction in the minimum denomination of MMCs to $1,000 is estimated to result in a rate of return on assets of .14 of 1 percent by the second half of 1980 compared to .34 of 1 percent if this action were not taken. Even the latter rate of return would be the lowest that S&Ls have experienced in the post-World War II period and compares with .62 of 1 percent in 1978. With the MMC at $10,000, S&Ls would be experiencing severe earnings problems, particularly in light of the recent Fed actions, and would imply about 20 percent of all S&Ls having a negative income. With the even lower rate of return on assets implied by the $1,000 minimum denomination, we estimate that 37 percent of S&Ls would have a negative income during the second half of 1980.
>
> The impact on S&Ls in the Boston and New York Federal Home Loan Bank districts would be more devastating. These associations have a higher proportion of their savings accounts in passbook accounts and already suffer from low profitability. A reduction in the minimum denomination on MMCs would, in the second half of 1980, produce a loss of .23 of 1 percent on assets for S&Ls in the Boston district, with over 57 percent of S&Ls having a negative income. It would produce a loss of .25 percent of 1 percent on assets in the New York district, with over 52 percent of S&Ls in this district having a negative income. The impact on mutual savings banks, concentrated in the Northeast, would be particularly devastating.

It goes on.

I think, Mr. President, that letter states the case better than I could ever state it. Remember now that the S. & L.'s are the ones who have provided 60 percent of the homeownership loans in America.

Mr. President, I ask unanimous consent that Senator WALLOP, of Wyoming, be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Will the Senator yield?

Mr. MORGAN. I yield.

Mr. RIEGLE. I commend the Senator from North Carolina for his efforts all day long to try to put forward the points he feels strongly about with respect to this legislation. It is very complex legislation about which people can disagree. The effort he has made today has been important on all points. On this particular matter, I rise to support his amendment and I will vote with him.

When this issue was raised in the Banking Committee, we did not discuss it at great length, as most members of the Banking Committee will recall. We had a brief discussion.

As a matter of fact, as the record will show, I inquired of the chairman if any staff work had been done, or if any analysis had been made, which would show what the displacement of funds would be and ultimately what the effect would be on mortgage lending if this proposal were adopted.

At the time, the chairman will recall, and other Members will recall, the answer was that there was no staff analysis that this was being put forward on the basis of it being a concept. The chairman was proposing the amendment, which he felt was an attractive idea, but there was not the kind of formal, professional staff analsyis which would support the proposal.

So I proposed an amendment in committee which would work in such a way that this provision would not go into effect if there were a finding that the reduction would have an adverse effect on the lending institutions, in general, and on mortgage lending in particular. Without dissent, as I recall, that was accepted as a modifying amendment because at the time we did not have any hard data. I think that amendment was accepted by the chairman, and again with the idea in mind, that if we did not have the facts we did not want to be in a position where we would cause an adverse effect.

Now we have some analyses and I am frank to say I am disturbed by it. Mr. Janis is the head of the Home Loan Bank Board and he is not only a highly competent individual in that capacity, and he had an excellent record before that in the Department of Housing and Urban Development, but he has written a very clear letter which raises a number of disturbing points. I want to review those, if I may, in terms of what is in his letter. It has just been read into the RECORD by the Senator from North Carolina.

The letter indicates, among other things, that if this provision which is presently in the bill, and which was adopted without debate and without a factual analysis, is left in the bill the analsyis by the Home Loan Bank Board is that it would reduce the amount of money in passbook accounts by 33 percent.

That, by itself, is a tremendous additional shock wave to bring on the savings and loan institutions at a time when disintermediation has been occurring at a rapid rate and many of them are in a very adverse operating situation.

There is no money available, even at the high interest rates, for mortgage lending. It is a major problem in the United States and I do not think we ought to take an action here that is going to make it worse.

He goes on to point out in his letter that the return on assets, on the $1,000-denomination certificates if we take this step, would be reduced from one-third of 1 percent to one-seventh of 1 percent. That would be the lowest rate of return since World War II.

In addition, he pointed out that 37 percent of the savings and loans would have a negative income in the second half of 1980.

He pointed out that New England would be particularly affected, that almost 60 percent of the S. & L.'s in that region of the country would have a negative income.

He indicated that in New York, 52 percent of the savings and loans would have a negative income. In the case of California, where savings and loans are operating in the Nation's highest income area, the savings and loans, using conservative estimates, would lose 75 percent of their income in 1980.

I think we have to understand what the role of savings and loans is in our society. They principally provide financing to home buyers at reasonable rates. They are now in a terrible squeeze because many of the existing mortgages in their portfolios are at 8.5 percent or 9 percent and they now find themselves in

> Mr. President, could we have order?
>
> The PRESIDING OFFICER. The Senate will be in order.
>
> Mr. MORGAN. To continue:
>
> We estimate the percentage of passbook accounts of S&Ls would decrease to 16 percent of total accounts by the second quarter of 1980 if the minimum denomination were lowered. This compares to 24 percent without any such change. In addition, there would be an attrition of maturing long-maturity certificates into higher rate MMCs so that there would also be a reduction in long-term certificates as a percentage of total accounts.

a situation where they have to pay up to 12 percent on short-term savings.

Lowering the minimum on money-market certificates from $10,000 to $1,000 is an attractive idea. I think, while it has a very popular ring to it, we have to really evaluate what the consequences are to those same people when they come in to seek money to finance a home. If the money is not there, then we have done them no favor.

So, the question of the impact on the small saver and the return on his money, I think, is a fair one. But I think the solution lies not in reducing the money market certificates offered by S. & L.'s from $10,000 to $1,000, but by providing that earnings on the small savings account be tax free. I think that is a step that is long overdue. The jurisdiction, unfortunately, falls in another committee, but I would like to see the Committee on Finance act to remove taxes on earned income in savings accounts by small savers. It would be a way, I think, to stimulate the rate of savings in the United States and, ultimately, capital investment.

I think the tax incentive route is a far wiser way for us to go than to take a step that the head of the Federal Home Loan Bank Board tells us is going to drain a third of the assets out of the S. & L.'s, which are struggling to keep their heads above water at the present time.

This is a complex issue. Ultimately, it boils down to a question of whether we are going to have money available for people for home mortgages. I happen to feel very strongly about that, because one of the things I think is basic to the United States in terms of economic justice is the availability of money for people to buy their own homes; for families starting out and others to be in a position to actually become homeowners. To price mortgage money out of reach with the notion that, somehow or other, we are doing something that actually helps the little person, I think, is really not fair. I do not think it is honest in the sense that it really portrays an inaccurate picture of what the effect would be.

The PRESIDING OFFICER. Will the Senator suspend?

The Senator from North Carolina has 2 minutes remaining.

Mr. MORGAN. I yield the 2 minutes to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator.

Mr. President, I say in conclusion that we are much better off to recognize that the existing administrative organizations within the Government are in a position to take this step if they should decide to. They are absolutely free to do it as the law reads today. So if and when analysis indicates that this is a wise step to take, I think they will take the step. But the fact that we now have data in hand that we did not have during the markup that demonstrates that we can do great harm here—in the name of equity. I think wisdom indicates that we are far wiser to have the kind of protection that is in the law presently. That means we should support the amendment of the Senator from North Carolina and strike this item from the bill.

I yield back the remainder of the time to the Senator from North Carolina.

Mr. MORGAN. Mr. President, if I could reserve the remainder of my time and borrow 2 minutes for Senator TOWER.

Mr. PROXMIRE. Mr. President, I am happy to yield what time the Senator wants. Two minutes?

Mr. TOWER. Yes.

Mr. President, I shall be very brief. I just want to express my strong support for the amendment offered by the Senator from North Carolina. I fear that the impact of the provision of the bill as it is will be to raise costs to be borne by home buyers and other borrowers. I think the phaseout of regulation Q is going to result in substantial assistance in more equitable treatment of the small savers. Therefore, I think that, considering the disruptions that would result from lowering the figure from $10,000 to $1,000 in our savings institutions, the amendment of the Senator from North Carolina should be adopted.

Mr. MORGAN. Mr. President, let me say just one thing in the few seconds I have.

I thank my distinguished colleague from Michigan, especially for pointing out that there is a need for incentives for small savers. I have joined with the Senator from Texas (Mr. BENTSEN) and others to provide a tax break on income earned on savings. That is the way to help small savers, as I have already pointed out in my argument earlier today. As the Senator from Michigan has pointed out, this reduction is not going to help the small saver by pricing him out of home mortgage loans and increasing the cost of doing business.

Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

UP AMENDMENT NO. 704

(Purpose: To strike the section mandating a reduction in the minimum denomination of money market certificates from $10,000 to $1,000)

Mr. PROXMIRE. Mr. President, I offer an amendment that takes precedence over the pending amendment. The amendment is at the desk. I ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 704.

In lieu of the language proposed to be stricken insert the following:

(e) Upon unanimous agreement the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce the minimum denomination of all certificates of deposit to not more than $1,000 as soon as feasible and in any event within two years after the date of enactment of this Act, except that if the Board of Governors of the Federal Reserve System in unanimous agreement with the Board of Directors of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, determine that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, they may postpone the reduction required by this subsection. When such determination is made and postponed, it shall be reported to the Congress.

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require, which is not very much.

I think the Senator from North Carolina, the Senator from Michigan, the Senator from Texas and others have made a very good point here. I think they are right. To the extent that we reduce the money market certificate from $10,000 to $1,000, sure, we accommodate the small saver, they say, but it can be at the great expense of savings and loans. I am aware of that. This amendment would go to that very problem.

How would it go to it? As we know, the Home Loan Bank Board, as Mr. Janis reminded us in a letter here, is charged by Congress with the responsibility for the safety and soundness of thrift institutions. It opposes, at the present time, reducing or lowering the cost of the money market certificate to $1,000.

What this amendment does is provide that the Home Loan Bank Board would have to approve the reduction of the certificate from $10,000 to $1,000. That means that this gives the toughest kind of test, because the Home Loan Bank Board has the responsibility, as I say, for determining whether or not S. & L.'s are safe and sound. We are telling them that we want them to reduce that certificate, but the head of the Home Loan Bank Board has indicated very clearly to us that he will not do it if he feels that this will adversely affect the safety and soundness of the savings and loan institutions.

Mr. President, I think this is a good accommodation. It is a reasonable accommodation. What it means is that we are going to give the small saver an opportunity to make the kind of 14-percent or 12-percent return on his money market certificate that the big saver has now. The overwhelming majority of the American people do not have $10,000 in cash. Many of them have $5,000, $3,000, $2,000. There is no reason in the world why they should not be encouraged to save this money.

Certainly, if this legislation has any purpose, it is to encourage savings, to combat inflation, by rewarding people who save their money rather than spend it.

So I think this compromise I am offering here is the kind of compromise the Senate can accept.

After all, I cannot think of any institution that is in a better position to make a judgment on the effect on the savings and loan institutions than the institutions we charge with the responsibility for their safety and soundness.

Let me finish with a couple of words about this.

Mr. President, I oppose removing the small saver amendment from the bill.

Not only is regulation Q inflationary but it is blatantly discriminatory against the small saver.

Regulation Q authorizes insured financial institutions to pay market rates to savers with $10,000 or more for a 6-month term. Passbook savers on the

other hand are limited to a return of 5½ percent.

Lets face it. The only reason that regulation Q sets such a discriminatory rate is that the regulators have concluded that the small saver is a captive of financial institutions. They may be right to a great extent. But what a cynical policy.

I want every Senator to know that a vote to delete the small saver provision is a vote against the small saver—and a vote for continued Government cynical policies.

The small saver is entitled to a fair rate of return. The small saver should not be required to subsidize borrowers. Borrowers in many cases are better off financially than savers. This Nation needs to encourage saving.

One estimate is that over the past 13 years savers have lost $20 billion in interest because of regulation Q. Think of a retired couple with $6,000 of savings. Regulation Q forced this couple to subsidize the borrower and the institution $270 a year in lost interest. That is $22.50 a month; $22.50 a month will buy a hot breakfast every day for a retired couple. Why should they be forced by the Government to give up $22.50 a month.

This amendment is particularly objectionable because section 107(e) provides the regulatory authority to postpone the reduction of the MMC to $1,000 if economic conditions warrant the action is necessary to avoid a threat to the economic viability of depository institutions.

Removing section 107(e) means that Congress will not go on record as removing the discrimination against the small saver even if it is economically reasonable.

I cannot support the continuation of this discriminatory policy and I oppose the Morgan amendment.

Now, we are told by some they prefer to give the small saver a tax break. That is fine, but a very large number of small savers have income so small they do not pay very much in taxes, or pay nothing in taxes. They have a very low marginal rate.

The difference between getting 5.5 percent that is tax exempt and getting 13 percent that is taxable, after all, does not really help the small saver very much. He is far better off if he has the opportunity to get the 13-percent rate.

So, as I say, what we try to do in this amendment is to permit the certificate to be reduced from $10,000 to $1,000, but giving the agency with the responsibility in this country for determining the safety and soundness of the savings and loans the right to, in effect, veto it.

Mr. BUMPERS addressed the Chair.

Mr. PROXMIRE. I am happy to yield to my friend from Arkansas.

Mr. BUMPERS. Mr. President, I just want to direct a question to the distinguished chairman and floor manager of the substitute. Here is the way the amendment reads:

(e) Upon the unanimous agreement the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce the minimum denomination of all certificates of deposit to not more than $1,000 as soon as feasible and in any event within two years after the date of enactment of this Act.

Does that mean with or without unanimous agreement between these three agencies that they must issue money market certificates of $1,000, within 2 years?

Mr. PROXMIRE. It means with unanimous agreement of all the regulators, including the Home Loan Bank Board.

Mr. BUMPERS. The way I read it, it says unanimous between these three, they shall reduce the denomination of these certificates as soon as feasible. Then it goes on to say, but, in any event, within 2 years after date of enactment.

My reading of that is that if they have a unanimous agreement, they can do it at any time, but they may not postpone it under any circumstances beyond 2 years.

Mr. PROXMIRE. No. Then on line 25 of the bill, we insert that except that if the Board of Directors of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board determine that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, they may postpone the reduction required by this subsection.

So that after 2 years they have the right to postpone it.

Mr. BUMPERS. But only under those conditions?

Mr. PROXMIRE. No limit as long as they feel it would have this kind of effect on the savings and loan institutions.

Mr. BUMPERS. Is it fair to say the effect of the amendment is that unless they reach a decision—unless they determine in that unanimous agreement that economic conditions do not warrant the reduction, or that such reduction is a threat to the economic viability of depository institutions, they must make one of those two findings, or both of those findings, in order to postpone it by the 2 years?

Mr. PROXMIRE. No.

Mr. BUMPERS. What must they do to postpone this decision for 2 years?

Mr. PROXMIRE. They have to have unanimous agreement in order to reduce the certificate from $10,000 to $1,000. They have to make that determination and report to Congress.

But the Home Loan Bank Board has the right to dissent, and if they dissent the certificate could not be reduced.

Mr. BUMPERS. What we have here then is an effective veto from any one of these three organizations?

Mr. PROXMIRE. The Senator is correct.

Mr. BUMPERS. I would like to support the Senator's amendment because the way I read it, first, it gives the S. & L.'s the opportunity to get the portfolios in shape so they can pay a larger interest rate on small deposits.

But they have got a serious problem.

My home loan in Arkansas is 5½ percent. It dates back to 1962.

My wife always tries to get me to pay my loan off. I am resistant.

But I know a lot of these S. & L.'s have a whole parcel of loans like mine in their files.

But their effective rates of interest income are probably well below 10 percent. If there is no distinction between the $1,000 and $10,000 certificates, and I do not think there ought to be under normal conditions, we have got the thing in reverse. Small savers need the interest worse than the big savers do.

I would like to see them get it. But I have to be responsible and thoughtful about what will happen to savings and loans.

Mr. PROXMIRE. I wholeheartedly agree. That is exactly why I offered the amendment this way, because the whole purpose of the Home Loan Bank Board is to protect the safety and soundness of savings and loan institutions in the country, and unless they agree, the certificates would not be reduced.

So we put it squarely up to them. They have to be brought in for unanimous agreement by the regulators.

Mr. BUMPERS. The one thing I like about the amendment is, obviously, these three would not agree until the S. & L.'s, hopefully, got their portfolios in order and could afford to pay.

Mr. PROXMIRE. That is right.

Mr. BUMPERS. Pay a higher rate of interest to small depositors.

Mr. PROXMIRE. That is right.

I thank the Senator.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 15 minutes.

The Senator from North Carolina.

Mr. MORGAN. Mr. President, I think it is appropriate that my chairman offered this amendment on Halloween because it is like a wolf in a sheep's clothing. When analyzed, it leaves us just where the bill did, except in worse condition.

First of all, if the Board has the authority now to do it, and they do have that authority, then if we take the chairman's argument, it does not mean much.

We make a lot to do about legislative history in this Senate. But as I recall my interpretation of the law, the courts can only refer to legislative history when the meaning of the law is not clear from the four corners of the statute. The Senator from Arkansas was exactly right. If we read this amendment as proposed, it is exactly as the Senator said, they shall reduce them to $1,000 within 2 years if feasible and, in any event, within 2 years.

So that is clear as it can be and that would not allude to legislative history.

Mr. PROXMIRE. If the Senator will yield, let me say that we do this on unanimous agreement. That was not true in the original bill. We modified that; we change it.

Mr. MORGAN. I say to the Senator that that may have been his interpretation of it, but that is not the way it reads.

Second, even if we accept that and go down to the portion after 2 years, if we accept the Senator's interpretation, they

would have to do it, unless they could find that these economic conditions were met. Who has the burden of proof is extremely important, and we argued it here a long time.

One other comment: I think I have to be pragmatic. I want the Senate's position on money market certificates to be clear. I do not want the conference committee to have flexibility to come back with something that the Senate did not want at the time we debated. That is what this amendment would do.

Make no mistake about it: This amendment will end up doing exactly what the bill does. This is too important a matter to take lightly.

I want to read the last three paragraphs of Mr. Janis' letter, which I failed to read earlier. He says:

> I thought you might be interested in an analysis of the effect of the $1,000 provision done by Home Savings and Loan Association in California, the country's largest savings institution. Using conservative estimates, their analysis indicates a cost increase of 70 basis points in 1980 if the provision were adopted. This represents a substantial decrease in income for this institution, on the order of 75 percent.
>
> Over the long run, we remain committed to a phasing-out of rate control. I stated this in my support of S. 1347, which, at that time, did not include the provision to reduce the minimum denomination. However, any such phasing-out, including a reduction in the minimum denomination on MMCs, must take account of the extremely difficult financial environment facing thrifts.
>
> The information contained in this analysis was obtained before the recent Fed actions. If data had been available, the results would have been even more devastating.
>
> Sincerely,
>
> JAY JANIS.

Mr. President, I think the case is made. After all time has expired, I intend to move to table the amendment of the chairman to the amendment I have offered.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I ask unanimous consent that we may have a brief quorum call, without it counting against the time of either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to modify my amendment as follows, and the modification would read:

> (e) Upon unanimous agreement the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce the minimum denomination of all certificates of deposit to not more than $1,000 as soon as feasible except that if the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation or the Federal Home Loan Bank Board determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, the reduction required by this subsection shall be postponed. When such determination is made and postponed it shall be reported to the Congress including the reasons therefore.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and without objection, the amendment is modified.

Will the Senator send the modification to the desk?

Mr. MORGAN. Mr. President, did the Senator read "The Board of Governors of the Federal Reserve Bank, the Federal Deposit Insurance Corporation"——

Mr. PROXMIRE. I think the Senator is correct. I modify my amendment to be sure that the FDIC is included as well as the Federal Reserve Board.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. PROXMIRE. FDIC, as well as the Federal Reserve Board, and the Federal Home Loan Bank Board.

The amendment, as modified, is as follows:

> In lieu of the language proposed to be stricken insert the following:
>
> (e) Upon unanimous agreement the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce the minimum denomination of all certificates of deposit to not more than $1,000 as soon as feasible except that if the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation, or the Federal Home Loan Bank Board, determine that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, the reduction required by this subsection shall be postponed. When such determination is made and postponed it shall be reported to the Congress including the reasons therefor.

Mr. MORGAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Ten minutes and 11 seconds remain.

Mr. MORGAN. Mr. President, if I could have the attention of the Senate for a moment——

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard.

Mr. MORGAN. I would like to state what I understand this amendment to be so that the chairman and I can verify it in a colloquy, because I want to make sure my colleagues who have been supporting me feel comfortable with it, too.

What this does is say that the Federal Reserve, the FDIC, and the Home Loan Bank Board shall reduce the minimum denomination of money market certificates to not more than $1,000 as soon as feasible, except if the Federal Reserve or the FDIC or the Home Loan Bank Board determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, they shall postpone the required action and then report it to the Congress, and their reasons why.

So the effect of this seems to me to be that what we are saying as a Senate is that we want to do it just as soon as feasible, as soon as economically feasible and, at the same time, protecting the thrift institutions. Either one of the regulators can veto it.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. MORGAN. Yes.

Mr. TOWER. That means that should any one of these three regulatory agencies dissent from a decision to reduce to $1,000 that that reduction could not occur. In other words, any one of the three regulatory agencies would have a veto power; is that correct?

Mr. MORGAN. That is my understanding.

Mr. PROXMIRE. The Senator is absolutely correct. It is my intention, and it is correct. Furthermore, I want to say to my good friend from North Carolina, to make it clear, that we had an informal discussion on this, but I want to go on record as saying that I would insist in conference that we stick with this language and that we not in any way exclude the opportunity for the Federal Home Loan Bank Board to, in effect, have a veto because otherwise the amendment, I think, would obviously distort the intention of the Senate.

Mr. MORGAN. I thank my chairman.

Mr. President, unless there are questions, just let me say that I really think this is something we all can live with, because all of us would like to see denominations lowered if we can do it without jeopardizing the validity of thrift institutions.

This amendment expresses to these agencies that we think, "You shall do it unless one of you thinks that it is not wise for the reasons specified." Is that substantially correct?

Mr. PROXMIRE. That is right except I do think maybe it is better in present law in a sense, but I think it is better, as I look at it, because it is a clear intention of the Senate and Congress as expressed here that we want those certificates reduced, and it is in the interest of the small saver, it is in the interest of the country, and it is in the interest of fighting inflation to do so, and I think this language has force, otherwise I certainly would not have offered the amendment.

Mr. MORGAN. I thank the Senator. I think my chairman is right.

Mr. PROXMIRE. Mr. President, will the Senator permit us to vitiate the yeas and nays on this? Several Senators have indicated they are so anxious to get home. Some have already left.

The PRESIDING OFFICER. No yeas and nays have been ordered.

Mr. PROXMIRE. Fine.

Mr. MORGAN. Mr. President, unless somebody who is interested in this matter has some objection, I am willing to accept it and willing to yield back all of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? The question is on

agreeing to the amendment, as modified, of the Senator from Wisconsin.

The amendment, as modified, was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. We have adopted the substitute offered by the Senator from Wisconsin. Does the question now recur on agreeing to the amendment of the Senator from North Carolina, or what is the parliamentary situation?

The PRESIDING OFFICER. The amendment of the Senator from Wisconsin was in the form of a motion to strike out a section of the bill and insert in lieu thereof new language, as a substitute for an amendment in the form of a motion to strike out the same section. Therefore, the prior motion made to strike out that very section would not be voted on, but would fail.

Mr. PROXMIRE. Then, as I understand it, the amendment that has just been voted on is in the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. Mr. President, I rise in support of the bill before us today, H.R. 4986, because it represents an effort to treat the small saver fairly, and because it reflects a balanced attempt to adjust our banking system in accordance with economic trends of recent years.

In my view, there are three truly important changes mandated by H.R. 4986. First, interest bearing transaction accounts would be authorized for all depository institutions. Second, regulation Q, which has statutorily limited the interest depository institutions can pay on passbook savings accounts, would be phased out over a 10-year period, along with the differential which provides that commercial banks must pay one-fourth percent less on passbook savings accounts than thrifts. Third, thrift institutions would be granted certain additional powers in order to help them offset the elimination of the interest rate ceiling and the differential.

Mr. President, I am supporting these three provisions of H.R. 4986 because I believe that, taken together, they are in the long run best interest of depositors and savers, of financial institutions and our banking system in general, and our economy as a whole. Let me briefly review my reasons for this position.

First, I support the authorization of interest-bearing transaction accounts for all financial institutions because I believe that congressional sanction of such accounts is a long-overdue recognition of the right of the customer of financial institutions to be paid for the use of his money at all times. Of course, most large business depositors have already adopted sophisticated cash-flow methods and earn interest on their money almost all of the time anyway. Once more, it is the average American—the young worker just starting out, the retiree, or the small businessman—who is losing out now when his money is in a demand deposit account.

The Federal court decision which suspended the implementation of interest-bearing transaction accounts requires that existing accounts of this type be disbanded by January 1, 1980. Such an outcome would be unfair both to those individuals who began such accounts before the court decision, and to those who would benefit from such accounts were they to receive congressional sanction. Therefore, I urge congressional approval of interest-bearing transaction accounts for all our financial institutions.

I also want to note, Mr. President, that a number of smaller financial institutions have expressed to me their concern that the implementation of interest-bearing transaction accounts would be harmful to their viability. Even though I believe the authorization of such accounts to be in the public interest, I am concerned about the viability of our smaller financial institutions. It is for this reason that I support the provision in H.R. 4986 which requires that Federal bank regulatory agencies report each year to the Congress on the economic viability of all depository institutions. I shall carefully review such reports, and otherwise monitor the effect that this legislation, should it become law, may have on smaller financial institutions.

Second, I support the gradual phase-out of interest rate ceilings, along with the interest rate differential. Whatever one's evaluation of the abstract merits of the ceiling and differential, the fact remains that they are not currently of much assistance to the beneficiaries they were designed to help—thrifts and the housing industry. Conditions in the economy have led to a glaring disparity between the amount of interest that savers can earn on savings accounts at thrifts and the amount they can earn through other types of investments such as money market funds. As a result, there is underway a substantial outflow of funds from the thrifts to these other types of investments. Under such circumstances, the ceiling and differential are irrelevant at best, and a positive detriment at worst, to the financial success of thrifts, and to the goal of assuring a continuous flow of funds into the housing sector of our economy.

Additionally, Mr. President, I weighed into this equation the unfairness of the present situation to the average American. The regulation Q ceiling, under current economic conditions, means that the saver without large sums to invest cannot take advantage of the higher interest rates that the same thrift institutions offer to big depositors. A few small savers are now beginning to take advantage of larger higher interest rates offered by nonbanking system financial institutions. But the average small saver is not sophisticated enough about these funds to utilize them well. Further, such nonbanking system funds are not federally insured, and the small saver would stand to lose much more in the unlikely event that such funds should collapse than would the bigger, more sophisticated investors. I have concluded that we must not make the small saver continue to suffer for a situation that is in no way the fault of the small saver.

I am very much aware of the potential problems that the removal of the statutory ceiling and differential could possibly create for at least some of our thrifts, especially smaller ones. In this regard, Mr. President, I have supported an amendment to this bill which would mitigate the impact of the removal of the differential and ceiling on mutual savings banks by granting federally chartered mutuals certain additional powers, and I will make a separate statement on this matter.

Nonetheless, I have concluded that the elimination of the ceiling and the differential is imbued with sufficient statutory flexibility so that it can be carried out in a manner that does the least possible damage to the condition of our thrift institution. Additionally, the Congress is free at any time to review the progress of this transition, and to consider whether any additional measures are required to assure the soundness and stability of the banking system as a whole. As a member of the Banking Committee, I will be paying particularly close attention to these matters, and will speak out should unanticipated problems in this area develop.

Third, I fully support the granting of additional asset powers to thrifts provided in H.R. 4986. It is only fair that if we are taking away the competitive advantages which we previously bestowed upon thrifts, and if we are asking them to compete in the open market for funds, that we give them the tools with which to compete effectively.

Mr. President, I am not completely convinced that the powers granted in H.R. 4986 are sufficient to enable mutual savings banks to compete effectively under the new conditions, and as I noted earlier, I am supporting an amendment which would grant certain additional powers to mutuals. However, on balance, H.R. 4986 is a reasonable attempt to render equity to thrifts, and I fully support it as far as it goes.

There are, of course, a number of other provisions of H.R. 4986, and I shall not go into detail on each of these issues. I will only note that I am generally supportive of the bill as a whole, including the section which would require the bank regulatory agency to permit savings institutions to permit certificates of deposit in denominations of under $10,000.

Mr. President, I am aware of the concerns which many thrift institutions have expressed concerning this provision. I have carefully weighed this matter and am forced to conclude that, as with the interest rate ceiling and differential, it is not fair to small savers, among whom are our senior citizens, to exclude them from the opportunity to try to keep pace with inflation. In order to prevent any financially destabilizing effects, I sup-

ported the addition in committee of language to this section which allows a delay of up to 2 years in the implementation of this section, or even longer should economic conditions warrant a further delay. This modification is essential, given current financial conditions. With it we can make the strong policy statement that current certificate of deposit regulations are unfair to the small saver and should be ended as soon as reasonably practicable.

Finally, Mr. President, I want to briefly review some of the important issues that are related to this legislation. They include the future of small financial institutions, the future of the housing industry, the future of savings in this country, and the future course of our economy.

SMALL FINANCIAL INSTITUTIONS

For a variety of reasons, most importantly the fact that the elimination of the interest rate ceiling and the differential would probably create intense competition for available funds, smaller financial institutions, especially those which are tied down with long-term, fixed, low-interest mortgages, are most directly threatened by the new system that this legislation would create. It is for this reason that Senator TSONGAS and I will be offering our amendments to give certain thrift institutions a stronger earnings potential.

I would add, however, that we must be sensitive to the problems of our smaller financial institutions, not only with respect to this matter, but also with respect to several other important banking system questions which we will be considering in the next months and years. Rather than reacting on an ad hoc basis every time banking legislation is considered, I believe we need to conceptualize the role that smaller financial institutions should play in our banking system, and our economy in general in the decades ahead. Only by having an idea of that proper role, can we intelligently decide these major questions that will come before us.

HOUSING

The housing industry is, of course, concerned about this legislation because it fears that there would be a drying up of funds from thrifts, or possibly interest rates so high as to be beyond the reach of the average buyer. To this, I must respond that both of those fears are being realized now, even without this legislation.

Again, we need to conceptualize the total future relationship of the banking system to the housing industry. Do we want only certain financial institutions to continue to be the primary source of funds for housing? What are alternative ways of providing such funds, both utilizing thrifts, and also utilizing other financial and nonfinancial institutional fund sources. How do other nations finance their housing? I offer no answers at this time; rather I point out the need for longer range thinking in this area if we are to make intelligent decisions.

SAVINGS

A third area of concern that is brought out by this legislation is in the area of savings as such. Mr. President, I will not go into any detail on this matter, as my colleagues are well aware of the very low levels of savings in the United States in recent years. Do we want to encourage more saving? I think the answer is yes, and we need to focus on the best ways to do so. We are caught in a vicious cycle of low savings contributing to low productivity, and low productivity leading to less output, which in turn both directly—through less take-home pay, and indirectly—through its contribution to inflation—leads to less saving. I believe that an undispensable part of any solution to our productivity problems involves increased incentives for saving.

U.S. ECONOMY

All of this brings me to my last point, and it is one that is so obvious that I shall not take much time discussing it. The principal reason we have to consider this legislation at this time is because of our unchecked inflation. In this regard, I endorse the additional views to H.R. 4986 of Senator TOWER, who states that—

> The real solution to financial stability and a healthy financial system lies outside enactment of this legislation. It really rests in responsible and prudent fiscal and monetary policies designed to reduce inflation. The changes made to the financial system in this bill are reactions to an unstable economic environment. All of this is a poor substitute for fundamental changes in economic policy that would lead to more stable economic conditions through a reduction in inflation and lower interest rates.

Thus, to conclude, Mr. President, this legislation is really a reaction to a mismanaged economy. We need to conceptualize our long-range priorities both with respect to our financial system, and concerning our economy as a whole. Only by increasing our productivity and by spurring savings and capital formation can we create the economic conditions conducive to a truly healthy and stable banking system.

● Mr. BUMPERS. Mr. President, the financial emergency that exists in Arkansas is a result of the usury limit in our 1874 Constitution and has been mentioned in the Senate many times during the debate on H.R. 4986. Arkansas has been almost paralyzed by our constitutional provision which imposes an absolute, strictly construed 10 percent simple ceiling on all contracts of interest. If this ceiling is exceeded, the contract is void as to principal and interest. A constitutional convention has recently concluded deliberations in Arkansas, but the usury issue will not be referred to the people of Arkansas for a vote until November 1980.

Mr. President, in light of our constitutional usury limit, I am particularly interested in section 305(a)(1) of H.R. 4986 which preempts State constitutional usury limits as they apply to loans or mortgages on residential real property. It is my understanding that section 305(a)(1) preempts a constitutional or statutory usury limit on any loan, mortgage, or advance on residential real property made after the date of enactment of this act if the loan or advance is described in section 527(b) of the National Housing Act.

This preemption shall apply to loans, mortgages, or advances on residential real property made by State banks and State savings and loan institutions, as well as national banks and Federal savings and loan institutions provided they are federally insured.

Mr. PROXMIRE. This Senator's understanding of section 305(a)(1) is correct.

Mr. BUMPERS. I raise this question because the State-chartered banks are feeling even greater pressure than are the national banks in Arkansas. Under Federal law, national banks can charge interest at the rate of 1 percent above the Federal discount rate for 90-day commercial paper. State banks cannot charge more than 10 percent per annum. Consequently, many State banks are calling their loans, and if remedial legislation is not passed soon, most State banks will be trying to become national banks.

It is also my understanding that a State may override the preemption provision in section 305(a)(1) by adopting a statute within 2 years after the date of the bill's enactment establishing the State's interest ceiling.

Mr. PROXMIRE. The Senator's understanding of this provision is correct. The Arkansas General Assembly could pass a statute overriding the preemption provision in section 305(a)(1) within 2 years after the bill's enactment.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes, and that Senators may speak therein up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

OFFICIAL BRITISH VIEW OF IMPACT OF SALT II ON NATO

Mr. HELMS. Mr. President, we have heard much about the supposed opinions of our NATO allies on the passage of SALT. We have even been told that failure to ratify the treaty would have a seriously disruptive impact on the cohesion of NATO.

Of course, we must recognize that when our allies are asked about SALT, diplomatic courtesy more or less requires them to say that SALT is wonderful. After all, as far as strategic defense is concerned, our NATO allies are client states. The treaty is between the United States and the Soviet Union. If the United States is satisfied with the treaty, an ally cannot very well say it is dissatisfied.

But NATO relations are something else again. Our allies can speak up on whether passage or nonpassage of SALT would affect NATO relationships. Only a couple of weeks ago, when the Government of the Federal Republic of Germany was asked in the Bundestag whether nonpassage of SALT would affect NATO, the official answer given was "No."

Now, Mr. President, similar questions were put in the British Parliament yesterday afternoon. Both the Secretary of State for Defense, Mr. Francis Pym, and

the Prime Minister, Mrs. Margaret Thatcher, answered unequivocally and stated that Britain's loyalty to NATO is unshakable, no matter what happens to SALT II in Congress. In fact, in answer to a question put in Commons by the Right Honorable Julian Amery, Mr. Pym indicated that SALT II is not the work that is of most concern to NATO. Mr. Amery, the former Air Minister, is one of the wisest counselors in the Commons, and he has performed a signal service in asking the question.

Similarly, Lord Cranborne, one of the brightest of the younger members of the House, elicited from the Prime Minister the important statement that the failure of the SALT agreement would not lead to the disintegration of NATO. Indeed, the Prime Minister said that NATO is "a very much stronger alliance than that, and will continue to be this country's shield into the future."

Mr. President, I ask unanimous consent that the text of the questions and answers from Hansard's Debates for October 30, 1979, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the excerpt from Hansard's Debates was ordered to be printed in the RECORD, as follows:

QUESTIONS PUT IN THE HOUSE OF COMMONS, OCTOBER 30, 1979

To the Secretary of State for Defense, Mr. Francis Pym:

Mr. AMERY. I accept that the government has made it clear that they would endorse the SALT II Agreement, but will my right honorable friend assure the house that our loyalties in NATO will remain unshakeable, whether or not the SALT II agreement goes through Congress?

Mr. PYM. I can give my right honorable friend that assurance. On the work that is of most immediate concern to NATO, we believe that what we have in mind is necessary whether or not the SALT II agreement is signed.

To the Prime Minister, Mrs. Margaret Thatcher:

Viscount CRANBORNE. Will my right honorable friend take time today to consider whether she agrees with the Carter Administration that failure to ratify the SALT agreement will lead to the disintegration of NATO?

The PRIME MINISTER. I do not believe that that would lead to the disintegration of NATO. NATO is a very much stronger alliance than that, and will continue to be this country's shield into the future.

BRADA STATEMENT REPRESENTATIVE OF NATO OPINION

Mr. HELMS. Mr. President, we have been told about how much our NATO allies desire the ratification of the present SALT II treaty by the U.S. Senate. The vote on a resolution by the NATO Assembly in Ottawa last week is being quoted to support this opinion.

The NATO countries were told by both Moscow and Washington to be for the ratification of the treaty. Those governments in Europe which are under Socialist influence are, of course, for the ratification not of their own will. The other allies just follow the advice from both the West and the East. In this way, the resolution must be understood.

In reality, if confronted with the facts, if asked concretely, our NATO allies do not want to interfere with the deliberations of the U.S. Senate concerning the ratification of the SALT II treaty. Despite being under heavy pressures, our allies do not want to prescribe to U.S. Senators how they should vote, as the Soviet leaders have done on several occasions. And we can be sure that our NATO allies—except the Communist and leftwing parties in the NATO countries—do not wish the United States to ratify a treaty which would damage the interests of America and her friends and which would weaken all of us.

The resolution by the NATO Assembly should be seen as a resolution calling for more defense efforts and sacrifices on the part of our allies. This is its only sense. It would be a disservice to our friends should we interpret it in any other way.

In the countries of our allies there are men who have studied the SALT II situation and who have been able to come to a more differentiated and qualified standpoint than that which is possible in a general resolution of principles which necessarily deals with the surface of things.

Dr. George Brada of Munich, Federal Republic of Germany, on a visit to the United States, summed up the standpoint of the Europeans who do not believe that the wishes of the Soviet Union are the best guide for free nations. He reminds us also that morale must be the basis of all political acts.

Mr. President, I ask unanimous consent that Dr. Brada's statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SALT II

(By Dr. George Brada, Munich, Germany)

The aspects of the SALT II treaty are not merely military, political and economic. Underlying all human acts is the moral basis. In the history of their great people, in the times before the arrival of Communism, Americans used to act from moral principles, both religious and human.

A look at the SALT II treaty gives us an indication of the present morale of the free world.

(1) The negotiations and the conclusion of SALT II have corresponded entirely to what we have been accustomed to seeing in the last decades: Whenever the West and the Soviet Union have met and negotiated, the West has given in and the Soviet Union has won. Thus the SALT II treaty is no exception or deviation from the developments and events since the foundation of Communism in Russia after World War I. It is the logical continuation of these developments.

(2) SALT II was concluded and signed just before the Presidential election in the U.S.A. The Soviet timing was, as always, precise. The President of the United States wanted to have a success before the election, and he accepted exactly the success offered by Moscow. The treaty is a matter of election politics. The Soviets are experts in the elections in Western countries.

(3) The NATO allies have been exhorted by both the Communist Soviet Union and the United States to be in favor of the treaty. They have hardly a choice. From the American administration they certainly have got some carrot-and-the-stick treatment; they expect also more American protection for their countries in exchange, with less of their own effort and sacrifices.

From the Soviet Union they were promised more good will. Principally, they are being intimidated by Moscow, divided, and in the absence of a real U.S. leadership, are seeking separated expedient advantages and special treatment from the Soviet Union. The Socialist and Socialist-Liberal governments and political parties in Europe do support this pro-Soviet treaty, of course, also out of ideological reasons.

The support for the treaty, pressured upon the NATO allies, is, of course, being used again by the American administration to influence the U.S. Senate. It has been a unique concerted movement to prescribe how the Senate should vote.

(4) This pro-Soviet treaty is inequitable. Only the Soviet Union is permitted to have heavy missile launchers. The Soviet Backfire bombers—a threat not only to Europe but also to Alaska—are not included. The Protocol of the treaty forbids until 1982 U.S. cruise missile with the range of more than 600km in Europe, and the noncircumvention provision can prevent the U.S.A. from sharing technology and weapons with its allies. These provisions, especially the Protocol, cannt be later abolished without new Western concessions to the Soviet Union, and they tie the hands of the West in future negotiations (also in SALT III). Through the acceptance of this treaty, the West has no positions for future negotiations, except the self-chosen positions of weakness.

The future treaties with the Soviet Union won't be equitable, either, because the Western countries refuse to build up their strength first and then to negotiate from it. They fell in love with negotiations from the position of weakness which is a self-destructive philosophy.

(5) The treaty is an illusion, a hoax. These are only (inequitable) limitations of silos and missile launchers in it. There are no limitations on missile warheads. The treaty will bring about an enormous increase of the number of warheads. The danger of an atomic war will increase. The fact that Western governments can propagandize this treaty as a nuclear limitation treaty shows the depth of the Western morale. The West seems to be not only equal to the Soviet Union in this point, but already really inferior.

(6) The treaty is, from the Western standpoint, stupid. The Soviet Union cannot and need not afford any further build-up in launchers anyway. First, it has the ability with this treaty, to destroy the U.S. missiles with its own missiles. Second, the financial means and the technological possibilities of the Soviet Union are exhausted. Also without a SALT II treaty, the Soviet Union cannot do more than with the treaty. Thus the treaty puts restrictions only on the U.S.A. It is a real SALT-treaty—a "Stop the American Lead in Technology" treaty.

(7) Real verification is impossible. The Soviets can partly encrypt the telemetry. This means that they will conceal what they want, and make accessible mainly misleading false data. The Western intelligence will be happy to accept the falsifications as it has been in the past. We have seen the failures of Western intelligence continuously since World War I and especially after World War II—not only in Cuba and Iran.

(8) Back in Europe, American officials have excused the inequities in atomic weapons by indicating that the U.S.A. has some much more effective secret new weapons in coming which the Soviet Union does not have. Therefore, it is not necessary to have a good SALT II treaty.

First, it would be a sin and a crime only in the eyes of the Communists, should the United States once again, after many years, be stronger. (After all, it was the fact that the USA was stronger which prevented great wars in the past).

Second, this is a treaty on atomic weapons, not on any secret future weapons.

After all we can be sure that, before long, the new secrets will get to Moscow in the same way as the old ones have gotten.

(9) The leaders of the Soviet Union interferred personally in the deliberations of the U.S. Senate and demanded categorically the ratification of SALT II.

On the surface, it would seem that this pressure would hamper the ratification, that it would be self-defeating and counterproductive. But in reality, the Soviet leaders did not make any mistake. They are so sure of their victory that they could afford to make their pressure statements for other purposes. They wanted to show to the nations of the world that they are those who are giving recommendations and directions to the policies of the U.S.A., that they are those whose wishes and orders are being followed.

(10) Those who seem to think that the goodwill of the Communists is the real guarantee for peace and temporary freedom are saying that the effects of an eventual nonratification of the present SALT II treaty would be horrible. Of course the Soviet Union would become very angry. It would last a couple of months before Moscow would calm down again and try to negotiate a second best treaty.

On the other hand, in case the present treaty is not ratified, the NATO, however soft on Communism it is appearing to be now, is not going to fall apart and disintegrate. The reasons for the existence of the Alliance are deeper than only the desire to comply with the wishes of the Soviet Union.

The rejection of the SALT II treaty would obviously unite the NATO countries, give them the spirit of moral level; it would make out of the objects of Communist moves and pressures active free men again.

Once in the future, this will doubtlessly happen, and the free nations will then with abhorrence remember the time in which they tried to be—morally and otherwise—equal or inferior to the Communist Soviet Union.

AMERICAN ENTERPRISE DAY

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Mississippi on a matter which has been cleared on both sides.

Mr. COCHRAN. I thank the distinguished majority leader for yielding to me.

Mr. President, I ask unanimous consent for the immediate consideration of Calendar Order No. 418, Senate Joint Resolution 109, authorizing the proclamation of November 16, 1979, as "American Enterprise Day."

The PRESIDING OFFICER. The joint resolution will be stated.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 109) to authorize the President to proclaim November 16, 1979, as "American Enterprise Day."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. COCHRAN. Mr. President, there is widespread concern about declining productivity and innovation in our country, and numerous legislative proposals have been made for Federal programs to reverse this trend.

Before these programs can truly be effective, however, we need to insure that the public is aware of the opportunities that still exist for individual initiative. That is what American Enterprise Day is all about. The focus of such a day will be on our schools. Local business and labor organizations will be encouraged to participate in school programs to emphasize the opportunities available for those who have ideas and are willing to work to carry them out.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, follows:

S.J. RES. 109

Whereas America's enterprise system is a cornerstone in our society; and

Whereas that system has produced the highest standard of living in the world; and

Whereas that system depends on and rewards individual initiative and innovation; and

Whereas American productivity is vital to the world's economy and must be encouraged; and

Whereas the continuance and growth of our enterprise system depends in large part on the education of America's young men and women concerning that system: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating November 16, 1979, as "American Enterprise Day" and encouraging appropriate Government agencies to foster the recognition of the significance of America's enterprise system on that day.

MILITARY CONSTRUCTION AUTHORIZATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1319. This has been cleared with the other side.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1319) entitled "An Act to authorize certain construction at military installations, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Military Construction Authorization Act, 1980".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $2,900,000.
Fort Campbell, Kentucky, $16,550,000.
Fort Drum, New York, $690,000.
Fort Greely, Alaska, $820,000.
Fort Hood, Texas, $12,000,000.
Fort Hunter Liggett, California, $2,900,000.
Fort Lewis, Washington, $7,400,000.
Fort Meade, Maryland, $18,500,000.
Fort Ord, California, $17,380,000.
Fort Polk, Louisiana, $26,810,000.
Fort Richardson, Alaska, $4,450,000.
Fort Riley, Kansas, $28,350,000.
Fort Sheridan, Illinois, $1,200,000.
Schofield Barracks, Hawaii, $2,750,000.
Fort Stewart/Hunter Army Air Field, Georgia, $39,900,000.
Yakima Firing Center, Washington, $1,100,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Camp Perry, Ohio, $1,000,000.
Fort Belvoir, Virginia, $2,420,000.
Fort Benning, Georgia, $7,500,000.
Fort Bliss, Texas, $30,000,000.
Fort Eustis, Virginia, $6,410,000.
Fort Benjamin Harrison, Indiana, $4,450,000.
Fort Knox, Kentucky, $9,750,000.
Fort Leavenworth, Kansas, $1,690,000.
Fort Lee, Virginia, $3,960,000.
Fort Rucker, Alabama, $5,580,000.
Fort Story, Virginia, $2,450,000.
Fort Leonard Wood, Missouri, $6,350,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $8,400,000.
Anniston Army Depot, Alabama, $4,850,000.
Badger Army Ammunition Plant, Wisconsin, $650,000.
Crane Army Ammunition Activity, Indiana, $2,490,000.
Detroit Arsenal, Michigan, $4,400,000.
Harry Diamond Laboratories, Maryland, $2,800,000.
Dugway Proving Ground, Utah, $520,000.
Indiana Army Ammunition Plant, Indiana, $1,010,000.
Iowa Army Ammunition Plant, Iowa, $2,060,000.
Joliet Army Ammunition Plant, Illinois, $5,800,000.
Kansas Army Ammunition Plant, Kansas, $650,000.
Lake City Army Ammunition Plant, Missouri, $3,800,000.
Letterkenny Army Depot, Pennsylvania, $1,200,000.
Lexington-Blue Grass Army Depot, Kentucky, $1,500,000.
McAlester Army Ammunition Plant, Oklahoma, $1,470,000.
Michigan Army Missile Plant, Michigan, $2,550,000.
Fort Monmouth, New Jersey, $1,650,000.
Newport Army Ammunition Plant, Indiana, $1,550,000.
Picatinny Arsenal, New Jersey, $7,950,000.
Radford Army Ammunition Plant, Virginia, $6,100,000.
Red River Army Depot, Texas, $8,600,000.
Redstone Arsenal, Alabama, $8,500,000.
Riverbank Army Ammunition Plant, California, $1,100,000.
Rock Island Arsenal, Illinois, $5,900,000.
Rocky Mountain Arsenal, Colorado, $6,500,000.
Scranton Army Ammunition Plant, Pennsylvania, $3,750,000.
Seneca Army Depot, New York, $8,350,000.
Sharpe Army Depot, California, $1,650,000.
Sierra Army Depot, California, $770,000.
Tobyhanna Army Depot, Pennsylvania, $10,410,000.
Tooele Army Depot, Utah, $1,050,000.
Volunteer Army Ammunition Plant, Tennessee, $810,000.
Watervliet Arsenal, New York, $1,300,000.
White Sands Missile Range, New Mexico, $5,750,000.
Yuma Proving Ground, Arizona, $4,300,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $830,000.
Indiana Army Ammunition Plant, Indiana, $10,490,000.
Lake City Army Ammunition Plant, Missouri, $140,000.
Lone Star Army Ammunition Plant, Texas, $1,890,000.
Longhorn Army Ammunition Plant, Texas, $170,000.
Louisiana Army Ammunition Plant, Louisiana, $670,000.

Milan Army Ammunition Plant, Tennessee, $450,000.
Radford Army Ammunition Plant, Virginia, $67,350,000.
Riverbank Army Ammunition Plant, California, $280,000.
Scranton Army Ammunition Plant, Pennsylvania, $720,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $570,000.
Fort Ritchie, Maryland, $7,850,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $13,350,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $650,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Terminal, New Jersey, $920,000.
Oakland Army Base, California, $1,100,000.
Sunny Point Terminal, North Carolina, $32,540,000.

OUTSIDE THE UNITED STATES

KWAJALEIN MISSILE RANGE

National Missile Range, $2,900,000.

UNITED STATES ARMY FORCES COMMAND

Panama Area, Canal Zone, $26,060,000.

UNITED STATES ARMY, JAPAN

Okinawa, $2,700,000.

UNITED STATES ARMY, EUROPE

Germany, various locations, $126,630,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND

Various locations, $2,800,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $52,620,000.

FOREIGN CURRENCY FLUCTUATIONS

SEC. 104. If the estimated cost to complete any construction or acquisition outside the United States authorized for the Army in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $31,434,000.

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Base, Camp Lejune, North Carolina, $24,630,000.
Marine Corps Base, Camp Pendleton, California, $14,200,000.
Marine Corps Air Station, Cherry Point, North Carolina, $4,450,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, $4,800,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, $4,500,000.
Marine Corps Development and Education Command, Quantico, Virginia, $7,300,000.
Marine Corps Air Station, Tustin, California, $3,400,000.
Marine Corps Base, Twentynine Palms, California, $5,700,000.
Marine Corps Air Station, Yuma Arizona, $4,000,000.

CHIEF OF NAVAL OPERATIONS

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $20,330,000.

COMMANDER IN CHIEF ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $150,000.
Naval Amphibious Base, Little Creek, Virginia, $1,670,000.
Naval Submarine Base, New London, Connecticut $15,850,000.
Naval Station, Norfolk, Virginia, $5,500,000.
Naval Air Station, Oceana, Virginia, $14,700,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, $19,950,000.
Naval Amphibious Base, Coronado, California, $1,600,000.
Naval Air Station, Lemoore, California, $6,300,000.
Naval Magazine, Lualualei, Hawaii, $16,000,000.
Naval Air Station, Miramar, California, $4,050,000.
Naval Air Station, North Island, California, $1,450,000.
Naval Station, San Diego, California, $9,200,000.
Navy Submarine Support Facility, San Diego, California, $3,200,000.
Naval Air Station, Whidbey Island, Washington, $2,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $720,000.
Naval Training Center, Great Lakes, Illinois, $6,300,000.
Naval Air Station, Memphis, Tennessee, $1,400,000.
Fleet Antisubmarine Warfare Training Center, Atlantic, Norfolk, Virginia, $1,200,000.
Naval Air Station, Pensacola, Florida, $420,000.
Fleet Training Center, San Diego, California, $8,300,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Camp Pendleton, California, $2,050,000.
Naval Regional Medical Center, San Diego, California, $5,900,000.

CHIEF OF NAVAL MATERIAL

Naval Air Rework Facility, Alameda, California, $3,500,000.
Puget Sound Naval Shipyard, Bremerton, Washington, $2,545,000.
Puget Sound Naval Supply Center, Bremerton, Washington, $1,000,000.
Charleston Naval Shipyard, Charleston, South Carolina, $2,250,000.
Naval Weapons Station, Charleston, South Carolina, $5,000,000.
Polaris Missile Facility Atlantic, Charleston, South Carolina, $7,500,000.
Naval Air Rework Facility, Cherry Point, North Carolina, $750,000.
Naval Weapons Center, China Lake, California, $4,350,000.
Naval Weapons Station, Concord, California, $3,950,000.
Naval Weapons Support Center, Crane, Indiana, $690,000.
Naval Weapons Station, Earle, New Jersey, $7,100,000.
Naval Air Rework Facility, Jacksonville, Florida, $3,600,000.
Navy Fuel Depot, Jacksonville, Florida, $1,400,000.
Portsmouth Naval Shipyard, Kittery, Maine, $6,250,000.
Long Beach Naval Shipyard, Long Beach, California, $8,250,000.
Naval Air Engineering Center, Lakehurst, New Jersey, $700,000.
Navy Ship Parts Control Center, Mechanicsburg, Pennsylvania, $2,400,000
Naval Supply Center, Norfolk, Virginia, $25,950,000.
Naval Air Rework Facility, North Island, California, $3,200,000.
Naval Air Test Center, Patuxent River, Maryland, $4,540,000.
Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $7,300,000.
Navy Public Works Center, Pearl Harbor, Hawaii, $1,000,000.
Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $510,000.
Naval Construction Battalion Center, Port Hueneme, California, $1,200,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, $22,650,000.
Naval Ocean Systems Center, San Diego, California, $8,800,000.
Navy Supply Center, San Diego, California, $11,600,000.
Naval Weapons Station, Seal Beach, California, $960,000.
Naval Surface Weapons Center, Solomons Island, Maryland, $860,000.
Mare Island Naval Shipyard, Vallejo, California, $16,220,000.
Naval Weapons Station, Yorktown, Virginia, $2,270,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $5,505,000.

OUTSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $11,700,000.

OFFICE OF NAVAL RESEARCH

Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt, $30,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Bermuda, $860,000.
Naval Station, Keflavik, Iceland, $17,650,000.
Naval Station, Roosevelt Roads, Puerto Rico, $1,300,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Facility, Midway Island, $3,900,000.

NAVAL FORCES EUROPE

Naval Station, Rota, Spain, $6,600,000.
Naval Air Facility, Sigonella, Italy, $9,700,000.

CHIEF OF NAVAL MATERIAL

Navy Public Works Center, Guam, Mariana Islands, $3,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Station, Harold E. Holt, Exmouth, Australia, $2,500,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $1,400,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount $20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $33,325,000.

AL GHARDAQA MARINE LABORATORY, EGYPT

SEC. 204. The Secretary of the Navy is authorized to expend excess foreign exchange funds in the amount of $580,000 for the construction of a multipurpose marine biological laboratory at the Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $3,740,000.
Kelly Air Force Base, Texas, $6,350,000.
Newark Air Force Station, Ohio, $860,000.
Robins Air Force Base, Georgia, $7,236,000.
Tinker Air Force Base, Oklahoma, $12,100,000.
Wright-Patterson Air Force Base, Ohio $13,200,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,500,000.
Eglin Air Force Base, Florida, $5,100,000.
Hanscom Air Force Base, Massachusetts, $8,600,000.
Johnson Space Center, Texas, $12,400,000.
Maui Optical Site, Hawaii, $3,650,000.
White Sands Missile Range, New Mexico, $2,100,000.

AIR TRAINING COMMAND

Keesler Air Force Base, Mississippi, $840,000.
Lackland Air Force Base, Texas, $5,400,000.
Laughlin Air Force Base, Texas, $4,500,000.
Mather Air Force Base, California, $1,650,000.
Maxwell Air Force Base, Alabama, $6,600,000.
Sheppard Air Force Base, Texas, $2,050,000.
Vance Air Force Base, Oklahoma, $1,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $13,400,000.

MILITARY AIRLIFT COMMAND

Andrews Air Force Base, Maryland, $1,190,000.
Kirtland Air Force Base, New Mexico, $1,500,000.
Little Rock Air Force Base, Arkansas, $510,000.
McChord Air Force Base, Washington, $4,100,000.
Richards-Gebaur Air Force Base, Missouri, $1,100,000.
Scott Air Force Base, Illinois, $10,060,000.
Travis Air Force Base, California, $6,300,000.

STRATEGIC AIR COMMAND

Castle Air Force Base, California, $5,300,000.
Ellsworth Air Force Base, South Dakota, $17,000,000.
Grand Forks Air Force Base, North Dakota, $4,900,000.
Griffiss Air Force Base, New York, $7,150,000.
Grissom Air Force Base, Indiana, $4,700,000.
K. I. Sawyer Air Force Base, Michigan, $5,200,000.
March Air Force Base, California, $6,600,000.
Minot Air Force Base, North Dakota, $5,100,000.
Offutt Air Force Base, Nebraska, $2,190,000.
Vandenberg Air Force Base, California, $109,300,000.
Various Locations, $14,200,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $7,850,000.
Cannon Air Force Base, New Mexico, $5,750,000.
Davis-Monthan Air Force Base, Arizona, $5,540,000.
England Air Force Base, Louisiana, $6,390,000.
George Air Force Base, California, $18,350,000.
Holloman Air Force Base, New Mexico, $4,200,000.
Homestead Air Force Base, Florida, $8,370,000.
MacDill Air Force Base, Florida, $2,350,000.
Moody Air Force Base, Georgia, $4,140,000.
Mountain Home Air Force Base, Idaho, $60,000.
Nellis Air Force Base, Nevada, $3,690,000.
Shaw Air Force Base, South Carolina, $2,780,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,950,000.

OUTSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Thule Air Base, Greenland, $3,150,000.

AIR FORCE SYSTEMS COMMAND

Mahe Tracking Station, Seychelle Islands, $550,000.
Various locations, $2,350,000.

MILITARY AIRLIFT COMMAND

Roberts International Airport, Liberia, $4,950,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $1,100,000.
Kunsan Air Base, Korea, $4,010,000.
Osan Air Base, Korea, $20,080,000.
Taegu Air Base, Korea, $510,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Canal Zone, $6,185,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, various locations, $16,640,000.
United Kingdom, various locations, $14,920,000.
Various locations, $40,370,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $28,960,000.

FOREIGN CURRENCY FLUCTUATIONS

SEC. 304. If the estimated cost to complete any construction or acquisition outside the United States authorized for the Air Force in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $4,067,000.

SEC. 305. (a) Section 301 of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 555), is amended by striking out "$74,738,000" in the item relating to the authorization for acquisition and construction at various locations for the United States Air Forces in Europe and inserting in lieu thereof "$61,838,000".

(b) Section 602(3) of such Act is amended by striking out "$102,846,000" and "$485,869,000" and inserting in lieu thereof "$89,946,000" and "$472,969,000", respectively.

SEC. 306. (a) Section 301 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1357), is amended—

(1) by striking out "$38,000,000" in the item relating to the authorization for acquisition and construction at various locations for the United States Air Forces in Europe and inserting in lieu thereof "$31,600,000"; and

(2) by striking out "$13,180,000" in the item relating to Nuclear Weapons Security and inserting in lieu thereof "$12,480,000".

(b) Section 602(3) of such Act is amended by striking out "$56,650,000" and "$736,409,000" and inserting in lieu thereof "$49,550,000" and "$729,309,000", respectively.

SEC. 307. Section 301 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1754), is amended by striking out "$9,000,000" in the item relating to the authorization for acquisition and construction for the Aerospace Corporation at Los Angeles, California, and inserting in lieu thereof "$20,500,000".

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Depot, Memphis, Tennessee, $670,000.
Fuel Terminal, Ozol, California, $3,650,000.
Fuel Terminal, Escanaba, Michigan, $600,000.

DEFENSE MAPPING AGENCY

Defense Mapping Agency Hydrographic/Topographic Center, Bethesda, Maryland, $825,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,800,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Wake Island Air Force Base, $11,400,000.

OFFICE OF THE SECRETARY OF DEFENSE

DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS' EDUCATION

Alconbury Royal Air Force, United Kingdom, $2,340,000.
Atsugi Naval Air Facility, Japan, $580,000.
Bad Hersfeld, Germany, $770,000.
Baumholder, Wetzel Housing Area, Germany, $1,920,000.
Grafenwoehr, Germany, $1,640,000.
Keflavik Naval Air Station, Iceland, $1,700,000.
Ludwigsburg, Germany, $570,000.
Pruem Air Station, Germany, $1,000,000.
Schwaebisch Gmuend, Germany, $575,000.
Seoul, Yongsan, Korea, $3,290,000.
Soesterberg, Camp New Amsterdam, Netherlands $3,300,000.
Yokota East Air Base, Japan, $2,450,000.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Various locations: For the United States' share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area, $150,000,000. Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred by the United States for the United States' share of the cost of such multilateral programs.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section, including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $5,250,000.

FOREIGN CURRENCY FLUCTUATIONS

SEC. 404. If the estimated cost to complete any construction or acquisition outside the United States authorized for the defense agencies in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $9,377,000.

DEFICIENCY AUTHORIZATION FOR HIGH ENERGY LASER FACILITY, WHITE SANDS, NEW MEXICO

SEC. 405. (a) Section 401 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358), is amended by striking out "$33,449,000" in the item relating to the High Energy Laser Facility at White Sands, New Mexico, and inserting in lieu thereof "$40,749,000".

(b) Section 602(4) of such Act is amended by striking out "$55,909,000" and inserting in lieu thereof "$63,209,000".

SEC. 406. (a) Section 401 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 576), is amended by striking out "$120,000,000" in the item relating to North Atlantic Treaty Organization Infrastructure and inserting in lieu thereof "$140,000,000".

(b) Section 602(4) of such Act is amended by striking out "$217,610,000" and inserting in lieu thereof "$237,610,000".

TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

SEC. 501. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitation specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units: Fort MacArthur, California, two hundred units, $11,500,000.

(d) The amount specified in this section may, at the discretion of the Secretary of Defense, or the Secretary's designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

LEASING OF FAMILY HOUSING

SEC. 502. (a) Section 2686(c) of title 10, United States Code, relating to leases for military family housing, is amended by striking out "$300" in paragraph (1) and inserting in lieu thereof "$310".

(b) Section 2675(d) of title 10, United States Code, relating to leases in foreign countries, is amended—

(1) by striking out "$485" and "$850" in the first sentence of paragraph (1) and inserting in lieu thereof "$550" and "$970", respectively; and

(2) by striking out "18,000" in paragraph (2) and inserting in lieu thereof "20,000".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. (a) There is authorized to be appropriated for fiscal year 1980 for use by the Secretary of Defense, or the Secretary's designee, for military family housing as authorized by law for the following purposes:

(1) For construction of, or acquisition of sole interest in, family housing, including minor construction, an amount not to exceed $14,500,000, and for planning, an amount not to exceed $900,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corpora-

tion, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m), an amount not to exceed $1,716,494,000.

(3) For homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, an amount not to exceed $5,000,000.

(b) The amounts authorized to be appropriated in subsection (a) may be increased to the extent additional funds are appropriated to defray increased pay costs associated with actions taken pursuant to law.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. There are authorized to be appropriated for fiscal year 1980 such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V shall not exceed—

(1) for title I: inside the United States $535,370,000; outside the United States $192,524,000; minor construction $52,620,000; for a total of $780,514,000.

(2) for title II: inside the United States $397,080,000; outside the United States $59,340,000; minor construction $33,325,000; for a total of $489,745,000.

(3) for title III: inside the United States $395,596,000; outside the United States $118,882,000; minor construction $28,960,000; for a total of $543,438,000.

(4) for title IV: a total of $214,707,000, including $5,250,000 for minor construction.

(5) for title V: military family housing and homeowners assistance program, $1,736,894,000, including $3,000,000 for minor construction.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b), (c), (d), and (g), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN INSTALLATION TOTALS—ONLY ONE PROJECT AT AN INSTALLATION.—When the amount named for any construction or acquisition in titles I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) VARIATIONS IN INSTALLATION TOTALS—REPORTS BY THE SECRETARY OF DEFENSE.—When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS; REPORTS TO CONGRESS.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects, may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed from the date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) COST AND FLOOR AREA VARIATIONS—SOLAR ENERGY.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost or floor area of a project authorized by this Act shall be in addition to any other increase in such cost or variation in floor area limitations authorized by this or any other Act.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction authorized in this Act. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business, the names of such firms, the total number of separate contracts awarded each firm, and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR YEAR AUTHORIZATIONS; EXCEPTIONS

SEC. 605. (a) As of October 1, 1980, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565), and all such authorizations contained in Acts approved before September 8, 1978, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1980, and authorizations for appropriations therefor.

(b) Notwithstanding the provisions of subsection (a) of this section and of section 605 of the Military Construction Authorization Act, 1979 (Public Law 95-356, 92 Stat. 583), authorizations for the following items shall remain in effect until October 1, 1981:

(1) Barracks Complex—Trainee construction in the amount of $14,967,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(2) Brooke Army Medical Center Hospital Alteration in the amount of $10,000,000, at Fort Sam Houston, Texas, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(3) Reception Station construction in the amount of $5,886,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(4) POMCUS Maintenance Complexes in the amount of $33,768,000 at Kaiserslautern, Pirmasens, Germersheim, Gerzweski Barracks, Mannheim, Miesau, Nahbollenbach, and Neureut Kaserne, all in Germany, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 360).

(5) Morse Training Building construction in the amount of $2,400,000 at Naval Technical Training Center, Pensacola, Florida, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(6) Medical/Dental Branch Clinic construction in the amount of $4,350,000 at the Navy Regional Medical Center, Pearl Harbor Hawaii (Naval Station, Midway Island), authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(7) Relocation of the weapons range from the Culebra Complex in the amount of $12,000,000 for the Atlantic Fleet Weapons Range, Roosevelt Roads, Puerto Rico, authorized in section 204 of the Military Construction Authorization Act, 1974 (Public Law 93-166; 87 Stat. 668) and extended in section 605(b)(H) of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 565) and in section 605(b)(4) of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 376).

(8) Municipal Sewer Connection in the amount of $4,150,000 for the Navy Public Works Center, Norfolk, Virginia, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 363).

(9) High Energy Laser Facility construction in the amount of $33,449,000 at White Sands, New Mexico, authorized in section 401 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 369).

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction project inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $48 per square foot for permanent barracks; or

(2) $52 per square foot for unaccompanied officer quarters;

unless the Secretary of Defense, or the Secretary's designee, determines that, because of special circumstances, application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of the enactment of this Act.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 607. Titles I, II, III, IV, and V of this Act shall take effect on October 1, 1979.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $14,537,000; and

(B) for the Army Reserve, $19,624,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $12,790,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $23,500,000; and

(B) for the Air Force Reserve, $7,500,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10. United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

CONTRIBUTIONS FOR GUARD AND RESERVE FORCES FACILITIES

SEC. 703. (a) Section 2233 of title 10, United States Code, is amended—

(1) by striking out "and" after clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(5) contribute to any State or Territory, Puerto Rico, or the District of Columbia, such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by the failure of existing facilities to meet the purposes of this chapter. A contribution made for an armory may not be more than 75 percent of the cost of construction of which it is applied.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

INCREASE IN MAXIMUM CONTRIBUTION FOR GUARD AND RESERVE FORCES FACILITIES WITHOUT NOTIFICATION TO CONGRESS

SEC. 704. Paragraph (1) of section 2233a of title 10, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$175,000".

TITLE VIII—GENERAL PROVISIONS

REVISIONS TO MINOR CONSTRUCTION AUTHORITY

SEC. 801. Section 2674 of title 10, United States Code, relating to minor construction, is amended—

(1) by adding at the end of subsection (b) the following new sentence: "Approvals under the preceding sentence are not required for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives."; and

(2) by adding at the end of subsection (f) the following new sentence: "Such notice is not required for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives.".

AMENDMENT WITH RESPECT TO DEVELOPMENT OF SOURCES OF ENERGY ON MILITARY LANDS

SEC. 802. Section 803 of the Military Construction Authorization Act, 1979 (30 U.S.C. 1002a), is amended as follows:

(1) The section heading is amended to read as follows:

"DEVELOPMENT OF SOURCES OF ENERGY ON OR FOR MILITARY INSTALLATIONS".

(2) Subsection (b)(1) is amended by inserting "or on private property" after "jurisdiction".

AMENDMENT WITH RESPECT TO USE OF SOLAR ENERGY SYSTEMS

SEC. 803. (a) Section 804 of the Military Construction Authorization Act, 1979 (42 U.S.C. 5504a), is amended by striking out "facilities" and inserting in lieu thereof "buildings that are to be heated or cooled".

(b) Subsections (b) and (c) of such section are amended to read as follows:

"(b) The Secretary of Defense shall require that all family housing constructed by the Department of Defense under the authority of this Act or any Act enacted after the date of the enactment of this Act shall include solar energy systems to the extent that engineering analyses demonstrate that the inclusion of such systems is cost effective.

"(c) For the purposes of this section, the cost effectiveness of a solar energy system shall be determined by lifecycle cost analyses that take into account original investment cost and estimated operation and maintenance over the expected life of the building. Notwithstanding the results of such life cycle cost analyses, solar energy systems shall be installed when the benefit/cost ratio exceeds .80.".

USE OF ROI-NAMUR ISLAND

SEC. 804. (a) The Secretary of Defense may pay to the owners of the land of Roi-Namur Island, Marshall Islands, District of the Trust Territories of the Pacific Islands, such amount as the Secretary of Defense determines to be in the public interest for the use after 1960 of Roi-Namur Island by the Government of the United States.

(b) Subsection (a) shall take effect on October 1, 1979, and shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

LAND CONVEYANCE, SAN DIEGO, CALIFORNIA

SEC. 805. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to acquire, by condemnation or otherwise, all right, title, and interest of the city of San Diego, California (hereinafter in this section referred to as the "city"), in and to a tract of land consisting of 40 acres, more or less, in the Balboa Park in San Diego, California. Land acquired pursuant to this section shall be

used as the site for construction of any new Navy hospital or medical center that is authorized to be constructed in the greater San Diego area after the date of the enactment of this Act and for related purposes.

(b) The Secretary is authorized to convey to the city, in consideration for the acquisition under subsection (a), all right, title, and interest of the United States in and to all or any part of the real property (including improvements thereon) of the Naval Regional Medical Center, San Diego, that has been conveyed, leased, or otherwise made available to the United States by the city.

(c) The exact acreage and legal description of any land acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(d) This section shall take effect on October 1, 1979. The authority of the Secretary to obligate funds under this section shall be effective only to the extent that appropriated funds are available for that purpose.

LAND CONVEYANCE, TUSTIN, CALIFORNIA

SEC. 806. (a) Subject to subsection (b), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Irvine Company, a Michigan corporation, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 84 acres located in the northeastern portion of the Marine Corps Air Station (Helicopter), Tustin, California, together with the improvements on such land. Such conveyance shall be made subject to such terms and conditions as the Secretary considers to be in the public interest.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Irvine Company shall—

(1) convey to the United States land and interests in land that the Secretary considers to be equivalent in value to the land conveyed by the Secretary under subsection (a) and that are otherwise acceptable to the Secretary.

(2) pay the costs of relocating the Military Affiliate Radio Station (MARS) radio facilities and the skeet range facilities located on the land conveyed under subsection (a), and

(3) pay all costs of surveys, appraisals, and evidence of title involved in both such conveyances.

(c) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys which are satisfactory to the Secretary.

(d) The Secretary is authorized to accept any land conveyed under subsection (b), and any such land shall be administered by the Secretary.

LAND CONVEYANCE, HUNTSVILLE, ALABAMA

SEC. 807. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey, without monetary consideration, to the Alabama Space Science Exhibit Commission (an agency of the State of Alabama) all right, title, and interest of the United States in and to the real property described in subsection (c). Any real property conveyed under the preceding sentence shall be conveyed for use as a permanent site, in addition to the real property conveyed under Public Law 90-276, for the Alabama Space Science Exhibit.

(b) The conveyance authorized by subsection (a) shall be subject—

(1) to the condition that the real property so conveyed shall be used by the State of Alabama as a permanent site for an Alabama Space Science Exhibit to display suitable public exhibits of United States weaponry and allied subjects, developments of the National Aeronautics and Space Administration, and space-oriented exhibits of other United States Government departments, agencies, and instrumentalities and that if such property is not used for such purpose, all right, title, and interest in and to such real property shall revert to the United States, which shall have the right of immediate entry thereon, and

(2) to such other conditions as the Secretary may prescribe to protect the interest of the United States.

(c)(1) The real property referred to in subsection (a) is a certain tract or parcel of land containing 300 acres more or less (less that land occupied on the date of the enactment of this Act by the Department of the Navy), lying within range 1 west, township 4 south, parts of sections 8 and 9, and more particularly described as beginning at the established northeast corner of the Alabama Space and Rocket Center, running east along the Redstone Arsenal northern boundary, thence south along the Redstone Arsenal eastern boundary to a point north of the northwest corner of the intersection of Patton Road and Goss Road, thence west parallel to the north site of Goss Road to MacDonald Creek, thence northwesterly parallel to the east bank of the creek to the northern line of the Tennessee Valley Authority easement, thence west along the easement to the Alabama Space and Rocket Center established corner, thence north and east along the Alabama Space and Rocket Center boundary to point of beginning.

(2) The exact description of such property is to be determined by an accurate survey approved by the Secretary.

LAND CONVEYANCE, CHARLESTON, SOUTH CAROLINA

SEC. 808. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange all right, title, and interest of the Charleston County Aviation Authority (hereinafter in this section referred to as the "Authority") in and to a replacement hazardous cargo handling area to be constructed by the Authority at the Charleston County Airport, South Carolina, for the Air Force.

(b) As consideration for the acquisition under subsection (a), the Secretary is authorized to convey to the Authority all right, title, and interest of the United States in and to land (and improvements thereon) having a fair market value not more than the fair market value of the property to be acquired.

(c) The exact acreages and legal descriptions of the properties to be acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary and to the Authority.

BOLLING AIR FORCE BASE EXTENSION

SEC. 809. Section 607(b) of the Military Construction Authorization Act, 1966 (Public Law 89-188; 79 Stat. 818), is amended by striking out "January 1, 1980" both places it appears and inserting in lieu thereof "October 1, 1984".

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS WITH RESPECT TO CERTAIN BASE CLOSURES

SEC. 810. (a) No action with respect to the closure of, or the realinement of, the Army Training Command at Fort Dix, New Jersey, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(b) No action with respect to the closure of, or the realinement of, the Air Training Command at Goodfellow Air Force Base, San Angelo, Texas, may be taken unless and until the Secretary of the Air Force has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in San Angelo, Texas, and the surrounding area.

(c) No action with respect to the closure of, or the realinement of, Fort Indiantown Gap, Annville, Pennsylvania, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(d) No action with respect to the closure of, or the realinement of, New Cumberland Army Depot, New Cumberland, Pennsylvania, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(e) No action with respect to the closure of, or the realinement of Fort Monroe, Hampton, Virginia, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

TECHNICAL AMENDMENTS TO THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1979

SEC. 811. The Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565) is amended as follows:

(1) Sections 102, 202, and 302 are amended by striking out "upon the date of enactment of the Military Construction Authorization Act for fiscal year 1980" and inserting in lieu thereof "on October 1, 1979".

(2) Section 603(a) is amended by striking out "(a), (b), (c)" and inserting in lieu thereof "(b), (c), (d)".

Amend the title so as to read: "An Act to authorize certain construction at military installations for fiscal year 1980, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House, agree to the request of the House for a conference on disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. HART, Mr. JACKSON, Mr. CANNON, Mr. HARRY F. BYRD, JR., Mr. NUNN, Mr. THURMOND, Mr. TOWER, Mr. WARNER, and Mr. HUMPHREY conferees on the part of the Senate.

SECOND CONGRESSIONAL BUDGET RESOLUTION, 1980, 1981, AND 1982—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on Senate Concurrent Resolution 36 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on

the amendment of the House to the concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 23, 1979.)

Mr. ROBERT C. BYRD. Mr. President, this report is being submitted at this time because section 305 of the Budget Act requires the conferees to report back in disagreement after 7 days if they have been unable to reach final agreement.

The conferees have made substantial progress and the House has requested further conference in an effort to resolve the matters in disagreement. We will now take the necessary parliamentary steps to return to conference.

Mr. President, I move that the Senate agree to the conference report.

The PRESIDING OFFICER (Mr. BAUCUS). The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the House amendment to Senate Concurrent Resolution 36 and agree to the further conference requested by the House and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Mr. MUSKIE, Mr. MAGNUSON, Mr. HOLLINGS, Mr. CHILES, Mr. BIDEN, Mr. JOHNSTON, Mr. BELLMON, Mr. DOMENICI, Mr. PACKWOOD, and Mr. ARMSTRONG conferees on the part of the Senate.

SENATOR COHEN'S REMARKS TO THE NORTH ATLANTIC ASSEMBLY OTTAWA, CANADA

Mr. TOWER. Mr. President, I want to draw the attention of my colleagues to remarks prepared by Senator COHEN for the meeting of the North Atlantic Assembly which took place in Ottawa last week.

Ambiguous signals from the White House in recent weeks concerning U.S. military policies, SALT, and the vital issue of European theater nuclear force modernization have created much turmoil and misunderstanding in NATO capitals. Our allies have been hard-pressed to distinguish substantive and worrisome policy pronouncements from political rhetoric, and it was important that their fears be relieved by a forthright separation of truth from fiction. Senator COHEN's text served that purpose extremely well.

At the outset, he exploded the myth that the SALT II treaty can or should be considered in isolation from other Soviet activities designed to expand her influence at Western expense. In Senator COHEN's words:

> Agreements that provide for equal aggregates of weapons cannot produce equality where unequal military trends and intentions exist.

The central theme of Senator COHEN's remarks was to stress the imperative of NATO theater nuclear force modernization. This requirement, long recognized on both sides of the Atlantic, has recently been subverted by the administration through its efforts to assert a wholly illogical linkage between TNF and the ratification of SALT.

Senator COHEN reaffirmed the U.S. commitment to theater nuclear forces modernization—with or without SALT—as an absolutely essential program to redress the imbalance in theater nuclear forces as well as being a necessary precondition to any hope of success in SALT III.

Perhaps most importantly, however, Senator COHEN made clear to our allies that U.S. constancy and fidelity to our NATO allies is not conditioned upon the ratification of SALT II. In fact, as Senator COHEN so eloquently pointed out, the best evidence of renewed U.S. leadership would be firm action by the Senate to correct the serious inequities contained in the treaty and concurrent action to strengthen our own defense posture.

Senator COHEN's remarks went far toward resolving much of the confusion introduced by the administration in recent weeks and were extremely beneficial in calming allied fears over our ability to deal rationally with straightforward military issues. We all owe Senator COHEN a debt of gratitude, and I commend his remarks to each of my colleagues, and ask unanimous consent that his statement issued before the North Atlantic Assembly be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR WILLIAM S. COHEN

The Senate debate on the SALT II treaty, while still incomplete, has been instrumental in shaking the fruit of many of our comfortable assumptions from the tree of self-delusion.

The euphoria that accompanied the first SALT agreement is gone. The United States is no longer wedded to a great faith that arms control is an island of super power cooperation in the sea of political, economic and military competition. We are finally coming to an understanding of the nature of the adversaries we and the free world face.

I believe that there is an emerging consensus in the United States that arms control agreements are not negotiated in a vacuum and cannot be considered in splendid isolation from global military and political realities. Agreements that provide for equal aggregates of weapons cannot produce equality where unequal military trends and intentions exist.

Ironically, at the SALT II milestone the United States finds that it must increase its defense efforts because the hoped-for restraint has not been achieved. What a dramatic act of hypocrisy that the process forces us to speak of arms control while we act to rearm. As my colleague Senator Moynihan has said—"The gods must weep."

In Europe, there remain many policy makers whose enthusiasm for SALT II remains undiminished by the failure of the final product to achieve its stated goals. It is hoped that the process will produce a momentum of its own and the failures of today will rise up from the ashes of rejection and take form in SALT IV or VII.

I do not seek to dampen this optimism for the future but rather to temper it with the lessons of the past. I do not ask you to give up the effort to achieve meaningful arms reductions, or defer indefinitely the dream of peace.

I came today to urge you not to lower your defenses.

Never before, since the founding of the NATO alliance 30 years ago, has it been faced by the military and consequently the political challenge that we are faced with today. To be timid in our response would invite even greater challenge. We need not become alarmists but we must become realists. We must state the facts as they are even if more comforting illusions must be abandoned in the process.

A careful listener to the praise some NATO allies publicly and enthusiastically heap upon the SALT II treaty will notice that the praise seems less motivated by any affection for the particular substance of the agreement than from a paralysis of thought resulting from an anxiety over the consequences of its rejection. But we must consider rejection—coldly, practically, and carefully—because rejection of the treaty unless it is amended is a very real possibility.

The treaty is a complex document, one that must be and is being scrutinized by the United States Senate. There should be no rush to final judgment under pressure from the Administration or from this Alliance.

Examination so far has revealed a SALT II treaty which is imperfect and invites change—change necessary to make the agreement fair, equitable and verifiable.

Among the most troublesome and perplexing aspects are those which bear on the future security of Europe such as the manifestly unequal Protocol, the uncertain implications of the non-circumvention provisions, and the exclusion of backfire bomber.

We are all committed to the concept of "detente" although the term has remained a fickle and elusive spirit. At times it is a difficult task to discern whether we are its master or its servant. With or without this SALT agreement, we remain committed to the improvement of East-West relations and to the achievement of meaningful arms control. The time has come when we should no longer tolerate invoking the words "arms control" and using the phrase as a pretext for further arms competition.

To our fellow NATO parliamentarians who say, You must ratify the SALT II treaty or the NATO alliance will unravel or our efforts to modernize NATO's theater nuclear forces will fail, I say we do not see the logic of your argument.

First, I do not believe that any European leader would act to weaken NATO or would acquiesce in its dissolution because of actions taken by the United States Senate to strengthen it. Secondly, the Senate cannot be deterred from its constitutional responsibilities by such arguments. We cannot take seriously the linkage of SALT to long range theater nuclear force modernization because to accept such linkage would be to conclude that our allies are not fully dedicated to their own defense.

Let me suggest that among the critics of the treaty are to be found some of Europe's greatest friends, and our criticism is motivated by a genuine concern over the im-

pact of this unequal treaty on the strength of the alliance.

Our commitment to our European allies is firm. It will not vary if SALT II is accepted or rejected. But to suggest that NATO will fracture, dissolve or seek accommodation with the Soviet Union, may set a test that cannot be passed and suspend the Alliance over an abyss from which it cannot retreat or cannot be rescued.

PERNICIOUS ILLUSIONS ABOUT OIL PROFITS

Mr. TOWER. Mr. President, in recent weeks, the American public has been subjected to a barrage of misleading headlines and overblown rhetoric about the level of income earned by the Nation's major petroleum companies. The current excitement, of course, stems from the publication of oil company financial reports for the 3-month period ending September 30, 1979. Compared to the third quarter of 1978, which for many companies was a depressed quarter in terms of earnings and profits, the third quarter of 1979 presents a favorable contrast for many companies.

Do these quarterly profits and earnings comparisons demonstrate that oil companies in general are more profitable than other U.S. corporations? Do these figures demonstrate the need for additional, special taxation of revenues derived from the production of domestic oil or natural gas? The answer must be, of course, a resounding no.

The fact remains that, despite third quarter 1979 earnings and all of the anti-oil demagoguery, U.S. petroleum companies' profits are about in line with those of other U.S. companies. This is even more significant when one recognizes that the business of exploring for and producing oil and gas in the United States is more capital intensive and subject to greater risk than most other business endeavors.

Quarterly profit comparisons are meaningless in measuring the overall profitability of a company or industry. The standard most commonly used to assess profitability is the ratio of profits to investment, referred to generally as rate of return on investment. Using all of the accepted methods for calculating rate of return on investment, oil company profitability is about the same as that for all U.S. manufacturing companies.

In 1978, for instance, the leading 25 integrated U.S. oil companies had an average rate of return of 13.6 percent, measured on the basis of net income as a percent of stockholders' equity. In comparison, U.S. manufacturing companies in that same year averaged a 15.9 percent rate of return. The results are similar for the year 1977, with a 13.4 percent return for petroleum versus a 14.9 percent return for manufacturing, and for the year 1976, with a 14 percent return for petroleum versus a 15 percent return for manufacturing.

The years 1976–78 were not unusual years in terms of oil company profitability in relation to the profitability of other U.S. companies. During the 11-year period 1968–78, oil company profitability was very similar to that for total manufacturing. In fact, for the 25 leading oil companies, return on equity was below the all-manufacturing group average in 7 of the 11 years.

Newspaper headlines and exaggerated political rhetoric notwithstanding, the general trend of oil company profits has not been altered by 1979 profits results—including the third quarter reports so far announced. When all of the 1979 profit figures are in for the year, it may be that the average oil company rate of return will exceed that of manufacturing by a few percentage points; but oil profits last year were several points below those of manufacturing. It is unlikely that this general trend will change significantly, even with decontrol of oil prices.

Moreover, rather than attempting to penalize oil companies for any economic successes they may enjoy, we should be cheering them on. The solution of our Nation's energy problem is a job of massive proportions, and one which will only be made more difficult by crippling the U.S. energy industry.

Studies by the Bankers Trust Co., the Chase Manhattan Bank, and the U.S. Department of Energy have each estimated that, just to maintain current reserves, oil companies will need to spend in the United States through the mid-1980's from $20 billion to $26 billion annually, in constant 1977 dollars, on exploration and development alone. That figure is about double what the companies have invested annually in exploration and development under price controls since 1973.

If we are truly serious about the need to solve our energy problem and reduce our dependence on foreign sources, then we must give our American private enterpirse system a realistic chance to meet the challenge. We can do that by eliminating the existing burdens of Government overregulation which now stifle necessary capital investment in new energy supplies.

The economic incentives provided by the possibility of profit is an essential ingredient in the effective functioning of the American economic system. Few politicians or news journalists seem to appreciate that fact. One notable exception is Joseph Kraft, who writes for the Washington Post. In a recent column appearing in the Post on October 25, 1979, entitled "Who Profits From Profits?" Mr. Kraft commented on the role of profits in fostering the economic health of the country. I ask unanimous consent that the text of this excellent commentary by Joseph Kraft be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the Washington Post, Oct. 25, 1979]

WHO PROFITS FROM PROFITS?

(By Joseph Kraft)

"Prices are up, profits are up, and the oil companies want more. But it is not fair to the American people that they should have more."

At first that sounded just great. Surefire, right-on stuff. The stuff out of which leadership is made, Jimmy Carter standing up to the big, bad oil giants and their obscene profits.

But think a minute. Are the oil companies truly unfair to the American people? If not, why say so? And what is the impact of the charge on that overriding domestic and foreign priority—the reindustrialization of America?

Exxon, the biggest of the oil companies, provides the best test. Its profits for the third quarter of this year amounted to a record $1.1 billion. That, measured against the third quarter of 1978, represented an increase of about 120 percent.

But third-quarter earnings in 1978 were abnormally low—lower than at any time since the second quarter in 1973. Moreover, special considerations—a change in the British tax laws and currency fluctuations—accounted for over a quarter of the gains.

Only about a third of all the operating profits came from the United States, which has relatively tight price control compared with the rest of the world. Earnings on investment stood with much of American industry—at about 18 percent.

Those numbers, to be sure, do not justify going into mourning for poor little Exxon. But the implication that Exxon works to the disadvantage of this country looks weak indeed. On the contrary, the evidence is that Exxon, like most international companies, gives most of the breaks to its home base. The United States, in other words, tends to benefit from the major oil companies.

Political reasons for knocking the companies abound all the same. There has been a big recent rise in the price of home heating oil and gasoline. More increases are bound to come. The country is mad and apt to get madder. At least a portion of the blame rests on the actions of the Carter administration. So the president needs a scapegoat on which to foist responsibility. In this populist country, at a moment when all authority is suspect, the companies are the best one around.

The more so as Carter now has to prove his leadership capacities. One measure is the fate of a proposed windfall profits tax on the oil companies, which is now before the Senate.

A stiff tax has already been approved in the Finance Committee. It will surely be made stiffer by the full Senate, and in the conference with the House. By hitting out at the oil companies now, the president puts himself in position to claim credit for something bound to happen anyhow. He bets on a sure thing.

Only the innocent or the disingenuous can take offense at such tactics. Seeming to soak the rich is the essence of good politics in this populist country. But we ought to be clear about the cost of populist politics.

The starting point for counting the cost is the plight of what I have called Big America. The major industrial producers—the makers of steel, chemicals, autos, rubber, ships and many other such items—are in trouble.

They are subject to severe regulation by what I have called Little America—those primarily interested in fair employment, the environment and the consumer. They are also being severely challenged by competing firms in Japan, West Germany and other countries.

But this country cannot casually abandon industry for a service economy. Defense, for one thing, is at stake. For another, there is the matter of jobs—especially jobs for minorities in hard-pressed urban centers. So the health of the country is, in the long run, bound up with the revitalization of industry.

The reindustrialization of America, unfortunately, is not going to be established by corner banks, family farms or even medium-sized industry. It will take General Motors to stand up to Volkswagen, an IBM to match Toshiba, and Alcoa to deal with Pechiney.

This country has already done itself grave damage by bad-mouthing its steel industry, its nuclear power companies and its airplane manufacturers. It cannot afford to act as though all business is bad, big business worse and international big business still worse. Neither can it afford a president whose political stock depends on cultivating these pernicious illusions.

THE PI PROPERTY SCANDAL—NEED FOR GAO INVESTIGATION

Mr. PROXMIRE. Mr. President, in view of the recent exposures of fraud in connection with PI Properties, Inc. of Washington, D.C., I am calling on the General Accounting Office to investigate what failures at HUD allowed this breakdown to take place.

I understand that the Justice Department is conducting an investigation of PI activities which could result in criminal prosecutions. Quite apart from criminal matters, which I do not nor would not prejudge, what I want to find out is why HUD did not act. What caused the foulup?

Therefore, as chairman of the Senate Banking, Housing, and Urban Affairs Committee, which has jurisdiction over housing legislation, and as chairman of the Subcommittee on HUD-Independent Agencies of the Senate Appropriations Committee, which has jurisdiction over HUD funds, I have written the General Accounting Office to ask them to investigate this matter to determine what noncriminal failures in administration allowed this to happen.

Here is why we need the investigation.

According to reports, three officials of PI Properties, Inc., diverted, misappropriated, and stole at least $600,000 from the U.S. Government and from low-income tenants during the past 4 years. Findings were supported with details gleaned from a former PI bookkeeper and corporation records.

If this were the first time it had happened or a glaring exception to a generally excellent record, that would be one thing.

Stories of fraud in HUD housing are not new. There were great windfalls in the 608 construction program; there were serious scandals in the section 235 homeownership program. There has been big money to be made in housing. And a great number of smart operators stand ready to make it. As one of the Clifton Terrace victims said:

> Larceny becomes a part of people when there is money involved, especially when it's Federal money.

The windfalls and the scandals of the past have inevitably led to pronouncements of change. There have been shake-ups in top management; implementation of new procedures; installation of modern computers; introduction of new audit and inspection systems; improvement of staff training, and even handbooks written on how to do it to train housing fraud investigators on how it is done.

Yet, as the new disclosures showed, painfully little has changed. The costly lessons of the past have not yet been learned. Clifton Terrace is not the first fraud HUD has had to acknowledge—and fear, if it reveals something about HUD's administrative practices, that it will not be the last.

What is particularly distressing about Clifton Terrace is that it happened right here in Washington, right under the eyes of HUD and, in fact, under the eyes of not one but three different HUD Secretaries. It happened in a project you can almost see from the HUD building. A project that stands on one of the most commanding sites in the District. A project that has symbolized for many years the housing problems of the District of Columbia and America's inner cities.

I find it shocking to read that HUD continued to provide financial assistance to the project despite early warnings by some HUD staff, and despite the fact that required audits could not be conducted because, as one HUD investigator said, "How can we investigate records that weren't there?"

And I find it depressing to read that aid was continued despite recommendations of staff to terminate the project apparently because top HUD officials failed to respond or did not care to take decisive action.

I find it incredible that so many could be intimidated for so long by so few, and that from the very beginning "deep interest" by top HUD officials in the project shielded it from objective evaluation and sound management practices. I am deeply disturbed by reports that the basic accounting principle used by PI, Inc. was that expenses should always be equal to or exceed revenues since HUD would pay the bill—and that it took HUD so long to realize this.

We have heard a lot in recent years about white-collar crime and we are considerably more knowledgeable about the way big business corporations have, even with the most respectable of certified audits, manipulated their books in order to siphon off millions of dollars for unethical and illegal activities. Clifton Terrace is not unique. Nor is fraud in connection with housing unique. A top Justice Department investigator told one of my housing staff not long ago. "You name me the industry, and we'll find you the fraud."

Nonetheless, this new disclosure should give us pause when we realize we are spending over $4 billion a year to assist low- and moderate-income persons secure decent housing. How much of that money is being siphoned off by crooks? Will our next scandal involve section 8 housing assistance on which we now spend over $1 billion in new contracts yearly? Or will it involve an urban development action grant for which we will spend $675 million this year?

That is why I have asked the General Accounting Office to examine HUD's procedures in the Clifton Terrace fraud in order to determine what went wrong. Why did it take HUD a full 15 months after an unsatisfactory audit by its Inspector General to take back a project on which only four mortgage payments had been made in 3 years? Why did not a fuse blow out somewhere in HUD?

I am asking the GAO to tell us where in HUD's bureaucracy fuses should be wired so that there would not be another fraud like Clifton Terrace.

I ask unanimous consent that a copy of my letter to Comptroller General Staats appear at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, D.C., October 30, 1979.

Mr. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. COMPTROLLER GENERAL: I am writing to request that the General Accounting Office conduct an investigation of HUD's management and audit procedures in the Clifton Terrace case, in order to determine why they failed to bring about corrective measures sooner.

I would like to know, particularly, why it took HUD a full fifteen months after an unsatisfactory audit by its Inspector General to take back a project on which only four mortgage payments had been made in three years. Also, why did it take so long, with such a record of nonpayment and certain staff warnings for HUD top management to recognize that the demonstration project was not working?

I would hope that GAO would, in light of its efforts to get Federal agencies to improve their oversight of audit recommendations, be able to identify where HUD's system could be wired with fuses that would automatically stop the flow of Federal funds when the system is imbalanced.

I would appreciate your early response to this request.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

REMINDERS FROM THE PAST MOLD THE FUTURE

Mr. PROXMIRE. Mr. President, last week in Cologne, West Germany, an event occurred that demonstrated that the past cannot be forgotten. Outside a small courtroom, 200 French Jews gathered. They were waiting for the start of a trial of three former Nazi SS officers accused of ordering the death of more than 33,000 Jews during World War II.

Why did the protesters travel all the way to assemble outside the Cologne courtroom? What was the message of their demonstration?

It was, Mr. President, a simple message. It showed that the despicable Nazi genocide of over 6 million Jews was far from forgotten. True realization of what actually happened is only beginning.

The holocaust has deeply scarred not only the memories of Jewish survivors, but of anyone who attempts to fully understand the reality of Hitler's "final solution." They are scars that show. They are scars that remind.

We will be reminded by books, films, and demonstrations. We will be reminded by trials of Nazi officers accused of heinous crimes committed over 30 years ago. We will be reminded, Mr. President, by the worldwide effort to prevent the recurrence of such genocide.

Why, then, have we not learned from the past? Why have we not fully participated in the global crusade to protect human rights? Why have we not ratified the Genocide Convention?

The United States cannot erase the scars from the holocaust. But we can learn from them. We can realize the magnitude of the job that lies before us as defenders of human rights.

It is the job of the Cologne court to recall the past. It is our job to mold the future. I urge my colleagues to ratify the Genocide Convention.

MIKE FLANAGAN—CY YOUNG AWARD WINNER

Mr. DURKIN. Mr. President, I would like to take this opportunity to commend New Hampshire's own Mike Flanagan, who yesterday was named the American League's Cy Young Award winner, given annually to the top two pitchers in baseball. A fireballing southpaw for the Baltimore Orioles, Mike hails from my own hometown of Manchester. As the ace of the American League champions, Mike led the major leagues with 23 wins this past season. Along the way he racked up 190 strikeouts, third in the American League, while allowing a paltry 70 walks.

As durable as he is accurate, Mr. Flanagan completed 16 games while pitching in 266 innings. Under the pressure of a heated pennant race, Mike remained cool as a cucumber winning 16 of 19 games over the summer months. A rugged New England upbringing paid off in the opening game of the world's series, when he defeated the Pittsburgh Pirates 5 to 4 on a mud-soaked field in 40° chill.

It is said that the most difficult feat in sports is to hit a pitched ball. Surely, Mike's 100-mile-per-hour fastballs and deceptive curves would lead even the best major league hitters to concur with this observation. I extend the congratulations of the State of New Hampshire to Mike Flanagan, and wish him every success in the future.

Mr. President, I ask unanimous consent that a feature story on Mike Flanagan and his family, written by Mr. Guy Nadeau of the Manchester Union Leader, and an article by Fred McMane be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THERE'S LOT OF JOY NOW IN FLANAGAN N.H. HOUSEHOLD

(By Guy Nadeau)

Mike Flanagan had a little secret he shared with his dad, Eddie Flanagan, before the major league season opened last spring.

Shortly after hearing the inevitable news late Tuesday afternoon that his son, pitcher elite from a Baltimore Orioles pitching corps which is the class of the major leagues, indeed was official recipient of the coveted Cy Young Award in the American League, the elder Flanagan took it all in stride and did a little reflecting on the season past.

"I may be letting the cat out of the bag but he told me before the season started that he was going to try to win twenty-five," Eddie Flanagan told the Union Leader.

Well, Mike didn't quite make it but of course came close enough, collecting 23 wins to go with nine setbacks, best in the majors in 1979 and thus making him a shoo-in for the Cy Young. "The whole key in sports today is injuries," opined Flanagan, himself a professional baseball player in days gone by. The fact that his son escaped injury during the regular season was a key factor in his success, both during the season and during the American League playoffs and subsequent World Series appearances, feels the long-time resident of Manchester.

Mike Flanagan just missed the 20-game mark in 1978 when he was hampered the last few months by a painful ankle. It persisted somewhat into spring training in 1979 until, finally, it was decided he was overdue to wear an arch support.

"Do you remember in high school they wanted him to wear an arch support"? One doctor said he should, the other thought he should not," recalled Ed Flanagan, "and he didn't." Arch support and all, Flanagan went on to put it all together the past summer, disrupting a pattern wherein he had been plagued the few previous seasons by periods of inconsistency, posting winning, and certainly fine records, but short of the magic twenty.

The fact that Flanagan, at age 27 and only in his third full year in the majors, was able to annex the Cy Young in such a brief period of time has brought joy but not necessarily surprise to the Flanagan household of Eddie and Lorraine and the rest of the Flanagan clan, Kathy and Elaine.

"I thought his concentration in the World Series was better than during the regular season; he was consistently ahead of the hitters," Ed Flanagan related to the Union Leader after hearing the news via a phone call from his son at his townhouse in Cockeysville, Md. "We're just happy for him. I know he was shooting for it. He maintains he doesn't have any goals, but he has 'em every year," said Flanagan after learning that his son had collected 26 of a possible 28 first-place votes, the others awarded to New York Yankee hurlers Ron Guidry and Tommy John.

While giving his son his just credit, Ed Flanagan is quick to also credit veteran Jim Palmer as being, "on paper, the best pitcher." He also feels that Mike pitched best in his second Series mound appearance, when he was the loser, than he did when he won the opener against the Pittsburgh Pirates. Also cognizant of the fact his son also had just received the American Legion Baseball Graduate of the Year award, the elder Flanagan said he expects Mike to return to New Hampshire, and his new home in Amherst, around Nov. 8. "He has banquets to do in Baltimore, plus the fact I don't think Kathy is quite ready to travel yet," the reference to Mike's wife who was hospitalized for a time.

"I guess he'll want to go out and rake the leaves," quips Ed Flanagan.

And there are a few of us around who could use whatever talents Mike Flanagan has in that direction to alleviate our autumnal backyard accumulations.

Just as long as he dons that ever-necessary arch support.

Flanagan received 26 first place votes and 136 points to easily outdistance left-handers Tommy John and Ron Guidry of the New York Yankees. John had 51 points and Guidry, last year's winner, received 26. Each got one first place vote.

Jim Kern of Texas was fourth with 25 points and Mike Marshall of Minnesota was fifth with seven points. Jerry Koosman of Minnesota received five points and Dennis Eckersley of Boston and Aurelio Lopez of Detroit each got one point.

Flanagan, who also got two second place votes, was the only pitcher named on all 28 ballots.

In his third season as a member of the Orioles starting rotation, Flanagan was a key factor in helping Baltimore to the American League East title. Besides posting the best record of 23–9 and an earned run average of 3.98, Flanagan was the club's "meal ticket" throughout the season.

While Palmer was hurt and did not win a game for two months during the middle of the season, Flanagan picked up the slack by going 9–3 from June 27 through Aug. 27. Over the season Flanagan proved to be one of the league's most durable pitchers, hurling 245 innings and going the distance 16 times.

Flanagan, an overpowering pitcher who struck out 190 batters, started the season slowly and was only 5–4 as of May 30. But from the first of June through the second week in September, he won 16 of his next 19 decisions to help the Orioles build a comfortable lead in the tough AL East race.

He tied Nolan Ryan of California and Dennis Leonard of Kansas City for the AL lead in shutouts and he finished third behind Ryan and Guidry in strikeouts.

In winning AL Cy Young honors, Flanagan becomes the third Oriole pitcher to take home the coveted plaque. Palmer previously won it in 1973, '75 and '76 and Mike Cuellar was the co-winner in 1969 when he shared it with Detroit's Denny McLain.

Flanagan, whose father, Ed, a Queen City resident, pitched in the Boston Red Sox organization, signed with the Orioles in 1973 after they made him their seventh selection in the June draft. He spent 3½ seasons in the minor leagues, winning honors as the best left-hander in the International League in 1975, and finally made the Orioles midway through the 1976 season.

He made the Orioles' starting rotation in 1977 and posted a 15–10 record with a 3.64 ERA. Last year he recorded a 19–15 record despite being plagued by tendinitis in his left ankle and the back of his foot. During the offseason he underwent extensive therapy and the problem did not bother him this year.

John, signed as a free agent by the Yankees last season after playing out his option with the Los Angeles Dodgers, was 21–9 and Guidry recorded an 18–8 mark in addition to leading the league in ERA with 2.78.

MIKE FLANAGAN: CY YOUNG AWARD WINNER

(By Fred McMane)

NEW YORK—New Hampshire's Mike Flanagan, a hard-throwing left-hander who replaced eight-time 20-game winner Jim Palmer as the ace of the Baltimore Orioles pitching staff this season, Tuesday was named winner of the American League's Cy Young Award.

The 27-year-old Flanagan, the major leagues' top winner with 23 victories, was a clear-cut choice as the AL's best pitcher in the balloting of 28 members—two from each city—of the Baseball Writers Association of America.

AMERICA IN THE WORLD ARENA

Mr. THURMOND. Mr. President, America's position in the world is of grave concern to all of us. Whether or not the United States is slipping from its role of global leadership has been hotly debated.

Recently I noticed an article which offers some interesting insight into the role of our Nation in a rapidly changing world. This article, "America in the World Arena" by Anthony Harrigan, outlines some of the potential problems facing our Nation and provides an important guideline for the conducting of American foreign policy.

Mr. President, in order to share this fine article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA IN THE WORLD ARENA

(By Anthony Harrigan)

It's very important for the American people to take a dispassionate look at the array of powers in existence or emerging—from the perspective of U.S. security and economic well-being.

Certainly, the world is a vastly different place from a generation ago. The World War II generation came to adulthood with an awareness of American omnipotence, with the first use and exclusive possession of the atom bomb, with overwhelming naval power, and with U.S. military bases scattered around the globe.

Today, the United States is in a position of increasing military inferiority versus the Soviet Union, its principal adversary. Restoration of American military might is the number one requirement for survival.

It's also important to look beyond the immediate defense measures and consider the threats that may face the Republic in the decades ahead.

Many new powers have emerged or are emerging. They are eager for a place in the sun and for a share of the wealth the United States has enjoyed in the 20th century. They may use military means in an effort to effect the wealth transfers they seek. Other nations, now friendly to us, may discover strategic and economic imperatives which may alter their relationship to the United States.

The biggest question mark in the global arena is Japan.

Enoch Powell, the British parlamentarian, in a fascinating speech last January, said of Japan: "A nation of 112 million human beings, of intense industrial potential, situated in a key position of an offshore archipelago, can no more—even less—remain strategically and militarily inert than can China."

We must agree with that. The prospect of a militarily inert Japan is unreal. Being of the generation that remembers Pearl Harbor, I always have been respectful of Japan's war-waging capabilities and fearful of its militancy. I think the era of a quiet, submissive Japan is near an end.

The United States doesn't know what to do about Japan's military potential. On the one hand, we find the burden of Pacific region defense very heavy in these times of economic austerity. Our burdens would be eased temporarily if Japan increased the size of its armed forces and assumed defense responsibility for Southeast Asia, as well as strengthened anti-submarine forces in the North Pacific.

On the other hand, while people in official positions are unwilling to even hint at it, there is an underlying fear of a heavily rearmed Japan. How would Japan employ strong armed forces?

Japan today is even more dependent on foreign energy and raw materials than it was in the 1930s. A chain of tankers links Japan to oil resources in the Middle East—across the Indian Ocean. Japan also obtains oil from Indonesia, iron ore from Australia, and coal from South Africa. In addition, Japan is interested in obtaining oil from Mexico. Large numbers of Japanese emigrants have moved to Brazil. In other words, Japan has the widest oceanic interests, ranging across the Pacific and Indian Oceans.

Dr. Charles Burton Marshall, in an address at the Naval War College, has reminded us that "In our experience, the Pacific stands as the most bitterly contested of oceans." . . . More warships lost or destroyed by the U.S. Navy lie in those waters than all others. The U.S. has sustained war across that ocean—with mixed success—through fifteen of the past 36 years.

In World War II, Japan's ambition was to seize the island-continent of Australia. Today, Japan has a huge economic and strategic stake in Australia. Nearly half of Australia's mineral exports are to Japan. In 1976–77, Japan was the single biggest importer of the following Australian products: coal, iron ore, pig iron, copper ore, zinc, and various food products. Japanese companies also have interests in Australian mining operations.

T. B. Millar of the Australian National University in Canberra recently wrote that Japan "may well be, over the next 50 years or more, the most decisive influence for Australia. She may well take toward Eastern Asia and the Western Pacific a role similar to that of Britain toward Europe in the 19th century."

Will Japan's influence be benign? Or will there be a new Japanese empire, heavily armed, oppressive and determined to dominate South Asia and the Indian Ocean world?

Only time will give us the answer. But I doubt that a strong, heavily armed, ambitious and determined Japan would be easy to live with. Japanese security arrangements might well extend across the South Pacific to include South American countries. Japan's search for raw materials for its industries will be the central theme of its foreign policy in the next half century. And this search in the past is what led to war in the Pacific.

Our concern about Japan's future role parallels a similar concern about Communist China. The United States is lending its support to the industrialization and modernization of China with only scant attention to the long-range consequences of the process. As one writer has said, between the two countries there are profound discongruities reflecting diversities of value and purpose.

True, we have an advantage in keeping China apart from the Soviet Union, from preventing a consolidation of communist powers, and in making it necessary for the Soviets to maintain an army of observation on its Asian border.

But there will be other consequences of a buildup of China. To quote again from Enoch Powell, China "now appears to be positively seeking the role of a superstar on the world stage that it has hitherto studiously and characteristically declined."

The emergence of an industrially and militarily effective China will pose grave problems for Japan and affect its future outlook and development. If Japan is drawn into the process of modernizing China, we have to consider the ultimate effect on Japan of such a relationship. What would be the effect on American interests? One can't begin to answer this question, but it is one that Americans should address. However it is answered, I suspect that it will mean grave danger for us. After all, our interest is in a minimum number of power centers.

There are many other regional or national situations that pose problems for us. We will have to reckon with stronger countries in several areas—Brazil, for example, and a nuclear-armed India. The Third World countries, in general, are likely to be thorns under our skin for many years to come.

Deepak Lal of India, writing in Quadrant of Sydney, Australia, envisions continuing Third World pressure on the industrialized world, chiefly the United States, for transfers of wealth, plus an acknowledgement of "status and respect" for the new nations of Afro-Asia. "There is always the danger," he writes, "that if [economic] development is not as rapid as [the Third world nations] think is necessary, they might try more direct methods and follow the route of the barbarian hordes who destroyed the Greco-Roman Empire and civilization."

Population pressures are certainly going to be one of the principal pressures or determinants on the world scene in the decades ahead. Already, we are keenly aware of the need for new arrangements with Mexico. We fear that we may have a new Bangladesh on our doorstep if Mexico's oil resources aren't put to work in a constructive way. Population is closely related to religious and cultural considerations, and it is beyond our ability to influence population growth in other countries.

We shouldn't ignore the possibility of vast numbers of future boat people arriving uninvited in the West, as they are arriving today in relatively small numbers in Australia, Malaysia, Hong Kong and the Philippines.

Huge populations, of course, mean cheap labor and usurpation of manufacturing occupations that are traditional in the Western industrialized countries.

One can't be sure how to deal with these situations. It's only reasonable to conclude, however, that it isn't to our advantage to assist in the modernization process of remote, backward lands. We need—at home—the resources that would be committed to such tasks. We ought to avoid creating new economic and military competitors. Our national interest lies in low levels of power elsewhere. We should engage in very limited commitments abroad both economic and military. We should maintain the closest ties with countries that are most compatible with us in terms of history, culture and political tradition.

No one can forecast where America will be a century from now. Time is full of secrets. We can only plan for what is just over the horizon two or three decades from now. Farther into the future, we may want to depart from a continental strategy. For the time being, however, I believe we ought to turn away from the vague and undefined internationalism of the post-World War II era when global conditions were very different and much less complicated.

Most certainly, in my view, Americans should reject the notions of world order being enunciated by Secretary of State Cyrus Vance and National Security Adviser Zbigniew Brzezinski.

Their ideas were spelled out in speeches at the end of April, 1979. Dr. Brzezinski said: "We cannot pursue a Eurocentric or even a primarily trilateral policy" with Western Europe and Japan. He called for "broader global engagements" and declared that the world of the 1980s and 1990s could not be organized on a "Pax America" basis. Secretary Vance said we would imperil our future if we "used our power to resist change in the world"—no doubt a reference to administration inaction with respect to Iran. Dr. Brzezinski further said that the U.S. government sought "a world community built not on the domination of a single sector, a single culture or a single ideology, but a community which draws on global diversity."

I construe this to mean that he accepts a sharing with forces hostile to the United States and Western civilization. In realistic terms, such a global policy would mean more appeasement of adversary states and more economic concessions to them as a price for their refraining from aggression. The Vance-Brzezinski policy is one of acquiescence in the face of hostile forces.

Syndicated columnist Michael Novak, recently described the Vance-Brzezinski outlook, saying:

"It has been clear in their recent addresses that Secretary Vance and Dr. Brzezinski believe that the role of American power under their direction is to decline in dominance and pre-eminence, in recognition of 'other centers' of power in a 'pluralistic' and 'interdependent' world. . . . Naturally, Secretary Vance does not say that U.S. policy is one of cowardice, decline and self-chosen inferiority. Naturally, he describes it as a 'new maturity.' It is always necessary to put a refined face on decline."

It's to be hoped that the American people will reject a foreign policy that is defeatist

about our security. We need to turn away from the fashionable notions of Mr. Vance and Dr. Brzezinski, the thinking that is best characterized by the term "no-win." We need a harder, more realistic stance. As a British writer has said, "No great self-respecting nation can be content to imagine itself locked forever in the embrace of a current fashion or a current alignment. Nationhood is about independence; and independence is about survival under all contingencies, imaginable and unimaginable. A nation which refuses to imagine the currently unimaginable has forfeited its own status."

The United States finds it difficult to break out of the ring of liberal internationalism—the global community ideas expressed by Vance and Brzezinski. Why? In part because the media are so committed to these ideas and don't give the public exposure to contrary concepts. This is part of the thought control that Alexander Solzhenitsyn referred to in his Harvard commencement address—the limitation of options by muzzling discussion of all but a few ideas.

Beyond this, we have to bear in mind the impact of our past. Dr. Marshall has said that the approach of the United States to global struggle "reflects a privileged historic past, remote from theaters of strategic competition, with security a bestowed condition, peace demonstrably the inherent situation, and war therefore regarded as obviously abnormal."

Unfortunately, we no longer enjoy a privileged position. We are under siege in a variety of ways. We may be denied access to vital energy and raw materials in the Middle East and the Southern Hemisphere. We face many internal barriers to effective action on the world scene. We have hostile elements within. As Leopold Tyrmand of the Rockford College Institute said in a recent essay, "the conscience of the procommunist, leftist or socialist in America is quite a simple device: it tells him that everything that's bad for America is a priori good in general."

I come to the end of this paper without offering any clear direction for U.S. foreign policy, other than stressing the necessity of rebuilding our armed forces, strengthening our continental ties, and proceeding with caution in dealing with the powers of the world. Perhaps this is a sufficient guideline. Too often we have been trapped by grandiose designs and by extravagent expectations of friends and foes. As we rearm, we must reexamine the world scene, reassessing the direction and potential of many countries.

One thing is certain: we shall have to be very prudent if we are to survive the difficulties ahead. We must believe in ourselves again—very deeply. We must be, as Alfred Kingon, said recently—"strong in military might, economic might, moral conviction, integrity and national character."

HOW WE LOSE WARS

Mr. THURMOND. Mr. President, a distinguished American military leader, Marine Corps Gen. Lewis Walt, now retired, has published an excellent article in the October 1979 issue of American Legion magazine, entitled "How We Lose Wars."

This incisive article deals with military preparedness and foreign policy. General Walt also points out how we fail to understand the Soviets and what steps we should take to redress our national security problems.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW WE LOSE WARS AND PEACE

(By Gen. Lewis M. Walt, USMC, retired)

It's a fact. If the leaders of the Soviet Union decided to destroy us tomorrow or next month, there is nothing the United States government could do to stop them except surrender.

Think about it. We have no civil defense. We have no antiballistic missile system. We don't even have a credible defense against Soviet bombers or MIG–23s based in Cuba. Most of our air defense radar has been dismantled or converted to civilian use. The Air Force has been left with just over 300 fighter-interceptors to guard the entire nation.

No generation of Americans has ever before been so recklessly placed at the mercy of so pitiless and powerful an enemy. The last defense, a strategic nuclear arms force strong enough to deter Soviet aggression, has been allowed to deteriorate to the point that it no longer represents a viable deterrent. For the first time, a nuclear first strike is now a realistic option for Soviet planners.

There are no incoming missiles in our skies because the Soviet leaders believe that with patience they can, in a short time, force us to surrender without a war. I am not talking about some date in the distant future, but some date within the next three to five years. Their ultimatum, when it comes, will present an American President with the terrible choice between a thermonuclear war which would destroy us but not the Soviet Union, and surrender of the American people to an oligarchy of tyrants whose viciousness and brutality have no match in the long history of man's cruelty.

Such a prospect strikes most Americans as an impossibility. It is not an impossibility. It has become a probability, and if the SALT II treaty is ratified, it will become a certainty.

SALT II is the climax of over 30 years of wrong thinking, timid leadership, refusal to recognize reality, and plain cowardice that has propelled the United States from a position of unquestioned superiority and safety to its present position of military inferiority, economic weakness, spiritual malaise, and peril.

We have very little time left in which to save our freedom and our nation. The immediate goal must be the defeat of SALT II in the U.S. Senate. The Panama Canal treaties were a grave error, but not a fatal one. Ratification of SALT II will be the last nail in the coffin of the American people.

Some of you must be asking, "Can this really be true? Is the U.S. really weaker than the Soviet Union? Are our nuclear forces truly no longer a deterrent? Could the Soviets actually win a nuclear war? Could the United States be defeated by Soviet conventional forces in Europe or the Middle East? Is nuclear blackmail a real possibility? Could our economy be devastated by a Soviet-backed cutoff of oil and other minerals? Is our Navy too weak to keep open the sea lanes?"

Well, the answers to all of those questions is, "Yes," and the answer to why you didn't already know it is, "Your politicians have been hiding the truth." In my book, "The Eleventh Hour," I answer each of those questions in detail. I also put the present situation into the context of what has been happening for the past 39 years. I tell you who made the key decisions and why.

In the space the editors of your magazine have graciously provided me, I hope to briefly summarize the situation and suggest some ways you, Americans of proven courage and loyalty, can help the nation for which you have already sacrificed so much. In fact, it is you to whom my book is addressed.

First, we must stop SALT II. I am leading a drive to collect one million signatures on petitions urging the Senate to reject the treaty and I hope you will join that effort by writing your own senators.

Those of us who have observed and studied the Soviet Union are not fooled by their doubletalk. Most young SALT II supporters don't remember or know about the Baruch Plan of 1947, a Super SALT Agreement which would have ended the nuclear arms race once and for all. At that time, even though the U.S. had a nuclear monopoly and could have commanded the world, we offered to turn over to an international agency all of our atomic weapons and all of our nuclear technology to be used solely for peaceful purposes. This magnanimous offer was flatly rejected by the Soviet Union as was the offer of Marshall Plan aid. To the public, it marked the beginning of the Cold War but to those few honest students of communism it only reaffirmed what they had been saying all along—that the Soviet Union was bent on world conquest.

Today, SALT II is only a part of the Soviet plan for world conquest. They hope it will accomplish the same two goals SALT I accomplished—to freeze us into a position of military inferiority and to provide a psychological weapon with which they can prevent us from taking the right steps to save ourselves.

It was "in the spirit of SALT" that our disarmament lobby and weak leaders: (1) halted production of Minute Man III; (2) slowed the production of the Trident program; (3) killed the B–1 bomber; (4) cut Navy ship building in half; (5) decided to delay deployment of the neutron warhead; and (6) delayed work on both the cruise and mobile missile systems.

The mobile missile system which President Carter belatedly authorized in the hope of winning votes for SALT II will not be ready for deployment until 1989. That's about seven years too late. Long before then, the Soviets will be able to knock out our land-based missiles, most of our bombers and half of our submarines and still have enough nuclear reserves for second, third and fourth strikes.

The one weapons system which could be quickly produced to offset their current superiority, the cruise missile, is severely limited by the SALT II agreement. No wonder the Soviets and the Communist Party of the U.S. are waging an all-out campaign for ratification! SALT II will do only what the Naval Treaty of 1922 did—lead to war.

How can American leaders be so wrong? Is there treason to be found? Is there a conspiracy? No. I don't believe either of those apply. I think the answer is much more simple—so simple, in fact, most of us failed to recognize it.

Let's look at a few basic concepts. A nation is nothing more than a collection of individuals and the sum of their individual decisions determine the fate of the nation. Similarly, a government is also a collection of individuals and government policy is nothing more than the effect of their individual decisions.

Unfortunately, no matter how great and grave the decisions to be made, the only people available to make them are ordinary human beings. There is no magic elite of people with divine knowledge, though there is an elite of wealthy and educated people who act as if they had divine knowledge.

Since World War II, virtually all foreign policy decisions have been made by men who are members of or servants of the Eastern Establishment, that loosely defined group of people characterized by great wealth and global interests. These are the men who compose what Sen. Daniel Moynihan calls ". . . the interlocking elites" which set American foreign policy.

Their decisions, like all decisions, reflect not only their assessment of a given set of circumstances but also their personal value systems and their basic beliefs about the nature of the world.

I have seen on many battlefields young men make the decision to sacrifice their lives. Their decisions reflected their values and beliefs. They chose death, not because they did not value life, but because they valued other things—a buddy's life, their sense of duty, their love of country—more than their own lives.

To put it bluntly, too many of our decision-makers have valued other things more than freedom and more than their country. And that is why we are in the sorry mess we are in today. Most of these decision-makers are materialists.

It is no accident that I have just described American foreign policy since 1945, for the true foreign policy of the United States, as opposed to those policies which were publicly proclaimed from time to time, has been based on the premise of avoiding at all costs a serious confrontation with the Soviet Union.

Like the men who made the decisions, the policy reflects their materialistic values.

Once you recognize that we have two foreign policies—one public, which proclaimed traditional values of freedom and willingness to oppose aggression—and one private, which can be summed up as appeasement—then the events of the last four decades make sense.

The Berlin Airlift, which was presented to the American public as a decisive response to the Soviet blockade, was in fact an evasion of confrontation. Instead of smashing through the illegal blockade, we flew over it.

When I landed in Korea, first as commander of the 5th Marine Regiment, I certainly believed in our publicly proclaimed policy of punishing communist aggression. So did Gen. Douglas MacArthur. He was fired and the rest of us were disillusioned. It soon became apparent that our real policy was to accept a costly stalemate rather than risk a wider war.

In retrospect, I believe it was no accident that we fought for the first time under the command of the United Nations. Events proved it was a perfect instrument for enforcing the stalemate which our foreign policy experts had decided to accept.

I was required, for example, to submit plans of attack to U.N. headquarters 24 hours in advance. I soon discovered that the Chinese were always waiting for us. On one occasion, one of my radiomen intercepted a Chinese message indicating an attack was planned on my sector of the line. I did not notify U.N. headquarters. Instead, I planned a surprise for the Chinese which cost them about 1,000 attackers. The next morning, I received a sizzling reprimand for failure to report the intercept and for expending too many rounds of artillery!

In later years, we would proclaim Captive Nations Week and beam encouraging messages to the East Europeans only to stand by and watch Soviet tanks crush the rebellions of East Germans, Hungarians, Poles and Czechs.

In the 1960s, we still publicly proclaimed the Monroe Doctrine but we did not prevent the Soviet Union from converting Cuba into a Soviet military base. Now we have given away the Panama Canal and turned our backs on the anti-communist government of Nicaragua.

Even President Kennedy's brave initial response to the Soviet introduction of missiles into Cuba was eroded by his foreign policy advisers until, in the end, we not only gave up our original demand for on-site inspections but also agreed to protect the Castro regime from Cuban patriots!

In Vietnam, the same double policy produced the same results. We committed American boys in the name of preventing a communist takeover of South Vietnam, but made sure they could not win a decisive victory.

Also in the early 1960s, the foreign policy appeasers evolved a new policy—disarmament. Again, the public was excluded from the deliberations and never fully informed of the decisions and implications of those decisions.

The key decision was to abandon voluntarily American nuclear superiority which our resources and ingenuity could have maintained indefinitely. The idea was to allow the Russians to catch up with American nuclear arms. These misguided materialists believed that if there were no threat of the United States winning a war with the Soviet Union, Soviet leaders would become easier to live with.

To help the Soviet Union catch up, American nuclear weapons programs were halted or delayed, the bomber defense system was scrapped and civil defense was put on a shelf. Because the American people would never have tolerated such an insane decision, they were misled with high-sounding talk of détente, arms control qualitative superiority, and mutually assured destruction.

The Soviets naturally had never agreed to seek nuclear parity. No doubt astounded by the stupidity of our policy, they began the most massive and intense arms buildup in human history. This is the key decision which has brought us to our present peril. This is the decision which is the father of SALT I and SALT II.

We have now come full circle. A deliberate policy of appeasement based on a cowardly fear of the Soviet Union has evolved into the insane notion of unilateral disarmament and reliance on pieces of paper to preserve and protect our children.

In these policies you can see all the fear, timidity and greed of the materialistic philosophy which is so obsessed with finding the cheapest, safest path that it ends up blinding its believers from seeing reality.

The foreign policy elitists are naked failures. We did exactly what they said we should do. We avoided confrontation, we practiced appeasement, we gave up nuclear superiority. And now the results are plainly visible. The world is littered with corpses of people who put their trust in the United States. Out of 151 nations in the U.N., fewer than 25 can be called free. Communist powers control the heart of the Euro-Asian land mass and are aggressively outflanking the West in the Middle East, Africa and the Caribbean. The Soviet leaders did not get easier to live with. They became more hostile, more aggressive, more powerful, and more dangerous. United States prestige, influence, military and economic strength are all at record lows. The United Nations has become an open hotbed of anti-Americanism, espionage and hypocrisy. Foreign cartels openly declare war on American consumers.

Is the American dream over? I don't think so. What the last four decades proves is that the American people were right and the elitists were wrong. At least now, the way out is clear. We must flush the elitists out of positions of influence and replace them with courageous, common sense Americans.

I think there are ten elements necessary to our survival. I hope you will consider them as you try to influence your present Congressmen or work to elect new ones.

1. We must regain strategic military superiority. This is the only way to avoid falling victim to nuclear blackmail and to prevent our enemies from trying a first-strike attack.

2. We must build a strong combination of strategic defenses. The only way our offensive weapons can act as a deterrent is for the Soviets to know that we can survive a nuclear exchange and continue to fight.

3. We must greatly strengthen our conventional forces so that we can keep the sea lanes open, project our power, and if necessary, fight and win a non-nuclear war.

4. We must restore our security and intelligence-gathering capability. Spy satellites have a role to play, but they are no substitute for trained and dedicated men and women.

5. We must cut off the flow of technology and credit to the communist powers. Stopping this increasing flow of technology, machines, food, and money would be the most damaging blow we can strike short of military action.

6. We must establish an honest, open foreign policy based clearly on the national interests of the American people.

7. We must disengage from the United Nations and other world organizations which have become hostile to the United States. Once free of this burden, we can form new relationships with like-minded nations.

8. We must amend the Constitution to forbid deficit spending except in time of national emergency in order to cure the cancer of inflation.

9. We must strengthen the independence of state and local governments as insurance against the loss of liberty from within.

10. Finally, we must reestablish our spiritual strength by rejecting materialism and those leaders who have lost their faith in God, country, and the American people.

This is the eleventh hour. Events are moving swiftly. I addressed my book and this article to veterans because I firmly believe that the 29 million Americans who have demonstrated their courage and dedication can be the difference between defeat and victory.

I am asking you once again to go into battle, only this time in the arenas of politics and political action to save a nation for which you have already sacrificed so much. Only if we show the same dedication, the same fierce determination, the same willingness to make personal sacrifices that brought us victory on the battlefield can we hope to save our children and grandchildren from death or slavery.

Having spent my life among Americans under fire in three wars I have not the slightest doubt that we can be successful.

FAMILY AND RELIGIOUS COMMUNITY CONFERENCE

Mr. THURMOND. Mr. President, I recently attended the second annual family and the religious community conference banquet that was sponsored by Transactions, Inc., of Washington, D.C.

This event gave me an opportunity to learn more about the activities of Transactions, Inc. The activities of this fine organization have benefited countless people, and the conference provided an opportunity for different groups to discuss ways of helping communities.

The conference had several noble objectives:

First. To reaffirm the family and the religious community as resources for developing inner strength.

Second. To provide information that can assist the family and the religious community in serving the needs of individuals and groups more effectively.

Third. To explore ways of mobilizing the family and the church for solving the problems that plague communities in today's society.

Fourth. To develop strategies for involving children, adults, and senior citizens in full participation of the family and church.

Fifth. To establish networks of communication between individuals, groups and agencies as a way of continuing the exploration of problems and potential solutions.

Sixth. To strengthen the awareness of the community and to develop strategies for the mobilization around important issues.

These are certainly outstanding goals, and I commend Transactions, Inc. for

their fine work in presenting such a valuable conference.

Mr. President, I would particularly like to take this opportunity to recognize the president and founder of Transactions, Inc., Dr. Lovenger H. Bowden. Through her efforts and dedicated work, Dr. Bowden has done an outstanding job in promoting the many worthy projects of Transactions, Inc. As the driving force behind this fine organization, she has steered Transactions, Inc. onto a course of effective community service which has affected countless individuals. I commend Dr. Bowden for her outstanding work in helping make Transactions, Inc. such an efficient organization.

THE GROWTH OF THE ELDERLY POPULATION IN AMERICA

Mr. STEVENS. Mr. President, I would like to bring to the attention of my colleagues an important article that recently appeared in the Wall Street Journal concerning the growth of the elderly population in America.

This article discusses the impact that an increasing aging population will have on our ability to keep up with the demands for services in the areas of housing, health care, and energy. Of particular importance is the crisis we will face with the Social Security System when the "baby boom" generation begins drawing from the System. Congress has mandated several studies to assess the present System and find new methods for its financing.

The 96th Congress will be addressing these issues in the months ahead and I think it is important that we are all aware of their significance.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AGING AMERICANS: AS LIVES ARE EXTENDED, SOME PEOPLE WONDER IF IT'S REALLY A BLESSING

(By James C. Hyatt)

Americans are living longer than ever.

The lowered death rate, well below what was being projected a few years ago, has enormous ramifications for the Social Security program, insurance actuaries, employers, politicians and economists.

But for the older people themselves, the question often is whether extended lives are a blessing or a curse.

"It doesn't mean a lot to live into your 70s if you don't feel good," says Dr. Robert N. Butler, director of the National Institute on Aging. At the Senate Special Committee on Aging, staff director Bentley Lipscomb agrees. "We've been adding a lot of years to people's lives, but we haven't, in some cases, been adding a lot of life to people's years."

Besides the health and psychological problems that often accompany advancing age, there are the economic problems, compounded these days by the effects of high inflation on pension income and savings. "With inflation going the way it is, maybe we can't afford to live that long," says Preston Bassett, an actuary on the staff of the President's Commission on Pension Policy.

Whatever the abstract economic merits of living longer, recent longevity data have been impressive. In the past decade, the death rate among people over 65 fell 14 percent. The peak year for all deaths in the U.S. was 1973, and the number has been lower every year since, despite a larger population.

The expected impact on the over-65 population at first doesn't seem particularly startling. That segment currently represents 11.2 percent of the population, and at current death rates, the share will rise to 12.2 percent by the year 2000. If the death rate held steady, the group would grow from 25 million to 32 million. But if the death rate continues to drop at the recent pace, the over-65 population would reach 38 million in the two decades.

Moreover, the population of the very old will be increasing faster in the years ahead. In 1970 less than one in five Americans was 80 or older; in 20 years, it will be one in four. The share of the 65-to-69 population will drop to 29 percent from 35 percent in the 20-year period.

GRAYING OF BABY BOOMERS

But the ranks of the over-65 set will begin to swell after 2010, when those born during the postwar baby boom start turning 65—and members of the baby-boom generation will continue to join the over-65 set for the succeeding two decades.

With the greater life expectancy, experts have begun to talk of the "young old," those who just turned 65, and the "old old," those in their 80s or older. "It is almost as if there are two groups of aged," Dr. Butler says, "those who are healthy, vigorous and contributing. And those who as a consequence of aging have protracted economic and emotional dependencies; they tend to be 75, 80 and above."

The aging of the population over 65 creates greater income needs and higher pension costs. More families include two generations over 65. Because women outlive men by almost eight years, they are often becoming isolated and impoverished. In an older society, inflation will impose a particularly heavy burden. The very old are far more likely than others to need expensive medical care. Housing also becomes more complicated.

Still, the picture isn't totally gloomy. As a whole, today's elderly population is healthier and more independent than in the past. It is becoming considerably more politically active. "What we really have is a triumph of survivorship," Dr. Butler declares.

Recent changes in lifespan are especially remarkable because they have been so sudden, and because much of the gain in life expectancy has been at the older ages. People aren't older merely because they survived infancy, childhood and middle age. The over-65 population itself "has been getting older and is expected to continue doing so for a few decades," Jacob S. Siegel, a mortality expert at the Census Bureau confirms. The declines in death rates "are really quite dramatic," says Harry M. Rosenberg, head of the mortality-statistics branch at the National Center for Health Statistics.

Improved treatment of heart disease is the leading cause of the decline in death rates, he says, but better health care across the board, reduced smoking and new medical technologies also are increasing longevity.

The death rate for heart disease for persons over 85 fell 24 percent in the last decade; for stroke, 33 percent; for influenza and pneumonia, 37 percent. In the 14 years up to 1968, life expectancy at age 65 rose only two-tenths of a year, to 14.6 years. But in the next nine years, it rose to an average 16.3 years—13.9 years for males and 18.3 years for females.

One major consequence of an aging population is increased demand for health care. Among the aged, "demand for services is growing faster than their absolute numbers," says Beth Soldo, senior research associate at the Georgetown University Center for Population Research.

If those over 65 continue to enter nursing homes at current rates, the number of residents will increase from 1.3 million last year to 2.1 million at the turn of the century. If death rates continue to fall, however, the nursing-home population could reach 2.8 million.

Greater life spans are already being noticed by groups that care for older people—especially the 5 percent of the elderly in nursing homes. At the National Lutheran Home for the Aged in Washington, residents "are coming in later, are often sicker, and their length of stay is shorter," Richard Reichard, director, says.

In the past decade, the average age of admission to the home has risen almost two years—to 82 years, five months. Age at death has risen 14 months, to 86. To care for the older population, the home's new $11 million, 300-bed facility will offer intermediate and skilled nursing care in each housing unit, and every room will be equipped with call bells. (Residents able to afford full rates pay $1,172 a month.)

The federal government's health budget will soar as a result of the changes in age structure. The U.S. Department of Health, Education and Welfare has estimated that federal programs for the elderly, which cost $112 billion in fiscal 1978, could more than triple to $350 billion by early next century, even without inflation.

Similarly, the Carter administration forecasts a large increase in medical-care costs as World War II veterans reach 65 and become eligible for medical care in veterans' hospitals. The over-65 veteran population is 2.7 million; by 1984, it will reach four million, and two years later, 5.5 million. In 1995, over-65 veterans will exceed 8 million.

Housing needs, too, will intensify with an aging population. Older persons are more likely to live in older homes, needing costly repairs. Rising taxes and energy costs will impose greater burdens on the very old. And housing problems are particularly severe for elderly renters, especially those in central cities.

The suburbs also are starting to feel the aging of the population. A new study by the Urban Institute, a Washington research organization, finds the number of suburban households headed by someone 65 or older rose 31 percent between 1970 and 1976; most live in housing built around World War II.

"Suburban areas can be expected to be the location choice of an increasing share of the elderly population over the next 10 to 20 years," the report declares; as a result, suburban areas will face "increasing demands for facilities, housing and housing-related services" for those elderly persons.

Moreover, the overall number of households composed of elderly persons is headed sharply higher. Latest Census Bureau projections put the number at 21.5 million in 1995, compared with 15.2 million this year. The number of elderly women living alone will increase to 8.7 million from 5.5 million.

For many elderly persons, "isolation still is the No. 1 problem," says Mr. Lipscomb of the Senate Aging committee. "These people get cut off from the mainstream of human existence." Particularly vulnerable to crime, they can "literally become prisoners in their own houses," he says.

Many elderly persons live with relatives, of course. But demographic trends are also diminishing the ability of families to support their elderly relatives. As two-income families become common, many women who in the past would have been able to care for an elderly relative in the home are no longer available. "The pool of care-givers is drying up," says Sara E. Rix, a research scientist at the nonprofit Center on Work and Aging in Washington. "Lack of time is the major problem people have in caring for older people."

Moreover, many elderly widows "don't have children to fall back on because they passed through the Depression, a time of low fertility, in their childbearing years," observes Peter Morrison, a senior researcher at the Rand Corp.

And in other families, due to advancing longevity, more "young old" children find they have to care for "old old" parents. A woman in her late 60s "might have a 92-year-old mother who is healthy and a 70-year-old husband in bad shape," says Paul Kerschner, a legislative and research official for the American Association of Retired Persons. "The pressures on that woman are incredible."

Longevity also will aggravate the squeeze on retirement income. Pension costs obviously rise when beneficiaries live longer. Pension plans that fail to recognize that "are going to wind up with a bad case of underfunding," says a New York actuary. He estimates that an employer must pay 3 percent more in pension costs for each extra year a retiree lives.

At the same time, inflation is grinding away at the living standard of the elderly; at an annual inflation rate of 5 percent, a $100 benefit 10 years later is worth only $61; at 10 percent, only $39. John Abraham, a research official for the Communications Workers of America, estimates that a member of the union who retired with 20 years of service at American Telephone & Telegraph Co. in late 1971 had lost 46 percent of his company pension by Jan. 1, 1979, "despite all of the adjustments that were made." Thus, he says, "the problems of retirees are going to be a priority issue" at the union's next round of bargaining with AT&T in 1980.

The cost of retirement will become particularly hefty early in the next century, when those born during the baby boom start turning 65. At that time, relatively fewer younger workers will be paying into the Social Security system, a demographic fact that is at the heart of the system's long-term financing woes.

Despite the pressures that an ever-older population will place on health, housing and income needs, experts stress that there is a bright side to the picture. "When we think about the kinds of problems of the near future, we get our information by looking at those who are currently old. This (comparison) may mislead us badly," says Dr. George Maddox, director of Duke University's Center for the Study of Aging and Human Development.

He suggests that tomorrow's elderly population will be better educated, in generally better health, and will enjoy a "somewhat more secure economic status." One example: Currently, the percentage of persons age 75 and over "who don't have a natural tooth in their head is incredibly high, and a very real problem in terms of their nutrition," he says. But he expects that problem to ease considerably for the younger millions covered by dental insurance.

Dr. Butler of the National Institute on Aging confesses to some regrets about his phrase "the graying of America," which gained considerable attention a few years ago: "When we talk about 'graying,' we may be creating an image of a doddering, unproductive, stagnant society. That's very unfair and inaccurate. We may simply have a maturer population with a very different distribution."

An older society, he theorizes, "may be a heck of a lot better one, with less emphasis on the youth culture, more sense of maturity and growth. We'll see more novels with an older protagonist, different kinds of music. Perhaps there'll be the invention of new sports, and very interesting changes in consumer interests."

The larger question, Dr. Butler says, is how society "comes to grips with the reality of human change." He cites the plethora of products designed to disguise wrinkles, gray hair, and aging skin. "All of these are efforts to pretend that somehow aging doesn't occur to us."

RUSSIAN BISHOP'S HOUSE IN SITKA, ALASKA

Mr. STEVENS. Mr. President, recently an article appeared in the Alaska Fest magazine on the Russian Bishop's House in Sitka, Alaska.

As the former capital of Russian America, Sitka was endowed with a legacy of Russian buildings and artifacts. Unfortunately, most have perished. Yet, one great example of Russian rural architecture remains in the Bishop House. This building is one of the oldest in Alaska, dating back to 1842. The chapel in this building is listed as the oldest house of Orthodox worship in continuous use in the Western Hemisphere.

I want to share this article with my colleagues because the Bishop House is presently being restored with a grant from the Heritage, Conservation, and Recreation Service. By 1983 it is expected that restoration of the Bishop House will be completed, and open to the public as a part of the Sitka National Historic Park.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HOUSE THE BISHOP BUILT

(By Karen L. Lew)

Sitka's heritage has three faces: the Tlingit who inhabited Sitka Island probably centuries before any white person appeared on the North American continent; the Russians who, in establishing New Archangel in 1804, renamed the island Baranof after Alexander Baranof, the colony's manager; and the Americans who purchased the vast territory of Russian-America, or Alaska, for $7,200,000 in 1867.

Each of these heritages has occupied, and continues to occupy, a place in Sitka's history. Perhaps more than any other place, what is now Castle Hill, most distinctly portrays that history.

Known to the Kiks. adi Clan of the Tlingit Indians as the "knootlian," site of their ancestral home, this rocky outcropping in Sitka Sound was the site of the four principal community houses of the Kiks. adi Clan.

Hoping to preserve a friendly atmosphere with the Kiks. adi, Baranof's party built its 1799 settlement six miles north of the Native village. The Russian fort, which was dedicated to Archangel Michael, was unwelcome in Tlingit territory and was destroyed in less than two years after its completion.

In 1804, Baranof returned to Sitka with a Russian and Aleut attack force backed by the gunboat Neva. The Tlingit had prepared for a return by building their own fort at the mouth of the Indian River several miles south of the "castle hill" site. Unaware that the Natives had moved to the fort, the Russians stormed the hill only to find it empty. They quickly attacked the Tlingit fort and after a six-day seige the Russians overcame the Tlingit and burned their fort.

Baranof returned to Castle Hill. He took possession of it in the name of the Russian government and replaced the Kiks. adi buildings with Russian-American Company chief manager's quarters and the new Russian fort, dedicated this time to Archangel Gabriel. It became known as New Archangel and finally Sitka—the Tlingit name for the island on which it was located.

Thereafter followed a series of Russian forts and eventually an imposing governor's mansion called "Baranof's Castle," even though Baranof died 18 years before it was built in 1836.

The last Russian occupant on Castle Hill was Prince Demitri Petrovich Maksoutoff, who was the last Russian governor of Alaska in charge of the territory transfer to the United States.

The transfer ceremony took place at 3:30 p.m., on October 18, 1867. United States troops attached to Company F of the Ninth Infantry, under the command of Colonel Jefferson C. Davis, accompanied U.S. General Lovell H. Rousseau and the Russian commissioner, Captain Alexei Pestchovroff of the Imperial Navy, to a site outside the governor's mansion on Castle Hill.

As the Russian Double Eagle was lowered, Russian guns fired a 21-gun salute which was echoed, shot by shot, by American ships in the harbor. As the Stars and Stripes were raised, the salute was reversed with American guns firing first and Russian fire answering alternately.

This ceremony has been reenacted each year since 1954 on Alaska Day, October 18, by the non-profit Alaska Day Festival Committee in Sitka. The Ninth Infantry from Fort Wainwright, Alaska (descended from the original Ninth Infantry) and Sitka's local Ninth Infantry, complete with period uniforms and muskets, participate in the commemoration.

Baranof's Castle, or its last replacement, burned in 1894, and the United States replaced the structure with a U.S. Agriculture experimental station which remained until 1956. Today the site is designated by the National Park Service as Alaska's first Registered National Historic Landmark.

With the castle destroyed, another vestige of Sitka's Russian heritage was lost. But two other major Russian buildings still stood. They represented perhaps the most enduring aspect of Russia's presence in Sitka—the Russian Orthodox Church.

St. Michael's Cathedral, dominating the center of downtown Sitka, was built between 1844 and 48. Thirty-five years after the finding of the Sitka parish, plans for building the cathedral were drawn up by the "apostle of Alaska," the many-talented Bishop Innocent (Father Ivan Veniaminov), bishop of Alaska, Kamchatka and the Aleutian Islands. Built with the financial aid of the Russian-American Company, the cornerstone of St. Michael's Cathedral was laid in 1844; the cathedral itself was dedicated in 1848.

In 1966, a fire destroyed St. Michael's Cathedral. Through the efforts of Sitkans, its many priceless art treasures—including icons and artifacts from the Mother Country—were saved. Eight years of reconstruction, financed greatly through fund-raising activities by Sitka residents, resulted in the dedication and re-opening in 1975 of a near replica of the original St. Michael's Cathedral, as seen on our front cover this month.

That leaves only the Russian Bishop's House as the most significant intact Russian building in Sitka, and one of the oldest in Alaska. At the moment, the outside of the building is shielded from view by plywood panels. Inside, it's suspended on 150 jacks to stabilize the badly deteriorated and sagging 137-year-old building.

These presently unattractive trappings are part of a massive effort on the part of the National Park Service to save and restore this complex and interesting part of American history—the colonization of Alaska by Czarist Russia.

In 1841, after Father Ivan Veniaminov made a world tour, he recognized the need for one office to head the Russian Orthodox clergy in Russian-America. Through a series of 20-year charters it became the official representative of the Russian Imperial government in Alaska.

Veniaminov set out to establish the

Church Consistory at Sitka. The Russian-American Company, whose 1823 charter from the Czar charged the company with support of the Orthodox Church in Alaska, built the structure to serve as a central location for the business offices and teaching facilities of the church. Built at a cost of 25,000 rubles, the two-story structure of squared spruce logs, sheathed, in siding and roofed with iron sheeting, was described by the Bishop as "a mansion," unlike the simple dwelling he had expected.

In December 1843, Veniaminov took up residence in the completed building. It housed a newly-dedicated private chapel as well as his quarters on the second floor, and a work and school center on the first.

The chapel, the Church of the Annunciation, is listed as the oldest house of Orthodox worship in continuous use in the Western hemisphere. The brightly attractive room contained many historical objects. The testament on the altar was presented to the Church of the Trinity in the village of Ross (Fort Ross, California) in 1816 and then was transferred to Sitka when the Russian southward expansion was abandoned 30 years later.

The building—known then as the Russian Mission—also housed a school for Sitka children. It was sometimes referred to as the Russian Orphanage. It may well have been used as an orphanage on an "as needed" basis, especially since it coincided as a residence school for young men. The theological seminary was transferred to the Russian Bishop's House in Sitka from Petropavlovsk in Siberia in 1845.

Throughout its 136 years of use, it would appear the building's second floor was consistently a residence for orthodox clergy and a place of worship. The first floor, however, has seen a wide range of uses, according to research done by Marilyn Knapp, president of the Sitka Historical Society. It was not only school and office space, but it was also used as a traveler's inn in the 1880's; a day school; a boarding school for Creole (children of Russian fathers and Native mothers), Aleut, Tlingit and Eskimo young men training for the clergy from the 1840's to approximately 1917; a private newspaper printing office in the 1920's; a meeting place, circa 1915 to 1920, for teaching Sitka's young people the Russian language; a tea house and antique shop from the late 1940's to 1950's; the 1939–49 meeting place for the Sitka Women's Club, and a meeting place for the Sitka Historical Society from 1957 to 1966.

In 1858, the seminary was moved from the Russian Mission in Sitka to Yakutsk in eastern Siberia. When the Russian-American Company—the church's main source of support—lost its final charter in 1863, financial difficulties increased. After the transfer of Alaska to the United States in 1867, and the departure of most of the Russians in Alaska, there were still more difficulties in supporting the far-removed mission. The Holy Synod of the Russian Orthodox Church in Moscow began shifting the center of church control from Sitka to San Francisco in 1868. By 1872 the move was completed and from then until 1903, the presence of a bishop in the Sitka building was primarily that of a visitor, according to Knapp's research. It seems apparent that permanent residents of the Russian Bishop's House during that period were priests and other missionaries who continued their missionary work in Alaska.

For many years after the transfer, teachers at the school were financed by the Church in Russia. The Bolshevik Revolution in 1917, however, cut all ties, severing the Russian Church in America from its parent and benefactor. Aid from Russia progressively dwindled. A church once supported by the Russian state now found itself in a different nation, one where church and state functioned separately.

From 1904 to 1969, eight Russian Orthodox bishops lived at the Russian Bishop's House in Sitka. The last was Bishop Theodosius (Lazar), Bishop of Sitka and Alaska from 1967 to 1971. With little funding for building maintenance, the structure's integrity diminished, eventually forcing the church to vacate the building in 1969.

Its historic significance increased and in 1962, the structure was registered as a National Historic Landmark. The Sitka Historical Society launched a massive campaign to raise funds for its restoration, but when St. Michael's Cathedral burned in 1966, the money was diverted to that reconstruction project.

In 1972, three years after Bishop Theodosius left, the federal government authorized the purchase of the Russian Bishop's House and its inclusion within Sitka National Historic Park. The following year, the National Park Service took possession of the house, the adjacent school building, and the surrounding grounds.

By around 1983, the National Park Service hopes to have completed the multi-million-dollar project which will restore the Russian Bishop's House and open it to the public.

Carefully stripping through the many layers of paint and wallpaper, searching through archival records for information on historical remodeling projects and furnishings, digging drainage trenches and supervising stabilization procedures, even removing ovens brick by brick (labeling each brick for later restoration), are just a few of the tasks which Gene Ervine of Sitka National Historical Park has taken on for what he considers "his project."

Through Ervine's efforts, and those of many specialists at the National Park Service's Pacific Northwest Regional Office, Harper's Ferry Center, and Denver Service Center, the Russian Bishop's House will be restored to its 1853 period.

The second floor of the Russian Bishop's House will be restored to its original use and the chapel will be rededicated for services. The first floor—about which less is accurately known—will be restored to house a museum on Russian-American history.

Five main themes will be depicted in the museum: the search for natural resources (primarily sea otter) which brought people to Sitka, and how those resources affected them; the Native culture in the area; the Russian-American Company; the Russian Orthodox Church and Veniaminov; and a section to elucidate the building and the restoration process.

When restoration is completed, the Russian Bishop's House will provide a prime resource for interpreting the history of Russia in America. It will complement the existing Sitka National Historical Park visitor center and parkland which commemorate the Tlingit culture.

Thus, through the efforts of Sitka's third historic visage, the other two heritages—Tlingit and Russian—are being remembered.

HEARING IT FROM HENRY

Mr. MATHIAS. Mr. President, recently I asked a distinguished foreigner who knows us well, who has lived among us and who has been acquainted with presidents and pedagogs, to name the most interesting American he had met. Without hesitation he replied "Henry Kissinger."

The disciplines of time and space have limited the privilege of knowing Henry Kissinger to a relatively small number of people, many of them in privileged positions like my foreign friend. With the publication of Henry Kissinger's memoirs "White House Years" that circle can dramatically expand.

The value of joining the Kissinger circle was eloquently described by James Reston in the New York Times on Sunday, October 28, 1979. Mr. Reston says:

This is probably the most serious attempt ever made to explain the decision-making process, good or bad, and to illuminate the interplay of politics, personalities, the press, and even of accident on final decisions.

When one considers that this judgment is made by one of our most widely read and broadly experienced journalists it is rare praise. It appears not among the book reviews but in the editorial section. Reading Reston on Kissinger should encourage every Senator to read Kissinger on the "White House Years." That would be an educational exercise that would undoubtedly benefit the Senate and so I ask unanimous consent that Mr. Reston's article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HEARING IT FROM HENRY

(By James Reston)

WASHINGTON, October 26.—Henry Kissinger has written a four-pound book (1,521 pages) at a little over $5 a pound, which is in keeping with the inflationary trend of these days, but the view here is that it is the most remarkable insider's political memoir of our time.

That is really a rather modest compliment, for most books written by or for our highest officials usually make more money than sense, and are almost as deficient in historical perspective as they are in literary distinction.

Kissinger's "White House Years" is unusual in several respects. He wrote it himself—an original idea in this town. It is written in clear and muscular English prose—maybe because he began, as a German immigrant boy, with respect for the English language and mastered its grammar, poetry and even its subtle wit.

Also, Kissinger almost avoided—but not entirely—the temptation of most high officials and their ghosts to try to prove that they never made a mistake, or if they did, it was somebody's else's fault. His explanation of the bombing of Cambodia, which contributed to the unbearable tragedy of that silent and amiable people and their children, has not convinced even his most devoted friends.

But that is only one part of Kissinger's report on his White House years. He has been almost recklessly frank in reporting, with the utmost precision, the problems placed before our country while he was in the White House: the tangles and dilemmas and even the mistakes.

His story of the anatomy of this book is interesting. When Kissinger left the State Department after the election of President Carter, he went to Acapulco with a footlocker full of books. "You have to remember," he told me, "that I hadn't read an unclassified serious book for eight years."

In the footlocker, he had most of the Presidential memoirs, beginning with General Grant's, which he still regards as the best. Also the memoirs of Churchill, de Gaulle, Adenauer, former Secretary of State Acheson and the books of the British Prime Ministers Eden and Macmillan.

"You understand," he said, "I'm not comparing myself to these people. I was merely looking for models. Macmillan impressed me very much, but the one who probably influenced me the most was de Gaulle. . . . He was a good model because he defines and because he had a conceptual framework, a larger purpose and a gift of explaining how the particular problem of the day related to his philosophy and his goals."

In 1977 Kissinger spent six weeks in Acapulco with his footlocker full of books. He lived in Puerto Marques in a house owned by former President Alemán of Mexico. He agrees that this was not an unbearable hardship.

He had a staff of four researchers. They collected all the documents by subject and by year and these he read, "about 12–15 hours a day" from March until December of 1977. He then prepared a bibliography of the important documents, and by July began writing little essays on people—and these vignettes remain among the real gems of his book. In December of 1977, after a bit of a struggle to get the whole book in focus, he began writing chapters.

"I wrote about a chapter a week," he says, "and rewrote them four or five times. I would do one chapter in long-hand, then Peter Rodman, who was my chief researcher, would check it for accuracy and another researcher, who was an expert on that particular subject, would doublecheck it."

Then Kissinger would send a finished chapter to two of his former State Department aides, Winston Lord and Bill Rogers, the former Latin American expert at State, and he would rewrite the chapter again, and submit this version to outside objective scholars.

Whatever anybody thinks about the decisions made in Kissinger's White House years, this is probably the most serious attempt ever made to explain the decision-making process, good or bad, and to illuminate the interplay of politics, personalities, the press, and even of accident on final decisions. In this sense, it is a remarkable achievement of reducing unbelievable diversity to some kind of entity that can be understood by a careful reader.

He has now finished six chapters of his second volume but is having a tussle with it. "You see, Volume One was sort of a linear thing in which we had a concept," he explains. "Volume Two deals really with catastrophe, the disintegration of executive authority. . . . There really is a sharp break at Watergate.

"The turmoil of the first term, bad as it was, was a debate about national policy and America's role in the world. The turmoil of the second term was the personal struggle of Richard Nixon and really had no relationship to the policy we were trying to pursue. . . ."

A popular complaint is that nobody really knows what's going on in Washington, or how officials here reach decisions about things that affect people's lives. Well, Kissinger has given about the best description of the process possible. If you can hold all 1,500 pages of it, it may break your back, and if you read it carefully, it may break your heart, but it is worth risking both.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

INDUSTRIAL INNOVATION—MESSAGE FROM THE PRESIDENT—PM 129

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Labor and Human Resources, jointly, by unanimous consent:

To the Congress of the United States:

Industrial innovation—the development and commercialization of new products and processes—is an essential element of a strong and growing American economy. It helps ensure economic vitality, improved productivity, international competitiveness, job creation, and an improved quality of life for every American. Further, industrial innovation is necessary if we are to solve some of the Nation's most pressing problems—reducing inflation, providing new energy supplies and better conserving existing supplies, ensuring adequate food for the world's population, protecting the environment and our natural resources, and improving health care.

Our Nation's history is filled with a rich tradition of industrial innovation. America has been the world leader in developing new products, new processes, and new technologies, and in ensuring their wide dissemination and use. We are still the world's leader. But our products are meeting growing competition from abroad. Many of the world's leading industrial countries are now attempting to develop a competitive advantage through the use of industrial innovation. This is a challenge we cannot afford to ignore any longer. To respond to this challenge, we must develop our own policies for fostering the Nation's competitive capability and entrepreneurial spirit in the decades ahead. This Message represents an important first step in that direction.

I am today announcing measures which will help ensure our country's continued role as the world leader in industrial innovation. These initiatives address nine critical areas:

Enhancing the Transfer of Information
Increasing Technical Knowledge
Strengthening the Patent System
Clarifying Anti-trust Policy
Fostering the Development of Small Innovative Firms
Opening Federal Procurement to Innovations
Improving Our Regulatory System
Facilitating Labor/Management Adjustment to Technical Change
Maintaining a Supportive Climate for Innovation.

INITIATIVES

1. *Enhancing the Transfer of Information.* Often, the information that underlies a technological advance is not known to companies capable of commercially developing that advance. I am therefore taking several actions to ease and encourage the flow of technical knowledge and information. These actions include establishing the Center for the Utilization of Federal Technology at the National Technical Information Service to improve the transfer of knowledge from Federal laboratories; and, through the State and Commerce Departments, increasing the availability of technical information developed in foreign countries.

2. *Increasing Technical Knowledge.* We have already made significant efforts to assure an adequate investment in the basic research that will underlie future technical advances. This commitment is reflected in a 25 percent growth in funding during the first two years of my Administration. I am taking some additional steps that will increase Federal support for research and development:

First, I will establish a program to cooperate with industry in the advancement of generic technologies that underlie the operations of several industrial sectors. This activity will broaden the $50 million initiative I announced in May to further research in automotive research. Second, in order to help harness the scientific and technological strength of American universities, I have directed a significant enhancement in support of joint industry-university research proposals. This program will be modeled on a successful program at the National Science Foundation, and I have set a target of $150 million in Federal support for it.

3. *Strengthening the Patent System.* Patents can provide a vital incentive for innovation, but the patent process has become expensive, time-consuming, and unreliable. Each year, fewer patents are issued to Americans. At my direction, the Patent and Trademark Office will undertake a major effort to upgrade and modernize its processes, in order to restore the incentive to patent—and ultimately develop—inventions. I will also seek legislation to provide the Patent and Trademark Office with greater authority to re-examine patents already issued, thereby reducing the need for expensive, time-consuming litigation over the validity of a patent.

For over thirty years the Federal agencies supporting research and development in industry and universities have had conflicting policies governing the disposition of pertinent rights resulting from that work. This confusion has seriously inhibited the use of those patents in industry. To remove that confusion and encourage the use of those patents I will support uniform government patent legislation. That legislation will provide exclusive licenses to contractors in specific fields of use that they agree to commercialize and will permit the government to license firms in other fields. If the licensee fails to commercialize the inventories, the government will retain the right to recapture those rights. I will also support the retention of patent ownership by small businesses and universities, the prime thrust of legislation now in Congress, in recognition of their special place in our society.

4. *Clarifying Anti-trust Policy.* By spurring competition, anti-trust policies can provide a stimulant to the development of innovations. In some cases, however, such as in research, industrial cooperation may have clear social and economic benefits for the country. Unfortunately, our anti-trust laws are often mistakenly viewed as preventing all cooperative activity.

The Department of Justice, at my direction, will issue a guide clearly explaining its position on collaboration

among firms in research, as part of a broader program of improved communication with industry by the Justice Department and the Federal Trade Commission. This statement will provide the first uniform anti-trust guidance to industrial firms in the area of cooperation in research.

5. *Fostering the Development of Small Innovative Firms.* Small innovative firms have historically played an important role in bringing new technologies into the marketplace. They are also an important source of new jobs. Although many of the initiatives in this Message will encourage such companies, I will also implement several initiatives focused particularly on small firms.

First, I propose the enhancement by $10 million of the Small Business Innovation Research Program of the National Science Foundation. This program supports creative, high-risk, potentially high-reward research performed by small business. Further, the National Science Foundation will assist other agencies in implementing similar programs, with total Federal support eventually reaching $150 million per year.

Second, in order to experiment with ways to ease the ability of small firms to obtain start-up capital, I will help establish two Corporations For Innovation Development to provide equity funding for firms that will develop and market promising high-risk innovations. These not-for-profit firms will be established with State or regional capital and the Federal government will provide each with matching loan funds up to $4 million.

6. *Opening Federal Procurement to Innovations.* The Federal government is the Nation's largest single purchaser of goods and services. Through its purchases, the Federal government can influence the rate at which innovative products enter the market.

For that reason, I am directing the Office of Federal Procurement Policy to introduce procurement policies and regulations that will remove barriers now inhibiting the government from purchasing innovative products. Special attention will be given to substituting performance for design specifications and, wherever feasible, selection will be on the basis of costs over the life of the item, rather than merely the initial purchase price.

7. *Improving our Regulatory System.* During my Administration, I have already taken a number of actions to help assure that regulation does not adversely affect innovation. Working with the Congress, I have moved successfully toward deregulation of airlines and other industries, and I expect the pressure of competition to trigger innovative new ways to cut costs and improve service. In environmental health and safety regulation, I have emphasized the use of cost-impact analysis, where appropriate, to take account of the burdens on industry in the regulatory process. To provide better coordination between the regulatory agencies, I have created the Regulatory Council, composed of the heads of 35 regulatory agencies. This Council is working to reduce inconsistencies and duplications among regulations, to eliminate needless rule-making delays, to reduce paperwork, and to minimize the cost of compliance.

I am today proposing additional steps to improve our regulatory system. First, the Administrator of EPA will intensify his efforts, wherever possible, to use performance standards in regulations, specifying only the required goal, rather than the means of achieving it. Second, all Executive Branch environmental, health and safety regulatory agencies will prepare a five-year forecast of their priorities and concerns. This information will give industry the time to develop compliance technology. Third, all administrators of Federal executive agencies responsible for clearance of new products will be directed to develop and implement an expedited process for projects having a strong innovative impact or exceptional social benefit, and to do so without jeopardizing the quality of the review process.

8. *Facilitating Labor and Management Adjustment to Technical Change.* Although innovation can increase the number of workers employed within an industry over the long term, or even create an entire new industry, individual innovations may occasionally cause workers to be displaced.

In order to assure adequate time for workers and management to adjust to changes caused by innovations, I am directing the Secretaries of Labor and Commerce to work jointly with labor and management to develop a Labor/Technology Forecasting System. The System would develop advance warning of industrial changes and permit timely adjustments.

9. *Maintaining a Supportive Federal Climate.* The initiatives announced in this Message are only the first steps in our efforts to ensure American technological strength. We must also develop and maintain a climate conducive to industrial innovation. The Federal government must take the lead in creating that climate. And the Federal government's efforts must be continuing ones. I am committed to these goals.

I am charging the National Productivity Council with the continuing tasks of monitoring innovation, developing policies to encourage innovation and assisting the Departments and agencies in implementing the policies announced today. I am also establishing a Presidential award for technological innovation to make clear to this Nation's inventors and entrepreneurs that we place the highest national value on their contributions.

Each of the initiatives I have just proposed supports an important component in the innovation process. In combination, these initiatives should make a major difference in our Nation's ability to develop and pursue industrial innovation. However, these incentives will not by themselves solve our current difficulties in encouraging needed innovation. In our economic system, industrial innovation is primarily the responsibility of the private sector. The manager of the firm must decide whether to develop and market innovative new products or whether to find and employ new ways of making existing products. Although the Federal government can establish a climate that encourages innovative activity, it is the private sector that finally determines whether innovation will take place.

In addition, the steps outlined in this Message must be viewed in the context of our current severe inflation problem. With costs rising at an abnormally high rate, managers naturally have a disincentive to spend the sums needed for adequate industrial innovation. I understand and fully appreciate that changing certain of our tax laws could provide additional incentives for investment in innovation. Indeed, my approval of adjustments in the capital gains tax in the Revenue Act of 1978 has alleviated some shortages of venture capital. Many of the suggested alterations of our tax system are intertwined with other economic challenges—such as fighting inflation. While it might be possible to make changes in the tax code that would promote innovation, these changes should not be viewed in isolation from other aspects of our economy. I will therefore evaluate tax laws affecting industrial innovation at the time that I consider my fiscal policies for Fiscal Year 1981.

CONCLUSION

Innovation is a subtle and intricate process, covering that range of events from the inspiration of the inventor to the marketing strategy of the eventual producer. Although there are many places in the chain from invention to sale where we have found modification of Federal policy to be appropriate, there is no one place where the Federal government can take action and thereby ensure that industrial innovation will be increased. We have therefore chosen a range of initiatives, each of which we believe to be helpful. In aggregate, we expect them to have a significant impact. Nonetheless, they represent only an early skirmish in what must be a continuing battle to maintain the technological strength of the American economy. I pledge myself to this task and ask the Congress to join me in meeting our common challenge.

JIMMY CARTER.

THE WHITE HOUSE, *October 31, 1979.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, received today, relative to the development and commercialization of new products and processes, be jointly referred to the Committees on Commerce, Science, and Transportation; Environment and Public Works; Governmental Affairs; Judiciary; and Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:03 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 428. An act to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1980 for civil defense, and for other purposes; and

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

The message also announced that the House has passed the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, with amendments in which it requests the concurrence of the Senate.

At 6:30 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the amendment of the Senate to the H.R. 5506, an act to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 4387. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance; and

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for two months certain authorities relating to the international energy program.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2400. A communication from the Deputy Secretary of Energy, transmitting, pursuant to law, Energy Action DOE No. 5, an amendment to the Strategic Petroleum Reserve Plan; to the Committee on Energy and Natural Resources.

EC-2401. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the first annual report on the End-Stage Renal Disease Program; to the Committee on Finance.

EC-2402. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on October 9, 1979; to the Committee on Governmental Affairs.

EC-2403. A communication from the Attorney General of the United States as Chairman of the Rehabilitation Act Interagency Coordinating Council, transmitting, pursuant to law, the annual report on the activities of the Council for fiscal year 1979; to the Committee on Labor and Human Resources.

EC-2404. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the annual report of the National Technical Institute for the Deaf for fiscal year 1978; to the Committee on Labor and Human Resources.

EC-2405. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations pertaining to the administration of the Primary Matching Payment Account; to the Committee on Rules and Administration.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 31, 1979, he presented to the President of the United States the following enrolled bill:

S. 428. An act to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1980 for civil defense, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOYNIHAN, from the Committee on Environment and Public Works, without amendment:

S. 1655. A bill to designate the building known as the Department of Labor Building in Washington, D.C., as the "Frances Perkins Department of Labor Building" (Rept. No. 96-388).

S. 1491. A bill to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kansas, as the "Henry D. Parkinson Federal Building" (Rept. No. 96-389).

S. 1535. A bill to name a certain Federal building in Rochester, New York, the "Kenneth B. Keating Building" (Rept. No. 96-390).

S. 1686. A bill to designate the building known as the Federal Building in Wilmington, Delaware, as the "J. Caleb Boggs Building" (Rept. No. 96-391).

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

H.R. 5279. An act to provide for the distribution within the United States of International Communication Agency film entitled "Reflections: George Meany" (Rept. No. 96-392).

By Mr. COCHRAN, from the Committee on the Judiciary, without amendment, but with a preamble:

S.J. Res. 109. A joint resolution to authorize the President to proclaim November 16, 1979, as "American Enterprise Day".

S.J. Res. 32. A joint resolution to designate November 4, 1979, as "Will Rogers Day".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations:

Anthony C. E. Quainton, of Washington, Director of the Department of State's Office for Combatting Terrorism, for the rank of Ambassador.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Anthony C. E. Quainton.
Post: Rank of Ambassador.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses $50; names, Rodney F. Quainton $50; March/April 1978, Cong. A. Mikva (Ill.), Senator L. Percy (Ill).
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Harry Roberts Melone, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Rwanda.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Melone, Harry R.
Post: Ambassador to Rwanda.
Nominated: September 24, 1979.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, Domnica Melone, none.
3. Children and spouses names, Sandra Melone, none.
4. Parents names, Dorothy S. Melone, none.
5. Grandparents names, dead.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Anne and Elgin Deidrick, none. Mary and Charles Post, $75.00, September 1978, Susan Engeliten.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Barbara W. Newell, of Massachusetts, for the rank of Ambassador during the tenure of her service as the U.S. Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization at Paris, France.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Barbara W. Newell.
Post: Ambassador of UNESCO.
Nominated: August 15, 1979.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.

4. Parents names, C. E. Warne, about $25 a year 1975–79, Democratic Party.
5. Grandparents names, none.
6. Brothers and spouses names, Paul Nelson; $20, 1977, Bozeman.
7. Sisters and spouses names, Margaret W. Nelson, 1976–$100, Fisher, ABC, 1977–$40, Howell, Democratic, Karydis, Democratic, 1978–$100, Fisher, ABC, 1979–$12 ABC.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Robert B. Oakley, of Louisiana, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Zaire.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Robert B. Oakley.
Post: Ambassador, Zaire (Africa).
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, Mrs. J. B. Oakley, Shreveport, La., October 1978, Senator J. B. Johnston (D. La.).
5. Grandparents names, none.
6. Brothers and spouses names, Mr. and Mrs. Thomas Elliott, Fort Wayne, Ind. April 1979, Winfield Moses, Democratic candidate for Mayor of Fort Wayne.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Anne Forrester Holloway, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Mali.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Anne Forrester Holloway.
Post: Ambassador.
Contributions, amount, date, and donee:
1. Self, $25, 1976, Marion Barry for Council.
2. Spouse, $10, 1976, Jimmy Carter Presidential Campaign; $50, 1976, Campaign to Re-elect Andrew Young; $50, 1974, John Wilson for City Council.
3. Children and spouses names (minors).
4. Parents names, none.
5. Grandparents names, N/A.
6. Brothers and spouses names, N/A.
7. Sisters and spouses names, N/A.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Abelardo Lopez Valdez, of Texas, for the rank of Ambassador during his tenure of service as Chief of Protocol for the White House.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Abelardo Lopez Valdez.
Post: Chief of Protocol.
Nominated: September 13, 1979.
Contributions, amount, date, and donee:
1. Self, $100, 1978, Toney Anaya (New Mexico).
2. Spouse, none.
3. Children and spouses names, N/A.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

William J. vanden Heuvel, of New York, to be the Deputy Representative of the United States to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: William J. vanden Heuvel.
Post: The Deputy Representative of the United States to the United Nations.
Contributions, amount, date, and donee:
1. Self.

In addition to the contributions reported in the attached "Addendum E" which was filed in June 1977 at the time of my appointment as United States Ambassador to the European Office of the United Nations and other organizations, the following contributions have been made since that time.

Donor, amount, date, and donee:
Self, $100, November 25, 1977, Vermont Democratic Committee.
Self, $250, April 9, 1979, McGovern Campaign Committee.

ADDENDUM E

Report of Federal Campaign Contributions: January 1, 1973 through April 20, 1977:

Donor, amount, date, and donee:
Self, $500, March 12, 1974, Democratic Congressional Dinner Committee.
Self, $500, February 26, 1975, Williams in 1976 (Senator Harrison Williams).
Self, July 22, 1975, Committee to Re-elect Edward Kennedy.
Self, $250, October 28, 1975, Jimmy Carter Presidential Campaign.
Self, $750, December 10, 1975, Jimmy Carter Presidential Campaign.
Self, $250, April 12, 1976, William Lehman Congressional Campaign Fund.
Self, $500, October 7, 1976, Senator John Tunney Campaign Committee.
Self, $500, October 21, 1976, Daniel P. Moynihan for Senate Committee.
Self, $100, November 9, 1976, Abzug for Senate.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Thomas O. Enders, of Connecticut, to be the Representative of the United States of America to the European Communities, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Thomas O. Enders.
Post: Com USEC Brussels.
Contributions, amount, date, and donee:
1. Self, none. 2. Spouse, none. 3. Children and spouses names, none. 4. Parents names, Alice and Ostrom Enders, May 24, 1979.

1976: Avon Republican Town Committee, $50; Connecticut Republican Key Committee, $250; Weicker for Senate Committee, $250.

1977: Connecticut Republican Party, $15; Connecticut Republican Key Man Committee, $250; Avon Republican Town Committee, $35.

1978: Republican National Committee, $100; Connecticut Republican Key Man Committee, $250; Republican National Campaign Membership, $100; Republican National Campaign Membership, $100.

1979: Connecticut Republican Key Man Committee, $250.

5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

William O. Sykes, of Maryland, to be Deputy Director of the Peace Corps.

Genta A. Hawkins, of California, to be an Assistant Administrator of the Agency for International Development.

Thomas O. Quinn, of Rhode Island, to be a Member of the Board for International Broadcasting.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that it be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ARMSTRONG:

S. 1960. A bill to authorize the Secretary of the Interior to convey certain lands in Mesa County, Colorado to Ute Water Conservancy District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JAVITS (by request):

S. 1961. A bill to amend the Higher Education Act of 1965 to strengthen and improve the student loan programs so as to assure the availability of funds to students to attend the institution of higher education of their choice, to strengthen the procedures for the repayment of such loans, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL (for himself and Mr. CHAFEE):

S. 1962. A bill to amend the Federal Water Pollution Control Act to revise the allotment formula for grants for construction of treatment works; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (by request):

S. 1961. A bill to amend the Higher Education Act of 1965 to strengthen and improve the student loan programs so as to assure the availability of funds to students to attend the institution of higher education of their choice, to strengthen the procedures for the repayment of such loans, and for other purposes; to the Committee on Labor and Human Resources.

HIGHER EDUCATION AMENDMENTS

● Mr. JAVITS. Mr. President, during the past month, the Subcommittee on Education, Arts and Humanities, of which I am a member, has been holding hearings on reauthorization of the Higher Education Act of 1965. One of the most thoughtful and articulate spokespersons before the subcommittee has been Congresswoman SHIRLEY CHISHOLM, who testified on October 10 regarding her views on programs of Federal institutional and student aid. At Mrs. CHISHOLM's request, and as a useful addition to the debate in the Senate on these issues, I am introducing today, by request, a Senate companion to her Higher Education Amendments of 1980, H.R. 5680, introduced on October 23. As this legislation is an amalgam of the bill currently under consideration in the other body and the loan proposals offered by Senators KENNEDY and BELLMON, I hope that my colleagues will give Mrs. CHISHOLM's initiative their most careful attention.

I ask unanimous consent that Mrs. CHISHOLM's letter to me of October 9, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 9, 1979.

Hon. JACOB JAVITS,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR JAKE: For more than a year, I have been working on issues and legislation associated with the reauthorization of the Higher Education Act which expired September 30, 1979. Because of my interest and commitment to improving the educational needs of children and youth of this nation, I have closely monitored the reauthorization of this Act, particularly those provisions which impact on the delivery of educational programs and services to predominately low income and educationally disadvantaged students. I intend to introduce my own reauthorization legislation to ensure that the interests of this group of students are appropriately addressed. I am writing to solicit your assistance in the introduction of my legislation in the Senate. (I have attached a copy of my draft bill for your review.) Already the House bill, approved by the Education and Labor Committee includes several of my major recommendations.

I have seen a great number of changes in the education arena during my eleven year tenure in Congress, and I have participated, as a former member of the Education and Labor Committee, in many efforts and movements to try and make this society more accountable to upgrading the quality of educational opportunities for our youth. While I recognize that we both have seen a great number of successes, we know that there is still a large task at hand. If there is any one major issue to successfully emerge this year in the area of education, it was without a doubt the creation of a cabinet level Department of Education. While my views may differ with those of many of my colleagues in the House and Senate on this particular issue, you and I and many of our colleagues share the same sentiment of providing equal access to educational opportunities for all children in this nation. The Higher Education Reauthorization is still another instrument for reforming and improving those much needed programs and services to ensure equality of opportunity in higher education. I should emphasize that I am scheduled to testify before the Senate Subcommittee on Education, Arts and Humanities on October 10. I am especially delighted to participate in the Senate reauthorization process, and I am seeking your assistance to this end.

I would greatly appreciate a response to my request as soon as possible, so that I may be able to present details of my legislation to the Senate. If the expedience of the House Education and Labor Committee is any indication as to how quickly the Senate will act on this legislation, I would anticipate that the Senate subcommittee will complete its initial work on the reauthorization within a few weeks.

Thank you in advance for any assistance you can lend. I remain,

Sincerely,

SHIRLEY CHISHOLM,
Member of Congress.●

By Mr. PELL (for himself and Mr. CHAFEE):

S. 1962. A bill to amend the Federal Water Pollution Control Act to revise the allotment formula for grants for construction of treatment works; to the Committee on Environment and Public Works.

WASTEWATER TREATMENT—A CLEAR PRIORITY

Mr. PELL. Mr. President, today I am introducing with my colleague, Senator CHAFEE, legislation to amend the Federal funding formula for wastewater treatment construction grants in the Clean Water Act.

My legislation is designed to bring the funding more in line with clear antipollution priorities, to correct some inequities in funding distribution and to simplify the complex method of computing each State's share of the funds.

The current funding formula, used to determine each State's share of wastewater treatment construction grants, is a complicated one that resulted from the unhappy marriage of separate House and Senate formulas.

As currently written, the Clean Water Act does not contain this formula, although it does refer to a table of percentages contained in a committee print.

That table is the result of a House-Senate conference committee decision to compromise on a funding formula by taking the three-part House version, including at least 10 general computations, and the six-part Senate version, including at least 11 general computations, adding their products and dividing by 2.

Although the result of this compromise appears as tidy columns of percentages, the initial reasoning behind them is lost and the results do not demonstrate any clear reflection of either national or regional wastewater treatment priorities. Those priorities, however, obviously do exist and they should be spelled out.

The formula that is spelled out in my legislation would accomplish this by giving top priority (50 percent) to secondary treatment; second priority (33⅓ percent) to either, first, new interceptor sewers and combined sewer overflow; or second, new interceptor sewers and higher than secondary treatment; and third priority (16⅔ percent) to correction of infiltration.

There is a provision for a floor of 0.5 percent which would be funded, as in the current formula, from a $75 million authorization. If that full amount is not appropriated then, as provided in existing legislation, all would share equally in the reduction.

Although this formula may appear complex, it is simplicity itself when compared to the existing formula. Both formulas are applied to a survey of national wastewater treatment construction needs that is conducted every 2 years by the Environmental Protection Agency. The existing formula uses 1976 figures and my bill would require the use of more recent figures.

The 1978 needs survey presented a summary of national needs in six basic categories as follows:

[In billions of U.S. dollars]

Need category:	
1 secondary treatment	9.7
2 higher than secondary treatment	10.6
3a correction of infiltration	2.4
3b sewer rehabilitation	4.3
4a new collection sewers	19.0
4b new interceptor sewers	6.7
5 control of combined overflow	25.7
6 treatment/control of storm water	45.7

In attempting to express national priorities within these needs categories, Congress concentrated correctly on the need to reduce pollution from raw or partially treated sewage through the construction of secondary and higher treatment plants and collection systems.

The Congress reached the reasonable decisions that control of combined sanitary and storm sewer overflow was not as high a priority as secondary treatment because the pollution effects were not as great nationally. That decision did not, however, take some important regional factors into consideration.

The Congress also decided, quite correctly in my view, that the frightfully expensive treatment or control of storm waters alone (not when combined with

sanitary sewerage) should not be addressed yet as a Federal funding priority.

There also has been one substantial alteration of this general funding emphasis, initiated by the House Appropriations Committee. The Environmental Protection Agency now requires that all requests for higher than secondary treatment with an incremental cost over $3 million be reviewed for approval by the Agency's administrator.

I believe that all of these broad decisions, although extremely difficult, were wise ones. There remain, however, substantial difficulties in the translation of these broad decisions into practice through the existing cumbersome, nationwide funding formula.

The existing formula, based on the 1976 needs surveys, can be expressed as follows:

1. (a) 50 percent Categories 1 (secondary treatment), 2 (higher than secondary treatment), and 4b (new interceptor sewers);

(b) 25 percent Categories 1 (secondary treatment) and 5 (control of combined overflow);

(c) 25 percent 1975 population.

2. (a) Best of 1975 population or Categories 1 (secondary treatment), 2 (higher than secondary treatment), 3a (correction of infiltration), 4b (new interceptor sewers) and 5 (control of combined overflow);

(b) Prorated back to 4.5B.

(c) With floor of 0.5 percent.

(d) With floor to insure no lower than lower of 1975 population or Categories 1, 2, 3a, 4b and 5.

(e) With floor to insure no greater than 25 percent reduction from fiscal year 1977 Supplemental (S-57).

(f) Prorated back to 4.5B.

3. Add the products of the computations in formulas one and two and divide the total by 50 percent.

It should be obvious from even a quick review of this formula that there is no clear expression of national wastewater treatment construction priorities to be found in the formula. Some of those priorities are implicit in the formula, but they have been trapped in a web of compromises and bled dry of meaning.

A quick review of the formula that I am proposing will illustrate my point. My formula can be expressed as follows:

1. 50 percent Category 1 (secondary treatment).

2. 33⅓ percent either Categories 4b (new interceptor sewers) and 5 (combined sewer overflow) or Categories 4b and 2 (higher than secondary treatment).

3. 16⅔ percent Category 3a (correction of infiltration).

I am deeply indebted to Senator CHAFEE, my colleague from Rhode Island and a member of the Senate Committee on Environment and Public Works, and to officials of the Environmental Protection Agency for reviewing my proposed formula and suggesting improvements that I have incorporated into it.

Originally, I had included a separate population factor in my formula. I decided to eliminate this separate factor, at the suggestion of EPA officials and with the concurrence of my colleague, because both current population and population estimates for the 2000 are an inherent part of the 1978 needs survey.

I would, however, like to emphasize a critical difference between the approach to regional problems in my formula and the approach reflected in the existing formula. That difference is seen in the second part of my formula.

The existing formula does not recognize regional differences between higher than secondary treatment needs and combined sewer overflow control needs. This inflexibility hurts both regions with higher than secondary treatment needs and regions with combined sewer overflow needs.

Generally, the most serious combined sewer overflow problems are in States with older cities that have not separated their storm and sanitary sewer systems. Likewise, the most serious higher than secondary treatment needs are in States with more recently settled areas.

My formula resolves this potential conflict by using only the greater of the two needs in computing a State's share of Federal funding. As a result, higher than secondary treatment needs and combined sewer overflow needs are given identical priority in the formula and States are entitled to receive funds to address whichever is the more urgent need for them.

In my own State of Rhode Island, pollution by wastewater has threatened the environment of Narragansett Bay, a priceless recreational and commerce resource and an abiding source of natural beauty.

Gov. J. Joseph Garrahy and officials at the Rhode Island Department of Environmental Management have been working hard, in cooperation with local governments, to abate this pollution but need more assistance from the Federal Government to address the State's most serious combined sewer overflow problems.

Whenever Rhode Island has a heavy rainstorm or a spring thaw, the rush of storm water through combined sanitary and storm sewers overwhelms treatment facilities and washes pollutants into Narragansett Bay. I am not speaking here of trace elements and slight pollution, but of wholesale pollution ranging from industrial waste to human feces.

An article in the Providence (R.I.) Journal of October 16, 1979, quoted a report by the Rhode Island Department of Environmental Management's statewide planning program staff that the cost of meeting Federal antipollution standards first outlined in 1972 could be between $844 million and $1 billion for Rhode Island alone.

I cite these figures to underscore the tremendous and costly wastewater treatment problems facing my own State. These problems are by no means unique in the country, but Rhode Island and other States throughout our country need a clear definition of national priorities and proportionate funding to address those priorities.

The annual appropriation for formula funding of wastewater treatment construction grants has been steadily declining. The current appropriation is only $3.4 billion, although Congress authorized $5 billion. There are numerous reasons for this decline, including a substantial backlog of project funding in some States and a strong desire to reduce Federal spending.

In my own opinion, however, a clear definition of priorities within the funding formula is necessary to assure that the taxpayer's money is spent wisely on wastewater treatment construction.

I recognize the need for restraint in Federal Government spending and the need to eliminate the Federal Government budget deficit as soon as possible, but we cannot make wise decisions on spending priorities unless we have a clear policy on the priorities of various material needs.

My funding formula would not increase Federal spending for wastewater treatment construction, but it would clearly define priorities for that construction.

Mr. President, I have statistics on how my formula would affect each State's share of wastewater treatment construction, and I ask unanimous consent that they be printed at this point in the RECORD, together with the text of the bill.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 1962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 205(c) of the Federal Water Pollution Control Act is amended to read as follows:

"(c)(1) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1978 and 1979 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of the enactment of the Clean Water Act of 1977. Notwithstanding any other provisions of law, sums authorized for such fiscal years shall be allotted in accordance with table 3 of Committee Print numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives.

"(2) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1980 and 1981 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of the enactment of this paragraph. Notwithstanding any other provision of law, sums authorized for such fiscal years shall be allotted in accordance with paragraphs (3) and (4) of this subsection.

"(3) Based upon the data contained in the 1978 Needs Survey, submitted by the Administrator in accordance with section 516(b)(1)(B) of this Act, each State's allotment shall be computed under paragraph (4) using the following percentages:

"(A) Such State's need as a percentage of national need as determined under Needs Survey Category I.

"(B) Such State's need as a percentage of national need as determined under either (i) the sum of Needs Survey Categories II and IVB, or (ii) the sum of Needs Survey Categories IVB and V, whichever such percentage is greater.

"(C) Such State's need as a percentage of national need as determined under Needs Survey Category IIIA.

"(4) Each State's allotment shall be determined as follows:

"(A)(i) Each State's percentage determined under paragraph (3)(A) shall be multiplied by 50 percent.

"(ii) Each State's percentage determined under paragraph (3)(B) shall be multiplied by 33⅓ percent.

"(iii) Each State's percentage determined under paragraph (3)(C) shall be multiplied by 16⅔ percent.

"(B) For each State, the percentages determined for such State under clauses (i), (ii), and (iii) of subparagraph (A) shall be added together, resulting in the total need percentage for such State.

"(C) The total percentage for each State, as determined under subparagraph (B), shall be reduced on a pro rata basis so that the sum of the total need percentages for all the States is equal to 100 percent.

"(D) The total need percentage for each State, as determined under subparagraph (C), shall be the percentage used in making the allotments under paragraph (2) of this subsection, except that the amount each State receives shall be adjusted in accordance with subsection (e).".

(b) The amendment made by this Act shall be effective on and after October 1, 1979.

State	Current formula	New formula
Alabama	1.2842	1.2970
Alaska	.4235	1.2881
Arizona	.7757	.7291
Arkansas	.7513	.5975
California	7.9512	11.5008
Colorado	.9187	1.2411
Connecticut	1.1072	1.2285
Delaware	.3996	.5000
D.C.	.3193	.5000
Florida	3.8366	4.1222
Georgia	1.9418	1.6233
Hawaii	.7928	1.2657
Idaho	.4952	.5000
Illinois	5.1943	2.8403
Indiana	2.7678	2.6057
Iowa	1.2953	1.4631
Kansas	.8803	1.5430
Kentucky	1.4618	1.5215
Louisiana	1.2625	1.7893
Maine	.7495	1.3176
Maryland	2.7777	1.0235
Massachusetts	2.9542	3.4808
Michigan	4.1306	2.3701
Minnesota	1.8691	.9631
Mississippi	.9660	1.1241
Missouri	2.4957	3.7427
Montana	.3472	.5000
Nebraska	.5505	.5778
Nevada	.4138	.5000
New Hampshire	.8810	1.0392
New Jersey	3.5715	4.8289
New Mexico	.3819	.5000
New York	10.6209	11.5167
North Carolina	1.9808	1.5758
North Dakota	.3107	.5000
Ohio	6.4655	4.6966
Oklahoma	.9279	.5984
Oregon	1.2974	.9416
Pennsylvania	4.3616	3.4942
Rhode Island	.5252	.8053
South Carolina	1.1766	1.0554
South Dakota	.3733	.5000
Tennessee	1.5486	1.8863
Texas	4.3634	3.1013
Utah	.4457	.5020
Vermont	.3845	.5000
Virginia	1.9602	2.0758
Washington	1.7903	3.2717
West Virginia	1.7903	1.4912
Wisconsin	1.9503	1.5221
Wyoming	.3003	.5000

CLEAN WATER ACT CONSTRUCTION GRANT ALLOTMENT FORMULA

Mr. CHAFEE. Mr. President, I am pleased to join with Senator PELL today in introducing legislation regarding the allotment formula for the Clean Water Act's construction grant program.

What we are talking about are priorities for this country's sewage treatment efforts. The construction grant program has become the largest national public works program. From 1973 to 1980, $32 billion has been appropriated for sewage treatment work. In 1977, the Congress reaffirmed its commitment to municipal waste water treatment by authorizing $24.5 billion for the construction grant program for fiscal years 1978 through 1982.

The construction grant program is a cornerstone of the Clean Water Act. That act requires Government and industry to work to meet standards and goals for cleaning up our rivers, lakes, bays, and coastal areas. The key goal is that our waters eventually be fishable and swimmable. We are setting our sights high with that goal, but the health, environmental, and recreational benefits are worthy of this effort.

Mr. President, we are pouring out millions, indeed billions of dollars for municipal sewage treatment. I think we have to target those dollars to best meet the basic needs which still exist. As a member of the Environment and Public Works Committee, I have worked with Senators RANDOLPH, MUSKIE, STAFFORD, and other colleagues on the Clean Water Act during the last couple of years. In 1977, the committee learned that while 90 percent of industry had met the 1977 standard of best practicable technology, only 50 percent—half—of our cities had reached the required secondary treatment level. We took several steps in the 1977 amendments to give the cities more time and renewed authorizations in the sewage treatment program.

It is now 1979 and I think we need to take another look at how those dollars are targeted. We need to take that look long before 1982, so that the remaining authorized moneys will be used to the best advantage.

We are introducing this bill today in the hopes of bringing attention to the major municipal treatment problems which still remain and need to be dealt with. Let me mention a couple of basic provisions of the legislation before going into more detail.

First of all, the distribution of grant moneys should be in accordance with the latest needs of our cities and towns. Moneys are authorized for the next 3 years and we should target it as aptly as possible. Our bill provides that the 1978 EPA needs survey should replace the 1976 survey as the beginning focal point of setting priorities.

Second, needs categories under current law are maintained, with a clarification of national priorities.

Finally, there is a minimum of 5 percent so that no State gets less than that percentage of the whole, as provided for by a specific authorization. Of course if the full amounts are not appropriated in any year, all States would share in the reduction.

Now let us look at the types of treatment priorities we are considering.

Senator PELL has mentioned the categories of treatment currently eligible for Federal assistance under the Clean Water Act's title II. These include secondary treatment, advanced treatment, interceptor sewers, infiltration correction, and combined sewer overflow work. Secondary treatment is the municipal treatment standard required by 1977 in the act originally. Now that deadline has been moved to 1983.

We do a great disservice to our clean water goals if sufficient weight is not given to the secondary treatment category. My own capital city of Providence, R.I., is barely meeting primary, much less the secondary level of treatment. Other old medium and large cities are in the same situation. For many of them, secondary treatment is an extremely expensive, yet necessary proposition. One goal of the legislation we are introducing today is to give top priority to secondary treatment in the construction grant allotment formula for the States.

Another monumental treatment problem faced by many of our older communities is combined sewer overflow. When wastewater and domestic sewage combine with urban runoff in the same sewer system, it can spell disaster for the central treatment plant in terms of overflows. Again, in Providence, there are approximately 125 overflow events per year. Much of this overflow is heavily polluted and has contributed to the closing of Narragansett Bay to shellfishing. To witness the loss of use of our State's most valuable natural resource because of sewage pollution is indeed a travesty.

The legislation we are introducing today includes a commitment to the combined sewer overflow problem. It is readily apparent that spending money on treatment of combined sewer overflow is more cost beneficial than trying to separate the miles and miles of combined sewers in many of our communities. After the secondary treatment category, the allotment formula suggested in this legislation gives second priority to either combined sewer overflow treatment and new interceptor sewers or to higher-than-secondary treatment and interceptors. Thus, States with substantial special needs for either combined sewer overflow work or advanced treatment are given the chance to receive sufficient funds geared to their special problems.

Mr. President, I look forward to working on clean water construction grant priorities with Chairman RANDOLPH, Senator STAFFORD, and Senator MUSKIE on the Environment and Public Works Committee. A great deal of money for treatment will be going out to the States in the next few years. We must be sure that dollars are going where the needs are. We need to keep in mind the secondary treatment deadline in the early 1980's.

I am pleased to note that Senator MUSKIE, chairman of the Environmental Pollution Subcommittee, is also examining our treatment priorities. He has asked EPA for their analysis of the current grant formula and whether the formula is truly geared to our most pressing treatment goals.

I would urge that the efforts several of us are making on this issue lead to Environment and Public Works Committee consideration of the Clean Water Act's grant program priorities this coming spring.

I would also note that clean water and sewage treatment responsibility rests on no one's shoulders alone. State and local

governments must be willing to share with the Federal Government the financial burden of cleaning up our streams and waterways. They must use sound judgment in setting their local treatment priorities. They must utilize the grant dollars efficiently.

The legislation we are introducing today attempts to give a clearer picture to clean water treatment priorities, by setting a definite, less complicated allotment formula. Yet we maintain flexibility by recognizing that some needs are regionally different and there should be room in a formula to provide for these differences.

We are not increasing the grant program, in times of a worsening economy. We are seeking for our Federal dollars the best investment possible in clean, healthy waters.

ADDITIONAL COSPONSORS

S. 91

At the request of Mr. THURMOND, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 91, a bill to amend title 10, United States Code, to remove certain inequities in the Survivor Benefit Plan provided for under chapter 73 of such title, and for other purposes.

S. 1121

At the request of Mr. HAYAKAWA, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1121, a bill to amend the Saccharin Study and Labeling Act.

S. 1411

At the request of Mr. CHILES, the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1411, a bill to improve the economy and efficiency of the Government and the private sector by improving Federal information management.

S. 1794

At the request of Mr. MELCHER, the Senator from Michigan (Mr. RIEGLE), the Senator from Montana (Mr. BAUCUS), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 1794, a bill to amend the Public Health Service Act to provide for research concerning Reye's syndrome, and for other purposes.

S. 1950

At the request of Mr. JAVITS, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1950, a bill to waive the time limitation on the award of certain military decorations to members of the intelligence and reconnaissance platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of favor performed during the Battle of the Bulge.

AMENDMENT NO. 517

At the request of Mr. JAVITS, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of amendment No. 517, intended to be proposed to S. 2, the Sunset Act of 1979.

AMENDMENTS NOS. 542, 543, 544, 545, AND 546

At the request of Mr. MORGAN, the Senator from South Dakota (Mr. PRESSLER), the Senator from Kentucky (Mr. FORD), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of amendments Nos. 542, 543, 544, 545, and 546 intended to be proposed to H.R. 4986, an act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

AMENDMENT NO. 557

At the request of Mr. STEVENSON, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of amendment No. 557 intended to be proposed to H.R. 4986, an act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

SALT II—EX. Y, 96-1

AMENDMENT NO. 563

(Ordered to be printed and to lie on the table.)

Mr. MCGOVERN (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by them, jointly, to the resolution of ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms (Ex. Y, 96-1).

Mr. MCGOVERN. Mr. President, as in executive session, on behalf of myself and Senator CHAFEE, I submit today a declaration to the resolution of ratification to the SALT II treaty.

The purpose of this declaration, which would be an understanding of the treaty, is to, first of all, express the disappointment of the Senate that we have not been able to achieve substantial reductions to date in the level of strategic arms through the SALT process, to say, in effect, that unless significant and substantial reductions can be achieved in the SALT III process, that it would be the sense of the Senate that third SALT agreement would not be approved by the Senate.

I think a good many Senators embracing a broad ideological spectrum in the Senate are uneasy and concerned about the failure of either SALT I or SALT II to bring about genuine reductions in strategic systems.

So what the Senator from Rhode Island and I have in mind is to put the Senate on record, to put the administration on record, and to serve notice on the Soviets that while we may go along with SALT II, we do so with the understanding that SALT III is going to achieve the significant and substantial reductions that are pledged in the statement of principle.

The SALT process has thus far failed to meet our expectations for genuine reductions in nuclear arsenals. Both the Soviet Union and the United States are now worse off in terms of the nuclear threat directed against them than when the SALT process began in 1969. Trying to achieve greater security through mutual and equitable reductions in SALT is like walking down an escalator: No matter how much effort is made to move downward, the process seems to carry arsenals to ever higher levels.

The use of SALT as an arms race management device rather than as an arms reduction device has become a major obstacle preventing achievement of the very goals SALT was created to secure. The first goal was to limit and reduce weapons. The second goal was to improve United States-Soviet relations.

Neither of these goals has been achieved. By the expiration of SALT II, both sides will have more than tripled their arsenals of nuclear warheads over the pre-SALT period. SALT has been largely irrelevant to the major strategic developments of this era, namely MIRV's and first-strike accuracy refinements.

This falure to limit arms and reduce substantially the threat to our security has created new political insecurities on both sides since the Soviet Union and the United States can each comply with the SALT treaty provisions while simultaneously increasing the threat directed against the other side. This insecurity and uncertainty about the other side's true intentions make substantially reductions more difficult to achieve, thus fueling new doubts and fears and raising the level of tension and suspicion.

The result of this vicious cycle is that we are ending up with both a SALT treaty and arms escalation. And we are ending up with SALT without détente. It is clear to me that the SALT process is not working. We cannot afford to seek new cosmetic agreements just for the sake of keeping the SALT process alive when the process is no longer effective—and may even have become counterproductive.

If SALT II were the end of the road, I could not in good conscience support it. I must first be assured that genuine reductions will be the goal of any future SALT negotiations and that a realistic method exists to achieve them. It is a commonsense observation that SALT II must be passed before SALT III is possible. But for those of us sincerely interested in arms reductions, there can be no SALT II without a clearly visible outline for SALT III. My vote depends on it.

The most important step the Senate can take to protect our security is to change the direction of the arms escalator by demanding that SALT do more to protect our security. The declaration on SALT III which Senator CHAFEE and I are proposing today is an attempt to shift the arms race into reverse.

A consensus has emerged in the SALT debate in favor of mutual and equitable deep cuts in weaponry. The agreement of military and civilian witnesses, public and private, treaty opponents and supporters, Republicans and Democrats in favor of reductions may be the most noteworthy outcome of the debate.

Now our challenge is to translate this bipartisan consensus on arms reductions into a concrete and effective strategy for achieving deep cuts in SALT III.

We need a dramatic new strategy for several reasons. First, major reductions will elude us if SALT continues on a business as usual basis. The unstable relations between the United States and the Soviet Union, the gallop of weapons technology and the inherently escalatory impact of the SALT bargaining and ratification processes tend to prevent true arms limitations. We must chart a new course.

Second, we need a new strategy because the experience of congressional action in SALT I proves that merely calling for reductions in the abstract is not enough. In the SALT I resolution, Congress adopted, under Senator CRANSTON's sponsorship, an amendment which urged the President—

> To seek at the earliest practicable moment Strategic Arms Reductions Talks . . . in order to bring about agreements for mutual decreases in the production and development of weapons of mass destruction.

We cannot afford simply to repeat this call for reductions without proposing either a strategy or any hint of a sanction.

Third, we need a strategy because there are ominous suggestions within the administration that it does not accept the consensus formed in the Senate for reductions. The fashionable argument at the moment is that arms control has failed because negotiations have focused too much on reductions and too little on minor stabilizing agreements which could better manage the nuclear arms race. But arms control has failed, not because the reductions were too big, but because they were too little and too late. SALT is in trouble on all sides of the political spectrum not because negotiators focused too little on arms race managment, but because they focused too much attention on it while neglecting the goal of reductions. We need to send a tough message to the administration that we regard genuine arms reductions as the centerpiece of any future agreement. There is nothing inherently contradictory about arms reductions and qualitative limitations to improve strategic stability.

Fourth, a realistic strategy will help us probe the intentions of the Soviet Union. Thus far, the record is unclear. On the one hand, the Soviets did make actual reductions in SALT II. Their reductions will not be militarily significant, but they are politically significant. On the other hand, the Soviets rejected any significant lowering of the Vladivostok ceilings. We have to make every reasonable effort to achieve equitable reductions through negotiations with the Soviet Union. Any SALT III strategy must take into account the fact that an arms reduction agreement must satisfy two parties. The SALT III debate will become pointless if it is reduced to a rhetorical attempt to disarm the Soviet Union just as any Soviet attempt to use SALT to unilaterally disarm the United States would fail.

There are several other limitations as well. First, there are constitutional limitations. The negotiating power is a plenary Presidential power. The Senate cannot force the President to negotiate nor should we tie his hands in negotiations. But neither can we abdicate the Senate's role to offer advice. SALT as arms limitation is like the Emperor who wore no clothes. We do not want to straitjacket the President. But we can and should tailor a new suit.

A second limitation is the requirement of realism. We cannot reverse the arms race overnight. The habits of overpreparation and the perceptions of worst cases are too deeply ingrained in the thinking of both sides. SALT III will not be a magic solution to the security problems of either side. Senators will not agree on every detail of SALT III just as we disagree on the details of SALT II. But we need to begin the process. We need to create the political and military conditions for a demilitarized world.

Since it is still autumn, let me use a World Series analogy for SALT III. The SALT III understanding which Senator CHAFEE and I are proposing today is not a grand slam home run for arms reductions. None of us can do that now because the bases are not loaded. But as a result of the new consensus on arms reductions in the SALT debate, we have managed to get a few runners on base. Our task now at a minimum is to advance the runners and score some runs.

The declaration I am proposing today offers a realistic strategy for genuine arms reductions. It urges the President to pursue continuous year-by-year reductions in the ceilings and subceilings of the SALT II treaty to take advantage of the treaty already negotiated while setting in motion an effective and sustainable process of strategic arms limitation. Senator CHAFEE and I believe it is a realistic new departure which can be supported by SALT II treaty proponents and by opponents of all persuasions.

Mr. President, I would like now to describe the provisions of the declaration on SALT III.

The declaration begins with an expression in paragraph (1) of disappointment that the SALT negotiations have failed to achieve major reductions in and more significant controls on strategic nuclear forces.

The declaration then recognizes that the parties have already agreed in the joint statement of principles and basic guidelines to seek "significant and substantial reductions" in the numbers of strategic offensive arms in SALT III, as well as qualitative controls on arms, and endorses these objectives as means to strengthen strategic stability and enhance the national security of the United States. It seems to me that the joint statement of principles has received far too little attention in the SALT debate.

Mr. President, I ask unanimous consent to insert the text of the joint statement of principles at the end of my remarks.

The essence of the declaration appears in the instruction to the President in paragraph (3) to negotiate continuous year-by-year reductions in the SALT II ceilings and subceilings. This combines a realistic approach to take advantage of the treaty already secured through 7 years of negotiations with the need to reverse the SALT process and embark on a new process of equitable and systemmatic arms limitations.

The effect of this proposal would be to shrink the SALT II agreement structure by a quantity of launchers or by a percentage every year—say 5 or 10 percent. None of us approves of SALT II very much in its present form. But at the very least it can usefully serve as a baseline for beginning future reductions. By using the SALT II ceilings and subceilings as a baseline, we can move to reductions quickly because we can take advantage of an agreed set of numerically equal ceilings and subceilings. The alternative is to reinvent the wheel by reopening negotiations on the numerical limitations in the hope of securing some additional, miniscule advantage.

I sympathize with my colleagues who wish to recommit the SALT II treaty for further negotiations to seek lower limits. But the annual reductions approach is consistent with their interest in reducing the SALT II levels. It offers a method for negotiating the reductions without taking the risk of undoing all the arrangements.

Gen. David C. Jones, chairman of the Joint Chiefs of Staff, agrees with me that percentage annual reductions is a reasonable strategy for reductions in SALT III. General Jones wrote to me in a recent letter stating:

> I welcome the broader thrust of your proposal. I believe the idea of annual reductions, including necessary dismantlement, on the order of 5 percent of agreed mutual limits would be reasonable and would help preserve the necessary balance.

I would like to make clear that I have not asked General Jones for a specific endorsement of this declaration. His statement should not be interpreted as such an endorsement. But he does support the year-by-year percentage reductions concept as one possible acceptable approach to SALT III.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the letter from General Jones at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

OFFICE OF THE CHAIRMAN,
THE JOINT CHIEFS OF STAFF,
Washington, D.C., August 6, 1979.

Hon. GEORGE MCGOVERN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR MCGOVERN: I appreciated the opportunity to discuss arms control objectives with you on Tuesday and to review your draft declaration for SALT II Resolution of Ratification.

It is clear from your draft that we share a mutual concern about the outcome of SALT II—its failure to achieve deeper constraints on the strategic forces of both sides—and one overarching common objective—to get on immediately after ratification of SALT II with negotiations which will lead to substantial reductions and restraints. The

Joint Chiefs of Staff have consistently supported the goal of deeper reductions, with the additional proviso that they be mutual and balanced.

I welcome the broader thrust of your proposal. I believe the idea of annual reductions, including necessary dismantlement, on the order of 5 percent of agreed mutual limits would be reasonable and would help preserve the necessary balance.

I believe there are two key elements necessary to make this approach workable. One is that, as numbers are reduced, margins of capability become more important, and adequate verification therefore becomes still more vital. In my judgment, cooperative measures to supplement national technical means of verification will have to be an integral part of SALT negotiations in the days ahead.

Also, we must recognize that the Soviet approach to arms control shows no evidence of being based on altruism. We must insure that they have the necessary incentives to make significant reductions as a matter of national interest. Unilateral reductions on our part have been conspicuously unsuccessful in creating these incentives and I am convinced that only by a visible U.S. capability and determination to enforce equality, at any level, will the Soviets perceive their interests served by a balance of strategic forces at lower levels. This will require substantially more effort on our part.

If we proceed resolutely on that course, I believe we have a far better chance of meeting the objectives which you and I, as well as many others, support for SALT III.

Sincerely,

DAVID C. JONES,
General, USAF.

Mr. McGOVERN. Mr. President, the SALT II ceilings and subceilings could be reduced by a percentage figure each year, for example, 5 or 10 percent, for a period of years leading to a reduction which would qualify, in the words of the joint statement, as "significant and substantial." An across-the-board annual reduction by a percentage figure could be quick to negotiate. It could be done as a SALT III agreement or as an amendment to SALT II under article XVII of the treaty.

One of the major benefits of this approach would be to create new public confidence by showing a process of reductions spread over a reasonable period. Since there would not be any big jumps in any single year, it could be accepted by our military and civilian security planners. A gradual and sustainable process is needed to improve the diplomatic climate between the United States and the Soviet Union.

It should be noted that there is no requirement in the declaration for either a minimum cumulative reduction or a minimum term of years for the reductions. The negotiators should have maximum flexibility to reach agreement on these provisions.

However, it should be clear that this declaration utilizes the joint statement agreement on significant and substantial reductions as a starting point. The annual reductions and the cumulative reductions must be significant and substantial.

In addition, these significant and substantial reductions must be negotiated and put into effect quickly to be strategically meaningful.

In my own view, a 25-percent to 30-percent cumulative reduction in the SALT II ceilings and subceilings over the duration of SALT III should be regarded as the minimum acceptable definition of significant and substantial reductions. A 30-percent reduction could be achieved at a 5-percent rate over 8 years, an 8-percent rate over 5 years, or by a 10-percent rate over 4 years. I suggest these figures to convey a sense of magnitude. We do not want cosmetic reductions. We need to start cutting arsensals down to size.

I recently asked the Library of Congress to analyze the likely impact of 5-percent and 10-percent annual cuts in the ceilings and subceilings of SALT II for American and Soviet forces. The Library of Congress study examines the impact of 5 percent and 10 percent annual reductions on American and Soviet strategic forces. The study examines a "most likely case" result in terms of delivery vehicles and launchers, warheads, megatonnage, and equivalent megatonnage. It should be pointed out that negotiations would have flexibility to implement the percentage annual reductions program to produce outcomes which are different from the ones analyzed by the Library of Congress. Therefore, the Library's findings are illustrative rather than definitive of the impact of this declaration if it were implemented.

If the percentage reductions were to begin in 1981 on a compounded basis, a 5-percent annual reduction would leave the United States in 1988 with approximately 1,500 launchers and delivery vehicles and about 8,400 warheads. The Soviets would have the same number of launchers and about 7,250 warheads. So even a 30-percent reduction spread over 8 years at a 5 percent annual rate would leave both sides with enormous overkill. The Library's estimates include an American deployment of MX and Soviet retention of the maximum number of heavy ICBM's permitted under the reduced ceilings.

I would like to see the reductions go further than 30 percent. For example, the Library of Congress study predicts that a 10-percent annual reduction beginning in 1981 would leave both sides by 1990 with 785 launchers and delivery systems each while permitting the United States under the most likely scenario with 5,200 warheads and the Soviets with 4,700 warheads.

Mr. President, I ask unanimous consent to insert the text of the Library of Congress study, entitled, "Reducing the Number of U.S. and Soviet Strategic Offensive Weapons: An Analysis of Two SALT III Options, Based on the SALT II Ceilings," along with the letter of transmittal from the Honorable Gilbert Gude, at the conclusion of my remarks. I would like to thank the Library's analysts, Dr. Anibal Tinajero and Dr. Stuart Goldman, for their excellent research.

Paragraph (4) defines the terms ceilings and subceilings for the purpose of this declaration. According to paragraph (4), the annual reductions would apply to the 2250 aggregate number of launchers and delivery vehicles, the 1320 MIRV's and heavy bombers with cruise missiles, the 1200 MIRV'd ballistic missiles, the 820 land-based MIRV'd ICBM's and the 308 land-based heavy MIRV'd ICBM's. This makes clear that Soviet heavy ICBM's should be considered a subceiling which must be reduced. If adopted, the percentage reductions idea would lower the number of heavy missiles aimed at us. In my view, this is a more important question than whether we have the abstract right to build heavies which we do not plan to do any way. A 5-percent annual reduction of Soviet MIRV'd SS-18's beginning in 1981 would lower them by 1990 to 184 from 308 while a 10-percent, annual reduction by 1990 would lower them to 108.

Paragraph (5) of the declaration urges that exceptional efforts should be made to reduce land-based ICBM's equipped with MIRV's, which are the most destabilizing weapon system. It should be feasible, for example, to reduce the other ceilings by 5 percent and the MIRV'd ICBM subceilings by 7 percent or 8 percent. The negotiators should make this attempt.

Paragraph (6) reinforces the agreement in the joint statement to seek more far-reaching, qualitative limitations. While the SALT process takes a modest step forward, nuclear arms technology is galloping ahead. MIRV technology negated the benefits from SALT I. Now, counterforce accuracy improvements threaten to negate the modest benefits of SALT II. In addition, new antiballistic missile technology, particle beam weapons, and laser systems are all waiting in the wings.

Technology must not be allowed to race ahead of diplomacy. Subparagraphs (A) and (B) represent endorsements of the agreements by the parties in the joint statement of principles. Subparagraph (c) is an attempt to address the problem of proliferating warheads which seems to negate the military benefits of quantitative reductions in the number of launchers. The SALT II fractionation limit was a small first step, but the limits permitted each side are more than adequate for counterforce capabilities. SALT III must do more to assume the survivability of existing forces and to promote strategic stability by imposing more effective qualitative controls.

Subparagraph (D) makes clear that qualitative constraints should be applied to emerging new areas of technology as well.

Any program of reductions and qualitative limitations must be adequately verifiable by national technical means or by additional cooperative measures where these are required. Paragraph (7) of the declaration emphasizes this requirement. It should be noted, however, that quantitative reductions on an annual percentage basis would be one of the most easily verifiable agreements to make. I do not anticipate that reductions and dismantling would raise any new verification problems. However, the declaration makes clear that cooperative measures should be resorted to if they are needed.

Paragraph (8) states the conclusion of the Senate that any new agreement to reduce should be given effect as soon as possible and, in any event, well in advance of the expiration in 1985 of the SALT II treaty. The parties have already agreed in article XVI to begin promptly negotiations to achieve a new agreement as soon as possible. This undertaking deserves our support. But we must go the next step as well so that reductions can begin before the highest levels permitted in SALT II have been reached. The sooner a new agreement can be put into effect, the better off we will be in terms of national security. If we wait until 1985, it will take us many additional years of reductions just to make up for the lost time.

This paragraph also makes clear that the parties should consider accomplishing the annual reductions program through amending SALT II. Utilizing the SALT II ceiling and subceilings as the baseline for future reductions will facilitate this amendment option and would obviate the need to go through another lengthy round of comprehensive negotiations. If both parties want to enhance their own security and clarify their intentions to the other, then the negotiation of a single percentage reduction figure to be applied to the SALT II levels is the most direct approach to take.

Paragraph (9) requests the President to transmit a report to the Senate on the SALT III negotiations by the expiration of the protocol at the end of 1981. It is reasonable to expect that substantial negotiations will have occurred and that the outlines of a possible agreement will have emerged at that time. At least the proposal for percentage annual reductions should have been presented by that time.

Finally, paragraph (10) makes clear that the Senate regards the achievement of an agreement on substantial and significant reductions as the precondition for its consent to any future SALT treaty. The issue is whether the goal of substantial reductions will be taken seriously or whether this declaration will be ignored or finessed in the negotiations. The Senate must make clear to this and to future administrations that the SALT process has failed and that the priorities of the negotiators must move away from cosmetic agreements which codify the existing arms race and move toward serious reductions in arsenals which can improve the security of the United States.

This final paragraph states the present intention of the Senate regarding a possible future event. There are constitutional limitations since the Senate cannot bind a future Senate with regard to the advice and consent power. But this statement of present intention should be regarded with great care and caution by the administration since there is nothing in the forseeable future which is likely to cause a shift of opinion about SALT in Congress other than a significant new arms limitation initiative. Therefore, although this declaration does not impose any legally binding obligations on a future Senate, it does convey accurately a climate of opinion which is not likely to change unless substantial reductions become the order of the day.

Mr. President, SALT III will undoubtedly include a full agenda of difficult and complex issues. Senator CHAFEE and I have not attempted to address each and every one in this declaration. For example, the whole matter of theater nuclear systems is not covered in this declaration. We decided to prune away most other issues not because they should not be included in the negotiations, but because we want to focus the attention of the Senate and of the American people on the centerpiece of arms limitations talks—the concept of visible, systematic, and meaningful reductions. Arms reductions which are mutual, equitable, and substantial are the only true guarantees of national security in the nuclear age.

Mr. President, I ask unanimous consent that the text of this declaration, together with a relevant study by the Library of Congress be printed in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 563

Before the period at the end of the resolution of ratification insert a comma and the following: "subject to the declaration that the Senate—

"(1) expresses its disappointment that strategic arms limitations talks between the United States and the Union of Soviet Socialist Republics (hereafter in this declaration referred to as the 'Parties') have failed to achieve an agreement providing for major reductions of, and more significant qualitative limitations on, strategic nuclear forces;

"(2) endorses the agreement of the Parties under the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms (hereafter in this declaration referred to as the 'Joint Statement'), signed on June 18, 1979, to pursue, through further negotiations for an agreement on further measures for the limitation and reduction of strategic arms, the objectives of significant and substantial reductions in the numbers of strategic offensive arms and qualitative limitations on such arms, and affirms that the attainment of such objectives would strengthen strategic stability, maintain international peace, and enhance the national security of the United States;

"(3) urges and requests the President, at the earliest possible moment during the SALT III negotiations, to pursue continuous year-by-year reductions in the ceilings and subceilings under the Treaty so as to take advantage of the Treaty already negotiated and to begin a sustainable and effective process of reductions in strategic arms which promotes strategic equivalence and strategic stability;

"(4) intends the phrase 'ceilings and subceilings under the Treaty', as used in paragraph (3) of this declaration, to mean—

"(A) the aggregate number of strategic offensive arms permitted to each Party under Article III of the Treaty;

"(B) the number of fixed heavy intercontinental ballistic missile (ICMB) launchers permitted under paragraphs 3 and 7 of Article IV of the Treaty; and

"(C) the number of such arms permitted under each limitation of Article V of the Treaty;

"(5) urges that the President, in seeking an agreement on reductions in such arms, make exceptional efforts to reduce the number of ICBMs equipped with multiple independently targetable reentry vehicles (MIRVs);

"(6) urges the President, during SALT III negotiations, to seek further agreement on qualitative limitations on strategic offensive arms for the purpose of promoting strategic stability and strategic equivalence and of assuring the survivability of strategic nuclear forces, including—

"(A) restrictions on the development, testing, and deployment of new types of strategic offensive arms;

"(B) restrictions on the modernization of such arms which were developed, tested, or deployed on the date of entry into force of the Treaty;

"(C) restrictions on and reductions in the number of reentry vehicles with which ICBMs, submarine-launched ballistic missiles (SLBMs), and Air-to-surface ballistic missiles (ASBMs) may be flight-tested or deployed; and

"(D) restrictions on potentially destabilizing advances in technology relating to strategic nuclear weapons;

"(7) emphasizes that any qualitative or quantitative reductions or restrictions called for under this declaration should be adequately verifiable by national technical means or by additional cooperative measures which contribute to the effectiveness of verification of compliance with the Treaty by national technical means, as provided by the Joint Statement;

"(8) supports the undertaking by the Parties in Article XIV of the Treaty to begin promptly negotiations to achieve agreement as soon as possible, and concludes that the Parties should also seek to give effect well in advance of 1985 to new agreements or to amendments to the Treaty, as provided in Article XVIII of the Treaty, which are consistent with this declaration;

"(9) requests the President, not later than December 31, 1981, to prepare and transmit to the Senate a report on the progress achieved during SALT III negotiations; and

"(10) expresses its intention not to advise and consent to the ratification of any SALT III Treaty which does not comply substantially with this declaration".

REDUCING THE NUMBER OF U.S. AND SOVIET STRATEGIC OFFENSIVE WEAPONS: AN ANALYSIS OF TWO SALT III OPTIONS, BASED ON THE SALT II CEILINGS

With the conclusion of the SALT II Treaty, one argument which has arisen in the debate has been directed toward the limitations of existing approaches to arms control because they have failed to achieve sizeable reductions in strategic weapons inventories. Therefore, it is appropriate to explore alternative approaches that might form a basis for future U.S.-Soviet strategic arms control negotiations. One type of approach is based on various proposals that the Soviet Union and the United States would agree to percentage annual reductions of inventories, either from the ceilings imposed by SALT II or from actual inventories as of the coming into force of SALT II. Annual reductions of both 5 percent and 10 percent from the preceding year's level have been suggested, using the ceilings established by the SALT II Treaty as a starting point. This set of proposals, then, consists of two distinctive options:

OPTION I

A five (5) percent annual reduction of the numbers of strategic offensive arms allowed under the provisions for ceilings contained in the SALT II Treaty. Annual reductions to begin January 1, 1981, and to continue through the end of 1990. The percentage reduction on the arms ceilings would be applied on the prior year's ceilings.

OPTION II

Same as Option I, except that the annual reduction of the ceilings would be ten (10) percent.

PURPOSE AND SCOPE

Assessment of these options must include consideration of what the composition of each side's strategic forces would be over the course of an agreement. The purpose of this analysis is to project likely—or at least plausible—U.S. and Soviet strategies for maintaining inventories within ceilings established under each of the options identified above, and then to identify the number of strategic nuclear delivery systems, nuclear warheads and their aggregate yields and "equivalent megatonnage" (EMT), and the effect on current strategic weapon programs if the United States and the Soviet Union agreed to one of the weapons reduction options stated above. An overall assumption is that the two countries could agree on adequate means of verifying that the various reductions had occurred. Because only unclassified data were used in projecting the strategic offensive weapon inventories, numbers of warheads and their yields, the numbers presented herein should be considered rough approximations. Congressional testimony by officials of the Department of Defense has been used as a primary source in projecting what weapon systems are being planned for introduction or retirement. For the derivation of aggregate number of warheads and yield, figures presented by a former government official during recent hearings on the SALT II Treaty were used. Individual citations are provided where appropriate.

For purposes of background, data regarding existing U.S. Soviet inventories (as of June 18, 1979, the signing of the SALT II Treaty) of strategic offensive weapons are presented below.

The U.S. declared that as of June 18, 1979, it possessed the following numbers of strategic arms subject to the limitations provided for in the SALT II Treaty: [1]

Launchers of ICBMs	1,054
Launchers of SLBMs	656
Heavy Bombers	573
Total Inventory	2,283

Contained within these totals are the following numbers and types of strategic arms:

Launchers of ICBMs:	
Minuteman III	550
Minuteman II	450
Titan II	54
Launchers of SLBMs:	
Poseidon	496
Polaris	160
Heavy Bombers:	
B-52	569
B-1	4

The U.S.S.R. declared that as of June 18, 1979 it possessed the following numbers of strategic arms subject to the limitations provided for in the SALT II Treaty: [2]

Launchers of ICBMs	1,398
(Launchers of MIRVed ICBMs)	(608)
Launchers of SLBMs	950
(Launchers of MIRVed SLBMs)	(144)
Heavy bombers	156
Total SNDVs	2,504

Contained within these totals are the following numbers and types of strategic arms:

Launchers of ICBMs:	
SS-18	26
SS-18 (MIRVed)	171
SS-19	30
SS-19 (MIRVed)	171
SS-17	20
SS-17 (MIRVed)	100
SS-13	60
SS-11	709
SS-9	111
Launchers of SLBMs:	
SSN-18	148
SSN-17	12
SSN-8	292
SSN-6	502
Heavy Bombers:	
Bear and Bison	156

PROJECTED U.S. AND SOVIET STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER OPTION NO. I

Under both options, ceilings for each year are derived from the initial SALT II ceilings. Thus, if one component of either country's force were below a ceiling for a given year, it would not have to reduce that component by 5 percent or 10 percent, but rather just assure that it remained below a ceiling which was established by a 5 percent or 10 percent reduction. Shown below are the annual strategic weapons ceilings that would limit U.S. and Soviet forces under Option No. I.

OPTION NO. I—PROPOSED SALT III CEILINGS—5 PERCENT ANNUAL REDUCTIONS

[SALT II ceilings used as initial allowable inventories [1]]

	End of year—									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
MIRVed ICBM's (820) [1]	779	740	703	668	635	603	573	544	517	410
MIRVed ballistic missiles (1,200) [1]	1,140	1,083	1,029	977	929	882	838	796	756	718
MIRVed ballistic missiles and ALCM bombers (1,320) [1]	1,254	1,191	1,132	1,075	1,021	970	922	876	832	790
Delivery systems (2,250) [1]	2,138	2,031	1,929	1,833	1,741	1,654	1,571	1,493	1,418	1,347

[1] Under the provisions contained in the SALT II Treaty, by the end of 1980 the Soviet Union and the United States cannot possess more than 2,250 delivery systems. Within this ceiling, 1,320 delivery systems can be MIRVed ballistic missiles and ALCM bombers. However, only 1,200 MIRVed ballistic missiles are allowed within the 1,320 subceiling, and no more than 820 of the 1,200 MIRVed ballistic missiles may be ICBM's. The Soviet Union would not be permitted to possess more than 308 "heavy" ICBM's (SS-18's and SS-19's).

Based on these ceilings, estimates of the projected U.S. and Soviet strategic offensive weapon inventories are shown in Tables I and II (pages 9 and 14).

The figures presented in Table I are based on the following assumptions:

(1) The U.S. would continue to rely on the strategic "triad" (land-based intercontinental ballistic missiles [ICBMs], submarine-launched ballistic missiles [SLBMs], and land-based bomber aircraft) for its strategic nuclear weapons inventory. Assumptions regarding the retirement of certain weapons systems are based on the requirement to achieve the reduced levels under the proposed SALT III ceilings. The systems cited for retirement or projected modernization were chosen on the basis of the assumption that there is a need for a balanced triad of modern weapon systems within the allowable ceilings.

(2) 100 Minuteman III ICMs would be armed with MK-12A RVs by the end of 1981, another 100 in 1982, and 100 in 1983. The Air Force plans to equip 300 Minuteman III ICBMs with MK-12A reentry vehicles (RVs) starting in FY 1980.

(3) 25 M-X ICBMs would be deployed by the end of 1986, and deployments would continue at a rate of 60 missiles per year until 238 missiles are operational. It is also assumed that all Minuteman III missiles would be retired by the end of 1990, in the interest of maintaining balanced capabilities of the ICBM forces in relation to the SLBM and bomber aircraft forces. The Air Force plans to achieve initial operational capability (IOC) of the M-X ICBM system when it deploys 10 missiles in September 1986, and full operational capability (FOC) after it has deployed 200 missiles by the end of 1989.

(4) 19 Poseidon-equipped nuclear-powered ballistic missile submarines (SSBNs) would be retired from the strategic forces by the end of 1986 (three in 1982, six in 1983, five in 1984, four in 1985, and one in 1986).[3] The 12 remaining Poseidon SSBNs (each equipped with 16 SLBM launchers) would be "backfitted" with Trident I SLBMs at the rate of two SSBNs per annum (three by the end of 1979, four in 1980, four in 1981, and one in 1982). The Navy plans to "backfit" 12 Poseidon SSBNs with Trident SLBMs starting FY 1980. According to the Navy, 11 of these SSBNs will be armed with Trident I SLBMs by the end of 1981.

(5) Twelve Trident SSBNs (each equipped with 24 SLBM launchers) would be deployed by the end of 1990. Eight Trident SSBNs (Ohio-class) have been authorized and funded. The Navy projects that two Trident SSBNs would be operational by the end of 1981, three in 1982, five in 1983, seven in 1985, and eight in 1986. It is assumed that additional Trident SSBNs will be authorized, and that delivery of additional Trident SSBNs would start in 1987 at the rate of one per year. Trident SSBNs will be equipped initially with Trident I SLBMs, and later armed with Trident II SLBMs. It is assumed that Trident II SLBMs would be deployed in Trident SSBNs commissioned after 1985.

(6) Five B-52 bombers would be equipped with air-launched cruise missiles (ALCMs) by the end of 1981, and additional B-52s would be equipped with ALCMs at a rate of 20 bombers per year. The Air Force plans to arm about 120 B-52s with ALCMs. The IOC of one B-52G equipped with ALCMs is planned for September 1981, and the last ALCM is to be delivered in January 1987.[4]

(7) The Air Force would try to retain most of its currently strike-configured B-52 bombers.[5] However, the oldest of these bombers would be retired, to permit the retention of Titan II and Minuteman II ICBMs in the strategic inventory. The four existing B-1 bombers would be retained through 1983 to serve as research and development (R&D) aircraft.

(8) The inventory of Titan II ICBMs would be reduced by 5 percent per annum, if the Soviet Union insisted that the five percent annual reduction of "heavy" ICBMs must also apply to the U.S. inventory of Titan ICBMs.

(9) Polaris SSBNs (each equipped with 16 SLBM launchers) would be retired shortly after they complete 20 years of service. It is projected that the number of Polaris SSBNs in service would be seven by the end of 1981, five in 1982, three in 1983, two in 1984, and one in 1985.

Footnotes at end of article.

TABLE I.—PROJECTED U.S. STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER PROPOSED OPTION NO. I FOR SALT III

Delivery system	End of year—									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	450	350	250	250	250	173	45			
Minuteman III (MK-12A)	100	200	300	300	300	300	300	219	100	
M-X						25	85	145	200	238
Subtotal MIRVed ICBM's	550	550	550	550	550	498	430	364	300	238
Poseidon	320	256	160	80	16					
Trident I (Backfit)	176	192	192	192	192	192	192	192	192	192
Trident I (Ohio class)	48	72	120	144	168	168	168	168	168	168
Trident II (Ohio class)						24	48	72	96	120
Subtotal MIRVed ballistic missiles	1,094	1,070	1,022	966	926	882	838	796	756	718
B-52 (with ALCM's)	5	25	45	65	85	88	84	80	76	72
Subtotal MIRVed ballistic missiles and ALCM bombers	1,099	1,095	1,067	1,031	1,011	970	922	876	832	790
B-52	338	318	298	276	222	194	161	131	102	75
B-1	4	4	4							
Titan II	51	49	46	44	42	40	38	36	34	32
Minuteman II	450	450	450	450	450	450	450	450	450	450
Polaris	112	80	48	32	16					
Grand total	2,054	1,996	1,913	1,833	1,741	1,654	1,571	1,493	1,418	1,347

The figures for Soviet forces presented in Table II are based on the following assumptions:

(1) While maintaining a large force of fixed, land-based ICBMs, the U.S.S.R. would deploy an increasing proportion of its strategic weapons in SLBMs and land-based bomber aircraft carrying ALCMs. This shift away from the earlier, predominantly land-based ICBM posture would derive from both improved technological capability and a desire to increase the mobility/survivability of their weapons against the threat of a U.S. "first strike" employing highly accurate M-X missiles. The resulting Soviet strategic posture would come to resemble the U.S. "triad," but with less reliance on bomber aircraft.

(2) SS-18 heavy ICBMS would be deployed to the maximum limit allowed by treaty. The full deployment of 308 missiles allowed by SALT II would consist of 280 MIRVed missiles, each with eight RVs. This would provide for targeting each of the 1,054 U.S. ICBM silos with two RVs with some reliability. A total of 28 SS-18s would be deployed with single 20 MT warheads for extremely hard targets, such as command centers, dams, etc. These deployments would be reduced by the proposed reduction rate. In 1986 all remaining single-warhead SS-18s would be MIRVed to maximize the number of RVs. The new SS-X (discussed below), with a single 15 MT warhead, would take over the SS-18s' role against extremely hard targets.

(3) SS-19 and SS-17 ICBMs would be deployed in numbers sufficient to reach the ceiling allowed for MIRVed ICBMs, when combined with SS-18s. Under SALT II, 512 SS-19s and SS-17s would be deployed (820 minus 308 SS-18s) as follows: 240 MIRVed SS-19s with six RVs each, 200 MIRVed SS-17s with four RVs each, and 36 SS-19s and 36 SS-17s with single warheads. The MIRVed SS-19s and SS-17s would provide a total of 2,240 RVs, identical in number and mission to the MIRVed SS-18s, providing perfect redundancy or back up. The single-warhead SS-19s and SS-17s would be MIRVed in 1986 to maximize the number of RVs, as the new single-warhead SS-X missile is deployed in 1986.

(4) Nine new Typhoon-class SSBNs, equipped with SSN-18 MIRVed SLBMs would be deployed. One such ship is being prepared for service now,[6] two would be deployed by 1981, and one more would be added annually through 1988 to a total of nine. The number of such ships would not exceed nine in order to keep within the proposed SALT III ceiling on MIRVed ballistic missiles.

(5) The nine Delta III-class SSBNs equipped with SSN-18 MIRVed SLBMs would remain in service through 1990.

(6) A new air launched cruise missile carrier (CMC) would be developed. It is estimated that each new CMC would carry approximately 20 ALCMs. Fifteen such CMCs would be deployed in 1986, and 30 more would be added annually to a total of 137 in 1990.

(7) The 750 SS-11 ICBMs deployed in December 1978 [7] would be retired by 1985 to comply with the treaty ceiling of allowable strategic nuclear delivery systems.

(8) The U.S.S.R. would exercise its SALT II Treaty option of developing one new ICBM with its SS-X, a large (but technically not a "heavy") ICBM. SS-X would carry a single 15 MT warhead,[8] since by the 1986 deployment date the U.S.S.R. would already be at the treaty ceiling of MIRVed ballistic missiles. Initial deployment of SS-Xs would be 60 in 1986, building to a total of 277 in 1990. Soviet production capacity of approximately 125 missiles per year would make possible a much larger and more rapid deployment of SS-Xs, but the limits of Option I would result in the deployment as described above.

(9) The 60 SS-13 ICBMs presently deployed [9] would be retired in 1985 and 1986 as a result of the decreasing limits under Option I, and the initial deployment of 60 SS-X ICBMs in 1986.

Footnotes [1] through [11] on p. 30348.

(10) All SS-9 ICBMs as well as Golf-class SSBs and Hotel-class SSBNs would be retired from the strategic forces prior to 1981, replaced by more modern weapons. The Golf- and Hotel-class boats, followed by Yankee and Delta I's, could be converted to other uses, such as sea-control submarines.

(11) The Yankee I-class SSBN, equipped with 16 SSN-6 SLBMs would be modified (backfitted) to accommodate 12 SSN-17 SLBMs. The SSN-17 is estimated to have 48 percent greater range and 2½ times greater accuracy than the SSN-6. Assuming a backfitting capability of six boats per year, the three backfitted SSBNs deployed in December 1978 [9] (designated Yankee II-class) would rise to 10 in 1981 and 16 in 1982, equipped with 192 SSN-17 SLBMs. In 1982, the 22 Yankee I-class boats deployed in 1981 would be reduced by the backfit program to 16. The number would shrink to 12 in 1986, three in 1987, and zero in 1988 as a result of the annual reductions under the limits of Option I. Eight of the 16 Yankee II-class SSBNs would be retired in 1988, six more in 1989, and the last two in 1990.

(12) The four Delta II-class SSBNs, each equipped with 16 SSN-8 SLBMs would remain deployed through 1990.

(13) The 18 Delta I-class SSBNs, each equipped with 12 SSN-8 SLBMs would remain deployed through 1990.

(14) A Strategic Long Range Bomber Force would be kept in service. It would rely on old Bear and Bison aircraft until the new, ALCM-equipped bomber is deployed beginning in 1986. Thirty-three Bear bombers would be deployed from 1981 to 1985, of which one would be lost through attrition. Fifteen Bears would be retired in 1986, and the remaining 17 in 1987. Thirty-five Bisons, carrying the Kangaroo air-to-ground missile, would be deployed from 1981 to 1985, of which one would be lost through attrition. Eighteen Bisons would be retired in 1986, four more in 1987, and the remainder in 1988, at which time the Long Range Bomber Force would be comprised entirely of ALCM bombers.

TABLE II.—PROJECTED SOVIET STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER SALT III PROPOSED OPTION NO. I

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18 [1]	27	25	24	22	21					
SS-18 (MIRV)	266	253	240	229	217	226	215	204	194	194
SS-19 [1]	34	34	34	34	34					
SS-19 (MIRV)	228	228	228	228	228	262	262	262	209	145
SS-17 [1]	34	30	26	22	18					
SS-17 (MIRV)	190	170	151	133	117	110	57			
Subtotal, MIRVed ICBM's [2]	779	740	703	668	635	598	534	466	403	329
SSN-18 (MIRV) (Typhoon class)	40	60	80	100	120	140	160	180	180	180
SSN-18 (MIRV) (Delta III class)	144	144	144	144	144	144	144	144	144	144
Subtotal, MIRVed ballistic missiles	963	944	927	912	899	882	838	790	727	653
Bombers (ALCM)						15	45	75	105	137
Subtotal, MIRVed systems and ALCM bombers	963	944	927	912	899	897	883	865	832	79

TABLE II.—PROJECTED SOVIET STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER SALT III PROPOSED OPTION NO. I—Continued

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-11	295	231	147	67						
SS-X						60	160	252	277	277
SS-13	60	60	60	60	48					
SSN-17 (Yankee II class)	120	192	192	192	192	192	192	96	24	
SSN-6 (Yankee I class)	352	256	256	256	256	192	48			
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	216	216
Bear	33	33	33	32	32	17				
Bison	35	35	34	34	34	16	6			
Grand total	2,138	2,031	1,929	1,833	1,741	1,654	1,571	1,493	1,413	1,347

[1] All SS-17, SS-18, and SS-19 missiles are counted as MIRVed ICBM's under Article II of the SALT II Treaty, since they have been flight tested in a MIRVed mode. Some of these missiles may be deployed with single warheads.

[2] The subtotal of MIRVed ICBM's includes single-warhead as well as MIRVed SS-17, SS-18, and SS-19 ICBM's, as explained in note above.

Presented in Tables III and IV is a breakdown of the aggregate number of U.S. strategic nuclear warheads and their aggregate yield in megatons (MT), deployable with the respective delivery systems shown in Table I. The figures presented in these tables are based on the following unclassified estimated data and assumptions:

(a) Minuteman III ICBMs can carry three MK-12 or MK-12A MIRVs. The MK-12 RV is equipped with a 0.17 MT warhead. The MK-12A RV is equipped with a 0.335 MT warhead.[16]

(b) M-X ICBMs will be equipped with 10 MK-12A MIRVs.

(c) The average Poseidon SLBM carries nine MIRVs. Each RV carries a 0.04 MT warhead.[17]

(d) The average Trident I SLBM will carry about eight MIRVs. Each RV will carry a 0.100 MT warhead.[18]

(e) The average Trident II SLBM will carry about eight MIRVs. Each RV will carry a 0.150 MT warhead.

(f) Each B-52 bomber equipped with ALCMs will carry 20 missiles. Each ALCM will have a 0.200 MT warhead.[19]

(g) B-52s not armed with cruise missiles will carry an average weapons load consisting of two bombs and four SRAMS (short range attack missiles). Each bomb will be armed with a 1 MT warhead, and each SRAM will be equipped with a 0.200 MT warhead. The aggregate weapons yield for B-52s equipped with bombs and SRAMs, shown in Table IV, is derived by multiplying the number of aircraft shown in Table I by 2.8 MT (2 MT for two bombs plus 0.800 MT for four SRAMs equals 2.8 MT). The B-1 R&D aircraft are counted within the ceiling on delivery systems, but are considered to be non-operational bombers.

(h) Titan II ICBMs carry a single 9 MT warhead.[11]

(i) Minuteman II ICBMs carry a single 1.2 MT warhead.[11]

(j) Polaris SLBMs carry three MRVs (multiple reentry vehicles). Each MRV is equipped with a 0.220 MT warhead.[11] Polaris SLBMs are counted as single-warhead ballistic missiles under the terms of the SALT II treaty.

FOOTNOTES

[1] Statement of Data on the Numbers of Strategic Offensive Arms as of the Date of Signature of the [SALT II] Treaty. In U.S. Congress. Senate. Treaty on the Limitation of Strategic Offensive Arms and Protocol Thereto (SALT II Treaty). Message from the President . . . June 25, 1979. Executive Y, 96th Congress, 1st session. Washington, U.S. Govt. Print Off., 1979. p. 70.

[2] Statement of Data on the Numbers of Strategic Offensive Arms as of the Date of Signature of the [SALT II] Treaty. In Ibid., p. 69.

[3] Some of the POSEIDON SSBNs have a substantial number of years of seaworthiness left in them, and could be converted into sea-control submarines (SSNs) for the protection of the sea lanes.

[4] U.S. Congress. House. Committee on Armed Services. Hearings on Military Posture and H.R 10929, Department of Defense Authorization for Appropriations for Fiscal Year 1979 . . . 95th Cong., 2d sess. Part 3 of 7 parts, book 1 of 2 books. Research and Development, Title II. February, March, and April, 1978. (H.A.S.C., no 95-567) Washington, U.S. Govt. Print. Off., 1978. p. 245.

[5] As of June 18, 1979, there were 343 strike-configured B-52s. Statement of Paul H. Nitze, in U.S. Congress. Senate. Committee on Foreign Relations. The SALT II TREATY. Hearings . . . 96th Cong., 1st sess. on Ex. Y, 96-1 . . . July 1979, Part 1. Washington, U.S. Govt. Print. Off., 1979. p. 452. Hereafter cited as "Nitze statement, SALT II hearings."

[6] The number of SLBM launching tubes on the Typhoon SSBN is not available from unclassified sources. This study assumes 20 launching tubes.

[7] John M. Collins, *American and Soviet Military Trends: A Statistical Summary, 1970–1978*. August 22, 1979. 96 pp. (Draft, to be published.)

[8] Nitze statement, SALT II hearings, p. 460.

[9] John M. Collins, *American and Soviet Military Trends: A Statistical Summary, 1970–1978*. August 22, 1979. 96 pp. (Draft, to be published)

[10] Nitze statement, SALT II hearings, p. 458.

[11] Nitze Statement, SALT II hearings, p. 458.

TABLE III.—PROJECTED U.S. STRATEGIC WARHEADS DEPLOYABLE UNDER PROPOSED OPTION NO. I FOR SALT III

Delivery system	End of year									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	1,350	1,050	750	750	750	519	135			
Minuteman III (MK-12A)	300	600	900	900	900	900	900	657	300	
M-X						250	850	1,450	2,000	2,380
Subtotal, MIRVed ICBM's	1,650	1,650	1,650	1,650	1,650	1,669	1,885	2,107	2,300	2,380
Poseidon	2,880	2,304	1,440	720	144					
Trident I (Backfit)	1,408	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,536
Trident I (Ohio class)	384	576	960	1,152	1,344	1,344	1,344	1,344	1,344	1,344
Trident II (Ohio class)						192	384	576	768	960
Subtotal, MIRVed ballistic missiles	6,322	6,066	5,586	5,058	4,674	4,741	5,149	5,563	5,948	6,220
B-52 (ALCM's)	100	500	900	1,300	1,700	1,760	1,680	1,600	1,520	1,440
Subtotal, MIRVed ballistic missiles and ALCM bombers	6,422	6,566	6,486	6,358	6,374	6,501	6,829	7,163	7,468	7,660
B-52	2,038	1,908	1,788	1,656	1,332	1,164	966	786	612	450
B-1	NA	NA	NA							
Titan II	51	49	46	44	42	40	38	36	34	32
Minuteman II	450	450	450	450	450	450	450	450	450	450
Polaris	112	80	48	32	16					
Grand total	9,063	9,053	8,818	8,540	8,214	8,155	8,283	8,435	8,564	8,592

TABLE IV.—PROJECTED U.S. STRATEGIC MEGATONNAGE DEPLOYABLE UNDER PROPOSED OPTION NO. I FOR SALT III

Delivery system	End of year									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	230	179	138	128	128	88	23			
Minuteman III (MK-12A)	101	201	302	302	302	302	302	220	101	
M-X						84	285	486	670	797
Subtotal, MIRVed ICBM's	331	380	430	430	430	474	610	706	771	797
Poseidon	115	92	58	29	6					
Trident I (Backfit)	141	154	154	154	154	154	154	154	154	154
Trident I (Ohio class)	38	58	96	115	134	134	134	134	134	134
Trident II (Ohio class)						29	58	86	115	144
Subtotal, MIRVed ballistic missiles	625	684	738	728	724	791	956	1,080	1,174	1,229
B-52 (ALCM's)	20	110	180	260	340	352	336	320	304	288
Subtotal, MIRVed ballistic missiles and ALCM bombers	645	794	918	988	1,064	1,143	1,292	1,400	1,478	1,517
B-52	946	890	834	773	622	543	451	367	286	210
B-1	NA	NA	NA							
Titan II	459	441	414	396	378	360	342	324	306	288
Minuteman II	540	540	540	540	540	540	540	540	540	540
Polaris	74	53	32	21	11					
Grand total	2,664	2,708	2,738	2,718	2,615	2,586	2,625	2,631	2,610	2,555

Presented in Tables V and VI is a breakdown of the aggregate number of Soviet strategic nuclear warheads and their aggregate yield in megatons (MT), respectively, deployable with the weapons systems shown in Table II.

The figures presented in Tables V and VI are based on the following unclassified data and assumptions.[12]

(a) Single warhead SS-18 ICBMs will carry a 20 MT warhead.

(b) MIRVed SS-18s will carry eight RVs of 1 MT each; but beginning in 1986, MIRVed SS-18s will be deployed with 10 RVs of 1 MT each. The new generation of MIRVed SS-18s will be deployed at the rate of 37 annually so that all SS-18s will carry 10 RVs by 1990.

(c) Single warhead SS-19 ICBMs will carry a 10 MT warhead. MIRVed SS-19s will carry six RVs, each with a 0.75 MT warhead.

(d) Single warhead SS-17 ICBMs will carry an 8 MT warhead. MIRVed SS-17s will carry four RVs, each with a 0.75 MT warhead.

(e) Typhoon-class SSBNs will be equipped with 20 MIRVed SSN-18 SLBMs, each of which will carry seven RVs of 0.2 MT.

(f) Delta III-class SSBNs will be equipped with 16 MIRVed SSN-18 SLBMs, each of which will carry three RVs of 0.5 MT.

(g) The new CMC will carry approximately 20 large ALCMs, each with a 0.2 MT warhead.

(h) The SS-11 will carry a single 1 MT warhead.

(i) The SS-X, the one new ICBM permitted under SALT II, will carry a single 15 MT warhead.

(j) The SS-18 will carry a single 0.75 MT warhead.

(k) Yankee II-class SSBNs will carry 12 SSN-17 SLBMs, each with a single 0.75 warhead.

(l) Yankee I-class SSBNs will carry 16 SSN-6 SLBMs, each with a single 1 MT warhead.

(m) Delta II-class SSBNs will carry 16 SSN-8 SLBMs, each with a 1 MT warhead.

(n) DELTA I-class SSBNs will carry 12 SSN-8 SLBMs, each with a 1 MT warhead.

(o) Bear bombers will each carry only one Kangaroo missile with a 1 MT warhead.

(p) Bison bombers will each carry four 1 MT gravity bombs.

[12] Nitze statement, SALT II Hearings, p. 459–60.

TABLE V.—PROJECTED SOVIET STRATEGIC WARHEADS DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. I

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18	27	25	24	22	21					
SS-18 (8 MIRV's)	2,128	2,024	1,920	1,832	1,736	1,512	1,128	744	368	
SS-18 (10 MIRV's)						370	740	1,110	1,480	1,840
SS-19	34	34	34	34	34					
SS-19 (MIRV)	1,358	1,358	1,386	1,386	1,386	1,572	1,572	1,572	1,254	870
SS-17	34	30	26	22	18					
SS-17 (MIRV)	760	680	604	532	468	440	228			
Subtotal MIRVed ICBM's	4,351	4,161	3,994	3,828	3,663	3,894	3,668	3,426	3,102	2,710
SSN-18 (MIRV) (Typhoon class)	280	420	560	700	840	980	1,120	1,260	1,260	1,260
SSN-18 (MIRV) (Delta III class)	432	432	432	432	432	432	432	432	432	432
Subtotal MIRVed ballistic missiles	5,063	5,013	4,786	4,960	4,935	5,306	5,220	5,118	4,794	4,402
Bombers (ALCM)						300	900	1,500	2,100	2,740
Subtotal MIRVed systems and ALCM bombers	5,063	5,013	4,786	4,960	4,935	5,606	6,120	6,618	6,894	7,142
SS-11	295	231	147	67						
SS-X						60	160	252	277	277
SS-13	60	60	60	60	48					
SSN-17 (Yankee II class)	120	192	192	192	192	192	192	96	24	
SSN-6 (Yankee I class)	352	256	256	256	256	192	48			
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	216	216
Bear	33	33	33	32	32	17				
Bison	140	140	136	136	136	64	32			
Grand total	6,343	6,205	5,890	5,983	5,879	6,411	6,832	7,246	7,475	7,699

TABLE VI.—PROJECTED SOVIET STRATEGIC MEGATONNAGE DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. I

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18	540	500	480	440	420					
SS-18 (8 MIRV's)	2,128	2,024	1,920	1,832	1,736	1,512	1,128	774	368	
SS-18 (10 MIRV's)						278	555	833	1,110	1,380
SS-19	340	340	340	340	340					
SS-19 (MIRV)	1,026	1,026	1,026	1,026	1,026	1,179	1,179	1,179	941	653
SS-17	262	240	216	176	144					
SS-17 (MIRV)	570	510	453	399	351	330	171			
Subtotal, MIRVed ICBM's	4,876	4,640	4,435	4,213	4,017	3,299	3,033	2,786	2,419	2,033
SSN-18 (MIRV) (Typhoon class)	56	84	112	140	168	196	224	252	252	252
SSN-18 (MIRV) (Delta III class)	216	216	216	216	216	216	216	216	216	216
Subtotal, MIRVed ballistic missiles	5,148	4,940	4,763	4,569	4,401	3,711	3,473	3,254	2,88	2,501
bombers (ALCM)						60	180	300	420	548
Subtotal, MIRVed systems and ALCM bombers	5,148	4,940	4,763	4,569	4,401	3,771	3,653	3,554	3,307	3,049

TABLE VI.—PROJECTED SOVIET STRATEGIC MEGATONNAGE DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. I—Continued

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-11	295	231	147	67						
SS-X						900	2,400	3,780	4,155	4,155
SS-13	45	45	45	45	36					
SSN-17 (Yankee II class)	90	144	144	144	144	144	144	72	16	
SSN-6 (Yankee I class)	352	256	256	256	256	192	48			
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	216	216
Bear	33	33	33	32	32	17				
Bison	140	140	136	136	136	64	32			
Grand total	6,383	6,069	5,804	5,529	5,285	5,368	6,557	7,686	7,758	7,484

Presented in Table VIa is a breakdown of the aggregate number of "equivalent megatons" (EMT) [13] deployable with the respective number of U.S. strategic nuclear warheads shown in Table III. Comparable data of aggregate EMT for Soviet nuclear warheads (shown in Table V) are presented in Table VIb.

With the exception of U.S. B-52 bombers armed with bombs and SRAMs, and POLARIS SLBMs, the aggregate EMT of both U.S. and Soviet forces is computed by multiplying the aggregate number of warheads of each weapon system by the EMT value of the warhead. The aggregate EMT of B-52s armed with bombs and SRAMs is computed by multiplying the number of bombers (Table I) by the aggregate EMT of the weapons load carried by each bomber.[14] In the case of POLARIS SLBMs, however, the EMT of each POLARIS SLBM is derived by multiplying by three the EMT of the warhead carried by each MRV.

[13] EMT is a relative measure of the area destructive capability possessed by a nuclear warhead of given yield (Y). EMT is computed by the following

$$EMT = Y^{2/3}$$

Where the yield of the warhead (Y) is in megatons (MT).

[14] The aggregate EMT of two 1 MT bombs plus four 0.200 MT SRAMs is approximately equal to 3.37.

TABLE VIa.—PROJECTED U.S. STRATEGIC EMT DEPLOYABLE UNDER PROPOSED OPTION NO. I FOR SALT III

Delivery system	End of year									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	414	322	230	230	230	159	41			
Minuteman III (MK-12A)	145	289	434	434	434	434	434	317	145	
M-X						121	410	699	965	1,148
Subtotal, MIRVed ICBM's	559	611	664	664	664	714	885	1,016	1,110	1,148
Poseidon	337	269	168	84	17					
Trident I (Backfit)	303	331	331	331	331	331	331	331	331	331
Trident I (Ohio class)	83	124	207	248	290	290	290	290	290	290
Trident II (Ohio class)						54	108	163	217	271
Subtotal, MIRVed ballistic missiles	1,282	1,335	1,370	1,327	1,302	1,389	1,614	1,800	1,948	2,040
B-52 (ALCM's)	34	171	308	445	581	602	575	547	520	492
Subtotal MIRVed ballistic missiles and ALCM bombers	1,316	1,506	1,678	1,772	1,883	1,991	2,189	2,347	2,468	2,532
B-52	1,138	1,071	1,004	930	748	654	543	442	344	253
B-1	NA	NA	NA							
Titan II	221	212	199	190	182	173	164	156	147	138
Minuteman II	508	508	508	508	508	508	508	508	508	508
Polaris	122	87	52	35	17					
Grand total	3,305	3,384	3,441	3,435	3,338	3,326	3,404	3,453	3,467	3,431

TABLE VIb.—PROJECTED SOVIET STRATEGIC EMT DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. I

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18	199	184	177	162	155					
SS-18 (8 MIRV's)	2,128	2,024	1,920	1,832	1,736	1,512	1,128	744	368	
SS-18 (10 MIRV's)						370	740	1,110	1,480	1,840
SS-19	158	158	158	158	158					
SS-19 (MIRV)	1,129	1,129	1,144	1,144	1,144	1,298	1,298	1,298	1,035	718
SS-17	136	120	104	88	72					
SS-17 (MIRV)	627	561	499	439	386	363	188			
Subtotal, MIRVed ICBM's	4,377	4,176	4,002	3,823	3,651	3,543	3,354	3,152	2,883	2,558
SSN-18 (MIRV) (Typhoon class)	96	144	123	239	287	335	383	431	431	431
SSN-18 (MIRV) (Delta III class)	272	272	272	272	272	272	272	272	272	272
Subtotal, MIRVed ballistic missiles	4,745	4,592	4,397	4,334	4,210	4,150	4,009	3,855	3,586	3,261
Bombers (ALCM)						103	308	513	718	937
Subtotal, MIRVed systems and ALCM bombers	4,745	4,592	4,397	4,334	4,210	4,253	4,317	4,368	4,304	4,198
SS-11	295	231	147	67						
SS-X						365	973	1,533	1,685	1,685
SS-13	50	50	50	50	40					
SSN-17 (Yankee II class)	99	158	158	158	158	158	158	79	20	
SSN-6 (Yankee I class)	352	256	256	256	256	192	48			
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	216	216
Bear	33	33	33	32	32	17				
Bison	140	140	136	136	136	64	32			
Grand total	5,994	5,740	5,457	5,313	5,112	5,329	5,808	6,260	6,289	6,163

PROJECTED UNITED STATES AND SOVIET STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER OPTION NO. II

OPTION NO. II—PROPOSED SALT III CEILINGS—10 PERCENT ANNUAL REDUCTIONS (SALT II CEILINGS USED AS INITIAL ALLOWABLE INVENTORIES)

[Strategic weapon ceilings proposed under Option No. II]

	End of year—									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
MIRVed ICBM's (820)[1]	738	664	598	538	484	436	392	353	318	286
MIRVed ballistic missiles (1,200)[1]	1,080	972	875	787	709	638	574	517	465	418
MIRVed ballistic missiles and ALCM bombers (1,320)[1]	1,188	1,069	962	866	779	702	631	568	511	460
Delivery systems (2,250)[1]	2,025	1,823	1,640	1,476	1,329	1,196	1,076	969	872	785

[1] Under the provisions contained in the SALT II Treaty, by the end of 1980 the Soviet Union and the United States cannot possess more than 2,250 delivery systems. Within this ceiling, 1,320 delivery systems can be MIRVed ballistic missiles and ALCM bombers. However, only 1,200 MIRVed ballistic missiles are allowed within the 1,320 subceiling, and no more than 820 of the 1,200 MIRVed ballistic missiles may be ICBM's. The Soviet Union would not be permitted to possess more than 308 "heavy" ICBM's (SS-18's and SS-9's) within the allowable ceilings.

Based on these ceilings, estimates of the projected U.S. and Soviet strategic offensive weapon inventories are shown in Tables VII and VIII. The figures presented in Table VII are based on the following assumptions:

(1) The U.S. would continue to rely on the strategic "triad" for its strategic nuclear weapons inventory. Assumptions regarding the retirement of certain weapon systems are based on the requirement to achieve the reduced levels under the proposed SALT III ceilings. The systems cited for retirement or projected modernization were chosen on the basis of the assumption that there is a need for a balanced triad of modern weapon systems within the allowable ceilings.

(2) It is also assumed that all Minuteman III missiles would be retired by the end of 1990, in the interest of maintaining balanced capabilities of the ICBM forces in relation to the SLBM and bomber aircraft forces.

(3) Twenty-five M-X ICBMs would be deployed by the end of 1986, and deployments would continue at a rate of 60 missiles per year until 202 missiles are operational.

(4) An eventual U.S. goal would be an SSBN force consisting entirely of Trident SSBNs. All 31 Poseidon SSBNs would be retired from the strategic forces by the end of 1986 (one by the end of 1981, nine in 1982, nine in 1983, six in 1984, three in 1985, and three in 1986). If the Navy retained the Poseidon SSBNs, the construction of Trident SSBNs would have to stop. Current plans call for seven Poseidon SSBNs to be "backfitted" with Trident I SLBMs by the end of 1980. The calculations used to derive the data in Table VII assume that the "backfit" program would be canceled, because it would not be cost effective to equip additional Poseidon SSBNs with Trident I SLBMs if they were to be retired shortly thereafter.

(5) Nine Trident SSBNs would be deployed by the end of 1990. It is also assumed that the Trident II SLBM would not be deployed through the end of 1990, because seven Trident SSBNs would be equipped with Trident I SLBMs by the end of 1985.

(6) Five B-52 bombers would be equipped with ALCMs by the end of 1981, and additional B-52s would be equipped with ALCMs at the rate of 20 bombers per year.

(7) The United States would retain a balanced bomber force consisting of B-52s equipped with ALCMs and B-52s equipped with bombs and SRAMs. However, to be able to do so, the United States would retire some Minuteman III ICBMs.

(8) The inventory of Titan II ICBMs would be reduced by 10 percent per annum.

(9) Polaris SSBNs would be retired shortly after they complete 20 years of service. It is projected that the number of Polaris SSBNs in service would be seven by the end of 1981, five in 1982, three in 1983, two in 1984, and one in 1985.

TABLE VII.—PROJECTED U.S. STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER PROPOSED OPTION NO. II FOR SALT III

Delivery system	End of year									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	450	350	250	238	184	111				
Minuteman III (MK-12A)	100	200	300	300	300	300	273	156	49	
M-X						25	85	145	200	202
Subtotal, MIRVed ICBM's	550	550	550	538	484	436	358	301	249	202
Poseidon	368	224	80							
Trident I (Backfit)	112	112	112	96	48					
Trident I (Ohio class)	48	72	120	144	168	192	216	216	216	216
Trident II (Ohio class)										
Subtotal, MIRVed ballistic missiles	1,078	958	862	778	770	628	574	517	465	418
B-52 (with ALCM's)	5	25	45	65	79	74	57	51	46	42
Subtotal, MIRVed ballistic missiles and ALCM bombers	1,083	983	907	843	779	702	631	568	511	460
B-52	338	312	292	256	252	215	169	128	90	56
B-1	4	4	4							
Titan II	49	44	39	35	32	29	26	23	21	19
Minuteman II	400	400	350	300	250	250	250	250	250	250
Polaris	112	80	48	32	16					
Grand total	1,986	1,823	1,640	1,476	1,329	1,196	1,076	969	872	785

The figures for projected Soviet inventories under Option II are presented in Table VIII, and are based on the following assumptions:

(1) The Soviet strategic posture would come to resemble the U.S. "Triad," but with less reliance on bomber aircraft.

(2) The SS-18 "heavy" ICBM would be deployed to the maximum limit allowed by treaty, reduced annually by the proposed limits of Option II. In 1986, all remaining single-warhead SS-18s would be MIRVed to maximize the number of RVs, as some of the new SS-X (discussed below) probably would be deployed against extremely hard targets.

(3) SS-19 and SS-17 ICBMs would be reduced in number and eventually retired from service (1986 for SS-17s and 1990 for SS-19s) in order to allow the maximum deployment of SS-18 ICBMs and SSN-18 SLBMs.

(4) Five new Typhoon-class SSBNs equipped with SSN-18 MIRVed SLBMs would be deployed: two by 1981 and one added each year until the total of five is reached in 1984. Production of Typhoon-class SSBNs would be restricted to five by the limits on MIRVed ballistic missiles established by the proposed reductions.

(5) The nine Delta III-class SSBNs equipped with SSN-18 SLBMs would remain in service through 1990.

(6) A new CMC would be developed capable of carrying approximately 20 ALCMs. Fifteen CMCs would be deployed initially in 1986, with approximately 30 added annually to a total of 100 in 1990.

(7) All SS-11 ICBMs would be retired by 1983 to allow retention of more modern strategic nuclear delivery systems.

(8) A new ICBM, designated SS-X, would be developed and deployed with a single 15 MT warhead. SS-X would be deployed at the rate of approximately 40 per year beginning in 1986, reaching a total of 153 in 1989. The total would be frozen at 153 by the limits established by the proposed reductions.

(9) All SS-13 ICBMs would be retired by 1983.

(10) The 22 Yankee I-class SSBNs with their SSN-6 SLBMs would be retired from the strategic forces as follows: eight in 1984, four in 1985, seven in 1986, and the last three in 1987. It would not be economical to backfit these boats to fire the improved SSN-17 SLBM, since the boats would be retired from service so rapidly.

(11) The 10 Yankee II-class SSBNs equipped with SSN-17 SLBMs would remain in service through 1986. Two would be retired in 1987 and the remaining eight in 1988 to comply with the decreasing PAR/SALT III Treaty limits.

(12) The four Delta II-class SSBNs with their SSN-8 SLBMs would remain in service through 1990.

(13) Of the 18 Delta I-class SSBNs with their SSN-8 SLBMs, nine would be retired from the strategic forces as follows: six in 1989 and three in 1990.

(14) Approximately 70 Bear and Bison bombers would be kept in service in the Long Range Bomber Force through the mid-1980's, when they would be replaced by the new CMC. (See note 6 above.)

TABLE VIII.—PROJECTED SOVIET STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER SALT III PROPOSED OPTION NO. II

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18 [1]	25	22	19	17	15					
SS-18 (MIRV)	252	227	205	185	167	164	148	133	120	108
SS-19 [1]	34	34	34	34	34	2				
SS-19 (MIRV)	228	228	228	228	228	228	182	115	41	
SS-17 [1]	33	26	21	16						
SS-17 (MIRV)	166	127	19	58	21					
Subtotal, MIRVed ICBM's [2]	738	664	598	538	465	394	330	248	161	108
SSN-18 (MIRV) (Typhoon class)	40	60	80	100	100	100	100	100	100	100
SSN-18 (MIRV) (Delta III class)	144	144	144	144	144	144	144	144	144	144
Subtotal, MIRVed ballistic missiles	922	868	822	782	709	638	574	492	405	352
Bombers (ALCM)						15	46	76	106	108
Subtotal, MIRVed systems and ALCM bombers	922	868	822	782	709	653	620	568	511	460
SS-11	223	75								
SS-X						40	80	121	153	153
SS-13	60	60								
SSN-17 (Yankee II class)	120	120	120	120	120	120	96			
SSN-6 (Yankee I class)	352	352	352	274	160	48				
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	144	108
Bear	33	33	31	31	26	26				
Bison	35	35	32	32	34	29				
Grand total	2,025	1,823	1,637	1,469	1,329	1,196	1,076	969	872	785

[1] All SS-17, SS-18, and SS-19 ICBM's are counted as MIRVed ICBM's under Article II of the SALT II Treaty, since they have been flight tested in a MIRVed mode. Some of these ICBM's may be deployed with single warheads.

[2] The subtotal of MIRVed ICBM's includes single-warhead as well as MIRVed SS-17, SS-18, and SS-19 ICBM's, as explained in note above.

Presented in Tables IX and X is a breakdown of the aggregate number of U.S. strategic nuclear warheads and their aggregate yield in megatons (MT), respectively, deployable with the weapons systems shown in Table IV. The figures presented in Tables IX and X are based on the data and assumptions used in deriving the projections on warheads and yield estimated for Option No. I.

TABLE IX.—PROJECTED U.S. STRATEGIC WARHEADS DEPLOYABLE UNDER PROPOSED OPTION NO. II FOR SALT III

Delivery system	End of year—									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	1,350	1,050	750	714	552	333				
Minuteman III (MK-12A)	300	600	900	900	900	900	819	468	147	
M-X						250	850	1,450	2,000	2,020
Subtotal, MIRVed ICBM's	1,650	1,650	1,650	1,614	1,452	1,483	1,669	1,918	2,147	2,020
Poseidon	3,312	2,016	720							
Trident I (Backfit)	896	896	896	768	384					
Trident I (Ohio class)	384	576	960	1,152	1,344	1,536	1,728	1,728	1,728	1,728
Trident II (Ohio class)										
Subtotal, MIRVed ballistic missiles	6,242	5,138	4,226	3,534	3,180	3,019	3,397	3,646	3,875	3,748
B-52 (ALCM's)	100	500	900	1,300	1,580	1,480	1,140	1,020	920	848
Subtotal MIRVed ballistic missiles and ALCM bombers	6,342	5,638	5,126	4,834	4,760	4,499	4,537	4,666	4,795	4,588
B-52	2,028	1,872	1,752	1,596	1,512	1,290	1,014	768	540	336
B-1	NA	NA	NA							
Titan II	49	44	39	35	32	29	26	23	21	19
Minuteman II	400	400	350	300	350	250	250	250	250	250
Polaris	112	80	48	32	16					
Grand total	8,931	8,034	7,315	6,797	6,570	6,068	5,827	5,707	5,606	5,193

TABLE X.—PROJECTED U.S. STRATEGIC MEGATONNAGE DEPLOYABLE UNDER PROPOSED OPTION NO. II FOR SALT III

Delivery system	End of year—									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	230	179	128	121	94	57				
Minuteman III (MK-12A)	101	201	302	302	302	302	274	157	49	
M-X						84	285	486	570	677
Subtotal, MIRVed ICBM's	331	380	430	423	396	443	559	643	719	677
Poseidon	132	81	29							
Trident I (Backfit)	90	90	90	77	38					
Trident I (Ohio class)	38	58	96	115	134	154	173	173	173	173
Trident II (Ohio class)										
Subtotal, MIRVed ballistic missiles	591	609	645	615	568	597	732	816	892	850
B-52 (ALCM's)	20	100	180	260	316	296	228	204	184	168
Subtotal, MIRVed ballistic missiles and ALCM bombers	611	709	825	875	884	893	960	1,020	1,076	1,018
B-52	946	874	818	745	706	602	473	358	252	157
Titan II	441	396	351	315	288	261	234	207	189	171
Minuteman II	480	480	420	360	300	300	300	300	300	300
Polaris	74	53	32	21	11					
Grand total	2,552	2,512	2,446	2,316	2,189	2,056	1,967	1,885	1,817	1,646

Presented in Tables XI and XII is a breakdown of the aggregate number of Soviet nuclear warheads and their aggregate yield in megatons, respectively, deployable with the weapons systems shown in Table VIII. The figures presented in Tables XI and XII are based on the same data and assumptions used in deriving the projections estimated for Option No. I.

TABLE XI.—PROJECTED SOVIET STRATEGIC WARHEADS DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. II

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18	25	22	19	17	15					
SS-18 (8 MIRV's)	2,016	1,816	1,640	1,480	1,336	1,136	832	536	256	
SS-18 (10 MIRV's)						220	440	660	880	1,080
SS-19	34	34	34	34	34	2				
SS-19 (MIRV)	1,368	1,368	1,368	1,368	1,368	1,368	1,092	690	246	
SS-17	33	26	21	16						
SS-17 (MIRV)	664	508	364	232	84					
Subtotal, MIRVed ICBM's	4,140	3,774	3,446	3,147	2,837	2,726	2,364	1,886	1,382	1,080
SSN-18 (MIRV) (Typhoon class)	280	420	640	700	700	700	700	700	700	700
SSN-18 (MIRV) (Delta III class)	432	432	432	432	432	432	432	432	432	432
Subtotal, MIRVed ballistic missiles	4,852	4,626	4,518	4,279	3,969	3,858	3,496	3,018	2,514	2,212
Bombers (ALCM)						300	920	1,520	2,120	2,160
Subtotal, MIRVed systems and ALCM bombers	4,852	4,626	4,518	4,279	3,969	4,158	4,416	4,538	4,634	4,372
SS-11	223	75								
SS-X						40	80	121	153	153
SS-13	60	60								
SSN-17 (Yankee II class)	120	120	120	120	120	120	96			
SSN-6 (Yankee I class)	352	352	352	224	160	48				
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	144	108
Bear	33	33	31	31	26	26				
Bison	140	140	128	128	136	116				
Grand total	6,060	5,686	5,429	5,062	4,691	4,788	4,782	4,939	4,995	4,697

TABLE XII.—PROJECTED SOVIET STRATEGIC MEGATONNAGE DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. II

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18	500	440	380	340	300					
SS-18 (8 MIRV's)	2,016	1,816	1,640	1,480	1,336	1,136	832	536	256	
SS-18 (10 MIRV's)						220	440	660	880	1,080
SS-19	340	340	340	340	340	20				
SS-19 (MIRV)	1,026	1,026	1,026	1,026	1,026	1,026	819	518	185	
SS-17	264	208	168	128						
SS-17 (MIRV)	498	381	273	174	63					
Subtotal, MIRVed ICBM's	4,644	4,211	3,827	3,488	3,065	2,402	2,091	1,714	1,321	1,080
SSN-18 (MIRV) (Typhoon class)	56	84	128	140	140	140	140	140	140	140
SSN-18 (MIRV) (Delta III class)	216	216	216	216	216	216	216	216	216	216
Subtotal, MIRVed ballistic missiles	4,916	4,511	4,171	3,844	3,421	2,758	2,447	2,070	1,677	1,436
Bombers (ALCM)						60	184	304	424	432
Subtotal, MIRVed systems and ALCM bombers	4,916	4,511	4,171	3,844	3,421	2,818	2,631	2,374	2,101	1,868
SS-11	223	75								
SS-X						600	1,200	1,815	2,295	2,295
SS-13	45	45								
SSN-17 (Yankee II class)	90	90	90	90	90	90	72			
SSN-6 (Yankee I class)	352	352	352	224	160	48				
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	144	108
Bear	33	33	31	31	26	26				
Bison	140	140	128	128	136	116				
Grand total	6,079	5,526	5,052	4,597	4,113	3,978	4,183	4,469	4,694	4,335

Presented in Table XIIa is a breakdown of the aggregate number of "equivalent megatons" (EMT)[15] deployable with the respective number of U.S. strategic nuclear warheads shown in Table IX. Comparable data of aggregate EMT for Soviet nuclear warheads (shown in Table XI) are presented in Table XIIb.

With the exception of U.S. B-52 bombers armed with bombs and SRAMs, and POLARIS SLBMs, the aggregate EMT of both U.S. and Soviet forces is computed by multiplying the aggregate number of warheads of each weapon system by the EMT value of the warhead. The aggregate EMT of B-52s armed with bombs and SRAMs is computed by multiplying the number of bombers (Table VII) by the aggregate EMT of the weapons load carried by each bomber.[16] In the case of POLARIS SLBMs, however, the EMT of each POLARIS SLBM is derived by multiplying by three the EMT of the warhead carried by each MRV.

Where the yield of the warhead (Y) is in megatons (MT).

[15] EMT is a relative measure of the area destructive capability possessed by a nuclear warhead of given yield (Y). EMT is computed by the following formula:

$$EMT = Y^{2/3}$$

[16] The aggregate EMT of two 1 MT bombs plus four 0.200 MT SRAMs is approximately equal to 3.37.

TABLE XIIa.—PROJECTED U.S. STRATEGIC EMT DEPLOYABLE UNDER PROPOSED OPTION NO. II FOR SALT III

Delivery system	End of year									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	414	322	230	219	169	102				
Minuteman III (MK-12A)	145	289	434	434	434	434	395	226	71	
M-X						121	410	699	965	974
Subtotal, MIRVed ICBM's	559	611	664	653	603	657	805	925	1,036	974
Poseidon	387	236	84							
Trident I (Backfit)	193	193	193	165	83					
Trident I (Ohio class)	83	124	207	248	290	331	372	372	372	372
Trident II (Ohio class)										
Subtotal, MIRVed ballistic missiles	1,222	1,164	1,148	1,066	976	988	1,177	1,297	1,408	1,346
B-52 (ALCM's)	34	171	308	445	540	506	390	349	315	287
Subtotal, MIRVed ballistic missiles and ALCM bombers	1,256	1,335	1,456	1,511	1,516	1,494	1,567	1,646	1,723	1,633
B-52	1,138	1,051	984	896	849	724	569	431	303	189
B-1	NA	NA	NA							
Titan II	212	190	169	151	138	125	112	100	91	82
Minuteman II	452	452	395	339	282	282	282	282	282	282
Polaris	122	87	52	35	17					
Grand total	3,180	3,115	3,056	2,932	2,802	2,625	2,530	2,459	2,399	2,186

TABLE XIIb.—PROJECTED SOVIET STRATEGIC EMT DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. II

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18	184	152	140	125	111					
SS-18 (8 MIRV's)	2,016	1,816	1,640	1,480	1,336	1,136	832	536	256	
SS-18 (10 MIRV's)						220	440	660	880	1,080
SS-19	158	158	158	158	158	9				
SS-19 (MIRV)	1,129	1,129	1,129	1,129	1,129	1,129	901	570	203	
SS-17	132	104	84	64						
SS-17 (MIRV)	548	419	300	192	69					
Subtotal, MIRVed ICBM's	4,167	3,788	3,451	3,148	2,803	2,494	2,173	1,766	1,339	1,080
SSN-18 (MIRV) (Typhoon class)	96	144	219	239	239	239	239	239	239	239
SSN-18 (MIRV) (Delta III class)	272	272	272	272	272	272	272	272	272	272
Subtotal, MIRVed ballistic missiles	4,535	4,204	3,942	3,659	3,314	3,005	2,684	2,277	1,850	1,591
Bombers (ALCM)						103	315	520	725	739
Subtotal, MIRVed systems and ALCM bombers	4,535	4,204	3,942	3,659	3,314	3,108	2,999	2,797	2,575	2,330
SS-11	223	75								
SS-X						243	487	736	913	931
SS-13	50	50								
SSN-17 (Yankee II class)	99	99	99	99	99	99	79			
SSN-6 (Yankee I class)	352	352	352	224	160	48				
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	144	108
Bear	33	33	31	31	26	26				
Bison	140	140	128	128	136	116				
Grand total	5,712	5,233	4,832	4,421	4,015	3,920	3,845	3,813	3,714	3,433

JOINT STATEMENT OF PRINCIPLES AND BASIC GUIDELINES FOR SUBSEQUENT NEGOTIATIONS ON THE LIMITATION OF STRATEGIC ARMS

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Having concluded the Treaty on the Limitation of Strategic Offensive Arms,

Reaffirming that the strengthening of strategic stability meets the interests of the Parties and the interests of international security,

Convinced that early agreement on the further limitation and further reduction of strategic arms would serve to strengthen international peace and security and to reduce the risk of outbreak of nuclear war,

Have agreed as follows:

First. The Parties will continue to pursue negotiations, in accordance with the principle of equality and equal security, on measures for the further limitation and reduction in the numbers of strategic arms, as well as for their further qualitative limitation.

In furtherance of existing agreements between the Parties on the limitation and reduction of strategic arms, the Parties will continue, for the purposes of reducing and averting the risk of outbreak of nuclear war, to seek measures to strengthen strategic stability by, among other things, limitations on strategic offensive arms most destabilizing to the strategic balance and by measures to reduce and to avert the risk of surprise attack.

Second. Further limitations and reductions of strategic arms must be subject to adequate verification by national technical means, using additionally, as appropriate, cooperative measures contributing to the effectiveness of verification by national technical means. The Parties will seek to strengthen verification and to perfect the operation of the Standing Consultative Commission in order to promote assurance of compliance with the obligations assumed by the Parties.

Third. The Parties shall pursue in the course of these negotiations, taking into consideration factors that determine the strategic situation, the following objectives:

(1) significant and substantial reductions in the numbers of strategic offensive arms;

(2) qualitative limitations on strategic offensive arms, including restrictions on the development, testing, and deployment of new types of strategic offensive arms and on the modernization of existing strategic offensive arms;

(3) resolution of the issues included in the Protocol to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms in the context of the negotiations relating to the implementation of the principles and objectives set out herein.

Fourth. The Parties will consider other steps to ensure and enhance strategic stability, to ensure the equality and equal security of the Parties, and to implement the above principles and objectives. Each Party will be free to raise any issue relative to the further limitation of strategic arms. The Parties will also consider further joint measures, as appropriate, to strengthen international peace and security and to reduce the risk of outbreak of nuclear war.

VIENNA, *June 18, 1979*.

For the United States of America, JIMMY CARTER, President of the United States of America.

For the Union of Soviet Socialist Republics, LEONID BREZHNEV, General Secretary of the CPSU, Chairman of the Presidium of the Supreme Soviet of the USSR.

Mr. McGOVERN. Mr. President, if I may, I will yield for a moment to the Senator from Rhode Island.

The PRESIDING OFFICER. Without objection, the declaration will be received.

Mr. CHAFEE. Mr. President, I thank the Senator from South Dakota for yielding at this time.

Mr. President, I am particularly pleased to join Senator GEORGE McGOVERN, in introducing this declaration regarding negotiation of a SALT III treaty. There are several reasons for this.

First of all, I am a supporter of the SALT process and of the SALT II treaty. I believe that SALT holds the promise of reducing the threat of nuclear war under which we all live. And I believe that the SALT II treaty secures very real benefits to this country while, at the same time, allowing us to pursue the strengthening and modernization of our national defense.

Second, I believe that the Senate's consideration of the SALT II treaty should be and must be a bipartisan exercise. It must be, because without bipartisan support, this treaty will never receive the Senate's two-thirds vote on the resolution of ratification.

In this regard, earlier this afternoon, I joined in a press conference with five other Senators who have expressed their support of the SALT II treaty. This group included Members from both sides of this body, Democrats and Republicans, who said that they represented the "broad, bipartisan support which speaks as strongly for the strength of this treaty as anything does—and bodes well for its ultimate approval."

Third, I believe that the American people and the rest of the world are ready for the superpowers to begin a genuine and meaningful effort in the direction of arms reductions. Of course, this is what the Senator from South Dakota was referring to. While the SALT II treaty secures meaningful limitations on the strategic nuclear arsenals of both sides, and even secures some reductions on the part of the Soviets, it does not provide the deep cuts that we all look forward to. So I am glad to join my distinguished colleague from South Dakota today in proposing a method for reduction—not just limitation but reduction—of the strategic arsenals of the United States and the Soviet Union.

Mr. President, it has been estimated that the strategic nuclear arsenals of the United States and the Soviet Union contain the equivalent of three tons of high explosives for every man, woman, and child on this Earth. It is time—indeed, the time is long overdue—that we address this problem and get some reductions.

The purpose of this proposal is to declare that at least part of the agenda for SALT III will be to secure continuous year-by-year reductions in the ceilings and subceilings of the SALT II treaty, and this is very important. In this way we can simply and naturally build on the fruits of negotiations that have been conducted by three administrations over a 7-year period. The SALT II limits—including the 2,250 aggregate, the 1,320, 1,200, and 820 subceilings and the 308 "heavy" intercontinental ballistic missile subceiling—could all be reduced by a negotiated figure on a year-by-year basis.

We do not wish to tie the negotiators hands in all of this, and we have expressly refrained from setting an exact figure or figures which the reductions should or must equal. Nonetheless, it is

my hope that the United States and the Soviet Union could agree to significant and substantial reductions in the numbers of strategic arms—perhaps even 30 percent reductions over the duration of the SALT III treaty. I think that the Congressional Research Service report titled "Reducing the Number of U.S. and Soviet Strategic Offensive Weapons," which we have asked be inserted into the RECORD, is useful in showing that this figure is not unreasonable.

Mr. President, it is my belief that the whole SALT process has become so complicated that many of our citizens—indeed, many people everywhere in the world—can no longer easily grasp the meaning of what we have attained in the SALT II treaty. The beauty of our proposal here today is that it is simple, natural, and straightforward. Using the ceilings and subceilings already established by the SALT II treaty, United States and Soviet negotiators have only to agree on a figure or figures which will be applied to each preceding year's level to establish the annual reductions.

While the administration is free to negotiate any reductions it wishes, the size of the figure will make it exceedingly clear to the Congress, the American people and to the world whether the SALT process is really working. If the best they can do is a 1 percent reduction each year for 10 years, for example, we will all know immediately that the prospect for significant and substantial reduction is dim. And we can respond accordingly. However, if the negotiators agree to a 5 percent annual reduction over 8 years, we will know immediately that the SALT process is working to significantly reduce the massive strategic arsenals whose warheads threaten us all.

Mr. President. It goes without saying that Senator MCGOVERN and I come from different parties, different regions of the country, and different political viewpoints. But we have worked long and hard on this declaration together, because we are both convinced that the further buildup of the strategic arsenals of the United States and the Soviet Union must be stopped. We are not made more secure by the possession of these weapons in the numbers they now total. We are made less secure. So Senator MCGOVERN and I dedicated ourselves here today to the proposition that, whatever else it achieves, SALT III must produce reductions in the strategic arsenals of both sides. And we sincerely hope that our colleagues will join us in this important bipartisan undertaking.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. STEWART. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation which I chair has scheduled a hearing on S. 770, a bill to prohibit futures trading in potatoes. The hearing will be held on Thursday, November 15, beginning at 9 a.m. in room 324, Russell. A limited number of public witnesses will be accepted. Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the sessions of the Senate on Wednesday, November 7, 1979, Thursday, November 8, 1979, and Friday, November 9, 1979, to hold hearings on S. 1946, the Railroad Transportation Policy Act of 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to review the report of the President's Commission on the Accident at Three Mile Island.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GASOLINE

● Mr. GOLDWATER. Mr. President, appearing in the Review of the News, July 11, 1979, there was a most interesting article on gasoline pointing out some of the major difficulties which face this country in bringing to the citizens an adequate, constant and perpetual supply of energy. I am placing this in the CONGRESSIONAL RECORD because starting with the fact, which this article points out, that we appropriate almost $11 billion for the Department of Energy to satisfy its nearly 20,000 employees who do not produce anything, down through all the cruel, hard facts of what this Congress and others have built in to the prevention of proper oil and energy from our own resources, should make my colleagues think if they will but read it. Taking the controls off of oil and gas sources in this country would, in my humble opinion, make the United States self-sufficient within 5 years; do away with 20,000 employees and a nearly $12 billion budget, and if the President is sincere about his constant talking about cutting the power of Government, here is a very good place to start. I ask that this article be printed in the RECORD.

The article follows:

GASOLINE

As you sit in line waiting to get gasoline because of the shortage, please remember that all this hassle was caused by deliberate federal policy. And that the $10.8 billion Department of Energy, with its nearly 20,000 employees who produce no energy whatever, has a vested interest in maintaining the "crisis." Indeed, President Carter this May said the American people need a "few demonstrable shortages" of gasoline in order to get us to conserve. Not more production, mind you, but more inconvenience so we will be willing to accept the "inevitable."

Such shortages are easily created. All that is required comments Nobel Prize-winning economist Milton Friedman, is to have "the government legislate a maximum price that is below the price that would otherwise prevail." That is what happened in August of 1971 when President Nixon imposed wage and price controls. But when controls were lifted elsewhere in 1973, they were continued on the petroleum industry. And when prices are kept below what they would be in a free market, as surely as night follows day, consumption is encouraged even as production is discouraged. That is exactly what happened. Domestic crude-oil production since controls were implemented has been falling by about four percent a year.

Meanwhile, only one major refinery has been built in the United States during the past six years because of government price regulation and environmental restrictions. There was, for instance, the incredible harassment of an enormous facility in California that was to have been the world's cleanest refinery. Dow Chemical finally walked away from this project in disgust after being forced to spend $1 million just on the preliminary government paperwork.

Never mind that there is a desperate need for such facilities in California, where the crude is high in sulphur and requires special, expensive refining to meet fanatical environmental standards. California, you see, not only has a "glut" of its own heavy crude but also of the heavy crude from Alaska.*

But, should you actually build a billion-dollar refinery to process that Alaska crude, it must be done according to D.O.E. regulations. "You must pass through capital costs evenly across your product mix," reported the Wall Street Journal for May 16th. "So if you invest in new gasoline equipment, you have to raise your price for fuel oil, even if fuel oil is a drag on the market and consumers are crying for gasoline. Naturally, few refineries were built under these rules. A few months ago DOE figured this might be a problem and introduced something called a 'tilt' rule to cure it. It takes more than a few months to build a refinery, but the tilt rule is an open admission by DOE that for six years it has inhibited modernization of refineries.... Chiefly due to the mismatch of [types of] crude and [ecology rules applied to] refineries, refineries in California have been operating at about 80 percent of capacity during the great gasoline shortage."

What we are dealing with here is out-and-out sabotage. Sohio spent millions trying to get approval to build a pipeline to move Alaskan oil from California to the interior of the country where it could be refined without harassment. Environmentalists attacked the project through the courts and the government bureaucracy until it also became too expensive and was dropped. Thus the abundance of crude on our West Coast must make a long and expensive trip through the Panama Canal to the refineries in the East and on the Gulf.

As you know, it was also the environmentalists and the federal bureaucracy who forced on us the use of unleaded gasoline. Unleaded requires more oil per barrel of crude than does leaded. Use of unleaded has now risen to 42 percent of gasoline consumption, a demand 20 percent higher than last year. Refining capacity for the unleaded, however, hasn't followed suit because of the

* In fact, some 23,000 of California's 66,500 oil wells have been closed because it is now uneconomical to open them. Independents explain that 15,000 of these could be redrilled if only the Department of Energy would put its price mechanism where the sun doesn't shine.

harassments we have cited. And, according to John O'Leary, Deputy Secretary of D.O.E., there are no major refinery expansions or improvements on line for the next two years. Secretary O'Leary blames D.O.E.'s price rules.

Federal regulations also prevent refiners in other parts of the country, where there are no gasoline lines, from sending gas where it is needed until everyone on their "list" has been given his share. This is because we already have a system of rationing called "allocations," which (until March) froze supply patterns at the 1972 sales figures. Such figures, alas, ignore demographic and other changes. The base period has been changed three times in recent months—to 1973, to 1978, and will revert to 1977 in October. Maybe. The bureaucratically controlled petroleum marketplace must put up with 3,000 pages of such stifling and constantly changing regulations.

The solution is simple. If all price-controls were dropped at once and allocations eliminated, the gasoline lines would disappear. In the short run, prices would rise a few cents, but the market would quickly clear. And if the Department of Energy were also abolished, with its $10.8 billion budget, taxpayers would reap a boon equivalent to nine cents per gallon of gasoline sold—which is the equivalent amount of tax money required to support D.O.E.

Should we abolish the Department of Energy? Consider the D.O.E.'s "entitlement" program, which is supposed to "equalize" refinery costs for domestic oil and the O.P.E.C. oil that now represents almost half of our consumption. Since foreign oil from the cartel is more expensive than U.S. crude, the refiner of the latter is required to pay the former. It's virtually a subsidy for using foreign crude! Little wonder O.P.E.C. has driven its prices up 500 percent in six years.

Meanwhile, the President's two-and-a-half year decontrol of "old" oil prices ensures that all the available oil will not come to market when we need it—now. As one producer explained a while back: "Why produce oil now at $6 a barrel, when in 28 months, (we) can get $15 to $20 a barrel." Federal price control policy made it profitable to hold back gasoline production, because the growing sellers' market allowed legal price increases that were previously deferred.

The meddling is unbelievable. For instance, D.O.E. first ordered oil companies to stay out of the "spot" market of uncontracted supplies, then abruptly reversed itself. Likewise, in April, the energy bureaucracy mandated an early buildup of fuel oil for next winter, despite any shortages of gasoline it might cause; then a month later (after the shortages resulted) it ordered production of more gasoline. Such destructive shifting of policy is par for the course with the energy bureaucrats. In the past decade, the bureaucracy has called for a shift from coal-burning power plants to oil; then reversed itself; then reversed again. The consumer paid millions for these conversions.

At the same time, future domestic oil production is under attack by the ecofreaks. Environmentalists have recently frozen development of a block of land in Alaska that totals more than the acreage of all California and where geologists believe there may be the equivalent of one or two more "Prudhoe Bays." You get some idea of what that means when you know that Prudhoe Bay is estimated to contain one-third of our proven oil reserves. Just one part of this newly frozen "wilderness" might well produce 14 billion barrels of oil, but will not be allowed to do so—because, it is explained, some precious caribou visit the area six weeks a year. In fact the Environmental Protection Agency has just proposed new "waste" regulations estimated by the American Petroleum Institute to cost $45.5 billion a year! That is a figure about double the industry's budget for exploration, drilling, and production for oil and gas, and is even larger than our total O.P.E.C. bill last year. The cost of this E.P.A. proposal would bleed the industry by two to three times its after-tax profits—but you will pick up the tab for this at the pump.

Federal harassment is simply overwhelming. The National Environmental Policy Act of 1969, for instance, held up for six years the Alaska oil pipeline while foreign cartelists laid the groundwork for O.P.E.C. In like fashion, development of our outer continental shelf has been slowed, though on February 1, 1977, there was a retroactive doubling of rental fees on most federal offshore oil and gas leases. According to recent testimony, it now takes the Bureau of Land Management up to three years to process an exploration permit. In sparsely populated Nevada, there is a backlog of oil and gas applications totaling more than 530 leases covering one million acres. In Montana there are some 3,000 backlogged applications.

Is all of this accidental? Apparently not. In fact collectivists in our government have set out purposely to create these shortages. The D.O.E. has prepared a document called an Energy Emergency Planning Guide. As the New York Times for November 24, 1978, reported: "The Energy Department plans to stage fake energy emergencies around the country in the next three years. . . . 'Throughout the exercises no participation will have an advance knowledge of the scenarios or of the mock emergencies to be used,' the draft report says."

Add to these contrivances last summer's large demand for gasoline; last winter's extreme cold; the disruption of 17.5 million barrels of Iranian gasoline as a result of Carter's betrayal of the Shah; the government's 46 million barrel "emergency" gasoline allocation to states and "priority" users (about 15 percent of total supply); the sharp drop in domestic production resulting from price controls; and, lo and behold—shortages.

Remember the coffee crisis of a few years ago? What if we had set up a Department of Coffee, which subsidized foreign tea growers; allocated "old" coffee to previous consumption levels; demanded a windfall profits tax on coffee growers; set up an odd-even-day sales policy and regulated the hours of sales; proposed Coffee Stamps for the poor; and had, in short, done everything possible to ensure that the marketplace could not set its own price based upon supply and demand? We would have guaranteed panic buying, hoarding, a continued "crisis," and permanent shortages. Thankfully, that did not happen. It is happening to gasoline.

What about oil company profits? Are the greedy oil companies ripping us off? Data Resources places the profit margin of the oil firms, as a percentage of revenue, at 4.5 percent—which is below average for American industry. And yet the President has declared a new "windfall profits" tax on the oil industry.

To repeat, if oil price controls and allocations were lifted, the gasoline lines would dwindle. If the federal government would get out of the way, we would be awash in as much gasoline and heating oil as is demanded. The crisis we face is man-made, and the men who made it are in Washington, D.C., running amuck. Those gasoline lines are all that should be needed to prove Jefferson was right in asserting that government governs best which governs least.

WILLIAM P. HOAR.

DISASTER ASSISTANCE TO THE CARIBBEAN ISLANDS

● Mr. JAVITS. Mr. President, as an original cosponsor of H.R. 5218, I am gratified that the Senate has passed this bill which authorizes the appropriation of $25 million for emergency assistance to the Caribbean nations that have been devastated by the recent hurricanes in that region.

In view of the tragedy and devastation to the Dominican Republic, Dominica, and other parts of the Caribbean, which have resulted from Hurricane David and the heavy rains of Hurricane Frederic, it is imperative that the United States continue to provide emergency aid and reconstruction assistance to this area. To date, the Dominican Republic and the nation of Dominica have suffered the most. It is estimated that 4,000 persons have died and 450 persons have been injured in the Dominican Republic. In addition, there are approximately 105,000 displaced persons and 160,000 persons who are homeless as a result of the storm. In Dominica, it is estimated that 38 people have died; 2,500 have been injured, and approximately 60,000 people—over 80 percent of the total population—are homeless.

In addition, the hurricanes have caused tremendous losses to the economies of these two countries, which are heavily dependent on their agricultural sectors. These countries are in desperate need of reconstruction assistance. The Dominican Republic suffered a total loss of approximately $1 billion, with losses in the agricultural sector alone totaling about $125 million. The damage to the rice, coffee, cocoa, and sugar fields was extensive; and it will be years before the agricultural sector recovers its productive capacity. The transportation infrastructure in some areas of these countries also was completely destroyed, and the destruction of electric power and water systems has exposed large sections of the population to contagious disease.

In addition to our humanitarian concern for the people of these islands, our assistance will have another important benefit. By rebuilding the economic foundation of these countries, our reconstruction aid would help insure that the recently formed democratic system of government in the Dominican Republic continues.

While the efforts of the Carter administration and U.S. private agencies have been laudable in easing the immediate crisis, they have not been enough. I hope that the administration will act in an expedient manner to implement this bill, which has been passed by both Houses of Congress, and which will provide ongoing relief and launch the reconstruction efforts which are necessary to rebuild the hurricane-stricken islands of the Caribbean.●

PEACE IN THE MIDDLE EAST

● Mr. ROTH. Mr. President, on October 11, Governor John Connally made a controversial speech on the subject of peace in the Middle East.

This premise is that the United States should now present a number of far-reaching new proposals for a comprehensive peace settlement. He outlines a nine-point proposal including Israeli withdrawal of occupied territories, Palestinian self-determination, resolution of the status of Jerusalem, a customs union between Israel and the Palestinian homeland, a joint Israeli-Palestinian development bank, Arab agreement not to use oil as a political weapon, a new international treaty to guarantee peace in the Middle East, and an American military presence in that region.

I do not think it appropriate, wise, or necessary for the United States to try to dictate an overall peace accord at this time. The kind of peace we want—a genuine and lasting peace—is going to be the end process of a long and difficult period of bargaining. The United States has played and should continue to play an important role in facilitating negotiations, but the future compromises will be a product of the domestic decisions of the disputing parties. To try to force a peace, based on an outside perspective, could well jeopardize the progress made so far.

I believe the most important immediate task of American diplomacy in the Middle East lies in consolidating the very fragile peace process already begun between Egypt and Israel. Both governments have made very difficult internal decisions to come as far as they have. The Egyptians are deeply concerned about their position within the Arab world. They want time to prove to their neighbors that they were right in participating in the peace process.

The Israelis are rightly concerned about their security, and they want time to test the good faith of the other side. The United States also has a long-standing and continuing national interest in the security of Israel, as the only real democracy and consistent friend of the United States in the Middle East.

The questions of self-determination for the Palestinians and the eventual political status of Jerusalem are extremely controversial. To insist these issues must be decided at this point could well destroy the basis for agreement that now exists. We want to ensure that both the Israeli and the Egyptian Governments become more and more committed to the peace process, and we do not want to give those parties within each country opposed to the agreement an opportunity for scuttling it.

Finally, I have serious reservations regarding a U.S. military presence at permanent bases in the Middle East. To be of real value, such a presence must be desired by the countries of the region themselves and be supported by the people of the United States. So far these conditions are not true.●

OIL COMPANY PROFITS

● Mr. GOLDWATER. Mr. President, what is a windfall profit? I spent a good part of my life in business and, frankly, the only explanation I have of it is an unusually high return on money or an unusually high percentage of profits to sales which is the way most profits are measured in this country. Naturally, when an oil company reports a profit of over a billion dollars and that represents an increase of some 200 percent, the average American gets upset and feels that he has been, in effect, ripped off. Frankly, I think American business has done a terrible job down through the years of explaining to the average citizen and, particularly the average politician just what constitutes profits and what is a normal profit and what is a big profit and, also, what is a loss?

When I was in business, making 10 percent on sales was a rather common occurrence. Today that same business makes 2½ percent on sales and it is considered an outstanding national success. Now if all of a sudden that firm made 10 or 8 percent I would say the profits had become excessive in relation to sales, and I think we can apply the same thing to any other business; the oil business, the Washington Post, which just enjoyed a tremendous increase in profit, the national networks which are enjoying some of their best years, the airlines the same, so why become all excited because an oil company has had a large profit and a large increase in profits compared to last year which was, and we have to recognize it, not a good year.

The President's insistence on forcing the oil companies to divest themselves of their profits indicates that the President does not have much idea of business outside of peanuts, and I cannot imagine, though, that that is run any differently. He either makes it or he does not. When you take profit away from a corporation or a business or an individual, you take away the chance to build new businesses and large, old businesses, buy new tools and, most importantly, create new jobs. Now taking profits away from American corporations and applying them to Government built programs is no way in the world to create jobs or insure prosperity. To the contrary, it is a certain way to add to inflation and to hasten the day of depression.

The Wall Street Journal just a few days ago had a fairly good article on this subject entitled, "The Big Oil Rip-Off." Hoping that my colleagues and others who read the RECORD will notice what the Journal had to say, I ask that this article be printed in the RECORD. Please remember, profits made this country, profits provide jobs, profits guarantee the future of America and the Government with its growing control over everything only guarantees the socializing of America and the end of everything that all of us have held dear in our economic system.

The article follows:

THE BIG OIL RIP-OFF

Motorists fumed over gasoline lines in the summer, fuel prices soared, filling station service deteriorated—and now, Exxon reports its third quarter profits were up 119 percent from a year before. If the oil politicians had written the scenario for piling new taxes on the oil industry they couldn't have planned it better.

Indeed, Herblock had an anti-oil cartoon in the Washington Post the very morning of the Exxon announcement; Jimmy Carter said the big oil profits aren't "fair to the American people" and James G. Archuleta, of the Oil, Chemical and Atomic Workers Union called the Exxon profits "pornographic," which presumably is even worse than obscene. And yesterday the House reversed its previous decision to end gasoline price controls and allocations, apparently in the belief that keeping controls would punish the oil companies for their success.

To start to put this in perspective, you have to ask who gets these profits. Not Exxon's hired managers, as well compensated as they surely are. The profits go instead to shareholders, either directly as dividends or indirectly through share appreciation if profit is reinvested within the business. So who are these shareholders now so widely accused of greed?

Some 65 percent of Exxon's shares are held by institutions. These are pension funds, insurance companies, mutual funds and other mechanisms for small savers to pool their resources. Plus charitable and educational foundations, colleges and universities and the like. Employe pension funds alone own 28 percent of Exxon. Just what does Herblock have against retired people?

The question is even more pertinent if you notice that most of Exxon's profit gains were overseas, while most of the shareholders are Americans. If you insist on seeing profits as an income transfer, they were a transfer from European consumers to America's social welfare institutions for the retired aged. Hardly a cause for yelling or screaming on the New Jersey Turnpike; maybe so on MI to London.

But anyone who might wish to rise above penny dreadful analysis has to ask about the origin of these profits. Why are the oil companies making so much money? In fact, the companies themselves have little control over most of the variables—prices, exchange rates, taxes, Iranian politics—that govern their profit rates. They really do not even have the option of trying to lower their profits by cutting prices, since in the short run only so much oil is available, and since prices below market-clearing levels would leave them swamped with orders they could not fill. Gas lines and the like would return; this is also likely to be the actual effect of yesterday's House vote.

In any industry, when prices rise faster than the overall rate of inflation, as oil product prices did this last year, it reflects, in simplest terms, diminished competition. The diminished competition in the oil industry this past year resulted not from a lack of competitors—there are 28 sizable oil companies—but the political restraints that have been applied to the energy industry, including all the products that compete with oil.

The Natural Gas Act crimped domestic drilling of natural gas, which was rising healthily before the act was passed. Environmental laws have curtailed coal use and expanded demand for unleaded gasoline, which requires more crude oil to produce than leaded gasoline. Pressures from the "No More Nukes" Yippees have stalled nuclear power development.

All of this is now to be remedied by piling still more burdens on domestic energy production. The windfall profits tax, which has gotten such a marvelous boost from the Exxon numbers, will further discourage U.S. oil production, reducing the total world supply of oil and practically guaranteeing that world prices and the overseas profits of the major oil companies will continue to rise. This will bring more screaming and yelling and more Herblock cartoons from Washington. And with the screaming and yelling will come new regulation, new taxes, new restrictions on domestic energy production.

Oil industry executives, many of whom would probably like nothing better in this poisoned political environment than to report a 1 percent profit decline, will continue to be benumbed by all the political and legal pressures that interfere with their fundamental goal of finding, producing and selling fuel.

The oil politicians, gearing up to run next fall on how forcefully they have championed the interests of the consumers, couldn't have written a better scenario. We wonder, however, if there won't come a point when the consumers and voters will begin to ask if they really need friends like these.●

THE FINAL RESOLUTION OF THE 25TH ANNUAL ASSEMBLY OF THE ATLANTIC TREATY ASSOCIATION

● Mr. JAVITS. Mr. President, on October 9–13 in Washington, the Atlantic Treaty Association held its 25th annual assembly. In attendance were 450 delegates from the 15 NATO countries, including NATO Secretary Gen. Joseph Luns, Dr. Karl Kaiser of West Germany, the ATA's president Dr. Karl Mommer, Vice President MONDALE, NSC Director Brzezinski, and many others who provide leadership in the North Atlantic Alliance.

The Atlantic Treaty Association is an international voluntary organization of private citizens and national leaders who are united in our belief that the world's security rests on the continued strength and viability of the West, its principles and institutions, and that the West's survival rests on the continued vitality of the North Atlantic Alliance. I am an honorary director of the Atlantic Alliance, which supports and organizes the ATA's programs and activities in the United States.

At the conclusion of its meetings in Washington, the ATA adopted a final resolution, which concludes that the Alliance is perhaps entering the most dangerous period it has yet faced by virtue of the growing conventional and nuclear buildup of the Soviet Union and its satellites in the Warsaw Pact. The final resolution states the prescription that the Alliance must adopt to meet this common threat as follows:

First. NATO's conventional and theater nuclear forces must be the subject of a significant modernization program which should also be complemented with arms control negotiations to reach a stable balance in Europe;

Second. To continue the arms control process, SALT II must be ratified by the Senate; this recommendation coincides with that of the plenary session of the North Atlantic Assembly which just concluded its annual meetings in Ottawa, Canada; these recommendations make it clear that NATO's support for ratification of SALT is deeply and broadly based;

Third. Political interaction with the Soviet Union, détente, must not be a one-sided affair and by definition includes Soviet compliance with its own undertakings such as in the Helsinki agreement and restraint by the Soviet Union to expand its area of direct and indirect domination; and

Fourth. There is a potential for effective use by NATO of nonmilitary modes of competition to expose Soviet economic, social and political vulnerabilities, thereby, demonstrating the attractiveness of the Western model to the world.

I believe that this final resolution of the Atlantic Treaty Association is an important document that represents a broad based Alliance consensus assessing the challenge and the tasks before us. I commend it to my colleagues' reading and, accordingly ask that it be printed in the RECORD.

The resolution follows:

FINAL RESOLUTION

1. The Atlantic Treaty Association held its 25th Annual Assembly in Washington on 9–13 October 1979, and took as its theme the worldwide nature of the Soviet challenge to the West. The meeting was chaired by Dr. Karl Mommer.

2. The A.T.A. is an international voluntary organization of private citizens which believes that the North Atlantic Alliance has to stay strong if the West is to survive. This year, on its own 25th Anniversary, and the Alliance's 30th, it feels a measured concern about the dangers likely to arise in the next few years.

3. The West faces a major military problem in the years immediately ahead. For the past dozen years or more, the Soviet Union has been increasing its military spending by 3 percent to 5 percent a year, while that of NATO as a whole has been dropping. The result, unless we take urgent and continuing action, is that the Warsaw Pact will be stronger than the North Atlantic Alliance in almost every major category of weapon through the first half of the 1980s. However, in the future, the Soviet Union also faces difficulties. The economy of the Soviet sphere has never caught up with that of the West, and its growth rate is now failing steadily. The totalitarian system cannot deal with its internal problems as flexibly as the pluralist West can. In the Soviet Union itself, there is likely to be growing tension among its different ethnic minorities and nationalities in the closing years of the century.

4. To deal with the dangers ahead, this Assembly believes that it is essential for the Alliance to meet the growth of Soviet armament at each of the three main levels of our defences:

(a) At the least, the Alliance has to carry out in full its decision to increase its defense spending by about 3 percent a year in real terms between 1979 and 1986. Much of this money will be needed to make sure that NATO's non-nuclear forces in Europe are strong enough, and quickly reinforceable enough, to remove any Soviet temptation to believe that they might be overwhelmed by a surprise attack. The more that Allies can cooperate in arms production, the less money will have to be spent. The Assembly especially calls on members to contribute to the economic and military strengthening of the south-east European allies.

(b) This Assembly believes that the growing strength in nuclear weapons in Europe, such as the SS–20 missile and the Backfire bomber, represents a challenge to the Alliance which must be met by an appropriate response. Such a response should include an adequate Western nuclear deterrent as well as an offer of arms control negotiations on the balance of nuclear weapons affecting Europe. But the Assembly recognises—as the Vienna talks on non-nuclear force cuts have shown—that such negotiations may drag on for years, and it does not wish the Soviet Union to maintain or increase its lead in the meantime.

(c) At the level of intercontinental nuclear weapons, it is important that the Soviet-American competition should be curtailed in ways that increase stability and do not lessen Western security. The Assembly hopes that the present debate on SALT–1 in the American Senate will remove doubts expressed, on both sides of the Atlantic, on this score. If SALT–2 is ratified, it should be followed by further efforts to cut the nuclear armouries.

5. The Assembly believes that a calm and steady effort for real détente with the Soviet Union and its allies is necessary, in order to reduce the danger of war, to implement the human rights promised at Helsinki, and to maintain public support in the West for the measures outlined above. In a world of peaceful competition, the Western system will prove more attractive. But the Assembly does not believe that a better East-West relationship is compatible with (a) the Soviet attempt to establish military superiority over the West; (b) the attempt by the Soviet Union to expand its area of domination in the world through the use of force, directly or indirectly; (c) the attempts by the Soviet Union and its allies to distort the proclaimed aim of détentee by maintaining or even intensifying the suppression of human rights and national self-determination.

6. The Soviet Union is now extending its political power outside Europe, especially in Africa, the Middle East, and southern Asia. This is of concern to the people of these areas; it also affects the security of the Atlantic Alliance because of the oil and other resources that come from these regions, and the Alliance's dependence on uninterrupted use of the sea. Without widening NATO's formal zone of responsibility, we believe that the action needed to deal with problems arising outside the Treaty area can, and should, be taken as the need arises by those member governments which believe action is necessary. So far as possible, all NATO members should be kept informed of their Allies' response to these challenges. To this end, we suggest that a monitoring committee should be set up, with sub-committees to watch events in the Middle East, Africa, Southern Asia and Central America. The task of these committees would be to observe, to analyse, and to seek consensus; it would be left to individual countries, or groups of countries, to decide whether this should be followed by action.

7. We further believe that more attention should be paid to the non-military aspects of the challenge of peaceful competition, and that the Atlantic community should bring a more systematic approach to the working out of a political strategy appealing to its own electorates and understandable to the Third World.

8. The Alliance is entering a dangerous period, perhaps the most dangerous it has yet faced. The Assembly welcomes the renewed commitment, expressed at this meeting by the government of the United States, to the freedom and security of Western Europe. But the leaders of the West must have the intellectual honesty to recognize the difficulties ahead, and the moral courage to persuade public opinion of what has to be done. The purpose of the A.T.A. is to assist them by informing public opinion, especially young people, of the issues involved.

9. The Assembly warmly thanks the Atlantic Council of the United States for its efficiency in organising the meeting, and the government of the United States for its hospitality.

THE ATLANTIC COUNCIL
OF THE UNITED STATES,
Washington, D.C., October 23, 1979.

Hon. JACOB K. JAVITS,
Old Senate Office Building,
Washington, D.C.

DEAR JACK: Many thanks for your message sending your greetings and indicating you found it impossible to attend the XXVth Annual Assembly of the Atlantic Treaty Association held here in Washington a week ago. We were sorry you could not be with us but we appreciate your thoughtfulness.

On the whole I think the meetings were a great success. We had some 450 delegates from the 15 NATO countries. The discussions were lively and interesting and I think the foreign delegates appreciated the hospitality we extended them.

During the last session of the Assembly, Karl Mommer, outgoing president of the ATA, paid a very warm tribute to the United States. All the delegates present rose and paid their tribute with prolonged applause. It certainly made one feel very proud to be an American!

I am enclosing a copy of the Final Resolution approved by the Assembly. I would be very grateful, if you think it appropriate, if you would have it inserted in the Congressional Record. Some Members of the Congress might be interested in the position which the ATA took on various foreign policy questions.

Cordially yours,

KENNETH RUSH,
Chairman.

SALT AND SOVIET STRATEGY

● Mr. HUMPHREY. Mr. President, the American people are now coming to realize that there has been far more to the SALT negotiations over the years than simply a good faith attempt by the superpowers to reduce strategic weaponry. It is becoming clear that the Soviets have been engaged in a new form of warfare, namely, negotiating us into a corner and themselves into a position to dictate political events around the world.

The Wall Street Journal of October 31, 1979 contains an editorial which goes to the essence of the Soviet negotiating strategy. I insert it in the RECORD to share it with my colleagues. Additionally, the same issue of the Wall Street Journal contains an interview with Norman Podhoretz written by Edmund Fuller. I wish to have printed that portion dealing with the issue the American-Soviet struggle for dominance, since that is pertinent to our consideration of SALT II.

The material follows:

BREZHNEV'S GAMBIT

Early this month, Leonid Brezhnev politely offered to talk about reducing the number of missiles aimed at Western Europe if NATO agrees to abandon plans to modernize its nuclear arsenal. Breshnev's gambit is indicative of how the Soviets now use arms-control negotiations as an offensive weapon to gain real military advantage.

Moscow is engaged in a vast nuclear buildup against allied forces in Western Europe. It has deployed about 120 SS–20 missiles, which are highly accurate long-range mobile missiles with three independently targeted warheads, and introduced the supersonic Backfire bomber. These weapon systems are not limited by SALT or any other agreement.

By contrast, NATO has almost no offsetting theater-nuclear weapons; only 18 farcical French land-based missiles, an estimated 40 submarine based Poseidons not well adapted to theater warfare, and 156 American F–111 fighter-bombers.

For more than a year, NATO countries have been stuck over what to do in response to the new Soviet SS–20s and Backfires. The U.S. has offered to base 464 ground-launched cruise missiles and 108 new Pershing-2 ballistic missiles in Western Europe in the early 1980s. NATO ministers are slated to make a decision in December on the U.S. proposal.

One thing complicating the decision is the prospect of more negotiations with the Soviets, despite the fact that in the lengthy Mutual and Balanced Force Reduction Talks the two sides have been unable to agree even on the actual composition of *present* forces. At the NATO conference in Belgium in September, Henry Kissinger complained about the idea of delaying our decision to try to negotiate removal of the SS–20s. The former Secretary of State predicted, "If this is our position, all the Soviets have to do is to begin a negotiation to keep us from doing what they are already doing, negotiation or no negotiation."

This is precisely the gambit Mr. Brezhnev played in his Berlin speech. His decision to withdraw 20,000 of the 400,000 Soviet troops stationed in East Germany and to cut its tank force by 1,000 to 6,000 represents only a fractional reduction. It would leave the U.S. troops in the region outnumbered by 80,000, and pulling these Russian soldiers back to the border would still keep them in easy reach of West Germany. The offer to dismantle some older Soviet missiles, whose role is already being taken over by the SS–20 and Backfire, is only a token gesture.

Cracks in the alliance have already appeared over this issue, and Mr. Brezhnev's proposition could thus prove to be a harmful wedge. Most observers recognize the phoniness of Mr. Brezhnev's offer, but this is how the Kremlin plays the arms-control game.

What is true of Mr. Brezhnev's gambit has unfortunately become true of arms control generally. In its hearings on SALT-II, the Senate Foreign Relations Committee has been voting down "killer amendments," that is, anything disagreeable to the Soviets. But in the process Senator Howard Baker has compiled a record of the treaty's one-sidedness: its provision for 308 Soviet heavy missiles not allowed the U.S., its exclusion of the intercontinental-capable Backfire and so on. This is not an accident, but the inevitable result when the U.S. negotiates for arms control and the Soviets negotiate for military advantage.

Harvard Professor Richard Pipes has recently written on the Soviet objectives in SALT for the Committee on the Present Danger. He finds they want four things: To inhibit U.S. response to Soviet long-term strategic programs; to fix the number of U.S. systems and thus facilitate the task of rendering them harmless; to prevent an American technological achievement from suddenly neutralizing their build-up; and to create in the U.S. a political atmosphere obstructive to defense expenditures.

Arms control is well worth pursuing, but genuine arms control can't be achieved if the U.S. allows the Soviets to use the negotiations as an offensive weapon. The way to make the Soviets negotiate seriously is to break the present pattern. Proceeding with theater nuclear forces in Europe is one step toward that end. But an even clearer message would be the outright rejection of the strategic arms agreements.

A TALK WITH NORMAN PODHORETZ
(By Edmund Fuller)

Recently I went to the office of Commentary for a conversation with its editor, Norman Podhoretz, about his new autobiographical book, "Breaking Ranks" (Harper & Row), reviewed here on Oct. 15. Mr. Podhoretz long has been an embattled figure within the New York literary/intellectual community. Once in the ranks of certain radical movements of the early 1960s, he broke with them and now is called by some a "neoconservative," though he regards himself as a liberal centrist.

His earlier autobiographical book, "Making It," described his growing up in Brooklyn and after high school making the daring voyage to another country, Manhattan, to study simultaneously at the Jewish Theological Seminary and Columbia University. Columbia won out. Later he went to England for three years of graduate work at Cambridge—perhaps not as big a voyage as the first one. He became known as a literary critic and an essayist on socio-political matters. In 1960 he became editor of Commentary.

POSE OF SELFLESS DEDICATION

"Making It" was attacked by many of his literary associates for letting out the "dirty secret" that "success" was the goal of many of them who professed to be above all that. "Breaking Ranks" scouts as hypocritical the pose of selfless dedication to the general good assumed by the radical movements. I asked what he thought would be the response to the current book.

"It's possible that it will have a friendlier reception than I fear in some quarters because there has been a certain change in the wind. There's a greater willingness to entertain these ideas—at least to listen to them."

Since the subtitle of the book is "A Political Memoir" we talked of a few of those ideas, growing from the controversies of two decades traced in his chronicle. What does he think about the present posture of the U.S. in the world?

"I'm very worried about it. I think we've been in a period of strategic retreat from the responsibility we undertook after the Second World War to contain Soviet expansion and the spread of Communist influence generally. We've been moving away from that responsibility in a policy of retreat that has been disguised under various euphemisms, toward a posture that I don't hesitate to call neoisolationist in our relationship to the Soviet Union. It's a posture that increasingly deserves the term 'appeasement.'

"The Soviet Union is on the move, in a period of clear imperial dynamism and expansionism, as seen in the greatest peacetime military build-up in the history of the world and in its political thrust in to Africa, Latin America, and the Middle East. The retreat of American power will simply give a green light to the reach of Soviet power virtually to the ends of the earth. That would spell the end of any possibility of liberty and freedom everywhere in the world, ultimately including the U.S. It would lead to a new age of political/cultural/social barbarism."

What about SALT II?

"I'm opposed to SALT II on both technical and political grounds. SALT I was an instrument for the achievement of strategic parity by the Soviet Union. I'm afraid that SALT II would express American acquiescence to strategic superiority by the Soviet Union and I think that would be a calamity."●

REMARKS OF GENERAL HAIG AT THE NATIONAL CONVENTION OF THE MILITARY ORDER OF WORLD WARS

● Mr. GOLDWATER. Mr. President, the former commander of NATO, Gen. Alexander Haig, Jr., has been speaking out before the American people and speaking in a plain, sensible way. Just recently he addressed the National Convention of the Military Order of World Wars. His remarks are the kind that Americans should be listening to and I hope that my colleagues will read what I am asking to be printed in the RECORD.

The address follows:

REMARKS OF GENERAL ALEXANDER M. HAIG,

You honor the thousands of faceless Americans in and out of uniform who've dedicated their lives to the service of their country, who, sensing their duty, seek to perform it despite personal cost, who, loving their country and the unique freedoms that provides, seek to protect it, and who, believing in their God, seek to serve Him by serving their fellow man. It is a distinct pleasure in that sense that I accept your Distinguished Service Award tonight. It is a wonderful personal privilege for me to have an opportunity to be with you; I feel like I've come home after

a rather rugged month and certainly a rugged week.

I am quite aware of the distinguished record of this magnificent organization whose membership have so consistently over the history of this country, since its founding, made the ultimate contribution to our security and safety and freedoms.

It has been a rather spicy six months for me because, when I announced I'd be leaving Europe rather prematurely, and that was accompanied with rumors that I might be interested in returning to our nation's capitol to set up semi-permanent residence, a degree of tension if not suspicion developed between the supreme allied commander and the administration in Washington.

In fact, about six weeks ago, as we were having our defense ministers' meeting in Brussels, I was sitting alongside Harold Brown, our Secretary of Defense. One of his aides came in and brought a New York Times that had on the front page, "Haig will return home to fight SALT II." And Harold leaned over and said, "Al, you know that old Army ditty, 'Old soldiers never die; they just slowly fade away'?" And I said, "Yes, Harold." He said, "Well, in your case we're hoping for an instantaneous exception.

You can imagine Harold's chagrin three weeks later when he almost had one as I almost got blown up on the way to work. Well, I got in to the office, and I had an urgent call from Washington. It was Harold. He said "Al, I just called to tell you we didn't do it."

I said, "Harold, thank God you called. I was a little confused." "On the one hand, I hadn't sensed enough competitive political support for me to justify such drastic action, but," I said, "on the other, it was so badly muffed, I couldn't help but think of you."

You know, as I go about and make my remarks to groups such as this, I'm frequently asked, what's happened to the defense forces in Europe? Do we still have the kind of vigor and leadership that is so essential in this critical age? And I like to remind my questioners of the experiences of a young naval officer, British naval officer this past summer, who was given command of one of our fast new frigates in NATO.

He was a very ambitious young naval officer, so he invited the local parliamentarian from his district, who had a reputation for influencing the advancement of young naval officers. And he positioned him on the bridge alongside of him at a NATO exercise in the North Atlantic.

Throughout the exercise our young hero performed flawlessly under the admiring glances of the parliamentarian. And as the exercise drew to a conclusion, he was afraid that he hadn't quite executed the coup de grace that he had hoped. So he floorboarded the frigate, moved up through the entire fleet, passed the flagship and back into position, again under the admiring glances of the parliamentarian.

At that moment a young sailor came in from the bridge with a message. He said, "Sire, I have a message from the flagship." Our hero being sure it was further affirmation of his prowess, said, "Very well, young man. Read it. Read it aloud." And it went something like this: In all my born days I've never seen such a blundering idiot. You almost rammed the flagship. Signed, the Admiral.

Well, our young hero's lips tightened. He quickly regained his composure. He said, "Very well, young man. Take that below decks and have it decoded immediately."

So you see our youth is still rather agile. But I also got questions about the older fellows. And I like to recall the story of a very illustrious French general who'd been a member of NATO before De Gaulle withdrew their forces, now retired and living in Paris.

Recently his wife reached her 80th birthday, and simultaneously with that octagenarian milestone, she arose in the morning with dizziness, nausea that followed her through noon. This situation continued for a week. She went to her doctor, explained her problem. He launched a whole series of tests, radiological, blood tests, metabolic tests. He said, "Madam, best you go home until I complete the diagnosis." He called her a week later. She returned to his office. There was a whole battery of specialists lined up against the wall with serious looks on their faces.

He said, "Madam, best you sit down for the diagnosis." She sat down. He said, "Madam, you're pregnant." She looked at him. She said, "Doctor, that's impossible." She said, "I'm 80 years old. My husband is 85." He said, "Madam, we've given you every test known to modern medical science. It's irrefutable. You are pregnant."

She leapt up from the doctor's chair to rush home and tell her husband, found he was at the club playing cribbage. She dialed him on the phone. He answered the phone. She said, "You old goat, you got me pregnant." And he responded, "And who is this calling?"

So, you see, despite all of the terrible tales you may hear these days, the alliance has not lost its vigor at either end of the spectrum.

Now, in a more serious vein, I have returned home after almost 4½ years in NATO Europe, rather prematurely, because I have returned with a deep sense of concern about the drift of our country here at home, about the perception of that drift abroad and the impact it is having on traditional friends and allies and their resulting policies.

And I suppose this great nation of ours in its 200 years of history has experienced similar malaise in the past. But I do not believe ever in our history that these difficulties have converged with a series of changes in the international and strategic environment which would pose comparable gravity.

And so it is because of these conversion factors that I feel I can best serve the purposes of this nation by speaking to these concerns, and I intend to do so in the period ahead.

Now, I'd like to compress for you very quickly the reasons why this concern is held so deeply by me. First, because of the topic of SALT II itself, worsening strategic balances in the nuclear area between ourselves and the Soviet Union, and I've emphasized that during the decade and the period from 1981 until perhaps 1987–88, with or without SALT II the United States is going to be inferior to the Soviet Union in a number of critical areas of measurement of strategic nuclear power. For that reason I have personally welcomed the debate now going on associated with the ratification of SALT II itself. I've made the point in my testimony that this dangerous period is such that in the process of ratification we as a nation must finally at long last step back and reassess several aspects of our national security and foreign policy.

First, it is the relationship between ourselves and the Soviet Union as we proceed in a number of functional areas under the rubric of detente to seek improved East-West relations. And secondly, we as a nation must step back and assess our nuclear doctrine, because either by conscious decision or de facto implication we as a nation are drifting and have been steadily drifting for a period of a decade into a posture of nuclear inferiority to the Soviet Union. We are increasingly becoming a captive of a so-called MAD concept, Mutual Assured Destruction, in which we as a nation would establish as policy the elimination of populations as the prime element of our nuclear defense concept.

I have testified this past week that this is both sterile and profoundly immoral as a policy for our nation to pursue. But perhaps more importantly, it would be a devastating policy for a president of the United States to have to preside over in a period of increasing Soviet interventionism throughout the world, in the maintenance of stability in these crises which will inevitably occur in the period ahead, when we are deprived of a backdrop of equal capability in the nuclear area.

I've made the point that we must reassess our East-West relations, our strategic nuclear doctrine, and, in the context of those reassessments, then put in place the military programs that should be designed to sustain those two interlocking policies. Until such a thing is done, it would be inconceivable to me that we could proceed mindlessly with the ratification of SALT II because we cannot assess with clarity the risks associated with the flaws in this agreement. And only until we have that as a backdrop can such a precise assessment be made.

That has been a disturbing contribution by me to a number of the advocates for SALT II, but I would suggest that we as a nation are well served by such a profound and fundamental reassessment. It is a reassessment, incidentally, which could be completed within a matter of months and certainly before the first of the year if we set about it in a serious way.

I have also insisted and feel that, as we proceed with these central strategic agreements, we've got to be sure where we are going with our theater nuclear capabilities, because like it or not, American negotiators began in SALT II to engage theater nuclear systems through the protocol.

There are a number of other factors that are converging that will make the decade of the '80s extremely dangerous, because some of the decisions we make on our central strategic area with or without SALT are not going to be realized until close to the end of the coming decade, regardless of what we do today, because technology has caught us in a bind. These other aspects are perhaps equally dangerous for us. First, it is the probability of a changing leadership in the Soviet Union. In the past we've enjoyed what I call the inherent inability of totalitarian regimes to provide for a smooth transition of power, and it has usually resulted in some conservative post-power change policies on the part of the Soviet Union. But we have also enjoyed since the Second War generations of Soviet leaders who went into office acutely conscious of the great sacrifices that the Second World War cost the Russian people—20 million casualties.

I'm not so sure that the coming leadership will be so imbued. Rather, we will find men increasingly the product of the third and fourth generation Marxist-Lenist state who are acutely aware of the accomplishments of the Soviet Union in building an unprecedented level of military power. And so we as Western nations must be very much aware of the potential danger of the changing attitudes of Soviet leaders.

Whoever those leaders turn out to be, they are going to be the subject of increasing paranoia with respect to Communist China, especially as China has set a new course for itself to reach a superpower status by the turn of the century. And there's a window for such worried Soviet leaders to take preemptive action to prevent the emergence of China as a competitive threat along their border. So this too adds to the dangers of the decade with which we are faced.

But, perhaps even most importantly, are the fundamental changes that are occurring within the Soviet Union itself. I have watched over the last four years the Soviet leaders, constantly disappointed by their failure to achieve the economic growth aims that they have established for their nation. This coming year it will again be hovering at the three percent level, far below what they have consistently established in their five-year programs and consistently lowered as performance did not meet the goals that were established.

Secondly, our Soviet friends will be again confronted with historic failures in the agricultural sector. Despite the fact that they are driving larger and larger proportions of their population into the agricultural sphere, they have been unable to achieve the increased productivity they've so long sought.

They also, as we in the Western industralized nations have already begun to feel, will be increasingly constrained in their energy needs—oil and petroleum. Perhaps most importantly of all, this new paranoiac Soviet leadership, on the one hand so full of China, on the other hand cocky and reassured by the military power they have accumulated, will be increasingly faced with changing, demographic balances within the Soviet Union.

Today 50 percent of the Soviet populations are non-Russian in ethnic character. I'm talking about the nine republics of Moslem character in the Southern Soviet Union, Latvia, the Ukraine, the other republics, whose birth rates are burgeoning as Russian birth rates are declining. It's a rarity today to find a Soviet who has more than one or two children. This is not true among the non-Russian populations of the Soviet Union. This will result in greater pressures for greater autonomy among these non-Russian people and at the same time a greater voice in the conduct of Soviet policy.

Our Soviet friends have been very generous in the past in transferring these burdens and failures to their Eastern European allies, and as they do this, these pressures will be superimposed on centrifugal forces already underway in Eastern Europe. We saw it this past spring as the Warsaw Pact began to insist on higher defense expenditures, and some of the Eastern European powers raised their hand in objection.

We saw it as the Soviet Union attempted to orchestrate a consistent Warsaw Pact condemnation of China's intervention into North Vietnam, and again we saw some of these member states raise their hands in resistance, and we saw it recently in the visit of the new Polish Pope to his own homeland, where restive stirrings were clearly in evidence.

From all of these factors several conclusions should be drawn for all of us as Americans. First, it is clear that we are not faced with the inevitable, inexorable rise in success of Marxist-Leninism. Precisely the opposite. It is a profound failure. And, indeed, in historic terms we may be seeing the unraveling of this totalitarian system at long last, certainly not in contemporary terms but in historic terms.

We should hope as Americans that a responsible Soviet leadership would turn inward and address its energies to the solution of the pervasive problems of social justice within its own sphere of influence. But must we not be influenced by the historic reality that nations in the past, plagued with internal failures and enjoying an excess level of capability have consistently and regularly indulged in external diversions to divert their people from the internal difficulties and to insure their incumbency. I'm not so sure that some of the increased activity by the Soviet Union we are witnessing today in Africa and the Middle East and Eurasia is not already a manifestation of the consequences of these internal failures.

All of this suggests to me that we in the West are faced with a historically dangerous as well as a historically beneficial period and that, if we can muster the will, the unity, the resolve to weather our way through this decade of the '80s, certainly there is a light at the other end of the tunnel.

But if we fail to measure up to the challenges with which we are now faced, I think the dangers of our retaining our freedoms are high indeed. Some years ago we as a nation set upon a twin-pillared policy of detente and improving East-West relations on the one hand and deterrence or defense, the maintenance of the necessary strength on the other.

I have witnessed the success and failure of that policy over the last three years, and I've watched unchallenged, illegal, blatant Soviet interventionism in Angola, in Ethiopia in the establishment of a client state there, in Southern Yemen, where a client state was established a year ago, the efforts made this past spring to overrun Northern Yemen by Papsi forces from Southern Yemen, the activity of Soviet forces in Afghanistan, participating with client forces in overcoming a counter-liberation movement to insure that their current inroads are preserved. Then I begin to wonder whether we in the Western World have properly assessed the implications of these unchallenged inroads, not only on our traditionally friendly allies, but on those other nations of the free world who are equally threatened and upon whose convergence of policies we so vitally depend, Saudi Arabia, the Gulf States of the Middle East, who produce for the West today the vital resources that keep our societies functioning and our industry efficient and effective.

And so I think the time has arrived where we as Americans must step back and ask whether or not we are correctly integrating, orchestrating and managing what are still vastly Western superior political, economic and security assets, to insist as we must that necessary and desirable historic changes occur within the accepted rules of international law.

This is going to require, in my view, a new kind of post-Vietnam American leadership, a leadership that recognizes that our sterile involvement in Southeast Asia is over, but a leadership that also recognizes that our post-Vietnam paralysis and self-mesmerizing stifling of American leadership throughout the world must also be over. It is a new post-Vietnam leadership that must be built upon a global strategy which, in concept with our allies, effectively concerts the political and economic and security assets of the Western world.

And by so doing we should be able, with greater clarity than we have recently, to sort out those events happening throughout the world which represent a vital threat to our national interests from those which are best left to local solution. It's a new kind of American leadership that must recognize that we can no longer afford the hyperactive American activity that characterized our international affairs since the Second War—where we as Americans saw Soviet duplicity behind every single deleterious event on the strategic horizon. But it's a leadership that must not shirk from challenging blatant, illegal Soviet interventionism wherever it occurs.

It's an American leadership that recognizes that the days are gone when the United States alone, as a consequence of the unique superiority we enjoyed at the end of World War II, could move in and out of global crisis situations and alone bring about outcomes that met the collective interest of the free world. And, you know, I've reminded our friends in Western Europe on every occasion I could, that the days are also gone when they could sit on the sidelines and alternatively carp or support as the United States alone bore the burdens of their freedom and protection.

It is perhaps above all a new post-Vietnam American leadership that continues to recognize that this is the greatest nation on earth—a nation that has been the recipient for 200 years of generations who have come to this land to experience and flourish with personal fulfillment, with the assurance of the individual liberties, from lands where such freedoms were not permitted either by right of birth or governmental fiat.

It is a leadership that must recognize that, if indeed this is the greatest land and the greatest system known to modern man, then it cannot be immoral to pursue policies designed to protect the vital interests of this nation. And how important and long overdue it is to shed that sackcloth and ashes attitude from which we emerged from our experience in Southeast Asia and recognize the importance and the vitality and the great benefits of this land.

I returned from almost five years abroad with the conviction that were there that kind of visionary, sensitive, cooperative American leadership provided our allies in Europe and our friends in Asia, they would respond and carry their share. You know, we need do no more. We dare do no less.

It was some 35 years ago that the great World War II leader, Winston Churchill, described this as the century of the common man. Unfortunately, he added, the same century has witnessed more common men destroy more common men with greater facility than in any other five centuries in the history of mankind. The time has come for you and me to give our very best to insure that we do not leave a more frightening legacy for our children.

I know it's getting late, and that you have more business. And I think it would be charitable for me to again express my deep gratitude to each and every one of you, to tell you what a great pleasure and honor it has been for me to be with you and to tell you how much I admire your patriotism, your love of country and what I sense to be your energies to insure that it is preserved. Thank you very much.●

CZECHOSLOVAKIA AND ITS INTERNATIONAL HUMAN RIGHTS PLEDGES

● Mr. JAVITS. Mr. President, I am often perplexed as to why governments sign international agreements which they so soon thereafter do not take seriously and flout. Czechoslovakia's President Husak's signature on the Helsinki Final Act is a case in point. During the Belgrade meeting, which convened to review each signatory's implementation of the Final Act's provisions, the Czechoslovak Government chose to sentence four members of the Charter '77 group for their activities in promoting the rights guaranteed in the very same Helsinki agreement signed by Czechoslovakia and the other international human rights agreements to which Czechoslovakia is a party. Last week, the Prague Government once again revealed the way it flouts its international obligations by sentencing six other members of Charter '77 to prison for attempting to realize the pledges to which their government had committed their country.

Of the six convicted Charter members—Vaclav Havel received a 4-year prison sentence, Peter Uhl, Vaclav Benda, Jiri Dienstbier, and Otta Bednarova will be spending 3 to 5 years in prison and Dana Nemcova was given a 2-year suspended sentence. Their crime, according to the Czechoslovak court, was "subversion," Their true "crime," however, was knowing the truth and not being afraid to write about it. They were also not afraid to join a Charter '77 subgroup called the Committee for the

Defense of the Unjustly Prosecuted, which the Czechoslovak Government labelled a subversive and illegal group.

Mr. President, I am not the only one who finds it difficult to believe how a group which has sought in its 3-year existence, a "constructive dialogue" with its own government and which has sought "to know and act upon its rights and duties in the field (of human rights)" as promised in the Helsinki accords, can be considered subversive and illegal. I am also not the only one who finds it difficult to believe how a government such as Czechoslovakia's which, during the Belgrade meeting, repeatedly chided the West for its "unconstructive" approach, can ever expect a "constructive" approach to human rights and other issues, when it choses to ignore the Final Act's human rights provisions. With the next CSCE review meeting just 1 year away, human rights will continue to be the focus of that meeting as long as the Final Act's human rights pledges continue to be consistently violated by Czechoslovakia and comparable countries.

The Madrid conference has a long and important agenda, which includes such vital proposals as the strengthening of the Final Act's provisions on military and economic cooperation. But it will be difficult, if not impossible, to move ahead in areas where there has been progress in some countries, when in others there has been no progress at all in human rights.

Last week's trial in Prague is further evidence of that lack of progress in Czechoslovakia. It has not, fortunately, gone unnoticed throughout the world and it will not go unnoticed at the Madrid meeting. I would therefore like to join the distinguished politicians, academics and individuals in all parts of the world who have protested against the Czechoslovak court's actions and have beseeched the Czechoslovak Government to reverse the court's decisions and to begin to treat its international human rights pledges as seriously as its citizens must view them.●

WHY SHOULD GOVERNMENT GET A FREE RIDE?

● Mr. DOLE. Mr. President, section 8 of article I of the Constitution sets forth the powers of the Congress. First among these is the "Power To lay and collect Taxes, Duties, Imposts, and Excises." The 16th amendment gives Congress the specific power "to lay and collect taxes, from whatever source derived." Together these provisions lay the constitutional foundation for our present income tax system.

Both section 8 and the 16th amendment appear to envision action by Congress to impose taxes and provide for their collection. Each provision sets forth an affirmative power, "to lay and collect" taxes. The clear implication is that Congress must establish, or "lay," the tax, before it can be collected. Certainly there is no justification for inferring that Congress could collect taxes without a structure for the tax that makes the obligation to pay certain and understandable. Such a result would be contrary to any notion of equity, and indeed would strike at the heart of the issue that led to the establishment of our Republic: Taxation without representation.

Despite this fact, each year the Government collects a tax that was never laid by Congress. Even worse, this tax is not made known to our citizens, save those who are astute followers of the economy and the income tax system. The Treasury is glad to receive the revenues from this tax, and there are many politicians who resist the notion of making the tax known to the public, or of subjecting it to congressional action.

This tax is the inflation tax penalty, or "taxflation." It is raised not by act of Congress, but by the cumulative actions of Congress that have helped make inflation endemic to our society. When Congress declines to control spending and set policies that will encourage stable economic growth, inflation results. Taxflation is the further consequence, as people try to keep pace with the rate of inflation. Whether they succeed or not, their efforts push them into higher tax brackets where they pay a higher rate of tax. Purchasing power may have declined, but the citizen's tax liability has increased. The result is a windfall in revenues for the Federal Government, and a free ride for a Congress looking for new opportunities for spending.

Taxflation represents an abdication of Congress power and responsibility to lay taxes. Instead of adjusting the real rate of tax, Congress allows the effective rate to rise due to inflation. Congress escapes blame for raising taxes, but it takes the credit for "tax cuts" that merely moderate the taxflation penalty for a short time.

Mr. President, this is not in the spirit of the Constitution, nor is it consistent with our best traditions. That is why I have introduced the Tax Equalization Act, S. 12, which would adjust the tax brackets and fixed dollar amounts according to the rate of inflation, thereby making tax rates constant relative to income levels. Congress would, as the Constitution envisions, have to act to raise taxes. The bill would also give Congress a significant incentive to restrain inflation.

Political expediency is not a sound reason to allow taxflation to continue, in contradiction of Congress responsibility under the Constitution. It is time to end that contradiction by passing the Tax Equalization Act. It is not merely a priority, but an obligation upon this Congress.●

ADDRESS OF CLARE BOOTHE LUCE UPON PRESENTATION OF THE SYLVANUS THAYER AWARD

● Mr. GOLDWATER. Mr. President, one of the most coveted awards presented by the United States Military Academy is the Sylvanus Thayer Award given each year to an outstanding American who has performed in a patriotic, thoughtful manner for our country. The recipient this year was the Honorable Clare Boothe Luce who has served his country in an extremely outstanding way. It is a fine speech, done in her typically fine fashion, and I ask that it be printed in the RECORD.

The address follows:

ADDRESS BY THE HONORABLE CLARE BOOTHE LUCE

General Goodpaster, General Finlay, Ladies and Gentlemen of the Corps, Distinguished Guests:

Everyone desires and needs the good opinions of others to be happy. I have sometimes lived for days on a sincere compliment. But nothing so nourishes our spirits as recognition by those we hold in highest esteem. I will thrive on this honor you have done me the rest of my days.

But although it goes straight to my heart, I'm trying not to let it go to my head. I know I do not rate with the heroic figures who have been given the Sylvanus Thayer Award. I am a brave woman. But I am no heroine. I am nevertheless profoundly grateful to you for bestowing Fame on me by association.

I suspect that the fact that this is the first year that there are women in all four classes is not unrelated to my good fortune. No doubt the Graduates' Association wanted the women of the Corps who stay the course to know they will be welcomed, and no honors barred, to the officer class of the world's finest military professionals. And what better way to flag this message than to give the Thayer Award to a woman? I am just damned lucky I was chosen to be that first women.

I know that the women of the Corps will see to it that I'm not the last, and that, in course of time, they will produce from their own ranks, a first-rate heroine.

Now at this point, custom requires the recipient of the Award to make a few remarks born of personal experience.

Well, I don't want for experience of living. I have lived more than a third of all the years since the signing of the Declaration of Independence. It was the last third, in case you are wondering; and it has included all but three years of this century—the first three.

The principal thing I've learned in my lifetime is that you and I, and all Americans are living in the best of all centuries, the best of all countries, and under the best of all forms of government.

The material progress that the United States has made in just the last 50 years is the marvel of all ages, and the envy of all peoples.

I was born in New York City in the prime years of the gas-light, wood-bin, coal scuttle, pump handles, outhouse, horse-and-buggy era. My grandparents and parents believed like everyone else in my childhood that America was destined to become—in say a century or so, a country as great as any of the mighty powers of Europe.

My grandfather, who owned the largest livery stable in Hoboken, was absolutely certain that in another decade there would be two horses and carriages in every man's stable.

But certain tho' my grandfather was of progress, he would have sent for the horse-drawn booby-wagon if someone had tried to convince him that in just a few decades, people in London or Tokyo could sit in their living-rooms and see and hear the President making a speech from the White House; that men would be walking on the moon; that millions and millions of Americans would be tripping around the globe in flying machines; that surgeons would be able to swap old hearts for new and reattach severed limbs; that the vast Colonial Empires of all the great powers would be lying in ruins, and that America, following her victories in two world wars, would emerge at

mid-20th century the greatest, richest, strongest power the world had ever known.

The speed with which America achieved political, economic, and military superiority in the first half of this century would have made my grandfather a little dizzy—had he lived to see it. But he would have had no trouble explaining why it happened. He and my grandmother had come to America in the 1800s (as had about 40 million other immigrants) to find Liberty. He knew that Liberty has no meaning save as it means Freedom for the individual—religious freedom, political freedom, economic freedom; and he knew the proper goal of these freedoms is to give the individual the chance to become what he or she is capable of becoming.

My grandfather would have had no trouble understanding that the miracle of progress America made in the first half of this century was produced by a free political and economic system which had released the physical and mental energies of millions of people.

Well, some of you are thinking, if this is such a glorious century, and America is such a great country, and we have such a fine form of government, how come we are in so much trouble today?

Well, Theodore Roosevelt—my first President, told Americans more than 30 years ago how the country might get into the kind of trouble we are in.

"The things that will destroy America," he warned, "are prosperity-at-any-price, safety-first instead of duty-first, the love of soft living, and the get-rich-quick theory of life." And, "if we seek merely swollen, slothful ease" and accept "ignoble peace," then he said, "bolder and stronger people will pass us by, and will win for themselves the domination of the world."

Our democratic form of government is the highest form known to man. But it requires the highest type of human nature—a type which has always and everywhere been in the minority. Yet it is always the majority that chooses, not only the course, but the leaders who are then pledged to follow it. The majority has—at least in the last decade increasingly chosen "prosperity-at-any-price and safety-first instead of duty-first." The majority have ceased to be patriots, for patriotism, as Theodore Roosevelt saw it, is the sense of collective responsibility for the economic stability and the military security of the nation.

We seem to have entered that period which history tells us always marks the hour of greatest danger to a democracy. This is when its citizens persist in raiding their own treasury, and when faced with a strong and avowed enemy—"a bolder and stronger people"—they substitute the ideal of peace for the idea of national security.

It is then that a democracy is doomed to depression and defeat unless it is rescued from its follies of its unthinking majority by those thinking minorities which Thomas Jefferson called "The natural aristocracies of brains and talent."

West Point exists to train and educate an aristocracy of military leaders. You are today the best military educational institution in the country.

So you know that the condition of our military establishment in relation to that of the U.S.S.R. is real cause for alarm; that American power, both nuclear and conventional, has been steadily eroding since the mid-60s; and that if this trend is not soon—and sharply—reversed, the U.S. will probably become a second, perhaps even a third-rate power before this century is ended.

Your study of military history has also taught you that an ally is a friend you can always count on to count on you. If our NATO allies should become convinced that our military power—in relation to the U.S.S.R.'s—is irreversibly crumbling, they will—indeed, they must, as a matter of survival—design their own policies of Detente and collaboration with the Kremlin, and you may be sure, these will leave us isolated in our own hemisphere, and tragically vulnerable to attack.

But it is certainly arguable that the conquest of the U.S. by force of arms is not likely in this century. For even if our military position grows considerably weaker, we would still retain a fearsome nuclear second-punch capacity.

What now seems more likely to happen is the collapse of our industrial system, which is today not only inflation ridden, but is over 50% dependent on Middle East oil. The truly shameful and humiliating fact is that six years after the Arab oil embargo, our government still has no realistic policy—political or military—for securing our access to Arab oil in the amounts, no less at the prices, necessary to maintain the productivity of our economy.

Congress and the media together have virtually destroyed the capacity of our Intelligence Service to intervene covertly in foreign countries in the effort to prevent anti-American forces from bringing down friendly governments. So if tomorrow Saudi and Kuwait should go the way of Iran, we could do nothing to prevent it—short of war—and we would be plunged into a depression far worse than that of the '30s, from which there could be no issuance save war, or political submission—and dependence—on the Soviet Union—the only oil self-sufficient industrial nation in the world today.

Can we turn things around before it is too late to spare our country suffering, humiliation, or war?

I am an optimist, although in my experience the principal difference between optimists and pessimists is that pessimists are generally better informed. But optimism about the future is reasonable. For the future is always uncertain, and good things as well as bad can happen. Indeed, only one good thing need happen to turn things around: a rebirth of that national will and sense of high purpose that has carried America safely through all the other great crises in our history.

"Every true man," wrote Emerson, "is a cause, a country and an age."

No rebirth of will or purpose, or patriotism are needed here at West Point.

Members of the Corps, you are of that true and happy breed who have a cause in life who have accepted freely the stern disciplines of mind and body that will make you successful in that mission, and who have the courage, if your country should require it, to risk your lives in its cause. You know why you are living, what you are doing, and who you are doing it for. The path of honor, duty, country, is a hard one, but a straight one. You'll find no one on it going around in circles lost and confused, as so many people these days are. And you will enjoy all your lives the respect and the gratitude of your countrymen.

I thank you, with all my heart, for that parade on the plain. This has been the proudest and happiest day of my life.

My only regret is that I will not live long enough to see much of you on that long gray line become the great soldier-statesmen, soldier-scholars, or soldier's soldiers of tomorrow. Would you please remember me maybe once when you do? ●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the four notifications I have just received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 24, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-10, concerning the Department of the Army's proposed Letter of Offer to the Republic of Korea for defense articles and services estimated to cost $29.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 80-10]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(B) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Republic of Korea.

(ii) Total estimated value:

(In millions)	
Major Defense equipment *	$0.0
Other	29.2
Total	29.2

(iii) Description of articles or services offered:

Four (4) AN/TSQ-73 air defense command and control systems (Missile Minder) and associated support equipment, special tools, spare parts, publications, training, and field engineering services.

(iv) Military Department: Army (WBH).

(v) Sales commission, fee, etc. Paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: October 24, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 23, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-11, concerning the Department of the Army's proposed Letter of Offer to Israel for defense articles and services estimated to cost $32.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

Attachments.

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

[Transmittal No. 80-11]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION (b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Israel.
(ii) Total estimated value:

(In millions)

Major Defense Equipment*	$31.1
Other	1.5
Total	32.6

(iii) Description of articles or services offered:

Two hundred and fifty (250) MIM-72C Improved Chapparral air defense missiles.

(iv) Military Department: Army (XJI).
(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.
(vi) Date report delivered to Congress: Oct. 23, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., Oct. 23, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-13, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $1.5 billion. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 80-13]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.
(ii) Total estimated value:

(In millions)

Major Defense Equipment*	$0.0
Other	1.5
Total	1.5

(iii) Description of articles or services offered:

Construction and modification of technical facilities, such as avionic shops, engine shops, and aircraft hangars; housing and community facilities; roads; and utilities in support of the Royal Saudi Air Force (RSAF) F-15 program (PEACE SUN).

(iv) Military Department: Air Force (YAT).
(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.
(vi) Date report delivered to Congress: Oct. 23, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 23, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-16, concerning the Department of the Air Force's proposed Letter of Offer to Korea for defense articles and services estimated to cost $85.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

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* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

[Transmittal No. 80-16]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Korea.
(ii) Total estimated value:

(In millions)

Major Defense Equipment*	$0.0
Other	85.0
Total	85.0

(iii) Description of articles or services offered:

Cooperative Logistics Supply Support Arrangement, requisition case (FMSO II) for follow-on spares and supplies for support of ROKAF aircraft of U.S. origin and other items of U.S. manufacture (e.g., F-4, F-5, A-37, T-33, T-37, and C-123 aircraft).

(iv) Military Department: Air Force (KBH).
(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.
(vi) Date report delivered to Congress: Oct. 23, 1979.●

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications were received on October 25, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 24, 1979.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 24, 1979.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.●

PUBLIC TRANSPORTATION, PUBLIC PARTICIPATION, AND ENERGY CONSERVATION

● Mr. WILLIAMS. Mr. President, public transportation is experiencing a renaissance in every region of the United States. I want to take this opportunity to remind my colleagues that the full potential of the Nation's public transportation program as an integral part of a national energy policy has yet to be realized.

Mr. President, I have been involved with the Federal public transportation since its inception in the early 1960's. Since then, I have extolled its social, environmental, economic, and energy virtues without letup or pause.

At times it was a lonely and difficult struggle to persuade my colleagues of the need to rehabilitate existing mass transportation facilities and expand bus and rail operations in all areas of the country.

The record of the last few years is proof positive that public transportation today is enjoying a rebirth as its tangible benefits are enjoyed by an increasing number of communities and individuals. The Federal public transportation program is now a permanent and growing part of our national transportation policy. It has become an indispensable component in a variety of urban development and rehabilitation projects in cities across the land. And in these days of expensive and scarce oil and gasoline, it is often the most cost-effective, energy-responsible means of personal travel.

Mr. President, the features of the transit program have become universally recognized since the oil-producing countries first began flexing their petro muscles during the oil embargo of 1973-74. Today, we face a far more serious problem. We are entering an era in which an overriding national and international concern will be a shortage of energy. This means inflation we cannot completely master, a new international equation, and above all, it means there will have to be adjustments in our individual lifestyles.

A major adjustment that each of us will face is the plain fact that we must curb our appetite for the automobile and restrict unnecessary automobile use. In

short, we must end our love affair with the personal convenience and luxury of the automobile, except for essential use. Today, the average auto occupancy is 1.3 passengers. Just for routine home to work commute trips, Americans use 1.8 million barrels of gasoline each day. And almost 1.4 million of those barrels are burned by commuters driving to and from work alone. If we are to conserve petroleum, we simply cannot be so profligate in the future. And if we are to break the automobile habit, people must have an alternative to transport them to the office, the theater, the supermarket, and to church.

The use of public transportation to provide mobility while conserving energy is recognized by Mr. John C. Sawhill, the Deputy Under Secretary of the Department of Energy. A recent article in the Washington Star reports that Mr. Sawhill said, "the Government has to improve the quality of mass transit as an alternative to cars." As far as I can recall, Mr. Sawhill's statement is the first by any high-ranking Federal energy official that recognizes that a national energy policy which does not stress public transportation is an incomplete, and probably unsuccessful, policy.

Mr. President, because of the early vision of the Congress and the forward-looking policies of many State and local officials, I am pleased to tell my colleagues that such an alternative is already in place in many parts of the United States. Each day, trains and buses are carrying tens of millions of people. Patronage has been increasing steadily and significantly. This weekend, the New York Times carried a front page article entitled "New Figures Show Transit Growth May Outlast Gas Scarcities of 1970's." The message of this article is that Americans are using existing public transportation facilities in record numbers and that others would do the same if the facilities were available and ways could be found to defray the added costs of providing additional service.

Mr. President, some of the facts in this article illustrate the increasing popularity of public transportation:

In the Philadelphia suburbs this summer, nearly 30 percent more riders than last year swamped work bound trains and buses.

More than 31,000 commuters formed ride-sharing plans in San Antonio.

And in Los Angeles, perhaps the most car-dependent of the Nation's largest cities, so many commuters have been turning to public transit that the city has ordered 1,200 new buses.

There are other transit success stories from all over the Nation—New York, Chicago, Minneapolis, Hartford, Washington, D.C. This is evidence that Americans would rather line up for a bus or a train than at the local filling station. It is the best evidence of the willingness of the American people to shelter their pocketbook from the excessive costs of gasoline, lend a hand in the war against inflation and energy independence, and to sacrifice some of their freedom of movement in order to come to grips with the energy crisis.

Mr. President, this national phenomenon is not transitory. It signals the rebirth of public transportation. It is a tribute to our years of labor.

At the same time, it is a stark reminder of how much more needs to be done. To maintain this increasing ridership, the equipment and facilities used in public transportation must be rehabilitated and modernized in many parts of the country. In still others, bus fleets must be expanded. And we must continue on the present course toward integrating the various modes of transportation to maximize the total benefits which can accrue to a particular area or region in purely transportation terms and to realize the other economic, social, housing, and environmental dividends from our investments in improved public transportation.

Mr. President, as we approach the 1980's we must change the focus of the present public transportation program. The original predicate for the program was to prevent the further decline and collapse of most large transit systems in the country. But this founding principle is no longer sufficient to permit the large scale improvements necessary to create a public transportation system that will meet the Nation's needs through the next decade. In most of the large cities that have extensive rapid transit systems, equipment is run down, subway stations are outmoded, and service is substandard. In many cities, the lack of equipment and facilities has seriously undermined the growth and acceptance of transit systems as a viable alternative to the automobile. This situation has serious economic and social implications in the 1980's if petroleum supplies continue to be tight and Americans are not provided with acceptable alternatives to the automobile.

Mr. President, every level of government will be called upon to develop comprehensive transportation strategies and effective ways to raise and expend Federal transportation dollars in concert with locally raised funds. President Carter has recognized the need for additional spending by proposing a $13 billion public transportation investment program over the next decade to be funded from the windfall profits tax. These are encouraging signals from an administration that has been publicly skeptical about public transportation as a top national priority. And I applaud my colleagues from the Appropriations Committee, especially the chairman of the Subcommittee on Transportation, Senator BAYH, for the recognition contained in their committee report on the 1980 appropriation bill (H.R. 4440; S. Rept. 96-377).

The fiscal year 1980 funding request, consistent with the Administration's goal of controlling inflation, is sufficient only to maintain the status quo: to prevent further deterioration of rail systems and to replace a portion of the overage bus fleet. At a time when the restricted availability of petroleum makes the importance of having an extensive, efficient, and effective public transportation system a matter of national priority in order to maintain the viability of our cities, this Committee does not believe that we can afford to limit the Federal support of public transportation to maintaining the status quo.

Mr. President, the Federal public transportation program is a success story by almost any yardstick. Its worth is best attested to by the upward ridership trend representing the daily decisions of millions of individuals. This is an important barometer of public attitudes. It is the best testimony that the program has achieved a notable degree of success. It is the happiest of circumstances as the Congress prepares to broaden and expand the program early next year.

Mr. President, I request that the following newspaper articles be printed in the RECORD. The first is from the New York Times this past Sunday. The second is from the Washington Star concerning the forward looking and frank views of John Sawhill on this program.

The articles follow:

[From the New York Times, Oct. 28, 1979]

NEW FIGURES SHOW TRANSIT GROWTH MAY OUTLAST GAS SCARCITIES OF 70'S

(By Ernest Holsendolph)

WASHINGTON, October 27.—In the Philadelphia suburbs this summer, nearly 30 percent more riders than last summer swamped work-bound trains and buses. More than 31,000 commuters joined ride-sharing plans in San Antonio. And in Los Angeles, perhaps the most car-dependent of the nation's largest cities, so many commuters have been turning to public transit that the city has ordered 1,200 new buses.

All this is part of a national phenomenon associated with the energy crisis of 1979. But the growing demand for mass transit, after declining for three decades and reaching a low point in 1972, seems likely to outlive the sporadic gas shortages of this decade.

The trend is encouraging to municipal officials who are grappling with the auto-related problems of traffic congestion, air pollution and scarce parking space. But they are worried, too, about their aging transit equipment, and fearful that their needs for large amounts of Federal money to repair and expand their systems will go unmet.

Figures compiled here by the American Public Transit Association show that the gas lines of spring and summer brought about the largest patronage increases of this decade, but that the growth has been uninterrupted for 25 months.

BIG-CITY INCREASES

The figures for August, the latest month for which the association has a fully audited report on the nation's transit systems, showed an 8.4 percent increase over August 1978. Transit experts take this as evidence that commuters by the thousands are lining up for buses instead of for gas.

"Ridership began to rise gradually in April," said Louis B. Olsen, general manager of the Minneapolis-St. Paul Metropolitan Transit Commission. "Then it reached a crescendo." The commission expected ridership to rise 2.5 percent this year, he said, but experienced an increase of 10 percent.

New York City and Chicago, with extensive transit systems of subways, buses and commuter trains, showed increases of 6.5 percent and 6.3 percent in August over a year earlier. Indianapolis, which relies on buses, had a gain of 8.1 percent.

Many other moderate-sized cities were showing much larger, sustained gains in the year ended last August. Hartford had a 17 percent increase, San Jose was up 31 percent, and Washington, with a new subway system, had a 34 percent gain.

The biggest ridership gains in most metropolitan areas were in suburbs and outlying sections, whose commuters face the longest trips and, therefore, the greatest vulnerability to high gas prices and uncertain supplies. In the New York metropolitan area, for example,

the bus systems on Long Island registered a 17 percent gain, against an overall increase for the area of just 6.5 percent.

NEW DEMAND POSES PROBLEMS

Most transit systems, whose equipment has deteriorated in an era of scarce transit funds, were hit hard by the new demands for service.

The Southeastern Pennsylvania Transit Authority, which operates Philadelphia's metropolitan system, is chronically short of vehicles even in good times, and its 8-year-old buses, 34-year-old trolleys and 47-year-old Broad Street subway cars were swamped.

To meet the demands of the 1980s, the authority says, it will need 1,400 new buses. It now has 1,235, but 20 percent or more are likely to be out of service for maintenance on a given day.

For cities where reliance on mass transit is somewhat newer, such as Los Angeles, equipment is needed not only for replacement but also for expansion.

"We have simply been passing up people," said Michael Barnes, an official with the Southern California Rapid Transit District. "We've added 200 buses, 40 of which were on loan to Seattle."

Virtually all transit officials say the Carter Administration's pledge last month of $1 billion a year for 10 years in new Federal transit money is not only overdue, but also may well be inadequate. A recent study directed by United States Representative Bud Shuster, Republican of Pennsylvania, recommended spending eight times that amount.

PLEDGE "LESS THAN IT APPEARS"

"We're not doing a lot of projects because we have inadequate funding," said Bernard Ford, general manager of Chicago's Regional Transportation Authority. "We're actually getting less from the Federal Government this year than last. The $10 billion is less than it appears in terms of new money. Even a billion dollars spread over the country is not so big a number as it seems."

The President, in a recent speech to transit officials at their annual meeting in New York, promised to help propel the nation's public transportation system into a "quantum leap" of improved and expanded services.

Some transit officials said the $10 billion mentioned by President Carter would be significantly high only if it is focused on bus purchases and not on rail systems, which are much more expensive and benefit relatively few cities. Nevertheless, rail systems are being built or have been proposed in Baltimore, Miami, Buffalo, Detroit, Honolulu and in Portland, Oregon.

Nor do any transit officials expect ridership increases to bring mass transit into an era where heavy public subsidies are no longer required. The economics of mass transit, they note, are such that the increased costs of expanded service outpace the increased revenues.

GOVERNMENTS ENCOURAGE USE

Transit officials appear eager to keep and increase the new passengers. San Antonio, as an inducement to its employees to stay with mass transit, is paying $5 of the $20 monthly ticket price for any city worker who takes the bus.

Other cities are trying to stimulate the growth of van pools and car pools. Many are providing special bus transportation for elderly or handicapped people.

Most cities are planning a variety of answers to future transportation needs, including more buses, new trolleys and "light rail systems"—modern-day streetcars that usually travel on exclusive rights-of-way.

A prime example is Los Angeles, which is planning an 18-mile rapid-rail system but it is also working on expanded services on its buses and modification of its freeway system to better accommodate them.

[From the Washington Star, Oct. 29, 1979]

SAWHILL HINTS DOE STRESS ON CONSERVATION

(By Roberta Hornig)

In a major Department of Energy policy shift, Deputy Secretary John C. Sawhill says the principal emphasis of U.S. energy policy "has to be on conservation."

Sawhill called for a "massive" program of making existing American homes and buildings more energy efficient and said he supported a serious program of pushing the production of gasohol as a substitute for gasoline in automobiles.

The department's new No. 2 man, in an interview last week, said he does not believe "the traditional responses to reduce oil imports will be adequate."

He defined the traditional responses as expanded nuclear power, coal production and synthetic fuels.

He also said he does not believe higher energy prices alone are "nearly enough" to curb U.S. energy consumption.

"We need major government action that goes beyond the market solution," Sawhill said. "Conservation is the only real alternative available to us."

Sawhill's philosophy is a change from department policy under former Secretary James R. Schlesinger. Under Schlesinger, who resigned in mid-July, the department preached conservation through higher prices. That philosophy was reflected in the decision to phase out price controls on domestic oil.

Schlesinger was contemptuous of the development of gasohol as part of the solution.

Sawhill's pro-conservation stance is the strongest to date of any member of the Carter administration.

The White House has belatedly embraced conservation measures initiated on Capitol Hill. Sawhill's boss, Secretary Charles Duncan, has spoken in favor of conservation, but not in specific terms.

Sawhill said the energy programs proposed so far by the administration "are effective but not the end of the line." He said "the development of a number of conservation initiatives" is one of his major jobs.

"We've got to work very hard to get every home and business in the country operating on an energy conservation basis," he said. He added that he is attracted to pending legislation sponsored by Sens. Bill Bradley, D.-N.J., and Paul Tsongas, D-Mass.

The two senators have proposed having an "energy doctor" visit American homes and recommend ways to make them more energy efficient. The "doctor" would help the homeowner locate reputable contractors and obtain financing at a reasonable rate.

"We need a mechanism for delivering energy conservation. That is a government role," Sawhill said.

In supporting a gasohol-development program, Sawhill said the government needs a way "to stop autos from consuming so much gasoline." He also said the government has to improve the quality of mass transit as an alternative to cars.

Sawhill, an economist who quit as president of New York University to join DOE last month, is serving his second stunt as a key figure in the shaping of U.S. energy policy.

In 1974–75, under the Nixon administration, he was director of the DOE's predecessor, the Federal Energy Office.

It was Sawhill's outspoken attitude on the need for conservation—at that time through a stiffer gasoline tax to dampen consumption—that led to his abrupt firing by President Ford.

Sawhill sees two major changes in the world energy situation between his first service in government and his return.

On the plus side, he said he sees "a lot more sophistication" in government decisions on energy problems.

On the negative side, he said, are the changing roles of members of the Organization of Petroleum Exporting Countries, particularly the diminution of Saudi Arabia's role as a dominant, and moderating, force within the cartel.

In the early to mid-1970s, Saudi Arabia had a dominant role and the ability to more or less control OPEC pricing decisions by the threat of increased oil production.

"Today Saudi Arabia has increased production and (OPEC) prices are still rising," Sawhill said.

"This indicates to me that it is no longer possible for any one country to control or dominate world energy prices," he said, adding that this has caused a "much less structured, much less orderly, much more volatile" world oil market.●

INCREASED PRIVATE CAPITAL INVESTMENT IN SHORESIDE FISHERIES FACILITIES

● Mr. PACKWOOD. Mr. President, today Senators MAGNUSON, LONG, and myself join in announcing legislation designed to increase private capital investment in shoreside fisheries facilities.

The United States, with the fourth largest coastline and the third largest continental shelf in the world, has almost one-fifth of the world's marine fish resources within 200 miles of its coastline. With passage of the Fishery Conservation and Management Act of 1976, Congress extended U.S. jurisdiction over fisheries in a zone extending 200 miles offshore. Under the act, the American fishing industry was given first opportunity to harvest and process resources found within the zone. Three years later, despite some sizable American gains, foreign vessels continue to fish off our coasts, take the catch home, and often export the processed fish back to the United States. This year, foreign harvests within the 200-mile U.S. fishery zone will amount to 2½ times the domestic harvest. The United States now imports 70 percent of its seafood, resulting in a fisheries trade deficit approaching $2.5 billion annually. This is an appalling situation, made even more so by the fact that, given our abundant resources, it is so unnecessary.

The primary reason for the U.S. fishing industry's inability to reach its potential has been identified by the Fisheries Development Task Force of the National Oceanic and Atmospheric Administration:

The lack of adequate port and harbor facilities is an impediment to development of every major non-traditional species off the U.S. coast. Most new and expanded fisheries need new, improved, or expanded dock space, freezing capacity, storage and refrigerated warehouse facilities, vessel repair facilities, or support services.

The Conservation Foundation, upon completing a study of 135 seaports, reached the same conclusion:

The major problem of expanding fisheries in many ports is a lack of shoreside facilities.

These inadequate facilities have kept the domestic fishing industry from reaching its full economic potential by taking advantage of the 200-mile fisheries zone.

My own State of Oregon provides an

accurate example of this shortcoming, yet shows potential for an encouraging remedy. Off the Oregon coast lie some of the most abundant fisheries on the west coast. These are Pacific whiting, a fish eaten in vast quantities throughout the world. In this country, Pacific whiting is a nontraditional species, seeking consumer recognition in new markets. Unfortunately, it is the Russian and Japanese fishermen who are exploiting this resource, and Japanese companies who are selling Pacific whiting to American markets. Over 200,000 metric tons of whiting can be harvested each year off the Oregon coast. Currently, 85 percent is being harvested by foreign fishermen, and an even higher percentage is processed by them.

This is a travesty, but one with a very desirable solution. Within close proximity to the Pacific whiting fisheries are numerous ports such as Coos Bay, Newport, and Astoria, among others, which, given sufficient capital investment, could provide the necessary facilities to support expanded American fishing. Facilities such as boat moorage and repair, and modern fish processing, storage, and distribution facilities are essential to allow American fishermen to finally displace foreign fishing off the Oregon coast, and within the 200-mile U.S. fisheries zone generally.

It is apparent that a means must be found to infuse the fisheries industry with sufficient capital to develop shoreside fisheries facilities. Fortunately, there have long existed two mechanisms by which private investors have been encouraged to invest in commercial vessels, including fishing boats. Section 1104 of the Merchant Marine Act of 1936 provides for obligational loan guarantees for up to 87.5 percent of the cost of the vessel. Section 607 of the act is the capital construction fund, which provides for a Federal income tax deferral mechanism to stimulate capital accumulation for replacement vessels. We propose that both programs be made available to investors in moorage, ship repair and fish storage, processing and distribution facilities.

CAPITAL CONSTRUCTION FUND

Under current law (46 U.S.C. 1177) individuals or businesses may place pretax income into an individual capital construction fund account. The taxpayer's taxable income is reduced to the extent of his contribution to this capital construction fund. Neither these funds nor the investment earnings therefrom are subject to Federal income taxation if they are eventually invested in American-built vessels. The U.S. Treasury recoups deferred income tax revenues, by reducing the taxpayers basis in the new vessel to the extent that capital construction fund moneys, financed the purchase of the ship.

The Eastland Fisheries Survey, an 18-month study mandated by Senate Concurrent Resolution 11 (93d Congress), analyzed the needs and priorities in all sectors of the fishing industry, and developed a national consensus on recommendations to Congress. We are today proposing enactment of one such recommendation:

The Congress should extend the application of the Capital Construction Fund as embodied in the Merchant Marine Act of 1936 as amended, to include shoreside facilities directly related to harvesting, processing, and marketing.

The General Accounting Office has also recommended that—

The financial (Federal) programs should be utilized to the extent that they can meet the needs of fishermen and processors.

NOAA's own fisheries development task force identified the inability to attract venture capital as an impediment to expansion of the fisheries industry. The task force suggested:

The government could consider supporting legislation to extend the coverage of the existing loan guarantee and Capital Construction Fund programs to shoreside facilities such as processing plants, warehouse and cold storage facilities, and other associated facilities.

The capital construction fund mechanism is designed to assist investors seeking to raise the large amounts of capital necessary to build sophisticated commercial vessels.

Shoreside fisheries facilities are equally, if not more costly. An Alaskan salmon processing facility was recently installed at the cost of $15 million plus the cost of the land. Renovation of the Boston fish pier will cost approximately $30 million. An integrated, modern port and fish processing facility along the Oregon coast will require a similar high level of investment.

Extension of the capital construction fund program to shoreside facilities will allow the private sector to accumulate the capital it needs to make these large investments.

LOAN GUARANTEE PROGRAM

Section 1104 of the Merchant Marine Act of 1936 (46 U.S.C. 1271 et seq.) authorizes Federal loan guarantees for up to 87.5 percent of the purchase price of commercial vessels, including fishing boats. We propose to extend the eligibility for the loan guarantees to shoreside facility expenditures.

The loan guarantee program is a necessary complement to the capital construction fund for two reasons:

First, it provides a means by which all companies can obtain financing for fisheries facilities. Loan guarantees provide companies unable or unwilling to commit large amounts of capital to a capital construction fund with an attractive alternative. The loan guarantee program will benefit any company that can demonstrate the economic soundness of its proposed fisheries facility.

Second, much of the difficulty in attracting investment capital lies in the area of developing fisheries. Companies seeking to expand their activity in underutilization fisheries such as Pacific whiting and other Pacific ground fish find financing a major obstacle. With a Federal loan guarantee, these companies will be better able to attract capital, and at lower interest rates.

The current loan guarantee program for fishing vessels is administered by the National Marine Fisheries Service of NOAA. Because the Federal Government has had to assume very few loan obligations, the loan guarantee program has produced surplus income for NOAA. In fiscal year 1979 the National Marine Fisheries Service will show income of $750,000 above the cost of administering the program, including personnel and overhead.

Ironically, the program simultaneously is suffering a shortage of personnel, severely limiting the number of loan guarantees granted. Failure to grant loan guarantees to the eligible applicants only serves to delay the date when American fishermen will realize their full economic potential. I will continue to work with my colleagues on the Commerce Committee to assure efficient operation of this program.

I believe our amendments would act as a stimulus for industry development of the underutilized species, as well as renovation of facilities and expansion of traditional fisheries. This will result in increased U.S. employment in the seafood industry, a reduced balance-of-payments deficit in seafood products, and insure that the American industry is in the position to provide needed protein for the Nation's consumers for the world market. Our amendments are in concert with the basic intent of the Fishery Conservation and Management Act. If enacted, they will dramatically increase the ability of the private sector to raise the capital it needs to displace foreign fishermen within our 100-mile-fishing zone.

Following is the text of amendments to S. 1656 which Senators MAGNUSON, LONG, and myself intend to offer during an upcoming executive session of the Committee on Commerce, Science, and Transportation:

Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177) is amended to read as follows:

"(a) AGREEMENT RULES.—Any Citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more fisheries facilities (as defined in subsection (k)(9), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fisheries facilities. Any agreement entered into under this section shall be for the purpose of providing—

"(1) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States, foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States, or

"(2) replacement, additional, or reconstructed fisheries facilities and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (1). The deposits in the fund and all withdrawals from the fund whether qualified or nonqualified shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A) which is attributable to

the operation of the agreement vessels or fisheries facilities or from the sale or marketing of fish or fish products (as defined in paragraphs (11) and (12) of subsection (k)."

(b) CEILING ON DEPOSITS.—Subsection (b) of section 607 of such Act is amended—

(1) in subparagraph (A) of paragraph (1) by inserting "or which is attributable to the operation of the agreement fisheries facilities or from the sale or marketing of fish or fish products" before the comma at the end thereof;

(2) in subparagraph (B) of paragraph (1) by inserting "or fisheries facilities" after "vessels"; and

(3) in subparagraph (C) of paragraph (1) and in paragraph (2) by inserting "or fisheries facilities" after "vessel" each place it appears.

(c) QUALIFIED WITHDRAWALS FROM THE FUND.—Subsection (f) of section 607 of such Act is amended—

(1) in subparagraph (A) of paragraph (1) by inserting "or a fisheries facility," after "vessel"; and

(2) in subparagraph (C) by inserting ", a fisheries facility," after "reconstruction of a qualified vessel".

(d) TAX TREATMENT OF QUALIFIED WITHDRAWALS.—Subsection (g) of section 607 of such Act is amended—

(1) in paragraphs (2) and (3) by inserting "fisheries facility," after "vessel," each place it appears; and

(2) in paragraphs (4) by inserting "fisheries facilities," after "vessels,".

(e) DEFINITIONS.—Subsection (k) of section 607 of such Act is amended by adding at the end thereof the following new paragraphs:

(9) "The term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designed or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products from one or more fisheries, and includes any associated land, equipment, or machinery."

(10) 'The term 'agreement facility' means any fisheries facility which is subject to an agreement entered into under this section.

"(11) The term 'fish' means any species of living aquatic resources excluding aquatic mammals and birds.

"(12) The term 'fish products' means any product which is made wholly or in part from any fish or portion thereof, except products which contain fish only in small proportions and which are exempted from definition as a fishery product by the Secretary.".

Section 1104(a) of the Merchant Marine Act, 1936 is amended by—

(1) redesignating paragraph (4) as paragraph (5);

(2) striking out "or" at the end of paragraph (3), and by adding immediately after such paragraph the following new paragraph:

"(4) financing or refinancing fisheries facilities,"

(3) inserting after paragraph (5) (as redesignated by this section) the following: "For the purpose of this paragraph (4) the term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designated or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products from one or more fisheries, and includes any associated land, equipment, or machinery."●

THE RESIGNATION OF JUANITA M. KREPS AS SECRETARY OF COMMERCE

● Mr. RANDOLPH. Mr. President, I add my tribute to others being given today to Commerce Secretary Juanita M. Kreps.

Secretary Kreps has held the post of Secretary of Commerce since January of 1977. During that time she has amply demonstrated her capabilities in the administration of a very complex agency.

The Department of Commerce oversees a multitude of Federal programs. Among those are several economic development programs under the jurisdiction of the Committee on Environment and Public Works, which I chair. Some of the achievements of the Economic Development Administration and the agency during the period of Juanita Kreps' stewardship will reflect her success.

During Secretary Kreps' tenure, the Economic Development Administration developed and carried out procedures for implementing the 1977 Public Works and Economic Development Act, directing particular attention to a new requirement that 10 percent of round II local public works grants be awarded to minority business enterprises. Currently, about $600 million is projected to be awarded to minority-owned businesses under this program.

Under round II of the local public works program, more than 8,500 projects totaling $4 billion were approved by EDA for State and local governments. Disbursements under this program already exceed $3.3 billion.

President Carter's commitment to the economic development needs of this country can be seen in the increased level of program activity being requested for the Economic Development Administration. This administration's fiscal year 1980 budget request was $1.4 billion, over a billion dollars more than the fiscal year 1978 request of $212 million by President Ford. This greatly increased level of funding reflects the President's commitment to economic development programs, and also his confidence in the Department of Commerce and Secretary Kreps to carry them forward.

Under Secretary Kreps, the Commerce Department has been administering the President's Steel Loan Guaranty Program, under which guaranties totaling over $250 million have already been approved for four companies. Two additional approvals totaling nearly $170 million are projected for the first quarter of fiscal year 1980.

In 1977 the Commerce Department, at Secretary Kreps' direction, organized the highly successful White House Conference on Balanced National Growth and Economic Development, authorized by legislation I sponsored. This conference created a forum for the involvement of local, State, and Federal officials in meetings across the country for the discussion of critical economic issues.

Following the recommendations of the conference, the Committee on Environment and Public Works developed S. 914, the National Public Works and Economic Development Act of 1979. This legislation reauthorizes existing economic development programs and incorporates important new authorities. It specifically embodies a conclusion reached by the conference and subsequently recommended by the President that a regional growth policy process be instituted. This portion of the legislation reflects a finding of the conference that the varied economic problems in regions of the Nation suggest a need for strong State and local action to develop regional balanced growth policies and to focus local, State, and Federal funds in accordance with these strategies. It was determined by the conference, the President, and subsequently by the Senate, that the programs through which such efforts should be channeled are the existing title V regional commissions and the Appalachian Regional Commission.

The legislation developed by the Committee on Environment and Public Works reflects this and a number of other findings of the White House Conference on Balanced National Growth and Economic Development, which was spearheaded by Secretary Kreps. It is my hope that it will become law before the end of this session of Congress.

Mr. President, over the past few years I have had many opportunities to counsel with Secretary Kreps on important economic development issues, both through the hearing process and in personal discussions. I have been impressed with her wisdom, with her dedication, and with her warmth. Mr. President, Juanita Kreps cares about people. That concern for others is apparent through everything she has done over a career of over 30 years in the academic field and in posts at the State and Federal level. She has contributed to the Department of Commerce not only superior administrative ability, but a sense of compassion that is sorely needed in our modern bureaucracy. It is with regret that I bid her farewell.●

● Mr. HOLLINGS. Mr. President, it is with deep regret that we see Juanita Kreps leave her post as Secretary of Commerce this week. She has been an innovator and trailblazer throughout her career. She has been a noted professor, economist, author, member of the stock exchange, and vice president of a major university.

The list of her accomplishments is unending, and her time at the Commerce Department is no exception. She has led a major trade delegation to Japan, worked for improved trade with the People's Republic of China, and expanded export policy in general. She has worked toward the development of coastal zone management and strengthened the merchant marine.

It has been my pleasure to work with her on matters of communication, oceans, textiles, foreign trade, and economic grants, and I always have been impressed with her strength, her leadership, her graciousness, her courage, and her tremendous talent. Juanita Kreps has made a contribution to this city and to the Federal Government that will not soon be forgotten. I wish her the best of fortune as she faces new challenges in the private sector and hope that we can continue to look to her for advice and guidance in the future.●

PROPOSED ENERGY SECURITY CORPORATION

● Mr. ARMSTRONG. Mr. President, with the vote on the proposed Energy Security Corporation only a few days away, I want to call to your attention the broad-based alliance that has been formed to defeat this legislation.

The alliance consists of Senators from all sections of the country, almost all of the major environmental organizations, members of the academic community, and large and small business groups.

Because of widespread opposition to the creation of an Energy Security Corporation, I thought that you would be interested in reviewing statements alliance representatives made at a press conference Wednesday morning, and I ask that they be printed in the RECORD.

The material follows:

STATEMENT BY SENATOR WILLIAM PROXMIRE

Good morning. I would like to welcome you to this press conference. We have a large and diverse group of speakers, and everyone is going to want to say a few words about their particular interest in this matter.

I would like to start the proceedings by briefly discussing what has brought this group together. Although there are relatively few things with which everyone at this table would agree, I believe that we all agree that an Energy Security Corporation to manage an all-out $88 billion synfuels program is a bad idea. I would like to discuss why I believe Congress should not create a federal Corporation to manage the synfuels program.

I agree that synthetic fuels should be given a fair chance. However, I also believe that the only chance the synthetic fuels industry has to develop is if we keep the federal government out of the management and promotion of this industry. The bill approved by the Banking Committee, which I support, places primary reliance on market forces. It provides limited federal financial assistance for a program to demonstrate synfuels technologies on a commercial basis, in order to develop the information about costs, technological readiness, and environmental impacts that would allow the private sector to take over and do the job.

Creating an independent and unaccountable federal corporation for the sole purpose of promoting synfuels would guarantee that the federal government would attempt to force rapid development of a large synfuels program. It would also guarantee the expenditure of massive amounts of federal funds. The Energy Committee bill, which would create the Corporation, provides $88 billion in authorizations.

Paradoxically, according to several people who testified before the Banking Committee, creation of the Corporation with $88 billion in spending authority would not necessarily promote faster development of synfuels or the long term health of the industry. It could actually hinder synfuels development by promoting excessive reliance on the government, by over-committing to untested technologies which might fail, and by guaranteeing a substantial role for the federal government in all stages of the program. This last point is particularly important. There was general agreement among witnesses before the Banking Committee that government involvement in synfuels should decline once the technologies have been demonstrated on a commercial basis. At that point, the questions would have been answered, and everyone would know which processes work and how well they work.

Thank you for coming. We'll be pleased to take questions later. I will now ask Senator Armstrong if he would like to say a few words.

STATEMENT OF SENATOR ARMSTRONG

In a few days, the Senate will vote on whether to create an $88 billion Energy Security Corporation (ESC). The administration says such an agency is needed to stimulate an organized synthetic fuel production. Some proponents go so far as to suggest that a vote against ESC is a vote against synthetic fuel. Nothing could be further from the truth.

The Energy Security Corporation has considerable superficial appeal. The nation needs synthetic fuel. And with OPEC becoming more and more intransigent, a crash program seems like a symbol of our moral and financial commitment to get unhooked from foreign energy sources. It's bold. Dramatic.

But the Energy Security Corporation is a seriously flawed concept. ESC would probably turn out to be one of the costliest boondoggles of all time. ESC would be likely to impede, rather than stimulate, synthetic fuel production. It also threatens serious adverse environmental consequences.

Massive Government bureaucracy not needed: The ESC is an idea which originated with people who have little or no direct experience in production of synthetic fuel. It is not supported by those who are knowledgeable of what it takes to stimulate meaningful production of energy from oil shale, tar sands, coal, etc.

During the last several months, the Senate Energy Committee and other committees of the House and Senate have heard much testimony from industry experts, economists, engineers, financiers, scholars and consultants. In effect, we have said to these authorities "what will it take to get synthetic fuel production moving?" Interestingly, almost none has suggested creation of the "Energy Security Corporation" or similar massive bureaucracy. Instead they have recommended measures designed to cut red tape and provide incentives for the private sector:

Fast track permitting process;

Decontrol of oil and natural gas prices;

Production tax credits (such as $3 per barrel tax credit);

Accelerated depreciation; and

Guaranteed purchased plans or similar incentives.

Inadequate financial controls: No one knows the ultimate cost of developing synthetic fuels. Consultants point out that the estimated cost per barrel of synthetic fuel is increasing rapidly. "Although there are many contributing factors, . . . the most important single influence seems to be a steadily increasing knowledge of costs, as a result of more detailed engineering design," according to PACE consultants.

Synthetic fuel developed by the private sector will be subject to the stringent discipline of market economics. Many diverse ideas will be considered. But only when individual firms or consortia are willing to risk their own money on an idea will large sums be spent. Government administrators, on the other hand, often push expensive large scale programs when technological or economic factors do not warrant such development.

ESC is not needed: Hundreds of millions of dollars have already been committed by private sector companies to the production of synthetic fuel. Some companies say they are awaiting only the release of federal lands for development. Another company states it will proceed at once with a large scale synthetic fuel production plant immediately upon the enactment of a $3 per barrel tax credit which, as you know, has twice been approved by the Senate and for which there is growing wide spread support in the House. Under the circumstances, it may turn out that creation of another large government bureaucracy would slow down, rather than stimulate, synthetic fuel production plans. After all, what company will proceed on its own to do something without subsidy the same task for which it might obtain subsidy?

Inappropriate analogies: ESC has often been compared with the Manhattan and Apollo projects. However, both of these projects had a single customer for their output: the U.S. government. And for these projects cost and economic factor was not a primary consideration. There was no substitute product on the shelf that could be used if the new product turned out to be too costly. If the devices worked technically, the projects were deemed a success. But energy technology, such as synthetic fuel development, will be successful only if many individual users, each considering a different situation, decide that the new technology has economic advantages over a wide array of alternatives available in the market.

Political considerations: As long as the government holds the purse string, ESC will be subject to political pressure. If past experience is any guide, there is every danger that decisions of project funding and research will be heavily influenced by political considerations rather than sound economics and technology.

Environmental concerns: If the government bulldozes ahead with large scale programs, the impact upon the environment is likely to be far more adverse than if multiple, diverse, small scale efforts are undertaken within the discipline of the private economic market. A crash program—based on political rather than economic or technological considerations—is likely to have seriously adverse environmental and social consequences.

I look forward to the opportunity to discuss each of these and other considerations with you in detail. After careful study, I believe you will feel as I do that the Energy Security Corporation is a costly, unnecessary and undesirable approach to the nation's synthetic fuel needs. If enough Senators will seriously study this issue I believe a majority will reach the same conclusion.

WALLOP OPPOSED TO ENERGY SECURITY CORP.

WASHINGTON.—Senator Malcolm Wallop, R-Wyo., today said he opposed creation of the Energy Security Corp. because it represented an incomprehensible and unprecedented intrusion of the federal government into the country's economy.

Wallop said the sheer financial impact of the corporation was greater than the combined assets of the top three companies in the Fortune 500 rankings.

The Wyoming Republican made the remarks during a news conference hosted by senators opposed to creating the new agency.

"Even the federal government cannot repeal the laws of thermodynamics," Wallop said. "It doesn't matter how much money you set aside—whether it is the $88 billion proposed or more—science must still overcome the obstacles to the efficient commercialization of synthetic fuel facilities.

"Private competition not government owned corporations alone can surmount these obstacles. We need assistance, not possession," he said.

Legislation creating the ESC would authorize appropriations of at least $88 bil-

lion to carry out goal-oriented projects to reduce the nation's dependence on foreign crude oil.

"Despite arguments to the contrary, this is essentially an expensive, oversized demonstration program in an area where many witnesses have pointed to problems a..d uncertainties," Wallop said.

"A too early commitment to build a commercial-scale facility invites inefficiency. We cannot make effective commitments when dealing with unknowns."

The Carter administration originally pushed for an ambitious program with a goal of 2.5 million barrels of oil per day equivalent by 1990. Downward assessments now place the figure at 1.5 million barrels a day, Wallop said.

"We must compare this $88 billion figure with the cost of other goal-oriented projects. The transcontinental railroad cost $16 million. The Manhattan Project was $2 billion. The Apollo program put a man on the moon for $23 billion," Wallop said.

"The ESC approach to synthetic fuel development is not justified given the alternatives for oil import reduction and competitive alternatives in the synthetic fuel marketplace," Wallop said.

"U.S. oil import reduction could be achieved in large measure by more conservation and more conventional oil and gas production. This nation should proceed without further delay with energy price decontrol, expand the Department of Energy synthetic fuel demonstration program and give the market a chance to operate before committing the country to a large-scale synthetic fuel expenditure through a new agency creating even more bureaucracy.

"The country's course will be cast for the rest of this century by the sheer momentum of $8 billion hastily committed dollars."

Statement on Energy Security Corporation By Senator Harrison Schmitt

In 1977, Congress enacted the Department of Energy (DOE) Organic Act. This department, we were told, was going to solve all of our problems. We were told there were too many different agencies and departments dealing with the energy problem and we needed to consolidate our efforts in order to implement a strong, consistent energy policy.

A mere two years later, we are now being told the Department of Energy can't handle the job. So what are we asked to do? First, we are asked to establish and Energy Mobilization Board to make decisions on energy policy that the DOE and the President can't seem to make.

Now, they are trying to create an Energy Security Corporation outside of the government to develop our mid-term energy resources again because DOE and the President can't seem to make any decisions.

There are a lot of ridiculous ideas floating around, but this is the most ridiculous thing I have ever heard of.

Just who are we trying to kid? The American people, that's who!

If it were up to me, I would call it the Energy Insecurity Corporation!

If we are deciding that the government can't work effectively to develop our resources, rather than create a new corporation, let's allow the private enterprise system to operate the way it was intended.

To put $20 billion, or more precisely $88 billion, into a corporation developing a crash program in a technology when we do not have the infrastructure to support it, does not make sense to me. There are major questions of coal accessibility, water availability, environmental considerations and equipment availability, that probably make the goals in this Act impossible to meet.

But, if we are hellbent on doing this, then it's okay with me as long as we use synthetic money which is all we will have if we don't use some common sense pretty soon!

Statement by Senator Bob Packwood On Synthetic Fuels Development

The Senate will soon take up energy legislation that could have a profound effect on the future of this country—the people, the economy, the land. The central issue is how we will develop our abundant alternatives to imported oil. Solar energy, synthetic fuels, conservation, geothermal: all of these have potential to greatly reduce, and eventually eliminate our dependence on unreliable energy sources.

We may disagree on the relative importance of these alternative energy sources. I support the conclusions of the Harvard Business School. Conservation and small scale solar, with proper incentives, will save the most oil in the shortest time at the least cost. Still, we need liquid fuels. We must start now to investigate and develop the most viable synthetic fuel technologies.

To get to the bottom of this issue we must ask one question. Energy consumers must ask it. Taxpayers must ask it. Energy companies, environmentalists, state and local governments must ask it: can we rely on a lavishly funded, centralized government energy company to develop our alternative energy sources?

I think the answer will be loud and clear: NO. The Energy Security Company proposed by the President will behave like a giant supertanker: Once it has reached full speed, we will find it nearly impossible to change its course, or slow it down. Considering the unknown waters it must chart, beset with economic and environmental hazards, the voyage could be a disaster.

I have always believed the best thing the government can do to develop alternative energy is to lend the private sector a helping hand, and then get out of the way. The Finance Committee's approval of new tax credits for conservation, solar, and synthetic fuels reflects this philosophy.

We can pull ourselves out of this energy crisis if we marshal the individual and business ingenuity so abundant in this country.

Uncle Sam can get the ball rolling by reducing the economic risk through tax incentives, loan subsidies, guarantees, and purchase commitments. We don't need him running an Energy Security Corporation.

Statement by Senator Gary Hart

Creating a Federal Corporation to initiate a private and competitive synthetic fuels industry is a lot like starting a range fire to cook a sage hen. I'd rather we try to roast the bird over a camp fire.

The idea of starting a Federal corporation was inspired by the equally bad idea to spend $88 billion. That amount of money would more likely establish a hodgepodge of companies perpetually dependent upon the Federal treasury. Or, at $2 billion per plant, the Federal corporation could conceivably buy 40 synthetic fuel plants, capable of producing nearly 2 million barrels of oil per day.

From the beginning, it has been clear that the question facing us is not whether to develop synthetic fuels—clearly, we must. The question is how to do it, how fast and at what cost.

There are four strong arguments against the proposed Energy Security Corporation.

1. Most people in this country in and out of the business community do not want more Federal intervention in the energy marketplace. They want less. The Energy Security Corporation would provide more government intervention, with vast financial resources outside the control of both the President and the Congress. The Exxon Corporation spends about $2.5 billion per year in investments. The President's Energy Security Corporation would spend around $8 billion per year. I believe the people in this country do not want a Federal corporation three times bigger than the Exxon oil company.

2. Another argument against the Energy Security Corporation is based on the size of the job to be done. The President presumed the Corporation would commit the $88 billion toward the construction of about 30 synthetic fuels plants during the next six years. According to the expert consultants to the Budget Committee Task Force on Synthetic Fuels, this overly ambitious program would likely be self-defeating, if its goal included the development of an industry to be economically competitive and thus economically self-sufficient.

Most leaders in Congress now seem to be gravitating toward a first-stage synthetic fuels program which would test six to ten processes in full scale private plants. Price guarantees would be the primary incentive mechanism. Several of these plants may be initiated by tax credits, rather than price or purchase guarantees. Thus, the proposed corporation would have only about six price guarantees to negotiate over the next few years.

3. The administrators of the synthetic fuels program should not be allowed to spend many billions of dollars without full Congressional approval. A price guarantee contract for a single 50,000 barrel-per-day plant will obligate the treasury to spend about $3 billion between 1985 and 2000. Congress, not an Admiral, approves in detail each $2 billion aircraft carrier to be built. Similarly, Congress should approve each decision to sign a price guarantee. Once approved, however, the Congress should appropriate sufficient funds, to cover the life of the project, just as it would appropriate enough to complete the construction of an aircraft carrier.

4. A first phase of testing six to ten synthetic fuels technologies should be completed before ultimate production goals are set. The President's proposal would require the simultaneous construction of duplicate plants to achieve its 1990 production goals. Such duplicate plants should constitute the second phase of the synthetic fuels program after some plants are actually producing oil from the first phase.

We could compare commercial sized synthetic fuels plants to a new type of battleship which has only been tested at a one-tenth size scale model. The President's proposal is tantamount to ordering an armada of the new battleships to be constructed simultaneously, before even one full size ship is tested at sea.

In summary, the country would best be served with an aggressive commercial test program and a minimum of Federal intervention. And subsidies should be visible where they exist. An Energy Security Corporation is neither needed for this size effort, nor desirable. Duplicate plants should not be initiated until the technology is proven effective in a commercial demonstration.

For this reason, I will oppose the Energy Security Corporation as proposed by the Energy Committee. It is not enough to be against a proposal, however, and I will offer an alternative plan which should achieve the goals without the problems posed by the President's proposal.

Small Business Rejects Energy Security Corporation

Washington, D.C.—Small business has rejected the idea of an energy security corporation proposed by the Administration, according to a poll by the National Federation of Independent Business (NFIB), the nation's largest small business organization.

The 585,000 NFIB members were asked recently if they favored or opposed the creation of an energy security fund to finance research and development of new energy technologies. A solid 58 percent voiced opposition to the idea and 38 percent supported it. Four percent were undecided.

Small business thinks government should stay out of the energy-producing business, said NFIB Washington Counsel James D. "Mike" McKevitt in announcing the survey results.

"When it is profitable to produce and market synthetic fuels, then private enterprise will be there to do the job. Until then, a massive syn-fuel development program is just a waste of the tax-payers' money," McKevitt stated.

With an $80 billion pricetag, the energy security corporation would be another drain on an already overburdened federal budget, he said. "And that's just the beginning. Business knows how to put an end to unsuccessful projects, the federal government just keeps pouring more money into them."

He also said that getting the government involved in energy development would add an unnecessary political element to the serious business of finding answers to our energy problems.

In the same survey, NFIB members voted in favor of the continued development of nuclear power and removing the price controls on gasoline. They opposed mandatory rationing of gasoline.

NFIB is a nonprofit, nonpartisan organization. The following are the survey results broken down by state:

[In percent]

State	Pro	Con	Undec.
Alabama	41	55	4
Alaska	29	68	3
Arizona	33	64	3
Arkansas	39	57	4
California	37	59	4
Colorado	34	63	3
Connecticut	51	44	5
Delaware	45	49	6
Florida	41	56	3
Georgia	39	58	3
Hawaii	45	52	3
Idaho	30	66	4
Illinois	37	58	5
Indiana	36	59	5
Iowa	42	53	5
Kansas	36	59	5
Kentucky	47	49	4
Louisiana	31	65	4
Maine	46	50	4
Maryland	43	52	5
Massachusetts	46	50	4
Michigan	42	54	4
Minnesota	43	52	5
Mississippi	38	59	3
Missouri	36	59	5
Montana	35	63	2
Nebraska	37	59	4
Nevada	39	58	3
New Hampshire	42	55	3
New Jersey	47	48	5
New Mexico	31	66	3
New York	43	53	4
North Carolina	42	54	4
North Dakota	38	57	5
Ohio	39	58	3
Oklahoma	28	69	3
Oregon	38	57	5
Pennsylvania	41	54	5
Rhode Island	45	54	1
South Carolina	37	59	4
South Dakota	40	55	5
Tennessee	39	56	5
Texas	29	68	3
Utah	31	65	4
Vermont	45	50	5
Virginia	41	55	4
Washington	40	56	4
West Virginia	43	53	4
Wisconsin	42	55	3
Wyoming	33	63	4
Washington, DC	50	38	12

Statement of Brock Evans Concerning Synthetic Fuels

Synthetic fuels pose serious environmental and health hazards, including excess water consumption, degradation of water quality, risks to human health from toxic materials and carcinogens, reduction of air quality, and new threats to important wildlife resources.

The establishment of a Synthetic Fuels Corporation will only heighten these dangers. The Corporation will encourage those decisions most likely to create environmental problems. It will spend incredible sums of money without any public control. It is devoted to a single goal—the construction of a synthetic fuels industry—to the exclusion of protecting other values. It will be next to impossible to reverse commitments by the Corporation to construct these multi-billion dollar facilities if they prove to be economic or environmental turkeys. It will speed the establishment of an industry faster than our ability to solve the problems it will create.

The Corporation will reverse the most important public protections obtained the past decade.

It may commit billions to environmentally risky projects without preparation of an environmental impact statement which can assess whether such projects should be built or ways to reduce their danger.

It will proceed with decisions without consulting state governments, federal agencies, or the public.

It will proceed with a second phase of synfuel plant construction before the first synfuel plants have been built, tested or operated.

Many citizens have raised questions about recent developments in the energy industry. The Corporation will not solve them; it will make them worse. It eliminates any meaningful public control over future synthetic fuels industry or over our energy future. It cannot create a standard against which the private synfuels industry can be measured; the Corporation will only be able to build those plans which will be such losers that the private sector will not touch them.

Should we commit $90 billion to these new technologies before we fully understand their environmental consequences, how to correct the problems, or even before we know whether they work? We think not. By far the preferable approach will be to demonstrate a range of technology at a limited scale first and commit greater resources to more productive and reliable investments in energy conservation and renewable resource development.

Statement of Thomas L. Kimball

Of all the options available to this nation for reducing our dependence on foreign sources of oil, none has the potential for causing more widespread and serious environmental damage than the crash synthetic fuels effort proposed by the Carter Administration and the Senate Energy Committee. These adverse environmental impacts range from the problems caused by increased strip mining in arid western regions, through the implications of diverting scarce western water resources to synfuel production, to the many pollutants produced in the conversion of coal and oil shale to synthetic fuels. Scientists warn against increased loading of the atmosphere with CO_2 which may already be leading to a serious, adverse climatic shift. The problems of disposing of massive amounts of solid waste and the environmental aspects of the well known socio-economic impacts of the boom town development also argue against a crash synfuels program.

It may be—and I stress the word *may*—that with foresight, commitment, research and a little luck these problems can be solved or mitigated to an acceptable degree. The problem is that this is *not* certain. Many of the synfuel technologies are unproven at any significant scale. *None* have ever been demonstrated anywhere in the world at the scale which the Corporation would be given $8 billion tax dollars to attempt. In its commercialization effort, the Corporation could commit the country to dozens of synfuel plants before there is any real operating experience with a single one.

Simply on the basis of the environmental problems, any synfuels development effort should be responsible, logical and restrained. The crash effort advocated by the President and the Energy Committee is the opposite. With the potential of other options, such as conservation, solar, and renewables, enhanced recovery, production of heavy crude oil, and unconventional natural gas to offset more foreign oil, faster, at a lower cost and using proven technology, the crash synfuel/synthetic fuels corporation approach borders on the irrational.

The Energy Coalition, representing five million Americans, strongly endorses the type of approach to synfuels development embodied in the bill reported by the Senate Banking Committee. Synfuels, far more than its other alternatives, should be continually re-evaluated and compared to other options in the normal appropriations and oversight process. We urge the Senate to defeat the proposal to create a Corporation which would frustrate such a responsible approach.

Coalition Supports Drive To Kill Synfuels Corporation

The Energy Coalition today announced its support for a bipartisan Senate effort to defeat attempts by the Administration and the Senate Energy Committee to establish a massive, autonomous Synthetic Fuels Corporation. As outlined in legislation reported by the Energy Committee, the SFC would have virtually unchecked powers to spend $88 billion over the next decade to commercialize synthetic fuels.

The Coalition strongly supports the approach to synthetic fuels adopted by the Senate Banking Committee which provides major incentives to build first-of-a-kind commercial scale plants to test the various synfuel technologies. The Banking Committee bill creates no new Federal bureaucracy and strictly limits the Government role to absorbing the risks involved in building the first commercial scale plants. Any further synthetic fuels development is left to the private sector or to later legislative initiative which can be crafted after more is known about the technical feasibility, economic viability and environmental impact of various synfuel processes.

Spokesmen for the Energy Coalition emphasized their opposition to two key aspects of the Administration-Energy Committee plan: the creation of an autonomous entity devoted solely to synthetic fuels and the irrevocable commitment of $88 billion to one energy source. Thomas Kimball, Executive Vice President of the National Wildlife Federation stated, "We can not solve our energy problems by putting all of our resources and efforts into synfuels—an untried and risky technology—and ignoring safer, less risky approaches that we know will work right now. Why is there no similar effort to push conservation, solar energy, enhanced recovery of domestic oil and gas and the other energy technologies that are available today at far less cost."

Brock Evans, Director of the Washington Office of the Sierra Club noted: "If the experience of the last two decades has taught us anything, it is that a single purpose corporation is the worst vehicle for energy planning and policy. A synfuels corporation will spend money on synfuels plants whether they work or not, whether they are environ-

mentally sound or not and regardless of the existence of more cost-effective ways to reduce our energy. It will be like the old and discredited Atomic Energy Commission, pushing one approach to the exclusion of others."

The Coalition is joined in its opposition to a synfuels corporation by representatives of large and small business, the financial community and the energy industry itself.

The Energy Coalition—A Coalition for Renewable Resources and Energy Efficiency—is a joint enterprise of nine major national citizens groups and over one hundred local and regional organizations organized to address issues raised by the Administration's recent energy proposals. A full listing of member organizations—representing over five million citizens—is attached.

As of October 31st, state, local and regional organizations have become Associate Members of the Energy Coalition. Additional organizations will be added as the Energy Mobilization Board and synthetic fuels debates continue. Associate Members currently include:

ALABAMA

Birmingham Audubon Society.
Alabama Solar Coalition.

ARKANSAS

Arkansas Ecology Center.

CALIFORNIA

California Trout, Inc.
Citizens Coordinate Century 3.
Citizens for Better Environment.
Community Environmental Council.
Ecology Center of Southern California.
Environmental Center of San Luis Obispo County.
Friends of Wildlife.
Planning and Conservation League.
Tri-City Ecology Center.
Welfare Recipients League.

COLORADO

American Wilderness Alliance.
National Environmental Health Association.

CONNECTICUT

Conservation Law Foundation of Connecticut.
People's Action for Clean Energy.
Save our State.
Shama, Inc.
Connecticut Transportation Coalition.
Jim Etter, CT Counsel, Conservation Law Foundation of CT.

DISTRICT OF COLUMBIA

American Public Health Association.
Audubon Society of Mid-Atlantic States.
Center for Renewable Resources.
Children's Foundation.
Clean Water Action Project.
Environmentalists for Full Employment.
Native American Rights Fund.
Washington Area Bicyclist Association.

FLORIDA

Broward County Audubon Society.
Florida Solar Coalition.

HAWAII

Life of the Land.

IDAHO

Idaho Conservation League.

ILLINOIS

Illinois Environmental Council.
Illinois South Project.
Lake Michigan Federation.
Prairie Alliance.

INDIANA

Indiana Division Energy Committee.
Izaak Walton League of America, Fort Wayne Chapter.

IOWA

Calhoun County Environmental Action.
Community Action Research Group.
Environmental Coordinating Organization.
Free Environment.

KANSAS

Environmental Awareness Center, Kansas State University.

KENTUCKY

Kentuckiana Solar Society.

MARYLAND

Chesapeake Energy Alliance.
Solar Action of Maryland.

MASSACHUSETTS

Berkshire National Resources Council.
Conservation Law Foundation.
Liberal Religious Youth.
Massachusetts Association of Railroad Passengers.
New England Wildflowers.

MISSOURI

Coalition for the Environment.

MONTANA

Alternative Energy Resources Organization.
Regional Energy Advocacy Program.

NEW JERSEY

Association of New Jersey Environmental Commissions.
Committee for a SANE National Nuclear Policy.
Maplewood Environmental Action Group.
Youth Environmental Society.

NEW MEXICO

Southwest Research Information Center.

NEW HAMPSHIRE

New Hampshire Association of Railroad Passengers.
Sea-Coast Anti-Pollution.

NEW YORK

Bronx Council for Environmental Quality.
Citizens for Clean Air.
Consumer Action Now.
Institute for Public Transportation.
Lyman Langdon Audubon Society.

OHIO

Citizens for Clean Air and Water.
Coalition for Safe Electric Power.
Ohio Public Interest Research Group.
Ohio Environmental Council.
Personal Mobility Committee.

OREGON

Oregon Solar Institute.

PENNSYLVANIA

Citizens Environmental Task Force.
Committee of Pennsylvania Environmental Groups.
Delaware Valley Citizens Council for Clean Air.
Group for Recycling in Pennsylvania.
McKeever Environmental Learning Center.
Mobilization for Survival.
Semple Street Food Cooperative Association.
Women's International League for Peace and Freedom.

RHODE ISLAND

Conservation Law Foundation of Rhode Island.
Ecology Action for Rhode Island.
Rhode Island Solar Energy Association.

SOUTH CAROLINA

South Carolina Environmental Coalition.

SOUTH DAKOTA

Black Hills Energy Coalition.
South Dakota Resources Coalition.

TENNESSEE

Tennessee Citizens for Wilderness Planning.
Tennessee Conservation League.

TEXAS

Texas Solar Action Coalition.

UTAH

Utah Solar Energy Society.

VIRGINIA

Centec Consultants, Inc.
Northern Virginia Conservation Council.

WASHINGTON

Washington Environmental Council.

WEST VIRGINIA

New River Energy Center.
Technology Education Program.

WISCONSIN

Alternative Power Alliance.
Wisconsin Environmental Decade.

WYOMING

Powder River Resources Council.
Wyoming Outdoor Council.

STATEMENT BY MEL HORWITCH

Since the end of World War II the U.S. has experienced disappointment over synthetic fuels. In the late 1940's a massive $8 to $9 billion synthetic fuels program was proposed by the Secretary of Interior and the Secretary of Defense to free the country from an allegedly dangerous dependence on foreign oil. Incredibly low estimates for oil-from-coal were given: approximately 12 to 14 cents per gallon. Of course, we opted for more foreign oil and increased natural gas.

A surge of interest and optimism over synthetic fuels again appeared in the 1960's. The Department of Interior's office of coal research ignited this enthusiasm by sponsoring a relatively small research program during the sixties. Bullish forecasts of low costs and predictions of a "flourishing" synthetic fuels industry were heard throughout the middle and late 1960's.

Oil and some gas companies began to consider coal a potential feed stock for their refineries, pipelines and petrochemical plants. The lure of synthetic fuels led them to acquire coal, particularly in the west where at the time no large market existed for steam coal.

By the early 1970's, however, more discouraging estimates for the cost of getting oil and gas from coal again emerged, and the flush of optimism again vanished when all participants discovered that liquefied or gasified coal was much more expensive than petroleum or natural gas. Even after the oil embargo (when synthetic fuel was again briefly in the limelight as part of Project Independence); synfuel costs were found to be much higher than natural gas or crude oil.

This historical track record in synthetic fuels—of grandiose schemes and attractive technological and economic promises, followed by disappointment and dramatically rising cost estimates—should give us pause at this time when we are presented with the most ambitious proposals for synthetic fuels ever encountered in the United States.

In addition to the high costs of end products and to the environmental problems associated with synthetic fuels there is still another problem with a crash effort in synthetic fuels: its opportunity penalties. Synthetic fuels is a long-term option. A massive program will not solve the problem of long gas lines in the next decade. But it will also tie up funds, human resources, and facilities that could focus on a diverse array of short-term and long-term energy options (including a more modest strategy in synthetic fuels). We should not put all our eggs in one big technological basket.

A massive synthetic fuels program is an example of choosing a conceptually simple technocratic solution for what is a complex societal problem. It is also an example of over-concentration—an action which would leave us highly vulnerable to risk of total failure since we would have foregone other options.

All large-scale, public-private technological endeavors can experience dramatic life-cycles which often end in failure. The SST, for example, evolved from a contained

aerospace effort to an increasingly fragmented and weakened program within the government to ultimately a society-wide symbol of environmental degradation. Nuclear power evolved in a similar way. Programs which are protected by a national defense or war time cloak or an absolute presidential commitment usually survive intact. We should not, therefore, project the success of a massive synthetic fuels effort by equating it with the development of synthetic rubber during the Second World War or with putting a man on the moon.

What I recommend with regard to synthetic fuels is a modest effort, say the equivalent of a half dozen projects rather than the 20 plus that are now being suggested. We need a portfolio of synthetic activities that range across the spectrum in terms of technological risk (including first, second, and third generation technologies), scale (including laboratories, pilot plants, demonstration plants and perhaps a commercial plant), location, and type of raw material. Our goal should be to create a capability and expertise in synthetic fuels. Perhaps by 1990 we will be producing the oil equivalent of 250 thousand to 500 thousand barrels per day of synthetic fuels. More importantly however, our learning in this area will have been accelerated. With this more modest but more realistic strategy in synthetic fuels—a portfolio approach—we will keep our degrees of freedom and be more efficient in dealing with our energy problem, including maintaining choices involving synthetic fuels.

FEDERATION OF AMERICAN SCIENTISTS

The Federation of American Scientists released today a letter being sent to all members of the Senate which opposes the synthetic fuels provision of S932 (in the Energy and Natural Resources Committee bill) that would allocate $88 billion to subsidize a commercial synthetic fuels industry. The letter is attached.

The Federation of American Scientists is a 35 year old civic organization devoted to science and society issues with a membership of 5,000 scientists including 50 percent of America's Nobel prize winners.

FEDERATION OF AMERICAN SCIENTISTS.

DEAR SENATOR: The Senate will shortly be voting on the synthetic fuels provisions of two versions of bill S. 932—one produced by the Committee on Energy and Natural Resources, and the other by the Committee on Banking, Housing and Urban Affairs. With one prominent exception, the overwhelming consensus of our specialists is to view the drift towards a government-subsidized synthetic fuel program which these provisions represent with considerable alarm.

The bill offered by the Energy Committee is of particular concern. It authorizes an enormous sum, $88 billion, to be spent in a two-phase program by a government-owned Synthetic Fuels Corporation with the goal of producing by 1995, 18% of the present U.S. oil deficit—1.5 million barrels of oil equivalent per day. To achieve this goal, up to $20 billion would be spent at the outset to test synfuel technologies. The remainder of the $88 billion would then be spent to develop these technologies commercially.

The bill is structured so that the second phase would almost automatically follow the experimental first phase. True, the Corporation would have to submit a proposed comprehensive strategy to Congress within three years after the passage of the bill to initiate the second phase. But, unless this plan is vetoed by either house of Congress, its strategy will be automatically accepted. Moreover, as presently drafted, no further Congressional action would be required to appropriate most of the money for the second phase. This is because the bill authorizes the Secretary of the Treasury to establish an $88 billion synthetic fuels account from which the Corporation can draw. Any debts it incurs would therefore have to be honored automatically by the government. Even if this extraordinary flaw is rectified by Congress before the vote, as may be done, it shows how easily such raids on the Treasury are prone to take place in this matter and how much Congressional persistence and attention will be required to prevent a subsidized synthetic fuels program from growing prematurely.

The notion of creating a government corporation to push a synthetic fuels technology reflects a potentially costly misconception of how the American economy functions. We would make these points:

1. There is no need to subsidize a commercial synthetic fuels program if synthetic fuels can be produced at competitive prices and little point in doing so if they cannot.

To the extent that synthetic fuels are feasible technically, and competitive economically, private industry will be willing to invest in their production without government subsidization. There is, after all, nothing inherent in a synthetic fuels program that makes it different from other programs in which the private sector is willing to invest. It requires no new fundamental scientific or technological advances, as exemplified by the existing South African program. And though large capital expenditures are required, they are less than that required for many other projects undertaken by industry, such as the Alaskan oil pipeline. Long lead times are required, but these are no longer than those required in designing and producing a new type of airplane.

Where the government has tried to subsidize analogous efforts, it has risked major errors. For example, Congress narrowly avoided subsidies for the supersonic transport; the complete failure of the French and British subsidized Concorde to find a market shows dramatically how foolish such subsidies would have been.

2. The proposed synthetic fuels program could lock us into particular technologies which may be neither efficient nor economic.

It is private industry and not the government—in the form of some Synthetic Fuels Corporation—which is in the best position to determine which technologies are most economic. As American history has repeatedly shown, private enterprise is more flexible and more highly motivated than government bureaucracy.

3. A subsidized synthetic fuels program like that proposed by the Energy Committee would create sweetheart deals in which the business firms participating would have the option of substantial profit without taking substantial risks.

Specifically, companies would know that under a broad range of circumstances they would be reimbursed for "any reasonable costs" arising from actions that "could not have been reasonably foreseen". Their own commitment would not need to be great because they could enter into "joint venture" arrangements with the Synthetic Fuels Corporation in which they would have the right to purchase the Corporation's share of ownership if things went well. And if things went badly, the affected business could be bought out by the Corporation under a broad range of criteria, with the option of leasing the project back. These advantages simply diminish the vigilance of the business concerns.

4. Government subsidized programs of this kind cannot, by their nature, produce the desired results: a true test of the competitiveness of the technology.

First, private industry would go into the synthetic fuel business under a false set of profit signals induced by the protective climate of backing by the Synthetic Fuels Corporation. Second, the cost-effectiveness of the synthetic fuel technology would be largely time-dependent, and out-of-date by the year in which it was completed. Specifically, the competitiveness of the fuel produced would depend upon the relationship between the cost of the capital required to build the plant at the start and the future price level of competitive oil a decade later when the plant actually produced. In the absence of a long term continuation of subsidization, interested companies would not be much better off in determining whether to invest in synthetic fuels than they are now. The importance of these two points cannot be overemphasized because the Energy Committee bill is predicated on the belief that many new synfuel plants would be built after the liquidation of the Corporation and that the quantity of synthetic fuel produced by these latter investments would far exceed that produced during the existence of the Corporation.

5. The proposed subsidy program would be detrimental to the economy by competing with other more desirable investments.

This program could only drain badly-needed capital from throughout the economy for an inefficient use which, in turn, would limit the productive capacity of the economy in the next decade, thereby contributing to future unemployment.

6. A large-scale synthetic fuels program would put undesirable demands on the environment.

The major resources from which synthetic fuels would be produced are found, for the most part, in the arid West where reclamation of mined areas would be difficult. Also, both resource mining and production would drain already scarce water supplies in those areas. Finally, water and air quality would most likely be affected adversely by mining and production operations. These environmental costs would likely escalate the already high cost of synfuels production.

7. A subsidized synthetic fuels program would artificially inflate energy consumption and discourage diversification.

In these days of dwindling fossil fuel reserves, prices should be permitted to rise to their true economic values in order to limit consumption. Yet, the synthetic fuels program would artificially hold prices down, thus giving the wrong signal to consumers about reducing their consumption.

At the same time, these consumers would actually be paying for the increased production cost of synfuels through taxes. In addition, the incentive for new exploration of conventional energy sources or development of other energy technologies would be reduced because producers would find it easier and less risky to take government subsidies for synthetic fuels production.

8. The proposed synthetic fuels program might have to be subsidized long after the liquidation of the Corporation.

Synthetic fuels might never sell unless the government continues to subsidize the price difference between synfuels and conventional oil. Plants in which large amounts of capital have been invested might force the government to make hard choices between giving up the investment on the one hand or keeping unprofitable plants in business on the other.

9. There are other areas where government subsidies could be more cost effective.

An outstanding example of this is conservation. Unlike synfuels, the rate of return for conservation is known to be high. Furthermore, once the subsidization is made to secure the benefits of conservation by insulating houses or increasing automotive mileage, there is no need for further subsidization. Also, in conservation, the homeowner, unlike private industry, may either not have the profit incentive or the ability to make the necessary expenditures without government assistance.

10. Above all, very few believe that in the long run synthetic fuels would provide more than a fraction of the U.S. energy deficit in this era.

Synfuels would be a diversion, not a solution. While it is possible to imagine America learning to conserve enough energy to live within its energy resources, a synthetic fuels program could not be expected to grow to proportions large enough to resolve the energy crisis. Oil shale and tar sands exist in large quantities, but water, capital, and environmental constraints would prevent unlimited expansion of the synfuels approach.

Although the bill offered by the Banking Committee has many of the same problems as the Energy Committee bill, we do not view it with as much concern because it is not as far reaching. It would authorize the expenditure of $3 billion by the government in purchase commitments, price guarantees, and loan guarantees for the development of demonstration synfuel plants. No commercialization program would follow and no government-owned corporation would be formed. Production goals would not be established. Finally, in direct contrast to the Energy Committee bill, the $3 billion would have to be appropriated directly by Congress before it could be committed to be spent.

In the final analysis, we think that conservation is vastly preferable over synthetic fuels to reduce the dependence of this country on foreign fuels. Conservation costs average $10 to $12 per barrel of oil equivalent, while synfuels cost estimates are generally upwards of $30. In addition, conservation has far fewer technical and environmental problems than synthetic fuels, and it can reduce our immediate dependence on foreign fossil fuels by more than the most ambitious synfuels production programs.

Of course, conservation can only go so far. But research has indicated that it will buy enough time to carry us into the next century with existing traditional fuels. By that time, with careful planning, a diversified energy production program could be put into place. It might include some synthetic fuels, but it should also include such renewable energy sources as wind and solar. To insure that such a program will be put into place, it is important to continue research and demonstrations in these technologies. A large financial commitment to synthetic fuels commercialization will only divert funds from the other technologies and thereby limit the development of a future balanced energy program.

In summation, a commercially viable synthetic fuels industry cannot be created in a synthetic economic context. Violating the basic rules of the free market is more likely to create white elephants than it is to successfully prime the pump of synfuels. Indeed, the government tendency to subsidize energy prices discourages industry from synthetic fuel production because businessmen fear tampering with their own prices.

When the time for synfuels comes, American firms will recognize it and act accordingly. Now is certainly not the time to be wasting scarce capital pursuing the traditional American predilection for high technology solutions designed to permit "consumption as usual" at subsidized costs. On the other hand, it is time for the United States to consider energy in the context of "limits to growth", to move towards conservation, and, above all, to stop subsidizing energy costs, in particular, and tampering with the energy market system in general.

Sincerely,

FRANK VON HIPPEL,
Chairman.
JEREMY J. STONE,
Director.

AUDUBON SUPPORTS BANKING COMMITTEE SYNTHETIC FUELS PROPOSAL

National Audubon Society President Russell W. Peterson today announced his organization's support for the Senate Banking Committee version of a synthetic fuels commercialization program.

Noting that there are "serious environmental, technological, and economic questions involved," he decribed the Banking Committee's proposal as a "more measured and accountable" program than the $88 billion plan advocated by the Senate Energy and Natural Resources Committee.

"We believe the development of these technologies should proceed in a manner which allows for thorough evaluation of the problems and potential of various processes before massive and irrevocable financial and production commitments are made," he said.

Peterson expressed concern that the Energy and Natural Resources Committee proposal places control of the $88 billion program in the hands of an independent and autonomous Synthetic Fuels Corporation. "We believe that the responsibility for a synthetic fuels program should remain with the Congress and existing agencies, and not with an autonomous agency, accountable to no one," he declared.

The Audubon Society President noted that the organization's long standing interest in, and commitment to, a diversified energy program, with heavy emphasis on conservation and the development of renewable resources. He expressed the concern that a large financial commitment to synthetic fuels production will divert funds from conservation and renewables—the energy sources which will have to serve as the foundation of our nation's future energy system.

Peterson is a member of the President's Commission on the Accident at Three Mile Island, which made its report to the President yesterday. The National Audubon Society, a membership environmental organization, has some 400,000 members and 436 local chapters across the country.

WHAT'S WRONG WITH THE U.S. GOVERNMENT?

● Mr. MATHIAS. Mr. President, foremost among the questions we in Congress receive from all segments of the electorate today is the one which asks: "What's wrong with the U.S. Government?" I receive at least 100 letters every week from Marylanders who are deeply concerned about what they perceive to be governmental waste, inefficiency, overregulation, and unresponsiveness.

Since President Franklin D. Roosevelt's New Deal, the U.S. Government has moved into the center of this country's social and economic arenas. Many of the fundamental changes wrought by the New Deal and its programs were a direct reaction to the misery and anguish spawned by the Great Depression, which began with the collapse of the stock market in October 1929. The Federal Reserve System, the Securities and Exchange Commission, the Federal Trade Commission, and a legion of alphabetized agencies quickly became part of the American political language. And every President since FDR has added programs and has proposed legislation to increase the role of Government in American life. President Truman's Fair Deal and President Eisenhower's Great Crusade responded to the desire of the American people for an activist Government. In the 1960's as President Lyndon B. Johnson moved to complete President John F. Kennedy's unfinished agenda as well as Franklin Roosevelt's, the relationship of the individual to the Government shifted again. In fact, the concentration of power rose to an even more intense level. Congress moved to complete the unfulfilled social and economic agendas, and also to reverse a century's disparity in civil and voting rights and equality of opportunity, as well as to initiate new programs and regulations governing nearly every aspect of American life. Presidents Nixon, Ford, and Carter have operated more or less within that 45-year tradition.

Great changes have taken place in American life, and many Americans are perplexed by them.

Mr. President, a recent series of articles in the Baltimore Sun by Carl P. Leubsdorf provides an excellent starting point for examining the fundamental relationship between Americans and their Government. In six articles Mr. Leubsdorf looks at the way governmental policy has changed this relationship over the past four decades, analyzes its major trouble spots and examines some proposed solutions to problems of modern governance. I recommend the series to all of my colleagues and ask that it be printed in the RECORD.

The material follows:

CONTEMPORARY PROBLEMS LEAVE U.S. POLITICAL SYSTEM STRAINING TO COPE

(By Carl P. Leubsdorf)

WASHINGTON.—Every month more than $550 million worth of food stamps roll off the printing presses in Philadelphia and New York's Bronx and go out to one in every 12 American households. One in every 20 families, meanwhile, is getting federal welfare payments, while one in each 25 benefits from federal housing subsidies.

To these Americans, the federal government is vital. The multibillion-dollar array of programs initiated over the last 45 years of the New Deal and Great Society eras has helped to keep many of them from falling into social and economic oblivion.

At this most basic level, the government is working.

And yet it is a government no one seems satisfied with.

Americans have been enveloped in 20 years of explosive governmental growth. Government regulates the air they breathe, the fabrics they wear, their food and water. The automobile is designed as much by Washington bureaucrats as by Detroit engineers: engines, seat belts, bumpers, frames, the gasoline pumped in and the exhaust that comes out, the size, shape, speed—all are affected by government policy.

The 20 years that began with the election of John F. Kennedy in 1960 have produced a cleaner environment, safer workplaces and highways, giant gains in equality of opportunity, a more open government—and a deep reservoir of public discontent.

"In a broad sense, I think the government is working surprisingly well," said Loyd Hackler, a Washington lobbyist and former White House and Senate aide who now advises the Carter administration.

"But at the same time, there are so many programs and such complexity that I don't know of a single individual within the country who doesn't have a legitimate complaint with the government," Mr. Hackler added.

The discontent is a paradox to some observers like Anne Wexler, a long-time political activist and now a top aide to President

Carter. "You're looking at a country where 96 million people are working and just 5 million are not, and where the standard of living is higher than it has ever been," she said. The people who created the political upheavals of the last two decades have won most of their battles and the country is better off for it, she says.

But with the approach of the 1980s, the struggle in Washington has changed fundamentally.

In 1965, at the peak of his power, the late President Lyndon B. Johnson sent Congress 63 major proposals covering seemingly every major problem of society—civil rights, education, conservation, Indian rights, auto safety, Medicare, farm subsidies, job training and many more. The majority of this large Great Society program was enacted.

In 1977, President Carter asked Congress to make sweeping changes in one crucial area—energy—and the result has been a continuing national failure. Some important measures were passed, notably a new law making natural gas more available throughout the country. But the frustrating, unresolved debate has exposed:

A president unable to focus the attention of Congress and the public effectively on important national needs. The "Imperial Presidency" that seemed so threatening a decade ago has been substantially weakened, largely because of President Johnson's disastrous Vietnam venture, Richard M. Nixon's Watergate debacle and perceived mistakes of Jimmy Carter.

A Congress that has taken power away from the presidency, but cannot use it effectively.

Authority in Congress has been diffused, by a decade of political reforms that gave more power to individual legislators. Loyalty to political parties has withered, both in Congress and among the public, further weakening leadership in the House and Senate. And with legislators increasingly nervous about their own political survival, local and regional needs come first, creating impossible problems for a national energy plan that helps some regions and hurts others.

A federal government so enmeshed in detail that it moves by inches, seeming to serve the army of lobbyists encamped in Washington, while its actions become incomprehensible to more and more of the general public.

To some thoughtful analysts of government, its complexity is now a serious national problem.

"When I was a youngster," said Dr. Milton S. Eisenhower, "I used to wonder what de Tocqueville meant when he said that a democracy contained in it the seeds of its own destruction. I think I understand what he meant now.

"The problems that we face have become sufficiently complicated that not only does the average citizen's mind not fully comprehend them, but even some of the most sophisticated minds do not. We've had great problems in the past but they were within the understanding of the mass of the people," added the 80-year-old president emeritus of Johns Hopkins University and brother of the late President Dwight D. Eisenhower.

If the public cannot follow what the government is doing, the government does not have a clear sense of what the public wants, either.

The real obstacle to an energy policy, said John F. O'Leary, the departed deputy secretary of energy, "is the lack of conviction on the part of a fairly good bloc of the American people as to what the problem is in energy."

"You can't really fault the Congress for having a poor response up to date, because there was no consensus out there."

Many of the problems have even become too complex for Congress, says David Stockman, a young conservative Republican from Michigan whose sharp critiques of Congress have gained attention.

"We've had a quantum leap in the areas of federal responsibility, which means a quantum leap in the required knowledge to make a halfway informed decision," Mr. Stockman said.

"It is impossible for even the most ambitious, hardworking, bright and determined member [of Congress] to absorb enough information to do well in his committee work, not to mention what is required on the floor of the House," Mr. Stockman said.

In many respects, the complexity is a natural evolution from the burst of domestic legislation in the 1960s and 1970s.

There were two basic themes underlying the Great Society programs enacted under President Johnson.

First, there was no problem government could not solve if it wanted to. Second, America's resources were unlimited. The same self-confidence ran through the wave of consumer protection and environmental legislation of the 1970's.

"Vietnam destroyed both of those underlying premises," said Charles D. Ferris, for many years a top aide to former Senator Mike Mansfield (D, Mont.) and now chairman of the Federal Communications Commission.

The mainspring of the Great Society—like the New Deal of President Franklin D. Roosevelt—was a commitment by government to solve problems that society was unable or unwilling to solve, says Mr. Ferris. "Not that the solutions were perfect," he said. "It was an acceptance of responsibility to do something."

Now the dominant Washington view is exactly opposite: "We can't do everything," Ferris said.

A government in that position must make choices, provoking tougher competition between regions and economic groups, between business and labor, between industry and consumer groups.

The domestic programs of the last two decades are no longer seen as broad campaigns to curb pollution or end poverty or improve health care. As these programs have filtered down through an expanding network of regulation, they single out winners and losers. The losers may be workers who blame a lost promotion on equal employment programs; a chemical plant fighting a tough pollution-control order; a contractor who bids unsuccessfully for a government contract, or a gas station owner who wants a larger fuel allotment. The demands for special treatment have made Washington a Tower of Babel.

"The White House sits on a hill surrounded by a thousand saboteurs," said Representative Stockman. "Any major decision can't be done by executive decision; it has to be done by legislation. And those saboteurs who circle the White House have enough alliances with subcommittee chairmen up here, or with other links in this whole complicated process, that they get their way.

"The basic problem is that everybody has rights, but nobody makes decisions," said Mr. Stockman. "We delegate authority to do something about distributing gasoline or cleaning up the air. Then, the agency has to make formal rulings and that is so complicated, it takes them two or three years to do it. And when that gets done someone is going to find one line that's bad and haul them into court to start all over again.

"Then, once the agency's rule-making is finally completed, and you've navigated all these shoals, the first time the rule is applied, somebody sues. We've got the system short-circuited because there are so many opportunities along the way for a decision to be stopped.

"I'm beginning to think that the checks and balances, divided government can't work in an age of hyper-politicized interest group politics," he said.

Any president would have had trouble in the late 1970s, contends Harrison Wellford, a former Senate aid and chief architect of Mr. Carter's attempts to reorganize government.

"There has been an extraordinary flowering of single-issue interest groups that makes the old-time coalition building very hard because they won't compromise," he said.

"You have to learn to use some interests to get others and develop that art of wheeling and dealing to a fine skill," he said. But he conceded that "this administration hasn't been that interested in doing that," although "it is probably the preeminent skill required in the presidency right now, if you want to be the least bit activist."

Washington today is almost obsessed by all the programs and initiatives that failed or fell short, leaving governmental leaders gunshy about bold new actions.

Mr. Wellford said, "The disarray in our doctrines—and probably economic advice is the best example of this—makes it hard to develop a sustained position on anything, because no one is really confident that an opinion today is really sound. There isn't the ideological underpinning that carries you through a bad time.

"And I think the final thing—which pervades everything—is that people are afraid. They don't think the future will be as good as the past. There is a real concern over what things will be like 10 or 20 years from now, and that makes people very conservative."

It may be that the government and the public are out of phase—a theory often offered by the White House aides.

After the turmoil of the Kennedy assassinations, the Vietnam era, the civil rights movement and the urban riots, a majority in the country was ready for a breathing spell in the 1970s. It elected Richard M. Nixon in 1968 with that in mind.

But the Nixon years brought no relief from turmoil. The war continued, and was succeeded by the Watergate and impeachment dramas, delaying the period of quiet consolidation that the country yearned for. That made it much more difficult for Mr. Carter to arouse public support for his brand of activism.

Ironically, Mr. Carter sensed that the country was more interested in having government work better than in launching new programs. His campaign has been to reorganize government, to reform welfare, health and tax laws, to consolidate energy programs.

But this has left Mr. Carter trapped in the complexity he hoped to overcome.

"Carter sought engineering solutions when the real requirement was policy clarity," contends Representative Stockman. First of all, the public needs to understand government. The Carter approach, he said, "was doomed from the start."

But the Carter reorganization effort really failed because of the realities of government today, the interlocking relationships between congressional committees, private lobbies and the federal bureaucracy.

"Of all the things that government is resistant to, it's probably most resistant to the changes that need to be made internally," said Jody Powell, Mr. Carter's press secretary. "The institutional inertia . . . it's like hitting a stone wall, and the stone wall reaches out and tries to knock the ——— out of you."

Perhaps, said Representative Morris K. Udall (D, Ariz.), Mr. Carter's leading Democratic presidential rival of 1976 and a thoughtful analyst of government, the current period is like the 1840s and the 1850s. Then the lack of a national consensus on

key issues, mainly slavery and national unity, led to a paralyzed government and a succession of one-term presidents.

"Nobody could get more than four years," he said. They were not very distinguished presidents at that, but stitched together a coalition that wanted change but quickly fell apart.

"Since 1963, we've had five presidents in 16 years," Mr. Udall said. "You say it's all very special circumstances, but those circumstances were produced by a time of turmoil. This is a reflection of it."

CARTER WEAKNESSES ADDED TO EROSION OF PRESIDENCY

(By Carl P. Leubsdorf)

WASHINGTON.—As he sat in his home in Plains, Ga., in late 1976 to plan the new administration, the presidency must have appeared to Jimmy Carter to be a relatively simple, even manageable, office.

Three years later, he has discovered what in retrospect looks almost inevitable. The Presidency of 1979 is far weaker than it was 20 or 10, or even 3 years ago, thanks to Lyndon B. Johnson and Vietnam, Richard M. Nixon and Watergate, and even Mr. Carter himself.

This erosion in presidential authority has frustrated the first president in eight years to serve with a Congress controlled by his own party.

More than anything else, that decline was set off by the two acts that exemplified the most extreme tendencies of what historian Arthur M. Schlesinger, Jr. labeled just six years ago as the "Imperial Presidency". Mr. Johnson's ill-fated escalation of U.S. involvement in Vietnam and Mr. Nixon's misuse of authority climaxed by the Watergate scandals.

In both cases, presidential misuse of power led to a resurgence of assertiveness in Congress, which had been hungering for a larger share of governmental decision-making.

Key senators countered Mr. Johnson's escalation in Vietnam by mobilizing national sentiment against the war. Then, they sought to tie the hands first of President Johnson and later of President Nixon in pursuing it, culminating in the 1973 War Powers Act that placed institutional limits on the president's power to commit U.S. troops overseas.

Even before Mr. Nixon became enmeshed in Watergate, his unilateral impoundment of funds appropriated by Congress led to the 1974 Budget Act, barring that practice and giving lawmakers a larger share on government fiscal decisions.

During eight years of Republican presidential control, the Democratic leaders of Congress became increasingly independent of the executive branch and had no intention of surrendering power just because a Democrat regained the presidency.

In this climate, Jimmy Carter ran for and won the presidency in 1976. To some degree, the seeds of his presidential problems were planted in those long-ago days of 1975 and 1976 when he traveled the country in virtual solitude, attacking the Washington way of doing things and vowing to shake things up when he got to the White House.

That was when the underlying enmity between him and this city's Democratic congressional establishment was formed. Though that might have eased if Mr. Carter had helped Democratic legislators at the polls, his narrow victory produced virtually no coattail effect.

As he campaigned, Mr. Carter heightened expectations for his presidency. He promised major changes, such as tax reform, national health insurance and a wholesale reorganization of the bureaucracy.

His warnings that the promises would be difficult to carry out were often overlooked. The impression that stuck—and probably got him elected—was of a man so determined to get his way that change would inevitably follow it was an impression that later damaged him severely when he attained the office and was unable to produce the promised changes.

So Mr. Carter entered the White House January 20, 1977, handicapped by institutional changes, the burden of his promises and a less-than-forceful personality—which, though compelling in the living rooms of Iowa and New Hampshire, had proved less powerful in the rallies and the media campaigning of the fall.

From the perspective of nearly three years, it now seems evident that he added to those initial difficulties with major miscalculations that enlarged the weakening of presidential power that was already under way.

Mr. Carter's miscalculations may be less significant than problems that were not of his making. But the net result has been to place an aura of incompetence and failure around his presidency, deserved or not.

He went too far, in reaction to the "Imperial Presidency," in giving his presidency the common touch.

From the day he walked down Pennsylvania avenue on Inauguration Day, the Carter White House had an affinity for symbolism, especially any that promised to remove the "imperial" label from the presidency. It took the flags off the presidential limousines (they went back within months), it stopped playing "Hail to the Chief" (for more than a year), and it sold the presidential yacht. Later, many presidential advisers would agree they had made a mistake.

In addition to the practical aspects—people couldn't recognize the limousine without the flags and the yacht was useful for wooing congressmen—the symbolism was faulty, too.

"Because of Watergate," one aide noted, "we have denied the presidency its mystery. We've removed the pomp and ceremony and, yet, leadership does require a certain aura. And I don't really think people want a good old fellow from down the street as their president. They want to think there's something superior."

Mr. Carter failed to broaden his thin inner circle, leaving himself surrounded with inexperienced aides incapable of achieving his ambitious goals.

"It's sort of like the colonels in Greece," said an experienced Washington lobbyist. "They knocked off a government. They could win coups. But what have you got after they've done it?"

"The first thing he should have done," said a senior administration official, "should have been to clean out the people who got him elected and bring in a bunch of people who were eminently practical, pragmatists, to run his government for him. The people around the president are still the same people who participated with him in the election. It would be sheer happenstance if those people were appropriate to run the government."

It is widely accepted that the Carter congressional liaison operation has been a disaster, starting with Frank Moore, the soft-spoken Georgian who was placed in charge despite a total lack of prior Washington experience.

After three years, Mr. Moore still suffers from inexperience. When a prominent Democrat suggested Mr. Carter invite the two top congressional Republicans to his Camp David domestic summit earlier this summer, Mr. Moore reportedly replied, "Why should we do that for them?" The answer, of course, was that it would have helped Mr. Carter. As Representative John J. Rhodes (R., Ariz.), the House GOP leader, observed, "We would then have been a tacit partner in it."

Still, many people agree, the problems go beyond the immediate impact of such day-to-day mistakes.

"Members of the House and Senate go home every two or three weeks," pointed out a veteran congressional staffer. "They talk to opinion leaders in their home districts, and the things they most like to hear are anecdotes that tell what's really going on in Washington.

"And the most prominent anecdotes on the Hill in this administration are about the screw-ups by the White House staff in its dealings with Congress. I think that has a tremendous impact on the president's rating in the polls. That's how the perception of the administration is shaped."

"Each administration that goes into the White House tries to reinvent the wheel," said Bryce Harlow, who served for many years as an aide both in the Capitol and the White House. "They usually do so with their chins out, and they tell all the old hands 'go take a jump,' because they know better. And on top of that, the old hands, in their view, probably don't much count and probably goofed things up. And they're going to fix all that and do it better.

"The Carter boys were especially that way because of the nature of their campaign. And they were trying to keep faith with their campaign and say 'a plague on all of your houses,' which of course offends the powers that be. They didn't think that the powers had to be. And it's taken them 2½ years to discover that they are, and have to be, and that the stream goes on, no matter what they do."

The president's decision to shift power from the White House staff to the individual cabinet secretaries caused serious unforeseen problems.

It was almost an article of faith with Mr. Carter that his cabinet members would be free to run their departments without the White House interference that marked the Nixon administration. That was supposed to give the president time to deal with the major issues.

Instead, loose controls created a free-for-all within the administration's top levels with cabinet secretaries disputing White House wishes on budgets, appointments and policies.

"In some cases," said a high executive branch official, "there was almost open warfare by some cabinet members against the kinds of things we were doing, even after the president indicated what he wanted." A prime example, officials said, was Joseph A. Califano, Jr.'s opposition to Mr. Carter's proposal to create a separate Department of Education, removed from his sprawling, unmanageable HEW empire.

When Governor Robert Graham of Florida testified on Capitol Hill in favor of the new department, he was suddenly removed as the chairman of a presidential advisory panel on education. "HEW insisted that was totally independent of his testimony," an administration official said, but to the White House it looked like an act of revenge by HEW.

Mr. Carter's midsummer cabinet purge, in which Mr. Califano and four fellow cabinet members were removed, was intended to stop such activity. But a more basic decision, still in effect and too late to reverse, prevented Mr. Carter from exercising more control over his own administration in the way that a stronger president, such as Mr. Johnson, would have done and did.

"One of the problems that these guys [at the White House] have is that they don't really direct departments and agencies, and the people on the Hill know that."

The speaker was a Washington lobbyist, often consulted by the White House, who served there under a past Democratic administration.

President Carter's aides were determined to avoid centralized control, he continued. "My advice to them early on was, okay, do that. But make goddamn sure you own all of the congressional liaison people. But the liaison people they named, virtually all former Hill staffers, don't have any loyalty to the White House. Their loyalty is to their cabinet member. And in the process, the White House gave away the government."

Mr. Carter has been so enmeshed in details that he has been unable to provide broad leadership to the nation.

The most striking example was Mr. Carter's comprehensive study of the federal tax laws during his first year in the White House. He had promised tax reform as a candidate and to him that required an understanding of its intricacies.

"I knew we were going down the tubes with Carter when I saw he had carried up to Camp David a copy of the tax bill. I called Charley Walker [a former Republican official in the Department of the Treasury] and said, 'This man's lost his mind. He'll never understand it, and if he thinks he does, we're in awful trouble.' It showed that he couldn't separate the wheat from the chaff. That's what you've got a secretary of the treasury for, and an assistant secretary for tax policy."

That comment by Bryce Harlow is echoed elsewhere in Washington. Tom Korologos, who worked in the Senate before joining the congressional liaison staff under Presidents Nixon and Ford, blamed the White House staff.

"The function of the White House staff is to keep the trash of government away from the president," he said. But not in the Carter White House. With no chief of staff until recently, it was Mr. Carter himself who set out to serve as its chief operative, for everything, including, initially, who used the White House tennis court.

Mr. Powell conceded Mr. Carter's obsession with detail has proven to be a problem.

"We clearly understood during the campaign that the country was looking beyond programs and politics. But when we walked in the White House, frankly, we began to behave as if those assumptions were no longer valid. And we immediately became immersed in programs and politics.

"There was an accurate perception on our part that, since we were not experienced and this went all the way to the president, that we had to get some experience fast, in the nuts and bolts of the mechanics, and that the only way to do it was to get into it much more deeply than you ever wanted to maintain. And we got so concerned with compensating for our weaknesses that we neglected our strengths."

But Mr. Carter has been handicapped by even deeper factors that, like the problems resulting from Vietnam and Watergate, have weakened the president's ability to function effectively.

One is the decline in influence of the nation's two major political parties, and a weakening of the ties binding presidents and members of Congress through their parties, in part because reforms in the presidential nominating system enable outsiders like Mr. Carter to achieve the presidency.

"It has often been said by the Democrats that, since they have the Congress, if they also win the presidency, they can stop divided government and things will be fine," observed Stephen Hess, a speechwriter in the Eisenhower White House and a student of the presidency.

"But the Carter experience has proven that there is more to it than that. Neither the president nor the Congress needs the party label to get elected any more. The president doesn't start with a base of support as the party leader, and no member of Congress is beholden to him. Without a party base, it is infinitely more difficult to govern."

Another factor is intense coverage by the news media of the presidency and of every one of its foibles.

"I think you guys give him a brief period," said Loyd Hackler, a former Johnson White House aide who is now a lobbyist and part-time Carter adviser, "and then hold him up to the expectations. And nobody can live up to expectations.

"The focus and the intensity of interest on the White House probably make it impossible for any president to be regarded as successful."

Future presidents, said Senator Gary Hart (D, Colo.) will have to learn how "to tame the press" so that it doesn't "focus on every wart and crack." Added Senator Charles McC. Mathias, Jr. (R, Md.), "Even statesmen are human beings who can't be pulled apart and shredded."

In a sense, the reaction against the powers of the presidency that has occurred in the last decade was inevitable. Only the timing was political.

"It really started with John Kennedy," contended Mr. Harlow, citing Mr. Kennedy's use of the FBI to investigate the steel industry, the use of supposedly confidential tax returns to pressure critics and the political use of government contracts.

A White House aide in both the Eisenhower and Nixon administrations, Mr. Harlow has been around Washington for 40 years and offers a broad, though undeniably Republican, perspective of that period.

"These things set the stage for Watergate in the sense that the presidency was getting too big for its trousers. It was getting away from the traditional and constitutional controls that we had.

"The Watergate orgy would have been a Lyndon orgy, or a Lyndongate, if there had been a Republican Congress. But the Democratic Congress protected him.

"There had to be a redoing of the presidency and the White House to pull in its horns. It had gotten out there too far. The office had been abused by successive administrations, and someone's head had to roll. It turned out to be Nixon's."

And Jimmy Carter, and his successors, will pay the price, until the evident inability of Congress to use its increased powers swings the political pendulum back to the White House.

INSTITUTIONAL CHANGE HAS WEAKENED CONGRESS

(By Carl P. Leubsdorf)

WASHINGTON.—"Act in the national interest," pleaded Representative Thomas P. (Tip) O'Neill, Jr. Don't think of parochial concerns, of "whether I am getting as much gas in Massachusetts as you are in Arizona or New York or somewhere else."

But the speaker of the House was asking too much in today's political climate. So President Carter's plan for standby gasoline rationing, painfully put together just a day earlier in the Senate, was thrown out last May in the House by a one-sided 246–159 margin.

The vote meant that in the summer of 1979, with the nation's gasoline supplies dependent upon the fragile Middle East situation, the country would remain without a national plan for handling a possible severe emergency shortage.

The urgent need for such a plan could not overcome one of the greatest weaknesses in Congress today: lack of a national sense overriding the special interests of different regions and groups.

Legislators seem determined to judge issues according to their impact on their own constituents, an attitude that renders them increasingly vulnerable to a growing array of "single issue" groups that ignore the whole to concentrate on one area.

"The nub of the problem is that most people—and by people I mean the constituencies and those who represent them—don't really care about the whole country anymore," said Abner Mikva, a thoughtful former Democratic congressman from Chicago who recently became a federal appeals judge.

"There really isn't a strong sense of national identity and unity in America. There is no sense of nationhood. And whatever else the House does or does not do, it is very good at reflecting the national attitude."

But there is a second weakness, and it was epitomized by the futile effort made by Speaker O'Neill on the gas rationing issue. That is the broad diffusion of power and the collapse in institutional cohesion that renders the House and Senate sometimes helpless to confront key issues—at the very time Congress has wrested authority away from the deimperialized presidency.

Though Mr. O'Neill is clearly the strongest individual to occupy the speaker's chair since the days of Sam Rayburn two decades ago, he is institutionally the weakest speaker of modern times.

The Congress of today, both for better and for worse, is a far cry from its predecessors. In the late 1950s and the early 1960s, the reins of power were held tightly by a few people, the Democratic leadership and the senior committee chairmen, most of them Southern Democrats.

In the Senate, the power was Lyndon Baines Johnson, senator from Texas, majority leader from 1955 to 1961 and, after the tragedy in Dallas, the nation's ill-fated president in the Vietnam era. He ruled the Senate with an iron hand.

The House was similar with its power revolving around the speaker, Sam Rayburn (D, Texas), who had been Mr. Johnson's mentor, and his allies, the major chairmen; the parliamentarian, Lewis Deschler, and others who met with him every afternoon for a drink in the first-floor hideaway that became known as Mr. Sam's "Board of Education." Both houses operated under a strict seniority system, with the chairmanships going automatically to the committee members who had served longest.

With the 1960s came change. It happened first in the Senate, where Mr. Johnson's successor, the kindly Mike Mansfield (D, Mont.), moved quietly to spread power in the wake of the influx of younger, more liberal Democrats in 1958. He gave every Democratic senator a major committee assignment and then a subcommittee chairmanship, adding to his colleagues' influence and power at the expense of the leadership's control.

TEN YEARS OF CHANGE HAVE DIFFUSED AUTHORITY, WEAKENED CONGRESS

Gradually, the old Southern guard began to die off or retire and chairmanships drifted into the hands of Northern and Western Democrats more in tune with the national party. But by that time reforms in Senate procedures had left chairmen first among equals.

Mr. Mansfield and his successor, Senator Robert C. Byrd (D., W. Va.), treated all Democrats as equals, rather than exercising the control as Mr. Johnson had done. Although the number of senators needed to limit debate has been lowered to 60, the retention of the "filibuster" and a perpetually crowded calendar often enable a minority of 41 senators to prevent the majority from acting.

In the House, change came more slowly, but also more explosively, in a wave of reform that has scarred the institution's ability to function.

Thomas Rees, a California Democrat who came to the House in the mid-1960s and retired in frustration 10 years later, recalled how things were.

"It was a real constipation at the top, in which newer members never had the opportunity to look good. I was on the Banking Committee for eight years before I was on a conference committee."

Much of that has changed. The seniority system is dead in the House. The caucus of

House Democrats picks the committee chairmen and the 148 House subcommittee chairmen as well.

The power of the House parlimentarian to refer bills to a single committee is gone. Now, bills sometimes go to several panels which then send conflicting versions to the full House, further complicating matters.

In the Senate, the caucus also elects chairmen. So far, seniority has been followed, probably because junior members have so much power, including subcommittee chairmanships, they have no reason to upset the system.

Everything takes place in the open: hearings, markup sessions at which the bills are written, even the Senate-House conferences at which differing measures passed by the two bodies are reconciled. The changes make Congress more honest, but restrict independence by making members more instantly accountable to pressure groups.

If structural changes are the first major difference, a second is in the kind and caliber of the individual members.

"It certainly is a far different Congress from when I came here," said Representative John J. Rhodes (R., Ariz.), the conservative Arizonan who has been the House GOP leader since 1973. "The atmosphere is more contentious, and the desire to get along is muted, to say the least.

"I really believe the reduction in the average age of the Congress and the reduction of the length of service has probably changed the system more than any other single factor. And the general opinion in the country has a lot to do with it, too. The young-man-in-a-hurry syndrome, the 'me' decade—all that is much more pronounced.

"The attitude used to be that, if you stayed around long enough, you'd be a committee chairman. Now, you find members not willing to wait. There is a lot of playing to the new members, bringing them along faster and giving them authority."

By 1979, fewer than half of the members of the Senate and House had served in the previous decade. Less than 10 percent of each have served as long as 20 years.

In addition, the caliber of members has changed. Twenty years ago, the intellectual leadership in Congress came from the wily old Southern Democrats and the Northern liberals. Now, Republicans are more of a force, especially in the Senate.

A third major change has been the growth of staffs. In the past five years, the Senate has hired an additional 700 legislative assistants.

A similar growth has occurred in the House, where the number of committee staff members has tripled in the past eight years, while each member has gone from 12 to 15 to 18 full-time staff members. This summer, each was allowed four part-time aides.

The additional staff has been justified on the grounds that Congress needed to compete with the executive branch. But it has had an additional effect.

"It's like assigning a reporter, who then has to write a story every day to justify his own existence," said a House subcommittee chairman. "The staff has the same bloody thing. They have to show that their boss has some power, and that he, as a staff man for his boss, is serving some purpose." Which means more bills, more hearings, more activity.

Much of what is being done is aimed not at solving national problems but at reelection of members, of what Dr. Milton S. Eisenhower termed the achievement of "electoral immortality."

In 1966, half of the 48 freshmen Democrats who had been swept into office in the Johnson landslide of 1964, most of them in normally Republican districts, were defeated. Ever since, the Democratic leadership has stressed the importance of freshmen of insuring their own survival. Of the 78 Democratic freshmen elected in 1974, just 2 were defeated in 1976, one because of a sex scandal.

All of these changes have had one overriding impact: They have diffused power on Capitol Hill. While this has meant a more democratic process, it has also made it far more difficult to get things done.

The institutional changes have come at a time when there has been a vast expansion in the congressional workload, due to the growth in government.

In time there were fewer and fewer areas in which there was not some sort of government action. New programs became increasingly difficult to pass. And the battlegrounds became the programs themselves, as debate often focused on whether a district or a state would benefit from a program, rather than whether or not it needed it.

A typical example, pointed out several years ago in an article entitled "The Social Pork Barrel" by David Stockman, now a Michigan congressman, was the debate one year on the government's major school aid program, the Elementary and Secondary Education Act.

Of the 19 amendments, Mr. Stockman noted, 15 dealt with the allocation formula, the way in which the federal pie was sliced.

"When we go to the floor to vote on these social programs, we don't consider policy alternatives," he said. "It's all a computer printout on how much money is going to your district. I don't know how many times I have walked in the door of that chamber and had somebody hand me a computer printout.

"The classic case occurred a couple of months ago when Carter was trying to cut out part of impact education aid, the federal assistance to school districts that include large numbers of federal employees. I got a letter from Herb Harris [Democratic congressman from northern Virginia] that said: 'Dear Dave: I just thought you should know that the various programs in your district would lose $175,000. I hope you will join with me tomorrow to restore the aid.'

"There's a hyperapprehension, even paranoia about voting wrong. Too many members are afraid of offending 16 sugar beet producers, or 4 school districts out of 90. I think you ought to be willing to take some lumps. Besides, I don't think you'll be hurt that badly when all is said and done. I don't think that pork barrel votes are going to do you in. Something that's visceral and emotional, like abortion or busing, but if you vote to cut out impact aid or the HEW budget, I don't think you're going to suffer an irrevocable loss at the polls."

Nevertheless, that fear exists. It has been intensified by the growing pressure of "single interest" lobbying groups. While "single issue" politics—the idea that a vote on one issue is more important than an overall record—was strongly identified with liberals and their support for civil rights and opposition to the Vietnam War, in recent years it has been more of a conservative phenomenon centering on such issues as abortion, gun control and other emotional subjects.

Edmond F. Rovner, who has worked for a couple of New York congressmen as well as for former Governor Marvin Mandel of Maryland and the Interior Department, explained how such pressure works in practice.

When he was working for Representative Jonathan Bingham (D, N.Y.) and the congressman was pushing a gun control amendment, a colleague came up to him right after the vote. "I want to tell you, Jack, I think you're right," he told Mr. Bingham. "I voted against you, but I think you're right.

"The people in my district who would like gun control are a majority," he explained. "If I vote against them, they'll be disappointed, they'll be upset. But they'll judge me on a whole range of issues. And they will indulge me this time this wrong vote, as they see it.

"The ones who are against gun control are going to do it on one issue, and I'll lose every one of them, regardless of what else I do. It's the intensity factor."

Senator Abraham A. Ribicoff (D, Conn.), who is retiring next year, said congressmen and senators lose their perspective on pressure groups.

"There isn't a pressure group that isn't basically a small minority of the population as a whole. And this is what politicians fail to realize. I think the best thing for a politician to do is to take on a pressure group, because I think he'd have the respect of the overall majority against the pressure group. I don't know a single vote that will ever make or break a politician. Everything that looks horrendous on a single day is soon forgotten and another issue takes its place."

While some people in Washington especially in the White House, seem to despair of the way Congress is working—or not working—there are several offsetting considerations.

First, for all its eagerness to seize power, Congress hasn't gone the full route. Despite the creation of the Congressional Budget Office and the new budget committees, the administration budget still sets the tone for the year's budget debate, as this year's Carter budget with its domestic spending cutbacks has proven once again.

Then, the essential work of Congress does get done. The money is eventually provided, and such important issues as the Panama Canal treaties, last year's Middle East aid package and even some energy measures ultimately do get passed.

Finally, the diffusion has produced a more democratic institution in which individual members have more meaningful roles. "I surely don't want to go back to the age of the Pooh-Bahs," said Howard Shuman, an aide to liberal senators since the Johnson days.

The situation in which Congress does its own thing while the executive branch fumes in frustration is hardly new. Since the end of the New Deal burst of legislation in the late 1930s, that has generally been the rule except during the 89th Congress, which passed Mr. Johnson's Great Society programs in 1965 and 1966, and in emergencies. And though many people consider the energy situation an emergency, that perception is clearly not shared by the public.

Stephen Hess, of the Brookings Institution, noted that "the presidency has been up for so many years that we forgot that government is on a fulcrum, that the Constitution is really a teeter-totter or a see-saw between the two action branches of government. And suddenly, what Watergate and Vietnam did was to give the Congress the opportunity to reassert itself."

Mr. Hess predicted a readjustment back would come, that "Congress will at some point do something that will be its form of Watergate or Vietnam, probably in foreign policy, where there is no great evidence that the Congress can act any more responsibly than the president."

"You have to bear in mind that this is a period of relative tranquility," said Bryce Harlow, who has been watching Congresses come and go for 40 years as a Pentagon staffer, a congressional aide, a White House staff member and a lobbyist. "At such a time, the President is down and the Congress is up. Why Because the government doesn't make much difference.

"In my solitude," he said at his home in the West Virginia hills overlooking the Potomac River, "I've been laughing at most of what the Congress has been doing. They think they're putting permanent restraints on the White House. They think they're putting check reins on the president of the United States.

"Well, you just let a war start, and look at what they'll do. Why, they'll run like a bunch of rabbits, and they must. And they'll turn the government all over to the president of the United States. And if they don't, he'll do it anyway."

CONGRESS SEEKS LEGISLATIVE VETO TO COVER POLICY-MAKING FAILURES

(By Carl Leubedorf)

WASHINGTON.—In 1944, Representative Carl Vinson was concerned that the Navy might try to change the contract governing the Elk Hills (Calif.) petroleum reserve that it had supervised since the Teapot Dome scandal some two decades earlier.

So the influential Georgia Democrat tried to give a veto power over any such change to his House Naval Affairs Committee. When the attorney general ruled it unconstitutional, Mr. Vinson settled for a clause requiring the Navy to consult with his panel.

That incident symbolizes the modern development of the legislative veto, a weapon that is transforming the power relationship between Congress and the executive branch.

More and more, Congress is trying to control the government's actions in politically sensitive areas by adopting amendments that give it authority to review or block specific actions by government officials and regulators.

Bryce N. Harlow calls the legislative veto "a device to circumvent the Constitution." Once Mr. Vinson's aide, later one of the top business lobbyists in Washington and a senior member of the Eisenhower and Nixon White House staffs, Mr. Harlow sees the legislative veto as symbolic of the crisis in the government's decision-making process.

"Congress is supposed to set the policies for the government, and the executive branch is supposed to run it," says Mr. Harlow. The legislative veto gives Congress a share of the power to run the government.

It is an issue that faces a series of crucial tests in Congress over the next few weeks as critics in both houses seek to curb a single federal agency, the Federal Trade Commission.

The rush to establish a legislative veto over the FTC and other federal agencies is rearguard action by Congress, arising from its failure to control government policies in the traditional manner, both critics and supporters of the movement agree.

"Legislative veto is an admission they've lost control of the policy-making machinery," said Charles D. Ferris, a liberal and for many years a top aide to Senator Mike Mansfield, the longtime majority leader and now ambassador to Japan. Mr. Ferris now is chairman of the Federal Communications Commission.

"Theoretically, legislative veto is a good idea," argued Representative David A. Stockman, a young conservative Republican from Michigan. "But the reason it's almost required is that we won't make the policy decisions. We delegate authority and then get upset when mission-oriented bureaucrats promulgate decisions that are totally unacceptable to us."

But that is only part of it. Much of the pressure for legislative veto is coming from the business community, which does not like the pro-consumer tone taken in recent years by agencies such as the FTC, especially since President Carter has named several longtime "public interest" activists to them.

"I think there is no doubt that these agencies are now staffed with people who represent the public and consumers more than in the past," said one of these appointees, Robert Pitofsky, a member of the Federal Trade Commission. "And the commissioners are on the whole less sympathetic with the philosophic viewpoint of the regulated industries.

"But that's the way it's supposed to be. Most of the qualified critiques of these agencies thought there should be a wider range of viewpoint in them."

A prominent business lobbyist agrees that the legislative veto is seen by business as a means of checking unpalatable governmental regulation.

"The business community used to have a great deal more control of the regulatory agencies than it has now," he said. "The consumer and environmental movements changed that, and, in my personal opinion, for the better.

"But now the people running the regulatory agencies have never been in business and don't understand business. They perceive things differently from just a matter of profits. They are doing what they think is good for the country, and they aren't as receptive as they once were to the business community.

"So the business community is having to go back to the Congress and say, in effect, 'Hey fellows, they've gone too far. Help us curb them.' And they also say 'We reelect you guys, we can change you. But we don't have a helluva lot to say about those guys over there.' "

But is legislative veto a good governmental tool, he was asked.

"No," he replied quickly. "The Congress was not created to be an administrative body. It created these agencies. It can eliminate them and pass laws that restrict them. But it hasn't so that we, the business community, see that the only way to put real curbs on what we think is excessive regulation is that the Congress ought to come back and give itself veto authority."

Mr. Harlow made a similar point. While he still believes in the traditional lines of demarcation between the executive and legislative branches, as a Washington representative for Procter & Gamble Company he favors the legislative veto.

"Right now," he said, "legislative veto is regarded by most of my friends as an evil but necessary device. Temporarily, until you straighten these agencies out. But I do think it's a silly practice."

Although the legislative veto was used sporadically over the past five decades, it came into vogue during the Nixon years.

"It came with Nixon, only because he came to symbolize the deeper distrust by Congress of the executive branch," said Representative Gillis W. Long, a shrewd Louisiana Democrat.

"I think it's a basic mistrust of government, and of the fact that government's not working."

In the 93d Congress, which climaxed with the impeachment drive against Mr. Nixon and his resignation, no fewer than two dozen laws were passed with such restrictions in them. Since then, the focus has broadened as conservatives and liberals alike go after a variety of executive agencies.

The current major battle, which many people think will set the tenor for future efforts, deals with the FTC. A number of restrictive proposals are pending, but the most important is an amendment by Senators Sam Nunn (D. Ga.) and Harrison J. Schmitt (R. N.M.) to give Congress a veto over all FTC decisions.

A vote is expected in the Senate this fall. The outcome is considered crucial, since it is generally believed the House will go along with almost any sort of a legislative veto. At a recent hearing, commissioners of the FTC were lectured by Senator Howard W. Cannon (D., Nev.) chairman of the Senate Commerce Committee, that, regardless of the outcome, they can now expect "the most vigorous type of oversight that your agencies have probably ever experienced."

Meanwhile, the House is considering three amendments that would curb specific probes by the commission. One would bar an investigation of the funeral industry, another would suspend a probe of breakfast cereals and a third would bar efforts to regulate agricultural cooperatives.

The reason the FTC has become a particular target is fairly obvious. A 1974 law broadened its authority to write "rules" to limit what it believed to be unfair practices in entire industries, such as used cars or funeral homes, rather than act on a case-by-case basis against individual firms.

Then, Mr. Carter named as FTC Chairman Michael Petschuk, who helped design that law when he was counsel of the Senate Commerce Committee.

Mr. Pitofsky, a key staff member of the FTC during an earlier activist phase in the early 1970s and now one of its five commissioners, admitted he was surprised to discover how "broad and ill-defined" its powers are—thanks to Congress.

"I do believe that this agency, along with others, has a really remarkable legislative grant of authority," he said. "And even I am a little surprised at how comprehensive the rules that we write have turned out to be, how big the hearing records are and how complicated the issues are. And, therefore, I think there is some room for reform in the way rulemaking is going on. But a one-house veto by Congress isn't the answer.

"It doesn't address the real problem. The real problem is the immense complexity and volume of the record in these problems."

Mr. Pitofsky has doubts that a congressional staffer could review intensively a 24,000-page FTC record and come up with a thoughtful appraisal.

"I'm afraid what will happen is that it won't be the House, it will be some committee; and it won't be that committee, it will be the staff of that committee. And I'm afraid they're going to respond to political pressure. And where is that pressure going to come from? The pressure will come from that segment of industry that is affected by the rule."

As with so many other problems in government today, Mr. Pitofsky raised the problems posed by complexity—and the question of whether an already burdened Congress will be able to cope with this additional problem.

After all, it was Congress that initially granted these vast powers to agencies such as the FTC. And it is Congress that is supposed to be looking after the way they administer—or oversee—them, through the process known as oversight.

Every day, the congressional calendar is filled with oversight hearings, but the problem in most cases, the FTC commissioner went on, is that congressional oversight generally "focuses on relatively minor, odd aspects of these agencies, and very rarely measures what's going on in them. Most oversight hearings don't seem to have a lot to do with an across-the-board evaluation of what's going on in the agencies."

Former Representative Thomas M. Rees (D, Calif.) put it more directly.

The purpose of many congressional hearings, he contends, is not a careful review of how the FTC or another federal agency is doing—the oversight process. More often, the intent is publicity.

"Everything tends to be something of a cheap shot," he said. "How do I get 10 column inches in the Baltimore Sun? How do I get on the television news?"

The legislative veto and the sunset bills, which build in expiration dates for programs and agencies, are extremely popular in Congress now, because, Mr. Long pointed out, "they are regarded as panaceas for the fact that the government is not working very well. Everyone is looking for structural mechanisms to correct problems that are basically not structural."

In the end, the major impact of such devices will probably be to make an already complex, slow-moving process somewhat slower and more complicated. Some supporters would gladly settle for that.

"The argument," noted Representative John J. Rhodes (R, Ariz.), the House GOP

leader, "is that things are being done to the American public that Congress didn't intend to have done, and over which it has no direct control.

"If the regulations are at fault and you get a look at them and have a veto, you will either exercise it or put the agency on notice that you could exercise it. They would be less likely then to send up regulations that would be unlikely to pass muster.

"We obviously don't want to go over every doggone regulation that an agency puts out. But if we have the authority to do so, we feel that 85 percent of the purpose will have been served."

Commissioner Pitofsky noted what the impact has been already. "Just look at the rules proposed by this agency," he said. "Every single rule was cut away back in response to criticism."

But he added that it is fiction to claim that the legislative veto will permit the "voice of the people" to be heard on FTC issues. "We're talking about intricate regulations," he said. "The only people who are going to address these issues are going to be the special interests who are affected by the regulations."

Representative Morris K. Udall (D, Ariz.) said that in the never-ending struggle between Congress and the executive branch, legislative veto "is a swing of the pendulum a little too far.

"There's got to be a balance between Congress keeping a piece of the action in making public policy and paralyzing the administrators where they can't carry it out.

"While the Constitution contemplates everybody checking everybody, there was always a presumption of good faith in the different departments, and a willingness to allow a little play in the joints of the system.

"Now, in reacting to the period of the Imperial Presidency, we've gone overboard in tying down the executive's ability to be flexible. That's the danger of something like the legislative veto. Ultimately, though, it will work out."

FAILURES OF GREAT SOCIETY ARE BLAMED ON THE ATTEMPTS TO DO TOO MUCH, TOO SOON

(By Carl P. Leubsdorf)

WASHINGTON.—At the climax of the two-year burst of activism that put Lyndon B. Johnson's "Great Society" onto the statute books, Congress in late 1966 passed the Model Cities program.

But political realities—the need to get more votes—transformed what had been planned as a carefully targeted demonstration program, aimed at coordinating a variety of urban programs in a few needy cities, into another generalized federal aid program. And that set the pattern.

"We did that for Model Cities," recalled Howard Shuman, then and now a top aide to Senator William E. Proxmire (D, Wis.). "We did it for depressed areas. And we did it for a lot of others."

"We were going to give it all to 8 to 10 pockets of poverty in the country, and what we had to do was to universalize it to get it through."

"In the Senate (where 50 percent of the members represent just 15 percent of the people), they had to do it to get the votes of the small states. And in the House, they had to do it get the votes of the Southern Democrats."

"When the Area Redevelopment Act was passed," said Edmond F. Rovner, a congressional aide during the 1960s, "there was one application I'll never forget. It was from a county in Kansas with a 3 percent unemployment rate."

Even that county qualified for economic aid because Congress had decided the act was to be a national program, said Mr. Rovner. "It had to be in every state. They had to get something."

This diluted the impact of these programs. Then the costs of the Vietnam War escalated, inflation became rampant, and many programs evolved differently than originally planned.

More than a decade later, many of the bright promises of the Great Society have not been realized.

Yet, like everything else about the modern-day American government, that judgment is controversial.

Few would now want to halt the vast panoply of New Deal-Great Society programs, and even fewer would see any way to do it.

Yet, as a recent study by George Washington University's Center for Social Policy Studies seems to confirm, it is probably impossible to measure accurately their effectiveness and true impact. No one knows, for example, what the cities would have been like without these programs.

What remains are differing opinions that largely follow political and philosophical lines.

Liberals and Democrats, on the whole still think the programs worthwhile, though many concede the obvious problems that have arisen. Conservatives and Republicans are convinced more than ever that the programs were fatally flawed.

The arguments of both sides are true to a substantial extent. Clearly, while many programs have failed to meet impossible goals, such as ending poverty, they have made an enormous difference to many people and have insured against a repetition of the nation's Great Depression experience.

Yet, they have developed differently than anticipated, have spawned a variety of side effects and have played a major role in fueling the inflation that persists today.

Mr. Rovner, who later served in Governor Marvin Mandel's cabinet, recalled that reviews of Lyndon B. Johnson's Great Society programs showed that fully a third of all Americans formerly living below the poverty line had moved above it.

"If he had only promised a 25 percent improvement," Mr. Rovner said, "and got 33 percent, it would have been regarded as a herculean achievement. But it got denigrated because he had over-promised. When he passed Medicare and Medicaid, he promised no one would get sick. . . .

"In fact, while it didn't eliminate illness, Medicaid did reduce to a considerable degree the times that old people were faced with a choice between bankruptcy and suffering."

Charles D. Ferris, who played a key role in enactment of Great Society legislation as an aide to Senator Mike Mansfield, the Senate majority leader during that period, has a similar reaction.

"I think we have achieved a helluva society from the standpoint of equality of opportunity. The real impediments to individuals, to women, to minorities, to the poor, have been substantially overcome, though some still exist.

"But the Great Society was oversold. It went a great deal of the way towards dealing with problems, though it didn't solve them. The important thing was and is the commitment to accept responsibility at the national level."

If the social legislation of the 1960s was oversold, it was also overled, contributing to an ever-expanding federal bureaucracy.

"What we were advocating then is not what we've got now, vastly beyond anything we ever asked for or anything we ever desired," said Mr. Shuman, a veteran Senate aide, in discussing federal aid to education.

"The impact has been that the quality of education, as measured by tests, has even shown a decline.

"What we were after was to try to equalize the economic contribution to education by providing federal help to poorer areas. What we got instead was a vast new lobby.

"We're now financing, through the federal government, virtually every university in the country. I know whole departments in universities where every member of that department is getting a federal grant.

"I'm sick about it all. It really does make a liberal person like myself go back and think about the 'foot in the door' proposition."

Was such a vast growth in federal influence and interference inevitable, as conservative critics warned at the time?

"I don't think so," Mr. Shuman said. "The purpose of the federal government, and the purpose of the New Deal and Great Society reforms, was so that we could protect the poor and the weak. But in the guise of protecting the poor and the weak, we've sort of helped everybody everywhere. And those with the biggest, most powerful economic groups, which are also the most vocal groups, were able to get the lion's share of the aid."

Representative Morris K. Udall (D, Ariz.) looks at it from another standpoint: What would things be like if the Great Society programs had not been passed?

"Are schools any better?" he asked. "Not particularly. But I think your basic point of comparison is what would the schools have done had we not had such a program.

"While there have been some failures and while some of it has been wasted, I think that, by and large, educators, parents and others would agree that, on balance, this whole flood of different kinds of aid to education has been a success."

And Anne Wexler, a top presidential aide who began in politics as an anti-war activist in the 1960s, said that, "The people who were creating those upheavals [of the 1960s] have essentially won their battles, and the country is better for it.

"The anti-war movement won, the civil rights movement won, the women's movement won, and the environmentalists won. And they won because the government responded."

"I get annoyed," Representative Udall said in a recent speech, "at the claims of the loyal opposition who cluck that we Democrats find ourselves entrapped by our own New Deal.

"The New Deal was not a bust. Social Security is one of the best programs any country ever had. And so is the Federal Housing Administration, which has allowed so many Americans to own their own homes. We've kept the stock market honest and we have tried to help the family farmer with financing.

"Similarly, the Great Society was not a bust. Medicare, for example, brings relief to millions of old people. Don't tell me we were not right to try to make the war on poverty. I won't apologize for my votes in the 1960s when we thought we had the money and the national commitment to fulfill our pledges to our society."

Mr. Udall went on to say that it was "wasteful, destructive and divisive war that diverted money and attention from social programs and social problems." And it was Richard M. Nixon's dismantling of them "that resulted in those programs never having a chance to match the promise they gave," he said.

But Senator Abraham A. Ribicoff (D, Conn.), a one-time supporter of vast government social programs when he was President John F. Kennedy's secretary of health, education and welfare, now has an opposite view. He thinks the Great Society was basically a failure.

"I think one of the great problems that you have," he said, "is that ideas of planners on paper look good and sound good, but when you deal with people, you realize that it becomes another proposition entirely.

"I came to the conclusion after my stay in the Cabinet that it is impossible to make a plan for the whole country, multibillion

dollars in scope, and put it into place and make it work." Any program of that magnitude must be tested on a small scale first, he said.

"And the greatest harm you can do is to pass a program that is well intentioned and then fails in the delivery, which causes disillusionment," he said. "But if you try it out and find that it doesn't work, you can go to something else and in the process you are not wasting billions of dollars that could have been used for worthwhile programs."

Many conservative critics of the Democratic social legislation say it should not have been tried. Representative John J. Rhodes (R, Ariz.), the House Republican leader for the past six years, noted that no sooner were the Great Society programs (which he generally opposed) enacted, than the nation found itself up to its ears in the Vietnam War.

And Mr. Johnson, downplaying the cost of war, tried to have both "guns and butter," Mr. Rhodes said.

"That was back in the days when some people thought we could afford anything. So there we were, fighting a very expensive war and, at the same time, putting into place the most expensive social programs ever known to man. And the economy just couldn't stand up to that.

"Of course, the Great Society program was not just a great expense in the 1960s. In fact, it's an increasing thing. Although the objectives of a lot of the programs were commendable—especially the idea that people shouldn't go hungry—the idea that you could do it all now, immediately, and not suffer any economic consequences turned out to be very naive.

"If you had left those resources in the private sector and not redistributed that income in that particular manner, then the dividends from the investment of resources to make other resources would have resulted in an economy that was infinitely richer, infinitely more capable supplying all segments of society with a better life than we have now."

Yet, both the Rhodes analysis and Mr. Udall's complaints about the impact of the war and the Nixon policies are somewhat simplistic.

The Vietnam War not only ended an era in which the majority in Congress believed that the nation's resources were unlimited. It set off a wave of inflation that persists today. And that, in turn, changed the attitudes of many Americans.

"Things really have improved a lot since 1960," contended Harrison Wellford, a former aide to Senator Philip Hart (D., Mich.) and now associate director of the Office of Management and Budget.

"But people are nervous that these improvements are going to be taken away from them. They really are frightened about it. If you think of all the people who have saved and built a home in the suburbs a lot better than anything their parents ever lived in, and now they have to ask themselves if they really can afford to live out there.

"And that makes them angry. They feel tricked, cheated. And if you add up all the people in that category, you have a lot. That's why inflation is such an insidious morale destroyer. It hits all those people who have denied themselves, didn't take the next vacation, saving up money to buy that home in Nag's Head. And now they can't do it."

Stephen Hess, a White House aide during the late Eisenhower years who now analyzes politics and government at Washington's Brookings Institution, noted another complicating factor.

"It's nonsense to think that the money [in the Great Society programs] is down the drain.

"But there were also unanticipated consequences because of the complexity. The tax code wasn't designed to break up families. And AFDC [Aid for Families with Dependent Children] wasn't designed to throw the father out of the house. As the laws got more complex because these were more complicated subjects, these things happened as well.

"Underlying it all is the fact that government since the 1960s has been asking an entirely different sort of question than it once did, questions such as how do you clean the atmosphere, how do you teach Johnny to read? The purpose of government before was to print the money and make sure the federal prisons ran, mail out veterans' checks.

"Were such programs oversold? Of course, that's always the nature of the system." Perhaps it was not possible to do those things, Mr. Hess said, "and certainly not in the time frame that government was proposing."

Mr. Rovner concludes by saying:

". . . Government, by and large, runs well if you measure it by what you can rationally expect of it."

"It can't do well pushing a program that puts burdens on people, such as regulatory programs. It never does well in an area where it has to deal with a lot of nonrepetitive problems.

"Government can always be improved. But I don't think it is any more inefficient than Macy's or any other large private business."

WAYS HUNTED TO MAKE GOVERNMENT WORK BETTER

(By Carl P. Leubsdorf)

WASHINGTON.—When the Constitution was being written in 1787, the framers initially wanted to bar the president from seeking reelection, in part because they feared he would spend all his time lobbying the congressmen who would have the power to reelect him.

Ultimately the founding fathers created a strong presidency, independent of Congress, and the proposed reelection bar was dropped.

Now, however, it is gaining new support, and for an ironic reason. As Dr. Milton S. Eisenhower put it, "The president in his first term runs for four years for a second term. He starts running on the first day that he is in office."

The proposal for a six-year, non-reelectable presidential term is the single most popular institutional reform currently being advocated for the nation's complex, often faltering governmental system in which both the weakened chief executive and the members of Congress are increasingly consumed with the politics of reelection.

In recent years, it has received support from many distinguished Americans, including former Senators Mike Mansfield (D, Mont.) and George D. Aiken (R, Vt.); former Presidents Dwight D. Eisenhower and Lyndon B. Johnson; President Carter, and a long list of political scientists.

"The reason," President Carter told a group of editors last April, "is that no matter what I do as president now, where I am really trying to ignore politics . . . a lot of the things I do are colored through the news media and in the minds of the American people by, 'Is this a campaign ploy, or is it genuinely done by an incumbent president in the best interests of our country, without any sort of personal advantage involved?' "

In addition to the six-year presidential term, reformers often favor limiting congressional tenure, perhaps to 12 years. Representative John J. Rhodes (R, Ariz.), the House GOP leader, proposed one six-year presidential term, two six-year Senate terms and a maximum of four three-year House terms, with national elections occurring then every third, rather than every second, year.

Tom Korologos, who worked for a Republican senator and the Nixon and Ford White Houses before becoming a private lobbyist, said he thinks government has gotten so out of control that there should be a general manager, nominated by the president, confirmed by the Senate and serving a 15-year term.

Dr. Eisenhower, who has given more attention to institutional reforms than virtually anyone, has suggested the creation of two offices of executive vice president—one to supervise domestic agencies, with the other to supervise foreign-policy ones—to free the president from day-to-day involvement in government. The two "super cabinet" members would be nominated by the president and confirmed by the Senate.

"In any huge organization," he said, "the man at the top can't possibly run it. He has to be able to delegate intelligently."

Capitol Hill, meanwhile, is filled with myriad proposed changes. They range from further limits on Senate filibusters to insure majority rule in that body, to changes in the Senate and House committee setups, to measures providing greater congressional control over the executive branch.

But all have two major flaws. One is that they would be extremly difficult to enact, either by Congress or, in the case of the six-year term, by passing a constitutional amendment.

Second, they may not really be getting to the heart of the problem. "In my view," said David Stockman, the conservative Republican congressman from Michigan who is sharply critical of almost everything about the current system, "these things are gimmicks."

"I don't think institutional changes are going to offer much of a solution. I think it's going to take creating a critical mass of impatience in this country that can be seized by a strong presidential leader to force changes in this complicated, land mine-ridden system."

Of course, added Mr. Stockman, the real solution would be parliamentary government, where the party with a congressional majority would control the executive branch, and failure to win a key legislative test would require new elections. But, he conceded, "that will never happen."

Others also make the point that, when all is said and done about the institutions of government, the difference between relatively effective and relatively ineffective may depend primarily on the individuals who wield the power.

"I would say that the failures (of government) in many instances are personal failures," said Senator Abraham A. Ribicoff (D, Conn.), citing the recent enactment of complex, far-reaching trade legislation as an example of the fact that the institutions can be made to work.

"When the Tokyo round (of trade talks) started," he said, "I would say that everyone thought it wouldn't go through. You know, you had protectionism, unemployment, special interests involved. But there was a close working relationship between the executive branch (and the Congress)—it was part of the genius of Bob Strauss (the former Democratic national chairman who was Mr. Carter's special trade negotiator)—and key people in the House and Senate were kept apprised of the negotiations and every decision being made.

"Here was a measure that was changing the rules of international trade for the next decade. And yet this goes through with seven negative votes in the House and four in the Senate.

"Now when they say that the institution and the government can't work, I say it can work. The system can work if you realize the complexities and how many factors have to be taken into account . . . so that everybody knows what's going on—it can work."

Future presidents, said Senator Gary Hart (D, Colo.), who might seek to become one, "must recapture the ability to frame the issues" so that the public will understand subjects that have become "so complex, so intricate and so interrelated.

"The president must not only be an educator, but a communicator," he added, noting that the ability to use the media was a major factor in the success of President Franklin D. Roosevelt and John F. Kennedy.

Even Dr. Milton Eisenhower, who feels so strongly about the need for change that he hopes to write a book on his proposals, conceded that "after all of these steps, there is no substitute for the right leadership."

"When Franklin D. Roosevelt came into office, first he made the people believe in him. And then, miraculously, they began believing in themselves. Nobody believes anybody anymore. People won't believe there is an energy crisis, for God's sake.

"If a candidate for president will tell the people the unvarnished truth about the four, five or six problems that threaten us, I not only think they will believe him, but if he will then go on to propose a tough program to deal with these problems, I think they'd be so goddam grateful they'd sweep him into office."

Though Dr. Eisenhower, among others, feels that the energy situation represents a crisis requiring drastic action, every measure of public sentiment shows that the country remains unconvinced.

"The stagnated government of today," according to Bryce Harlow, a veteran aide of Republicans in Congress and the White House reflects the fact that "the American people aren't crying out for a crisis solution to anything."

"If the American people want anything very badly for an appreciable period, they'll get it. That's the glory of our system. But they don't know what they want, and they don't worry about it very much. They certainly don't worry about it consistently. So the government waffles, reflecting accurately what the people are doing.

"You might say, 'Doesn't the government have any leadership responsibilities?' Sure it does. But no matter what President Carter does in office, this is a time of relative tranquility. At that time, the presidency is down, and the Congress is up. Why? Because the government doesn't make much difference.

"I'm not worried about the institutions of this government. They're in the Constitution. The government, institutionally, is self-operating."

While this is certainly true, it doesn't do much for flagging public confidence in government. When he was running for president in 1976, Jimmy Carter said that one of his major goals was to restore such confidence by making government more efficient, and thus more receptive to the needs of individuals.

That was really the purpose of his efforts to reorganize the federal government, efforts that never got beyond a series of limited relatively minor proposals with only a narrow impact.

While top presidential aides are convinced Mr. Carter will resume his reorganization efforts if reelected, the prospects for massive change appear to be dim.

"The system has a lot of self-correction in it," said Stephen Hess, who has studied government for nearly two decades at Washington's Brookings Institution. But, he added, "It's a messy system. A lot of it has to do with whether you're an optimist or a pessimist. But it's always been a messy system."

And the American government has clearly gotten messier as it has gotten bigger and more complex. As time has gone on, it has become harder and harder to change.

"The reason that things stay the way they are is that somebody out there likes it the way it is," said Tom Korologos. "And that's the way it's going to stay." ●

GASOHOL: SOLUTION TO THE GAS SHORTAGE

● Mr. HAYAKAWA. Mr. President, the production of gasohol from agricultural products has expanded quickly to the point where it has begun to appear in markets far from the Corn Belt. I would like to draw the attention of my colleagues to an article appearing in the November issue of the Atlantic Monthly which discloses an alternative raw material for the production of gasohol and request that the article be printed in the RECORD. According to the author, Mr. Eliot Janeway, oil and petrochemical companies could contribute significantly to gasohol production by refining alcohol in their own facilities from a byproduct in the refining process. The amount of gasohol derived in this manner could displace as much as 667 million barrels of crude oil a year and would reduce our annual trade deficit drastically.

I strongly urge my colleagues to read this article and to consider the value of this ignored source of gasohol.

The article follows:

GASOHOL—SOLUTION TO THE GAS SHORTAGE

(By Eliot Janeway)

Alcohol is back in the news again, in as big a way as during Prohibition. At once the oldest chemical product known to technology and the simplest to refine from a variety of raw materials, alcohol is readily mixable (or, as the chemists say, miscible) with gasoline. Blended in the ratio of one part alcohol to nine parts unleaded gasoline, gasohol can free the United States from reliance on the OPEC countries and provide a painless alternative to the ultimatum President Carter has delivered: Use less and pay more for automobile fuel.

Hair shirts of the sort the President prescribes do not fit the country's style or its frame. The country runs on its carburetors; the economy will stall if people can't drive. But practical conservation at the point of fuel production, which is what gasohol offers, would keep the economy moving.

Working people have more sense than policy- and opinion-makers do, and they're onto the pocketbook promise of alcohol—not merely as consumers with a vested interest in their lifestyles, but as income-earners who need to stay on wheels to stay ahead of their creditors. That is why gasohol is becoming the hottest liquid product since bathtub gin.

If gasohol becomes the boon it could and should become, little credit will go to the Administration or to the oil industry. Big oil's hostility to the use of alcohol as a fuel additive goes back to the turn of the century, and took on overpowering strength when, in the 1930s, a brilliant chemist named William Jay Hale, with the strong backing of Henry Ford, built great momentum behind a campaign to bolster the farm economy and provide an alternative source of fuel by intensive production of alcohol for mixing with gasoline. Rather than join in the movement and profit from it, big oil fought successfully against it, leaving Hale to conclude, "We are the boobs of the world."

The gasohol initiative was suppressed by a corporate alliance between Du Pont and Standard Oil of New Jersey (now Exxon). Du Pont not only dominated the chemical industry; it controlled General Motors. The three of them together were quick to recognize the need of the gasoline refining process for a chemical additive, but they committed the country to lead and against alcohol.

In our time, Carter's Administration, brought into power by an anti-establishment campaign, has joined with the oil companies and with the farm college economists, the most reactionary element among the economic fraternity, in denigrating gasohol. Nevertheless, gasohol has managed to bludgeon its way back into the picture, courtesy of the Corn Belt states and the pressure brought to bear in Congress by the farm lobby. Over White House resistance, farm and sugar state senators forced on the Administration a four-cents-a-gallon exemption on the federal excise tax on alcohol produced from agricultural products. This cut was not enough to make gasohol competitive in price with unleaded gasoline until Governor Robert Ray stepped in with an additional eight-cents-a-gallon exemption on Iowa's excise tax, thus enabling gasohol to sell as premium gas within pennies of the price of gasoline in Iowa. Since then, Governor Otis R. Bowen of Indiana has followed suit. Gasohol production quickly expanded (to a capacity of over 60 million gallons a year by the end of the summer) and began trickling into markets as far from the Corn Belt as Connecticut and Massachusetts. Even in Idaho, Senator Frank Church is pitching his defensive reelection campaign on a promise to deliver gasohol.

Iowa was spared the trauma of gas lines and could ignore the demagoguery that depicts the gas pinch as welcome. Moreover, Governor Ray by his action extended to the excise tax area the principle, demonstrated by Presidents Kennedy and Johnson, that lower income tax rates begin by stimulating the economy and end by netting the Treasury higher revenues. Meanwhile, Governor Ray has introduced an element of realism into the folklore surrounding the so-called price mechanism. The prices paid by the public at retail are the prices of goods plus the tax markup. While President Carter has parroted the Wall Street Journal's fine theory that higher prices will ration gasoline consumption (though this year's run-up has clearly failed to do so), Ray and Congress have demonstrated that politicians can make excise taxes every bit as flexible as prices are supposed to be.

In the Corn Belt, the two major oil companies with the largest domestic reserves, Amoco and Phillips, have decided to "join the enemy"; they have won permission from the Department of Energy to buy corn fermented alcohol to mix with their own unleaded production for marketing as gasohol. Two of the largest international oil companies, Gulf and Texaco, are following suit. But a bigger breakthrough is yet to come. The oil and petrochemical companies could produce more and cheaper alcohol for blending into gasohol by refining alcohol in their own facilities—certainly if they were given the same tax break that the farmers have won for their product. Inexplicably, the industry has not exploited that opportunity and has thereby associated itself with the official fiction that only farmers can furnish the alcohol ingredient for gasohol. This is big oil's way of saying that the farmers wield the political clout to get excise tax cuts for their alcohol production, and that big oil doesn't. It is also big oil's admission that it does not dare speak up for benefits to itself even when they happen also to be good for the country.

Meanwhile, now that the farmers have won their fight for excise tax relief, a startling development at the Purdue Engineering Laboratory suggests that it might not have been needed if we had not taken a wrong turn away from alcohol nearly fifty years ago. Two researchers at Purdue, Michael R. Ladisch and Karen Dyck, published a paper in the August 31, 1979, issue of Science, reporting:

"We have found a way to dehydrate ethanol in which the combustion energy of the ethanol product exceeds the energy needed to carry out the dehydration by a factor of 10." They call for a resumption of the research made in this field nearly half a century ago.

Back in the embattled gasohol front, however, the agricultural tax exemption is a must for now, and so is its extension to plant-made alcohol to make possible a far greater flow of crude-oil-conserving gasohol into the nation's gas pumps. The oil companies already have on hand an abundance of the necessary raw material. The basic gaseous by-product in all oil refining and petrochemical operations is ethylene. Hydrated (a simple reaction with water), it produces ethyl alcohol ready for mixing with unleaded gasoline: four pounds of ethylene can be converted into one gallon of alcohol, or ethanol. The United States has ethylene to burn. In fact, that is exactly what we are doing: wasting it in many ways in the refineries when it could be converted into ethanol. The Stanford Research Institute, professing entire innocence of the consequences of its findings, reported last year that the oil industry was still flaring off 10 billion pounds of ethylene a year into the smog above its fractionating towers.

The 2.5 billion gallons of alcohol gone with the wind as a result of the oil industry's addiction to waste in its refineries could contribute more than half the alcohol we need to close the gasoline gap, a gap whose size is readily calculated. On a business-as-usual basis we burn more than 100 billion gallons of gasoline a year, 40 percent of it unleaded (the proportion of unleaded production may run as high as 45 percent by next summer, even though the Environmental Protection Agency has delayed its unleading deadline for one year to increase gasoline production). A 10 percent mix of alcohol with unleaded calls for a little less than 4 billion gallons of alcohol a year. The evangelical peddling of conservation at the gas pump, where it will hurt the working consumer, is distracting the energy debate from the overdue need for conservation at the point of production, where it will help.

Nor is this all. The country's chemical industry—including the petrochemical operations of the oil industry—admits to a conservatively rated ethylene capacity of 37 billion pounds a year. But thanks to the gas crisis, 8 billion pounds—not less than 21 percent of our ethylene production capacity—have been knocked out of action by the combination of falling sales and rising costs. Moreover, another 6.5 billion pounds are scheduled to come on line by 1981. The capacity now idle could produce another 2 billion gallons of alcohol a year, and the ethylene due by 1981 could add another 1.6 billion gallons. That makes a total of 6.1 billion gallons of alcohol a year to be derived chemically—enough to keep the country comfortably ahead of the gasoline shortfall.

Other expedients are crying out for use, too. To take just one example, the oil refineries routinely burn by-product ethylene as refinery fuel. Switching to fuel oil, which they sell for much less than ethylene, would actually widen their margins and win them gratitude. Fuel oil sells for about fifty cents a gallon, or seven cents a pound. Ethylene, with about the same heat value, hydrated into ethanol for gasohol use and sold at fifty-two cents a gallon, would bring thirteen cents a pound—the present price for ethylene which continues to waver and weaken by the month. In fact, the ethylene glut is so large, it is holding prices at 1976 levels despite paranoiac claims by the industry that demand is outstripping supply. Some oil and chemical industry analysts are now privately admitting that the ethylene glut could be with us through 1985.

Any poll of representative opinion would come up with a bare 5 percent recognition factor of the reality that the world oil surplus and the domestic gasoline squeeze have been developing independently of each other. There is no longer any denying the world oil surplus. The Washington *Post* reports that even the CIA, which is not exactly swift in its perceptions, estimates 1979 world oil production as running 5.8 percent ahead of last year, when supply was glutted and demand was booming, despite the curtailment in Iran, the cutbacks by the cartel, and the shutdown of rigs in the U.S. due to decontrol hopes and tax fears. The wires are crackling from Rotterdam and London to every point in the world offering tanker loads at deepening price concessions, subject to slow pay. These offers to dump crude are eliciting more laughs than sales. No one is hurting for lack of crude oil imports into the U.S., as the Washington *Post* coverage makes clear. The major oil companies are embarrassed because of the ease with which they stepped up their oil imports even after crude oil flows from Iran were shut off, while in the United States, gas lines were making headlines.

The product of the relationship between the Carter Administration and the oil companies is the myth that U.S. gasoline supplies ease or tighten according to crude oil imports. The recent pinch at the pumps goes all the way back to the three-way alliance of Standard Oil of New Jersey, Du Pont, and General Motors, which Ford failed to break up and which committed the country to lead additives. By a fateful coincidence, the environmentalists won their fight to take lead out of the refining process at the same time that OPEC declared war against the U.S. However, while the environmentalists were concentrating on their anti-lead crusade, they were not alert to the need to substitute an alternative additive, or to the availability of alcohol for the role. The oil companies, after their fashion, were intent on going along with the mandate to take the lead out of gasoline since they had lost their fight: Normal oil refining practice had come of age relying on lead additives to raise the octane rating and, at the same time, maximize the yield of gasoline recovered from each barrel of crude. But as the lead continues to go out of the refinery, the gasoline yield from crude oil continues to come down.

Technical ignorance, even about such a rudimentary matter, is normal for the government. It is also standard operating practice for the bookkeepers who now run the auto industry. As for the engineers who run the oil companies, they have bruises and blood to show for their confrontations in the public domain; and so they had an alibi for having kept their silence until the environmentalists were caught gumming up the works. Yet not a peep was heard from Motor City.

The special world of domestic gasoline flows is more responsive to regulatory edicts from Washington than to world oil supply signals. If Carter had his political wits about him, he would have blamed the one-sided regulatory zeal of the previous administration for our gas problems instead of seizing on the spectacle of gas lines as an opportunity to claim credit for having told us so.

The bottom line is that after five years of entirely nonpartisan bureaucratic momentum, we are getting 14 percent less gasoline out of a given amount of crude oil flowing through the refineries. For the previous fifty years, an average dose of lead additive (a few grams per gallon) had been relied on to raise the base octane rating of gasoline by 8 points. Consequently, refineries were able to produce a base gasoline of only 80 octane and still market an 88-octane gasoline. The lead additive made it possible for oil companies to use less oil and make more gasoline. By contrast, unleaded requires more intensive processing and yields lower octanes. For years the gasoline yield from crude oil stood at 54 percent and had reached a record high of 54.5 percent in 1974 before the unleading requirement. But taking the lead out of 40 percent of all the gasoline we consume has lowered the overall yield (regular and unleaded) to 47 percent; the yield of unleaded alone from crude is now estimated to be down to about 42.5 percent.

It is not as if lead were the only octane booster conceivable or available in the refining process. It happens that alcohol has a 100-octane rating. It creates no emission problems and provides a powerful weapon for outgunning OPEC without shooting ourselves. The environmentalists would have been on unassailable ground today if they had done their technical homework and had promoted the substitution of alcohol for lead additives.

The simple expedient of providing the incentives to convert ethylene into ethyl alcohol would insure against further gas crunches without reverting to pollution, and it would also slash imports of crude oil. Just 4 billion gallons would displace 28 billion gallons, or 667 million barrels, of crude oil per year. Each gallon of ethanol produced from oil and gas mixed with 9 gallons of unleaded will displace no less than 7 gallons of crude oil.

(For the benefit of those interested in the calculation, here's how it works. Each gallon of alcohol would replace 2.35 gallons of crude oil which would otherwise be needed to produce unleaded gasoline. In addition, because alcohol improves the yield of unleaded gasoline from crude oil by raising its octane rating, only 1.83 gallons of crude oil instead of 2.35 would be needed to make a gallon of gas. Since alcohol improves the gasoline yield by a factor of .52 gallons of crude per gallon [2.35 − 1.83 = .52], one gallon of alcohol added to 9 gallons of unleaded fuel would save an additional 9 x .52, or 4.68 gallons of crude oil; 4.68 added to 2.35 equals 7.03 gallons of crude oil saved for every gallon of alcohol added to 9 gallons of unleaded to make gasohol. Four billion gallons of alcohol could, therefore, effect a 28-billion-gallon yearly reduction in crude oil consumption.)[1]

At $22 a barrel, OPEC's present contract price, a 28-billion-gallon reduction of imports would knock $14.67 billion off the nation's annual oil import bill—roughly half the yearly trade deficit. It would also cut consumption of OPEC crude by 25 to 30 percent.

There remains the mystery of why this simple arithmetic has failed to produce the political arithmetic needed to put it to work. The success story of the farm bloc in putting across alcohol fermented from corn provides the clue. The proposal to refine alcohol chemically from oil and gas is being celebrated with exactly the same chorus of derision that greeted the farm bloc at the outset of its crusade: either it won't work or it doesn't pay. The cliche that higher energy prices will balance the market equation ignores the prime fact of market life: that excise taxes on staples such as gasoline are flexible, but that consumer dependence on gas isn't and, therefore, neither is consumer demand.

[1] I must confess to a special dependence for this calculation. Since the spring of 1974, my brother, R. N. Janeway, president of the Janeway Engineering Company of Troy, Michigan, and a pioneer in the development of ethyl gas, has been circulating memoranda in Washington aimed at showing our technological intelligentsia how to convert by-product and semi-finished chemicals already in abundance to ethyl alcohol for blending with refined oil into gasohol. He had nothing to gain from his advocacy and I have no connection with his company.

More precisely, excise taxes are as flexible as the political muscle put behind them to make them flexible. Not only have the oil and chemical industries failed to protest the statute which grants the federal excise tax exemption to agricultural derived gasohol but denies it to a chemically derived alcohol additive; they have not even uttered a word against the technological know-nothings who ordered the lead out of the refinery without substituting clean-burning alcohol. The oil companies have provoked the fury of the people as profiteers and con artists when they could have won their gratitude, and made more money in the process, by producing chemically derived gasohol. More ruinous and counterproductive still, the villain's role in which the oil companies have been cast has made them the target for punitive income taxes. They might have assumed, instead, a hero's role by seeking the excise tax incentives that the situation demands and which not even their most strident critics on the left would begrudge them.

The technology, the raw materials, and the incentives are all at hand, but a nation in which the chemists and engineers are making the economic decisions while the Ph.D.'s in human relations are making the technical decisions seems strangely unable to exploit them. Gasohol offers a way to avoid a ludicrous eventuality: a government sponsored gasoline shortage in the face of a worldwide crude oil price collapse. The rest of the world is already anticipating the latter. If anything is surer than OPEC opportunism and American confusion, it is that alcohol can be produced more cheaply from the chemical by-products of oil and gas than from fermented corn, provided the tax is right. At $2.80 a bushel, the raw material cost for making a gallon of alcohol from corn is about $1.10, while the cost of a gallon of alcohol from ethylene is only about fifty-two cents. Chemically derived alcohol is cheaper and more energy-efficient than agriculturally derived alcohol, as every country experimenting with both already knows. If corn alcohol is a sell-out in Iowa, chemical alcohol is bound to be a bargain in New Jersey, given the same excise tax relief. If the government officials and technological intelligentsia insist on disputing the potential of gasohol, let them tell us why.●

ADDRESS OF SENATOR FORD BEFORE THE COAL NOW CONFERENCE

● Mr. HEINZ. Mr. President, in a speech delivered before the Coal Now Conference held earlier this month in Chicago, Senator FORD demonstrated the importance to our Nation of increasing the utilization of our vast coal reserves as an alternative to imported oil. I agree with Senator FORD's analysis and believe that our Nation needs a comprehensive energy strategy that includes an effective coal development program now. Coal must play a dominant role in efforts to free us from dependence on oil. Resolving our energy problems will not be easy, but with the leadership provided by Senator FORD in the coal caucus I am confident we can develop a coherent national energy policy.

Coal is an abundant resource, whose potential we have yet to fully realize. It is inexpensive and more could be used simply by converting plants that are presently burning oil and gas to burning coal. Most importantly, no foreign country controls our coal supplies and therefore no foreign country can dictate the price of coal or control its production in a manner that would adversely affect our economy. I commend Senator FORD for his strong stand on this issue, and I hope that my colleagues will take note of the points Senator FORD has raised so well. I ask that the text of his remarks be printed in the RECORD.

The address follows:

TEXT OF REMARKS TO COAL NOW CONFERENCE

You've asked me here to speak to you at a very perplexing time for the coal industry and I'm going to try to choose my words very carefully. You have every right to be skeptical about the promises you keep hearing about the role that coal will allegedly be given as part of a national energy strategy.

After all, since 1977 you've been told by the President and Congress about how this nation will soon embark on a massive new commitment to coal in order to reduce our growing dependence on foreign sources of energy.

You have waited patiently for this new direction to materialize, but all the while stockpiles of coal continue to mount, more mines are closing down, workers are being laid off, small operations are going under, and times are getting worse instead of better.

You feel that you have either been misled or duped. You're frustrated. You're confused. And I don't blame you one bit.

In the meantime, you're still waiting for the day that will find stability throughout the industry.

You're still waiting for the day when government will satisfy those great expectations with actions that stand behind the unkept promises of the past.

Most of all you're still waiting for the day when America will be able to point to a workable national energy strategy—one which will assign a vital role to coal.

We do not have a national energy strategy today. I know it. You know it. The entire country knows it. And I'm afraid I know the reason why, because our failings, our shortcomings and our lack of foresight are all too clear as we continue to stumble forward in search of a solution.

We do not have a national energy strategy because a good many people in this country—including some in Congress—still refuse to acknowledge that our problems are for real.

We do not have a national energy strategy because we as a nation have refused to learn from the lessons of the past and moved to correct the imbalance between production and consumption that has left us at the mercy of foreign lands.

Finally, we do not have a national energy strategy because the various elements within our nation have put their own parochial interests ahead of the national good.

We have the consuming states squaring off against the producing states. We have the various segments of the energy industry pitted against each other for a piece of the action.

As a result, our vision has been obscured by all the competing interests. Instead of a solution, we have a stalemate that will never be broken until we put our own selfish interest aside and accept the fact that we either sink or swim together.

There is no consensus now. There never has been one, and there is not one on the horizon as to in what direction this country should move to solve its longstanding energy problems.

The only way all the pieces will ever fall together is when someone comes forth with the strong, forceful leadership necessary to say this is the way we are going to do it . . damn the polls and full speed ahead.

You are looking at one individual who knows that we are sitting on the near and mid-term answer to our current problems, and that answer, of course, is the hundreds of years of coal reserves which this nation has at its disposal.

For some unknown reason—perhaps because the answer is so obvious, there are those who prefer to continue grasping at other alternatives—alternatives which can in no way match coal's potential for short and mid-term relief.

Meanwhile the industry waits and waits for the word, even a single solitary sign, that coal has not been cast to the sidelines. You've asked me here today to try to predict how much longer that wait will be.

That is a question for which no answer exists, but I can tell you this: any way you slice it, the future of the coal industry will be in large part determined by certain decisions Congress will make this year.

As far as I am concerned, there are four crucial areas toward which our efforts should be focused during this session of Congress if coal is to be allowed to make anything more than a token contribution to solving America's energy problems.

First of all there must be an immediate and substantial commitment to the increased burning of raw coal. There's an opportunity right here to make a significant reduction in our daily consumption of oil, and we continue to look right past it.

The President's Coal Commission has identified 117 plants with 341 generating units capable of being converted to coal which, if achieved, would save the nation 724,000 barrels of oil a day. Forty-four of those plants could be converted almost immediately to save 244,000 barrels but at last word all those plants were still burning oil or natural gas.

When will these plants ever switch? That will happen only when the Federal government tells them that they have to—or else.

We've heard alibis, apologies and excuses about why these facilities cannot or will not be converted to coal, but the bottom line is this: until the Federal government takes an unbending posture on what must be done, it will never, never happen.

We've got to make it mandatory that coal-capable facilities now burning oil and gas convert to coal as quickly as possible. We've got to require that new large industrial burners be absolutely prohibited from burning oil and gas except under the most extreme circumstances. Exemptions must be the exception rather than the rule. Congress mandated this in 1973, 1975 and again in 1977. Yet, there has been no forceful administrative response.

There can be no ifs, ands or buts about it, if any conversion program is to attain the desired result—and it will require the strongest possible position, not a wishy-washy approach, if we expect it to work.

Last month I created a stir with a little piece of legislation that would force 66 facilities to convert to coal within a specified period of time.

You should have seen the phone lines light up in my office the next day.

I was chastised for moving too quickly. I was criticized for using a list that was incomplete and outdated. But nobody has yet to tell me to my face that the basic principle underlying the purpose of my bill was wrong.

Yes, my bill created a stir, but only because it brought to light just how dismal our efforts in this area have been to date. It brought to light just how woefully weak the conversion efforts of the past had been. And, most of all, it brought to light how the Department of Energy, with its limited authority in this area, has been content to turn the other cheek, ignoring the one most obvious strategy—next to conservation, of course—that could have an immediate and positive impact on our energy picture.

The day after I introduced this bill, the wheels started moving. We learned that the Administration was just about ready to come forth with a proposal of its own. We were asked if we could possibly wait until they were ready. This was, mind you, the long-awaited list that had been promised for months, but had somehow mysteriously avoided ever seeing the light of day.

Given the new-found momentum, I feel reasonably certain that before the 96th Congress is history, you will see legislation—strong legislation—mandating the conversion of a large number of coal-capable facilities within a short, but reasonable period of time.

I can just about guarantee you that it would not be like the conversion bills of the past that have been subject to administrative loopholes and exceptions because—in this one instance at least—we have learned from our mistakes.

The second area that must receive Congressional attention is reducing the many restrictions that have been saddled on coal from before it is mined until after it is burned. We've finally reached the point where the industry is producing as much paper as coal—and that just isn't right.

Some regulation is essential. Some standards are necessary, but what we're seeing now amounts to nothing less than overkill.

No agency has been singled out more for exceeding its authority than the U.S. Office of Surface Mining. As one who helped write the final version of the legislation two years ago, I can say without fear of contradiction that the hundreds of regulations which this agency has issued since its creation have gone far beyond the original Congressional intent.

Last month nearly 70 of my Senate colleagues agreed with this assessment and sent OSM a message saying that it had gone too far. The message we sent was in the form of an amendment returning the primacy for administration of this law to the states, which was what Congress intended in the first place.

How this amendment will fare in the House of Representatives is still uncertain. Chairman Udall is not favorably disposed toward it. Secretary Andrus has gone on record that should it pass, he will recommend a Presidential veto.

I am not in a position to predict what might eventually happen in the House, but let me just remind you of the fact that no one ever expected it to come out of the Senate alive in the first place, and you already know what happened there.

If we want to have a stable coal market, we have to find ways to cut the cost of regulation which is driving the price of domestic coal so high that in some markets buyers are finding it more economical to use coal that has been imported from overseas.

The third area in which we must move is in improving this country's coal transportation network. It will do little good for government to mandate increased conversion to coal and then do nothing to help make sure that coal can be delivered to its markets.

Whether it be by highway, rail, or water, the current coal transportation network is inadequate and will in no way be capable of handling the tripled coal production that President Carter wants to see by 1995.

We have already gone through the experience of insufficient locomotives and hopper cars to transport the coal we have now to market in certain parts of the country. A study completed last year by the Federal Highway Administration estimated that it will cost $9.5 billion through 1985 just to maintain and build those roads necessary to meet national energy needs.

This area is one that has been overlooked for far too long, and it must be given long-overdue attention before we can count on coal to fulfill our many expectations.

Finally, Congress needs to embark on the most intensive synthetic fuels program this nation has ever seen, and this is where the future for coal rests.

A program such as this is something we could and should have done years ago. Because we didn't, the cost of undertaking such an effort will now run into the billions and billions of dollars.

Some argue that the cost is too high and that we should proceed with caution before spending that much money. Sure, the cost will be high—but this is money that we are investing in America—not sending overseas as we will do with more than $60 billion for the purchase of energy alone this year.

The cost will be high—but who can put a price tag on the value of America's national security. And, like it or not, this is the bottom line.

So, where do we stand today?

The enthusiasm which greeted those early proposals for a massive synthetic fuels program—an enthusiasm inspired by the long gasoline lines earlier this year—seems to have lost much of its momentum now that the long lines have gone away.

One by one those early proposals are being watered down substantially by the many Congressional committees that all want to have a piece of the action.

Instead of setting a 1990 deadline, we're now talking about 1995. Instead of $22 billion for the program in 1980, we're now talking in terms of $3 billion. And instead of setting production goals of 2.5 million barrels a day by 1990, we've lowered our sights to just a third of that.

We are on the verge of seeing yet another rerun of the past which, because of indecision and inaction, would mean continued helplessness and uncertainty over future energy supplies.

This nation remains scared—yes, scared—to take that one giant step necessary to help us regain control of the ability to control our destiny, and I have no explanation or excuse for this.

Somehow the spirit of the past that has helped this nation overcome any and all adversity is missing. Where it has gone, I do not know, but we had better rediscover it—and fast!

We know what the problem is. We know there is a solution. But we refuse—because of the unknown factors which might be involved—to try to solve it.

No wonder there is a crisis of confidence in our country today.

Americans are accustomed to a government that responds with solution in time of crisis. They are unused to—and uncomfortable with—uncertainty and indecision. Because government has been unwilling—not unable, but unwilling—the people's faith has understandably been shaken.

The only way that faith can ever be restored is for government to face up to its responsibility to lead, not just to follow in trying to come to grips with our energy dilemma.

I'm not ready to throw in the towel. I think there's still a chance that it will happen, and that coal will be given the chance it deserves to play a major role.

I've got to be encouraged—and you should be too—on the new-found momentum which has been established. The lopsided vote on the surface mining amendment, the strong opposition that met efforts to water down the legislation creating the Energy Mobilization Board, and the unanimous approval of an amendment granting fast track status to any utility which applies for it in order to convert to coal all are positive indicators that we may be succeeding in getting our message across.

As long as we have individuals in the Senate like Robert Byrd, John Heinz and the other dedicated members of the coal caucus . . . as long as there are people like Jay Rockefeller and his colleagues on the President's coal commission who are determined to chart a responsible and well-reasoned course that will be hard to ignore . . . as long as there are people like this, then there still is reason to be optimistic.

What I can promise you today is that those of us who believe in coal now—not later—will continue to give our best to this effort, no matter what it may require.

I can only hope that it will be good enough and soon enough . . . not for individuals like Wendell Ford, not for the welfare of the coal industry . . . but for the good of a country whose future strength and security depends on it.●

ENERGY LEGISLATION

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, at the conclusion of routine morning business tomorrow, will the Senate not automatically resume consideration of the Depository Institutions Deregulation bill?

The PRESIDING OFFICER. That will be the pending business.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of the message from the House of Representatives on S. 932, the amendment in the nature of a substitute reported by the Committee on Energy and Natural Resources as a substitute for the House substitute for the Senate bill be considered as agreed to as original text for the purpose of further amendment, and that the amendment in the nature of a substitute reported by the Committee on Banking, Housing, and Urban Affairs as a substitute for the House substitute for the Senate bill be considered as a substitute for the amendment in the nature of a substitute from the Committee on Energy and Natural Resources.

I further ask unanimous consent that the Senator from Wisconsin (Mr. PROXMIRE) be recognized to call up the first floor amendment relating to synfuels, that he retain the right to modify that amendment, notwithstanding this agreement, and that his amendment be voted on before any other amendments or motions relative to the bill can be made.

If the Proxmire amendment is adopted, it will be treated as original text for purposes of further amendment.

This request has been cleared with Mr. JACKSON and with Mr. PROXMIRE, chairmen of the Energy Committee and the Banking Committee respectively.

Mr. STEVENS. Reserving the right to object, Mr. President, I would ask that the minority leader not seek final approval of this until we can secure the presence of the Senator from Wyoming who asked to be present. I also understand the Senator from New Mexico and the Senator from Idaho, who are involved in handling this matter, would like to be involved in a colloquy at this time with the majority leader on the matter.

Mr. McCLURE. Mr. President, reserving the right to object, I wonder if we might change the unanimous-consent agreement to indicate that the amendment to be offered by the Senator from Wisconsin (Mr. PROXMIRE) would be a proposed substitute for title 1 of the bill

as reported by the Energy and Natural Resources Committee, and that any modification which he might be allowed to make would relate only to title 1 of the reported measure.

Mr. ROBERT C. BYRD. Mr. President, I would have to clear that request with the distinguished Senator from Wisconsin and the distinguished Senator from Washington (Mr. JACKSON).

Mr. McCLURE. Further reserving the right to object, Mr. President, I wonder if, in checking with them, we cannot also check the possibility that the Energy and Natural Resources Committee would have the same right to modify title 1 of that bill that the Senator from Wisconsin would have in modifying his proposed substitute.

Mr. ROBERT C. BYRD. Mr. President, I obviously cannot speak for the two Senators. We met yesterday and cleared this with the two chairmen on yesterday. The agreement was presented to the minority to run by Senators on that side of the aisle. I am in no position to say that the two Senators, Mr. JACKSON and Mr. PROXMIRE, would be agreeable to this proposition. I would not have any difficulty with it personally. Let me see if we can check with Senator JACKSON and Senator PROXMIRE and see if they can come to the Chamber.

Mr. DOMENICI. Will the leader yield for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. I believe there could be objection to Senator McCLURE's request on title I, but I have a question as to the effect of this proposal without in any way modifying it.

If I read it correctly, it says that we are going to have two substitutes up here and Senator PROXMIRE can modify his substitute—I have no objection to that, and I cannot anyway—and then before any amendments can be made to the Energy Committee bill, he will have a vote on his substitute in toto.

Mr. ROBERT C. BYRD. No.

Mr. DOMENICI. If that is not true, then it eliminates some concern I have. I read language in there that just kind of says that. May I read one sentence to the leader?

Mr. ROBERT C. BYRD. I think, Mr. President, the distinguished Senator from New Mexico has misinterpreted the language. The amendment that Mr. PROXMIRE would be allowed to modify, as referred to in the language in the request, would be by way of a perfecting amendment to the basic vehicle, the House substitute amended by the Senate substitute. In other words, the bill that has been reported by the Energy Committee would be superimposed on the House bill and would be considered as original text. Mr. PROXMIRE could offer a substitute but he could also offer an amendment by way of a perfecting amendment to the Senate bill which had been substituted for the House language. It is that perfecting amendment that he would be allowed to modify, not his substitute which is setting off over here on another track.

Mr. DOMENICI. Let me ask a basic question, and I will use a hypothetical amendment. We follow the procedure and we have both bills before us, the Energy Committee's and Senator PROXMIRE's substitute to the Energy Committee bill. We have them both. I, a Senator, or any Senator, want to offer an amendment to the Energy Committee bill before we vote on the Proxmire substitute. We want to have a yea-and-nay vote. We want to dispose of it. I read this to say that Senator PROXMIRE is entitled to a vote on his substitute before we are entitled to a vote modifying our Energy Committee substitute amendment.

Mr. ROBERT C. BYRD. I think what the Senator wants to do will be done. The problem here is we are talking about various substitutes. Under the rules, votes on perfecting amendments to a bill will have precedence over votes on a substitute or on amendments to a substitute.

Mr. President, I suggest the absence of a quorum.

Mr. President, I withhold that for a moment.

Mr. President, I will shortly yield the floor. I was told this had been cleared on the other side of the aisle. Mr. DOMENICI had called me on the telephone today on this very issue, and I think he and I had clarified the matter to his satisfaction. I suggested that he be on the floor so that we could have this colloquy and we could make a record of it. But I had no reason to suppose that there would be reservations of objections which might lead to objections unless the agreement was changed. I was told this had been cleared on the Republican side of the aisle.

For the moment, Mr. President, I withdraw the request.

Mr. STEVENS. Mr. President, I thank the majority leader. I think it is a matter of the clearance process because of the failure to contact the members of the committee on our side who are actively involved in it. I do apologize to my friend for the circumstance, but it is a matter of very extreme importance to those on the Energy Committee. I appreciate his withdrawal of the request at this time.

CONVICTION OF CZECHOSLOVAK DISSIDENTS

Mr. PELL. Mr. President, on October 22 the Czechoslovak Communist regime sentenced six dissidents to jail sentences for their actions in defense of human rights. The only "crime" that these dissidents have committed was to call upon their government to honor the pledges made in August 1975 in the Final Act of the Conference on Security and Cooperation in Europe that was held in Helsinki, Finland.

This action of the Czechoslovak Government constitutes a gross violation of the Helsinki accord. In this connection, the Council of Free Czechoslovakia, an organization based in New York City, last week issued a very perceptive statement and analysis of the Czechoslovak Government's action. I ask unanimous consent that the full text of this statement be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PRAGUE REGIME CONDEMNS THE HELSINKI DECLARATION

On October 22, 1979, after five months of imprisonment, the Czechoslovak communist regime brought before a Prague court six of the ten imprisoned members of the Committee for the Defense of the Unjustly Persecuted and signatories of Charter 77.

The regime of Gustav Husak decided on this step in spite of numerous protests by foreign governments, organizations, political parties and personalities of the Western world who singularly declared the actions taken by the Prague regime against Czechoslovak dissidents as contrary to international conventions pertaining to human rights and especially as contrary to the Helsinki Agreement.

In the polemics concerning the meaning of the Helsinki Agreement which has taken place between the West and the East, the Prague regime has repeatedly stated that it is respecting human rights because the latter guarantee to its citizens the so-called social rights and has belittled the position taken by the Western countries stressing respect for traditional political, cultural, and religious rights.

For obvious reasons the indictment the Husak government has prepared against the six dissidents could not very well accuse them of calling for the observance of human rights. It had to consist of something sinister, namely, of a fabricated story according to which the six are guilty of antistate activity because of their contacts with periodicals in the West and for becoming an instrument in the creation of a "counterrevolutionary fifth column under the protection of foreign patrons," including those in NATO. These are the words with which the editorial of *Rude Pravo*, the official organ of the Czechoslovak Communist Party, defines the guilt of the six on October 20.

The Prague regime turned its back on the whole of international public opinion which since May of this year has been protesting against the unlawful attitude of the Czechoslovak government. The Prague regime is mistaken in its belief that its arrogant and irresponsible policy will stifle the opinion of the non-communist world.

We are certain that international public opinion will, after the passing of a guilty verdict in Prague, protest more than ever before against the arbitrariness of the Husak regime.

The Czechoslovak people back home and the Czechs and Slovaks who live in exile vehemently protest against this newest step of the Czechoslovak communist government and express their solidarity with the victims of Prague's socialist pseudojustice. We are reminding the world that the Czechoslovak communist government, by deciding to bring the dissidents to trial, has in fact condemned the Helsinki Agreement.

REPRESENTATIVE JOHN BRADEMAS AWARDED HONORARY DOCTORATE FOR ARTS LEADERSHIP BY CITY COLLEGE OF NEW YORK

Mr. PELL. Mr. President, our colleague in the House of Representatives, Representative JOHN BRADEMAS, not only serves as the distinguished majority whip of the House but also for many years has been the principal sponsor in the House of Representatives of legislation to support the arts and humanities in our country.

As chairman of the Subcommittee on

Education, Arts and the Humanities of the Senate Labor and Human Resources Committee, I have worked closely with Mr. BRADEMAS in this effort.

I am very pleased to say, Mr. President, that JOHN BRADEMAS' outstanding leadership for the arts was recognized on Thursday, October 25, 1979, when he was awarded the honorary degree of "Doctor of Humane Letters" by the City College of New York.

Representative BRADEMAS was honored during ceremonies marking the dedication of Aaron Davis Hall, a new performing arts facility to house the Leonard Davis Center for the Performing Arts of CCNY.

Mr. BRADEMAS also delivered the principal address on this occasion.

Mr. President, I am pleased to ask unanimous consent to have printed in the RECORD the text of the citation which accompanied the honorary degree as well as the text of Congressman BRADEMAS' address on this occasion.

There being on objection, the text was ordered to be printed in the RECORD, as follows:

DOCTOR OF HUMANE LETTERS, CITY COLLEGE OF NEW YORK

JOHN BRADEMAS

The Democratic Congressman from Indiana has been a prime force in bringing the federal government's support to the flourishing artistic institutions of our country. The legislation which he sponsored resulted in the establishment of the National Endowment for the Arts, the National Endowment for the Humanities, and the Museum Services Act. He is currently hard at work to organize and establish a White House Conference on the Arts. His energy and skill have given deeply appreciated sustenance and encouragement to artists and to lovers of the arts all across America.

REMARKS OF CONGRESSMAN JOHN BRADEMAS

It is for several reasons a great pleasure to be here with you this afternoon.

First, I'm always glad to visit New York City which, in addition to everything else it is, is the vital center of cultural activity in this country, indeed, the world.

I was here just a few weeks ago for the opening of the Metropolitan Opera's new season—a magnificent performance of "Otello"—and I was struck then, as I always am, by the way the normal flow of the seasons is reversed in the performing arts. Autumn, rather than spring, is the time that brings creation and rebirth.

So it is fitting that we meet on a fine fall day to dedicate a center that will further enrich the cultural life of this city.

Second, I count myself fortunate to be included with so many outstanding figures in being awarded an honorary degree by one of our country's great centers of learning, the City College of New York.

May I take this opportunity to congratulate your new President, Alice Chandler, on the significant responsibility she has undertaken as well as salute your retiring President, Robert Marshak, on his many contributions to this institution and to American higher education.

A CELEBRATION OF TALENT

And finally, I am pleased to be here because we join in a celebration of the arts. Indeed, the other persons whom CCNY has today chosen to honor represent a remarkable diversity of outstanding achievement in the performing arts of our country:

Yip Harburg, a City College graduate whose mastery of the lyric has for decades graced the music of America;

Arthur Mitchell, whose Dance Theatre of Harlem, a company of extraordinary scope and power, is just concluding a highly successful run in Washington;

Douglas Turner Ward, whose work as an actor is matched only by his contributions as a founder and continuing force behind the Negro Ensemble Company;

Ella Fitzgerald, who has seemed always a part of all our lives (indeed, I remember seeing her in a midnight concert with Norman Grans' "Jazz at the Philharmonic" at the Concert Gebouw Hall in Amsterdam nearly thirty years ago);

Louise Nevelson, whose extraordinary feel for form and shape has given millions of people new eyes with which to see the world (only last month I was present when a museum in my home district unveiled one of her works);

And Arnold Picker, a valued personal friend, whose unstinting efforts on behalf of film and of his alma mater receive today the recognition they so much deserve.

All these men and women are worthy of our admiration and our appreciation and I am honored to share this moment with them.

AT HOME WITH THE ARTS

Now, in the midst of this celebration of music and dance, theatre and film, you may be wondering, "Why do we listen to a politician from the plains of Indiana?"

I can neither sing nor dance nor play an instrument. When it comes to the drama, however, few Congressmen or Senators will make so sweeping a denial of talent!

For twenty-one years, however, as a member of the Committee on Education and Labor of the United States House of Representatives, I have been intimately involved in helping write laws that provide Federal support to the National Endowment for the Arts and to the National Endowment for the Humanities, support for museums and for libraries and for schools and colleges and universities.

Much of my service in public life, therefore, has been devoted to the effort that brings us together here today—strengthening the place of the arts in the life of our country.

So, I feel at home with you.

And what an impressive place to call home! . . . and not merely Aaron Davis Hall, which is impressive enough, but City College in its entirety.

For well over a century, CCNY has provided education of quality for students who might otherwise have gone without.

In recent times, City College has taken on an additional but no less vital responsibility. The age of "open admissions" has given less vital responsibility. The age of "open admissions" has given new force to City's intention, expressed at its founding, to educate "the children of the whole people."

And through all the changes and all the controversies, City College has remained committed not only to the whole people but to the "whole person" as well, with, for each student, an opportunity to discover and nurture an aesthetic dimension to life.

Aaron Davis Hall is a stirring reaffirmation of that commitment.

And surely it must be a great joy to Leonard and Sophie Davis, longtime close friends of mine and two people whose generosity of purse is rivaled only by their generosity of spirit, to see the splendid institution which they have made possible. All of us join in thanking Leonard and Sophie for this Hall, this Center of the Performing Arts and for what will happen here.

ON CREATIVITY OFF BROADWAY

In concentrating on four great art forms—music, dance, theatre, and film—City College has chosen areas in each of which the United States occupies a leading position among the nations of the world.

The breadth and diversity of this country have brought forth an astonishing wealth of musical accomplishments of every kind—by individual performers and by outstanding groups of every size.

Similarly in dance, the creative influences in America are as limitless as the freedom to test them, and the quality of the American dance achievement is surpassed nowhere in the world.

In theatre, the lights of Broadway have been augmented—some would say outshone—by talent and invention displayed off-Broadway, off-off-Broadway, and even further off-off-Broadway in increasingly important local and regional theatres.

And although the impact of American films is already worldwide, today's revolution in communications technology means that the work of the American filmmaker and of all those associated with the cinematic arts will have still greater influence in the years ahead.

In each of these fields, the Davis Center is committed to these standards of variety and excellence.

City College will provide for all four of these art forms a two-track degree system. Both those whose interests in the performing arts are primarily avocational and those who seek professional careers will be served by this Center. In providing professional training leading to a Bachelor of Fine Arts Degree, City College is offering instruction to be found nowhere else in the vast city university system. All this is an "Upper West Side Story" of which you at City can be justifiably proud.

AWAKENING ALL THE SENSES

Now I have been invited to talk with you a little about where we are today—"adspice"—in respect of the arts in American life?

Let me in turn ask: What light do Davis Hall and the Davis Center shed on our consideration of "adspice"—the present—not simply for City College but for our wider society?

Let me respond to both questions in several ways and warn you that my comments are intended to be instructive rather than exhaustive.

First, I think it clear that the Davis Center makes a powerful case for the marriage of arts and education. A knowledge of the arts is valuable in and of itself. It is valuable, too, as a tool to acquire knowledge in other disciplines. I recall in this latter connection James Michener's words during hearings I conducted two years ago that "the arts, properly taught, are basic. They, more than any other subject, awaken all the senses—open the learning pores."

Or, as Ernest Boyer, the former United States Commissioner of Education, once put it, art "is not a frosting or a frill" but "an essential part of the common core of education."

But City College goes beyond even these two considerations—art for art's sake and art as an instrument of learning. City recognizes that those special individuals who choose to make their professional way in the various performing arts struggle against enormous odds. The Davis Center will equip them for that struggle.

Even as the arts are indispensable to human life, so, too, are our colleges and universities becoming more important to the fullest development of the arts. In this respect, to use David Rockefeller, Jr.'s. term, the American educational community is helping all of us in "coming to our senses."

My second comment is this: That if the Leonard Davis Center is to be a laboratory for the performing arts, there could be no better place to conduct your experiments than here in Manhattan. For New York is the culture in which culture can grow, the broth which accepts all the lightning the universe unleashes and, from the tumult, creates life.

Another thought: We appear to be entering a period of growing attention to the arts on the part of our young people. The reason for this change are by no means clear. Perhaps it is a function of increased leisure time and the search for new means of filling it.

Or we may be seeing a reaction on the part of those whose major concerns have up to now been grade point averages and placement services.

Perhaps, with respect to dance and theatre, the awakened interest in the arts represents a greater comfort with the human body—its appearance, its movement, its relationship with space and time.

Or maybe this burgeoning interest in the performing arts is the result of wider exposure to them through television. Which comes first? No one can say with assurance. Obviously PBS brings us opera or ballet in the belief that an audience for them is already there.

But I take it as a matter of common sense—and faith—that these broadcasts create new audiences as well.

One could also point to more activities in the arts on the local level. If television offers exposure to work of the highest quality from our nation's leading cultural centers, the growth of local opera and dance companies, theatre groups and orchestras offers more immediate access to the arts for young people and for not-so-young people in communities of virtually every size.

My own home town of South Bend, for example, can now take almost as much pride in its arts center in our new Philip Johnson-designed Century Center Convention Building, in our two symphony orchestras and our having commissioned Mark DiSuvero for a sculpture in the middle of the St. Joseph River as we do in our local football team. And I would have said this even if Notre Dame had defeated USC last weekend!

DAVIS CENTER AND THE COMMUNITY

This promise of community involvement is, in my view, one of the most impressive aspects of the Davis Center. The Center has pledged to serve as a bridge between the Morningside Heights Campus and the people of the Heights as well as of the Upper West Side and Harlem. City College thus takes a broad view of its constituency, and the result will be excitement, involvement and commitment for the community beyond the college.

My final observation is this: That the uncertain history which early on characterized the Davis Center underscores the importance, as we seek to strengthen the arts in communities all across America, of fashioning close partnerships among several sectors: federal, state and local governments; business and labor; colleges and communities.

Such partnerships are all the more important today as we seek to resolve the conflict between heightened interest in the arts, on the one hand, and tightened pocketbooks, on the other.

As one who has spent much of his adult life working in Congress on behalf of the arts, I can assure you that the numbers of Senators and Congressmen of both political parties who support the arts is growing year to year.

And that support takes many forms.

FEDERAL GOVERNMENT A CATALYST

The Federal Government, acting chiefly through the National Endowment for the Arts, is a source of direct financial assistance to arts groups and to talented individuals.

The Federal Government is a catalyst for more support of the arts from the states and towns and cities.

Thanks in large measure to the stimulus of the NEA, state governments appropriated nearly 20-percent more for the arts last year than in the previous year.

Both the National Arts and Humanities Endowment have successfully used challenge grants—one Federal dollar to match three non-Federal dollars—as a lever to encourage more giving by individuals and by business and industry

The Federal government is also an important sounding board for generating more public awareness of the arts.

During my years as Chairman of the subcommittee with jurisdiction over the arts and humanities, I conducted hearings all over the United States on a variety of legislative measures to help the arts.

I worked closely with my Senate counterpart, Claiborne Pell of Rhode Island, not only to extend and expand the efforts of the two Endowments.

Senator Pell and I also, during the past few years, produced the Museum Services Act, which created the Institute of Museum Services, an agency that now provides grants to museums of every kind—art, history, science and technology—and to zoos and botanical gardens, to help meet general operating expenses.

And we wrote the Arts and Artifacts Indemnity Act to enable museums in the United States to mount exhibitions of art from other countries without having to pay huge insurance premiums—and this law has already made possible such shows as Pompeii and Dresden, King Tut and the Aegean Islands exhibit that opened yesterday at the Metropolitan Museum, not to speak of many other more modest exhibitions in museums all over America.

Later this year our Subcommittee will hold hearings on legislation to continue the two Endowments as well as the Museum Services and Indemnity Acts.

And I hope that my colleagues and I will have the views of those who teach and learn at this college on these and other proposals aimed at enhancing the quality of the arts in America and opening the doors of opportunity for wider participation in them.

"BUILD, DREAM AND SING"

So, if I have a message to leave with you on this joyous occasion, it is that I share—as do most of my colleagues in Congress—your conviction here at the City College of New York that the arts must have a crucial place in the life of our country and of our people.

These, then, are a few of the lessons I offer from these ceremonies of dedication.

As I observed earlier, I am well aware that the road that has brought us to this moment—the dedication of this magnificent hall to house the activities of this splendid center—has been long and difficult.

But because of your vision and persistence, you have arrived.

Some of you know that my father was born in Greece, but I hope that you will not accuse me of ethnic chauvinism if I conclude these remarks with some lines of the new Nobel laureate in poetry, Odysseus Elytis:

We will go together, and let them stone us
And let them say we walk with our heads in the clouds—
Those who have never felt, my friend,
With what iron, what stones, what blood, what fire,
We build, dream, and sing.

You have dreamed and you have built.
And now you can sing.

FEDERAL FIRE PREVENTION AND CONTROL ACT AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1160.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1160) entitled "An Act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 17. (a) There are authorized to be appropriated to carry out the foregoing provisions of this Act, except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act, an amount not to exceed $24,799,000 for the fiscal year ending September 30, 1980, which amount includes—

"(1) $4,875 000 for programs which are recommended in the report submitted to the Congress by the Administrator pursuant to section 24(b)(1);

"(2) $10,430,000 for the National Academy for Fire Prevention and Control; and

"(3) $307,000 for adjustments required by law in salaries, pay, retirement, and employee benefits.

"(b)(1) There are authorized to be appropriated for the additional administrative expenses of the Federal Emergency Management Agency, which are related to this Act and which result from Reorganization Plan Numbered 3 of 1978 (submitted June 19, 1978) and related Executive orders, an amount not to exceed $600,000 for the fiscal year ending September 30, 1980.

"(2) Paragraph (1) of this subsection shall take effect on the date on which a permanent Director for the Federal Emergency Management Agency is appointed by the President pursuant to section 102 of Reorganization Plan Numbered 3 of 1978, or the date on which all functions, agencies, and officers specified in sections 201, 202, 203, and 301 of Reorganization Plan Numbered 3 of 1978 are transferred to the Federal Emergency Management Agency, whichever is later.".

SEC. 2. Section 21(b)(4) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(b)(4)) is amended by striking out: "$100 a day" and inserting in lieu thereof "the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332(a))".

SEC. 3. Section 16(b) of the Act entitled "An Act to establish the National Bureau of Standards", approved March 3, 1901 (15 U.S.C. 278f(b)), is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated an amount not to exceed $5,650,000 for the fiscal year ending September 30, 1980, which amount includes—

"(1) $525,000 for programs which are recommended in the report submitted to the Congress by the Administrator of the United States Fire Administration pursuant to section 24(b)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2220(b)(1)); and

"(2) $119,000 for adjustments required by law in salaries, pay, retirement, and employee benefits.".

UP AMENDMENT NO. 705

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House with an

amendment that I send to the desk on behalf of Mr. CANNON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia, on behalf of Mr. CANNON, proposes an unprinted amendment numbered 705:

Strike out all after the enacting clause, and insert:

"SEC. 1. Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended to read as follows:

'AUTHORIZATION OF APPROPRIATIONS

'SEC. 17.(a) There are authorized to be appropriated to carry out the foregoing provisions of this Act, except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act, an amount not to exceed $25,210,000 for the fiscal year ending September 30, 1980, which amount includes—

'(1) $4,781,000 for programs which are recommended in the report submitted to the Congress by the Administrator pursuant to section 24(b)(1);

'(2) $9,430,000 for the National Academy for Fire Prevention and Control;

'(3) $307,000 for adjustments required by law in salaries, pay, retirement, and employee benefits;

'(4) $500,000 for additional rural firefighting technical assistance and information activities;

'(5) $500,000 for the study required by section 26 of this Act; and

'(6) $110,000 for the study required by section 27 of this Act.

'(b) There are authorized to be appropriated for the additional administrative expenses of the Federal Emergency Management Agency, which are related to this Act and which result from Reorganization Plan Numbered 3 of 1978 (submitted June 19, 1978) and related Executive orders, an amount not to exceed $600,000 for the fiscal year ending September 30, 1980.'.

"SEC. 2. Section 21(b)(4) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(b)(4)) is amended by striking out: '$100 a day' and inserting in lieu thereof 'the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332(a))'.

"SEC. 3. Section 16(b) of the Act entitled 'An Act to establish the National Bureau of Standards', approved March 3, 1901 (15 U.S.C. 278f(b)), is amended to read as follows:

'(b) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated an amount not to exceed $5,650,000 for the fiscal year ending September 30, 1980, which amount includes—

'(1) $525,000 for programs which are recommended in the report submitted to the Congress by the Administrator of the United States Fire Administration pursuant to section 24(b)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2220(b)(1)); and

'(2) $119,000 for adjustments required by law in salaries, pay, retirement, and employee benefits.'.

"SEC. 4. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et. seq.) is further amended by adding at the end thereof the following new section:

'SEC. 26. (a) The Administrator shall, within ten months of the date of enactment of this section, complete a study of the effectiveness of smoke detectors, heat detectors, and sprinkler suppression systems in saving live, preventing injuries, and limiting property damage in fires, which report shall be submitted to the Congress and the President. In conducting such study, the Administrator shall consider, among other factors—

'(1) whether and the extent to which such devices and systems have been and are effective in reducing the severity of fires, including estimates with respect to the potential for savings in lives, and injury prevention attributable to the operation of such systems and devices:

'(2) the experience of Federal organizations, States, localities, and other political subdivisions which have required the use of such systems and devices; and

'(3) a description of Administration programs regarding smoke detectors, heat detectors, sprinkler suppression systems and other systems, together with an analysis of the utilization of these systems and devices as a result of these programs.

'(b) If the Administrator determines, as a result of the study conducted pursuant to subsection (a) of this section, that smoke detectors, heat detectors, sprinkler suppression systems or other similar systems or devices either have been or may be of assistance in the detection and control of fire, the Administrator shall include, as part of the report conducted pursuant to this section, recommendations regarding what should be the Federal role, if any, with respect to creating incentives for the use of such devices or systems by the public, by business concerns, and by Federal, State, and local governments. In making such recommendations, the Administrator shall consider—

'(1) the incentives, including financial incentives, which might be developed to require or facilitate installation within new or existing buildings of smoke detectors, heat detectors, sprinkler suppression systems, or any combination of such systems, or other similar systems and devices; and

'(2) the benefits, if any, of demonstration or other such programs directed at residents in high impact fire areas in order to increase the use of smoke detectors, heat detectors, sprinkler suppression systems, or other systems or devices.

'(c) As part of its report submitted pursuant to this section, the Administrator shall provide specific legislative proposals to the Congress for implementing any recommendations made pursuant to this section.

'(d) Upon request of the Administrator, each Federal department and agency shall furnish to the Administrator such information, data, estimates, and statistics, and allow the Administrator access to all information in its possession, as the Administrator may reasonably determine to be necessary for the conduct of the study required by this section.'

"SEC. 5. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is further amended by adding at the end thereof the following new section:

'FIREFIGHTER SAFETY STUDY

'SEC. 27. (a) The Administrator shall conduct a review of firefighter safety. Such review shall include, but need not be limited to—

'(1) an analysis of the current situation with respect to the safety of firefighters;

'(2) an analysis of the effectiveness of protective garments, firefighting breathing equipment, personal communications systems, and other protective subsystems, together with recommendations for improving such equipment in order to further firefighting safety;

'(3) development of a plan for increased technology transfer to firefighting units of more effective technologies in the areas identified in paragraph (2) of this subsection.

'(b) The Administrator shall submit to Congress the results of such review, together with appropriate recommendations for legislation, not later than March 31, 1980.'".

● Mr. CANNON. Mr. President, I would like to provide a little background in regard to this legislation. The Senate Commerce, Science, and Transportation Committee consistently has been deeply concerned about the unnecessary toll in lives and property caused by fire in this country. There are more than 8,000 fire-related deaths in this Nation each year. The cost due to fire is more than $13 billion annually. To combat these problems, the committee was instrumental in the development of the U.S. Fire Administration and the Center for Fire Research. Also, the committee has long sought to facilitate the development of the U.S. Fire Academy to train firefighters throughout the country in the most advanced techniques of fire prevention and control. I am, therefore, pleased to state that the U.S. Fire Academy was recently dedicated and now can begin to carry out its extremely important functions.

In order to insure that these organizations can operate effectively, the Senate earlier this year passed legislation to provide for authorizations for appropriations of the programs of the U.S. Fire Administration and the Center for Fire Research. This legislation contained significant authorizations for the U.S. Fire Academy and major authorizations for programs to combat arson, which is one of the fastest growing crimes in this country. It authorized a comprehensive study directed at determining what the Federal role should be in creating incentives for the utilization of smoke detectors, heat detectors, and sprinkler systems by the public. Also, it authorized firefighter protection programs, rural programs, and the information gathering functions of the U.S. Fire Administration.

The House recently amended this legislation and sent it back to the Senate in slightly modified form.

After careful consideration of the House and Senate legislation, I believe the amendments I am offering today provide for an amalgamation of the best parts of the House and Senate bills.

The amendments will provide the following changes from the legislation originally passed by the Senate:

First, the amendment would provide explicit funding for the Federal Emergency Management Agency's administrative expenses in relation to the U.S. Fire Administration.

Second, the amendment would provide explicit funding for base pay increases for the U.S. Fire Administration and the Center for Fire Research.

Third, the amendment would slightly increase the authorizations for the Center for Fire Research. It should be emphasized that this change is particularly focused on increased research and development in the area of arson prevention.

Fourth, the amendment would authorize a study in regard to firefighter protection. This study will analyze the effectiveness of various firefighter equipment, including firefighting breathing equipment, personal communications systems, and other protective subsystems. It will examine various means of how to improve such equipment in order to further firefighter safety. This study will try to determine how to insure that when there

is improvement in such equipment, the utilization of this equipment by fire companies throughout the country will be facilitated. Our hearings have demonstrated that firefighting is one of the most dangerous professions in the United States, and this study is essential to lay the foundation for improving the means for greater safety in this area.

Finally, this amendment would slightly lower the overall authorization levels in comparison to the levels contained in the earlier Senate legislation. This lessening of the authorization level is possible due to the fact that it has been determined, after discussions with the U.S. Fire Administration, that a slightly lower authorization level would be adequate for the U.S. Fire Academy in fiscal year 1980. Mr. President, I believe these amendments are balanced, reasonable, and needed. I strongly urge their adoption by the Senate.●

● Mr. PACKWOOD. Mr. President, I urge the Senate to support the compromise bill worked out between the Senate and the House. The bill authorizes appropriations for fiscal year 1980 to carry out the programs of the U.S. Fire Administration under the Federal Fire Prevention and Control Act. The Senate Commerce Committee has scrutinized these programs and believes these programs will help to reduce deaths, injuries, and property damage due to fire.

The compromise bill continues to emphasize the need for increased Federal support for the training and safety of our country's firefighters. It recognizes the value of an exchange of information, ideas, and technology between Federal, State, and local government and firefighters. The compromise also recognizes the need for programs tailored to the rural communities of this Nation where loss due to fire is most devastating. The compromise bill also retains the Senate provision for a study of the need for Federal incentives for smoke detectors, heat detectors, and sprinkler systems.

As has been mentioned, 1979 and 1980 are critical years for the U.S. Fire Administration. The U.S. Fire Administration itself has recently been part of a structural reorganization. The U.S. Fire Academy for the first time has a permanent home. In addition, the Senate confirmed only last March the nomination of Gordon Vickery to be Administrator of the U.S. Fire Administration. I am sure he is well on his way to reviewing the programs and structure of his administration. I wish him well. It is important to recognize that a program's success can be determined by the caliber and attitude of the people who work with it.●

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

TIME LIMITATION AGREEMENT—S. 1668

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as Calendar Order No. 390, S. 1668, the Migration and Refugee Assistance Act, is called up and made the pending business before the Senate, there be a time agreement on that bill as follows: Four hours equally divided on the bill to be controlled by and divided between Mr. CHURCH and Mr. JAVITS; 40 minutes equally divided on any amendment; 30 minutes equally divided on an amendment by Mr. CRANSTON on the Indochinese refugee assistance program; 30 minutes on an amendment by Mr. DANFORTH on Cambodian assistance; 45 minutes on an amendment by Mr. HELMS on the use of private voluntary agencies for Cambodian assistance; 20 minutes on any debatable motion, appeal, or point of order if the Chair entertains debate by the Senate on such point of order, and that the agreement be in the usual form.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1668

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the transportation appropriations bill or on the disposition of the bank financing bill, whichever is the later, the Senate then proceed to the consideration of the migration and refugee assistance bill, S. 1668.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELOCATION OF NAVAJO AND HOPI INDIANS

Mr. MELCHER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 751.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 751) entitled "An Act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That subsection (d) of section 6 of the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d), hereinafter referred to as the "Act of December 22, 1974", is amended by striking the period at the end thereof and inserting, in lieu thereof, a colon and the following: "*Provided further*, That the Secretary shall cause an appraisal to be made of any and all lands partitioned to the tribes pursuant to either section 4(a) or 8(b). Such appraisal shall be submitted to the appropriate United States district court and the tribes within one hundred and eighty days after the date of enactment of this proviso for such lands as are already partitioned, whether by interim or final order, or one hundred and eighty days after the entry of an interim or final order of partition as to lands not yet partitioned on such effective date.".

SEC. 2. Section 8 of the Act of December 22, 1974, is amended by striking all of subsection (c) and inserting, in lieu thereof, the following:

"(c)(E) Either as a part of or in a proceeding supplementary to the action authorized in subsection (a) of this section, either tribe, through the chairman of its tribal council for and on behalf of the tribe, including all villages, clans, and individual members thereof, may prosecute or defend an action for the types of relief, including interest, specified in section 18 of this Act, including all subsections thereof, against the other tribe, through its tribal chairman in a like representative capacity, and against the United States as to the types of recovery specified in subsection (a)(3) of such section 18 and subject to the same provisions as contained in said subsection, such action to apply to the lands in issue in the reservation established by the Act of June 14, 1934 (48 Stat. 960).

"(2) In the event the Hopi Tribe or Navajo Tribe is determined to have any interest in the lands in issue, the right of either Tribe to recover hereunder shall be based upon that percentage of the total sums collected, use made, waste committed, and other amounts of recovery, which is equal to the percentage of lands in issue in which either Tribe is determined to have such interest.

"(3) Neither laches nor the statute of limitations shall constitute a defense to such proceedings if they are either prosecuted as a part of the action authorized by this section or in a proceeding supplemental thereto, if instituted not later than twenty-four months following a final order of partition and exhaustion of appeals in an action filed pursuant to this section.".

SEC. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

"(c) Lands partitioned pursuant to this Act, whether by interim or final order of the court, shall be subject to the jurisdiction of the tribe to whom partitioned and the laws of such tribe, regulating land use, shall apply to such partitioned lands, except as may be otherwise provided in section 13(a) and 31 of this Act, as amended.

"(d) Any development of lands in litigation pursuant to section 8 of this Act and further defined as 'that portion of the Navajo Reservation lying west of the Executive Order Reservation of 1882 and bounded on the north and south by westerly extensions, to the reservation line, of the northern and southern boundaries of said Executive Order Reservation,' shall be carried out only upon the written consent of each tribe except for the limited areas around the village of Moenkopi and around Tuba City. Each such area has been heretofore designated by the Secretary. 'Development' as used herein shall mean any new construction or improvement to the property and shall include placement of mobile homes and buildings on the property and further includes public work projects, power and water lines, public agency improvements, and associated rights-of-way."

SEC. 4. Section 11 of the Act of December 22, 1974, is amended by—

(1) striking the period at the end of subsection (a) and inserting, in lieu thereof, the following: ": *Provided*, That no lands in the State of Arizona, lying north and west of the Colorado River, shall be available for selection under this subsection.";

(2) striking all of subsection (b) and inserting, in lieu thereof, the following:

"(b) The Commission is authorized to purchase or otherwise acquire, except by eminent domain, not to exceed fifty thousand acres of land for the benefit of the Navajo or Hopi Tribes which shall be used for the purpose of facilitating the resettlement of heads of households required to relocate pursuant to this Act or to otherwise accomplish the purpose of this Act. Any of such lands, which are contiguous or adjacent to the Navajo Reservation, shall be taken by the United States in trust for the Navajo or Hopi Tribe and shall be administered as a part of the Navajo or Hopi Reservation, as the case may be. Any independent authority to acquire lands which may be derived from section 5 (a)(1) of this Act is hereby terminated.

There is hereby authorized to be appropriated, effective in fiscal year 1981, not to exceed $10,000,000 to carry out this subsection.".

SEC. 5. Section 12 of the Act of December 22, 1974 is amended by—

(1) inserting, in paragraph (1) of subsection (g), the phrase "an independent legal counsel," after the phrase "Executive Director,";

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal and housekeeping services.";

(3) redesignating subsection (i) as subsection (j) and inserting a new subsection (i) as follows:

"(i)(1) The Commission may call upon any other department or agency of the Federal Government to assist it in carrying out its responsibilities under this Act and such departments and agencies shall, to the extent permitted by law, provide such assistance.

"(2) To facilitate the coordination of other Federal programs with the efforts of the Commission—

"(A) the area directors of the Phoenix and Navajo area offices of the Bureau of Indian Affairs and the Indian Health Service shall consult with the Commission on the proposed budget for the Navajo and Hopi Tribes for any fiscal year prior to the submission of such proposed budget to the central office of each agency. The Commission shall comment on such proposed budgets with respect to the implementation of this Act. A copy of such comments shall be submitted by the Commission to the Committee on Appropriations and the Select Committee on Indian Affairs of the United States Senate and the Committee on Appropriations and the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(B) no Federal grant to, or contract with, the Navajo or Hopi Tribe, other than by the Bureau of Indian Affairs or the Indian Health Service, shall be approved until the Commission shall have had forty-five days within which to review and comment on such grant application or proposed contract from the standpoint of compatibility with the intent and purposes of this Act.

"(3) The Office of Managtment and Budget shall establish such procedures as may be necessary to insure compliance with the provisions of this subsection and shall insure that all relevant programs and services of the Federal Government are marshalled and coordinated toward the expeditious implementation of this Act, as amended.".

SEC. 6. Subsection (a) of section 13 of the Act of December 22, 1974, is amended by adding at the end thereof the following sentence: "Nothing herein or in any other provision of law shall be construed as authorizing any person to retain, maintain, or graze livestock on such lands without the consent of the tribe to whom the lands are partitioned, except those members of the Navajo Tribe, residing on Hopi-partitioned lands, who have applied and have been certified by the Commission as eligible for relocation.".

SEC. 7. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting, in lieu thereof, the word "ninety".

SEC. 8. Section 15 of the Act of December 22, 1974, is amended by adding a new subsection (f) as follows:

"(f) Within one hundred and eighty days after the date of enactment of this subsection, the Commission shall review the economic and social conditions of the families of heads of households who were evicted from the Hopi Reservation as a consequence of the decision in the case of United States versus Kabinto (456 F.2d 1087 (1972)). Based upon that review, the Commission may certify such heads of households as eligible for benefits under subsections (a), (b), and (d) of section 15 of this Act, but the Commission, in its discretion, may make available less than the full amount of benefits authorized in such subsections. The Commission's determination under this subsection shall be final.".

SEC. 9. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c)(1) Conservation practices, including grazing control and range restoration activities in the joint use area as required by subsection (a) of this section, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned.

"(2) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands partitioned pursuant to section 4 of this Act and within twelve months after a final order of partition with respect to any lands partitioned pursuant to section 8 of this Act.

"(3) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.

"(4) All projects instituted by the Secretary or any other agency of the Federal Government in relation to conservation, range restoration, or reclamation on partitioned lands or otherwise in connection with the relocation plan shall be eligible for contract by either tribe.".

SEC. 10. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within ninety days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those who actually relocate within such period.".

SEC. 11. Section 25(a)(5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96-40), is further amended by striking the figure "$1,000,000" and inserting, in lieu thereof, the figure "$3,000,000": *Provided*, That no new budget authority for fiscal year 1980 is authorized to be appropriated.

SEC. 12. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"SEC. 27. (a) To facilitate and expedite the relocation efforts of the Commission, there is hereby authorized to be appropriated annually, effective in fiscal year 1981, not to exceed $6,000,000 as a discretionary fund.

"(b) Such funds may only be used by the Commission to—

"(1) match or pay not to exceed 30 per centum of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibilities or assist either tribe in meeting the burdens imposed by this Act.

"(2) engage or participate, either directly or by contract, in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this Act.

Not to exceed 5 per centum of such funds may be used for the administrative expenses of the Commission in carrying out this section.

"(c) The Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection, to the funding and construction of the Hopi high school and a Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.

SEC. 28. (a) No action taken pursuant to, in furtherance of, or as authorized by this Act, as amended, shall be deemed a major Federal action for purposes of the National Environmental Policy Act of 1969, as amended.

(b) Any transfer of public lands pursuant to this Act shall be made notwithstanding any provision of the Federal Land Policy and Management Act (Public Law 94-579; 40 U.S.C. 1701 et seq.).

"SEC. 29. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this Act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs, and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985, and each succeeding year thereafter until such litigation or court action is finally completed.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, or judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

"SEC. 30. (a) No payments, pursuant to section 14 and 15(b) of this Act, shall be made to any head of household who has not signed a contract for relocation under existing eligibility criteria of the Commission prior to enactment of this section and who did not, as determined by the Commission, physically reside within the joint use area on the date specified in section 14(c) or 15(c), as the case may be.

"(b) Any head of household who has not signed a contract for relocation under existing eligibility criteria of the Commission

prior to enactment of this section and who, but for the enactment of this section, would have been eligible for benefits under section 14 and 15(b) shall be paid $5,000 from funds appropriated pursuant to section 25(a) (1) or (4).

"SEC. 31. (a) In the event the District Court grants life estate leases pursuant to section 5 of this Act, the following standards shall apply:

"(1) eligibility for such life estate leases shall be governed by the following factors:

"(i) the applicant for a life estate lease must have been at least seventy years of age on December 22, 1974; or

"(ii) the applicant for a life estate lease must have been at least sixty-five years of age on December 22, 1974, and must establish to the satisfaction of the court that the probable long-term effects of the relocation would cause extreme personal hardship; or

"(iii) the applicant for a life estate lease must establish to the satisfaction of the court that he or she is more than fifty per centum disabled, as certified by a medical doctor.

"(2) all applications for life estate leases must be filed with the District Court on or before June 30, 1980.

"(3) the Court shall grant no more than fifty life estate leases.

"(4) each life estate shall include a fenced grazing tract of not more than twenty-five acres and an additional tract of up to three acres for a homesite. Such homesite shall be surveyed and monumented, but shall not be fenced unless requested by the life tenant.

"(5) the tenure of such life estate lease shall be for the life of the applicant or his or her spouse, whichever is longer.

"(6) the granting of a life estate lease to any person shall preclude that person, his or her spouse, and any dependent minor children living in that household from receiving any relocation benefits except fair market value for improvements and actual moving expenses to be paid by the Secretary upon termination of the lease.

"(b) The Secretary shall pay, on an annual basis, the fair market rental value of such life estate leases to the tribe to whom the lands leased were partitioned: *Provided*, That the Secretary may, in his discretion, recover not to exceed one-half of such amount from the trust funds of the tribe of which such life tenants are members.

"(c) All other matters relating to life estate leases and/or tenants shall remain within the discretion and jurisdiction of the District Court which shall apply its own existing criteria to the extent such criteria are not inconsistent with the provisions of this section.".

Amend the title so as to read: "An Act to amend the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d).".

Mr. MELCHER. Mr. President, I move that the Senate disagree to the amendments of the House and ask for a conference of the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer (Mr. DECONCINI) appointed Mr. MELCHER, Mr. INOUYE, Mr. DECONCINI, Mr. COHEN, and Mr. HATFIELD conferees on the part of the Senate.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, now that Mr. BOREN is present in the Chamber, I ask unanimous consent that the Senate proceed to the consideration, in executive session, of the nominations on the calendar which, as I understand it, are cleared as follows, and Mr. STEVENS is here to agree or disagree: Calendar Order numbered 419, and then Calendar Orders beginning with Government National Mortgage Association on page 1, and then Calendar Orders beginning under Department of State on page 2, going through New Reports on pages 3, 4, and 5.

Mr. STEVENS. There is no objection. I am pleased to join the majority leader in that request.

Mr. ROBERT C. BYRD. I thank the Senator.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed en bloc to consider and confirm all of the nominations thus enumerated with the following exceptions; Calendar Orders Nos. 430, 445, 446, 447, and 448.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the nominations are considered and confirmed.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Jane McGrew, of Maryland, to be General Counsel of the Department of Housing and Urban Development.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Ronald P. Laurent, of Illinois, to be President, Government National Mortgage Association.

NATIONAL SCIENCE FOUNDATION

Francis Severin Johnson, of Texas, to be an Assistant Director of the National Science Foundation.

William Klemperer, of Massachusetts, to be an Assistant Director of the National Science Foundation.

DEPARTMENT OF STATE

The following-named Foreign Service officers for promotion from class 1 to the class indicated.

John Gunther Dean, of New York, to be Career minister.

Samuel W. Lewis, of Texas, to be Career minister.

Stephen Low, of Ohio, to be Career minister.

Williams H. Luers, of Illinois, to be Career minister.

Richard W. Murphy, of Maryland, to be Career minister.

James W. Spain, of Florida, to be Career minister.

O. Rudolph Aggrey, of the District of Columbia, to be Career minister for information.

THE JUDICIARY

Thomas A. Clark, of Florida, to be U.S. circuit judge for the 5th circuit.

Arthur L. Alarcon, of California, to be U.S. circuit judge for the 9th circuit.

Harry Pregerson, of California, to be U.S. circuit judge for the 9th circuit.

Anna Diggs-Taylor, of Michigan, to be U.S. district judge for the eastern district of Michigan.

Juan Guerrero Burciaga, of New Mexico, to be U.S. district judge for the district of New Mexico.

Barbara B. Crabb, of Wisconsin, to be U.S. district judge for the western district of Wisconsin.

Terrence T. Evans, of Wisconsin, to be U.S. district judge for the eastern district of Wisconsin.

Alan N. Bloch, Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

Alcee L. Hastings, of Florida, to be U.S. district judge for the southern district of Florida.

Scott E. Reed, of Kentucky, to be U.S. district judge for the eastern district of Kentucky.

Robert H. Hall, of Georgia, to be U.S. district judge for the northern district of Georgia.

Dale Emerson Saffels, of Kansas, to be U.S. district judge for the district of Kansas.

Harold Arnold Ackerman, of New Jersey, to be U.S. district judge for the district of New Jersey.

Dickinson Richards Debevoise, of New Jersey, to be U.S. district judge for the district of New Jersey.

H. Lee Sarokin, of New Jersey, to be U.S. district judge for the district of New Jersey.

Anne Elise Thompson, of New Jersey, to be U.S. district judge for the district of New Jersey.

Neal P. McCurn, of New York, to be U.S. district judge for the northern district of New York.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Nathan J. Stark, of Pennsylvania, to be Under Secretary of Health, Education, and Welfare.

William Brownlee Welsh, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare.

Billy M. Wise, of Virginia, to be an assistant Secretary of Health, Education, and Welfare.

Mr. ROBERT C. BYRD. Mr. President, the clerk may proceed with those nominations which were excepted.

The PRESIDING OFFICER. The nominations will be stated.

The second assistant legislative clerk read the nomination of Stephanie K. Seymour, of Oklahoma, to be U.S. circuit judge for the 10th circuit.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominees from the State of Oklahoma be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BOREN. I thank the majority leader.

Mr. President, I am particularly proud that this list of nominees includes the names of five distinguished Oklahomans, Stephanie K. Seymour, to be judge of the 10th Circuit Court of Appeals, Frank H. Seay, to be judge for the Eastern District of Oklahoma, Lee R. West, to be judge for the Western District of Oklahoma, and Thomas R. Brett and James O. Ellison, to be district judges for the Northern District of Oklahoma.

All these individuals are extremely well qualified. They will bring to the Federal bench the highest standards of competence and integrity. All five were recommended by panels of outstanding citizens representing a cross section of the people of our State. They were recommended to the President after participating in the most comprehensive selection process ever used in our State to fill Federal judicial vacancies.

I am very pleased that the President has seen fit to nominate persons of such high caliber.

I thank the majority leader.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Stephanie K. Seymour, of Oklahoma, to be U.S. circuit judge for the 10th circuit.

Frank Howell Seay, of Oklahoma, to be U.S. district judge for the eastern district of Oklahoma.

Lee Roy West, of Oklahoma, to be U.S. district judge for the western district of Oklahoma.

Thomas Rutherford Brett, of Oklahoma, to be U.S. district judge for the northern district of Oklahoma.

James Oliver Ellison, of Oklahoma, to be U.S. district judge for the northern district of Oklahoma.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote en bloc by which the various nominees were confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I ask unanimous consent that the President be notified forthwith of the confirmation of the nominees from the State of Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of all the remaining nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER RELINQUISHING TIME OF THE LEADERSHIP UNDER THE STANDING ORDER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders under the standing order tomorrow be relinquished.

Mr. STEVENS. Mr. President, I have no objection. The minority leader is otherwise engaged at that time, and I think that is a wise move.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the prayer and after the disposition of the approval of the Journal tomorrow, the following Senators be recognized, each for not to exceed 15 minutes: Mr. LEAHY to be first; that he be followed by Mr. HUDDLESTON; that he be followed by Mr. MOYNIHAN, then by Mr. DURENBERGER, Mr. CHAFEE, and Mr. LUGAR.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of Mr. HUDDLESTON tomorrow, there be a brief period for the transaction of routine morning business of not to exceed 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—H.R. 4440

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of Calendar Order No. 395, H.R. 4440, there be a time agreement as follows: 2 hours equally divided between Mr. BAYH and Mr. MCCLURE on the bill, 30 minutes equally divided on any amendment, 20 minutes on any debatable motion, appeal, or point of order if such point of order is presented to the Senate; provided further that the agreement be in the usual form as to division and control of time; and ordered further that, no later than 3 o'clock tomorrow afternoon, the Senate proceed to the consideration of this bill if requested by the majority leader after consultation with the minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in the order with reference to the hour of 3 o'clock, does the request read 3 o'clock specifically or no later than 3 p.m.?

The PRESIDING OFFICER. No later than 3 p.m.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS TO 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 11:30 a.m. tomorrow morning.

The motion was agreed to; and at 6:49 p.m., the Senate recessed until tomorrow, Thursday, November 1, 1979, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 31, 1979:

DEPARTMENT OF STATE

Patricia M. Byrne, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of the Union of Burma.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Robert D. Hormats, of Maryland, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador, vice Alonzo Lowry McDonald, Jr., resigned.

Michael Brackett Smith, of Maryland, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador, vice Alan William Wolff, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 31, 1979:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Jane McGraw, of Maryland, to be General Counsel of the Department of Housing and Urban Development.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Ronald P. Laurent, of Illinois, to be President, Government National Mortgage Association.

NATIONAL SCIENCE FOUNDATION

Francis Severin Johnson, of Texas, to be an Assistant Director of the National Science Foundation.

William Klemperer, of Massachusetts, to be an Assistant Director of the National Science Foundation.

DEPARTMENT OF STATE

The following-named Foreign Service officers for promotion from class 1 to the class of career minister:

John Gunther Dean, of New York.
Samuel W. Lewis, of Texas.
Stephen Low, of Ohio.
William H. Luers, of Illinois.
Richard W. Murphy, of Maryland.
James W. Spain, of Florida.

O. Rudolph Aggrey, of the District of Columbia, a Foreign Service Information officer of class 1, for promotion to the class of career minister for information.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Nathan J. Stark, of Pennsylvania, to be Under Secretary of Health, Education, and Welfare.

William Brownlee Welsh, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare.

Billy M. Wise, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Thomas A. Clark, of Florida, to be U.S. circuit judge for the fifth circuit.

Arthur L. Alarcon, of California, to be U.S. circuit judge for the ninth circuit.

Harry Pregerson, of California, to be U.S. circuit judge for the ninth circuit.

Stephanie K. Seymour, of Oklahoma, to be U.S. circuit judge for the 10th circuit.

Anna Diggs-Taylor, of Michigan, to be U.S. district judge for the eastern district of Michigan.

Juan Guerrero Burciaga, of New Mexico, to be U.S. district judge for the district of New Mexico.

Barbara B. Crabb, of Wisconsin, to be U.S. district judge for the western district of Wisconsin.

Terence T. Evans, of Wisconsin, to be U.S. district judge for the eastern district of Wisconsin.

Alan N. Bloch, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

Alcee L. Hastings, of Florida, to be U.S. district judge for the southern district of Florida.

Scott E. Reed, of Kentucky, to be U.S. district judge for the eastern district of Kentucky.

Robert H. Hall, of Georgia, to be U.S. district judge for the northern district of Georgia.

Dale Emerson Saffels, of Kansas, to be U.S. district judge for the district of Kansas.

Harold Arnold Ackerman, of New Jersey, to be U.S. district judge for the district of New Jersey.

Dickinson Richards Debevoise, of New Jersey, to be U.S. district judge for the district of New Jersey.

H. Lee Sarokin, of New Jersey, to be U.S. district judge for the district of New Jersey.

Anne Elise Thompson, of New Jersey, to be U.S. district judge for the district of New Jersey.

Neal P. McCurn, of New York, to be U.S. district judge for the northern district of New York.

Frank Howell Seay, of Oklahoma, to be U.S. district judge for the eastern district of Oklahoma.

Lee Roy West, of Oklahoma, to be U.S. district judge for the western district of Oklahoma.

Thomas Rutherford Brett, of Oklahoma, to be U.S. district judge for the northern district of Oklahoma.

James Oliver Ellison, of Oklahoma, to be U.S. district judge for the northern district of Oklahoma.

HOUSE OF REPRESENTATIVES—*Wednesday, October 31, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Make a joyful noise to the Lord, all the lands. Serve the Lord with gladness. Come into His presence with singing.
—Psalms 100: 1, 2.

O gracious Lord, You have given to us responsibility to serve this Nation and all the people, graciously bestow upon us enthusiasm and commitment for the daily tasks. Help us all to see how good deeds done for others, however small, can bring a sense of satisfaction and purpose to living. When the difficulties and concerns of life press against us, grant us courage and the knowledge that Your spirit will give us peace. We pray, O Lord, that You would give us joy and gladness to lift our hearts and strengthen us on our way. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On October 29, 1979:

H.R. 3173. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1980, and for other purposes.

On October 30, 1979:

H.R. 4580. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance.

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1871. An act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program.

PASS WINDFALL PROFITS TAX PROMPTLY

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the administration is currently faced with the largest U.S. inflation rate since the year after World War II. One of the primary components of the current 13- to 14-percent inflation rate is the dramatically higher cost for petroleum products, such as home heating oil and gasoline. Energy alone accounted for 38 percent of the September increase in the Consumer Price Index.

The President has finally felt compelled to order an investigation of oil refiners' profit margins which have skyrocketed by 37.5 percent during the month of September. This probe of the oil industry is the result of discrepancies between public profit reports and data supplied to the Council for Wage and Price Stability.

Mr. Speaker, these big oil companies, even utilizing their most sophisticated and complex accounting methods, clearly are not in compliance with the Government's voluntary price guidelines. We must not tolerate the big oil companies' totally disregarding the national policy of price standards. How can Big Oil justify these profit margin figures, when the rest of society is attempting to live fairly closely within the guideposts?

This is just another manifestation of the major oil companies disdain for the American consumer. Congress is obliged to stand on behalf of our oppressed citizens and pass the windfall profits tax as soon as possible.

MARTIN LUTHER KING STADIUM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the question of whether we should declare a national holiday honoring Dr. Martin Luther King will soon be debated in this House.

May I suggest that the question of honoring Dr. King should not be confined to the single question of a national holiday.

There is no national holiday for Abraham Lincoln—or Thomas Jefferson—yet we honor them.

In short, the fact that we do not have a national holiday for an esteemed American does not in any way mean we do not honor him. We find other and better ways of paying tribute.

May I suggest that we consider renaming Robert F. Kennedy Stadium after Dr. King. It would be a 365-days-a-year reminder to the Nation's Capital of Dr. King. In a city with a sizable majority black population, Martin Luther King Stadium would be welcome as tribute to an admired and revered leader. Changing the name would in no way take away from the late Senator Kennedy's glory, but would, instead, remind us of the close connection between Senator Kennedy and the ideals of Dr. King.

A holiday passes and is gone. It soon degenerates into a day off and not a day of reverence for the honored person. But a stadium remains.

I intend later today to introduce a bill to effect that change, and would invite cosponsors of my proposal.

CHRYSLER CORP. NEEDS HELP NOW

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, yesterday's announcement by the Chrysler Corp., that they have lost nearly $461 million during the last quarter has added even greater urgency to the need for immediate Federal action to help the company and its employees.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

According to Treasury Secretary Miller, Chrysler will be forced into bankruptcy within 2 months if we in this Congress do not act now.

Instead of asking "Can we afford to help?" we should be asking ourselves "Can we afford not to help?" If we allow Chrysler to fail, the potential risk of a loan guarantee will pale in comparison to the unbelievable impact on our economy that a Chrysler collapse would have.

I therefore call upon both the Carter administration to get behind a financial plan to help Chrysler, and the leadership of this House to use its considerable weight to push the legislation through. We must act within the next 2 weeks—before it becomes too late.

LITMUS TEST PROPOSED FOR DEMOCRATS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, my Democratic colleagues these days are between a rock and a hard place as to which way to flop. Strictly out of compassion I want to announce that a constituent of mine has developed a litmus paper which can assist in solving this dilemma. You merely insert the harmless paper in your mouth and if it turns deep red your basic latent tendency is to accelerate the rush toward national bankruptcy by jumping on the KENNEDY bandwagon. If it turns out light red, you should stick on the Carter sinking ship even though the crew is beginning to bail out. Selecting between tweedledee and tweedledum is never easy, but this litmus paper test should make the process easier.

WELFARE REFORM PROPOSALS OF HOUSE REPUBLICAN POLICY COMMITTEE

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise today to fire the first shot in the battle that will be waged on this floor in the days ahead over the issue of welfare reform. Yesterday, the House Republican policy committee clearly defined those battlelines: The Republican approach provides decentralized programs which permit individual States to create and tailor their own welfare programs to target appropriate benefits and services for the needy. The Democrat approach, on the other hand, constitutes a major step toward a centralized, national universal guaranteed income program.

I am proud to say, Mr. Speaker, that the Republican policy committee unanimously endorsed the Rousselot-Conable welfare reform initiative, H.R. 4460, a bill that translates the Republican approach into concrete legislative programs. At the same time, the Republican policy committee flatly rejected H.R. 4904, the Democrat-sponsored bill that is devoid of any ideas other than a continued expansion of Federal presence.

Finally, Mr. Speaker, despite these basic philosophical, substantive differences, I wish to serve notice that the first battle on the issue of welfare reform will take place over a procedural matter. The decision by the majority-controlled Rules Committee that the Republican initiative may not be offered on the House floor as a substitute for the Democrat proposal is a blatant example of the arrogant use of power at its worst.

Closing down the marketplace of ideas by precluding even so much as debate on the Republican initiative is procedural tyranny in an institution that holds itself out as the world's showplace of democracy. The House Republican policy committee rejects that tyranny. And it is our hope that a majority of the Members of this House will join with us to allow the free flow of ideas to once again return to the floor of the House of Representatives.

□ 1010

PROVIDING FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES CONDUCTED BY PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. BRADEMAS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-573) on the resolution (H. Res. 452) to provide for the further expenses of investigations and studies to be conducted by the Permanent Select Committee on Intelligence, which was referred to the House Calendar and ordered to be printed.

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 452) to provide for the further expenses of investigations and studies to be conducted by the Permanent Select Committee on Intelligence and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 452

Resolved, That for the further investigations and studies to be conducted by the Permanent Select Committee on Intelligence, not to exceed $40,000 of the total amount provided by H. Res. 96 may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Indiana for 1 hour.

Mr. BRADEMAS. Mr. Speaker, House Resolution 452 enables the permanent Select Committee on Intelligence to expend up to $40,000 of its 1979 expense funds for the purposes of hiring consultants. The primary expense resolution for the committee's 1979 expenses for investigations and studies set a ceiling of $10,000 for consulting services.

The increased consulting authorization will be used to conduct an indepth, independent study of the intelligence community staff, a support organization for the Director of Central Intelligence in his role as head of the intelligence community.

Mr. Speaker, this resolution does not call for any more money to be authorized for the committee.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PRIORITY ENERGY PROJECT ACT OF 1979

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4985, with Mr. FOLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, October 30, the gentleman from Arizona (Mr. UDALL) had consumed 11 minutes of general debate; the gentleman from California (Mr. CLAUSEN) had consumed 11 minutes of general debate; the gentleman from Michigan (Mr. DINGELL) had consumed 12 minutes of general debate; and the gentleman from North Carolina (Mr. BROYHILL) had consumed 12 minutes of general debate.

The Chair recognizes the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, the purposes and goals of this bill have been well debated in the two committees that have jurisdiction over it. It has become a most controversial issue as one side and the other have leveled charges against the version they do not like.

The purpose of the bills is to establish an Energy Mobilization Board (EMB) which would have authority to evaluate certain high priority energy projects on a case-by-case basis. The goal of this legislation is to assist in increasing

needed energy supplies in this country, and to route that energy to the markets where it is demanded.

It should be apparent to all the growing need for this legislation. We are importing almost 50 percent of our petroleum needs from foreign sources. We are literally at the mercy of the OPEC nations as they use their economic muscle to drive up the cost of energy to the Western World. In fact, they are showing no mercy, and the Carter administration now tells us that the outflow of dollars to the oil-producing nations will total over $70 billion in calendar year 1980. This is the most massive transfer of wealth in the history of the world. This entire imbalance in trade and our total dependence on others for energy is causing severe economic problems here at home. It is time to take action now to correct this situation.

Obviously the solution to becoming energy independent is to be found in more than one legislative proposal. Energy research, conservation measures, incentives to switch to alternate fuels, promotion of solar and alternate fuels; all of these are needed. Also, we need legislation like this.

Why?

The reason is that in recent years, we have witnessed large numbers of energy projects halted because of time-consuming, complex, procedural delays. The process for obtaining the necessary permits for a large project such as a transcontinental pipeline or a synthetic fuels plant, is complicated and uncoordinated. There has been a paralysis of decisionmaking with respect to critical energy projects which, if nothing is done to correct it, can threaten the very security of our Nation and the economic future of our children as we slowly run out of energy here at home or the dollars to pay for energy abroad.

Let me cite for the record just a few of the proposed major energy projects which have been canceled because of procedural delays in obtaining needed permits:

Eighteen refineries with a capacity of 3,355,000 barrels of crude oil per day;

Eight coal gasification projects with a capacity of producing 1,539 MMCF/D; the equivalent of approximately 300,000 barrels of crude oil per day;

Seven nonnuclear electric power generating projects with a capacity to produce 8,702 megawatts of electricity;

Three liquified natural gas projects;

One coal liquefaction project; and

Two oil terminal and pipeline projects.

Included in this list of canceled projects is the pipeline project recently canceled by Sohio. After 5 years and the expenditure of over $50 million trying to obtain some 700 permits, Sohio gave up on trying to construct a West-East pipeline to bring Alaska crude to the energy starved East. Sending that product through the Panama Canal adds $2 per barrel to the cost to the consumers.

Mr. Chairman, the problem of energy project terminations and cancellations due to litigation and regulatory delays is critical to our Nation in the development of an appropriate and adequate national energy policy. Project terminations often frustrate Federal energy policy, dampen private initiative, and may leave critical national policy questions in the hands of State and local governments. The large amounts of time, money, and other resources expended by private companies on the innumerable local, State, and Federal permitting processes which are required for individual energy projects is staggering. The extremely high rate of energy project cancellations, abandonments, and terminations over the past decade has forced many responsible and prudent energy company managers to seek diversification, alternative investments, and offshore opportunities as better investments of their shareholders' money. Of course, the unattractive climate for energy projects has restricted our domestic supply options.

One major deterrent to the development of domestic energy projects is litigation or the threat of litigation. The testimony of the chairman of the Council on Environmental Quality (CEQ) to the Energy and Environment Subcommittee of the House Interior and Insular Affairs Committee on July 11, 1979, provides an indication of the amount of Federal litigation which has occurred concerning the legal sufficiency and factual adequacy of environmental impact statements. The chairman testified that:

> . . . During the first 8 years since NEPA's enactment (January 1, 1970 through December 31, 1977) . . . 988 NEPA lawsuits were filed . . .
>
> . . . NEPA-related injunctions were issued in 202 cases. . . .
>
> . . . of the 988 NEPA lawsuits . . . 94 cases involved specific energy projects.

The Nation is struggling through a continuing energy crisis which challenges the foundation of our entire economy. Yet, any incentives for energy development which may be provided by our Federal energy policy may be nullified completely by the types and frequency of litigation which the Nation has experienced in the last decade. The litigation problem must be resolved if sufficient domestic energy resources are to be developed. A process must be created to identify those energy projects which uniquely serve the national interest and to determine the tradeoffs which will be permitted to make the projects operational.

Creating an adequate and viable process will not be easy. One way to start developing such a process is to pass this bill and get on with the job.

Several different proposals have been advanced to "cut red tape" and to provide a "fast track" for certain energy projects. I believe the Commerce Committee bill provides the best balanced approach to this issue because it establishes expedited decisionmaking at all levels of government without depriving agencies of their traditional roles and because it establishes expedited congressional consideration of a Presidential recommendation for special consideration for any priority energy project.

The Commerce Committee bill establishes an Energy Mobilization Board. The Board's primary functions are to designate certain energy projects that are in the national interest as "priority energy projects" and to establish a schedule—called a Project Decision Schedule—for all Federal, State, and local decisions that must be made with respect to the project.

In establishing the Project Decision Schedule, the Board is given the authority to modify time requirements established by statute and regulations. However, the Board is not authorized to change procedures. Thus, for example, the Board may change a 30-day time allowance to 20 days but it may not eliminate a requirement for a trial type hearings, including the right to cross examination.

The Board has authority to establish procedures necessary to insure compliance by agencies with the Project Decision Schedule and to take action it determines is appropriate to bring agencies into compliance, including going into court or participating in agency proceedings.

When it is determined by the President that a Federal law, regulation, or ordinance will substantially impede the implementation of a priority energy project, this bill permits the President, subject to approval by both Houses of Congress, to waive or modify that law, regulation, or ordinance only as it affects that specific project. The President must also determine that the waiver is in the national interest, and that it will not endanger the public health or safety. In addition, any waiver must "include such terms and conditions * * * necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver."

In addition to these restrictions on the use of the waiver authority, this bill provides that certain broad categories of laws may not be subject to waiver: Criminal laws, labor laws, antitrust laws, civil rights laws, the primary air quality standard of the Clean Air Act, and water rights.

I believe that these restrictions and prohibitions on the use of waiver authority granted under this bill are sufficient to insure that the waivers will not be used in any wholesale fashion, but rather only to the extent that a specific requirement impedes an individual priority energy project. In order to insure that the national interest in fact does require the waiver and that the public health and safety are properly considered, both Houses of the Congress shall review the proposed waiver and must approve it.

After considerable study of the two bills before us, I am convinced that the Commerce Committee bill represents a realistic and workable approach to cutting redtape and procedural delays.

The Commerce bill provides that the deadlines on the Project Decision Schedule are binding on all Federal, State, and local agencies, and that the Board may extend these deadlines or enforce these deadlines by its choice of the following mechanisms: Jawboning, participation in agency proceedings, court action, or by recommending to the President the waiver or modification of laws or regulations which would prevent an agency decision from permitting implementation of the project. On the other hand, the Udall bill still retains many opportunities for lawyers to stall or delay decisions through continued court action.

Much has been said about the authority in the Commerce Committee bill to waive Federal law or State and local laws. The Santini amendment adopted to the Commerce Committee bill does not authorize outright waiver of State or local laws and regulations. It does provide authority for the Board to act in the event the local agency fails to act in a timely fashion. If the local agency acts in a timely fashion, that decision is final; if not, the Board can use its authority to make the decision. However, that decision must be based on a complete record and must be consistent with applicable Federal, State, and local laws and regulations. In any event, the Board can only recommend the decision. The President can affirm or reject it. Once the decision is final, it is subject to the normal requirements of judicial review.

There is limited authority under the Santini amendment for the waiver of Federal laws and regulations on a project-by-project basis. In the instances where the Board recommends that a law or part of a law be waived or modified with respect to a specific project, the President must then make an independent determination that the specific waiver or modification is in the national interest. Any Presidential decision to waive Federal law is subject to the adoption of a joint resolution of both Houses during a period of 60 calendar days to affirm the decision. The resolution would be considered under expedited procedures which assure that a vote will be taken on the House and Senate floors.

As we continue formulating legislative policy to develop our energy reserves in this country, it seems to me we need a major reevaluation of those laws and regulations which are hampering economic development in this country. This bill is not the cure-all for bureaucratic delays which has characterized the building of major energy facilities over the past decade. There is nothing in this bill which assures a reevaluation of the mountain of regulations which are hampering the production and use of petroleum, coal, or synthetic fuels.

In order that we might provide jobs for our people, we must have energy. Millions of new jobs are needed each year. By the year 2000, just 20 years away, over 25 million new jobs will be needed. Where is the energy to be found to provide those jobs?

The Congress should be working to insure that laws and regulations which detrimentally affect energy and economic development are reevaluated in the years ahead. In the meantime, let us pass this legislation as a modest first step in making sure that needed energy projects are constructed in a timely manner.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I would be delighted to yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I listened to the preliminary debate yesterday. The gentleman from Maryland represents a district which includes 55 percent of the land and water area of the State of Maryland. Our area is the location of one of only three liquefied natural gas facilities in the United States which recently suffered what was called a major accident. We have two nuclear powerplants located in our area. We who live on the Chesapeake Bay are the recipients of the waters of the Susquehanna, which as everyone knows, is the river on which the Three Mile Island nuclear facility is located.

The gentleman from Maryland is sympathetic to the argument made by the gentleman from North Carolina about the need for more energy, but I am also concerned and would like some response about what the legislation the gentleman's committee proposes would do to the rights of States or local jurisdictions, and their power by zoning ordinances or other laws now on the books to control development in their areas.

□ 1020

I understand the overriding need for power, but I also think we have a Federal system that may well be in jeopardy and the question is whether the tradeoff is worth it.

Mr. BROYHILL. If I may quickly respond to the gentleman, the Members on our side at least have agreed or will agree to the Santini amendment which will be offered at a later time. The Santini amendment does not authorize outright waiver of State or local laws and regulations. What it does provide for, however, is authority for the Energy Mobilization Board to act in the event that the local agency fails to act in a timely fashion. I think the gentleman could go along with that as a way to get this bill enacted.

Mr. BAUMAN. I thank the gentleman for the reference to that amendment. I shall listen closely to the debate. However, does that amendment permit an override if, in fact, the local jurisdiction acts in a timely fashion?

Mr. BROYHILL. It does not provide for an override. It is only an effort to speed up the procedural process.

Mr. UDALL. Mr. Chairman, I yield 6 minutes to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Chairman, as one of the authors of the Udall-Clausen-Wirth substitute, I wanted to quickly review the history of the development of that substitute and then to outline briefly for the Members of the House the differences between the two bills, the Dingell bill and the Udall-Clausen-Wirth substitute.

I think everybody agrees on the need for a fast track. I think that has been very eloquently stated by the majority leader, the gentleman from Texas (Mr. WRIGHT), by the gentleman from Michigan (Mr. DINGELL), by the gentleman from Arizona (Mr. UDALL), by the gentleman from Ohio (Mr. BROWN), et al. The question before us now is, Mr. Chairman, how do we achieve that fast track? The Udall bill came out of the Committee on Interior and Insular Affairs, the first bill out of any of the committees in the House. It contained a procedural fast track at the Federal level. The fast track legislation was also referred to the Committee on Interstate and Foreign Commerce; in that committee and in its Subcommittee on Energy and Power, chaired by the distinguished gentleman from Michigan (Mr. DINGELL), there were very, very deep differences about the specifics of a fast track. Those same differences appeared in the deliberations of the full committee and there were generally 25 votes on one side and 15 votes on the other in the Committee on Interstate and Foreign Commerce, related to specific provisions of the fast track.

Mr. Chairman, a number of dissidents on the Committee on Interstate and Foreign Commerce, who did not agree with the extraordinary powers granted the Federal Government in the Energy Mobilization Board in the Dingell bill, after the bill passed out of the Committee on Interstate and Foreign Commerce, met with the gentleman from Arizona (Mr. UDALL) to see if it might be possible to accommodate the concerns that we had about these extraordinary powers and join that with the good procedural measures that were in the bill conceived by the Committee on Interior and Insular Affairs.

We came to some preliminary agreements and then attempted to arrive at a broader agreement with the gentleman from Michigan (Mr. DINGELL) and the bill presented by the Committee on Interstate and Foreign Commerce, through the good auspices of the Speaker's office and others to attempt to come to an accommodation.

After a great deal of negotiation, Mr. Chairman, it was very clear that such accommodation was not going to be possible and, consequently, we introduced the Udall-Clausen-Wirth bill which now has broad sponsorship on both sides of the aisle, ideologically, geographically and politically. That bill is the substitute before us today.

Mr. Chairman, I should also add that our bill also has the very strong sponsorship of the National Governors' Association, the National Association of Counties, and the Conference of Mayors'-League of Cities.

There remain four major differences between the two pieces of legislation, the Dingell bill and the Udall-Clausen-Wirth substitute.

The first difference relates to waivers. We have heard a great deal of discussion about the waiver power in the Dingell bill. The Santini amendment will provide that the Dingell bill can no longer waive State, county, and local law, and from our perspective that is indeed to significant improvement. However, that also brings along with it a number of other issues that we think are very deeply troubling in the Santini amendment.

Mr. Chairman, the Udall-Clausen-Wirth bill has no waiver of Federal, State, county, or local law. The differences between the bills, therefore, are a waiver at the Federal level, assuming that the Santini amendment is accepted to Dingell. So, we have worked out most of the agreements on the waiver situation and I understand that the gentleman from Texas (Mr. ECKHARDT) will be offering an amendment to delete the waiver of Federal law from the Dingell bill.

Mr. Chairman, the second major difference between the 2 pieces of legislation relates to procedures. The Udall-Clausen-Wirth bill has written in the authority of the EMB to develop a procedural fast track, to have one environmental impact statement, for example,

at the Federal level; to have joint hearings, to have a collapsed and speeded up approval process for permits and so on. That, I believe, is a much stronger measure in the Udall-Clausen-Wirth bill than it is in the Dingell bill where, to have any of this procedural fast tracking, it is necessary to go to the President and to the Congress for approval.

Third, Mr. Chairman, the enforcement mechanism is very important and that is where the major problems, we think, lie with the Santini bill.

Essentially, the enforcement situation goes as follows: In both bills there is a defined time limit for a fast track. The question is: if an agency does not meet that time limit, how does that fast track for that deadline become enforced?

Under the Udall-Clausen-Wirth bill that time frame is enforced in the court of appeals. The Energy Mobilization Board goes to the court of appeals to enforce that fast track. Under the Dingell bill, as amended by Santini, the authority is bumped up to the Energy Mobilization Board. The major problem with that is that the Energy Mobilization Board, therefore, has to become instant expert on coastal zoning in the State of the gentleman from Maryland (Mr. BAUMAN) or in Colorado water law or California coastal management or Louisiana wetlands. It seems to me a very broad array of authority and expertise which it is very difficult to expect an agency to have.

Mr. Chairman, the final issue that remains between these two bills is the issue of court review. There has been significant misunderstanding and misrepresentation on this subject. That will be cleared up at the time when the gentleman from Florida (Mr. FUQUA) will offer an amendment to the Udall-Clausen-Wirth substitute which will clear up all of those misunderstandings. It seems to me that the differences remaining between the two bills are very significant and I would hope that the committee would find itself voting against the Dingell bill which is, in fact, a Build a Bureaucracy and Federal Power Grab Act of 1979," and would be able to vote for the legislation in the Udall-Clausen-Wirth bill.

Mr. Chairman, the debate over this legislation has been raging for nearly a month in the House—in the Halls, on the telephones and in the mails. I would imagine many of my colleagues are as relieved as Chairman UDALL, Congressman CLAUSEN, and I to see this debate finally reach the floor.

Over the past month, I have discussed this legislation with colleagues on both sides of the aisle. In some of those conversations, and in last night's debate, there was a tenor which profoundly disturbs me.

The events of the past 6 months have created a new atmosphere of crisis in energy policy. Last spring's Iranian oil cutoff and the resulting gas lines, this year's 60-percent increase in oil prices, translated directly to the consumer in gasoline and heating oil price hikes, have created intense pressure for the Congress to take immediate, firm steps toward relieving our dependence on foreign oil.

From one perspective, at least, that is a healthy chain of events which can have a constructive impact on the House. Major progress in energy policy requires a national sense of urgency—a recognition by the public that our energy problems are real, and that they are neither temporary nor a creation of oil companies seeking to swell their profits. For 6 years, since our first major energy shock during the Arab oil embargo of 1973 and 1974, we have made progress in small steps because there was little public constituency for large ones.

That sense of urgency, and a new willingness to make compromises on other fronts in the name of increased energy production, are what have brought the Energy Mobilization Board before the House. As my colleagues know, I have been a strong supporter of the concept of fast tracking Government decisions on key energy projects ever since the idea was first broached by Chairman UDALL in the early days of this Congress.

The myriad Federal, State, and local requirements which new energy facilities must meet have created a massive procedural bottleneck which is injecting serious delays into the development of new energy resources. A procedural fast track, administered at the Federal level, is a clearly necessary innovation.

The compromise that such a fast track requires is a substantial surrender of State and local authority to a Federal agency—the surrender of State and local governments' authority to set their own timetables for decisionmaking and to have total control over the procedures they use. That there is a clear and strongly expressed willingness to take these steps among State and local agencies across the country is a measure of our society's commitment to a strong national effort on the energy front.

That is the constructive side of Americans' demand for a coordinated, strong national energy policy.

The other side of that coin is, quite simply, dangerous. A sense of urgency and demands for action often translate into a search for simple solutions.

That search is an old story to all of us—we have been faced with the simple solution to our energy problems with great regularity over the past 5 years. In the vast majority of cases, I am proud to say, we have had the good sense to recognize that there are no simple answers to our complex energy problems—or that the easy, politically attractive course frequently creates larger problems than it solves in the long run.

I sincerely hope that that recognition will prevail today, because the decisions we face have impacts well beyond energy policy. They are votes not only on how we can best speed the development of new energy resources, but votes also on the ability of our fundamental institutions of government to meet the test of time.

The basic question facing the House today is not whether to create an Energy Mobilization Board. The real question is far greater:

Can we create an effective, coordinated response to our energy crisis within the basic framework of our 200-year-old federalist system of government?

THE COMMERCE COMMITTEE BILL

Mr. Chairman, the Commerce Committee bill presents us with a simple answer to that question—no, we cannot, its provisions say.

The bill, even as it will apparently be amended answers that we can only speed energy decisionmaking by going outside our constitutional process, by circumventing the traditional division of rights and responsibilities in our system of government.

In my view, that simple solution is one which refuses to face up to an important challenge—the challenge of working within our democratic institutions.

Under the amended Commerce Committee bill, the Energy Mobilization Board would have two basic powers: The power to waive Federal laws when it views a Federal agency as a source of delay, and the power to make virtually any decision at any time in place of the responsible State or local agency. Those appear on the surface to be powers which allow the Board to address the institutional causes of delay directly.

In reality, those powers are inadequate. In reality, the Commerce Committee bill provides the Board with little independent authority to speed energy decisionmaking.

The Commerce bill provides the Board with no power to streamline agency proceedings on its own. To take the simple step of consolidating two agency hearings, for example, the Board would either have to waive Federal law, win Presidential approval and seek congressional concurrence, or step into the shoes of the agencies involved and make their substantive decisions itself. Both are time consuming and complex processes.

The Board's authority to enforce deadlines on agencies is also severely limited. It would have to engage in the same delay-producing processes simply to force an agency to meet a deadline.

In short, the Board would be muscle-bound, hamstrung by its own power.

Further, the power to waive laws and the power to take decisions away from State and local agencies expose the entire fast-track process to constitutional challenge in the courts—challenge which cannot be barred by Congress. Mr. Speaker, the power to waive laws rests on clearly shaky constitutional ground; regardless of what the courts finally decided, any project granted a waiver of law would be the automatic target of constitutional court challenges which would tie the project up for years.

Finally, the power to seize jurisdiction from State and local agencies is a great deal less simple and direct than it appears. Think through the steps the Board would be required to take to employ this simple power.

First, the Board would be forced to review the applicable State or local law involved in making the decisions—laws in which it would have not administrative expertise. Those laws range from Western water law, to Long Island zoning law, to Pennsylvania public health and safety law, and a host of other statutes.

The Board would then be forced to review the record already compiled by the agency involved in the case, resolving both issues of law and issues of fact in making its decision. Finally, the Board would make and present its decision to the President, who would essentially begin the process all over again, reviewing the law and the record.

This is hardly an effective enforcement process to be employed for every decision, from the simple to the complex. Not only does it add delay, but it raises the probability of additional court challenges. Each and every decision the Board in Washington makes in place of the agency at home will be suspect in the courts, who will review the substance of the Board's final decisions. It is highly doubtful that those decisions can bear that scrutiny. Every decision struck down, or the subject of serious challenge on substance will seriously delay key energy projects.

Mr. Chairman, the simple solutions, because they operate outside the Constitution, are prescriptions for slow track, not fast track.

THE UDALL-CLAUSEN-WIRTH SUBSTITUTE

In drafting our substitute, Mr. Chairman, Chairman UDALL, Congressman CLAUSEN and I were motivated by a dual concern. First, we believe and based our work on the principle that proper participation by State and local governments in energy decisionmaking is essential to speeding energy decisions. Second, we were motivated by a serious concern that ignoring the legitimate division of rights and responsibilities in our Federal system was a prescription for further tangling of the decisionmaking process. We worked toward two basic goals:

First. The Energy Mobilization Board must have broad independent authority to speed Government energy decisions—constitutional authority it can exercise on its own, without Presidential and congressional involvement. To accomplish this, we have empowered the Board to set binding timetables for agencies at all levels of government, the power to order the direct streamlining of Federal agency proceedings without waivers of law or intervention in the substance of decisions; the power to consolidate Federal environmental impact statements to a single requirement; and the power to postpone for up to 5 years the imposition of new Federal, State, or local requirements which would prevent the timely completion or operation of a priority energy project.

Second, we have provided for tough, rapid enforcement of decision deadlines on recalcitrant agencies, and expedited court review when it is necessary. Clearly, the courts will play a role in the fast track process, whether that is a part of the Energy Mobilization Board or not. If we seek to empower the Board to step beyond the Constitution, the courts will become involved on constitutional grounds. The courts cannot be shut out: Our system was designed to make them an integral part of our governmental process.

Consequently, rather than risk tying energy projects up in lawsuits on complex constitutional issues, we have brought them into the process for decisions on some very simple issues. The Board may seek to enforce its deadlines through court orders—a simple enforcement matter which courts handle frequently today. There has been a broad misrepresentation of this enforcement process as an opportunity for extended litigation. I can only characterize that misreprentation as deceptive. In our legislation, we have placed national emergency priority on court enforcement of deadlines and instructed them to expedite consideration of the Board's enforcement requests.

We have further limited this process by placing a 120-day limit on court review. If the courts have not acted within 120 days of a deadline, or if an agency has violated a court enforcement order, the President is empowered to step in and make the final decision in place of the agency. This power, broadly used in the Commerce bill, is an invitation to constitutional challenges and should only be used in the most serious and rarest of cases. But the power exists to use it in such cases in the Udall-Clausen-Wirth substitute, and it guarantees speedy action on energy decisions.

Finally, instead of making State and local governments the targets of the Board's action, we have attempted to make them partners. The entire fast track process will break down if the Board is automatically made an enemy of State and local governments, as it is in the Commerce bill. There is no surer way to guarantee court challenges which will tie energy projects up in court than to run roughshod over the legitimate rights of State and local governments. If that happens, every opportunity for challenge will be exploited. Therefore, the substitute does not permit the override of existing or future State or local substantive law; only in the rarest of cases will the Federal Government seek to step into the shoes of a State or local agency, making its decisions in its place; and finally, in establishing deadlines, the Energy Mobilization Board is specifically instructed to seek mutual, written agreement among all agencies involved in decisions on an energy project and provide those agencies with assistance in meeting their timetables.

Mr. Chairman, the Udall-Clausen-Wirth substitute was drafted to meet the basic challenge we face in speeding energy decisionmaking: The challenge of moving institutions in a timely fashion while insuring their proper participation in the process—it creates for the Board real strength in setting and enforcing deadlines of Federal, State, and local agencies.

That strength is not an illusion hobbled by the Achilles' heel on constitutional court challenges. It is not the simple politically easy solution.

It is the most effective solution proposed in either House of Congress.

The CHAIRMAN pro tempore (Mr. HAMILTON). The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. Mr. Chairman, you know and our colleagues in the House know that we have a very serious energy problem in this country; and the pending legislation is proof enough that regulatory roadblocks to energy development are a major cause of our problem.

As a member of the Energy and Power Subcommittee, I constantly hear from my colleagues and our witnesses alike how Federal laws impede energy production in the United States. The committee hears this from both sides of the aisle—my colleague from Nevada, JIM SANTINI, got a bill amended in committee this spring so that oil drilling muds and brines would be dealt with more fairly, and how many times have we heard my senior colleague on the subcommittee, JIM COLLINS, outline such problems, and recently here on the floor during consideration of the Safe Drinking Water Act authorization?

BACKGROUND

Let us look at our overall energy situation—both where we are today and what has occurred over the past decade. We started off in 1970 importing just over eight quadrillion British Thermal units to meet our energy needs; this was up to 18 quads by last year. Taking our exports into account, our net energy trade has tripled—from 5 quads to almost 17. This can be blamed on several factors, and certainly our pricing policies and technological abilities and simply our energy reserves themselves can explain much of this. But, I think that realistically we must agree that national policies affecting energy production have played a role in this, and particularly our problems in managing the bureaucracies that carry out those policies slow our needed shift toward energy self-sufficiency.

In specific areas, our coal output in 1978 was just slightly higher than it was when the decade began. In fact, coal production has actually dropped from the 2 previous years. We have some excess capacity in that sector, but I think we should be alarmed and start asking questions about why coal—our key to the energy future in the United States—has not been fully exploited lately. Without being too simplistic, coal utilization is undoubtedly hobbled by our actions here in the Federal Government.

Natural gas supplies from American sources are also down. Output fell by almost 2.5 quads since the turn of the decade. Crude oil production slipped by 353 million barrels since 1970. It has been lower than present levels during the interim, but recent additional oil from the Alaskan North Slope has made up somewhat for declining production in the Lower 48 States.

In sum, our energy production began the decade with a 5.2-percent increase from the previous year. Since then, we have not boosted yearly output by more than 1.3 percent, and in 4 years production actually fell by up to 2 percent.

When we began this decade, we were importing about one-eighth of the energy needed to meet our demand. As of last year, our demand had risen some-

what but our imports of energy had risen to total one-fourth of the energy we consumed. How many times have we heard about the "thin line of tankers stretching halfway around the world"? Our import dependence is a danger that cannot be stressed enough.

I personally think we should do all we can to reduce this dependence. We must proceed on all fronts if we are to find the answer. We must find the reason why only one major oil refinery has been built within our borders since 1973, though demand for domestically refined petroleum rose 18 percent since then. We must determine the factors which led to the termination, cancellations, or abandonments of the widely disseminated list of 43 terminated major energy projects Mr. BROWN of Ohio shared with our committee. Project terminations often frustrate Federal energy policy and cause the unproductive expenditure of massive amounts of scarce expert time and funds.

So tenuous is our energy future that we have seen unofficial emissaries travel to the Middle East in attempts to attain the related goals of peace and more secure supplies of Mideast oil so that social and economic progress in the United States will not be foreclosed. We have increasingly observed the linkage of energy imports to our foreign policies.

The importance of energy security for our Nation in its pursuit of social goals has been underplayed, I feel. Some plausible scenarios forecast severe economic disruptions and stagnation last seen 50 years ago during the Great Depression—which began with Black Tuesday, October 29, 1929. The transport fuel shortages which occurred this past summer after Iranian oil exports to the United States abruptly fell caused havoc in truck, rail, and personal transportation sectors. Yet, this shortfall was quite mild in comparison to the great risk to which we are today exposed by our dependence on foreign energy supplies. Where there was violence on the Nation's highways, threatened and actual cessation of rail movements from the lack of diesel oil, great danger to the critical spring planting activities of our country's farmers and many similarly adverse effects during that actually mild supply interruption, I hesitate to imagine the consequences of a truly substantial import cessation.

THICKET OF FEDERAL ENERGY LAWS AND REDTAPE

The Department of Energy's annual report lists the various Federal laws and regulations which affect energy production within our borders. It lists 54 separate laws dealing with the environment, health and safety with which the Department is involved. Also, DOE has identified 23 Executive orders that either are Presidential initiatives or required by statutes that affect our energy situation. The Department's comprehensive environment, health and safety program has identified 10 sets of regulations that relate to energy in the area of water standards. For seven other categories of regulations, the specific rules are "to be identified when study is completed," which leads me to really wonder how complex a web we have woven if it takes an actual study just to identify the various regulations affecting energy. In two categories, the lead agencies have been identified. There are 28 different guidelines, standards and criteria that DOE has identified which involve energy issues, and three groups of these standards have not yet been fully researched.

So we can see that problems can easily arise when an energy project is confronted with such an extensive network of Federal laws and rules that affect our energy supplies, transportation, use and production. Our Energy and Power Subcommittee studied one recent instance wherein Federal practices hobbled an energy project of substantial significance—the Sohio west-to-east pipeline.

My colleagues in the House may remember early this year when Sohio withdraw from the pipeline project because of the 50 Federal permits and 700 State and local permits that were required. The delays caused by the redtape in this case resulted in a doubling of the projected cost of the project. The real cause of Sohio's problems were the State permits, since a provision in the National Energy Act allowed for expedited disposition of applications for Federal permits. Beginning in July 1975, Sohio attempted to meet Federal, State, and local regulations. In testimony before the Energy and Power Subcommittee, Sohio's chairman, Whitehouse, noted that—

> The problems were diverse, and yet always interrelated. Each aspect of the project required the involvement of a wide variety of Federal agencies and departments and every level of state and local government in California, Arizona, New Mexico and Texas. During this same period new Federal and state laws were adopted and a wide variety of new Federal and state regulations were put into effect.

It all added up to an overwhelming degree of futility in getting all the necessary government approvals.

COST OF EMB

Further evidence of the complexity of current conflicts between the dual goals of energy production/conservation and environmental protection is found in the Congressional Budget Office estimate of the costs to the Federal Government due to the creation of the proposed Energy Mobilization Board. Though the estimated outlays chart supplied by CBO as printed in the House Commerce Committee report reflects only the bill's provision for $2 million in funding in fiscal year 1980, a more extensive cost estimate is found in the CBO report for the Senate EMB legislation, S. 1308. In that calculation, which is founded on similar assumptions to those of the House Commerce version, CBO estimates that $13 million will be needed in fiscal year 1984 and that a total of $47 million will be required in additional Federal expenditures simply to expedite priority energy projects over the first 5-year period of the EMB's existence. Other additional expenditures are expected to be required of the non-Federal governments involved in the EMB's work.

This funding requirement, coupled with the CBO estimate of the need for 200 additional positions to carry out EMB responsibilities, clearly illustrates just how labyrinthine—even bewildering—our laws affecting energy development have become. Like Topsy, they seem to just grow and grow. Previously, I mentioned the 54 Federal laws found by DOE to be related to at-home energy development and conservation. Let us take a moment or two—perhaps, on second thought, this will take more than a moment—to ponder just an enumeration of the various laws for which the Congress is responsible:

WATER

Wild & Scenic Rivers Act.
Soil & Water Resources Conservation Act.
Federal Water Pollution Control Act amended by Clean Water Act.
Safe Drinking Water Act (as amended in 1977).
Rivers & Harbors Act (Refuse Act).
Water Resources Research Act.
Ports & Waterways Safety Act.
Marine Protection, Research & Sanctuaries Act (as amended in 1976).
Deepwater Port Act.
Water Resources Planning Act.
Fish & Wildlife Coordination Act.
Flood Disaster Protection Act.
Federal Power Act.
Non-Nuclear Energy Research & Development Act.
Toxic Substances Control Act.

HISTORIC/ARCHEOLOGIC

Antiquities Act.
Historic Sites and Buildings Act.
National Historic Preservation Act (as amended in 1976).
Archeological & Historic Preservation Act.
Archeologic & Historic Salvage Act.

HEALTH AND SAFETY

Clean Air Act (as amended in 1977).
Occupational Safety & Health Act.

CONSERVATION

Energy Policy and Conservation Act.
Energy Conservation and Production Act.
Wild & Scenic Rivers Act.
Soil & Water Resources Conservation Act.
Land & Water Conservation Fund Act.

SOCIOECONOMIC

Clean Air Act (as amended in 1977).
Uniform Relocation Assistance & Real Properties Acquisition Policies Act.

BIOTA

Fish & Wildlife Coordination Act.
Marine Mammal Protection Act.
Endangered Species Act.
Federal Environmental Pesticide Control Act (as amended in 1975).

AIR

Clean Air Act (as amended in 1977).
National Emission Standards Act.
Noise Pollution & Abatement Act.
Energy Supply & Environmental Coordination Act.

TRANSPORTATION

Trans-Alaska Pipeline Act of.
Deepwater Port Act of.

NOISE

Noise Control Act of (as amended in 1976).
Act to Require Aircraft Noise Abatement Regulation.
Clean Air Act (as amended in 1977).
Noise Pollution & Abatement Act.

LAND USE

Resource Conservation and Recovery Act of.
Surface Mining Control & Reclamation Act of.
Coastal Zone Management Act of.
Solid Waste Disposal Act.
Federal Land Policy & Management Act.
National Forest Management Act.
Mineral Leasing Act.

COORDINATION

Intergovernmental Cooperation Act.
Clean Air Act Amendments.
Coastal Zone Management Act.
Circular A-95.
Advisory Council on Historic Preservation.
Fish & Wildlife Coordination Act.
Energy Supply & Environmental Coordination Act (as amended in 1975).

NEP II

Clearly, with such a myriad of laws, we are bound to have problems. Let us now look at what the second biennial national energy plan as submitted to Congress by President Carter has to say about our situation.

This plan was sent to the Hill in the spring of this year. Like so many other required reports, it is often overlooked in the fray of legislative action. In a separate chapter entitled, "Making Decisions Promptly and Fairly," the plan's authors mention the types of delays that "can lead to unintended policy outcomes and undesirable energy uses." For instance the plan notes:

> Coal is a critical transition fuel, but today a new coal-fired powerplant in one state requires nearly 30 permits. The costs of nuclear power have spiralled in part due to regulatory delays that have no relation to the proper consideration of safety or environmental issues. The permitting problems for coal, nuclear and other energy supplies are likely to worsen as the more benign sites for new energy facilities are taken.

COMMERCE COMMITTEE VIEWS

Mention of problems in expediting priority energy projects is found also in the additional views appended by several of my minority colleagues on the Commerce Committee. In the introduction to these views, my associates note that "virtually every major energy project proposed over the past 10 years has been subject to unnecessary delay brought about by bureaucratic foot-dragging, changing legislative and regulatory requirements, and seemingly endless litigation."

With respect to the particular problem of judicial delays, they point out that "protracted litigation, or the threat of litigation, has become a major weapon to those who believe in a 'no growth' economy." The record of the past decade bears out this conclusion.

A BETTER APPROACH

Mr. Chairman, what we really need to do is comprehensively review the various laws that are perceived to be impeding the planning and implementation of energy projects in this country. We need this review now in the context of the total economic, energy, and environmental situation in which we find ourselves. The objectives of the Clean Air Act, the Clean Water Act, and other such laws are objectives with which we can all agree. But the objectives of clean air and water, for instance, must be viewed in the context of the total current economic, energy, and environmental situation.

In an October 10 statement, a former Deputy Administrator of the Environmental Protection Agency, John Quarles, stated succinctly:

> . . . current regulatory requirements do present a major challenge to the siting and construction of energy projects and can cause delays or obstacles impeding expansion of national energy supply. The EMB proposals, however, threaten to create misleading expectations as to the manner and timing by which these problems can be resolved. It is extremely doubtful that an EMB, as proposed by the pending bills, can cut an easy pathway through the present regulatory thicket. The real need is to begin a thoughtful and detailed review of the regulatory framework in order to make necessary modifications in it.

Without this kind of comprehensive review of the various environmental laws and regulations, we in the Congress are simply avoiding reality and ducking the real issue.

We have it in our power to review those laws here in the Congress. One of the House committees from which the EMB bill emerged, Interstate and Foreign Commerce, has within its jurisdiction a good number of the various laws which are often cited as impeding energy projects. There is no reason why we should not demand that the appropriate congressional committees, in cooperation with the appropriate executive agencies and the public, review these laws and make recommendations to Congress for reform. That review itself should be "fast tracked," as should final congressional action and executive implementation regarding those recommendations.

I have been in contact with the Administrative Conference of the United States, and in a September 19 letter to me, senior staff attorney Jeffrey S. Lubbers suggests some steps in the direction of improving upon the regulatory maze in which we find ourselves. First, the Conference has recommended utilization of self-imposed time limits on agency action. Second, the Conference has recommended techniques for reducing the levels of agency review of initial decisions by agency administrative law judges. Third, Lubbers notes that the regulatory reform legislation of Senator RIBICOFF and the administration includes amendments to the Administrative Procedures Act designed to shift agency economic regulatory considerations from the sphere of adjudication to the speedier and more inclusive sphere of rulemaking. Fourth, in the area of judicial review of major energy-related decisions, another possibility suggested by Lubbers is the enactment of a statute giving precedence on the appeals courts' dockets to such cases.

Finally, Lubbers states that—

> While these initiatives should serve to take some of the slack out of the system and make for incremental reduction in the time needed to conclude agency action.

He also recognizes that—

> There are no obvious shortcuts: hard regulatory choices engender partisanship by affected interests, require extraordinary justification by the responsible agency and almost always result in court challenges.

Another approach which might be useful is the approach embodied in the Endangered Species Act, as amended. The Endangered Species Act, in one form or another, has been law for 10 years and is almost always listed as one of those laws which impede energy projects. Last year, however, the law was amended in a way which might be applicable to other laws. The 1978 amendments established a procedure through which Federal agencies can receive exemptions from the requirements of the act from a seven-member committee. The committee consists of six Federal officials, plus an individual from the affected State appointed by the President.

Thus far, that Endangered Species Committee has considered three applications for exemptions. It granted an exemption relating to the Grayrocks Reservoir in Wyoming, denied an exemption relating to the Tellico Dam and Reservoir which was overturned by the Congress, and is now considering an application relating to a proposed oil refinery in Eastport, Maine. The point is that the exemption process providing this safety valve mechanism seems to be working in the case of the Endangered Species Act, and, it seems to me, ought to be considered in terms of other existing laws. Obviously, it is workable, and it is meeting with the support of the Congress, judging by the passage of improvements to the act by a voice vote recently in the House of Representatives.

Another interesting case which could have further applicability is that of the National Commission on Air Quality, established by the 1977 amendments to the Clean Air Act. That law established the NACQ for 3 years and directed it to evaluate the act and recommend to the Congress alternative strategies aimed at cleaning the air and keeping it clean. Apparently, the administration did not take the Commission seriously, because it was almost a year before the President named the 13 Commissioners. A Director was not named until the fall of 1978, and the first public hearing did not occur until January 1979.

Two points are relevant here. First, the Congress had the foresight to establish this Commission and provided the administration with the opportunity to move ahead in evaluating the Clean Air Act but, rather than expeditiously naming the Commissioners, the White House chose to delay their appointment for almost a year. Now, the same administration that delayed implementation of a real opportunity for serious review of one of the laws perceived to hinder energy projects is asking the Congress to create yet another bureaucracy in the form of an EMB to supervise the implementation of the Clean Air Act as well as other environmental laws. One can only hope that the President will not delay naming the EMB members as long as he did in the case of the NACQ.

Secondly, it is instructive to note that this independent Commission took 6 months to get itself organized enough to have its first public hearing. This 6 months followed the initial 1-year period it took for the President to name the Commissioners. The Commission is already saying that it needs a 1-year extension beyond its current August 7, 1980, expiration. The point is that this small staff of 45, independent, congressionally established Commission was not really in full operation until a year and a half after it was authorized. It takes time to establish a new agency, especially when it is independent of established departments and hence has no clout. Regardless of how well intentioned, an in-

dependent EMB would be facing the same organizational difficulties.

Mr. Chairman, I recognize and deplore the excessive regulatory delay in the governmental decisionmaking process. As I have pointed out already in some detail, we must improve this process in order to make it more responsive to the common good for every American. We must assure ourselves that it works to resolve the natural conflicts involved to satisfy the public interest, not the special interests. Otherwise, we face further dependence on foreign oil, which puts the United States in an increasingly vulnerable position from both the standpoint of our economy and our national defense.

Therefore, it is urgent and imperative that this Congress take a multifaceted course of action to solve the energy crisis facing us. However, the pending Energy Mobilization Board is not even part of the solution; and there are several reasons why I oppose this legislation.

As the Washington Post pointed out Monday, October 29, 1979, in discussing both the Commerce Committee and Interior Committee proposals:

> The combatants seem to have overlooked the basic point that this kind of legislation is wrong in principle.

This argument on the principle of the matter is my basic objection to both bills. If the problem is that our Government is not working well because of excessive redtape, and good government goals such as clean air and more energy, which come into conflict with one another in our government agencies or in our courts, then let us roll up our sleeves and get down to the important and necessary business of reforming and working out these problems in a reasonable, coherent, and orderly fashion. That, in my judgment, is the only way to solve this problem, which brings me to my second objection to these bills.

The bills before us will not work. They will not break the Government logjam on energy projects. The will not get this country moving again in solving our energy problems. The reason is, they will not reach the root causes of the Government roadblocks which stymie key energy projects, such as production facilities, refineries, transmission lines, and the like, whether for conventional or unconventional projects. The root cause of these roadblocks is a body of law developed primarily in this decade by Congress. Unless we face up to this and take steps which make these laws work in the best interests of all Americans, no amount of rhetoric or power vested in a few agencies like the proposed EMB can make them responsive, unless we make some basic changes in the U.S. Constitution and our form of government itself.

Thus, I oppose this EMB legislation because it will not work, it will not back out foreign oil, it will not produce more energy in the United States, and worse yet, it distracts the Congress and the American people from doing something to break the regulatory logjam on energy projects. We are deluding ourselves if we think this legislation will solve our problems.

It is not the first time we have passed more laws and created more Government agencies thinking we are doing something to help the people of this country. Yet we have survived those mistakes. But this time it is different. This time it is tragic. This time it is downrght dangerous. This time it is more than just a waste of time, effort, and people's hard-earned tax dollars. This time, in our delusion, we are failing to deal with the real problems, and as a result, we will become more dependent on OPEC oil every day.

This is the tragedy; it is not just the waste that concerns me. What disturbs me is the neglect, the failure to address our real regulatory problems with real solutions when time is running out and our energy supplies are getting shorter every day.

This EMB proposal is not only wrong in principle, Mr. Chairman, it violates the constitutional and Federal system of government we have enjoyed for so many years. The unprecedented powers sought by the President and the proponents of this legislation are opposed by all of the public interest associations of Governors, legislators, mayors, and county officials who have testified before our committees. They do not want an Energy Big Brother like the EMB overriding State, county, local, or even Federal laws, and neither did our Founding Fathers.

Moreover, even if these extraordinary powers to waive substantive and procedural laws are granted, the EMB will not make a dent in the body of law which confronts energy growth programs in our private sector. I will grant that if the proponents get the substantive waiver powers they want, there may be some temporary successes at a few points along the battle line, but even these proposals give unhappy applicants and unhappy litigants measures for recovery. And you can be sure, Mr. Chairman, they will use every procedural and legal step allowed to protect their interests—no matter how long it takes, and no matter to which court the case must eventually go.

□ 1030

Mr. CLAUSEN. Mr. Chairman, I yield 8 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I rise in support of the substitute version of the Priority Energy Project Act embodied in the text of H.R. 5660—the bill commonly referred to as the Udall-Clausen-Wirth bill. This bill, of which I am a cosponsor, represents the combined efforts of a number of individuals on both the Interior and Interstate Commerce Committees to devise a "fast-track" mechanism that will clear away obstacles to the construction of vital energy projects without trampling Federal, State, and local laws which have been authored with legitimate public purposes in mind.

All of us participating in today's debate recognize the paramount importance of developing domestic sources of energy in order to reduce this Nation's risky dependence on foreign oil. One of the major impediments to energy development has been the tremendous delays that occur as various projects work their way through a bureaucratic maze of paperwork and administrative detail to receive clearances from Federal, State, and local authorities.

Many of the public laws, now found in our statutes, which affect energy development were designed with every good intention in mind. They provide for local and State input into the decisionmaking process. They protect our environment. They establish the safety standards to protect the public's interest.

The problem, however, is that the process for meeting all of these requirements has become so cumbersome and time-consuming that energy projects remain paper projects for many years before they reach the point of construction. Often, the projects never reach fruition, as simple frustration or inflated costs force sponsors to cancel their plans. A classic example was the Sohio interstate pipeline proposal which would have efficiently brought Alaska crude oil to the excess refinery capacity located in Texas. The agencies and government of the State of California by its actions and especially its inaction acted as though California was not a part of the Nation—not interested in expeditiously and reasonably acting to ease our energy problems.

We can no longer afford such excessive delays. It is from this premise that the concept of "fast-track" was born. The Interior Committee on which I serve and the Commerce Committee have been working for many weeks now in preparing the legislative proposals now before the House.

Both will create a five-member Energy Mobilization Board charged with the responsibility of designating energy projects for "fast track" treatment and then shepherding those projects through the Federal, State and local regulatory maze.

In creating such a Board, there is no doubt that we will be placing significant authority into its hands. In so doing, we must guard against the possibility, as described in a recent Christian Science Monitor editorial, that it will "turn into a Frankenstein's monster laying waste the Constitution in a manner the good doctor never intended."

I believe the compromise embodied in H.R. 5660 strikes the acceptable balance to achieve the goal of removing procedural roadblocks to energy development without dismantling Federal, State or local laws. We are asking Members of the House to make a thoughtful, deliberative choice. Our bill offers the possibility of a cure to the delays and frustrations which have characterized energy development. At the same time, our proposal attempts to insure that the cure we recommend does not become "the monster the doctor never intended."

The key provisions of H.R. 5660 are as follows:

It would establish a five-member Energy Mobilization Board empowered to designate up to 75 priority projects with not more than 20 designated in any one year.

It gives authority to the Board to set binding time schedules for Federal, State, and local agencies but only after consultation and cooperation with the States.

It does not allow for waivers of substantive Federal, State, or local laws except for a certain limited body of laws enacted after commencement of construction of the project in which case the Board may suspend the law temporarily.

It establishes an expedited and limited judicial review similar to the judicial review process granted under the Alaska Natural Gas Pipeline Act.

It preserves State water rights.

It allows the President to make a decision applying existing law when an agency has failed to do so in the required time set by the project decision schedule, but only after time has been given for recourse to the courts.

By voting for our proposal, Members will be supporting the need to act quickly and wisely. You will be voting to give State and local governments an equitable opportunity to have their views considered and their laws upheld.

In the interests of compromise, both sides of this debate have attempted to bring their bills closer together. However, there remain several very crucial differences between the Udall-Clausen-Wirth substitute and the Commerce Committee's modified bill. These relate to (1) the waiver of Federal law and (2) the enforcement mechanism for deadlines for governmental permitting and licensing decisions. Also, there is an important distinction with respect to the protection of State water rights. In each instance, the Udall-Clausen-Wirth substitute offers Members the more responsible alternative.

Now, because my colleagues have been and will be addressing the first two points, I would like to begin by focusing on the question of State water rights—undoubtedly one of the most important areas of concern to Representatives from the Great Plains and Western States. The language contained in the Udall-Clausen-Wirth substitute clarifies that the water necessary for the development of energy projects will be acquired and used in conformity with existing State water allocation systems. The water language in the substitute does four things:

Insures that nothing in the act will be construed as granting the United States or its agents a new right to use water;

Insures that appropriations of water for a priority energy project or any energy project be made pursuant to State law;

Insures that nothing in the act will alter any provision of State water law; and

Insures that if a State exercises conditions on water permits, that exercise will not be prohibited as being a burden on interstate commerce.

There is widespread and legitimate concern in the Great Plains and Western States that the additional development of energy projects will impose a severe burden on already tightly stretched water supplies. As a Representative from a prime agricultural-producing State, I cannot understate the depth of concern my constituents have as they stand by and watch Congress attempt to enact an energy program.

The system of water law that has developed in our region is based on the appropriation doctine which protects those who use water by recognising the proprietary right of those who first divert water and put it to a beneficial use. It is a comprehensive system, and regardless of the amount of water that is available in any given year, all water users are certain of their rights to water in relationship to all other water users on a stream. This system of water allocation is not a roadblock to new users who may either acquire rights to unappropriated water should it be available or purchase and transfer rights from existing water users. But, all users will be protected, for they will either have their water or be compensated for loss of it.

The new push for massive energy development, of which this bill is a part, along with recent Federal claims that run contrary to the long recognized authority of States to allocate water supplies, has resulted in the concern that I address.

Our region is willing to make its contribution in the push for domestic energy development—but it wants assurances that our system of water law which has developed over the years and works reasonably well will not be trampled over by the Federal Government. It is important, therefore, to clarify that whoever develops energy in this country, the water necessary for that development will be acquired and used in conformity with existing State water allocation systems. The language contained in the Udall-Clausen-Wirth substitute provides that clarification. It makes clear that only through State systems will all rights be recognized and protected.

I know that those supporting the Commerce version of the legislation believe that their language to protect State water rights is adequate. I would point Members specifically to page 34, section 216(d) of the Udall-Clausen-Wirth substitute which, in my judgment, contains the important distinction making our language the preferred approach.

Because water that might be used or diverted as a result of construction of an energy project may cross State lines, this section of our bill makes clear that any State law or action inhibiting the water flow will not be considered a burden on interstate commerce. Therefore, the courts could not overturn State water laws in favor of Federal action on the basis of the interstate commerce clause of the U.S. Constitution.

Just as there are instances when Federal law must justifiably preempt State law, there are also times when State law must supersede Federal action. I can think of no more critical area than water law for this to be the case. This language is precedent setting with respect to water law but it is essential.

□ 1040

Mr. Chairman, I would like to spend the next minute and a half speaking extemporaneously about the crucial differences between the two basic proposals.

We heard some rhetoric yesterday about the Udall-Clausen-Wirth bill being the "slow-track" or the "side-track" approach. First, when it comes we are talking about what was originally proposed. Therefore, I have to address my comments to the original Commerce bill and not to something theoretical, such as the Santini-Lujan amendment, because it is at this point theoretical.

I would have to characterize the Commerce bill in the light of the discussion that went on yesterday as a "ride-over-'em-roughshod" bill. That is right, it is a "ride-over-'em-roughshod" bill; that is exactly when it is without the Santini-Lujan amendment.

Mr. Chairman, I hope that the Santini-Lujan amendment is enacted. We cannot in this country justifiably say to one region of the Nation, "We are going to draw a line around you, and we are going to say to you that the old protections and the actions of your local and State elected officials as expressed in law and regulations can be trampled upon." That is not acceptable. It is not acceptable.

We have heard a few comments in the hours that have intervened between yesterday and today about adding subsection 216(d) of the Udall-Clausen-Wirth bill to the Commerce bill, and I would like to have the Members think about that possibility—a necessity. The Members will find that approach referred to as the Cheney amendment. That action is essential. Rather than looking at the bargaining that may be undertaken to place the Cheney amendment on the Commerce bill, I intend to make the case—and I think others will do the same—that language duplicating subsection 216(d) is essential to the passage of any bill.

Perhaps my rhetoric was a little bit overwrought when I referred to the other bill as the "ride-over-'em-roughshod" bill, but that is precisely what I intended. The language is overwrought, but I think that is in fact the type of exaggeration we saw yesterday in this debate.

We are both, the Members on the two sides, trying to arrive at some sort of reasonable approach, and I ask the Members, particularly those who support the Commerce bill today, to examine the Santini-Lujan amendment and to realize quite clearly that it does not address the problem with the Interstate Commerce clause of the Constitution of the United States. In fact, it does not address that problem.

The best approach embodying the protections that we need in the water law and in a variety of other areas is an approach that does not trample the protections afforded by the Constitution to our federal system—a system that has already received many blows by this Congress and by the executive branch of the U.S. Government. The Commerce Committee bill, if not amended, will be an extreme blow to Federal-State relations and to the federal system of government itself.

Mr. Chairman, our best protection, a balanced, reasonable approach, is found in the bill that we have come to call the Udall-Clausen-Wirth bill. I ask for the

Members' support of this substitute in the course of debate today.

The balance of my statement, Mr. Chairman, will focus on the other two critical differences between our proposal and that offered by the Commerce Committee.

Under the Udall-Clausen-Wirth substitute, Federal, State and local agencies would be given specific authority to take a number of procedural shortcuts to expedite the decisionmaking process. The Board on its own authority could require Federal agencies to take such actions as consolidating proceedings, eliminating unnecessary paperwork duplication and eliminating layers of review. State and local agencies could be ordered by a court to employ similar procedures if the Board felt that they would or are likely to miss deadlines established in the project decision schedule.

Our proposal does not permit any substantive waiver of Federal, State, or local law, except in the case of a grandfather clause whereby the Board would be given special authority to delay implementation of a new Federal, State, or local requirement that might delay completion of a project already cleared for construction.

To accomplish the goal of expedited energy development, it is necessary to create an Energy Mobilization Board with a fairly broad grant of authority if it is truly to have any "teeth to it." But, such a grant of power cannot be so sweeping as to trample over the rights of State and local governments which are closest to the people and responsive to their legitimate concerns and interests. There are differences among regions of this country and between individual States that cannot be ignored by politicians or bureaucrats in Washington. What will work in one section of the country may be dead wrong for another. Our bill not only recognizes that fact, it guards against such unwarranted intrusion by a federally created board. Our bill is supported by the major State and local government groups.

The other major area where the two proposals differ is the section dealing with enforcement. Our bill has a two-step enforcement mechanism. If an agency does not meet or is reasonably unlikely to meet deadlines established in the project decision schedule, the Board is required first to seek a court order. The court may in turn order an agency to use streamlined procedures, add more staff or take other actions to enable it to comply with the deadline. Courts are instructed to expedite enforcement actions in every way. Only in those rare instances where an agency chooses to violate a court order or the court fails to act quickly, will the decision be "bucked" to the President.

Our proposed enforcement mechanism is a realistic and flexible weapon. Unlike the modified Commerce proposal, it will not bog the Board down in making decisions about western water law, local zoning ordinances, State health statutes, and a whole range of other laws.

During the course of this debate and the amendment process, there will be efforts to bring the two competing proposals closer together. As Members follow the debate, I believe they will come to recognize that the provisions of the Udall-Clausen-Wirth substitute represent a realistic and equitable approach to creating an effective process for expediting consideration of priority energy projects—a process that will protect State and local governments and the environmental, health, and safety concerns that prompted legislative activity at all levels of government.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to my distinguished friend, the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I appreciate the gentleman's yielding this time to me.

Mr. Chairman, certainly all the Members of this body would agree that the legislative examination that we will be conducting today on so-called fast-track legislation is one of the most meaningful exercises that this House of Representatives will be pursuing with regard to energy production in the United States of America this year.

I wish that this kind of legislative consideration were not of necessity. I wish that in the legislative environment, in the committee and on this House floor, we had taken the time over the years to keep track of and to trace the practical applications of the legislative products of this body.

There are approximately 35 permits which must be obtained as a result of Federal legislation before we can open a coal mine. There are numerous permits before one can begin the construction of oil refinery. Perhaps that is the reason that in recent years 18 oil refineries have not been constructed in the United States of America. Those refineries would have represented, in terms of vital energy production, 3.3 million barrels a day to this Nation. We do not have them.

I think most Members would concur that in the ideal environment the best way to deal with regulations and perhaps modify legislative mistakes that we have made is to deal with them individually. But in the meantime, in the real legislative world, I believe that we are compelled to consider the legislative deliberation that we are looking at today as the one immediate, meaningful legislative course of action we can pursue.

When the House goes into its 5-minute rule, the gentleman from New Mexico (Mr. LUJAN) and I intend to offer an amendment to the bill that was reported from the Committee on Interstate and Foreign Commerce. I believe that this amendment addresses itself to a serious deficiency in that bill.

Under the Commerce Committee bill, Federal, State, and local laws could be waived by the President if the Board so recommends and the Congress does not object. We move to improve that bill in two specific areas. First, our amendment will remove the Board's power to recommend waivers of existing State and local laws.

Second, our amendment will increase the role played by Congress in approving the Federal waiver process by compelling affirmative consideration by both the House and the Senate of the United States. Under our amendment, rather than having a one-House veto provision, both Houses of Congress must concur.

In effect, this represents the passing of new legislation. Because a waiver cannot be made unless it is approved by the Board and by the President and then voted affirmatively by both the House and the Senate, this kind of legislative action is not a course that we will be frequently pursuing. But I believe that we must have some realistic mechanism in place to deal with the problem, given the emergency proportions of the energy issue.

Mr. Chairman, I will ask my fellow members of the committee, is that not the bottom line?

We will hear much debate in the course of the morning and afternoon about elements of difference between the proposal of the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL), and the proposal of the distinguished chairman of the Subcommittee on Energy and Power, the gentleman from Michigan (Mr. DINGELL), as, hopefully, amended by Santini-Lujan. But what we are looking at is the bottom line and the question of whether the Members of this body agree that given the enormous magnitude of the energy problem in this country, we must have rapid decisionmaking.

The CHAIRMAN pro tempore. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

Mr. DINGELL. Mr. Chairman, I yield 2 additional minutes to my distinguished friend, the gentleman from Nevada (Mr. SANTINI).

Mr. Chairman, I will ask my friend, the gentleman from Nevada, if he will yield to me briefly at this time.

Mr. SANTINI. I am happy to yield to the subcommittee chairman.

Mr. DINGELL. Mr. Chairman, the gentleman from Nevada (Mr. SANTINI) and his colleague, the gentleman from New Mexico (Mr. LUJAN), have worked long and hard on this amendment, and I think that their labors have been extremely fruitful. They have come forward with an amendment which, I believe, helps the bill and which lays to rest controversies which have been stirred up by persons who have been opposed to the bill, some of whom are well-meaning and some of whom are otherwise.

Mr. Chairman, I want to commend the gentleman for the leadership he has displayed, and I wish to indicate to him that his amendment is fully acceptable. I intend to support the amendment when it is offered.

Mr. SANTINI. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL), and I am encouraged by his support.

Mr. Chairman, addressing the bottom line, balancing the decisions that we will be called upon as Members of this body

to make here today, I pose this question to the Members, and I would invite at least their intellectual, if not verbal, response: Do we believe that there are any circumstances confronting this Nation that could compel rapid decisionmaking about energy production in our Nation?

□ 1050

We have dismal examples of failure in the past. I think that that precedent suggests realistically that we better be prepared with a specific legislative vehicle in place to respond in a very short time to a very serious energy crisis confrontation.

Our bill permits, under the extraordinary circumstances of a board and a President and two votes by the Congress of the United States, a waiver of a Federal substantive law that may well be the barrier to expeditious legislative or other action or consideration. The alternative legislative proposal does not permit immediate action when faced with a crisis.

The CHAIRMAN pro tempore. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

Mr. DINGELL. Mr. Chairman, I yield 2 additional minutes to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I would suggest earnestly to my fellow members of the committee another bottom line consideration.

Time is supposed to be the essential ingredient that we are examining in terms of the respective merits of these two major legislative proposals. Because of the fact that the Udall proposal failed, failed, failed the time test, the administration has come forward in support of the combined legislative efforts of the gentleman from Michigan, the gentleman from New Mexico, the gentleman from Ohio, and myself.

The administration has provided to the Members of this House the facts and figures that, in minimum, the Udall bill would require 1 year, 1 month more than the Dingell-Brown-Santini-Lujan proposal, and at maximum could take 5 years, 5 months more to get action or decision.

If we as Members of this House of Representatives are dealing in meaningful, relevant, tangible terms of trying to get a procedure for expeditious consideration of energy-related questions, it seems to me that at the very least the administration is exactly right, that the Dingell-Brown and Santini-Lujan proposals are the legislative vehicles that will succeed in getting decisionmaking implemented when national interest so dictates.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Illinois.

Mr. CORCORAN. I thank the gentleman for yielding.

Mr. Chairman, there has been a lot of discussion about the so-called Sohio project. I am just wondering, in view of the apparent adoption of the gentleman's amendment by the sponsors of the Commerce Committee bill, how we would speed up projects like the Sohio project?

The CHAIRMAN pro tempore. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

Mr. DINGELL. Mr. Chairman, I yield myself 1 minute. I will use that time first to respond to the gentleman from Illinois, and then I will yield additional time to the gentleman from Nevada.

Mr. Chairman, the answer is that we are going to expedite all of the Federal process. In good time, I am well satisfied it will be quite plain that we will have to take some steps to deal with delays, frivolous delays of the kind that occurred out in the State of California.

I would point out to the Members that the Board, under the Santini amendment, is compelled to report to the Congress on the causes of delays.

Mr. Chairman, I now yield 1 additional minute to my friend, the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I could not have said it better myself.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, will the gentleman tell me whether or not the administration is asking for substantive waivers? The gentleman's amendment preserves the substantive waiver but provides a different method of authorizing it. Would the gentleman tell me whether the administration is seeking a substantive waiver at all?

Mr. SANTINI. Mr. Chairman, I will respond by saying that I cannot speak in a representative capacity about the position of the administration. It is my understanding that they are not supporting substantive waiver per se but, in balance, because of the time considerations, they believe that the Dingell-Brown-Santini-Lujan vehicle is the best way to proceed.

Mr. ECKHARDT. I have heard the opposite position expressed by Secretary Duncan, that the administration felt that substantive waivers were not necessary.

Mr. SANTINI. I thought I said that. But if it confirms the gentleman's information, all right.

Mr. ECKHARDT. The administration does not feel substantive waivers are necessary.

Mr. LENT. Mr. Chairman, may I inquire how much time the gentleman from North Carolina (Mr. BROYHILL) has remaining?

The CHAIRMAN pro tempore. The Chair will advise the gentleman from New York that the gentleman from North Carolina (Mr. BROYHILL) has 7 minutes remaining.

Mr. LENT. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, few of our colleagues in this Chamber question the need for an energy prioritization program for development of critical energy projects which will bring us closer to that elusive goal of energy independence. What we debate today is the approach to take on the road to that goal.

I support fast track legislation because of the urgent necessity to break the iron grip of the OPEC oil cartel, and I endorse the Commerce Committee bill because I regard it as the most balanced priority program when coupled with adequate safeguards against abuse—especially with the addition of the proposed Santini-Lujan amendment which will be accepted.

To me, the committee bill, with the Santini-Lujan amendment, represents the best compromise available among the competing legislative avenues available to us. It adequately protects the interests of environmentalists and State and local officials alike.

The Commerce Committee bill already contains prohibitions against waivers of Federal, State, and local laws in such areas as water regulation, primary ambient air quality standards, and criminal and antitrust laws.

The Santini-Lujan amendment addresses a concern that many of us have had ever since the Commerce Committee reported out its bill—the question of substantive waivers of State and local laws. The amendment simply prohibits State and local law waivers except those enacted after the project decision schedule is established. And it adds the requirement of a two-House congressional approval of any attempt to waive Federal law.

I urge my colleagues to support the moderate, workable, compromise approach to priority energy programing that is represented by the Commerce Committee bill with the Santini-Lujan amendment. It avoids the threat of time consuming litigation; it offers the most reasoned approach to expediting major domestic energy projects; and it presents our best hope to unshackle this Nation from its dependence on foreign oil.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Ohio.

● Mr. ASHBROOK. Mr. Chairman, I am very troubled by this bill that we have before us. I have heard my colleagues discuss energy issues this entire Congress, but very rarely do I hear them talk about the basic problem before us. That problem is the Congress itself. We can make the case for fast tracking in almost every policy area in the Federal Government. Redtape pervades every sector of Government action. Housing, transportation, social services, and military procurement are all hampered and delayed by multiple levels of decisionmaking and the mountains of reports that must be filed. We could spend an entire Congress just establishing boards to send priority projects in various areas on end runs around the bureaucracy.

Would fast tracking of various programs be useful? I do not think so. The real fault lies in Congress inability to

look at the larger picture and to assess the impact of diverse demands being lumped onto the same programs. Energy development not only has to stand the test of cost effectiveness and usefulness, it must pass the inspection of environmental safeguards, economic concerns, and maybe labor or social concerns like equal opportunity and wage rates. Each one of these requirements were passed by this Chamber because a majority felt these individual concerns needed to be addressed within the Federal Government. It is difficult to project the impact each of these initiatives would have on energy or what they would do when they all collided on some energy project. However, we are now seeing what we have wrought. It is not easy to have to face up to the fact that the Congress in its haste to address diverse concerns over the years has made a shambles of America's energy resources just because it was not a high priority at the time. Who is to say that some other major need may develop similar paralysis in the future because of the actions of this body?

The real need today is not to create some quick fix to take the voters wrath off of the Congress, but to reform the way things are done so that we do not paint ourselves into some future corner. Part of this process is to have the Congress more accountable to the people. Backroom deals and cosmetic votes may allow legislation to get passed and Members to get reelected, but that should not be why we are here. The standards for success of a Congress should be what we have done for the Nation, not how many bills were passed or how many votes were taken. A sage once said he did not speak unless he could improve the silence. A Congress should not act unless its action could improve the Nation. Many times no action is the best course to follow. It is unfortunate that many here believe that inaction always means nothing is being done.

My first concern with this bill is that it does not address this larger issue of policy development in Congress. It is a bandaid on a cancerous growth. It might help for a short time, but it does not kill-off the disease that will eventually devour the body politic. Better planning by this House and a new dedication to facing the tough tradeoffs that diverse demands bring about are the only ways the Government and the Congress will develop long-term solutions. I will be offering an amendment that will take a small step in this direction later on.

Turning to the specifics of the bill I have a number of problems. There are no safeguards in the bill or its substitutes to prevent the Board from becoming just another arm of the Carter reelection effort. The ability of a Board loaded with Presidential appointees to dole out fast tracked energy projects is a formidable tool for an incumbent President facing stiff opposition within his own party and from the Republican Party. What is there to prevent the first priority projects from being located in New Hampshire, Florida, and Wisconsin? What is there to prevent the timing of such anointing of these programs from falling 2 to 3 days before the primary election day? We should ponder these scenarios before we sign off on this Board.

Where will this Board be located? The bill and its substitutes are silent about the Board's location. The President wants the board within the Executive Office of the President. This opens the door for even more abuse of the expansive powers of the Board. One amendment will be offered to locate this entity in the Department of Energy. We should think long and hard about where the Board is placed. DOE is certainly better than under Jimmy, but are the pressures of incumbency going to filter into the Board's actions there as well? This President has not been hesitant to use the tools of his Office to stack the politic deck. We saw what happened in Florida, just a few weeks ago, regarding a nonbinding straw poll. How will this Board function once the stakes are higher?

Political influence is not my only concern with this bill. The matter of the Board's role in handling State governments is very troubling. We live under a Federal system which places the States as separate autonomous governments when dealing with functions within their borders. To say that the Federal Government can designate certain projects as above the law of that State is to build a major new beachhead for Federal authority within the State capitals. Energy development is certainly a pressing issue in this Nation, but the risks of eroding our basic system of government should be weighed in the balance.

Bureaucracy itself is a major problem in this bill. A television commercial has been trumpeting that more is less, but I fail to see this ever happen in Government. I have been in this town since 1961 and I cannot remember any time when more bureaucracy has created less. Every consolidation has led to more expenditure and more personnel. Every reorganization has usually cost more money than it ever saved. Even the Commission on Federal Paperwork created more paper and even some forms of its own. It is simply force of habit in this town for Government to create more of itself. I really wonder how a new bureaucratic entity like this Mobilization Board will be able to reverse this long established tradition. Is the future of energy in this country able to afford such an experiment?

I hope that the amendments that we will debate and consider in the next day or so will be able to clarify these concerns. It would be a disaster of major proportions if this Chamber passes a bill that does nothing more than pass the buck. The Congress should have the courage to face up to its responsibilities and pass laws that will assure energy resources in the United States by seeking long-range solutions, and by reforming the policymaking role this Chamber has established for itself.●

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Chairman, I doubt that I can say all that I want to say in 3 minutes. Perhaps if the chairman has a few more minutes he would be kind enough to give them to me.

I think it is important that someone should stand on the House floor and argue the position that we do not need any of this fast track legislation at all. I am painfully aware of the political reality around here. It seems as though we have a political stampede. Anything with the title of energy or the defense of the country gets all of the maximum effort that this House can muster. I think what we are doing here is terribly premature, and I would like to be, even if it is a lonely voice, a voice that says that what we are doing here is premature, unwise. It is going to end up costing this country a lot more, both in energy and time and money, than it is worth.

We have not engaged in a very deliberative process ourselves. The very legislation that we are considering here today has itself been put on a fast track. It has been crafted with a great deal of care and deliberation by those who have put their time and attention to it, but this is a monumental piece of legislation that needs more study. It needs more time. It needs more deliberation than we have been able to give to it. It has been slammed together, and I think I can say that, as one of the principal authors, with several of my other colleagues in the Interior Committee, of the Interior version.

We are told that there are only two versions, that we have to choose between the Udall-Wirth proposal and the Dingell-Commerce Committee proposal. Actually, I suppose that in reality that is true. But I lament the fact that the Interior Committee and my good friend, the gentleman from New Mexico (Mr. LUJAN), myself and several others worked and toiled hours into the night sometimes to put together a piece of legislation using a consensus approach, a bill that was reported out of our committee by a vote of 40 to 1, the bill that is on the House floor today, a bill that is not getting even a glimmer, not even a glimmer, of consideration here as we propel ourselves to either Udall-Wirth or to the Dingell proposal.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. CARR. I would like to yield, if the chairman will give me a little extra time.

Mr. JOHNSON of Colorado. I think I can get a couple minutes from the gentleman from California, if the gentleman will yield.

Mr. CARR. What we have today here is no convincing evidence of a morass of Government redtape. We only have conjecture. It is well-intended conjecture coming out of things like the Sohio pipeline.

□ 1100

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

Mr. CLAUSEN. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Chairman, I cannot even do justice to 1 additional minute, but let me try here. We have only conjecture. We have no real evidence by way of hearing or record created that anything that we are trying to do with our best efforts is really going to do the job.

I would submit to this body that what we are going to do here is put together a law which probably the 50 State Governors and their attorneys general, well financed, are going to wrap up in court, determining the constitutionality of this waiver provision and that waiver provision, and we are not going to have even a fast track.

What we are doing here is political insurance for ourselves to go back in an election year and tell our people that we have voted to do something about energy. It will be a cruel hoax.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, the gentleman just saved me some time and gave my speech. I would like to commend the gentleman for his excellent remarks.

Mr. CARR. Mr. Chairman, delay in deliberation is not always the enemy, I would tell the House and the American people.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. CARR) has again expired.

Mr. CLAUSEN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Michigan (Mr. CARR).

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I want to endorse what the gentleman from Michigan is saying. I felt the bill we passed out of the Committee on Interior and Insular Affairs was a well considered and a protective bill for the States and also did provide for a mechanism to expedite the hearing process.

What the gentleman is saying about that bill, I think, is absolutely and totally correct. I regret the fact that we are not really going to consider and debate that bill from the Committee on Interior and Insular Affairs. As a result of the parliamentary circumstances, I believe the Udall-Wirth-Clausen substitute is the best possible way to go, but I endorse what the gentleman is saying about the merit contained in the original version of the Committee on Interior and Insular Affairs.

I thank the gentleman for yielding.

Mr. CARR. I thank the gentleman for his comments.

I, too, am a cosponsor of the Udall-Wirth concept, knowing that we are going back to fallback position after fallback position after fallback position, and my colleague, the gentleman from New Mexico (Mr. LUJAN), has fallen back to a Santini-Dingell kind of position. We are all groping here, but I think somebody ought to stand here and admit that we are groping and that we do not know what we are doing.

We have not had the hearings we need to assure the American people that what we are doing is going to reap a result and reap a benefit.

This in many respects is the biggest power grab of the century.

Even the War Production Board, which serves as a model for all that we are doing here, never allowed the waiver of State laws, never allowed the waiver of Federal laws, and never allowed the waiver of local laws. This has to be considered a premature stampede.

I just hope that some people will be able to stand up and call it for what it is, and I hope some people will vote against the Dingell provision, even as improved.

I hope some people will vote against the Wirth-Udall provision, even as it represents an improvement, and I hope that we would have the honesty to go back and say that we need more time and more deliberation; and we will get a better result.

Mr. CLAUSEN. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. SHUMWAY. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. Mr. Chairman, I yield to the gentleman from California.

● Mr. SHUMWAY. Mr. Chairman, I realize that we have spent some time debating essentially two proposals, which, on examination, differ more in form than substance. In the process, we seem to have ignored a more fundamental question: Does the recommended board accomplish the real purposes desired? I think not.

I oppose the concept of an "energy mobilization board' in the strongest terms possible. When I ran for Congress I espoused a platform which promoted less Government involvement in the private sector. Today I find myself fighting Government intervention in the public sector.

By voting for an EMB, we are asking the taxpayers of this country to pay for the privilege of having the Federal Government creep even deeper into their lives. Like it or not, we are talking about another Government agency with commissioners, staff, a general counsel, office space, telephones, travel allowances, and cost-of-living increases. These things cost money—taxpayers' money. Rather than making Government more efficient, we are advocating its growth and influence.

Who are we as Representatives in Congress to say that we can give unelected "officials" a blank check to delve into the affairs and priorities of State and local governments?

I will be the first to concur that all too often the three levels of government each with a myriad of regulations tends to slow energy projects; however, the creation of an energy mobilization board does nothing about revising these regulations. An EMB would conveniently side-step them while inconveniently leaving them intact. Does that really make sense? The question then becomes: Why were regulations imposed in the first place? I submit the real reason the EMB concept was introduced is an attempt by the administration to affix a band-aid to a festering dilemma. Mr. Chairman, I am confident that the people of this country do not want band-aids—they are asking for major surgery.

In all the fervor to see this marvelous approach to our Nation's energy ills rushed through Congress, I have yet to see or hear one piece of information which would lead me to believe that Congress has even considered dealing with the heart of the problem—Federal regulations.

I contend we as Members of Congress need to get down to the business of identifying the problem areas in regulatory agencies and revise or repeal the regulations to insure they no longer inhibit the construction process.

There is something inherently wrong with our system when a fast track label must be attached to a project to insure its approval. This is precisely my point. The system is wrong. Let us fix the system. We have to work within the system—not run away from it.

I genuinely feel that if this Congress is as concerned about the ills of regulation as it purports to be, then we should certainly commence the appropriate legislative means to cure it.

We are talking here about national priorities. The EMB would label a project a "national priority" and see that this priority would be ramrodded through the system. Mr. Chairman, I would like to submit that the overregulating regulatory agencies should be declared a "national priority" by Congress and be dealt with through the legislative process.●

Mr. LUJAN. Mr. Chairman, we find ourselves in a position that is really hard to understand. It is kind of like the ad which reads, "You have come a long way, baby," because now you can smoke, as if that were one of the great things, which enhances the life of someone, to be able to smoke.

We have come a long way, perhaps a little too long away. We have gotten ourselves all tied up with all kinds of laws and we are paralyzed. We cannot move ahead with energy projects. I agree with the gentleman from Michigan (Mr. CARR) that adding another department of Government to the already huge volumes of law that we have is the answer, is properly not the answer.

Be that as it may, there is no question in my mind that we are going to have some kind of fast-track legislation, and so we might as well try to get it in as good a shape as we possibly can; and that is the attempt that the gentleman from Nevada (Mr. SANTINI) and myself are making at this point.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, with reference to a comment made by the gentleman from Michigan (Mr. CARR), the gentleman said back in World War II that we did not give all this authority to the War Mobilization Board.

I would point out that I have a list in my hand of at least 23 laws or Executive orders that are on the books today that were not on the books at the time of World War II. I am just not sure that the War Production Board or Mobilization Board could have gotten their job done under those circumstances. These laws include:

FEDERAL LAWS APPLYING TO MAJOR ENERGY PROJECTS

(From the Report of the Interior Committee)

1. Clean Air Act.
a. Prevention of Significant Degradation of Air Quality Permit.
b. Non-Attainment Permit.
c. New Source Performance Standards (requires best available technology).
d. Visibility Impairment limits.
2. Clean Water Act.
a. National Pollutant Discharge Elimination System permit.
3. Rivers and Harbors Act.
a. permit required if navigable waters affected.
4. Resource Conservation and Recovery Act.
a. permit required for waste disposal.
5. Surface Mining Control and Reclamation Act.
a. permit for surface mining.
6. Toxic Substances Control Act.
7. National Environmental Policy Act.
8. Safe Drinking Water Act.
9. OSHA.
10. Fish and Wildlife Coordination Act.
11. Endangered Species Act.
12. Antiquities Act of 1906.
13. Federal Coal Mine Safety and Health Act.
14. National Historic Preservation Act of 1966.
15. Wilderness Act of 1964.
16. Nonnuclear Energy Research and Development Act.
17. Forest and Rangeland Renewable Resources Act.
18. Wild and Scenic Rivers Act.
19. Federal Land Policy and Management Act of 1976.
20. National Pipeline Safety Act.
21. Protection of Bald and Golden Eagles (U.S. Code).
22. Executive Order 11988—Floodplain Management.
23. Executive Order 11990—Protection of Wetlands.

Mr. LUJAN. Mr. Chairman, let me move on to another subject, because I think many of the Members are confused about whether they ought to go with the Udall-Wirth-Clausen substitute or the Dingell-Brown amendment.

First of all, there was a question as to what the administration's position is on this. I have a letter in my hand dated October 30 from Charlie Duncan, the Secretary of Energy, which says—

> Should the choice ultimately fall between the Udall-Wirth substitute and the Commerce Committee bill as amended by the Santini-Lujan amendment, we would support the latter as being closer to our position.

There is no question at all that we have that support of the administration. I would like to address some of the objections and how we intend to clear them up.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico (Mr. LUJAN) has expired.

Mr. CLAUSEN. Mr. Chairman, I yield 2 additional minutes to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I thank the gentleman.

One of the sections deals with the State and local government waiver provision in the bill. There cannot be, if our amendment is adopted, a waiver of State and local government laws. That takes care of those of us who want to do right by the States.

I also happen to think that it does the right thing for those who are worried about water problems in the West. That takes care of those particular arguments.

The other argument to be made here is that if we are going to waive Federal law, then let us do it in a fashion that is acceptable. We cannot just move ahead and have one Board overrule all of the various Federal laws. This procedure calls for what we would do anyway in passing a law, except in a reverse expedited manner.

Normally, the two Houses pass a bill and send it to the President for signature. In this case, the President recommends a waiver, and it must have a two-House positive action, so it is in a sense the same procedure, except reversed, that we use in passing any laws.

The last one is just a fairness provision, and that is that if any law is passed after a project is declared an energy priority project, then they should have 5 years to comply with that new law.

I think that we are being very careful and very deliberative. This amendment strengthens the bill of the Committee on Interstate and Foreign Commerce, and I think that with this amendment, it should be acceptable to anyone who has had any objections to it in the past.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the major difference between the procedure we normally follow in passing a bill and the Santini-Lujan procedure is what the Santini-Lujan procedure would put us under a 60-day time constraint, so we would be under tremendous pressure. That is often not enough time for proper consideration of complex issues.

Mr. LUJAN. Mr. Chairman, that is all that is needed, 60 days. I have seen bills passed here in less than 60 days.

□ 1110

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, we are on a fast track passage of the fast track bill and I fear we are running roughshod over some of our most cherished traditions of law.

Should we not pause and consider what we are doing? Waiving laws for unknown results; empowering a Mobilization Board with powers even Congress treats cautiously; setting precedents of grave import. Are we acting in panic?

This Nation faces serious energy problems, perhaps a looming energy/economic disaster; but the blind rush to develop extremely costly, possibly unproductive energy facilities by removing any regulatory barrier that might come in the way is no answer to our problems.

There is no question that energy conservation remains this Nation's greatest energy resource. No Member of this House will deny that; we all pay lip-service to it daily. But we still have not acted upon it. Instead of a dangerous commitment to a Mobilization Board designed to undermine some of our greatest laws, we should make a real commitment to conservation which is the cheapest, most plentiful, cleanest energy source available. Conservation is also the speediest solution; we can put it to use immediately. Only conservation can resolve our immediate problems.

Rather than addressing the difficult institutional problems involved with moving toward the decentralized use of renewable and small scale resources, instead of providing the people of this country with the tools to conserve energy, we are going to waive any legitimate obstacles to the quick approval and construction of centralized, top-heavy, complex, cumbersome, inflationary, and environmentally destructive synfuels plants.

The projects that are meant to benefit by these extraordinary waiver provisions are not being built, not because of regulatory delay or environmentalist obstructionism, but because they are of dubious value and questionable economics. They need waivers of law not because they suffer at the hands of overregulation, but because they are problem makers, not problem solvers. Permit procedures are a very necessary check on the complex quality of the facility and on the massive outlays of money required to build a synthetic fuels plant or a lengthy pipeline. The development of these huge projects could constitute an irreversible commitment of tremendous quantities of capital and to potentially disastrous environmental effects. Without sound and extensive public consideration of the need, cost and effects of such a project, the Nation may well find itself spending billions of tax dollars for little energy and plentiful environmental damage.

Massive crash programs to develop synthetic fuels programs without proper regulatory consideration will not mitigate either our energy or economic problems. It will do the exact opposite: the removal of these checks and balances and the resulting rush to approval of these facilities will only exacerbate our problems. In other words, our actions will serve one purpose: to make our energy system and our economic system that much more inefficient and unproductive.

The determination of need for a facility, the analysis of environmental consequences and the understanding of the real costs of large, complex projects takes time; it must if we are to get good decisions. If the Nation needs energy so badly that it cannot afford time for good decisions, it should turn decisively toward the conservation technologies that are readily available. If it will not even do that, the Nation and its economy are not only going to hell, but going to hell on a fast track.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. WEAVER. Mr. Chairman, I would ask if Mr. DINGELL would give me 2 more minutes.

Mr. DINGELL. Mr. Chairman, I am not quite sure what my good friend would say, but in the interests of full debate I yield him 2 minutes.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman for yielding.

I am glad the gentleman has placed an emphasis on conservation. My own Government Operations Subcommittee has found that by putting water flow restrictors in showers and faucets and doing low-cost or no-cost things like that you can save or otherwise produce, in fact, as much energy as you could with all of these synfuels in the next 10 years.

With regard to what has been said around here about the Sohio pipeline, I think it needs to be said those 700-plus permits they are always crying about and that we all read about in the newspapers, and when I heard about it I said this is horrible, and I am sure the gentleman did, turned out to be, the vast majority, 600-plus of them turned out to be routine road crossings that they had. Sohio pounced on the situation, and it is true of all of the special interests that have been trying to see these laws rolled back and have tried to have too much of a tilt toward development and to push this Congress in that direction rather than emphasizing conservation, and they are grasping onto fast track as a way for them to have their way.

Mr. WEAVER. May I point out that Sohio could build its pipeline now but does not because it says it is unprofitable. Would fast track have implemented an unprofitable pipeline?

Mr. MOFFETT. If the gentleman will yield further, I am not sure that they ever really wanted that pipeline.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I will yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, it is the delay that has made the pipeline project unprofitable. If you run out of your oil supply up there in Alaska and, because of regulatory delay, you do not have the opportunity to use that pipeline for most of the lifetime of the oil supply, and then be able to amortize it only in the last few months of its need, it becomes clearly unprofitable. If you shorten the life of the pipeline down to the last 3 weeks of the oil left up there in Alaska, can you not understand that a $55 million investment would not pay out in such a short period of time?

Mr. WEAVER. But the price of oil has gone up.

Mr. BROWN of Ohio. It is the delay that has made it unprofitable.

Mr. WEAVER. The price of oil is going up and the pipeline should be even more profitable.

Mr. MOFFETT. Will the gentleman yield further?

Mr. WEAVER. I yield to the gentleman.

Mr. MOFFETT. One year of the delay was Sohio's own doing because they went to court and took a gamble and they lost.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, obviously there is an emergency and it is not only an immediate but also a long-term emergency and probably it will last for at least the rest of this century.

I happen to disagree in part with my friend from Oregon. I think the solution requires both conservation to the maximum degree and also requires expeditious development of new sources. The argument is over the best way to do it.

In a recent column by David S. Broder, the distinguished political writer, he said:

> The need to slice through the red tape is recognized by everyone. The question is how to do it without creating a new center of arbitrary power in Washington and destroying the responsibility the Constitution gives States and localities for the welfare of their own citizens.

There is a temptation in times of crisis to dispense with carefully built safeguards and the rule of law. In such circumstances, it is often helpful to return to some of the first principles on which our system is based.

James Madison, in the Federalist Papers, said this:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

We will do well to remember his words in evaluating the proposals before us. Somehow we managed to get through two world wars without giving the War Mobilization Board, or its World War I equivalent, any powers to override State, Federal, or local laws. Is that not amazing? What powers were they given? Congress gave them the power to set priorities and to impose deadlines. That is what the Udall-Wirth substitute does in this situation.

It is unfortunate that we got into this hassle about overriding substantive laws. I think it is pretty clear what interests are behind that move: the utility companies, the oil industry, the coal industry, who are chafing under the restraints that we have rightly imposed to protect the public from unsound projects and dangerous processes.

A recent column by Anthony Lewis, the distinguished writer, in the New York Times, said this, referring to the proposal to give the EMB or the President a power to waive substantive laws:

> It is an astonishing concept: one utterly contrary to the traditions of American federalism and constitutional democracy. Another amazing fact is that the idea is being supported by aides to Jimmy Carter, who has repeatedly said he is against any such Presidential power.

At least he said it until the day before yesterday.

Mr. CLAUSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Wyoming (Mr. CHENEY).

Mr. CHENEY. Mr. Chairman, I rise in support of the Udall-Clausen-Wirth fast track bill.

As my colleagues know, I represent a major energy-producing State. Last year Wyoming produced nearly 2 million barrels a day of oil-equivalent energy, and I know that it will produce substantially more energy than this within a very few years. In order to provide a perspective on the magnitude of this production, you should know that is about the same amount of energy that we import from Saudi Arabia and Libya put together. I favor new energy development, and as you know, I have supported efforts ranging from decontrol of energy prices, to tax incentives, to outright loan guarantees and grants, to support energy research and development and production. In short, my constituents know energy production; for many of them it is their life's work; and they support increases in it.

I believe they agree with me that there is a need for a coordinating capability at the Federal level for new energy project development, whether it is called an Energy Mobilization Board or by some other name. The only significant issue is what powers are given to that Board. I believe that in deciding what powers to give the Energy Board, we are making a watershed decision about the future role of the States in the American federal system. I cannot support the idea that the States should become administrative districts of the Federal Government, and so I support the Udall-Clausen bill, which I believe will provide a vital role for the States in energy project decisionmaking while allowing timely development of the Nation's energy resources.

In part, at least, it is a question of alternatives. There are some who would propose a very broad grant of authority to the Board, and defend that grant, which clearly runs counter to normal principles of legislation in a democratic society, by reference to a supposed emergency.

I believe, however, that there is still time for reasoned, controlled, orderly development of our resources, if we are only willing to pay the price of this development. It is the worst sort of sophistry to clamor, on the one hand, for cheap energy, while, on the other, demanding the creation of an autocratic board with unlimited authority to promote energy development. In both instances, the solution is a solution for today alone—not a solution which will give the Nation confidence and power as it proceeds from the 20th into the 21st century.

The people of my State are looking for longer term solutions—solutions that allow energy development to take place in a timely fashion while allowing the State to exert reasonable control of the shaping of this energy project development. I think the Udall-Clausen-Wirth bill provides for this balance; specifically:

In the event a State will not meet a reasonable deadline for decisionmaking on an energy project, the Federal Government can act. While this is a last-resort provision, there is no doubt it can be used.

A reasonable judicial review of decisions made by the Energy Mobilization Board is provi ed for. While some delay results from court proceedings of any kind, by now we are agreed as a society that some court review of most administrative action is appropriate—and it will continue to be until Congress begins to aggressively review such action.

There is no bar in this legislation to prevent the Board from asking Congress for revisions in existing law. What

the bill does is to make it clear that it is not congressional policy to proceed on the basis of such waivers or revisions. It is, in effect, a vote of confidence in existing substantive laws in the energy and environmental areas.

There may be those of you who are wondering about the State laws that are involved here. In Wyoming, we have some carefully devised and responsible State laws aimed at seeing that energy development takes place in an orderly and acceptable manner. These laws, such as our plant siting statute, our permitting requirements and our environmental protection standards, are not roadblocks to energy development. My experience has been that when energy companies come to my office to talk about problems with Government, they come to talk about problems with the Federal Government.

Let us be clear about what we are doing with the Energy Board legislation. We are not rewriting existing energy or environmental laws, and we are not restructuring the legislative branch of the Government. What we are doing is to restructure the way the executive branch of the Government handles energy project development. What I oppose is restructuring the Federal system when the need is for a restructuring of the executive branch.

I have some more particular concerns with this legislation. As my colleagues may know, there are some significant differences between the two bills with respect to water law. The Dingell-Brown bill contains a very general provision which, in attempting to maintain the status quo in this area, will likely be productive of significant amounts of litigation. The Udall-Clausen-Wirth bill, on the other hand, contains carefully crafted language which has already been adopted by the Senate. This language is designed to insure that all energy project development takes place pursuant to State water laws. In the process, it creates a unitary State water law system for energy development, a situation which I believe will benefit both energy developers and residents of the water-scarce States.

There are significant differences between these two bills, and I am confident that when my colleagues consider the need for preserving the Federal system as we meet our energy needs, they will support the Udall-Clausen-Wirth bill.

□ 1120

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding. As the gentleman knows, I was born in the West, and I have some sensitivity for the feelings of the gentleman in the well and my friends in the West. The Commerce Committee bill says that the Board may not do the following: Waive any Federal, State, or local requirement which relates to, and then it goes on and says, contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. DINGELL. Mr. Chairman, I yield 1 additional minute to the gentleman from Wyoming.

It says that they cannot get into any of these water rights matters. I am extremely sensitive to the gentleman's position.

Mr. CHENEY. If I may make the point, and I want to congratulate the gentleman certainly on what his intent is because I believe he does truly intend to protect the States in this area, but I would point out that there is one major element of concern to us of the West. That is the possibility that the commerce clause of the Constitution provides the opportunity for challenges to the constitutionality of our water laws.

What I would like to have included, if we may, in the legislation, the fast-track legislation, which has already been included in the legislation that passed the other body, is language that safeguards those requirements of State water law from challenge under the commerce clause of the Constitution.

Mr. DINGELL. I appreciate very much the comments of the gentleman because I want to see to it that we do not injure him in the State water rights in the legislation, and I want to see to it that the rights of the gentleman and citizens of Wyoming and the other States are fully protected insofar as their water rights are concerned.

Mr. CHENEY. I thank the gentleman for his comments.

Mr. CLAUSEN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I have listened with a great deal of interest to this debate. I must say that I am not exactly sure where I will come down in the final analysis, but as a conservative I do think that certain principles ought to be discussed in relation to any legislation of this nature. This bill suggests the creation of a five-man Federal Board, a majority of which, will be the dictators on energy questions.

I do not think I have to make the usual obeisance to meeting energy needs in this country. I have tried to meet those needs by my votes. That need is well established, but I listened the other day to the majority leader of the House, Mr. WRIGHT—with all due respect to him—castigate the maze of Federal laws that have brought us to our knees on the energy question. I have no doubt that he and a majority of his party probably voted for every one of those laws.

Nowhere in this discussion have I heard any of my liberal colleagues—and I tend to agree with some of them and I hope it does not make them too uncomfortable—make any suggestions that we ought to go back systematically and change these energy restrictive laws one by one. Having said that, and having noticed that the same liberals who now oppose this Board are the ones who made it necessary, I still have to rely on fundamental principles. One of those principles is the constitutional arrangement between the States and the Federal Government, and another is the basic distribution of powers between the judiciary, the Executive, and the Congress.

I have real questions in my mind about whether I want to hand over to a majority of three out of five appointees, who will serve at the pleasure of the President—any President, this one included—and woud have life and death power over the zoning ordinances of Talbot County, Md., or over the powerplant siting laws of the State of Maryland, or over water rights of Wyoming as has been mentioned by the gentleman from Wyoming. I have to seriously question what direction you are taking here. I appeal to the Members of the House to balance the need for energy against the need to preserve our Constitution, against the need to preserve State and local laws and the need to preserve the rights of the individual citizens we represent. I represent nearly 600,000 citizens of the State of Maryland who need energy just as much as everyone else, but I must say that leads me to be very cautious in supporting any legislation that would denigrate their rights as citizens of the State of Maryland and of the United States.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. DINGELL. Mr. Chairman, I yield one additional minute to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding. I share the concerns of the gentleman, which is one of the reasons that the Commerce Committee bill was drawn in the fashion as it has been drawn; that is, to afford the Board no powers other than to make recommendations to the President, to afford the President no powers except to make a recommendation to the Congress, and then to see to it that the Congress, through a two-House approval, makes the decision under a process which permits any single Member to force that measure on to the floor for a congressional decisionmaking process.

I wonder if that would assuage the gentleman's feelings.

Mr. BAUMAN. I am willing to listen to the debate and see what happens to the Santini-Lujan amendment. The Udall substitute appears to me to meet the concern that I express, but I also have to say that the people I see here today, the liberals of this House who usually want all the power to go to the Federal Government, have never been concerned before about any increase of any Federal agency's power, and I welcome their new forward concern about too much Government power.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Chairman, I rise in opposition to the Commerce Committee bill.

On July 16 the President urged the creation of an "Energy Mobilization Board" as a principal part of his program to reduce U.S. oil imports by 4.5 million barrels per day by 1990. The administration is counting on the production of synthetic fuels to reduce our imports by 1.5 million barrels per day. At the same time, the administration only expects energy conservation to reduce oil imports by 750,000 barrels per day in 1990. This is in sharp contrast with the conclusions of Harvard Business School, which has found that we could cut oil imports by 5 million barrels per day by 1990 by embarking upon a massive energy conservation program.

Before we act upon this measure, I submit that we must consider the larger question: Where is the administration's energy policy leading us?

While I strongly believe that there is an urgent need to reform the regulatory process to develop more efficient licensing procedures for the construction of vital pipeline and refinery projects, the creation of a powerful Energy Mobilization Board would not even require our attention if we were committed to the effective conservation of energy. We would not be considering this legislation if we were committed to industrial cogeneration, a serious residential and commercial conservation effort, and the development of more efficient automobile engines.

In addition, a successful energy conservation program would not depend upon the creation of a Federal body to preempt the authority of State and local government. It is obvious that the President's crash program to develop synthetic fuels cannot even get off the ground without a vast expansion of Federal power. In this connection, I wish to associate myself fully with the observations of the gentleman from Maryland with respect to the serious constitutional questions at issue. This legislation would simply not be necessary if we were not embarking upon a premature commitment to the development of highly questionable synthetic fuel technologies long before we understand their costs and environmental consequences.

The creation of an Energy Mobilization Board is unfortunately consistent with the often-refuted policies of the past which were based upon the assumption that "Washington knows best." I would submit that the American people know better. I strongly believe that we must make a concerted effort to increase, not diminish, the role of State and local government in seeking solutions to our energy problems. We should be striving to form an effective partnership with State and local government—not preempting their authority.

I am convinced that by involving individuals, small business, local and State governments—in other words, tapping the ingenuity of the American people—we can begin to find creative solutions to our Nation's energy problems.

□ 1130

What we ought to be doing at this time is developing a comprehensive, coherent, energy policy, not trying to find a quick fix that is going to represent, in my judgment, a massive subsidy to private industry that will be ultimately far more costly to the American taxpayer than a sound energy conservation program that could displace petroleum far more rapidly, more efficiently, and more cheaply between now and 1990.

Mr. UDALL. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I hope I do not make my friend, the gentleman from Maryland, uncomfortable, but he made a darned good speech and I want to associate myself with most of what he said. In the bills and laws that have come out of our committee for strip mining and surface mining I think he makes a critically important point. Are we going to give someone, an unelected bureaucrat down at an agency, the power to override what the people of Maryland, Arizona, and Colorado want to do? That is one of the key features here. They are not suggesting that we proceed in an orderly way to pass our laws; they are saying let us do it in a crisis panic attitude, and I object to it. Too often in this busy world in a time of crisis we grasp what is perfect or insist on what is perfect and lose what is good.

I talked to the president of a cooper company who said, "For $10 million we cleaned out 97 percent of the pollution that goes up that stack, but it will not take $10 million to get that last 3 percent; it will take $100 million to get it." I think there are times when we develop what I call a zero defect syndrome. We are going to clean up every project that can have any kind of impact. Are we going to be delayed by every project or not that is going to be on the track? My point is let us get an expediter to function, have someone there to get the railroad cars, get the aluminium, and get whatever we need for the energy project, to cut through the redtape, to bang heads together and get people to sit down and discuss it and shorten the time involved.

Let us not have five environmental impact statements when we can have one. Let us combine hearings and have two or three at one time. But we spend all of this time debating not the good that is going to come from the bill; we spend most of our time debating on how we are going to enforce it, in those rare situations where some bureaucrat or Governor will not say "Yes" or will not say "No," or sign off one way or the other on the project. There are two approaches to this problem. There is the "ride roughshod" approach as my friend, the gentleman from Nebraska, describes it.

We are going to run over everybody who gets in the way, State laws, local laws, referendums, decisions passed by the people. We are going to make sure nothing is going to get in the way. There is no limit on the projects. We are going to have as many fast track projects as we can get. But if everybody is on the fast track, nobody is on the fast track. They are worrying about clogging the courts with litigation. We are worried about clogging the Congress. They are going to have us voting here for the next 10 years on everything. The Congress is going to be the arbiter of whether an LNG plant is properly designed. We are going to be spending all this time voting on new energy projects.

We say let us shorten the time. Let us shorten the procedure. Let us put things together and not try in this fashion to piecemeal repeal these laws that took us years to get on the books. So let us stick with the procedure and approve that which the good solid conservatives and States righters have done in cosponsoring our bill. Let us get the job done. We rely on court proceedings in a very narrow range. We limit the time to file a court proceeding. We limit the grounds on which a case can proceed. We believe the way to get America off dead center on these energy projects is the way I propose, and I hope the Members vote for the Udall-Clausen-Wirth bill and reject the Commerce Committee approach, even with the Santini-Lujan amendment, which will not do as much good as its proponents believe. But we will talk about that as we get into the debate.

Mr. DINGELL. Mr. Chairman, I yield myself the remaining time I have.

Mr. Chairman, we have before us two bills, the first of which is a fast track bill. It is a bill that was reported by the Committee on Interstate and Foreign Commerce. If you will read the statement on the placard out there in the hall, in the lobby, you will find that the Commerce Committee bill is a fast track proposal.

If you will look at the bill offered by my good friend, the gentleman from Arizona (Mr. UDALL), not by the Committee on Interior and Insular Affairs, you will find that it is a slow track, or a sidetrack procedure. It is one which has two judicial reviews—the designation of the project and the final court review which takes place on the basis of the action of the board, all of which the administration says will take 7 years, 6 months.

The gentleman from Arizona (Mr. UDALL) complains about the fact that there would be too much congressional supervision under our bill, but the gentleman from Arizona is apparently unaware that every regulation that is issued by the Energy Mobilization Board, which he sponsors, must come to the Congress for a one-House veto—every single regulation, even technical changes in the regulations.

The difference between the Commerce Committee bill and the bill offered by the gentleman from Arizona (Mr. UDALL) is a very simple difference—the Commerce Committee bill gets you a decision in a quick, but careful manner. The slow track-sidetrack Udall proposal gets you endless court litigation in two different instances, plus congressional review. We felt that there ought not be a board which could rush about waiving laws, so we set up a very careful procedure, one of which says that the Board recommends to the President in full daylight, after having proceeded in daylight; then the President holds it on his desk for 30 days; then he rejects it or recommends it to the Congress with changes, if appropriate, and the Congress has 60 days in which to consider it.

The Board can do nothing; it is the Congress that makes the decision. That I think, is the important difference. The Udall proposal will take more time in judicial review alone, apart from the proceedings that antedate it, than did the

entire Sohio case, and in instances of these priority energy projects we must recognize that time is the determining factor as to whether the energy project goes forward. No one is going to come in for an energy project designation that is going to involve him in 7 years of litigation under the Udall bill.

I urge the Congress to adopt the Commerce Committee bill.

● Mr. HARRIS. Mr. Chairman, America's most critical problem today is inflation. But the principal cause of double-digit inflation is the energy crisis. We must increase our energy supplies through domestic production. To do that we must expedite the consideration of domestic energy projects.

I am a cosponsor of the Udall-Clausen-Wirth energy mobilization legislation, H.R. 5660. This bill is designed to speed consideration of important domestic energy proposals by eliminating redtape and duplicative procedures that delay approval or disapproval of energy projects. That point is crucial—energy mobilization must not be used as a blank check for the energy industry. It must be designed to expedite decisions so that we can get on with the good projects, and dispose of the bad.

The bill reported by the House committee failed to meet this test. The commerce bill provided a greased path to the energy industry. It ran roughshod over State and local governments and flaunted the careful environmental requirements which have been enacted in recent years.

The Udall-Clausen-Wirth bill on the other hand, preserves the integrity of State and local laws. It strengthens the partnership between different levels of government by preserving the authority and prerogative of those governments. And equally important, the Udall-Clausen-Wirth bill does not lose sight of those environmental requirements of the National Environmental Policy Act and the Clean Air Act. Under the pressure of inflation and energy problems, some would do away with these environmental protections. But the requirements of Federal, State, and local laws are not frivolous. Proper evaluation of the environmental and economic efficacy of energy proposals is essential.

The question of air pollution, water supply and water quality, chemical byproducts, projects siting, and financing are key questions. They cannot be ignored or bypassed. The Udall-Clausen-Wirth bill insures that all of these factors are considered, but in a timely fashion.

The Commerce bill provides for an unlimited number of priority projects. Under the Commerce definitions, every energy project could be granted priority status. The Udall bill on the other hand, places a reasonable limit on the number of priority projects. Fast tracking should not become a routine procedure. It should be used with discretion and commonsense. Otherwise, the fast track will be clogged by every proposal coming under the magic label of "energy."

Finally, the Udall bill has a sunset provision building in a review of EMB operations. That way, when the EMB comes up for review, Congress will have the information it needs for an intelligent decision.

Enactment of this energy mobilization legislation is an important step in resolving the energy crisis. But it must not be allowed to create more problems than it solves. We can—we must—solve our energy problems without destroying our environment or wreaking havoc on the family budget.

I am pleased to cosponsor the Udall-Clausen-Wirth bill to create an effective Energy Mobilization Board. I urge my colleagues to support H.R. 5660.●

● Mr. FRENZEL. Mr. Chairman, like most Members, I want to help speed the completion of major energy projects. But like most of my constituents, I am not wholly persuaded that any new Federal agency is really going to reduce redtape. An agency to cut other agencies' redtape is reminiscent of a previous proposal for a new agency to regulate regulatory agencies which do not regulate properly.

Based on the record of Federal agency delays, of usurpation of lawmaking authority, and of general incompetence, a healthy scepticism about a new agency is a normal reaction.

The EMB versions now pending seem to me to be an excuse for, or an alternative to, the President managing the bureaucracy effectively. There are no significant powers in any of these bills that are not available to the President or the Congress now. The President can force agencies to make timely decisions right now. He can recommend changes in laws to Congress now. Congress can change laws right now.

Of the versions, the Udall amendment seems to me to be more apt to prolong decisionmaking rather than speeding it up. The appeals process is endless. The opportunities for litigation, both serious and frivolous, would be expanded.

The Commerce Committee bill as amended by the Santini-Lujan amendment is clearly superior.

I will vote for this bill if the the Udall amendment is rejected, but I do so without real enthusiasm. Our President says he needs it, so I will help him get it. I doubt it will help much, but the possibilities for positive results would seem to outweigh those for a negative outcome.●

● Mrs. SCHROEDER. Mr. Chairman, the House is considering legislation to establish an Energy Mobilization Board to regulate Federal, State, and local agency consideration of proposed nonnuclear energy projects. I have serious reservations about the creation of this Board. One of my major concerns is that cutting redtape may in reality become the gutting of carefully drafted Federal and States laws designed to balance our energy needs with our need to protect the public health and safety and the quality of the environment. My concern in this area is increased by the fact that Colorado could be the site of "fast track" synthetic fuel projects with potentially disastrous impacts on health and the Rocky Mountain environment.

For these reasons, I urge my colleagues to join me in supporting the Udall-Clausen-Wirth substitute. The substitute is a carefully designed bill which will provide the Board with the power it needs to insure that agencies do not delay unnecessarily in applying substantive standards to proposed facilities. If an agency falls behind in the decisionmaking timetable established by the Board, the Board can call upon the full powers of the Federal courts to enforce the schedule. Unlike the approach taken by the Commerce Committee bill and the Santini-Lujan amendment, however, the Udall-Clausen-Wirth substitute is not based on the preemption of Federal, State, and local agency prerogatives or the waiver of Federal and State law.

Throughout the debate on this legislation, both in the House and in the Senate, it has been suggested that waivers of the Clean Air Act are necessary for the development of major new energy facilities. It is in this light that I commend to my colleagues a recent internal study on prevention of significant deterioration (PSD) permits by region VIII of the Environmental Protection Agency. The EPA is responsible for issuing PSD permits for energy facilities under the Clean Air Act. The study shows that EPA region VIII has always processed these permits within 12 months of receiving a completed application and that the major cause of delay in such permitting has been incomplete or otherwise inadequate applications. Moreover, region VIII has recently established a program to eliminate or minimize this and other causes of delay in permit processing.

Fortunately, the drafters of the Udall-Clausen-Wirth substitute recognize that application problems are often major causes of delay in agency permitting and have included two provisions which will go a long way toward preventing this type of delay. Section 204(d) provides that in considering whether to designate a project as a priority energy project—

(t)he Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agency actions with the appropriate agencies as soon as possible in order that any eventual agency action may be expedited.

In addition, section 210(a) provides that the Board will not extend any time period on the Project Schedule applicable to the applicant unless the Board determines that the applicant "has exercised all due diligence in attempting to comply with the Schedule and is still unable to comply."

I urge my colleagues to insure that preemption of Federal and State government prerogatives or the gutting of laws not be sanctioned to correct a problem based largely upon the refusal of energy project applicants to supply agencies with adequate information in a timely fashion.●

● Mr. BEDELL. Mr. Chairman, the issue we are considering here today poses a tradeoff between expediting domestic energy production so that the United States can lessen its dependence on foreign sources of oil and loosening some of our environmental controls in order to achieve this goal. With most forms of synthetic fuel production, in fact, we do not even really know at this point exactly what environmental costs will be incurred. However, I would like to point out that this is not true for all synthetic sources of energy. What I call the sunthetic fuel, alcohol, poses no such threat

to the environment, and yet it does greatly alleviate our dependence on OPEC oil without the significant leadtime problems inherent in many other energy programs. Therefore, I would like to urge that as we consider this so-called fast-track legislation, our attention encompass not only massive investment projects such as oil shale and coal gasification, but that attention also be given to energy projects that would produce alcohol from renewable resources.

Not only does the actual production of alcohol from renewable resources not pose any significant environmental threats, its use also is environmentally benign. In its most common use, gasohol, a mixture of 90 percent gasoline and 10 percent alcohol, it is actually known to cause a net reduction of emissions. Mr. Chairman, I raise this issue because I think it is important to emphasize, as a cosponsor of the Udall-Clausen-Wirth bill, that the legislation we are considering here today does not mean that we have to sacrifice the environment in order to alleviate our current energy problems. We should not approach this problem as an either/or issue of either having development of domestic energy sources despite the possible environmental costs or of having a liveable environment. There are solutions, such as the one I have mentioned, where we can have both.

In some ways, it can be argued that alcohol produced from such diverse renewable sources as agricultural commodities, forestry residues, and municipal wastes represents a symbiotic relationship between energy production needs and environmental protection. Indeed, once the technology for cellulose conversion becomes commercialized, this country will actually be able to produce energy while, at the same time, it rids itself of wastes that now pose substantial social, economic, and environmental costs.

However, Mr. Chairman, I should clarify here that alcohol fuel production is not a panacea for our energy problem. What we need is a wide range of energy programs which each contribute to our domestic supply of energy. In this sense, alcohol production, due to its very short leadtime advantages and its environmental benignness, deserves our support.●

● Mr. EDWARDS of California. Mr. Chairman, I want to associate myself with the supporters of the Udall-Clausen-Wirth substitute to the Commerce Committee's energy priority legislation of 1979. I would have preferred to have this legislation referred to the Judiciary Committee for careful consideration of each of the possible constitutional problems which a fast-track Energy Mobilization Board presents. Unfortunately, the frenzy on Capitol Hill over the production of synthetic fuels will not allow for a careful, diligent, and judicious review of all aspects of this new EMB. Faced with this reality that some form of an EMB will be approved by the House, I applaud the work of Messrs. UDALL, CLAUSEN, and WIRTH for their efforts to keep the EMB within the bounds of our Constitution.

Several editorials have appeared in our major newspapers in the last month which describe a scenario that could occur under the Commerce Committee bill. The astonishing idea of having an Energy Board which can waive our environmental laws, our civil rights laws, and countless other Federal laws all in the name of fast-track energy production is bewildering. I ask my colleagues, does this concept really sound like a provision of democratic government?

Our forefathers sat down two centuries ago and designed a Constitution that has served us very well. They envisioned a balance of Federal, State, and local laws to coordinate a symphony of governing interests and values. Our court system was instituted to interpret these various laws which were enacted by this Congress and the many State houses throughout the new Nation. Careful guarantees were made in order to protect each and every citizen's rights through the due process of law.

Can my colleagues envision any agency of the Federal Government having the right to work outside the constitutional framework of our present law and our court system? Imagine a Commerce Department that decides to waive all our interstate transportation laws. What would my colleagues from the Midwest do if no airplanes landed in their home States, and all trains and trucks whistled straight through their districts? Picture, if you can, a Department of Labor with the power to waive all substantive and procedural laws throughout the land. All bargaining contracts with our labor unions could immediately halt. All mine safety and other protective laws for American workers could be waived, all in the name of more production for America.

In passing this legislation to fast-track energy development, we open the doors for more fast-track types of projects, all with the specific and heralded purpose of making the world a better place—overnight! There is no quick and easy path in a democratic society such as ours to solve an energy shortage that has been building for years. I urge my colleagues not to tear apart the Constitution by passing this ill-advised legislation reported by the Commerce Committee.●

● Mr. RUDD. Mr. Chairman, it is not without reservation that I support the establishment of an Energy Mobilization Board.

I share the concerns of many of my colleagues that a preferable course of action would be for Congress to undertake a thorough analysis of the existing Federal laws which have obstructed critical energy related projects throughout the United States.

Especially close examination should be focused on the Department of Energy and the Environmental Protection Agency, two overly restrictive bureaucracies which have contributed in large measure to our energy problems through their proliferation of confusing and counterproductive rules and regulations. Indeed, it occurs to me that our citizens would probably have had more dependable energy supplies and simultaneously saved a great deal of their tax dollars if Congress had never established these costly bureaucracies in the first place.

Instead, we are establishing a new Federal entity to overcome the redtape and procedural delays created by these and other Federal agencies.

I am optimistic that we have provided a prudent degree of authority for the Board to act expeditiously and wisely in expediting urgently needed energy projects. I believe that the gravity of our present energy situation compels us to make this good faith effort in the national interest. The final version of the bill is a reasonable and workable approach.

There are approximately three outcomes which may result from the establishment of an Energy Mobilization Board.

The first possibility is that the Board will be able to provide the essential leadership and coordinated effort to encourage the construction of energy-related plants, pipelines, et cetera, which are needed for our Nation's future energy independence from expensive and unstable foreign supplies.

It is with the fervent hope that this will be the eventual outcome of our action today that I am supporting this legislation. I believe the House has added appropriate safeguards to prevent the Board from infringing on the legitimate prerogatives of the individual States and yet sufficient authority to cut through the mounds of Federal redtape which have so seriously impeded energy development in the past.

Given the present energy project slowdowns, I believe that it is imperative for Congress to give this "fast track" concept a chance to work.

The second scenario would be one in which the Energy Mobilization Board simply evolves into another deadweight agency in the energy development process and neither helps nor hinders the timetables for new energy projects.

The third and most disturbing possibility is that the Board will itself prove counterproductive by perpetuating and extending the very delays it is being created to eliminate. It could become an energy immobilization board.

I am concerned that without adequate congresisonal oversight, the second or third scenarios could easily develop. Our responsibility is only beginning by establishing this agency. We must be viligant to see that it will get the job done which needs to be done.

If, however, the Board fails to accomplish congressional objectives, I will be among the first to urge reconsideration of the "fast track" concept and the elimination of the Board. The bill insures congressional review by providing automatic termination of the Board in 1985 unless specifically reauthorized by Congress.

I hope that adoption of this bill will not deter the House from undertaking the review of existing laws which themselves have proven to be such impediments to efficient energy develonment. Nor should it ease congressional conscience that our energy problems have been solved. We must continue to work to establish policies which will encourage adequate energy supplies for our citizens in the years ahead. Hopefully, this is a significant step in that direction.●

Mr. BROYHILL. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. All time having expired, the Chair will read the portions of the rule which will guide the Chair regarding the amendment process.

Pursuant to the rule, immediately after the enacting clause of the bill is read it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill, which shall be considered as having been read. It shall be in order to consider the text of H.R. 5660 if offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute, and said substitute if offered shall be considered as having been read. No amendment to said amendment or to said substitute shall be in order except pro forma amendments for the purpose of debate and germane amendments printed in the CONGRESSIONAL RECORD by October 29, 1979.

The Clerk will read the enacting clause.

Mr. BROWN of Ohio. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 617]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1150

The CHAIRMAN. Three hundred and seventy-nine Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Clerk will read the enacting clause.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

The CHAIRMAN. The Clerk will designate the Committee amendment in the nature of a substitute:

The Committee amendment in the nature of a substitute reads as follows:

Page 2, line 3, strike all after the enacting clause and insert beginning on page 27, line 3, an amendment in the nature of a substitute offered by the Committee on Interstate and Foreign Commerce:

That (a) title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by adding the following new part at the end thereof:

"PART C—PRIORITY ENERGY PROJECTS

"SHORT TITLE

"SEC. 171. This part may be cited as the "Priority Energy Project Act of 1979".

"PURPOSES

"SEC. 172. The purposes of this part are to exercise the congressional authority under the Constitution to regulate interstate commerce by—

"(1) providing a means to designate certain nonnuclear energy conservation and production projects, other than energy research and demonstration projects, the prompt implementation of which is in the national interest; and

"(2) establishing coordinated schedules for the expeditious making of Federal, State, local, and other governmental decisions, including judicial review thereof, respecting such designated projects, consistent with other applicable provisions of law, and establishing certain other procedures regarding such designated projects.

"DEFINITIONS

"SEC. 173. As used in this part, the term—

"(1) 'Agency' means a Federal agency or an agency or instrumentality of a State or local government or of a special governmental authority.

"(2) 'Agency decision' means any decision required to be made, or any other action required to be taken, by any agency with respect to any Priority Energy Project.

"(3) 'Board' means the Energy Mobilization Board established pursuant to section 174.

"(4) 'Energy project' means any project or device to be used, or activity to be carried out, by any person in connection with the exploration for, the development, transportation, production, commercialization of, or the conservation or efficiency in the use of, any form of energy. Such term includes any equipment, building, mine, well, rig, pipeline, transmission line, processing project transportation-related device, manufacturing project, or installation or any combination thereof to be used for such purposes.

"(5) 'Federal agency' means an executive agency as defined in section 105 of title 5 of the United States Code, the departments described in section 102 of such title 5, and the Executive Office of the President.

"(6) 'Person' means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any Federal agency, any agency or instrumentality of a State or local government, or a special governmental authority.

"(7) 'Priority Energy Project' means a proposed energy project which is designated pursuant to section 177 of this part.

"(8) 'Special governmental authority' means an interstate or regional authority or an Indian tribe.

"(9) 'State' means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"ENERGY MOBILIZATION BOARD; ESTABLISHMENT AND AUTHORITY

"SEC. 174. (a) The President is authorized to establish for purposes of this part an Energy Mobilization Board to consist of five members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or

experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated Chairman by the President.

"(b) Members of the Board, other than the Chairman, shall be entitled to receive compensation at the rate prescribed for level IV of the Executive Schedule. The Chairman shall be entitled to receive compensation at the rate prescribed for level III of the Executive Schedule. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. The Board shall have a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule.

"(c)(1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he deems necessary to carry out the functions of the Board.

"(2) Upon request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

"(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

"(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

"(d)(1) The Board may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulate such regulations and issue such orders, as may be necessary to carry out its functions under this part. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this part. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

"(2)(A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within any State at any designated place of hearing within any State.

"(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

"(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(e) Whenever the Board submits to the President or the Office of Management and Budget, any legislative recommendation or testimony, or comments on any legislation, prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives.

"(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives fully and currently informed concerning its activities. The Board shall submit an annual report to such committees concerning the actions taken, or to be taken, under this Act. The report shall contain such other information relating to energy projects as the Board deems appropriate.

"CERTAIN PROJECTS NOT COVERED

"SEC. 175. Nothing in this part shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974, or to any project which is, or may be, approved under the provisions of title V of the Public Utility Regulatory Policies Act of 1978 or under the provisions of the Revised Statutes, title 90, page 2903.

"AUTHORITY TO APPLY FOR PRIORITY STATUS

"SEC. 176. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this part. Such procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

"(1) enable it to make such a designation under this part,

"(2) identify each agency required to make an agency decision with respect to such project,

"(3) enable such agencies to identify the agency decisions which they are required to make with respect to such project, and

"(4) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

"(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

"(1) an adequate design proposal for the project;

"(2) economic data on the costs and benefits of the project; and

"(3) an analysis of the environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

"(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

"(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration.

"DESIGNATION OF PRIORITY ENERGY PROJECTS

"SEC. 177. (a) Not later than forty-five days after expiration of the comment period under section 176(d) with respect to any application under section 176, the Board shall—

"(1) issue an order in accordance with this part designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

"(2) refuse to issue such an order.

"(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs.

"(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

"(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

"(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

"(3) the extent to which the energy project would make use of renewable energy resources;

"(4) the extent to which the energy project would conserve energy;

"(5) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

"(6) the time that would normally be required to obtain all necessary agency decisions;

"(7) the adverse impacts that would result from—

"(i) the designation of the energy project as a Priority Energy Project, or

"(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

"(8) the extent to which the energy project would impinge upon presently available or future water resources;

"(9) the comments received concerning the energy project;

"(10) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

"(11) the availability of significant economic, environmental, or technical data; and

"(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

In the case of any order designating a project under this section, the order shall contain a statement of the basis on which such designation was made.

"STATE PARTICIPATION

"SEC. 178. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is proposed to be located, and each such Governor may appoint a nonvoting Member to serve on the Board to participate only in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 174(b) shall not apply to the Member of the Board appointed under this section.

"COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 179. Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 182, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. If the Council determines that any such action relating to a Priority Energy Project will be a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council on Environmental Quality fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

"EXTENSION OF DEADLINES

"SEC. 180. The Board may extend the time for receiving comments under section 176(d), the time for making its determination and publication under section 177 in the case of any application for designation of any energy project as a Priority Energy Project, the time for agencies to transmit information under section 181, and the time for publication by the Board under section 182(a) of a Project Decision Schedule. Any such extension shall be consistent with the purposes of this part and shall be for only such period as may be necessary, as determined by the Board.

"AGENCIES TO TRANSMIT INFORMATION

"SEC. 181. Not later than thirty days after notice appears in the Federal Register of an order of designating an energy project as a Priority Energy Project, each agency having authority to make any agency decision with respect to such Project or any part thereof, shall transmit to the Board—

"(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements applicable to such actions and to the making of such decisions;

"(2) a tentative schedule for completing such actions and making such decisions;

"(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

"(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any Priority Energy Project at any time and in any manner.

"PROJECT DECISION SCHEDULE

"SEC. 182. (a) Not later than thirty days after agencies are required to transmit information under section 181 with respect to any Priority Energy Project, the Board, in consultation with the appropriate agencies, shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by such agencies.

"(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 181 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and published, together with the Project Decision Schedule, its reasons for such determination.

"(2) Whenever the Project Decision Schedule is not consistent with any schedule which would otherwise apply, such Project Decision Schedule shall apply in lieu of such otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

"(3) In the case of agency decision or action subject to the Project Decision Schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule. No such agency may modify the Project Decision Schedule pursuant to the authority contained in this paragraph.

"(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure adequate consideration of all matters concerning such Project under applicable law and to insure adequate participation by parties in applicable proceedings.

"(5) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such Schedule.

"(c) In consultation with any person responsible for—

"(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

"(d) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time. No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

"(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

"(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, taking into account the personnel and funds available to the agency for complying with such Schedule.

"MONITORING OF COMPLIANCE BY BOARD

"SEC. 183. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register, and may take such actions as it deems appropriate to bring such agency and other persons into compliance with the Project Decision Schedule. If the Board determines that any person responsible for—

"(1) filing on behalf of a Prior Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such Project which is necessary before such agency decision may be made,

has failed or refused to promptly file such application or petition or take such other action, the Board shall either revise such Project Decision Schedule or revoke the designation of such Priority Energy Project under section 177.

"AGENCY OBLIGATIONS NOT AFFECTED

"SEC. 184. (a)(1) Except as may otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Board under section 182 or pursuant to the modification of a schedule by an agency under 182(b)(3), the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

"(2) Paragraph (1) shall be subject to section 185.

"(b) Except as permitted under the authorities referred to in subsection (a), nothing in this part shall—

"(1) affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law,

"(2) affect the basis on which any agency decision is made with respect to such a project, or

"(3) affect or influence the outcome of any such agency decision.

"(c) Nothing in this part shall be construed to affect the authority or independence of any independent Federal regulatory agency.

"WAIVERS OF FEDERAL, STATE, OR LOCAL LAW

"SEC. 185. (a)(1) If, after designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, the Board determines, after consultation with the agencies concerned, that any Federal, State, or local requirement presents a substantial procedural or substantial substantive impediment to the making of any agency decision in a manner which will permit the implementation of a Priority Energy Project according to the Project Decision Schedule, the Board may recommend to the President that such requirement be waived in whole or in part. The Board may also review any Federal, State, or local requirement enacted or promulgated after establishment of the Project Decision Schedule for any Priority Energy Project to determine if such requirement may present a substantial procedural or substantial substantive impediment to the implementation of the Project and, upon making such a determination, the Board may recommend to the President that

such requirement be waived in whole or in part.

"(2) Any waiver recommended under this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver.

"(3) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in subsection (b).

"(b) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under subsection (a), the President may, if he determines a waiver to be in the national interest and that such a waiver would not unduly endanger the public health and safety, transmit such determination to the Congress together with a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such determination. Any waiver transmitted under this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver. The President's transmittal under this section shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(c)(1) Except as provided in paragraph (3), any waiver with respect to which the President has made a determination which is transmitted to Congress under subsection (b) shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives unless, before the expiration of such sixty-day period, such determination is disapproved in the same manner as an energy action may be disapproved under section 551 of the Energy Policy and Conservation Act.

"(2) In applying the provisions of section 551 of the Energy Policy and Conservation Act to a determination under this subsection, any reference in such section 551 to an energy action shall be treated as a reference to a determination transmitted under this section, subsections (a), (c), (e), (f)(2)(A), and clauses (i) and (ii) of subsection (f)(5)(B) of such section shall not apply, any reference in such section 551 to five days shall be treated as a reference to thirty days, and any reference to a fifteen-calendar-day period shall be treated as a reference to a sixty-calendar-day period.

"(3) A determination transmitted under this section may take effect at any time subsequent to the date specified in paragraph (1) if such subsequent time is set forth in such determination.

"(c) The agencies responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver, and such terms and conditions shall be enforced by such agencies in a manner consistent with their authorities pursuant to otherwise applicable law.

"PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

"SEC. 186. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 182 contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

"(b) No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 185, if such waiver would—

"(1) waive any Federal, State, or local requirement which relates to—

"(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

"(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

"(C) criminal laws, or

"(D) civil rights laws;

"(2) waive any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

"(3) have the effect of impairing or abridging any right or rights of any person arising under the Constitution of the United States;

"(4) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights; or

"(5) have the effect of abridging or impairing the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

"(c) Notwithstanding any provision of this part, no requirement may be waived under this part with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

"JUDICIAL REVIEW

"SEC. 187. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 177, the granting or denying of an extension under section 180, the establishment of a Project Division Schedule under section 182, and any action of the Board in to designate or not to designate any to judicial review, except as may be required by the Constitution of the United States.

"(2) The making of any waiver recommendation by the board or waiver determination by the President under section 185 shall not be subject to judicial review, except as required by the Constitution or as permitted under paragraph (3).

"(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after the approval of a determination transmitted by the President to the Congress under section 185 requesting the court to enjoin or grant other appropriate relief with respect to any waiver approved pursuant to such determination if such waiver is inconsistent with any prohibition contained in section 186, and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

"(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

"(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any other court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

"(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

"EFFECTIVE DATE

"SEC. 188. The Board shall promulgate regulations for carrying out its functions under this part (including regulations establishing procedures and criteria under section 176) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this part for designation of any project as a Priority Energy Project before promulgation of such regulations.

"EXPIRATION OF AUTHORITY

"SEC. 189. The Board shall cease to exist, and the authority provided to the Board under this part, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this part for any Priority Energy Project prior to the expiration of such authority, and, to the extent practicable, the other provisions of this part applicable to such project, shall continue to be applicable to such project after September 30, 1985.

"AUTHORIZATION

"SEC. 190. There is authorized to be appropriated to the Board to carry out the provisions of this part not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations.".

(b) The table of contents for such Act is amended by inserting after the item relating to section 166 the following:

"PART C—PRIORITY ENERGY PROJECTS

"Sec. 171. Short title.
"Sec. 172. Purposes.
"Sec. 173. Definitions.
"Sec. 174. Energy Mobilization Board; establishment and authority.
"Sec. 175. Certain projects not covered.
"Sec. 176. Authority to apply for priority status.
"Sec. 177. Designation of priority energy projects.
"Sec. 178. State participation.
"Sec. 179. Compliance with NEPA.

"Sec. 180. Extension of deadlines.
"Sec. 181. Agencies to transmit information.
"Sec. 182. Project decision schedule.
"Sec. 183. Monitoring of Compliance by Board.
"Sec. 184. Agency obligations not affected.
"Sec. 185. Waivers of Federal, State, or local law.
"Sec. 186. Prohibition against waiver of certain rights and laws.
"Sec. 187. Judicial review.
"Sec. 188. Effective Date.
"Sec. 189. Expiration of authority.
"Sec. 190. Authorization.".

AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. UDALL. Mr. Chairman, I offer an amendment as a substitute for the committee amendment in the nature of a substitute, which is printed in the RECORD and is in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The amendment reads as follows:

Amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by the Committee on Interstate and Foreign Commerce:

TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress finds that—

(1) the United States faces a severe energy shortage which has created a national emergency;

(2) this emergency endangers the national economy and the national defense;

(3) temporary measures are necessary to expedite decisionmaking on important energy projects and proposals;

(4) expeditious decisionmaking requires strict compliance with the time schedules and deadlines authorized by, and administered pursuant to, this Act; and

(5) delays in the exercise of the regulatory authorities of Federal, State, and local agencies relating to energy projects and proposals may exacerbate the national emergency and may constitute an undue burden on interstate commerce.

(b) The purpose of this Act is to provide for a coordinated, integrated, expedited, and simplified process for making Federal, State, and local agency decisions, and for carrying out other Federal, State, and local actions, which are required in connection with proposed nonnuclear energy projects where it is determined that the projects are of sufficient national interest to warrant such a process.

DEFINITIONS

SEC. 102. As used in this part, the term—

(1) "Agency" means a Federal agency or an agency or instrumentality of a State or local government or of a special governmental authority.

(2) "Agency action" means any decision required to be made, or any other action required to be taken, by any agency with respect to any Priority Energy Project.

(3) "Board" means the Energy Mobilization Board established pursuant to section 201.

(4) "Energy project" means any project or device to be used, or activity to be carried out, by any person in connection with the exploration for, the development, transportation, production, storage, commercialization of, or the conservation or efficiency in the use of, any form of energy. Such term includes any equipment, building, mine, well, rig, pipeline, transmission line, processing project, transportation-related device, manufacturing project, or installation or any combination thereof to be used for such purposes. Such term includes any such project, device, or activity which is to be used or carried out on Federal lands for such purposes and any such project, device, or activity located upon the public lands or which relies substantially upon fuels extracted from the public lands to be used for such purposes.

(5) "Federal agency" means an Executive agency as defined in section 105 of title 5 of the United States Code, the departments described in section 102 of such title 5, and the Executive Office of the President.

(6) "Person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any Federal agency, any agency or instrumentality of a State or local government, or a special governmental authority.

(7) "Priority Energy Project" means an energy project, or a proposed energy project, which is designated pursuant to section 204 of this Act.

(8) "Special governmental authority" means an interstate or regional authority or an Indian tribe.

(9) "State" means any of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE II—PRIORITY PROJECTS

ENERGY MOBILIZATION BOARD; ESTABLISHMENT AND AUTHORITY

SEC. 201. (a) The President is authorized to establish for purposes of this Act an Energy Mobilization Board to consist of 5 members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated by the President as the Chairman.

(b) Members of the Board, other than the Chairman, shall be entitled to receive compensation at the rate prescribed for level IV of the Executive Schedule. The Chairman shall be entitled to receive compensation at the rate prescribed for Level III of the Executive Schedule. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code. The Board shall appoint a General Counsel who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule.

(c)(1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel, not to exceed 60 persons, as he deems necessary to carry out the functions of the Board.

(2) Upon request of the Chairman, the Secretary of Energy or the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

(5) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Department of Energy.

(d)(1) The Board may, for the purpose of carrying out its functions, hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders as may be necessary to carry out its functions under this Act. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this Act. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

(2)(A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(e) Whenever the Board submits to the President or to the Office of Management and Budget any legislative recommendation or testimony, or comments on any legislation prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives.

(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives fully informed concerning its activities and shall submit an annual report to the Congress at the end of each fiscal year concerning the actions taken or to be taken under this Act. Each such report shall, to the extent possible, contain the information described in section 220(b).

(g)(1) Regulations promulgated under

this section shall be submitted to both Houses of Congress on the same day and shall take effect at the expiration of 60 calendar days of continuous session of Congress thereafter unless, before the expiration of such 60-day period, such regulations are disapproved in the same manner as an energy action may be disapproved under section 551 of the Energy Policy and Conservation Act.

(2) In applying the provisions of section 551 of the Energy Policy and Conservation and Policy Act to a regulation under this subsection, any reference in such section 551 to an energy action shall be treated as a reference to a regulation transmitted under this section, subsections (a), (c)(2), and (f)(2)(B), and clauses (i) and (ii) of subsection (f)(5)(B) of such section shall not apply, any reference in such section to 5 days shall be treated as a reference to 15 days, and any reference to a 15-calendar-day period shall be treated as a reference to a 60-calendar-day period.

(3) A regulation transmitted under this section may take effect at any time subsequent to the date specified in paragraph (1) if such subsequent time is set forth in such regulation.

CERTAIN PROJECTS NOT COVERED

SEC. 202. Nothing in this Act shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 203. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this Act. Such procedures and criteria shall require such applications to include such detailed information as the Board deems necessary to—

(1) enable it to make such a designation under this Act;

(2) identify each agency required to make a decision with respect to such project; and

(3) enable it to determine the agency decisions which must be made with respect to such project.

(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

(1) a design proposal for the project;

(2) economic data on the costs and benefits of the project;

(3) the energy to be produced or conserved by the project; and

(4) an analysis of the social, health and safety, and environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, social, health, or safety hazards.

(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate Federal, State, and local agencies, the Governors of affected States, and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs. The Board shall take reasonable steps to notify other interested parties. The Board shall afford 45 days after publication of notice in the Federal Register for such agencies and other interested persons to submit for the Board's consideration written comments concerning whether or not the project should be designated as a Priority Energy Project.

(e) The Board shall keep on file, and make available for public inspection and copying, at the main office of the Board and in such other places as the Board deems appropriate, such portions of any application for designation of a project as a Priority Energy Project as are not matters described in section 552(b) of title 5 of the United States Code.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 204. (a) Not later than 45 days after expiration of the comment period under section 203(d) with respect to any application under section 203, the Board shall—

(1) issue an order in accordance with this part designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

(2) refuse to issue such an order.

(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the agencies, Governors, and committees referred to in section 203(d) and shall take reasonable steps to notify other interested parties.

(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonreneweable resources;

(2) the magnitude of any economic and social impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

(3) the extent to which the energy project would make use of renewable energy resources or conserve energy;

(4) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

(5) the time that would normally be required to obtain all necessary agency decisions;

(6) the adverse impacts that would result from—

(i) the designation of the energy project as a Priority Energy Project, or

(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

(7) the extent to which the energy project would impinge upon presently available or future water resources;

(8) the comments received concerning the energy project;

(9) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

(10) the availability of significant economic, environmental, or technical data;

(11) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants;

(12) the magnitude of any adverse environmental impacts associated with the project and the existence of alternatives that would have fewer adverse impacts;

(13) the extent to which the applicant is prepared to complete, or has already completed, the significant actions which the applicant in consultation with the Board anticipates will be identified under section 203 as required from the applicant, including the extent to which financing, insurance, and labor requirements for the project will be available; and

(14) the extent to which the project has been assessed in terms of cost effectiveness and energy efficiency.

Any order designating a project under this section shall contain a statement of the basis on which such designation was made, addressing each of the above criteria.

(d) The Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agency actions with the appropriate agencies as soon as possible in order that any eventual agency action may be expedited. The Board shall consider any failure to file such applications in a timely fashion in making its determination on an application under this section.

(e) Not more than 75 Priority Energy Projects may be designated by the Board, and not more than 20 of such Projects may be designated in any one calendar year.

ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

SEC. 203A. (a) Upon request of any State or local agency covered by the Project Decision Schedule for any Priority Energy Project, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such Federal agency to such State or local agency to assist the State or local agency in carrying out its functions with respect to such Project.

(b) To the greatest extent practicable, the Board and other Federal agencies may provide assistance authorized by law to State and local agencies to assist such State and local agencies in complying with any Project Decision Schedule.

RELATIONSHIP TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 205. (a) The provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall not apply to any—

(1) determination by the Board under section 204 (relating to designation of a Priority Energy Project);

(2) promulgation or revision of a Project Decision Schedule by the Board under any provision of this Act; or

(3) action by the Board or by any agency under section 211 (relating to streamlining of procedures).

(b) Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 209, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2) of the National Environmental Policy Act of 1969. If the Council determines that a Priority Energy Project will require such a major Federal action, the Council shall promptly designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

(c) Notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969.

STATE PARTICIPATION

SEC. 206. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State and each Indian tribe in which any portion of such Project is proposed to be located, and each such Governor and tribe may appoint a

nonvoting member to serve on the Board to participate in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 201(b) shall not apply to any member of the Board appointed under this section.

EXTENSION OF DEADLINES

SEC. 207. The Board may extend the time for receiving comments under section 203 (d), the time for making its determination under section 204 in the case of any application for designation of any energy project as a Priority Energy Project, and the time for agencies to submit information under section 208. Any such extension shall be consistent with the purposes of this Act and shall be for only such period as may be necessary, as determined by the Board.

AGENCIES TO SUBMIT INFORMATION

SEC. 208. Not later than 45 days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any decision with respect to such project or any part thereof, shall transmit to the Board—

(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements legally applicable to such actions and to the making of such decisions;

(2) a tentative schedule for completing such actions and making such decisions and a statement of those procedural changes, if any, the agency proposes to implement pursuant to section 211;

(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions in accordance with such Project Decision Schedule will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any priority energy project at any time and in any manner requested by the Board.

PROJECT DECISION SCHEDULE

SEC. 209. (a) Upon receipt of the information required to be submitted pursuant to section 208 respecting any Priority Energy project, the Board shall conduct discussions with affected agencies and the applicant seeking mutual agreement on a practical and expedited Project Decision Schedule for such Project. Such agreements shall be in writing whenever possible. Not later than 45 days after agencies transmit information under section 208 with respect to any Priority Energy Project, the Board shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also recommend concurrent review of apolications and joint hearings by State and local agencies.

(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 208 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination.

(2) Whenever the Project Decision Schedule is not consistent with any schedule that would otherwise apply, such Project Decision Schedule shall apply in lieu of the otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

(3) In the case of agency action subject to the Project Decision Schedule, the agency may modify any schedule (other than the Project Decision Schedule) applicable to such action (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule.

(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure complete consideration of all matters concerning such Project under applicable law and to insure adequate participation by interested parties in applicable proceedings.

(c) In consultation with affected agencies and any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for filings by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made.

MODIFICATION OF PROJECT DECISION SCHEDULE

SEC. 210. (a) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time.

(b) No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time,

taking into account the personnel and funds available to the agency for complying with such Schedule.

(b) No extension of any time period applicable to any action specified on such schedule which is required to be taken by any person other than an agency may be granted unless the Board determines that such person has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule.

STREAMLINING PROCEDURES

SEC. 211. (a) All Federal, State, and local agencies having authority to make any decision with respect to a Priority Energy Project may establish special procedures applicable to such decision if the agency determines such procedures are a necessary means of expediting such decision or of complying with the Project Decision Schedule applicable to such Project and if such special procedures provide for effective participation by interested parties in proceedings relating to the decision. Such special procedures shall be consistent with all requirements governing the agency's actions, except that, notwithstanding any such requirement, any Federal agency may—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such Schedule;

(2) establish requirements applicable to the filing of applications or other information which eliminate unnecessary duplication;

(3) substitute legislative-type hearings in lieu of trial-type hearings, except that in any cases in which—

(A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and

(B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing,

the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing.

(4) conduct proceedings, except where formal hearings are required under paragraph (3) (A) or (B), in which parties may submit written data, views, or arguments and written responses to the data, views, or arguments submitted by other parties, as the agency or the presiding employee may specify and in which oral presentation is limited to brief oral argument;

(5) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision; or

(6) utilize any combination of procedures authorized by this subsection.

(b) The procedures referred to in paragraph (5) may also—

(1) require the presiding employee to submit the record to the agency without a recommended or tentative decision, but with such analysis of the record as the agency may specify; and

(2) permit the agency to omit a tentative or recommended decision if it determines that due and timely execution of its functions so requires.

(c) If the Board finds that those procedures proposed to be used by a Federal agency to make any decision of the agency necessary for compliance with the Project Decision Schedule will not permit the agency to comply with such Schedule, the Board may order the agency to implement any or all of the special procedures described in this section with respect to the decision if the special procedures will provide for effective participation by interested parties in proceedings relating to the decision.

MONITORING OF COMPLIANCE BY BOARD

SEC. 212. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register. If the Board determines that any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for agency decision may be made,

(2) taking any other action on behalf of the Project which is necessary before an agency decision may be made,

has failed or refused to promptly or correctly file such application or petition or take such other action, the Board shall either—

(A) revise such Project Decision Schedule by extending the applicable deadlines by an amount of time equivalent to the delay caused by such person, or

(B) revoke the designation of the project as Priority Energy Project.

AGENCY OBLIGATIONS NOT AFFECTED

SEC. 213. (a) Except as may otherwise be provided pursuant to—

(1) the establishment, modification, or revision of a deadline or timetable under any provision of this Act, or

(2) the establishment of special procedures under section 211,

the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

(b) Except as permitted under the authorities referred to in subsection (a), nothing in this part shall affect the application to any energy project of any requirement established by, or pursuant to, Federal, State or local law.

(c) Nothing in this part shall be construed to—

(1) affect the basis on which any agency decision is made with respect to such a project, or

(2) affect or influence the outcome of any agency decision.

ENFORCEMENT OF PROJECT DECISION SCHEDULE AGAINST FEDERAL, STATE, OR LOCAL AGENCIES

SEC. 214. (a) If any agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule, the Board may bring an expedited enforcement action in the appropriate United States district court against the agency head or other responsible official.

(b) In any action brought under this subsection, if the court determines that any agency has failed, or is reasonably likely to fail, to comply with a Project Decision Schedule, the court shall order the agency to act in accordance with the Schedule unless subsection (c) applies.

(c)(1) If the court determines that the agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule but that action in accordance with the Project Decision Schedule would not insure adequate consideration of all matters concerning such project under applicable law, would not insure adequate participation by parties in applicable proceedings, would clearly be impractical, or would deny any person due process of law, the court shall instruct the Board to revise the Project Decision Schedule to require the agency to complete consideration of the applicant's request as soon as practicable. Immediately upon receipt from the Board of a certified copy of the revised Project Decision Schedule, the court shall issue an order directing the agency to comply with such Schedule.

(2) The court may order the agency to assign additional personnel to the decision or action, or to utilize any of the special procedures enumerated in section 211.

(3) Upon failure of any agency to meet any deadline included in a compliance schedule imposed by the court, the court shall take such measures as it deems necessary and appropriate, including citation and punishment of the responsible officials for contempt of court.

(d)(1) Upon filing of an action by the Board under this section, the agency and other interested parties shall have 15 days in which to file a written response. Any further filings required by the court shall be prepared within 15 days or less. The court may limit offers of proof to written documents except that the court shall hold at least one hearing concerning such action.

(2) Not withstanding any other provision of law including any other provision of this Act, any action brought under this section and any appeal therefrom shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at the time, and shall be expedited in every way by such court. No such appeal may be brought after 60 days after a final decision by the lower court.

(e)(1) If any Federal, State, or local agency has failed to make a decision or take action pursuant to a court order issued pursuant to subsection (b) or (c), the President may perform the action or make the decision in lieu of the agency.

(2) The President shall notify an agency that he has determined that the agency has failed to make a decision or perform an action within the time required by such court order and that the President intends to decide in lieu of the agency. If the agency has not acted or decided within 15 days of such notification, the agency shall transmit to the President forthwith all records in the possession of the agency pertinent to that decision or action. The President shall take whatever additional action is necessary to develop an adequate record for a final decision or action.

(3) In any action under this section, whenever the Project Decision Schedule deadline for such action has passed, the Board may file notice with the court stating that the deadline has passed and that the agency has failed to take the action required by the Project Decision Schedule. The Board shall advise the court that the national interest described in section 101 of this Act requires expeditious enforcement of the deadline. If the court fails to act pursuant to subsection (b) or (c) of this section within 120 days of the filing with the court of such notice, the President may act pursuant to paragraphs (1) and (2).

(4) In performing an action under this section in lieu of an agency, the President shall apply the Federal, State, or local law that would have been applied had the Federal, State, or local agency performed the action.

SUSPENSION OF NEW REQUIREMENTS

SEC. 215. (a) Upon an application of any agency or any person acting on behalf of a Priority Energy Project, the Board shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after commencement of construction of any facility which is part of the project would prevent timely completion or operation of such facility. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will prevent the timely completion or operation of such facility, the Board is authorized to order the temporary suspension of the application of such requirement to such facility for such time as necessary to allow the facility to comply with the requirement.

(b) No order temporarily suspending the application of any requirement to any facility may be issued under subsection (a) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that the temporary suspension will not create any significant risk to public health or safety.

(c) No order under this section may continue in effect after the last day of the fifth year after such order is originally issued.

(d) No order under this section may modify or impair in any way—

(1) any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) crimes based on common law, or

(D) civil rights laws;

(2) any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) any right or rights of any person arising under the Constitution of the United States;

(4) any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(5) the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

(e) For the purposes of this section, "commencement of construction" means that the owner or operator of a facility has obtained all necessary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has—

(1) begun or caused to begin, a continuous program of physical onsite construction of the facility including site clearance, grading, dredging, or land filling in preparation for the fabrication, erection, or installation of the building components of the facility, or

(2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time.

For the purpose of this subsection, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether such construction is continuous.

WATER LAW

SEC. 216. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees, or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

JUDICIAL REVIEW

SEC. 217. (a)(1) Action by the Board granting or denying any order designating a proposed energy facility as a Priority Energy Project under section 204 and action by the Board under section 215 suspending the application of any requirement of Federal, State, or local law to any facility shall be subject to judicial review only for failure to comply with any requirement of this Act or

for violation of any provision of the Constitution of the United States.

(2) Action by the Board—

(A) establishing, modifying, or revising a Project Decision Schedule under any provision of this Act;

(B) requiring the use of any special procedures under section 211; or

(C) granting or denying any extension under section 213

shall not be subject to judicial review in any proceeding other than an enforcement proceeding brought by the Board against an agency head of other responsible official under section 214 or a proceeding for review of any final agency action to which such Schedule, procedures, or extension applied.

(3) Any action of the Board other than an action described in paragraph (1) or (2) shall not be subject to judicial review except as to the requirements of the Constitution.

(b)(1) Any action referred to in subsection (a) and any action brought in any court of the United States for review of—

(A) any final agency action which is covered by a Project Decision Schedule.

(B) any Presidential decision under section 214(d) may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located, or where the claim arose, and may only be brought within 60 days following the date on which notice is published that such decision or action has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence. Any agency action which is covered by a Project Decision Schedule or any Presidential decision under section 214 shall not be subject to judicial review unless such action is in violation of the Constitution of the United States or in excess of, or falls short of, statutory jurisdiction, authority, or limitations, or short of statutory right.

(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, and issue its decision at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court. In order to expedite the just and complete resolution of issues involved in any such action, a reviewing court may, notwithstanding limitations imposed by any other law or rule of law—

(1) consolidate the action with any other action relating to the same Priority Energy Project which is brought in such court, or

(2) transfer the action to any other United States court of appeals for the purposes of such consolidation.

Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

(c) Nothing in this section shall affect the jurisdiction of the courts of any State or political subdivision thereof except that any agency action respecting which judicial review could have been obtained under this section may be reviewed only as provided in subsection (b).

(d) In issuing a final order in any action for review of any final agency action which is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party, and assess such costs against any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay.

SUPREME COURT REVIEW

SEC. 218. (a) Any party seeking review in the Supreme Court of any judgment or order (including interlocutory judgments or orders) of a circuit court of appeals pursuant to this Act must file a petition for writ of certiorari within 60 days after the decision of the lower court or the appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date.

REGULATIONS

SEC. 219. The Board shall promulgate regulations for carrying out its functions under this Act not later than 60 days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this Act for designation of any project as a Priority Energy Project before promulgation of such regulations.

EXPIRATION OF AUTHORITY

SEC. 220. (a) The Board's authority shall expire 7 years after the date of enactment of this Act. Notwithstanding the previous sentence, the provisions of the Act shall continue to be applicable to all energy facilities designated as Priority Energy Projects prior to the expiration of the Board's authority.

(b) Six months prior to the expiration of Board authority as provided in subsection (a) of this section, the Board shall submit to the President and to the Congress a detailed report and recommendations for congressional action which shall include, but not be limited to, the following:

(1) a comprehensive report for the life of the Board on its activities including the functioning of the selection and designation process for Priority Energy Projects; the status of all designated projects; the effectiveness of the Board's actions in expediting the development and construction of energy projects; and any significant delays in the completion of Priority Energy Projects and the causes thereof;

(2) the estimated reduction in barrels of imported oil that may be attributed to Board action, and a comparison of the potential for such reduction with and without such action;

(3) estimated time and funds saved by Federal, State, and local governments, and the private sector by minimizing delays, inflation impacts, and other factors which would have increased the time and expense of project comp'etion without Board action;

(4) recommendations as to whether or not the Board should be reauthorized, and recommendations and their justification for any changes that should be made in the authorizing statute to enable the Board to better fulfill the purposes of this Act; and

(5) those provisions of Federal, State, and local statutes, regulations, or requirements which in the Board's opinion and through its experience in carrying out the provisions of this Act, have contributed most significantly to unnecessary delays in project approval, construction, and operation, and the Board's recommendations for changes in such provisions or for other action to expedite the decisionmaking process, without detracting from the intent and integrity of such statutes or regulations, and which would eliminate the need for such Board.

(c) On or before the date established for the submission of the report of the Board to Congress in subsection (b), the Comptroller General of the United States shall submit to Congress a report evaluating the performance of the Board. The report shall set forth findings and recommendations with respect to the program, and shall include:

(1) an assessment of the effectiveness of the program and the degrees to which the original objectives of the program have been achieved;

(2) an identification of any trends, developments, and emerging conditions which are likely to affect the future nature and extent of the problems or needs which the Board is intended to address;

(3) an assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program;

(4) an assessment of the energy supply, environmental, legal, and social impacts of the Board; and

(5) such additional information as may be requested by Congress.

AUTHORIZATION

SEC. 221. There is authorized to be appropriated to the Board to carry out the provisions of this part not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

□ 1200

The CHAIRMAN. Does the gentleman from Arizona (Mr. UDALL) wish to be recognized in support of his substitute amendment at this time?

Mr. UDALL. I do not, Mr. Chairman.

AMENDMENT OFFERED BY MR. SANTINI TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SANTINI. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SANTINI to the amendment in the nature of a substitute: Strike out page 46, line 1 and all that follows down through line 12 on page 49 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A) the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection, any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law

applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project, the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and urge any civil litigation in any such action.

Page 45, line 6, after "182" insert "or 185 (a) (2) (A)".

Page 49, line 19, after "182" insert "or 185 (a) (2) (A)".

Mr. SANTINI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. The Chair will first inquire of the gentleman, was the amendment which the gentleman is offering printed in the RECORD according to the rule?

Mr. SANTINI. Yes; it was, Mr. Chairman.

The CHAIRMAN. The gentleman from Nevada (Mr. SANTINI) asks unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. SANTINI. Mr. Chairman, the gentleman from New Mexico (Mr. LUJAN) and I have labored long and hard to offer to this body a constructive addition to the legislative proposal for fast-track of the Committee of Interstate and Foreign Commerce. The short and sweet of the differences contained in our amendment proposal are these:

We strike the waiver of State and local government laws, and we add the feature that instead of a one-House veto, before there can be any waiver of Federal substantive law, there must be an affirmative vote by the House and an affirmative vote by the Senate. These proposals are condensed and contained in a time frame that provides for reasonable implementation of executive and legislative decisionmaking.

Mr. Chairman, I will state to the Members of this House and this committee that after all of the argumentation and debate are stripped away from the comparative analysis of the Dingell-Brown proposal and the Udall-Wirth-Clausen proposal, and when the very constructive addition that is being offered by the gentleman from New Mexico and myself is added to the Dingell bill, we have one essential foundational difference between the two legislative proposals.

On the one hand, the gentleman from Arizona (Mr. UDALL) does not propose that there be any waiver under my circumstances at any time of Federal substantive law. The Dingell bill, as amended by our proposal, would allow, with the adoption of that amendment, a waiver of Federal substantive law under these extraordinary circumstances: First, the Energy Mobilization Board would have to target that particular project; second, the President would have to find it in the national interest; and, third, this House and the U.S. Senate would have to vote affirmatively in support of that waiver.

Now for some, this mechanism is not expeditious enough; for others, it offers to their impending contemplation a wholesale assaut on the 24 to 35 Federal laws that in some way, shape, or form, have impeded energy development in this Nation.

I rather think that objective projection would suggest that our amendment, in the combination of Santini-Lujan and Dingell-Brown, affords a moderate, reasonable response to a national imperative that is energy productive. I believe that it is exaggerated rhetoric to suggest that this House would find itself overwhelmed with a legislative assault that would contemplate eradication of every Federal law dealing with environmental protection, and that day in and day out we would find ourselves compelled in this House to address some modification, change, or waiver of Federal law. I think that is unmitigated rhetorical nonsense.

I would suggest to those Members of this body who are not foreclosing consideration of one point of view or the other that when our amendment proposal does in meaningful, practical terms is to provide that in those instances where we have intransigent bureaucracy, unresponsive rule or regulation, or indifferent governmental process, the very presence of the possibility that that particular institution or agency or that particular law would be challenged in this House of Representatives or in the United States Senate will itself represent the salutary, constructive positive response that probably we should have been receiving out of the bureaucratic institutions from the inception of the law.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

(By unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, this amendment puts the persuasive influences of rational, deliberate, and responsive decisionmaking in the hands of those who are seeking to reach energy production and a resolve of our Nation's energy problems. I think this is a balanced approach, I think it is responsible, and I think it is a complement to the legislative efforts already completed by our Committee on Interstate and Foreign Commerce.

Mr. DINGELL. Mr. Chairman, will my good friend, the gentleman from Nevada, yield?

Mr. SANTINI. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman from Nevada (Mr. SANTINI) was much concerned about this issue in the Committee on Interstate and Foreign Commerce. We strove mightily to find a way of dealing with the concerns he had at that point. We continued our discussions, the gentleman offered his amendment, and on the basis of those discussions we have concluded the amendment is eminently commendable.

Mr. Chairman, I am happy to offer my support for the amendment, I urge my colleagues to vote for it, and I commend the gentleman for offering it.

Mr. SANTINI. Mr. Chairman, I thank the gentleman for his gracious remarks and for his support.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I am happy to yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I believe that the gentleman's amendment which is offered to the version of the Committee on Interstate and Foreign Commerce is a significant improvement over the Commerce bill as it now stands.

In line with what I think is a proper procedure when we have divided viewpoints on two bills, I believe it certainly is proper that each committee should be afforded the opportunity to improve on its particular version.

So, therefore, Mr. Chairman, I would suggest that the House support this amendment.

□ 1210

Mr. SANTINI. I am grateful for the support of the gentleman from California.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Ohio.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman,

I, too, want to congratulate the gentleman in the well, the gentleman from Nevada (Mr. SANTINI), who, in combination with the gentleman from New Mexico (Mr. LUJAN), has offered an amendment which clears up a problem that is, quite frankly, bothering many of the Members of the House. The issue concerns the power of the Federal Government to supersede State and local law. It has been done on several occasions. I am willing to see the gentleman's amendment accepted, and I think it is a positive contribution to the process of our legislating on this issue and the resolution of the energy problem.

I might say to the gentleman in the well, however, that I have heard frequently referred to, as an example of the thing that needs to be addressed, the 700 to 750 licenses required by the so-called Sohio pipeline from California through Arizona, New Mexico, to Texas, that would have brought oil from Alaska to be refined in Texas and then distributed to the Midwest.

I would have to say to the gentleman that I think that the process that saw that delay was partly the result of the State of California putting unreasonable limitations and delay on the building of that pipeline. So I think that we may, at some future date, unless we can get the States to think more in terms of the national interest, be faced with this problem again; but for the moment I think we ought to lay the issue aside so that we can proceed with this legislation.

Mr. Chairman, I congratulate the gentleman in the well for his effort.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(On request of Mr. BAUMAN and by unanimous consent, Mr. SANTINI was allowed to proceed for 3 additional minutes.)

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Chairman, I, too, think the amendment is an improvement over the Commerce bill. But may I simply contrast my understanding of the gentleman's amendment? If, under this amendment, the State or local jurisdiction fails to act within a specified time which may be imposed upon them by the Energy Mobilization Board, does that then allow this Federal Board to make the decision for the State or local agency based on State or local law?

Mr. SANTINI. Exactly.

Mr. BAUMAN. But the State or local agency itself would lose that power, they would have to at that point give way to the members of the Federal Board to make the decision?

Mr. SANTINI. Only in that instance where the State or local government fails to act and there is no reasonable explanation or response for the failure to respond or act. I would suggest to the gentleman that that basic mechanism is contained in both the Udall proposal and in the Dingell proposal. I would suggest to the gentleman that that essential ingredient in substance, is true of both bills.

Mr. BAUMAN. And what judicial appeal would be allowed under the gentleman's amendment if the State or local jurisdictional body objected to this taking over of their powers?

Mr. SANTINI. That is a very good question. Contrast the two pieces of legislation. On the one hand, the Udall proposal says that in this intermediate period of time, as part of a four-step process, there would be 120 days for a judicial appeal to be exercised. Our proposal, if adopted, made part of the Dingell bill, would allow for appeal at the end of that decisionmaking process, rather than in the intermediate phase.

I think there is another significant difference. When we look at the appellate rights at the end, the Udall bill restricts appeal to, one, constitutional grounds, whatever that encompasses—it is probably an automatic entitlement anyway—and then it says the only other grounds on which an appeal could be exercised in this context would be some kind of a rewritten provision that they have taken out of the Administrative Procedures Act that provides for appeal. I think there are eight provisions in the Administrative Procedures Act that lays out the grounds for appeal.

The Udall bill does an interesting thing that I cannot begin to understand to this date, and perhaps the gentleman will be better able to. They rewrite one of those grounds for appeal and engraft on that. I suggest that it creates a great deal of uncertainty, at the very least, and perhaps obstruction, at the most, in terms of State or local government appeal or anybody else seeking to appeal a determination by the board and a conclusion by the President or this House.

Mr. BAUMAN. I thank the gentleman for his explanation.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(On request of Mr. GOLDWATER and by unanimous consent, Mr. SANTINI was allowed to proceed for 1 additional minute.)

Mr. GOLDWATER. Mr. Chairman, I rise in support of the amendment.

So we are going to expedite the process by which this country develops it's energy resources? We are going to undertake projects to develop our energy potential to the fullest? When President Carter got high on his horse this past summer with a sense of urgency that this Energy Mobilization Board was the ticket to energy self-sufficiency, I did not bat an eyelash.

"No more redtape," is the rallying cry. "If we have this Board, the regulations, the paperwork, the environmental impact statements—forget it. This Board will whisk away any problems relating to the building of new facilities to accommodate our commitment to energy independence."

Come on now. It sounds great. But is not this proposal just another plug in the dike? I am yet to be convinced that any of the proposals on this floor today will achieve their laudable objectives. Not long ago, when a group of students in my district asked me to explain our national energy policy, I was at a loss. Our vision is very inspirational. Our approach is very ambitious. But the role of Government in directing energy policy is in a massive state of confusion. It is one big hodgepodge.

Of the choices open to us, I am skeptical that any are actually going to succeed in honoring deadlines, establish effective schedules, waive the encumbrances, or set the priorities that need to be set.

Because of the substantive thrust of the Commerce Committee bill, I am lending my support to it. Not that it will do that much better a job of promoting the needed projects. Not that it will not create a plethora of new regulations itself. Not that a spawning ground of litigation will not result. But I think an important improvement in the legislation lies in the adoption of Santini-Lujan.

This amendment is deserving of our acceptance because it enables the States to proceed with their own plans for an appropriate balance between technological advancement in the development of energy resources, and environmental protection. The miserable failings of the Federal Government in directing an effective energy policy makes it only proper that the States be given the opportunity to call their own shots without further complications from Washington.

So, while I question the ultimate benefits of any measure we send to the President for his signature, I do think the provisions of the Commerce Committee bill, as amended by Santini-Lujan, is the best of the options available. I urge an "aye" vote on the amendment.

Mr. SANTINI. I am grateful for the gentleman's support and I thank him for it.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Colorado.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(On request of Mr. KRAMER and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. KRAMER. Mr. Chairman, I have several questions I would like to clarify with respect to the amendment that the gentleman is offering.

Mr. SANTINI. I would be happy to clarify.

Mr. KRAMER. One question pertains to what would be affected under section 185(d).

It is intended that the suspension and waiver provisions with respect to newly enacted laws would apply to State and local tax laws?

Mr. SANTINI. No, it is not.

Mr. KRAMER. I thank the gentleman. I have one other question.

With respect to section 185(e), which requires identification of possible impediments to project implementation and sets forth the procedure for the Governors, agencies, and the President for dealing with those impediments and for the Governors and affected agencies to respond to the Board regarding their actions on the Board's recommendations, does this provision in any way grant authority to either Governors or to affected State and local agencies to waive or modify State or local law requirements in order to act on the Board recommendations?

Mr. SANTINI. That is a very good question. It does not increase or decrease the authority in one way or the other.

Mr. KRAMER. So if the Governor were to act on recommendations that the Board gave to the Governor, the Governor would have to act pursuant to what was already existing State law?

Mr. SANTINI. Yes.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(On request of Mr. OTTINGER and by unanimous consent, Mr. SANTINI was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, there is one thing that I would really like to address to both the gentleman in the well and to my good chairman, which concerns me about the gentleman's amendment. I applaud the gentleman's exemption from State and local governments in the override of substantive provisions. I would like to ask the gentleman about the so-called bump up provisions. I understand it that if action is not taken within the prescribed time, then the board is allowed to make a decision. It is my understanding that a principal objection of the chairman, the gentleman from Michigan (Mr. DINGELL), and the gentleman in the well to the original legislation of the Interior Committee was having a board making decisions that are in the proper province of Congress to make. Now we have this as a part of the gentleman's amendment, which the gentleman from Michigan is supporting. I wonder about the gentleman's opinion as to the soundness of having a board which is not responsible to the public making these kinds of important decisions.

Mr. SANTINI. I appreciate the question. I will do my best to respond.

First of all, if it entailed the waiver, if we were discussing waiver circumstances of any kind, the only mechanism under my proposed amendment that is integrated with the Dingell-Brown bill would allow is that that must go to the President and then in turn it must come back to the House of Representatives and the Senate for support. So to that extent, if we were talking in the waiver arena, the gentleman's fears would be allayed.

In the second sphere, when we are talking about not waiver but we are talking suspension, what my amendment attempts to do is to say this: In that limited circumstance, where it is an imperative to suspend temporarily a new law in order to afford the energy project sufficient time to respond, that that seems to be a more ministerial or administrative act; and in view of the fact that it does not entail any kind of permanent substantive waiver, that it is appropriate, in terms of expeditious consideration, that that kind of activity be handled by the Board.

□ 1220

Mr. OTTINGER. Mr. Chairman, as a practical matter, it is going to be a waiver, is it not, because once the plant is built and the law is suspended, the plant is going to be built, and the toxic substances or whatever it is that we are concerned about are going to be doing their harm. It really involves a very substantive decision with respect to suspension of vital health and safety legislation.

Mr. SANTINI. I would take a different interpretation of the issue than the gentleman. I think—not to answer the question directly—what it does is provide a flexibility within the machinery to respond to the circumstances where a project has a project decision schedule applicable to it but commercial operation of the project has not yet commenced and a new law comes on the line.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

(At the request of Mr. OTTINGER and by unanimous consent, Mr. SANTINI was allowed to proceed for 1 additional minute.)

Mr. SANTINI. Mr. Chairman, the project has been designated, has received a fast track schedule but is not yet in commercial operation, and at that point there is a change in the law. It seemed unreasonable to me in that context not to provide some flexibility for the particular entity that was designated but not yet in commercial operation to have time to comply or respond to the law, and that given that reality and a 5-year time limitation, it seemed reasonable to me that they should not be delayed in operating the project while they attempted to comply with a new law; but they should be awarded sufficient time within which to comply or respond to that new law.

Bear in mind in final analysis and protection at the top of this process is the right of absolute appeal unimpaired or unencumbered by any language constraint such as that contained in Udall and contained in Wirth.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, these could be suspensions of provisions that are vital to the health and safety of people. That is the concern.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(By unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I thank the gentleman for yielding.

I want to follow up on the question asked by the gentleman from New York, relating to the bump-up procedure. In section 185(b)(1), the Santini substitute says that the Board may issue an order referred to in subsection (A)(2)(b) to have a decision under this subsection made in lieu of the agency decision.

Does that mean that the Energy Mobilization Board can make the decision for a State, county, or local agency?

Mr. SANTINI. No; it does not. That means that in the limited context that we are looking at the situation where the project has a project decision schedule but commercial operation has not yet been initiated. A local law comes on line after the Board approval of the project.

Mr. WIRTH. Mr. Chairman, if the gentleman will yield further, this is in relation to the time frame and the bump-up procedure. It has nothing to do with grandfathering. This has to do with the bumpup. The part of the legislation I am referring to relates to, as I understand it, and I want a clarification from the gentleman, if an agency has not made a decision effectively, what the Santini amendment does, as I understand it, is that it allows the Energy Mobilization Board, the Federal Government, to make that decision for the local agency.

Mr. SANTINI. In the instance where the local agency refuses to act in the time frame.

Mr. WIRTH. That is precisely what I wanted to get at.

I thank the gentleman for that clarification.

Mr. SANTINI. Mr. Chairman, I think it is important to note what it is designed to do is provide a reasonable kind of administrative machinery that will answer and respond to the questions of the gentleman from Ohio with regard to delay, delay, delay, and time consumed, time consumed, time consumed, in not acting at either State, local, or Federal level.

As the gentleman knows further, his proposal and the proposal of the gentleman from Arizona (Mr. UDALL) contain essentially the same kind of mechanism, because the gentleman recognized, as we recognized, that there must be some way to deal with the total inaction at the State or local level.

Mr. WIRTH. Mr. Chairman, I thank the gentleman.

Mr. WRIGHT. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Nevada (Mr. SANTINI).

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, we produced a bill in our committee, and the Committee on Interstate and Foreign Commerce produced a somewhat different bill. Sooner or later, we are going to

have to choose between them. We adopted a rule which will make that possible.

I take the view that the Santini amendment to the bill of the Committee on Interstate and Foreign Commerce is within their option and within their right. If they want to improve it with the Santini amendment that is fine with us. I hope the gentleman will show the same courtesy when we try to perfect our amendment with the amendment of the gentleman from Florida (Mr. FUQUA), which cuts out all this phony argument about 7 years of delay under our bill and really speeds up the judicial process.

I saw the 7-year poster still out in the hall there. I would suggest maybe someone take it down.

I want to say that the Santini amendment does not do what it is advertised to do.

I am going to vote for it. I agree with the gentleman from California (Mr. CLAUSEN) that they have a right to improve the bill if they want to.

Santini-Lujan is advertised as taking away the right to waive State or local laws. It does not end the waiver of State and local laws for in the Clean Air Act, safe drinking water, surface mining, and coastal zoning, and many other Federal laws. State enforcement procedures are based on Federal law and would be waived. So Santini is an improvement, but not much of one.

I will vote for it.

I thank the gentleman from Texas for yielding.

Mr. WRIGHT. I thank my distinguished friend for his comments.

Mr. Chairman, in view of the time consumed, I wonder if I might have additional time.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 8 additional minutes.)

Mr. WRIGHT. Mr. Chairman, I rose initially in support of the Santini amendment. It now seems apparent that both sides agree that the Santini amendment should be adopted. It will clear up once and for all the apprehensions which had existed on the part of some State and local units of government that this Congress might be getting ready to override their powers and their laws roughshod.

Let it be understood that with the adoption of this Santini amendment, we shall not be overriding any State law. Those laws will be sacrosanct. They will be enforced under the States' provisions. Particularly State water laws have an almost sanctified quality to western Governors in some jurisdictions where water is more precious than oil or gold or uranium or any other resource of the Earth. The Santini amendment preserves intact and inviolate the laws of the State and local jurisdictions. It does not preempt them.

It does permit, of course, just as the Udall bill also permits, that in those instances where a local unit of government were simply to drag its feet and refuse to make any decision under its own laws, that question might then come to the Energy Mobilization Board and be decided in conformity with the laws of that State. Without that provision, there would not be any possibility of a fast track. We shall respect and abide by State laws. But we cannot permit any State to stymie a badly needed Federal project through sheer refusal to decide on permit applications and things of that sort.

I know all of the Members have heard the horrible examples, the worst of the horror stories. Perhaps the best known of them, of course, was the Sohio pipeline. After 5 years, $50 million, 700 applications for often duplicative permits, the company simply threw up its hands and gave up, because it became apparent due to the delays and the built-in regulatory morass that it simply was not going to be able in less than 9 or 10 years of wasted effort to do that which everyone recognized was clearly in the interest of the United States of America. That was to build a pipeline from the west coast of this country to mid-America, where we could utilize between 400,000 and 500,000 barrels of oil daily from our reserves in Alaska, cutting down by that much upon the expensive Middle Eastern oil, reducing by that much our profound and shameful reliance on foreign producers.

In addition to that, the proposed pipeline would have made it possible for our consumers to have enjoyed oil from our Alaskan find at about $2 a barrel cheaper, because it could have been transported by the more efficient means of a pipeline rather than having to go by barge through the Panama Canal and be landed at the gulf coast. That project with all its benefits to our Nation went by the boards because of the regulatory morass. That is far from a unique situation.

□ 1230

Because of this morass, there is a need for some orderly procedure as provided in the Santini amendment whereby this Congress can say, Enough, enough. We pass a law and then the administrative agencies superimpose upon that law layers upon countless layers of additional requirements which have the force and effect of law.

Surely there have to be times, if we are serious about making this country energy sufficient again, where this Congress will want the orderly opportunity which the Santini amendment provides for us to review that situation and to say, Well, it is more important that this pipeline be built than it is that this petty requirement suggested by this administrative agency be fulfilled.

Let me show my colleagues a flow chart, better described I think as a slow chart, developed by the Union Oil Co. to show all of the requirements that have to be met in a thermal energy project. If my colleague, Mr. ALEXANDER, would assist me. I think my arms are not long enough. All of these requirements have to be met to qualify, to permit a geothermal project in the Western States. Surely some of this needs to be trimmed down. This amounts to about 7 or 8 years.

Yes, Members of Congress voted for most of these laws, but Members of Congress did not vote for most of the regulations that have been superimposed upon those laws. In a recent 2-year period, while Congress was enacting some 500 public laws, the bureaucracy was propounding almost 1,000 new regulations. Those are the things that hamstring our enemy efforts. Members of Congress most certainly did not vote for this kind of thing.

Let me give you one example of where one of these laws really ought to be set aside. These lists on the backboard are some 23 laws that almost always get involved in an energy project. This other chart contains a list of some 13 agencies which usually must give clearance.

In one instance, reductio ad absurdum, admittedly, but certain not unique, out in Wyoming there was an effort to explore for minerals, for oil and coal, that this Nation needs. Exploration was held up by the U.S. Department of the Interior. An application was made that we waive this rule of the Department of the Interior. Here is the response.

I shall read it to my colleagues:

BUREAU OF LAND MANAGEMENT,
RAWLINS DISTRICT OFFICE,
Rawlins, Wyo., March 20, 1979.

Attn: Mr. David F. Banko.
DAVIS OIL CO.,
Denver, Colo.

DEAR MR. BANKO: This is in response to your request for a variance regarding the sage grouse strutting-nesting complex stipulations attached to the above mentioned lease and well site. At this time available data suggest that noise from around-the-clock drilling operations tend to suppress sage grouse strutting activities. Combined with the fact that the proposed lease and well site is located within the nesting habitat associated with two strutting grounds, we feel the variance should not be granted in order to protect this resource.

Since there is a lack of research data on this problem (noise effects on sage grouse strutting, etc.) the Bureau is proposing a research study to determine these effects. However, because of our planning system and budget requirements, we do not anticipate starting the field work for at least three years. After this study has been completed, the data may show that variances of this type may be granted.

Sincerely yours,

RON WENKER,
Area Manager.

So for 3 years an inspector with the Department of the Interior arbitrarily holds up a vital energy exploration because he just does not know if maybe the sage grouse might not like any such activity near their strutting grounds. And this minor official cavalierly says it will be at least 3 years before he can get around to studying it. That is the kind of thing we will need to have the opportunity to lay aside if both Houses in their deliberate judgment decide that energy for this Nation is more important than that sort of secondary consideration.

I can name you dozens of similar examples. One of the laws that those of us on the Public Works Committee struggled and labored to bring forth and about which we were very proud was the water pollution law of 1972. We thought we had created a monument to clean water. Among other things, we provided that a hydroelectric power development should not spew back into the stream water so hot that it would kill the plant life or create the bad kind of algae that robs that water of its natural oxygen;

a very logical provision of law. But do you know what the regulatory agency decided that we had meant? They decided to require anybody building a hydroelectric powerplant to install such costly equipment and undergo such time-consuming delays as to cool off the water in the Southern States about 10 degrees cooler than it runs in the natural stream. How ridiculous. What a waste. Surely that is one of those things that the Congress, in its wisdom, if called upon in the interest of producing energy for this Nation, should have wanted to deliberately set aside.

So the Santini amendment provides that opportunity, an orderly way in which Federal laws, not State laws, as erroneously interpreted by these agencies, whose members often thirst to write law without the inconvenience of running for Congress, may be set aside in specific instances when the Nation's energy future is at stake.

There seems to be nothing more logical than that, that this Congress, which wrote the laws, should have an orderly way to set aside or waive those laws as interpreted by the voracious regulation writers. That is what the Santini amendment provides. That is what I support. I think every Member of this House can embrace that kind of arrangement. If not, then we shall have to confess we are just not really serious about making this country energy sufficient again. Surely no challenge to our future so grave as this challenge posed by those who hold the economic windpipe of this Nation in their fists, has occurred since World War II. It is, indeed, the moral equivalent of war.

I remember World War II when Franklin Roosevelt said we are going to build a ship a day; we are going to build 50 planes a week; we are going to create in this country a synthetic rubber industry so we will not be at the mercy of the Japanese who cut off our rubber supplies.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent Mr. WRIGHT was allowed to proceed for 2 more minutes.)

Mr. WRIGHT. President Roosevelt did not say we are going to build a ship a day if it is found not to be disturbing to the sage grouse after a 3-year study. He did not say we are going to build 50 planes a week if some administrative board holds that it will not be offensive to a snail darter or some other species. No; President Roosevelt said we were going to do it, and we did. If we win this war for America's energy security again, we are going to have to show the determination to do things just as resolutely. This is the way to do it, the Santini amendment, and the Interstate and Foreign Commerce Committee bill. That is what I support. That is what I think all of us can embrace.

I want to commend and compliment my colleagues on the other committee, on the Interior and Insular Affairs Committee. I think they have come forward with an earnest effort. I do not in any sense charge them with bad faith. The basic idea of a fast track was first enunciated to me by the gentleman from Arizona (Mr. UDALL). So I want to commend all who have worked on this for good faith. But if we want a bill that will really work, that will get the job done, that will give Congress a way to cut through that jungle of redtape, then I think we should support the Santini amendment and the Interstate Foreign Commerce Committee bill.

Mr. ALEXANDER. Will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. I appreciate the gentleman yielding and I applaud the gentleman's remarks. I support the Santini amendment.

In listening to the gentleman's speech it occurred to me that we might extract from a rule of physics a paraphrase that applies to the impasse that has been presented in this country when the forces of production meet the forces of preservation, and that rule which occurs to me would be that for every energy production there is an equal and opposite environmental protection reaction. The only way we can resolve this impasse and move forward to resolve the energy crisis is to establish this board which will have the authority to make the decisions that are necessary for this Nation to move forward.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. GONZALEZ and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to my colleague from Texas.

Mr. GONZALEZ. Mr. Chairman, I rise to ask the gentleman to yield for a question.

First, does this amendment in any way change the main exemption in the pending bill with respect to nuclear energy?

Mr. WRIGHT. Nothing in this bill, nor in this amendment, nor, as I understand it, in the Interior and Insular Affairs Committee bill, nor in any amendment I am aware of to be offered to that bill, involves nuclear power.

Mr. GONZALEZ. However, it would have something to do with the Federal safe drinking water law, would it not?

Mr. WRIGHT. I think any of the provisions in the legislation conceivably might have some application to the Federal safe drinking water laws only to the extent that the agency charged with the responsibility of making a finding with regard to whether or not a proposed project would adversely affect the safe drinking water of a region had failed to respond or failed to make its finding.

□ 1240

Only in that instance would the Energy Mobilization Board come into the picture. Even then the water laws of the State and the national safe drinking water law would be protected.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. GONZALEZ and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. Mr. Chairman, I raise that only because the main city I have the honor to represent is wholly dependent for its water on one source, and that is an aquifer source. In the Safe Drinking Water Act of 1975 we had an express provision placed in there with this in mind. This is the only municipality in the United States that has this unique situation.

Would not the gentleman say that it is not contemplated in the intent of this amendment or the bill that, in a situation where a sizable city, the 3d in Texas and the 11th in the Nation, is wholly dependent on a single source of water, that a Federal regulation intended to protect that source would be lifted in a struggle between a particular industrial development or synthetic fuel development and that source?

Mr. WRIGHT. Most emphatically I would respond that among the priorities safe drinking water has to be first, because it is the one and only thing for which there is no substitute, and nobody has ever discovered any synthetic for drinking water.

Mr. GONZALEZ. I thank the distinguished gentleman from Texas.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. BROWN of Ohio and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman in the well has made the analogy of World War II, I think not illogically, because the President of the United States declared this whole energy problem back in April of 1977 to be the moral equivalent of war. World War II lasted 44 months and, indeed, perhaps the gentleman mentioned and included the synthetic rubber project which the gentleman mentioned because the Japanese had taken Southeast Asia, were done in a few short months.

I would like to ask the gentleman in the well a question. I have some information, I think developed by the Department of Energy, on what the process in the legislation known as the Udall-Wirth bill would take in terms of minimum time. My information is that they would take at least 18 months, 18½ months minimum, and perhaps as much as 7½ years.

Under the Commerce Committee bill, the information I have is that the minimum time within which we can get a decision on these projects is 5½ months, and the maximum is 2 years and 1 month.

I just say to the gentleman, is this a wartime situation in those terms or not? Are we trying to shorten it up? Lord, under the Udall-Wirth bill and the amendment, the war would be over before we could get some of these problems resolved. Would the gentleman agree?

Mr. WRIGHT. To quantify the precise amount of time under either proposal may be impossible. I do not know. I do not know that the Udall-Wirth system would take 7 years or 5 years, or what the administration fears it may. I do think it logical, however, to conclude that the Commerce Committee bill will act more rapidly and will permit decisions to be made more expeditiously. Certainly it would allow the Energy Mobilization Board to list more quickly and without subject to court challenge projects to go on to the fast track, and to enforce its own regulations rather than having to go to the courts for enforcement.

I think it logical to conclude, without trying to stipulate time frames that might not be accurate, that a faster track would be served by the Commerce Committee bill with the Santini amendment. Of course, I would concur with the gentleman that this is the moral equivalent of war, and we do not have any time to waste.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman from Texas be given 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, I ask that only to observe that the thrust of this legislation is to deal with energy projects that certainly are not going to be accomplished within a few months. This will take years to build and undertake, but we know how fragile the situation is. The deterioration of Iran came within a period of 2 or 3 months, and the shortage after the collapse of the shah came to this country within 3 months. That is only one limited source of supply. If we lose that supply and do not have some of these projects underway, we shall be in serious jeopardy.

Mr. WRIGHT. I agree with the gentleman. We live in an age when the compression of time has taken on fantastic proportions. What we do, we must do quickly.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, since everyone seems to be, maybe for different reasons, in favor of the Santini-Lujan amendment, I will not take too much time to discuss it. I enjoyed the majority leader's presentation, and I think he put things in an accurate context.

There are two approaches. We know we need to get going as a country on new kinds of energy projects. There are really two basic approaches. Our approach says, "Let's deal with procedures, cut the redtape, change one piece of paper instead of 42 pieces of paper, but let us not, as the other approach suggests, let us not use this bill to try to correct mistakes in Federal laws. Let us not overrule the voters of California, the voters of Florida or the voters of some other State who have decided what they have to do in a particular context. Let us set that aside for another time and get through the redtape and get going."

Let me make one point, if I may. We started out under the philosophy I have expressed, with no right for this Energy Mobilization Board or anyone else to waive or override Federal laws; no right to waive or override State laws; no right to waive or overide local laws or State constitutions. We know this is a bad idea, and we could get most of the job done by expediting procedure.

The other side started out with the idea that the Energy Mobilization Board was so important that they had this power to override all kinds of local, State, and Federal laws. I think that maybe the majority leader would be interested to know that Joseph Lash, biographer of Roosevelt, sent me a letter last week in which he expressed horror at the very idea that anyone was using Roosevelt as a precedent to waive all kinds of laws. The War Mobilization Board of World War II built a ship a day or 10 planes a day and did not have any right to ride roughshod over Federal, State, and local laws. There was an expediting function working within the laws of the land.

We started with procedure and no substantive waivers. They start out with the broad power to waive everything, all kinds of laws at all levels. They now advocate the Santini-Lujan amendment. They tell us we have gone a long way and we are going to protect State and local laws and simply leave this unelected Board with the right to override Federal laws, but when you read the fine print in the Santini amendment, what you find is that you cannot override State and local laws except—and one of the exceptions is if the State law is derived from the Federal law.

There are a lot of laws that have been patterned in the last 20 years on Federal statutes. The Federal law states that States that want to administer the Federal law can come in and have a State program and pass their State laws consistent with the Federal law.

My friend from San Antonio will be not very happy to know that one of the laws on the fast track is the Safe Drinking Water Act, clean air, the Clean Water Act, the strip mining bill, coastal zoning, and you can override those to a farethee-well. So, they have given you back something, going away a little bit, but there is a whole long list where they do not give much, where the expediter, the Mobilization Board, can override.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman, because he has made a misstatement that I know he does not want to stand in the record.

Mr. UDALL. The gentleman always corrects me when I make mistakes.

Mr. DINGELL. It must be observed that the Board here has no authority either under the Commerce Committee bill with or without the Santini-Lujan amendment to override any Federal, State, or local law. The Board can only recommend waivers to the President.

□ 1250

The President cannot waive any such law. He only has the power to reject the Board's recommendation or to recommend a waiver to Congress. Under the Santini-Lujan amendment, the Congress must approve his recommendation or it has no effect.

Mr. UDALL. I am in agreement with the gentleman. He has stated the situation correctly. But the question is, do we want the Congress day in and day out, week in and week out, to hold hearings and be debating and voting on whether to override some particular State law?

Mr. DINGEL. That is quite a different point, than the question of whether or not the Board would be able to override a law. The Board, I reiterate, waive a law. It must be observed that the gentleman's amendment (H.R. 5660), the amendment offered by the gentleman from Arizona (Mr. UDALL) requires that every regulation that the Board issues must come before the Congress for review and a one-House veto. That provision will surely tie up his committee and the Commerce Committee and both Houses.

Mr. UDALL. The gentleman from Michigan cannot have it both ways. He cannot say congressional review is valuable and we ought to have it on some matters but not on others.

Mr. DINGELL. I say it should be done on issues of substance that are meaningful and not engage in embroiling and quarreling as we would be compelled to do under the gentleman's bill.

Mr. Chairman is to quote from the National Governor's letter of October 29, 1979, to Members about the "bump-up" provisions of the Santini-Lujan amendment and the Wirth-Udall bill. Governor Lamm said:

> We continue to be troubled by the inclusion of the so-called "bump-up" provision (in both the Santini amendment and the Udall-Wirth substitute) that allows the President to intervene and make a decision for state and local agencies when a deadline has been missed. This provision intrudes on the sovereignty of state and local governments and raises questions of basic workability.

Both bills have "bump-up" provisions. The Wirth-Udall would let the President, acting through the Board. make decisions when a Federal, State, or local agency fails to decide under the schedule. The Santini-Lujan amendment has the same provision.

The Santini-Lujan amendment does not permit waivers by the Board of any laws.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. UDALL was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Chairman, I would like to try to referee between the gentleman from Arizona, Mr. UDALL, and the gentleman from Michigan, Mr. DINGELL, merely to suggest that if the Congress does have the right to waiver in rare cases, perhaps we would be getting a little bit more at-

tention from some people who make the idiotic bureaucratic decisions like the one on the ruffed grouse that the gentleman from Texas referred to. Would it not be logical that some of the people would back off a little bit on some of these idiotic conclusions that are reached?

Mr. UDALL. I will say to the gentleman that we have got to get tough with them. I am just as angry as the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT), is on this point. The Congress passed a bill on Sohio. We may get angry enough at the State of California one of these days to override their law on substance as well as procedure.

Mr. BROWN of Ohio. The process is that the Energy Mobilization Board recommends to the President. The President, after time for consideration and comment, recommends to the Congress, and the Congress, after time for consideration and lobbying by those people affected, has to take a vote on that issue.

Mr. UDALL. The gentleman says it clogs the courts; we say yours clogs the Congress, and we are trying to speed up the decisionmaking.

Mr. BROWN of Ohio. It becomes a two-House decision just like the legislation that we finally had in the Sohio pipeline case.

Mr. UDALL. I have got all the work I need to do in my committee without sitting in a hearing about some refinery in Philadelphia, or whether we ought to override the city ordinance of San Antonio.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Let us take the Outer Continental Shelf Lands Act. We spent about three Congresses, about 6 years—over the opposition of the oil industry, I might say—developing an act that might provide for sound economical development of our offshore oil that provides for certain safeguards. For example, if the Mexican Campeche oil well that has spilled in the Gulf of Mexico had been installed under the OCS Act which we passed in this Congress, it would have had to meet certain safety requirements, certain design requirements, and the coast of Texas would not be suffering from the results possibly of a very bad operation.

What the gentleman from Michigan is saying is that despite the fact that it took 6 years to get that law in place and it took 7 years to get a strip mining law, we are going to within 60 days, of which only 30 would be available for floor action, try to decide whether or not a particular waiver of those acts was sound, and I suggest that that is not a sound way to legislate. If the Udall bill passes and we have an EMB that has power to set deadlines and priorities, and if they run into a problem with a particular law, then let us come in and address it in an orderly way instead of having a time limit put on Congress so that we act under tremendous pressure to get something out.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield so that I may respond to the gentleman from Ohio (Mr. SEIBERLING)?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I just say to my colleague, the gentleman from Ohio (Mr. SEIBERLING), that nobody in this legislation has recommended that we be able to override Mexican law. What we are trying to do is address the idiotic law or the idiotic reading of the law by people like this person who made the decision on the ruffed grouse. Nobody wants to override law to encourage oil spills. What we are trying to do is see that things like this do not happen to make us further in thrall on our energy problem to people like the Mexicans or anybody else.

Mr. SEIBERLING. Nobody wants to, but that is what the bill would permit.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding. My very good chairman, the gentleman from Arizona (Mr. UDALL), and I have maybe a modest point of difference here.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SANTINI, and by unanimous consent, Mr. UDALL was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. If the gentleman will yield further, the gentleman has alluded in his comments in the well to the fact that where he saw an urgent national need, he responded, such as in the Sohio pipeline case. I would suggest that there is another bill that the gentleman originated that would have a parallel course and with a similar legislative response: the Alaskan Natural Gas Act. I would suggest to my chairman that in both of those instances what we had is an exemplification of this House responding under accelerated circumstances to a preconceived national need, using essentially the mechanisms that my amendment proposed. I am trying to do nothing more than to convince in time-frame circumstances exactly what the chairman of the Committee on Interior and Insular Affairs did and the chairman of the Committee on Interstate and Foreign Commerce did in those two specific pieces of legislation.

Mr. UDALL. But look what we have done. Those were big projects. They needed to be expedited. The Congress could take the time to do it. That is why I started out with six really big projects, six a year. We went to 12 and then to 25, and now it is up to 75. If you put everybody on the fast track, you have got nobody on the fast track. I am willing to go on big projects in tough situations like the Alaska natural gas case, to take it up and consider overriding some laws.

Mr. SANTINI. If the gentleman will yield further, the gentleman cannot have it both ways. He cannot have this Board sending all of its rules and regulations over here to the House of Representatives and say he is saving time then, and yet say but if we are going to have a waiver of a Federal law, that is going to be on a major project.

Mr. UDALL. I have not been hung up on this review of regulations. That has never been an important matter to me.

Mr. Chairman, I urge a vote for the Santini amendment, and for the Fuqua amendment when it is offered.

Mr. LUJAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment. Mr. Chairman, we are facing a time that is just hard to believe in this country. We have paralyzed ourselves on many of these projects. I have a list, sitting over there at the desk, of various projects that have for some reason or another been canceled in recent years. Granted, not all of them are because of Federal regulations; some of them are because of economic reasons. But many, many are because of Federal regulations.

There were 18 refineries that were canceled, with a capacity of 3,350,000 barrels of crude oil per day; eight coal gasification projects with the capacity of producing natural gas at the equivalent of 300,000 barrels of crude oil a day; seven nonnuclear electric generating projects with a capacity of 8,000 megawatts; three liquefied natural gas import projects; one coal liquefaction project; two oil terminals and pipelines. I submit to this House that we do not have a resource shortage in this country; we have an energy problem because we cannot get at these resources.

□ 1300

We have a vehicle by which we can resolve these problems and that is the Committee on Interstate and Foreign Commerce bill and I intend to support it. It is not a perfect vehicle. The gentleman from Nevada (Mr. SANTINI) and I are attempting to improve on that vehicle.

Mr. Chairman, let me address, particularly to our western friends, one of the problems we see in the committee bill. As a matter of fact, we see the problem in all of the bills making their way through the legislative process, and that is the water question. I am going to limit myself just to that particular argument because I think it is a very important argument that needs to be made.

Mr. Chairman, the Committee on Interstate and Foreign Commerce bill specifically says there will not be any waiver of anything that deals with laws or regulations relating to water rights or the appropriation, delivery or use of water pursuant to such rights. This amendment also addresses that problem. We remove State and local governments from the waiver provisions of this bill.

Mr. Chairman, it is now my understanding that another amendment will be offered to further clarify that problem. The gentleman from Wyoming (Mr. CHENEY), I understand, is going to offer an amendment that further clarifies that and I intend to support that amendment.

Mr. Chairman, I tell my western friends, it is not an intent to tamper in any way at all with any water laws of our States or any of the customs or practices of water rights and water law in our States.

I would ask the Members of this Committee of the Whole to approve this amendment because I think that with this addition, it makes the Committee on Interstate and Foreign Commerce bill a very, very suitable way to solve this problem.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I would be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I congratulate the gentleman from New Mexico. The gentleman has worked very hard on this amendment, he has consulted with the Committee on Interstate and Foreign Commerce and has worked with my good friend, the gentleman from Ohio (Mr. BROWN), and I and he have done so in a most statesmanlike and dignified manner and in a way which does credit not only to him, but to the House. I commend the gentleman and, as I have indicated, I am happy to support the Santini-Lujan amendment because of the great merit that it has.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I would like to compliment the gentleman on what he and the gentleman from Nevada have done in preparing this amendment. I would like to confirm what I think I heard, that is, that the gentleman does feel that perhaps the language now in the Udall-Clausen-Wirth bill, section 216(d), as placed in the RECORD by the gentleman from Wyoming (Mr. CHENEY), perhaps with some refinements by the gentleman from California (Mr. MOORHEAD), would be a step in the right direction.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BEREUTER and by unanimous consent, Mr. LUJAN was allowed to proceed for 1 additional minute.)

Mr. LUJAN. I think both the bill of the Committee on Interior and Insular Affairs and the bill presented by the Committee on Interstate and Foreign Commerce would be acceptable on this point. I have the same concerns, being a westerner, as the gentleman has. I think both bills are acceptable now as far as the water language is concerned. However, to further clarify the problem, I would hope this would be accepted.

Mr. BEREUTER. Then the gentleman would support the Cheney amendment?

Mr. LUJAN. I will be supporting the Cheney amendment.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have the pleasure of being on both of the committees who have presented these bills. I know the gentleman from Nevada has been most serious in devising his amendment. Indeed, it is not unlike the Sharp amendment that was offered on the Committee on Interstate and Foreign Commerce which I supported and, as I recall, the gentleman supported. I think the chairman of the subcommittee at that time was opposed to it but perhaps because this is somewhat different.

I would like to say most of the argument here has not gone to the merits of the Santini amendment as against the existing Dingell bill but rather has gone to the argument of whether or not delayed or tardy process or imperfect process should be waived only, or whether delayed, tardy process plus substantive law should be waived.

Mr. Chairman, the gentleman from Nevada (Mr. SANTINI) really does not go to that because he retains in his amendment the same authority to waive substantive process but by a different means and I think a better means than in the original Dingell bill. The original Dingell bill provided that a waiver of substantive process would take effect by administrative action only, in the event that neither House exercised a one-House veto.

Mr. Chairman, the major thrust of the Santini amendment, as I understand it, is to require that there be affirmative action by both Houses before such process is waived.

However, Mr. Chairman, there is one provision in the bill that does not provide for such protection and that is of concern to me and I rise mostly to ask questions about that matter. I might say right off that I intend to support the Santini amendment because I think the gentleman from Michigan (Mr. DINGELL) and the gentleman from Nevada (Mr. SANTINI) are entitled to perfect their bill. I think this amendment makes their bill better but I think the questions I am going to raise might indicate that there are some things that are not perfected by the amendment and some things that give me great pause.

Mr. Chairman, if the gentleman from Nevada will respond, I should like to raise a question on the draft of the Santini amendment that I have before me. This is a typed draft and the pertinent language is on page 9. It deals with section (d)(1) and deals with that somewhat limited area of concern where, for instance, a State may enact legislation with respect to its legitimate concerns perhaps it is concerned about the boomtown situation or perhaps it is concerned about the issue of pollution within that State or what have you—and it raises these concerns after the project decision schedule has been put into effect but before commencement of commercial operations of the facility.

Now, as I understand, Mr. Chairman, the Santini amendment would permit an order by the Energy Mobilization Board which could suspend application of these requirements to the facility for such time as is necessary to allow the producers of the facility to make good-faith efforts to comply, say, with that State requirement but not to exceed 5 years. However, there could be a suspension, I assume, of such requirements without subjecting this to the congressional affirmative action process. Am I correct in that?

Mr. SANTINI. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Nevada.

Mr. SANTINI. That is correct and I would add further that it seemed to me that this was an extension in significant part of the provision contained in the Udall-Clausen-Wirth bill that allowed for a similar extension up to 5 years under similar conditions.

Mr. ECKHARDT. Mr. Chairman, I am somewhat concerned about it in both bills, frankly. It is not that I do not feel there should be some reasonable suspension but the thing that troubles me is in the next paragraph; it provides that no determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Now, there is also the requirement that there be consultation with the agency responsible for implementing the requirement, as, for instance, consultation with the State, the States concerned, say, about the building of a plant converting coal to oil, concerned about the fact it is going to bring a lot of people into a little area, a little town of maybe 1,500. The gentleman's State has a number of those little towns.

□ 1310

Now, under the terms of this amendment it would be required that there be consultation with the State agency or with the Federal agency in the case of a suspension. It is also provided that the suspension is for the purpose of permakes no requirement of a good faith effort to comply; but suppose the EMB makse no requirement of a good faith effort to comply and suppose it grants a suspension for 5 years without any reasonable basis whatsoever. In sum, the State was perfectly reasonable in its requirement, but the Energy Mobilization Board decides, without complying with the directives of the States to suspend substantive requirements for 5 years. As I read this, there is no judicial review, except as may be required by the Constitution of the United States; so, in effect, the last word is with the Energy Mobilization Board as to whether or not they consulted with the State agency.

Would that be a fair conclusion?

Mr. SANTINI. Mr. Chairman, if the gentleman will yield further, in the isolated context of dealing with first and foremost a State or local law that had a consequence of shutting down the project, dealing with the further isolated factual context of the law that has been enacted after establishment of the project, but before its commercial activity, so I think we are looking at this thing in a very limited time frame.

The CHAIRMAN pro tempore (Mr. DANIELSON). The time of the gentleman from Texas (Mr. ECKHARDT) has again expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield further?

Mr. ECKHARDT. I yield to the gentleman.

Mr. SANTINI. Mr. Chairman, my sense and I believe the sense of Messrs. UDALL, WIRTH, and CLAUSEN as well, was that there had to be some mechanism to deal with the realistic practical problem of having a law enacted after commencement of a project that would have the consequence of shutting it down.

Mr. ECKHARDT. Mr. Chairman, I agree with that. I am not disagreeing with that proposition. I am concerned with the proposition of limiting judicial review to only those matters which are of constitutional dimensions.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, inherent in the gentleman's question is a point to which I think the gentleman is not paying close heed; that is, that the Board can only suspend those activities that would inhibit carrying forward the project. The Board, for example, would not have the authority over a collateral question of zoning to prevent boomtowns from going crazy. It would not have the authority to suspend any requirement which would prevent the project from going forward, relating to health or safety.

Again, I direct the attention of the gentleman to the broad number of provisions of law which cannot be suspended under the Commerce Committee bill. The gentleman should have those in mind. These provisions include worker health and safety and labor laws and water laws. A State would not be inhibited from using its police power wisely so long, as under this particular provision, it did not prevent a State from going forward, or as it has authority to scrupulously and wisely defend those kind of projects.

Mr. ECKHARDT. Mr. Chairman, if the gentleman would yield back to me, who decides whether or not a State has inhibited the project? It is the EMB.

I am not concerned about some reasonable provisions for suspensions.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. ECKHARDT) has again expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, I am not concerned with that, but I am concerned with the truncated judicial view that only goes to whether or not the Constitution has been violated.

The thing is that if we write limitations like the limitation that these matters shall be matters that actually hold up the project or that the suspension is necessary in order to proceed with the project or that the suspension may only be for a period of time while good faith efforts to comply with State or Federal law are in effect; but then if we say that the court cannot review it, we might as well not have written the limitations, because there is no way to get enforcement of the provisions.

Let me conclude by merely saying, nevertheless, that I agree with the amendment and I think it is better than the original proposition, but it does need further perfecting and at such time as I may do so properly, I shall attempt to do that.

Mr. CORCORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not have any quarrel with the amendment that has been offered by my colleagues, the gentleman from Nevada and the gentleman from New Mexico. I supported those measures in the Commerce Committee and I will support them here this afternoon; however, I think it still raises some questions about the effectiveness and capacity of the proposed Energy Mobilization Board.

During the general debate on the measures, I asked one of the makers of the amendment, the gentleman from Nevada, whether or not in view of the fact that time and time again as we considered this fast track legislation, the subject of the Sohio pipeline was brought up as an example of the very type of thing we wanted to prevent from happening with the Energy Mobilization Board this amendment would weaken it. Well, if we can recall the facts and circumstances surrounding that unfortunate development, there were some 700 State and local permits involved. The effect of this amendment would be to deny or take away from the Energy Mobilization Board the authority to deal with those kinds of State and local problems; so I would have to assume that the proponents of the legislation would concede that they are weakening their measure by the adoption of this particular amendment in which they are enthusiastically in support.

Second, however, I think the problem that is raised is that when we consider what really constitutes the regulatory explosion that has developed over the last 10 years that is causing our problem, the fact is that it is not just Federal statutes. The plethora of State and local legislation, especially in the new areas where Government is now setting standards, emanates from the Federal statutes and from the Federal laws that have been passed in the last several years.

As has been pointed out by the gentleman from Arizona, this amendment does have a safety valve escape provision so that there are certain Federal statutes, as well as local and State statutes, that can still be brought under the procedures of this particular Energy Mobilization Board.

So I would conclude by saying, as I tried to suggest in debate, that until we get to the root causes, until we review the legislation that is on the books today, in order to bring about the kind of flexibility, bring about the kind of moderation, bring about the kind of framework within which we can balance these equally good goals of more energy on the one hand and clean water on the other, we are just kidding ourselves, we are just deluding ourselves into thinking that what we are working out here today is going to put energy projects on a fast track.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I would ask the gentleman one question. I had occasion to read the Commerce Committee report and they addressed specifically the concept embodied in the Santini-Lujan amendment. In their report they rejected it out of hand, saying that the Board would not be impartial, so it could not be expected to administer State and local laws properly. The Board would start with the desire to see the energy project approved. The report also said the Board would not have the expertise or experience in order to make such decisions about local or State laws, and if they did acquire it, it would take an enormous staff to do so.

Last, the Commerce Committee reports that the concept may even delay things, because the Board would have to perfect a record against judicial appeals; so the committee rejected it.

Now they are telling us it is a great approach.

Now, I enjoy delicious ironies, but sometimes they are a little hard to digest.

Mr. CORCORAN. I do not think there has been any change, I would say to the gentleman from Maryland. I think the intent of passing a bill, any bill, so we can give a bill to this country, so we can convince ourselves that we are moving energy, is probably the primary determinant in the acceptance of this amendment.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Connecticut.

Mr. WIRTH. Mr. Chairman, I think the point just made by the gentleman from Maryland (Mr. BAUMAN) illustrates very clearly the other half of the Santini amendment. The first half, which precludes the Energy Mobilization Board from waiving State, county, or local law, is a very positive contribution. I will, therefore, vote for Santini.

The other half of Santini is the part that causes the very severe problems. As the gentleman knows, the attempt has been made on the floor to say that Santini solves all the State, county, and local problems.

□ 1320

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

(On request of Mr. WIRTH, and by unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. Mr. Chairman, will the gentleman yield further?

Mr. CORCORAN. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, the argument has been made on the floor that Santini solves all of the State, county, and local problems. If that were the case, why is it that the Governors, the county officials, and the mayors are all supporting Udall-Clausen-Wirth rather than Dingell, as amended by Santini?

I think the reason for that has been carefully pointed out by the gentleman from Maryland and by the gentleman in the well recently in their discussions.

The provision for the so-called bump-up provision in the Santini bill which the gentleman from Nevada and I talked about earlier provides the EMB with this extraordinary authority to make decisions for State, county, and local governments.

Now, can we expect a small group—and obviously it is going to be a small group in EMB—to become instantly knowledgeable on California coastal management issues or on Colorado water issues within a 45-day period? There are lawyers in Colorado who have spent 50 years trying to fathom the complexities of Colorado water law. It is absurd to suggest that somewhow the Energy Mobilization Board is going to be able to make all of these decisions for State, county, and local governments.

The gentleman from Illinois (Mr. CORCORAN) is absolutely correct in pointing out this major fallacy. The Santini amendment goes a long way in correcting earlier problems, but remaining is this very, very complicated decisionmaking process of EMB.

Mr. Chairman, if the gentleman will yield further, it seems to me that we are also, through Santini, inviting a very severe slow track. I cannot imagine how many constitutional lawsuits would be brought on the ability of the Federal Government to make decisions for State, county, and local governments. It just does not make any sense that that would happen, and that is why the Governors, the counties, and the mayors are supporting Udall-Clausen-Wirth and are not supporting the Dingell bill, as amended by Santini.

Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. CORCORAN) has again expired.

(By unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I will yield in just a moment, but first I want to comment, if I may, on what was said by the gentleman from Colorado (Mr. WIRTH).

What is tragic and what is dangerous about the fact that there will be litigation on these cases that come before this proposed Energy Mobilization Board, and then in the end nothing happens, is that meanwhile we continue to go forward without taking steps to deal with our basic problems with our statutes and with other Federal programs which have had the effect of denying the development of energy here in this country. And the tragic result is that we become more and more dependent on OPEC oil.

Mr. Chairman, this particular proposal will not work. That is what is wrong with it. It will not work unless we want to change the Constitution and unless we want to make basic changes in our form of government.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I appreciate the gentleman's yielding.

First, Mr. Chairman, let me say that I think it is perhaps misleading—and I know that my good friend, the gentleman from Colorado (Mr. WIRTH), did not quite intend that—to suggest that the Governors and counties have not endorsed the Santini proposal. My information is exactly to the contrary. My communications have been that they very much support that proposal.

Mr. CORCORAN. Mr. Chairman, right on that point, if I may reclaim my time, I think the genteman from Colorado (Mr. WIRTH) might be able to explain that point further.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, everybody agrees that the first half of Santini is a good thing to do, to preclude the waiver of State, county, and local laws. On the final product of Udall-Clausen-Wirth versus Dingell, as amended by Santini, the Governors, counties, and mayors are supporting Udall-Clausen-Wirth for the very reason of the bump-up provision that the gentleman has clearly illustrated.

That is the bottom line. Where are those decisions going to be made? Are they going to be made by EMB or at the local decisionmaking level?

Mr. SANTINI. Mr. Chairman, if the gentleman will yield, I think it is again misleading to suggest that is the sole determinant issue as between Udall-Clausen-Wirth on the one hand and Dingell, as amended by Santini, on the other.

The final decision is not the board's in both instances; the final decision is the President's.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. CORCORAN) has again expired.

(On request of Mr. SANTINI, and by unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield further?

Mr. CORCORAN. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, granting the power comes down on the one hand, it is the feeling and impression and disposition of my good friend, the gentleman from Colorado (Mr. WIRTH), and the gentleman from Arizona (Mr. UDALL) that somehow it is preferable to have this 120-day, one-judge intermediary action as a more meaningful resolve of the very fundamental questions that the gentleman has raised to having the energy board.

I, having been a trial judge, know first and foremost that there is not a trial judge in the land who is prepared to address and deal with problems of the complexity the gentleman from Colorado (Mr. WIRTH) has suggested.

I will say, No. 2, that we are building in a major impediment to implementing decisionmaking by taking the issue and sticking it in court in the intermediate stage, because that court may be beleaguered and overwhelmed with litigation, and the trial judge is not going to have the time or the expertise in 120 days to 240 or 500 days, whatever it is, to resolve the problem while the judge and his one law clerk try to figure out what the problem is and what its impact is.

Mr. CORCORAN. Mr. Chairman, I thank the gentleman from Nevada (Mr. SANTINI) for his remarks. I will reclaim my time, and I will yield to the gentleman from Ohio (Mr. BROWN) later.

Mr. Chairman, let me just comment by saying the gentleman is really making an excellent case for the need to review the entire body of regulatory law that has emanated out of Washington in the last 10 years.

What the gentleman is suggesting and what the gentleman from Ohio (Mr. BROWN) said in general debate is that there will only be rare occasions when the EMB process will lead to the President and have the President submit it to the Congress so there will be action on the waiver. The point is that there are thousands of energy projects that ought to be going forward, not just a handful.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. CORCORAN) has again expired.

(On request of Mr. BROWN of Ohio, and by unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think it might be helpful to my colleagues if I were to read the language in the Udall-Wirth bill. If the gentleman will have the patience to suffer me that opportunity, I will read from page 29 of that bill.

Mr. CORCORAN. Mr. Chairman, because the gentleman has had patience with me, I will have patience with him.

Mr. BROWN of Ohio. Mr. Chairman, the language on page 29 of the Udall-Wirth bill is as follows:

(e)(1) If any Federal, State, or local agency has failed to make a decision or take action pursuant to a court order issued pursuant to subsection (b) or (c), the President may perform the action or make the decision in lieu of the agency.

(2) The President shall notify an agency that he has determined that the agency has failed to make a decision or perform an action within the time required by such court order and that the President intends to decide in lieu of the agency. If the agency has not acted or decided within 15 days of such notification, the agency shall transmit to the President forthwith all records in the possession of the agency pertinent to that decision or action. The President shall take whatever additional action is necessary to develop an adequate record for a final decision or action.

Mr. Chairman, the President is required to take into consideration all of the agency's steps, but the President makes the decision.

In this legislation—the gentleman's legislation—the President takes over State and local decisions.

It seems to me that we are arguing about distinctions that are not very significant. The major difference between the Commerce bill and the Udall-Wirth bill is that in the legislation the gentleman from Colorado (Mr. WIRTH) and the gentleman from Arizona (Mr. UDALL) hawked up at the last moment, we have the opportunity for 120 days of judicial delay before the President takes over for the agency.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. CORCORAN) has again expired.

(By unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. Mr. Chairman, before I yield to the gentleman from Nebraska, let me just comment on what the gentleman from Ohio (Mr. BROWN) has described is the very case for the failure of the EMB, because if it has to go through all that process in order to get just one or two additional energy projects, just one or two refineries built in this country for example, we clearly are going to continue to be at the mercy of OPEC and foreign oil.

Mr. Chairman, I now yield to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I followed with interest the discussion between the gentleman from Colorado (Mr. WIRTH) and the gentleman in the well concerning the practical problems of the bump-up procedure.

I have to first say that clearly I support the Santini-Lujan amendment, but I do say that we ought to look at the constitutional defects that are in here. Under the Constitution, we have things like the zoning law, various siting laws. The 10th amendment, gives the States exclusive power in those areas with the States then able to delegate such powers to their political subdivisions. These powers of the States cannot be assumed by the Federal Government or delegated to it. We have a constitutional problem where those kinds of matters are bumped up to the Federal Government and then placed under Federal control.

It is at least arguably constitutional, on the other hand, for the Federal Government, under the Udall-Clausen-Wirth approach, to force a decision by a political subdivision on a State, because we are not removing that decision from their authority. So I think the Udall-Clausen-Wirth approach is constitutionally arguable, while the bump-up procedures of the Commerce bill, even as amended, is not constitutional when such matters being bumped up are clearly within the exclusive authority of the States.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we are into a discussion here and asking this question: How does one enforce the fast track? That is a very significant difference as between the Dingell bill, as amended by Santini, and the substitute measure.

□ 1330

The enforcement in the Dingell-Santini bill is through the bump-up to the Energy Mobilization Board. If a local government does not make that decision, you bump it up to the EMB. What we have done is followed the normal constitutional process and said, "If you do not make that decision, EMB can take them to court and say, 'Make that decision.'" You go to the court of appeals and say, "You make the decision." Going through the court process is part and parcel of 200 years of constitutional history in this country. We say "Go to court." The court says, "Make that decision."

The CHAIRMAN pro tempore (Mr. DANIELSON). The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

(On request of Mr. SANTINI and by unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN. Mr. Chairman, I will yield to the gentleman in just a second, after commenting that if the Founding Fathers were here, I am sure they would support the gentleman from Colorado.

I now yield to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, following up with the exchange of dialog with regard to the National Governors' Association, I have a letter in my hand from a Governor by the name of Richard D. Lamm, chairman of the Committee on Natural Resources and Environmental Management, dated October 29, 1979. He states in the fourth paragraph of that same letter:

> We continue to be troubled by the inclusion of the so-called "bump-up" provision (in both the Santini amendment and the Udall-Wirth substitute) that allows the President to intervene and make a decision for state and local agencies . . .

That essentially goes to the bottom-line proposition that the gentleman in the well has made so well. But I think it is somewhat misleading to suggest that the Governors have endorsed and supported on the one hand Wirth-Udall and, on the other hand, rejected the Santini-Lujan improvements on Dingell and Brown.

Mr. CORCORAN. Mr. Chairman, If I may reclaim my time, I think that the major concern of the Governors and other general purpose government officials is the substantive waiver, and that has been the problem from the very beginning at the State and local level.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I think it is also, with all due respect to the gentleman from Colorado, somewhat misleading to suggest that under the Udall-Wirth bump-up provision that in some mysterious way there is no question about how these decisions are made. There is some question about how they are made. They are bumped up to the President. That is what the Udall-Wirth bill does. And the decision, whether it is made by the President or EMB or the court itself, can be taken from the States under both bills. But the point of it is that under the gentleman's legislation, you have an extended process to get to that.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. FUQUA. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will report the amendment.

Mr. BROWN of Ohio. Mr. Chairman, reserving a point of order, to which part of the bill are we now having an amendment offered? I just did not hear the gentleman's statement.

The CHAIRMAN. The Chair will advise the gentleman from Ohio that this is an amendment offered by the gentleman from Florida (Mr. FUQUA) to the Udall substitute.

Mr. BROWN of Ohio. Mr. Chairman, that is in order at this point?

The CHAIRMAN. It is in order at this point if otherwise in order.

PARLIAMENTARY INQUIRY

Mr. SANTINI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SANTINI. Would it not be proper procedure to first of all dispose of the pending amendment and then address the amendment being offered by the gentleman from Florida (Mr. FUQUA)?

The CHAIRMAN. The Chair will advise the gentleman that the gentleman from Florida (Mr. FUQUA) is within his rights to offer the amendment at this time since it is an amendment to the Udall substitute. The Chair assumes that the question will be put first on the Santini amendment.

The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. FUQUA to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 34, line 12, strike out "granting or".
>
> Page 35, strike out lines 9, 10, and 11, and substitute:
>
> (3) Action by the Board granting an order designating a proposed energy facility as a Priority Energy Project under section 204 shall not be subject to judicial review except as to the requirements of the Constitution of the United States.
>
> Page 27, line 22, strike out "district court" and insert in lieu thereof "court of appeals".
>
> Page 37, line 17, strike out "60" and substitute "30".
>
> Page 15, line 20, strike out "203A" and substitute "205", renumber the succeeding sections accordingly and make the necessary conforming changes.
>
> Page 22, line 17, strike out "(b)" and substitute "(c)".
>
> Page 26, line 4, after "person" and insert "(other than an agency)".

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment offered as a substitute for the amendment

in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman, I had intended to wait until after the Santini-Lujan amendment had been disposed of to offer my amendment, but I have been waiting for almost 2 hours and I thought I would go ahead, under the rules, and offer my amendment.

The amendment has been mentioned previously, Mr. Chairman.

The amendment I am offering modifies the judicial review section 217 of the Udall substitute.

The first improvement under the language of the amendment is to deny judicial review of the decision of the Energy Mobilization Board in designating a proposed energy facility as a Priority Energy Project.

The concept of judicial review is prescribed for the unsuccessful applicant who is denied a designation by the Mobilization Board, but eliminates one of the court challenges which had been pinpointed by opponents as causing undue delay. This same concept is also contained in the Senate-passed bill.

The second improvement streamlines the enforcement provisions of the substitute which can be sought through the courts by the Mobilization Board where an agency has failed, or is reasonably likely to fail to comply with the Project Decision Schedule. My amendment eliminates one step by changing the court where the action could be brought to the court of appeals, rather than the "appropriate U.S. district court" which is contained in the substitute. This change would eliminate one of the most time-consuming steps in the appeals process. It further clarifies the purpose of the substitute to create a powerful lever in the hands of the Mobilization Board without removing the power to make decisions from the existing Federal, State, or local agency.

The third part of my amendment reduces the time a judicial review can be requested of the Supreme Court to 30 days instead of 60 days as contained in the substitute. The purpose of the reduction in time is simply to make each step as expeditious as possible, but within the bounds of fairness and reasonableness.

I urge the adoption of my amendment.

CLARIFYING NOTE.—If the Agency has failed to make a decision or perform an action within the time required for the court order the Board may advise the Court that the national interest requires expeditious enforcement of the deadline. At that time the President can step in and decide that he will act in lieu of the Agency. The power to decide can, in other words, be shifted to the President.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to my friend, the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has offered a very constructive amendment. The whole thrust of our effort has been to expedite the judicial review process, and I think that this goes a long way in eliminating some of the nuisance suits that have been causing much of the delay and concern. It provides that there be no judicial review of designation, denial however is reviewable; schedule enforcement actions are brought in the U.S. Court of Appeals instead of the district courts; and finally the time for bringing any appeal in the Supreme Court is reduced from 60 to 30 days. So far as we are concerned, we are prepared to accept this amendment.

Mr. FUQUA. I appreciate the gentleman's comments.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is a good amendment. I discussed it a little bit earlier in the day. We have tried to hone up and fine tune our proposal as we have come along. The gentleman's suggestions here to speed up the judicial review in these three ways will give us a more effective bill, and I am pleased to support it.

Mr. FUQUA. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are now getting to the point where we can have an appreciation of the defects of the Wirth-Udall amendment, which is properly called the slow-track, sidetrack amendment. As a matter of fact, it would probably be best called the Slow-Track, Sidetrack, Massive Litigation and Lawyers' Full Employment and Enjoyment Act of 1979.

If you will look at this chart, this is the estimate by the administration of the massive amount of time that would be consumed in bringing order out of chaos in which we now find ourselves with regard to one single Energy Mobilization Board Priority Energy Project.

Observe: In the first instance, we see that judicial review of the project designation will take 4½ months, at the minimum, and 2 years 1 month at the maximum.

The amendment offered by our good friend, the gentleman from Florida (Mr. FUQUA), would strike that portion of the delay, but would retain judicial review of any rejection of an application for a designation. So he has eliminated somewhere between 4½ months and 2 years 1 month from the massive amount of time which would be consumed by the inordinately long Federal review. But that still leaves over 5 years of judicial review.

The Members should understand that one of the reasons that these cases take so long to process is the fact that it is the courts which take their sweet time to review these questions.

The gentleman from Florida (Mr. FUQUA) recognizes this wisely—and I commend him for it, because he has come halfway toward the Commerce Committee bill. He says that we would eliminate review of the project designations, but remaining would be the court enforcement of the Project Decision Schedule, which, according to the administration, would take between 14 months and 5 years 5 months.

The gentleman from Florida (Mr. FUQUA) has wisely—and I commend him again for this—tried to eliminate 30 days by saying that he would cut the time that an individual would have to get the matter into the Supreme Court from 60 to 30 days.

That is both good and bad. Let me explain to the Members why. First of all, reducing that time to 30 days is probably very good. But reducing it to 30 days from 60 days may very well affect adversely the rights of party litigants to process their appeal. This reduction would apply to appeals from decisions by Federal, State, or local agencies.

□ 1340

Now that raises a potential constitutional question, By curtailing time so much that you will find that the rights of citizens to have an adequate review of constitutional questions or other questions will be denied, and as a result you will have a constitutional test about the second part of the Fuqua amendment, which is reducing the time to get into the Supreme Court to 30 days.

Let us hear what the administration has said would happen under the judicial review provisions of the parts which would remain concerning enforcement of the schedule. Remember, the enforcement of the schedule does not ever get to the court, until such time as certain triggering actions have been taken by the Energy Mobilization Board.

For example, under the Udall-Wirth proposal, if an agency is likely to fail to meet a deadline, the Board can haul it into court. This could occur, for example, on the first of December. But the 120-day limitation does not begin on that date. The Energy Mobilization Board must first find that the decision deadline has passed and that there has been no agency decision. Then the Board must send a notice to the court telling the court of these facts. The court must then act within 120 days after that notice. That notice might be sent as late as the first of May of the following year, which would mean that it would be 120 days plus the period between the first of May and the first of the previous December, or actually 7 months added to the 7½ years.

Now, admittedly, the gentleman has removed another 30 days from this time if he gets by the constitutional question of curbing the rights of citizens to get into the Supreme Court.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. It must be observed that the gentleman from Florida (Mr. FUQUA), my dear friend, has reduced the period here by 2 years 1 month to 5 years 4 months by subtracting a 30-day period. So we are now down to 5 years 4 months of judicial review.

Remember, the Sohio pipeline was killed by only 7 years of judicial review.

Now, here are some of the things that the administration says, and I put these in the RECORD last night so my colleagues could see what is involved.

Let me just read what all this would take.

An appeal of the EMB decision is filed in the Federal Court of Appeals, 15 to 60 days. Court of Appeals decide issue, 15 to 180 days. Petition for certiorari filed with the U.S. Supreme Court, 15 to 60 days. Supreme Court decision on petition, 15 to 180 days. Argument heard, 60 to 90 days. Decision in the Supreme Court, 15 to 180 days; total, 135 to 750 days, just in that one instance.

Hear our own enforcement of the deadline. Agency misses deadline for decision. Step one, seeks district court enforcement—that is taken out by the amendment offered by the gentleman—15 to 30 days. District court decides, 15 to 120 days. Appeal to the court of appeals, 15 to 60 days. Court of appeals decision, 15 to 180 days. Petition for certiorari to the Supreme Court, 15 to 60 days. Decision on petition, 15 to 180 days. Argument heard, 60 to 90 days. Decision, 15 to 180 days.

State and local again failed to appeal to decide the order, 90 to 180 days, EMB completes record, 15 to 90 days. EMB president decides, 15 to 30 days. EMB decision to the court of appeals, 15 to 60 days. Court of appeals decides, 15 to 180 days. Petition for certiorari, 15 to 60 days. Decision for petition, 15 to 180 days. Argument heard, 60 to 90 days. Decision, 15 to 180 days; total, between 430 and 1,950 days, 1 year 2 months to 5 years 5 months.

Now there is one other thing that has not been observed. The Wirth-Udall bill says that the action may be brought in any appropriate district court. The Fuqua amendment says it can be brought in any appropriate circuit court of appeals. That could be the Circuit Court of Appeals for the District of Columbia.

Thus, the Wirth-Udall bill, as amended by Fuqua, says that the matter has to come to Washington for decision or to some other court, quite possibly far distant from the homes of the persons who would be affected.

More importantly, the Fuqua amendment puts the matter in the circuit court of appeals.

The circuit court of appeals is a very nice place, but it is an appellate court. It is not a trial court. It is totally unaccustomed to function as a trier of questions of fact.

As a result, there is more probability for error at that level and more certainty that the review in the Supreme Court will be much more complex.

Now, admittedly, there are attempts to impose a 120-day limit on the time that the court may consider such enforcement, but the Wirth-Udall proposal does not tell you when the 120 days begins.

Is that 120 days for the trial of the question? Or is that 120 days for the trial and for the appeal of the question? And does that appeal include the appeal clear up to the Supreme Court?

That question is answered neither by the amendment offered by the gentleman from Florida or by the authors of the original legislation, the gentlemen from Arizona (Mr. UDALL) and from Colorado (Mr. WIRTH).

As a result, what are the rights of the persons ex ept to still further litigate these obscure questions, which are left in by the Wirth-Udall slow-track, sidetrack, litigatious delay and Lawyers full employment and merriment amendment.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am glad that we finally have it out, and I hope that somebody will get the word down to the White House that this chart and accompanying papers which have been peddled to the Members of the House by the administration last week are incorrect by at least 2½ years.

I can argue with my friend from Michigan about how incorrect, but at least we have saved 2½ years of the argument.

Let us talk about what is really involved here. The system in our bill is pretty simple and is going to take care of things 95 percent of the time, or 97 percent of the time.

I talked earlier today about this feeling somehow we are going to get every case, we have got to have regulations that will get not 99 of them, but every time; we will find a solution for every problem.

We deal on the basis that most of the things are going to be handled by sensible people, that Governors are rarely going to be adamant. The courts are not manned by judges who are idiots, that lawyers are not lurking on the corner trying to find new ways to stretch things out.

The way our system works is this. The mobilizers call in everybody and say:

Gather at my office next week. We put the pipeline or refinery on a fast track. Everybody who has got a permit to grant in this whole process, the county zoning board, the mayor, Governor, EPA, you all come rally around. We are going to make a project decision schedule. We are going to cut it under two years if we can. We are going to give everybody enough time, but we are not going to give them unusual time.

So, we get it all set up and the whole thing is going to be decided in a couple of years.

Most of the time, that is it. It is going to be done. But what the gentleman from Michigan (Mr. DINGELL) and his friends are very anxious to do is find legislation that will make sure that those rare cases, the 2 or 3 percent where the Governor is standing out on the freeway and says, "Bar the door," or the mayor has refused or the county board will not do what their own law requires them to do. Somehow they believe that we have got to make very sure we have the machinery to take care of them in every single case.

□ 1350

As I say, 97 percent of the time we are going to be all right. In the cases where we are not all right, where we have an obdurate mayor or Governor, or the head of EPA, and it kind of blows your mind to expect that the EPA, appointed by the President, is not going to carry out a decision that this board, appointed by the President, has suggested, but if we set up a sensible procedure to go to court in these few cases where there will be disobedience to the decision schedule, it will work out.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Colorado.

Mr WIRTH. Mr. Chairman, I thank the gentleman for yielding, and I am delighted that the gentleman from Arizona has pointed out the specious nature of all of these time schedules being sent down by the administration by some junior lawyers there. People in the White House have admitted that the time frames referred to in the previous discussion were incorrect.

We should point out very carefully two things. One, there is a 120-day period of time for the court to act if an agency misses its decision deadline. We are not talking about 2 years or 5 years. Very clearly laid out in the legislation is 120 days after an agency misses that decision. Then EMB can go to court and say "You make the decisions." And to make that even more acceptable, the EMB can go to court if it appears that it is likely that an agency is going to miss a decision. So even before that 120 days kicks in, the EMB can go to court and say "Are you having problems meeting the time frame? If you are, we will work that out reasonably," and reasonable men can agree.

What we are trying to do, as the gentleman pointed out, is to force that decisionmaking where it belongs, at the State, county, or local level, not to have it at the Federal level.

Mr. UDALL. I want to make one more point. For the Members who have not followed all of this legalistic jargon as we have gone along, I want to ask my colleagues to remember two basic things. The lawsuits we are talking about here are not against little old ladies in tennis shoes or the Sierra Club's defense fund. We are talking about lawsuits brought against the head of an agency, or the Governor, or a local official to follow the project decision schedule that he has probably agreed to in the first place.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I thank the gentleman for yielding. I think he is making one of the most important points about this part of the amendment. As the gentleman points out, these are very major issues that are going to be going before a court of appeals and not a district judge. They will probably wind up in the court of appeals anyhow if we still have that provision. It is not trying to eliminate white-collar crime or some little old lady where someone has stolen her tennis shoes. It is very important issues, and I appreciate the gentleman making that point.

The other point I wanted to make is if our courts are that bad, as has been pointed out by our good friend from Michigan, we probably need a fast-track for the court legislation to get it unclogged, because it is a national crime if that situation exists. That situation does not exist, and the gentleman knows that.

Mr. UDALL. I agree with the gentleman.

Mr. FUQUA. And it can move faster.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(At the request of Mr. FUQUA and by unanimous consent, Mr. UDALL was allowed to proceed for 3 additional minutes.)

Mr. UDALL. Mr. Chairman, I could take the law of Florida and give me a half an hour and I will draw up a schedule that will take 12 years and 14 months to foreclose on an uncontested mortgage. That is what they have done. It used to fool people in law school the first or second year, but it does not fool anybody these days, I do not think.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, just to add validity to the points being made, I would like to read specifically from H.R. 5660 where it states:

> In any action under this section, whenever the Project Decision Schedule deadline for such action has passed, the Board may file notice with the court stating that the deadline has passed and that the agency has failed to take the action required by the Project Decision Schedule. The Board shall advise the court that the national interest described in section 101 of this Act requires expeditious enforcement of the deadline. If the court fails to act pursuant to subsection (b) or (c) of this section within 120 days of the filing with the court of such notice, the President may act pursuant to paragraphs (1) and (2).

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I will always yield to the learned gentleman from Ohio.

Mr. BROWN of Ohio. I appreciate that. The gentleman who asked that the gentleman yield is not too learned. I just was trying to add and subtract here.

The gentleman said the information given out by the Department of Energy was wrong by 2½ years. I guess what that means is that under the gentleman's proposal that it really only takes 5 years to get these decisions.

Mr. UDALL. That whole thing was phony from the beginning. It was some junior lawyer's idea of how to impress his bosses by taking out a hypothetical situation and assuming the worst, and even the peddlers of this thing now have to agree that they were wrong by 2½ years. The 5½ years is just as wrong as the 7.

Mr. BROWN of Ohio. If the gentleman will yield further, if we have 7½ and we take away 2½, that leaves 5 years.

Mr. UDALL. That is an awful long time, and if my bill or my amendment would take 5 years to make a decision, then I will vote against it, and I will work against it.

Mr. BROWN of Ohio. The Interstate and Foreign Commerce Committee bill does not take 2½ years at the longest instance.

Mr. UDALL. But it dumps all of this on the Congress. We do not have enough to do. You will have the Congress in here deciding every morning on whether or not to allow a refinery out in south Texas. We do not have time for that.

Mr. BROWN of Ohio. If the gentleman will yield further, if the idea is fast track, then 2½ years at the longest versus 5 years is some improvement in the Interstate and Foreign Commerce bill over the gentleman's proposal. At the other end, 5½ months is clearly an improvement over 18 months. Does the gentleman argue that it is going to take less than 18 months at the minimum under the gentleman's proposal?

Mr. UDALL. I hope the gentleman will join us in pass'ng the Fuqua amendment and then we can choose the gentleman's procedure, the gentleman's enforcement procedure against ours. That is the choice that the House will have to make very soon now.

Mr. BROWN of Ohio. If the gentleman could tell me, under what amount of time, if we accept the Fuqua amendment?

Mr. UDALL. I think we are going to see a very rare use of this, and I suspect that when we do see it used that it will be done expeditiously.

Mr. BROWN of Ohio. But what is the time frame; could we be specific?

Mr. UDALL. No one can tell the time frame. The gentleman's amendment narrows it to 120 days and cuts down the filing time, and even our friend from Michigan (Mr. DINGELL) agrees that we have saved 2½ years.

Mr. BROWN of Ohio. But, if we can have the specifics of that, it takes 120 days plus how many days, plus how many days, if the gentleman could add it up?

Mr. UDALL. I cannot give the gentleman that information.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada (Mr. SANTINI) to the amendment in the nature of a substitute.

The question was taken; and the Chair announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 415, noes 1, not voting 17, as follows:

[Roll No. 618]

AYES—415

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bel'enson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleve'and
Cliner
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donne'ly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gialmo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik

Vento	Whitley	Wyatt
Volkmer	Whittaker	Wydler
Walgren	Whitten	Wylie
Walker	Williams, Mont.	Yates
Wampler	Williams, Ohio	Yatron
Watkins	Wilson, Bob	Young, Alaska
Waxman	Wilson, Tex.	Young, Fla.
Weaver	Wirth	Young, Mo.
Weiss	Wolff	Zablocki
White	Wolpe	Zeferetti
Whitehurst	Wright	

NOES—1

Forsythe

NOT VOTING—17

Ashbrook	Flood	Pickle
Brown, Calif.	Hopkins	Rodino
Byron	Jones, N.C.	Treen
Crane, Philip	Leach, La.	Wilson, C. H.
Diggs	Mitchell, N.Y.	Winn
Edwards, Okla.	Pepper	

□ 1410

Mr. DANNEMEYER changed his vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. CHENEY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. CHENEY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. CHENEY to the amendment in the nature of a substitute: On page 51, after line 11, add a new section 187 (renumbering succeeding sections accordingly) as follows:

WATER LAW

(a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

Mr. CHENEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The CHAIRMAN. The Chair will ask the gentleman if in accordance with usual practice his amendment was printed in the RECORD in accordance with the rule.

Mr. CHENEY. It was printed in the RECORD, Mr. Chairman.

The CHAIRMAN. The gentleman qualifies.

Mr. CHENEY. Mr. Chairman, my amendment specifically carries out something that I think everybody who has been involved with this fast-track legislation has indicated on at least one occasion they support, and that is the notion that we need to preserve and protect the prerogatives of the States with respect to State water law.

Specifically the language I am offering to the so-called Dingell-Brown bill would make it abundantly clear that any water that is appropriated in connection with an energy project has to be appropriated in accordance with State procedures.

Second, it makes it clear that the imposition by a State, of terms and conditions on the appropriation of that water shall not be deemed an undue burden on interstate commerce under the commerce clause of the Constitution.

Finally, it states unequivocally that nothing in the act shall alter in any way any provision of State law, regulation, or rule of law, or of any interstate compact governing the appropriation, use, or diversion of water.

This is a fairly straightforward amendment, I believe, Mr. Chairman, and it seeks to carry out the intent that has been expressed both by the sponsors of the version of the bill offered by the Committee on Interstate and Foreign Commerce, by the sponsors of the version of the bill offered by the Committee on Interior and Insular Affairs, and also by the President himself. I would like to quote, if I might just for a moment, from a statement that President Carter made in Albuquerque when he met recently with the Western Governors concerning fast-track legislation.

I have and will continue to support legislative language to make it clear that federally supported energy development should be accomplished without pre-emption or change of state water laws, rights or responsibilities.

We must respect the rights and responsibilities of our State governments—and when the issue is priorities of water use in a state, the state must and does have the ability to say "No" through existing state water allocation systems. This right must and will be protected in the energy proposals now pending before the Congress.

□ 1420

The purpose of my amendment, Mr. Chairman, is to carry out that intent.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I want to congratulate the gentleman for offering this amendment. I think it is a good thing that he has done so. We have to always be watchful about the intrusion of the Federal Government into the water law areas which are the sole jurisdiction of States.

Mr. Chairman, I agree with the gentleman 100 percent and would ask the House to support the gentleman's amendment.

Mr. CLAUSEN. Will the gentleman yield, Mr. Chairman?

Mr. CHENEY. I will be happy to yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I want to commend the gentleman for offering the amendment. I would hope that the leadership of the Committee on Interstate and Foreign Commerce would accept the amendment because there is no issue that is more of concern to the people of the West than the question of State water rights. The gentleman has been a genuine champion in the committee to see that those western water rights are preserved, particularly in those areas where there is going to be an impact resulting from energy projects. I would hope that the leadership would accept the gentleman's amendment.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I rise in support of the amendment now being offered by my distinguished colleague from Wyoming (Mr. CHENEY). His amendment would attach the crucial provisions on water law now provided in the so-called Udall-Clausen-Wirth substitute version of H.R. 4985 to the version sponsored by the Commerce Committee.

In the course of today's debate, we have been examining the various differences between the two proposals to provide a mechanism for expediting consideration of major energy projects. The language on water law being proposed in the Cheney amendment is absolutely crucial to whatever proposal this House finally adopts.

Mr. CHENEY is to be commended for his leadership role in this very important area—one that is of paramount importance to the State and region which he represents. I was pleased to work with him and the distinguished ranking minority member of the Interior Committee (Mr. CLAUSEN), on the amendment. Also, I believe the minority staff of the Interior Committee deserves a special thank you for their efforts on the legislation itself, and particularly the language preserving State water rights by addressing the concerns about State water rights in relation to the interstate commerce clause of the Constitution.

There is widespread and legitimate concern in the Great Plains and Western States that the additional developments of energy projects will impose a severe burden on already tightly stretched water supplies. As a Representative from a prime agricultural producing State, I cannot understate the depth of concern my constituents have as they stand by and watch Congress attempt to enact an energy program.

The system of water law that has developed in our region is based on the appropriation doctrine which protects those who use water by recognizing the proprietary right of those who first divert water and put it to a beneficial use.

It is a comprehensive system, and regardless of the amount of water that is available in any given year, all water users are certain of their rights to water in relationship to all other water users on a stream. This system of water allocation is not a roadblock to new users who may either acquire rights to unappropriated water should it be available or purchase and transfer rights from existing water users. But, all users will be protected, for they will either have their water or be compensated for loss of it.

The new push for massive energy development, of which this bill is a part, along with recent Federal claims that run contrary to the long recognized authority of States to allocate water supplies, has resulted in the concern that I address.

Our region is willing to make its contribution in the push for domestic energy development—but it wants assurances that our system of water law which has developed over the years and works reasonably well will not be trampled over by the Federal Government. It is important, therefore, to clarify that whoever develops energy in this country, the water necessary for that development will be acquired and used in conformity with existing State water allocation systems. The language contained in the Udall-Clausen-Wirth substitute provides that clarification. The Cheney amendment to the Commerce bill is identical and will make clear that only through State systems will all rights be recognized.

Because water that might be used or diverted as a result of construction of an energy project may cross State lines, the amendment makes clear that any State law or action inhibiting the water flow will not be considered a burden on interstate commerce. Therefore, the courts could not overturn State water laws in favor of Federal action on the basis of the interstate commerce clause of the U.S. Constitution.

Just as there are instances when Federal law must justifiably preempt State law, there are also times when State law must supercede Federal action. I can think of no more critical area than water law for this to be the case. This language is precedent-setting with respect to water law and a crucial element in any legislation which would create an energy mobilization board.

I urge the House to adopt the Cheney amendment.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman. I wish to commend the gentleman from Wyoming, my colleague, for his outstanding work in this effort. I think this amendment is crucial to the passage of any Energy Mobilization Board legislation and I firmly support it.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, I commend the gentleman from Wyoming for his meritorious amendment. I just want to say that in many parts of our country many of our people are much more up tight about water even than energy and this would do much to settle that issue.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I would be happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, as I understand the amendment offered by the gentleman from Wyoming, it does not change existing laws with regard to water rights and it is not intended to do so.

Mr. CHENEY. That is correct.

Mr. DINGELL. It simply preserves them intact as they precisely are at this moment.

Mr. CHENEY. That is my understanding.

Mr. DINGELL. With that, I have no objection to the amendment. I am particularly pleased that it is limited to energy projects and does not affect other activities such as those related to fish and wildlife resources. It also does not set any precedent.

I am particularly concerned about subsections (b) and (c) of the amendment. I understand that subsection (b), requiring that appropriations of water for an energy project be made pursuant to State law, is not intended to limit, restrict, or infringe upon the ownership or beneficial use of any water right or right to the use of water held or owned by the United States of America by and for an Indian tribe. Water rights held by the United States for Indian tribes, or held by the tribes themselves, are not intended to be subjected by this provision to the substantive or procedural law of any State, to any extent other than that to which they might be subject in the absence of this provision, either in connection with an energy project or otherwise.

Also subsection (c) is quite limited. It is intended to insure that terms or conditions regarding the possible or certain termination of the right to use water, under a permit lawfully issued pursuant to State law, shall not be subject to attack or recission by action of any agency or permittee or by decision of any court, by reason of the asserted effect any such termination clause, term or condition might have upon interstate commerce through temporary or permanent interruption of the interstate carriage or use of such water.

With these understandings, I can support the amendment.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I want to join with my colleagues in the House who have already expressed themselves in behalf of this amendment. I think it is an excellent thrust in the right direction. I commend the gentleman on his courageous and ongoing efforts to protect western water.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, the Cheney amendment is essential to the protection of State water rights. It has four basic and rather simple provisions. Allow me to explain:

First. It indicates that the Fast-Track Act shall not be read as giving the United States, its agents, permittees, or licensees any rights to acquire water.

Second. It states that if the United States, its agents, permittees, or licensees want to appropriate water they must appropriate the water only in accordance with State water law—both substantive and procedural.

Third. It says that if a State, under its laws, places terms and conditions on water appropriation for energy projects, those terms and conditions cannot be declared unconstitutional as a burden on interstate commerce.

This is the essential protection Western States must have for our water.

Fourth. It states, as well, that the fast-track bill does not change any State law, any State regulation, or any State rule of law, or any interstate compact concerning water law.

This amendment is similar to the amendment adopted unanimously by the full Interior Committee last Wednesday.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I join in congratulating the gentleman in the well on his amendment and I support his amendment and hope that my colleagues will do the same.

The CHAIRMAN pro tempore (Mr. DICKS). The question is on the amendment offered by the gentleman from Wyoming (Mr. CHENEY) to the amendment offered as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a susbtitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MOORHEAD of California. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of California to the amendment in the nature of a substitute: Page 37, line 17, strike all after the word "upon" down through line 18, and insert in lieu thereof the following: "the quantity and quality of presently available and future water resources;".

Mr. OTTINGER. Mr. Chairman, I reserve a point of order.

I would like to inquire if the gentleman has printed this amendment in the RECORD.

Mr. MOORHEAD of California. The amendment has been printed in the RECORD.

The CHAIRMAN pro tempore. The amendment has been printed in the RECORD.

The point of order of the gentleman from New York is noted.

Mr. MOORHEAD of California. Mr. Chairman, with respect to the Committee on Interstate and Foreign Commerce version of the legislation, the powers of

the Board are set forth and among the factors the Board is required to consider as far as the designation of an energy project as a priority project is concerned is the extent to which the energy project in question would impinge upon presently available or future water resources.

Mr. Chairman, my amendment would change that section to read: The extent to which the energy project would impinge upon the quantity and quality of presently available and future water resources.

Mr. Chairman, the matter of adequate and unpolluted water supplies is of great concern to Western States because we are not blessed with the abundance of water resources enjoyed by other regions of the country. It would not be an exaggeration to say that water is just as important as energy. We need both. One without the other is not acceptable. In the Commerce Committee we added language to H.R. 4985 that forbids the waiver or modification of any interstate compact, provision of State or local law, or Federal contract relating to water rights or to the appropriation, delivery, or use of water pursuant to those rights. This is an important provision.

Additionally, we added a provision requiring the Energy Mobilization Board to consider an energy project's impact on present and future water resources before the EMB could designate a project as a priority energy project. This language was added in the Subcommittee on Energy and Power without any controversy. The amendment now before the House clarifies the scope of this particular criterion by insuring that the EMB considers the impact of a project on water quality as well as water supply. Westerners know that the quality of our water resources is just as important as the quantity of water available to us. Salinity and chemical wastes can totally destroy the value of our water resources.

It is intended that the EMB shall seriously consider the impact that an energy project will have on present and future water supply and quality before the EMB designates a project as a priority project. If, after receiving all the evidence, it appears that an energy project would constitute a clear and present danger to the quality and supply of water resources intended for purposes other than energy production, the EMB would be taking an irresponsible position should the Board go ahead and designate such a project as a priority project. I believe we should give the Board this kind of guidance as it seeks to get necessary energy projects underway without unreasonably impinging upon water resources.

Additionally, the Congress should have at its disposal the information I am asking the Board to consider. The Congress should have this information if it is asked to approve a modification of law pursuant to an EMB recommendation. I ask an "aye" vote.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. MOORHEAD of California. I will be happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

The gentleman is a very valuable member of the Committee on Interstate and Foreign Commerce and offered the original language with regard to water rights and the strict and stern exclusion of those matters coming under the jurisdiction of the Board.

It was our understanding at the time we accepted that amendment so ably offered by the gentleman that this was the intent of the amendment. I am satisfied it remains so. I think it is still the intent of the committee bill that it should be so and I observe that the amendment simply clarifies it and with that I support the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I, too, join in commending the gentleman in the well for offering his amendment. It is merely a clarifying amendment. It was the understanding of the subcommittee and the committee when the gentleman from California (Mr. MOORHEAD), who is one of the leaders on the subcommittee in the energy field, offered this amendment that we had taken care of the gentleman's water law concerns.

Yet when we looked at it after the work had been finished in the subcommittee and the full committee, it was felt it would be advisable to put the language in a slightly different form so as to make it absolutely clear to any judicial interpretation in the future that we intended to embrace the water quality issue along with the amount of water and the contract assurances about water that were clearly stated in the amendment originated by the gentleman from California (Mr. MOORHEAD).

Mr. Chairman, I think the amendment at this time is appropriate, noncontroversial and should be accepted without question.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from California.

Mr. CLAUSEN. I want to commend the gentleman for offering what I think is an improving amendment, albeit to the bill of the Committee on Interstate and Foreign Commerce. Nevertheless, I want to make sure, if this assessment is correct, that it really requires the Board, prior to designation, to actually consider the impact the project might have on both the quality and the quantity of available and/or future water resources. Do I understand that correctly?

Mr. MOORHEAD of California. That is the purpose of my amendment.

Mr. CLAUSEN. Mr. Chairman, as far as we are concerned we would support the amendment. We thank the gentleman for his effort.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I commend the gentleman for adding this amendment to the Dingell bill. I think it is helpful. Some of us, as you will remember, tried to offer this in full committee at which time it was turned down and we are delighted to see it as part of the Dingell bill as this time. I thank the gentleman for offering the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. It was not really turned down. The committee did not want to consider it at the time. The gentleman from Michigan (Mr. DINGELL) told me he would consider it here on the floor.

I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I was chairman of the subcommittee. I handled this legislation in both the subcommittee and the full committee. The gentleman from Colorado has just said this amendment was turned down in full committee or in subcommittee. That happens to be at wide variance with the truth. I simply want the RECORD to be corrected on that point.

Mr. WIRTH. Will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Colorado.

Mr. WIRTH. The original amendment offered by the gentleman from California had to do with water rights; is that not correct? We attempted to amend that by defining water rights with regard to quantity and quality. We had a major discussion in the subcommittee and in the full committee.

Mr. MOORHEAD of California. That amendment is in the bill in another section that deals with a prohibition on the waiver of water rights laws. We are now dealing with provisions that set forth the powers of the Board as far as the designation of priority projects is concerned.

Mr. WIRTH. I thank the gentleman for his amendment and I think it is helpful.

□ 1430

Mr. DINGELL. Mr. Chairman, if the gentleman from California would yield further, this amendment was never before the subcommittee and was never before the full committee and was never considered in either place. I want the RECORD to so indicate.

Mr. MOORHEAD of California. That is correct.

The CHAIRMAN pro tempore (Mr. DICKS). Does the gentleman from New York (Mr. OTTINGER) insist on his point of order?

Mr. OTTINGER. I do not, Mr. Chairman. I withdraw my point of order.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. MOORHEAD) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MOORHEAD of California. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of California to the amendment offered by Mr. UDALL as a substitute for the amendment in

the nature of a substitute: On page 34, line 7, after the word "way", insert the following: "any Federal contract for delivery of water or".

Mr. MOORHEAD of California. Mr. Chairman, section 216 of this bill, in my view, alleviates the fears of many of us that an Energy Mobilization Board would result in Federal usurpation of State water rights. However, section 216 is deficient in that it may not protect existing water rights that are based on Federal contracts rather than State law. This is the case, for example, in the lower Colorado River region where millions of domestic water users in Arizona and California are dependent on Colorado River water that by Federal law—the Boulder Canyon Project Act of 1928—may only be appropriated pursuant to a contract with the Secretary of Interior.

Therefore, if we are to fully protect existing water rights section 216(d) should be amended to include Federal contractual rights among the water rights that would be protected by this bill. I might add that such Federal contract rights are partially protected in section 215 of this bill, which refers to waivers of substantive law enacted subsequent to the beginning of construction of a priority energy project.

Thus, my amendment would conform the water rights language in section 216 and 215 and provide the complete water rights protection that I am certain was intended.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I would be happy to yield to my colleague, the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, again I would hope that the leadership would accept this amendment, because as I know the gentleman knows, in California the principle of the Federal contract for the delivery of water is an extremely important one. I think this clarifies it and I hope the leadership will accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. MOORHEAD) to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. RAHALL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. RAHALL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RAHALL to the amendment in the nature of a substitute:

Page 38, strike out line 7 and all that follows down through the end of section 177 and substitute:

which such designation was made and such other information as may be appropriate.

"(d) Upon receipt of an application pursuant to section 176 of this part for the designation of an electric powerplant, as defined in section 103(a)(7) of the Powerplant and Industrial Fuel Use Act of 1978, as a Priority Energy Project and after an opportunity for public comment on such application pursuant to such section, the Board shall designate such powerplant as a Priority Energy Project, in accordance with section 177, if such powerplant is seeking, as determined by the Secretary of Energy, to use coal or a coal derived fuel as the primary energy source either (1) through conversion to such fuel from the use of oil or natural gas as the primary energy source for such powerplant, or (2) through construction of a new powerplant to replace an existing powerplant that uses oil or natural gas as the primary energy source.

"(e) The Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agency decisions with the appropriate agencies as soon as possible in order that agency decisions may be expedited.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order.

Mr. Chairman, I wonder if the Chair could not protect the Committee by assuring that all the amendments that are offered are printed in the RECORD.

The CHAIRMAN. The Chair will inquire, was the amendment printed in the RECORD?

Mr. RAHALL. Mr. Chairman, I have an amendment that was printed in the RECORD.

I also have an amendment by the gentleman from Michigan (Mr. DINGELL) that was printed in the RECORD and through negotiations between the two of us, I am offering the amendment of the gentleman from Michigan (Mr. DINGELL) at this point.

Mr. OTTINGER. Mr. Chairman, I withdraw my reservation of a point of order.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state the parliamentary inquiry.

Mr. BAUMAN. Mr. Chairman, do I understand that under this rule that governs the consideration of this bill that any Member can offer any amendment that was printed in the RECORD, no matter who the author of the amendment was?

The CHAIRMAN pro tempore. The gentleman is correct. That is the correct interpretation.

Mr. BAUMAN. Well, that certainly offers many possibilities.

Mr. RAHALL. Mr. Chairman, this amendment would direct the Board, upon application by a utility, to designate as a priority energy project any conversion of an electric generating plant from oil or gas to coal, or coal-based synthetics. Any new facility designed to replace or phase out an existing oil or gas burning facility would receive similar treatment.

The purpose of my amendment is to expedite approval of those projects which are designed to get utility boilers off oil or gas and onto coal or coal derivatives. This amendment is consistent with our often-expressed national objective of converting utility boilers to coal as rapidly as possible, thus freeing more oil and natural gas for other, more efficient uses. We are all aware of instances in which conversion to coal has been thwarted by regulatory delays. I believe that my amendment will reduce the number of these instances to an absolute minimum.

I want to stress that my amendment does not require that every utility boiler conversion or replacement be designated as a priority energy project. Neither does my amendment require that all boilers be converted to coal immediately. Rather, my amendment merely would extend priority treatment to those projects which, in the opinion of their owners, require "fast-track" treatment.

This amendment is similar to one offered in the Senate by Senator HUDDLESTON and adopted by the Senate on a voice vote.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. Yes, I will be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman has held most fruitful and I believe helpful discussions in which we have worked out the differences that existed with regard to this amendment. This amendment will make possible a more expeditious shift toward a coal economy. I commend the gentleman for offering it. I have no objection to its adoption.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. Yes, I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is an amendment, I understand, to the Commerce Committee bill, the Dingell-Santini bill?

Mr. RAHALL. Yes, that is correct.

Mr. UDALL. Well, I have taken the position earlier with the gentleman from California (Mr. CLAUSEN) that the gentleman from Michigan (Mr. DINGELL) and his colleagues have a right to present their version of the bill any way they want to.

Therefore, I will support this amendment; but let me make clear what we are getting into here. There is not a Member of this body that does not have some pet energy project, some local thing about which they are concerned. We started out with six. We said the EMB was going to take six of the most desperately needed projects each year. Now we have got a wide-open situation and we will be here for several days, I predict, with many Members offering amendments to take care of particular local circumstances. If everybody is on the fast track, nobody is on the fast track and here we are saying without having any idea how many applications there will be or how many projects there will be, where they will be located or their relative merits; we are saying that this kind of project must always be on the fast track.

I think we are making a mistake, but if the Dingell forces want it that way, I will go along.

Mr. RAHALL. Mr. Chairman, if I might respond to the comments of the gentleman from Arizona, I can certainly appreciate the fact that if we make all projects fast track projects, it dilutes the meaning of this legislation. However, I think it is very important to keep in mind that this particular amendment I am offering, which grants fast track status to coal conversion projects is something

that we can have and is readily on line now. It is not 5 or 10 years down the road. Coal is with us today. These projects, some 60 some projects that have been identified by the President's Commission on Coal can save the equivalent of 724,000 barrels of oil a day by 1985. They are ready, if we can just get going on them.

I think that this is where this type of priority legislation is set apart from the many other projects that we might be considering. It is ready. It is here now and it is ready to move.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman from West Virginia yielding to me.

I would have to say to the gentleman from Arizona and to the gentleman from West Virginia, that I would hope that we would accept the fact that coal is not a parochial issue. It is a national answer to the energy problem. It was expressly identified as such in the National Energy Act last year where we legislated, I trust with the support of the gentleman from Arizona and others, the concept of coal as a replacement fuel for the oil which holds us in thrall to the Middle East and other parts of the world. So, in this instance it seems to me that it is perfectly appropriate to do what the gentleman in the well wants done. In effect, we did that last year with the passage of the National Energy Act.

Mr. Chairman, I support the amendment of the gentleman and I think it ought not to be considered controversial.

Mr. RAHALL. Mr. Chairman, the gentleman is very correct. I might also add that the Congress recognized this problem in 1973 in its first passage of coal conversion legislation. Unfortunately, there was not enough teeth in that legislation. There has been only one such conversion under that act. That was just recently at the Braden Point plant in Massachusetts, and then with the passage of the 1978 law that the gentleman referred to; there has still not been enough teeth in the laws that are on the books. This is an attempt to show that we are serious about converting to coal and that the Congress is taking action, stronger action than we have in the past.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. RAHALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, we have some laws on the books that make it either difficult to mine or difficult to burn coal and, at the same time, there are laws are on the books that encourage us to use coal. Now, that is precisely the kind of dichotomy into which the Congress has gotten itself.

I think the amendment of the gentleman will help us clarify where our national priorities really lie.

Mr. RAHALL. Mr. Chairman, I appreciate the gentleman's comments and certainly realize there is a myriad of problems.

This amendment does not address those problems with coal production and coal utilization which Congress should consider separately.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I rise in support of the gentleman's amendment and agree with his comments. I think the gentleman does this House a great service by presenting this amendment, because it does represent a realization that we in this country must somehow relax the tenacious grip of foreign oil countries on the United States.

□ 1440

Coal, it seems to me, does represent a realistic alternative to this grip which the oil countries have on the United States. Ohio, my own State, for example, has tremendous coal reserves, as do many other States in the United States.

The CHAIRMAN pro tempore. The time of the gentleman from West Virginia (Mr. RAHALL) has expired.

(On request of Mr. CORCORAN, and by unanimous consent, Mr. RAHALL was allowed to proceed for 2 additional minutes.)

Mr. WYLIE. Mr. Chairman, will the gentleman yield further?

Mr. RAHALL. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, in conclusion, let me say that I think coal is a great reserve that we can use to save oil in the case of a national emergency situation as a realistic alternative energy source, and I thank the gentleman for offering his amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, it is clear that this particular amendment does give priority energy status to coal and coal conversion. My concern would be this:

Would this cause the Energy Mobilization Board to just consider coal to the exclusion of other priority energy projects? What kind of assurance do we have that that would not be the case?

Mr. RAHALL. No, this would not say that the Energy Mobilization Board must consider coal exclusively, as much as I feel coal is our most plentiful natural resource and is one that can and does solve our energy needs. I think other criteria established in this bill for the consideration of priority energy projects assures that a wide spectrum of energy projects is to be considered by the board.

Mr. DINGELL. Mr. Chairman, if the gentleman from West Virginia (Mr. RAHALL) will yield, the specific answer to the question, I will say to the gentleman from California (Mr. CLAUSEN), is "No."

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, while I do not have any quarrel with the amendment, I just want to make a few comments in passing.

Both the gentleman in the well and the gentleman from Ohio (Mr. BROWN) have made the point that this simply deals with the coal conversion aspect of the whole process whereby we want to convert to coal. The basic problem, however, is still the mining of the coal.

We did pass legislation, as the gentleman from Ohio (Mr. BROWN) pointed out, and we are not producing more coal as a result of the legislation that was passed last year, despite the mandate of the Congress.

Therefore, I would ask the gentleman this question: How is his amendment going to produce more coal?

Mr. RAHALL. Mr. Chairman, as I stated, this amendment does not address the myriad of problems we are concerned with in coal production and coal utilization. This amendment is merely an attempt to use the coal that is stockpiled and laying on the ground in the coal fields at the present date and put back to work the thousands of coal miners who are presently unemployed.

Mr. Chairman, we can do this immediately. Synthetic fuels is down the road, but this is immediate.

The CHAIRMAN pro tempore. The time of the gentleman from West Virginia (Mr. RAHALL) has again expired.

(On request of Mr. BROWN of Ohio, and by unanimous consent, Mr. RAHALL was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would have to say to the gentleman from Illinois (Mr. CORCORAN) and the gentleman from West Virginia (Mr. RAHALL) that we are all aware that there are certain inhibitions against producing coal and still more inhibitions against using that coal once produced to solve our energy problem.

That is exactly the kind of dichotomy the Congress finds itself facing on many of these issues relating to the environment, the economy, safety, and all the laudable goals that may run into conflict with our need for energy, including inhibiting energy production in this country.

The issue that we must address ultimately in this Congress, when those things come into contradiction, is: "What is our position?" We all want to be environmentalists all the time; we all want to be energy producers all the time, and we all want to be for a strong economy all the time, but sometimes there are conflicts. It seems to me that the fact that we have not addressed these conflicts has destroyed some public confidence in the Congress.

I would say to the gentleman from Illinois (Mr. CORCORAN) that that is what we are trying to do in the Commerce version of this bill. That is why this bill is important to the country, and the country is judging us on our actions here.

Mr. OTTINGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment for the reasons that were outlined so well by the gentleman from Arizona (Mr. UDALL), because it really makes a mockery of the entire fast-track procedure in the designation of projects as priority energy projects.

There are some 70 of these coal conversions efforts that are presently under way, and there are a great many more contemplated. Indeed, under the National Energy Act there are a great many more mandated.

This amendment says, "in accordance with section 177," which I presume still leaves the fast-track decision subject to some further determination by the Board, but it still says they shall be designated priority energy projects. That certainly is going to give some priority to these projects over all others, otherwise there would be no purpose or effect to the amendment.

The purpose of the fast-track legislation was to take very important energy projects and waive certain laws under the Udall version or to provide expedited procedures under the Udall bill in order to see to it that those very important projects could be expedited. Now, this would take every coal conversion project that comes before the land and, subject to section 177, give that priority status, and it seems to me that distorts entirely the purpose of the law.

We are going to get other very important generic projects that are put before us for priority treatment. I might want to give priority to every conservation project and every solar energy project. Somebody else might want to give priority to every hydrogen project or to every OTEC project that comes through. But then we are left with no meaningful language remaining in this fast-track legislation.

So, Mr. Chairman, I do hope that the committee will reject this provision, because it is going to invite the proliferation of similar preferences and, I think, subvert the intention of the fast-track legislation.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I have similar reservations about this amendment, and I come from somewhat of a coal-producing State. When I first saw it, I thought, "Well, this is a good idea," but the more I thought about it, I felt it depends on how many projects the Energy Mobilization Board is going to be able to handle.

If they have to handle these things automatically, in other words, if they get these preferences, then that means that the people will have to evaluate all those State laws and regulations and give those people preference on those projects.

Then what happens to the other projects? This is what bothers me.

I note that this language appears basically in the Senate bill, and if the gentleman's amendment is adopted here, that pretty well fixes it in. I was wondering then what happens to everything else. That is what concerns me about the amendment.

Mr. OTTINGER. Mr. Chairman, that is precisely the concern we all have.

Mr. VOLKMER. It is not that I am against coal conversion. I am all for it. I believe it is one way we can get around the problem, and we need to do it.

Mr. OTTINGER. Mr. Chairman, I would say to those who are interested in economy in Government that if we start blanketing in priorities for every project for coal conversion, every project for synthetic fuels, and if every other project which we think is important is going to be handled by this Board, the Board is going to have to have a staff of thousands.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I think some of the great wisdom in this debate was given to us by the gentleman from Illinois (Mr. CORCORAN). He pointed this out.

Less than 2 years ago we created the Department of Energy. We were going to have the authority in one place. We were going to have an energy leader, a czar, a man who knew what was going on, a man who understood the energy issue and would lead us in this field.

Then 2 years later we said that what we need is not a Secretary of Energy or one man to lead us; we need someone between him and the President, a board of some kind or another czar of some kind that would appear.

They are asking for 50 people, but there will be 5,000 people there if we put every project everybody can dream up automatically on this fast track. That is what concerns me about the workability of this amendment.

Mr. OTTINGER. Mr. Chairman, it is my understanding that there are other amendments of this nature to give priority status.

I would urge this: That when we are creating a five-member board and giving them enormous authority, where there are projects subject to delays and there are important projects that could be considered for fast track; if we include every project, whether there is a delay or not, on the fast track, it seems to me that would be a great mistake.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the author of the amendment.

Mr. RAHALL. Mr. Chairman, I appreciate the gentleman's yielding.

The gentleman has mentioned the economy of the situation and the desires of all of us who are concerned with savings. I might add here that the cheapest way for us to switch from our dependence on foreign oil is through coal conversion. The cheapest way is with us now, not 5 or 10 years from now, as is the case with our synthetic fuel process. The cheapest way is to convert from oil and gas-burning processes to coal-fired facilities.

I pointed out earlier the experience the Brayton Point, Mass. utility has had.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. OTTINGER) has expired.

(By unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. RAHALL. Mr. Chairman, if the gentleman will yield further, the utility at the Brayton Point plant has demonstrated that they are saving their consumers $10 million, despite the cost of $130 million for the conversion.

So this is a way for us not only to save the consumers money, to save money for the people who use the power generated by utilities, but also to save our utilities and save the taxpayers money, and lessen the dependence of our Nation on foreign oil.

Mr. OTTINGER. Mr. Chairman, I am not arguing against coal burning. I think that may be advantageous. But I think most of the projects, because they are advantageous, have no need to claim the time and attention of this Board to get this special fast-track treatment.

□ 1450

If there is an important coal project and it is in trouble because of regulatory delays, or whatever, then the fast-track treatment may be called for. But to require that the Board consider every one of these projects I think is a terrible mistake.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the reason that I am supporting this amendment is because I think it is very, very important that we get away from our dependence on foreign oil. It seems to me as if coal represents our best opportunity to do that. We have adequate reserves of coal in this country and, given the uncertainties of the other alternative energy sources, the long-lead times, which the gentleman from New York talked about a little while ago, which we do not have in the case of coal, or need not have, it seems to me as if we need right now a realization of a national policy which would lead to a greater use and utilization of our one real big energy resource which we have in this country and which could lead us away from dependence on foreign oil.

I think the gentleman from West Virginia (Mr. RAHALL) has done this body a great service by his amendment. This amendment does not necessarily mean that we need to place the same emphasis on other sources of energy which are not so plentiful, are perhaps not so available to us; but coal is available and it can be used now. One of the problems we have had in Ohio is that the U.S. Environmental Protection Agency has not been too helpful to us in the use of coal. I think that the establishment or the enunciation of a national effort as far as the utilization of coal as an alternative energy source is very desirable, and again I compliment the gentleman from West Virginia for his leadership in this way.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Mr. Chairman, what my colleague, the gentleman from Ohio, has said makes excellent sense to me.

Is there anything in this amendment that does undue harm for a proper consideration for environmental problems as it relates to pollution?

Mr. WYLIE. No. It does not repeal any environmental protection laws.

Mr. ROUSSELOT. As it relates to pollution.

Mr. WYLIE. As it relates to pollution, no, of course not. But I think what it would do is that it would rifle-shot consideration of realistic modifications of environmental protection laws maybe. It would, I think, more importantly, encourage a rifle-shot approach to coal gasification and coal liquefaction. I think that is our real ace in the hole.

I saw on television the other night that Texaco is producing gas from coal right now. We know the country of South Africa is producing an oil or a liquid from coal which they are using for energy. I do not understand, why if South Africa can liquefy coal, why we cannot do it in this country. It seems to me that the kind of priority the gentleman from West Virginia calls for in his amendment would emphasize the fact that we ought to get on with using our coal as an energy source more quickly in this country.

Mr. ROUSSELOT. If the gentleman will yield further, does this amendment help speed up the process of freeing up a powerplant to make utilization of coal? Is that its intent?

Mr. WYLIE. That is my understanding. I think that is the real purpose of the amendment and the real thrust behind it. It could speed up the conversion from oil-fired plants and gas-fired plants to coal. I think that is the whole purpose behind the amendment; assuming it is, I support it. If its purpose is otherwise, then I have been misinformed.

Mr. ROUSSELOT. I appreciate the gentleman raising this point, and I think both the gentleman from Ohio and the gentleman from West Virginia are correct. We need to make much better use of this resource, and I think the time is now. I appreciate the gentleman's comments on the subject.

Mr. WYLIE. I thank the gentleman for his significant contribution.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Ohio (Mr. WYLIE) and I also wish to support the proposed amendment to the Energy Mobilization Board legislation by the gentleman from West Virginia (Mr. RAHALL), which would help the utilities in my region in the southeastern part of New York State, which have recently been ordered to convert from oil to coal but have been stymied by the extensive amount of paperwork and hearings that are required for the approval of such conversion. This amendment which provides for a priority classification of a conversion project would certainly help our utilities to expedite the conversion that is required of them by the Department of Energy.

Mr. Chairman, I am in support of this amendment because it gives a priority status to any utility that pursues the President's request in switching their plants from burning oil and/or gas to burning coal.

The critical goal of gaining independence from imported oil cannot be more accurately addressed than by taking the necessary steps to utilize the vast amounts of coal reserves that this Nation has at its ready disposal. I use the term "ready disposal" for several reasons. First, the Federal Government owns approximately 70 percent of western coal resources and can influence the development of another 20 percent that borders on Federal lands. Moreover, the regulations under which coal is mined are largely Federal or affected by Federal minimum standards.

Since the entire purpose of the Energy Mobilization Board is to speed up the production of energy projects that will help maintain our economy with energy sources other than those imported, I do not know of any domestic energy source so close to that goal. Although I favor alternative sources of energy, many of them are simply too far down the road in terms of research, development, and commercialization to do us any substantial good in the immediate future. I am thinking of solar energy, geothermal, biomass, and other natural energy forms. Secondly, the degree of conversion necessary to switch to coal is significantly less than that of other forms of energy. Simply put, it takes less effort and funds to switch from burning oil to coal, than it does to install newer technologies—or for that matter—to continue to burn imported oil.

Many argue that the burning of coal is an environmental hazard. Recent studies have indicated that this is no longer the case. Plants can, and should, install scrubbers that bring the burning of coal well within stringent environmental air quality standards. Although it is still expensive to install such scrubbers, I wonder how much more expensive it actually is than buying imported oil, an oil that not only burns a hole in our national debt, but national security as well. I believe that once utilities have the right to burn coal, the free market will in due course adjust and stabilize the implementation costs of such items needed to convert to coal.

Others contend that coal mining will disrupt the environment to an unacceptable degree. Under current legislation, mining is prohibited when it may adversely affect fragile lands with important historic, cultural, scientific, or esthetic values, or harm natural systems. I wish only to point out that our resource base of coal is so vast that restrictions on access to certain deposits that fall within this criteria, would not prevent coal from being produced in sufficient quantities to meet demand.

Mr. Chairman, the major utilities in my congressional district have informed me that the savings that could and would be carried over to the consumer by switching from oil to coal would be significant. The Orange and Rockland utilities have informed me that simply switching from a lower sulfur fuel to a higher sulfur fuel would amass a savings of $3.9 million. It does not take much to figure out that the difference in costs between coal and oil would substantially increase such savings.

Accordingly, Mr. Chairman, I urge my colleagues to support the Rahall amendment.

Mr. WYLIE. The gentleman is right and is to be commended for his participation.

Mr. Chairman, I think coal is a realistic answer to our dependence on foreign oil and could help keep in reserve the valuable oil that we have here in the United States for a possible national security emergency. I urge adoption of the amendment.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, first, I wish to compliment both the chairman of the Interstate and Foreign Commerce Committee and the subcommittee chairman, the gentleman from Michigan (Mr. DINGELL); likewise, the gentleman from Arizona (Mr. UDALL), the gentleman from California (Mr. CLAUSEN), and all others involved, who have done a tremendous job. I know there are varying viewpoints, but that perhaps is as it should be.

Mr. Chairman, my view simply is that our Nation is so desperate and vulnerable on the energy front that our future as a free and strong people is seriously jeopardized unless we act forcefully and expeditiously to establish our own energy independence.

In that regard, we need to develop energy projects on a priority basis similar to wartime emergency procedures such as those which gave rise to the synthetic rubber and aviation fuel industries during World War II.

The existence of redtape and procedural delays and impediments will choke off those projects before they can get off the ground without legislation of this kind.

Mr. Chairman, I also want to state that, in connection with the Rahall amendment, we should adopt this amendment and thereby establish coal conversion as a priority.

When we depend upon the OPEC countries for over 8 million barrels of oil a day, we are in a serious situation. In my judgment, if we had real trouble overseas, if this oil was about to be closed off on us, we would come back here and enact a very much stronger piece of legislation. But I think that today, with all of the coal that we have in this Nation and the know-how that we have, and not doing anything about it—in fact, we really do not have an energy policy as such in this country—we should already be on a massive commercial scale basis in producing synthetic fuels from coal. But that is not the case. Here we are merely talking about the utilities that have not converted to coal. We discussed this in 1976, and only 2 months ago—I know many Members of the House do not realize this—we had utilities in the Philadelphia, Pa., area that went from coal to oil, which is a terrible situation and further drain upon this economy. There is no earthly reason why if they do not want to burn a high-sulfur coal, that they cannot burn metallurgical coal, where you will not have any pollution concerns. It can be done just as economically, within a dollar or two on the ton, as it can, perhaps, on high-sulfur coal.

Our Energy Department is presently letting utilities switch the other way. I am talking about switching from coal to oil. And they have done that within the last 2 months.

If there ever was a time in this country when we needed an amendment of this kind, it is now. I hope the amendment will pass, and I hope that it will be adhered to in this Government, because if we are going to continue to become more energy-dependent, it will not be long until the gasoline prices are going to be $1.25 a gallon. And this time next year you will see the gasoline prices at $1.50.

I think we should commence to act now and utilize coal, like we did during World War II and at other times in this country, and lessen this drain and dependency on foreign oil. It would be my hope, Mr. Chairman, that we would not have any votes in this chamber against an amendment of this kind. It is very much needed, and if we are ever going to become self-independent from these OPEC countries, this is a good place to start. It is, I might say, a timid way at that. We should be going at it much stronger. We should be going full gallop instead of crawling. But it is the best that we have before us at the present time, and I would therefore urge the adoption of this amendment, Mr. Chairman.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think this is a good amendment, one that is long overdue. Every Member in the Chamber should be for it and vote for it.

Ninety-eight percent of U.S. energy reserves are in coal, and developing those reserves is the hope of the future for America. We should develop coal now. In fact, we should have been developing it over the past 30 years. As the previous speaker, the gentleman from Kentucky (Mr. PERKINS), just said, coal can help make us independent of the OPEC nations. Certainly if we come to a war or any extreme emergency that interferes with our oil imports, we are going to need every bit of the energy we can get out of our coal. Even without an emergency goal it is the only hope I can see right now for rapid development of energy to serve this Nation.

I urge every Member to vote for this amendment.

□ 1500

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish Members would read both this amendment and read the provisions of the act that are referred to in it. The amendment does not give a boost just to coal as a fuel. It gives a boost to derivatives of coal. That is the production, for instance, of oil from coal, and gives that a boost ahead of, for instance, the production of gas from lignite, or gas from geopressurized brine. If we ultimately produce a great amount of gas from geopressurized brine, I would assume we would probably permit continued use of gas for generation of electricity.

What this does is give a boost toward synthetic fuels produced from coal.

The actual production of coal will hardly qualify anyway, because there is no particular need for fast-track legislation in the production of coal itself.

The amendment is directed not toward coal but toward production of other things from coal, and it gives a leg up to those industries that produce other things like oil or gas from coal rather than from another source.

Now, it may be said this really does not do much, because it reads that the action must be in accordance with section 177, but section 177 says that one of the things that has to be considered is the anticipated effects upon competition in the energy industry and the extent to which such designation will create competitive inequities among applicants.

What we are doing here is answering item 12 in favor of coal. We are saying that Congress determines that coal shall get a leg up on every other source of energy.

Once we get into this game of regionally supporting a particular source of energy, we merely make this a bill one in which a single particular approach to solving a problem gets a governmental boost.

Now do you want to do that? Perhaps we do need to relieve some of the pressures and impediments against moving forward in the production of energy. If we do that, let us do it without weighting the balance for one type of industry as against another.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

Let me say to our distinguished friend from Texas (Mr. ECKHARDT), that I think he is making a good argument in behalf of the amendment.

We have the know-how now to make the derivatives from coal, all synthetic fuels. We should have been moving in that direction for a long period of time on a commercial scale, and we have not done anything. We are late.

We certainly should at least compel the utilities at the earliest possible date to get away from oil and utilize coal.

Mr. ECKHARDT. If I may reclaim my time. I have voted for a similar objective in the bill last year with respect to the use of gas. I have also supported the proposition of moving coal by slurry pipeline. In every way I favor the use of coal.

What this goes to is not the direct use of coal so much as it goes to the question of creating synthetic fuels from coal. If you are going to do that, let synthetic fuels be produced from whatever source, lignite, coal, geopressurized brine, what have you.

I just do not want to throw the balance in favor of one process against another.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I agree with what the gentleman says, but I think we have to take focus on what this amendment does. That is what really is of concern, I think. It gives some priority to putting every one of these projects on fast track and requires the Board to consider every project. There could be hundreds of projects.

I think that is the main objection. I am for conversion of coal. I am for demonstration of creation of synthetic fuels. If there are real obstacles involved, take a few of those important projects and put them on a fast track. When you say the Board must consider putting every project on a fast track—they would be subject, to be sure, to the strictures of the procedures under section 177—I think that is a mistake.

Mr. MILLER of Ohio. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this important amendment, because today this country is importing from OPEC nations such quantities of crude oil that the problems of such a course threaten to overwhelm us. When we consider the merits of coal, we must realize that the current energy situation should not exist.

Thirty-one months ago, President Carter proclaimed the moral equivalent of war against the country's energy crisis. The program he sent Congress proposed that Americans learn to live with less energy and use it more efficiently. The President's elaborate energy proposal focused attention on the production and use of coal as an alternative to the Nation's increasing reliance on gas and imported oil.

Nearly 90 percent of the Nation's energy reserves consists of coal. At current production rates, we have enough coal to last for centuries. It is with this vast potential in mind that President Carter proposed to nearly double coal production by 1985 from the 673 million tons mined in 1977 to 1.25 billion tons. Since 1973, and the oil embargo which nearly crippled the American economy, coal has been designated the flagship of our national energy policy. In the past 2 years, however, that policy has been vague, subject to unrealistic environmental demands and inconsistent.

A General Accounting Office study concluded that doubled coal production in just 7 years will be extremely difficult because "at every stage of its development coal has problems—in mining, refining, transporting, storing, and burning." With every energy-related piece of legislation this House considers, we have the chance to remove the hurdles confronting the coal industry. We have an obligation to do so.

Emphasis on coal production and use is both proper and necessary—especially in Ohio. Ohio has a resource of approximately 41 billion tons of bituminous coal of which approximately 20 billion tons are recoverable. Coal's proximity to Ohio's energy-intensive industries and electric utilities make it an even more attractive fuel. Ohio is not only a major coal producer, but it is the largest coal-consuming State in the Nation. Ohio consumes almost 12 percent of the coal

burned in the United States, more than New York, New Jersey, and Pennsylvania combined.

The coal industry in Ohio is directly responsible for providing more than 15,000 jobs and an annual payroll in excess of $235 million. It has been estimated that the coal industry contributes another $800 million to the economy of Ohio's 24 coal-producing counties in support of industries, businesses, and services associated with king coal.

Emphasis on coal production can be appreciated most in terms of jobs. Southern Ohio is directly dependent upon the coal mining industry and as coal goes, so goes the region. Unemployment rates in the region I represent have dropped from the post-World War II days when coal was overlooked in favor of oil and gas. But even in the wake of an alleged renewed concentration on coal, unemployment remains too high.

EPA's mandates have already cost 4,000 jobs in the coalfields of Ohio. An economy of a region long dependent upon coal is threatening to break, while this Nation sits on top of rich coal reserves. The irony is uncalled for and totally unacceptable.

Historically a leader in coal production and a barometer of the industry's health and welfare, Ohio has tried to help win the energy war the President declared long ago. But the people of Ohio now have good reason to doubt that the Government will, in actuality, permit, let alone encourage, full utilization of coal. As is so often the case, Government is not the answer to problems involving coal. Government is the problem. Environmental regulations are slowing coal production to a walk, and the ultimate outcome of EPA intervention into the mining industry is having a devastating impact on the economy of both the Appalachian States and the Nation in general.

As I noted a moment ago, Ohioans vividly remember the days in the not-too-distant past of double-digit unemployment and economic hardship. We can also quickly recall our experiences of the winters of 1976, 1977 and 1978, with school closings, fuel shortages, record-breaking low temperatures, and job cutbacks. Such memories should serve to remind us all that resolutions coming from this House best be ones which will prevent history from repeating itself.

The threat of plant closings, increased utility rates and job reductions as a result of environmental campaigns was the very point that prompted me to offer a jobs protection amendment to the Clean Air Act when it was before the House in May, 1977. Very simply, my amendment provided that, when a State's unemployment rate was 6.5 percent or more, a 5-year variance could be granted to a power facility emitting sulfur dioxide. The amendment was defeated by the House. In my estimation, the House said that nothing—not even the protection of jobs and coal production—should stand in the way of environmental laws. We have a chance to change that thinking now. Coal deserves a chance.

Earlier this month, I met with DOE officials to again underscore the importance of Ohio coal. In this case, the meeting was to underscore the use of Ohio coal for a proposed coal gasification plant in Noble County, Ohio, that would convert southeastern Ohio coal into pipeline quality gas. Our current energy crisis does not afford us the luxury of waiting. Yet DOE will not render a decision on the Noble County project until sometime next year. While the energy crisis worsens, Washington fiddles, jobs are jeopardized, and coal remains in the ground.

I am giving my strong support to this amendment which would direct any newly created Energy Mobilization Board to give priority attention to those coal-related projects—such as electrical generating powerplants—coming before the board for review. The objective of the Energy Mobilization Board is to eliminate redtape in the consideration of domestic energy alternatives. While that is an honorable objective, its practicality must yet be determined. There should be no question that any such board—if ultimately created by the Congress—should give the highest priority to coal-related projects and programs. I have stressed that fact today and I will continue to stress that fact until the production and use of coal is given the attention it needs and deserves.

I urge House adoption of this amendment.

Mr. WOLPE. Mr. Chairman, I rise in opposition to the amendment, but I must say I think it is a useful contribution to the debate on the question of the creation of the Energy Mobilization Board. This amendment makes clear that what is before us today is a decision not only about the way in which we might reform the regulatory system to overcome major obstacles in the way of energy production and distribution in this country, but also about the future direction of our energy policy.

Up to now the debate has centered very heavily on the relationship between the Federal authority created in this legislation and State and local governments, and the constitutional issues that are presented in that relationship. These are vital issues. They deserve the debate they have received.

However, what is also at stake is the question of whether or not this country is about to make a major new commitment that will for many years into the future determine the course of energy policy in this country.

The real purpose of the Energy Mobilization Board, which was proposed by the President in conjunction with the proposed Energy Security Corporation, is to facilitate the production of synthetic fuels to meet the administration's oil import reduction goals.

In a sense, the goal of the amendment that is before us would already be accomplished by the mere creation of the Energy Mobilization Board, particularly if the Commerce Committee version of the Board were to be accepted.

In its energy programs, the administration proposes to tap a variety of energy sources in the effort to achieve a 4.5-million-barrel-of-oil-per-day displacement by 1990. There has been considerable discussion of conservation and of solar energy, but the unhappy reality is that the administration has been paying only lip service to these alternatives. If you take a look at the administration's working papers, at the actual numbers that have been developed by the administration, it turns out that of the 4.5-million-barrel-displacement goal, only something in the neighborhood of 750,000 barrels is to be achieved by conservation, while between 1½ to 2½ million barrels is expected from synthetic fuels. The centerpiece of the President's energy program, in short, is the production of synthetic fuels. That is the reason we are talking today about the Energy Mobilization Board.

The unproven, highly questionable technologies that are at stake here demand in my view a cautious approach to the development of this new energy direction.

□ 1610

In the Science and Technology Committee we received testimony from the Rand Corp., indicating that of the demonstration synthetic-fuel projects presently in place the average cost overrun is 2½ times their initial estimate. That is not to say synthetic fuels cannot play an important role in our energy future. It is to say that we ought to be cautious in creating the mechanism to promote the rapid development of these synthetic-fuel technologies.

All of the effort that has gone into this debate up to this point, in my judgment, could be far more usefully spent in the development of an energy policy based upon energy conservation and the development of renewable energy resources which would not require the waiving of Federal law or the preempting of local authority.

I would argue, to the contrary, that to the extent we are focusing attention now on expanding the power of the Federal Government, and of diminishing that of State and local governments, we are running directly contrary to what is really needed in this country—the local mobilization of all of the available community resources at the State and local as well as the national level in the interest of a sound and rational conservation program.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I am pleased to yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I certainly agree with what the gentleman says. I would like to point out something that is very significant. A study was made in 1979 by the Department of Energy which revealed that of all coal-fired plants between the years 1965 and 1976, 80 percent of projected capacity came online on time or early. Then I quote:

> Where lag has occurred, its main causes have been equipment failures, delivery delays, and labor problems.

The fact of the matter is that with respect to these plants we are talking about, and I realize that they are subject to the 177 procedures, but we are going to require this Board to address itself

to 80 percent of the projects that would come in on time as well as the 20 percent of the projects that might need expedited treatment. Where expedited treatment is called for, this facility is provided. It is supposed to be for national priority energy projects; it is not supposed to be for every plant that comes down the line in a particular technology.

What the gentleman says about synthetic fuel plants, of course, is absolutely true. They have not been proven in this country yet.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

(At the request of Mr. OTTINGER and by unanimous consent, Mr. WOLPE was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield further?

Mr. WOLPE. I yield to the gentleman.

Mr. OTTINGER. Mr. Chairman, to put these automatically onto the fast track makes absolutely no sense at all.

Mr. WOLPE. I thank the gentleman for his observation. I would only add one other point that I think needs to be stressed. In the administration's own estimates they have brought forward, it turns out that to displace a single barrel of petroleum by a serious residential conservation effort would be at a cost of roughly $10 per barrel of oil displaced. That same barrel displacement via synthetic fuels, given the present state of technology, is estimated to range between $30 and $40 a barrel. This is a very simple kind of dollar and cents comparison, and I submit that we ought to be doing what makes the most economic sense, as well as the most environmental sense for the future of this country.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has again expired.

(At the request of Mr. PERKINS and by unanimous consent, Mr. WOLPE was allowed to proceed for 2 additional minutes.)

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. WOLPE. I will be pleased to yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, let me say to the gentleman in the well that we had the know-how, in response to Mr. OTTINGER, to make synthetic fuels, liquefaction from coal was working well in 1953 at Louisiana, Mo., when we closed the plant down for lack of appropriation. We had gasification from coal at Gordo, Ala., that was working well when we closed down in 1953. We have had the know-how for more than 40 years. Germany used it. It is now in South Africa. We have had it in this country and we are right back today where we were 30 years ago in this country. We should be on a commercial scale.

But notwithstanding that, here we are only trying to bring about a situation that should not have been in existence for many years, and that is the mandate that the utilities presently using oil switch back to coal. I would hope that there would not be any votes in the House of Representatives against this proposal. I watched them all switch in the early fifties from coal to oil when they were getting it dumped on the eastern seaboard for 50 cents a barrel, and putting all of the coal people in the country out of business.

It was predicted then that this was going to take place, becoming dependent upon the OPEC countries and Venezuela and everybody else, but it is time we at least started crawling to switch back, even though we should be running. We should at least be crawling and this amendment will let us crawl just a little bit to require the utilities to switch back to coal.

I hope there is nobody against this amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has again expired.

(By unanimous consent Mr. WOLPE was allowed to proceed for 2 additional minutes.)

Mr. WOLPE. Mr. Chairman, let me just say that I thank the gentleman for that contribution. The intent here is not to again alter that conversion policy. Indeed, we want to continue the oil to coal conversion policy of the Federal Government.

Let me say, furthermore, that I am not one who has been opposed to the demonstration projects that are underway presently in an effort to try to make the maximum use of the vast coal reserves available in this country.

Mr. PERKINS. If the gentleman will yield to me further, but what priority do we have that is as high as this priority insofar as the Mobilization Board is concerned presently?

Mr. WOLPE. My concern, as I indicated earlier, is that the Mobilization Board is shifting the priority of our national energy policy from one of a focus upon conservation and development of renewable energy resources, toward a misguided concentration upon fossil fuel and synthetic fuel technologies. In my judgment, that is an inappropriate shift in direction, and I intend to support the Udall-Clausen version of that bill, because I think it allows a more rational approach to the prioritization of the projects that will be before the Energy Mobilization Board.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I will be pleased to yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, several arguments have been made here that are not quite correct. The gentleman from New York (Mr. OTTINGER) said all projects involving coal would automatically be included as priority projects. That is not correct and he knows it.

In order to get a project included as a priority project, its sponsors have to apply to the Board. The gentleman said that 80 percent of the coal projects are either on time or ahead of schedule. Certainly they would not apply to become priority projects. Why should they? The Board would not have to address these at all. He said that most of the others were delayed by equipment failures, delivery delays, and labor problems. It would not do these projects any good to ask for priority status because the Board could not do anything about their problems. The Board would not have to address these projects. The only projects left and the only projects the Board would have to address are those few that are held up by bureaucratic or judicial delays and those are the projects this legislation is designated to deal with.

But, the gentleman from Michigan (Mr. WOLPE) says he is for the Udall amendment. That explains why he is against this amendment. But I say that it is very important to America to expedite the development of our coal reserves. This amendment would do that and it should be included in the bill. If we are going to get started, as the gentleman from Kentucky said, we need to start now. In fact, we should have started 25 or 30 years ago. But in spite of the fact that we are 30 years late, we must start now.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I yield to the gentleman.

Mr. OTTINGER. Mr. Chairman, I would like to acknowledge to my chairman that if I said automatic I was incorrect. Under section 177 it would still have to go before the Board.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has again expired.

(At the request of Mr. OTTINGER and by unanimous consent, Mr. WOLPE was allowed to proceed for 30 additional seconds.)

Mr. OTTINGER. Mr. Chairman, if the gentleman will yield further, if this amendment is going to have any meaning, it means it is going to have some kind of a preference before the Board over other projects, and I think that is not called for. Otherwise there is no need for the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from West Virginia (Mr. RAHALL) to the amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. OTTINGER) there were—ayes 46, noes 7.

So the amendment to the amendment in the nature of a substitute was agreed to.

□ 1520

AMENDMENT OFFERED BY MR. CORCORAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. CORCORAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Chair will ask the gentleman, was the amendment printed in the RECORD?

Mr. CORCORAN. Yes, Mr. Chairman, it was.

The Clerk read as follows:

> Amendment offered by Mr. CORCORAN to the amendment in the nature of a substitute: On page 28, after line 11, insert:
>
> "(4) 'Department' means the Department of Energy.";
>
> In line 12, strike out "(4)" and insert in its place "(5)"; and
>
> In line 22, strike out "(5)" and insert in its place "(6)".
>
> On page 29, in line 1, strike out "(6)" and insert in its place "(7)";

In line 7 strike out "(7)" and insert in its place "(8)";

After line 9, insert:

"(9) 'Secretary' means the Secretary of Energy.";

In line 10, strike out "(8)" and insert in its place "(10)";

In line 12, strike out "(9)" and insert in its place "(11)"; and

Strike out lines 18 through 20, inclusive, and insert in their place the following:

"SEC. 174. (a) There is hereby established within the Department an independent regulatory commission to be known as the Energy Mobilization Board.

"(b) The Board shall be composed of five members appointed by the President, by and".

On page 30, in line 3, strike out "(b)" and insert in its place "(c)";

In line 18, strike out "(c)" and insert in its place "(d)"; and

Strike out lines 22 through 25, inclusive, and insert in their place the following:

"(2) the Secretary shall provide to the Board such support and facilities as the Board determines it needs to carry out its functions."

On page 31, strike out lines 4 through 7, inclusive, and insert in their place the following:

"(4) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department, except the Secretary."; and

In line 8, strike out "(d)" and insert in its place "(e)".

On page 32, strike out lines 20 and 21, and insert in their place the following:

"(f) In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Board and include a statement by the Board (1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Board. Whenever the Board submits to the Secretary, the President, or the Office of Management and Budget, any legislative recom-".

On page 33, in line 4, strike out "(f)" and insert in its place "(g)"; and

After line 19, insert the following:

"(h) For the purposes of chapter 9 of title 5, United States Code, the Board shall be deemed to be an independent regulatory agency.".

Mr. CORCORAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. DINGELL. Mr. Chairman, reserving the right to object, has this amendment been printed in the RECORD?

The CHAIRMAN pro tempore. The Chair asked the gentleman that, and he said that the amendment had been printed in the RECORD.

Mr. DINGELL. It was exactly the amendment that was printed in the RECORD?

Mr. CORCORAN. Exactly.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

Mr. CORCORAN. Mr. Chairman, my amendment would establish the Energy Mobilization Board within the Department of Energy. Two years ago, Congress created the DOE because we found that, to whatever extent Government is involved in energy matters, formulating and carrying out a national energy policy requires the integration of major Federal energy functions into a single department in the executive branch of our Government.

Clearly, this proposed EMB is a major energy function. All of the debate on the issue thus far demonstrates that we in the House of Representatives see it as a major addition to our Federal energy programs. Obviously, the President regards it so because he made it a major part of this latest message on energy.

Not only should it be placed in the DOE because of its importance, but also because it should be coordinated with other Federal energy-related activities. In fact, some argue that it will serve to coordinate long-range energy plans either directly or indirectly.

I think there should be coordination between conventional and unconventional energy strategies; there should be coordination among the fossil fuels we use so that we meet our demand and so that we know how much of each type is needed. There should also be coordination in Federal policy on how much and when we will have adequate renewable energies like wind, solar, and biomass. Furthermore, there should be coordination between producing energy supplies and conserving and using more efficiently our energy supplies.

Mr. Chairman, organization begets policy. If we in this Congress decide to reverse the reorganization measure of the last Congress, we are stepping backward in energy. We lose control, we lose policy accountability, and we dilute the authority vested in the Secretary of Energy to be responsible for the energy policies we give DOE to administer. We do not want three energy agencies, one at DOE, one at EMB, and another one at the proposed Energy Security Corporation, now pending in Congress.

I hope the Members will support my amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I want to congratulate my colleague in the well for what seems to me to be a very useful and intelligent suggestion. I noted in the paper this morning the difficulties with the NRC, a Board in which nobody has real responsibility and it is very difficult to say who ought to do what.

Under the gentleman's suggestion, the responsibility would lie with the Secretary of Energy, who is a person who is in the limelight and who has a responsible Cabinet position. I think the suggestion is an excellent one, and I would hope that it would be considered with very great care by the body.

Mr. CORCORAN. I thank the gentleman for his support.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would also like to speak in support of the gentleman's amendment. Does the gentleman's amendment give the Secretary of Energy a veto power over this Board?

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. OTTINGER and by unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN. The answer to the gentleman's question is "Yes."

Mr. OTTINGER. So, the relationship between the FERC and the Secretary would be the same as under the gentleman's amendment for the Energy Mobilization Board?

Mr. CORCORAN. If the gentleman asks the question, would the relationship between my proposal and the Federal Energy Regulatory Commission be the same, the answer is no, because there is a difference. With respect to FERC, it is completely an independent regulatory commission. That would not be true in the case that I propose for the Energy Mobilization Board.

I think in most instances it would be quite the same, but with one exception; that is, there would be supervisory and responsibility control by the Secretary over the Energy Mobilization Board.

Mr. OTTINGER. So the Secretary could veto a recommendation?

Mr. CORCORAN. Yes, the amendment itself is silent on that point, but that would be my intention.

Mr. OTTINGER. I think that is an important clarification. I think it makes it even better from my point of view because it does make the Secretary of Energy responsible for the energy policy of the country, and this Energy Mobilization Board would just be making recommendations.

Mr. Chairman, I urge adoption of the amendment.

Mr. CORCORAN. I thank the gentleman. I would conclude by saying that we have already, both proponents of the Udall measure and proponents of the Dingell measure, recommended that the President be brought into the process. I think that process ought to work through the channel of the Secretary of Energy.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Does the gentleman's amendment change the authority or power of EMB in any respect?

Mr. CORCORAN. No; as far as what the various authorities will be that we might ultimately give to the EMB, it does not change any provisions. Under the proposal pending—not by my amendment, but the basic legislation—the Energy Mobilization Board would be a separate bureaucracy, completely distinct, so that the only limit we would place pursuant to my amendment would be that it would be within the organizational structure of the Department of Energy and subject to the Secretary and ultimately subject to the President, of course.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has again expired.

(By unanimous consent Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Indiana. If the gentleman will yield further, it still gives the same power and authority to override rules and regulations and laws to the Department of Energy through the EMB that exists in the bill as we now have it?

Mr. CORCORAN. My amendment deals simply with the placement of the organization in the agency. The powers that will be granted it is something we will work out here in the House and in conference with the other body at a later date.

The CHAIRMAN pro tempore. Does the gentleman from Michigan insist on his point of order?

Mr. DINGELL. No; Mr. Chairman, I do not. I simply rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan is recognized for 5 minutes.

□ 1530

Mr. DINGELL. Mr. Chairman, with all respect and affection for the author of this amendment, I must observe it would be easier to debate with him if he were aware of the contents of it. I would point out that according to the language of the amendment provided to me it says as follows:

> There is hereby established within the Department an independent regulatory commission to be known as the Energy Mobilization Board.

My good friend tells us that the Secretary will be able to override the rules and the actions of the Board. Further appears the language as follows:

> In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department.

He then tells us that the agency will be subject to veto by the Secretary. Obviously, the language of his amendment does not conform in either particular to the comment that he has made to the committee. Although I have great affection and great respect for the gentleman who is the author of this amendment, I am compelled to, first of all, point out the inconsistencies of his comments with the content of his amendment and, second, to rise in opposition to an amendment which, according to the remarks of the gentleman, would place the agency as an independent regulatory commission within the Department of Energy but subject to the veto of the Secretary, which in fact, according to the language of the amendment it is not. The Board as contemplated by any proposal that is before this body at this time is not a regulatory body. Neither bill gives the Board any regulatory functions. It would clearly not be of the same status as FERC, the Federal Energy Regulatory Commission, the Energy Regulatory Agency in the Department of Energy, or the ICC, or the FTC as independent agencies. The Board should not be lodged in DOE. That is simply putting it down into a most anomalous and curious position. It is supposed to override actions, for example, of the Department of Energy, from within we must assume according to the language of the amendment as it is presented to us.

Second, the agency is not a permanent agency. On the contrary, the Federal Energy Mobilization Board is a temporary agency under any piece of legislation that is before this body at this time. Its functions may very well complement the Department of Energy, but it must deal with many agencies and it must deal unencumbered by the Department of Energy policies and practices. It must be pointed out that the policies and practices and pronouncements of the Energy Mobilization Board as constituted under either piece of legislation before us would be substantially encumbered and subject to rather mischievous internal monopolies, relations, and politics if it were placed inside the Department of Energy.

I think it has to be recognized that when the gentleman from Arizona (Mr. UDALL) and I and the other Members began our work on the earliest proposals of fast-track legislation, it was under the Department of Energy umbrella. The President very strongly recommended the Board in recognition of the fact that this agency must have freedom apart from the bureaucratic wrangling, infighting, and boondoggling that goes on between the Department of Energy and other governmental agencies, and that it should not be included in those agencies.

I do not like new agencies, but the proposal before us is very carefully crafted. The Energy Mobilization Board under the Committee on Interstate and Foreign Commerce bill is subject to the Sunshine Act; it is subject to the Administrative Procedures Act; it is subject to the Freedom of Information Act; and it is subject to all of the other Federal laws that give it a particularly public responsibility and particularly public exposure in its undertakings. I cannot tell what the consequences of this amendment would be with regard to that, but I would suspect that not inconceivably then the agency would come, according to the comments the gentleman has made, under the sovereignty of the Department of Energy.

It is my judgment that that would be bad. It is my judgment rather that the agency should be independent, and it is going to deal with perhaps the major single economic, political, social, and resource crisis that is faced by this Nation, and to place it in DOE, in my judgment, would be very, very bad, particularly in view of the fact that my good friend, its author, does not seem to be aware of what the language of the amendment does with regard to the creature that he would create.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. CORCORAN, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes; I would be happy to yield to the gentleman from Illinois.

Mr. CORCORAN. I thank the gentleman for yielding.

I can understand the differences that the gentleman from Michigan (Mr. DINGELL) and I might have on the policy question of where to locate the proposed Energy Mobilization Board, but I would like to clarify the point that he made at the outset of his comments, and that is with respect to the authority that the Secretary of Energy would have under my proposal. The gentleman will note that the language reads:

> On page 31, strike out lines 4 through 7, inclusive, and insert in their place the following:
>
> "(4) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department, except the Secretary."

So it is by that language that the proposed amendment would give to the Secretary of Energy the additional authority to review and supervise and have policy control over the Energy Mobilization Board.

Mr. DINGELL. The gentleman ought to read further. It says:

> In the performance of their functions—

This is the gentleman's amendment, not mine—

> the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department, except the Secretary; and

Mr. CORCORAN. No.

Mr. DINGELL. Either they are under the supervision of the Secretary or they are not. I am not at war with the gentleman's amendment. The gentleman's amendment seems to be at war with itself, and if he will explain it, I would be glad to yield to him.

Mr. CORCORAN. Mr. Chairman, there is confusion here because the amendment that the gentleman is reading is not the correct amendment.

Mr. DINGELL. It is the amendment published in the RECORD on the 22d of October, 1979. Has the gentleman published other proposals here?

Mr. CORCORAN. This is amendment No. 1 to H.R. 4985.

Mr. DINGELL. That is right. This is printed in the RECORD of October 22, 1979, to H.R. 4985. I have it here.

Mr. CORCORAN. I have it here, too.

Mr. DINGELL. I would be glad to give the gentleman the correct one.

Mr. CORCORAN. The amendment that is pending does include the phrase "except the Secretary."

Mr. DINGELL. Maybe the gentleman should have published the proper amendment. I can only function on the basis of the amendment that I have published in the RECORD here.

Mr. Chairman, I urge that the amendment be defeated.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. CONTE was allowed to speak out of order.)

JOCOBO TIMERMAN OF ARGENTINA IS RELEASED FROM PRISON

Mr. CONTE. Mr. Chairman, I want on behalf of one Jocobo Timerman of Argentina to thank all of my colleagues in the House of Representatives for their constant effort, their vigilant effort, in seeking his release from prison after 26 months of incarceration both in prison and in house arrests in Argentina. Jocobo Timerman was the publisher and the editor of el Nacion newspaper, one of the most respected newspapers in all of Latin America. Only because of his outspoken words for freedom in that part of the world was he incarcerated in prison without a trial. It was because of the efforts of the Members of this House and the U.S. Senate and others of like mind that Jocobo Timerman is now free. He wanted me to express his gratitude. It is our pleasure to have him as a visitor to the House of Representatives today.

Thank you all.

Mr. BROWN of Ohio. Mr. Chairman, will the genleman yield?

Mr. CONTE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I want to congratulate the gentleman in the well (Mr. CONTE) for his effort in this behalf and also suggest that the Inter-American Press Association has been helpful in this regard and has stood for a number of years for the same standards of freedom of speech and written expression that the gentleman in the well stands for and that other people in this Chamber, including the subject of the gentleman's comments, stand for.

□ 1540

Mr. CONTE. I want to thank the gentleman from Ohio. The gentleman from Ohio is absolutely correct.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. CORCORAN) to the amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. DINGELL) there were—ayes 14, noes 14.

RECORDED VOTE

Mr. CORCORAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 56, noes 357, not voting 20, as follows:

[Roll No. 619]

AYES—56

Ambro
Ashbrook
Bauman
Bellenson
Bonior
Broomfield
Carney
Conable
Conte
Corcoran
Crane, Daniel
Dannemeyer
Derwinski
Eckhardt
Edgar
Erlenborn
Findley
Gilman
Gingrich
Goodling
Grisham
Hansen
Holt
Holtzman
Jeffries
Johnson, Colo.
Kastenmeier
Kemp
Kildee
Kramer
Livingston
McClory
Maguire
Moffett
Moore
Myers, Ind.
O'Brien
Ottinger
Panetta
Petri
Railsback
Rudd
Schroeder
Seiberling
Sensenbrenner
Shannon
Shumway
Shuster
Simon
Symms
Trible
Vanik
Walker
Weiss
Wirth
Wolpe

NOES—357

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Sebelius
Sharp
Shelby
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—20

Alexander
Conyers
Crane, Philip
Dornan
Edwards, Okla.
Flood
Giaimo
Jones, N.C.
Leach, La.
Murphy, Ill.
Pickle
Roberts
Rodino
Rosenthal
Runnels
Schulze
Treen
Williams, Ohio
Wilson, C. H.
Winn

□ 1550

Messrs. BONIOR of Michigan, KILDEE, FINDLEY, and SYMMS changed their votes from "no" to "aye."

Mr. CARTER changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

□ 1600

AMENDMENT OFFERED BY MR. HUCKABY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HUCKABY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. The Chair will ask the gentleman from Louisiana (Mr. HUCKABY), has the amendment been printed in the RECORD according to the rule?

Mr. HUCKABY. It has, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HUCKABY to the amendment in the nature of a substitute: Page 41, line 19, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

Mr. HUCKABY. Mr. Chairman, this amendment is very simple, and yet I think it cuts to the heart of the entire purpose of EMB, and that is to reduce the time frame and designates the time it takes either local, State, or Federal agencies to react to and to respond on applications for energy projects.

Both the Commerce bill and the bill offered by the gentleman from Arizona (Mr. UDALL), known as the Udall-Wirth-Clausen bill, I think, are deficient in the fact that neither of them has any reference point whatsoever insofar as the

time frame within which we expect the EMB to react or the time frame within which we expect the local, State, or Federal agencies to react is concerned.

My amendment does not mandate; rather, it merely establishes as a benchmark the provision that we expect the local government, the State government, or the Federal Government, that is, the agency involved, to react upon an application within 12 months from the time it is submitted.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I am happy to accept the amendment, and I rise in support of the amendment.

Mr. Chairman, this amendment improves section 182 of the Commerce Committee bill by providing a nonbinding goal for the Board to establish project decision schedules that seek to obtain final agency decisions within 12 months after a completed application is filed with the applicable agency for the project. The goal does not tie the hands of the Board, because it recognizes that applicable law and due process may require more time. The schedule must, for example, comply with section 182(b)(4), section 184, and section 179. It seeks to expedite the process, while providing reasonable and necessary flexibility. It is an acceptable goal.

Mr. Chairman, I thank the gentleman for yielding, and I commend him for offering this amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I am happy to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I have no objection to the amendment offered by the gentleman from Louisiana (Mr. HUCKABY). I think it is a commendable amendment, and, frankly, if we could have all the decisions made in the Federal Government within 12 months, we would all be better off.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I am happy to yield to the chairman of the committee.

Mr. UDALL. Mr. Chairman, I have no objection to the amendment, which does state an objective. I think we can accept it, if the gentleman does it in that fashion.

This ought to bring some comfort to those who have listened to complaints of having waited for 5 years, 7 years, or 8 years for approval. Our target has always been to have approval within something like 12 to 18 months.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I recognize that the original Interior bill has a provision for 9 months. This is a more realistic timeframe.

As I understand it, this amendment is offered to the Commerce version of the bill, and so we accept the amendment.

Mr. HUCKABY. Mr. Chairman, I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana (Mr. HUCKABY) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HUCKABY TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HUCKABY. Mr. Chairman, I now offer the same amendment which was just now considered and agreed to, to the Udall-Clausen-Wirth substitute, since the chairman of the committee indicated that he will accept it.

The CHAIRMAN pro tempore. The Chair will inquire, has the amendment been printed in the RECORD?

Mr. HUCKABY. Yes, it has, Mr. Chairman.

Mr. Chairman, this is the exact same amendment that was just agreed to.

The CHAIRMAN. Without objection, the gentleman's amendment is considered as read and will be printed in the RECORD.

There was no objection.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. HUCKABY to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 20, line 15, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

The CHAIRMAN pro tempore. The gentleman from Louisiana (Mr. HUCKABY) is recognized for 5 minutes in support of his amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is the amendment that was just approved, except that it is now offered to our bill rather than to the Dingell bill. I urge an "aye" vote on the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, it is not my position to approve or disapprove amendments that are offered to the Udall bill, but I do observe that this amendment will not deal with the question of a judicial review, which as I pointed out, will take about 5½ years. It will not reduce the time.

Mr. HUCKABY. Mr. Chairman, the gentleman is correct, this does not deal with the question of judicial review.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, we are prepared to accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana (Mr. HUCKABY) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Chair will ask the gentleman from Alaska (Mr. YOUNG), has the amendment been printed in the RECORD?

Mr. YOUNG of Alaska. It has been printed in the RECORD, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the present consideration of the amendment?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska to the amendment in the nature of a substitute: On page 34, line 3, insert a period after the number "1978", strike the remainder of the section through line 5, and add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system."

Renumber subsequent sections accordingly.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

Mr. DINGELL. Mr. Chairman, reserving the right to object, and I am sure I will not object, this is the amendment, as I understand it, that the gentleman showed the committee?

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield, this is the exact same amendment that I discussed with the chairman of the subcommittee.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection, and I will state that we have no objection to the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The Clerk concluded the reading of the amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I believe the substance of this amendment is straightforward and that the

intent is clear. The purpose of my amendment is to insure that no provision of the Energy Mobilization Board legislation will alter, repeal, or preempt any portion of the Alaska Natural Gas Pipeline Act of 1976.

By enacting the Alaska Natural Gas Transportation Act of 1976, the Congress specifically determined that the Alaska Natural Gas Transportation System is an energy project which must be built because it is in the national interest. In order to expedite the much-needed construction of this system, Congress included, in section 9(b), a "fast track" form of legislation. Section 9(b) provides that all actions of Federal officers and agencies with respect to consideration of applications or requests connected with construction of the system shall be expedited and that any such application or request shall take precedence over any similar application to or request of the Federal officer or agency.

The purpose of this amendment is to insure that the precedence granted by Congress to this critically important energy project is not preempted or impeded. The Alaska Natural Gas Transportation System is one of the most important energy projects pending today and has been specifically recognized as such by the Congress. This body has a responsibility to this Nation to assure that no action will be taken to subvert or bypass construction of the Alaska Natural Gas Transportation System. In complying with this responsibility, my amendment provides that actions taken pursuant to the Energy Mobilization Board legislation shall not interfere with the precedence or the direction for expedited action mentioned in the Alaska Natural Gas Transportation Act of 1976.

In sum, my amendment assures that the gas pipeline will retain its proper priority in obtaining action by Federal Government agencies and officials on its applications and requests for Federal action.

I urge my colleagues to support this amendment.

AMENDMENT BY MR. YOUNG OF ALASKA

On page 34, line 3, insert a period after the number "1978", strike the remainder of the section through line 5, and add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system."

Renumber subsequent sections accordingly.

AMENDMENT BY MR. YOUNG OF ALASKA

(To the amendment in the nature of a substitute offered by Mr. UDALL.)

On page 10, after line 9, add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 203. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system.

Renumber subsequent sections accordingly.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I will accept the amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, this amendment is to be offered to the Interior Committee bill as well?

Mr. YOUNG of Alaska. We are offering it to the Interior Committee bill as well.

Mr. CLAUSEN. Mr. Chairman, we accept the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think the amendment has merit to a considerable degree. What it does in fact is protect the Alaskan Natural Gas Pipeline Act from being interferred with by this legislation. That legislation was dealt with before. That pipeline objective was dealt with in a separate piece of legislation. To a great extent, this amendment is after that action.

Mr. Chairman, I think the amendment is acceptable.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, as I indicated, I have no objection to the amendment. I thoroughly share with the gentleman the purposes of the amendment, and I accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. YOUNG of Alaska. Mr. Chairman, I offer the same amendment that was just agreed to to the Udall substitute for the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. Is there objection to the present consideration of the amendment?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute:

On page 10, after line 9, add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system.

Renumber subsequent sections accordingly.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

Mr. VOLKMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

□ 1610

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG) to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. FUQUA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. FUQUA to the amendment in the nature of a substitute: On page 27, strike all of line 16, and substitute the following: "including energy research and development projects,".

On page 33, line 13, following "Commerce", insert "and the Committee on Science and Technology".

On page 35, line 18, after "Affairs", insert "and Science and Technology".

On page 36, line 16, after "Affairs", insert "and Science and Technology".

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, is this an amendment that has been published in the RECORD?

Mr. FUQUA. Yes, it is.

Mr. DINGELL. No change?

Mr. FUQUA. No.

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. FUQUA) is

recognized for 5 minutes in support of his amendment.

Mr. FUQUA. Mr. Chairman, the amendment I am offering simply clarifies the scope and the purpose of the bill to include research and development projects. Several of the projects that are furthest along in design are those projects authorized by the Committee on Science and Technology in previous authorization bills. The amendment also adds the Committee on Science and Technology, where appropriate, to the reporting requirements contained in the bill. I am informed by the gentleman from Michigan (Mr. DINGELL) that it is agreeable to both sides.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the committee which the able gentleman chairs has heavy energy research and development responsibilities and does a good job. Clearly this amendment is in order.

Mr. FUQUA. I thank the gentleman.

Mr. CLAUSEN. Mr. Chairman, if the gentleman will yield, we are prepared to accept the amendment.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield, we have no objection to the amendment either.

Mr. FUQUA. I thank the gentlemen.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. FUQUA. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. Has the gentleman's amendment been printed in the RECORD?

Mr. FUQUA. Yes, it has, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: In section 201(f) after the words "Foreign Commerce" insert "and on Science and Technology".

In section 203(d) after the words "Insular Affairs" insert "and on Science and Technology".

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman, this is a similar amendment to the one previously accepted, and I think it has been indicated by both the gentleman from Arizona (Mr. UDALL) and the gentleman from California (Mr. CLAUSEN) that it is acceptable.

Mr. CLAUSEN. If the gentleman will yield, we have agreed to accept the amendment.

It is identical to the one that was offered to the Commerce bill?

Mr. FUQUA. Yes.

Mr. CLAUSEN. We are prepared to accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. OTTINGER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. OTTINGER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, which is at the desk and which has been printed in the RECORD as required by the rule.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER to the amendment in the nature of a substitute: Page 29, line 24, after the period, add "The Board shall include representation from environmental and consumer interest groups.".

Mr. OTTINGER. Mr. Chairman, at the present time there is no specification as to the qualifications of the five members of the Energy Mobilization Board in either the Dingell bill or the Udall bill; it would thus be possible for the administration to appoint five oil company executives or five other special-interest representatives to constitute the Board. Since so many of the problems that are involved with respect to decisions as to whether or not a project should receive fast track do include environmental and consumer problems, it seems appropriate that at least one member of the Board should have a background in those areas. That is all the amendment requires. I would urge adoption of the amendment. It would provide for some diversity with repect to the board.

Mr. BROWN of Ohio. Mr. Chairman, I rise to oppose the amendment offered by the gentleman from New York (Mr. OTTINGER).

Mr. Chairman, I think it ought to be pointed out again just what this Energy Mobilization Board is supposed to do. The Energy Mobilization Board is supposed to identify those projects which should be given fast-track consideration both from the standpoint of the implementation of legal decisions with references to laws, but also make a judgment as to what the most desirable projects are from the standpoint of what would produce for our country the most energy in the shortest period of time and become the demonstrations of the most practical energy-producing technologies.

That is not a consumer issue. It is not an environmental issue. It is not an issue that relates to foreign affairs. It is an issue of technical qualification as to who can make a judgment on the most desirable projects to be given the fast-track approach.

It would be my assumption that we would have people who would know something about these projects, energy production, and not that we are trying to separate out a whole series of special-interest areas for representation on the Board.

The language in the bill that came out of the Committee on Interstate and Foreign Commerce provides that the Governors of affected States, where these projects would be undertaken, can sit in as part of the Energy Mobilization Board and express the geographic interests of their communities. I think that makes sense. But to start identifying now all of the special interests that we have in our society and put on the Board representatives of those special interests it seems to me is destructive of the whole purpose of the establishment of the Energy Mobilization Board in the first place. I know the interest of the gentleman from New York in this whole consideration and also, of course, his interest in protecting consumers in environmental issues. But I must oppose him in his effort to modify or further qualify the people who would serve on this Board.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment, with the highest regard, the greatest esteem and the greatest affection for the author of the amendment, who is one of the most valuable members of the Subcommittee on Energy and Power. That does not, however, Mr. Chairman, change the fact that this is an amendment that is undesirable. The purpose of the Energy Mobilization Board is to create a situation whereby the Nation will be able to move forward in the expediting of projects of critical importance from the standpoint of energy.

The committee considered the question of what type of Board there should be and what should be its constitution and its membership. The committee came to the conclusion that we should not have three members, but that we should have five members. We even decided that we should permit the Governors to have nonvoting participants in order to give them the opportunity to have their views heard. We did not give them a vote for the very good reason that a vote by someone appointed by someone other than the President would probably convert the Board into basically an unconstitutional entity.

The amendment would require representatives of consumers and environmental "groups." The term "group" is not defined. I would point out that the committee considered this idea and decided that it would not be good to have representatives of specific groups, but the committee report does express the concern of the committee, and it says as follows:

In adopting the administration's proposal to establish a new Energy Mobilization Board, the committee fully agreed with the decision of the Interior Committee to broaden the membership of the Board to five members and to subject this Board to the Sunshine Act and other statutes applicable to other Federal agencies. The committee believes that

an expanded membership will insure a better opportunity for the President to include persons representing a broad spectrum of views. Consumer and environmental views should be represented on the Board, as well as the views of those who favor expanded energy development. The Board should also include persons who recognize the need to expedite energy projects that conserve energy or that use wastes or other renewable sources to produce energy.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

□ 1620

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding.

When the gentleman expresses his affection and esteem, I always know he is about to oppose an amendment, but I share that affection and esteem. The gentleman is a fine chairman.

I understand the gentleman's concern. I appreciate the report language.

I wonder if the gentleman would allow me to make this language consistent with the gentleman's language and ask unanimous consent that it read, "* * * representation from environmental and consumer interests * * *" rather than "* * * groups."

Mr. DINGELL. Mr. Chairman, I have no objection to that request.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent to change the amendment so to read:

The Board shall include representation from environmental and consumer interests.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. CLAUSEN. Mr. Chairman, I reserve the right to object.

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. OTTINGER. If the President is going to make these determinations, the people who we are interested in getting are people who have been active and are knowledgeable in terms of these projects in connection with their environmental concerns. I think we can leave the President that authority properly to choose highly qualified people in these areas to participate in these decisions.

Mr. DINGELL. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. SYMMS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SYMMS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SYMMS to the amendment in the nature of a substitute: Section 187(b), page 53, after line 13 insert the following new subsection (4):

"(4) In issuing a final order in any action for review of any final agency action which is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay."

Mr. SYMMS. Mr. Chairman, the purpose of my amendment is to provide the courts with authority to award costs of litigation to any party where the court finds that action brought before it was brought frivolously with no essential purpose beyond delaying the implementation of a priority energy project. We must not allow the no-growthers in this country to seek judicial review to block energy projects as they have done over the last 15 years so successfully. If they are going to sue frivolously to delay energy projects then the courts should make them pay the bill

The language in my amendment is the same as that contained in the Surface Mining Control and Reclamation Act of 1977 and, furthermore, this language was adopted by the Interior Committee in its consideration of this measure.

I urge my colleagues to support this amendment.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, I thank the gentleman for yielding.

I wish to commend the gentleman for this fine amendment. Certainly we do want to cut down on frivolous lawsuits. We do know, in fact, many individuals will file ill-conceived judicial approaches in an effort to curb those projects which are determined to be priority energy projects.

Therefore, this side of the aisle is happy to accept the gentleman's amendment, and again appreciate the efforts by the gentleman from Idaho (Mr. SYMMS).

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

I have no objection to the gentleman's amendment.

Mr. SYMMS. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SEIBERLING. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 32, line 4, strike out "or".

Page 32, line 5, insert "or" after the semicolon.

Page 32, after line 5, insert:

(E) providing access to, or acquisition of, information by any agency or other person;

Mr. SEIBERLING. Mr. Chairman, on page 31 of the Udall-Wirth-Clausen substitute, it is provided that an order temporarily suspending a law that was passed or regulation passed after the approval or after the construction of a project will not apply to any Federal, State, or local requirement contained in certain types of laws.

This amendment would simply add to that list freedom of information type of laws.

Obviously, a Freedom of Information requirement is not going to have any effect on whether an energy project moves ahead or does not move ahead. It seems to me that this is a reasonable and very simple amendment. I would hope that it would be accepted by the committee.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I have no objection to the amendment. I think its purpose and its effect are as the gentleman has stated.

Mr. SEIBERLING. I thank the gentleman.

I do not think there is any further explanation needed. I would hope it would be accepted by the other sponsor of the substitute, the distinguished gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, does amendment protect confidential information relating to proprietary interests?

Mr. SEIBERLING. It does not affect it one way or another. It simply preserves whatever existing laws there are or may be with respect to Freedom of Information. Of course, the U.S. Freedom of Information Act does expressly protect proprietary information.

Mr. CLAUSEN. Mr. Chairman, we will accept the amendment.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SEIBERLING. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: On page 32, line 18, following the word "interest" insert a comma and add "or death or personal injury".

Mr. SEIBERLING. Mr. Chairman, this amendment applies to the same subsection as the previous amendment.

Again, the Udall-Wirth-Clausen substitute provides that no order suspending an ex post facto law would nullify or impair in any way the rights of any person under any provision of law to receive compensation for the loss of any property interest as a result of the construction or operation of the project.

This amendment would simply include the right to recover for personal injuries or deaths. It seems to me quite in order to preserve the rights of individuals to recover for any such injury or loss.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I support the amendment.

Mr. SEIBERLING. I thank the gentleman.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, we will support the amendment.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

□ 1630

AMENDMENT OFFERED BY MR. BAUMAN TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. BAUMAN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute, which was printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: On page 32, after line 19, insert the following:

"(6) the will of the electorate as ascertained in any local or state initiative or referendum which was specifically related to the establishment of an energy project."

Mr. BAUMAN. Mr. Chairman, this amendment goes to the section of the Udall substitute which prohibits waivers of certain types of laws in certain circumstances. The amendment says that the Board could not issue an order that would modify or impair in any way the outcome of a referendum or initiative in any local or State jurisdiction which specifically related to the establishment of an energy project.

In other words, if the voters of a given jurisdiction had voted not to allow the location of such an energy project within their area, and the will of the electorate had been expressed through the appropriate means at a primary or general election, the Federal Board could not override that expression of the popular will. I think this amendment is very important because it is quite obvious that in such a situation the issue of whether the location of the energy facility would be allowed in that jurisdiction would have been contested at some length. The issue would have progressed to the point where the State law or local law would have allowed a vote on that issue, following a campaign of debate both pro and con on the issue, and the people of the State or local area would have voted. It seems to me when all of that has been accomplished it is not appropriate for a Federal agency to step in and simply overrule the electorate's will. For that reason I offer the amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I think one of the reasons our bill has drawn such a broad base of support is its States' rights feature. I think the gentleman's amendment proposes that States' rights are going to be asserted and they are going to be in effect. Out in the West, particularly, but even in the gentleman's State of Maryland, we have had a good deal of discussion and concern and debate.

Montana, California, and other States have actually passed referenda after a great deal of publicity and after a lot of fighting, and they have fixed a State policy. I think that this State policy ought to have a little extra dignity and force as the gentleman's amendment would give to it, and we are going to strongly support States' rights wherever we can. The gentleman's amendment I think is a good amendment and I support it.

Mr. BAUMAN. I thank the gentleman. I have no doubt that the combination of his support and my offering the amendment will overcome all obstacles.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, this is an extension of States' rights provisions, and certainly is viewed as a vehicle in many ways to express the people's interest. So we will go along with the amendment.

Mr. BAUMAN. I thank the gentleman who is a coauthor of the substitute.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, since we have the Lujan-Santini amendment in the Interstate and Foreign Commerce Committee bill, I do not think this will affect our legislation, so I do not object to it.

Mr. BAUMAN. I thank the distinguished gentleman from Michigan for his lack of opposition.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. WAXMAN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute, which has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 31, in line 7, after the word "authorized", insert the following: ", after consultation with the agencies responsible for implementing any such requirement,".

Page 31, line 9, after the period insert: "No order under this section applicable to any facility may be issued following completion of construction of such facility.".

Page 32, after line 19, insert:

(e)(1) In order to mitigate the risk to public health and safety from any orders issued under this section, any suspension of a requirement pursuant to this section shall be conditioned on the imposition of a less stringent requirement or other alternative to the requirement.

(2) No order under this section may be issued unless such order sets forth a schedule containing increments of progress which will result in compliance within the time period specified in the order.

(3) In establishing less stringent or alternative requirements under paragraph (1), and increments of progress under paragraph (2), the Board shall obtain, and give full consideration to, the recommendations of the agencies responsible for implementing the requirements to be suspended.

(4) The agencies responsible for implementing the requirements to be suspended shall monitor and enforce the terms and conditions of any order issued pursuant to this section.

Page 32, line 20, strike out "(e)" and substitute "(f)".

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, the amendment I am offering to the Udall-Clausen-Wirth substitute is a perfecting amendment designed to clarify the intent of section 215 of the bill, regarding the suspension of new requirements.

My amendment provides, first, that such suspensions can only be granted up to the time construction is completed; and second, that all such suspensions must, in order to protect public health and safety, be conditioned on the imposition of a less stringent or other alternative requirement. I incorporated a similar amendment into the bill passed by the Commerce Committee.

Section 215 of the substitute provides that the Board may grant a priority energy project a temporary suspension—

and not a permanent waiver—for up to 5 years of any Federal, State, or local requirement established after construction on the project has begun which might prevent its timely completion or operation.

I have been especially concerned with the effect of any waiver or suspensions of law governing these energy projects. The laws we have on the books are essential to protect public health and the environment. They were enacted over the past decade to serve that very purpose. The power to continue them in effect should rest solely with the Congress, and not with a five member Board whose only concern is to speed energy development. Greater considerations have to be balanced here. And in a time when there are many complaints over the scope of Federal authority, it is ironic indeed that we would vest vast new powers into a tiny Federal agency.

Equally important, it is proposed that we permit these laws to be waived in order to expedite the construction of energy projects whose hazards to health and the environment are barely known and poorly understood. We are talking about toxic wastes, which may be carcinogenic, from synthetic fuels plants. We are talking about huge increases in emissions of carbon dioxide and other poisonous gases into the air—with effects which could persist for generations. We are talking about the possibility of contaminating the precious water resources in the West.

I do not believe it is at all wise to pose such risks to the American people. I had hoped that legislation creating an Energy Mobilization Board would be especially sensitive to these concerns—that we could clear the procedural obstacles to energy development, but leave the substantive provisions of law intact.

But it is clear that we will pass a bill which contains the authority to suspend laws. The question before us is: Under what terms shall such suspensions be granted?

My amendment provides two safeguards to this extraordinary grant of authority.

It states that no suspension under section 215 can be issued after construction of a priority energy project has been completed—that is, when the facility has the physical ability to start up its operations. This is necessary to prevent an energy project from being granted endless suspensions of law once its operations have begun. The whole purpose of the suspension process under section 215 is to insure the timely completion and operation of the energy project. The necessary suspensions for both construction and operation should be sought before construction is completed, and not issued after operations have begun.

The second safeguard addresses the terms and conditions of any suspension under section 215.

I believe it is important that interim requirements—less stringent than those which are suspended but necessary to protect public health, safety, and the environment—be imposed. My amendment would require this as a condition of any order under this section.

It also provides that no suspensions may be issued unless the energy project commits to take the necessary steps to be in full compliance with the suspended requirement by the time the suspension expires.

Section 215(a) states that suspensions can be granted in order to provide "such time as necessary to allow the facility to comply with the requirement."

The clear intent is that the project will meet the original requirement after the suspension expires. My amendment will guarantee that energy projects will not neglect to take the steps necessary to be in compliance by the time the suspension terminates.

Finally, my amendment provides that the appropriate agencies are to help the Board devise the interim requirements if a suspension is granted, and to monitor and enforce the terms and conditions of the suspension order itself.

This is a very modest amendment, Mr. Chairman, which I trust further refines the purpose of section 215 to protect public health, safety, and the environment in the event these suspensions are granted.

I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HOPKINS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOPKINS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment by Mr. HOPKINS to the amendment in the nature of a substitute: On page 38, lines 12–13, strike "nonvoting" and insert in lieu thereof the word, "voting."

Mr. HOPKINS. Mr. Chairman, much of the debate on this measure has centered on the extent to which we in this Chamber wish to permit a federally appointed "superboard" to trample on the prerogatives of State and local authorities.

Now I am as determined as anyone here today to see this Nation increase its domestic production of energy, so that we may rapidly reduce our dangerous dependence on foreign sources of oil.

Just this morning, it was reported that America's oil imports rose 6 percent last month in volume—and fully 13 percent in cost. This is a trend which must be reversed and I think Congress should take the lead in that effort. But, let us face it: Fast track is just one part of what will have to be a wide-ranging, comprehensive effort if it is to be successful. Fast track will help, to be sure, but it can be no more than a part of the answer.

This distinction, it seems to me, is an important one. For, if we were talking about the key to our entire energy supply problem—if fast track was the magic answer—we might be willing to pay a somewhat higher price for America's energy salvation. But, since we are not talking about some energy "panacea," then perhaps we ought to drive a harder bargain on behalf of our States.

Perhaps we ought to work a bit harder to strike a balance between the compelling national need for more energy supplies, and the long-cherished tradition in this country of State and local control over such matters as zoning, land use and water rights.

Both versions of this bill go part of the way toward recognizing the right of States to participate in the deliberations of a Federal board acting on projects within their borders.

But, neither the committee's bill nor the substitutes go far enough. Their provision for the participation of a nonvoting delegate, in my opinion, is a telling admission by the proponents that residents of affected States have a very real interest in the deliberations of an Energy Mobilization Board.

But, how is the Board structured? The American people as a whole—whose interest is likely to be indirect—have five voting representatives on the Board whose impact will be very direct.

On the other hand, the residents of a State in which a priority energy project was located—whose interest is likely to be far more direct—would have a single, nonvoting representative, whose impact on the Board's decisions will be indirect, at the very best.

My amendment would alter that equation slightly. Very simply, when the deliberations of this Energy Mobilization Board are of sufficient importance to a State to warrant the participation of a delegate from that State, I would argue that we ought to put our money where our mouths are.

In other words, let us give that State-appointed delegate a vote. Let us give his bark some bite. If our objective with this Board is truly to try to strike a balance between the national interest and the rights of States and localities, then why are we stacking the deck to 5 to 0 against the States and local communities?

We all agree that America needs to step up domestic energy production. We all agree that a number of very promising projects are being strangled by government regulation at every level. And I support the goal of cutting much of that redtape for the most important projects—although, if it were even remotely possible—I would prefer to eliminate most of it outright.

But, I am determined to do my part to insure, that in the process, the price we pay for what is only a small fraction of the total solution, does not include an absolute disregard for the very real property interests, environmental concerns, and quality of life which are so important to the millions of American citizens who will have to live with the consequences of the Energy Mobilization Board's decisions.

I would respectfully say to my colleagues that support for my amendment is support for a vote and a voice for these people. I think we owe them that much.

I will conclude by saying, "no priorization without representation."

□ 1640

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I will be delighted to yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I congratulate the gentleman for his amendment, as I would indeed because I put an identical amendment in the RECORD and it was on my motion in the Commerce Committee that a representative of affected Governors was put on these boards at all.

If it is really to protect the States and the local interests through the States, the States representatives ought to have an effective voice. An effective voice would be a vote. I think it can do no harm. Certainly, if we are dealing with a program that the State is opposed to, we have got a real problem and one that ought to be dealt with with great circumspection, great caution. Having voting ability seems to be highly desirable. I urge adoption of the gentleman's amendment.

Mr. HOPKINS. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with a great deal of respect for the gentleman who offered this that I, regretfully, oppose the amendment. I rise in opposition to the amendment, because it has certain defects that have to be understood by the House. As my colleagues who serve with me on the Commerce Committee will understand, it was in large part as a result of the insistence of the gentleman from New York (Mr. OTTINGER) and myself that under the Commerce Committee bill the Governor has a representative on the Board so that he might represent the thoughts and concerns of the people of the State affected.

There are certain problems, however, in going beyond that. A pipeline might go through 10 or 12 States, such as the Northern Tier pipeline or the proposed new pipeline on the gulf coast. Under the gentleman's amendment we could conceivably have 8 or 10 or 12 or 14 State representatives sitting on the Energy Mobilization Board. Given that system, it would not be a Federal Energy Mobilization Board at all, but rather a State-dominated Board which would probably be composed of some States which favor it and some States violently opposed to it. Indeed, the result would be a Board composed of States who regard themselves as solely the representatives of a single State as opposed to the representing concerns of national dimensions.

As a result of this, the amendment has great potential for mischief because representatives of each State in which the project would be geographically situated would have an opportunity to sit on this Board and vote.

Now, the second point—and this is probably the most grevious flaw in this—is that the Justice Department has repeatedly pointed out to this committee that when we set up boards of this kind and try to give Governors representation. to give the Governor's representative or a person who is appointed by someone other than the President a vote raises grave constitutional questions. In other words, it is a Federal board. The Constitution reserves to the President the power, the duty, and the right to appoint those who will serve on that Board. For us to seek to change that would be to raise grave constitutional questions.

I reiterate to my good friend that we are aware of his concerns. He is a serious representative of the people he serves, and he is seeking to do what is right, but the hard fact of the matter is that if we adopt this amendment we accept two things which are undesirable: First, we would weigh it against the truly national orientation it should have, and second, it would raise serious constitutional questions. Of equal importance, we may find under the proposal of the gentleman that voting representatives from States outside that geographic area primarily affected will cast the dominant votes against the State in which the energy project will be principally located.

For example, for an electric powerplant, States to be served by the plant might determine that it would be a spiendid idea to locate that plant in the State where it is going to be located as opposed to the State which it serves and where the benefits might be conferred.

So, I would urge my colleagues on the committee to reject the amendment.

Mr. HOPKINS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I appreciate my colleague's remarks, and certainly I want him to know that I intend to support his bill. I am merely trying to perfect it, as he has indicated, to the best of my ability.

Mr. DINGELL. I am satisfied that the gentleman's motives are best.

Mr. HOPKINS. What I wanted to ask the gentleman was, how many multi-State projects does he suspect there might be?

Mr. DINGELL. I can give the gentleman no good estimate of that. I can tell the gentleman that almost every pipeline will be multi-State. I can tell the gentleman that dams and things of that kind will possibly be multi-State because the impoundments of water would go back across State lines. I would suspect that electrical transmission lines will probably be multi-State. I think there is a pretty good chance that coal gasification plants would be multi-State. I would suspect that certain natural gas pipeline and gathering facilities would be multi-State.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think it is possible that we might have a gasification plant in Ohio that would draw from the Ohio River, which actually is owned by the State of Kentucky, the State the gentleman represents here.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. And, we will have air in West Virginia, so that the multiple interests the gentleman suggests are many and varied. I do think there is a point here about the question of having several States voting on the Board, and then really frustrating the interest of the State where the project is located.

Mr. DINGELL. I would reiterate by pointing out that we might find States which would be the beneficiaries of energy projects that, by having voting representation on the Board, might out vote the State that would be the particular loser from an environmental or other standpoint.

Mr. HOPKINS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I thank the gentleman. It seems to me, Mr. Chairman, that if we have a multi-State project and we have six or seven States involved, and those Governors or their appointees all vote against the project, there must be just cause and good reason for voting aganst a certain project, which is the point I am trying to get at.

□ 1650

Mr. DINGELL. We were concerned that the Governors have a role in this. We have given them the right to appoint nonvoting participants. I would call the attention of the gentleman to the Commerce Committee's bill as amended by the Santini-Lujan amendment. The Board may no longer consider the waiver of State laws, but, equally importantly, Federal waivers must come before the Congress. The waiver would only become effective upon the enactment of a joint resolution of approval by both Houses of Congress under expedited procedures. As a consequence States would have adequate representation through their able Representatives here, in Congress—like the gentleman from Kentucky who is the author of this—to conduct the necessary debate and override.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

There is also, I might say to the gentleman from Kentucky (Mr. HOPKINS), protective legislation written into the language of the bill of the Committee on Interstate and Foreign Commerce on page 46, section 185(a)(2) with reference to the waivers which says:

"(2) Any waiver recommended under this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further to me to conclude?

Mr. DINGELL. I yield to the gentleman.

Mr. BROWN of Ohio. The thought—and that is that already built into the legislation—is an effort to mitigate any untoward effects that might be involved in the waiver procedure. Presumably that would also be true with reference to any effort to foreshorten the protections of the law.

Mr. DINGELL. That is correct. I would point out that the Governor's representative sitting on the Board may raise those matters. I am sure he would have an opportunity to bring these matters to the attention of those who represent his State in the Congress when the matter comes before the Congress, if his recommendations were not carefully acceded to by the Board.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. HOPKINS) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was rejected.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, section 215 of the Udall-Wirth-Clausen substitute authorizes the Board to temporarily suspend any Federal, State, or local requirements enacted or promulgated after the commencement of construction of any energy priority project upon application by the project.

In considering the application for suspension, the Board must consider: First, whether the requirement would prevent timely completion or operation of a designated project, and second, whether the temporary suspension of any requirement would create a significant risk to public health or safety.

Board actions under section 215 would be subject to judicial review as provided in the bill "for failure to comply with any requirement of this act." I want to ask the gentleman from Arizona (Mr. UDALL) if it is intended that such review could include review of the Board's decision that suspension was necessary for the period in question.

Mr. UDALL. If the gentleman will yield, the answer to his question is "Yes." The question of whether any time delay is necessary for a facility to comply with any new requirements, and for how long, would be subject to judicial review as provided in section 217.

Mr. SEIBERLING. I thank the gentleman for clarifying this point. I would also ask the gentleman whether it is intended that the judicial review provided under this section could include review of the Board's decision that the suspension of a requirement would not result in significant risk to public health and safety.

Mr. UDALL. The answer again is "Yes." Any finding related to a suspension's effect on public health and safety would be subject to judicial review under section 217(a)(1).

Mr. SEIBERLING. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. DUNCAN OF TENNESSEE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. DUNCAN of Tennessee. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. Is the amendment printed in the RECORD in accordance with the rule?

Mr. DUNCAN of Tennessee. It is printed in the RECORD.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Tennessee to the amendment in the nature of a substitute: On page 53, after line 13 insert the following new section.

REPORT

SEC. 188. Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that significantly hinder the completion of energy projects, and which includes an anlysis of why each law or regulation listed in the report is a significant hindrance to the completion of such projects.

And redesignate succeeding sections accordingly.

Mr. DUNCAN of Tennessee. Mr. Chairman, we are today considering legislation to authorize an Energy Mobilization Board for the express purpose of expediting certain nonnuclear energy projects. We are all vaguely aware that laws passed by the Congress, and regulations issued by the various agencies have contributed greatly to the problem of finishing energy projects on a reasonable schedule. Yet we have no idea exactly how serious the problem is. Although I suspect it is much more serious than many of us ever thought it would be.

In order that we might grasp this problem in all its complexity, I am offering a simple amendment that would require that not later than December 31, 1981, a duly authorized Energy Mobilization Board would provide the Congress with a comprehensive list of Federal laws and regulations that significantly hinder the completion of energy projects. Furthermore, each law and regulation would be analyzed as to the nature and extent of its hindrance. In addition, such a report would be filed annually for as long as the Board remains in existence.

The adoption of this amendment would provide us with a needed perspective for dealing with a very pressing problem. It would provide us with a tool for correcting mistakes of the past. It will force us to regularly reevaluate past actions in the light of current reality. It will aid us in the execution of our oversight responsibilities.

It is not my intention that a task force or additional bureaucracy be created to carry out the responsibility of compiling the annual review. I think the various agencies involved have the resources with which to identify and analyze the laws and regulations in question. The Board's responsibility would be to organize and transmit the information it receives to the Congress in a suitable form. I would think that this annual exercise would be of great help to the Board itself, as well as to the Congress.

I urge my colleagues to give serious consideration to this proposal. It is most worthy of your support.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding. I would like to support the gentleman very emphatically on his amendment. What we are trying to do with this legislation is to make clear to us which Federal laws and others laws are inhibitory in our ability to build projects to produce energy in this country and try to free us from the control that our foreign supply sources now have over us. Frankly, I wish I had thought of this amendment when the bill was in the subcommittee because I would have certainly offered it and put it in the basic legislation. I think the gentleman is to be congratulated for his attentiveness to the detail of this bill, and he has made a specific contribution to the effort that we are all interested in; that is, trying to get away from dependence on foreign energy sources.

Mr. DUNCAN of Tennessee. I thank the gentleman for his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. DUNCAN) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. AKAKA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. AKAKA. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. Is the amendment printed in the RECORD according to the rule?

Mr. AKAKA. Yes, it is printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. AKAKA to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: On page 5, line 21, strike all of Section 201(c)(1) and insert in lieu thereof. "The Chairman shall have the power to appoint an Executive Director who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule. The Chairman shall have the power to appoint and fix the compensation of additional personnel, not to exceed 50 persons, as he deems necessary to carry out the functions of the Board."

□ 1700

Mr. AKAKA. Mr. Chairman, I am offering an amendment to the substitute, the Udall-Clausen-Wirth bill. The amendment is simple. The amendment reduces bureaucracy and increases efficiency.

It restricts further the size of the EMB staff from 60 to 50, and sets the salary of the EMB Executive Director at level V of the executive schedule. This same salary level does apply to the EMB Chief Counsel.

In reviewing the Udall-Wirth bill, I noted the great care taken to meet the objective of expedited energy decisions within clearly defined limitations. My amendment would continue in that same vein of setting a limitation.

I urge your support of this amendment, and I yield now to the chairman of the Committee on Interior and Insular Affairs (Mr. UDALL).

Mr. UDALL. If the gentleman will yield, I do not want to make any promises about what might happen to the gentleman's amendment in conference, because there are strong feelings on the other side of the Capitol on this subject.

Mr. Chairman, our bill limits the total employees of EMB to 60. The gentleman would reduce that to 50, but he would also include persons detailed. I do not know how much of a workload they can handle with that many people but I am willing to go with it for today to see how it works out. I think the gentleman is constructive and is trying also to lower the level of the Executive Director from an executive level IV to V. I am sure we will have other ideas on this in Congress but if it will help the gentleman by writing it now, I will be glad to support it.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. AKAKA. I yield to the gentleman from California.

Mr. CLAUSEN. How did the gentleman arrive at the figure of 50 for purposes of inclusion in the amendment?

Mr. AKAKA. I arrived at 50 as being a size of staff that could handle the work that EMB will be destined to handle. I looked at 50 as being half of a hundred and in the intent of reducing the bureaucracy and encouraging efficiency, I felt 50 was a good number.

Mr. CLAUSEN. We had put the cap, as the gentleman from Arizona had stated, at 60 because on the basis of discussions we had with Mr. Eizenstat and Mr. Schlesinger, they felt that it would be in that area where they could handle it satisfactorily and it is for that reason we do not want to tamper with that particular figure.

Mr. Chairman, I do not know what will be the disposition of this in conference, but as far as I am concerned I would be inclined to oppose this and hold to what we have but if the committee chairman wants to go along with it it is all right with me.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. AKAKA. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is an illustration of where we are going at cross purposes. We have a whole series of amendments which say every coal conversion must be fast track and other programs must be fast track and the Board has to do all these other things and make all these reports. Then we turn around and say, "Now, we are squeezing you down on the number of people to do all of this expanded work."

Mr. Chairman, I think we should have a small mobilization board on a fairly small staff and we ought to pick the really big, important energy projects every year and go and not try to do everything all at once.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. AKAKA. I do yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, with the amount of litigation this Board is going to do by reason of the massive amount of time they are going to spend in court, they probably will need at least 50 lawyers but if the gentleman is prepared to accept that kind of arrangement on the basis of litigation that is going to go about 5½ years per case, I am not disposed to quarrel with it insofar as the bill is concerned.

Mr. AKAKA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LOWRY). The question is on the amendment offered by the gentleman from Hawaii (Mr. AKAKA) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. KRAMER TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. KRAMER. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment. It has been printed in the RECORD according to the rule.

The Clerk read as follows:

Amendment offered by Mr. KRAMER to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: On page 17, line 21, strike the word "nonvoting" and insert: In lieu thereof the words "voting" and on line 22, after the word "in" insert the words "and vote on", and

On line 24, after the period insert the following: "Each such vote cast by such Member shall be counted in the proportion that the number of States represented by such Members bears to one. For purposes of tallying such votes, any fraction greater than .50 shall be counted as one vote and any fraction less than .50 shall not be counted.".

Mr. KRAMER. Mr. Chairman, this amendment is similar but nevertheless different than the one just previously offered by my colleague from Kentucky (Mr. HOPKINS). The Hopkins amendment expressed the same concerns that I have about a totally federally oriented board being able to take recommendations by State officials but without giving those State officials any real meaningful say-so.

Mr. Chairman, I do understand the reservations, however, of the distinguished chairman of the subcommittee of the Committee on Interstate and Foreign Commerce when he indicated the possible problems that might exist with interstate pipelines and ther multi-State projects.

Mr. Chairman, this amendment is carefully structured in a way that I believe gives the States a really meaningful representation and yet obviates the problem that the distinguished subcommittee chairman suggested, by only providing for, collectively, one vote for all State members regardless of their number, and then further providing that that one vote will then be cast by the majority wishes of those States that are representative.

Now, Mr. Chairman, what this will do is, simply give the States a strong or a meaningful say-so, a strong voice in those close cases where the board is split 3 to 2 or 2 to 3, because the States, then, will have the opportunity of not defeating a proposal that the majority of the members of the board may favor in a 3 to 2 situation but it will have the opportunity to create a tie on that board, in which case there will be a necessity for some rethinking, some relooking and taking into serious consideration some State concerns that have been voiced but that have not at least been heeded or heard.

Mr. Chairman, I believe this is a reasonable approach. It simply will allow State participation in the board voting of one-sixth of the entire board membership and I think it will help you make a better partnership between the States and the Federal Government if, indeed, this kind of approach is ever going to work.

Mr. Chairman, I would like to make just one additional comment about the other reservation and objection my colleague from Michigan stated in his rebuttal to my colleague from Kentucky. That was this. He was concerned about some possible Justice Department reports about the constitutionality of such an approach. I would suggest to the Members of the body that that same issue of constitutional muster, I think, is one that can be raised about many sections of this approach and many sections of both of these bills because we do for the first time I think have a real intrusion or a potential intrusion by the Federal Government, by Federal entities, upon areas that have traditionally by the Constitution been reserved to the States, the local governments and communities. I think none of us will ever know whether any of these provisions are going to indeed pass constitutional muster until they are ruled upon and I guess many of these provisions, indeed, if this concept is adopted by this body, will in fact be tested by our courts over the years.

Mr. Chairman, I hope this will be a reasonable approach which will be supported on both sides of the aisle, that will give the States a voice but certainly not an overpowering voice in this prospective partnership between the States and the Federal Government.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. Certainly I will yield to my colleague from New York.

Mr. OTTINGER. I would just like to say as I supported the amendment of the gentleman from Kentucky, I think this is an improvement upon that amendment and does take into account some of the concerns expressed by the gentleman before and I would hope that my good chairman could support this amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Arizona.

Mr. UDALL. The intentions of the gentleman are good. We must support States' rights. In fact, in both committees we wrote in the idea, and it is not totally unprecedented, of States affected having a right to have a member on this Board. However, if you are changing it from a nonvoting member who has all the rights to sit there and protect his State's interests and argue the facts, if you give him that right I think you have given him most of what the States are entitled to. I think they would be satisfied with it.

□ 1710

The problem now, and the gentleman has an ingenious idea of dividing it up into six-tenths of a fraction of a vote or something and coming out with a vote and that upsets the five-man size, the five-person size of the Board, and really makes the vote six, which has a potential for adding a stalemate to the Board which is trying to undo stalemates in the energy production business.

I think it is a well-intended idea, but I think it is a bad idea. The States are adequately represented on the Board without a vote.

The CHAIRMAN pro tempore (Mr. LOWRY). The time of the gentleman from Colorado (Mr. KRAMER) has expired.

(At the request of Mr. UDALL, and by unanimous consent, Mr. KRAMER was allowed to proceed for 1 additional minute.)

Mr. KRAMER. Mr. Chairman, if I might just respond briefly, I think to characterize this amendment as upsetting the Board, I think hopefully is not a correct one. What it will do, though, is permit in those instances I think where there is an overriding State interest and there is State unanimity of opinion about an approach that the Board is taking and then the Board is internally divided itself, because it is only in that instance when this amendment would have any impact when the Board has internally divided itself by a 3-to-2 margin would the States be able I think to stop a situation where potentially they can be run over roughshod. I do not think that is anything that any of us want. If we are going to have a smooth operation, let us give the States a meaningful say-so, not a predominant say-so, but one that has some teeth in it.

I think just to permit them to give recommendations is simply window dressing without real effectiveness.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with great regret that I rise in opposition to this amendment. I have a very high regard for the gentleman from Colorado, who has offered it.

I observe, Mr. Chairman, that the problems I had with the other amendment of similar character have not been abated by this amendment. As a matter of fact, the novel second paragraph raises additional questions. I will try to deal rapidly with the questions raised by the able gentleman from Colorado in the amendment. First, the Department of Justice has indicated time after time in connection with similar questions that the constitution of a Board wherein one voting and participating member would be appointed by persons other than the President of the United States would raise grave and serious constitutional questions. The Constitution reserves specifically by its terms to the President the power and the duty to appoint persons to Boards of this kind and subjects them to ratification by the Senate.

Since the amendment offered by the gentleman does not subject these State appointees to ratification by the Senate, it raises further constitutional questions.

Beyond this point, it raises additional questions. First of all, on multi-State projects, it does not work as neatly as my good friend, the gentleman from Colorado, would have us believe. For example, if you have an electric powerplant in Colorado or Wyoming, under this proposal the representative of every State served by the electric powerplant would be entitled to name one representative.

The originating State, let us say Colorado or Wyoming, which has abundant reserves of strippable coal would find that it might have one vote on that Board, as opposed to five or six or seven or eight votes accorded the other States.

If you will observe how these electrification projects go, you would find that every State that would be down the line would be tapping off power. It is pretty obvious to me that the Governors of every one of those States would say, "Fine, we do not care anything about Wyoming or Colorado where this energy project will be located. What we want to do is have our representative vote to have them provide the generation and we will get the power."

Now, it is hard to call that a national approach. As a matter of fact, if we were to find it would work, we would probably find that the Governors of those several States who would be receiving the benefits would all appoint the same fellow. He would get one vote and the representative of the Governor of the State in which the power would originate under this proposal would get zero votes. I am sure that is not a consequence that the gentleman from Colorado happens to want.

So, regretfully, I point out that the amendment does not do what my good friend wishes it to do. In point of fact, it creates not only constitutional questions, but it raises very substantial questions as to whether it benefits the State in which the energy project would be located.

Now I yield to the gentleman from California, and since I have mentioned the gentleman from Colorado, I would yield next to the gentleman from Colorado.

Mr. CLAUSEN. Mr. Chairman, I thank the gentleman for yielding. I do commend the gentleman for offering the amendment. I am troubled with how it would actually work, because clearly, we are dealing with very limited numbers, five voting members. For that reason as far as this Member is concerned, and I believe it is essentially the position of the members of the committee, we moved in the direction of adding the nonvoting members so that they could serve in an advisory capacity and then hopefully have people with technical competence serving on the voting membership position of the Energy Mobilization Board.

I think the gentleman has made a contribution to the legislative history so that clearly we can address some of those things once the legislation is enacted.

I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I now yield to the gentleman from Colorado. I have mentioned the gentleman and I owe him that.

Mr. KRAMER. Mr. Chairman, I thank the gentleman for yielding.

I would only make two points in response to the arguments that the gentleman has raised.

First, there is a precedent for doing this. I am sure there are other examples, but I have one here and I have several others.

The Appalachian Regional Commission, for example, was created to develop plans and programs authorized under the Appalachian Regional Development Act of 1965 and U.S. statutes.

The Commission consists of the Governors and other alternates or their alternates of the 13 Appalachian States and a permanent Federal cochairman appointed by the President with the advice and consent of the Senate; so there is some precedence for this.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield on that?

Mr. DINGELL. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I would simply make the point that that is a regional Commission. What we are talking about here is a national policy objective.

Mr. DINGELL. Mr. Chairman, I agree with the gentleman, we have a national Board and a national responsibility. I do not think national policy would be carried out under the kind of proposal we have here.

I regret that I have to disagree with the gentleman, but I urge rejection of the amendment.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Briefly, if I have the time.

Mr. KRAMER. Mr. Chairman, I would just make two further points. We have been talking about a constitutional issue. It does not really matter whether it is a regional or a national commission.

Second, the gentleman's concern about six or seven States ganging up on an unwilling State and thereby depriving that State of a choice, I think is unjustified in that under the present stage as the bill is presently postured they simply have no say-so at all. They have no vote. At least this gives them the opportunity to have a meaningful choice.

Mr. DINGELL. But what I point out to my friend, the gentleman from Colorado, is that the same result would obtain under the gentleman's amendment.

Again, regretfully, I oppose it.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. WEISS asked and was given permission to revise and extend his remarks.)

Mr. WEISS. Mr. Chairman, I address myself to the Commerce Committee version of the Priority Energy Project Act of 1979 (H.R. 4985), the so-called fast-track legislation.

As currently written, this bill allows the Energy Mobilization Board to waive Federal laws which constitute "a substantial procedural or substantial substantive impediment" to certain energy projects. A provision so open-ended and so threatening to the rule of law is inherently antithetical to our democratic form of Government.

Federal statutes carefully crafted over two centuries can, under this bill, be overturned and ignored by bureaucratic and Presidential determination. Do we who are sworn to uphold our Constitution really want to empower an unelected body to decide what laws enacted by Congress can stand and which ones can be overriden with impunity?

The issue I present is the limitation of the damage which this board can inflict on the federal system by explicit agreement that the bill exempts the Freedom of Information Act (5 U.S.C. 552) from the list of laws that can be discarded in the name of energy development.

Like so many of the statutes subject to bureaucratic abuse under H.R. 4985, the Freedom of Information Act is directly rooted in the Constitution of the United States and is the product of long congressional consideration and debate. Through this act, the citizens of our Nation are guaranteed the right of access to Government information which has a direct bearing on their lives and liberty. Enabling the Energy Mobilization Board to bar access to information would be tantamount to undercutting the first and fifth amendments and to denying citizens the means to petition their Government for redress of grievances.

I do not quarrel with the need to increase our Nation's energy supplies and to decrease our dependence on vulnerable and expensive fuel imports. I do, however, object strongly to legislation that represents a very serious threat to civil liberties and constitutional procedures.

And that, Mr. Speaker, is precisely what we are debating here today. The so-called fast-track bill is about energy mobilization, yes, but it is also very much about the type of government we wish to have in this country.

As New York Times columnist Anthony Lewis recently observed in regard to the fast-track philosophy as currently constructed: "It is an astonishing concept—one utterly contrary to the traditions of American federalism and constitutional democracy." David Broder of the Washington Post similarly noted that the legislation "will certainly damage the Federal system and diminish the accountability of those exercising authority in Washington."

Defending the Freedom of Information Act from the political whims of the moment is admittedly no panacea for the many ills that afflict fast-track legislation. It is, however, an important first step.

Even those of us here today who believe fervently in the merits of the fast-track approach will, I think, agree that the Freedom of Information Act should not be regarded as a substantive or procedural impediment to energy projects. I fail to see how citizens' access to information about proposed projects can be denied by even the staunchest advocates of fast-track.

Mr. Chairman, I had intended to offer an amendment to the Commerce Committee bill which, in essence, would have accomplished the same thing as that of the gentleman from Ohio (Mr. SEIBERLING) to the Udall-Wirth substitute. However, I have been informed that as finally drafted, and as it appears before us now, the Commerce Committee bill does not permit the waiver of any of the provisions of the Freedom of Information Act. On the assumption that my understanding is correct, it would not be necessary to offer my amendment.

For the sake of clarity and to establish legislative history, I would like to ask the distinguished gentleman from Michigan (Mr. DINGELL) whether my understanding is correct.

I would be pleased to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman is totally correct. When the bill was originally proposed by the administration, it included waivers of the Freedom of Information Act, the Sunshine Act and the Administrative Procedures Act. The bill as reported from the Commerce Committee tolerates no waivers to any of those three laws. All of them must be complied with by the Board.

It is my intention that the Board should comply with the FOIA and that its activities should be subject to the Freedom of Information Act, the Administrative Procedures Act and the Sunshine Act, so that they function in the open, in the broad glare of sunlight, and so that the Congress has full access to the information.

I would not look with kindness on any attempt by the Board to escape from that scrutiny.

I just want to commend the gentleman for raising this point. The gentleman has made the legislative history of this matter entirely clear.

I do not think that those statutes could in any way fall under the category of the kind of statutes that could be waived by the Board since none of those would stand in the way of construction of a project of this sort.

Mr. WEISS. Mr. Chairman, I thank the gentleman from Michigan.

I deeply appreciate the support of the gentleman from Michigan in spelling out this guarantee of free discussion about our plans for energy development.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. KRAMER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1720

The CHAIRMAN pro tempore. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 620]

Abdnor	Brown, Ohio	Dodd
Addabbo	Broyhill	Donnelly
Akaka	Buchanan	Dornan
Albosta	Burgener	Dougherty
Alexander	Burlison	Downey
Ambro	Burton, John	Drinan
Anderson, Calif.	Butler	Duncan, Oreg.
Anderson, Ill.	Byron	Duncan, Tenn.
Andrews, N. Dak.	Campbell	Early
Annunzio	Carney	Eckhardt
Anthony	Carr	Edgar
Applegate	Carter	Edwards, Ala.
Ashbrook	Cavanaugh	Edwards, Calif.
Ashley	Chappell	Emery
Aspin	Cheney	English
Atkinson	Chisholm	Erdahl
AuCoin	Clausen	Erlenborn
Badham	Cleveland	Ertel
Bafalis	Clinger	Evans, Ga.
Bailey	Coelho	Evans, Ind.
Baldus	Coleman	Fary
Barnard	Collins, Ill.	Fascell
Barnes	Collins, Tex.	Fazio
Bauman	Conable	Fenwick
Beard, R.I.	Conte	Ferraro
Beard, Tenn.	Conyers	Findley
Bedell	Corcoran	Fish
Benjamin	Corman	Fisher
Bennett	Cotter	Fithian
Bereuter	Coughlin	Flippo
Bethune	Courter	Florio
Bevill	Crane, Daniel	Ford, Mich.
Biaggi	D'Amours	Ford, Tenn.
Bingham	Daniel, Dan	Forsythe
Blanchard	Daniel, R. W.	Fowler
Boggs	Danielson	Frenzel
Boland	Dannemeyer	Frost
Bolling	Daschle	Fuqua
Boner	Davis, Mich.	Garcia
Bonior	Deckard	Gaydos
Bowen	Dellums	Gephardt
Breaux	Derrick	Gibbons
Brinkley	Derwinski	Gilman
Brodhead	Devine	Gingrich
Brooks	Dickinson	Ginn
Broomfield	Dicks	Glickman
Brown, Calif.	Diggs	Goldwater
	Dingell	Gonzalez
	Dixon	Goodling

Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

The CHAIRMAN pro tempore (Mr. LOWRY). Three hundred and eighty-seven Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Colorado (Mr. KRAMER) for a recorded vote.

Mr. KRAMER. Mr. Chairman, I withdraw my request for a recorded vote, and I demand a division.

On a division (demanded by Mr. KRAMER) there were—ayes 45, noes 124.

So the amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. KRAMER TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. KRAMER. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, was the amendment printed in the RECORD in accordance with the rule? Was that in accordance with the rule prior to Monday last?

Mr. KRAMER. Yes.

The CHAIRMAN pro tempore. The gentleman assures us that that is correct.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: On page 29, line 17, after the word "Federal" strike the comma and the words "State, or local"; and

On page 30, line 18, after "Federal" strike the comma and the words "State, or" and on line 19, strike the word "local" and the comma, and on line 20, strike the words "State, or local".

Mr. KRAMER. Mr. Chairman, this amendment would eliminate the President's authority to make decisions in lieu of State or local agencies. It leaves intact the President's authority to make a decision in lieu of a Federal agency.

The purpose of fast-track legislation is to expedite the development of priority energy projects. It is a good purpose, but it should not be carried out at the expense of preempting or overriding State and local laws and requirements.

Our energy problems are serious, but are they so serious and so critical that they justify dismantling our carefully crafted and constructed Federal System of Government and laws?

Does it require Federal officials to substitute their judgments or to allow or even require Federal officials to substitute their judgment for the decision of State and local officials who are most accountable to the people affected by these decisions, open the door to further Federal control over lives and livelihoods and constitutes a dangerous subversion of States rights and of the protections afforded citizens by their State and local governments?

The preemption of State and local decisionmaking by the President is unnecessary and unwarranted authority. The principal problems of delay are not generated at the local level.

I would like to give this body one example of a number of examples that I could give this body that were provided us by the Colorado Mining Association. They are repeated, and this is typical, not unique.

The Wyoming fuel company has an existing coal operation, mining 640 tons per day, with a total payroll force of 16 employees. Knowing that they needed additional coal reserves to fulfill and sustain coal sales, they applied well in advance to the BLM for a short-term criteria lease on adjacent Federal lands in March of 1979. Their application was reviewed by the BLM as to completeness and accepted.

Next, the Bureau of Land Management and the U.S. Geological Survey reviewed the application, which was estimated to take 8 weeks.

The USGS then advised the BLM that they must first drill out the reserves with their own drilling rig. Two holes, for a total of 300 feet, were drilled which took 7 weeks. The normal drill time within industry for this type of job would be 1 week.

After this, due to internal USGS delays, an additional 12 weeks was required, so the USGS did not report back to the Bureau of Land Management until August 1979, 5 full months after application by the operator, which was 3 full months over the original estimate.

Only after this point, did the Bureau of Land Management now notify the operator that, due to new regulations promulgated on July 19, 1979, a new reserve study would be necessary due to new regulations on short-term criteria coal leases. The operator was not notified of this new delay until late August 1979.

At present, the BLM is now preparing an environmental assessment with the earliest completion date, for the lease, of mid-February, 1980.

The existing coal operation will be mined out by February of 1980, and after the lease is issued, assuming it is, the total mining plan must now be submitted to the Office of Surface Mining for review by the Office of Surface Mining, the U.S. Geological Survey, the Bureau of Land Management, and the State of Colorado Mined Land Reclamation Board.

□ 1750

According to the new, final Office of Surface Mining regulations, only after this review can the mine plan be approved. The operator estimates this will take at least 6 months and the earliest possible time it could be back into production is August of 1980.

The result? Shutting down an existing operation; laying off 13 employees; salary eliminated from the economy, loss of royalties to the Federal Government and, in this case, another prime example of Federal regulatory overkill and damaged rapport between yet another coal operator and the Government agencies.

The real problem we are facing, I think, is one of a lack of Federal cooperation and not one of State cooperation, and this example clearly points this up.

In addition, this legislation already contains substantial mobilization authority absent the Presidential power. If the agency fails to meet a deadline, the Board can go to court to seek a remedy, and the court has full powers not only under its inherent constitutional powers, but also under the powers granted in the bill to make sure those States and local agencies render a decision within time and on time, and if they do not can, in fact, act as though they themselves were the local or the State agency.

I think the court authority is an established and an appropriate mechanism for enforcement of Federal law. But through this bill what we are doing is putting the President in the place of the State and local decisionmaking authorities. I think that is a very big mistake. It establishes a very bad precedent. And if we have any, I think any respect for the viability of the concept of reserving to the States and the local communities those things traditionally reserved to them, I think we ought to strike this Presidential power from the bill.

Mr. UDALL. Mr. Chairman, I rise to oppose the amendment.

Mr. DINGELL and I have not agreed on everything, but I believe this is one area of the bill where we do agree. Already in the Dingell bill is a provision for the so-called bump-up where an obdurant mayor, Governor, or agency head will not approve, and the question is then: can he then go up to the President to enforce the law? We think the provision in our bill is sound and the provision the gentleman from Colorado would strike from the bill effectively would undo the major portion of our enforcement thrust in these critical fast track projects. I would hope the amendment would be defeated.

Mr. DINGELL. Mr. Chairman, I rise to strike the last word and in opposition to the proposal.

Mr. Chairman, I have been highly critical of the bill offered by my good friend from Arizona (Mr. UDALL). I must confess it is, in my view, a weak bill. But I would point out that the so-called bump-up is in both bills.

I would point out that bump-up is not indispensable to the Interstate and Foreign Commerce Committee bill. I would also point out that if it is removed from the Udall bill there is really literally nothing remaining in terms of an enforcement mechanism whereunder the decisionmaking process can be moved to a successful conclusion.

So it is with those understandings and with regret that I oppose the amendment offered by the gentleman from California.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitue for the amendment offered in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. VOLKMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. VOLKMER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, which has been printed in the RECORD.

The CHAIRMAN pro tempore. The amendment has been printed in the RECORD in accordance with the rule?

Mr. VOLKMER. It has, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER to the amendment in the nature of a substitute: On page 38, line 20, following "sec. 179", insert "a".

On page 39, following line 10, insert the following:

"(b) Notwithstanding any other provision of law, the Board, after consultation with the council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969."

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. DINGELL. Mr. Chairman, reserving the right to object, that is exactly the amendment the gentleman published in the RECORD?

Mr. VOLKMER. Yes, it is.

Mr. DINGELL. Regarding the national environmental policy?

Mr. VOLKMER. Yes, it is.

Mr. DINGELL. I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. VOLKMER. Mr. Chairman, this amendment clarifies the bill of the substitute from the Committee on Interstate and Foreign Commerce to provide that there will be one, the necessity for one environmental impact statement. This is language that was taken actually from the the gentleman from Arizona, Mr. UDALL, and his bill, which I think makes sense. It provides basically that rather than having more than one agency prepare and have an environmental impact statement, you only need one. The one would satisfy all obligations under the National Environmental Policy Act of 1969. Rather than have a multiplicity and a duplication and the time consumption caused by more than one environmental impact statement, I would offer this amendment to the gentleman from Michigan's bill in order to provide a little more fast-track to the bill.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I will be glad to yield.

Mr. CLAUSEN. Mr. Chairman, this provision I think is comparable to what we have in the Interior and Insular Affairs Committee.

Mr. VOLKMER. It is identical and copied from it. I will give the gentleman credit for it.

Mr. CLAUSEN. I would urge the Committee on Interstate and Foreign Commerce to accept the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield for a clarification?

Mr. VOLKMER. Yes, I yield to the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman printed three amendments, as I understand it.

Mr. VOLKMER. Yes, that is correct. They are misprinted basically, in other words, as to how they would go, but this is the amendment for page 38, line 20, following section 1, "Notwithstanding any other provision of law, the Board, after consultation * * *" This is on NEPA, the environmental impact statement. That is all it does. It says nothing about the number of employees nor the number of projects.

Mr. BROWN of Ohio. If the gentleman will yield further, I would have to say to the gentleman that I have no objection to the amendment and would recommend its passage.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. Yes, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I have no objection.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. VOLKMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. VOLKMER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER to the amendment in the nature of a substitute: On page 38, following line 4, insert the following new subsection:

"(d) Not more than 100 Priority Energy Projects may be designated by the Board, and not more than 20 of such projects may be designated in any one calendar year."

Mr. VOLKMER. Mr. Chairman, this would limit the number of projects which the Committee on Interstate and Foreign Commerce bill could provide for the Energy Mobilization Board, at least could provide during the period of time of the Board, and also no more than 20 in any one calendar year. This is similar to the language that was contained in the substitute of the gentleman from Arizona and the gentleman from California, even though theirs provides for 75 and 20, but I thought we could have the Board handle 100 priority energy projects. However, I do feel that there should be a limit of some kind put on the number that can be designated as priority projects.

As I have heard today listening to the debate on the floor, we hear the question of whether we will have any priority projects or whether our projects will become the same after a while and there will be no priority for projects because one amendment that was adopted designated up to maybe even 74 projects automatically. I feel the Board should be required, and my amendment would require them basically to, right from the beginning, start looking and say is this a priority or is this just another project. But if we do not have a limit on it, what I am afraid of is the Board will just start taking one, and then the next one, and the next one, and start processing them for approval, and approval, and pretty soon we do not have any priorities at all. This means that the Board knows when they start out for that year they only get 20, so they are going to have to prioritize.

That is what I think we need, is prioritizing so that we do have necessary energy-producing projects that we absolutely need in this country, and not just the run-of-the-mill projects that are being taken care of anyway and that are not of the necessary priority. Therefore, I feel very strongly that this amendment should be adopted to the bill of the Committee on Interstate and Foreign Commerce and that it just makes sense in order to require a prioritizing by this Energy Mobilization Board.

□ 1800

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have just accepted the previous amendment. I hope the gentleman will understand that I have great respect for his interest in the legislation, but I would have to say that the Commerce Committee specifically avoided putting a limit on the number of energy priority projects for a primary reason; that is, that we are not quite sure how the Energy Mobilization Board might have to deal with a rather complicated project.

For instance, let us suggest, as I did earlier I think, a coal gasification and liquefaction plant in my own State of Ohio. It might be necessary to put the plant in the proximity of the coal mine. Many of these are now closed in Ohio because we have not had the demand for coal that many of us envisioned might be the case. If they had to open that mine and undertake some special effort to do that, if they had to build a short-line railroad to move the coal from that mine to the gasification or liquefaction plant, if they had to build a pipeline to deliver the gas, how many priority projects is that? Is that a single priority project, or are each of these steps a separate priority project? That is where the problem comes in, and where the canker gnaws.

The fact is we did not want to limit the number because, while those are all aggregated into a single project, they might in fact require different actions of different kinds. So, for that reason we felt that it was not proper to designate a number.

Let me just say also that I would agree with the gentleman, we do not want every project undertaken established as a priority energy project. Indeed, many energy projects should not receive priority treatment because they do not significantly enhance the national interests. So, it is not that every project, or even the same kind of project, is going to wind up receiving priority treatment.

I do not think in the very nature of the Energy Mobilization Board that we envisioned the idea that every energy project that comes along is going to be designated as a priority energy project or a necessary project to be brought before the Board as a priority project, but I would say that we do not want a limitation because if we have 20, we might be using up 5 priority projects in the example I have given, and we may want to put in 2 or 3 coal gasification plants or 1 coal gasification plant and 1 coal liquefaction plant, or 1 refinery or one of something else in, and pretty soon we cannot do them all in a single year because we have a limitation of 20.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I have thought about this, but on the other hand what concerns me is the fact that what we are providing for is basically—if it works right, the way everybody hopes it will work—providing for a fast-track. That is very inviting to anybody right now who is trying to get a project going, whether it is just a plain old coal mine, no matter how big. That takes a lot of time.

What I am concerned about is that without a limitation at all, every one of these concerns will automatically file an application and we are going to be inundated.

Mr. BROWN of Ohio. If the gentleman will allow me, the EMB does not have to designate fast track projects for everyone who files an application.

Mr. VOLKMER. I realize that and I agree with that, but they will have quite a bit of pressure to do so and they are going to have, I am afraid, more paperwork than is necessary.

Mr. BROWN of Ohio. If we have any confidence in the Energy Mobilization Board at all, and I do——

The CHAIRMAN pro tempore. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. If one has confidence in the Energy Mobilization Board concept, then one has to conclude that just because I write in and ask for a priority status for my project, where there may be a very questionable possibility of my being able to produce energy under that project, and a very questionable nature of my project with reference to what it does to the environment, the Energy Mobilization Board is perfectly free to say no. In fact, that is why we have got them there. Their responsibility is to say no to projects that are not valid, economic, and sensible projects, technologically feasible and sound.

Mr. VOLKMER. Then the gentleman would assure me that in the event they do not operate that way, then he would come back with legislation to make sure that they do, because there is no safeguard in here?

Mr. BROWN of Ohio. I would certainly hope that they would not recommend any nonviable projects. I would oppose the whole concept if I thought so.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise reluctantly to oppose the amendment offered by my good friend from Missouri.

Mr. Chairman, I rise in opposition to the amendment because I am satisfied that we will face this question of limitation of numbers of projects, and I believe this is a matter that should be addressed forcefully at this time. The Commerce Committee did address this and was concerned about the number of projects, but we recognized a number of facts.

First of all, the Board's judgment as to whether or not a project will be on fast track is not subject now under either proposal to judicial review. So the Board has real independence in determining whether a project ought to go on the fast track or whether it in fact ought not. That is the first point.

The second point is that we are led to believe that if the Board has the authority it will put everything that comes up on fast track. That is not true because the Commerce Committee did impose very clear tests as to what qualifications a project must have before it can achieve fast track status. Beyond that, there is something else that we have to address. That is, there are natural limitations. The Board will only put a certain number of projects on fast track because it recognizes that there is only a certain amount of capital and the Board has only a certain amount of time, and there are only a certain number of projects.

So, it is not going to clog the capital markets, and it is not going to clog its schedule with a selection of large number. On the contrary, it is going to winnow very selectively among those.

There are some other arguments against having a number attached to the projects. One is simply this: As my colleagues have observed, the behavior of panels like the Energy Mobilization Board over the years, they will have observed that this kind of panel always finds the point that started out as a ceiling, and that ceiling becomes not a ceiling, but rather becomes a floor. So, if we say to the Board no more than 50, no more than 75, or no more than 100, as this amendment would do, in fact what we are doing is telling that Board that in its judgment they should move forward with 100 projects.

I do not happen to think that they should pick 100, or 75, or 50 or any other number. They should pick a number which comports to the broad public interest, and they should do it acting under the guidance in the legislation to select a proper number.

Lastly, there is another point that should be addressed by this body; that is, if we set a ceiling of say, 100, that 100 will not be small projects. That 100 will be big projects. That 100 will not be simple projects; they will be high-technology projects which afford the greatest damage to environment and other concerns. I would urge to my colleagues that that argument alone is a strong argument against fixing a number, because we compel the big ones to be put on line because they are losing a lot of gas and employment. The hard fact of the matter is that these projects are not going to be all large projects and not high-technology projects.

□ 1810

And they are not going to all be energy production projects. A lot of them are going to be conservation projects. A lot of them are going to be simple projects. A lot of them are going to be oriented toward something like putting a small low-head dam on a river somewhere

where it needs to be done to establish technology with regard to new turbines. It also affords opportunity, if you give some judgment to the Board, to select different kinds of technologies that might otherwise be foreclosed.

Last of all, I would urge my colleagues to know that this Board is going to try to achieve those projects which are going to give the greatest benefit in terms of moving new technology. If you impose a number limitation, you will probably require that the Board choose those technologies which will afford the greatest opportunity for optimal production and for a quick payoff. I would urge for that reason that this kind of thing should not be imposed on the bill. We ought to trust the Board to exercise its good judgment and leave them the opportunity to make the decision that it should make, unfettered with this, unfettered by the bill but guided rather by the guidelines which are included in this bill, which point out what the Board should do in terms of achieving a workable new technology in projects which are going to benefit all of us.

I urge my colleagues to reject the amendment.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words. I rise in strong support of this amendment. I would like the attention of the chairman of the Energy and Power Subcommittee of the Committee on Interstate and Foreign Commerce, the gentleman from Michigan (Mr. DINGELL), if I could. This is one of the major differences between the Commerce Committee bill and the Interior Committee bill, and I think if the chairman of the Commerce Committee bill wants to get support in what will obviously be a very close vote, he would be well advised to accept it. There is no question that what is intended here to be fast track is large, high-technology projects. When the President speaks to this Board as he did the other night—the Secretary of Energy—he is talking about coal gasification and coal liquefaction projects, multibillion-dollar projects. If I thought this were really going to be used to accelerate low-head hydro and solar projects, I would be much more enthusiastic about it.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. The gentleman knows very well that that is one of my intentions. The authority of the Board should be used to accelerate not only the large energy projects but to accelerate the small ones that offer us a great opportunity to move forward in terms of energy self-sufficiency.

Mr. OTTINGER. I genuinely hope that the gentleman is correct, and I would add to his legislative history that I hope that some of the low-technology projects would be considered if this procedure is adopted, but I am very doubtful, with the attitude that has been expressed by the administration, and I am very concerned as well by the attitude of many in this body that has been expressed here today to include all classes of projects wholesale. It was obviously the intent of the gentleman from West Virginia (Mr. RAHALL) and the chairman of our full committee and the chairman of the Committee on Education and Labor to have every coal project in the country be fast-tracked. I grant that they did not succeed in making it automatic. They are still subject to consideration by the Board, but there is real pressure there to include every single coal conversion product in the country, and if that is so, this Board is just going to have a job of enormous proportions. The procedures that are going to have to be involved are going to be overwhelming, and the whole concept of fast track is going to be badly perverted. So I think having a few projects, limiting it according to the importance of the projects, makes a great deal of sense. I think it improves substantially the Commerce Committee bill, and I urge its adoption. I congratulate the gentleman from Missouri (Mr. VOLKMER) for offering the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER) to the amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. VOLKMER) there were—ayes 11, noes 37.

So the amendment to the amendment in the nature of a substitute was rejected.

Mr. UDALL. Mr. Chairman, since tonight is Halloween and I must get home and get my fierce mask on so I can reach the residence of the gentleman from Maryland (Mr. BAUMAN) and frighten him tonight——

Mr. BAUMAN. If the gentleman will yield, trick or treat?

Mr. UDALL (continuing). And after consultation with my colleague, the gentleman from Michigan (Mr. DINGELL) and others, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. LOWRY, Chairman, pro tempore, of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes, had come to no resolution thereon.

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4387) entitled "An act making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes" and that the Senate agree to the amendments of the House to the amendments of the Senate numbered 5, 6, 19, 60, 72, 77, and 84 to the above-entitled bill.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3434. An act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strength and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes; and

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for two months certain authorities relating to the international energy program.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the concurrent resolution (S. Con. Res. 36) entitled "Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982."

The message also announced that the Senate disagrees to the amendment of the House to Senate Concurrent Resolution 36 and agrees to a further conference requested by the House on the disagreeing votes of the two Houses thereon and appoints Mr. MUSKIE, Mr. MAGNUSON, Mr. HOLLINGS, Mr. CHILES, Mr. BIDEN, Mr. JOHNSTON, Mr. BELLMON, Mr. DOMENICI, Mr. PACKWOOD, and Mr. ARMSTRONG to be conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3434) entitled "An act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. MOYNIHAN, Mr. BOREN, Mr. DOLE, Mr. HEINZ, and Mr. ROTH to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1319) entitled "An act to authorize certain construction at military installations, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HART, Mr. JACKSON, Mr. CANNON, Mr. HARRY F. BYRD, JR., Mr. NUNN, Mr. THURMOND, Mr. TOWER, Mr. WARNER, and Mr. HUMPHREY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1110. An act to include home delivery of children's publications in the existing rates for children's publications sent to schools.

AMENDING THE ENERGY POLICY AND CONSERVATION ACT

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5506) to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 6, strike out "December 31, 1979" and insert "November 30, 1979".

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, am I correct in my understanding that this is simply a temporary extension of this power for a period of how long?

Mr. DINGELL. If the gentleman will yield, the House-passed bill was for 60 days and extended the ability of U.S. oil companies to participate in International Energy Agreement actions with regard to the sharing of oil and production information with regard to energy supplies. The Senate action cuts that bill back from 30 days to 60 days.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding. I concur with what the gentleman from Michigan (Mr. DINGELL) has said and would recommend that we proceed with this piece of legislation so that we can address it in an orderly fashion later on. It is an extension and we need it at this point.

Mr. DINGELL. If the gentleman will permit me, I would just observe that the Senate has changed it from 30 days. The Senate has put it in a similar bill which extended that authority for a longer period, so it will deal with the question of import quotas. We have not seen the Senate action; I do not know what it is.

Mr. BROWN of Ohio. If the gentleman will yield further, I concur with that also. I think it is necessary for us to take a little time to look at what the Senate has proposed in their other legislation. The legislation before us will deal with the problem until we have a chance to look at what the Senate did. I do not know whether it will be necessary that we have hearings on it, but I will recommend to the gentleman from Michigan (Mr. DINGELL) that we have hearings on it so at least we will have some understanding of what the legislation contains.

□ 1820

Mr. DINGELL. We will very probably have hearings.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan (Mr. DINGELL)?

There was no objection.

A motion to reconsider is laid upon the table.

MULTI-FAMILY SERVICES MOVE

(Mr. BONER of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONER of Tennessee. Mr. Speaker, I rise today to join with my fellow Tennessee delegation in voicing our strong opposition to a reported move by the Department of Housing and Urban Development of the Nashville Multi-Family Services Division headquarters to the area office in Knoxville, Tenn. I have personally contacted both the White House and the Secretary of HUD Moon Landrieu to "suspend their present actions." I wish to alert Congress and our fellow citizens of Tennessee to this fast breaking development. At this time, Mr. Speaker, I wish to insert in the RECORD a copy of the delegation's letter to the President urging reversal of the proposed move.

I am particularly upset that this proposal has been "decided" without any consultation either with elected officials or the people most involved with these activities. This is just another case of the left hand not knowing what the right hand is doing.

I have also learned that HUD employees in the Nashville office were told in a meeting last week that they should not discuss the move with any elected officials outside HUD. This is absolutely unacceptable. Federal employees should be encouraged to speak up when they see actions that are detrimental to the public, not be muzzled as is the apparent case here.

Just 2 months ago, HUD signed a 5-year lease for 16,000 square feet of office space in One Commerce Plaza at a cost of $147,688 per year, and suddenly they are going to move half of the employees' functions to another city. And just 3 months ago a memorandum circulated in the Atlanta regional office which said that the multifamily service unit would remain in Nashville. And suddenly they are going to move. I would like to know what has occurred to cause this flip-flopping by HUD's Atlanta office. And I intend to get answers.

I was also interested to see that the HUD Deputy Regional Administrator was reported in the press Monday as indicating that the alternative to moving the multifamily unit to Knoxville would be moving the entire area office out of Knoxville and back to Nashville. I think this might not be a bad idea. I have been studying just such a possibility and had not planned to take any action in this regard until sometime next year. In light of these current circumstances, perhaps the timetable should be moved up.

Mr. Speaker, the letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 30, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Reports circulating in newspapers throughout Tennessee yesterday indicated that the Department of Housing and Urban Development, through its Regional office, will seek to move the Multi-Family Services Division headquarters from Middle Tennessee to the area office in Knoxville. We vigorously oppose this move and should like to ask your assistance in intervening to prevent what we consider an ill-timed, poorly coordinated decision.

The Multi-Family Services Division, administering the critically needed Section 8 Federal funds to our citizens, services the Nashville-Memphis area, Western and Middle Tennessee. We feel that the geographic location of this HUD office is key to the proper servicing of the entire banking, mortgage and financial community of our state. To move this service to the extreme portion of the state and require a builder and his professional associates, contractors, architects, designers, lawyers, and others to travel farther and longer to reach this governmental unit is inconceivable to us. Aside from the obvious servicing problems there are economic considerations at play here—the costs associated with leasing the present space in Nashville? The status of the employees affected by the move? The impact on the financial community in Memphis and Nashville and all the areas in Middle and Eastern Tennessee? The costs of the move to the taxpayers?

We would be happy to meet with you directly to explain our feelings in this matter and would hope that your office could see fit to pursue a positive conclusion which can be reached on the prevention of any move to Knoxville by functions of Tennessee HUD.

Sincerely,
BILL BONER,
AL GORE,
ED JONES,
HAROLD FORD,
MARILYN LLOYD BOUQUARD,
Members of Congress.

PROTECTING MIDSIZE COMMUNITIES UNDER AIRLINE DEREGULATION

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, since Congress passed the Airline Deregulation Act of 1978, there has been a great deal of controversy over this first attempt at lessening governmental regulation in a major sector of our economy. I think that, on the whole, our experiment with airline deregulation has been successful in promoting competition in the industry, eliminating inefficient regulations, and limiting costs to the consumer. I am concerned, however, that the apprehension of many about the act's impact on rural and small urban communities has proven to be justified in many instances.

The Monterey Peninsula in my own district exemplifies the problems of California communities generally. Before deregulation, Monterey was served by four certificated carriers. Since that time, two of these have left Monterey to enter long-distance markets. Of the remaining two, one has cut back its service sharply and may soon request permission to leave entirely. Boardings and deplanements at Monterey declined from an average 52,000 per month in 1978 to 41,000 per month in 1979. While demand at Monterey is clearly sufficient to make service there profitable for a well-equipped commuter airline, the commuters operating in Monterey today are far too small to

meet this demand. Monterey is in a difficult position; it may have to wait 10 or 12 years before the slowly growing commuter airline industry in California can adequately meet the needs of the communities there.

The problem in California is widespread, being especially severe in communities such as Bakersfield and Chico. While Monterey has retained a greater level of service than these others, its needs are also greater. A highly populous area, it is also heavily dependent upon the tourist related industries for its economic vitality. Adequate transportation to and from the peninsula is essential to the livelihoods of many Monterey Peninsula residents.

Of course, the Airline Deregulation Act did require that the Civil Aeronautics Board (CAB) determine the "essential" transportation needs of eligible communities and granted the Board the power to exercise regulatory powers to insure that service at these communities did not fall below the "essential" level. Additionally, realizing that the transition from a regulated air industry to a deregulated one should occur gradually, Congress gave the act a 10-year life.

Now the CAB has announced what this essential level is to be. The Board has set one figure to be applied across the board for every eligible community, regardless of the particular needs of each. In a recent speech, Chairman Cohen explained the CAB's reasoning in setting this figure:

All the studies we could find show that profitable service can be provided with 20 passengers a day in the market . . . To be on the safe side, we decided that if profitable service can be provided with 20 passengers, we will consider paying a subsidy to support service for up to 40 passengers a day in each direction. We are convinced that any point that has this many passengers will attract a carrier who will operate without a subsidy.

This apparently generous determination neglects the fact that for many communities in California and elsewhere there are no commuter airlines sufficiently equipped to meet the demand which exists in those areas which have lost the service of one or more certificated carriers. Setting the essential level at this low figure denies our Nation's small communities the time they need to attract suitable replacements for certificated carrier service among the available commuter airlines. The Board's action also denies the computer airlines themselves the time which they need to expand their operations in a careful and cautious manner in order to serve these communities effectively and safely. The consequence in many areas has been that the trunk carriers are reducing service far more swiftly than the smaller commuter airlines can expand into these markets.

Monterey is served by two commuters today. Together, they provided service to some 1,300 passengers a month. This is far from the level necessary to meet the needs of the community, which lost some 11,000 seats a month between 1978 and 1979. Two major carriers have been allowed to pull out of Monterey; conceivably, air service could be permitted to decline further until it reached the designated level of 80 seats a day. Mr. Chairman, if the communities of the Monterey Peninsula were left with this minimal level of service their citizens would experience severe economic and personal hardship. Many of the visitors who are attracted to this scenic area each year would be discouraged from traveling to the peninsula. Business activity would decline dramatically and thousands of peninsula residents would be displaced by the loss of jobs as well as the difficulty of moving in and out of Monterey themselves.

Monterey faces an additional problem beyond the very low essential air service level set by the CAB; because it is still served by two certificated carriers, the peninsula is ineligible for assistance under the small communities air service portion of the Deregulation Act. Only after a further pullout occurs, and the seven cities of the Monterey Peninsula are left with one major airline to serve their needs, does the act grant the CAB the authority to regulate air service there. To my mind this constitutes a great injustice to communities which need a high level of air service yet are unable to compete with the more profitable interstate markets for service from trunk carriers.

I feel this problem requires the attention of the framers of that act, and I am consequently addressing the following letter to Chairman ANDERSON of the House Aviation Subcommittee:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 26, 1979.

Hon. GLENN M. ANDERSON,
Aviation Subcommittee,
Washington, D.C.

DEAR MR. CHAIRMAN ANDERSON: As you know, the deregulation of the airline industry has brought with it both benefits to our nation's air travelers as well as difficulties for those communities outside the major transportation corridors of our nation.

While the Deregulation Act did provide mechanisms to insure that the adjustment to a deregulated industry would occur gradually for communities threatened with the loss of essential air service, that portion of the act applies exclusively to those cities and towns which are left with only one certificated air carrier. However, the needs of many medium sized communities throughout our nation exceed this minimum level established in the act. While these areas have a high demand for air service, they are unable to compete with the more profitable inter-state markets for service from trunk carriers.

Additionally, it will take some number of years before the smaller airlines can expand their operations to meet the need which exists in these communities. The consequence will be a difficult period of transition, and the impact is certain to be especially severe in those communities, such as the Monterey Peninsula in my own district, which depend heavily upon tourism for their economic base.

It is clear that the framers of the act did not intend it to cause such dislocation. Indeed, the new Section 419 attests to the consideration which was given to providing for a smooth transition period. However, the swift loss of air service in mid-size communities, coupled with the lack of sufficiently equipped replacement airlines, has created an unforeseen difficulty in some areas. Under present law, communities like Monterey must be practically devastated by reduced air service prior to receiving any assistance from the Civil Aeronautics Board.

In light of these circumstances, I feel it is essential to ask that the Subcommittee seriously consider amending the act to include mid-size communities among those points which are eligible for protection by the CAB under Section 419.

Monterey is served by only two certificated carriers today, which is exactly half of those being utilized prior to the act. Despite this serious situation it will have to lose one more carrier before, under the existing act, it would be considered an "eligible point" qualifying for assistance under the act. I am not requesting a return to the pre-1978 status quo; we have seen the many advantages which a free market environment offers. However, by providing for a graduated reduction in the service of trunk carriers at mid-size communities, we can allow commuter airlines the time they need to grow in a careful, safe manner, as well as protect the vital economic interests and transportation needs of key communities throughout our nation.

Thank you for your time and attention to this important matter.

LEON E. PANETTA,
Member of Congress.

CORRECTING OVERSIGHT IN LAW INVOLVING VETERANS WITH AMYOTROPHIC LATERAL SCLEROSIS

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, today I am introducing legislation that will correct an oversight in the law regarding the presumption of service connection relating to amyotrophic lateral sclerosis.

Title 38 now provides that a veteran who develops, from within 7 years after the date of his discharge, the condition known as multiple sclerosis—MS—to the extent that it is 10 percent or more disabling will be awarded service connection for the condition. This award may be made even though there is no evidence of such disease during service. This is one of a broad group of diseases affecting motor nerve cells that control muscles Another in this group of diseases is called amyotrophic lateral sclerosis.

The disease of amyotrophic lateral sclerosis is also known as Lou Gehrig's disease because of the famous baseball player who suffered from the illness and was forced to take dramatic leave of the sport at the height of his popularity. It is similar to, but not the same as multiple sclerosis.

No one knows the exact cause of this insidious disease but the latest medical research is focused on the possibility of a slow-acting virus. The disease can progress very slowly. Ten percent of its victims are still alive 10 years after its diagnosis. Some may live for 20 years.

The early symptoms of ALS and other diseases causing muscular atrophy may be no more severe than fatigue, a condition that could easily be overlooked in the service and the years immediately following. Eventually, however, the victim loses control over his muscles. One can easily imagine the tragedy such a disease visits on the individual suffering from it and his family.

A veteran who incurred this disease in service could remain symptom-free for at least 7 years. The bill I am introducing today recognizes the latest find-

ings of medical research by including ALS within section 312 of title 38.

INDUSTRIAL INNOVATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-214)

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers was referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

Industrial innovation—the development and commercialization of new products and processes—is an essential element of a strong and growing American economy. It helps ensure economic vitality, improved productivity, international competitiveness, job creation, and an improved quality of life for every American. Further, industrial innovation is necessary if we are to solve some of the Nation's most pressing problems—reducing inflation, providing new energy supplies and better conserving existing supplies, ensuring adequate food for the world's population, protecting the environment and our natural resources, and improving health care.

Our Nation's history is filled with a rich tradition of industrial innovation. America has been the world leader in developing new products, new processes, and new technologies, and in ensuring their wide dissemination and use. We are still the world's leader. But our products are meeting growing competition from abroad. Many of the world's leading industrial countries are now attempting to develop a competitive advantage through the use of industrial innovation. This is a challenge we cannot afford to ignore any longer. To respond to this challenge, we must develop our own policies for fostering the Nation's competitive capability and entrepreneurial spirit in the decades ahead. This Message represents an important first step in that direction.

I am today announcing measures which will help ensure our country's continued role as the world leader in industrial innovation. These initiatives address nine critical areas:

Enhancing the Transfer of Information

Increasing Technical Knowledge

Strengthening the Patent System

Clarifying Anti-trust Policy

Fostering the Development of Small Innovative Firms

Opening Federal Procurement to Innovations

Improving Our Regulatory System

Facilitating Labor/Management Adjustment to Technical Change

Maintaining a Supportive Climate for Innovation.

INITIATIVES

1. *Enhancing the Transfer of Information.* Often, the information that underlies a technological advance is not known to companies capable of commercially developing that advance. I am therefore taking several actions to ease and encourage the flow of technical knowledge and information. These actions include establishing the Center for the Utilization of Federal Technology at the National Technical Information Service to improve the transfer of knowledge from Federal laboratories; and, through the State and Commerce Departments, increasing the availability of technical information developed in foreign countries.

2. *Increasing Technical Knowledge.* We have already made significant efforts to assure an adequate investment in the basic research that will underlie future technical advances. This commitment is reflected in a 25 percent growth in funding during the first two years of my Administration. I am taking some additional steps that will increase Federal support for research and development:

First, I will establish a program to cooperate with industry in the advancement of generic technologies that underlie the operations of several industrial sectors. This activity will broaden the $50 million initiative I announced in May to further research in automotive research. Second, in order to help harness the scientific and technological strength of American universities, I have directed a significant enhancement in support of joint industry-university research proposals. This program will be modeled on a successful program at the National Science Foundation, and I have set a target of $150 million in Federal support for it.

3. *Strengthening the Patent System.* Patents can provide a vital incentive for innovation, but the patent process has become expensive, time-consuming, and unreliable. Each year, fewer patents are issued to Americans. At my direction, the Patent and Trademark Office will undertake a major effort to upgrade and modernize its processes, in order to restore the incentive to patent—and ultimately develop—inventions. I will also seek legislation to provide the Patent and Trademark Office with greater authority to re-examine patents already issued, thereby reducing the need for expensive, time-consuming litigation over the validity of a patent.

For over thirty years the Federal agencies supporting research and development in industry and universities have had conflicting policies governing the disposition of pertinent rights resulting from that work. This confusion has seriously inhibited the use of those patents in industry. To remove that confusion and encourage the use of those patents I will support uniform government patent legislation. That legislation will provide exclusive licenses to contractors in specific fields of use that they agree to commercialize and will permit the government to license firms in other fields. If the license fails to commercialize the inventories, the government will retain the right to recapture those rights. I will also support the retention of patent ownership by small businesses and universities, the prime thrust of legislation now in Congress, in recognition of their special place in our society.

4. *Clarifying Anti-trust Policy.* By spurring competition, anti-trust policies can provide a stimulant to the development of innovations. In some cases, however, such as in research, industrial cooperation may have clear social and economic benefits for the country. Unfortunately, our anti-trust laws are often mistakenly viewed as preventing all cooperative activity.

The Department of Justice, at my direction, will issue a guide clearly explaining its position on collaboration among firms in research, as part of a broader program of improved communication with industry by the Justice Department and the Federal Trade Commission. This statement will provide the first uniform anti-trust guidance to industrial firms in the area of cooperation in research.

5. *Fostering the Development of Small Innovative Firms.* Small innovative firms have historically played an important role in bringing new technologies into the marketplace. They are also an important source of new jobs. Although many of the initiatives in this Message will encourage such companies, I will also implement several initiatives focused particularly on small firms.

First, I propose the enhancement by $10 million of the Small Business Innovation Research Program of the National Science Foundation. This program supports creative, high-risk, potentially high-reward research performed by small business. Further, the National Science Foundation will assist other agencies in implementing similar programs, with total Federal support eventually reaching $150 million per year.

Second, in order to experiment with ways to ease the ability of small firms to obtain start-up capital, I will help establish two Corporations For Innovation Development to provide equity funding for firms that will develop and market promising high-risk innovations. These not-for-profit firms will be established with State or regional capital and the Federal government will provide each with matching loan funds up to $4 million.

6. *Opening Federal Procurement to Innovations.* The Federal government is the Nation's largest single purchaser of goods and services. Through its purchases, the Federal government can influence the rate at which innovative products enter the market.

For that reason, I am directing the Office of Federal Procurement Policy to introduce procurement policies and regulations that will remove barriers now inhibiting the government from purchasing innovative products. Special attention will be given to substituting performance for design specifications and, wherever feasible, selection will be on the basis of costs over the life of the item, rather than merely the initial purchase price.

7. *Improving our Regulatory System.* During my Administration, I have already taken a number of actions to help assure that regulation does not adversely affect innovation. Working with the Congress, I have moved successfully toward deregulation of airlines and other industries, and I expect the pressure of competition to trigger innovative new

ways to cut costs and improve service. In environmental, health and safety regulation, I have emphasized the use of cost-impact analysis, where appropriate, to take account of the burdens on industry in the regulatory process. To provide better coordination between the regulatory agencies, I have created the Regulatory Council, composed of the heads of 35 regulatory agencies. This Council is working to reduce inconsistencies and duplications among regulations, to eliminate needless rule-making delays, to reduce paperwork, and to minimize the cost of compliance.

I am today proposing additional steps to improve our regulatory system. First, the Administrator of EPA will intensify his efforts, wherever possible, to use performance standards in regulations, specifying only the required goal, rather than the means of achieving it. Second, all Executive Branch environmental, health and safety regulatory agencies will prepare a five-year forecast of their priorities and concerns. This information will give industry the time to develop compliance technology. Third, all administrators of Federal executive agencies responsible for clearance of new products will be directed to develop and implement an expedited process for projects having a strong innovative impact or exceptional social benefit, and to do so without jeopardizing the quality of the review process.

8. *Facilitating Labor and Management Adjustment to Technical Change.* Although innovation can increase the number of workers employed within an industry over the long term, or even create an entire new industry, individual innovations may occasionally cause workers to be displaced.

In order to assure adequate time for workers and management to adjust to changes caused by innovations, I am directing the Secretaries of Labor and Commerce to work jointly with labor and management to develop a Labor/Technology Forecasting System. The System would develop advance warning of industrial changes and permit timely adjustments.

9. *Maintaining a Supportive Federal Climate.* The initiatives announced in this Message are only the first steps in our efforts to ensure American technological strength. We must also develop and maintain a climate conducive to industrial innovation. The Federal government must take the lead in creating that climate. And the Federal government's efforts must be continuing ones. I am committed to these goals.

I am charging the National Productivity Council with the continuing tasks of monitoring innovation, developing policies to encourage innovation and assisting the Departments and agencies in implementing the policies announced today. I am also establishing a Presidential award for technological innovation to make clear to this Nation's inventors and entrepreneurs that we place the highest national value on their contributions.

Each of the initiatives I have just proposed supports an important component in the innovation process. In combination, these initiatives should make a major difference in our Nation's ability to develop and pursue industrial innovation. However, these incentives will not by themselves solve our current difficulties in encouraging needed innovation. In our economic system, industrial innovation is primarily the responsibility of the private sector. The manager of the firm must decide whether to develop and market innovative new products or whether to find and employ new ways of making existing products. Although the Federal government can establish a climate that encourages innovative activity, it is the private sector that finally determines whether innovation will take place.

In addition, the steps outlined in this Message must be viewed in the context of our current severe inflation problem. With costs rising at an abnormally high rate, managers naturally have a disincentive to spend the sums needed for adequate industrial innovation. I understand and fully appreciate that changing certain of our tax laws could provide additional incentives for investment in innovation. Indeed, my approval of adjustments in the capital gains tax in the Revenue Act of 1978 has alleviated some shortages of venture capital. Many of the suggested alterations of our tax system are intertwined with other economic challenges—such as fighting inflation. While it might be possible to make changes in the tax code that would promote innovation, these changes should not be viewed in isolation from other aspects of our economy. I will therefore evaluate tax laws affecting industrial innovation at the time that I consider my fiscal policies for Fiscal Year 1981.

CONCLUSION

Innovation is a subtle and intricate process, covering that range of events from the inspiration of the inventor to the marketing strategy of the eventual producer. Although there are many places in the chain from invention to sale where we have found modification of Federal policy to be appropriate, there is no one place where the Federal government can take action and thereby ensure that industrial innovation will be increased. We have therefore chosen a range of initiatives, each of which we believe to be helpful. In aggregate, we expect them to have a significant impact. Nonetheless, they represent only an early skirmish in what must be a continuing battle to maintain the technological strength of the American economy. I pledge myself to this task and ask the Congress to join me in meeting our common challenge.

JIMMY CARTER.

THE WHITE HOUSE, *October 31, 1979.*

TRIBUTE TO HON. JUANITA M. KREPS

The SPEAKER. Under a previous order of the House, the gentleman from North Carolina (Mr. ANDREWS) is recognized for 60 minutes.

Mr. ANDREWS of North Carolina. Mr. Speaker, it is with great pleasure that I have this afternoon reserved 1 hour for a special order to pay tribute to the Honorable Juanita M. Kreps.

Today she steps down as the first woman and the first economist to serve as Secretary of the U.S. Department of Commerce, and I congratulate her on a job very well done.

For the past 3 years, I have been one of a very few Members of this body privileged to represent a member of the Cabinet.

Mrs. Kreps, a native of the coal-mining town of Lynch, Ky., and a graduate of Berea College in the Bluegrass State, is a longtime resident of Durham, N.C., and of the congressional district I am privileged to represent.

She earned a master's degree and later the doctorate in economics at Duke University, and, for more than 20 years, she was a member of Duke's faculty and administrative staff.

She began as a visiting instructor at Duke and rapidly won promotion to associate professor, full professor, dean of the Women's College, assistant provost, and, in 1972, she was named a James B. Duke professor of economics. In 1973, she was appointed university vice president.

But, Juanita Kreps' distinguished career has by no means been limited to the Duke campus.

Her Government service has been extensive—as a consultant to the U.S. Special Committee on Aging, as a member of the Social Security Advisory Council, as a member of the Office of Economic Opportunity's Task Force on the Older Poor and of the National Commission for Manpower Policy. She has also been a member of the Labor Department's Small Grants panel and of its Committee on Research of the National Manpower Advisory Committee. She served, too, on the Commission on the Operation of the Senate and as a North Carolina delegate to the White House Conference on Aging.

Mrs. Kreps has been president of the Southern Economic Association, vice president of the Gerontological Society, chairman of the board of trustees of the Educational Testing Service, and chairman of the American Council on Education's Commission on Academic Affairs. At the time she was named Secretary of Commerce, she was president-elect of the American Association for Higher Education.

She is the author, coauthor or editor of at least nine books and the author of numerous monographs and articles. She is an expert in several fields of economics and is considered one of the top people in the world on the subject of retirement and pensions policies.

When selected by President Carter to be Secretary of Commerce, Mrs. Kreps was serving on the board of directors of the New York Stock Exchange and of several major corporations, including Eastman Kodak, Western Electric, J. C. Penney, R. J. Reynolds Industries, North Carolina National Bank, and North Carolina Blue Cross-Blue Shield.

She and her husband, Dr. Clifton H. Kreps, Jr., Wachovia Professor of Banking at the University of North

Carolina, are the parents of three children.

Not surprisingly, this remarkable woman is a member of Phi Beta Kappa and the holder of at least six honorary degrees. In 1976 she received the North Carolina Public Service Award.

Although only I among us can welcome her back to Durham and to the Fourth District of North Carolina, I feel sure that many of my colleagues in the House will want to join me in expressing sincere gratitude to Juanita for the fine job she did as Secretary of Commerce and in wishing her well as she rejoins her family and Duke University.

She brought to this job intelligence, modesty, dedication, and a graceful and unassuming manner. Although not one to seek the limelight or publicity, her achievements have been considerable and substantial.

Shortly after Secretary Kreps announced her resignation about a month ago, The Wall Street Journal in its October 5 issue published the following story headlined, "Business Executives Laud Juanita Kreps' Trade Achievements," with the subhead, "Departing Chief of Commerce Is Praised Particularly for Getting Business in China."

[From the Wall Street Journal, Oct. 5, 1979]

BUSINESS EXECUTIVES LAUD JUANITA KREPS' TRADE ACHIEVEMENTS—DEPARTING CHIEF OF COMMERCE IS PRAISED PARTICULARLY FOR GETTING BUSINESS IN CHINA

Juanita Kreps, the outgoing Secretary of Commerce, left very favorable impressions on the business executives with whom she dealt, and many credit her with strong actions toward promoting U.S. exports, particularly with the growing market in China.

Mrs. Kreps's efforts to get business in China "have been outstanding," says James R. Golden, Ford Motor Co.'s director of international government affairs. "I've been very pleased with what she's done."

He said he was especially impressed with the trade agreement framed when Mrs. Kreps visited China in May. The accord "will give all U.S. business, whether buying or selling, an advantage," he said. "She expedited the agreement greatly, and came back with what is generally thought to be a good agreement."

Robert E. Adams, the president of the American Chamber of Commerce in Hong Kong, called her "an empressive woman, outstanding." He noted that when she met the American business community in Hong Kong after her visit to China, it signaled "that she did want a dialogue with American businessmen overseas. We were impressed by her competence."

Mrs. Kreps, who cited personal reasons for her resignation, played a "very positive role in the development of China-U.S. relations," according to Lewis B. Shanks, vice president of WJS Inc., a Washington-based company that specializes in trade with China and the Soviet Union. "The Chinese seemed to respect her a great deal. The general attitude in the China trading community was very popular toward her," Mr. Shanks added.

During Mrs. Kreps's one-week visit to China, she signed a claims and assets agreement, initialed a trade agreement that hasn't yet been submitted to Congress for approval and signed accords in a number of other areas ranging from meteorology to technical data collection and storage.

COMMERCIAL EXHIBITIONS

She also signed an agreement to exchange commercial exhibitions; the U.S. will hold one in Peking in November 1980 and China will be holding exhibitions in several U.S. cities next year.

Mr. Adams, of the American Chamber of Commerce in Hong Kong, said that as a result of the talks "a lot more information is coming out of China," including data important to such activities as U.S.-Chinese joint ventures and U.S. bank loans to China.

A spokesman for the Pullman Kellogg division of Pullman Inc. said Mrs. Kreps had been "very helpful" in the company's business relationship with China, which dates to 1973. He added that Mrs. Kreps' departure, expected at the end of the month, shouldn't have much of an effect on the company's dealings with Peking.

Other companies expressed similar sentiments about their operations after her departure. A spokesman for Genesco Inc., a shoe, apparel and retailing concern based in Nashville, said Mrs. Kreps' programs "didn't really have much of an effect on us."

And an official with one major auto maker described the trade accord with China as "peripheral" and said, "I don't think it helped or hurt" business relations with China. She "did show some additional interest in the international aspect of commerce. For that, I give her a plus," he added.

"ENERGETIC PERSON"

Richard D. Ford, the executive director of the Port of Seattle, called the 58-year-old Mrs. Kreps "an energetic person who was trying hard to respond to trade needs." Those sentiments were echoed by Julian Scheer, senior vice president of corporate affairs for Dallas-based LTV Corp. He said the company "really regrets" her departure, adding that "we thought she did an excellent job. She was an economist and a very good one with an effective tenure in office."

John Dingee, director of international operations for Randor, Pa-based Chilton Co., credits Mrs. Kreps with making U.S. businessmen more aware of overseas markets. "The one thing that stands out in my mind regarding her tenure was her strong promotion of exports in general," he observed.

Chilton, a publishing company, produces books in Russian and Chinese promoting American technical knowledge.

Mr. Dingee recalls that Mrs. Kreps was a hit among Russian leaders at a dinner at the Kremlin last December. Mrs. Kreps "certainly made quite an impact on (Communist Party chief Leonid) Brezhnev. He kissed her. You don't normally kiss the minister of foreign trade."

Another newspaper, the Raleigh, N.C., News and Observer on October 8 published this editorial favorably appraising Secretary Kreps' tenure in the Cabinet. Its headline said, "Kreps: A Sense of Duty:"

KREPS: A SENSE OF DUTY

Secretary of Commerce Juanita Kreps can hold her head high when she returns to North Carolina at the end of this month. In her resignation after almost three years in the Cabinet post, Dr. Kreps acted with the same sense of duty and air of quiet dignity that marked her service to the Carter administration.

As the only women ever to hold the Commerce position, Mrs. Kreps passed the tests that count for either sex. She proved she had the ability to do the job. She got results at home and abroad that were good for Commerce and good for the country.

Her record shows that she coalesced an agency with 38,500 employees, 13 divisions and highly disparate functions, with good to high marks given her for almost every important activity she undertook. She did this apparently amid family and other personal strains that, even in lesser degree than hers, disconcert high public servants new to Washington.

This native Kentuckian, born in a coal-mining community, reached the mountaintop in public service. She negotiated a trade agreement with China and made six other major agreements in foreign trade. She met world leaders in such capitals as Moscow, Peking and New Delhi. She administered billions of dollars successfully and absorbed new duties for her agency with confident efficiency. Criticism that her resistance to a proposed reorganization of Commerce robbed it of greater influence pales beside her accomplishments.

It's no wonder Chancellor Kenneth Pye of Duke University says the institution would be delighted to welcome back its former academic vice president. Mrs. Kreps, one suspects, will look back on her Washington experience with a great deal of pride and few regrets. And with her background, she has much to offer academic, government and corporate America in future service.

I am pleased also to call my colleagues' attention to an editorial that will appear tomorrow in the Durham, N.C., Morning Herald. The editors of Mrs. Kreps' hometown newspaper transmitted this editorial to my office this afternoon so that I could include it as part of our special order. It will have the headline, "Welcome Back, Mrs. Kreps":

WELCOME BACK, MRS. KREPS

Juanita M. Kreps left her job as Secretary of Commerce Wednesday. Of the 25 who have held that post since 1913, she was the first economist and the first woman. She had departed her position as vice president of Duke University to take the high-level business post in January, 1977. In so doing, she assumed responsibility for the most heterogeneous federal department, one whose 38,000 employees are engaged in everything from forecasting the weather and testing consumer products to overseeing the American merchant marine and supervising the $6 billion local public works program.

Her 30 years of experience in the academic field as teacher, writer, and administrator served her well. Her experience on the boards of the New York Stock Exchange, J. C. Penny, Eastman Kodak, and R. J. Reynolds Industries contributed to her index of expertise. But, even more important, her personal commitment to the formidable task carried her to significant accomplishments. President Carter himself once told her she had taken a third-rate department and made a first-rate one of it.

She defined the biggest single problem between business and government as that of different basic objectives: on the one hand, to produce profitably and on the other hand, to foster broad social issues. Increasing dialogue between business and government was, therefore, a major goal for her. By combining her concern for people with her business acumen, she made sharp, constructive inroads into the consciousness of both public and private sectors.

Mrs. Kreps strove valiantly for the development of sound economic policy. Her organizational talents pulled the department's programs into sharper focus. That she ran into difficulty at times is largely due to the historic role of the Commerce secretary. Her own qualities imprinted on the department and left it a far better place than it was before her.

A soft-spoken Southern lady, Mrs. Kreps built a reputation for directness and firmness, coupled with a gentility rarely evidenced in the worlds of finance or politics. She was determined to "do the significant," and she did—against difficulties.

She was a voice for lightening the federal regulatory burden on business and for new tax policies to stimulate economic growth. She was a voice for reining the growth of federal spending and the establishment of national spending priorities. She was a voice for eliminating structural impediments to competitive markets and for increased business investment.

Her days were long and demanding, but she found time to keep her home ties in Durham. She will return, with well-deserved accolades, to a warmly receptive town and gown community.

Juanita, all that I really need to say, for the folks back home, is that we respect you. We appreciate you. We love you. We welcome you back to North Carolina. And specifically, we welcome you home—to Durham.

Mr. GUDGER. Mr. Speaker, the departure of Juanita Kreps from Washington, after nearly 3 years as an outstanding Secretary of Commerce—the first woman ever to serve in that Cabinet post—leaves me with decidedly mixed feelings.

As a North Carolinian, I am pleased to see her return to my State where she had served so well as vice president at Duke University before her appointment by President Carter.

On the other hand, Dr. Kreps and I came to Washington at the same time to assume our separate duties and I have no doubt that her absence will diminish me somewhat. She has been a vital force and a source of pride for our North Carolina contingent.

Juanita Kreps was remarkably qualified to become Secretary of Commerce as the first economist ever to serve in a job which demands such qualifications. Nor has she disappointed those of us who began to brag as soon as her appointment was announced.

Her list of accomplishments at Commerce is long and impressive, highlighted by the trade agreement with the People's Republic of China, enforcement of the antiboycott law, progress in developing export administration legislation, establishment of 24 new foreign-trade zones, 4 new subzones, and expansion of several existing zones.

I could go on and on down the list, but suffice it to say that even those who may at first have voiced doubt as to her capability to handle the challenging tasks of Commerce have become strong enthusiasts of our lady from Durham.

Juanita is a native Kentuckian who many years ago adopted my native State. Now she is returning to North Carolina and my heartfelt thanks for a job well done go with her.

Her presence, however, will not totally disappear from the national scene. She has already accepted appointment to the President's Commission on National Goals. And, knowing her as I do, I am confident she will continue to seek out challenges and continue to make me proud when I say: "I am a friend of Juanita Kreps."

● Mr. ROSTENKOWSKI. Mr. Speaker, I welcome the opportunity to join my colleagues in tribute to the Honorable Juanita M. Kreps. In her 3 years as Secretary of Commerce she has achieved an enviable record of achievement. Because of my work on the Subcommittee on Trade and, more recently, my appointment to the President's Export Council, I have a great deal of interest in the Departent of Commerce, particularly its trade promotion programs and its attempts to provide greater accessibility to foreign markets. Also, I have always believed that international mutuality and understanding can be facilitated through the exchange of materials, services, cultures, and ideas. It is very much my belief that Mrs. Kreps' strong and positive role in enhancing dialog and encouraging cooperation among the countries of the world through the productive avenues of commerce and trade will be of lasting significance to peace among nations.

Juanita Kreps proved to be a brilliant economist, a skilled executive, a wise and graceful person. I wish her all good fortune in the future and commend her service to our country.●

● Mr. VAN DEERLIN. Mr. Speaker, I would like to join in and offer my congratulations to Secretary Kreps on a job well done.

I expect that my district will profit directly from her assiduous attention to trade expansion between the United States and China. We in San Diego will long benefit from her work if this new venture in international cooperation is continued with the same energy with which she began it.

But beyond this, Secretary Kreps achievement has been to succeed so remarkably in what was, for the most part, a man's world. Because of her record in education and Government, dealing in the abstruse arts of economics and business, young women throughout the country have undoubtedly raised their sights—and should find these heights more accessible.●

● Mr. DRINAN. Mr. Speaker, I welcome this opportunity to commend Juanita Kreps for her fine service to the Department of Commerce. As Secretary, Mrs. Kreps has continually demonstrated high standards of professionalism.

Mrs. Kreps has worked tirelessly and diligently to represent U.S. interests abroad. During her tenure as Secretary, she was instrumental in negotiating the Trade Agreement with the People's Republic of China, the implementation of which will serve to facilitate trade with the PRC in previously unopened areas.

In an attempt to balance U.S. trade with Japan, the Commerce Department, under Mrs. Kreps, established the Joint United States-Japan Trade Facilitation Committee. Through the work of this committee, U.S. goods and services which were previously unavailable for export to Japan are now serving to counter our trade deficit.

Through the efforts of Mrs. Kreps in many areas of U.S. policy, we are making great strides toward reducing our trade imbalance and improving the opportunities for all American businesses including minorities.

Although I lament the loss of Mrs. Kreps form the Department of Commerce, I wish her continued success and happiness as she reenters the private sector.●

● Mr. ANDERSON of California. Mr. Speaker, today is the day that Secretary Juanita Kreps steps down as the first woman and first economist to serve as Secretary of Commerce. After a distinguished period of service in the Commerce Department, Secretary Kreps is returning to academia and to the private sector.

I am sorry to see the Federal Government lose such a dedicated and talented public servant. There have been a number of notable accomplishments during her tenure. For one, the Secretary was instrumental in the establishment of 24 new foreign-trade zones and 4 new subzones, as well as the expansion of several existing zones. One of these new zones is the Long Beach foreign-trade zone, in my congressional district.

Another area of achievement under the direction of the Secretary was the implementation of round II of the local public works program, under which 8,500 projects totaling $4 billion were approved for State and local governments in a period of 72 days. Disbursements already exceed $3.3 billion.

The Secretary also established the first policy initiative by any administration to encourage economic development of the U.S. fishing industry.

I want to commend Secretary Kreps for the exemplary work she has done at Commerce. I also want to wish her well in her new endeavors.●

● Mr. JONES of Oklahoma. Mr. Speaker, it is an honor for me to join my distinguished colleague from North Carolina in paying tribute to the Honorable Juanita M. Kreps. Ms. Kreps has had an outstanding private career in academia, and she has certainly matched those accomplishments in her public career as the first woman Secretary of Commerce.

She joined intelligence, business acumen, and 3 years hard work to produce one of the most effective Secretaries of Commerce. The list of her accomplishments is long, but surely the trade agreement framed with China during her visit there would head that list. That agreement, though noteworthy, is typical of her performance as a member of the Cabinet.

I know that I speak for the business people in the First District of Oklahoma, indeed for all Americans, when I say that Secretary Kreps deserves our gratitude and our thanks for distinguished service to her country. We will miss the expertise she brought to her job and the sense of dedication with which she served, but I hope and am confident that her future will prove as successful as her past has been. I wish her every happiness as she returns to private life.●

● Mr. ANDREWS of North Dakota. Mr. Speaker, I am pleased to have the opportunity to join many of my colleagues in paying tribute to Secretary Juanita Kreps as she prepares to step down from her most distinguished and well-suited position as Secretary of Commerce.

I have had the privilege of working with Secretary Kreps over the past 3 years when she has appeared before the State, Justice, Commerce Appropriations Subcommittee on which I sit. In that time, I have observed Dr. Kreps to be a very effective Department head whose

dedication to her responsibilities was always apparent.

Her positive, energetic attitude has always impressed me and I know she will continue to possess this quality in whatever new challenges she may encounter as she leaves her Cabinet post.

Dr. Kreps has provided the U.S. businessman with greater knowledge and awareness of overseas markets for his products. Her work with the Chinese trading community is especially commendable. While certainly not the least of her accomplishments, her response to the trade needs of this country will not soon be forgotten. It is my great hope that her successor will carry on the great work in this important area that Secretary Kreps has begun.●

● Mr. ROE. Mr. Speaker, I am pleased to join in today's salute to a great lady and good friend, the Honorable Juanita M. Kreps, whose standards of excellence as our Nation's distinguished Secretary of Commerce have truly enriched our communities, States, and Nation.

We are all proud of her outstanding record of accomplishments as a member of the President's Cabinet and applaud her for the richness of her wisdom, quality of her leadership, sincerity of purpose and the unprecedented distinction of being the first woman and first economist to serve our people in this high office of public trust.

Mr. Speaker, to bring to everyone's attention the vast scope of responsibility, both nationally and internationally, that she has executed with great sensitivity, perception and preeminence, I would like to reiterate at this point in our historic journal of Congress the purposes and programs charged to the Department of Commerce which she administered in addition to her singular role of advising the President on Federal policy and programs relating to the industrial and commercial segments of the national economy directly affecting the life and destiny of each and every citizen of our country. The Department's mandate most effectively carried out through her superb and exemplary leadership and administrative ability responding with a great sense of duty is expressed and dimensioned, as follows:

The Department of Commerce encourages, serves, and promotes the Nation's economic development and technological advancement. Within this framework and together with a policy of promoting the national interest through the encouragement of the competitive, free enterprise system, the Department provides a wide variety of programs. It offers assistance and information to domestic and international business; provides social and economic statistics and analyses for business and government planners; assists in the development and maintenance of the U.S. merchant marine; provides research for and promotes the increased use of science and technology in the development of the economy; provides assistance to speed the development of the economically underdeveloped areas of the Nation; seeks to improve understanding of the Earth's physical environment and oceanic life; promotes travel to the United States by residents of foreign countries; assists in the growth of minority businesses; and seeks to prevent the loss of life and property from fire.

Mr. Speaker, as chairman of the Subcommittee on Economic Development, I have had the great privilege and honor of working with Secretary Kreps and am deeply appreciative of her outstanding contribution to the deliberations of our committee in promulgating some of the most important economic development and recovery measures of our time.

As she takes leave of Washington and returns to her hometown, we send with her our deepest appreciation for all of her help as we reflect upon a record of achievement in the world of commerce that will serve as a lasting memorial to her splendid administration—an unforgettable place in the history of our country—and a legacy to our people and particularly the business community of our Nation and all nations throughout the world that has truly made a difference.

For a job well done, above and beyond the call of duty, we do indeed salute a most capable administrator, a distinguished citizen, an esteemed statesman, grand lady and great American—the Honorable Juanita M. Kreps.●

● Ms. MIKULSKI. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to Juanita Kreps, the first woman and first professional economist to serve as Secretary of Commerce. She is returning to the world of academia after 3 years of dedicated service in our Government.

Juanita Kreps was nominated to be Secretary of Commerce by President Carter in December of 1976 and was sworn into office in January of 1977. In the 3 years she has been in office she has proven herself to be a dynamic and dedicated woman and has a long list of accomplishments to her credit. She proved she had the ability and the intelligence to do the job and has rated the highest praise from her fellow workers.

Among her many accomplishments as Secretary of Commerce, she played a major role in concluding a trade agreement with the Peoples Republic of China that opens new commercial opportunities for Americans. Ms. Kreps was also instrumental in bringing about the national export policy—NEXPO—making export expansion a high national priority. Under Ms. Kreps, the Commerce Department established the first policy initiative by any administration encouraging economic development of the fishing industry in the United States. This policy provides an environment which will stimulate economic growth of U.S. fisheries and expansion of foreign and domestic markets.

Juanita Kreps must be commended for the excellent work she has done in her 3 years as Secretary of Commerce. She has also been a warm and caring friend and those of us who knew her well will miss her greatly. We wish her the best and are truly sad to see her go.●

● Mr. CARTER. Mr. Speaker, I am pleased to join in saluting Secretary of Commerce Juanita Kreps for her superb service since being sworn into office in January 1977.

Secretary Kreps was born in Harlan County, Ky., in the district I represent. She received her undergraduate education at Berea College in Madison County, which also is in my district, and she remains a trustee for that unique and highly acclaimed school. I would like to believe that her Kentucky beginnings have in part helped Secretary Kreps to achieve all that she has in private life and to accomplish all that she has as Commerce Secretary in the past 34 months.

Secretary Kreps put to good use her impressive academic and working knowledge of business affairs as head of Commerce. She is to be commended in particular for her focus on increasing export markets for this country's goods and for her successful negotiation of our new trade agreement with the People's Republic of China.

I want to wish Mrs. Kreps well as she returns to private life and to thank her for a job well done.●

● Mr. BROYHILL. Mr. Speaker, today is the final day of service for Dr. Juanita Kreps as the Secretary of the Department of Commerce. Dr. Kreps' return to North Carolina is our State's gain; however, it represents a loss for the Federal Government.

Dr. Kreps has served as the first female Secretary of Commerce with unusual distinction. She brought a considerable degree of experience to this position. In fact, history will record her as the first economist to ever serve in the position of Secretary of this important Federal Department.

The Secretary of Commerce was called upon many times to represent the United States abroad, and Dr. Kreps performed magnificently in this role. She always knew exactly what she was talking about, and she represented the administration and the country well. Her ability to negotiate was tested, especially in the Chinese trade negotiations, and she always did well, both with foreign and U.S. leaders.

Duke University and the State of North Carolina both look forward to the return of Dr. Kreps to her home. It is certain that she will make use of the experiences she has enjoyed during the past 3 years in Washington as an integral part of the administration. She certainly ranks as one of the President's best appointees, and I join her many friends in wishing much happiness for her and her family as she returns to the Tar Heel State.●

● Mr. PEPPER. Mr. Speaker, Secretary of Commerce Juanita Kreps' resignation from President Carter's Cabinet becomes effective today, leaving the Federal Government poorer for her loss. The success she has enjoyed through her endeavours in education, business, and Government stand as a testament to the unique talents Mrs. Kreps possesses.

As Secretary of Commerce, Juanita Kreps has established a record of accomplishments that will be a challenge to her successors. During her tenure, the Commerce Department vigorously promoted foreign trade agreements which will strongly benefit our Nation. I believe that the policies Mrs. Kreps has pursued contributed to our prosperity and tended to strengthen our economy. Whatever the issue, whether it be assisting minority businesses, encouraging the economic development of the U.S. fishing industry, or promoting tourism, Secretary Kreps always kept the best interests of the United States and the American people at heart. I greatly appreciated her efforts.

While Mrs. Kreps was Secretary, the Department of Commerce enforced the anti-boycott law signed by President Carter in 1977, a policy which has helped secure major concessions from countries that attempt to pressure American companies into engaging in boycott behaviour. The efforts to improve the competitiveness of American textile and apparel manufacturers have enjoyed the strong support of Secretary Kreps, in recognition of the importance of protecting American jobs. A careful examination of the budget requests made by the EDA during Secretary Kreps' tenure clearly demonstrate the commitment she and the administration have given to the economic development needs of our country. It is this kind of enlightened leadership which we need.

I have always found it a pleasure to work with Secretary Kreps and I regret to see such a dedicated public servant leaving the Cabinet. I believe that Mrs. Kreps has many more contributions to make to the American people, and wish her much success in the many years ahead.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, it is indeed a privilege for me to join in paying tribute to the Honorable Juanita M. Kreps, on the day she steps down as the first woman and the first economist to serve as Secretary of the U.S. Department of Commerce. I will certainly echo the many fine things that have been said. My colleagues from North Carolina should be proud of her record of service.

I would like to personally commend her distinguished and effective service as Secretary of Commerce, and wish her future happiness upon her return home, as she resumes her teaching career at Duke University.

Many distinguished citizens have already remarked about her favorably appraised tenure in the President's Cabinet. As the only woman to ever hold the Commerce position, Secretary Kreps was victorious. She proved that she had the ability to do an outstanding job. All who dealt with her in her capacity as Secretary of Commerce were impressed by her obvious competence and dedication.

As ranking minority member of the Economic Development Subcommittee of the Public Works Committee, I had a vital interest in the Commerce Department, since principal economic development programs are housed in the Economic Development Administration of the Commerce Department. Early in her tenure, I was pleased to verify that Secretary Kreps did, in fact, consider economic development to be one of the most important functions of the Department of Commerce.

She recognized the Economic Development Administration's important role through its work in local public works projects and also for its long-range mission of formulating the economic development program for the Nation as a whole.

In addition, I labored closely with her as a sponsor of the 1977 Public Works Act under which more than 8,500 projects totaling $4 billion were approved for State and local governments in a period of 72 days. All involved in this effort were impressed by her ability to effectively address basic economic problems in rural and urban areas.

Currently, Secretary Kreps' commitment to the economic development needs of this country can be seen in the increased level of program activity being requested for EDA.

The Secretary also administered the community emergency drought relief program to provide grants and loans to communities for emergency water system improvements necessitated by the 1976–77 drought. Under this effort 250 projects worth over $175 million were approved in less than 4 months.

Her economic background has been especially helpful, given the Department of Commerce's responsibility for collecting and analyzing basic economic and social data and given its responsibility for facilitating business activity at home and abroad. Secretary Kreps believed that a primary function of the Department was to be a major participant in the economic policymaking process—analyst of our economic problems and the evaluator of economic development.

As an economist, she succeeded in bringing her experience and training to bear on the problems before us and by working with Congress to develop some new approaches to the basic challenges facing the Department of Commerce.

Her accomplishments in the trade areas are outstanding. She negotiated a trade agreement with China and made six other major agreements in foreign trade. Specifically, her trade agreement with China has been heralded as opening new commercial opportunities for all Americans. As Secretary, she traveled extensively throughout the Soviet Union, Eastern Europe, North Africa, Japan, and over the world seeking out new trade agreements. She deserves much credit for her strong actions to promote U.S. exports to respond to our mounting trade deficit.

Furthermore, she has actually led the crusade within the present administration to increase Government support for U.S. exports and has recently expressed her concern that the Foreign Corrupt Practices Act and other Government regulations were harming American sales abroad.

The Secretary strove to develop expert administration legislation that satisfies two conflicting interests—those who want to limit high technology exports for national security reasons and those who wish to liberalize regulations and expand high technology exports. Under her leadership, export expansion has become a high national priority and progress has been made in several areas.

Juanita Kreps has fulfilled her goal as Secretary of Commerce in that she has sought to support and promote improvements in the quality of life for all citizens through balanced economic growth and as an advocate of an efficiently operating free market system. She labored tirelessly toward the maintenance of a competitive, sound and innovative marketplace, both domestically and internationally as an essential objective. Her accomplishments have contributed to our national security and a more stable economic system by providing job opportunities and offering incentives for the more equitable and efficient production and distribution of goods and services.

Secretary Kreps should rightfully recall her years of public service in Washington with a great deal of pride.●

● Mr. O'NEILL. Mr. Speaker, I commend the distinguished gentleman from North Carolina (Mr. ANDREWS) for reserving this Special Order and am delighted to join my colleagues in paying tribute to the Honorable Juanita Krebs, on the day that she steps down as Secretary of Commerce.

The first woman and first economist to serve as Secretary of the U.S. Department of Commerce, Juanita Krebs is one of the most remarkable individuals to serve in a President's Cabinet. An educator, author, and administrator, Juanita Krebs had already distinguished herself in the private and public sectors before she became Secretary of Commerce. Throughout her life she had performed each succeeding task with the full measure of human energy, enthusiasm and dignity; and she brought these admirable qualities to her new position in the Carter administration.

I can remember the first time I met Secretary Krebs, soon after she had joined the President's Cabinet. I thought, "The President has made a wise choice here," for Juanita Krebs makes a favorable and lasting impression on everyone who meets her.

Then I really got to know her, and I can truthfully say that she inspired confidence in all of us who had the privilege to work closely with her in the last 3 years. Juanita Krebs is competent and enthusiastic about her responsibilities. Dedicated, she possesses a strong sense of duty; quiet, and low keyed, Juanita Krebs is unpretentious; above all, Secretary Krebs is a real lady in the finest way. Yet beneath that genteel and soft-spoken exterior, Juanita Krebs is a tough negotiator and a shrewd politician.

To chronicle all her achievements during her tenure as Secretary of Commerce would not alone earn the merits she deserves. Her capable efficiency and influence have demonstrated real leadership in the field of international trade. Secretary Krebs worked closely with American business men and women, encouraging them to become more aware and knowledgeable of overseas markets. Her efforts in the promotion of exports in general will be felt in business circles for many years to come. The dialog which she developed with American business people overseas has inspired renewed confidence and cooperation between American business enterprises and the U.S. Government.

Secretary Kreps played a positive and significant role in the development of United States-China relations and earned the respect and admiration of the

Chinese and American negotiators with whom she worked to produce a substantial trade agreement between the United States and the People's Republic. This trade agreement will open up new commercial opportunities for Americans, and at the same time, safeguard against market disruptions to our domestic economy.

In addition to the trade agreement with China which will result in a tripling of American exports to the PRC in the next 5 years, Secretary Kreps negotiated six other major agreements in foreign trade. She met world leaders in Moscow, Peking, and New Dehli. Under her leadership and guidance the Carter administration established the Joint United States-Japan Trade Committee which has already corrected some of the trade imbalances which the United States has had with Japan, and she has been an articulate spokeswoman chairing the President's National Export Policy Task Force which has made export expansion a high national priority.

We, in the New England region, are particularly grateful of her support of American textile and apparel manufacture and for her efforts to improve the competitiveness of this American industry.

As an administrator of a large Federal agency, Secretary Kreps receives high marks of excellence. She has controlled billions of dollars, successfully managed nearly 50,000 employees and 13 divisions with highly diverse functions, and absorbed new duties for her agency with the same sense of responsibility and quiet dignity that marked her meetings with Premier Brezhnev in Moscow, her trade negotiations in Peking and her meetings of the Export Policy Council.

Secretary Kreps can leave Washington with a sense of pride and the knowledge of a job well done. She had much to offer, she gave totally of herself and her talents, and the results of all her endeavors in the last 3 years have been good for American business, for international trade and commerce and for the Nation at large.

To all of us who know and love Juanita Kreps, we understand her reasons for leaving Washington service at this time, and we wish her and her family well. We also wish Juanita every success in her next endeavor, and we look forward to seeing her back in future Government service.

Juanita Kreps is a dear and beautiful person. I want her to know that as long as I am Speaker, my door is always open. May God bless her and her family.●

● Mr. VANIK. Mr. Speaker, I want to take this opportunity to pay tribute to Juanita Kreps, Secretary of Commerce, who regretably will be leaving office this week to return to the private life which she has so unselfishly sacrificed in her 3 years of dedicated service in President Carter's administration.

As the first lady and first economist to serve as Secretary of Commerce, Dr. Kreps left very favorable impressions on the American business community particularly with respect to the Commerce Department's role in the multilateral trade negotiations, negotiations of a bilateral trade agreement with the People's Republic of China, and most recently with the strengthening of the agency in President Carter's proposed executive branch trade functions reorganization.

In addition to the important staff work on the multilateral trade negotiations provided by Secretary Kreps' trade policy group, she personally played a leading role in the operation of the industry advisory committees, established by the Congress in the Trade Act of 1974, which provided invaluable private sector input into the negotiating process. Without question, the success of this effort, for which Mrs. Kreps deserves full credit, in large part made it possible for the Congress to accept the MTN agreements and implement them in the Trade Agreements Act of 1979.

Secretary Kreps has vigorously led the effort to make the Department of Commerce a more important and effective agency in the trade area and has succeeded in this regard by having the important antidumping and countervailing duty functions transferred from the Treasury Department to Commerce. These tools of U.S. trade policy are basic elements of the Trade Subcommittee's jurisdiction, and it is my expectation that the Commerce Department will administer its new statutory responsibilities in a most efficient and effective manner.

Mrs. Kreps must also be credited for expanding the role of her agency in the fields of export trade promotion and the vast expansion of the Department's overseas representation of the business community. These are other important elements of the President's trade reorganization proposal.

Finally, Secretary Kreps should be given special recognition for the leadership role she played in concluding a bilateral trade agreement with the People's Republic of China. This agreement, on which the Subcommittee on Trade will hold its initial hearings tomorrow, promises important future benefits for American traders.

Dr. Juanita Kreps' accomplishments as Secretary of Commerce are impressive, and her confident and efficient administration of the Commerce Department will be missed.●

● Mr. RAHALL. Mr. Speaker, today, the Honorable Juanita M. Kreps, the first woman and the first economist to serve as Secretary of Commerce steps down from that post.

I would like to take this opportunity, Mr. Speaker, to join with my colleagues who are honoring Mrs. Kreps for the 3 years of excellent service she has given this country.

As the only woman ever to hold the Commerce position, Mrs. Kreps passed the tests that count for either sex. She proved she had the ability to do the job. She got results at home and abroad that were good for Commerce and good for the country.

It is no surprise that the Raleigh, N.C., News and Observer, made this comment concerning Mrs. Kreps, because North Carolina residents, especially those who have been associated with Duke University, have long known the qualities that Juanita Kreps possesses.

In 1955, Mrs. Kreps joined the Duke faculty, and when her service there ended in 1977, she was the academic vice president.

In 1967, I entered Duke University, and during 4 years there I too learned to respect the work of Mrs. Kreps. Her service at Duke received the same acclaim that she is now receiving regarding her work at the Commerce Department.

She was impressive in framing the trade agreement with China, and was effective in her dealings with the Soviet Union. She was indeed a competent and forceful negotiator.

As a Duke alumnus, I am proud to share an association with Mrs. Kreps, and as a Member of Congress, I want to commend her for the work she has done for the United States. I wish her and her family the very best in the future.●

● Mr. BINGHAM. Mr. Speaker, the return of Juanita Kreps to private life is a serious loss to the Federal Government, to the business community, and to the American public, and I am pleased to join with my colleagues in paying tribute to her.

As chairman of the Subcommittee on International Economic Policy and Trade, which handles the Export Administration Act, I have worked closely with Secretary Kreps and her key assistants in the Commerce Department. The Export Administration Act is one of the key pieces of legislation implemented by the Commerce Department. It is a complex statute which attempts to balance the need to protect our national military security with the need to maintain a strong economy through exports and a strong competitive position in international markets. Its effective implementation is no small feat.

Fundamental improvements in the Commerce Department's administration of the export control program were formulated under Mrs. Kreps' guidance as Secretary of Commerce. She fought hard and effectively for exports and against arbitrary and excessive controls. She was, for example, the major voice against expanding export controls to encompass oil drilling technology, insisting that the President not make a decision on the now-famous Dresser case until all procedures required by the Export Administration Act had been fulfilled and she had made a decision for the President's review. Her view prevailed in that case, which I believe is to her credit and is but one example of her effectiveness.

Mrs. Kreps has presided over the Commerce Department at a particularly trying time. The deficit in our national balance of trade has been unprecedented, making her a frequent bearer of bad tidings to the President and to the public. That very little has been done to redress that deficit must be blamed upon Federal departments and officials other than the Commerce Department, and upon the Congress. For her part, Mrs. Kreps, with the committed support of former Assistant Secretary of Commerce Frank Weil, formulated and fought for a comprehensive set of initiatives to put our balance of trade back in order. Unfortunately,

only a portion of those recommendations were endorsed by the President, and few have been enacted by the Congress or otherwise implemented. With our trade deficit continuing to worsen, we may yet come to appreciate her recommendations.

Mrs. Kreps' most visible accomplishment, of course, was her role in the normalization of our economic relations with China. For that she is particularly to be commended. With the United States-China trade agreement now pending before the Congress, perhaps the greatest tribute we could pay to her would be to approve most-favored-nation trade status for China, thereby bringing her work to fruition and giving effect to the trade agreement which she negotiated and signed on behalf of the United States. Hopefully the Congress will do that in the near future.

I have refrained, Mr. Speaker, from mentioning that Mrs. Kreps is the first Secretary of Commerce in our history who happens to be a woman. About that, I would only say that I hope and trust that the excellence of her service as Secretary of Commerce will bring us all the more quickly to the time when women in any and every high political office will be so commonplace as to be unworthy of note.

I wish Mrs. Kreps well in private life, and hope that she will continue to participate from time to time in Government affairs and public issues so that we may continue to benefit from her thoughtfulness and leadership.●

● Mr. FOUNTAIN. Mr. Speaker, it was with great regret that I learned of the resignation of Juanita M. Kreps as Secretary of Commerce. Her dedication and contributions to this country in her nearly 3 years in that position followed in the tradition of another North Carolinian, Luther Hodges, Sr., who served as Secretary of Commerce under the Kennedy administration, and incidentally, whose son, Luther Hodges, Jr., is now Under Secretary of Commerce, and doing, I am told, a great job.

While we hate to see Mrs. Kreps leave the Department, I know that I speak for all North Carolinians in welcoming her back to Duke University, which is in close proximity to the University of North Carolina at Chapel Hill, which has a constituency I am honored to represent here in the Congress.

Before her nomination to this position by President Carter, Juanita Kreps was vice president of Duke University in Durham, N.C., where she earned her Ph. D. in economics. Prior to becoming vice president, she served as dean of the Women's College and Assistant Provost for 3 years and as a James B. Duke Professor of Economics. She authored two books, "Sex in the Marketplace: American Women at Work" and "Lifetime Allocation of Work and Income," and coauthored numerous books and articles in the field of economics as well. She served on the boards of directors for the New York Stock Exchange, Inc.; R. J. Reynolds Industries; J. C. Penney Co.; Eastman Kodak Co.; North Carolina National Bank; Teachers Insurance and Annuity Association; College Retirement Equities Fund; Western Electric; and North Carolina Blue Cross-Blue Shield. She also served on numerous State and Federal advisory committees, councils and commissions in areas ranging from economic opportunity and manpower policy to aging and social security.

She is therefore eminently qualified for the cabinet position she is giving up, which is another reason we hate to see her depart. As Secretary of Commerce, her accomplishments have been many. I would like to focus on just two of those—her dedication and success in enhancing this Nation's trading posture and her impressive record in working with the textile industry.

Last fall, in response to recommendations made by Secretary Kreps, President Carter announced a national export policy, the first Presidential commitment to a coordinated series of actions designed to correct the deficit by increasing sales of American goods abroad. As a result, Eximbank programs are more accessible to smaller exporters, Congress has received a recommendation for another major increase in the Bank's loan authorization, and the Department of Commerce has begun work on a computerized information system which will provide U.S. exporters with prompt access to information concerning international marketing opportunities and will expose American products to foreign buyers.

In addition, disincentives to exporting are under review; regulatory agencies are considering the trade impact of new regulations; the Justice Department is giving expedited treatment to export-related requests, particularly in the antitrust area; a business guide for compliance with the Foreign Corrupt Practices Act is being developed; and the day-to-day export licensing decision process is being improved.

Last spring Secretary Kreps inaugurated a new era of trade with China. After a hiatus of 30 years the United States and the People's Republic of China took the first official step toward becoming trading partners again when she initiated the treaty with her Chinese counterpart during her visit to China. During the same visit Secretary Kreps signed two agreements calling for the exchange of scientific and technological information, the landmark agreement establishing collaborative efforts in atmospheric science and technology as well as an historic agreement which will bring close collaboration between oceanographers and fishery scientists of the United States and China for the first time. Earlier this month the Commerce Department announced one of the specific results of the commercial exhibitions agreement she reached with the Chinese in May: The United States will sponsor a national exhibition in Beijing—Peking—which will include exhibits from five industrial sectors—agricultural machinery and farm equipment, power generation and distribution equipment, textile machinery and equipment for production of consumer goods, petroleum exploration and extraction equipment, and transportation equipment.

I have been particularly impressed with her dedication to a responsible Federal textile and apparel policy. The U.S. textile and apparel industry, with 29,000 plants in the country, employs 2.3 million workers, 1 of every 8 American workers in manufacturing. To prevent low-cost foreign imports from disrupting the American market, the United States has 19 bilateral agreements with foreign producers.

Secretary Kreps and her staff played a major role in the renegotiation of 17 expiring agreements covering textiles and apparel during 1978. Under her leadership, we can see the results of the promise, in March of 1979, in the White House white paper concerning the textile industry, of continuing vigorous enforcement of this program in sensitive categories.

In addition, Secretary Kreps' Commerce Department has developed a textile import monitoring system (TIMS) to provide the textile program better and faster access to information on the fiber textile and apparel industry and improve the Department's analytical capability. By automating key reports necessary to implement the restraint program, the Department's commitment to a responsible and effective program can now be more fully realized.

Just as importantly, Secretary Kreps has recognized the significant export potential of the textile and apparel industry. She has initiated an export expansion program, developed by her Department jointly with the industry, which includes surveys to identify overseas market opportunities, regional seminars, overseas trade shows, domestic exhibits, overseas trade missions, and a study to determine the feasibility of establishing export trading companies for textiles and apparel.

On October 19, a first of a kind agreement with the U.S. Apparel Council was signed whereby the council, with $150,000 in funding from the Commerce Department, will provide an export liaison service to foster awareness of market opportunities abroad and to form a unified export strategy for this diversified industry.

I am particularly pleased to note that the second export conference sponsored by the Department will be held in my home State of North Carolina. Cosponsored by the American Textile Manufacturers Institute, the International Trade Center/North Carolina, the National Association of Hosiery Manufacturers, the American Yarn Spinners Association, and the Textile Manufacturers Association in North Carolina, Alabama, Georgia, and South Carolina, this forum will provide a vital service to the apparel industries in these States.

As a member of the House Foreign Affairs Committee which has jurisdiction over the export promotion programs of the Department of Commerce, I applaud her dedication and commitment to all of these efforts which will surely enhance this Nation's trade position.

I would also like to make brief mention of two other programs under her jurisdiction at the Commerce Department—the coastal zone management program of NOAA and the local public works pro-

gram of EDA. During Secretary Kreps' tenure, the Department approved North Carolina's coastal zone management program and has provided substantial assistance to our State in the area of fisheries development. These actions are particularly noteworthy given the important contribution the State's coastal resources have for the economic well-being of North Carolina.

Also under the Secretary's tenure, the Department successfully implemented round II of the local public works program which was proposed by President Carter in January 1977, as part of the administration's 2-year economci stimulus package. Under Secretary Kreps' leadership, the Department approved more than 8,500 projects totalling $4 billion for State and local governments in a period of 72 days. In the State of North Carolina, 110 projects were approved totaling $45,454,000. Disbursements under this program already exceed $3.4 billion and by the end of fiscal year 1980, the Economic Development Administration anticipates that 95 percent of the program will be completed. Secretary Kreps certainly deserves our appreciation for successfully carrying out this program.

I was happy to be present when, just a few weeks after taking office, Secretary Kreps made her first appearance before the House Foreign Affairs Committee, and calmly and confidently responded to questions which one who had been in office for such a short time would not be reasonably expected to answer. Secretary Kreps was the first woman and the first economist to serve as Secretary of Commerce. She will be remembered for both. But more importantly, she will be remembered for having made a first-rate contribution to the Carter administration and to the American people during her service as Secretary. We in North Carolina are proud of this fact.●

● Ms. FERRARO. Mr. Speaker, it is with respect and admiration that I join my colleagues in paying tribute to Juanita M. Kreps as she steps down as Secretary of Commerce. Mrs. Kreps' service to the Carter administration and the Nation will long be remembered, and it was an honor for me to have the privilege of working with her during the past 10 months.

Secretary Kreps is the personification of the vitality and dedication that we should seek to fill the top ranks of Government. Under her stewardship, the Commerce Department broadened U.S. trade relations and strengthened American industry throughout the globe. Her integrity and wisdom are qualities valued by this administration, and by all Americans.

As a woman, Juanita Kreps epitomizes the strength and capabilities of the women in this country who are ready to move into the top ranks of Government and business. As a member of the administration, she has shown a continued commitment and loyalty to the people of this country. To the Department, she brought skill and expertise and used these talents to guide U.S. trade and promote international exports, so important to our economy. Certainly, she will take these skills to any project she may pursue in the future and they will benefit from them.

Perhaps most important is the enthusiasm Mrs. Kreps has brought to her work and to the Federal Government. It is this enthusiasm for the tasks which lay ahead of her which will continue to make those of us who have been fortunate enough to work with her here, in Washington, proud to have known her.

Certainly, we should all be proud of the accomplishments of Juanita Kreps, for those accomplishments have reinforced the effectiveness of our system of government.

I am sure that the students, faculty and administration of Duke University will be delighted by the return of Mrs. Kreps to that institution. Her range of experience, from foreign trade relations to domestic politics will enhance her already keen academic skills.

I would like to use this forum to publicly wish Juanita Kreps the best of luck in her future endeavors and to thank her for serving her country as she has.●

Mr. PREYER. Mr. Speaker, I am very pleased that special recognition is being given to the Secretary of Commerce, Juanita Kreps. Those of us who know her well are gratified that her professional skills and personal grace, so well known to us in North Carolina, have received the wider public attention which they deserve.

Dr. Kreps will be remembered as one of the most able Commerce Secretaries in the history of the United States. When President Carter said he wanted to bring competent people into Government, he was surely speaking about Juanita Kreps.

She has carved new frontiers in foreign trade, capped by the historic agreement which she signed in the People's Republic of China. Until she came to the Commerce Department, trade with foreign nations was reserved for only the largest U.S. companies. Her efforts have made foreign trade important to all of us and available to companies of any size.

However, to speak of Juanita Kreps merely in terms of her tangible accomplishments is shortsighted. She radiates charm and warmth, and has a unique ability to turn a stranger into a friend. There really is not much more one can say about a person. Her personal popularity, both at home and abroad, is very much intertwined with her success as a negotiator and administrator. She demonstrated that you can administer a large agency, get results at home and abroad and do it without raising your voice. She showed you can be highly efficient while remaining a thoroughly civilized being.

Simply said, I prefer to think of Juanita Kreps as a unique blend of competence and grace. The President, the Congress, and the business community have lost a Secretary in whom they could trust. But, unlike titles, friendship, and dignity are not transient in nature. Juanita Kreps will always be our friend.

The good news is, she is returning to North Carolina. From this superb vantage point she will continue to serve our Nation.

□ 1830

CONGRESSIONAL PAY REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, the question of congressional pay reform has been a particularly hot issue during the last few weeks. It has not only stimulated controversy among Members, but it has also created a bad image of Congress in the eyes of the American public. Vast criticism has been heeped upon Congress for the chaotic and complicated way that that body handles the issue of salary adjustments.

Therefore, to help simplify and clarify the whole question of congressional wage adjustments, I recently introduced legislation entitled "the Congressional Pay Reform Act of 1979."

This bill includes three major components:

First. It defers congressional pay adjustments until the beginning of the next Congress;

Second. It requires a recorded vote in each House for annual congressional pay adjustments; and

Third. It provides that congressional pay questions be considered independently of other appropriations bills.

The Congressional Pay Reform Act of 1979 would not only prevent Members from voting for a pay increase for themselves while they are still on the public payroll, but it would also require each Member to take a public stand on salary issues. At the very least, we owe this to our constituents.

In addition, the bill would free the question of salary adjustments from the entanglement of other appropriations bills and would preclude Federal agency appropriations from being held hostage to congressional pay increases. Moreover, automatic cost-of-living increases would not accrue to Members, and future increases for Federal judges and top level executive branch Government officials would not be tied to congressional wage increases.

The issue of congressional pay reform has been a source of debate and controversy for many years. The time has now come for Congress to act to end this institutional embarrassment. The Congressional Pay Reform Act of 1979 would not only provide us with a simple, yet effective, way to accomplish that objective, but it would also assist us in preventing the interruption of the normal operation of the Federal Government.●

LEGISLATION TO CORRECT LAW WITH REGARD TO VETERANS' BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 5 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, today I am introducing legislation for myelf and the gentleman from Virginia (Mr. BUTLER) which will correct what is an anomaly under current law with regard to veterans benefits.

There is no question that a stigma has hung over the heads of veterans who received bad paper discharges. Currently, a mechanism exists which allows a veteran with a less than honorable discharge to take his case before the Board for Correction of Military Records for review. In many cases, the Board finds that errors were made and discharges are corrected or modified. These modifications are often made after a long period of time has elapsed.

Because the delimiting period which exists for veterans' educational benefits begins on the original date of discharge, many of these veterans, who benefit from the upgraded discharge, are denied the opportunity to utilize this important readjustment benefit. So, in effect, even though an error by the military has been corrected, some veterans are denied their entitlement because of the period of time which has elapsed.

Section 1662(b), title 38, United States Code, states in effect that any veteran who has had his discharge reviewed and upgraded, subsequent to that review, will be eligible to receive GI bill education benefits with the 10-year delimiting date becoming effective on the date of the upgrade. The section pertains, however, only to veterans who served on active duty from February 1, 1955. Stated simply, this legislation will provide an equal opportunity to veterans who served prior to February 1, 1955. It grants them a way to use their educational benefits to erase problems which they have faced because of the bad paper discharges by utilizing educational benefits.●

PASQUALE M. DE MARCO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise today to pay tribute to the late Dr. Pasquale M. De Marco, the dedicated and humanitarian civic leader in our Chicago community who founded Chicago's Northwest Hospital and was its executive director.

Dr. De Marco's death on October 20 is a tremendous loss to the people of the Northwest Side of Chicago in the 11th Congressional District I am honored to represent, for he had dedicated his entire life to the well-being of others.

Dr. Pat, as he was affectionately called by thousands, was a compassionate, understanding, loving human being. He will be sorely missed by many thousands of people, but especially by me because he was my friend for over 25 years and I had the privilege of watching him grow in wisdom, charity, and effectiveness year by year over that quarter century.

Dr. Pat radiated love of his fellow man, and there are countless numbers of people whom be befriended. He was known to give generously of his own resources to hospital patients who could not afford to pay themselves.

Dr. De Marco's record of integrity, his humanitarian achievements, and his ready smile made him a respected leader in the day-to-day activities of the hospital, and the doctors, the nurses, and the employees on the hospital staff all admired this remarkable man.

A native of Brooklyn, N.Y., Pat De Marco attended Long Island University where he received his bachelor of science degree in 1940. Subsequently, he moved to Chicago where he attended the Chicago Medical School. Truly an American success story, he worked hard to achieve the honored title of doctor of medicine, and worked equally hard to found and build a much needed humanitarian institution in service to the people of Chicago. It was his vision and his love of people that were responsible for this great edifice he so tirelessly worked to create over the years.

Dr. De Marco started Northwest Hospital with the purchase in 1955 of a tiny 33-bed facility. In the years since that time, he worked ceaselessly to expand the services and capabilities of the not-for-profit hospital, and he saw it grow to the great 350-bed institution Chicagoans now treasure at Addison and Central Avenue.

Only a year ago, Dr. De Marco was instrumental in securing approval to add 166 medicel and surgical beds in a new 7-story building also housing a new surgical unit and expanded auxiliary facilities. Truly, Northwest Hospital is a living monument to the betterment of life, and to the ability, the talent and hard work of Dr. De Marco.

In addition to all of his work at the hospital, Pat De Marco found time to participate in many other civic endeavors. He was a lifetime member of the Joint Civic Committee of Italian Americans, a recipient of the Israel Bond 1971 David Ben-Gurion "Man of the Year Award," a member of the board of directors of the First National Bank of Lincolnwood, a member of the Lay Advisory Board of the Villa Scalabrini Home for the Aged, and a past chairman of the Columbus Day Parade.

The numbers of Pat De Marco's friends are legendary, for he was loved by everyone who came in contact with him because of his very warm personality and warm heart. His passing is a great loss to his thousands of friends, and he will always be remembered, not only as a true friend, but as a great builder, a lover of people, and a servant of his fellow man.

My wife, Angeline, joins me in extending our deepest sympathy to his devoted wife, Helen, to his two lovely daughters, Antonia and Maria, his brother, Frank, and their families. Pat's life was a splendid and inspiring example to all of us and will continue to inspire all of us.●

ACID RAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

● Mr. LAFALCE. Mr. Speaker, today I am introducing a major environmental bill which would help alleviate the problems caused by acid precipitation in this country. Many of my colleagues may already be aware of the potentially debilitating effects of acid precipitation. Many lakes and streams are now sterile, unable to support aquatic life other than moss and algae. Many forests and buildings can also be damaged by acid precipitation. And we can speculate as to the adverse health effects of this environmental phenomenon.

The increase in the frequency and severity of acid precipitation is thought to be caused by a number of different factors. One suspected reason is any increase in the atmosphere in the amounts of sulfur, nitrogen, and chlorine compounds. In addition, ironically, recent advances in air pollution control may have unintentionally intensified the problem because devices which remove particulates from factory smokestacks tend to make the remaining exhaust more acidic than it would otherwise be, and the higher smokestacks intended to disperse the pollutants more widely have the secondary effect of enabling the acidic particulates to travel farther.

Because air currents do not confine their paths to geographic boundaries, the acid rain effects of these increased concentrations are often felt long distances from the activities which cause the higher levels. Thus, the acid precipitation problem is not a problem of individual States, nor, in fact, solely of this country. The problems associated with acid rain were a topic of major concern at the United States-Canadian Inter-Parliamentary Conference I attended in August because both countries are contributing to each others problems in this respect.

Europe has long had an extensive air monitoring program which has allowed them to collect the necessary data to identify and analyze the problems involved. It is time for the United States to formulate a comprehensive plan and policy to deal with this problem, and coordinate public and private sector programs to ameliorate the problem. In addition, we must also work with our neighboring countries to assure an adequate understanding and solution to the problem.

The bill which I am introducing acknowledges our lack of knowledge and seeks to extend our understanding of the problem by increasing the scope and intensity of research on its causes and cures. This bill has also been introduced in the Senate by Senator DANIEL P. MOYNIHAN.

The bill I am introducing will provide the following:

First, it creates an Acid Precipitation Task Force composed of eight members from a variety of governmental agencies, which will be responsible for the development and implementation of a comprehensive plan for a 10-year effort to ameliorate the effects of acid rain. The plan will emphasize research in the initial years and implementation programs designed to mitigate the effects of acid

rains in the later years. This effort will include:

Coordinating all Federal programs that deal with acid rain and coordinating with international efforts;

Establishing research and demonstration programs aimed at understanding the causes and effects of acid rain, and

Provisions for the allocation of authorized funds for the establishment of State programs and local efforts such as: capital expenditures for emission controls; programs designed to restore areas affected by acid rains and community extension programs designed to involve local groups in the overall program.

Second, it would authorize $152 million over an 11-year period intended as an addition to those funds currently being spent throughout the Federal Government on acid rain programs. This authorization represents an increase of 150 percent over current annual funding levels. Of this amount $15 million is targeted for State programs and $50 million for university and other research and demonstration centers.

Third, it would include provisions for an annual report to Congress which documents the progress made to date on meeting the goals of this act. This report will also summarize expenditure rates and the need for additional funding. The comprehensive plan is to be modified on the basis of this evaluation.

At the end of the 11-year period the task force is expected to disband unless Congress determines that a need to continue the effort is warranted. If this is true, then new legislation would be required. Thus the bill does not set up a bureaucracy which will continue in perpetuity.

Mr. Speaker, over 300 lakes in my State are now sterile due to the effects of acid rain. However, New York is not unique in suffering the consequences of this environmental phenomenon. My colleagues, Mr. VENTO and Mr. OBERSTAR of Minnesota, are introducing this bill with me today because the great State of Minnesota is also suffering similar effects from acid rain.

As I stated earlier, acid precipitation knows no geographical boundaries—not local, State, national or international. I await my colleagues comments and support for this measure, for the problems it is intended to solve affect us all.●

WOMEN UNDER SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 10 minutes.

Ms. FERRARO. Mr. Speaker, Thursday and Friday, the Subcommittee on Social Security of the Ways and Means Committee will be holding hearings on the treatment of women under social security. As a member of the Aging Committee's Task Force on Women and Social Security, I appreciate the attention that the Ways and Means Committee is giving this pressing matter.

It is indeed unfortunate that social security is based on an outdated notion of the traditional American family and their work patterns. In fact, in light of the economic hardships and inequities that the current system places on millions of American women, it is more than unfortunate—it is a travesty.

The social security system was born in an era when men went into the work force as the sole breadwinner, and the wife remained at home to care for the house. That may have been the typical American family in 1939, but it is not today. Last year, nearly half of the married women in the country worked. Sixty-two percent of the women between the ages of 24 and 35 work outside of the home. And 70 percent of those women are married, live with their husbands, and have children under the age of 18. Most are working because in these inflationary times, one paycheck is no longer sufficient to meet the growing cost of living. Given the recent economic indicators, the economic pressures which are forcing women to leave the home and enter the workplace will not be abated in the foreseeable future.

Social security is undergoing its own mid-life crisis. It has not kept pace with the changing work patterns of Americans.

The time has come to restructure the social security system so that it responds to the needs and contributions of working women and assures them financial security in their retirement. The testimony received by our task force over the past 9 months has exposed a system replete with inequities and inadequacies.

First, many women shift from the wage earner to homemaker role in order to take the time necessary to raise their families. During the time they spend away from the workforce, they receive no benefits. That, in itself, is not inequitable. The inequity arises when they retire completely, and find that the computation of their benefits has included their nonearning years, and their benefits are sharply reduced. The system should be structured so that women who combine paid work and homemaker roles are not penalized.

The homemaker can find herself further penalized by the failure of the system to provide disability benefits if she becomes unable to continue performing her household tasks. Eligibility for disability benefits requires the covered worker to work 5 of the last 10 years. Many homemakers find that they are ineligible for disability, even though they have worked enough quarters to obtain retirement benefits.

Widows and divorced women also find that the system does not cover their needs, or reflect their contributions to the system. Prior to 1977, in order to receive dependents benefits, a divorced spouse must have been married to the beneficiary for 20 years. The Congress lowered that requirement to 10 years in the Social Security Amendments of 1977. Unfortunately, even with that change, divorced women still are not adequately covered by the system. Obviously, the women who was married for less than the required 10 years will receive absolutely no benefits. Furthermore, even if a divorcee were to qualify for her dependents benefits, she is only entitled to one-third of the couple's benefits. Many divorced women rely entirely on their social security benefits for their income and find that they are thrust into poverty because of the inadequacy of benefits paid to divorced spouses.

Widows are in similar straits. In order to receive benefits they must be either disabled, or age 60. As a result, many a widow faces the prospect of no immediate income if her husband happens to die before her 60th birthday. In light of the fact that older women are the fastest growing poverty segment in the United States, this is a tragedy. Forty percent of all older women live in poverty. Seven out of every ten social security recipients who are eligible for welfare happen to be women. The system, instead of providing security for these women, is accelerating their entry into poverty.

Perhaps the most glaring inconsistency and inequity in the list of discriminatory social security provisions is the difference between benefits paid to one- and two-earner couples. Under the system, a dependent spouse is given a benefit equal to 50 percent of the earner's benefit. Therefore, the one-earner couple receives benefits equal to 150 percent. On the other hand, there is the two-earner couple. Here, if they are a typical working American man and woman, she will earn approximately 60 percent of his income. The working wife may also—in fact she probably did—spend some time out of the work force raising her family. Therefore, it is more than likely that the two-earner couple will receive total benefits which are no higher than those of the couple where there is only one breadwinner.

The current situation is an untenable one. Motherhood seems to be grounds for penalizing women. Widows are forced into poverty as a result of inadequate benefits. Divorced wives find that they, too, are inadequately covered. Women who do leave the home to work find that their retirement income is not increased by their years in the work force.

Concern for these inequities is abundant. Possible solutions have been laid on the table year after year. Wilbur Cohen, who was among the original authors of the Social Security Act, testified before our task force that it was his opinion that no major restructuring should occur until we have secured the integrity of the trust funds. I, for one, am willing to take the trustees assurances that the trust funds are secure, and proceed with legislative relief addressing the inequities of social security.

The HEW Task Force on the Treatment of Women Under Social Security put forth two models for discussion—the two-tier approach and the earnings sharing concept. The two-tier model would provide a national minimum benefit regardless of contributions to the social security system. The second tier of this double-decker system would be an earnings-related benefit payable only to covered workers. The earnings sharing plan injects the community property concept into the social security system. Under this model, total earnings of the couple would be equally divided on an annual basis. Earnings sharing would give each partner in the marriage his or her own social security benefits.

Both of these models are useful springboards for a thorough debate of the treatment of women under social security. It is not necessary, at this time, to endorse one over the other. It is necessary for all of us to recognize the blatant shortcomings of the social security system and to address them with the expediency that they deserve.

The Task Force on Women and Social Security has laid the foundation and established the record necessary for the legislative writing committees—the House Ways and Means Committee and the Senate Finance Committee—to address the problems. I urge my colleagues on Ways and Means to recognize that each day we wait to correct the situation, we are economically victimizing American women and their families. The issue is an important and immediate one, and I call upon the House to help nurture the social security system through its mid-life crisis.

Thank you.

VOTE RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. SYNAR) is recognized for 5 minutes.

● Mr. SYNAR. Mr. Speaker, on Tuesday, October 30, 1979, I was absent from the House due to some longstanding commitments in Oklahoma. Had I been present, I would have cast my vote as follows:

Rollcall No. 612: To approve the Journal for Monday, October 29, "Yes."

Rollcall No. 614: Concur to Senate amendment 137 to H.R. 4389 Labor/HEW conference report, "Yes."

Rollcall No. 615: Passage of H.R. 5472, "Yes."

Rollcall No. 616: Rule for House Joint Resolution 341, Milwaukee Railroad, "Yes."

DR. FAYE EAGLES HONORED BY CHIROPRACTIC ASSOCIATION

(Mr. BROYHILL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BROYHILL. Mr. Speaker, Dr. Faye B. Eagles of Rocky Mount, N.C., has recently been named as the National Chiropractor of the Year by the American Chiropractic Association.

Dr. Eagles is a long-time personal friend of mine, and I am pleased that she has been honored by her colleagues in the chiropractic profession.

She exemplifies the spirit of volunteer service in her community, State, and Nation. Gov. James Holshouser selected her as the first woman to serve on the important Commission for Health Services in North Carolina several years ago. Another "first" to her credit was her election as the first woman to head the North Carolina Chiropractic Association.

In short, Dr. Eagles is a credit to her community, to her profession, and to our Nation. I congratulate her on all her accomplishments and I know that my colleagues join with me in wishing her success in the future in her many and varied endeavors.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. CHARLES H. WILSON of California (at the request of Mr. WRIGHT), for today, on account of official business.

To Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

To Mr. WILLIAMS of Ohio (at the request of Mr. RHODES), after 3:30 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) to revise and extend their remarks and include extraneous material:)

Mr. TAUKE, for 5 minutes, today.

Mr. HAMMERSCHMIDT, for 5 minutes, today.

Mr. SOLOMON, for 60 minutes, on November 1.

(The following Members (at the request of Mr. DONNELLY) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. LAFALCE, for 15 minutes, today.

Mr. VAN DEERLIN, for 5 minutes, today.

Ms. FERRARO, for 10 minutes, today.

Mr. REUSS, for 20 minutes, today.

Mr. SYNAR, for 5 minutes, today.

Mr. ALEXANDER, for 15 minutes, November 1, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ZEFERETTI, and to include extraneous matter.

Mr. BROYHILL, to revise and extend remarks during general debate on Energy Mobilization Board.

(The following Members (at the request of Mr. SENSENBRENNER), and to include extraneous matter:)

Mr. CONTE.
Mr. FINDLEY.
Mr. HOPKINS.
Mrs. HOLT.
Mr. DANIEL B. CRANE in two instances.
Mr. PAUL.
Mr. GILMAN.
Mr. ASHBROOK in three instances.
Mr. CAMPBELL.
Mr. CLINGER.
Mr. SHUSTER.
Mr. PHILIP M. CRANE.
Mr. JEFFRIES.
Mr. MICHEL.
Mr. CARTER.
Mr. KEMP.
Mr. ANDERSON of Illinois in two instances.

(The following Members (at the request of Mr. DONNELLY), and to include extraneous matter:)

Mr. BARNES in two instances.
Mr. HAMILTON.
Mr. EDGAR.
Mrs. SCHROEDER in four instances.
Mr. GRAMM.
Mr. ROE.
Mr. MCDONALD in five instances.
Mr. ROSENTHAL.
Mr. FLOOD in 10 instances.
Mr. PATTERSON.
Mr. OTTINGER.
Mr. SOLARZ.
Mr. LONG of Maryland.
Mr. VENTO.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1110. An act to include home delivery of children's publications in the existing rates for children's publications sent to schools; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 428. An act to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1980 for civil defense, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes;

H.R. 4387. An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes.

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance; and

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for two months certain authorities relating to the international energy program.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 4349. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

ADJOURNMENT

Mr. DONNELLY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 37 minutes p.m.), the House adjourned until tomorrow, Thursday, November 1, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2731. A letter from the Director, Federal Emergency Management Agency, transmitting a report that the Agency acquired no real or personal property during the quarter ended September 30, 1979, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

2732. A letter from the Secretary of Health, Education, and Welfare, transmitting the 12th annual report of the National Technical Institute for the Deaf by the Rochester Institute of Technology, pursuant to section 5(b)(3) of Public Law 89-36; to the Committee on Education and Labor.

2733. A letter from the Deputy Secretary of Energy, transmitting Energy Action DOE No. 5, an amendment to the strategic petroleum reserve plan setting forth the method of drawdown and distribution of the reserve, pursuant to sections 154(b), 159(d), and 551(b) of the Energy Policy and Conservation Act of 1975 (H. Doc. No. 96-215); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

2734. A letter from the General Counsel of the Department of Energy, transmitting notices of meetings relating to the international energy program to be held November 6-8 in London, England, and November 6 and 7 in Paris, France; to the Committee on Interstate and Foreign Commerce.

2735. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting an interim rule to amend the regulations establishing a direct sale program for process and feedstock users of natural gas; to the Committee on Interstate and Foreign Commerce.

2736. A letter from the Director, International Communication Agency, transmitting a draft of proposed legislation to amend section 212 of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2737. A letter from the executive director, American Historical Association, transmitting the report of the audit of the organization for the year ended June 30, 1979, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2738. A letter from the Principal Deputy Under Secretary of Defense (Research and Engineering), transmitting a report on Department of Defense procurement from small and other business firms during October 1978-May 1979, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADEMAS: Committee on House Administration. House Resolution 452. Resolution providing for the further expenses of investigations and studies to be conducted by the Permanent Select Committee on Intelligence (Rept. No. 96-573). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. Report on the National Archives film-vault fire, Suitland, Md., December 7, 1978 (Rept. No. 96-574). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EMERY (for himself, Mr. WHITE, Mr. WHITEHURST, Mr. MONTGOMERY, Mr. ICHORD, Mr. JENRETTE, Mr. ROBINSON, Mr. NICHOLS, Mr. CORRADA, Mr. YOUNG of Alaska, Mr. BOWEN, Mr. LOTT, Mr. HINSON, Mr. WHITTEN, Mr. MCDONALD, and Mr. EVANS of the Virgin Islands):

H.R. 5748. A bill to amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard; to the Committee on Armed Services.

By Mr. FLORIO (for himself and Mr. LAFALCE):

H.R. 5749. A bill to amend the Solid Waste Disposal Act to provide authority to respond to releases of hazardous waste which is presently unregulated at the Federal level and which endanger public health and the environment, to establish a hazardous waste response fund to be funded by a system of fees, to establish prohibitions and requirements concerning certain unregulated releases of hazardous waste, and to provide for liability of persons responsible for releases of hazardous waste, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

By Mr. HAMMERSCHMIDT (for himself and Mr. BUTLER):

H.R. 5750. A bill to amend title 38, United States Code, to allow each veteran with an upgraded discharge to receive full educational benefits without regard to the date of the veterans' initial discharge from service; to the Committee on Veterans' Affairs.

By Mr. KOGOVSEK:

H.R. 5751. A bill to more adequately protect archeological resources in southwestern Colorado; to the Committee on Interior and Insular Affairs.

By Mr. MOAKLEY:

H.R. 5752. A bill to provide for a program of review of State laws with regard to solar energy, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Public Works and Transportation, and Science and Technology.

By Mr. MONTGOMERY (for himself, Mr. WHITE, and Mrs. HOLT):

H.R. 5753. A bill to amend title 10, United States Code, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for the purpose of laws providing benefits for members of the National Guard and their dependents and beneficiaries; to the Committee on Armed Services.

By Mr. PAUL:

H.R. 5754. A bill to amend the Internal Revenue Code of 1954 to allow the deduction for contributions to individual retirement savings without regard to whether the taxpayer is an active participant in any pension plan and to increase the maximum amount allowable as a deduction for such contributions and for contributions to retirement plans for self-employed individuals; to the Committee on Ways and Means.

By Mr. RINALDO (for himself, Mr. PREYER, Mr. ECKHARDT, and Mr. NEAL):

H.R. 5755. A bill to protect the interests of consumers and provide information to consumers regarding the effective use of smoke detectors through the establishment of smoke detector placement demonstration projects, to require the Consumer Product Safety Commission to take into account the results of such projects in connection with the promulgation of certain consumer product safety standards, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Science and Technology.

By Mr. SOLARZ:

H.R. 5756. A bill to provide for the delegation of duties by professional standards review organizations under title XI of the Social Security Act; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. SOLOMON:

H.R. 5757. A bill to grant a Federal charter to the Italian American War Veterans of the United States; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself and Mr. PASHAYAN):

H.R. 5758. A bill to authorize and request the President to issue a proclamation designating September 23, 1980, as "National Farmers' Day"; to the Committee on Post Office and Civil Service.

By Mr. TAUKE:

H.R. 5759. A bill to defer congressional pay adjustments until the beginning of the next following Congress, to require a recorded vote in each House for annual congressional pay adjustments, to provide that appropriations of funds for congressional pay be considered separately, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. EDWARDS of Alabama:

H.R. 5760. A bill to amend the Internal Revenue Code of 1954 with respect to the amount deductible in the case of casualty losses of timber; to the Committee on Ways and Means.

H.R. 5761. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of casualty losses in the case of fruit or nut trees; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 5762. A bill to revise provisions of title 49, United States Code, with regard to the regulation of the trucking industry; to the Committee on Public Works and Transportation.

H.R. 5763. A bill to amend title 38 of the United States Code to provide that progressive muscular atrophy or amyotrophic lateral sclerosis developing a 10 percent or more degree of disability within 7 years after separation from active service during a period of war shall be presumed to be service connected; to the Committee on Veterans' Affairs

By Mr. LAFALCE (for himself, Mr OBERSTAR, and Mr. VENTO):

H.R. 5764. A bill to determine the causes and effects of acid precipitation throughout the United States and to develop and implement solutions to this problem; jointly, to the Committees on Interstate and Foreign Commerce and Science and Technology.

By Mr. MICHEL:

H.R. 5765. A bill to rename the RFK stadium in the District of Columbia as the Martin Luther King, Jr. Memorial Stadium; to the Committee on the District of Columbia.

By Mr. SKELTON (for himself, Mr. EVANS of Georgia, Mr. SHELBY, Mr. GINN, Mr. LEDERER, Mr. DONNAN, Mr. WON PAT, Mr. RUNNELS, Mr. WEAVER, Mr. STUMP, Mr. ICHORD, Mr. BEVILL, Mr. ENGLISH, Mr. CORRADA, Mr. MONTGOMERY, Mr. NOLAN, Mr. DAN

DANIEL, Mr. SCHULZE, Mr. ALBOSTA, Mr. LUJAN, Mr. CHARLES WILSON of Texas, Mr. ROSE, Mr. BALDUS, Mr. HYDE, Mr. PETRI, Mr. BEVILL, Mr. BURGENER, Mr. MCDONALD, Mr. JENKINS, Mr. HUGHES, Mr. CARTER, Mr. BAILEY, Mr. STANGELAND, Mr. WATKINS, Mr. JONES of Oklahoma, Mr. BENJAMIN, Mr. WINN, Mr. WHITE, Mr. KAZEN, Mrs. HOLT, Mr. HILLIS, and Mr. TREEN):

H.R. 5766. A bill to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes; to the Committee on Armed Services.

By Mr. STRATTON (for himself and Mr. FISH):

H.R. 5767. A bill to amend title I of the Federal Water Pollution Control Act to authorize a demonstration project for the reclamation of the Hudson River; to the Committee on Public Works and Transportation.

By Mr. BARNES:

H. Res. 470. Resolution to amend the rules of the House of Representatives to provide for the continuance of authority to pay employees of the various agencies in the absence of the timely enactment of appropriations for such agencies; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

317. The Speaker presented a memorial of the Legislature of the Territory of Guam, relative to Guam's political status, which was referred to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LAGOMARSINO:

H.R. 5768. A bill for the relief of Jorge Luis Arceo; to the Committee on the Judiciary.

By Mr. PATTERSON:

H.R. 5769. A bill to reinstate and validate U.S. oil and gas leases Nos. OCS-P-0218 and OCS-P-0226; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 516: Mr. PASHAYAN.

H.R. 1297: Mr. COLLINS of Texas and Mr. DONNELLY.

H.R. 1858: Mr. MITCHELL of Maryland, Mr. PAUL, Mr. NEAL, Mr. D'AMOURS, Mr. CAVANAUGH, Mr. MATTOX, Mr. BARNARD, Mr. RITTER, Mr. MCDONALD, and Mr. SYMMS.

H.R. 3574: Mr. ANNUNZIO, Mr. EDWARDS of Oklahoma, Mr. FISH, Mr. GOLDWATER, Mr. GUYER, Mr. KELLY, Mr. MATHIS, and Mr. MCKINNEY.

H.R. 4513: Mr. HYDE, Mr. YOUNG of Alaska, Mr. DONNELLY, Mr. MINETA, and Mr. FAZIO.

H.R. 4697: Mr. IRELAND and Mr. BERKLEY.

H.R. 4960: Mr. WHITEHURST and Mr. SIMON.

H.R. 5080: Mr. CHENEY.

H.R. 5169: Mr. JEFFORDS, Mrs. SPELLMAN, Mrs. SCHROEDER, Mr. D'AMOURS, Mr. DOWNEY, Mr. ESTES, Mr. BLANCHARD, and Mr. FROST.

H.R. 5225: Mr. ALBOSTA, Mr. ROBINSON, and Mr. CHENEY.

H.R. 5394: Mr. KEMP, Mr. HUTTO, Mr. KINDNESS, Mr. KRAMER, Mr. MOTTL, and Mr. BEVILL.

H.R. 5403: Mr. ANDERSON of California, Mr. BEILENSON, Mr. COELHO, Mr. DANIELSON, Mr. EDWARDS of California, Mr. FAZIO, Mr. HAWKINS, Mr. JOHNSON of California, Mr. LLOYD, Mr. MCCLOSKEY, Mr. MATSUI, Mr. MINETA, Mr. ROYBAL, Mr. SANTINI, Mr. STARK, Mr. BOB WILSON, and Mr. CHARLES H. WILSON of California.

H.R. 5610: Mr. ATKINSON, Mr. BEDELL, Mr. WINN, Mr. ZEFERETTI, and Mr. GIBBONS.

H.R. 5660: Mr. MOFFETT, Mr. CONYERS, Ms. HOLTZMAN, Mr. GUARINI, and Mr. RANGEL.

H.J. Res. 321: Mr. BRODHEAD, Mrs. BOUQUARD, Mr. DOUGHERTY, Mr. MARKEY, Mrs. CHISHOLM, Mr. SYMMS, Mr. ADDABBO, and Mr. THOMPSON.

H.J. Res. 385: Mr. DOWNEY.

H.J. Res. 391: Mr. STANTON, Mr. COLLINS of Texas, Mr. RAHALL, Mr. WINN, Mr. PEPPER, Mr. COELHO, Mr. DUNCAN of Tennessee, Mr. LAGOMARSINO, Mr. FLOOD, Mr. HANSEN, Mr. LOTT, Mr. MURPHY of Pennsylvania, Mr. ADDABBO, Mr. PASHAYAN, Mr. BROWN of Ohio, Mr. MATTOX, Mr. MAZZOLI, Mr. LUJAN, Mr. WHITTAKER, Mr. ROE, Mr. DINGELL, Mr. WOLPE, Mr. SPENCE, Mr. WOLFF, Mr. FRENZEL, Mr. SCHEUER, Mr. MITCHELL of New York, Mr. KINDNESS, Mrs. HOLT, Mr. MARRIOTT, Mr. EVANS of Georgia, Mr. VENTO, Mr. LIVINGSTON, Mr. STENHOLM, Mr. ANTHONY, Mr. PEYSER, Mr. HALL of Texas, Mr. CONTE, Mr. GRADISON, Mr. HAGEDORN, Mr. FOLEY, Mr. HILLIS, Mr. MILLER of Ohio, Mr. KOSTMAYER, Mr. ROTH, Mr. GOODLING, Mr. BROYHILL, Mr. GRISHAM, Mr. MCKINNEY, Mr. NICHOLS, Mr. NEAL, Mr. SKELTON, Mr. MATHIS, Mr. ANDREWS of North Dakota, Mrs. FENWICK, Mr. QUILLEN, Mr. BAUMAN, Mr. MOORE, Mrs. SMITH of Nebraska, Mr. MURTHA, Mr. QUAYLE, Mr. HANLEY, Mr. RINALDO, Mr. HOLLENBECK, Mr. NELSON, Mr. BROOMFIELD, Mr. PREYER, Mr. YOUNG of Alaska, Mr. CLEVELAND, Mr. DOUGHERTY, Mr. WHITLEY, Mr. FINDLEY, Mr. MURPHY of New York, Mrs. RECKLES, Mr. WALKER, Mr. STANGELAND, Mr. SYMMS, Mr. JOHNSON of Colorado, Mr. BAILEY, Mr. LEDERER, Mr. SHANNON, Mr. FORSYTHE, Mr. WHITEHURST, Mr. LEATH of Texas, Mr. GREEN, Mr. DELLUMS, Mr. GUDGER, Mr. HINSON, Mr. EDGAR, Mr. ANNUNZIO, Mr. BENJAMIN, Mr. SHUSTER, Mr. MOTTL, Mr. CARNEY, Mr. JOHNSON of California, Mr. BRADEMAS, Mr. YOUNG of Florida, Mr. GUARINI, Mr. YATRON, Mr. BURGENER, Mr. WHITE, Mr. ROBINSON, Mr. GRASSLEY, Mr. RHODES, Mr. JOHN L. BURTON, Mr. NEDZI, Mr. TRAXLER, Mr. MARTIN, Mr. BUCHANAN, Mr. MINISH, Mr. ASHBROOK, Mr. PAUL, Mr. RATCHFORD, Mr. SHUMWAY, Mr. ROBERTS, Mr. CONABLE, Mr. DODD, Mr. KRAMER, Mr. BADHAM, Mr. DORNAN, Mr. BAFALIS, Mr. WILLIAMS of Ohio, Mr. BERKLEY, Ms. OAKAR, Mr. MCCLORY, Mr. COUGHLIN, Mr. DAVIS of South Carolina, Mr. LENT, Mr. MARKS, Mr. MICHEL, Mr. LEACH of Iowa, Mr. WAMPLER, Mr. RUDD, Mr. EDWARDS of Oklahoma, Mr. FAZIO, Mr. GUYER, Mr. DICKINSON, Mr. EVANS of the Virgin Islands, Mr. BETHUNE, Mr. TREEN, Mr. FISH, Mr. SCHULZE, Mr. CORCORAN, Mr. FROST, Mrs. SNOWE, Mr. MCDONALD, Mr. HAMMERSCHMIDT, Mr. LEWIS, Mr. CAVANAUGH, Mr. EMERY, Mr. DECKARD, Mr. CLAUSEN, Mr. DAN DANIEL, Mr. CORRADA, Mr. RITTER, Mr. TAYLOR, Mr. ICHORD, Mr. DANIEL B. CRANE, Mr. HOPKINS, Mr. ROUSSELOT, Mr. STEED, Mrs. BOGGS, Mr. EDWARDS of California, Mr. WAXMAN, Mr. LOEFFLER, Mr. SENSENBRENNER, Mr. LATTA, Mr. ERLENBORN, Mr. HANCE, Mr. SYNAR, Mr. JEFFRIES, Mr. MADIGAN, Mr. DANNEMEYER, Mr. REGULA, Mr. DAVIS of Michigan, Mr. FASCELL, Mr. GAYDOS, Mr. GINGRICH, Mr. LUNGREN, Mr. ROSE, Mr. PATTEN, Mr. STEWART, Mr. HORTON, Mr. BEARD of Tennessee, Mr. ARDNOR, Mr. SAWYER, Mr. MARLENEE, Mr. CHENEY, Mr WYATT, Mr. CARTER, Mr. EVANS of Delaware, Mr. KEMP, Mr. ROYER, Mr. WYLIE, Mr. EDWARDS of Alabama, Mr. TAUKE, Mr. PETRI, Mr. CLINGER, Mr. THOMAS, Mr. BENNETT, Mr. MOORHEAD of California, Mr. SWIFT, Mr. KELLY, Mr. GILMAN, Mr. TRIBLE, Mr. MONTGOMERY, Mr. PRITCHARD, Mr. DERWINSKI, Mr. ZABLOCKI, Mr. DERRICK, Mr. VANDER JAGT, Mr. LEE, Mr. MYERS of Indiana, Mr. COLEMAN, Mr. SOLOMON, Mr. HYDE, Mr. O'BRIEN, Mr. JENRETTE, and Mr. HOLLAND.

H. Con. Res. 122: Mr. MURPHY of Pennsylvania, Mr. GUYER, Mr. MURPHY of Illinois, Mr. KOSTMAYER, and Mr. PATTEN.

H. Con. Res. 201: Mr. LAGOMARSINO, Mr. MARKEY, Mr. SOLOMON, Mr. CARNEY, Mr. MURPHY of Pennsylvania, Mr. BEVILL, Mr. SYMMS, Mr. WHITEHURST, Mr. HUGHES, Mr. MCDONALD, Mr. DANNEMEYER, Mr. EDWARDS of Oklahoma, Mr. COLLINS of Texas, Mr. ROUSSELOT, Mr. CARTER, Mr. LUNGREN, Mrs. FENWICK, Mr. KEMP, Mr. ALBOSTA, Mr. SHUMWAY, Mr. MYERS of Indiana, Mr. SENSENBRENNER, Mr. HARSHA, Mr. SNYDER, Mr. CHENEY, Mr. BETHUNE, Mr. ROUSSELOT, Mr. YOUNG of Alaska, Mr. MILLER of Ohio, and Mr. LOEFFLER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2608

By Mr. HARRIS:

(Page and line numbers refer to H.R. 5297.)

—Page 11, after line 15, add the following new section:

Sec. 303. The Atomic Energy Act of 1954 is amended by adding a new section to read as follows:

"SEC. 235. SABOTAGE OF NUCLEAR FACILITIES.—

"(a) Any person who willfully injures, destroys, or contaminates or attempts to injure, destroy or contaminate, any nuclear production facility or utilization facility licensed under this Act, any nuclear waste storage installation licensed under this Act, any special nuclear material or byproduct material possessed pursuant to a license issued by the Commission under section 53 or section 81 of this Act or pursuant to a license issued by a State under an agreement entered into under section 274 of this Act, or any special nuclear material or byproduct material contained in a carrier, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

"(b) For purposes of this section—

"(1) the term 'carrier' means any motor vehicle, railroad train, or aircraft; and

"(2) the term 'nuclear waste storage installation' means a facility or area the purpose of which is to contain nuclear byproduct material.".

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 234:

"Sec. 235. Sabotage of nuclear facilities."

H.R. 4904

By Mr. JONES of Oklahoma:

—Page 104, after line 11, insert the following new part (and conform the table of contents):

PART G—BLOCK GRANT DEMONSTRATION PROGRAM

ESTABLISHMENT OF PROGRAM

SEC. 133. (a) Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new section:

"BLOCK GRANT DEMONSTRATION PROGRAM

"SEC. 419A. (a)(1) In order to provide an effective test of the ability of the various States and counties to create their own wel-

fare programs as an alternative to the program of aid to families with dependent children, there is hereby established a five-year block grant demonstration program under which at least three participating States and at least three participating counties—

"(A) may receive payments under this section for any quarter beginning on or after October 1, 1981, and ending prior to October 1, 1986, and

"(B) may (except as otherwise provided in this section) use such payments, to benefit and promote the social welfare of children and families with children, without regard to the requirements and limitations applicable under the program of aid to families with dependent children.

The States and counties participating in the program under this section shall be selected in the manner provided in paragraphs (2) and (3). Any State which participates in such program for any quarter shall not receive any payment for such quarter under section 403; and any State that includes a county which participates in such program for any quarter shall have its payment for such quarter under section 403 appropriately reduced so as to exclude the portion thereof otherwise attributable to such county.

"(2)(A) The Governor of any State which desires to participate in the block grant demonstration program under this section, or which includes a county that desires to participate in such program, may submit a request for such participation to the National Oversight and Evaluation Panel established under subsection (f), at any time during the fiscal year 1980 and in such manner and form as the Panel may prescribe. At the close of such fiscal year the Panel shall transmit to the Secretary, from among all of the States and counties submitting such requests, its nominations (for participation in the program) of specific groups of States and counties which meet the criteria described in the next sentence and which could (if selected) participate in the program in a manner contributing significantly to the achievement of the objectives of this section. In making such nominations the Panel shall to the maximum extent possible (i) assure that all of the various regions of the United States, and areas with differing economic and industrial bases, are appropriately represented and that the participating States and counties reflect as wide a diversity as is possible in their population density, their benefit levels, their per capita income, and the percentage of their population below the poverty level, and (ii) take into account the extent to which the States and counties requesting participation have developed realistic and comprehensive proposals which indicate their ability to manage and administer successfully a test of the type described in this section.

"(B) In order to assist interested States and counties in developing their plans and proposals for participation in the block grant demonstration program, the Secretary is authorized upon application to make planning grants to States and counties which demonstrate a firm intention to seek selection as participants in the program, a need for assistance in the development of such plans and proposals, and a significant potential for successful participation. Such grants shall be made as soon as possible after funds have been made available therefor, and shall be made and allocated among the applicant States and counties on such terms and conditions (consistent with the preceding sentence) as the Secretary may prescribe. No such grant shall exceed $1,000,000; and the aggregate of the grants made under this subparagraph shall not exceed $15,000,000.

"(3) As soon as possible after the nominations are transmitted under paragraph (2)(A) (and in any event no later than 18 months after the date of the enactment of this section), the Secretary shall make the final selection, from among such nominations, of the three or more States and the three or more counties which are to participate in the block grant demonstration program; and any State or county selected to participate in the program shall commence such participation no later than the first day of the third calendar quarter beginning after such final selection (or on October 1, 1982, if that date is subsequent to the first day of such third calendar quarter).

"(4) A State or county may terminate its participation in the block grant demonstration program beginning with any quarter which—

"(A) begins at least three years after the beginning of the quarter for which that State or county first participated in the program, and

"(B) begins at least six months after the date on which the Governor of the State notifies the Secretary of that State's or county's election to terminate participation in the program.

"(b)(1) Each State or county participating in the block grant demonstration program for any quarter shall receive, for such quarter, a payment in an amount equal to 25 percent of its adjusted base period amount for the fiscal year in which such quarter falls. No payment may be made under this section for any quarter beginning after September 30, 1986.

"(2)(A) The base period amount for any State shall be equal to the total amount which the Secretary determines would have been payable to such State for the fiscal year beginning October 1, 1978 (hereinafter in this section referred to as the 'base period'), under paragraphs (1), (3), and (5) of section 403(a), taking into account the provisions of section 1118 of this Act and section 9 of the Act of April 19, 1950 (64 Stat. 47), but computing such total amount without regard to subsections (c) through (j) of section 403, and increasing such total amount by the amount of expenses incurred for social and supportive services provided in accordance with section 402(a)(19)(G).

"(B) The base period amount for a county located in any State shall be equal to the portion of such State's base period amount, as determined under subparagraph (A), which is attributable (under regulations prescribed by the Secretary) to expenditures made in that county during the base period under the State's plan approved under section 402.

"(3)(A) The adjusted base period amount for any State or county—

"(i) for the fiscal year beginning October 1, 1979, shall be equal to its base period amount, and

"(ii) for the fiscal year beginning October 1, 1980, and each fiscal year thereafter, shall be equal to its adjusted base period amount for the preceding fiscal year as adjusted for such State or county in accordance with subparagraph (B); except that the adjusted base period amount for any State for the fiscal year beginning October 1, 1981, shall not be less than the base period amount which would have been determined for such State under paragraph (2)(A) if the amendments made by sections 115 and 116 of the Social Welfare Reforms of 1979 had been in effect throughout the fiscal year beginning October 1, 1978.

"(B) The adjusted base period amount of any State or county as determined under subparagraph (A) shall be increased for each fiscal year, starting with the fiscal year beginning October 1, 1980, by an amount equal to the product of—

"(i) the adjusted base period amount as determined (for such State or county) for the preceding fiscal year, and

"(ii) a percentage equal to the percentage increase (if any) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living increases under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such Index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 percent).

For purposes of this subparagraph the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

"(c)(1) Each State or county participating in the block grant demonstration program shall use the payments made to it under this section to conduct such activities and provide such assistance as in its judgment will most effectively benefit and promote the social welfare of children and families with children in that State or county, without regard to the requirements and limitations which would otherwise apply in the program of aid to families with dependent children under this part; and for this purpose, except as provided in paragraphs (2) and (3), the State or county may waive any or all of such requirements and limitations (other than those relating to fair hearing procedures under section 402(a)(4) and section 415) including the requirements and limitations relating to the work incentive program under part C and the child support program under part D of this title.

"(2) Notwithstanding paragraph (1)—

"(A) the average amount or value of the assistance provided by any State or county to families of a given size and composition and with a given income for any quarter under the block grant demonstration program, and the type or types of assistance available in any State or county to families of a given size and compensation and with a given income under such program, shall be the same throughout the State or county (except that, in the case of a State, the amount or value of such assistance may be varied on a regional basis, with the approval of the Secretary, to reflect differences in living or housing costs);

"(B) the amount or value of the assistance provided by any State or county to a family for any quarter under the block grant demonstration program, when added to such family's earnings for that quarter, may not be less (as determined by the Secretary), on account of the State's or county's treatment of work expenses or its requirements for disregarding earnings or for any other reason, than the amount of the aid to families with dependent children which would have been paid to such family for that quarter under the State plan approved under this part, in addition to those earnings, if such State or county had continued to be subject to the provisions of such State plan without regard to this section;

"(C) the total amount or value of the assistance provided by any State or county for any quarter under the block grant demonstration program may not be less (as determined by the Secretary) than the total amount of the aid to families with dependent children which was paid under the State plan approved under this part in that State or county for the corresponding quarter in the base period; and

"(D) the total amount of the expenditures made from State and local funds for assistance provided in any State or county for quarters in any fiscal year under the block grant demonstration program may not be less (as determined by the Secretary) than the total amount of the expenditures made from State or local funds for aid to families with dependent children under the State plan approved under this part for the corresponding quarters in the base period (or, if it would result in a higher total amount, for the corresponding quarters in the fiscal year immediately preceding the fiscal year

in which the State's or county's participation in the program begins).

"(3) A State or county may require single parents of children less than 6 years of age to perform work or undergo training, as a condition of their eligibility for assistance under the block grant demonstration program, only if appropriate care is available for such children while the parents are performing such work or undergoing such training.

"(4) Any State or county participating in the block grant demonstration program may utilize up to 25 percent of the funds made available to it under this section in the first four quarters of its participation in such program, up to 35 percent of such funds in the second four quarters of such participation, and up to 45 percent of such funds in any subsequent period of four consecutive quarters for the purpose of providing employment for individuals who are eligible for assistance under the program rather than for the purpose of providing assistance in the form of cash payments or otherwise; but no individual shall be required, as a condition of assistance under the program, to perform employment (under the preceding provisions of this paragraph or otherwise) for remuneration which is less than the Federal minimum hourly rate under the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(d) As a condition of its participation in the block grant demonstration program, each State and county shall agree to monitor, measure, and report from time to time to the Secretary (for purposes of Federal quality control determinations under section 403 (j) of this Act as well as to assist in the administration of this section) the error rates being experienced under such program as contrasted with the error rates most recently experienced (prior to such participation) under the State plan approved under section 402.

"(e)(1) In order to assure that the block grant demonstration program under this section achieves its objectives and contributes significantly to the improvement of Federal assistance to needy families with children, there is hereby established a national panel to be known as the National Oversight and Evaluation Panel.

"(2) The Panel shall be composed of 11 members, as follows:

"(A) two members selected by the Speaker of the House of Representatives;

"(B) two members selected by the President pro tempore of the Senate;

"(C) three members selected by the President;

"(D) two members selected by the Minority Leader of the House of Representatives; and

"(E) two members selected by the Minority Leader of the Senate.

Members of the Panel shall be chosen (as soon as possible after the date of the enactment of this section but in any event within 6 months after such date) from among persons who are particularly qualified to participate in the establishment of the block grant demonstration program, and to oversee the conduct and administration of such program, by reason of their experience, accomplishments, and expertise in various fields both related and unrelated to welfare assistance.

"(3) In addition to its function of nominating the States and counties to participate in the block grant demonstration program as provided in subsection (a)(2), the Panel shall conduct a continuing comprehensive evaluation of the activities of such States and counties under this section, including assessments of the administrative effects of the program, of the cost implications of the program, and of the impacts of the program upon recipients of assistance, and shall perform such other oversight and evaluation functions (including comparisons of the administration and accomplishments of the program with the administration and accomplishments of the program of aid to families with dependent children in selected States and counties not participating under this section) as may help to carry out the purpose of this section and to achieve the objectives of the block grant demonstration program.

"(4) The Secretary shall provide the Panel with such staff assistance and facilities as it may need in order to carry out its functions under this section.

"(d)(1) Except as otherwise specifically provided, the block grant demonstration program under this section shall be treated for all purposes, with respect to any participating State (or with respect to a participating county in any State), as constituting a program of aid to families with dependent children under such State's plan approved under section 402.

"(2) For purposes of the medical assistance program carried on by any participating State under its plan approved under title XIX of this Act (including determinations of a State's authority under section 1902(b) to deny medical assistance coverage with respect to children deprived of parental support or care by reason of the unemployment of a parent), any individual receiving assistance under the block grant demonstration program under this section shall be deemed to be receiving aid to families with dependent children under the plan of such State approved under this part.".

(b) Section 403 of such Act is amended by adding at the end thereof the following new subsection:

"(k) The provisions of this section shall not apply to any State or county with respect to any quarter for which such State or county is receiving a payment under section 419A of this Act.".

REVIEW AND REPORT BY COMPTROLLER GENERAL

SEC. 134. (a) The Comptroller General of the United States shall conduct a continuing study and evaluation of the block grant demonstration program under section 419A of the Social Security Act, of the Federal regulations and procedures prescribed or established to implement such program and of the activities and accomplishments of the participating States and counties thereunder (including field studies at the operational level.)

(b) Within six months after the approval and selection of any State or county for participation in the block grant demonstration program, the Comptroller General shall submit to the Congress an analysis of such State's or county's plans for participation in the program.

(c) The Comptroller General shall submit to the Congress an interim report with respect to the study and evaluation under subsection (a) no less often than once each year during the period when the block grant demonstration program is in operation, and shall submit to the Congress a final report within one year after completion of the program.

(d) No payment may be made under section 419B of the Social Security Act to any State or county which fails to cooperate with the reasonable requests of the Comptroller General in carrying out his duties under this section, for so long as such failure to cooperate continues.

H.R. 5192

By Mr. TAUKE:

—Page 41, after line 4, add the following:

"(B) describe in a comprehensive manner any development project for which funds are sought under the application and include—

"(A) a description of the various components of the development project, including the estimated time required to complete each such component;

"(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be a sound investment of Federal funds and those components which would be a sound investment of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any development project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single development project (as described by the applicant pursuant to subparagraph (A));

"(D) in the case of a request for an award for a period of more than one year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate;

"(E) information explaining the manner in which the development project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, increased energy costs, and other problems;

"(F) a detailed budget showing the manner in which funds for any development project would be spent by the applicant; and

"(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F).

Page 41, line 3, strike out "and"; line 4, strike out the period and insert in lieu thereof "; and".

—Page 41, after line 4, insert the following new sections:

"APPLICATION REVIEW PROCESS

"SEC. 306. (a) The Secretary shall request from institutions of higher education nominations of persons qualified to review applications for grants under this title. The Secretary shall review the nominations received under this subsection and shall select from among such nominations a sufficient number of qualified individuals to conduct the reviews required under subsection (b). Included among the individuals selected by the Secretary shall be representatives of the types of institutions receiving grants under this title. No individual shall be selected by the Secretary unless such individual has expertise in the evaluation of projects described under section 304(a) and is sensitive to the unique needs of developing institutions.

"(b)(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary under subsection (a). The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

"(2) All readers selected under subsection (a) shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title, including—

"(A) explanations and examples of the types of activities referred to in section 304(a) that should receive special consideration for grant awards under this title;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the

amount of any such grant, and the duration of any such grant.

"(c) In awarding grants under this title, the Secretary may take into consideration only those factors enumerated under the instructions given to the readers under subsection (b)(2), and only to the extent and in such manner as specified under such instructions.

"COMMITTEE ON REVIEW

"SEC. 307. (a)(1) There is established a committee to be known as the Committee on Review (hereinafter in this section referred to as the "Committee"), which shall consist of ten members appointed by the Secretary, as follows:

(A) One member who is a representative of private junior colleges.

"(B) One member who is a representative of private institutions that award bachelor's degrees.

"(C) One member who is a representative of public junior or community colleges.

"(D) One member who is a representative of public institutions that award bachelor's degrees.

"(E) Six other members who are representatives of any of the institutions referred to in subparagraphs (A) through (D).

"(2) In appointing the members of the Committee, the Secretary shall consult with, and review any recommendations received from, associations which represent the interests of the various sectors of the post secondary education community.

"(3) No individual who is an officer or employee of the United States shall serve as a member of the Committee.

"(4) The terms of the members of the Committee shall be two years, except that of the members first appointed, five shall be appointed for terms of one year, as designated by the Secretary at the time of appointment.

"(b)(1) Any vacancy in the Committee shall be filled in the same manner in which the original appointment was made.

"(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(3) A member may serve after the expiration of his term until his successor has taken office.

"(c)(1) Members of the Committee shall each be entitled to receive $150 for each day (including travel time) during which they are engaged in the actual performance of the duties of the Committee.

"(2) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(d)(1) The Committee shall review, for each fiscal year beginning after September 30, 1980, all grant award recommendations made by the readers used by the Secretary to review applications under this title pursuant to section 306. After reviewing such recommendations, the Committee shall submit to the Secretary a report which contains—

"(A) the recommendations of the independent readers regarding the institutions to be awarded grants under this title;

"(B) such recommendations as the Committee considers appropriate to provide for equitable adjustments in the amounts recommended by the readers for grants in order that the total amount recommended for all grants under this title shall not exceed the amount appropriated for such purpose, such other recommendations as the Committee may consider appropriate, and an explanation of the reason for each recommendation; and

"(C) recommendations of the Committee (reflecting any adjustments required to be made under subparagraph (B)) regarding the amount and duration of any grant to be awarded under this title.

"(2) The Secretary shall be responsible for reviewing the report submitted by the Committee and for making the final determinations with respect to grants under this title.

"(3) Not later than June 30 of each year (beginning in 1981), the Secretary shall publish in the Federal Register, in ranked order reflecting the amount of any grant awarded under this title, the following information:

"(A) The name of each institution which submitted an application under this title.

"(B) The average score given to any such application by the readers under section 306, and any changes in the average score recommended by the Committee (including an explanation of the reasons for such changes).

"(C) The recommendations of the Committee regarding the recipients of grants under this title and the amount of such grants.

"(e) The Secretary shall provide to the Committee such administrative support services and personnel as the Committee may request to enable it to carry out its duties under this section."

Page 41, line 6, strike out "306" and substitute "308".

Page 42, line 17, stirke out "307" and substitute "309".

Page 43, line 12, strike out "309" and substitute "310".

—Page 89, after line 14, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(b) Section 428(d) of the Act is amended—

(1) by redesignating clauses (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(2) by redesignating paragraphs (1) and (2) as subparagraph (A) and (B), respectively;

(3) by inserting "(1)" immediately after "(d)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) No provision of any law of the United States or of any State (other than a statute applicable principally to such State's student loan insurance program) which prohibits or restricts the attachment or garnishment of wages, salaries, or commissions under the control of an employer or any other person in order to enforce a money judgment for the repayment of a loan shall apply if—

"(A) such judgment is obtained by the United States; and

"(B) such loan is insured (i) by the United States under this part, or (ii) by a State or nonprofit private institution or organization under a program covered by an agreement made pursuant to subsection (b) of this section.".

—Page 114, after line 11 insert the following new subsection:

(c) Section 467 of the Act is amended by inserting "(a)" immediately after "SEC. 467." and by adding at the end thereof the following new subsection:

"(b) No provision of any law of the United States or of any State (other than a statute applicable principally to such State's student loan insurance program) which prohibits or restricts the attachment or garnishment of wages, salaries, or commissions under the control of an employer or any other person in order to enforce a money judgment for the repayment of a loan shall apply if such judgment is obtained by the United States for the purposes of collection under section 463 (a)(5) or under subsection (a) of this section of a loan made under this part.".

EXTENSIONS OF REMARKS

TRIBUTE TO CHARLES A. BISBEE ON HIS RETIREMENT AS SUPERINTENDENT OF THE HOLYOKE SOLDIERS' HOME

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. CONTE. Mr. Speaker, I would like to take this opportunity to publicly acknowledge and tribute my friend Charles A. Bisbee of Chesterfield, Mass., who recently announced his intended retirement from the superintendency of the Holyoke, Mass., Soldiers' Home effective December 28, of this year.

Charlie's tenure as superintendent of the Holyoke Soldiers' Home and as president of the National Association of State Veterans' Homes was the culmination of a long and distinguished career in public service. He served as Representative to the Massachusetts State House from 1949 to 1963, then as State Senator from 1963 to 1966. At the completion of his term in the senate, he was appointed to the post of associate commissioner of the State Department of Public Works by then Governor John Volpe.

Although Charlie's career in government may have given him the administrative expertise necessary for oversight of the Holyoke Soldiers' Home, his career in the military provided him with insights into the situation of the veteran—insights that were manifested in his compassionate manner of providing services at the soldiers' home in the face of tight budget constrictions. Charlie gained his firsthand knowledge of the military in World War II, having entered the U.S. Army as a private in 1942, and having been discharged from active duty as a captain in 1946.

Charlie is a graduate of Northampton Commercial College and the New England Institute of Embalming. His family has operated the Bisbee Funeral Home in Chesterfield for many years, and Charlie has always been one of the most active members of that community. He has been chairman of the town's civil defense committee, master of the Chesterfield Grange, commander of the Cummington Post of the American Legion, and member of the Hampshire Lodge of Masons.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

I have always shared Charlie's concerns over providing adequate housing and health care for those who have defended this country in military service, and who are indeed in need of these facilities. Charlie coupled his concerns with his administrative talents and served a stewardship that was both able and humane. His position as president of the National Association of State Veterans' Homes gave him a broad perspective on the needs of veterans, a perspective he often shared with me, his friend and Congressman. He never let down the veterans of western Massachusetts.

I hope my colleagues will join in honoring Charles Bisbee on his retirement, and wish him good health and good fortune in the years ahead. He will be missed not only as a fine administrator, but as a true patriot and humanitarian.●

IN SUPPORT OF HOSPITAL COST CONTAINMENT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. ROSENTHAL. Mr. Speaker, this year Congress can take a decisive step against continued hospital inflation. Although rising costs have been evident in other segments of the economy, inflation in the hospital industry is all the more insidious because of its persistence over the years and its heavy toll on all American pocketbooks. Although 90 percent of all Americans are covered by some form of health insurance, Federal, State, and local governments pay for 55 percent of all hospital costs. Thus, increasing hospital expenditures produce an ever-growing tax burden while health insurance premiums and out-of-pocket expenditures continue to rise as well.

Congress has, in the hospital cost containment legislation, a good opportunity to save billions of dollars for the Government and individual hospital patients because the legislation is relatively inexpensive to administer. A recent New York Times editorial points out the urgent need for this program and discusses the success that similar State programs have had in recent years. I urge my colleagues to support this legislation and include the editorial in the RECORD at this point:

CURBING HOSPITAL COSTS

Maybe there is going to be a national hospital cost control law after all. The Carter administration proposed and the Senate approved such legislation last year, but the House Commerce Committee prevented action. Yesterday the committee filed a report endorsing a cost control bill. The House Ways and Means Committee had already approved a similar bill. Backers of the idea to force hospitals to hold costs down believe the favorable action by two powerful committees may forecast victory in the House during this session of Congress.

It is by no means certain. The lobbyists for hospital and physicians organizations have been successful in convincing many representatives that anything but a voluntary approach to hospital cost controls would result in bureaucratic restrictions on hospitals that would be very unpopular with their constituents. This is an appealing argument in this age of deregulation, but it is, we believe, wrong.

For many years the rise in hospital costs ran far ahead of that for other segments of the economy. Even now, when hospitals across the nation are involved in an organized voluntary effort to hold down costs, their inflation rate still is outpacing the consumer price index.

Whatever success has been achieved under the voluntary program is due in large part to the fear in the profession that without such a program, mandatory controls will be imposed. If legislation invoking mandatory controls becomes a dead issue, you can look for hospital costs to begin climbing even faster.

The legislation Congress is being asked to pass allows for voluntary efforts to cut costs, with no red tape. Only if the voluntary goals are not met does the mandatory program take over.

Bureaucratic intereference with and burdens upon hospitals are not inevitable with a mandatory program. Maryland has had a mandatory hospital cost control program for five years that has not harmed hospitals but has slowed inflation. In the past two years, costs to patients and insurers here rose at only about two-thirds the nationwide rate.●

THE CUBAN CRISIS, 1979

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. McDONALD. The Foreign Relations Committee of the American Legion recently proposed a resolution on the current Cuban crisis over the question of Soviet combat formations present on the island. This resolution was subsequently passed by the National Executive Committee of the American Legion this October. The resolution calls for a complete accounting of Soviet missiles, troops, ships and planes on the island of Cuba. The American public has a right to know the size of the dagger that is pointed in our direction. Therefore, I feel this resolution, which has been sent to the President, should be acted upon by the President and the Congress forthwith. I hope my colleagues agree.

The text of the resolution follows:

RESOLUTION

Whereas, agreements were made on October 28, 1962, between the governments of the Soviet Union and the United States which included, among other provisions, the establishment of Soviet bloc military forces and equipment in Cuba,

Whereas, large numbers of Cuban troops, technicians, and Soviet equipment have been deployed to Africa, Central and South American countries and other parts of the World during the past decade, and

Whereas, current estimates of Soviet bloc forces located in Cuba vary from 3,000 to 30,000 personnel and the sizes of Soviet fleets, air squadrons and military equipment also vary, and

Whereas, the Administration states that the United States has the capability of determining and verifying Soviet activities and military forces wherever they exist, and

Whereas, the real issue has been covered up—how many Soviet airplanes, bombers, missiles and submarines are stationed in Cuba and whether any submarines are stationed in Cuba and whether any submarine bases have been established there, are far more dangerous to our security and those neighboring nations than a few Soviet armed forces. The American People are entitled to know the truth in order to adequately counteract the spread of communism in the Western Hemisphere, now therefore, be it.

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 17–18, 1979, that The American Legion urges the administration to determine and make public any agreements which exist between the Soviet Union and the United States regarding Cuba, and further determine, verify, and make public the size, types, and locations of any and all Soviet bloc military forces and equipment currently located inside and nearby Cuba and be it further

Resolved, that the United States Congress require the executive branch to make such information available to the public.●

YEAR OF THE CHILD

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mrs. SCHROEDER. Mr. Speaker, as we gear up for the fun and festivities of Halloween, I would like to insert the following editorial from the Denver Post, reminding my colleagues of the noble efforts of the UNICEF program. It is only appropriate that in the International Year of the Child we honor efforts where children are helping children. UNICEF, is one of those efforts. The amount of money they raise during Halloween may not be the megabucks that corporations or Congress can muster, but the genuine simplicity and sincerity of the spirit behind those contributions cannot be matched anywhere:

YEAR OF THE CHILD

There is grim irony in the designation of 1979 by the United Nations Children's Fund (UNICEF) as International Year of the Child.

The objective had been to make it a time of celebration and hope everywhere for children, the most helpless of our kind. It turned out to be a year of hunger, fear, desperation and death.

Millions of children in Cambodia are starving. Unknown dangers on high seas and hostile shores await thousands of boat people and their families fleeing oppression in Vietnam. Civil war in Nicaragua left 80 percent of the children diseased and undernourished. The fighting in Uganda destroyed schools, left wells polluted and made life a shambles. The list of disaster areas could go on—Afghanistan, the Kurdish areas of Iran, Ethiopia.

UNICEF ability to bring relief to some of these areas is limited. But the story is not all grim. In more than 100 countries it has helped to make the future of youngsters a little brighter and more hopeful.

Each year at Halloween American children are given an opportunity to share their plenty and good fortune in a small way through UNICEF. Little ghosts and goblins are encouraged to collect money to support UNICEF's humanitarian goals instead of "trick or treating" for themselves.

Trick or Treat for UNICEF was begun by a Sunday school class in Pennsylvania 28 years ago when its members raised $17 for less fortunate children. Over the years others joined the crusade: $50 million has been raised to support nutrition, education and health programs.

This year the need is greater than ever. Parents once again can support UNICEF, and teach their children something about social responsibility, by encouraging them to collect dimes and quarters for other little kids instead of candy for themselves.

There are two other activities in the Denver area this month for the benefit of children that deserve mention. An international gourmet dinner for the benefit of UNICEF is being held Oct. 26. And the third annual Diplomatic Ball, sponsored by the Consular Corps of Colorado for the American Field Service student exchange program, is scheduled for Oct. 20. The student exchange program enables high school youngsters from many nations to study for a year in the United States while living in American homes. American students also go abroad. They pay their way when they can, but funds are needed to supplement parental contributions.

Today's children are the hope of tomorrow. Programs to improve their health save them from hunger and privation, enhance their understanding and develop leadership, need our support.●

BUDGET DEFICITS CAUSE INFLATION

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, finally many people are beginning to see that the source of inflation is one place and one place only—this House Chamber.

As Nobel prizewinners Frederick Hayek and Milton Friedman have been teaching for many years, inflation results when worthless printing press "funny money" is dumped on the economy to cover the excesses of Congress.

The Olney, Ill., Daily Mail has reminded us of our duty to the taxpayers. Although this newspaper laments the lack of fiscal integrity in the House, and opines that we have forgotten the necessity of balancing the budget, I hope that is not the case. In fact, the past few years have evidenced remarkable progress in convincing the liberal big spenders of the error of their ways. We are still a few votes short of keeping wasteful spending under control, but the next couple of elections may well turn this around.

My colleagues would do well to heed the warning of the Olney Daily Mail.

The article follows:

[From the Olney (Ill.) Daily Mail, Oct. 3, 1979]

FORGOTTEN DISCIPLINE

With all the far-reaching economic adjustments put into effect or proposed for congressional action, the one major stimulant to inflation remains unchecked. The federal budget for the current fiscal year is falling deeper into deficit spending.

It is futile at this point to predict with any degree of certainty what the eventual deficit may be, although the budget office undoubtedly will spend many hours doing so. The track record on predicting deficits in recent years has been dismal.

But the slowdown in the economy does guarantee the mix thrown into the projections a few months ago already is outdated. Should revenues not meet budgeted anticipations or expenditures continue to rise—both very real possibilities—the anticipated deficit will grow.

In which case some will argue that sizable deficits are not all that bad during periods of recession. They may even be necessary to expand the economy.

If that is true, deficits exceeding $50 billion in a two-year period ought to provide much stimulation. Have they? Not noticeably.

Nor is a still heavier dose of the same weak medicine the answer to improved economic health, as undoubtedly some will propose. The solution to fiscal solvency requires lowering budget deficits, not expanding them.

That is a discipline all but forgotten in Washington. Neither the Carter administration nor Congress seems disposed to try it now.●

THE UNITED STATES AND OVERSEAS CONSTRUCTION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. MICHEL. Mr. Speaker, rather than analyzing the article I am about to insert in the RECORD, allow me to simply list three of the facts contained in the article. Once you see these facts, I know you will want to read the article itself, to see why our Nation finds itself in such a dilemma.

Here are the facts:

When it comes to international construction, that is, construction performed by one nation's companies within the borders of another nation, the United States is in fifth place among the world nations. Five years ago we dominated this field.

Between June 1975 and April 1978, European firms captured 51 percent of the construction contracts in the Middle East. U.S. firms had to settle for 10 percent.

In 1976 the United States had 18 percent of all overseas business in construction work. By 1978 that figure was down to 7.9 percent and falling.

At this point I insert in the RECORD, "Foreigners Surpass U.S. Overseas: Government Bears Brunt of Blame" from Construction Equipment magazine, October 1979:

FOREIGNERS SURPASS U.S. OVERSEAS: GOVERNMENT BEARS BRUNT OF BLAME

Only five short years ago, American know-how dominated the overseas construction scene. Work volume and volume of heavy equipment exports far outstripped that of our foreign counterparts.

Then we, the Gentle Giant of the Western World, developed an incurable case of international scruples. We are hobbled by our own legislative hands, and continue to pour dollars into oil-producing countries rather than attract some of that money back. And as a result, our lofty position in international construction has slipped to fifth.

True, the dollar volume of Middle East construction is not what it used to be. But relatively speaking, U.S. contractors are being shorn of their competitive edge.

Between June, 1975 and April, 1978, European firms captured 51 percent of the construction contracts in 14 Middle East countries. Asian—mostly Japanese—firms grabbed 27 percent. This left U.S. firms with a paltry 10 percent, although they hold up to 40 percent of the world's construction and engineering capacity, estimates the accounting firm of Arthur Andersen & Co.

EUROPE EDGES U.S.

And, as Henry Kissinger once noted, stronger European trade and political alliances are surfacing somewhat at the expense of American clout abroad. A French firm recently won a $430 million design construction project package in Iraq. A British company picked up a $42 million airport paving job in Jordan. A Dutch joint venture took a $16.5 million harbor dredging contract near Qatar. And Kuwait's version of Disneyland, designed by an American firm, will be created by an Italian construction firm.

U.S. firms have lost that inside track on the path to overseas work. The United States is surpassed by Japan, South Korea, West Germany and—that's right—Italy. In 1976, U.S. contractors gulped 18% of all overseas business. By 1978 the percentage nosed down to 7.9% and falling, figures from National Construction Association show.

"I don't think the Europeans or the Japanese are any better than us in building things," says William A. Hoffman, Jr., principal owner and president of Hoffman International, Inc.

Hoffman, whose construction company did 65% of its $16.5 million business abroad in 1978, pinpoints several factors frustrating U.S.-based international contractors.

"It's simply a dollar-and-cents thing where they (foreign firms) can construct more cheaply because they have government assistance," he says.

Some trade experts believe, for instance, the Koreans are nearly unbeatable on underground utility, power station, site development and foundation bids because of the enormous government support.

"Most of the European countries and Japan have protection of credit and from the political risk of doing business in a foreign country, low interest rate loans and favorable tax treatment—all the things that we don't do in the United States," says Hoffman.

What the United States does do in the tax arena hurts plenty. While other governments do not tax their nationals working outside their borders, the U.S. Government imposes normal Federal income taxes on Americans working overseas. Still worse is that many competing nations in fact give their laborers incentives to go to work abroad.

LEGAL OVERKILL

In fact, a glut of rules and regulations affecting overseas business hobbles U.S. firms.

Much the same apologetic mood, which after Watergate ripped the cloak and dagger from the Central Intelligence Agency, also impedes U.S. contractors' overseas business. The Foreign Corrupt Practices Act and various anti-boycott rules make it difficult for U.S. firms to operate in the Middle East, a real construction hot spot until last year.

Even environmental regulations hold back U.S. business abroad. In 1978, for instance, Congress almost stuck environmental riders on the back of any loans to come out of the Export/Import Bank.

"Thus," says Los Angeles Times columnist Nick Thimmesch, "a loan for construction for a coal-fired electric plant in West Germany would have had to guarantee that the plant would not contribute to acid rainfall in Scandinavia."

In the export of heavy equipment too, the U.S. Government seems to be the country's own worst enemy.

Even though the wind is getting knocked out of the sails of U.S. firms trying to compete abroad, restrictive rules roll on. Robert M. Gants, vice president of the National Constructors Association and committee director of the U.S. & Overseas Tax Fairness Committee, sees tax and antitrust laws as the culprits.

"The United States is being held back from effective competition overseas by antitrust laws that may have merit in our domestic economy, but that have little real basis in international arena," he says.

Gants says that companies are leary of combining forces into export associations. Because of ambiguous antitrust laws, potential members fear their alliance may nail them with a lawsuit.

"You sometimes think that the way our legislators operate is inscrutable," says Ernie Burall-Forti, director of FMC Corporation's Construction Equipment International Division.

Burall-Forti notes that a sure-fire way of funneling your country's money back home is through a giant, solid business like construction exports. But even with a record trade deficit in 1978 of $28.5 billion, U.S. equipment manufacturers find it harder than their foreign counterparts to do business abroad.

"The trade deficit function of exports has been very well understood by other countries, but not by the United States," he says.●

THE MESSAGE FROM THE GOLD MARKET

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. PAUL. Mr. Speaker, there has never been a government in history that could be trusted with a printing press, and this one is no exception.

Once all discipline is removed from the money supply—once there is no backing by something of intrinsic value—there is no restraint on the politicians' desire to expand government "services" without increasing open taxes, by simply printing up the cash and expanding credit in the banking system.

President Nixon removed the vestiges of gold backing for our dollar in 1971. Since then, the politicians have gone wild.

As paper money loses its value more and more quickly, people all over the globe are turning once again to gold—that form of money that keeps its value no matter what governments do or do not do.

When even the establishmentarian Fortune can discuss the official remonetization of gold, we may be on the way to dollar sanity: A full gold-coin standard.

Only this, and nothing less, will prevent political abuse of the people's money.

[From Fortune, Nov. 5, 1979]

THE MESSAGE FROM THE GOLD MARKETS

(By Martin Mayer)

The gold market has always had some confusing sleight-of-hand qualities, but like all markets it conveys messages. And the message from its recent gyrations is unmistakable. The ten-year-old U.S. effort to demonetise gold—to make the metal just another commodity, like rubber or tin—is faltering. A monetary system based on paper alone has proved to be inflationary and is increasingly unacceptable to much of the world.

The appropriate response to this message is not quite so clear. The U.S. Treasury acknowledges that its policies happen to look bad right now, but believes that everything will be okay if people will only show some patience. The European central banks argue that gold's assault on the dollar might end if the Federal Reserve System would set U.S. interest rates at levels that offer savers a "real" return of at least 3 percent—and keep them there. The staff of the International Monetary Fund has pushed for something called a "substitution account," which might offer dollar holders who want out an alternative to gold. On October 6, by moving dramatically to increase the cost of lendable funds, the Fed signaled its agreement that the problems of the dollar had reached crisis proportions.

Out in the private sector, as the market testifies—and, secretly, inside many of the finance ministries—economists are beginning to feel that none of this will work; the disarray of the monetary system is structural, and what was described from its beginnings in the mid-1970's as a "nonsystem" cannot be made to function by any political process now known to man. Eminent figures, far from the "goldbug" lunatic fringe, have begun to call for a complete reversal of policy, for an acknowledge "remonetisation," for a dollar once again officially convertible to gold. Not, of course, at the price of $35 an ounce that the U.S. maintained from 1934 to 1971 (while the prices of everything else tripled), but at a price related to what has been paid this year in the markets. Asked about the prospects for remonetization at his October 9 news conference, President Carter said, "I doubt that that's in prospect." But then, sounding not very sure of himself, he added, "Certainly not for this year."

The news stories from the gold markets have stunned many Americans, but they have not really conveyed the sense of astonishment felt by the experts. Nobody ever predicted—nobody ever imagined—the tidal wave that has swept over the gold markets in the wake of demonetisation. All the recognized oracles, in fact, had pointed the other way. In 1960, the *Economist* printed a fantasy, supposedly the future memoirs of the then director of the International Monetary Fund. The memoirs revealed that demonetization, the refusal of the monetary authorities to buy gold at a fixed price, had made the metal all but worthless—until the Bank of England found that dentists would pay $2.50 an ounce for gold to be used in fillings.

For those looking at a possible remonetization of gold, the key question is whether the monetary authorities have been buying. The official American position is that nothing of the sort has happened, and to keep people from thinking the contrary Washington has been emitting some loud high-pitched noises that come out sounding like a whistle in a graveyard. "Since there's no indication that central banks are involved in the buying," the Treasury's F. Lisle Widman insisted, commenting on this September's run-up in gold, "we're not really concerned."

It's true that only one central bank—Singapore's—is publicly active in the gold markets, and that only thirteen governments of less developed countries have placed "reserve bids" with the IMF at its monthly auctions (thereby guaranteeing their acquisitions of gold at the average bid price). And none of the major financial powers represented in the Bank for International Settlements reports any increase in its gold holdings.

Widman's confidence may nevertheless be misplaced, for there may be a considerable volume of demand out there representing governments. In Saudi Arabia, for example, there is little difference between purchases by banks and purchases by the government. Another ambiguous case: last year, Brazil and Argentina borrowed heavily in the Eurodollar market and bought marks with the proceeds, contributing to the turmoil in the currency exchanges; this year, they are believed to be reducing their dollar reserves still further and squirreling away gold. Traders say that the Japanese government has arranged for the purchase of gold by Japanese industry, allegedly for stockpiling purposes, but possibly to increase the government's own holding in ways that would not have to be reported to the IMF or the BIS. Both Robert Guy of Britain's N.M. Rothschild & Sons Ltd. and consultant Edward M. Bernstein, the eminent American analyst of balance-of-payments problems, have said in recent months—as statements of informed belief rather than solid fact—that a number of central banks are surreptitiously in the market.

Geoffrey Bell of the British banking house of J. Henry Schroder, who is running a new Rockefeller Foundation project studying the international monetary system, has a more cautious formulation. "We don't know if the central banks are buying," says Bell. "What we can say for sure is that none of them is selling." Since the gold run-up began half a dozen years ago, noticeable quantities of gold have been released to the market only by bankrupt Portugal and Zaire, India (in an effort to control its own black market), Mexico (in its time of troubles in 1977), the IMF, and the United States. "There's a difference between gold and tin as commodities," Bell comments. "The difference is that central banks don't hold tin in their reserves.". . .

Anyone looking for evidence of creeping remonetisation might find some in the design of the European Monetary System, which was put in place in early 1979 to link the currencies of Germany, France, Italy, Benelux, Denmark, and Ireland. At its center is a European Monetary Cooperation Fund—a pooled reserve of foreign currencies and gold on which the member countries can draw to intervene in the markets for purposes of maintaining the relative parity of their currencies. At market-related prices recently, the gold component of the EMS reserves ran more than $30 billion, or about two-thirds of the total fund.

The U.S. Treasury, predictably, discounts the significance of this gold-based reserve. Under Secretary Anthony Solomon attributing it to the Europeans' "need to come up with as large a sum as possible in the pooled accounts." Deputy assistant secretary Widman claims that "they had no other way to allocate drawing rights on their fund."

Anthony Solomon insists that all this government gold is *not* money—at least, not money that the governments would ever consider using to pay their bills. "There's more turning to gold as a storehouse of value," he says. "I agree with that. But you have to look at money in a narrower sense. Will the central banks depart from their understanding not to transfer gold to each other as payments? I don't see any likelihood that the central banks and the governments would *ever* agree to remonetization."

Solomon's comment looks more like a game played with definitions than like a sober view of realities. Since the days of Sir Thomas Gresham (who died in 1579), it has been understood that "bad money drives out good"—that whenever people have a choice between two moneys they will tend to spend one of them (the "bad" money, which is expected to lose value over time) and hoard the other (the "good" money, which is expected to retain its value). . . .

It is Gresham's Law that, finally, explains why the runup in gold prices fails to provide mountainous new supplies. Whatever the new rules are at the IMF, the world's monetary authorities want to keep gold as the convincing reserve behind their currencies—as the "good" money that everyone will accept in the worst crunch. And if

the governments don't trust each other's paper, the world's private hoarders are unlikely to disgorge their gold. . . .

At first, the Treasury took the position that this frenzy in the gold market was irrelevant to the condition of the dollar—after all, gold prices were rising in all currencies, not just dollars. In the end, however, the United States cannot ignore the worldwide gold frenzy, because it can lead to a spiral of dollar depreciation and domestic inflation of disastrous significance.

The danger lies in the fact that the vast majority of the gold purchasers are spending dollars, not other currencies, to buy the metal. They are the same people who last year bought marks and francs, driving down the exchange value of the dollar. And even when the markets finally begin to view gold as "fully priced," the dollar itself may not recover. The world looking at the dollar will see a stock problem (immense holdings in weak hands) as well as a flow problem (American deficits, which may or may not persist through the recession). Eighteen months after the then director of the International Monetary Fund proposed a "substitution account" to remedy the stock problem, U.S. policymakers have finally, grudgingly, conceded the need for such a program. But it is not expected to start for at least two years, and we don't have that much time.

In the eyes of a growing number of analysts, an option that we do have is open and aboveboard remonetization of gold. The U.S. could again offer to buy or sell gold for dollars at a certain price, or within certain price ranges. A report calling for consideration of a return to official dollar-gold convertibility has been issued by a new International Monetary Advisory Board including Martin Feldstein (president of the National Bureau of Economic Research), Arthur Laffer, Nicholas Krul of Geneva's Gulf & Occidental Investment Co., and Kurt Richebächer, executive manager of the Dresdner Bank. Eugene Birnbaum, chairman of the board, has gone further, calling for a return to pegged exchange rates based on an established price for gold.

Some Americans who have been scornful of gold in the past have begun to argue that its return is not necessarily detrimental to U.S. interests. "What should our attitude be to what's happening in the gold market?" Congressman Henry Reuss ruminated the other day. He has been chairman of the international payments subcommittee for eighteen years, holding annual hearings on monetary problems, in which he enthusiastically supported the reduction and then elimination of gold as a monetary factor. "Well, I don't think we should spend any time trying to fight gold or demonetise it, or bring down the price by dumping. We should thank our lucky stars we've got it."

A return to gold cannot be achieved by the stroke of a pen, however, and the Bretton Woods system is gone forever. The purpose of fixing a price range for gold would now be to discipline a multicurrency system rather than to keep a single currency (the dollar) as a fixed reference point. All the major trading nations are now and would continue to be gold holders, and the price range would have to be set by agreement. What that range should be is a crucial decision: set too low, the gold price might lead to a deflationary drain of gold to private (and Arab government) holders; set too high, it might stimulate rather than repress inflation.

However difficult the remonetization of gold would be, the maintenance of today's international-exchange system, with its demonstrated inflationary bias, seems impossible. The private markets have lost their faith, not just in currencies, but in governments (including international governmental bodies), and now demand some degree of "automaticity" in the system. Whatever its defects, gold seems to offer at least a degree of automaticity. Unless some other credible source of monetary discipline can be found, structuring the system to make central bankers fear the loss of gold will look increasingly attractive.

Perhaps the most persuasive American advocate of a return to convertibility was the late Milton Gilbert (he died several weeks ago), who had been chief economist of the Bank for International Settlements in Basel. Gilbert liked to tell a story from his early days on that job. Among the assistants he found waiting for him, he recalled, was "a very intelligent young Italian. Once a month he took part of his pay, and bought gold coins for his wife. I remonstrated with him about it once, and he said, 'Look, don't you Americans come over here and try to tell us how to live. I go home and I give that coin to my wife, and I tell her, "If something happens to me, and to the bank and all the governments, you can go into the countryside and give it to a farmer, and with that coin you can eat for a week."' I came around to the opinion that he knew something I didn't know." ●

LEST WE FORGET

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. McDONALD. Mr. Speaker, today we were supposed to consider H.R. 5461—a bill to make Martin Luther King's birthday a paid Federal holiday. There are many reasons to be opposed to another Federal holiday, but lest we forget some of King's prior associations and activities, I would like to place in the RECORD at this point an article from the Review of the News for April 24, 1968. I commend it to the attention of my colleagues:

LEST WE FORGET

Who killed Martin Luther King? And why?

Well, who stood to profit?

You will recall that King first came to notice in 1955, as head of the Montgomery Bus Boycott launched by Mrs. Rosa Parks. Mrs. Parks was a student at the Highlander Folk School, which was organized with the help of Don West, then district director of the Communist Party of North Carolina, and which was of course a Communist training school—cited as such by several government agencies. And King ran the boycott of the Montgomery Improvement Association, which had been formed by the Rev. Fred Shuttlesworth, who is a former convict, says the Joint Legislative Committee on Un-American Activities of the State of Louisiana, and "has been affiliated with several communist-front organizations."

Another former convict is Bayard Rustin, who in 1953 was arrested by the Pasadena Police Department for homosexual activities. The Allen-Scott Report for August 16, 1963, reports that in 1936, as a college student, Rustin joined the Youth Communist League, "and was active in its operation on the campus and elsewhere"; and that in World War II, he was arrested for making speeches opposing our war against Hitler, and served twenty-six months in federal prison.

And in 1955 he became Dr. King's "secretary."

In March, 1957, at a meeting in Atlanta, they formed the Southern Christian Leadership Conference. The meeting probably couldn't have been called in February, because Mr. Rustin, Dr. King's secretary, was then attending the sixteenth national convention of the Communist Party.

The president of SCLC was of course the Rev. Dr. King. The vice-president of SCLC was the Rev. Fred Shuttlesworth. And Shuttlesworth later also became the new president of the Southern Conference Educational Fund—which has been described by three government agencies as a department of the Marxist Conspiracy. It was organized by Communists, is run by Communists and is the most important Communist organization in the South.

Mr. Carl Braden has served as field director and has been named under oath as a Communist Party member. His wife Anne, an SCEF official, has also been named under oath as a Communist.

Mr. Braden is a former convict, of course. You have to be to get anywhere in the Movement. While in Louisville, he was convicted of a felony—a little matter involving some dynamite.

Mr. Aubrey Williams was SCEF president until 1963. In April, 1954, he was named under oath as a Communist. It was Williams, a Communist, whom Shuttlesworth—King's vice president—replaced as president of SCEF, a Communist organization.

And there was James A. Dombrowski, executive director of SCEF, who has also been named under oath as a Communist Party member.

On October 7, 1958, Dr. King wrote a letter to Anne Braden, in which he urged her and her husband Carl—both already well known as Communists—to become permanently associated with his SCLC.

And on August 16, 1960, King wrote the following letter to Communist Dombrowski: "Dear Jim, This is just a note to acknowledge receipt of your letters of recent date. We, too, were more than happy to have you in our home, the fellowship was very rewarding. I will expect to hear from you when Bishop Love returns to the country. At that time we can set the date for an Atlanta meeting. Very sincerely yours, Martin."

In fact, King actually filed an affidavit in federal court in New Orleans, strongly supporting Dombrowski and SCEF—and refused to repudiate the affidavit even after being shown proof that he was actually a Communist.

Indeed, a photograph exists which shows Martin Luther King along with Anne Braden, Carl Braden and James Dombrowski (the last three all identified Reds), the back of which reads as follows in Dombrowski's handwriting: "The 6th Annual Conference of the Southern Christian Leadership Conference, Birmingham, Alabama, September 25 to 28, 1962."

And there is a check, issued by the Southern Conference Educational Fund, signed by James A. Dombrowski, and dated March 7, 1963, to the order of Martin Luther King, in the amount of $167.74, with a notation on it: "New York expenses"—and Dr. King's endorsement on the back.

The Louisiana Committee on Un-American Activities concludes that the Southern Christian Leadership Conference—founded by Dr. King—is "substantially under the control of the Communist Party through the influence of the Southern Conference Educational Fund and the Communists who manage it."

There is also the fact that on the Labor Day weekend of the year 1957, in a speech at the Communist Highlander Folk School, King called Communist Aubrey Williams "one of the noble personalities of our times," and had his picture taken with Abner W. Berry, of the Central Committee of the Communist Party.

And there is Hunter Pitts O'Dell, who was exposed in 1958 as a southern district organizer for the Communist Party, in 1962 as a member of the National Committee of the Communist Party—and as late as the summer of 1963, was still employed by Dr. King to help run the SCLC.

In fact, we read in the *Boston Globe* of April 15, 1964: "Official warnings have again been given to King about another, even more important associate who is known to be a key figure in the covert apparatus of the Communist Party. After the warnings, King broke off his open connection with this man, but a second-hand connection none the less continues. . . ."

And last September, the nationally syndicated *Allen-Scott Report* revealed that "the FBI has unimpeachable evidence, including photographs, showing that King is now listening to a man who . . . has been one of the Communist party's biggest money raisers in this country." He it was apparently who wrote King's statement in April, 1967, at the UN, that Congress is "wild with racism"; and his statement later in the year, at his SCLC convention, that the U.S. is the "greatest purveyor of violence in the world today."

Dr. King of course was the inventor of "nonviolence." What actually was "nonviolence?" How did it work? Well, in *Saturday Review* for April 3, 1965, he tells us:

"1. Nonviolent demonstrators go into the streets to exercise their constitutional rights.

"2. Racists resist by unleashing violence against them.

"3. Americans of conscience in the name of decency demand federal intervention and legislation.

"4. The Administration, under mass pressure, initiates measures of immediate intervention and remedial legislation."

Now, remember, this isn't my idea. This is straight from King himself. And observe that according to Dr. King himself, the violence that usually occurred in one of his demonstrations wasn't unexpected, wasn't to be avoided, wasn't something to be sorry about. It was exactly what he wanted. It was the point to the whole Production.

It was in fact, said Dr. King, the *only reason* for a "non-violent" demonstration: to generate more pressure on the Congress to install more collectivism.

"For weeks," explains Newsweek of March 22, 1965, "Martin Luther King had been escalating his Selma voter-registration campaign toward the state he calls 'creative tension'—the setting for a paroxysm of segregationist violence that can shock the nation to action. . . ."

"The Negroes' rationale in holding night marches," explains the New York Times of February 24, 1964, "is to provoke the racist element in white communities to show its worst."

So King's "nonviolence," to repeat, not only wasn't in any way an attempt to avoid violence—according to King himself, violence was an inescapable, essential, desirable part of it. "Nonviolence" meant only that King himself did not use the violence—he caused it. He provoked it, finally forcing "racists"—everyone who doesn't own a pair of sandals and doesn't need a bath—either to lie down and die or to retaliate, so that King could play the innocent victim. "Nonviolence" in short was nothing else but a demonstration of dialectical materialism, the pseudoscience invented by Marx, according to which Marxists advance by controlling both sides of the conflict; by advancing a thesis, which provokes an antithesis—a reaction by reactionaries—a struggle which produces a synthesis, which becomes a new thesis, and continues until the complete victory of Socialism.

"In short," said King in Stride Toward Freedom (New York, Harper & Row, 1958, pp. 94–95), "I read Marx as I read all of the influential historical thinkers—from a dialectical point of view, combining a partial yes and a partial no. . . . The Kingdom of God is neither the thesis of individual enterprise nor the antithesis of collective enterprise, but a synthesis which reconciles the truths of both."

So the ironic truth is that King contributed to his own murder. For in Memphis he was once again applying his philosophy of "nonviolence," was he not? Once again, he was trying to provoke violence according to stage 2 of his tactics.

And he succeeded.

And what were the "immediate intervention and remedial legislation" King was after according to stage 4?

In the Selma March, for instance, in 1965, the violence he provoked according to stage 2, followed on schedule by the sympathy of stage 3, caused the lightning passage of the "voting rights" bill, under which the federal government grabbed from the states power to register voters—the point being, of course, that in any dictatorship, whether Communist or Nazi, all the power must be centralized.

And soon King's organization will launch his "Poor People's March" on Washington. The plan as you know envisions the actual interruption of Congress unless "poor people" are handed about $100 billion—which would be used as usual to recruit, train, finance and defend the Communist gangs which are destroying our country, through the "war on poverty." For such an amount of course you have to put on a good show. You need some really bloody "nonviolence."

And where is it all heading? What is the goal? Suppose the "Poor People's March" does manage to interrupt Congress. Suppose in fact that so many "poor people" physically occupy the government, that the government is paralyzed and cannot function. What would we have?

What we would have of course is the Russian Revolution. We would have a coup—the seizure of our government by "nonviolence": by force.

Now imagine once again that you are one of the small band of rich, educated and not at all oppressed conspirators secretly running the communization of America. And once again you are looking down from your skyscraper in New York. Your scheme to create a race war is going very well. You are sorry you had to wait so long, of course—you remember wishing years ago that you could immediately indulge your great love of killing—but you knew that Americans of both colors had to be properly prepared. So you began with something Americans could be sold: "nonviolent integration," and you used a clergyman named King to sell it—to capitalize on the fact that black Americans have sometimes been the victims of injustice—and to sell it so as deliberately to create the bitterness you need.

But now it's 1968, and your scheme is going very well. There's lots of beautiful killing and blood. "Watts was glorious," you said, if you happen to be Herbert Aptheker. Now you no longer need to bother with such nonsense as "integration." Yet at the same time, you have serious problems. Your use of King is being more and more exposed. His use of violence is becoming understood. Everybody says he is becoming unpopular. In fact, he is turning from an asset into a liability. "Reactionaries" are preventing the passage of important Communist legislation. King is doing his best, but you are having difficulty, for instance, getting that $100 billion.

Suppose King were violently removed? you ask yourself. You no longer need him—so suppose he were brutally murdered as part of his next demonstration of dialectical materialism. That would be the ultimate in "nonviolence." With one 30.06 bullet you could blame "white racism," as usual, restore King's reputation, further accustom Americans to martial law, pass your Communist legislation—and at the same time notify your troops around the country that "nonviolence" is dead, too, and should be replaced by guerrilla warfare.

So you call in your shooters and you order the hit.

Observe the first results of the murder. Riots and looting raged for a week, making Americans of both races furious. Many feel great sympathy for the victim. And in New York, Nelson Rockefeller was able to ram through a $6 billion "urban renewal" program which lets the state intervene over the heads of the mayors.

Rockefeller participated by the way in a memorial march for King, arm linked with Charles Kenyatta, head of Harlem's Mau Mau Society—named for the Communist terrorists of Kenya. Whether or not Kenyatta is just another psycho, I don't know, but he specializes in appearing in public with a machete on which a Bible has been impaled.

In fact that's what he was carrying when Rockefeller took his arm.

And in Washington, Johnson's Communist housing bill was passed. When the Communists grabbed Russia, they naturally also grabbed housing, using the welfare of workers as the excuse. They didn't say they were doing it for black people, because no black people are there. They said that everyone had the "right" to a certain living space, and moved those who had less in with those who had more. Remember that no black people were involved—everybody who was, was as white as the Governor of Mississippi—so those who resisted weren't racists, were they? They resisted because the point as always was not to establish "racial justice," but to control the population. And Party members and sympathizers naturally got the best.

The same thing will now begin to happen here.

This is why we must continue telling the truth about Martin Luther King; not for revenge, or just to destroy a phony reputation, but because of the use to which his murder—like that of John F. Kennedy—is being put.

So who killed King?

The fact that Ramsey Clark heads the investigation is suspicious enough. Anybody who believes Clark has any interest in truth should be sent immediately to me. I'm trying to sell the Brooklyn Bridge. And observe that his investigation already smells like last week's mackerel.

If and when Clark ever presents a suspect, you can bet we will be told that he is a "right-wing extremist."

So what should Americans do now?

1) Demand that we be told all the facts and that the investigation continue until King's killers are found. Then we might as well also find out who killed Medgar Evers, blew up the four little black girls in that church in Birmingham in 1963, and helped Communist Oswald kill Kennedy.

2) Refuse to be intimidated. King was almost entirely a creation of public relations—of a bunch of crooked reporters, most of them white. Like the barrage of publicity after the Kennedy assassination, the current propaganda is designed not only to advance Communism but to demoralize the opposition—to make Americans uncertain and guilty. In fact, on Long Island, for instance, hoodlums stoned automobiles whose drivers refused to turn on their headlights "for the King." Needless to say, the growing number of Americans of both colors aware of what King really was, and really was doing, will not be given coverage on CBS. You are not as alone as that lie net would have you think.

3) Continue exactly as we have been—telling the truth—explaining that "free handouts" are nothing but the bait of dictators; that the trouble in this country isn't caused by black people, but by the small band of criminals—most of them white—who have been framing them; and that the "civil rights movement," which now has taken the life of Martin Luther King, was designed from the beginning to enslave us all. ●

YOSEP MENDELEVICH

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. ZEFERETTI. Mr. Speaker, I would like to call to the attention of my colleagues an article that appeared in the October 7 edition of the Washington Post. The article, by Phil McCombs, describes the plight of Yosef Mendelevich whom I have adopted as my prisoner of conscience. In reading the following column, I ask my distinguished colleagues to reflect on the religious and political freedom we enjoy in the United States and to work for the release of Yosef Mendelevich, who is being denied these basic human rights.

The article follows:

STRUGGLE OF SPIRIT: A SOVIET PRISONER'S FATE AND FAITH

(By Phil McCombs)

After he joined the underground, Shimon Grilius practiced for prison. He slept on a hard bed without a blanket. He put margarine instead of butter on his bread.

"Why are you using margarine?" his mother asked.

He lied so she would not carry a burden.

Three years later, after he had been betrayed, he found that his preparation had not been sufficient. The horror of life in a Soviet prison was unimaginable.

Doubly so for a Jew. Grilius quickly became a very religious, Orthodox Jew. It helped him survive.

"In order to live, you don't just get up in the morning and eat. There is a spiritual dimension to life. I learned how low a person can sink if he is without religion, if he relies only on human rationalizations."

Grilius, 34, is a short man with a long red beard. He wears a black suit and a Boston Blackie hat with a black skullcap underneath.

Grilius is in Washington seeking to interest American authorities in the fate of another Jew, Yosef Mendelevich, who remains in prison in Russia.

Mendelevich was convicted of crimes against the Soviet state after participating in a plan to hijack a plane and escape to Israel in 1970. He is the only Jew among those convicted not to have been released and allowed to leave Russia.

The leaders of the hijack attempt, Mark Dymshits and Eduard Kuzmetsov, were freed last April with other Soviet dissidents in exchange for two Russian spies.

Two non-Jews who participated in the attempt, Alexei Murzhenko and Yuri Fiodorov, also remain in prison.

It is Mendelevich whom Grilius came to know and love in prison as a spiritual mentor. Grilius now fears that his friend remains behind and has been singled out for special torments because he is a deeply religious Jew who insists on wearing his skullcap, demands kosher food and refuses to work on the sabbath.

Just the sort of things that tend to drive prison authorities wild.

Mendelevich.

He tried to grow a beard as a symbol of his orthodox faith. The guards handcuffed his hands behind his back and hoisted him from the handcuffs until is toes swung free of the ground.

While he hung that way, they shaved him.

After he refused to work on the sabbath, Mendelevich was taken out of the flatiron plant and put to work shoveling dirt.

In poor health to begin with, he deteriorated. He was given an aspirin from time to time, no other medication.

Loads of dirt to be shoveled were scheduled to arrive just before the beginning of the sabbath. The Jews in the prison rallied to help so that Mendelevich could avoid dishonoring the holy day.

Talking in the barracks was not allowed. Outside in often freezing weather, Mendelevich taught Grilius to speak Hebrew.

Grilius recounted this tale from Mendelevich's youth in Riga, Latvia:

"During the war, the Nazis killed 20,000 Jews near Riga and buried them in a ravine. There was no marker for the mass grave.

"Surviving Jews passed on the information. Starting at age 16, Mendelevich led gatherings of Jews at the grave. They marked it. They petitioned the Soviet government for an official marker. The official marker that finally arrived said 20,000 had died there, but did not identify the dead as Jews.

"Mendelevich continued to lecture groups of Jewish youths at the grave-site in Hebrew.

"Mendelevich and his family repeatedly tried to obtain exit visas to go to Israel. They were refused. Finally he was arrested in the hijack attempt.

"They knew they were being followed the morning they were arrested. They decided to go ahead anyway, as an act of leadership and faith. Mendelevich has a frail body but an extremely strong spirit. If Dymshits and Kuznetsov were the leaders, Mendelevich was the spirit and the heart of the operation."

Mendelevich was sentenced to 12 years at hard labor. He has served nine.

Grilius was released at the end of his term in 1974. He then was allowed to emigrate to Israel with his father and mother. Mendelevich's mother and sister were also allowed to go.

Mendelevich was left behind.

For six years, he has not seen his family. He has not been allowed to receive a letter for a year.

He wrote, in one of the monthly letters he is allowed to send, to his sister. "I do not believe that you have ceased to love me. . . ."

He is not allowed books.

"I can't improve my mind," he wrote in another letter. "My intelligence seems to be going down all the time. I can no longer adequately express myself because I am not allowed to study or ask questions. In this way, they are destroying me. . . ."

Not hearing from his family, he dreams of them and imagines them as they must be.

"You can suffer hunger, you can suffer a cutoff of letters, you can suffer hard work—but the fact that father died is a greater hurt to me than all the other sufferings. . . ."

He is a poet.

"In the summer it's more pleasant because it's not so cold here. Even the crows in the morning don't say, 'Caw, caw.' It seems more like, 'Ah, Ahhh. . . .'" ●

PERSONAL EXPLANATION

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. HOPKINS. Mr. Speaker, on Friday, September 28, I found it necessary to be absent from the House of Representatives after 3 p.m.

My early departure enabled me to catch the last flight to Lexington which would permit me to visit my wife before she underwent major surgery the following morning.

During my absence, I missed seven recorded votes. I would like to take this opportunity to indicate how I would have voted, had I been present for those votes:

"Yea" on the conference report to accompany S. 237, the Magistrates Act of 1979.

"Yea" on final passage of H.R. 2795, the U.S. Travel Act amendments.

"Yea" on final passage of H.R. 3642, the emergency medical services extension.

"Nay" on the motion to order the previous question on the rule to consider H.R. 2859, the Domestic Volunteer Service amendments.

"Yea" on adoption of the rule to consider H.R. 2859.

"Yea" on the motion to resolve into committee on H.R. 2859.

"Yea" on adoption of the rule to consider H.R. 2172, the International Sugar Agreement.●

DR. THOMAS S. AUSTIN, RECIPIENT OF PRESIDENT'S DISTINGUISHED FEDERAL CIVILIAN SERVICE AWARD

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. BROWN of California. Mr. Speaker, it is a pleasure for me to bring to the attention of my colleagues an honor soon to be bestowed on Dr. Thomas S. Austin, who more than 33 years served this country.

Lord Nelson, England's famous naval hero, suffered from seasickness throughout his entire life. Needless to say, the man who destroyed Napoleon's fleet did not let it interfere with has career. Dr. Thomas S. Austin contracted polio in 1952 and was confined to a wheelchair. He not only learned to live with his personal weakness, he conquered it. Most of us have our own little "seasickness" too. For some it may be physical, for others psychological. Usually it is a private war, carried on quietly within ourselves. No one will pin a medal on us for winning it, but nothing can dim the satisfaction of knowing we did not surrender. Dr. Thomas S. Austin is one such person.

It was recently announced that the President will soon give this fine gentleman the Distinguished Federal Civilian Service Award. A great many of his achievements have gone unheralded, but certainly not unappreciated by the many individuals he has helped and inspired in one way or another throughout the years.

I am pleased to share with my colleagues this brief summary of his activities:

SUMMARY OF ACHIEVEMENTS

Thomas S. Austin is Director of the Environmental Data and Information Service (EDIS), a former director of the National Oceanographic Data Center, and a world authority on marine science affairs and scientific data and information management. His distinguished career of public service spans more than 33 years.

Dr. Austin's creativity and outstanding leadership are illustrated by his development of EDIS capabilities to respond to critical national problems. In support of national efforts to increase energy resources, for example, EDIS has provided tailored environmental data and information products needed to plan, design, build, operate, and monitor the environmental impacts of offshore drilling rigs, supertanker ports, floating nuclear powerplants, and the Alaska pipeline. EDIS also played a significant role in the Department of the Interior's national heating oil allocation program for the winter of 1973–74.

During the heating and cooling seasons, EDIS issues projections of natural gas and electricity demand for multistate regions of the conterminous United States to the Department of Energy, other Federal agencies, state energy agencies, and industry. DoE also uses EDIS data in its formula to allocate Federal funds to the States to insulate the homes of low-income citizens.

At Dr. Austin's direction, EDIS has provided tailored climatic guidance needed by architects and builders to design energy-conserving homes. It also has worked with DoE to rehabilitate available solar radiation data in a form most useful for solar energy applications. In addition, in response to DoE requests, EDIS established a test data base for the Ocean Thermal Energy Conversion (OTEC) program, identified areas requiring additional observations, provided data products to DoE, and implemented an operational OTEC data base.

In cooperation with DoE and USGS, EDIS developed the first detailed maps of geothermal energy sources for the western United States, Alaska and Hawaii and the Gulf Coast.

EDIS crop-yield models and evaluations of potential effects of climatic fluctuations on national and global grain supplies are used by the Department of Agriculture in its crop-yield assessments. They also are used by the State Department in awarding disaster relief to Caribbean and Sahelian countries.

An EDIS oil spill trajectory risk model has been used in the licensing process for deepwater ports in the Gulf of Mexico, during the ARGO MERCHANT oil spill emergency, and in environmental baseline assessments of Mid-Atlantic, New England, and California outer continental shelf oil and gas lease areas.

In the National Strategic Petroleum Reserve Program, EDIS studies of the potential ecological effects of the disposal of huge volumes of saturated brine into the Gulf of Mexico play a part in decisions as to the location of brine discharge sites and the design of the disposal systems. EDIS also designed and is implementing a program of physical, chemical, and biological monitoring before, during, and after salt-dome leaching operations.

The development of EDIS' capability to undertake these and other new programs and services in direct response to critical national needs—while still providing traditional data products and services to a user community that has increased four-fold since he became director of EDIS—is one of the most impressive of Dr. Austin's achievements. But there are many others.

For many years, Dr. Austin has been a prime mover in shaping national and international policies in marine science affairs and environmental data management. He planned and coordinated the first international survey sponsored by UNESCO's Intergovernmental Oceanographic Commission in 1963, demonstrating that large ocean areas could be successfully studied through international cooperative efforts. Later, he developed the National Oceanographic Data Center into a model for similar national centers subsequently established throughout the world.

As Director of EDIS, Dr. Austin has improved user services, cut costs, developed a capability to provide multidiscipline data and information products and services, and developed a prototype national referral system for environmental data, information, and literature. Under his direction, EDIS also has provided experiment design, data management, and analysis support to large-scale international research programs designed to acquire better understanding of the air/sea coupling which controls environmental fluctuations.

I am sure my colleagues in the House join me in wishing Dr. Thomas S. Austin many more successful and fulfilling years.●

THE DANCE OF THE LEMMINGS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. ASHBROOK. Mr. Speaker, if we are to believe the national media the 1980 Presidential elections should be canceled because the investiture of Senator EDWARD KENNEDY has already taken place. The parade of news personalities singing joyous praises about the impending Kennedy coronation is the logical extreme of the national media creating their own reality. When the real world does not fit into their ideological mold they must flee toward fantasy in the hopes that the public will be guillible enough to follow their lead and make fiction a fact. The nostalgia boom for Camelot and the recent saturation of the airwaves and newspapers with Kennedy propaganda makes it clear that it will be a long 1980 for those of us who want more for America than the warmed over politics of expectation.

Just like in a number of recent political films the Republican Party is not even mentioned. To even allude to the fact that there is an alternate to the Democratic Party seems to be too great a concession by the powers that be. All indications are that the word has come down from the mountain that nothing, even the feelings of the American voter, should get in the way of Mr. KENNEDY'S triumphal march to the White House. The polls all show that the revisionism of American political reality has taken hold. Senator KENNEDY outdistances all rivals. But we need to look at the pattern of support in order to realize that we are seeing the selling of a candidate 1980 version.

The media has decided that the 1980 turf will be fought on the issue of leadership. This is the stuff of major headlines and firery speeches. It is a natural for the highly paid camp followers like Barbara Walters to coo and swoon about for the next year. For all of its posturing about the need for the voters to decide on the basis of issues and substance the news media prefers central casting to the American mainstream in placing people in the Oval Office.

I have watched the trench lines being dug these last few days as the Democrats begin to form their lines of assault. It is clear that if the veneer of rhetoric is stripped from the Kennedy and Carter images all we have left is the half baked and discredited ideas that gave us the monumental waste of the Great Society and the shattered expectations and overblown political promises that ignited the riots of 1966 and 1967. America knows both in its heart and mind that the false prophets of government growth have brought nothing but disaster and economic decline to the United States.

No matter how it is packaged, whether with a down home southern accent or a cultured Harvard accent the result is still the same: inflation, tax increases, deficits that dry up capital, more government spending, less private initiative, and frontal assaults on American values and the American family by legions of social engineers. The voters have rebeled against this vision by throwing many of the rascals out of office. Dick Clark from Iowa who stood for appeasement abroad and intervention at home watched his incumbancy crumble at the polls in 1978. Now he has announced for the Kennedy dynasty. Other fixtures of the ill-begotten sixties are now lining up to relive their glory days of riots, busing, unrest, and big government. The only thing going for them is the revisionism of the media that is telling the country that the sixties were not that bad. They say that the lies of Johnson, and the incompetence of Jack Kennedy did not really happen, and that those who bring these things up have no right to do so. Only by forgetting the past can the liberal clack capture the future.

America will hopefully see through this ploy. As the liberals rally around Senator KENNEDY and call upon the Nation to join their march to oblivion we should remember that they stand for everything this Nation is now against. They are for more government intervention into our lives; they are for the government taking a bigger bite out of our paychecks; they are for nationalization of the family: they are for having the government telling us what to do. They place their faith in the outmoded ideas that underlie their tight little cocktail circles. They have a distinct contempt for the American voter. Their glamour and their highly publicized patronage chic artists and causes that are in vogue may sway some voters into thinking that this is the type of people who we want in charge. We should all remember that it is preferable to read about the liberal beautiful people in fan magazines than to foot their bill for their warped vision of America. The voters must wake up to this situation or face the prospect of following the lemming over the cliff of Camelot.●

SOLAR ACCESS ALTERNATIVES ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. MOAKLEY. Mr. Speaker, it is clear that the use of solar energy will be a prominent part of our future energy inventory. With each passing year, the

investment by both the private and public sectors in this alternative energy source is increasing. For fiscal year 1980, Federal solar funding will reach $1 billion for all Federal agencies' programs.

To protect and further encourage solar investment by Government, industry, and homeowners, laws must be enacted to assure solar energy system owners adequate access to sunlight for their solar systems. How best to protect solar rights, I believe should be addressed by the State and local governments rather than through a comprehensive Federal approach. But, I also feel that it is incumbent upon the Federal Government to provide incentive and assistance to the States and communities to develop access laws that suit their local and regional needs.

To accomplish this, I have introduced legislation which has been sponsored in the Senate by GARY HART entitled, the Solar Access Alternatives Act. This bill requires the Department of Energy to work with all interested State and local governments in identifying and adopting legal alternatives to assure solar access.

It is the aim of this legislation to help produce solar access laws that fit local needs and try to prevent passage of ill-considered legislation which may hinder, rather than foster solar development. This bill will also give the Department of Energy the chance to demonstrate its leadership in this area by coordinating and encouraging work in the field of solar rights.

To further show the Federal Government's commitment to fully developed solar technologies, this legislation also calls for all Federal agencies to construct and maintain their facilities (including vegetation) in a manner which is consistent, to the maximum extent practicable, with State and local laws governing access to sunlight.

The time to promote solar access is now. For the United States today, there are only about 40,000 solar buildings and many of these have been installed without the protection of solar access laws. If solar technologies are to contribute 20 percent of our total energy resources by the year 2000, we must protect solar consumers' access to sunlight in the most equitable way possible. By providing support, as well as committing itself to compliance to local access law, the Federal Government will help meet its responsibility to promote use of solar energy.

The bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Solar Access Alternative Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress hereby finds and declares that:

(1) Solar energy is an abundant, renewable, and nonpolluting source of energy;

(2) It is in the national interest to promote and encourage the use of solar energy systems which would effectively reduce consumption of irreplaceable fossil fuels and decrease our nation's dependence on foreign oil;

(3) The viability of solar energy as an alternative energy resource ultimately depends upon direct access to the sun's rays;

(4) a solar energy user's legal right to sunlight varies from State to State and is, for the most part, unclear and undefined;

(5) a solar energy user whose solar collector or device is shaded by a neighboring structure may have no legal redress;

(6) measures which help clarify legal access to solar energy can play a vital role in stimulating advances in technology and eliminating institutional barriers;

(7) methods can be devised that will serve to protect the solar user from a shadow and avoid litigation between neighbors; while promoting the development and use of solar energy devices; and

(8) compliance with State and local solar access laws by the Federal government, to the extent practicable with respect to buildings constructed and maintained by it, is essential to eliminate potential barriers to the use of solar energy.

(b) It is the purpose of this Act to assist States to conduct Solar Access Reviews, to identify legal alternatives to assure access to direct sunlight and methods of encouraging adoption of such legal alternatives, and to encourage compliance by Federal buildings with State and local solar access laws.

DEFINITION

SEC. 3. For the purposes of this Act the term—

(1) "solar energy user" means any individual, sole proprietership, partnership, corporation, association, or other organization, which utilizes any system, method, construction, device or appliance relying on the use of the sun's rays, rather than on conventional energy sources, and which conforms to the standards of such systems established by the Secretary;

(2) "State" means any State of the United States of America and includes any terriory or possession of the United States;

(3) "Solar Access Review" means a comprehensive study to identify local alternatives to assure access to direct sunlight and methods of encouraging adoption of such legal alternatives;

(4) "Secretary" means the Secretary of Energy; and

(5) "Regional Solar Energy Center" means an organization established for the purpose of accelerated introduction of commercial solar energy technology in support of national policy goals and programs authorized under the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901).

SOLAR ACCESS REVIEWS

SEC. 4. (a) Not later than July 1, 1980, the Secretary of Energy, acting in conjunction with an identifiable administrative unit of the State government of each of any interested State, shall develop a plan to enable States to conduct Solar Access Reviews, to identify legal alternaives to assure access to direct sunlight and methods of encouraging adoption of such legal alternatives. Such plan providing for a Solar Access Review shall, at a minimum—

(1) identify all existing and potential legal and institutional barriers to solar energy within each State;

(2) recommend changes in applicable laws, ordinances, codes and regulations to facilitate commercialization of solar technologies;

(3) contain model provisions for solar access in new subdivisions or developments;

(4) provide for the review of the relationship between barriers to solar access and urban growth;

(5) provide for a review of State and local efforts to consider solar energy in the land use planning process;

(6) compile and review all State and local laws which could interfere with or impact upon direct access to sunlight by a solar energy user;

(7) provide that all solar energy reviews shall be transmitted to regional solar energy centers; and

(8) provide that the development and coordination of workshops and programs for State and local officials with regard to building codes, zoning ordinances, and other State and local laws that affect access to solar energy.

(b) The Regional Solar Energy Centers referred to in subsection (a)(7), in conjunction with the National Solar Energy Research Institute, shall—

(1) act as a clearinghouse for all information with regard to solar access for all public authorities within the region served by each center; and

(2) foster the maximum utilization of existing information and technology in the development of solar access alternatives.

(c) The Secretary of Energy in conjunction with participating states regarding any solar access review shall—

(1) make available all existing data, research, model provisions, and other pertinent information relating to solar access to the regional solar energy center serving the participant's region; and

(2) continue to make available in the form of quarterly reports, any and all efforts and progress achieved in conjunction with any solar access review to the regional solar energy center serving the participant's region.

(d) Each regional solar energy center shall compile all information received regarding solar access and legal barriers to solar access and shall make such information available upon request to any State or local unit of government within their region.

SEC. 5. Each department, agency, or instrumentality of the United States engaged in the construction of or maintenance of any building or structure shall construct or maintain, such building or structure in a manner which is consistent, to the extent practicable, with State and local laws governing access to sunlight.●

COAL FOR OUR ENERGY FUTURE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, coal is one of our Nation's most abundant energy resources. Then why has its use as an energy source declined in recent years? The answer is obvious to anyone in the coal industry; in fact, obvious to anyone in the energy industry in the United States today. It is the Federal Government involvement in energy production and use. It has been Federal energy regulation that has indirectly caused an increase in the amount of foreign oil we import. Restrictions on the energy industry overall, and more directly on the coal industry, have made foreign energy sources cheaper to use. Within the coal industry, the Government virtually restricts every aspect of coal production and use, from mining, to transporting, to burning.

Our vast coal resources must be developed and used. However, to do so, we must modify or eliminate excessive Government restrictions, beginning with coal mining and ending with coal-fired powerplants. Requirements under the Surface Mining Control and Reclamation Act (SMCRA) unnecessarily increase costs of producing coal, reduce production, and lock up reserves. Between 1969, the year the Coal Mine Health and Safety Act was passed, and 1976, the average output per man-day worked at underground mines declined 42 percent. While insuring mine safety, we must utilize our coal resources. To this end, some bureaucratic regulations will have to be cut back or possibly eliminated.

Much of our coal resources are owned by the Government or found on federally owned land and the Government, for all practical purposes, has ceased leasing them to the industry, while legislation is in the progress to lock up Federal lands. This land has to be made available to coal producers. The accessibility of mineral rich land, without overburdening and costly restrictions, will give the coal producers the incentive to develop our coal resources. Tax cuts to the coal industry, to all of America's industry, are needed to encourage production as well as spur our economy. Once production increases, which requires increased energy use, the benefits will be seen in an improving economy.

Once coal is extracted from the ground, it is transported to facilities for use. Transportation costs for coal have become prohibitive, especially rail freight rates. Deregulation has improved the airline industry. Since governmental regulations have stified the railroads, deregulation has to be a necessary solution. Use of coal will naturally increase as its production and transportation costs are improved.

Several large factors weighing against the use of coal for electricity are environmental. The Environmental Protection Agency's air and water quality requirements make coal use costly or impossible in some cases. Certainly we need to be concerned about our environment, however, we must also be aware of facts, such as an increasing reliance on foreign nations for energy sources, which has harmful effects on our energy use as well as on our economy. This past spring the Environmental Protection Agency proposed more stringent regulations regarding the emissions of sulfur dioxide from coal-fired powerplants. If EPA's strict emission requirements had been approved, much of the coal found in the Midwest could not have been used to produce electricity. Myself, as well as many other Congressmen and State officials, expressed our concerns over this fact and EPA listened. While the emission limits became more strict, they did not eliminate the use of coal as an energy source. With less regulation, utilities will be encouraged to use coal because it will be economically viable with other energy sources.

Close examination must be made of unnecessary and costly Government regulations which limit the use of our Nation's coal reserves. I think we will find that many Government regulations are repetitious, therefore most can be eliminated. I am not saying eliminate all Government regulation on the coal industry, but reevaluate and limit these regulations. The coal is there but Government has kept it buried. Without excessive Government, that coal can be recovered and used to make our Nation energy independent.●

REINSTATING CERTAIN OIL LEASES WILL BOOST DOMESTIC PRODUCTION NOW

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. PATTERSON. Mr. Speaker, I am introducing legislation today which will resolve a long standing dispute between the holders of certain offshore oil leases in the Santa Barbara Channel and the U.S. Government. The genesis of this dispute can be traced to the 1969 Union Oil Co. oil well blowout and resulting events which interrupted the exploration activities of a consortium of nine independent oil companies, led by Pauley Petroleum of Los Angeles, Calif. The Pauley group's exploration activity was several miles from the blowout and did not cause or contribute to it but, as a result of the turmoil following the blowout, all activities had to be halted. The Pauley group was never able to complete exploration or development.

The legal proceedings arising out of this interruption dragged on for a decade. In January of this year, the Court of Claims dismissed the group's damages claim and pointed the way to the remedy which I propose today. The court stated:

> Perhaps the legislative or executive branches could, as a matter of grace or policy, extend their lease terms to permit them to drill further (if they still wish to) in an effort to discover oil in commercial quantities, but of course, we cannot take that step.

Accordingly, the Pauley group now seeks relief from the Congress.

Mr. Speaker, there is ample precedent for legislative reinstatement of Federal oil and gas leases. For example, in the 95th Congress, the Interior Committee favorably reported legislation to reinstate and extend certain oil and gas leases. Both bills became public laws (Public Law 95–77 and Public Law 95–586). Thus, I believe this legislation for reinstatement of mineral leases is strongly supported by legislative precedents.

Mr. Speaker, in discussing oil and gas exploration in the Santa Barbara Channel, it is important to note the need for adequate environmental protection of this part of California's coast. The Pauley group is firmly committed to safeguarding the channel's environment and will, of course, comply with all pertinent and relevant provisions of the Outer Continental Shelf Lands Act Amendments of 1978.

In conclusion, Mr. Speaker, I want to emphasize to my colleagues that the Pauley group is not seeking a bailout or special Government compensation. Legislative reinstatement is a fair and equitable course for the companies and for the Government. It will avoid additional lengthy litigation, obtain rapid development of the leases, obtain immediate financial benefits for the Government, and correct over a decade of misunderstandings.●

CHARLES W. MILLS, AMERICAN NEWSPAPERMAN

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, often I wish that my colleagues could accompany me through my congressional district and explore the rural heartland of our Nation Here we would see honest, hard-working men and women—good neighbors who care about one another.

Stable families produce stable communities, as my constituents know. The cement that insures stability in many cases is the local, family-owned newspaper.

Unfortunately, the family-operated newspaper is fast disappearing, owing to a variety of causes.

Vandalia, one of the most beautiful towns in Illinois and State capitol from 1820–40, has enjoyed the services of the Vandalia Union and the Vandalia Leader for many years. Under the inspired direction of Charles Mills, and his father before him, the Leader—and later the Union—has played a major role, perhaps the major role, in building Vandalia and Fayette County.

Mr. Mills has sold his newspaper to new owners whom he believes will continue the traditions of the past. I certainly hope that the new owners recognize the wisdom of this course.

I join with the people of Vandalia and Fayette County in honoring Charles Mills for his countless services to the community, and hope to see his hand in the paper for many years to come, as he has offered his advice and assistance to the new ownership.

His recent editorial, characteristically modest, marks the transition, and I insert it in the RECORD as testimony to the kind of newspaperman on which our Nation was founded.

The editorial follows:

VANDALIA LEADER-UNION—CHANGING OF THE GUARD . . .

(By Charles W. Mills)

It was not easy to hand over the keys to a business, as we did this week, after more than 42 years of almost constant devotion to meeting deadlines and trying to build a better newspaper for this community.

But we also realize that we cannot go on forever. There must be change, now or at a point down the road. And so, the decision was made to sell, mainly for health reasons.

The change does, however, bring to an end more than 100 years of family newspaper operations in Vandalia, through the Vandalia Union and the Vandalia Leader. It is a changing world and methods of operation have become more and more complex and expensive, making it difficult to almost impossible for family newspaper ownership today.

It could be said that printer's ink flows in my veins, because I grew up in a newspaper

shop. I watched my father, facing defeat, dig out of the ruins after a fire destroyed the Vandalia Leader printing plant in 1924. As a small boy, I helped catch newspapers as they dropped from the old cylinder press, and then helped fold them by hand. Then came the depression, and at times my father had to dig into his own pocket to meet the payroll.

But again, it was that fighting spirit that kept the business alive and a spirit that has helped guide me when the going got rough. There is satisfaction in helping put together the news of a community and supporting community projects. And through this effort we have watched the newspaper grow, first into one of the largest weekly newspapers in Southern Illinois, then see a family dream come true when a new printing plant (the present one) was completed in 1953, and later to start publishing a semi-weekly with the acquisition of the Vandalia Union.

Today, as we sit back and begin to take life a little easier after some rather hectic years, we would like to feel that those years of sweat and tears have not been in vain. We would like to believe that in bringing this newspaper to its present form it is appreciated by those who read it.

We have seen many changes in that span of years . . . from a hand-fed press to a new flat-bed perfecting press that turned out 3000 copies of an 8-page paper per hour, then to our present offset press capable of printing 20 pages in one section at a speed of 14,000 copies per hour. And we've seen technical changes in type composition from the old hot metal Linotype machines to the new electronic monsters which spit out type faster than words can be spoken.

Throughout the years the philosophy of this newspaper has been to be fair in its presentation of the news even though sometimes situations have made such decisions difficult. The paper has tried to present the happenings of Fayette County in such a way that it will appal to everyone in the area.

And to be sure, we are aware that these accomplishments would not have been possible without the friendship and support of our many readers and the business community. And yes, the many loyal people who have worked for us through the years . . . many of them unknown to the readers. They have given of their talents to make The Leader-Union an outstanding paper.

We have entrusted the keys to new ownership which we believe will do everything within its power to carry on the traditions of the past. There will be changes. No two people do things exactly alike . . . but the changes will be gradual and for the better, in the constant effort to present a better product.

After a few weeks out of surgery, we will be back to help Larry Timbs and his staff continue to provide Vandalia with the kind of newspaper any community would be proud to claim as its own.

We wish the new management success.●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. CLINGER. Mr. Speaker, on October 30, 1979, I was absent from part of the legislation business on the floor of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 612: Journal. The House approved the Journal of Monday, October 29, 1979, "yea."●

THE OVERSEAS DEVELOPMENT COUNCIL: A UNIQUE ROLE IN AMERICAN PUBLIC POLICY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. BARNES. Mr. Speaker, 2 weeks ago, in response to what was clearly emerging as one of the greatest human tragedies in history, the President of the United States offered $7 million in relief assistance for Cambodia. Last week, minutes after being visited by 40 national religious and public service leaders, the President raised that pledge to $70 million. The photograph of these leaders flanking the President as he made his announcement commanded the front page of newspapers across the country.

It is possible that the President may have wanted to pledge a larger figure, but it is doubtful that he would have felt free to do so had he not had such a testimony of public leadership support for a ten-fold increase in assistance. I think, therefore, that it can accurately be said that the response of the U.S. Government to the holocaust of hunger in Cambodia would have been shamefully slower had it not been for the moral and political courage of 40 leaders of America's private sector.

What prompted their action? Who brought them together? Who had the political and moral sensitivity to know that action was necessary and when it would be most effective?

Mr. Speaker, the Overseas Development Council has once again demonstrated the invaluable role in American public policy which is played by private voluntary organizations devoted to national service and the human interest.

This is only one of numerous times that the Overseas Development Council has distinguished itself as a leader in this uniquely American institutional character. It was a similar ODC initiative, marshaling religious and secular leaders, which prompted an adequate U.S. response to the worldwide food shortage of 1974. And it is ODC which, many times each year, and especially through its annual Agenda for Action: The United States and World Development, reminds us of the special responsibilities—and the manifold potential for benefit—of a cooperative U.S. approach to the problems of the developing nations.

The Overseas Development Council is now beginning its 11th year of voluntary leadership in the formulation of U.S. public policy. I commend its work to the attention of my colleagues, and I wish ODC well in its second decade. I particularly extend my good wishes to the Council's new President, John W. Sewell.

For my colleagues' information, I insert the list of participants in last week's national consultation on the Cambodian famine.

The list follows:

CONSULTATION ON FAMINE IN CAMBODIA

CHAIRMAN

Reverend Theodore M. Hesburgh, C.S.C., Chairman of the Board, Overseas Development Council and President, The University of Notre Dame.

PARTICIPANTS

Mr. Lloyd Bailey, Executive Director, U.S. Committee for UNICEF.

Mrs. Marjorie Craig Benton, Chairman, Save the Children Foundation.

Mr. Frederick Bowen, Hebrew Immigrant Aid Society.

Reverend George Chauncey, Chairman, Interreligious Task Force on U.S. Food Policy.

Mr. Leo Cherne, Executive Director, International Rescue Committee.

Terence Cardinal Cooke, Archbishop of New York.

Dr. Robert S. Denny, General Secretary, Baptist World Alliance.

Mr. Theodore Engstrom, Executive Vice President, World Vision Relief Organization.

Mr. David Elder, Director of Asian Programs, American Friends Service Committee.

Ms. Deni Frand, Indochina Refugee Action Center.

Honorable John J. Gilligan, Chairman, New Directions.

Mr. James P. Grant, President, Overseas Development Council.

Dr. Eugene Grubbs, Consultant for Relief Ministries of the Foreign Missions Board, Southern Baptist Convention.

Reverend J. Harry Haines, Assistant General Secretary, Board of Global Ministries, United Methodist Church.

Reverend J. Bryan Hehir, Director, Division of Justice & Peace, U.S. Catholic Conference.

Mrs. Linda Gibson Hiebert, The Indochina Project.

Ms. Joan Holmes, Executive Director, The Hunger Project.

Ms. Barbara Howell, Bread for the World.

Reverend Chester J. Jump, Jr., Executive Director, Board of International Ministries, American Baptist Churches, U.S.A.

Rabbi Bernard Mandelbaum, Executive Vice President, Synagogue Council of America.

Mr. Leon Marion, Executive Director, American Council of Voluntary Agencies for Foreign Service.

Reverend Paul McCleary, Executive Director, Church World Service.

Honorable Harry C. McPherson, Jr.

Mr. Larry Minear, Representative for Development Policy, Lutheran World Relief.

Honorable Daniel Parker, Former Administrator, Agency for International Development.

Rabbi Stanley Rabinowitz, Adas Israel Congregation, Washington, D.C.

Reverend Neill Richards, Coordinator, Hunger Action Program, United Church of Christ.

Honorable William D. Rogers.

Mr. Louis Samia, Executive Director, CARE.

Dr. Joseph Short, Executive Director, OXFAM America.

Mr. Edward Snyder, Executive Secretary, Friends Committee on National Legislation.

Mr. Howard Sollenberger, Consultant to the Board of the Unitarian Universalist Service Committee on International Programs.

Dr. Jeremy Stone, Director, Federation of American Scientists.

Ms. Dorothy Taaffee, Director of International Services, The American Red Cross.

Bishop John Walker, Episcopal Bishop of Washington.

Honorable Charles W. Whalen, Jr., President, New Directions.

Ms. Bjorg Wilson, UNICEF Information Services.

Ms. Patricia Young, Church Women United.●

BATTLELINES DRAWN ON WELFARE REFORM

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. SHUSTER. Mr. Speaker, yesterday the House Republican Policy Committee clearly drew the battlelines over the upcoming debate on welfare reform. The House of Representatives will be presented with a clear choice: Continued expansion of the Federal role or an innovative approach which gives individual States a greater stake in the welfare programs for their citizens. It is important that the Members realize that this philosophical difference exists and that the Members be given the opportunity to debate and vote on the competing initiatives on the floor of the House.

I commend the policy statement of the House Republican Policy Committee to all of my colleagues for an explanation of the substantive and procedural issues surrounding the welfare reform proposals.

The statement follows:

HOUSE REPUBLICAN POLICY COMMITTEE CALLS FOR 'REAL' WELFARE REFORM

The House Republican Policy Committee recognizes the need for government involvement in welfare programs. The Policy Committee believes that these programs must be both sensible in scope and sensitive in their response to the very real needs of families who find themselves with insufficient resources to meet even the most basic requirements of their children. Further, the Republican Policy Committee believes that this government involvement could be best achieved through a federal block grant approach which gives the states a stake in providing these services in an efficient and economical fashion.

To transform this philosophical approach into concrete legislative proposals, Republican and some Democratic Members introduced H.R. 4460—an initiative that provides true welfare reform. Specifically, this Republican alternative provides for the following goals:

Eliminate the open-ended federal matching program, substituting a block grant program in its place;

Provide a strong incentive for the states to eliminate error, waste, and fraud in welfare programs and to reduce overall welfare spending;

provide fiscal relief to all states which may be used to reduce over all state welfare spending and to increase basic benefits for the truly needy;

encourage the states with the lowest basic family welfare benefits to increase their benefit levels;

permit the states complete discretion to require work as a condition of eligibility for family welfare benefits;

reverse the trend toward complete federalization of welfare by permitting some demonstration states to design and implement their own family welfare program tailored to meet the needs of the individual state and its poor.

Based on the above philosophical approach to government's role in meeting the basic needs of its more unfortunate citizens, the House Republican Policy Committee flatly rejects H.R. 4904, the so-called Social Welfare Reform Amendments of 1979. This proposed legislation is a misnomer; rather than reform legislation, it represents a major step toward a national, universal, guaranteed income program.

Specifically, the Democrat bill provides:

An increase of $2.8 billion in federal spending, bringing the total cost of these programs to $5.5 billion;

An expansion of eligibility by altering the Income and Assets Test to allow potential eligible recipients to deduct the value of their house, household goods, personal effects and one car not valued at over $4,500, plus other assets of between $750 and $1,750, depending on state's limit;

A prohibition against states requiring welfare recipients to work for their benefits;

That all states must provide a nationally established minimum level of benefits of 65% of the official poverty level.

Despite claims by proponents that H.R. 4904 is merely an incremental change in the existing system, the Republican Policy Committee believes that the bill constitutes a comprehensive attempt to institute a universal guaranteed income redistribution scheme. The Republican Policy Committee wishes to emphasize the dichotomy between this centralized federal bureaucratic approach of the Democrat majority and the opposing approach of the Republicans. Philosophically, the Republican approach provides decentralized programs which permit individual states to create and tailor their own welfare programs to target appropriate benefits and services for the needy. The approach provides humane assistance to those in need while helping them take responsibility for meeting their families' needs and doing so with a system that eliminates errors, fraud and abuse.

The House Republican Policy Committee endorses H.R. 4460—a Welfare Reform Bill truly worthy of its name!

Finally, the House Republican Policy Committee wishes to express its scorn for the actions of the Democrat majority on the House Rules Committee. In an attempt to foist the Majority Party's views on the American public, the Democrat controlled Rules Committee ruled that the Rousselot-Conable initiative may not be offered as a substitute to the Democrat bill for consideration on the Floor of the House. This arrogant exercise of power only compounds the Democrat error. Not only is the majority proposal devoid of ideas other than a continued expansion of the federal presence, but that same party acts with impunity to close down the marketplace of ideas. Through manipulation of House procedures, the Majority precludes even so much as debate on the Republican initiative.

The American people have the right to know that this one example is but the tip of the iceberg. The Democrats—having controlled Congress almost continuously for the past 50 years—have grown self-serving. With utter disregard for the well-being of the American public, the Democrat House leadership uses its preponderant power not to pass the best possible legislation but, rather, to cast its members in the best possible political light.

Comparison of the Democrat and Republican proposals for welfare reform lends inexorably to one conclusion: Democrats have become complacent while Republicans continue to offer innovative answers to America's problems.●

GENERAL ROWNY SPEAKS AT THE PULASKI DAY DINNER

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. KEMP. Mr. Speaker, when the diplomatic history of this decade is written, I am confident that the record will speak well of the accomplishments of Lt. Gen. Edward L. Rowny. General Rowny, as a member of the U.S. delegation to the Strategic Arms Limitation from March 1973 to June 1979 served as the most effective—and in too many cases, the only—spokesman for the military interests of the United States in those difficult negotiations. As a consequence of his labors, both the Congress and the Nation are far better informed of the grave risks we will assume if the SALT II treaty is ratified by the Congress. Unlike too many of his military colleagues, General Rowny acted on the strength of his convictions, resigning from the Army following the signing of a treaty he believed to be contrary to the interests of the United States.

It is entirely fitting then that General Rowny was invited to address an assembly on the 200th anniversary of Pulaski's death. His remarks reflect the experience of more than four decades as a distinguished combat commander in three wars as well as a representative of Joint Chiefs of Staff in the sensitive diplomatic role at the SALT II negotiations. General Rowny's views are forcefully stated and deserve the careful consideration of the Congress.

The remarks follow:

ADDRESS OF LT. GEN. E. L. ROWNY

Distinguished Guests: In trying to think why I was selected to be your speaker tonight, my first reaction was that perhaps it is because my four sons are all over six feet tall. As my 6'4" son says, he comes from a long line of Poles.

My second reaction was that I was selected because of my unique ancestry. As some of you know, I am the only descendant of a Pole whose father has documents proving he came over on the Mayflower. This situation occurred when my father, an immigrant, applied for citizenship. Seeing that the clerk was sleepy and stupid, when my father was asked what ship he came over on, he said, "The Mayflower".

However, I think the probable reason I was selected to be your speaker was because of my recent stand on the SALT Treaty. As many of you know, I asked to be relieved of military service in May of this year because I could not support the SALT II Agreement that finally emerged. I think it important that you know that I was selected to be a member of the SALT Delegation because for over 20 years prior to that time I had been stressing the value of negotiating on strategic arms. My view was—and is—that an agreement is desirable if, and only if, it is not detrimental to the security of the United States. Since this Agreement would, in my view, undermine our security, I felt the only honorable thing for me to do was to leave the service and speak out against the Treaty.

I did not reach my decision to quit lightly. It is not easy to throw overboard 42 years of training and belief in loyalty. I had no desire to be regarded as being disloyal.

Also, I do not relish the prospect of diminishing the power and the prestige of the President of the United States, especially in the conduct of foreign affairs. However, after taking these considerations into account, I decided that the security interests of the U.S. demanded my primary loyalty, and therefore—reluctantly—I took off my uniform.

I won't take advantage of this captive audience to try to convince you that I'm right. I only ask that you read the SALT II Treaty itself and weigh the pros and cons.

As I mentioned to you earlier, I am very much in favor of the SALT process. I do not believe that renegotiation of this Treaty in an effort to reach a fair and equitable agreement will spell the end of—or even prolong for long—further negotiations on SALT. I am convinced that the Soviets need and want a Treaty—and need it more badly than we. I think they have done a good job of concealing that fact and have gotten us to do the wooing. In Talleyrand's words, a good negotiator is not the demandeur. He tells us that when you negotiate, "Pas trop de zele"—Don't show too much zeal.

Reading and studying the SALT Treaty is not easy; it is a long tortuous document, a lawyer's nightmare. The subject matter is complex, mind-boggling, full of contradictions, and, I would add—arcane. But studying the Treaty's merits is the only way I know you can reach your own conclusions.

However, you did not come here to hear about me but to hear about Count Casimir Pulaski. Once more, let me briefly indulge myself in another personal note. I have heard about Pulaski ever since I was a little boy when my uncle designed and built the Pulaski Monument in Baltimore.

Pulaski came to this country because he had a strong belief in a fundamental principle. This principle is that men can elect their own leaders and govern themselves by a democratic process. He fought for this principle, not only in a military and therefore a physical way, but also in a moral way which often requires the greater courage. We tend to forget that people who fight for principle are often in the minority, are attacked, and stand alone. Pulaski, like George Washington himself, did not have any easy time of it. Like Washington, Pulaski had his detractors, some of whom called upon Washington to relieve him of his command. To his everlasting credit, Washington kept Pulaski in the service and was able to benefit by his magnificent cavalry charges. Pulaski was to the American Revolution what Patton was to World War II. As you know, Pulaski lost his life in battle at Savannah, and is today considered a national hero.

Of what significance is Pulaski's example to us? Aside from the camaraderie and opportunity of getting together with old friends, what should we reflect upon this evening?

I think we should reflect upon the fact that most of us are professionals and should improve our professionalism to the utmost. With all the well-meaning principles in the world, and even with the courage to carry them out, if we are not competent we contribute little to our fellowman or to our society as a whole. Recently, more persons of Polish heritage have come to the fore and are gaining the recognition they deserve. I could give you examples in all professions. Where would the country be today without the courageous stand of a jurist like Leon Jaworski or our own beloved Al Mazewski? Where would we be without the eminent legislators like Senator Muskie and Congressmen Derwinski and Zablocki? Where would the Administration be without the intellectual guidance and tough stand of Zbig Brzezinski? Where would our military be without the outstanding military leadership of Admiral Hyman Rickover and General "Brute" Krulak? Where would we be without the contribution of our Polish-American Nobel Prize winner in medicine—Doctor Schally? Where would we be without a helicopter pioneer like Frank Piasecki or a businessman like Ed Piszek, or a religious leader like Cardinal Krol, or an artist like Anna Adamska. And I could go on and on.

But to return to our professionalism, and most of us here tonight belong to one or another profession, let's examine our own responsibilities and obligations. Professionalism has more to it than simply acquiring skills; it entails involvement and leadership. Because of the high stakes involved in committing others' lives in combat, we in the military have always placed high emphasis on the truth. In current jargon, we "tell it like it is." I think the times cry out for leadership and for people who are willing to "tell it like it is."

We live in an age that demands that we think deeply about our form of government and how we can make it work better. We are being challenged today by a world power that has a bankrupt philosophy. Simply because this world power is able to exploit our sense of fair play, and—more importantly—because it is backed up by an ever-growing military might, we now face a serious challenge to the security and well-being of our friends, which could quickly develop into a threat to our own security. This other power is led by people who have absolute faith that "good socialism" will surpass and supplant "evil capitalism".

We are, of course, worried about our domestic probems. And we should be. Our rate of inflation is running high and unemployment has not yet significantly decreased. It is hardly disputed that we are heading for a recession. Nevertheless, these problems, important as they are, are less important to us in the long run than our military security.

To return briefly to SALT, we in the U.S. have our priorities backward, whereas the Soviets have theirs right side up. The Soviets first set their national goals, then plan and program their military forces to carry out those goals and finally, give consideration to the control of arms. They use arms control as yet another tool with which to compete. We, on the other hand, place arms control at the top of our priorities. We make it the centerpiece of our foreign policy. We slow our military forces to be tailored to fit our expectations of the outcome of that process. What results, as we are now seeing in the Middle East, is that we have insufficient military power that we can project to accomplish our foreign policy goals.

As for myself, I have two short-range objectives. First, I want to see SALT removed from page one and placed on page twelve or thirteen of our newspapers. That is where it belongs. Second, I would like to put my 6½ years of negotiating experience to use so that future negotiators are not doomed to repeat the mistakes of the past. Time doesn't permit me to go into negotiating tactics. We have strengths and weaknesses—so do they. On balance, however, they bring their strengths to bear and exploit our weaknesses so that they gain from the negotiative process.

Tonight, I would like to exhort each of us to reflect upon what he can do and what he should do. What can we, who share with Pulaski the common heritage and common background of professionals, do? I would call on each of us to reflect deeply on the blessings we enjoy with our form of government. Think the unthinkable—think about the consequences of losing our freedom.

Where does involvement start? I hold that it starts with using our professionalism and influence to broaden our sphere of interests. This means that we should rise up in indignation at the human rights violators, against whom President Carter so courageously stands. In particular, we should speak up and act against genocide in Vietnam today. We should do something about the several millions of people who are doomed to starve in Cambodia unless something immediate and drastic is done. We should re-read the history of Poland since World War II and not only try to understand why Poland was allowed to fall behind the Iron Curtain, but to reflect on whether or not it is doomed to stay there permanently. We should look at the crimes against humanity that were perpetrated at the Katyn Forest and see to it that this sordid chapter is seen by the world as an extension of the Holocaust.

One hundred and fifty years ago, when our country was barely a half-century old, an astute observer of the American scene, de Tocqueville, assessed America's strengths and weaknesses. Our strengths were—and are—many. Our principle weakness, as he saw it, was the difficulty a democracy would have in conducting a viable foreign policy. We now see de Tocqueville's prophecy coming true—we are having difficulty conducting a successful foreign policy. James Reston has recently questioned whether we have the ability to govern at all. This is not because we lack ideas and ideals, but because we have let our military strength fall behind. We must speak up. Our country cannot "do it on the cheap." We need strength in order to carry out our ideas and ideals, we need strength for the coming challenge to our security.

We should ask ourselves the question that the late British thinker, Alistair Buchan, asked several years ago: "Can a society which bases its leadership upon a consensus from below compete with a society which is controlled at the top?"

My contention is that there is no reason why we cannot do so. The inspiration of a Pulaski, the anniversary of whose death we mark this week, is re-enforced by the inspiration of another living, vibrant, charismatic Pole, John Paul II. Who among us can say that the Pope is not a man of courage? His views are not popular to all, but he is "telling it like it is." He is exhorting us to place aside our materialistic considerations, permissiveness, and the selfishness of affluence. He is asking us to have faith in the deeper spiritual means of life.

I think therefore that we should take a few minutes tonight to reflect upon what Walter Lippman said in 1943 while we were in the midst of deep trouble in World War II. He wrote: "In the supreme moments of history, terms like duty, truth, justice and mercy—which in our torpid hours are tired words—become the measure of decision."

Let us ask ourselves: Are we doing everything we can in the areas that really count? Have we learned anything from the example of Pulaski? Here was a man who laid his principles on the line and sacrificed his life that we might enjoy the fruits of liberty. We as Americans of Polish descent are not being asked today to lay down our lives, but to extend ourselves—to give of ourselves. Therefore, we should ask ourselves, "What can I do that Pulaski's sacrifice may not have been in vain?"

Thank you.●

SURE RECESSION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mrs. SCHROEDER. Mr. Speaker, on Mondav I expressed my views on how spooky I thought the Federal Reserve's high interest policy is. Today is Halloween so let me share an editorial from the Rocky Mountain Journal for they think the Fed is spooky also.

The editorial follows:

The Federal Reserve Board has certainly precipitated a recession and perhaps worse with its latest actions.

The Board increased the discount rate a full one percent, abandoning its policies of tightening the screw a quarter turn at a time. It also increased reserve requirements on "hot money" deposits, allowing the banks to lend less on a given deposit base.

The purpose of the Fed's action is frankly to create a recession based on the proposition that it confronts a choice of evils: recession on one hand, or rampant inflation on the other.

We predict that the Fed's actions will encourage both evils. We will see a recession which will not curb inflation.

The Fed's actions are based on the premise that money is a commodity and that increasing the cost of its purchase will diminish demand.

We would prefer a policy which attacked the problem in another way. We believe that the money supply should be increased by encouraging savings. The Fed believes it has done this by assuring a higher return for savers and by discouraging them from borrowing. Yet the increases in the interest rates do not get passed on to those who might do the significant saving. The small saver's return is so pitifully beneath the rising curve of prices that he prefers to purchase, at whatever cost, rather than be mulcted by the money market.

The Congress, at a stroke, can give him greater incentive to save than the Federal Reserve Board. It can lift income taxes on personal savings up to, say, $50,000, encouraging thrift and making real money available for homes and business enterprise.

The United States trails the rest of the industrialized world in the amount of personal income in savings. We save only 4.5 per cent of our income. Germans save more than 12 per cent and Japanese as high as 22 per cent. Venture capital comes from personal savings, not from federal policy. Ergo, federal policy should be to lower the price of the commodity called money by making it more plentiful in real terms.

As it is now, as interest rates climb, those who need the venture capital will pay for it at whatever price and pass that cost along to the consumer. An average man's savings bill would encourage savings, discourage feckless and inflationary purchasing and make more venture capital available at reasonable cost.●

THE BOTWINS OF SAN PEDRO

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. ANDERSON of California. Mr. Speaker, the community of San Pedro, Calif., is a unique and marvelous place. The nearby Los Angeles Harbor and the area's historic architecture make it one of the most beautiful spots along the southern California coast. The friendly and warm manner of the local residents, however, is what gives it the special character that makes it so unforgetable and dear to those who know the area. Today, I take this moment to honor two individuals who by their concern for family, neighbors, and community, typify this fine quality. I speak of Frances and Sam Botwin.

It was 35 years ago that the Botwins came to San Pedro. Since then, they have established themselves as a family of business success, and as contributors to countless community betterment efforts. The Botwin-owned Cabrillo Liquors store, located in San Pedro on Gaffey Street, has become a local landmark, widely known for its special wine collection. It was the first retail liquor store to be noted in Vines and Wines magazine. Twice, it has received positive reviews in Liquor Store magazine. This fame has come as a result of Sam Botwin's expert knowledge of fine wines which has been recognized by his appointment to the wine advisory boards of Liquor Store and Home Beautiful magazines. Even the State of California has made note of this store's success; the State Wine Advisory Board named it one of the four most knowledegable wine centers in southern California.

Through these same years, Frances Botwin has been establishing her own reputation as one of the most dedicated and generous leaders in the community. She was the originator and first president of the Peninsula Homeowners Coalition, an areawide organization that has, time after time, led campaigns to protect the pleasant character of San Pedro. Her drive and initiative made her the first president of the White Point PTA; as well as vice president of the Los Angeles organization.

In official capacities, she has served on the Marina Advisory Committee, and the San Pedro Area Planning Committee.

Mr. Speaker, November 5, 1979, will mark the 40th wedding anniversary for the Botwins. These have been years of happiness for them and all who have had the good fortune to share their friendship. My wife, Lee, joins me wishing them a most joyous 40th anniversary. We take this occasion to wish them more success and good fortune. We also send the same to the Botwin's daughter, Kim, and her family—husband, Bob and daughters Justin and Jessica—and to the Botwin's son Michael and his wife, Anne.●

AID FOR CAMBODIAN REFUGEES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. SOLARZ. Mr. Speaker, I would like to commend the actions of various religious leaders throughout the world in helping to alleviate the suffering of the Cambodian people. In particular, I would like to applaud the efforts of the Catholic Relief Services, a U.S. based organization, which has pledged a quarter of a million dollars in order to get adequate medical aid and much needed food to the people of Cambodia. This is being done in part, by Operation Rice Bowl. Operation Rice Bowl is an annual Lenten program of prayer and sacrifice in which American Catholic families eat a frugal meal once each week during Lent and contribute the savings to provide food and food-related assistance to the world's poor.

At this time I would like to submit for publication in the RECORD an article which appeared October 11, 1979, in The Tablet, the Brooklyn Dioceses newspaper. This article is an excellent illustration of the work being done by Catholic Relief Services to help the millions of starving Cambodians.

The article follows:

"RICEBOWL" FUNDS TO AID STARVING INDO REFUGEES

In response to the worsening refugee situation in Cambodia, Catholic Relief Services committed an additional $150,000 to help feed the starvation-menaced population, bringing the CRS commitment to the people of Cambodia up to $250,000 within a 10-day period.

Bishop Edwin B. Broderick, CRS executive director, said "this $150,000 comes from the Operation Rice Bowl collection gathered during Lent, which American Catholics and others have contributed specifically to help provide food assistance to those who need it most."

Ten days earlier, Bishop Broderick pledged $100,000, provided by the American contributors, to continue a series of mercy truck convoys to provide food, medicines and other supplies to an estimated 60,000 along the Thailand/Cambodian border.

A new Vietnamese offensive in Cambodia is expected to create 200,000 refugees and "inside the country the prediction is for mass starvation," according to Joseph S. Curtin, Jr., CRS Program Director in Thailand.

Bishop Broderick said it was decided to increase the CRS commitment to Cambodian aid to a quarter of a million dollars because "the dimensions of this new catastrophy demand we take action now." He added: "We cannot stand around wringing our hands, deploring the mass starvation that hangs over Cambodia; what resources we have are being placed on the line to save lives—it's as simple as that."

CRS/Thailand began the mercy convoys last June by providing $50,000 for the first three-truck convoy from Bangkok to the border in cooperation with the Catholic Office for Relief and Refugees of the Thai Bishops. When that proved successful, the U.S. Office of Foreign Disaster Assistance gave CRA $300,000 for a total of 10 convoys.

On September 17, Bishop Broderick earmarked $100,000 from contributions given to the CRS Southeast Asian Refugee Fund to pay for additional convoys to the border since the U.S. funds had run out.

"Now as the situation grows steadily worse, I have decided that CRS will use $150,000 of Rice Bowl funds to provide feeding for Cambodian refugees," the Bishop said.

In addition to setting the $150,000 aside for Cambodian refugee help, Bishop Broderick also instructed the CRS international headquarters staff and Mr. Curtin in Bangkok to put together a plan for its use as quickly as possible. "We have to move fast on this one," the Bishop said.

The first convoys carried 21 tons of rice, two tons of salted turnips (a local food), 3,900 cans of milk, 732 plastic bottles of fish sauce, and medical supplies. Later convoys have varied in size. Thai officials alert refugees at various border areas that a convoy is arriving, and a group of refugees is sent to the border site to receive the goods.

Mr. Curtin said his 10-truck convoy was met by about 1,000 men who were later joined by some 500 women and 100 ox carts to carry the supplies back to their refugee camps in the mountainous jungle border area.

"The desperate hunger of the refugees we are helping . . . is only the tip of the iceberg," Mr. Curtin said. "Satellite photos of Cambodia show only five percent of the normal rice crop has been planted this season."

Mr. Curtin said at a press conference that Cambodia has been in turmoil since the 1975

Communist takeover and is now in the midst of a civil war involving several factions. Almost the entire population has been uprooted and displaced from their original homes.

"Religious activities were about the first things to go," he said. "There is nobody in monks robes, temples are not being used. No Christian clergy are known to remain."

CRS had an active program in Vietnam, Laos, and Cambodia. "Those three we lost when the Communist took over," Mr. Curtin said. Now we are in Thailand, helping some of the same people we worked with before.

Operation Rice Bowl is an annual Lenten program of prayer and sacrifice in which American Catholic families eat a frugal meal once each week of Lent and contribute the savings to provide food and food-related assistance to the world's poor. Begun in 1976, Operation Rice Bowl has contributed more than $10 million for CRS projects and programs around the globe.

"If ever there was a need that fitted into the concept of Rice Bowl, the plight of the people of Cambodia today is it," the Bishop said. "Thank God we have the funds available so we can begin meeting this new challenge to Christian charity and concern."●

A SALUTE TO ST. JOSEPH COUNTY, MICH.

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. STOCKMAN. Mr. Speaker, it is with pleasure that I bring to the attention of my colleagues the sesquicentennial celebration soon to take place in St. Joseph County, Mich. It was 150 years ago—on November 4, 1829—that actual government was first established within the present limits of St. Joseph County. County residents will celebrate their 150 eventful years through special displays at the county fair, an open house at the county courthouse in Centreville, and a tour of historical sites in the county.

I have spent many pleasant hours in St. Joseph County myself, enjoying the lovely countryside with its beautiful greenery and rolling woods—interspersed everywhere with lakes and streams. The county, in fact, is named after a river. Entering the county from the east, the historic St. Joseph River is only an overgrown creek. Flowing out of the county to the southwest, it is a rushing picturesque river. On its way, it gathers the waters of Swan Creek, Prairie River, Fawn River, and the White Pigeon River.

Although for many decades the land was enjoyed only by the sparse native population of Pottowatomies and Shawnees, American settlers moving westward arrived in droves after the late 1700's. By 1829, there were enough settlers that establishment of local county government seemed appropriate. Asahel Savery, one of St. Joseph County's leading citizens in those early days, oversaw the creation of the new government. When the Territorial Council authorized regional government for the area in November 1829, court was first held—with the usual jurisdictions and functions—at Savery's home on the White Pigeon Prairie.

White Pigeon was selected as the temporary seat of justice because it was, at that time, the largest settlement. After the growth and development of other areas of the county, however, it became evident that a more central location was needed. On the basis of prevailing sentiment and liberal land donations, recommendations were made to the Governor, who issued a proclamation on November 22, 1831, locating the county seat at Centreville, where it has remained to this day.

Since those early days, St. Joseph County has grown and prospered tremendously. It is now home to thousands of happy families, as well as flourishing industry and agriculture. I invite my colleagues in the Congress to join me in saluting St. Joseph County, Mich.●

NON-VOTING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 31, 1979, into the Congressional Record:

NON-VOTING

The American political system is confronted with a formidable challenge. The problem is the declining number of voters who show up at the polls on election day. If the trend of the past few years continues, the prospect is for a crumbling of the very foundations on which the government is based. The question is how long the government can function without the legitimacy that comes from a genuine mandate of the people.

The statistics on voter turnout are truly discouraging. In 1840 more than 80% of all eligible voters cast ballots in the presidential election. In the last race for president, however, just over 54% of the eligible population voted. More discouraging are the percentages for off-year elections. In November of 1978, for example, voter turnout fell below 38%. Almost 100 million Americans did not see fit to exercise their most fundamental democratic right. The decline in voting becomes even more significant when we consider some of the various steps that have been taken to boost voter participation. New laws to eliminate discrimination, lower the voting age, reduce the residency requirements, simplify the registration, and allow for absentee registration and voting have had remarkably little effect.

In a political system based on the consent of the governed, non-voting means that citizens are simply not giving their consent to be governed. The health of a democracy is adversely affected by non-voting in a number of specific ways: the fewer the people who bother to vote:

The stronger the minorities, special interest groups, and individual zealots who adopt extreme positions and disdain compromise;

The weaker the safeguards against politicians who would abuse the authority entrusted to them;

The harder it becomes to formulate public policy in the interest of the common good;

The easier it becomes for media manipulators to dominate the political process by claiming to know the will of the people.

By casting a ballot, the voter not only chooses a public official but also indicates the direction he wants the government to go and affirms the democratic process. Affirming the process is by far the voter's most important act. By voting, he expresses his confidence in democracy and his belief that it is good for America, that it will yield, more likey than any other political system, honorable leadership, wise public policy, and sufficient restraints on the use of lawful power. By voting, he shows that he is alert to the conduct of those who would act in his name.

There is no optimal level of political participation in a democracy, but the steep drop in voting of recent years cannot help but adversely affect the health of the American political system. Voter turnout in the United States is lower than that of any other democracy in the world, except Botswana. There is a serious incongruity in the fact that the world's greatest democratic power has one of the poorest records of voter participation. Personally, I believe that the non-voting of millions of Americans is the major story in politics today. It overshadows the question of the direction that public policy should take. It even overshadows the problem of consensus-building in our pluralistic and open society.

Far more attention must be given to the reasons why millions of Americans decide not to participate in the election of public officials. Some of the more important reasons for nonvoting include the weakening of party loyalty, the decline of the political party itself, the confusion felt by citizens in the face of large and complex institutions and increasingly difficult problems, the influence of the mass media (especially television, with its superficial treatment of issues), and the remaining administrative complications of registration and voting. As I see it, however, the chief reasons for non-voting by a substantial number of Americans are these: the people are disenchanted with the political process, disgusted with their leaders, and disillusioned with the failure of the government to meet their needs. Across the length and breadth of the land there is a frustration with the seeming unresponsiveness and incompetence of the government, doubt about the integrity of public officials, and a growing feeling of powerlessness to effect any change for the better. It is likely that voter participation will continue to ebb until these attitudes are altered and some sense of hope is restored to the political process.

Our task, difficult though it may be, is to make the non-voter believe that voting matters. The contest with the non-voter will ultimately determine the fate of the American political system.●

THE INVESTIGATION OF CLAIMS OF IRANIAN BRIBERY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. BARNES. Mr. Speaker, last February a representative of the revolutionary Iranian Government made a statement to me claiming that Members of Congress, as well as other public leaders of the United States, had been the subjects of bribery and blackmail by the former imperial government. Mr. Shahriar Rouhani, then the chief of the provisional embassy, claimed that he had evidence to substantiate this allegation, but was unwilling to make that evidence public or to turn it over to U.S. authorities.

I considered it may duty, as a Member of the House, to report this claim to the gentleman from Florida (Mr. BENNETT), who chairs the Committee on Standards of Official Conduct, as well as to other appropriate officials, urging that a complete and thorough investigation be undertaken, either to verify Mr. Rouhani's allegations, or to affirm the good name and integrity of the U.S. Congress.

Eight months later, the staff of the Committee on Standards of Official Conduct, under the leadership of independent counsel, has completed its investigation of Mr. Rouhani's allegations. This investigation was conducted in consultation and coordination with other investigatory authorities, including the Department of Justice and the Department of State. I have carefully reviewed the committee's report, and am satisfied that the investigation was thorough, competent, and convincing beyond the slightest shadow of doubt.

The investigation did not uncover any evidence at all of any wrongdoing, improper conduct, or conduct conducive to compromise of any Member or former Member of the House of Representatives. The results of the committee's study, and the thoroughness of its investigation, leave me with no reason whatsoever to believe that there was any validity at all to Mr. Rouhani's claim that he had evidence or even cause to suspect that any Member or former Member of this House had engaged in any activity which compromised that Member's integrity or the integrity of this Congress.

Mr. Speaker, I commend to my colleagues the "Report of the Staff's Study of Alleged Misconduct by Members of the House of Representatives Involving the Former Government of Iran," as adopted by the Committee on Standards of Official Conduct on October 24, 1979. More importantly, I commend this study to the attention of the American people. I believe that it fully and fairly erases any questions of confidence which may have been raised by the self-serving allegations of a now-discredited individual.●

RECENT INTERNAL EPA STUDY DETERMINES REASONS FOR DELAY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mrs. SCHROEDER. Mr. Speaker, the House will soon consider legislation to create an Energy Mobilization Board. While the establishment of the Board seems inevitable, I think it is important to point out some of the reasons for the delays in the Federal permitting processes which some of us are so concerned about.

This document, which I offer for the record, was prepared by the region VIII office of the Environmental Protection Agency. Its contents suggest that we could best expedite the Federal permitting process by educating the permittees on how to properly complete the necessary applications.

RECENT INTERNAL EPA STUDY DETERMINES REASONS FOR DELAY

Region 8 of the Environmental Protection Agency recently inventoried its PSD applications and decisionmaking since PSD regulations were first promulgated on December 5, 1974.

This evaluation found the following reasons for delay:

1. The major reason for delay was for incomplete applications. Applicant ignorance of EPA requirements and confusion led to many incomplete applications.

2. Premature applications, especially those attempting to avoid the August 7, 1978, deadline—after which additional monitoring was required—delayed agency processing for a limited period of time.

3. Disputes between EPA and the applicant concerning applicability and best available control technology have occasionally caused delay.

4. EPA must wait for state permits on some occasions. This delays the permit, but not the project.

5. Some developers have suggested that "EPA take its time" because they were not ready for construction.

Most importantly, EPA Region 8 has always processed PSD permits within 12 months after they were deemed complete.

Region 8 has also established a program to eliminate or minimize the major causes of delay, including:

1. The establishment of a detailed application package and workshops to aid developers in understanding the full requirements of the law.

2. Joint state-federal application submission.

3. 4-6 month processing time.

4. Continued public participation and involvement—which has not significantly delayed agency decisionmaking.●

HISTORY OF AMERICAN GUN CONTROL LEGISLATION

HON. JAMES E. JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. JEFFRIES. Mr. Speaker, the issue of gun control has been hotly debated for several years. But in that debate, the history of gun control legislation and the ensuing controversies have not been adequately chronicled. At least not until September 22. That is when John M. Snyder, director of public affairs for the Citizen's Committee for the Right To Keep and Bear Arms delivered an address at a seminar of the Second Amendment Foundation here in Washington.

I would like to recommend that my colleagues read Mr. Snyder's remarks which follow:

HISTORY OF AMERICAN GUN CONTROL LEGISLATION

203 years ago today, Nathan Hale was executed as an American spy by officers of the British Crown.

Tomorrow, exactly 200 years after John Paul Jones boarded the Serapis, the naval Battle of Flamborough Head will be reenacted off the English Coast in the North Sea.

These are merely remembrances of past events but celebrations of freedom, commemorations of the sacrifices of our forefathers endured for the securing of individual rights against governmental tyranny.

The shooting began on April 19, 1775, when troops of the British Crown marched on Lexington and Concord under orders to confiscate the American colonists' arm. The shot heard round the world was fired to prevent a tyrannical government from taking away Americans' guns. Other rights were secured in the revolutionary process which followed but the linchpin which held them together was the right which guarantees them all—the right to keep and bear arms.

So important was this that it was included in the Bill of Rights and became the Second Amendment to the United States Constitution. Throughout most of our Nation's history since that time, this right has been held inviolate. With the advent of socialism in the 1930's, however, came the first successful Federal legislative attempts to institute some form of gun control. Inocuous as the National Firearms Act of 1934 and the Federal Firearms Act of 1938 may seem, they did constitute the first feet in the door towards limiting what had therefore been considered an unfettered right.

The National Firearms Act of 1934 was supposedly designed to regulate so-called criminal type firearms—submachineguns, sawed off shotguns, flashlight guns, palm guns, pen guns and so forth.

The Federal Firearms Act of 1938 prohibited a firearms dealer or manufacturer from shipping any firearm to a resident of a State which required a license to purchase a firearm unless the purchaser first exhibited his license.

While gun rights proponents at the time protested these Federal intrusions on the right to keep and bear arms, there was not so great a hue and cry as to make gun control a major public issue at the time. After all, what law-abiding citizen needs a submachinegun or a sawed off shotgun anyway? Besides, individuals wishing these items for collector purposes could obtain them with a Treasury permit, to the tune of $200 per permit per item—at 1930's prices. All the '38 Act did, it was said, was help certain States enforce their own gun laws.

Then came Pearl Harbor, America's involvement in World War Two, the great post war boom, the Korean War, the Red Scare of the 50's, the peace, progress and prosperity administration of the last President to serve two full terms in the White House, the administration of the youngest man ever to be elected President of the United States.

And then, in November of 1963, his assassination.

And then it hit the fan on gun control.

Actually, several pertinent factors were operative in the early 60's.

During 1961 and 1963, Sen. Thomas J. Dodd of Connecticut, Chairman of the Subcommittee to Investigate Juvenile Delinquency of the Senate Judiciary Committee, held 10 days of public hearings on the "Effects on Young People of Violence and Crime Portrayed on Television." So extensive were these hearings that the official printed record of them took up over 2,500 pages. Significantly, though, Sen. Dodd never submitted an official report on these hearings and never submitted legislation in the matter.

Instead, he turned his attention to gun control at around the same time the television networks turned their attention to gun control. No one has formally alleged that there was a connection between these two happenings.

On January 29, 1963, Sen. Dodd opened public hearings on the general subject of the availability of mail order firearms to juvenile Americans. On August 2, he introduced S. 1975, which would have required only a simple notarized sworn statement for the mail order purchase of handguns.

On November 22, President Kennedy was assassinated.

On November 27, Sen. Dodd introduced a series of amendments to S. 1975. These would have made the bill applicable to all firearms, including rifles and shotguns, and would have required that the contents of the notarized sworn affidavit be certified by the

chief law enforcement officer of the purchaser's locality as being true to the best of his knowledge and belief.

Thus began a national public debate in Congress, in the press, in television and radio, which while culminating with passage of the Gun Control Act of 1968 five years later, is still going strong with a prognosis that it will continue going strong for years to come.

While it would be impossible here to go into every aspect of the debate leading to passage of the Gun Control Act of 1968, which aspects have been detailed comprehensively in Robert J. Kukla's book on Gun Control, we can discuss some of the highlights of that debate and some of the major provisions of the Act itself.

Shortly after the public discussion began, it became obvious that the objective of gun control proponents was not reasonable regulation leading to a reduction in criminal violence but outright subversion of the Second Amendment and the confiscation of firearms in private hands in the United States. While all gun control proponents did not necessarily state publicly this position, most did advocate firearms owner licensing and firearms registration, which has been a first step toward general confiscation in other societies, especially in totalitarian ones, such as Communist Russia and Nazi Germany. Most recently, after the success this past summer of the leftist takeover in Nicaragua, the provisional government demanded that citizens turn in their firearms.

President Lyndon B. Johnson called for general licensing and registration, as did several presidential commissions which he appointed, most notable the National Commission on the Causes and Prevention Violence. Interestingly, the Executive Director of that now-defunct commission, Lloyd N. Cutler, was recently named by President Carter to shepherd ratification of the Second Strategic Arms Limitation Treaty through the Senate.

Also favoring the licensing and registration approach were Sen. Robert F. Kennedy of New York and Sen. Edward M. Kennedy of Massachusetts, Sen. Jacob Javits of New York, Sen. Charles Percy of Illinois, Sen. Henry Jackson of Washington, Sen. Warren Magnuson of Washington, Sen. Walter Mondale of Minnesota, now Vice President of the United States, Sen. Abraham Ribicoff of Connecticut, Sen. Thomas Dodd of Connecticut, Sen. Daniel K. Inouye of Hawaii and a number of others who have either retired or been retired by their constituents.

The gun control promoters were supported by the television networks and much of the print media in the United States, such as Newsweek, Time, The Ladies Home Journal, Playboy, McCall's, The Tribune and scores of others. The Washington Post, however, definitely led the pack. In 1968 alone, for instance, the paper ran 77 consecutive editorials on 77 consecutive days supporting Sen. Dodd's measures.

Another salient factor was the development, for the first time in the United States, of organizations founded solely for the purpose of promoting gun control in America. First of these was the National Council for a Responsible Firearms Policy, founded in the mid-60's. One of this organization's endeavors was promotion of Carl Bakal's book, The Right to Keep and Bear Arms, later reissued under the more appropriate title, No Right to Keep Bear Arms.

My own personal involvement in this national debate running from 1963 through 1968 began right in the middle of this period, 13 years ago this month, in September of 1966. At the time, I was studying for my Masters degree in Political Science here in Washington at Georgetown University and began what was to turn out to be an eight year stint on the editorial staff of the The American Rifleman, the official monthly journal of the National Rifle Association.

At the time, the NRA was the only national organization representing American gun owners and it was, unprepared, really, for the political onslaught and media blitz unleashed against legitimate firearms ownership in the United States. At the time the NRA had a two man legislative office whose purpose was not to fight gun control legislation but to advise members on how to comply with the various Federal, State and local firearms statutes already in existence. Its public relations staff was concerned primarily with promotion of the shooting sports and NRA's involvement therein. The politically oriented Rifleman staff members included Ashley Halsey, Jr., the Editor, and myself, and that was it.

Of the U.S. Senators who took up the cause of the American gun owner in forthright manner during those dark days only Sen. Strom Thurmond of South Carolina and Sen. John Tower of Texas remain.

With the President of the United States, the Majority Party in both Houses of Congress and most of the national media against the gun owner, there was not really much we could do and it is amazing, in retrospect, that we did as well as we did.

The Rifleman, I think, did a most credible job in exposing the opposition and its ultimate objectives. In addition, Franklin L. Orth, a former Assistant Secretary of the Army who served as NRA Executive Vice President, wrote to NRA members asking them to write their Senators and Representatives on the issue. Other organizations followed suit. There was even an organization of hunting dog owners and lovers which included printed postcards in its periodical for ready and handy return to Members of Congress. This all had some effect. One acquaintance of mine who was working in the Senate at the time told me that Congress had never received so much mail on a single issue since the Army-McCarthy hearings in the 1950's.

Given this background, one can understand how the 1968 assassinations of Sen. Robert F. Kennedy and Rev. Martin Luther King, Jr. served as a double catalyst for legislative activity which resulted in passage of the Gun Control Act of 1968.

This act incorporated the National Firearms Act of 1934 and the Federal Firearms Act of 1968 and:

Eliminated all mail order and other interstate purchases by unlicensed individuals of all firearms, ammunition and ammunition components except in rare special circumstances.

Prohibited all over the counter sales of rifles, shotguns or ammunition to persons under 18 and out of state residents, except that adult residents of contiguous States can make such purchases through an affidavit procedure, and also prohibited all over the counter sales of handguns and their ammunition to persons under 21.

Permitted only Federal licensees to ship rifles, shotguns, handguns or ammunition across State lines.

Licensed gun collectors to buy and dispose of firearms or ammunition interstate as curios or relics, by mail or over the counter, subject to the same regulations as firearms dealers.

Required the permission of the Secretary of the Treasury, in addition to an import license from the State Department, for the importation of ammunition or firearms other than arms barred by the military surplus ban.

Renamed the Alcohol and Tobacco Tax Division of the Internal Revenue Service the Alcohol, Tobacco and Firearms Division and charged it with enforcement of the law. Later, this was taken out from IRS and made the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department.

Imposed penalties of up to five years imprisonment or a $5,000 fine, or both, for violation of any provision of the law.

While gun control advocates lost several times on attempts to institute national gun owner licensing and firearms registration, they could have been well satisfied at the time with passage of the Gun Control Act of 1968, the most restrictive gun law passed on the Federal level in this Nation.

The fact that this was not the case, however, was evident from a reading of full page ads run in June in both The Los Angeles Times and The New York Times by the Fellowship of Reconciliation which demanded "Disarm America's private Citizens—ourselves. The country needs a much stiffer gun control law. Insist that all private ownership of guns be outlawed; that the guns now around be collected and destroyed."

The gun control advocates then proceeded to follow a divide and conquer legislative strategy and directed their attention to handguns. By 1972, Sen. Birch Bayh of Indiana, who had succeeded Sen. Dodd as Juvenile Delinquency Subcommittee Chairman, managed to have S. 2507, which would have eliminated the manufacture of one third of the models of all handguns made in the United States, brought to the floor of the Senate. Inaccurately described by Sen. Bayh as merely a bill to regulate so-called cheap "Saturday Night Special" handguns, the measure did pass the Senate. However, it died later that year in the House Judiciary Committee. Its Chairman, Rep. Emanuel Celler, who favored gun control, commented "we're a gun Nation and the members of the Committee are very gun conscious."

1972, then, was the last year a major piece of gun control legislation came before either House of Congress for a vote. Two years later, when Sen. Bayh ran for reelection, he nearly lost his shirt, and his position on gun control was generally given as one of the reasons why. Subsequently, he gave up his chairmanship of the Subcommittee to Investigate Juvenile Delinquency for a position as Chairman of the Subcommittee on the Constitution. However, several patriotic American organizations have targeted him for defeat next year.

In 1976, the House Judiciary Committee reported, by a vote of 20–12, H.R. 11193, which would have prohibited the future manufacture, importation or assembly of so-called "concealable" handguns, defined to include more than 50% of the new handguns being sold in the United States, including many expensive, high-quality pistols and revolvers, empowered the Bureau of Alcohol, Tobacco and Firearms to eliminate, through regulations, up to 120,000 of the Nation's 160,000 federally licensed firearms dealers, denied self-defense as a legitimate reason for handgun purchase by setting "minimum requirements" for new handguns similar to present Treasury Department importation criteria for handguns "suitable for sporting purposes," made it a Federal crime for an American citizen to purchase more than one handgun in any 30 day period; and begun a system of centralized national registration of all persons purchasing handguns from dealers. This bill never made it through the House Rules Committee and thus was the last and most recent gun control bill to have been reported by a Committee of Congress.

Indeed, it would seem that in recent years the tide in Congress is shifting in favor of American firearms owners, who comprise well over half the adult population of the United States. Last year, after the BATF attempted surreptitiously to institute national Federal gun registration by bureaucratic fiat, both Houses of Congress voted overwhelmingly not

only to instruct BATF to knock it off, but also to slash $4.2 million out of the Bureau's requested budget as well.

None of this means that the battle is over or even, necessarily, that we are on the way to conclusive victory. It means that gun owners are better organized and more politically motivated than they were in 1968. Since that time, we have seen a burgeoning of pro-gun organizations in the United States: The Citizens Committee for the Right to Keep and Bear Arms, the Second Amendment Foundation, Gun Owners of America, the Firearms Lobby of America, The American Pistol and Revolver Association, the NRA Institute for Legislative Action, the Right to Keep and Bear Arms Political Victory Fund, the Gun Owners of America Action Committee and the NRA Political Victory Fund.

These groups, and others, have articulated the views of America's gun owners where, when and how they need articulation: in Congress, in the media and among gun owners generally. Three years ago, I, on behalf of the Citizens Committee for the Right to Keep and Bear Arms, presented the signatures of 1.5 million Americans from every State in the Union on petitions calling for repeal of the Gun Control Act of 1968 to Sen. James A. McClure of Idaho just a few blocks from here on the steps of the U.S. Capitol. At the time, Sen. McClure, who will speak to us this evening, called the outpouring of signatures "an unprecedented effort by a genuine citizens' lobby."

At the same time, though, we must keep in mind that gun control forces are more organized than at any other time in the past. At least two national organizations have come into existence since 1968. These are Handgun Control, Inc., formerly the National Council for Handgun Control, and the National Coalition to Ban Handguns. Already this year, these two groups have reported lobbying expenditures alone of well over $260,000—and one of them failed to report expenditures for the second quarter, as required by law.

As things stand at present, the range of firearms related bills introduced in each Congress runs from totally unacceptable legislation like H.R. 40, by Rep. Jonathan Bingham of New York, which would ban private handgun possession in the United States and impose penalties of up to five years imprisonment and up to $5,000 in fines, or both, for the possession of each handgun, to most desirable legislation such as S. 38, by Sen. McClure, and H.R. 1174, by Rep. John M. Ashbrook of Ohio, which would repeal outright the Gun Control Act of 1968.

One of the more preferable bills within these parameters is H.R. 5225, introduced last week by Reps. Ashbrook, Robert E. Bauman of Maryland, F. James Sensenbrenner, Jr. of Wisconsin, Michael L. Synar of Oklahoma and Harold L. Volkmer of Missouri. Titled "The Federal Firearms Law Reform Act of 1979," this recognizes some of the injustices perpetrated against American gun owners and dealers by BATF enforcement of the Gun Control Act of 1968 and seeks to rectify the Act in these respects. As Congressman Ashbrook said, however, this would be "an interim measure designed to curb abuses by the BATF" and not the final statement on the Gun Control Act of 1968.

The BATF came under fire in the Senate this past summer, too, when the Appropriations Subcommittee on Treasury, Postal Service and General Government held public oversight hearings into the antics of BATF and its agents. According to William M. Pace, Executive Director of the National Association of Treasury Agents, the Second Amendment Foundation Publication, The BATF's War On Civil Liberties: The Assault on Gun Owners, "was the basis for the hearings." This study is available during these proceedings and is well worth reading.

One thing that BATF, Kennedy and the gun control lobby never tries to explain is why, eleven years after the effective date of the Gun Control Act of 1968, the criminal homicide and non-negligent manslaughter rate is three times what it was in 1968. Nor do they ever mention, when they cite the statistic that 48% of these criminal acts are committed with handguns, that these 9,178 handguns represent only 183 ten thousandths of one percent of the 50 million handguns in private hands in the United States, and that, conversely, 99.996817% are clean. Nor do they, when they state blithely that Americans have wanted more gun control for 40 years, ever refer to the most comprehensive survey of registered voters' attitudes on gun control, to date, the Decision Making Information report of March 8, 1979, which indicates that 88% oppose a handgun ban, 54% see no need for more gun control laws and 88% believe they have an individual right to keep and bear arms. Nor do they, when they trot out a gun control advocate like Patrick Murphy, ever mention the GMA Research Corporation 1977 report on police officers' attitudes which reveals that 80% think gun control legislation has no effect on crime in their area and 86% would keep a firearm for the protection of their families and property if they were civilians.

The mendacity of the gun control lobby is surpassed in significance only by the potential menace they constitute for the continuance of legitimate firearms ownership in the United States. To thwart their statist and elitist designs, it is incumbent upon us to battle them tooth and nail in the trenches, dugouts and foxholes which dot the political and legislative landscape. To do this effectively, we must maximize our potential. We must band together and fight like hell for, as Benjamin Franklin said, "If we do not hang together, we shall most assuredly all hang separately." ●

AIRMEN'S MEMORIAL BUILDING

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mrs. HOLT. Mr. Speaker, it is my privilege to inform my colleagues that on Friday, October 26, the Air Force Sergeants Association (AFSA) had ground-breaking ceremonies for their Airmen's Memorial Building, which will serve as the international headquarters for AFSA.

In recent years the AFSA has distinguished itself as a professional association representing the active duty, retired, Air National Guard, Air Force Reserve, and former enlisted men and women of the U.S. Air Force. Its principal objective has been to strive to maintain a viable Air Force career for its more than 133,000 members by representing them through both legislative and personal action.

Congress and the Defense Department recognize AFSA as a primary resource contributing to the over all understanding of the needs of enlisted Air Force personnel. Association representatives are frequently sought out to testify at hearings both on Capitol Hill and at the Pentagon. The association also serves as an information link for its members, keeping them aware of pertinent policies, programs, and legislation. This function is met through AFSA's monthly magazine, Sergeants, and their Lobby Ledgers.

Mr. Speaker, I would like to commend AFSA's international president CMSgt. Walter E. Scott, USAF, Ret.; their executive council; the executive director, Mr. Frank C. Fini; and their deputy executive director and spokesman for legislative matters, CMSAF Donald L. Harlow, USAF, Ret., on their dedication and professionalism. I know that AFSA will continue to provide the leadership that our Nation needs to insure its security, and caring for the enlisted members that it so proudly serves.●

NAVAL CONSTABULARY IN THE PACIFIC

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. FINDLEY. Mr. Speaker, on October 23, 1979, the Japanese Chief of Naval Defense announced that Japan has decided to participate with the United States, Canada, Australia, and New Zealand in coordinated naval exercises in the central Pacific next Spring. This is an unprecedented and most welcome step by the Japanese which could have important and positive ramifications on our defense relationship with this nation—a relationship which, in light of the dangerous increase in the size of the Soviet Pacific fleet coupled with a reduced U.S. military presence in the region, is in dire need of reappraisal. It is time, I feel, for a new type of partnership between the United States and its Asian friends and allies to meet the growing challenge and provide adequately for security and defense needs.

These Pacific maneuvers commenced in 1971, and this is the first time Japan has agreed to participate in naval maneuvers with our Pacific allies. Their absence up to now is largely the result of the strong, post-World War II aversion among the Japanese to anything military. In recent years, however, these attitudes have changed as the Japanese have become increasingly concerned about America's reliability in their senior defense partner. Since the early 1970's they have witnessed a gradual American disengagement from Southeast Asia. U.S. withdrawal from Vietnam and Taiwan, and the plan to reduce the U.S. presence in South Korea, have created a sense of unease. The Japanese tend to regard the U.S. military presence in Korea as an indication of the degree of our commitment to regional security and have understandably become quite apprehensive that our withdrawal, however gradual, may signal a diminution in their own security. With the steady buildup of Soviet naval forces, particularly in and around Vietnam, many Japanese feel that the U.S. 7th Fleet possesses only a limited capability of defending Japanese sealanes in the event that the Soviet Union, either directly or by proxy, interferes with its oil lifeline through these waters.

In consequence of this, Japan has made a concerted effort to improve qualitatively its self-defense forces. The Japanese Armed Forces, for the first time since World War II, have been ordered to prepare a comprehensive defense plan which has necessitated widening the definition of defensive weapons—the only type they are legally entitled to possess—to include some which normally would be viewed as having offensive capabilities. They rationalize, and quite rightly, that an adequate self-defense necessarily includes incorporating offensive capabilities. The F-15 fighters, P3C Orion antisubmarine reconnaissance aircraft, and Grumman E2C Hawkeyes were therefore purchased from the United States and added to their defensive arsenal.

Despite these modest changes in attitudes toward armaments, the Japanese are still unwilling to develop a greatly expanded offensive capability. There is still no evidence that there will be any change whatsoever in Japan's nonnuclear policy. Nor should there be.

But the fact remains that this recent change in Japanese defense policy has, to a certain degree, been influenced by what Ambassador Mike Mansfield describes as our inadequate Pacific defense. He says:

U.S. air and naval forces in the Asian Pacific area should be beefed up and should be given parity, at least, with those in the Atlantic and Western Europe.

Present U.S. force levels do not assure our Pacific allies that we are able to proceed expeditiously throughout the region to meet Soviet or Soviet-inspired challenges. Nor will final adoption of the Law of the Seas Treaty hopefully next summer guarantee sealane safety and security in the Pacific. The actual implementation of the principles which assure unimpeded transit and overflight through straits will be dependent upon national interpretation, arbitration, and other factors which give little reason for the United States and other powers to relax their naval presence in that part of the world.

I propose, therefore, that the United States and its allies devise a system which brings the major naval powers of the region together in what I choose to describe as a Pacific naval constabulary for the purpose of establishing various procedures for implementing and building upon the principles of the Law of the Seas. Under this plan, member nations of ASEAN—Singapore, Malaysia, Thailand, Indonesia, and the Philippines—plus Australia, New Zealand, Japan, and the United States would contribute to a multinational fleet which would patrol the Pacific and Indian Ocean sealanes as a police force of sorts, emphasizing safety in all aspects for all vessels using those international waters. It would not be a full-fledged defense system which would alter or supplant in any way the United States-Japan Mutual Security Treaty, the ANZUS Treaty, or any of our other collective security systems. Instead, its mission would be far more limited—to assure sealane safety and security in the Pacific and Indian Ocean areas.

Other than the United States, Japan certainly has the greatest stake in maintaining open sealanes. Japan could make a substantial contribution to regional security through its participation in this system. And, because this would be done under U.S. leadership and auspices, the new Japanese role need not cause domestic or regional anxieties. With the apparent change in Japanese attitudes toward defense matters, the establishment of a Pacific naval constabulary should be well received by the Japanese as serving their own interests as well as those of their neighbors and allies. And, in these times of fiscal restraint, this multilateral approach makes sense. Effective, continuing coordination of sealane patrols, maneuvers, and communications, gives promise of maximum effect from the resources of the individual nations taking part. It would instantly strengthen sealane safety and security without additional capital investment.

It is high time that the United States demonstrates to our Pacific allies our concern over what they perceive as their growing regional vulnerability. A Pacific naval constabulary, such as the one I envision, could help fill the dangerous void in security policy in this vital region of the world.●

A WESTERN "BULLET"?

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. VAN DEERLIN. Mr. Speaker, today JIM CORMAN, JERRY PATTERSON and I are reintroducing the Southwest Coast Corridor Act. The language is the same as H.R. 5403, but we now have 17 additional cosponsors from California and Nevada.

This is an impressive show of support for modernized rail service for the Southwest—service such as the Northeast is already getting. The time has come to share the benefits of improved passenger rail service.

Train travel in the Southwest, and West generally, continues to gain popularity. On the San Diego-Los Angeles run alone, ridership in 1979 is up 35 percent over 1978—and 1978 was a very good year. In addition to increases on the regular routes, a new train has been added from Los Angeles to Ogden, Utah, through Las Vegas.

We must not sit on our hands waiting for the next gasoline crunch to hit. We ought rather to be building for the future, developing alternatives to auto travel as other countries are doing. The French, for example, have just unveiled an 185-m.p.h. train between Paris and Lyon. We will be happy to get a 120-m.p.h. train. Average speed on the San Diegan is now about 55 m.p.h.

While the future security of this country might well depend on the efficiency of our energy use, we have fallen far behind the rest of the world in the technology of efficiency. This bill is a modest step toward catching up in the area of transportation.

I hope some day to see a rail line in the Southwest with a performance record like the Japanese "Bullet" train. They have had no serious accidents on that line in the 15 years it has been in operation and—brace yourself—they have made money in all but the first year.

That is the sort of planning and building we must do in this country. Let us start now.●

MANDATORY CONTROLS ARE NEEDED

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. MOFFETT. Mr. Speaker, today the Democratic Caucus met to consider a resolution giving the President authority to impose wage and price controls. With inflation in the double digits and predictions by Alfred Kahn that these inflation levels would probably remain for a long time, the wage and price control route is the only way we have to call a halt to this economic crisis. On this very matter, I strongly urge my colleagues to read the following article which appeared in the Op-Ed page of the Washington Post several days ago. It conveys the sentiments of the majority of Americans, according to the polls, who want mandatory controls. These controls will give us extra time to attack the new inflation which is driving prices upward most markedly in energy, food, health and housing.

The article follows:

HIGH INFLATION HYPE

(By Clayton Fritchey)

The country can relax. Inflation is now in the hands of Madison Avenue. The word is that President Carter has enlisted the advertising industry in his drive to curb the cost of living.

It may seem strange that an industry hitherto known for its genius in promoting spending should now be called on to help subdue it. Nevertheless, the Advertising Council is working with the administration on a "multi-media" campaign focused on the theme, "We can all beat inflation if we just use our dollars and sense."

It sounds like something conceived by the wonderful folks who gave us "Whip Inflation Now" (better known as WIN), which was launched with 21 guns by Gerald Ford to spearhead his psychological war on inflation back in 1974. It was so juvenile and palpably inadequate that it was soon laughed off the scene, accompanied by soaring prices that finally climbed to a 12 percent inflation rate—the highest on record until recently topped by the 13-plus rate under Carter.

The advertising writers helping the Carter administration have developed a booklet "to alert the American public to the dangers of continued inflation." One suggestion (from an adman no less) says, "If you don't think you can afford something, don't buy it." Were the American people to take that seriously, the country would collapse like a punctured tire.

If Carter is looking to former presidents for hints on how to handle inflation and also win reelection, he would be better advised to take a tip from Richard Nixon. Like Carter, Ford relied on feeble wage and price guidelines, resulting in both recession and inflation, or "stagflation." He also ended up being the only incumbent president to be defeated since 1932. Although Nixon had denounced mandatory wage-price controls all his political life, he abruptly embraced them in 1971 when inflation began going up and he began going down in the polls.

With controls holding prices to about a third of what they are today, Nixon's easy money policy produced such prosperity that he carried 49 out of 50 states in his record 1972 reelection. Later he abandoned controls, but only after he was safely back in the White House.

President Carter says that "whatever it takes to control inflation, that's what I will do." Except, among other things, the following:

Initiate mandatory wage and price controls. Effectively curtail importation of foreign oil. Nationalize the profiteering oil industry. Control domestic oil profits instead of phasing them out. Stop federal deficits. Balance the budget. Eliminate farm price supports. End maritime subsidies. Repeal protective tariffs and quotas for steel, textiles, cheese, television sets and other goods. Trim inflationary, non-productive military spending. Reform taxation to stimulate productivity. Reduce Social Security payroll deductions. Clamp a ceiling on runaway interest rates.

So, understandably, Carter's pledge to stop inflation is a qualified one. What he is really saying, along with the American public, is that inflation is the worst of all economic diseases, except for most of the cures for it.

The one cure—mandatory wage and price controls—that is consistently favored by a majority of the public is the one that Carter still says he will not adopt. Only a couple of weeks ago, however, the president said he fully supported the Federal Reserve Board's new tight money/high interest rate policy, but he already is weakening on that stand.

The president is currently saying that "interest rates are too high," and he is telling the labor unions that he won't "fight inflation with your jobs." When Paul Volcker, chairman of the Fed, warned a few days ago that "the standard of living of the American people has to decline," the president promptly said. "I don't agree."

In the wake of the Volcker policy, the stock market has already suffered a $200 billion loss, and the prime interest rate has soared to an alarming new high of 15 percent. It's not hard to see why the president is uneasy, and why Labor Secretary Ray Marshall was emboldened to say that the Fed's policies "are a very inefficient way to deal with inflation."

It's not hard, either, to see why a leader of Carter's own party, Sen. Henry Jackson, is now predicting that "clearly, the American people, out of sheer frustration, are going to demand mandatory controls, and you're going to see them enacted into law in 1980 by the Congress."

The Wall Street Journal, an avid opponent of controls, convened a cross-section of Midwest Americans last week to discuss inflation. The panel, it reported, was unanimously for wage and price regulation.●

COMPARATIVE POLITICAL SYSTEMS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. LONG of Maryland. Mr. Speaker, I am pleased to make welcome twelve 10th-grade students and their teacher who are today visiting the Capitol from the Garrison Forest School in Garrison Forest, Md., the school from which my daughter, Suzanna Elizabeth Long, now Mrs. Phillip L. Moore, graduated.

My constituents are taking a course entitled "Comparative Political Systems." They will attend committee meetings and observe floor action in the House and Senate. I am certain that the trip coordinator, Mr. Bayly Buck, and the students, Heather Beck, Margaret Bowers, Karin Gieske, Carden Kohler, Catherine Lewis, Susan Moxley, Lisa Redifer, Suzanne Smith, Polly Wharton, Larkin Mott, Amanda Coroon, and Lizbeth Araux, will have a memorable day and I appreciate this opportunity to meet with them.●

SOVIET UNION TRAVEL

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. CARTER. Mr. Speaker, many thousands of Americans already are planning to attend the 1980 Summer Olympic Games in Moscow.

On Tuesday, October 30, the Christian Science Monitor published a very informative article offering advice to those who might be considering traveling to the Soviet Union.

The author is a member of my personal staff, Susan Lively, from Danville, Ky., and daughter of U.S. Sixth Circuit Court of Appeals Judge and Mrs. Pierce Lively.

Ms. Lively is a bit of an expert on travel in the Soviet Union as she spent 6 months last year working as a tour guide for the Agriculture USA exhibit there. As part of her job, she explained American agriculture and rural life in Russian to more than 50,000 Soviet visitors.

I believe this article is both instructive and entertaining, and I commend it to the other Members of this body and to anyone who wishes to understand, as the Monitor states, that, in order to find picturesque, dramatic Russia, you have to deal with the Soviet Union.

The article follows:

USSR OLYMPICS: IT'S A GOOD IDEA TO GO WITH A GROUP

(By Susan Lively)

Russia. It brings to mind troikas whirling through endless snow-swept steppes, monks in icon-laden Byzantine churches, peasant weddings, gaily dressed dancers, and mournful balalaikas.

Soviet Union. By contrast, it evokes the image of a gray, humorless, bullying bureaucracy determined to control all of the 250 million people within its borders. Yet, both images are inextricably part of the same country.

Unfortunately, for the Western visitor to discover anything of the first, he must also come to terms with the second. Next year, while the 1980 Olympics are in Moscow, an estimated 20,000 Americans will visit the Soviet Union. They will all be contending with the bureaucracy in the form of Intourist, the official Soviet tourist agency. Intourist manages hotels and restaurants for foreigners, arranges tours with its own buses and guides, and makes other internal travel arrangements, including transportation to and from hotels and airports or train stations.

The Russian Travel Bureau in New York has been designated as the general sales agency for Americans traveling to the Olympics. During the period of the Olympics, July and August, 1980, the agency is offering 15- and 22-day tours that include six nights in Moscow, where most Olympic events are being held. The 15-day tour includes stays in two additional cities; the 22-day trip offers visits to five other cities. In addition to hotel rooms, travel arrangements, and most meals, these tours include excursions, theater tickets, and the services of Intourist guides.

To make the most of a trip to the Soviet Union, there are several things a traveler should keep in mind. First, it is necessary to make plans far in advance. This will be particularly true during the Olympics, since many hotel rooms assigned to Americans for this period have already been filled.

Second, most travelers should accept the fact that they are tourists and will do best to travel with officially recognized tour groups. Intourist is simply not equipped to handle independent travelers. During the Olympics, virtually all visitors will be traveling on package tours. Tourists who are not traveling on such tours have very low priority, in the eyes of Intourist bureaucrats.

For instance, a tourist may arrive at the door of his hotel restaurant and encounter a surly doorman who announces that there is no room in the half-filled dining room, in which all space is reserved for Intourist groups. If the traveler does manage, by bullying or bribe, to get past this formidable doorman, he may next encounter an impatient waiter, who announces that the regional specialties on the menu are only for groups—and our "second-class citizen" may order specialties on the menu are only for groups only stroganoff or cutlets. And since Soviet restaurants are invariably full, it will be even more difficult to find a meal outside the hotel.

In traveling throughout the Soviet Union, the author had her worst experience with this problem in Urgench, a small, dusty city in Uzbekistan, on the edge of the Kara Kum Desert, where a small hotel was opened for foreigners in 1978. Our nongroup of eight hungry individuals descended on the hotel dining room. It was empty except for a Polish tour group whose members were gorging themselves on the local delicacies of shashlik, pilaf, flat Eastern bread, and melon. Other long tables were set with bread and fruit in readiness for other groups. After a 10-minute screaming match with the doorman, we managed to be seated at an unset table, and an irritable waiter finally informed us that we could order only borsch—the Uzbek delights were for Intourist parties. After further cajoling, bribes, and compliments regarding Uzbek cuisine, the waiter succumbed and brought us the pilaf, bread, and fruit left over from the Polish group's meal.

Individual tourists can arrange through Intourist to take sightseeing tours of cities or surrounding attractions. Of course, an individual tourist may also look around on his own, but unless he speaks Russian, it could be rather difficult to decipher the public transportation system.

A tourist may also learn that he does not have confirmed reservations for his travel. As soon as the author's party got into a city, it was necessary to confirm the travel arrangements for the next city on the itinerary. Foreigners are booked only on certain flights, and these flights are sometimes filled with Intourist groups and important Soviets. When we arrived in Urgench, we informed an Intourist agent that we were to fly to Bukhara the next day. He checked our "reservations" and calmly told us that there

were seats for only four of us on the next day's flight, and that the other four in the group would have to stay in Urgench an extra day. We discussed the matter among ourselves and decided on a strategy.

The next day we all checked out of the hotel and demanded to be taken to the airport. The ploy worked. Intourist simply could not cope with foreign tourists without hotel rooms who refused to leave the Intourist airport waiting room until they got on a plane. Seats were found for all of us on the flight to Bukhara.

Given the compelling advantages of traveling with a group, there are many kinds of groups and many kinds of tours from which to choose. A traveler should consider which cities he wishes to visit and the length of time he wishes to stay in each city. Only certain cities are open to Westerners and stays are limited, especially during peak travel times.

A third thing to remember in planning a trip is that the Soviet Union is not all Russia. The Russian Republic is only one of 15 Soviet republics, and only about half of all Soviets are Russian. There are many diverse cultures in the Soviet Union, and many other cities are as interesting to foreign tourists as Moscow, Leningrad, and Kiev. Americans seem to find the Baltic, Caucasian, and Central Asian areas particularly interesting.

The three Baltic republics of Estonia, Latvia, and Lithuania were absorbed by the Soviet Union in 1940, but the United States still does not officially recognize them as part of the Soviet Union. These three tiny republics have a decidedly Central European air about them, with old ports, winding, cobbled streets, and a feeling of industry and cleanliness. Tallinn, Estonia, will be the site of sailing competitions during the Olympics, and the Russian Travel Bureau will include this city on one of the Olympic tours. Another tour will include a visit to Riga, Latvia.

The Caucasian republics of Armenia, Azerbaijan, and Georgia are inhabited by a crazy quilt of nationalities. Georgians and Armenians are very proud of their ancient cultures, with their tradition of hospitality for visitors. Caucasian food is spicy and delicious, and restaurants are full of frenetic music and dancing. Two Olympic tours will take tourists to Tbilisi, Georgia, and one will include a visit to Baku, Azerbaijan.

Soviet Central Asia is a huge area seldom visited by American tourists. It includes the republics of Uzbekistan, Turkmenistan, Kirghizia, and Tadzhikistan. The major tourist cities, Tashkent, Samarkand, and Bukhara, have all the mystery of the East. Many of the ancient mosques, schools, and mausoleums, with their beautiful tilework, have been restored. In Central Asia, the marketplaces are usually the centers of activity, with brightly robed men presiding over their piles of melons and pomegranates, women wearing many tiny braids and "lightening" print dresses selling herbs and talismans, bakers slapping the traditional flat loaves of bread onto the walls of stone ovens, and men chatting and drinking innumerable pots of green tea as they lounge on teahouse platforms. The 22-day Olympic tours include visits to Samarkand, Tashkent, and Bukhara.

A final point the traveler should keep in mind is the need for patience and tolerance. A Byzantine influence lives on in the Soviet Union, and things often seem much slower and more complicated than might seem necessary. Restaurant checks are still totaled up on an abacus, and each floor of the hotel has a *dezhurnaya*—a woman who hands out room keys and keeps track of the comings and goings of hotel guests. A trip as simple as going across the city to visit a museum can become fantastically complicated. Taxis are scarce in many places, and other public vehicles are jammed with riders. Sometimes city maps disappear from the newsstands for weeks, and those that are available are often incomplete and inaccurate. However, a patient and energetic tourist can learn a great deal about a city and its people by asking directions in English or pidgin Russian as he walks or takes public transportation.

A further complication for a Western visitor is the necessity of having on hand two sets of currency—Russian and Western. Foreigners must declare all currency as they enter the country and must show the currency declaration form, as well as receipts for all money exchanges, when they exit the country. This system is designed to prevent exchange of currency with the numerous young black marketeers who sidle up to foreigners on the streets whispering "dollari?" . . . "jeans?" Many Soviet hotels have dollar bars and gift shops, which sell choice items at reasonable prices for hard currency. The problem comes at the checkout counter. The cashier totals up the purchases in rubles, then converts the total into the purchaser's currency. The hapless visitor who doesn't have the correct amount to the last penny must receive change in francs, marks, or even perhaps in chocolate bars. When the tourist tried to unload this assorted change on the next visit to a foreign-currency shop, he is told he must pay in only one currency. So unless the visitor plans to start a foreign coin collection, he should bring along an assortment of change and small bills.

If the Western traveler follows these few rules and has a bit of luck he will not only survive the bureaucracy of the Soviet Union, but will also see the Russia of his romantic dreams, and will meet some warmhearted people. Soviets, especially in smaller cities, are curious about foreigners, particularly Americans. After a brief conversation in a café or theater, they may invite a tourist home and treat the guest to their finest delicacies. Russian generosity is often embarrassing to Americans, so it is a good idea to bring some small gifts for hotel "key ladies," tour guides, and newfound friends. Popular gifts are panty hose, art books, maps of the United States, Frisbees, and plastic tote bags with English brand names on them.

The Soviet Union is a country of contradictions—socialism imposed upon a varied peasant culture. As Winston Churchill said, "Russia is a riddle wrapped in a mystery inside an enigma." Each visitor will gain much as he unwraps the layers firsthand. The 1980 Olympics provide a good opportunity to accept this challenge.●

TRUE WAY TO FIGHT INFLATION AND RECESSION: REFORM OUR ECONOMIC STRUCTURE

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. REUSS. Mr. Speaker, I include a transcript of my interview today on CBS Capitol Cloakroom conducted by correspondents George Herman, Marya McLaughlin, and Susan Spencer:

Q. Congressman Reuss, was there a monumental mistake by the Federal Reserve Board that caused chaos in the marketplace?

A. I still think it was a monumental mistake; however, coming from a body, the Congress, which is not above making mistakes of its own, I advocate now and then charity, and I think we ought to display that. What happened—this monumental mistake—was that the Federal Reserve, accepting an erroneous computer printout from one of the large New York banks, overstated the money supply by some 4 billion dollars. What happened was that the market, both speculators, and honest widows and orphans who buy bonds and stocks, seeing this huge explosion in the money supply said to themselves, "Oh my goodness, this is catastrophic, it's careening out of control, the Federal Reserve will have to take terribly severe action against it, so we'd better sell our stocks and sell our bonds because they're going to go down." Well, during the month of October, 1979, there was about a $200 billion selloff in the stock and bond markets, a greater amount, incidentially, than in October, 1929, whose, unhappy memory we're celebrating this month.

This means, of course, that people have less money to spend, it means that the markets are disrupted, and so it was a monumental mistake, but the Federal Reserve this week, when we called them before us, assured us that to err is human, and they're going to try to improve their procedures so that it's doesn't happen again. So we hope that this Three Mile Island of the monetary world will be a one-time event.

Q. What assurance does the American public have, though, that this could not have been a manipulated error, first of all; or secondly, that the Federal Reserve really may not be telling us the truth about it?

A. I know the people on the Fed; I think they are honorable and honest men and one honest woman—there being just one woman on the Board of the Fed. I believe them. I think it was an innocent error as far as the Federal Reserve was concerned. I have no evidence whatever that it wasn't an innocent error on the part of the New York bank and everybody else. But I do have to point out that if somebody wanted to make a billion, all they had to do was to get into the money supply figures incorrect information like this, then sell short like crazy during most of October while the market was going down, and then, by releasing the true figures and confessing error, start buying long and make another bundle.

Q. But you don't think anything like that happened?

A. I did ask the Federal Reserve to make a thorough-going investigation of just who was buying and selling, long and short, in the month of October, because I think it's necessary to put suspicions to rest. I don't have the slightest evidence. But whenever there is an opportunity to make that kind of a bundle, I think it's up to the government to put the facts on the table, and that's what I asked for, and that's what the Federal Reserve promised to do.

Q. What about the Federal Reserve saying that they never make decisions on those figures—that they always know there is some margin, you know, and they just kind of ignore. . . .

A. Well, they are basically right. The Federal Reserve should not and does not make money supply decisions on one week's blip on the radar screen, or even two weeks. But what happens is that investors and speculators in the market make decisions of transcendent importance.

Q. So the Fed's action was not based on those figures. The reaction of the people and the market was what happened to those figures.

A. That's right.

Q. Should those figures have been released when—I mean the story about what did the Fed know and when did they know it—were the figures corrupted and all that kind of thing?

A. Yes, as I suggested to the Federal Reserve when I found out about it after the event, I think since the Fed knew for three successive weeks that maybe these figures were corrupted, that they should have given

a "The Surgeon General warns you that this may cause cancer" kind of warning on their figures. Their answer was, "Well, everybody knows that these figures are very flakey and no sensible person should rely on them." Well, unfortunately, the markets are made up of people sensible and insensible, and there were enough of the latter to contribute—I don't say they did the whole thing—but to contribute to the biggest selloff in the market we've had for 50 years.

Q. Getting beyond this rather flakey event and series of events . . .

HSR. I'm glad to hear you say that, because I don't think the goof of October is in the long run going to be what's important. I think what's important is what we're going to do about our economy.

Q. Let's look at the long run and the Fed's operation and let ask you: can the Fed actually control inflation by manipulating interest rates or the money supply?

A. No, it can't. It has to do its part. It has got, for example, and I applaud it, to maintain overall control over the monetary aggregates, and see that they don't explode. They're doing that. I approve of that. That's fine. But, beyond that, the Fed can't control the kind of inflation from which we're suffering, and the best evidence of that is that it isn't being controlled.

We're suffering from 13 or 14 percent inflation despite years of very sober Federal Reserve Board Chairmen who inveigh against inflation every day. No, it seems to me that we're going to get inflation and, for that matter, recession and stagnation in this country under control when and only when we realize that what is wrong with this country is not so much overall fiscal and monetary policy, but structure. What do I mean by structure? I mean the way we produce and sell food. I mean our energy policy. I mean our homebuilding and housing laws and policies. I mean our transportation policies. I mean the policies . . .

Q. Structure of our tax policies?

A. And tax policy. Structure means to a modern economist what structure means to a good fisherman. A good fisherman knows that when he goes out after bass, placid though the surface of the lake may be, what really counts is how those stones are structured 20 or 30 feet below the surface. And we haven't been doing this in our economy. We've been ignoring structure, which is why we have dumped into our lap Chrysler, the collapse of the midwestern railroads, the downgrading of our United States steel industry, the fact that our. . . .

Q. Is anybody attacking it, though? Is anybody starting to work . . .

A. Nobody except us cats. We've been trying to do it.

Q. What ought the Fed do that it isn't doing to get at the kinds of things you're talking about.

A. The Fed ought to exercise humility, and tell the world that its little dance with the money supply, necessary though it is, is but a tiny part of the true fight on inflation and recession.

Q. Congressman, you're talking about the fishermen and the stone and all that. Structure is in stone, really, and it's going to take a lot to change all those items that you mention.

A. You're quite right, if I can interrupt. It will take a generation, which is why we should start tomorrow, and not wait any longer.

Q. Right. But—I hate to use the word bandaids—what are the bandaids that are going to keep us going?

A. Fine. I'm glad you asked that question. We need a little bandaid. Look what we've got. November is a'comin' in. Congress is about to adjourn. Congress will reconvene in late January, and there will be about four months of sensible possible action. Then we're in a presidential campaign, and forget it, from the standpoint of really doing anything important about the problems of our country.

So we're talking about four or five months. What could be done? What kinds of things are there which will fight inflation, fight recession, and save energy? Well just the other day, earlier this week, confronting three of the nation's economists—John Kenneth Galbraith of Harvard, Walter Heller of Minneapolis and Alan Greenspan of Wall Street—I got them, more or less, to agree that there is a short-term bandaid program which would do some good, and which wouldn't make things worse.

You see, those people now who are advocating huge tax cuts across the board to fight recession are just going to make recession worse. And those people now who are squeezing the money supply until the pips squeak in an effort to fight inflation are just going to make unemployment worse; men and women are going to lose jobs, despite what President Carter says, because of this policy.

Q. So what's a little bandaid?

A. The little bandaid is as follows . . . and it's little.

1. Put a new tax, to raise around $20 billion, on gasoline and certain luxuries—luxury consumer durables, furs, jewelry, as, incidentally, Herbert Hoover, of all people, advocated back in 1932. Hoover was not always wrong. If you accompanied it by a humane cushioning program, so that those who need gasoline to get to work and for other essential purposes got inexpensive tax-free gasoline, you could then raise enough money in revenues so that you could do what we really ought to do, which is repeal the increase in the social security payroll tax. That's a very inflationary thing, and it's going up again in January. And that's a disaster, because that means that the employer, particularly the nice employer who employs a lot of people, has his costs raised, and he's just going to have to pass those on.

Q. Yield for a question, Mr. Chairman. You're talking about a neutral balance—you raise exactly as much as you spend.

A. Exactly. So you also satisfy—and I think they've got to be satisfied—the budget balancers, and the European money masters. So here is a way of fighting inflation, fighting recession, and fighting energy waste, which would do the nation for the next year.

Q. Congressman, for an awfully long time most people thought that the way to fight inflation for them personally was to go out and buy a house. That was kind of the conventional wisdom. When couples had enough money, they would do this and they figured they were in good shape and they could always sell it and make a bundle. Is that still true, do you think?

A. Yes, I do. Though, of course, it's going to be less true in the days to come.

Q. What are we looking at in interest rates?

A. A good home in a good location, with a roof that doesn't leak, is a marvelous investment, and furthermore, you can live in the thing. That's better than stamps and coins and gold and even stocks and bonds. So I continue the advice I have given to my friends—and taken myself—for some years, which is, get yourself a nice little home.

Q. If you can . . .

A. If you can. Now, of course, high interest rates are murder. Gibraltar Savings and Loan in California is charging 16 percent for a mortgage, and you've got to plunk 50 percent down. So there are more and more Americans who are cut out of the home market, and this is a tragedy, and it's also social dynamite. If you divide Americans into 50 percent homeowners and 50 percent disgruntled renters who are at war with their landlords, that is not a very edifying society.

Q. What is it going to do to the home building industry and also to some productivity that we need in the economy?

A. It's going to cause the homebuilding industry to go "kerplunk", unfortunately, and that's bad because then home builders dissolve their work forces and the remaining construction workers naturally enough demand an extremely high hourly wage because they point out they only work half a year, whereas their kids like to eat 365 days a year.

Q. Do you or the economists have a bandaid for that?

A. Well, my little bandaid that I've just suggested would help that, because my bandaid involves a social contract between the Administration and the Congress on one side, and the Federal Reserve on the other. You see, as Mr. Herman has pointed out, my program is fiscally neutral. It doesn't involve increasing the deficit. Now it may sound funny for a so-called progressive Democrat to advocate not increasing the deficit, but I think that's what we need to position ourselves to do in the next year. Then we could turn to Mr. Volcker and the Federal Reserve and say, "Now look, we've done our bit on the fiscal side. It's up to you to stop increasing interest rates as dramatically as you have, and let them start going downward." I think they should start going downward right now, incidentally.

Q. Do you turn to anybody else? Do you turn to unions and say "do your part and ask for somewhat less"? Do you turn to manufacturers and say—in other words, is there some jawboning or some wage and price influence of some kind?

A. Yeah, I think there should be a modest social contract, not mandated by law, but if you had the kind of program I've just suggested, we could go to the unions and say, "Look, America's unions have been pretty good. They have sat still so far for wage increases which have been less than the increase in the cost of living. Labor has tightened its belt." Now, we're not going to ask Labor to be the total fall guy, but we're going to ask a continued patriotic belt-tightening approach.

And then we should turn to industry and ask them, in view of this social contract, to do the same thing. The first thing I would do, incidentally, if I were in a position to do so, would be to turn to the oil companies and say, "Look, your profits are astronomical, and instead of putting it into new drilling, as you promised you'd do, you're putting it into more conglomerate mergers. And this doesn't bring one additional ounce of oil into being, so, gentlemen, we've got news for you. We're going to put you under controls once again, because you have proved yourselves unworthy. You were weighed in the balance, and you've been found wanting. And instead, we're gonna discourage the excess use of wasteful gasoline by tax, so that Uncle Sam, rather than the oil companies, can get the money. And Uncle Sam can then use that extra revenue to lift the terrible payroll tax burden from the back of the worker and the employer without jeopardizing the social security fund."

Q. Congressman, one question before we go on to the politics. Chrysler. Should we save them? Should you save them?

A. I feel very sorry for Chrysler management, Chrysler dealers, and particularly for the 150,000 Chrysler workers. But getting back to the point of structure that I've been talking about, wouldn't it have been better if, taking a lead from Germany and Japan, back in 1975, when it became apparent that the Arabs were going to up the price of gasoline something terrible, we—government, labor, management—had convened in Detroit and said, "Look, we're on a collision course here. Ford, General Motors, Chrysler, insist on making gas guzzlers, thus giving all the

compact car business to Volkswagen, Fiat, Renault, and the Japanese manufacturers. We therefore are going to try to work with Detroit to see that we do the right thing."

We didn't do it. We now are confronted with Chrysler, and my answer as of the moment is that we shouldn't, via bailout, encourage Chrysler to keep on doing that which got it into its troubles in the first place.

Q. Let me ask you. We have a lot of people announcing for President every day. Big fights in both parties. Is politics going to overtake the economic problems that we have, and if we get into next year without some solving of them, will we let them slide?

A. Well, I hope just the contrary—that politics will induce some of the candidates to start making sense and talking about what I think is the fundamental question, which relates to the economic structure of this country, and the imperative need to start reforming it now, meanwhile applying a little bandaid for the next 12 months. But until we repair our structure of how we do things, we're going, not the way of Germany and Japan toward greater productivity, but the way of tired old Britain toward second-ratedness.

Q. Since Teddy Kennedy has said that the economic situation, inflation and the present lack of solving it, is one of his main things. Is there time for Jimmy Carter to turn it around?

A. Absolutely. And it's also time for Teddy Kennedy and whoever to state in crystalline terms just what they mean by leadership. Everybody's for leadership. What is needed, of course, are concrete visions of the future, and of what we might do to recapture the American team spirit—cooperation and planning—which made us great in the first place. We've lost it.

Q. Do you agree with Kennedy's contention that part of the reason we're in this mess was that the President took so long to recognize that inflation was as serious as it has become?

A. Yes, I would agree with that—the President and, mainly, the White House, which has been so deplorably weak. The President I admire very much. But he's been surrounded by lightweights.

Q. You said with flat assurance that absolutely there is time enough for the President or for Senator Kennedy to turn the situation around. Do you see any signs that either is turning around to what you consider the right course?

A. Well, certainly not the Administration. They keep making the same old mistakes, which make the structure of this country worse. As for Senator Kennedy, he has not had his moment on the stage yet, and we'll have to hear what he has to say.

Q. Do you think you understand what his economic policies are and what his inclinations are to do about the economy?

A. Not fully, no. Many of the things he said have been good music as far as I am concerned, but he has not yet stated what his economic outlook is, and I want to hear it.●

TRIBUTE TO ALFRED E. WOOD

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. CAMPBELL. Mr. Speaker, a grateful Nation extends its congratulations to Mr. Alfred E. Wood of Aberdeen, Md. on the occasion of his retirement from Federal service today. For 35 years, Mr. Wood has set an example of faithful dedication to duty and untiring effort to meet his responsibilities. He has been a credit to Federal civil service. Our thanks, admiration and best wishes go with Mr. Wood this day.●

FUNERAL FOR FTC FUNERAL REFORM?

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. OTTINGER. Mr. Speaker, I would like to call to the attention of my colleagues an editorial that appeared in the St. Petersburg Times on October 24. As you probably know, the FTC authorization bill and three amendments to it will be voted upon by the House later this week. I am particularly concerned, and urge you to vote against the amendment to be offered by Congressman Russo which seeks to restrict the FTC's power to curtail abuses in the multibillion-dollar funeral industry.

Few of us realize how significant an expense a funeral is for the average consumer. In fact, funerals represent the third largest purchase a consumer makes after buying a car and a home. Nonetheless, basic price information is generally not made available over the phone or itemized on a price list.

Consumers particularly vulnerable during this time of family distress should not be victimized or exploited by profiteering funeral entrepreneurs. In response to this need for consumer protection the FTC has proposed a rule which simply mandates the disclosure of price information and other relevant information.

It is a very bad precedent indeed to have Congress interfere with ongoing proceedings on behalf of the special interest of a particular industry, especially when the reform enjoys such a broad base of public support as is the case here, including labor, senior citizen, consumer and religious groups, as well as from Federal, State, and local officials. This incisive editorial confirms the need for funeral reform, and I hope you will read it. More importantly, I urge you to vote against the Russo amendment.

The text of the editorial follows:

A FUNERAL FOR THE FTC?

Fair competition! Consumer protection! Noble words, and more than 60 years ago the Congress created an agency, the Federal Trade Commission (FTC), to breathe life into them.

But the FTC was a paper tiger, sleeping in the sun while the hyenas and jackals continued picking the poor consumer's bones.

That is, it was. A few years ago, Congress tired of having the FTC make consumer law ad hoc, one culprit at a time. It gave the FTC power to lay down trade regulations saying in advance how entire industries should behave. Next, Jimmy Carter came along and appointed a fine new FTC chairman, Michael Pertschuk.

The tiger stirred. It roared. And, as one might expect, the jackals and hyenas are scared of losing their free lunch. They've ganged up on the FTC, they have it at bay, and they just might be about to pick its bones clean.

The issue is a bill, two years overdue, to reauthorize the FTC. The House has insisted on giving either house of Congress the power to overrule the FTC when it adopts trade regulations that displease special interests. So far, the Senate has refused to go along with this, but the Senate's back finally is bending.

Of course, Congress ought to have the last word over agencies such as the FTC, to which it has delegated lawmaking power. But what two houses give, it should take two houses to take back.

This week or next, the House will vote on an FTC bill that embodies the one-house veto, a gimmick of dubious constitutionality. At least this version is as benign as the consumer protection subcommittee dared to make it. If the House voted, say, to toss out an FTC rule protecting people who buy used cars, the Senate would have 30 days to overrule the House.

The veto power is far from the worst of what lurks in the House. Three pending special interest amendments would curtail the FTC's attack on alleged monopoly in the breakfast cereal industry; forbid the FTC from investigating agricultural marketing cooperatives, and prevent the FTC from enforcing some sensible and sadly overdue funeral industry regulations that have been under development for six years.

If the FTC isn't to be allowed to represent the consumer vis-a-vis funerals, what of the other industries it is investigating, such as medicine, mobile homes, new home construction and used cars? "If we can't win funerals," says a friendly House staff member, "we can't win any of those."

The FTC's investigation proved that funerals cost too much because the consumers have too little choice in how they are carried out and because there is hardly any price competition. It also documented disgraceful conduct by a minority of funeral directors.

In the public interest, the rules would require itemized price disclosure and prohibit such goulish practices as embalming without permission and forcing relatives to purchase expensive caskets when—as in immediate cremation—they are not necessary.

The rules themselves would not be necessary if the states had acted. But, apart from a few such as Arizona, Texas and Florida, state regulation is at the whim of the industry, discouraging competition and shielding the unscrupulous practitioner. Florida's new law, made possible by a "sunset" deadline on the toothless old law, was modeled on the proposed FTC code.

The FTC's rules would benefit citizens of all states, including the few which have responded to the need. On Oct. 10, the Arizona State Board of Funeral Directors and Embalmers emphatically endorsed the FTC's efforts, saying:

". . . Funeral services consumers are uniquely vulnerable . . . The demonstrated need exists for active and aggressive coordinated enforcement efforts by federal, state and local consumer fraud agencies in this area . . ."

There could be no greater consumer fraud than for the Congress to create high-minded laws and agencies, only to repudiate them when they threaten to fulfill their purposes. . . .●

NEW YORK CITY CELEBRATES 75TH SUBWAY ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. BIAGGI. Mr. Speaker, on October 28, the city of New York quietly celebrated a most significant event—the

75th anniversary of its first full day of subway operation.

On that memorable day back in 1904, 150,000 passengers paid 5 cents to travel the 9-mile route from City Hall to 145th Street and Broadway. Today, nearly 3.5 million people pay 50 cents to ride the 239-mile system that sprawls from the Westchester line to the Rockaways.

The original City Hall station, where the first subway riders—a group of financiers and city officials—departed is now a turn-around loop. It was closed to the public when it became too small to handle the system's longer trains and massive crowds.

While the New York City subway is not the oldest system in the world—London's was built in 1863—it was the first in the United States, and despite its age, underground mass transit may just be coming into its own.

The energy crisis of 1979 has created a national phenomenon that has resulted in a growing demand for mass transit, following a 30-year decline which reached a low point in 1972. Further, data shows that the growth has been uninterrupted for the past 25 months, indicating that the recent increase in mass transit use may be more than just temporary.

For the period from August 1978 to August 1979, there has been an 8.4 percent increase in mass transit use nationally. New York City showed a 6.5 percent increase, and Washington, with a new subway system, had a 34-percent gain.

So, it would appear that after 75 years, the New York City subway system, and underground mass transit in general, is alive and well. Rail systems are being built or have been proposed in Baltimore, Miami, Buffalo, Detroit, Honolulu, and Portland. Certainly, this is a tribute to the New York City subway, which has been so successful in combating traffic congestion, scarce parking spaces, air pollution, and of course, the energy problem.

Mr. Speaker, at this time, I would like to insert an historical overview of the subway's 75 years, as provided by a recent New York Daily News article. I wish to join the Daily News in honoring the proud past of our Nation's first subway system, and in calling for some necessary improvements.

The article follows:

NOTE FROM UNDERGROUND: SUBWAY IS 75 TODAY

(By Don Gentile)

At 2:35½ p.m., Oct. 27, 1904, someone shouted, "Watch the closing doors," some wise guy probably asked, "Why, what are they gonna do?" and New York had a subway and a new species of human known as homus sardinus.

The route traveled took that first subway train "an amazing nine miles underground" from City Hall to 145th St. and Broadway.

There was Mayor George McClellan at the throttle—silver for the occasion. He and a bevy of public officials were like children with a new toy. It was nearly five hours before paying passengers were allowed onto the strange new means of rapid transportation that yesterday very quietly celebrated the 75th anniversary of its first full day of operation.

Remarkably, noted the old New York Sun, "there wasn't a single casualty" from 7 p.m. to midnight when 150,000 passengers took those pioneer steps onto the IRT subway.

"SUBWAY EYE"

Of course, a few alarmists were aboard that first day of rides underground and reported a strange new sickness that was dubbed "subway eye." It was kind of a dizziness followed by lethargy that came from trying to count upright steel girders along the route. Scores of passengers underwent a kind of hypnosis and "went to sleep."

There were many "firsts" noted. F. B. Shipley secured for himself a place in the history of the subway by becoming the first passenger to surrender his seat to a woman. Shipley was from Philadelphia.

At those first token booths, a fierce bidding ensued to possess the first ticket. The change clerk in the Times Square station turned down an offer of $25. Instead, he paid the five cents fare and kept one of the first tickets himself.

For years following that first ride underground, subway riders were considered curiosities.

What followed in the next 75 years is a kind of conditioning process that continues today—a conditioning that enables New Yorkers to expect the unexpected, to bear the smells and the oddballs, to notice whether that hand is simply brushing by accidentally or reaching into a pocket.

Those nervous jitters and slight sense of panic when a train stalls have their seeds in several catastrophic accidents during the subway's first 25 years.

It was Aug. 24, 1928 and the evening rush for home had just begun. The same crowds were pushing their way into the Times Square IRT station in the same way they had done for years. A 10-car New Lots Ave. express was jammed.

Just south of 40th St., the train passed over a switch that wasn't operating properly. The seventh and eighth cars rumbled safely over the switch. The ninth car's forward trucks followed the path but suddenly the rear of the car swung off the tracks at a crazy angle. The defective switch had locked shut.

Panic prevailed. Windows and doors were smashed and frantic passengers surged to the tracks. Over 700 doctors, nurses, police and firemen gave aid in this worst of all underground accidents. When the damage was counted, 16 persons were dead and 160 had been mangled.

Mayor James Walker immediately ordered the arrest of IRT president Frank Hedley, if mechanics wanted for questioning by police were not produced. In the end, mechanical failure was pegged as the cause and cries for better evacuation plans resulted.

HISTORY REPEATING ITSELF

If anything, to look nostalgically at the subway system is to look at history repeating itself over and over again.

This familiar sounding headline introduced a Daily News story in January 1949: "Mechanical Bugs Louse Up Pretty New Subway Cars." The story highlighted electric defects in 74 of 274 new cars ordered.

The following year, "The city's transit police began an intensive drive to rid the subways of known criminals." Police described the 38 men arrested in that particular war on crime as "lush workers—purse snatchers and pickpockets."

Five years later, the Transit Authority "stepped up its war against crime in the subways" and increased its police force to 835 men.

In January 1957, Transit Police Chief Thomas O'Rourke proudly announced that the "time has come when teenage packs are no longer considered a menace to the subway riding public," thanks to a "crackdown."

A year later, 44 teenagers were rounded up after two persons were stabbed on the subways in the latest incident of all-out warfare between youth gangs.

WAR ON HOODLUMS

By 1965, Mayor Robert Wagner was announcing an "all-out war on hoodlums, toughs and junkies who have been terrorizing the city's subway riders." An extra 1,000 cops worked extra duty in the dangerous night hours.

But the 75 years of stories from the underground are not all tales from the crypt.

In September 1939, John Durkin was arrested in the subway at 42d St. and Eighth Ave. for assaulting Miss Frances Murphy. But Durkin wasn't actually doing much assaulting. He was decked with a left hook that Jack Dempsey would have envied.

Murphy, who had been wearing a veil, lifted it to disclose a full beard and moustache. Durkin had picked on the bearded Gorilla Lady of the World's Fair "Strange As It Seems" show.

Back in March 1956, an embarrassed Transit Authority had to recall thousands of free passes it had given out to employes. It seems the cardboard passes were the same colors used by Horn & Hardart bake shops for packing take-out orders. Many persons simply cut the cardboard bakery boxes to the size of the real pass.

That same year, the Transit Authority proudly announced it was testing subway cars that would play recorded music. The move ended at the announcement stage.

Harvard grad James Sidney Law, in 1967, gained fame on the subway riding through every station on every line in the record time of 22 hours, 11 minutes and 30 seconds—using one token. He hasn't ridden the subway since.

But millions of others use the "hole in the ground" each day, so Happy Birthday IRT, BMT, and IND. You're getting older, but can't you get a little better?●

CONGRESSIONAL SALUTE TO WILLIAM J. MEANS AND ANTHONY J. DUDA, EAGLE SCOUTS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. MURPHY of Pennsylvania. Mr. Speaker, the Boy Scouts of America is an institution that admirably encourages our young citizens to serve their fellow Americans. Confidence in themselves and service to their community is enhanced by encouraging the young participants to excel through the ranks of this scouting organization by assisting in civic activities. These activities create worthwhile services to the American public. I commend William J. Means and Anthony J. Duda for attaining the esteemed rank of Eagle Scout for which each worked diligently to attain. As a result of the qualities displayed by these two young men, it is only fitting that we recognize their accomplishments exemplified by this distinguished award.

During the difficult times that have faced this country, a large percentage of our leaders who have led us to prosperity have been former scouts. Today in government, business, and industry, many of the decisionmakers who direct our country's fate are former scouts. Certainly, when tomorrow's generation receives the torch of leadership, names

such as William J. Means and Anthony J. Duda will be among those who continue this country's proud traditions and heritage.

I include the following letters:

WESTMORELAND-FAYETTE COUNCIL,
TROOP 620,
Uniontown, Pa., October 15, 1979.

DEAR SIR: We are pleased to extend to you an invitation to honor us with your presence on November 3, 1979 at St. Mary's School Hall, Uniontown, Pennsylvania.

At this gala affair attended by you and many distinguished persons like yourself and others in the city, state, government, and many well wishers, we the Members of Scout Troop 620, will honor William J. Means for attaining and being awarded the highest rank in scouting—"EAGLE". As you know, this is a very hard feat to accomplish and very few reach this honor.

It is with this in mind that we are planning such a grand affair. May we ask that if this request will interfere with your schedule, we would appreciate a commendatory letter to William for this Achievement.

We would appreciate it if this honor could be read into the Congressional Record and a copy sent to present to the Eagle Scout.

Please send your response to George Blanda, 39 Cooper Street, Uniontown, Pa. 15401. The program will start at 8:00 p.m.

Respectfully,
JOSEPH A. HUDAH, SR.,
Scout Master.
GEORGE A. BLANDA,
Awards Chairman.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 29, 1979.

Mr. GEORGE A. BLANDA,
Awards Chairman,
29 Cooper Street, Uniontown, Pa.

DEAR MR. BLANDA: Thank you for advising me of the Awards Ceremony on behalf of Eagle Scouts Duda and Means. Enclosed you will find certificates from my office commending both of these young men for their attainments.

I do hope that by the time this letter is transcribed my remarks will be entered and printed into the Official Record of Congress and I will forward them to you.

I regret that I had previously agreed to speak at the Northwestern Washington County Medical Center First Annual Banquet and I will be unable to enjoy the pleasure of being with you to honor these two fine young men.

Very truly yours,
AUSTIN J. MURPHY.

TROOP 620,
Uniontown, Pa., October 15, 1979.

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Respectfully,
JOSEPH A. HUDCH, SR.,
Scout Master.
GEORGE A. BLANDA,
Awards Chairman.●

THE HAZARDOUS WASTE RESPONSE ACT OF 1979

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. FLORIO. Mr. Speaker, releases of hazardous wastes from inactive and abandoned sites is the most serious environmental problem facing our Nation today. The past months have brought to public attention a series of inadequate and illicit hazardous waste management practices. These practices have imposed unacceptable social and environmental burdens, as well as staggering cleanup costs on our society. Such tragedies as occurred at Love Canal, N.Y., Valley of the Drums, Ky., and Pittston, Pa., and scores of other cases throughout the country have revealed a pattern which is both alarming and dismaying. Decades of improper disposal practices have resulted in a legacy of potentially thousands of problem sites which may require billions of dollars in response costs.

Current Government authority to correct this problem is extremely limited. Government response to inactive and abandoned sites under existing funded statutory authority first requires documentation of an imminent and substantial threat to public health or welfare and successful judicial action to enjoin responsible parties before any remedial actions may occur. This can require months and often years. Where a responsible party cannot be identified or is not financially viable, no effective Government response is authorized by existing laws, unless the disposal site discharges oil or specifically designated hazardous substances into navigable waters.

For these reasons I am today introducing the Hazardous Waste Response Act of 1979. The bill would establish a comprehensive system of notification, emergency Government response, enforcement, and liability for releases of hazardous wastes from inactive and abandoned disposal sites. Specifically, the bill would:

Require owners or operators of hazardous waste sites or others who might contribute to hazardous waste releases to notify the Government if a release takes place.

Empower Government to respond promptly to releases at inactive and abandoned sites.

Prohibit releases from inactive and abandoned sites. Persons responsible for a release would be required to take remedial actions. Government action is only authorized when responsible parties fail to take necessary response actions.

Establish liability without fault to enable persons and governmental agencies to recover from responsible parties.

Establish a fund to assure moneys to carry out these authorities. The fund would be raised from Federal appropriations and an industry-based fee. The fund would raise $1.3 billion over a 4-year period.

Enlist the aid of the States by authorizing the Federal Government to make grants to States, enter into cooperative agreements, or contract with States to respond to releases at sites. If response costs exceed $300,000 at a given site, States would be required to contribute 10 percent of the response costs.

The Interstate and Foreign Commerce Subcommittee on Transportation and Commerce held a series of hearings and undertook extensive deliberations on "Superfund" legislation as applied to inactive and abandoned disposal sites. The bill I am introducing today is a result of those hearings and deliberations.

I am hopeful that Congress will give prompt attention to this bill. By so doing the Government will be able to respond effectively to the public health and environmental threats posed by hazardous waste at inactive and abandoned disposal sites. The health and safety of our citizens cannot afford anything less.●

ROLLCALL VOTE

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable, due to illness, to be present for the following votes on September 25, 1979. Had I been present I would have voted as follows:

Rollcall No. 502, "yes";
Rollcall No. 504, "no";
Rollcall No. 505, "no." ●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, November 1, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 2

9:30 a.m.
Armed Services
General Procurement Subcommittee
To receive testimony on the sale of U.S. Navy vessels.
224 Russell Building

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on a proposal to transfer the functions of the Cost Accounting Standards Board to the General Accounting Office.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
Business meeting on pending nominations and calendar business.
2221 Dirksen Building

Foreign Relations
Business meeting, to continue markup of the SALT II Treaty (Exec. Y. 96th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation and price data information for October.
6226 Dirksen Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 1691, to create an appellate court with exclusive jurisdiction over all Federal civil tax appeals.
2221 Dirksen Building

NOVEMBER 5

9:30 a.m.
Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

*Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings on the implementation of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).
4232 Dirksen Building

10:00 a.m.
Select on Indian Affairs
To hold hearings on S.J. Res. 106, to validate the effectiveness of certain plans for the use or distribution of funds to pay judgments awarded to Indian tribes.
154 Russell Building

2:00 p.m.
*Appropriations
Military Construction Subcommittee
To mark up H.R. 4391, making appropriations for military construction programs of the Department of Defense.
S-128, Capitol

NOVEMBER 6

9:00 a.m.
Agriculture, Nutrition and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To hold oversight hearings to examine the current operations of the Farmers Home Administration, focusing on recent problems relating to the outstanding debt to the agency and personnel problems associated with loan supervisions and counseling; also to examine the implementation of the guaranteed agricultural loan programs and the economic disaster loan program; and to review the installation of a management information system at the agency.
324 Russell Building

Environment and Public Works
Resource Protection Subcommittee
To hold hearings on S. 1582, to provide for the control of interstate and foreign commerce in fish and wildlife.
4200 Dirksen Building

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To resume hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
3302 Dirksen Building

Judiciary
Business meeting on pending legislation and nominations.
2228 Dirksen Building

Select on Small Business
To resume hearings to examine the economic outlook for the small business.
424 Russell Building

NOVEMBER 7

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

Energy and Natural Resources
To hold closed hearings to review the current international crude oil supply and demand situation.
S-407, Capitol

Environment and Public Works
Resource Protection Subcommittee
To hold oversight hearings to review and compare worldwide wildlife conservation programs.
4200 Dirksen Building

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
1318 Dirksen Building

Labor and Human Resources
To hold hearings on S. 1089, to revise the reporting and recordkeeping requirements under the Employee Retirement Income Security Act (ERISA) and to enforce the IRS Code requirement with respect to pension plans.
4232 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To continue oversight hearings on the implementation of the Rehabilitation, Comprehensive Service, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).
457 Russell Building

10:00 a.m.
Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Office Building

2:00 p.m.
*Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To resume joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
S-207, Capitol

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on H.R. 2797, making technical, clerical, conforming, and clarifying amendments to provisions of the Revenue Act of 1978.
2221 Dirksen Building

NOVEMBER 8

9:00 a.m.
Armed Services
General Procurement Subcommittee
To resume oversight hearings to review past and current Soviet defense expenditures and programs.
1114 Dirksen Building

Commerce, Science, and Transportation
To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold oversight hearings on dietary training programs offered to health professionals.
324 Russell Building

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 1136, to develop an integrated program of financial assistance to provide States and local governments with greater flexibility in handling various environmental programs.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, the National Endowment for the Humanities, and Institute of Museum Services; and S. 1429, authorizing funds through fiscal 1982 for programs under the Museum Services Act.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1273, to restore Federal recognition to certain bands of Paiute Indians.
154 Russell Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

NOVEMBER 9

9:30 a.m.

Commerce, Science, and Transportation
To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

10:00 a.m.

Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To resume joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on title III, providing aid to developing institutions, of the Higher Education Act.
4232 Dirksen Building

NOVEMBER 13

9:30 a.m.

Environment and Public Works
Business meeting on pending calendar business.
4200 Dirksen Building

Judiciary
To resume consideration of S. 1246, to protect against the growth of a monopoly power among major petroleum companies and to encourage oil companies to invest profits back into oil exploration, research, and development.
2228 Dirksen Building

10:00 a.m.

Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 14

9:30 a.m.

*Commerce, Science, and Transportation
To resume oversight hearings to review proposed technical methods for industrial development.
235 Russell Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
324 Russell Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
324 Russell Building

Governmental Affairs
To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 15

9:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on S. 770, to prohibit further abuse and trade price manipulation within the potato futures market.
324 Russell Building

9:30 a.m.

Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To resume oversight hearings to examine the scope of the general revenue sharing policy.
3302 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
To hold hearings on the nomination of James V. Day, of Maine, to be a Federal Maritime Commissioner.
235 Russell Building

Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To hold hearings on S. 1567, to protect and restore certain coastal lands on Yaquina Head in Oregon.
3110 Dirksen Building

Governmental Affairs
To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 16

9:30 a.m.

Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

10:00 a.m.

Finance
Public Assistance Subcommittee
To hold oversight hearings on alleged fraud and mismanagement practices within HEW directed toward erroneous State payments to recipients of the Aid to Families with Dependent Children and Medicaid programs under the Social Security Act.
2221 Dirksen Building

Joint Economic
To resume hearings to examine the current unemployment trends and any relation thereto to the increase in criminal activity.
340 Cannon Building

NOVEMBER 20

9:30 a.m.

*Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.
5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of the U.S. maritime policy.
235 Russell Building

Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.
3110 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1730 and 1832, bills to declare certain lands in the States of Arizona and New Mexico to be Indian reservation lands.
1202 Dirksen Building

NOVEMBER 26

10:00 a.m.

Select on Indian Affairs
To hold hearings on S. 1855, authorizing funds through fiscal year 1982 to provide technical assistance for tribally controlled community colleges.
5110 Dirksen Building

NOVEMBER 28

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees
To hold joint hearings to examine the implications of grain sales to the Soviet Union on the U.S. transportation system.
457 Russell Building

10:00 a.m.

Select on Indian Affairs
To hold hearings on S. 1466, to provide for distribution of certain judgment funds in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma.
1202 Dirksen Building

NOVEMBER 30

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees

To continue joint hearings to examine the implications of grain sales to the Soviet Union on the U.S. transportation system.
457 Russell Building

DECEMBER 4

10:00 a.m.

Select on Indian Affairs
To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River and Lake Henshaw, California, to be operated and maintained by specified bands of Mission Indians.
Room to be announced

CANCELLATIONS

NOVEMBER 1

10:00 a.m.

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue oversight hearings on the truth-in-lending enforcement activities of Federal financial regulatory agencies.
5302 Dirksen Building

NOVEMBER 8

10:30 a.m.

Labor and Human Resources
Health and Scientific Research Subcommittee
To mark up S. 988, authorizing funds through fiscal year 1983 to increase the effectiveness of research in biomedical sciences.
155 Russell Building

HOUSE OF REPRESENTATIVES—*Thursday, November 1, 1979*

The House met at 10 a.m.

The Reverend Arthur Nelson Forsberg, Advent Lutheran Church, Wyckoff, N.J., offered the following prayer:

Grace to this House and to all who labor here.

Heavenly Father, it is good to be reminded again and again, that of all Your creatures on this Earth, only those created in Your image can speak, think, formulate ideas. Nothing else in Your kingdom has that privilege.

How will we use that privilege this day, Lord? In our lesser moments, we can behave like false prophets preserving things only for ourselves. But we can in our high moments speak in the "tongues of men and angels." Speak words that crumble barriers, heal division, and honoring Your name, lead to justice, peace, and love.

With Your good counsel let us give testimony of that truth this day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SYMMS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 12, answered "present" 2, not voting 64, as follows:

[Roll No. 621]

YEAS—355

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Devine
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kasen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Maguire
Marlenee
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NAYS—12

Derwinski
Dickinson
Goodling
Harkin
Jacobs
Lloyd
Luken
Mitchell, Md.
Moffett
Schroeder
Walker
Wilson, Bob

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ANSWERED "PRESENT"—2

Forsythe Neal

NOT VOTING—64

Ambro	Flood	Pritchard
Andrews, N.C.	Ford, Mich.	Quayle
Applegate	Garcia	Rahall
Bonker	Gray	Rhodes
Bowen	Hall, Ohio	Rodino
Breaux	Hansen	Rose
Burlison	Holtzman	Rosenthal
Burton, John	Ichord	Runnels
Byron	Johnson, Colo.	Shumway
Cheney	Jones, N.C.	Simon
Chisholm	Leach, La.	St Germain
Conyers	Lent	Steed
Crane, Philip	Long, Md.	Swift
Dellums	McCloskey	Treen
Derrick	McCormack	Wilson, C. H.
Diggs	McHugh	Wilson, Tex.
Dixon	Markey	Winn
Dodd	Marks	Wolff
Eckhardt	Marriott	Young, Alaska
Edwards, Okla.	Mathis	Zablocki
Evans, Ind.	Miller, Calif.	
Fisher	Murtha	

□ 1010

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 3. Joint resolution designating November 4, 1979, as "Will Rogers Day."

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1160. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 751) entitled "An act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MELCHER, Mr. INOUYE, Mr. DECONCINI, Mr. COHEN, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1873. An act to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes; and

S.J. Res. 108, Joint resolution to authorize the President to proclaim November 16, 1979, as "American Enterprise Day."

□ 1020

MAMIE DOUD EISENHOWER

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, one of America's beloved First Ladies and my leading constituent passed away last evening in Walter Reed Hospital.

Mamie Doud Eisenhower was a great inspiration to Ike the general, Ike the President, and Ike the father. She represented America well as a First Lady and was never too busy, no matter how fragile her health may have been, to serve her Nation, the State of Pennsylvania, and the community of Gettysburg in Adams County, which she loved so much.

Residents of the 19th District and the Nation will surely miss her but are so thankful that such a lovely lady as Mamie Doud Eisenhower passed our way.

The special order for Mamie will be on Wednesday the 7th.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my 1-minute speech today on the death of Mamie Doud Eisenhower.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ODD-EVEN PLAN SHOULD BE REINSTITUTED

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, 2 months ago, on September 12, I addressed the House and urged that the Governors of Maryland and Virginia and the Mayor of the District keep in place the odd-even gasoline rationing system.

They did not do so and the arrival of the beautiful fall weather led to a sudden rise in gasoline usage which now seems to be resulting in shortages at the pump.

Further we now learn that two-thirds of the stations in our area are served by Amoco, Exxon, Texaco, Sunoco, and Shell. By "the luck of the draw," as one expert put it, these are the only five companies whose gasoline supplies are short for the coming months.

Before the situation gets out of hand again, I hope that local officials will reinstitute and enforce an odd-even plan. Also I hope that the Department of Energy will review its regulations and see to what extent they are responsible for a small national shortfall of 1 to 4 percent being turned into a 7- to 17-percent shortfall in this area. We have a new Energy Secretary here with an old problem that his predecessor claimed to have solved last spring.

Since this House voted to keep gasoline allocations and price controls in place I hope that his prompt action to make the system work will validate our judgment and trust in him.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5040

Mr. DASCHLE. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 5040.

The SPEAKER. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

MAMIE EISENHOWER

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I am saddened this morning as I know all Americans are to learn of the death of Mamie Eisenhower.

Each First Lady brings to the American people a special gift. For some it is an identification with a special cause, for others a gift for politics. In Mamie's case it was a combination of innate dignity and natural graciousness.

She was indeed a revered First Lady—and she was always a lady first. She was a mother and a President's wife, but she was always herself. She had a disarming personality that made anyone feel at ease and at home in her presence.

She was a great lady. I think it is safe to say that Mamie would have wanted no epitaph.

My condolences to David and Julie and her grandchildren.

CHARTER OF WORLD BANK PROHIBITS POLITICAL ACTIVITY ON THE PART OF ITS OFFICERS

Mr. YOUNG of Florida. Mr. Speaker, on Tuesday I reported to the House that Robert McNamara, President of the World Bank, had been discovered attending a campaign strategy luncheon with other close political advisers of Senator EDWARD KENNEDY. I said that Mr. McNamara had a right to support anyone he wants for President of the United States but that he should resign his position at the World Bank if he continues to participate in the Kennedy-for-President campaign.

Mr. McNamara's participation in a political campaign is clearly in direct violation of the charter of the World Bank. Section 10 of article IV of the World Bank's Articles of Agreement starts out by stating:

The Bank and its officers shall not interfere in the political affairs of any member.

The United States is a member of the World Bank. We provide roughly one-fourth of the World Bank's funds. We are the largest single contributor to the Bank in all the world.

Participation in a political campaign is clearly interference in the political affairs of our country and, according to a CBS television news report, Robert McNamara has participated in at least one part of the Kennedy-for-President campaign.

Robert McNamara should resign. He is violating the charter of the World Bank.

In fact, he is violating the very article of the charter that he has repeatedly cited in attempting to argue that this Congress cannot place restrictions on America's contributions to the World Bank.

If Mr. McNamara believes what he has said so often—that the World Bank should not be involved in politics—then he has an important decision to make. He cannot have it both ways.

I would think, Mr. Speaker, that lobbyists for the Carter administration, who have been so active in pushing Mr. McNamara's arguments in the Halls of Congress, may also want to consider whether this member of the "best and the brightest" has passed the point of continued usefulness.

BUSINESS PROFITS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, many Congressmen during the past week have been critical of oil company profits. Oil companies need to make profits so they can reinvest capital in more exploration and development, keep the business going, and pay their taxes. Everytime an oil company shareholder receives a dollar in dividends, the Government receives $13 in taxes. Yesterday the Wall Street Journal reported that earnings of automobile companies are down. General Motors' earnings were down 96 percent, Ford's profits were down 66 percent, and Chrysler posted a $460 million loss. Auto companies are suffering from excessive Government regulations. Remember when an oil company shareholder receives a dollar in dividends, the Government receives $13 in taxes. What this country needs is more business profits and less Government regulations.

FEDERAL AID TO CHRYSLER

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, I was pleased to read the news report in the Washington Post this morning announcing that the White House will recommend a $1.2 billion loan and loan guarantee package for Chrysler.

As a cosponsor of H.R. 5630, which authorizes loans and loan guarantees to Chrysler, I do not see any available alternatives to Federal assistance that insures the economic stability of the corporation. Chrysler is in the middle of a massive reorganization and rebuilding program which will make it profitable in the near future. That program must be completed and successful for Chrysler to survive.

It will be impossible for Chrysler to obtain the requisite capital to complete its total reorganization and rebuilding without Federal assistance. Federal aid to Chrysler is philosophically the correct step to take. It is the pragmatic step. It prevents great unnecessary human and economic disruption. It is in our best interest that loans and loan guarantees be granted to Chrysler to prevent its bankruptcy.

I support and commend the administration's decision to assist Chrysler and urge the Congress to follow suit before the end of this year.

□ 1030

FUNERAL INDUSTRY EXPLOITATION OF BEREAVED FAMILIES REMAINS UNCHANGED

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, as you and all of our colleagues know, a number of us, supported by a coalition of religious, civic, and labor organizations, are opposing an attempt to prevent the FTC from issuing a rule to protect against the misdeeds of a segment of the funeral industry.

Yesterday, we had a press conference with Esther Peterson, Special Assistant to the President for Consumer Affairs, Bess Myerson, former New York City Consumer Commissioner, and more than a dozen nonprofit organizations.

Yesterday afternoon I received a communication from the person who has done more study and analysis in this industry than any other person in this country, Ms. Jessica Mitford. For the benefit of our colleagues and other readers of the RECORD, I insert herewith the text of her communication.

OAKLAND, CALIF., *October 30, 1979.*

Congressman JAMES H. SCHEUER,
Subcommittee on Consumer Protection and Finance, U.S. House of Representatives, Washington, D.C.

Sixteen years after "The American Way of Death" was published, the pattern of financial exploitation of bereaved families by undertakers remains virtually unchanged. Intercession on behalf of the victims is imperative. Proposed FTC rule as developed by original staff deserves full support. According to "The Director," official organ of the National Funeral Directors Association, the NFDA "has spent over $750,000 and committed close to another $175,000" to fight the FTC rule (The Director, September 1979, page 22).

I commend to you the words of Lord Essex, written centuries ago yet as pertinent as ever: "How long, I would ask, are we to be subjected to the tyranny of custom and undertakers? Truly, this is all vanity and vexation of spirit—a mere mockery of woe, costly to all, far, far beyond its value; and ruinous to many, hateful and abomination to all; yet submitted to by all, because none have the moral courage to speak against it and act in defiance of it."

Yours sincerely,

JESSICA MITFORD.

TRIBUTE TO MRS. MAMIE DOUD EISENHOWER

(Mr. BARNARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNARD. Mr. Speaker, I would like to pay special tribute this morning to the memory of Mrs. Mamie Doud Eisenhower, wife of our 34th President who passed away earlier today at the Walter Reed Medical Center.

As a native of Augusta, Ga., I remember well the many enjoyable days that the Presidential family spent in Augusta, at the famous Augusta National Golf Club. And for this reason, I harbor a special fondness for the former President and his regal First Lady.

I know I speak for the people of Augusta when I say that those were wonderful days and the memory of her infectious smile, her warmth, her dignity, and strength will remain in our hearts forever.

HIGH OIL PRICES CAUSE AUTO INDUSTRY PROBLEMS

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, I was very interested in the comments of the gentleman from Texas (Mr. COLLINS) comparing the oil company profits to those of the automobile industry. Of course, one of the reasons why General Motors' profits are down and Ford is in trouble and Chrysler is in deep trouble is the tremendous escalation in the price of oil.

I would think that at least our own American oil companies would try not to aggravate the problem by gouging the public further and increasing the price of oil and accelerating inflation. It also has a ripple effect on the tire industry, the steel industry, and all of the other industries that are dependent on the auto industry.

TRIBUTE TO MRS. MAMIE DOUB EISENHOWER

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I too would like to speak about Mrs. Eisenhower, who died last night. Much has been said about her life by friends who knew her.

But I think one of her most noble and finest acts, a lesson to every single one of us in this Chamber, is what she refused to do. She was lonely, and old, and not well, living alone on that farm. She tried living, apparently, with a relative in town, but it did not work out. She wanted to enter the home for the widows of Army officers but found there was a waiting list. They wanted to put her at the head of the waiting list, and bypassing all those who had already applied. Mrs. Eisenhower refused, and went back alone to her farm.

That is a lesson: Not to take advantage of privilege, to take your turn; to stand in line and not to jump because you belong to a famous family or because your husband, indeed, was President of the United States.

This action on Mrs. Eisenhower's part showed a certain nobility of spirit—a kind of citizenship we do not see very often. It speaks to a very high principle and a noble heart. I would like that mentioned, too, concerning this woman now dead.

ORGANIZATION OF AMERICAN STATES CONDEMNATION OF THE UNITED STATES IRONIC

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, this morning's Associated Press dispatch from La Paz, Bolivia, informs us that the Organization of American States has voted 16 to 1 to condemn—get that—condemn the United States because of an increase in the Panama Canal tolls on October 1 of approximately 29.3 percent.

These are the same Latin American countries that urged us to approve the Panama Canal treaties. The entire amount of that canal toll increase is required for what? To pay $75 million to $100 million a year to Panama; to Panama as required by those same treaties. Now, if these countries did not know when they supported these treaties that they were going to have to pay increased tolls as a direct result their leadership is not worthy to be in office.

But I would also point out that President Carter promised us that these Panama treaties would bring about a new era of understanding and respect for the United States in Latin America. You see the respect: Condemnation, because we had to raise the tolls to meet the terms of the treaties they wanted us to pass. They cannot have it both ways.

TIME IS NOW TO PASS HOUSE WINDFALL PROFITS TAX

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, once again the big oil companies are gearing up for another round of gas lines for the American motorist. Recent articles in the Christian Science Monitor and today's Washington Post forecast gloomy months ahead for the driving public. Spot shortages of gasoline, with some lines at the pumps, have begun to reappear, according to a report released by the American Automobile Association. The primary reason for the shortfalls is that dealers are not receiving large enough gasoline allocations.

A number of States again have resorted to limited purchases at the stations. In the Washington area, there is expected to be between 7 and 17 percent less gas available this November than last November.

Mr. Speaker, it is clearly unthinkable for the major oil companies to perpetrate another gasoline-line charade on consumers who are attempting to prepare for the winter heating season.

According to CIA intelligence documents, not only was there no shortage this past summer, but the United States was actually importing more oil in every month from January to July than it did in the same period of 1978.

We simply cannot allow the American public to receive the brunt of big oil's profiteering. We must pass the House version of the windfall profits tax which raises nearly twice as much revenue as the Senate finance version.

It is high time we passed the House windfall profits tax to prevent this profiteering.

ARMY RECRUITERS NOT PERMITTED IN MANY SCHOOLS

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, Army Chief of Staff Gen. Edward C. Meyer said recently that—

> Army recruiters are not permitted in about 25 percent of the Nation's high schools. About 25 percent of the high schools permit recruiters to visit only during their annual job fairs.

I find it shocking that, at a time when the defense of our Nation is dependent upon an All-Volunteer Army, in many of our high schools recruiters are not permitted at all to tell what the Army has to offer and, in many others, they are allowed in only at job fairs when young men and women are about to graduate.

Some of my colleagues have expressed concern about the quality of soldiers in today's Army. What can one expect when recruiters cannot contact potential recruits in our schools. Must they resort to meeting them in bars and discos?

Army recruiters want only to explain their program to young Americans and at a time which will not interfere with scheduled classes. They do not ask students to leave school in midsemester to join the Army.

They seek high school graduates—not dropouts. They encourage this by offering better jobs, schooling, and other incentives to those who earn a diploma. Under the delayed entry program, interested students may enlist earlier, but they do not report for duty until after graduation. Why, then, should our schools deny entry to military recruiters?

Article 1, section 8 of the U.S. Constitution, declares that

> The Congress shall have power . . . to raise and support Armies . . . provide and maintain a Navy . . . make Rules for the Government and Regulation of the land and naval forces.

Clearly, as Members of this body, we all bear responsibility for bringing this about.

The recruitment program of the All-Volunteer Army is in serious trouble. I urge that my colleagues—those who do not want a return to the draft and those who just want the volunteer system to work—vigorously encourage school officials in their districts to cooperate in this effort, which is so vital to the defense of our country.

GOVERNMENT ALLOCATION SYSTEM MAJOR CONTRIBUTOR TO GASOLINE SHORTAGES

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, we hear in this chamber many complaints about the oil companies on a daily basis, and I guess it is not very popular to defend them. But it seems to me something ought to be said in terms of the Federal allocation system that we have. The major reason we have had the terrible gas lines, particularly in California and other States, was the allocation system of the Federal Government.

In this body we apparently like to attack companies when they happen to be able to do something and like to say that the Federal Government can do nothing wrong. It seems to me if we are so upset about the profits of oil companies there is one good way we can get rid of these profits: We can take the people in Government who give us a deficit year after year after year, put them in charge of the oil companies, and we will then make sure they will never make a profit. In fact, they will then start making deficits like our Federal Government has done so successfully for so many years. Mr. Speaker, what we need on questions of energy production is more informed realism and less inflammatory rhetoric.

□ 1040

PERSONAL STATEMENT

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, last Tuesday I rose to support the distinguished gentleman from Florida (Mr. YOUNG) in his call for the resignation of Mr. Robert Strange McNamara from the World Bank for valid reasons. In looking at the RECORD of my remarks of that day, I happened to hold them up to the light just now and I found an evil watermark that burns through from the reverse page and reflects upon my honor and my accurate remarks of Tuesday. These stains on my honor from the following page are the unexpurgated, the unsanitized remarks containing direct attacks upon me by namely the very distinguished gentleman from Rhode Island (Mr. BEARD) on last Tuesday.

Now, he says here in his remarks that I made a vicious attack upon a fellow Member of Congress, that I engaged in innuendo, that I attacked another's personality. Untrue. Poor analysis.

And I think this is most unfair, and rather than ask him to purge the permanent RECORD, of his intemperate emotional outburst, I have a better idea.

I am going to give that distinguished scholar from Rhode Island an assignment. I enthusiastically also give this assignment to the distinguished gentleman from Ohio (Mr. SEIBERLING). And I do it also for our friends in the fourth estate up there who need your assistance as they have been unable to determine a most important answer to a haunting question. It is a simple one and it involves lawyers of the summer of 1969. We all know what happened to the lawyers of the summer of 1972; they all went to jail. How about the boys of summer 1969. How did Joseph Gargan, soon to be a judge in the great Commonwealth

of Massachusetts and a first cousin of a Member of Congress; and how did Paul Markham his Chappaquiddick cohort and also a lawyer admitted to the bar of the great Commonwealth of Massachusetts, how did they, these two lawyers, get from small Chappaquiddick Island to the Martha's Vineyard side? How did they accomplish this feat, I ask the distinguished gentlemen from Rhode Island and Ohio (Mr. BEARD; Mr. SEIBERLING)? How? They have never claimed that they swam the Chappaquiddick Channel as I have, and as no one else in this Congress, in either body, other than I ever have. You have your assignment, gentlemen. Good luck. Mr. Speaker, I yield back the balance of my time.

LIMITING DEBATE ON AMENDMENTS IN DISAGREEMENT ON SENATE CONCURRENT RESOLUTION 36

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that debate in the House on Wednesday next or any day thereafter on any motion to dispose of amendments in disagreement or amendments thereto on Senate Concurrent Resolution 36 be limited to not to exceed 3 hours, to be equally divided and controlled by the gentleman from Ohio (Mr. LATTA) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. LATTA. Mr. Speaker, reserving the right to object, I make this reservation not to object, but to ask the gentleman from Connecticut a couple of questions. The reason I am not objecting to this request for 3 hours rather than 1 hour is that the conference has been going on for some 3 weeks. It has finally been resolved, and I think this is a reasonable request to debate this matter for 3 hours on the floor.

But, I ask the gentleman specifically about the time when we can expect this matter on the floor. He asks for sometime after Wednesday next, but I do not think that is very certain. I would like to have some idea as to when this matter, which is a very important matter, will be coming to the floor for consideration.

Mr. GIAIMO. If the gentleman will yield——

Mr. LATTA. I will be happy to yield.

Mr. GIAIMO. As the gentleman knows, this is the conference report on the budget. As he knows, we have been in conference with the Senate for about 3 weeks, and we completed work on it last night. We are in agreement on everything except one item, and that is the issue of reconciliation. Therefore, we would come up not as a conference report but as an amendment in disagreement. Therefore, we would be limited to a 1-hour debate.

I do not think 1 hour is sufficient to debate what is in the resolution, to explain all of the agreements which we have made. I do not think 1 hour would be sufficient to debate the matter in disagreement; the one disagreement, which involves the very important issue of reconciliation. Therefore, I think we should have an hour and a half each, you and I, so that we can have a full and meaningful discussion of this very important piece of legislation.

As the gentleman knows, the Senate most likely will take up the matter on Wednesday. It is conceivable that it could take it up before Wednesday, but I doubt it. But in any event, the Senate has to act first. My guess is that they will act on Wednesday, and we will probably be in order to go ahead later on Wednesday or on Thursday.

I asked for Wednesday or any day thereafter. My guess would be that it would probably be Thursday, but the leadership must determine the schedule for this matter.

Mr. LATTA. If I may reclaim my time, I know that the leadership tries to schedule these matters at the pleasure of the chairman whenever possible, and if our chairman requests that this not be scheduled on Wednesday, since the House will not be in session on Monday and Tuesday, I think it would be a reasonable request and it would give the membership a little more opportunity to go over this very important conference report and especially to consider the matter of reconciliation. I think if we can get some assurance from the gentleman that he will make that request, it would answer a lot of questions being raised on this side.

Mr. GIAIMO. Let me say to the gentleman that I will try to work with him to accommodate that proposal that it come up on Thursday, but I have not talked to the leadership and I would not want to make an absolute commitment before I spoke to them that we would absolutely rule out Wednesday. I just do not know what the schedule looks like for next week, nor am I the one to determine that, but I certainly would work with the gentleman to try to see to it that this bill comes on Thursday.

Mr. LATTA. I appreciate that. The second question I raise is whether or not we will have a clear-cut up or down vote on the matter of reconciliation.

Mr. GIAIMO. Well, we get into difficulties when we try to describe an up or down, clear-cut vote on reconciliation. The way in which this matter, Senate Concurrent Resolution 36, will come before us will be that it will be sent over from the Senate, which will have acted on it and presumably would have passed it. As the gentleman knows, it will contain therein all the items which we agreed upon in conference, and also the one item upon which we did not agree, and that is the reconciliation issue. Therefore, it would be my intention to move in the House to concur in the Senate concurrent resolution with an amendment. The amendment would be to delete reconciliation, and we would get a vote on that, and if that vote prevailed we would then have adopted the conference report without reconciliation. So, I think that would be an up or down vote on reconciliation.

Mr. LATTA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

PRIORITY ENERGY PROJECT ACT OF 1979

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4985, with Mr. FOLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 31, pending were the Interstate and Foreign Commerce Committee amendment in the nature of a substitute and a substitute amendment therefor offered by the gentleman from Arizona (Mr. UDALL).

Are there any further amendments?

AMENDMENT OFFERED BY MR. OBERSTAR TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. OBERSTAR. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. Was the gentleman's amendment printed in the RECORD?

Mr. OBERSTAR. It was printed in the RECORD, Mr. Chairman.

The Clerk read as follows:

> Amendment offered by Mr. OBERSTAR to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 40, after line 20, insert the following new section:
>
> "PRIORITY ENERGY PROJECTS UNDER TITLE V OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978
>
> "SEC. 220A. In the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

□ 1050

Mr. OBERSTAR. Mr. Chairman, the purpose of this amendment is to give discretionary authority to the President to apply one or more provisions of this fast track legislation to a project that this Congress has already designated as a priority project, that is, a west-to-east crude oil pipeline which is vitally important to northern tier States. It just gives that discretionary authority to the President; it does not mandate anything for him to do. We simply would like to bene-

fit—those of us in northern tier States—from any expedition that may result from this legislation so that the northern tier area may get the crude oil that we need our refineries and consumers.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding. The gentleman has been in the forefront of a fight to get a northern tier pipeline bill so we can move some of this Alaskan oil to the Midwest where it is needed. I have discussed his amendment with him, and it simply says the President may apply the fast track to this very important project. I have no objection to the amendment, and I congratulate the gentleman for his effort.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding. The gentleman has discussed his amendment with me. It also has been the subject of extensive discussion before the Committee on Interior and Insular Affairs. I think this is a significantly improved amendment that will add to our objectives in the Interior bill, and so we will accept the amendment.

Mr. OBERSTAR. I thank the gentleman.

Mr. Chairman, I will also state that I have a second amendment which I would like to offer immediately following this one of the bill of the Committee on Interstate and Foreign Commerce. The language of that amendment is identical in substance and purpose to this one.

The CHAIRMAN. Is there further discussion on the amendment? If not, the question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. OBERSTAR TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. OBERSTAR. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. Is the gentleman's second amendment printed in the RECORD in accordance with the rule?

Mr. OBERSTAR. It was, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR to the amendment in the nature of a substitute: On page 34, line 5, strike out the period and insert in lieu thereof the following: "; except that in the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.".

Mr. OBERSTAR (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. DINGELL. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. OBERSTAR. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. Mr. Chairman, the gentleman and I have been friends for a long time. He has discussed the matter with me. I happen to think it has a great deal of merit, and on behalf of the Committee on Interstate and Foreign Commerce I am most pleased to accept the gentleman's amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding. I find no objection to the amendment and would encourage my colleagues to support it.

Mr. OBERSTAR. I thank the gentlemen.

Mr. BONKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The competing west-to-east crude oil pipeline projects top the list of proposals that should not be subject to the authority of the Energy Mobilization Board or the other provisions of this bill.

They are already on their own, special "fast track," which Congress established in 1978 in title V of the Public Utility Regulatory Policies Act.

Expedited consideration of all these proposed pipelines has been underway for many months. The process is now in midstream. How well has it worked? The results are mixed.

The pace of Federal review certainly has speeded up.

On the other hand, the Federal environmental impact statement, which is now near completion, is widely acknowledged to be deficient in many areas.

And some of the latest and most important studies of the pipelines' merits did not reach Secretary of the Interior Cecil Andrus in time for full and careful consideration before the title V time schedule required him to make recommendations on which of the proposals should be expedited even further.

A similar element of uncertainty hangs over our deliberations here today. Despite our best efforts, we cannot predict with complete confidence the outcome or the impact of the new course we are charting for energy-related decisionmaking.

Mr. Chairman, I recognize that a majority in this House has concluded that the national interest requires that we accept this uncertainty in return for getting moving on energy projects that are languishing in the traditional regulatory process.

However, the gentleman from Minnesota is not merely seeking to move a group of stalled crude oil pipeline proposals off a siding and onto a fast track. He is suggesting a high speed switch from one fast track to another. The chances of ultimately derailing a wise and proper decision are very high. Moving from a partially tried and tested procedure to totally new ground rules entails risks that we need not take.

A new Energy Mobilization Board will be busy enough in the months ahead assessing projects that truly are mired in regulatory delay. It need not waste valuable time with crude oil pipelines that already have the benefits of title V consideration.

The House is laboring long and hard this week to develop a balanced, reasonable Energy Mobilization Board bill. The House did similar good work in 1978 in perfecting fast-track provisions in title V to expedite consideration of the west-to-east pipeline proposals.

In that spirit, let us not now rush to override that procedure in mid-stream. Let us let title V work.

I hope that you will join me in opposing the Oberstar amendment.

A second consideration involves the merits of the pipeline proposals.

Pipeline promoters point to a glut of Alaskan oil on the west coast and to an impending crude oil shortage in several northern States to justify their projects. These conditions are important to any of the alternatives but are especially vital to the Northern Tier Pipeline Co. proposal, which, at 900,000 barrels per day, is the largest.

In fact, any long-term west coast oil surplus is a myth.

The Alaska pipeline will soon be delivering 1.5 million barrels per day. According to a study for the State of Alaska, that is optimum production from the Prudhoe Bay field.

West coast refinery use of this oil increased from 587,000 barrels per day in 1978 to 853,000 barrels this year. So-called surplus Alaskan oil moving through the Panama Canal decreased from 433,000 barrels per day in 1978 to 269,000 barrels this year. And, according to a Senate Energy Committee survey, west coast refiners could use right now another 181,000 barrels of Alaskan crude daily if they could get it. Total west coast demand for Alaskan crude could top 1.3 million barrels per day as early as 1981, the committee reported.

The Alaska State study predicts a permanent, drastic decline in Prudhoe Bay production. Optimum output can be maintained at 1.5 million barrels per day until 1985; it will then drop to a mere 200,000 barrels per day by 1995.

More oil has been and undoubtedly will be found in Alaska, but Federal energy and geologic analysts can find no indications of the existence of another Prudhoe Bay, where unique geologic conditions trapped the largest single reservoir of oil ever found in North America.

From where, then, will any of the proposed pipelines get the oil needed to support their very large throughput requirements? They will have to turn to foreign sources. They will be moving large quantities of imported oil, not domestic oil, to American consumers.

Alternatives to a big, new pipeline exist for the northern States.

Canada is phasing out oil exports, but United States-Canadian oil exchanges can, according to the Department of Transportation, continue to meet key localized supply shortages.

Smaller scale pipeline projects in the Midwest can serve other northern State needs. New oil discoveries have occurred in North Dakota. Major oil finds are thought to be likely in the Overthrust Belt. And new Federal synthetic fuel programs should develop major production facilities in the coal- and oil shale-rich western interior States.

The trends, in short, are running against any major, long-lasting crude oil shortfall in the northern States.

• Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, with the support of both Mr. DINGELL and Mr. UDALL it is clear that this amendment by Mr. OBERSTAR is going to pass. I think that is unfortunate in light of the fact that it will give special treatment to one energy-related project—so special that it amounts to a triple fast track.

The Northern Tier Pipe Line project is already fast tracked under PURPA procedures. It would now be fast tracked under EMB. And finally, the amendment short cuts EMB designation procedures giving the President the authority to simply assign it priority treatment. That's three fast tracks and it is at least two too many.

I oppose this amendment and will make a more detailed statement on this special interest legislation on the floor this evening under special orders.•

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Udall-Clausen-Wirth substitute. I believe that this proposal provides the most desirable and effective method to help speed governmental decisionmaking on critical energy projects. The establishment of an Energy Mobilization Board, as called for under this legislation, will expedite the completion of energy projects that are necessary to help our Nation reduce its reliance on uncertain foreign oil supplies and conserve needed energy supplies.

I would like to commend my colleagues for their fine work in bringing this proposal to the floor. They have spent many long hours in fashioning this well-thought-out proposal. As a result of their hard work, I am confident that a responsible and balanced approach for expediting energy decisions will be adopted.

We are facing perhaps one of the most serious crises ever to confront our Nation. Our Nation's inability and unwillingness to face the energy issues squarely and to take drastic action in the last 5 years have now come to haunt us. This energy crisis has drained the financial strength of our country and now seriously threatens our national security.

Our Nation has only recently awakened to our pressing energy problems. The long lines at the gasoline stations and the dramatic increases in the price of gasoline have made us painfully aware of the seriousness of our energy situation. Developments in Iran, Saudi Arabia, and elsewhere, as well as the crude oil price increases recently passed by the OPEC-cartel, have served notice that our Nation can no longer afford to be dependent on foreign supplies of oil.

These events have made it imperative that we press forward with the development of our domestic, inexhaustible energy resources. We must now take advantage of the potential billions of barrels of oil shale, tar sands and heavy oil deposits, and the vast abundance of coal reserves which lie in our country. The question has become not whether we will need to develop our alternative energy resources, but instead, when will they be needed. If they are not developed in a timely fashion, I am afraid that our Nation may suffer a severe economic and political crisis by the late 1980's or early 1990's.

I believe that the legislation now before us represents a significant step to help our Nation solve its energy problems. The idea behind the Energy Mobilization Board is vital to our future energy development. Without an end to the regulatory burdens which have hopelessly bogged down energy facilities of all kinds, future energy development will grind to a slowing halt. We must cut some of that redtape now.

I see the Udall-Clausen-Wirth substitute as the right way out of the bureaucratic maze surrounding critical energy projects. This proposal will provide the needed efficiency required for energy decisionmaking, and help our Nation develop our vast abundance of energy supplies. It will give reasonable authority to an Energy Mobilization Board to set appropriate and coordinated program decision schedules. Moreover, it will provide for a strong Board with effective enforcement powers through appropriate channels, giving due consideration to the sovereignty of Federal, State, and local governments.

After careful consideration and long review, I have concluded that I must oppose the Commerce Committee version for fast track legislation. Under this version, far-sweeping authority would be given to the Energy Mobilization Board to waive procedural or substantive requirements of Federal, State, or local laws, environmental or otherwise. This authority is certainly not necessary, and moreover, not in the best interests of our Nation.

The idea of leaving the present procedures in place for most projects, while waiving them for a favored few, is a fundamentally bad one. I believe that it is repugnant to our Federal system to allow this new entity to block the application of laws previously passed by elected bodies like ourselves. It is an invitation to litigation that will only serve to aggravate the present delays facing energy projects.

We need to give the Board real power to do a real job, but the Commerce Committee version would give the Board unprecedented and unwarranted powers. In fact, because of the authority vested in the EMB under this version, constant congressional review of the Board's actions is required. This continuous review could seriously hamper the ability of the Board to meet its goals. We must provide a way to allow the Board to do its job in an effective manner. A more responsible approach would be to adopt the Udall-Clausen-Wirth substitute, which offers far greater flexibility and authority to the Board to act on its own.

We must be realistic about what we do here today. We cannot ignore the chorus of protests from our Nation's Governors, mayors, county executives, and State legislators who object to the Commerce Committee version. They have threatened, and I believe that they certainly will, challenge the legislation in court if we adopt the Commerce version. These challenges will take years to resolve, and in the meantime, we will have nothing.

Mr. Chairman, today we can help our Nation get on the right energy track. I do not doubt that my colleagues would agree that our decisionmaking processes need to be streamlined. However, we must carefully consider how much an EMB should be released from Federal accountability that has been so often abused in the past. Despite its safeguards, the Commerce Committee version goes too far beyond our interests in expediting energy decisionmaking. A more preferable approach is the Udall-Clausen-Wirth substitute, and I urge my colleagues to support this proposal.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding. The gentleman has been a strong supporter of States rights and local rights in government, and I would like to congratulate him on his statement and point out that the National Governors Association in a telegram today has reiterated its support for our bill and against the Dingell bill. Our bill is supported by the National Association of Counties, the National Conference of State Legislatures, the League of Cities and the Conference of Mayors, the people who would be overridden in many cases under the other bill.

Mr. FISH. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a wise man once said, "Two wrongs don't make a right." Rephrasing that truism in philosophic terms, "The end does not justify the means." It is from this position that I wish to advise the Members of my reasoning on legislation to establish the Energy Mobilization Board or, as it is interestingly described, the "fast track vehicle."

The idea behind the proposal is the overabundance of regulation. Why not eliminate the regulatory overkill rather than establish a new bureaucracy to fight other bureaucracies?

Part of the problem facing us is the excessive rhetoric and resulting emotionalism that has been generated. The President has not helped by his periodic verbal jousts with the energy matter, and in that commentary I make reference to his populist rhetoric damning American corporations whereas the real culprit in the energy field is the Government.

Of the two basic bills before us, I believe the Udall-Clausen-Wirth version is the lesser of evils. However, since both the Commerce Committee bill and the Interior Committee bill will be substantially modified prior to a final showdown between the two, none of the authors of the legislation may be able to recognize his brainchild.

I believe that the bill we finally process must respect State and local jurisdiction, and in so doing, avoid new constitutional issues.

We must achieve a time frame for final agency decisions that will be as short as practical. We must not create within a new bureaucracy a totally new, open-end power structure.

And most of all, we must keep in mind that our goal must be to substantially stimulate domestic energy consumption so as to reduce our dangerous dependence on foreign energy sources.

The CHAIRMAN. Are there any further amendments to the amendment offered as a substitute or to the amendment in the nature of a substitute?

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this opportunity to summarize the principal differences between the Wirth-Udall bill and the Commerce Committee bill as amended by my colleagues, the gentleman from Nevada (Mr. SANTINI) and the gentleman from New Mexico (Mr. LUJAN). Mr. Chairman, with regard to regulations, the Wirth-Udall bill requires all regulations promulgated by the Board to be transmitted to the Congress, to lay before us for 60 calendar days of continuous session, and to be subject to a one-House veto. The amount of time that would be consumed in this kind of undertaking, before the Board could even address its basic responsibilities, is literally incalculable.

□ 1100

This one-House veto requirement would include initial board regulations establishing criteria and procedures for reviewing applications for designation of energy projects, technical changes in regulations and administrative regulations. This requirement would delay critical energy projects and would tie up the Congress and its committees in endless hearings and markups on unimportant matters.

Now, my dear friend, the gentleman from Arizona (Mr. UDALL) has complained about the way things would work in the House if the Commerce Committee bill should pass. However, the Wirth-Udall bill would provide congressional review with regard to a vast plethora of trivia. These are matters that could be reviewed by congressional oversight.

Mr. Chairman, it should be noted that the Commerce Committee bill has no such delaying provision. We rely on normal committee oversight and the annual authorization process.

Mr. Chairman, there are some other differences. Let us look at the enforcement of the project decision schedule. The Wirth-Udall bill requires that if the Federal, State or local agency fails to make a decision on time or is reasonably likely not to make a decision on time, the Board may file suit against the agency in the appropriate court of appeals. This includes the Court of Appeals for the District of Columbia or any other court of appeals scattered anywhere about the United States. It is rather obvious that litigants will file in the court which best suits them. Under the Commerce Committee bill court review of agency decisions must take place in the court in the area in which the project is to be located. The court cannot make the agency decision. It cannot order the agency to decide. The Wirth-Udall bill says the court shall order the agency to act in accordance with the schedule. However, if the deadline under the schedule has passed, all the court can do is to extend the schedule, which includes still further delay.

Mr. Chairman, the administration estimated that the first version of the Udall-Wirth bill could result in about 7 years of delay. Because of the addition of the amendment offered by the gentleman from Florida (Mr. FUQUA) the delay is now down to about 5 years 4 months. On the other hand, the Commerce-Santini-Lujan bill lets the board extend the schedule without relying on the court. Result, no delay caused by another trip to the court.

Mr. Chairman, there has been a lot of talk about the Presidential bump-up. Earlier I resisted the Presidential "bump-up" concept, but the House, in its wisdom, yesterday accepted an amendment which imposed the Presidential "bump-up" concept on the Commerce Committee bill. We now have a situation where the bump-up exists in both the Udall-Wirth bill and in the Commerce Committee bill in almost exactly the same form. Under Wirth-Udall if the board finds the agency decision date under the schedule has passed and the agency has not made the decision, it must first go to the court to enforce the Project Decision Schedule. After 120 days, if the court has not acted, the President can decide in lieu of the agency.

Mr. Chairman, here is where some really mischievous consequences occur. First of all, the President cannot conduct the hearings that have to be conducted. Therefore, he must refer this matter to one of the regular Federal agencies for hearings and for the completion of the record. The question is, who will be the agency that will do that. I cannot tell you. Is it going to be the Department of Energy? Is it going to be the Energy Mobilization Board, by whose actions the matter has resolved itself into court or is it going to be the Office of Management and Budget? Strong arguments could be made against the implications of each one of these actions, particularly on the grounds that they constitute a most undemocratic infringement on the rights of the individual who might oppose the project by placing him in a very unsympathetic forum.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. Mr. Chairman, there are some other problems that have to be recognized with respect to the Wirth-Udall bill. Must the record be completed? And, if so, who will complete it? These questions are not resolved.

Mr. Chairman, as I pointed out in my remarks yesterday, the 120 day period of time does not begin to run until such time as the Board has sent an appropriate notice to the court. But does the 120 days run during the court appeal or does it run just during the procedures of the circuit court of appeals? The question remains unanswered and I do not believe even the authors of that particular proposal can tell you what the circumstances are with regard to the running of the time.

Equally important, Mr. Chairman, is that the circuit court of appeals has never been a trial court. The Udall-Wirth proposal would compel that court, the circuit court of appeals, to function as a trial court. This would create strong probabilities of additional delays, denials of procedural and substantive rights to litigants and the consequences that a body which is unfamiliar with trial practice would be compelled to make decisions of fact. Obviously, no court so constituted is the proper forum in which decisions of this kind should properly be made.

Mr. Chairman, under the Commerce-Santini-Lujan bill if the agency has failed to make a decision or is unlikely to do so the Board must give notice to the agency, wait 45 days and then hold a hearing to determine the reasons for the failure to make a decision. If there is good cause for the delay then the Board may extend the schedule. If the Board does not extend the schedule, it may make a recommended decision to the President in lieu of the agency action. The Board must first complete the record so that all are fairly treated. The decision must be in accordance with applicable Federal, State, or local law. The President has 45 days to affirm the recommended decision or to remand it to the Board with instructions. As one can see, the bump-up is quite similar in both

bills but it must be recognized that the bump-up is better in the Commerce Committee bill.

Now, Mr. Chairman, I think there are certain other things that have to be recognized. If we want a fast-track bill to cut through the decisionmaking maze that curses this country, then there is only one thing you can do and that is to pass a bill which forces a decision. The Udall-Wirth bill will take longer than the completion of World War II and it will take longer than the delay that it took with regard to the completion of the Sohio pipeline, about which my colleague from Arizona complains so much.

Equally important, Mr. Chairman, is another question that has to be addressed: that is that even after the completion of the Udall bill, residual questions will remain. One of the problems that existed with regard to the Sohio pipeline was that even after all the permits would have been issued it was announced by people in California that they intended to fight the matter in court and to prevent that project from commencement of construction.

One of the reasons that the Board must, under appropriate safeguards, have the ability to waive Federal substantive law, is to prevent these questions from being litigated ad infinitum after the Board has acted, something which has never been addressed by my good friend from Arizona (Mr. UDALL) and by the Committee on Interior and Insular Affairs.

Mr. Chairman, I want my colleagues to know, that under the Commerce Commitee bill, no unelected board may waive any legislation with regard to substantive law. That can only be done by affirmative action by the Congress, by both Houses under the Santini-Lujan amendment.

Lastly, Mr. Chairman, it should be recognized that in bringing these matters to Congress we convert what might have been questions a court would decide after lengthy delays into questions which are essentially political and we resolve them here in the open.

□ 1110

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I will be happy to yield to my good friend, the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, I thank my chairman for yielding. I would simply like to make two points. First, I would like to urge my colleagues to check very carefully leaflets that have been handed out on the House floor today and yesterday which do not bear the name of any Member and which have outright distortions of facts in making assertions of differentials that are supposed to exist between the Udall version of the bill and the Commerce Committee bill. Looking at one distributed today, there are clearly two instance of outright distortion of facts. I urge my colleagues to look at these things very closely and to give them the attention they deserve, given that the person who handed them out would not even put his name on them.

Second, Mr. Chairman, I would like to read one paragraph from a letter written to me by the Associated General Contractors of America.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(At the request of Mr. GRAMM, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. GRAMM. Mr. Chairman, will the gentleman yield further?

Mr. DINGELL. I would be happy to yield.

Mr. GRAMM. Now, I would point out to my colleagues that the Associated General Contractors of America represent the major construction companies of this country who will build the priority energy projects of this country if we are capable of cutting through the red tape and allowing that construction to occur; so I would ask that we simply impugn to them in assessing this letter that they want to build projects. That is their primary interest.

The letter reads as follows:

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Washington, D.C., October 19, 1979.

Hon. PHIL GRAMM,
U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN GRAMM: The Associated General Contractors, which represents the U.S. construction industry and whose members will build the contemplated energy facilities, has given careful consideration to the Energy Mobilization Board "fast-track" proposals pending before the House of Representatives. As between the Interior and Insular Affairs and the Interstate and Foreign Commerce Committee's bills, it is our considered opinion that the Commerce Committee bill is a stronger and more sensible approach, indeed the only alternative. In fact, the Interior bill, as amended by Udall-Clausen-Wirth, would be worse than no legislation at all.

Mr. DINGELL. Mr. Chairman, I commend the gentleman.

I would point out that nobody is going to invest billions of dollars in an energy project, and we are talking about many projects that are going to cost billions of dollars, in order just to get himself into a lawsuit that is going to take somewhere between 5 and 7½ years to resolve.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes, I would yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I just wanted to associate myself with the comments of the gentleman from Texas about shameful distortion of facts. I think we have seen a great number of those over the last 10 days, particularly with reference to the time frames that have been laid out. That has been the subject of significant debate here and in front of us we still have a long 7½-year time frame which I believe fits into the category referred to by the gentleman from Texas.

Mr. Chairman, I thank the gentleman for yielding.

Mr. DINGELL. Mr. Chairman, I pointed out that the 7½-year time frame, with the amendments now adopted by the committee yesterday, is down to only about 5½ years. I just wanted my colleagues to see what the original version of the Udall bill would have done.

I want to observe that persons around here who pass out documents that are unsigned tend to reflect on their own credit, I think, most adversely and I suspect they will reveal themselves sooner or later.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

(At the request of Mr. WYDLER, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, will the gentleman yield to me?

Mr. DINGELL. Yes, I am very happy to yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I rise in support of the Dingell bill and in opposition to the Udall amendments.

Mr. Chairman, today we have finally come to grips with the fact that some tough decisions will have to be made to develop a synthetic fuels industry for this country. We cannot allow regionalism or an overwhelming preoccupation with the environment to prevent the United States from having this critical production capability. We are still facing an alarming degree of dependence on foreign oil and, although we realize that there will be more waste in a crash program than a gradual development program, we must retain a sense of urgency. I urge my colleagues to recognize that the parochialism of no one State or locality should stand in the way of our national security. The "collective will" we exercise here should be that priority energy projects are to be expedited without major compromises in health and safety.

Our Committee on Science and Technology has over the past 3 years hammered out a demonstration plant program which is the basis for building a synthetic fuels production capability. We must tailor economic incentives to match the real promise of these technologies while we oversee construction of the authorized demonstration plants in a timely manner.

No single bill, no matter how carefully crafted, will satisfy all the Members of the House. However, on the principle that the Energy Mobilization Board must be given real muscle to catalyze Federal, State, and local agencies to prompt decisions I am supporting the Commerce bill. This is the third energy supply bill we have considered in this session. We passed the Moorhead bill and the Department of Energy authorization by overwhelming margins. I think the Commerce bill deserves a similar mandate to demonstrate that congressional intent is to truly put projects on the "fast track" that makes good sense. We have been stuck on the starting blocks for much too long.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

(At the request of Mr. UDALL, and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I would be glad to yield to my good friend.

Mr. UDALL. Mr. Chairman, I thank my friend for yielding.

I want to clear the record. The two documents that were referred to here were put out by my staff. We have all been working late hours as this debate went forward and I said to get out a couple memos on these two questions that people were talking about on the floor.

Mr. DINGELL. I see.

Mr. UDALL. The gentleman from Texas is correct, names should have been signed to them. They should bear the auspices of the House Interior Committee.

Mr. DINGELL. Mr. Chairman, I can only assume the gentleman must be ashamed of them. That is why he did not sign them.

Mr. UDALL. No; I am very proud of them. They are very accurate.

I will apologize for not having a name on there, if the gentleman will agree that that 7½ year figure has no basis in fact.

Mr. DINGELL. I will agree with the gentleman right now that it is 5½ years. This 7½ year figure shown on the chart is the original figure.

Mr. UDALL. All right.

Mr. DINGELL. I detailed all that yesterday.

Mr. UDALL. Mr. Chairman, will the gentleman point out on that chart where the author is indicated?

Mr. DINGELL. It says, "based on estimates made by the administration."

I will be more than happy to take credit for making the chart. I have had the chart brought in twice. I am not one who sneaks around here with documents.

Mr. UDALL. I appreciate that.

Mr. DINGELL. I will agree with the gentleman that by the amendment adopted yesterday the gentleman has cut his proposal from 7½ to 5½ years.

Mr. UDALL. Well, we have cut it to 120 days.

Mr. DINGELL. I find that statement unsupported.

Mr. UDALL. A little later in the debate I will point out that we have cut it to 120 days. If the gentleman wants to know how long the procedure will take, the answer is 120 days.

Mr. DINGELL. I will be delighted to hear how the gentleman has cut it to 120 days.

I would point out that I indicated yesterday the period of time that would be involved.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I would be more than happy to yield to my friend, the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, perhaps there is one statistic on which both the gentleman in the well and the chairman of the Interior Committee can agree and that is that 40 percent of our foreign imports come from the Gulf of Persia. An even greater percentage of our imports must come through the Caribbean to get to this country, either as refined products, having been refined in the Caribbean, or to be refined mostly in the gulf coast of the United States. That is about 20 percent of our supply. We just passed here a couple weeks ago, I guess, maybe last week, a rationing bill which I supported in the final analysis, even though I am not enthusiastic about rationing as a solution to our energy problems, that provides for the President to put rationing into effect if we have a 20-percent shortfall. If we have a 20-percent shortfall because of the collapse of governments in the Middle East or because of the closing of the Gulf of Persia through those narrow Straits of Hormuz, where 40 percent of our oil must traffic, the American people will be justified in their criticism of the U.S. Congress if we have not acted in the strongest possible way to encourage our domestic energy resources. If this Congress passes a cosmetic bill that says to the American people, "Don't worry, it's all taken care of, we have the right to shorten a few procedures here and it's only going to take you five years to get one of these projects underway that will supply domestic sources so that we are no longer relying on some of that foreign oil," I think the Congress will continue to be even more seriously the laughing stock of the country.

I would urge my colleagues to support the version of this bill that came out of the Commerce Committee so that we can have some assurance that these projects will be put underway.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is unfortunate that the implication continues to be made that somehow the Dingell approach will solve our energy problem and the Udall approach will not.

The question simply is what is the best way to expedite new energy projects.

Yesterday I made a point about the importance of the rule of law in our society and the danger of waivers of substantive law. At that point, because of the President's remarks on Monday, it looked like the President had abandoned his position that he was opposed to waivers of substantive law. However, when I got back to my office last night, I was delighted to find a letter from Secretary of Energy Duncan to Speaker O'NEILL which contains this statement:

> As we have consistently stated, the Administration would strongly prefer a bill with no provision for waiver of substantive laws, except for those which might be covered by a "grandfather" provision.

That description clearly fits the Udall-Wirth-Clausen bill, but not the Dingell bill, as amended.

Then Secretary Duncan's letter goes on to say:

> We therefore will support an amendment by Mr. Eckhardt which would remove the provision for substantive law waivers, as well as provide for judicial review of decisions to "grandfather" projects against changes in substantive law after establishment of a Project Decision Schedule.

□ 1120

No such amendment has been offered to the bill from the Committee on Interstate and Foreign Commerce nor does it have any such provision.

However, it is gratifying that we now have the administration's position—at least its position as of yesterday—finally down in black and white.

Furthermore, it is gratifying to know that this is not an issue in the current Presidential contest. I have a copy of a letter which Senator EDWARD KENNEDY sent in September to Senator HENRY JACKSON which contains this statement:

> To give the Energy Mobilization Board "carte blanche" authority to waive substantive provisions of law without any meaningful standards to govern that decision is inconsistent with our constitutional system of government predicated on the rule of law. It is also inconsistent with our federal scheme of government which places great value on the sovereignty of state governments, particularly where the health and safety of their citizens are concerned.

The gentleman from Arizona (Mr. UDALL) yesterday referred in the course of debate to a letter which he had received from Joseph Lash, who is the biographer of President Roosevelt and who commented on the fact that President Roosevelt during the World War II emergency was very careful to try to see that the Government's emergency powers were not used in a manner to override important substantive laws. And as I pointed out yesterday, the Congress was very careful not to give the War Mobilization Board the power to waive substantive laws. Yet somehow we had the greatest production effort in the history of the United States with a board that had no power to waive substantive laws. It did have the power to set deadlines and set priorities, and that is what the Udall-Wirth-Clausen bill does.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I will yield in just a minute.

Mr. Chairman, there have been substantive laws passed, of course, since that time, and we are concerned about whether they will unreasonably block important energy projects. But the proper way to address that problem is that, when situations arise where it becomes clear that a particular law needs amending, we go through the normal legislative process. To try to amend the laws under a 60-day time constraint, with a gun at our heads and with people demanding that we act immediately because there is an emergency situation, is not the way we have traditionally operated, and it is not the proper way to proceed now.

Mr. Chairman, in the letter that the gentleman from Arizona (Mr. UDALL) received from Mr. Lash, Mr. Lash quotes

some lines from the famous play, "A Man for All Seasons," and I would like to read this quote to the Members because I think it has a bearing on our deliberations.

In Robert Bolt's play about Sir Thomas More, A Man for All Seasons," More, in the play, says to his son-in-law that he would "give even the Devil the benefit of the law." His son-in-law replied that he would cut down every law in England to get at the Devil."

More countered:

> And when the laws were down and the Devil turned round on you—where would you hide . . . the laws all being flat? This country's planted thick with laws from coast to coast, man's laws, not God's—and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then?

That is the end of the quote. Those who have seen the play will remember that it is probably the high point of the whole play.

Are we going to try to cut down our system of law, or are we going to follow the traditional separation of powers that relies on the courts to do the job of interpreting and enforcing the laws?

Mr. Chairman, I will now yield to the gentleman from Ohio (Mr. BROWN).

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(On request of Mr. BROWN of Ohio, and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman be kind enough to yield?

Mr. SEIBERLING. I will be pleased to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, first let me say to the gentleman in the well that I came to the Congress in 1966, some 21 years after the war ended, and because we did not write the War Production Board legislation in as good a way as I think the Committee on Interstate and Foreign Commerce has written this legislation, we were still involved in litigation growing out of that War Production Board. In 1966, we were still trying in this Congress to settle some of the claims that came out of that legislation.

Mr. Chairman, I would hope that we would do a better job than the job that was done by the War Production Board legislation.

Mr. SEIBERLING. We did win the war, however.

Mr. BROWN of Ohio. And we have got to win this one, too. That is why I urge that we need better legislation than the legislation we had at that time.

The gentleman from Ohio (Mr. SEIBERLING) gave a rather lengthy quote from the play, "A Man for All Seasons." I would like to give a longer quote from the letter that Charles Duncan, Secretary of Energy, sent to our Honorable Speaker on October 30. The gentleman from Ohio perhaps did not see this or he would have read it all.

Mr. SEIBERLING. I did not state that I was reading the whole letter.

Mr. BROWN of Ohio. Mr. Chairman, I am quoting from the letter, as follows:

> However, should the choice ultimately fall between the Udall-Wirth substitute and the Commerce Committee bill as amended by the Santini-Lujan amendment, we would support the latter as closest to our position, because it avoids the delays inherent in the addition of new opportunities for judicial review.

Mr. Chairman, I would say to the Members that the Secretary's letter tends to endorse rather emphatically the bill of the Committee on Interstate and Foreign Commerce at the juncture at which the bill stands now in consideration by this body. I think there is no question about that and the fact that even the President's remarks are contained in this letter from Charles Duncan, the Secretary of Energy. To characterize their support from this letter as being for the Udall-Wirth substitute, I think, really strains the interpretation under any circumstances.

Mr. Chairman, the gentleman and I may agree on the interpretation of "A Man for All Seasons," but we disagree rather emphatically on the interpretation of Secretary Duncan's letter.

Mr. SEIBERLING. Mr. Chairman, all I can say in answer to that is this: I did not intend to indicate that the administration was supporting the Udall-Wirth-Clausen substitute. The letter clearly is saying that if they have to choose, they are going to take the Dingell substitute.

But my point was this: that on the one hand they are saying they are opposed to waivers of substantive law, and on the other hand they are saying, "But not very much." It seems to me that the dedication of the President to the rule of law ought to be at least as great as that of the Congress, and I hope the Congress shows that it is so dedicated.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further. I am also dedicated to the rule of law, but I think on occasion it is necessary for us to address law when it gets in the way of some serious problems.

We have had laws in this Congress that have had to be repealed. I would suggest to the Members that we now have laws that are inhibiting us in some way, and they must be addressed because of our serious energy problem.

Mr. SEIBERLING. Mr. Chairman, I suggest to the gentleman that the way to do that is to take up legislation to change the laws, not to override them in this unconstitutional way.

Mr. CARR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will try not to take my full 5 minutes.

Mr. Chairman, yesterday I got up in general debate and made some comments about how this whole energy issue was causing a stampede and causing us not to act with the due deliberation that I think the American public expects we ought to exercise. I think the debate here has really borne that out. We have had all these wild swings in estimations about how much damage this is going to do and how much damage that is going to do, what direction this judicial review is going to take and what direction that judicial review is going to take. No one knows for certain.

We have the administration down at the other end of Pennsylvania Avenue which has taken every position on the block. We have members of our own committees who have taken contradictory positions. There are very few Members among the members of the committees, as we have worked our way through this issue, who have kept a consistent position. I will admit to being one of the Members who have changed positions.

So we have now what I think has become somewhat of a comedy. Some of it centers around this whole issue of judicial review.

This legislation is terribly premature. It needs more study. We are talking about judicial review out of the Committee on Interstate and Foreign Commerce and out of our committees' expertise. We have some attorneys on both committees. Judicial review probably ought to have gone to the Committee on the Judiciary, although we have some overlapping membership on these committees.

But let me give the Members one Member's perspective on this whole judicial review matter. I had a little experience in this as a government attorney before I came to Congress. The long history of the development of judicial review in this country has been a massive tug of war between the Congress and the courts. We tighten it up and the courts go off and interpret, through the Constitution rather than statute, a right to review.

I would submit to the Members that what we are doing here today to try to change or shorten judicial review or cut it off is an exercise in futility. It is an exercise in futility because the courts are going to do what they are going to do, and the futility here is that both of these alternatives are in effect an attempt to abolish the judiciary of this country when we come to the sacrosanct subject of priority energy projects. I am telling the Members that that just will not happen. No matter which alternative this House supports, either of these alternatives is going to be tied up in the courts for years, by well-financed Attorney General suits throughout the United States.

□ 1130

None of these laws are going to be implemented until they have been reviewed once, maybe twice, maybe three or four times by the Supreme Court of this country, and in the meantime we will all go back to our districts and tell our people that we did something about energy to get this fast track moving.

I suggest that it just "ain't" going to happen and that we ought to face up to that fact. While I would recommend a vote for Udall-Wirth, I would really vote no on all of this stuff.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

(On request of Mr. GUDGER and by unanimous censent, Mr. CARR was allowed to proceed for 3 additional minutes.)

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from North Carolina.

Mr. GUDGER. I thank the gentleman for yielding.

Mr. Chairman, I rise to associate myself with many of the remarks of the gentleman and to respond in some degree, if I may, by way of introduction and then by way of question to a comment made earlier by the gentleman from Texas (Mr. GRAMM) in suggesting that there had been some papers circulated without subscription.

My purpose is to refer to some papers that were circulated with subscription, with my name on it, with the name of the gentleman from Ohio (Mr. SEIBERLING) on it, and other members of the Committee on the Judiciary on it. In that particular circulated document yesterday we said, and I think we said correctly, that the Udall-Clausen-Wirth substitute, as amended by the Fuqua amendment, maintains respect for the vehicle which has enforced our laws for two centuries, the courts. It provides the courts with an unequivocal mandate to enforce deadlines for agency action set by the Energy Mobilization Board and explicitly authorizes the courts to order an agency to streamline its procedures, assign extra staff to a required decision, and impose penalties upon officials responsible for delay.

The Fuqua amendment writes a specific 120-day deadline, writes a specific 15 days for paper filing and writes a specific limitation of direct review by the Supreme Court, and thus limits the process that the Court of Appeals is to perform.

I point out, if I may, that all of this is recognizing the vehicle which our Constitution charges with the enforcement of our laws and specifies how it is to function with particularity.

Now my comment to the gentleman is this: It seems to me that advocates of the Commerce Committee substitute say that we must keep the courts out of the process and urge that the courts have gone too far in the enforcement of environmental safety and health laws that the Congress has enacted.

If that is true, I submit: What is the lesson for us?

Is it not the lesson that when the Congress gives the court a job to do, that they do it forcefully and effectively, and if we give the courts the job of reviewing only within restricted time and within restricted responsibility areas, and we limit the number of projects authorized by the Udall bill to 75—there are no limits in the Dingell bill—and we limit the number of projects which may be approved each year to 20—thereby limiting the number of cases that the courts can entertain, are we not then giving the courts the responsibility to forcefully and effectively enforce the deadlines that the EMB can impose and get this job done? And I ask the gentleman, does not the gentleman agree that the courts will do just that?

Mr. CARR. Mr. Chairman, I think the courts will give their very best effort to enlist their functions in the fight for energy sufficiency. But you cannot prescribe the powers of the courts under the U.S. Constitution. And believe you me, from the point of view of an environmental lawyer—and I was one at one time—an intelligent and crafty and clever environmental lawsuit, with a sympathetic judge, can tie this thing in knots for years, notwithstanding deadlines. But I would agree with the gentleman—and he is a learned and distinguished colleague who also serves on the committee on the Judiciary—that the courts, I think, will do their level best, and I do think that we will have a minimum of delay under the Wirth-Udall substitute.

Mr. GUDGER. And does the gentleman agree that the Udall-Clausen-Wirth substitute actually tells the court what the court's function is to be and leaves it for the court to carry out a specific mandate rather than leaving the court carte blanche, which could in turn lead into some of those dilemmas that the gentleman has described?

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(On request of Mr. WEISS and by unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. In response to the gentleman, Mr. Chairman, actually this Congress and previous Congresses have put all kinds of roadblocks and constrictions and constraints and narrowing to judicial review. And the courts have tried to follow that. But when the courts are determined to protect rights under the Constitution of the United States, nothing we do here is going to change that, nothing. And the delays will pertain not to the statute but to the Constitution. Unless you are suggesting that we amend the Constitution or that we somehow or another alter or abolish the Judiciary, they are going to carry out their function just as we insist upon carrying out our function and the Executive insists on carrying out its function.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself fully with the remarks of the gentleman in the well. I share his concern that in our haste to pretend that we are going to be doing something to solve the Nation's energy problems, we will be seriously undermining the Constitution of the United States. I think that his statement and that of the gentleman from Maryland (Mr. BAUMAN) yesterday were probably the most profound and the most pertinent to that issue that we have heard in the course of this debate.

I think that in a calmer time, when the gentleman from Ohio (Mr. BROWN) has occasion to reread his statement about how our laws, when they get in the way, ought to be shunted aside—in essence that is what he said—I think that he will upon reflection regret having said that.

I think that between the two bills, the Udall-Wirth bill makes more sense, but I think ultimately we ought not to be adopting either one.

The entire notion of bypassing either substantive or procedural provisions of Federal and/or State and local laws strikes me as antithetical to our constitutional form of democratic government. It is for this primary reason that I ultimately cannot support either the Udall or Dingell measures.

Both bills create an Energy Mobilization Board which would be invested with the power to override or ignore actual statutes or their spirit in the name of domestic energy development. While I agree wholeheartedly that the Nation must decrease its dependence on expensive and vulnerable fuel imports, I do not believe that it should do so at the cost of undermining civil liberties and toppling constitutional balances.

Under Mr. DINGELL's bill, for example, the board could waive Federal laws which in the opinion of this unelected and unaccountable body constitute a "substantial procedural or substantial substantive impediment" to certain energy projects. This kind of carte blanche authority to sidestep the legislative process cannot be reconciled with the central concept of due process.

Another facet of the fast track approach that is insupportable in my view involves the provisions for judicial review of the Board's decisions. The Dingell measure limits judicial review authority only to those areas where the bill specifically states that the Board cannot waive substantive law. In practice, the Board could waive statutes such as the Toxic Substances Act and not be subject to judicial review of such a decision. The Udall substitute is somewhat preferable in this regard, but it, too, places limits on the courts' role by setting a 30-day deadline for judicial review of any decision made by the Board.

In sum, I simply do not see the need for an Energy Mobilization Board invested with such enormous authority and the dangerous potential to upset our system of checks and balances. Domestic energy development is vital, yes, but the fast track approach is not the solution to our problems. Indeed, creation of the proposed Board will not necessarily expedite energy projects and will definitely imperil our Constitution.

The Board's proponents say it will cut useless redtape and overcome bureaucratic obstacles. But we do not need a special governmental body to accomplish these aims. Congress is quite capable of reaching these objectives through its normal legislative procedures, as was clearly demonstrated in the House's consideration and passage of synthetic fuel measures designed to speed up this type of energy development.

Creation of an Energy Mobilization Board would represent a most alarming precedent. What other superbureaucracies could then be manufactured in the name of some other urgent national concern? I have faith in our economic and political system to resolve our current energy problems without resorting

to such an extraordinary and highly questionable panacea.

I urge my colleagues to join me in rejecting fast track legislation. It is a bad idea that endangers our democracy and which would probably do very little to improve our energy situation.

Mr. CARR. I thank the gentleman for his contribution.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have decided, with difficulty and reluctance, to support the Udall substitute. I say "with difficulty and reluctance" because I think there are very real issues here, and I would like to say that I do not like coming to a different conclusion than my chairman, the gentleman from Michigan (Mr. DINGELL). He is a person for whom I have great love and affection and enormous respect. I really think he is one of the ablest Members of this body and one of its leading environmentalists. I have learned a great deal from him. For those people who question his motives in this legislation, I would say they are dead wrong.

The real issue here and the need for this legislation I think derives not from the need to accelerate energy projects. I think that is a bugaboo. It is a bugaboo that has been spread through this land by the energy companies and the utilities who want to do away with protection of health and safety, who find it inconvenient not to be able to pour toxic substances in our water and on our land, who find it inconvenient not to be able to spew poisons in our air. So they have used these laws as an energy scapegoat and they say, "If we can get these laws out of the way somehow or another, we can solve our energy crisis." It is just nonsense, absolute nonsense.

A recent study by the Department of Energy of delays in major energy projects shows that those projects have been delayed, not by health and safety regulations; they have been delayed by technical problems, equipment failures, and labor problems and a host of other reasons. Only a small percentage of energy projects have in fact been delayed by the application of essential health and safety regulations.

The real reason for this legislation is not to accelerate energy projects. It is a disguised attack on our health and safety laws. The legislation is advanced because of this antiregulation atmosphere that has been spread by the energy companies and their allies.

But there is a real reason for passing fast track legislation—it is because of the real danger that exists that if we do not have this fast track legislation, then in the hysterical climate created by the utilities and energy companies, Congress will succumb to these pressures and really impair with the basic protections of our health and safety laws.

So I think the very close question that has to be decided here and the very difficult one is: Do we need something as drastic as that which the gentleman from Michigan has put forward, with its waivers of substantive laws, albeit protected by affirmative congressional action, in order to prevent the future decimation of our health and environmental laws, or will in fact the Udall bill, with its accelerated time schedule, do that job? I do not think it is an easy question at all.

I have decided that I would support the Udall substitute basically on that issue, however. There is something repugnant about taking the laws that we have considered here very carefully, about which we have had hundreds of hours of hearings, about which the testimony has shown that people here in our country are being killed by the actions of the energy companies in failing to protect the health and safety of our people, that we should be able to suspend those laws under conditions of great pressure.

Granted, the amendment offered by the gentleman from Nevada (Mr. SANTINI) has greatly improved the bill. The bill now requires positive action by both Houses of Congress in order to suspend the laws, but it will be done under a climate of great pressure, under a climate when we are going to be considering some supposedly marvelous energy improvement like the synfuels program that has been proposed by the President, which he claimed is going to produce 2½ million barrels of oil by 1990; and albeit that that is nonsense, the fever is going to sweep through the House, people are going to want to go ahead and suspend the laws in order to get that project accomplished.

□ 1140

I think that is too great a danger for us to undertake. That is basically why I prefer the Udall substitute.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for the kind words he said about me. I reciprocate, because he is one of the most valuable Members we have in this body. He is one with whom I have worked for many years on many things, including conservation and environmental laws.

I do not want the legislative history to reflect that the Commerce Committee bill permits waivers to be issued lightly.

First of all, it should be understood that at page 6 the Commerce Committee bill says as follows:

> The recommendation for waiver can only take place if the Board finds (a) such waiver to be in the national interest; (b) that there is substantial evidence to support the Board's determination and recommendation; and (c) that the waiver would not unduly endanger the public health and safety.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

(At the request of Mr. DINGELL and by unanimous consent, Mr. OTTINGER was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Beyond that, at page 50 in the Commerce Committee bill, there is a long list that details those matters that may not be waived. The Board may not recommend the waiver of any legislation dealing with the rights, the working conditions, including health and safety, compensation or activity of workers or their representatives and, going further down, states that State water rights cannot be impaired, either as to quantity or as to quality.

Now, more importantly, I would point out that we are seeing to it that these questions come to the Congress on an accelerated basis, go to the committees of jurisdiction, whether it be the Commerce Committee or the Committee on Interior and Insular Affairs, or the Committee on Public Works, so that they can receive proper but expedited treatment.

Any Member can see to it that they come to the floor under full and open debate.

More importantly, the Commerce Committee legislation assures that the Administration Procedure Act, the Sunshine Act, the Freedom of Information Act and all of the statutes of that sort, apply to the Board—to see to it that the consideration of matters before the Board are conducted in the open.

The Board's waiver recommendation must lay on the President's desk for at least 30 days. He cannot submit a waiver recommendation to Congress until such time as the public has had a chance to familiarize itself with the content of the Board's recommendations to the President and to comment thereon, so as to provide the fullest opportunity for decisionmaking in which the Congress and the public will be fully involved.

Mr. OTTINGER. When I say that I have enormous respect for the gentleman from Michigan, I say that not just to be polite or go through the norms of congressional courtesy. It is because I have that respect, and I think the gentleman knows it.

I would like to say that if we must consider a waiver of laws, he has provided the utmost in protection for such a waiver. All of the procedures that one has to go through for a waiver that the gentleman from Michigan describes, are accurate, and in fact the Congress must act affirmatively in order to be able to get that waiver of law.

I think that, given the gentleman's feeling that you do have to have the waiver, he has done as careful and able a job crafting it as could possibly be done. That is what makes the decision so difficult.

As I said, I do not think this is an easy choice at all. However, the fact of the matter is that at the time we act on a waiver under accelerated procedures we are going to be under a climate of great pressure. It will not be the normal legislative process with full hearings and markup.

I understand the reason the gentleman from Michigan advocates a waiver procedure. I just find that that is a step which I am unwilling to take, to provide even under that kind of protection for the waivers of laws that his amendment provides a provision which provides for waiver of substantive health and safety laws under accelerated procedures, gives me very, very great concern.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

(At the request of Mr. SEIBERLING and by unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

I would simply like to point out this, that if we provide for substantive waivers of law and we try to cut short judicial review except on constitutional issues, then every case is going to involve a constitutional issue; and that will almost guarantee Supreme Court review, and thereby actually end up prolonging rather than shortening the time frame.

Mr. OTTINGER. I do not like either of the bills, but I would say to the gentleman from Michigan (Mr. CARR), and my good friend from Oregon (Mr. WEAVER), who are opposing any bill, that there is a real need for fast track legislation, because in some cases there in fact has been inordinate delay.

Secondly, if we do not have this relief valve, I am afraid the industry pressures will be overwhelming to throw out the very important health and safety legislation we have passed. I am very concerned about the provisions of both bills that provide for the suspension of laws that may come into being after a particular project has been fast tracked.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has again expired.

(By unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Most of the projects that we are talking about here are new technology. They are highly complex, multibillion dollar ventures.

We do not know a lot of the environmental problems that are going to arise with respect to these projects. So the health and safety laws that may be passed subsequent to its designation as a priority energy project—or the States may want to pass subsequently, may protect against dangers to the health and safety of the people of which we are not yet aware. To suspend such laws for 5 years is the equivalent of a waiver, because at the expiration of 5 years, the damage will have been done.

Nonetheless, I think that this legislation has to go through to avoid a still greater danger of weakening or killing our environmental protection.

I think the real question that has to be decided, and I come down on the Udall side, but I do not think it is easy, is whether we have to have the more drastic measures of the Dingell bill in order to preserve the vital legislation for the protection of health and safety that we have passed.

Mr. Chairman, I urge support of the Udall amendment and, with it or without it, support of the bill.

Mr. SHARP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, like the previous speaker, I rise with reluctance, because a lot of energy and effort and good will have gone into this issue by parties on all sides. I find it difficult to judge what it all means.

I must say that I come down on behalf of the Santini proposal to the Dingell bill, the Commerce Committee bill, because I think that we do have to provide an orderly and a reasonable way in which this Congress can judge on a timely basis some of the critical projects and whether or not we need to undo a particular regulation or a particular provision of law; and let us understand again that we do not allow under this proposal a waiver of law by the EMB.

We allow for the President to trigger consideration by the U.S. Congress as to whether or not to overturn or to alter existing law. That is what we are talking about, a perfectly legal, a perfectly constitutional, way to make laws in this country, because it requires, as the Constitution requires, that it have the agreement of the three basic parties of the Government—the President, the House and the Senate.

I think over the long haul this proposal has a better chance of providing orderly consideration, a better chance of seeing to it that we have a good public record, and that we do it in a timely fashion, than to allow what I think is happening in this country, and that is a growing frustration over extensive regulation, extensive rules, many of which I think are critical to the well being of the future of this country.

That frustration becomes increasingly generalized, increasingly dynamic, and we respond increasingly with "Do anything." I think that will be the ultimate mistake.

We frankly, in both the Interior Committee and the Commerce Committee, moved with lightning speed, but it was to late on the Sohio pipeline question, at a time when we did not look for alternative environmental standards in California. Instead, we said, "Do anything and do it now."

I think that is a very poor way to operate in terms of either handling the energy problem or in terms of handling the environmental standards.

Let me say something about the remarks of the gentleman from Ohio (Mr. SEIBERLING), for whom I have the greatest respect, and I think there are few who can match his dedication to having a society of law, both domestically and internationally. He read passages of "A Man for All Seasons," that I required my students in government to read. In fact, I required them to read the entire play, because I think it is a critical statement. But, I must say that we have to recognize in this body that the disparagement of law, which is very real in our society today, is in many instances the result of the increasing complexity of the law, the increasing number of jurisdictions that make law for our people, the increasing difficulties of enforcing that law in our society, and the increasing number of examples that are highlighted throughout the mass media of where the system does foolish things.

□ 1150

That is no reason for us to dump the law, but it is a reason for us to recognize that if we do not allow for timely, orderly consideration to overturn what people think is foolishness, we only ask for the continuing disparagement of the law, we only ask for sweeping disposal of our environmental protection laws.

It is a difficult question, I admit. None of us know how often the procedure will be used. But let us remember while this Board sits and while this Board acts, so does the Presidency of the United States, so does the Congress of the United States, so does the court system. We are not about to abandon the U.S. Constitution, we are not about to delegate such sweeping powers to any board that we are going to lose the fundamentals of our Constitution.

I am not convinced the difference between these two bills is as dramatic as some would have us understand. But I do think the time has come for us to say we will provide a way to consider, in certain cases, and I hope they will be extreme cases, in a timely manner, whether or not we ought to make exemptions to specific rules and regulations. I think that will not only protect our energy future, I think that holds hope for protecting our health and our safety future for our people.

We have to find a way to work out the difficulties on a case-by-case basis of the conflicting goals in our society. I hope we can do that, and I would urge the passage of the Interstate and Foreign Commerce Committee bill.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(At the request of Mr. GLICKMAN and by unanimous consent, Mr. SHARP was allowed to proceed for 2 additional minutes.)

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I am happy to yield to the gentleman.

Mr. GLICKMAN. Mr. Chairman, I would like to compliment the gentleman on his fine, very, very appropriate statement.

I have had serious problems with these bills too. I was an original sponsor of the Udall concept, but after a serious reflection I have changed my mind and I come down on the side of the gentleman, not only because I do not believe there are that many fundamental differences between the bills but, above all, I think that the bill of the Committee on Interstate and Foreign Commerce deals with the energy problem as a Federal issue, which it is, and the Udall bill will continue to deal with the issue as a bifurcated approach that will, in fact, tend, not necessarily with the intention, but will tend to stifle energy development.

I voted against the Department of Education bill last month because I felt that was a uniquely State and local issue that did not belong, on a policymaking basis, at the Federal level. But there is no question that energy is Federal. I wish it were not, but it is. There is no question that we are bleeding to death, as the majority leader has said so many times. And there is no question in my mind that the Dingell bill, with appropriate safeguards—and I have read it,

and they are there—does reflect upon the fact that energy is a Federal issue and must be handled in that manner.

I compliment the gentleman and I would urge my colleagues to support the Dingell approach.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I am happy to yield.

Mr. SANTINI. Mr. Chairman, I want to echo the compliment expressed so well by the gentleman from Kansas (Mr. GLICKMAN).

My only regret is that in the gentleman's thoughtful, considered expression on this House floor we did not have every single Member who honestly remains undecided on this issue to share and hear the gentleman's sentiments and expressions, because I think they would have proven ultimately persuasive. The gentleman is not a Representative who callously and in a carefree fashion takes to the House floor to enunciate a position on every conceivable issue this House faces. The gentleman's thoughtful and provocative observations really deserve to have a larger audience than we have here today of those Members who are undecided. I hope that they are watching it at home or on TV.

Mr. SHARP. The gentleman is overly generous.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not recall in recent years hearing as many Members give testimony that they do not like any of the above; yet, come to the conclusion that they are going to vote for something. I guess that is the choice we all must make today.

In the few years that I have been here I have seen a great many Members take the well and be critical of the authority or the rights that various agencies, commissions of the executive have usurped from this body. I certainly have shared in that concern. But today we are being asked not to give the authority to usurp, we are throwing it away, and just about every Member who has been here to the well or spoken on this issue has cited the problems that we have in finding solutions to our problems of excessive bureaucracy, or more rules and regulations than we can cope with. Yet today we are being asked once again, just one more time to create one more agency, one more bureaucracy.

Now, we have stacked on, horizontally, just about all of the layers that our society can accept, and more than industry, the energy industry can accept and still satisfy the problem. We have so many rules and regulations that nothing can get through. But as many have testified, this is not the only area, in energy, where we have this problem. Yet today we are deciding that we cannot stack another one on horizontally, so we will start to stack them vertically with an agency that we are going to create, the Energy Mobilization Board, vertically so that they can slice through all of the layers of regulations.

Is it not about time this body really accept its responsibilities and, instead of creating another agency downtown, to cut through the horizontal layers; why do we not take on headlong the problem that really exists? It is not only for energy, but for a great many other problems that face our country, which is too much Government. That is really what everyone has said here today. Yet, is the proper remedy today one more agency? I think it is not.

I am going to vote "no" on everything today. I have come to the conclusion, after 2 days of testimony, that I agree with just about what everyone has said here, that the remedy is not what we are considering today. So let us not just stack one more layer of bureaucracy, let us get down to the real cause, and usually that is because we have given away too much authority. Creating a Board to do what we seem not to have the courage to do is not a solution to our energy problems.

Mr. STAGGERS. Mr. Chairman, I rise to strike the requisite number of words.

I would like to compliment the gentleman from Arizona (Mr. UDALL) for the way he has conducted his support of his program. I would say he is one of the most able men in Congress and I think one of the most fair. It is perhaps regrettable that he did not reach his ambition of being the President of the United States, although President Carter is a fine and moral man who is dedicated to America and is unquestionably doing the best he can.

We are in an emergency. I would agree with the gentleman who just spoke, we have too many layers of bureaucracy, one layer on top of another. But I think this new entity is necessary because it will allow us to cut through the other layers and deal with the current emergency.

I cannot go back home without people saying something to me about energy. They want, they demand that we do something about energy. This is our opportunity.

A lot of people are saying that we are acting in haste. That is simply not true. This Congress should have acted 30 years ago. We knew then that we were going to run out of oil. We have known we would have to develop other energy resources through all of these years. How can anyone say that we are acting in haste. Quite the contrary. The time is late, maybe too late. Perhaps we are now too late with too little.

All of us know that Russia has an influence in the Middle East, a terrific influence. A picture recently appeared on the front page about visitors from South Yemen in Russia. This morning's paper talks about Iraq breaking off with Iran. The handwriting is there on the wall. We know sooner or later that our oil is going to be cut off, and indications are that it may well be sooner.

Here we sit in debate as to what we are going to do. There is no question that we need to do something, and I believe that the bill of the Committee on Interstate and Foreign Commerce is the best way. It does hasten the cure and it does not limit the number of projects that can be given priority status. We are going to have to have more than 100 projects across America sometime soon if we are going to do anything toward supplying the energy that we will need.

We have heard talk about the Board cutting through laws and cutting out laws. That is not true. Look at the proposal of the Committee on Interstate and Foreign Commerce. We only give to the Board the power to recommend; both Houses of Congress must act affirmatively on that recommendation or nothing happens.

□ 1200

Another thing, some Members are intimating that we are doing something permanent. That, too, is not true. The Board goes out of existence in 1985. This is only a temporary action to get things started.

Here we have a temporary mechanism under which the Congress makes the final decision. What more can we ask than that?

We have to act effectively now. Nigeria has said that it is going to cut down on the oil it sells the United States. Several other countries have said that they are going to do the same thing; others have threatened to raise their prices. What are we waiting for? The emergency is here. Now is the time to act, and we had better choose in our own minds which bill does it most efficiently and the quickest.

I strongly recommend the Commerce Committee bill.

If we enact this bill, then we will have an answer when we go back home and people in our districts ask, "What did you do in order to help get oil for this country in the time of emergency?" Then we can say "I acted forcefully and effectively to protect the interests of the people and the security of the Nation."

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a number of my colleagues will speak today about the Energy Mobilization Board and the need for a fast-track process by which we can speed up priority energy projects that are in the national interest. I think, however, that most of us in this Chamber have agreed that some form of EMB is needed, and that the debate is now focused on what kind of board, what powers it should be given, and which version of the Board will remove the most roadblocks to a necessary project.

I would like to focus my attention this afternoon on one small portion of the Udall-Clausen-Wirth compromise bill, a section that is not contained in either the original Interior Committee bill, nor the objectionable Commerce Committee bill. This provision of the bill will allow the Energy Mobilization Board to require a single environmental impact statement for all Federal agencies.

This is one of the most important sections in the bill. We continually hear people complaining about Federal paperwork and redtape, and here is a real chance to do something about it. This provision will not eliminate any portion

of the EIS, nor limit input into it from various agencies and groups. All it asks is that the Federal Government work together with one voice on these projects that are so important to the Nation.

The Commerce Committee bill sets up a lead agency for all the work on a priority project, but does not require one EIS for that project. The new regulations from the Council on Environmental Quality are an attempt to cut down on some of the paperwork involved in an EIS, and in many cases the regulations permit a single EIS. They do not, however, require a single EIS as the EMB could do under the Udall-Clausen substitute. We all know how complicated and controversial many of these priority energy projects are, and that there may be arguments between different agencies. This section of the substitute bill will get those agencies together before any final decision is made, so that any avoidable delay that might result from differing agency viewpoints will be eliminated.

In conclusion, Mr. Chairman, let me remind my colleagues here today that when Americans complain of overregulation, redtape, and bureaucracy, they are referring most often to the Federal Government. In the Udall-Clausen substitute, with the EIS provision, we have a chance to do something about this paperwork without damaging our protection of the environment. I urge my colleagues to support the substitute.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer amendments 2 to 5 en bloc to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. Is the amendment printed in the RECORD in accordance with the rule?

Mr. MAGUIRE. Yes, it is, Mr. Chairman.

Mr. Chairman, I ask unanimous consent that the amendment be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. DINGELL. Mr. Chairman, reserving the right to object, was this amendment printed in the RECORD in conformity with the rule?

Mr. MAGUIRE. Yes, they were.

Mr. DINGELL. In conformity with the rule on Monday last?

Mr. MAGUIRE. Yes.

Mr. DINGELL. Mr. Chairman, are we going to consider three amendments?

The CHAIRMAN. The unanimous-consent request pending before the committee is whether the amendments may be considered en bloc.

Mr. DINGELL. Mr. Chairman, I would have to object to that.

The CHAIRMAN. Objection is heard.

Mr. MAGUIRE. We will deal with them separately.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 11, line 2, strike "such additional information as it deems necessary, including".

Page 11, line 8, strike "and".

Page 11, line 13, strike "." and insert in lieu thereof:

"; and

"(5) such additional information as it deems necessary."

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. DINGELL. Mr. Chairman, reserving the right to object, can we know what the amendment is?

Mr. MAGUIRE. All the amendments have been available to the Clerk and were printed in the RECORD.

Mr. BROWN of Ohio. Mr. Chairman, could we find out what it is?

Mr. DINGELL. I also want to know what amendment it is, because we may have a point of order against it.

The CHAIRMAN. The Chair instructs the Clerk to report the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I would like to reserve a point of order.

The CHAIRMAN. The Clerk has been instructed by the Chair to report the amendment.

The Clerk concluded the reading of the amendment.

Mr. MAGUIRE. Mr. Chairman, first let me say that I am for procedural "fast-track" in order to speed up the decision-making process for justifiable and necessary energy projects. Certainly we would benefit from setting deadlines for the hearings, filings, counterfilings, impact statements, and decisions of Federal, State, and local authorities. Our energy needs are too critical to permit endless bureaucratic haggling to tie up a needed new refinery or powerplant. It is clear that procedural reforms are necessary to force agencies to act with the dispatch that our national energy problems require. But I am against the notion that an Energy Mobilization Board should have sweeping power, beyond setting deadlines, to waive substantive law.

Granting such broad authority to a small, appointed group in Washington sets a dangerous precedent for our system of government and invites comparison with the Gulf of Tonkin resolution—to the degree that it furnishes a carte blanche to ignore our Nation's laws and the desires of the American people. Local zoning ordinances, State land and water laws, Federal health, safety, labor, and environmental laws—all of these could be brushed aside if a new breed of Washington super-bureaucrat is granted this power. The President has not asked for it, and I oppose it. Frankly, the people who want to get rid of the Clean Air Act or the Clean Water Act are using this bill as a device to cut the heart out of these laws, or the laws that deal with hazardous waste disposal or worker health and safety. If they were honest about it, they would agree to a speed up of procedural requirements, but they would not expand the Energy Mobilization Board bill to give the Board the authority to wipe out substantive law, and that is the critical issue before the Congress now.

It seems to me that the need for an Energy Mobilization Board arises to some extent from a failure of government. Since well before I was first elected, I have believed that Congress has failed to exercise adequate oversight into the actual effects of legislation. We seem to pass laws and never look back. Certainly the energy and environment area is one in which there has been a tendency to pass complicated and often contradictory laws. But the answer does not lie in permitting the overriding of every law on the books at every level of government. An example of what can happen is the routing of the trans-Alaska oil pipeline which was pushed through Congress without a careful review of alternatives. The result: a glut of oil on the west coast, where it is not needed, and the need now to build another pipeline to the Midwest to move the oil to where it was needed all along.

Often, in order to make a given energy facility acceptable under current law, all that is necessary is to shift location or change the size of a planned facility in order to preserve environmental and health values. We are not remotely talking about eliminating those facilities altogether, and that's one of the points that has been obscured in the debate. People continue to talk about these matters as if it were energy projects versus health and environmental values. In fact, you can often do both if you are just the least bit intelligence about it. But if you throw out the fundamental law for health and the environment you may end up with a very undesirable situation in which you have unnecessarily compromised your health and environmental values. Maybe in the short run you have some energy projects, but chances are you could have had them anyway—if you were just careful about how you designed them.

I want to congratulate the gentleman from Arizona (Mr. UDALL), the gentleman from California (Mr. CLAUSEN) and the gentleman from Colorado (Mr. WIRTH) for the excellent work they have done on this important legislation and I emphatically support their amendment as opposed to the Commerce Committee bill. I do feel that their amendment needs some clarifications and revisions and in that spirit I offer a number of amendments and would like to engage the sponsors in a series of colloquies.

Mr. Chairman, one of the purposes of the section of the bill to which my first amendment pertains is to reduce frivolous or poorly drawn applications for priority energy project status submitted to the Board. The purpose of this amendment is a simple reorganization of the language on page 11.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is an amendment to the substitute Mr. CLAUSEN and I have proposed. The gentleman from New Jersey discussed it with me. I do not think it makes any major changes.

Mr. MAGUIRE. I thank the gentleman.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, this is a clarifying amendment. We are in concurrence with it.

Mr. MAGUIRE. Mr. Chairman, in light of the fact that the amendment has been accepted by both sides, I call for the question.

The CHAIRMAN. Does the gentleman from Ohio press his point of order?

Mr. BROWN of Ohio. No, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 23, line 14, strike "agencies, including Federal, State, and local agencies" and insert in lieu thereof, "Federal agencies".

Mr. MAGUIRE. Mr. Chairman, this amendment has also been accepted by both sides, it is my understanding. The purpose of the amendment is to make clear that the section is not intended to authorize a Federal agency to order the consolidation of State and local agency proceedings with its own. The amendment does not prevent, however, and presumably this would continue to be done, voluntary consolidation by State and local agencies of their proceedings with those of Federal agencies if any requirements governing State or local acts permit or require it.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I am agreeable to the amendment. We have discussed it and we find that it is acceptable.

Mr. MAGUIRE. I thank the gentleman.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, on this side we agree to the amendment.

Mr. MAGUIRE. I thank the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I just wanted to ask the gentleman to describe the impact of the amendment.

Mr. MAGUIRE. I just attempted to do that. The amendment simply alters the language so that it is clear that a Federal agency may not come crashing down on a State or local jurisdiction and order a consolidation of a hearing process; for example, telling the people of the gentleman's State or his county that they have to appear in Washington for a consolidated hearing.

But, to the extent that local and State laws permit it, local agencies would still be able to consolidate with Federal agencies on a voluntary basis. Of course, the language would continue to apply to Federal agencies in terms of consolidation of Federal proceedings.

Mr. BROWN of Ohio. The language is currently optional, is it not, in the legislation?

Mr. MAGUIRE. It is unclear.

Mr. BROWN of Ohio. I read the language on lines 9 and 10, "* * * any Federal agency may * * *." It seems to me that makes it quite optional.

Mr. MAGUIRE. But it leaves it entirely to the discretion of that Federal agency, which would mean that if they made a decision that they will in fact come crashing down on a local jurisdiction without that jurisdiction being able to do anything about it.

Mr. BROWN of Ohio. Is this foreshortening the State and local agency decisions?

Mr. MAGUIRE. It does not foreshorten them.

Mr. BROWN of Ohio. So it in effect slows up the fast track? I am trying to get at what the purpose is.

Mr. MAGUIRE. The reason both sides have agreed to this is that it does not slow up the fast track, but clarifies the intent of the legislation.

□ 1210

The amendment is in conformity with the intent of the drafters of the legislation, but it was felt in discussing this that it needed to be clarified, and the amendment has been accepted.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding. We agreed with the basic language as the gentleman has read it, that it was optional in the legislation, that is, we simply agreed to accepting this amendment because it carries out and clarifies what we propose to do.

Mr. BROWN of Ohio. If the gentleman will yield, it looks at State and local agencies from this optional action by the Energy Mobilization Board, is that correct, or by the Federal agencies? Is that not correct?

Mr. CLAUSEN. I do not see that.

Mr. BROWN of Ohio. Perhaps I am too naive to just get up and ask these questions to try to find out what the amendment does. If it has been accepted to the Udall-Wirth bill, I suppose I should have no interest in it, but perhaps those people who have to vote on the Udall-Wirth bill as a substitute for the Commerce Committee bill might like to know what it does, and I was trying to find out.

Mr. MAGUIRE. I might say to the gentleman the amendment is before him. It has been explained. If he prefers to vote against it, he may do so.

Mr. BROWN of Ohio. I intend to, I think, from the explanation I have been given because when I do not get an explanation, I do not like to see something put in legislation without it having been made clear. Perhaps the gentleman from Arizona (Mr. UDALL) could make it clear to me, if the gentleman from New Jersey would yield further.

Mr. MAGUIRE. I would be happy to yield to anyone who wants to contribute to the discussion.

The CHAIRMAN pro tempore (Mr. GLICKMAN). The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 12, noes 9.

So the amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 4, line 11, strike "an energy project, or".

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD in accordance with the rule?

Mr. MAGUIRE. Yes, it is, Mr. Chairman.

Mr. Chairman, I do not intend to press this amendment because I understand that the gentleman from Arizona (Mr. UDALL) has a clarification of his intent. I would like to ask the gentleman from Arizona about the definition in section 102(7) of a priority energy project. As the gentleman knows, the definition in the Udall-Clausen-Wirth bill differs from the Commerce Committee definition in that it is broader than a "proposed energy project." I assume the gentleman intends this to cover projects which may have already begun the permit process but, before completing construction, may encounter procedural delays which would spur an applicant to seek priority energy project status.

I would like to ask the gentleman, is that correct?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Arizona.

Mr. UDALL. Yes, that is correct. Because the definition of proposed may be somewhat vague, we wanted to assure that facilities which may be somewhere

beyond the initial conceptual phase but before the final construction phase would receive consideration under this legislation.

Mr. MAGUIRE. Then am I also correct in understanding that the gentleman does not intend the broader language in section 102(7) to apply to facilities which will have completed construction at the time of enactment of this legislation?

Mr. UDALL. The gentleman is correct. It is not our purpose to cover such facilities. I hope in the light of this the gentleman will ask unanimous consent to withdraw his amendment. We have it clarified.

Mr. MAGUIRE. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. BROWN of Ohio. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. MAGUIRE)?

There was no objection.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. Was this amendment printed in the RECORD?

Mr. MAGUIRE. Yes, it was, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 24, line 16, after "argument;" insert "or".

Page 24, strike lines 17 through 20.

Page 24, line 21, strike "(6)" and insert in lieu thereof "(5)".

Page 24, strike lines 23 through line 7 on page 25.

Page 25, strike "(c)" and insert in lieu thereof "(b)".

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I do not intend to press the amendment but rather engage in colloquy.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MAGUIRE. Mr. Chairman, I would like to clarify with the gentleman from Arizona the intent of the language on pages 24 and 25 of his bill relating to the role of presiding employees at Federal agency hearings in the agency decisionmaking process. I am concerned that this section should not be construed to mean that agencies may ignore the substance of a hearing record or the views of the presiding officer regarding that record.

Mr. UDALL. If the gentleman will yield, the streamlining procedures in this bill, of which this is one, are vital instruments to achieving the purposes of this act. However, we do not intend that a presiding employee should be cut out of the agency decisionmaking process, or that an agency decision should be made without due regard for that employee's analysis of the record. The schedule adopted by an agency under the bill should permit adequate review and analysis of all relevant issues in a proceeding and we recognize that the active involvement of a presiding employee is essential to that process.

Mr. MAGUIRE. Let me further inquire if the gentleman's intent in section 211 is to allow agencies to begin their review of a priority energy project before a presiding officer completed his or her analysis?

Mr. UDALL. That is correct. We wanted to allow for concurrent review without interfering with the work of the presiding officer.

Mr. MAGUIRE. Mr. Chairman, in light of this clarification, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey.

There was no objection.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD in accordance with the rule?

Mr. MAGUIRE. Yes, it is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 5, line 1, strike ", from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board."

Mr. MAGUIRE. I do not intend to press this amendment either. Obviously all of us want qualified persons appointed to the Board, but I wanted to ask the gentleman from Arizona (Mr. UDALL) as to his intention with regard to whether persons would be deemed qualified if they had energy industry backgrounds, or whether the gentleman had in mind a broader definition.

Mr. UDALL. If the gentleman will yield, this issue has come before us in a number of ways, and the gentleman from New York offered an amendment which said one of those slots is reserved for somebody who is an environmentalist or has an environmental background. A suggestion was made that somebody from the oil industry or energy industry ought to have a seat carved out for them. Our position has been to resist all of this earmarking of seats on the Board and to leave to the President the job of getting well-rounded, fair, public-minded kinds of citizens to do the right job and not be bounded by legislation that spells out particular backgrounds and that sort of thing. So I think the gentleman's amendment would be a step away from what we are trying to do. I would hope the President in making these appointments would get the kind of outstanding people everyone could have confidence in.

Mr. MAGUIRE. I thank the gentleman for that clarification. I do not intend to press the amendment and, Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. Is the amendment printed in the RECORD in accordance with the rule?

Mr. MAGUIRE. It is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 17, line 20, after "located" insert: "or which is contiguous to any such state and is likely to be substantially affected by the discharge of any contaminants, pollutants, or emissions, as determined by the Board".

Mr. MAGUIRE. Mr. Chairman, it will be recalled by the Members that yesterday we defeated an amendment which would have added a voting member to the Energy Mobilization Board from areas that might be affected by a specific energy project under consideration by the Board. It was fairly widely felt in the House that that amendment went too far. This amendment simply allows some flexibility on the part of the Board itself with respect to the designation not of a whole bunch of people but of somebody who has a substantially affected interest and is contiguous, and it would be a nonvoting presence. The Board itself would be completely in control of the situation in terms of whether it wished to make such an appointment or did not wish to make such an appointment. So I would hope that we could give the Board that additional flexibility, not an additional vote they would have to deal with. But an additional person, if they felt that a contiguous area was substantially affected, could then participate in the discussion.

Mr. UDALL. Mr. Chairman, will the gentleman yield to me?

Mr. MAGUIRE. I would be happy to yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding. I have resisted similar amendments to this part of the bill. I know the gentleman is well intentioned, but affected States, if you are in the Midwest somewhere, might be 5 or 6 or 7, and instead of a 5-man Board, you in that particular case would have a 10-man or an 11-man Board.

□ 1220

The fact they do not vote but still are members I do not think cures the problem.

Mr. Chairman, we think we have a procedure in which all of the States in

interest that are affected will be brought into this fast-track process, and I really think it is a little awkward and too complicated for me to add a provision of this kind. I hope the gentleman will not press it.

Mr. MAGUIRE. I thank the gentleman for his comment. I understand the gentleman's feelings. I do not think as a practical matter we would be dealing with five or six additional people, I think we would be dealing with one or two in most cases. There are not that many States contiguous to other States, and I would hope we could give the Board this additional flexibility.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

Mr. Chairman, I believe that the arguments for the Udall substitute are inherent in the letter put out by the proponents of the Santini-Lujan Commerce bill, in behalf of the Santini-Lujan Commerce amendment and bill, and I will not repeat them.

I want to say, I look up in the House and see these giants who have led this House in great environmental legislation, the chairman of the Committee on Interior and Insular Affairs (Mr. UDALL), the chairman of the Energy and Power Subcommittee of the Committee on Interstate and Foreign Commerce, the gentleman from Michigan (Mr. DINGELL), and I want to thank them for all they have done in the past.

However, I must follow in the footsteps of a great predecessor in Oregon, Senator Wayne Morse, because I know he would have wanted me to come on the floor now and say that this legislation is all wrong.

Mr. Chairman, I heard yesterday that in World War II we had a mobilization board and we went to bat. Think about the fact that we at that time used one-tenth the energy in this Nation we use today. Think that Germany, with its synthetic fuel plants, mobilized to the hilt, produced 50,000 barrels of synthetic fuel a day in World War II, one-fourth of 1 percent of the amount of oil that we use in this country today.

A distinguished Member said yesterday we were paralyzed.

Mr. Chairman, I do not imagine how we could say that. We use, waste, throw away one-third of the world's energy. Is that paralysis? Actually, it is a paralysis of gluttony. An obese glutton stuffing himself with food has a food shortage? The very gluttony is our problem, not the production of energy.

Mr. Chairman, if we continue to use energy in the fashion we do today we are heading to bankruptcy. We will destroy our dollar and our economy.

Mr. Chairman, once before there was a great peak in our economy and it brought about the 1929 crash caused by arrogant greed. Ten years ago the environmental movement hit a peak with the passage of the National Environmental Protection Act. The industrial counterattack set in and now we are seeing the peak of that counterattack against our environmental laws in this legislation we have before us today.

The powerful corporations, the arrogant economic aristocracy which dominates this Nation, want to produce energy, which we will turn around and waste. And damn the cost to our people, damn the inflation it will cause, damn the laws that now check their excess and restrain these corporate giants from their rampant greed.

Mr. Chairman, these corporate aristocrats are like the giveaway boys of the 1950's who tried to give away our public domain lands. They are at it again. They are giving away our paychecks, giving away our environment, and now, with this legislation, they are giving away our Constitution, giving away our checks and balances.

This, Mr. Chairman, is confused and dangerous legislation. It should all be defeated.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret at this time asking the Members to take more time after all this debate to help one Member make a decision on how to vote. At this time, as I stand here in the well, I have not made up my mind. I must admit that when I started and this legislation was brought to the floor and consideration began, I was supporting the Udall-Wirth bill. I am not saying at this time I am not supporting it but I do have a couple of questions that are very vital to me and I would ask that the appropriate Members on either side perhaps can respond to me.

Mr. Chairman, I have a letter I just received addressed to Members of the House of Representatives from the National Association of Counties, the National Conference of State Legislators, the National Governors' Association, the League of Cities, and the U.S. Conference of Mayors. One section of it is the section that concerns me and I would like to really find out what is the answer. I quote from the letter:

Although the Santini amendment was designed to limit waivers of State and local laws in order to cure constitutional defects in the Commerce bill, it still retains this waiver for State and local laws enacted after an energy project decision schedule has been established.

Mr. Chairman, I would like to ask, What does that mean at this point? Does that mean that State and local laws can still be waived with the Santini amendment?

Mr. LUJAN. Mr. Chairman, will the gentleman yield to me?

Mr. PEYSER. I will be glad to yield to the gentleman from New Mexico.

Mr. LUJAN. I will be glad to answer that question for the gentleman. First of all, the flat statement that any State and local laws cannot be waived is correct. There is a grandfather clause in the amendment that says that once a project has been designated as a priority energy project and it is moving along, you cannot then pass a law to immediately halt it. There is a grandfathering in of that to give that particular project time to overcome the difficulties that it is having.

Mr. PEYSER. Mr. Chairman, I thank the gentleman. That explains it to me, many other Members may have understood that, but I did not.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I will be happy to yield to the gentleman from Texas.

Mr. ECKHARDT. I do not believe that the Santini amendment affects the right of EMB to suspend, under the circumstance that you have described, State and local laws, except to the extent that the Cheney amendment dealt with the question of water, because section 186 specifically refers to and excepts from waiver certain provisions of law relating to water, civil rights, antitrust, and such things. But it does not except these from suspension provisions. That is one defect I think needs correcting in the event that the Udall substitute is not adopted.

Mr. Chairman, I think the gentleman has put his finger on an extremely important point. Though State and local laws are removed from the waiver proposals, the suspension proposals still embrace them except to the extent that the Cheney amendment protects water.

□ 1230

Mr. PEYSER. Mr. Chairman, I thank the gentleman for his explanation.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I will be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I have great affection for the gentleman from Texas and it always pains me when I differ with the gentleman; but the language of section 186 is crystal clear. The title reads as follows:

Prohibition Against Waiver of Certain Rights and Laws.

The language of section 186 reads as follows:

"Sec. 186. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 183 contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

The language is quite clear.

Then to add what was pointed out by my good friend and colleague, the gentleman from New Mexico (Mr. LUJAN), an author of the Santini-Lujan amendment, to say as follows:

That for laws enacted after the establishment of the project decision schedule, but before commercial operation of the facility begins, a waiver may occur, but only until such time—

First of all, only if that law is a substantial impediment to implementation of the project.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. PEYSER) has again expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. PEYSER was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, I point out that under the Commerce Committee bill the suspension may be for only up to 5 years provided the energy priority project makes a good faith effort to comply with the law, and that is the only instance in which that may occur.

Now, I would point out further that under the Wirth-Udall bill, the Board may suspend under similar circumstances for up to 5 years any Federal, State, or local requirement, which has been enacted or promulgated after commencement of the construction of the energy project if the Board finds that such requirement would delay timely completion or operation of the project and such suspension poses no problem insofar as public health.

I think that sets the matter to rest.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I would be glad to yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman from Michigan very correctly reads the language and if the gentleman in the well notes the language of the amendment he would note that waivers would not apply under certain conditions, but the exceptions do not refer to suspensions. The term waiver is used to the exclusion of suspension.

What happened was that in the Santini amendment a new type of process was added to the bill dealing with suspensions and section 186 was not corrected to include both waivers and suspensions.

Besides that, the provisions of the Santini bill do not permit judicial review in the suspension field of anything other than action exceeding constitutional authority.

Now, let us assume, for instance, that a suspension does not exceed constitutional authority, but is granted for 5 years where the project suspension would only call for a shorter period of time to comply with substantive law. There is no way to go to court to enforce the conditions of the Santini bill, unless an unconstitutional situation could be pointed out.

I respectfully disagree with the gentleman from Michigan, though I appreciate the gentleman's great respect for my ability to interpret the law.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I would be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I regret to say that the gentleman from Texas is confused on this matter. In the gentleman's confusion, the gentleman may sow confusion in the House.

I would regret to have the legislative history on this matter or a matter as important as this be confused.

The hard fact of the matter is that the word "waiver" is to be construed broadly. It includes complete waiver or it includes a modification, alteration, or suspension and that is the intention of the committee. That is the language of the committee report and the gentleman is in error.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. PEYSER) has again expired.

(By unanimous consent, Mr. PEYSER was allowed to proceed for 2 additional minutes.)

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I would be glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, it is so hard to find an undecided voter around here, that when the gentleman professed to be one, I thought I had better get up and get in the act in here.

There is one other thing that we ought to be aware of here. The Santini-Lujan amendment, which was agreed to, has a hooker in it. It takes away any power to override or suspend or waive State and local laws; but we have developed a pattern of laws, I have some of them here, the Toxic Substances, the Clean Air, the Clean Water Act, Surface Mining, Coastal Zoning, where we have said to the States, "If you want to administer the law with your own State laws and regulations, you may do so."

All right, the language in their amendment talks about Federal requirements and Federal requirements would be included in the kind of things I have talked about, which could be overridden, which could be waived; so while they tell you we are giving you a lot of ground here, we are making it impossible to override State and local laws, there are a lot of them they will be able to override under that provision.

Mr. PEYSER. Mr. Chairman, I thank the gentleman and all the gentlemen and the chairman for their enlightenment. My concern has been that we do not override the State and local governments in their laws and we do not have a legislative procedure that simply can wipe them away.

My understanding that the gentleman from New Mexico gave me was that the State and local laws are protected in this situation. There is evidently a question under certain circumstances as to whether the suspension of these laws can be enacted or carried out for a certain period of time, which is an element, frankly, that I honestly had not even considered until the gentleman brought it up.

I will struggle with that decision myself.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. PEYSER) has again expired.

(By unanimous consent, Mr. PEYSER was allowed to proceed for 1 additional minute.)

Mr. PEYSER. Mr. Chairman, I will struggle with that situation myself and try to reach what I hope is a sound conclusion.

There is one other question and I do not want to delay the time here, but there has been this question of time. I direct this to the gentleman from Arizona. It has been repeatedly stated about this 5 years or 5½ years. I am trying to find out, is this real, is this really a situation that is facing us or is it not? That is what I really do not understand.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, what has happened here is that a junior lawyer took the proposed bill and assumed that all judges were idiots, that lawyers were lurking in the corridors, that old ladies with tennis shoes were abroad in the land and every conceivable delay and every conceivable decision was appealed, something like 5 years; but the truth is that our amendment takes 120 days. That is the truth. That is the judicial review period. It goes to the court of appeals and they are required to respond and to rule within 120 days.

You can take the Supreme Court from there if you want to, but the court turns down about 90 percent of all the appeals for review. The Supreme Court acted in 15 days on the Pentagon Papers case.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, an issue has been raised on which I would like clarification about the Santini-Lujan amendment. I would like to ask, if I might be able, to direct a question to the author of that amendment, the gentleman from New Mexico (Mr. LUJAN).

As I understood his amendment, there would not be a waiver of State law permitted. My question is, if the State law was pursuant to or in implementation of a Federal law, such as the Clean Air Act or the Clean Water Act, would the prohibition against waiver of a State law apply to those State laws that have been adopted pursuant to Federal direction?

Mr. LUJAN. Mr. Chairman, if I understand the gentleman correctly, the gentleman's question is would a State Clean Air Act be subject to waiver under this bill, even if it was mandated by some other Federal law.

Mr. WAXMAN. That is correct.

Mr. LUJAN. The State Clean Air Act could not be waived under the provisions of this act.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for that clarification.

Mr. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to congratulate my colleagues on the Interstate and Foreign Commerce Committee, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN), for presenting an effective debate and would also like to commend my colleague from Colorado (Mr. WIRTH) and our distinguished chairman of the Interior and Insular Affairs Committee (Mr. UDALL) for their diligent effort.

The debate has served to move us closer to agreement on a proper vehicle which will enable us to "fast track" energy projects. The debate has also served to highlight a very real culprit, overregulation. It is clearly in the interests of our Nation to move ahead quickly with the development of our energy resources and to cut through the maze of redtape which has slowed this process.

The central issue in our debate appears to be the effectiveness of the decision enforcement mechanisms in the two bills.

As my colleagues know, the Udall-Clausen-Wirth bill uses the courts to enforce deadlines. Only when the court

fails does our bill use the so-called bump-up procedure.

We do not believe that our method will cause any undue delay and, in the final analysis, we believe it will get the job done faster than the method outlined in the Commerce Committee bill.

The court method is a tested procedure which does work. The immediate bump-up in the Commerce Committee bill is likely to be challenged on constitutional grounds, and may never be used, or could cause delay.

One important point which has been overlooked is the fact that under our procedure the EMB does not have to wait until a deadline has passed to act. The Board can act before the deadline is reached if it believes such action will further speed up the process.

We also direct the court to act quickly and if they do not act to order a decision within 120 days after the deadline is missed, then we can take stronger action by allowing the President to make the agency decision.

Our method is fair and reasonable. It also is effective.

Our bill is also unique in that it contains a streamlining procedure which the Commerce bill does not address at all. We provide a means whereby agencies can consolidate hearings, replace formal trial-type hearings with legislative-type ones, and skip levels of review within an agency.

Our bill places a cap on the number of personnel which can be hired by the Board. We are concerned about the possibility of creating a new layer of bureaucracy. Our bill prevents this.

The fundamental theme of our bill is to provide an Energy Mobilization Board with the authority and flexibility to speed decisionmaking on key energy projects while preserving the rights and responsibilities of our States.

I would like to bring to the attention of my colleagues an extraordinary recent example of why we need "fast track" legislation.

As you will recall, the Alaska Natural Gas Transportation Act of 1976, Public Law 94-586, gave the President the authority to select the route by which Alaskan natural gas would be delivered to the lower 48. The President's decision mandated the all-land pipeline and construction of a western leg to bring the gas into California and other Western States.

The Alaska Natural Gas Transportation System sponsors propose to "prebuild" portions of the eastern and western delivery legs to carry some Alberta-source gas temporarily surplus to Canadian needs, in advance of Alaskan gas deliveries. The plan, which includes the early delivery of 240 million cubic feet of gas to southern California over prebuilt portions of the western leg and connecting systems, is going through the hearing process at the Federal Energy Regulatory Commission. Witnesses before our special Oversight and Investigations Subcommittee recently testified that the FERC hearing process with regard to the western leg prebuild was almost completed, all of the Western delivery system sponsors' evidence having been filed in support of the proposal. We were heartened by FERC Chairman Curtis' statement that the Commission hopes and intends to issue its decision on the western leg prebuild by the end of this year.

Now that picture has radically changed: The FERC staff has just announced that it is seeking to file, more than 2 months after the time designated for the filing of any further evidence by staff, some new testimony by a staff witness which suggests doing away with western leg prebuilding altogether in favor of the previously discredited FERC staff idea requiring Western consumers to rely upon "displacement delivery" of natural gas from Eastern U.S. pipelines rather than on direct delivery of the gas into the Western States over the new western leg facilities.

I am distressed that FERC staff would at this late hour try once again to sever the western leg from the Alaska Natural Gas Transportation System. The stipulation in the Alaska Natural Gas Transportation Act 4 years ago requiring a direct Western delivery system was a direct message to FERC staff that direct delivery was essential and that delivery by placement was unacceptable to the entire Western delegation in Congress.

This inexcusably dilatory filing by staff will, if allowed, almost certainly dash any hopes of the FERC's reaching a decision on the western leg prebuild proposal by the end of this year.

This type of bureaucratic delay is what we are attempting to avoid by passage of a "fast track" bill. I strongly urge my colleagues to vote for the Udall-Clausen-Wirth substitute.

□ 1240

The CHAIRMAN pro tempore (Mr. GLICKMAN). The time of the gentleman from California (Mr. CLAUSEN) has expired.

(By unanimous consent, Mr. CLAUSEN was allowed to proceed for 3 additional minutes.)

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman from California for yielding.

Mr. Chairman, a few minutes ago we had a discourse, to establish on a little legislative history, involving the gentleman from New Mexico (Mr. LUJAN), the gentleman from Ohio (Mr. BROWN), the gentleman from California (Mr. WAXMAN), and the gentleman from New York (Mr. PEYSER). Despite the legislative history they established, I think that we cannot ignore what the language plainly indicates, and if I could, I would refer the Members to section 185(d)(1), which comes to us via the Santini-Lujan amendment. I will quote that language, and I will shorten it to bring out the essential parts of it:

> The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation * * *

And then the language describes two actions the Board can take. One in subsection 185(d)(1)(A), is a suspension of the application or a suspension of local and State law.

The second action the Board can take under subsection 185(d)(1)(B)—and this is an important point as well—is to "submit a recommendation to the President that such requirement be waived in whole or in part."

So despite what we heard a few minutes ago, when we consider a local or State law that is enacted after the project decision schedule is established, there can be a suspension of the requirement, and, of course, there can be a waiver, and that waiver is subject to whether this Congress takes concurrent action in a 60-day period covering committee and floor actions of the Congress.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I would just like to add one caveat. I think the Energy Mobilization Board, regardless of which version we adopt, is just a step—perhaps only a small step—in developing energy independence for this country. I hope the public and the Congress will not be lulled into a false sense of energy security. Of the two versions, I do support the Udall-Wirth-Clausen approach.

Mr. Chairman, there can be no question that it is in the national interest to hasten the siting and construction of energy facilities. There can be no question that at least some of the delay we are experiencing can be attributed to numerous and complicated government regulations, although the extent to which this is a problem is certainly open to debate.

However, I find the whole concept of an Energy Mobilization Board most troubling. I am concerned about the concept of giving an Energy Mobilization Board powers that may alter the balance between our three branches of Government—the executive, the legislative, and the judicial, and I am especially concerned about taking steps which may well erode the powers and rights of our State and local governments. We are, after all, a nation of individual States, and I place a great deal of weight on their rights and the wisdom of their decisions.

In a recent Washington Post editorial, David Broder hit the nail on the head:

> The need to slice through red tape is recognized by everyone. The question is how to do it without creating a new center of arbitrary power in Washington and destroying the responsibility the Constitution gives States and localities for the welfare of their own citizens.

I find the concept of an Energy Mobilization Board troubling indeed, and I find that it raises many questions. Will the creation of yet another government agency solve any of our problems? After all, why do we have a Department of Energy? Will the kind of projects that

are likely to be expedited by an Energy Mobilization Board be the kind of projects we really need and want? Will creation of an Energy Mobilization Board encourage people to think that conservation, efficiency, and small-scale alternatives are no longer needed, just at a time when these options are attracting increasing interest?

There will be many, many amendments offered today, to both the Interior and Commerce Committees versions of this legislation, and the distinctions between the bills may become quite blurred.

However, in comparing the Udall-Wirth-Clausen substitute and the Commerce Committee bill including the amendment by Representatives SANTINI and LUJAN, I clearly favor the Udall approach. The key reasons are as follows:

First, the Udall approach limits both the number of projects which may be placed on a fast track, and the number of employees of the Board. I would favor even a lower limit on the number of projects, because I believe that only a very few are worthy of the special treatment afforded by the priority energy project designation.

Second, the emphasis of the Udall approach is on streamlining procedures, not circumventing laws and regulations. I am very much in favor of consolidating procedures, cutting redtape and the like, but when it comes to the waiver of existing Federal laws, or new laws at a Federal State, and local level the Congress should proceed most cautiously. While I recognize that under the Santini amendment, any such waivers require approval of both Houses of Congress, it is done so under a "fast track" procedure which allows only "up" or "down" votes at the committee level or on the floor. Congress always has the authority to override laws, but I think such legislation should be carefully scrutinized and move through all the normal channels.

Third, both the Udall and Santini approaches allow for the Board or the President to step in and make decisions in lieu of Federal, State, or local agencies when those agencies have failed to meet established schedules. But before taking that somewhat drastic step, the Udall amendment calls for judicial enforcement of a project schedule. I think that the use of judicial enforcement—the use of an impartial body to weigh the particulars of a given situation is—an important safeguard, especially where our State and local agencies are concerned.

Finally, I think it is important that when we give an Energy Mobilization Board the power to temporarily suspend the application of new laws at a Federal State, or local level that the Board should employ some strong standard to protect public health and safety.

It is my understanding that the Santini amendment—unlike the Udall amendment, in this particular case—grants the Board suspension authority which does not rest on a standard of public health and safety.

In conclusion, I must reiterate my concern with any fast track legislation. But, of the two versions presented here, I favor the Udall-Wirth-Clausen amendment because it emphasizes streamlining procedures rather than waiving laws, and it does so in a way that best safeguards the integrity of the three branches of Government at Federal, State, and local levels.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the substitute.

Mr. GRAMM. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1250

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the Udall-Wirth-Clausen substitute. I hope the Members will reject it. Not because it is a bad bill. I do not think it is a bad bill, and I do not think it is worse than no bill at all, as the general contractors or someone else is supposed to have said. I think it is an honest attempt to improve a bad situation. But I just do not think it is a good enough bill. I do not think it cuts sufficiently through the delays that have been crippling this Nation's attempts to achieve energy independence.

You can take any one of several positions. One or two Members, to my dismay and surprise, have come to the floor and have virtually said, "We do not need to do anything. Everything is just going fine." But I do not believe that. That may be an honest position, but I do not think it is an intellectually respectable position. Things are not going fine. We are dependent upon foreign sources for one-half of the oil that our Nation uses. We are at their mercy. What was a drain of about $8 billion in 1973 has escalated to an expected drain of $70 billion next year. Things are not going fine. We do need to do something.

Or you can take the position, perhaps, "Well, there is not anything much the Congress can do about it; the courts will just drag it out as they see fit and we are powerless to correct the delays." You can take that position if you want to. If I held that position, I would not want to be in Congress. If I did not think the Congress of the United States possessed the power to correct an obvious evil that is weakening this Nation, sapping our strength, adding daily to the inflation that eats out the substance of the American people—if I did not think we could do anything about it—I do not think I would want to be here. There would not be any point in it all.

Now there are two attempts to do something about it. The one attempt, the Commerce Committee attempt, undertakes to do more, and that is why I am for it. There might be a question asked, "Why should there be any opportunity at all for this Congress, in the case of an extremely important national energy project, to waive the application of any law?"

We do not waive State and local law. We preserve those sacrosanct. But why should we have that opportunity, that option, with regard to Federal law? Let me tell you why. During a recent 2-year period, while the Congress of the United States was enacting some 500 public laws, the regulation-writing bureaucracy was promulgating some 10,000 regulations, each of which has the force and effect of law. It is those regulations and administrative interpretations, appended to and encrusted upon the laws of the United States, as often as not contrary to the intent of Congress, which are bogging down the vital efforts of this Nation to make itself energy sufficient. These are the Federal legal impediments which we shall need the means to waive on occasion if necessary projects are to get done.

□ 1300

Some few Members have sought to minimize the cruel reality of delays. They saw we have exaggerated the evil. No delays? Let me give you a few examples:

We tried to make a fast track as best we could under the laws then, existent out of the Alaska pipeline. It was absolutely vital to the Nation. The best estimate is that, notwithstanding that determination on our part, the intractable efforts of those who salivate to slow down progress, to have no development, to create a no-growth policy in this country, abetted by their rights to the courts, slowed that project down by at least 4 years. That needless delay resulted in the cost of at least $3 billion more to the American taxpayer.

Is that all right? Is that good enough? I do not think it is.

Let me give a few more examples: 14 years have elapsed—14 years—since Consolidated Edison won official approval by the Federal Power Commission to build a generating plant at Storm King Mountain in New York—14 years.

Those who opposed the growth, saying then that they thought it would be better if they had nuclear plants, dragged it out and dragged it out. There were court cases and administrative delays. It has not been started yet—14 years after its approval. I do not think that is good enough. I think we have to do something to stop that kind of interminable delay.

Six years have elapsed since refinery projects were proposed in Maine and Virginia. They have not been started yet.

Six years have passed since Montana utilities began seeking permits for a coal-fired powerplant, and it has not been started yet.

At the end of 1977, 938 lawsuits had been filed against energy projects in the United States under the National Environmental Policy Act alone.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. WRIGHT. Sixty of those project sponsors finally just folded up and quit, because they decided it was too long a road, and cost too much money to fight it out through the courts.

Are we willing to let that happen to this country? While we are letting that happen, our cost in foreign energy is escalating. Foreign countries that are not capable of running their own affairs are quite capable of disrupting ours. They are blackmailing us. We have been publicly threatened by Nigeria, which supplies us about 1 million barrels a day. If we did not take the position they wanted us to take with respect to recognition of Zimbabwe-Rhodesia, they said they might find a way to withhold their oil from us. Yasser Arafat has threatened an Arab boycott unless we negotiate with the PLO.

We have made ourselves that vulnerable. I have a quarrel with any nation anywhere in the world which thinks we are so slavishly dependent upon their oil that they can blackmail us into foreign policy positions that are not our own. Yet that is the position we are reaching unless we take dramatic action on energy.

Will we get ourselves out? Every day we delay, our plight becomes more difficult and our world situation weakens. Three years ago, in 1976, we decided that the Alaska natural gas pipeline ought to be a priority project. It has not been started yet. The Department of Interior and the Federal Energy Regulatory Commission have not even been able to decide the diameter of the pipe or at what pressure it will operate or whether it will be elevated or conventional—and 3 years have slipped by. Every day of delay on that pipeline costs the American consumers $3 million. Its delay is costing us a billion dollars a year. Is that all right? I do not think it is all right.

I think we need the strongest possible fast-track bill. We must say not only to the American people that the Congress is capable of addressing this serious problem and working our way out of this morass, but we must say also to the world that this democracy of ours still is capable of producing and making this Nation energy sufficient again.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my friends, the majority leader, is one of the great people in this institution. I met in his office a few months ago and we talked about this national paralysis.

I am just as mad as anybody about these delays. There is no reason why we cannot say yes or no to energy projects quickly. There is no reason why we cannot say to the American people that help is on the way, that we have got a consensus that the Government is going to start working with the private sector, and we are going to do something, not just on the conservation side of the energy problem, but on the supply side as well.

I think the American people want action and they want it now.

The question is how do you go about it? Members have got a choice to make in a few minutes. What kind of an approach are we going to take? I think both are well-intentioned and both have some logic behind them.

Let me tell my colleagues about a couple of the key differences before they vote. Our bill says, yes, you can override State requirements or local requirements, or you can override Federal requirements of these Federal laws, but you do it only on procedure.

If the State of Kentucky has a procedure which says you take 6 years to make a decision on a coal gasification plant, we say, "Make it 6 months or 6 weeks, instead of 6 years." We deal with procedure. We take that position deliberately. We think you ought not repeal all of the environmental, health, and safety laws of the last 20 years on a piecemeal basis and dismantle them one by one.

We say, let us stay away from substance. Let us respect the States. Let us respect the committees of Congress which have developed and secured enactment of the Federal laws. Let us respect the local county governments and let their laws stand as much as we possibly can. But the Commerce Committee substitute goes quite the other way.

The majority leader expressed that position very well. It is a legitimate position to take. I respect people who take it. They say, "We are going to get this plant built, and we do not care what stands in the way." The steamroller is moving. If a State has got a coastal law—like California or Florida and a Member is proud of it and it took 10 years to negotiate it out—too bad, friend, some nonelected bureaucrat is going to be able to say, "Your law is not adequate, get out of the way." It goes to Congress finally, but I think this Congress has got enough of a workload today without having literally hundreds of these things referred to us.

We put a limit on the number of priority energy projects in our substitue. I started out with six. I said, "Let's get six big ones a year and move them." We went to 25, and now we are at 75. The other bill has an unlimited number of projects that can be put on the fast track.

We limit court review, and they do not.

Now there is a feeling around here that somehow we build a judicial monster here that is going to go on 5 to 7 years, and that the Commerce Committee substitute does not have any review problem.

Let me tell the Members something. There is not any way we are going to stop people who are angry, under the U.S. Constitution, from seeking judicial review.

The Commerce Committee bill is going to have judicial review if we pass it, only it is going to be uncoordinated and not very effectively focused.

We deal with the judicial review problem directly. Our time is not 7 years. Our time is 120 days. The Fuqua amendment adopted yesterday addressed this problem.

Mind you, these lawsuits we talk about are lawsuits by the expediter, the Federal Government, against the Governor, who will not say yes or no, or the State zoning board which will not say yes or no, or the coastal zoning board which will not say yes or no. Under the Fuqua amendment, we have a limit of 120 days. We have got a real formula in our bill.

Let me warn the Members what they are doing. If we say there are no limits to the number of fast-track projects we can have, we have really said everybody is fast track. I think we have learned that if everybody is fast track, nobody is fast track. We are going to create a huge bureaucracy. We limit it in our bill to 50 people down at this new Energy Mobilization Board.

If we let every coal mine, and every new powerplant, and every refinery on the fast track, a huge bureaucracy will be required—another layer in between the Department of Energy and the President.

□ 1310

You see, if you have unlimited override of State and local laws, and if you have no limit on the number of projects, then you are just going to be voting day after day, and week after week, to gradually dismantle the whole system of laws that we have struck for a balance. We debated for years and months about where the balance point is between getting clean water and clean air and our energy and resource needs.

I sometimes think the best ideas are simple ideas. Do not try to solve all of our problems with one bill. We tend to do this in Congress. We write a bill and we are going to get every last case when we would be doing well to get 95 percent of them. The same thing with clean air. Let us get largely clean air but not insist on unfairly going for that last 1 percent.

The idea in our bill is a simple idea. It says let us get an expediter like we had in World War II. Let us cut through redtape, knock heads together. If we need railroad cars when they are missing, if they are held up with a shortage of aluminum or steel, let us get to the steel plant and find out what is slowing things down and put some of the majesty of the U.S. Government behind what the majority leader is talking about. We want a decision.

We heard environmental groups come before our committee and they say that they have been given bum raps, that they did not mind having the decisions made, but let us have a fair process by which to force a yes or no decision in a reasonable time. What they fear and what the State and local government people fear is a congressional machine that will overrun and override State and local laws and decisions. That is why the Governors and the National Association of Counties, and the mayors, and the people on the other levels of government are unhappy about the Commerce Committee bill and, in most cases, are instead supporting our version.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(By unanimous consent Mr. UDALL was allowed to proceed for 2 additional minutes.)

Mr. UDALL. We have an expediter, and we have something else. We have a provision to combine things. If one environmental impact statement will do the job, why have five? The expediter, the Energy Mobilization Board, can combine environmental impact statements. They can shorten times—not change laws, but shorten times—and call everybody in and say that we are going to get a decision—yes or no—on this project. We say to the States if your law provides for 5 years, how about making that 5 weeks. Then you get it all laid out on a schedule, and the schedule becomes binding on everybody, and the only enforcement problem you get into is when a Governor will not decide. Then we have a process by which you can take him to court and make him decide. So I think we have the best approach.

Our approach does not undertake the job of piecemeal dismantling of State, local, and Federal laws. Our bill gives the Energy Mobilization Board the power it needs, and that is the way to go.

I urge the support of the Udall-Clausen-Wirth substitute.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the Udall-Wirth proposal.

Mr. Chairman, I will not take my full time because I recognize the body is ready to vote. But I think there are some things that have to be understood.

My good friend and colleague tells us that they can deal with the State procedure. That is correct, they can. There is no real, meaningful review either in the Congress or in the courts of that action. Under the bill of the Committee on Interstate and Foreign Commerce with the Santini-Lujan amendment there cannot be any override of State procedure or substance.

More importantly, what are the problems that exist here? The problems are not only there can be no decision, but the problems are that the decision is delayed and protracted.

But the worst problem is that even after the decision is made by the regulatory bodies of the States and the Federal Government, that oftime that matter then drifts into court where it resides for a period of time that is intolerable.

I think it ought to be recognized that the Udall-Wirth proposal sanctifies that process and assures these matters will drift into the courts and will stay there and reside there ad nauseum. It also insures that there will be further attacks on environmental laws and unfortunately they will be emasculated. We must have a safety valve to try to prevent such events.

I think there are some other points that have to be considered. A basic, fundamental principle on which this Congress has functioned in cutting red-tape has been to have the matter decided on the basis of a congressional veto. The Committee on Interstate and Foreign Commerce's bill converts litigation into substantive questions which are decided here by the people's elected Representatives.

We see to it that the matters come to the House and to the other body for an appropriate decision on a project-by-project basis so as to prevent wholesale dismantling of environmental and labor laws.

It should be remembered we have adopted the Santini-Lujan amendment to the Interstate and Foreign Commerce Committee bill. The Santini-Lujan amendment says that there will be no override of State substantive law and no override of the State procedure. The idea is to move these matters expeditiously and to see to it that the Congress does the things that are necessary to abate the litigation which has gone on so long over questions like whether we shall build a small hydro project, a refinery, or become more reliant on coal and alternative resources.

I read into the RECORD yesterday the administration's statement of the period of time that it would take for the issues to resolve under the Udall-Wirth proposal. Under the Fuqua amendment a period of about 2 years plus 30 days has been cut from that period of judicial review. There remains at this time the provision which requires the Board to resort to judicial review in the Udall-Wirth proposal. The administration says that it can take up to 5 years 5 months, even allowing for the reduction in time which we have made in terms of reducing the total overall amount of time consumed for judicial review by the Fuqua amendment, which was adopted with my support the other day.

I say when this Nation cannot decide questions of this importance in a period less than 5 years 5 months, we are in deadly trouble. The Nation imports 8½ million barrels of oil a day. The Nation is subject to having its energy supplies shut off at any moment by foreign action. We are literally being hemorrhaged white. We are exporting $70 billion every year because we cannot get energy sufficient.

I say to this country that it is necessary that we resolve these problems. I say that we should resolve these problems not only as to big projects, and having a limitation on the numbers, but by resolving them as to having little projects and to having conservation as well as production projects. If we go toward a limitation on projects we will have only the big projects resolved. If we go toward the approach of the bill of the Interstate and Foreign Commerce Committee, we will be able to resolve any kind of a question which resolves itself before the Congress as to whether or not a low head dam might be constructed on a small river, or whether or not we might go to some kind of new technology which might be relatively small in its total, immediate impact, but which might be enormous in terms of the ability to later conserve or to generate new energy.

I urge my colleagues to reject the Udall-Wirth proposal, accept the on Interstate and Foreign Commerce Committee approach, and let us go forward with the production of energy.

Let us provide the safety valve for our valuable and important environmental laws. Let us protect labor laws and occupational health and safety laws. Let us not be fooled into thinking that a weak EMB bill will stave off those who want to overturn these laws and go even further, namely overturn agency decisions.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the distinction between the bill of the Committee on Interstate and Foreign Commerce and the Udall-Wirth bill with respect to what constitutes "procedure" is not all that great, except that I think we have clearly demonstrated in our debate that the bill of the Committee on Interstate and Foreign Commerce operates on a faster track than the Udall-Wirth substitute.

But let me tell my colleagues what the bill of the Interstate and Foreign Commerce Committee does not do.

It does not, as the gentleman from Arizona has said, repeal laws. We repeal no laws. All we do is bring to this body, when it is necessary, the opportunity for the Congress to act, both this House and the other body, on any law that is going to get in the way of developing an energy project that we consider to be in the national interest. This bill, however, provides more than just congressional review of some portion of the law. It can even provide for modification of some regulation that somebody in the bureaucracy has decided follows logically from the basic law we passed, but which we may not agree with.

A lot of us have favored that concept of being able to address regulations when they get in the way of national interests. Are we at this juncture then going to say oh, no, we do not have the courage to do that, nor the judgment, nor the good sense?

Congress has already made some modifications of Federal requirements in the case of the snail darter, not because we wanted to, but because we had to. The Endangered Species Act permitted a fish a couple of inches long, with a dot behind its ear, as the inhibiter of a major energy project. The Commerce bill would have permitted Congress, on an expedited basis, to determine the need for a modification of that law because the bill refers to energy projects which are of a conventional nature, such as hydroelectric dams, as well as exotic projects.

A lot of Members on my side of the aisle, and I would like to address my remarks primarily to my side of the aisle, have suggested to me that, "Oh, well, what we really ought to do is go through all of this compendium of laws that we have and change all of the inhibiting laws."

□ 1320

Do you really think you can do that? Do you really think you will have a chance for that in time to address the energy problems with the present composition of the Congress and the chairman now in control of the committees? I do not have any illusions about that. My guess is that many of you do not

either. Major legislation changes is not one of the viable options that we have.

Now, if we are not going to do that, then the other question I have to ask you is, do you believe that there is an energy crisis? If you do not, then what difference does it make whether we pass anything? Of course, maybe we should vote for the Udall bill because it looks good, nice and cosmetic, and we can appear to have done something. We can go home and say, "We tried to address the energy crisis with the Udall bill. It did not work." Are you going to be proud of that? I do not think so.

I would suggest to you that you also know that I am not a bleeding heart.

Let me just say that the future of this country has to have energy if we are going to provide the jobs we need for a growing America. Most of us believe in that. If we do not have the energy, we are not going to have the opportunity to address the tragic reality of the 35-percent unemployment among black teenagers, and a general unemployment that is going to increase if our country does not have the opportunity to expand.

I am for conservation. I would say to a couple of my friends who criticized our approach here as not addressing conservation adequately, that if you want to conserve, I think we can get some energy sources from conservation. However, I have always been, and our side has always been, consistently for production. If we are for production, then we ought to be in favor of doing something about the things that get in the way of production; the lawsuits, the inhibitions of law, and the overzealous regulation writers.

If we do not have the courage for that, then we do not have the right to go home and make an address about our being among the leadership of the Nation.

I am not an alarmist, but remember that 40 percent of our imported oil—that is, 20 percent of our total oil use—comes from the Persian Gulf. We saw what happened when we lost 5 to 7 percent of our imports with the collapse of Iran. And yet, we do not have the courage to address this problem directly. How then, are we going to explain it to the American people if Saudi Arabia goes down and we lost 20 percent of our imports? Oh, we voted for the rationing bill so that we could ration the shortage. Is that what we are for as Republicans? I do not think so. Over 40 percent of that imported oil comes through the Strait of Hormuz. We have got problems in that part of the Middle East that a lot of us think ought to be addressed, but we are unwilling to address the need for production in this country by looking at some of our own laws and seeing what has to be done to keep them from stifling our energy growth.

I think that many of the energy projects would be basic ones. As I said, not all of these are exotic projects. Some are going to be basic things we need, such as refinery retrofitting, and hydroelectric projects.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. If we are unwilling to address the establishment of a refinery in this country because we cannot have that refinery built because it is inhibited by law or by lawsuits, then what are we going to do? We are surely not going to have any shale oil, because, let me tell you, 75 to 80 percent of all the shale oil is on Federal lands. The Federal land laws, which are interpreted by the people in command of the Government, prohibit us from doing anything with this shale oil development. What about building coal gasification plants? Well, maybe, maybe, unless somebody can think of some lawsuit or some regulatory barrier to stop that kind of a project.

I would suggest to my colleagues on my side of the aisle that if we really want to impress our constituents with our ability to step up and swing at the ball when we have a tough problem, we ought to vote for the Commerce Committee bill in this instance. This will show our constituents that we have the courage to address the problems of this country with firmness and in such a way that the country can progress, that we are not after cosmetic solutions, that we are not after populist positions, that we are trying to address our Nation's energy problems in a realistic way. I would urge you to support the Commerce Committee version of this bill and vote down the Udall substitute. Let us go on about the business of trying to produce the energy that our country needs for its future.

The CHAIRMAN. The question is on the amendment, offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute, as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. UDALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 215, not voting 26, as follows:

[Roll No. 622]

AYES—192

Abdnor
Akaka
Ambro
Andersen, Calif.
Ashbrook
Aspin
AuCoin
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Bellenson
Bereuter
Bethune
Bingham
Boland
Bolling
Bonior
Bonker
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chaney
Chisholm
Clausen
Clay
Coelho
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Deckard
Dellums
Derwinski
Dicks
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Evans, Del.
Evans, Ind.
Fazio
Fenwick
Findley
Fish
Fisher
Florio
Ford, Tenn.
Fowler
Fuqua
Garcia
Gephardt
Gilman
Gingrich
Goldwater
Goodling
Gore
Gradison
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hammer-schmidt
Harkin
Harris
Harsha
Hawkins
Heckler
Holtzman
Howard
Hughes
Ireland
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Lehman
Livingston
Lloyd
Long, Md.
Lowry
McCloskey
McDonald
McHugh
McKinney
Maguire
Markey
Marlenee
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Murphy, Pa.
Neal
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Paul
Penny
Petri
Preyer
Pursell
Quayle
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roe
Roth
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Simon
Smith, Nebr.
Solarz
Spellman
St Germain
Stack
Stark
Stewart
Stokes
Studds
Swift
Symms
Synar
Tauke
Thompson
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Waxman
Weaver
Weiss
Whitehurst
Williams, Mont.
Wirth
Wolpe
Yates
Young, Mo.

NOES—215

Addabbo
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Atkinson
Badham
Bafalis
Bailey
Barnard
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boggs
Boner
Brinkley
Brademas
Breaux
Brooks
Bouquard
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Cleveland
Clinger
Coleman
Collins, Tex.
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Devine
Diggs
Dingell
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fary
Fascell
Ferraro
Fithian
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Frost
Gaydos
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gramm
Grassley
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Hubbard
Huckaby
Hutto
Hyde
Ichord
Jeffries
Jenkins
Jenrette
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Latta
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Loeffler
Long, La.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McKay
Marks
Martin
Mathis
Mattox
Mazzoli
Michel
Miller, Ohio
Minish
Mollohan
Moorhead, Calif.
Motti
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
O'Brien
Pashayan
Patten
Pepper
Perkins
Peyser
Pickle
Price
Quillen
Rahall
Railsback
Ritter
Roberts
Robinson
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm

Stockman	Wampler	Wyatt
Stratton	Watkins	Wydler
Stump	White	Wylie
Taylor	Whitley	Yatron
Thomas	Whittaker	Young, Alaska
Traxler	Whitten	Young, Fla.
Trible	Williams, Ohio	Zeferetti
Ullman	Wilson, Tex.	
Volkmer	Wright	

NOT VOTING—26

Anderson, Ill.	Madigan	Runnels
Bowen	Marriott	Shumway
Collins, Ill.	Montgomery	Treen
Crane, Philip	Moorhead, Pa.	Wilson, Bob
Dickinson	Pritchard	Wilson, C. H.
Edwards, Okla.	Rhodes	Winn
Flood	Rodino	Wolff
Jones, N.C.	Rosenthal	Zablocki
Leach, La.	Rostenkowski	

□ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Dickinson against.

Mr. Anderson of Illinois for, with Mr. Jones of North Carolina against.

Messrs. McDONALD, GOLDWATER, and MITCHELL of New York changed their votes from "no" to "aye."

So the amendment offered as a substitute for the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BAUMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. BAUMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The amendment was printed in the RECORD according to the rule.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN to the amendment in the nature of a substitute: On page 51, after line 2, insert the following:

"(6) have the effect of contravening the will of the electorate as ascertained in any local or State initiative or referendum which was specifically related to the establishment of an energy project."

Mr. BAUMAN. Mr. Chairman, this amendment is virtually identical to an amendment that was adopted to the Udall substitute yesterday.

I offer the amendment today to the pending substitute of the Committee on Interstate and Foreign Commerce simply because I think that it embodies an important right that all of us should wish to protect. If this Federal energy board is to have the power to override various Federal, State, and local laws, it seems to me that the section which prohibits any waiver of certain rights and laws on page 49, section 186, should contain clearly the stipulation that this board should not have the power to override the will of the electorate in a given jurisdiction as it pertains to the establishment of any energy project.

Mr. Chairman, I have reference to situations in which a proposal has been made to establish, let us say, a powerplant or other facility and this has been met with local opposition. It could be opposition on a statewide basis.

In such a case a public debate then occurs and this may be followed by a referendum or initiative in which the voters are subjected to a campaign pro and con on this issue. Then they are allowed to have a vote in the primary or general election under State or local law. The outcome is either approval or disapproval. It seems to me that this Federal Board, if it is not to overturn various State and local rights and laws, should not be empowered to overturn the outcomes of these local or State votes I have described.

Mr. Chairman, my amendment would simply say that the Federal emergency board for this purpose could not issue any orders that would have the effect of contravening the local will of the electorate on a State or local basis, and I would hope that the very democratic gentleman from the State of Michigan would accept that.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. BAUMAN. I yield to my esteemed colleague.

Mr. DINGELL. Mr. Chairman, I think I understand what it is the gentleman is interested in but my real concern here is, it says, "would have the effect of contravening the will of the electorate as ascertained in any local or State initiative or referendum."

Would the gentleman tell me which referendums he refers to, those which occur prior or subsequently to the action of the Board concerning waivers of State or local laws under the grandfather provision or those which would relate specifically to the project or which would be general in character of the kind that might be involved. Let us say, in the adoption of a home-rule charter for a county or perhaps the adoption of a State constitution which might be inconsistent with the creation of the particular project but which might not deal specifically with that project? In other words, does the referendum to which the gentleman refers in his amendment deal specifically with the specific project or is it a broad general referendum which might refer to any kind of a project or to a specific project? Would the referendum have to be before or after the agency decision?

Mr. BAUMAN. Mr. Chairman, the gentleman has posed several questions. The first one I will refer to deals with the point of time. My interpretation as to the point in time when this provision, should it become law, would apply, would be simply that it could not contravene an order of this emergency board unless the local or State vote occurred prior to the issuance of the Board's order.

□ 1450

Mr. DINGELL. Mr. Chairman, if the gentleman will yield further, what the gentleman is saying. If the Board came forward with an order and there was a later referendum, that that referendum could not contravene the order of the Board.

Mr. BAUMAN. My interpretation would be that it could not subsequently subject the order of the Board to a referendum or initiative.

Mr. DINGELL. Mr. Chairman, if the gentleman would permit, I think there is one more point.

Mr. BAUMAN. I yield.

Mr. DINGELL. There is one more thing, that the recommendation of a Board or of an agency acting pursuant to or collaterally with the Board, am I correct in that appreciation?

Mr. BAUMAN. Well, I would have to defer to counsel on that, because I have not researched about other agencies acting on behalf of the Board. My amendment is addressed to the limitations contained in section 186, which pertains to the Board, as I understand it.

Mr. DINGELL. I think I understand the gentleman and we will have to deal with the question of whether other agencies would be involved.

I would assume that since the gentleman is not directing his attention to the Board, the gentleman is also not directing his intentions through the amendment at agencies which would be functioning essentially under orders of the Board in connection with the scheduling.

The referendum or initiative must be project specific. It must be precise and not general in nature. It must take place prior to any action by the Board to recommend a waiver under the grandfather provision.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. BAUMAN was allowed to proceed for 3 additional minutes.)

Mr. BAUMAN. So far as the effect in time, the gentleman from Maryland would have to say that it is his intention that this would not allow the Board or any agency acting on behalf of the Board to reverse a referendum previously held.

So far as the application to a specific energy project, the amendment would be strictly interpreted; that is to say that the amendment would apply only to a specific proposed energy project and not to any general prohibition in State constitutions or general laws of the State or local government unless they resulted from a referendum or initiative.

Mr. DINGELL. In other words, what the gentleman is saying, the referendum would have to be on a specific project, as opposed to being a general term that might be, for example, in some kind of a home rule charter for a county or some kind of a provision which might relate to a bond issue or something of that sort.

Mr. BAUMAN. What the gentleman is saying is that when in 1974 an overwhelming majority of the citizens of St. Mary's County, Md., voted against locating a petroleum refinery at the mouth of the Potomac, that decision could not be overruled by this Board subsequently.

Mr. DINGELL. I see.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, in light of the gentleman's support on that last vote, would the gentleman like me to speak for or against the gentleman's amendment? I will do either one.

Mr. BAUMAN. Well, I will say to the gentleman from Arizona that in view of the fact the gentleman did not keep his pledge to trick or treat at my house last night, I am not sure what value his support will have; but obviously in view of the outcome of the last vote, it will have much more value than my support for the gentleman's substitute.

Mr. UDALL. Mr. Chairman, let me say to my friend that the gentleman has a good amendment. The local people's decision where you spend money and have a referendum and debate it, and not some county court make a decision, but the people make a decision, I think it ought to have the extra dignity given by the gentleman's amendment.

Mr. BAUMAN. This is what I would call a democratic amendment and I thank the gentleman from Arizona.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. Yes, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, if I understand the amendment offered by the gentleman from Maryland, it is to prohibit the Energy Mobilization Board from designating as a priority energy project that, prior to designation of that project as a priority energy project, has been disapproved by a vote of the people of the particular community where the project would be located; is that correct?

Mr. BAUMAN. Community or State, yes.

Mr. BROWN of Ohio. Well, if that is the thrust of the gentleman's amendment, I see nothing wrong with the amendment and will support the gentleman in his amendment offered.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I am also concerned about the precise kind of situation here. As I detect it, the gentleman is referring to referendums which dealt with the specific project and the specific circumstances, as opposed to some general provision as the gentleman had indicated to me earlier; is that correct?

Mr. BAUMAN. That is correct unless the general prohibition was adopted by popular vote.

Mr. DINGELL. Mr. Chairman, I assume then that the gentleman is only trying to have this amendment be consistent with the actions that were taken by the committee earlier in connection with the Lujan-Santini amendment, and since the Lujan-Santini amendment eliminates action with regard to State and local law and overriding State and local law, the amendment would have limited effect. It could not affect recommendations to waive Federal law. It would only apply to grandfather-type waivers that relate to State or local actions.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. BAUMAN was allowed to proceed for 1 additional minute.)

Mr. DINGELL. Mr. Chairman, if the gentleman will yield further, I would assume that this is coextensive with that. Given that understanding as expressed in this colloquy, I have no objection to the amendment.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. Was the amendment printed in the RECORD according to the rule?

Mr. ECKHARDT. Yes, Mr. Chairman. It is the amendment which was printed in the CONGRESSIONAL RECORD, October 29, 1979, p. 29869.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the amendment in the nature of a substitute: Strike out page 46, line 1 and all that follows down through line 2 on page 51 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision; or,

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for finding on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(B)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(C) A recommendation may not be made under this subsection if the agency has made the agency decision involved at the time of such recommendation.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any fiscal decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of

the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirements will present such an impediment, the Board may in furtherance of the purposes of this part order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(d)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project, the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons of such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(e) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

"PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

"Sec. 186. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule establishing or modified by the Board under section 182 or 185(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

(b) No order by the Board under Section 185(c) may modify or impair in any way—

(1) any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives.

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) crimes based on common law, or

(D) civil rights laws;

(2) any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) any right or rights of any person arising under the Constitution of the United States;

(4) any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(5) the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

Page 45, line 6, after "182" insert "or 185(a)(2)(A)".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DINGELL. Mr. Chairman, reserving the right to object, I want to know what the amendment is, so I know which one we are addressing. The gentleman has had three amendments published and I am still not clear as to which this is.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield on the gentleman's reservation?

Mr. DINGELL. Yes, I yield.

Mr. ECKHARDT. It is the amendment that begins in the CONGRESSIONAL RECORD, October 29, 1979, p. 29869 at approximately the bottom of the first column.

Mr. DINGELL. Mr. Chairman, I will not object, but I am still having trouble finding it.

Let me just object for the time being and as soon as enough has been read so that I can identify it, I will withdraw the reservation of objection.

The CHAIRMAN. Objection is heard.

The Clerk will report the amendment.

The Clerk continued to read the amendment.

Mr. ECKHARDT. Mr. Chairman, I renew my request that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, and I will object, we are still trying to find the amendment.

The CHAIRMAN. If the gentleman would wait until the Chair puts the unanimous-consent request.

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard; but the Chair will first put the question and then the gentleman from California may object.

The gentleman from Texas asks unanimous consent that further reading of the amendment be dispensed with.

Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will resume the reporting of the amendment.

The Clerk continued to read the amendment.

□ 1400

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, do we know which one of the three amendments is being offered?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, the answer to that question is "Yes."

Mr. ROUSSELOT. Is it the two-page amendment or the one-page amendment?

Mr. DINGELL. It is a several-page amendment, a copy of which I have here.

Mr. ROUSSELOT. What is the page number?

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, it starts out on p. 29869, at the bottom of the first column.

Mr. ROUSSELOT. And it goes over to p. 29870? Are we talking about the same amendment?

Mr. ECKHARDT. That is correct.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. ECKHARDT) is recognized for 5 minutes in support of his amendment.

Mr. ECKHARDT. Mr. Chairman, this amendment acts on two sections of the bill: Section 185, previously amended by the Santini amendment, and section 186, which has some related questions that the gentleman from New York (Mr. PEYSER) was addressing before the vote on the last amendment.

The amendment has this effect: It strikes the language in the Santini amendment under (C) that gives the Board authority to make recommendations under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency. The amendment further strikes from the Santini amendment all language contained in (c)(1) providing for

the process by which such waivers of substantive Federal law are submitted for affirmative congressional action.

The reason for that is that by eliminating section (C) there would be no authority for waiving substantive Federal law.

The amendment has the effect of leaving intact all authority under the Dingell bill with respect to removing a matter from the consideration of the agency and taking it for consideration by the board where the board has not acted promptly. It does not change such provisions.

The amendment also has this effect: It also provides or preserves the Board's authority to suspend laws. However, the amendment adds additional protection to guard against abuse of the suspension authority.

As the Members will recall, the gentleman from New York (Mr. PEYSER) was raising a question in the well a moment ago as to what happens about suspension of State and Federal laws. I have stated that I believe that under the Dingell provisions of section 186, since we have specifically listed areas in which waiver of State and Federal law is not permitted like water, labor questions, civil rights, and so forth, and since only the waiver had been protected and the suspension language had been added later in section 185 by the Santini amendment, there would still be authority for the EMB to suspend certain regulations under section 185 even though certain regulation was immunized from waiver. This amendment also corrects that question.

Mr. Chairman, there has been some question raised by a story in the Washington Star this morning as to whether this amendment is favored by the President. The President, of course, had favored the general structure of the Dingell bill and felt that the Dingell bill only would give sufficient authority to accomplish the objectives that have been argued for here. I think that question is completely answered by a letter that I have received. The letter, dated November 1, 1979, and containing the address, "The White House," at the top, states as follows:

> DEAR BOB: I strongly support your amendment which would eliminate waivers of substantive Federal laws except for the power to grandfather projects against exceptional burdensome requirements imposed after the project decision schedule has been adopted. My own position is clear. I support an Energy Mobilization Board which can effectively cut through the procedural red tape, and I see no need for broad authority to waive Federal laws.
>
> I appreciate your help in securing a board which meets these tests.
>
> Sincerely,
>
> JIMMY CARTER.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(On request of Mr. DINGELL, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the distinguished chairman of the subcommittee.

Mr. DINGELL. Mr. Chairman, I thank my good friend for yielding to me.

Mr. Chairman, I am curious about this. As I detect from the gentleman's amendment, it strikes subsection (c)(1) and following language of the Lujan-Santini amendment, is that correct?

Mr. ECKHARDT. That is correct.

Mr. DINGELL. Mr. Chairman, as I detect further, the Lujan-Santini amendment, in subsection (c)(1) and following language is authority for waivers of, first, substantive law, is that correct?

Mr. ECKHARDT. That is correct.

Mr. DINGELL. And also it is authority for waivers of procedural law, is that correct?

Mr. ECKHARDT. Well——

Mr. DINGELL. Mr. Chairman, I will tell the gentleman that the answer to that is "Yes."

Mr. ECKHARDT. Yes, it is correct. The gentleman need not ask me if he knows the answer. I will agree that he is correct, however.

Mr. DINGELL. So, then, the answer is that this amendment would strike procedural and substantive waivers by the Energy Mobilization Board; is that correct?

Mr. ECKHARDT. Well, it depends on what the gentleman means by "procedural."

Mr. DINGELL. It is not too hard to just say "yes" or "no."

Mr. ECKHARDT. Well, it is too hard for me to say "yes" or "no" when I want to qualify my answer, and I intend to do so.

Mr. Chairman, if the gentleman will allow me to reclaim my time, I will say this: That what I have done here is stricken out first the provisions under (C) which give the Board authority to make recommendations under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency. So what we do under (C) is remove from the President the authority to make any waiver, substantive or procedural.

However, the gentleman's bill otherwise permits the placing of legislation on the fast track by removing from the agency's authority the determinations where the agency has not moved sufficiently rapidly. That is preserved in this amendment, but the waiver of substantive and procedural authority is removed.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has again expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would like to congratulate the gentleman from Texas (Mr. ECKHARDT) on his amendment.

I had hoped that this amendment would be considered prior to the earlier vote, because if this amendment had been adopted, I could have supported the Dingell version. I think this does leave in place the best possible procedure for fast-tracking legislation.

Mr. Chairman, I hope the amendment will be adopted.

□ 1410

Mr. ECKHARDT. I thank the gentleman for his support.

Mr. Chairman, I may say that I find myself in the same position. If this amendment is passed, I could support the legislation. And I shall support the legislation. If this amendment is not passed, in my opinion, the Dingell amendment as presently written provides for suspension without review of Federal and State law. This amendment corrects that question. It removes the authority to suspend all substantive or procedural matters other than those specifically defined in the Dingell amendment, which specifically defined areas are the ones that permit the removal of an authority from an agency that has not moved in accordance with law, and also those restrictions which impose deadlines which become unreasonable, that is, the provisions permitting a project decision schedule. These specifically permit certain procedural waivers.

I think that we have here a compromise that perhaps may bring us together on a very difficult question.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in some distant Presidential campaign I remember a slogan, "Bring us together." And this characterizes the amendment that is now before us.

A number of colleagues have commented how the processes work. We started out over here and the Commerce Committee there, and we have gradually worked to where the differences are much smaller. I find myself in the same place as my colleague, the gentleman from New York. If this amendment passes, I will vote with a good deal of enthusiasm for the Commerce bill on final passage. If it does not, I think it is worse than no bill at all and it is kind of a sham, and I am going to vote against it.

I am going to watch something very interesting. You know, I complained here the other day about the White House and the double game, the devious kind of double, shabby game they have played with us, posturing for States' rights and then supporting, putting on a full court press for a substitute that overrides States' rights, telling us that they wanted a bill with no override at any level, and then going all out for a Commerce Committee bill which could override thousands of State and local and Federal laws.

I had an old professor once, who said, "Your 'now wherefors' do not agree with your 'whereases.'" And they were sort of telling us whereas we want no overrides and we want to build this, that and the other, and whereas the Udall bill has those provisions, now, therefore, we are for Dingell. That is essentially what they have been saying.

But I am a kind and forgiving fellow, and I will await with great interest the administration's position. I saw the

White House lobbyists in huge numbers outside the doors on this last vote, and it is clear that they held the margin to defeat us. But I will watch with great interest just how hard they are lobbying for this Eckhardt amendment which the President himself, in today's letter, says he wants.

Remember, our objections to the Commerce bill are two. We said we do not like the override of State and local law. My friend, the gentleman from New Mexico (Mr. LUJAN), and my friend, the gentleman from Nevada (Mr. SANTINI), came along and said, "We have taken care of that. Our amendment has been adopted, it is now in the Commerce bill. We do not know anything about State and local laws. Hurray."

Our second objection to the Commerce substitute was the wide provisions to override Federal laws.

The gentleman from Texas (Mr. ECKHARDT) comes along with an amendment which says that you cannot override Federal law.

I will be watching intensely when the doors open up here to see how the White House is lobbying on this one. With the Santini amendment and the Eckhardt amendment, this bill is about 90 percent of what we were asking for, we have all been brought together, we can all shake hands and have a good cheer and go home.

So I urge strong support of the Eckhardt amendment. It is kind of a put-up-or-shut-up amendment, so far as I am concerned, with the White House.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding, and I share the gentleman's view. Of course, I am not in touch with the White House to quite the extent that some of you may be, so I have had no troubles of that kind. But I am heartily prepared to vote for this Commerce bill if the House accepts the Eckhardt amendment. I think we have done most of what we wanted to do.

Mr. UDALL. I agree with my colleague.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, would the gentleman agree—I thought I heard him say this, and I just want to clarify it—that even without the Eckhardt amendment there is no question but that under the present legislative proposal that there can be no waiver of State and local laws?

Mr. UDALL. I was shocked when I heard the gentleman say that before, because the Commerce staff and my own staff had looked at it and said that it exempted. But the hooker in the Santini-Lujan substitute was the federally derived laws. The New Mexico law derived on the basis of Federal statute is not covered and could be overridden.

Mr. LUJAN. It is Federal requirement.

Mr. UDALL. Federal requirement. I heard the gentleman say he did not intend that, that he intended to take away completely authority to override State and local laws. If that is what his amendment does, I am all for it. I think it is great. With that and the Eckhardt amendment, we have almost everything I have been fighting for. We have no override of State laws and no override of Federal laws.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to just comment that I, too, support the Eckhardt amendment. But I would like to say that I have already been approached, right at the end of the last vote, by the staff out there that the gentleman mentioned, saying that, "Now we have got to get the Eckhardt amendment adopted." So they were already working on it before the other vote was finished.

Mr. UDALL. Maybe we can restore peace and brotherhood in the White House and they will send me a rose or something. Who can tell?

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Chairman, I would just remind the gentleman and reiterate the point that I tried to make before, when talking about the Lujan-Santini amendment. The waivers and suspensions are still there for State and local laws passed subsequent to putting something on the project review schedule.

Mr. UDALL. The distinguished gentleman made that point earlier, and I think it is very important.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I think this amendment takes care of the gentleman's proposition, and I do not think it was taken care of originally.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my good friend, the gentleman from Texas (Mr. ECKHARDT).

As the gentleman said, he could accept the bill if we accepted this amendment. I want to tell the Members that there is nothing left in the bill if we accept this Eckhardt amendment. It absolutely just guts it from one end to the other. There is nothing left if the Eckhardt amendment passes, as I see it.

I want to remind the Members how critical the energy crisis is in America. Six years ago we were importing $3 billion in oil. This year the United States is importing $60 billion in oil. We all heard the President yesterday. He already anticipates we will be importing $70 billion in oil next year. This country must get self-sufficient in energy. If we wanted to strike something, what Congress ought to do, is strike the Department of Energy, just obliterate it. But this bill is a step in the right direction. However, with the Eckhardt amendment we are just going to knock the knees out from under what is left of it.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I was worried that this was going to be a big love feast, that we were all going to come together on this amendment. And I appreciate the gentleman bringing up and noting that we do not all agree. The gentleman's amendment, as I understand it, one of the important features of it, is that we not waive Federal law. I think it is very important that we do so, but we are going to do it in an orderly manner.

We are going to get it as a recommendation from the President of the United States. Then both houses have to act positively on it. We could do that any time. This procedure merely makes it on a fast-track basis, accelerates the time in which it normally takes to do such a thing. Today if we want to waive a Federal law, we just bring it before the House, take it to the Senate, pass it, take it to the President, and it in effect waives it.

But what we are doing here is simply doing the same thing except in the reverse way, that it comes from the President to both houses. It is a perfectly acceptable, perfectly legitimate way of doing it. I would hope that we do not all rush forward to agree to support the Eckhardt amendment, because in effect what it is saying is that we cannot change the law on an accelerated basis but we must just take it on a slow basis.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think the gentleman from New Mexico has put his finger on the issue. This procedure is almost the same as the machanism by which we would amend or repeal a law. But the word "waiver" does not refer to the full law. The word "waiver" refers to the waiver for one project of some part of a law that has been identified by the Energy Mobilization Board as being inhibitive. And even then, you bring it back with a Presidential recommendation that the law be waived for that one project only, and both houses have to vote positively to do that. Now, that is about as close as you can get to the mechanism by which we pass laws.

The point is that the gentleman from Texas (Mr. ECKHARDT) does not even want to speed up consideration of these things on that basis. He said, "Oh, no, no. Let us go ahead and make it be a repeal of the full law or some part of that law and take it through the committee procedure and have the committee chairman, who does not want to do that, stand in the way of the Congress working its will so that we can get an energy program going."

That is the distinction. And the gentleman from New Mexico, I think, put his finger right on the point. It is whether or not we are going to speed up our action on these projects.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Georgia.

□ 1420

Mr. LEVITAS. I thank the gentleman for yielding.

The gentleman from Texas is absolutely correct. Either we are engaged in a struggle for energy sufficiency that has the moral equivalency of war or we are not. Either we need this legislation or we do not. The adoption of the Eckhardt amendment, together with the adoption of the Lujan-Santini amendment already, which I think went too far in cutting back on this legislation, would gut this legislation, and we might as well not have it, because we just would be blowing smoke in the face of the American people.

This legislation is absolutely necessary if we are to achieve energy sufficiency. The adoption of the Eckhardt amendment would gut it completely.

All we are saying here, as the gentleman from New Mexico and the gentleman from Ohio have already pointed out, is that where the President proposes a waiver, where he proposes a waiver and both Houses of Congress have to approve it, then it is waived. That is almost the same thing as passing a statute, which we can do, but we do not have to repeal the whole statute. We can fast-track the single change that is essential to our national security. That is preferable to the wholesale repeal of important environmental and other laws. I urge the defeat of the Eckhardt amendment. I am sorry we cut back as much as we have, but let us stop now, and let us pass effective legislation.

Mr. COLLINS of Texas. I thank the gentleman from Georgia.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the Eckhardt amendment.

The Eckhardt amendment would effectively make a shambles of any opportunity that Congress might have to expedite any energy project under this legislation. I am aware that the President has made a public statement to the effect that he opposes waivers of substantive law, but that he favors waivers on procedural questions.

The Eckhardt amendment strikes from the legislation any opportunity to waive procedural matters as well as substantive law.

Mr. ECKHARDT. Mr. Chairman, would the distinguished majority leader yield?

Mr. WRIGHT. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The Eckhardt amendment does not touch the procedural waiver provisions in the original Dingell bill in any way.

Mr. WRIGHT. Well, the Eckhardt amendment touches the waiver provisions in the Santini amendment which supplanted the original Dingell bill. I think the gentleman should acknowledge that.

Mr. ECKHARDT. As a matter of fact, the distinguished chairman of the subcommittee was complaining that the Eckhardt amendment did not even permit the stopping of procedural waivers. I wish the two gentlemen would get together on how they construe the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the distinguished gentleman from Michigan and ask him if my interpretation is not correct.

Mr. DINGELL. The majority leader has correctly interpreted this for the House.

What the gentleman from Texas (Mr. ECKHARDT), has done, has been to strike the provisions from the bill for procedural waivers and for substantive waivers.

I asked the gentleman from Texas (Mr. ECHKARDT) this question very specifically. He responded, yes, and then he proceeded to go into a rather lengthy, complicated explanation, which I will not describe as obfuscation, although it might very well be so described, by pointing out that he dealt with a number of other matters.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Texas.

Mr. ECKHARDT. I hesitate at any time to take the gentleman's words down, but to refer to another gentleman's action as obfuscation——

Mr. DINGELL. Mr. Chairman, I did not call it obfuscation.

Mr. WRIGHT. Permit me to reclaim my time.

I certainly do not accuse my colleague from Texas of bad faith in any sense at all, but he does strike from the bill the Santini language. And that is the only language now in the bill which permits the Congress to have an orderly opportunity to speed up an energy project by waiving any of these many, many requirements that have been written into the laws, not by Congress in most cases but by administrative agencies whose appointees thirst to write law without the inconvenience of running for Congress.

Those are the things we need to have the opportunity to waive if we are to have a fast track. I suggest that to adopt the Eckhardt amendment would be to do violence to the whole purpose of this legislation. It would make it a less effective instrument in my opinion than the original Udall-Wirth proposal would have been, if we were to take away from Congress any opportunity whatever to compress these time periods, to weed out these redtape jungles that have grown up around our procedures.

It seems to me that the Santini amendment is very narrowly prescribed. It does not run roughshod over anybody, but it does give the Congress an orderly opportunity to weigh and evaluate which is more important, this particular energy project in the interest of the Nation or this particular, maybe minor, provision of the law as interpreted perhaps by some minor bureaucrat who can hold the project up for 6 years, 7 years, 10 years, or 14 years, in the cases that I enumerated earlier.

So, for that reason, if we want an effective bill, I think it is imperative that we reject this amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Yesterday the gentleman had a great story about the sage grouse mating dance, and it was not that that was identified in any law we passed. It was the decision by somebody that that was covered by the law.

The same thing applies to the snail darter. We had to address that problem here.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(At the request of Mr. ECKHARDT and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Texas.

Mr. ECKHARDT. I think the distinguished majority leader has misspoken on one point. Perhaps we may disagree on what all procedural matters are, but I think the gentleman will agree with me that my amendment does not remove the provision by which project decision schedules may be established and indeed shortened.

It also does not remove the provisions by which there may be suspensions of law where the decision schedule has gone into effect prior to the passage of the law. It does not remove those kinds of procedural accelerations of the action.

Now what more procedure does the gentleman want to speed up the project?

Mr. WRIGHT. If we are to accept that the gentleman's intent is precisely what he says, and I do accept that the gentleman's intent is precisely what he says, then still the gentleman would do away with any opportunity for the Congress to act. He might preserve intact the power of the Board to compress schedules, but he would leave the Congress bereft of the opportunities that are provided to this Congress in the Santini amendment whereby we could make a judgment and decide that this is an important project, and that these procedures that have been spelled out in administrative law are less important to the Nation than the completion of the project. That is what I think we must preserve in this bill if we are to have an effective law.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the Eckhardt amendment.

Mr. Chairman, I sent word to my good friend from Texas, because I wanted him to be here on the floor when I discussed this matter.

Mr. Chairman, I have here the letter of the President on this matter, dated November 1, sent to the gentleman from Texas (Mr. ECKHARDT).

It says:

Dear Bob—

And goes through one paragraph—

My own position is clear. I support an Energy Mobilization Board which can effectively cut through procedural redtape, and I see no need for broad authority to waive Federal laws.

He is referring to procedural redtape that he wants to be able to have the EMB cut through.

The amendment offered by the gentleman from Texas strikes from the Board the authority to recommend to the Congress waivers of certain procedural and substantive rules and statutes of the Federal Government.

The first paragraph of the President's letter says:

> I strongly support your amendment which would eliminate waivers of substantive Federal laws except for the power to grandfather projects against exceptionally burdensome requirements imposed after the project decision schedule has been adopted.

□ 1430

What the gentleman's amendment does is to go well beyond what the President requested. It strikes both substantive and with procedural waivers. He did not ask for that.

The Secretary of Energy, Mr. Duncan, sent a letter to Mr. O'NEILL, the Speaker, in which he said:

> We, therefore, will support an amendment by Mr. Eckhardt which would remove the provision for substantive law waivers as well as to provide for judicial review of decisions on grandfathered projects against changes in substantive law after the establishment of a project decision schedule.

What does that amendment, offered by my good friend from Texas, do? It strikes section 186, as amended by Santini-Lujan. Section 186 is the section which, among other things, deals with the recommendations of the Board to the Congress with regard to both substantive and procedural waivers. The proposal does not even include the authority included in the Wirth-Udall bill for the Board to order Federal agencies to changes procedures and to do so without any review by Congress or approval by Congress. Some of these are:

To consolidate proceedings respecting actions and decisions which are subject to the project decision schedule.

The establishment of requirements applicable to filing applications or other information which would eliminate unnecessary duplication.

To substitute legislative hearings in lieu of trial type hearings.

The gentleman will recall that he was in the well and I asked him, does this deal with substantive law? He said yes, it does, and I concurred. I said does it deal with elimination of recommendations with regard to procedural waivers. The gentleman said yes it does.

Then the gentleman went on and referred to some other things which are permitted elsewhere in the bill, but which, in my judgment, leaves less than a skeleton, there are no bones, no muscles, and certainly no life to the proposal.

Mr. ECKHARDT. Mr. Chairman, will the genteman yield?

Mr. DINGELL. Since I have mentioned the gentleman, I will be happy to yield to him.

Mr. ECKHARDT. The gentleman has said I have removed, as I understood him to say, section 186. I do, but I replaced section 186 with almost the same language.

Mr. DINGELL. That is correct, but the gentleman does not substitute——

Mr. ECKHARDT. Will the gentleman yield further?

Mr. DINGELL. I will yield in a minute, but I want to make sure we have this correct and that we conduct an orderly debate. The gentleman does remove the authority of the Board to recommend substantive and procedural waivers. This is not what the White House said they supported. They said they supported elimination of substantive waivers of law only. This amendment is an elimination of both substantive and procedural recommendations by the Board and the President to the Congress.

I will be happy to yield to the gentleman further.

Mr. ECKHARDT. If the gentleman will yield further, the exact language which I placed in the RECORD has been in the RECORD in accordance with the rule, since Monday of this week.

Mr. DINGELL. I do not challenge that.

Mr. ECKHARDT. The language has gone to the President, it has been looked at by the chief counsel for DOE. The President knew precisely what my amendment was when he came out with the statement that he recommended it.

Mr. DINGELL. The gentleman very well knows that the gentleman has several amendments published in the RECORD and we had a great deal of difficulty here on the floor trying to sort out which of the amendments it was that the gentleman offered.

Mr. ECKHARDT. If the gentleman will yield further, the reason for the three amendments was to prevent some kind of an amendment that would forestall one or the other of my amendments. The amendments are identical with respect to 185.

The CHAIRMAN. Time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, the simple answer is we have here before us an amendment offered, I am sure in the best of good faith, by the gentleman from Texas (Mr. ECKHARDT) which purports to be that which is supported by the administration. In fact, as I have pointed out, it is not supported by the administration, because the administration supports, as its letters plainly say, only the striking of recommendations which relate to substantive waivers of law by the Energy Mobilization Board.

With all due respect for my good friend, and a great deal of affection besides, I observe this is simply not the amendment requested by the administration. If my colleagues favor the Udall proposal I would say to the Chair that the best thing they could do would be to vote against the Eckhardt amendment to the Interstate and Foreign Commerce Committee bill because it leaves the Board with less authority than that which the Board would have had under the Udall proposal.

If the gentleman desires, I will be happy to yield to him again.

Mr. ECKHARDT. Well, I would merely state that the gentleman misstates if he says that the President does not approve the amendment, because he has seen all three, and I have the letter here.

Mr. DINGELL. I believe I have spoken to the substance of the matter and I think it is very clear. I urge rejection of the amendment.

Mr. LUJAN. Mr. Chairman, I move to strike the last word.

I will not attempt to discuss if there is any question whether procedural law is waived or not. I shall address myself strictly to the waiver of substantive law.

We have been very careful in making as a part of this legislation the ability to waive certain parts of substantive law for very, very good reason.

First of all, the argument has been made that we can bring up an amendment to a particular law and pass it through the House and the other body and then move it on to be signed by the President, and that that is the way to do it. First of all, Mr. Chairman, we may not want to change the entire law, we may just want to grant a small exception in the case of one project, but have that law apply to other projects or, in fact, to the rest of the country.

The second reason why it is necessary to bring this before the full House and the other body, upon recommendation of the President, is that there is a provision that if the House does not take it up that it becomes a privilege, that it must come up before either body, and that is because of the power of the chairmen of the committees in many instances. Many of my colleagues on the Interior and Insular Affairs Committee will know there is general agreement that there must be some amendments to the Surface Mining and Reclamation Act. As a matter of fact, the other body has passed some amendments to that particular act because, in many cases, it has been an impediment to the mining of coal.

But the chairman of the committee, because the other body added what is known as the Rockefeller amendment, and he objects to that particular type of wording in the bill, even though he has said that we need some amendments to that law, but because it has that particular Rockefeller amendment in the bill of the other body, he will not bring it up and has told us so. So a chairman has tremendous power in holding up a bill, and there must be a mechanism by which we can bring up these subjects to the attention of the full House and the other body. I urge the defeat of the Eckhardt amendment.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I will be glad to yield.

Mr. SANTINI. Mr. Chairman, although we find ourselves in somewhat the posture of defending the wisdom of our own amendment efforts, many Members of this House share the conviction that what we were attempting to do represented a wise course of action. I would urge those same Members to continue to endorse that course of action.

What we are proposing is that where a Federal, substantive law represents an impediment to a national interest energy program that it seems reasonable, under the mechanical formula that we have constructed in our bill, to bring it through the Board, to the President, to this House and to the other body. That is exactly

why the gentleman from New Mexico and myself thought that this amendment was so eminently reasonable, because that is what is happening in this House today, except we are dealing with it on an ad hoc, spontaneous, eruptive basis.

If we need some piece of legislation to move Alaskan natural gas, then we come charging from the Interior and Insular Affairs Committee, or charging from the Committee on Interstate and Foreign Commerce, running onto the House floor saying, my goodness, we need some emergency legislative response for Alaskan natural gas. When we look to the problem of Sohio, my good friend and the chairman of the Interior and Insular Affairs Committee says my goodness, we must respond to this, we need legislative change, and we come charging to the House floor. Then our Committee on Interstate and Foreign Commerce charges to the House floor to make a change in the substantive law because that substantive law is recognized by almost all interests concerned as standing in the way of meaningful energy development on a major national scale.

The snail darter is a matter that we have treated in an ad hoc, spontaneous way seven or eight times on this House floor.

□ 1440

What it seems to me is reasonable is that under the formula that we have constructed, since we are doing exactly the same thing now in terms of change in substantive law, that we should do it in the context of a calendar, we should do it in the context of orderly procedure, we should do it in such a fashion so that, as my good friend from New Mexico pointed out, one subcommittee chairman or one full committee chairman could not stifle consideration on this House floor of a change in the law that a majority of this body deems is an imperative in terms of national energy needs. I believe that this is an eminently reasonable way to try and construct a procedural response to deal with substantive law changes, and I believe it is much better than the existing chaos in which we find ourselves today.

The CHAIRMAN. The time of the gentleman from New Mexico has expired.

(At the request of Mr. OTTINGER and by unanimous consent, Mr. LUJAN was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I will be happy to yield.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding. I think it is important not to mislead the body. This law as it is presently constructed, with this amendment, would have had no effect on Sohio at all, would it, since the delays there were entirely a question of granting State permits?

Mr. SANTINI. No, that is not exactly right. In either the Interior Committee or the Commerce Committee there were Federal procedures and laws involved in that delay. That is first.

Second there was thought to be a matter of sufficient national imperative and importance that we had to put the sta[illegible] of this House on it in order to get it enacted into law. That did involve modification of existing Federal substantive statutes. Now, I think this is the proper course of action. The gentleman agreed with that point of view; I believe Mr. ECKHARDT supported it; I believe Mr. UDALL supported it.

What I am attempting to do here in crafting this amendment is to create an orderly, systematic way in which we can address these issues of national importance instead of doing it from the top of our heads, the seat of our pants, or the bottom of the committee.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am delighted at this point to be in agreement with the White House on the Eckhardt amendment. President Carter has written to Congressman ECKHARDT, and he said, "I strongly support your amendment."

I have just now talked to Mr. Bert Carp of the Domestic Council, who confirms that the Eckhardt amendment offered on the floor, that this amendment is the amendment which the White House supports. Further, I think it should be pointed out for the record that this amendment offered by Mr. ECKHARDT does not in any way interfere with the procedures set up in the Santini amendment. It does not address the bump-up procedures, which is the enforcement mechanism in the Santini amendment. It does not affect that at all.

What the Eckhardt amendment does is three simple things. It deletes the waiver of existing Federal law. It deletes their potential of a waiver of new Federal, State, or local laws. It provides that any postponements of new requirements are subject to judicial review.

Let us now review the pattern, if we might, on both pieces of legislation in the debate and how we got to where we are in the drafting of the bill.

In the Commerce Committee there was a minority of members of that Commerce Committee which strongly disagreed with the proposition of the waiver of Federal, State, county, or local law. We attempted to fashion a bill which was just defeated, the Udall-Clausen-Wirth substitute, which did not address the waiver issue. That said that we cannot waive laws, but was a procedural fast track.

The fact of that defeat has now gotten us back into this fundamental issue again of whether or not we are going to waive existing laws. The question before us is, who writes law in this land? The distinguished majority leader has just talked to us about the bureaucrats who wish to write law without the inconvenience of running for Congress. I think it is very important that we ask the other side of that question. We want to ask about those who want to repeal laws in this land without the inconvenience of running for the Congress.

People in the United States who are being protected by clean air laws in California or Colorado; by toxic substances laws in the Hudson River or in Lake Michigan or the James River, there is a procedure set out in the Constitution by which we pass those laws in this land, and that is here in this Congress. If we have a problem with that law, let us come back here and change the law and not allow a handful of appointed people, with reference to the President or a one-House veto or a two-House concurrence, go about changing it. If there is a problem, when we have a problem in amending those laws, it is up to us in the committee system.

If we do not like the way the law is, let us go after the regulatory body and exercise the oversight we have responsibility for. Let us not approve a cockamamie proposition by which we circumvent the constitutional issue.

Mr. Chairman, I wish my colleagues would support the Eckhardt amendment.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have to rise to criticize the remarks made by the gentleman from Colorado. He talked about some bureaucrat waiving the law. That is nonsense. Under the Commerce-Santini-Lujan proposal, the waiver procedure is the same procedure used by the Congress to repeal laws. I tried to make that point before, and I am sure the gentleman from Colorado understands it because he is a very bright Member of Congress.

The way it is done is that the Energy Mobilization Board identifies that part of the law or regulation that is inhibiting with reference to one of these priority energy projects. It recommends to the President that the law in that respect—that limited respect—be waived. There is an opportunity during that period of time, while the President has it under consideration, for people to make their representations to the President and say, "Oh, no, don't waive it," or "Don't recommend it be waived."

Then, the President makes up his mind and recommends to the Congress—not just one House, but under Santini-Lujan it is both Houses—and both Houses speak to that waiver proposal.

Now, what is the process by which a law would be amended or repealed otherwise? It would be both Houses voting to amend or repeal by a majority vote, and then the President signs it. What is the distinction between this procedure and the one provided in the Commerce bill, as amended by Santini-Lujan? The distinction is that normally in the Congress, a bill to amend existing laws, has to go through the subcommittee and the full committee procedure, and at any stage of the game a subcommittee chairman or a full committee chairman, or perhaps the Rules Committee, or perhaps the Speaker by not scheduling it, can say, "We are not going to take that up. We do not want to repeal that law. We do not want to amend that law."

Mr. UDALL could do that in the Interior Committee; Mr. DINGELL could do that in the Subcommittee on Energy and Power of the Commerce Committee; Mr. STAGGERS could do it in the Commerce Committee if he did not want to address change.

No, we have an expedited procedure in the Commerce bill, as amended, where, under the Santini-Lujan amendment, any Member of Congress can bring up the issue and we promptly vote on a bill to make a specific waiver of that limited provision of law or regulation for

this one energy project. Under the Commerce bill, as amended, the waiver of laws is not done, as was suggested by the gentleman from Colorado, by some bureaucrat. It is done by both Houses of the Congress standing up and voting on the issue.

Now, what could be closer to the normal process of repealing or amending the law? I think the two House approval provision in the Santini-Lujan amendment eliminates the constitutional question, and I think it gives us an opportunity, because it works through an expedited procedure, for us to get the amendatory legislation loose from those committees which currently inhibit change of some of these laws.

□ 1450

If we do not want those laws, if we want to waive the application of those laws to a particular project, then we vote one way. If we do want that law, if we do not want to modify that law with respect to a particular project, we vote another way. If we want that snail darter and do not want the Tellico Dam, we vote for the snail darter. If we want the Tellico Dam, we vote for the Tellico Dam. It is as simple as that, and I do not see what is so complicated about it or what is so dreadful about it that the gentleman from Texas (Mr. ECKHARDT) says we ought to take this waiver provision out of the bill.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding. He very well enunciated and summarized a response. I was attempting to get the attention of the gentleman from Colorado (Mr. WIRTH) at the time he yielded back his time to pose a question to him that I think is most fundamental, and I would hope each Member would ask the question in discussing the merits of the Eckhardt amendment. Assume, as he contends, that it does permit procedural waiver, then we get ourselves in the curious definitional box of trying then to sort out what is procedural on the one hand and what is substantive on the other. There is no delineation or definition of the distinctions between procedural and substantive anywhere in that amendment. That situation invites an extraordinary potential for legal challenge ad infinitum, because one person's procedure is very much another person's substance. There will be a multitude of serious differences of opinion on what constitutes procedure on the one hand and what represents substance on the other.

Mr. BROWN of Ohio. Let me say to the gentleman that I think the thing that afflicts us in this body is our unwillingness sometimes to make these hard decisions, and I do not fault my colleagues for that; I have been guilty of that myself from time to time. When we get into an environmental versus an energy issue, it is tough to make that decision. We all want to be environmentalists. I would not want to waive environmental law. I would not repeal most of the environmental laws we have passed. While I might vote against repealing of a law, I might very well vote for a temporary suspension or waiver of a part of that law to get an energy project going if I thought that energy project was sufficiently in the national interest.

Mr. STAGGERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are talking about environmental law and other things here when I think we ought to be talking about national survival. When you consider the situation in this world today, and the threats that we face, we could be in a war within 1 or 2 years. If that happened and we had failed to provide energy resources to replace foreign oil we would be unprepared, and the finger of history would point at this Congress and say, "You failed to make preparation for our security." We can and we must start making that preparation now, not next year or the year after.

Every hour that we wait and waste is an hour that we should be working toward our own security. That is why this legislation is so important. We debate the fine points of law, and this and that, but what we are really talking about is our future. There are times in our history when we must act. I think every safeguard must be put in the law we pass here. The Commerce Committee bill has done that. Any proposed waiver would have to be recommended by the Board to the President, recommended by the President to Congress, and approved by both Houses. That is more than adequate protection. I think all the rest of this talk is nothing more than a discussion of semantics and the philosophy of each of us as individuals, and maybe we each just want to have our way over some fine and unimportant point. This must stop. The time has come now to act and not put it off any more. I do hope the Eckhardt amendment is defeated. I think the gentleman from Texas is one of the most effective and learned men on our committee, but I think he is wrong in this. He probably thinks he is right, but he is not thinking right for the interests of America. Our national security is at stake, and I think we ought to vote the amendment down and vote the Commerce Committee bill up immediately.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I tend to sympathize with the gentleman's position, but some of us feel that if we destroy the Constitution, we have lost the greatest assurance of our security.

Mr. STAGGERS. The gentleman would know if he has been listening to the debate that this has nothing to do with the Constitution. We have taken every precaution so that the gentleman, if he is a Member of Congress at that time, will have a chance to vote on any recommended waiver for any proposed project, and so will the Members of the Senate. The gentleman should remember that safeguarding the Constitution of the United States also requires providing for the security of the Nation. The Constitution, which Commerce Committee bill respects and conforms to in every respect, will do the gentleman precious little good if we fail to provide for the Nation's security and our Government falls into enemy hands.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the amendment in the nature of a substitute.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes, 153, noes 250, not voting 30, as follows:

[Roll No. 623]

AYES—153

Akaka	Evans, Del.	Mineta
Ambro	Fascell	Mitchell, Md.
Anderson, Calif.	Fazio	Moakley
Ashley	Fenwick	Moffett
Aspin	Fish	Nolan
AuCoin	Fisher	Nowak
Baldus	Florio	Oakar
Barnes	Ford, Tenn.	Oberstar
Bedell	Fuqua	Obey
Bellenson	Garcia	Ottinger
Bereuter	Gephardt	Panetta
Biaggi	Gilman	Patterson
Bingham	Glickman	Paul
Blanchard	Gonzalez	Pease
Boland	Goodling	Peyser
Bolling	Gore	Pursell
Bonior	Gradison	Rangel
Brademas	Gray	Reuss
Brodhead	Green	Richmond
Brown, Calif.	Guarini	Rinaldo
Burlison	Hall, Ohio	Roybal
Burton, John	Harkin	Sabo
Burton, Phillip	Harris	Scheuer
Carr	Hawkins	Schroeder
Cavanaugh	Hollenbeck	Seiberling
Cheney	Holtzman	Shannon
Chisholm	Howard	Simon
Clausen	Hughes	Smith, Nebr.
Clay	Hutto	Solarz
Coelho	Ireland	St Germain
Conable	Jeffords	Stark
Conyers	Johnson, Colo.	Stokes
Corman	Kastenmeier	Studds
Coughlin	Kildee	Swift
D'Amours	Kogovsek	Synar
Danielson	Kostmayer	Thompson
Daschle	LaFalce	Udall
Deckard	Lagomarsino	Van Deerlin
Dellums	Leach, Iowa	Vanik
Derwinski	Leland	Vento
Dixon	Lowry	Volkmer
Dodd	McCloskey	Walgren
Donnelly	McHugh	Waxman
Dornan	McKinney	Weaver
Downey	Maguire	Weiss
Drinan	Markey	Williams, Mont.
Early	Matsui	Wirth
Eckhardt	Mattox	Wolpe
Edgar	Mavroules	Yates
Edwards, Calif.	Mica	Young, Mo.
Erdahl	Mikulski	
	Miller, Calif.	

NOES—250

Abdnor	Brinkley	Devine
Addabbo	Brooks	Dickinson
Albosta	Brown, Ohio	Dicks
Alexander	Broyhill	Dingell
Andrews, N.C.	Buchanan	Dougherty
Andrews, N. Dak.	Burgener	Duncan, Oreg.
Annunzio	Butler	Duncan, Tenn.
Anthony	Byron	Edwards, Ala.
Archer	Campbell	Emery
Ashbrook	Carney	English
Atkinson	Carter	Erlenborn
Badham	Chappell	Ertel
Bafalis	Cleveland	Evans, Ga.
Bailey	Clinger	Evans, Ind.
Barnard	Coleman	Fary
Bauman	Collins, Tex.	Findley
Beard, R.I.	Conte	Fithian
Beard, Tenn.	Corcoran	Flippo
Benjamin	Cotter	Foley
Bennett	Courter	Ford, Mich.
Bethune	Crane, Daniel	Forsythe
Bevill	Daniel, Dan	Fountain
Boggs	Daniel, R. W.	Frenzel
Boner	Dannemeyer	Frost
Bonker	Davis, Mich.	Gaydos
Bouquard	Davis, S.C.	Giaimo
Breaux	de la Garza	Gibbons
	Derrick	Gingrich

Ginn	Lundine	Rousselot
Goldwater	Lungren	Royer
Gramm	McClory	Rudd
Grassley	McCormack	Russo
Grisham	McDade	Santini
Gudger	McDonald	Satterfield
Guyer	McEwen	Sawyer
Hagedorn	McKay	Schulze
Hall, Tex.	Madigan	Sebelius
Hamilton	Marks	Sensenbrenner
Hammer-schmidt	Marlenee	Sharp
Hance	Martin	Shelby
Hanley	Mazzoli	Shuster
Hansen	Michel	Skelton
Harsha	Miller, Ohio	Slack
Heckler	Minish	Smith, Iowa
Hefner	Mitchell, N.Y.	Snowe
Heftel	Molloban	Snyder
Hightower	Montgomery	Solomon
Hillis	Moore	Spence
Hinson	Moorhead, Calif.	Staggers
Holland	Moorhead, Pa.	Stangeland
Holt	Mottl	Stanton
Hopkins	Murphy, Ill.	Steed
Horton	Murphy, N.Y.	Stenholm
Hubbard	Murphy, Pa.	Stewart
Huckaby	Murtha	Stockman
Hyde	Myers, Ind.	Stratton
Ichord	Myers, Pa.	Stump
Jacobs	Natcher	Symms
Jeffries	Neal	Taute
Jenkins	Nedzi	Taylor
Jenrette	Nelson	Thomas
Johnson, Calif.	Nichols	Traxler
Jones, Okla.	O'Brien	Treible
Jones, Tenn.	Pashayan	Ullman
Kazen	Patten	Vander Jagt
Kelly	Pepper	Walker
Kemp	Perkins	Wampler
Kindness	Petri	Watkins
Kramer	Pickle	White
Latta	Preyer	Whitehurst
Leath, Tex.	Price	Whitley
Lee	Quayle	Whittaker
Lehman	Quillen	Whitten
Lent	Rahall	Williams, Ohio
Levitas	Railsback	Wilson, Bob
Lewis	Ratchford	Wilson, Tex.
Livingston	Regula	Wright
Lloyd	Ritter	Wyatt
Loeffler	Roberts	Wydler
Long, La.	Robinson	Wylie
Long, Md.	Roe	Yatron
Lott	Rose	Young, Fla.
Lujan	Rostenkowski	Zeferetti
Luken	Roth	

NOT VOTING—30

Anderson, Ill.	Fowler	Runnels
Applegate	Jones, N.C.	Shumway
Bowen	Leach, La.	Spellman
Broomfield	Lederer	Stack
Collins, Ill.	Marriott	Treen
Crane, Philip	Mathis	Wilson, C. H.
Diggs	Pritchard	Winn
Edwards, Okla.	Rhodes	Wolff
Ferraro	Rodino	Young, Alaska
Flood	Rosenthal	Zablocki

□ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Anderson of Illinois for, with Mr. Broomfield against.

Mr. Rodino for, with Mr. Lederer against.

Messrs. KOSTMAYER, MINISH, and LOWRY changed their votes from "no" to "aye."

Messrs. HALL of Texas, EVANS of Georgia, SKELTON, and MINISH changed their votes from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. Are there additional amendments to the amendment in the nature of a substitute?

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, many of us who supported the gentleman from Arizona and the gentleman from Texas (Mr. ECKHARDT) may feel badly bruised by the results of the last couple votes; but I would earnestly urge that we vote for final passage as being in the best interests of the environment and the country.

I will tell you that while I do not like the waivers of substantive law and I think I made that clear, under the Dingell bill they are circumscribed to the maximum extent possible, with the greatest possible protections, pursuant to the very able work of the gentleman from Michigan (Mr. DINGELL). A recommendation of the Board and the President are required and affirmative action by both Houses of Congress.

I know many of my environmental friends are going to disagree with me, but I will tell you that if we do not have this safety valve, if we do not have a means to expedite energy projects that are considered to be urgent for the country, then what we are going to see is a wholesale decimation of the environmental laws, because the pressures are going to be too great against us; that is regardless of the lack of merits of the need for fast track legislation to speed energy projects.

I honestly believe that we do not need this kind of fast track in order to expedite energy projects, but the antiregulatory sentiments are such in the land and the urgency is such with respect to energy issues that there is a willingness to sweep almost any law aside that might impede energy production. If we fail to pass this bill, I predict that every energy bill in the future and every environmentally related bill will contain exemptions of laws that are far more sweeping than those in this bill, and without the protections here afforded.

I urge my friends and colleagues to vote for passage of this legislation as being in the best interests of the country, in the best interests of the environment, and in the best interests of the protection of the health, safety, and welfare of our citizens.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I will be glad to yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, it may be a rare occasion, but I respectfully disagree with the gentleman's conclusion rather emphatically.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I would be glad to yield first to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I think we can get a vote on this thing shortly. We are all through with the amendments that I am aware of. I respect my friend, the gentleman from New York, but I have come to exactly the opposite conclusion.

This bill as it is now constituted is a formula for dismantling laws that were put together in this Congress through the appropriate committees in full debate over the last 20 years. It is a formula to suspend and avoid and run roughshod over a whole lot of State and local laws.

I think we can do better than this, even though the Senate bill has no waivers or overrides in it; I think we would be better off to vote this bill down and try to write a better one sometime.

Mr. OTTINGER. Well, of course, I have the greatest respect for my friend, the gentleman from Arizona, and I decided to support the gentleman's version of this legislation; but this bill does not run roughshod over our laws and procedures. It does require congressional action in order to waive any of these laws; to be sure, under an expedited procedure and at a time when there is great pressure. That is why I supported the substitute of the gentleman from Arizona. But the Dingell bill does preserve our basic constitutional framework. It does require Congress to act and that is after the Emergency Board acts and the President acts, so I do think that there are very real safeguards.

The choice now is not between what I would have liked, the amendment of the gentleman from Arizona or the amendment of the gentleman from Texas (Mr. ECKHARDT) and that of the gentleman from Michigan (Mr. DINGELL). The choice now is whether we are going to have the Dingell bill or nothing.

I think it is in the interest of environmental protection that we adopt the Dingell bill.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I would be happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I compliment the gentleman on his remarks and I would like to give one more reason to vote on this bill. Nobody has mentioned the word nuclear in this entire debate. This is a method to fast track nonnuclear projects.

I submit that if we do not have that method, that we are going to see those projects bottled up, that the only alternative left will be toward an active development, a faster than active development toward nuclear power. I think this bill provides a good balance in that regard.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I want to compliment the gentleman because the gentleman as the former chairman of the Environmental Study Conference in the House, I think, speaks with some authority on this issue. I think the gentleman is absoluteley right.

The best way for us to protect our environmental laws is to waive them in all degree when it is absolutely necessary and by an act of this Congress and not to have them stand in the way of the development of energy in this country.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for his kind and wise remarks. He is absolutely right. I know there was great doubt on behalf of many of our colleagues who really think that the environmental and safety laws are overregulatory and ought to be weakened or eliminated, as to whether or not they should support the Dingell bill for this very reason—that it would be harder to impair environmental regulations with passage of the Dingell version as a safety valve; so I very earnestly believe that it is in our best interest and in the interest of the House and safety of Americans to now support this legislation.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Commerce Committee language as amended by the Santini-Lujan proposal but, in so doing, I think it only appropriate to make a few observations. All of us, regardless of whether we favor Santini-Lujan or the Udall-Clausen-Wirth substitute, are acutely aware of the importance of energy to every American, but I wonder if we have given sufficient consideration to two other things—the tremendous complexity of the proposals before us and, even more basic, why such proposals become necessary in the first place.

Taking those points in order, I do not know about other Members but, I do know that in assessing these proposals myself, I was amazed at the labyrinth we will be creating no matter what the outcome of the vote on the options before us. Not only is there a maze of existing Federal law, but we have State law, local zoning regulation, environmental impact statements, court decisions, and now we are going to add waivers, bumpup and project decision schedules. It is enough to make one's head spin and if anyone can say for sure just what will come of all this, that person is more of a prophet than heretofore has been acknowledged. If anything, this bill is living testimony to the all-too-prevalent assumption that Government is the answer for everything whereas our experience with the Department of Energy, if anything else, should suggest the contrary.

Such being the case, one wonders why another layer of bureaucracy; why not just amend the laws that are causing the energy bottlenecks in the first place? Indeed, that is a very good question—and I hope this House and the other body will begin addressing it head on in the near future. Oblique approaches, such as we are considering today, may have a certain degree of merit, but they also run the risk of missing the mark or causing more problems than they resolve.

Which brings me to the second point—why are we in the position of having to consider complicated, oblique approaches in the first place? Where have things gone astray? There are a lot of valid answers to those questions but let me suggest one that may not have been suggested often enough—that, in some cases, we are being led astray.

Not too long ago, last year in fact, Dr. H. Peter Metzger who received his Ph. D. at Columbia University and who is now manager of public affairs for the Public Service Co. of Colorado, made a speech to the national meeting of the American College of Nuclear Medicine. His speech was entitled, "The Coercive Utopians: Their Hidden Agenda," and in it he pointed out that no longer is the relationship between the Government agencies responsible for environmental and energy matters and the so-called public interest advocates of a "no growth, less energy" policy strictly an adversary one. Contrariwise, Dr. Metzger states that 14 people in the latter category received appointments to key positions in the Federal Government in 1977 and early 1978 and, in several instances, it would appear these folks wound up defending Federal law against no-growth legal challenges that they themselves had helped develop. If such be the case, is it any wonder we are considering fast track legislation here today? Not only does existing law throw up impediments to energy development the "no-growth" philosophy seems to have ardent and effective advocates inside as well as outside of Government. To the extent that is true, the effectiveness of fast track as an expediting tool may be further impaired.

That is not to say we should reject fast track altogether. Far from it. Fast track can provide a focus, an impetus if you will, for getting things moving. The Santini-Lujan language will sharpen that focus far more clearly than the Udall-Clausen-Wirth substitute, which is why I support it. But, however effective Santini-Lujan may be, it is still no substitute for two other steps that need to be taken. One Congress can take—to change the laws so as to remove, not just waive, the impediments to responsible energy development. The other is up to the American voter—to change the people who have the responsibility for properly administering these laws. And the only way to do that is to change the administration that appoints the people.●

● Mr. GOLDWATER. Mr. Chairman, this legislation meets with my disapproval for one basic reason: It is an admission to ourselves and to our constituents that we have done nothing to this point except enact shabby, ineffective laws in the area of energy policy. The President, fearful that he will be accused of not taking action on the energy problem, has sent this proposal to the Hill, and I do not think it is worth our approval.

Why not just admit that changes have to be made in the existing apparatus? Would it not be better to go back over the maze of regulatory procedures we have already enacted, and make the necessary changes there, rather than create a new layer of bureaucracy, with new rules, a new, but certainly no better approach, and all the vague and ambiguous powers that this Board would have.

As one who has strongly advocated innovative energy technologies and a greater commitment to energy development, it is not easy for me to vote "no" on a bill which is designed to expedite our forging ahead with energy production. In monitoring this debate I am more convinced than ever that an Energy Mobilization Board will plunge us only deeper in the bureaucratic quicksand we presently find ourselves in. Let us go back to the drawing board, rewrite the laws as they exist now, and scrap any plans for a Government body which only exacerbates the present situation of chaos and confusion.●

● Mr. CORCORAN. Mr. Chairman, this debate is winding down to a close, and before we take final action on the proposed Energy Mobilization Board, I would like to make a final statement.

The Committee of the Whole House has worked its will on the amendments, and what is pending for the approval or disapproval of the House of Representatives is the product of a long, deliberative legislative process to create an independent EMB putting key energy projects on a so-called fast track through the governmental decision-making process.

There are two basic reasons why I do not think the House should support this measure even in its final form. First, it is wrong in principle; and second, it will not work.

It is wrong in principle because we simply cannot correct excessive Government with more excessive Government. Too much Government in energy is not corrected by more Government in energy.

As I have said so many times in the consideration of this bill in our Commerce Committee and here in the full House, the extremes, the loopholes, the technicalities, the contradictions, the duplications in the regulatory explosion emanating from Washington during the last decade must be faced directly, as we have done with the Endangered Species Act, in order to balance Government protection for both special, narrow interests and the public interest. This is the only way we can remove the energy roadblocks and get moving on domestic energy to get ourselves out from under the increasing domination of the OPEC oil cartel.

And that leads me to my second argument against this pending EMB—it would not work. Unless we deal directly with the intractible Federal statutes themselves, as is the sole responsibility of Congress, they will not bend nor breakdown even in the face of the unprecedented powers granted to this EMB proposal. I do not care how long we debate this flawed concept, or how many new waiver powers we give it; just as Congress—thank God—cannot repeal the laws of nature, nor the laws of physics and chemistry, we cannot repeal the U.S. Constitution.

Furthermore, I think we have to get away from the notion that we can solve the energy problem by helping a few major projects, such as might have happened with the notorious Sohio project that has been a stimulant for this EMB idea or the well known shale oil project in Colorado. Both from a conventional and an unconventional energy standpoint, I believe more energy for the United States will come from hundreds of thousands of energy activities by the actions of the people of this country in a more free market, not from a handful of projects privileged for one political reason or another to get a fast-track ticket from this proposed EMB.

Finally, Mr. Chairman, let me say that as a businessman and a public servant before coming to Congress, I was very interested in two recent articles in Fortune magazine giving personal accounts of their experience in this regard by Michael Blumenthal and Donald Rumsfeld. Both of these outstanding Americans have had experience in the public and private sectors, and I commend to my colleagues these illuminating articles for their general reading enjoyment. However, I mention them today because of a theme common in the articles by both Blumenthal and Rumsfeld. They say the key difference between Government and business is that in the latter, performance is everything, whereas in Government, appearance is everything.

I can think of no better case in point for this argument than this EMB. It gives the appearance of "doing something about energy" and this may get President Carter and Members of Congress through the next election, but the results, if any, will not be in for a long time to come, so none of us will really be held accountable for our actions until then. However, if nothing more is done by Congress to solve our energy problems than this continuation of what we have been doing since the Arab oil embargo of 1973, which has increased our dependence on OPEC oil from about 30 percent to more than 50 percent, then that day of accountability may find the United States itself in a very desperate position along with those who failed this test of leadership.●

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the Committee on Interstate and Foreign Commerce, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1520

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. FOLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes, pursuant to House Resolution 467, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CORCORAN

Mr. CORCORAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CORCORAN. Absolutely, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CORCORAN moves to recommit the bill, H.R. 4985, to the Committee on Interior and Insular Affairs and to the Committee on Interstate and Foreign Commerce.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. UDALL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 299, noes 107, not voting 27, as follows:

[Roll No. 624]

AYES—299

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dorman
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Findley
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Lagomarsino
Latta
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Martin
Mathis
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Ottinger
Pashayan
Patten
Patterson
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Royer
Rudd
Russo
Santini
Satterfield
Scheuer
Schulze
Sebelius
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Stump
Taukе
Taylor
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

NOES—107

Anderson, Calif.
Ashbrook
AuCoin
Badham
Barnes
Bauman
Beard, Tenn.
Beilenson
Bingham
Bolling
Bonior
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Conable
Conte
Conyers
Corcoran
Crane, Daniel
Daschle
Deckard
Dellums
Derwinski
Dixon
Donnelly
Drinan
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Evans, Del.
Fenwick
Fish
Forsythe
Goldwater
Gonzalez
Gray
Grisham
Hansen
Hawkins
Holt
Holtzman
Howard
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, Iowa
Livingston
McCloskey
McDonald
Maguire
Markey
Matsui
Miller, Calif.
Moore
Myers, Ind.
Nolan
Oberstar
Obey
Panetta
Paul
Pease
Petri
Pursell
Quayle
Railsback
Richmond
Roth
Rousselot
Roybal
Sabo
Sawyer
Schroeder
Seiberling
Sensenbrenner
Shannon
Simon
St Germain
Stark
Stokes
Studds
Swift
Symms
Synar
Thomas
Udall
Vander Jagt
Walker
Weaver
Weiss
Wirth
Wolpe
Yates

NOT VOTING—27

Anderson, Ill.
Bowen
Broomfield
Collins, Ill.
Crane, Philip
English
Ferraro
Flood
Florio
Fowler
Gaydos
Jones, N.C.
Leach, La.
Lederer
Marriott
Pritchard
Rhodes
Rodino
Rosenthal
Runnels
Shumway
Stack
Treen
Wilson, C. H.
Winn
Wolff
Zablocki

□ 1530

The Clerk announced the following pairs:

On this vote:

Mr. Lederer for, with Mr. Florio against.

Until further notice:

Mr. Rodino with Mr. Anderson of Illinois.
Ms. Ferraro with Mr. Flood.
Mr. Gaydos with Mr. Shumway.
Mr. Rosenthal with Mr. Winn.
Mrs. Collins of Illinois with Mr. Marriott.
Mr. Jones of North Carolina with Mr. Pritchard.
Mr. Fowler with Mr. Philip M. Crane.
Mr. Charles H. Wilson of California with Mr. Broomfield.
Mr. Zablocki with Mr. Bowen.
Mr. Wolff with Mr. Stark.
Mr. English with Mr. Runnels.

Mr. BURGENER and Mr. MOFFETT changed their votes from "no" to "aye."

Mr. McCLOSKEY changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DINGELL. Mr. Speaker, pursuant to the provisions of House Resolution 467, I call up from the Speaker's table the Senate bill (S. 1308) to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DINGELL moves to strike out all after the enacting clause of the Senate bill, S. 1308, and to insert in lieu thereof the provisions of the bill, H.R. 4985, as passed, as follows:

That (a) title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by adding the following new part at the end thereof:

"PART C—PRIORITY ENERGY PROJECTS

"SHORT TITLE

"SEC. 171. This part may be cited as the "Priority Energy Project Act of 1979".

"PURPOSES

"SEC. 172. The purposes of this part are to exercise the congressional authority under the Constitution to regulate interstate commerce by—

"(1) providing a means to designate certain nonnuclear energy conservation and production projects, including energy research and development projects, the prompt implementation of which is in the national interest; and

"(2) establishing coordinated schedules for the expeditious making of Federal, State, local, and other governmental decisions, including judicial review thereof, respecting such designated projects, consistent with other applicable provisions of law, and establishing certain other procedures regarding such designated projects.

"DEFINITIONS

"SEC. 173. As used in this part, the term—

"(1) 'Agency' means a Federal agency or an agency or instrumentality of a State or local government or of a special governmental authority.

"(2) 'Agency decision' means any decision required to be made, or any other action required to be taken, by any agency with respect to any Priority Energy Project.

(3) 'Board' means the Energy Mobilization Board established pursuant to section 174.

"(4) 'Energy project' means any project or device to be used, or activity to be carried out, by any person in connection with the exploration for, the development, transportation, production, commercialization of, or the conservation or efficiency in the use of, any form of energy. Such term includes any equipment, building, mine, well, rig, pipeline, transmission line, processing project, transportation-related device, manufacturing project, or installation or any combination thereof to be used for such purposes.

"(5) 'Federal agency' means an executive agency as defined in section 105 of title 5 of the United States Code, the departments described in section 102 of such title 5, and the Executive Office of the President.

"(6) 'Person' means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any Federal agency, any agency or instrumentality of a State or local government, or a special governmental authority.

"(7) 'Priority Energy Project' means a proposed energy project which is designated pursuant to section 177 of this part.

"(8) 'Special governmental authority' means an interstate or regional authority or an Indian tribe.

"(9) 'State' means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"ENERGY MOBILIZATION BOARD; ESTABLISHMENT AND AUTHORITY

"SEC. 174. (a) The President is authorized to establish for purposes of this part an Energy Mobilization Board to consist of five members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated Chairman by the President.

"(b) Members of the Board, other than the Chairman, shall be entitled to receive compensation at the rate prescribed for level IV of the Executive Schedule. The Chairman shall be entitled to receive compensation at the rate prescribed for level III of the Executive Schedule. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. The Board shall have a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule.

"(c)(1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he deems necessary to carry out the functions of the Board.

"(2) Upon request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

"(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

"(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

"(d)(1) The Board may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders, as may be necessary to carry out its functions under this part. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this part. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

"(2)(A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within any State at any designated place of hearing within any State.

"(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

"(C) The subpoenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(e) Whenever the Board submits to the President or the Office of Management and Budget, any legislative recommendation or testimony, or comments on any legislation, prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives.

"(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce and the Committee on Science and Technology of the United States House of Representatives fully and currently informed concerning its activities. The Board shall submit an annual report to such committees concerning the actions taken, or to be taken, under this Act. The report shall contain such other information relating to energy projects as the Board deems appropriate.

"CERTAIN PROJECTS NOT COVERED

"SEC. 175. Nothing in this part shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974, or to any project which is, or may be, aproved under the provisions of title V of the Public Utility Regulatory Policies Act of 1978; except that in the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

"THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

"SEC. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement

established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system.

"AUTHORITY TO APPLY FOR PRIORITY STATUS

"SEC. 177. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this part. Such procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

"(1) enable it to make such a designation under this part,

"(2) identify each agency required to make an agency decision with respect to such project,

"(3) enable such agencies to identify the agency decisions which they are required to make with respect to such project, and

"(4) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

"(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

"(1) an adequate design proposal for the project;

"(2) economic data on the costs and benefits of the project; and

"(3) an analysis of the environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

"(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

"(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs, and Science and Technology. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration.

"DESIGNATION OF PRIORITY ENERGY PROJECTS

"SEC. 178. (a) Not later than forty-five days after expiration of the comment period under section 177(d) with respect to any application under section 177, the Board shall—

"(1) issue an order in accordance with this part designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

"(2) refuse to issue such an order.

"(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs and Science and Technology.

"(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

"(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

"(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

"(3) the extent to which the energy project would make use of renewable energy resources;

"(4) the extent to which the energy project would conserve energy;

"(5) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

"(6) the time that would normally be required to obtain all necessary agency decisions;

"(7) the adverse impacts that would result from—

"(i) the designation of the energy project as a Priority Energy Project, or

"(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

"(8) the extent to which the energy project would impinge upon the quantity and quality of presently available and future water resources;

"(9) the comments received concerning the energy project;

"(10) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

"(11) the availability of significant economic, environmental, or technical data; and

"(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

In the case of any order designating a project under this section, the order shall contain a statement of the basis on which such designation was made and such other information as may be appropriate.

"(d) Upon receipt of an application pursuant to section 176 of this part for the designation of an electric powerplant, as defined in section 103(a)(7) of the Powerplant and Industrial Fuel Use Act of 1978, as a Priority Energy Project and after an opportunity for public comment on such application pursuant to such section, the Board shall designate such powerplant as a Priority Energy Project, in accordance with section 177, if such powerplant is seeking, as determined by the Secretary of Energy, to use coal or a coal derived fuel as the primary energy source either (1) through conversion to such fuel from the use of oil or natural gas as the primary energy source for such powerplant, or (2) through construction of a new powerplant to replace an existing powerplant that uses oil or natural gas as the primary energy source.

"(e) The Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agency decisions with the appropriate agencies as soon as possible in order that agency decisions may be expedited.

"STATE PARTICIPATION

"SEC. 179. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is proposed to be located, and each such Governor may appoint a nonvoting Member to serve on the Board to participate only in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 174(b) shall not apply to the Member of the Board appointed under this section.

"COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 180(a). Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 183, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. If the Council determines that any such action relating to a Priority Energy Project will be a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council on Environmental Quality fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

"(b) Notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969.

"EXTENSION OF DEADLINES

"SEC. 181. The Board may extend the time for receiving comments under section 176 (d), the time for making its determination and publication under section 178 in the case of any application for designation of any energy project as a Priority Energy Project, the time for agencies to transmit information under section 182, and the time for publication by the Board under section 183(a) of a Project Decision Schedule. Any such extension shall be consistent with the purposes of this part and shall be for only such period as may be necessary, as determined by the Board.

"AGENCIES TO TRANSMIT INFORMATION

"SEC. 182. Not later than thirty days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any agency decision with respect to such Project or any part thereof, shall transmit to the Board—

"(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements applicable to such actions and to the making of such decisions;

"(2) a tentative schedule for completing such actions and making such decisions;

"(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

"(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any Priority Energy Project at any time and in any manner.

"PROJECT DECISION SCHEDULE

"SEC. 183. (a) Not later than thirty days after agencies are required to transmit information under section 181 with respect to any Priority Energy Project, the Board, in consultation with the appropriate agencies, shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applica-

ble to such decisions. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by such agencies.

"(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 182 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination. The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds twelve months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.

"(3) In the case of agency decision or action subject to the Project Decision Schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule. No such agency may modify the Project Decision Schedule pursuant to the authority contained in this paragraph.

"(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure adequate consideration of all matters concerning such Project under applicable law and to insure adequate participation by parties in applicable proceedings.

"(5) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such Schedule.

"(c) In consultation with any person responsible for—

"(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

"(d) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time. No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

"(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

"(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time,

taking into account the personnel and funds available to the agency for complying with such Schedule.

"MONITORING OF COMPLIANCE BY BOARD

"SEC. 184. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register, and may take such actions as it deems appropriate to bring such agency and other persons into compliance with the Project Decision Schedule. If the Board determines that any person responsible for—

"(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such Project which is necessary before such agency decision may be made,

has failed or refused to promptly file such application or petition or take such other action, the Board shall either revise such Project Decision Schedule or revoke the designation of such Priority Energy Project under section 178.

"AGENCY OBLIGATIONS NOT AFFECTED

"SEC. 185. (a)(1) Except as may otherwise be provided pursuant to the establishment or modification of a deadline or time table by the Board under section 183 or 186(a)(2)(A) or pursuant to the modification of a schedule by an agency under 183(b)(3), the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

"(2) Paragraph (1) shall be subject to section 186.

"(b) Except as permitted under the authorities referred to in subsection (a), nothing in this part shall—

"(1) affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law,

"(2) affect the basis on which any agency decision is made with respect to such a project, or

"(3) affect or influence the outcome of any such agency decision.

"(c) Nothing in this part shall be construed to affect the authority or independence of any independent Federal regulatory agency.

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 186. (a)(1) If the Board determines, pursuant to its monitoring under section 184, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the action taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 189(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as t reference to a recommendation of the President transmitted under this subsection, any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirements, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

"PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

"SEC. 187. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 183 or 186(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

"(b) No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 185, if such waiver would—

"(1) waive any Federal, State, or local requirement which relates to—

"(A) the rights, working conditions (including health and safety), compensation,

or activities of workers or their representatives,

"(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

"(C) criminal laws, or

"(D) civil rights laws;

"(2) waive any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

"(3) have the effect of impairing or abridging any right or rights of any person arising under the Constitution of the United States;

"(4) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights; or

"(5) have the effect of abridging or impairing the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

"(6) have the effect of contravening the will of the electorate as ascertained in any local or state initiative or referendum which was specifically related to the establishment of an energy project.

"(c) Notwithstanding any provision of this part, no requirement may be waived under this part with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

"WATER LAW

"SEC. 188. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

"(b) The United States, its agents, permittees or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

"(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

"(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

"JUDICIAL REVIEW

"SEC. 189. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 176, the granting or denying of an extension under section 181, the establishment of a Project Decision Schedule under section 183, and any action of the Board under section 184, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2) The making of any waiver recommendation by the board or waiver determination by the President under section 185 shall not be subject to judicial review, except as required by the Constitution or as permitted under paragraph (3).

"(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after the approval of a determination transmitted by the President to the Congress under section 186 requesting the court to enjoin or grant other appropriate relief with respect to any waiver approved pursuant to such determination if such waiver is inconsistent with any prohibition contained in section 187, and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

"(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

"(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any other court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

"(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

"(4) In issuing a final order in any action for review of any final agency action which is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay.

"REPORT

"SEC. 190. Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that significantly hinder the completion of energy projects, and which includes an analysis of why each law or regulation listed in the report is a significant hindrance to the completion of such projects.

"EFFECTIVE DATE

"SEC. 191. The Board shall promulgate regulations for carrying out its functions under this part (including regulations establishing procedures and criteria under section 177) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this part for designation of any project as a Priority Energy Project before promulgation of such regulations.

"EXPIRATION OF AUTHORITY

"SEC. 192. The Board shall cease to exist, and the authority provided to the Board under this part, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this part for any Priority Energy Project prior to the expiration of such authority, and, to the extent practicable, the other provisions of this part applicable to such project, shall continue to be applicable to such project after September 30, 1985.

"AUTHORIZATION

"SEC. 193. There is authorized to be appropriated to the Board to carry out the provisions of this part not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations.".

(b) The table of contents for such Act is amended by inserting after the item relating to section 166 the following:

"PART C—PRIORITY ENERGY PROJECTS

"Sec. 171. Short title.
"Sec. 172. Purposes.
"Sec. 173. Definitions.
"Sec. 174. Energy Mobilization Board; establishment and authority.
"Sec. 175. Certain projects not covered.
"Sec. 176. The Alaska natural gas transportation system.
"Sec. 177. Authority to apply for priority status.
"Sec. 178. Designation of priority energy projects.
"Sec. 179. State participation.
"Sec. 180. Compliance with NEPA.
"Sec. 181. Extension of deadlines.
"Sec. 182. Agencies to transmit information.
"Sec. 183. Project Decision Schedule.
"Sec. 184. Monitoring of compliance by Board.
"Sec. 185. Agency obligations not affected.
"Sec. 186. Enforcement of Project Decision Schedule.
"Sec. 187. Prohibition against waiver of certain rights and laws.
'Sec. 188. Water law.
"Sec. 189. Judicial review.
"Sec. 190. Report.
"Sec. 191. Effective date.
"Sec. 192. Expiration of authority.
"Sec. 193. Authorization.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4985) was laid on the table.

DIRECTING CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION MARKS, AND CROSS-REFERENCES IN ENGROSSMENT OF HOUSE AMENDMENTS TO S. 1308

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Enrolling Clerk be directed to correct section numbers, punctuation marks, and cross-references in the engrossed bill.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERSONAL EXPLANATION

Mr. GAYDOS. Mr. Speaker, on H.R. 4985 where I am reported as not voting, I want the RECORD to show that I did insert my card. I did press the button. I would have voted affirmatively if it had registered by electronic device. That is on rollcall No. 624.

PERMISSION FOR SUBCOMMITTEE ON ENERGY RESEARCH AND PRODUCTION OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET TOMORROW MORNING WHILE HOUSE IS IN SESSION

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy Research and Production of the Committee on Science and Technology may be permitted to meet tomorrow morning while the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us what he is going to be doing?

Mr. McCORMACK If the gentleman will yield, this is an oversight hearing on nuclear energy. We are starting at 9 o'clock in the morning so that we can conclude the hearing.

Mr. ROUSSELOT. It is just oversight?

Mr. McCORMACK. It is just oversight.

Mr. ROUSSELOT. There is no markup of any bill?

Mr. McCORMACK. No, there is no markup.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

□ 1540

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3994, RESOURCE CONSERVATION AND RECOVERY ACT AMENDMENTS OF 1979

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–578) on the resolution (H. Res. 473) providing for the consideration of the bill (H.R. 3994) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal year 1980, to make certain technical changes, to strengthen the regulatory and enforcement mechanisms, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2608, AUTHORIZING APPROPRIATIONS TO NUCLEAR REGULATORY COMMISSION FOR FISCAL YEAR 1980

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–577) on the resolution (H. Res. 472) providing for the consideration of the bill (H.R. 2608) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2603, AUTHORIZING APPROPRIATIONS FOR DEPARTMENT OF ENERGY FOR NATIONAL SECURITY PROGRAMS FOR FISCAL YEAR 1980

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–576) on the resolution (H. Res. 471) providing for the consideration of the bill (H.R. 2603) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2063, ECONOMIC DEVELOPMENT AND PUBLIC WORKS ACT OF 1979

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–579) on the resolution (H. Res. 479) providing for the consideration of the bill (H.R. 2063) to amend the Public Works and Economic Development Act of 1965 to extend the authorization for 3 additional years, which was referred to the House Calendar and ordered to be printed.

WELFARE REFORM AMENDMENTS OF 1979

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 465, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 465

Resolved, That upon the adoption of this resolution it shall be in order, section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4904) to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes, and the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except: (1) amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment, all points of order against the amendments recommended by the Committee on Ways and Means now printed in the bill for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 5, rule XXI, are hereby waived, and said amendments shall be considered en bloc and considered as read and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole; and (2) an amendment printed in the Congressional Record of October 22, 1979 by, and if offered by, Representative Jeffords of Vermont, and said amendment shall not be subject to amendment, and all points of order against said amendment for failure to comply with section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 465 provides the consideration of the bill, H.R. 4904, Social Welfare Reform Amendments of 1979. This legislation makes reforms in the program of aid to families with dependent children, it makes improvements in the standards for eligibility and benefits in the supplemental security income program, and it provides improvements in the administration of both of these programs.

The rule grants 2 hours of general debate with the time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Only amendments recommended by the Committee on Ways and Means and an amendment, if offered by Representative JEFFORDS of Vermont, may be offered. These amendments shall not be subject to amendment. The committee amendments will be considered en bloc and will not be subject to a demand for a division of the question in either the House or the Committee of the Whole. A motion to recommit is in order upon completion of consideration of the bill.

The rule provides waivers of section 303(a)(4) of the Budget Act and clause

5 of rule XXI so that the bill may be considered.

Section 303(a)(4) of the Budget Act prohibits the consideration of a bill which provides new entitlement authority to become effective during a fiscal year before the first concurrent resolution on the budget is agreed to. Section 104 of the bill modifies the treatment of income to become effective in fiscal year 1982. As the first concurrent resolution of the budget for fiscal year 1982 has not yet been adopted, the bill would be subject to a point of order without this waiver.

Clause 5 of rule XXI prohibits an appropriation in a legislative bill. The waiver applies to several sections of the bill.

Mr. Speaker, H.R. 4904 makes important improvements in the existing system, it strengthens work incentives while solving many of the inequities of our current system. I urge my colleagues to adopt House Resolution 465 so that we may proceed to the consideration of this legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a rule before us today on which the previous question should be defeated. A new rule should be offered. Actually, the welfare reform amendments of 1979 are a first step toward a guaranteed income.

I think it is ridiculous for this House to consider such a proposal under a modified closed rule, and in the Committee on Rules, I offered an amendment to make in order as a substitute to title I, the Rousselot-Conable-Jones amendment, to provide for block grants, grants to go to the States and let the States tighten the welfare program and do whatever is necessary for reform.

□ 1550

That amendment was narrowly defeated. I see nothing wrong at all, Mr. Speaker, with the House working its will here and the States of this Nation having a say-so in the development and carrying out of a welfare program. I call upon the Members of the House to go along with me in defeating the previous question on this rule.

Mr. Speaker, raising the benefits to 65 percent of the poverty level is encouraged, but not mandated, with $400 million available to low benefit States only for this purpose under the bipartisan amendment, as a substitute to title I. What is wrong with that?

A pilot test in 10 States is authorized so that States can use bloc grants to design welfare programs free of existing Federal regulation. I ask: what is wrong with that? The bloc grant substitute is the first step toward a decentralized program with State control. The committee bill, which the rule that is being offered on the floor now would permit, is the first step toward a national, universal, guaranteed income program.

The block grants substitute encourages States to eliminate error, waste, and fraud. The committee bill increases open-ended Federal matching funds and reduces State incentives to use funds wisely.

The block grant substitute encourages low benefit States to increase their welfare grants. The committee bill mandates a national minimum benefit.

What is wrong with the block grant approach?

State and local control is desirable. The State and local level is where they know how to find the welfare fraud and the welfare fraud is great. The block grant substitute gives States discretion to require work for benefits. The committee bill permits recipients to refuse to work, paying in excess of minimum wage for families of four in many States. In other words, the committee bill, which will be considered under the rule being offered, encourages people not to work. It would allow them to say, oh, yes, we have the welfare pouch in our hands and we are not going to work. I do not think that is right.

What is wrong with the block grant approach?

The block grant substitute leaves coverage for two-parent families to State discretion. The committee bill mandates coverage of two-parent families. You encourage the welfare rolls to increase under such a program, and it does not make sense to me. The block grant substitute permits up to 10 States to use funds to design and implement their own programs. The committee bill has no pilot test.

I say to each Member of the House, let us vote down the previous question, let us make the Rousselot-Conable-Jones amendment as a substitute to title I in order. Let us give the States and local governments of this Nation an opportunity to do something worthwhile for the people instead of encouraging the welfare rolls to increase.

Pilot programs are necessary. Our welfare program, as it exists, is a sham. Certainly the people who need it should have it but, at the same time, if we are going to keep increasing the rolls, increasing the benefits, leading to a national, universal guaranteed income, then we are on the wrong track.

I urge my colleagues to vote no on the previous question so that a substitute rule can be offered.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I am happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to join with the gentleman from Tennessee in expressing my opposition to this rule.

The gentleman is quite correct, the issue presented in this legislation, that of welfare reform, is one of the major political issues facing this Nation today. It is one that is most in the minds of taxpayers as well as those who may need the assistance of such programs.

The problem we face in the way the bill is brought to us is very much as the gentleman described it, whether or not the House will have its ability to work its will on this legislation. The only reason that this bill is being brought to us under a closed rule, allowing one relatively minor amendment, is that apparently the majority on the Ways and Means Subcommittee that controls this legislation does not want to be bothered with the nuisance of having Members of the House being able to offer amendments and to vote on them on the floor.

This is a continuing trend that we have seen in recent weeks. It may be justified to some degree in some instances, but on an issue of this depth and of this importance, and when many Members came before our committee and asked for the right to offer amendments, to deny them the right to offer a minority substitute even is totally, I think, unfair. I think if this is allowed to continue on bill after bill it is going to hurt both sides of the aisle, because someday their turn will come, no matter what group we may consider ourselves to be a part of.

So I urge a voting down of the previous question so that we can offer a substitute rule that will accommodate and allow the offering of the amendments the committee has requested to make in order.

Mr. QUILLEN. I thank the gentleman for his contribution. He is exactly right. I think today is the test, today is the opportunity to get rid of the idea of a national, universal, guaranteed income.

I urge my colleagues to vote against the previous question.

Mr. DERRICK. Mr. Speaker, I yield, 4 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I rise in opposition to the rule and urge that the previous question be defeated.

I think we should be very clear about what we are being asked to do under this rule. We are being asked to decide one of the most far-reaching, fundamental policy changes that we have considered in this, the 96th Congress. We are being asked to make this far-reaching decision under a closed rule. There will be no opportunity to debate, no opportunity to vote on an alternative approach to this sweeping policy change, no opportunity even to offer a simple amendment to this sweeping policy change.

This is not the way this great deliberative body ought to proceed. What is this sweeping policy change we are deciding today? It is to federalize the remaining vestiges of States welfare programs. The implications of this in terms of budget policy are enormous, and these implications come at a time when Americans are demanding less Federal spending and more balanced budgets.

The implications of this policy change with regard to the growth of Federal bureaucracy are also enormous. These implications come at a time when Americans are demanding cutbacks in Federal bureaucracy, cutbacks in Federal regulation.

Yet we are told by this closed rule that H.R. 4904 is really the only answer to the Nation's welfare problems, that federalizing welfare is the answer from on high, chiseled in stone, that cannot be amended by this House. In other words, the Members of this body are being given a take-it-or-leave-it proposition on this very complicated question of welfare reform.

Do most of the Members of this House really believe that we have an accurate enough information base and data base on which to turn over America's welfare programs and administration to HEW?

Are we so sure that H.R. 4904 is better than an experimental welfare program funded by block grants to the States; or is it better than a negative income tax program; or is it better than requiring a work requirement program and day care programs? I submit that the answer to these questions is no. We do not have an accurate enough data base to make that decision, and yet if we pass this rule we will be denied the opportunity to debate, or to choose any one of these alternatives to federalizing welfare.

Before voting on this rule I would also encourage my colleagues to seriously consider what federalization of welfare will do to our attempts to cut back on Federal spending and to balance the budget in the next few years.

□ 1600

H.R. 4904 shows us merely the tip of the spending iceberg. It establishes new entitlement programs and expands that portion of the Federal budget which we call uncontrollable items. Already, 75 percent of the Federal budget falls into the entitlement or uncontrollable category, and that is one of the major reasons why we are not able to balance the budget today.

Now, here we are with this rule giving ourselves no opportunity to do anything but to expand even further the uncontrollables in the Federal budget, and the entitlement programs. It may well be that the House will decide that H.R. 4904 is the best answer to welfare, but it seems to me that we ought, at the very least, we ought to be able to seriously debate and vote on a substitute approach as embodied in the Rousselot-Conable-Jones of Oklahoma amendment. The only way we can have this opportunity is to vote down the previous question.

Mr. Speaker, I urge my colleagues to vote down the previous question to this rule.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I rise in opposition to the rule proposed on House Resolution 465. In all material purposes this is a closed rule. It is not an appropriate vehicle for the consideration of a complex piece of major legislation like the welfare bill.

This rule denies the House an opportunity to hear the arguments advanced in support of amendments, to evaluate them and to decide accordingly. By cutting off the amending process in this way, the rule reduces the participation of the House to merely an up or down vote, take it or leave it. This is no way to consider a bill that culminates literally a decade of work, a measure which will have significant and lasting impact on each and every congressional district.

This closed rule is not a partisan issue. As I hope we will hear from the other side of the aisle. Democrats as well as Republicans will have their amendments stifled under this rule.

Some supporters may feel that the bill is in trouble. They may fear that opening it up to amendments may jeopardize its chances for passage.

Frankly, exactly the opposite is true. I believe a number of Members now inclined to vote against final passage would reconsider their vote if some key amendments were accepted.

Let me discuss briefly three such amendments. I hope you will have a chance to hear them debated more fully later this afternoon.

First, there is a block grant substitute for title I of the committee bill. This amendment would replace the open-ended Federal matching with an indexed block grant that includes $1 billion in fiscal relief and $400 million for low-benefit States to raise their benefits to 65 percent of the poverty level, and a high-unemployment allowance. It also allows States the option to impose work requirements and authorizes a 10-State pilot test to see how well States could use welfare funds free of the constraints of Federal rules and regulations.

Second, a number of Members would like to approach the block grant concept by first testing it in a limited number of States and localities. A pilot test would permit this to occur.

Finally, an option for States to require welfare recipients to work has substantial appeal, particularly in light of the bill's expansion of the program for two-parent families.

Now, unless this rule is opened up, none of these options can be considered. The recommittal motion would be the only avenue open, and that motion does not allow the kind of debate and discussion that these amendments deserve.

Therefore, I hope you will join me in voting against the previous questions so that a substitute rule can be offered which allows an orderly debate of at least a few of the major alternatives along the lines I have suggested.

There are precious few items in this bill to appeal to many Members. A closed rule will only insure that this continues to be the case.

Mr. DERRICK. Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, why should the Ways and Means Committee exercise the sole prerogative of having closed rule on the vast majority of bills reported out of that committee when other committees are forced to submit to an open or a modified open rule? The traditional argument is that Ways and Means bills deal with highly technical, complicated tax provisions and that would be dangerous to the Nation to open up the Internal Revenue Code to irresponsible or uninformed tinkering by this House. However, H.R. 4904 is not a tax bill—it is a spending bill and in this way is no different than the bills brought to the floor by other authorizing committees. Certainly, the Armed Services Committee would not be permitted to bring a defense authorization bill to the floor under a closed rule. The Ways and Means Committee, when nontax bills are being considered should be no different.

Mr. Speaker, I am shocked and disappointed that there would be this attempt to bring a bill we worked on and debated extensively in committee—where amendments were brought forward—some passed, some did not—and suddenly we slam the door shut on the ability of the Members of this House in some way to contribute to the legislative process by offering amendments that might be helpful to the bill.

I wish to urge my colleagues to vote against the previous question and allow us to have a rule that will permit some amendments, several of which have been discussed by the ranking minority member of the Ways and Means Committee, the gentleman from New York (Mr. CONABLE), and allow us to work our will as an entire House on this issue.

This legislation before us today, H.R. 4094, includes vast financial commitments for the future. By supporting a closed rule, you will put the House in the position of having to vote up or down on substantial increases in entitlements for the future—I think this is an unfair position. We would not do it in a defense authorization bill and some of the very Members now advocating this closed rule would be among the first to stand here and argue against a rule of this type for a defense bill, and properly so.

So I am terribly disappointed, after very healthy debate in the Ways and Means Committee, that we have suddenly slammed the door shut on the ability of this House to address such important issues as work requirements and assets test and eligibility regulation. We have no chance to do so, as my colleague from Oklahoma, an active member of the Ways and Means Committee, Mr. JONES, has said. If the Members vote for this closed rule, they are slamming the door shut on a true discussion of work requirements, eligibility for the program, reduction of State discretion, and elimination of incentives to return to productive activity.

Prohibiting amendments from being offered to H.R. 4094 will merely contribute to the federalization of the welfare program and will be a major step in increasing the ultimate costs of the program, both for the Federal Government and for the States.

I urge my colleagues, if they have heard the call of many of their constituents who say, "What are you doing to try to improve the welfare program of this Nation," I urge them to vote against closing down our ability to offer some amendments. Most of them were considered in committee and would not "undo years of careful work" as the Members will be told. These amendments will address important issues relating to welfare reform that will affect us for many years to come.

Now, this bill, regardless of what its advocates may say, mandates a guaranteed national income—make no mistake about it. Do not allow yourselves to be painted into a corner of having to support a guaranteed national income in order to tell your voters that you supported "welfare reform." Defeat the previous question on the rule and give us all an opportunity to vote for true welfare reform—the Rousselot-Conable-Jones block grant substitute.

□ 1610

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, for those who like the present welfare system, they are going to love H.R. 4904, the Committee on Ways and Means bill, Social Welfare Amendments of 1979. As I understand it, it will cost the taxpayers more. It will put more people on the welfare rolls, and it does not provide for workfare.

All of us understand the need for a safety net under the people of this country who are sick, who are disabled, who are elderly, and genuinely poor; but at the same time I think we need to have some provisions in here for some alternative considerations. We need to have some consideration of workfare.

We need to consider this block grant approach that the gentleman from California (Mr. ROUSSELOT) and the gentleman from Oklahoma (Mr. JONES) have talked about, the bipartisan substitute, H.R. 4460. It has incentives for savings that the States can provide for, and then they can take those savings and give them back to the needy people of those States. It is a very positive approach.

Quite frankly, I was surprised when the Committee on Rules came up with the rule that it did. During the discussion of the rules, it looked like we were going to have at least a rule making in order this Rousselot-Jones substitute to be considered on the floor. Even the chairman of the Committee on Rules seemed to be saying that he favored it, and he said, "I think it is important everybody have a fair shot at what we are going to vote on. I do not suggest that that is the only view that anybody could have, but that is the view I have." I urge my colleagues on this most important issue that the American people feel so strongly about, that we have the option at least to consider one alternative, defeat the previous question, give this body the opportunity to debate alternatives and allow the various viewpoints to be heard when we take up the debate.

Mr. Speaker, I yield back the remainder of my time.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I feel that our constituents would agree on this proposition, that those who get benefits from our Government and are able-bodied ought to do something in return for those benefits. You can call that workfare; you can choose another label; but I think it is sound commonsense that is best for the person receiving benefits and certainly best for society in general.

The major defect, in my opinion, of the rule that is before us now is that it does not permit us to correct a very glaring defect in public law, or regulation, whichever it is. Present law and regulation do not permit workfare projects to be carried out by State and local units of government. I sought to get the Committee on Rules to make in order an amendment that I felt was entirely consistent with the will of the Congress, because it is almost identical to language that is now in the food stamp law. Under that food stamp law there are now five pilot projects scattered geographically throughout this country, and in those project areas food stamp recipients who are required under the food stamp law to be hunting for a job are also required to work off, at the minimum wage level, tasks for local units of government in exchange for their food stamp benefits. I sought to make in order an amendment to this bill which would establish and require two pilot projects in each of the 10 districts of the Nation on this same workfare project. Unfortunately, the Committee on Rules did not see fit to make that amendment in order. I really believe the Committee on Rules in making that decision went in the face of American public opinion.

I believe our constituents would really like to have the opportunity presented to local units of government to establish workfare programs through which those local units of government would get some useful tasks performed by those getting welfare benefits. I believe also that this would inure to the benefit of the welfare recipients, give them a new dignity that is very important in their activity, and give them work experience which could very well lead to useful full-time employment in either the private or the public sector. Because of this glaring defect in the rule now pending, I urge my colleagues to vote against the previous question.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, it was about 9 years ago—I think it was 1969 or 1970—when I appeared in this well as a Democratic liberal, to the consternation of a good number of the colleagues on my side of the aisle, supporting a closed rule requested by the Nixon administration on legislation then being developed by the distinguished gentleman from Arkansas (Mr. Mills) and the gentleman from Wisconsin (Mr. Byrnes). I noted at that point in time, as did the committee, that welfare policy leads itself to simplistic solutions when the problems are really quite intricate, and we would be well advised to deal with the fundamental policy and not open up the entire welfare code. At that point in time we carried a majority of the Members, as I recall it a very narrow majority, perhaps maybe a narrow minority on the Republican side, and we carried by a bare majority the Democrats on our side. Therefore, some 9 years or so ago this House enacted or passed a welfare reform bill called the Nixon family plan.

I understand my dear friend, the gentleman from California (Mr. ROUSSELOT)—if he was in the House then, and I think he was, but I am not sure—I do not know how he voted, but I do know the man whose counsel he has solicited, among others, convinced our then Republican Governor, Mr. Reagan, that the Nixon welfare plan was ill advised. It was noted in debate then that the current plan at the time, still the law we have today, is grossly inequitable, unfair, and unmanageable, and some order and equity should be brought out of this chaos. It was predicted then accurately that if welfare reform were not enacted, if we did not enact that plan—which I might note was more liberal than this proposal, and I live with that characterization—if we did not enact that plan, welfare costs in this country were going to skyrocket. And lo and behold, welfare costs in this country skyrocketed. In those days we lost some on our side who rank among our finest liberals because they said it was not enough. To those I said, "If we do not move now to make some correction, all of these inequities are going to persist and we are going to have the poor under identical circumstances being treated entirely differently, depending on which side of the State or in whose bounty they live."

I urge my colleagues on the minority side, this is a sound proposal. Admittedly, it is a modest one. It will do a great deal to bring some rationality out of this irrational process. some equity out of this inequitable situation. I think it would be quite myopic if those on the Republican side of the aisle fail to grant this rule their vote.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding. As the gentleman knows, most of the amendments we are talking about are not radical proposals, nor would they substantially increase the costs, so we do not need to worry about voting against the previous question, because they are mostly amendments that were considered in committee.

□ 1620

Admittedly we did not have quite enough votes. They are easily understood. It relates to work requirements and other things. I think the gentleman would be pleased to know that the amendments we are trying to get simply offered here do not radically change the present law. As a matter of fact, they are less radical than this bill. I thought I would help the gentleman out. We would be glad to have the gentleman's vote against the previous question.

Mr. PHILLIP BURTON. I appreciate the gentleman's observation, if I may reclaim my time. There is a work requirement component in this bill, just as there was in the Nixon bill and that is a fact. The further fact is if we do not take this opportunity to bring, as I said earlier, some order out of this indefensible chaos, we will learn and the American taxpayers will learn to regret it. We have massive disincentives to work under the current law and it ought to be changed as provided in this bill.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, 1 year ago, Dr. Martin Anderson of Stanford University wrote a book entitled, "Welfare: The Political Economy of Welfare Reform in the United States." This book is recognized as the definitive study of welfare reform. Let me quote Dr. Anderson:

> The institution of a guaranteed income will cause a substantial reduction—perhaps as much as 50 percent—in the work effort of low-income workers. As long feared by the public, and recently confirmed by independent research studies, such a massive withdrawal from the work force would have the most profound and far-reaching social and economic consequences for our society.

Dr. Anderson has reminded us that a guaranteed income—no matter what form it takes—is destructive to low-income families.

I bring this to your attention for obvious reasons.

The bill before us contains the following:

An increase of $2.2 billion in Federal spending, bringing the total cost of these programs to $5.5 billion.

An expansion of eligibility by altering the income and assets test to allow potential eligible recipients to deduct the value of their house, clothing, and two cars as long as one car is not valued at over $4,500.

A prohibition against States requiring welfare recipients to work for their benefits;

A provision that all States must provide a nationally established minimum level of benefits of 65 percent of the official poverty level.

Can there be any doubt that the nationally established minimum level of benefits is a beachhead from which the shock troops of a centralized welfare system plan to make their final assault on the States?

Can there be any doubt that behind the emotional rhetoric of compassion lies the calculated plans for a universal guaranteed income?

When you look at the provisions of the "social welfare reform amendments" bill you realize the bill is misnamed.

It is concerned with the deformation, not the reformation of the current system.

It is concerned with centralization of power and not social welfare.

And, of course, what we are actually confronted with is not an amendment process but a veritable revolution in welfare.

The true name of this bill should be the "Deformation and Centralization Welfare Revolution of 1979."

True welfare reform must take into account the fact that, whether the big government experts like it or not, Mississippi is different from Illinois, and Texas is different from Rhode Island, and Maine is different from California.

Those differences are not simply geographic. They are demographic. They are economic. They are rooted in different traditions, different lifestyles, different outlooks on life and work and welfare. The people of the States should not be stretched out on some Procrustean bed to fit some Washington scheme. Any welfare proposal that ignores the difference between States and increases costs is no reform.

What we should be doing is reforming the welfare system in a manner that allows the individual States freedom to respond to local realities and that reduces welfare costs, rather than increasing them.

Two years ago, I introduced a welfare reform bill that would have enabled us to reduce Federal welfare expenditures by $1.5 billion, and at the same time would have provided $2 to $3 billion in fiscal relief to the States. The bill would have accomplished these savings through various incentives and requirements designed to reduce the error rates, eliminate the ineligibles, correct structural deficiencies, strengthen the work options and requirements, and increase the opportunities for State experimentation with alternatives.

Since then, we have been able to undertake several of these steps through the appropriations process. We have acted to reduce error rates by requiring that the States reduce their error rates to 4 percent by September 30, 1982.

We have put the pressure on for overall reductions in waste, fraud, and abuse by requiring HEW to achieve a 2-year reduction of $1 billion in such excesses.

We have initiated a demonstration study of the monthly retrospective reporting system which has the potential of reducing welfare costs by upwards of 10 percent.

This is the direction we ought to be headed in—tightening up the administration of the program, but continuing to leave benefits levels up to the individual States and giving those States greater leeway to try other approaches, rather than further nationalizing another program.

We are being asked to vote for a bill the name of which is misleading, the true purpose of which is disguised and the ultimate effort of which will be disastrous.

I strongly urge that we seek true welfare reform which means trusting the people of the States. This bill cannot and will not accomplish this.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Speaker, the American people do not mind helping those people who truly need help but the problem is with the system the way it is today we do not have enough money to help those people who really need help.

Mr. Speaker, I just came out of the New York State Legislature where I spent many years on the ways and means committee and the social services committee and time after time when we tried to deal with over $1 billion in fraud, abuse and waste in our welfare system in New York State, a $1 billion waste, we were shot down by the Department of Health, Education, and Welfare, threatening us with the loss of Federal aid coming to New York State if we tried to correct the problem. They said we were in violation of existing requirements of the Department of Health, Education, and Welfare and existing Federal statutes.

Mr. Speaker, I am distressed that many of the recommendations brought by myself and other Members who came out of those State legislatures who know where the problems are, have been turned down. We have expressed these recommendations to the gentleman from California (Mr. ROUSSELOT) about these amendments, many of which are incorporated in his amendments, which under this rule, will not even be allowed on the floor for consideration.

This rule will deprive Members of this House the opportunity to offer amendments that would strengthen this legislation and bring about badly needed welfare reform.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I rise in opposition to the rule on H.R. 4904. There are several rather troubling sections of this bill, H.R. 4904, the rule for which we are considering.

I think all of us have heard from the National Governors' Association as well as our State and local welfare administrators about the positive aspects of this bill. In many respects, it is a good bill. But I believe a few of its provisions represent some very shaky public policy.

A new section added to welfare law under H.R. 4904 is entitled "Limitation of Fiscal Liability of States: Hold Harmless." This section states that beginning in 1981, and continuing through fiscal year 1986, a State would be held harmless for the amount by which AFDC expenditures—plus the increases in medicaid and administrative costs caused by AFDS caseload growth—exceed 95 percent of the 1979 level of State expenditures for AFDC.

To leave this hold harmless provision so open-ended, is essentially an invitation to the States to cease and desist in their efforts to control the rising numbers of families receiving benefits.

Another section of H.R. 4904, establishes a Federal block grant program to assist States in meeting emergency needs of families with children. These are funds to help out in floods, fires, accidents, disasters, "uncontrollable, unpredictable or nonroutine events."

Effective October 1, 1981, the allocation is set at $200 million to be shared among the States "on an entitlement basis and would be adjusted annually for changes in the consumer price index."

Entitlement, as we all know, is a catchword for open-endedness in funding provisions.

Yet another section of this bill provides that beginning January 1, 1981, the State's share of AFDC and AFDC–UF costs would be reduced by 10 percent. Beginning October 1, 1981, the State's share of AFDC–UP would be reduced by an additional 20 percent. For example, as of October 1, 1981, New York State's share of AFDC would be reduced from 50 to 45 percent and from 50 to 35 percent for AFDC–UP.

The changes that I have noted are an invitation to fiscal irresponsibility on the part of the States. In the limit to States' fiscal liability, the hold-harmless provision—we are not even talking about holding the States to their 1979 levels of expenditures, but rather to 95 percent of this past year's expenditures.

And even this ceiling on the States' responsibilities is qualified by the alternative of the mandated national minimum benefit level, if it is higher than that 95 percent of 1979 spending. And both figures are yet again qualified by an allowance for adjustments according to the Consumer Price Index to the year being calculated.

Moreover, this hold-harmless section

is recognized by the States as "fiscal protection against unexpected increases in cost."

The entitlement program established for emergency assistance payments to the States sets up an open-ended situation under which the Federal Government is obliged to kick in whatever matching amount is necessary to meet the States' self-determined needs. This mechanism defies our attempts to get a handle on the Federal budget.

Finally, the increasing share of AFDC expenditures which the Federal Government will be obligated to assume under H.R. 4904, is absolutely unconscionable. Especially when we consider the reported budget surpluses that several State governments have collected in recent years, and the Federal budget deficit deemed acceptable by the House-Senate conference committee yesterday, $29.8 billion—just under the magic mind-boggler of $30 billion.

What kind of example would the Federal Government, this Congress be setting by adopting these proposed programs?

Can we honestly endorse this measure as sound public policy?

While the budget estimates for this bill, H.R. 4904, spell out reasonable savings for fiscal year 1980—$186 million saved, by the time these sections, to which I object, are implemented, this figure metamorphoses into an additional $912 million in Federal outlays for fiscal year 1981, then up to $2.9 billion for 1982, $3.5 billion for 1983—to a deafening roar of $4.067 billion for 1984.

We are providing more than a cushion here for "uncontrollable, unpredictable or nonroutine events."

This is tantamount to adding fuel to a hot-air balloon which is bound to soar to unforeseen budgetary heights.

The generosity of the Federal Government, as specified under H.R. 4904, is a cruel hoax on the American taxpayer. These so-called welfare reforms will have to be funded by someone, and we all know who that someone will be.

I urge a vote against the rule.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I would urge my colleagues to vote down the previous question. The welfare system in this country is a mess. That is acknowledged by recipients, it is acknowledged by taxpayers, it is acknowledged by those who work within the system. What it needs is an overhaul, not a tinkering such as we are asked to consider in the bill before us today. What it particularly needs is a strong work requirement, something which is not included in the bill before us today. What we are being asked to consider is the fact that this is a one-way street, that welfare reform is only a one-way street, that we cannot deviate from the march toward federalization and guaranteed national income.

Mr. Speaker, I think what we are saying on our side of the aisle is that there are some other alternatives, responsible alternatives that should be considered by this House as a means to clean up and really overhaul the welfare system.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, as a new Member here, I have sat and listened to the debates all year long. One thing that seems manifestly clear to me is that central government has assumed for itself more responsibility than it can discharge. We have weighted ourselves down with various responsibilities and duties that could well be taken care of by the State and local governments to the point where not only the bureaucracy but the Congress is actually discombobulated.

□ 1630

We have just gone through a 2-day debate here on the Energy Mobilization Board where we are not trying to do anything positive. We are just trying to undo in the case of energy what has been done wrongly over so many years and to dismantle some of the bureaucracy.

This shift to central government is always accompanied by increased spending. I agree that we are just federalizing the system here, but it seems to me that we ought to at least have a chance to debate the proposal of the gentleman from California (Mr. ROUSSELOT) which would allay that shift to the central government. In a question such as this of such great magnitude, we should defeat the previous question.

Mr. QUILLEN. Mr. Speaker, I would like to inform the gentleman from South Carolina that I have one more request for time.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Speaker, in the time remaining, let me summarize the case against this rule. It is a very simple case. This is totally inflexible. It permits no serious consideration of any alternatives. The only option available is a motion to recommit with 5 minutes on each side, hardly an opportunity to give this bill the attention which it deserves and to consider alternatives in any sort of depth.

This bill, indeed, is so one-sided that passing it in its present form would indeed be sending H.R. 4904 and the whole issue of welfare reform to a very uncertain future in the other body.

I am convinced that those who desire true welfare reform are hurting their cause by insisting on an essentially closed rule.

If you want increased Federal control of welfare, support this rule.

If you believe that the way to reform the welfare system is to pump billions of dollars into the Federal system, support this rule.

If you oppose work requirements for welfare, support this rule.

For myself, I think we can do better than H.R. 4904.

I intend to vote against the previous question and for a substitute rule.

Mr. QUILLEN. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon, the distinguished chairman of the Committee on Ways and Means (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I have listened to the speakers label this bill as guaranteed income. I consider myself somewhat of an authority on that, because in 1970 I led the fight against guaranteed income and again in 1972 and again in 1978.

This, I want to tell my colleagues in the House, is the sound, constructive alternative to guaranteed income. This is incremental reform. This is what we have been and what I have been struggling to achieve for a long time. I am rather surprised that some of my good friends, particularly those on the committee on the minority side are disowning a product that by and large they have supported in concept and one that, indeed, does tighten up the system, one that, indeed, does eliminate some of the abuses that all of us are complaining about.

Mr. Speaker, I want to commend the chairman of the subcommittee, the gentleman from California (Mr. CORMAN). This has gone through the legislative process, through the subcommittee in very thorough consideration. The administration has worked long and hard with the subcommittee in developing a sound bill. We went over it again in the full committee. We made some changes and some corrections.

I want to say that if you are tired of the welfare mess, so-called, and all of us know that it has its messy characteristics, if you are tired of it, this is the way to go.

Now, the main source of the opposition is from those people who want block grants. Well, you know, we have been giving out a lot of money to the States and localities, but what you are saying is throw some more money at them in a block grant with no Federal standards or requirements. Well, we are not going to do that. This Congress is not, the next one is not.

The only realistic approach to welfare reform is what we have before us, a well worked out soundly conceived bill.

Let me run through this very quickly. You have payments now based in this bill on actual income, not future income. That is what we have been working for. It cleans up a lot of the problems. Income must be reported on a monthly basis in place of 6 months or a year or whatever. This is a tightening provision, and important reform.

We have had work requirements, but they do not work, they have not worked. In this bill we have real work requirements. You do not get on welfare without passing through a very rigid work requirement.

Under the present system, you can get welfare up to $15,000. We have tightened that up. You cannot do that anymore under this bill. Here we have an economic incentive to always take a job. In other words, you are better off by working than you are on welfare under the provisions of this bill.

It reduces administrative costs. It reduces payment error rate. These have been some of the problems in the welfare system.

Certainly, there is some minimum amount of extra cost, but where is that extra cost? It is increasing the earned income tax credit which will in turn reduce welfare rolls.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Oregon (Mr. ULLMAN) has expired.

Mr. DERRICK. Mr. Speaker, I yield 1 additional minute to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the second part of this minimal increase in cost is cashing out food stamps for SSI recipients. I have been opposed to cashing out food stamps, but here in the case of SSI it is absolutely ridiculous to go to all the expense and trouble of having food stamps and cash payments also; so we have a real good administrative reform.

Finally, we provide a minimum floor for AFDC and food stamp benefit levels for families with children.

Now, Mr. Speaker, the House would not be well served by defeating this rule. It would open the gates to conflicting amendments and bitter controversy. We would upset a balance that has been developed with hard and laborious effort on the part of a lot of people who know the system and want to tighten it and want to clean it up; so I strongly urge the Members of this body to vote for the rule, for the previous question, and then get on with real welfare reform in this bill.

Mr. QUILLEN. Mr. Speaker, I urge the defeat of the previous question. We have heard a good speech. We have heard some good remarks, but I would like to remind the Members of the House that HEW itself admits to the loss of $6 billion or $7 billion, welfare being one of the programs administered by HEW. If the Federal Government can lose and not account for $6 billion or $7 billion in one department, what is wrong with letting the States of this Nation have some control so they can try to end the corruption, end the welfare disarray, end the confusion, and straighten the program out.

The block grants are so important that I urge the Members to vote against the previous ouestion.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I would be happy to yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, I am delighted to see that the gentleman has so much faith in Gov. Jerry Brown that the gentleman wants him to have all this money.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I urge a vote in the affirmative for the previous question. This is the legislative process at work at its best, legislation that has been well considered by the Committee on Ways and Means, legislation that has been well considered and a rule that has been well crafted by the Committee on Rules of this House.

We have before us a rule that allows amendments from the Committee on Ways and Means, amendments from the gentleman from Vermont (Mr. JEFFORDS), and a motion to recommit. There is ample opportunity to address the major questions concerned in ths legislation.

To do other than to vote for this rule, to vote for the previous question, would mean that we would have upon the floor a situation that would be unbearable and would serve no one, those who support this legislation and those who do not support it. It would not serve this House or the legislative process. I ask that we vote in support.

Mr. Speaker, I move the previous question on the resolution.

□ 1640

The SPEAKER. pro tempore. the question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 209, nays 177, not voting 47, as follows:

[Roll No. 625]

YEAS—209

Addabbo
Akaka
Alboata
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baltus
Barnes
Beard, R.I.
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Coelho
Conyers
Corman
Cotter
D'Amours
Daniel'son
Dasche
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Fary
Pascell
Pazio
Pisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Holtzman
Howard
Hubbard
Hutto
Ireland
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
Maguire
Markey
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Steed
Stewart
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zeferetti

NAYS—177

Andrews, N.C.
Andrews, N. Dak.
Archer
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bethune
Breaux
Brinkley
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fithian
Forsythe
Fountain
Frenzel
Gilman
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hamilton
Hammer-schmidt
Hansen
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jones, Okla.
Kelly
Ketnp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Mariense
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Neal
Nelson
O'Brien
Pashayan
Paul
Petri
Pursell
Quillen
Railsback
Regula
Rinaldo
Ritter
Robinson
Roth
Roussalot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Watkins
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wydler
Wylie
Young, Fla.

NOT VOTING—47

Abdnor
Anderson, Ill.
Applegate
Ashbrook
Bereuter
Bowen
Broomfield
Clay
Collins, Ill.
Crane, Philip
Dingell
Dixon
Dougherty
English
Evans, Ga.
Ferraro
Fish
Flood
Fowler
Giaimo
Harsha
Johnson, Colo.
Jones, N.C.
Leach, La.
Lederer
Marriott
Mavroules
Mollohan
Murphy, Ill.
Patterson
Pritchard
Quayle
Rhodes
Rodino
Rosenthal
Runnels
Shumway
Stack
Stokes
Treen
Wampler
Wilson, C. H.
Winn
Wirth
Wolff
Young, Alaska
Zablocki

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Lederer for, with Mr. Rhodes against.

Mr. Clay for, with Mr. Shumway against.

Mrs. Collins of Illinois for, with Mr. Wampler against.

Mr. Dixon for, with Mr. Young of Alaska against.

Mr. Stokes for, with Mr. Ashbrook against.

Mr. Murphy of Illinois for, with Mr. Winn against.

Mr. Fowler for, with Mr. Marriott against.

Messrs. GILMAN, ANDREWS of North Carolina, DAVIS of Michigan, and

HORTON changed their votes from "yea" to "nay."

Mr. TRAXLER changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 181, not voting 50, as follows:

[Roll No. 626]

AYES—202

Addabbo
Akaka
Alboeta
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boiling
Boner
Bonior
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Coelho
Conyers
Corman
Cotter
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Eilberg
Fary
Fascell
Fazio
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Holtzman
Howard
Hubbard
Hutto
Ireland
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Lloyd
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
Maguire
Markey
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Stewart
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Waigren
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zeferetti

NOES—181

Andrews, N.C.
Andrews, N. Dak.
Archer
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Breaux
Brinkley
Brown, Ohio
Bruyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fithian
Forsythe
Fountain
Frenzel
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hammer-schmidt
Hansen
Harsha
Heckler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Neal
Nelson
O'Brien
Pashayan
Paul
Petri
Pursell
Quillen
Railsback
Regula
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Watkins
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wydler
Wylie
Young, Fla.

NOT VOTING—50

Abdnor
Anderson, Ill.
Applegate
Ashbrook
Bedell
Bonker
Bowen
Broomfield
Clay
Collins, Ill.
Crane, Philip
Dixon
Dougherty
Edwards, Calif.
Evans, Ga.
Ferraro
Fish
Flood
Fowler
Giaimo
Hinson
Johnson, Colo.
Jones, N.C.
Leach, La.
Lederer
Marriott
Mavroules
Moffett
Molloban
Murphy, Ill.
Patterson
Pritchard
Quayle
Rhodes
Rodino
Rosenthal
Runnels
Shumway
Stack
Steed
Stokes
Treen
Wampler
Whitehurst
Wilson, C. H.
Winn
Wirth
Wolff
Young, Alaska
Zablocki

□ 1710

The Clerk announced the following pairs:

On this vote:

Mr. Lederer for, with Mr. Winn against.

Mr. Clay for, with Mr. Young of Alaska against.

Mr. Dixon for, with Mr. Abdnor against.

Mr. Murphy of Illinois for, with Mr. Marriott against.

Mr. Stokes for, with Mr. Ashbrook against.

Mr. Fowler for, with Mr. Shumway against.

Mrs. Collins of Illinois for, with Mr. Hinson against.

Mr. Rodino for, with Mr. Broomfield against.

Until further notice:

Mr. Wolff with Mr. Anderson of Illinois.

Mr. Charles H. Wilson of California with Mr. Dougherty.

Mr. Steed with Mr. Fish.

Mr. Rosenthal with Mr. Philip M. Crane.

Mr. Giaimo with Mr. Pritchard.

Mr. Applegate with Mr. Quayle.

Mr. Bedell with Mr. Leach of Louisiana.

Ms. Ferraro with Mr. Runnels.

Mr. Jones of North Carolina with Mr. Whitehurst.

Mr. Wirth with Mr. Wampler.

Mr. Molloban with Mr. Evans of Georgia.

Mr. Bowen with Mr. Edwards of California.

Mr. Moffett with Mr. Bonker.

Mr. Zablocki with Mr. Mavroules.

Mr. Stack with Mr. Patterson.

Mr. McDADE changed his vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, a motion to reconsider is laid on the table.

Mr. BAUMAN. Mr. Speaker, I object to laying the reconsideration motion on the table.

The SPEAKER pro tempore. Objection is heard.

Mr. CORMAN. Mr. Speaker, I move reconsideration.

The SPEAKER pro tempore. The gentleman from California (Mr. CORMAN) moves reconsideration.

Mr. BOLLING. Mr. Speaker, I move to table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Missouri (Mr. BOLLING).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes, 102; noes, 76.

So the motion to table was agreed to.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 36, SECOND BUDGET RESOLUTION, FISCAL YEARS 1980, 1981, AND 1982

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report and the amendment reported in disagreement thereto on the Senate concurrent resolution (S Con. Res. 36), revising the congressional budget for the U.S. Government for fiscal years 1980, 1981, and 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

AUTHORIZING CERTAIN BUSINESS AND AGRICULTURAL LOANS

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2515) to authorize certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

TITLE III—LIMITATION

SEC. 301. This Act shall apply only in those States having a constitutional provision which provides that all contracts for a greater rate of interest than 10 per centum per annum shall be void, as to principal and interest.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I reserve the right to object to ask the gentleman from Rhode Island if this matter has been cleared with the gentleman from Ohio (Mr. STANTON).

Mr. ST GERMAIN. To the best of my knowledge, absolutely.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

REQUEST TO AUTHORIZE CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, November 7, 1979, the Clerk be authorized to receive messages from the Senate, and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

THE INDIVIDUAL SAVINGS AND INVESTMENT ACT OF 1979

(Mr. HOLLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HOLLAND. Mr. Speaker, today my colleague Mr. MARTIN of North Carolina and I are introducing the Individual Savings and Investment Act of 1979. This legislation would substantially improve the rate of savings in the United States by permitting an individual to establish a special account, called a "rollover account," in a bank, savings and loan association, or similar institution to which he could contribute cash and stock and bonds of domestic corporations. All capital gains, dividends, and interest realized in the account would be nontaxable until withdrawn from the account. The amount of cash contributed to the rollover account plus all the income realized in the account would be invested and reinvested in stocks, bonds, or interest bearing deposits.

The rollover account we are introducing would provide a broad and comprehensive approach to reducing the antisaving bias in our tax system. The bias against saving sharply reduces the incentive to save, and has resulted in the low rate of personal saving we see today. Without an adequate rate of saving, we cannot achieve a stable, high investment, high growth economy in the years ahead. A low rate of saving means fewer resources can be devoted to investment, reducing our prospects for productivity growth, and for increases in our standard of living.

Economic growth depends upon the availability of new capital, capital that must come primarily from the savings of individuals and businesses. The demand for capital today is increasing at a faster rate than has been the case in previous years. Yet the bias in our tax system against saving and investment makes the capital costs of American business greater than in almost any other industrialized nation. This high cost of capital has been a factor in our declining rate of productivity growth and has eroded the competitive position of the United States in world markets.

The slowdown in the growth rate of productivity has been particularly pernicious. If we are to attain our key national goals of promoting a higher standard of living, creating a sufficient number of jobs for our expanding labor force, and restraining price inflation, we must reverse the slowdown in capital spending for both research and development and for new plant and equipment. Recent studies have shown this slowdown to be a major factor in the declining rate of productivity growth.

The Joint Economic Committee (JEC), in its midyear review of the economy, concludes that "personal saving is a major source of funds for investment and productivity increases." The JEC also notes that the rate of growth of productivity in the United States since World War II has lagged behind every one of our major trading partners. Productivity in Japan grew four times faster than in the United States in that time period while it grew 2½ times faster in France, Italy, and Germany. Great Britain posted productivity gains two to three times of our own, according to the midyear review.

In addition, the rate of real nonresidential fixed investment as a percent of real gross domestic product in the United States also posted a worse record than that of the other major industrialized countries, according to the 1979 Economic Report of the President.

From 1966 to 1976, the United States devoted only a 13.5-percent share of GDP to investment while Japan averaged almost twice as much with a 26.4-percent share in that period. Canada averaged 7.2 percent; France, 16.7 percent; West Germany, 17.4 percent; and Great Britain, 14.9 percent in that 10-year period.

The antisaving bias in our tax laws is reflected in the rate of personal saving in the United States. As a percent of personal income, the rate of personal saving has averaged between 6 and 6½ percent over the past three decades. On a downward slide over the past 3 years, the savings rate dropped to a low of 4.7 percent in the final quarter of 1978. Also during that quarter, commercial banks experienced the largest net outflow of savings deposits since the Federal Reserve began keeping these statistics in 1965. The personal savings rate has averaged just over 5 percent during the first two quarters of 1979, but preliminary figures indicate a much lower savings rate for the third quarter.

Not only is the rate of personal saving in the United States lower than those of our trading partners, but the U.S. rate is falling while savings rates in other countries are on the rise. In Japan, for example, the rate of savings increased from 18.5 percent in 1967 to 21.5 percent over the past decade. Savings rates in Canada, Great Britain, France, and Germany have risen over the same time period, too.

The special problems of this decade—stubborn rates of inflation, declining productivity growth, lagging capital investment and intractable budget deficits—all point toward the need for new approaches to economic and tax policy to promote the long neglected goals of increased saving and investment. It is these problems that the Individual Savings and Investment Act of 1979 addresses. It is a bold approach and an approach suited to the needs of a broad range of individual savers.

Many savings bills have been introduced in this Congress. Consideration is being given to legislation designed to exempt interest earned on savings deposits; to liberalize the present dividend exclusion, to defer the taxation of reinvested dividends, and to roll over capital gains from one small business to another. Each bill would act to allocate capital to a specific use but not one of these measures contains the comprehensive approach offered by the Individual Savings and Investment Act of 1979.

Our proposal would act to encourage saving and investment in three primary ways. First, the tax-free rollover would be tax neutral across a broad range of traditional forms of savings, including stocks, bonds, and interest bearing deposits. It is these types of savings which most directly and immediately provide funds to the financial and business communities for the widest array of productive capital investment. This tax neutrality means that the individual may choose among the forms of savings without tax consequences, thus permitting needed flexibility for saving and investment.

Second, our proposal is a less complex approach for the individual than many proposals designed as incentives to new savings. Once the individual establishes his rollover account, he may elect to give the trustee of the account investment discretion or retain the right for himself. Accounting for the assets in the rollover account will be handled by the trustee. Tax consequences are realized only when funds are withdrawn from the savings stream.

Third, the initial revenue loss would not be great under this proposal. While the static revenue loss would build in later years, the "feedback" effects from the higher rate of economic growth forthcoming from the increased rate of saving and investment should act to offset this factor.

The rollover concept proposed in this bill is not complicated. The rollover ac-

count could be established in a bank, savings and loan association, or other institution approved by the Treasury. Although in the form of a trust, the rollover account would operate more as a custodial investment account. The trustee could be given investment discretion in which case the trustee would not only hold the funds in the account on behalf of the individual but would also determine their investment and reinvestment. Alternatively, the individual could retain the right to direct investment in which case the trust would merely hold the funds in the account on the individual's behalf and execute investment and reinvestment orders in accordance with the individual's instructions. In both cases, the rollover account would be a separate trust account.

Funds in the rollover account could only be invested in stock or securities of a domestic corporation or in interest-bearing deposits. This limitation avoids the complexities associated with direct investment such as real estate while at the same time providing the individual a wide range of choices among the traditional forms of savings.

With respect to capital gains, the effect of the rollover account is as if one stock were permitted to be exchanged tax free for another or were permitted to be sold for cash without the recognition of gain, provided the proceeds were reinvested in another stock. However, the rollover account also permits a change from a stock to a bond and permits the additional flexibility of holding the proceeds in an interest-bearing account.

With respect to dividends, the rollover account achieves a result similar to "dividend reinvestment" proposals except that the rollover account provides additional flexibility because the dividends can be invested in stock or securities of a corporation other than the one from which the dividend was received, and the dividend may be deposited in an interest bearing account.

Under the proposed bill an individual may maintain only one rollover account at a time. He may, however, terminate one rollover account by withdrawing all the funds, and then the next succeeding taxable year establish another account. A husband and wife may each establish a rollover account, whether or not they file a joint return.

The trust will be exempt from tax and will not be required to file an income tax return but will instead be required to file an annual information return.

The individual would not be taxed on income accumulated in the rollover account but will be taxed in the taxable year in which he withdraws that accumulated income from the trust. Any amount withdrawn from the rollover account will have the same character in the hands of the individual as it had in the account; that is, either capital, capital gain, or ordinary income consisting of interest and dividends.

This identification of withdrawals is accomplished in the simplest manner possible: The trustee is required to maintain on its books, but not to segregate assets, three separate funds; a capital fund which represents the total of all amounts contributed to the account, a capital gain fund which represents all net long-term capital gain realized by the trust, and an ordinary income fund which represents interest and dividends received by the trust plus net short-term capital gains realized by the trust. Any withdrawals will be treated as first having come out of the ordinary income fund, next out of the capital gain fund and finally out of the capital fund.

This is an example of how it would work:

Individual A established a rollover account in 1980 to which he contributed $10,000 in each of the years 1980, 1981, and 1982. Through investment and reinvestment by the trustee the account had by the end of 1982 received $3,000 in dividends and had realized net long-term capital gains of $5,000. At the end of 1982, the balance in the account and the balance in each of the three separate funds is as follows:

Account balance	$38,000
Capital fund balance	30,000
Capital gain fund balance	5,000
Ordinary income fund balance	3,000

In July of 1982, Individual A withdrew $5,000 from the account. The withdrawal is treated as consisting of $3,000 of dividends and $2,000 of capital gain. When Individual A files his tax return for 1982, he will include in income $3,000 of dividends and $2,000 of long-term capital gain.

The rule for ordering the priority of withdrawals from the rollover account is significant. Once having made a contribution to a rollover account and having accumulated income from that investment, there is a substantial incentive for the individual to leave both the originally contributed principal amount and the accumulated income in the rollover account and thus in the savings system. Because withdrawals are first deemed to come out of the ordinary income fund, the individual cannot, without paying tax, merely leave the accumulated income in the rollover account and withdraw the originally contributed principal for consumption purposes.

Under certain circumstances, an individual will be treated as having made a withdrawal from the rollover account even though no amount has actually been distributed from the account. The most significant "deemed withdrawal" from a rollover account arises when an individual has for the taxable year a net long-term capital loss from transactions outside the rollover account. In that event, the individual will be treated as having in the same taxable year withdrawn a corresponding amount from the capital gain fund.

If funds remain in the rollover account at the death of the individual, the balance in the account will be automatically distributed to the designated beneficiary or to the estate. The beneficiary or estate will be taxed on the accumulated income received.

Although losses realized by the trustee on investment and reinvestment will not be recognized currently, upon termination of the rollover account a loss may be realized as a capital loss of the year in which the account is terminated.

ENCOURAGING PEOPLE TO INVEST

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, as the gentleman from South Carolina, our distinguished colleague (Mr. HOLLAND), has reported to the House just a few minutes ago, he and I are today introducing legislation, the Individual Investment and Savings Act, to encourage investors to put their money into our American free enterprise system.

One of the things that has been troubling this country in recent years, since 1969, when major changes were made in the Tax Code, is that investors finding themselves locked in on current investments have declined further investment in the stock market. Particularly this has been true of younger investors. Prior to 1969 there was a steady increase in investment and investors at a rate of 7 percent a year, but immediately after 1969 there began a sharp decline, particularly among young investors, which has continued.

We believe this legislation will encourage them to put their money into investments to keep it working for the American economy, create new jobs, and thus restore confidence in the free enterprise system.

Mr. Speaker, I am pleased to join my colleague, Mr. HOLLAND, in introducing the Individual Savings and Investment Act of 1979. This measure would bring about a dramatic shift in our tax policy. Our tax code today is biased against saving and, unfortunately, biased toward consumption. This bill would allow an individual to put his savings into a rollover account and defer taxes on his savings, be they interest, dividends, or capital gains so long as he continues to save. But, when that individual withdraws any amount of his savings from the rollover account, for purposes of consumption, it will be subject to the full burden of Federal income taxes. In other words, the impact of our bill would allow a tax deferral on savings but a tax on consumption of earnings.

The Individual Savings and Investment Act of 1979 addresses the problem of low rates of personal saving, a major concern of the Joint Economic Committee in its midyear review of the economy. The committee concluded:

Personal saving is a major source of funds for investment and productivity increases.

Personal saving has accounted for close to two-thirds of net private savings over the post-war period. Yet much higher levels of personal saving are needed to lead to an increase in our Nation's capital stock, thus improving productivity, creating new jobs, and raising real wage levels for all Americans.

Mr. Speaker, our tax policy today treats saving as a "sin" and the individual saver as a "sinner." An individual who promptly spends his income, even if for "wine, women, and song," is only taxed once. He is taxed when it is earned in the first place. An individual who is thrifty and saves, putting some money in a savings account or buying stocks and bonds, however, is taxed twice. Again, he is taxed when the income is earned; but he is also taxed on the interest, dividends, or capital gains generated from his savings, even if that return is zero in constant dollars.

Saving is a discretionary activity. Before one saves, one may probably ask several questions: What kind of return will I get from my savings and investment in the form of interest, dividends, or hopefully even capital gains? What risk is there in my investment? Will I be able to protect myself against even higher rates of inflation? And, how much will I be able to really keep after taxes?

Unfortunately, today the combination of high rates of inflation and the bias in our Tax Code against saving work against the interest of the individual saver if he chooses, in fact, to save and invest instead of engaging in current consumption. Consider first the case of the small saver who probably puts his money in a savings and loan association.

It is no secret that the rate of inflation is high and climbing. The Consumer Price Index currently stands at an annual rate of over 13 percent, and the long-term underlying rate is 8 or 9 percent. Interest returns for small savers who rely primarily on passbook savings accounts range from 5.5 percent on passbook accounts to 8 percent on deposits held for 8 years. Adjusting these returns for inflation gives a negative rate of return on even the highest yielding accounts and this means a real loss for the small saver. Since interest income is subject to the personal income tax at rates ranging from 14 to 70 percent, the saver's real loss is increased. In fact, the real rate of return on savings, after taxes, for both big and small savers turned negative in 1973 when inflation really hit the economy and has remained so ever since.

Next, consider the ill-fated saver who puts his money into the stock market even when stocks are doing relatively well. National Bureau of Economic Research economists Martin Feldstein and Joel Slemrod did an analysis of stocks sold in the very good stock market year of 1973 when investors paid taxes on some $4.6 billion in capital gains. But when the costs of these shares were adjusted for inflation, using "constant dollars," the $4.6 billion gain turned out to be a $1 billion capital loss. Individuals thus were paying taxes on nominal capital gains, which were actually losses when adjusted for inflation. Again, the combination of inflation and taxes "did in" thrifty individual investors.

The impact of this devastating combination of high rates of inflation and a tax code biased against savings by the individual saver should come as no surprise. It had driven many well-to-do savers into tax free municipal bonds. Middle-class taxpayers have turned to various tax shelters and to tangible nonfinancial investments such as real estate, antiques, and art which can be used, enjoyed, and also appreciate in value. Solomon Bros. recently compared the compound rates of return on tangible assets with that of bonds and corporate equities for the period 1968–78. The results were startling: Chinese ceramics, 19.2 percent; gold, 16.3 percent; rare U.S. stamps, 15.4 percent; old masters, 13 percent; U.S. nongold coins, 13 percent; diamonds, 12.6 percent; U.S. farmland—dollars per acre—10.6 percent; housing, 9.2 percent; silver, 9.1 percent; foreign exchange, 6.2 percent; Consumer Price Index, 6.1 percent; Solomon Bros. Bond Index—total return—6.1 percent, and the Standard and Poor composite—total return—2.8 percent. Is it any wonder that the knowledgeable individual saver puts his discretionary income into tangible assets rather than in economically productive forms of saving and investment.

The Individual Savings and Investment Act of 1979 which Mr. HOLLAND and I are introducing ameliorates the anti-saving bias in the tax code and thereby should increase the dismally low rates of personal saving in the United States today. The rate of personal saving in the United States as a percentage of disposable income averaged between 6 and 6½ percent over the past three decades. But in 1976, it fell to 5.8 percent; in 1977 it dropped to 5 percent; and in 1978 it was only 4.9 percent. The personal savings rate for the first two quarters of 1979 averaged about 5.2 percent. It was a rate lower than that of any major industrial country. According to the Organization for Economic Cooperation and Development (OECD), the Germans will save about 17 percent of their incomes this year, the French even more, and the Italians about 25 percent of their disposable income.

What is even more alarming are recent trends in personal savings rates. In the period 1967–77, the personal savings rate rose from 18.5 percent up to 21.5 percent in Japan, from 8.5 percent up to 13.9 percent in Great Britain, from 6.2 percent up to 9.8 percent in Canada, from 15.9 percent up to 16.1 percent in France, from 11.3 percent up to 14 percent in Germany. But, during the same period, the personal savings rate fell from a low 7.5 percent down to 5 percent in the United States. In the third quarter of 1979, personal savings rates in the United States fell to 4.1 percent. And lest we assume a person salt away $410 out of a $10,000 salary, remember that that 4.1 percent includes net reduction in debt.

A sound and effective national policy to control inflation is critical to increasing the rate of personal saving; however, a shift in U.S. tax policy away from a bias against saving and for consumption is equally necessary. The Individual Savings and Investment Act of 1979 would defer taxes on any form of saving until the interest, dividends, and capital gains are withdrawn for the purpose of consumption.

That is sound tax policy and that is why, contrary to U.S. policy, most industrial countries encourage private saving in their tax codes. In Canada, for example, the first $1,000 of interest, dividends, and capital gains received by an individual is exempt from the individual income tax. In Germany, married couples with annual incomes of up to approximately $26,300 may receive tax free from the government a cash grant of 14 percent of the amount invested in qualified securities. Similar cash grants are available for qualified personal savings accounts.

Japan also offers special incentives for the individual saver, focusing on smaller amounts of savings. For example, the interest on savings deposits with the post office up to 3 million yen—or approximately $13,600—is exempt from income tax. The Japanese saver may also earn interest tax free on savings of even a greater amount made through his employer. In France, the taxpayer may choose to have his income from securities and from savings generally taxed at a 33⅓ percent withholding tax rate rather than included in taxable income at higher rates. Great Britain also offers incentives to the small saver. The interest from certain savings deposits, with approved institutions, is exempt from the individual income tax, up to a maximum of approximately $135 per taxpayer.

This bill is a trade-off for the Treasury just as it is a trade-off for the saver and investor. The Treasury, like the saver, forgoes an immediate gratification—consumption of taxes deferred—for a greater gain later. Neither the individual nor the Treasury should eat the Nation's seed corn. But, eat it we do when the individual is encouraged by the tax code to choose gratuitous and conspicuous consumption or nonproductive assets over production savings and investment, and that is what happens when Treasury taxes more heavily such productive savings and investment than it does the conspicuous consumption.

Mr. Speaker, in summary, the Individual Savings and Investment Act of 1979 would reverse the present tax bias against saving; it would increase the reward for thrift in the United States. It would make a dollar saved at least as valuable as a dollar spent on current consumption. The resulting increased levels of personal saving would give the nation the opportunity to enlarge its capital stock, to generate greater productive capacity, to dampen inflation, and to raise the standard of living of its people.

THE RECLAMATION MANAGEMENT REFORM ACT

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MILLER of California. Mr. Speaker, today I am introducing the Reclamation Management Reform Act of 1979. The intent of this comprehensive legislation is to bring some order, fiscal integrity and managerial sense to the Federal reclamation program. The purposes section of this legislation describes the intent and goals of the bill:

(a) reaffirm the sound underlying principles of the federal Reclamation program, and to amend the provisions of the Reclamation laws consistent with contemporary agricultural and fiscal policies;

(b) assure, to the maximum extent practicable, that the benefits of the Reclamation program are enjoyed by the widest number of family farmers who are actively engaged in the operations of farms which receive benefits under the Reclamation laws;

(c) establish revised limitations on acreage which may be served by federal water, and establish a fair and impartial method for the orderly disposal of excess lands;

(d) assure the timely repayment of the costs of the project features utilized by beneficiaries;

(e) establish a method for the calculation and periodic revision of rates for water service in order to protect the federal taxpayer from unjustified and unreasonable subsidies;

(f) reduce the wasteful consumption of limited water resources by promoting the conservation and most efficient use of water, consistent with sound agricultural practices and technological feasibility;

(g) establish programs of water resource management to reduce the severe depletion of groundwater resources; and

(h) provide for adequate participation in the contract negotiation and discussion process by potentially affected parties, and to assure that there is adequate congressional oversight and review of such contracts and the federal Reclamation program.

For years, reclamation and water policies were the special interests of a select few, but no longer. Today, we realize that decisions made about the future of the reclamation program affect the Treasury of the United States, the production of vitally needed food and other produce, and the management of precious water resources.

Over the years, most farmers in the reclamation program have complied with the spirit and the letter of the law. Many of the original purposes of the 1902 act have been fulfilled. Lands without adequate water supplies, but with enormous productive potential, have been transformed into some of the most profitable farmland in the entire world. To achieve this end, literally billions of public dollars have been spent, and continue to be spent in gigantic subsidies to project beneficiaries.

Successful as this phase of the program has been, there have also been great failures. The tremendous public underwriting of this reclamation effort was justified by its planners as a means to encourage the settlement of the West, and its development as an agricultural region. At the heart of the law was the fundamental underlying assumption that the tremendous subsidies inherent in the reclamation program—which amount to as much as $5 billion annually—were to benefit and encourage family farming.

This social phase of the program has been less successful.

The very purpose of this bill—

The program's designer, Congressman Francis Newlands, wrote in 1902—

is to guard against land monopoly and to hold this land in small tracts for the people of the entire community.

With that admirable goal in mind, the Congress has appropriated about $12 billion to construct the massive reclamation facilities in the 17 Western States.

It is crucial to note that, in many cases, the law is being observed. All of the excess land in the West, which would have to be disposed of, constitutes but one-tenth of 1 percent of the Nation's farmland. The question is not the proportion of land which is in violation of the law, but rather who owns that noncomplying land.

For most reclamation farmers, the acreage and operatorship criteria established in my bill would cause no real problem, since it expands the old 160-acre limit, and provides for class I equivalency in lesser productive regions. Even in California, where 80 percent of the excess land is located, the average size farm is about 150 acres, which is several times less than the 640 acres I propose. So this legislation is, in all but a few select cases, not going to work any hardship, and is in fact generous.

But let us look briefly at those who would be most affected, and who have organized and spent small fortunes to lobby against this legislation, and who would alone benefit from the emasculation of the intent and purpose of the Reclamation Act. These are not small farmers who would have to whittle down their farms; they are not irrigators who, over the years, accumulated 500 or 600 acres. They include not small farmers, but some of the largest and most influential agribusinesses and corporations in the world: Tenneco West, Inc., 64,941 acres; J. C. Boswell Co., 110,000 acres; Southern Pacific Land Co., 106,430 acres, and others like Standard Oil, Chevron, Boston Ranch, Getty Oil, and Salyer Land Co.

These interests, and others like them, came to the Congress hat in hand, and pleaded for these projects to be built, knowing full well that they would fall under the Reclamation Act. They proposed amendments to exempt their projects from the acreage provisions, and when those amendments failed in the Congress, they sought legal relief. When those efforts failed, they came to the Congress with high-paid, well-connected lobbyists and are attempting to reverse the law.

No one ever required them to participate in these projects. No one was ever forced to sign a water service contract. No one ever was compelled to sign a recordable contract to dispose of excess lands, unless they wanted to continue to receive the benefits of subsidized projects. But they did want those benefits, and over the years they have received many billions of dollars in income as a result of this program. The United States complied with its share of the bargain: It has built and operated the water projects for the irrigators. Now, when it is their turn to fulfill their part of the bargain, a select few have instead chosen to attempt to destroy the program.

The bill which I am introducing today acknowledges that changes have occurred in American agriculture since 1902, and changes in the Reclamation Act are essential in order to bring the program into accord with economic and management principles which will serve us into the 21st century. This bill makes those changes, consistent with the original intent of the program which is to assure that the benefits from reclamation are dispersed as broadly as reasonable.

While we acknowledge that changes in agriculture require modification, we must also realize that changes must similarly be made for the benefit of the taxpayers who underwrite this program.

If an acreage limitation of 160 acres is unsuited to 1980, then massive price subsidies must be phased out, too.

If a strict residency requirement is inappropriate, then the extravagant wasting of our precious and limited water resources must be stopped.

Similarly, we must assure that our overall water resources are managed in an efficient, conserving manner. The reclamation program today, however, actually encourages the overconsumption of water resources through antiquated pricing mechanisms and by the absence of any efficiency mandates concerning use in irrigation.

For nearly all of the debate on reclamation law reform, the word never mentioned has been "water." But water is the very heart of the reclamation program, and one can no more discuss reclamation without mentioning water than one can discuss energy without discussing oil. Indeed, the parallels between demand and supply, conservation and pricing, and past and future uses are very similar between energy and water, except that the tremendous supply crunch in water is still a few years away. But it is coming, and this legislation is a key place to reform the way in which 85 percent of our Nation's water resources are used—in agriculture.

The Departments of Interior and Agriculture, and EPA have just concluded a major study in which they find that we could produce 2 to 5 million acre-feet of water over the next 30 years through the expenditure of about $5 billion. Anyone familiar with water development knows that this is a very good buy. There is phenomenal potential for conservation. A GAO study recently concluded that as much as one-half of our irrigation water is not being used efficiently, which amounts to many billions of gallons of water annually.

Nationally, it has been estimated that over the next 10 years, residential water users could save $22.5 billion through conservation and reclamation, and industry could save an additional $52 billion, and that is among municipal and industrial users who consume only 15 percent of our water resources. Imagine the potential among those who consume the remaining 85 percent.

It is essential that we recognize that water conservation and management, pricing reform, and similar measures contained in my legislation, must be included as fundamental features of any new reclamation law.

Reclamation began as a development program; in the future it will be a management program, and the resource which must be efficiently managed is water.

I believe that most Members of this body, and most of the participants in the reclamation program, can and will support this bill. Those whom we know will oppose its provisions do not seek the reform of reclamation law, but its elimination, either by outright repeal, or by exempting themselves from its provisions.

But most people will acknowledge that those courses are not in the interest of the country, the taxpayer, or the agricultural community. Through the reclamation program we have created major competitors of farmers in other regions of the country, especially in the Midwest and the South. We had originally assured farmers in those areas that the reclamation program would not undercut their own regional economics, and we must maintain this program to fulfill

those promises. We must reduce the massive subsidies which are not longer needed to encourage settlement, but which today enrich a select few far beyond reasons. These are some of the purposes of the legislation which I introduce today, and which I call upon my colleagues to support.

SECTION-BY-SECTION DESCRIPTION OF THE RECLAMATION MANAGEMENT REFORM ACT

Sec. 2. Definitions. Includes various definitions ("qualified recipient", "landholding", "leasing", "excess land"). This section establishes an operatorship test, mandating personal and continual involvement in daily farming operations by the landowner or lessee in lieu of a mileage residency test. Waivers are permitted for retirees, for health reasons, due to the need to accumulate "start-up capital", and for current landowners.

Sec. 3. Acreage limitation. This section establishes an acreage limitation of 640 acres, owned and leased. The section also contains specific provisions concerning recordable contracts for the disposal of excess lands in order to remain eligible for water service or other benefits.

Sec. 4. Equivalency. A Class I equivalency formula would be devised to apply to non-Class I lands in areas which have a growing season of less than 180 frost free days, or which are in excess of 3000' elevation.

Sec. 5. Repayment of construction charges. Payouts legally entered into are approved, but no lump sum payout is permissible. Following full payment, the Secretary could waive the acreage limitation only if he finds that a stable pattern of family farming has been established.

Sec. 6. Leasing. Leasing would be permitted if an owner had derived income from the landholding for 10 years (or less, if permitted by the Secretary), a proviso designed to reduce speculation and turn-around leases.

Sec. 7. Disposition of excess lands. Excess lands could be sold to immediate lineal family members, or could be entrusted to the Secretary for impartial disposal. Long term lessees and workers would have the right of first refusal for lands they had worked on for more than 5 years prior to enactment. The Secretary could offer neighbors first refusal opportunities. All other land would be disposed of, in various land sizes, by the Secretary using an impartial method. The section also includes restrictions on resale to prevent speculation on formerly excess lands.

Sec. 8. Water pricing. New water service contracts would include a sale price at least equivalent to the cost of delivery, except that the Secretary may reduce this amount if he finds that such a price would result in "undue economic hardship". He also could increase prices to stimulate water conservation and efficient use. All contracts lasting more than three years would be reviewed, and the water price reestablished, every three years.

Sec. 9. Conservation of water resources. This section requires the Secretary to identify, within two years, those districts receiving Reclamation benefits with the greatest priority for the conservation of water resources. The Secretary is directed to advise those districts of federal programs which could assist irrigators in financing and developing conservation programs, and is directed to request the Congress to authorize water conservation proposals. Irrigators failing to comply with conservation mandates would not be eligible for additional federal water supplies.

Sec. 10. Groundwater management. The Secretary would identify, within two years, those Reclamation areas with serious groundwater overdraft problems, and would require them to submit a plan for conjunctive use of surface and groundwater supplies in order to reduce excessive depletions.

Sec. 11. Irrigation of new lands. Lands not irrigated one year prior to enactment would not be eligible to receive project water unless the land were non-marginal, there was no groundwater overdraft, and the irrigator was in compliance with sections 9 and 10.

Sec. 12. Public participation and congressional review. Requires a period of public review of new contracts, and mandates public participation in discussions and negotiations concerning new contracts. Contracts would be subject to Congressional review and, if affecting significant quantities of water, Congressional approval.

Sec. 13. Exemptions. Allows exemptions from provisions of the Act in specific circumstances, e.g., temporary flooding.

Sec. 14. Foreign ownership. Ownership of lands receiving Reclamation benefits would be limited to U.S. citizens, resident aliens, and their spouses.

Sec. 15. Administrative provisions. Technical.

Sec. 16. Reporting. Technical.

Sec. 17. Penalties and enforcement. Establishes penalties for knowing violations of the Act.

Sec. 18. Recovery of excess subsidy. Requires recipient of excess subsidy benefits to repay the federal Treasury such excess benefits if accrued because of unsuccessful beneficiary initiated litigation or administrative delays.

Sec. 19. Regulations. Grants the Secretary authority to promulgate regulations to implement this Act.

Sec. 20. Authorizations. Authorizes necessary funding.

Sec. 21. Reaffirmation of 1902 Act. Reaffirms provisions of 1902 Reclamation Act as amended, except as provided in this Act.

□ 1720

LEGISLATION INTRODUCED TO PROVIDE REFUNDABLE TAX CREDIT FOR RESIDENTIAL USERS OF HEATING OIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLOMON) is recognized for 60 minutes.

Mr. SOLOMON. Mr. Speaker, today I have joined with a number of my Republican colleagues from New York in sponsoring legislation which would provide a refundable tax credit for residential users of heating oil. Our legislation, which is modeled after a measure introduced earlier by my colleague from Massachusetts (Mr. CONTE) would provide a maximum tax credit of $400, with the size of the credit reduced by 1.5 percent of the consumer's income over $30,000. Hence, the credit would be fully phased out at about $56,600. The legislation also contains a provision which would require that the credits be paid for from revenues received from the crude oil windfall profits tax.

In the past several months, we have seen OPEC increase its prices by more than 60 percent, and we have seen profit margins at the refinery level more than double. Even if there are no further increases in the cost of heating oil this winter, the average heating oil consumer will be paying perhaps 75 percent more for heating fuel than he was paying a year ago. This situation places low-income homeowners in a precarious position, and we have already acted to assist those individuals. But it also would have a crippling impact on the middle-income homeowner, who might well find that he is paying 10 percent or more of his disposable income for fuel to heat his home. This legislation would allow an individual with a moderate income to take credit for up to a third of his heating oil expenses, up to a maximum of $400.

Mr. Speaker, the middle-income taxpayer is the one who provides the money so that we can give fuel assistance and other types of aid to those individuals who are most hurt by inflation. I believe it is time we gave some relief to the people who foot the bills. Coupled with an economywide, 15-percent inflation rate, the increased cost of heating oil will cause a severe hardship for many middle-income Americans who cannot take advantage of any other Federal income supplementation programs.

This legislation would have another benefit, in that it would insure that relief went to other individuals who might be reluctant to take advantage of the fuel assistance programs already in effect. I cite specifically our elderly citizens, who are eligible for help under the energy crisis intervention program who are simply too independent and to proud to take advantage of that program.

Mr. Speaker, in conclusion, the costs of heating oil hurts everyone, but there are gaps in current legislative authority which preclude middle-income citizens and, indeed, many others with lower incomes which are above arbitrarily established poverty guidelines, from receiving 1 penny of assistance. This legislation will close this gap and insure that all who are deserving of assistance receive it. I am pleased that there are so many of my colleagues, not just from the heating oil dependent Northeast, who support heating oil tax credits, and I urge the enactment of this type of legislation.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to my colleague from New York.

Mr. GILMAN. Mr. Speaker, I rise to express my support for the bill introduced by my colleague from New York (Mr. SOLOMON), and to thank him for his leadership in putting forward this bill, which is so badly needed by the American people.

This winter will be a very cruel one—the American people will be heating their homes with extraordinarily expensive oil.

The Congress has moved—quite appropriately, I think—to help our least fortunate citizens to manage their home heating bills. Recently, we passed House Joint Resolution 430, which would provide $1.35 billion in relief to those in most desperate straits.

It is now time to turn our attention to the many others who are being hurt by the sharp home heating oil price increase of recent months.

The bill sponsored by the gentleman from New York, and which I have cosponsored, provides a 33⅓-percent tax credit of up to $400 for heating expenses incurred this winter. The credit would phase out gradually between an adjusted gross income of $30,000 and $56,000 when it would phase out completely. This phaseout would insure that those with substantial incomes do not receive an unneeded tax credit at the expense of the general revenue base.

Mr. Speaker, the profits of the oil industry shock the conscience of the American people. It is necessary for the Government to provide protection by means of an effective excess profits tax, changes in the allocation system, and assistance to both the neediest and the struggling middle class.

Accordingly, I urge our Congress to join with us in this effort to alleviate the burdens of high priced home heating oil.

Mr. SOLOMON. Mr. Speaker, I would like to thank the gentleman from New York for his help in this matter, which is of grave concern to the people who live in the Northeast.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to my colleague from New York.

Mr. LENT. Mr. Speaker, I wish to commend my colleague from New York, the Honorable GERALD B. SOLOMON, for taking this special order today. In doing so, he is providing yet another opportunity for this Congress to focus on the serious and growing more urgent need for relief for users of home heating oil as they attempt to cope with double digit inflation and skyrocketing fuel oil prices.

Fuel oil price increases are particularly burdensome for residents of the Northeast who are not only heavily dependent on home heating oil to heat their homes, but who must pay higher than average prices to stay warm. With fuel prices nearly double what they were last year and the heating season hardly yet begun, the time to act on tax legislation to assist home heating oil users is now.

Much has been said about the need for emergency energy assistance for low income families and senior citizens, and I wholeheartedly endorse the legislation this House of Representatives passed last week to provide $1.35 billion in emergency funding. This legislation will help as many as 16 million low income American households pay their winter heating bill, and I hope it will be enacted into law without delay.

But what of America's hard-pressed middle-income families who must also deal with spiraling fuel costs while they also are trying to conserve precious fuel supplies? Many middle-income Americans are actually consuming less fuel in the spirit of conservation, but they are paying more for it than ever before.

To help these Americans who would not be eligible for assistance under this energy assistance program, I have introduced legislation, H.R. 5325, the home heating oil price relief bill. I agree with my colleague, Mr. SOLOMON, that this is the most simple, direct approach to providing needed relief, and I would commend him for developing an even more beneficial proposal which would go even further in granting tax relief for home heating oil users.

My proposal provides for a Federal income tax credit of up to $125 per family for those using fuel oil to heat their homes or apartments. Its focus is on those users of oil who would not be eligible for assistance under the low-income program but who are still in need nonetheless. The tax credit approach is simple to administer and offers a direct method of providing relief. I am gratified that the Senate Finance Committee has approved a tax credit proposal to assist home heating oil users, and I would hope this discussion would prompt early action in the House of Representatives.

Protection from rising prices pushed upward as a result of decontrol is not unprecedented. Last year, when Congress deregulated the price of natural gas, it guaranteed that residential gas users would not have to bear the immediate effects of decontrol. Included in the Natural Gas Policy Act are the incremental pricing provisions which require utilities to pass through all high priced gas to industrial users, not to residential consumers. Thus, even though the decontrol of natural gas is phased in residential consumers are insulated from the impact of decontrol. This insulation is no less due users of home heating oil as we move in phases toward domestic oil price decontrol.

Furthermore, it is important to note that users of home heating oil are the only class of homeowners, who will, in fact, be contributing to the windfall profits tax on oil which is the anticipated source of funding for our energy program. Only home heating oil users will be contributing toward that tax on their heating fuel.

If that is not enough to convince any skeptics as to precedent, let me add that President Carter's proposed crude oil equalization tax (COET) of several years ago included a home heating oil consumer rebate recognizing that since oil users were the only homeowners being asked to pay the cost of that tax, the cost should be rebated dollar for dollar rebate.

I support the broadest possible tax credit program we can develop in the Congress to assist home heating oil users, and I join in my colleague's efforts to push for prompt congressional action in this most important area.

Mr. SOLOMON. Mr. Speaker, I want to thank the gentleman for his remarks, and thank him also for the assistance he gave me in helping to draft this legislation.

PRODUCTION VERSUS PRESERVATION: ONE WAY TO MOVE OFF CENTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

Mr. ALEXANDER. Mr. Speaker, I have introduced today a bill which will help stretch our scarce dollar resources for protecting and conserving fish and wildlife habitat and natural areas. I have taken this step because of my concern about the disappearance of our wetland and forest habitat resources for fish and wildlife.

In my travels through my own State of Arkansas and in other States throughout the years I have observed field after field of wetland and forest land being cleared for conversion to other uses. The problems, economics and attitudes of our society are constantly changing. As the national per capita income increases, the desire for open spaces, leisure, and play during vacation and time off also increases.

The level of consciousness of the State and the condition of the environment in which we live has leaped upward with the marked increase in the standard of American living since World War II.

Congress has responded to the desires and aspirations of the American people for more open space, for cleaner air and water, and enhanced environment by enacting numerous laws beginning with the National Environmental Policy Act of 1969 designed to preserve and protect the environment. The volumes of environmental laws that Congress and some States have enacted equal the national emphasis evidenced by the production laws which have been written since the Industrial Revolution which began in the 19th century.

I would expect that laws designed to protect, preserve, and improve the environment are as many in scope, depth, and breadth as the laws enacted to facilitate and encourage the production of food and energy that sustain the material standard of living of the American people. This proliferation of environmental protection laws has, however, created a dilemma in the United States.

But man does not live by bread alone. The emerging "leisure class" is as dedicated to environmental protection as the "working class" is concerned with producing the daily bread. While well intended and important to present and future generations this proliferation of environmental protection laws has, however, created a dilemma in the United States. It is, I believe, a fair paraphrase for Newton's second law of physics to state that: For every food and energy production action, there is an equal and opposite environmental protection reaction.

The Cache Basin confrontation in Arkansas is a classic example of the stalemate that is faced in our society today when the need for food production is confronted with the desire for environmental preservation.

Hence, a dilemma exists for there is no mechanism to resolve disputes that occur when production is off-set with preservation. While Congress has enacted laws to preserve and protect the environment according to the wishes of the American people, Congress has failed to provide a mechanism which would resolve disputes that result in an impasse between production and preservation.

It is ironic that today the House has authorized establishment of an Energy Mobilization Board which is the first device that has been devised to resolve these disputes that have developed between production and preservation. The Government is tied up in a Gordian knot.

Therefore, solutions are scarce when concerned and sincere citizens are so

dedicated to their cause that they are unable to agree on facts that should be conspicuous to impassioned observers.

When Government is stymied, when a log jam clogs up the decisionmaking process, one alternative remaining for action to preserve and protect the environment is individual actions. Accordingly I have written a bill to facilitate individual action to provide an avenue for action where impasse permeates the decisionmaking process.

This conflict between food and energy production and environmental protection is a trend about which former Congressman Frank E. Smith of Mississippi wrote in the introduction to his book, "The Politics of Conservation" (1966), when he said:

> Emphasis in conservation problems shifts with the changing environment, but though there may be fluctuations, the importance of these problems will be even greater in the future than it has been in the past. . . . Part of the conservationist philosophy grows out of the concept of harmony between man and nature. In our own country that concept of harmony must prevail if we are to learn how best to live and work with each other in achieving the potential our nation so plainly offers us.

Like Mr. Smith, I do not hold to the belief that we can, or should freeze our Nation's natural wetland and forest resources at status quo. But, like Mr. Smith, I believe that it is essential to the future of our Nation that we preserve the vital harmony between man and nature.

The bill I have introduced can help us do that. It would exempt from Federal capital gains taxes lands sold or exchanged in fee simple or by easement for use in fish and wildlife conservation or for the preservation of natural areas. It would give governmental agencies and private, nonprofit fish and wildlife management and natural area management preservation organizations a better competitive position when the bidding starts on such resources. It would give private landowners who would like to sell their land for fish and wildlife management or natural area preservation purposes a more realistic choice between doing that and letting it go for commercial development purposes.

Before deciding on the final shape of my proposal I asked for review and suggestions from a number of individuals and organizations across the Nation who have particular experience and interest in fish and wildlife or natural area management and preservation. Their interest in the proposal caused them to circulate it to still other persons and groups.

Among those expressing support of the concept in my bill are: The National Wildlife Federation, the Arkansas Game and Fish Commission, the Oklahoma Department of Wildlife Conservation, the Louisiana Department of Wildlife and Fisheries, the Louisiana Wildlife Federation, Inc., the Louisiana Wildlife Biologists Association, the South Dakota Department of Game, Fish and Parks, the Mississippi Wildlife Federation, and the Mississippi Chapter of the Wildlife Society.

I urge my colleagues to study this proposal carefully and will welcome their active support and cosponsorship.

While there is, as yet, no comprehensive data on the conversion of wetlands and forest lands to other purposes, we do have some estimates. And, the Department of the Interior has underway a national wetlands inventory that will attempt to identify national trends in wetlands conversion. That inventory will not be completed for 2 years. I hope that the Congress will not delay so long before taking action on my proposal.

Two decades ago the U.S. Soil Conservation Service estimated that there originally were 127 million acres of naturally occurring wetlands in the lower 48 States. An estimate by the national wetlands inventory says that this acreage has dropped to 75 million, a reduction of about 40 percent.

It has been estimated that 300,000 acres of wetland is converted to other uses annually. This is believed to be a conservative estimate.

While few would dispute that only God can make a tree, many people have believed that man can make a marsh. And, a series of large-scale experiments by the U.S. Corps of Engineers may prove this to be true.

But, we should not let our Nation get into a position of having to create wetlands because we have allowed our natural wetlands to be drained and put to other uses.

Although national, comprehensive wetlands data is not available, we have some on regional developments. "Our Nation's Wetlands: An Interagency Taskforce Report," which was coordinated by the Council on Environmental Quality, discusses some of this.

For instance, of California's original 3.5 million wetland acres, in 1954 only 450,000 remained. In 1959 it was estimated that 45 percent of Connecticut's coastal marshes had been lost since a 1914 survey. Based on current rates of conversion, it was predicted that only 14 percent might remain by the year 2000.

Surveys of the rainwater basin of south-central Nebraska disclosed that that State had lost 80 percent of its marshes by the 1960's. Southeastern Wisconsin had lost 61 percent by 1968.

Estimates are that 40,000 acres of the Prairie Pothole Region of Minnesota, Nebraska, North Dakota, and South Dakota were converted from wetlands to other uses in each of the years 1974 and 1975. A survey conducted by the U.S. Fish and Wildlife Service in 1974 found that more than 40 percent of the potholes that were in western Minnesota in 1964 had been destroyed.

There are about 750 million forested acres in the United States, out of a land area total of 2.3 billion acres. This is about one-third of our total acreage. In 1977 the U.S. Forest Service classified 488 million acres as commercial forest land. Of this acreage, about 351 million was privately owned. The rest was in Federal or other public ownership.

In the lower Mississippi Valley region, which includes parts of Arkansas, Louisiana, and Mississippi, clearing of delta hardwood forest was occurring at the rate of 160,000 acres per year in 1976.

The U.S. Soil Conservation Service has estimated that U.S. forest land decreased by 70 million acres between 1967 and 1975. SCS's "potential cropland study" estimated that 2 million acres of rural land was converted to urban uses each year between 1967 and 1975. SCS also estimated that during this period another 1 million acres of rural land was inundated annually with water for water resource development projects.

These data on wetland and forest land disappearence trends are alarming. We need to provide greater incentives to our people to protect these natural resources. The mechanism in my bill is one way of doing that.

SUMMARY OF THE BILL

Sec. (a) adds a new section, number 128, to part III of subchapter E of Chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income).

Sec. 128(a) would exclude from gross income the gain from sales or exchanges of real property to an eligible conservation authority if the property is to be used primarily for fish and wildlife conservation or preservation as a natural area.

Sec. 128(b)(1) defines as an eligible conservation authority the United States, any state including the District of Columbia, and any organization which is described in section 501(c)(3) of the Code and which is exempt from tax under section 501(a) of the Code and which has as one of its purposes management of real property for fish and wildlife conservation or preservation as a natural area or the acceptance of such property for the transfer to another eligible conservation authority.

Sec. 128(b)(2) defines "natural area".

Sec. 128(c) requires the written approval of the Secretary of the Interior and of the head of the State agency with responsibility for fish and wildlife management or natural area preservation in the state where the property is located before the income from the sale or exchange can be eligible for this tax exclusion.

Sec. 128(d)(1) provides that the seizure, requisition or condemnation of property will be treated as a sale or exchange and that transfers of this by state action will not require state agency head approval to qualify for the tax exclusion and those made this way by the United States will not require approval of the Secretary of the Interior to qualify.

Sec. 128(d)(2) specifically allows the tax exclusion to apply even if sport hunting, sport fishing or other wildlife-oriented recreation is conducted on the land dedicated for fish and wildlife management or natural area-oriented recreation is permitted on land dedicated to preservation as a natural area.

Sec. 128(d)(3) provides that income from sales or exchanges of easements to land may be excluded from gross income for tax purposes if the terms of the easement insure compliance with fish and wildlife management or natural area preservation requirements of the law.

Sec. (b) makes technical changes in the table of sections of part III of the Code.

Sec. (c) provides that the provisions of the new Sec. 128 will be effective after the date of enactment into law.

H.R. 5771

A bill to amend the Internal Revenue Code of 1954 to exclude from gross income amounts received from certain sales of land to the United States, any State, or certain tax-exempt organizations, if the primary use of such land after the sale is for purposes of fish and wildlife conservation or preservation as a natural area

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as section 129 and by inserting after section 127 the following new section:

"SEC. 128. EXCLUSION OF GAIN FROM CERTAIN SALES OF REAL PROPERTY TO BE USED FOR FISH AND WILDLIFE CONSERVATION OR PRESERVED AS A NATURAL AREA.

"(a) GENERAL RULE.—Gross income does not include gain from the sale or exchange of real property—

"(1) which is acquired by an eligible conservation authority, and

"(2) the primary use of which after such sale or exchange will be for purposes of fish and wildlife conservation or preservation as a natural area.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CONSERVATION AUTHORITY DEFINED.—The term 'eligible conservation authority' means—

"(A) the United States,

"(B) any State, including the District of Columbia, and

"(C) any organization which is described in section 501(c)(3) and exempt from tax under section 501(a), and a purpose of which is—

"(i) the management of real property for purposes of fish and wildlife conservation or preservation as a natural area, or

"(ii) the acceptance of real property for purposes of the transfer of such property to another eligible conservation authority for any purpose described in clause (i).

"(2) NATURAL AREA.—The term 'natural area' means an area—

"(A) which contains outstanding ecological diversity or possesses unique species, significant geological or fossil evidence of earth history, or examples of scenic grandure, or unusual examples of biotic communities, and

"(B) which is relatively free of man's intervention.

"(c) SALES AND EXCHANGES MUST BE APPROVED BY STATE AND FEDERAL OFFICIALS.—

"(1) IN GENERAL.—This section shall not apply to a sale or exchange of property unless such sale or exchange is approved in writing by—

"(A) the head of the agency of each State in which any portion of such property is located which has responsibility in such State to carry out fish and wildlife management or natural area preservation (as the case may be), and

"(B) the Secretary of the Interior.

"(2) APPROVAL BY THE SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall approve in writing a sale or exchange of real property under paragraph (1)(B) only if after such sale or exchange—

"(A) the primary use of such property in perpetuity will be for purposes of fish and wildlife conservation or preservation as a natural area, and

"(B)(i) in the case of an eligible conservation authority described in subsection (b)(1)(C)(i), the Secretary of the Interior determines that the fish and wildlife management plans or natural area preservation plans (as the case may be) of such authority with respect to such property will assure such management or preservation, and

"(ii) in the case of an eligible conservation authority described in subsection (b)(1)(C)(ii) which accepts property for transfer to another eligible conservation authority, the Secretary of the Interior determines that—

"(I) the fish and wildlife management plans or natural area preservation plans (as the case may be) of such authority with respect to such property before such transfer will assure such management or preservation, and

"(II) the plans of the eligible conservation authority to whom such property is transferred will assure such management or preservation.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) INVOLUNTARY CONVERSIONS.—

"(A) IN GENERAL.—The seizure, requisition, and condemnation of property shall be treated as a sale or exchange of such property.

"(B) APPROVAL NOT REQUIRED IN CERTAIN CIRCUMSTANCES.—

"(i) BY STATE.—In the case of a sale or exchange which meets the requirements of this section and which is carried out by seizure, requisition, or condemnation (or threat or imminence thereof) by any State, the approval described in subsection (c)(1)(A) shall not be required with respect to such State.

"(ii) BY UNITED STATES.—In the case of a sale or exchange which meets the requirements of this section and which is carried out by seizure, requisition, or condemnation of property (or threat or imminence thereof) by the United States, the approval described in subsection (c)(1)(B) shall not be required.

"(2) RECREATIONAL USE PERMITTED.—A sale or exchange of real property shall not fail to meet the requirements of subsection (a)(2) merely because after such sale or exchange—

"(A) in the case of property to be used for fish and wildlife conservation purposes, sport hunting, sport fishing, or other wildlife-oriented recreation is conducted on such property pursuant to State and Federal laws, and

"(B) in the case of property to be preserved as a natural area, natural area-oriented recreation is conducted on such property pursuant to State and Federal laws.

"(3) CERTAIN EASEMENTS ELIGIBLE FOR EXCLUSION.—An easement shall be treated as real property if the requirement of subsection (a)(2) is satisfied by reason of the easement with respect to the real property which is subject to the easement."

(b) The table of sections of such part III is amended by striking out the item relating to section 128 and inserting in lieu thereof the following:

"Sec. 128. Exclusion of gain for certain sales of real property to be used for fish and wildlife conservation or preserved as a natural area.

"Sec. 129. Cross references to other Acts."

(c) The amendments made by this Act shall apply to sales and exchanges after the date of the enactment of this Act.

INDIVIDUAL SAVINGS AND INVESTMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 60 minutes.

● Mr. MARTIN. Mr. Speaker, earlier today, the gentleman from South Carolina (Mr. HOLLAND) and I introduced and discussed the Individual Savings and Investment Act, introduced in the other body by Senator HEINZ. This measure is designed to offer an attractive tax inducement for more people to invest and reinvest in the productive sectors of our economy, by allowing tax deferral on gains and earnings of a new investment trust fund that were rolled over into new investments. So long as the proceeds were not withdrawn from the trust account into disposable accounts for consumption, but were left in the investment trust account, there would be no tax liability. Only upon withdrawal or distribution from the account would any part of it be considered as income and therefore taxed as such.

So that our colleagues and the public may be able to study its provisions, I would now like to give a more detailed explanation of the bill:

I. GENERAL EXPLANATION OF TAX-DEFERRED ROLLOVER ACCOUNT

An individual would be permitted to establish a special trust account, with a bank or similar institution, to which he could contribute cash for investment by the trustee and to which he could contribute any stock or securities of a domestic corporation. The amount of cash contributed to the rollover account plus all income realized in the account would be invested and reinvested in stocks, bonds or interest-bearing deposits. At the election of the individual, either the trustee would be given investment discretion, or the individual could retain the right to direct the trustee in the investment and reinvestment of funds in the rollover account.

The individual would not be allowed a tax deduction for contributions to the account. However, all capital gains, dividends and interest realized in the account would be nontaxable until withdrawn from the rollover account. When withdrawn from the rollover account, all previously accumulated capital gains, interest and dividends would be taxed to the individual in the same manner as if he had realized that income directly, in the year of the withdrawal.

II. MORE DETAILED EXPLANATION

A. General nature of rollover account

The rollover account could be established with a bank or a savings and loan association. With the approval of the Treasury, other institutions, perhaps brokerage houses, could qualify. Although in the form of a trust, the rollover account would operate more as a custodial investment account. The trustee could either be given investment discretion in which case the trustee would not only hold the funds in the account on behalf of the individual but would also determine their investment and reinvestment; or the individual could retain the right to direct investment in which case the trust would merely hold the funds in the account on the individual's behalf and execute investment and reinvestment orders in accordance with the individual's instructions. In both cases, the rollover account would be a separate trust account.

B. Eligible investments for a rollover account

The funds in a rollover account could only be invested in stock or securities of a domestic corporation or in interest-bearing deposits. This limitation avoids the complexities and other problems associated with direct investment, such as in real estate for example.[1] At the same time, the limitation permits the individual nearly a full range of

[1] Direct investments would introduce the necessity of dealing with depreciation, investment tax credits and the like. Also, in the case of some direct investments which produce tax losses in the early years, the rollover account would be disadvantageous.

choice among the traditional forms of savings.[2]

C. Traditional principles underlying rollover account

With respect to capital gains, the effect of the rollover account is as if one stock were permitted to be exchanged tax-free for another or were permitted to be sold for cash without the recognition of gain, provided the proceeds were within some time period reinvested in another stock. The rollover account achieves the same result except that it permits a change from a stock to a bond and also permits the additional flexibility of holding the proceeds in an interest-bearing account. With respect to dividends, the rollover account achieves a result similar to "dividend reinvestment" proposals which have been made in the past,[3] except that the rollover account provides additional flexibility because the dividends can be invested in stock or securities of a corporation other than the one from which the dividend was received, and the dividend may be deposited in an interest-bearing account.

D. Only one rollover account may be Maintained

An individual can maintain only one rollover account at a time. He can, however, terminate one rollover account by withdrawing all the funds, and then the next succeeding taxable year establish another account. A husband and wife could each establish a rollover account, whether or not they file a joint return.

E. Tax-exempt nature of rollover account trust

The trust will be exempt from tax and will not be required to file an income tax return instead it will be required to file annual information returns.

F. Taxation of individual; and identification of source of withdrawals

The individual would not be taxed on income accumulated in the rollover account, but will be taxed in the taxable year in which he withdraws that accumulated income from the trust.

It is critical to identify the source of any amount withdrawn from a rollover account because the amount will have the same character in the hands of the individual as it had in the account, i.e., either capital, capital gain or ordinary income consisting of interest and/or dividends. This identification of withdrawals is accomplished in the simplest manner possible: The trustee is required to maintain on its books, but not to segregate assets, three separate funds; a capital fund which represents the total of all amounts contributed to the account; a capital gain account which represents all net long-term capital gain realized by the trust; and an ordinary income fund which represents interest and dividends received by the trust plus net short-term capital gain realized by the trust.

Any withdrawal will be treated as first having come out of the ordinary income fund, next out of the capital gain fund, and finally out of the capital fund.

[2] Residential real estate, most particularly a personal residence, is one form of "savings" excluded from the rollover account. However, since a personal residence does not produce taxable income, as distinguished from imputed economic income, the rollover account concept is by definition inapplicable.

[3] The "dividend reinvestment" proposals generally operate as follows: If a corporation declares a dividend, shareholder A could elect to receive the dividend and pay tax on it, but shareholder B could elect to defer receipt of the dividend, i.e., "reinvest" the dividend in which case shareholder B would not have to pay tax until later.

EXAMPLE

Individual A established a rollover account in 1980 to which he contributed $10,000 in each of the years 1980, 1981, and 1982. Through investment and reinvestment by the trustee the account had by the end of 1982 received $3,000 in dividends and had realized net long-term capital gains of $5,000. At the end of 1982, the balance in the account and the balance in each of the three separate funds is as follows:

Account balance	Capital fund balance	Capital gain fund balance	Ordinary income fund balance
$38,000	$30,000	$5,000	$3,000

In July of 1982, Individual A withdrew $5,000 from the account. The withdrawal is treated as consisting of $3,000 of dividends and $2,000 of capital gain. When Individual A files his tax return for 1982, he will include in income $3,000 of dividends and $2,000 of long-term capital gain.

The rule for ordering the priority of withdrawals from a rollover account is significant. Once having made a contribution to a rollover account, and having accumulated income from that investment, there is a substantial incentive for the individual to leave both the originally contributed principal amount and the accumulated income in the rollover account, and, thus, in the savings system. Because withdrawals are first deemed to come out of the ordinary income fund, the individual cannot, without paying tax, merely leave the accumulated untaxed income in the rollover account and withdraw the originally contributed principal for consumption purposes.

G. Deemed withdrawal from rollover account

Under certain circumstances, an individual will be treated as having made a withdrawal from the rollover account even though no amount has actually been distributed from the account. If an individual transfers a portion of his interest in a rollover account, or pledges any portion as security for a loan, that portion of the account will be treated as having been distributed. However, if an individual's interest is transferred to his spouse pursuant to a divorce decree, no transfer will be deemed to have occurred.

The most significant "deemed withdrawal" from a rollover account arises when an individual has for the taxable year a net long-term capital loss from transactions outside the rollover account. In that event, the individual will be treated as having in the same taxable year withdrawn a corresponding amount from the capital gain fund (to the extent thereof). For example, if for the year 1980, the individual had a net long-term capital loss of $1,000 from transactions outside the rollover account, and, if at the end of 1980, the balance of the capital gain fund in the rollover account was $1,000, the individual would be treated as having withdrawn $1,000 of long-term capital gain which would exactly offset the $1,000 long-term capital loss.

H. Distribution of balance in rollover account to a beneficiary

If the individual neither makes nor is treated as having made, a withdrawal from the rollover account, no amount of income accumulated in the rollover account will be taxed to him, but, at his death the rollover account will terminate and the entire balance in the account will automatically be distributed to his designated beneficiary or, in the absence of a designated beneficiary, to his estate. The beneficiary or estate will be taxed on the accumulated income received.

I. Loss Upon Termination of Account

Although losses realized by the trustee on investment and reinvestment will not be recognized currently, upon termination of the rollover account a loss may be realized and treated as a capital loss of the year in which the account is terminated.[4] Such loss would be the amount, if any, by which the total of all amounts contributed to the rollover account exceeds the total of (i) the amount distributed upon termination of the account plus (ii) all amounts previously withdrawn from the account.●

FIGHTING BUREAUCRACY WITH MORE BUREAUCRACY—THE WRONG APPROACH TO OUR ENERGY FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, the fast track legislation before us today certainly generated a lot of activity. At last count there were some 90 amendments vying for attention, as everyone rushed to fast track their favorite energy program and fashion the charter for this new Federal agency. And my office has been flooded with "Dear Colleagues" that sing the praises of "fast track"—I am told it will reduce our dependence on OPEC, increase domestic energy production, help develop our coal resources and alternative forms of energy, resolve the national interest conflict between environmental protection and energy independence, and increase our energy conservation at home. How could anyone oppose such an entity?

I agree, of course, that something must be done about the excessive Government regulation which is strangling the U.S. energy industry. Price and allocation controls have discouraged domestic production and the development of alternative energy sources. A large percentage of our known and potential resources are under lock and key on Federal lands. Some very difficult tradeoffs must be made if we are to open up Federal lands to energy exploration. The National Gas Act which passed last year has tremendously increased the paperwork burden on small independent energy producers.

There is no doubt that existing legislation has stopped many energy projects dead in their tracks. And I would be leading the fight for fast track if I believed it addressed these monumental problems which face our domestic energy producers. But this Energy Mobilization Board is just camouflage, another layer of bureaucracy, an energy mirage. When the dust settles, the U.S. energy industry will still be hopelessly bound by Government regulations, still import half our oil, and still be subject to the shortages and long gas lines of last summer. Fast track is a simplistic approach to a complex problem. It will produce very little new energy at a very high cost.

[4] If the account terminated the first year, the loss would be a short-term capital loss. Any loss resulting from a termination after the first year would be a long-term capital loss.

Mr. Speaker, the first problem with this fast-track legislation is its close association with the administration's crash synfuels program. Despite the many and grandiose claims that have been made, speeding up the administration's synfuels development program would be the primary duty of the EMB. The EMB was proposed by President Carter in his July 15 energy speech, along with a request for $88 billion for synfuels development. The administration's estimates of the energy to be produced through this crash program assume both a budget outlay of $88 billion and the presence of a fast-track Board.

And a powerful Federal authority would indeed be necessary, for large-scale production of synfuels poses serious threats to our environment. The pollutants that will be given off from liquefaction plants include hydrocarbons, phenols, combustion gases, acids, alcohols, inorganic acid salts, and cyanides, all potentially hazardous substances.

Carbon dioxide, in addition, will be released into the atmosphere, as will air and water vapor from cooling towers. The potential global hazards associated with increased carbon dioxide levels in the Earth's atmosphere are great. Any accumulation of CO_2 and other heat-absorbing gases warms the atmosphere, which could ultimately result in a shift of climatic zones, drastic changes in food production, and a rise in sea level by as much as 20 feet world-wide.

The pollutants discharged from various waste water treatment plants pose potential water quality problems as well.

But the risks of large-scale synfuels production are economic as well as environmental. There is very strong evidence to support the argument that synthetic fuels will not be competitively priced if their commercial development is started today. In fact, the very companies that have received, or are about to receive, Department of Energy contracts on synthetic fuel projects have quite evidently and explicitly made a judgment that synthetic fuel technology is not commercially feasible at the present time.

When the companies that know the most about a process, that have invested a considerable sum of their own money over the past 10 years, and have access to extremely good data about the potential markets for synthetic fuel products, come out and say they are unwilling to invest in the projects as a commercial venture, should we not at least consider the possibility that they have a good economic rationale?

To make matters worse, much of the known deposits of coal and oil shale needed for synfuels production are located in the West, where water is scarce and there is ongoing controversy over water rights. And as everyone knows, the water requirements for synfuels production are very high. Even with conservation and recycling, it is generally assumed that fairly large quantities of water will be required. The water is needed primarily in the conversion and cooling processes, but water is also needed for mining, coal preparation, ash disposal, and land reclamation.

The many environmental, economic and land use problems that surround synthetic fuels production are reason to question any headlong stampede into synfuels. But they are also the primary reason we have this fast-track legislation before us today. Large-scale synfuels production would be held up for years by the environmental and land use protections which concerned Americans have voted into place, and rightly so. Even with the $88 million and strong EMB the administration has requested for its crash synfuels program, we would only see, at best, 8.5 million additional barrels of oil a day produced by 1990. On the other hand, immediate decontrol of oil, gas, and natural gas would result in a short-term increase of 1.5 to 2 million barrels a day and an additional 10 million barrels a day by 1990, according to a recent study by the Heritage Foundation. It is clear that we need not sacrifice the environment, State and local rights, and millions of Federal dollars to move toward energy independence. Synfuels are not the answer and neither is the Energy Mobilization Board.

The second problem with fast-track is the possibility of large-scale violations of State and local rights.

Setting up a small, elite group to alter Federal, State, and local laws, and in some instances to act in place of Federal, State, and local agencies, is wrong in principle. This board could easily become an unresponsive, untouchable, and uncontrollable power in itself. If the people of Buffalo object to locating a new refinery in their community, should they be forced to accept a Federal decision overriding their State and local laws? If a coal liquefaction plant is to be built in Montana, requiring immense quantities of water, should the people of Montana and nearby States be content to have the crucial and complex issues of Western water law decided by a Federal board? Waiving even "procedural" regulations can effect the protection of our environment and health, for these statutory procedures are often part of the effort to insure the proper workings of the law. We must remember that if severe environmental damage occurs, it will be the local residents who suffer. They should have the final vote in such decisions.

Third, even at such costs, our new EMB will not do much to speed up many of the priority energy projects we are talking about.

A recent study by the Library of Congress reveals that, in large part, the delays behind energy projects reflect a lack of concensus on the worth or need for the proposed project. A 1979 DOE survey of all coal-fired plants concluded that—

An Environmental Policy Institute survey of coal and nuclear powerplant documents found that, according to the utilities involved, the main causes of delays were factors like strikes, labor shortages, late delivery of equipment, equipment failure, changes in plans or design, or financial problems.

The major cause for cancellation or delay of LNG terminals, coal gasification or liquefaction projects, and powerplants have been questions surrounding the economic feasibility of the project—LNG or coal gas—or need for the electricity to be generated—powerplants. And in the case of refineries and oil pipelines, the causes of delay are complex and tend to reflect the specific circumstances surrounding each project.

In additional views to the Commerce Committee report, a large percentage of the committee's members stated that—

This bill does not assure that there will be a major reevaluation of the laws and regulations which are strangling economic development in this country. Nor will this bill cure the bureaucratic delays and duplication which has characterized the building of any energy facility over the past decade. Nor does this bill insure a reevaluation of the myriad of regulations which are hampering the production and use of petroleum and coal.

In light of these views, how much of an impact on energy production can this legislation really have?

But the final, and maybe the most important weakness of an EMB, is the specter of setting up another layer of bureaucracy to solve problems which were caused by Government regulation in the first place. Creating another Federal agency is not the answer. In 1977 Congress created the Department of Energy in order to integrate all major Federal energy functions into a single department 'for coordinated and effective administration." Some of us have questioned the wisdom of that decision, but nevertheless, we now have one energy spokesman. Now, the administration wants two more energy spokesmen—the EMB and Energy Security Corporation, which will finance the Carter synthetic fuels projects. This on top of an energy bureaucracy that has done little but create shortages and misallocations through a thoughtless regulatory system.

The future is easy to predict. An EMB created today will soon say its five-member Board cannot contain the expertise now shared among hundreds at the Federal, State and local levels. Then the Board will begin building its own huge staff with paperwork and all the rest—thus becoming another slow-moving bottleneck through which today's energy producers must pass.

Mr. Speaker, Congress is hiding behind this fast-track gimmick—it is afraid to come out and challenge the real problems, many of which resulted from past congressional blunders. We must be brave enough to take another look at the Clean Air Act, the Clean Water Act, the Wilderness Act, the new strip mining legislation. Setting up another Government agency to do a responsible assessment of our energy future is a cowardly escape. And the power entrusted to this panel threatens some of the underlying safeguards that have been built into our Constitution. Congress must be brave enough to remove the price controls and allocation regulations. the burdensome paperwork and the stifling tax structure that is keeping American energy producers down. Only by restoring the incentives for energy exploration, development and production will we make a significant move toward energy independence and adequate energy supplies at prices the American consumer can afford. Let us not fight bureaucracy with more bureaucracy.●

CONGRESS AND THE PRESIDENT RESPONSIBLE FOR HIGH INTEREST RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. LEACH) is recognized for 30 minutes.

Mr. LEACH of Iowa. Mr. Speaker, the Federal Reserve Board's recent decision to raise the discount rate to unprecedented levels and tighten the money supply has produced understandable criticism in Congress, particularly from members of the Democratic Party.

Accordingly, I think it responsible to point out that the steep increase in interest rates which we have witnessed this past month is only in small measure Federal Reserve Board responsibility. The Federal Reserve Board is independent of Congress and the Executive only to the point it must work within the constraints established in the fiscal arena. Responsibility for the current debilitating interest rate structure must be shouldered squarely by Congress and President Carter. A fiscal policy that mortgages debt to future generations is a fiscal policy that necessitates a tough monetary policy. The new, stringent monetary policy of the Federal Reserve Board is thus directly related to the abdication of fiscal leadership in the Congress and the unwillingness or inability of the President to set an anti-inflation standard.

President Carter is substantially responsible for these high interest rates—not because he appointed the Federal Reserve Chairman—but because this administration has created the largest leadership crisis in the history of international capital movements. The European money brokers as well as the oil rich mandarins of Middle Eastern capital are appalled at the weakness they perceive in the White House and have reflected their concerns by trading dollars for Deutsche marks and Swiss francs, and by hedging their currency holdings with gold. President Carter, is being nailed to a cross of gold—a cross built on skepticism in Presidential leadership and congressional responsibility.

In the last 2 weeks the administration has responded to the dollar stability crisis by announcing new Treasury gold sales, and policies related thereto, and by announcing its intention to float new Deutsche mark denominated Treasury debt. Problems of the dollar, it has implied, can be corrected in the short-term by selling off part of our national gold reserves and by issuing more of the so-called Carter bonds.

The voluntary selling of so much gold is unprecedented in modern times. In fact, the decision of the Carter administration to reduce the deficit by selling gold may well be a national scandal, given the loss to the Treasury that the sales imply and the multimillion-dollar loss to the American people that the administration's mistaken gold price prognostications have produced thus far.

I stress this last point. The Carter administration has sold gold in the past year at less than half the market value achieved in recent weeks. If a sales vice president of a corporation made such a mistake, he would quickly be asked to look for new employment. Yet, to date, the public is generally unaware of the disquieting decision to sell gold in the first place, and just how weak the bargaining ability of the administration has proven to be.

The selling off of our gold reserves for short-term gain is analogous to a farmer who loses $10 an acre on a 100-acre corn crop but misleads himself into thinking he really did not lose any money if at the end of the year he also sells an acre of his land for $1,000. Actually, just as the farmer is poorer at the end of the year if he sells part of his land, so is the U.S. Treasury when it sells its gold, as are the American people to whom the gold belongs in the first place.

The Carter bond sales would appear even more imprudent. Simply stated, the Carter administration has embarked on a course of speculation on the American dollar. As a major facet of the dollar rescue program announced last November, and expanded upon in recent weeks, the President approved the sale abroad of up to $10 billion of Treasury securities denominated in foreign currencies. The purpose of the sale of these Carter bonds is to derive foreign currencies which can then be available to support intervention by the United States in foreign exchange markets to counter any significant drop in the dollar's value. The essence of this operation is speculation, using borrowed funds with the U.S. taxpayer taking the risk.

The United States has played this high-stakes game before. From 1961 to 1971 the Treasury sold foreign currency notes to monetary authorities in six European countries. These U.S. notes were called Roosa bonds and the experience is not encouraging for the new Carter bonds. As of December 31, 1978, realized losses on retired Roosa bonds totalled $845.6 million.

One reason for this enormous taxpayer loss is that on January 20, 1977—the day President Carter assumed the Presidency—the American dollar was worth 2.50 Swiss francs, but subsequently dropped so precipitously that the Treasury became committed to paying almost a third more on our Swiss debt obligations than would have been the case if the dollar had held at the level it was at the end of the Ford administration.

Sale of Roosa bonds was justified as a means of forestalling foreign purchases of U.S. gold in order to assist in maintaining the Bretton Woods monetary system of fixed par values and gold convertibility. Treasury claims these bond sales resulted in our retention of 36 million ounces of gold. But this claim would appear a chimera in that the gold quickly went out the window. In the 10 years when Roosa bonds were being sold and rolled over, the U.S. gold stock decreased from 501.4 million ounces in 1961 to 289.5 million ounces in 1971. That loss of 211.9 million ounces was almost six times the claimed saving of 36 million ounces resulting from the sale of Roosa bonds. Unfortunately, it was not until August 1971 that the United States finally suspended the convertibility of officially held dollars into U.S. gold. If it were not for the Roosa bond sales, this decision would almost certainly have been made years earlier.

Thus, while our Government has had some experience selling foreign currency denominated debt, that experience was a bad one. More importantly, Roosa bond sales were made during a period of fixed exchange rates. The selling abroad of substantial Treasury debt today during an era of more flexible exchange rates involves entirely unprecedented risk taking and makes currency speculators out of American taxpayers. If the Carter administration and this Congress continue their policy of deficit spending we may well have to buy back our Deutsche mark and Swiss franc obligations with substantially depreciated dollars. In other words, the taxpayers in the next administration will foot the bill for the very dangerous dollar diplomacy of this one.

These policies of the administration reflect embarrassing dollar weakness. So do some of the panaceas gaining currency in Congress. Last week Chairman HENRY REUSS of the House Banking Committee proposed we give serious consideration to the institution of credit controls as a method of bringing interest rates down. I am very skeptical. Advocating the establishment of credit controls is asserting more faith in the Washington bureaucracy than experience warrants. To believe that credit controls will solve the interest rate and inflation problem is analogous to believing gas rationing produces more energy. All the rationing of credit or gas does is allocate a shortage. The effect is to create distortions and inequities in the economy—not to mention the embittered divisions of those who become short-changed. What America needs is a more restrained and balanced fiscal policy, not new contorted controls that Washington has proved so decisively inept at administering every time it tries.

Chairman REUSS also called on the Federal Reserve to reexamine its money supply assumptions and be ready to announce a new higher temporary monetary range. A growth ceiling of 7.5 percent, he charged, has put the economy in a boa constrictor's embrace. The conclusion of Chairman REUSS is accurate—the economy is in a reptilic squeeze—but a short term increase in the money supply is a palliative, not a solution. Hyping the money supply causes lurches in the economy. It reflects a "Fed knows best" philosophy that is likely to exacerbate inflation even further and places more pressure in the long run to increase interest rates.

Last week, also, the majority leader, Mr. WRIGHT of Texas, criticized the unprecedented 15-percent prime rate and correctly pointed out that high interest rates may be a formula for creating both inflation and recession in the same economy. But, incorrectly, he blamed the high interest rates exclusively on a "misbegotten" policy of the Federal Reserve Board.

Politically speaking, congressional liberals simply cannot have their cake and eat it too. It defies all economic logic to support liberal spending policies and at the same time blame the monetary authorities for high interest rates. The refusal to confront inflation with sound fiscal policy denies Congress the moral imprimatur to object to stringent Federal Reserve policy. While it is the duty of this Congress to exercise oversight of the monetary function, our real challenge is to get our fiscal house in order. Credit controls may be entertaining to speculate about; increasing the money supply may allow more inflated credit; blaming high interest rates exclusively on the Federal Reserve Board may be politically expedient; but these assertions represent a sideshow to the real business of government. There is simply no substitute for fiscal discipline.

Monetary and fiscal policy should move together rather than in opposite directions. What is needed to bring interest rates down is for Congress to have the courage to say "No" to excessive spending.

In this regard, it should be stressed that high interest rates are particularly cruel to poor and moderate income Americans. The concern for the poor that liberal legislators evidence in voting for excessive Government programs represents a "mistake of the heart"—but a mistake nonetheless. High inflation, high interest rates, low private sector job creation are more devastating to the poor than the counterbalancing effects of all the government assistance programs combined.

Skyrocketing interest rates have choked off funds for new plants and equipment. They have deprived States like my own with usury ceilings of any credit at all for housing in the last few months. And where credit is available in America, high interest rates have made it literally impossible for millions of American families to afford a home.

Since the first of this year alone, the increase in interest has added some $40,000 to the ultimate cost of paying for a $50,000 home on a 30-year mortgage.

It has added $115 a month to the payments a young family would have to make to purchase such a home. This legislated robbery of young families by Congress goes hand in hand with the increase in tax liabilities for all Americans. Government induced inflation not only pushes people into higher tax brackets, but it adds substantially to the cost of servicing the national debt. Since the first of the year, the increase in interest rates alone has added $4 billion to the cost of servicing the national debt. This is $4 billion more the American people will have to pay in taxes, and for which we will get nothing in return.

In short, the unconscionably high interest rates we see today are congressionally dictated interest rates. They are presidentially dictated interest rates. They are Democratic interest rates. If the American people want reprieve, they should seriously consider voting for new leadership and new fiscal discipline.

□ 1730

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding. First, let me express my thanks and appreciation to the distinguished gentleman from the First District of Iowa for taking the time to present to this House, and hopefully to this Nation, one of the major problems, if not the most major problem, that this country faces today. He has adequately pointed out, through his service on our committee, that while we do not have a Democrat or a Republican dollar and incentive left in this country, nor do we look at partisanship as a means of accomplishing a goal within our committee that, indeed, his concern should be the concern of all of us not only on our side of the aisle but for the entire Congress when it comes to the subject of inflation and the decrease in the value of the dollar. His example was the cost to somebody who would spend $40,000, I think the gentleman said, in addition to what he would at the start of this year, on a $50,000 mortgage over 30 years—is that the example?

Mr. LEACH of Iowa. That is correct.

Mr. STANTON. It is incredible and, of course, it hits every one of us in our districts and the young people back home who want us to come forth with leadership, and who are asking the question, "Why? Why? Why?" Of course, we know the answer. The gentleman has repeated the answer for anyone who will listen.

Now is the time to do something we have not done in the last 2 years, and that is to combine the fiscal and monetary restraint that is so necessary to protect the further devaluation of the American dollar. So I extend to the gentleman my personal congratulations. I hope that from now on in the well of this House and wherever we can be heard that our voices will ring out. We have sat back too long, realizing what was going on, but for some reason or another we were not speaking out as the American people have charged us with the responsibility of doing. I hope the gentleman tonight will start a precedent that will long be continued here in the House.

Mr. LEACH of Iowa. I appreciate the contribution of the gentleman from Ohio and recognize his leadership as the highest on the Committee on Banking, Finance and Urban Affairs matters, and certainly in economic matters as well.

MOTOR CARRIER ENERGY CONSERVATION AND REGULATORY REFORM ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 15 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to bring to the attention of my colleagues a bill which I introduced yesterday concerning regulation of the trucking industry. The bill, H.R. 5762, is entitled the Motor Carrier Energy Conservation and Regulatory Reform Act of 1979.

As you know, Congress is currently considering a number of proposals to "deregulate" or "reregulate" the motor carrier industry. There has been considerable discussion that these proposals either go too far in deregulating the industry or do not go far enough.

It is a great pleasure for me to introduce a bill which tries to find a middle ground. It goes further than the trucking industry's proposals but is not nearly as sweeping as the administration's deregulation proposals.

Much of the study and research which led to this bill was done in consultation with an industry that includes a group of the largest shippers in my district. I thank them for their help and commend them for their valuable advice and judgment.

Mr. Speaker, I hope that H.R. 5762 will make a useful contribution to the discussions taking place in the Congress. I am, of course, open to any suggestions for ways in which the bill can be improved. It is by no means set in concrete.

I urge my colleagues to consider this bill carefully. It makes a number of meaningful reforms in the regulation of the motor carrier industry, without going so far as to create disorder in the industry.

H.R. 5762

A bill to revise provisions of title 49, United States Code, with regard to the regulation of the trucking industry

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Motor Carrier Energy Conservation and Regulatory Reform Act of 1979".

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"SEC. 2. Unless otherwise specified, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or provision, the section or provision amended or repealed is a section or provision of subtitle IV of title 49, United States Code.

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ENTRY CONTROLS

SEC. 3. (a) Section 10922 is amended by redesignating subsections (c), (d), (e), and (f) (and all cross references thereto) as subsections (d), (e), (f), and (g), respectively, and inserting after subsection (b) the following new subsection:

"(c)(1) In any proceeding under subsection (a) of this section involving a motor common carrier of property, the Commission shall require, subject to section 10927(a) of this title, that each certificate shall specify the transportation to be provided by the carrier.

"(2) In making a determination under subsection (a) of this section with respect to a motor common carrier of property, the Commission shall consider—

"(A) the ability and the willingness of the carrier to provide service to meet the reasonable needs of shippers;

"(B) the reasonable broadening of the commodities or categories of commodities described in certificates of motor common carriers of property where in individual cases the shipping public's need for such action has been demonstrated to the Commission; and

"(C) upon application, the removal of existing operating restrictions, including circuitous routes, if the applicant demonstrates adequately to the Commission that such restrictions are wasteful and that a public need for removal exists.

"(3) In any proceeding under subsection (a, of this section involving a motor common carrier of property, the Commission shall require that a carrier protesting a grant of operating authority supply evidence to the Commission that such protesting carrier—

"(A) possesses authority to handle the traffic for which authority is applied;

"(B) is fit, willing, and able to provide service that meets the reasonable needs of the shippers involved; and

"(C) has either performed service or solicited business, on a reasonable regular basis, within the scope of the application.

"(4) In making a determination under subsection (a) of this section with respect to a motor common carrier of property, the Commission shall consider, upon request of the applicant, the level of rates proposed to be charged by such applicant. Subject to section 10322 of this title, if the certificate is issued, the proposed rates shall remain at the proposed level for a period of not less than twelve months from the effective date of the certificate.".

(b) Section 10923(b)(2) is amended by—

(1) striking out "and" at the end of subparagraph (C);

(2) striking out "shippers." at the end of subparagraph (D) and inserting in lieu thereof "shippers; and"; and

(3) adding at the end thereof:

"(E) with respect to a permit as a motor contract carrier of property, the requirements contained in section 10922(c) of this title.".

INTERCORPORATE HAULING

SEC. 4. Section 10524 is amended by—

(1) inserting "(a)" before "The"; and

(2) adding at the end thereof the following new subsections:

"(b) Notwithstanding subsection (a) of this section, transportation of property by motor vehicle, with or without charge, by one incorporated company for another, or between an incorporated company and parent company, may be conducted without a certificate or permit issued by the Commission under this subtitle if—

"(1) the parent company notifies the Commission prior to the commencement of operations stating its intention to engage in intercorporate hauling of property; and

"(2) such notice contains a listing of participating subsidiary companies and an affidavit that the parent company owns a majority of each such subsidiary company.

"(c) A Commission-receipted and returned copy of the notice submitted under subsection (b) of this section shall be carried within the operator area of all motor vehicles conducting such operations.".

RATE BUREAUS

SEC. 5. Section 10706(b) is amended by—

(1) inserting "(1)" after "(b)"; and

(2) adding at the end thereof the following new paragraphs:

"(2) The Commission, in considering applications for approval of ratemaking agreements filed by motor common carriers of property under this section, shall—

"(A) permit a motor common carrier of property, including elected or designated representatives of groups of motor common carriers of property, to discuss, vote, or agree on any matter pertaining to traffic only if that representative, or any motor common carrier of property represented can participate;

"(B) permit all shippers, shipper groups, or associations representing shippers, to discuss, at a designated location, any matter concerning an existing or proposed provision in accordance with subparagraph (A) of this paragraph; and

"(C) not permit joint consideration, discussion, or action to protest or otherwise seek the suspension of any rate or classification filed by a member motor common carrier of property pursuant to section 10706 of this title where such rate or classification is established by independent action.

"(3)(A) Discussion on single-line and interline proposals of motor common carriers of property shall be strictly limited to comments upon the proposal and shall specifically exclude any agreement expressed or implied, to approve, disapprove, or withdraw the proposal. Comments that a proposed rate or rates will result in discrimination or preference or prejudice between shippers or localities or other similar statements shall be premissible. Comments that a proposed rate or rates will be noncompensatory, will adversely affect the movement of traffic, or will necessitate adjustments in other rates or similar statements shall not be permissible, except that such statements shall be permissible if supported with cost or other justifications related to affected shippers, shipper groups, or shipper associations.

"(B) The proponent of the proposal shall have the right to amend the proposal at any time prior to submission of the proposal to a vote. At the conclusion of any such discussion or, if no discussion is held, of the proposal as finally submitted by the proponent shall be voted on in accordance with this section.".

MOTOR CARRIER RATEMAKING

SEC. 6. Section 10701 is amended by adding the following at the end thereof:

"(e) With respect to proceedings to determine the reasonableness of rate levels for a motor carrier of property or group of motor carriers of property, or with respect to proceedings to determine the reasonableness of a territorial rate structure where rates are proposed through agreements between motor carriers of property authorized by section 10706 of this title, the Commission shall, within 12 months after the date of enactment of the Motor Carrier Energy Conservation and Regulatory Reform Act of 1979, promulgate and thereafter continually maintain standards and procedures for the establishment of rate levels adequate under honest, economical, and efficient management to cover operating and capital costs, including a fair and reasonable rate of return. In promulgating such standards, operating costs shall include the cost of capitalization of leases, the replacement cost of useful equipment and facilities, and capital cost of other equipment and facilities. The standards adopted by the Commission under this subsection shall not enable motor carriers of property to achieve a rate of return more than 2 percent greater than the average national business return on equity.".

EXPEDITING MOTOR CARRIER PROCEEDINGS

SEC. 7. (a)(1) The title to section 10322 is amended to read as follows:

"§ 10322. Initial decisions".

(2) The analysis of subchapter II of chapter 103 is amended by striking out

"10322. Initial decisions—nonrail proceedings."

and inserting in lieu thereof

"10322. Initial decisions.".

(b)(1) Subchapter II of chapter 103 is amended by inserting after section 10327 the following new section:

"§ 10327a. Commission action and appellate procedure in motor carrier of property proceedings

"(a) Notwithstanding sections 10322, 10323, and 10324(c) of this title, this section applies to a matter before the Interstate Commerce Commission involving a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.

"(b) A division, individual Commissioner, employee board, or employee delegated under section 10305 of this title to make an initial decision in a matter related to one of those motor carriers of property shall complete all evidentiary proceedings related to the matter by the 180th day after assignment of the matter. The initial decision shall be submitted to the Commission in writing. If evidence is submitted in writing or testimony is taken at a public hearing, the initial decision shall be submitted to the Commission in writing by the 120th day after completion of all evidentiary proceedings and shall include—

"(1) specific findings of fact;

"(2) specific and separate conclusions of law;

"(3) an order; and

"(4) justification of the findings of fact, conclusions of law, and order.

"(c) The Commission, or a division designated by the Commission, may void the requirement of an initial decision under subsection (b) of this section and may require the matter to be considered by the Commission or that division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance, or that it is required for the timely execution of its functions.

"(d) In a proceeding under this section, after the parties have had at least an opportunity to submit evidence in written form, the Commission shall give them an opportunity for briefs, written statements, or conferences of the parties. A conference of the parties must be chaired by a division, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or an employee designated by the Commission.

"(e) Copies of an initial decision under subsection (b) of this section shall be served on the interested parties. An initial decision becomes an action of the Commission on the 20th day after it is served on the interested parties, unless—

"(1) an interested party files an appeal during the 20-day period, or by the end of an additional period of not more than 20 days, if authorized by the Commission or division designated by the Commission; or

"(2) the Commission stays or postpones the initial decision under subsection (g)(2) or (j) of this section within the period or additional period referred to in clause (1) of this subsection.

"(f)(1) Before an initial decision becomes an action of the Commission, the Commission, or a division or board designated by the Commission, may review the initial decision on its own initiative, and shall review an initial decision if an appeal is filed under subsection (e)(1) of this section. However, a board may not decide an appeal from an initial decision if the appeal may be further appealed to the Commission.

"(2) An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it shall be stayed pending final determination of the matter, and it is an action of the Commission only after the final determination is made. If an appeal is filed under subsection (e)(1) of this section, the final determination shall be made by the 180th day after the appeal is filed.

"(3) Review of, or appeal from, an initial decision shall be conducted under section 557 of title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under section 557(b) of that title.

"(g)(1) The Commission may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

"(A) reopen a proceeding;

"(B) grant rehearing, reargument, or reconsideration of an action of the Commission; and

"(C) change an action of the Commission.

An interested party may petition to reopen and reconsider an action of the Commission under this paragraph under regulations of the Commission.

"(2) The Commission may grant a rehearing, reargument, or reconsideration of an action of the Commission that was taken by a division designated by the Commission if it finds that—

"(A) the action involves a matter of general transportation importance; or

"(B) the action would be affected materially because of clear and convincing new evidence or changed circumstances.

An interested party may petition for rehearing, reargument, or reconsideration of an action of the Commission under this paragraph under regulations of the Commission. The Commission may stay an action pending a final determination under this paragraph. The Commission shall complete reconsideration and take final action by the 120th day after the petition is granted.

"(h) An action of the Commission under this section and an action of a designated division under subsection (c) of this section is effective on the 30th day after service on the parties to the proceeding unless the Commission provides for it to become effective on an earlier date.

"(i) Notwithstanding this subtitle, an action of the Commission under this section and an action of a designated division under subsection (c) of this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.

"(j) The Commission may extend a time period established by this section for a period of not more than 90 days. The extension shall be granted if a majority of the Commissioners agree to it by public vote. The Commission shall send a written annual report to each House of Congress about extensions granted under this subsection. The report shall specify each extension granted (classified by the type of proceeding involved) together with the reasons for and duration of each extension.

"(k) If an extension granted under subsection (j) of this section is not sufficient to allow for completion of necessary proceedings, the Commission may grant a further extension in an extraordinary situation if—

"(1) at least 7 Commissioners agree to the further extension by public vote; and

"(2) not later than the 15th day before expiration of the extension granted under subsection (j) of this section, the Commission submits a written report to the Congress that a further extension has been granted. The report shall include—

"(A) a full explanation of the reasons for the further extension;

"(B) the anticipated duration of the further extension;

"(C) the issues involved in the matter before the Commission; and

"(D) the names of personnel of the Commission working on the matter.".

(2) The analysis of subchapter II of such chapter 183 is amended by inserting after

"10327. Commission action and appellate procedure in rail carrier proceedings."

the following:

"10327a. Commission action and appellate procedure in motor carrier of property proceedings.".

(c) Section 11701 is amended by adding at the end thereof the following new subsection:

"(d) A formal investigative proceeding begun by the Commission under subsection (a) of this section related to a motor carrier of property is dismissed automatically unless it is concluded by the Commission with administrative finality by the end of the third year after the date on which it was begun.".

LOSS AND DAMAGE CLAIMS

SEC. 8. (a) Chapter 117 is amended by adding at the end thereof the following new section:

"§ 11711. Actions against motor common carriers of property

"(a) Notwithstanding any other provisions of this title, all actions brought under and by virtue of section 11707 against a motor common carrier of property (except those that may also include claims for the recovery of attorneys fees) shall be brought in the first instance only before the Interstate Commerce Commission by the filing of a complaint in writing setting forth therein the nature of the action and the amount of money claimed therefor. The order of the Interstate Commerce Commission shall be binding upon all parties to such disputes unless revised on judicial review. Issues arising in the determination of such actions shall be determined in the most expeditious manner and, so far as practicable and legally permissible, without formal hearing or other proceedings. In all actions filed with the Interstate Commerce Commission in accordance with this section, appellate review of the orders of the Commission issued to dispose of such matters shall only be by a district court of the United States in a district through or into which the defendant carrier operates, and any aggrieved party shall, upon request timely made to the courts receive an opportunity for a trial before a jury as a disputed issue of fact.".

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"11711. Actions against motor common carriers of property.".

BACKHAUL AUTHORITY

SEC. 9. (a) Subchapter II of chapter 105 is amended by adding at the end thereof the following new section:

"§ 10527. Backhaul authority

"Notwithstanding any other provisions of law, there any motor carriers of property has authority pursuant to section 10922 of this title to transport commodities or categories of commodities only in one direction, the Commission shall, upon request from the carrier, revise such carrier's authority to allow the carrier to transport such commodities or categories of commodities in either direction. In the event no return movement exists of such commodities or categories of commodities, the Commission shall revise the carrier's authority to allow the carrier to transport general commodities for backhaul purposes.".

(b) The analysis of subchapter II of chapter 105 is amended by inserting at the end thereof:

"10527. Backhaul authority.".

TRIPLEASE OF PRIVATE CARRIAGE

SEC. 10. Section 10526 is amended by adding at the end thereof the following new subsection:

"(c) Nothing in this subtitle shall be construed to authorize the Commission to regulate the duration of any lease, contract, or other arrangement for the use of any motor vehicle carrying only property and driver or the amount of compensation to be paid for such use where—

"(1) a motor vehicle to be used—

"(A) is that of a farmer, a cooperative association, or a federation of cooperative associations; or

"(B) is that of a private carrier of property by motor vehicle and is used for triplease or used regularly in the transportation of property of a character embraced within subsection (a)(6) of this section or perishable products manufactured from perishable property of a character embraced within subsection (a)(6) of this section; and

"(2) such motor vehicle is to be used by the motor carrier in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based.".

ELIMINATION OF GATEWAYS

SEC. 11. Section 10922 is amended by adding at the end thereof the following new subsections:

"(h) Any certificate issued to a motor common carrier of property under this subchapter shall specify the service to be rendered and the territory within which the motor carrier is authorized to operate; and there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the territory of the carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the Commission under chapter 111 of this subtitle. No terms, conditions, or limitations shall restrict the right of the carrier to add to its equipment and facilities within the territory specified in the certificate, or new territory added to existing territory, as the development of the business and the demands of the public shall require.

"(i) Notwithstanding any other provisions of law, if the certificate of any motor common carrier of property issued pursuant to this section contains fixed termini, gateway, or route restrictions, the Commission shall, upon request from the carrier, revise such carrier's certificate to permanently eliminate such fixed termini, gateway, or route restrictions.".●

TEXTILES STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER. Mr. Speaker, a pamphlet dealing with textile and apparel quotas and consumer prices is being publicized by an organization called Consumers for World Trade. The pamphlet, entitled the "Cost of Protectionism," is based on a study done by David G. Hartman. This pamphlet, a rehashing of selected earlier studies, attempts to show that unimpeded imports save the American consumer money.

While I have long been an advocate of expanding trade opportunities, I must

point out that this pamphlet is a gross distortion of the positive role orderly marketing agreements play in strengthening the U.S. economy. Trade certainly can provide a dynamic engine of growth for certain sectors of the economy, but Mr. Hartman neglects any consideration of the complex negative effects which can evolve in other sectors.

Mr. Hartman, and the sources on which he relies, theorize that American consumers are hurt by import restraints. He fails to take many factors into account which make his figures less useful. For example, he and the sources on which he relies fail to take into account the fact that time and again the level of imports is substantially lower than the level of restraints, a situation which negates all his calculations.

Nor do Mr. Hartman and his sources give recognition to the social cost of unemployment brought about when imports displace vast numbers of American workers and reduce job opportunities. They fail to note that many women workers deprived of employment cannot relocate to other communities, where jobs might be available, because of family attachments or, because of their lack of alternative skills, cannot switch occupations. They fail to recognize that the alternative to work is unemployment, with its hardships and social costs, including the payments of unemployment compensation, adjustment assistance, or public welfare.

While Mr. Hartman alleges that apparel and textiles are most heavily protected, he fails to inform his readers that over recent years, prices of textiles and apparel rose by much less than most other items, including those that are far less heavily protected. For example, in recent years, textile and apparel prices rose by an annual average of 1.8 percent. Over the same period, general merchandise prices rose an average of 6.9 percent per year. Mr. Hartman also fails to recognize that, while differences in prices between imported and domestic garments do exist at wholesale level, the important question is whether the ultimate consumer benefits by these differences when shopping in retail stores.

Mr. Hartman also generates misleading impressions by such statements as "the textile industry has for a number of years exported more than it imported." If he had taken the trouble, he could have discovered that the quantity of fabric imported as yard goods and as apparel by far exceeds the quantity American industry was able to export. For example, imports of textile and clothing exceeded exports during 1960 by approximately $248 million. By 1978, imports exceeded exports by approximately $5.0 billion. The growth in imports, and particularly the problems of surges in imports, remain constant problems.

Furthermore, Mr. Hartman fails to take account of at least two recent investigations which reached a different conclusion. On July 19, 1977, the Subcommittee on Trade of the Ways and Means Committee published a Library of Congress study on "Imports and Consumer Prices" (WCMP 95-43). With respect to apparel, it affirms that there are strong indications that the American retailer typically takes a higher markup and profit on imported items, thus putting in grave question—to say the least—whether the American consumer sees any price benefit from imports.

In March 1979, the Congressional Budget Office published a background paper on "U.S. Trade Policy and the Tokyo Round of Multilateral Trade Negotiations." Therein the following incisive passage appears:

> This case for free trade has always recognized certain exceptions—cases in which free trade was not necessarily desirable. Domestic production in certain industries should, for example, be maintained even if foreign production were cheaper in order to reduce that threat that international political developments could interrupt the supply of essential goods . . . Domestic industries facing predatory foreign competition might in some cases require protection since, if such competition succeeded in destroying a domestic industry, thereby leaving a foreign supplier as the sole source of supply, the foreign producer would be left free to raise prices in the future. Temporary protection from foreign competition might also ease the adjustment to changed economic conditions of workers in industries that are no longer competitive in international markets.

And referring to the recent Multilateral Trade Negotiations (MTN), the CBO study states:

> The price effects of trade liberalization are * * * likely to be quite small. (P. 32.)

The fact remains that American consumers for years have had full access to billions of dollars of imported textile and apparel items. Competition between goods produced in this country and those made abroad existed throughout this period and did not provide the American consumer with substantially lower costs. The small rise in textile and apparel prices referred to above documents this fact.

Mr. Hartman seems to be so anxious to fashion a case that he ignores facts of which an economist should be conscious. Thus he seeks to compare employment changes in textiles by reference to 1975 levels. This, of course, was the year of a major postwar recession. Thus, Mr. Hartman deliberately ignores and distorts the impact of business cycles on the patterns of production and employment. The reality is that, except for the recession year of 1975, the industry's employment level today is the lowest of any year since World War II. Since 1965, employment in the textile and apparel industry has fallen by approximately 24 percent.

We must always recognize the truth, that while an average American worker spends his income as a consumer, he derives his income as a producer. If he is to be a consumer, he must have a job. Competition for jobs in the textile and apparel industry is affected by the fact that in many countries wages are substantially lower than in this country. In Sri Lanka the standard wage is a mere 25 cents per hour, in Taiwan and Korea the wage is 50 cents per hour. The low wages and poor working conditions would be—and properly so—illegal in the United States. It is important, therefore, to take into account that there are presently 194,000 textile and apparel workers who are jobless and that another 125,000 are employed part time because full-time work is not available.

Raising the employment level in this industry is a matter of increasing importance to the United States. A healthy textile and apparel industry is of vital importance to the welfare of American agriculture. Cotton and wool producers in many States are basic suppliers to our textile industry—about half of our cotton crop and most of our wool clip depend on the ability of the domestic textile industry to absorb them.

We cannot ignore the fact that the textile and apparel industry is one of the largest employers of factory labor in this country, providing one out of every eight jobs. It is the largest employer of female workers in the manufacturing field. The industry provides a threshold occupation for new entrants into the labor force. It provides a significantly greater proportion of job opportunities to black and other minority workers than manufacturing as a whole. It provides many critically needed jobs in the underdeveloped areas of this country, such as Appalachia, where the alternative is public assistance. And it provides job opportunities, in some of our maturing, older cities in which the textile industry is the economic base.

At a public hearing held by members of the House Ways and Means Subcommittee on Trade in Fall River, Mass., my colleagues realized from the poignant plea of the workers that the public welfare alternative would be financially costly to the American consumer/taxpayer as well as damaging to the American spirit. The United States cannot afford to lose these job opportunities, already heavily impacted by the rise of imports.

Textile and apparel facilities are critically important in the Nation's mobilization planning. They must be in place should any emergency interdict supplies of goods from overseas. Little wonder, therefore, that the Quartermaster General of the Army concluded that this industry was second only to steel in strategic importance during World War II.

It is neither politically nor socially desirable for industrialized societies like the United States to ignore the fact that many jobs have to be safeguarded to provide a full spectrum of job opportunities for its citizens. While cost considerations may be significant, they cannot be viewed in isolation from the many important objectives involved in the economic and social policy of a country. Thus, the United States takes account of the effect of industrial activity on the environment, even though improvements in the quality of life for the average American may involve additional costs. Nor can any modern society reduce the level of living of its population to the standards that prevail in Southeast Asia or central Africa just because they do not have a minimum wage or choose to ignore their environmental and other problems. This is why any modern society, faced with the choice

of seeing its plants close and its job prospects diminish in essential industries like textiles and apparel, must take proper action to safeguard what needs to be preserved.

This is what, in fact, the United States has been doing in the case of textiles and apparel at little or no cost to the American consumer.

THE TRADE CLARIFICATION ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

● Mr. COTTER. Mr. Speaker, as you know, on October 23, the President transmitted to the Congress an agreement on trade relations between the United States and the People's Republic of China. This morning our Trade Subcommittee began hearings on this agreement, and on House Concurrent Resolution 204, which would approve the extension of nondiscriminatory—most-favored nation—treatment with respect to the products of the People's Republic of China provided in that agreement.

In all of the publicity about the extension of MFN to China, I believe one important factor has been blatantly ignored: that is, the effect upon our domestic industries by competition from a nonmarket economy that has over 800 million low-income people.

Many of our domestic industries have already encountered large quantities of PRC products being sold in overseas markets at prices well below any price which a free-market producer could reasonably charge. What impact will a normalization of trade relations which this potential economic giant have on our industries, many of which are already labor intense? As a result of my work on the Trade Subcommittee, I have come to the realization that our present trade laws, as they apply to nonmarket economies, are weak and inadequate, and will not meet the demands which will be made of them when U.S. firms are positioned in a competitive market with the Chinese.

Therefore, I have joined with my colleague on the Trade Subcommittee, Mr. SCHULZE, in introducing the Trade Clarification Act of 1979, and Senator JOHN HEINZ is today introducing a companion bill in the Senate.

This legislation proposes a simple and speedy alternative to the tangled remedies presently available in our antidumping laws to domestic industries who have experienced market disruptions due to large numbers of imports priced below fair market value.

Our current trade laws offer a domestic manufacturer two remedies against such an influx of injurious imports from nonmarket economies: the Antidumping Act and section 406 of the Trade Act of 1974.

The Antidumping Act is aimed at unfairly designated law prices. "Dumping" is determined by comparing the price the foreign manufacturer charges in its own country with the price that same manufacturer is charging for its product in the United States; if the foreign producer's U.S. price is lower than the price in the producer's country—after adjustments for shipping costs, duties, et cetera, is considered—the foreign manufacturer is dumping. Thus, a special duty can be charged to offset the amount by which the foreign producer is dumping products in the United States.

However, with respect to nonmarket economies, it is generally conceded that the home market price is meaningless. The prices and costs in nonmarket economies are typically set for political, rather than economic reasons. Neither free-market demand conditions nor real costs of production are decisive factors in typical nonmarket economies. Consequently, our antidumping laws contain a special provision for judging whether or not imports from a nonmarket economy are being "dumped." Section 205(c) of the Antidumping Act of 1921—now section 773(c)—permits the Secretary of the Treasury to use the prices charged in a free-market economy—as the foreign market value in comparing the foreign producer's price in the United States.

It is unfortunate that the executive branch has in the past used this provision to play politics with the Antidumping Act—the Polish golf car case is a classic example.

When the domestic golf cart industry charged Poland with "dumping," the administration, after shopping the entire world, could not find any other golf car producer that charged less than the Polish manufacturer—or a U.S. producer—was charging in the United States. Thus, it constructed a hypothetical price, based on what it would cost a Polish golf car producer to make a Polish golf car in Spain, where no golf cars are produced. This unusual procedure was instituted to enable the administration to decide the dumping case in favor of the Poles, and thus fulfill a commitment apparently given to the Polish Government during President Carter's December 1977 visit.

The second remedy now available to a domestic industry faced with an influx of imports from nonmarket economies is contained in section 406 of the Trade Act of 1974. Under this provision, an American industry need only prove to the International Trade Commission that it has been caused a certain amount of injury in order to justify the imposition of relief, which could be in the form of quotas, higher tariff rates, or a combination of the two. The catch here is that the law permits the President to disapprove, for whatever reasons, the imposition of any of the relief ordered by the Commission.

Thus, once again, as with dumping from nonmarket economies, the American manufacturer is subjected to having its legally authorized relief depend on foreign policy considerations which are totally extraneous to the manufacturer's market situation.

This bill is aimed at correcting the distortions which have been made of the remedies set out in our trade laws which were specifically implemented to protect our domestic markets from injury.

However, this bill is not a protectionist measure. It is simply an attempt to allow U.S. companies to prove dumping or injury by adopting a test which requires nonmarket economies to sell its products at a price which is the lowest price charged in a free market economy or set to the country from a free-market economy. The bill attempts to balance the concern of consumers for lower prices with a fair deal for domestic industries.

I am hopeful that our Trade Subcommittee can schedule hearings on this measure at an early time so that we can address this deficiency in our trade laws, and make the necessary changes before the normalization of trade with the People's Republic of China places our domestic industries under a pressure which may be too great for them to bear.

Mr. Speaker, at this point I would like to insert a section-by-section analysis of my bill which I believe will provide my colleagues with a precise understanding of the legislation, and the inadequacies in our domestic law which it attempts to correct.

SECTION-BY-SECTION ANALYSIS

This bill amends the Tariff Act of 1930 and the Trade Act of 1974 to provide a more coherent and easily administered body of trade law concerning imports from countries that do not have free-market economies.

SECTION 1

Section 1 of the bill amends subsection (c) of section 773 of the Tariff Act of 1930, as amended, which specifies the methods for determining foreign market vaule when nonmarket economies are accused of dumping.

The term "non-market economy country" would replace the term "State-controlled economy." This change would bring subsection 773(c) into line with the bill's amendment to section 406 of the Trade Act of 1974; section 406 is amended by replacing "Communist country" with "non-market economy country." Both subsection 773(c) and section 406 are concerned with the same countries and the same problem of non-market pricing; using the same terminology clarifies their interrelationship.

Section 1 would also amend section 773(c) to make it clear that the foreign market value of goods from non-market economy countries should be determined by examining the prices or costs of the most comparable free-market producer or producers, i.e., the producers that are located in a free-market economy country, including but not limited to the United States, and that are most nearly comparable to the non-market economy producer in size, sophistication, and technology. Although it was the Treasury Department's practice at the time subsection 773(c) was first enacted to compute the foreign market value of non-market imports by looking to prices or costs in third countries with comparable producers, that policy has since been changed in favor of seeking out the most comparable country. This change has not been a success. Trying to measure the "comparability" of market and non-market countries is virtually impossible; in practice, the new policy confers undue discretion upon administrators and contributes to great uncertainty about what our trade laws require. This amendment would correct the problem.

SECTION 2

Section 2 of the bill amends section 406 of the Trade Act of 1974. At present, section 406 authorizes the International Trade Commission ("the Commission") to recommend relief whenever it determines that products of a Communist country are causing market disruption with respect to an article produced by a domestic industry. As now written, section 406 recognizes only one form of market disruption—a rapid surge in imports constituting a significant cause of material injury, or threat thereof, to a domestic industry. Because there is nothing unfair about importers' increasing their market share in open competition, section 406 as now written offers only temporary relief to U.S. industries, and even that relief is subject to modification by the President. It is true that non-market economies are especially prone to volume surges and other erratic supply patterns, but they also pose a special danger of unfair pricing, because non-market enterprises need not operate at a profit if they serve other goals, such as bringing in hard Western currency. The proposed amendment would broaden the definition of market disruption to include artificial pricing.

Subsection 2(a). This subsection would strike out the term "Communist country" and replace it with the term "non-market economy country." Because the primary focus of this bill is on a country's economic structure and not its politics, using an economic rather than a political term seems appropriate.

This subsection also recognizes the danger that non-market countries will engage in below-cost pricing by permitting the Commission to find market disruption caused by increased imports or artificial pricing or both.

Subsection 2(b). This subsection establishes a special procedure for modifying the relief recommended by the Commission. If the Commission recommends relief for market disruption caused by artificial pricing, the President may report that he intends to take action differing from the recommendation. His modification may be put into effect if within 90 days Congress adopts a concurrent resolution approving it. Thus a domestic industry that has proven its case to the Commission may be denied relief by Congress and the President. This is because relief under section 406 will sometimes implicate large issues of foreign policy, and supervision by elected officials serves as a safety valve for the exceptional case in which overriding national interest justifies disregarding a proven injury to U.S. industry.

Nonetheless, artificial pricing is an unfair international trade practice, akin to dumping or subsidizing exports. Neither dumping nor subsidy (countervailing duty) cases are subject to a Presidential override. Non-market countries should not escape the consequences of engaging in unfair artificial pricing unless the President and Congress agree that an exception is necessary. By placing the burden of persuasion on the President, the bill ensures that exceptions will be recommended by the Executive only in a small number of genuinely important cases.

This subsection also proposes other procedural changes in section 406; the changes are necessitated by the nature of the artificial-pricing problem. For example, the relief regarded by the Commission would not be subject to subsections (d), (h) or (j) of section 203 of the Trade Act of 1974.

Subsection 203(d) is inapplicable because it prohibits increasing the rate of duty to (or imposing) a rate which is more than 50 percent ad valorem above the rate (if any) existing at the time of the proclamation. But if the Commission is to have the power to impose duties sufficient to eliminate artificial pricing, it must have the power to impose substantial specific duties on products that ordinarily have no ad valorem duty or no duty at all. Because nonmarket economies control the price of their goods, the declared value is subject to manipulation, so that any relief awarded by the Commission could easily be defeated if an ad valorem limitation applied. And, of course, it would be entirely appropriate to impose duties on artificially priced goods even though the goods ordinarily enter duty-free.

Subsection 203(h) provides that relief shall terminate 5 years after the day it takes effect and recommends that relief be reduced gradually over this period. While this may be a valid rule of thumb when imports have increased substantially but no unfair practice has been shown, artificial pricing is an intentional breach of the rules of international trade. If the danger of further violations continues, so should the relief. Therefore, the new bill states that relief for artificial pricing may be granted or extended for more than 5 years, but only if the danger of such disruption is likely to continue for more than five years.

Subsection 203(j) is equally inapplicable. It provides that no investigation shall be made with respect to an article which has received relief under section 201 (or section 406) unless two years have elapsed since the last day on which import relief was provided with respect to such articles. Again, requiring a domestic industrty to wait two years before renewing its claim for relief seems sensible with respect to a provision offering only temporary refuge from surging imports, but the requirement is out of place in a provision dealing with an unfair practice like artificial pricing. The bill provides instead that the grantng of relief for market disruption caused by artificial pricing shall not operate to prevent the initiation of an investigation based on allegations that circumstances have changed since the end of the investigation leading to relief. Without a provision of this nature, non-market countries could continue to maintain an artificial advantage by dropping their prices even further once duties have been imposed under section 406. The provision is also necessary to permit a showing that inflation, or some other recent development, requires adjustment in the relief granted by the Commission.

Subsection 2(c). At present, section 406(c) permits the President to request a Commission investigation and to take emergency action with respect to market disruption caused by increased imports. The bill would permit him to do the same with respect to market disruption caused by artificial pricing.

Similarly, 406(d) now permits the President to initiate international consultations if he determines that there are reasonable grounds to believe that a country's increased imports are causing market disruption. This subsection would permit him to take the same action with respect to disruption caused by artificial pricing.

Subsection 2(d). The definitions contained in this section are the heart of the bill.

At present, section 406 applies only to countries "dominated or controlled by Communism." While this definition has the virtue of indisputably identifying the most obvious non-market economies, it does not deal with the economic nature of the problem. Accordingly, the bill supplements this definition by adding an economic concept drawn from the antidumping laws, specifically section 773(c) of the Tariff Act of 1930. A nonmarket economy country is defined as a country whose economy is controlled to an extent that sales or offers of sales of merchandise in that country or to countries (including any country dominated or controlled by Communism) other than the United States do not reflect the true market value of the merchandise.

The subsection also makes several improvements in the existing definition of market disruption caused by increased imports. Under the proposed amendment, such disruption would be held to exist within a domestic industry whenever direct or indirect imports of articles, like an article produced by such domestic industry, are increasing, either absolutely or relatively, so as to be, either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry. This definition takes into account the possibility that an increased volume of indirect imports from non-market countries will cause injury. The current test for comparable articles has been streamlined by dropping the phrase "or directly competitive with" in favor of defining "like article" in a manner parallel to the definition used in antidumping and countervailing duty cases (section 771(10) of the Tariff Act of 1930). A like article is defined as an article which is like, or in the absence of like, most similar in characteristics and uses with an article subject to an investigation under this section.

The bill deletes the requirement in section 406 that imports be increasing "rapidly." This resolves a discrepancy between section 406 and the other provision for relief against increasing imports, section 201 of the Trade Act of 1974. The amendment also provides for cumulation of all non-market economy imports in determining the cause and extent of injury. This is because many non-market countries are part of a single, close knit economic community, so that coordinated export policies are a likelihood. The bill would also delete the requirements that nonmarket imports be a "significant" cause of material injury; it adopts instead the standard of the antidumping and countervailing duty laws which require that the challenged imports be a cause of material injury. See Tariff Act of 1930, sections 701 and 731. The bill also borrows from these laws the rule that relief may be awarded when the challenged imports are a cause of material retardation of the establishment of a domestic industry.

As has been explained, the bill adds a provision to section 406 permitting relief for market disruption caused by artificial pricing. It is similar in many details to the definition of disruption by increased volume discussed above. Because artificial pricing is so similar to other unfair trade practices, such as dumping and export subsidies, it is especially important to make the rules and remedies parallel in all three areas. Market disruption by artificial pricing is held to exist within domestic industry whenever an article, like an article produced by such domestic industry, is imported directly or indirectly from a non-market economy country or countries at a price below the lowest free-market price of like articles, so as to be, either alone or in combination with imports from other non-market economy countries, the cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

The key to the new provision is the rule that non-market imports should not be priced below the "lowest free-market price of like articles." This price is defined as the lowest average price, adjusted for differences in quantity, level of trade, duties or other factors required to insure comparability, charged for like articles in this country by either: (a) a producer from an appropriate free market country, including the United States, if that producer provides more than 5 percent of the apparent United States consumption of like articles; or (b) the aggregate of all producers from any appropriate free-market country, including the United States, that supplies more than 5 percent of the apparent United States consumption of like articles.

In essence, this definition permits nonmarket producers to charge the lowest price offered by any significant individual supplier or by all suppliers from any country responsible for a significant portion of domestic consumption. The five-percent re-

quirement is designed to exclude anomalous producers or countries, whose prices may be affected by unusual circumstances (including ownership by a non-market enterprise). Ordinarily, the Commission can be expected to use the prices charged by an aggregate of producers from a single country in preference to the prices of a single producer. Using an aggregate price forestalls serious confidentiality problems and is generally more appropriate; the output of an entire non-market country should ordinarily be compared to the output of another entire country and not to that of a single firm. Nonetheless, the bill gives the Commission discretion to administer the new provision in a flexible manner consistent with the bill's intent. For example, the Commission may adjust prices to reflect differences in quantity, level of trade, duties, and other factors necessary to assure comparability. It may determine the prices of importers from a particular country by conducting a sample. Generally, the principles established in the countervailing duty and antidumping laws will assist the Commission in administering the new law.

In order to avoid the choice of an inappropriate country for purposes of comparison, the bill forbids comparisons to goods from other non-market economy countries or to articles that are subject to countervailing duty or antidumping determinations.

Finally, the bill defines domestic industry as any industry producing an article in whole or in part in the United States, including any territory or possession of the United States. Watch producers in the Virgin Islands and Guam have already been hard-hit by the importation of watch subassemblies from the Soviet Union at extremely low prices. If the Soviet Union is granted MFN status and if it begins to import watches directly at artificial prices, a major portion of the insular possessions' economy could be wiped out. This provision would make it clear that section 406, as amended, protects the workers and industries of American possessions as vigilantly as it protects labor and business elsewhere in the United States.●

COMMONSENSE IN OIL INDUSTRY ECONOMICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HIGHTOWER) is recognized for 10 minutes.

Mr. HIGHTOWER. Mr. Speaker, I rise as an advocate for some commonsense in our discussions of a very inflammatory subject: oil industry economics.

I confess to having been astounded last week when I heard that one multinational corporation had reported more than $1.1 billion in profits for its third quarter operations. I serve on the Appropriations Committee, in which billions of dollars are routinely discussed, but in every debate I try to keep in mind what a billion dollars represents, and it is no easy task. Therefore, the figures reported by the press and media this week about oil companies' profits have staggered my imagination.

However, having read long articles about the profits of Exxon and Gulf, for instance, I found that the most telling statistic was glaringly conspicuous by its absence, the percentage of profit. Exxon's revenue during the third quarter was reportedly $20.6 billion. Its net profit was reported to be $1.14 billion. A simple exercise in arithmetic, which none of the stories has reflected, would seem to show a net profit of 5.5 percent. The Gulf Oil Corp. reported a profit of $416 million on revenue of $7.74 billion, a net profit of 5.4 percent.

It is not easy to compare oil earnings with other industries. Nor is a comparison quite as uncomplicated as a simple exercise in arithmetic.

In the Oil Daily of October 29, 1979, Mr. Charles DiBona, president of the American Petroleum Institute, responded to questions from newsmen on this subject:

He said exceptional profits on overseas operations accounted for much of the total year-to-year increase. For example, he said profits on domestic operations of the four biggest U.S. oil companies increased an average of 29 percent from 1978 to 1979 on domestic operations. At the same time, the increase on foreign operations averaged 150 percent.

Mr. DiBona noted that the oil companies continue to invest more than their total earnings in energy exploration. Again using figures from Exxon, Mobil, Gulf, and Standard of Indiana, he said the firms reinvested 166 percent of their profits during the first 9 months of 1979.

He also noted that return on total assets of 14 major oil companies totaled 6 percent in the first 9 months of 1978 and 9.6 percent in the first 9 months of 1979. He compared those figures to return on assets for 64 nonoil firms of 9 percent in 1978 and 8.4 percent in 1979.

Return on sales showed a similar pattern. In 1978, the oil companies had a return of 4.3 percent compared with 6.6 percent for other industries, and in 1979 it grew to 5.8 percent compared to 6.6 percent.

Return on capital employed was 15.1 percent in 1979's first 9 months for the oil companies compared with 13.5 percent for other firms, compared with 9.7 and 12.3 percent in 1978.

Return on stockholders' equity was 21.2 percent for the oil companies in 1979 compared with 18.2 percent for nonoil, while the return in 1978 was 13.5 percent for the oil firms and 16.5 percent for others.

Mr. DiBona commented:

> They are all the same pattern. Last year we were below the industry average, and this year we're above it.

He said, however, that for 3 of the last 5 years, oil companies were below the U.S. industry average in return on stockholders' equity. During the last 10 years, the return totaled 13.7 for all industries and 13.9 for the oil industry.

Gulf Oil Corp. reported last week that its net profits were less than its projected capital expenditures. As a case in point Gulf had announced earlier this year that it intended to boost its refining capacity by 9 percent over the next 3 years. It plans to do so by modifying existing refineries, not by building a new refinery. No one seems to want a new refinery in his or her area, with the consequence that no new refineries have been built on the east coast, where they are desperately needed, for the last 10 years. Gulf's projected capital expenditures to boost its refining capacity by only 9 percent will be a quarter of a billion dollars.

Where will the money that is needed to expand our own energy production come from? Where will the money come from to help redirect this Nation on the road toward energy self-sufficiency? The House of Representatives has authorized Federal programs to help develop alternate energy sources, and I believe that is necessary, but as its share of the total expenditures that will be required it represents only a drop in the bucket. At a time when the prime interest rate has climbed to 15¼ percent it has become difficult for an individual or a corporation to borrow necessary capital. I do not hesitate to reaffirm my conviction that the most logical source of funds for necessary capital expenditures is from profits. Capitalism is not a dirty word to me, nor is its inseparable twin, profits.

Those who condemn profits have their heads in the sand and refuse to accept the reality that profits have fueled our economy for 200 years, allowing the United States to ascend to a position of world leadership during its relatively brief history. Profits will continue to fuel the Nation's growth unless the Congress throws roadblocks in its path. Unemployment lines lengthen only when workers are laid off and new jobs are not available. Unemployment compensation, which is a net drain on the economy, diminishes only when the Nation's businesses are making profits.

In summary, I would urge my colleagues to look beyond the headlines when they read about oil industry profits. It is a truism that everything is relative.

□ 1740

GASOHOL MARKETING FREEDOM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, earlier this year I introduced the Gasohol Marketing Freedom Act, legislation to facilitate the sale of gasohol by the managers of the Nation's branded franchise gasoline stations. The Gasohol Marketing Freedom Act, which would amend the Petroleum Marketing Practices Act, would eliminate the mixture of ethyl alcohol and gasoline as grounds for the termination of a franchise or nonrenewal of a franchise agreement and would prohibit franchisors from engaging in acts of economic reprisal or discrimination against franchised dealers who chose to sell gasohol to their customers.

Franchised gasoline dealers are clearly subtly and not so subtly pressured by franchisors not to sell gasohol. Although franchised dealers are independent businessmen and women, because of franchisor pressure and opposition, they lack the freedom to choose if they will offer gasohol for sale to their customers. Until the more than 146,000 "independent" managers of the Nation's branded franchise gasoline stations, which comprise 82 percent of the gas stations in the Nation, are assured the right to market gasohol and can freely choose without reservation to market gasohol, gasohol will not be marketed by thousands of

franchised dealers and will consequently not be available to countless consumers.

For the benefit of those Members who may not yet be familiar with the Gasohol Marketing Freedom Act, I request the text of this measure which is currently cosponsored by 66 Members be printed in the RECORD. I would also like to note the distinguished Congressman from Michigan's Sixth District, Mr. CARR, is a cosponsor of the Gasohol Marketing Freedom Act although he is not listed as a cosponsor of the present printing of this bill.

H.R. 2958

A bill to amend the Petroleum Marketing Practices Act to facilitate the sale of gasohol by franchised gasoline dealers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Gasohol Marketing Freedom Act of 1979".

SEC. 2. Section 102(b) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(b)), relating to grounds for termination or nonrenewal of gasoline dealer franchises, is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding paragraphs (2) and (3), the sale, consignment, distribution of gasohol, the offering (by advertising or otherwise) of gasohol, or any other act directly related to the sale, consignment, or distribution of gasohol (including the mixture of motor fuel and alcohol) is not grounds for termination of a franchise or a nonrenewal of a franchise relationship.

"(B) Subparagraph (A) does not apply to any violation by any person of any reasonable restriction under a franchise regarding the source of supply of any motor fuel which is a component of gasohol sold, consigned, or distributed by such person.".

SEC. 3. (a) Title I of the Petroleum Marketing Practices Act (15 U.S.C. 2801 and following) is amended by redesignating section 105 as section 106 and by inserting after section 104 the following new section:

"REPRISALS OR DISCRIMINATION AGAINST RETAILERS OR DISTRIBUTORS OF GASOHOL

"(a) No franchisor may engage in any act of economic reprisal against any person who is a franchisee of that franchisor because of that person's sale, consignment, or distribution of gasohol or any other act by that person which relates to the sale, consignment, or distribution of gasohol and which is not a grounds for termination or nonrenewal under section 102(b)(2) or (3).

"(b) For purposes of subsection (a), an act of economic reprisal includes any act or attempt of reprisal or discrimination against a person which had or would have had a substantial adverse economic effect on that person.".

(b) Section 105 of such Act (15 U.S.C. 2805) is amended—

(1) by striking out "SEC. 105" and inserting "SEC. 106" in lieu thereof;

(2) by striking out "102 or 103" where it appears in subsections (a) and (d) and inserting "102, 103, and 105" in lieu thereof;

(3) by inserting before the period in the first sentence of subsection (c) the following: ", or, in the case of a failure to comply with the requirements of section 105, that the franchisor engaged in an act (or attempted to engage in an act) which had (or would have had) a substantial adverse economic effect on the franchisee";

(4) by inserting before the period in the last sentence of subsection (c) the following: "or section 105 (as the case may be)".

(c) Such Act is amended by redesignating section 106 as section 107, and by striking out the last two items in the table of sections under the heading relating to title I and inserting in lieu thereof the following:

"SEC. 105. Reprisals or discrimination against retailers or distributors of gasohol.

"SEC. 106. Enforcement.

"SEC. 107. Relationship of this title to State law.".

SEC. 4. Section 101 of the Petroleum Marketing Practices Act (15 U.S.C. 2801), defining terms used in such Act, is amended by adding at the end thereof the following new paragraphs:

"(20) The term 'gasohol' means alcohol, or any mixture containing at least 10 percent or more (by volume) of alcohol, suitable for use as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

"(21) The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal.".●

NORTHERN TIER PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. SWIFT) is recognized for 10 minutes.

Mr. SWIFT. Mr. Speaker, given the support the Oberstar amendment received from both Mr. DINGELL and Mr. UDALL, its adoption this morning was assured. But some mention should be made for the record as to the very special treatment being accorded this one, solitary project and some objection ought to be raised as to the unique consideration being given to this particular project—consideration so unusual we know it has never been accorded any other energy related project and will probably never again be accorded another energy related project.

The Oberstar amendment says that a west-to-east pipeline shall be eligible for designation by the President as a fast-track project. That amounts to a triple fast tracking for which no other project will ever be eligible.

What are the three areas of special treatment for a Northern Tiger pipeline?

One, it is already on a fast track—the expedited procedures of PURPA.

Two, with this amendment it would also be eligible for fast tracking under the Energy Mobilization Board procedures.

And three—not satisfied with double fast tracking—the Oberstar amendment fast tracks the fast track by exempting this one project from the designation procedures of the EMB itself.

Now, Mr. Speaker, how much is too much? How much special consideration does any one project deserve?

The answer does not lie in all the delays this project has suffered, because it has suffered none. There has been no delay by Federal, State or local regulations. This amendment would triple fast track, a project that is not even ready to go.

My State, Washington, has a model siting procedure. It is a one-stop process that works quickly and effectively. And it is waiting to act—if it ever gets a final proposal. The delays in the Northern Tier Co.'s proposal, for example, have been caused by the company—changing its application.

This amendment fast-tracks everything except the applicant—but makes in order every imaginable fast-tracking for the applicant when it finally gets ready. Talk about special treatment.

In fact, let us do talk about special treatment. This amendment is clearly blatant special-interest legislation—tied to an important bill so it can slide through on the momentum of the host legislation.

All of this is especially disturbing because, with all of this special treatment, this coddled project will not produce one drop of oil, one kilowatt of electricity, one Btu of heat, or any energy in any form at all. It is just a transportation vehicle. Yet it is being accorded unusual and very special treatment—so exceptional one would think this was the universal solution to the entire energy problem of this Nation.

Instead, there is considerable opinion that this pipeline, if built, could well become a 1,500-mile-long white elephant. Both the Interior Department's draft report and the Cardullo report raised serious questions about any need for it; questions about inadequate supply and inadequate demand in the Midwest after supplies already projected come on line.

Yet we are going to triple-track this one project just as if there was justification for this special treatment.

Even the recommendation the Secretary of the Interior made on behalf of the Northern Tier Co.'s proposal was lukewarm. If my wife starts telling me she loves me in the tones Secretary Andrus used to endorse Northern Tier, I am going to start looking for the "other man."

Still, we are going to accord this questionable project special triple tracking, a fast track of a fast track of the fast track.

Mr. Speaker, we are going to do some very foolish things in response to the energy crisis. And we are going to do some things of questionable judgment. It is doubtful, however, that we will do anything that will upon the reflection of history look so blatantly helpful to a special interest with so little justification as the amendment we adopted this morning—the "one and only, never-to-be-seen-again, Northern Tier special-interest triple track."

□ 1750

HEARINGS ON WOMEN IN THE MILITARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, due to considerable interest expressed by Members of the House and in view of the importance of the issue to our national defense posture, I wish to announce that the Military Personnel Subcommittee of the Committee on Armed Services will commence hearings on the issue of women in the military on November 13, 1979.

The ranking minority member of the subcommittee, Mrs. HOLT, joins me in stating that it is the subcommittee's intention to conduct a complete review of all facets of the issues involved.

We will conduct hearings during the week of November 13, 1979, and thereafter as necessary. Members of the House, or outside organizations desiring

to present testimony on the issue should contact the subcommittee staff at either 225-7560 or 225-6703.●

STATEMENT OF HON. CHARLES A. VANIK ON THE COMMENCEMENT OF HEARINGS ON MOST-FAVORED-NATION STATUS FOR THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, at the time the conclusion of the trade agreement was announced between our Nation and the People's Republic of China, I expressed the hope that our Government would deal with this issue on an evenhanded basis with both the People's Republic of China and the Soviet Union.

I agree there should be no linkage, that action on one nation should not be contingent on action for another. The issues involved between the nations are vastly different and should be separately considered. However, what we do with respect to this proposal could have an effect on the emigration hopes of hundreds of thousands in the Soviet Union.

The President has made a determination that China has met the requirements of the waiver authority provided in the Trade Act. However, the emigration issue is only a quadrant of concepts of human rights in the Congress and by the American people. American concepts on human rights extend far beyond the provisions of the Trade Act. It has extended to other essential rights of man. America has reacted many times against the actions of oppressive governments. The vote of every individual Member of Congress does not necessarily follow the statute, it follows his own concept on the issue of human rights.

It is difficult to measure the progress of human rights in a closed society. Nor can we assume that a low key level of dissent is evidence or proof of the absence of suppression.

Although the Soviet Union has not made human rights assurances, although it has denied emigration visas to long-waiting applicants, and although it has jailed citizens seeking exit visas, it has permitted 141,882 citizens to leave the U.S.S.R. since 1974 and is currently issuing visas at an unprecedented rate of 60,000 per year. I want this policy to continue.

I do not want America to undertake a trade relationship or any kind of priority or preference between the People's Republic of China and the Soviet Union. I do not want to see my country play the so-called China card and play either of these major powers against each other. We proceed with consideration of MFN for China only because the formal requirements are in a better condition of readiness.

It is my hope that before we conclude this determination, the issue of SALT will be favorably resolved by the Senate. It is also my hope that in the intervening period and as we carry on our deliberations on this issue, constructive discussions will proceed at an appropriate diplomatic level between our Government and the Soviet Union to determine if present emigration actions are indicative of a trend.

The Soviet Union could assist in this matter by dealing forthrightly with the long-waiting applicants and deal compassionately with those imprisoned for seeking emigration. Under these conditions I would be constrained to consider similar MFN action for the Soviet Union—without a formal assurance. The deed would serve as well as the promise. However, this action would have to be initiated by the President, who would have to be persuaded by helpful circumstances.

In our action on this issue we bear responsibility for the emigration hopes of hundreds of thousands in the Soviet Union. Our responsibility is indeed grave.

Although our action on this issue is not linked with SALT, it must be considered in the climate of SALT. If SALT II is approved, a better trade relationship may be a logical next step. If it should fail, a better trade relationship is even more essential to serve as a surviving pillar for détente.

This trade agreement and any similar agreement with the U.S.S.R. is subject to a congressional review in a little over 6 months by this same 96th Congress. The risk of error is less in this short period. If circumstances change, the relationship can be terminated by a majority in either House on a vote that can be demanded by any one of the 535 Members of the Congress. There are adequate human rights safeguards. If the human rights conditions deteriorate in any nation receiving MFN treatment under the Trade Act of 1974, I promise to lead the effort to terminate the relationship.

We will proceed to the consideration of MFN for China objectively on the merits.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I am pleased to yield to my distinguished colleague, the gentleman from California, a distinguished member of the Committee on Ways and Means.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding.

Do I interpret what the gentleman has presented very carefully before the House tonight that there is any attempt to weaken the Jackson-Vanik provisions of present law?

Mr. VANIK. There is no attempt to change any of the provisions of the law. The procedures that I have suggested are entirely within the format of title IV of the Trade Act of 1974.

Mr. ROUSSELOT. I guess what I am asking is that there is no outside group or interest group trying to weaken that excellent provision, is there?

Mr. VANIK. I do not see any tangible efforts of any effort to change the language. As a matter of fact, I have taken the position that the language of the Trade Act as far as I am concerned is in concrete.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments.

Mr. VANIK. Mr. Speaker, I yield back the balance of my time.

INTRODUCTION OF A BILL TO EXTEND THE PROVISIONS OF TITLE XII OF THE MERCHANT MARINE ACT, 1936, RELATING TO WAR RISK INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

● Mr. MURPHY of New York. Mr. Speaker, this bill would extend permanently the life of title XII of the Merchant Marine Act, 1936 (U.S.C. 1281-1294). Section 1214 of the act, pursuant to amendment by Public Law 94-523 (90 Stat. 2474), now provides that the authority under that title shall expire on September 30, 1979.

Title XII authorizes the Secretary of Commerce with the approval of the President, to provide insurance against loss or damage by war risks with respect to vessels, cargos, crew life and personal effects, and liabilities related to ownership or operation of the vessels, when commercial insurance cannot be obtained on reasonable terms and conditions. The purpose of title XII is to maintain the flow of the U.S. waterborne commerce, including the maintenance of essential transportation services for the Department of Defense. War risk insurance was provided by the Government in both World War I and World War II, and proved effective in protecting the civilian and military commerce of the United States, with total premium receipts in excess of losses paid.

Title XII of the Merchant Marine Act, 1936, was enacted with the outbreak of the Korean war in 1950. It was temporary legislation that expired in 5 years. Past extensions of the title XII authority had been for 5-year periods, expiring on September 7 of each fifth year. The last extension was for 3 years, terminating on the date corresponding to the end of the new fiscal year established by the Congressional Budget and Impoundment Control Act of 1974.

War risk protection has been provided through the issuance, for a fee, of interim binders under which Government war risk insurance will attach immediately when commercial war risk insurance terminates under the automatic termination clauses in the commercial policies.

Section 1203(a) of the 1936 act authorizes the Secretary to provide insurance not only to American vessels, but also to "foreign-flag vessels owned by citizens of the United States or engaged in transportation in the waterborne commerce of the United States or in such other transportation by water or such other services as may be deemed by the Secretary to be in the interest of the national defense or the national economy of the United States when so engaged."

The regulations of the Maritime Administration have been demonstrated to be adequate for the suspension of the program when national security needs have been satisfied. Therefore, it is unnecessary to burden the Congress each 5 years for extensions of this vital program. This bill would merely eliminate the necessity for repeated congressional

action on a measure which should be in place when needed.●

WELFARE REFORM AMENDMENTS OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. PEASE) is recognized for 5 minutes.

● Mr. PEASE. Mr. Speaker, I rise in support of the Welfare Reform Amendments of 1979. I urge my colleagues to also support the bill and oppose the motion to recommit.

Attempts at improving the welfare system have been going on for some time. A welfare reform act was approved by committee and passed by the House in the 95th Congress. The other body did not bring the measure up. In 1974 the distinguished Congresswoman from Michigan, Mrs. Griffiths, promoted a reform bill that went even further than this bill or the one in the 95th Congress.

H.R. 4904, the Welfare Reform Amendments of 1979, addresses many areas of welfare—ranging from the establishment of a national minimum benefit level to an increase in the earned income credit to changes in the manner that persons qualify for supplemental security income (SSI).

Mr. Speaker, I am especially pleased that the bill contains language (section 217) that will significantly lower the amount of SSI benefits paid to legal aliens who have been admitted to our country after they have been "sponsored" by an American citizen.

The existing abuse of the SSI system was first brought to wide public attention by the CBS television program "60 Minutes." Aliens who are not able to prove sufficient financial assets or have waiting employment must be "sponsored" by an American citizen, and although the sponsorship agreement was meant to relieve Government of the costs of supporting an individual if he or she could not do so himself, the courts have held that the agreement is actually only a moral commitment—leaving Government supporting the destitute alien.

After a General Accounting Office report showed the extent of the SSI-alien problem, I introduced legislation that would require the sponsorship agreement to be a legally binding agreement formally holding the sponsor to the support of the alien for a period of 5 years. Separate and in addition to that bill I introduced legislation that would require that an alien reside in the United States for 5 years before he or she could be eligible to receive SSI benefits. This two-prong approach was meant to assure that Government would not be required to pay SSI benefits in a case where court challenges or other legal problems might arise.

Some 50 Members of the House joined me in sponsoring these bills, Mr. Speaker.

While section 217 of H.R. 4904 does not incorporate either of the bills that I introduced, its net effect will be to vastly reduce the number of aliens drawing SSI benefits. Consequently, Federal payments will be reduced and taxpayers' money will be saved. Savings will grow at about $7 million per year to about $24 million in 1984.

The bill accomplishes this result by attributing the income of the sponsor to the alien for purposes of determining eligibility for SSI. This situation would hold for 3 years but not apply in the case of an alien who became blind or disabled after admission to the United States.

Mr. Speaker, I believe that my strong feelings about the question of SSI benefits to aliens have been addressed by this section of the bill.

I urge adoption of the bill.●

CRISIS OF CONFIDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

● Mr. GLICKMAN. Mr. Speaker, we have an energy crisis; I am convinced of that. But we also have a real crisis of confidence. There are growing numbers of Americans who are not convinced that we do have an energy crisis. Instead, they read about major oil company profits soaring and read reports of fuel being held back and come to the conclusion that there is a conspiracy behind the shortages and price hikes. Until we effectively address that doubt—either by proving it wrong or by correcting the situation which allows such alleged collusion, we cannot expect to bring doubting Americans into the fight to resolve our energy dilemma.

We do not have the time to use the normal procedures to clear the air. We need to move expeditiously, just like we have been talking about doing these last few days in connection with consideration of the "fast-track" legislation. Investigations by the Department of Energy or the Justice Department will not do the trick. They are burdened with too many responsibilities to give a thorough investigation of the major oil companies and their compliance with Federal pricing, import and resale, and antitrust laws and regulations the kind of priority it needs. For that reason, I have introduced legislation today to authorize establishment of a Special Prosecutor, along the lines of that set up to investigate the Watergate affair, to get to the bottom of the allegations that are circulating wih regard to major oil companies' activities.

My bill would restrict the investigation only on the largest oil companies, those with worldwide daily volume of 1.6 million barrels or more. My understanding is that this threshold will affect only the seven or eight largest oil companies. I propose targeting the investigation on those firms because that is where any real problem would logically lie. After all, facts and figures speak strongly for the fact that the independent oil and gas producers are the ones who are out front in risky exploration and development of new reserves. And the mid-sized refiners and marketers are providing some competition in what is an overly concentrated industry. It does not make good sense to tie up the Special Prosecutor's resources and time looking at firms that are clearly making a positive contribution to our energy picture. Likewise, we should not hamper their positive efforts by tying up those smaller firms in pointless legal or investigatory efforts.

But with regard to the majors, my bill would give the Special Prosecutor broad authorities to pursue a truly effective investigation. It would not be limited to violations of just one law. It would cover Federal laws and regulations governing energy pricing, sales, and imports. It would also cover possible anticompetitive practices of those major oil firms which we all know are heavily integrated. The Prosecutor would have a wide range of powers to act in those areas. He would have authority to direct the FBI and other investigative agencies of the Federal Government to gather and provide him information. He could conduct grand jury proceedings, issue indictments if warranted, and participate in a wide range of judicial activities. Further he would have access to all relevant materials held by Federal agencies and would be authorized to contest executive privilege, if necessary to secure those materials.

In addition to his "prosecutorial" functions, the Special Prosecutor would be directed to report to the Congress and appropriate executive agencies recommendations for changes in law or regulations which he might deem appropriate and necessary to assure that the laws are enforced fully as they are applicable to the big oil companies. Those recommendations should provide the Congress with the material we would need to review those laws with an eye toward changing our laws to make sure we do not get into a situation like we face today again. The Prosecutor would also have authority to report information to State and local officials with regard to possible violations of their laws and to assist them in following through on such findings.

We cannot afford to have the situation we have now in terms of people not believing we have a crisis continue. Until we do, we cannot expect the kinds of changes that are going to be necessary to make sure that our energy consumption is rational. And we need to know, in this period of high inflation, that pricing policies as decontrol goes forward are legitimate. By introducing this legislation, I am not saying that there are violations or abuses. I am merely saying that there is a prevailing sense in sectors of the American population that such might be the case. We need to get an answer, one way or the other. We need to make sure it is an independent assessment and a candid one. It needs to be one in which there can be confidence. And we need the answer soon so the American people and the energy industry can work together at resolving what is one of our Nation's most serious problems.●

GERMANY COULD HELP THE WORLD WITH A TIGHTER FISCAL POLICY, EASIER MONETARY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

man from Wisconsin (Mr. REUSS) is recognized for 15 minutes.

● Mr. REUSS. Mr. Speaker, the West German Central Bank has just raised its discount rate by 1 full percentage point, from 5 to 6 percent. The move was the fourth such action this year, during which interest rates in the Federal Republic have more than doubled, while money growth has been virtually flat.

The Bundesbank's action escalates our fast-developing international interest rate war. Shortly, we will see the effects: renewed instability on the foreign exchange markets, renewed decline of the international dollar, and renewed pressure on the Federal Reserve to lift U.S. interest rates again and crunch our economy a little further.

For several months now I have warned against letting interest rate competition between the Federal Reserve and the Bundesbank get out of hand. Now, it appears that even Federal Chancellor Helmut Schmidt has come to share this concern. The Federal Chancellor refused to endorse the Bundesbank's action, and let it be known in private that he had "definite reservations." If this is true, then perhaps there exists an opportunity for an agreement between political leaders in both countries to bring this spiral to a halt. Chairman Volcker and Secretary Miller should waste no time in responding to Chancellor Schmidt's signals.

The irony of the present situation is that it is so unnecessary. If Germany wishes to fight oil-led inflation by macroeconomic, fiscal and monetary means, it has massive scope for action on the fiscal side that would not have the same deeply adverse consequences for the United States. Germany is still pursuing a stimulative fiscal policy, with an aggregate budget deficit at least twice as large, as a fraction of GNP, as our own.

Germany has recently taken a number of fiscal actions—tax reductions and increases in spending—that are inflationary and that could be rescinded in favor of greater monetary ease.

First. Effective January 1, 1979, income tax schedules were changed to reduce the direct tax on household factor income, the equivalent of an 11 billion DM tax cut. The Government also increased children's allowances and provided for an early retirement option that amounted to an equivalent 2.75 billion DM tax cut.

Second. Effective January 1, 1979, Federal expenditures were increased by 2.75 billion DM.

Third. Maternity benefits were increased by 0.75 billion DM effective July 1, 1979.

Effective July 1, 1979 there was an increase in the rate of value-added taxation, amounting to a tax hike of 6.5 billion DM. Net effect for 1979: an increased stimulus of 10.75 billion DM, only partly offset by tax revenues that are rising rapidly due to growth and inflation.

In addition, Germany now plans still more fiscal expansion, starting at the beginning of next year:

First. Effective January 1, 1980, there will be an increase in tax-free income allowances, and some portion of educational expenses will be tax deductible, amounting to an effective tax reduction of 2.25 billion DM; and

Second. Effective January 1, 1980, there will be a reduction in nonprofit business taxes amounting to 2.75 billion DM.

These actions will come on the same day that U.S. fiscal policy, through our foolish and not-yet-rescinded rise in the social security payroll tax, will become even more sharply contractionary than at present. They portend future monetary tightness by the Bundesbank, as it struggles to overcome the inflationary effect of Bonn's election year actions, and even greater future tensions with the United States. All of it, as I have said, is strictly avoidable if the German authorities act now to reverse the course they are on.

Last Monday, October 29, a distinguished economist and former chairman of the Council of Economic Advisers, Walter Heller, testified before the Joint Economic Committee. He warned in no uncertain terms of the danger in the course we and the Germans are now on:

(The) escalation in the interest rates, and especially the German escalation, has been extremely damaging to the dollar. The dollar problem, in very considerable part, is a Deutschemark problem.

And they, of course, are operating at what they think is a virtuous cycle of a stronger mark, and then lower import prices and a still stronger mark and so forth. But that is at the expense of the rest of the world.

And if we get into a competitive interest rate warfare and play that same game, the entire world will suffer.

And it is interesting, you know, we hear a great deal about the virtues of the German approach. But the result of that approach is that in the past five years they have had much slower growth rates and much higher unemployment than the rest of the OECD . . . The costs have been very heavy.

I support, and I will continue to support, a moderate U.S. monetary policy that is aimed at a gradual deceleration of inflation. But an interest rate war with the Germans, far from fighting inflation, makes it worse by unnecessarily adding to business costs. It will deepen the recession as the supply of mortgage money, consumer credit and capital and small business loans begin to dry up. And it is bad international relations.

The Federal Reserve should take the lead in persuading the Bundesbank to declare a truce in the interest rate war. Chairman Volcker is a man with enormous prestige among bankers around the world. He should use that prestige now to win their cooperation. But overall German economic policy, including fiscal policy, is the province of the German Government, not of the Bundesbank. What is needed is a tighter German fiscal policy which will permit an easier German monetary policy. It is hard to imagine a more important topic of conversation for the President and the Chancellor.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Ms. FERRARO (at the request of Mr. WRIGHT), from 2 p.m. today and Friday, November 2, on account of illness.

Mr. NICHOLS for Friday, November 2, 1979, on account of official business in Third Congressional District, State of Alabama.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. CHARLES H. WILSON of California (at the request of Mr. WRIGHT) for November 1 and 2, on account of representing the President at the funeral of the late President Park of Korea.

Mr. WOLFF (at the request of Mr. WRIGHT), for November 1 and 2, on account of representing the President at the funeral of the late President Park of Korea.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) to revise and extend their remarks and include extraneous material:)

Mr. GOODLING, for 1 hour, November 7, 1979.

Mr. MARTIN, for 1 hour, today.

Mr. KEMP, for 10 minutes, today.

Mr. LEACH of Iowa, for 30 minutes, today.

Mr. HAMMERSCHMIDT, for 15 minutes, today.

Mrs. HECKLER, for 5 minutes, today.

(The following Members (at the request of Mr. SYNAR) to revise and extend their remarks and include extraneous material:)

Mr. COTTER, for 5 minutes, today.

Mr. HIGHTOWER, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. DASCHLE, for 5 minutes, today.

Mr. SWIFT, for 10 minutes, today.

Mr. WHITE, for 5 minutes, today.

Mr. VANIK, for 10 minutes, today.

Mr. MURPHY of New York, for 5 minutes, today.

Mr. PEASE, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. REUSS, for 15 minutes, today.

Mr. PREYER, for 60 minutes, on November 8, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) and to include extraneous matter:)

Mr. BROYHILL.

Mr. KEMP in two instances.

Mr. ROUSSELOT.

Mr. MCCLOSKEY.

Mr. FINDLEY.

Mr. MCKINNEY.

Mr. GILMAN.

Mr. PETRI.

Mr. HILLIS.

Mr. DANIEL B. CRANE.

(The following Members (at the request of Mr. SYNAR) and to include extraneous matter:)

Mr. ROSENTHAL in 10 instances.

Mrs. BOUQUARD in five instances.

Mr. HAMILTON in 10 instances.

Mr. CAVANAUGH in five instances.

Mrs. BYRON in 10 instances.

Mr. FROST.

Mr. MATTOX.

Mr. GRAMM.

Mr. HOLLAND in five instances.

Mr. VAN DEERLIN.

Mr. IRELAND.

Mr. PEASE.

Mr. MINETA.

Mr. STARK.

Mr. ASHLEY.

Mr. MCDONALD in three instances.

Mr. VENTO in three instances.

Ms. FERRARO.

Mr. RODINO.

Mr. ERTEL.

Mr. DODD.

Mr. DOWNEY.

Mr. EDGAR.

Mr. MINISH.

Mr. RAHALL.

Mr. CONYERS.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1873. An act to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes; to the Committee on the Judiciary; and

S.J. Res. 109. Joint resolution to authorize the President to proclaim November 16, 1979, as "American Enterprise Day"; to the Committee on Post Office and Civil Service.

ENROLLED JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 3. Joint resolution designating November 4, 1979, as "'Will Rogers Day."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On October 31, 1979:

H.R. 4387. An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance; and

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program.

On November 1, 1979:

H.J. Res. 3. An act designating November 4, 1979, as "Will Rogers Day."

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, November 2, 1979, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2739. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Greece (Transmittal No. 80-12), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2740. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation entitled "Chrysler Corporation Loan Guarantee Act of 1979"; to the Committee on Banking, Finance and Urban Affairs.

2741. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-112, to establish the real property tax rates for tax year 1980, and for other purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2742. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Greece (Transmittal No. 80-12), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2743. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Greece (Transmittal No. 80-15), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2744. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the U.S. Marine Corps, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2745. A letter from the Records Officer, U.S. Postal Service, transmitting notice of three proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2746. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations pertaining to the Presidential primary matching payment account, pursuant to section 9039(c) of the Internal Revenue Code of 1954, as amended (H. Doc. No. 916-216); to the Committee on House Administration and ordered to be printed.

2747. A letter from the Deputy Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the judgment funds awarded to the Kickapoo Tribe of Kansas and the Kickapoo Tribe of Oklahoma in Indian Claims Commission dockets Nos. 315 and 338, pursuant to sections 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

2748. A letter from the chairman, Board of Directors, Future Farmers of America, transmitting the audit report of the organization for the 2-month interim period ended August 31, 1979, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2749. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the U.S. Postal Service Building, 115 East Sixth Avenue, Gary, Ind., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2750. A letter from the Administrator of General Services, transmitting a prospectus proposing the construction of a U.S. courthouse and parking facility in East St. Louis, Ill., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2751. A letter from the Comptroller General of the United States, transmitting a report on weaknesses in the Army's manpower management system (FPCD-80-9, October 31, 1979); jointly, to the Committees on Government Operations and Armed Services.

2752. A letter from the Comptroller General of the United States, transmitting a report on New York City's efforts to deal with its fiscal problems (GGD-80-5, October 31, 1979), pursuant to section 107 of Public Law 95-339; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

2753. A letter from the Comptroller General of the United States, transmitting a report on the Federal Government's drug enforcement and supply control efforts (GGD-80-4, October 25, 1979); jointly, to the Committees on Government Operations, Foreign Affairs, Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

2754. A letter from the Acting Comptroller General of the United States, transmitting a report on the declining U.S. mining and mineral-processing industry (ID-80-04, October 31, 1979); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONKER: Committee on Foreign Affairs. House Concurrent Resolution 200. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain U.S. citizens; with amendments (Rept. No. 96-575). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 471. Resolution providing for the consideration of H.R. 2603. A bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes (Rept. No. 96-576). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 472. Resolution providing for the consideration of H.R. 2608. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes (Rept. No. 96-577). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 473. Resolution providing for the consideration of H.R. 3994. A bill to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal year 1980, to make certain technical changes, to strengthen the regulatory and enforcement mechanisms, and for other purposes (Rept. No. 96-578). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 474. Resolution providing for the consideration of H.R. 2063. A bill to amend the Public Works and Economic Development Act of 1965 to extend the authori-

mations for 3 additional years (Rept. No. 96-579). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. Report entitled "Failure To Provide Effective Audits of Federal Grants" (Rept. No. 96-580). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANNUNZIO: Committee on House Administration. H.R. 5561. A bill to establish by law the position of Chief of the Capitol Police, and for other purposes (Rept. No. 96-581). Referred to the Committee of the Whole House on the State of the Union.

[Omitted from the Record of October 26, 1979]

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on Banking, Finance and Urban Affairs discharged from consideration of the bill (H.R. 3905) to authorize the Secretary of Agriculture to guarantee loans for the construction and operation of alcohol fuel plants, to provide for the sale of agricultural commodities for the operation of such plants, to amend the Agricultural Act of 1949 with respect to the set-aside programs for feed grains, and for other purposes, and committed to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 5770. A bill to authorize emergency loan guarantees to the Chrysler Corp.; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ALEXANDER:

H.R. 5771. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income amounts received from certain sales of land to the United States, any State, or certain tax-exempt organizations, if the primary use of such land after the sale is for purposes of fish and wildlife conservation or preservation as a natural area; to the Committee on Ways and Means.

By Mr. CLEVELAND:

H.R. 5772. A bill to amend section 421 of the Elementary and Secondary Education Act of 1965 to permit the use of funds for the purchase of band instruments; to the Committee on Education and Labor.

By Mr. COTTER (for himself and Mr. SCHULZE):

H.R. 5773. A bill to amend the Tariff Act of 1930 and the Trade Act of 1974 to provide more equitable standards for determining the foreign market value of, and market disruption attributable to, goods manufactured in non-market-economy countries; to the Committee on Ways and Means.

By Mr. DOWNEY:

H.R. 5774. A bill to restore the deductibility of expenses for attending certain foreign conventions; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma:

H.R. 5775. A bill to provide for the establishment of a nuclear safety board as an independent establishment of the United States with authority to monitor nuclear incidents and to make recommendations regarding nuclear safety; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. GLICKMAN:

H.R. 5776. A bill to provide for a special prosecutor for the audit, review, investigation, and prosecution of violations by major oil companies of any provision of the Emergency Petroleum Allocation Act of 1973, of all other Federal laws governing and relating to energy pricing and the purchases from foreign sources of crude oil and refined petroleum products and sales thereof, and of the Federal Trade Commission Act as amended, the Sherman Anti-trust Act and the Clayton Anti-trust Act or any regulations promulgated under those authorities; jointly, to the Committees on Interstate and Foreign Commerce and the Judiciary.

By Mr. HEFTEL:

H.R. 5777. A bill to amend the Comprehensive Employment and Training Act to establish a solar energy youth employment and training program, and for other purposes; to the Committee on Education and Labor.

H.R. 5778. A bill to require the use of solar energy systems to provide a certain percentage of the energy used in new Federal buildings and federally leased building space for heating water and for heating and cooling; to the Committee on Public Works and Transportation.

By Mr. HOLLAND (for himself and Mr. MARTIN):

H.R. 5779. A bill to amend the Internal Revenue Code of 1954 to provide for increased savings and investment by individuals through a tax-deferred rollover account; to the Committee on Ways and Means.

By Mr. HOLLENBECK:

H.R. 5780. A bill to direct the Secretary of Health, Education, and Welfare to establish a program to alert women who received DES while pregnant of the health hazards of such drug to them and their daughters and to reimburse such women and to their daughters for one-half the diagnosis and treatment costs resulting from receiving such drug; to the Committee on Interstate and Foreign Commerce.

By Mr. LEVITAS (for himself and Mr. JOHNSON of California):

H.R. 5781. A bill to designate the building known as the Department of Labor Building in Washington, D.C. as the "Frances Perkins Department of Labor Building"; to the Committee on Public Works and Transportation.

By Mr. MCCORMACK:

H.R. 5782. A bill to establish the Cougar Lakes National Recreation Area in the State of Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of California:

H.R. 5783. A bill to amend the Federal reclamation laws, as amended and supplemented, to support the family farm in America, to reduce excessive subsidies, to provide for more efficient water management, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MURPHY of New York:

H.R. 5784. A bill to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance; to the Committee on Merchant Marine and Fisheries.

By Mr. PERKINS:

H.R. 5785. A bill to amend the Black Lung Benefits Act to provide that certain benefits paid to miners who originally filed claims under part B of title IV of such act shall not be considered workmen's compensation benefits for purposes of the Social Security Act; to the Committee on Education and Labor.

By Mr. SOLOMON (for himself, Mr. LEE, Mr. MCEWEN, Mr. MITCHELL of New York, Mr. HORTON, Mr. GILMAN, Mr. CARNEY, Mr. WYDLER, Mr. LENT, Mr. KEMP, and Mr. FISH):

H.R. 5786. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to residential users of refined petroleum products; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ROYBAL:

H.R. 5787. A bill for the relief of Catalina Enaico Pimbres; to the Committee on the Judiciary.

By Mr. SAWYER:

H.R. 5788. A bill for the relief of Jun Ae Hee; to the Committee on the Judiciary.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5040: Mr. DASCHLE.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 605: Mr. MINISH.
H.R. 2557: Mr. LUNGREN.
H.R. 2558: Mr. LUNGREN.
H.R. 3022: Mr. MCDONALD.
H.R. 3974: Mr. COUGHLIN.
H.R. 3981: Mr. KEMP.
H.R. 4310: Mr. VANDER JAGT, Mr. MCKINNEY, and Mr. WOLFF.
H.R. 4419: Mr. D'AMOURS.
H.R. 4460: Mr. RUDD.
H.R. 5062: Mr. AKAKA, Mr. BEDELL, Mr. BEILENSON, Mr. BINGHAM, Mr. JOHN L. BURTON, Mr. DELLUMS, Mr. DOWNEY, Mr. FAZIO Mr. FRENZEL, Mr. KASTENMEIER, Mr. MATSUI Mr. MOFFETT, Mr. ROSENTHAL, Mr. STARK, Mr WAXMAN, and Mr. WEISS.
H.R. 5327: Mr. CONABLE, Mr. SHARP, Mr. HAGEDORN, Mr. SCHULZE, Mr. BENNETT, Mr. GOLDWATER, Mr. BEDELL, Mr. LEE, Mr. ATKINSON, Mr. BURGENER, Mr. GEPHARDT, Mr. CORCORAN, Mr. PETRI, Mr. VAN DEERLIN, Mr. LEDERER, Mr. CAMPBELL, Mr. JEFFRIES, Mr. MATHIS, Mr. EDGAR, Mr. BAFALIS, Mr. GINGRICH, and Mr. MCKINNEY.
H.R. 5504: Mr. OBERSTAR, Mr. BINGHAM, Mr. PEPPER, Mr. GIBBONS, Mr. MILLER of California, Mr. MURPHY of Pennsylvania, Mr. SCHEUER, and Mr. EDGAR.
H.R. 5635: Mr. WHITEHURST, Mr. LAGOMARSINO, Mr. MCKAY, Mr. GOLDWATER, Mr. DERRICK, Mr. ANDREWS of North Dakota, Mr. GRASSLEY, Mr. O'BRIEN, Mr. HUBBARD, Mr. MCCLORY, and Mr. MATHIS.
H.J. Res. 374: Mr. CAVANAUGH, Mr. SIMON, Ms. OAKAR, Mr. SEBELIUS, Mr. BARNES, and Mr. HORTON.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

214. By the SPEAKER: Petition of the House of Representatives of the Republic of Cyprus, relative to the independence, sovereignty, and territorial integrity of Cyprus; to the Committee on Foreign Affairs

215. Also, petition of the Town Board, Town of Sweden, Brockport, N.Y., relative to general revenue sharing; to the Committee on Government Operations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2063

By Mr. DODD:

—Page 44, after line 19, insert the following:

Section 903 of such Act of 1965 is amended by adding at the end thereof the following new subsection:

"(e)(1) During fiscal years 1981, 1982, 1983, 1984, and 1985 the Secretary, as an experimental program, shall, subject to such amounts as are provided in appropriation Acts, make weekly assistance payments computed under paragraph (2) of this subsection to any employee whose employment under a major defense contract the Secretary finds is terminated as a result of cancellation of such contract or a reduction of $10,000,000 or more in the value of such contract. Such weekly assistance payments shall be made during a period which begins on the date of termination of such employment and which is equal to the employee's seniority or the time such employee was, on the date of such termination, continuously employed by the person whose major defense contract was cancelled or reduced in value, but such period shall not exceed two years.

"(2)(A) Subject to the provisions of subparagraph (B) of this paragraph, the amount of each such weekly assistance payment shall be equal to an amount determined by adding—

"(i) 90 percent of the amount, not to exceed $20,000, of the annual gross income received by the employee through his employment under the major defense contract on the day before the date of termination of such employment; to

"(ii) 50 percent of any amount, in excess of $20,000 but not to exceed $25,000, of such annual gross income;

and dividing such sum by 52.

"(B) In computing the amount of each such weekly assistance payment, the Secretary shall deduct from the amount determined under subparagraph (A) the total amount of any unemployment compensation payment, earned income, or public assistance (other than assistance received under this subsection) which the Secretary determines that such individual is receiving.

"(3) During any period of time in which weekly assistance payments are being made to any employee under this subsection, the Secretary, in addition, shall, subject to such amounts as are provided in appropriation Acts, take such action, including the payment of premiums or other fees, as may be necessary to ensure that any health insurance coverage which such employee has through his employment under the major defense contract on the day before the date of termination of such employment is maintained at the same levels and on the same terms and conditions.

"(4)(A) Any individual eligible to receive assistance under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may, by regulation, require.

"(B) Each individual receiving assistance under this subsection shall promptly notify the Secretary of any change in the sources or amounts of any income or assistance which such individual is receiving. Failure to comply with the provisions of this subparagraph shall result in immediate loss of eligibility for assistance under this subsection.

"(C) Each individual receiving assistance under this subsection must be available for employment and have not refused suitable employment.

"(5) For the purposes of this subsection, the Secretary shall issue regulations for determining the amount of annual gross income received by an employee through his employment under a major defense contract on the day before the date of termination of such employment.

"(6) For the purposes of this subsection, the term—

"(A) 'defense agency' means the Department of Defense (including the military departments), the Department of Energy, and the National Aeronautics and Space Administration; and

"(B) 'major defense contract' means—

"(i) any agreement or other arrangement, involving not less than $10,000,000 made before, on, or after the effective date of this section—

"(I) by a defense agency with any person (including any public or private institution or organization) for the purposes of furnishing a defense material or defense service to such defense agency; or

"(II) by any foreign country or person acting on behalf of a foreign country with any person for the purpose of furnishing to such country a defense material or defense service subject to control under the Arms Export Control Act or any other law of the United States pertaining to export of a defense material; and

"(ii) any subcontract, involving not less than $10,000,000, made before, on, or after the effective date of this section in connection with an agreement or other arrangement described in subparagraph (A) of this paragraph.".

Redesignate the subsequent subsection accordingly.

—Page 44, after line 19, insert the following:

(d) Section 903 of such Act of 1965 is amended by adding at the end thereof the following new subsection:

"(e)(1) During fiscal years 1981, 1982, 1983, 1984, and 1985, the Secretary, as an experimental program, is authorized to provide assistance to any employee whose employment under a major defense contract the Secretary finds is terminated as a result of cancellation of such contract or a reduction of $10,000,000 or more of such contract. Such assistance may only be provided for one or more of the following purposes: rent supplements, mortgage payment assistance, training, or relocation. Such assistance may be provided for a period which begins on the date of termination of such employment and which is equal to the time such employee was, on the date of such termination, continuously employed by the person whose major defense contract was canceled or reduced in value, but such period shall not exceed two years.

"(2) The amount of assistance which the Secretary may provide any individual under this subsection may not exceed $6,700 per year.

"(3) For purposes of this subsection, a major defense contract includes any subcontract, involving not less than $10,000,000, under a major defense contract.".

"(6) For the purposes of this subsection, the term—

"(A) 'defense agency' means the Department of Defense (including the military departments), the Department of Energy, and the National Aeronautics and Space Administration; and

"(B) 'Major defense contract' means—

"(i) any agreement or other arrangement, involving not less than $10,000,000, made before, on, or after the effective date of this section—

"(I) by a defense agency with any person (including any public or private institution or organization) for the purposes of furnishing a defense material or defense service to such defense agency; or

"(II) by any foreign country or person acting on behalf of a foreign country with any person for the purpose of furnishing to such country a defense material or defense service subject to control under the Arms Export Control Act or any other law of the United States pertaining to export of a defense material; and

"(ii) any subcontract, involving not less than $10,000,000, made before, on, or after the effective date of this section in connection with an agreement or other arrangement described in subparagraph (A) of this paragraph.".

Redesignate the subsequent subsection accordingly.

By Mr. MCKINNEY:

—Page 45, after line 4, insert the following:

(e) Title IX of the Public Works and Economic Development Act of 1965 is amended by redesignating sections 904 and 905 as sections 905 and 906, respectively, and by inserting after section 903 the following new section:

"DEFENSE-RELATED ECONOMIC ADJUSTMENT ASSISTANCE

"SEC. 904. (a)(1) The President shall establish procedures to assure that the Secretary is notified of the anticipated closure or realinement of any military installation with respect to which a public announcement is made under section 2687 of title 10, United States Code, or of the anticipated termination, cancellation or conclusion of any major defense contract. Any such notification shall—

"(A) in the case of a military installation, be transmitted to the Secretary on the same day on which a public announcement is made with respect to such military installation under section 2687 of title 10, United States Code;

"(B) in the case of a major defense contract, be transmitted to the Secretary not less than one year before that date of the anticipated termination, cancellation or conclusion of such major defense contract, except that such notice shall be transmitted not less than ninety days before such date in any case in which shortened notice—

"(i) is required for reasons of national security or a military emergency; or

"(ii) is required due to the termination or cancellation of such major defense contract by an action of a foreign nation;

"(C) include a recommendation indicating whether the economic consequences of such anticipated action should qualify the area involved to receive a defense-related grant under subsection (c) of this section; and

"(D) in the case of a redevelopment area designated under section 401 of this title, include a recommendation whether the economic consequences of such anticipated action should qualify the area for priority assistance under subsection (d) of this section.

(2) This subsection shall not apply to the termination or cancellation of a major defense contract due to an Act of Congress or to a breach of such contract.

"(b) The Secretary, upon the adoption of any recommendation made under subsection (a)(1)(C) or (a)(1)(D) of this section shall promptly notify all public officials responsible for economic development planning in the area involved of such recommendation and of all types of assistance available under this Act, including defense-related planning grants available under this section. The Secretary shall also make available to the general public information regarding such recommendation and assistance.

"(c)(1) With respect to areas in which a public notice has been given by the Secretary under subsection (b) of this section, the Secretary, upon receipt of a request from that eligible recipient in such area whom the Secretary deems, in his discretion, most qualified, shall promptly, but not later than the thirtieth day after the date the Secretary receives the first such request make a defense-related grant to such recipient in accordance with the provisions of paragraph (2) of this subsection except that with respect to any such area, not more than one such grant shall be made as a result of any such public notice."

(2)(A) Each such grant shall be made only for the purpose of assisting the eligible recipient to plan for adjustment to the economic problems resulting from the closure or realinement of a military installation or the

termination, cancellation or the conclusion of a major defense contract. The Secretary, as a condition of such grant, shall establish a deadline for early submission of an economic adjustment plan designed to qualify the area involved under section 903(a)(1) of this title. Such plan may include the preservation of jobs in an affected establishment, including the conversion of such establishment to other uses.

(B) Each such grant shall be made in an amount sufficient to pay costs related to the defense-related economic adjustment planning of such eligible recipient except that no such grant may exceed $100,000.

"(d) With respect to any redevelopment area which is recommended under subsection (a)(1)(D) of this section for priority assistance, the Secretary

(1) shall establish procedures for the prompt consideration of applications from such redevelopment area for assistance under this title;

(2) shall consider applications for such assistance from an affected establishment in such redevelopment area before any other application from such redevelopment area, except that this paragraph shall only apply with respect to applications from such an affected establishment if the Secretary determines that the assistance requested can reasonably be expected to preserve or create jobs for workers affected by the anticipated action specified under subsection (a)(1)(B) of this section; and

(3) except as provided in paragraph (2) of this subsection, shall consider applications for such assistance from any business in such redevelopment area, other than an affected establishment, before any other application from such redevelopment area if the Secretary determines that the assistance requested can reasonably be expected to preserve or create jobs for workers affected by the anticipated action specified under subsection (a)(1)(B) of this section.

"(e) With respect to any area which receives a grant under subsection (c) of this section and subsequently qualifies under section 903(a)(1) of this section for assistance under this title the Secretary may consider for approval applications from any business in such area for the assistance authorized under title II of this Act if the Secretary determines that the assistance requested can reasonably be expected to preserve or create jobs for workers affected by the anticipated action specified under subsection (a)(1)(B) of this section.

"(f) For the purposes of this section the term 'major defense contract' means a contract of not less than $10,000,000.

H.R. 5192

By Mr. MAGUIRE:

—Page 95, line 13, after D, insert the following:

"(E) For students who have been unable to ootain an insured loan through the lender referral process specified in (B), the agency in a State may undertake to make limited direct loans of last resort, so long as the total amount of such direct loans in any fiscal year does not exceed 20 per centum of the total amount of loans insured by such an agency in a State in the immediately proceeding fiscal year, or $2,000,000, whichever is less.

"(F) Any agency, in a State, which provides a minimum of $500,000 of loans of last resort in accordance with (D), or which provides in accordance with (D) a volume of loans of last resort equal to a minimum of 5 per centum of the total amount of loans insured by such agency in the immediately proceeding fiscal year, May, when it at any time holds funds owing to the Commissioner under section 428(c)(2)(D) or 428A(b)(5) because of payments made by borrowers on defaulted loans reinsured by the Commissioner, before paying such funds to the Commissioner, deduct from such payment an amount equal to all or part of the funds that agency is eligible to receive (to the extent such funds are appropriated)—

"(1) for payment of reserve fund advances under section 422(c);

"(2) for payment of administrative costs under section 428(f), to extent applicable; or

"(3) for payment of Federal reinsurance obligations under section 428(c).

Line 14: Change "(E)" to "(G)".

SENATE—*Thursday, November 1, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Dear Lord and Father of us all, we pause to thank Thee for the good and gracious influence of Mamie Doud Eisenhower. We thank Thee for the faith by which she lived, for the home she made, and the quiet steadfast service she rendered. Surround those who mourn with the comfort of Thy presence. As coming generations cherish her memory, may something of her gentleness, her strength, her patriotism and her spiritual power encourage better living and more sacrificial service.

In this perilous and difficult time, wilt Thou support and strengthen all those women whose husbands are in the public service?

We pray in His name who came that we might have life, and have it more abundantly. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

THE PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 1, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENT OF SENATOR MORGAN AS ACTING PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, the President pro tempore has appointed as Acting President pro tempore today, a very able and distinguished and illustrious Senator from a great State, the State of North Carolina, whose motto is "To be rather than to seem."

Mr. MORGAN does his usually fine job, and he presides over the Senate with a degree of efficiency and dignity and skill that is so rare as a day in June.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that 2 minutes of the leaders' time on each side be restored.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield my time to the Senator from Alaska.

Mr. STEVENS. I am grateful to my good friend, the distinguished majority leader.

SENATOR BAKER'S ANNOUNCEMENT OF HIS CANDIDACY FOR THE PRESIDENCY

Mr. STEVENS. Mr. President, by now I am sure most people know that our distinguished minority leader, HOWARD BAKER, has just announced his bid for the Presidency.

Senator BAKER joins a growing list of qualified Republican contenders and I wish him well in his quest to lead this Nation into a new era of prosperity and hope.

The Senator from Tennessee is an outstanding politician who has proven his expertise and leadership capabilities by the way he has successfully joined together such a varied, and individually minded group of Senators as we have on our side of the aisle in the 96th Congress

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

I wish to state for the RECORD that were I free to do so, I would join Senator BAKER and support his candidacy actively. In the position I hold as assistant minority leader, and in his absence as the acting minority leader, I have determined that it would be in the best interests of both the Republican side of the Senate and of Senator BAKER to conduct myself as the acting minority leader, to the best of my ability.

I shall not become part of Senator BAKER's campaign organization; further, I shall remain independent of any Republican candidate who seeks the nomination for the Presidency so long as Senator BAKER continues his quest for the Presidential nomination during this Congress.

I wish him luck in the pursuit of this great challenge. In my opinion, Senator BAKER would make an excellent President of the United States.

MAMIE EISENHOWER, 1896–1979

Mr. STEVENS. Mr. President, this morning when I awoke I heard the sad news of the death of a great First Lady, Mamie Eisenhower.

Though Mrs. Eisenhower's later life was inhibited by her poor health, she continued to attract national attention by the power of her gentle personality. She was not one to seek the limelight, herself, but rather she chose to stand behind her husband and support him throughout his illustrious career. We have all heard the phrase, "Behind every great man, there is a woman." Mamie Eisenhower was certainly a loving, gentle force in her husband's life and there is no question that her presence at his side carried him through a sometimes turbulent administration.

Our Nation will mourn this wonderful woman, but we will also take solace in the fact that we were able to share in a good part of her life.

NORDY HOFFMANN AND NOTRE DAME FOOTBALL

Mr. STEVENS. Mr. President, this morning's Washington Star contains an article by Maury Siegel regarding our good friend and Sergeant at Arms here in the Senate, F. Nordy Hoffmann.

Nordy was recently inducted into the NCAA College Football Hall of Fame and was also recognized during halftime ceremonies at the Notre Dame-USC game 2 weeks ago. He has made a great contribution to Notre Dame football, both as a player and now as a distinguished alumnus.

I ask unanimous consent that today's Star article be printed in the RECORD at this point so that all may read about the experiences he had as a college football player under the tutelage of the renowned Knute Rockne.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN IRISH PILGRIM KNOWS WAY TO MECCA

(By Morris Siegel)

Mecca cannot be found on road maps issued by the American Automobile Association. Domestic airlines don't show it either. Same goes for Trailways and Greyhound.

Mecca is no myth. There is a Mecca, USA, for some. The best place for information on Mecca is in an office of the U.S. Senate, the office of the Senate Sergeant at Arms, Nordy Hoffmann.

Nordy Hoffmann visited Mecca recently. He has been there 13 times in the last 25 years. Nordy's Mecca is a small town in Indiana. They used to make Studebaker automobiles there, but that's not the reason for Hoffmann's biennial pilgrimage to Mecca, which is listed on road maps and airline routes as South Bend, home of Notre Dame.

Nordy is a Notre Damer—true-blue, unreconstructed Notre Dame—who goes to Notre Dame every other year for a refresher course in Knute Rockne, his hero when Nordy slugged it out as a Notre Dame lineman and who remains his hero-idol today, 49 years after Nordy played for the Rock.

Nordy played on Rock's last Notre Dame team, 1930. The following March the best known coach in the history of football, the most influential, Knute Kenneth Rockne, a legend in his own time and still a legend today, was wiped out in a Kansas air crash.

None of Rock's old boys helps to keep the legend of Rock alive more than Nordy Hoffmann. Every other year, when the Irish renew their fierce rivalry with Southern Cal at South Bend, the gang gathers at Mecca, USA, for another moment with the memory of Rock.

There's Frank Carideo, Marchy Schwartz, Marty Brill, Jack Elder, Bucky O'Connor, Hugh Devore, Joe Sheeketa, Nordy Hoffmann and others who are regulars at these Rock reunions. Time is slowly depleting the ranks of the gang who played in '29 and '30, Rock's last two clubs, both undefeated and back-to-back national champs.

Fifty-seven have died, 36 are still around. Shepherded by Hoffmann, most answer roll call and attend a special Mass for Rock which is said the morning of the Southern Cal game at South Bend.

Two Saturday's ago, Mass was conducted on Rock's grave, a simple stone. It was led by Father Reddy, pastor of St. Bartholomew's, which is Nordy's Washington parish. The priest is on a three-month sabbatical at Notre Dame and Nordy Hoffmann helped arrange for Father Reddy's service. Nordy is excellent when it comes to making arrangements, as every member of the U.S. Senate knows.

Vince Lombardi probably came closer than anybody to being "another Rockne." Their styles were different—Rock was not the screamer that Lombardi was—Lombardi was more of a disciplinarian, but they shared the same principle. Both were more interested in the man than his football talents.

"Rock made leaders out of all of us, he made better people out of us," Hoffmann says. "You can't look at anything at Notre Dame without identifying to some extent to Rockne."

To some extent this is true of Green Bay, Wis. They named the stadium after Curly Lambeau and only a street near Lambeau Field after Lombardi, but Lombardi is almost synonymous with Green Bay.

"Notre Dame tradition stems from Rockne," says Nordy, who helps keep the flame alive. "There is a monument to Rock's memory there, but the greatest monument is his legacy. He motivated men and at least in my case, it has lasted 50 years."

He was never "coach" Rockne to his players, but Mr. Rockne—just as Lombardi was never Vince, except out of earshot, but always coach—for Nordy, who was elected to the College Football Hall of Fame two years even after he made the squad as a walk-on. He never played high school football in Seattle, his home town, only track. This pleased Rock. "You say you never played football before, you say?" Rock said at their first meeting. "That's good. It means that nobody could have taught you wrong."

There are countless stories of Rockne's pre-game talks, his entreatments to win for Notre Dame. Nordy heard many, but only one made a lasting impression on him. It was before the Southern Cal game in Los Angeles in 1930, which would turn out to be Rock's last.

The Irish were crippled and they were underdogs. All week practices were expected to be grueling and long, but they weren't.

"Right before we took the field, Rockne, in that staccato voice, said quietly to us, 'I can't ask you to win for Notre Dame again, but I must ask you to conduct yourselves like Notre Damers. This means win.'"

They did.

RECOGNITION OF SENATOR LEAHY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

STRATEGIC ARMS LIMITATION TREATY (SALT II)

Mr. LEAHY. Mr. President, I wish to address a matter of the utmost gravity this morning—a matter that I have spent a great deal of time studying over the past 2 years—the strategic arms limitation treaty—SALT II—that is now before the Senate. In 1978 I joined with a number of my colleagues to form a SALT study group led by Senator CRANSTON. The negotiations, the treaty, and the related issues affecting our country's security have never been far from my mind since then. In fact, our group's meetings and discussions which have taken place on a regular basis have helped me immeasurably. They have also served to underscore the critical importance and true weight that this subject clearly merits.

I intend to support ratification of the treaty and to make every possible contribution toward that end. I am convinced that SALT II represents a very real chance to enhance our national security and to make significant progress in the limitation of nuclear weapons. It is the responsibility of every American citizen—as well as every Senator—to see that we do not squander this opportunity.

This treaty is of necessity extremely complex. Its purpose, however, and its primary accomplishment are both quite simple. The treaty reduces the number of horrible, destructive weapons that are aimed at our country, and keeps the SALT negotiating process alive. In short, this treaty helps to make our world more stable and enables us to look with greater confidence toward the world that we will leave to our children and grandchildren.

Mr. President, the greatest single problem that the United States and the U.S. Senate have encountered concerning the SALT II treaty has been—and continues to be—an inability to place the treaty and the entire debate into the perspective that they warrant. The awesome power of these weapons and the unimaginable suffering that they are capable of unleashing demand that we cease thinking in terms of World War II—the old rules no longer apply. We

have reached that point in scientific and military development when nuclear arms control is the only rational path left open to us.

The very unreasonableness of man possessing armaments capable of destroying his civilization and possibly his planet clouds our vision—and often our judgment. Our inability—perhaps reluctance—to comprehend just how much power we possess—just how high the stakes actually are—has become a major obstacle in our search for an answer.

The destruction of Hiroshima and Nagasaki provides the only available index to help us regain our sense of proportion. Hiroshima was destroyed by a primitive atomic weapon with an estimated power equivalent of approximately 12,500 tons of TNT. I do not wish to belabor the use of this example but that weapon represents only a tiny fraction of the nuclear armament deployed today. The arsenals of the United States and the Soviet Union include weapons of this size, but also weapons hundreds of times more powerful than that used at Hiroshima. The simultaneous use of even a relatively small fraction of the American and Soviet arsenals could render this planet uninhabitable if not uninhabited.

The human race must find a solution to this problem. The United States and the Soviet Union cannot continue to develop and deploy an increasing number of even more destructive weapons. Long ago, both nations passed that threshold where meaningful strategic superiority was possible. As our arsenals increase, our security declines to the extent that at some point I am convinced the possibility of a nuclear exchange evolves into a probability. At that stage, and I think that we are swiftly approaching it, mathematical laws take control. The Senate's final decision on SALT II will mark the direction that we choose the path of reason with people exerting control over arms or the irrational dangerous path of an uncontrollable nuclear arms race.

I have asked myself over and over whether rejecting the SALT II treaty could possibly help the United States as its vocal opponents claim. The answer to this question again and again was that defeat of the treaty could only hurt our country. Rejection of SALT II will not make us more secure but less secure. Without the treaty, those Soviet weapons that SALT limits would not be limited at all. Without the treaty we Americans would be forced to spend billions more on nuclear arms to the detriment of our conventional forces and would have less security for our efforts. In spite of these compelling reasons to support SALT II there is an even greater one; it is by far the most vital. If this treaty is rejected by the Senate, there is a very real chance that the SALT process will be destroyed temporarily even permanently. Should this occur we will fail in our duty to pass along a more stable more secure world to our children.

The rejection of this treaty would injure our national interest both in the broad context of nuclear arms control and within specific categories dealing with individual weapons. I want to address a number of examples that have been raised in this latter context.

We have heard much talk about the so-called Backfire bomber and the fact that it is not included in the treaty text. This is often used as a principal argument against the treaty. In truth, the American negotiating position sought to exclude such medium-ranged aircraft from the limits. We did not want our FB-111 bombers that are based in Europe to be counted under the SALT II ceilings. While there is good reason to question whether the Backfire can reach the United States without refueling, none question the ability of the FB-111 to strike the Soviet Union with nuclear weapons. The limitations on the production rate, refueling capability, and basing of the Backfire are an integral part of the SALT II agreement. Without the treaty, these limitations would not exist.

Let me cite another example of the kind of criticism that does not serve our national interest. This is the charge that SALT II leans in favor of the Soviets because it enables them to retain some 308 heavy missiles. Aside from the fact that our military leaders never chose to develop such missiles opting for smaller, more accurate ones, without SALT II, the Soviets would not be prevented from building additional heavy missiles. They could also freely increase the number of warheads that these missiles could carry from 10 to possibly 30. This treaty did not give the Soviets these missiles, it stops them from building more, and stops them from increasing their capability.

Recently, the presence of Soviet troops in Cuba has been raised as a reason to reject SALT II. While we should not take the Soviet/Cuban relationship lightly, this matter of a few thousand troops has become far more serious politically than as an issue of security. It is Soviet missiles and nuclear armed submarines that pose the only real threat to the United States, not infantry troops in Cuba. We must address the real threat. We must consider America's interests first. We must not let the Soviet presence in Cuba deter us from ratifying the SALT treaty which protects our country's security. While we cannot change the fact that Cuba is a Soviet satellite, we can insure that the Soviet military presence is not increased to the extent that it can threaten us. This we should do—with or without SALT II.

Our ability to verify Soviet compliance with the SALT treaty is another major issue. I disagree with those who claim that the treaty is not verifiable. SALT II is adequately verifiable, and no Soviet violation affecting our security could remain undetected. I am convinced of this through my work on the Senate Intelligence Committee.

I have confidence in our intelligence techniques and equipment—our national technical means. This verification capability is under U.S. control and does not rely on trust. Interference with our verification will itself be a treaty violation. Since a number of provisions are included in the SALT II agreement that help make our verification more effective I am satisfied that we can accurately monitor Soviet compliance.

Some argue that the SALT II treaty will enable the Soviet Union to gain nuclear superiority over the United States. This is simply not true. The Soviets are roughly equal to the United States in strategic weapons today and the treaty will help preserve this balance by slowing the arms race as well as new Soviet weapon programs.

SALT II removes the imbalance in strategic delivery vehicles and establishes equal ceilings for land- and sea-based launchers and heavy bombers. It sets common subceilings on launchers for missiles carrying MIRV's. Establishment of such equality in numbers will require the Soviet Union to dismantle a considerable number of strategic systems. In addition SALT II provides for reductions below the initial overall ceiling which will require a further reduction in the Soviet strategic force.

The Soviet Union cannot expect to achieve any significant superiority over the United States so long as we are determined to deny them this. The Soviets know well from the history of the strategic arms race that the United States will take whatever actions are necessary to preclude any Soviet strategic advantage.

I also think it is vital for those who believe that our land-based forces are vulnerable to ask whether SALT II prevents us from taking any necessary action to meet this perceived threat. A wide range of weapon programs that are underway or planned can be deployed under the terms of the treaty. These include the proposed MX missile, cruise missiles, a replacement bomber for the B-52, and additional Trident submarines. While I personally question the need for some of these weapons, I do support their retention as options that the United States may wish to use in the future.

Mr. President a treaty is of necessity the result of compromise, and mutual concession. I believe that the SALT II treaty must be considered in this manner. As the majority leader has noted, we in the Senate could have written a treaty more favorable to the United States. I am sure that the Soviets could have written a treaty more favorable to themselves as well.

The SALT II treaty is the result of negotiation and compromise, a treaty that both sides can live with. A treaty that serves the mutual interests of the signatories is the only treaty that has a chance to succeed.

In closing I want to address a final problem of the SALT debate. This is the fact that many of the arguments against SALT II are not really about SALT at all. They are issues dealing with our overall defense policy and the limitations that other problems such as energy have placed on our country's ability to use its power in today's world. SALT has provided a forum for this discussion, and thus it will become very difficult, if not impossible to keep these issues distinct.

SALT, taken by itself and on its own merits, is clearly in our national interest. Other questions, including the draft, the future of the NATO alliance and increased defense spending, should not cloud the debate on nuclear arms control. We must not lose sight of the treaty itself during this debate. I welcome a debate on the draft. I welcome a debate on NATO, on the future of the Navy, and our overall defense posture. But we must remember what this debate is really supposed to be about—an attempt to limit the nuclear arms race—human survival.

Arms control is an equal, compatible, component of our national security, and must be accorded the seriousness that it merits. There can never be true security without nuclear arms limitation, and today, this is SALT II.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. LEAHY. Of course.

Mr. ROBERT C. BYRD. Mr. President, I have listened to the Senator state his position in support of SALT II. He was kind enough to supply me with an advance copy of the prepared speech, which I looked over last evening, and I am very much impressed by its cogency, its persuasiveness, and its thoroughness.

The Senator has characteristically given a great deal of thought to the treaty, a great deal of study to the treaty, to the hearings and, as a member of the Select Committee on Intelligence, to the hearings that were conducted in that committee, and it is obvious from his statement that he has very meticulously gone into all of the aspects of the treaty.

He is to be commended for having made the decision, having spoken out on the decision, and having made it after a thorough weighing of the pros and the cons.

He recognizes, as we can see from his speech, that it is not the perfect treaty. I would like to have seen a better treaty as he would have liked to have seen a better treaty, but this is the product of 6½ years of negotiations by negotiators under two Republican administrations and a Democratic administration.

So we have this problem. It is not what we would like to have, not what I would have drafted if I could sit down and unilaterally draft a treaty, not what the Senator from Vermont would draft if he could sit down—and he can; he can sit down and unilaterally draft a better treaty. But it takes two to negotiate. And so it is not the best treaty, by any means, but it is all we have, and we have got to make a decision up or down on this treaty.

To think about sending it back for renegotiation, which could last for years, could end with no treaty at all, or could end with a treaty less favorable to the United States than this one, is more than I can comprehend. I just do not believe that the Senate would feel anything could be accomplished down that road. If we reopen it, the Soviets are going to want to renegotiate points that they have already made concessions on—and they have made concessions. They say they have made concessions and we have made some; they think they have made more than we have, and the proponents of the treaty who testified bear that out.

I say to Senators who have to run for reelection this year, it is a little tougher for Senators like the Senator from Vermont, who have races this year, than it is for Senators like myself; so I commend the Senator for his position, for his courageous action, for his study of the subject, and for his eloquent presentation of his opinion.

Mr. LEAHY. Mr. President, the majority leader has been overly kind in saying that I show courage in supporting this treaty, in that I am up for election next year and he is not.

I think the country owes an enormous debt to the majority leaders of this body for the strong, thorough, complete, and compelling statement that he has made on SALT just within the past few days.

The majority leader's statement showed that there was only one consideration in his mind, and that was what was in the best interests of the United States of America. He did not consider any of the political pluses or minuses, whatever the fallout might be, or anything else.

The majority leader, as a representative of the position he holds, as a leader for the most significant legislative body in the world, rose, as he has on so many occasions, to the full stature of that position, and put the U.S. interests first.

Mr. President, I have notified the President of the United States that during the debate on SALT my time will be totally in the control of the distinguished majority leader, and I intend to set aside any other duties I might have to take part fully in this debate, to work with the majority leader as he leads the Senate in this crucial matter.

Mr. President, as I have said time and time again, both in this body and in my own State, the State I love so very much, my wife and I have three young children, and they will live the majority of their lives in the next century. The decision that we make here may well even determine whether there will be a next century.

I consider it a distinct and significant honor to be able to join with the distinguished majority leader in this matter.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont for his very kind, charitable, and overly gracious statement.

(The following proceedings occurred during Mr. LEAHY's remarks:)

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. LEAHY. Mr. President, I ask unanimous consent for 2 more minutes.

Mr. ROBERT C. BYRD. Will the Senator withhold that request?

Mr. LEAHY. I simply want to respond to what the majority leader said.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have control of Mr. HUDDLESTON's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may yield 3 minutes of that time to the Senator from Vermont (Mr. LEAHY).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the RECORD show my response without any interruption.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Conclusion of earlier proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield the remainder of my time now to the Senator from Massachusetts (Mr. TSONGAS).

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

PROSPECTS FOR PEACE IN SOUTHERN AFRICA

Mr. TSONGAS. Mr. President, last weekend I attended a conference in Virginia sponsored by the African American Institute. The conference is held each year in either Africa or the United States. Its purpose is to bring together leaders from Africa and the United States so that they can discuss matters of mutual importance. It was a very productive weekend, Mr. President, and I would like to share with my colleagues some of my impressions of what we accomplished and what I learned.

Although a major focus of the conference was American trade with black Africa, I think that our discussion of the situation in southern Africa will be of great interest to my distinguished colleagues.

Mr. President, I left that conference very concerned about the future of southern Africa. Things are not going well in that part of the world.

In Rhodesia, a brutal and destructive war rages without pause. The hopes for peace in that devastated land rest in London where the British have convened an all-parties conference to decide on a constitution and transition arrangements for a new Zimbabwe. The outlook, however, is not good.

Prime Minister Thatcher seems to have one outcome in mind—an early lifting of sanctions. She is in a great hurry to rid Britain of the Rhodesian albatross, and there are disturbing indications that she may sacrifice peace to do it. In a letter to my friend from North Carolina, she promised to lift sanctions as soon as possible. Reports from London indicate that as soon as a British governor assumes control of Rhodesia, Britain will lift sanctions, whether or not the settlement includes all parties, whether or not there is a cease-fire.

What this means, Mr. President, is that Mrs. Thatcher, in her haste, may be willing to strike a deal with the Muzorewa government and exclude the guerrillas from the settlement. The BBC Television Network in London has sounded that warning, and I ask unanimous consent that an excerpt from the transcript of this broadcast prepared by the Foreign Broadcast Information Service be printed in the RECORD at the conclusion of my remarks

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. TSONGAS. The terms London has set down for the transition arrangements are hardly balanced. In 2 short months of British transitionary rule, Rhodesia must prepare for elections, implement a cease fire, and conduct the balloting. No

registration of voters will be permitted. The Rhodesian Civil Service will remain intact. Security for the election and the election campaign will be provided exclusively by the Rhodesian police and army. The members of Patriotic Front are being asked to place their faith in the fairness and impartiality of an army with which they have fought a bitter war for many years.

Mr. President, it does not take a professional diplomat to see the bias in those arrangements. I believe the British should be firm in these negotiations, but in order for these talks to succeed, Mrs. Thatcher and Lord Carrington must use an evenhanded, impartial approach.

Mr. President, the British approach to these negotiations invites tragedy. Both the Muzorewa Government and the guerrillas are ready to contest the issue at the polls and not on the battlefield. All parties are weary of this deadly war. There is a real potential for a peaceful resolution of the conflict. But, if Mrs. Thatcher is determined to wrap things up by November 15 at all costs, she may well be staging the tragedy herself.

Mr. President, the news is no better from South Africa. Today's Washington Post carried a report that South African troops landed in two Angolan cities more than 100 miles from the border with Namibia. The South Africans are said to have destroyed rail lines and bridges. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

S. AFRICAN RAIDS KILLING CIVILIANS, ANGOLANS CHARGE

By Caryle Murphy

JOHANNESBURG, October 31.—For the second time in less than five weeks, the Angolan government has accused South African forces of attacking targets not directly associated with anti-South African guerrillas stationed in Angola.

Both the Angolan ambassador in Belgium and the state-run Angolan radio charged today that airborne South African commandos killed 20 people, including 18 civilians, when they blew up transport facilities during raids Sunday on three major Angolan towns. On Sept. 26, the Angolans said South African Mirage jet fighters bombed housing and industrial quarters in two towns, killing more than 50 people.

South African officials, as is customary, would not explicitly deny nor confirm the latest reports. Since Angolan authorities do not allow journalists to visit areas allegedly attacked, the charges usually are impossible to verify.

The latest charge follows a claim Oct. 23 by the president of another neighboring state, Kenneth Kaunda of Zambia, that 400 South African troops had invaded his country. He did not state what they did there. Both Angola and Zambia offer sanctuary to guerrillas of the black nationalist Southwest African People's Organization (SWAPO), which is fighting South African troops in the territory of Namibia (Southwest Africa).

The Angolan claims come at the same time that Zimbabwe-Rhodesian government troops have stepped up their attacks on civilian and economic targets in Zambia and Mozambique in their fight against guerrillas attempting to topple the government in Salisbury.

South Africa and Zimbabwe-Rhodesia have cooperated closely on military matters, especially since Pieter W. Botha became prime minister in South Africa last year.

The most spectacular example of this escalated campaign on non-guerrilla targets by the Zimbabwe-Rhodesian forces was the destruction in mid-October of two bridges linking Zambia to Tanzania. They were conduits for about 30 percent of Zambia's trade.

In Mozambique, the Defense Ministry disclosed the destruction of three railway bridges earlier this month. Civilian and local government officials have told recent visitors in Mozambique of other attacks on such civilian targets as shops, dams and road bridges by the Salisbury forces.

These attacks are intended to disrupt the local economy and dampen the support of the civilian population for the guerrilla groups, according to most analysts. But some observers note that the railways may have been targets in both countries to halt arms shipments to the guerrillas.

This could also explain the alleged attacks against Angola railway and highway facilities. A communique from the Politburo of Angola's Marxist ruling party stated that 150 South African commandos, transported in 11 helicopters, destroyed a railway tunnel and mined railway lines near the towns of Lubango, the capital of Angola's southern district, and the ports of Mocamedes and Porto-Alexandre Sunday.

The communique, read on Angolan radio and monitored here by the government-run radio, also reported that four highway bridges on the road between Lubango and Mocamedes were blown up. The targets are more than 100 miles inside Angola.

Arms shipments for SWAPO, which is backed by the Soviet Union, are thought to enter Angola through these ports. They would then be shipped to Lubango on the way to the guerrilla bases in southern Angola.

The Angolans did not specify how the 18 civilians and two Angolan soldiers died.

A spokesman in Pretoria said South Africa was not seeking confrontation with neighboring states.

"We are merely in the north of Southwest Africa to protect the local population against atrocities by SWAPO terrorists, and it was also stated previously that we maintain the right to follow these terrorists to their hiding places no matter where they are," he said.

Commenting on the Angolan accusations, Foreign Minister Pik Botha said. "It is a smokescreen they are using for tactical reasons. The basic cause of the conflict is the attacks the terrorists are launching on Southwest Africa.

"Basically, Angola is harboring terrorists who use Angola as a springboard for terrorist attacks against Southwest Africa," Botha said.

In the past week, SWAPO guerrillas abducted a group of children from their school in northern Namibia, according to the South African military. Yesterday, it was reported that a local black official and his bodyguard were killed by the guerrillas.

A United Nations plan for a cease-fire and a peaceful transition to independence in Namibia is bogged down in discussions about its implementation.

Mr. TSONGAS. This raid follows close on the heels of South Africa's discouraging response to the U.N. proposals for a peaceful transition to independence in Namibia. Before he died, Angola's President Neto had agreed to establish a demilitarized zone on either side of the Namibia/Angola border in order to allay South African fears. A contact group of five Western nations took the new proposals to South Africa over the summer. South Africa's response to this new initiative was a long list of detailed, some say frivolous, questions, thus stalling negotiations for months more. Meanwhile, South Africa continues to construct the foundation for a unilateral internal settlement in Namibia and the rejection of the U.N. plan. As in Rhodesia, the hopes for peace in Namibia are dim.

The underlying issue in all these distressing developments is power. A white minority controls it and a black majority seeks to share it.

South Africa, the bastion of white supremacy, symbolizes the minority resistance to black political rights in the region. It is South Africa which is systematically depriving its black citizens of their South African nationality in the name of a "separate development." It is South Africa which has forcefully removed thousands of blacks to the economic oblivion of the black "homelands." It is South Africa which coldly regulates the supply of black labor through the pervasive structure of the pass laws. It is South Africa which fuels the fires of racial hatred. This oppressive regime, based on systematic discrimination and racial domination, creates an unstable, insecure environment in which radical movements thrive.

South Africa, the self-proclaimed guardian of Christian civilization and free enterprise, is in fact a blessing for the Soviets and their Communist ideology. The excesses of the apartheid state keeps Soviet hopes alive in Southern Africa.

I would note that one of the participants at the conference said that if he were a theoretician in the Kremlin, the one thing he would want to do would be to keep the South African Government the way it is now. I have made that point before on the Senate floor and, hopefully, at some point it will have some impact.

It is time that the United States recognizes the threat to our security posed by the racial policies of the South African Government. It is in our interest to apply pressure on South Africa to change. If South Africa continues to deny political rights to blacks, that country will drag the region into a racial war of unimaginable proportions. Our contribution may not be decisive, but we cannot stand idly by.

I have urged colleges and universities across the country to coordinate a program of divestiture of stocks in companies doing business in South Africa. I believe that a national program of university divestiture phased over a 5-year period will convey a potent message to Pretoria. That message will be that Americans in growing numbers condemn apartheid, for moral and pragmatic reasons.

Phased divestiture is a moderate approach, Mr. President. It gives South Africa time to change and it inflicts no economic harm on Americans or South Africans.

Today, Mr. President, moderate pressure may be effective. The situation in South Africa has not yet passed beyond compromise into a descending spiral of violence. But time is short. Soon, Mr. President, moderate measures will fall on deaf ears in South Africa. Then, only severe and costly measures will safeguard our interests. Now is the time to act to promote peace in South Africa.

EXHIBIT 1

ZIMBABWE RHODESIA TALKS RESUME WITH NEW MOMENTUM

[Text] The Rhodesian constitutional conference resumed in London today and immediately picked up a new momentum. There were three meetings during the day, the first time this has happened. Bishop Muzorewa asked for further details of Lord Carrington's plan to run Zimbabwe Rhodesia with a British governor until British-supervised elections can be held. From Lancaster House a report by our southern African correspondent John Humphrys:

[Humphrys] The response by the Muzorewa delegation to Britain's transitional proposals was remarkably restrained, adding to the growing conviction here that the bishop may be close to agreeing that his government will stand down to be replaced by a governor from Britain who will control the country during the period leading up to new elections and independence. It is now clear that as soon as the governor goes out to Salisbury, Britain will regard Rhodesia as having returned to legality, and that there does not have to be a ceasefire for that to happen. If the Patriotic Front refuse to go along with the British plans, sanctions will be lifted anyway. It is conceivable the British governor could find himself in Rhodesia in the middle of a war with the Rhodesia security forces answerable to him. That is a rather horrifying prospect from most points of view and Lord Carrington is adamant, it is not what he wants—he wants all parties involved in a settlement. But it is being emphasized here that no one party can exercise a veto over Rhodesia's return to legality by continuing the war. So what the Foreign Office calls the second-class solution is at least a possibility.

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRADLEY). Will the Senator withhold that request?

Mr. TSONGAS. Yes.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from New Jersey.

RECENT EVENTS IN AFGHANISTAN

Mr. BRADLEY. Mr. President, recent events in Afghanistan, including first, the replacement, and then, the disappearance, of former President Noor Mohammad Taraki, demonstrate the inherent instability of the Marxist regime which is maintained in power by Soviet military support. Nevertheless the regime's bloody repression of the popular forces which have risen to oppose it continues.

As one who has some knowledge of Afghanistan, I am greatly saddened that the political, religious, and tribal disputes of Afghan people are being settled not by peaceful discourse but by civil war. While all such civil wars see acts of violence committed by both sides, the present Afghan regime has in this struggle distinguished itself by the indiscriminate brutality it has used in its attempts to repress the fiercely independent Afghan people.

Recognizing that the tide is turning against them, certain elements of the regime now are trying to placate the populace with cosmetic changes, such as the dismissal of four unpopular provincial governors, but this has not changed the essentially brutal face of the regime and has not quelled popular opposition to it.

We must also be aware that these internal disputes among the Afghan are not being left to the Afghans to solve. The Soviet Union, instead, has chosen to take a major role in the civil war. More than 4,000 Soviet military, technical, and security personnel have arrived to support the Marxist government, and they exert great influence down to very low levels in the Afghan Army, bureaucracy, and police. There is widespread speculation that these so-called advisers have gone beyond advice and are actively engaged in prosecuting the brutal campaign of repression against the Afghan people.

In addition, the Soviets have poured large and increasing quantities of arms into this already bloody conflict. These are believed to include highly sophisticated and indiscriminate weapons, such as supersonic fighter-bombers, napalm bombs, and ultra-modern attack helicopters. In the light of the limited ability of the Afghan Army to absorb and operate these weapons, the Soviets may be expanding their direct involvement in this Afghan dispute.

Their commitment of men and material has earned the Soviets nothing but the hatred of the proud Afghan people. The military situation of the Marxist regime grows more precarious each day. The Islamic Front rebels control most of the countryside, and accost those Soviet and government columns which venture out on the roads. Several towns are in rebel hands, and citizens in the major cities have risen in revolt—only to be struck down by Soviet-supplied firepower. The Afghan Army, reeling from the blows inflicted by the rebels, is tiring of repressing their Afghan brethren. Whole units have deserted to fight for the rebel cause. It is reported that part of the garrison in Kabul revolted, and tried to expel the Marxist government from the capital. The Soviets, whose arms and personnel are essential in keeping the current regime in power, must soon choose whether to assume the full burden of imposing this hated regime on the Afghan people.

Mr. President, the growing commitment of Soviet personnel and weapons to the Afghan civil war shows a Soviet willingness to intervene in local conflicts without regard for the interests of the nations on whose behalf the Soviets are supposedly acting. Further, this intervention may threaten stability in that area of the world. Iran and Pakistan already are alarmed by the convulsions of their Afghan neighbor. The creation of a flashpoint adjacent to Iran, Pakistan, the Peoples Republic of China, and the U.S.S.R. could have serious repercussions throughout South Asia.

Mr. President, we must let the Soviets know that we do not take such adventurism lightly. Their provacative behavior calls into question their intentions. By imposing this alien regime, they deny the Afghan people the right to determine their own political future. By their complicity in the brutal use of force in this repressive effort, they demonstrate disregard for basic human rights and human dignity. By seeking to dominate this strategic country, they threaten to destabilize the entire region

It is clear that greater Soviet intervention would be disasterous for the Afghans and unproductive for the Soviets. Further intervention would only prolong and intensify the violence and the Soviets would be committing their personnel, wealth and material to an unpromising enterprise. All peoples who wish to see peace and stability restored to a country torn asunder must appeal to the Soviets to restrain their actions, and our Government must continue to denounce any continuing Soviet transgressions against the Afghan people.

RECOGNITION OF SENATOR MOYNIHAN

The PRESIDING OFFICER (Mr. BRADLEY). Under the previous order, the Senator from New York (Mr. MOYNIHAN) is recognized for not to exceed 15 minutes.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALT II TREATY

Mr. MOYNIHAN. Mr. President, I rise on this occasion to continue the discussion for purposes of the RECORD which began yesterday between our distinguished majority leader and the Senator from New York concerning the implications that arise from the letter of last Friday, October 26, from the President to the majority leader.

The Chair will recall that on that occasion the President, responding to the majority leader said:

> I agree with you that "a strong defense and a willingness to negotiate meaningful arms reductions are complimentary components of a sound national security policy."

But then the President went on to state that he was determined to deploy both the MX missile and the cruise missile, which are limited by the protocol to SALT II. He said:

> Both are needed for our defense, and I cannot envisage any circumstances under which there would be any de facto extension of the Protocol which could interfere with our firm intention to deploy these systems.

Mr. President, the point I sought to make to the majority leader, and on which he was so gracious in hearing me out, but which I may not have made with sufficient clarity, is that the President, by his letter or, more accurately, by such a policy, would effectively preclude the SALT III negotiations from bringing about any real reductions. In other words, while the President agreed with the majority leader's statement that a strong defense and a willingness to negotiate meaningful arms reductions are complimentary components of a sound national security policy, his policies will, in fact, preclude such a dual achievement.

I would even take note of the majority

leader's wording. He said "a strong defense and a willingness to negotiate meaningful arms reduction." I want it understood that I do not think a willingness to negotiate is a goal for SALT III. I think SALT III should bring about reductions.

The point I wish to make here has not yet been raised in this debate. An event took place on Friday, the day of the President's letter. Attached to the SALT II treaty is a "joint statement of principles and basic guidelines for subsequent negotiations on the limitation of strategic arms." It has two fundamental provisions. One, it says that there must be "significant and substantial reductions in the numbers of strategic defensive arms." But it also says that there must be a "resolution of the issues included in the protocol to the treaty." The protocol relates to mobile ICBM's and sea- and ground-launched cruise missiles.

Mr. President, if I understand the Soviets in this matter, and I cannot claim to do more than others, but I can try, they have succeeded in this manner in linking our deployment of these two weapons systems—one of which, as I shall point out, is a NATO weapons system—to reductions, such that if we insist on deployment, they will say that there has been no "resolution of the issues included in the protocol." They will say, there having been no compliance in that regard, it follows that there can be no compliance in the other regard, the first regard, which is to say, reductions.

They will say we agreed that there would be reductions and, also, that there would be a "resolution of the issues included in the protocol." The so-called issues included in the protocol are the MX and the cruise missiles, as I have said. Why we did this I do not know. But we did.

The MX figures in this, not because it is a counterforce weapon, which it is, but because it is a mobile ICBM. It is an "issue" in the protocol.

I suppose I know what the President is planning, and I have to think he supposes that the Russians do not know, but let me say to you that they do know. He is planning to insist on deployment until the time comes that, with great reluctance and in return for reductions, he cancels deployment. I do not think that will work. It will not work because the Russians will conclude that they do not have to trade for the MX. At least it is unlikely that they ever will, for the MX is too exotic a phenomenon to survive 10 years of negotiation in Congress.

But, much more importantly, the Russians do not want reductions. And we have to make them want reductions and we are not doing it; we are not making them want reductions.

They will say of the cruise missile that we must not deploy it in Western Europe or else there will be no arms reductions. If we do deploy it, they will say, "Well, that's an increase; it's a strategic weapon to us and we will either require no reductions or maybe even use that as grounds for an increase in our numbers."

What the Soviets have done in this protocol and joint statement, taken together, is to achieve what, up until now, they have never achieved; the Soviets have gotten us to agree to link the NATO defenses with the strategic relationships of the United States and the Soviet Union themselves. The protocol and the joint statement, allow the Soviets to introduce the European forces into the SALT negotiations. The Soviets will have us in a position of choosing between SALT and NATO, so to speak.

I should like to repeat that for the RECORD: The combination of the protocol and the joint statement allows the Soviets to introduce the question of European forces into the SALT negotiations, which they have never been able to do in this way. As a consequence, if we really want reductions in strategic nuclear weapons, we are going to have to reach agreement to do it in this treaty. It will not happen in the next. One can see that the Soviets will do either one of two things: They will say, "Abandon NATO, do not modernize, in return for which we shall give you some reductions." Or, if we do go ahead with plans that our NATO allies have every reason to desire and expect, they will say that there will be no reductions. Either way, we have lost a very considerable amount.

And it will not happen. We will no more get these reductions or, if we get them, it will be at the price of NATO. After all, we are looking today at a treaty which embodies the conditions the Senate endorsed 7 years ago. Seven years ago, the Senate solemnly resolved that the next treaty should be a strategic arms reduction treaty—SART, said an amendment proposed by the senior Senator from California, Mr. CRANSTON, and adopted 7 years ago. Today, there are no arms reductions of any consequence in the SALT II treaty; none.

Some people will say that the Soviets are taking down a few old launchers which they would long since have scrapped if they had not expected to trade them.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. ROBERT C. BYRD. Would not any one of those old outmoded missiles destroy the city of Washington, D.C.—any one of them?

Mr. MOYNIHAN. Yes.

Mr. ROBERT C. BYRD. I appreciate the Senator's continuing to develop the thesis which he so eloquently and ably elocuted on yesterday. There is one thing I cannot understand: Is he advocating that we not indeed proceed with the MX; that we not indeed proceed with land-launched and sea-launched cruise missiles with ranges beyond 600 kilometers; that we not proceed in such a way that by the time the protocol is terminated, we will not have delayed the ultimate deployment if, indeed, the ultimate deployment of these systems is in the best interests of this country? Is he advocating that we not proceed along this line?

Mr. MOYNIHAN. The Senator from New York is momentarily confused. I have made explicit in previous exchanges with the majority leader that I do so advocate. He will have great difficulty depicting me as someone who does not.

Mr. ROBERT C. BYRD. I have no intention of depicting the Senator in that way. I was honestly confused as to the thrust of what the Senator had been saying. I am reassured.

Mr. MOYNIHAN. Let me say that I had some experience in this matter at some cost during the 1976 election year in New York State. There were five persons running in the Democratic primary. I was one. Each time we would have a debate, four of those persons—or one of them, at least—would propose some large, social program and propose to pay for it by a 25-percent cut in the defense budget. I would find myself saying, "That is a good program, I don't doubt, but I don't think we can do it that way, because the next President, no matter who he is, is going to increase the defense budget."

Then one of my respected adversaries would say, "Aren't you for Jimmy Carter?"

I would say, "Yes, I am."

Then he would say, "Jimmy Carter is going to cut the defense budget by 9 percent a year."

And I would be left in the lame position of saying, "No, he is not, that is just what he is saying."

All I am trying to say is, can we live with reality?

Mr. ROBERT C. BYRD. If the Senator will yield at that point, I followed that contest with great interest from afar. The Senator did not know it, but I was rooting for him.

Mr. MOYNIHAN. That is good of him to say. But I wanted to say that I have been on record a long time on this, at a time when the President was not.

I say to the majority leader that if we want reductions as well as improvement in our defense position, in my judgment, we have to build them into this treaty, because the Russians want this treaty and will do a lot to get it. At least, they will do as much as committing themselves in the treaty to what they nominally commit themselves to in the joint statement of principles for the next treaty.

But by linking the protocol of SALT II to the negotiation of SALT III, they have set the conditions, established the conditions, and got our agreement to them, by which they can maintain that the agreed principles have not been met by us and, therefore, need not be met by them.

In 1972, we wished for reductions in SALT II. We did not get them. We wished for no counterforce weapons. We got them.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. ROBERT C. BYRD. Mr. President, who is recognized under the next order?

The PRESIDING OFFICER. The Senator from Minnesota (Mr. DURENBERGER).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders be altered so as to allow Mr. CHAFEE to proceed next with his order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, would Mr. CHAFEE just yield a minute or two to the distinguished Senator from New York so that he might complete his statement?

Mr. MOYNIHAN. That is most generous, if the Senator agrees. I will not need but a minute just to say that I had finished my statement and I wondered if the majority leader wanted to make a comment.

Mr. ROBERT C. BYRD. Only to say the distinguished Senator from New York brings a great deal of experience in dealing with the Soviets in other fora, and brings it to bear upon this very important debate that has already started and will continue for quite some time.

I do not think we really differ except in a few minor ways and I do not wish to pursue this any further at the moment.

I think it should be clear that the mobile deployment of the MX is necessary because of the growing vulnerability of the U.S. ICBM forces.

I do not find any problem with the President's response to my letter. I agree that the Soviets are going to argue this and that and something else.

We can expect them to be hardnosed and difficult to deal with. But it does not necessarily mean that we will accede to their point of view.

I would just wish the distinguished Senator from New York (Mr. MOYNIHAN) were one of the negotiators of SALT III because I would feel far more secure and rest better if he were, because he is able, he is knowledgeable, and I want to compliment him for this ability and for his stick-to-itiveness, his tenacity, and all the many admirable qualities he brings to the Senate in such great measure.

But, of course, they are going to maintain this or that. I do not quite see the scenario as necessarily being that which the distinguished Senator laid out. I realize it is one of the scenarios. I do not quite agree that there are no arms reductions in this treaty.

I will save that for another day. We see it a little differently, I guess.

It is not the best treaty, by any means, or all of what we would like to have had. Maybe we could have had a better treaty. I feel that maybe we could have. But that is just an opinion. I cannot prove it. All I have to go by is the treaty we have before us. While it may be a modest one, I think it is a plus and a positive.

I hope the distinguished Senator from New York and I will, in the end, as he continues to focus attention upon the treaty and upon the resolution of ratification, that we may be able to find, working together, the kind of approach that will protect our interests and those of our allies as we look down the road to SALT III.

I know the distinguished Senator from New York has very considerable talents in that area and I trust that the Senate will be able to tap them.

I look forward to working with him in attempting, in the long run, to do the best we can with what we have got.

As the old mountaineer said when he sat down to his humble table, "Dear Lord, we thank you for what we have got."

So we have got what we have got. I hope we can work with it and improve it in some way and, in the end, that the Senate will approve it.

Mr. MOYNIHAN. I will quickly state, Mr. President, that I am not thankful for what we have got. A world with 5,500 warheads on the Soviet side and about 9,000 on our side, going up to 12,000 in 5 years. That is not something to be thankful for. What we have got to recognize is that it is very hard through this process to achieve reductions in nuclear warheads. We have failed twice, now, though we are on record as favoring them.

They used to say in New York politics, once is an accident, twice is enemy action.

We failed twice. We must try to insure that the third time we succeed.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. ROBERT C. BYRD. I would not leave the RECORD to imply that I am thankful that the other side has achieved a superiority in some aspects of the strategic central systems. Do not let the RECORD show that.

Mr. MOYNIHAN. The RECORD should not show that.

Mr. ROBERT C. BYRD. I am not thankful for that, either. But that is not the fault of this treaty.

I could unilaterally draw up a better treaty. I am sure the distinguished Senator from New York could unilaterally draft a better one than I. But it takes two to negotiate.

As to the details of the treaty, we will argue those on another day.

I am not at all happy about some things in the treaty. But at least we have to take what we have got and deal with that. That is what I am saying.

Mr. MOYNIHAN. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. MOYNIHAN. I thank the Senator from Rhode Island.

RECOGNITION OF SENATOR CHAFEE

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for not to exceed 15 minutes.

Mr. CHAFEE. I thank the Chair and I thank the majority leader.

ANNOUNCEMENT OF SENATOR BAKER'S CANDIDACY FOR THE REPUBLICAN NOMINATION FOR PRESIDENT

Mr. CHAFEE. Today, Mr. President, is a very significant day for our country. Just this morning, less than an hour ago, our very distinguished colleague, the senior Senator from Tennessee (Mr. BAKER), announced his candidacy for the Republican nomination for President.

I might say, speaking on my own behalf and I know on behalf of many of my colleagues, that we are delighted he has undertaken this task. It is a task that is a difficult one. It requires constancy. It requires confidence. It requires persistence and it requires courage. Our colleague from Tennessee (Mr. BAKER) has all those characteristics.

Mr. President, this is a crucial period for our Nation. It is a time that is crying out for leadership.

While throughout the Nation we do have an abundance of talent and resources, ingenuity and expertise, compassion and resilience, I think those characteristics are blended in a unique way in our colleague (Mr. BAKER).

As he said in his announcement this morning, "America needs a new generation of confidence." HOWARD BAKER, with the skills he possesses, and the experience and his ability to appeal to a broad cross-section of people, is really unique. He was the first Republican candidate since Reconstruction, elected to the U.S. Senate from the State of Tennessee; that was in 1966, when he carried that State very handsomely as a Republican. He was reelected in 1972 and in 1978 by very substantial margins.

He comes from a background that I think is unique, and as a political child his associations are unique as well.

His father and his mother both served in the U.S. Congress. His father-in-law, of course, was the renowned Senator from Illinois, Senator DIRKSEN, as well as the minority leader in the Senate for many years following his distinguished career in the House of Representatives.

Joy Baker, the daughter of Senator Everett McKinley DIRKSEN, married HOWARD, and they have two splendid children. They are the ideal type of people we would like to see leading our Nation.

Of course, we know him best in the Senate, where he has forged into a cohesive unit Republicans of diverse backgrounds and ideologies, extending from the conservatives to the liberals.

Elected as leader of his Republican colleagues in 1977 by one vote, he was unanimously elected our leader in 1979. He has brought us together in a way that we all applaud, and we feel grateful for having had the benefit of his talents here.

Mr. President, it has been my privilege to have worked with him closely over the past 2½ years. I would like to set forth some of the characteristics that, to me, are the great strengths of HOWARD BAKER.

First of all, he is a man of consummate wisdom. He seems to have the capacity to look at a problem, analyze it, and come to a very wise decision at the end. One might call it good judgment.

Second, he is a broad-gaged person. I am very nervous about people who do not seem to have any interest other than the task at hand. But HOWARD BAKER is broad gaged. He has his photography, and I suppose he is the best photographer among the Members of Congress. He has had private shows demonstrating his excellent photographic work. It is a consuming interest for him.

He takes an interest in sports. He was a pilot in World War II and occasionally flies a plane. Of course, his family is of great interest to him as well.

As we move into the 1980's, I think this Nation will be looking for the finest possible leadership we can get. We are fortunate that our political systems are uniquely capable of calling forth great leaders at particular times when we need them most. HOWARD BAKER has the characteristics and abilities to be such a leader.

So it is with considerable pride that I join a number of my colleagues in the Senate who applaud and support the candidacy of HOWARD BAKER for the Presidency of the United States.

We would be delighted to have the Presiding Officer of the Senate at this moment join us, and perhaps secretly he will; but if he does not join us, we seek others. No one is excluded from this bandwagon.

So join up: Republicans and Democrats and Independents all across this Nation, come forward and join HOWARD BAKER in the great cause he has undertaken here, starting today.

In my opinion, he is the right man for the 1980's, the right man for America, and the right man for the Presidency starting in 1980.

Mr. President, I am delighted at this time to yield to the senior Senator from Illinois.

Mr. PERCY. I thank my distinguished colleague. I have enjoyed his eloquent words. I certainly share in the sentiments of the joyousness of this occasion today. It is a great tribute to the U.S. Senate and to the electoral process when we have one of our own Members declaring himself for the highest office in the land.

Mr. President, I join in the tributes today to the distinguished minority leader as he begins his campaign for the Republican nomination for the President of the United States.

Senator BAKER is not a son of Illinois; he is a son of Tennessee. But he is a son-in-law of Illinois. Every Illinoisan takes pride in the service of Senator Dirksen, Senator BAKER's father-in-law. We number among our closest friends HOWARD and Joy BAKER, and Joy is a native of Illinois.

As a classmate, I have had the privilege of serving with Senator BAKER since we both began service in the Senate in January 1967. Throughout that period, we have worked closely together. As a trusted and valued colleague, and most recently as minority leader, HOWARD BAKER has displayed the highest standards of integrity and fairness. We are all deeply indebted to him for his unselfish service to the Senate and the Nation.

I have made no personal endorsement of a candidate for the Republican Presidential nomination, but I am pleased that the contest for the nomination will be spirited. The number of individuals seeking the nomination, including two distinguished Congressmen from Illinois, reflects the vigor and diversity of the Republican Party. The State primaries and caucuses will provide a forum for a wide-ranging debate on the crucial domestic and foreign issues we will face as a Nation in the next decade and beyond. HOWARD BAKER will make a major contribution to that debate, just as he has made a major contribution to it in his announcement today—appropriately, in the Senate Caucus Room of the Russell Office Building. In that room, he distinguished himself by his brilliance and by the way in which he conducted a duty imposed upon him by the Senate, a duty he did not enjoy carrying out, any more than any of us enjoy carrying out duties assigned to us that involve the lives of other people. He carried out that duty with great distinction, and I pay tribute to him in that regard as well as the many other capacities in which he has served the U.S. Senate, the United States of America, and its people so ably and so well during his public life.

Mr. President, I yield to the distinguished Senator from Vermont (Mr. STAFFORD).

Mr. STAFFORD. Mr. President, I am obviously delighted that our outstanding friend and colleague, Senator HOWARD BAKER, formally announced his candidacy today to become the Republican nominee for President. This was good news to me—because I endorsed his candidacy several weeks ago—and it is good news for the American people.

As minority leader, Senator BAKER has shown a remarkable talent for bringing diverse views together—a talent badly needed today in the White House.

As a Senator, HOWARD BAKER has demonstrated great ability to recognize and deal with the main issue facing America today on a priority basis—an ability clearly lacking in the White House today.

HOWARD BAKER knows Washington and he knows Government—and he knows both of them well enough to provide the leadership that will keep them out of the lives of Americans when they are not needed. And that is something most of our citizens are clamoring for in the White House today.

The American people can have confidence in HOWARD BAKER because he knows the power as well as the shortcomings of Government action—and he knows when to use that power and when to let the people do their own thing.

This Republican decided last May 24 to support Senator BAKER for the Presidency in 1980 and formally announced that support on September 13. As I stated at that time:

> My support of Senate Republican leader HOWARD BAKER is based on the fact that he is the most viable Republican candidate who is demonstrating on a day to day basis that he can provide leadership on major issues now besetting this nation.

I believe this even more so today after hearing other candidates express their views in recent weeks. Senator BAKER can make Congress and the White House work in unison for the people, rather than having them drift in opposite directions while the people suffer. Senator BAKER offers experience, confidence, and trust.

I congratulate him on his announcement today, and I urge all Americans to consider his candidacy.

Mr. CHAFEE. Mr. President, I yield the remainder of my time to the Senator from Maine (Mr. COHEN).

Mr. COHEN. I thank the Senator for yielding.

I want to join with my colleagues in commending HOWARD BAKER for announcing his candidacy for the Presidency today. I think it is clear that the American people are discovering that they made a mistake in 1976, and they are looking for leadership in 1980.

They are not looking for someone to simply stir their emotions but for someone to lead them into the future as we rocket our way through time. They do not want, if I can paraphrase Walter Lippmann, a President who will tell them only what they want to hear, but one who will tell them what they have to know. They do not just want a good judge of popular opinion but a good judge of the public interest.

If there is one thing we have learned from the tragic lack of leadership in the past 3 years, it is that in this Nation, where the interests are diverse and complex, the country needs a President who can moderate differences and reconcile opposing interests.

HOWARD BAKER believes that America's strength and greatness are found in an opportunity society, not a guarantee society; in a work-oriented country, not a welfare state; and that incentive and self-initiative should be encouraged and rewarded instead of inviting bureaucratic intervention into our individual lives and personal freedoms.

I think in HOWARD BAKER we have a candidate and a man who is tough but fair, who is hardnosed but not inflexibly dogmatic or demagogic; a man who is strong but is yet able to minimize division, who can lead without polarizing people, who can build a consensus in a country that is rich in its diversity of interests and often fragmented in opinion; a man who is resolute and eloquent in the conviction that the American people should remain free, strong, and compassionate.

Mr. President, this weekend Maine is going to be holding a mock convention. It is my hope that HOWARD BAKER will not only run strong but run first, and that, as Maine goes so will go the Nation.

I yield the remainder of my time to the Senator from Oregon.

Mr. PACKWCOD. Mr. President, whether or not HOWARD BAKER will win the Republican nomination will be in the hands of the voters throughout this country. The one thing that distinguishes him from any other candidate seeking the Republican nomination is that he has an entire lifetime of leadership. His mother and father served in the Congress; he is married to the daughter of Everett Dirksen, and he has been elected to leadership; born to it, married to it, elected to it.

Those of us in this body see our colleagues very closely. We are, perhaps, inclined on occasion to unfortunately magnify their faults and, perhaps, on occasion to overly praise them because we know them well. But there is no greater tribute that anyone will receive in this country than the accolade of being elected to leadership by his peers because indeed we do have to work with candidates who are seeking the nomination for the Presidency every day in the case of a fellow Senator or certainly frequently throughout the year in the case of Governors or former members of the Cabinet, and most of us have concluded that in this body HOWARD BAKER is a leader.

I am not going at this stage to ponder whether or not what this country clamors for is leadership. I think it does. There are others, some in the news media, who say that is a false issue, but no one can deny in this Chamber that HOWARD BAKER is a leader; that among those who would judge him most critically and most carefully we have said "This is a leader."

I support him. I hope the people of my State will support him. I hope the people of this Nation will support him. But those of us in this body who endorse him, whether or not he is eventually selected as the Republican nominee, can at least very proudly say, "We have endorsed and put before you a man whose leadership qualities are known and proven and they will not have to be tested and tried in the future. They have been tested and tried here, and HOWARD BAKER has been found to possess those qualities."

RECOGNITION OF SENATOR LUGAR

The PRESIDING OFFICER. Under a previous order, the Senator from Indiana is recognized for not to exceed 15 minutes.

Mr. LUGAR. Mr. President, this is an important day for the country. HOWARD BAKER has declared that he is a candidate for the Presidency of the United States, and he has done it in the midst of those who wish him well as colleagues on the floor of the U.S. Senate, obviously the members of his family and friends, the national press, and of many who have come from throughout America to be a part of this signal occasion.

In his opening remarks today HOWARD BAKER pointed out that this country, unfortunately, has very little margin for error; very little margin for error in the sense of our military preparedness and our foreign policy; and very little margin for error certainly in the energy policies of this country; very little margin for error in the fact that the standard of living for the people in this country has always been an important part of our political dialog and our economic progress, and the lack of productivity in this country has put a severe crimp in those prospects.

In short, HOWARD BAKER has pointed out that we need substantial changes in the military posture of this country and in the way we are perceived by friend and foe alike; that we need substantial changes that will lead us toward greater productivity of energy resources, and some hope for a full employment policy based upon the economic strength which energy independence alone can give us.

He said, finally, that we need a sense of productivity individually and collectively in this country that alone can bring an end to inflation. This is a tall order, but that is the reason why HOWARD BAKER is seeking the Presidency, and because he believes, and I support his belief, that he alone among those who are viable candidates for the Presidency, who have a reasonable chance to attain our Nation's highest office, is experienced in the levers of Government, in the abilities of bringing disparate persons of authority and influence in this country together, in making a broad appeal for a consensus in the American public, and for policies of both sacrifice and joy that will be required.

HOWARD BAKER has demonstrated those abilities amply in his leadership on this side of the aisle and in his broader responsibility to all the people of the United States, as he has worked for responsible solutions, as he has worked for responsible and orderly procedures in this body.

He has been an effective leader in the very best sense of the word. He has been an articulate leader, literally front and center every day of his political life for many, many years.

His activities are well known. His openness is admired. I point out that one of the highlights of his announcement today came during the press conference, the probing by the national press behind the words of his prepared text.

HOWARD BAKER was asked various questions about the conduct of his campaign, specifically one question as to whether a particularly difficult issue would be raised with reference to another candidate, and other questions with regard to specific policies. To paraphrase the final question at the press conference, a gentleman of the press asked, "How can you, Senator BAKER, offer assurances to the American housewife that you are working in her best interests when you have voted for foreign aid, when you have supported welfare reform?"

Senator BAKER pointed out that at the bottom line of his judgment in political issues is a sense of compassion—and I would add to that a sense of decency—as to what is appropriate in terms of his own activity and conduct, and what is compassionate in terms of his relationship to fellow human beings whom he has served and worked with and loved and admired throughout the years.

In short, HOWARD BAKER answered that he believes in free enterprise from the top of his head to the tips of his toes, but he likewise believes that the free enterprise and market systems must have, as a very important component enveloping all our decisions, a sense of compassion for fellow human beings; that this is at the heart of politics, and it certainly has been at the heart of his record and of the office that he seeks now.

I have had great admiration for Senator HOWARD BAKER. For that reason, I have agreed to serve as chairman of his national campaign and to work with him, in not only the organizational aspect of a campaign—which is almost mindboggling, as one takes a look at the enormity of this Nation—but equally it is to think with HOWARD and grow with HOWARD, as we all shall as his colleagues, in thinking about how we will make a difference in the strength of our country, militarily, economically, and maybe even more importantly in the confidence that we have in ourselves as those who have been elected to take a part in the political role, and the confidence that we all have in the future of the United States of America.

For these reasons, and many more, this is a very special day in my life. It is a very special day, I believe, in the lives of all who are friends and colleagues of HOWARD BAKER. We are grateful that we have this time to share some of these thoughts on the Senate floor this morning.

I yield now to my colleague, the distinguished Senator from Wyoming, Senator SIMPSON.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I thank the Chair. I thank also Senators CHAFEE, LUGAR, PERCY, and the other Senators who have spoken concerning the recently announced candidacy of HOWARD BAKER for the Presidency of the United States. I wanted to make some very brief remarks, though I have not committed myself in this Presidential race. I will be doing that in the year 1980, and early on in that year. I simply wish to state that his father-in-law and my father served here in the U.S. Senate and were fast friends, as were Louella Dirksen and my mother. The Dirksen family were held high on the list of esteemed friends of all members of my family.

I am a freshman Senator. Senator BAKER has treated me with great kindness and great courtesy in my first year here, and especially the first months of my first year here. I respect his counsel and his advice during those early days. I do not always agree with his views, but the very essence of the man, that I would share with you, the very essence to me of this person, is just simply fairness. He is exceedingly fair. He is an able person; he has fine judgment. I think he has been a very fine leader of the Republican minority in the Senate, and he can, indeed, make an intelligent response to the most searching of questions, just as he did this morning with great ability.

So I watch with great interest as he embarks upon his campaign. I will be observing him. We will be testing him; Americans will be testing him and questioning him. All of that, you may be assured, he will answer directly. As he said moments ago, "I will not deal in promises. I do not ask you to trust me; I ask you to judge me."

I shall be doing that. America will be doing that. I simply want to commend him for presenting himself, a man of rare ability and intellect, and thrusting himself into this awesome task of attaining the Presidency.

I thank the Chair.

Mr. LUGAR. I am happy to yield to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I thank the Senator from Indiana. I rise to share with my fellow Senators and the people of this country my feelings today about HOWARD BAKER's decision to present himself to the American people as a candidate for the highest office in this land.

I first met Senator BAKER while I was shaving in his office. One might think that from that point on our relationship would have deteriorated, that as a candidate for this high office from the State of Minnesota, he would have discouraged my efforts to represent the people of my State in the high traditions of representation with which the people of that State have been represented in the past.

He did not. He excused me for my naivete and my lack of respect for the traditions of the Senate, and sat down to encourage my quest for public office. He made me believe in a very short period of time that politics was what politicians make of it. He encouraged me to believe that a Republican in a Democratic Congress could be effective. He encouraged me to believe that a freshman in a group of Senators more senior could be effective. He encouraged

me to believe that the essential characteristic of a public servant is to remain a servant of the public.

Since I was elected to this body, I have had the opportunity to watch Senator BAKER and to see whether or not the words that he purveyed to me 8 months previous to my election were merely an effort to encourage an unknown Republican candidate to step into an impossible task, or whether he truly believed what he said. I have watched and I have observed, and today I feel very excited about the possibilities of HOWARD BAKER's being President of the United States.

Because of my position as a Senator from my State, a State in which the Republican Party's rebirth is fairly recent, I have hesitated to endorse any one of a number of candidates for President from our party. I have hesitated principally because the success that we enjoyed in the State of Minnesota in 1978—one Republican Governor and two Republican Senators—I felt was due to the fact that many candidates presented themselves, both delegates of our party and other people of our States, for their endorsement.

For that reason, I have welcomed and I have enjoyed the fact that men from all walks of life, from all parts of this country, have indicated their willingness to be endorsed by the Republican Party for President of the United States. I will continue to encourage that kind of participation. I will continue to encourage other persons, particularly women, to join in the race, and I will withhold any specific endorsement of any candidate until nearer the election.

But I stand here today, Mr. President, to endorse a man who I believe is an excellent candidate for this office because, as he told me many months ago, the essential characteristic of a public servant is to remain a servant of the public.

I thank you, Mr. President. I thank the Senator from Indiana for yielding.

Mr. LUGAR. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Minnesota desire further time?

Mr. DURENBERGER. Yes, Mr. President, if I might have approximately 8 minutes.

The PRESIDING OFFICER. The Senator from Minnesota may use his own order or the Senator from Indiana may yield what remains from his 15 minutes.

Mr. LUGAR. Mr. President, I would like to yield first to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I am grateful to the Senator from Indiana for yielding a few minutes to me. We have all witnessed a historic and interesting event this morning, the announcement by the Senator from Tennessee, the minority leader in the U.S. Senate, of his candidacy for the office of President.

In his announcement, he specifically invited the country to judge his performance as a Member of the Senate. I think that is a challenge that we should take up. I believe the evaluation of HOWARD BAKER's leadership in the Senate can only result in an enhancement of his reputation as a competent and able public servant.

It was my privilege to propose his name in the Republican Conference as leader, so I feel a special pride in his accomplishments as the Republican leader of the Senate.

It is not an easy job. As anyone can see who looks at the Senate Chamber, there are fewer chairs on this side of the aisle than there are on the other side of the aisle. The Republican leader of the Senate must necessarily work with the majority leader, and in working with the majority leader, a minority leader can very easily be whipped, his views can be subordinated, the position of his party can be undermined, simply by the operation of the numbers, by the mathematics of the situation.

Senator BAKER has held his own for himself as leader and for the other Members of the minority. He has operated in a way which has been cooperative with the majority leader, Senator BYRD, but he has always operated independently on behalf of the minority.

In other words, he has been able to keep his identity. I believe Senator BAKER has maintained his identity, his individual character, as a distinguished Member of the Senate in his own right, and that these are characteristics and qualities which are important as one contemplates their choice for President of the United States of America. I thank the Senator for yielding.

Mr. BOSCHWITZ. Mr. President, early last summer, I announced my support for our Senate minority leader, HOWARD BAKER, for the office of the President of the United States. Today, I am pleased that HOWARD BAKER has made his candidacy official.

Although the Republicans have a number of attractive candidates in the running, HOWARD BAKER is unique in the field. By virtue of his background, his experience and his talents, I believe that HOWARD BAKER is the one candidate—in either party—who will be able to attract a broad spectrum of voters—Republicans, Independents as well as Democrats—by offering a positive blend of substantive legislative and leadership ability.

In the Senate, HOWARD BAKER's leadership qualities have proven crucial to the success of the Republican Party. For example, the Economic Policy Statement, which all 41 Republican Senators endorsed, is a significant accomplishment for the party. This uncanny ability to bring together diverse groups, to forge a consensus, has not only been important to the Republican Party, but to the Senate as a whole.

It is this quality of being a conciliator, a tough negotiator, and most importantantly a leader, that will be so important in the next Presidency. We need a President with the proven abilities to work with the diverse factions in Congress, business, labor, agriculture, as well as other groups and to find workable solutions.

HOWARD BAKER has also had the courage to stake out his leadership on the major and controversial issues facing the Senate. His crucial role today in the SALT II debate is a sign that he is not afraid to speak out on the important issues, even when they are sensitive. He has proven ready to take conscientious, thoughtful positions in the face of potentially adverse political implications.

I would also add that his sense of self-assurance and confidence in his own abilities is a quality of HOWARD BAKER's that I truly admire, and one that will prepare him to respond quickly and confidently to the challenges of the Presidency.

As a freshman Member of the U.S. Senate, I must say that one of the true privileges and rewards of serving in the Senate has been the opportunity to work with and learn from HOWARD BAKER. He is a man of vision, a man of wisdom, and a man of compassion. He is a man with the ability to lead our Nation into the new decade with the challenges that confront us.

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator HATFIELD relating to Senator BAKER's announcement today.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HATFIELD

Today is an exciting day for all of us who count Howard Baker a close and trusted friend. As he sets his course in pursuit of higher office it is appropriate that we who have benefited most from his gifts of leadership rise to commend him for his past service and affirm him in his future opportunities.

Even thought it is early in the Presidential selection process and many of us have not yet determined who we will endorse it is altogether fitting that we join together today to assert the rightness of the process and encourage one of our own who has given unstintingly to our mutual efforts. I say without hesitation that Howard Baker is among the finest of leaders who has immense capacity for whatever job he might be called. He is a proven conciliator who has helped us to avoid factionalism and healed us of our collective and individual wounds. Personally he has often been a great encouragement to me.

RECOGNITION OF SENATOR DURENBERGER

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized for not to exceed 15 minutes.

S. 1968—HEALTH INCENTIVES REFORM ACT OF 1979

Mr. DURENBERGER. Mr. President, this week the Senate Committee on Finance is returning to its consideration of catastrophic health insurance plans. It is critical that the discussion of catastrophic health care be expanded to include the concept of competition.

For that reason, I am introducing today a version of a bill I originally introduced July 11. This bill, the Health Incentives Reform Act (HIRA) of 1979, is designed to foster competition in health care by introducing economic incentives and consumer choice.

Since the bill was first announced in July, HIRA has received support from many quarters and has been carefully reviewed and examined by the business community, health providers, insurers, labor, and consumers. The comments from these diverse groups

have been numerous and helpful. Their best ideas have been incorporated in the version I am introducing today.

These changes reflect an emphasis on employer-based group health insurance and make the competitive provisions more compatible with the needs of businesses and their employees. These employer-based competitive provisions are particularly relevant in the context of any discussion on employer-based catastrophic health insurance.

The catastrophic discussion in the Finance Committee to date has focused on employers providing their employees with a catastrophic plan and paying a percentage of the premium cost. This approach stifles competition and runs the serious risk of skewing care to the high-cost, high-technology end of the medical care spectrum. It perpetuates the one-employer/one-health plan attitude that has contributed to our health care cost problem.

When an employer selects an insurance carrier to offer health coverage, whether it is catastrophic in nature or more comprehensive, the plan selected must satisfy each and every employee and meet his or her particular needs. It must permit employees to use any physician and any hospital they choose. These health plans could institute cost and utilization controls only to the extent that most physicians in the community accepted them.

It is important to remember here what competition means. It means that efficient providers of care—physicians, hospitals, and others—are rewarded with additional business. To do so means that we must devise a system which permits these efficient providers to isolate their experience from that of the rest of the provider community. Since one-plan offerings must permit the use of any health provider in the community, cost-effective providers get mixed in with ineffective providers. Limited provider organizations would not be viable because they would not meet the needs of all employees.

A multiple-choice offering is essential if we are to create an environment in which competitive plans with a limited number of providers can begin to develop. Without multiple choice, true competition in employer group markets cannot exist.

As an example, think of a catastrophic plan which required that all physicians participating in the plan must agree to accept certain utilization controls on hospital use. Because of those controls, not all physicians in the community would be expected to participate. For those who did participate, the controls should result in more efficient use of the hospital and a relatively lower premium. The lower premium should make the plan successful in drawing consumers away from less efficient insurance plans, but only if the plan has access to the individual through multiple choice.

In addition to multiple choice, the other ingredient essential to establishing an environment in which competition can flourish is that the amount an employer contributes on behalf of an employee to a health plan must be the same regardless of which plan an employee chooses. Only if we let employees realize the complete cost difference among options will we encourage them to make rational economic decisions. Competition is distorted if the employer subsidy varies.

If the Finance Committee moves toward the requirement that business pay some percentage of a catastrophic premium, the equal contribution principle will be compromised. For example, let us assume that we enact a provision stating the business must pay 75 percent of the premium for a catastrophic plan. In a multiple-choice setting, one plan might cost $100 and another $60. The company would contribute $75 to the first plan and $45 to the second. The more expensive plan would, in effect, be receiving a $30 subsidy from the employer and would benefit from an unfair market advantage. The employer contribution must be the same if we are to expect consumer choice and competition to be effective.

I am convinced that true competition can be injected into the health care sector and that this effort deserves our utmost encouragement and support. In the consideration of catastrophic health insurance or any other major piece of health legislation, these competitive considerations should be made. We must begin to right the imbalanced incentives that exist in our health care system.

NICARAGUA

Mr. DURENBERGER. Mr. President, I wish to bring to the attention of my colleagues a recent article by Drs. Roy Prosterman and Jeff Riedinger concerning policy options open to the United States in Nicaragua. This article appeared in the Wall Street Journal on October 2, 1979, and I believe that it is worthwhile in two respects.

First, the authors make what I believe to be a compelling case for U.S. assistance to the new government in Managua. As Drs. Proseterman and Riedinger point out, the new government has, despite predictions to the contrary, proved surprisingly moderate in its policies both toward the Nicaraguan people and toward the United States. Yet this government faces serious economic challenges in the wake of a long and devastating civil war, and it requires shoring up if it is not to become the Nicaraguan counterpart to the Kerensky regime in post-Czarist Russia. It is in the interest of the United States to insure that moderate, thoughtful and nondoctrinaire nationalists remain in control of events in Nicaragua. Foreign aid to this end would cost relatively little, and the benefits would be extremely high.

Second, I believe that the article suggests a number of larger issues about U.S. foreign aid in general. In light of our recent deliberations on the Foreign Assistance Appropriations Act, it is perhaps worthwhile to touch upon these issues at this time. Basically, I am concerned that far too many Americans think of foreign aid as only a naive giveaway inspired by equal measures of innocence and guilt. A hard look at the facts indicates that nothing could be farther from the truth.

The United States currently funds foreign aid, and should continue to do so, for three very basic reasons. First, in extreme cases of emergency, we provide humanitarian relief to those people who are faced with imminent starvation, poverty, or disaster. We do so in the spirit of generosity which befits a major economic power and a leading democracy.

Second, we provide assistance in order to foster political and economic conditions which are favorable to the United States. Such assistance can take the form of military aid, development funding, low-interest long-term loans, and so forth. The basic aim of such programs is to insure that the recipient nations attain or remain in a state of political stability. While such aid does not—and should not—buy us friendship, it does serve to promote a climate in which beneficial ties can be fostered between the United States and other nations.

Third, we provide multilateral assistance to a number of organizations which seek to overcome problems shared by all of mankind. In today's increasingly interdependent world, it is no longer merely a poetic platitude to say that "no man is an island." Instead, it is a hard truth. When the environment is degraded in one country or region, all adjacent countries or regions suffer. When food stocks or ocean resources are depleted, all nations suffer. When communicable disease is unchecked in one country, all other countries are threatened.

In short, we must look upon foreign aid in a hardheaded fashion, recognizing that it serves the national interest of the United States to fund our numerous foreign assistance programs, even if we occasionally have differences of philosophy with the governments of the recipient nations.

In this same spirit of hardheadedness, we must question the wisdom of aid programs which come too late and offer too little. Too often, we have reacted after the fact with "pocket-book diplomacy" to events which are already beyond our control. Too seldom have we identified emerging problems and taken the necessary action—whether through foreign aid or through other means—to resolve them.

In this regard, I believe that the article which I offer for submission is instructive. It provides a specific illustration, in one country, of the benefits which can be obtained from a realistic, farseeing, and hardheaded commitment to foreign aid. I therefore ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHORE UP NICARAGUA'S MODERATES

(By Roy Prosterman and Jeff Riedinger)

The new Nicaraguan government to date has proved a surprise: far more rational, moderate and democratic than almost anyone could have hoped in mid-July. There have been no officially sanctioned executions and few reprisals, a free press is functioning side-by-side with Sandinista organs and the broadly representative junta leads the government not only in name but to a considerable extent in practice.

Nationalizations have been limited to Somoza-controlled enterprises, except for domestically owned banks, where reasonable compensation arrangements have been made and a huge burden of debts of doubtful col-

lectibility has been assumed. The land redistribution has started as a flexible one, with a mix of individual holdings, small coops and larger units to be tailored to crop and region, and the business community has been reassured.

Indeed, the refrain "Sandinismo si, comunismo no" has begun to be heard, typified by a recent incident in Moninbo, where the villagers rejected Cuban help in reconstruction that did not include the rebuilding of their church.

Still, the situation is precarious. Perhaps 20% of the Sandinista movement that overthrew the Somosa dictatorship are dedicated Marxists. In Managua, the capital, street vendors sell the last of the goods stolen during the upheaval of the revolution. Within weeks, unless sufficient aid is received from the outside, the last inventories will be gone, and Nicaragua will run out of all imported commodities—everything from toothpaste to gasoline to raw materials for industry and agriculture.

The economy, already ravaged by war and systematically pillaged by Somosa, will suffer the most catastrophic collapse experienced by any Latin American economy in this century. Almost certainly, in the wake of an economic collapse, the extreme radical minority within the Sandinista army will come to the fore. Heretofore constructive village committees might become a vehicle for political mischief. Instead of a new model of pluralistic and democratic governance in Central America, Nicaragua will experience a new Castroism. Instead of the Menshevikz, the Bolshevikz.

A SMALL MIRACLE

That there is still the opportunity for U.S. support of a moderate result in Nicaragua is, in itself, a small miracle. A history of aiding the Somosa plutocracy for 41 of its 43 years, with the military hardware we had previously supplied being used to kill 20,000 to 40,000 Nicaraguans in the past year, hardly sets the stage for a U.S. role in shaping the post-Somosa outcome.

Yet, surprisingly, as we can attest from our recent travels, there is great friendliness to Americans in the country, and a widespread willingness to structure a new, amicable relationship based upon their genuine nonalignment.

But the economic situation is desperate. Unemployment is running 30% to 40%, and will spread total paralysis of the economy unless closed businesses can obtain the resources needed to make repairs and replenish inventories. Only 30% of the acreage of the chief foreign-exchange earner, cotton, could be planted because of the widespread fighting, and much of that may be lost unless sufficient pesticide can be imported during the next two months.

Before they left, the Somozas followed a virtual "scorched earth" policy. Besides sacking opponents' businesses, they borrowed heavily from outside using the convenient apparatus of a government that was synonymous with the family financial empire, looted the treasury and left behind a staggering short-term foreign debt. They depleted the cattle herds on their vast estates—probably one-third of the agricultural land in the country, they are now being redistributed to the *campesinos*—selling off so many head that Nicaragua's entire beef export quota to the U.S. was essentially filled by May.

During the waning hours of his rule, Somosa's cohorts stripped the warehouses in Corinto, the major port, fleeing with their loot to Honduras in scores of small boats, in a modern-day parody of Dunkirk. What the Somozas leave behind is a bankrupted society, its infant-mortality rate higher than that of India.

But one great "plus" of the situation is that Nicaragua is small—only 2.5 million people, living in a country the size of Oregon—and that the amount of aid required is correspondingly modest. Many have already responded. Holland, which has no geopolitical interests at stake, has just made an initial contribution of $11.7 million; Panama, which does, has mobilized a $20 million loan through its banking system and business community—the proportionate U.S. contribution, considering our vastly larger GNP, would be $16 billion, but this is many times more than what is needed.

What is needed, according to the best outside estimates, is some $1.3 billion over the next three years, divided about evenly between new aid and the rescheduling of old debt. The leadership must lie with us, and involves a sequence of four steps over the next year:

Step 1: Provide $100 million to $150 million, most of it in the next 90 days, in U.S. commodities to restore the basic functioning of the Nicaraguan economy and make crucial repairs. This, beyond the $15 million which we have already committed in emergency and reprogrammed aid, would be the U.S. share of an overall international package of $250 million to $350 million needed for this purpose. It cannot be emphasized too strongly that time is crucial here, and that these resources must begin to flow by late October if economic, and political, catastrophe is to be averted.

Step. 2: Provide, via our commercial banking system, $50 million to $100 million in medium-term loans to the Nicaraguan private sector, also within the next 90 days, to restore basic business activity. This should be facilitated with convertibility and political-risk insurance written by the Overseas Private Investment Corporation, a government agency that regularly offers such guarantees.

Step 3: Renegotiate the heavy short term debt, as part of a process of international consultations involving both public-sector and private-sector indebtedness, rescheduling payment over the next several years. Most of this is owed to commercial banks, with about 40 percent of the $300 million in private-sector debt owed to U.S. banks. Close to $100 million of the amount due to U.S. banks is due in 1979. Short-term public-sector debt to the banks is as large or larger.

Step 4: Put together an international aid program that—in the hands of a government which is clearly committed to basic human needs—will correct the ravages of two generations of economic fiefdom. The U.S. share, if around 40 percent to 50 percent of the total, would come to roughly $75 million to $100 million in each of the next three years, and might continue at or near that level until the mid-1980s. Between $25 million and $35 million annually of this development assistance would fulfill AID's strong new commitment to support of land-reform programs, finally recognized as the key to agricultural development in settings such as Nicaragua. Providing support for credit, land-improvement and ancillary facilities under the flexible land redistribution which is projected would not only permit the new owners to sharply raise productivity—as did our support in postwar Japan and Taiwan—but would give the Nicaraguan peasantry a political and economic stake in the functioning of a vigorous private sector.

TOTAL U.S. COST

The total cost to the U.S. for these four steps would be less than the $750 million which we currently spend in one year for development-aid and commodity imports for Egypt. Paradoxically, if we do not act, adequately and in time, there will be a Vietnam-style flow of hundreds of thousands of refugees that will almost certainly end up costing us much more than a direct aid program would—this apart from the vast indirect costs of such a failure.

But, with an effective U.S. response, there is, in the words of one foreign businessman who has long lived in Nicaragua, "not just a long shot, but an excellent chance, that a moderate, democratic solution will last." Such U.S. flexibility in adapting to and supporting this moderate alternative would, moreover, do much to pave the way for similar outcomes in such presently chaotic Central American societies as El Salvador and Guatemala, and beyond.

It is probably the best investment opportunity this country has been given since the Truman Doctrine and the Marshall Plan.

PEACETIME DRAFT

Mr. DURENBERGER. Mr. President, recently, there has been considerable attention paid to the idea of reviving a peacetime military draft. Proponents of such a measure have pointed to very real and very pressing manpower shortages in our active forces and more dramatically among our reserves. Given such problems, conscription has been seized upon as an expedient solution.

I have not been convinced, however, that the draft is the only solution, or even the best solution, to such problems. Instead, I have felt that many of the manpower shortages we face derive from the fact that military life, as presently regulated by the military services, is unnecessarily stultifying. I am struck, for instance, by the low retention rate among soldiers whose first term of service has expired. I have, therefore, often speculated that our manpower shortages derive from poor leadership rather than from a lack of willingness to serve.

Recently, a young soldier, Pvt. Philip W. Hewett, wrote an extremely thoughtful and articulate article for the October edition of Armed Forces Journal International. I commend this article to the attention of my colleagues, for it pulls no punches and it is written by somebody who has the insights gained from enlisted service.

This article demonstrates to me that the patriotic and idealistic values of our young people are firmly in place and that they constitute a vital national resource which we should seek to promote rather than retard. There is a great ethic of volunteerism among our young, as exemplified by Private Hewett's article, and I believe that we can tap this ethic by stressing and promoting the service rather than the mercenary or military aspects of voluntary military service.

Private Hewett decries the Army not because his experiences were difficult, but rather because they were too easy. His experience indicates that the Army failed to recognize, promote, and capitalize upon his eagerness to serve his country. Initiative went unrewarded, volunteerism was overlooked, responsibility was denigrated, and the dignity which comes from service was denied to this young man and to his peers. The very organizations which are supposed to represent and to foster duty, dignity, pride, and responsibility instead worked only to lower the morale of Private Hewett and his fellow soldiers. To reinstitute the draft under these circumstances would therefore only exacerbate the problem of low morale and insufficient commitment to service.

I believe, therefore, that we must seek

to make military service worthwhile and to see whether or not our manpower problems do not accordingly disappear before we resort to peacetime conscription. This will entail an analysis of the current structure and leadership patterns within the military services, and it will call for a reorientation away from managerial and toward explicitly "gladiatorial" ethics among our officer corps. But difficult as such a reorientation may be, I believe that it will be far easier than living with the social costs of conscription into an Army which fosters mere adequacy rather than excellence.

With these thoughts in mind, I urge my colleagues to read Private Hewett's article, and I therefore ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BASIC TRAINING: BASICALLY A WASTE?

(By Private P. W. Hewett)

I am writing to complain about the basic training program I suffered through. It was a travesty of education, physical conditioning, discipline and moral preparation for service in the United States Army.

I am a cannon crewman, 13 Bravo. I looked forward to my basic training and advanced individual training as an opportunity to explore my mental and physical limitations, and to demonstrate my determination, capability and potential. I anticipated a structure which would build my endurance to new levels. I was disappointed; I feel that not only myself but the others I trained with were needlessly denied an experience we could have been proud to remember.

A soldier should be inured to battlefield conditions. There is no reason why a trainee should not spend five of every seven days in the field. He should learn the basic skills during the basic training phase: battlefield survival, weapons familiarization and competency, first aid practice, enforced marching with full gear, rigorous physical training twice daily, field communications, bayonet drill, hand-to-hand combat, logistical problems and personal hygiene. A week of survival training should be practiced. All should be conducted under simulated battlefield conditions daily. He should be called upon to demonstrate the much vaunted American ingenuity in solving field problems—both tactical and/or personal.

His training should be "hands on." He should practice regularly with the M-16, the grenade, the M-72 LAW, and all other common equipment—especially communication equipment. He should be proficient with a geographical map. Aside from training under combat conditions, the trainee should be subjected to two one-hour physical training sessions daily. His schedule should keep him in a state of constant practice or training unless eating, sleeping, or on a scheduled off-duty period.

The trainee should have the benefit of the finest instruction the Army can provide. Properly indoctrinated into the service and given exemplary organizational leadership, the respect for leadership and performance of the future soldier cannot help but improve.

Our basic training prepared us for nothing. We were cheated of good physical conditioning. We received long, repetitious classes—without the opportunity to practice—on the military and its equipment. We lacked the training materials. We had long lines wasting hours for one or two turns on an M-60 or M-72. There were rare field exercises. Not one battalion received a tactical field exercise! We had frequent changes in our platoon and battalion chain of command, and were denied trained supervision and guidance because our drill sergeants were required to take time for clerical or guard duty. Hours of time, energy, and resource were spent preparing for transportation and setting up in the field. We knew what we weren't getting in basics, and advanced individual training (AIT) was the same. We were given the impression that the Army couldn't care less about the quality of our training or constructive pride.

Our training was restricted to the pace of the slowest individual. Why give us evaluation tests to reveal our potential if not to use the results? Classes should have been structured to place the more advanced or capable people into an accelerated program, thus establishing learning levels.

We ended our basic training and AIT frustrated janitors. It is a pity to admit that the best training we received concerned clean up details. The rest was a ragged jumble of events that tended to confuse more often than teach. Cheating on scores by being given numerous opportunities to "pass" tests tended to teach that one had to accomplish only the minimum to get by. And discipline? So much power has been taken away from the drill sergeant that, coupled with retributive peer pressure for reporting infractions, discipline has become nigh impossible to enforce. The effect is that a few can undermine the morale and determination of an entire unit, the problem has continued over into permanent duty. "Getting over" or escaping duty has become a pursuit reflected in living, working, and maintenance conditions. That costs money.

The Army has the potential and facilities to be an experience of great merit to all who join. But it means training—a transition from the streets to responsible manhood. Many who could benefit from a service record avoid the military due to its reputation for rowdy behavior and inferior "hyped" opportunity. The Army should advertise, especially to high school and college graduates, that work experience can be obtained with time to grow, time to develop a track record an employer will look at. It should explain that an employer looks at amicability and learning capability as well as the type of skill.

Without the draft, which is unnecessary if the service cleans up its act, the Army needs the quality in training and in organization—and the pride in service—that would begin with restructuring the training program into something stimulating and challenging. The Army must seriously attack the problems of whom it is attracting and what impression of their time in service they pass on to others. The first impression is formed by basics. They should be a foundation to build on; not a holiday or an exercise in Teutonic brain-reduction, but a worthwhile experience, creating a soldier proud of his new-found talent and achievement in graduation.

Mr. DURENBERGER. Mr. President, I am glad to yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

HOWELL HEFLIN—A FINE GUARDIAN OF THE SENATE'S ETHICS

Mr. STEWART. Mr. President, earlier this week my distinguished colleague was selected to be the new chairman of the Senate Ethics Committee, I would like to strongly applaud this selection. The Senate and the United States could have no finer guardian of its ethics than HOWELL HEFLIN. In addition, I am told that no other first year Senator has been named chairman of a committee in 70 years. Thus, the honor is even greater.

The chairmanship of the Ethics Committee is a difficult and demanding position, requiring a person of rare talents and abilities. Senator HEFLIN is indeed such a man. Though he has only been in the Senate a short time, he has already established himself as a true leader, a man of integrity, a man of wisdom, a man of independence and a man of vision. One day, when history looks back at the great Senators of this time, I believe that HOWELL HEFLIN will be high on the list.

As my colleague and I are both in our first year in this body, I would like to briefly mention his background in our great State of Alabama. Senator HEFLIN has had a long and singularly distinguished career in the legal profession. From a start as an attorney in his hometown of Tuscumbia, he established a statewide reputation as an outstanding legal scholar. This led to his election as President of the Alabama Trial Lawyers Association in 1964. After seeing the outstanding job he did in that position, Senator HEFLIN was elected president of the Alabama State Bar Association in 1965. The State turned to HOWELL HEFLIN again when we needed a chairman for its newly created Alabama Ethics Commission. His service in this position was distinguished and set a standard that few could equal.

As the next step in this great career, HOWELL HEFLIN was overwhelmingly elected Chief Justice of the Alabama Supreme Court. In his 6 years as chief justice, he earned a nationwide reputation as an outstanding jurist.

From this background, HOWELL HEFLIN has developed the abilities that make him uniquely qualified to be chairman of the Ethics Committee. Any lawyer who went before Judge HEFLIN would agree that he was very tough but very fair. He played no favorites and was not afraid to make the difficult but courageous decisions. In doing so, HOWELL HEFLIN truly established himself as one of those few people who are truly above reproach, a living definition of the word "integrity."

When the Senate named Senator HEFLIN to be chairman of the Ethics Committee, it chose well. As chairman, he will set the standard by which future chairmen will be judged. In closing, Mr. President, I would like to say that it is indeed an honor and a privilege to serve with HOWELL HEFLIN. Both Alabama and the Nation are better because of his membership in this body.

POISONS IN THE ENVIRONMENT

Mr. STAFFORD. Mr. President, as many Members know from experiences in their own States, the problem of poisons in the environment is worsening. S. 1480, which the Subcommittees on Environmental Pollution and Resource Protection are now marking up, would attempt to address this problem by holding those who release poisons into the environment strictly liable for the harms

they cause. We have all accepted the ubiquitous presence of these substances to the point that many fail to recall that they are a phenomenon of only this generation. Yet in that short period of time, we have managed to contaminate huge segments of the environment and our population.

I would like to have printed in the RECORD a recent series of articles on this subject which appeared in the Philadelphia Inquirer. There is one point I would like to make which is easy to overlook. Early in the article the following statement appears:

They are poisoning our water, leaking into our land and sometimes even making their way into our streets and gardens and basement.

And nowhere is it worse than here. This—Pennsylvania and New Jersey—is the epicenter. The chemical time bomb ticks louder here.

What is interesting about this statement is that it reflects a view of the problem that is all too common. Citizens, local governments, and even their Senators look at their own problems and think they are almost alone in the pain they are suffering. For some reason, they are blinded to the fact that this is not a local problem or even a regional one. It is national in scope.

I am relatively confident that if we were to ask the residents of Michigan where the bomb ticks loudest, they would say there because virtually the entire population carries body burdens of polybrominated biphenyls. In California, it would be there because one-third to one-half of the wells of the San Joaquin Valley are contaminated by the pesticide DBCP, banned only yesterday by the Environmental Protection Agency. In Virginia, they would say there because the James River has been poisoned by Kepone and may never recover. In Maryland, where that Kepone threatens the lower Chesapeake Bay, those residents would hear the bomb ticking loudly.

I could go on and on, reciting a litany of names and places, a bewildering array of alphabetical poisons, but I think the point is made: The ticking is loud everywhere.

With that exception, the series of articles is interesting and I commend them to the attention of all Senators.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Sept. 23, 1979]

POISON AT OUR DOORSTEPS—HOW CHEMICAL DUMPING CAN NO LONGER BE IGNORED

(By Rod Nordland and Josh Friedman)

In Vineland, N.J., arsenic has seeped into the groundwater. The Vineland Chemical Co. says it has no place to dispose of most of the toxic arsenic wastes that it produces in manufacturing other chemicals.

In Rahns, a village in Montgomery County, the residents must drink bottled water. Every well in town has been closed because of the presence of trichloroethylene (TCE), a chemical that causes cancer.

In Chester, frightened firefighters three weeks ago surrounded a pile of smoldering drugs of chemicals abandoned in a field under the Commodore Barry Bridge. Seventeen months earlier, the same dump had spontaneously ignited, throwing out balls of flame and incapacitating 45 firemen who inhaled the chemical fumes.

In the Richmond section of Philadelphia, oil contaminated by PCBs (polychlorinated biphenyls) leaked from an abandoned warehouse this summer and dribbled down a busy commercial street. A child was exposed to it and hospitalized. PCBs are among the most lethal chemicals on earth. One ounce can poison 8 million gallons of water.

In three southern New Jersey counties—Camden, Gloucester and Burlington—the drinking water supplies are threatened by toxic substances. The Delaware River Basin Commission recently warned that the poisons are leaking "from present and closed landfills and waste disposal sites."

The danger is all around us. And it is growing.

It has been ignored for three decades. But it can be ignored no longer, because now it is killing some of us and sickening others—while enriching yet others. Chemical wastes, some of which can kill on contact, are being generated by the millions of tons per year by American industry. And no one knows what to do with them or where to put them.

They are poisoning our water, leaking into our land and sometimes even making their way into our streets and gardens and basements.

And nowhere is it worse than here. This—Pennsylvania and New Jersey—is the epicenter. The chemical time bomb ticks loudest here.

Pennsylvania industry each year generates 10 times the amount of hazardous waste the state can safely dispose of. What's worse, because New Jersey—which is already saturated with lethal chemical dumps—has passed tough new laws, Pennsylvania now gets most of that state's wastes, too—a toxic cargo illicitly trucked in day and night at a rate of 15,000 truckloads per year. This in a state that has not a single legal site for the disposal of the most toxic of chemical wastes.

Pennsylvania is at the heart of the problem, but the body extends across America. A six-month Inquirer investigation entailing hundreds of interviews and the reviews of thousands of pages of documents has found that:

There are not enough safe, secure disposal sites in America to contain even a small fraction of the poisonous wastes that are a byproduct of the synthetic chemical industry that has blossomed since World War II. In the entire United States, there are only 12 secure landfills—that is, sites that can hold highly toxic wastes without leakage. And not one is in Pennsylvania, the country's third-largest producer of toxic wastes, or in New Jersey, the country's most industrialized state.

Because of this, industries commonly allow these wastes to pile up for years on or near their plant sites—often in drums or tanks that corrode and leak into nearby neighborhoods and water systems.

Corporations, including some of the largest and most prestigious in the country, commonly hire outside truckers to dispose of their toxic wastes. They look for the lowest price, and most of the time they ask no questions of the haulers they hire. They do this rather than pay more to have the wastes safely detoxified or shipped to secure landfills far away.

Most states, like Pennsylvania, require no permit for hazardous waste haulers to operate. Anyone who owns or rents a dilapidated truck can go into the business. Many do.

Consequently, the chemical wastes go wherever these free-lance haulers put them. And where they put them is into streams, fields, woods, vacant lots, unsafe landfills, abandoned mine shafts, city warehouses, suburban lagoons and storm drains. From there, the chemicals commonly seep into groundwater, reservoirs, wells, basements, lawns, parks and playgrounds.

The chemicals so disposed include substances that can explode spontaneously, that can emit toxic fumes and that, even in small concentrations, can cause cancer, paralysis, convulsions, heart attacks, brain damage, miscarriages and birth defects.

Despite the growing threat to health and life posed by massive, indiscriminate dumping of these poisons, government at every level has failed to act. Even though chemical wastes are produced and disposed of in this country in far greater quantities than nuclear wastes, they are, unlike nuclear wastes, hardly regulated at all.

Most often, government looks the other way. A New Jersey official charged with tracking down and prosecuting illegal dumpers runs the only operation of his kind in the country. There is no one he can compare notes with, from California to New York. And a Pennsylvania official charged with enforcing environmental law said chaos would ensue if every producer tried to dispose of his hazardous waste safely and legally, because there would not be enough safe and legal places to handle the volume.

The federal government is even less vigorous. Those few federal employes who have tried to act have most often been squelched by their superiors. One key federal official was sacked after he tried to draft tough regulations controlling hazardous waste disposal.

And the Carter Administration repeatedly has blocked efforts to tackle the problem. It has delayed implementing new laws to control chemical dumping, has tried to downplay the seriousness of the problem and has even discouraged its regulatory officials from seeking out hazardous dump sites or warning the public of them.

Where governments have acted their efforts have often had unintended effects. Witness New Jersey, one of a handful of states making an effort to attack the problem. New Jersey now requires plants producing toxic wastes to file reports identifying who hauls those wastes away. It then requires haulers and disposal facilities to file separate reports on where the wastes are taken (the only states with such a system are Maryland, Texas, California, Kansas, Oklahoma, Minnesota and Illinois).

The Inquirer examined hundreds of these reports. They showed that two-thirds—nearly a billion pounds a year—of the chemical wastes transported from New Jersey's industrial plants now go to Pennsylvania, where regulation and enforcement are particularly lax. That is alarming enough.

What is more alarming is what happens to those wastes once they get to Pennsylvnia. Tracing the destinations listed in the New Jersey reports, The Inquirier found numerous cases in which hazardous wastes never arrived at the sites they were supposedly bound for.

One example: New Jersey state records show that last year 128,000 pounds of hazardous waste left the state bound for a small disposal facility in Landsdale, Pa., called Reclamation Resources Inc. The operator of the Landsdale facility says most of the waste never got to him.

There are other listings in the state records that are even more creative: They show New Jersey wastes bound for Pennsylvania sites that don't even exist. And there are listings of wastes taken to Pennsylvania sites that are not licensed or permitted by the state to receive such materials. These cases, in fact, are so frequent as to be routine practice.

These illicit imports from New Jersey only add to the problem in a state already awash in its own hazardous chemical residue.

Pennsylvania industry produces an estimated 8.75 million wet tons a year of hazardous chemical wastes. The state has the capacity to safely dispose of about one-tenth of that amount, according to a recent study by Congress' General Accounting Office.

There is also reason to believe that hazardous waste from Ohio, New York and other nearby states is being dumped in Pennsylvania, much of it in the abandoned coal mines that thread the state's anthracite region.

Pennsylvania has no system for keeping track of all that waste. Nor has anyone at a policy level of government shown any serious interest in keeping track. In fact, while waste dumping has been increasing in recent years, the budget of the Department of Environmental Resources (DER)—the state agency that regulates dumping—has dropped from 2 percent of the total state budget to 1.4 percent.

"I don't think anyone in the Commonwealth can tell you where the waste is going," said Jim Snyder, head of enforcement and operations for the DER's Bureau of Solid Waste.

But all that hazardous waste that disappears so mysteriously from view has a way of reappearing later—often in dramatic fashion. Some examples:

Three weeks ago, a stash of highly active chemicals that had been dumped in a field beneath Chester's Commodore Barry Bridge started to smolder, giving off heat and toxic fumes and threatening to explode. Firefighters cordoned off the area and prepared to evacuate nearby homes if necessary.

That same site has been well known in the neighborhood since February 1978, when it spontaneously ignited, sending roaring balls of flame high into the air and temporarily incapacitating 45 firefighters who inhaled the chemical fumes.

Authorities do not know how to clean up the site, partly because of the difficulty in even identifying all the chemicals involved. They do know that the site is owned by a man named Melvin Wade and that for two years Wade permitted a firm called ABM Disposal Co. to dump drums of chemical wastes there.

ABM and its president, Franklin Tyson, have a history of state convictions for illegal dumping that stretches back 15 years. Despite that, the list of companies that hired ABM in recent years to get rid of its hazardous chemicals reads like an honor roll of American industry: General Electric, Texaco, Scott Paper, Sun Co., Exxon, DuPont, Boeing-Vertol, SmithKline and a great many others.

A federal civil suit has been filed against Wade and ABM, but no one has called to account the industrial giants who produced those wastes that, to this day, still smolder and bubble under the Commodore Barry Bridge.

The giant Kin-Buc Landfill near Edison, N.J., has been shut down since 1976, but it is still leaking PCBs and other extremely dangerous poisons into the Raritan River. It is a great deal larger than the Wade site, and investigators have found evidence that its wastes came from Allied Chemical, American Cyanamid, Ashland Chemical, DuPont, Exxon, Gulf, Monsanto, Union Carbide, Uniroyal, NL Industrics and others.

Like the Wade site, Kin-Buc will be extremely costly to clean up, partly because no one knows the nature of all the chemicals present. Also like the Wade site, it periodically gives birth to explosions and bursts of flames.

And, again like the Wade site, no one has tried to hold the industrial producers of the wastes responsible in any way.

On July 29 authorities discovered chemical wastes leaking into the Susquehanna River from an old coal mine tunnel near Pittston, Pa., at a rate of 1,000 gallons a day. At Danville, 60 miles downriver, special booms were strung around a water intake to protect the town's drinking water, and fishermen were warned not to eat anything they caught.

Clean-up crews wore protective clothing and respirators and worked in 15-minute shifts as they tried to sop up the material below the mouth of the tunnel. Even now, the flow of chemicals from the mine has not been stopped, and the state may have to build a costly waste treatment facility at the mouth of the tunnel to detoxify the illegally dumped waste.

According to DER, the chemicals included cyanide compounds, acids and various cancer-causing substances. The agency said hundreds of thousands of gallons of such stuff may have been dumped into the mine from a borehole at a Pittston garage.

Court documents filed late last month included allegations that at least some of the wastes came from the Hudson Oil Refining Co., which has plants in New York and New Jersey.

Employes of Lackawanna Refuse Removal Inc. have testified that more than 100,000 drums of hazardous wastes, each containing 55 gallons, were buried at an abandoned strip mine at Old Forge, near Scranton, from last September until March of this year, when the site was closed for operating without dumping permits.

Most of the dumping was done surreptitiously at night, according to testimony before the State Environmental Hearing Board, and the chemicals involved include phenols, toluene, chromium, cadmium, cyanide, arsenic, tetrachloroethylene and mercury. All are toxic; many are cancer- and disease-inducing; some are "bio-accumulative," meaning that small amounts can accumulate in a person's body over time, building up gradually until they reach toxic doses.

A hearing examiner said it "would be suicidal to allow Lackawanna to continue operating this landfill."

In another coal region town, McAdoo, Pa., authorities recently found an abandoned mine where they estimated that thousands of drums were illegally dumped. According to records kept by the state of New Jersey for tracking the movement of hazardous wastes, 9,900 pounds of the dangerous herbicide 2,4,5-T—better known as Agent Orange—were dumped there last year.

On a waterfront in Elizabeth, N.J., authorities have cordoned off a warehouse complex that one official called a "chemical time bomb." Another described it as "the Three Mile Island of hazardous waste sites."

There are 70,000 drums there, many of them corroded and leaking explosives, combustibles and chemicals of all descriptions. Officials fear that the entire mess may explode, and they cannot decide how to clean it up until they figure out what is in each of those drums.

Worse cases even than these have come to light. In Toone, Tenn., congressional investigators discovered last year, 300,000 drums of pesticides were buried, polluting underground drinking water and resulting in a wave of sickness and birth defects in the area.

And near Louisville, Ky., in a case that has become known as the "Valley of the Drums," 100,000 drums of toxic chemicals were dumped into and alongside a river, where they rusted, corroded and split open, poisoning the river and the underground drinking water.

Environmental Protection Agency (EPA) studies estimate that 46 million wet metric tons of hazardous waste are produced in the United States annually, but that only 10 to 20 percent of that waste is disposed of legally.

EPA estimates range from 20,000 to 50,000 for the number of toxic waste disposal sites in the country—most of them illegal—that pose potential health or environmental problems. And estimates of the total cost of cleaning up all those sites run from $22.1 billion (according to the EPA) to $44 billion (according to the Fred C. Hart Associates consulting firm.)

EPA has identified and documented more than 150 sites around the country that pose an "imminent hazard" to public health and the environment, but congressional critics have argued that there are far more than that. The agency itself estimates that there are 1,200 to 2,000 other imminently dangerous sites that it has yet to locate.

And EPA has begun legal action in only four of the 150 imminent hazard cases it has found.

No one doubts that there are far more sites, some abandoned and long-forgotten, others filled to overflowing, waiting to be discovered.

At Love Canal, near Niagara Falls, N.Y., wastes buried by the Hooker Chemical Co., some as long as 20 years ago, began in recent years to leak into basements of homes built on reclaimed land. The homeowners hadn't known that the land had contained some of the most toxic chemicals created by man.

In the middle and late 1960s families living near the site began experiencing miscarriages, birth defects, cancer and nervous system disorders such as epilepsy and acute depression.

President Carter declared Love Canal a federal disaster area in August 1978, after the discovery of the leaking chemical wastes forced the evacuation of 255 homes.

U.S. Rep. James J. Florio (D., N.J.), who sits on a House subcommittee that has been investigating hazardous waste dumping, calls the problem "the sleeping giant of the environmental field." The actions of companies like Hooker Chemical that have indiscriminately dumped—or allowed others to dump—their hazardous wastes were characterized by Florio as "the ultimate obscenity in terms of disregard of the environment and disregard of public safety."

Each year, according to EPA estimates, the quanity of hazardous waste generated by industry increases 3 percent, while the safe disposal space available continues to shrink. In the Philadelphia area, many major corporations have reported confidentially that they are running out of storage space; others say there are simply no existing legal, practical means for them to dispose of wastes that are highly toxic and almost impossible to treat.

The nation now has only 12 secure landfills—that is, landfills that can safely hold highly toxic wastes without leakage—and only one of them is in the heavily industrialized Northeast. And there is only a handful of companies nationwide that currently are equipped to treat or destroy such wastes.

Three landfills in the Philadelphia area are authorized by the state to take some forms of hazardous wastes. All say they turn away the vast majority of their potential customers because the material is too toxic.

"It's going somewhere, but where the hell is it going?" said Bob Allen, of EPA's regional office.

For the industry that produces toxic wastes, the choice is this: Pay large sums to transport millions of gallons of toxics halfway across the country for safe disposal, pay for costly treatment to detoxify the wastes or take the cheap way out and pay a local midnight dumper.

There is no shortage of midnight dumpers. New Jersey alone estimates that it has 4,200 licensed hazardous waste haulers—many of whom officials suspect are engaged in illegal dumping—and that there are at least 500 unlicensed haulers in the state.

Most illegal dumpers go about their business without much interference from authorities. In the past three years, only 12 persons have been criminally prosecuted in New Jersey, with half of them, including some top company officials, convicted so far. Even at that, New Jersey is far ahead of any other state; in Pennsylvania only four persons have been prosecuted and convicted, all of them employes or small operators who received relatively light sentences.

On a nationwide scale, the EPA estimates

that the so-called midnight dumpers are disposing of more than 10 million of the 46 million wet metric tons of hazardous wastes generated per year.

"There just are no incentives for the legal disposal industry, because it's so easy to dump it illegally," said Edwin H. Stier, New Jersey's deputy attorney general and director of the State Division of Criminal Justice, who presides over a high-level task force that is investigating and bringing grand jury indictments against illegal dumpers. Stier's operation is the only one of its kind that exists on a state level.

"There just aren't that many legitimates," said a top law enforcement official familiar with hazardous waste. "Close down all the illegitimates, you'll close down the whole industry."

And, although New Jersey has achieved some success in apprehending illegal dumpers and the state's Department of Environmental Protection (DEP) has moved vigorously to close down many sites where waste dumping was polluting surrounding water and land, there has been a sort of "Catch-22" to that success. "As you crack down more and more, the prices (of legal disposal) go up and the temptation (to dump chemical wastes illegally) gets enormous" Stier said.

There is, too, a frequent temptation for regulatory officials to throw up their hands in frustration.

"We're finding new (illegal dump) sites almost every week," said George Buchanski, a spokesman for EPA's regional office in Philadelphia.

"If somebody's bringing it in at night and burying it," said Bob Allen, the office's solid and hazardous waste director, "there's almost nothing we can do."

"If everybody started looking for legal places to be dumping, it would be overwhelming," said Wayne Lynn, Pennsylvania DER's regional hazardous waste coordinator for southeastern Pennsylvania.

"We're talking about thousands and thousands of disposal sites, some of which the state has never regulated," said Donald Lazarchik, Lynn's boss as head of Pennsylvania's solid waste bureau. "We have never had the staff or resources to regulate them. We have got a gargantuan task to do. It's mind boggling."

In Burlington County, N.J., local officials have discovered five secret toxic waste dumps in the Pine Barrens. And one health official said he thinks nearly every sanitary landfill in the county has been accepting hazardous waste illegally. But officials are powerless to stop the practice.

In Montgomery County, the cancer-causing chemical trichloroethylene (TCE) has polluted a reservoir in Upper Merion Township, probably as a result of illegal dumping. But no one has been able to determine where it came from or what can be done to stop its seepage into the drinking water.

Every well in Rahns, a town of 500 in Montgomery County, has been closed because of TCE contamination, and residents must use trucked-in spring water for drinking, bathing, and even in some cases for washing clothes, while they await the installation of a municipal water system. Authorities have taken no action against the nearby Techalloy Corp. plant, which they said was the source of the toxic degreasing agent.

As recently as last Wednesday, DER announced that TCE had contaminated three wells operated by the Audubon Water Co. and the Valley Forge Corporate Center in Montgomery County.

In Chester, authorities say it may take $2 million to $3 million to clean up Melvin Wade's field of chemical drums under the Commodore Barry Bridge. No one knows where the money will come from.

In Vineland, N.J., state officials have obtained a court order forcing Vineland Chemical Corp. to clean up huge piles of arsenic salts that have been seeping through the sandy soil into drinking water supplies. But the piles continue to grow.

Illegal hazardous waste dumping has ruined—possibly for all time—fishing in parts of the James River in Virginia and Bayou Meto in Arkansas, farmland in North Carolina, groundwater near the Tobyhanna Army Depot in northeast Pennsylvania, and drinking water in a large portion of Ocean County, N.J., on Long Island, in Lathrop, Calif., and in parts of Connecticut.

People have been sickened, apparently as a result of toxic wastes dumped near their homes, in Toone, Tenn., in Beaufort, Texas, and at Niagara Falls, N.Y.

A recent study by the Delaware River Basin Commission found that toxic substances "from present and closed landfills and waste disposal sites, and from recharge waters from the Delaware Estuary" pose a threat of "particular urgency" to the drinking-water supply in the Potomac-Raritan-Magothy aquifer.

That underground body of water is the main source of drinking water for Camden, Gloucester and Darlington counties in South Jersey.

Barbara Blum, EPA's deputy administrator in charge of enforcement, calls hazardous waste dumping "one of the most serious problems the nation has ever faced."

"People are frightened. Some are outraged. Others may be entirely unsuspecting. Many are asking if their homes sit astride a dump, long ago covered up and abandoned. They want to know if their drinking water is contaminated, if the lives of their children are in danger."

[From the Philadelphia Inquirer, Sept. 24, 1979]

SOME USE ALL WORLD AS A DUMP

(By Rod Nordland and Josh Friedman)

On the night of Sept. 1, 1978, Edward Cherkowski parked his truck, with its load of drums marked with skulls and crossbones, at the Skyline Diner near Wilkes-Barre, Pa., and placed a telephone call to his boss, Peter Iacavazzi.

As he had on many similar nights, Cherkowski was hauling a load of hazardous liquid and gaseous waste. And, as usual, he would not know what his destination would be until he placed the call.

Iacavazzi, president of Lackawanna Refuse Removal Inc., told him to dump the load at his Old Forge Landfill in the nearby town of Old Forge. Cherkowski followed his standard instructions, turning the truck's lights off as he pulled off the highway into the landfill.

When he backed the truck to a freshly bull-dozed hole, there was a line of other trucks waiting behind him, also with their lights out. His truck's hydraulic machinery wheezed and the body tilted to dump the drums.

"This drum broke loose in the trailer and the drum split open," Cherkowski recalled later. "Out of that drum came a white fog. It would take your breath away. I was afraid to get out of the truck, because it creeped right towards the front of the tractor . . .

"This cloud just enveloped the whole truck. I had never seen nothing like this . . . It looked like death to me."

Cherkowski sat in his truck for an hour, watching the cloud drift off the landfill toward the town of Old Forge. Townfolk suffered odor and skin irritation so bad that at least a dozen left their homes.

Cherkowski is now a witness in state proceedings against Iacavazzi, whose Old Forge Landfill has been shut down by the state's Department of Environmental Resources (DER). He is also a sick man, suffering from constant headaches and shortness of breath. He has a constant pain that feels like "my kidneys or whatever it is on my sides are like on fire, like if you take a knife or a fork and scraped me internally."

On another occasion, Cherkowski was working on a bulldozer at Old Forge when he struck and split open a drum, spilling liquid contents on several workers and spreading invisible fumes. "I passed out on the dozer, and I couldn't catch my breath, and I thought my heart stopped, and thank God the bulldozer was automatic."

The bulldozer drove him out of the fumes, and co-workers revived him with oxygen. When he came to, he saw one of the co-workers who had been splashed. "His lips were purple, his skin had a purplish complexion and he was walking around in a daze," Cherkowski recalled.

Authorities much later discovered that an estimated 100,000 drums of hazardous wastes had been buried at the Old Forge landfill between September 1978 and March of this year. Among the contents were phenols, toluene, chromium, cadmium, cyanide, arsenic, tetrachloroethylene and mercury. All were toxic; many were cancer- and disease-inducing; some were "bio-accumulative," meaning that extremely small amounts could accumulate in the body and not be flushed out, building up until they reached toxic doses.

"It would be suicidal to allow Lackawanna to continue operating this landfill," a DER hearing examiner said.

A MAJOR DUMP

Lackawanna's Old Forge landfill is one of numerous toxic waste dumps that have been discovered recently throughout the country. It is larger even than the Hooker Chemical Co.'s Love Canal disposal site, where an estimated 80,000 drums were buried over a period of roughly 10 years. Lackawanna's 100,000 drums were dumped in six months. And authorities believe they have found larger sites.

In another coal region town, McAdoo, authorities recently discovered an abandoned mine that had been used for improper waste disposal. According to manifest records on file in New Jersey, 9,900 pounds of the dangerous pesticide 2,4,5-T—more commonly known as "Agent Orange"—were dumped there last year.

Illegal dumps like Old Forge are one of many strategems employed by the "midnight dumpers," unscrupulous waste haulers who, according to estimates by the federal Environmental Protection Agency (EPA), dispose of more than 10 million wet metric tons of hazardous wastes each year.

In this area, as well as nationally, there have been documented cases of midnight dumpers who have illegally dumped hazardous waste:

in sanitary landfills, which are supposed to accept only "safe" wastes such as trash and garbage;

on state and privately owned forest land;

alongside public roads;

directly into public sewer systems, reservoirs, streams and groundwater wells.

New Jersey authorities, with the help of an informant, apprehended one hauler who would take his loaded tank truck out whenever it rained, leaving the valves open to unload the truck as he drove it down the highway.

The ABM Disposal Co. was convicted of dumping cyanide wastes down a groundwater well in King of Prussia. The same company is accused of dumping thousands of drums of hazardous wastes in a field under the Commodore Barry Bridge in Chester and near the Southwest Philadelphia water treatment plan. ABM president Franklin Tyson is awaiting trial on criminal charges in Montgomery County Court for the dumping at King of Prussia. He is also awaiting trial in Philadelphia for allegedly bribing city employes to help him dump chemicals illegally on city property.

VOLATILE PILE

In New Jersey, the Kelley and Rich Demolition and Salvage Co. accumulated nearly 3,000 leaking drums of acids and other chemicals, including various forms of chlorine, in unkempt piles on a pier in Jersey City. Some of the substances were so flammable that they would ignite at room temperature. Others were highly explosive.

"If that thing had gone up," said New Jersey Deputy Attorney General Edwin Stier, "we'd have had a cloud of chlorine gas over Manhattan; hundreds could have been killed."

That particular site has been brought under control, but in nearby Elizabeth, N.J., also on the waterfront, authorities have cordoned off a facility that one official called a "chemical time bomb" and another described as "the Three Mile Island of hazardous waste sites."

There are 70,000 drums abandoned there, many of them corroded and leaking explosives, flammables and chemicals of all descriptions. Some investigators have already been overcome by fumes, and officials can't begin to figure out how to clean it up until they find a way to safely examine the contents of the drums. New Jersey officials say frankly that they fear it may yet explode and that they cannot bring it under control until later this autumn, if then.

Some of the material, said Chemical Control's former president, William J. Carracino, who is awaiting sentencing for illegal dumping, was so difficult to handle that drums would explode on his trucks while being hauled there.

Among the wastes on his site, he said in an interview, is the dreaded substance dioxin, which toxicologists call "the most dangerous chemical ever created."

Three ounces of pure dioxin in the water supply of New York City could kill the entire population. Carracino said that there are one thousand 55-gallon drums of dioxin-contaminated waste at his Elizabeth plant. He said he hauled them there for $4 a barrel as a favor to a friend, William Moscatello, who runs S&W Waste Inc. in Kearney, N.J.

Moscatello heatedly denied ever handing over any dioxin-contaminated waste to Carracino or Chemical Control in Elizabeth. "We did very little business with him—resins, toluenes, stuff like that that he could burn. We stopped when we realized he wasn't burning it."

"His place is a black eye for the state," Moscatello said, "and a black eye for the industry. And the state officials are at their wits' end trying to figure out what to do about it. Carracino, he's probably the only guy who could identify what's in there, but he won't do it."

Meanwhile, the plant and its volatile contents sit only a short distance from a residential neighborhood.

The illegal dumping of toxic chemicals is as prevalent as it is for three simple reasons:

Illegal haulers make enormous profits, and industries save enormous sums by paying these haulers far less than they would have to pay for proper disposal.

There is a severe shortage of secure dumps and treatment facilities that can safely detoxify wastes, although the technology for proper treatment in most cases does exist.

Enforcement on a large scale is virtually impossible, because of a lack of manpower and because of the sheer difficulty of building criminal cases in a field both highly secretive and highly technical.

Despite the large amounts of money that midnight dumpers can earn, their firms declare bankruptcy with a regularity that authorities find frustrating. Often, they leave behind a dump filled with dangerous toxic waste that will cost the public millions to clean up, and with no chance of recovering the loss from the bankrupt firm.

While the firms may go bankrupt, frequently the principals siphon off the assets into their personal bank accounts.

After ABM Disposal was first convicted of illegal dumping—the corporation was convicted, not its officers—the firm's principal, Ellis M. "Sparky" Barnhouse, declared bankruptcy and subsequently retired to Florida, where he lives comfortably in a condominium.

Bucks County's Manfred DeRewal, convicted of some of this area's most blatant illegal dumping, is living the good life in Florida while awaiting trial on additional charges here. He too has left a chain of bankrupt corporations behind him.

DeRewal was repeatedly apprehended dumping even while he was awaiting trial on previous dumping charges. His basic method was to back a tank truck up to the Delaware River or the Neshaminy Creek and empty the contents—even when they were poisonous acids that reacted violently when mixed with water.

The Chemical Control Corp. of Elizabeth is also in bankruptcy, even though its current proprietors were paid millions to treat and dispose of drums of toxic wastes and did nothing more than place them in huge piles. New Jersey itself even contracted with Chemical Control to dispose of drums of toxic wastes discovered at another illegal dump site. That disposal never took place, either.

ENORMOUS PROFITS

The profits to be made from dumping are enormous. Pharmaceutical companies typically pay as much as $125 for the disposal of a single drum filled with bottles of laboratory chemicals.

Proper disposal would call for unpacking and separating the contents of the bottles—which could break and mix with dangerous results if indiscriminately dumped—and treating the various wastes as needed. The job requires a firm with sophisticated analytical chemical apparatus, and experts who know the materials.

More often, waste haulers are former garbage men, trash haulers, cesspool cleaners and even—in the cases of one major South Jersey firm and two Pennsylvania firms—pig farmers. In Pennsylvania, waste haulers do not even have to be licensed. If they find a willing landfill, their cost to dump waste-filled drums would be a few dollars apiece. Beside a road somewhere would be free.

MILLIONS TO BE MADE

"There are millions to be made in this business," said Carracino, former president of Chemical Control. "The overhead is nothing. You find a place—don't buy it, don't buy anything, just rent it—and dump. When they catch up to you, just declare bankruptcy and get out."

Carracino has been convicted of illegal dumping at Elizabeth, N.J., but claims he was framed by state officials and by other, illegal dumpers. He is free while his case is on appeal.

Investigators in several states have reported evidence of involvement by organized crime in the dumping business. Trash collection traditionally has been dominated by the mob in some areas, and high-ranking officials in New Jersey say they have uncovered evidence that major chemical companies have employed firms with ties to organized crime to help them get rid of their difficult wastes.

Published accounts, quoting officials in New Jersey, have linked Iacavazzi with the Gambino mob family in North Jersey and New York.

Following Iacavazzi's conviction in Scranton on illegal-dumping charges, the homes of two witnesses against him were firebombed.

Ron Buchanan, head of the New Jersey DEP hazardous waste division, said that he and other officials investigating hazardous wastes have received threats against their lives, and some of them have been given State Police protection for their homes.

GENTLE PERSUASION

H. Leroy Beaver, the proprietor of Reclamation Resources Inc., testified as a state's witnesses against ABM Disposal. According to prosecutors, on the day after the trial motorcycle gang members who had worked for ABM drove up and down in front of his house.

Melvin Wade, who was paid by ABM to accept drums of waste on his property underneath the Commodore Barry Bridge in Chester, claimed in an interview that the firm's drivers frequently were members of motorcycle gangs, who would threaten him when he began complaining about the prices ABM was paying him. Wade said he suspected ABM was making huge profits on its illegal disposal of the drums, and he felt entitled to a larger share.

Assistant U.S. Attorney General James M. Moorman testified before the U.S. Senate Judiciary Committee in April that several disposal firms nationwide had been linked with organized crime.

"This stuff that is dumped gets in the groundwater, and it's our belief that it is a heinous crime," said DEP's Ron Buchanan. "These people should be dealt with as criminals, and these companies should be treated as no less than other criminals."

The midnight dumpers' numbers are enormous, by all indications. New Jersey has an estimated 4,200 licensed hazardous-waste haulers—many of whom officials suspect of being engaged in illegal dumping. And officials estimate that there are at least 500 unlicensed, illegal haulers.

In the last three years, only 12 persons and half a dozen corporations have been criminally prosecuted—six of the individuals have been convicted—by New Jersey authorities. Even at that, they are ahead of any other state. In Pensylvania, four persons have been prosecuted and convicted.

Authorities are only beginning to locate all the dumping sites.

On high-resolution aerial photographs of Woodland Township, Burlington County, the break in the thick cover of New Jersey's virgin Pine Barrens forest is obvious: two roughly circular areas where nothing grows, one about 10 acres, the other about 15.

These are recently discovered toxic-waste disposal sites, on private land where the dumpers apparently unloaded drums and tanker truck loads without permission. Beneath it is the important Cohansey Aquifer, part of one of the largest and most important unspoiled underground, fresh-water reservoirs in the East. Officials fear the bubbling, oily toxic chemicals dumped there may have seeped through the sandy soil and contaminated the aquifer. They are awaiting test results.

So far they have tentatively identified methyl ethylkepone, a dangerous pesticide waste, toluene, a carcinogen, and a variety of acids and oils. "What's frightening," said Burlington County Health Department official John Faro, "is, how many more are out there?"

But that is only the beginning of the problem in Burlington County, which has more legal landfills than any other county in the region. Faro's job is to inspect the 22 landfills—10 of them privately owned, and 12 municipal. He said he suspects most of them secretly and illegally accept toxic wastes. "I'd like to see all but two of them closed down because I suspect they're contaminating groundwater with leachate.

"But what can we do? We can't go out there and take a sample of every bit of sludge

out there in every truck," he said. "I just feel like throwing my hands up and saying, 'I'm just one person, what can I do?' The difference between a dump and a (sanitary) landfill today is a little bit of dirt on the top."

In one recent case, police switchboards in Falls Township and Morrisville, Bucks County, lit up with complaints from residents about a heavy, acrid odor. Police literally followed their noses and tracked the path of a tank truck carrying the waste across the Delaware River and into Burlington County.

Soon, Bordentown police began getting complaints. They were able, from the location of the complainants, to track the truck to the SCA Services Inc. landfill in Bordentown, where authorities caught the truck illegally unloading liquid chemical waste at night into what is supposed to be a sanitary landfill.

"If all toxics smelled that bad, we'd have no problem," said one investigator. "Unfortunately, most of them have no smell at all."

The midnight dumpers frequently find it profitable to fill up a truck and just leave it somewhere. New Jersey authorities found one tank truck partially buried under the General Pulaski Skyway.

In East Cain Township, Chester County, a midnight dumper left thousands of gallons of waste sitting on the ground in open five-gallon pails.

In Newark, Carracino and several confederates were convicted of, among other things, mixing toxic chemicals with ordinary household trash and taking the resulting brew to sanitary landfills.

One of the more brazen toxic-chemical dumping schemes allegedly was run by a firm called Iron Oxide, an Elizabeth, N.J., company that manufactures filtration devices for industrial air-conditioning systems.

Iron Oxide set itself up as a facility that treated acid wastes, and chemical companies all over the East began sending their waste to it, according to a subsequent indictment of the firm's principals and an examination of state records. Unlike many similar firms, Iron Oxide did not begin to accumulate huge stockpiles of waste, and officials began to wonder how they were so successful in treating such quantities of acids that were so difficult to neutralize.

After a surveillance, New Jersey authorities conducted a raid with the help of Coast Guard frogmen, helicopters and police, who broke down the doors of Iron Oxide's warehouse.

The raiders, according to state officials, found that the company's treatment process consisted of dumping the material directly into a drain in the building. The frogmen took samples at an effluent pipe and found that it was entering the Arthur Kill—an adjoining river—untreated.

GREAT TEMPTATION

Many of the companies and individuals apprehended by authorities apparently find the profits so tempting, and the likelihood of strict enforcement so slight, that they dump again and again.

ABM Disposal, for instance, has been linked to illegal dumping not only in the case of the Wade dump and the Southwest Philadelphia site, but one of its drivers was convicted of parking his tank truck on a Chester residential street, and pumping the contents—cyanide waste—out on the pavement while he sat nearby eating lunch.

Authorities have also found a site in the back of the Eddystone Industrial Park where 12 to 15 leaky trucks filled with hazardous wastes are parked, and several hundred drums of various toxics had been dumped on the ground.

Near Pottstown, ABM rented a piece of ground as a transfer point and instead used it as a makeshift chemical dump, according to authorities. As a result, the property owner is responsible for cleaning up the ruined land.

An enterprising individual named Robert Burns hit on one of the most innovative of illegal dumping schemes. He was paid $75,000 to dispose of 33,000 gallons of PCB-contaminated oil from the Ward Transformer Co. in Raleigh, N.C. Then he got a contract from the Carolina to oil the dirt shoulders of secondary roads in 15 North Carolina counties. Roads are oiled to keep the dust down. He was convicted of deliberately using the PCB-contaminated oil on the roads.

Burns has also been implicated in PCB dumping in New York and in Youngsville, Pa.

BOLD OFFER

His response to the notoriety of his case was to claim that PCBs are safe. "I would be willing to go before television cameras or whatever and stand in a barrel of it," he said.

If the PCBs were in concentrations of parts per billion, scientists say, he would get skin lesions, blisters, boils and severe itching. If it were in concentrations of parts per million, he would probably get cancer or liver disease within a year. If it were 100 percent pure, he would live for another five minutes or so.

Burns has yet to make good on his offer.

To authorities groping for a means of combatting illegal dumpers, one of the most troubling aspects of their operations is how difficult they have been to catch. Most of the cases that have been made either involved damage so blatant that it was brought forcefully to the attention of authorities, or were based on lucky breaks or the inside tips of informants.

One EPA official told the story of a team of researchers who were touring the country, taking random samples of wastes going into sanitary landfills as part of a general survey. While they were opening up the dorsal manhole of one truck in line at a sanitary landfill in the Bay Area of California, they noticed that a truck further back was starting to pull out of the waiting line.

The driver was wearing a protective suit and a self-contained breathing apparatus, and as the researchers ran toward his fleeing truck, they were overcome by the powerful fumes. They managed to get a license number and alerted landfills throughout California. The truck was turned away from two sites in Southern California before it successfully dumped its load at a third landfill, despite the overpowering stench of its noxious fumes. California officials were eventually able to track down and prosecute the offender.

"The frightening thing about that case," said an EPA official, "is that it was pure happenstance. There just happened to be someone there when that truck was coming in. That sort of thing probably goes on every day, all over the country, and no one catches it."

A NEW JERSEY "FRIEND" OF THE EARTH SHOWS HIS REGARD

These pictures, taken surreptitiously by New Jersey investigators, illustrate the waste-disposal techniques at the Chemical Control Corp. in Elizabeth, N.J., which was built by William J. Carracino because, he said, "I really care about the environment."

Carracino was paid by firms to haul away their wastes, mostly in 55-gallon drums, which are now stacked by the thousands at the plant, and incinerate them. His small incinerator could not possibly handle the load, and usually he just stockpiled the surplus. But in this case, with investigators watching, he tried to get rid of some of it by emptying the drums into the tanker on Feb. 14, 1977.

The tanker went to Delancey Street, a residential street in Newark, N.J., and unloaded its contents on a clearing at the end of the street that had been bulldozed by Carracino—who did not even own the property.

Investigators did not get pictures of the tanker unloading, however, because, as the 5,000 gallons of toxic chemicals were being squirted into the dirt, the fumes overcame the photographer, and his partner had to take him to the hospital.

A fresh surveillance team arrived a few hours later, early in the morning of Feb. 15, in time to photograph Carracino's confederates dumping a load of household trash and garbage on top of the toxic chemicals, mixing it up with a front-end loader and loading the mixture into a truck. The disguised mixture then was taken to a sanitary landfill.

Armed with these pictures, authorities succeeded in winning convictions of Carracino and three others. Carracino, who was sentenced to two to three years in jail but is free pending appeal, angrily claimed in an interview that he was framed.

"I was 90 percent straight and 10 percent crooked," he said in an interview. "I just had to get rid of the waste water. There are guys that were 100 percent crooked. Why didn't they go to jail?"

[From the Philadelphia Inquirer, Tuesday, Sept. 25, 1979]

HOW MAJOR CORPORATIONS ARE DUMPING ILLEGALLY

(By Rod Nordland and Josh Friedman)

Last year the giant chemical firm, American Cyanamid Co., handed over at least 173,900 pounds of toxic and flammable pharmaceutical wastes produced in its Bound Brook, N.J., plant to a South Jersey waste hauler, Marvin Jonas Inc.

Marvin Jonas' ragged-looking trucks, painted with a distinctive whale on the side, trundled the material south to the small town of Sewell, N.J.

There, it was transferred into other trucks and hauled across the Delaware River to the GROWS Sanitary Landfill in Morrisville, Bucks County, and dumped.

That was against the law, according to Pennsylvania Department of Environmental Resources (DER) officials and records.

And, according to New Jersey environmental officials, the party ultimately responsible for the illegal disposal is the one which generated the waste, the American Cyanamid Co.

Did American Cyanamid know that Jonas was hauling its waste to GROWS?

"The answer is yes," said Neil Kaye, manager of regulatory affairs for Cyanamid, a company with annual sales of almost $3 billion. "Most of the times when we send the stuff out we know pretty much where it's going to go. We monitor the shipments from time to time, bird-dogging the hauler to see where he goes."

But GROWS was not legally authorized to receive that waste.

"I believe the State of Pennsylvania lets them stay in business," Kaye said.

Eventually Kaye refused to be questioned any further. "I'm just going to divorce from this situation here," he said, deferring to another Cyanimid official, Edward W. Cantrall, head of environmental services.

Cantrall said he could not understand why there was a problem with hazardous waste going to GROWS.

"They were incinerating it there, weren't they?"

No, GROWS has no incinerator.

"Well, after all, it's an (EPA) approved landfill," Cantrall said.

But EPA has approved no landfills in Pennsylvania or New Jersey for hazardous waste.

"It's not an EPA-approved landfill?" Cantrall said incredulously. "Well, then, that stuff has got to go back to Jonas and the people who operate the landfill."

Wasn't American Cyanamid, as the generator of the waste, responsible for making sure that its waste was legally and properly disposed of?

"No," Cantrall said. "The authority regulating the landfill and the people operating it. That's where responsibility ultimately has to rest."

Not so, say New Jersey state officials. "The onus is on the generator," said Ron Buchanan, chief of hazardous waste for New Jersey's Department of Environmental Protection (DEP). "It is his legal responsibility to make sure his waste is legally disposed of," Buchanan said.

Judging from the records kept by New Jersey's Solid Waste Administration, many of the country's largest corporations either do not see it as their responsibility, or they fail to take that responsibility seriously.

With the aid of a computerized study of a portion of the 70,000 manifests the state has on file that track hazardous waste generated in New Jersey or passing through the state, The Inquirer was able to identify four major corporations that contributed nearly 600,000 pounds of hazardous waste that the GROWS landfill was not permitted to accept, but did.

They were, in addition to American Cyanamid, Hartz Mountain Corp., of Bloomfield, N.J.; Rohm & Haas Co. in Philadelphia, and Stauffer Chemical Corp., of Edison, N.J. All but Hartz Mountain, whose officials did not respond to inquiries, said they were led to believe, by either the hauler or GROWS itself, that their waste was being properly disposed of.

The hauler in each case, Marvin Jonas Inc., contends that it was legally hauling material to GROWS, which had given it permission to do so, and that the documents that detailed those shipments were incorrectly filled out by the generators, and that the wastes were not as hazardous as it appeared from DEP records. And GROWS says that it was legally entitled to accept those 600,000 pounds of waste, and the only thing wrong with the shipments was that the documents accompanying them were incorrectly filled out by the generator.

But the DER regional coordinator for hazardous waste, Wayne Lynn, said that even if those documents were incorrectly filled out, GROWS still was not legally permitted to accept from those four corporations any of the categories of materials turned up in The Inquirer's search of New Jersey records.

A TINY PORTION

Six hundred thousand pounds of waste is only a tiny portion of the hazardous materials that industry generates each year. Billions of pounds of those wastes are dumped illegally each year. But although some effort has been made recently to prosecute the more blatant illegal haulers, little attention has been focused on the legitimate corporations that hire them with impunity.

The Inquirer's search of the New Jersey manifests showed that the situation uncovered regarding those four corporations, the Jonas hauling company and the GROWS landfill was part of a pattern of shipments to Pennsylvania landfills and disposal facilities.

In one case, New Jersey's Public Service Electric and Gas hire a hauler who said he took flammable oil wastes to an address in Pennsylvania that was found not to exist. In another case, American Cyanamid, Tenneco Chemicals, National Can Co. in Danbury, Conn., and the Outerbridge Terminal in Perth Amboy, N.J., routinely sent shipments to a municipal sanitary landfill in Penn Argyl, Pa., near Easton, that has no permit to accept industrial waste, hazardous or otherwise.

In another case, Rohm & Haas, American Cyanamid and Rexham Corp. said they sent shipments of toxic wastes to a waste disposal facility that never received the shipments; furthermore, the manifest accompanying the shipment was obviously filled out falsely. And Magic Marker in Cherry Hill sent shipments of ink residues to the Knickerbocker landfill in Chester County, even though the landfill had no approval to receive such shipments.

NO PROSECUTIONS

To date there has not been a single prosecution—civil or criminal—of a legitimate chemical company for illegal disposal of its wastes by an intermediary. The federal government has the authority to file such suits under a variety of statutes. State and local governments have the authority under common law and public safety and nuisance statutes.

Yet wherever authorities have scratched the dirt from an illegal dump, they have found the tracks of some of the nation's largest and best-known industries.

Wayne Lynn of DER said he obtained—from bankruptcy records of ABM Disposal Co.—frequently convicted of illegal dumping—a list of 51 Philadelphia-area industries that had hired ABM to haul away their liquid wastes. Among them were General Electric's switch gear division in Collingdale; American Bag and Paper in Philadelphia; Exxon Corp. in Philadelphia; H.K. Porter Company, Inc., in Prospect Park; Conrail in Philadelphia; Reading Industries in Reading; Scott Paper in Eddystone; Owens-Illinois in Glassboro, N.J.; Boeing-Vertol in Ridley Townahip; Bechtel Power in Pottstown; DuPont in Newark, Del.; Sherwin Williams in Gibbsboro, N.J., and Texaco in Westville, N.J.

EPA investigators have discovered in the course of their lawsuit against operators of the now-closed Kin-Buc Landfill in Edison Township, N.J., that toxic wastes came from Allied Chemical, American Cyanamid, Ashland Chemical, Celanese, Bart Industries, Drew Chemical, Diamond Shamrock, DuPont, Exxon, FMC, GAF, Gulf Hatco, Inmont, Koppers, Monsanto, NL Industries, Olin, Pennwalt, Reichhold, Stauffer Chemical, Tenneco, Union Carbide, Uniroyal and Witco. No action has yet been taken against any generators to help recover the huge cost of controlling the hazards at the landfill.

When Pennsylvania authorities convicted ABM Disposal Co. of dumping cyanide into a groundwater well, they established in court that industry widely recognized that the lowest cost of legal disposal of that cyanide waste would have been 18 to 21 cents a gallon. Smith Kline Corp., the giant pharmaceutical firm whose Upper Merion facility was the source of the waste, paid ABM 6.6 cents a gallon, and has never been penalized.

Even government agents and quasi-public corporations supported by tax dollars have been implicated in illegal dumping. On June 28, DER served orders on Conrail, SEPTA and Amtrak to clean up spills of polychlorinated biphenyls (PCBs) at the Paoli and Wayne Junction trainyards. Officials said they had found that "negligent or intentional handling of PCBs has resulted in spilling, dumping or spreading . . . onto the surface of the ground" in the course of servicing train transformers.

At the Paoli yard, concentrations were found in the ground and in a cesspool in the 4.5-to-4.7-parts-per-million range, thousands of times more than safe drinking-water levels, at a concentration at which PCBs are believed to be carcinogenic (cancer-causing). At Wayne Junction, the chemical was found in concentrations of 170 parts per million—more than three times the level at which mere physical contact becomes dangerous.

David Kelly, a driver for ABM, parked his tank truck on a Chester City street, in a residential neighborhood one spring night in 1977, opened the valves and went across the street to eat his lunch while he watched 8,000 gallons of Boeing Vertol-originated cyanide plating waste pour into the street, and from there into Ridley Creek. Cyanide in concentrations of parts per billion is toxic in drinking water. That waste had cyanide in concentrations of two parts per hundred.

Kelly got four years' probation. ABM was fined $2,500 and continued in business. Nothing was done to Boeing-Vertol, which paid ABM 6 cents a gallon to take away waste that would cost 30 cents a gallon to properly treat and dispose of, according to court testimony.

When New Jersey authorities discovered that Iron Oxide, an Elizabeth, N.J., firm that manufactured air-conditioner components, had set itself up as a hazardous waste treatment facility without a license or state approval, they raided it and found that the "treatment" consisted of dumping chemicals into a pipe that led directly into the Arthur Kill outside.

A search of New Jersey manifests shows that the following firms sent wastes to Iron Oxide, even though the facility was on no state or federal list of approved treatment facilities:

Superior Tube, in Collegeville; Carpenter Technology, in Reading; Rohm & Haas' Bristol plant; Forbes Steel, in Wilmington; Teledyne McKay, in New York; United States Steel's New Haven, Conn., plant; Grumman Aerospace Corp., in Oyster Point, N.Y.; Chicago Bridge and Iron Co., in New Castle Del.; Corco Chemical, in Fairless Hills; H. K. Porter Co., in Prospect Park; Dana Corp., in Reading; and I.C.I. (Americas) Inc., in Bayonne, N.J.

Signed manifests on file in New Jersey indicate that officials of each of these firms knew where their wastes were going.

Said an enforcement official in the New Jersey DEP: "I find it hard to believe they didn't know their stuff was being dumped illegally."

However, one official who worked on a confidential hazardous-waste survey for the Delaware River Basin Commission said that when staffers interviewed corporate executives throughout the area, "a lot of the people we spoke to didn't know where the stuff was going. They just knew who the hauler was and didn't care about the rest. You could just see the ligthbulb go on when you spoke to them about the hazardous qualities of the stuff. In some cases, they were fairly high-up executives. In some cases, they were just plant foremen."

Not only are major corporations hiring illegal dumpers as an inexpensive solution to their hazardous waste disposal problem, but there are indications that legitimate landfills are accepting enough of the wastes to render meaningless the appelation "sanitary landfill." State and federal officials so far have been unable to do much about it.

On top of that, according to the basin commission survey, major firms throughout the area dump huge quantities of toxins on their own property, causing extreme disposal and environmental problems.

A PAPER PROMISE

On paper, at least, none of this should be happening. Pennsylvania DER attorney Keith Wilkes said that nearly all major waste producers require their haulers to sign a contract guaranteeing that the material will be properly disposed of. But this is widely regarded as a sham to protect the producers, he said.

U.S. Rep. James Florio (D., N.J.), who sits on a House committee investigating hazardous wastes, called the situation "a blemish on the business community by producers who now seek to absolve themselves by invoking the sanctity of contracts entered into by them for disposal of wastes with fly-by-night operators hired to cart away the materials that now threaten the public well-being. The companies, like Pontius Pilate, seek to wash their hands of their offense."

When Burlington County, N.J., officials discovered two abandoned, secret chemical dumps in the Pine Barrens earlier this year, they found evidence that the material may have come from Rohm & Haas, the Philadelphia-based pharmaceutical firm, and from 3M Corp.'s Bristol plant. Both companies readily dispatched officials to cooperate with New Jersey authorities.

"Very frankly," said Rohm & Haas' director of government and regulatory affairs, Gordon West, "I think a chemical company has some responsibility here too (in how its wastes are disposed of)." Industry in the past, he said, has "sort of turned its face the other way."

Cynamid's Cantrall admitted that until recent months the corporation allowed its 52 U.S. plants and 40-plus overseas facilities to decide individually, with no corporate direction.

"We didn't look at it as an integrated effort by the company," he said. "Every plant had its own responsibility or they gave it to third parties. Practices varied substantially. Some just dumped it. Others dug pits and put clay down. Even by today's standards, some were doing pretty well. But no one anticipated the kind of situation that occurred with Love Canal. No one anticipated the type of situation we have at Chemical Control in Elizabeth."

"NOT DOING THE JOB

Cantrall estimated that 1,000 drums of Cyanamid's hazardous wastes are among the 70,000 drums at Chemical Control. But he said the company had believed the material it sent there was being burned or properly treated. "The people (in Elizabeth) were taking our money and not doing the job."

American Cyanamid is, judging from records of the New Jersey manifest system, one of the largest clients of Marvin Jonas Inc., the South Jersey waste hauling firm. Jonas is a one-time pig farmer whose firm has a spotty record of compliance with state requirements and is, according to sources, currently under investigation by authorities in Pennsylvania and New Jersey.

In 1978, according to New Jersey manifest records searched by The Inquirer, Cyanamid sent, through Jonas to the GROWS landfill, 173,900 pounds of pharmaceutical wastes, 43,700 pounds of mixed and flammable solvents and 19,000 pounds of material identified only as "mixed chemicals."

Jonas' general manager, Frank Pertnoy, agreed with American Cyanamid's assertion that the waste hauler had agreed to get approval from GROWS to dump that waste, and said that approval was granted by the landfill. Rhett Ragsdale, general manager of the Bucks County landfill, admitted that GROWS granted approval.

But Pennsylvania DER's Lynn, who is in charge of approving all hazardous wastes that go into GROWS, said the state never granted approval for that material from Cyanamid.

Chapter 25 of the Pennsylvania Code, section 75.26, prohibits the dumping of industrial wastes in a landfill unless the material has been approved by DER; only what is described in the landfill's original permit, or specifically approved by the state, can be dumped.

In addition, Lynn said, material that is flammable never can be dumped in a sanitary landfill because of the extreme danger of fires and explosion.

American Cyanamid and Jonas officials contended that the flammable designation that accompanied dozens of shipments of Cyanamid waste through Jonas to GROWS was the result of mistaken interpretation of guidelines on what should be considered flammable.

Because State Department of Transportation guidelines have a different, broader definition of flammability than the New Jersey DEP, the material was listed as flammable when it should not have been, Cantrall said.

TAKING OUT THE GARBAGE

Cantrall conceded that both agencies define flammability as having a flash point of less than 140 degrees Fahrenheit (flash point is the temperature at which a material subjected to a spark will spontaneously ignite). But he said another component in the waste required it to be labeled flammable when it really wasn't.

Cantrall said it would be impossible to say what the wastes consisted of. "In process waste streams, no one keeps that kind of record," he said. "It's like the guy taking out the household garbage. If you ask him what's in the bag, he won't know. He just knows he has a bag of garbage."

Knowledgeable industry observers say that most major chemical companies keep scrupulous records of the contents of their "waste streams"—the flow of wastes associated with a particular manufacturing process. And Pennsylvania DER said it would never approve a new waste stream for GROWS unless it had a detailed analysis.

Jonas' Pertnoy conceded that the material was mislabeled. "I should have sent it (the manifest that accompanied shipment) back to them and told them to do it over again," he said.

"The generators are so scared that they're trying to cover up everything, and they're going too far," Pertnoy said. "That's what they're doing, they're doing it to cover their ass. I argue with my customers all day long because they're putting me under the gun."

But the material, all several dozen shipments of it, was tested and was not flammable, he insisted. "It wouldn't burn if you put a match to it," he said.

GROWS officials also contended that the Cyanamid shipments were not flammable. The record-keeping that accompanied the shipments was simply in error, according to GROWS' Ragsdale.

"Maybe as they (the manifests) were made out they should not have been signed (by officials receiving the wastes at GROWS)," Ragsdale said. "I think many errors were made in the filling out of New Jersey manifests. Many people here have been signing things they should not have signed. It (the manifest) says solvents, and hey, we don't take solvents. It says flammable, we don't take flammable."

BLANKET APPROVAL

But even if the materials were not flammable, they still were not permitted to be dumped at GROWS, according to DER officials. Ragsdale disputed that, claiming that he has blanket approval for dumping wastes in solid form and is only required to get specific approval for wastes in liquid form. Lynn, the official in charge of granting approvals for industrial wastes at GROWS, denied that he had ever granted a blanket approval.

Some of the Cyanamid manifests described the shipments as liquid, or liquid-solid. But these too were in error, Ragsdale said.

"You have to realize that we do not have a manifest system in Pennsylvania, a set rule on hazardous waste in Pennsylvania, and we have attempted to develop these things ourselves—we're all learning," Ragsdale said.

In addition, he said, 1978 was the first full year that the New Jersey manifests were in operation, and they took some getting used to.

GROWS continued to accept shipments labeled flammable or corrosive from Marvin Jonas well into 1979. On May 7, the New Jersey manifest records show, GROWS took a shipment of 6,000 gallons of liquid, toxic and corrosive alkaline solution from Jonas.

American Cyanamid sent shipments via Jonas on April 21, April 30, May 7 and May 21, each of which was manifested as containing flammable wastes—a total of 95,000 pounds of pharmaceutical waste in those four shipments.

The New Jersey manifest records also show that Hartz Mountain Corp. sent, via Jonas, 109,900 pounds of pesticide wastes in solid form to GROWS. Hartz officials did not respond to inquiries about the dumping. DER's Lynn said he was particularly alarmed by that waste because pesticides generally are dangerous if they leach into the environment. No Hartz Mountain waste was approved for GROWS.

Lynn checked DER records to see if GROWS had approval to dump 97,500 pounds of corrosive still bottoms (a type of organic pharmaceutical wastes) listed on the manifests from Stauffer Chemical Co. in Edison, N.J. He discovered that no such approval had been granted and he noticed then for the first time that GROWS had accepted 30,000 gallons of Stauffer Chemical arsenic wastes, again without approval.

HOLDING IT IN

Corrosive wastes are of concern not only because they were not specifically approved, but because they pose a potential threat to the integrity of the landfill. GROWS sits beside the Delaware River in Falls Township, next to U.S. Steel's Fairless Works, and has a liner underneath it to prevent contaminants from leaking into the river. The liner collects leachate filtering down and directs it to a treatment plant for cleaning before discharge into the river.

If a corrosive were to eat through the liner, the leachate could escape directly into the groundwater or the river.

Ragsdale contended that GROWS runs exhaustive tests on all wastes it accepts to assure they will not threaten its liner or befoul its treatment plant, and based on these tests rejects up to 80 percent of its potential customers.

Stauffer Chemical's community relations manager, Allan Noe, said a check of the company's records showed that the still bottoms sent to GROWS had been mislabeled as corrosive. "It is not a corrosive waste," he said. "We had to pick the closest category. Subsequent tests showed that it was not corrosive."

If that was the case, the evidence is buried somewhere in GROWS' 100-foot-high mound.

Rohm & Haas was another corporation that New Jersey manifests say gave material to Jonas to be dumped in GROWS without state approval. Records show that Rohm & Haas sent 6,400 pounds of pesticide wastes, 28,700 pounds of still bottoms, 5,900 pounds of mixed solvents, 700 pounds of carcinogenic phenol wastes and 300 pounds of chlorinated residues (which frequently are highly hazardous and include such substances as the dreaded dioxin).

Jonas' Pertnoy said Rohm & Haas obtained permission from GROWS directly to dump those substances, then hired Jonas to haul the wastes. GROWS officials said they did indeed grant those approvals. But DER records show that the state granted no approvals.

"Based on our knowledge of what GROWS' permit is and from the list of materials he is permitted to receive," said Rohm & Haas' West, "there hasn't been any question in our mind that he was permitted to take this."

ITS OWN TESTS

But, West said, the pharmaceutical company went a step further by conducting its own tests to be certain that the materials it sent would not damage the landfill's liner or treatment facility or pollute the river.

DER's Lynn said he was dismayed to learn of the New Jersey-manifested wastes going into GROWS landfill, but not particularly surprised. GROWS is only one of the many landfills he regulates in the Philadelphia region and, he said, "the only way we can be sure of controlling it would be to open up every truckload and take samples."

Bucks County officials regularly monitor the water downstream from GROWS' discharge, but do not test the water for such serious pollutants as organic chemicals—many of which are toxic or carcinogenic. Such tests, said Everett Hogg, Bucks County Health Department supervisor, "are not run because they're not included in the parameters of the permit GROWS got from DER."

In other words, officials do not test GROWS' discharge for pollutants not allowed in the landfill, because they are not allowed in the landfill.

Meanwhile, downstream at the Torresdale water intakes for the City of Philadelphia, a sophisticated city water department laboratory tests regularly for organic chemical pollutants. "We notice a lot of background organics," said Patrick Cairo, head of research and development for the water department. "But we don't know if they're at problem levels because we're waiting for EPA's limits to be issued. Our dilemma is we don't know what levels are harmful at this point."

Generators of hazardous wastes have several alternative methods to handle their wastes. They can be chemically treated, neutralized or burned in high-temperature incinerators. While the technology exists to use such specialized methods, they are very expensive, and sometimes impossible, to use on most hazardous substances.

Wastes also can be taken by a waste hauler to be dumped in a secure landfill—one that officials believe will never leak. But most of the 12 secure dump sites are from several hundred to 2,000 miles from the Philadelphia area. And if all the generators in the country were to dump their wastes legally beginning tomorrow, there would be such a volume that "the dumps would all be shut down inside a week," an EPA official said.

Companies also can store or dispose of their wastes on-site, at their own plants or on property they own.

Estimates are that from 65 to 80 percent of all wastes are disposed of in that manner, on-site. The problems that result are often as great as those that result from outright illegal disposal by "midnight dumpers" or unscrupulous disposal facilities in the corporate employ.

EPA estimates that 90 percent of the waste disposed of on-site is handled improperly—in lagoons, ponds and landfills that leak, or in incinerators that do not properly burn off the toxic ingredients.

Love Canal, near Niagara Falls in New York, where residents were sickened by toxins seeping through the ground, originally was an on-site dump for Hooker Chemical Corp.

LOCAL RASHES

On-site storage and disposal problems have surfaced repeatedly in the Philadelphia area. The Techalloy Corp. in Rahns, Montgomery County, apparently was dumping a cancer-causing chemical into its backyard, from where the runoff contaminated neighboring yards and most drinking-water wells in town.

At the request of The Inquirer, a computer search was performed of records recently compiled by the Delaware River Basin Commission—based on a confidential commission survey of 335 of the largest firms in the basin area (Delaware, eastern Pennsylvania, western New Jersey and a small portion of New York), seeking information on their hazardous waste problems. The computer searched out all companies whose wastes included carcinogens (cancer-causing chemicals), pathologic wastes (wastes from live animals, diseased tissues and viral or bacterial cultures), acutely toxic wastes (generally fatal on contact or inhalation), explosive wastes and wastes containing any of the disease-inducing substances benzene, PCBs or phenols. Twenty-six of the companies in those categories in the basin area reported serious problems in handling their wastes—according to their own accounts covering the year 1978, made at a time when officials thought they would remain confidential. In all, there were 100 reported cases of hazardous waste disposal problems of some sort.

Some examples:

General Electric Co. reported that it had been handling asbestos dust—which can cause lung cancer—in broken bags at its Erie Avenue plant in Philadelphia.

The Vineland, N.J., Chemical Co. reported that it could not find any place to put its highly toxic arsenic salt residues except in piles on the sandy soil at its plant, from where it has contaminated the underground drinking water supply.

Aetna Electroplating Co. of Philadelphia said it had its acutely toxic cyanide zinc plating sludge stored in rusting drums.

Hercules Inc. in Burlington, N.J., reported that it had more than a million pounds of rosin oil waste that "must be kept heated to 150 to 160 degrees centigrade."

Sun Petroleum Products Co. in Marcus Hook reported that residual heat in 354 million pounds of spent clay posed the "possibility of spontaneous combustion."

Whitmoyer Laboratories Inc. in Myerstown, Pa., reported that it had more than one million pounds of arsenic wastes stored in drums and, it said, the "drums deteriorate from being stored outdoors."

United States Steel Corp. in Falls Township reported that 83 million pounds of iron-bearing sludges posed "possible water quality problems due to leachate."

Western Electric at its Allentown plant reported that it had 10,000 pounds of "miscellaneous exotics" for which it could not find drums in which it would be safe to transport the material.

General Motors Assembly Division in Wilmington reported that it had ruptured drums and spillage problems with 350,000 pounds of solvent wastes.

DuPont's Chambers Works in Deepwater, N.J., had 1.5 million pounds of material it described as "suspect carcinogens liquid" for which "cautious handling (is) required" because the material freezes, or hardens, at room temperature, which could make its eventual disposal difficult or impossible.

The Hurst Performance Inc. plant in Warminster had 300,000 pounds of chemical plating sludge which, it reported "is difficult to control."

Allied Chemical in Claymount, Del., said it had a 36-million-pound pile of acutely toxic, difficult-to-handle alum residue sitting at its plant; in two years, it would run out of storage space, the company reported, and "there is no acceptable landfill available" for such waste.

Allied officials say they are hoping that the Delaware Solid Waste Authority will develop a suitable landfill for those wastes. If not, said David Murphy, manager of environmental affairs, "we'll have to evaluate the economics of hauling it elsewhere," or else in the next two years develop the technology for treating or disposing of the waste.

(The Sunday before last, Allied's Claymont plant developed another problem. There was an explosion in a storage tank holding sulfuric acid and oil wastes, and 175 tons of the mixture poured out into a containment lagoon. The explosion was felt as far as Marcus Hook, several miles away. There were no injuries and damage was confined to the plant itself.)

Armak Industrial Chemical Division on State Road and Cottman Avenue reported that it had problems finding any disposal facilities for its spent reagents, and private disposal was too costly, so it had been storing material in 30-gallon plastic drums. The material is difficult to classify because it has so many components, the company said, adding that it includes acid, alkaline, solvents, trace organic and inorganic contamination, iodine, combustibles, carcinogens, mutagens or teratogens, acute toxics and substances corrosive to steel.

Kawecki Berylco Industries in Douglass Township, Montgomery County, reported that it was producing 1,700 tons a year of a low-level radioactive sludge that it had been storing above ground in concrete and cinder-block vaults. The company said it "will ultimately run out of space and need off-plant site" but "low-level radioactivity prevents disposal via ordinary techniques."

The basin commission's survey covered most of the major firms in the Philadelphia area, as well as in the rest of the Delaware River basin. While most companies cooperated, a number of large concerns ignored the commission's request for information. They included Betz Laboratories, a pharmaceutical manufacturer in Trevose; Metal Bank of America, in Philadelphia; NL Industries in Philadelphia; RCA in Camden; and TRW of Philadelphia.

One of the companies with the most serious problems, according to what was reported in the survey, was Vineland Chemical Corp. in Vineland, N.J., a manufacturer of organic, arsenic-bearing herbicide. Vineland officials complain bitterly that state DEP regulations have made it impossible for them to dispose safely of arsenic-contaminated salts, 3 million pounds of which it reported in storage at its own site last year, with predictions of 3 million more pounds annually.

Vineland for a time was having its arsenic salt wastes trucked to the Strabatrol Landfill near Shippinsburg, in Cumberland County, Pa. DER stopped the practice when state officials found that the arsenic was leaching out of the landfill into the water, where it was found in concentrations of 1,000 to 3,000 parts per million.

"That's enough to be of concern to us," an environmental official said sardonically. It should be; that is 2,000 to 6,000 times the maximum level established by EPA's primary drinking-water quality standards.

More recently, Pennsylvania officials have given approval to a Stabatrol plan to encase Vineland Chemical's arsenic waste in cement before burying it. But New Jersey officials say that plan has not been proceeding quickly enough to solve the storage problem.

BLAMING THE STATE

Vineland Chemical's Norman E. Krapf, vice president for production, said the company was having waste problems because there are no more chemical dumps in the state (New Jersey closed its last chemical dump—Kin-Buc—in 1976). "We have been hounding them to find somebody adequate to take our stuff," he said. "We've been waiting three or four years for New Jersey to help the chemical industry. All we get from DER is harassment.

"They say don't store it on sandy soil because it will seep in. Put it under cover. Then they don't help us find some place . . . the larger companies than ours have been storing it, but a company like ours doesn't have the room anymore."

Storage of the salts consisted of huge piles on sandy soil. From there the arsenic seeped down and contaminated the groundwater, ruining several wells in the vicinity. Vineland Chemical initiated a program to pump the groundwater up, clean out the arsenic and pump it back down. As a result, the concentration "was going down from 200 ppm (parts per million) arsenic to 3 ppm, but the state objected because the 3 ppm still wasn't within their limits," Krapf said. "Isn't that ridiculous?"

No, say state officials. EPA's drinking-water quality standards set a maximum permissible level of arsenic at 0.05 ppm, so Vineland's contaminated groundwater is still far too high.

Krapf said the company have been making progress in finding a process to clean up the contaminated groundwater. In the meantime, its salt piles continue to grow.

According to the basin commission survey, the company also is troubled with empty drums that had contained arsenic trioxide, a substance so acutely toxic that even traces in the drums make safe disposal impossible locally. At the time of the 1978 survey, the company had 150,000 of the drums on hand and expected that quantity to increase by 30 percent in the five years.

The solution has been to truck the drums eight miles to a warehouse, where they are

stored until they can be hauled to a distant disposal site.

In its report to the basin commission, the company said: "Interim storage does solve disposal problem but results in double handling, labor and rental costs.

"Disposal cost: $1,000 per load times four load per week times 50 weeks per year is $200,000; interim storage adds $50,000 annually."

So far, officials have found no on-site hazardous waste dumps in the Philadelphia area that pose health threats on the scale of the Love Canal disaster, which involved dumps that originally had been on-site facilities until Hooker Chemical Co. sold them. Houses were built on the reclaimed land and chemical poisons seeped through people's yards and into their homes. A wave of illnesses, miscarriages and birth defects ensued.

But EPA officials do not consider it part of their enforcement program to enter company property and look for a hazardous dump. Even New Jersey's DEP, which enjoys a good reputation for hazardous waste enforcement, recently was sued by an environmental group, which said the department was lax in policing on-site dumps. DEP officials say they do not have the manpower required.

Bob Allen, who heads EPA's Philadelphia region solid and hazardous waste division, said he has no reason to believe there might be a Love Canal buried on company property in the area. He was asked why.

"We have asked the states the question, 'Do you have a Love Canal-type situation?' and the states have told us they did not have that within their borders," he said.

But the fact remains that most state governments—especially Pennsylvania's—are too ill-informed to know whether such sites are within their borders. New York State did not know about Love Canal either, until after the damage had begun.

"What Hooker did at Love Canal," said EPA's Hugh Kauffman, "putting these wastes there, knowing about the potential for poisoning people, and then finding people were being poisoned and not doing anything about it, was just like taking a gun and pointing it at the heads of those people. It's just as bad.

"Until the government is willing to treat corporate executives and corporations like they would people who put guns to people's heads, nothing is going to be done about the problem."

The problem was put in perhaps the best perspective by Melvin Wade, who is accused of allowing ABM Disposal Co. to haul toxic wastes to his property under the Commodore Barry Bridge in Chester for $1.50 a drum. He conceded in an interview that he was selling the emptied and reclaimed drums to United Container, which has a facility a couple blocks away, for a $6 a drum.

"Most of that stuff came from DuPont . . . from Exxon—the big companies, that's where that stuff came from," Wade said.

"They shut me down, but those guys are still running. One of those lawyers for the government told me. 'Wade, you got your hands around one of those big guys' throats.' I'm just the fall guy. That's why they want to send me to jail. They never go to jail."

REGINALD JONES: A BUSINESSMAN'S BUSINESSMAN

Mr. PERCY. Mr. President, it was with great pleasure that I read in the September 16 New York Times Magazine the article about the chairman and chief executive officer of General Electric—my valued friend, Reginald Jones.

The Times piece presented a valuable evaluation of Mr. Jones and his role in Government decisionmaking. It is a position to which Mr. Jones has risen because of his philosophy that business can influence Government when it chooses to work with it and not simply oppose it. This was my experience when I was in industry years ago; it has been my experience since I came to the Senate.

I commend this entire article to my colleagues, but I would like to highlight one paragraph which touches on matters which go to the very heart of today's economy. At a recent university lecture, Mr. Jones is quoted as saying:

> Over the past 15 years, expenditures for research and development in the United States have not kept pace. In proportion to the gross national product, R&D spending has declined 25 percent since 1964. During this same period, many other industrialized nations, including Japan and West Germany, have been increasing the share spent on research and development. The U.S. Patent Office reports that foreigners now receive 37 percent of all United States patents, compared with only 20 percent in 1960.

Reginald Jones went on to say that—

> Our tax structure has been sharply tilted against savings, investment and innovation. An acceptable level of R&D and successful innovation in the United States can be achieved only in an environment conducive to business investment generally. Top priority should be given to Government policies aimed at improving the climate for business investment.

In these brief sentences, Mr. Jones has summarized the challenge that lies before Congress. The 1978 Revenue Act was a departure from previous tax bills in that it recognized the importance of investment. We cut capital gains taxation and the corporate tax rate to spur investment. We can and will do more. All 41 Republicans have joined in introducing a tax cut bill that will spur saving, R. & D. spending by private industry and change the method of depreciating assets. It incorporates my "Small Savers Act," an essential incentive for investment today.

Reginald Jones exemplifies the best in American private enterprise and it is important that he is taking this important message about investment to our universities. I commend it to my colleagues, too, and ask unanimous consent that the Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA'S MOST INFLUENTIAL JONES

(By Isadore Barmash)

The absurdly long, black limousine entered the gates and wheeled smoothly along the winding driveway to the entrance to the White House. Usually, a Presidential aide would greet the limousine's occupant. But the tall-sober-faced figure that emerged from the car was stirred to see a slight, sandy-haired man with a wide, toothy grin waiting to shake hands. The car's occupant wasn't the Prime Minister of Britain or Vice Premier of China. It was Reginald H. Jones, the chairman and chief executive of the General Electric Company.

Jones's reception sounds a note of harmony amid the discordant tones occasionally played by President Jimmy Carter—beseiged by inflation and other symptoms of a difficult economy—and the heads of corporate America. Insiders at the White House say that Reginald Jones has made frequent visits in recent months, that he is cool, convincing, quietly forceful and self-assured by having obviously done his homework. Stuart Eizenstat, President Carter's domestic affairs adviser, says of Jones: "I think he is one of the wisest, most intelligent, most informed people on public policy issues that I have ever met. He's always armed with the data, and he's extremely articulate in making his presentation. He stands very high in the White House. The President has tremendous respect for him. Anytime he calls, the door is open."

Jones is reported to have been offered two Cabinet posts by Jimmy Carter—director of the Office of Management and Budget and chairman of the Federal Reserve Board—and was approached again during the recent Cabinet shake-up. Jones won't discuss these offers, but sources close to him say that he felt he had an obligation to decline so that he could complete unfinished work at General Electric. Carter is not alone in his enthusiasm. Last spring in a survey conducted by U.S. News & World Report, 1,439 American leaders called Jones the country's most influential businessman.

His succession to that role coincides, in part, with an evolution in American business itself. The change that has occurred could be good for the country as well as for General Electric and big business—but, on that point, the returns, as they say, are not in. Jones represents a new breed—the antithesis of the businessman who decided years ago that, if he couldn't own the man in the White House or the people on Capitol Hill, "big Government" was to be loudly and publicly and constantly damned. A pragmatist instead, Jones is one of those who may oppose Government overregulation, for example, but who also believe in communication, and that, through intelligent, frank dialogue, they can get a hearing and can learn to live with the compromises they must make.

A chain smoker, Jones speaks easily between puffs. "Today's chief executive," he said in an interview, "is in contrast to what used to be called the Neanderthal types. He's considerably more responsive to the concerns of the special-interest groups, recognizing that in our system the causes advanced by these groups do gain considerable public support and are of great moment to Congress. Congress has certainly demonstrated that it is an overly responsive body. So the chief executive must recognize that he is going to be faced with legislation that will move from the area of voluntarism to that of requirements. Only on one occasion did we see that legislation reversed. We learned that the automobile designed in Washington didn't sell very well. These demands are going to be placed on the corporation, and the chief executive has to determine which he feels are truly legitimate and which are not reasonable. The corporate chief executive is always faced with the problem of making this kind of trade-off."

For General Electric, at least, that problem, or the general problems of competing in the marketplace, have clearly not been insurmountable. From the time Thomas A. Edison founded it 101 years ago to develop the light bulb General Electric has grown to the point where it spends more than a $1 billion a year and has a staff of 1,500 Ph.D.'s. for research and development. It is the world's largest manufacturer of electrical equipment and is among the leaders in electronics, nuclear power, consumer goods and aerospace. Between 1968 and 1978, its sales more than doubled to $19.6 billion, and its net income tripled to $1.23 billion. General Electric now has 401,000 employees and 552,000 stockholders.

Individual corporate growth notwithstanding, American business has come under much more stringent Government scrutiny since Carter, elected on a populism platform, entered the White House. Because of the resulting controversies, Jones believes that "it is in the interest of the private sector, the

shareowners, customers and employees of that sector that business should explain its side of the issues. We wouldn't be doing our job for the shareowners, the suppliers and the customers if we were not out there making ourselves heard."

In one recent university lecture, he made himself heard in his own measured way: "Over the past 15 years, expenditures for research and development in the United States have not kept pace. In proportion to the gross national product, R.&D. spending has declined 25 percent since 1964. During this same period, many other industrialized nations, including Japan and West Germany, have been increasing the share spent on research and development. The U.S. Patent Office reports that foreigners now receive 37 percent of all United States patents, compared with only 20 percent in 1960."

Why the lag?

"A counterculture essentially opposed to the industrial society rose first to public attention, and then to positions of power. Under the Keynesian economics of the past few decades, our tax structure has been sharply tilted against savings, investment and innovation. An acceptable level of R. & D. and successful innovation in the United States can be achieved only in an environment conducive to business investment generally. Top priority should be given to Government policies aimed at improving the climate for business investment."

That was Jones in action—spare, diplomatic, motivated, verbally sinewy, factual, not shrill.

With a collar that sometimes seems just a bit loose, and a lean, somber face, the 62-year-old Jones looks somewhat like an industrious church deacon. He begins his day at 7:15 A.M. in his large, airy office at the company headquarters in Fairfield, Conn., and is pacing the floor by 7:30 as he deploys his large staff. Jones instills in his people a need to gather information, and his own flair for acquiring knowledge, for grasping issues quickly, manifests itself especially in his work in strategic planning; it was, in fact, his technique in planning, in preparing for change without knowing what the change would be or when it would come, which first brought him to national attention among businessmen. Jones's approach has been to set about methodically to pinpoint in exhaustive detail the various possibilities that may lie ahead for each segment of his business and to prepare contingencies. The importance is obvious when one considers the size and scope of those American companies that have gone down the drain in recent years because they couldn't adjust to change—W. T. Grant, Franklin National Bank, REA Express, Robert Hall, not to mention Penn Central, which almost went except for being bailed out by the Government, or Chrysler, which could, without such help.

Jones also introduced so called "sector" management to G.E. Six men—each acting as chief executive officer in his own billion-dollar product area (and those areas were split into a total of about 50 corporate entities)—reported to a three-man executive office. Jones declared that his successor would be chosen from a pool of about a dozen vice presidents from these sectors by 1981.

Jones thus freed himself to a marked degree to concentrate on the external affairs of the company.

Perhaps what has brought Jones the greatest attention was his role in G.E.'s merger with Utah International Corporation, a $2.2 billion acquisition which was then the largest in American history.

"He brought five or six of us on the board together in advance of the regular director's meeting for about 45 minutes," said Ralph Lazarus, a long-time G.E. director and chairman of the Federated Department Stores chain. "He had all the facts on Utah International so well developed that no one could dispute them." That was only the first leg in the campaign to bring the giant Utah company into the fold, but so thorough were the research and the subsequent field investigations that the biggest American merger was pulled off without a hitch, and, surprisingly, without much more than a murmur of Government protest.

Some close to him think that Jones's ability to see both sides of a public issue comes from his humble beginnings and later embarrassment over his riches. His father, after emigrating from England, was an odd-jobs man and electrician in New Jersey. Jones's present residence, in Greenwich, Conn., is a relatively modest colonial house, despite his $750,000 annual salary. He and his wife, Grace, often spend nights at home but he admits to friends, "We wish people would call us, people are afraid to ask us out." They seem reluctant to interrupt the personal life of one of America's most important businessmen.

A graduate of the Wharton School of the University of Pennsylvania, Jones joined G.E.'s business-training course in 1939 and for the next eight years was a traveling auditor; he picked up a widely varied knowledge of the company in that role. Quick, determined, decisive, he demonstrated that he could get into and out of problems quickly. Not long after eventually becoming group executive of G.E.'s construction industries in 1967, he was named vice president for finance. "I wanted to refuse the job," he recalled, "because I enjoyed operations more. But I found that I enjoyed finance so much that for a time I refused the next promotion."

A former G. E. vice chairman who retired in 1972, William H. Dennler, observes, "Reg made suggestions that were far beyond what you expect from a financial man. Although he might be talking with others about spending money, he'd chime right in on marketing or on technical matters. In time, he got to be considered a good backup man on anything . . . but he was the best financial man I ever met."

It was in 1970 while Jones was financial vice president that he had his greatest crisis. That year, the company decided that it had to stem the heavy losses of its computer business. Some years earlier, Jones had been one of those who had recommended that G.E. get into computers in spite of the industry domination of the International Business Machines Corporation. G.E. set up a task force and asked its financial vice president to be on it. Jones and the others studied the loss of several hundred million dollars over the years, and it soon became obvious that, not only was there severe competition, but I.B.M. was tightening its already tremendous grip on the computer industry.

"It was a time of terrible decision for me," Jones says. "I had been instrumental in G.E.'s getting into the field, and now I was convinced there was only one way to cut our losses—that is, simply get out. It also dawned on me that I was probably the key member of the task force because of my financial responsibility. Was that why I was put on the task force? I didn't know. But I knew that G.E. traditionally never gives up on anything."

It seemed apparent that many more millions, perhaps as much as $500 million, would be needed just to keep the division afloat. So Jones went ahead and proposed to the task force that computers be dumped, and the task force approved the recommendation; the board of directors also approved it, and added a touch of irony: it put Jones in charge of the job.

He did manage to sell the controlling interest in the division to Honeywell, Inc., a more successful computer maker. But G.E. didn't escape the barbs of critics who wondered why a company that had successfully ventured into aerospace, nuclear energy and pollution-control systems couldn't hack it in computers. It was, for General Electric and for Jones, a humiliating experience, not unlike that of Xerox Corporation, which had to give up on its computer business after losses of almost $1 billion.

Still, as often happens in large corporations, one step backward leads to two forward. Jones did get the albatross off G.E.'s neck and it did recoup $340 million of the losses in the sale to Honeywell. Former vice chairman Bill Dennler adds, "Jones's sale of the computer business was masterful. He helped G.E. and he even helped Honeywell. He understood the tax consequences of the deal, and that gave him the edge."

In 1972, the company's directors, singling him out for, among other things, his work in the G.E.-Honeywell transaction, put him into the chief executive's chair.

As the top man, Jones differed from his predecessors and also from earlier chief executives in most other companies. Ralph J. Cordiner in the 1950's and Fred Borch in the 1960's, Jones's immediate predecessors, were sales oriented. The late Cordiner, a hard-hitting, precise type, who ran G.E. when some 16 of its executives were indicted and three went to jail on charges of price fixing, started as a college student selling flatirons for G.E. His tenure is recalled by old-time G.E. men as austere, and his disavowal of the price-fixers not entirely credible (if he didn't know, he should have, is a common expression). Borch was also a tough sort, but he leavened his hardness with a sense of humor, more or less settling on that approach as three problem ventures seemed to defy solution. They were computers, nuclear power and commercial jet engines.

Jones's varied experience—which include running the air-conditioning, supply, and construction divisions as well as finance—cried out for maximum usage. But, more important, it was clearly the cerebral way he undertook these jobs that seemed to impress the board, and continues to do so.

That includes his dramatic acquisition of Cox Broadcasting Company for about $460 million. To obtain Government approval of the still-pending deal, Cox and G.E. are divesting themselves of television and radio stations in areas where there are overlapping outlets. G.E. has been in the broadcasting business since 1922 when it went on the air with, "This is station WGY" (whose call letters stood for wireless, General Electric and Schenectady). Since then, the company has added three telvision stations, seven A.M. and F.M. outlets and 12 cablevision systems.

Unlike many heads of big companies, Jones appears to have made few enemies and many friends, perhaps because he is so matter of fact and unpretentious. It may also be because he is so unabashedly—some might call it embarrassingly—but nonetheless sincerely a company man. Some years ago, when he was head of G.E.'s wholesale distribution, the company honored one of its top salesmen. Jones, the host, burst into a torrent of applause when the fellow came up to receive his award. Because of Jones's tribute, a colleague jokingly asked him afterward, "Who is that guy, your brother-in-law?" Jones blinked, swallowed and said, "No, he's just G.E."

Among most people, Jones also generates a sense of identification, the feeling that there-but-for-the breaks-go-I. His skills are extraordinary, but they are quiet, subtle, and on the surface he appears to be an ordinary guy who was elevated high by circumstances but had the capacity to handle them. This perception is enhanced for those who have observed how he handles the tough matter of firing people. Jones will telephone a person who must be dismissed and invite him to breakfast or lunch. The discussion begins with how the man approaches his job, and Jones gives him his reaction. The talk comes

around to the man's future, and it winds up with his virtually making up his own mind. At no point has Jones told him he's through.

The famous "Gutoff incident" may be an exception. Inside the company, the incident is rarely mentioned. Reuben Gutoff, who left G.E. to become the president of Standard Brands Inc. and is now its consultant, was considered a brilliant, eager, young protege of Jones. Appointed to head the company's strategic planning department, Gutoff pushed the G.E. hierarchy but found the layers of command so hardened in a century of development that they wouldn't give. Reluctantly, after facing an increasing number of complaints, Jones fired Gutoff. A G.E. director says of the incident, "No one's very happy about it. Gutoff got Jones's backing against the advice of those around him until he found that Gutoff couldn't deliver without upsetting a lot of people. He was too abrasive and too persistent. All of us at the top of the business heap have to know when to give in and when not. You can't be impatient in stimulating people to move. Gutoff is brilliant but that was the problem."

Did Jones quietly cut off Gutoff's head after giving him too tough a job before he was equipped to handle it? Did the plodders and water-treaders get to Gutoff? Did Gutoff have it coming to him? Neither Jones nor Gutoff will discuss it. But if the incident reveals a slight crack in the new corporate image of sensitivity and moderation, there are a few others. Last winter, G.E. withdrew its sponsorship of a Barbara Walters television-news special because the show involved an interview with Jane Fonda. In it, Miss Fonda talked about her new Columbia Pictures release, "The China Syndrome," the fictional story about an impending nuclear-plant disaster and attempts to cover it up. G.E. explained that it was "inappropriate" for a company that supplied nuclear-power equipment to sponsor a program that contains "material that could cause undue public concern about nuclear power." But the company conceded that the issue was one of "significant public controversy." Furthermore, as others pointed out, such an action can affect the independent quality of news judgment. Yet G.E. pulled out anyway. The special was aired without G.E.'s sponsorship. Since then, the problems at the Three Mile Island nuclear plant near Harrisburg, Pa., and the shutdown of other nuclear facilities, tend to refute G.E.'s statement that the public should not be unduly concerned about the safety considerations of nuclear power.

In 1976, G.E. was sued by the New York State Department of Environmental Conservation over its discharge of polychlorinated biphenyls (PCB's—used in the manufacture of capacitors) into the Hudson River. At first, G.E. agreed to provide $4 million for cleanup and research to develop a substitute for PCB's and, later, to stop using them.

Jones declines to comment on either the Jane Fonda incident or the PCB controversy.

Can the general public, then, really trust the new breed of smooth and rational businessman like Jones?

Dr. Eugene Jennings, management professor in the Graduate School of Business Administration at Michigan State University, for one, believes that, in general, American business has become more responsible. "Big business," he says, "embattled, bewildered and often defensive in the face of a quantum increase in constraints and uncertainties during the first half of this decade, now evidences a more realistic view of what is required to survive, let alone prosper, in a radically different world." And Jones, in particular, makes one believe in him, and in his ability to perceive complicated social issues that go beyond the special interests of his own company. "Real strategic planning" he says, "involves a careful, analytical examination of all the major factors that enter into the business process—and the external factors are probably of greater importance than the traditional internal factors. Social obstacles, political constraints and competitive counterpressures must be imaginatively constructed. Alternative plans must be prepared to match the contingencies. And hard choices must be made."

But it really is too soon to say for certain whether this new breed will be good for the country or just good for business. Malcolm X once said he would far rather deal with a loud, haranguing political opponent than a quiet intelligent one because the quiet intelligent one was more likely to win out in the end. It is possible that the current businessman's low-profile, exploration-of-the-issues approach may mean only that he's willing to explore subjects like ever-increasing Government regulation, which Jones and others feel can harm both G.E. and the public. It is possible, too, that they will continue to be unwilling to air more controversial issues like the safety of nuclear power, which could conceivably be resolved in a way that would be harmful to their own companies' immediate self-interest.

But the interesting thing about rationality is that one tends to get hooked on it. Intelligence is intelligence. Once the human mind is really put to work, it's often hard to get it to stop. If Big Business has graduated from the haranguing school to the intelligence school, then there is good reason to be hopeful that it will explore issues beyond narrow limits to a realm where they will be resolved, in the long run, to the general benefit of everyone.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 4986, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, the program, as stated on yesterday for today, outlined the scheduled following morning business, as beginning with the resumption of the debate on the banking bill—for want of a better term, I shall use that; then going to the Department of Transportation appropriations bill. The managers of the Department of Transportation appropriations bill want that bill disposed of today, so, at the moment, the leadership is attempting to determine whether or not it would be satisfactory all the way around to switch the order and have the DOT appropriations bill taken up first.

That bill is under a time agreement. So, for the moment, Mr. President, I shall shortly suggest the absence of a quorum. I understand that it is agreeable on the part of the managers of the banking bill, and Mr. MORGAN, who is very much involved in connection with the debate and offering of amendments, is agreeable to letting the DOT appropriations bill go ahead. We are trying to determine whether or not this is agreeable all the way around. We should know within a very few moments.

So, for the time being, Mr. President, I suggest the absence of a quorum to allow us to attempt further surveillance of the situation before launching the attack on the DOT appropriations bill.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, the managers of the transportation appropriation bill are very desirous of proceeding with that bill today and completing action on it. The chairman of the subcommittee (Mr. BAYH) is here. I want to accommodate him, if at all possible.

The managers of the housing bill, having had their bill taken down several times already, and becoming quite accustomed to it being up and down and up and down, are willing to go the extra mile and have it set aside again. But we cannot continue to just waste time.

Mr. President, I ask unanimous consent that the order be reversed and that the appropriation bill be brought up now.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4440) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bills which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. Debate on this bill is limited to 2 hours, to be equally divided and controlled between the Senator from Indiana (Mr. BAYH) and the Senator from Idaho (Mr. MCCLURE), with 30 minutes on any amendment, and with 20 minutes on any debatable motion, appeal, or point of order.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, let me very quickly summarize the measure that is before us for the consideration of our colleagues.

Mr. President, the Transportation

Subcommittee held extensive hearings over a period of several months on the fiscal 1980 budget of the Department of Transportation and the related agencies which fall under the subcommittee's jurisdiction. I want to express my appreciation to the members of the subcommittee for their active participation throughout the hearings and markup of this bill.

We have an outstanding committee. They are all hard workers. I appreciate the effort they have made to get this where we are right now.

I especially want to thank the ranking Republican member of the subcommittee (Mr. MCCLURE)—my friend from Idaho—for his very diligent and careful attention on this bill. He made several improvements in the bill and report during our subcommittee markup session. I also want to thank the staff, Jim English, Tim Leeth, Craig Potter, and Nancy Lee, for the many hours of hard work they put forth in preparing the necessary materials for use in the hearings and markups.

Mr. President, I would like to point out that I am looking forward to the opportunity of working with our new Secretary of Transportation. I had an exceptionally good working relationship with his predecessor, Brock Adams, who had been a previous colleague in the Congress. We did not always agree on everything, but we worked out almost all problems to the very best of our ability in a spirit of amicable cooperation.

I had the opportunity to know the new Secretary, Mr. Neil Goldschmidt, shortly after he had been elected to the city council in Portland. I have had a chance to visit with him since he arrived in Washington.

I am looking forward to having the chance to develop the same kind of relationship with Secretary Goldschmidt that I did with Secretary Adams.

Mr. President, this is a good bill. We have carefully reviewed the program needs of each of the agencies and have increased some programs where we felt there were pressing national problems. We have cut back on other programs where we felt that adequate programs could be carried out with less funding. There are frankly some programs for which, in other years, under other circumstances, we would have recommended more funding. But, we have attempted to keep this bill near the President's budget and consistent with the second concurrent budget resolution of the Senate. We have succeeded in doing that. I want to thank my colleagues on the committee for helping us accomplish this goal. I want to point out that the chairman of the Appropriations Committee (Mr. MAGNUSON) was most helpful in our full committee markup in holding this bill to the level recommended by the subcommittee. Senator MAGNUSON is one of the most knowledgeable members of the Senate in transportation issues and I greatly appreciated his counsel on the bill.

I also wish to point out that the Budget Committee, under the leadership of Senators MUSKIE and BELLMON, was also helpful to our efforts by recognizing the changing transportation needs in their own markup of the second budget resolution. They made the necessary increases above what the first resolution had allowed, and we have used that increase to address the critical needs of rail and public transportation.

Mr. President, the subcommittee considered budget estimates totaling $9.99 billion in new budget authority and $9.29 billion in liquidating cash. The committee's recommendations total $9.65 billion in new budget authority and $9.17 billion in liquidating cash. That puts us $332 million below the budget in new budget authority and $115 million under the President's request for liquidating cash.

Mr. President, the committee report which accompanies the bill contains a summary of major recommendations on pages one through six so I will not repeat them at this time.

First. The appropriation of $1,042,585,000 for the operating expenses of the Coast Guard;

Second. The appropriation of $2,086,770,000 for the operations of the FAA plus an additional $5,000,000 by transfer;

Third. General provisions providing for obligations of not to exceed $640,000,000 for grants-in-aid for airports;

Fourth. The appropriation of $293,000,000 for the facilities and equipment activity of the FAA;

Fifth. General provisions providing for aircraft loan guarantees during fiscal year 1980 of $800,000,000;

Sixth. A general provision providing for obligations of not to exceed $8,500,000,000 for Federal-aid highways;

Seventh. An appropriation of $35,000,000 over the budget for safer off system roads;

Eighth. General provisions providing for obligations of not to exceed $175,000,000 for highway-related safety grants and State and community highway safety grants;

Ninth. An appropriation of $20,000,000 providing a separate enforcement program for the 55-mile-per-hour national speed limit;

Tenth. The appropriation of $899,700,000 for Amtrak;

Eleventh. The appropriation of $381,000,000 for the Northeast corridor improvement project;

Twelfth. The appropriation of $550,000,000 for the purchase of securities of the Consolidated Rail Corporation;

Thirteenth. The appropriation of $150,000,000 for rail rehabilitation and improvement financing funds;

Fourteenth. The appropriation of $1,350,000,000 for the urban discretionary grant program of the Urban Mass Transportation Administration; and

Fifteenth. Approval of $11,493,000 by transfer to establish the Office of the Inspector General within the DOT.

OFFICE OF THE SECRETARY OF TRANSPORTATION

For the Office of the Secretary of Transportation, we recommend $34,768,000 and 712 positions, the same as the House allowance. Also, we have included $9,075,000 in the bill for the transportation planning, research, and development programs conducted by the Office of the Secretary.

COAST GUARD

For the Coast Guard, the bill contains appropriations totaling $1,633,176,782. Of this amount, $1,042,585,000 is for operating expenses of the Coast Guard. We have included additional personnel above the budgeted level for the following programs: Search and rescue readiness—139 billets; vessel maintenance—190 billets; personnel to carry out title II of the Outer Continental Shelf Lands Act Amendments of 1978—60 billets; afloat training safety—74 additional billets; and personnel to reduce backlog of vessel plan reviews—8 positions.

For the acquisition, construction, and improvements activities of the Coast Guard, we recommend an appropriation of $290,161,000. This amount is slightly over the budget for items which the committee feels are critically important. The increases include $750,000 for improvements to the cutter *Eagle*. The tragedy involving the cutter *Cuyahoga* caused the Coast Guard to inspect their other vessels and they found safety deficiencies in the *Eagle*. This increase will correct those deficiencies. Also included are $350,000 for New York's vessel traffic service; $1,000,000 for minor construction projects; $2,000,000 to complete the procurement of seven aids-to-navigation boats, and $1,800,000 to improve the reliability of aids to navigation in the Delaware Bay and River. We have included the full $6,645,000 requested for an MRS aircraft simulator, provided that the Coast Guard follow procurement policy guidelines in OMB circular A–76.

For alteration of bridges, retired pay, reserve training, research, and the Offshore Oil Pollution Compensation Fund, we have recommended the full budget requests. Also, we have provided $10 million additional funding for the oil pollution fund to enable the Coast Guard to meet its cleanup responsibilities in the navigable waters of the U.S. adjoining shorelines.

FEDERAL HIGHWAY ADMINISTRATION

For the Federal Highway Administration, we recommend appropriations for various programs totaling $129,950,000. Included in this amount is $35,000,000 for the safer off-system roads program. We have included a limitation on Federal-aid highways of $8.5 billion for fiscal 1980. This is the same as the budget request and $500 million below the House level. We have been assured by the FHWA that this level will be adequate to fully fund the programs that are included in this account.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the NHTSA, we have included $86,170,000 in the bill for operations and research. This amount will enable the agency to continue its very important work relative to making our Nation's automobiles as safe and fuel efficient as possible. We have included an additional $1.5 million to accelerate the biomechanics program in order to enable NHTSA to develop injury criteria and advanced child and adult dummies. This should insure that automatic restraint systems will perform well in a variety of situa-

tions in time for the standard's implementation.

FEDERAL AVIATION ADMINISTRATION

For the programs of the Federal Aviation Administration, the bill includes appropriations totaling $2,517,520,000. Of this amount, $2,091,770,000 will fund the FAA's operations activities. The committee recommends 54,558 positions, including 24,329 air traffic control personnel for centers and towers, including 129 additional positions for reducing the amount of overtime required of ATC personnel at air route traffic control centers and towers; 5,060 personnel for flight service stations, and 13,720 positions for systems maintenance.

For facilities and equipment, the bill includes $293 million for such necessary work at air traffic control centers, airport control facilities, flight service stations, and air navigation facilities.

For airport grants-in-aid, we have provided for obligations of not to exceed $640 million, of which $30 million is for discretionary grants. Finally, we have placed a limit on the aircraft loan guarantee program authorized by Public Law 95–504, of $800 million for fiscal 1980. Of this amount, $150 million shall be made available for commuter airlines, with the balance to be made available for other qualifying carriers.

We have included the full $175 million requested obligation ceiling for State and community highway safety grants. This amount will enable the States to continue their efforts in promoting highway safety through grants-in-aid.

FEDERAL RAILROAD ADMINISTRATION

For the programs of the FRA, the bill includes appropriations totaling $1,621,-671,000. Within this amount, $28,000,000 is for the railroad safety program. This is an increase of $2,060,000, over the budget and includes 10 additional field inspection personnel. For Amtrak, we recommend $899.7 million. This is the full authorization level for operations, capital, 403(b) service and labor protection.

For the Northeast Corridor improvement program, we have included $381 million, which is $100 million below the budget. We feel this amount plus carryover funds will enable FRA to carry out its full fiscal 1980 program. We are concerned with the inadequacies of this program to date and are hopeful that the problems cited in a GAO report to the committee have been addressed and resolved.

For rail service assistance, we have included $92,198,000 in the bill. Of this amount, $75.000.000 is for assistance grants to the States under the Local Rail Service Assistance Act of 1978. For rail R. & D. we recommend $56,750,000.

For rail rehabilitation and improvement grants, we have included $150 million in the bill. Of that amount, $50 million is provided to implement the provisions of Public Law 95–620, which will be made available for the rehabilitation of railroads to haul coal. These funds, plus $103,000,000 in carryovers from previous years' appropriations will provide adequate resources to meet the demands of this program.

URBAN MASS TRANSPORTATION ADMINISTRATION

For the programs of the Urban Mass Transportation Administration, the bill includes appropriations totaling $2,118,-335,000. Additionally, we have provided for $775,000,000 in contract authority funds which will also be available during fiscal 1980 for urban formula grants. Of the amount provided, $1,350,000,000 is for UMTA's discretionary capital grant program. That is an increase of $60,000,-000 over the budget. We have asked UMTA to provide a report to the committee by December 31, 1979, estimating the costs by year, for fiscal years 1981 to 1990, of replacing overage rail rolling stock; of rehabilitating and modernizing existing rail systems to a level consistent with current standards of safety, reliability, and esthetics for new rail systems; of replacing buses so as to achieve an average national fleet of 7.5 years, with no buses more than 15 years old, and of rehabilitating or constructing appropriate modern support facilities to assure adequate maintenance of those buses. The report will compare these figures with existing authorizations in order to determine what additional resources will be necessary to achieve the goal of a modernized and fully functional national public transportation system. The committee does not feel that it is sufficient in light of the restricted availability of petroleum now and in the future, to merely maintain the status quo.

For UMTA's research and development, we have provided $71,600,000. Of this amount, $5,500,000 is to be used to initiate a program that will address the inability of the Nation's transit systems to operate at peak efficiency during winter months. Each winter, roughly one-third of the Nation suffers from interruptions, limited and cancelled operations of such systems due to the adverse effects of ice and snow on transit vehicles and guideways. We are hopeful that this program will bring new technology and techniques to bear on these problems and that substantial improvements can be made to such transit systems in a cost-effective manner. We urge UMTA to initiate this program as quickly as possible so that work can begin this winter season.

For urban formula grants, we have provided the full budget request for tiers I and II and a total of $90 million for tier III grants, which is $15 million above the budget.

For rural and small urban grants, the bill provides $85 million, which is $10 million above the budget.

Finally, for interstate transfer grants, we have provided a direct appropriation of $700 million while rescinding the remaining contract authority for this program. This amount is the same as the budgeted level and will fully meet the needs of those cities which qualify for such funds.

For the Research and Special Programs Directorate, we have provided $27,296,000, including $1,400,000 to continue the work of the Automotive Transportation Center at Purdue University.

For the new Office of the Inspector General, we have provided the full amount requested—$11,493,000 in transfer funds, plus an additional $700,000 and 35 positions.

RELATED AGENCIES

For the National Transportation Safety Board the Civil Aeronautics Board, the Panama Canal Commission, and the Washington Metropolitan Area Transit Authority, we have provided the full budget requests.

For the Interstate Commerce Commission, we have appropriated $78,599,000 for salaries and expenses, as well as $100 million for directed rail service payments to railroads which ICC directs to continue essential rail service over railroads that have ceased operations. These funds are necessary for continued operations of service over the Rock Island Railroad and possibly the Milwaukee.

For the U.S. Railway Association, we have provided the full request for administrative expenses, plus the full $550 million requested for purchase of Con-Rail securities.

Finally, we have included $1,500,000 for the National Alcohol Fuels Commission and $66,157 for the National Transportation Policy Study Commission.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded, for the purpose of amendment, as original text, provided that no point of order shall be considered to have been waived if the request is agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc are as follows:

On page 3, line 11, beginning with "Provided" strike through and including line 13.

On page 3, line 19, strike "$286,011,000" and insert "$290,161,000";

On page 3, line 22, strike "$6,900,000" and insert "$14,900,000";

On page 5, beginning with line 8, insert the following:

POLLUTION FUND

For carrying out the provisions of subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1321, $10,000,-000 to remain available until expended.

On page 5, line 22, strike "$2,085,520,000" and insert "$2,086,770,000";

On page 7, line 14, strike "$290,800,000" and insert "$293,000,000";

On page 10, line 9, beginning with "for" strike through and including the semicolon in line 11;

On page 10, line 19, strike "$130,000,000" and insert "$70,000,000";

On page 11, line 5, strike "$30,000,000" and insert "$15,000,000";

On page 11, line 11, strike "$188,200,000" and insert "$189,000,000";

On page 13, line 22, beginning with "necessary" strike through and including the word "for" in line 24;

On page 14, line 1, after "148," insert "$25,800,000,";

On page 14, line 7, strike "$2,000,000" and insert "$9,650,000";

On page 14, line 8, strike "1981" and insert "1982";

On page 15, beginning with line 1, insert the following:

ALASKA HIGHWAY

For necessary expenses to carry out the provisions of section 218 of title 23, United States Code, $5,000,000, to remain available until expended.

On page 15, line 11, strike "$80,286,000" and insert "$86,170,000";

On page 15, line 12, strike "$25,174,000" and insert "$26,652,000";

On page 15, line 14, strike "$34,617,000" and insert "$39,161,000";

On page 15, line 15, strike "$8,863,000" and insert "$9,396,000";

On page 16, line 11, strike "$54,750,000" and insert "$56,750,000";

On page 17, line 4, strike "$481,000,000" and insert "$381,000,000";

On page 17, line 15, strike "$812,300,000" and insert "$899,700,000";

On page 17, line 16, strike "$574,300,000" and insert "$630,900,000";

On page 17, line 22, strike "$20,000,000" and insert "$23,800,000";

On page 18, line 1, beginning with "$176,-000,000" strike through and including the word "pursuant" in line 3, and insert in lieu thereof "$233,000,000 shall be available for capital improvements, and for labor protection costs pursuant";

On page 18, line 5, after the comma, insert "of which not to exceed $12,000,000 shall be used for capital improvements in connection with the Indianapolis-Chicago service,";

On page 19, line 12, strike "$2,000,000" and insert "$6,500,000";

On page 19, line 22, after "amended" insert "and section 803 of Public Law 95–620";

On page 19, line 24, strike "$100,000,000" and insert "$150,000,000";

On page 20, line 6, strike "$600,000,000" and insert "$700,000,000";

On page 20, line 12, strike "$600,000,000" and insert "$700,000,000";

On page 20, line 22, strike "$19,260,000" and insert "$19,760,000";

On page 21, line 6, strike "$63,500,000" and insert "$71,600,000";

On page 21, line 7, strike "$61,000,000" and insert "$69,100,000";

On page 21, line 22, after "1973" insert a colon and the following:

Provided further, That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

On page 22, line 15, strike "$650,000,000" and insert "$600,000,000";

On page 22, line 16, after "expended" insert a colon and the following:

Provided further, That grants awarded for contracts for the acquisition of rolling stock, included buses, which will result in the expenditure of Federal financial assistance, shall only be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

On page 22, beginning with line 15, strike through and including line 21;

On page 24, line 1, strike "and for fiscal year 1981, $425,000,000, to remain available until expended;";

On page 25, line 11, strike "$24,396,000" and insert "$27,296,000";

On page 25, line 12, strike "$9,590,000" and insert "$12,490,000";

On page 25, beginning with line 18, insert the following:

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of the Inspector General, $700,000 together with $11,493,000 to be derived by transfer from "Salaries and Expenses", Office of the Secretary, $3,868,000, "Operations", Federal Aviation Administration, $3,225,000, "Operations and Research", National Highway Traffic Safety Administration, $630,000, of which $430,000 shall be derived from the Highway Trust Fund, "Rail Service Assistance", Federal Railroad Administration, $1,819,000, "Administrative Expenses", Urban Mass Transportation Administration, $2,086,000, and "Research and Special Programs", Research and Special Programs Administration, $65,000, together with $6,960,000 derived from funds available under 23 U.S.C. 104(a) for payment of obligations.

On page 26, line 20, strike "$16,730,000" and insert "$16,835,000";

On page 27, line 16, strike "$76,099,000" and insert "$78,599,000, of which $1,200,000 shall be available for necessary expenses of the Office of Rail Public Counsel";

On page 27, line 25, strike "$36,000,000" and insert "$100,000,000";

On page 28, line 5; beginning with the colon, strike through and including "11125" in line 8;

On page 28, beginning with line 10, strike through and including page 29, line 24, and insert in lieu thereof the following:

OPERATING EXPENSES

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); official reception and representation expense; operation of guide services; residence for the Administrator, contingencies of the Administrator, and to employ services as authorized by law (5 U.S.C. 3109); maintaining and altering facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use; and for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that may accrue thereafter, including accounts payable for capital projects, $431,008,000. There may be credited to this appropriation, funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects and for payment to other United States Government agencies funds received from officers and employees of the Commission, and/or commercial insurors of Commission employees, for expenditures made for services provided to Commission employees and their dependents by such other agencies.

CAPITAL OUTLAY

For acquisition, construction, and replacement of improvements, facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed forty-eight passenger motor vehicles of which twenty-eight are for replacement only; to employ services authorized by law (5 U.S.C. 3109) for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979 or that may accrue thereafter; to improve facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use, $40,419,000, to remain available until expended.

PANAMA CANAL EMERGENCY FUND

For expenses necessary to defray emergency expenditures and to insure continuous, efficient and safe operation of the Panama Canal, where funds appropriated for the operation and maintenance of the Canal prove insufficient for such purposes, $40,-000,000 to remain available until expended.

On page 32, line 7, strike "$100,000,000" and insert "$150,000,000";

On page 32, line 19, beginning with the colon, strike through and including "1979" in line 4 on page 33";

On page 33, line 10, beginning with the comma, strike through and including the quotation marks after "Projects" in line 12;

On page 33, beginning with line 16, insert the following:

NATIONAL ALCOHOL FUELS COMMISSION

SALARIES AND EXPENSES

For necessary administrative expenses of the National Alcohol Fuels Commission, $1,500,000, to remain available until expended.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

SALARIES AND EXPENSES

For necessary expenses to enable the National Transportation Policy Study Commission to carry out its functions under section 154 of the Federal-Aid Highway Act of 1976, $66,157, to remain available until expended.

On page 34, line 13, strike "$620,000,000" and insert "$640,000,000";

On page 34, line 15, after "(b)" insert a comma and "of which $30,000,000 shall be added to the discretionary fund available for distribution pursuant to 49 U.S.C. 1715 (a)(3)(B) and (a)(3)(C)";

On page 38, line 1, strike "$9,000,000" and insert "$8,500,000";

On page 38, line 11, after "1979" insert a colon and the following:

Provided further, That notwithstanding any other provisions of law, the Secretary of Transportation shall, not later than sixty days after date of enactment of this Act, designate as a route on the National System of Interstate and Defense Highways six miles extending I-164 southward to South Lane Drive to tie into U.S. 41 South: *Provided further*, For necessary expenses of the functional replacement of publicly-owned facilities located within the proposed right-of-way of Interstate Route 170 in Baltimore, Maryland, $2,000,000, out of the Highway Trust Fund, to remain available until expended: *Provided*, That the Secretary of Transportation is authorized and directed to proceed with the obligation of the necessary funds without regard to the provisions of the National Environmental Policy Act of 1969, as amended: *Provided further*, That actual construction of a highway on the right-of-way with respect to which said funds are expended shall be commenced within a period not exceeding ten years following the date of enactment of this Act.

On page 40, line 9, strike "$500,000,000" and insert "$800,000,000";

On page 40, line 9, after "amount" insert a colon and the following:

Provided, however, That the funds in this Act shall be available for the guarantee of loans for the refinancing of aircraft purchased after January 20, 1979, if an application for an aircraft purchase loan guarantee covering such aircraft was filed prior to that date but after October 24, 1978.

UP AMENDMENT NO. 704

(Purpose: Technical Amendment)

Mr. BAYH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 704.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 8, after "section 131" strike "(j)".

Mr. BAYH. Mr. President, this is a technical change in the committee bill which strikes a portion of the bill language.

According to the Federal Highway Administration, this provision, as reported, limits the use of funds for the highway beautification program in a way not intended by the committee. This amendment will correct that problem.

Mr. McCLURE. Mr. President, I concur in the adoption of the amendment. and I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 707

(Purpose: To insure that Federal funds for terminal development at airports are used only for projects that are directly related to the movement of passengers and baggage)

Mr. BAYH. Mr. President, I have another amendment, which I offer on behalf of the distinguished Senator from Nevada (Mr. CANNON) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for Mr. CANNON and himself, proposes an unprinted amendment numbered 707.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41 at line 11 immediately after section 318 insert the following new section:

SEC. 319. None of the funds in this Act shall be available for the project costs of terminal development under the Airport and Airway Development Act of 1970 unless such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of an airport.

Mr. BAYH. Mr. President, as I said a moment ago, this amendment is offered on behalf of the distinguished Senator from Nevada (Mr. CANNON) and myself.

This amendment states that airport development grants should not be used to purchase works of art for airport terminals. The Commerce Committee did not intend these funds to be used in this fashion. For that reason, the amendment seems to be appropriate to the Senator from Indiana.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator CANNON. As the chairman of the Commerce Committee, he is familiar with the legislative intent of his committee and Congress when that bill was passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR CANNON

In the past year, the FAA has taken a clearly irresponsible attitude in awarding ADAP grants by agreeing to participate in the funding of a statue for the new Atlanta airport terminal.

I am certainly not against artwork for airports when the local community wishes to fund a statue, but the ADAP funds are provided for the purpose of improving the safety and capacity of the airport system. Last year, the FAA testified that over $600 million in high-priority, safety-related ADAP projects were to go unfunded. Yet they find enough money for airport statues. This Administration has taken creative interpretation to new heights in agreeing to such a grant under the ADAP law, and the following amendment will clarify the fact that terminal development project costs must be directly related to the movement of passengers and baggage. In other words, no funding of airport statues or artwork from the Trust Fund while safety related projects go unfunded.

Mr. McCLURE. Mr. President, I concur in the adoption of the amendment, and yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, the committee has appropriated $86 million for the section 18 program. This program was created during the last Congress to meet the transporation needs of small urban and rural communities.

The committee has increased the administration's budget request for this program by $10 million in order to provide funding for intercity bus terminals and operating subsidies for intercity bus service routes. This committee has long recognized the vital role of the intercity bus industry to the rural transporation network. The intercity bus provides service to over 15,000 U.S. communities, 14,000 of which have no other form of public transportation.

Mr. BAYH. Senator, I have been assured from DOT that intercity bus operations are eligible for section 18 funds. Given this country's energy problems and the fact that over 1,700 communities have lost scheduled bus service over the last 10 years, I want to make it clear that it is our intent that intercity bus operators are in fact eligible for section 18 funds.

Mr. MAGNUSON. The committee appropriated these additional funds with the understanding from DOT that private intercity bus operators are clearly eligible for section 18 funds and that programs involving intercity bus operations can be adequately taken care of in the section 18 program. If the record next year indicates that these funds are not adequate to meet the needs of rural and small communities to maintain and improve rural bus service, the committee will consider the separate funding of section 22.

The committee has also appropriated additional funds to the section 3 discretionary grant program. These funds are to be used for the development of intermodal terminal projects involving intercity bus operators. As with the section 18 program, the committee has been assured by the Department of Transportation that these terminal projects involving intercity bus operators can be taken care of through the section 3 program. If this does not prove to be the case, the committee will consider separate funding of section 21.

On another matter, although it does not affect the timely introduction of automatic restraint systems in the passenger car fleet, I understand that the bill does contain language which seeks to assure the public of the safety reliability of these life-saving systems.

Mr. BAYH. Yes. Although the provisions of the bill do not affect the standard, nor do they interfere with the manufacturers' plans to produce cars with automatic restraints, it does provide for further efforts to improve safety on the highways. We were concerned that this life-saving standard not be delayed, and that the standard be implemented expeditiously as the Department of Transportation directed in 1977. To that end, and to provide further assurance to the public of the suitability of automatic restraint systems, the committee has recommended an increase in the Department's appropriation of $1.5 million so that any issues concerning the performance of these systems can be laid to rest in short order.

Mr. MAGNUSON. Our interest is to assure timely implementation of the standard by the motor vehicle industry and its suppliers, in accordance with the Senate vote in 1977 where we endorsed the standard by a 2-to-1 margin. Indeed the Department is encouraged to expend funds and engage in activities on related research and development projects including review of manufacturers' preparations for mass production, monitoring the performance of passive restraint equipped vehicles already in production or on the road, continued testing of restraint systems, public information and educational activities, accident investigation and analysis, research into biomechanics of trauma, and consumer acceptance studies.

Mr. BAYH. I think that we agree that it is important to do something about the more than 50,000 people who continue to be killed, and the hundreds of thousands who are seriously injured on our highways each year. And since all of the many programs of the NHTSA, the National Safety Council, and others have not raised belt usage above its current 14 percent, the need for improved occupant crash protection is clear.

Mr. MAGNUSON. Since automobile crashes currently cost our society nearly $50 billion per year, the sooner we get automatic restraints into cars, the sooner we can reduce this inflation-feeding loss. If all cars on the road had automatic crash protection, we could reduce that amount by at least $5 billion and the public could see insurance reductions of $30 to $50 per year.

Mr. BAYH. Yet the cost of automatic restraints need not be excessive. Last fall, Mr. E. M. Estes, president of General Motors, estimated that automatic restraints would add an average of less than $115 to the cost of a new car. When you see how much people are willing to

pay for other comfort and convenience options, like tilt steering wheels or automatic door locks, I would expect automatic restraints to be very popular.

Mr. McCLURE. Mr. President, the colloquy has to do with money that has been appropriated for research and development on automatic crash restraints in automobiles, and I think it is clear both from the committee action and the report of the committee and the colloquy between Senator MAGNUSON and Senator BAYH that we are now providing money for research and development, but we are not at this time doing any more than providing research and development funds pursuant to existing statute which will allow us to go forward with research and development. We are not in any way by this action taking any more or less action than that which is already authorized by statute and it does not commit us to any course of action after the R. & D. is done except that which is already provided for in existing statutes.

Mr. MAGNUSON. Mr. President, the funds in the bill for redeemable preference share financing and loan guarantee financing under title V of the Railroad Revitalization and Regulatory Act of 1976 will be essential to the rehabilitation and improvement of marginal railroads such as the Milwaukee and the Rock Island.

We want to be sure that Federal assistance under title V is limited to rehabilitation and improvement of existing rail facilities and can only be used for limited new construction as part of a rehabilitation and improvement project, and that it will not be used for projects not directly related to rehabilitation and improvement of the existing railroad system.

Mr. BAYH. I fully agree with the chairman.

Mr. KENNEDY. A point of clarification. The report of the Senate Appropriations Committee which accompanies this bill urges that the Interstate Commerce Commission not effect any "permanent" changes in Federal regulatory policies while the entire issue of motor carrier regulatory reform is under active consideration by the Congress. It is my understanding that Senator CANNON, chairman of the Senate Commerce Committee, and Congressman JOHNSON, chairman of the House Public Works Committee, have announced their intention to mark up legislation in their respective committees which will address these issues during the early months of next year, and that they will have a bill to the President by June 1, 1980.

Am I correct in interpreting this language to mean that the committee intends for the ICC to assist the Congress by continuing to consider and to develop administrative records on the range of regulatory issues currently affecting motor carriage? The Commission should delay, however, final implementation of any decisions which would preclude effective congressional consideration of the policies underlying those decisions?

Am I also correct in my understanding that, should such legislation fail to be enacted, the committee would, at that time, expect the ICC to implement its regulatory policies consistent with the mandate of the 1935 Interstate Commerce Act?

Mr. BAYH. The Senator is correct. I would hope, however, that the Commission would not make effective any changes in motor carrier regulation until such time as the appropriate authorizing committees of the House and Senate have had a chance to report legislation. If legislation is not reported, or if such legislation fails to be enacted, the Commission would then—of necessity—proceed under the mandate of the original statute.

Mr. EAGLETON. I congratulate the distinguished chairman of our subcommittee for his superb leadership in bringing to the floor a bill which is responsive to our transportation needs, while holding the line on new spending. I would also like to make note of the excellent work done by the subcommittee staff director, Jim English, and his able assistant, Tim Leeth.

I would want to raise with the floor manager a matter which came to my attention only after the markup of the bill. That is, a Coast Guard proposal to operate a hovercraft along the reaches of the Mississippi River between St. Louis and Cairo, Ill., to help prevent ice from clogging the river channels. This would be an experimental program, but if successful, could yield important benefits. First, the hovercraft could prevent formation of ice gorges which result in annual flooding of low-lying bank areas. Second, if successful, the operation of the hovercraft would extend the river navigation season, permitting uninterrupted transportation of energy products through the winter season, and also allow more of our abundant grain harvest to move by barge to export facilities.

The overall cost of this program would be an estimated $400,000 in fiscal year 1980 from the Coast Guard R.D.T. & E. account.

Given our budget situation, I will not propose any additional funding for this purpose. But, I would ask the floor manager whether he would consider joining me in a letter to the Coast Guard requesting that it find the necessary funds within its overall budget to go forward with this experimental program?

Mr. BAYH. The staff has been briefed on this program, and it is one that I think would pay handsome dividends, if successful. So, I would be very pleased to join with the Senator from Missouri in a letter urging the Coast Guard to proceed with the project using such funds as are available to it under this bill. I would go a step further to suggest the possibility of earmarked funding for the project in any supplemental appropriations request the Coast Guard should make. I can assure the Senator that this would have my support.

Mr. EAGLETON. I thank the distinguished chairman and, again, want to express my admiration for his skilled leadership in bringing this responsible bill to the floor.

Mr. HEINZ. Mr. President, the National Rail Passenger Corporation, Amtrak, will receive millions of tax dollars pursuant to this and future appropriations bills. This substantial Government assistance will be used both for operating expenses and capital improvements, including the purchase of rolling stock and power train equipment.

It is sound public policy to make this investment in a strong national rail passenger system. Such a system is an important element in our national transportation network, providing Americans with a fuel efficient, convenient mode of transportation.

It is also sound public policy, and this is the particular point that I wish to emphasize, to expend the tax dollars of American citizens, in the present case, the Federal assistance provided to Amtrak, on goods made here in the United States, rather than overseas. In fact, the Library of Congress has estimated that for every $1,000 spent to procure domestic rather than foreign goods, $552 in additional Federal, State, and local tax revenues are generated. Additionally, procuring goods domestically eliminates the loss of jobs attendant to foreign purchases and, thus, saves additional Government expenditures on the Federal, State, and local levels.

This sound public policy has been accepted by Congress through its adoption of the "Buy American" provisions of the statutes governing Amtrak procurement. It is important that we clarify clearly and unequivocally the intent of Congress that these "Buy American" provisions be strictly enforced.

The public policy considerations underlying these "Buy American" provisions are as valid today, if not more so, than when these provisions were adopted. It is important that we reemphasize the congressional support for the integrity of the "Buy American" provisions because the Amtrak Reorganization Act of 1979 added to the Secretary of Transportation's exemption authority, providing that the Secretary may exempt a particular purchase from these provisions, if the purchase cannot be made within a "reasonable time." While we should not allow the national rail passenger system to be undermined by the inability of Amtrak to purchase needed equipment in the United States within a reasonable time, it is important that this new authority not be allowed to undermine the "Buy American" provisions. The provision must be construed by the Secretary of Transportation with a view to the intent of Congress that only exceptional circumstances will justify expending American tax dollars on foreign goods. When this new exemption authority was added to the Amtrak legislation in the House, Congressman MADIGAN, the author of the amendment, noted that Amtrak, if it placed an order for equipment tomorrow, would not be able to receive the equipment for 2 years. That standard, whether Amtrak can domestically purchase needed equipment within 2 years, is a most appropriate standard for what is a "reasonable time" in terms of the expanded authority recently adopted by Congress. It reflects a balance between the sound public policy underlying the "Buy American" provisions and the essentiality of a sound national rail transportation system.

My distinguished colleague from Indiana, who as the chairman of the Sub-

committee on Transportation of the Appropriations Committee, the floor manager of this bill, has taken an active interest in the "Buy American" provision of this and other statutes. I seek his concurrence in this expression of the continued congressional support for the integrity and importance of the "Buy American" provisions.

Mr. BAYH. It is without question the intent of the Appropriations Committee that the integrity and breadth of the "Buy American" provisions applicable to Amtrak be respected. The committee strongly believes that U.S. tax revenues should be returned to the U.S. economy by procuring goods domestically.

Exceptional circumstances can justify exemptions from the "Buy American" provisions applicable to Amtrak if the national interest, specifically, the needs of the national rail transportation system, can only be met through an exemption. However, such exemptions must be narrowly construed, including the expanded exemption authority recently adopted by Congress.

The purpose of this new authority, allowing Amtrak to purchase foreign products if they cannot purchase them domestically within a "reasonable time," will be served, while at the same time respecting the public policy considerations behind the "Buy American" provisions, if the standard for the determination of what is a "reasonable time" is whether the product can be purchased domestically within 2 years.

Mr. McCLURE. Mr. President, the colloquy deals with the "Buy American" provisions and the application of the Madigan amendment in which it says, in effect, that 2 years is an unreasonable period of time and, therefore, the "Buy American" provision would be waived.

The Heinz colloquy is intended to say that anything less than 2 years is a reasonable period of time and, therefore, does not waive the "Buy American" provisions.

Mr. President, I think it ought to be understood that the 2-year provision in the Madigan amendment and the effect of the Heinz-Bayh colloquy on that subject does not bind us in a straitjacket so that anything that is more than 2 years is automatically unreasonable and anything less than 2 years is automatically reasonable. There ought to be some flexibility in the application of that term, and I understand the colloquy between the distinguished chairman of the subcommittee and the Senator from Pennsylvania is taken in the light of trying to provide some flexibility in the application of the Madigan amendment, and it should be so viewed.

Mr. HEINZ. It is my understanding that of the $290,161,000 the committee recommends for the acquisition, construction, and improvement function of the U.S. Coast Guard, $1.8 million is intended for use in improving the aids to navigation on the Delaware Bay and River. Furthermore, I understand that the Coast Guard may use these funds to construct additional ice-resistant structures, acquire additional ice buoys, and to upgrade and repair range lights and lighthouses. Is my understanding correct?

Mr. BAYH. Yes. As page 10 of the committee report indicates, the committee has included an additional $1.8 million which it intends that the Coast Guard use to improve the reliability of the aids to navigation in the Delaware Bay and River. As the report states:

> These improvements might include, but would not be limited to, construction of additional ice-resistant structures, additional ice buoys, and up-grading and repair of range lights and lighthouses.

Mr. HEINZ. I thank the Senator. I appreciate the committee's efforts to insure that the Coast Guard has the funds to make the needed improvements in the aids to navigation system on the Delaware Bay and River. During the past two winters, damage to the aids to navigation system caused by ice conditions has hampered, and during certain periods halted, shipping on the Delaware Bay and River. The serious nature of this situation was demonstrated last winter when shipments of precious oil cargos were interrupted by dangerous navigation conditions.

After a tour of the port in February, I met with representatives from the port community and the Coast Guard to discuss improvements in the aids to navigation system. Based on the changes suggested at that meeting, I believe that the committee's action will enable the Coast Guard to make the improvements needed to prevent unnecessary disruptions due to damage to the aids to navigation system in the future.

Mr. CULVER. Mr. President, I would like to ask the distinguished chairman of the subcommittee (Mr. BAYH) a question concerning the urban initiatives program in the fiscal year 1980 transportation appropriations bill.

The administration budget contained $200 million for joint development projects. This money, however, would have been taken from the capital assistance program, so the Appropriations Committees of both Houses have reduced the funding for the joint development programs to $80 million.

I am concerned that this reduction in funding may adversely impact the proposed development project planned for Cedar Rapids, Iowa. This is an outstanding facility that is part of that city's overall downtown renewal. It combines an intermodal (bus and taxi) terminal with private development of retail and office space, and a 200-unit apartment complex for elderly and handicapped citizens. This measure will reduce private automobile ridership in the central city area, conserve energy, provide badly needed residences for senior citizens and the handicapped, and spur an estimated $30 to $40 million in private investment over the next 10 to 15 years. The intermodal complex has the enthusiastic support of the citizens and officials of Cedar Rapids, and will greatly enhance its downtown environment.

The total cost of the project is $35 million. Private developers have already committed $25 million, and Cedar Rapids and the State of Iowa have committed another $2.1 million. The city has applied to the Urban Mass Transportation Administration (UMTA) for $7.7 million for construction of the transportation terminal. I cannot emphasize too strongly the fact that the Cedar Rapids facility will only become a reality if UMTA grants this money.

With only $80 million available nationwide, I am concerned that the Cedar Rapids project might not receive the money necessary to proceed. This would be a severe loss to that city and, I believe, the administration's urban initiatives program. I understand that the Cedar Rapids proposal is one of the few in the entire Kansas City regional UMTA office that is complete and ready to move forward.

Therefore, I would like to ask the Senator from Indiana, if he has had the opportunity to familiarize himself with this project, and whether he believes the Cedar Rapids proposal is one which should be given high priority and careful consideration by UMTA when awarding UMTA grants this year?

Mr. BAYH. I would say to the Senator from Iowa that the Cedar Rapids project appears to be precisely the kind of proposal we are attempting to encourage. The Senator and Cedar Rapids officials are to be commended for your foresight and dedication to renewal of the central downtown area and the needs of the people of Cedar Rapids, particularly the elderly and handicapped. The intermodal nature of this project makes it particularly timely in view of the need for energy conservation and the need to integrate our transportation system.

The committee has recommended $80 million for such projects in fiscal 1980 and anticipates that that will be adequate to fully fund the fiscal 1980 requirements of these projects.

Mr. CULVER. I also inform the Senator from Indiana that I have been in contact with Cedar Rapids officials, who have indicated that an UMTA award of $4–5 million would enable construction to begin. Therefore, the entire UMTA grant would not have to be awarded in fiscal year 1980.

I again thank the Senator from Indiana for his understanding and leadership. I know that his remarks will be carefully taken into account by UMTA officials as consideration is given to the Cedar Rapids proposal.

Mr. PERCY. I note that there is $650 million in the aircraft loan guarantee program which is not specifically set aside for commuter carriers and has no congressional priorities set within it. In view of the fact that the FAA has taken it upon itself to set priorities which establish service to small communities as the only criterion for apportioning these guarantees, I ask the Senator if it is the subcommittee's intent that this non-set aside portion be so allocated?

Mr. BAYH. No, this was not our intention. The subcommittee feels that there is another class of eligible carrier which is deserving of equal treatment within the non-set-aside portion; namely, those new carriers which provide regional feeder service through one or more satellite or secondary airports in major urban areas. Congress, after all, expressed its intention of encouraging such service, especially by new carriers, in the Airline Deregulation Act, and the FAA should not be drafting its regulations to thwart the will of Congress.

Mr. PERCY. My concern is particularly with the situation at Chicago Midway Airport. As the Senator knows, Congress, several administrations, and the Civil Aeronautics Board have spent years trying to get Midway revitalized in order to relieve the enormous congestion at O'Hare International Airport. We now have a regional feeder airline providing service to Midway Airport, but it almost certainly will be unable to maintain that service without access to loan guarantees. Do I understand the Senator to say that carriers such as this would be given an equal priority within the $650 million non-set-aside portion?

Mr. BAYH. There is no intent to change the original purpose of the loan guarantee program, but it is the sense of the committee that, apart from the specific set-aside of loan guarantees for the use of commuter air carriers, those air carriers certificated for "regional feeder service" by the CAB, which provide service through secondary or satellite airports at one or more major urban areas, shall be accorded equal priority with other eligible air carriers.

Mr. JEPSEN. I have some questions regarding the grants-in-aid section.

Am I correct in understanding that this appropriation bill directs that certain airports in the Nation be given priority funding consideration in the distribution of increased Airport and Airway Development Act discretionary funds?

Mr. BAYH. In the House version of the transportation appropriations bill, 10 airports are listed to receive priority treatment under the Airport and Airway Development Act. Our subcommittee increased the number of airports to 17.

Mr. JEPSEN. Let me clarify my reason for asking about these grants. In my home State of Iowa, the Cedar Rapids Airport is planning a 2-year project which includes a new terminal building and terminal apron area. The project is needed to accommodate an expected doubling of the airport's air traffic by 1990. In fact, a recent study by an independent consulting firm concluded that the present terminal would have to be four times its present size in order to handle the projected air traffic in 1990.

Another important point is that the Cedar Rapids City Council has recognized the need and importance of the new terminal and is prepared to issue $15 million in general obligation bonds to finance the construction of the new building. Besides that, the Cedar Rapids Airport Commission is prepared to finance the construction of 20 percent of the terminal apron, at a cost of $6.1 million. If my information is correct, the commission has already filed a preapplication with the Federal Aviation Administration for ADAP discretionary funding for $4.9 million of the construction costs of their terminal apron over the next 2 years.

Therefore, my question is this—considering the great need for a new terminal and terminal apron area at the Cedar Rapids Airport, would it be the Senator's opinion that this is the type of project which could be considered to receive discretionary funding under the grants-in-aid section of the bill?

Mr. BAYH. I would hope that the needs of the Cedar Rapids Airport are of the sort which would qualify Cedar Rapids for priority treatment for discretionary funding. Certainly the pledge of substantial local funding from the Cedar Rapids City Council is significant as is the expected increase in air traffic.

Though the airports receiving priority consideration have already been named for this year, I will be glad to do what I can to help the Senator in presenting the Cedar Rapids Airport case to the FAA, and, if that fails, I will be ready to assist during the consideration of this issue in next year's Transportation Appropriations bill.

Mr. JEPSEN. Since I am not as familiar with this area as is the Senator from Indiana. Could he tell me how much discretionary funding is available though the FAA?

Mr. BAYH. FAA indicates that in fiscal year 1980 there will be approximately $238 million for that purpose and another $17 million carryover from fiscal year 1979.

Mr. JEPSEN. We all know how important air transport efficiency is to the economy of every State, and particularly to rural States like Iowa where there is no large metropolitan area. Federal funding for the Cedar Rapids Airport would be a wise investment; the money would certainly be put to good use. I know for a fact that the half million people in and around the Cedar Rapids area would be most appreciative, and would benefit greatly from the funding.

I thank the Senator for answering my questions.

Mr. BAYH. Mr. President, I yield to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, as ranking minority member of the Transportation Subcommittee, I would like to associate myself with the remarks of the chairman, Senator BAYH. First of all let me express my appreciation and thanks to the distinguished Senator from Indiana for his efforts on behalf of this bill. This period of budgetary restraint has not been easy for any of us and I do not expect it will get any easier very soon. Nevertheless, it has been a real pleasure to work with Senator BAYH and his very able staff.

This is the first time through for me as ranking member of this subcommittee and in many ways, participation in the fiscal activities of this subcommittee have been a learning experience for me and my staff. We have had to learn quickly, but I feel that we have indeed learned a great deal. At the outset, I think we all ought to be constantly mindful that in the next several years in this country we are going to see some astounding changes if we are to cope successfully with the world in which we live. In this connection the ingenuity and resourcefulness that we display in dealing as a nation with our transportation problems will, I predict, be a bellwether of our abilities to cope with other difficulties with which we will be faced. The challenge is great, but the rewards make it well worth making every effort to see that we succeed. I do not mean to digress, but I think it is important to reflect a moment occasionally on the role that these mundane fiscal efforts play in our overall preparedness to deal with future conditions. In a very real sense these nuts and bolts activities, if you will, represent the core of our ability to respond to larger national needs.

Under the circumstances that we have had to deal with in connection with this bill, I must agree with Senator BAYH's observations that this is a good bill. I am particularly impressed with this subcommittee's ability to be responsive to the needs and requests of not only the members of the subcommittee, but of the membership of this body as a whole. It is certainly a credit to the chairman that he has been so responsive to the requests and needs of the many Senators whose interests are represented in one way or another in this bill.

As he has indicated, the bill totals some $9.99 billion in new budget authority with approximately $9.29 billion for liquidation of prior contract authorizations. In the face of some $715.6 million worth of budget amendments not considered by the House, we come to the floor today with total budget authority that is only $237.4 million over the House. It is significant to note that we were able to stay under the President's budget estimate by some $332 million. In addition, the bill as a whole is only $295 million over appropriations for 1979 which represents an increase of 3.1 percent over budget authority for fiscal year 1979.

I do not want to comment on every agency and program in this bill since Senator BAYH has already thoroughly summarized the contents, but there are a few observations I would like to make with respect to some areas that I judge to be particularly important:

First of all, with respect to the Coast Guard, I am pleased to see we are moving to implement expanded Coast Guard responsibilities under the Outer Continental Shelf Lands Act Amendments of 1978. For that purpose, we have included $2.3 million and 60 additional billets in this bill, even though no budget request was submitted on this item.

Under the FAA, the major program increase is a $60 million increase from fiscal year 1979 for airport grants-in-aid. That brings total funding for this account in fiscal year 1980 to a level of $640 million. This money, in addition to the $800 million level provided for the aircraft loan guarantee program will be invaluable in the development of airports nationwide.

I would also call your attention to language in the committee report dealing with apparent shortcomings in U.S. aviation safety. In that connection, several Members have expressed concern about whether the FAA's certification of new aircraft and it's supervision of aircraft manufacturers and operators is adequate to produce the highest level of safety for the traveling public. As the

report accompanying this bill indicates, the committee intends that the Secretary of Transportation appoint a panel of experts to investigate the FAA's effectiveness in improving aviation safety. The DC-10 crash in Chicago last May, if nothing else, underscores the need to take a look at efforts in the area of aircraft certification. In view of the FAA's recent record, I want to emphasize the committee's desire that this panel be appointed promptly and that it complete its work with dispatch.

Another situation that many of us have been concerned about, is of course the Milwaukee Railroad. In that connection, I am pleased to note that the Senate on Tuesday of this week took action on S. 1906 which is the Senate's version of legislation to provide for a restructuring of the Milwaukee. I applaud Senators CANNON, LONG, and PACKWOOD for their quick action on this legislation and I am certainly hopeful that it will be responsive to the needs that exist in those areas of the country affected by the looming embargo of certain portions of the Milwaukee.

With respect to the activities of the Transportation Subcommittee, we have provided $100 million which is potentially available in the event that directed service should occur. In addition, the committee saw fit to include report language which provides assurances that in the event that directed rail service becomes necessary over the Milwaukee Railroad, the employees of the Milwaukee would be utilized to the maximum extent possible by other carriers who would implement any directed service order that might arise. I am sure that we have not yet heard the end of the Milwaukee situation, but I am pleased to note the cooperative spirit that exists on the part of everyone that is involved in this situation. I am sure that this subcommittee along with all others that are actively involved in solving this problem will do their utmost to see that this situation is resolved in the best interests of everyone concerned.

With respect to Amtrak I think it is significant to note that for the first time in Amtrak's history we have this year provided multiyear funding for both capital and section 403(b) service funds. For the future, it is clear that we must take steps in the direction of providing multiyear funding. In addition, I am convinced that we must eliminate the practice of using capital fund allocations to reduce the Federal loan balance. In that connection, the committee has seen fit to attach report language addressing this issue, and I expect to see a satisfactory resolution of this problem before final action on the fiscal year 1981 appropriations bill.

Mr. President, these are just a few of the items in this bill which I wish to call to the attention of my distinguished colleagues. Certainly this is a bill which impacts on all of us in one way or another and I believe on the whole it represents a balanced responsible approach to the transportation needs in this country.

Mr. President, I reserve the remainder of my time.

Mr. BAYH. Mr. President, I want to reiterate what I said earlier, that as chairman of the subcommittee I consider it a privilege not only to serve in that capacity but to work and have the kind of cooperative relationship that it has been my good fortune to have with the distiguished Senator from Idaho; and to also say again that without the assistance of people like Jim English, and Craig Potter we would not be where we are today.

Mr. BELLMON. I understand that the managers of the bill are as concerned as am I about the treatment of Amtrak capital grant funds in this bill. Allowing Amtrak to use these funds to retire debt understates the actual Federal subsidy to Amtrak for operating costs, inappropriately increases Federal outlays in fiscal 1980, and is bad budgetary practice. The Budget Committee and the administration have opposed this practice; and I am pleased that the committee has gone on record agreeing that this treatment of Amtrak capital grants should not be continued in the future.

Do I read your report correctly, when I understand it to say that we are not going to continue this practice in next year's appropriation bill?

Mr. McCLURE. I am the author of the report language; and the Senator from Oklahoma is correct. It is the intent of the report language that everyone understand now that we do not intend to continue this practice in the future. If Amtrak needs funds for operating costs, or for capital acquisition, then we should deal with requests for those purposes. We should not be appropriating money for one purpose, knowing full well that those funds will be used for another purpose entirely.

Mr. BAYH. I agree with Senator McCLURE. The problem we faced this year was a function of the authorizing legislation, which only recently passed both Houses of Congress and was signed into law. We did not want to legislate on an appropriations bill; so we chose to appropriate these funds in accordance with the authorization; but we do not intend to continue this practice in the future. The authorizing committee has a full year in which to deal with this problem; and I am confident that, by the time we report a transportation appropriations bill next year we will have resolved the issues of Amtrak capital grants and debt service treatment to all our satisfaction.

I understand our distinguished colleague from Connecticut has an amendment or two he would like to present to us at this time.

The PRESIDING OFFICER. The Senator from Connecticut.

UP AMENDMENT NO. 708

(Purpose: To prohibit the use of funds relating to certain rail-highway crossing demonstration projects)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 708.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, insert the following between lines 11 and 12:

SEC. 319. None of the funds provided in this Act may be used for planning or construction of rail-highway crossings under section 322 (a) of title 23, United States Code, or under section 701(a)(5) or section 703(1)(A) of the Railroad Revitalization and Regulatory Reform Act of 1976 at the—

(1) School Street crossing in Groton, Connecticut; and

(2) Broadway Extension crossing in Stonington, Connecticut.

Mr. WEICKER. Mr. President, this amendment is very simple. It exempts two rail crossings in Connecticut from the requirement to eliminate at-grade crossings along the Northeast corridor.

Both crossings are located in the area of Connecticut known as Mystic, and Mystic is probably the single most historic area of the State and without question it is the largest tourist attraction. Construction of an overpass at these crossings which is the only way that grade separation can occur due to the high water table in this area would have a significant negative impact on this area from both a historic and tourist standpoint. At School Street the construction of an overpass would require that a historic, 100-year-old building be demolished, and at Broadway Extension an overpass would create a large and unsightly obstruction to the scenic waterview on which tourist trade in the area is so dependent. Local residents, businesses, civic organizations, and the local governments in these areas have supported retention of these at-grade crossings. I have received literally hundreds of letters which support retention of the crossings.

Mr. President, I wholeheartedly support the Northeast corridor project and continue to recognize the need to eliminate at-grade crossings to achieve trip time goals and greater safety. However, I feel that no rule should be so rigid that it does not allow exceptions if the facts and circumstances so warrant such treatment. A good case has been made by the citizens of Mystic to retain, with the addition of lights and gates, the two at-grade crossings. I urge the adoption of this amendment.

Mr. BAYH. Mr. President, I have no objection. I am willing to accept the amendment. We gave some attention to this in the committee, did not make a final determination, and the Senator from Connecticut has made a very persuasive case, and I urge my colleagues to accept the amendment.

Mr. McCLURE. Mr. President, let me just say for myself as minority floor manager of the bill that I recognize the problem which is being raised by the Senator from Connecticut. It often occurs that a national program does not yield itself to local conditions. I concur

in the amendment, and I have no objection to its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. WEICKER. I thank my distinguished colleagues for their concurrence in the amendment and for their support on many matters dealing with transportation over the months.

Now, Mr. President, while I await the arrival of the distinguished Senator from Florida who, I understand, is going to propose another amendment, in which I plan to join him, I have a brief statement to make, which is of considerable importance.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Will the Senator from Idaho yield me about 6 minutes?

Mr. McCLURE. Mr. President, I yield 6 minutes to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I raise this because of its pertinence to the Coast Guard, which does come under the purview of the Department of Transportation.

THE MEXICAN OIL SPILL

On June 3, 1979, the Ixtoc I oil drilling platform on Campeche Bay suffered a severe blowout. One and a quarter million gallons of crude oil a day gushed forth into the Gulf of Mexico to be swept north along the coast of the Gulf of Mexico to the Texas coast. Mr. President, though the rate has recently diminished, this means that over 1 million gallons of oil a day for the past 150 days have leaked into the Gulf of Mexico.

Two weeks ago, 4½ months after the blowout, a so-called sombrero cap was successfully positioned over the spill hole in the ocean floor. Pemex, the Mexican Government controlled oil monopoly, has now assured the world that Ixtoc I no longer represents a problem.

Mr. President, I rise to alert my colleagues to the truth of this matter: Ixtoc I is not—underlined—not capped. Oil is still gushing forth from the spill site in significant amounts.

Last week, I sent a member of my staff on a factfinding trip to update the Campeche Bay spill.

I frankly was shocked to learn that his aerial inspection revealed a reduced but still significant flow of oil into the gulf. In other words, public information to the contrary, Ixtoc I is still out of control.

The Mexican Government would have us believe the problem has been solved. Even officials in Washington are acting under the misimpression that Ixtoc I is history.

Mr. President, the United States is misinformed on this critical issue. Oil is spilling even today in substantial amounts. And yet I have doubts that further action is contemplated by Mexico to stem the flow.

Unless new efforts are made by Mexico to cap the well, oil will spill for an indefinite time.

And, those new efforts are not forthcoming and would not be until the administration and Congress join to recognize the continuing crisis and insist on a permanent solution.

I am sure there are those who would say "so what." Apparently, the Texas beaches are fairly clean now, and the spill may no longer present an immediate danger to American beaches and the coastline.

However, no one really knows what the long-term impact of this spill has been or will be upon the ecosystem. It has been estimated that 3 million gallons of oil actually came ashore on the Texas beaches and some experts feel that most has since sunk and is lying on the bottom just off the beaches. However, it is generally agreed among experts that sublethal toxicity due to the soluble aromatic fraction within hydrocarbons can be a serious problem to marine organisms. Additionally, if the spill continues into the winter the currents will again bring the oil back to Texas' beaches.

Mr. President, it hardly needs to be argued that the oceans are a critical element of the global biosphere. Oceans cover 70 percent of the world's surface area. We have begun to recognize, appreciate, and understand the nature and full potential of the oceans—its food and mineral resources, its importance for energy development and in commerce, its role in climatic and environmental change, and so forth. However, this nature and this potential are only scarcely researched and dimly understood.

In light of our uncertainty of the long-term impact of environmental disasters like Campeche Bay, it is imperative that we develop a more effective policy for dealing with the potential for similar disasters. Most important is a sound policy for exploration and development of ocean resources which minimizes environmental damage.

These are not idle or theoretical concerns. The Campeche Bay spill is very real, and while the Texas beaches may now be clean, the oil particles sunk on the floor of the gulf may pose a future threat. Recent scientific evidence indicates that through photo and microbial oxidation, high toxic substances are produced in weathered oil. What is next? The next potential disaster area is any frontier petroleum province beneath marine waters—the most imminent is clearly the Georges Bank off the east coast where exploratory oil drilling leases are now pending.

Georges Bank is the richest fishery in the world. It also lies off the most populated coastline in the United States.

What could happen with the Georges Bank? What would be the potential short- and long-term damage of a major blow-out like Ixtoc I? No one can say.

Well, I say that until we have a better idea of what the consequences could be and how to deal with them, it would be foolish to proceed with leasing in Georges Bank.

My colleagues know my long-held position in favor of energy development on the Outer Continental Shelf.

Mr. President, the events of Campeche Bay have caused me to modify my position.

I am now opposed to approval of any leasing on the Georges Bank until a careful reevaluation of environmental impacts is completed.

Congress must not allow further drilling without adequate assurance that the risks of oil spills have been minimized and that we know how to respond effectively when spills do occur.

Campeche Bay has raised many questions that need answers:

Concerning damage assessment, which I understand is being coordinated by NOAA and should receive our every encouragement;

Concerning international coordination on matters of cleanup and containment of spills in international waters;

Concerning our national ability to respond rapidly and effectively to spills;

Concerning some form of liability and compensation for those whose livelihood is affected by these spills.

One of these questions leads me to the reason I bring this issue up today. The U.S. Coast Guard has the responsibility to respond to oil spills and it has performed well at the Campeche site and has used equipment heretofore untested. I am concerned, however, that the experience of Campeche will not be enough to prepare the Coast Guard and the rest of the Federal Government to tackle future open ocean spills.

The Coast Guard must have the best equipment, people, planning, training and funding to take care of any problem anywhere within U.S. waters and in open seas—or to offer assistance to those in adjacent foreign waters such as Campeche Bay.

The Coast Guard has anticipated the need for setting up a strong plan for addressing oil spills and in 1978 has sent to the Secretary of Transportation "A Plan for Implementing Presidential Initiatives Concerning Oil Pollution Response."

The plan covers such things as response techniques and systems, siting criteria, massive spill considerations and required equipment and personnel. This plan addresses many of the provisions I believe are necessary to increase the Coast Guard's ability to meet future oil spills.

I am concerned about progress in implementing the plan since 1978. It is imperative that the Coast Guard be given full support to increase its capabilities in light of the Mexican disaster. I request, therefore, that we add report language to this bill that will inform Congress as to the progress on implementation of the recommendations of the plan, and any new information (based especially upon the Campeche experience) concerning the needs of the Coast Guard to respond to future oil spills.

The language would read as follows:

Within 90 days the Department of Transportation shall report to Congress the progress on implementation of the recommendations contained in "A Plan for Implementing Presidential Initiatives Concerning Oil Pollution Response," and any new information concerning the needs of the Coast Guard to respond to future oil spills.

I am also concerned that the Coast Guard has enough money for fiscal year

1980 in its pollution fund to adequately tackle all demands for this coming year. A few days ago the President submitted a budget amendment of $11.3 million for the pollution fund. I am told that this extra funding will not be required until sometime next spring. Therefore, I will not seek any more money for the pollution fund today. I fully expect additional funding will be provided in a supplemental appropriations bill for fiscal year 1980.

Mr. President, this is the first of a series of actions I will take to insure that this Nation has adequate safeguards in place to address future oil spills and other potential pollutions of the oceans.

Now, Mr. President, having made the statement on continuation of the oil spill, I also want to make it clear, as an advocate of offshore drilling, that I think this casts a completely different light on the proposed drilling of Georges Bank area and the Baltimore Canyon. Georges Bank is the richest fishing ground in this country. Indeed, we do not know the result of what is now occurring in the Gulf of Mexico, which could have very well wiped out an entire area insofar as ocean life is concerned.

I want to make certain, whatever goes on off Georges Bank and Baltimore Canyon, that we have assurances that we can, No. 1, conduct ourselves in a safe manner but, No. 2, that should such an emergency arise, we can handle it.

In the meantime, I use this occasion to alert my colleagues, the President, and the Nation, that regardless of the reticence of the State Department to discuss what it is they are doing and regardless of the reticence of Mexico to discuss what they are doing, this disaster continues, diminished only in amount.

I have requested, I might add, that immediate hearings be held on the matter, which I think are presently being instructed both by Chairman JACKSON and Senator FORD; and, aside from those hearings, that this Government take immediate action to ascertain what the facts are.

Mr. President, before I conclude, I would hope that there would be report language—if I could address my comments to the distinguished Senator from Idaho who, I gather, is here representing the chairman—there should be report language as follows: that within 90 days the Department of Transportation shall report to Congress the progress on the implementation of the recommendation contained in "A Plan For Implementing Presidential Initiatives Concerning Oil Pollution Response," and any new information concerning the need in the Coast Guard to respond to future oil spills.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. WEICKER. I yield to the junior Senator from Idaho.

Mr. McCLURE. May I start by saying to the Senator from Connecticut that we will be happy to work with him, both in the subcommittee and through the conference, to assure that that information is made available in a timely basis, recognizing fully both the concerns he expresses and the difficulty represented by the delicate situation with which we are confronted in negotiating with a sovereign nation that has a very sensitive regard for its sovereignty. But we will be happy to work with him, both here, in the subcommittee, and in the conference, to see that this information is available, to the extent we can.

Mr. WEICKER. I thank my distinguished colleague from Idaho. I only wish that the nation of Mexico would have as much sensitivity for the Gulf of Mexico as it has for its sovereignty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

UP AMENDMENT NO. 709

(Purpose: To provide funds for capital improvements for Amtrak)

Mr. STONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE), for himself and Mr. WEICKER, proposes an unprinted amendment numbered 709.

On page 18, line 9, insert the following after "Corridor,": "and 148,100,000 for capital improvements which shall not be available for expenditure until fiscal year 1982, pursuant to section 601(b)(1)(B) of the Rail Passenger Service Act,".

Mr. STONE. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Pennsylvania (Mr. HEINZ) be added as a cosponsor, together with myself and the distinguished Senator from Connecticut (Mr. WEICKER).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. I thank the Chair.

Mr. President, it became very clear during the debate on the Amtrak authorization bill earlier this year, that one of the most serious problems facing Amtrak management is the age and unreliability of its present fleet of cars. Over 1,100 cars or 56 percent of Amtrak's total fleet is more than 25 years old. I cannot imagine any transportation company trying to run a business with that kind of equipment.

Today, the distinguished Senator from Connecticut (Mr. WEICKER) and I are offering an amendment that is designed to give Amtrak the ability to begin to improve its equipment needs. The Senate recently enacted a multiyear authorization for Amtrak which included a provision that allows an advance appropriation for capital improvements. Under this provision, funds cannot be obligated until the fiscal year for which it is appropriated. The amendment we offer today simply appropriates in advance that portion of the capital improvement authorization for fiscal year 1982 that Amtrak intends to put into new rolling stock.

While none of the advanced appropriation could actually be obligated until fiscal year 1982, the net effect of this amendment will be to give Amtrak authority to begin the long process of procuring new equipment by signing contracts with manufacturers. It is my understanding that there is nothing in my amendment which would violate any provision of the budget act or the budget resolution.

Mr. President, manufacturing rail passenger cars has not been a popular business in this country. There will be only one producer of rail passenger cars in the United States if the Pullman Corp. carries out its announced intention to abandon production of passenger cars. According to Amtrak, the one remaining passenger car producer, the Budd Co., can begin to turn out rail passenger cars 18 months from the day they receive the order from Amtrak. Unfortunately, rail passenger cars cannot be bought off the shelf.

The current Amtrak equipment deficiency will not be overcome for almost 2 years from the time that Amtrak can enter into a contractual agreement for the purchase of new rail passenger car equipment. This amendment will give Amtrak the necessary authorization to begin the process of procuring new passenger equipment that will start to become available at the same time that the fiscal year 1982 appropriation can be obligated. Without this amendment, Amtrak will not be able to begin placing orders for new passenger cars at least until the 1981 appropriation becomes available.

While the time element is important, it is not the only factor in our offering this amendment. Giving Amtrak an advance appropriation to purchase new rolling stock will deflect the inflationary impact that Amtrak would otherwise experience by not being able to contract for new equipment until 1981 or 1982.

By being able to buy equipment for 1982 with 1980 dollars, Amtrak will experience significant savings, particularly if the inflation rate continues in the 10–13 percent range. In addition, by providing Amtrak with authority to contract now, the corporation may experience a more stable operating subsidy requirement in future years which would be directly attributable to the reduced cost of maintenance due to the replacement of old equipment with new rolling stock.

A large portion of Amtrak's operating budget goes toward maintenance of equipment. In 1978 Amtrak reported that the cost of maintaining its equipment was greater than the cost of providing transportation ($240 million for maintenance against $236 million for train operations). Maintenance costs amounted to 27 percent of Amtrak's total operating budget for that year. By comparison, U.S. domestic trunk airlines' "maintenance" cost $1.8 billion and "flying operations" cost $4.8 billion, in 1978.

The quality of service to passengers will largely determine ridership and revenue growth as well as improvement in the revenue/cost ratio. Amtrak currently has 100 fewer cars than it did last year at this time and its current rate of attrition is running about 3 cars per week, or 150 cars in the year ahead. Mr. President, this amendment is an essential step toward eliminating Amtrak's problem of deteriorating equipment and high maintenance costs. Approval of the amendment is within our budget limitations and would be consistent with what Congress has already approved and the

President has signed into law. I hope the committee will accept this amendment.

Mr. BAYH and Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. I yield.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from Indiana for yielding.

Mr. President, I am pleased to join with my distinguished colleague, Mr. STONE, in offering this amendment which will provide an advanced capital appropriation for Amtrak totaling $148.1 million.

Earlier this year, Mr. President, Congress passed and the President signed into law Public Law 96–73, the Amtrak Reorganization Act of 1979. This legislation established for the first time a multiyear capital authorization for Amtrak. This provision was adopted in the hopes that Amtrak could better plan for future rail service requirements by knowing that this money is specifically designated for capital needs.

The amendment I am offering today, in conjunction with the distinguished Senator from Florida, attempts to take full advantage of the provision contained in Public Law 96–73, by appropriating now $148.1 million authorized for fiscal year 1982. These funds will not be available for expenditure until fiscal year 1982 but will allow Amtrak to contract now for 200 low level cars, 39 locomotives, and a limited number of self-propelled cars. This approach will insure price/volume reductions and avoid the inflationary impact of waiting another year to negotiate contracts. Most importantly, by using the 1982 authorization figures, this amendment does not violate any provisions of the Budget Act.

Mr. President, this amendment will enable Amtrak to purchase the new equipment that it desperately needs. People are now turning to Amtrak in increasing numbers as a result of the gasoline shortages. As the people of our Nation get out of their cars, which they will have to do, they must have an alternative method of transportation. Amtrak provides an energy efficient alternative, and we must make sure that Amtrak has the equipment it will need to accommodate its increased ridership.

I would merely leave the thought with my colleagues that at a time when we are being eased out of our automobiles due to the lack of supply or the price of gasoline, the time has come now to develop alternate sources of transportation in this country, foremost among which should be rail transportation.

In that regard, I think that decent intercity rail service should be available all over this Nation, regardless of population.

I do not only speak for Connecticut, the Northeast Corridor, and Florida, but I am saying yes, Montana, and other places which are sparsely populated. I would hope this would be the first step toward the capital improvements necessary to enable Amtrak to break even, so that we do not pinch pennies to the point where they cannot break even and then when they come before us the following year we point the finger and say, "I told you the idea will not work."

It will not work, unless we accept this amendment of the distinguished Senator from Florida, which is a tremendous first step. I think the significance should be pointed out. In the past we have merely provided operating subsidies, to keep the old nose above water. We not only need the nose above water at this stage of the game, but we need the whole bod in that position, if indeed we are going to be able to move. I hope the amendment will be accepted.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I would like to say to our distinguished colleagues from Florida and Connecticut, I appreciate the events which have brought about this amendment. I know of the long time interests of the Senator from Florida in mass transit. And also, I know of the good work done by the Senator from Connecticut in his work on the Committee on Appropriations. I think we will have to accept the amendment. We will have to spend a lot of money in the future on better mass transit.

One of the real problems we have right now is that, if we are not very careful, we will not have any American companies in the transit business. I am getting a little tired spending American taxpayer dollars and putting Italian transit workers to work, with all due respect to our Italian friends. They would not let any of our companies sell transit cars in their country. We have prohibition on that, which I do not want to get involved in today.

One of the things we can do to insure a sounder transit industry from the standpoint of production, and the production of the transportation components, is to make it possible for them to have longer term contracts. The Senator from Florida and the Senator from Connecticut are accomplishing this. This, of course, will be in the fiscal year 1982 budget. I appreciate the manner in which he has brought this to the attention of the Senate. I hope we can concur in his amendment.

Mr. McCLURE. Will the Senator yield?

Mr. STONE. I yield.

Mr. McCLURE. I concur with the remarks made by the distinguished chairman of the subcommittee and remark, as well, that we are not just talking about the capital needs of Amtrak but have also taken appropriate note of the concept of multiyear funding. We have also taken note of Amtrak's practice of using capital grant allocations to make prepayments and thereby lower their indebtedness, and we intend to put a stop to that practice.

We are also serving notice this year that we expect that they will make appropriate provisions for debt retirement, which was not done in the budget request this year. We cannot continue to go along without any program for debt retirement. I think it is fair to say that the subcommittee is dead serious about that question, too. We hope in Amtrak's budget presentations next year they will reflect both of those actions.

That is being more than offset by this action, by allowing them to program farther ahead on their capital acquisitions, and will go a long way in strengthening the ability of American producers to compete for that portion of the market. I am pleased to support the amendment on that basis.

Mr. STONE. I thank the distinguished Senator from Idaho and the distinguished Senator from Indiana, the manager and ranking manager of the bill. I really appreciate it.

The PRESIDING OFFICER (Mr. STEWART). Who yields time?

Mr. BAYH. We yield back the remainder of our time.

Mr. STONE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 710

(Purpose: To revise the amount appropriated for local rail service)

Mr. McGOVERN. Mr. President, on behalf of myself and the Senator from Iowa (Mr. CULVER) I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN), for himself and Mr. CULVER, proposes an unprinted amendment numbered 710:

On page 16, line 22 strike "$82,798,000" and substitute "$107,798,000."

Mr. McGOVERN. Mr. President, I commend the distinguished chairman and the members of the Senate Appropriations Subcommittee on Transportation, for their efforts to provide emergency funds for both the Milwaukee and Rock Island Railroads in the appropriations bill we are considering today.

The Rock Island Railroad is already under a directed service order from the Interstate Commerce Commission, while the Milwaukee has today embargoed over half of its 9,800-mile system, one of the biggest proposed abandonments in the history of railroading. The bankruptcy of both of these carriers represent a virtual collapse of our Midwest rail system. If we cannot take appropriate action to provide for an equitable restructuring of both of these railroads within the next several months, the economy of the Midwest will be in serious jeopardy. I applaud the action taken by the Appropriations Committee to provide emergency funds to sustain rail operations on these two carriers.

The Appropriations Committee has shown the foresight to increase the preference share financing program which will help rehabilitate coal-hauling main lines. This particular provision will provide critical assistance to the Milwaukee's main line through South Dakota.

In the agriculture regions served by both of these railroads, many essential branchlines are critical to local and regional economies. The local rail service

assistance program, administered by the Department of Transportation, has already provided desperately needed assistance to preserve some of these branchlines which otherwise would have been abandoned. Yet, this program which has been consistently authorized at $100 million annually, has received appropriations far less than the authorization level.

The amendment Senator CULVER and I are offering today would raise the appropriations for this program from $75 million to $100 million, so that the appropriation corresponds with the authorization.

Mr. President, the State of South Dakota alone is facing the unprecedented abandonment of almost 1,000 miles of branchline trackage. I realize that it may not be possible to preserve all of this trackage, but the South Dakota allocation under this program is nowhere near the amount to save even half of it. Last year South Dakota received little more than $2 million under this program, even though we were among the highest recipients in the country. My colleague from Iowa, Senator CULVER, faces massive abandonments in his State from two bankrupt carriers. More than a dozen States face similar dilemmas.

The economy of the State of South Dakota, like many other States served by both the Milwaukee and Rock Island, is largely dependent upon the efficient movement of agricultural commodities. Our economy cannot withstand the sudden abandonment of nearly a thousand miles of branchline service. The increased cost of trucking farm products from farm to market alone, would devastate thousands of farmers in my State.

Mr. President, I realize the budgetary constraints we face on the Department of Transportation appropriations bill, and I am cognizant of the fact that major increases in this appropriation could place it over the budget resolution. We are facing, however, an unparalleled transportation crisis, particularly in the Midwest and northern tier States. I believe it is critical that we take some action here today to try to prevent the economic disruptions faced by numerous communities if these lines are abandoned.

I urge the committee to accept this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, I yield to my colleague, Senator CULVER, the cosponsor of this amendment.

Mr. CULVER. Mr. President, I want to express my appreciation to the distinguished Senator from South Dakota, with whom I join in cosponsoring this amendment to increase the appropriation for local rail assistance from $75 million to $100 million in fiscal 1980. These additional funds are clearly needed to accelerate the rehabilitation of track that is so critical to our freight transportation system.

As the distinguished Senator from South Dakota has particularly noted, we have a current crisis with regard to the Rock Island Railroad situation that has been under directed service orders since September 26, and the Milwaukee which, as of this morning, has discontinued service on some two-thirds of its operations throughout the country.

Both of these railroads, of course, impact with almost incalculable consequence in terms of the economy, not only of our State and the entire Midwest, moving grain, but they are critical to our total economic health as a society—our balance of payments, our foreign markets, as well as the immediate situation that is posed, getting necessary services in that will prepare the land for next year's crop.

During the last decade, rail services and facilities in Iowa and throughout the Midwest have deteriorated dramatically. Over 570 miles of track in Iowa alone have been abandoned during the last 5 years, and another 270 miles considered for abandonment. This year, of course, has been an absolutely devastating one for Midwestern rail users. As I have indicated, the Milwaukee Railroad—Iowa's third largest railroad—asked a Federal court for permission to suspend service along almost 1,400 miles of track in our State beginning today. Despite the opposition of the Interstate Commerce Commission and pending congressional action to keep the Milwaukee alive, that order is still in effect and most Milwaukee service stopped this morning.

This action will likely put the Milwaukee in the same position as the Rock Island Railroad—Iowa's second largest carrier—which has been under a directed service order since September 26. The bankruptcies of these two carriers—and the meat-axe attempts to dismantle both systems—have exacerbated the difficulty of farmers and grain elevators to move near-record crops to market in a timely and efficient fashion, and have had a devastating impact upon the thousands of Iowans who rely on them. In addition, other manufacturing and retail segments of our economy are adversely affected by our railroad crisis.

The economic situation facing the Milwaukee, Rock Island, and other Midwestern carriers has been partially caused by the lack of available funds to maintain deteriorating track. The "go slow" orders, delays, and disruptions resulting from deferred maintenance create a "vicious circle" of poor rail service, greater operating losses, less revenues, inability to meet payrolls, and in turn, even poorer rail service. The losers in this ever-descending and irreversible roller coaster of inadequate rail service are the railroads and, ultimately, all who use them. Rehabilitation aid must be made available to lines that—once able to repair their track—are still capable of providing efficient service to communities.

Last year, I cosponsored the Local Rail Services Assistance Act of 1978, and recommended a change in that bill to make branch lines eligible for Federal assistance before they are formally considered for abandonment and, therefore, functionally useless. In testimony before the Senate Commerce Committee, I suggested that lines that had deteriorated to the point of abandonment were not good candidates for rehabilitation. The medicine was sound, but the patient had already died. I told committee members that the success of Iowa's branchline assistance was evidence of the soundness of basing eligibility for Federal rehabilitation aid upon the potential performance of the line. During 3 years the Iowa program has been in existence, the percentage of grain shipped over 700 miles of rehabilitated track increased by 29 percent and shippers have saved $3 million annually.

The committee accepted my recommendation and, under the revised eligibility formula, an additional 70,000 miles of track that can meet certain cost-benefit criteria are eligible for rehabilitation funds—including 1,200 miles in Iowa.

In light of the immediate crisis in the Midwestern rail system and the need to accelerate the rehabilitation of light density track, an increase of $25 million in the branchline assistance program is warranted. As my colleague from South Dakota noted, even this sum is minor compared to continued unmet needs, but it is a step in the right direction. Among the most effective long-term steps that Congress can take to alleviate the Midwestern rail crisis is to provide capital assistance to lines that, although currently ailing, can provide efficient and profitable service if given an initial timely infusion of funds.

This modest additional investment will pay great dividends later. It will help minimize the potentially devastating impact of abandonments on small and rural communities, and help railroads generate private capital instead of continually seeking emergency loans from the Federal Railroad Administration and legislation from Congress. It will also help avoid future massive service disruptions from bankrupt carriers like the Milwaukee and the Rock Island. Finally, it makes more sense to use public funds to rebuild the railroads so they can provide efficient service on their own than to appropriate funds for directed service when the lines collapse. As the saying goes, "You can pay me now or you can pay me later."

I wish to compliment the Senator from South Dakota for his longstanding involvement in this issue, and I urge my colleagues to support our amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield myself such time as I might need and I shall be brief.

I compliment my colleagues from South Dakota and Iowa. I am very familiar with the kind of transportation problems they have as far as the light density line abandonment is concerned and the fact that this can really create a situation where we shall nearly have some ghost towns or areas that are not served at critical times of the year, when it is absolutely indispensable to have service to get the grain out. We have a lesser problem, but some of that problem, also, in other parts of the Midwest.

As I am sure both Senators appreciate, we are really bumping at the ceiling, on our budget here. In fact, the way the Senator from Maine is going to describe what we have done, we have gone over it. I imagine we have no alternative, but if we were to accept this whole $25 million, we would go over the budget by our definition. I wonder if my colleagues

could be less ambitious—perhaps place it at the $10 million level. I know they would like to have the full amount, but we would like to be able to accommodate them and still stay within our budgetary restraints.

Mr. McGOVERN. Mr. President, if the Senator will yield, as I indicated earlier, I think all of us are aware of the budget restraints that we are operating under. A good case could probably be made that, notwithstanding that concern, if we do not do something to prevent the collapse of our rail service in the agricultural States, it is going to cost the economy of this country and the Treasury of the United States vastly more in lost revenues than the modest cost of this amendment that is now pending. Nevertheless, I know that all of us have to face the budgetary realities that confront us if that process is going to function.

The Senator from Maine (Mr. MUSKIE) has fought valiantly to make the process work, and I am sympathetic with his efforts to make it work. So if it is agreeable to Senator CULVER and the chairman that we could reduce this figure to $10 million, while I do not think it is enough, it would be of some significant help. Subject to the approval of my cosponsor, (Mr. CULVER), I would agree to modify the amendment.

Mr. CULVER. Will the Senator yield?

Mr. McGOVERN. Yes; I yield.

Mr. CULVER. Mr. President, I commend the Senator from Indiana, as well as the ranking minority member, the distinguished Senator from Idaho, for their understanding of the current railroad crisis that we face in the Midwest and for their willingness to give consideration to providing this additional $10 million for this program.

I think, as the Senator from South Dakota has indicated, we cannot help but be sensitive to the budgetary restraints on transportation funds that the chairman has indicated we all must confront, and I appreciate his willingness to increase the current appropriation while not exceeding the budgetary levels.

The additional $10 million, Mr. President, for branch line and I think, will still enable States to accelerate these important rehabilitation programs and projects. As I have said elsewhere, I think we must undertake a comprehensive effort to revitalize our total national freight railroad system, and we cannot do that, of course, on the bill before us today.

I look forward to continuing to work with the Senator from South Dakota, the Senator from Indiana, and the Senator from Idaho, all of whom, of course, are keenly aware of the need for doing this, making this effort, which, of course, is so vital to the economy of the entire country.

I thank the chairman and the ranking minority member very much.

The PRESIDING OFFICER. The amendment is so modified.

Mr. BAYH. Mr. President, I appreciate what the Senator from Iowa has said. I want to thank both Senators again for focusing in on a very critical problem. We have a very real problem out there if we are going to get grain out of there to feed our country and maintain our balance of payments. Some of it goes overseas. The Senator from South Dakota is right, we are going to lose more revenue than it would cost to do the job.

I appreciate their concern for fiscal restraints and I urge my colleagues to accept the modified version of the amendment for $10 million.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. McGOVERN. Yes, I yield back my time. I thank the Senator from Idaho for his understanding of what we are trying to accomplish.

Mr. McCLURE. I thank the Senator for those comments.

Mr. President, I do appreciate the difficult situation they have. I want to state at the outset that this $10 million, the revised figure, is put in the fund to be available to meet those expenses pursuant to a statute. This in no way directs that it be used for any particular purpose, but makes it available.

I point out that the court today has refused the ICC appeal that the embargo be delayed for 5 days pending the opportunity for Congress to act on the authorizing legislation that we acted on earlier this year and resolve that. So, as of today, the court has taken the position that the embargo must be ordered; there will be no stay on it. That presents us with a very difficult dilemma as we try to sort out all the conflicting options that are available to the parties. What will actually happen, no one can predict at this time.

This additional money simply makes it possible to deal with that problem in another way.

I cannot answer the question, when it is asked of me, regarding what other railroads have bid to purchase any portion of Milwaukee routes.

I cannot, in good faith, say to the Senator from South Dakota or the Senator from Iowa that any of these low density branch lines will be abandoned or taken over by other railroads if they are permitted to purchase under the current proceedings both before the court and the ICC.

It may be there is not any problem. But it may also be that there is a very severe problem. So I want to go at least this distance in trying to make money available to deal with that problem in the short term, in trying to sort out the alternatives.

I am happy to concur in the amendment, as revised.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BAYH. I yield back the remainder of my time.

Mr. McGOVERN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota, as modified.

The amendment (UP No. 710), as modified, was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Indiana yield for a question?

Mr. BAYH. I am glad to yield to the Senator.

Mr. HARRY F. BYRD, JR. Mr. President, I ask the Senator from Indiana, I note the bill carries an appropriation of $511.5 million for the Panama Canal Commission.

As I understand it, the Commission expects to receive in tolls a total of $463 million, which will then go into the Federal Treasury, that $463 million; is that correct?

Mr. BAYH. That is correct. The toll figure, whatever it might be. The Senator is correct.

Mr. HARRY F. BYRD, JR. My second question is, there is a difference between the amount that will go into the Treasury from tolls, a difference of $48 million between the amount that will go in from tolls and the $511.5 million, which would be appropriated by this bill.

My question is, since the American people have repeatedly been told that it would not cost the taxpayers any money, the turning over of the Panama Canal to Panama, that should not the appropriate figure for the appropriation be $463 million rather than the $511.5 million?

Mr. BAYH. Well, the Senator from Virginia raises a very good point.

I would like to call his attention to section 1302(a) of the authorizing legislation, and section 1303(a) of the authorizing legislation, which provides for an emergency fund to be established to meet any emergency that might occur, a lock cave-in, or something like that. That was a total of $40 million. The remainder goes to certain obligations which had previously been incurred by the company, to try to get the books straight.

That is why there is a difference between the amount of tolls and the amount of appropriation contained in this bill.

Mr. HARRY F. BYRD, JR. Would the distinguished floor manager of the bill be inclined to accept an amendment which would state that of the $511 million appropriated by the preceding three paragraphs, not to exceed $463 million shall be available to be obligated or expended, unless or until the Panama Canal Commission has certified to the Treasury the full amount appropriated is covered into the Treasury by revenues of the Panama Canal Commission?

Mr. BAYH. I say to my friend from Virginia, we have received a letter of certification from the Comptroller General, as required under the authorizing legislation.

Would the Senator like to put that in the RECORD at this time?

Mr. HARRY F. BYRD, JR. It is perfectly satisfactory to me.

Mr. BAYH. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C.

TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

The Panama Canal Act of 1979 requires the Comptroller General to certify the estimated revenues to be deposited in the Panama Canal Commission's fund as estimated by the Secretary of Defense at the time the budget request for such fiscal year is submitted to the Congress. Section 1302 (c)(2) of the Act provides that:

"No funds may be appropriated to or for the use of the Commission for any fiscal year in excess of (A) the amount of *revenues deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated by the Secretary of Defense and certified by the Comptroller General of the United States at the time the budget request for the Commission* for such fiscal year *is submitted to the Congress* . . ." (emphasis supplied)

The Act does not provide any criteria for GAO to use in certifying the revenues estimated by the Secretary of Defense and to be deposited in the Panama Canal Fund in the Treasury. Our review of the fiscal year 1980 estimates consisted of testing the computations, reviewing the method of compiling the estimates and forecasts, and such other procedures as we considered practicable in the circumstances.

The revenue estimated by the Secretary for fiscal year 1980 from all sources shown in Exhibit I to be deposited in the Panama Canal Commission Fund total $463.9 million. This includes $71.2 million Panama Canal Company funds remaining unexpended at September 30, 1979, and required to be deposited in the Fund and will be available to the Commission. This amount is the remaining funds from past revenues net of expenses of operations of the Panama Canal Company.

Our review of the toll revenue estimate indicated that the Panama Canal Commission used primarily aggregative economic forecasting techniques combined with statistical analysis and economic judgment in developing the forecast of Canal traffic and toll revenues for fiscal year 1980. Disaggregative techniques were used for commodities, such as grain and oil, for which economic changes are expected. Broad boundaries within which the basic elements of Panama Canal traffic could be expected to develop were established by analyzing data on toll revenues and net tons through the Canal from 1948 through 1979.

The economic judgment used by the Commission was based on knowledge of Panama Canal traffic and research of economic and trade literature. Views of present and future patterns of Canal traffic were also obtained from interviews with approximately 100 organizations in Asia, Europe, and North America. However, since the forecast of toll revenues for a given year are based on assumptions and estimates whose reliability depends on future events outside the control of the Commission, such as a major economic recession and alternative methods of transportation or transcontinental pipelines, there could be a significant variance from actual results.

Non-toll revenue estimates i.e. supporting activities and general and administrative services, were developed by the Panama Canal Commission beginning with the latest estimates of such revenues for fiscal year 1979 and adjusting these amounts with revenue variations expected during fiscal year 1980. Some reasons for these variations are anticipated changes in the level of income producing services and in their billing rates. Provisions were also made for new revenue-producing services that will be provided and for services that will be discontinued due to Treaty implementation. During prior years, non-toll revenue estimates have had less variation from actual results than have toll revenues and are less likely to be subject to variations resulting from uncertain factors. To test the reliability of estimates for prior years, we compared the estimated and actual revenues for fiscal years 1979, 1978, and 1977.

In our opinion, subject to the uncertainties in financial forecasting or unanticipated events and circumstances that may occur, particularly with respect to Canal traffic and toll revenues, the revenues projected by the Commission for fiscal year 1980 appear to be reasonable.

ELMER B. STAATS,
Comptroller General,
of the United States.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
Washington, D.C.

DEAR MR. STAATS: Section 1302(c)(2) of the Panama Canal Act of 1979 (P.L. 96–70) requires that the Secretary of Defense estimate and the Comptroller General certify the revenues to be deposited in the Panama Canal Commission Fund before funds may be appropriated for any fiscal year. In accordance with provisions of that Act, I am transmitting to you for certification the Defense Department's estimates of 1980 Panama Canal Commission revenues.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

DEPARTMENT OF THE ARMY,
Washington, D.C.

Hon. JAMES T. MCINTYRE, Jr.,
Director, Office of Management and Budget,
Washington, D.C.

DEAR MR. MCINTYRE: Section 1302(c)(2) of the Panama Canal Act of 1979 (PL 96–70) provides that:

"No funds may be appropriated to or for the use of the Commission for any fiscal year in excess of (A) the amount of revenue deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated by the Secretary of Defense and certified by the Comptroller General of the United States at the time the budget request for the Commission for such fiscal year is submitted to the Congress, plus (B) the amount of revenues deposited in such Fund prior to such fiscal year and remaining unexpended at the beginning of such fiscal year. Not later than thirty days after the end of such fiscal year, the Secretary of the Treasury shall report to the Congress the actual amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year."

In conformance with section 1302(c)(2) of said Act, I estimate that the revenues to be deposited by the Panama Canal Commission into the Panama Canal Commission Fund during fiscal year 1980 will amount to $391,214,000. I further estimate that, in addition to these operating revenue receipts, the Panama Canal Commission will deposit into the Panama Canal Commission Fund in fiscal year 1980 certain other funds amounting to $72,673,000, comprised of (a) $71,216,000 of Panama Canal Company funds remaining unexpended at close of business September 30, 1979, (b) $400,000 of miscellaneous receipts pertaining to the sale of remaining retail inventories and the disposal of certain plant assets, and (c) $1,057,000 from the collection of Panama Canal Company accounts receivable from the Government of Panama.

My estimate of the funds to be deposited into the Panama Canal Commission Fund during fiscal year 1980 is based on the Budget Amendment for the fiscal year 1980 programs of the Panama Canal Commission, adjusted to reflect: (1) the implementation effective October 1, 1979 of a 29.3 percent increase in the rates of tolls for the Panama Canal rather than the 31.0 percent increase projected in the Budget Amendment; (2) a preliminary accounting for Panama Canal Company cash balances actually on hand on September 30, 1979; and (3) certain other refinements in fiscal year 1980.

Sincerely,

MICHAEL BLUMENFELD,
Assistant Secretary of the Army.

ESTIMATED DEPOSITS INTO THE U.S. TREASURY, FISCAL YEAR 1980

[Dollars in thousands]

	Budget amendment	Changed interest cost	Proposed for later transmittal	Current estimate
Toll rate assumption (percent)	31			29.3
Panama Canal Commission fund deposits:				
Revenues for 1980, including capital surcharge	$395,234	[1] −$6,008	[2] +$1,988	$391,214
Proceeds from sale of retail inventory	300			300
Proceeds from sale of plant assets	100			100
Collections of Panama Canal Company accounts receivable	[3] 1,057			1,057
Subtotal	396,691	−6,008	1,988	392,671
Deposit of Panama Canal Company cash	71,216			71,216
Total deposits, Panama Canal Commission fund	467,907	−6,008	1,988	[4] 463,887
General Fund of the Treasury—Miscellaneous receipts: Collection of Canal Zone Government accounts receivable	[3] 6,133			6,133
Total deposits	474,040	−6,088	1,988	470,020

[1] Changed interest cost is due to the adoption of the average coupon rate (7.096 percent) versus an average yield rate (10.25 percent) as included in the budget amendment:

Budget amendment (10.25 percent)	$20,854
Current estimate (7.096 percent)	14,846
Change	6,008

[2] Increase in cost is due to changed assumption on Federal pay raises. Budget amendment was based on a 5.5 percent cap on pay raises whereas the current estimates provides for a 7 percent pay raise.

[3] The collection of accounts receivables includes the following estimated amounts from the Government of Panama covering past debts:

Panama Canal Company receivables from Panama	$1,057
Canal Zone Government receivables from Panama	1,832
Total	2,889

[4] The Panama Canal Company's borrowing authority of $40,000,000 is also being released. An emergency fund of $40,000,000 is authorized in lieu of the borrowing authority.

Mr. HARRY F. BYRD, JR. Would the Senator indicate the amount?

Mr. BAYH. The amount, it says:

The revenue estimated by the Secretary for fiscal year 1980 from all sources shown in exhibit I to be deposited in the Panama Canal Commission Fund total $463.9 million. This includes $71.2 million, et cetera.

That is what was supposed to be from tolls.

Mr. HARRY F. BYRD, JR. That is right.

Mr. BAYH. According to the law.

The other two items were added to get to the total figure.

Mr. HARRY F. BYRD, JR. The point I am suggesting, I realize the $48 million in a bill of this magnitude is not gigantic, not perhaps a gigantic sum, but it seems to me there is a matter of principle involved here.

The taxpayers have been repeatedly told there would be no cost to the taxpayers. But this appropriated right here, in this one instance, provides for a $48 million cost to the taxpayers over and above the amount received from the tolls.

It occurs to me that the managers of the bill might want to consider modifying the amount in the bill, or at least circumscribing the amount in the bill.

Mr. BAYH. I frankly do not feel we can modify the amount in the bill, unless we are willing to violate the provisions of the law, which provides for this emergency fund to be set up, and provides for those specific bills which had already been incurred by the Panama Canal Company to be paid out of general fund revenues.

This will not be recurring expense every year, once we get by this first implementing year. Then the tolls should take care of the appropriation.

Mr. HARRY F. BYRD, JR. Will the Senator yield for another question?

Mr. BAYH. I am glad to.

Mr. HARRY F. BYRD, JR. Is there anything in the law that mandates the Senate to appropriate this $48 million; an authorization, perhaps, but nothing that mandates either the committee or the Senate to appropriate this $48 million, that I know of?

Mr. BAYH. Let me suggest to my friend from Virginia that he is accurate. It does not mandate it. It is not possible to mandate it.

Mr. HARRY F. BYRD, JR. That is what I thought.

Mr. BAYH. The President has sent up a budget request and, of course, this money is not going to be spent unless it is needed.

The feeling was, as I recall, and I was not intimate at all with the authorizing legislation, the budget request from the President stated that it was better to have money in the bank in case one of the locks caved in, or had problems with the canal, or something, so they could immediately take remedial action, so the amount spent might be less than if they had to come down and go through the appropriation process.

Mr. HARRY F. BYRD, JR. May I ask this question: At what point are the tolls transmitted to the General Treasury; is it at the end of the year, or is it done each day, or is it done by the month?

Mr. BAYH. Frankly, I must confess to my colleague from Virginia, I do not know.

Mr. HARRY F. BYRD, JR. My impression is, and I must say I cannot say it categorically, but my impression is that it is done at the end of a particular year.

If that is the case, there would be adequate funds, certainly, in anticipated tolls, $463 million, to take care of any emergency until such time as the Congress could act as it felt it should.

Mr. BAYH. How does the Senator from Virginia get around the lack of authority to do that kind of thing?

Mr. HARRY F. BYRD, JR. What lack of authority?

Mr. BAYH. The tolls are supposed to come directly into the Treasury and not supposed to be used for emergency repairs, and this kind of thing.

Under the law, there was an emergency fund set up to take care of that.

I am in a position as chairman of this subcommittee, wondering what I am doing appropriating money for the Panama Canal, anyhow. Running buses, trains, and airports, that is one thing. But, of course, this is traditional.

At the same time, I am committed to follow the law, and the law says to set up this fund. That is why it is in there.

Now it has been brought to our attention, we could watch it. We do not have much recourse.

Mr. HARRY F. BYRD, JR. I do not see that the law mandates setting up the fund. The law authorizes the appropriation, if the Senate desires to appropriate it. Is that not correct?

Mr. BAYH. The Senator is correct. He can offer an amendment to strike that out. He is certainly within his right to do so. I hope he will not. We could consider this with the House. They had not received the budget request at the time they considered the act.

The President did send up a budget request that was consistent with the authorized amount.

I also point out that prior to the passage of this bill, the authorizing bill, the Panama Canal Company had the authority to go out and borrow money to do this. They gave it up in the process of the new canal relationship.

So it seems to me and it seems to the President, and I hope it seems to the Senate, that it is only prudent to have some sort of emergency fund consistent with that which was authorized.

Mr. HARRY F. BYRD, JR. I point out that this is a drain on the taxpayers to the extent of $48 million. If the Senate wants to do that, the Senate has a right to do it.

Mr. MCCLURE. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. MCCLURE. I thank the Senator for raising the issue, because my understanding of the budget request and the amount we had authorized was that it was anticipated that the revenues would fully offset this full amount and that, as a matter of fact, there would be no appropriation of funds in excess of the amount of revenues that were received.

It might be useful to include in the RECORD a letter written to the chairman of the Subcommittee on Transportation of the Committee on Appropriations in the other body, Representative ROBERT DUNCAN, signed by Representative MURPHY, chairman of the Merchant Marine and Fisheries Committee in the other body. That letter is dated October 30, 1979.

In that letter, Representative MURPHY makes the flat assertion that the $511 million figure is nearly $48 million in excess of the amount that has been certified by the Comptroller General.

It is the contention of Representative MURPHY that section 1302(c)(2) of the Panama Canal Act of 1979 and section 4 of H.R. 5629, as passed by the House, provides that no funds may be appropriated to or for the use of the Panama Canal Commission for any fiscal year in excess of the amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year as estimated by the Secretary of the Defense and certified by the Comptroller General.

I will complete that sentence by saying, plus the amount of other revenues deposited in the fund in prior years and remaining unexpended at the end of the fiscal year.

Mr. HARRY F. BYRD, JR. I understand that the Senator is saying that the Panama Canal Act states that no funds may be appropriated to or for the use of the Commission for any fiscal year in excess of the revenues deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated to be received from the tolls, and so forth.

Mr. MCCLURE. The Senator is correct. That is what Representative MURPHY is suggesting in his letter.

It was my understanding, when we were talking about the $511 million, that it was anticipated the revenues would completely offset expenditures, therefore, the taxpayers would not have to pay anything that was not contemplated in the original act.

Prior to this, I was unaware of the lower figure of $463.9 million as certified by the Comptroller. I think there may be a question as to whether or not this amount can be appropriated legally, under the Panama Canal Act.

Mr. HARRY F. BYRD, JR. I have here a statement from the Financial Planning Division of the Panama Canal Commission which says that the net appropriation to be sought is $463,509,000.

Mr. President, I ask unanimous consent to have printed in the RECORD the balance sheet and other statements from the Panama Canal Commission, Financial Planning Division, dated October 17, 1979, and revised October 26, 1979.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Cash deposits and appropriations

[Fiscal year 1980]

CASH DEPOSITS, CURRENT ESTIMATES	
Panama Canal Company cash	$71,216
Current year deposits revenues:	
Operating revenue	384,183
Capital surcharge	7,031
Other revenue deposits:	
Sale of retail inventories	300
Sale of capital assets	100
Collections of receivables from Panama	1,057
Current year deposits	392,671
Total deposits	463,887
APPROPRIATIONS, PENDING	
Operations	354,512
Prior year obligations	76,496
Total operations	431,008
Capital new obligations, 1980	25,244
Prior year obligations	13,175
Amounts to be obligated in subsequent years to complete ongoing projects	2,000
Total capital	40,419
Emergency fund	40,000
Total appropriation	511,427
Less: Emergency fund	[1] −40,000
Amounts included in appropriation to liquidate Canal Zone Government obligations	[2] −5,328
Amounts included in appropriation to complete Canal Zone Government projects for potential transfer to DOD	[3] −590
Amounts included in appropriation for obligation in subsequent years to complete Commission capital projects	[4] −2,000
Net appropriation	463,509
Surplus (deficit) of projected deposits over Appropriation	378

NOTE: The Panama Canal Act of 1979 requires the following:

"Sec. 1302(c)(2) No Funds may be appropriated to or for the use of the Commission for any fiscal year in excess of (A) the amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated by the Secretary of Defense and certified by the Comptroller General of the United States at the time the budget request for the Commission for such fiscal year is submitted to the Congress, plus (B) the amount of revenues deposited in such Fund prior to such fiscal year and remaining unexpended at the beginning of such fiscal year. Not later than thirty days after the end of such fiscal year, the Secretary of the Treasury shall report to the Congress the actual amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year."

We believe that certain funds appropriated to the Commission should not be included in the formula of deposits and appropriations. These funds are identified as follows (all numbers refer to footnotes on the schedule of Cash Deposits and Appropriations):

[1] The $40,000 emergency fund is excluded from the appropriation/deposit formula since the 1980 budget does not provide for any expenditures from this fund, thus there are no costs attributable to this appropriation to include in the revenue recoveries of the Commission. When expenditures are made from this fund, such expenditures will enter into costs to be recovered in revenues of the year of expenditures and subsequent years through tolls rate adjustments as necessary.

[2] The operating appropriation request includes $5,328 thousand for liquidation of prior year obligations of the Canal Zone Government. This appropriation amount is requested in accordance with Section 1301 of the Panama Canal Act of 1979 requiring a turn in of all Government cash, which was $12,154 thousand in the preliminary closing of accounts. In accordance with that action, these funds are returned to the General Fund of the Treasury and not the Panama Canal Commission Fund. The obligations covered there represent items which have either entered into the costs of the Canal Zone Government in 1979, or are for items to be transferred to Department of Defense operated schools and hospitals. In either case, such costs are not for the Panama Canal Commission but for the Canal Zone Government or Department of Defense. The costs of the Canal Zone Government are repayable through revenues for services provided by that agency, subsequently deposited into the General Fund of the Treasury, and by reimbursement for the net remaining cost of the Canal Zone Government by the Panama Canal Company/Commission.

[3] The Commission 1980 capital appropriation includes $590 thousand to complete capital projects of the Canal Zone Government. The cost to cover these items was included in the Canal Zone Government cost mentioned above, i.e., for deposit in the General Fund of the Treasury. These projects are principally in schools and hospitals which are to be transferred to the Department of Defense. The appropriation request is authorized by Section 1301 and these amounts are really for the benefit of other Government agencies.

[4] The Commission 1980 capital appropriation is structured upon full funding of all capital projects and includes $2,000 thousand to complete projects underway at the year-end 1980. This portion of the appropriation will be recovered through tolls revenues in the fiscal period when actually obligated rather than when requested, and should not be considered in computing gross appropriations for 1980.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, is the Senator from Virginia through? Is he going to pursue this further?

Mr. HARRY F. BYRD, JR. I would like to pursue it further.

I invite the attention of the distinguished Senator from Indiana to section 1302(c)(2) of the Panama Canal Act of 1979, which has just been read into the RECORD by the distinguished Senator from Idaho.

That being the case, is it appropriate to appropriate this $48 million over and above the amount of revenues estimated to be received from the canal tolls?

Mr. BAYH. I cannot say it more definitively than I have said it, that when one looks at the following and the preceding section of the bill, one will find the language authorizing us to do the very thing the Senator from Virginia questions. It does not mandate it, but it certainly gives us legal authority.

I point out that the chairman of the Senate Armed Services Committee differs with Mr. MURPHY as to the interpretation of this particular matter, as Mr. MURPHY's opinion was read just a few moments ago.

I point out that what we are talking about here, with respect to what appears to be conflicting authorizations, is that we are really establishing a fund for $40 million which will be utilized to meet emergencies. Then moneys to meet emergencies in 1 year will be prorated into the toll base the following year, and those moneys then will be recaptured by the toll-collecting mechanism.

Mr. HARRY F. BYRD, JR. Would the able Senator be willing to write that into an amendment along that line, that if any of this $48 million is spent, the Federal Treasury shall be reimbursed by subsequent tolls?

Mr. BAYH. I can do that, in good conscience, so far as the $40 million is concerned.

In fact, I would read the footnote explaining this appropriation.

The $40 million emergency fund is excluded from the appropriation deposit formula, since the 1980 budget does not provide for any expenditures from this fund. Thus, there are no costs attributable to this appropriation to include in the revenue recoveries of the Commission.

Here is the important part:

When expenditures are made from this fund, such expenditures will enter into costs to be recovered in revenues of the year of expenditure and subsequent years through toll rate adjustments as necessary.

Why do we not just take that specific language and include it in the appropriate place in the bill? I think that would accomplish what the Senator from Virginia is trying to accomplish.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. McCLURE. Mr. President, I refer to page 51 of the committee report, at the bottom of the page. It says this at the end of the Panama Canal Commission appropriation portion:

These funds, as well as other expenses related to the treaty and operation of the canal, are to be drawn from the revenues derived from toll charges of ships transiting to waterway, as required by Public Law 96-70.

It might be helpful if, in addition to the language suggested by the Senator from Virginia and the Senator from Indiana, we indicate very clearly that if there is a dispute as to what the law is, or what the law means—and apparently there is some disagreement as to what the law means—the appropriations that are being offered here are pursuant to that law.

I do not think it is our intention to fight the battle of Panama all over again in this particular bill. As the Senator knows, I was opposed to the Panama Canal Treaty, and I still think it was an unwise action, but it is not my purpose to raise that issue again and try to recover something here that was not contemplated by that legislation.

On the other hand, I want to make it very clear that it was the intention of the subcommittee that the appropriation be pursuant to the restraints of the statute as passed, and it is my understanding that was the case.

If Mr. MURPHY is correct in his interpretation of the law, then the appropriation ought to automatically be so limited by a statement saying that what we are doing is pursuant to that law, and I have no objection to the additional language as suggested by the Senator from Indiana that if there be any expenditures from that sum that they be recaptured, as has been suggested.

Mr. BAYH. May I suggest, Mr. President, that I would be glad to offer an amendment or join the Senator from Virginia in offering it as the comanager, and all of us can join here, that on page 31, line 21, where this item is mentioned, that we have language which reads as follows:

When expenditures are made from this fund, such expenditures will enter into costs to be recovered in revenues of the year of expenditure and subsequent years through toll rate adjustments as necessary.

Mr. HARRY F. BYRD, JR. Mr. President, may I ask this question: That does not specify that such an amount come back to the Treasury or does it so specify?

Mr. BAYH. It does, yes.

Mr. HARRY F. BYRD, JR. That would be satisfactory.

Mr. McCLURE. I think it should be noted either on the face of the amendment or in explanation, that what we have appropriated is intended to be pursuant to the authorizing legislation, and if there is such a limitation as argued by Congressman MURPHY, and if his view should be sustained, the appropriation is automatically so limited.

Mr. HARRY F. BYRD, JR. I think the suggestion offered by the two floor managers of the bill is satisfactory.

UP AMENDMENT NO. 711

Mr. BAYH. Mr. President, I send such an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 711.

The amendment is as follows:

On page 31, line 21, insert the following: *Provided*, That when expenditures are made from this fund, such expenditures will enter into costs to be recovered in revenues of the year of expenditure and subsequent years through toll rate adjustments as necessary.

Mr. BAYH. Mr. President, I ask that the amendment be considered.

The PRESIDING OFFICER. Do all Senators yield back their time?

Mr. BAYH. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Idaho yield back his time?

Mr. McCLURE. Yes, I would be happy to yield it back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Montana.

UP AMENDMENT NO. 712

(Purpose: To prevent the non-beneficial transfer of the FAA general aviation district offices for the State of Montana)

Mr. MELCHER Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 712.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, following "second career training program." on line 12, insert, ": *Provided further*, That none of these funds shall be available for payment of expenses incurred by transfer of personnel or movement of operations caused by the relocation of the general aviation district offices for the State of Montana."

Mr. MELCHER. Mr. President, this is an amendment that simply says we are not going to use any of the funds in this bill to pay for a transfer of the personnel or movement of operations for the relocation of a general aviation district office for the State of Montana for the FAA. They are located in the best spots and serve general aviation, and to move it would be very harmful and very costly for general aviation, and would be very disruptive.

Mr. President, I ask unanimous consent that Senator BAUCUS be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I have a technical amendment to my amendment that I would like to offer. I ask unanimous consent to correct a technical error in my amendment. It would change the word "office" to "offices," plural.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment will be so modified.

Mr. MELCHER. I hope the amendment is acceptable to the managers of the bill.

Mr. BAYH. Mr. President, the Senator from Indiana has no objection to that amendment and asks that the Senate join in support of it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MELCHER. I yield back my time.

Mr. BAYH. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania. Who yields time?

Mr. BAYH. I yield whatever time the Senator from Pennsylvania requires.

Mr. HEINZ. I will be brief.

Mr. President, earlier this afternoon Senator BAYH and I entered into a colloquy on the subject of "Buy America" and what constituted an appropriate kind of standard for a reasonable time.

Subsequent to that the minority manager of the bill, Senator McCLURE, entered into the RECORD remarks aimed at insuring that the 24-month standard would not be a totally inflexible standard.

If that was solely his purpose, to insure we in no way misled anybody by making them think that there would be no circumstances whatsoever under which the 24-month standard could be waived, I would concur in his judgment. But I wanted to ask him if he could recapitulate briefly for me, since I was absent at the time—and I apologize to the manager for the inconvenience—the essence of what he said.

Mr. McCLURE. I would certainly be very happy to, and I appreciate the desire of the Senator from Pennsylvania to make certain that what was said does not detract from what he had added by the colloquy. It was not my intention to detract from what he said but to clarify. The Madigan amendment had, in effect, said that 2 years are an unreasonable delay. As I understand it, what the Senator from Pennsylvania is by colloquy seeking to say is that therefore, if it is one day short of 24 months it is not unreasonable delay.

What I was trying to inject into that colloquy was that the 24 months is not an arbitrary fixed standard, and we are not attempting by colloquy to make it such. There might be unreasonable delay in some instance that was less than 24 months, and there might be some other period of time in excess of 24 months which might not be unreasonable delay. It was in that context that I added my comments to the record.

Mr. HEINZ. As I understand the Senator from Idaho, he does feel in most, shall we say, or in the vast majority of cases it is, in fact, a reasonable standard. But the Senator was concerned about extraordinary situations where the 24 months by any reasonable man test would not seem appropriate.

Mr. McCLURE. The colloquy is an attempt to add a definition of what is a reasonable time, and I do not think we can say that 24 months is either reasonable or unreasonable without looking at the circumstances surrounding each individual event. If the circumstances indicate it is going to take that long or longer than under normal circumstances, then obviously 24 months would not be an unreasonable time.

If, on the other hand, the circumstances indicate you ought to be able to get it done in 8 or 9 months, then 18 months would be unreasonable.

Mr. HEINZ. I think that that is a very helpful amplification, and I want to illustrate it with a practical example. It is possible for a foreign supplier to tell the people or arrange with the people who are soliciting bids on equipment to arrange for there to be a requirement in the bid that there be certain custom furnishings, equipment, what-have-you, that are quite standard for the foreign company but very nonstandard for the industry, particularly for the domestic industry, not being essential to the functioning of the equipment, and that are not readily obtainable by the domestic supplier.

It seems to me that if the domestic supplier was being effectively foreclosed from a successful bid because of an unreasonable demand made by the purchasing party, the reasonable-man test

would be violated. We should not countenance a standard which when applied to the purchase of a particular equipment would clearly rig the bidding process in favor of one particular foreign supplier and to the detriment of American suppliers.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HEINZ. Yes.

Mr. McCLURE. I wish to associate myself very clearly with the remarks that the Senator from Pennsylvania has made. I think everyone of us has seen attempts by various procuring officers, at one time or another, to rig the outcome of a solicitation for bids with criteria that are established for purchase of the equipment.

I could refer to a number of such instances in my own experience. I remember an instance when I was serving in the Idaho State Legislature where the Idaho State police called for bids for some automobiles for the highway patrol, and the specifications that were called for could be met only by Chrysler New Yorker automobiles. It just happened that a brother-in-law sold Chryslers. We had to change the specifications, because the specifications obviously dictated the outcome of the bidding procedure.

That obviously can also occur in some of these other fields when the call for bids may be rigged by the statement of specifications to the disadvantage of any given supplier, or to favor any given supplier. But let us attack that question on the reasonableness of specifications, not just on the reasonableness of time to meet an unreasonable specification, and I think it can be attacked on that basis.

Mr. HEINZ. May I ask my friend from Idaho further, as I understand his statement in its totality, if he agrees that if an American supplier is making a diligent effort, and is doing everything that he or I would really expect to see them do to produce something in a given amount of time, as short a time as possible, the supplier would, in effect, be acting within, as he defines the term, a "reasonable time?"

Mr. McCLURE. Well, not necessarily, I would say to the Senator.

Mr. HEINZ. All right.

Mr. McCLURE. Because it would be possible that an American manufacturer does not manufacture what is reasonably needed, but would like to tool up to go into the business of doing it, to meet the specification, and it would take him too long to get that done. That might, under some circumstances, be an unreasonable delay; but, again, the question of what is the specification and what is the time must be a reasonable standard.

It is my intention, and I want the record to reflect it, that whenever possible we mean the "Buy American" provision to apply, and we would expect procurement officers to have a sensitive regard to that when establishing specifications to be met and when determining whether or not an American manufacturer can comply within a reasonable period of time.

For instance, it might come down that a foreign supplier could deliver equipment in 22 months and an American supplier might take some 25 months. That differential of 3 months does not seem to me to be such an unreasonable delay as to justify a waiver of the "Buy American" provision, but I do not know that we can say precisely what period of time might or might not be an unreasonable delay.

Mr. HEINZ. I thank the Senator for clarifying his remarks. I think it is most helpful.

Indeed, I do not wish to put any word in the Senator's mouth, but what I hear him saying is that he does not have a problem, per se, with providing a rough rule of thumb for those who administer the "Buy American" provisions. The rough rule of thumb is 24 months, so long as that rule of thumb is subject to the reasonableness test that we have discussed at considerable length.

Mr. McCLURE. I would say to the Senator that that is a flexible standard, and in certain specific instances it could vary one way or the other from that, depending upon the circumstances surrounding a particular procurement item.

Mr. HEINZ. And, as I understand the Senator further, it is his strong intention that we have a strong "Buy American" provision?

Mr. McCLURE. Of course. Of course.

Mr. HEINZ. I thank the Senator.

Mr. McCLURE. I thank the Senator from Pennsylvania.

Mr. MUSKIE. Mr. President, the bill pending before us appropriates funds for virtually all Federal transportation programs.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. I yield such time as the Senator may need.

Mr. MUSKIE. I thank my good friend.

I will just take a moment to comment on the budgetary implications of the bill.

Before I do so, I want to say that Senator BAYH was faced with budget amendments from the administration of over $700 million. He was able to respond to these while staying within the budget authority assumptions of the Senate-passed second budget resolution, and I compliment him for it.

The DOT appropriation bill, as reported, provides for $9.7 billion in new budget authority and $6.3 billion in associated fiscal year 1980 outlays. I am pleased to say that the budget authority level is just consistent with the Senate-passed second budget resolution, which is also the tentative conference agreement. However, the outlays associated with the bill, when taken together with action already completed including outlays from prior years, are above the levels of the budget resolution by $0.2 billion.

Finally, Mr. President, I am pleased to note that the reported bill includes responsible obligation ceilings for the highway and airport development programs funded through trust funds. These are valuable programs and it is important that they be adequately funded to satisfy our transportation needs. But it is also important that the Congress apply some practical limitations on program growth in any one year. If it did not, then there would be little protection against an unexpected temporary upsurge in new program commitments that could threaten the budget resolution outlay and deficit targets.

I wish to thank the distinguished chairman of the subcommittee (Mr. BAYH) for his support of the budget process, and to commend him and the other members of the Appropriations Committee for reporting a bill containing a budget authority level that is basically consistent with the Senate-passed second budget resolution.

Unfortunately, I remain concerned about the Appropriations Committee's ability to live within its total allocation, and the outlays associated with this bill will make the task that much harder. The outlay overage in this bill may be resolved by the Appropriations Committee's own allocation of the funding contained in the second budget resolution, but there is no guarantee of that. To express my concern, and with all due respect to the sincere efforts of the floor managers, I regret that I must vote against the bill.

Mr. President, I ask unanimous consent that a table outlining the outlay overage in this bill be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FUNCTION 400

Almost all of the funding in this bill falls within Function 400, Transportation. The following table summarizes the relationship of this bill to the Function 400 totals and demonstrates that the budget authority in this bill can be accommodated, but that there is a moderate excess in outlays of $0.2 billion.

[Dollars in billions]

	Budget Authority	Outlays
Other action completed or underway	12.2	12.5
DOT Appropriation Bill	9.6	6.3
Future action anticipated[1]	—0.25	—
Total	19.55	18.8
Senate-passed Second Budget Resolution	19.5	18.6

[1] Future action anticipated reflects the reconciliation instruction to the Public Works Committee. There are no currently anticipated supplementals in this function.

Mr. MUSKIE. Mr. President, just yesterday the Budget Committee conferees reached agreement on the second budget resolution after a long conference. As a result of this agreement, the funding allocation to the Committee on Appropriations pursuant to section 302(a) of the Budget Act will be increased. Therefore, the conference report will contain a higher Appropriations Committee ceiling into which all appropriations bills for fiscal year 1980 must fit. Even so, I am sorry to say that, based on Senate action to date and expected later requirements, Budget Committee estimates suggest that when all action is completed the fiscal

year 1980 spending ceilings for the Appropriations Committee could be breached by $1.2 billion in budget authority and by $2.0 billion in outlays.

This estimate continues to assume that reconciliation instructions to other committees will be followed. If not, the overage will be higher.

Mr. President, this causes me grave concern. It means that the allowance for supplemental funding will be extremely tight and that many meritorious programs could be squeezed out simply because their funding is not included in a regular appropriation bill.

Mr. President, from my point of view, this is a serious matter. We have been struggling without sufficient success all year to stay within the constraints of the budget resolutions adopted by the Senate and by the Congress. We have not succeeded. The bill before us will make it more difficult on the outlay side, notwithstanding the very effective efforts on the part of the floor managers to hold down the amount of budget authority appropriated.

So I find it necessary, often in seeming opposition to good friends and Senators I respect, to remind Senators that we are getting to the end of the appropriations process. And all the signs indicate that when we reach the end of that line, we will be over the budget resolution, potentially by billions of dollars that we ought to be making an effort to save.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I appreciate the remarks of our distinguished colleague and my friend, the chairman of the Budget Committee. He recognizes, I am sure, that the appropriating committee is sort of between the rock and the hard place on the one outlay area he addressed because of a different interpretation that exists between his committee and the authorizing committee. I hope, if he has not, he will look at page 37 of the committee report where we have called this very fact to the attention of the Senate and urged that next year the practice recommended by the Senator from Maine be followed. In the meantime, we felt that the responsible thing to do was to go ahead because if we did not, we would be $10 million short on Amtrak's services.

Mr. MUSKIE. I understand what the distinguished floor manager is saying, Mr. President. I understand that problem. I appreciate the fact that it is his intention next year to change the practice, and that will be sound. That problem can be worked out. I am not inclined to press that solution at this time. I simply have put this before the Senate to call attention to the overall problem which the Appropriations Committee and the Senate faces. In the reconciliation instructions passed by the Senate in the second budget resolution, the Appropriations Committee assumed the responsibility of initiating rescission bills if at the end of the appropriating process it has breached the funding ceilings provided there. It would be much more comfortable if, when we get to the end of the appropriations process, we were under those ceilings. I dislike the prospect that we will be facing that crunch.

It is for that reason that I have chosen this bill—not because I am particularly unhappy with Senator BAYH—because it gives me an occasion to once again express that warning. I think the distinguished floor manager of the bill understands my point.

Mr. BAYH. I do indeed understand. As I recall the Senator's first remarks, he was very gracious and said he was happy with Senator BAYH. I just wanted to put into the RECORD the particular problem we have and to state that we are trying our best to cooperate with the Senator from Maine and make us all more aware of these problems.

Mr. MUSKIE. I thank the distinguished Senator from Indiana, who has been my friend for many years.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 713

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 713.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows.

On page 28, line 6, insert at the end of the provision entitled Payments for Directed Rail Service, the following:

"*Provided, further,* That not withstanding any other provision of law, none of the funds herein appropriated shall be used for directed rail service over properties of the Chicago, Milwaukee, St. Paul and Pacific Railroad unless such service is provided in whole by the Chicago, Milwaukee, St. Paul and Pacific Railroad at the level of service that existed on October 10, 1979 without regard to limitations concerning directed rail service by a carrier over its own lines and without regard to the requirement for the payment of profits with respect to such railroad."

Mr. BAUCUS. Mr. President, this amendment will continue operation of the Milwaukee Railroad while reorganization proceedings continue.

Mr. President, a Federal judge in Chicago has ordered discontinuance of service on a large part of the Milwaukee system effective November 1. Last night, 6,000 Milwaukee Railroad employees in Washington, Idaho, Montana, South Dakota, Minnesota, and Iowa lost their jobs.

Perishable goods have been left to rot on sidings, and railway stations are being stripped. Service has been terminated on some 6,000 miles of line. This is the largest railroad abandonment in U.S. history.

Unless service is reinstated promptly, there is no hope for any successful reorganization of the affected lines.

My amendment will continue operation of the railroad, while reorganization proceedings continue.

I regret that this issue must be addressed in an appropriations measure. In House Joint Resolution 412, the continuing appropriations resolution, Congress provided loans to keep the Milwaukee operating through November 30, and to give us time to enact more comprehensive legislation.

Regrettably, the Federal Railroad Administration has denied the directive of Congress and refused to make these loans available.

The amendment I offer provides a limited period of time for the Insterstate Commerce Commission to complete its consideration of abandonment petitions and reorganization plans.

It requires the Milwaukee Railroad itself to operate under the directed service statute. This will be done without the customary profit margin allowed directed service carriers.

Under the directed service program, the Federal Government compensates carriers for their operating losses. Thus, there is no question of any erosion of the railroad estate.

If service is maintained at the level in effect on October 9, 1979, as my amendment requires, the cost to the Federal Government will be about the same as if the ICC were to direct service by other carriers.

Mr. President, both the House and Senate have passed legislation, S. 1905, to provide for orderly restructuring of the Milwaukee Railroad. Unfortunately, committee staffs have not been able to reach a compromise that would allow final action on this important legislation.

The House and Senate are in agreement on the most essential elements of the legislation. I am distressed that the parties have allowed a minor disagreement to result in the loss of 6,000 jobs. In any case, I remain hopeful that S. 1905 will be enacted.

In the interim, the amendment I offer is essential for continued Milwaukee Road service.

Mr. President, as I said, this is a very simple amendment which has been cleared by the chairman of the subcommittee and the ranking member. Essentially, it provides a safety net so that the railroad will continue to be operated during the interim period that we are trying to reach an agreement on a bill we passed here in the Senate a few days ago, and a similar bill passing the House, providing an interim solution for the Milwaukee Railroad.

That conference is now meeting and we hope they reach an agreement shortly. In the unfortunate and unlikely event they do not reach an agreement, the purpose of this limitation on the appropriations bill is very simply to assure that the directed service funds that would otherwise be spent by other carriers in this case would be spent by the Milwaukee Railroad and over the entire system.

Mr. President, this amendment also has the benefit of saving money because ordinarily the directed service cost is providing service for the railroad plus 6-percent profit. This amendment would eliminate the 6-percent profit.

I thank the chairman for his help on this amendment, and I also extend my thanks to the ranking minority member.

Mr. BAYH. Mr. President, I hope the Senate will go along with the distinguished Senator from Montana. We are concerned about the Milwaukee Railroad problem. We want it to maintain service. In the process, first we feel we have a responsibility for the people who are working there, and I think the Senator from Montana addresses this problem in a way that could well expedite the negotiation process which is going on. In fact, we hope that will be the course of action. In the meantime, I hope my colleagues will accept the amendment.

Mr. McCLURE. Mr. President, I am prepared to accept the amendment and go to conference with the House with this language. The situation is changing so rapidly and subject to so many cross currents that I think it is wise for us to maintain our options while those negotiations are going forward. I do not know that anyone can tell us what is going to occur in the corridor with the ICC or in the other legislation which is going forward, nor what the situation will be when we get to the conference. But I am pleased to accept the amendment at this time to help maintain the status quo for the railroad, for the communities which it serves, but mostly for the men and women who work for the Milwaukee. I think if we can assist in doing that while the matter is being resolved we ought to do that. I am pleased to at least get this to the conference with the other body.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. BAYH. I yield back the remainder of my time, Mr. President.

Mr. BAUCUS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Is there further amendment?

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I am prepared to yield back the remainder of my time. Again, I want to thank everyone for helping us expedite this matter and move it through the Chamber. The Senator from Maine reminded us of our budget responsibilities.

I think we probably should ask for the yeas and nays at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, there is reference in the Senate Appropriations Committee report for the Department of Transportation to a select "panel of experts to investigate the FAA's effectiveness in improving U.S. aviation safety."

This language, I understand, has been the focus of a good deal of attention in the past few days primarily because the Department of Transportation has not moved quickly enough to insure the appointment of a "blue ribbon panel" to review aircraft certification promised as a top priority.

I would hope that DOT would move expeditiously to insure the installation of this independent panel of experts so that quick results can be obtained. If changes are recommended in the membership of the Type Certification Board, these changes are best accomplished promptly so that there will be no clouds of doubt hanging over the new generation aircraft now moving toward production.

Mr. BOSCHWITZ. Mr. President, I would like to call to the attention of my colleagues a bridge project in my home State of Minnesota. The bridge project is the Plymouth Avenue Bridge which crosses the Mississippi River and serves the northern half of the city of Minneapolis. The bridge just recently celebrated its 63d birthday and its condition is, at best, decrepit. In fact, the Minnesota Department of Transportation just recently finished an evaluation of the condition of all of its major bridges. The study rated each bridge on a scale of 1–100 with 50 representing a poor rating. The State placed a bridge rating below 50 in a category of immediate repair or replacement. The Plymouth Avenue Bridge was rated at 23.

The bridge received a low rating because: First, the bridge is only two lanes and simply cannot handle the heavy rush hour traffic that accumulates on this bridge; second, the weight restrictions are set at such low levels that potential industrial traffic is not able to use the bridge; third, studies have shown that due to continuing deterioration the bridge will be forced to close in 4 years.

Mr. President, due to these inherent inadequacies and poor conditions of the Plymouth Avenue Bridge, the Minnesota Department of Transportation has recommended that an entirely new four-lane bridge be built to replace the present two-lane structure. The cost of the new bridge has been estimated at $10.1 million, which qualifies the project for Federal discretionary bridge funds by the Federal Highway Administration.

It would be my hope, Mr. President, that the report accompanying this bill would include language which would consider the Plymouth Avenue Bridge in Minneapolis as a prime candidate for Federal discretionary bridge funds beginning in fiscal year 1980.

Thank you.

GREAT RIVER ROAD FUNDING

Mr. CULVER. Mr. President, I am extremely pleased that the fiscal year 1980 Transportation Appropriations bill contains $39.5 million for continued development of the Great River Road.

Since 1973, when I introduced the legislation authorizing the Great River Road, I have worked to help conserve the special environment and esthetic values of the Mississippi River by making the road along its banks a scenic corridor, free of unsightly development and with areas for people to enjoy its scenic beauty and recreational opportunities.

Under the Great River Road program, the 10 States which border the Mississippi have used funds to acquire historic and scenic easements, build bike paths, and viewing areas, and reconstruct road segments.

Iowa has been a leader in implementing the Great River Road program. The State has 154 miles of highway eligible for Federal Great River Road funds, including an 86-mile north section from Lansing to Dubuque, and a 68-mile south section from Muscatine to Fort Madison. The Iowa Department of Transportation and the Mississippi River Parkway Commission are using part of last year's $3.9 million apportionment to upgrade a 6.5-mile stretch of gravel road in Clayton County near Guttenberg, and a 15-mile segment in Louisa County. Both sides will include scenic overlooks and bike paths, so that travelers can pull off the road and explore the river valley at their leisure.

Under the Great River Road program, Iowa and the other States have, at long last, begun to work to acquire important sites along the Mississippi and reconstruct roadways. The $39.5 million in this bill assures the continuation of this program. The Mississippi River Valley, with its rich historic and cultural values, will remain a priceless natural heritage that will be available for generations of Americans to come.

Mr. MAGNUSON. Mr. President, the Senate Appropriations Committee accepted the recommendation of the Transportation Subcommittee that $400,000 be added to the NHTSA budget to undertake initial studies and crash tests "to define the primary characteristics of the crash environment within truck cabs." This action was taken in recognition of the fact that more than 1,000 occupants of heavy trucks were killed in 1978, and that there are no standards in effect for improving the crashworthiness of these vehicles.

I concur fully with the importance of this wigwam action. I want to emphasize, however, that this research by NHTSA on heavy truck crashworthiness should be conducted in close cooperation with the extensive truck research program now underway in the Federal Highway Administration including the Bureau of Motor Carrier Safety.

Every reasonable effort must be made to reduce the involvement of heavy trucks in crashes and to reduce the injuries and fatalities in those crashes. These efforts must be based on a full understanding of all the causative and the contributing factors of these crashes so that corrective and remedial efforts are based on solid evidence with respect to the roles of the highway, the driver, and the vehicle.

It is for these reasons that I want the record to show that it is the intent of the

Senate in acting on this appropriation that the truck research conducted by NHTSA utilize the results of research being conducted by other agencies within the Department of Transportation.

Mr. ROBERT C. BYRD. Mr. President, as the Senate completes consideration of H.R. 4440, a bill making appropriations for fiscal year 1980 for the Department of Transportation and related agencies, I take this opportunity to comment briefly on the contents of this bill and to thank the distinguished chairman of the Subcommittee on Transportation Appropriations, Mr. BAYH, and its ranking minority member, Mr. McCLURE.

As chairman of the subcommittee, Senator BAYH has given careful attention to budget requests and program needs. I know that he has been ably assisted by Senator McCLURE. The members of this subcommittee, as well as the members of the full Committee on Appropriations, have weighed each item in terms of its merits and needs. As the report clearly indicates, each item was reviewed and studied meticulously. The result is a balanced approach between the economic realities of increased energy costs and the changing requirements of various transportation modes. This bill is below the budget estimates for fiscal year 1980, but its recommendations realistically address the requirements of the programs involved.

Under title I, Department of Transportation, the bill includes funds for the Federal-aid highway program, urban mass transit programs, and highway safety. It contains such major items as $35 million for safer off-system roads, $150 million for rail rehabilitation and improvement, $899.7 million for Amtrak, and others.

One important purpose of the recommended funds in this appropriations bill is to meet the mass transportation needs of this Nation. In the area of urban mass transportation, the bill recommends a total of $2.1 billion. This includes funding for such programs as administrative expenses, urban discretionary grants, and rural and small urban grants.

Mr. President, public transportation represents an alternative to the driving public which gives them an opportunity to restrict their individual gas consumption. The private automobile is one of the greatest consumers of fuel in our society. Every time a commuter can choose mass transit over his car, a fuel savings is a potential result, and mass transit is one of the simplest, least disruptive ways for us to approach energy conservation.

The transportation needs of rural America are somewhat different than—yet just as important as—the transportation needs of our urban centers. Representing a rural State, I am particularly aware of the transportation needs of West Virginia. Many residents in rural areas are isolated and face difficulties in getting to their jobs, or gaining access to social services and health care centers, recreation and shopping centers. The mobility problem in rural America is aggravated by the fact of long travel distances and, consequently, high travel costs. My constituents in West Virginia have often told me that rural transportation difficulties work a special hardship on the poor, the elderly, the young, and the handicapped. In addition, these problems discourage the economic development of rural areas and small and midsized cities.

It is important that we address the transportation problems of rural America, and H.R. 4440 seeks to do this.

Title II of the bill provides funding for eight related agencies, ranging from the National Transportation Safety Board to the Panama Canal Commission. As the recommendations reflect, the committee's review of each agency was balanced and thorough.

Mr. President, this bill is a good one, and I again commend the distinguished chairman of the Subcommittee on Transportation Appropriations, Mr. BAYH, the ranking minority member, Mr. McCLURE, and the members of both the subcommittee and the full committee, for their work.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. BAYH. I yield back my time.

Mr. GARN. I yield back my time, Mr. President.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) is absent on official business.

I further announce that the Senator from Oregon (Mr. HATFIELD) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER (Mr. SARBANES). Is there any Member of the Senate who has not voted and desires to vote?

The result was announced—yeas 71, nays 26, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—71

Baker	Church	Ford
Baucus	Cochran	Glenn
Bayh	Cranston	Gravel
Bentsen	Culver	Heinz
Borest	Danforth	Hollings
Boschwitz	DeConcini	Huddleston
Bradley	Dole	Inouye
Bumpers	Domenici	Jackson
Burdick	Durenberger	Javits
Byrd, Robert C.	Durkin	Jepsen
Chafee	Eagleton	Johnston
Kennedy	Moynihan	Stevens
Leahy	Nelson	Stevenson
Levin	Packwood	Stewart
Long	Pell	Stone
Lugar	Pryor	Talmadge
Magnuson	Randolph	Tower
Mathias	Ribicoff	Tsongas
Matsunaga	Riegle	Warner
McClure	Sarbanes	Weicker
McGovern	Sasser	Williams
Melcher	Schmitt	Young
Metzenbaum	Schweiker	Zorinsky
Morgan	Stafford	

NAYS—26

Armstrong	Goldwater	Nunn
Bellmon	Hart	Percy
Biden	Hatch	Pressler
Byrd, Harry F., Jr.	Heflin	Proxmire
Chiles	Helms	Roth
Cohen	Humphrey	Simpson
Eaton	Kassebaum	Stennis
Garn	Laxalt	Thurmond
	Muskie	Wallop

NOT VOTING—3

Cannon	Hatfield	Hayakawa

So the bill (H.R. 4440), as amended, was passed.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAYH. Mr. President, I move that the Senate insist upon its amendments, and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BAYH, Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. EAGLETON, Mr. DURKIN, Mr. McCLURE, Mr. MATHIAS, Mr. WEICKER, and Mr. YOUNG conferees on the part of the Senate.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia, the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I wish to congratulate and thank Mr. BAYH and Mr. McCLURE for their effective handling of the DOT appropriation bill, and for their expeditious leadership in disposing of this bill today.

ANADROMOUS FISH CONSERVATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 838.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 838) entitled "An Act to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out the purposes of the Act, and to initiate an emergency investigation on the striped bass in Atlantic coastal waters", do pass with following amendments:

Strike out all after the enacting clause, and insert: That section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by striking out the first two sentences and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(1) $11,000,000 for fiscal year 1980.

"(2) $13,000,000 for fiscal year 1981.

"(3) $15,000,000 for fiscal year 1982.".

SEC. 2. Subsection (c) of the first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a(c)) is amended by striking out the second sentence thereof.

SEC. 3. Section 2 of the Anadromous Fish Conservation Act (16 U.S.C. 757b) is amended by striking out the last sentence and inserting in lieu thereof the following: "Title to lands or interests therein acquired by the Secretary pursuant to this Act shall be transferred to the State in which such lands are located or, in any case in which another non-Federal party has an agreement with the Secretary under subsection (a) of the first section of this Act, to such party.".

SEC. 4. The Anadromous Fish Conservation Act is amended by redesignating section 7 as section 8 and by inserting after section 6 the following new section:

"SEC. 7. (a) The Secretary shall cooperate with States and other non-Federal interests in conducting studies of—

"(1) the size and distribution of the population of striped bass (Morone saxatilis) throughout its range, and

"(2) the factors responsible for the decline in the numbers of striped bass which are available to the public for recreational and commercial use.

Such studies shall include a determination of the amount and geographical location of annual spawning, analyses of the extent and causes of mortality at successive stages in the life cycle of the striped bass, determination of the effects of pollutants on eggs and larval stages of striped bass, and a study of the economic importance of recreational and commercial striped bass fisheries.

"(b) The Secretary shall make annual reports to the Congress concerning the progress and findings of the studies conducted pursuant to subsection (a) of this section. Such reports shall, where appropriate, contain recommendations of actions which could be taken to improve the population of striped bass.

"(c) For purposes of conducting the studies required by this section, the Secretary may enter into agreements with States and other non-Federal interests in accordance with the provisions of the first section of this Act or he may carry out such studies directly, as he deems appropriate: *Provided*, That any agreement entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(d) There are authorized to be appropriated for the purposes of carrying out the studies described in subsection (a) of this section not to exceed $1,000,000 for the fiscal year ending September 30, 1980, not to exceed $1,750,000 for the fiscal year ending September 30, 1981, and not to exceed $2,000,000 for the fiscal year ending September 30, 1982. Funds authorized to be appropriated by this subsection are in addition to any funds authorized by section 4 which may be used for projects involving or affecting striped bass.".

Amend the title so as to read: "An Act to authorize approoriations for fiscal years 1980, 1981, and 1982 to carry out cooperative programs with the States for the conservation of anadromous fish, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Rhode Island (Mr. CHAFEE).

Mr. CHAFEE. Mr. President. I wish to thank the distinguished majority leader.

UP AMENDMENT NO. 714

I move that the Senate concur in the House amendments to S. 838, with the following amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 714.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That subsection (c) of the first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a(c)) is amended by striking out the second sentence thereof.

SEC. 2. Section 2 of the Anadromous Fish Conservation Act (16 U.S.C. 757b) is amended by striking out "United States" in the last sentence and inserting in lieu thereof "cooperating States or other non-Federal interests".

SEC. 3. (a) Subsection (a) of section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by striking out the first two sentences and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(1) $11,000,000 for fiscal year 1980.

"(2) $13,000,000 for fiscal year 1981.

"(3) $15,000,000 for fiscal year 1982.".

(b) Subsection (b) of such section 4 is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000".

SEC. 4. The Anadromous Fish Conservation Act is amended by redesignating section 7 as section 8 and by inserting after section 6 the following new section:

"SEC. 7. (a) The Secretary shall cooperate with States and other non-Federal interests in conducting studies of—

"(1) the size and distribution of the population of striped bass (Morone saxatilis), including, but not limited to, studies to determine the amount and geographical location of annual spawning; and

"(2) the factors responsible for the decline in the number of striped bass that are available to the public for recreational and commercial use, including, but not limited to—

"(A) analyses of the extent and causes of mortality at successive stages in the life cycle of striped bass,

"(B) a determination of the effects of pollution on the viability and condition of eggs and larval fish, and

"(C) a survey of the economic importance of recreational and commercial striped bass fisheries.

"(b) The Secretary shall make annual reports to the Congress concerning the progress and findings of the studies conducted pursuant to subsection (a) of this section. Such reports shall, where appropriate, contain recommendations of actions which could be taken to improve the population of striped bass.

"(c) For purposes of conducting the studies required by this section, the Secretary may enter into agreements with States and other non-Federal interests in accordance with the provisions of the first section of this Act or he may carry out such studies directly, as he deems appropriate: *Provided*, That any agreement entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(d) There are authorized to be appropriated for the purposes of carrying out the studies described in subsection (a) of this section not to exceed $1,000,000 for the fiscal year ending September 30, 1980, not to exceed $1,750,000 for the fiscal year ending September 30, 1981, and not to exceed $2,000,000 for the fiscal year ending September 30, 1982. Funds authorized to be appropriated by this subsection are in addition to any funds authorized by section 4 which may be used for projects involving or affecting striped bass. If the Secretary considers that the studies described in subsection (a) should be continued after September 30, 1982, the Secretary shall inform the Congress in writing before February 15, 1981, of the reasons why and for how long such continuation is believed to be warranted.".

SEC. 5. Section 201(e)(2)(D)(i) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(e)(2)(D)(i)) is amended by striking out "harvested" and inserting in lieu thereof "unharvested".

SEC. 6. There are authorized to be appropriated to the Department of the Interior such sums as may be necessary, but not to exceed $800,000, for purposes of preparing a plan for a fishery research laboratory on lands owned by the University of Washington on Big Beef Creek, Washington. For purposes of preparing such a plan, there shall be available to the Department of the Interior any sums previously appropriated for the National Fishery Research Center in the State of Washington and available for expenditure on the date of the enactment of this Act, and such sums shall be treated as having been authorized for appropriation under the preceding sentence. The Secretary of the Interior shall complete and submit such plan as soon as practicable to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate and such plan shall include, but not be limited to, information regarding site adequacy, laboratory conceptual design, recommended agreements that should be entered into regarding Federal agency use of such laboratory as a condition for Federal sharing in its costs, and estimates of the costs involved.

SEC. 7. The aquarium to be built by the City of Baltimore, Maryland, on the site on Pratt Street, Pier 3, of the Baltimore Inner Harbor, shall, on and after the date of the completion of its construction, be known and designated as the "National Aquarium in Baltimore". Any reference in any law, map, regulation, document, record, or other paper of the United States to that aquarium shall be held to be a reference to the National Aquarium in Baltimore.

Mr. CHAFEE. Mr. President, the authorization for appropriation for the Anadromous Fish Conservation Act expired June 30, 1979. Without extension of the authorization the Secretaries of the Interior and Commerce will be unable to carry out their responsibilities under the act.

On May 15 of this year the Senate Committee on Environment and Public Works reported to the Senate for consideration S. 838. The legislation was then unanimously approved by the Senate on June 18, 1979. Subsequent to the Senate action the House Merchant Marine and Fisheries Committee considered similar amending legislation which was reported in the House on June 25, 1979. The House on that date modified the Senate version of S. 838 and sent the bill back to the Senate.

Today I am introducing amendments to the House-passed version of this bill. These amendments are the result of a cooperative effort by the members of the House and Senate committees to rectify the differences in the House and Senate versions of S. 838 and to clarify the intent of both Houses of Congress with

regard to certain provisions in the final bill. The committee believes that this joint effort has been successful and that passage of the amendments proposed by me today will avoid the necessity for a conference on S. 838.

Before going further Mr. President, I would like to compliment Chairman JOHN BREAUX and members of the majority and minority staffs of the Subcommittee on Fisheries and Wildlife of the Merchant Marine and Fisheries Committee for their cooperation and hard work on this legislation. They have been most helpful in finalizing the congressional effort on this legislation and deserve credit for their work in this regard. I look forward along with the staff of the Resource Protection Subcommittee to working with this group on fisheries and wildlife matters in the future.

In addition to expressing appreciation for the cooperation on this legislation from our colleagues in the House, I am also grateful for the interest and support of a large number of my Senate colleagues who have supported this bill and particularly the striped bass study provision contained therein. In the Senate there were 17 cosponsors of this legislation, all of whom I would like to personally thank for their efforts with regard to this legislation. I would here particularly note that this bill has been the product of work by two committees of the Senate, the Senate Committee on Environment and Public Works on which I serve and the Senate Committee on Commerce, Science, and Transportation. The staff and interested members of that committee have been most helpful and instructive in completing this bill and I would like to thank them for their efforts.

Mr. President, I would now like to explain the basic provisions of the amended reauthorization bill and give a brief description of the act itself.

The Anadromous Fish Conservation Act of 1965 authorizes the Secretaries of the Interior and Commerce to enter into cost-sharing agreements with the States and other non-Federal interests for the conservation, development, and enhancement of the severely depleted anadromous fishery resources of the Nation. At the Federal level, the program is jointly administered by the Director of the Fish and Wildlife Service and the Assistant Administrator for Fisheries. Federal funds up to 50 percent may be used to finance project costs. State fishery agencies, colleges, universities, private companies, and other non-Federal interests in 31 States bordering the ocean, Great Lakes, and Lake Champlain may participate under the act. All projects must be coordinated with the State fishery agency concerned. The law also provides that the Federal share of the project cost money will be increased to a maximum 66⅔ percent when two or more States, having a common interest in a program, jointly enter into a cooperative agreement with the Secretaries.

Mr. President, the compromise amendments in the legislation being introduced today have the net effect of changing the present law in the following five ways: First, they would extend the authorization for appropriation for 3 years with the authorized level being $11 million for fiscal year 1980, $13 million for fiscal year 1981, and $15 million for fiscal year 1982. The bill also amends present law to remove language which places the burden for costs of operation and maintenance of facilities constructed under multistate projects entirely on the States. It also removes the requirement that all title of lands acquired under the act must rest in the Federal Government rather than with the State involved.

Further, the bill amends the provision of present law that limits to $1 million the amount of funding a State can receive under section 4(b) in any one year to provide that a State may not receive in any one year in excess of $1.25 million. This change makes funding arrangements under the act capable of responding to the actual situations that arise in the construction of major fish management facilities.

Finally, the bill initiates an emergency research and monitoring program concerning the drastic decline experienced recently in populations of striped bass particularly in those areas of the country where such declines are found. This last described section of the bill is of particular interest to me being from Rhode Island, a State where the recreational and commercial value of striped bass is well understood. The Senate hearings on this provision showed clearly that the condition of the bass population in the region that includes Rhode Island is quite bad and should be given immediate attention.

At the time the Senate Committee on Environment and Public Works held its hearings on this reauthorization bill, I quite by accident was reading a most informative and interesting book by John N. Cole called "Striper." The historical information in this book concerning the striped bass, one of the most important anadromous fish on the east coast, is quite astounding, but a look at the fish's present status and the prediction of its future chance of survival is disheartening to say the least.

The committee is cognizant of the fact that the striped bass is of importance, both recreationally and commercially, in a number of regions of the country. It is also noted by the committee that, while across the country some of the populations of stripers are in a stable or improving condition, populations in certain areas now show a dramatic and unexplainable decline. Many within the scientific community, who are familiar with population trends of striped bass, are concerned that the extremely low ebb in the fortunes of the striped bass is the result of more than the expected ups and downs of this stock of stripers. Many of these scientists postulate that the length and severity of the decline of the striped bass population in this instance is due primarily, or is certainly aggravated, to pollution, exploitation, or destruction of necessary spawning habitat. They have warned the committee that with respect to the striped bass populations in these waters an all-out effort ought to be made immediately to understand what is happening before an even worse turn of events with the bass occurs.

With this in mind the committee, while not wishing to minimize the importance of research to improve the conditions of striped bass populations throughout the country, would like to stress the urgency of the need to address the problems the bass faces in those areas showing the most dramatic decline.

The committee, being concerned about the future of the striped bass, has directed with this legislation that the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) act with all deliberate haste in carrying out the proposed study. The committee in advancing this study does not suggest that nothing is presently being done. Research conducted by the Federal agencies, States, and universities, although lacking integration, has been substantial.

It is intended that the FWS and NMFS act as coordinators of this study and that an overall plan of action be developed prior to initiation of the study by a committee composed of representatives from the administering agencies, other Federal agencies, the State, other non-Federal interests, and the Citizens Advisory Panel which is described below.

The committee realizes that the same people who hold the striped bass so highly in esteem are the best hope for the continued viability of this resource and should be involved in the study conducted by section 5 of this legislation. The committee also understands that the needs and expectations of the various user groups can be defined best by the users themselves. Further, the success of this investigation will ultimately be measured against the satisfaction of the fishermen, businessmen, and consumers who pursue, profit from, and enjoy the striped bass.

Accordingly, the striped bass study provisions in recognition of the intense interest in the striper's well-being expressed by these users, directs the codirectors of the study to seek input from these groups in their administration of this investigation by utilizing the existing citizens advisory group. It is of the utmost importance that the panel created should contain a representative balance of both recreational and commercial fishing interests.

The committee is aware that the existing Federal-State striped bass program within NMFS already has an advisory body and it is the intention of the committee that the coordinators of the striped bass program will, as appropriate, draw from the personnel and experience of this existing group. It may be necessary to expand this advisory panel to include adequate representation for commercial and recreational fishing interests in order to properly address the striped bass study.

It should be noted that the study is separated into two major divisions: First, investigation of the status of population of striped bass; and second, studies of other factors responsible for the decline in numbers of striped bass.

It is the intent of the committee that the investigations which are to be carried out pursuant to section 5 of S. 838 take advantage of and capitalize on the existing capabilities of the involved State and Federal agencies.

For this reason it is requested that the coordinators of the striped bass study use as a guide in—dividing responsibility for the carrying out of such study—the division of such responsibility outlined in the Senate report. It might be noted that while the Senate report does not speak directly to the issue of open ocean contaminant research, both the House and Senate Committees agree that the NMFS expertise in this area should be recognized and that those portions of the study dealing with this subject should be managed by them.

It should also be understood that this division of responsibility between various levels of government and the State agencies is not to be viewed as a criticism of the management capabilities of those involved in the study. It is, however, a recognition of the differing agency capabilities and the difficulties of working with a fish species in the coastal zone, particularly a migratory species that does not recognize either State or Federal jurisdictional lines, and in addition, spends important portions of its life cycle in both salt and fresh water. In working with the NMFS and FWS prior to passage of S. 838, we found the agencies to be aware of the overlaps in capabilities that existed and the potential that these overlaps had to cause confusion and delay in the initiation and completion of this badly needed study. They therefore worked with the committee to design the responsibility guidelines in the Senate report and agree that they will be of help in increasing the efficient and expeditious completion of the study.

The committee is interested in maintaining maximum cooperation and participation by the States in carrying out the proposed study. It is also deemed to be most important that existing capabilities of the States be utilized by the coordinators wherever possible. Evidence indicates that the States have particularly good capabilities and should therefore be heavily involved in gathering the information needed to complete the size and distribution analysis contemplated in section 7(a)(1) of the bill. The committee also realizes the interstate nature of this particular portion of the study and would maintain that wherever possible a 66⅔ Federal matching share should be available to those States which participate in it.

The committee also understands that the State may not have the best capabilities to accomplish the studies needed in section 7(a)(2). The committee has therefore included a provision that will allow the coordinators to contract directly with those parties which can best obtain the information desired in this portion of the study. The use of this contract authority should, in those cases where State capabilities are lacking, enable the coordinators to obtain the necessary information from the most reliable source even if such source is a Federal agency, university, or private entity.

Finally, Mr. President, there are three additional provisions in the amendment offered today relating to other programs which I would like to briefly explain.

First, section 5 of the amendment would make a technical change to section 201(e)(2)(d)(1) of the Fishery Conservation and Management Act of 1976. The word "harvested," which is incorrectly used in this subsection, is corrected to read "unharvested."

Second, section 6 of the amendment would make it clear that funds previously appropriated for purposes of preparing a plan and design for the National Fishery Research Center in the State of Washington would, in lieu thereof, be authorized to be used for preparing a plan and design for a fishery research laboratory on lands owned by the University of Washington. The amendment authorizes up to $800,000 to be used for preparing such a plan and the $600,000 previously included in the 1980 appropriation bill, H.R. 4930, for this purpose is considered to be a part of this authorization.

Third, section 7 would provide that the aquarium to be built in the city of Baltimore on Pratt Street shall be known after its completion as the "National Aquarium in Baltimore" and any reference to that aquarium in the future shall be held to be a reference to such National Aquarium.

Mr. President, I strongly support the Senate amendment and I urge its adoption.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. CHAFEE. I would be glad to yield.

Mr. MATHIAS. Mr. President, I am delighted that the committee is including an amendment to section 7 of the Anadromous Fish Act of 1979 which would designate the aquarium now under construction in the city of Baltimore as the National Aquarium in Baltimore. In particular, I wish to thank my colleague, Senator CHAFEE, for taking this initiative on my behalf.

The designation of "National Aquarium in Baltimore" is a very special title. It should only be bestowed on an aquarium of the highest caliber. I am convinced that the new aquarium planned for Baltimore deserves to receive this high recognition. I believe that anyone who takes the time to examine the design and plans for this new facility will agree that it would be a national aquarium of which we could all be proud.

Baltimore is inviting the Federal Government to become associated with one of the finest aquariums in the world. And wonder of wonder, miracle of miracles, the Federal Government is not being asked to contribute even a dime to the project. Upon completion in late 1980, this $20 million aquarium will be the largest in terms of volume, specimen collection and gallonage, and by far the most advanced, in the Nation. Its collection of 8,000 display specimens will be worldwide in scope and its display volume of 940,000 gallons will be twice as large as the average.

Every consideration has been given to energy efficiency in the design of the facility. It will make use of the most advanced technology in water treatment and conservation and exhibit design and will be accessible to the handicapped. Its education and research facilities will be of the highest quality.

The most unusual aspect of the Baltimore aquarium's award-winning design its fascinating walk-through ecological exhibits, including a cove on the Maine seacoast where children will be allowed to handle living specimens; an Amazonian rain forest complete with plants, trees, river life, insects, birds and mammals, and two enormous ring tanks of 335,000 and 200,000 gallons respectively which will surround the visitor with colorful life of a Caribbean coral reef on one level and the large denizens of the open ocean such as sharks, rays, and amberjacks on the next. No other American aquarium can boast such exhibits.

The present aquarium in Washington, now housed in the basement of the Commerce Department, is little more than a series of relatively small, traditional tanks. In fact, because of its longstanding dissatisfaction with the Washington facility and the obvious merits of the Baltimore facility in comparison, the National Humane Society has publicly endorsed the designation of the Baltimore institution as our national aquarium. It also has the support of the Department of the Interior and the American Association of Zoological Parks and Aquariums has recognized the high standard of this facility. The modern aquarium now under construction in Baltimore will provide far greater capability for holding, caring for, and for breeding fishes, marine mammals and other aquatic species. It will have an educational dimension totally lacking in older aquariums.

Beyond the many appealing attributes of the Baltimore facility itself which make it worthy to be a national aquarium, the advantages of the Baltimore location cannot be exaggerated. Baltimore Inner Harbor is a most appropriate location for a national aquarium. Not only does it lie in the heart of one of our Nation's greatest ports, but the city is strongly scientifically oriented, with one of the largest concentrations of scientists in the country.

It is adjacent to the Chesapeake Bay, the largest and richest marine estuarine system in the United States. The bay has been used to demonstrate the various concepts associated with estuarine systems in general.

A national aquarium in this region could aid immeasurably in educating the public about the functioning of this bay system. By extension, this facility could also inform citizens about similar ecological systems throughout the world. Recent events underscore the importance of knowing as much about this area as is humanly and scientifically possible. The threat to richly productive areas along the Gulf coast posed by oil from IXTOC I and the extinction of life in the lower San Francisco Bay caused by a faulty sewage treatment plant are just two examples.

Community and government agencies in both Baltimore and Washington have long recognized the interconnections between the economies of Baltimore and Washington. Recently the Baltimore and Washington Common Market was formed, with a starting budget of approximately $600,000 from corporations in both cities and from the State of Maryland, in order to promote this common area both nationally and internationally. Along with being economically integrated, there is no reason why Baltimore and Washington cannot become more scientifically and touristically integrated. Obviously a designation of this sort would go a long way in making it so.

I believe that Baltimore possesses many attributes that argue for making the Baltimore Aquarium our national aquarium. Among them are the array of tourist attractions in the inner harbor, the easy rail link between the National Visitors Center and Baltimore's Penn Station in the central business district, and the excellent highway access.

Mr. President, this year Baltimore is celebrating its 250th birthday. The designation of Baltimore's aquarium as the "National Aquarium in Baltimore" would be a fitting birthday present for a very great city. I urge my colleagues to vote for this amendment.

Mr. TSONGAS. Why has the Baltimore Aquarium been nominated to be designated the National Aquarium in Baltimore?

Mr. MATHIAS. Baltimore Aquarium, when completed, will be the newest aquarium in the United States and its proximity to Washington, D.C. is a major consideration.

Mr. TSONGAS. Would the designation of the Baltimore Aquarium as the National Aquarium in Baltimore preclude consideration of any other institution as being designated as a National Aquarium, for instance, in New York, San Francisco, Chicago, or Boston?

Mr. MATHIAS. The designation as a National Aquarium need not be exclusively reserved to the Baltimore Aquarium, but could also be granted to other institutions of similar stature and function upon nomination and consideration by Congress.

Mr. TSONGAS. Does the designation as a National Aquarium give the Baltimore Aquarium priority for the display of aquatic animal gifts to the United States from foreign goverments?

Mr. MATHIAS. Not necessarily. A gift of an aquatic animal from a foreign government should be housed in the public facility best suited to accommodate and display the animal(s).

Mr. TSONGAS. In the event that this as yet uncompleted facility (the Baltimore Aquarium) should experience an operating deficit, will its designation as a National Aquarium make it any more eligible for Federal funds in the way of support than any other not for profit zoological institution?

Mr. MATHIAS. No. The designation carries with it no operational support funds nor any positive prejudice for future support of operational deficits by any Federal agency.

Mr. TSONGAS. In the event that there is a significant exhibit potential such as the acquisition of an animal as rare as a coelocanth—the equivalent of a panda bear in the aquatic realm—would this make the Baltimore Aquarium eligible for federal funding for capital improvements or additions over any other not-for-profit zoological institution?

Mr. MATHIAS. No. The designation carries with it no implied support of capital improvements by any Federal agency.

Mr. TSONGAS. Will this designation preclude any other not-for-profit aquarium from receiving Federal funds for capital or operational support?

Mr. MATHIAS. No. This designation does not give the Baltimore Aquarium any priority to available Federal funds for any activity in which it partakes.

Mr. TSONGAS. What Federal agency has overview responsibility on behalf of Congress to insure that a National Aquarium is being operated consistent with national interests and concerns relative to its animal husbandry practices and exhibit presentation and content?

Mr. MATHIAS. The Department of the Interior will have overview responsibilities to insure that a National Aquarium is operated consistent with national interests as listed.

Mr. TSONGAS. Should a deficiency in operational standards, exhibit, presentation or content be identified by the overview agency, who is responsible to correct such deficiences in performance?

Mr. MATHIAS. The Administrator of the National Aquarium is responsible to correct such deficiencies via available operating funds or funds provided by the sponsoring body; that is, city, State or private organizations. No Federal funds will be available for such corrections or changes.

Mr. TSONGAS. Will a National Aquarium be allowed to charge a user fee to citizens of the United States?

Mr. MATHIAS. A National Aquarium will not receive any support from Federal tax dollars, therefore it would be expected to raise its own operational funds from whatever resources were available including but not limited to an admission fee subject to approval by the overview authority.

Mr. CHAFEE. Mr. President, I move that the Senate concur in the House amendments with an amendment.

The motion was agreed to.

Mr. CHAFEE. I thank the distinguished majority leader.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 4986, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The Senate resumed consideration of the bill.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIGRATION AND REFUGEE ASSISTANCE—S. 1668

Mr. ARMSTRONG. Mr. President, I am going to be unavoidably away from the Senate tomorrow and it is my understanding that the Senate will consider the bill, S. 1668. I would like to make an observation or two about that, because it is a matter that is near and dear to my heart.

I very much regret that it is impossible for me to be present when that measure is taken under consideration by the Senate. As a matter of fact, I had considered postponing a long contemplated trip and speaking engagement out of the city in order to be present, but I decided not to adjust my travel plans since I think the measure being taken up, which is the migration and refugee assistance appropriation, is not controversial. The only reason I wanted to be here is to add my word of support in favor of it.

The bill will authorize appropriations for fiscal year 1980 and 1981 to raise the total figures authorized for migration and refugee assistance to $456 million for fiscal year 1980 and $457.8 million in 1981.

What we are really talking about is a special increase in order to accommodate the needs of the refugees in Southeast Asia. I just want my statement to be a part of the record, together with those of many, I am sure, who will speak when the bill is before the Senate, who will complement and commend our colleagues, Senators DANFORTH, SASSER, and BAUCUS, for their leadership in going over to see firsthand the tragedy that is taking place in Southeast Asia and the starvation of the Cambodian people.

I think it is not only proper but becoming for the Senate to express its concern about this, and certainly to appropriate additional funds to help in any way we can.

Over and above that, Mr. President, beyond simply appropriating money to help feed these people, I am very sensi-

tive to the fact that the real problem is a political one; that the government in Phnom Penh has refused, thus far, to permit the relief column of trucks to enter the country to bring the food to the people.

I was one of those who approached our colleagues when they came back from Cambodia to ask, "Well, why don't we just airdrop food to these starving people?" Out in my part of the country, when we have snowstorms, that is exactly what we do. We fly food to stranded people and animals, and just push it out the door on a parachute and feed them in that way.

And the appalling, shocking response is simply that the people we are concerned about are so weakened by hunger that they could not even marshal the energy to walk a mile or two to where an airdrop might deposit food.

I am persuaded, after talking to our colleagues, and also after talking with representatives of the President and private organizations who are concerned about this problem, that it will be impossible, as a practical matter, to save the lives of hundreds of thousands of people who are now starving to death in Cambodia unless we send not only food, but the people who will deliver it to them and help them to regain their strength and health.

Mr. President, what is shaping up in Southeast Asia is a tragedy which is almost without precedent in the entire history of the human race. It is so shocking that it is almost impossible for the civilized mind to comprehend it. But the government in Phnom Penh is literally prohibiting the United States and other nations, including the private voluntary agencies which have come forward to offer their help and assistance, from coming into the country to feed their own starving people.

I do not profess to be well-informed about the political ins and outs of this, or what all the issues are that have prompted them to take such an intransigent and unbecoming position. But in my family we are praying that America will prevail and that the hearts of these people will soften, or, in the alternative, that the government in Phnom Penh will be replaced so as to permit the relief which is so urgently needed in that country to enter and people fed and lives saved.

I cannot underline too strongly my belief that money alone is not enough, but at least in the resolution, which I understand will come up in the next day or so, S. 1668, the Senate will be doing what it can in the short run, which is to appropriate the funds, so that if and when the door for relief is open we will have done our part and the funds will be available.

Mr. President, again I appreciate this opportunity to express myself. I am only sorry that I will not be here when the bill is under debate. I am confident it will pass by a unanimous vote so my presence will not be necessary.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The Senate continued with the considered of H.R. 4986.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UP AMENDMENT NO. 715

(Purpose: Relating to foreign control of United States financial institutions)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 715.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert a new section as follows: The Congress finds that the takeover in whole or in part of United States financial institutions by foreign interests may constitute a threat to the health of the economy of the United States.

SEC. 2. As used in this title—

(1) "United States financial institution" means any bank, mutual savings bank, or savings and loan association organized under the laws of any State or of the United States;

(2) "foreign person" means any foreign organization or any individual resident in a foreign country or any organization or individual owned or controlled by such an organization or individual;

(3) "United States person" means any organization existing under the laws of the United States or of any State or any United States citizen; and

(4) "takeover" means any acquisition of the stock or assets of any financial institution if, after such acquisition, the amount of stock or assets held is 5 percent or more of the institution's stock or assets.

Sec. 3. (a) The Board of Governors of the Federal Reserve System, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall prepare a report which shall—

(1) analyze in detail the impact on the United States economy and United States banking system of the takeover of United States financial institutions by foreign persons;

(2) specify what changes to existing statutes and regulations should be made and what new legislation should be enacted in the event that the Congress determines that it is appropriate to—

(A) prevent hostile takeovers of United States financial institutions by foreign persons;

(B) prevent takeovers of United States financial institutions by foreign persons where such takeovers will have an anticompetitive effect;

(C) prevent more than 10 percent, measured by total aggregate deposits and loans, of all United States financial institutions from being owned or controlled, either directly or indirectly, by foreign persons;

(D) prevent the takeover of any United States financial institution by any foreign person where such person is organized under the laws of or the resident of, or owned by or controlled by any foreign person organized under the laws of or the resident of, a foreign country which does not grant the same takeover privilege to United States persons; and

(E) permit Federal bank and savings institutions regulatory authorities to have such supervisory and investigatory powers over foreign persons which own or control a United States financial institution (i) as are equivalent to the powers that agencies have over United States persons which own or control United States financial institutions, and (ii) as are necessary to ensure safe and sound practices by United States financial institutions owned or controlled by a foreign person.

(b) The report required by this section shall be submitted to the Congress not later than 6 months after the date of enactment of this resolution.

Sec. 4. In order to permit the Congress to receive, consider, and act upon the report required by section 3, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board may not approve any application relating to the takeover of any United States financial institution by a foreign person unless (1) such takeover is necessary to prevent the bankruptcy or insolvency of the United States financial institution, or (2) the application has been filed on or before June 1, 1979.

Mr. HEINZ. Mr. President, this amendment is designed to place a moratorium on the Federal Reserve allowing the purchase of any U.S. banks by foreign owners for a period not to exceed 6 months.

Indeed, this amendment is being offered at this time because of a number of developments in the international banking community. It is an amendment on which our committee has held 2 days of hearings. We have had a number of very knowledgeable witnesses before our committee answering a variety of questions.

One conclusion that this Senator came to as a result of considerable research and our hearings is that until the Federal Reserve Board announcement of July of this year, foreign banks, branches, and agencies could operate in the United States without maintaining any reserves whatsoever with the Federal Reserve and thereby undercut U.S. competition.

It is also established on the record that U.S. banks cannot retain nonbanking enterprises. Foreign banks are allowed much leeway to retain and expand their nonbanking interests abroad.

Foreign banks can buy minority interests in banks in more than one State. There seems to be a greater permissiveness on the part of the Fed and the Comptroller of the Currency toward allowing foreign banks to acquire minority interests in U.S. banks. For example, if Midland Bank's offer for Walter E. Heller International is approved, they will have a banking presence in all three of our Nation's largest money centers. Midland already owns 16 percent of Standard Chartered—which acquired Union Bancorp of Los Angeles—and 20 percent of European American Bank in New York—the old Franklin National Bank. The Heller transaction involves the $2 billion National Bank & Trust in Chicago.

Close connection and support from foreign governments for foreign banks raises serious questions concerning the degree to which we can have confidence that such banks would carry out monetary or investment policies supportive of U.S. interests when those interests happen to conflict with those of the owner's home country.

Most major developed nations would prohibit U.S. acquisition of comparable large banks in their country. This statement was recently confirmed by one of our U.S. bank regulatory agencies. For example, it would be impossible for a major U.S. bank to acquire a comparable "clearinghouse" size bank abroad.

Also, Mr. President, foreign banks can offer lower interest rates because foreign banks charge their customers based on the cost of funds—primarily Eurodollars—plus a spread and can draw on funds from the parent bank which is not required to keep a reserve.

Finally, artificial constraints on U.S. banks such as the Bank Holding Company Act and the McFadden Act make their growth and earnings potential lower, and therefore the domestic banks become susceptible to foreign bank takeovers.

I do not think I have to remind this body of the tremendous activity of foreign acquisition of American banks. From 1972 to the end of 1978 the number of foreign banks operating in the United States increased from 66 to 189, nearly threefold. Virtually every leading U.S. investment banking firm today has compiled an analysis of U.S. banks that might be an acquisition target for their foreign clients.

We are at the threshold of having to make some big decisions on this matter; because foreign banks now make more than 15 percent of all big U.S. business loans. In California and New York, where foreign banks have the highest concentration, that proportion approaches 30 percent. Today foreign bank assets represent, as far as we can tell, about 9 to 10 percent of total bank assets in the United States. That number is misleading and on the low side when you consider the domination of the largest financial centers in our country and the disproportionate power, therefore, that that entails.

Mr. President, the distinguished chairman of the committee (Mr. PROXMIRE) has introduced similar legislation calling for a 2-year moratorium on this kind of invasion of our shores by foreign banking interests, an invasion that, as I mentioned, cannot be reciprocated in any way, shape, or form through similar acquisitions by U.S. banks. This yields to the foreign banks involved unjust competitive advantages.

Let me just say that my purpose, and I think the purpose of the Senator from Wisconsin in introducing these bills as we have done, is to get the Federal bank regulators to do something that they are perfectly capable of doing. That is to think and then to act. Unfortunately, notwithstanding a few bright glimmers from time to time from the Fed, most of the problems, most of the issues, that I have set forth here, and which I have set forth at greater length on several previous occasions, both here in this Chamber and in other places, remain problems which have not been dealt with by any of our bank regulatory agencies.

It is not this Senator's intention to try and interfere with competitive, equal free market forces, but I want market forces at work that are equal in the sense that we do not tilt in favor of the foreigner over the American.

Unfortunately, Mr. President, that is simply not now the case. It is high time that the Federal Reserve and everybody else concerned with the stability of our banking system came to grips with what I predict will be still a further swelling of the vast power of foreign interests in this country. I hope the committee will agree to accept the amendment.

Mr. President, I ask unanimous consent that an article I authored, entitled "Foreign Take-Over of U.S. Banking—a Real Danger?" appearing in the Journal of the Institute for Socioeconomic Studies, Autumn 1979, and also an article authored by me entitled "The Threat of Foreign Banking," appearing in the New York Times of Sunday, July 22, 1979, be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

FOREIGN TAKEOVER OF U.S. BANKING—A REAL DANGER?

(By H. JOHN HEINZ, III)

Like it or not, the world has changed in the last dozen years. "Interdependence," once a virtually exclusive concept of internationalists, has become a pressing fact of daily life for every one of us. It has not been an easy change. We Americans had become accustomed to being accorded the deference due our pre-eminence: we were used to having our way because it was our way. The unselfish underpinnings of our postwar economic policy made it difficult for many to understand when the nations we helped recover and rebuild began to challenge—and even outstrip—us in the competition for world markets and economic advantage. The emergence of immensely rich and powerful Middle Eastern oil princes and principalities was even harder for many to bear. But facts are facts, and we must deal with the world as it is. We must be alert in our planning and realistic in our policies.

Banking is one of the areas in which our programs and policies require reexamination in light of current economic realities. It is far from being the only such area, but it is important because banks play such a pivotal role in our economic system.

One of the most significant developments of the last few years has been the increasing foreign penetration of the U.S. banking market. The field is vulnerable. Banking regulations prohibit domestic banks from opening branches across state lines. Anti-trust laws bar many large non-banking companies from entering the banking field. However, foreign banks and companies are untouched by such regulations and thus find themselves with an enormous competitive advantage. Even though our laws restrict the foreign ownership of other businesses affecting the public interest, such as radio and television stations, airlines, maritime companies, and certain defense contractors, there are no comparable limits regarding banking.

In fact, the Bank Holding Company Act of 1970 actually *encourages* foreign ownership by largely exempting foreign companies which control American banks from the provisions which would otherwise limit their ownership of foreign-based non-banking or industrial firms.

Until recently this situation went largely unnoticed. Now it is the source of some uneasiness for those who are interested in the security and integrity of our financial institutions. Ever increasing numbers of foreign takeovers could have profound implications not only for our banking system, but for our entire economy. If the foreign banks can acquire leading positions in both their home markets and in ours, they will have a significant advantage in many areas of international finance. Meantime, our major trading partners, such nations as Canada, the U.K., France, Germany, Japan and Italy, are in no sense prepared to allow a major U.S. bank to acquire a comparable "clearing house" size bank in their own countries.

Since 1972, when the Federal Reserve first started collecting data on foreign ownership, foreign bank assets in the U.S. have more than quadrupled, from $16 billion to more than $74 billion. These figures are imprecise, and the actual amount could be considerably higher. The pattern of expansion and growth behind these figures is striking. In 1972, there were 66 foreign banks operating in the U.S.; by the end of 1978 there were 189—a growth of almost threefold in six years. Over this same period, our post-war pre-eminent position in world banking declined dramatically. In 1973, for example, seven of the top ten largest banks in the world were American banks. Today, the situation is reversed and foreign banks comprise seven of the world's ten largest.[1] Over the past five years, large U.S. banks have grown at a much slower rate than their foreign competitors. In dollar denominated amounts, U.S. banks grew 77 percent compared with 154 percent for their European counterparts and 151 percent for Japanese banks.

Equally striking is the shift in the manner of foreign bank entry into the U.S. market. Until quite recently, foreign banks established a presence in this country by opening new offices or new affiliates in major banking centers such as Boston, New York, Chicago, Atlanta, Dallas, San Francisco and Los Angeles. Even these comparatively gradual entry techniques expanded foreign bank operations in the U.S. to a sufficiently high level that the Senate Banking Committee proposed and Congress enacted the International Banking Act of 1978. This legislation intended to provide, for the first time, a degree of Federal regulation of foreign banks operating in this country and to help our domestic banks on a more even footing

[1] In 1970, the ten largest world banks were: Bank of America (with $25.6 billion assets), Citicorp (with $23.1 billion assets), Chase Manhattan (with $22.2 billion assets), Barclays (with $15.1 billion assets), Manufacturers Hanover (with $12 billion assets), J. P. Morgan (with $11.4 billion assets), National Westminster (with $10.6 billion assets), Western Bancorp (with $10.6 billion assets), Banca Nazionale del Lavoro (with $10.2 billion assets), Chemical Bank of N.Y. (with $9.7 billion assets). In 1978, the ten largest world banks were: Bank of America (with $94.9 billion), Caisse Nationale de Crédit Agricole ($86.1 billion) Citicorp ($87.1 billion), Deutsche Bank ($80.2 billion), Banque Nationale de Paris ($78.2 billion), Crédit Lyonnais ($74 billion), Société Générale ($66.8 billion), Dai-Ichi Kangyo Bank ($73.3 billion), Dresdner Bank ($60.9 billion), Chase Manhattan ($61.1 billion).

with foreign-controlled U.S. banking operations.

Within the last two years, however, it has become clear that the pattern of foreign penetration of the U.S. banking market has changed dramatically. Foreign banks and interests have begun to enter the market by acquiring ownership or interests in established American banks. For example, the Hong Kong and Shanghai Banking Corporation is planning to acquire major ownership of Marine Midland Bank, with total assets of $12 billion. Marine holds a commanding position in upstate New York. It is either the largest or second-largest bank in Buffalo (where it holds 63 percent of the commercial bank deposits), Elmira, Utica, Binghamton, Syracuse, Poughkeepsie and Rochester. It is clearly the "lead bank," the pacesetter in this area, where its lending policies must clearly effect the economic development and wellbeing of the entire region. Standard Chartered Bank, Ltd., of London has already acquired Union Bank of California with total assets of $4.7 billion. Another British bank, National Westminster, has purchased the National Bank of North America with assets of $3.8 billion. Algemene Bank of Nederland, N.V., the second-largest Dutch bank, has proposed an acquisition of LaSalle National Bank of Chicago with total assets of $1.6 billion.

In addition to such outright purchases, foreign banks and interests are acquiring substantial stockholders positions. To wit, Argentinian interests are widely rumored to be interested in Riggs National Bank, the largest bank in Washington, D.C. Interests in Switzerland and Luxembourg have acquired 20 percent ownership of the parent company of the Long Island Trust Company, with total assets of $1 billion. It is reported that Deutsche Bank, the largest bank in West Germany, which already owns 20 percent of the stock in the European American Bank & Trust Company in New York (with total assets of almost $4.8 billion), is planning to acquire another large American bank.

The British Midland Bank Ltd. has made an offer for Walter E. Heller International. If the acquisition is approved, Midland will have a banking presence in all three of our nation's largest money centers, since it already owns 16 percent of Standard Chartered (which acquired Union Bank of Los Angeles) and 20 percent of European American Bank in New York (the old Franklin National Bank). With Walter E. Heller's $2 billion National Bank and Trust in Chicago, Midland will become a truly nationwide bank, something our banking laws were supposedly designed to prevent. This will happen, I might add, at great cost to the growth and earnings potential of domestic U.S. banks.

If all the currently proposed acquisitions are approved by the Federal Reserve Board, foreign-owned bank assets will soar to more than $95 billion—almost ten percent of the total bank assets in the United States. And this wave of acquisition and penetration is far from cresting. Direct and indirect tender of interest are increasing. Virtually every leading U.S. investment banking firm has prepared analyses of major American banks that would be attractive acquisitions for their foreign clients.

This situation, of course, has not arisen overnight. In addition to the competitive advantage for foreign banks and interests which has been inadvertently created by our domestic laws and regulations, a number of other forces and factors have recently converged. The weakened position of the dollar over the last few years and the depressed level of bank stocks—both have been chronically low since 1973—have enabled foreigners to acquire American banks at bargain prices. Foreign banks have also begun to appreciate the advantages that owning or controlling an American bank can have in capturing the banking business of multinational customers.

Another reason for the sudden surge in foreign bank takeovers is that several sizeable American banks have recently become available for acquisition because of the divestiture requirement of the 1970 Bank Holding Company Act. (The Act required one-bank holding companies to divorce their banking and non-banking businesses by the end of 1978.) This legislation, in combination with other laws, makes it virtually impossible to divest a large bank to anyone except to a foreign purchaser, because as I have noted, any domestic bank or business concern which is large enough to acquire a bank is almost certain to be barred from doing so under the antitrust laws or under the prohibitions against inter-state banking in the McFadden Act or the Bank Holding Company Act.

Not only is the trend toward unregulated foreign takeover accelerating, there is considerable danger that unless it is checked it will become irreversible. There already seems to be some kind of a snowball effect, as other foreign banks conclude that they need acquisitions of their own in order to be competitive. Thus, each piecemeal approval for a foreign takeover becomes another precedent which will make it increasingly difficult to deny additional acquisitions. To do so would risk serious international repercussions based on allegations of official discrimination against a particular purchaser or country. Moreover, such charges could then be used to justify retaliation against American banking and business abroad.

The problem with foreign takeovers of major American banks does not stem simply from the fact that foreigners are involved. Nor is pointing to the problems inherent in these incursions a chauvinistic exercise raising a foreign bogey. There are, in my judgment, very serious and basic questions concerning the degree to which we could have confidence that such foreign-owned or controlled banks would carry out monetary or investment policies supportive of American interests when those interests were in conflict with those of the owners' countries. Foreign exchange operations and the willingness to make loans to other large domestic banks are two such areas where conflicts of interest might arise. Willingness to make loans to American firms which compete with a parent country's state-owned enterprise is another potential problem area. Serious instances of conflicts arising from such situations may not be too remote a difficulty; foreign banks now make more than 15 percent of all the large business loans in this country. In California and New York, which have the highest concentration of foreign banks, they actually account for almost 30 percent of all big business loans.

Another new area of concern, and one in which our bank regulatory agency policy is as yet unclear, is raised by the phenomenon of foreign individuals or groups of individuals who are now capable of buying big American banks. Until recently, foreign acquisitions have been made for the most part by banking institutions, especially large ones. Acquisitions by individuals, on the other hand, have been of a very modest scale. But now, with the tens of billions of dollars in surpluses being accumulated by OPEC states, the prospect of private citizens of those countries buying our major banks has become very real. In 1978, for example, the SEC charged four Arab businessmen with violations of securities laws for secretly attempting to acquire control of the $2.2 billion Financial General Bankshares, a Washington, D.C.-area bank holding company.[1] It seems likely that the prospect of both direct and indirect financial and political influence will convince more wealthy Arabs that American banks are promising investments.

Still another set of serious problems to be considered is raised by the unique anti-competitive effects of foreign takeovers. A foreign bank can be a substantial competitor of its U.S. target bank even though the foreign bank has no offices in the U.S., or even if its offices here appear insignificant when measured by local deposits and assets. Because the major American banks are increasingly dependent on the banking business of foreign and multinational customers, the present ability of foreign bank holding companies to retain and establish affiliations with a broad variety of non-banking businesses is certain to have a profound effect on banking competition in the United States if such foreign organizations are permitted to acquire major U.S. banks. In fact, those major U.S. banks which are not affiliated through a foreign parent company with important non-banking enterprises will be at a serious competitive disadvantage, and this will inevitably encourage increases in the numbers of banks which become targets of foreign acquisition efforts.

Foreign takeovers further pose at least two types of danger to U.S. banks. First, our banks have generally been spared the disruptions caused by hostile takeovers. The same factors which impede the divestiture of a major U.S. bank to a domestic company also make it difficult for any domestic group to carry out hostile bank takeovers. But foreign organizations are not similarly restricted. In fact, existing bank regulatory procedures not only were designed without any thought of hostile takeovers; they actually create a situation in which bank takeover battles become unusually protracted, extending over a year. Such extended takeover contests are likely to damage the target bank by diverting resources, endangering existing banking relationships, disrupting management, and undermining essential confidence in the institution. Even where a takeover is friendly and the initial foreign control is competent and honest, U.S. authorities will have only a minimal degree of ability to regulate changes in the ownership or control of the foreign parent to guard against intentional or unintentional mismanagement of the U.S. bank.

In addition to the myriad problems that continued foreign takeovers of leading U.S. banks will present for the banking sector of our economy, it should be noted that such takeovers also present at least two unprecedented problems for American non-banking firms. First, while existing law strictly separates U.S. banks from most non-banking businesses, it allows foreign banking organizations broad leeway to retain and expand their non-banking interests (limiting only the extent to which their non-banking affiliates may do business in the U.S.). Consequently, U.S. banks with foreign owners will have an incentive to favor certain foreign non-bank customers at the expense of U.S. customers.

For instance, a foreign company owning both a U.S. bank and a foreign electronics firm could require the American bank to grant credit imprudently to the foreign electronics firm and deny urgently needed credit to American competitors in the field. The Hong Kong-Shanghai group owns 25 percent

[1] These same individuals resubmitted a higher bid in 1979; apparently identity concealment was not enough to disqualify them from future ownership.

or more interest in about 321 companies covering about 65 industrial sectors in over 40 countries. How can we possibly regulate such a powerhouse? We have no information on companies of which it owns 25 percent or less; nor do we know of its related interests. How, then, can we insure against conflicts of interest in the conduct of its affairs? This is comparable to one of our major multinational conglomerates trying to acquire a major U.S. bank. The concept of "National Treatment" (i.e., treating foreign banks in the same manner we treat U.S. banks) simply does not fit. Second, investment in U.S. securities is entrusted increasingly to bank trust departments managing pension funds. American concerns are potentially vulnerable vis-a-vis both foreign and domestic competitors, depending upon the policies of a major bank trust department. The likelihood that such harm could befall U.S. concerns is increased when trust departments are controlled by foreign interests affiliated with foreign business interests or with a foreign government. Congress has been aware of many of these problems. In fact, the International Banking Act of 1978 was intended to supervise foreign-controlled banks as thoroughly as domestic banks. Inevitably, however, the very fact of foreign control has made fully effective supervision virtually impossible. Foreign secrecy laws and practices, the widely differing sets and standards of financial and accounting principles, and the varying character of foreign business and governmental relationships can make it difficult—or even impossible—for our regulatory agencies to obtain all of the information needed from a foreign owner of a U.S. bank. And unlike domestic companies whose records and officers can be reached by U.S. legal or investigative process, foreign companies can submit information which U.S. regulatory agencies are not capable of verifying. This creates an obvious risk that domestic decisions will be made on the basis of inaccurate or inadequate information. To begin to grasp the extent to which a foreign bank acquisition may eliminate competition and concentrate the control of the banking business in a relatively few hands, it will be necessary to develop new antitrust analyses and standards, focusing on specialized product markets such as long-term loans, project financing, and international services.

It is obvious that the potentially serious problems associated with foreign takeovers of U.S. banks require a detailed reexamination of our laws and policies. There is, however, a very real danger that in the absence of a Congressional mandate the Federal regulatory agencies concerned would undertake such a study in piecemeal fashion, or only after the situation had reached a critical stage, if at all. Therefore, on June 26, 1979, I introduced a Joint Resolution calling upon the Federal agencies that regulate banks and savings institutions—the Federal Reserve Board in consultation with the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board—to prepare a study analyzing the impact of the takeover of domestic banks and savings institutions by foreign banking and non-banking interests. This study should also outline the legislative and regulatory changes necessary to: (1) delegate to these agencies the powers necessary to prevent hostile takeovers of U.S. banks and savings institutions by foreign persons; (2) bar takeovers of U.S. banks and savings institutions by foreign persons if the takeover will have an anticompetitive effect on financial markets; (3) prohibit an excessive concentration of foreign ownership of U.S. banking interests; (4) deny foreign interests an opportunity to acquire U.S. banks and savings institutions when reciprocal opportunities are not open to U.S. interests in the home country of the would-be acquisitors; and, finally, (5) permit U.S. bank regulatory authorities to gain adequate supervisory and investigative powers over foreign owners of U.S. banks and savings institutions.

This study is to be presented to Congress for review by the House and Senate Banking Committees within six months of the enactment of the Joint Resolution. During the period of the study, the Joint Resolution establishes a moratorium on the takeover of U.S. financial institutions by foreign persons, unless such takeovers are necessary to prevent the bankruptcy or insolvency of the U.S. institution or unless applications for such takeovers have been submitted to the regulatory agencies on or before June 1, 1979.

The purpose of this Joint Resolution is to begin a fundamental reexamination of the role which foreign ownership and control ought to play in the United States banking system of the 1980's and beyond. I believe that in order to protect the public and assure the soundness of each bank our bank regulatory agencies must supervise foreign-controlled banks operating in this country as thoroughly as they supervise domestic banks. The study I have proposed should help the bank regulatory agencies think through both the short and the long term ramifications of foreign takeovers of American banks, and provide Congress and the American people with the sort of analysis necessary to make intelligent decisions on this vital issue.

[From the New York Times, July 22, 1979]

THE THREAT OF FOREIGN BANKING

(By H. JOHN HEINZ III)

Banks wield enormous economic influence in our country. Their leveraging position and their allocation of credit play a pivotal role in our economic system. Yet the fact that foreign-owned banks have become a major new force in the New York banking system, indeed in all the major money centers of our nation, have elicited little attention or concern from Federal bank regulatory agencies.

The president of the Federal Reserve Bank of New York, Paul Volcker, said recently that the question about limits to the degree or manner of penetration of domestic markets by foreign banks "is nowhere addressed specifically in the International Banking Act or other Federal legislation." This serious omission should be of concern. I fear that the recent wave of foreign acquisitions of American banks may have profound implications for the American banking system. In fact, if present trends continue or accelerate we will lose a significant amount of control of our entire economic system.

Since 1972, when the Federal Reserve first started keeping track of the figures on foreign ownership, foreign bank assets in the United States have more than quadrupled, going from $18 billion to more than $100 billion, and if all of the currently proposed acquisitions are approved by the Fed, foreign-owned bank assets will increase by an additional 20 percent. This represents approximately 9 to 10 percent of the total bank assets in the United States. The problem is even more pointed because we are not really sure of the statistics. Even the Federal Reserve concedes that their figures are preliminary and possibly incomplete.

Foreign banks now make more than 15 percent of all big United States business loans. In California and New York, where foreign banks have the highest concentration, that proportion approaches 30 percent.

Foreign involvement in the United States banking market has been increasing steadily and substantially over the last six years. The number of foreign banks operating in the United States in 1972 was 66. By the end of 1978 this number had grown to 189, a nearly threefold growth in six years.

Until quite recently, the foreign banking presence in the United States came mainly as a result of the establishment of new offices or affiliates. Within the last two years, however, it has become clear that the pattern of foreign penetration of the American banking market has changed dramatically. Foreign interests have suddenly begun to achieve substantial positions in the market by means of acquisitions of large United States banks. It should be noted that laws governing United States banks abroad are stringent and would prevent what is happening in this country. For example, it would be impossible for a major United States bank to acquire a comparable "clearing house" size bank abroad.

Takeovers and attempted takeovers by foreign banks have been numerous in the last year—the Hongkong-Shanghai's bid for Marine Midland with $14 billion in assets, Standard Charter's acquisition of Union Bank of California's $4.7 billion in assets, National Westminster's purchase of the National Bank of North America with assets of $3.8 billion, Algemene Bank Nederland's purchase of the $1 billion La Salle National Bank of Chicago, which was approved by the Fed on July 13, and Midland Bank Ltd.'s offer for Walter E. Heller International, which owns the $2 billion National Bank and Trust in Chicago. In addition, it has been widely reported that there are a number of other foreign interests exploring, either directly or through investment bankers, possible acquisitions of large United States banks. Virtually every leading American investment banking firm has compiled an analysis of major American banks that might be acquisition targets for their foreign clients.

Foreign control of a substantial proportion of the domestic banking system would inevitably raise questions concerning the degree that such banks would carry out monetary investment policies supportive of United States interests, especially when those interests happen to conflict with those of the owners' home country. Foreign-exchange operations and willingness to make loans to other large domestic banks are two areas where conflict of interests might arise. Willingness to make loans to large United States companies in competition with the home countries' state-owned business enterprises is another potential problem.

I am concerned that we have not fully considered the implications of a substantial proportion of our banking system falling under foreign control. I am concerned that our bank regulatory agencies have not fully worked out the criteria to judge what are acceptable foreign buyers. And with petrodollars piling up, foreign individual buyers may become a major new force. These buyers are essentially beyond our jurisdiction and beyond our control. It is likely that the prospect of both direct and indirect financial and political influence will convince wealthy Arab businessmen that United States banks are indeed a good investment.

Acquisitions by foreign banking institutions present problems no less serious. At hearings on foreign takeovers on July 18, I asked Henry C. Wallich of the Federal Reserve whether our bank regulators had the

authority to examine the books of a foreign bank. He replied that they did not. All they could ask for would be specific information as proof of the affiliates financial soundness. He went on to say that, theoretically at least, Federal regulators could demand an examination as the condition of approval. But when questioned further, he could not cite even one instance when this, in fact, had been demanded. Muriel Siebert, New York State's banking superintendent, has complained that her evaluatory task was made much more difficult by the fact that the Hongkong and Shanghai Bank could not even produce balance sheets based on the same accounting principles used in the United States.

I am concerned that foreign takeovers of United States banks may have a perverse "snowball" effect. With each additional acquisition by a foreign bank, other foreign banks may come to believe that they too must make a comparable acquisition in the United States in order to keep pace with their competitors. Similarly, United States banks may become irresistably attracted to the advantages of foreign bank holding companies, which, unlike our domestic ones, are able to establish and retain affiliations with a broad variety of nonbanking businesses.

Finally, I am concerned that the current wave of foreign takeovers of American banks may place United States banks—and in the long run perhaps even American business—at a significant disadvantage. United States banks already have fallen behind the growth rates of the largest foreign banks. If foreign banks alone can acquire leading positions in both their home markets and in the United States, they will have significant advantages in many areas of international finance.

Mr. PROXMIRE. Mr. President, as the Senator has said, he knows I have supported this legislation. I have introduced similar legislation. What this legislation would do, as I understand it, is require a 6-month study and a 6-month moratorium on foreign acquisition of banks. As the Senator knows, there has been some increase in foreign acquisitions. To some extent, that may be a good thing, if it provides an opportunity for foreign capital to move in here as we have moved into other countries. There is a disadvantage, because there is no reciprocity. We cannot acquire banks in any other country that I know of. We can start our own branches in some other countries, but we cannot acquire banks. That puts us at a considerable disadvantage.

Because of this, as particularly constituted in New York, the banking commissioner in New York has told me of her very deep concern. I am sure the Senator from Pennsylvania is aware of that, too.

I think that this is a proposal that I should be happy to support. I do not know how other Members of the Senate may feel. I hope we can take this to conference and discuss it with the House. I assure the Senator that I shall support the amendment in conference. But. I shall wait to hear what other Members of the Senate would feel on it.

Mr. HEINZ. I thank the Senator.

Mr. TOWER. If the Senator will yield, I think it would be a good thing to take this amendment to conference so that we focus the attention of the House of Representatives on the issue. So far as I know, they have not been nearly as attentive to this matter as we have in our own committee.

I would, of course, assume that we would press for the Senate position. But even should we lose it in conference, if we encourage the House to take a little action, we might have made some headway on the problem.

Mr. HEINZ. I appreciate what the Senator has said. I am very grateful to both my good friend from Wisconsin and my good friend from Texas.

Mr. President, I am prepared to yield back all my time.

Mr. PROXMIRE. Mr. President, I yield back my time.

The PRESIDING OFFICER (Mr. JOHNSTON). There is no time control.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOBILE HOME LOANS

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I yield to the Senator from Utah.

Mr. GARN. Mr. President, I address this to the distinguished chairman of the Banking Committee and the manager of the bill.

It has come to my attention that there is a question regarding the applicability of section 305 in the case of mobile home loans. As the Chairman knows, some States treat mobile homes as personal property and others as real estate. This Senator believes it is the committee's intent that mobile home loans, whether the lot is included or not, should be included in the definition provided by subparagraph A of section 305.

Is this the Chairman's opinion?

Mr. PROXMIRE. I say to my good friend from Utah, the phrase "residential real property" within the meaning of section 305 is intended to include mobile homes that are used as a primary residence. It is not intended to include recreational vehicles which, in reality, are personal property.

Mr. GARN. I thank the chairman.

Mr. President, I thank the Senator from California for yielding.

Mr. CRANSTON. Mr. President, did the Senator from Florida want me to yield to him?

Mr. STONE. No, Mr. President, I just wonder whether the Senator from California, after he presents his amendment, would remain on the floor, because an amendment which I shall offer is very similar to one which the Senator from California and the distinguished Senator from Texas (Mr. TOWER) offered last year.

Mr. CRANSTON. Yes, I shall.

AMENDMENT NO. 560

(Purpose: To authorize the Government National Mortgage Association to purchase under its interim mortgage purchase authority low-yield mortgages presently held in portfolio by savings banks, savings and loan associations, and other mortgage lenders)

Mr. CRANSTON. Mr. President, I call up amendment No. 560 and ask that for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) for himself, Mr. JAVITS, and Mr. WILLIAMS, proposes an amendment numbered 560.

On page 32, between lines 20 and 21, insert the following:

SEC. . Section 313(a) of the National Housing Act is amended by adding at the end thereof the following:

"(4) In carrying out the authority conferred by this section, the Secretary may require the Association to utilize a part of the authority to purchase mortgages conferred by this section for the purchase of mortgages executed prior to December 31, 1978, and involving interest rates not in excess of 7½ per centum per annum. The Secretary shall require that the proceeds from any sale of mortgages pursuant to this paragraph will be used by the seller to make mortgages which—

"(A) are executed to finance the acquisition of—

"(i) more than four-family residences (including cooperatives and condominiums and the individual housing units therein) which are insured under the National Housing Act or chapter 37 of title 38, United States Code, or

"(ii) one- to four-family residences which will be the principal residences of the mortgagors and which are insured (a) under the National Housing Act or guaranteed under chapter 37 of title 38, United States Code, or (b) by qualified private insurers as determined by the Association or the outstanding principal balances of which do not exceed 80 per centum of the value of the property securing the mortgage;

"(B) involve original principal obligations in amounts not to exceed the limitations set forth in section 5(c)(1)(B) of the Home Owners' Loan Act of 1933;

"(C) involve an interest rate not in excess of that set by the Secretary applicable to mortgages insured under section 203(b) of this Act, and no discount points or other charges may be imposed in connection with mortgage transactions under this paragraph; and

"(D) are secured by residences located only in the seller's State of domicile to the maximum extent feasible.

The eligibility of participants in the program under this paragraph shall be determined by the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation in consultation with the Secretary of the Department of Housing and Urban Development, taking into account conditions in mortgage lending institutions pursuant to rules and regulations prescribed by the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation. In no event shall the total amount set aside by the Secretary for purchases and commitments pursuant to this subparagraph exceed $1,-

500,000,000 per year in any fiscal year. The Association may, after consultation with the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, offer and sell to any participating lender mortgages in an equivalent amount and at an equivalent yield to those mortgages sold by a participating lender and such participating lender is directed to purchase such mortgages. The authority conferred under this subparagraph shall expire three years after enactment of this paragraph.".

Mr. CRANSTON. Mr. President, this amendment is cosponsored by Senators JAVITS and WILLIAMS. I ask unanimous consent that Senator STEWART be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, this amendment to section 313 of the National Housing Act (section 313 is referred to as the Brooke-Cranston tandem program), provides that in the event that the Brooke-Cranston tandem program is reactivated, a portion of those funds may be used by the Government National Mortgage Association to purchase existing low-yielding mortgages from lenders who now hold these mortgages in their portfolios. In turn, sellers of these low-yielding mortgages would relend the funds to moderate-income homebuyers meeting the following requirements:

The interest rate on the new loans cannot exceed the FHA rate (presently 11.5 percent);

The maximum mortgage amount cannot exceed the maximum amounts applicable to Federal savings and loan associations. This limit now stands at $60,000;

The loans must be FHA insured or VA guaranteed, or in the case of conventional loans, they must be insured by a qualified private mortgage insurer;

The loan must be secured by property located in the State of the lender to the maximum extent feasible; and

No points can be charged on these mortgages.

Mr. President, this amendment is necessary because, in an environment of decontrolled deposit interest rates as mandated by H.R. 4986, some thrift institutions may be severely handicapped in their ability to pay increased deposit costs as a result of large portfolios of below-market rate mortgage loans.

Second, the dramatic increases in interest rates of recent weeks, coupled with the disintermediation currently being experienced by many thrifts, have resulted in a growing shortage of housing credit for moderate-income families seeking to buy a house. Many observers now predict that the housing industry will be plunging into a deep recession in the near future because of the combination of high-interest rates and thrift-institution outflows. In this event, it is likely that a countercyclical stimulus such as the Brooke-Cranston tandem program will have to be activated.

Mr. President, my amendment seeks to address both of the above concerns. It will help alleviate the earnings squeeze facing thrift institutions by enabling them to recycle frozen funds that are currently invested in old, below-market loans into new mortgages carrying yields more in line with today's higher interest rates. This, in turn, would enable them to pay higher interest rates for savings and make an increased volume of new mortgages in areas where no mortgage funds would be available.

Mr. President, finally, I emphasize that approval of my amendment will not in any way mandate the expenditure of funds at this time. Before the program could be implemented, two events would have to occur. First, the Secretary of HUD would have to determine that the original GNMA Brooke-Cranston program should be implemented; and, second, Congress would, through an appropriation action, have to release the funds currently held by GNMA as recaptured loan repayments—$10 billion—or authorize a new appropriation. Even then, the HUD Secretary would have the discretion in determining what portion of the tandem funds should be used for the program created by this amendment.

This amendment is of a limited nature, to be used on a highly selected basis by HUD in consultation with the FDIC and the FHLBB in case of emergencies, while we look at the need for other mechanisms to be put in place.

Mr. President, I ask unanimous consent that an article relating to this matter, from the Washington Post of September 28, 1979, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

S&Ls EXPERIENCE WORST AUGUST EVER

The nation's thrift institutions experienced their worst August in five years last month as investors continued to buy into red-hot money market funds, federal officials said yesterday.

Net new savings receipts at federally-insured savings and loan associations totaled $700 million last month, about one-half of the July inflow, according to statistics supplied by the Federal Home Loan Bank Board.

"The savings flow was down in August because of competition from the high yields available from short-term marketable securities and from money market funds," said Jay Janis, the new board chairman.

The $700 million in net new receipts was 65 percent smaller than in August, 1978, "and the poorest August savings experience for associations since the $1.2 billion savings outflow experienced in 1974," the bank board said.

Mr. CRANSTON. At this point, if he wishes, I should be delighted to yield to my colleague and cosponsor of this amendment, the Senator from New York.

Mr. JAVITS. Mr. President, I support the amendment offered by the chairman of the Financial Institutions Subcommittee, Senator CRANSTON. I support his amendment because I recognize that the thrust of H.R. 4986 is to change the rules of the game by which financial institutions compensate their depositors by offering them higher returns on their savings. But in seeking to increase the return to the small saver, we must not be unmindful of the borrower who has gone before.

One need only examine the facts in my own State of New York. The usury ceiling now stands at 10 percent. In contrast the latest figures for money market certificates of deposits will require institutions to pay depositors 12.65 percent for 6 months. To lend money at 10 percent for up to 30 years while borrowing it for only 6 months at 12.65 is, I submit, a prescription for disaster.

But in serving their communities that is exactly what institutions have been, and continue to do. The mortgage portfolios of thrift institutions in my State, as well as others, are heavy with loans made in other times and at rates remembered with nostalgia: 5, 6, 7 percent.

Savings institutions are already laboring under the lower yields being earned on their mortgage portfolios as they seek to pay the rates even now being paid savers. These banks are locked into old mortgage rates and their portfolios (1 out of 5 is lent out at 7½ percent) have not kept up with increasing costs of higher savings interest rates. Consequently, earnings margins have already been considerably narrowed. For example, in 1978, savings banks in New York City had earnings on deposits of 8.28 percent. At that time the average cost of funds was 6.18 percent. In the first 6 months of 1979, the earnings on deposits increased to 8.72 percent, but the cost of funds has also increased and by a greater amount—to 6.72 percent.

The viability of thrift institutions and the flow of funds to the home mortgage market have already been under strong pressure, and as the effect of the Fed's tight monetary policy takes hold, the situation is likely to be exacerbated.

Senator CRANSTON's amendment is responsive to these conditions. It will enable the thrift institutions to continue to pay the rates necessary to attract savings while at the same time it will permit them to recycle frozen mortgage funds into new loans at a time when mortgage credit is scarce.

I urge my colleagues to support this amendment.

Mr. President, I approach this matter in a banking sense, because I think that is the real issue. I recognize the deep feelings that are had about it on both sides.

It seems to me that we are facing a condition, not a theory. That condition, Mr. President, is that the banks are in a very grave squeeze and the more patriotic they have been in affording mortgage loans at reasonable interest rates, the deeper the squeeze. Their problem is the problem of whether they can really be viable under these conditions as, by a sudden change in policy, interest rates have really run away.

Mr. President, the change in policy is so sudden, in my judgment, as to be equivalent to force majeur. In other words, it is an act of Government which has jeopardized seriously institutions which are traditional mortgagees in a way which was really completely beyond

their control. I think you could be as provident as the Lord himself without anticipating that interest rates were suddenly going to jump to 15 percent and that the disintermediation, which is now such a big issue, could have hit us all so suddenly.

The fact is now that these mortgages which we are talking about have been made for very long periods of time at rates which, in round figures, are not more than 60 percent of the present interest rates and, in many cases, half of present interest rates at which mortgages are made.

I noticed, very interestingly, Mr. President, even the U.S. Government is realizing that because it is pulling out the E bonds and now issuing double E bonds and paying 50 percent more premium.

We will now buy a $100 bond for $50, not $75 as we did before.

So, Mr. President, the suddenness of this move, in my judgment, has been a very real one and has definitely caused this problem.

I believe Senator CRANSTON's amendment, with me, has made thoughtful and prudent provision against the use of this facility to excess, against it being a windfall, in turn, which, after all, has to be very carefully safeguarded. Its provision for use in connection with a tandem program seems to me to be fully protected, to see it does not get away from us. Nor does it represent a big fiscal problem because there are very ample both presently authorized funds in the original program, that is, the original tandem program, $17 billion.

Finally, the provision that the very same banks have to repurchase what they have sold if it turns out to be on GNMA's hands as soon as they are able to do it financially, it seems to me gives very strong protection to the U.S. credit. Any idea they will get out of hand, of course, is limited by the $1.5 billion figure which may be devoted for the purpose.

Mr. President, it is the old subject, really. This has some of the feeling of the Scotchman and his horse. He fed him, finally, so little that the horse died in order to save feed. This is that kind of situation.

We do not want a big financial crisis in this country. Let us remember that the crisis of 1929–32 which is so much written about today, was a crisis of closing banks. That is when things really hit. When the banks were closed.

I think it would be a very bad idea because we cannot make provident arrangements in this matter to jeopardize our banks.

The other thing which I think is very important is that without much question a very large amount of Americans' income is being allocated to the payment of their debts and, therefore, to cause a rash of foreclosures—and that is what this will force. I know Senator CRANSTON agrees with me, but I hope the Banking Committee will consider that seriously.

What is the alternative of a bank which has a 7½ percent, a 7¾ percent mortgage? It is going to take advantage of the earliest opportunity to foreclose and get its money back so it can lend it out at much higher rates of interest, even if for another mortgage.

Mr. President, I could hardly think of anything more destabilizing than that in terms of our economy, which is carrying enough tensions already.

If, on the other hand, the converse side of the coin, if the bank is to sit with these mortgages, it simply cannot operate. It is not viable, in many cases.

When that begins to happen, as I say, we touch off a syndrome which will lead America into a depression, not a recession.

I end, Mr. President, by saying this. I think the managers on the part of the Banking Committee themselves are well able to judge this.

The housing situation and the high prices at which houses have changed hands and on which mortgage money has been lent is one of our most sensitive points. If we do not give it a chance, give it some cushion to phase out, I think there is a very good chance we can make that recession a depression.

Mr. President, this would be most unfortunate for our country and its people.

For all those reasons, Mr. President, I join with Senator CRANSTON in this amendment and hope very much it may be favorably considered by the Senate.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, there are not two Senators for whom I have greater respect than the Senator from New York and the Senator from California. They are outstanding Senators, very thoughtful, and they are certainly expert in this particular area.

But I must rise in opposition to the amendment by the Senator from California because I believe it would be an unnecessary and a very costly Federal subsidy of $1.4 billion or more, which would go virtually entirely to private financial institutions.

In my judgment and the judgment of the best advice I can get from the staff, and others, it would not assist the mortgage market.

While it is true that the savings and loan and savings bank industries are currently facing an earnings squeeze, the Senator from New York and the Senator from California are right about that; there is nothing new about that, this is merely part of a longstanding cyclical pattern for these industries. Indeed, last year these industries achieved record high earnings. And while earnings are down this year, the indications are that these industries are faring better in this new episode of tight money than they did in previous tight money episodes. They are not doing worse, but better, and they survived before. Given the cyclical trend of the industry, earnings could easily hit record high levels again within a year or two.

In addition, I am confident that other provisions in the pending bill, such as the mortgage usury override and new asset powers will substantially increase the capacity of thrift institutions to compete effectively.

Furthermore, yesterday, as we may recall, we drastically modified the reduction in the $10,000 certificate to $1,000, making it only possible to do that when we had the unanimous agreement of all the regulators, including the Home Loan Bank Board.

I think every realistic assessment indicates that is not going to be done until it is clear the savings institutions are not in the bind which inspired this amendment.

At the same time, Mr. President, I think the Senator from California and the Senator from New York have raised a point that does require study. I do not think we have anything like the answers on it. They may be right.

As one Senator, I would certainly be interested in having this matter studied, so we could act on it promptly, not studied forever, but so we could take action within a reasonable period of time.

So I would hope we would not accept the amendment and would try, meanwhile, to conduct a constructive study of the problems.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I appreciate the remarks of the distinguished chairman of the committee. I understand his feeling that there should be more study of this matter.

I believe the fact we have offered this amendment has provoked a great deal of considerations already. The various regulatory agencies are now focusing attention on this issue. I understand they are having meetings to consider what would be a practical approach and what would be the impact of this particular amendment at this time.

Because of the recognition that more facts might well bolster our case and make it more likely that we would prevail, and in recognition of the legitimate desire of Senators to know more about all this before we act, those of us who introduced this amendment have discussed the matter and have agreed on a substitute for the amendment.

Mr. President, we have a substitute for amendment 560 that will call for the President to convene an interagency task force to provide recommendations to the Congress, within 90 days on the problems that may arise as a result of financial institutions holding a large amount of low yielding mortgages in their portfolios, when the market is acting as it is, and when interest rates are very high.

As chairman of the Subcommittee on Financial Institutions of the Banking Committee, I feel that our amendment has caused the regulators to focus on this problem where they were not before and I am satisfied that the agencies involved will be able to supply to the Congress the information needed in this area.

UP AMENDMENT NO. 716 (SUBSTITUTE FOR AMENDMENT NO. 560)

(Purpose: To require a report on low-yield mortgage portfolios in the Senate of the United States)

Mr. CRANSTON. Mr. President, I send to the desk a substitute amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 716 as a substitute for amendment numbered 560.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency and the National Credit Union Administration Board. The task force shall conduct a study to determine the difficulties faced by depository institutions which have sizable portfolios of low-yield mortgages. In carrying out such study, the task force shall solicit the views of, and invite participation by, consumer and public interest groups, business, labor, and State regulators of depository institutions. Not later than three months after the date of enactment of this Act, the task force shall transmit to the President and the Congress its findings and recommendations for such action as it deems appropriate.

Mr. JAVITS. Mr. President, I agree with the Senator from California. I wish we could do it now. My opinion is that we should do it now, because I see a lot of writing on the wall. However, knowing the way things work around here, I am satisfied that this will get us underway.

Knowing both Senators who are managing this bill as I do, notwithstanding the 90 days, I know that if we get into a real crunch, we can come back sooner if we can make a case. I know that they do not have to assure me of that. For that reason, I am with the Senator in this matter.

Mr. CRANSTON. I thank the Senator.

Mr. PROXMIRE. Mr. President, I appreciate very much the words of the Senator from New York.

I think the Senator from California has offered a very reasonable amendment, and I am happy to accept it. I thank him very much for his cooperation and accommodation.

Mr. CRANSTON. I thank the Senator.

Mr. WILLIAMS. Mr. President, I am pleased to join with Senator CRANSTON in offering an amendment to H.R. 4986, the Depository Institutions Deregulation Act, to modify the existing Brooke-Cranston tandem program to permit a portion of the funds used by the Government National Mortgage Association to purchase existing low yielding mortgages from lenders who now hold these loans in their portfolios.

Mr. President, there is little doubt that this legislation will result in dramatic changes in the ways certain depository institutions conduct their business. As I have indicated before, the greatest change will result from the fact that savings and loans and savings banks will be required eventually to pay a market rate of interest to purchase their raw product—money. We have already seen, with the advent of this money market certificate and the incerased ceilings under regulation Q, that many thrift institutions are not able to move toward a market rate environment too quickly. The committee realizes the fragile nature of many of these institutions, particularly those in the Northeast, and therefore, has required a gradual phase out of interest rate controls. It has also built into the phaseout a number of safeguards.

Mr. President, it is already clear that many of our savings banks, in particular, are in fragile health. Last week the Wall Street Journal carried a story demonstrating the level of concern among the bank regulatory agencies about the possibility at least that many savings banks may experience negative earnings due to the recent actions by the Federal Reserve Board which have pushed interest rates to record levels in the Nation's money market. This article indicates the problem is serious enough to warrant contingency plans by the Federal bank regulators to handle any savings bank failures in an orderly way. As a result of soaring interest rates, Saul Klaman, president of the National Association of Mutual Savings Banks, is quoted as saying, "the near term outlook for thrift institutions and deposit flows has clearly worsened." The mere fact that these contingency plans are being made serves as a vivid reminder that the combination of high interest rates and congressional mandated change will cause especially difficult times for savings banks.

The purpose of this amendment is to mitigate these consequences and to remove at least some of the difficulties which many thrift institutions may have in competing for deposits because their portfolios contain many mortgage loans at rates that are well below the market rate. The low-yielding loans obviously impede the ability of many thrifts to pay market rates to depositors without worsening their safety and financial soundness.

As my colleague and cosponsor has already explained, this amendment will help to alleviate the earning squeeze facing thrift institutions by using the facilities of the Government National Mortgage Association to purchase the old, below market, loans and provide the thrift institutions with additional capital to invest in new mortgages which carry yields that are more in line with today's higher interest rate environment.

The result is that we will not only be cushioning the effect of high market interest rates on thrift institutions, but at the same time we will deal with a growing shortage of housing credit for moderate-income families by recycling money available for mortgage credit.

Mr. President, this proposal is intended to provide emergency assistance to assure the continued strength of our traditional sources of mortgage finance without impairing the basic purposes and objectives of the Brooke-Cranston program. That purpose, of course, is to provide a countercyclical spur to the housing market to assure that the market remains active in times of economic stress.

Under this amendment, when the Brooke-Cranston program is triggered by the required findings of the Secretary of HUD, a portion of the appropriations released to fund purchases under the program would be allocated to the purchase of mortgages issued before January 1, 1979, which carry an interest rate of less than 7½ percent. With the proceeds received from the sale of these old, low-yielding mortgages, the lending institutions would be required to quickly write new mortgages at a rate not to exceed the FHA rate. This would assure that the funds used to purchase the old mortgages—which endanger the strength of the thrift industry—are virtually immediately put into the mortgage flow at a rate beneficial to the home buyer.

Mr. President, I applaud my colleague. He was instrumental in creating the existing Brooke-Cranston program and he has had the vision to adapt it to perform an additional essential function. I am pleased to support him in sponsoring this amendment and urge my colleagues to approve it as part of H.R. 4986.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. TSONGAS. Mr. President, I had intended to file an amendment similar to this, and I will be pleased to be listed as a cosponsor, if the Senator from California will agree.

The PRESIDING OFFICER. The Senator is already listed as a cosponsor.

Mr. CRANSTON. Yes.

I thank the Senator.

The PRESIDING OFFICER. Without objection, the substitute amendment is agreed to, and, without objection, the amendment as amended is agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 717

Mr. CRANSTON. Mr. President, I send a technical amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 717.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line 14, after word "by", insert "or other obligation of.".

Mr. CRANSTON. Mr. President, this is a technical amendment to make clear that a mortgage backed bond or a certificate of deposit or any obligation of a depository institution, is exempt from the usury law. A depository institution does not need protection from the usury law. It should be permitted to pay to the public any interest rate it wants for use of their funds.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 718

(Purpose: To authorize savings and loan associations to issue mutual capital certificates)

Mr. STONE. Mr. President, I call up an amendment at the desk, for myself and the Senator from North Carolina (Mr. MORGAN).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE), for himself and Mr. MORGAN, proposes an unprinted amendment numbered 718.

Mr. STONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, between lines 20 and 21, insert the following:

SEC. 306. (a) Section 5 (b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464 (b)) is amended by adding at the end thereof the following:

"(4) In accordance with rules and regulations issued by the Board, mutual capital certificates may be issued and sold directly to subscribers or through underwriters, and such certificates shall constitute part of the general reserve and net worth of the issuing association. The Board, in its rules and regulations relating to the issuance and sale of mutual capital certificates, shall provide that such certificates—

"(A) shall be subordinate to all savings accounts, savings certificates, and debt obligations;

"(B) shall constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

"(C) shall be entitled to the payment of interest prior to the allocation of income to reserve and net worth accounts; and

"(D) may have a fixed or variable rate of interest. The Board shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts.".

(b) Section 403 (b) of the National Housing Act (12 U.S.C. 1726 (b)), is amended by adding at the end thereof the following: "Mutual capital certificates, subordinate to the rights of holders of savings accounts, savings certificates, and the Corporation, shall be deemed to be reserves for the purposes of this subsection in accordance with rules and regulations prescribed by the Corporation. The Corporation shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves and other net worth accounts. In the event an insured institution fails to maintain the reserves required by this title, no payment of interest on such certificates shall be made except with the approval of the Corporation.".

Mr. STONE. Mr. President, this amendment would permit Federal savings and loan associations to issue mutual capital certificates. The certificates would pay a dividend commensurate with the risk involved since capital investment holders would not come before insured savers. The important thing is that the proceeds of the certificates would constitute part of the reserve and net worth of an association. This could substantially improve the capital adequacy problems that many savings and loans are experiencing.

Authorization for the issuance of mutual capital certificates would be subject to regulation by the Federal Home Loan Bank Board. The Chairman of the Federal Home Loan Bank Board, Mr. Janis, is in support of this amendment. The certificates would pay interest at a fixed or a variable rate. No interest would be paid with Federal Savings and Loan Insurance Corp. (FSLIC) approval during any period of Federal insurance reserve/net worth noncompliance periods, but interest would be paid before allotting the income to reserve and net worth. The certificates would be subordinate to the payment in full of: first, all savings accounts; second, savings certificates, and third, debt obligations. After that, however, they would constitute a claim in any liquidation on the remaining general reserve, surplus and undivided profits.

The mutual capital certificate is a vital new tool, urgently needed, by those savings and loan associations in the mutual form of ownership. By their very nature, they cannot raise funds to restore their capital position through stock offerings to the public. With the pressures created by market-indexed money market certificates and higher savings rate ceilings adopted in July, combined with investment portfolios filled with uneconomic fixed-rate, long-term loans made many years ago, these institutions are in a severe earnings squeeze. More than one-fourth of their loans are 10 years old or older—returning less than 7 percent.

Almost one-fourth of their savings are now money market certificates which in this latest week returns a rate of 12.651 percent. The Chairman of the Federal Home Loan Bank Board has predicted that, following the Federal Reserve's moves October 6 to "save the dollar," the current severe earnings' situation in the thrift industry will deteriorate by another 30 percent. The impact of this development will be felt most noticeably in the northeast region of the Nation where savings institutions are almost exclusively in the mutual form of ownership.

The mutual capital certificates authority contained in this amendment is one way to combat this severe capital problem facing institutions serving millions of savers and borrowers.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from California (Mr. CRANSTON) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, the thrust of this amendment is quite similar to one offered last year by the distinguished ranking minority member of the committee, the Senator from Texas (Mr. TOWER), and the distinguished Senator from California (Mr. CRANSTON).

I reserve the remainder of my time.

Mr. TSONGAS. Mr. President, in behalf of the chairman of the full committee, I make the following remarks:

We should do all we can to increase the capitalization of all our financial institutions to buttress them in current economic circumstances.

This amendment provides that S and L's may offer mutual capital certificates. These certificates would be a part of the capital structure of the mutual institution and would be available to absorb losses under regulations of the Federal Home Loan Bank Board.

The amendment leaves untouched the prohibition on Federal S. & L.'s issuing capital stock and retains the mutuality of Federal S. & L.'s.

I commend the Senator for offering this amendment, and I hope the Senate will support the amendment.

Mr. STONE. I thank the distinguished Senator from Massachusetts.

Mr. TOWER. Mr. President, I think that such a thorough exposition of the amendment has been given that there is little I can add that would enlighten anybody.

As has been noted, I am a former sponsor of this legislation. I think it is constructive and well taken on the behalf of the minority. We are perfectly prepared to accept it.

Mr. STONE. I thank the distinguished leader.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TSONGAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 719

(Purpose: To specify the authority of the Federal mutual savings banks)

Mr. TSONGAS. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS), for himself, Mr. HEINZ, and Mr. DURKIN, proposes an unprinted amendment numbered 719.

Mr. TSONGAS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, between lines 20 and 21, insert the following:

SEC. . (a)(1) Section 5(a) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following: "A Federal mutual savings bank may make loans and investments without regard to any other limitation under Federal or State law, except that—

"(A) not more than 20 per centum of the assets of such a bank may be so loaned or invested; and

"(B) 65 percent of such loans and investments must be made within the State where the bank is located or within 50 miles of such State.".

(2) Notwithstanding the amendment made by subsection (a), the Federal Home Loan Bank Board shall limit the percentage of assets which a Federal mutual savings bank may loan or invest pursuant to the provisions of such amendment to 5 per centum during the first two years following the date of enactment of this Act, to 10 per centum for the next succeeding two years, to 15 per centum for the next succeeding two years, and to 20 per centum upon the expiration of eight years after such date of enactment, except that the Board may lengthen or shorten any such two-year period where necessary or appropriate in the event of a more rapid phaseout of interest rate controls or to avoid economic dislocation.

(b)(1) Section 5(a) of the Home Owner's Loan Act of 1933 is amended by adding at the end thereof the following: "A Federal mutual savings bank may accept demand deposits from any sources.".

(2) Notwithstanding the amendment made by subsection (a) of this section, the Federal Home Loan Bank Board shall (A) provide by regulation for a smooth and orderly transition with respect to the implementation of demand account authority; (B) provide for a phase-in of such demand accounts if, in the judgment of the Federal Home Loan Bank Board, after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, such a phase-in is necessary in order to assure the stability and soundness of all depository institutions, provided that by January 1, 1990, or at such earlier time when in the judgment of the Federal Home Loan Bank Board Federal interest rate limitations have been effectively eliminated, such phase-in must be completed; and (C) delay the implementation of such demand account authority, but not later than January 1, 1990 or such earlier time when in the judgment of the Federal Home Loan Bank Board Federal interest rate limitations have been effectively eliminated, if the Federal Home Loan Bank, after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, determines that the granting of such authority would result in a serious impairment of the financial soundness and stability of depository institutions in general. In such event the Board shall report to the Congress on the reasons for such delay within 30 days of its determination.

(c) This section takes effect upon the enactment of section 107 of this Act.

Mr. TSONGAS. Mr. President, this amendment expands the power of Federal savings banks by permitting them to accept deposits from any source and to use up to 20 percent of their assets for any type of investment subject to approval of the Federal Home Loan Bank Board. This is a modification of an earlier amendment printed in the RECORD. Senator HEINZ is joining me as a cosponsor.

As the distinguished chairman knows, I strongly support the action taken by our committee to phase out regulation Q. Consumers are demanding a better return on their savings accounts and until financial institutions can meet that demand, money will be taken from banks and put into unregulated higher yield market instruments.

I am concerned, however, that in phasing out regulation of interest rates and ending the differential, we are placing thrift institutions in an untenable position. We are deregulating the rates they pay, but forcing their lending to remain specialized. We are saying to them: Pay flexible market rates of interest to your depositors, but invest only in long-term fixed-rate mortgages. It is questionable whether the savings bank industry can remain competitive under such restrictions.

In Massachusetts, earnings of savings banks are down due to the sluggish economy and slow turnover of low-yield mortgages. The savings industry in my State now invests 75 percent of its assets in mortgages. These banks already have the consumer lending powers in H.R. 4986—they need to broaden their deposits and investments beyond those permitted in this bill to remain competitive.

This amendment does not make thrifts into commercial banks. There is a 20-percent cap on the new investment they can make. Further, to make sure that this new lending benefits local development efforts, there is a requirement that 65 percent of the investments be made within the State or within 50 miles of the State for banks which are on or near a border. This is of particular relevance to those of us in the Northeast who have seen banks invest elsewhere. The amendment assures that there will not be an overnight transition to investments which the banks does not have the expertise to handle. The asset powers are phased in over an 8-year period, which the regulators may speed up or slow down, depending on the schedule by which regulation Q is phased out. The amendment will become law only if the regulation Q phaseout is enacted.

Our amendment does not jeopardize housing finance, but in fact makes it more feasible for savings banks to continue their important role in housing. The deregulation of interest rates may adversely affect the earnings of savings banks, leaving them with less to lend for mortgages or other housing-related activity. Some may opt to end their specialized housing function altogether and become full-fledged commercial banks. The expansion of asset powers will enhance their ability to attract funds which can then be used for mortgages. It is certainly my intention in offering this that these institutions maintain a predominant housing focus which utilizes their expertise in this area.

Mr. President, it is imperative that we deal with these issues now in terms of comprehensive reform of the banking industry. To delay this aspect would be to turn our backs on the continued viability of savings banks.

● Mr. HEINZ. Mr. President, I support this amendment, which would enable mutual savings banks to compete effectively in the new financial environment which would be created by the enactment of H.R. 4986.

Mutual savings banks have stated their willingness to accept the elimination of the interest rate ceiling on deposits. What they seek in return is that they be given the necessary powers to compete for funds in such an unregulated environment.

During the past 6 months, short-term interest rates have shot up by nearly 300 basis points, and there has been a concomitant massive net withdrawal of funds from mutual savings banks amounting to around $4.2 billion prior to the crediting of interest. Such figures lead beyond doubt to the conclusion that mutual savings banks, which are heavily involved in long-term, low-interest mortgage loans, would have great difficulty in remaining viable under deregulation of interest rates unless they are given the tools with which to compete for funds under the newly mandated conditions. In short, it appears that many such institutions will be unable to compete for savings during periods of rapidly rising interest rates such as we are now experiencing, unless they are granted the short-term investment flexibility that would enable them to earn a sufficient return to cover these higher interest rates.

We must simply face the reality that once interest rate controls have been eliminated, competition for deposits will intensify. Under these circumstances, savings banks would be greatly handicapped in their capability to compete for such deposits, especially consumer deposits. In this respect, it must be noted that depository institutions are increasingly attempting to develop their deposit base by attracting corporate customers who process their payrolls through that institution. If savings banks are not allowed to process such employee payroll accounts, they would be at a significant competitive disadvantage.

A recent edition of the Wall Street Journal contained an article which describes the impact that current economic conditions are having upon many savings banks. I ask that the article be printed following my remarks in the RECORD.

Mr. President, Mr. Stephen Hansen, president of the Dollar Savings Bank located in Pittsburgh, Pa., has recently authored an essay which is honest, perceptive, and farsighted in its analysis of how the position of savings banks would be affected by the changes we are debating now, as well as changes in our economy that are also occurring at the present moment.

In his article, Mr. Hansen writes that the following changes are occurring: First, interest rate instability is probably becoming normal; second, sooner or later, interest rate ceilings are doomed because they are ineffective, as well as unfair to savers; third, an end to interest rate ceilings means an end to the differential as well; indeed, even now Hansen argues, the differential has for all practical purposes disappeared for interest-sensitive savers; fourth, the rapid evolution of electronic funds transfer systems means that they will inevitably become the primary payment mechanism for financial institutions, thereby altering the banking system in dramatic ways; and institutions which can serve both sides of EFTS transactions—which will be predominantly transactions between households and business firms—

with a complete range of products, will have a real competitive advantage.

Mr. President, I ask that the full text of Mr. Hansen's remarks be printed in the RECORD at the conclusion of my remarks. Although I do not necessarily agree with every point made by Mr. Hansen, I do endorse the thrust of his remarks, which is that if we are going to ask savings banks to function in the new environment which would be created by this legislation, we must give them the powers that they need to compete in that new situation.

Let me stress, Mr. President, that the great bulk of savings banks do not ask for, nor do they expect, protection under the new system of financial institution competition which would result if H.R. 4986 were enacted. As Mr. Hansen states: "Competitive equality means competitive equality." Thus, savings banks are asking for no more and no less than to be given the powers they need to compete with other financial institutions.

Furthermore, Mr. Hansen—and I am certain that most of his colleagues would agree with his views—has taken a responsible position concerning new savings bank powers. Mr. Hansen states that "it might be prudent to introduce new powers * * * over a short period to let banks and markets adjust to the new rules in an orderly manner." That is precisely what this amendment does—it provides that the Federal Home Loan Bank Board shall assure a "smooth and orderly" transition, and allows the FHLBB to delay or phase in such new powers under extraordinary economic circumstances and asset powers would be phased in over an 8-year period.

Mr. President, this is a balanced and reasonable approach. The amendment seeks to address a simple question of equity. Is it fair to force institutions which have generally been devoting, and which have been officially encouraged to devote, the bulk of their resources to long-term fixed-rate low-interest investments, to compete—without sufficient new powers—with institutions which have had no such restrictions? I urge that we take this opportunity to remedy this inequity now by passage of this amendment.

I ask that a newspaper article on this subject also be printed in the RECORD.

The material submitted for printing in the RECORD is as follows:

MUTUAL SAVINGS BANKS AND THE FUTURE

Mutual savings banks are at a significant point in their long history. The changes occurring in the legal framework and technology of banking, the housing market, and the financial markets themselves will determine the degree of competitiveness savings banks can maintain during the 1980's. These changes have been only partially recognized, and their diagnosis has been faulty.

As a result, it is now likely that mutual savings banks will enter the 1980's with operating policies and legal powers well-designed for the 1960's and 1970's, but not for the coming competitive situation. Savings banks need, and should be granted, full commercial bank powers. The added competition in banking will obviously help consumers, particularly savers, as well as savings banks.

Current discussion of banking competition suffers from a series of widespread misconceptions and myths about banking and financial markets. These have sometimes been fostered by commercial banks which find political advantage in discussing a simplified mythology rather than complex reality. And sometimes the misconceptions have been fostered by those savings banks that prefer to sail in protected waters rather than braving the healthy winds of free competition. But these myths harm savers and savings banks together.

Let us examine some of the changes ahead. First, interest rate instability is probably becoming normal. As recently as 1977, it was possible for economists to argue that the periods of very tight money and very high interest rates experienced in 1966, 1969, and 1973 were unusual aberrations. Financial markets may once have been primarily local or national. But today they are subject to forces international in origin and scope. (Clearly, the recent dramatic actions by the Federal Reserve have been aimed at international defense of the dollar, not just domestic inflation.) As a result of monetary policies aimed at national employment, national inflation, international exchange rates, and international payments will dominate the so-called local markets in which savings banks function.

Therefore, every savings bank must be ready to cope with widely and rapidly fluctuating interest rates. To do so, savings banks need the flexibility provided by commercial bank asset and liability powers. With those powers, savings banks can pay a market return to their customers.

Second, sooner or later interest rate ceilings are doomed because they are ineffective as well as unfair to savers. The ceilings are ineffective in maintaining deposit flows; witness the growth of money market funds. They are ineffective in assuring a stable cost of funds; witness the growth and rate history of money market CD's.

Third, an end to ceilings means an end to the differential. Indeed, it has been substantially eroded already. NOW accounts, Keough accounts, large CD's, and money market certificates today carry no differential. Money market certificates now represent 15 to 20 percent of total deposits for many institutions. This means that there is no more differential for interest-sensitive customers (the only ones for whom the differential represents an advantage).

Many savings bankers undoubtedly will wish to keep what remains of the differential, but it is clearly a mistake to believe that such strategy can succeed in the long-run.

Even the short-term strategy of attempting to preserve whatever is still meaningful in Regulation Q has one serious drawback: it requires continuing the argument that savings institutions deserve the differential because of their dedication to home mortgage lending. This argument is incorrect. Mutual savings banks, as distinct from savings and loans, were *not* established as mortgage lending institutions. And it is simply not in our long-term interests to have the public or government believe that we are in business primarily to subsidize mortgage loans at the expense of savers. Use of this argument hinders our efforts to gain broader lending powers.

There is, in any case, little evidence to prove that ceilings and the differential increase the total funds supplied to residential construction. The funds supplied by thrifts may increase as a consequence of Regulation Q, but any increase in such funds that reduce mortgage rates below those on competing investments merely reduce the amount of mortgage credit supplied by life insurance companies and pension funds.

In a Regulation Q-free financial environment market rates on mortgages will attract whatever funds are needed for residential construction from the many types of existing financial institutions, including savings banks. Additionally, recent innovations in the mortgage market, such as the use of tax exempt bonds by municipalities to raise mortgage credit, make less necessary the continuation of savings banks as specialized mortgage lenders.

Another long term fact of life which must be dealt with is the accelerating evolution of EFTS. It is impossible to predict when the real advantages in cost and customer convenience of EFTS will make it the dominant payment mechanism, but it is inevitable. It is equally impossible to foresee how EFTS will alter the payments system and banking structure, but the alteration is certain to be dramatic. We shall see greater use of direct deposit, preauthorized payments, pay-by-phone, point of sale systems, and corporate transfers. Even within the purely retail-oriented banking environment, the great majority of payments in such systems involve transfers between households and business firms, and the institution able to serve both parties to such transactions with a complete range of asset and liability products will have the competitive edge. If mutual savings banks are to be vigorous competitors, they are going to have to be on both sides of the payments business. In this regard, NOW accounts may suffice as a foundation to build upon, but a complete "payment" capability, as well as more flexible asset powers, will have to be achieved eventually.

Most of the recent discussion of these issues has assumed that if mutual savings banks were able to offer some form of payment services (i.e., NOW accounts), had available more flexible mortgage instruments (particularly VRM's), and somewhat expanded asset authority (installment loan powers), then a workable competitive banking structure would result. Mutual savings banks have referred to themselves as household financial institutions, stressing their ability to provide a broad range of financial services to consumers. The implication was that we can neatly divide financial markets into consumer and business sectors. Unfortunately, this division is no longer reasonable as it was before EFTS. Nor does this analysis take into account the earnings and asset requirements for interest flexibility. Household payment services and consumer loans are not enough. Because of EFTS and the need for more flexible asset powers, we must service business accounts as well. It is obvious that savings banks cannot hope to attract corporate deposit accounts unless they are also able to offer loans to corporate customers. This is especially true for small businesses. The public—both consumers and businesses—deserves the full range of services and competitive returns that a free market would provide them.

Competitive equality means competitive equality. Mutual banks must be prepared to compete without advantages in such areas as taxation and reserves. But these are not real issues. Mutual savings banks already pay effective tax rates comparable to commerical banks. Mutual savings banks do not meet the theoretical reserve requirements imposed on Federal Reserve member banks, but then, neither do most commercial banks. If we have the powers of a commercial bank, we should, and we can, meet the reserve requirements that would be imposed on a commercial bank of similar deposit structure.

Some may be concerned about the nature of the resulting "mutual banks". Will they be able to meet the capital requirements of a competitive market? Such institutions would of course be able to issue debt capital—an option now available to most mutual savings banks. The earnings potential from their expanded business opportunities should allow an increase in surplus accounts through earnings retention. Some may see conversion to stock form as a potential outcome if a mutual bank outgrows its capital. I would not rule that out as a possibility or an option, though I doubt it would often be the result. Rather, I see the build-up surplus of the mutual savings bank industry being used as a community resource, to provide a more competitive banking structure for the community that has supported the institution over the years and contributed to its surplus.

It is important to be realistic about these proposed changes. Savings banks will not ignore their experience and advantages as specialists in mortgages and consumer deposits. They will adopt gradually to new powers as needs to serve the public arise. (It might be prudent to introduce new powers and phase out interest rate controls over a short period to let banks and markets adjust to the new rules in an orderly manner.) But the primary emphasis should not be on financial institutions, but on the consumer of financial services. It is clear that the consumer of banking services, like the consumer of any product, benefits from a freely competitive market. Artificial restrictions on the full play of competitive forces can only result in gains to some at the expense of others. The public is best served by a mutual savings bank industry allowed to provide all the services demanded by the economy. Mutual savings banks, given full powers, need no special protections.

It is not my purpose here to address the technical legislative or regulatory changes needed to implement this approach. Once the goal of eliminating interest rate ceilings and granting full commercial powers is accepted, there are many sound ways to handle the process. The principle of moving toward full free competitive markets for depository institutions is the key.

SLUMPS USUALLY HELP SAVINGS INSTITUTIONS—BUT NOT THIS TIME

(By Richard F. Janssen)

To the nation's thrift institutions, a recession usually looks a lot like the cavalry galloping to the rescue.

As consumers stop anticipating more inflation and as job security becomes more tenuous, savings looks smarter than spending. As market interest rates shrivel, passbook accounts—the instrument that the thrift institutions like best for financing their mortgage-lending activities because it costs them less than other money—again become attractive to savers.

That scene may yet be acted out, industry sources hope. But so far, the current slowdown is doing nothing to help the besieged mutual savings banks and savings and loan associations. The two main reasons:

Inflation remains high. Running at an annual rate of about 13 percent so far in 1979, it has outpaced passbook rates (a maximum of 5.5 percent) by so much for so long that savers are increasingly turning to alternatives bearing higher yields—yields that are rising even higher following the Federal Reserve Board's latest actions tightening the reins on credit. Many people are hit so hard by inflation that they find themselves unable to save at all.

Washington, discovering "the small saver," has put through one increase in passbook-rate ceilings and is intent on putting through more of them. That sounds as though it would help the thrift institutions by attracting more savings, but there are two catches. First, the rate ceilings shaping up won't be nearly high enough to protect the small saver from inflation, hence won't attract many new depositors. Second, these new ceilings will be paid to old depositors, too, of course, and will be high enough to strain the many thrift institutions that are stuck with older, low-yield mortgages.

THE "GREATEST UNEASINESS"

Such mortgages are especially prevalent among thrifts in the Northeast, and these institutions are feeling the "greatest uneasiness" these days, says Anita Miller, a member of the Federal Home Loan Bank Board. She notes that they are also burdened with low usury ceilings on new mortgages, branching restrictions and their region's low economic growth.

William Popejoy, president of First Charter Financial Corp., a big California S&L holding company, worries that unless there is an early decline in interest rates paid by other competitors for the saver's dollar, such as money-market funds, there will be "collapse and bankruptcies" among Northeast thrifts, with unpredictable ripple effects elsewhere.

Some commercial bankers have suggested removal of all passbook-rate ceilings so that banks could better compete for the saver's dollar with other suitors. So has President Carter. That might be fine for commercial banks, whose business-lending rates are mostly pegged to fluctuations in the primate rate, but the thrifts don't have that much flexibility.

CHOICE OF EVILS

If ceilings were removed and the thrifts paid depositors drastically higher interest rates, their costs would immediately skyrocket. If they didn't pay such rates, they would lose deposits to banks that were paying them.

Most close observers therefore believe that the government won't remove the rate ceilings. It is more likely, they reason, that the ceilings will be raised gradually, bringing chronically higher home-mortgage costs and constricted housing starts without placating individual savers. "We are in a real predicament, with no easy answer to our problems," says Donald C. Sims, president of Union County Savings Bank in New Jersey.

The growing gap between the inflation rate and the passbook rate could further erode grass-roots faith in savings, observers say. It could even produce "a crisis of confidence in our banking system," says Jonathan E. Gray, a securities analyst with Sanford C. Bernstein & Co.

Savers' increasing ire is evident. Some are lobbying. Some are making angry phone calls to newspapers. It isn't only that "anyone who saves money is being penalized," says an anonymous caller to The Wall Street Journal newsroom; it's also that savings banks, by losing deposits, "could become illiquid to the point where some of them might fold."

HAVES AND HAVE-NOTS

Some analysts worry that class-consciousness is being stirred by the contrast between low rates on passbook accounts, for which the banks and S&Ls typically don't set any minimum balances, and the 11% or more they're allowed to pay those who have $10,000 to set aside for at least six months in certificates. "People realize," says an aide at a West Coast thrift institution, "that they're being divided clearly into a nation of haves and have-nots."

Federal agencies approved an increase of one-quarter of a percentage point in passbook rates effective last July 1. S&Ls and savings banks now can pay 5½% and commercial banks can pay 5¼%. The increase was far from enough to stop savings from being "grievously eroded by inflation," a Treasury aide concedes, but he cites "the safety and soundness of our financial system" as the obstacle to doing more.

This fairness-vs.-failures dilemma makes things difficult for President Carter's aides. In following up the President's seemingly bold call last May to eliminate the "increasingly unfair" ceilings, these aides and the Federal Reserve Board have generally given support to a Senate bill that wouldn't require any change until 1982. After that, the ceilings would be nudged up by only one-quarter of a point each Jan. 1 and July 1 and wouldn't disappear entirely until 1990.

Increasingly, the bigger commercial banks are chafing at the lowest-common-denominator approach of the regulators, an approach that requires them to hold their interest rates down to what the weakest links can afford to pay. The U.S. financial system is "still an industry dominated by 'mom and pop' stores," says A. W. Clausen, president of huge Bank of America; he complains that federal rules aimed at preserving thousands of small thrift institutions are preventing "true economies of scale."

The situation poses some awkward problems for the big banks. Their top officers are crusading for elimination of the Fed's Regulation Q passbook ceilings, which apply directly to the commercial banks, that belong to the Fed and indirectly to all other U.S. banks and thrifts. At the same time, "our retail marketing side is trying to convince the public to keep their savings coming," says Kay Williams, marketing vice president of the Bank of America division covering domestic retail banking. The marketing effort isn't having much success, though; the bank reported that its domestic consumer savings deposits at midyear had dropped nearly 5% from a year before, to $8.7 billion.

ABRASIVE ASPECTS

The big banks' double-edged campaigns are taking on some unusually abrasive aspects. To enlist public support for abolishing ceilings, Citibank has put up lobby posters blaming Regulation Q for preventing banks from keeping customers abreast of inflation. Because Citibank uses the slogan "The Citi Never Sleeps" (to promote its 24-hour electronic-teller machines), the customarily staid Manufacturers Hanover Trust Co. couldn't resist taking out full-page newspaper ads crowing, "We Caught the Citi Napping." The message: While Manufacturers Hanover has made full use of the two increases in the past six years in passbook ceilings, "Citibank still pays only 4½% interest" on passbooks.

That's true, a Citibank spokesman says, but he adds that the passbook is merely "there if people want it" and that "we haven't been pushing the product." Instead, Citibank has been promoting other savings accounts that pay the 5¼% limit and are related to use of the bank's plastic cards for electronic deposits and withdrawals.

Such public skirmishing among the giant banks only adds to the anxiety of thrift executives. Without the constraint of Regulation Q ceilings, the commercial banks could wage "bitter, sustained rate wars" against the thrifts, warns Louis H. Nevins, an official of the National Association of Mutual Savings Banks.

That, thrift-industry pessimists say, could bring near-extinction of the specialized consumer-savings, mortgage-lending institutions.

TURNING TO ALTERNATIVES

Meanwhile, many S&Ls are becoming more like big banks. Less able to rely on the rank-and-file savers, they are turning more to large-scale sources of capital. As of August, S&Ls' regular savings accounts had dwindled to about $126 billion from almost $142 billion a year before; the funds they raised by selling certificates of deposit of $100,000 and more, which are exempt from interest ceilings, had grown to almost $21 billion from below $13 million; S&L deposits in the form of six-month $10,000 certificates, whose rates are linked to those on Treasury bills, soomed

to $94 billion by the end of August from $15 billion a year earlier.

The Federal Home Loan Bank Board has proposed letting S&Ls reach out even farther afield by tapping the Eurodollar pool of some 700 billion U.S. dollars on deposit outside the U.S. Large-scale borrowings from abroad are usually possible at interest costs a little lower than at home, and the pool is brimming with surplus funds of the oil cartel.

But the interest rates that the thrifts have to pay on all the larger-scale borrowings are more than double what they pay on passbooks, so they are struggling to keep the cheap money coming in. They are seeking, for one thing, to focus public attention more on the underlying problem of inflation.

To talk of raising passbook rates is "spitting in the wind," scoffs Robert Chill, spokesman for the California Savings and Loan League. Because of inflation, he says, most people with earnings up around $20,000 a year "barely can meet their bills, much less save any money."

TAX INCENTIVE SOUGHT

The consumer pollster Albert E. Sindlinger agrees. "More than two-thirds of all U.S. households aren't in a position to add to their savings," he reports. And even if they were, he asks, "what sense would it make to save and get only 5.5% interest when the inflation rate is more than twice that?"

The thrifts are also pressing Congress to enact some sort of tax incentive for savings, such as an exemption of a portion of savings-account interest from the federal income tax. As things now stand, analysts note, the tax typically trims a 5.5% interest rate to below 4%, so that when inflation is running at 13%, the small saver's account loses purchasing power at an annual pace of about 9%.

"I don't know anyone out there who can pay the kind of rate it would take to justify savings in this kind of inflation," says Mr. Sims of Union County Savings Bank.

The stock-brokerage houses and other sponsors of money-market funds are coming close, however—too close for the comfort of the traditional thrift institutions. These funds put money into Treasury bills and other high-yield, short-term instruments and pass along most of the interest to the investors. They usually pay about twice the passbook rate, and sometimes on amounts as low as $1,000.

The growth of such alternatives is raising doubt that individuals will come flocking back with passbook money even if inflation cools. Still, the conventional savings account isn't disappearing. Large and small savings institutions alike report that new accounts keep coming along. Customers apparently open them for convenience, to help establish a good credit rating, and out of habit. But people keep smaller amounts in their savings accounts these days while putting any larger sums they have into higher-yield varieties.

Some economists say that the U.S. faces a broader problem of inadequate savings in any form. After averaging 3.7% of after-tax income in the 1950s and 1960s, personal savings outside of pension funds dropped to less than 1% in 1977 and 1978, Morgan Guaranty Trust Co. says. The bank contends that only if savers get a real, or after-inflation, return, will there be enough savings for the nation "to extricate itself from the morass of high inflation."

Once they get such a return, the argument goes, they will start saving more and spending less, thus damping inflation's fires.●

Mr. PROXMIRE. Mr. President, I am happy to rise in support of the amendment offered by the distinguished Senator from Massachusetts. This amendment would permit Federal mutual savings banks to invest 20 percent of their assets in commercial loans. It is a departure, but I think that departure in this case is merited for a number of reasons. The fact is that mutual savings banks are all located in the Northeast section of the country. It is a mature section. It is different in many respects from other sections of the country in which homebuilding is not as voluminous or as profitable, as in the sunbelt.

It is not an expanding section, and it is very, very hard for an institution to concentrate exclusively in homebuilding or almost exclusively in it.

Envision a mutual savings bank on the island of Manhattan, for instance. It would be very difficult for them to operate without being able to make some commercial loans and, of course, the amendment by the Senator from Massachusetts would permit that.

Furthermore, there are safeguards here. It does provide a 20-percent cap. It does provide an 8-year phase in. It is not going to happen tomorrow, they are going to gradually move into this, and it will enable these institutions to serve the home mortgage industry.

After all, you might say keep them exclusively in the home mortgage area, and good luck. The fact is they will just be out of business and the people who want mortgages will not have an institution of this kind to go to because of their location.

So I think it is a practical application to a situation which is not national but which is pretty much confined to one section of the country, and I congratulate the Senator from Massachusetts for being sensitive to this particular situation and, I think, providing a reasonable and moderate way to approach it.

I am happy to support the amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, will the Senator from Massachusetts yield for a question, please?

Mr. TSONGAS. I yield.

Mr. MORGAN. As I understand it, the Senator's amendment would only apply to federally chartered mutual savings banks.

Mr. TSONGAS. That is right.

Mr. MORGAN. As I understand it, there are no federally chartered mutual savings banks.

Mr. TSONGAS. That is correct.

Mr. MORGAN. And the purpose of the Senator's amendment then is to apply a little pressure to the States in order to increase the percentage requirement of the States?

Mr. TSONGAS. That is right.

UP AMENDMENT NO. 720

Mr. MORGAN. Mr. President, I send an amendment to the amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 720.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 8, strike "10 per centum," and insert in lieu thereof, "20 per centum."

The PRESIDING OFFICER. This amendment is not directed at the underlying amendment and, therefore, is not in order.

Mr. MORGAN. I will redraft it. I drafted it hurriedly, but in the meantime let me speak to it.

Mr. President, the Senator from Massachusetts has made the argument that I have been trying to make on this floor for about 2 weeks now, and that is, that when you begin to get the thrift institutions into situations where they have to compete for money with flexible interest rates but are still basically limited in the loans that they can make to long-term fixed mortgages, then we are putting the thrift institutions into an untenable position in which they cannot survive.

You remember that I have argued all this week that the thrift institutions have engaged in fixed long-term mortgages at relatively low-interest rates, some of them as low as 4½ percent. The Senator from Arkansas (Mr. BUMPERS) said he had a mortgage at 5½ percent; I have one at 6 percent, and many mortgages, most of them, I suspect, are at less than 8 percent.

So what the Senator says is true. Apparently the Senate is going to pass this bill which, I think, is going to make it even more difficult for thrift institutions to survive unless they are allowed to invest their assets in different portfolios in which they can charge higher rates of interest.

I have argued all along, Mr. President, that I hope the savings and loans and thrift institutions could remain home loan institutions, but I would rather that they be involved or be allowed to engage in some more consumer loans, as reluctant as I am to agree to it, than to be caught in a position where they are simply going to have to become insolvent or have to be merged with larger institutions or larger banks.

I think that is the argument the Senator from Massachusetts is making when he says mutual savings banks cannot afford to compete in the flexible rate market for money when they are bound by fixed rate long-term mortgages.

So I think what we should do is, if we are going to increase the percentage that the federally chartered mutual savings banks can engage in, from 10 percent to 20 percent, then we ought to give the same authority to the 2,000-or-so federally chartered savings and loan institutions in order that they may be able to gear up to handle consumer loans, too. I am not sure that savings and loan institutions can even gear up to handle consumer loans, if they are not entitled to more than 10 percent.

So what my amendment will do is simply amend the amendment of the Senator from Massachusetts to give that same investment authority to all savings and loan institutions; that is, that they

can invest up to 20 percent of their assets in consumer financing and the other kinds of investments specified in the bill.

Let me repeat here again that I wish it were not necessary, but since, apparently, the bill is going to pass, and regulation Q is going to be phased out, competition for money is going to be greater, and the savings and loan institutions are going to have to compete; they are going to have to pay more interest in order to compete, and therefore they are simply going to have to engage in greater investment portfolios.

UP AMENDMENT NO. 721

Mr. President, I send to the desk an amendment to accomplish that purpose.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 721 to the amendment numbered 719 of the Senator from Massachusetts (Mr. TSONGAS).

Insert the following at the conclusion of unprinted amendment number 719:

Section 301(E) of the bill is amended by striking the number "10" on page 25, line 8, and inserting in lieu thereof "20."

Mr. MORGAN. Mr. President, this would simply put all of the thrift institutions into the same situation.

I believe the chairman has agreed to accept the amendment of the Senator from Massachusetts, and I do not see any reason why we should not treat them all alike.

Mr. PROXMIRE. If the Senator will yield, I have serious problems with this, because as I tried to explain in my support for the amendment by the Senator from Massachusetts, I think that the mutual savings banks in the Northern part of our country have a peculiar and especially difficult problem. As I understand it, the estimates are that it would take a number of years for the savings and loan institutions to get to the 10-percent level in the bill. And this would give us time to study this carefully.

If we are going to go as far as 10 percent, it seems to me we ought to go as carefully and with as much information and as much experience as we can.

I think the Senator has made a very strong point. I would be willing to accept the amendment, with the understanding that we would discuss it in conference, discuss it with the regulators and others, and see if we could sustain the amendment.

But, frankly, I do have that concern that it goes a little too far too suddenly. And while I support the Senator from Massachusetts, because I do think he does have an unusual situation, I do not have the——

The PRESIDING OFFICER. If the Senator will withhold, the amendment of the Senator from North Carolina is not in order because it attempts to amend a section of the bill which is not addressed in the amendment of the Senator from Massachusetts.

Mr. MORGAN. Mr. President, we are having a little trouble getting it drafted. As soon as I get the floor, I will suggest the absence of a quorum and I will get it in order.

The PRESIDING OFFICER. It may be in order by unanimous consent.

Mr. MORGAN. I want to make sure, myself. So let me suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Morgan amendment to the Tsongas amendment be considered to be in order, despite the fact that a point of order may lie against it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I believe I have stated my position, which is that the same rule should apply to all federally chartered thrift institutions, whether mutual savings banks or savings and loan institutions.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carroline to the amendment of the Senator from Massachusetts.

Mr. TOWER. Mr. President, I am not violently enthusiastic about this amendment, but I think under the circumstances, in that it is my understanding that this takes care of Tsongas, I am willing that we go ahead and accept it and take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

Mr. MORGAN. Mr. President, I believe the chairman supports it as well.

Mr. PROXMIRE. Yes. Mr. President, I want to make it clear that I support the Morgan amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 721) was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment (No. 719) of the Senator from Massachusetts (Mr. TSONGAS), as amended. Is there further debate?

Mr. MORGAN. Mr. President, this is a rather unique procedure, to amend an amendment and then speak against both amendments, but I do want to put my position on record.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. TSONGAS. Merely to state that I did not object to the point of order raised by the Senator from Wisconsin. I hope the Senator will keep that in mind as he continues his remarks.

Mr. MORGAN. I understand that. I have not forgotten. I just wanted to clarify my position, in just a few moments.

All I want to do is to rise and state my opposition to the amendment because I think it is a bad precedent. The amendment would now, of course, apply to all thrift institutions, and would allow all federally-chartered thrift institutions to invest up to 20 percent of their savings or assets into consumer loans.

The distinguished Senator from Massachusetts (Mr. TSONGAS) was not here last year when the debate on S. 2499 took place and he had no part on it. The Congress enacted a provision which allowed for conversion of State-chartered mutual savings bank to federally-chartered. In that bill the savings banks were allowed, as I recall, to invest up to 10 percent in nonhousing loans.

The question came up then as to whether or not we would be back in another year saying 20 percent.

Let me quote from the transcript of the debate.

Mr. BROOKE. First of all, I would like to know whether Federal mutual savings banks will be required by their chartering agency, the Federal Home Loan Bank Board, to maintain an investment orientation toward housing? . . .

Mr. PROXMIRE. . . . With respect to the investment orientation of Federal mutual savings banks, title II (sic) itself provides a very clear intention that Federal savings banks must be oriented toward home finance. In the first place the amendment that is made by title II (sic) to section 5(a) of the Home Owners' Loan Act makes clear that savings bank charters would be made available "in order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes". Moreover, title II (sic), while permitting converting savings banks to retain their nonmortgage investment powers and services, places a substantial limitation on Federal mutual savings banks inasmuch as nonmortgage investments must generally be limited to what they were as a percentage of total assets at the time of conversion.

In short, while we were willing last year to grandfather certain nonmortgage investment powers for mutual savings banks which were already held by States seeking a Federal charter, I do not think we were talking about increasing them.

That is one point.

But a very pertinent point is the same one discussed back years ago when the McFadden Act, which has to do with branch banking of national banks, was passed. The Senator will recall there was a great debate on whether or not nationally-chartered banks in a State could engage in branch banking when the State-chartered banks could not do it. An amendment was offered in that connection. It was held that to put a State in that position would constitute unwarranted pressure by the Congress on State legislatures. Let me quote one or two sentences from the debate.

The real purpose of the Hull amendments, is to bring pressure to bear upon the leading bankers in states which now prohibit branch banking by depriving them of the motive to seek a change in the state laws favorable to branch banking. It is to coerce them to remain silent . . . this is an unprecedented policy for the federal government to pursue and constitutes an unwarranted interference with the rights of citizens of

these states in their relationship to the state legislatures.

That is really one of the basic reasons why I felt this amendment was unwarranted. But it is going to conference and the problems of the Senator from Massachusetts and my concerns about the fairness of treating savings banks differently from other thrifts can be considered then.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts, as amended.

The amendment, as amended, was agreed to.

Mr. TSONGAS. I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 722

Mr. MORGAN. Mr. President, I send an unprinted amendment to the desk on behalf of the Senator from California (Mr. CRANSTON) and myself and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. TSONGAS). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN), for himself and Mr. CRANSTON, proposes an unprinted amendment numbered 722.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 32, line 20 by adding a new section as follows:

"SEC. 304. The third sentence of section 403(b) of the National Housing Act (12 U.S.C. 1726(b)), as amended, is amended by striking '5 per centum' and substituting therefor 'an amount no greater than 6 nor less than 3 per centum as determined by the Federal Home Loan Bank Board' ".

Mr. MORGAN. Mr. President, the purpose of this amendment is to grant to the Federal Home Loan Bank Board the administrative flexibility that the Federal Reserve and other Government agencies regulating financial institutions have in setting reserve requirements. This amendment would permit the Federal Home Loan Bank Board to set the reserves, that is, the Federal insurance reserve requirements, at no more than 6 percent and not less than 3 percent.

At the present time, the law requires for the Home Loan Bank Board institutions, S. & L.'s, a mandatory 5-percent reserve. There is absolutely no flexibility in the 5-percent figure. To my knowledge it is the only law governing financial institutions that sets a rigid statutory requirement. All of the banking laws authorize reserves in a range of from 2 to 10 percent or 7 to 20 percent.

The chairman of the Home Loan Bank Board, Jay Janis, in testimony before the House Banking Committee, said that he supports the amendment and thinks that it is a good idea. I might also add that this amendment is supported by the U.S. League of Savings Associations, State leagues in all of the New England States, plus States like Florida, Texas, Kansas, and Arkansas, just to name a few.

The amendment is particularly needed at this time because of the high cost of money, the low income to these institutions, and the need for these institutions to continue to accept savings.

Originally, the amendment was to simply lower the reserve requirements from 5 percent to 4 percent. However, this provision would maintain the statutory rigidity, which is not proper. My amendment, instead of lowering it from 5 to 4 would simply set a range of from 3 to 6, and it would be left up to the Home Loan Bank Board, the governmental agency that has responsibility for the supervision of savings and loans and thrift institutions.

A number of the members of the Senate Banking Committee have told me of their support for this amendment. We have for the record some supporting material concerning the need for the amendment and its desirability.

I hope the chairman will accept it.

I would like to read the letter from Chairman Janis addressed to Senator CRANSTON.

DEAR SENATOR CRANSTON: I am writing in regard to a possible amendment to H.R. 4986, the Depository Institutions Deregulation Act, that would authorize the Bank Board to determine the level of Federal Insurance Reserve (FIR) within a range of 3% to 6% of all insured accounts. Currently, this requirement is set by statute at 5%.

This proposal has been under consideration for some time. Indeed, a provision of H.R. 5280, recently reported out of the House Financial Institution Subcommittee, would reduce the present statutory FIR requirement to 4 percent from 5 percent. The Bank Board suggested that this was probably not a long-term solution to capital adequacy problems of S. & L.'s and that we saw a need for greater flexibility, in part as a result of efforts to move toward asset-based reserve requirements. However, even though the number of individual associations that would be helped by reducing the FIR requirement may not be overwhelming, we still believe it to be useful for those associations it would benefit.

The Bank Board believes the proposed amendment would provide the necessary flexibility we seek as we move in this direction, and thus we would offer our support for the amendment.

Sincerely,

JAY JANIS.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MORGAN. Yes.

Mr. PROXMIRE. I am willing to support the amendment. I do think, however, that this does raise a very, very serious problem. Obviously, if the capital of a savings and loan is reduced, it is less able to withstand recession, withstand adverse circumstances, and we have a problem with the safety and soundness of these institutions. I am sure that the chairman of the Home Loan Bank Board had that in mind and was considering it and was still able to find that he could support the amendment of the Senator from North Carolina, so he was still able to take it. I hope this flexibility will solve the problem, but I also hope the Senator from North Carolina will work with the committee—I am sure he will—to find other ways of helping savings and loans and not reduce their capital below what it has been in the past.

Certainly, we have a great interest in seeing that we do not begin to have failures of these very important institutions.

Mr. MORGAN. Mr. President, I do share the same concerns as my chairman, even though we have differed substantially for the last few days. I think we share most of the concerns for S. & L.'s conversions, and so forth. I do think we should monitor it very closely.

I have complete confidence in the Home Loan Bank Board. But if they should, by chance—if they do reduce it, I am sure we in the committee will be looking at it immediately. I do think it is important at the present time, in light of the effects that some of the provisions of this bill may have.

I might mention that all of the State laws allow some flexibility. That is our research and I am sure I am right. Also, this law has not been changed since 1934.

I thank my chairman for accepting and agreeing to the amendment and I assure my chairman that I shall work with him and that I agree that we should monitor it closely.

I might add, Mr. President, that I understand the distinguished Senator from Utah (Mr. GARN) and the distinguished Senator from Texas (Mr. TOWER) both of whom are on the Appropriations Committee, would join in accepting this amendment.

The PRESIDING OFFICER. If there is no further discussion, the question is on agreeing to the amendment by the Senator from North Carolina.

The amendment was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 543

(Purpose: To permit States to determine whether to permit NOW accounts)

Mr. MORGAN. Mr. President, I believe that brings us down to the printed amendments that I had talked about and promised that I would call up. Mr. President, I call up printed amendment 543 at this time and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an amendment numbered 543.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 12, line 25, through page 13, line 1, strike out "which is located in California".

On page 13, line 4, strike out "California" and insert in lieu thereof "the same State".

On page 13, between lines 5 and 6, insert the following:

(c) Section 19(i) of the Federal Reserve Act is amended by adding at the end thereof the following: "Notwithstanding the foregoing, a national bank may permit withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties only during periods when State-chartered banks located in the same State are authorized to permit such withdrawals.".

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, when this bill was considered by the Banking Committee, during the markup the distinguished Senator from California recognized, I think, a very valid point, one that recognizes a principle that I believe very strongly in. That is the role that the various States ought to play in this matter.

Mr. President, the role of the States in banking matters has been debated since the earliest days of the Republic. I am certainly not going to recite all of the relevant history. But the question in George Washington's day, when he was President, was whether there should be a role in the Federal Government for financial affairs and banking, the question of the establishment of a U.S. bank. I might mention that at that time Thomas Jefferson wrote a very thorough analysis of the constitutionality of a Federal national bank. In any event a national bank was established. To retrace the history briefly, the bank was in business for a number of years, and then it went out of existence and a bill came back again establishing another one, and President Jackson vetoed it.

To get down to more current history, our present national banking system began in the 1850's or 1860's, as I recall. But now, historically, until 1927, from the time that the first bank was created in 1864 until 1927, national banks were not permitted to engage in branch banking at all.

After that, through a series of legislative acts, national banks have been allowed to engage in branch banking, provided the laws of the State in which they operate permit State-chartered institutions to engage in branch banking. Mr. President, that system has worked extremely well and it is working today and it is a principle that I think ought to be preserved.

Early in the discussion of the amendment of the Senator from Massachusetts, I quoted from a debate that took place on the floor of the Senate many years ago, in which a Senator stated that it would not be fair to permit federally chartered banks to have powers over and beyond those of the States in order to coerce changes or to permit the nationally or federally chartered institutions to have an unfair competitive advantage.

The word the courts used was competitive equality, or competitive equivalence.

So what Senator CRANSTON did was this. He said in his amendment that the provisions of NOW accounts, the new powers added by this bill, should not apply to California unless the State-chartered savings and loan associations located in California are permitted to do it.

In other words, he applied the laws, the provisions of this bill, to the State of California only if the State of California permits the State-chartered institutions to do it.

My amendment would extend that nationwide. It would simply say that thrift institutions, savings and loans, in North Carolina or in any other State, would not be allowed to exercise these new changes or powers unless the State legislature decides that State-chartered institutions can do it.

The testimony before the Banking Committee, as I recall, was unanimous from the institutional representatives in New England that they would not want NOW accounts without regulation Q.

But this bill phases out regulation Q.

What I am saying is that every State should be given the right to consider the question in the overall context. I do not believe the federally chartered savings and loans in a State ought to be able to offer these services unless the State itself has considered them.

I think if it is fair for California, and I think it is fair for California, then it ought to be fair for the other 49 States.

If a State wants NOW accounts, all they have to do is to create legislation on behalf of them, and if the State does not want NOW accounts, they do not have to have them.

Just as the States do now regarding branch banking. There are some States that do not have branch banking. In those cases, neither State nor Federal can have them.

I think competitive parity—I believe they are the words actually used—is important if we are to maintain the viability and soundness of the systems.

We had some difficulty a few years ago when we had a Comptroller of the Currency who attempted to get around the branch banking prohibitions in some States by just chartering a Federal bank, and a number of them almost got in trouble, and almost provided a lot of trouble for the State institutions.

So I think this is a sound provision that Senator CRANSTON has put into the bill. All I am asking is that the same discretion be allowed for all of the States.

Mr. President, the Senator from California (Mr. HAYAKAWA) was here yesterday. He is absent necessarily from the Senate today attending the funeral of the President of the Republic of Korea. He asked me yesterday if I would have printed in the RECORD his statement. So I ask unanimous consent that the statement of the Senator from California (Mr. HAYAKAWA) be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HAYAKAWA

I rise in support of the amendment offered by my distinguished colleague from North Carolina, Mr. Morgan. This amendment seeks to permit states to authorize negotiable order-of-withdrawal accounts (NOW) accounts at depository institutions. During consideration of the Depository Institutions Deregulation Act in the Committee on Banking, Housing, and Urban Affairs, the bill was amended to permit various banking institutions to offer interest-bearing transactions accounts nationwide, with the exception of California Savings and Loan Associations.

Initial support of this amendment stemmed from financial institutions in California who claimed the costs associated with these types of accounts could more than offset the interest earned on the account, thus yielding no real benefit to the consumer. However, since this legislation was first reported to the Senate for consideration, support for interest-bearing transaction accounts offered by Savings and Loans in California has been overwhelming.

New York and the New England states have had the authority to offer NOW accounts since 1972. There has been mixed reaction as to the effectiveness of these accounts to draw new funds to Savings and Loans for mortgages, as well as whether or not NOW accounts provide a means for consumers to keep pace with inflation. Although many questions remain to be answered concerning these accounts, I fail to see the logic for prohibiting one state from offering this service, particularly a state which perhaps has the largest and certainly the most innovative banking system in the country. If citizens in 49 of our states are to be allowed to participate in this banking service, why shouldn't Californians be accorded the same privileges?

I have consistently argued since becoming a Senator that our individual states should be granted more authority to regulate various laws established by our government. The decision of whether to allow certain financial institutions to offer these accounts is a matter which I feel could be more appropriately determined by each individual state legislature.

Mr. PROXMIRE. Mr. President, I oppose this amendment. This amendment would knock out the authority of the federally chartered institutions, knock out their power to offer NOW accounts.

The bill without the amendment leaves to the State the power to offer NOW accounts. This is in keeping with the dual banking system. But the Morgan amendment would give the States a veto power over whether Federal institutions should or should not be able to offer checking accounts. Not only is this contrary to the dual banking system, but it has the potential for fragmenting our national banking system State by State. NOW accounts have been very popular among consumers in New England and New York where they have been available for some time. In New England, as of March 1979, 80 percent of the depository institutions that could offer NOW accounts were offering them.

We find they have support not only among consumers, among the banking

institutions themselves and among the regulators.

NOW accounts have broad support throughout the country. NOW accounts have broad support among both Federal regulatory agencies and among consumer groups. The Committee has received favorable testimony on NOW accounts from the Federal Reserve, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the National Credit Union Administration, the National Association of Mutual Savings Banks, the National Savings and Loan League, the United States League of Savings Associations, the AFL-CIO, Consumers Union, HUD, and many others.

NOW accounts would present consumers with another option. No consumer would be required to give up conventional checking accounts in favor of NOW accounts. Some consumers may prefer to keep their conventional checking accounts if they maintain a low balance and write a large number of checks.

Of course, simply, the difficulty is that if we have a checking account, we may find it very convenient and useful to have $1,000 or $2,000 in it without being a very well-to-do person.

There is no interest on that. Of course, over the period of a year, with interest rates at the level of 12 to 13 percent, we lose well over $100, even on the $1,000 we keep in there.

NOW accounts would rationalize a bewildering array of interest-bearing transactions accounts and near-transactions accounts—telephone transfer accounts, ATS, bill payer accounts, money market mutual fund checks, and so forth. Why do they exist? These exist because consumers have pressed for ways to circumvent the prohibition against interest payment on demand deposits. In this inflationary environment consumers will continue to press for interest on their transactions accounts. Implicit interest or explicit interest on contorted mechanisms linked to transactions accounts are basically inefficient and more costly than NOW accounts.

Explicit interest on NOW accounts will allow consumers to choose how to spend the additional income. NOW's will eliminate the need to transfer funds from one type of account to another before the funds can be used for transactions.

With regard to the effect of NOW's on small financial institutions, the committee received testimony that NOW's are very popular with institutions of all sizes where they are being offered.

Secretary Blumenthal testified that NOW's in New England have "not resulted in a serious financial burden on the offering institutions."

So, what is the problem?

We tried them. We could not have a better laboratory. We had a trial lasting for years. They have been a great success. They provide much greater justice for people with checking accounts, a very large proportion of Americans.

It would seem to me it is time for us to act.

Considerations of profitability during a transitional period should not be confused with the more fundamental considerations of safety and soundness. No problem banks have been caused by NOW accounts. Thrift institutions may, in fact, benefit greatly because NOW's tend to be less interest sensitive and, therefore, more stable.

Mr. President, there was a vote on this in the House on NOW accounts. It was overwhelming. It was not close. It was not 2 to 1, 3 to 1, 5 to 1. It was 10 to 1, from all parts of the country, including one State where there is considerable opposition, I understand, in the Senate, and some concern in California.

California is the biggest delegation in the House. All but one voted in favor of the NOW account, and on a national basis, not inhibited by giving the States the veto power.

So I hope, Mr. President, this amendment would not be accepted by the Senate. I would oppose it.

Mr. MORGAN. Mr. President, would the Senator from Wisconsin yield for a question?

Mr. PROXMIRE. Yes.

Mr. MORGAN. It is my recollection that in the markup of the committee, the Senator from Wisconsin agreed to accept the amendment of the Senator from California which allowed the State of California to have this prerogative. If that is true, why is it not just as fair for the other States to have it as it is for California?

Mr. PROXMIRE. The Senator raises a very good question. Frankly, we did that as an accommodation to the distinguished Senator from California.

As I say, the California congressional delegation overwhelmingly supported the NOW accounts. I think that is a contradition, and I think it makes the bill inconsistent. I cannot defend that action.

Nevertheless, I think it is clear that the time has arrived for NOW accounts. We have had experience with them and they have worked. There is overwhelming national support for it. Every regulatory agency supports it. I think that, under the circumstances, we can move ahead with it.

I have no answer, except that we accommodated a cherished and esteemed colleague in committee who asked us to do it. We did what he requested.

Mr. MORGAN. All I am asking the Senator now is to accommodate the rest of us.

[Laughter.]

Mr. PROXMIRE. We do that with a vote. If the rest of them want to be accommodated, all they have to do is to vote for the Morgan amendment.

Mr. MORGAN. I do not think that is the question. The question is, if you are going to permit one State to have this authority, we should allow that same authority for all of them.

As to debates with respect to NOW accounts, the Senator from Wisconsin and I have been debating this not for just weeks. We have been debating this since I have been in the Senate, since 1975.

I have to yield to the majority of the Senate with regard to NOW accounts, but all I am asking for now is the word we have been using in the SALT talks—parity.

Mr. PROXMIRE. If the Senator feels that his main argument is that the California group is out in front on this, if he wants to offer an amendment knocking out California, I will support it.

Mr. MORGAN. I think the Senator from California displayed eminently good judgment by respecting the rights of the people in his State. That is the prerogative that was granted to the States in the McFadden Act, in the national bank bill. I think it would help protect the soundness of the financial institutions.

I assume that this question is going to be debated with the California people. All I am asking is that all States be treated alike; that if one State is going to be permitted to do it, all States should be permitted to do it.

Let me read what one of the California Representatives had to say about the same matter. He said:

> Mr. Speaker, we will soon have before us a vote on H.R. 4986, the Consumer Checking Account Equity Act of 1979. I have a reservation about the implementation of the NOW account provision in this bill. Many of us feel that the NOW account provisions should not be implemented until each State legislature has an opportunity to decide whether such accounts shall be allowed by State law. State governments in other words should have the opportunity to legislate on whether in that State NOW accounts should be permitted.

Then we have both U.S. Senators from California taking the same position.

Mr. PROXMIRE. The Senator from North Carolina, during the course of debate, often has quoted the chairman of the Home Loan Bank Board, as I have. Let me read two short paragraphs from his letter, which is dated today, November 1:

> I am writing to express the Bank Board's firm support of nationwide NOW accounts for Federal thrift institutions. I am aware that there has been considerable discussion of this provision of H.R. 4986 during the current Senate debate on this bill. We understand that there may be efforts to strike or modify this provision by making it contingent upon NOW account authorization for State S&Ls by individual State legislatures.
>
> In our judgment, not only would such a requirement strike at the heart of the dual banking system, but it would also be terribly damaging to the future of the thrift industry itself. As federal overseer of the savings and loan industry, charged by Congress with responsibility for its safety and soundness, we believe strongly that authorization of nationwide NOW accounts is in the best interest of consumers, savings and loan associations and housing finance.

As the Senator has indicated in the course of the debate, Mr. Janis is Chairman of the Federal Home Loan Bank Board, and he speaks for the agency that has that responsibility. I do not know how we could have a more emphatic letter affirming what the committee has put into the bill and what the

Senator from North Carolina would strike.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. FORD. The Senator from Wisconsin has been quoting Mr. Janis, and we all have been quoting him around here. We will even put in the RECORD editorials from the Washington Post when they fit our view.

It seems to me that we should listen to those who operate the institutions back home as to what they think is best. I do not find my people at home saying, "We can hardly wait for you to give us NOW accounts."

How many institutions that actually meet the public and have to deal with this every day have written to the Senator from Wisconsin and have said, "Please give us NOW accounts"?

Mr. PROXMIRE. The trade associations which represent them, and I think they are the best spokesmen for them, much better than anybody who had been elected to the Senate, favor this. They tell us that they want it. They say that this is part of their agenda, and they make up their agenda based upon what their institutions want. They do not make up the agenda out of their heads. If they do not rely on what the institutions want, they do not stay in office very long.

Mr. FORD. I have looked at some of the testimony. IBAA gave some testimony to the committee, and this association is concerned about the imposition of NOW accounts. Officials of IBAA say that the experience they have had in New England demonstrates that banks cannot pay 5 percent interest and offer free checking on NOW accounts. With an average balance under $3,000, they could not make a profit.

It seems to me that we talk about taking care of the little folks, those with small accounts, and they are the ones who, as usual, will get it stuck to them; and those who have a reasonably large bank account are going to make some money. It does not seem fair to me.

Mr. PROXMIRE. What we are doing here is simply eliminating a prohibition which we have now, a Federal prohibition, against NOW accounts. We are knocking that out. If the State wants to prevent State institutions from offering NOW accounts, it is free to do so.

Mr. FORD. Why do we not turn it around and allow the States to do it?

Mr. PROXMIRE. They can do it.

Mr. FORD. What the Senator is saying in this legislation is that the States would have to prohibit it.

Mr. PROXMIRE. No; they do not have to have NOW accounts. We just knock out the prohibition against NOW accounts. No institution has to offer them.

Furthermore, the American Bankers Association, which represents 14,000 banks, has supported this position and favors NOW accounts.

Mr. FORD. The State convention in Kentucky voted emphatically against them. The Senator from Wisconsin may have something there from Kentucky, but I attended the convention, and I have a copy of their resolution. I understand what they said very clearly.

Mr. PROXMIRE. I have here a statement by the U.S. League, which represents more savings and loan institutions than any other. They say that the U.S. League supports such legislation.

Mr. MORGAN. I think the Senator is talking about savings and loan institutions, and I am talking about banks.

Mr. PROXMIRE. It is hard to find any representative group that speaks for any group of financial institutions that opposes the legislation.

I am sure the Senator from Kentucky knows far more than the rest of us do about how his people feel in Kentucky, and I am sure he will vote that way.

Mr. FORD. I hope so.

Mr. PROXMIRE. As manager of the bill, I have to listen to the voice of national institutions that represent all the States, and they take their position based on what their constituent institutions want, and that is what they say they want.

Mr. FORD. I ask the Senator this question: If the Senate accepts the Senator's position or the committee's position, what does that do to banks?

Mr. PROXMIRE. It means that the banks, if they wish to do so, can offer the negotiable order of withdrawal, or NOW accounts, so that, in effect, they can pay interest on a checking account.

Mr. FORD. If they want to.

Mr. PROXMIRE. If they want to.

Mr. FORD. Right now, it is prohibited.

Mr. PROXMIRE. That is right. We are taking that prohibition off.

Mr. FORD. So it means that everybody is going to be in the business, whether they want to or not.

Mr. PROXMIRE. Only if they want to be.

Mr. FORD. Competition is one thing.

Mr. PROXMIRE. What is the matter with competition?

Mr. FORD. Let me make a point here. I believe this is testimony before the Senator's committee, and I quote from the IBAA. The Senator is talking about the associations.

Mr. PROXMIRE. I am talking about the American Bankers Association.

Mr. FORD. The IBAA testified.

Mr. PROXMIRE. They certainly did. It is a fine organization.

Mr. FORD. I quote from their testimony:

> The experience with New England banks demonstrates that they cannot pay 5 percent interest and offer free checking on NOW accounts, with an average balance under $3,000.

Mr. PROXMIRE. That is up to the banks. In New England, we have overwhelming support for it.

Mr. FORD. Oh, on. They are charging, and the charges are going up on small bank accounts. So the small consumer, who the Senator is trying to protect, finds that his cost of banking is going up. His cost of writing a check is going up. And the fellow who has a $3,000 bank account, the Senator lets him go free.

Mr. PROXMIRE. The consumer always has a choice. He does not have to take a NOW account.

Mr. FORD. The Senator is forcing the consumer to put it in a can in the back yard, because he cannot afford to pay for the checking account.

Mr. PROXMIRE. No institution I have heard of is exclusive. He can, if he wishes to do so, in any institution, put his money, as he has in the past, in a noninterest bearing demand checking account, or he can put it in a NOW account.

Mr. FORD. It should be uniform, or it will create additional charges and more costs for the bank to keep all the separate checking accounts.

Mr. PROXMIRE. It is entirely up to the institution. They are free to do what they wish to do.

Mr. FORD. I understand that, and that is a good argument against me, but it is adding to the cost of doing business.

Mr. PROXMIRE. We are not adding to the cost of doing business.

Mr. FORD. Yes, you are because if you have one account that does and one account that does not you have to at least have two separate entries, and if that does not add to your costs I do not know how to carry on a business.

Mr. PROXMIRE. They are offering a new service which they are free to accept or not accept.

Mr. FORD. If some are accepted and some are not, you are charged with additional overhead, so who pays the additional overhead? You can smile at me, but it is the truth.

Mr. PROXMIRE. If the logic of the Senator's argument was correct, a bank would not offer NOW accounts. They would be able to compete far more effectively because they would be in a situation where they were more efficient than the other institutions. They are not forced to do it. They only do it if they wish to do so.

Mr. FORD. When people think they are going to get interest on their account they are going to go into the bank and say, "I want my interest. I would like to have it in one of those accounts." But when they find out there are bank charges as a result that exceed their interest then they are not going to like it very much.

Mr. PROXMIRE. That is easy. All they have to do is to take money out of the NOW accounts and put it in a demand account.

Mr. FORD. But it is not going to eliminate it.

Mr. PROXMIRE. Oh, no.

Mr. FORD. They may receive a little interest, but the charge is going to be higher, my friend, as the result of the additional expense, the additional charges being placed on the institution.

Mr. PROXMIRE. No. I say to the Senator from Kentucky that he would be free, as a depositor, to make up his mind. He could put his money into a NOW account and pay whatever charges there are or take whatever burden that that might entail, and he would be free to do it. If that was more profitable to him he could do it or put it into a checking account or if he were running an institution he could offer or not offer NOW accounts.

At the present time we prohibit that. We have a law that says it is a crime to

pay interest on a demand account or any kind of a checking account, and we are eliminating that Government regulation, that restriction, and providing a greater freedom for the consumer and for the institution.

Mr. FORD. Let me ask if this is correct, Senator. Did the testimony before the Senator's committee indicate that we have 35 million Americans who have checking accounts below $200?

Mr. PROXMIRE. I do not remember that. The Senator may be correct; I am sure, if he has it there, it may well be. It does not sound unreasonable.

Mr. FORD. It is correct. It does not sound unreasonable?

Mr. PROXMIRE. It is possible.

Mr. FORD. How are you going to help those 35 million people who have accounts of less than $200?

Mr. PROXMIRE. How do you hurt them? There are millions of other Americans who are in a position to benefit from that, and they would be able to benefit without anything being taken out of the pockets of the smaller accounts.

Mr. FORD. How would it benefit the fellow with the $200 account? You are going to eliminate it.

Mr. PROXMIRE. Oh, no, we are not going to eliminate it. I cannot imagine that a bank would eliminate their demand accounts. They have them in New England and they have them here.

Mr. FORD. Going back to the testimony in New England saying that they cannot pay 5 percent interest and give free checking, in essence you give interest here and take away there, the fellow with the small checking account loses.

Mr. PROXMIRE. I may say to the Senator that in all of our testimony we do not have one line of opposition to this from consumer groups. No consumer has said, "I am being hurt by this," none. We had lots of testimony from consumer groups. We invited them in. We urged them in, and they were free to come. We have no indication with consumers who have lived with this NOW for 4 or 5 years who are opposed to it. You talk to Senator TSONGAS or Senator KENNEDY or Senator DURKIN, any of the Senators, Senator RIBICOFF or Senator WEICKER, any of the Senators from New England, and what is their position? Their position, having talked to their constituents who have lived with NOW accounts, is they like them.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MORGAN. I will tell you what the position of the people from New England is, and I think the Senator was there at the same time. My recollection is that the testimony of every single banker and every single savings and loan or thrift institution officer from New England was that "We like NOW accounts so long as we have regulation Q. We cannot survive without regulation Q." That is my recollection of every single thrift official who testified before our committee.

Mr. PROXMIRE. Well, that is not quite correct. There is no institution that is more typical of New England than mutual savings, and I have a letter from Saul Klaman of the National Association of Mutual Savings Banks who says that with the amendment Senator TSONGAS introduced they support this. We have now put that into the bill. They say with that they support every part of the bill, including the NOW accounts part of the bill.

Mr. MORGAN. That is exactly what I have been trying to tell the Senator here. They are saying "We can support it, but we cannot survive with it unless you give us more consumer loans."

Mr. PROXMIRE. That is what the bill provides.

Mr. MORGAN. I know, but the Senator has indicated that probably that provision is not going to survive the conference. In other words, show me one, show me just one, institution, one thrift institution, in New England where they have had this experience, and will say, "We want NOW accounts as the bill now is," with the exception of the amendment we have added.

Mr. PROXMIRE. They have them now. They did not have to have them. They have them. They like them. They keep them. But there is no indication they want to get rid of them.

Mr. MORGAN. Mr. President, the Senator from Wisconsin keeps saying if they do not want them, they do not have to have them. But I think the Senator from Wisconsin was present when the Senator from California offered his amendment saying that is does not apply to California unless the State legislature authorizes it, and he said at that time that the savings and loans did not want them, and they did not want the authority because they realized if one offered it they all had to offer it.

Mr. President, I have been dealing with the U.S. Savings and Loan League since I have been in Washington, and I have traveled all over the country, and I have never had one of them say to me that they support NOW accounts, and the Independent Bankers Association is emphatic in their opposition. It is true that the ABA, made up of your larger banks in the country, favors it. But I have no doubt that the largest banks in the country can absorb all of these services and they can also absorb these savings and loans. My concern is that it is going to hit hardest at the smaller community-based institutions.

Now, Mr. President, we have argued the merits of NOW accounts for days.

But I think we are down to the point now where we must decide, Are we going to treat every State in the Union alike?

The chairman of the Banking Committee agreed in committee that the provisions of this bill would not apply to the State of California unless the State legislature authorized them for State chartered institutions. All I am asking is that we have parity, that all of the States have the same prerogatives and the same authority that the chairman agreed for the State of California to have.

That would not be at all unusual, because that basic situation has applied historically since the 1920's to the National and State banking system, and a dual banking system has grown, the State banks and the Federal banks have grown along together, and made great financial institutions.

So all this amendment does is give to every other State in the Union the same right that the chairman and the committee gave to the State of California—that is, the provisions of the bill on NOW accounts would not apply unless the State legislatures authorized them for State chartered institutions. It is just as simple as that.

I believe, Mr. President, what is fair for one is fair for the others, and if it is fair for the State of California to have it, let us give all the other States the right to decide for themselves.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does any other Senator seek recognition on the amendment? If not, the question is on agreeing to the amendment (No. 543) offered by the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

I also announce that the Senator from California (Mr. HAYAKAWA) is absent on official business.

I further announce that the Senator from Oregon (Mr. HATFIELD) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER (Mr. BAUCUS). Are there any other Senators who wish to vote on this amendment?

The result was announced—yeas 37, nays 51, as follows:

[Rollcall Vote No. 383 Leg.]

YEAS—37

Armstrong	Hefflin	Simpson
Baucus	Helms	Stennis
Bentsen	Hollings	Stevens
Byrd, Harry F., Jr.	Huddleston	Stewart
Byrd, Robert C.	Jepsen	Stone
Chiles	Johnston	Talmadge
Danforth	Laxalt	Thurmond
DeConcini	McClure	Wallop
Domenici	Melcher	Warner
Exon	Morgan	Weicker
Ford	Nunn	Young
Goldwater	Randolph	Zorinsky
	Schmitt	

NAYS—51

Biden	Hart	Nelson
Boren	Hatch	Packwood
Boschwitz	Humphrey	Pell
Bradley	Inouye	Percy
Bumpers	Jackson	Proxmire
Burdick	Javits	Pryor
Chafee	Kassebaum	Ribicoff
Church	Levin	Riegle
Cochran	Long	Roth
Cohen	Lugar	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Schweiker
Dole	Matsunaga	Stafford
Durenberger	McGovern	Stevenson
Durkin	Metzenbaum	Tower
Eagleton	Moynihan	Tsongas
Garn	Muskie	Williams

NOT VOTING—12

Baker	Glenn	Heinz
Bayh	Gravel	Kennedy
Bellmon	Hatfield	Leahy
Cannon	Hayakawa	Pressler

So Mr. MORGAN's amendment (No. 543) was rejected.

Mr. BUMPERS. Mr. President, I yield to my distinguished colleague from Arkansas (Mr. PRYOR) at this point.

Mr. PRYOR. Mr. President, I appreciate my colleague's yielding to me. Senator BUMPERS and I were prepared to propose an amendment to the bill at this time. However, after discussion of the amendment with the manager of the bill, the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs (Mr. PROXMIRE), Senator BUMPERS and I have decided against calling up our amendment. Instead, we shall introduce the text of the amendment as a bill within the next few days. It is my understanding that Senator PROXMIRE has offered to hold hearings on our bill this year.

Mr. President, all Senators may not be aware of a statute that exists today which gives national banks an unfair advantage over many State banks and other financial institutions.

Section 85 of title 12 of the United States Code provides that a national bank may charge 1 percent above the Federal discount rate, notwithstanding any State laws setting an interest-rate ceiling. Such an advantage obviously discriminates in the strongest possible way against State banks or savings and loans in those States where the usury-rate ceiling is below the discount rate.

The bill my colleague (Mr. BUMPERS) and I shall introduce would merely allow State chartered, federally insured banks, federally insured savings and loans, small business investment companies, and Federal credit unions to charge the same interest rate as national banks.

When the 1-percent-above-discount-rate law was adopted in 1933, it served the laudable purpose of strengthening the fledgling national banking system.

That system has survived and prospered. Now we must be concerned with the survival of the other half of our dual banking system—State banks.

The current statute discriminates against State banks in two ways:

First, national banks are able to realize greater yields on their loans, which strengthens their overall financial posture vis-a-vis the State banks; and

Second, State banks are losing deposits to the national banks since they cannot offer the same lending services. This "competitive disintermediation" is a genuine threat to the survival of many State banks.

Consider the situation in my State of Arkansas. We have, as the Senators well know by now, a strict 10-percent interest rate ceiling on all types of loans. A customer seeking a loan to buy a car is unlikely to find the funds at a State bank since State banks can charge no more than 10 percent interest, which is not enough to cover the cost of funds plus service costs. This customer, is forced to turn to a national bank which can presently charge 13 percent. That customer is also likely to deposit his money in that bank.

In the golden days of low interest rates, this problem never came up. But as the discount rate has risen to 12 percent in our present, tight-money economy, many States find themselves in a similar predicament. Once-reasonable usury limits of, say, 12 percent, now threaten to strangle the local economy. Under 12 U.S.C. 85, national banks in these States can charge 13 percent on their loans, which is extremely important, since the cost of deposits is rising. State banks have the same expenses as national banks but can charge no more than the State's interest rate ceiling.

This is, strictly speaking, not a "usury" issue but a matter of "competitive equality." Before the discount rate went this high, all banks could compete equally at a lower interest rate level. But when the discount rate is higher than the usury limit, the State banks and savings and loans are placed in an impossible grossly unfair position.

The bill we shall propose, Mr. President, will provide a simple and equitable remedy to a complex and unjust situation.

Mr. President, at this time I yield to my distinguished colleague (Mr. BUMPERS).

Mr. BUMPERS. Mr. President, I doubt that there are very many Senators—maybe there are none—in this body who know that, in 1933, there was an amendment adopted to the National Banking Act which says that Federal banks may charge 1 percent more than the Federal discount rate. Until the year 1979, that amendment never made any difference. Even during the great financial crisis of 1974, the highest Federal rate was 8 percent. Now the Federal rate is 12 percent, and as a result of that little-known amendment, the Federal banks in my State are allowed to charge 13 percent, 1 percent above the Federal rate.

On the other hand, as most of the people in this body know, Arkansas State banks are hopelessly locked in by an 1874 constitution to a 10-percent usury rate, which means that in my State, the Federal banks are now charging 13 percent interest and the State banks are limited to 10 percent.

One of three or four things is going to have to happen so the Arkansas State banks can charge something in excess of 10 percent. We have adopted a bill, H.R. 2515, which would apply only to Arkansas and which is over in the House. Either that bill, the Cochran amendment passed by the Senate yesterday is going to have to be accepted, or we are going to have to adopt a bill similar to the one Senator PRYOR has just referred to. If we do not, Arkansas, as well as several other States will have a monolithic banking system.

I suggest to some Senators who are listening that they contact their banking associations back in their States and find out how, if at all, this is going to affect them. It is my understanding that there are 18 States in the United States that will be affected by a bill which would give State-chartered financial institutions the right to charge interest of 1 percent above the Federal discount rate, or 13 percent.

It is absolutely imperative that my State get some relief. In Arkansas, if we do not get H.R. 2515 passed, or if we do not get this bill, H.R. 4986 passed with the Cochran amendment, and the people in my State refuse to adopt a constitutional amendment raising the usury limit next fall, we are back to square one. The Federal banks are still going to be charging 13 percent, if the Federal rate stays the same, and the State banks 10 percent. We have 210 State banks in my State, and every one of them is going to be applying for a Federal charter if something is not done.

I personally think the dual system is a good thing, but we in Arkansas cannot keep it unless we get some relief on this thing.

Mr. PROXMIRE. Mr. President, the Arkansas Senators, I think, have made an excellent point. However, I think they realize that there is no way we can vote on what they propose tonight without a very extensive debate. There is a sharp division and difference of opinion in the Senate. The Senator from Nebraska has made the point very well that we should be very chary about overriding State usury laws.

What this would do would be to provide a national usury limit for everybody. We override all State laws as far as State banks are concerned—not just national banks. This may have merit, and I think it does have a lot of merit. It is very practical. What I would like to propose to the Senators is that we hold prompt hearings on their bill—rather than have it as an amendment to this bill—before our committee this year so that it may be thoroughly considered by the Committee on Banking, Housing, and Urban Affairs as soon as possible.

Would that be satisfactory?

Mr. BUMPERS. Mr. President, that is satisfactory. We shall try to get this bill introduced as quickly as possible.

I want to say in conclusion that the distinguished floor manager has been extremely hospitable, cordial, and accommodating during the consideration of this banking bill and H.R. 2515. He has recognized the very unique problem we have in our State, with the Federal rate up to 12 percent.

I understand the problem other Senators have in their respective States with overriding State law. I do not think it is particularly healthy, to be overriding State law. The Senator from North Car-

olina performed yeoman service here making that point time and time again and I agree with most of what he says. However, these are very unique, difficult, and unprecedented times in the money markets of this country.

We want to express our gratitude openly on the floor to the floor manager for offering to hold hearings on this proposed bill as quickly as he can, and for all the accommodations he has made for both on H.R. 2515, and the Cochran amendment.

My State is in an economic stalemate. No houses are being built in my State except those subsidized by government bonds.

For example, the front page of the Arkansas Gazette has a story saying the Falcon Jet Corp., which has about 1,000 employees at a plant in Little Rock, Ark., needs another 150 skilled employees. Those skilled employees have to be recruited from out of State. However, Falcon cannot recruit them because there is no place for them to live in Little Rock and no houses are being built there.

This is one example I am using to dramatize and focus on my problems, but I know many other Senators have the same problem in their States.

Again I thank the floor manager.

Mr. PRYOR. Will the Senator yield?

Mr. BUMPERS. I yield.

Mr. PRYOR. Mr. President, I, too, would like to add my vote of thanks to the distinguished chairman, the Senator from Wisconsin who has been very courteous to us.

We have, as the Senator understands, extreme economic problems in the State of Arkansas with a constitutionally imposed 10-percent usury limit.

I checked with our Savings and Loan League executive director this afternoon. He informed me that in the last 2 months, to the best of his knowledge, the savings and loan institutions in Arkansas have made fewer than 25 residential mortgage loans to the citizens of our State.

We deeply appreciate the opportunity Senator PROXMIRE has graciously extended to us to come before his committee and to hold hearings on the pros and cons of our legislation. I hope we can focus attention on this problem, and allow those adversely affected by the present law to express their concerns through the proper channels.

Again, we thank the chairman for the courtesies which he has extended to us. We will introduce the bill as soon as possible.

Mr. BUMPERS. Mr. President, I ask unanimous consent that a chart of interest rate ceilings on residential mortgages in 24 States that would be affected by this bill, and an article which appeared in the Arkansas Gazette on October 11, 1979, entitled "Arkansas, 23 Other States, Face Housing Funds Drouth," be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Interest rate ceilings

Residential Mortgages

Fixed:	(In percent)
Arizona	12.0
Arkansas	10.0
Hawaii	12.0
Kansas	11.0
Louisiana	12.0
Nebraska	11.0
Nevada	12.0
New Jersey	10.5
New Mexico	10.0
North Dakota	12.0
Oregon	12.0
Washington (State)	12.0
Washington, D.C.	11.0
Wisconsin	12.0
Floating:	
Georgia	10.5
Illinois	11.0
Iowa	11.0
Minnesota	11.5
Mississippi	12.0
Missouri	11.6
New York	10.0
Pennsylvania	11.6
Texas	11.0
Vermont	10.75

Source: United States League of Savings Associations.

ARKANSAS, 23 OTHER STATES, FACE HOUSING FUNDS DROUTH

WASHINGTON.—Prospective homebuyers will be virtually shut out of mortgage funds in nearly half the states, including Arkansas, beginning in January, savings bank officials said Wednesday.

Twenty-four states will be hit hardest because they have laws limiting mortgage rates to about 12 percent or less, making it unprofitable for banks there to lend mortgage money because they must pay even higher interest rates to borrow.

Thomas Parliament, an economist at the United States League of Savings Associations, pinpointed Arkansas, Washington, Georgia, Illinois, Iowa, Kansas, Missouri, Nebraska, New Jersey, New York and Texas as very mortgage-dry "come the first part of next year."

And in those states without usury ceilings, he said, homebuyers may face mortgages carrying interest rates of 12.5 percent or higher.

MAY HIT 20 PERCENT

Steep rates will be particularly evident in California and Florida, he said.

Parliament's predictions were echoed by officials of the National Association of Mutual Savings Banks.

Down payments of 5 percent and 10 percent will become virtually extinct, Parliament said. "Twenty percent down payments will have to become the rule," he added.

The dramatic mortgage crunch is the result of new tight-money policies adopted last week end by the Federal Reserve Board in an effort to beat back soaring inflation and limit excessive credit.

The Board increased the discount rate it charges member banks from 11 per cent to 12 per cent and it dramatically altered the way it controls the availability of money and credit.

Many banks immediately increased the interest they charge their best customers from 13.5 per cent to 14.5 per cent, and many economists predict it will reach 15 per cent shortly.

Thrift institutions that can increase their mortgage rates to keep up with the higher cost of money "may weather the coming months," Parliament said.

"SHUT OFF"

But banks in Arkansas, for example, can't charge more than 10 per cent interest on mortgages. At the same time, some pay customers more than 10 per cent interest to deposit their savings in money-market certificates.

"They already are shut off from making mortgages," Parliament said.

He and other economists interviewed Wednesday believe the worst mortgage crunch will be felt in February and March. But already, they note, banks have become very stingy in making loans.

"Many states will have to do something quickly about their usury ceilings," William Wallis, president of the First Federal Savings and Loan Association of Martin County, Fla., near Palm Beach, said.

However, state legislatures do not convene until next year, Parliament said. "It will be four months to six months at the earliest, before usury ceilings could be raised," he added.

Congress is considering legislation giving the federal government powers to override state usury limits. However, that bill is part of a larger package of bank reforms, and its fate remains uncertain.

FIXED LIMITS

States with usury limits that are absolutely fixed are:

Arizona, 12 per cent; Arkansas, 10 per cent; Connecticut, 12 per cent; Hawaii, 12 per cent; Kansas, 11 per cent; Louisiana, 12 per cent; Mississippi, 12 per cent; Nebraska, 12.5 per cent; New Jersey, 10.5 per cent; New Mexico, 10 per cent; North Dakota, 12 per cent; Oregon, 12 per cent; South Dakota, 12 per cent; Washington, 12 per cent; Wisconsin, 12 per cent. The District of Columbia also has a fixed rate but it is 15 per cent and so presents no problem at this time.

States with floating usury ceilings are:

Georgia, Illinois, Iowa, Minnesota, Missouri, New York, Pennsylvania, Texas, and Vermont. These all are currently at 12 per cent or less.

Floating usury ceilings can be adjusted to the rise in other interest rates but the process is very slow.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I want to take a minute or two to make an observation. That observation is few things that have happened to me in my short tenure here in the Senate.

When I served as Governor, and some in this body have, we understand the imposition of Federal regulations, Federal programs, the carrot and stick proposal that always seems to come out of Congress.

When I came to the Senate, all but one State, I believe, had the helmet law for motorcyclists. I went through that traumatic experience of hearing people who opposed wearing helmets while riding a motorcycle, but Big Brother said that if we did not pass the law, we would lose 10 percent of our highway money.

So, trying to be a good citizen of Kentucky, we passed the law, and we found it did save some lives and we were right fortunate having the law. I was right pleased with it.

But when I got to the U.S. Senate, California did not want the helmet law. All the rest of us had to have it in place, and we lost, because one State did not want it, the rest of the States did away

with it anyhow, and the death rates are going up.

Tonight we exempt California. We exempt California and then we impose it on all the other States.

So I guess I have learned something else, that maybe the States do not have enough delegate votes or enough votes in the House or the strength in the Senate Chamber to do things, and endear themselves to the chairman of the committee is another thing.

So I think as I travel the path here, I want to watch California and see what they do so I might be able to do those things for my State that would be good for it.

I think maybe I will try to watch what is done to endear themselves to the chairman of the committee so I might be able on occasion to get my State exempt.

Then I listened to my distinguished colleagues about trying to help their State of Arkansas and how, if we are not careful, we will put the little banks out of business. That is an interesting position for States' righters to take and take another direction other times.

So, Mr. President, I just want to say that I admire the ability of California to do the things. I think they probably exceeded the ability of Texas to get some of these things excluded and to take care of their States and prevent the Federal Government from saying to them that they have to do certain things that the other States do.

Mr. President, I want that in the RECORD. I want that to be known, that we gave it to California, that 49 others have to take it, whether they like it or not.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 544

(Purpose: To remove title II of the bill authorizing the Federal Reserve to require reserves of nonmember depository institutions)

Mr. MORGAN. Mr. President, I call up amendment No. 544.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an amendment numbered 544.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 21, line 21, strike all which follows through page 24, line 20.

Mr. MORGAN. Mr. President, I have tried to be as brief as I can. If my colleagues will give me their attention, I will try to make it brief.

This amendment addresses a very important policy decision, and I think it will behoove everyone to at least give it their consideration.

There has been controversy over a long period of time as to whether banks which are not members of Federal Reserve should be subject to the Federal Reserve's authority to require reserves.

That is, those State banks that do not choose to be members of the Federal Reserve System have not been and are not now required to maintain reserves with the Federal Reserve System.

The same thing is true, of course, for thrift institutions.

Dr. Burns, when he was chairman of the Federal Reserve Board, supported legislation requiring all financial institutions to be subject to the Federal Reserve requirements. Mr. Miller supported it, and now Mr. Volcker has proposed it again.

I am not sure but what they are not right. I may very well vote with them next week when the markup comes in the Banking Committee. I understand that the chairman is going to have the markup next week.

So what I am saying is that it is a major policy decision that ought to be decided as a policy decision and not by the way of a one simple provision in this bill.

What does this bill do? It has one provision which says that all thrift institutions will be required to submit to Federal Reserve reserve requirements if they exercise the powers of the NOW accounts given in this bill.

So I am saying, let us not decide this major policy decision about member or nonmember institutions being required to keep up reserves. Let us wait and let the entire Banking Committtee work its will first. That is the proper procedure.

We have been citing all day who is with us and who is not with us. I have a letter from Governor Bowen, the chairman of the National Governors' Association, which supports my amendment and opposes the provision which involves the nonmember banks. The Conference of State Bank Supervisors supports my amendment.

I might mention that Mr. Volcker, who feels very strongly that all nonmember banks should be subject to the Federal Reserve, supports the Committee's position, but let me read what he has to say about my amendment. He says:

> I have a certain degree of sympathy for the argument made by Senator Morgan that this reserve issue be settled in the context of legislation which addresses all aspects of the Federal membership problem. The Federal Reserve, under three chairmen, has been seeking such legislation, and we will continue to seek it.

So, while he wants a little relief in this bill, he concedes that my argument has merit. I believe we should make the policy decision in the overall bill itself and not on this particular bill.

Mr. President, the amendment I offer is stated as succinctly as I know how, and it is a major issue we have to decide.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I oppose the amendment to delete title II.

The legislation authorizes the Federal Reserve Board to set reserve requirements on NOW accounts, share draft accounts and savings deposits from which automatic transfers (ATS) can be made. The reserves would be uniform and universal, applying to all depository institutions: member and nonmember banks, savings and loan associations, mutual savings banks, and credit unions. The Fed is given the broad authority to set the reserve ratio between 3 and 22 percent. In principle, the reserve requirement should be the same as that applied to demand deposits.

I think we all recognize that the strongest tool we have—in fact, the only game in town right now—in fighting inflation is monetary policy, control over our credit system. We live in a credit economy. There are many objections to what the Fed has done with respect to fighting inflation, but I do not think there is anybody who does not agree that we should make that authority and that power as effective as we can.

If we create NOW accounts without providing for reserves, it means that the Fed will be disarmed to a considerable extent in being able to fight inflation.

The Federal Reserve has just announced, October 6, that it would use the availability of reserves as the day-to-day operating variable for open-market operations, rather than the Federal funds rate. Once NOW accounts and share drafts are established there may be shifts from demand deposits and savings deposits into the new accounts. The Fed's ability to control reserves would be reduced if there were no reserves on these new accounts and large shifts of funds occurred.

NOW accounts, share drafts and ATS would be available on a broad, nationwide basis for the first time. The quantity of such accounts is now small and therefore the imposition of reserve requirements would not cause widespread problems. That is why this is the time to put them in. It is going to be far more difficult later on.

Once NOW accounts are available nationwide they could grow quickly and it would be much more difficult and would cause more serious problems to impose reserves at a later date.

Reserve requirements are part of doing business. They should be imposed from the outset so that all competitive costs will be applied to all depository institutions on an equal basis.

The committee has been considering the Fed membership issue and universal reserve requirements for some time. This issue may not be resolved this year. I hope it will be. We are going to push our bill, but we cannot tell. It would be too big a risk to allow nationwide NOW accounts without reserve requirements.

NOW accounts and share drafts are essentially a new class of deposits and a small part of total deposits and should be considered separately. When and if Congress acts on the membership issue, there will be no conflict with this legislation.

The Fed is responsible for monetary policy, which is the main purpose of the reserves. It would be risky now to approve NOW accounts without giving the Fed the authority to set reserves, especially during this period of rapid inflation. We should not create new check-

ing account authority without giving the Federal Reserve adequate authority to control the money supply.

Mr. President, I hope the Senate will not disarm the one agency which has been doing the toughest job in fighting inflation. It is an unpopular job, but a necessary job. They have to have these reserves as part of their weapons.

Mr. President, I have a letter from the Chairman of the Federal Reserve Board, Mr. Volcker, who says, "This Board strongly opposes such an amendment," referring to the amendment offered by the distinguished Senator from North Carolina.

I think we should listen on this issue to the best authority we have, the Federal Reserve Board, and the new Chairman, whose nomination recently was confirmed by the Senate unanimously, with overwhelming and enthusiastic support.

Mr. MORGAN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. MORGAN. I understand that we are going to have a markup on the Federal Reserve bill next week.

Mr. PROXMIRE. It has not been announced, but that is our plan, to mark up the Federal Reserve membership bill next week.

Mr. MORGAN. Since this is a major policy decision—perhaps this is a statement rather than a question—since we never before have required nonmember banks to be subject to reserve requirements of the Federal Reserve, and since we are going to mark it up next week, and the Governors are opposed to it and the State regulators are opposed to it, it would be well if we adopted my amendment, struck the provision, and considered it in context with the overall problem next week.

Mr. PROXMIRE. In the first place, the principal answer to the Senator is that I wish there were a guarantee that the membership bill was going to go through. As the Senator knows, it is late in the session. It is a highly controversial subject. There are differences in the committee, and there will be on the floor, on that membership bill. There is a good chance that it will not pass this week, and it may not pass even next year.

The Fed is going to push it hard, but we are taking that risk. For us to prevent the Federal Reserve from getting what they tell us is essential for them to be able to conduct effective monetary policy is assuming a responsibility, depriving them of the authority to fight inflation as effectively as they can.

I point out that in 1975, the Senate passed the Financial Institutions Act by a vote of 10 to 1. That act did apply reserve requirements for nonmember banks.

Mr. MORGAN. It may be that I will vote for it. However, as the chairman knows, this matter has been pending befor our committee for 2 or 3 years, as I recall, and we have not seen fit to have a markup. So I do not see the urgency of bringing in one small segment to face head on the policy decision.

If the Senate, after debating it, decides that it is a bad policy, then it seems to me that it would not be fair to bring in the S. & L.'s unless everybody is brought in.

Mr. PROXMIRE. The membership bill is a broad bill, too, and extremely controversial. I hope it will pass this year. The House is anxious to pass it this year. Representative REUSS has pleaded for its passage.

As the Senator knows, there are strong differences of opinion on it, and there is good reason to expect that it may not pass, in which case we may go months without the Federal Reserve, our principal inflation-fighting mechanism, having the power to conduct monetary policy in their anti-inflation fight.

Mr. MORGAN. I point out that it has been well argued, but the House struck this provision from the House bill, as I understand it, because it was considered in a broader bill.

I think this has been well argued, Mr. President, and I am ready for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Vermont (Mr. LEAHY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

I also announce that the Senator from California (Mr. HAYAKAWA) is absent on official business.

I further announce that the Senator from Oregon (Mr. HATFIELD) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 66, nays 18, as follows:

[Rollcall Vote No. 384 Leg.]

YEAS—66

Armstrong	Cranston	Heflin
Baucus	Culver	Helms
Biden	Danforth	Hollings
Boren	DeConcini	Huddleston
Boschwitz	Dole	Humphrey
Bumpers	Domenici	Inouye
Burdick	Durenberger	Jepsen
Byrd, Harry F., Jr.	Durkin	Johnston
	Eagleton	Kassebaum
Chafee	Exon	Laxalt
Chiles	Ford	Levin
Church	Garn	Lugar
Cochran	Hart	Magnuson
Cohen	Hatch	McClure
McGovern	Roth	Tower
Melcher	Sasser	Wallop
Metzenbaum	Schmitt	Warner
Morgan	Schweiker	Weicker
Nunn	Simpson	Williams
Packwood	Stevens	Young
Pell	Stewart	Zorinsky
Percy	Stone	
Pryor	Thurmond	

NAYS—18

Bentsen	Matsunaga	Ribicoff
Bradley	Moynihan	Riegle
Byrd, Robert C.	Muskie	Sarbanes
Jackson	Nelson	Stafford
Javits	Proxmire	Stevenson
Mathias	Randolph	Tsongas

NOT VOTING—16

Baker	Gravel	Long
Bayh	Hatfield	Pressler
Bellmon	Hayakawa	Stennis
Cannon	Heinz	Talmadge
Glenn	Kennedy	
Goldwater	Leahy	

So Mr. MORGAN's amendment (No. 544) was agreed to.

(Later the following occurred:)

Mr. MATSUNAGA. Mr. President, on Vote No. 384, I am recorded as having voted "yes." I ask unanimous consent that my vote be recorded as "no." The change in vote will not in any way affect the final result.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that the request of the distinguished Senator be placed in the RECORD immediately following the vote on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote has been changed to reflect the above order.)

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, earlier in the day, a few minutes ago, there was a colloquy between the distinguished Senator from Utah and the distinguished Senator from Wisconsin regarding the applicability of the mortgage usury override in section 305 of the bill to mobile home loans. The belief was expressed that mobile home loans were covered under this provision. I wish to take issue with this interpretation since it was my undersanding that they were not included.

Many mobile home loans are made essentially as consumer loans with very high interest rates and with short terms of 5 to 12 years. State usury laws on mobile home loans are separate and distinct from usury laws on residential mortgages. There is a very serious question whether the Congress should abrogate laws dealing with what are often essentially consumer loans with rates as high as 18 percent. In my opinion section 305 of the bill does not cover mobile home loans—nor should it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, let the RECORD show that I cast my vote "yea."

The PRESIDING OFFICER. Without objection, the Senator's vote will be so recorded.

The bill is open to further amendment. Are there further amendments?

UP AMENDMENT NO. 723

(Purpose: To include cooperative housing corporations in the exemption from State usury)

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 723. On page 31——

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 23 after "property" insert "or by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage or advance is used to finance the acquisition of such stock".

On page 32, line 5 after the first comma insert "the requirement contained in Section 527(b)(1) that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation,".

Mr. JAVITS. Mr. President, this amendment—Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senator will please suspend until order is restored.

The Senator from New York.

Mr. JAVITS. Mr. President, this amendment is presented on behalf of Senator MOYNIHAN and myself. It seeks to bring mortgages on cooperative apartments under the same preemption provisions which we have given other mortgages. It seems to me it must have been just an oversight to omit them.

In the cities, this is a major proposition.

I understand that the manager of the bill has a matter of legislative intent, which is entirely satisfactory to me.

Mr. PROXMIRE. Mr. President, it is my understanding that the Senator's amendment is intended to cover loans for individual units in a cooperative which are made under similar terms and conditions as residential real estate loans.

In principle I believe that this is an excellent idea. However, these loans are generally treated in a different manner than residential real estate loans under State law and we have not had the opportunity to investigate the provisions of these laws or how the particular language offered would relate to them. Nevertheless, I would be happy to accept the amendment with the understanding that some adjustments in the language may be necessary in conference.

The Senator from New York has done a great service in providing for this amendment. It was an oversight.

Mr. JAVITS. I thank my colleague. The statement made is entirely satisfactory.

Mr. MOYNIHAN. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. MOYNIHAN. Mr. President, may I express my appreciation to the chairman of the Banking Committee as well.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER (Mr. FORD). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 724

(Purpose: To clarify the intent of UP amendment No. 702 so that it applies only to title VI of this act)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an unprinted amendment numbered 724.

Mr. EXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

With respect to unprinted amendment 702 adopted on October 31, 1979, delete the word "Act" the second time it appears and insert in lieu thereof the words "Title VI and Title VII of this Act".

Mr. EXON. Mr. President, this is an amendment to clarify an amendment that was agreed to yesterday, and which I offered.

The PRESIDING OFFICER. The Chair will state to the Senator from Nebraska that unanimous consent is required in order for his amendment to be considered.

Is there objection? Without objection, the Senator may proceed.

Mr. EXON. The amendment that was adopted yesterday by agreement of all parties needs clarification with the simple amendment that I have worked out here with the managers of the bill. All that we are trying to do is to clarify the amendment that I offered yesterday, which amendment was unanimously accepted. It does not apply to mortgage loans.

I understand the managers of the bill agree to this. I ask for its acceptance.

Mr. PROXMIRE. Mr. President, I am happy to accept the amendment. It clarifies the intention of the Senator from Nebraska and the understanding of the managers of yesterday. It is a good amendment, and I accept it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 725

(Purpose: To provide greater flexibility to States to enact new laws placing limitations on discount points in residential mortgage loans)

Mr. PROXMIRE. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 725.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line 20, after "advance" insert ", except that at any time after the date of enactment of this Act any State may adopt a provision of law placing limitations on discount points or such other charges on any such loan, mortgage, or advance".

Mr. PROXMIRE. Mr. President, this amendment would provide authority to States, without time limitation, to enact new laws placing limitations on discount points and other charges in connection with a residential mortgage loan. Section 305 of the bill would override State laws limiting the rate or amount of interest, discount points, or other charges assessed in connection with a residential mortgage loan. However, a State could make this override inapplicable by adopting a provision of law, within 2 years after the date of enactment of this act, limiting the rate or amount of interest, discount points, or other charges on such loans.

I support this mortgage usuary override in the bill because I believe the facts clearly demonstrate that State laws which limit the rate of interest that can be charged on mortgage loans, although well intended, have often had the unfortunate effect of shutting off or disrupting the flow of credit. The case for overriding State laws limiting discount points or other charges which are included in the annual percentage rate is less strong, since there has been no demonstration of disruptive effects of such limitations, and since there are potential consumer abuses in the manner in which discount points or such other charges may be imposed.

On the other hand, a number of States have enacted laws limiting discount points in the context of a usuary restriction on interest, so that overriding State limitations on interest without at the same time overriding limitations on discount points could have confusing and unintended effects. Thus it makes sense to wipe the slate clean. However, States should have flexibility to enact new laws placing limitations on discount points or such other charges, without any time limitation. My amendment would provide this flexibility.

The PRESIDING OFFICER. The

question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I am pleased to support H.R. 4986, the Depository Institutions Deregulation Act of 1979. It will go a long way toward assuring that the United States will have a sound and competitive financial system in the future. It is the product of better than a decade of serious study by the Congress, several administration's, numerous individuals—among them our colleagues Senators Thomas McIntyre and Edward Brooke—and persistent efforts by the Senate Banking Committee during this decade. To the chairman of the full committee, Senator WILLIAM PROXMIRE and the ranking minority member Senator JAKE GARN, and the chairman of the Subcommittee on Financial Institutions, Senator ALAN CRANSTON, I want to say that your continuing efforts have resulted in legislation which deserves the support of the U.S. Senate and the American people because it promises measured and necessary change in our financial system, which has largely outgrown the public policies and statutory frameworks developed in the past during far different times.

Mr. President, the Depository Institutions Deregulation Act will make far-reaching changes in our financial system, over the course of the next decade. Some of the changes will be visible almost immediately. The extension of NOW accounts nationwide along with other interest bearing transactions accounts, for example, will provide consumers with convenient new services, such as those available in New England since 1972. For commercial banks, the elimination by statute of the prohibition on the payment of interest on checking accounts will permit them to offer a simple and less expensive alternative to those accounts approved by the regulatory authorities—the linked account. For savings and loans, the ability to offer checking accounts will substantially enhance their competitive position and help to attract and retain deposits.

Likewise, the bill would expand the powers of savings and loans to include consumer loans and investments in commercial paper and trust services. Savings and loans would also be able to make real estate loans on the same basis as national banks.

Other effects of other provisions in the bill will take several years to become effective. For example, the major change in the bill is the gradual removal of deposit interest rate controls during the next decade to allow depository institutions to adjust their asset and liability portfolios without serious disruption and, at the same time, end the economic discrimination which these controls inflict on small savers by artifically limiting their return.

Mr. President, many of the changes being made in this bill are dictated by the powerful forces that are at work in the financial services industry and in our economy. New technology, aggressive competition from depository and nondepository institutions, and increasingly rate sensitive consumers are requiring fundamental changes in our financial system. The mainstay of our financial system inherited from the 1930's—banks and thrifts institutions—have been severely strained by regulatory policies and statutes that are the products of a different era. New financial institutions are emerging, expanding, and in some cases, prospering because of outdated regulations. Credit unions, insurance companies, and exotic municipal bonds and money market funds enjoy ever-increasing popularity. But because the regulatory and statutory treatment of particular activities and institutions have not been derived from logic or rational planning, the efficiency of our overall financial system is impaired.

To date, comprehensive restructuring of the Nation's financial system has been frustrated. The substantial efforts made in recent years to expand competition, improve consumer services and stabilize the flow of housing funds have been stymied by the vociferous and well-organized opposition of one or more elements of the financial services industry. Whatever the legislative logjams encountered in the past, the painful lesson of inflation makes congressional action this year necessary, even urgent.

The sustained high interest rates we have been experiencing undermine the solvency and liquidity of depository institutions. As the administration's task force on deposit interest rate ceilings and housing credit concluded, interest rate ceilings have had only moderate success in sustaining the flow of funds into mortgage loans. At the same time, the small saver has been penalized severely. The efficiency of our entire financial system has suffered as a result.

Mr. President, it has been apparent for some years that our financial system must move in the direction of less regulation and more competition. While many of us in the Congress have recognized this, it took until this year, with raging inflation and the disto .tion it has produced among financial concerns, to convince many in the affected industries that our financial system is antiquated, increasingly unresponsive to the realities of current and future economic conditions, and that competitors, not subject to the same restrictions, were prospering at their expense. This year irate and well-organized consumers, backed by the administration, have stated an impressive case for deregulation of financial intermediaries.

With this coalition, it appears that we now stand at the threshold of major legislation that will eliminate unnecessary and outdated regulations that prevent depository institutions from competing effectively and operating efficiently; that will allow depository institutions to offer new services to the public and permit depositors to earn a rate of return that more clearly reflects prevailing market conditions; and that provides a more stable flow of funds to sectors of the economy that rely on depository institutions to meet their credit needs.

While I have supported financial reform each time it has been before the committee and the Senate, I have done so with some trepidation. That trepidation arises out of a concern a less regulated marketplace poses problems with the adequate flow of mortgage credit. While it is obvious that the system of deposit interest rate controls did not originate from a concern with housing finance, since 1966 and the passage of the Interest Rate Adjustment Act, the principal effect of controlling interest rate ceilings and the differential has been to compensate principal mortgage lenders—thrift institutions—for their lack of broad service and product powers to offer depositors. But even interest rate controls have not protected thrift institutions and housing credit, although they have had some beneficial effect in mitigating the severity of generally adverse economic conditions.

These rate ceilings, along with the differential, were supposed to assist thrifts to continue attracting the funds necessary to support the housing market. They were supposed to prevent excessive and destructive competition for deposits between commercial banks and thrift institutions. But the experience is clearly overwhelming that rate ceilings and the differential have not prevented a flow of savings to money market mutual funds and have proved to be an administrative nightmare because the rates available to small savers have been limited while rate controls have not been applied with equal force to large depositors.

Notwithstanding the attempt by the regulators to administer rate controls intelligently, the experience of 1973 to 1974 and 1978 to 1979 indicates that the ceilings breed disintermediation and that deposit interest rates that are responsive to market interest rates maintain the flow of funds to depository institutions. On the other hand, interest rate controls have not assured an adequate flow of relatively low-cost funds to housing.

As a result during each of these periods of disintermediation, new housing construction has fallen off markedly as a result of a loss of funds at thrift institutions, higher interest rates on residential mortgages, and higher interest costs resulting from inflation.

Mr. President, I indicated earlier that I had some reservations about the bill. My reservations are not directed at those parts of the bill which will expand competition, improve consumer services and strengthen the ability of financial institutions to adjust to changing economic conditions. I support these with confidence and have little doubt that they will be achieved by this legislation.

However, as was the case in 1975 in the Financial Institutions Act of that year, I am concerned that this bill may not result in any significant improvements in the flow of funds for mortgage credit. As chairman of the Housing Subcommittee, I believe that it is vital that any legislation dealing with our financial system should not jeopardize the basic soundness of the thrift industry or jeopardize it as an important supplier of mortgage funds. We must strengthen our depository institutions which this bill will do.

It is difficult to gage the net impact

of this bill on housing because of all the changes the bill would make in the current regulatory and competitive framework. It is impossible to predict precisely what effect this bill will have on housing credit. For example, broadening the powers of S. & L.'s to invest in assets other than residential mortgage loans, may adversely affect the current supply of mortgage credit. On the other hand, to the extent the bill enhances the ability of savings and loans to withstand the rigors of higher interest rates, it will permit them to attract deposits and remain in the mortgage market. And the increased deposit powers will enable them to attract additional funds. Hopefully, they will have a larger volume of lendable funds at their disposal so that they will be able to continue to provide money to the housing sector.

Mr. President, without interest rate ceilings and without the quarter-point differential which distinguish commercial banks from mortgage oriented thrift institutions, it is entirely possible that mortgage credit may suffer. It may suffer because the financial structure of savings and loans, the Nation's principal supplier of home mortgage loans will be paying much more for their raw product—money—and may be less willing to lock themselves into portfolios of long-term mortgages which carry fixed rates of interest or, judging from the reaction to the Fed's announcement 2 weeks ago, we may just reach the point where interest rates are so high that consumers just cannot afford to borrow the money in order to own a home.

Mr. President, there is nothing in the bill that comforts those of us concerned about the housing sector by creating new soruces of mortgage funds or stimulating the investment of substantial funds by other intermediaries into the housing sector. In 1975, for example, the financial institutions reform bill contained a mortgage tax credit provision designed to induce other lenders, including commercial banks, life insurance companies, and mutual savings banks to invest a greater percentage of their assets in home mortgage loans. But the bill before us today has one drawback. It is incomplete in this regard.

Mr. President, the Congress and the housing industry have searched diligently in the past two decades to find alternative ways to make mortgage credit less sensitive to changes in the deposit flows to savings institutions. Thus, the Federal Government's efforts to support the housing market is exemplified by federally related housing agencies, such as the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Farmers Home Administration, the Federal Home Loan Mortgage Corporation, the Veterans' Administration and others.

Despite these efforts, much more can be done. As chairman of the Subcommittee on Housing and Urban Affairs, it is my intent to explore new possibilities so that we can have a robust financial system as well as a healthy housing finance industry. In the future, along with the traditional mortgage lenders, new ideas, new participants, and new funds will be tapped to augment the flow of funds into housing.

For example, insurance companies and pension funds preside over huge resources that could be channeled into the housing sector almost immediately. Trust funds and pension funds are already reacting positively to Ginnie Mae pass-through securities. And the development of privately issued mortgage-backed securities hold still further promise for linking the mortgage and capital markets to expand the total supply of housing funds. New forms of marketable instruments must be designed to attract individual as well as institutional investors.

The genius and distribution network of Wall Street should be harnessed to raise additional private funds for housing purposes through the traditional capital markets.

But the need for mortgage funds will still not be met by either conventional lenders or Federal programs. Other sources of finance must be found.

Mr. President, as a result of the recent credit tightening by the Federal Reserve Board, we are almost assured of a severe drop in the Nation's housing activity next year and of serious problems for mortgage lending groups. In the Northeast, where housing activity has been sluggish for a while, continuing disintermediation may all but knock mortgage lenders out of the market in the future. For certain, we face further mortgage rate rises and credit availability problems.

Mr. President, these are hard and difficult times requiring innovative and creative solutions. In the months ahead, I will be looking to my colleagues and to organizations and agencies of Government for ways to cushion the shock the housing industry will experience for the foreseeable future. The bill before us is a reminder that the search for a national housing policy that affords adequate shelter to our people is a never-ending one.

Mr. President, with these thoughts I share with my colleagues, I am pleased to support H.R. 4986, the Depository Institutions Deregulation Act and I urge its prompt passage.

Mr. CRANSTON. Mr. President, while we are discussing the appropriations bill for the Department of Transportation and related agencies for fiscal year 1980, it is timely to bring up my great concern about air service in California. As you know, section 419 of the Airline Deregulation Act of 1978 mandates the Civil Aeronautics Board to make essential air service determinations for small communities. This bill provides $7 million to help small communities maintain a satisfactory level of air service as determined by the CAB.

The CAB has established essential air service guidelines for qualified small communities across the country at 160 seats in total daily arrivals and departures to and from designated hubs.

Some California communities, especially in the San Joaquin Valley, need far more service than 160 seats daily—a need which the carriers have not met. Kern County, the No. 1 oil producing and No. 2 agricultural county in my State, has gone through and is still experiencing a very difficult transition from major air carrier service to small commuter air carrier service. At one point under deregulation, Bakersfield, the county seat for Kern County, had no air service to San Francisco at all. We are speaking of a community with over a third of a million people. Prior to deregulation, the people of Kern County were accustomed to abundant and reliable service. They have every right to expect at least reliable and adequate service now. The 160 seat determination applied to Bakersfield demonstrates that the Board has not recognized the critical problems and needs in that area of California.

Bakersfield is only one example. The Board is currently assessing the essential air service needs of Stockton, Modesto, and Chico. The Board must do a much better job in facilitating the smoothest transition possible from major carrier service to adequate replacement service, and in evaluating California communities in terms of their individual needs, taking into account economic and geographic features.

As long as the Board remains so insensitive and unresponsive to the problems in California, I regret that I must have serious doubts about its ability to handle airline deregulation.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Vermont (Mr. LEAHY), the the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and

voting, the Senator from Vermont (Mr. LEAHY) and the Senator from Louisiana (Mr. LONG) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

I also announce that the Senator from California (Mr. HAYAKAWA) is absent on official business.

I further announce that the Senator from Oregon (Mr. HATFIELD) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Pennsylvania (Mr. HEINZ) would each vote "yea."

The PRESIDING OFFICER (Mr. PRYOR). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 9, as follows:

[Rollcall Vote No. 385 Leg.]

YEAS—76

Baucus	Garn	Percy
Bentsen	Hart	Proxmire
Biden	Hatch	Pryor
Boren	Heflin	Randolph
Boschwitz	Helms	Ribicoff
Bradley	Humphrey	Riegle
Bumpers	Inouye	Roth
Burdick	Jackson	Sarbanes
Byrd, Harry F., Jr.	Javits	Sasser
Byrd, Robert C.	Jepsen	Schmitt
Chafee	Johnston	Schweiker
Church	Kassebaum	Simpson
Cochran	Kennedy	Stafford
Cohen	Levin	Stevens
Cranston	Lugar	Stevenson
Culver	Magnuson	Stewart
Danforth	Mathias	Stone
DeConcini	Matsunaga	Tower
Dole	McGovern	Tsongas
Domenici	Melcher	Wallop
Durenberger	Metzenbaum	Warner
Durkin	Moynihan	Weicker
Eagleton	Muskie	Williams
Exon	Nelson	Young
Ford	Packwood	Zorinsky
	Pell	

NAYS—9

Armstrong	Laxalt	Nunn
Hollings	McClure	Stennis
Huddleston	Morgan	Thurmond

NOT VOTING—15

Baker	Glenn	Heinz
Bayh	Goldwater	Leahy
Bellmon	Gravel	Long
Cannon	Hatfield	Pressler
Chiles	Hayakawa	Talmadge

So the bill (H.R. 4986), as amended, was passed.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. LONG. Mr. President, I regret that I was necessarily absent from the last vote. If present, I would have voted "aye."

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, if I could have just a moment, I want to express my appreciation to the chairman and to my colleagues and the majority leader for being so patient and tolerant with us for the last 2 weeks as we discussed this very complex bill.

I did not begin the debate with any illusions that I would be successful. But I did want to discuss it fully and completely on account of what I considered its consequences.

I think it has been discussed and the Senate has worked its will. I accept that.

I do want to express my appreciation, Mr. President, to my staff assistant, Everett Engstrom, who has done an outstanding job on this very complicated and complex piece of legislation.

He has been of great assistance to me. He has helped me understand provisions that were difficult for me to understand.

I wanted that to be on the record.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from North Carolina. I have been handling bills now for the last 4 or 5 years, since I have been chairman of the Banking Committee. I cannot recall any occasion on which one Senator has been as outstanding as the Senator from North Carolina has been on this bill.

Consistently, he has focused on the most important elements of the bill, debated them with great intelligence and perception.

I disagreed with him on many of his proposals on this bill, but I think he greatly enlightened the Senate, and made it a very much better piece of legislation because of his understanding and contribution.

I congratulate him on making what I think is one of the finest contributions I have seen since I have been in the Senate on legislation of this kind, a Senator simply speaking from the floor and offering amendments.

Mr. MORGAN. I thank my distinguished colleague very much.

Mr. ROBERT C. BYRD. Mr. President, I want to express appreciation to Mr. PROXMIRE, to Mr. GARN, to Mr. MORGAN, and to all Senators, for the fine way in which the management of the bill just passed has been conducted.

I especially want to thank Mr. PROXMIRE and Mr. GARN because from time to time we were able to set the bill aside, in cooperation and understanding, and take up other matters. They were always most considerate in that regard.

I commend them for the good work that has been done.

Mr. PROXMIRE. Will the Senator yield for 1 minute?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. Mr. President, I would like to state that Mr. GARN and Mr. TOWER both comanaged the bill on the Republican side. They both did, I think, an outstanding job. They were extremely cooperative and made it a much stronger bill because of their support and their understanding.

Mr. ROBERT C. BYRD. Mr. President, I wish to include Mr. TOWER, also.

I commend Mr. MORGAN for the fine way in which he conducted his efforts in regard to the various amendments he called up. He was most cooperative with respect to time. He was opposed in many ways to the bill, but he sought to deal with it and correct it as he could, and he made excellent presentations of amendments. I believe he was successful in some instances. He is to be commended.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. ROBERT C. BYRD. Yes

Mr. STEVENS. I thank the Senator from Wisconsin for his kind remarks concerning Mr. GARN and Mr. TOWER.

Mr. TOWER asked me to commend Dan Wall of our committee staff, the Committee on Financial Institutions, for his continued efforts on this bill, also.

I thank the Senator.

ORDER FOR CONSIDERATION OF S. 932 ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday after the completion of routine morning business, the Senate proceed to the consideration of S. 932, and that when the Senate does proceed to the consideration of the message from the House of Representatives on S. 932, the amendment in the nature of a substitute reported by the Committee on Energy and Natural Resources as a substitute for the House substitute for the Senate bill be considered, as agreed to, as original text for the purpose of further amendment, and that the amendment in the nature of a substitute reported by the Committee on Banking, Housing, and Urban Affairs for the House substitute for the Senate bill be considered as a substitute for the amendment in the nature of a substitute from the Committee on Energy and Natural Resources.

Provided further that the Senator from Wisconsin (Mr. PROXMIRE) be recognized to call up as the first floor amendment title I of the Banking Committee substitute as reported (as an amendment to title I of the Energy Committee substitute) and that this amendment be voted on before any other amendments or motions relative to the bill can be made.

Ordered further, that if the Proxmire amendment is adopted, it will be treated as original text for purposes of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

Mr. President, I wish to express appreciation to Mr. PROXMIRE, Mr. JACKSON, Mr. MCCLURE, Mr. DOMENICI, the minority leader, the acting minority leader, and Messrs. WEICKER, WALLOP, HEINZ, HART, and TSONGAS, for their cooperation in securing the time agreement.

I also want to thank Mary Jane Checchi, the very able chief counsel and staff director of the Democratic Policy Committee, and Mr. Bill Hildenbrand, for their fine cooperation in the work that all have done in securing the unanimous-consent order.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of

Calendar orders numbered 413, 414, 415, 416, and 417.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished acting Republican leader has no objection, I ask unanimous consent that the various measures be considered and adopted en bloc. I see no amendment pending to any of them, and that the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, reserving the right to object, I have no objection, but I would like to ask unanimous consent that as these matters appear in the RECORD, that statements of Senators who have requested to have their statements presented at the time the bill is considered be printed prior to the passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESSIONAL AWARD ACT

The bill (H.R. 2196) to establish a Congressional Award Board to administer a congressional award program designed to encourage initiative and achievement among youths, was considered, ordered to a third reading, read the third time, and passed.

FRANCES PERKINS DEPARTMENT OF LABOR BUILDING

The bill (S. 1655) to designate the building known as the Department of Labor Building in Washington, D.C., as the "Frances Perkins Department of Labor Building," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 200 Constitution Avenue, Northwest, in Washington, District of Columbia (commonly known as the Department of Labor Building) shall hereafter be known and designated as the "Frances Perkins Department of Labor Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Frances Perkins Department of Labor Building".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-388), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

In February 1933, President-elect Franklin Delano Roosevelt asked Frances Perkins to become Secretary of Labor. She was chairman of the New York State Industrial Board when Roosevelt became Governor of New York in 1928 and he appointed her commissioner of the New York State Industrial Commission.

The Nation was paralyzed in the grip of the Great Depression, industrial output was severely curtailed, and the country's workforce hobbled under the weight of unemployment, poverty and hunger. The post Frances Perkins was asked to fill would be one of the most critical in the Government's mobilization to pull the country from its economic quagmire.

Madam Perkins (as she was always called) was apprehensive at first. She said later that she contemplated the magnitude of the responsibilities the President was asking her to accept and the resistance she might receive as the first woman cabinet member. Then, typically, she accepted the offer.

Once in office, she moved with stunning speed to secure reforms that would ease the immediate suffering of the labor force and lay the groundwork for a more secure and prosperous workforce in the future. Social Security insurance, unemployment compensation, minimum wage legislation, and child labor regulations were among her accomplishments.

W. Willard Wirtz, Secretary of Labor under Presidents John F. Kennedy and Lyndon B. Johnson, learning of her death in 1965, said:

"Every man and woman in America who works at a living wage, under safe conditions, for reasonable hours, or who is protected by unemployment insurance or social security is her debtor."

Madame Perkins occupied the office of Secretary of Labor from 1933 to 1945. From 1945 to 1953, she served as a Civil Service Commissioner. During her public service career, she authored several books: "Women as Employers," "A Social Experiment Under the Workmen's Compensation Jurisdiction," "People at Work" and "The Roosevelt I Knew."

Designating the Department of Labor Building as the "Frances Perkins Department of Labor Building" is one small way to demonstrate the country's gratitude to her and to remind those who continue her work to follow the example of compassion and achievement that she set.

HENRY D. PARKINSON FEDERAL BUILDING

The bill (S. 1491) to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building," was considered.

● Mr. DOLE. Mr. President, the Senator from Kansas is extremely pleased at the prompt consideration the Senate Environment and Public Works Committee has given this legislation to designate the Federal Building in Scott City, Kans., as the "Henry D. Parkinson Federal Building." I urge the House to act with the same haste so that this fitting tribute may be signed by the President before the end of the year.

Renaming this local Federal building in honor of Mr. Parkinson is particularly appropriate, because he contributed so much time and effort in bringing this building to Scott City.

This proposal has the enthusiastic support of all Scott City residents. The mayor of Scott City, the Honorable E. S. Gene Henderson, and over 15 leading civic organizations have endorsed resolutions to name the building for Mr. Parkinson. Mr. Parkinson's influence in the development of this community is deeply appreciated. He worked unselfishly in local, State, and national affairs, and truly loved this country and the principles under which it was founded.

Born at Wellsville, Utah, on September 5, 1907, his active career in agriculture, banking, and politics spanned over four decades. At his death in Wichita, Kans., on June 25, 1977, he had lived a full and productive life.

Mr. Parkinson, who had been a resident of Scott City since 1925, was owner of the Burnett-Parkinson feedlot at his farm near Scott City. He was founder, president, and chairman of the board of directors of the Security State Bank of Scott City. He was a member of the Garden National Bank Board of Directors in Wichita, Kans., the Kansas Bankers Association, and the Kansas and National Livestock Associations. Mr. Parkinson was a past member of the Anthem Masonic Lodge 284, KCCH degree, Scott County Shrine Club, the Wichita Consistory, and ISIS Temple of Salina, Kans.

In addition to his interests in agriculture, banking, and civic affairs, Mr. Parkinson was active in politics. His race for Congress in 1948 and his primary campaign for the office of Governor in 1952 were the highlights of his interest in public life.

Henry Parkinson's voice was heard and respected in the highest councils of fraternal, business, agricultural, and political affairs and his advice was sought by many.

Honoring Mr. Parkinson in this manner will do much to encourage others to pursue the principles of community commitment, sound conservation of our agriculture resources, and responsible business practices he represented. I join with the overwhelming majority of the citizens of Scott City in stating that there can be no more deserving recognition than to give this building his name.

The junior Senator from Kansas and I urge the Senate to approve this legislation today. Henry D. Parkinson meets all of the criteria for such an honor. This legislation has the support of the entire Kansas congressional delegation. Most importantly, naming the Federal building for him will recognize his many contributions to Scott City and the State of Kansas.●

● Mrs. KASSEBAUM. Mr. President, we consider today the passage of legislation to designate the Federal building in Scott City, Kans., as the Henry D. Parkinson Federal Building. I am pleased to have cosponsored this legislation with my senior colleague, Senator DOLE.

Renaming the Federal building in honor of Henry Parkinson is a congressional action which enjoys the wholehearted support of the nearly 4,900 residents of Scott City.

In introducing this legislation Senator DOLE outlined the distinguished career of Henry Parkinson in Scott City. As a businessman, civil leader, politician, and local philanthropist, Mr. Parkinson earned the admiration and devotion of his neighbors. He typified the best qualities of the Kansas, indeed, the national character. Unfailingly, Henry Parkinson was a man unselfishly devoted to his community and neighbors. Since his death in 1977, at the age of 70, Henry Parkinson continues to be remembered as a man of generous concern for his city, State, and Nation.

The Environment and Public Works Committee moved quickly to report this

bill to the Senate. Such prompt action on this bill underlines the propriety of the honor Henry D. Parkinson deserves. I urge my colleagues to act with due dispatch and favorable consideration of this bill.●

● Mr. BUMPERS. Mr. President, I rise to support S. 1491, a bill introduced by Senators DOLE and KASSEBAUM to name the Federal building in Scott City, Kans., after the late Henry D. Parkinson.

I met Mr. Parkinson only once, when he and his wife stopped by my office during the inauguration of President Carter in January 1977. Since that time, however, I believe I have come to know Mr. Parkinson well through conversations with members of his family and by reading a biography prepared by his personal friends who were particularly interested in naming the Federal building in his hometown after this man. Let me conclude my remarks by briefly citing the final paragraph of this biography:

Mr. Parkinson's whole adult life was dedicated first to his family, second to conservation and development of renewable resources in the area of agriculture, to responsible economic growth in the business community, to sustained personal involvement in civic affairs, and to efficient government programs and administration. He was a courageous, sensitive man well known not only to the community in which he lived, but to the state he came to love. He was a vital and vibrant person, who believed in his community and his Nation and who carried out a most traditional and basic, yet rarely practiced teaching of Jesus Christ: He was the keeper of his brothers. Throughout his life he gave of his talents to improve the lot of others—the living and the yet-to-be-born generations who may hardly know that they are able to grow enough food on this small planet because visionaries like Henry D. Parkinson taught their fathers how.●

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 211 Main Street, in Scott Cty, Kansas (commonly known as the Federal Building) shall hereafter be known and designated as the "Henry D. Parkinson Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the Henry D. Parkinson Federal Building.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–389), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

COMMITTEE STATEMENT

Henry D. Parkinson was born at Wellsville, Utah, on September 5, 1907, and led an active career in agriculture, banking and politics. He died in Wichita, Kans., on June 25, 1977, after a full and productive life.

Mr. Parkinson, who had been a resident of Scott City since 1925, was owner of the Burnett-Parkinson feedlot at his farm near Scott City. He was founder, president and chairman of the board of directors of the Security State Bank of Scott City. He was a member of the Garden National Bank Board of Directors in Wichita, Kans., the Kansas Bankers Association, and the Kansas and National Livestock Associations. Mr. Parkinson was a past member of the Anthem Masonic Lodge 284, KCCH degree, Scott County Shrine Club, the Wichita Consistory, and Isis Temple of Salina, Kans.

In addition to his interests in agriculture, banking, and civic affairs, Mr. Parkinson was active in politics. His race for Congress in 1948 and his primary campaign for the office of Governor in 1952 were the highlights of his interest in public life.

Henry Parkinson's voice was heard and respected in the highest councils of fraternal, business, agricultural, and political affairs and his advice was sought by many.

Honoring Mr. Parkinson, as proposed by the mayor and citizens of Scott City and both of the distinguished Senators from Kansas, will do much to encourage others to pursue principles for which he stood: community commitment, sound conservation of our agriculture resources, and responsible business practices. Renaming this Federal building in honor of Mr. Parkinson is particularly appropriate, because he contributed much time and effort in bringing this building to Scott City.

KENNETH B. KEATING BUILDING

The bill (S. 1535) to name a certain Federal building in Rochester, N.Y., the "Kenneth B. Keating Building," was considered.

● Mr. JAVITS. Mr. President, I am pleased today that the Senate is acting on legislation introduced by my colleague, Senator MOYNIHAN, and myself, to name the Federal building in Rochester, N.Y., after former Senator Kenneth B. Keating. Companion legislation has been introduced in the House by Congressmen SAMUEL S. STRATTON, JOHN W. WYDLER, BARBER CONABLE, JR., and FRANK HORTON, and I am advised that the House bill will be considered shortly by the House of Representatives.

Mr. President, Kenneth Keating has been one of this Nation's ablest and most distinguished public servants in the last quarter century. It is most fitting that Congress enact this legislation honoring the late Kenneth Keating in the city that was his home.

Honored military leader, resourceful legislator in both Houses of Congress, distinguished jurist and talented ambassador are the distinctions and estimable accomplishments of Ken Keating. Few people have served this Nation in more ways or with greater distinction. Having worked alongside him in both the House and the Senate, I knew him as a close personal friend and an esteemed colleague. His work is a remarkable record of public service.

Entering the Army as an enlisted man in World War I, he served his country also in World War II and had risen to the rank of brigadier general by the time the war had ended. He spent six terms in the House, representing western New York and the Rochester area, before his election to the Senate in 1958. He was one of the great spokesmen for the 1964 Civil Rights Act. When he was defeated in his bid for a second Senate term, instead of settling back in the well-earned glow of a distinguished congressional career, Ken Keating continued tirelessly to devote his life to the public good.

He ran for and was elected to an associate judgeship on the New York Court of Appeals, the State's highest tribunal and one of this land's most respected State courts. Returning to the national service in 1969, he was named Ambassador to India and represented the United States during the tension-filled Indo-Pakistani conflict over Bangladesh. As a capstone to his career, he became envoy to Israel, helping to steer our course during the 1973 Yom Kippur War. His service to Israel for the United States was a source of security and reassurance to Israel's people.

Mr. President, the Federal building in Rochester should be named for Kenneth Keating. He was one of western New York's most revered citizens. A distinguished Rochester attorney in the years prior to World War II, he could not walk through the city's downtown without being greeted by everyone. His lively spirit and outgoing character, his sound judgment and heartfelt concern made him a friend of all who had contact with him. And it was from Rochester that he was sent to Congress and from which his national career began.

In recognition of his unparalleled service to his State and country, and his undiminished vigor in working in the people's behalf, we memorialize Kenneth B. Keating by naming the Federal building in Rochester the Kenneth B. Keating Federal Building.●

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building located at 100 State Street, Rochester, New York, shall hereinafter be known as, and is hereby designated as, the "Kenneth B. Keating Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such a building shall be considered to be a reference to the Kenneth B. Keating Building.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–390), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COMMITTEE STATEMENT

Honored military leader, resourceful legislator in both Houses of Congress, distinguished jurist and talented ambassador, Kenneth B. Keating served with great distinction in all of these fields. His is a remarkable record of public service.

He entered the Army as an enlisted man in World War I, again served his country in World War II, and rose to the rank of brigadier general by the end of the war. He was elected to six terms in the House representing western New York and the Rochester area, before his election to the Senate in 1958. He was one of the great spokesmen for the 1964 Civil Rights Act. When he was defeated in his bid for a second Senate term, instead of settling back in the well-earned glow of a distinguished congressional career, Ken Keating continued to devote his life to the public good.

He was elected to an associate judgeship on the New York Court of Appeals, the State's highest tribunal. Returning to national service in 1969, he was named Ambassador to India and represented the United States during the tension-filled Indo-Pakistani conflict over Bangladesh. As a capstone to his career, he became envoy to Israel, helping to steer our course during the Yom Kippur war.

Naming this Federal building after Kenneth Keating would be an appropriate tribute to a great statesman.

J. CALEB BOGGS BUILDING

The bill (S. 1686) to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building," was considered.

● Mr. ROTH. Mr. President, it is with the greatest pleasure I rise in support of this bill I have introduced to designate a Federal office building in Wilmington, Del., as the J. Caleb Boggs Building, in honor of a public servant of the highest renown and without peer in his dedication to public service.

As a long time friend and admirer of the Honorable James Caleb Boggs, distinguished Senator and Member of Congress from Delaware, I am honored to speak of his distinguished public service which has covered more than four decades as well as every level and every branch of Government.

If ever there can be said to have been a man worthy of the honor here involved, it would have to be Senator Boggs whose political performance rendered him outstanding in every conceivable respect.

Born on a farm in Kent County, Del., in 1909, and initially educated in the Delaware public school system, he did his undergraduate work at the University of Delaware and obtained his law degree at Georgetown in Washington, D.C. Entering the law profession in his native State, he attracted wide attention through his considerable abilities and soon was appointed judge of the family court of New Castle County.

In the meantime, Judge Boggs had enlisted in the Delaware National Guard as a private, and later, obtained a commission with which he entered World War II. Assigned to the European theater, he engaged in five campaigns, acquiring through frequent displays of courage and military capacity, the Legion of Merit, the Bronze Star with cluster and the Croix de Guerre with Palm. Upon his discharge from the service at the close of hostilities, he obtained the Republican nomination for an at large seat in the 80th Congress, and was handsomely elected. In the famous battles between President Truman and the 80th Congress, Representative Boggs declared for economy in Government and fought the President tooth and nail, through the election of 1948.

Although Truman was the winner in that contest, at the national level, Representative Boggs carried his district once again with a magnificent majority. He was once more reelected in 1950, and in 1952 won the Governorship in the same year that Dwight D. Eisenhower was elected President.

As Governor, J. Caleb Boggs revealed an executive ability unmatched throughout the country, in my humble opinion. Careful with State finances, yet imbued at all times with a full recognition of the needs of the people he expended what funds needed expending, without extravagance and to the overwhelming satisfaction of the voters. When he stood for reelection in 1956 he was returned to office with a sizable majority. In 1957, he was elected chairman of the National Governors' Conference, and in 1960, served with distinction as president of the Council of State Governments.

At the close of his second term in the statehouse, Governor Boggs was offered and accepted the 1960 Republican nomination for U.S. Senator. He was once again elected, and when he sought a second Senate term in 1966, he was once again successful. In the Senate, he served with high capacity and wide recognition as a member of the Committees on Appropriations, Public Works, and Post Office and Civil Service.

The record established by this remarkable son of Delaware was one of outstanding performance, worthy of the greatest praise. On all problems brought to his attention he performed in the manner of the finest kind of legislator, responding with alacrity and always with that same resourcefulness which never seemed to fail him.

In his 12 years in the Senate and in his many years in public life in general, J. Caleb Boggs revealed himself as one man in a million, a true and earnest friend of the people. Throughout his career, he was helped by his lovely wife, who is known for her charm and graciousness. I know of no Delaware couple in public life more widely respected and admired.

It is highly appropriate that he be honored as this measure seeks to honor him today, and for that reason, I am pleased to stand to urge swift passage of S. 1686, a bill to name a Federal building after the Honorable J. Caleb Boggs, former U.S. Senator from Delaware.●

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 844 King Street, Wilmington, Delaware (commonly known as the Federal Building) shall hereafter be known and designated as the "J. Caleb Boggs Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "J. Caleb Boggs Building".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–391), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COMMITTEE STATEMENT

For 12 years, J. Caleb Boggs served as a distinguished Member of the U.S. Senate and as a member of the Senate's Committee on Public Works. During this membership on the Committee on Public Works, Senator Boggs worked actively and successfully for the construction of a new Federal office building in downtown Wilmington, Del. It is, therefore, appropriate that this building be named in honor of this distinguished public servant.

"Cale" Boggs was born May 15, 1909, on a farm in Cheswold, Del., one of four sons of Edgar and Lettie Boggs. Mr. Boggs began his long career of public service soon after he graduated from the University of Delaware in 1931. Mr. Boggs and his wife, the former Elizabeth Muir, moved to Washington so he could attend the Georgetown University Law School, from which he graduated in 1937. During his studies in Washington, Mr. Boggs served on the staff of the Senate Committee on Contingent Expenses and in the office of Senator John G. Townsend of Delaware.

After receiving his law degree, Mr. Boggs returned to Delaware, where he passed the bar in 1938. He practiced law in Dover and Wilmington until 1941. Mr. Boggs, who had joined the Delaware National Guard as a private in 1926, was called to active military service in February 1941. During World War II, he served in five European campaigns, including the invasion of Normandy and the battle of the Ardennes. He won a variety of medals, including the Legion of Merit, Bronze Star with Cluster, and the Croix de Guerre. He retired from active duty early in 1946, with rank of colonel.

Upon his return to Delaware, Mr. Boggs was appointed as deputy judge of the Family Court of New Castle County. He won Delaware's at-large seat in the U.S. House of Representatives in November 1946, initiating a distinguished career of 26 years holding statewide office. He was reelected to the House in 1948 and 1950. Representative Boggs served on the House Judiciary Committee and the Committee on Expenditures in the Executive Departments, the committee which developed legislation to establish the Department of Defense and the Central Intelligence Agency.

In 1952, Representative Boggs ran for Governor of Delaware. He won, and was reelected in 1956. The Boggs administration was particularly interested in matters involving health, education, and parks and recreation.

He initiated the Nation's first statewide polio innoculation program, strengthened the State's education system, at the elementary, secondary, and college levels, and helped to initiate the Delaware River Basin Authority. He led the State of Delaware when the State's schools were desegregated without violence. During his term as Governor, he served as chairman of the National Governors Conference in 1959 and as president of the Council of State Governments in 1960.

In 1960, Governor Boggs won election to the U.S. Senate, and was reelected in 1966. Election to the Senate made him one of a handful of individuals who have served in both bodies of the Congress, as well as holding the office of Governor.

During Senator Boggs' service on the Committee on Public Works he was the ranking Republican on the Air and Water Pollution Subcommittee, working as a strong advocate for the control of air, water, and solid waste pollution. He also had a strong interest in the interstate highway program.

While in the Senate, he also served on the Post Office and Civil Service Committee and the Committee on Agriculture, which he later dropped in order to become a member of the Appropriations Committee. He also served as a member of the Joint Committee on Organization of the Congress.

Senator Boggs failed to win reelection to the Senate in 1972. He returned to Delaware to join the Wilmington law firm of Bayard, Brill, & Handelman as of counsel. Since his retirement from the Senate, Senator Boggs has been a president of the Former Members of Congress, a director of

the Delaware Safety Council, the Artisans Savings Banks, RLC Corp., the Delaware Opportunities Industrialization Center, the Greater Wilmington Development Council, and the Delaware Chapter of the Arthritis Foundation. He serves as a trustee of the Wilmington Medical Center and Freedoms Foundation, and as president of the Delaware 4-H Foundation.

PASSENGER SHIP INDUSTRY REVITALIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1281.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1281) entitled "An Act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the vessels steamship United States, steamship Oceanic Independence, and steamship Santa Rosa into the trade", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), and any other provision of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel Oceanic Independence (official Coast Guard numbered 261147) and the vessel steamship Santa Rosa (official Coast Guard numbered 276598) to be documented as vessels of the United States entitled to engage in the coastwise trade, so long as—

(1) in the case of the Oceanic Independence—

(A) the vessel is in compliance with all other requirements for vessels engaging in the coastwise trade.

(B) any rebuilding of the vessel or repair work constituting a rebuilding, accomplished after enactment of this Act, shall be effected within the United States, its territories (not including trust territories), or its possessions, except that the vessel shall not lose its coastwise privileges by reason of having work necessary to install bow thrusters in the vessel and to equip it with a marine sewer sanitation system performed outside the United States, its territories (not including the trust territories) or its possessions before the vessel engages in the coastwise trade following enactment of this Act,

(C) the vessel is owned by a citizen or citizens of the United States as defined in the applicable laws prescribing the qualifications for vessels to engage in the coastwise trade, and

(D) for hire carriage in such trade is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful.

(2) in the case of the steamship Santa Rosa—

(A) prior to such documentation the owner of the steamship Santa Rosa repays to the Secretary of Commerce, upon such terms and conditions as the Secretary may prescribe, an amount which bears the same proportion to the total construction differential subsidy paid for such vessel as the remaining economic life of the vessel computed from the date of documentation bears to the total economic life of the vessel, and

(B) for hire carriage in such trade is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful.

SEC. 2. Section 2 of Public Law 92-296 (86 Stat. 140), as amended by Public Law 94-536 (90 Stat. 2497), is further amended by inserting after the words "American flag" the following: "in the coastwise and/or foreign commerce of the United States and/or between foreign ports notwithstanding the provision of section 506 of the Merchant Marine Act, 1936: *Provided*, That for hire carriage in coastwise commerce of the United States is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any single coastwise trade: *Provided further*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful,".

SEC. 3. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), and any other provision of law or of prior contract with the United States, the steamship Mariposa and the steamship Monterey, may, subject to the approval of the Secretary of Commerce, be allowed to remain under the American flag and operate totally in both the coastwise and foreign commerce of the United States and/or between foreign ports: *Provided*, That for hire carriage in the domestic commerce of the United States is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any single coastwise trade: *Provided further*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful. In the event the operator should elect to transfer either or both vessels to foreign flag operation, nothing in this Act shall be construed as permitting these vessels in such circumstances to have any rights or ability whatsoever to operate in the United States coastwise trades.

Amend the title so as to read: "An Act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel United States, steamship vessel Oceanic Independence, steamship vessel Santa Rosa, and the steamship vessels Mariposa and Monterey into the trade."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF AGRICULTURAL ADJUSTMENT ACT OF 1938

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 998.

The PRESIDING OFFICER laid before the Senate H.R. 998, an act to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 312 INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 312, the companion measure, Calendar No. 398, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOHN W. WOOD, JR., BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1728.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1728) entitled "An Act to designate the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, as the 'John H. Wood, Jr., Federal Courthouse'", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That the Federal Building located at 727 East Durango, San Antonio, Texas, shall hereinafter be called and designated as the "John H. Wood, Jr., Building". Any reference in law, map, regulation, document, record, or other paper of United States to such building shall be held to be a reference to the John H. Wood, Jr., Building.

Amend the title so as to read: "An Act to designate the Federal Building located at 727 East Durango, San Antonio, Texas, as the 'John H. Wood, Jr., Building'.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

AUTHORITY FOR COMMITTEE ON THE BUDGET TO FILE A CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Budget have until 9 p.m. this evening to file a conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST FOR AUTHORITY FOR COMMITTEE TO MEET

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations may be permitted to meet during the session of the Senate tomorrow, to continue its markup of the SALT II treaty.

Mr. STEVENS. I am compelled to object. I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. The Senator objects under duress.

MIGRATION AND REFUGEE ASSISTANCE

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay down the business under the order.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1668, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1668) to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981.

The Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with amendments as follows:

On page 2, beginning with line 1, strike through and including line 2;

On page 3, line 3, strike "Section" and insert "That section";

On page 2, beginning with line 11, insert the following:

SEC. 2. Section 610(a) of the Foreign Assistance Act of 1961 is amended by striking the period at the end thereof and inserting the following: "except that for the purpose of providing food, medicine, and other humanitarian assistance to the people of Cambodia up to $30,000,000 may be transferred to, and consolidated with, the funds made available for section 491.".

So as to make the bill read:

S. 1668

Be it enacted in the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(a)(4) of H.R. 3363 and section 101(a)(4) of the Senate amendment thereto (Foreign Relations Authorization Act, Fiscal Years 1980 and 1981) are amended for fiscal year 1980 by striking out "$243,951,000" and inserting in lieu thereof "$456,241,000" and for fiscal year 1981 by striking out "$254,188,000" and inserting in lieu thereof "$457,798,000".

SEC. 2. Section 610(a) of the Foreign Assistance Act of 1961 is amended by striking the period at the end thereof and inserting the following: "except that for the purpose of providing food, medicine, and other humanitarian assistance to the people of Cambodia up to $30,000,000 may be transferred to, and consolidated with, the funds made available for section 491.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged against this bill today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders for the recognition of Senators on tomorrow, the Senate resume consideration of the refugee assistance bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator from Wisconsin for his patience, and I yield the floor.

CHRYSLER CORP. LOAN

Mr. PROXMIRE. Mr. President, earlier today, I issued a press release announcing that the Senate Committee on Banking, Housing, and Urban Affairs would begin hearings on the Chrysler legislation on November 19; that is 2 weeks from Monday. Since then, I have had conversations with the distinguished Senator from Michigan (Mr. RIEGLE), who is anxious that we start hearings earlier.

Although I am awaiting detailed information from the Treasury—and it is detailed, because this is an enormous guarantee we are providing for the Chrysler Corp.; $1.5 billion at least has been requested—and I think we should have the information before the hearing, I have agreed to set the date of the hearing as November 14, 2 weeks from today.

I am going to urge the Treasury to try to get their information to us before that date, so that we will have it before the hearings begin.

I assure the Senate that the committee will sit in session to hold hearings on the Chrysler situation until we finish it. We hope to be able to do it within 1 week, and then we will mark up the measure promptly after that and bring it to the floor as quickly as possible.

I am very much opposed to this legislation, but I recognize the facts of life. I think there is a juggernaut behind it, and I anticipate that it will be before the Senate shortly.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. ROBERT C. BYRD. I express appreciation on the part of the leadership to the Senator for agreeing to conduct hearings on the 14th rather than waiting until the 19th. Senator RIEGLE, I am sure, is pleased at the decision by the distinguished chairman of the committee.

I add my personal expression of gratitude. If the Senator can use my help, I will be glad to offer my assistance. I do not think he will need my help.

Mr. PROXMIRE. I may need the majority leader's help, and I will call on him if we think it is necessary.

FROM CONSTITUTIONAL RIGHTS TO HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, Louis Henkin, a Hamilton Fish professor of international law at Columbia University, published an article in the summer 1978, issue of the Harvard Civil Rights-Civil Liberties Law Review. Professor Henkin's essay contains many interesting arguments, some of which I will mention in the next few days. Today, however, I would like to talk about a concept most succinctly described by the title of his article, "Constitutional Rights and Human Rights."

Professor Henkin's analysis of the relationship between the rights enumerated in our Constitution and the rights laid out in international human rights conventions, reveals a true understanding of the issues. He convincingly explains that constitutional and human rights are closely related and have too often been separated into areas of solely domestic or international concern.

Historically, the United States has taken a leading role in defining the rights of individuals, whether as American citizens or as members of the world community. Our faith in the individual crosses national boundaries, as Professor Henkin explains in the following passage,

> Americans were prominent among the architects and builders of international human rights, and American Constitutionalism was a major inspiration and model for their creation.

Unfortunately, Mr. President, the United States has faltered in its efforts to defend human rights. We have failed to protect the most fundamental right—the right to live. We have failed to ratify the Genocide Convention.

In 1970, before the Senate Committee on Foreign Relations, I testified in defense of the Genocide Convention. I explained my belief that our own Declaration of Independence, our own Constitution, represented America's commitment to human rights.

I ask again, let us fulfill our commitment. I urge my colleagues to swiftly ratify the Genocide Treaty.

MAMIE DOUD EISENHOWER

Mr. MOYNIHAN. Mr. President, the world mourns today, and the Senate is saddened by, the death of Mamie Doud Eisenhower at age 82 in Walter Reed Army Hospital in the early hours of this morning.

At the same moment we extend our consolation to her son, Maj. John Eisenhower, and his beautiful wife, to her grandchildren Dwight David, Susan, Barbara, and to Mary Jean, and to tell them all that their mother and grandmother and her husband of more than half a century, of 53 years of marriage, are a memory and a legacy beyond value to our people and to this Republic.

ACQUISITION OF EISENHOWER COLLEGE BY THE ROCHESTER INSTITUTE OF TECHNOLOGY

Mr. MOYNIHAN. Mr. President, I think, I believe it to be the case, that President Eisenhower before he died took special satisfaction in two institutions which have been named for him, the first, the Eisenhower Library in Abilene, Kans., and second, and, perhaps, equally, the Eisenhower College which had been founded in Seneca Falls on the west shore of Cayuga Lake in New York, named for him and founded for him as a reflection of the affection and unparalleled esteem in which he was held by the people of our State and of this Nation.

Most recently, Eisenhower College has

merged with the Rochester Institute of Technology and will now become a special campus of that old and honored institution and will continue as the college founded in his memory and in emulation of what he has stood for in the American Republic and in the world of free nations.

The Congress of the United States salutes the Rochester Institute of Technology (RIT) of New York on its recent acquisition of Eisenhower College, the national memorial of our 34th President, Dwight David Eisenhower.

RIT's pioneering spirit over 150 years of commitment to quality career education has led the institute to a position of leadership in technical and processional education.

The acquisition of Eisenhower College as the 10th college of RIT will add a new dimension to the institute's career programs. In turn, Eisenhower College will be enhanced through its relationship with an institution characterized by sound fiscal management and continuing enrollment growth. By incorporating Eisenhower's programs into RIT's career programs, the institute plans to preserve those elements which appropriately complement RIT's mission in technology.

RIT plans to increase Eisenhower's enrollment from its current level of 550 full time students to 800 students by 1981.

Eisenhower College, with its world studies focus, will continue as a significant national educational resource and an important living memorial to General Eisenhower. In recent years, Eisenhower College has become recognized for its innovative undergraduate programs in international education built around its unique world studies program. In anticipating future difficulties in its financial situation caused by inflation and a declining enrollment pool in the eighties, Eisenhower College looked favorably upon the opportunity to join RIT. The 286-acre Eisenhower campus located in Seneca Falls on the west shore of Cayuga Lake in the heart of the Finger Lakes region of upstate New York, is an important educational resource that this Nation must maintain.

Susan Eisenhower, granddaughter of the late President and a member of the Eisenhower College board, said, "This is a great opportunity for Eisenhower College to join an outstanding university with 150 years of career development programs. I am sure my grandfather would welcome this action."

RIT officials and faculty are excited with the potential for complementing its historic technological emphasis with Eisenhower's liberal arts-oriented world studies curricula.

In an era of rapidly changing technology, this country can be proud of RIT as it celebrates 150 years of commitment to quality career education.

MILWAUKEE RAILROAD RESTRUCTURING ACT

Mr. MELCHER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1905.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad and for other purposes.

(The amendments of the House are printed in the RECORD of October 30, 1979, beginning at page H9933.)

Mr. MELCHER. Mr. President, I move that the Senate disagree to the amendments of the House on S. 1905 and ask for a conference with the House on the disagreeing votes of the two houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. TSONGAS) appointed Mr. MAGNUSON, Mr. LONG, and Mr. PACKWOOD conferees on the part of the Senate.

STUART M. STATLER

Mr. PERCY. Mr. President, I was enormously pleased that on July 26, 1979 the Senate confirmed the nomination of Stuart M. Statler to be a Commissioner of the Consumer Product Safety Commission. Stuart Statler had been a trusted adviser and valuable counselor of mine since March 1971, and had served for the last 6 years as the chief counsel to the minority of the Senate Permanent Subcommittee on Investigations, of which I am the ranking minority member. I can honestly say that I can think of no one who is more deserving of advancement in public life, and about whom the Senate could be more confident that the President has selected the right person for the right job.

I ask unanimous consent to have printed at this point in the RECORD the full text of a resolution unanimously approved by the members of the subcommittee expressing their deep appreciation and esteem for Stuart Statler for his years of service to the U.S. Senate and to his country.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

"RESOLUTION

"Whereas Stuart M. Statler honorably, loyally and faithfully served from 1973 through 1979 as Chief Counsel to the Minority of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs of the United States Senate; and

"Whereas Stuart H. Statler in that capacity untiringly and effectively served the Subcommittee in an outstanding manner, demonstrating the highest qualities of responsible staff leadership, creative initiative, and exemplary dedication; and

"Whereas Stuart M. Statler honorably, loyous and extraordinary contributions to the Permanent Subcommittee on Investigations, specifically its Ranking Minority Member, Chairman, Vice Chairman, and its members, as well as to the Senate of the United States; and

"Whereas by virtue of his expertise, skill, and knowledge, Stuart M. Statler advanced and improved the legislative oversight process and rendered unique and able assistance in the development and enactment of legislation, which resulted from Senate investigations he directed and which enhanced the economy and efficiency of government and the overall performance of the Executive Branch; and

"Whereas Stuart M. Statler was appointed by The Honorable Jimmy Carter, President of the United States, to serve as a Commissioner of the United States Consumer Product Safety Commission, and took office on August 13, 1979;

"Now, Therefore, Be It Resolved, That the Permanent Subcommittee on Investigations and the Members thereof express and record their deep affection and esteem for his many exceptional contributions and for his dedication, loyalty and service to this Subcommittee, to the Committee on Governmental Affairs, to the Senate of the United States and to the American People."

PERCY-GLENN NUCLEAR WASTE BILL GAINS NEW COSPONSORS

Mr. PERCY. Mr. President, on March 28 of this year, the senior Senator from Ohio (Mr. GLENN) and I introduced S. 742, the Nuclear Waste Management Reorganization Act of 1979. The complex question of how America should go about creating a plan for the safe disposal of radioactive waste is one of the most important issues we face today, and we believe that S. 742 proposes an equitable solution.

Everyone in this country—regardless of his or her own feelings about the need for nuclear power—has a stake in seeing that a sound plan is created for the waste that presently exists. The more than 500,000 tons of high-level radioactive waste and spent nuclear fuel that have already been created will not go away on their own.

But beyond this, Americans have a clear right to participate in the creation of a comprehensive waste disposal plan. If nuclear waste is disposed of permanently within the borders of this country, it will of course have to be placed in at least one of our 50 States. And there is simply no way the Federal Government—the Department of Energy, the White House, or the Congress—can be adequately sensitive to the concerns and needs of State and local governments, and of average citizens who are directly affected by a waste disposal facility.

I am pleased to announce today that, since March 28, three additional cosponsors have been added to S. 742, a bill which both Senator GLENN and I feel is a comprehensive and responsible plan to involve several Federal agencies, State and local governments, and the American people together in the creation of a nuclear waste disposal plan for our country.

The junior Senator from Maine (Mr. COHEN) became a cosponsor of the Nuclear Waste Management Reorganization Act on June 5, followed by the senior Senator from Rhode Island (Mr. PELL) on July 30, and the senior Senator from Connecticut (Mr. RIBICOFF) on Monday, October 22. I thank these distinguished gentlemen for their support and assistance with this legislation.

Mr. President, the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation, and Federal Services has so far held 2 days of hearings on S. 742—July 5 in Chicago, and October 19 here in Washington. We have had numerous panels of state and local officials, nuclear industry and public interest spokesmen, and Government representatives provide valuable assessments of the strengths and weaknesses of our legislation.

We now hope to mark up S. 742 shortly—perhaps by Thanksgiving—so that it can be judged by the Governmental Affairs Committee, and hopefully, the entire Senate in the near future. The addition of these three cosponsors to S. 742 reflects a growing awareness that nuclear waste is a major national problem.

MAMIE

Mr. DOLE. Mr. President, her friends, and that included everyone who ever met her, called her Mamie. She supported one of America's authentic heroes, through a world war, and two distinguished terms in the Oval Office. She embodied American womanhood at its finest.

With Mamie, family came before politics. But let no one doubt her commitment to public service. She gave liberally of herself as Dwight Eisenhower's life partner, and she brought to the White House a charm that was both quiet and irresistable.

She was 20 years old when she married a young lieutenant named Ike Eisenhower in 1916. In the years to come, the couple would know both tragedy and triumph. They lost their first child in 1921 and would experience the pain of separation for much of the general's overseas military career. But their love never wavered. Neither did their determination to serve the country they loved.

In 1952, he wrote that "Mamie and I are both determined to give our best to the task that lies before us. It is not easy; we simply never allow ourselves to think of the serene, peaceful life that could be ours if I had not allowed friends and others to persuade me as to my public duty."

Mamie and Ike kept that pledge all their lives. The White House under Mrs. Eisenhower was like the woman herself—gracious, warm, beckoning as a genuine homestead. She infused it with her verve and style. No one ever left one of Mamie's parties feeling anything less than an old friend—or a new admirer.

After 1961, the Nation's attentions were focused on another First Lady, but Mamie was content to retire at last to the relative serenity of Gettysburg. There, she and Ike passed 8 peaceful years until the general's health began to fail.

"I've always loved my wife," he said at the last. "I've always loved my children. I've always loved my grandchildren. And I've always loved my country."

The same virtues applied to Mamie. In a few days, we will take her back to Kansas, to lie beneath the prayer that Ike spoke at his first inauguration in 1953. And the place of meditation will be consecreated anew—to a woman who matched her husband's heroism with courage, his leadership with grace and elegance.

We will remember her. And, if we are wise, we will keep her example close to our heart, where it can never die.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on October 31, 1979, he had approved and signed the following act:

S. 436. An act to amend section 15(d) of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Valley Authority.

MESSAGE FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 12:27 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 3. Joint resolution designating November 4, 1979, as "Will Rogers Day."

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5505. An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes.

The message further announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1281. An act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the vessels steamship United States, steamship Oceanic Independence, and steamship Santa Rosa into the trade.

The message also announced that the House agrees to the amendments of the Senate to H.R. 2282, an act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, with amendments in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 5505. An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2406. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Lack of Control and Feedback Hinders Army Manpower Management Improvements," October 31, 1979; to the Committee on Armed Services.

EC-2407. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "New York City's Fiscal Problems: A Long Road Still Lies Ahead," October 31, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-2408. A communication from the Secretary of the Treasury, transmitting, a draft of proposed legislation entitled the "Chrysler Corporation Loan Guarantee Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2409. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The U.S. Mining and Mineral-Processing Industry: An Analysis of Trends and Implications," October 31, 1979; to the Committee on Energy and Natural Resources.

EC-2410. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the U.S. Postal Service Building, 115 East Sixth Avenue, Gary, Indiana, in the amount of $2,459,300; to the Committee on Environment and Public Works.

EC-2411. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the construction of the East St. Louis, Illinois, U.S. Courthouse and Parking Facility; to the Committee on Environment and Public Works.

EC-2412. A communication from the Records Officer, United States Postal Service, transmitting, pursuant to law, proposed for three systems of records; to the Committee on Governmental Affairs.

EC-2413. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC-2414. A communication from the Deputy Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use and disposition of the judgment funds awarded to the Kickapoo Tribe of Kansas and the Kickapoo Tribe of Oklahoma, in Indian Claims Commission Dockets Nos. 315 and 338; to the Select Committee on Indian Affairs.

EC-2415. A communication from the Chairman, Board of Directors, Future Farmers of America, transmitting, pursuant to law, a report of audit for the two month interim period ending August 31, 1979; to the Committee on the Judiciary.

EC-2416. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, Interim Final Regulations for Part 185—Emergency School Aid Act; to the Committee on Labor and Human Resources.

EC-2417. A communication from the Principal Deputy Under Secretary of Defense,

transmitting, pursuant to law, a report of DOD Procurement from Small and Other Business Firms for October 1978–May 1979; to the Select Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-486. A resolution adopted by the Senate of the State of Massachusetts; to the Committee on Veterans' Affairs:

"RESOLUTION

"*Whereas*, the National Policy of the United States concerning Veterans of the United States has been to grant assistance to them to resolve the ordinary and extraordinary problems which have arisen in their individual lives because of their military service to their country; and

"*Whereas*, a Veterans Administration study has recently been released which documents and accentuates the continuing adjustment problems and the inadequacies of the G.I. benefits thus far granted to the Vietnam veteran to resolve said problems; and

"*Whereas*, new life and strength has appeared in the halls of Congress in recognition of the Vietnam veteran needs, in the fields of employment by the Education and Training Subcommittee of the House Veterans Affairs Committee, in the fields of physical needs with a focusing on diseases contracted by said veterans while in Vietnam, such as those casually related to agent orange, a defoliant used in Vietnam, and also in the fields of psychological needs because of the special problems these veterans were exposed to both in Vietnam and upon their return to the country for which they fought; therefore be it

"*Resolved*, that the Massachusetts Senate respectfully urges the Congress of the United States to support the recommendations of its own subcommittees on veterans affairs to hasten the assistance so sorely needed by the Vietnam veteran in the problems which were visited upon them who were willing to serve and did serve their country in time of war; and be it further

"*Resolved*, that Congress demand more constructive and diligent and forceful action on the part of the Veterans Administration in the implementation of legislation already made law, and in the encouragement of pending and future legislation on assistance to the Vietnam veteran; and be it further

"*Resolved*, That an engrossed copy of these resolutions be transmitted to the House Veterans Affairs Committee of the United States Congress, and that copies thereof be sent by the Clerk of the Senate to the presiding officer of each branch of the Congress of the United States, each member thereof from the Commonwealth, and to the administrator of the Veterans Administration."

POM-487. A petition from forty citizens of the State of Indiana, praying for the rejection of the ratification of the SALT II Disarmament Treaty; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

H.R. 5359. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96–393).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 3919. An act to impose a windfall profit tax on domestic crude oil (together with additional and supplemental views) (Rept. 96–394).

By Mr. MELCHER, from the Select Committee on Indian Affairs, without amendment:

S. 1682. A bill to amend the Act of August 9, 1955 (69 Stat. 539) (25 U.S.C. 415), as amended, to authorize a ninety-nine-year lease for the Moses Allotment Numbered 10, Chelan County, Washington (Rept. No. 96–395).

H.J. Res. 199. A joint resolution to amend the Act of October 21, 1978 (92 Stat. 1675; Public Law 95–498) (Rept. No. 96–396).

By Mr. MELCHER, from the Select Committee on Indian Affairs, with amendments:

S. 668. A bill to permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1039) (Rept. No. 96–397).

S. 916. A bill to amend the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) to provide education programs for Native Hawaiians, and for other purposes (Rept. No. 96–398).

SECOND CONGRESSIONAL BUDGET RESOLUTION—CONFERENCE REPORT

Mr. MUSKIE, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the resolution (S. Con. Res. 36) revising the congressional budget for the United States Government for the fiscal years 1980, 1981, and 1982 (Rept. No. 96–399).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HELMS:

S. 1963. A bill relating to purchase and sales of gold by the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ:

S. 1964. A bill to amend the Internal Revenue Code of 1954 to provide for increased savings and investment through a tax-free rollover account; to the Committee on Finance.

By Mr. RIEGLE (by request):

S. 1965. A bill entitled the "Chrysler Corporation Loan Guarantee Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ (for himself and Mr. ROTH):

S. 1966. A bill to amend the Tariff Act of 1930 and the Trade Act of 1974 to provide more equitable standards for determining the foreign market value of, and market disruption attributable to, goods manufactured in non-market economy countries; to the Committee on Finance.

By Mr. NELSON:

S. 1967. A bill to amend the Internal Revenue Code of 1954 to allow a corporation which deals in securities to establish a reserve for the net gain from certain market making activities; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. BOREN, and Mr. HEINZ):

S. 1968. A bill to amend the Internal Revenue Code of 1954 to encourage competition in the health care industry, to encourage the provision of catastrophic health insurance by employers, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS:

S. 1963. A bill relating to purchases and sales of gold by the United States; to the Committee on Banking, Housing, and Urban Affairs.

UNRESTRICTED GOLD SALES: BAD FOR THE NATION

Mr. HELMS. Mr. President, the present policy of the Treasury Department is to sell tons of this Nation's only monetary reserve—our gold. The method is by irregular sales that are aimed at destabilizing the gold markets.

The net result is that the OPEC nation's have America's gold—and the U.S. dollar, the U.S. balance of payments, and the U.S. economy are no better off.

For several years, Congress has been debating a bill to sell off some of our silver stockpiles. It is ironic that so much deliberation is devoted to silver sales while no congressional action is required for indiscriminate sales of billions of dollars of our Nation's gold reserves. Needless to say, those gold reserves have a far greater strategic and economic importance than a few million ounces of silver—however important that silver may be.

Because Congress should have a say in this issue, and because the present policy is clearly without merit, I am offering legislation to require congressional approval before gold sales may be conducted. The one exception to this rule would apply only if the President acts to establish a firm relationship between the dollar and gold. The present economic situation may very well require such action by an American President in the forseeable future.

Presidential power concerning gold is only one of many extensions of Presidential power growing out of the depression days of the 1930's. This was a period of a great deal of emergency legislation which has since been repealed.

Last weekend, the Treasury Department announced that instead of selling 750,000 ounces per month, as had been routine, henceforth the sales would vary both in amount and timing.

The intent of the sales clearly is to disrupt the gold market. This unwise action is being taken in lieu of more substantive efforts to support the dollar.

The dollar, internationally, is in sad shape because its utility as a reliable currency is declining. Individuals and businesses with dollar-denominated assets are suffering real value loss every day because of inflation. Naturally, alternatives are sought. Because of the problems with even the so-called hard currencies, much money is going out of dollars and into gold.

The process, as economists describe it, works this way: With fewer dollars in demand—because people do not want an unreliable store of value—a bloated supply of dollars will be concentrated in the remaining economy using those dollars. The effect is equivalent to a substantial increase in the money supply, thus leading to higher prices—and more inflation.

Mr. President, to state the case in a

slightly different way, if the demand for something falls, it automatically follows that there will be a surplus in that commodity, and a decline in its price. If people stop buying cranberries one year and the regular cranberry crop comes in, what happens to the price of cranberries? It drops.

So, what happens if the demand for dollars falls? Even if there is some effort on the part of the monetary authorities to tighten money, the price of those dollars in international markets is going to fall, and people will seek alternatives. One alternative is gold.

And how does the Treasury Department propose to cope with that? Well, at present, when Treasury sees people moving toward gold, instead of acting in such a way as to reverse the decline in the demand for dollars, Treasury attempts to reduce the demand for gold. And this, Mr. President, is an act of folly. Using the cranberry analogy, the Treasury Department does not try to prove that cranberries do not cause cancer. Treasury takes the position that everything causes cancer in the misguided hope that everyone will decide that they might as well stick with cranberries.

What nonsense. Now I know that the Treasury Department is trying to explain that they are doing this "to stop speculation." But it is still nonsense.

"Speculators"—what a horrible word. It boggles the bureaucratic mind that individuals would go into the marketplace for the purpose of making money.

Mr. President, can the bureaucrats not understand that destabilizing a marketplace results in more business for traders—for the speculators?

It is probably fair to say that careers are made by men and women who trade in Treasury bill futures—who speculate what the Federal Reserve System is going to do next. Let us ask how much of a chance for profit would there be if the Fed did not change its mind every couple weeks?

And similarly, how much chance for profit would there be if the Treasury would act to stabilize the price of gold instead of destabilizing it?

Mr. President, the most important policy decision for the short term is to restore strength in the dollar. And I am convinced that the Treasury gold sale policy is a smokescreen. Treasury gold sales focus attention away from the real problem.

I believe that the gold sales, by squandering our Nation's only monetary reserve, are hurting our Nation and not helping the dollar.

That is why I today propose a bill to impose severe restrictions on the ability of the Treasury Department to dump gold.

There already is a provision in the law which prohibits the U.S. Director to the International Monetary Fund from voting in favor of more IMF gold sales without specific congressional approval. In other words, when the current IMF gold sales end in May of 1980, Congress must specifically give its approval to the U.S. vote in favor of added sales.

I think that similar congressional action should be required if the United States is to sell its gold.

Mr. President, I send my bill to the desk and ask for its appropriate referral. And I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Gold Reserve Act of 1934 is amended by adding at the end thereof the following:

"(e) The authority to purchase or sell gold under this or any other Act may not be exercised unless Congress by law authorizes such action, except that this subsection does not preclude the exercise of such authority to establish or maintain a permanent relationship between the United States dollar and a specified quantity of gold.".

By Mr. HEINZ:

S. 1964. A bill to amend the Internal Revenue Code of 1954 to provide for increased savings and investment through a tax-free rollover account; to the Committee on Finance.

SAVINGS AND INVESTMENT ACT OF 1979

● Mr. HEINZ. Mr. President, today I am introducing the Individual Savings and Investment Act of 1979, a bill designed to encourage Americans at all income levels to increase their personal saving and investment. This legislation would permit a tax deferred "rollover" for reinvested interest, dividends, and capital gains maintained by an individual in a special account established in a bank, savings and loan association, or similar institution. When withdrawn from the account for consumption, the accumulated funds would be taxed in full at the individual's normal tax rate.

Many in Congress are concerned that the rate of personal saving in the United States is not sufficient to help provide the capital our economy needs to maintain the strong economic growth, the expansion of job opportunities, and the higher standard of living that can only come from increased investment in this Nation's productive capacity. As a measure of this concern, over 200 bills have been introduced in this Congress to encourage savings but not one of these measures contains the comprehensive approach suited to a wide range of individual needs provided by our bill.

We tax saving as if it were sin under current law. The consumer is taxed but once on his income when it is earned. But, the thrifty saver who puts his savings into a passbook account or stocks is taxed twice. He is taxed on his wages and again on the interest, dividends, or capital gains generated by his savings.

In addition to the bias in our tax laws which double taxes earnings generated by savings, inflation works against the saver. The consumer prices index currently stands at an annual rate of over 13 percent. For the small saver, who relies primarily on passbook accounts with rates from 5.5 percent on regular passbook savings to 8 percent on deposits held for 8 years, adjusting the rate of return for inflation gives a negative rate of return on even the highest yielding accounts. This is a real financial loss for the saver. And, since interest income is subject to the personal income tax at rates ranging from 14 percent to 70 percent, the saver's real loss is increased. The real rate of return on savings, for the small saver relying on passbook accounts, turned negative in 1973 when inflation really hit the economy and has remained so ever since.

Individuals investing in productive corporate equities have been discriminated against by inflation, too. National Bureau for Economic Research economists Martin Feldstein and Joel Slemrod conducted a study that showed that, in 1973, while investors paid taxes on approximately $4.6 billion in capital gains, when the gains were adjusted for inflation, the investors suffered a real capital loss of nearly $1 billion.

High rates of inflation and tax laws biased against saving have combined to discourage personal saving in traditional forms. Middle-class investors have turned to tax shelters and to investment in tangible assets such as real estate, antiques, and art, all of which can be used but which do not create jobs for other Americans or stimulate the economy directly.

A Solomon Brothers study of rates of return on various assets showed why. The compound rate of return on the "Standard and Poor's" composite stock index for 1968 through 1978 was a mere 2.8 percent while the compound rate of return on tangible assets like housing was 9.2 percent for the same period. Other tangible assets like "Old Masters" with a return of 13.0 percent and Chinese ceramics with a return of 19.2 percent were an even better investment.

Since we may choose whether we will save or not and choose the form of our savings, it should come as no surprise that the rate of personal saving in the United States is so low. As a percent of personal income, the rate of personal saving has averaged between 6 and 6½ percent over the past three decades. But the rate of personal saving has moved down over the past 3 years, dropping to a low of 4.7 percent in the final quarter of 1978. During the first two quarters of 1979, the personal savings rate has averaged 5.2 percent, but preliminary figures for the third quarter indicate an even lower rate.

The rate of personal savings in the United States is lower than the rates of our major trading partners and the U.S. rate has been falling while the rates in other countries have been on the rise. In Japan, for example, the rate of personal saving increased from 18.5 percent in 1967 to 21.5 percent in 1977. Savings rates in Canada rose from 6.2 percent to 9.8 percent, in Germany from 11.3 percent to 14.0 percent, in Great Britain from 8.5 percent to 13.9 percent, and in France from 15.9 percent to 16.1 percent over that time period.

Saving is not just for the affluent. The Statistics of Income published by the Internal Revenue Service show the largest source of income from the traditional forms of personal saving is interest income. In 1977, there were approximately 4½ times as many tax returns reporting interest income as there were reporting dividends and approximately seven times

as many as reporting capital gains. Nearly 86 percent of the dollar amount of interest income is reported by taxpayers with adjusted gross income (AGI's) of less than $50,000. Approximately 52 percent of the dividends reported were claimed by taxpayers with AGI's under $50,000 while nearly 58 percent of the nominal amount of net capital gains were reported by those with AGI's of less than $50,000.

In addition, savings and loan associations reported in 1976 that more than 60 percent of the typical associations' savings dollar came from households with incomes of less than $15,000 per year even though families in these income groups received less than 40 percent of total household income.

The New York Stock Exchange, in its 1975 shareownership survey, reported that the median annual household income of the Nation's individual shareowners was $19,000. The top income group of shareowners surveyed, those with incomes in excess of $25,000, represented about 28 percent of total shareowners, while those with household incomes of $15,000 to $24,999 made up about 38 percent of individual shareowners.

The Individual Savings and Investment Act of 1979 would encourage the desire and the need of citizens in all income brackets to save and to invest in three primary ways. First, the tax-deferred rollover for interest, dividends, and capital gains invested and reinvested in stocks, bonds, and interest bearing accounts would be tax-neutral across a broad range of traditional forms of savings. It is these types of savings that most directly and immediately provide funds to the financial and business communities for the widest array of productive capital investment. This tax-neutrality means that the individual may choose among the various forms of savings and investment without tax consequences, thus permitting needed flexibility in response to individual needs and goals.

Second, our proposal is a less complex approach for the individual than many proposals designed as incentives to new savings. Once the individual establishes his rollover account, he may elect to give the trustee of the account investment discretion or retain the right for himself. Accounting for the assets in the rollover account would be handled by the trustee. And, of course, tax consequences would be realized in full at the taxpayers' normal tax rate when the funds are withdrawn from savings.

Third, the initial revenue loss would not be great under this proposal. While the static revenue loss would build in later years, the "feedback" effects from the higher rate of economic growth forthcoming from the increased rate of saving and investment should act to offset this factor.

Mr. President, the Individual Savings and Investment Act of 1979 would reduce the antisavings bias in our tax laws and reduce the impact of inflation on savings. It would increase the reward for savings in an equitable manner for individuals in all income brackets. I believe it would call forth a higher rate of saving in this country and give us the opportunity to expand our productive capacity, to dampen inflation, to create greater job opportunities, and to raise the standard of living of all Americans.

I ask unanimous consent to have printed in the RECORD a detailed explanation and the text of the Individual Savings and Investment Act of 1979.

There being no objection, the bill and explanation were ordered to be printed in the RECORD, as follows:

S. 1964

Be it enacted by the Senate and House of Representatives in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Savings and Investment Act of 1979".

(b) TABLE OF CONTENTS.—

SEC. 1. Short title; table of contents; amendment of 1954 Code.

SEC. 2. Tax-Free Rollover Account.

SEC. 3. Effective Date.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. TAX-FREE ROLLOVER ACCOUNT.

Subsection F of Chapter 1 of Subtitle A of the Internal Revenue Code of 1954 is amended by adding at the end thereof Part VIII to read as follows:

"PART VIII—ESTABLISHMENT OF TAX-FREE ROLLOVER ACCOUNTS

Sec. 529. Tax-free rollover account.
Sec. 530. Filing of information returns.

"SEC. 529. TAX-FREE ROLLOVER ACCOUNT.

"(a) TAX-FREE ROLLOVER ACCOUNT.—For purposes of this section, the term "rollover account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if, the written governing instrument creating the trust meets the following requirements:

"(1) No contribution will be accepted unless it is made by the individual and is in cash, or consists of stock or securities of a domestic corporation.

"(2) The trustee is a bank or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(3) The trust funds will be invested in stock or securities of a domestic corporation or held in interest bearing deposits in a bank.

"(4) The assets of the trust will not be commingled with other property.

"(5) The interest of the individual in the balance of his rollover account is nonforfeitable, and all or any portion of stocks, securities or money in such account will be paid or distributed—

"(A) to the individual within 10 days after demand, or

"(B) in the case a payment or distribution is to be made to a beneficiary, in accordance with subsection (d).

"(6) The trust will adopt a taxable year which is the same as the taxable year of the individual.

"(7) The individual is permitted to elect, no more of en than each taxable year, for the rollover account to be either—

"(A) a discretionary account in which case the investment and reinvestment of the trust funds will be determined by the trustee, or

"(B) a self-directed fund in which case the investment and reinvestment of the trust funds will be determined by the individual.

"(b) TAX TREATMENT OF ROLLOVER ACCOUNTS.—A rollover account is exempt from tax under this subtitle.

"(c) TAX TREATMENT OF PAYMENT OR DISTRIBUTION.—Any amount paid or distributed from the capital gain fund or the ordinary income fund of a rollover account shall be included in the gross income of the recipient for the taxable year in which such payment or distribution is received.

"(d) PAYMENT OR DISTRIBUTION TO BENEFICIARY.—If the individual dies prior to the time the balance in the rollover account has been paid or distributed in accordance with subsection (a)(5)(A), the balance shall be paid or distributed to his designated beneficiary or beneficiaries, or, if no beneficiary has been designated, to his estate.

"(e) ESTABLISHMENT OF SEPARATE FUNDS.—The trustee of a rollover account shall establish on its books, without the segregation of assets, a capital fund, a capital gain fund, and an ordinary income fund.

"(1) CAPITAL FUND.—The capital fund shall consist of the amount of cash contributed to the rollover account, the basis in the hands of the individual of property contributed to the rollover account, and the amount of any gain realized upon the disposition of property in a transaction in which gain or loss is not recognized under this subtitle.

"(2) CAPITAL GAIN FUND.—The capital gain fund shall consist of net capital gain as defined in section 1222(11).

"(3) ORDINARY INCOME FUND.—The ordinary income fund shall consist of the sum of—

"(A) interest and dividends received, plus

"(B) net short-term capital gain as defined in section 1222(5).

"(f) PAYMENT OR DISTRIBUTION TREATED AS MADE FROM SEPARATE FUND.—Any payment or distribution from a rollover account shall be treated as made—

"(1) first, from the ordinary income fund,

"(2) second, from the capital gain fund, and

"(3) third, from the capital fund.

Except as provided in subsection (h)(4), no payment or distribution shall be treated as made from a fund until the balance of any fund which precedes it in order of priority has been paid or distributed.

"(g) CHARACTER OF AMOUNTS IN HANDS OF RECIPIENT.—Any amount paid or distributed from a rollover account shall, for the purposes of this subtitle, have the same character in the hands of the recipients as the amounts included in the fund from which it is treated as having been distributed.

"(h) SPECIAL RULES RELATED TO ACCOUNT BALANCES, AND LOSSES.—

"(1) DETERMINATION AS OF END OF TAXABLE YEAR.—The balance of a fund established in accordance with subsection (e) shall be determined as of the end of each taxable year, taking into account the total of all amounts included in the fund in all taxable years and the total of all amounts paid or distributed from the fund prior to the beginning of the taxable year.

"(2) BASIS OF PROPERTY.—The basis of property contributed by an individual to a rollover account shall, in the hands of the trustee, be the same as the basis in the hands of the individual, and the basis of property distributed from a rollover account shall, in the hands of the distributee, be the same as the basis in the hands of the trustee.

"(3) VALUATION OF DISTRIBUTIONS IN KIND.—If property is distributed from a rollover account, for the purposes of this section the amount of the distribution shall be the basis of the property distributed.

"(4) LOSSES REALIZED BY INDIVIDUAL OUTSIDE THE ROLLOVER ACCOUNT.—If for any taxable year, the individual has a net capital loss within the meaning of section 1222(10) (determined without regard to paragraph (5)), the lesser of—

"(A) the net capital loss, or

"(B) the amount in the capital gain fund,

shall be treated as having been distributed in the taxable year to the individual from the capital gain fund. Any amount treated as distributed by application of the preceding sentence shall be added to the capital fund.

"(5) LOSS UPON TERMINATION OF ACCOUNT.—If upon payment or distribution of the balance of a rollover account in any taxable year, the total of all contributions to the account exceeds—

"(A) The balance paid or distributed in such taxable year, plus

"(B) The total of all amounts previously paid or distributed from the account, such excess shall be a capital loss of the recipient for such taxable year.

"(i) OTHER SPECIAL RULES, LIMITATIONS, AND DEFINITIONS.—

"(1) EFFECT OF TRANSFER OR PLEDGE OF ACCOUNT AS SECURITY.—If, during any taxable year, the individual transfers or uses as security for a loan, the account or any portion thereof, the portion so transferred or used shall be treated as having been paid or distributed to the individual.

"(2) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a rollover account to his former spouse under a divorce decree or under a written instrument incident to such divorce is not to be considered a payment or distribution or a taxable transfer made by the individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer is to be treated as a rollover account of such spouse, and not of the individual. Thereafter the rollover account, for purposes of this subtitle is to be treated as maintained for the benefit of such spouse.

"(3) ONLY ONE ACCOUNT MAY BE MAINTAINED.—

"(A) No rollover account for an individual may be established until after the close of the taxable year in which the balance of any previously established rollover account is paid or distributed, and

"(B) No contributions to a rollover account may be made after the balance of such account has been paid or distributed and another rollover account for such individual has been established.

"(4) DEFINITIONS.—For the purposes of this section, the term "bank" has the same meaning as in section 581.

"SEC. 530. FILING OF INFORMATION RETURNS.—The trustee of a rollover account shall keep such records, render under oath such statements, comply with such rules and regulations as the Secretary may from time to time prescribe, and file an annual return, stating specifically the items of gross income, receipts, disbursements, and such other information for the purposes of carrying out the Internal Revenue laws as the Secretary may by forms or regulations prescribe.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to a trust created or organized after September 1, 1979.

EXPLANATION OF TAX-FREE ROLLOVER ACCOUNT

I. GENERAL EXPLANATION

An individual would be permitted to establish a special trust account, with a bank or similar institution, to which he could contribute cash for investment by the trustee and to which he could contribute any stock or securities of a domestic corporation. The amount of cash contributed to the rollover account plus all income realized in the account would be invested and reinvested in stocks, bonds or interest-bearing deposits. At the election of the individual, either the trustee would be given investment discretion, or the individual could retain the right to direct the trustee in the investment and reinvestment of funds in the rollover account.

The individual would not be allowed a tax deduction for contributions to the account. However, all capital gains, dividends and interest realized in the account would be nontaxable until withdrawn from the rollover account. When withdrawn from the rollover account, all previously accumulated capital gains, interest and dividends would be taxed to the individual in the same manner as if he had realized that income directly, in the year of the withdrawal.

II. MORE DETAILED EXPLANATION

A. General Nature of Rollover Account.

The rollover account could be established with a bank or a savings and loan association. With the approval of the Treasury, other institutions, perhaps brokerage houses, could qualify. Although in the form of a trust, the rollover account would operate more as a custodial investment account. The trustee could either be given investment discretion in which case the trustee would not only hold the funds in the account on behalf of the individual but would also determine their investment and reinvestment; or the individual could retain the right to direct investment in which case the trust would merely hold the funds in the account on the individual's behalf and execute investment and reinvestment orders in accordance with the individual's instructions. In both cases, the rollover account would be a separate trust account.

B. Eligible Investments For a Rollover Account.

The funds in a rollover account could only be invested in stock or securities of a domestic corporation or in interest-bearing deposits. This limitation avoids the complexities and other problems associated with direct investment, such as in real estate for example.[1] At the same time, the limitation permits the individual nearly a full range of choice among the traditional forms of savings.[2]

C. Traditional Principles Underlying Rollover Account.

With respect to capital gains, the effect of the rollover account is as if one stock were permitted to be exchanged tax-free for another or were permitted to be sold for cash without the recognition of gain, provided the proceeds were within some time period reinvested in another stock. The rollover account achieves the same result except that it permits a change from a stock to a bond and also permits the additional flexibility of holding the proceeds in an interest-bearing account. With respect to dividends, the rollover account achieves a result similar to "dividend reinvestment" proposals which have been made in the past,[3] except that the rollover account provides additional flexibility because the dividends can be invested in stock or securities of a corporation other than the one from which the dividend was received, and the dividend may be deposited in an interest-bearing account.

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[1] Direct investments would introduce the necessity of dealing with depreciation, investment tax credits and the like. Also, in the case of some direct investments which produce tax losses in the early years, the rollover account would be disadvantageous.

[2] Residential real estate, most particularly a personal residence, is one form of "savings" excluded from the rollover account. However, since a personal residence does not produce taxable income, as distinguished from imputed economic income, the rollover account concept is by definition inapplicable.

[3] The "dividend reinvestment" proposals generally operate as follows: If a corporation declares a dividend, shareholder A could elect to receive the dividend and pay tax on it, but shareholder B could elect to defer receipt of the dividend, i.e., "reinvest" the dividend in which case shareholder B would not have to pay tax until later.

D. Only One Rollover Account May Be Maintained.

An individual can maintain only one rollover account at a time. He can, however, terminate one rollover account by withdrawing all the funds, and then the next succeeding taxable year establish another account. A husband and wife could each establish a rollover account, whether or not they file a joint return.

E. Tax-Exempt Nature of Rollover Account Trust.

The trust will be exempt from tax and will not be required to file an income tax return; instead it will be required to file annual information returns.

F. Taxation of Individual; and Identification of Source of Withdrawals.

The individual would not be taxed on income accumulated in the rollover account, but will be taxed in the taxable year in which he withdraws that accumulated income from the trust.

It is critical to identify the source of any amount withdrawn from a rollover account because the amount will have the same character in the hands of the individual as it had in the account, i.e., either capital, capital gain or ordinary income consisting of interest and/or dividends. This identification of withdrawals is accomplished in the simplest manner possible: The trustee is required to maintain on its books, but not to segregate assets, three separate funds; a capital fund which represents the total of all amounts contributed to the account; a capital gain account which represents all net long-term capital gain realized by the trust; and an ordinary income fund which represents interest and dividends received by the trust plus net short-term capital gain realized by the trust.

Any withdrawal will be treated as first having come out of the ordinary income fund, next out of the capital gain fund, and finally out of the capital fund.

Example

Individual A established a rollover account in 1980 to which he contributed $10,000 in each of the years 1980, 1981, and 1982. Through investment and reinvestment by the trustee the account had by the end of 1982 received $3,000 in dividends and had realized net long-term capital gains of $5,000. At the end of 1982, the balance in the account and the balance in each of the three separate funds is as follows:

Account balance, $38,000.
Capital fund balance, $30,000.
Capital gain fund balance, $5,000.
Ordinary income fund balance, $3,000.

In July of 1982, Individual A withdrew $5,000 from the account. The withdrawal is treated as consisting of $3,000 of dividends and $2,000 of capital gain. When Individual A files his tax return for 1982, he will include in income $3,000 of dividends and $3,000 of long-term capital gain.

The rule for ordering the priority of withdrawals from a rollover account is significant. Once having made a contribution to a rollover account, and having accumulated income from that investment, there is a substantial incentive for the individual to leave both originally contributed principal amount and the accumulated income in the rollover account, and, thus, in the savings system. Because withdrawals are first deemed to come out of the ordinary income fund, the individual cannot, without paying tax, merely leave the accumulated untaxed income in the rollover account and withdraw the originally contributed principal for consumption purposes.

G. Deemed Withdrawal From Rollover Account.

Under certain circumstances, an individual will be treated as having made a withdrawal from the rollover account even though no amount has actually been distrib-

uted from the account. If an individual transfers a portion of his interest in a roll-over account, or pledges any portion as security for a loan, that portion of the account will be treated as having been distributed. However, if an individual's interest is transferred to his spouse pursuant to a divorce decree, no transfer will be deemed to have occurred.

The most significant "deemed withdrawal" from a roll-over account arises when an individual has for the taxable year a net long-term capital loss from transactions outside the rollover account. In that event, the individual will be treated as having in the same taxable year withdrawn a corresponding amount from the capital gain fund (to the extent thereof). For example, if for the year 1980, the individual had a net long-term capital loss of $1,000 from transactions outside the rollover account, and, if at the end of 1980, the balance of the capital gain fund in the rollover account was $1,000, the individual would be treated as having withdrawn $1,000 of long-term capital gain which would exactly offset the $1,000 long-term capital loss.

H. Distribution of Balance in Rollover Account to A Beneficiary.

If the individual neither makes nor is treated as having made, a withdrawal from the rollover account, no amount of income accumulated in the rollover account will be taxed to him, but, at his death the rollover account will terminate and the entire balance in the account will automatically be distributed to his designated beneficiary or, in the absence of a designated beneficiary, to his estate. The beneficiary or estate will be taxed on the accumulated income received.

I. Loss Upon Termination of Account.

Although losses realized by the trustee on investment and reinvestment will not be recognized currently, upon termination of the rollover account a loss may be realized and treated as a capital loss of the year in which the account is terminated.[1] Such loss would be the amount, if any, by which the total of all amounts contributed to the rollover account exceeds the total of (i) the amount distributed upon termination of the account plus (ii) all amounts previously withdrawn from the account.●

By Mr. RIEGLE (by request):

S. 1965. A bill entitled the "Chrysler Corporation Loan Guarantee Act of 1979;" to the Committee on Banking, Housing, and Urban Affairs.

● Mr. RIEGLE. Mr. President, by request, I introduce and send to the desk the Chrsyler Corporation Loan Guarantee Act of 1979.

I ask unanimous consent that the text of the bill, together with a section-by-section analysis, be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec.
101. Title; definitions.
102. Authority for loan guarantees—Findings for commitments.
103. Finding; effect of determinations; guarantee fee.
(a) Necessary findings for issuance.
(b) Effect of determination.
(c) Guarantee fee.
104. Requirements applicable to loan guarantees.
(a) Maturity of guaranteed loans.
(b) Terms and conditions.
105. Powers and duties.
(a) Secretary—inspection of documents.
(b) General Accounting Office; audit; report to Congress.
106. Maximum obligation.
107. Protection of United States' interest.
(a) Secretary's enforcement authority.
(b) Recovery rights; subrogation.
(c) Other remedies.
(d) Institution of Federal proceeding.
(e) No guarantees of tax-exempt loans.
(f) Federal priority waiver.
(g) Severability.
108. Reports to Congress.
109. Authorization of appropriations.

TITLE: DEFINITIONS

SEC. 101. (a) This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979."

(b) For purposes of this Act, the following terms shall have the following meanings—

(i) Borrower—Chrysler Corporation, or any of its subsidiaries or affiliates, or any other entity the Secretary may designate from time to time which borrows funds for the benefit or use of the Corporation.

(ii) Corporation—Chrysler Corporation and its subsidiaries and affiliates.

(iii) Financing Plan—the financing plan required pursuant to Section 102(c); in each case, as revised in accordance with Section 103(a)(iv).

(iv) Fiscal year—the fiscal year of the Corporation.

(v) Operating Plan—the plan required pursuant to Section 102(b), as revised in accordance with Section 103(a)(iv).

(vi) Persons with an existing economic stake in the health of the Corporation—banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, state, local and other governments, and others directly deriving benefit from the production, distribution and sale of products of the Corporation.

(vii) Secretary—the Secretary of the Treasury.

SEC. 102. AUTHORITY FOR LOAN GUARANTEES—FINDINGS FOR COMMITMENTS. Subject to the provisions of this Act, the Secretary, on such terms as he deems appropriate, may make commitments to guarantee loans to a Borrower only if, at the time the commitment is issued, the Secretary determines that:

(a) the commitment is needed to enable the Corporation to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy, or employment in the United States or any region thereof or competition in the automobile industry in the United States.

(b) the Corporation has submitted to the Secretary a satisfactory Operating Plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding three fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business and after December 31, 1983 to continue such operations without additional guarantees or other Federal financing; and the Secretary has received such assurances as to the feasibility of the Operating Plan as he may require;

(c) the Corporation has submitted to the Secretary a satisfactory Financing Plan to meet the financing needs of the Corporation as reflected in the Operating Plan for the period covered by such plan, which includes an aggregate amount of nonfederally guaranteed assistance of at least $1.5 billion.

(i) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of their outstanding commitments or concessions as of October 17, 1979, provided that, to the extent practicable, at any point the amounts of commitments or concessions obtained under this subsection which have been used and not repaid as a proportion of total commitments and concessions obtained under this subsection, shall not be less than the proportion of principal amount of guarantees issued and outstanding under this Act to the total principal amount of guarantees committed by the Secretary;

(ii) from capital to be obtained through merger, sale of securities, or otherwise after October 17, 1979; and

(iii) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979;

(d) to the extent practicable, commitments consistent with the stakes of persons with an existing economic stake in the health of the Corporation have been made; and

(e) the Secretary has received adequate assurances as to the availability of all financing contemplated by the Financing Plan and as to its adequacy (taking into account the amount of guarantees to be issued) to meet all the Corporation's projected financing needs during the period covered by the Financing Plan.

FINDINGS: EFFECT OF DETERMINATION: GUARANTEE FEE

SEC. 103. (a) Guarantees may be issued only pursuant to commitments. The terms of any commitment shall provide that a guarantee may be issued under this title only if at the time the guarantee is issued, the Secretary determines that:

(i) credit is not otherwise available to the Corporation under reasonable terms or conditions sufficient to meet its financing needs as reflected in the Operating Plan;

(ii) there is a reasonable prospect of repayment of the loan to be guaranteed in accordance with its terms;

(iii) the loan to be guaranteed bears interest at a rate determined by the Secretary to be reasonable which shall not be less than the current average yield on outstanding obligations of the United States with remaining periods to maturity comparable to the average maturity of such loan;

(iv) the Operating Plan and the Financing Plan of the Corporation continue to meet the relevant standards set forth in Section 102 or appropriate revisions to such plans (including extensions of such plans to cover the then current four year period) have been submitted to the Secretary to meet such standards; the Corporation is in compliance with such plans; and the Secretary has received such assurances as to the feasibility of such plans and the Corporation's compliance therewith as he may require;

(v) the Corporation has agreed for as long as guarantees issued under this title are outstanding (A) to have prepared and submitted on or before the 30th day preceding each Fiscal Year beginning after December 31, 1980, a revised Operating Plan and Financial Plan covering the four year period commencing with such Fiscal Year which meets the relevant standards of Section 102 and (B) to prepare and deliver to the Secretary within 120 days of the end of each Fiscal Year, an analysis reconciling its actual performance for that Fiscal Year with the Operating Plan and the Financial Plan for that Fiscal Year; and

(vi) the Borrower is in compliance with the terms and conditions of the commitment to issue the guarantees required by the Secretary pursuant to Section 104(b) except to the extent that such terms and conditions are

[1] If the account terminated the first year, the loss would be a short-term capital loss. Any loss resulting from a termination after the first year would be a long-term capital loss.

modified, amended or waived by the Secretary.

Effect of Determinations

(b) Any determination by the Secretary that the conditions set forth in Sections 102, 103(a), 104(b), or 107(f) have been met shall be conclusive, such determination to be evidenced by the making of the guarantee for which such determination is required. The validity of any guarantee made by the Secretary shall be incontestable in the hands of a holder, except for fraud or material misrepresentation on the part of such holder. The Secretary is authorized to determine the form in which any guarantee made under this Act shall be issued.

Guarantee Fee

(c) The Secretary shall prescribe and collect no less frequently than annually a guarantee fee in connection with each guarantee under this Act. Such fee shall be at least ½ of 1 percent per annum on the outstanding principal amount of loans guaranteed pursuant to this Act computed daily. In addition, the Secretary shall be authorized to negotiate any terms he deems appropriate to compensate adequately the United States for the risk it assumes in issuing guarantees under this Act. All amounts collected by the Secretary pursuant to this subsection shall be deposited in miscellaneous receipts of the Department of the Treasury.

REQUIREMENTS APPLICABLE TO LOAN GUARANTEES—MATURITY OF GUARANTEED LOANS

SEC. 104. (a) Loans guaranteed under this Act shall be payable in full not later than December 31, 1990, and the terms of such loans shall provide that they cannot be amended, or any provision waived, without the Secretary's consent.

Terms and Conditions

(b)(i) Any commitment to issue guarantees entered pursuant to this Act shall contain all the affirmative and negative covenants and other protective provisions that the Secretary determines are appropriate. The Secretary shall require security for the loans to be guaranteed under this Act, subordination of existing loans to the Corporation to the loans to be guaranteed, and prohibition of the payment of dividends on any common or preferred stock issued by the Corporation, unless he determines waiver of any such requirement is necessary to facilitate the ability of the Corporation or any Borrower to obtain financing, and he determines that, despite the waiver, there is a reasonable prospect of repayment of the loans guaranteed under this Act.

(ii) If the Secretary determines that the inability of the Corporation to obtain credit without a guarantee under this Act is the result of a failure on the part of management to exercise reasonable business prudence in the conduct of the affairs of the Corporation, the Secretary shall require before issuing any guarantee to the Corporation that the Corporation make such management changes as the Secretary deems necessary to give the Corporation a sound managerial base.

POWERS AND DUTIES—SECRETARY: INSPECTION OF DOCUMENTS

SEC. 105. (a) The Secretary is authorized to inspect and copy all accounts, books, records, and transactions of the Corporation and any other Borrower for which an application for a guarantee to be issued under this Act has been made.

General Accounting Office: Audit: Report to Secretary and Congress

(b) The General Accounting Office is authorized to make a detailed audit of all accounts, books, records, and transactions of any Borrower with respect to which an application for a guarantee under this Act has been made. The General Accounting Office shall report the results of such audit to the Secretary and to the Congress.

MAXIMUM OBLIGATION

SEC. 106. The outstanding principal amount of loans guaranteed by the Secretary shall not exceed at any one time $1,500,000,000.

PROTECTION OF GOVERNMENT'S INTEREST—SECRETARY, ENFORCEMENT AUTHORITY

SEC. 107. (a) The Secretary shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency therefor as a result of the issuance of guarantees under this Act.

Recovery Rights: Subrogation

(b) The Secretary shall be entitled to recover from the Borrower, or any other person liable therefor, the amount of any payments made pursuant to any guarantee entered into under this Act; and upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient thereof.

Other Remedies

(c) The remedies provided in this Act shall be cumulative and not in limitation of or substitutions for any other remedies available to the Secretary or the United States.

Institution of Federal Proceedings

(d) The Secretary may bring action in any United States district court or any other appropriate court to enforce compliance with the provisions of the Act or any agreement related thereto and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

No Guarantees of Tax-Exempt Loans

(e) A loan shall not be guaranteed if the income from such loan is excluded from gross income for purposes of Chapter 1 of the Internal Revenue Code of 1954, as amended, or if the guarantee provides significant collateral or security to other obligations, the income from which is so excluded.

Federal Priority Waiver

(f) The Secretary is authorized to waive, wholly or partially, the priority of the United States established under section 3466 of the revised statutes (31 USC 191) with respect to any debt owed to the United States by the Corporation or any Borrower with respect to any guarantees issues under this Act, to the extent he deems such waiver is necessary to facilitate the ability of the Corporation or any Borrower to obtain financing as reflected in the Financing Plan, provided that he determines that, despite such waiver, there is a reasonable prospect of repayment of the loans guaranteed under this Act. A waiver under this subsection may not by its terms subordinate the claims of the United States under this Act to those of any other creditor of the Corporation or any Borrower.

Severability

(g) If any provision of this Act is held to be invalid, or the application of such provision to any person or circumstance, is held to be invalid by a court of competent jurisdiction, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

REPORTS TO CONGRESS: RECOMMENDATIONS

SEC. 108. The Secretary shall submit to the Congress annually a full report of his activities under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. (a) There are authorized to be appropriated beginning October 1, 1979, and to remain available without fiscal year limitation, such sums as may be necessary to carry out this Act.

(b) Any other provision of this Act to the contrary notwithstanding, the authority of the Secretary to make any guarantee under this Act shall be limited to the extent such amounts are provided in advance in appropriations Acts.

[Section-by-Section Analysis]

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The Bill authorizes the Treasury Secretary to provide financial assistance in the form of loan guarantees of up to $1,500,000,000 to Chrysler Corporation.

The Bill has 9 sections:

101. Title; Definitions.

102. Authority for Loan Guarantee—Findings for Commitments.

103. Findings; Effect of Determinations; Guarantee Fee.

104. Requirements Applicable to Loan Guarantee.

105. Powers and Duties.

106. Maximum Obligation.

107. Protection of the United States' Interest.

108. Reports to Congress.

109. Authorization of Appropriations.

Section 101. Definitions. This section sets forth the definitions of various terms used in the Act.

The definition of "Corporation" makes it clear that the various conditions set forth in the Act are to be applied to Chrysler Corporation and to its subsidiaries and affiliates, considered as a single enterprise. The definition of "Borrower" indicates that a loan to a separate entity, not included within the definition of Corporation, may be guaranteed if such separate entity is borrowing funds for the benefit or use of the Corporation.

The definition of "persons with an existing economic stake in the health of the Corporation" is intended to include all those who would be most directly affected by a failure of the Corporation, including but not limited to banks, financial institutions, and other creditors, suppliers, dealers, shareholders, labor unions, employees, State, local and foreign governments.

Section 102. Authority for Loan Guarantee—Findings for Commitments. This section grants the Secretary the authority to commit to guarantee principal and/or interest on loans, subject to specified determinations. Among the determinations the Secretary must make before giving a commitment are that (a) such commitment is necessary to enable the Corporation to continue to operate and the failure to meet such need would adversely affect the economy or employment in the United States or any region or competition in the automobile industry; (b) the Corporation has submitted a satisfactory operating plan for its 1980 fiscal year and the next three fiscal years, demonstrating its ability to continue as a going concern in the automobile business, both during the period prior to December 31, 1983 and thereafter, without additional Federal assistance under the Act; and (c) the Corporation has submitted a satisfactory financing plan covering the financing needs reflected in its operating plan, which plan must include funding from non-Federal sources at least equal to $1,500,000,000 that is not guaranteed by the United States from (i) commitments or concessions from persons with an existing economic stake in the financial health of the Corporation in addition to their commitments and concessions as of October 17, 1979, (ii) capital to be obtained from merger, sale of securities or otherwise after October 17, 1979, and (iii) disposition of assets entered after October 17, 1979. Section 102(e) requires the Secretary to receive adequate assurances as to the feasibility of the financial plan. Section 102(c)(1) contains the further restriction that the outstanding amount of guarantees may not be proportionately greater than the non-Federal funding obtained and not repaid.

The Secretary shall have wide discretion to determine those items and amounts that may be excluded in satisfying the non-Federal aid requirement, except that, to the extent practicable, the commitments should be commensurate with the financial stake in the corporation. In determining whether the goal of $1,500,000,000 has been reached, commitments and concessions existing on October 17, 1979 and included in the revised Chrysler submission of that date to the Treasury even if subject to conditions that were not then met—such as the full amount of Chrysler's then outstanding domestic bank lines of $567 million and credit line with Japanese banks of $400 million and the loan from Blue Cross-Blue Shield of Michigan of $50 million—do not count. A similar test would be used for the proceeds on asset dispositions: the proceeds from transactions prior to October 17 would be excluded even if proceeds were not received as of that date and even if the transaction were conditional; for example, the $1,500,000,000 would not include the proceeds from the sale of Chrysler Realty.

Section 103. Issuance of Guarantees. Subsection (a) specifies the conditions to be satisfied before the Secretary may issue a guarantee under the Act. It indicates that each commitment which has been issued must require that the conditions specified in subsection (a) must be met each time a guarantee is issued under that commitment. These conditions are that:

(i) credit is not otherwise available on reasonable terms in amounts required by the financing plan;

(ii) there is a reasonable prospect of repayment;

(iii) the interest rate is reasonable, but may not be less than the current average yield on Treasury securities of a similar maturity;

(iv) the operating plan and the financing plan continue to meet the applicable standards of Section 102 or has been revised as appropriate; the Corporation is in compliance with such plans; and the Secretary has received assurances as to the feasibility of such plans and the Corporation's compliance therewith;

(v) the Corporation has agreed to deliver rolling four-year operating and financing plans to the Secretary and an annual analysis of deviations in performance from the targets set forth in the plans; and

(vi) the Borrower is in compliance with the terms of the commitment to guarantee required under Section 104(b), unless compliance is waived by the Secretary.

All guarantees must be issued pursuant to commitments to assure that the condition of both Sections 102 and 103 have been met.

Subsection (b) provides that the determinations of the Secretary under any provision of the Act shall be conclusive, that the validity of guarantees shall be incontestable, and that the Secretary may determine the form of the guarantees.

Subsection (c) requires a guarantee fee of at least ½ percent per annum on the outstanding guaranteed loans and authorizes the Secretary to negotiate appropriate additional terms to compensate for the risk assumed, which compensation need not necessarily be in the form of a cash payment. All of these amounts are to be treated as miscellaneous receipts of the Treasury.

Section 104. Requirements Applicable to Loan Guarantees. Subsection (a) provides that all guaranteed loans shall be payable not later than December 31, 1990, and that the terms of the loans cannot be amended or waived without the Secretary's consent.

Subsection (b)(1) requires that any commitment to guarantee contain appropriate covenants and protective provisions and that the Secretary require security, subordination of existing creditors, and prohibition of dividends unless he determines that a waiver is necessary to facilitate the ability of the Corporation to meet its financing needs and that, despite the waiver, there is a reasonable prospect of repayment of the guaranteed loans. Subsection (b)(ii) authorizes the Secretary to require a change in management if he determines that failure of management to exercise reasonable business prudence has inhibited its ability to obtain financing.

Section 105. Powers and Duties; Audit. Subsection (a) authorizes the Secretary to inspect and copy accounts, books, records and transactions of the Corporation and any Borrower who apply for a guarantee.

Subsection (b) authorizes the General Accounting Office to make a detailed audit of any Borrower who applies for a guarantee.

Section 106. Maximum Obligation. This section limits the outstanding principal amount of loans guaranteed to $1,500,000,000. Interest is not included in determining this ceiling.

Section 107. Remedies; Miscellaneous Provisions. Subsection (a) authorizes the Secretary to take appropriate action to enforce any right under any guarantee.

Subsection (b) authorizes the Secretary to recover from any Borrower the amount of any payment made under a guarantee.

Subsection (c) provides that the Secretary shall have all other available remedies.

Subsection (d) provides that the Secretary may bring action in any United States district court or other appropriate court to enforce agreements relating to the commitments of the Secretary and grants such courts jurisdiction.

Subsection (e) prohibits the Secretary from guaranteeing directly or indirectly any tax exempt securities.

Subsection (f) authorizes the Secretary to waive the priority of the United States granted by section 3466 of the Revised Statutes (31 U.S.C. § 191) to the extent necessary to facilitate other financing contemplated by the financing plan, provided that the Secretary determines that despite the waiver, there is a reasonable prospect of repayment of the guaranteed loans. Such a waiver may not subordinate the claims of the United States to any other creditor.

Subsection (g) provides for the severability of any invalid provision or application of the Act so that the remainder of the Act and its application shall not be affected.

Section 108. Reports. This section directs the Secretary to report to Congress annually on his activities under the Act.

Section 109. Appropriations. Subsection (a) authorizes the appropriation and availability without fiscal year limitation, beginning October 1, 1979, of such sums as may be necessary and to pay principal and interest on the loans guaranteed. The appropriation will remain available for one year after final maturity.

Subsection (b) limits the authority of the Secretary to make guarantees to the extent of amounts provided in advance in appropriations acts.●

By Mr. HEINZ (for himself and Mr. ROTH):

S. 1966. A bill to amend the Tariff Act of 1930 and the Trade Act of 1974 to provide more equitable standards for determining the foreign market value of, and market disruption attributable to, goods manufactured in nonmarket economy countries; to the Committee on Finance.

CONTROLLING MARKET DISRUPTION BY NONMARKET ECONOMIES

● Mr. HEINZ. Mr. President, one of the major issues left over from the multilateral trade negotiations and the accompanying legislation passed by the Congress last July is the question of how to deal with dumping and market disruption caused by nonmarket economies. This problem was put aside during the Finance Committee's deliberations on the Trade Agreements Act of 1979 because of its complexity and controversial nature. Today I am introducing legislation intended to reopen the debate on the nonmarket economy problem and ultimately to resolve it in a way that is equitable for all parties. An identical bill is being introduced today on the House side by Congressmen SCHULZE and COTTER.

To the extent the nonmarket economy problem is discussed by people outside the community of trade professionals, it is perceived primarily in the context of a handful of relatively obscure cases, the most famous—or infamous—of which is the Polish golf car case, in which the Poles, who have no golf courses, were found to be dumping golf carts in the United States. Unfortunately the potential for serious market disruption from nonmarket countries is rapidly growing as our economic relations with such nations become more sophisticated. The signing of a trade agreement with the People's Republic of China and the President's decision to waive the Jackson-Vanik amendment and grant most-favored-nation status to the PRC add a particularly serious note of concern to the possibility of market disruption from nonmarket economies. Growing trade with various Eastern European nations, in part due to the recent extensions of MFN status to Romania and Hungary, also adds to domestic concern about this problem.

Conceptually, finding a way to deal with market disruption by nonmarket economies is complicated by theoretical and practical differences between free market and nonmarket economic structures. For example, dumping, a peculiarly free market concept, is based on a comparison between a product's price in its country of origin and its price in the United States, or alternatively, between its cost of production in the country of origin and its U.S. price. In either case, if the latter is less than the former, dumping is usually found to have occurred, and compensatory duties are assessed, assuming domestic producers are found to have been injured.

Within such a framework a determination of dumping depends upon the administering authority's ability to accurately make the necessary price comparisons, including the appropriate adjustments if the articles sold in the two markets are not identical. In other words, the administering authority must be able to accurately obtain the price in the home country or the cost of production, and such prices should reflect true economic costs.

In a nonmarket economy, however, such comparisons cannot be made with any confidence. Prices within such a country do not necessarily reflect the interaction of supply and demand in any realistic sense, and costs of production are equally difficult to measure because

of the unreliability of product input costs and the difficulty of separating Government subsidies from true economic costs. In a centrally planned economy such distinctions are simply not made in the same way they are made in capitalist economies. Moreover, price inconsistencies are particularly likely to occur in the export sector, because of the nonmarket economy's interest in promoting exports as a source of foreign exchange to aid in internal industrial development or other governmental policies. As a result, it is often fair to say that the export sector of these economies is more advanced and relatively more heavily supported by the Government than other sectors.

The Treasury Department, until the end of this year the administering authority for the Antidumping Act of 1921, has attempted to cope with these problems through the use of the comparable economy concept. In this approach, another free country at a comparable stage of economic development with the nonmarket country is selected and the price of a like article in that economy (or the constructed value of the article—what it would cost to produce it) used to make the comparison.

This concept, however, is flawed in several important respects, notably in its assumptions that a simple and accurate basis exists for determining when economies are at comparable stages of development and that comparable overall levels of development (assuming such can be determined) mean comparable levels within a particular industry. For example, when a country has targeted a particular industry for rapid development in order to stimulate its export sector—not an unusual occurrence, as I mentioned earlier—the level of development in that industry is likely to be greater than the economy as a whole, thus making industry-specific comparisons based on aggregate analyses highly misleading.

Because of these problems, the legislation I am introducing today is based on a different comparison—with the lowest average price free market producer, including a U.S. producer if there is no other. In this approach, rather than attempting an aggregate comparison of entire economies, only the lowest price (and therefore presumably the most efficient) free market producer is used. This is both an easier quantity to determine and a more relevant comparison to make since it can take into account the extent to which a particular sector in a nonmarket economy differs from the aggregate. This is also a far more direct comparison than attempting to find a comparable economy and then trying to calculate what it would cost to produce the article in that economy, even though no producers exist there.

Since I am proposing this legislation to begin a public debate on the entire issue, I do not want to suggest my approach is flawless. It also rests on some assumptions which will be the subject of debate, particularly its suggestion that no nonmarket economy is more efficient than the most efficient free market producer. (Since dumping would be defined as sales below the price of the lowest average price free market producer, by implication a nonmarket economy producer is presumed not to be able to produce at a lower real economic cost than the most efficient free market producer). I do not intend to defend the validity of this assumption today, but I would submit that it is clearly a less untenable assumption than those contained in present Treasury Department regulations.

Because of the difficulties inherent in determining dumping from nonmarket economies, it is important that domestic industries have other means for dealing with sudden surges of imports from these countries, who often are not GATT members and therefore not subject to GATT discipline.

Historically, an alternate means of obtaining relief has existed in section 406 of the Trade Reform Act of 1974, which creates a special procedure for handling market disruption by nonmarket economies. This section has not been particularly effective in the past for a number of reasons, including the lack of clear guidance as to what constitutes market disruption and the excessive latitude given the President to overrule International Trade Commission recommendations in these cases.

The bill I am introducing today clarifies the concept of market disruption by defining it in two ways: that based solely on the quantity of imports that lead to injury, and that caused by "artificial pricing," meaning sales below the price of the lowest free market producer. In the latter situation, the domestic industry, therefore, would continue to have the option of filing either a dumping petition or a section 406 petition, since the pricing definitions in both are parallel.

More than any other factor, it is the President's authority to veto the ITC recommendation in section 406 cases that has dissuaded domestic industries from seeking relief. The present administration, consistent with its overall trade policy of providing as little support as possible to import-impacted U.S. industries, has been unsympathetic to ITC recommendations in section 406 cases. It is my view that the International Trade Commission, having a quasijudicial function in determining injury, is well qualified to make recommendations in these cases based on its objective analysis of the facts, and only in extraordinary cases should the more immediate political objectives of the administration be permitted to overrule ITC judgments. Accordingly, my bill tightens existing law by permitting the President to overrule the ITC recommendation only with the approval of both Houses of Congress.

That portion of the bill which amends section 406 also makes a number of other changes designed to conform procedures and definitions in this section to those used in the new countervailing duty and antidumping laws enacted as part of the Trade Agreements Act of 1979. For example, the definition of "like" article has been changed to conform to the new standard that will go into effect January 1, 1980.

This bill also attempts to deal with one of the thorniest philosophical questions inherent in the entire issue: What is a nonmarket economy? Present law defines the term narrowly, applying it only to countries "dominated or controlled by communism." As the international economy grows in sophistication and complexity, the number of mixed national economies grows as well, and this definition putting everything in the context of communism becomes simplistic.

As an alternative, my new legislation attempts to approach the problem from the standpoint of economic theory by defining the term as, "* * * any country whose economy is State-controlled to an extent that sales or offers of sales of merchandise in that country or to countries other than the United States do not reflect the fair value of the merchandise, including any country dominated or controlled by communism." With this definition the administering authority no longer has to make a political judgment about the country's government but rather an economic judgment about its market system. That could be more difficult, but it is also more faithful to the principle we are trying to establish with this legislation.

As I indicated when I began my remarks today, I am introducing this legislation in an effort to begin some debate in Congress and in the trade community in general on how our Government can best deal with this difficult problem in a way which is fair both to foreign governments and to our own industries. It may well be that some changes in the bill will be appropriate, and I want to indicate my willingness to consider any proposals that are put forward. At the same time I believe it is important that Congress act on this issue during the 96th Congress, and I intend to press the Finance Committee for hearings and markup on this legislation.

Mr. President, I ask that a text of the bill and a summary of its provisions be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DETERMINATION OF FOREIGN MARKET VALUE OF MERCHANDISE MANUFACTURED IN NON-MARKET ECONOMY COUNTRIES.

Subsection (c) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b) is amended—

(1) by striking out "State-Controlled" in the caption and inserting in lieu thereof "Non-market",

(2) by striking out "State-controlled" and inserting in lieu thereof "a non-market economy",

(3) by striking out "as reflected by either" and inserting in lieu thereof "of the producer or producers located in a free-market economy country, including, but not limited to, the United States, and most nearly comparable in size, sophistication, and technology to the non-market economy producer or producers (hereinafter referred to as the 'most comparable free-market producer or producers') as reflected by either",

(4) by striking out "of a non-State-controlled-economy country or countries is sold"

in paragraph (1) and inserting in lieu thereof "is sold by the most comparable free-market producer or producers", and

(5) by striking out "country or countries" in sub-paragraph (A) and inserting in lieu thereof "producer or producers",

(6) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) the constructed value, as determined under subsection (e), of such or similar merchandise produced by the most comparable free-market producer or producers.".

SEC. 2. MARKET DISRUPTION BY PRODUCTS OF NON-MARKET ECONOMY COUNTRIES.

(a) CAUSATION.—Paragraph (1) of section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) is amended by striking out "Communist country, whether market disruption exists" and inserting in lieu thereof "non-market economy country or countries, whether market disruption, caused by increased imports or artificial pricing, or both, exists".

(b) RELIEF MADE AVAILABLE.—Subsection (h) of section 406 of such Act (19 U.S.C. 2436) is amended—

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following new paragraphs:

"(3) in a case in which the Commission recommends relief for market disruption caused by artificial pricing, if the President reports under section 203(b) that he will take action which differs from the action recommended by the Commission or that he will not provide import relief, and the Congress does not (within the 90-day period following the date on which the President transmits his report to the Congress) adopt a concurrent resolution, a majority of the Members of each House voting in the affirmative, approving the action proposed by the President, the President shall (within 30 days after the 61st day of such 90-day period) proclaim the increase in, or imposition of, any duty or other import restriction on the article which was recommended by the Commission, and

"(4) relief for market disruption caused by artificial pricing—

"(A) shall not be subject to subsection (d), (h), or (j) of section 203,

"(B) may be granted or extended for more than five years if a danger of such disruption is likely to continue over a longer period, and

"(C) shall not operate to prevent the initiation of an investigation according to the procedures in section 201(a)(1) when it is alleged that changes in circumstances have occurred after the conclusion of the investigation upon the basis of which relief was granted, and such investigation shall be treated as an original investigation under subsection (a)(1).".

(c) Presidential Action With Respect to Apparent Market Disruption by Products of Non-market Economy Countries.—

(1) Subsection (c) of section 406 of such Act (19 U.S.C. 2436) is amended by striking out "Communist country, that market disruption exists" and inserting in lieu thereof the following: "non-market economy country, that market disruption, caused by increased imports or artificial pricing, or both, exists".

(2) Paragraph (2) of section 406(d) of such Act (19 U.S.C. 2436) is amended by striking out "market disruption exists" and inserting in lieu thereof "market disruption, whether caused by increased imports or artificial pricing, or both, exists".

(d) Definitions; Special Rules.—Subsection (e) of section 406 of such Act (19 U.S.C. 2436) is amended to read as follows:

"(e) For purposes of this section—

"(1) The term 'non-market economy country' means any country whose economy is State-controlled to an extent that sales or offers of sales of merchandise in that country or to countries other than the United States do not reflect the fair value of the merchandise, including any country dominated or controlled by Communism.

"(2) Market disruption caused by increased imports exists within a domestic industry whenever direct or indirect imports of an article like an article produced by such domestic industry are increasing, either absolutely or relatively, so as to be, either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

"(3) Market disruption caused by artificial pricing exists within a domestic industry whenever an article, like an article produced by such domestic industry, is imported directly or indirectly from a non-market economy country or countries at a price below the lowest free-market price of like articles, so as to be, either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

"(4) The lowest free-market price of like articles is the lowest average price, adjusted for differences in quantity, level of trade, duties or other factors required to ensure comparability, charged for like articles in this country by

"(A) any producer from an appropriate free market economy, including the United States, if the producer supplies more than 5 percent of the apparent United States consumption of like articles, or

"(B) by the aggregate of all producers from any appropriate free market country, including the United States, that supplies more than 5 percent of the apparent United States consumption of like articles.

"(5) The term 'like article' means an article which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under this section.

"(6) A country is an appropriate free-market country with respect to an article alleged to be disruptive if—

"(A) the country is not a non-market economy country within the meaning of this section,

"(B) no preliminary or final determination has been made under title VII (or, if applicable, section 303) of the Tariff Act of 1930 that a subsidy, bounty, or grant is being provided with respect to like articles from that country, and

"(C) no preliminary or final determination has been made under subtitle B of title VII of the Tariff Act of 1930 that like articles from that country are being, or are likely to be, sold in the United States at less than fair value.

"(7) The term 'domestic industry' means an industry producing an article in whole or in part in the United States, including any territory or possession of the United States.".

SECTION-BY-SECTION ANALYSIS

This bill amends the Tariff Act of 1930 and the Trade Act of 1974 to provide a more coherent and easily administered body of trade law concerning imports from countries that do not have free-market economies.

SECTION 1

Section 1 of the bill amends subsection (c) of section 773 of the Tariff Act of 1930, as amended, which specifies the methods for determining foreign market value when non-market economies are accused of dumping.

The term "non-market economy country" would replace the term "State-controlled economy." This change would bring subsection 773(c) into line with the bill's amendment to section 406 of the Trade Act of 1974; section 406 is amended by replacing "Communist country" with "non-market economy country." Both subsection 773(c) and section 406 are concerned with the same countries and the same problem of non-market pricing; using the same terminology clarifies their interrelationship.

Section 1 would also amend section 773 (c) to make it clear that the foreign market value of goods from non-market economy countries should be determined by examining the prices or costs of the most comparable free-market producer or producers, i.e., the producers that are located in a free-market economy country, including but not limited to the United States, and that are most nearly comparable to the non-market economy producer in size, sophistication, and technology. Although it was the Treasury Department's practice at the time subsection 773(c) was first enacted to compute the foreign market value of non-market imports by looking to prices or costs in third countries with comparable producers, that policy has since been changed in favor of seeking out the most comparable country. This change has not been a success. Trying to measure the "comparability" of market and non-market countries is virtually impossible; in practice, the new policy confers undue discretion upon administrators and contributes to great uncertainty about what our trade laws require. This amendment would correct the problem.

SECTION 2

Section 2 of the bill amends section 406 of the Trade Act of 1974. At present, section 406 authorizes the International Trade Commission ("the Commission") to recommend relief whenever it determines that products of a Communist country are causing market disruption with respect to an article produced by a domestic industry. As now written, section 406 recognizes only one form of market disruption—a rapid surge in imports constituting a significant cause of material injury, or threat thereof, to a domestic industry. Because there is nothing unfair about importers increasing their market share in open competition, section 406 as now written offers only temporary relief to U.S. industries, and even that relief is subject to modification by the President. It is true that non-market economies are especially prone to volume surges and other erratic supply patterns, but they also pose a special danger of unfair pricing, because non-market enterprises need not operate at a profit if they serve other goals, such as bringing in hard Western currency. The proposed amendment would broaden the definition of market disruption to include artificial pricing.

Subsection 2(a). This subsection would strike out the term "Communist country" and replace it with the term "non-market economy country." Because the primary focus of this bill is on a country's economic structure and not its politics, using an economic rather than a political term seems appropriate.

This subsection also recognizes the danger that non-market countries will engage in below-cost pricing by permitting the Commission to find market disruption caused by increased imports or artificial pricing or both.

Subsection 2(b). This subsection establishes a special procedure for modifying the relief recommended by the Commission. If the Commission recommends relief for market disruption caused by artificial pricing, the President may report that he intends to take action differing from the recommendation. His modification may be put into effect if

within 90 days Congress adopts a concurrent resolution approving it. Thus a domestic industry that has proven its case to the Commission may be denied relief by Congress and the President. This is because relief under section 406 will sometimes implicate large issues of foreign policy, and supervision by elected officials serves as a safety valve for the exceptional case in which overriding national interest justifies disregarding a proven injury to U.S. industry.

Nonetheless, artificial pricing is an unfair international trade practice, akin to dumping or subsidizing exports. Neither dumping nor subsidy (countervailing duty) cases are subject to a Presidential override. Non-market countries should not escape the consequences of engaging in unfair artificial pricing unless the President and Congress agree that an exception is necessary. By placing the burden of persuasion on the President, the bill ensures that exceptions will be recommended by the Executive only in a small number of genuinely important cases.

This subsection also proposes other procedural changes in section 406; the changes are necessitated by the nature of the artificial-pricing problem. For example, the relief rewarded by the Commission would not be subject to subsections (d), (h) or (j) of section 203 of the Trade Act of 1974.

Subsection 203(d) is inapplicable because it prohibits increasing the rate of duty to (or imposing) a rate which is more than 50% ad valorem above the rate (if any) existing at the time of the proclamation. But if the Commission is to have the power to impose duties sufficient to eliminate artificial pricing, it must have the power to impose substantial specific duties on products that ordinarily have no ad valorem duty or no duty at all. Because nonmarket economies control the price of their goods, the declared value is subject to manipulation, so that any relief awarded by the Commission could easily be defeated if an *ad valorem* limitation applied. And, of course, it would be entirely appropriate to impose duties on artificially priced goods even though the goods ordinarily enter duty-free.

Subsection 203(h) provides that relief shall terminate 5 years after the day it takes effect and recommends that relief be reduced gradually over this period. While this may be a valid rule of thumb when imports have increased substantially but no unfair practice has been shown, artificial pricing is an intentional breach of the rules of international trade. If the danger of further violations continues, so should the relief. Therefore, the new bill states that relief for artificial pricing may be granted or extended for more than 5 years, but only if the danger of such disruption is likely to continue for more than five years.

Subsection 203(j) is equally inapplicable. It provides that no investigation shall be made with respect to an article which has received relief under section 201 (or section 406) unless two years have elapsed since the last day on which import relief was provided with respect to such articles. Again, requiring a domestic industry to wait two years before renewing its claim for relief seems sensible with respect to a provision offering only temporary refuge from surging imports, but the requirement is out of place in a provision dealing with an unfair practice like artificial pricing. The bill provides instead that the granting of relief for market disruption caused by artificial pricing shall not operate to prevent the initiation of an investigation based on allegations that circumstances have changed since the end of the investigation leading to relief. Without a provision of this nature, non-market countries could continue to maintain an artificial advantage by dropping their prices even further once duties have been imposed under section 406. The provision is also necessary to permit a showing that inflation, or some other recent development, requires adjustment in the relief granted by the Commission.

Subsection 2(c). At present, section 406(c) permits the President to request a Commission investigation and to take emergency action with respect to market disruption caused by increased imports. The bill would permit him to do the same with respect to market disruption caused by artificial pricing.

Similarly, 406(d) now permits the President to initiate international consultations if he determines that there are reasonable grounds to believe that a country's increased imports are causing market disruption. This subsection would permit him to take the same action with respect to disruption caused by artificial pricing.

Subsection 2(d). The definitions contained in this section are the heart of the bill.

At present, section 406 applies only to countries "dominated or controlled by Communism." While this definition has the virtue of indisputably identifying the most obvious non-market economies, it does not deal with the economic nature of the problem. Accordingly, the bill supplements this definition by adding an economic concept drawn from the antidumping laws, specifically section 773(c) of the Tariff Act of 1930. A non-market economy country is defined as a country whose economy is controlled to an extent that sales or offers of sales of merchandise in that country or to countries (including any country dominated or controlled by Communism) other than the United States do not reflect the true market value of the merchandise.

The subsection also makes several improvements in the existing definition of market disruption caused by increased imports. Under the proposed amendment, such disruption would be held to exist within a domestic industry whenever direct or indirect imports of articles, like an article produced by such domestic industry, are increasing, either absolutely or relatively, so as to be either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry. This definition takes into account the possibility that an increased volume of indirect imports from non-market countries will cause injury. The current test for comparable articles has been streamlined by dropping the phrase "or directly competitive with" in favor of defining "like article" in a manner parallel to the definition used in antidumping and countervailing duty cases (section 771(10) of the Tariff Act of 1930). A like article is defined as an article which is like, or in the absence of like, most similar in characteristics and uses with an article subject to an investigation under this section.

The bill deletes the requirement in section 406 that imports be increasing "rapidly." This resolves a discrepancy between section 406 and the other provision for relief against increasing imports, section 201 of the Trade Act of 1974. The amendment also provides for cumulation of all non-market economy imports in determining the cause and extent of injury. This is because many non-market countries are part of a single, close knit economic community, so that coordinated export policies are a likelihood. The bill would also delete the requirements that nonmarket imports be a "significant" cause of material injury; it adopts instead the standard of the antidumping and countervailing duty laws, which require that the challenged imports be a cause of material injury. See Tariff Act of 1930, §§ 701 and 731. The bill also borrows from these laws the rule that relief may be awarded when the challenged imports are a cause of material retardation of the establishment of a domestic industry.

As has been explained, the bill adds a provision to section 406 permitting relief for market disruption caused by artificial pricing. It is similar in many details to the definition of disruption by increased volume discussed above. Because artificial pricing is so similar to other unfair trade practices, such as dumping and export subsidies, it is especially important to make the rules and remedies parallel in all three areas. Market disruption by artificial pricing is held to exist within domestic industry whenever an article, like an article produced by such domestic industry, is imported directly or indirectly from a non-market economy country or countries at a price below the lowest free-market price of like articles, so as to be, either alone or in combination with imports from other non-market economy countries, the cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

The key to the new provision is the rule that non-market imports should not be priced below the "lowest free-market price of like articles." This price is defined as the lowest average price, adjusted for differences in quantity, level of trade, duties or other factors required to insure comparability charged for like articles in this country by either: (a) a producer from an appropriate free market country, including the United States, if that producer provides more than 5% of the apparent United States consumption of like articles; or (b) the aggregate of all producers from any appropriate free-market country, including the United States, that supplies more than 5% of the apparent United States consumption of like articles.

In essence, this definition permits non-market producers to charge the lowest price offered by any significant individual supplier or by all suppliers from any country responsible for a significant portion of domestic consumption. The five-percent requirement is designed to exclude anomalous producers or countries, whose prices may be affected by unusual circumstances (including ownership by a non-market enterprise). Ordinarily, the Commission can be expected to use the prices charged by an aggregate of producers from a single country in preference to the prices of a single producer. Using an aggregate price forestalls serious confidentiality problems and is generally more appropriate; the output of an entire non-market country should ordinarily be compared to the output of another entire country and not to that of a single firm. Nonetheless, the bill gives the Commission discretion to administer the new provision in a flexible manner consistent with the bill's intent. For example, the Commission may adjust prices to reflect differences in quantity, level of trade, duties, and other factors necessary to assure comparability. It may determine the prices of importers from a particular country by conducting a sample. Generally, the principles established in the countervailing duty and antidumping laws will assist the Commission in administering the new law.

In order to avoid the choice of an inappropriate country for purposes of comparison, the bill forbids comparisons to goods from other non-market economy countries or to articles that are subject to countervailing duty or antidumping determinations.

Finally, the bill defines domestic industry as any industry producing an article in whole or in part in the United States, including any territory or possession of the United States. Watch producers in the Virgin Islands and Guam have already been hard-hit by the importation of watch subassemblies from the Soviet Union at extremely low prices. If the Soviet Union is granted MFN status and if it begins to import watches directly at artificial prices, a major portion

of the insular possessions' economy could be wiped out. This provision would make it clear that section 406, as amended, protects the workers and industries of American possessions as vigilantly as it protects labor and business elsewhere in the United States.●

By Mr. NELSON:

S. 1967. A bill to amend the Internal Revenue Code of 1954 to allow a corporation which deals in securities to establish a reserve for the net gain from certain market making activities; to the Committee on Finance.

CAPITAL FORMATION INCENTIVE ACT OF 1979

● Mr. NELSON. Mr. President, I am introducing today a bill to strengthen the foundations of small business capital formation. This measure would allow securities brokers to create a limited reserve from profits which they have made in supporting the trading of stocks of small and unknown companies. I ask that the bill be appropriately referred and that the text be printed in the RECORD following my remarks.

NEED FOR THE LEGISLATION

Over the last year and a half, the Senate Small Business Committee has held a series of hearings on the various aspects of capital formation.

Two of the committee's hearings, in the summer of 1978 and May of 1979, focused on the possibilities of small enterprises raising capital in public securities markets.

We discovered a serious capital formation problem among small and independent enterprises. The situation was summarized by Business Week magazine which concluded in October 1977, that:

> For some years now the public capital market has been closed to all but the largest firms . . . the 1,000 biggest corporations.

The largest 1,000 would amount to about half of the U.S. corporations listed on the New York Stock Exchange. It would constitute less than one-tenth of the total of publicly held securities which are listed on all public exchanges and the over-the-counter NASDAQ system.

A substantial number of statistics can be cited to support Business Week's conclusions.

In 5 years, 1974 through 1978, only 82 small companies—defined as having a net worth of less than $5 million—were able to raise capital in the public securities market. That is an average of 16½ per year, compared to 698 in the single year 1969, just 10 years ago.

During the same 5 years, these small companies raised an average of just over $100 million per year in public equity capital compared to about $1½ billion for similar companies in 1969.

UNDERLYING CAUSES OF THE CAPITAL GAP

There are a multiplicity of reasons for this lack of equity investment, or gap in capital formation.

They have been compiled and explored in an excellent report prepared by the National Association of Securities Dealers and discussed at the committee's capital formation hearing on May 22, 1979:

> The withdrawal of the individual investor from the stock market. During the 1970's the number of citizens holding stocks has declined from 31 million to 25 million. This is particularly hard on new and small business, since individual investors are more inclined to take risks with their own money than institutional investors are with other people's money;
>
> Institutional investors have come to dominate the stock market. They owned 26 percent of common stocks in 1960 and will own half by 1985. Institutions have shown very little interest in investing in smaller firms. The multi-billion dollar scale of their operations is a factor. Because there are legal and regulatory restraints about investing money placed in their trust, many fund managers will not invest in any stocks but the bluest "blue chips". They believe the stock of the new and small companies is by definition riskier than the established giants;
>
> Inflation and other adverse economic trends have made everyone less willing to take investment risks;
>
> Tax laws of the past decade discouraged equity investment in general, and investment in small business in particular;
>
> The number of independent security brokers and dealers who provide entry into the market for small business has declined by 37 percent since 1970.

BROKER-DEALERS AS MARKET GATEWAY FOR INDEPENDENT ENTERPRISE

The function performed by a securities dealer, or "investment banker," is mysterious to many people, and I will offer a brief explanation.

There is an adage in the brokerage community that stocks are sold and not bought. This is particularly true with new issues which are, by definition, almost unknown to the majority of the public.

Salesmen within a firm must follow the development of the company so that they can recommend the stock to their customers when appropriate. The firm for which they work must be willing to risk its capital as well as its reputation in analyzing the company and offering its stock to the public.

After "going public", the sponsoring investment banker must support the "after-market" by purchasing those shares which others are unwilling to buy in daily trading.

This commitment was described in the testimony before our committee of J. Stephen Putnam, president of F. L. Putnam & Co., of Boston, as follows:

> Effectively when I underwrite a security and bring it public, if I do not have ready a group of broker-dealers that want to make a secondary market in that stock, what it means is that I will bring it, sell it mainly to my own customers * * *. Then anytime a customer wants to sell that security, I may be in a position of being the only market maker to buy that security back.
>
> That is really an untenable situation, if you wish to bring (out) a good number of these smaller issues.

For these reasons, the broker-dealer who is willing to be a marketmaker is a vital link in the chain of capital formation.

One of the major conclusions emerging from our in-depth study of capital formation is that the Nation must buttress the network of financial intermediaries such as independent broker-dealers.

They are the infrastructure on which small business capital formation is built.

In the first instance they are the gateway through which new, small, promising businesses reach the market where they can obtain investment capital. But their job is not done at that point. They must live with the company for years afterward by assuring that investors can sell and buy the stock in conventional trading.

Certainly the profit motive is predominant in doing this. However, there are other key elements involved. A local broker who has watched an entrepreneur succeed in his community—has witnessed his diligence, service to the community, and financial responsibility—will be more willing to take a chance on helping such a firm raise money.

When a firm approaches a nationwide or multinational securities firm in one of the financial capitals, for instance, chances are that the huge broker will simply not be interested. The reasons are apparent: There is not enough stock to sell through his customers to generate large commission income; and if research time is to be committed, greater return might be made by applying it to larger existing companies. But another definite factor is that the faraway broker just does not know the company and individuals involved.

We already face a situation where the number of marketmakers has fallen 37 percent during this decade (to 468), which means an average of less than 10 per State. Nine states do not have any securities firms which make markets in a small or unknown/unlisted security. There are many other States where the is only one market maker.

ROLE OF "MARKET MAKERS"

Let us examine in more detail the "market dealer" role which is the basis of this bill. Suppose an investor had bought 1,000 shares of the stock of a local bank. He has done so to invest wisely. However, he is also conscious he has helped a local institution raise capital for the use of local individuals and business. The entire community will be better served. Now suppose that after some length of time, the investor wishes to sell this 1,000 shares. The stock is quoted at about 17½. This means that the sponsoring broker-dealer who is making a market in the stock will have to commit $17,500 to buy that stock if nobody else wishes to do so.

If, for instance, later in that day a major news break occurs and statistics are to be announced on the inflation rate, or the balance of payments, or the budget, or oil prices, this news can send the market up or down. The extent of that movement is a measure of the risk independent brokers take in making a market in the stock of local companies.

The greatest risk lies in an imponderable economy. No matter how good the stock may be nor how great its potential nor how hard the local broker tries to sell that stock practically nobody will be willing to buy it when the Nation is plunging into a recession.

Under these circumstances, there will be many transactions which will absorb the capital of the brokerage firm and there will be fewer profitable ones to offset these commitments of capital.

THEORY OF THIS BILL

This bill would address the problem of broker-dealer risk by allowing a deferment of a limited amount of taxes on profits in a good year. The income deferred in this way would then be available in poor years to keep the broker in business. The theory of this legislation is that these vital intermediaries are working within an economic cycle that is beyond their control.

They are entrepreneurs, and they have made this commitment to free enterprise. However, in recent years there has been unparalleled turbulence in our domestic economy and in the world economy. We have seen the consequences of this in the decline in independent broker-dealer population, which has also fallen 37 percent since 1970.

In the past 6 years the decline of the small independent broker has been so severe that the income share of the 10 largest securities firms jumped from about one-third to almost one-half of all industry revenues. The smaller brokers, who are willing to provide advice, services and support to new companies, are themselves in great jeopardy. And with conditions as they are, we are likely to see continuing attrition if we do not do something about it.

This bill is a moderate, sensible remedy. It would provide a small cushion for the broker-dealer by allowing him to defer the tax up to $1 million in profits he has made in the market-making function in stocks of smaller unlisted securities. He would have the use of this money tax free for a limited amount of time, 10 years. After that the tax would have to be paid.

Only money which had been made in actual market making in small business securities would be eligible for generating such a reserve.

Thus, a broker of any size could gain the advantage of this reserve, but it would have to trade the stocks of primarily small, new, unlisted securities in order to earn the profits that would be set aside in this manner.

There are other limitations of a technical nature which are designed to make the bill sound and administerable.

The term "market maker" is precisely defined in the existing reports of the Securities and Exchange Commission. Market-making profits are required to be reported under present law, so there is no difficulty in identifying them.

SUMMARY

If we are serious about keeping the free enterprise system a prosperous one and therefore keeping the opportunity open for new and independent enterprises to be created and to grow, we must strengthen the financial experts that serve them.

We are facing a fundamental threat to the structure of our free enterprise system. If we are not willing to help the firm that risks its capital to support small business, we are in danger of losing the whole framework by which new and small enterprises can raise public capital. If this kind of risk-taking business fades out of the picture, chances are that small and independent entrepreneurs will also die out.

We urge that this legislation be considered carefully at hearings by the committees which have jurisdiction, so that each of the premises and each of the facets of the proposed legislation can be probed in depth and detail. The bill should also receive a searching critique by Government agencies and by knowledgable persons in the private sector.

In my judgment, it will be able to pass those tests, and we ought to be able to get action with all deliberate speed in enacting this proposal.

I ask unanimous consent that the bill be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Capital Formation Incentive Act of 1979".

SEC. 2. (a) Part VIII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to special deductions for corporations) is amended by adding at the end thereof the following new section:

"SEC. 251. MARKET MAKING RESERVE.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a corporation which is engaged in market making activities during the taxable year, there shall be allowed as a deduction for such taxable year an amount equal to the amount of additions to a reserve for gains from such market making activities during such taxable year.

"(b) LIMITATIONS.—

"(1) AVERAGE POSITION.—No deduction shall be allowed under subsection (a) if the amount of the additions to the reserve for the taxable year exceeds 30 percent of the fair market value of average positions carried for market making activities by the taxpayer during the taxable year.

"(2) $1,000,000 RESERVE.—No deduction shall be allowed under subsection (a) for any taxable year for any addition to the reserve, if, as of the close of the taxable year (after adjustment under subsection (c)), the reserve exceeds $1,000,000.

"(3) TAXABLE INCOME.—The amount of the deduction allowed under subsection (a) shall not exceed the taxable income of the taxpayer for the taxable year (determined without regard to this section)

"(c) ADJUSTMENT TO RESERVE.—

"(1) REQUIRED WITHDRAWALS FROM RESERVE.—At the close of each taxable year, the taxpayer shall withdraw from the reserve an amount equal to the excess of—

"(A) the amount of the additions to the reserve for which a deduction was allowed for the 10th taxable year preceding such taxable year, over

"(B) any withdrawal from the reserve during any preceding taxable year under paragraph (2) which was treated as a withdrawal of any additions made to the reserve during such 10th preceding taxable year.

"(2) ADDITIONAL WITHDRAWALS.—At the close of the taxable year, the taxpayer may withdraw from the reserve any amount in excess of the amount described in paragraph (1). Any such withdrawal shall be treated as a withdrawal of additions to the reserve in the order in which such additions were made to the reserve, beginning with the earliest such addition.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MARKET MAKING ACTIVITIES.—The term 'market making activities' means the purchase and sale of over-the-counter equity securities by a dealer in securities, or any specialist permitted to act as a dealer, who holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell over-the-counter equity securities for his own account on a regular or continuous basis.

"(2) GAIN FROM MARKET MAKING ACTIVITIES.—The term 'gain from market making activities' means the net gain realized from the sale or exchange of over-the-counter equity securities—

"(A) of corporations which, on the last day of the taxable year of the taxpayer preceding the taxable year of the sale or exchange, had $25,000,000 or less of equity securities in such corporation outstanding, and

"(B) which are held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

"(3) OVER-THE-COUNTER EQUITY SECURITIES.—The term 'over-the-counter equity securities' means any equity security not traded on a registered security exchange.

"(4) AVERAGE POSITIONS FOR MARKET MAKING ACTIVITIES.—The term 'average position for market making activities' means the average monthly inventory positions for over-the-counter equity securities of the taxpayer for the taxable year.

"(5) CONTROLLED GROUP OF CORPORATIONS.—For purposes of applying the limitations under subsection (b), all members of the same controlled group of corporations shall be treated as one corporation. In any such case, the deduction allowable by subsection (a) for each such member shall be its proportionate share of net gain from market making activities taken into account in determining the amount of the deduction. For purposes of this paragraph, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1).

"(6) CORPORATE ACQUISITIONS.—In the case of the acquisition described in section 381 (a) (1) or (2) of assets of a corporation by another corporation, the acquiring corporation shall not succeed to any reserve established under this section.".

(b) Section 81 of such Code (relating to certain increases in suspense accounts) is amended—

(1) by striking out "There" and inserting "(a) There"; and

(2) by adding at the end thereof the following new subsection:

"(b) WITHDRAWALS FROM MARKET MAKING RESERVES.—There shall be included in gross income for the taxable year the amount of any withdrawal from any market making reserve under section 251(c).".

(c)(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by inserting at the end thereof the following new item:

"Sec. 251. Market making reserve.".

(2) (A) The heading for section 81 of such Code is amended by inserting "OR REDUCTIONS IN MARKET MAKING RESERVES" after "ACCOUNTS".

(B) The item relating to section 81 in the table of sections for part II of subchapter B of chapter 1 of such Code is amended by inserting "or reduction in market making reserves" after "accounts".

SEC. 3. The amendments made by section 2 of this Act shall apply to taxable years beginning after December 31, 1979.●

By Mr. DURENBERGER (for himself, Mr. BOREN, and Mr. HEINZ):

S. 1968. A bill to amend the Internal Revenue Code of 1954 to encourage com-

petition in the health care industry, to encourage the provision of catastrophic health insurance by employers, and for other purposes; to the Committee on Finance.

(The remarks of Mr. DURENBERGER when he introduced the bill appear earlier in today's procedings.)

ADDITIONAL COSPONSORS

S. 219

At the request of Mr. PACKWOOD, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 1693

At the request of Mr. MELCHER, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1693, a bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

S. 1942

At the request of Mr. MCGOVERN, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1942, a bill to provide for a resource conversion and development program in the U.S. Department of Agriculture.

AMENDMENT NO. 523

At the request of Mr. MCCLURE, the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of amendment No. 523 intended to be proposed to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

AMENDMENTS SUBMITTED FOR PRINTING

EXTENSION OF THE DEFENSE PRODUCTION ACT—S. 932

AMENDMENT NO. 564

(Ordered to be printed and to lie on the table.)

Mr. RIBICOFF (for himself, Mr. MUSKIE, Mr. DURENBERGER, Mr. GLENN, Mr. HART, Mr. JAVITS, Mr. MOYNIHAN, and Mr. TSONGAS) submitted an amendment intended to be proposed by them, jointly, to S. 932, a bill to extend the Defense Production Act of 1950, as amended, and for other purposes.

● Mr. RIBICOFF. Mr. President, last July the Committee on Governmental Affairs held a symposium to examine the effects of synthetic fuels production programs on the accumulation of carbon dioxide in the atmosphere. The panel of scientists and Senators concluded:

. . . the possible long-term impacts of CO_2 accumulations in the atmosphere are important enough to require continuous high-level attention of scientists and energy policy makers both in the United States and abroad . . . Questions still exist on many aspects of the CO_2 problem . . . While these uncertainties remain we cannot predict the precise consequences of uncontrolled fossil fuel use.

Recognizing the need for further examination of the carbon dioxide problem as recommended by the symposium panel, I wish to offer this amendment to authorize such a study.

This amendment authorizes the Secretary and the National Academy of Sciences in conjunction with other nongovernmental and intergovernmental bodies to develop a worldwide assessment of the impact of fossil fuel combustion, including a specific assessment of the impact of synthetic fuel programs on the accumulation of carbon dioxide in the atmosphere. This program would conclude within 2 years with long-term recommendations and a report to the Secretary, the President, and Congress.

Mr. President, the National Academy of Sciences is very interested in pursuing this work. I have recently communicated with the president of the Academy, Dr. Philip Handler, regarding the proposed study, and ask unanimous consent that the exchange of letters be reprinted in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OCTOBER 30, 1979.

Dr. PHILIP HANDLER,
President, National Academy of Sciences, Washington, D.C.

DEAR PHIL: Our discussions last July regarding the problem of Carbon Dioxide accumulation in the atmosphere were most helpful in arranging the Governmental Affairs Committee Symposium: "Carbon Dioxide Accumulations in the Atmosphere, Synthetic Fuels and Energy Policy." I proposed this symposium to take a closer look at the problems we discussed and to produce a report on the deliberations of the experts.

The recommendations of the experts outlined in the report stressed the need for continued monitoring and examination of the impacts of synthetic fuel production on Carbon Dioxide accumulation and climate. There was a consensus that the impact of Carbon Dioxide accumulation must be addressed on an international as well as national level.

As a result of these recommendations, I am proposing legislation which would authorize further study of the Carbon Dioxide problem associated with synthetic fuel production. It would be of great value if the National Academy of Sciences were to direct this effort.

The National Academy would be authorized to:

1. conduct a comprehensive assessment of the accumulation of Carbon Dioxide in the atmosphere by synthetic fuel projects,

2. assess the effects of Carbon Dioxide accumulation on climate,

3. work with other nongovernmental and intergovernmental bodies to develop a worldwide assessment of the problem, and

4. conclude within two years with a report and recommendations for a long-term program to the President, the Secretary and to the Congress.

The specific details of the proposal are enclosed. I believe that the program to investigate this problem is an important complement to any national effort to produce synthetic fuels. I hope that the Academy will be able to participate.

I appreciate your past advice, and hope we can continue to work together on this important issue. I look forward to hearing from you on this proposal.

Sincerely,

ABE RIBICOFF.

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., November 1, 1979.

Hon. ABRAHAM A. RIBICOFF,
U.S. Senate, Washington, D.C.

DEAR SENATOR RIBICOFF: I was most pleased to have your letter of October 30, and to know that we in the Academy were of some assistance to your Committee in its deliberation on the problems associated with future accumulation of carbon dioxide in the atmosphere. Academy groups that have looked at this problem have emphasized the need for a continuous program of monitoring and examination of these accumulations and of the impact which future energy policies may have on such accumulation.

As you may be aware, a five-year plan for the study of climate has been mandated under the National Climate Act of 1978 which relates to the matter outlined in your proposed amendment. The language of your proposed amendment clearly indicates the importance given by the Congress to the need for addressing the problems associated with future accumulation of carbon dioxide and would strengthen the ability of the Academy to provide independent and timely advice on these matters to both the Congress and concerned Federal agencies. It also would allow us to undertake certain study considerations that require more emphasis than is contemplated by the present national plan.

Upon enactment of such a legislative mandate, the Academy, of course, will be pleased to work with the government in assuring that such an assessment gets under way promptly and that necessary steps are taken to enlist appropriate international participation at both governmental and nongovernmental levels.

The proposed draft language accompanying your letter is consistent with the format used in other instances where the Congress wished to enlist the service of the National Academy of Sciences under the authorization of its initial Congressional Charter.

Please let me know if we can be of further assistance to you in this effort.

Sincerely yours,

PHILIP HANDLER,
President.

Mr. RIBICOFF. Mr. President, the Office of Science and Technology Policy in the White House recently asked the National Academy of Sciences to do a preliminary synthesis of the state of scientific knowledge on various aspects of the carbon dioxide problem. This report, which is now done, confirms that the problem is a long-term one with serious ramifications. It is supportive of the kind of work that I am proposing in this amendment.

I ask unanimous consent that the summary and conclusions of this report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY AND CONCLUSIONS

We have examined the principal attempts to simulate the effects of increased atmospheric CO_2 on climate. In doing so, we have limited our considerations to the direct climatic effects of steadily rising atmospheric concentrations of CO_2 and have assumed a rate of CO_2 increase that would lead to a doubling of airborne concentrations by some time in the first half of the twenty-first century. As indicated in the first section of this report, such a rate is consistent with observations of CO_2 increases in the recent past and with projections of its future sources and sinks. However, we have not examined anew the many uncertainties in these projections, such as their implicit assumptions with regard to the workings of the world economy and the role of the biosphere in the carbon cycle. These impose an uncertainty beyond that arising from our necessarily imperfect knowledge of the manifold and complex climatic system of the earth.

When it is assumed that the CO_2 content of the atmosphere is doubled and statistical thermal equilibrium is achieved, the more realistic of the modeling efforts predict a global surface warming of between 2° C. and 3.5° C., with greater increases at high latitudes. This range reflects both uncertainties in physical understanding and inaccuracies arising from the need to reduce the mathematical problem to one that can be handled by even the fastest available electronic computers. It is significant, however, that none of the model calculations predicts negligible warming.

The primary effect of an increase of CO_2 is to cause more absorption of thermal radiation from the earth's surface and thus to increase the air temperature in the troposphere. A strong positive feedback mechanism is the accompanying increase of moisture, which is an even more powerful absorber of terrestrial radiation. We have examined with care all known negative feedback mechanisms, such as increase in low or middle cloud amount, and have concluded that the oversimplifications and inaccuracies in the models are not likely to have vitiated the principal conclusion that there will be appreciable warming.

The known negative feedback mechanisms can reduce the warming, but they do not appear to be so strong as the positive moisture feedback. We estimate the most probable global warming for a doubling of CO_2 to be near 3° C with a probable error of ±1.5° C. Our estimate is based primarily on our review of a series of calculations with three-dimensional models of the global atmospheric circulation which is summarized in Chapter 4. We have also reviewed simpler models which appear to contain the main physical factors. These give qualitatively similar results.

One of the major uncertainties has to do with the transfer of the increased heat into the oceans. It is well known that the oceans are a thermal regulator, warming the air in winter and cooling it in summer. The standard assumption has been that, while heat is transferred rapidly into a relatively thin, well-mixed surface layer of the ocean (averaging about 70 m in depth), the transfer into the deeper waters is so slow that the atmospheric temperature reaches effective equilibrium with the mixed layer in a decade or so.

It seems to us quite possible that the capacity of the deeper oceans to absorb heat has been seriously underestimated, especially that of the intermediate waters of the subtropical gyres lying below the mixed layer and above the main thermocline. If this is so, warming will proceed at a slower rate until these intermediate waters are brought to a temperature at which they can no longer absorb heat.

Our estimates of the rates of vertical exchange of mass between the mixed and intermediate layers and the volumes of water involved give a delay of the order of decades in the time at which thermal equilibrium will be reached. This delay implies that the actual warming at any given time will be appreciably less than that calculated on the assumption that thermal equilibrium is reached quickly. One consequence may be that perceptible temperature changes may not become apparent nearly so soon as has been anticipated. We may not be given a warning until the CO_2 loading is such that an appreciable climate change is inevitable. The equilibrium warming will eventually occur; it will merely have been postponed.

The warming will be accompanied by shifts in the geographical distributions of the various climatic elements such as temperature, rainfall, evaporation, and soil moisture. The evidence is that the variations in these anomalies with latitude, longitude, and season will be at least as great as the globally averaged changes themselves, and it would be misleading to predict regional climatic changes on the basis of global or zonal averages alone.

Unfortunately, only gross globally and zonally averaged features of the present climate can now be reasonably well simulated. At present, we cannot simulate accurately the details of regional climate and thus cannot predict the locations and intensities of regional climate changes with confidence. This situation may be expected to improve gradually as greater scientific understanding is acquired and faster computers are built.

To summarize, we have tried but have been unable to find any overlooked or underestimated physical effects that could reduce the currently estimated global warmings due to a doubling of atmospheric CO_2 to negligible proportions or reverse them altogether. However, we believe it quite possible that the capacity of the intermediate waters of the oceans to absorb heat could delay the estimated warming by several decades. It appears that the warming will eventually occur, and the associated regional climatic changes so important to the assessment of socioeconomic consequences may well be significant, but unfortunately the latter cannot yet be adequately projected.

Mr. RIBICOFF. Mr. President, I am pleased to announce that Senators MUSKIE, DURENBERGER, GLENN, HART, JAVITS, MOYNIHAN and TSONGAS are joining me as cosponsors of this amendment. I ask unanimous consent that the text of the amendment be reprinted in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 564

At the appropriate place insert the following:

SEC. . (a) The Secretary of Energy shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive assessment and investigation of the impact of projected levels of fossil fuel combustion on the accumulation of carbon dioxide in the atmosphere as a basis for a specific assessment of such impact by the projects and technologies which are proposed in this Act. The study shall also assess the effects of various possible levels of atmospheric carbon dioxide accumulation on climate and the economic, physical, and social impacts of such climate changes. In conducting this study, the Academy is encouraged to work with other nongovernmental and intergovernmental bodies so as to develop an interim worldwide assessment of this problem, and to arrange for original research on any aspect of the problem as the Academy deems necessary.

(b) The study shall also recommend—

(1) how a long-term program of domestic and international research, monitoring, modeling and assessment of the causes and effects of atmospheric carbon dioxide accumulation should be structured;

(2) how the United States can best play a role in the development of such a long-term international program;

(3) what domestic resources should be made available to the study of such accumulation;

(4) how the ongoing United States government carbon dioxide assessment program should be restructured and strengthened so as to provide information and recommendations of the highest possible value to governmental policymakers; and

(5) how often reports should be made to the President, the Secretary and the Congress, in conjunction with any long-term assessment program that the Academy may recommend.

(c) A report and recommendations with regard to the study required under this section shall be submitted to the President, the Secretary, and the Congress not later than two years after the date on which an agreement is reached by the Secretary with the Academy. The Secretary shall report to the Congress within six months after the date of enactment of this Act regarding the status of the negotiations to implement the study required under this section. The report shall not be subject to any prior clearance or review, nor shall any such prior clearance or conditions be imposed on the Academy as part of the arrangements made by the Secretary with the Academy under this section.

(d) The Secretary of Energy, the Secretary of Commerce, the Administrator of the Environmental Protection Agency and the Director of the National Science Foundation shall furnish to the Academy at its request any information which the Academy determines necessary for the purpose of conducting the study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information the Secretary may require, pursuant to authority established under this Act (A) to obtain information from any person, and (B) to require such person to conduct such test, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonably necessary to carry out this section.

(e) Of the funds authorized to be appropriated to the Secretary of Energy under this Act, such amounts as are required shall be available to carry out the study authorized by paragraph (1) of this subsection. The determination as to the expenses which will be required to conduct this study shall be made by the National Academy of Sciences but shall not exceed $2 million.●

MIGRATION AND REFUGEE ASSISTANCE—S. 1668

AMENDMENT NO. 565

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to S. 1668, a bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981.

HOME ENERGY ASSISTANCE ACT—S. 1724

AMENDMENT NO. 566

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to S. 1724, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

NOTICE OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. STEWART. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Leg-

islation of the Senate Agriculture Committee will hold joint hearings with the Senate Commerce Committee on S. 1408 and S. 1650 which provide for the development of aquaculture.

The hearing will be held on Wednesday, November 14, beginning at 10 a.m. in room 324 Russell. The committee will hear from invited witnesses only, but written statements submitted for the record are welcome.

Anyone wishing further information should contact Dale Stansbury of the Agriculture Committee staff at 224-2035.●

ADDITIONAL STATEMENTS

ENERGY SECURITY CORPORATION—COSTLY BOONDOGGLE THAT MUST BE DEFEATED

● Mr. ARMSTRONG. Mr. President, whoever coined the phrase "politics makes strange bedfellows" must have had them in mind.

The young lobbyist from the Sierra Club, in striped tie and plaid sportcoat, the immaculately groomed lawyer from the American Petroleum Institute, dark pinstripe suit crisply pressed, black wingtips neatly shined.

Walking arm-in-arm into Senators' offices.

What could have brought this political odd couple together?

In a few days the Senate will vote on President Carter's plan to create an $88 billion Energy Security Corporation to undertake a crash program of synthetic fuel development. The outcome is very much in doubt. But the President's proposal has succeeded in unifying the country in a way he never intended.

There are those who will say that any bill that has incurred the wrath of the National Wildlife Federation, the major oil companies, the Sierra Club, the Chamber of Commerce, the Conservation Foundation, the Independent Petroleum Association, the League of Women Voters, the National Federation of Independent Business, and various Western Governors cannot be all bad.

But there are others who say that any bill that has aroused so much intense opposition from so many knowledgeable people of such diverse backgrounds has got to be a remarkably bad piece of legislation.

The Energy Security Corporation is a classic illustration of what can go wrong when a major bill is drafted to meet the political needs rather than the economic needs of the country.

It has been reported the idea for the Energy Security Corporation originated not with the President's energy experts at the Department of Energy, or with the President's economic experts on the Council of Economic Advisers. Rather, it popped up at a brainstorming session between a White House aide and a Washington lawyer over a long lunch at a posh French restaurant.

Politically, the idea was dynamite, or so it seemed at the time. We have an energy crisis. We need forceful and vigorous leadership to get out of it. What could be more forceful and vigorou than a crash program of synthetic fuel development?

But as details of the President's program got out, and the synfuels experts, who should have been consulted in the first place, got a chance to examine them, attitudes about the Energy Security Corporation began to change.

The Banking Committee and a special task force of the Budget Committee both held extensive hearings on the Energy Security Corporation. The witnesses who testified—from Government, from private industry, from the academic community—were remarkable in the unanimity of their assessment of it. They said, in the circumspect way of witnesses testifying before a congressional committee, that the Energy Security Corporation is a bad idea.

To begin with, there is the economic objection. The Energy Security Corporation will spend $88 billion to produce 2½ million barrels per day of syncrude by 1990, and scarcely a drop before then. The per barrel cost of that first 2½ million barrels is staggering. Can we liberate Americans from the high price of OPEC oil by forcing them to pay twice as much for Government-generated syncrude that will not be available for at least another 10 years?

Then there is the Polyanna syndrome. The figures the President picked for the projected costs and output are just wild guesses about the unknown. Many experts think the Energy Security Corporation will cost twice the $88 billion the President projects, and that he will be lucky to obtain half the 2½ million barrels per day output he is expecting. The truth is, no one really knows how much synfuel development will cost.

Then there is the all-the-eggs-in-one-basket gamble. Under the President's plan, the Energy Security Corporation will select a few of the hundreds of synthetic fuel technologies that are available, and throw all the $88 billion into them. This could lead to expensive "white elephants" that do not work. Worse, we could find ourselves in 1990 with no more synfuel than we started with.

Then there are the environmental objections. Making oil from oil shale requires enormous quantities of water, which in the arid West is as precious as oil. Liquefaction of coal leaves large quantities of chemical waste. The environmental effects of synfuel development need to be very carefully monitored in order to prevent irreparable damage. But the Energy Security Corporation will be empowered to run roughshod over State laws and Federal environmental regulations.

But the chief argument against the Energy Security Corporation is that there is no need for it. We already know what needs to be done to reduce our dependence on foreign oil.

Each of the experts who testified before the Energy Committee, the Banking Committee and the Budget Task Force in the last several months was asked, in effect, "what will it take to get synthetic fuel production moving?"

Interestingly, almost none has suggested creation of a huge new Government bureaucracy such as the Energy Security Corporation. Instead, they have recommended measures to cut redtape and provide incentives for the private sector. They said decontrolling the price of oil and natural gas; tax credits for synfuel production; accelerated depreciation for synfuel plants, and a streamlined process for issuing permits would produce much more oil, much faster, at far less expense to taxpayers and the consuming public.

No Senator I know is opposed to the orderly development of synthetic fuels as a part of our long-term effort to make this country energy self-sufficient. There is a growing realization, however, that creating still another Government agency to spend $88 billion is simply going too far.●

MUSCATINE, IOWA, LOOKS TO THE FUTURE

● Mr. CULVER. Mr. President, for anyone who wants to keep a measure of control over the future, forecasting and long-range planning are essential. That is why in recent years, managers of institutions ranging from corporations to hospitals to universities have all begun to devote more time and energy to these activities. In 1972, I urged the citizens of our State to become more involved in this process. Unless we were to be fully at the mercy of events and the planning of others, it was essential to determine what kind of State we wanted in the year 2000 and to lay the groundwork to achieve it.

Since then over 50,000 Iowans have met in a continuing process called Iowa 2000 to do just that. How Iowans should be dividing their time among work, leisure, and volunteerism, and how best to conserve and make use of our productive resources of land, water, and energy were among the subjects they addressed. Iowa 2000 recently entered a new phase of activity when the University of Iowa received a $25,000 grant from the Environmental Protection Agency. As the author of the EPA program which administered the grants, I was delighted that our State was one of the first to be awarded one. The money will be used to bring together technical experts and Iowa 2000 participants to look at long-range answers to one of our State's pressing problems: safe disposal of chemical and other toxic wastes.

In addition to this statewide effort, officials and residents of a number of Iowa cities are pursuing local "futures" efforts in an attempt to assess and improve the quality of life for their citizens in the years ahead. One of the most active and best organized of these programs is being conducted by the people of Muscatine, Iowa. I had the pleasure of speaking to them earlier this year and was very impressed by the numbers of residents involved and their obvious enthusiasm for the project.

Five Muscatine citizen task forces are now exploring job opportunities; health, education, and safety; recreation, entertainment, and fine arts; the future of government; and the physical environments and demographics. I look forward to reading their final reports when they

are available in December. Some idea of their contents was provided by a recent article in the Quad City Times which previews the options and future developments on which the task forces will report. I ask that the following article be printed in the RECORD.

The article follows:

LOOKING 2000

(By Ann Grauvogl)

MUSCATINE, IOWA.—Picture this old river town in the year 2000.

The outer belt highway speeds travelers around the bulk of development while an inner belt provides a direct route through the city.

Green belts circle and crisscross the town, allowing its 25,000 residents to safety ride bicycles to work, school or to the new Center for Recreation and the Performing Arts, with its auditorium that seats 1,000, a food center and gymnasium.

Picture Muscatine in the year 2000 . . .

More than 70 residents accepted the challenge, and for six months they have worked in small groups to plan the city they would like to see in 20 years. Their finished reports will be presented to the city council in December.

The seeds of the community goals project, which organizers claim is a first for Iowa, were grown in a May 1978 memo from City Planning Administrator Kevin Whittaker.

"Community goals policy statements are important in starting and continuing a cohesive community planning process," he wrote. "The general policies of the community should be articulated to establish a general framework over a period of time for continually changing city council members and members of all appointed boards and commissions."

"We're talking about dreams," Gail Sayles, a member of the planning group said. "We were asked to dream up the things we would like to see and let the powers that be decide if they're affordable or not."

Look again—those 70 visionaries are planning a beautiful new Muscatine.

Small parks dot the city, and aged housing has been renovated for additional years of service. Finishing touches are being put on a new park running more than the length of the downtown with a stunning view of the river.

Upstream stands the transportation center that provides rail commuter service to the Quad-Cities. In the south end industrial area, there is mini-bus service to the rest of the city and emergency helicopter service to Iowa City.

The county has hired a professional administrator, and city and county officials have initiated new efforts to avoid duplication of services. In fact, many residents anticipate the two governments will merge to more efficiently provide needed services at the least cost to taxpayers.

The city's population has aged considerably in the last 20 years—now almost 20 percent are older than 65. But officials have pushed for funds to build a number of small garden apartments to accommodate the elderly, and a new range of volunteer and professional services are finally becoming reality.

The elderly also are invited with increasing frequency to help in the schools—as guest speakers and aides. In fact, the schools have become more open to everyone—functioning as community centers and providing daytime adult education and new alternatives for school drop-outs.

The vision is an ideal, but task force members have tried to determine the best alternatives for their city.

"When we started it was very difficult for everyone to comprehend, to think in terms of the future," Shirley Drake, a task force leader, said.

"I think we kept trying to tell ourselves nothing we came up with was pie-in-the-sky," Anita DeKock, a group leader, added. "In 21 years, if you're willing to make sacrifices, anything can be accomplished."

The five task forces have explored the future of government; job opportunities; health, education and safety; recreation, entertainment and fine arts, and the physical environment and demographics.

Their reports include a range of ideas, some new for Muscatine and some long talked about.

Staggered four-year city council terms, fewer elected county officials, a rescue unit with paramedics and decentralization of social services are suggested.

Also included are new emphasis on global awareness, a bilingual school staff, a botanical arts garden and a planetarium.

"That represents an awful lot of work," Jack Smith, leader of the task force on government, said. His committee spent 54 hours in 16 meetings completing research for its report.

"More than coming up with solutions, we discovered many problems we weren't aware existed," Mrs. DeKock said. She added she has "a feeling the process of going through this was almost more important or as significant as the goals we came up with."

But task force leaders vehemently hope their reports will not become contributions to history that sit unused on the shelf.

"I hope we collectively have something to do with positive change in this community," Smith said.

If 100 to 150 people would get involved every two years in planning for and thinking of the future, the goals committee could become an influential force for change, Mrs. DeKock said.

Besides, the leaders agreed, there is more work to be done.

"We're not finished," Robert Fiedler task force member, said. "We're just beginning."●

THE BACKFIRE BOMBER

● Mr. GOLDWATER. Mr. President, throughout hearings before the Foreign Relations Committee and the Armed Services Committee and even occasionally in the Select Committee on Intelligence, there has been discussion of the failure of the SALT II treaty to include the Backfire bomber. The President was told in a letter that the Russians would never use this as a strategic bomber, but only as a tactical one. Now it takes quite a bit of stupidity to buy that statement. When a country goes to war, they will use every weapon they have, short of nuclear ones, and particularly long-range weapons such as the Backfire.

We have been repeatedly told by the Defense Department and by the Joint Chiefs of Staff, and we hear from the President occasionally that our strategic fleet consisting of very, very old B-52's can handle the situation and the Russians really have no strategic force. The Backfire bomber—and they are building 30 of them a year—not only can reach the United States in its present configuration, but there is no way in the world for us to monitor whether or not they put in additional fuel tanks to extend the range.

Rather than just take my word for this, I have a most interesting paper prepared by Dr. Donald G. Brennan, director of National Security Studies of the Hudson Institute on the two bombers. It is not a long one, but I think it will give my colleagues something to think about. I do not think there is any way we should enter into the SALT II treaty without a firm understanding that the Backfire is to be counted as a strategic weapon. I ask that this paper be printed in the RECORD.

The paper follows:

ASYMMETRY IN COVERAGE

The extra ICBM payload (in the 308 "heavies") and the extra number of ICBM's (344) allowed the Soviets result from explicit provisions of SALT II. A different major difficulty of SALT II resides in the fact that a Soviet weapon system that appears to be of major potential strategic significance, namely the "Backfire" (TU-22M) bomber, is excluded altogether from the SALT II Treaty ceilings, while American bombers that apparently are closely comparable in capabilities—specifically our B-52s—must be counted. As in the case of the "heavy" ICBMs, there is no offsetting capability that we are allowed but the Soviets are not.

Western estimates of Backfire capabilities are imprecise. It is estimated in Jane's that, with a 10-ton bomb load, Backfire has a maximum unrefueled combat radius (for a two-way mission) of 3,100 nautical miles (nm).[1] I understand that a somewhat lower estimate of 2,900 nm is widely accepted in the Government for a 10-ton bomb load, which would correspond to 5,400 nm or 10,000 Km one-way range. For a 5-ton bomb load, for comparison with readily available B-52 data, these latter values should increase at least 6 percent, to 3,074 nm radius or 10,600 Km one-way range. (Compare this with the SALT range criterion for ICBMs of 5,500 Km.) The corresponding unrefueled combat radius for a B-52D with a 5-ton bomb load is 3,012 nm,[2] less than these widely accepted Backfire estimates, still less than the Jane's estimate.

While lower estimates of Backfire capabilities can undoubtedly be found, these comparisons show that it would be impossible to have confidence that Backfire performance is significantly less than the B-52D, of which we have about 80 in current active inventory, all of which must be counted under SALT II ceilings. Of all the B-52s produced, only the G and H models, about ⅓ of the total, have an unrefueled range capability somewhat in excess of the Jane's Backfire estimate. Backfire has a supersonic capability not matched by any of the B-52s.

By the projected expiration date of SALT II, the Soviets could have 30% or more of their total strategic payload in Backfire (which is a very substantial increment). They have said that they do not intend to use Backfire in a strategic nuclear role against the American homeland, but, as an ACDA statement accurately put it, ". . . there are no assurances that will ensure that Backfires would not be used against the continental United States in time of war."[3] It is as if the United States were to refuse to include all of the Poseidon launchers under the SNDV ceilings because some are assigned to SACEUR for theater targets. Note that the omission of Backfire from the aggregate counts means that the often-repeated assertion of "equal aggregate ceilings" under SALT II is untrue even as concerns simple numbers of strategic delivery vehicles.●

[1] Jane's *All the World's Aircraft, 1977/78*, p. 463; ditto, *1978/79*, p. 202.

[2] U.S.A.F. publication *Standard Aircraft Characteristics*.

[3] Quoted in *SALT II: An Interim Assessment*, Report of the Panel on the Strategic Arms Limitation Talks and the Comprehensive Test Ban Treaty of the Committee on Armed Services, U.S. House of Representatives, December 23, 1978 (H.A.S.C. No. 95-95). p. 11.

EQUITY FOR UNITED STATES/CANADIAN WHEAT PRODUCERS

● Mr. McGOVERN. Mr. President, there are few in this Chamber with an interest in American agriculture who are not aware of my sustained efforts now ranging over a year and a half to stimulate international cooperative pricing negotiations among the major wheat exporters: the United States and Canada, who account for two-thirds of all wheat which moves internationally, as well as Argentina and Australia, the other major wheat exporters.

Though this administration continues to be unwilling to enter into any formal negotiations with our Canadian neighbors, steps in a positive direction have been taken by Secretary Bergland and his counterparts in Canada in terms of the exchange of production and marketing information. Though I applaud these initiatives, they still fall far short of informal meetings I have had on a continuing basis with leaders in Canada's Parliament. In these efforts I am indebted to the support I have had from Senators BELLMON and MELCHER and more recently from my good friend from Nebraska, Senator ZORINSKY, who attended an interparliamentary meeting in Canada during the August recess and found the climate in Canada to be much the same as I have experienced earlier.

In support of the position I have advanced I want to call the attention of the Senate to a recent statement presented by Mr. Robert G. Lewis, chief agricultural economist at the National Farmers Union at an international grain pricing seminar at Cypress Hall Community College in Swift Current, Saskatchewan, on October 18, 1979.

Those with a historical interest in the development of American agriculture will find Bob Lewis' statement immensely informative. Those with an interest in current world prices will find it difficult to disagree with his statements.

In both our countries, the maintenance of domestic producer prices and incomes are matters of strictly national policy. No country can object to our governments' acting to raise their farmers' incomes closer to equality with others in our societies—particularly inasmuch as all the importers, without exception, support their farmers with higher prices than we.

Nor can any legitimate attack be made against our action to maintain reserves so as to assure our reliable supply of our customers, nor to fulfill our obligations to provide food aid for relief of hunger and promotion of economic development.

Mr. President, to maintain this important issue and in furtherance of its objectives, I ask that the Lewis article entitled "Perverse Political Pricing of Grain in World Trade" be printed in the RECORD.

The article follows:

PERVERSE POLITICAL PRICING OF GRAIN IN WORLD TRADE

This is an age of controversy and change in the food economies and in the national food and agricultural policies of both Canada and the United States. The issues in each of our countries are related to developments in the other, and both are affected massively by fundamental changes in the world.

The issues that have moved to the forefront of public discussion include fundamental re-examination of marketing structures, the relationship of national farm economies to the international economy and to world trade, the mix of international cooperation and competition in the pricing and marketing of agricultural commodities, the problem of equity for farm people, and the degree to which the world's foremost resource capable of producing food for export, which is shared between the United States and Canada in North America, should be committed for the special advantage of consumers in those countries.

Indeed, that last point is the central policy issue for our countries in respect to food and agriculture, or at least it seems to be so in the United States. For it raises the politically difficult question as to whether the interest of our public as consumers is the only, or even the most important, stake that the people of our country have in food and agriculture. Can it be that there are other considerations that outweigh the politically appealing goal of "cheap food" in what our public policy should be in respect to food and agriculture? I shall attempt to argue that there are.

GRAIN IS BASIC IN FOOD SUPPLY

In my discussion of these issues, I will focus primarily on cereal grains. The cereal grains—wheat, corn, barley, grain sorghum, oats, and rye—constitute the foundation of the world food economy. Either directly as cereal food or indirectly in the form of meat, milk, poultry, and eggs, cereal grains provide about 70 percent of the entire world's human food supply. The high-protein oilseeds, including soybeans, sunflower, rapeseed and others, have characteristics very similar to the cereal grains, both in use and in production, and could well be included with them as part of the basic food supply, but their relative importance is more recent and information about them is less well known. The cereal grains are so predominent in the overall food and agricultural economies that grain can be treated as a reasonable satisfactory but simple proxy for "food" in discussions of the economics and problems of food.

There is a great deal of attention being given these days to the question of cooperation between the United States and Canada, as the world's major exporters of grain, in respect to the pricing and trade in grains in the world market, and of those countries with the rest of the world community through an international wheat or grains agreement. That is the main subject about which I intend to talk in this opening statement today.

But before I get into a discussion of those specific topics, I think it is necessary to define clearly my fundamental view of the structure and nature of the world food economy. I think my view is a reasonably accurate one, but many of those who talk about the subject do not share it, and many of those who do share my fundamental perception of what the reality is about the structure and nature of the world food economy usually neglect to describe it understandably when they talk about it to the general public. The result is that public understanding of the issues is handicapped by lack of knowledge of the basic facts in the situation.

First of all, sound judgment and good choices in food and agricultural issues require a basic understanding of the way by which prices of agricultural commodities are determined.

GRAIN PRICING SYSTEM MISUNDERSTOOD

Most of the editorial writers and politicians and altogether too many of the agricultural economics professors and others who talk about food and agriculture policy questions seem to assume that the "world market price" of agricultural commodities reflects, at least roughly, the working of the theoretical ideal of a competitive market—which would establish the market price at the cost of production of the marginal producer. According to that theory, the price of wheat would tend to be fixed at the price which would enable the producer whose production costs are the highest of all producers who are able to find buyers willing to pay enough for wheat to make them able and willing to continue in production. According to this theory, any producer whose production costs are higher than that would not be able to find a buyer willing to pay that much for wheat, so that he would be forced or persuaded to drop out and stop producing. On the other hand, all of the producers who can prouce wheat at lower cost have no need to sell for any less, and they would enjoy various levels of profit on their wheat equal to the amount that could be obtained by the marginal producer minus their own actual production cost.

This theory of how prices are determined in a competitive market is the most elementary economics. However, for several fundamental reasons, the way that the price of wheat and of most other agricultural commodities is determined, does not at all fit that theory. In fact, the actual "world market price" of wheat is almost precisely the direct reverse of what the classical theory of marginal pricing suggests it ought to be.

To be completely blunt about what I'm driving at, most of the "experts" who talk to the public about the price of wheat at least insinuate, and perhaps many actually believe, that the price that is made in the world market conforms to this classical theory of competitive pricing, and therefore is "right" and ought to be the target of public policy excepting insofar as the political process is soft on farmers and awards them an additional "subsidy". But they are very close to exactly wrong in what they insinuate or suppose.

AGRICULTURE DIFFERS FROM "CAPITALISTIC" BUSINESS

Before going on to describe my view of how prices of grain are really made in the world economy, and my judgment of the merit of those prices thus made, let us review the fundamental reasons why the pricing of agricultural commodities does not fit the theory of competitive price determination, why it could not have been made to fit it, and why to some extent it still cannot be made to fit it, and why it will not be made to fit it for a very long time to come, if ever.

1. Agricultural enterprises are not "capitalistic" in origin. A truly "capitalistic" enterprise gets started because some entrepreneur sizes up the situation and decides that he might be able to make a profit by investing his money and starting a business. His judgment is based on his analysis of his own capabilities, the competition, and the potential or actual demand in the market.

But almost none of the farm enterprises in this world were started by capitalists. Farms were started by subsistence settlers, who farmed to eat, long before capitalism had evolved.

It is helpful for understanding the origin and basic nature of the agricultural economy to consider the economy of the subsistence hunters who occupied the Americas before the voyages of Columbus.

For centuries, our forests and plains had been occupied primarily by subsistence hunters. When the European explorers appeared, the Indians and Eskimos discovered that they could trade their surplus furs, which otherwise had no value to them, for attractive trinkets and other desirable objects. But then the new lands were settled by subsistance farmers. They farmed to eat, not to sell, just as the Indians had hunted to eat, not to sell. Neither the hunters nor the subsistence farmers had gone into the business of hunting or subsistence farming

as capitalistic entrepreneurs, with a rational expectation that a market existed which would pay them for their cost of production plus a profit.

The fundamental significance of this noncapitalistic origin of farming is that the "supply" that eventually arose after the subsistence farmers achieved the ability to produce a surplus beyond their own needs had no rational relationship to "demand". This is a marked contrast from what occurs when the supply is governed by the calculations of capitalistic entrepreneurs bent on recovering their costs of producing and making a profit on their investment. Many of the settlers who came to the new world had practically no choice but to farm to eat, or to starve. The land was there for the taking. The settlement of the new world by subsistence farmers resulted in an enormous over-expansion of the world economy's agricultural production capability, leading eventually to worldwide chronic agricultural surpluses during most of the time throughout this century.

2. Resources in agriculture are far less "mobile" than in most industries. This is particularly true of farm labor and farm management. There was very little that most farmers could do except to go on farming as long as they could survive, even if the prices they received allowed them little or nothing as a return on their labor, investment, management, and risk. In contrast, the businessman who opens a corner grocery store, then finds he can't make ends meet, usually can sell the store building to someone who wants to try starting a shoe store or a restaurant, and go on to work at some other occupation.

3. The volume of production in agriculture cannot be controlled readily by the producer to conform to the volume he can expect to sell at a satisfactory price. Weather and other factors that affect yields are uncontrollable and unpredictable. Most other producers have far greater opportunities to regulate the volume of goods they produce to conform to the volume they can expect to sell at a satisfactory price.

4. Farmers must commit the resources used for producing their crops many months, sometimes even years, before the crop is ready to harvest and sell, usually long before they are able to make a reasonable judgment about the volume that the market will absorb.

5. The security of nation-states is dependent upon the supply of food available to them, so that governments almost invariably try to promote farm production at levels in excess of what markets will absorb at prices that farmers would consider reasonable.

It is in response to these fundamental facts about agriculture that the food economies of nations and of the international community have evolved in the form diametrically opposed to the theoretical ideal of a "competitive market" system of pricing.

GRAIN PRICE-MAKING DOMINATED BY GOVERNMENTS

Let's review briefly the structure of the present world grain economy:

In 1978, 78 percent of the world's total consumption of grain occurred in countries having strictly-protected national markets. Farmers in those countries received prices for their grain ranging up to ten times as high as those received by farmers in the United States for wheat, and up to four and a half times as high for corn. Domestic producers in those countries received those prices, in all cases higher than the prices received by farmers in the United States or Canada, for all that they could produce. The domestic producers in those countries accounted for about two-thirds of total world production in 1978, all at prices substantially higher than those prevailing in the "world market".

Only about one-third of the world total of wheat and feed grains is produced by farmers who receive prices at or close to world market prices. These are the farmers of the United States, Canada, Australia, Argentina, South Africa, Thailand, and Brazil. (Remember now that all the other farmers in the world, producing about two-thirds of the total production, receive prices substantially higher, for all that they can produce, to be sold in their protected national markets. A very small part of this production, when it is in excess of internal requirements, is exported with the aid of subsidies from their government.)

The producers in the exporting countries must compete for sales in the residual part of the world market. In most years, when world crops are adequate, almost the entire world "surplus" is concentrated in the exporting countries, greatly exaggerating the price-depressing effect upon the world market price. The price that producers in the exporting countries receive is, in effect, a "clearance sale" price bearing no relationship—except by rare accident—neither to their own cost of production, to the cost of production of "the marginal producer", nor to the price that consumers would pay for the available supply in a truly competitive world market. It is a "political" price that has no economic validity.

In contrast, when a world shortage exists, prices in world trade skyrocket steeply. But this has happened only rarely throughout this century.

GOVERNMENTS "SUBSIDIZE" FARMERS

But even this is not the end of the counts against the "world market price" as measurement of what the price of grain ought to be. In the United States, the government has recognized that the "world market price" is not adequate compensation for grain producers, and we have provisions whereby the government pays cash supplements to grain producers who comply with government programs. I understand that both Canada and Australia have adopted programs under which farmers receive supplemental returns in most years in addition to the "world market price" for that portion of their production which is consumed domestically. It is my understanding that the present government policy in Argentina does not provide for any form of supplementary compensation to Argentine farmers.

If that is true, only the farmers of Argentina in all the world, producing only 2 percent of the world's total production of grain in 1978, actually received no more than the "world market price" for their grain.

Thus I say that the "world market price" for grain is approximately the opposite of the price that would be established by a truly competitive market. It is a price that is set at approximately the cost of the lowest-cost producer instead of at the cost of production of the highest-cost producer.

In addition to the supplemental payments of one kind or another that the United States and some other exporting countries pay to their farmers, the "world market price" of grain is profoundly affected by the U.S. price support system. The U.S. "price support loan" that is offered to farmers to store their grain sets a floor under the world market price. The loan rate is the lowest return below which American farmers don't have to sell their grain. They can store it until there's a shortage—or until there's widespread fear of shortage, as is the case right now, and prices in the market rise above the loan rate floor.

All of the grain and soybeans that compete with commodities exported from the United States is sold directly (or priced as in the case of the European Community) by agencies of national governments. All of the net grain exporters' selling agencies seek to maximize the return to their farmers, so that their interests, and their influence upon prices, is similar to that of one farmer's upon another's. Thus all grain sold in world trade is priced in relation to the U.S. price support loan rate or to the prevailing market price in the U.S. if supplies are short and demand is strong.

For several decades following the recovery measures for agriculture initiated during the depression of the 1930's the United States "supported" prices at substantially higher levels, in real terms, than it does today. Over the past ten years the policy has been changed. Price support loan rates for grains have been reduced to the lowest levels since governmental farm programs were initiated. The "world market" has sagged along with the floors maintained by the U.S. loan program.

LONG-TERM SHORTAGE CONDITION FORESEEN

This existing grain pricing system is so obviously unjust to farmers in the grain exporting countries, including the United States and Canada, that I will not belabor that point. Farmers in both of our countries have voiced their justified protests throughout most of this century.

But if the farmers' appeals for equity have not moved the conscience of their national publics to yield them adequate redress in the past, there is now a stronger claim that needs to be voiced, and that must be heeded. It must be heard and heeded now not for the farmers' sake alone, not even primarily for the farmers' sake, but in the interest of the public as the whole in the preservation of world order and the survival of our civilization.

I have described how the pre-capitalistic origin of the world's farming enterprises accounts for the enormous over-expansion by the start of this century of agricultural production capability in relation to market demand. An enormous stock of farming capital has been accumulated on the subsistence farms of this world, and particularly on our North American continent, from the sweat and tears and blood of man, woman, child, horse, and ox. This over-expanded agricultural productive capacity achieved the unprecedented feat of chronic grain surpluses enduring throughout a full century, relieved only by the abnormal disruptions and extraordinary demands of the two world wars until this present decade.

But now I believe that a profoundly significant turn has been reached. World demand for food appears to have caught up at last with the world's farmers' capability to produce. The century-long era of food surpluses, I believe, has come to its end.

It is instructive to set aside both the complacency of the non-farm public and the despair of surplus-ridden farmers to examine the particulars of what is happening in the terms of world demand for food, and of world food production during the decade of the 1970's now coming to its end.

The Soviet Union's highly-publicized grain crop failure in 1972 gave to the world its first clear notice, I believe, of the monumental change in the world food situation that is upon us. In the years since 1972, world consumption of grain has increased by almost the identical amount of the increase in grain production. That coincidence has lulled many to complacency, back to the habit of supposing that grain surpluses are and will be forever the normal state of affairs.

But the fact that the long-term trend of rising world consumption of grain has overtaken the long-term trend of rising yields has been masked from general perception by fortuitous circumstances:

On the supply side, by the return to production of a huge acreage of "set-aside" American cropland. Planted cropland in the United States in 1979 was more than 40 million acres greater than in 1972. At the aver-

age yield of corn in the U.S. this year, that much cropland would produce over 100 million tons of grain—more grain than the total output of any country on earth except the United States, the Soviet Union, China, and India.

Also benefitting supplies has been unusually favorable weather and good grain yields since 1975.

On the demand side, by the retarding effect upon consumption of the worldwide economic recession throughout most of the 1970's.

But the reality cannot be ignored much longer. If world weather and grain yields follow the normal patterns, acute food shortage is almost certain to occur by the mid-1980's. Prompt policy changes are needed urgently to alleviate the dangers.

"RESERVE" MARGIN VERY NARROW

Extreme danger may be as close as next year. Present world "reserves" of grain (projected in 1980) amount to only 2½ per cent of a year's use above the less-than-adequate "pipeline" stocks that existed at the worst of the food crisis in the 1970's. The comparable reserve on hand at the beginning of the 1970's was more than three times as high. A short world crop in 1980 comparable to those of 1972 or 1974 or 1975 would lead to steeply higher grain prices (by 100 per cent or more) in domestic and international trade, accompanied by acute distress and probable famine in poor countries that experience crop failures. The food crisis of the 1970's contributed seriously to the economic and political dislocations whose consequences still traumatize the world; a comparable shortfall in production next year would have worse effects.

America's own food supply is not at immediate risk. The U.S. originates 55 percent of total grain and 80 percent of total soybean exports, and ample and even surplus supplies can be assured for domestic use by restricting exports.

But such reliance upon restriction of exports in the face of steep food price increases and famine elsewhere in the world would expose the United States to incalculable economic, political, and military risks.

Improved technology in developing countries, together with the creation of "new farms" for intensive grain production on land now used in various parts of the world for pastures or woodlands or wasteland, could supplement continuing yield increases on existing farms so as to insure continuing increases in total world grain production. But the anomalous world grain pricing system works powerfully against such measures. Prices in world trade are too low to compensate existing farms adequately, much less to attract the additional investments, labor, management, and risk-taking that this would require. Almost all of the potential additions to the world's grain producing capacity would be more costly and more risky to develop than the cost of buying existing farms at their current market value in the grain exporting countries. Prices substantially higher than those now prevailing in world trade would be required to provide sufficient incentives for the needed expansion of the world's grain producing capacity.

The dominant position of the United States as "price leader" in world trade in grains, as the source of more than half of the world's exportable supply, imposes a clear obligation upon my country to exercise world leadership in a race against time to insure that there will be enough to eat for hungry mankind to maintain world order. Canada has a comparable obligation to join as a partner in that endeavor, as she has in the past, particularly in feeding the allied forces during World War II and the years that followed its end.

The prime necessity is to raise the price of grain in world trade, and thereby in our own domestic economy, as quickly as possible toward a goal conforming more realistically to the true economic cost of production.

The uneconomic, politically-determined low prices that are being projected by present United States policy into the world market are a severe disincentive to farmers in other exporting countries to increase production, and to farmers and their governments too in the developing countries.

The United States and Canada must lead the world as well to provide and manage ample world reserves of grain so as to assure reasonable security of supply during years of poor crops to all domestic and foreign commercial buyers, plus a special reserve for emergency requirements of poor countries. This can be accomplished by modestly extending and adapting present domestic farm program operations and measures of international cooperation.

There is no need for justification for our countries to be subjected to the moral onus and political burdens of the characterization "cartel" for exercising leadership in this way.

In both our countries, the maintenance of domestic producer prices and incomes are matters of strictly national policy. No country can object to our governments' acting to raise their farmers' incomes closer to equality with others in our societies—particularly inasmuch as all the importers, without exception, support their farmers with higher prices than we.

Nor can any legitimate attack be made against our action to maintain reserves so as to assure our reliable supply of our customers, nor to fulfill our obligations to provide food aid for relief of hunger and promotion of economic development.

The desired price objective can be achieved satisfactorily by simply allocating to the respective exporting countries their respective "shares" of the international obligation to accumulate and hold reserves and to distribute food aid, having established the global quantities to be so designated and insulated from commercial trade each year at such levels as will allow the remaining supply to trade at the desired approximate price.

By this approach, sellers would compete freely for sales, and differentials in prices to reflect differences in quality, location, and other conditions would be established by market forces in a completely normal manner, without further interference by governments. The prices that would result by this procedure would fluctuate within a relatively narrow range, which could be controlled with a sufficient degree of rough precision to satisfy the needs of both farmers and consumers for relative stability. All of the technical difficulties and administrative inefficiencies that accompany efforts to regulate prices directly and precisely would be avoided.

The primary mechanism for accomplishing the international cooperation suggested above should be informal consultations between exporting country governments. Such consultations are and have been for several decades a regular and routine affair. No special organization is needed.

Our long-standing efforts to achieve broader and more formal international agreements concerning trade in grains, food reserves, and food aid, should of course be continued. But the policy of the United States, and I suggest also the policy of Canada, in respect to the pricing of grain in our domestic market and for export need not and should not be made dependent upon any international agreement.●

THE HEAVY ICBM ISSUE AND SALT II

● Mr. HUMPHREY. Mr. President, I would like to commend my colleague, Senator GARN, for his excellent statement in the RECORD on October 29 regarding heavy missiles and SALT. Senator GARN has shown how the new U.S. MX ICBM has already been constrained by SALT II, while the Soviet superheavy SS-18 is unconstrained and the Soviets are granted a monopoly on heavy missiles.

The Carter administration claims that U.S. military leaders have never wanted heavy and very heavy ICBM's. In fact, however, as Senator GARN pointed out, the U.S. Air Force actually did deploy in the early 1960's a total of about 250 Titan I and II heavy ICBM's. Yet a civilian, Defense Secretary McNamara, cut these plans back to 54. Moreover, it should be reemphasized that in 1973 the USAF originally designed the MX ICBM to be a very heavy throw-weight missile carrying 14 warheads. It is interesting that Soviet news media still point out continuously that the U.S. MX was designed to carry 14 warheads. The designed throw weight and RV number—10—for the MX has now in fact been scaled down to fit into the SALT II "definition" of a "light" ICBM—the launch weight and throw weight of the Soviet SS-19.

Most significantly, Mr. President, in 1970 Dr. Henry Kissinger wrote a national security decision memorandum directive to the U.S. SALT delegation on our negotiating objectives in SALT I. Kissinger ordered that the United States should insist upon having the right in SALT I to deploy 250 very heavy ICBM's, which was the same number of SS-9's that the Soviets had deployed at that time. The United States wanted the Soviets to agree not to go above 250 SS-9's themselves, and for them to agree to allow the United States the same number of very heavy ICBM's—250. The Soviets refused to agree to this U.S. objective in 1970, and the United States has retreated from insisting on equality in heavy and very heavy ICBM's ever since then. Moreover, the Soviets have adamantly rebuffed all constraints on their own heavy and very heavy ICBM's.

Mr. President, these facts contradict the administration's claims that the United States has never had any plans or military need for heavy and very heavy ICBM's. In fact, we have had such plans and such military needs. We have, nevertheless, abandoned our plans, and have supinely conceded a heavy ICBM monopoly to the Soviets. This fact has profound geopolitical significance.●

EDITOR OF "JAY PAPERS" BELIEVES JOHN JAY REGARDED TREATY TERMINATION AS A SHARED POWER REQUIRING MUTUAL LEGISLATIVE AND EXECUTIVE ACTION

● Mr. GOLDWATER. Mr. President, I am pleased to present to the Senate today a communication I have received from the Nation's leading authority on John Jay attesting to the fact that Jay believed treaty termination is a shared power.

Richard B. Morris, who is Gouverneur Morris professor of history emeritus at Columbia University, and in that capacity is editor of the "Papers of John Jay," has written to tell me of his conclusion that Jay regarded treaty termination as a power belonging jointly to the executive and legislative branches. Also, Professor Morris writes that he believes this was the understanding among American leaders generally who were contemporary to the framing or ratification of the Constitution.

In a subsequent letter to me, dated June 29, 1979, Professor Morris adds his personal belief that "the issue of treaty termination [is] an act which in my opinion clearly requires Senate advice and consent to be constitutionally valid."

Mr. President, as we all know, John Jay is the Founding Father most qualified to address the subject of foreign affairs under the Constitution. He wrote five of the Federalist Papers and became the first Chief Justice of the Supreme Court, after serving as the Chief Foreign Affairs representative of the Nation under the Continental Congress. Jay, of course, had been Secretary for Foreign Affairs to the old Congress.

Jay's words at the time give us an important insight into the meaning of the Constitution, and I ask that Professor Morris' commentary revealing Jay's belief regarding treaty termination shall be printed in the RECORD.

The letter follows:

COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK,
New York, N.Y., June 4, 1979.

"DEAR SENATOR GOLDWATER:

"In answer to your query, may I say that I have reached an opinion regarding the intent of the Framers in vesting the power of treaty termination, and that it is basically in accordance with your prepared statement, "Termination Is a Shared Power."

"It just so happens that I have before me a copy of the original draft of 'Federalist' Letter No. 64 in Jay's own handwriting, with some variances from the published text. Throughout Jay is talking about treaty-making as a shared function, and it is a fair inference from his text that he would have regarded treaty termination in the same light. The text of the draft from which you quote the published version on p. 119 of your article reads:

"They who make Laws may without Doubt repeal them and it is equally true that they who make Treaties may alter, or annul them; but we are not to forget that Treaties are made not by one of the contracting Parties but by both, and consequently that, as the Consent of both was essential to making them at first, so must it ever afterwards be [necessary] to alter or cancel them . . . With Respect to the Responsibility of the President and Senate, it is difficult to conceive how it could be increased."

"The fact that John Adams turned to Congress in 1798 to terminate the treaties of alliance with France attests to the sense of both the Executive and the Legislative branches of how the treaty provision in the Constitution was interpreted by contemporaries, many of whom were active either in the framing or the ratification of the Constitution.

RICHARD B. MORRIS,
Gouverneur Morris,
Professor of History Emeritus."●

SPECTER OF THE GREAT DEPRESSION SERVES AS REMINDER OF NEED FOR NEW ECONOMIC POLICY

● Mr. HEINZ. Mr. President, as you know, on Monday a number of my distinguished colleagues in the Senate joined in a special order to observe the 50th anniversary of the stock market crash of 1929. I was in Philadelphia on Monday conducting hearings in connection with my activities on the Aging Committee and was thus unable to participate.

I would, however, like to make some remarks as we reflect upon the events leading up to the Great Depression, which caused untold misery for millions of workers and investors, resulting in fundamental changes in our political and economic systems and sending shock waves throughout the industrialized world.

Few observers today are predicting economic collapse of the magnitude which the Nation experienced 50 years ago. Yet the economic outlook for the United States, still the wealthiest and most productive Nation on Earth, is not encouraging.

By virtually all accounts we are already in the midst of a recession—a recession accompanied by double-digit inflation. Overseas the value of the dollar continues to decline, as does the competitiveness of our industry. At home a combination of factors—uncontrolled inflation, Government tax and spending policies which fuel the fires of inflation and discourage sorely needed saving and investment in plant modernization and expansion, and overly burdensome Government regulations—has, not surprisingly, resulted in an American economy which exhibits distressingly low rates of productivity growth and the lowest rate of saving of any major industralized country.

Mr. President, neither I nor any of my colleagues pretends to have all the answers to the difficult economic problems with which we now find ourselves confronted. Yet there is emerging, at least on the Republican side of the aisle, a consensus that economic revitalization is dependent upon strong national policies that will encourage rather then penalize personal savings, curb excessive Government spending and regulatory policies, promote business investment, and in general restore the productivity of our economy. The 41 Republican Members of the Senate have thus joined in endorsing a comprehensive policy statement which suggests several measures necessary for the desperately needed revitalization of our economy. I would like to share this statement with the full Senate, and ask that there be printed in the RECORD the Republican economic policy statement.

The statement follows:

REPUBLICAN ECONOMIC POLICY STATEMENT

INTRODUCTION

Today, a lack of confidence in the ability of the present Administration to develop consistent and reliable economic policies has bred a climate of uncertainty about the health of the U.S. economy and even about the position of the U.S. in the world.

Controlling inflation, cutting taxes, and increasing our national productivity are the main economic concerns of the American people. Senate Republicans are prepared to furnish fresh, optimistic, and decisive leadership to accomplish these objectives.

Our program for balancing the federal budget, reducing personal and business taxes to increase incentives for investment and improved productivity, curtailing regulatory excesses, and other measures to increase investment and job opportunities is in sharp contrast to current economic policies.

In recent months, economic uncertainty has yielded to genuine concern about the danger of a severe recession because:

(1) Inflation has reaccelerated to double-digit levels in this year,

(2) Unemployment has remained very high, and

(3) There is an almost total absence of a coherent national economic strategy and energy policy.

Inflation is eroding the value of savings and wiping out recent increases in personal incomes, while simultaneously increasing the tax burden by forcing Americans into higher tax brackets. Unemployment has persisted in the range of 6 percent for the last year and shows no signs of improvement any time soon. Indeed, it is now expected to worsen considerably. And youth unemployment continues at intolerable levels, particularly in the older cities.

Compounding the problems of worsening inflation and unemployment are the continuing weakness of the U.S. dollar; very high interest rates; the sharp fall-off of R & D investment; and the virtual stagnation of U.S. productivity growth—the key to jobs, rising standards of living and stable prices.

The economic danger before us is very real, therefore, but the Administration seems to lack either the ability or the will—or both—to deal with it. Instead of formulating the needed economic initiatives—to restrain inflation by increased productivity and enterprise; reduce unemployment; reduce the trade and payments deficits; increase the real GNP by bringing the national books into balance; and restore domestic and world confidence in the dollar—the Administration has seemingly chosen a policy of papering over the basic economic illness by market manipulation of the dollar, wage and price exhortation and surrendering on energy policy.

The Administration continues to rely principally upon an almost unintelligible, already unsuccessful program of half-mandatory/half-voluntary wage and price controls and a series of energy programs by which, even if approved, little will be gained in energy sufficiency. The economic history of the world proves the folly of continuance of wage and price controls which distort the economy and incur ultimately greater inflationary pressures. The imposition of wage, price or credit controls cannot be justified except in a time of true national emergency.

Clearly the loss of confidence in the leadership of the U.S. has its roots in a fundamental skepticism about the effectiveness of U.S. leadership.

Senate Republicans believe action is needed now, to avert what could be a major domestic and world economic disaster early in the course of the next decade. There is a need to put before Congress and the people an action program which would be directed to: securing the living standards of the people; reducing unemployment by providing permanent private sector jobs, particularly among minorities and youth; restoring confidence in the U.S. dollar; stimulating capital formation and U.S. productivity as the only enduring approach to stable prices and full employment; reducing the burden of unadjusted federal tax brackets on individuals and corporations; balancing the federal budget; and reducing our dependence on foreign energy sources.

Accordingly, Senate Republicans put forward this "Economic Program for the Decade"—an action program to begin to make right what is so wrong with the U.S. economy.

BUDGET AND TAXES

1. It is vitally important that the tax system not operate to reduce the real stand-

ard of living of the American people. Therefore, we support substantial phased across-the-board reductions in federal income taxes to encourage incentives for economic growth and job opportunities without inflation and to limit the growth rate of federal spending.

2. Our objective must be to bring the federal budget into balance and to curb future deficits.

3. There should be a mandatory limit on federal spending. A policy of no "real" growth in federal spending through FY 1982 is desirable. The spending limit needs to be sufficiently flexible to allow for national economic and other emergencies.

4. The excessive burden of the national debt must be reduced. Budgets must provide surpluses for this purpose. Receipts from the sale of certain federal assets such as oil leases and surplus federal properties could help accomplish this goal.

5. A thorough review of all federal entitlement programs is necessary to help reduce the rapid growth of federal spending.

6. It is of the utmost urgency that the Social Security system be reviewed and revised so as to ensure the continuation of our financial commitment to our older citizens, the solvency of the trust fund, and to be fair to our younger workers, with particular regard for eliminating fraud and abuse in the disability program and providing relief from escalating payroll taxes.

7. Federal accounting procedures must be changed. The hidden spending of "off-budget" agencies through loans and credits should be highlighted in the Congressional budget.

8. There should be a thorough review of federal budgetary and accounting procedures, with consideration given to applying the accounting procedures of the private sector to the operation of the federal government, to obtain a more accurate picture of the federal budget in terms of capital assets as well as outlays. In this connection, a Task Force on the Federal Budget should be formed to review and make recommendations to Congress and the people on federal budgetary concepts, procedures and standards.

9. To further reduce federal indebtedness, the U.S. should be more vigorous in the collection of its debts, domestic and foreign.

CAPITAL FORMATION AND PRODUCTIVITY

1. Personal savings and investment should be encouraged by incentives, rather than penalized through taxation. There should be universal eligibility for Individual Retirement Accounts of up to $1,500/year. By saving for their own future, Americans would be investing in a stronger, healthier economy.

2. As an incentive for greater savings and investment, a savings interest exclusion should be provided and the present dividend exclusion from federal personal income taxes should be expanded.

3. Government at all levels should revise regulatory systems which presently divert investment capital away from productivity and job creation and divert business enterprise into non-productive purposes.

4. Improved levels of productivity in the private sector are paramount if the United States economy is to make progress in winning the inflation battle. Business incentives toward increased capital formation and investment must be encouraged through business tax reductions, tax credits, and accelerated depreciation allowances. Realistic tax incentives spur investment. Depreciation allowances for plants and equipment, including equipment to meet environmental regulations, should be accelerated and adjusted for inflation, in order to permit depreciation allowances to approximate more closely the true replacement costs rather than historical costs of capital equipment.

5. To increase productivity, the United States must recover its former place as the world's leader in industrial research and development. Tax credits for new R & D expenditures would provide a significant incentive for improved research and development spending. The United States must increase properly conceived federal expenditures for accelerated research and development in order to replenish the nation's reservoir of technology and energy alternatives.

6. Sunset legislation for all federal regulatory agencies should guarantee the periodic review and, if necessary, adjustment of their scope and purpose.

7. The Congress should exercise effective but practicable control over proposed federal regulations to ensure that they carry out the intent of Congress. On the federal level, every proposed regulation should be subject to cost-benefit analysis to ensure that potential benefits are not outweighed by its economic impact.

EMPLOYMENT AND UNEMPLOYMENT

1. Full encouragement should be given to the highest priority need for work-study programs in high schools and colleges to attack the basic problems related to the high levels of unemployment among several groups, i.e., those lacking the training, education, and the desire to achieve the needed skills for productive employment.

2. Targeted tax credits for hiring the structurally unemployed—similar to the Targeted Jobs Tax Credit enacted last year—provide an important incentive to employers to hire the economically disadvantaged. Full use should be made of these and similar tax credit incentives to reduce unemployment among those segments of the labor force—youth—with disproportionately high unemployment.

3. Cash bonuses for employers should cover part of the costs of bringing jobless Americans into the productive economy. In this regard, CETA's voucher demonstration project, helping the private sector hire trainees most in need of jobs, should receive a greater percentage of CETA funds.

4. Labor and management should cooperate to strengthen and expand training and apprenticeship programs in the skilled crafts, especially in small businesses, and measures to improve productivity with appropriate participation by each in the avails of such improvements.

5. Labor-management councils, bringing employers and employees together to improve working life conditions, should be encouraged.

6. The Private Sector Intitiative Program (Title VII of CETA) should be expanded, so that persons trained in this program can have better opportunities or career development.

7. The charter of the U.S. Employment Service should be revised to foster better coordination with other federal activities, especially those conducted under CETA.

8. Part-time and flexi-time work schedules deserve greater use to accommodate workers and their families with special economic and domestic situations.

9. A youth differential in the Minimum Wage, with appropriate safeguards against displacement and only for a limited period of time, could have a significant impact on youth employment.

10. Regulation and paperwork requirements must be simplified for all business and construction activities in order to increase employment opportunities through reduced overhead costs.

INTERNATIONAL TRADE AND MONETARY POLICY

1. The Federal Government, with active participation by leadership from the private sector, should develop and implement a comprehensive national export policy to promote aggressvely the export of U.S. goods and services and to defend U.S. trade interests.

2. Export licensing procedures should be simplified, streamlined, and better defined. There should be a firm commitment to control the export of advanced technology to nonmarket nations in accordance with the provisions of the Export Administration Act. We remain committed to the principles of free emigration before Most Favored Nation Status can be extended.

3. A broad effort should be launched to assist smaller businesses to participate in exporting, beginning with reform of the Webb-Pomerene Act.

4. We advocate elimination of export subsidies through international negotiations, acknowledging the impediments to this process. Until such subsidies are eliminated, we should take appropriate steps to support American industry in world markets through organizations such as the Export-Import Bank and the Commodity Credit Corporation.

5. Improved trade relations within the Americas are urgent and necessary for our mutual well-being. Therefore, the United States must begin to emphasize the importance of hemispheric trade. To that end, we urge the creation of a Western Hemispheric Economic Commission to study ways and means of joining together with our neighbors to ease and facilitate such trade to our mutual benefit.

6. The U.S. must work actively with Japan and other surplus countries to check continued undisciplined trade surpluses and also to remove nontariff barriers to trade. Failure to resolve this problem may cause political pressure for protective measures to become irresistible.

7. The DISC tax incentive for U.S. businesses should be retained, and other tax incentives for exports should be provided, as long as our overseas competitors maintain similar export subsidies. Special provision for U.S. citizens working abroad is essential to maintain our competitive position.

8. The Federal Government should systematically monitor imports to anticipate future trade problems before they cause the shutdown of American plants and the loss of jobs. To this end, we recommend trade adjustment assistance to provide more timely and equitable relief to labor and industry.

9. U.S. monetary policy must be based on a firm commitment to a strong and stable dollar. This means money supply growth based upon the real growth in the economy. A strong dollar requires improvement in our economic fundamentals: a lower inflation rate, an improved trade balance, and a significant reduction in oil imports through domestic production, conservation and effective measures to deal with the OPEC Trust.

10. In protecting the dollar from sudden or severe fluctuations on foreign exchange markets, we should support vigorous intervention in the operations of the foreign exchange markets. High interest rates are a direct result of inflation with its excess money supply growth. A strong dollar will mean lower interest rates and less inflation. To this same end, the desirability of gold sales by the Treasury and the policy of "demonetization" of gold should be reevaluated.

11. The International Monetary Fund should exercise more effective surveillance of surplus economies and should work more closely with commercial banks.

12. The transactions of U.S. banks in the Eurocurrency markets should be more closely evaluated.

13. The U.S. should resume its leadership role in the international monetary system. We should convene world financial leaders to develop a long-term plan for the evolution of the present monetary order into a true multi-currency reserve system characterized by stability in exchange rates and minimal world inflation.●

DALE EMERSON SAFFELS

● Mr. DOLE. Mr. President, late last night the Senate confirmed Mr. Dale Emerson Saffels for the U.S. district judgeship for the State of Kansas. I would like to take this opportunity today to say a few words about my friend.

I have known and worked with Dale for many years, and have the deepest respect and admiration for his character and abilities. He has served in a wide range of public positions with distinction, and has one of the broadest backgrounds of any judge to be confirmed by the Senate. I wholeheartedly supported his confirmation.

Dale has the legal background and administrative experience to make him an excellent addition to our judiciary. Since his admission to the bar in 1949, he has practiced in many areas of the law in many of the courts of Kansas. He has been admitted to practice before the Supreme Court of Kansas, all inferior State courts, all Kansas administrative bodies, the U.S. District Court for the District of Kansas, the 10th Circuit Court of Appeals and the Supreme Court of the United States.

Dale is eminently qualified to preside over a busy judicial docket. He has heard hundreds of hearings before the Kansas Corporation Commission, where he was chairman from 1968 to 1975. This is especially significant because the corporation commission is an extremely powerful body in Kansas, regulating the public utilities, railroads, motor carrier buses, securities, natural gas and oil of the State. While there, he proved successful in expediting the consideration of matters on its busy schedule.

I have also grown to know Dale through his involvement in the political affairs of Kansas. Two highlights illustrate the respect he has earned through his work. While serving in the Kansas House of Representatives, he was elected leader of the minority party. In 1962, he was nominated by the Democratic Party to run for the Kansas Governorship.

Dale has been a citizen in every sense of the word. His civic, legal, charitable, religious, educational and social activities are too numerous to mention. Suffice it to say, he has played many roles well, from the various bar associations to the Chamber of Commerce, from the board of his law school to deep involvement in the Lutheran Church.

It is of particular importance to Kansans that he has done all of this in Kansas. He was born in Kansas. He went to high school and college in Kansas. He attended law school at Washburn University, my own alma mater, in Kansas. He practices law in Kansas. His political and governmental activities have had a great impact on Kansans. If any man is sensitive to the needs and desires of Kansans, that man is Dale Saffels. I am confident that he will express this sensitivity in his role as district judge.●

STATEMENT OF GENERAL ROWNEY ON SALT II

● Mr. GARN. Mr. President, the attached memorandum has been released by General Rowney, to outline the reasons for his retirement. It deserves the attention of my colleagues, and of all Americans. I request that it be printed in the RECORD at the conclusion of my remarks.

No individual free to speak about SALT II has a better understanding of the negotiations and the implications of the SALT II treaty for American national security than General Rowney. He concludes that the SALT II treaty "does not meet minimally acceptable standards." This basic conclusion has been endorsed by almost 2,000 retired general officers of the United States.

There has rarely been a national security issue on which there has been this unanimity of opinion. Much of General Rowney's criticism has been acknowledged by Carter administration spokesmen at various times during the hearings on SALT II. General Rowney effectively counters the argument that we will be better off with the treaty than without it—that we will not match the Soviet buildup if we reject SALT II.

I do not accept the council of weakness. As General Rowney declares—

Agreeing to a bad agreement is worse than no agreement; a poor SALT II will make it impossible to negotiate a good SALT III.

The statement follows:

STATEMENT BY GENERAL ROWNEY

Memorandum for the Chairman, Joint Chiefs of Staff.

Subject Request for Relief from Assignment as JCSREPSALT.

1. For more than six years, I have supported the goals of the Joint Chiefs of Staff aimed at achieving significant reductions in strategic arms while maintaining our security. An agreement which reduces the USSR to lower level equal to those of the US, in numbers as well as capability, is in both nations' interest.

2. The JCS have expressed their views and concerns in numerous classified memoranda, for example, on 12 October 1978 and 16 March 1979. My own are recorded in classified memoranda of 6 January 1978, 5 January 1979, and 27 March 1979, and elsewhere.

3. The JCS have maintained that a SALT Treaty would be in our national interest if it were equitable and verifiable, if it contributed to deterrence and stability, and if it strengthened European security and contributed to Allied coherence.

4. The emerging Treaty, in my view, meets none of these criteria.

a. The Treaty is not equitable. To cite only three examples:

It grants the USSR a unilateral right to more than 300 launchers for heavy ICBMs. We did not insist on a similar right, nor is the US compensated for this large asymmetry. These 300 Soviet heavy missiles alone possess more destructive power than all of our ICBMs and SLBMs combined.

It will fail to include over 350 Soviet Backfire bombers with intercontinental capability while including all of our heavy bombers. These Backfire bombers will add one-third to the total destructive power of Soviet strategic forces, a potential which, even excluding the Backfire, greatly exceeds that of the US. The so-called assurances on Backfire are militarily worthless.

It fails to provide for equal levels of strategic force capability. Under the Treaty's provisions, the USSR will stay ahead of the US in strategic systems. Even limiting the number of warheads per missile will provide the USSR significant numerical advantages. The definition of a new type of ICBM is so loosely drawn that during the life of the Treaty it will not effectively preclude the USSR from developing and deploying more than one new type of ICBM. The large unconstrained qualitative potential of the USSR can be rapidly exploited once the Treaty expires.

b. The Treaty is not adequately verifiable. The Soviet Union, a closed society, poses great verification problems for the U.S. The USSR has consistently refused to agree to provisions necessary to assure adequate verification of mobile ICBMs, MIRVed ICBMs and SLBMs, new types of ICBMs, heavy bombers, and cruise missiles. The USSR, unlike the US, has been encrypting telemetry of its ICBM tests. Further, using verification as a pretext, the Soviets have obtained US agreement to provisions that could restrict not only strategic but our non-strategic systems—e.g., conventionally-armed cruise missiles and unarmed pilotless vehicles.

c. The Treaty undermines deterrence. It permits the USSR a three-to-one numerical and five-to-one throw-weight asymmetry in ICBM warheads—the most powerful and destabilizing of all strategic systems. Rapid improvement in Soviet ICBM forces is causing our ICBMs to become increasingly vulnerable, further undermining deterrence.

d. The Treaty does not contribute to stability. Because the Treaty does not blunt the momentum of the massive Soviet buildup, the US will for the first time not be able to maintain nuclear equivalence. This, and forcing Soviet concentration into unconstrained and unverifiable qualitative improvements, will undermine stability. Our strategic inferiority will inhabit favorable solutions to crisis situations, adding to that instability. There will be a growing realization at home and abroad that the USSR has a decisive advantage, allowing it to move against nations friendly to the US with greater certainty that the US will not respond.

e. The Treaty could weaken NATO. The Protocol constrains, for the most part, US systems; precedents established by the Protocol constraining US systems are likely to be carried forward. These dangers, magnified by the ambiguity in the Treaty's provision on non-circumvention, could preclude the transfer of technology and weapons to our Allies and thus weaken NATO.

5. The crucial problem facing the US is the large and continuing buildup of Soviet strategic forces. This momentum has concontinued unabated while SALT was being negotiated and there is no evidence it will slacken. The false expectation that SALT would result in constraining Soviet momentum explains in part the cancellation of the B-1 and delays in US programs such as cruise missiles and M-X. Even if SALT did not inhibit any of our programs, the greater momentum of the USSR will cause us to fall—and stay—behind the USSR strategically. By any objective measure the US will become strategically inferior to the USSR in the early 1980s. Thus, the Treaty would sanction and codify US strategic inferiority.

6. My review of the emerging Treaty indicates pluses and minuses. Failure to meet the important criteria of the JCS heavily tilts the balance against the US. Thus this Treaty will harm rather than enhance our

security. Agreeing to a bad agreement is worse than no agreement; a poor SALT II will make it impossible to negotiate a good SALT III. Therefore, after careful and detailed analysis, it is my considered and professional military judgment that this Treaty is not in the best interest of the United States.

7. Six years at the negotiating table convinces me that a Treaty meeting the JCS criteria of acceptability was—and still is—attainable. Like the JSC I strongly favor arms control but, unfortunately, agreement in principle has been reached on a Treaty that does not meet minimally acceptable standards. I therefore have concluded—reluctantly and with profound disappointment—that I cannot support this SALT Treaty.

8. Accordingly, I must ask to be relieved of my duties and request retirement from the US Army effective 31 July 1979.●

BANGOR, MAINE, DAILY NEWS SUPPORTS ACU SUIT AGAINST SALT-SELLERS

● Mr. HUMPHREY. Mr. President, it seems that the administration is sparing no effort, and certainly no expense, to cause this body to ratify the SALT II treaty with the Soviet Union.

Getting this treaty approved is apparently becoming as important to the President as was his rush to give away our canal in Panama. He has hosted receptions boosting SALT II for handpicked delegations of opinionmakers from several States this year at the White House. Within the State Department, a so-called "SALT working group" has been created, ostensibly to provide information about SALT II to the public, but which has actually used its time and the taxpayers' resources to go forth across the Nation in praise of SALT II. In fact, as our colleague, Senator GOLDWATER, recently revealed, the State Department, the White House, and the Arms Control and Disarmament Agency, among others, have so far spent hundreds of thousands of dollars in public funds to advance this treaty. The luxury of taxpayer largesse does not, of course, extend to opponents of SALT II.

Recently, the American Conservative Union, a nonprofit public interest and educational organization, filed suit in U.S. district court seeking to put an end to this kind of hucksterism. I am one of 15 Members of Congress from both Houses who have joined ACU in this suit.

In my neighboring State of Maine, the Bangor Daily News, Maine's largest daily newspaper, has examined the ACU suit in the context of "the trend toward too much Government hype at taxpayer's expense." Mr. President, this editorial from the October 2, 1979 edition of the News contains some important food for thought, and I therefore wish to commend it to the attention of my colleagues at this time and request that it be printed in the RECORD.

The editorial follows:

SELLING OF SALT

The American Conservative Union announced today that it, along with nine ACU members of Congress, filed suit against the Carter administration for using over $1.2 million of taxpayer money to lobby for the SALT II treaty.

A legal action of this kind is long overdue.

Although it is doubtful that the ACU would be bringing suit against the Carter administration if it were using public money to promote a tax limitation amendment, or some other cause more palatable to the ACU than SALT, there ought to be some lines drawn when it comes to government promoting itself.

In our brand of democracy with its coequal legislative, judicial and executive branches, the executive branch must at times "sell" its legislation or policy to the American people in order to win congressional approval.

But there is selling, and then there is selling.

There was a day when presidents got their way with Congress by virtue of their oratorical rapport with the people or their bargaining prowess with congressmen. Governmental programs and policies were simply outlined, passed along to the media for dissemination and eventual acceptance or rejection by the voters.

This is less and less the case.

The American advertising system is constantly filled with government-sponsored pitches, not just public service announcements of available programs, but outright high-pressure merchandising of taxfunded programs, as though both the program and the costs of promotion were being underwritten by profits instead of public funds.

The ACU is claiming that the Carter administration's outlay of $1.2 millon to sell SALT runs counter to the U.S. Constitution, which the ACU claims prohibits certain illegal uses of public funds to lobby Congress.

Although a recent visitor to Bangor from the U.S. State Department, Bob Barry, smilingly denied to the NEWS that his trip here was anything more than "informational," he was clearly pitching for SALT II.

It will take a judge and a platoon of constitutional scholars to assess the merit of the ACU's allegations, but the trend toward too much government hype at taxpayer's expense is as conspicuous as a goat at a lawn party.

The ACU case may at least help to inhibit this unhealthy situation.●

DR. ALEXANDER RECEIVES SEA GRANT AWARD

Mr. PELL. Mr. President, each year the Sea Grant Association, a national organization dedicated to development, wise use, and conservation of our Nation's marine and coastal resources, presents an award, the National Sea Grant Award, to an individual selected for outstanding contributions to the development, use, and conservation of our Nation's marine and coastal resources.

Last week, at its annual meeting in Orlando, Fla., the Sea Grant Association presented the 1979 Sea Grant Award to Dr. Lewis M. Alexander, professor of geography and marine affairs at the University of Rhode Island

The award was presented in recognition of Dr. Alexander's outstanding work as an internationally respected advisor on development of the law of the sea and in marine affairs education.

I congratulate the Sea Grant Association on its selection of Dr. Alexander for the Sea Grant Award. As one who has been deeply involved for more than a decade in the difficult but extremely important task of reaching international agreement to provide a comprehensive and orderly legal regime for man's vastly increased activities in the oceans, I know personally how valuable Dr. Alexander's work in this field has been.

The Law of the Sea Institute, which was established at the University of Rhode Island under Dr. Alexander's leadership, became a national and international focal point for discussion and development of law of the sea issues. Attendance at the institute's annual conference at URI became a virtual necessity for government, industry, and academic officials involved in law of the sea questions.

Dr. Alexander also has been the major force behind the development of the university's marine affairs program, a marine management program whose graduates are now found in responsible policy positions throughout the country.

The selection of Dr. Alexander for Sea Grant Association award is a matter of special pride to the people of the State of Rhode Island, because it marks the third time that the award has been presented to a Rhode Islander. Dr. John A. Knauss, provost for marine affairs at URI was an early recipient of the award, and I was honored and pleased to be the recipient in 1975.

Mr. President, I ask that the following news release on Dr. Alexander's achievements and contributions be printed in the RECORD.

The news release follows:

URI GEOGRAPHER RECEIVES NATIONAL SEA GRANT AWARD

A University of Rhode Island professor known internationally as an advisor to Law of the Sea negotiators and as the force behind URI's marine affairs program has been selected to receive the 1979 National Sea Grant award.

Dr. Lewis M. Alexander, URI professor of geography and marine affairs, accepted the award at the Sea Grant Association meeting Thursday, October 25, in Orlando, Florida.

The Association is an organization of marine universities, agencies, and industries designed to further the development, use, and conservation of the Nation's marine and coastal resources. Past Rhode Island recipients have included Senator Claiborne Pell, one of the founders of the Sea Grant program, and Dr. John A. Knauss, URI provost for marine affairs.

Dr. Alexander was nominated for the award because of his development of the URI marine affairs program and his work with Law of the Sea issues. Throughout his career the geographer's dominant philosophy towards the oceans has been not a romanticization, but rather "a practical view of what man can obtain from the seas."

The professor's recognition comes in the 10th year of operation for the URI marine affairs program. This course of study provides an introduction into various marine disciplines such as oceanography, marine resource management, and marine environmental law in order to prepare people for handling policy problems from local to international levels.

Dr. Alexander's role as a major architect of the program came about after his 1967–68 involvement with the Stratton Commission, which focused U.S. attention on the need to expand its ocean activities. At that time, he recognized that there would be a demand for trained individuals to be a link between policy makers and field experts such as oceanographers, ocean engineers, and marine resource economists.

This recognition led to URI's creation of the marine affairs program, one of three such marine management programs in the U.S., which specializes in international marine policy, coastal zone management, fisheries administration, marine environmental law, and marine transportation and ports. Its 200 graduates include individuals working for state and federal agencies, in marine industries, and for U.S. Congressmen. Foreign students have included fisheries officials from Sierra Leone, Nigeria, and South Yemen and oceanographers from Indonesia, Chile, and France.

Since the marine affairs program began in 1970, it has expanded from a one-year course for working professionals to include undergraduate and graduate degree programs. To meet a growing demand, Dr. Alexander hopes to add a doctoral program and to increase the program's emphasis on international marine policy.

Dr. Alexander has been an active researcher in the field of marine policy since 1953, and his work with the Law of the Sea was a natural outgrowth of that interest. In 1966 he helped create the Law of the Sea Institute at URI, which served as a center for the discussion of issues related to arriving at an international treaty for use of the seas. He still serves on the board of the Institute, which moved to Hawaii in 1977.

Dr. Alexander has also served as an advisor to the U.S. delegation to the Law of the Sea conferences. Currently he has been active in organizing discussions on the development of regional arrangements among nations to handle common problems, a concept which has surfaced at the conferences.

"Although the Law of the Sea negotiating text does suggest establishing regional arrangements to handle marine pollution, fisheries management, and transportation, it does not give any guidelines for achieving workable programs. I see this area as a major focus for international marine policy research in coming years. I am trying to stir up interest at URI for creation of a center which would serve as the international focus for regional arrangement discussions and research," Dr. Alexander explained.

The professor is not, however, concerned solely with international problems. In the next year he plans to bring together marine affairs graduates for a "meeting of the minds," which he hopes will stimulate thinking on the future directions of marine resource development in the U.S.

In carrying out his many activities, Dr. Alexander logs over 50,000 miles a year. Students remain a major concern, though, and he carries a class schedule as well as his duties as chairman of one of URI's fastest growing departments.

A native of New Jersey, Dr. Alexander earned degrees from Middlebury College and Clark University. He taught at Hunter and Harpur Colleges before joining the URI faculty in 1960. He and his wife Jackie reside in Peace Dale, Rhode Island.●

DENIS HAYES

● Mr. PERCY. Mr. President, I am delighted that Denis Hayes, one of the preeminent leaders in the country in the move toward conservation and solar energy has been appointed Director of the Solar Energy Research Institute (SERI). I commend this decision by the Department of Energy and look forward with pleasure to the impact Mr. Hayes will undoubtedly have on that organization.

It has been my privilege, over the years, to work with Denis Hayes on numerous occasions. As early allies in the effort to gain recognition for the importance of conservation and solar in the Nation's energy budget, we have seen those twin ideas overcome initial skepticism and move on to the increasingly significant position they now enjoy in energy strategies.

Our first contact, through the Illinois energy office, was followed by continued exchanges as Denis Hayes introduced ever wider audiences to solar through his work at the prestigious Worldwatch Institute, by the successful Sun Day movement, and more recently in his role as chairman of the solar lobby. His message has always been a carefully researched, thoughtfully stated one, and its validity has become apparent with time.

As Director of SERI, the greatest immediate challenge will be shaping that new organization into a laboratory with an international reputation for excellence in solar energy research leading to commercialization of solar technologies. That role will be a difficult one—no laboratory has been established with a mandate so clearly taking it beyond the immediate products of basic research and into the realm of the market.

My commendation to DOE is based on their recognition that such an institution demands a director familiar with more than just the research side of his discipline. The SERI director must understand the complex political and market forces of solar development before he can lead his organization into a prominent role in solar development. Denis Hayes is superbly equipped with these skills.

I would like to mention, Mr. President, that the Senate Governmental Affairs Committee will soon be holding oversight hearings in the area of conservation and solar programs within the Department of Energy. It is my hope that organizational questions impeding the most effective development of solar strategies within the organization can be brought up and resolved. As this effort on the committee's part progresses, I will keep the Senate informed of our findings.●

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I really wanted to come in earlier, so that the Senate could get out earlier, but I cannot do so, because I want the Foreign Relations Committee to meet until 12:30.

TIME ALLOTTED TO THE LEADERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be limited to 5 minutes each on tomorrow.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, is is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. DOLE be recognized for not to exceed 15 minutes, that he be followed by Mr. PROXMIRE for not to exceed 15 minutes, that he be followed by Mr. NUNN for not to exceed 15 minutes, and that he be followed by Mr. ROBERT C. BYRD for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. MOYNIHAN. Mr. President—and I believe there is no other Senator who wishes to speak—I ask unanimous consent that the Senate, under the order, stand in recess until 10:30 tomorrow morning.

There being no objection, the Senate, at 7:43 p.m. recessed until Friday, November 2, 1979, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 1, 1979:

THE JUDICIARY

Edward Dean Price, of California, to be U.S. district judge for the eastern district of California, vice a new position created by Public Law 95–486, approved October 20, 1978.

Horace T. Ward, of Georgia, to be U.S. district judge for the northern district of Georgia, vice a new position created by Public Law 95–486, approved October 20, 1978.

David K. Winder, of Utah, to be U.S. district judge for the district of Utah, vice a new position created by Public Law 95–486, approved October 20, 1978.

DEPARTMENT OF COMMERCE

Sidney A. Diamond, of Arizona, to be Commissioner of Patents and Trademarks, vice Donald W. Banner, resigned.

EXTENSIONS OF REMARKS

KILLING THE WORKERS WITH KINDNESS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. ROUSSELOT. Mr. Speaker, as we consider a costly new energy program and a costly welfare expansion proposal this week, I think it is important that the big spenders in Congress be reminded that they are killing the workingman with kindness. By forcing the so-called helping hand of Government into every facet of business and private life, they are causing a decline in the standard of living for working Americans and their families.

With big government comes big spending, high inflation, and heavier taxes. The result is that while the worker has a higher wage on paper, he has less purchasing power in the marketplace. His added dollars are being eaten away by the actions of Government. In fact, the average American cannot get ahead anymore. The American dream is slipping from his grasp.

Recently, an article in the Monthly Tax Features newsletter of the Tax Foundation, Inc., graphically demonstrated the impact of taxes and inflation on the workingman. It points out, among other things, that while the median income of a U.S. family of four has increased by 66 percent in the last 7 years, the after-tax purchasing power of that same family has declined by 8 percent. This is unacceptable.

It is my hope that my colleagues will seriously consider the consequences of adding more Government programs and increasing Government spending. Is it not time to give the workingman a break?

Mr. Speaker, I would like to share this article with my colleagues:

EARNERS' APPARENT INCOME GAINS CANCELLED BY TAXES AND INFLATION

Americans now find themselves in the paradoxical position of being both richer and poorer than they were at the beginning of this decade. The median income of the prototypical U.S. family (one earner, employed full-time, year-round, with a non-working spouse and two children) has increased by nearly 66 percent in the last seven years. At the same time, its after-tax purchasing power has declined by more than 8 percent since 1972, according to Tax Foundation economists.

From 1972 to 1979, the median family's money income climbed from $11,152 to an estimated $18,467. After direct Federal taxes, both income and social security, and inflation take their bite, however, the family's purchasing power, measured in 1969 dollars, has dropped $700—from $8,500 to $7,800—leaving the family richer on paper but poorer at the supermarket.

During this period, Federal individual income taxes jumped 82 percent from $985 to $1,789, while social security taxes soared 142 percent, from $468 in 1972 to $1,132, in 1979. Total direct Federal taxes have more than doubled in seven years. While after-tax incomes were rising 60 percent, prices went up 75 percent. The result is an 8 percent decline in actual purchasing power.

For the ten-year period from 1969 to 1979, the rise in before-tax median family income barely managed to keep pace with the 99 percent climb in prices. Mounting taxes, however, caused an actual drop of 2 percent ($147 in 1969 dollars).

This "richer-is-poorer" situation does not even take into account the added burden of state and local individual income taxes. Such levies very widely, but on the whole, they have grown more rapidly than Federal income taxes and have a significant impact on family budgets. Total state and local individual income taxes are four times as high in 1979 as they were a decade ago and have increased relative to the Federal income tax burden. In 1969, states and localities took about 10.5 percent of what the Federal government claimed. By 1979, they were taking 16.3 percent. Given the assault of taxes and inflation on the typical worker's paycheck, it is possible to be richer and poorer at the same time.

The table on page 1 shows the effect of direct Federal taxes and inflation on median income since 1969.

MEDIAN INCOMES, BEFORE AND AFTER FEDERAL TAXES AND INFLATION

Year	Median income [1]	Direct Federal taxes: income tax [2]	Direct Federal taxes: Social security	Direct Federal taxes: Total	After-tax income: Current dollars	After-tax income: 1969 dollars [3]
1969	$9,277	$956	$374	$1,330	$7,947	$7,947
1970	9,750	964	374	1,338	8,412	7,943
1971	10,314	937	406	1,343	8,971	8,119
1972	11,152	985	468	1,453	9,699	8,500
1973	11,895	1,100	632	1,732	10,163	8,385
1974	13,004	1,271	761	2,032	10,972	8,158
1975	14,156	1,179	825	2,004	12,152	8,278
1976	15,016	1,408	878	2,286	12,730	8,197
1977	15,949	1,472	933	2,405	13,544	8,194
1978 [4]	17,223	1,733	1,042	2,775	14,448	8,117
1979 [4]	18,467	1,789	1,132	2,921	15,546	7,800

[1] Median for all families with 1 earner employed full time year-around as reported by U.S. Department of Commerce, Bureau of the Census, for 1969 to 1977; 1978 and 1979 estimated by Tax Foundation.
[2] Married couple filing joint returns, 2 children.
[3] Adjusted by the consumer price index of the Bureau of Labor Statistics.
[4] Income data for 1978 and 1979 are estimated.●

A TRIBUTE TO A LIVING SAINT—MOTHER TERESA

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. KEMP. Mr. Speaker, I would like to take this opportunity to pay tribute to an eminent and truly saintly human being, Mother Teresa. On October 17, 1979, the five-member Norwegian Nobel Committee selected, from among 56 individuals and organizations nominated, Mother Teresa for the $190,000 Nobel Peace Prize.

Mother Teresa was born in Skopje, which is now part of Yugoslavia. When she reached the age of 12 she knew that she had received God's calling. At age 17, she left for India with an Irish order of nuns, the Sisters of Loretto. For the next 20 years, Mother Teresa faithfully taught at a high school in Calcutta, but she knew her calling must reach beyond this. She fought for, and received, permission from the Vatican to leave the convent and set off into the city and helped the poor. The year was 1948 when Mother Teresa, alone, began to walk the streets of Calcutta aiding those near death.

Her order, the Missionaries of Charity, grew rapidly. Many people found that the mission offered them the only comfort they would ever know: Food, clean sheets, clothing, and a place to die.

In all of her endeavors, Mother Teresa thinks only of the poor and helpless. The Nuns of the Order, who rise every morning at 4:30 and do not finish work until 9:00 p.m., perform many duties. They teach children, aid lepers and other sick, and provide medical care in a number of areas around the city. Mother Teresa has been quoted as saying:

For me each one is an individual. I can give my whole heart to that person for that moment in an exchange of love. It is not social work. We must love each other. It involves emotional involvement, making people feel they are wanted.

Before entering the order, the sisters must take three special vows, the final vow being—the giving of the heart. While the average person might find horror and disgust in the work that Mother Teresa and her order perform in the city of Calcutta, she sees their work as that which would be done by Christ himself.

Mr. Speaker, we can do nothing but honor and admire the great courage and truly undaunting spirit of an exceptional and outstanding human being, Mother Teresa. It is fitting that we pay tribute to her as she receives the 1979 Nobel Peace Prize.●

AID TO CAMBODIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. McDONALD. Mr. President, the present leaders of the U.S.S.R. and Vietnam are responsible for the genocide in Indochina, as well as for breaking the 1954 agreement on Indochina, the 1973 agreement on peace in Vietnam and the Charter of the United Nations. Massive Soviet shipments of arms, beginning in 1965, were the basis of the invasion of the North Vietnamese Communist troops into South Vietnam, Cambodia and Laos. The noncommunist South Vietnamese, Cambodian and Laotian, as well as American, troops have never invaded North Vietnam. The 1954 agreement on Indochina and the 1973 agreement on peace in Vietnam, signed also by the representatives of the U.S.S.R. and North Vietnam, explicitly stipulated independence of South Vietnam, Cambodia, and Laos, as well as peace in Indochina.

At present, Vietnamese Communist troops still occupy and terrorize South Vietnam, Cambodia and Laos—after many millions of innocent people have been killed, mutilated or starved to death in Indochina as a result of the Communist aggression.

The U.S. administration should ask the United Nations to oblige the Soviet Union to stop arming the aggressive Vietnamese military forces and to pay the main expenses for liquidation of hunger in Cambodia. Although the American people sympathize with the victims of the Communist Vietnamese and Khmer Rouge terror in Cambodia, the U.S. taxpayers should not be financially responsible for the hideous crimes of the communist imperialism.

The Communist aggression in Indochina should be stopped and the Vietnamese troops should be withdrawn from Cambodia and Laos.

If the U.N. does not accept these suggestions and continues to give aid to the aggressive Government of Vietnam, it is just one more reason why the United States should leave the United Nations organization.

These are just some of the reasons why I voted against the Supplemental Refugee Assistance bill, H.R. 4955, which was before the House recently.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

MAMIE EISENHOWER—A GOOD FRIEND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. GILMAN. Mr. Speaker, a gracious lady has passed from our midst during the night. Mamie Eisenhower, America's First Lady during the two terms her late husband served in the White House is now gone, but will not soon be forgotten.

She was kind, gentle, and imaginative * * * a perfect complement to her husband Dwight D. Eisenhower, one of our Nation's greatest heroes.

Mamie Eisenhower would have made her mark on America even if in 1916 she did not marry a young 2d lieutenant who had gained quite a reputation as a football player on the gridiron at West Point. Mrs. Eisenhower made friends everywhere she went. And as the bride of a young Army officer, his assignments took them throughout the United States and Asia.

The public's first exposure to Mrs. Eisenhower came during the Presidential campaign in 1952. Mamie's sincerity, wholesomeness, and kind manner were qualities that certainly aided her husband's bid to become the Chief Executive. She gained a reputation for delighting audiences throughout America.

This past August I had the pleasure to view a television special on Mamie in which she showed her great sense of humor and her deep love for her departed husband.

"I love to laugh," she said in that interview. "I'm 19 in mind, but unfortunately I'm 83 in my body."

She was also asked how she remembed Ike. She responded by saying she recalled and greatly missed his "honesty, his integrity, and his admiration for mankind."

When asked how she hoped she will be remembered, our First Lady responded: "I hope Americans will think of me as a good friend."

I vividly recall the first time I had the honor to meet Mrs. Eisenhower, at a West Point dedication several years ago when she so warmly talked about her grandson David with my son David. Then, a few years later, we met again at my son Jonathan's graduation from Eisenhower College in Seneca Falls, N.Y., an institution she helped to nurture. Mamie Eisenhower has made a mark on American history that few First Ladies will duplicate.

We have lost a "Good Friend."●

NEED FOR CHANGE IN PRESENT PATENT POLICIES

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. ERTEL. Mr. Speaker, 1979 has been a year when the problems of declining productivity and diminishing innovation have become so acute that they can no longer be ignored. These problems threaten our way of life, the economic preeminence of the United States, and the very standard of living which has been the measure by which all other societies are judged.

Yesterday the President presented his recommendations to improve innovation and productivity in the Nation. I was pleased to see that the President recognizes the need for action over a broad front. While I was disappointed that the proposals do not address the need for tax measures to encourage innovation, nor do they come to grips with the problems associated with Federal regulations, a number of important other issues were addressed, especially the need for change in our present patent policies.

The President has strongly emphasized the need for a uniform Federal patent policy which provides incentives for the private sector to commercialize inventions developed under Federal contract. I agree with this position and have introduced legislation, H.R. 5715, the Uniform Federal Research and Development Utilization Act of 1979, which accomplishes these goals.

Currently, Federal patents are controlled by approximately 20 statutes applying to different agencies and programs, and by President patent policies in all situations not covered by statute. Under this "system" an inventor's rights may differ not only from agency to agency, but from department to department within an agency. This confused situation is in itself a disincentive to firms which may be interested in commercializing a federally held patent.

In addition to creating a uniform Federal patent policy, H.R. 5715 achieves several other important objectives identified by the President including:

Making the benefits of Federal R. & D. programs widely available to the pubilc in the shortest practicable time;

Promoting commercial utilization of inventions in order to maximize our productivity and innovation;

Encouraging the participation of the most qualified firms or institutions in Federal R. & D. programs; and

Fostering competition and preventing undue market concentration

It is commonly recognized that in the process of bringing a product to the market research accounts for roughly 10 percent of the cost while development makes up 90 percent of the cost The Federal effort stops at the research end of the process. Without some form of exclusive rights, a private firm is often reluctant to invest the resources needed to commercialize the invention. Why spend the money only to have your competitor pick up the process just before you hit the market? Your competitor will be able to underprice you since he does not have to recover the development costs.

Studies have indicated that commercial utilization of patented inventions is achieved at a much higher rate when, under certain circumstances, the contractor is permitted to retain exclusive rights to the invention. For example, a NASA study has shown that contractors have achieved commercial utilization of patented inventions at a rate approximately 20 times greater than that achieved by the agency itself.

H.R. 5715 provides that the Government will retain title to federally developed patents except where it is deemed more beneficial to permit the contractor to retain exclusive rights. In cases where exclusive rights are granted to the contractor, the Government reserves a free license to use the invention and the rights to insure that the contractor is, in fact, working toward commercialization.

Concerns have been raised that by permitting an exclusive license, we are allowing a private firm to profit on a patent which belongs to the American people. It is clear that the taxpayers of this Nation funded the research which results in a patent; however, unless that patented invention is brought to the marketplace, the American people derive very little benefit from the research they paid for. H.R. 5715 resolves this dilemma by requiring that contractors who are given exclusive rights provide payments to the Government through the sharing of royalties and/or revenues in return for the original Federal investment. I believe

that this provision will compensate the Government and prevent the contractor from achieving "windfall profits" at the expense of the taxpayers while still encouraging commercialization of the invention.

As chairman of the Task Force of Federal Patent Policy of the Subcommittee on Science, Research and Technology, I intend to move forward with legislation in this area. I believe that H.R. 5715 best addresses the need to create a uniform Federal patent policy which will bring the fruit of federally funded R. & D. to the marketplace. It also greatly reduces the burden on the Federal Government for administering Federal patent policy.

This legislation represents an important part of those changes which are necessary to encourage greater innovation and productivity in this country. I am looking forward to working with my colleagues in the Congress and with the administration in this important endeavor.●

POST-DISPATCH ON U.S.-PLO DIALOG

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. FINDLEY. Mr. Speaker, I would like to call to the attention of my colleagues the following St. Louis Post-Dispatch editorial of October 10, 1979. This distinguished and well-respected newspaper points out the distinction between formal recognition and informal talks, the latter being necessary to break the Palestinian logjam in the Middle East. Increasing numbers of U.S. opinion leaders and the American public in general are coming to accept this view. Informal talks with the PLO—by which I do not mean recognition or negotiation—are necessary to move the Middle East closer to peace.

The article follows:

RIGID ON THE PLO

President Carter gave short shrift to a questioner at his press conference who asked if it is time for the United States to reconsider its policy toward the Palestine Liberation Organization. This was an opportunity for Mr. Carter to make the useful distinction between diplomatic recognition of the organization and informal contacts with it of the sort that have been the stuff of diplomacy throughout history.

Instead, Mr. Carter simply restated the policy laid down in 1975 by then Secretary of State Kissinger. The U.S. will neither formally recognize nor negotiate with the PLO until the latter recognizes Israel's right to exist and accepts United Nations Resolution 242, he said. That is a proper policy with regard to formal relations with the PLO but it is an increasingly unproductive one for breaking the Palestinian logjam in the Middle East. Indeed, even Israeli Foreign Minister Dayan has met with PLO supporters. If Mr. Dayan realizes that some communication, even indirectly, with the PLO is valuable for peace efforts, surely the administration cannot be so timid as to refuse to consider anything but absolute rigidity.

We suspect that Mr. Carter's words were aimed as much at Miami as at Tel Aviv, for Florida's large Jewish population is being heavily counted upon by the White House to help the president in the straw votes there Saturday. If so, 1980 election politics already have made themselves felt in the country's Middle East policies. That eventuality probably was inevitable but it still is regrettable, for the effectiveness of the U.S. as an impartial partner in the peace process cannot be enhanced by it.●

LIBERALS MISFIRE ON GUN CONTROL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. McDONALD. Mr. Speaker, the city of Atlanta has now become the murder capital of the United States when measured on a per capita basis. Because of this horrible statistic and fact, many of the local media pundits are calling for gun control or even gun confiscation as the solution. Of course minimal thought effort exposes the folly of such schemes; it would be like suggesting the confiscation of pencils as a means of halting the misspelling of words.

One writer in the Atlanta Constitution, Lewis Grizzard, wrote on October 29, 1979 the unbelievable stupidity of:

I think enough people finally realize if guns are outlawed and only outlaws have guns, that is at least a start in the right direction.

It is truly amazing when a functional anencephalic becomes a regular writer for a major metropolitan newspaper.

In his criticism of bullet-brained people, he exposed again the sad medical state of those with no reasoning capacity at all, that is, those born or functioning at the level of the primitive brain stem of a frog or tadpole.

Regardless of the above, it was indeed a pleasant surprise to read an excellent analysis of the gun control controversy in the Sunday edition of the Atlanta Journal/Constitution—October 28, 1979. This analysis originally appeared in Harper's magazine, and I thoroughly recommend it to my colleagues.

The article follows:

LIBERALS MISFIRE ON GUN CONTROL

(By Don B. Kates, Jr.)

Despite almost 100 years of often bitter debate, federal policy and that of 44 states continues to allow handguns to any sane adult who is without felony convictions. Over the past 20 years, as some of our most progressive citizens have embraced the notion that handgun confiscation would reduce violent crime, the idea of closely restricting handgun possession to police and those with police permits has been stereotyped as "liberal." Yet when the notion of sharply restricting pistol ownership first gained popularity, in the late 19th century, it was under distinctly conservative auspices.

In 1902, South Carolina banned all pistol purchases, the first and only state ever to do so. (This was nine years before New York began requiring what was then an easily acquired police permit.) Tennessee had already enacted the first ban on "Saturday Night Specials," disarming blacks and the laboring poor while leaving weapons for the Ku Klux Klan and company goons. In 1906, Mississippi enacted the first mandatory registration law for all firearms. In short order, permit requirements were enacted in North Carolina, Missouri, Michigan, and Hawaii. In 1922, a national campaign of conservative business interests for handgun confiscation was endorsed by the (then) archconservative American Bar Association.

Liberals at that time were not necessarily opposed in principle to a ban on handguns, but they considered such a move irrelevant and distracting from a more important issue—the prohibition of alcohol. To Jane Addams, William Jennings Bryan, and Eleanor Roosevelt (herself a pistol carrier), liquor was the cause of violent crime. (Before dismissing this out of hand, remember that homicide studies uniformly find liquor a more prevalent factor than handguns in killings.)

Besides, liberals were not likely to support the argument advanced by conservatives for gun confiscation: that certain racial and immigrant groups were so congenitally criminal (and/or politically dangerous) that they could not be trusted with arms. But when liberalism finally embraced handgun confiscation, it was by applying this conservative viewpoint to the entire populace. Now it is all Americans (not just Italians, Jews, or blacks) who must be considered so innately violent and unstable that they cannot be trusted with arms. For, we are told, it is not robbers or burglars who commit most murders, but average citizens killing relatives or friends.

It is certainly true that only a little more than 30 percent of murders are committed by robbers, rapists, or burglars, while 45 percent are committed among relatives or between lovers. (The rest are a miscellany of contract killings, drug wars, and "circumstances unknown.") But it is highly misleading to conclude from this that the murderer is, in any sense, an average gun owner. For the most part, murderers are disturbed, aberrant individuals with long records of criminal violence that often include several felony convictions. In terms of endangering his fellow citizens, the irresponsible drinker is far more representative of all drinkers than is the irresponsible handgunner of all handgunners.

It is not my intention here to defend the character of the average American handgun owner against, say, that of the average Swiss whose government not only allows, but requires, him to keep a machine gun at home. Rather it is to show how unrealistic it is to think that we could radically decrease homicide by radically reducing the number of civilian firearms.

Study after study has shown that even if the average gun owner complied with a ban, the one handgun owner out of 3,000 who murders (much less the one in 500 who steals) is not going to give up his guns. Nor would taking guns away from the murderer make much difference in murder rates, since a sociopath with a long history of murderous assault is not too squeamish to kill with a butcher knife, ice pick, razor, or bottle. As for the extraordinary murderers—assassins, terrorists, hit men—proponents of gun bans themselves concede that the law cannot disarm such people any more than it can disarm professional robbers.

The repeated appearance of these facts in studies of violent crime has eroded liberal and intellectual support for banning handguns. There is a growing consensus among even the most liberal students of criminal law and criminology that handgun confiscation is just another plausible theory that doesn't work when tried. An article written in 1968 by Mark K. Benenson, longtime American chairman of Amnesty International, concludes that the arguments for gun bans are based upon selective misleading statistics, simple-minded non sequiturs, and basic misconceptions about the nature of murder as well as of other violent crimes.

A 1971 study at England's Cambridge University confounds one of the most widely believed non sequiturs: "Banning handguns must work, because England does and look at its crime rate" (It is difficult to see how those who believe this can resist the equally simple-minded pro-gun argument that gun possession deters crime: "Everybody ought to have a machine gun in his house because the Swiss and the Israelis do, and look how low their crime rates are!")

The Cambridge report concludes that social and cultural factors (not gun control) account for Britain's low violence rates. It points out that "the use of firearms in crime was very much less" before 1920 when Britain had "no controls of any sort." Corroborating this is the comment of a former head of Scotland Yard that in the mid-1950s there were enough illegal handguns to supply any British criminal who wanted one. But, he continued, the social milieu was such that if a criminal killed anyone, particularly a policeman, his own confederates would turn him in. When this violence-dampening social milieu began to dissipate between 1960 and 1975, the British homicide rate doubled (as did the American rate), while British robbery rates accelerated even faster than those in America.

As the report notes, the vaunted handgun ban proved completely ineffective against rising violence in Britain, although the government frantically intensified enforcement and extended controls to long guns as well. Thus, the Cambridge study—the only in-depth study ever done of English gun laws—recommends "abolishing or substantially reducing controls" because their administration involves an immense, unproductive expense and diverts police resources from programs that might reduce violent crime.

The latest American study of gun controls was conducted with federal funding at the University of Wisconsin. Advanced computerized techniques allowed a comprehensive analysis of the effect of every form of state handgun restriction, including complete prohibition on violence in America. Published in 1975, it concludes that "gun-control laws have no individual or collective effect in reducing the rate of violent crime."

Many previous studies reaching the same conclusion had been discounted by proponents of a federal ban, who argued that existing state bans cannot be effective because handguns are illegally imported from free-sale states. The Wisconsin study compared rates of handgun ownership with rates of violence in various localities, but it could find no correlation. If areas where handgun ownership rates are high have no higher per capita rates of homicide and other violence than areas where such rates are low, the utility of laws designed to lower the rates of handgun ownership seems dubious.

Far from refuting the Wisconsin study, the sheer unenforceability of handgun bans is the main reason why most experts regard them as not worth thinking about. Even in Britain, a country that, before handguns were banned, had less than 1 percent of the per capita handgun ownership we have, the Cambridge study reports that "fifty years of strict controls has left a vast pool of illegal weapons."

It should be emphasized that liberal defectors from gun confiscation are no more urging people to arm themselves than are those who oppose banning pot or liquor necessarily urging people to indulge in them. They are only saying that national handgun confiscation would bring the federal government into a confrontation with millions of responsible citizens in order to enforce a program that would have no effect upon violence, except the negative one of diverting resources that otherwise might be utilized to some effective purpose. While many criminologists have doubts about the wisdom of citizens trying to defend themselves with handguns, the lack of evidence to justify confiscation requires that this remain a matter of individual choice rather than government fiat.

Nor can advocates of gun bans duck the evidence adverse to their position by posing such question as: Why should people have handguns; what good do they do; why shouldn't we ban them? In a free country, the the burden is not upon the people to show why they should have freedom of choice. It is upon those who wish to restrict that freedom to show good reason for doing so. And when the freedom is as deeply valued by as many as is handgun ownership, the evidence for infringing upon it must be very strong indeed.

If the likely benefit of handgun confiscation has been greatly exaggerated, the financial and constitutional costs have been largely ignored. Consider the various costs of any attempt to enforce confiscation upon a citizenry that believes (whether rightly or not) that they urgently need handguns for self-defense and that the right to keep them is constitutionally guaranteed.

Most confiscationists have never gotten beyond the idea that banning handguns will make them magically disappear somehow. Because they loathe handguns and consider them useless the prohibitionists assume that those who disagree will readily turn in their guns once a national confiscation law is passed. But the leaders of the national handgun prohibition movement have become more realistic. They recognize that defiance will, if anything, exceed the defiance of Prohibition and marijuana laws. After all, not even those who viewed drinking or pot smoking as a blow against tyranny thought, as many gun owners do, that violating the law is necessary to the protection of themselves and their families. Moreover, fear of detection is a lot more likely to keep citizens from constant purchases of liquor or pot than from a single purchase of a handgun, which, properly maintained, will last years.

To counter the expected defiance, the leaders of the national confiscation drive propose that handgun ownership be punished by a nonsuspendable mandatory year in prison. The mandatory feature is necessary, for otherwise prosecutors would not prosecute, and judges would not sentence, gun ownership with sufficient severity. The judge of a special Chicago court trying only gun violations recently explained why he generally levied only small fines: The overwhelming majority of the "criminals" who come before him are respectable, decent citizens who illegally carry guns because the police can't protect them and they have no other way of protecting themselves. He does not even impose probation because this would prevent the defendants, whose guns have been confiscated, from buying new ones, which, the judge believes, they need to live and work where they do.

These views are shared by judges and prosecutors nationwide; studies find that gun-carrying charges are among the most sympathetically dealt with of all felonies. To understand why, consider a typical case that would have come before this Chicago court if the district attorney had not dropped charges. An intruder raped a woman and threw her out of a fifteenth-floor window. Police arrived too late to arrest him, so they got her roommate for carrying the gun with which she scared him off when he attacked her.

Maybe it is not a good idea for this woman to keep a handgun for self-defense. But do we really want to send her to federal prison for doing so? And is a mandatory year in prison reasonable or just for an ordinary citizen who has done nothing more hurtful than keeping a gun to defend herself—when the minimum mandatory sentence for murder is only seven years and most murderers serve little more?

Moreover, the kind of nationwide resistance movement that a federal handgun ban would provoke could not be broken by imprisoning a few impecunious black women in Chicago. Only by severely punishing a large number of respectable citizens of every race and social class would resisters eventually be made to fear the law more than the prospect of living without handguns in a violent society. At a very conservative estimate, at least half of our present handgun owners would be expected to defy a federal ban.

To imprison just 1 percent of these 25 million people would require several times as many cells as the entire federal prison system now has. The combined federal, state, and local jail systems could barely manage. Of course, so massive an enforcement campaign would also require doubling expenditure for police, prosecutors, courts, and all the other sectors of criminal justice administration.

The argument against a federal handgun ban is much like the argument against marijuana bans. It is by no means clear that marijuana is the harmless substance that its proponents claim. But it would take evidence far stronger than we now have to justify the enormous financial, human, institutional, and constitutional costs of continuing to ferret out, try, and imprison even a small percentage of the otherwise law-abiding citizens who insist on having pot. Sophisticated analysis of the criminalization decision takes into account not only the harms alleged to result from public possession of things like pot or guns, but the capacity of the criminal law to reduce those harms and the costs of trying to do so.●

BOTTLE BILLS ARE NOT THE WAY

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. HUGHES. Mr. Speaker, I would like to take this opportunity to call to your attention an insightful article, entitle "Bottle Bills Are Not the Way." Its author, Fred G. Armstrong, chairman of the Arctic Environment Council, has examined the mandatory returnable beverage-container controversy and has discovered that the so-called bottle bill is not the best solution to our litter problem. It is interesting to note that, according to Mr. Armstrong, the Department of Energy has greatly overestimated the energy savings which would result if all beverage containers were made returnable. Perhaps a more effective solution would be to establish regional resource conversion centers which would be capable of resource recovery and recycling. If we burn a substantial portion of the material which we recover, we will be able to begin some serious conservation and even make additional energy available to our Nation.

The article follows:

BOTTLE BILLS ARE NOT THE WAY

(By Fred G. Armstrong)

Bottle bills are in trouble these days—and rightly so. They do not solve the litter problem and they do not provide for efficient use of energy.

Recently Governor Edward King vetoed the controversial mandatory beverage-container return bill, making Massachusetts the 30th state in which the so-called bottle bill has been rejected. Only seven states have enacted such legislation, and in at least one

of these, Maine (where the cost of a six-pack rose 22 percent within seven months after the enactment of its bottle bill), petitions are circulating for its repeal.

If bottle bill rejection is becoming a national trend, then answers as to why must be sought. Is it entirely due to the self-interest lobbying of the container manufacturers? Are proponents of the bill being wrong-headed or indifferent in their drive to clean up America?

The answers are coming gradually but certainly to this complex problem and are increasingly shifting from litter reduction to energy conservation as a basic issue.

Everyone agrees that our littered urban and rural roadways are a national disgrace, but beverage containers constitute at most only 20 percent of rural highway debris and five percent of city street litter. Thus, if all containers were traded in for their two- to ten-cent deposits, 95 percent of city litter would remain intact. And only in states that have addressed the total litter problem has there been a substantial reduction.

Oregon led off with the first bottle bill in 1972 and litter went down 10.6 percent in the first year. But it was down only three percent after five years, according to the Institute for Applied Research.

Meanwhile, in the neighboring state of Washington, which has comprehensive litter-abatement laws (and no bottle bill), litter was reduced 66 percent in some areas, as disclosed by the state's Department of Ecology. The figure was 47 percent in urban centers, according to the 1977 finding, and the cost to taxpayers and consumers was minimal.

The comprehensive legislation referred to typically comprises an intensive and continuing public education program coupled with frequent and efficient litter collection, delivered to regional resource-conversion centers. These centers—some innovative and experimental, needing a shakedown period—can produce electricity by burning a substantial portion of the recovered material as well as produce methane gas. Ferrous and nonferrous metals are separated and sold for recycling, glass can be separated by color and recycled as glass or as an ingredient in blacktop paving After all useful resources have been extracted, the remainder becomes clean landfill.

Such resource centers are additionally attractive because they can be built and operated at a profit by the private sector, thus sparing the taxpayer a substantial capital outlay. These centers now are operating successfully in a number of locations throughout the country, financed both privately and by public bond issuance. *It may be important to note, however, that their operators maintain that, without the inclusion of nonreturnable beverage containers in the refuse to be recycled, the operation would not be profitable and would not attract private capital.*

Some of the confusion about the role of energy in the bottle bill discussion undoubtedly stems from a US Department of Energy study which stated that, if we did away with cans and went to returnable bottles, 80 million barrels of "oil-equivalent energy" would be saved. There was no clarification of this odd phrase and for many proponents of bottle bills and some very respectable publications, it quickly became 80 million barrels of oil to be gained.

The independent Battelle Columbus Laboratories picked up on the gaps in the federal study and reported that cans do require a small amount of additional energy but the added energy is from coal, not petroleum. In fact, the study found bottle bills encourage the use of refillable bottle systems which consume one-third more petroleum than can systems.

Energy conservation enters the scene in other, and some unexpected, ways. It requires four to seven times more heated water to process a returned bottle than to make a can—and water itself is becoming a scarce resource in some bottling-plant areas, especially in the West. In one study the Pacific Coca-Cola Bottling Company found that in 1978 it used about 94 gallons of gasoline to deliver 1,000 cases of soft drinks in Oregon, a mandatory deposit law state, while next door in Washington, which does not have the restrictive bottle-return legislation, the same distributors needed only about half that much gasoline—about 47 gallons—to deliver the same amount.

Thus, bottle-return laws appear clearly to lead to increased consumption of a nonrenewable resource: petroleum.

Governor King, in his veto message, estimated a loss of 900 existing jobs in the state were the bill to become law. Reliable job gain or loss figures are hard to come by; a U.S. Department of Commerce study places job losses at 82,000 were the bottle-return law to become national. The Environmental Protection Agency places the figure at 43,000.

Jobs would be created, but the certainty is that skilled, highly paid workers, many women, would lose jobs, while those hired, such as bottle handlers, would be low paid and unskilled. As one union leader put it, "The family breadwinner gets fired so his unskilled son can have a job."

For all these and other reasons, the President's Cabinet-level Resource Conservation Committee (headed by EPA's Barbara Blum) has failed to recommend in favor of a national bottle bill. It may well be that Governor King has made a wise decision for the citizens of his state. Even better, the way is now open for more effective legislation to abate litter in Massachusetts. ●

ACID RAIN BILL

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. VENTO. Mr. Speaker, when the subject of pollution is discussed, the issue usually centers around visible signs; skies overcast with soot, dirty lakes and rivers, oil spills and scarred lands. However, the pollution that may have the severest and longest impacts are those which are not visible. Like many human diseases, the full impact of an invisible pollutant is not realized until it is too late. We are now faced with this threat from acid rain, a pollutant which threatens the environment, wildlife, the economy, and human welfare.

Acid rain results when sulfur dioxide and nitrogen oxides, primarily from electric powerplants, smelters, and automobiles, are chemically changed into acids in the atmosphere and are brought to earth in rain or snow.

Acid rain represents a significant threat to all of North America. As EPA Assistant Administrator for Research and Development, Stephen Gage, noted, "Acid rain may be one of the most significant environmental problems of the coming decade, not only in the United States, but throughout much of the industrialized world." The significance of the acid rain problem was further underlined by President Carter's inclusion of that issue in his August 2 environmental message.

Acid rain poses a serious threat to many aspects of life. While research in this area is relatively new, everyone agrees that acid rain can have serious ecological and economic consequences. The Council on Environmental Quality lists as possible effects decreased fresh water fish production, decreased farm and forest yields, depletion of nutrients from soils and aquatic systems, disruption of the natural acid or alkaline quality in soils, inactivation of important microorganisms and corrosion of materials.

Examples of the devastating impacts of acid rain already exist. Lakes in the Adirondack Mountains which had an abundance of fish are now devoid of fish life. In the Scandinavian countries which have been most affected by acid rains, massive fish kills have occurred in many lakes in Sweden and Norway and the acidity of Scandinavian rivers has increased by up to 24 percent.

Acid rain is a national and international problem. Acid rains have been observed throughout Northern Europe and in States such as Maryland, Ohio, Missouri, Michigan, Texas, California, Washington, and Minnesota.

Eliminating the source of acid rain is a difficult task. As I mentioned earlier, many activities contribute to increasing the sulfur dioxide and nitrogen oxide levels in the atmosphere. In addition, sulfur has a residence time in the atmosphere, of 2 to 4 days and can be transported more than 620 miles before being deposited on the Earth's surface.

Faced with the potential damages from acid rain and the lack of adequate research in eliminating the source of pollutants and remedying existing problems, it is urgent that we move swiftly on this issue. Today, Congressman LAFALCE and I are introducing legislation to establish a comprehensive approach to deal with the acid rain problem. This measure would establish an interagency task force to study all aspects of acid precipitation and to recommend solutions to this problem. This task force will work closely with international, State, academic, and private organizations in seeking a solution to this question.

Mr. Speaker, the acid rain problem grows with each passing day and it is imperative that Congress act on this issue. Hopefully, my colleagues will cosponsor and support this measure. At this time, I would like to bring to my colleagues' attention the article by James Gannon, "Acid Rain Fallout: Pollution and Politics." This article details the growing acid rain problem.

ACID RAIN FALLOUT: POLLUTION AND POLITICS

(By James Gannon)

The birds are back in Hyde Park. That's the good news from London in recent years, and its implications go far beyond a mere ornithological happening. The birds are a sign of London's triumph over its deadly smog, smog that killed 4,000 people in a terrifying four-day inversion twenty-five years ago. Air that can support birds can also support people—and it can help to sweep away the dark memories of the world's worst air pollution disaster.

From Scandinavia the news is bad. Acid rain and snow, a form of pollution unknown twenty-five years ago, have caused massive fish kills in the past two decades. Ironically, England is a major contributor to the Scandinavian pollution. The birds live in Hyde

Park while the fish die across the North Sea in southern Norway and Sweden.

At first glance the trade-off may seem favorable to some observers—even when you count the fish kills in Canada and the United States from North American sources of pollution. No massive toll of human beings of the magnitude that London experienced in 1952 can be remotely linked to acid rain. Not even one human death.

But to a leading American authority on acid rain, Gene E. Likens of Cornell University, the fish kills are a "disaster." Likens, an ecologist, is alarmed by what he perceives to be a threat to the natural life systems.

"One has to be very seriously concerned about this kind of environmental insult on the natural systems," he warned. "There is a limit to the stress they can withstand. The forests and the lands are life-support systems. Without those life-support systems to cleanse the air and the water, to provide food for us to eat, our health is just as much in jeopardy as if something is affecting us directly."

These are some of the signs of stress that concern Likens:

Acid rain has wiped out commercial salmon fishing in much of southern Norway and Sweden and has destroyed sport fishing in parts of Scandinavia, eastern Canada, and the northeastern United States.

Acidic lakes and streams do not simply kill fish; they eliminate other forms of aquatic life—including microscopic forms—and affect larger animals that feed on fish.

In waters where the fish are not all gone the acidity contributes to higher levels of mercury contamination in the most desirable game fish, and the contamination can be passed on to humans.

Acid rain may leach nutrients from soils and impede the growth of vegetation, including plants for food and timber; it has done so, at least, in laboratory experiments.

Acids do occur naturally in the atmosphere and have always fallen to earth in precipitation. But nature's marvelous system of checks and balances has neutralized them—until recently. Now the excessive loading of man-made acids on vulnerable land surfaces tips the balance against nature. These acids usually originate in the burning of fossil fuel for electricity and other uses and in smelting of ores for industry.

But they don't start out as acids. Sulfur and nitrogen oxides emitted from the stacks are oxidized into the dehydrate of sulfuric and nitric acids. Water in the atmosphere does the rest. Measurements by Likens at the Hubbard Brook Experimental Forest in the White Mountains of New Hampshire confirm the acid components of rainfall to be as much as 65 percent sulfuric and 25 to 30 percent nitric. Other monitoring stations have detected these acids in slightly lesser amounts. Both are highly corrosive acids. They can destroy plant and animal cells—destroy life—on contact.

The rainfall is still almost all water. The acids occur only in minute amounts, never in strengths greater than the acids in the human stomach, but often—and here's the danger—in strengths greater than the acids in nature.

Acid rain can fall anywhere downwind of urban or industrial pollution. In cities it is simply one more element undermining air quality. It contributes to the corrosion of buildings and monuments and has subtle, long-term effects on human health.

But acid rain is more remarkable for transferring what has been an urban problem to the countryside. You do not expect to find the effects of air pollution in the Canadian wilderness or among the stately mountains of New England and northern New York—but you find them there now.

The pollutants come from near and far, and they travel in all directions without respect for international boundaries. A report prepared for the Canadian-American International Joint Commission shows that Lake Superior receives significant acid fallout from points as distant and scattered as St. Louis, Cincinnati, Pittsburgh, and Sudbury, Ontario.

The American cities are all more than five hundred miles away from Lake Superior. If conditions are favorable, the pollutants can go that far in a day. They've been known to stay airborne for weeks, although Swedish scientists estimate that the average time aloft is two to four days. There's time, in any case, for pollution orginating in North America to travel across thousands of miles of ocean to Sweden and Norway. It is not uncommon for acid rain that falls in Scandinavia to be "made in the U.S.A."

That's a bit startling, but it is consistent with known global transport of atomic and volcanic clouds. Tall industrial smokestacks built in the past quarter century to help clean up cities like London may account, in large measure, for long-range pollution.

The danger is growing. Acid rain is so widespread today that the average rainfall in the eastern half of the United States and southeastern Canada—regions of heavy industrialization—is about twenty-five times more acidic than it would be if the rain contained acids from natural sources only. As recently as ten years ago, that sort of acid intensity could be found only in the northeastern states and around the nickel mining center of Sudbury, Ontario. But today there are more than 200 tall stacks in the United States alone, rising 400 to 1,200 feet above power plants and smelters and spewing the sulfur and nitrogen compounds into the atmosphere. The acid rain problem could become even more acute with construction of many more coal-generating facilities.

The Administration's national energy plan, given to Congress in the fall of 1977, calls for an 80 percent increase in the use of coal for electrical generation. Under a 1977 clean air law, the best available technology will be required for new plants. Right now that means "scrubbers," devices that can trap 90 percent or more of the sulphur dioxide from a plant's flue gas. But a huge environmental battle has been brewing about the pollution controls needed to check the emissions from all these new plants. Meanwhile, there are no significant standards for nitrogen oxides—a huge part of the acid rain problem—and little research on technology to control that pollutant.

The danger from acid rain is greatest in lakes situated in hard-rock areas where the rocks and soils are low in neutralizing chemicals, such as the calcium carbonate in limestone. All soils have these "buffering" chemicals to a greater or lesser degree, but many underlying rock formations do not. Rocks made of granite or lava, for example, simply do not react with acid. So acid rain can gradually, almost imperceptibly, disrupt the surface ecosystem.

The entire Canadian Shield, made of Precambrian rock formed six hundred million to four billion years ago, is vulnerable. It stretches from the Arctic Circle across most of Greenland and the eastern half of Canada into the United States below the Great Lakes. Combined with other pockets of hard-rock formations, it adds up to more than a million square miles of acid-sensitive land surface in North America.

Lakes in hard-rock areas, said Likens, are the "clearest and most dramatic example" of acid rain's effects. An acid lake is a death trap for fish. For the newly spawned, should they survive the spawning, it is almost instant death. For older fish, more resistant to the toxic effects of acid, it is a slow and tortured death. However it comes, death is inevitable, for fish and for other forms of life, as the acid level slowly rises.

Richard J. Beamish, a scientist for Environment Canada, has probably spent as much time as anyone in North America studying what acid does to fish. For many years Beamish used the acidic lakes around Sudbury, site of the world's richest nickel deposit and world's largest single point source of sulfur pollution, as his "laboratory."

Beamish and his colleagues found that adult fish became emaciated, stunted, and deformed under acid stress. Far more destructive for the fish populations, however, was the failure of female reproduction. "Eggs were developed," Beamish discovered, "but they were never passed from the ovary and fertilized." It made the premature deaths of adult fish a moot point, he theorized, because without the recruitment of new fish into the population, the species is inexorably reduced to zero.

That happened to one species after another in lakes that Beamish studied. Some prime game fish, small mouth bass and walleye, were the first to be eliminated. Northern pike and lake trout were next. Even the most acid-tolerant fish, such as lake herring, perch, and rock bass, eventually succumbed to the lethal acid.

Beamish estimated—"conservatively"—that two hundred to four hundred lakes within a fifty-mile radius of the Sudbury smelters have few or no fish remaining. Since the construction of the world's tallest smokestack at Sudbury, acid pollution has reached out to Ontario's popular resort areas of Muskoka and Haliburton where the lakes are on the edge of disaster. Pollution made in the United States will undoubtedly share blame for the disaster.

In Scandanavia the problem is even more severe. Lars N. Overrein, director of a comprehensive Norwegian study of acid rain, reported, that the "majority of inland waters . . . have completely lost their fish populations," That runs to "thousands of localities."

In New York's Adirondack Mountains the fish are gone from about a hundred lakes and streams at higher elevations, and ecologists fear the loss of "buffering capacity," and ultimately the loss of fish, in the lower valleys.

The spring snow melt, when acid levels can rise precipitously from winter snow accumulations, is the most dangerous time for fish. A late winter thaw in 1975 killed trout by the thousands along the Tovdal River in southern Norway.

Fish are not the only casualties. Around Sudbury the acid lakes look pure because they are so clear. But that's an illusion. They are clear because, for all practical purposes, they are dead. The organic life has been virtually erased: fish, amphibians, invertebrates—all gone. Plankton, gone. Algae, bacteria, severely reduced or chemically altered. The entire aquatic ecosystem snuffed out—perhaps irrevocably. Beamish said at least one hundred lakes near Sudbury fit this description, and he doubts that they can be restored. When the chain of life is broken like this, the higher animals are also affected. Fish-eating birds and vertebrates have left the lakes.

Parts of the barren landscape around Sudbury will resemble what the earth will be like when life is gone entirely. The vegetation has been destroyed by the direct fallout of sulfur dioxide. But twenty-five miles away the land looks normal—at least to the untrained eye.

It's difficult to tell what happens to forests and agriculture from acid rain. So many hazards—fungus, insects, bacteria, drought, and other man-made pollutants—can afflict a plant in the natural environment that sulfur dioxide and acid rain are merely additions to a long list. But scientists have clearly shown in laboratory experiments that simulated acid rain, with other negative in-

fluences factored out, is destructive to vegetation.

Acid rain has a capacity to "leach out" nutrients that can affect the environment in different ways. Falling directly on plants, it causes leaf lesions, reducing the area for photosynthesis and limiting growth. In the soil it impedes root development.

Swedish scientists predict that acid rain will leach calcium from their nutrient-poor woodland soil, leading to a reduction of forest growth of 10 to 15 percent by the year 2000. If true, that will be a serious economic loss. (The Canadian and American pulp and logging industries, notorious denuders of the landscape, should take note.)

The leaching property of acid rain also draws out heavy metals from the earth and atmosphere. Metals such as aluminum, mercury, lead cadmium, tin, beryllium, and nickel are drawn into the freshwater systems and held in solution by the acid.

One result is another mechanism of fish mortality, this one discovered by Carl L. Schofield, a Cornell biologist, from observations in the Adirondacks. In this case, aluminum combined with nitric acid is the deadly weapon. "We found," said Schofield, "that the aluminum in this situation is very toxic to fish. You get a much higher toxicity for a given level of [acid] than you would otherwise."

Mercury is one of the better known threats to human health. The human race has had quite enough experience with it to hold it in respectful fear. It kills or maims in any form. As methyl mercury, one of its organic forms, it accumulates in fish—a major source of protein for humans.

The worst outbreak of mercury poisoning from fish occurred in the 1950s in Minamata, Japan. More than one hundred people died, and several hundred others suffered symptoms ranging from mild tingling of the skin to reduced motor coordination, retardation, and impaired sight and hearing—effects that are permanent because mercury causes irreversible damage to the cells of the central nervous system.

That tragedy came from the industrial discharge of mercury waste into Minamata Bay, where it contaminated fish and shellfish eaten by local people. Industrial dumping of mercury into Ontario's English/Wabigoon River system and other freshwaters of North America has brought fear and consternation closer to home, especially among native populations who make a steady diet of fish.

The "acid connection" to the mercury contamination of fish is more subtle. It occurs in the same waters vulnerable to human-generated acid pollution: softwater lakes situated on hard rock strata.

Mercury enters the water in a metallic inorganic state, then falls to the bottom sediment where it is converted by microorganisms to an organic form, methyl mercury. Methyl mercury passes easily into the food chain and, because it does not pass easily out, accumulates in fish regularly eaten by humans.

A Swedish scientist, Arne Jernelov, has established a clear correlation between the acid levels of lakes and mercury levels of fish—that is, the more acid added to a lake's water, the more mercury in its fish, up to the point where the acid kills the fish outright.

More than 600,000 U.S. citizens go fishing in Ontario each year. Increasingly, they are fishing in troubled waters. They can find out for themselves by writing to Ontario's Ministry of the Environment (the tourist industry won't tell them) for the "Guide to Eating Ontario Sport Fish." Excluding the Great Lakes, 336 lakes and rivers (70 percent of 479 cited) have at least some contaminated fish at levels officially considered unsafe for prolonged human consumption. The highest levels were found in the predator game fish, walleye and northern pike.

But sport fishermen have no cause for alarm, according to John M. Wood, director of the University of Minnesota's Freshwater Biological Institute. "They don't get sufficient exposure to mercury-contaminated fish to really seriously be threatened. You have to have a diet of fish for a significant period of time to be affected."

Like the diet of the Canadian Indians, for example. They eat fish almost daily in the summer, and they have cause for alarm. In a recent survey by Health and Welfare Canada, 42 percent of 764 Indians tested in Quebec, Ontario, and the Northwest Territories had abnormally elevated blood or hair mercury levels.

It's the Indians trying to live close to nature who are most immediately threatened by acid rain. The threat is magnified at the tiny Ojibway Village on Lac La Croix by the prospect of an 800-megawatt power plant close to home.

Chief Steve Jourdain wants to keep the ways of his ancestors, but he doesn't mind enjoying the benefits of modern industry. When he clears his beaver traps in winter, he makes the rounds by "ski-doo" (skimobile). Two years ago, he said, his band of two hundred "kicked out" welfare because it "goes against our belief that welfare is a damaging thing."

Now they are trying to live off the wilderness, fishing, hunting, and trapping. Their only outside source of income comes from guiding U.S. fishermen in the summer, and they pick up a few extra dollars from the declining number of pelts they gather in winter. The thought of acid rain has them virtually paralyzed with fear.

Lac La Croix, a softwater lake on the hard-rock Canadian Shield, rests directly on the Canadian-American border. It's adjacent to two wilderness preserves: the Boundary Waters Canoe Area, an official "national wilderness area" in Minnesota, and the Quietico Provincial Park, a "primitive wilderness" in Ontario.

The Indians live on the Canadian side, and their own provincial government is about to execute the final blow to their tenuous wilderness existence. Ontario Hydro, a crown corporation, plans to build a large coal-fired power plant near Atikokan, only fifty miles from the village. That's why they're afraid; visions of Sudbury keep coming to mind. [To be wholly accurate, Atikokan would not come close to Sudbury in emissions.]

"The economic base of our reservation is the surrounding environment. If that's destroyed, our whole economic base is destroyed," says Chief Jourdain.

He could as easily fear for the present. Things are bad enough without the power plant, just from the effects of a small nearby smelter combined with long-range pollution. A simple test [not scientifically valid] has indicated that already the acid level of the lake is critical for fish survival, and one fish analyzed for mercury was contaminated.

It is hard to see how the new power plant can do other than make it worse. The utility has said it will use low-sulfur coal and claims it will not need expensive scrubbers for sulfur removal. In contrast to the United States, scrubbers are not in use in Canada, but pressure for them may increase with an acceleration in Canadian development. Environmentalists, fearing for the entire surrounding wilderness, have turned the issue into an international controversy that has reached diplomatic levels.

The Atikokan dispute illustrates as well as any one incident can the seeming inflexibility of acid rain politics. Scientists are concerned about the plant's effects but in the absence of a four-star disaster like the London inversion, the kind that inspires mass demand for reform, industries and governments are likely to remain unmoved. It seems Indians cannot even match the political clout of the Tennessee snail darter.

Whether industry and government are one and the same, as with Ontario Hydro, or separate seems irrelevant. Government agencies, said Frank D'Itri of Michigan State University, who headed a mercury study for the National Academy of Sciences, are "usually useless in solving pollution problems." They act occasionally after the fact to compensate victims, but almost never for prevention.

Yet government agencies spend the taxpayers' money as if their existence depended on it—and perhaps it does. The money, said D'Itri, goes into research for what he calls "technological countermeasures." Precisely that phenomenon today threatens to turn acid rain research into a government-funded growth industry. Projects for liming acid lakes (giant Alka Seltzers) and for developing acid-resistant fish are being undertaken in lieu of any meaningful solution.

Because the use of fossil fuel is the source of the acid rain problem, the obvious solution is to stop using fossil fuels. As utopian as it may sound to those if us accustomed to seeing the world through industrial smoke, that solution is not only plausible; it is inevitable. Fossil fuel reserves will be exhausted, according to current estimates, in about 200 years.

While we bend to the task of finding alternative sources of energy, it matters how we use the remaining fossil fuels—the speed and magnitude of consumption, for example, and whether we extract the sulfur or trap the nitrogen. And it matters how fast we find safe alternatives. Because we have no choice about finding alternatives, why not act sooner rather than later, save what's left of the wilderness, and safeguard our health?●

THE WILLIE MAYS CASE

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. VAN DEERLIN. Mr. Speaker, Shirley Povich has been around a while. He has seen athletes and baseball commissioners come and go. When he writes about sports and its relationship to the seamy side of American life, he deserves to be listened to.

In the following column, Shirley talks plainly about Bowie Kuhn's recent brush with the gambling world. He thinks Bowie, and baseball, came out on top. So do I.

The column follows:

FINALLY, KUHN ON MONEY

MAYS ACTION PRAISEWORTHY

It has been in fashion during most of his years as baseball commissioner to take a swipe at Bowie Kuhn's almost every act or utterance. Like a reflex action. Kuhn could do no right. His lingering image was that of a man who sold out to television, who had decreed that teeth must chatter during the World Series he scheduled on blustery October nights fit only for fishing through the ice.

But this time Kuhn has done something exactly right. He has told Willie Mays and the Atlantic City gambling casino operators to stow it; that they can't have it both ways; that they can't have Mays under contract as a shill for their gambling joint while he is still under contract to the New York Mets as a coach, and entitled to wear the Met uniform. Mays must take one or the other.

Instantly, Kuhn caught it for this one, too. He was lambasted by fast-draw journalists and talk-show idiots who saw it, inconceivably, as "Willie Mays Barred From Baseball." How could Kuhn do this to one of the great Hall of Fame heroes, who was trying to make a decent $150,000-a-year living for himself by moonlighting on the boardwalk? And wasn't gambling legal in New Jersey? And didn't some club owners own race horses, making them gambling associates?

But Kuhn said it brightly, and positively: "It would not be in the best interests of baseball." He wasn't barring Mays from anything, from baseball or gambling. It was Mays' choice. If he chose gambling, and later he did, they wouldn't remove his bust from the Hall of Fame. He would be welcomed in baseball, at every proud gathering of the game's legends, except in uniform while he was in the hire of professional gamblers.

Sixty years ago, baseball was conditioned to shudder at any connection with professional gamblers. Harking back to Arnold Rothstein and his group of crooks who bribed the White Sox, to throw a World Series the dread of a scandal has continued. Without public confidence, the owners know their game is shot. They knew this in 1920 when they paid Kenesaw Mountain Landis, their first commissioner who had been a $12,000-a-year federal judge, a $50,000 salary to protect their game's integrity and give it a symbol worth the public trust.

The bewildered Mays showed class when he accepted Kuhn's ruling because, "I didn't aim to hurt the game," but he said he didn't understand it. "I'm not into gambling; the company is," he said. "I want to go to Atlantic City because there is a depressed area and a lot of blacks in the city."

So that's it. The casino operators are hiring Mays to go into the depressed areas and uplift the neighborhood. They didn't hire him to shake hands with big-shot high-rollers and by his magnetic presence steer them to throwing the dice in the new big joint his employers will open next month. Nothing like that.

Mays also said, "I guess Kuhn considers casino gambling apart from race-track gambling." Little doubt about that. Ten years back, Kuhn ordered Charley Finley and the then-owners of the Atlanta Braves to sell their casino gambling stock forthwith. They did, without a whimper, recognizing the validity of Kuhn's position.

Kuhn makes a distinction between owning race horses and owning gambling houses, indicating that horse ownership is a more honorable business. That's probably true. A great many esteemed people seem to be involved in it. Thirty-one states allow it. Only two, Nevada and New Jersey, think casino gambling is nice.

And even Nevada was revolted by some of the things that went on in its casinos in 1977. The state ordered three officials of one outfit to leave because of their alleged connections with organized crime. The casino operators in Atlantic City couldn't wait. They drew a fine of $39,000 for violating counting procedures in the first five days of operations. The state's attorney general also opposed a permanent operating license, citing extensive dealings with more than a dozen "unsuitable persons," including several with links to organized crime.

An Associated Press dispatch in 1977 reported that the Nevada Gaming Commission ordered three officials of the Bally Corp., to leave the company because of alleged connections with organized crime. The name, Bally Corp., has a familiar ring. Same outfit that has just hired Willie Mays.

George Washington took a firm view of gambling. The father of his country, in a letter to his nephew, Bushrod Washington, once wrote, "Gaming is the child of avarice, the brother of iniquity and the father of mischief." Whether or not Bowie Kuhn was familiar with this admonition, he seems to approve—of the warning, not of gambling. For baseball it could be a bad mix.●

THE SEPARATION OF CHURCH AND STATE IN THE UNITED STATES: A CAUSE FOR THANKSGIVING

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. McCLOSKEY. Mr. Speaker, we have special cause for Thanksgiving this year in the wake of the recent visit of Pope John Paul II. We give thanks for having seen a great leader in action at a time when we long for a return of inspiring leadership in America.

But an even greater cause for Thanksgiving lies in the quiet reflection that our unique American constitutional heritage allows us to view the Pope in perspective as only one leader of one religion; that no longer can a single religion command that its beliefs be accepted by others upon pain of death at the stake or upon the rack.

We are reminded that our first Thanksgiving was celebrated in 1621, to mark the survival and good fortune of new arrivals to a rocky and forbidding land. At the same time, and for 2 centuries thereafter, Pope John Paul II's predecessors in Rome were presiding over the inquisition, torture and execution of thousands of Catholics who had allegedly violated church law.

Our own continent, less than three centuries ago, saw the long arm of the Spanish inquisition raised over the Pueblo Indians of New Mexico. Next year, 1980, will mark the 300th anniversary of the ensuing revolt of the Pueblos and the slaughter of Catholic priests throughout New Mexico.

On our eastern seaboard, unlike New Mexico under the rule of Spain, we were privileged to embrace, first in our original colonies and later in our United States, refugees from religious persecution in distant lands, Huguenots, Puritans, Calvinists, Quakers; people who wished to pursue their own religious beliefs in their own ways.

In our colonial days we saw executions for witchcraft and banishment for differences in religious beliefs. As a result, we adopted, in the very first addition to our Constitution, article I of our Bill of Rights, with its clear declaration of principle:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

Despite this fundamental guarantee, we have seen ourselves moved on occasion to persecution for religious differences. The hounding of the Mormons in the late 1800s and anti-Semitic activity in the first half of this century are cases that come readily to mind. Even today, the actions of the Hari Krishnas, the Pallatine Fathers, and the Church of Scientology have created occasional widespread public expression against certain forms of religious activity.

We have been blessed with a Constitution recognizing that while we are free to practice any religion we wish, our legal rights are decided by law, not by religious views.

We are indeed a Nation under God, but it is the right of each of us to decide which God; Christian, Buddhist, Islamic or the God espoused by Father Moon.

Warring on God is not a capital offense as it is in the Ayatollah Khomeini's Iran. Each of us is free to have our own God and our own interpretation of those principles of faith which we wish to guide our lives and pursuit of happiness.

We have chosen to separate our laws and our religious beliefs. As Christ urged, we render unto Caesar what is Caesar's, and no more. We accept decisions of the Supreme Court as to the law; we accept the right of religious faiths to exercise their freedoms of religious activities in the areas beyond reach of law and not in conflict with the law.

The Pope's visit—by a European leader of different religious and political heritage, privileged to have survived on the borders of a nation whose government discourages religious freedom—could not help but refocus our thinking on the benefits of our own separation between church and state.

The Pope saw no problem in urging that our laws be changed to reflect the moral precepts of his church. On abortion, in particular, he was specific. In his address to the Catholic bishops he affirmed the bishops' argument:

> To destroy these innocent unborn children is an unspeakable crime—their right to life must be recognized and fully protected by law.

As to church law, we agree. But as to civil law, we think the Pope was uncharacteristically unaware of our history when he said "must."

No religious view "must" be written into law. In fact, whenever religious views disagree, it is an accepted restraint in our system of delegated governmental powers that one religion's view not be written into law at the expense of others.

In the Pope's world, it is understandable that he would desire all people to adopt Catholic precepts. In our world it is guaranteed to all people that they cannot be forced to adopt anyone's religious precepts, Catholic or otherwise.

This, indeed, may mark the real beauty of the American constitutional system. On the one hand the Pope was free to hope and urge that Catholic principles be written into U.S. law. On the other hand, we as a people are reluctant to write any church's views into law. Catholics oppose abortion yet our Supreme Court has unanimously ruled that a woman has a right to an abortion. Pope John Paul II condemned contraception, divorce and premarital sex. Yet all of these are legal, within limits, in many States under civil law.

Justifiable termination of either pregnancy or life is determined by law, not

by a religious belief. Abortion is not a crime, any more than is killing in self-defense against forcible rape. If Catholic leaders elect to designate abortion as a sin under their church rules, this is their right. But for Catholics or Catholic legislators to require those of other faiths to be legally bound to similar definitions of sin could deny freedom of their religions. Those of the Jewish faith and many Protestant faiths believe a woman has the moral right to terminate a pregnancy. The Congress of the United States has recently voted to use Federal funds to pay for abortions after rape or incest and when the mother's life is endangered.

Is it not best that we maintain the separation of church and state which has served us so well for nearly 200 years?

Thank you, Pope John Paul II, for so gently reminding us of the benefits of a legal system which allows each religion to follow its own dictates, and yet allows no religion to impose its views on others.

Dissent from papal decrees is not welcomed in your church; dissent is welcomed and is, indeed, an essential part of our system of freedom under law.

Your system accepts the infallibility of the viewpoint ordained by your leader. Our system is precisely opposite; we distrust any one individual's concept which might limit our freedoms.

You have authority over your members that we do not grant to our elected leaders. We have learned, at great cost, not to delegate the same power to those in civil authority which your church accepts as its due.

We respect your views on abortion and contraception but our laws are otherwise, and we hope you can understand the difference as we respect your right to pursue your own customs.

We have studied and understand the derivation, from St. Thomas Aquinas and Saint Augustine, of your view that women should not be accorded equal rights in your church, but we hope you will understand our pride in our own 1964 Civil Rights Act which guarantees women equal rights in their legal relationships.

Again, we thank and honor you for your leadership of a great religion. Peace be with you in your search for additional converts to that religion. We respect your church's progress since the Inquisition, as we revere our own fortunate progress away from religious persecution since our first Thanksgiving.

We will celebrate our Thanksgiving holiday this year with a special blessing for your reminder to us of the unique and priceless heritage we enjoy of freedom of religion—and freedom from religion if we so choose.●

GUARANTEED INCOME JUST DOESN'T WORK

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, with H.R. 4904 being discussed by this body I want to bring to the attention of my colleagues the following article by Mr. William Raspberry. This article, published in the Danville Commercial News on November 22, 1978, points out that in spite of the fact that there are a number of good reasons for the concept of guaranteed income, it simply does not work. Mr. Raspberry gives some excellent reasons why it fails. I came across this article shortly after I was elected to Congress and feel that now is an excellent time to reread it. I would like to submit Mr. Raspberry's article for the RECORD at this time so my colleagues may also have an opportunity to review it:

GUARANTEED INCOME JUST DOESN'T WORK

(By William Raspberry)

There are a number of good things about the concept of guaranteed minimum income. It is, to begin with, considerably simpler (and presumably less costly) to administer a guaranteed income program than to run the present welfare system.

It also provides a theoretical mechanism for raising the working poor both out of poverty and off the relief rolls.

And, finally, it has the support of conservatives as well as liberals, rendering it a realistic legislative possibility.

There is also one bad thing about the concept: It doesn't work.

That, at least, is one conclusion to draw from a long-term, comprehensive experiment conducted by the Department of Health, Education and Welfare.

The experiment, involving 4,800 low-income families in Seattle and Denver, found that when people were given guaranteed income families in Seattle and Denver, found portion of what they could earn by working, they simply worked less.

Male heads of household who received the guarantee worked 15 percent fewer hours than the control group; female heads of households worked 11 percent less; wives reduced their working hours by 22 percent. The number of hours worked by teen-agers fell even more sharply.

The reductions in the hours worked were greater for blacks than for whites, and greater still for Hispanics. And in addition, marriages fell apart at a 60 percent higher rate than for families on traditional welfare programs.

The experiment, it would appear, failed. Robert G. Spiegelman, who conducted it, admits he doesn't know why.

I don't either, but I suspect the answer lies along three lines.

The first line assumes that poor people, like the rest of us, rarely are willing to work harder than is absolutely necessary, particularly at unpleasant or otherwise unsatisfying jobs.

A full-time government clerk might moonlight as a taxi driver in order to meet his necessary expenses. But if he got a promotion on his regular job, he might decide to hack fewer hours and maybe even give up his taxicab altogether.

He would lose money in the process—the money he would have earned had he continued hacking—but we would not consider his government promotion a negative, a disincentive to work.

If we think of the guaranteed income as the regular "job," then we shouldn't be surprised when those who receive the guarantee work shorter hours on their supplemental jobs. The higher the guarantee, the less the need to supplement it.

A second line of reasoning suggests confusion over what the experimenters would define as success.

In that regard, the experiment could be deemed a flat failure only if the objective was to maximize the number of hours worked. But if that was what was sought, it could have been accomplished by the simple expedient of denying income supplements of any sort. Given the choice of raking leaves for 100 hours a week or starving, who wouldn't rake leaves? On the other hand, who would continue 100 hours of leaf-raking if he could meet his needs with only 50 hours' output?

The third line assumes that people work not only to feed, clothe and house themselves, but also to "get ahead."

Some of us can, on the basis of our experience, assume a direct link between hard work and getting ahead. Others cannot.

The findings suggest that blacks see hard work as less rewarding for them than for whites, and that Hispanics see their exertions as less rewarding still.

The findings are, nonetheless, disturbing, particularly for those of us who believe in the importance of giving people the chance to work their way up.

The question now is how to convince people that the opportunity in fact exists. Guaranteed income, apparently, is not enough to do it.●

WELFARE REFORM

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. EDGAR. Mr. Speaker, the Northeast-Midwest Congressional Coalition has actively supported the passage of H.R. 4904. Our concern is for welfare reform and we believe that this bill will help us move in that direction. I share with my colleagues a letter of endorsement and a brief example of how this bill can make a positive step forward to reform the overall welfare system:

OCTOBER 29, 1979.

DEAR COALITION MEMBER: The Ways and Means Committee's welfare reform bill is expected to come before the House of Representatives for consideration on Thursday, November 1. The enclosed "fact sheet" on H.R. 4904 describes the principal national and regional effects of the legislation and provides more detailed data on your state.

While not the comprehensive reform that many had hoped for, or that the Carter Administration had proposed in the 95th Congress, H.R. 4904, "The Social Welfare Reform Amendments of 1979," contains the fundamental elements required to address the basic problems of the present cash assistance program, at a price tag Congress can afford—$3.0 billion. As with many moderate pieces of legislation conceived in the spirit of compromise, H.R. 4904 neither offends nor excites; it does, however, offer a number of provisions of vital importance to our region.

Of primary significance to the region is the fiscal relief this bill offers to states and localities, an estimated $732 million in FY 1982. This is accomplished through an increase in the federal matching rate for the Aid to Families with Dependent Children (AFDC) program, starting in January, 1981 and a larger increase in the federal matching rate for the AFDC program for families with unemployed family heads, starting in October, 1981.

A second provision holds states "harmless" against an increase in expenditures over 95 percent of 1979 costs, guaranteeing each state at least 5 percent relief. Secondly, the bill will simplify and streamline the current administrative system, standardizing certain deductions and tightening eligibility procedures, thereby reducing the chances for fraud and error. Given their above-average error rates, the States in our region stand to realize substantial gains through measures designed to lower error rates.

Finally, by mandating a national minimum benefit level of 65 percent of the official poverty line, the bill establishes a greater degree of parity among states, reducing the incentive for recipients to move from low-benefit states to higher-benefit states. The states of the Northeast and Midwest tend to have higher than average benefit levels and, hence, stand to gain substantially from this long run effect.

None of the other legislative proposals given serious consideration offers the same measures of fiscal relief, and one proposal would actually reduce rather than increase the federal matching contribution over time. In addition, no other alternative would put a floor under cash assistance benefit levels or reduce the incentive to migrate from low-benefit states to high-benefit states.

In light of the important benefits this bill offers to both the states and the needy of our region, we urge your support for H.R. 4904 as reported by the Ways and Means Committee.

Cordially,

ROBERT W. EDGAR, *Chairman.*
SILVIO CONTE, *Cochairman.*
JAMES L. OBERSTAR, *Cochairman.*
FRANK HORTON, *Cochairman.*
ELIZABETH HOLTZMAN, *Chair, Welfare Reform Task Force.*

A WELFARE REFORM FACT SHEET

H.R. 4904, the Ways and Means Committee's "Social Welfare Reform Amendments of 1979," is scheduled for consideration on the House floor this Thursday, November 1. The bill addresses the basic problems of the current cash assistance program in "incremental fashion," retaining the programmatic structure of the persent welfare system while making administrative improvements designed to reduce fraud and error rates, and offering guaranteed fiscal relief to the states. The fiscal 1981 implementation of administrative changes in the bill would result in a net cost savings of $180 million. The total cost of implementation will be $2.7 billion in fiscal 1982.

Under a modified closed rule, the welfare reform bill will be the subject of two hours of debate, with one motion to recommit the bill to committee with instructions. Rep. James M. Jeffords (R.-Vt.) will offer the only committee amendment, which would allow states the option of substituting cash for food stamp coupons for elderly persons not receiving Supplemental Security Income (SSI).

An employment/jobs component of welfare reform (H.R. 4425) is the subject of separate consideration in hearings held by the House Education and Labor Committee last week, and scheduled before the Senate Labor and Human Resources Committee for late November.

Several key provisions of H.R. 4904 will particularly benefit Northeastern and Midwestern states:

A national minimum benefit standard of 65 percent of the official poverty line ($4,764) provides for greater equity among states, reducing the incentive for recipients to move from low-benefit states to high-benefit states. No Northeastern or Midwestern states currently pay less than this standard.

An increase in the federal matching rate for AFDC payments in the amount of 10 percent of each state's current percentage would begin in January 1981 and would result in more significant percentage decreases in the Northeast-Midwest region than in other regions. This would happen because, under the current formula, Northeastern and Midwestern states generally pay higher percentages of their AFDC costs than states in the South and West. An additional increase in the federal matching rate for the program which assists two-percent families with the head of household unemployment (AFDC-UP) in the amount of 20 percent of each state's current percentage would begin in fiscal 1982 and also would be especially helpful to the Northeast and Midwest.

A "hold-harmless" provision insures that states will not be held responsible for increased costs over 95 percent for their fiscal 1979 costs, as a result of rising numbers of caseloads caused by enactment of this bill. No Northeastern or Midwestern state would initially be affected by this provision, but it provides important "fiscal insurance" to the region in later years.

Standardization of deductions, coordination of income and assets criteria with the food stamp program, and use of a retrospective accounting system will simplify the administration of welfare and lead to lower error rates, thus cutting the cost of providing help to those in need. $150 million will be allocated to the states in block grants to implement these cost-saving changes. On average, error rates in Northeastern and Midwestern states far exceed the 4 percent national average goal.

$200 million will be used to establish an Emergency Assistance program in all states, eliminating the state matching requirement and relieving the financially pressed Northeast-Midwest states which have established generous emergency aid programs.

By mandating an AFDC-UP assistance program for two-parent families, the bill provides the financial incentive for families to stay intact, and allows some states to shift recipients to federally subsidized assistance.

An expanded Earned Income Tax Credit (EITC) offers tax incentives to encourage those earning poverty-line and lower-living-standard wages to continue working and avoid seeking public relief.

For Example: H.R. 4904 contains a number of provisions which would be particularly beneficial to Pennsylvania:

Through an increase in the federal matching rate, each state's share of AFDC and UP costs would decrease by 10% of their current percentage in January 1, 1981. Pennsylvania would receive $24.3 million in fiscal relief to offset this portion of its welfare burden. In FY 82, the matching rate for the Unemployed Parents program in each state would be increased by 30 percent, thus further reducing each state's welfare cost. Pennsylvania would receive a total of $29.7 million in fiscal relief in FY 82.

Streamlining and simplifying the current administrative system would greatly reduce the chance of fraud and errors, thus cutting the cost of providing benefits to those in need. The first year of implementation of these changes (FY 80) would result in a net savings of $180 million. Since Pennsylvania's current error rate of 16.7 percent exceeds the targeted 4 percent allowable error level, these administrative improvements would be of particular help in reducing the state's welfare costs.

Start-up money in the form of block grants would be provided to states in order to assist them with the costs of implementing the new changes stipulated in the bill, such as: training caseworkers, informing welfare recipients of changes, etc. $150 million would be provided in FY 81. Of this amount, Pennsylvania would receive $10.8 million.

The changes incorporated in this welfare reform bill will go a long way in creating a more simplified and equitable welfare system for those who truly are in need of assistance. It will also provide much needed fiscal relief to those states which are paying a large share of total welfare costs, primarily those in the Northeast-Midwest region.●

STEPS TOWARD GREATER CONSUMER PROTECTION

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. STARK. Mr. Speaker, I would like to call to the attention of my colleagues this editorial which appeared in the Oakland Tribune regarding the FTC ruling which allows doctors to advertise. The ruling enables consumers greater choice in their medical services and expenses. As medical expenses claim a much greater part of each of our incomes, the FTC ruling is a necessary and welcome step toward consumer protection.

The editorial follows:

A STEP TOWARD CONSUMER RIGHTS

The Federal Trade Commission ruling allowing doctors to advertise is an important step toward giving consumers a stronger voice in determining the type of medical care they receive.

Because of traditional American Medical Association regulations, there has been only one type of medical care generally available in this country—care based on the philosophy that medical care is so important that cost should be no object to the patient.

This philosophy holds true in many cases. If a child needs immediate surgery to save a hand damaged in an auto accident, it's doubtful that the parents are going to quibble over the surgeon's fee or scan the ads to see who offers the best deal.

However, a child's summer camp physical is another matter. We suspect there is a sizeable portion of the population who, assuming the physician meets some minimum standard of competence, would choose the least expensive summer camp physical available. The decision to allow advertising recognizes that this group exists, and that it has a right to the type of medical services it prefers.

The usual argument against advertising, of course, is that quacks will use it to lure customers with promises of non-existent cures. We think this argument has been exaggerated. No doubt there will be some abuses, just as there are abuses in every other profession. However, it is no more logical to say that all doctors who advertise are incompetent than it is to say that all doctors who do not advertise are competent. There are laws on the books already to cope with fraudulent advertising as well as with medical malpractice.

A California law, passed two months ago with the blessing of the California Medical Association, wiped out a longstanding legal ban on advertising by physicians in this state. We have not heard of any abuses since it became effective.

By supporting the law, the California Medical Association showed empathy for patients as well as doctors. We would suggest that the AMA follow the lead of the California Medical Association in adopting a more tolerant attitude toward consumer concerns, rather than try to fight the FTC ruling.

There is a need for regulation of doctors. We would prefer self-regulation rather than

creation of more state and federal bureaucracies. However, when a profession's own regulations work against the interest of sizable segments of the population, government can be expected to step in.

The decision to overturn the AMA's ban on advertising is a significant step toward public regulation of a profession that has been largely self-regulated. The FTC ruling introduces the patient's right to choice into the regulations. The medical profession is on notice that it should be sensitive to that right.●

RUTH ELLSWORTH

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. IRELAND. Mr. Speaker, on September 28, Mrs. Ruth Ellsworth received the Parent Award from the Florida Association for Children with Learning Disabilities.

This is an award that is well deserved.

In the fifties, Ruth Ellsworth was told that her daughter, Lisa, had dyslexia, a disability few professionals knew anything about at that time.

Since there were no services for students that were disabled in the local school system, she began to contact other parents of children with learning disabilities. Through her efforts they formed the Polk County Association for Children with Learning Disabilities. During the first 2 years, she was president and instrumental in putting together the organization. Then she was vice president for an additional 2 years.

During that time, she spent many hours familiarizing many groups with the problems these children must face. She spoke to teacher groups, service clubs and parents. She spent endless hours with school officials to get them to utilize the information available from outside the system to help these children.

Recognizing the need to organize statewide in order to increase their influence to encourage increased services, she began contacting the local chapters of the Association for Children with Learning Disabilities statewide. Through her efforts a State meeting was held in Winter Haven, Fla., and a State organization was set up. Ruth served as the first chairperson of the State organization. Then, along with Ruth Rowan, she served as cochairperson of the first State conference in Orlando.

Since that time, Ruth and her husband David have served in many capacities in the State and local organizations. They were instrumental in the organization of the Learning Resources Center of Polk County, Inc.

Ruth Ellsworth has made a fine contribution to the Florida Association for Children with Learning Disabilities, but she has more importantly made a great contribution toward helping those children with learning disabilities obtain the education they need.

Ruth Ellsworth is worthy of this award.●

A LIFE OF LOVE AND SACRIFICE FOR A DYING FRIEND

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. VENTO. Mr. Speaker, I want to share with my colleagues Richard Cohen's column, Washington Post, October 30, 1979, about a young Minnesota man who put his life on hold for 3 years so he could help his friend die in peace and dignity. This is a story about one person's unselfishness and courage in dealing with a very difficult situation. I hope you will find it as uplifting and inspiring as I did.

The article follows:

A LIFE OF LOVE AND SACRIFICE FOR A DYING FRIEND

(By Richard Cohen)

In the obituary, it said nothing of Chris Welna. It said Ellen Steif was 23 and that she had died of cancer, but there was no mention of Welna. He had lived with her and nursed her and slept next to her. He listened to her breathing and got up every two hours to give her the injection and was with her when she slipped into her final coma. She was weak and could fight no more and in between injections, she died. She weighed 50 pounds, half of that heart, all of that a gift from Welna.

It was morning. Welna went to the phone and called the Episcopal priest they had met in the hospital and then he called his parents and a friend. Welna, who is Catholic, washed the body in the Jewish custom and on Sunday they had a memorial service. An Episcopal priest presided and a friend said Kaddish, which is the Jewish prayer for the dead, and Welna read a poem. Then he got on a plane and flew off to catch up with the rest of his life.

They had met, Chris and Ellen, when they were in college—Carleton College in Minnesota. She was the freshman and he was the sophomore. Soon she got cancer of the liver. This was 4½ years ago. Three years ago, they planned her funeral and soon after that Chris Welna put his life on a shelf.

From the picture, it looks like Ellen had dark hair. Actually it was red—the color of an Irish setter, someone said. She was pretty and she was smart and she knew all along she was going to die. She could die in a hospital or she could die in a hospice or she could die at home with Chris. She chose the latter. All she needed was someone to care for her. Chris Welna did that.

He followed Ellen back to Washington, her home town, and stayed with her and her mother. They took turns caring for her. Chris dropped out of school and then when Ellen regained strength, they went back to Carleton together, but it was no good. Ellen took chemotherapy in Minneapolis and her weight went down to about 77 pounds. She returned home and had her sixth operation on New Years Eve, 1977. For hours, she bled and the doctors said she would die, but she did not. She stayed in the hospital three months and for three months Chris stayed with her. Sometimes he would sleep in her room.

He dropped out of school again. He had won a Wilson Fellowship to study human rights in Brazil, but he postponed that. He said no to New York University Law School and the offer of a scholarship. He stayed with Ellen and made his plans. In June, he took her to Brazil. He found a room there and a nurse and made arrangements for her drugs. In September they were forced to return. She came back on a stretcher.

He got an apartment near Dupont Circle. He took part-time jobs nearby so he could go home every two hours to give her the shots she craved—Dilaudid to kill the pain. Even in her comas, Ellen craved the drug. Even in her comas, the pain persisted, and when she fell into comas, Chris would not leave her. He would not go out of the apartment and even during other times he would never go far or for long.

A year later, Chris Welna was accepted once again to law school and once again he put it off for Ellen. Eventually, they moved to a larger apartment and his brother came to live with them. He helped and friends helped and Ellen's mother and grandmother helped, too. Ellen continued to lose weight. She moved in and out of comas and when she was in one, Chris would not leave her. After a while, she could do no more than lie in bed. But last month, on Chris's birthday, she arranged a surprise party for him. She made the calls herself and that night she mustered all her strength and she stood. It was the last time.

Chris Welna says what he did was not exceptional. The sad fact is that it is. He says this should be about Ellen and not about him. It is about both of them. He says he did what he did incrementally, because they had once been lovers and always close friends and because, as he put it, "She really needed a friend." The cancer, after all, was not her fault. It was an awful thing her body was doing. They talked about it that way: There was Ellen and there was Chris and there was her damned body. It was dying on her.

Last Tuesday, Chris awoke at 6 to give Ellen her shot. She was in a coma. He went back to sleep. He awoke at 8. She was not breathing. She was still warm. She had just died. It was all over and he went to make his phone calls.

Now, Chris Welna is back in Minnesota. He is visiting his parents and thinking of his life at 27 and he has, he says, no regrets. He will go soon to Carleton College to tell Ellen's friends what has happened and then, if the snows hold off, he will go to the north woods. He and Ellen spent a week there—a wonderful week, an idyllic week for her. There, Ellen Steif's best friend will honor her last request. Chris Welna will bury her ashes.●

DICK V. McDONALD

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today in honor of Mr. Dick V. McDonald, an active and involved member of our community.

On Thursday, November 8, 1979, Mr. McDonald will be honored at the 1979 testimonial dinner dance sponsored by the National Jewish Hospital and Research Center and the National Asthma Center for his many years of outstanding contributions to these organizations.

Dick is being recognized for his distinguished service to the Santa Clara Valley and the State of California, for his humanitarian efforts in our community of San Jose, and for his dedication and concern which have enabled National Jewish Hospital/National Asthma Center to provide lifesaving care to those who suffer from asthma, tuberculosis, emphysema and allied chronic illnesses, regardless of their faith, age or ability to pay.

Additionally, Dick has been active in the Rotary Club, San Jose Chamber of Commerce, Sainte Claire Club, California Cattleman's Association and the National Cattleman's Association.

He serves on the Board of Trustees for the Sheet Metal and Air Conditioning Contractors National Association, Santa Clara Valley Contractors Association, O'Conner Hospital, Sight Conservation Research Center, County of Santa Clara Mechanical Code Board of Appeal, and is a member of the steering committee for the building of the new Spartan Stadium.

Mr. Speaker, I ask you and my colleagues in the U.S. House of Representatives to join me in congratulating Dick for his outstanding contributions to our community and in wishing him the best of luck in all of his future endeavors.●

A BILL TO CREATE AN ENERGY COMPANY OF AMERICA

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. MINISH. Mr. Speaker, the latest oil company profits once again underscore the need for a strong public entity to inject competition to the oil marketplace. The billions of dollars in earnings that continue to be reaped at the expense of the American consumer make a mockery of the industry's pleas for less regulation to spur exploration and development.

What is desperately needed is a company that puts the public interest before profits. Obviously, no private company is willing to meet this responsibility.

However, an alternative does exist. It is found in H.R. 3885, a bill cosponsored by Senator ADLAI STEVENSON and myself to create an Energy Company of America. The company envisioned in this legislation would be modeled after the Tennessee Valley Authority. It would be mandated to seek out the cheapest sources of the oil we must import. Unfortunately, the private companies do not do this because of long-term contracts and the knowledge that higher OPEC prices not only can be passed on to the consumer, but also increase the value of their non-OPEC oil reserves.

The Energy Company of America also would be authorized to invest capital and technological skill into developing nations. In return, we would require energy supply contracts at reasonable prices.

Our own domestic energy resources must also be developed. The Energy Company proposed in H.R. 3885 would be in charge of developing and producing the vast amount of gas, oil, coal, and uranium known to exist on Federal land. It is imperative that this vital link in our energy future lie in the hands of an entity that will be concerned, first and foremost, with the needs of all Americans, and not just a select group of stockholders.

Mr. Speaker, our energy future is too important to leave in the hands of the private companies. Their historical sources of supply make it impossible for the industry to consider the public interest first. The Energy Company of America would be committed to developing American energy for the American people.

The example set by Petro-Canada, the Canadian Government's venture into the oil industry, is most encouraging. That company, in its 5 years of existence, has already amassed more than $3 billion in assets. The United States should follow this lead immediately. In addition to enacting a vigorous windfall profit tax as soon as possible, Mr. Speaker, we should also form an Energy Company of America. It will be in the best interest of the citizens of the United States.●

PRESIDENT CARTER'S CONDOLENCE TO TOLSTOY FOUNDATION

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. RODINO. Mr. Speaker, earlier this month, I informed my colleagues of the passing of Alexandra Tolstoy, at the age of 95. The last of the thirteen children of the world-renowned author and philosopher, Ms. Tolstoy died in Valley Cottage, N.Y. at the site of the Tolstoy Foundation which she founded to assist refugees from all corners of the world.

I believe it is only fitting that I also bring to my colleagues' attention the message of condolence extended by President Carter to the foundation, paying tribute to this great humanitarian woman.

The message follows:

THE WHITE HOUSE,
Washington, October 5, 1979.

Mr. TEYMURAZ K. BAGRATION,
Executive Director, Tolstoy Foundation, Inc., New York, N.Y.

TO TEYMURAZ BAGRATION: Rosalynn and I were saddened to learn of the death of Alexandra Tsoltoy. With her passing we have lost one of the last human ties with a great age of Russian culture.

All of us can take solace from the legacy she has left behind. I am mindful not only of her efforts in preserving her father's literary heritage, but also of the enduring monument to her humanitarian work, embodied in the Tolstoy Foundation which she founded some forty years ago.

Alexandra Tolstoy will always be remembered by the thousands who benefited from her assistance when they entered a new life in this country as free men and women.

Sincerely,

JIMMY CARTER.●

FEDERAL AID FOR THE CHRYSLER CORPORATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. CONYERS. Mr. Speaker, today I am introducing legislation H.R. 5770, to provide $1.2 billion in Federal loan guarantees to the Chrysler Corp. This legislation builds upon the Blanchard bill being worked on in the Banking Committee and is a bridge to the Riegle bill in the Senate. It provides for phasing-in loan guarantees in two increments, conditioned on evaluation at each stage of Chrysler's performance and its readiness to meet a set of conditions that safeguard the public interest in maintaining jobs, keeping factories open, and converting to more fuel-efficient autos and mass-transit vehicles.

In return for Federal assistance, Chrysler would be required to broaden further its Board of Directors to include representatives of labor, the consumer public, and Government, and create an employee stock ownership plan so as to expand participation in its decisionmaking processes for those sectors that have the greatest stake in its recovery. Chrysler also would have to present a development plan that specifies the future direction of investment decisions; any plans to close down facilities and the justification for such action; and the steps necessary to convert some of its facilities to the production of mass-transit vehicles, including plans for retooling plants and retraining workers.

This legislation seeks to provide a framework of cooperation—and accountability—among business, labor, and Government, that is indispensable both in aiding Chrysler's recovery and also moving us in the direction of implementing a national economic plan for full employment and industrial revitalization, as mandated by the Full Employment and Balanced Growth Act of 1978.

A Chrysler collapse unavoidably raises very real and deeply disturbing questions about the future prospects of the entire American economy, which is now moving into a recession without the policies and mechanisms requisite to full employment and balanced growth. We have to ask ourselves, is the Chrysler case unique, the result simply of bad management, consumer disapproval, Federal regulations, or a combination of all three? Or is it a bellwether, only the most recent dramatic case in what will be a long line of corporate failures in the years ahead?

The Chrysler crisis raises most of the important questions before the Congress this year. If it collapses, would its employees find new jobs within a reasonable period, or be laid off indefinitely, with all the human and social costs this entails? What will happen in industrial centers like Detroit or Pittsburgh, and in hundreds of smaller cities and towns

where Chrysler operates, if it shuts down plants or else substantially scales down its operation? What will happen to the billions in pension funds, without which retired Chrysler workers could not survive?

With Chrysler we are not just facing the financial plight of a single, albeit enormous, industrial company. Chrysler's fate is inextricably tied to a much larger, longer term transformation of the international and domestic industrial economy, that has jeopardized the jobs of millions of workers, and has altered the economic fabric of hundreds of communities in every region of the Nation.

I am persuaded that until we begin in a serious way to plan ahead for changes in employment and production in the Nation, and to avert the economic dislocations that inevitably arise, we have no choice but to support Federal aid for Chrysler.

The bill follows:

H.R. 5770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Chrysler Industrial Loan Guarantee Act".

AUTHORITY

SEC. 2. The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary"), on such terms and conditions as he deems appropriate, is hereby authorized to guarantee, or make commitments to guarantee, lenders against loss of principal or interest on loans that meet the requirements of this Act.

LIMITATIONS AND CONDITIONS

SEC. 3. (a) A guarantee of a loan may be made under this Act only if—

(1) the Secretary finds that—

(A) the loan is needed to enable the Chrysler Corporation (hereinafter in this Act referred to as the "enterprise") to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy of or employment in the Nation or any region thereof;

(B) credit is not otherwise available to the enterprise under reasonable terms or conditions; and

(C) the prospective earning power of the enterprise, together with the character and value of the security pledged, furnish reasonable assurance that the enterprise will be able to repay the loan within the time fixed, and afford reasonable protection to the United States;

(2) the lender certifies that the lender would not make the loan without such guarantee; and

(3) before any such guarantee is made—

(A) the board of directors of the enterprise seeking such guarantee is expanded to include six new members who shall represent the views of labor, consumer, and environmental groups;

(B) the enterprise transmits to the Congress and the Secretary a development plan which—

(i) provides for the training of employees in the skills which the enterprise determines will be required by changes in technology, markets, and production;

(ii) specifies the future location of factories and other facilities taking into account future investment, production, and employment;

(iii) specifies any plan to close any factory or other facility and the reasons for such action;

(iv) provides for the retooling of production facilities in order to accommodate anticipated changes in technology and production; and

(v) specifies all Federal regulations which the enterprise believes should be temporarily waived or partially modified with respect to such enterprise in order to improve the financial condition of the enterprise; and

(C) the enterprise shall establish an employee stock ownership plan pursuant to section 4.

(b) Loans guaranteed under this Act shall be payable in not more than 5 years.

(c)(1) Loans guaranteed under this Act shall bear interest payable to the lender at rates determined by the Secretary taking into account the reduction in risk afforded by the loan guarantee and rates charged by lenders on otherwise comparable loans.

(2) The Secretary shall prescribe and collect a guarantee fee in connection with each loan guaranteed under this Act. Such fee shall reflect the Government's administrative expense in making the guarantee and the risk assumed by the Government and shall not be less than an amount which, when added to the amount of interest payable to the lender of such loan, produces a total charge appropriate for loan agreements of comparable risk and maturity if supplied by the normal capital markets.

EMPLOYEE STOCK OWNERSHIP PLAN

SEC. 4. (a) In order to be eligible for loan guarantees under this Act, the enterprise (hereinafter in this section referred to as the "employer") shall establish in writing an employee stock ownership plan—

(1) which satisfies the requirements of section 4975(e)(7) of the Internal Revenue Code of 1954, and which acquires qualifying employer securities (as described in paragraph (3)) using all or a portion of the proceeds of a guaranteed loan provided for in this Act;

(2) which is administered by a committee consisting of—

(A) 2 representatives of the employer;

(B) 2 representatives of employees who are participants in this plan;

(C) 1 representative of the trustee of the plan; and

(D) 2 representatives designated by the Secretary of the Treasury;

(3) which, except as provided in subsection (b), will acquire only qualifying employer securities which—

(A) meet the requirements of section 409 A(1)(3) of such Code; and

(B) are convertible to common stock (which meets the requirements of section 409A(L)(1) of such Code at its fair market value as of October 17, 1979 at the direction of the committee;

(4) under which qualifying employer securities having an aggregate value of not less than an amount equal to 25 per centum of the amount of the loan guarantee provided for in this Act, will be purchased with the proceeds of a loan described in this Act and in section 4975(d)(3) of such Code;

(5) under which the employer agrees to make annual contributions sufficient to permit the plan to amortize such loan;

(6) which provides that each participant will have a 100 per centum nonforfeitable interest in all amounts allocated to such account under the plan; and

(7) which provides for the allocation for each plan year of all qualifying employer securities acquired pursuant to paragraph by it, or with regard to qualifying employer securities acquired pursuant to paragraph (4), to be released from the appropriate suspense account and allocated, to the accounts of all participants who are entitled to share in such allocation in substantially equal amounts.

(b) Notwithstanding the provisions of paragraph (3), the plan may also purchase or otherwise acquire qualifying employer securities which are described in section 4975(e)(8) of such Code.

SECURITY FOR LOAN GUARANTEES

SEC. 5. In negotiating a loan guarantee under this Act, the Secretary shall make every effort to arrange that the payment of the principal of and interest on any plan guaranteed shall be secured by sufficient property of the enterprise to fully collateralize the amount of the loan guarantee.

REQUIREMENTS APPLICABLE TO LOAN GUARANTEES

SEC. 6. (a)(1) A guarantee agreement made under this Act with respect to the enterprise shall require that while there is any principal or interest remaining unpaid on a guaranteed loan to the enterprise, the enterprise may not—

(A) declare a dividend on its common stock; or

(B) make any payment on its other indebtedness to a lender whose loan has been guaranteed under this Act.

(2) The Secretary may waive either or both of the requirements set forth in paragraph (1), as specified in the guarantee agreement covering a loan to the enterprise, if it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee.

(b) The Secretary shall require before guaranteeing any loan to the enterprise that the enterprise make such management changes as the Secretary deems necessary to give the enterprise a sound managerial base.

(c) A guarantee of a loan to the enterprise shall not be made under this Act unless—

(1) the Secretary has received an audited financial statement of the enterprise; and

(2) the enterprise permits the Secretary to have the same access to its books and other documents as the Secretary would have under section 7 in the event the loan is guaranteed.

(d) No payment shall be made or become due under a guarantee entered into under this Act unless the lender has exhausted any remedies which it may have under the guarantee agreement.

(e)(1) Prior to making any guarantee under this Act, the Secretary shall satisfy himself that the underlying loan agreement on which the guarantee is sought contains all the affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that it cannot be amended, or any provisions waived, without the Secretary's prior consent.

(2) On each occasion when the enterprise seeks an advance under the loan agreement, the guarantee authorized by this Act shall be in force as to the funds advanced only if—

(A) the lender gives the Secretary at least ten days' notice in writing of its intent to provide the enterprise with funds pursuant to the loan agreement;

(B) the lender certifies to the Secretary before an advance is made that, as of the date of the notice provided for in subparagraph (A), the enterprise is not in default under the loan agreement, except that if a default has occurred the lender shall report the facts and circumstances relating thereto to the Secretary and the Secretary may expressly and in writing waive such default in any case where it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee; and

(C) the enterprise provides the Secretary with a plan setting forth the expenditures for which the advance will be used and the period during which the expenditures will be made, and, upon the expiration of such periods, reports to the Secretary any instances in which amounts advanced have not been expended in accordance with the plan.

(f)(1) A guarantee agreement made under this Act shall contain a requirement that as between the Secretary and the lender, the Secretary shall have a priority with respect to, and to the extent of, the lender's interest in any collateral securing the loan and any earlier outstanding loans. The Secretary shall take all steps necessary to assure such priority against all other persons.

(2) For purposes of paragraph (1), the term "collateral" means all assets pledged under loan agreements and, if appropriate in the opinion of the Secretary, all sums of the borrower on deposit with the lender and subject to offset under title 11 of the United States Code.

INSPECTION OF DOCUMENTS; AUTHORITY TO DISAPPROVE CERTAIN TRANSACTIONS

SEC. 7. (a)(1) The Secretary is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents of the enterprise which has received financial assistance under this Act concerning any matter which may bear upon—

(A) the ability of the enterprise to repay the loan within the time fixed therefor;

(B) the interests of the United States in the property of the enterprise; and

(C) the assurance that there is reasonable protection to the United States.

(2) The Secretary is authorized to disapprove any transaction of the enterprise involving the disposition of its assets which may affect the repayment of a loan that has been guaranteed pursuant to the provisions of this Act.

(b) The General Accounting Office shall make a detailed audit of all accounts, books, records, and transactions of the enterprise with respect to which an application for a loan guarantee is made under this Act. The General Accounting Office shall report the results of such audit to the Secretary and to the Congress.

AMOUNT OF LOAN GUARANTEES

SEC. 8. (a) The Secretary may initially guarantee loans with respect to the enterprise in an amount of not more than $600,000,000.

(b) Except as provided in subsection (c), with respect to such enterprise which receives an initial loan guarantee from the Secretary under subsection (a), the Secretary may additionally guarantee loans in an amount not to exceed $600,000,000 if such guarantee complies with the provisions of this Act and the Secretary determines that the implementation of the development plan submitted by the enterprise under section 3(a)(3)(B) of this Act will assure the future financial viability of the enterprise.

(c)(1) No loan guarantee may be made under subsection (b) unless the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate have been notified in writing by the Secretary of such proposed loan guarantee, 30 days of continuous session of the Congress have expired following the date on which such notice was transmitted to such committees, and the Congress has not adopted, within such 30-day period, a concurrent resolution disapproving such proposed loan guarantee.

(2) For purposes of paragraph (1), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 30-day period.

(d) The maximum obligations of the Secretary under all outstanding loans guaranteed by him shall not exceed $1,200,000,000.

EMERGENCY LOAN GUARANTEE FUND

SEC. 9. (a) There is hereby established in the Treasury an emergency loan guarantee fund to be administered by the Secretary. The fund shall be used for the payment of the expenses of the Secretary and for the purpose of fulfilling the Secretary's obligations under this Act. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

(b) The Secretary shall prescribe and collect a guarantee fee in connection with each loan guaranteed by it under this Act. Sums realized from such fees shall be deposited in the emergency loan guarantee fund.

FEDERAL RESERVE BANKS AS FISCAL AGENTS

SEC. 10. Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Secretary. Each such fiscal agent shall be reimbursed by the Secretary for all expenses and losses incurred by it in acting as agent on behalf of the Secretary.

PROTECTION OF GOVERNMENT'S INTEREST

SEC. 11. (a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this Act. Any sums recovered pursuant to this section shall be paid into the emergency loan guarantee fund established under section 9.

(b) The Secretary shall be entitled to recover from the enterprise, or any other person liable therefor, the amount of any payments made pursuant to any guarantee agreement entered into under this Act, and upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient thereof.

REPORTS

SEC. 12. The Secretary shall annually submit to the Congress a full report of his operations under this Act. Each such report shall include a full report of the Secretary's operations together with his recommendations with respect to the need to continue the guarantee program beyond the termination date specified in section 13. If the Secretary recommends that the program should be continued beyond such termination date, he shall state his recommendations with respect to the appropriate board, agency, or corporation which should administer the program.

TERMINATION

SEC. 13. The authority of the Secretary to enter into any guarantee or to make any commitment to guarantee under this Act terminates two years after the date of the enactment of this Act. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this Act prior to that date, or the taking of any action necessary to preserve or protect the interest of the United States in any amount advanced or paid out in carrying on operations under this Act.●

ALLEGATIONS OF BEEF PRICE MANIPULATION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. ROSENTHAL. Mr. Speaker, on August 27, 1979, as chairman of the Commerce, Consumer, and Monetary Affairs Subcommittee, I asked six Federal agencies to begin immediate investigations into allegations that beef price manipulation during August raised food prices for consumers already struggling with inflation. I would like to bring to my colleagues' attention an article on this topic from the Wall Street Journal, November 1, 1979.

The text of the article follows:

IOWA BEEF AIDES TRADED FOR THEMSELVES WHILE HELPING SET PRICE, DEPOSITION SAYS

(By Jonathan Kwitny)

Officials of Iowa Beef Processors Inc., by far the largest meat company in the world, have traded cattle futures for their personal accounts while they were involved in setting prices paid and charged by the big packer, according to the sworn deposition of a former vice president for Iowa Beef.

Iowa Beef and other packinghouses have policies forbidding such trading by their executives, who could influence the markets for live cattle and carcasses, thus helping along an investment in futures. Any manipulation also would affect the price of meat at the butcher counter.

Two persons named in the deposition as having done futures trading, both of whom have left their jobs since the deposition was given, agreed the allegations were true. Both had worked at Iowa Beef. One also had worked at Spencer Foods Inc., another major packer. Five others named in the deposition declined to comment.

The deposition, unavailable until recently, was given in 1977 by Alan Booge, former vice president for carcass sales at Iowa Beef, as part of a suit originally filed in federal court in Des Moines, Ia., against Iowa Beef, Spencer and two other packers by a group of cattle raisers. The suit accuses the packers of manipulating beef prices, and currently is being litigated in a Dallas, Tex., federal court.

For an executive of a major packing company to trade in cattle futures would seem to be a conflict of interest, since in seeking out the best deal for his company it might be necessary for him to influence the market to the disadvantage of his own futures position.

DAILY PUBLICATION'S QUOTES

Most meat sold in the U.S. is based on a price quoted daily by a privately run publication called the National Provisioner, known in the trade as the "Yellow Sheet." Prices listed on the "Yellow Sheet" are determined by reports from salesmen at major packinghouses, such as Iowa Beef, and the brokers with whom they deal. The price of live cattle also is influenced by the Yellow Sheet quotations.

Mr. Booge said in his deposition that more than 95 percent of Iowa Beef's sales are based on the price quoted in the Yellow Sheet. Only a tiny percentage are negotiated, he said, and these are reported to the Yellow Sheet to help determine the sheet's quotation price.

Mr. Bogge testified that he and his staff sometimes would call the Yellow Sheet to complain about quotations, but said he didn't know whether quotations had been changed at Iowa Beef's request. He testified

that he and his staff sometimes delayed reporting certain trades until later in the day, just before the Yellow Sheet was about to determine the price it would announce at midday and at the closing. He testified that sometimes he would withhold certain trades from the Yellow Sheet as "private."

But Mr. Booge flatly denied that he ever had made or reported a trade with the idea of furthering his private interests in cattle futures.

Shortly before Mr. Booge gave the deposition, his resignation from Iowa Beef had been demanded and received on the ground that he had violated company policy by having a personal futures account.

OTHERS NAMED

Of those named by Mr. Booge in the deposition as having done the same thing, probably the most significant are Bernie Knight, who, until last month, was vice president for central sales and pricing at Iowa Beef, and Russell A. Walker, currently senior vice president for cattle procurement at the company. Both men declined to comment to a reporter inquiring about the allegations this week.

Mr. Knight, one of the best-known and most influential men in the meat industry over the past decade, walked out of Iowa Beef without prior notice Sept. 1, a day after New York Congressman Benjamin Rosenthal charged that supermarket customers had been gouged over the summer by manipulated meat prices. Mr. Rosenthal singled out Iowa Beef and Spencer as prospective targets for an investigation into manipulation of the Yellow Sheet.

Since then, Mr. Rosenthal's House Consumer Affairs Subcommittee has joined a growing list of Congressional committees and administrative agencies that have been investigating alleged meat price manipulations for several years, with little result.

According to Charles Harness, a spokesman for Iowa Beef, Mr. Knight announced the morning after Mr. Rosenthal's statement that he wanted to quit "to seek other opportunities in the meat business," left Iowa Beef the same day and never returned.

A reporter asked Mr. Harness at the time if there was "any indication that he (Mr. Knight) was into futures trading," and Mr. Harness replied there wasn't "as far as the corporation knows." Mr. Harness said this week that he hadn't seen a copy of the two-year-old Booge deposition, which was attended by—and sealed at the request of—Iowa Beef's lawyers.

In 1976, Mr. Booge, Mr. Knight and several other Iowa Beef executives were questioned individually by a Wall Street Journal reporter at corporate headquarters about rumors that they were trading on the futures market. They flatly denied that they were doing so.

ACKNOWLEDGED IN DEPOSITION

Mr. Booge acknowledged in his deposition that he had been doing so, and even named the brokerage houses where the others he cited allegedly traded. He said Mr. Knight sometimes asked his advice on whether to buy or sell futures on a particular day.

Mr. Booge also described in his deposition a system through which top Iowa Beef executives keep a daily check on cattle availability and demand throughout the country, using open phone lines, or "hot lines," to each plant. He also said that Iowa Beef's cattle buyers around the country gave Mr. Walker up-to-the-minute reports on conditions via two-way radio every business day. Mr. Booge said he could obtain this information through Mr. Walker.

Mr. Booge testified that he didn't know of any trades Mr. Walker made after Iowa Beef issued a written directive to its executives late in 1976 stating the company policy against such trades.

After leaving Iowa Beef, Mr. Booge set up two brokerage firms, one in Iowa and one in Nebraska, that trade cattle and other commodities futures. He declined this week to confirm or deny reports in the industry that his firms handle private futures trading for meatpacking executives.

Mr. Knight has gone to work as sales manager for Siouxland Beef Co., in Sioux City, a much smaller concern, although he is said to have other business interests.

Congressional investigators are known to have been in the Midwest recently, checking state incorporation records to look for possible pseudonyms or partnership names that meatpacking executives may be using to trade for their own accounts.

OTHERS MENTIONED

Among other persons Mr. Booge named in his deposition was a secretary at Iowa Beef, who, he said, obtained current price quotations by phone from the Yellow Sheet during the day, and also handled futures trades for an executive. The secretary declined to comment and referred a reporter to a company lawyer who didn't return two telephone calls.

The executive named in connection with the secretary was James Kuecker, who left Iowa Beef six years ago to become executive vice president of Spencer Foods; he left Spencer a year and a half ago to become manager of Custom Beef in Hartley, Iowa.

Reached by telephone, Mr. Kuecker freely acknowledged that he had been trading cattle futures on his own the whole time. He said he didn't see anything wrong with it. He declined to give details of his trading on the ground that "It's my personal business."

Charles E. Jones, another Iowa Beef sales employee named by Mr. Booge, also confirmed the accuracy of the allegations about him. "There was never any reason" to avoid doing so, he said, because he didn't consider himself "an official" at Iowa Beef. "I had my group of customers and that was all I did," he said. Mr. Jones left Iowa Beef shortly after Mr. Booge did to go to work for Mr. Booge's brokerage business.

G. L. Pearson, chairman and chief executive officer of Spencer, said he had a strict policy of firing anyone who traded in futures, because, "You can't run a business that way." Then Mr. Pearson, who has been chief executive of Spencer since 1968, said that until about five years ago he had been doing such trading himself.

Asked why he stopped and changed the company's policy, he replied, "That's a tough one," and said his decision probably came after he heard about the trading at Iowa Beef.●

SCHOOL LUNCH PROGRAM MERITS SUPPORT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. VENTO. Mr. Speaker, my constituent, Candace Witter who is president of the Minnesota School Food Service Association, visited with me recently about the possibility that child feeding programs could be cut because of a provision in the Senate version of the second budget resolution calling for a $100 million reduction; this despite the fact that both the Senate and House have approved appropriation increases of $347 million for fiscal year 1980.

I certainly oppose the Senate proposal for a cut in this vital nutritional program that serves the youth of our country.

I submit, as part of the RECORD, an analysis by Mrs. Witter of the negative effects these proposed cuts would have on existing programs, and a resolution passed by independent school district No. 621 in Minnesota opposed to cuts in the school lunch reimbursement for paid lunches.

The analysis follows:

OCTOBER 10, 1979.

Memo to: School Board Members and Dr. S. C. Witter

From: Candace Witter

Subject: School Lunch Funding

Child feeding programs are in jeopardy of having their budget cut back a half-billion dollars next month. It looks as if this proposal has a very good chance of succeeding unless somehow the Administration can be informed about the disastrous effects these cuts would have on the existing programs.

As president of the Minnesota School Food Service Association, I will participate in a Washington Fly-In to present the facts to our senators and representatives and to ask them to continue the present funding for child nutrition. We are not asking for any big increase in funding—we simply want to maintain the present level of federal support for child nutrition!

The National School Lunch Program has long been a nutritional program for all students with a provision of variable rates of reimbursement based on a family's need for a lunch at school. These variable rates of reimbursement make it possible for the majority of students to afford a lunch at school. Since food service program costs are dependent upon volume to keep them at a minimum, the participation by a majority of students also makes possible meeting the nutritional needs of those students whose families are eligible for a free or reduced priced meal.

I am requesting the Mounds View School Board to show their opposition to the proposed federal cuts by passing the resolution that has been prepared so that I may take it to Washington and have it entered into the Congressional Record.

I do appreciate your support in the past and would like you to give your consideration to this present resolution.

Thank you.

RESOLUTION BY INDEPENDENT SCHOOL DISTRICT 621 SCHOOL BOARD IN OPPOSITION TO CUTS IN SCHOOL LUNCH REIMBURSEMENT FOR PAID LUNCHES

Whereas The President has recommended that Congress reduce the federal reimbursement level for lunches served to paying children under Section 4 of the National School Lunch Act and;

Whereas Such a cut would make it necessary for most local school districts to make an additional charge of 10¢ per pupil (above inflationary cost of 5–10¢ already budgeted for the 1979–80 school year) and;

Whereas Surveys show that any increase will result in significant decreases in the number of children participating in the school lunch program and;

Whereas All children are requested to attend school and need a nutritionally adequate school lunch to function effectively and;

Whereas A decrease in participation would also adversely affect long-term health; the fact that per unit cost will increase because of less volume; lessening of some community programs; the loss of employment in the community and;

Whereas The General Accounting Office has no conclusive evidence to support the proposed cuts in the school lunch program; and be it

Resolved That the School Board of Mounds View School District No. 621, Minnesota, hereby opposes all proposals to reduce the federal school lunch reimbursement for the middle-income paying child; and be it further

Resolved That the Congress of the United States ensures the continuation of all funding under the National School Lunch Act of 1946 by resisting any future cuts.●

ECONOMIC SUCCESS

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. ASHLEY. Mr. Speaker, increase in productivity within American industry has declined dramatically during the past 10 years. This slowdown is of great economic significance and must be reversed if our country is to remain competitive in world markets, and if rampant inflation is to be controlled. We are being outproduced by Great Britain, Canada, Switzerland, Sweden, West Germany, France, The Netherlands, Denmark, Belgium, and Japan.

In 1978, Japan's productivity increase was in excess of 8 percent while the U.S. rate was approximately 2 percent. In view of this alarming trend, I am especially pleased to commend to my colleagues' attention two articles depicting the remarkable increase in productivity achieved by the Dana Corporation of Toledo, Ohio. One of these articles is from the October 19, 1979 New York Times, and the other is from the November 5, 1979 Fortune magazine.

Both articles should be studied and shared with business leaders in your own congressional districts, because Dana's phenomenal success over the past decade can be emulated, through the same kind of dynamic management enjoyed by Dana. These articles outline the innovative, enlightened leadership given Dana by Rene McPherson and Gerry Mitchell since 1971—leadership which has resulted in a 300 percent increase in productivity during that period. I am proud of the record compiled by Dana, its workers, and Rene and Gerry. They have set an example for American industry to follow.

The two articles follow:

DANA: FEW RULES, MANY SALES

(By Thomas C. Hayes)

TOLEDO, OHIO, October 17.—When Rene C. MCPHERSON became president of the Dana Corporation 11 years ago, one of his first acts was to toss out the company's 22½-inch-thick book of policies and procedures. He has been writing his own book on management ever since.

Scrapping the rulebook was Mr. McPherson's first move in a long and uneven but notably fruitful campaign to transform Dana into a more nimble organization that could weave its way out of its traditional dependence on the automobile industry.

Today there is no denying Dana's success. The company has moved effectively to broaden its product line of axles, engine parts and other auto components and to reach into new markets in an effort to escape the cyclical downturns that have plagued Detroit and its suppliers.

Dana's earnings have increased for eight consecutive years, and during this period its sales have quadrupled to $2.7 billion. Most analysts who follow Dana rate its stock a "buy" for the long term.

ROLE OF THE EMPLOYEES

The reason behind Dana's enviable growth record in a maturing industry, its top executives maintain, is a management credo that employees know more about their work than their superiors do and, if given the chance, will devise and volunteer ways to improve work procedures, cut costs and thereby sharpen Dana's competitive edge.

This appears to be happening. Dana's productivity has nearly tripled since 1971, to more than $72,000 of sales per employee last year, while the nation's productivity growth was slowing to barely 1 percent a year. Moreover, Mr. McPherson says proudly, more than 80 percent of Dana's employees now own stock in the company.

"If you have opportunities for growth and freedom in your job so that you can contribute," he declares, "and you are not contaminated by the idea that you have to go to Harvard or M.I.T. or serve in the Army or in the Navy to be a worthwhile person in a business, then there's just no limit to what you can accomplish."

Critics might reply that it is relatively easy for Mr. McPherson, whose own credentials are impressive, to expound the theme of getting ahead strictly on merit. The 54-year-old chairman is himself a graduate of the Harvard Graduate School of Business Administration, and he was a bomber pilot during World War II. And next fall he will succeed Arjay Miller, a former president of one of his largest customers (the Ford Motor Company) as dean of the prestigious Stanford University Graduate School of Business in Palo Alto, Calif.

NEXT, A "BLUE-COLLAR" MAN

But the evidence of Mr. McPherson's conviction is apparent in the transition at Dana. When Mr. McPherson gives up the chairman's job, he will be succeeded by Gerald B. Mitchell, currently Dana's president and for many years Mr. McPherson's strong right arm. Mr. Mitchell began his business education at age 16 as a blue-collar worker at a parts-finishing machine.

Mr. Mitchell, a burly, blunt Canadian of 52 who waves a long cigar as he talks with ease and self-assurance, scoffed at the notion that growing multinational companies such as Dana need to exercise greater control over their workers through formal procedures.

"Big books of formal procedures are simply there to give protection to the managers," he said. "If something goes wrong, either they say somebody didn't follow the rules or they make up another rule to be sure it won't happen again. I saw it all the time," he said of his years working up the ladder. "All we ever got were Dana's procedures shoved in our face."

In 1962, in a list-ditch effort to save Dana's faltering Hayes-Dana division in Canada, Mr. McPherson was sent as division manager. He won a go-ahead from the desperate home office to try some different, informal techniques.

A TRIUMPH FOR THE TEAM

The change was dramatic. Six successive years of losses ended the first year he was there. In Dana's recently completed fiscal year, the division contributed more than $220 million in sales, compared with only $10 million in 1962. The turnaround was a triumph for the McPherson-Mitchell team.

Mr. McPherson and Mr. Mitchell preach autonomy for managers as well as for workers. When the two executives moved up to become chairman and president in 1973, their determination to unshackle Dana's 27 divisions and 70 far-flung plants from home-office control became more vivid, especially to people at Dana headquarters. The corporate staff was slashed from more than 400 to approximately 150.

Earlier an elaborate, computer-based management information system had been junked. "It was called SEMA—for Sales, Engineering, Manufacturing and Accounting," recalls Stanley W. Gustafson, executive vice president for corporate affairs and Dana's chief financial officer. "But we turned it around and called it 'a mess.' Everyone had reports filled with numbers, but we didn't make good use of them."

Today a series of charts on sales, profits and inventory trends, stock market developments, economic forecasts and other data sought regularly by corporate executives is accessible through a $30,000 television system designed by Dana engineers.

The company rarely hires a person for a job above a beginning level, and it believes in promoting from within. This policy reflects Dana's "store manager" concept of managers. The idea is that managers can maintain an intuitive feel for their operations by being familiar with all the jobs in the shop.

Dana's promote-from-within policy led to the development 10 years ago of "Dana University," an in-house school that today is taught principally by former Dana executives and division managers. The students are all Dana employees, sent by division managers from around the country.

They study management principles, accounting, cost analysis and other skills that the school's "board of regents," composed of nine Dana division managers, believe are in greatest need among their employees. No workers are required to attend the school, which is housed in a new building at the corporation's campus-like, colonial-style headquarters outside Toledo, but places there are eagerly sought.

For his part, Mr. McPherson has mixed feelings. He considers Dana U. a great success for people interested in management careers, but he emphasizes that it must attract more machine workers and other blue-collar employees, who have been notably absent.

"They've been taught that they are the cast-offs of the educational system," he said.

UNLEASING PRODUCTIVITY

Gerald B. Mitchell, 52, the cigar-wielding, onetime production worker who has just been chosen as the next chief executive of Dana Corp. (sales: $2.8 billion), has little patience with academics who agonize endlessly over how to boost productivity. "There's nothing magic about the goddamn thing," asserts Mitchell, who obviously knows what he's talking about. In just seven years, the Toledo-based manufacturer of automotive parts and industrial products has doubled productivity—reckoned as sales per employee, in constant dollars—and earnings per share have grown at an annual rate of 15 percent.

Mitchell, now the operating chief, was picked for the top job after Dana's present c.e.o., Rene C. McPherson, was appointed dean of the Stanford Business School. Mitchell attributes his company's impressive performance to the informal, people-oriented management style that McPherson developed and that both men have inculcated with a religious fervor. To bring middle-level managers into close contact with top officials, McPherson and Mitchell have slashed the corporate staff. Managers are constantly urged to bring ideas or problems directly to top executives—whose doors are open—rather than to write memos. With fewer memos to read, top executives have more time to listen.●

THE REAL CAPTIVES OF HOSPITAL COST CONTAINMENT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. BROYHILL. Mr. Speaker, it has been said many times throughout the years. It has been said in many different ways.

The theory behind our American Government is that it only does for our citizens what they cannot do for themselves. How many times have we heard it lamented in this body that Government simply cannot be all, that it cannot do all, for all?

In this light, I find it extremely commendable that in late 1977 the hospital industry banded together, voluntarily, to form a network of organizations working together to hold down rising health-care costs. This strategy, known as the voluntary effort, has proven successful.

Yet, some are now proposing that we pass legislation which would, in effect, disenfranchise the voluntary effort. Some misguided Members of this body are proposing that we reward the successful and earnest efforts of the hospital industry by thrusting on it an elaborate and complex plan for the containment of hospital costs.

I would submit to you that what we would be containing here are not costs, but rather the thousands of hospital industry employees who have worked so diligently and responsibly without Government mandate to hold down health-care costs.

Specifics of the proposal aside, does it make sense to implement a Government program, replete with exceptions, loopholes, regulations, paperwork and bureaucratic control, tax dollars, when a voluntary system is already functioning successfully?

I believe that the following column by James J. Kilpatrick sets the issue in the proper perspective and I would commend this article to my colleagues' attention.

The article follows:

THE REAL CAPTIVES OF HOSPITAL COST CONTAINMENT

(By James J. Kilpatrick)

WASHINGTON.—One of the great philosophical conflicts of our time, affecting countless areas of public life, is the conflict between the voluntary and the compulsory. For a classic example, consider the pending bills on hospital cost containment.

The Rangel-Waxman bill in the House and the Nelson bill in the Senate address the same problem and propose more or less the same solution. The problem—and it is undeniably a serious one for many American families—has to do with the rising cost of hospital care. The solution advanced by Democratic liberals is to impose limits upon hospitals' revenues and expenses.

To be sure, the legislative proposals make a gesture toward voluntarism, but it is only a gesture. The nation's hospitals would be subject to what is grandly described as a "national voluntary percentage limit" upon their expenses. Ten Rube Goldbergs, working night and day, could not have produced a more complex, more mystifying, formula than the authors of this legislation have devised.

The Nelson bill, by way of example, requires the separate computation of several arcane factors. One involves the average percentage increase in the hourly wages of hospital employees across the entire country "as determined or estimated by the secretary from time to time." A second factor is reckoned from the increase in the cost of various goods and services "as determined or estimated by the secretary from time to time." It is a rubbery kind of limit, it appears, that depends for its imposition and enforcement upon the "estimates" of the secretary of Health and Human Resources.

Nevertheless, the general idea is that such limits would first be fixed nationally, then state by state, then hospital by hospital. The institutions would find themselves bound hand and foot at every step along the way. Under the House bill, each individual hospital would have to adjust its procedures "to the satisfaction of the secretary," or "as the secretary shall provide." Each hospital would have its own mandatory percentage limit for its own accounting periods. In the end, hospitals that failed to meet the secretary's demands would suffer a civil penalty of 150 percent of the excess income.

Translated from the gobbledygook, what appears to be proposed is a maximum increase, nationwide, of 11.6 percent in hospital costs for 1979 as opposed to the same costs in 1978. Two observations are in order: First, the formulas are so complex and contain so many exceptions, adjustments and individual calculations, that no hospital administrator can know with certainty where he stands. And second, the cost of the paperwork involved in this lunacy—taken in conjunction with other bureaucratic requirements for new accounting procedures—will impose one more heavy expense upon the hospital and eventually upon the patients.

These elaborate, tedious, nitpicking procedures are wrong not only in practice but in principle alone. By their own voluntary efforts, American hospitals already have made excellent headway in holding down their costs. With lively imagination and able administration, hundreds of institutions are demonstrating new kinds of efficiency. If Congress were committed to voluntarism as a way of life, Congress would leave the hospitals alone and look to the government's own extravagance and waste instead.

But voluntarism has a tough time of it these days. Over the past 25 years, the trend of government has been constantly toward compulsion. Fountains of regulations still run at full volume. Granted, American industry has brought some of this flood on its own head by fostering shoddy products, slippery warranties, dangerous workplaces and the like. Ironically, hospitals have the cleanest record in this regard, but they bear the heaviest burden of regulation.

If the cost containment bill passes, the White House says the cut will save the American people $56 billion "in the next few years." That is the kind of misty calculation we get from the White House under Mr. Carter, compounded of impressive figures resting upon unsupportable evidence. Significant savings could be achieved only by significant reductions in hospital services.●

W. L. KINDLE: AUSTIN MAN SCORES BIG

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. PICKLE. Mr. Speaker, some people feel that Federal Government programs are as popular as cockroaches in the kitchen.

But the Government is big, and like anything big, there are good and bad programs. I have found that the good programs are good mainly because of the people who run the program.

This is certainly true for the Service Corps of Retired Executives, or SCORE, as it is managed in Austin, Tex.

The Austin district representative is tops, and he makes the program.

Recently this man, W. L. "Pup" Kindle, was honored on his 79th birthday in a magazine published by Exxon. "Pup" worked for Exxon for 33 years until retirement in 1965.

He has not stopped since. Three times he has been named the SCORE "Man of the Year"—in 1965, 1967, and 1973. One year he was not "Man of the Year"; instead he was given a Presidential SCORE citation and a Presidential citation for volunteer services.

Mr. Speaker, I insert the article "No End of the Trail in Sight" in the RECORD. The article will tell the full story of "Pup's" activities.

The article follows:

NO END OF THE TRAIL IN SIGHT

(EDITOR'S NOTE: Some people (and companies) meet life's challenges more completely than others. They never stop contributing. Such a person is W. L. "Pup" Kindle, who retired from the old Humble Oil & Refining Company in 1965, after more than 33 years' service. A young 79 today, he remains one of the most remarkable individuals the writer has ever known.

(Pup has never allowed himself to be trapped in the web pictured by James Barrie, who said: "The life of every man is a diary in which he means to write one story, and writes another; and his humblest hour is when he compares the volume as it is with what he hoped to make it."

(In short, Pup is what a good businessman is all about. The value he offers is permanent, as well as temporal.)

Loss of purpose—real or imagined—does not afflict W. L. "Pup" Kindle, even though he has just passed his 79th birthday. He is not looking for a rocking chair or the end of the trail. Although knocked to his knees by a nearfatal heart attack during the prime of his company career, he has more energy and a more positive outlook on life than a multitude of far younger people.

When Pup retired from the old Humble Oil & Refining Company in 1965, after more than 33 years' service, he dedicated himself to helping others in every way he could. He is still making good.

Pup found his niche with the National Council of the Service Corps of Retired Executives (SCORE), for which he was appointed a regional representative—representing chapters in Texas, Oklahoma, Louisiana, Arkansas, and New Mexico. SCORE, founded in 1964, provides free management counseling and other consulting services to small businessmen and women throughout the country.

SCORE OBJECTIVES

SCORE's relations with the people served are completely confidential and person-to-person. SCORE volunteers work in their home communities or nearby. They provide their services without charge, but are reimbursed for out-of-pocket expenses.

Not all of the businesses helped by SCORE are small. One did $3 million worth of business a year. Another was sold for $9 million. But most companies helped are run by people who cannot afford a business consultant. SCORE does not conflict with the efforts of consultants who are small businessmen themselves.

Pup personally recruited many of SCORE's lawyers, engineers, bankers, accountants, economists, plant managers, production analysts, and other professionals who help carry out SCORE's advisory mission.

"Studies have shown us that 90 percent of the businesses which fail did so because of poor management, not insufficient capital," Pup explained. Having held a variety of positions in sales training, sales management, sales supervision, and selling itself with Humble, Pup was well-qualified to begin serving SCORE.

He has been named Regional SCORE "Man of the Year" on three separate occasions: in 1965, 1967, and 1973. In 1971, he received a Presidential SCORE Citation and a Presidential Citation for Volunteer Services.

A delegate to the White House Conference on Aging in November, 1971, Pup was appointed to the Texas Governor's nine-member Committee on Aging for a five-year term. He is now serving his second five-year term in this capacity.

Pup is frequently invited to speak about aging concerns. Through his leadership, the Austin, Tex. First Southern Presbyterian church, of which he is a member, conducts Senior Tuesdays and provides meals and entertainment for about 100 aging neighborhood residents.

Hardly slowing down to catch his breath, Pup participates as a member of the Arabia Shrine Temple, Downtown Austin Lion's Club, Better Business Bureau's Consumer Arbitration Council, and the Advisory Committee for Station KTVV–TV.

THE NAME STUCK

Colorful Pup Kindle played semi-professional baseball and later served as an umpire in the old East Texas Baseball League during the '20s. In the process, he acquired the nickname "Bulldog."

Invited to umpire a game for the West Texas League one day, he introduced himself as "Bulldog Kindle of East Texas." His answer was: "You might have been a bulldog in East Texas, but you're just a pup out here." He's been known as Pup ever since.

During the '30s, Pup scouted for several major league baseball clubs, before entering banking for 10 years, and prior to joining the oil business. He still carries an ID card as a "commission scout" for the St. Louis Cardinals.

Pup's career with the company, which began as a tank truck driver, has equipped him well for his SCORE consulting duties. He served as a truck salesman, salaried bulk agent, city salesman, zone salesman, district salesman, specialty salesman, industrial products salesman, local manager, district manager, and finally, as sales training coordinator before his retirement.

He was drafted into the Army at age 42 and had served for three months at Camp Lee, Va., when he was released to civilian life as "too old."

Looking at his prolific activities today, this long-ago decision seems a bit strange. "My wife, Jean, deserves a lot of the credit for my youthful approach to life," Pup admits without hesitation.

THE BOTTOM LINE

So what's the bottom line? In his open way, Pup comes right to the point: "Conservative estimates indicate that by the year 2000, one out of every five people will be 60 or older. People are living longer. A great many of them aren't ready for the rocking chair when they retire. They have gained invaluable experience during their business careers which can be used effectively in helping others. Many of the problems this country faces can be at least partly solved through such efforts. It's an opportunity to keep American ingenuity and productivity at satisfactory levels. And as human beings, sincerely grateful for the opportunities the American free enterprise system provides, it's a challenge that more and more senior citizens are and should be accepting. SCORE is a fine organization, and I have thoroughly enjoyed participating in it. But there are many ways of helping to make life just a little better for our neighbors. If we look for them and act upon them, we can help pay the transportation costs for our own ride."●

STUDENT LOAN FORGIVENESS IN EXCHANGE FOR ACTIVE OR SELECTED MILITARY SERVICE

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. PETRI. Mr. Speaker, I have, this week, introduced two amendments to H.R. 5192, the reauthorization of the Higher Education Act of 1965. They would permit a limited student loan forgiveness in exchange for Active or Selected Reserve military service. The amendments have the support of many of my distinguished colleagues, as well as the support of numerous independent military and education associations. These groups include the National Guard Association of the United States, the Reserve Officers Association, the Non Commissioned Officers Association, and the American Association of Community and Junior Colleges. Although the amendments were drafted just this week, I have already received many letters of encouragement. Mr. Speaker, for the benefit of my colleagues, I reproduce some of the letters at this point in my remarks, from a student in my district, from the Non Commissioned Officers Association, and from the Massachusetts National Guard Enlisted Association.

The letters follow:

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA,
Washington, D.C., October 31, 1979.

Hon. THOMAS PETRI,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. PETRI: The Non Commissioned Officers Association of the U.S.A. (NCOA) strongly supports your amendment to the "Higher Education Act," H.R. 5192, which will provide a limited program of forgiveness of student loans in exchange for honorable military service.

Although NCOA normally would not take a position on forgiveness of student loans, we believe that your amendment will provide such a significant incentive to military service that it must have our support.

Education opportunities provided by the G.I. Bill have been the motivating factor in 1 of every 4 enlistments according to a 1977 Defense Department study. However, this program was terminated by Congress and recruiting has suffered. Hopefully, your program will reinforce the value and necessity of providing education benefits to members of our armed forces.

With warm regards, I am,
Sincerely,
RICHARD W. JOHNSON, Jr.

OSHKOSH, WIS.,
October 25, 1979.

Mr. THOMAS E. PETRI,
Longworth House Office Building,
Washington, D.C.

DEAR MR. PETRI: I have recently read about about your speech to the Wisconsin Association of Student Financial Aid Administrators and feel that such a proposal would be a step in the right direction.

I like the idea of the forgiveness of federal student loans as an inducement for college graduates to sign up for service in the national guard or one of the military reserve branches.

If such a bill is passed by Congress, then maybe there won't be any more talk about bringing back the draft and we both know how many people are not in favor of that.

Cordially yours,
MARTIN HUEBNER, *Student.*

BRAINTREE, MASS.,
November 1, 1979.

Representative THOMAS E. PETRI,
Committee on Education and Labor, House of Representatives, Washington, D.C.

The Massachusetts National Guard Enlisted Association supports fully Representative Thomas E. Petri's amendment to H.R. 5192 and requests your support for the same. Reply requested.

RAYMOND D. ROGERS.●

IN SUPPORT OF COAL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. RAHALL. Mr. Speaker, today I had the opportunity to co-host with Congressman JOHN MURTHA a rally attended by 700 coal miners and operators in support of our greatest natural resource—coal.

Mr. Speaker, today there are over 14,000 miners out of work and many of those in attendance at the rally from West Virginia, Pennsylvania, Kentucky, Ohio, and Virginia traveled hundreds of miles to send a message to the Congress that coal can and will play a dominant part in our energy picture, if only given a chance. Today the coal industry has an excess capacity of over 100 million tons. Yet we continue to import over 8 million barrels of oil per day. Over and over the administration calls for more reliance upon coal; however, those calls are for the future. Well, Mr. Speaker, I do not believe that the future is a decade away. I believe it is today. Both the administration and the President's Coal Commission claim that utility conversion to coal provides our most immediate solution to our dependence upon imported oil, yet, since 1973 only one utility has converted to coal and this resulted after 4 years of battle with Government agencies.

Yesterday, I offered an amendment to the measure to establish an Energy Mobilization Board which provides that any utility converting from oil or natural gas to coal or a coal-derived fuel would receive priority status upon application to the Board. I believe this will provide the impetus for utility conversion because coal conversion is not 5 or 10 years down the road, it is now.

Mr. Speaker, the amendment I offered and the rally held today do not answer all the questions which need to be answered; however, I believe it sends a signal to the American people that we in the Congress are serious about coal for it is indeed "America's Ace in the Hole." I want to commend the hundreds of miners, operators, Members of Congress and Government officials who took part in the rally and reaffirm my belief that coal can and will play a dominant part in our energy picture if we only give it that chance it deserves.●

HOUSE JOINT RESOLUTION 430

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. DAVIS of Michigan. Mr. Speaker, when the House passed House Joint Resolution 430, providing emergency appropriations to assist low-income households with their heating bills this winter, I voted in favor of the bill because of the urgency of this matter, and not because I support the legislation as it was written. Indeed, had this body been given the time to completely consider and implement a winter heating assistance program, House Joint Resolution 430 would have been inadequate.

First, the fact that almost one-third of the appropriations in this measure is targeted to all supplemental security income recipients—whether in Maine or Hawaii—seems specious at best.

But my major concern involves the objective of winter heating assistance in general. Such assistance must be targeted first to elderly households, and then to unemployed households and finally to those low-income households which are receiving assistance in other forms. However, House Joint Resolution 430 takes virtually the opposite approach by directing almost $800 million to the aid to families with dependent children (AFDC) program. This will constitute assistance to the most adept assistance beneficiaries in our economy. AFDC recipients know the system. They know where to go to get extra benefits they may be eligible for. But the chances are significantly better that elderly individuals know none of the above and indeed may not even know that any assistance exists for them. Thus, in a worst case scenario, if a Governor does not opt to take a State's AFDC allocation as a block grant, AFDC recipients would be given a supplemental payment this winter, and then go to the nearest community services agency to receive even more assistance from the crisis intervention program. Consequently, while AFDC recipients may "double-dip" this winter, many elderly and poor households may not dip at all.

Another fault with using AFDC as a conduit for assistance this winter is that other programs exist in operation which may provide assistance to more people. For example, in my State of Michigan, if the AFDC program is used, at least 89,000 households (approximately 200,000 individuals) will stand to lose. This is the number of households or individuals who receive food stamps (under essentially the same income eligibility criteria) but do not receive benefits under AFDC. And even the food stamp program has been indicated to reach only about 50 percent of those households living under the 125 percent of poverty level.

In my opinion, the key to any assistance program is its eligibility criteria. AFDC and food stamps programs both use the 125 percent of poverty income level. Indeed, almost all benefits programs for "poor" individuals and households use this figure. But this criterion cuts many needy households, especially elderly ones, out of any much needed aid. Some individuals receiving the maximum social security benefits are ineligible under the 125-percent level. Elderly households are particularly affected by this cutoff since such people are more vulnerable to the effects of cold weather and since they can do little about their heating needs or their employment situations.

The statistics relating to the rise of heating costs from this year over last year and about the percentage of overall living costs taken up by heating needs have been well discussed during the debate on House Joint Resolution 430. The Northeast-Midwest Congressional Coalition has prepared some excellent data in this regard. However, the specific need for targeting extra attention toward elderly citizens needs further elaboration.

I would recommend that elderly households living below 150 percent of the level of poverty be eligible for winter heating assistance. In Michigan, there are 70,000 elderly households living between 125 percent and 150 percent of the poverty level. Most of these households are one- and two-member families living in homes which used to house entire families—children as well as parents. While heating costs for a residence remain the same for that residence, the per individual cost is reduced with more members of a household to spread the costs over. Thus, a two-member household will have to pay the same fuel bills as a four-member family, but will have less money to pay the bills with. And since most elderly households are one- and two-member households, it stands to reason that elderly citizens are more adversely affected by the 125-percent cutoff. In fact, even a 150-percent criterion may be low. For instance, in Michigan, the average heating bill is expected to reach $1,130 this winter. This does not even account for the extreme variations in my State (my portions of district right now have 10 inches of snow) which stretches almost 400 miles between its northern and southern limits. A family of two would be allowed to receive benefits if its income was less than $5,625, under the 125-percent cutoff. This means that after taking into account the average heating bill of $1,130, the family's income would be less than the national poverty level. The two individuals would be left with $4,490 or $373 a month—$187 apiece—with which to feed, clothe, medicate, and transport themselves. Again, elderly individuals, especially in a district as cold as mine, would be adversely affected by this fixed figure, since the colder it gets, the more clothing is necessary to meet heating needs. Also, my district is very rural, and it is not uncommon at all for citizens to travel 30 miles to the nearest grocery store or drug store.

Clearly, then, more flexibility is needed to provide a greater proportion of assistance to elderly individuals and households. In addition, it is essential that the poverty level takes into account such regional and subregional factors as climate, housing stock age and cost, the necessity of travel to meet basic needs and other local and regional considerations.

Thus, it becomes evident that individual States are in a better position to determine who should receive how much. The formula provided in House Joint Resolution 430 which gives attention to heating degree days, as determined by the National Oceanic and Atmospheric Administration (NOAA), is a step in this direction since States' individual heating requirements will be taken into account.

In my opinion, then, the bottom line in administering an assistance program such as the one being considered lies with the individual States. The decision to allow State Community Action programs run their portion of the winter heating assistance program is commendable. However, this appropriation is far too small, and a measure more resembling the Senate amendment to the Interior Appropriations bill is more appropriate.

Community services administration's Michigan CAP has proposed to drop the requirement that crisis intervention program applicants show a shutoff notice or an overdue payment notice in order to qualify for assistance. This revision should defray much of the criticism which has been levied against the program. In any analysis, however, the crisis intervention program, with its more equitable and open eligibility criteria and with its State by State administration, will be far more responsive to local and regional differences in heating requirements than will be the SSI and AFDC proposals as envisioned in House Joint Resolution 430.

This is not to say that when the House is given time more fully to consider an appropriate and effective winter heating assistance program it should give primary emphasis to the community services administration's program. In fact, I would prefer to see an apparatus which could provide assistance to anyone whose income is under 125 percent of the regional or State level of poverty, or under 150 percent of this level for elderly households. Although this essentially is what the CSA requires, I believe that the method of payment should be altered.

First, the amount of assistance provided should be determined by the amount that an individual or household must pay. Although it may be impracticable, I believe that a program similar to

the Department of Housing and Urban Development's section 8 program should be considered during deliberations of a more permanent winter heating assistance program. Under such a program, a fraction of one's heating bill would be subsidized, and the rest would be paid by the individual.

Second, I mentioned above that Michigan's community action program has dropped the requirement of overdue payments for its applicants. In addition to this, any winter heating assistance program must not require the beneficiaries to pay their entire fuel bills before receiving any assistance. A recent DOE study pointed out that poverty-level individuals in the Midwest spent 81.9 percent of their monthly income on heating, utilities, and housing if they used gas; and 92.9 percent of their monthly incomes on these uses if oil was their energy source. Obviously, such individuals absolutely cannot pay such bills without prior assistance. Thus, it would be advisable to require that the consumer pay a certain portion of his or her bill and that a credit for the rest of the bill is arranged with the vendor. Preferably, the vendor would be compensated in advance, and the consumer would then receive needed fuel without either the vendor or the recipient having to go into debt.

Third, I am concerned about the nature of a cutoff. Presumably, if a theoretical eligibility criterion limits income to $4,000, one would become automatically ineligible if his or her income were $4,001. I have received letters from senior citizens in my district indicating that such a situation in fact has effected them. Most of these elderly citizens' incomes fall between 125 percent the level of poverty and 150 percent. However, the fact that benefits would be cut off if one were earning or receiving $1 dollar more than the cutoff, surely is inequitable. The obvious solution, therefore, is a phaseout of benefits for those individuals whose incomes are greater than the cutoff but still low enough to warrant assistance for winter heating bills.

Finally, as always is the case, the middle-income taxpayer seems to be neglected again. This is the member of that sector of our economy which is wealthy enough to pay taxes—accounting to proportionately the largest taxes-to-income ratio—and not poor enough to qualify for any income assistance. A number of legislators have recommended that some form of assistance is provided to this taxpaying economic sector. I wholeheartedly support such proposals.

In conclusion, I have attempted to demonstrate that House Joint Resolution 430 is an expedient but it should not be considered as a basis for a long-term winter heating assistance program. I have offered some recommendations which should be considered by the House in its future deliberations concerning such a program. But above all, it is essential that these two considerations are kept separate. That is, we must act now to implement an emergency appropriation for heating assistance this winter. In this regard, we must avoid entering into a procedural or jurisdictional jungle with the Senate over the two versions of heating assistance appropriations. Time is of the essence, and the two Houses of Congress have to cooperate in providing money for this winter.

However, as soon as this winter's appropriations are completed, we must begin our deliberations on a more equitable and responsive program.●

ANALYZING THE SANDINISTA REVOLUTION IN NICARAGUA

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. DODD. Mr. Speaker, because of the importance of recent events in Nicaragua and the American media's perception of those events, I would like to submit for publication in the RECORD Max Holland's "Nicaragua: A Despot Falls, The Press Stumbles," as printed by the Columbia Journalism Review. I am sure that my colleagues will find this article enlightening and useful in analyzing the Sandinista revolution in Nicaragua.

The article follows:

NICARAGUA: A DESPOT FALLS, THE PRESS STUMBLES

(By Max Holland)

How well does the American press report a popular revolution that challenges United States policy? In Iran, badly. In Nicaragua, better—although still too much the way the falling leader and the State Department see it.

Compared with coverage of the shah, whose image as a merely willful modernizer endured until the last days of his regime (and persists in some quarters still), Nicaragua's President Anastasio Somoza Debayle had a bad press. A year ago, for example, with both men still in power, the first issue of the new Life found the shah to be "autocratic," while Somoza was offered to the readers—flat out—as a "dictator."

The press as a whole lent little credence to Somoza's portrayal of himself as a legitimate and progressive leader. References to his "support of labor unions, minimum wage scales, agrarian reform, social security, a national medical scheme, compulsory education, and so on" were to be found mainly in guest columns, ostensibly written by Somoza himself, in The Christian Science Monitor (October 19, 1978) and The New York Times (March 6, 1978). With the revolution under way, moving accounts of its human costs were filed by Guy Gugliotta of The Miami Herald, Leonard Greenwood of the Los Angeles Times, Karen DeYoung of The Washington Post, and Bernard Diederich of Time.

But the press failed where it was most important to succeed: in reporting the politics of the revolution and the diverse but compatible motivations of the opposition coalition. To be sure, the anti-Somoza forces within Nicaragua's business community—organized into the Broad Opposition Front—found themselves adequately represented in the American press. These were people, however, whose motives were readily accessible to Americans raised to value a free market. As Alan Riding pointed out in the July 30, 1978, New York Times Magazine, the business community—a traditional ally of the Somozas—began to desert because "they were unaccustomed to and angered by what they considered 'unfair competition' from the Somoza group during the profitable reconstruction boom [after the catastrophic 1972 earthquake]."

The Sandinistas themselves did not fare so well in the American press. Somoza, of course, maintained that the leaders of the Sandinist National Liberation Front, (FSLN) were simply Marxists controlled by Cuba, and that Nicaraguan businessmen who supported them, as well as the several Latin American nations which did likewise, were essentially dupes. Little was known about the armed rebels until the nationwide uprising of September 1978, but in the absence of better information the press simply cast the opposition in the role that Somoza had written for it:

"The guerrillas are trying to overthrow Somoza and install a Marxist government in Nicaragua." (Combined news services. The Washington Post, August 25, 1978)

"The guerrillas advocate a Marxist society." (The Associated Press, August 31, 1978)

". . . a Marxist government boasting close ties with Cuba . . . would be a rallying point for other Communist groups planning takeovers in neighboring countries." (U.S. News & World Report, September 11, 1978)

The September mutiny—when popular insurrections and a general strike followed the seizure of the National Palace by Commander Zero and a platoon of guerrillas—forced most news outlets to take a closer look at what was happening in the country. It became increasingly apparent that the Sandinistas were not a monolithic band of conspirators, and that a popular movement that cut across class and ideology was behind the effort to put an end to the Somoza dynasty. "President Somoza charges Cuba is behind the current unrest," the AP reported on September 14, "but the Marxist-oriented guerrillas recently have been attracting youths of various political and social colorations." The "militant Marxist" (The Washington Star) or merely "Marxist" appellation used before the uprising gradually gave way to "Marxist-led" (Los Angeles Times), until by the spring most outlets simply identified Somoza's armed opponents as "Sandinistas" or "guerrillas."

Dropping the pejorative buzzwords was not much of an improvement, however, for there were other ways to cast aspersions on a movement whose national character the press still failed to appreciate. The way Newsweek turned the knife was typical: "To prepare for a new order in Nicaragua," the magazine wrote in "Marx and Nicaragua," a July 23 report, "the Sandinistas issued a 21-page program of reforms that seemed reassuringly moderate—on paper. There was some question about how much that paper was worth." The insinuation was clear: whatever the apparent acts, guerrilla leaders could not be trusted to deny what North Americans were accusing them of. This school of thought might be called the expanded-dupe version, since now—in addition to Nicaraguan businessmen and Venezuela and Costa Rica—the dupes included the great mass of the Nicaraguan people.

The Sandinistas had tried to explain themselves and their movement to the American press during the final ten months of struggle, and not a few interviews were published with Sandinista spokesmen and military figures. Understand our history, they repeatedly admonished, and you will understand what we believe in and why we have taken up arms.

The American press did convey some of this history, largely by recounting the fact that the United States had installed Anas-

tasio Somoza García as the first commander of the National Guard (in 1933), the number of years the Somoza dynasty had been in power (forty-two), and something about the fact that the U.S. had trained and equipped the Guard for decades (resulting in the highest per capita military assistance for training to any country in Latin America).

But Americans learned little of how Nicaraguans experienced this history, of what it meant to them, and therefore could understand little of why they were willing to pay such a terrible price in human lives to overcome it. American reporting failed to convey the movement's deep roots in the frustration and suffering of the Nicaraguan people.

The way the press reported the American mediation effort during Somoza's last months was symptomatic of this failure. Jeremiah O'Leary stated the theme in The Washington Star on July 1, implicitly condemning the Sandinistas as sectarian and describing the U.S. effort as "aimed at establishing a link among the other groups so there can be some hope that a moderate and broad-based interim government can replace Somoza." Ultimately, of course, both the American government and most of the press came to realize that the moderates had no popular support—precisely because they represented no break with the Nicaraguan past and hoped that the United States would intervene to rid them of Somoza, while salvaging something of Somocismo. The Sandinistas, in contrast, railed against U.S. intervention, since it was U.S. help that had played a crucial role in bringing about the hated dynasty in the first place.

Having a poor understanding of the dynamics of the Nicaraguan revolution, the American press was easy prey for talk of conspiracy and external inspiration. If generals always refight the last war, journalists frequently view the future through the past, and the notion that Nicaragua could become a "second Cuba" took hold—encouraged, no doubt, by the State Department and the White House. The Miami Herald and The New York Times were two papers which resisted the fatal simplicity of the analogy, and on July 8 Alan Riding, the Times' Central American correspondent, even warned about the self-fulfilling potential of the comparison: "If Washington fears a 'second Cuba,'" he wrote, "many Latin Americans believe that Washington helped create the 'first' Cuba by alienating the young Castro regime."

History does repeat itself—but never exactly. A case can be made, moreover, that to understand an event on its own terms it is the differences and not the similarities that matter. But the American press as a whole did not understand enough about Nicaragua and its history to come to terms with the uniqueness of the revolution, and it had little but cues from the State Department and its own memory of Caribbean revolutions to guide it.

Thus, far into events, we find Time solemnly informing its readers in this year's July 30 issue that "To Time Correspondent Bernard Diederich, who was in Havana 20 years ago when Fidel Castro's bearded guerrillas marched into that city, there were striking parallels. . . . The FSLN's slogan, Free the Fatherland or Die, was the battle cry of Nicaragua's legendary rebel leader of the 1930s, Augusto Sandino. It had inspired the Castroite catch phrase, Fatherland or Death."

In the rush to analogy, however, Time forgot Patrick Henry's little phrase, give me liberty or give me death, as well as the revolutionary injunction that used to adorn all New Hampshire license plates: live free or die. Conceivably these sentiments, too, inspired the Nicaraguan revolution.●

CONSERVATION: OUR BEST ALLY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. DOWNEY. Mr. Speaker, although Congress is now moving rapidly toward the passage of several components of President Carter's energy program, one vital element continues to be slighted—energy conservation. Conservation is our best, cheapest, and quickest source of oil supply. Yet, in spite of all public pronouncements to the contrary, we continue to consume and import oil far beyond our means to pay for it.

A column by Anthony Lewis which appeared in today's New York Times analyzes the role conservation can play in solving our current energy problems as well as the dangers we will face if we do not start to conserve immediately. It is an excellent article and I strongly commend it to my colleagues' attention.

The text follows:

THE ENERGY DISASTER: III

(By Anthony Lewis)

BOSTON, October 31.—Anyone who thinks this country is serious on the subject of energy should consider three recent Washington events:

The Commerce Department reported that the United States spent $5.8 billion on oil imports in September, the highest monthly figure in history.

The Senate voted overwhelmingly for legislation that would let Congress block any attempt by the President to put fees on oil imports or limit their volume.

The House, reversing an earlier decision, voted to continue price ceilings on gasoline.

Those three events tell us—and tell the world—that in the critical period immediately ahead America will take no effective action to deal with its central energy problem. That is its dependence on increasingly costly foreign oil, a dependence that poses high political as well as economic danger.

In the long run the United States can hope to reduce its dependence on oil imports by coming up with alternative domestic sources of supply. It is likely to be a very long run—10 years, say, before significant quantities of synthetic fuel can be produced. That is not a reason for giving up the attempt; to the contrary, it means that diverse and determined efforts should be started. But they cannot get us past the crunch of the 1980's.

The only way to make ourselves less susceptible to dislocation by changes in the price or availability of foreign oil is to reduce our demand. The immediate ways to do that are no secret: let American gasoline prices rise toward the European level, which is about twice ours; put a heavy new tax on gasoline; ration it; put levies on oil imports.

But those are precisely the ways that Congress is not prepared to accept. Even its reluctant agreement to a standby rationing plan is conditioned on a supply crisis so severe that the country would in any event be on something like a wartime footing. As for raising the price at the gasoline pump, by either increasing the tax or removing controls, that is evidently unthinkable.

President Carter is hardly any more willing to grasp these nettles. Although he did bravely do away with crude oil price controls, he has resisted an end to retail gasoline ceilings and the accompanying system of allocations that assures inequalities at any time of supply difficulty. Some senators think he privately welcomed, as a convenient escape mechanism, their vote restricting his authority to put fees on oil imports.

In shying away from the tough decisions, Congress and the President no doubt reflect public opinion. Americans resent the fact of their dependence on oil producers abroad; they do not like the idea that a political upset on the Persian Gulf may force them onto gas lines. To end that unhappy situation they are prepared to accept any burden except inconvenience.

And so there will be gas lines again: That is the general view of energy specialists in Government and out. As early as next winter trouble in one of the producing countries, or a spread through OPEC of moves to limit production, may cut supply to the point of dislocation.

The curious thing is that measures to reduce our demand for oil, though they would cause some inconvenience and require some readjustments, would so plainly benefit our own economic and political well being. A big new tax on gasoline, for example, to the extent that it reduced consumption, would mean lower purchases from OPEC. Money would stay here instead of going abroad. The tax receipts could be used for domestic investment as well as programs to cushion the social impact of higher gasoline prices.

The same thing is true of longer-run measures to conserve energy: more efficient factories, insulated houses and the like. That kind of conservation, to, is likely to benefit the American standard of living.

The old theory was that the more energy a society used, the more efficient it was. I think the relationship has turned around. The more energy we consume, the more it will detract from our real living standard. We have a choice between higher utility bills and more efficient houses—between investing dollars at home and sending them abroad.

The trouble is that, when it comes to the longer-run measures, conservation is a cottage industry. And it is still in a primitive state. A leading scientist in the Boston area remarked the other day that he had been trying for two years to get convincing advice on how to make his house energy-efficient, and he was still not sure.

There are signs of hope in the longer term. Congress has stripped down the more inflated elements in President Carter's synthetic fuel program and adopted some realistic approaches. Conservation, treated as a stepchild in Carter's July energy speech, is now getting more emphasis from both Congress and the President.

But how we get past the next few years is still a mystery. Is any political leader ready to tell Americans that immediate national steps to use less foreign oil are the only paths to safety? ●

CONGRESSMAN FROST DENOUNCES PROPOSED KU KLUX KLAN MARCH IN THE CITY OF DALLAS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. FROST. Mr. Speaker, the scheduled march of the Ku Klux Klan in downtown Dallas on Saturday is offensive to me personally and to the vast majority of my constituents.

The Klan's history of hatred and violence are not only un-American but also contrary to the climate of racial understanding that has been developing in Dallas in recent years.

Under our constitutional system of government, all groups, even those on the outer fringe of society like the Ku Klux Klan, are granted freedom of speech. However, that does not mean that the Klan has the right to intimidate others or to deny anyone the rights it enjoys.

I am confident that the people of Dallas will conduct themselves with restraint Saturday, and that when the day is over, the Klan will have succeeded only in embarrassing itself and not our great city.●

SENATE—*Friday, November 2, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers and our God, we thank Thee for all that is great and good in America. Thou knowest our defects and our needs before we call upon Thee. But our earnest supplication is that we may correct what is wrong and accentuate what is right. Come to us, abide with us in this place, strengthening us in our labors, sharpening our insights, and reinforcing our judgments. Give us grace to do justly, to love mercy, and to walk humbly with Thee. May goodness and mercy follow us that wherever we may dwell, that place may be Thy house forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 2, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ERNEST F. HOLLINGS, a Senator from the State of South Carolina, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HOLLINGS thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader, the Senator from West Virginia, is recognized.

A GREAT LADY PASSES QUIETLY INTO OUR HISTORY

Mr. ROBERT C. BYRD. Mr. President, early yesterday morning, Mamie Doud Eisenhower died at the age of 82.

Once, it is reported, when Mrs. Eisenhower was asked how she most wanted to be remembered, she replied merrily, "Just a good friend." Perhaps that comes closest to the mark of how she is perceived by the American people, for her memory evokes primarily feelings of warmth and admiration for the dignity and modest demeanor that she brought to her role as the wife of a military leader and President of the United States.

Mrs. Eisenhower was born in the closing years of the 19th century in Boone, Iowa. Her lifetime spanned some of the most tumultuous years in modern history. Though she lived in a era of crashing empires and clashing armies; of horse-drawn carriages yielding passage to automobiles and spaceships; of changing roles and clamoring competition among individuals, groups, and nations; Mamie Eisenhower never seemed to lose sight of the steadying principles to which her life was committed.

She once confided that, from the time she first met Dwight Eisenhower, she knew he was destined for greatness. His subsequent career confirmed her intuitions, and Mamie Eisenhower seemed ever content to help her husband fulfill the destiny that she knew lay in his path.

During her years as First Lady, Mrs. Eisenhower embodied happily the classic role of a good wife, mother, and grandmother. She is recalled, most often, at President Eisenhower's side, lending her charm, grace, love, and quiet strength to her husband and to the country he served.

Mrs. Eisenhower has passed from our midst, but to all who knew her, publicly and privately, she has left a feeling of fondness and respect that will never be lost by this generation, and which will never be forgotten in American history.

Mr. President, I presently have no requests for any time. I ask unanimous consent, Mr. President, that I may reserve my time, momentarily.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

THE AMERICAN STANDARD OF LIVING

Mr. STEVENS. Mr. President, on Monday, during the colloquy that was led by the Senator from Illinois, I placed in the RECORD an article concerning a statement that was made by Mr. Volcker. I would like to refer to that article again, mainly because of a feeling I have had as I thought about that article, in which Mr. Volcker said that we should, as Americans, dedicate ourselves to reducing our standard of living in order to meet the problem of high interest rates.

The more I thought about that, the more I came to the conclusion that that is a sort of "let them eat cake" type of statement. That thoroughly amazes me, that such a statement would come from one of the financial leaders of this country. I cannot imagine that any one appointed to that position by any President that I have known or have had the privilege of working with, from the days of Harry Truman, through President Eisenhower, President Kennedy, President Johnson, President Nixon, President Ford, making a statement such as that would go unchallenged by the administration.

I raise the matter again this morning because the impact of that article, to me, is that those who are less fortunate in this country, those who are not the heads of corporations or people of substantial wealth who would be the prime borrowers from our banking system—I am talking about, when I say "the less fortunate," the new young couples who are seeking loans for new homes, or the small companies that are seeking loans for the expansion of their businesses—normally, they pay a little bit more than those prime borrowers. To have a situation where one of the financial leaders of this country tells them that they must cut down their expectations in order to meet

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the problems of high interest leads me to believe that we ought to thoroughly reanalyze the powers that have been given to that individual. I have had some personal conversations with members of the Joint Economic Committee along that line.

Specifically, also, I have inquired as to the extent to which foreign capital is coming into this country—and by that, I emphasize, I mean OPEC capital coming into this country—with a demand for higher interest payments than we have been paying in the past to those domestic sources of capital that are available to expand our money in circulation.

That was mentioned yesterday, to a certain extent. But if we are in a situation of sending out of this country $50 billion to $60 billion for oil produced by the OPEC countries, and their surpluses are coming back into this country to enter our money market at rates in excess of that which our people can afford to pay, then I think we have got ourselves into a worse cycle than anyone imagines. I am quite hopeful that the members of the Banking Committee, and particularly the members of the Joint Economic Committee, will dig deeply into the sources of these funds that are receiving these extremely high interest rates. It is to me, again, one of the more difficult things to comprehend.

Mr. President, just to make sure that the RECORD shows what I am talking about, on October 29, I requested that the article of Federal Reserve Chairman Paul Volcker be printed in the RECORD. In that article, he stated that in order to trim inflation the U.S. standard of living must be reduced.

As I say, I have seen nothing to indicate that the administration has reacted as it should have reacted to that comment. Senator BENTSEN reacted, I think, in a way that was proper. He said—this appears on page 29886 of the RECORD from the statement I put in the RECORD. Senator BENTSEN stated, "I interpreted that"—and he referred to Mr. Volcker's comment—"to mean that we will have lengthened unemployment lines, that we will have some loss of output in our economy, in order to correct the inflationary trend."

To me, it means a great deal more than that. It means that for my children, who are just reaching the age of starting their own families, as they buy a home and sign up for payment of mortgages for 30 years, those mortgage rates are going to be in excess of 15 percent. When we started our family, we had a home and our interest rates were about 5 percent, and we thought they were high at the time.

But if you expand over a 30-year period the payment of any interest in excess of 10 percent for the young families in this country, it just means to me one thing: There are going to be fewer and fewer new homes built.

As we worry about the problems of Chrysler, as we worry about the problems of the inflation generally, in terms of how they affect us now, I think people like Mr. Volcker ought to be worried about the problems of high interest rates and how they are going to affect our children's children 30 years from now when their children are trying to keep this American economy going.

It appalls me to believe that the Federal Reserve Chairman could be quoted, as the Wall Street Journal stated, that in order to trim inflation, to meet the problems of high interest, the U.S. standard of living had to be reduced.

I think in that statement alone there are, again, seeds of revolution, and it is time people really thought about what they are doing when they force on future generations the burdens and the mistakes of this generation.

Mr. President, I do not have any requests for time on this side.

RECOGNITION OF SENATOR DOLE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Will the Senator yield for a unanimous-consent request?

Mr. DOLE. I yield.

MIGRATION AND REFUGEE ASSISTANCE—S. 1668

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after third reading of S. 1668, and the time having been yielded back thereon—I presume it will be today—the Senate proceed immediately to the consideration of H.R. 4955, Calendar Order No. 397, that the text of S. 1668 as amended by the Senate be substituted therefor, and without further motion or debate, third reading of H.R. 4955 ensue immediately, and S. 1668 be indefinitely postponed.

This request is necessary because there is a House bill on the calendar and once the Senate completes its action on the Senate bill on which there is a time agreement, there is no time agreement on the House bill.

Mr. STEVENS. Mr. President, there is no objection from the minority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for yielding, and I yield such time from my own order as necessary to make up for the time yielded to me.

S. 1969—RULEMAKING IMPROVEMENTS ACT

Mr. DOLE. Mr. President, I am introducing a bill, for myself, and Senator HATCH, Senator HEINZ, Senator LAXALT, Senator SIMPSON, Senator STEVENS, and Senator THURMOND. Through this bill, the Rulemaking Improvements Act, we propose improvements in the procedure by which Federal administrative agencies promulgate regulations. Regulatory reform has long been the subject of public concern and debate. I believe I speak for many of my colleagues in noting that our constituents have repeatedly made the depth of their concern known to us both in our mail and most recently during the August recess.

Several regulatory reform proposals have been subjected to close scrutiny in this body. Under the leadership of the distinguished Senator from Iowa (Mr. CULVER) the Subcommittee on Administrative Practice and Procedure of the Judiciary Committee, of which I am a member, has held extensive hearings on a range of regulatory reform legislation and will soon be marking up those bills. The Governmental Affairs Committee, chaired by the distinguished Senator from Connecticut (Mr. RIBICOFF) has also been working on the regulatory reform legislation that is within its jurisdiction.

The Senator from Kansas recognizes, and I know the Members of the Senate also recognize, that the men and women who administer our laws in Federal agencies are dedicated and hard-working public servants. Certainly this bill in no way impugns the efforts of those individuals. Yet they must work within a regulatory structure we establish. And it is this regulatory structure which is failing the citizens of this country. It is our responsibility to act without delay.

THE INFLATIONARY IMPACT OF FEDERAL REGULATION

At the outset we must recognize that what we have called regulatory reform encompasses not one, but many distinct problems of Federal regulation. And, like so many of the issues which confront us, the problems of Government regulation are related to other national problems. I believe that the problem of Government regulation significantly contributes to another major problem of our day—that of runaway inflation.

Regulations attempting to prescribe our behavior in an incredible range of areas pour out of Washington at a rapidly increasing rate. Yet one finds that the growing body of Federal regulations has been accompanied by a corresponding ignorance of the complete range of effects produced by such regulation. This ignorance has often resulted in unexpected costs and other adverse effects which threaten to undermine the salutary goals of appropriate regulation.

Billions of dollars of private spending are required to comply with literally thousands of detailed regulations. The 1978 Federal Register, through which these regulations are published, contained a total of about 61,000 pages, publishing about 7,000 new rules, and about 32,000 other Government documents.

Just in this decade we in the Congress created seven new regulatory agencies, including EPA and OSHA, and enacted 29 new major regulatory statutes. According to a study by the Joint Economic Committee, direct Federal regulatory agency expenditures rose from $2.2 billion in 1974 to $4.8 billion in 1979, a 115-percent increase in agency operating

expense alone. Yet the costs of complying with Federal regulations are never reflected in an agency budget. Compliance with Government regulations imposes a sizable tax on business, yet this tax never benefits the Treasury of the United States.

Through regulation by administrative agency, we at least think we can see who will benefit by regulation and are moved by this vision to take action. Yet the burdens of regulation are so deceptively imposed that we have remained almost blithely unaware that the benefits of government regulation are achieved only at a price. The price may be an actual dollar cost, such as increased consumer prices, or it may be a social cost, such as the dampening of individual initiative.

A study done by the Tax Foundation concluded that the cost to the consumer of complying with Federal regulations in 1976 was $62.9 billion. That amounted to more than $300 for every man, woman, and child living in the United States, and 20 times the $3.1 billion spent to operate the agencies that year. For 1979, it is estimated that $102.7 billion will be the cost to the consumer of complying with Federal regulations, or about $400 per person. A study conducted by the center for study of American business indicates that the cost of filling out Federal paperwork alone comes to about $25 to $32 billion annually.

In short, Federal regulation aggravates our already extreme rate of inflation by imposing costs on the private sector which raise prices without a corresponding rise in productivity. Indeed, as Dr. James Miller of the American Enterprise Institute has noted:

> Regulation often has a greater effect upon consumer welfare [than other inflationary factors] because it operates directly upon the real supply of goods and services.

Of course, while noting these extreme costs, we must also recognize that the benefits of appropriate regulation will not be achieved without cost. But at the same time the Federal Government must not embark on a program of regulation unconcerned by costs. Sadly, our present rulemaking structure is such that, in the words of Dr. William Lilley and Dr. James Miller writing in the public interest:

> A regulation is often promulgated whereby the final incremental improvement to achieve a stated objective yields small benefits relative to costs or great costs relative to benefits.

THE CAUSE OF THE PROBLEM: BROAD DELEGATIONS OF LEGISLATIVE AUTHORITY

In the recent past, we in the Congress have worked to give all Americans a clean environment, safe consumer products, a safe working place, protection from deceptive merchandising, and many other protections which in previous years were the responsibility of either the private sector or government at the local level—in the cities, counties, and States. We have pursued these goals by identifying a particular problem in legislation, stating in often general and ambiguous statutory terms the policy of Congress toward that problem, and then creating a Federal agency and authorizing it, again often in the broadest terms, to regulate the area in question.

By creating agencies with such broad authority, we have passed on to these agencies the authority to make, in the form of administrative regulations, the kind of policy judgments which properly we should make. We have delegated authority to the agencies to achieve multiple, and often inconsistent, objectives. We want agencies to reduce certain risks to health, safety, or environmental quality while avoiding, or at least minimizing, the adverse impact on the subjects of agency regulations, whether industry, consumers, or the Nation at large.

As a result of this delegation of authority, agencies must now make a range of conflicting, yet extremely significant, value choices about various aspects of our national life without meaningful guidance from the elected representatives of the people. Judge David Bazelon, a senior judge of the District of Columbia Circuit Court of Appeals, a court which deals with much of the litigation involving Federal agencies, has decried this failure of the legislative branch to give more direction to agency decisionmaking. In January of 1977, Judge Bazelon wrote:

> Traditionally, in democratic societies, it is elected legislatures that make the hard value choices . . . increasingly, however, our legislatures have been delegating their value choices to administrative agencies—institutions which cannot resolve value conflicts through the relatively simple expedient of a show of hands.

Similarly, the Administrative Conference of the United States, in a report published in March of this year, observed—

> The agency problem of structuring discretion to accommodate multiple considerations in decisionmaking has not received sufficient congressional attention.

At this point in our history, I do not suggest that we can remove rulemaking authority from our Federal agencies. It would be impossible for Congress to make all the detailed decisions agencies must make on a regular basis. Consequently, the legislation I propose today takes no steps toward undermining an appropriate role for the administrative energy in our governmental structure. Rather, this bill is founded on my belief that we in Congress must fulfill our responsibility to shape the discretion of Federal agencies and provide the legal guides to channel agency actions along the sound policy course we set. Such action by the Congress would be welcomed not only for our frustrated citizens, but also by the agencies themselves, which, in an immediate and practical way, suffer from the absence of clear congressional guidance in their daily work.

A BASIC REFORM: AN ADAPTATION OF COST-BENEFIT ANALYSIS

The Senator from Kansas believes that cost-benefit analysis is one technique we must adapt for administrative rulemaking in order to require an agency to evaluate the complete range of effects of a proposed rule. By shaping agency decisionmaking through a requirement that rulemaking include some sort of cost-benefit analysis, Congress can reestablish its dominant role as overall policymaker for our regulatory system. Hence, the bill that I am introducing today would require agencies to perform a kind of cost-benefit analysis of each proposed rule.

Cost-benefit analysis, in its traditional form as an accounting technique, saw its first widespread use in the late 19th and early 20th centuries, when it was adopted by American municipalities to evaluate proposals for urban sewage systems. Over the course of the years, it has been employed for a variety of public and private uses. In 1936, Congress approved cost-benefit analysis for water resource development projects, incorporating a requirement in the Flood Control Act of 1936 that acceptable projects demonstrate that "the benefits to whomsoever they may accrue are in excess of the estimated costs." At present, the name "cost-benefit analysis" no longer describes merely an accounting technique, with the implication of a solely mathematical procedure. Rather, as the report of the Administrative Conference points out, cost-benefit analysis now refers to "any analytical method which organizes available information on alternative courses of action, and thereby displays possible tradeoff opportunities to the decisionmaker."

Those concerned with the improvement of the regulatory process have increasingly focused on some sort of cost-benefit analysis as a sensible avenue of reform. Even in areas where the dollar cost of regulation does not reflect the spectrum of actual costs, such as in environmental and health regulation, expert opinion, including, for example, the National Academy of Sciences, has advocated the use of some form of cost-benefit analysis.

Quite simply, the principle of cost-benefit analysis reflects commonsense. However, encouraging agencies to perform such an analysis is not enough. Many observers have pointed out how effectively agencies have avoided performing such analyses. Last month, a report of the Office of Management and Budget, evaluating the performance of "regulatory analyses" by certain agencies under Executive Order 12044, observed—

> Agencies try to avoid the requirement of a regulatory analysis, afraid that if they do an analysis, it will be the subject of public "sniping" or peer criticism. . . .

Agencies have also avoided performing such analyses on more legitimate grounds. For example, the Clean Air Act of 1970 specifically instructs the Environmental Protection Agency to establish air quality standards based on considerations of public health. This requirement has been interpreted within the EPA to mean that other considerations, like economic factors, cannot be considered.

Thus what is needed is a basic statutory provision requiring cost-benefit analysis. Consequently, this bill proposes amendments to our basic charter of adminis-

trative procedure, the Administrative Procedure Act.

The bill the Senator from Kansas introduces today requires a cost-benefit analysis which has been shaped by several obvious conclusions about what must be the reasonable policy for Federal regulation. First, it is undeniable that a rational regulation must have an ultimately beneficial impact. To plot a course for this goal, an agency, just like any private enterprise, must evaluate and compare the anticipated benefits, costs and other adverse effects of a proposed rule.

Yet Federal regulation presently has such a broad sweep through our lives that the impact of a regulation can take many shapes, ranging from a new expense imposed on a business, to protecting the natural beauty of a particular region. Thus, what is considered to be a benefit or a cost often cannot be described in numbers. As a result, any analysis of the anticipated benefits, costs, and adverse effects of a proposed rule cannot procede solely on a mathematical basis, but must involve the exercise of reasonable judgment by agency officials.

Second, it is critical that the public participate in any cost-benefit analysis. Obviously, the people who will be affected by a rule often have the best appreciation of its impact. Efficient and fair regulation requires that these people be heard and that an agency be able to take advantage of their expertise.

Finally, this bill is based on the conclusion that judicial review plays a vital role in the rulemaking process, acting as a reasonable check on the necessary discretion of agency officials. Any cost-benefit analysis must, therefore, be subject to judicial scrutiny to insure an agency acts fairly and does not unreasonably ignore public comment on a proposed rule.

This bill establishes a new standard for the promulgation of Federal regulations. Under the provisions of this bill, a new regulation could become effective only when any agency reasonably concludes that the benefits of a proposed rule would outweigh its costs and other adverse effects, and when the agency is convinced that the proposed rule is the most cost-effective means to achieve the identified benefits.

To provide an agency with sufficient data to reach such a conclusion, the present rulemaking procedure is modified to require agencies to identify the anticipated benefits, costs and other adverse effects of a proposed rule at the outset of the rulemaking process, when the notice of proposed rulemaking is published. The interested members of the public are then given an opportunity to participate in the rulemaking by presenting evidence of other benefits, costs, and adverse effects not identified by the agency.

It is only after all this information is before the agency that it must make its ultimate determination that the benefits of the rule outweigh its costs, and that, in light of the alternative means to achieve the identified benefits, the rule is the most cost-effective route to those benefits. The agency is required to explain this determination when it publishes the final rule. Both the initial analysis in the notice of proposed rulemaking and the final analysis are made part of the rulemaking record and, therefore, directly subject to judicial review.

The specific provisions of this bill are obviously more detailed and I leave a detailed explanation of them to the bill's section-by-section analysis, which I will ask to have printed in the RECORD together with the bill.

Mr. President, I am pleased to report that several well-recognized experts in the area of Government regulation, especially on the subject of cost-benefit analysis, have reviewed this bill and have expressed their support. For the information of the Senate I have attached two letters of support, from Dr. James Miller and Dr. Murray Weidenbaum, to the section-by-section analysis, and I ask unanimous consent that these letters be printed in the RECORD together with the bill and a section-by-section analysis.

The experience of both of these men has uniquely equipped them to deal with the practical and theoretical ramifications of cost-benefit analysis. Dr. Miller was assistant director for Government operations and research of the Council on Wage and Price Stability in the Ford administration and presently is codirector of the center for the study of government regulation of the American Enterprise Institute. Dr. Weidenbaum is the director of the center for the study of American business at Washington University and is presently a resident scholar at the American Enterprise Institute.

In closing, the Senator from Kansas must reiterate that this bill offers solid improvements over other proposals for some form of regulatory analysis. First, under this bill agencies could promulgate only ultimately beneficial rules. Second, agencies would be required to evaluate alternative means of achieving their goals and could promulgate only cost-effective rules. Third, this bill requires a more specific articulation of benefits and costs than any other proposal, including a description of who receives the benefits and who bears the burdens of a rule. Finally, the bill affords judicial review of the agency's regulatory analysis.

I urge my colleagues in the Senate to support this measure as a long overdue process.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; FINDINGS AND PURPOSES

SECTION 1. (a) This Act may be cited as the "Rulemaking Improvements Act".

(b) The Congress finds that the growing body of Federal regulations has been accompanied by a corresponding ignorance of the complete range of effects produced by such regulation, and that this ignorance has often resulted in unexpected costs and other adverse effects which threaten to undermine the salutary goals to be achieved by appropriate regulation. In making this finding, the Congress has determined that—

(1) the goal of rational Federal regulation must be the promulgation of rules which have an ultimately beneficial effect;

(2) the present rule making procedures do not sufficiently provide for the detailed analysis by Federal agencies of the anticipated benefits, costs, and other adverse effects of a proposed rule which is a prerequisite to reasoned rule making;

(3) many of the anticipated benefits, costs, and other adverse effects of a proposed rule to be considered in any such analysis cannot be described numerically and the significance of individual benefits, costs, and other adverse effects may vary over time as a result of changing circumstances and the changing policy views of the public, the Congress, and the courts;

(4) consequently, any complete evaluation of the anticipated benefits, costs, and other adverse effects of a proposed rule must not be conducted primarily on a mathematical basis, but must allow for the exercise of properly delegated, reasonable discretion by agency officials in weighing competing values;

(5) judicial review of the agency analysis of the anticipated benefits, costs, and other adverse effects of a proposed rule through the incorporation of such analysis in the rule making record is necessary to provide a completely effective mechanism to ensure that agency officials do not exceed their proper discretion in rule making; and

(6) the current statutory exceptions to rule making procedures have permitted agency officials to give internal agency interpretations of statutes or rules or general agency policy statements the status of rules which have the force and effect of law, even though such interpretations and policy statements are issued without public participation and enforced without the fair notice which is considered fundamental in our legal system.

DEFINITIONS

SEC. 2. (a) Section 551 (4) of title 5, United States Code, is amended to read as follows:

"(4) 'rule' means the whole or part of a statement by an agency or by an official of an agency, other than an order issued pursuant to an adjudication under section 554 of this title, which is—

"(A) designed to implement, interpret, or prescribe law or policy, or to describe the organization, procedure, or practice requirements of an agency; or

"(B) applied by the agency in a manner which will have the effect of implementing, interpreting, or prescribing law or policy, or of describing the organization, procedure, or practice requirements of an agency;".

(b) Section 551 of such title is amended by adding at the end thereof the following new paragraph:

"(15) 'emergency rule' means a rule which becomes temporarily effective prior to the expiration of the time period specified for notice of proposed rule making and public participation under section 553 of this chapter or any other provision of law, and which is published by an agency in the Federal Register with an explanatory finding that a delay in the effective date of the rule would—

"(A) seriously injure an important public interest;

"(B) seriously damage a person or class of persons without serving any important public interest; or

"(C) substantially frustrate legislative policy and intent.".

IMPROVEMENTS IN RULEMAKING PROCEDURES

"SEC. 3. (a) Section 553(a)(2) of title 5, United States Code, is amended by inserting "exclusively" immediately after "relating".

(b) Subsections (b), (c), and (d) of section 553 of such title are amended to read as follows:

"(b)(1) General notice of proposed rule making shall be published in the Federal Register, unless each person subject thereto is named and personally served with notice. Such publication or service shall be made not less than 60 days before the effective date of the rule. Such notice shall be a part of the rule making record and shall include—

"(A) a statement of the time, place, and nature of the rule making proceedings;

"(B) a specific statement of the legal authority under which the rule is proposed;

"(C) the proposed terms of the rule;

"(D) a clear and precise description of each reasonably significant benefit likely to be achieved by the proposed rule and an explanation of how each such benefit will be achieved by the proposed rule, including—

"(i) a statement identifying the persons or the classes of persons who will benefit from the proposed rule;

"(ii) a description of the nature of the benefit; and

"(iii) a description of each condition that must exist before a benefit is achieved, whether or not the achievement of the condition is within the control of the agency, and how each such condition will be attained;

"(E) a clear and specific description of the reasonably significant direct and indirect costs and adverse effects likely to be incurred by the public and private sectors as a result of the proposed rule, including, but not limited to, a description of such costs as those costs to be incurred by consumers, wage earners, businesses (including small business concerns as defined in section 3 of the Small Business Act), markets, particular geographic regions of the country, and Federal, State, and local governments, and a description of such adverse effects of the proposed rule as the adverse effects on productivity, competition, the balance of international trade, supplies of important manufactured products or services, employment, paperwork required of the public and private sectors, the environment, and the quantity of energy resource supply and demand.

"(F) a clear and precise explanation of how each cost or adverse effect specified under subparagraph (E) will result from the proposed rule, including, but not limited to—

"(i) a statement identifying the persons or the classes of persons who will incur costs due to the proposed rule or be adversely affected by the proposed rule; and

"(ii) a description of each condition that must exist before each cost or adverse effect is produced, whether or not the achievement of the condition is within the control of the agency, and how each such condition will be attained; and

"(G) a clear and precise explanation of how, in the reasonable judgment of the agency, the benefits of the proposed rule identified pursuant to subparagraph (D) will outweigh the costs and other adverse effects identified pursuant to subparagraphs (E) and (F), including a description of all reasonable alternative public or private means for achieving the identified benefits and an explanation of why such benefits cannot be achieved by public or private means other than the promulgation of the proposed rule.

"(2) This subsection does not apply when the agency for good cause finds that—

"(A) notice and public comment on the proposed rule are unnecessary due to the routine nature of the matter or the insignificant impact of the rule; or

"(B) it is necessary to promulgate an emergency rule. An agency which promulgates an emergency rule shall publish such rule in the Federal Register wth a statement of its findings under subparagraph (B) and a description of the reasons of the agency for such finding. Such emergency rule shall be effective for no longer than 60 days.

"(3) The analysis of the anticipated benefits, costs, and other adverse effects required under this subsection shall not be performed by any person under contract with the agency.

"(c)(1) After notice of proposed rule making required by subsection (b) of this section, the agency shall give interested persons not less than 30 days to participate in the rule making through the submission of written data, views, arguments, and statements which (A) explain any benefits, costs, or adverse effects of the rule which supplement, contradict, or are in addition to the benefits, costs, or adverse effects identified by the agency pursuant to subsection (b) of this section or (B) describe means of achieving the benefits of the proposed rule in a manner which more effectively minimizes the costs and adverse effects which will result from the proposed rule. As part of this participation in the rule making afforded to interested persons, the agency shall give such interested persons the opportunity for the oral presentation of evidence and the cross-examination of experts or other persons whose opinions constituted a significant part of the agency analysis required under subsection (b), unless the agency finds that no substantial issue of fact or law exists.

"(2) Notwithstanding any other provision of law, a rule may be published as a final rule and may become effective only if the agency reasonably determines that all the relevant matter before the agency as a result of the rule making substantially indicates that—

"(A) the reasonably significant benefits of the rule outweigh the reasonably significant costs and other adverse effects of the rule; and

"(B) the proposed rule will achieve such benefits at the lowest cost and with the fewest adverse effects in light of the alternative means of achieving those benefits identified in the rule making.

"(3) An agency shall publish a final rule in the Federal Register with a clear and specific explanation of its conclusion that the rule complies with the provisions of paragraph (2), including, but not limited to, a description and comparison of the anticipated benefits, costs, and adverse effects of the proposed rule considered by the agency to be reasonably significant. Such explanation shall be included as a portion of the rule making record for the rule.

"(d) Unless a longer period of time is required by law or is provided in the rule, a final rule, other than a rule which grants or recognizes an exemption to or relieves a restriction from a rule, may become effective 30 days after the date of its publication in the Federal Register.".

RULEMAKING IMPROVEMENTS ACT
SECTION-BY-SECTION ANALYSIS

FINDINGS AND PURPOSES

Section 1. The Rulemaking Improvements Act addresses the failure of the present law governing administrative rulemaking to establish procedures by which reasonably cost-effective regulations are promulgated with the maximum public participation. Section 1 of the Act states the finding of Congress that the pervasiveness of Federal regulation has combined with the generality of the provisions for agency rulemaking under curcurrent law to produce well-intended regulations whih create unexpected costs and other detrimental effects out of proportion to the benefits sought.

Several conclusions which underlie this finding are then reiterated. These conclusions are (1) that a rational regulation must have an ultimately beneficial impact, (2) that achieving this goal requires an agency to evaluate the anticipated benefits, costs, and other adverse effects of a proposed rule, (3) that what is considered to be a benefit or a cost often cannot be described in numbers and, indeed, what effects are considered to be a benefit or a cost often changes, (4) that, as a result, any analysis of the anticipated benefits, costs, and adverse effects of a proposed rule cannot proceed solely on a mathematical basis, but must involve the exercise of reasonable judgment by agency officials, (5) that judicial review of this analysis by incorporating the analysis in the rulemaking record is a necessary check on the judgment of agency officials, and (6) that the exceptions to rulemaking under current law allow agencies to establish law in secret and apply it without fair notice.

DEFINITIONS

Section 2. The current definition of "rule" in 5 U.S.C. § 551 subjects only those agency statements "designed" to "implement, interpret, or prescribe law or policy," to rulemaking procedures. In recent years, the number of various kinds of agency statements which actually "implement, interpret, or prescribe law or policy" and dispose of important rights or benefits, but yet are not promulgated pursuant to public rulemaking has dramatically increased. Such "secret" agency regulations take many forms, including unpublished general counsel opinions, operations manuals, and "private" agency rulings. For example, since 1970 the Office of the General Counsel of the Environmental Protection Agency has issued opinions interpreting statutes administered by it. These opinions are the basis for a manual of "Criteria and Policy Notices" which, distributed to Regional Administrators, Division Directors, and other EPA functionaries, controls the day-to-day application of these statutes. Yet these opinions and the EPA manual are not published and are promulgated without prior public comment.

Section 2 remedies this abuse in part by including in the definition of rule not only statements designed to have the effect of law, but also those statements applied with such an effect. Lack of design to "implement, interpret, or prescribe law or policy" therefore can no longer provide an excuse from normal rule making procedures. Other sections, described below, also are directed towards this problem.

Subsection (b) of section 2 adds the definition of an emergency rule to the present list of definitions in the Administrative procedure Act. Such emergency rule can become effective for a short period of time without compliance with the rule making procedures of the APA. An emergency rule may be promulgated in this manner only in the extraordinary circumstance where an agency finds that delay in the effective date of the rule would seriously injure an important public interest, seriously damage a person or class of persons without serving any important public interest, or substantially frustrate legislative policy and intent. The mechanism of the emergency rule is clearly an exception to what Congress is establishing in this Act as the minimally acceptable procedure for the promulgation of administrative rules. As such, it is anticipated that the provision for emergency rules will be rarely used, and then only in the extreme cases set out in the definition.

IMPROVEMENTS IN RULEMAKING PROCEDURES

Section 3. Subsection (a) of this section also deals with the "secret" law problem discussed above by amending the rule exception of 5 U.S.C. §553(a)(2) to apply to a matter which exclusively relates to internal agency management or personnel, or exclusively to public property, loans, grants, benefits, or contracts. By requiring a matter to relate exclusively to the enumerated subjects, an agency statement which arguably deals with these subjects, but also has the broader effect of implementing law as described in the definition of "rule" will not be exempted from the normal making procedures under 5 U.S.C. § 553(a)(2).

Subsection (b) of section 3 significantly expands the notice of proposed rule making which must be published before a rule becomes effective. This expanded notice is the first step in the new rule making procedure established by the Act by which an agency must clearly state in advance of the effective date of the rule the terms of a proposed rule, the benefits to be achieved by the rule, the costs and other adverse effects of the rule, and its conclusion that the benefits of the rule would outweigh its costs.

Not every benefit and cost which could conceivably result from the proposed rule must be described in the notice of proposed rule making. Only those benefits, costs, and other adverse effects which the agency sees as "reasonably significant" in terms of their magnitude and their likelihood of occurrence must be included.

This section leaves the concept of a "benefit" open for the purposes of rule making to include a broad range of effects which at any particular point in time might be considered beneficial. Thus a "benefit" might be an effect popularly viewed as beneficial, such as comparatively clean air, or it might be a public policy goal statutorily defined as beneficial, such as the health of workers in a particular industry. In describing a benefit, the agency must identify the persons or groups who will benefit from the proposed rule, describe the nature of the benefit, and describe each condition that must be obtained before the benefit is achieved and how each condition will be obtained.

The persons who will benefit from a proposed rule must be identified to ensure that the benefit is reasonably significant. A benefit that redounds only to a few people is less likely to be characterized as reasonably significant than one which benefits a whole community. In addition, identifying the beneficiaries of a proposed rule for comparison with those who bear the cost burden of it will aid in the evaluation of the cost-effectiveness of the proposed rule.

Similarly, the Act requires a description of each condition needed to achieve each benefit so that only reasonably significant benefits are identified and used as a justification for a proposed rule. A benefit which is based on several conditions which themselves are unlikely to occur could not be seen as reasonably significant under this section or justifying extreme regulatory costs. On the other hand, a benefit with few conditions, or with conditions likely to occur is more reasonably significant.

Outside of these requirements, the statute does not require the description of a benefit to take any particular form. Some benefits are liable to quantification; many are not. Consequently, the description of a benefit may be done in numbers or in words, or both.

This section requires the costs and other adverse effects of the proposed rule to be described in the same manner as the benefits and those who would bear the costs of a rule or suffer an adverse effect as a result of a rule to be identified in the same manner as its beneficiaries. Examples of the types of costs and adverse effects which should be identified are also given in the statute.

The final required element of the notice of proposed rule making is an agency explanation of how the benefits of the proposed rule will outweigh its costs and other adverse effects, including an explanation of why the benefits cannot be achieved by public or private means other than through the proposed rule. This provision essentially requires an agency to explain its conclusion that a proposed rule could be promulgated under the standards of this Act; that is, the agency must represent that, based on its study and analysis, the benefits of the proposed rule would outweigh its costs and other adverse effects, and that the proposed rule is the most cost-effective means to achieve the identified benefits.

The word "outweigh" was specifically chosen to describe the acceptable relationship between the benefits and costs of proposed rule. Since the Act recognizes that many benefits, costs, and adverse effects cannot be described numerically, it follows that "outweigh" is not intended to refer to a numerical ratio. Rather, "outweigh" reflects the view that agency officials must exercise reasonable judgment in evaluating the impact of the benefits, costs, and adverse effects which will be produced by a proposed rule. A rule may only be proposed and subjected to public comment if the appropriate agency officials reasonably conclude that the beneficial effects which can actually be achieved by the rule will not be reduced to insignificance by the costs and adverse effects also produced by the rule when viewed from a broad perspective which includes both the relative impact of the rule on those benefited and on those burdened.

"Reasonable judgment" has been used to describe the ultimate conclusions of the agency regarding the anticipated operation of a proposed rule to reinforce the point that this analysis is not expected to be a mechanically mathematical process. The judgment exercised by the agency officials in their analysis is to be reviewed according to a variation of the familiar "reasonable man" standard. For this reason, the Act requires, both in the publication of a proposed rule and in the promulgation of a final rule, an agency to clearly identify the benefits, costs, and adverse effects it finds to be reasonably significant and to explain its conclusion that the benefits outweigh the costs and other adverse effects.

This Act retains the exemption from rulemaking procedures presently in 5 U.S.C. § 553(b) for insignificant rules. This exception recognizes that there are rules whose impact is so insignificant that regulatory analysis of them would itself create costs which would outweigh any benefits of such rules. The new emergency rule is also included in this exemption from the rulemaking procedures. An emergency rule can be effective for no longer than sixty days.

Title 5 U.S.C. § 553(b) is, however, modified to delete the exemption from rule making for "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice." This exemption has been the regular vehicle for the "secret law" abuse described above. Under the guise of this exemption agency officials have created and applied "interpretations" or "policy statements" which dispose of significant rights without prior notice or public comment. Statements with such an effect are examples of the kind of agency regulatory activity which Congress clearly intended to subject to the original rule making provisions of the A.P.A. Deleting this exemption will help to remedy this abuse, while the rule making exemption of 5 U.S.C. § 553(a)(2) remains available for the rules governing a genuinely internal agency matter.

The new version of 5 U.S.C. § 553(b) set out in Section 3(b) of the Act includes the added restriction that the analysis of the benefits, costs, and other adverse effects of a proposed rule required by this subsection may not be performed by any person "under contract with" the agency. It should be noted that this provision will not prevent an agency from hiring outside experts and consultants to assist in the analysis. The provision will prevent an agency from giving the whole task of regulatory analysis to an outside organization. Agencies are presently capable of performing the analysis required by the Act without dramatic increases in their budgets. In the past, however, agencies have contracted out these sorts of analytical tasks to private firms specialising in such work. One common result of this practice has been that these analysis merely justify some predetermined agency action without the critical scrutiny required by this Act. Furthermore, a regulatory analysis done on a private contract basis often is more costly than if performed by agency personnel.

By prohibiting this practice and requiring agency personnel to perform the analysis, this provision underscores the requirement that this analysis be a part of the decisionmaking process which leads up to a proposed rule. Also, the provision limits the unnecessary government expense involved in paying private firms for this analysis.

Title 5 U.S.C. § 553(c) is amended to provide a public comment period of not less than thirty days. This subsection specifically enumerates various forms public comment might take, including explanations of benefits, costs, or adverse effects "in addition to, supplementing, or contradicting" those described in the agency analysis, or descriptions of other means of achieving the identified benefits in a more efficient manner. Such comment allows those who would be affected by a proposed rule and those who are intimately familiar with the subject of the proposed rule to educate an agency concerning the expected operation of the rule and to point out errors in the analysis of the agency.

Under the new version of this subsection the agency must also give interested persons the opportunity for the oral presentation of evidence and the opportunity to cross-examine agency experts, unless no substantial issue of fact or law exists. This provision allows minimal "adjudicatory" procedures in the context of informal rule making to allow realistic public participation in which the assumptions and views of agency experts and decision-makers are thoroughly explored and to allow full development of a rule making record which may be subject to effective judicial review.

Under paragraph (2) of the new subsection (c), the agency then must evaluate all the information before it and may promulgate a final rule only if it concludes that all the reasonably significant benefits of the rule will outweigh all the reasonably significant costs and effects of it, and if all the relevant matters before the agency substantially indicates that the proposed rule will achieve the identified benefits at the lowest cost and with the fewest adverse effects in light of the alternative means identified in the rule making. "Outweigh" is used here with the same meaning as explained above. The agency must publish an explanation of this conclusion when it promulgates the final rule. This explanation must include the agency's rationale for its selection of certain benefits, costs, and adverse effects from all the data before it as the reasonably significant benefits, costs, and adverse effects weighed in its analysis. In this way, the agency's response to the comments of the public will be clearly set out and open to scrutiny.

This agency explanation and the original notice of proposed rule making are made part of the rule making record. As a result, the regulatory analysis of the agency is subjected to judicial review. No change is made in the standard of review, ensuring that the courts will maintain their present posture and not become regulators themselves by undue involvement in the rule making process.

The new version of subsection (d) eliminates from 5 U.S.C. § 553(d) the exemption for "interpretative rules and statements of policy" from the requirement of advance publication. Once again, deletion of this exemption is directed towards correcting the "secret law" abuse discussed above. This subsection preserves the current law that a

final rule may become effective thirty days after its publication in the Federal Register.

AMERICAN ENTERPRISE INSTITUTE
FOR PUBLIC POLICY RESEARCH,
Washington, D.C., October 2, 1979.

Hon. ROBERT J. DOLE,
Dirksen Senate Office Building, U.S. Senate, Washington, D.C.

DEAR SENATOR DOLE: This is in response to your letter of September 19, 1979, requesting my evaluation of your proposed bill, "Rulemaking Improvements Act". (It should be noted for the record that these views are my own and do not necessarily represent those of the American Enterprise Institute.)

The salient features of your proposal would appear to be as follows: (a) in order to promulgate a new regulation, an agency would have to make a reasonable determination and demonstrate that the expected benefits of the proposal exceeded the expected costs, (b) the agency would have to show that the regulation was cost-effective (that is, the benefits would be secured at lowest cost), and (c) these requirements would be subject to judicial review.

In my judgment, the approach to regulatory reform incorporated in your proposed bill is right on the mark. Based on my experience as Assistant Director (for Government Operations and Research) of the Council on Wage and Price Stability, and my further studies of regulatory phenomena here at AEI, I have become convinced that the three reform elements described in the previous paragraph are essential to achieving a substantial improvement in the performance of regulatory agencies—especially those dealing with health, safety, and the environment. This is not to say, of course, that estimating benefits and costs and appraising alternatives would be an easy matter; clearly, in many cases agencies would have to exercise a degree of "judgment" in making their ultimate determinations, and your bill provides for this. But I can think of no better overall approach to improving agency decisionmaking than to require the agencies to be guided by the benefit-and-cost impacts of their regulatory actions. Moreover, I think it particularly important that your bill provides for judicial review. From experience, it would seem that such a requirement is the most efficient way of assuring that agencies comply with the straightforward intent of Congress.

Finally, I am glad to see that your bill incorporates a requirement that agencies determine as well the *distributional* effects of proposed regulation—both those who would benefit and those who would bear the costs. My experience at the Council on Wage and Price Stability was that on the whole agencies resist this kind of determination, yet when accomplished it constitutes one of the more important considerations in determining the final outcome. [On some of these issues, you may find of relevance the first enclosure, my article entitled, "Lessons of the Economic Impact Statement Program," *Regulation: AEI Journal on Government and Society* (July/August 1977), pp. 14–21.]

Let me now mention three other points which you may wish to consider. First, as you know, the Supreme Court has under review the Fifth Circuit's decision in the "benzene case" (*American Petroleum Institute* vs. *The Occupational Safety & Health Administration*). If the circuit court's decision is upheld, in my judgment the Occupational Safety & Health Administration (OSHA) would have to be reasonably cost-effective in its decisionmaking, and moreover the standard implied by *API* might well permeate the other regulatory agencies. But if the decision is overturned, the performance of OSHA, and perhaps that of many other regulatory agencies, would deteriorate still further. Thus, your proposal might well be viewed as a device for assuring that Congressional intent (to the degree it is consistent with the circuit court's decision rather than the formal position adopted by OSHA) will in fact be implemented.

Second, as drafted, the proposed bill applies only to new rules and regulations. You might wish to consider adding a provision that "sunsets" existing rules and regulations over a period of years (specifying, perhaps, a timetable for this to take place). This would mean, of course, that existing rules would have to pass through the new standard incorporated in the bill. [On this point, you may find of relevance the second enclosure, my article entitled, "Regulation and the Prospects for Reform," in Charles F. Phillips, Jr. (ed.), *Regulation, Competition and Deregulation—An Economic Grab Bag* (Lexington: Washington and Lee University, 1979), pp. 171–192, esp. p. 191.]

Finally, you might wish to consider a clarification concerning the standards for judicial review. As the bill is written, it would appear that an aggrieved party could bring suit only on the basis that the agency's determination with respect to benefits and costs had been "arbitrary and capricious". To have the desired effect on agency decisionmaking, it might be desirable to provide a stricter test—for example, giving aggrieved parties an opportunity to show that the agency's decision was unreasonable on the merits. (I realize, of course, that you may wish to avoid *de novo* review and that the need for any clarification along these lines may be related to Congressional action on Senator Bumpers' amendment modifying standards for judicial review.)

Sincerely yours,

JAMES C. MILLER III,
Co-Director, Center for the Study of Government Regulation.

AMERICAN ENTERPRISE INSTITUTE
FOR PUBLIC POLICY RESEARCH,
Washington, D.C., September 24, 1979.

Hon. ROBERT DOLE,
U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR DOLE: This is in response to your letter of September 20. Your regulatory reform proposal impresses me as a very helpful addition to the toolkit of regulatory reform. It is a very considerable improvement over earlier proposals.

The incorporation of benefit-cost analysis would be a major step forward.

Thank you for the opportunity of seeing your draft bill. Best wishes on your efforts to promote it.

Sincerely,

MURRAY L. WEIDENBAUM,
Resident Scholar.

Mr. STEVENS. Mr. President, I rise to support the bill of the distinguished Senator from Kansas. Because of the proliferation of costly Federal agency regulations, business growth and productivity has been significantly retarded. The often unnecessary burdens, particularly upon small businesses, of stringent manufacturing, research, labor, and environmental requirements have decimated the efficiency of the private sector. Unfortunately, however, the problem of overregulation has only been recently appreciated. In the last few months, a number of proposals have been circulating containing a variety of solutions for this costly problem. I believe Senator DOLE's bill is one of the best.

Many of the other bills, while containing good points, are so extensive in their suggested changes of regulatory analysis, the practice of administrative law, and the position of administrative law judges that enactment in the near future is improbable. Senator DOLE's bill, the Rulemaking Improvements Act, on the other hand, simply requires the agency to conduct and publish an economic analysis of all proposed rules, provide a forum for discussion, insure that the most beneficial rule be enacted, if any, and authorize judicial review of the agency's decision.

In contrast to the many other proposals floating around, the Dole bill does not require that a given rule's impact on the economy be a certain numerical figure before the agency must conduct an economic analysis of the rule. Many of these proposals set $100 million as the threshold figure before an agency is required to conduct an economic analysis. In Alaska, Federal agency rules, however, often do not have an impact of $100 million. Yet, many of the rules issued in the last few years have had enormously adverse effects upon many of our local communities.

For example, the Postal Service recently proposed discount postage rates for standardized packages which could be processed through their machines. Nonstandardized packages, however, would be subject to a surcharge. The effects of such a surcharge for many Alaskans would be horrendous. Many places in Alaska can only be reached by airplane, and, hence, much of the food consumed by Alaskans in these local communities must be flown in.

The most economical way for the food to reach these communities is via the Postal Service. Yet, the food is stored in large, nonstandardized sacks which would be subject to the surcharge. Many of the residents of these communities live at subsistence levels. Consequently, any increase in postage rates for them would be disastrous. So, you see, the impact of such a rule would not reach $100 million. However, the impact on people's lives would be great. That is why this bill's approach to analyzing all rules irrespective of cost is preferable.

The Dole bill also authorizes the economic analysis to be part of the official rulemaking record for judicial review. It is naive to assume that an agency will be as complete and as accurate in its analysis if no one can seriously question their work. Besides, present judicial review of agency rules often discuss economic issues if the rule has any significant economic impact. Hence, specifically providing for judicial review will do nothing more than put the agencies on notice that they had better do a reasonable job in their analyses.

Finally, Senator DOLE's proposal prohibits the agencies from contracting out these analyses to the private sector. Abuses in Federal/private consulting arrangements have been rampant. In fact, the Civil Service and General Services Subcommittee of the Governmental Affairs Committee of which I am ranking minority member began hearings 3 weeks ago on Federal/private consulting practices. Many of the instances we heard

showed that Government employees could have done what was contracted out to the private sector to do; the result being wasted Government resources.

There are many other provisions of the Senator's bill that are similarly laudable, and I appreciate this opportunity to cosponsor such a thoughtful piece of legislation.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized for 15 minutes.

ECONOMIC FORECASTING A PRECARIOUS SCIENCE: WHY ACTIONS SHOULD BE BASED ON FACTS

Mr. PROXMIRE. Mr. President, in the 22 years I have been in the Senate, I do not know whether I have given a historic speech or not. But if I ever give a historic speech, it is the one I am going to give right now. I am very honored that the Presiding Officer is the distinguished Senator from South Carolina (Mr. HOLLINGS), who is one of the ablest Members of the Senate. I challenge him to listen to what I have to say because I think he may find it interesting. He is a member of the Appropriations Committee and the Budget Committee and he is as concerned as I am about Government spending, about inflation, and what we can do about it.

Mr. President, for months and months, indeed years, economists have ended up with egg on their face because they insist on making policy on the basis of predictions and forecasts which do not happen.

They have been wrong about a recession. In the future we may have one but this year we have not had one, and as of now we are not in one.

They have been extremely wide of the mark in predicting price rises and inflation. It has been grossly underestimated.

Their predictions on unemployment have been dead wrong. Instead of rising dramatically, the rate has been stable.

Just this morning, the BLS told us unemployment was 6 percent in October, which is about the same level it has been at for the last year.

Forecasts of industrial production, GNP, and other indicators have missed by far more than any statistical margin of error. After months of the most pessimistic estimates, new factory orders rose by a whopping 3.9 percent in September.

When the composite index of leading indicators was announced this week, the economists were amazed, chagrined, and embarrassed once again. Instead of going down, in line with the forecasted recession most of them say we are in, it went up. And while the August to September inventory figure was not available when the leading indicators were announced Tuesday, we know now that manufacturers' inventories rose eight-tenths of 1 percent in September, the smallest rise this year.

This should tell us something and it should tell them something.

It should tell us not to base policy on forecasts and predictions.

It should tell them to wait for the facts; to base policy on what happens and not on their computer runs; that economics is an art not a mechanistic science; and that there are unpredictable and impetuous forces at work over which they have little or no control nor which they can forecast accurately.

CONGRESS SHOULD LEARN FROM THIS

If the economists are unwilling or unable to learn from the mass of wrong predictions and forecasts, those of us in Congress should learn from it. In my view we should take two specific actions.

PROPOSAL FOR BUDGET AND FISCAL POLICY

The first has to do with the budget and fiscal policy.

Instead of basing our budget levels on forecasts—routinely wrong—made 10 months before the fiscal year begins and 22 months before it is over, we should propose and pass a budget which would automatically adjust to whatever economic circumstances come about.

What the President and Congress should do is to propose and pass a budget which would be in balance if the economy grew at its historic rate—somewhere between 3 and 4 percent.

No matter how good or how bad the forecasts were, the budget would automatically adjust to conditions as they actually happened. If the economy grew at 6 percent instead of 3 percent, a surplus of about $50 billion would automatically happen because receipts would grow and some expenditures would drop.

If, on the other hand, there were a recession and there was no growth or zero growth, such a budget would produce a deficit of about $50 billion at present levels, which would be the right economic policy in those circumstances. The deficit would come about as receipts declined and expenditures for unemployment, social security, welfare, and other stabilizers increased.

If such a policy had been in effect, we would have had 12 budget surpluses in the last 17 years instead of 16 of 17 deficits and only 1 small surplus. The latter has been one of the major causes—not the only cause—but a major cause of our present outrageous level of double digit inflation. This Proxmire proposal would have given us the surpluses we should have had in the sixties and seventies and the deficits to pull us out of the depression in the thirties.

Instead of depending on the computer runs of the Office of Management and Budget, the Congressional Budget Office, or the steadily growing private economic computer operatives to forecast policies in January 1980 for fiscal year 1981 beginning the following October and continuing through September of 1982, we would have a budget which would be in balance, in surplus, or in deficit according to what actually happened to the economy.

If we in Congress want to bring budget policy into some rational state, this is the direction we should move.

MONETARY POLICY

Mr. President, that is not enough. We should also institute, through congressional oversight of monetary policy and the Federal Reserve Board a similar more steady and sustained monetary expansion.

Under article I, section 8 of the Constitution. "The Congress shall have power to coin money, (and) regulate the value thereof."

That power has been delegated to the Federal Reserve Board which is a creature of the Congress and independent of the executive branch.

That is a congressional power. It is not an executive power. It is a congressional power. The independence by the Federal Reserve Board is not of the Congress. It is an independence of the executive.

It is therefore the duty and responsibility of Congress to determine general monetary policies while leaving the day to day administration of it to the Federal Reserve.

As the population and the economy grows, which the latter has done at a 3- to 4-percent rate over our history, the money supply must also grow if merely to keep enough cash and credit in circulation to fund business and economic activity.

But instead of a roller coaster monetary policy, with periods of excessive expansion and excessive tightening, we should have a policy of generally sustained growth at a more steady level.

That is precisely the policy the Federal Reserve announced October 6, a policy which many people felt was too painful. But it is the right policy. It is antinflationary. At the present time, it would be a stimulative policy in the event we moved into a recession.

If the money supply grew at a sustained general rate of say 4 percent, for example, and that rate was kept relatively steady, it would supply credit during periods of recession, and hence be a stimulus to the economy, and it would have a restraining effect when the economy was growing at a high rate and when inflation was excessive. There is no magic as such in the specific number, except that it should sustain the economy at its approximate historic growth rate and be at a level which would take account of institutional leakages which occur.

BOTH FISCAL AND MONETARY POLICIES NEEDED

To make such a system work we need both a more automatic fiscal and more automatic monetary policy. They should move together like animals in Noah's Ark.

We cannot, as we have been doing, run huge budget deficits in a period of double digit inflation and expect monetary policy, even of the tightest kind, to rescue us from our follies.

We need a complementary set of policies which run in tandem. If at the moment we had a surplus in the Federal budget—as we should have—monetary policy could be eased tremendously, the inflation rate would be considerably lower, and interest rates would fall.

If the proposals I am making were in effect, we would in fact have a budget much more restrained than it now is and interest rates much lower than they now are.

CONCLUSION

Policy can no longer be made on the basis of forecasts, computer runs, and year-ahead projections. Turning to tea leaves, soothsayers, or examining entrails would bring equal or better results.

We must put in place policies which will bring greater stability and greater sense to both fiscal and monetary policies so that they are more or less automatically expansionary in periods of downturn and recession, and restraining in periods of excessive exuberance and runaway inflation.

Mr. President, there has only been one outstanding economist we have had in the Senate in the history of this body. That was Paul Douglas, who was a great economist, president of the American Economic Association. He wrote the definitive work on the theory of wages, and this is a policy he believed we should not follow, to determine what policies we follow based on projections made. We cannot tell what will happen in the future. We should base them on the events as they occur.

That is exactly what the proposal I make this morning would do.

I commend such policies to both the administration and the Congress.

It is time we acted to bring ourselves out of the present fiscal and monetary mess occasioned by excessive dependence on the painfully wrong, indeed endemically wrong, forecasts of the experts.

Mr. President, I ask unanimous consent to have printed in the RECORD composite indexes of leading, coincident, and lagging indicators: September 1979.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPOSITE INDEXES OF LEADING, COINCIDENT, AND LAGGING INDICATORS: SEPTEMBER 1979

The composite index of leading indicators increased 0.8 percent in September to a level of 141.3 (1967=100), according to preliminary data released today by the Bureau of Economic Analysis, U.S. Department of Commerce. On the basis of more complete data, the August index level was revised to 140.2, which is 0.1 percent above the revised July level of 140.1. Change in total liquid assets was the major contributor to the August revision.

Six of ten indicators available for September contributed to the increase in the index: layoff rate, change in total liquid assets, contracts and orders for plant and equipment in 1972 dollars, stock prices, new orders in 1972 dollars, and building permits. Layoff rate contributed the greatest increase.

Four of ten declined: average workweek, vendor performance, change in sensitive prices (the weighted 4-month moving average of the monthly changes had a negative effect on the index even though sensitive prices increased at an increasing rate in September), and money supply in 1972 dollars. Vendor performance—percent of companies receiving slower deliveries—contributed the greatest decline.

The composite index of coincident indicators, which is a monthly approximation of aggregate economic activity, decreased 0.1 percent in September to a level of 144.5 (1967=100). On the basis of more complete data, the August index level was revised to 144.6, which is 0.4 percent below the revised July level of 145.2.

The composite index of lagging indicators increased 3.5 percent in September to a level of 173.0 (1967=100). On the basis of more complete data, the August index level was revised to 167.1, which is 1.0 percent above the revised July level of 165.4.

The leading index is designed to predict monthly movements in aggregate economic activity, which is approximated by the coincident index. The lagging index is expected to move, after a time lag, in the same direction as the coincident index and thus to confirm the movements in the coincident index. These concepts are more fully explained in the Handbook of Cyclical Indicators, a supplement to Business Conditions Digest (BCD), available from the Superintendent of Documents at the price of $4.00.

More data on the composite indexes as well as other important measures of economic activity, appear in *BCD*. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Annual subscription: $40.00.

Indicator	Basic data						Net contribution to Index [1]		Direction of change August to September
	April	May	June	July	August	September	July to August	August to September	
Average workweek, production workers, manufacturing (hours)	[2] 39.1	40.2	40.1	40.2	[2] 40.1	[3] 40.0	−0.09	0.10	−
Layoff rate, manufacturing (percent) [4]	[2] 1.1	1.0	[2] 1.1	[2] 1.2	[2] 1.5	[3] 1.2	−0.33	0.36	+
New orders, manufacturing, consumer goods and materials (billions of 1972 dollars)	37.16	37.42	36.80	35.80	[2] 35.72	[3] 36.36	−0.01	0.11	+
Vendor performance, companies reporting slower deliveries (percent)	76	75	70	60	55	51	−0.19	−0.17	−
Net business formation (index: 1967=100)	[2] 130.4	[2] 130.1	[2] 131.0	[2] 132.6	NA	NA	NA	NA	
Contracts and orders, plant and equipment (billions of 1972 dollars)	[2] 14.79	[2] 13.04	[2] 14.52	[2] 13.31	[2] 13.70	[3] 14.40	0.07	0.14	+
Building permits (index: 1967=100)	122.5	130.7	132.4	123.4	133.6	143.4	0.25	0.25	+
Change in inventories on hand and on order (annual rate, billions of 1972 dollars) [5]	20.02	[2] 16.96	[2] 15.40	[2] 15.38	[2] 13.70	NA	−0.12	NA	
Change in sensitive prices (percent) [6]	2.24	[2] 1.87	[2] 1.79	1.97	[2] 1.97	1.78	0	−0.10	−
Stock prices, 500 common stocks (index: 1941–43=10)	102.07	99.73	101.73	102.71	107.36	[2] 108.60	0.30	0.08	+
Change in total liquid assets (percent) [6]	[2] .76	[2] .76	[2] .81	[2] .88	[2] 0.92	[2] 0.95	0.15	0.12	+
Money supply (M2) (billions of 1972 dollars)	526.2	522.8	523.9	524.4	523.7	[3] 523.4	−0.06	−0.03	−
Percent change in the Index [7]							0.07	0.78	

[1] Net contribution of each individual component is that component's share in the composite movement of the group.
[2] Revised.
[3] Preliminary.
[4] Series is inverted in calculating the composite index of leading indicators: a decrease in the layoff rate is considered an increase in the series.
[5] Estimated.
[6] Smoothed by a weighted 4-mo moving average (with weights 1, 2, 2, 1) placed at the terminal month of the span.
[7] The percent change in the index equals the sum of the net contributions of the individual components plus the trend adjustment factor of 0.099 (except for occasional rounding differences).
NA—not available.

COMPOSITE INDEX OF LEADING INDICATORS (1967=100)

	January	February	March	April	May	June	July	August	September	October	November	December
Monthly:												
1972	118.9	120.3	122.1	122.7	122.9	123.2	124.1	125.8	127.8	129.2	130.1	131.6
1973	132.3	133.4	133.2	132.4	132.4	132.6	132.1	130.0	130.6	130.8	131.1	129.8
1974	130.1	130.4	130.1	127.7	127.0	124.9	123.2	120.5	116.9	114.2	111.3	109.2
1975	106.9	106.4	107.1	109.4	111.9	115.5	118.3	119.2	119.9	120.5	121.2	121.7
1976	124.5	125.7	126.4	126.3	128.0	129.7	130.2	129.9	130.1	129.9	131.8	132.5
1977	131.9	133.0	135.6	136.0	135.8	135.5	135.0	136.9	138.0	139.1	139.4	140.2
1978	139.1	140.3	140.3	141.5	141.8	142.5	141.2	142.0	142.9	[1] 143.6	[1] 142.8	[1] 143.1
1979	[1] 142.5	142.7	[1] 143.2	[1] 139.8	[1] 140.1	[2] 140.5	[1] 140.1	[1] 140.2	[2] 141.3			
Percent change:												
1972	1.2	1.2	1.5	0.5	0.2	0.2	0.7	1.4	1.6	1.1	0.7	1.2
1973	.5	.8	−.1	−.6	0	.2	−.4	−.9	−.2	.2	.2	−1.0
1974	.2	−.2	−.2	−1.8	−.5	−1.7	−1.4	−2.2	−3.0	−2.3	−2.5	−1.9
1975	−2.1	−.5	.7	2.1	2.3	3.2	2.4	.8	.6	.5	.6	.4
1976	2.3	1.0	.6	−.1	1.3	1.3	.4	−.2	.2	−.2	1.5	.5
1977	−.5	.8	2.0	.3	−.1	−.2	−.4	1.4	.8	.8	.2	.6
1978	−.8	.9	0	.9	.2	.5	−.9	.6	.6	[1] .5	[1] .6	[1] .2
1979	[1] .4	.1	[1] .4	[1] 2.4	[1] .3	[1] .3	[1] .3	[1] .1	[2] .8			

Footnotes at end of tables.

COMPOSITE INDEX OF LEADING INDICATORS (1967=100)—Continued

	Quarterly				Percent change			
	I	II	III	IV	I	II	III	IV
1972	128.4	122.9	125.9	130.3	3.5	2.1	2.4	3.5
1973	133.0	132.5	131.2	130.6	2.1	−.4	−1.0	−.5
1974	130.2	126.5	120.2	111.6	−.3	−2.8	−5.0	−7.2
1975	106.8	112.3	119.1	121.1	−4.3	5.1	6.1	1.7
1976	125.5	128.0	130.1	131.4	3.6	2.0	1.6	1.0
1977	133.5	135.8	136.6	139.6	1.6	1.7	.6	2.2
1978	139.9	141.9	142.0	[1] 143.2	.2	1.4	.1	[1] .8
1979	142.8	[1] 140.1	140.5		[1] −.3	[1] −1.9	.3	

[1] Revised. [2] Preliminary.

COMPOSITE INDEX OF COINCIDENT INDICATORS[1] (1967=100)

	January	February	March	April	May	June	July	August	September	October	November	December
Monthly:												
1972	113.8	114.2	115.4	116.4	116.9	116.6	117.5	119.0	119.4	121.3	122.6	123.9
1973	124.8	126.1	126.7	126.6	126.9	127.2	127.7	127.2	127.9	128.9	129.7	129.0
1974	127.7	127.0	126.9	126.6	127.0	127.1	126.9	126.1	125.4	124.2	121.2	117.7
1975	115.4	113.7	112.3	112.6	113.4	114.2	115.1	116.7	117.5	117.9	118.4	118.9
1976	120.3	121.6	122.4	123.3	123.4	123.6	124.0	124.3	124.3	124.1	125.6	127.1
1977	126.3	127.6	129.7	130.0	130.6	131.3	131.7	131.9	132.6	133.8	134.7	135.7
1978	134.0	135.0	136.9	139.3	139.5	140.1	140.5	141.4	141.4	[2] 143.0	[2] 144.3	145.5
1979	144.8	144.9	[2] 146.6	[2] 144.1	[2] 145.6	145.0	[2] 145.2	[2] 144.6	[2] 144.5			
Percent change:												
1972	1.6	0.4	1.1	0.9	0.4	−0.3	0.8	1.3	0.3	1.6	1.1	1.1
1973	.7	1.0	.5	−.1	.2	.2	.4	−.4	.6	.8	.6	−.5
1974	−1.0	−.5	−.1	−.2	.3	.1	−.2	−.6	−.6	−1.0	−2.4	−2.9
1975	−2.0	−1.5	−1.2	.3	.7	.7	.8	1.4	.7	.3	.4	.4
1976	1.2	1.1	.7	.7	.1	.2	.3	.2	0	−.2	1.2	1.2
1977	−.6	1.0	1.6	.2	.5	.5	.3	.2	.5	.9	.7	.7
1978	−1.3	.7	1.4	1.8	.1	.4	.3	.6	0	[2] 1.1	.9	.8
1979	−.5	.1	[2] 1.2	[2] −1.7	1.0	[2] −.4	[2] .1	[2] −.4	[2] −.1			

	Quarterly				Percent change quarterly			
	I	II	III	IV	I	II	III	IV
1972	114.5	116.6	118.6	122.6	3.2	1.8	1.7	3.4
1973	125.9	126.9	127.6	129.2	2.7	.8	.6	1.3
1974	127.2	126.9	126.1	121.0	−1.5	−.2	−.6	−4.0
1975	113.8	113.4	116.4	118.4	−6.0	−.4	2.6	1.7
1976	121.4	123.4	124.2	125.6	2.5	1.6	.6	1.1
1977	127.9	130.6	132.1	134.7	1.8	2.1	1.1	2.0
1978	135.3	139.6	141.1	144.3	.4	3.2	1.1	2.3
1979	[2] 145.4	[2] 144.9	[2] 144.8		.8	−.3	[2] −.1	

[1] Includes Employees on nonagricultural payrolls; Industrial production index; personal income less transfer payments in 1972 dollars; manufacturing and trade sales in 1972 dollars. [2] Revised. [3] Preliminary.

COMPOSITE INDEX OF LAGGING INDICATORS[1] (1967=100)

	January	February	March	April	May	June	July	August	September	October	November	December
Monthly:												
1972	105.4	104.6	104.9	105.6	106.3	106.9	106.9	107.2	108.1	108.9	109.5	110.2
1973	112.5	114.2	115.9	118.2	119.5	121.7	124.4	127.4	129.6	129.6	130.0	131.5
1974	132.9	131.8	131.5	135.5	139.4	140.4	142.2	142.6	143.2	143.1	141.9	141.9
1975	140.6	135.9	132.4	129.0	126.9	122.4	122.7	122.4	122.1	122.7	120.6	120.1
1976	119.5	119.0	118.7	118.7	119.2	120.1	120.4	120.0	121.1	120.7	120.2	119.9
1977	120.2	121.0	121.7	122.3	123.1	125.0	125.2	126.5	127.8	129.4	131.1	131.7
1978	134.1	135.9	137.2	137.8	140.0	142.9	143.5	144.5	146.4	148.1	152.7	155.2
1979	157.5	158.5	158.5	161.9	162.5	164.0	[2] 165.4	[2] 167.1	[2] 173.0			
Percent change:												
1972	−1.1	−0.8	0.3	0.7	0.7	0.6	0	0.3	0.8	0.7	0.6	0.6
1973	2.1	1.5	1.5	2.0	1.1	1.8	2.2	2.4	1.7	0	.3	1.2
1974	1.1	−.8	−.2	3.0	2.9	.7	1.3	.3	.4	−.1	−.8	0
1975	−.9	−3.3	−2.6	−2.6	−1.6	−3.5	.2	−.2	−.2	.5	−1.7	−.4
1976	−.5	−.4	−.3	0	.2	.8	.2	−.3	.9	−.3	−.4	−.2
1977	.3	.7	.6	.5	.7	1.5	.2	1.0	1.0	1.3	1.3	.5
1978	1.8	1.3	1.0	.4	1.6	1.4	1.1	.7	1.3	1.2	3.1	1.6
1979	1.5	.6	0	2.1	.4	.9	.9	[2] 1.0	[2] 3.5			

	Quarterly				Percent change			
	I	II	III	IV	I	II	III	IV
1972	105.0	106.3	107.4	109.5	−1.7	1.2	1.0	2.0
1973	114.2	119.8	127.1	130.4	4.3	4.9	6.1	2.6
1974	132.1	138.4	142.7	142.3	1.3	4.8	3.1	−.3
1975	136.3	126.1	122.4	121.1	−4.2	−7.5	−2.9	−1.1
1976	119.1	119.3	120.5	120.3	−1.7	.2	1.0	−.2
1977	121.0	123.5	126.5	130.7	.6	2.1	2.4	3.3
1978	135.7	139.9	144.8	152.0	3.8	3.1	3.5	5.0
1979	158.2	162.8	[2] 168.5		4.1	2.9	[2] 3.5	

[1] Includes average duration of unemployment; labor cost per unit of output, manufacturing; manufacturing and trade inventories in 1972 dollars; commercial and industrial loans outstanding. [2] Revised. [3] Preliminary

THE CONSTITUTION AND THE GENOCIDE CONVENTION ARE CONSISTENT

Mr. PROXMIRE. Mr. President, I would like to once again comment on an article entitled "Constitutional Rights and Human Rights" by Prof. Louis Henkin.

In examining American policy on international human rights law, Professor Henkin criticizes our Nation's inconsistency. He points out that arguments against ratification of certain human rights agreements, including the Genocide Convention, have been proven without substance and should be abandoned.

Two such arguments are based on faulty constitutional grounds—first, that human rights treaties deal with matters reserved to the States, and, second, that these treaties infringe on the authority of the Constitution. Professor Henkin is one of many constitutional experts who refute these arguments.

Since World War II, human rights have been handled on an international level, through treaties and agreements, without contradicting States rights. *Missouri* v. *Holland* (252 U.S. 416) is only one court decision which shows that treaties do not violate States rights.

Nor could human rights treaties be used to subjugate the Constitution to international law. As in *Reid* v. *Covert* (354 U.S. 1), many judicial decisions have proven that the Constitution simply cannot be overridden by international treaties.

Those who oppose the Genocide Convention on constitutional grounds, base their arguments on rhetoric, not reality. Professor Henkin points out the fact that former Senator Bricker, for years a leading opponent of the Genocide Treaty, implied through his own actions that the Constitution does not forbid human rights treaties. The following passage from Professor Henkin's article reveals the ironic truth:

> That Senator Bricker sought for years, unsuccessfully, to amend the Constitution to limit the treaty power, principally to prevent United States adherence to human rights conventions, is evidence that in his view and that of his supporters, the Constitution would not prevent such adherence if not amended.

It is time we face reality. It is time we remove the obstacles blocking America's crusade for human rights. It is time we ratify the Genocide Convention.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER (Mr. EXON). Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

Mr. NUNN. Mr. President, I ask unanimous consent that the time allotted the majority leader, which I believe is 15 minutes, be assigned to me.

Mr. PROXMIRE. Mr. President, I yield whatever time I may have remaining to the Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Senator from Wisconsin.

Mr. President, I yield to the Senator from Kansas whatever time she desires.

Mrs. KASSEBAUM. I appreciate the Senator from Georgia yielding me a few minutes.

STARVING CHILDREN IN CAMBODIA

Mrs. KASSEBAUM. Mr. President, I am joining this morning with elected women around the world in making a concerted effort to address the problem of children starving in Cambodia.

I think we would all agree that the children have had no part in the terrible struggles that have caused the situation that has developed in Cambodia.

We are hoping through concerted efforts that the doors can be opened to at least give assistance to the children.

I think it is interesting to note that in 1921, as starvation was rampant in the Soviet Union, finally concerted pressures around the world allowed the doors to be opened in assistance to children, and that 1 million children were saved at that time.

The Soviet Union has since acknowledged their appreciation that that effort had been made. I think it is time now the Soviet Union recognizes, as well as the Government of Vietnam, that they must open their doors and allow assistance to be given to the children who are dying of starvation in Cambodia.

Isadora Duncan said, "So long as little children are allowed to suffer, there is no true love in this world."

Mr. NUNN. Mr. President, I commend the Senator from Kansas for that excellent statement, and I associate myself with her remarks.

That is a message all of us need to hear and the whole world needs to hear, and I hope the Soviet Union will pay some heed to the plea that has been made.

I also hope the Soviet Union will consider the many requests coming from many parts of the world to join in an effort to help take care of the starving people in South Asia.

This is one of the tragedies that has occurred in the last hundred years, and I think it is up to all of us to do everything we can to raise our voices in order to alert the world that, while we are watching on television a holocaust which took place in the 1940's, another holocaust is taking place before our eyes.

So I commend my colleague from Kansas.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. NUNN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I, too, associate myself with the remarks made by the able Senator from Kansas. I join the distinguished Senator from Georgia in expressing the hope that there will be those who will listen: the Phnom Penh authorities, the Vietnamese authorities, and the Soviets, who I hope will bring to bear whatever good offices they can bring to bear, in an effort to influence the Phnom Penh authorities to open up their hearts to the suffering and have some compassion for innocent people—men, women, and children.

We all want to see people live. We want to help people to live.

This is a tragic thing; barbaric; something that is unbelievable. It is inconceivable that any government that purports to be a civilized government would act so heartlessly to reject the mere offer of food for saving dying men, women, and children.

I congratulate the Senator from Kansas.

ORDER FOR RECESS UNTIL 12:30 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I have had difficulty securing consent for the Foreign Relations Committee to meet while the Senate is in session. I am told by the Foreign Relations Committee chairman that it is important that Mr. JAVITS, who is the ranking minority member on that committee, remain in the committee during the markup today, since the committee can only meet until 12:30 today under the rules.

That being the case, it would be difficult for a manager to be procured for the refugee assistance bill, because the manager, I believe, must be out of that committee, and the ranking minority manager also would be from that committee.

Therefore, I ask unanimous consent that when Mr. NUNN completes his statement under the order, the Senate stand in recess until 12:30 p.m. today, and at that time the Senate then proceed to the refugee assistance bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my 5 minutes under the standing order of the leader be transferred to the control of Mr. NUNN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if any time has been yielded back thus far by any Senator who has an order, I ask unanimous consent that that time be transferred to the control of Mr. NUNN, if he should require it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C BYRD. I thank the Senator for yielding.

SALT AND NATIONAL SECURITY: WHERE DO WE GO FROM HERE?

Mr. NUNN. Mr. President, as I stated on July 25, I cannot in good conscience support ratification of the SALT II treaty in the absence of a firm, public commitment by the administration to request and fight for substantial annual real increases in defense spending on the order of 5 percent or more in budget authority over the coming years. In my judgment, such increases are essential if we are to begin to halt the adverse trends in the East-West military balance and if the SALT II debate is to be something

more than one more milestone marking the emergence of Soviet military superiority.

I am convinced that the fundamental issue for our Nation and for the Senate is not the treaty alone, but rather the degree to which we as a nation are prepared to recognize and arrest the continuing slippage that has taken place in the American military posture during the past 15 years. American military power has failed to keep pace with an unparalleled Soviet military buildup and an increasingly aggressive Soviet intervention policy.

Since 1970, the Soviet Union has invested a total of $104 billion more than the United States in military equipment and facilities, and $40 billion more in research and development. Soviet foreign policy, invigorated by this relentless military buildup and uncertain American response to it, is seeking to gain a stranglehold over the economic foundations of Western prosperity and military power. This is the common denominator of Soviet activities in Angola, Ethiopia, South Yemen, Afghanistan, elsewhere in Africa, the Middle East, and South Asia.

The SALT process has not caused the erosion in America's military position, but neither has it prevented that erosion, nor will its ratification solve it. A sedative does not cure the disease, but it can dull the pain to the point that the patient does not seek immediate treatment. The cure lies not in the treaty, but in ourselves: We simply have not competed effectively with the Soviet military buildup that has continued steadily since the mid-1960's. The issue now is whether we are prepared to do so.

In the strategic nuclear area that SALT deals with directly, it is evident that we will need larger expenditures to maintain essential equivalence. These larger expenditures must not occur at the expense of general purpose forces and readiness.

Yet, this is exactly what was occurring as of July 1979. The executive branch was "robbing Peter to pay Paul," within the budget process while the Congress, led by the House Defense Appropriations Subcommittee, was cutting back on readiness. Unless we have a definite commitment and pronounced leadership for larger and more effective military budgets, this Nation will be indulging in a national security charade. As one Senator, I cannot prevent this charade; but if these conditions continue, I will not become part of it by voting for SALT II.

This is why I asked for a dedicated additional defense effort and why I requested to see the evidence of the Presidential commitment in the form of the 1981 budget and the new 5-year defense plan prior to a vote on SALT II.

The military problems we face have been 15 years in the making and cannot be resolved overnight. I do not pretend to be the Secretary of Defense, nor will I attempt to play that role. I am aware that the U.S. Constitution, the two-year term of Congress, and the 4-year Presidential term prevent legally binding multiyear defense spending commitments. But the word must go out to our allies and adversaries alike—the slumber is over—America has awakened. That is the real significance and importance of the defense budget plans and figures that will be submitted next month, and in January, and in the years ahead.

National security goals, budgets, and efficiency—these should be the three focal points underlying the debate over our future national security. They are all interrelated.

A totalitarian government would never admit its military weaknesses in public. In a democratic society, however, if we are going to engage in a meaningful debate on national security goals, missions and budgets, we must candidly recognize the weakness in our current posture and the adverse trends.

First. We have lost strategic nuclear superiority. We are now in a tenuous position that I would characterize as clinging parity.

Second. The Soviets have achieved an advantage in long-range theater nuclear forces in Europe. NATO's theater nuclear weapons are too limited in range and too vulnerable to preemption. NATO's general purpose forces are not trained for sustained combat in a nuclear or chemical environment.

Third. NATO has a questionable capacity to sustain a conventional defense of Europe because of continuing severe shortages in available stocks of ammunition and war reserve equipment, a lack of sufficient strategic sea and air lift resources, and the absence of a reliable manpower mobilization base. To put it simply, the United States no longer has strategic nuclear superiority, but this fundamental change is not reflected in NATO's theater nuclear and conventional force posture.

Fourth. Because of the shortages in strategic lift, the U.S. capability to rapidly deploy sizable forces to the Indian Ocean, the Middle East or elsewhere is questionable at best.

Fifth. The chronic shortages in funding for training, operations and maintenance that have plagued all the services during the past decade have reduced the readiness of much of our force structure. While there is no political lobby for readiness, there is no military substitute for it.

Sixth. Our dwindling Navy is spread too thin today. With the Western World growing more dependent on foreign sources of oil, the U.S. Navy is being given more missions and more responsibility with fewer ships being built every year. We cannot continue to expand naval requirements while reducing naval capabilities.

It is apparent to all objective observers that we have problems. I am not suggesting that there is a cause for panic or for scare tactics. I am not suggesting sudden massive increases in defense spending. The budget must, however, demonstrate a solid commitment to modest but steady increases in defense spending for the foreseeable future. It must show a commitment to getting more military muscle out of the defense budget, as well as a determination to develop more realistic national security goals for the 1980's and beyond.

Most of all, the American people must be told the facts. While continuing to seek ways to achieve meaningful arms control, the United States must demonstrate that it is totally committed to provide for its national security. We have gone for too long a time without that demonstration. Without it, we cannot maintain an adequate defense posture with or without SALT II.

It is obvious that the United States cannot, without spending more on defense than we have during the past decade:

First. Assure essential equivalence at the strategic nuclear level;

Second. Redress the theater nuclear imbalance in Europe;

Third. Contribute to the creation of a truly formidable NATO conventional deterrent;

Fourth. Expand the capabilities of our Navy; and

Fifth. Establish a flexible, mobile combat force.

Whether the increase in the U.S. defense budget over the next 5 years is 3 percent, 5 percent, 7 percent, or even 10 percent, the United States cannot do it alone. These challenges must be met in concert with our allies in the free world.

Thirty-five years after World War II, America is at a crossroads as to our national security goals. We came out of that war with overwhelming military and economic strength and were largely self-sufficient. Much of the rest of the world was in ruins. Our allies needed us more than we needed them, and our adversaries feared and respected us. The world is now a different place.

Russia has built a massive military machine; Western Europe and Japan are economic superpowers; the United States has lost its nuclear dominance and has become economically dependent on overseas sources for oil and many key raw materials.

The time has come to recognize that this fundamental shift has altered our traditional military requirements and has imposed upon the Atlantic Alliance and our Pacific allies the need for greater investment in defense and greater military specialization and cooperation.

NATO was created as an instrument to protect Western Europe from a direct military attack by the Soviet Union, yet the security of Western Europe today is just as sensitive to events in the Middle East and in the Indian Ocean as it is to the events along the German border. The same can be said of Japanese dependence on these areas.

The United States possesses inherent advantages in strategic and theater nuclear arms, in naval power, and the ability to project military force in areas distant from Europe.

Our NATO Allies, for political as well as military reasons, are not in a position to unilaterally guarantee their own securities against nuclear threats, or threats to their economic lifeline outside of Europe. We must remain the leading partner in these areas, but our partners must help.

Our NATO partners enjoy a natural advantage in conventional ground and tactical air forces confined to the European theater. The United States alone has never been in a position to guarantee the conventional defense of Western Europe. NATO has never felt the necessity of providing essential equivalence in the conventional arena because of America's nuclear guarantee. Because of shifts in the strategic balance, this complacency must end. Soviet essential equivalence in the nuclear balance must be met by NATO essential equivalence in the conventional balance. America must play a role as a contributing partner, but our European allies must assume the role of leading partners in achieving essential equivalence in the conventional arena.

While we should continue to carry out our share of the NATO long-term defense plan, the United States must for the foreseeable future devote an increasing proportion of our defense effort to upgrading and expanding our Navy and Air Force for contingencies outside Europe.

The sea lanes in the Indian Ocean are as vital to Europe as are the highways and railroads in central Europe. Only with America as the leading partner can we defend the former. Only with the Europeans as leading partners can we defend the latter.

Japan too must be prepared to assume a substantially larger responsibility for her own defense against immediate threats to her own territory. The United States should not seek to substitute improved Japanese military power for U.S. military presence in Asia. Improvements in Japan's self-defense efforts, however, may permit U.S. forces to shift more of our attention to other priority missions such as defense of U.S. and Japanese sea lines of communication at extended distances from Japan, particularly in the Indian Ocean.

The United States has of necessity been the leader of the free world in military matters since World War II. We must continue to lead, but in the context of a maturing partnership cognizant of the fundamental changes that have occurred in the last decade.

Our challenge is to consider these fundamental changes and to develop national security goals which are clearly understood by the American people. We can no longer rely primarily on nuclear dominance and slowly mobilized industrial capacity to deter war. We must take a fresh look at our national security goals in close consultation with our allies.

I have never subscribed to the notion that military problems can be solved by simply throwing money at them. We must tighten our belt so that any additional funds can buy hard military muscle. There are several areas that merit our attention:

First. Our gift for technological innovation has enabled us to produce the most sophisticated systems in the world. Our present challenge is to also use our know-how and technology to build durable weapon systems that can be maintained in the field and afforded in sufficient numbers to carry out our defense missions. The world's most sophisticated fighter plane cannot defeat Soviet airpower if it is constantly in the shops for repairs. Nor can the world's greatest tank prevail if outnumbered 5 to 1.

Second. We must limit and reduce the proportion of the budget used for manpower—even if it requires our political leaders to make uncomfortable choices.

The Volunteer Force was based on the theory that all the taxpayers should bear the additional cost of manpower directly, rather than impose an implicit tax on those drafted. Like most Washington theories, this one has been only 50 percent implemented. The additional manpower cost has not been borne by increased general taxes or reduced social spending, but instead comes directly from the other parts of the defense budget.

In 1964, manpower costs accounted for 48 percent of the defense budget. If the manpower proportion had remained constant at the 48-percent level between 1970 and 1978, we would have had an additional $100 billion in today's dollars to spend on military investment and readiness rather than manpower. Additional defense funds which are made available should not be gobbled up just to keep bailing wire and bandaids on a policy that has lost its logical credibility but not its political support.

Third. We must also reassess the current practice of stretching our readiness dollars over the entire force structure. We must carefully examine the feasibility of staggering levels of readiness for U.S. units in conjunction with their planned deployment schedules.

Fourth. We must be no less innovative in exploiting our advantage in land-based tactical airpower. It is a paradox that we continue routinely to maintain our sea-based tactical airpower on station in areas where we have at hand a comparatively large force of land-based tactical air forces; yet, only occasionally do we deploy carriers in the Indian Ocean, a place we have no land-based aviation.

Thus far, I have outlined three fundamental factors needed to redress our military posture—a determination of national security goals, increased defense spending, and a stricter setting of military priorities to get more out of the defense dollar. I recognize that progress in strategy, budgets and efficiency is highly interdependent and difficult, but we must get the improvement process moving—and moving now.

As a first step, the administration has agreed to submit to the Senate a comprehensive outline of the 1981 budget and 5-year defense plan with budget figures in November prior to the debate on SALT II. The substance of these documents, however, remains unknown. As a bare minimum, I would expect this November plan to include:

First. A clear unambiguous commitment together with a public explanation of the need to make real increases each year in defense purchasing power for as long as the Soviets continue their substantial military buildup.

Second. A clear and unambiguous commitment to request and fully support defense budgets for fiscal year 1981 through fiscal year 1985 which allow real growth in defense budget authority on the order of 5 percent annually or more.

Third. An explicit identification of the inflation estimates contained in each year of the 5-year budget.

Fourth. A commitment to a new process of requesting annual supplemental budgets to make up for unpredicted increases in inflation or reductions made by Congress in inefficient programs.

Fifth. A firm commitment to a process of getting more military strength from the defense dollar by setting a limit on the proportion of manpower costs in the defense budget.

In the final analysis, my primary criteria for judging the adequacy of the defense budget for the next 5 years will be the extent to which it effectively addresses the deficiencies which I have outlined.

Adjusting the fundamental factors behind our military posture—national security goals, budgets, and efficiency—will take time. But we must begin.

Above all, I will be looking for leadership. The President must lead. The President of the United States is the leader of the American people and the free world. He must alert the Nation and our allies to what has transpired in the global military arena for the past 15 years. He must employ the enormous educational power of his office to inform the American people, and those who look to the United States for leadership, of the adverse trends in the defense posture of the Western World, and stimulate the development of the new mature partnerships that are needed.

He must explain the nature of the challenge—the fact that the Soviet Union is spending 11 to 15 percent of their GNP on defense—the fact that the United States is now spending less of our GNP and less percentage of our national budget on defense than at anytime since before the Korean war.

He must make it clear that the United States can pursue arms control and at the same time compete effectively to protect our security.

He must formulate the necessary remedies, explain their need to the American people, the Congress, and our allies, and fight for their enactment.

We have reached a point in the history of America and the free world where steady, unwavering and unequivocal Presidential leadership on defense issues is the prerequisite to preparedness, to deterrence, and to meaningful arms control agreements.

Mr. President, I thank the Senator from West Virginia for yielding to me.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. NUNN. Yes, I will be glad to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I sat here listening to the speech of the distinguished Senator from Georgia, and I want to compliment him. It is the kind of speech we should be hearing here almost every day.

Our country has never been in as bad condition militarily in my lifetime, and I have been associated actively with the military 37 years of my life, and 13 years since my retirement.

Our personnel in the Reserve are one-half of what they should be; in the

National Guard the personnel are one-half of what they should be.

As the Senator mentioned, we are outnumbered in tanks 5 to 1. We do not even have a workable main battletank. We have been working on it since World War II.

We are outnumbered in tactical aircraft 2 to 1. Our Navy was in better shape before Pearl Harbor than it is today.

I get sort of, not amused but, a frightened feeling when people advocate that the President might consider sending forces to protect our oil sources in Arabia. Mr. President, we do not have enough forces to send anyplace. I would have a hard time—and I hate to say this—thinking of a country we might have a chance of whipping on the ground.

Our airpower is a different thing. We still retain qualitative superiority in the air even though we are outnumbered.

They talk about the lack of Soviet strategic air forces. They have as many strategic bombers as we have. They have a Backfire bomber that can deliver bombs on the soil of the United States, land in Cuba, and return.

So, Mr. President, with all this talk of SALT coming up, I think the important thing is not SALT because, unfortunately, SALT does not disarm either side in nuclear power, and both sides have more nuclear power today than either side needs.

I would like to see a treaty that says, "Let us start disarming," not unilaterally but multilaterally to the end that we can eventually do away with nuclear forces and depend, if we have to depend, on a system for wars on conventional arms.

Again I admire the Senator for the position he has taken. It is my pleasure to serve on the Committee on Armed Services with him. We respect him for his knowledge, we respect him for his courage in speaking out.

I again thank the Senator for the message he has given the American people. I can only say there is a hopeful sign. Polls I have seen in the last few days show that the American people are becoming aware of the pitiful plight of our military and want us to do something about it.

In closing, I say to my friend from Georgia, who serves with me, that we can do a big job in the Committee on Armed Services by cutting down on the waste that the Senator and I know occurs in the Pentagon.

Why, for example, should we have three Air Training Commands? We only need one.

Why should we be training Navy helicopter pilots by the Navy while the Army and the Air Force train under the Army?

Why do we have four Tactical Air Forces? Why do we have now three Materiel Airlift Commands when the design is to have one?

I think it is time our Committees on Armed Services in both Houses take the Pentagon to task, rake them over the coals, and tell them instead of them telling us what we think they should have and how much of it they should have.

Again to you, sir, my thanks for a very, very fine job.

Mr. NUNN. I thank my colleague from Arizona for those words, which mean a great deal coming from him. I do not know anyone who has been as stalwart about national security consistently as the Senator from Arizona. He is one of the strongest voices for national security in this country, and has been for many years.

So I thank him for his assessment and his kind words.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. NUNN. I yield to the Senator from California.

Mr. CRANSTON. I, too, want to express my admiration for the very thoughtful statement made by the Senator from Georgia, who has been so diligent and dedicated in learning about, understanding and setting forth for the benefit of others the condition as he sees it of our military preparedness and nonpreparedness.

I believe, with the Senator, that it is very important that we insure that we have the strength we need to deal with reality in a dangerous world. I am prepared to work with him to that end.

I trust, also, that we will be able to mesh a sound policy of power with a sound policy of peace and move toward the sort of a SALT structure that I gather the Senator from Arizona had in mind as he expressed the wish that SALT would lead to real cuts in nuclear armament. If that can be done, we will be far more secure if it is done on a mutual basis with the Soviet Union.

I also feel that it is very necessary to do our utmost to insure that money invested in military matters is not wasted. There is plainly a significant amount of expenditure, as the Senator from Arizona stated, that is unnecessary. If we can rid ourselves of that, it will be far easier to have the funds available for the sort of preparedness that the Senator from Georgia outlines.

It is also important for another reason. We are plagued with deficits; we are plagued with inflation. We are going to have difficulty in securing the funds that some believe are needed for our national defense, because of the problems of an unbalanced budget and perhaps a larger deficit next year than this year.

If we could find ways to eliminate the spending that is not necessary, it would be a simple task to provide the funding that is necessary.

I had one question that I wanted to ask the Senator: In referring to the diminishing funds available for manpower since 1964, he used the figure of $100 billion that would have been available.

Is that a cumulative figure from 1964 to now?

Mr. NUNN. That is a little bit tricky. I am not suggesting that we can go back to the 1964 percentage for manpower. What I am saying is, if he had kept the proportion allocated to manpower in the budget in the year 1964, and if we applied that figure, that proportion, which was about 48 percent, to the defense budgets that have been submitted since 1970, from 1970 to 1978, through those 8 years, cumulatively, we would have had $100 billion more. I am not counting the years from 1964 to 1970. I am applying it to the decade of the 1970's. The reason for that kind of comparison is because we have had a spending gap with the Soviet Union of $104 billion.

I think it is interesting to note what could have happened. I am not saying we could go back to the 1964 manpower situation. I think that would be totally impossible. What I see coming right now, as we stand here talking, there are people in the Pentagon who are scratching out ways to maintain the Voluntary Force levels by pouring out more money in the front end.

Not only that, it is taking money out of the defense structure because it is coming out of the total budget. It is also having a regressive effect on career benefits for the people staying in for 20 or 30 years. What we are getting is the worst of both of those worlds. We are getting higher attrition at the front end. We are having a tremendous turnover. We are having more and more training costs. We are seeing deterioration in the quality of the forces. We are seeing tremendous pressures on recruiters for numbers and yet seeing more and more of our defense dollars not only going for manpower, but going to the very early stages when people were in the service, instead of spreading it over a career force.

It is not only the reduction in benefits in the career force that is perceived that is causing the problem, it is the fact, particularly in the enlisted ranks, that so much of the progress young enlisted persons can make in their military careers comes in their first 4 years. After that, there is not a lot to look forward to in terms of promotions or in terms of increased pay, because we have front-loaded the personnel system.

So what I am saying to the Senator from California is that the President has got to come to grips with this problem, the Congress has got to come to grips with it, and the American people have.

We have to say that we are not going to spend but so much of our defense budget on manpower. If we get over that, and the Volunteer Force will not work, then we are going to have to start looking for alternatives.

I suggest to the Senator from California that the budget that may be coming up here within 10 days may contain an inordinate amount of money simply to keep the manpower we have got today in the services. I think that that is something we cannot continue to do.

If they come up with a budget that is going to be front loaded with more bonuses, more first-term pay, and that kind of thing, then we are going to have to ask the question, "How far are we willing to go to keep the Volunteer Force going?"

I think the recruiting problems that are being experienced now and the recruiting scandals we have read about in the papers, are only the tip of the iceberg of what is coming in the future. We are having the young sergeants who are out there, and some of the top people in the military, who are having tremendous pressure put on them to meet quotas.

The Secretary of Defense, in his posture statement this year—it was not picked up much in the press—basically said, very frankly, if you read it very carefully, that we are going into an era of more money going into recruiting with less quality coming out.

We simply have to come to grips with that. I do not know the answers. But I do know that the answer is not in the direction we are going today.

Mr. CRANSTON. I thank the Senator very much for a very lucid explanation. I look forward to working with him to find those answers, as well as on the defense budget and the matter of arms control, which should be a policy that accompanies a policy of power based upon adequate defense. I thank the Senator from Georgia.

Mr. NUNN. I thank the Senator from California. I certainly share his goals and look forward to working with him. I thank him for his kind remarks.

Mr. President, I do not know how much time I have remaining, but I would be glad to yield back the remainder of my time.

RECESS UNTIL 12:30 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 12:30 p.m.

Thereupon, at 11:46 p.m., the Senate took a recess until 12:30 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

MIGRATION AND REFUGEE ASSISTANCE

The PRESIDING OFFICER. Under the previous order the Senate will now resume consideration of the pending business, S. 1668, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1668) to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, it is my understanding that the measure now before the Senate is Senate bill 1668.

The PRESIDING OFFICER. The Senator is correct.

Mr. McGOVERN. Mr. President, the purpose of this bill is to authorize additional appropriations for fiscal years 1980 and 1981 in the amounts of $207,290 million and $203,610 million respectively for the Department of State to finance the migration and refugee assistance program. These amounts will raise the total figures authorized for migration and refugee assistance to $456,241 million for fiscal year 1980 and $457,798 million for fiscal year 1981.

Although the United States provides assistance for refugees throughout the world, the additional funds authorized by this bill are necessary chiefly because of the dramatic upsurge in refugees in Southeast Asia. Hundreds of thousands of Vietnamese have fled Vietnam. War and government repression in Laos and Kampuchea have created a refugee population of about 200,000 people in Thailand, whose plight is sometimes obscured because of the less dramatic nature of their flight. Another quarter of a million estimated people have fled to the People's Republic of China since early 1978.

With 60,000 refugees a month arriving in the Southeast Asian countries early this summer, these countries began turning away new arrivals and threatening to expel others unless the international community demonstrated a willingness to accept more refugees for permanent resettlement.

I think Senators can appreciate the dilemma these small, in some cases impoverished, countries were faced with in trying to absorb a flood of needy people from outside their own borders.

President Carter's announcement at the Tokyo summit that the United States would raise its monthly quota from 7,000 to 14,000 provided the impetus that was needed to deal with this tragic situation. Other countries strongly criticized Vietnam's harsh actions, and Vietnam's increasing isolation and growing economic problems led it to reassess its position and policies. Hanoi curtailed—at least for a time—the mass expulsion of its own citizens. The refugee flow dropped to about 10,000 persons in August. Unfortunately, we cannot count on such restraint continuing into the future. In addition, a Vietnamese military offensive has been launched against the guerrilla forces under Pol Pot in Cambodia. The effect of renewed war and famine in Cambodia could be to stimulate a large new influx of refugees into Thailand. We must be prepared for such an eventuality even as we try to do what we can to prevent it.

This bill authorizes $84 million of additional funds to support the Southeast Asian program of the U.N. High Commissioner for Refugees, and it authorizes $105 million more to pay the costs associated with the doubling of the U.S. refugee quota.

What are the essential elements of an appropriate U.S. policy in this tragic situation? First, the United States must update its laws dealing with all refugee matters, and not just those from Southeast Asia. S. 643, the Refugee Act of 1979, which has passed the Senate by a vote of 85 to 0, does this by creating more realistic and regular procedures for dealing with refugee matters.

Second, the United States must continue to press other countries to respond more generously to the needs of the Southeast Asian refugees. Our efforts along these lines have already had beneficial results, for other countries pledged at the Geneva Conference in July to increase the number of refugees they would accept for resettlement from about 36,000 during the previous 12 months to nearly 124,000 during the following year.

The Southeast Asian countries must not turn away those who have risked so much for freedom, but must continue to provide a place of first asylum, and yet they cannot be expected to accept unlimited numbers of refugees unless they have confidence that other nations will in time provide places of resettlement. Refugee processing centers are urgently needed in Southeast Asia, and renewed efforts to establish those centers are essential.

An internationally supervised program providing food and medicine to the people of Cambodia is also essential. If this is not done—and, Mr. President, these figures seem almost beyond comprehension—some authorities estimate that 2 million to 3 million Cambodians could die. This would be a holocaust on a scale that I think almost boggles the mind. It would exceed those killed in some of the major wars in the history of mankind, and it would produce a new flood of refugees that would move into Thailand and other countries.

Mr. President, when the Committee on Foreign Relations was considering this problem, I offered an amendment to the bill, which was unanimously adopted by the Committee on Foreign Relations. It gives the President the authority to spend up to $30 million of funds that have already been appropriated in the foreign aid program. In other words, without adding to the overall size of the foreign assistance program, this amendment, which I sponsored in the committee, would give the President the right to transfer within existing funds up to $30 million of foreign aid funds that could be utilized to meet this tragic situation in Cambodia.

It gives the President the flexibility to respond quickly to an emergency situation. Such action, of course, carries no implication of U.S. recognition of the Vietnamese-imposed government in Cambodia.

I think we have to remember at all times that the American response to this tragic problem of massive starvation in Cambodia is not a political response. It is not an endorsement or a condemnation or a moral judgment on the government, such as it may be, that is in power in Cambodia, but simply a response of human beings to the suffering of other human beings, many of whom are innocent infants who are faced with certain death if outside countries do not respond quickly to this tragic problem.

The need for other countries to do more should not be used as a reason for the United States to do less. I think President Carter is to be commended for his decision to increase the number of refugees that we would accept.

This will not be easy. Obviously, it will produce some anxiety among some of our own people, at a time when jobs are in short supply, that we undergo an influx of additional people who will need employment.

On the other hand, we should not exaggerate the difficulties. Over three-fourths of the Indochinese refugees who have already come are already basically self-supporting within a year of their arrival, and a large percent of them are working at jobs that are unattractive to many Americans.

We must, of course, make sure that helping the refugees does not hurt American citizens who are concerned about unemployment and inflation. Sound and imaginative Government policies dealing with energy and the economy are needed so that all can benefit from the great opportunities available in the United States.

Finally, Mr. President, no effort to deal with the Southeast Asian refugees will be successful unless there is a diplomatic solution to the conflicts in that area.

I would like to add that I believe the Senate has an excellent record of responding to these tragic situations. We have demonstrated our concern time and time again, and once more we have the opportunity through this legislation to put that concern into concrete terms.

As far back as October 12, 1978, I was joined by 79 other Senators in a letter that I drafted to Secretary Vance urging him to consider a U.S. initiative to place the Cambodian crisis on the agenda of the U.N. Security Council for appropriate action.

This was at the time when, according to all reports, tens of thousands, if not hundreds of thousands, of people were being killed in Cambodia by their own Government.

We wrote as follows:

An initiative of this kind would still be useful as a demonstration of our view that Cambodia has become a uniquely horrible situation warranting a uniquely vigorous response from the world community.

On June 19 of this year the Senate passed by a vote of 98 to 0 an amendment of mine stating that it was the sense of the Senate that the President should call on the Secretary General of the United Nations to convene an emergency session of the General Assembly to deal with the refugee crisis. A large bipartisan group of Senators was prepared to join with Senator DOLE and me, the sponsors of that amendment, in calling up our resolution that would have directed our ambassador to the United Nations to place the question of Cambodian food and medical relief before the General Assembly, and to devise an emergency program to deal with the crisis.

Mr. President, I also want to commend Senator SASSER, Senator DANFORTH, and the distinguished Presiding Officer of the Senate at the present moment, Senator BAUCUS of Montana, on their excellent report following their recent trip to Cambodia and Thailand. I know that was a teremendously exhausting trip they undertook in the middle of a busy congressional session, but it is a measure of their commitment to do something about this deeply human problem that Senator DANFORTH, Senator SASSER, and Senator BAUCUS undertook this very worthwhile effort.

I wholeheartedly support their recommendations, and I urge all of my colleagues to work for the full implementation of the recommendations made by our colleagues who have visited this tragic part of the world.

UP AMENDMENT NO. 726

(Purpose: Technical amendment to S. 1668)

Mr. McGOVERN. Mr. President, there is a minor technical amendment I would like to ask the Senate to dispose of. I send it to the desk at this point and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator that until committee amendments are agreed to floor amendments are not in order.

Mr. McGOVERN. Mr. President, in view of the technical nature of this amendment, which is really just a language change, I ask unanimous consent that the amendment be considered at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. MCGOVERN) proposes an unprinted amendment numbered 726:

On page 2, beginning on line 3, strike out "H.R. 3363" and all that follows through "are" on line 5, and insert in lieu thereof, "the Department of State Authorization Act, Fiscal Years 1980 and 1981 is".

Mr. McGOVERN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the human tragedy of the Vietnamese-controlled Government of Cambodia refusing to permit donations of food to save innocent civilians now starving by the thousands every week is a horror which should anger and appall the civilized world.

Several possible explanations come to mind concerning this callous behavior of the Communist leaders of Vietnam:

First, it is well-known that the Cambodians and the Vietnamese have been ethnic rivals in Southeast Asia for centuries. It may well be that the Communist overlords now dominating Phnom Penh have opted for genocide as a sort of grisly final solution to the ancient feud.

Second, it is possible that the Vietnamese are sacrificing the lives of starving millions of Cambodians in an exercise of diplomatic blackmail to gain recognition, or to extract other concessions from the United States.

Third, the Vietnamese may be assuming that mass starvation of the Cambodian people will help in the mopping up of the remnants of the forces of the deposed Cambodian Government, now fighting a desultory guerrilla war from the jungles in remote parts of Cambodia.

In any event, Mr. President, this tragedy should serve to expose some phony self-styled "humanitarians" in our own country.

For years the word genocide has been bandied about by the opponents of the Vietnam war to characterize the American effort in Southeast Asia.

Now, however, a true genocide is taking place—on a colossal scale. First, the Communist Government of Cambodia began a butchery of the educated classes that wiped out more than a million Cambodians. Today Cambodia has shrunk from a nation of more than 7 million residents to something less than 3 million people.

Thirty years ago, the Jews were murdered in Europe, while the world stood by and did nothing. Are we now willing to stand on diplomatic niceties while the second genocide in our lifetime unfolds?

I urge President Carter to instruct Ambassador McHenry to submit a motion before the U.N. General Assembly urging the Government of Vietnam to use its dominant influence on the authorities in Phnom Penh to permit the immediate establishment of a truck bridge to carry the vast supplies of rice and medicine now located near the border in Thailand to the starving and disease-ridden populace of Cambodia. If the United Nations is to retain any moral credibility whatsoever, such a resolution should pass overwhelmingly. Any nations daring to oppose this humanitarian measure surely will carry an eternal badge of shame.

At the same time, I would urge President Carter to demand publicly that both the Soviet Union and China use their influence to persuade Vietnam to act in accord with civilized standards. The Soviet Union provides Vietnam with essential goods and services, and retains, therefore, compelling influence over the decisions of the Vietnamese Government. One word from Chairman Brezhnev to the government in Hanoi would produce an immediate change of policy on this issue. Soviet failure to act implicates the Soviet Union in this crime of genocide.

Legal niceties are irrelevant when dealing with those perpetrating this monstrous genocide. President Carter should make it clear to the Vietnamese, whose quarter of a million troops are occupying most of Cambodia, that any interference with the delivery of food and medicine will be dealt with sternly.

The world should be reminded that the Soviet Union is providing food for the Vietnamese soldiers in Cambodia and for a small percentage of the urban population. But the needs of the masses of humanity in Cambodia are now going unmet. Every day that we delay in providing relief supplies means the death of additional thousands of people. Time is of the essence.

Let it not be said, when the final chapter is written about that Cambodian tragedy, that the last remnants of the Cambodian people died because the United States lacked the will to step forward while a nation of people perished.

I shall go into this somewhat more in detail when my amendment is called up.

UP AMENDMENT NO. 727

(Purpose: To extend the Indochina Refugee Assistance Program for two additional years)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator that until the committee amendments have been disposed of, a floor amendment will not be in order.

Mr. CRANSTON. I ask unanimous consent to proceed with this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. HAYAKAWA, proposes an unprinted amendment numbered 727.

Mr. CRANSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, insert the following new section:

SEC. 3. (a) Section 2(b) of the Indochina Migration and Refugee Assistance Act of 1975, as amended, is further amended to read as follows:

"None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981."

(b) The amendment made by this section shall take effect on October 1, 1979.

Mr. CRANSTON. Joining me as a cosponsor of the amendment is my colleague from California (Mr. HAYAKAWA), who is away from the Senate in attendance at the funeral of President Park of Korea.

I ask unanimous consent that my colleague's written statement in support of our amendment be printed in the RECORD following my own.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I also ask unanimous consent that a letter written separately to me and to Senator HAYAKAWA by Representatives BIZZ JOHNSON and BOB WILSON expressing support of the California delegation for our amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *November 1, 1979.*

Senator ALAN CRANSTON,
Room 229 Russell SOB

DEAR ALAN: The Indochinese refugee problem is of great concern to our delegation as it is to you. Your efforts to extend the Indochinese Migration and Refugee Assistance Act of 1975 through the Cambodian Relief bill, S. 1668 has our support in light of the current impasse in the House on passing the Refugee Policy legislation and the approaching termination of Federal funds for the existing IRAP program on November 20.

We understand, of course, that the Cranston-Hayakawa Amendment, which would provide for an additional two years of full Federal funding for all Indochinese Refugees, is intended to bridge the gap until the refugee policy bill can be enacted and assure continued funding for the current IRAP program until then.

As you know, California now has over 100,000 refugees. This number is increasing monthly due to secondary migration and the settlement into California of substantial numbers of new refugees under President Carter's new monthly quota of 14,000 refugees.

Without Federal funding to continue this program, millions of dollars in costs will shift to California taxpayers. The consequences of such a shift may seriously impair the willingness of Californians to resettle such large numbers of refugees.

When this matter reaches the House, we will give you every assistance we can to get your amendment through conference.

With best regards.

Sincerely,

HAROLD T. JOHNSON,
BOB WILSON,
Members of Congress.

Mr. CRANSTON. I wish to say at the outset that the legislative agenda for today incorrectly describes my amendment as providing a 5 year extension of the Indochina refugee assistance program. It is only for 2 years.

Our amendment extends until September 30, 1981 the authority provided in the Indochina Migration and Refugee Assistance Act of 1975 to reimburse State and local public agencies in full for cash and medical assistance furnished to refugees from Vietnam, Laos, and Cambodia.

The present authorization for the Indochina refugee assistance program expired on October 1 this year. The IRAP program currently is being continued under the authority of House Joint Resolution 412.

The Senate on September 6 approved Senate 643, the Refugee Act of 1979, which established a new refugee assistance program to replace the Indochina refugee assistance program and other similar refugee assistance programs. The Refugee Act of 1979, however, has yet to be considered by the House of Representatives. In the meantime, the authority for IRAP has expired and States and local public agencies are in considerable doubt as to whether the non-Federal share of cash and medical assistance provided to refugees will continue to be reimbursed.

Approval and enactment of the Cranston-Hayakawa amendment will not displace the new refugee assistance program provided in S. 643 should that bill be enacted. S. 643, by its terms, will have the effect of folding the IRAP program into the new refugee assistance program. Thus, the net effect and the purpose of the Cranston-Hayakawa amendment is to assure certainty in funding for the current IRAP program until Congress resolves the issues involved in the Refugee Act of 1979.

The cost of the Cranston-Hayakawa amendment is less than the cost of the new refugee program authorized in S. 643.

The costs of our amendment will be $320.8 million in the current fiscal year and $441.9 million in fiscal year 1981.

Budget authority for refugee assistance already has been approved by the Senate in S. 643. Since the amendment I am offering would be superseded by S. 643, if that bill is enacted, the amendment has no effect on the current congressional budget.

Mr. President, the need for strengthened refugee assistance programs has been studied carefully by the the Human Resources Committee and Health Committee of the California Assembly. I ask unanimous consent that the recommendings and findings of these two California legislative committees be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. I urge the Senate to adopt the amendment. I am glad to have the sense that the distinguished Senators handling the measure are prepared to accept it.

EXHIBIT 1

INDOCHINESE REFUGEE RESETTLEMENT PROGRAM IN CALIFORNIA: JOINT COMMITTEE RECOMMENDATIONS

FEDERAL RESPONSIBILITIES

1. That a federal interagency task force be formed and made responsible for all activities related to refugee resettlement, for monitoring and evaluating the effectiveness of voluntary resettlement agencies, for coordinating all federal resettlement programs, and for collecting and disseminating to appropriate local authorities current and projected demographic data on the refugees.

2. That the United States Public Service be made responsible for conducting health screenings and immunizations of all Indochinese refugees immediately upon their arrival in the United States and for immediately forwarding notification of findings on the health status of each refugee—along with the name, address and phone number of the refugee's sponsor and voluntary resettlement agency—to the county health department at the refugee's destination.

3. That voluntary resettlement agencies be reimbursed at a realistic per capita rate and that they be held responsible for true resettlement of the refugees whom they bring into the country. That, through refugee sponsors, clothing, food, permanent housing, health care referral and beginning English language instruction be immediately provided and that the voluntary agencies be responsible for notifying the Immigration and Naturalization Service whenever, within the first year or resettlement, a refugee in their charge moves to a new location.

4. That refugees entering the country under family reunification be provided an intermediate sponsor to assist them, unless a refugee's family has the resources to support the incoming person.

5. That special project funds be provided to public health departments of counties in which there are concentrations of 200 or more Indochinese refugees, for medical follow-up including treating and monitoring identified health problems, particularly active tuberculosis, venereal disease, intestinal parasites, malnutrition-related illness, skin disease and mental health problems. Funds should be sufficient to provide for bilingual staff, ancilliary testing services, public health outreach, transportation, and preparation and distribution of public

health education and information materials in appropriate languages.

6. That the refugee program be continued at 100 percent federal participation for more than one year.

Or that the federal government should establish and administer a cash and medical assistance program for refugees, with uniform eligibility standards and payment levels.

7. That the assistance program for refugees have:

(a) A continuous appropriation for aid payments and medical assistance, social services, English as a second language (ESL), vocational training, and employment services,

(b) Or at least a continuous appropriation for aid payments and medical assistance and a line item for the other services.

8. That the refugee program provide funding for English as a second language (ESL) for every non-English-speaking, adult refugee.

STATEMENT OF SENATOR HAYAKAWA

I am again pleased to join with my distinguished colleague, Senator Cranston, in introducing this amendment to the Migration and Refugee Assistance bill, S. 1668. This is the Senate version of H.R. 4955 passed by the House.

The Indochina Migration and Refugee Assistance Act of 1975 authorized full federal reimbursement to state and local agencies for cash and medical assistance to refugees from Vietnam, Laos, and Cambodia. That authorization expired September 30, 1979. Subsequently, Senator Cranston and I introduced an amendment to S. 643, the Refugee Act of 1979, extending this full federal support for one year. It was approved by the Senate. Unfortunately, however, the House of Representatives has yet to act on this legislation.

Although the present program is being continued under the authority of H.J. Res. 412, the state and local public agencies are concerned about federal reimbursement of funds expended since October 1.

I appreciate the past support of my colleagues in providing full federal reimbursement to the state and local governments for the costs incurred in aiding the refugees in their resettlement. It is now imperative that Congress acts promptly and in an expedient manner to assure these public agencies of continued full federal reimbursement.

Let me add that this amendment will have no effect on the current Congressional Budget.

Mr. McGOVERN. Mr. President, the Senator from California is correct. The amendment does make sense. I know the special problems in his State, where some 31 percent of all the refugees who have come into the United States have settled. So, even in a very large State like California, this obviously places a very heavy burden. As I understand, what the Senator is trying to do is reassure State and local agencies that they will be supported in their efforts.

Mr. CRANSTON. That is correct.

Mr. McGOVERN. And reimbursed for providing cash and medical assistance for these refugees under the circumstances. I would have no problem accepting the amendment.

Mr. CRANSTON. I thank the Senator.

Mr. HELMS. Mr. President, I am informed that a Senator on this side of the aisle has some question about this amendment. He is on his way to the floor. I wonder if the distinguished manager of the bill would object that we have a quorum call briefly, until he arrives.

Mr. McGOVERN. Either that, or if other Senators have amendments they are ready to offer, we could lay this amendment aside.

Mr. HELMS. I know that the Senator from California wants to catch a plane. I do not want to delay him.

Mr. CRANSTON. Could we take up something else, with the understanding that when the Senator arrives it could belaid aside and my amendment taken up again?

Mr. HELMS. I have an amendment, and the Senator from Missouri has an amendment.

Mr. CRANSTON. I ask unanimous consent that we take up another amendment and start immediately with that, with the understanding that when the Senator with the question returns that amendment will be laid aside and action on my amendment completed. Maybe he is now on the floor. Senator THURMOND?

Mr. THURMOND. Mr. President, I have just been informed that the amendment being offered by the distinguished Senator from California would add another 5-year authorization for reimbursement of the States for State-rendered reimbursible service.

Mr. CRANSTON. It is not 5 years. Two years. That is an error in the RECORD.

Mr. THURMOND. I think the distinguished Senator from California and I agreed on 2 years.

Mr. CRANSTON. It is 2 years.

Mr. THURMOND. It is 2 years? Then I have no objection to that.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California (Mr. CRANSTON).

The amendment (UP No. 727) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. President, I thank the Senators very much for their cooperation.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

Mr. McGOVERN. Mr. President, I move the adoption of the committee amendments, en bloc.

The committee amendments, en bloc, were agreed to.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 561

(Purpose: To authorize the President to furnish assistance to alleviate the human suffering in Cambodia caused by famine)

Mr. DANFORTH. Mr. President, I call up amendment No. 561.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for himself, Mr. SASSER, Mr. BAUCUS, and Mr. MELCHER, proposes an amendment numbered 561.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 2, add the following:

SEC. 3. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"SEC. 495H. CAMBODIAN DISASTER RELIEF ASSISTANCE.—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate human suffering arising from famine, disease, and war in Cambodia, authorizes the President to furnish humanitarian assistance, on such terms and conditions as he may determine, for the people of Cambodia. Such assistance may include food, medicine and medical care, clothing, housing and other forms of shelter, and transportation for emergency supplies and personnel. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for the fiscal year 1980 for the purposes of this section $30,000,000, which amount is authorized to remain available until expended.

"(b) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

"(c) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing humanitarian assistance to the people of Cambodia may be charged to the appropriations authorized under this section.

"(d) Nothing in this section shall be interpreted as endorsing the Vietnamese invasion of Cambodia or as recognizing any group claiming to be the Government of Cambodia.".

Mr. DANFORTH. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, this amendment was originally brought to the attention of the Senate several days ago, sponsored originally by the distinguished present Presiding Officer, the Senator from Montana (Mr. BAUCUS), the Senator from Tennessee (Mr. SASSER), and myself, without any solicitation whatever of cosponsors. Senators MELCHER, COHEN, BOSCHWITZ, DURENBERGER, DOMENICI, HELMS, and SIMPSON have asked to be cosponsors, and I ask unanimous consent that their names be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, this amendment would authorize an additional $30 million for relief for the people of Cambodia. The funds so authorized could be used for the relief of the people of Cambodia wherever they may be found in distress, whether within the country of Cambodia itself, Thailand, or anywhere else. The money could be used for the relief of famine and disease, which is now being suffered by the people of that unfortunate part of the world. As the Presiding Officer well knows, three of us went to Thailand and then visited the refugee areas on the border of Thailand, and visited Phnom Penh, the week before last.

We witnessed firsthand the tragedy of what was happening to the Cambodian people. What is involved here is the survival of an entire race of people. The Cambodians numbered about 7 to 8 million just a few years ago, and now their numbers have been diminished to about 4 million, and thousands of additional people are dying every day. We visited the areas on the border of Thailand and we saw tens of thousands of people simply lying on the grounds suffering from starvation, suffering from malaria, unable to move, literally dying before our eyes.

That is the situation which we witnessed.

Mr. President, on next Monday a pledge conference is being held at the United Nations to which all countries, I believe, have been invited to send representatives. The three of us who went to Thailand and Cambodia 2 weeks ago, together with Secretary Vance and others, will be attending that pledge conference at the United Nations on Monday.

President Carter has stated that it is the intention of the administration to pledge $69 million for the relief of the people of Cambodia. To date, some $39 million has been authorized, and this $30 million would increase that amount to the $69 million which has been promised by President Carter. That is what this amendment is all about.

The authority in just slightly different form has been passed by the House of Representatives, where it was known as the Zablocki amendment. Now we would do the same in the Senate.

Mr. President, what is involved, of course, is the survival of a nation, of a race of people. What is involved is the alleviation of human suffering in its most acute form. But there is something else which is also at stake here, and that is our perception of the United States, what we stand for, and what kind of country we are.

The three of us who made the trip to Thailand and Cambodia are all members of the same generation. Our earliest memories are of the time of the Second World War, and immediately thereafter.

At that time, the United States was united in a common purpose: We were united in a consensus. We shared a common set of values, humane values—values concerning the worth of individual people wherever they happened to live in the world. What was at issue in the early 1940's was two competing value systems: One which treated individuals as things, to be used, to be abused, to be disposed of; and another value system represented at that time by the United States and the Western World in general, which recognized the humane values, which recognized the worth and dignity of the individual person.

That is exactly what is at stake here.

There is a word which has been used to describe the national spirit. The word is malaise.

The question has been raised whether or not the American people really believe in anything, whether we really stand for anything, whether our sole concern is simply looking into ourselves internally, caring about ourselves, carrying about our own prosperity, caring about our own standard of living.

I do not believe that the people of this country have lost their idealism. I do not believe that the people of America have stopped standing for the same values that we believed in when the three of us who made this trip were growing up.

Now we have an opportunity in this amendment to state quite clearly, tangibly, what America stands for, to make a sacrifice. It is not much of a sacrifice when you consider the total amount of the Federal budget. But it is to make a very real financial commitment to the salvation of people who are suffering so desperately.

They are people who really do not have very much in common with us. They are located on the other side of the world. If we were to punch a hole from Washington, D.C. through the globe it would come out in Cambodia.

They are people who speak a different language, who have different customs, who practice a religion which is not very widely practiced in the United States. They have been fought over, scrapped over, for years by two competing Communist regimes. They are far different from anybody we see on the streets of Washington or in our own States, in our own constituencies. Yet they are human beings, and they have that basic dignity that everyone has, just by virtue of the fact that he is the creation of God.

Now we come to the question of what kind of value should be attributed to these people. Are they simply tools to be manipulated around by some totalitarian regime, to be granted food or denied food for a political purpose, to be granted medical attention or denied medical attention for some political purpose? Or are they deserving of food and deserving of medical attention just because they are men, women, and children?

That is what this amendment is all about.

At a time when we quest for a national purpose, when we quest for our own sense of idealism again, that idealism is embodied in the opportunity, the privilege, that our country has been given to come to the aid of the people of Cambodia.

That is why, Mr. President, it is a privilege for me to offer this amendment at this time.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I can hardly match the eloquence of the distinguished Senator from Missouri, but I wish to commend him and add my support to his amendment.

Mr. President, I also commend the distinguished chairman of the Foreign Relations Committee and the distinguished ranking member as well for taking action on this very crucial legislation (S. 1668).

S. 1668, which authorizes an additional $410 million in appropriations under the Migration and Refugee Assistance Act for fiscal year 1980 and 1981, provides the additional financial assistance that the United States has pledged to help refugees of Southeast Asia who are fleeing oppression, and who are making such a valiant effort to avoid the starvation and war that have surrounded them in the last decade.

As I have said many times before, America should be proud of its willingness to offer a helping hand to the less fortunate of the world. Our whole tradition has been helping others around the world. We are a great nation of refugees—indeed, no other nation in the world has refugees as such a basic part of its population.

I would also like to commend the Senators from South Dakota for his contribution to this legislation on behalf of the starving people of Cambodia. Once again, Senators MCGOVERN and DANFORTH both displaying their sincere commitment to the humanitarian relief efforts for the people of Southeast Asia.

Unless massive relief efforts are mounted and undertaken today in Cambodia, the international community is going to see a furtherance of famine and disease which will threaten the existence of the remaining Khmer men, women, and children. These people are wandering desperately from town to town in search of food and shelter. Thousands are reported to be languishing on the Thai border, waiting for help from the outside world as the major Communist regimes in the world fight for preeminence in the area. The very existence of these people is at stake. Reports that we have heard time and time again on the Senate floor talk about the millions who have died and the millions who are continuing to die.

I have a special interest in legislation of this kind and a special sympathy for people suffering from such attrocities, because I also was a refugee, as were my family and my wife's family as well. In fact, all the families of my colleagues in the Senate are refugees, if not in this generation, in generations that preceded them. It is with sincere conviction and great pleasure that I rise in support of the bill as a whole and Senator DANFORTH's amendment on behalf of the Cambodians.

I also want to take a moment to praise a specific relief effort that is taking place in Minnesota. The American Refugee Committee, which is a Minnesota-based rescue operation, has already sent doctors, nurses, and medical technicians to the Cambodian border to help the people, to save what lives can be saved. In early November, the American Refugee Committee is planning to send an additional 50 or more doctors and nurses to that area, entirely on a voluntary basis and entirely supported by voluntary contributions. I think that praise on the Senate floor on their behalf is certainly most deserved.

Mr. SASSER. Mr. President.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SASSER. I yield to the Senator from New York.

Mr. JAVITS. I had in mind speaking on this matter, but I should like to do it

when our heroes—to wit, Senators DANFORTH, BAUCUS, and SASSER—have completed. If the Senator will please go ahead, I shall speak in support.

Mr. SASSER. I thank the Senator from New York, Mr. President. I shall be brief.

I rise this afternoon in support of the amendment offered by Senators DANFORTH, BAUCUS, and myself. I associate myself with remarks made by my distinguished and able friend from Missouri, JOHN DANFORTH. He spoke of a revitalization of the American people—a reunification of effort—and an agreement on a common consensus for helping the deprived, desperate, and miserable people of Cambodia.

I say to my able colleague from Missouri that I, too, sense this mood sweeping across our country. In my native State of Tennessee, I am receiving communications from many individuals from all walks of life, from church groups of all denominations, wanting to know how they may be of assistance. With a united voice they are deploring the conditions that they see, night after night on television. The misfortune that has come to the desperate peoples of Cambodia has been met with an outpouring of concern and positive action from the people of Tennessee.

We have described what we found on the border of Cambodia and Thailand. We saw there the grim reality of a human misery unparalleled in the last 20 years; human misery that may well have been unparalleled in this century.

I saw children in the final stages of malnutrition, irreversible malnutrition. I looked into the eyes of mothers who were carrying tiny babies, mothers unable to give the babies the nourishment that they needed, because the mothers themselves were suffering from extreme malnutrition. I saw evidence of disease wracking a whole race of people. Mr. President, this is what I, myself, and my able colleague from Missouri and my distinguished friend from Montana saw with our own eyes.

I think the Senator from Missouri is eminently correct when he says that this country is rising to its finest calling when its heart goes out and it sends help to a people halfway around the globe, to a people with whom we do not share a common religion; a people, indeed, with whom we probably do not share a common political philosophy; but people who are human beings and are deserving of the basic necessities of life such as food and shelter.

Mr. President, I think that is really what this country is all about. Over 200 years ago, Thomas Jefferson said, "America is the last hope of mankind." That is just as true today as it was 200 years ago. I am proud of the conduct of my distinguished colleagues, JOHN DANFORTH and MAX BAUCUS. They hold witness that Jefferson's statement is still true.

The reaction of our colleagues in the Senate, who have pressed us and questioned us closely about what we saw and inquired of us what they may do to help, and the outpouring of the American people in sympathy for these desperate, miserable people in Cambodia, I think, are evidence also that America still is the last best hope of mankind.

So, Mr. President, I am honored to rise in support of the Danforth amendment. I think it is right and proper. I think that what the Senator from Missouri seeks to do is in the finest tradition of this country and, certainly, in the finest tradition of the U.S. Senate.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, Senator DANFORTH and Senator SASSER have very eloquently and adequately described the conditions of Cambodia and Southeast Asia as we saw it. In addition, even more graphically, in the last several weeks, on the evening television news and in newspaper accounts, we have received an even more distressing and despairing sense and flavor of the tragedy of Southeast Asia.

Senator DANFORTH mentioned that the population of the Khmer people in Cambodia was estimated at about 8 million people a few years ago. Now it is down to about 4 million people—4 milion people have died of starvation and disease, many were killed, exterminated, many have fled the country. I, frankly, am very proud at the response that descriptions of the tragedy in Cambodia have received in America.

Senator SASSER mentioned his perception of a sense of humanity moving across the country. I found it in Montana; I know Senator DANFORTH has in Missouri, as have other Members of the Senate in their home States.

We are all receiving telephone calls, letters, from people who want to help, who are very frustrated in not knowing precisely how to help, but, nevertheless, feel the need and the urge to do something.

In addition, many other people all over the world want to help. They, too, are a bit frustrated, but, nevertheless, the feeling and the need is there.

The difficulty, however, is really twofold. In the first place, we do have some medical supplies, some food, some aid, being sent to that part of the world. Regrettably and unfortunately, and almost incomprehensibly, the authorities in control in Phnom Penh are not opening up the borders. They are not letting in all the food, aid, and help, in terms of personnel and supplies that are desperately necessary to prevent as many as 2 million Khmer people from starving to death, and as Senator DANFORTH said, literally to prevent the extinction of a race.

So it is absolutely imperative that we continue to build upon this sense of humanity, this religious and moral basis of American society, to make sure that what we have begun will result in actual fruition, so that, as a matter of fact, the people will receive as much aid as is absolutely humanly possible and necessary.

So our efforts have only begun. Yes, we talked about the need. Yes, we have helped dramatize and focus the need upon Cambodia. But here in the Senate and in the other body, and in all forums, not only in this country but in the world, we as a human people, not only as Americans and in the spirit of Thomas Jefferson but as human beings and members of human society, have this higher calling to do what is absolutely necessary to help those fellow human beings who desperately need our help.

Mr. President, I want to urge all of us to continue our efforts. In doing so, again I give my highest praise to my two very good friends and colleagues, Senator DANFORTH and Senator SASSER.

Once again I state my admiration for the initial efforts of Senator DANFORTH. He is really the conscience of the Senate, the originator, one of the first voices to get this movement going. Were it not for his efforts, I am sure that many more people in that part of the world would be suffering even more than they are today.

Mr. President, once more I hope this is really only the second or third step out of many we are taking to help make sure the people get the food they need, because this will be one of America's finest hours if we do continue to proceed.

Equally important, it will mean, I hope, that the 1980's are a decade of greater American and human sensitivity to the world's problems.

We have seen tragedy and, in some senses, have become callous. We see tragedies so often on the evening news, that the tendency in human nature is to become rather insensitive to the tragedies, such as Bangladesh and Biafra.

This current tragedy in Cambodia is testing our values as Americans and human beings. We must rise above obstacles and frustrations as well as protect our sensitivity to human suffering, as we work to provide the aid that is so necessary to the people of Cambodia.

Mr. President, I am sure the amendment will pass very quickly. Again I say, that is just the initial effort we must undertake.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, this amendment is eminently satisfactory to me. I commend the authors of the amendment for their enterprise. I find it to be more adapted to the situation than the House amendment, both of which address the question of a supplemental authorization of $30 million to the Cambodian people, in addition to the $39 million in reprogramed funds which President Carter has pledged.

As a conferee, which I expect to be, I will certainly hope that we get this kind of money, instead of money with strings attached which may be hard to administer.

Mr. President, while I have the floor, I would say that this is a situation equivalent to genocide. Genocide can be by inaction as well as by action. We can let people starve to death after cutting them off from everything they have or can get to keep them alive. This involves large numbers of people, Mr. President, as has been very carefully explained.

When I said a minute ago that these three Senators are our heroes, I would like to explain what I mean.

The Senate is a great time-honored institution. It has had many great days and many great people. We often look around the Chamber and wonder whether there are any more Websters, Clays, Calhouns, Tafts, Borahs, and many other great figures who have served in this Chamber, including Presidents like Kennedy and Johnson.

Mr. President, the prestige, the solicitude, the courage of this Chamber is always extremely valued to people like myself who have served a long time. I believe I speak the conscience of the Senate in thanking these three young Senators for having initiated this move and going out there, for taking the risks which were run, but, beyond everything else, for comporting themselves with such dignity and with such ability as to shed great credit on the Senate of the United States.

I hope they will continue in this matter, and that others will in this pattern. It is very auspicious.

May I say one other thing, as a member of the Foreign Relations Committee, Mr. President, about what appalls me in this situation.

This is endless, Mr. President. There are 4 billion people in the world. We could have hundreds of millions who are refugees if these policies of driving people out of a country for political purposes continues.

I deeply believe, Mr. President, that both we and the Soviet Union, as the great superpowers on Earth, have to take this into account. And I believe the Soviet Union is not pulling its weight in the boat.

Mr. President, it is a pretty open secret that the Soviet Union is backing the Vietnamese and that the Vietnamese have loosed this trend of refugees not only upon us, but upon Southeast Asia and upon Thailand.

We have appealed, in my judgment, time and again to the Soviet Union to join with us in the same responsible behavior which is being shown on this floor this afternoon.

It is a fact that the Vietnamese backed Heng Samrin regime in Cambodia has claimed the Soviet Union has already provided 200,000 tons of food.

But, Mr. President, our inquiries—and I am speaking of me, and perhaps my colleagues have also made inquiries at the State Department—indicate that just 10,000 tons have been shipped into the country. Two Soviet ships are now docked in a Cambodian port. At the moment, that 10,000 tons, if it is feeding anybody at all, very likely would be feeding the troops which are driving people out of the country and putting the country into the condition in which it is. The Soviet Union has also been flying unspecified amounts of food into Cambodia but those supplies are almost solely for the use of the Vietnamese troops.

Western countries have so far put up $101,140,000 for relief programs in Cambodia and along the Thai border. As far as we know, the Soviet Union has pledged nothing. Also, the Soviet Union has never contributed to the United Nations High Commissioner for Refugees. Japan, to which I give the greatest credit, increased its contribution to the UNHCR Indochina refugee program from 25 to 50 percent, thereby reducing what we are asked to contribute.

Here we have pledged in this Chamber alone, over a 2 year period, over $300 million in U.S. contributions to the United Nations High Commissioner for Refugees.

Obviously, the Soviet Union has great influence, to say the least, over Vietnam and this Heng Samrin regime I urge the Soviet leaders to think a while. It is not unusual that someone who loosed the flood is, in turn, inundated by it. That is not unusual in world history.

I think this is a very, very potent element in what we are discussing, and we had better look to it: Our Government and what we say to the Soviet Union as to the responsibility of its conduct in this matter.

For myself, I would welcome any disclosures that I am wrong, any disclosures of what they are doing in order to help in this situation.

However, being a super power—and I think the Soviet Union is very proud of being a super power—is not a free ride. It also calls for responsibility in the world in which you are a super power.

I can only express the hope, as a U.S. Senator, that the Soviet Union will show at least the same sense of responsibility, the same humanity, and devote the same kind of resources to dealing with this problem that we are showing here this afternoon.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. STEVENS. Mr. President, I want to take a moment to commend Senators DANFORTH, BAUCUS, and SASSER, on behalf of the minority leadership, for bringing this issue so clearly to the attention of the Nation and the world.

On Tuesday of this week, during our Republican policy luncheon, Senator DANFORTH gave a startling account of the situation in Cambodia. It was indeed a dramatic moment for all of us to be made so personally aware of the degree of the problems of starvation and malnutrition among the people of Cambodia.

The mission of these Senators in going to the Far East to witness the situation firsthand is something for which all of us in the Senate should be grateful. I commend the Senators for their sensitivity, for their compassion, and for the personal time and effort they expended in order to bring us this personal report.

I intend to support the Danforth amendment, and I urge all Members of the Senate to do so.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I wonder whether we can get an agreement to the effect that final passage will occur not later than 3:30 p.m. today, and we could set votes back to back.

Mr. STEVENS. There is no objection. We hope we can do better than that, as the managers of the bill indicate. But we certainly can enter into an agreement to vote on final passage not later than 3:30 p.m.

Mr. JAVITS. We have notice of one amendment on the other side of the aisle, and I suggest that we protect any Member who has an amendment, so that he will not be trapped.

Mr. ROBERT C. BYRD. We will try to get in touch with Senators on our side who have amendments and ask them to come to the floor.

I ask unanimous consent that, with paragraph 3 of rule XII being waived, the final vote occur no later than 3:30 p.m. today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. ROBERT C. BYRD. Mr. President, could we reach an agreement whereby there will be votes back to back?

Mr. DANFORTH. Mr. President, that is perfectly satisfactory with me. I think we would be ready to proceed, at least so far as this amendment is concerned, in the very near future. Before we have a vote on this amendment, I would like to proceed for about 2 minutes, and the Senator from Massachusetts would like to be heard on it. I think that having back-to-back votes makes eminently good sense.

Mr. PELL. Does the Senator wish a rollcall vote on his amendment?

Mr. DANFORTH. Yes. The yeas and nays have been ordered on this amendment.

Mr. PELL. Mr. President, how much time remains on this amendment?

The PRESIDING OFFICER. All time on the amendment has expired. Time remains on the bill.

Mr. JAVITS. Mr. President, I yield 10 minutes on the bill to Senators who wish to speak.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. I thank the Senator for the time.

First, I would like to acknowledge the efforts of Senators DANFORTH, SASSER, and BAUCUS in representing the Senate in this very important issue. I say to you that I am proud of you and proud of the honor you have brought to the Senate.

I would feel free, however, in suggesting to you that while you have done a great deal for these people, this trip has done something for you as well. I think you are forever changed by the experience and are better for it, and that is to your credit.

I also say to the Senator from New York that when he looks around and wonders whether any Websters are left, I would be happy if there were a lot more Javitses around, and I would feel a lot better about this body.

OXFAM CAMBODIA RELIEF EFFORTS

Mr. President, I join my colleagues who have expressed their deep concern for the plight of the Cambodian people. I support Senator HELMS' amendment and I would like to add one more name to the list of organizations he mentioned.

Oxfam, an international self-help development agency, with headquarters in Boston, has been at the forefront of the emergency relief effort. Oxfam was the first private organization to negotiate successfully with the Heng Samrin government for permission to send in emergency food aid. This past August, the agency flew 40 tons of food and medical supplies directly into Phnom Penh. Oxfam has been the only agency given a guarantee by the Heng Samrin Government that its aid will not go to military personnel. The organization has also been permitted to monitor the distribution of its contributions.

In addition, Oxfam now has organized an international consortium of some 37 nongovernmental agencies to provide a massive aid program of $50 million over the next 3 to 6 months. More importantly, they have received permission to distribute these supplies within Cambodia, directly to the starving masses.

I believe that Oxfam's efforts are an excellent illustration of how a private group, unencumbered by political constraints, can act quickly and efficiently in an emergency situation.

There is no doubt that its actions have already saved the lives of thousands of people. But there is much more to do. Many more people need to be saved. Oxfam, and all the other agencies mentioned by Senator HELMS need the funds from this legislation to carry on their activities. I am certain that Oxfam would be sorely missed if the organization were mistakenly excluded from this program.

Mr. President, I ask unanimous consent that Oxfam be added to the list of private organizations that should be used to facilitate our emergency relief program in Cambodia.

I also urge my colleagues to read an excellent article in the October 31 edition of the Christian Science Monitor entitled, "Cambodia: 'Possible extinction by Christmas'," which describes Oxfam's tenacious efforts to provide emergency assistance. Mr. President, I ask unanimous consent that the full text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Oct. 3, 1979]

CAMBODIA: "POSSIBLE EXTINCTION BY CHRISTMAS"

(By Stephen Webbe)

The book on the conference room windowsill was entitled "The Family Man." Inspirational anywhere else no doubt, here it was bitterly ironic; disaster specialist Jim Howard was telling of the tragedy of Cambodia, a once-bountiful and smiling land that may not, for all the compassion of an outraged world, be prevented from going gently into that good night.

An 18-year veteran of Oxfam, a self-help development agency, Mr. Howard was relating his impressions of the ravaged country at the John F. Kennedy School of Government here. Mr. Howard, a Quaker who lives with his wife and four children in Oxford, England, had flown in for an urgent conference on Cambodia's plight with his counterparts at Oxfam-America's national headquarters in Boston. He is one of only a handful of Westerners to have traveled in Cambodia recently.

Last August Mr. Howard flew into Phnom Penh with 40 tons of Oxfam food and medical supplies and stayed on to hammer out a relief plan with the Vietnamese-backed Heng Samrin regime. He later drove from Phnom Penh to Ho Chi Minh City, inspecting rural areas of Cambodia en route. "I was allowed to go wherever I wanted," he says.

Mr. Howard returned to Cambodia in September with Oxfam's second food consignment, leaving after the third one arrived to help prepare a relief barge in Singapore. The barge, laden with 1,500 tons of food that included rice and flour, was towed by tug to Kompong Som, where it docked on October 13. Two other barges were due to sail before the end of October.

"The humanitarian needs are so great in Cambodia, that the time has gone for any more debate," Mr. Howard declares. "Unless we act now, then I think we may see the possible extinction of the country before Christmas." He insists that if there is any disturbance of "marginal supplies" presently reaching the country from Vietnam and the Soviet bloc "then I'm quite sure the Cambodian population will die of hunger and melt into the ground."

Mr. Howard, a civil engineer who saw his share or horrors in the Second World War, estimates that about one half of Cambodia's 7½ to 8 million people were slaughtered by the Pol Pot forces before their tormentors were driven into Thai border country earlier this year by an invading Vietnamese army. "I have never seen atrocities of the caliber that I've seen under the Pol Pot regime," he exclaims. "If they've destroyed 30 percent of the population there, in American terms that would be the destruction of 40 to 50 million people."

The situation is quite "as bad, if not worse than anything I have seen in 20 years of experience with disasters in countries like Bangladesh, India, and Biafra," he declares.

Oxfam, which heads a consortium of European, American, and Australian voluntary agencies in Phnom Penh claims not to have encountered the political and administrative obstacles that have bedeviled the aid efforts of others in Cambodia—in particular those of UNICEF and the International Committee of the Red Cross.

The agency, which began life as The Oxford Committee for Famine Relief in Oxford, England 37 years ago, recently achieved what Mr. Howard called "a breakthrough agreement"—to provide the Phnom Penh government with $50 million in relief aid. "It's a momentous agreement," he says, "because the Cambodian government has now agreed to large-scale relief throughout the country." The Cambodian ministries, he notes, "are calling the shots here and not the Vietnamese." He adds that the Phnom Penh government has given Oxfam unhindered access to the country and he expects continuing cooperation from officials.

Under the aid program, Cambodia can hope for 70,000 tons of rice and maize (corn) for immediate consumption; 600 tons of rice, sugar, oil, and milk powder for hospitals and orphanages; 50 diesel trucks and four Land Rovers; and 19,000 tons of grain and vegetable seed for an immediate planting program. In addition Oxfam will provide irrigation pumps, fish nets, pesticides, soap, blankets, mosquito nets, and hand hoes.

The aid program has two aims, says Mr. Howard. "The first pressing need is to feed the people. The second is to restore their capacity to produce food and become self-sufficient again."

Mr. Howard explains that Oxfam is currently fund-raising for the aid package which, he says, will make the difference "between life and death" for Cambodia. He says he hopes the American people will respond with generous financial support.

Cambodia, he says, has undergone one of history's "most horrific experiences." "I have seen the prisons and the mass graves and the torture facilities."

Pol Pot's forces, he notes, massacred the bulk of the nation's intelligentsia and professional classes. "It is so staggering because here was an attempt to build a pure, wholesome society based on the simple life in the countryside and away with all the Western capitalistic trash of motorcars and equipment. And the end result is a society that's possibly on the point of extinction."

Mr. Howard says that Pol Pot forces killed 31 of 35 engineers in Phnom Penh's water treatment plant. "Now where do you get those sort of men from? They take 10 or 12 years to train. If you've destroyed them, you've done something worse than pull down a few buildings. You've destroyed the ability for human society to survive."

The railway in Phnom Penh, he says, has only four locomotives left and something less than five percent of its staff. Says Mr. Howard: "We see a society at the very end of its human tether."

Oxfam-America officials assert that the Pol Pot regime "systematically destroyed all symbols of Western capitalism and technology in a purge of unbelievable severity and bestiality." The money economy was destroyed and schools, hospitals, factories, machinery and motor vehicles were wrecked countrywide, they maintain. Farm equipment and fishing gear fared no better, it seems: hoes, irrigation pumps, and warehouses were destroyed, along with fishing boats, their nets and the tools for making them. And lepers, the officials claim, were exterminated along with cats and dogs.

Mr. Howard confirms the devastation. "There has been massive destruction of all the wherewithal of human society," he says. "Not only the destruction of the human beings, but everything that moved or worked in terms of vehicles, equipment, laboratories, paper, pens, pencils—everything has been smashed in this society."

Oxfam-America says there is now a major health problem in Cambodia, which is compounded by lack of professional staff of all kinds and the near total absence of medical equipment, drugs, and supplies.

"We've seen high schools and buildings with thousands and thousands of people dying with tuberculosis. Mr. Howard recalls, "There's no food for them; there's no doctors. There are only 50 doctors in Cambodia today."

Mr. Howard says that his first visit to Phnom Penh indicated that "all the access we wanted" was available for mounting a relief program. In discussions with the Cambodian ministries of health and foreign affairs, he established priorities and the means of operation "There are now no more barriers to substantial aid going in from the people of goodwill," he says.

"Clearly Oxfam is not able to do this alone," he adds, explaining that when in the Cambodian capital he agreed with the representatives of UNICEF and the Red Cross that all three would jointly mount as substantial a program as they could, with food and transport as the first priorities.

"There's an impression on the international scene that the Phnom Penh government has been difficult and restrictive in its approach to aid," Mr. Howard remarks. "But I think the restrictions are logical if you've seen the conditions of Phnom Penh and the government's problems there, the lack of transport and personnel."

He believes UNICEF and the Red Cross have created problems for themselves by proposing to install "very large staff structures" in Phnom Penh. This, he says, has "frightened the government there that they would be pretty near outweighed number-wise." The Heng Samrin government has permitted Oxfam to station seven of its officials in Phnom Penh. "We have demanded and got permission to monitor all the supplies going in through the consortium," says Mr. Howard. "We have insisted that our food will not be used by the military and they have given us their solemn promises that this will be the case. If it's not the case, then we will withdraw our supplies instantly."

Mr. Howard is not given to underestimating the cost of Oxfam's Cambodian relief operation. The DC-8s they use cost $100,000 each to charter, he says and the barges cost half a million dollars to hire. "Oxfam has to raise money," he shrugs. "We have no great residue of cash in our banks. So it's really for people to support this effort.

There's a need for American support, both private and public, he asserts. "There is a major card to be played by the United States, a card of friendship, that would be way, way above any monetary value," he goes on. "I don't think the U.S. can really sit on the sidelines and see a nation that it's been concerned with go under for the lack of . . . what? The cost of a [Boeing] 747?"

The reason Oxfam uses ocean-going barges, Mr. Howard explains, is because the dock installations at Kompong Som have been destroyed and such vessels are very easily unloaded by manual labor. "You need no cranes," he says. "The cargo is above the deck." He implies that for an untrained dock labor force, suffering from malnutrition, deep-draught freighters would be a little too much to handle.

Quite apart from relieving immediate hunger, Mr. Howard emphasizes the urgent need to restore the bounty of the land. "We desperately need seeds in the ground," he says. "We have to help them to come back quickly into growing food. We've just missed the monsoon period, the main rice-growing period which is now, so it's clear we will not get another major harvest before December 1980–January 1981. The 1979–80 crop has been missed."

Mr. Howard says that he believes that less than 10–15 percent of Cambodia's rich agricultural land has been planted. "In my travels across Cambodia I've looked across thousands and thousands of hectares of rice land that has not been planted. It's under weed. There's clearly a tremendous shortfall coming towards us in January."

But the predicament is not entirely bleak, he feels. "There is enormous possibilities of vegetables—maize and other crops—being planted now and helping through the coming months."

Where cash for Cambodia is concerned, Oxfam-America believes seeing is believing. Says executive director Joseph Short, "The US government has only at this point committed seven million dollars, but has not made clear how it will spend it." Of the $110 million UNICEF and the Red Cross propose to spend on aid for Cambodia, he stresses that they "do not actually have the money. It's a hope at this stage."

Adds Mr. Howard: "I'm quite sure that UNICEF and the Red Cross have a major role to play in Cambodia. There's no question. But at this stage they've had very serious operating problems and I think they keep producing these figures in the hopes that they may tempt the government in Cambodia to respond and allow them to operate. We hope that will happen. But it's a matter of operational facts that we're interested in. Ours is the only ship in Cambodia.

Mr. Short hopes the money Oxfam is asking for now will have a "catalytic" effect on the general cash appeal for Cambodia. "We think in four months the money is going to be flowing in on a grand scale," he says. "The timely contributions now by individuals are going to have a tremendous multiplier effect." And Mr. Howard emphasizes: "I think people mustn't hold back and say we'll leave this to the government. Governments have done nothing for Cambodia since January."

He notes that the Phnom Penh government has "asked us not to help Pol Pot and we have agreed not to." Mr. Howard stresses that the former Cambodian ruler "can't be allowed to survive and go on battling away because this country will never come to peace. Cambodia needs peace above everything now."

He says that the great fear of the Phnom Penh government is a Vietnamese withdrawal under pressure "from China or elsewhere" that would bring Pol Pot sweeping back into power. "We see no survival under Pol Pot," he says gravely.

"After all, we've been and looked inside the gas chambers, if you like, and if we ignore this, then it's on our own heads."

Mr. TSONGAS. Mr. President, there is concern as to the process that is being engaged in here. In addition to the enormous need for massive amounts of food aid, we must recognize the desperate need for volunteers to help distribute the aid which is flowing into Southeast Asia for the relief of starving Cambodians.

In conversations with relief agencies directly involved in this humanitarian effort, I have learned that there is a severe lack of both medical and nonmedical personnel to assist in this effort. In many of the makeshift settlements on the Thai border, food lays untouched because there are not enough volunteers to distribute it to the weak and the sick refugees.

At the same time, I have learned that there are many, many people in the United States who wish to volunteer for this relief effort. In fact, one agency has informed me that they receive approximately 125 calls per week from both medically trained individuals and even those with no specialized training who are willing to take time out of their lives to work in the camps in Thailand. Although some international agencies like the American Refugee Committee in Minneapolis have organized efforts to send personnel to these settlements, there is still a tremendous need for many more people.

We must do something to bridge the gap that exists here. We must establish a program to train and transport volunteers to help in this noble effort.

I hope that immediate action can be taken to rectify this dire situation; thousands will die if we fail to act quickly.

Mr. President, it is my understanding that there are literally hundreds of volunteers around the country who are prepared to go into Cambodia and into Thailand to help in this situation. However, the problem is not so much the obvious need for foodstuffs and medical supplies but also the coordinating of volunteer efforts and the willingness to volunteer with respect to the needs there.

I hope the committee will give some thought as to how we can proceed to coordinate these efforts. It is all well and good to have hundreds of Americans who want to go over there and who are technically qualified. However, given the absence of a mechanism to coordinate that outpouring of interest, I suspect that many people will die before that organizational hurdle is overcome.

I am not going to offer an amendment, but I ask the committee to give this matter their consideration, and perhaps we can work together to arrive at a solution.

Mr. PELL. In response to the Senator's inquiry, the Committee on Foreign Relations is going to hold a hearing on Tuesday afternoon in connection with this subject, in an effort to figure out what can be done.

However, if a government is determined to kill its own people or to let them die, the question is how to get people in and how to get goods in.

Mr. TSONGAS. I am sensitive to those problems, and I look forward to the Tuesday session. Perhaps I can participate with a statement at that time.

The final point I make, Mr. President, is that I went to a conference last weekend sponsored by the African-American Institute. One of the black Africans from South Africa said to me, "How is it possible for the United States to be so concerned with Cambodia and not be concerned with the millions of refugees in South Africa?"

This is not the time to go into that in detail. I just want to raise that question and hope that our compassion will spread to the African Continent as well.

I thank the Senator from New York for this time.

● Mr. DOMENICI. Mr. President, as I said in my statement of September 28, 1979, we in Congress must support the prayers and efforts of many Americans whose hope is to give the Cambodians a ray of physical relief and a chance to live.

As we debate this issue today, I am quite pleased that the basic facts are now well known. When John D. Robb, Jr., president of the Albuquerque-based Christians for Cambodia, first contacted me in Gallup, N. Mex., he was very concerned that, like the holocaust, the facts might not be widely known until it became too late.

The land we know as Cambodia is now called Kampuchea, and its native people, the Khmers are in danger of extinction. While the historic, military, and political causes of the catastrophe are many, it is our responsibility to act. We should leave the blaming and the judging to the higher will and use the time we have to deliver the needed food and medical supplies.

The obstacles to our assistance are many and they are a true test of our will to help. The societal and physical infrastructure is in shambles. The simple delivery of aid is vastly complicated by a badly damaged road system with few needed bridges. The cars and trucks lack parts and fuel. The effort to destroy any semblance or hint of modern influences have been sadly successful.

A rich tradition of agriculture in Kampuchea is a major irony, as one of the world's former large exporters of rice now awaits this precious commodity for its very life. Cambodia was once also known for its colorful and lively markets where fresh fruit and fish were abundantly available. The marketplace has also been destroyed leaving virtually no trace of its former vitality. One United Nations official has estimated that the minimum 300,000 tons of food, medicine, and other basic supplies would require 8,000 flights in the next 6 months.

The downward spiral of agricultural failures is due largely to the fierce military forces of Pol Pot's Khmer Rouge and Heng Samrin's Vietnamese-backed regime. Day-to-day survival prevents planting or harvesting of scarce crops whose scarcity increases with every cycle of negligence.

Mr. President, our nonpartisan approach to aid must also reach the international arena where China is a backer of Pol Pot and the Soviet Union supports Heng Samrin. In my recent letter to the President of the United States, I have requested that our State Department or the President himself step up our efforts to secure Chinese and Russian cooperation in this international effort to save Kampuchea from famine.

While we have reason to fear that aid will be diverted from the Cambodians to the Vietnamese Army, and the Russians fear that aid will reach Pol Pot, our national concern must transcend these fears and we must do all in our power to see that aid reaches the bulk of starving Cambodians. And, Mr. President, we must strive to reach the children of Kampuchea or the "International Year of the Child" will become known as the year the children of Kampuchea died of starvation.

In closing, Mr. President, I applaud the valiant efforts of relief organizations like the International Committee of the Red Cross, UNICEF, Oxfam-America, and American Friends Service Committee. These responsive groups are excellent channels for the efforts of new groups like Christians for Cambodia of Albuquerque, N. Mex., and other Americans who can place international compassion above their own immediate concerns.

I am very proud of New Mexico's Christians for Cambodia as they reflect the true American love of life and the readiness to back this love with meaningful assistance. On Sunday, November 11, 1979, Christians for Cambodia will hold two rallies. One will be in Albuquerque and the other will be at the United Nations in New York.

May we follow the example, Mr. President of the Christians for Cambodia. They are demonstrating a fundamental law of physics that is also a fundamental law of cooperation—namely, that forces acting in direct opposition to each other are mutually annihilative. Forces acting in parallel and in the same direction are effective in their sum total and forces acting in opposition are decreased in proportion to the angle of divergence. May we act in parallel and in the same direction to preserve an entire culture from extinction.

Therefore, Mr. President, I wholeheartedly join as a cosponsor of Senate amendment No. 561, offered by Senator DANFORTH for himself and others. This amendment to S. 1668, the migration and refugee assistance authorization bill for fiscal year 1980, will authorize $30 million in new funds for Cambodian disaster relief.●

Mr. DANFORTH. Mr. President, will the Senator from New York yield me 2 minutes on the bill so that I may speak with reference to amendment No. 561?

Mr. JAVITS. I yield.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the name of the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of amendment 561.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, just one further point on this amendment. It is a little embarrassing to me to hear it called the Danforth amendment, as it was called at least once this afternoon.

What was most heartening about the trip we took and everything that has gone on since has been the spirit, the teamwork, and the absolute unanimity of approach chemistry, if you will, that has existed among the three Senators who went on the trip, Senator SASSER, Senator BAUCUS, and myself.

So often in the Senate individuals seem to proceed in different directions at great speed. The three of us have been operating in absolute tandem. The whole reason this is called the Danforth amendment is for some reason it fell to be my lot to be the one who actually sent it to the desk, but it is the three of us who are operating as we have throughout in absolute tandem, and it has been a great experience for me to participate with these two fine Senators in what we have been trying to do.

Mr. President, I ask unanimous consent that Senator EXON be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is the understanding of the Senator from North Carolina correct that we will have a rollcall vote on the pending amendment back to back with the final passage vote in event the yeas and nays are ordered on final passage?

The PRESIDING OFFICER. The Chair will state to the Senator there is no such agreement to that effect at this time.

Time on the amendment has expired. Time is now being used from the bill itself.

Mr. PELL. There is an informal understanding to that effect.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield such time as may be necessary to the Senator from Nebraska on the bill.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank the leader of the bill, and I thank my friend from Missouri for agreeing to add me as a cosponsor.

I am going to be brief, but I have a question or two after some comments.

Mr. President, I shall ask that following my remarks there be printed in the RECORD a copy of a story by Mr. Henry S. Bradsher of the Washington Star of today, headlined "Viets Exercising 'Manifest Destiny' in Cambodian Tragedy, Exiles Say," and the first part of his story says:

> An estimated half of Cambodia's 7 or 8 million people have now died. The Vietnamese, who have always had a strong racial contempt for their neighbors, want to be rid of even more of them so their fertile land can be colonized with settlers sent by Hanoi, Cambodian exiles and Western aid specialists on Indochina say.

Mr. President, I ask unanimous consent that that article be printed in its entirety in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I rise once again to thank my three distinguished colleagues, as I did yesterday, for their trip, and I am very pleased that I am a cosponsor of this amendment.

We have been hearing today about genocide. I am wondering what we can do other than pass this bill. I wonder if we have done all that we can through the United Nations.

It seems to me that, if anything like is true what has been heard in the Chamber and what is contained in the article that we have just agreed unanimously to print in the RECORD, it would seem to me that this is a case for the United Nations to hold some kind of an emergency meeting to see if they cannot bring some pressure to bear through that international organization.

I ask the managers of the bill if they know what, if any, activities are planned by the United Nations or some of their good offices in this area at the present time.

Mr. DANFORTH. Mr. President, responding to the Senator from Nebraska, on Monday there will be a pledge conference held at the United Nations at which I think all of the countries have been invited to attend to pledge contributions to the world relief efforts to be adopted for the people of Cambodia.

Also, last Monday Senator SASSER and I went to the United Nations to meet with the Secretary General, Mr. Waldheim, and he stated his strong support for our efforts and particularly stated his support for the so-called land bridge to deliver needed food and medical supplies to the people of Cambodia.

I think the Senator from Nebraska has made a very excellent suggestion. However, not enough has been done. Not enough has been done in the United Nations. Not enough has been done around the world to call attention to the great disaster, to the tragedy that is taking place.

Any resolution in the United Nations, any address made in the United Nations would be a step in the right direction.

World opinion must be focused on this issue. There is absolutely no reason for this situation to continue to exist.

According to the world food program, which is a United Nations organization, within three days of being given notice trucks can start traveling along Highways 5 and 6 from Thailand into Cambodia delivering the needed food.

Therefore, the question has been put very squarely to the officials in Phnom Penh and Hanoi. They can say yes or no. So far they have said no. If they say yes, the people can be saved.

I think that the most important thing we can do is to continue to rivet the attention of the world on the situation in Cambodia, and the most obvious place to do that is the United Nations.

Mr. EXON. I thank my friend from Missouri, and I wish to follow up and see if I can understand the situation. We can pass this bill today. We can have a meeting on Monday by various States that wish to participate in providing relief. We can talk to the Secretary General of the United Nations about how to get trucks moving on Highways 5 and 6 in Cambodia.

I have not seen any indication yet, though, that the Secretary General of the United Nations has demanded an emergency meeting of some kind by that body to bring whatever pressure to bear is necessary on the people who are preventing food from America and around the world to go in and help those starving millions.

Is there anything we can do in the Senate now to maybe encourage, at least with some proper language, a meeting to do something about the problem other than just getting together and providing some money or some food for relief?

All of those things, as well intentioned as they are, are not going to accomplish anything until somehow someone has the guts to stand up and tell the rulers in that part of the world that we are not going to stand by and let half of the people of Cambodia starve if in fact half of them are not gone already.

Should we be a little tougher in our approach? That is my question.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. DANFORTH. I yield.

Mr. JAVITS. I do not know if Senator EXON was in the Chamber when I just spoke about the responsibility of the Soviet Union.

Mr. EXON. I heard the Senator's remarks. They were very well taken.

Mr. JAVITS. I thank the Senator, and that is it. In short, we can make that crystal clear here that our Government—Secretary Vance, it is my understanding, is going to be at the U.N. pledge conference on Monday himself—has to point the finger at where the responsibility is and has to make it clear to the Soviet Union and to its friends and allies:

> If you are going to be a super power in this world, it is not a free ride. You have a responsibility, too. And the world has to call you to account for that responsibility.

And the responsibility should be fixed where it lies.

I do not think that represents dragging politics into humanitarianism. I think that it is very important to be sure we do everything we can to see that this tide of refugees is not so great as to engulf us all. And it could very well happen if this practice continues of driving masses of people out of a country because you are worried about their political reliability.

Mr. EXON. I thank the manager, and I yield the floor.

EXHIBIT 1

VIETS EXERCISING "MANIFEST DESTINY" IN CAMBODIAN TRAGEDY, EXILES SAY

(By Henry S. Bradsher)

An estimated half of Cambodia's 7 or 8 million people have now died. The Vietnamese, who have always had a strong racial contempt for their neighbors, want to be rid of even more of them so their fertile land can be colonized with settlers sent by Hanoi, Cambodian exiles and Western aid specialists on Indochina say.

They are both horrified and saddened by what seems to be the reason that authorities in Phnom Penh were slow to allow supervised distribution of relief supplies and are still refusing to open up enough routes to bring in sufficient food.

The Vietnamese who control Cambodia through a puppet regime, according to this explanation, are quite content to watch the starvation of those who have survived the Pol Pot regime. The Vietnamese army is now fighting to destroy the remnant guerrilla bands of Pol Pot.

The Vietnamese "want Cambodian territory, so they want the people to die or to flee to Thailand, so their land will be free for them to take over," according to In Tam.

In Tam is the secretary-general of the Confederation of Nationalist Khmers (Cambodians) that was established five weeks ago to unite anti-Communist opposition to both Pol Pot and Heng Samrin, the Vietnamese front man in Phnom Penh. The confederation is headed by Cambodia's long-time leader, Prince Norodom Sihanouk, who is now living in Peking.

Despite the hatred for those who butchered their country from the Khmer Rouge victory in April 1975 until the Vietnamese takeover last January, the confederation agrees with Pol Pot on what the Vietnamese are doing.

Pol Pot's foreign minister, Ieng Sary, told the United Nations on October 9 that "the Vietnamese aggressors have attempted to exterminate the Kampuchean (Cambodian) nation and people through starvation and massacre in order to turn Kampuchea into a part of Vietnam."

He said that since January, Vietnamese troops have killed half a million Cambodians and their actions have caused the death by starvation of a half million more. Other estimates of deaths so far this year run lower, but both Heng Samrin and western relief workers say between two and three million Cambodians are now in danger of starving to death.

A U.S. expert on Cambodia said there is a widespread perception among Indochina specialists that the Vietnamese feel a sense of "manifest destiny" about Cambodia.

Just as Americans filled up the continent from the Atlantic to the Pacific, pushing aside or killing Indians, so the Vietnamese have a determination to take over what remains of the once-great Khmer empire.

In the 12th century, when they built the magnificent temples at Angkor Wat, the Khmers dominated the area now known as Indochina and Thailand. But within two centuries they were under strong attack by Thais and Annamites, the people from what is now central Vietnam. By the mid-18th century Cambodia had been reduced to a small, weak state maintained by the Thais and Annamites as a buffer between them.

Saigon, which had originally been a Khmer settlement, and the rich Mekong River delta west of it were taken away from Cambodia and colonized by Vietnamese. This encroachment was proceeding up the Mekong toward Phnom Penh when the French arrived in the mid-19th century to establish colonial control. They froze the situation.

Now, with outside influence removed, the Vietnamese are continuing a historic movement to absorb Cambodia, according to western specialists. "That's why the present situation is very worrying," In Tam said.

The Vietnamese watched Pol Pot try to remake Cambodia by killing all former opponents and their families, forcing people out of the cities to their deaths from disease or hunger in the countryside, and other brutalities. Then, after border clashes, Hanoi's army invaded Cambodia last Dec. 25 and installed Heng Samrin in Phnom Penh on Jan. 8 while pursuing Pol Pot's forces into the jungles.

The "final solution" of Vietnam's centuries-long drive to take over ancient Khmer lands seemed to be at hand.

According to Ieng Sary, 250,000 Vietnamese settlers have already moved into areas emptied of Cambodians. Others report that families have joined some Vietnamese soldiers for apparently permanent residence.

In Tam is now in Washington with vague hopes of American support for stopping the Vietnamese. He also plans to go to New York to try to talk to United Nations' officials. He wants pressure on Phnom Penh to let in more food and he wants an international conference to decide his country's future.

In the opinion of specialists on Cambodia, In Tam is probably second only to Sihanouk as a natural leader of the Cambodian people today.

A general who held high offices in the American-backed Lon Nol regime, which ousted Sihanouk in 1970, and who lost a 1972 presidential election to Lon Nol that many observers thought was stolen, he was the only major leader of the Lon Nol years who kept the common touch and understood the downtrodden peasants.

In Tam made up with Sihanouk recently. Financed by the 10,000-strong Cambodian exile community in the United States, he flew from his exile home in Utah to a meeting of 38 leaders with Sihanouk in North Korea, where the prince was then staying. They formed the confederation.

Sihanouk plans to visit Western Europe later this month and come to the United States in January seeking support for a non-Communist solution to Cambodia's travail. Then he says he is prepared to plunge into the jungles of Cambodia to lead a guerrilla war against the Vietnamese.

Sihanouk recently began writing a series of five letters to the government of Vietnam calling on them to negotiate the establishment of his country's independence. So far he has received no answer. If the Vietnamese continue to ignore him, he said, then he will fight.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senator from Iowa (Mr. JEPSEN) and the Senator from Arkansas (Mr. PRYOR) be added as cosponsors of the amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PELL and Mr. BOSCHWITZ addressed the Chair.

The PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I wish to be added as a cosponsor to the amendment.

We are going to hold hearings in the Foreign Relations Committee on Tues-

day on this question, and we hope that at least one of these Senators who were there will come with us. I spoke to the Senator from Tennessee and we gained a lot from his knowledge.

What is the route we should follow if the Government persists in its determination, its apparent determination, that it would rather kill people about whom it is not sure than have them survive? Does the Senator believe we should go in with force? What does the Senator think about the idea of a massive airlift, which is one thought I have been trying to circulate?

Mr. DANFORTH. Mr. President, first I am delighted to ask unanimous consent that the Senator from Rhode Island be added as a cosponsor.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DANFORTH. I think the answer to that question is that the people with whom we have spoken, logistics experts on the delivery of large amounts of food and medical supplies, agree there really is only one practical way of doing it, and that is by truck, because of the tonnage involved and because of the need to practically put the food in the mouths of these people who are so sick they cannot even travel a few hundred yards.

If food were dropped by air perhaps some of it would reach people in need, but most of it probably would be taken by the army, the Vietnamese.

So I think really the attention should be focused to the maximum extent possible on the truck route, which is by far the most advisable practical route.

Mr. KENNEDY. Mr. President, I simply want to express my strong support for the amendment offered jointly by Senator BAUCUS, Senator SASSER, and Senator DANFORTH, to authorize $30 million for Cambodian relief. I commend them for their leadership in focusing the attention of the American people on the massive human tragedy now unfolding in Cambodia, and for offering this tangible hand of support to a desperate people.

On Wednesday, I chaired a Judiciary Committee hearing to receive a report from them on their trip to Southeast Asia, and, Mr. President, it was powerful testimony on what more must be done if the world is to avoid mass starvation, threatening the lives of millions of people. As the Senators stated so eloquently—the very survival of the Khmer people and nation is at stake.

Their testimony, and that of other recent visitors to the area—including Joan Baez and voluntary agency representatives—paint a picture of the genuine horror that is the daily existence for millions of Cambodians today. The awesome scale of the present suffering alone should be cause enough for America's concern. Our basic decency and humanitarian instincts as a nation are being tested—as well as that of the entire international community. We simply cannot stand mute in the face of calamity of such unspeakable proportions—a tragedy of death and misery greater than any the world has known since the days of the holocaust.

What we are doing this afternoon is to respond to this tragedy the best we can—by offering America's helping hand in support of the international relief efforts now underway in Cambodia. We are authorizing additional funds to meet the escalating appeals for food, medicines, and other relief supplies.

My only concern, Mr. President, is that even as we act today to provide an additional $30 million for Cambodian relief, we must recognize that this will barely reflect our traditional one-third contribution to humanitarian relief efforts. As a brief table I will insert in the RECORD shows, by Monday—after the pledging conference on Cambodian aid called by Secretary General Waldheim in New York—the total outstanding appeals for Cambodia will reach some $177 million. One-third of that figure would be $59 million—and to date the United States is moving to contribute $69 million—barely over one-third for the first 6 months.

However, after 6 months, it is now clear another $180 million will be required. So we must be mindful that within a very short period of time the United States must consider offering additional support—either through the use of the reprograming amendment offered by Senator MCGOVERN, that is contained in the bill—or through additional authorizations and appropriations.

But this amendment is an important step, and I strongly support its adoption by the Senate.

Mr. President, I ask that the table I referred to—as well as the prepared statements of two voluntary agency witnesses before the Judiciary Committee yesterday—be printed at this point in the RECORD.

The material follows:

GENERAL REVIEW OF AID PROGRAMS TO CAMBODIA

[Summary of approximate estimates]

Current international appeals	Anticipated appeals	U.S. actions to date
1. $112 million UNICEF/Red Cross for 6 mo inside Cambodia	$120 million for 6 mo (maybe more).	$39 million from existing authorities.
2. 60 million UNHCR for next 6 mo in Thailand for Cambodian refugees.	$60 million	$30 million from fiscal year 1980 foreign aid appropriation.
3. $5 million voluntary agency appeals from around the world		
$177 million for 6 mo (⅓ of $177 million would be $59 million).	$180 million (for next 6 mo) (⅓ of $180 million would be $60 million).	$69 million to date (EMK amendment will add at least $30 million to the above funds)

STATEMENT OF REV. ROBERT L. CHARLEBOIS

I am the Rev. Robert L. Charlebois and I serve as Special Assistant to the Executive Director of Catholic Relief Services of the United States Catholic Conference. Catholic Relief Services is the official overseas private voluntary agency of the American Catholic Church.

I would like to give you a historical perspective as well as my observations, having recently returned from the border area several weeks ago. In 1969, while I served as Program Director of Catholic Relief Services in Vietnam, I made my first preliminary investigation of the needs to improve the quality of life in Cambodia. We were received with the strong support of the Sihanouk Government, the local Catholic Church and concerned Buddhist communities. Catholic Relief Services retained its presence in Cambodia assisting the social economic development and after the generation of refugees in 1970, began to focus its programs, projects and services based upon refugee needs. We were the first voluntary agency operating within this context and remained fully operational until the fall of Cambodia in 1975. It is worthy of mention to this distinguished group that Catholic Relief Services expended a total of $13,945,820.79 from November, 1972 to April, 1975. It is perhaps the largest single relief operation by a private voluntary agency for a given number of recipients in one country.

With the private unofficial initiatives by Catholic Relief Services with the newly formed Pol Pot Government meeting without success, CRS designed its strategy for full operations to assist refugees from Cambodia, Vietnam and Laos in Thailand. Again, through private and unofficial initiatives, CRS began the very first feeding of Cambodian refugees along the Cambodia/Thailand border on July 4, 1979. The CRS Mercy Convoys have reached in excess of 600,000 Cambodians living within Kampuchea and have made the difference between life and death for thousands of them. This is a matter of record. This is a matter of fact. The CRS Mercy Convoys are moving out of Bangkok every other day for the border areas. They have been funded through both private funds of Catholic Relief Services as well as grants from AID, EEC and UNHCR.

With the recent increased military activity forcing greater numbers of Cambodians to stay on Thai soil, CRS has had to duplicate the feeding programs which is administered within Cambodia before its fall. The present situation coupled with the weakness and disease of the people and the overall desperate urgency of their physical status, impels us to design and implement food programs joined with medical and nutritional services. Our present goal within the next three weeks is to prepare sufficient food to feed 350,000 of the weakest of the Cambodian refugees. This refugee area will also receive the benefit of the CRS medical personnel and necessary medications.

CRS is fortunate to be able to respond to these crises of tragedy. Permit me to quote directly and unedited, from a telex I received from Mr. Joseph Curtin, the CRS Program Director in Thailand. This telex was received just one and a half days ago.

"FYI CRS opened soup kitchen at the Cambodian border in Klong Kaithuen feeding over four thousand refugees a day until shelling began. That military then transferred 49 thousand refugees to a newly created camp 60 KMS inland and CRS set up tents and reopened soup kitchen to serve 6,000 patients in hospital tents. Conditions are very primitive and many have died due to disease, hunger and exposure to sun and rain. Many Nuns have come to volunteer their services to help feed patients. We now have one hundred orphans in tents which we care for. Former Cambodian nutrition staff members have escaped and are now in the camp working for me. Regards, Curtin"

Catholic Relief Services would be the very first to commend the Royal Government of Thailand for their cooperation, interest and permission to freely operate within a very delicate, dangerous and sensitive portion of

their country. The problematic areas should be obvious inasmuch as they represent intelligence clearance, Thai military security clearance and logistical support, as well as a continuous shift in the Royal Thai Supreme Command regarding the location and status of the Cambodian refugees. Regarding these problematic areas, special acknowledgment must be given to Ambassador Morton I. Abramowitz whose continual support and active interest has been a source of inspiration to our spiritually motivated staff.

During the entire period when CRS has been actively touching the lives of over a half million Cambodian refugees on the border, we have both privately and unofficially and publicly and officially endeavored to respond to the needs of the refugees within Kampuchea. These initiatives have been by way of actively supporting the international agencies' endeavors as well as joining a consortium of agencies who have approval to render aid. Some of these offers have been accepted, others have been rejected and still others are pending. It would be premature at this time to go beyond reality with "guesstimates." For the record, I wish to state emphatically that CRS is more than willing and more than ready to render any assistance, furnish any commodities within its professional competence and material resources.

There are a multiplicity of other problematic areas that may well need to be addressed. I will be happy to respond to any questions for which my professional experience and Cambodian background can provide answers.

Thank you.

STATEMENT BY EDWARD F. SNYDER ON BEHALF OF THE AMERICAN FRIENDS SERVICE COMMITTEE AND THE FRIENDS COMMITTEE ON NATIONAL LEGISLATION

I appreciate your invitation to make a few comments about the desperate situation in Cambodia, now officially called Kampuchea.

I was the chairperson of a five-person delegation for the American Friends Service Committee which visited Kampuchea September 17 and 18. Previously I had visited and traveled extensively in Cambodia in the years 1967–1969 when I was Quaker International Affairs Representative in Southeast Asia, based in Singapore. I also visited the country to explore relief needs and the general situation in 1970, just after the Lon Nol government ousted Sihanouk and United States troops crossed the Vietnamese border into Cambodia.

While in Kampuchea last month we visited a hospital in Kampong Speu thirty miles west of Phnom Penh, an orphanage, and a former high school used as a prison and execution center in Phnom Penh. We met with the Deputy Minister of Public Health and her deputies, had extensive talks with the representatives of UNICEF and the International Committee of the Red Cross (ICRC), then in the midst of negotiations with Heng Samrin government officials, and drove one hundred miles through eastern Kampuchea to the Vietnamese border on Highway 1. Less than a week later I visited Khmer refugee camps at Aranyapratet and Kamput in Thailand on the western Kampuchean border.

In Kampuchea everyone is hungry. Most people are malnourished. Many people have died from starvation and disease. The number of children in the vulnerable age range of birth to five years is far below normal.

In the hospital we visited in Kampong Speu there were 485 patients, 200 beds, 13 nurses, and no doctors. A shelter full of children with worried eyes and thin bodies, too weak to cry, sat watching us as we stood silently trying to absorb the sights, sounds, and smells of that awful place. They were the fortunate ones. They at least were getting some food. Others are still in the countryside. The civilians under the control of the Pol Pot forces in western Kampuches are in much worse shape, according to all reports.

This is no ordinary famine caused by crop failure or war. It is that, but much more. It culminates a decade of disaster for the Khmer people which included five years of civil war during which there were three years of intense United States air bombardment, followed by a four-year nightmare under Pol Pot and other leaders whose theories of governance returned Kampuchea to a primitive agrarian society built on intimidation and death. An estimated one-third of the population have died or been killed in the past four years.

In the areas now controlled by the Vietnam-backed Heng Samrin government in Phnom Penh, the major part of the country, officials confront incredible problems. Simultaneously a massive food distribution system must be organized; transportation, communication, and public utilities must be restored; hospitals, orphanages, and schools must be started; food production must be more than trebled in a year; and small industries commenced. A finance and currency system must be created to replace rice—the current medium of exchange. Yet this Herculean task, which would be difficult for even the most experienced planners and administrators, has fallen to a tiny group of educated and trained Khmer survivors, still traumatized by their experience, who are willing to work with their ancient foes, the Vietnamese, to rebuild their country.

During our two-day stay in Kampuchea, we had intense conversations with people and ample opportunity for personal observations. In story after story the following picture emerged. The Pol Pot government carried to a shocking extreme policies of return to agrarian society, nationalism, anti-intellectualism, anti-urbanism, and anti-foreignism. Policies were implemented by violence, often by teenagers placed in authority by Pol Pot since they were least likely to have been corrupted by alien influences. Cities were emptied; banks, cinemas, and libraries were smashed. The educational and health systems were dismantled. People were forced to work long hours in the fields at subsistence food levels or less. Thousands died of starvation, disease, or execution. Students and diplomats returning from abroad to help rebuild their country were special targets for torture and death, as were teachers, technicians, and those who spoke a foreign language. Now the continuing war between the Heng Samrin and Pol Pot forces is creating new misery and refugees.

No one who is exposed personally to human misery on this scale can remain unaffected by it. I feel a great kinship with the other witnesses appearing before you today urging faster, more urgent action.

I feel that all channels for speeding delivery should be explored. The "land bridge" idea is one. After being there, I thought an airlift of food in cargo planes flown to provincial airports would be feasible. Airdrops into militarily contested areas might be the only way to get food to some of those in most desperate need. The Kompong Som route is already open and can rapidly be strengthened into a sturdy land bridge into the interior from this southern port.

This is a time of general frustration for all those involved in what is an intractable problem, in which many more people will die. In this situation the tendency to search for scapegoats is probably inevitable. My own feeling is that no nation has done enough. But energies would be better expended in moving ahead constructively rather than trying to assess blame.

Among the most frustrated people are those in the Ministry of Public Health in Phnom Penh. Our meeting with them began at seven in the morning with the Deputy Minister Chey Kanya and four of her associates. They outlined their many needs, with multivitamins and antibiotics heading the list. One of the doctors present had spent four years working as a peasant under Pol Pot. He was resuming his medical profession again and had been named to head the medical school. His frustration was: no students, no books, no equipment. He pleaded quietly for up to date books, since the medical library had been destroyed by Pol Pot forces.

Our delegation returned just in time to report to the Board of the American Friends Service Committee meeting in New York City. On September 30 it authorized $200,000 in immediate relief, half for multivitamins and antibiotics, half for rice. At this moment, I am happy to say, 400 tons of rice from the American Friends Service Committee is on its way to Kompong Som from Singapore, part of the cargo on a barge chartered by Oxfam.

Perhaps the most useful contribution I might make to this hearing is to try to suggest some of the factors in the current situation which appear to me to create frustrations and roadblocks.

1. Don't underestimate the purely physical problems of organizing a food distribution system in Kampuchea. Four years as a primitive agrarian society has left the physical infrastructure in a shambles. Food, trucks, and drivers are clearly needed. But also a whole support system of gasoline, diesel oil, spare parts, mechanics, unloading facilities, fork lifts, etc. must be provided. Transport equipment is now being shipped in with food and medicines.

2. Don't underestimate the human limitations of the Kampuchea people on whom much of the burden of administering and distributing the food will rest. Only a few trained people survive. It is hard for us to comprehend the catastrophe through which these people have passed. Nearly everyone we talked to in Kampuchea had lost at least one and sometimes all of their immediate families to death through starvation, disease, or murder by the authorities. This was especially true of the educated and skilled people. The survivors are clearly traumatized by this experience.

In this chaotic situation it should not surprise us if the decision-making process is slow or confused. Those of us who live and work in Washington know that even here not every decision is made either promptly or efficiently or correctly. Let's hope for perfection in Phnom Penh and Washington, but let's be realistic in our expectations of what is possible.

3. In Phnom Penh and Hanoi, as in all other capitals, there are differences of opinion among various government officials. This complicates decisionmaking. In each capital, some are primarily concerned with the humanitarian needs of the people. Others give first priority to military security and political factors. The two approaches are often divergent.

Moreover, historically Khmers and Vietnamese share a mutual suspicion and hostility. And it must certainly be true that Hanoi and Phnom Penh often have different priorities and perceptions which slow decision-making and prevent faster action on food relief.

One must also remember that the Khmer doctors, nurses, administrators, teachers, and technicians who have now surfaced to help feed people, start schools, run hospitals and orphanages are in a vulnerable position. They are cooperating with the Vietnamese, and in another turn of the wheel of misfortune in Kampuchea they could find themsleves viewed as traitors either by a resurgent Pol Pot force backed by China, or a revived Lon-Nol-type military government backed by Western powers.

4. Don't expect the Heng Samrin government or the Vietnamese to credit the United States with good intentions. Not all the scars from the war have healed. The memory of United States bombing and napalm is still fresh. We had occasion to be reminded of this when, as part of our trip, we visited the former Quaker rehabilitation center, now located in Qui Nhon, Vietnam. People are still being admitted regularly to have artificial limbs made because they have lost a foot or a leg to an exploding mine when working in the field. The morning we visited the Quang Nghia hospital, three persons had been admitted, wounded by an exploding mine.

The mistrust of United States intentions and proposals is wide and deep. This is one reason why Phnom Penh is not likely to accept proposals involving large numbers of foreign technicians or a Western-run food distribution system in their country. A proposal for a "land bridge" if it included hundreds of foreigners traveling about the country would pose serious security questions for a government still fighting a war. Would these outsiders be secret intelligence agents for the C.I.A. or Thailand or China? To think that these questions will not be asked is to seriously underestimate the fear and suspicion present in Indochina. In this climate, it is quite unrealistic to expect the Heng Sanrim government to make an immediate favorable response to a general proposal for a "land bridge", for it would vitally affect its still precarious internal security. The United States also does not move very rapidly on issues involving its vital national security interests—witness the extended consideration of the SALT II Treaty.

5. All relief efforts will be complicated so long as the civil war continues. In the brutal nature of war it is nearly inevitable that each side will seek to deny food and arms to the military forces and civilian supporters of the other side. And this war is no exception. But it is also important to distinguish between rhetoric and policy. The Heng Samrin government has firmly opposed any aid to the Pol Pot area, but it has not turned back aid which has been sent to it even though some donors were also sending aid to civilians in the Pol Pot areas.

6. Each claimant in the civil war will also attempt to prevent the other from being recognized as the legitimate representative of the Kampuchean people. Those who would aid the Peoples' Republic of Kampuchea in Phnom Penh would therefore be well advised to send aid to "all the needy people in Kampuchea" rather than aid to "both sides," which formula implicitly legitimates the Pol Pot claim. It is regrettable but true that failure to observe such niceties of communication may itself convey more or less than the speaker intends and thus impede relief efforts.

Whatever may be said for the decision to continue recognizing Pol Pot's group at the United Nations, it is clear it has hampered international relief efforts. Major United Nations organizations like the World Food Program, Food and Agriculture Organization, World Health Organization, and the UN Development Program must deal with Pol Pot representatives in New York, but those under their control can only be found with difficulty in the jungles of western Kampuchea. Fortunately, UNICEF is not confined to dealing with governments recognized by the United Nations. It can deal with emergency situations involving children anywhere. Thus UNICEF can and has entered Phnom Penh and is now carrying the burden of the relief and reconstruction effort for the whole United Nations system. Decisions on relief efforts might have been reached considerably faster if the various United Nations agencies had been able to talk through a Heng Samrin Kampuchean mission at the United Nations in New York rather than through one UNICEF representative in a hotel room in Phnom Penh.

7. Efforts must be made to develop a viable political solution in Kampuchea even as the food crisis continues. The government in Phnom Penh should represent a broad spectrum of Khmer life and not be tied too closely to an outside power. This would help meet the security needs of Vietnam and Thailand. But it would be quite unrealistic to expect that Vietnamese troops will be withdrawn if there is a real possibility that Pol Pot or another Chinese-supported faction could return to power in Phnom Penh. This is especially true so long as tensions remain high between China and Vietnam in the region.

If the United States could develop a more neutral stance on conflicts in the region between China/Pol Pot and U.S.S.R./Vietnam, it might be able to play a more active role in food distribution and in the search for an acceptable political solution in Kampuchea. This could be done in part by moving toward normalization and restoration of trade relations with Vietnam.

The achievement of a solution which would enable Kampuchea to live in peace after this turbulent decade will require a high order of diplomatic statesmanship and forbearance and patience on the part of all the Kampucheans involved as well as the United States, China, Vietnam, Thailand, and the Soviet Union. The big powers in the region and Kampuchea's neighbors can do no less than to give a much higher priority to the welfare of the Kampuchean people and thus help restore peace to that suffering nation and people.

We appreciate the fact that you have called this hearing, Senator Kennedy. It helps to build a sense of urgency and a factual base for more rapid action to meet the crisis in Kampuchea.

We are glad that President Carter has requested $69 million for emergency relief for Kampuchea, and we hope the Congress will respond quickly and affirmatively.

We hope that the Heng Samrin government will review the idea of some sort of land bridge from Thailand which parallels the distribution now under way out of Kompong Som harbor, that is, a distribution system operated by Phnom Penh authorities monitored by UNICEF or other international observers. We also hope the idea of some sort of airlift to provincial areas or emergency airdrops in contested areas will also be considered, at least until the regular shipments by sea have reached their scheduled size. But it seems advisable for proposals such as these to be refined further by UNICEF and ICRC representatives to meet anticipated objections, and then proposed to the Phnom Penh authorities.

In conclusion, we want to stress our belief that UNICEF and ICRC have a sound, well-conceived program under way, as do a number of private voluntary agencies. Food and medicine are now arriving regularly and these programs should be encouraged to expand rapidly.

UNICEF hopes to be delivering at the rate of 10,000 tons a months by early November, 20,000 tons a month by early December, and 30,000 tons a month by late December, and continuing then at this monthly level. Early shipments should be directed to those areas of greatest need. Since the 1980 rice crop will not be harvested until November and December of next year, it will clearly be necessary to continue the UNICEF/ICRC program beyond its six-month period, at least until the end of 1980.

It is especially important that food shipments be supplemented with material like rice seed, farming tools, fishnets, and fertilizers so that Kampuchea can again become self-sufficient in food production.

And it is obvious that a generally acceptable political solution must be given high priority. The Khmer people cannot survive another decade like the one just passed.

Mr. KENNEDY. In addition, Mr. President, I would like to submit for the RECORD a copy of a paper prepared by the Department of State outlining various contingency plans for relief operations in Cambodia. This preliminary planning paper underscores the scope of food and medical needs, and the hurdles the international community faces in getting into Cambodia.

The material follows:

AIRLIFT OF COMMODITIES INTO KAMPUCHEA

Given the numerous questions regarding the possibility of helping the International Agencies to get more food into Kampuchea at a more rapid rate by using air transport, the following very preliminary data is provided.

This presentation assumes the cooperation of the authorities within Kampuchea and the governments in the area. It also assumes international insurance underwriters will not invoke war risk clauses on aircraft insurance rates. Assuming maximum cooperation from all parties a commercial effort could probably be launched in 3-5 days.

In a similar exercise in 1975 before the fall of the Lon Nol Government, but under combat conditions, 1,500 tons per day of commodities were delivered by air to a number of enclaves in the country. That airlift required the services of a total of 10 DC-8 cargo aircraft plus 30 C-130 type aircraft. Each aircraft flew an average of two sorties a day at a cost of approximately 1.5 million dollars a month excluding cost of cargo.

At present, the International Committee at the Red Cross and NICEF estimate that 30,000 tons of food need to get delivered in Kampuchea per month. Unless a land route is opened, the agencies estimate that this rate cannot be reached until the end of the year. At present, the rate estimated for November is not likely to reach more than 15,000 tons.

PHNOM PENH OPTION

If 15,000 tons are to be delivered by air to Phnom Penh each month assuming daylight operations only, this would require 6 DC-8 type aircraft or 3 747 type cargo aircraft. The airlift to Phnom Penh alone will cost an estimated $190,000 per day. It is not presently feasible to estimate local distribution costs by truck or helicopter from Phnom Penh. However, 50 ten ton trucks would be required, and these are on order by UNICEF/ICRC.

THREE AIRPORT OPTIONS

If it were possible to use three airports, the jet strips at Phnom Penh and Siem Reap plus the shorter strip at Battanbang, for example, the latter would require Hercules sorties a day for Hercules aircraft, at a cost of $50,000 per day and approximately $190,000 for the 747 sorties to Phnom Penh and Siem Reap. These are exclusive of commodities cost.

If 200 tons each at Phnom Penh and Siem Reap plus 100 tons at Battambang were air delivered, this would require a minimum of 50 ten-ton trucks distributed at these three locations for on the ground distribution.

Assuming the trucks could make one 50-mile trip per day carrying ten tons, a number of cargo-carrying helicopters each carrying a maximum of three tons would be required at a cost of $2,000-$3,000 per flying hour to deliver to inaccessible areas. A helicopter effort would probably require military deployment, as there are no commercially available heavy lift helicopter in the region.

AIR DROP OPTION

Air dropping of commodities could only be done by Hercules type aircraft which would be limited to 2-5 tons per sorties depending upon the altitude flown and would cost thousands of dollars per ton delivered. Initial costs to prepare for air drops exclusive of flying time and commodity costs are estimated at $6 million for special equipment.

COMMENT

The International Agencies are attempting to increase their airlift capability. Their ability to do so will depend on the attitude of the authorities in Phnom Penh. The foregoing information does not relate to their present plans which envisage (1) building up the air capability to a smaller degree—perhaps up to 6,000 tons a month (2) attempting to maximize the amount which can be carried away from the seaport by using more trucks, and (3) attempting to utilize the Mekong River and build up trucking capability at the river port in Phnom Penh.

Air-landing food within Kampuchea will, in the short-run, encounter the same constraint of landing food at the seaport or riverport—insufficient trucks in place as yet to distribute food from the point of arrival.

Mr. DOLE. Mr. President, as early as 1977, I have initiated and endorsed repeated efforts in response to the plight of the Cambodian people, beginning with my calling attention to the human rights violations that became apparent at that time. In more recent years, my efforts have included the sponsorship of measures to increase U.S. assistance to Cambodian refugees. At the beginning of last month I cosponsored an amendment with my distinguished colleague from Massachusetts (Senator KENNEDY), calling for generous U.S. support of international relief efforts for Cambodia. It is therefore in keeping with my continuing concern and interest in the tragedy that has developed over the years that I am supporting S. 1668.

This legislation, by authorizing additional funds for our refugee program, will help meet the continuing demand for vitamins, antibiotics, and vehicles to transport patients. In a firsthand account of their recent trip to Southwest Asia, Senators DANFORTH, SASSER, and BAUCUS testified on October 21 in front of the Judiciary Committee. They were given assurance by UNICEF and the International Red Cross that trucks could start rolling from 3 to 5 days after notice of authorization to do so is received.

To the U.S. Government and other nations remains the task to provide food and money. With the world community lies the responsibility to apply all the pressure that is needed on the governments of Hanoi and Phnom Penh, so that the green light is indeed given, and trucks are allowed to cross over from the Thai border into Cambodia. All testimonies heard concurred that the only effective way to distribute medicine, food, and other supplies was by road. Airlift would simply not respond to the particular needs and requirements of the survivors.

Our positive response to the tragic situation in Cambodia need not and should not be taken as recognition of either the Pol Pot or the Heng Samrin regime. These are separate issues that should be treated independently. Our only concern at this time must be directed toward the innocent victims who find themselves caught in the middle of a conflict, without a clear understanding of its roots. Their suffering must cease.

My support of Senator DANFORTH'S amendments is consistent with this view.

How many are dying on a given day? A U.S. embassay official's reply to this question was: "We have stopped counting." A 5-year-old girl who dies upon arrival in a refugee camp becomes a mere statistic. To her mother who watched the efforts of a medical team trying to revive her, political considerations have lost all relevance. As pain, hunger, and death transcend politics, so must our concern for the hungry and the sick. Our humanitarian efforts must be directed in helping those who have managed to survive and can only continue to do so with our assistance.

Phnom Penh's official food request consisted of 108,000 tons of rice and wheat, 15,000 tons of sugar, and 8,500 tons of vegetable oil. On October 16, the first substantial food shipment arrived in Kompong Son to be dispatched 150 miles away to Phnom Penh: A mere 1,500 tons to feed the thousands of people in refugee camps, whose emaciated bodies have become a haunting reminder of the magnitude of the tragedy.

Having indicated my full support of this legislation on humanitarian grounds, I should like to call the attention of my colleagues on one item of the appropriations requested by the State Department. The sums of $1.29 million for fiscal year 1980 and $1.38 million for fiscal year 1981 are included for 49 new positions in the State Department, to meet the expanded refugee programs. There seems to a degree of controversy regarding the number of positions to be filled.

The report submitted by the Senate Committee on Foreign Relations indicates that 49 new positions are to be filled. The State Departments budget office indicated that only 25 new positions were to be added to the 24 already in existence. The first question that I should like to address is: Are we talking in terms of 25 or 49 new positions?

In either case, the intent of this legislation is to revive the sick and the dying through food and medicine, not to bury them under additional bureaucracy and redtape that are the unavoidable consequences of increased staff. Are that many additional people truly necessary?

Finally, should we allocate increased amounts for fiscal year 1981, prior to a full assessment of refugee programs in fiscal year 1980? I welcome other viewpoints on this matter.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from California (Mr. HAYAKAWA) is absent on official business.

The PRESIDING OFFICER (Mr. HEFLIN). Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 76, nays 0, as follows:

[Rollcall Vote No. 386 Leg.]

YEAS—76

Baucus	Goldwater	Packwood
Bentsen	Hart	Pell
Biden	Hatch	Percy
Boren	Hatfield	Proxmire
Boschwitz	Heflin	Pryor
Bradley	Helms	Randolph
Bumpers	Hollings	Riegle
Burdick	Humphrey	Roth
Byrd, Harry F., Jr.	Jackson	Sarbanes
	Javits	Sasser
Byrd, Robert C.	Jepsen	Schmitt
Chiles	Kassebaum	Schweiker
Church	Kennedy	Simpson
Cochran	Laxalt	Stafford
Cohen	Levin	Stennis
Culver	Long	Stevens
Danforth	Lugar	Stone
DeConcini	Magnuson	Thurmond
Dole	Matsunaga	Tsongas
Domenici	McClure	Wallop
Durenberger	Melcher	Warner
Durkin	Metzenbaum	Weicker
Eagleton	Morgan	Williams
Exon	Moynihan	Young
Garn	Muskie	Zorinsky
Glenn	Nunn	

NAYS—0

NOT VOTING—24

Armstrong	Gravel	McGovern
Baker	Hayakawa	Nelson
Bayh	Heinz	Pressler
Bellmon	Huddleston	Ribicoff
Cannon	Inouye	Stevenson
Chafee	Johnston	Stewart
Cranston	Leahy	Talmadge
Ford	Mathias	Tower

So Mr. DANFORTH'S amendment (No. 561) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. JAVITS. Mr. President, we are waiting for other amendments, if there are any.

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 565, AS MODIFIED

Mr. HELMS. Mr. President, I call up my amendment at the desk, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The legislation clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 565, as modified:

On page 2, add a new section 3 to read as follows:

SEC. 3. All funds authorized under this or any other Act to provide humanitarian assistance to the people of Cambodia shall, to the maximum extent practicable, be provided through international agencies and private voluntary organizations, among others, such as the World Relief Committee, World Medical Missions, Inc., Cama Services, World Vision, Food for the Hungry, Thailand Baptist Mission, and Catholic Relief Services, OXFAM and International Rescue Committee.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina (Mr. THURMOND) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is this the amendment of the Senator on which there is a 45-minute limitation?

Mr. HELMS. I will say to the Chair that is correct, but I do not intend to use nearly that much time.

Mr. President, could we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. Mr. President, it would be almost gilding the lily to offer a lengthy discourse on the subject at hand. So many eloquent statements have been made by able Senators, including the three distinguished Senators who made a trip to Cambodia and Vietnam.

Incidentally, Mr. President, I want to express my personal appreciation to Senator SASSER, Senator DANFORTH, and Senator BAUCUS for making the trip and coming back and giving us a first-hand report.

It is unnecessary to say that all of us have empathy with the situation which now exists in Cambodia. For my part, I think of a 5-year-old girl in Raleigh, N.C., named Jennifer, and I think every day, save for the grace of God, the picture that I saw in the paper the other day would be our children.

I think all of us have the same motivation. It is a great thing for this Senator from North Carolina to observe the unanimity on this question.

I want to pay my respect to the distinguished Senator from New York (Mr. JAVITS) for putting his finger on the problem, as he so often does.

Senator JAVITS emphasized earlier this afternoon that there must be a broad understanding around the world as to the role that the Soviet Union is playing in this matter.

Mr. President, the human tragedy of Cambodia has struck us with shocked disbelief. It is incomprehensible that, in this day and age, the global community is confronted with the possibility of the near, or total, elimination of a race of people.

It is incomprehensible because the world community has both the will and the means necessary to prevent this horrible tragedy from being carried to its unthinkable and abhorrent conclusion. An estimated 2.5 million people are now suffering human deprivation on an unparalleled scale. The humanitarian will is there to alleviate this suffering. However, will this outpouring of concern and compassion be thwarted by the most brutal of considerations—who will exercise political control over the future Cambodia?

Mr. President, the people of Cambodia will not die because the world community is unwilling to respond to their plight. The people of Cambodia will die because of a deliberate decision that they are expendable for the sake of political considerations.

They will die if the world community decides it is helpless to affect this decision. Yet, Mr. President, if we fail in our efforts to influence a decision in favor of hundreds of thousands of innocent people, may God help us. We will find ourselves sitting once again on the sidelines while the holocaust of Nazi Germany is reenacted under different circumstances in a different area of the world.

In the U.S. Senate, we have represented a wide spectrum of opinion regarding the nature of our relationships with the parties to this tragedy—the Soviet Union, Vietnam, and the People's Republic of China. Yet, can we in all honesty say that any one of these three countries is acting as responsible, concerned members of the world community? Has any one of these three nations given any indication that the value of one single human being in Cambodia far outweighs whatever political benefits they perceive they would gain from whomever controls that country? The answer is apparent. I think it is incumbent upon our Government to exhaust all avenues, both public and private, in pressing the case for the Khmer of Cambodia. Whatever our perceived policy considerations when it comes to our relationships with the Soviet Union, Vietnam, and the People's Republic of China, nothing can outweigh the human dimensions of Cambodia. Nothing is worth sitting by helplessly awaiting the inevitable human execution to run its course.

Mr. President, during the next 2 months, Americans will celebrate two holiday seasons, that of Thanksgiving and Christmas. I am sure I speak for millions of my fellow countrymen when I say we approach these seasons with a sense of despair and sorrow. We have been exposed to the plight of the Cambodians though the print media and television. Our distinguished colleagues (Mr. SASSER, Mr. BAUCUS, and Mr. DANFORTH) have written a most moving report on their trip to Thailand and Cambodia.

The pictures of starving and diseased children who have miraculously made it to Thailand, only to die before their ravaged bodies can receive strengthening nourishment and life-saving medication must sear our collective consciences. These scenes, repeated day after day, surely must haunt us all. We thank the good Lord above that these are not our children. But, what if by an accident of birth or circumstance they were our children? The agony, sorrow, and helplessness which this question provokes is too awesome to comprehend. But it is a question we must ask ourselves. What if they were our children?

Place yourself in the position of hundreds of thousands of Khmer. What future would there be for your family—your children? If we turn our backs on these innocent people because we fear we are incapable of influencing the outcome of this tragedy, then we turn our backs on our own families and our own children. And if helplessness turns to insensitivity, all mankind will be the loser. For if it becomes easy to accept the death of the Khmer, eventually it must become easier to accept these circumstances as being the inevitable history of mankind.

However, as we await the outcome of international efforts to reach an agreement with the Vietnam-backed regime in Phnom Penh to establish a well organized and effective relief operation in Cambodia itself, much remains to be done in maximizing the effectiveness of assistance to refugees in Thailand. I am concerned that, despite all the Government of Thailand has done to ease the plight of Khmer refugees, we can do much more to assist them in this humanitarian effort. And the problems of coping with the refugee problem in Thailand is increasing as news reports now indicate that literally thousands of new refugees are streaming across the border from Cambodia.

There are many private voluntary organizations, including religious organizations, which have had decades-long service to the people of Indochina. They could do more than they are already doing in addressing the needs of these refugees if they had the resources to do so. I am very close to many of these organizations. I would cite one example: World Medical Missions, Inc., from my own State of North Carolina. There is a serious shortage of medical personnel to attend to the overwhelming needs of thousands of refugees pouring into Thailand.

World Medical Missions, in conjunction with the World Relief Committee, just this week will be sending 10 doctors to Thailand to help in the refugee camps. One may correctly ask what is unique about World Medical Missions sending doctors to Thailand? What is unique is the fact that 9 of the 10 doctors are former medical missionaries

who have had significant experience in Indochina. Therefore, they will be able to begin immediately tending to the medical needs of refugees without worries as to their capability in making the necessary cultural adaptation. If adequate assistance were available to pay transportation costs and maintenance allowances in Thailand, some 75 missionary doctors with similar experience would be available to assist in meeting this great human need.

The list is endless. There is Cama Services in Thailand where Gary Johnston, a young American born in Thailand, is delivering badly needed medicine and protein supplements to the Khlong Kai Thuan refugee camp. The medicine and food were sent from California, and Gary hauled these vitally needed supplies to the camp in a small pickup. Without his efforts and the support of Cama Services, malnutrition and disease would have claimed an even higher human toll.

The story is the same for virtually every private voluntary organization in Thailand—organizations such as World Vision, Food for the Hungry, the Thailand Baptist Mission, and Catholic Relief Services, to name but a few. They are all doing a very effective job with very limited resources. With more resources, they could place more people to help in the camps. With more people, we can assist more refugees. And by reaching more refugees, then the all too common death of a refugee who is too weak to crawl the last hundred yards to obtain food will become an uncommon occurrence.

Mr. President, that is why I am offering an amendment today to H.R. 4955. My amendment would provide that to the maximum extent practicable, the additional $30 million in new authorizations for relief activities in Cambodia would be channeled through the private voluntary agencies. These organizations have an historic track record of providing assistance on a more cost-effective basis than government-to-government programs. These organizations need only adequate resources to get the job done. Their people are dedicated and experienced in handling situations such as this, and there is a wealth of talent available which has a cultural understanding of this area of the world—an understanding which is critical to the success of our activities. Therefore, I would hope that the managers of H.R. 4955 could accept my amendment.

Mr. President, in conclusion, I would reiterate some of the concerns I have expressed today. Throughout history, there have been numerous examples of man's inhumanity to man which have shocked human sensibilities. But, I am sure my colleagues would agree with me that the situation in Cambodia is of such a tragic magnitude that it leaves us stunned. I think all of us, no matter how large or how small our contributions may be, must do all that is humanly possible to ease the plight of these unfortunate people. I know we have the backing of the American people in this endeavor, and with God's help and our own perseverance, we can make a difference for these people.

Mr. President, to summarize, I have been on the telephone almost constantly for the last week with various citizens in this country and abroad. Last evening I spoke at some length with Billy Graham, of my State. Billy and I grew up about 21 miles apart, he in Charlotte, N.C., and I in the little town of Monroe. Billy and his associates are doing great work in trying to assure as much aid as possible, on a private basis, to these tragically unfortunate people in Cambodia.

Billy Graham's son, Franklin Graham, is doing a remarkable job in, for example, lining up former medical missionaries. I think he has some 30 on his list now who are willing to go to Cambodia and attend to the miseries of the people there, which gets us to the point of this amendment, Mr. President.

The purpose of this amendment is to make certain that there is no administrative delay in the utilization of every worthwhile private group that is willing to become involved in solving this tragic dilemma. The amendment is clear and I believe it is going to be accepted by the distinguished managers of the bill.

As for these private groups I have mentioned, such as the Cama Services in Thailand, where Gary Johnston, a young American born in Thailand, is delivering badly needed medicine and protein supplements to the Khlong Kai Thuan refugee camp, without the efforts and the support of Cama Services, malnutrition and disease would have claimed an even higher human toll.

Senator DANFORTH has described vividly how some of these people we seek to help are so weak that they cannot move their bodies 100 yards to available food and medical treatment. These private organizations are willing to send people in who are willing to do the so-called dirty work, to get involved on the most intimate level. I, for one, am grateful to them for taking the lead.

This is a time when Government and private initiatives can work together and, hopefully, the little girls and the boys and all others who are victims of this incredible tyranny can receive assistance.

Mr. President, I reserve the remainder of my time.

Mr. PELL. Mr. President, I congratulate the Senator from North Carolina on his amendment. I think it is an excellent one. I speak, perhaps, subjectively because, for some period of time, I was in charge of a voluntary agency program when we were looking after Hungarian refugees who were escaping from the ravages of the Hungarian revolution in 1956.

The advantage of using these voluntary organizations is twofold: One, they charge the U.S. Government less. They have a lower standard of living and fringe benefits, and the taxpayer gets more for his dollar, I think, when they do it.

Second, and, I think, even more importantly, by using the voluntary agencies, we build up a constituency for that kind of agency in the United States that we would otherwise not have; for example, the Catholic relief agencies would have a constituency that the Government would not have. The more help that can be funneled through these private agencies, the better, in my view.

Mr. JAVITS. If the Senator will yield. Mr. President, I just want to say that the amendment is acceptable to me. I join Senator PELL in considering it an excellent amendment.

I point out that Senator HELMS has graciously consented to write into the amendment, in specifying various voluntary agencies which are acting in this field, the words "among others," so that those who may have been unintentionally omitted, who are very active, will not feel put out. I hope that they will make themselves known to us.

Mr. PELL. I thank the Senator. I share that thought, although I am glad to see that my alma mater, the International Rescue Committee, which the Senator from New York directed with me, is also included.

Mr. JAVITS. Also the Oxfam, which is a British enterprise, is included.

Mr. HATCH. Will the Senator yield to me?

Mr. JAVITS. I yield 3 minutes on the bill to the Senator.

Mr. HATCH. Mr. President, I also agree with the distinguished Senator from North Carolina, as well as with my colleagues from New York and Rhode Island. There is no question something has to be done about these problems. I think this is an intelligent and appropriate way to solve them.

I just add one other thing. As I sat in the hearings before the Judiciary Committee this last week, I was astounded to see the depths of degradation that those who would be punitive against these poor Cambodian people and others who are suffering have gone to keep them in the bad state that they are in. I think the weight of world opinion must be brought against them. Much has been said about that. I endorse all that has been said.

I certainly, again, compliment our three Senators who have taken the time to take an arduous journey and to bring these facts to light more than they have been brought to light, Senators SASSER, DANFORTH, and BAUCUS.

One other thing I would add. That is that, as we heard these hearings, we had credible witness from Senator SASSER, who said he believes it to be true, and Joan Baez, who was there, that there is much evidence, and there are many people who would testify to it, from these troubled areas that nerve gas and poison gas have been used on these people as though they were guinea pigs.

I condemn that. I think the weight of world opinion ought to go against that. I think it deserves to be publicized and brought out. I hope that our media will bring this to the attention of the world.

Mr. HATCH. I thank my colleague from North Carolina. I certainly thank my colleague from Ohio for allowing me to have this time.

Mr. JAVITS. Mr. President, I yield to the Senator from Ohio such time as he may desire.

Mr. GLENN. Mr. President, I thank the distinguished Senator from New York.

As chairman of the Subcommittee on East Asian and Pacific Affairs, I am glad

to join in urging the Senate to pass S. 1668, and its amendments, which authorize additional funds for refugee assistance in fiscal years 1980 and 1981. The bill also authorizes the President to use up to $30,000,000 in funds already authorized for foreign aid in support of an internationally supervised program to provide food and medical assistance to the people of Cambodia.

Just a few weeks ago, my subcommittee held hearings in which we had Ambassador Dick Clark, who has been working on the refugee problem, and Assistant Secretary for the Far East for Far Eastern Affairs, Dick Holbrooke, with us to discuss this whole refugee situation and its underlying causes, and several key points emerged. The first was that war and famine now endanger the lives of 2 to 3 million Cambodians. Unless the international community acts quickly, the Cambodians—already decimated by the massacres of the Pol Pot regime—may virtually cease to exist as a people. Nothing comparable to such a development has occurred since the holocaust days in Europe in World War II.

Let there be no mistake, the suffering is no less intense for a person in Cambodia than it was for those involved in the holocaust in Europe in World War II.

A program to assist the Cambodian people implies no recognition of the regime imposed upon the country by Vietnam. It is a purely humanitarian measure. If successful, it will not only save Cambodian lives, but reduce the number of Cambodian refugees who will flee into Thailand.

Second, the ability of the world to deal with the Indochinese refugee crisis depends upon the cooperation of many nations. The ability of the United States to persuade other countries to accept larger numbers of refugees for resettlement is dependent on our willingness to increase our own efforts, as authorized by this bill. I want to emphasize how much progress has been made in getting other countries to increase their financial contributions and their provision of new homes for the refugees. Japan has agreed to fund 50 percent of the cost of the Southeast Asian program of the United Nations High Commissioner for Refugees. At the Geneva Conference on Refugees held in July of this year, other countries pledged to increase their refugee resettlement quotas from an annual rate of about 36,000 to nearly 124,000. The funds provided in S. 1668 represent the U.S. contribution to this worldwide response to the human tragedy we are witnessing in Southeast Asia.

We should be aware that despite the difficulties refugees face in adjusting to a new life in a new land, over three-fourths of the Indochinese refugees have become basically self-supporting within 2 years of their arrival. This is a welcome development. But it should not lead to complacency on our part. We must continue to monitor the impact of the refugees on the job and housing markets. We must continually devise imaginative programs, so that these new immigrants will contribute to our economic strength rather than threaten the economic security of American citizens. We have met such challenges many times in our history, and we can do so again.

Mr. President, there is one other area I would like to cover. I would like to add my voice to that of the senior Senator from New York (Mr. JAVITS) who has expressed very well today my view that there is another nation that must be called to account for its role in the troubles afflicting Southeast Asia, and that is the Soviet Union.

Their activities in support of Vietnam's efforts in Cambodia are really at the heart of this problem.

Some of us have visited the Soviet Union and find that the first place they want us to go is Leningrad, where they can show us the tomb where there are some 300,000 to 400,000 people buried from World War II days. They point to that 900 day siege of Leningrad as typical of what happened to some 20 million Russians killed during World War II. They tie all their activities to this as a defense, saying that will never happen to them again.

Yet I would say that if the Soviets were to cut off their military aid and economic aid to Vietnam, that the situation that is ongoing in Vietnam and Cambodia—the plight of 2 or 3 million people who face starvation there—could be solved within a very few weeks. That could be if the Soviets just did not give their support, both military and economic, to Vietnam and direct that whole effort.

Since world opinion is focused on the Vietnamese, I say that at the same time, every time we say Vietnamese we should say the Soviet-Vietnamese effort in Cambodia, because it is that joint effort that may well result in some 2 or 3 million people starving.

I am not a Red baiter, but I believe in calling facts facts. We know Vietnam is only sustained in its incursion into Cambodia by having its economy and its military machine propped up by direct Soviet help, massive intervention and massive help. And that is the only reason Vietnam is able to sustain that operation in Cambodia. I say that we must lay this at the doorstep of the Soviet Union.

I call on the United Nations and any of the international organizations dealing with this problem to address their questions not only to the Vietnamese, but address their questions to the Soviet Union, because without the direct help of the Soviet Union, without the direct approval of the Soviet Union, we would not see today some 2 or 3 million people facing starvation in that area of the world.

I think we need to bring attention to that, and to keep attention focused on the underlying support, where the problem is really stemming from. And it is stemming from the Soviet Union.

I thank the Senator for yielding his time.

MILWAUKEE RAILROAD RESTRUCTURING ACT—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on S. 1905 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HEFLIN). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 2, 1979.)

Mr. MAGNUSON. Mr. President, I thank the Senator from Oregon for his help in this matter, and all those involved in the desperate effort to save the Milwaukee Railroad.

I would not butt in on this fine debate here, but time is of the essence. A Federal judge ordered the railroad embargoed the night before last, I believe. We want to get this to the White House where it will be signed and, hopefully, we will be able to ask the Federal judge to take judicial notice of the fact that we are passing this bill, and he could revoke his embargo order. But that remains to be seen.

I yield to the Senator from Oregon who did such yeoman work in the conference on this matter.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, what we are up against, in essence, is the bankruptcy court. We want to keep the Milwaukee Railroad running—crops are on the ground in Iowa—and not have the railroad quit running through Montana, the Dakotas, and people laid off.

I do not know what the ultimate result of the bankruptcy and the reorganization will be, but we face an immediate situation and every day we delay is 1 day closer to disaster for many of the areas served.

This bill does two simple things. There are others, but it does two simple things. One, in order to institute a labor settlement, there is a $75 million provision in this for the labor settlement, but that is given a preferred status as a claim of the administration on the assets of the railroad. The bankruptcy judge and the creditors agreed. So that is up-front money that will be paid back. We need not worry about that out of the bankruptcy and liquidation proceedings.

In addition, there is a $10 million grant to get the railroad going now, and, we might as well face it, it is a grant.

If we tried to make that a preferred claim, the bankruptcy court would not have accepted it. It would have wasted the assets and whatever time we had to take to do this.

The railroad must run tonight, tomorrow, the next day, if we can make it do so. This bill will do that. There is no guarantee it will be running 8 months from now. There are other provisions for the ICC to look at the service. There is

time in it for the bankruptcy judge to decide about liquidation.

But, at the moment, this will keep it running now in what is genuinely a critical period.

Mr. MAGNUSON. Mr. President, we are very hopeful this will all be worked out.

The only argument in the conference with the House was the question of the labor provisions which were resolved.

Mr. MELCHER. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. MELCHER. Mr. President, I want to thank the chairman, the ranking member of the Appropriations Committee, the ranking member of the Commerce Committee, for the prompt action on this conference.

Indeed, time is of the essence. The circumstances have been described by the two Senators. They are absolutely accurate.

The railroad is shut down, is leaving the products on the line waiting to be moved.

We notified the White House that the House acted, that the Senate would be acting within minutes.

I asked the President to take a positive stance in support of the bill, and I hope that when that message is relayed to Judge McMillen in Chicago, he will take judicial notice of that fact and will remove his embargo this afternoon, so that the railroad can again operate.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BAUCUS. Mr. President, as has been stated, we are in an emergency. We hope that this legislation will be wrapped up and signed by the President momentarily, allowing the Milwaukee to resume its operations.

I would like to commend Senators MAGNUSON, CANNON, PACKWOOD, and LONG for their efforts in enacting this legislation in time to avoid a serious crisis. I especially appreciate the efforts of the Senate and House Commerce Committee staff, who have "gone that extra mile" to bring this legislation to the floor as quickly as possible.

Mr. President, I would like to ask a few questions of the Senator from Washington, who so ably led the Senate conferees. Nowhere in section 6 or in the statement of managers is the term "implementation of the plan" defined. We need to determine what this term means. I do not want to see an employee-shipper acquisition plan survive the Interstate Commerce Commission and bankruptcy court review process, obtain adequate public and private financing, but then fail due to the fact that the last "i" has not been dotted and the last "t" not crossed on, for instance, rehabilitation loan financing documents which the Federal Railroad Administration has not completely processed by the deadline. In other words, the fact that necessary financial commitments have been made, but not all of the funds have been disbursed by April 1, 1980, should not render the plan's implementation a nullity.

Mr. MAGNUSON. The Senator's interpretation of the meaning of "implementation of the plan" is correct.

Mr. BAUCUS. Furthermore, does subsection 6(a)(3) contemplate that employee protection claims could be used as one of the financial components for implementing an employee or shipper-employee ownership plan? Would an exchange of assets for relinquishing labor protection claims be a suitable form of financing? Could employees' labor protection claims be transferred to the new employee or employee-shipper owned railroad, the new railroad assuming the labor protection obligation of the present Milwaukee Railroad estate, and the transfer of labor protection obligations thus meet the criteria established in section 6?

Mr. MAGNUSON. The Senator is correct. The conference report contemplates that the employees' labor protection claims could be treated in the manner you describe.

Mr. BAUCUS. Finally, section 6 of the conference report makes three references to the phrase "fair and equitable to the estate of the Milwaukee Railroad." It is my understanding that the intent of the conferees is to use the term "estate" in the same manner as that term is used in section 205 of title 11, United States Code. In other words, the same standard of fairness and equity to the estate of a railroad in reorganization under the Bankruptcy Act shall apply to the determination of feasibility to be made by the Interstate Commerce Commission with respect to an employee or employee-shipper ownership plan that has been submitted to the Commission pursuant to section 6. Does my understanding correctly state the intent of the conference report?

Mr. MAGNUSON. The Senator from Montana has stated accurately the intent of the conferees.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

MIGRATION AND REFUGEE ASSISTANCE

The Senate continued with the consideration of S. 1668.

Mr. HELMS. Mr. President, I am prepared to yield back the remainder of my time, if the distinguished manager of the bill is willing to do so.

Mr. PELL. I yield back the remainder of my time, if the Senator from New York has nothing further.

Mr. JAVITS. I have nothing further.

Mr. HELMS. Mr. President, I thank both managers of the bill for their cooperation, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Utah (Mr. HATCH) be added as a cosponsor of the amendment just adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I, too, would like to be a cosponsor.

Mr. HELMS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Rhode Island (Mr. PELL) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, we have been given notice of another amendment; and in order to give the attachés an opportunity to inform Senators, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON and Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

UP AMENDMENT NO. 728

(Purpose: To require the President to report to the Congress the estimated total cost of United States domestic and foreign refugee assistance programs for fiscal years 1980 and 1981)

Mr. HUDDLESTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes unprinted amendment numbered 728:

At the end of the bill insert the following new section:

SEC. . Within 60 days after the date of the enactment of this Act, the President shall report to the Senate and the House of Representatives—

(1) the estimated total costs to the United States, during fiscal year 1980 and fiscal year 1981, of domestic and foreign assistance to refugees under all programs of the United States Government, and

(2) the estimated total costs to State and local governments during such fiscal years for assistance to refugees which is attributable to such programs.

Mr. HUDDLESTON. Mr. President, I submit this amendent for the purpose of permitting us to ascertain the total cost to the American taxpayer of all of our refugee programs.

I was struck by the remarks of the distinguished Senator from Ohio (Mr. GLENN) when he indicated that it is necessary for us to continue to monitor our efforts in this area so that we know what impact it may have on this country so that we will know whether or not we are doing the right thing as far as the refugees are concerned and as far as the citizens of the United States are concerned.

One of the difficulties that I have

noted in attempting to analyze the efforts of the United States has been that it is not always easy to determine what our total expenditures in this field happen to be.

The purpose of this amendment is just simply to give to Congress on a periodic basis the actual cost of our refugee assistance both within the United States and anywhere else in the world that they might occur.

Mr. President, within the last 2 years there have been substantial increases in the domestic and foreign refugee assistance programs which are funded by the United States. Because this assistance is spread among many different programs, it is extremely difficult to ascertain the total cost of these efforts. During the debate on the refugee reform bill, S. 643, I determined, after a great deal of time and effort, that the total cost would probably be over $1 billion in fiscal year 1980.

My amendment to S. 1668 would provide a clear picture of exactly how much the American people are providing in the form of their tax dollars, to assist the refugees of the world. It would require the President to report to Congress within 60 days on the total cost of our foreign and domestic refugee assistance programs in fiscal years 1980 and 1981. It would also require a good-faith estimate of the costs which must be borne by State and local governments. This amendment would prevent the true costs from being hidden among a variety of different programs, some of which are not categorized as refugee programs. For example, approximately $160 million of the food stamp program goes to refugees.

In October of this year the Roper Organization officially released a poll which showed that 72 percent of the American people believe that we should admit less than 7,000 refugees per month. The primary reasons for this opinion were that we should help our own needy first and that refugees are too much of a burden because of the expense of resettling them. I am certain that if more people knew the actual cost of refugee assistance, the result of this poll would have been more one sided.

Mr. President, in order for a democratic government to operate effectively the citizens and elected officials must be adequately informed on the issues. My amendment will assure that there is adequate information about a cost to the American taxpayer which is growing by astronomical proportions.

I do not advocate that we stop our refugee assistance efforts. However, I do believe that we must not continue to ask the American public to carry a disproportionate share of the burden for the world's 14 million refugees.

I believe that the columnist William Raspberry accurately reflected the belief of most Americans when he stated:

> I am proud of America for opening its doors—and is hearts—to the "boat people." But I do wish that we could save some of our sympathy—and our cash—for our own "wretched refuse" who, no less than Hungarians or Cubans or Vietnamese, want a chance at the good life the country has to offer.

I believe the managers of the bill have had an opportunity to look at this amendment and they are in agreement with it.

I yield to the distinguished manager of the bill, the Senator from Rhode Island.

Mr. PELL. Mr. President, the Senator from Kentucky is correct.

Speaking for the majority side, I had a chance to look at the amendment and think it is an excellent one and am glad to accept it.

Mr. JAVITS. Mr. President, I, too, feel that the amendment is a fine one. We should know what the tab is. But I am a little worried about one thing. We never know what the other body may feel about it or what are the practicalities of getting this information within any kind of a reasonable time limit.

I know the Senator does not want to hold up this bill. It is really the kind of bill we should not hold up.

So with that caveat, we will do whatever the situation permits, but I do not wish to mislead the Senator about that.

Mr. HUDDLESTON. I certainly recognize that condition and would not in any way wish to delay the assistance that we are providing for here. I understand what the process will be from here on out.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Do Senators yield back their time on this amendment?

Mr. JAVITS. I yield back my time.

Mr. PELL. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

(Putting the question.)

The ayes appear to have it. The ayes have it.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I am going to call for a quorum for only 2 minutes to allow the attachés to notify Senators that we are about to vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I would like to join in commending our colleagues, the Senator from Tennessee (Mr. SASSER), the Senator from Montana (Mr. BAUCUS), and the Senator from Missouri (Mr. DANFORTH), for making the trip to Cambodia in the midst of a busy Senate schedule and for their fine and illuminating report on the truly horrific conditions in that poor country. Their compassion for the people of Cambodia and their leadership in seeking ways to help prevent hundreds of thousands of deaths is a credit to this body and to the country.

Mr. President, in the last 4 years Cambodia has suffered a death toll exceeding that of any country since the 14th century. In 1975, the population of Cambodia was 8 million. Today it is approximately 4 million. This is a rate of loss more than twice that of the most afflicted country in the Second World War and comparable only to the holocaust that engulfed the Jewish population of Europe.

Mr. President, the surviving population of Cambodia is threatened by famine and the unchecked spread of disease. Our Landsat satellites indicate that no more than one-tenth of the land normally under cultivation is currently being farmed. Without a massive and immediate relief program, between 2.25 and 3.5 million people will die in the next few months.

Mr. President, unless food and medicine reach the people of Cambodia, the inconceivable horror—the virtual depopulation of an entire nation—could become a reality.

The amendment offered by Senators DANFORTH, BAUCUS, and SASSER will complete the U.S. pledge of $69,000,000 to the international relief effort to the people of Cambodia. We, and other Western countries, have responded generously to the needs of the Cambodian people.

The responsibility now shifts to the Phnom Penh authorities and the Vietnamese occupation army who must do their part in facilitating the delivery of the food to the people of Cambodia. While some food is entering Cambodia through the Port of Kompong Som and by air to Phnom Penh, these channels will not be able to handle the requisite 1,000 tons of food a day until December at the earliest. It is, therefore, essential that the Phnom Penh authorities and the Vietnamese reverse their announced position and accept the land bridge from Thailand, along Routes 5 and 6 to Phnom Penh. There can be no excuses for a regime which would willfully tolerate the starvation of its own people.

Mr. President, this amendment is attached to a bill authorizing an additional appropriation for fiscal years 1980 and 1981 of $207,290,000 and $203,610,000, respectively, for Indochina refugees.

These additional sums are required because of the great surge of refugees from Vietnam, Cambodia, and Laos over the past 8 months. Vietnam has expelled hundreds of thousands of citizens of Chinese ethnic origin, and has made life so difficult for its own citizens that many prefer the hazards of an open sea and uncertain welcome abroad to the deprivation, fear, and oppression at home.

From Laos there is the exodus of the Hmong tribesmen, our loyal allies in the war there, and of many lowland Lao. With the focus on the boat people, and now the catastrophe in Cambodia, we also cannot forget that 10 percent of the people of Laos are now exiles from their own land.

The number of refugees in Southeast Asia is, of course, now being swollen by the exodus of starving Cambodians to Thailand.

In confronting the refugee exodus the United States must do several things:

First. We must be prepared to offer a home to the homeless. We are, after all, a nation of immigrants. Newcomers have been a great national asset, and the Indochinese who have come to this country since 1975 have been no exception. While the rest of the world must share the burden of resettlement, I applaud

President Carter's doubling of our monthly Indochina refugee quota from 7,000 to 14,000.

Second. The world must make sure that the refugees fleeing their homelands find a place of asylum with minimum standards of sustenance, shelter, and medical care. The activities of the UNHCR in this regard deserve our support.

Third. Measures must be taken to insure that time spent in the refugee camps is productive, not a time of despair. Many refugees will wait up to 4 years before finding a permanent home. The camps should be used for language, vocational, and cross-cultural training essential for adaptation to a new home.

This bill seeks to accomplish these objectives. While it does not get to the root of the problem—repression, war, and deprivation in Indochina—it does help alleviate the attendant human suffering.

CAMBODIA

Mr. ROBERT C. BYRD. Mr. President, this bill represents a significant response by the American people to one of the most pressing international problems of our time—the plight of the world's refugees. The migration and refugee assistance authorization doubles our country's refugee relief program for the next 2 years.

The Senate has demonstrated a special awareness and concern for the refugees' current problems. Recently, I appointed Senator SASSER and Senator BAUCUS, who along with Senator DANFORTH composed a bipartisan Senate mission to view firsthand the conditions of the Cambodian refugees. The report these three Senators made on their return was a sobering one: nothing less than the fate of the Cambodian people and their civilization is at stake.

But as the three Senators point out, despite the appalling need for relief among the Cambodian people, the Phnom Penh authorities have refused to let large shipments of aid into the country. Among other reasons, these authorities fear that the aid will reach stranded bands of Pol Pot guerrillas still operating in the country.

At the request of Senators SASSER, BAUCUS, and DANFORTH, I met with the Soviet Ambassador to the United States Anatoly Dobrynin, and asked him to deliver to his Government our appeal that the Soviet Government do what it can to convince the Phnom Penh authorities to relax their grip on the lifeline of the Cambodian people. The Soviet Ambassador said he would convey this message to his Government.

The United States had made it clear that we do not seek to intervene in the military or political situation in Cambodia. Our gesture is not a military or political one. Our interest is solely a humanitarian one.

The means by which the aid will reach the Cambodian refugees is not clear. Some feel that, as with the Vietnamese "boat people," the constant focus of world attention on the problems of the refugees will bring relief. Others note that the availability of relief materials at the borders of Cambodia eventually will pierce the political wall that surrounds that country.

But whatever happens, we all must try to contribute to a solution, and the legislation we are dealing with today is a proper step.

I want to thank Senators MCGOVERN and PELL for managing it on the floor and the Senator from New York, Mr. JAVITS, the minority floor manager.

And special commendation goes to Senators BAUCUS, DANFORTH, and SASSER. They carried directly to Southeast Asia the concerns of the American people, and this Senate.

Mr. LEVIN. Mr. President, I rise in support of S. 1668, the migration and refugee assistance authorization, and urge my colleagues in the Senate to join me in voting for a speedy final passage of this most needed humanitarian legislation.

As my colleagues know, this measure provides additional assistance to refugees and international aid organizations made necessary because of the current emergency conditions in Southeast Asia.

Especially noteworthy are the amendments being considered to this bill which would authorize at least $30 million in contributions by the United States to the international relief effort providing critical food and medical supplies to the people of Cambodia.

These funds represent the "second phase" of the $69 million President Carter recently pledged for the United States to this international mercy mission.

In addition, I understand that an amendment will be forthcoming to extend from 2 to 3 years Federal reimbursement to State governments for assisting in the resettlement of Indochinese refugees.

Mr. President, between 1961 and 1973, the United States dropped 6,162,000 tons of bombs on North and South Vietnam. Between 1969 and 1973, we dropped a total of 180,356 tons of explosives on Cambodia, which before the fighting was carried to that nation, was a quiet and beautiful country whose people lived in peace and harmony among themselves and with their neighbors.

Today, sadly, Cambodia is a tragic example of what misguided military and ideological policies, both on the democratic and totalitarian ends of the political spectrum, can wreak on any nation.

No nation which took part, either directly or indirectly, in the struggles in Indochina during the last decade, can be held completely blameless for the destruction and desolation of Cambodia. That is a fact which must be recognized.

And it is in recognition of that fact that the United States must totally mobilize its considerable humanitarian resources to help the starving millions of Cambodia.

The same nation that could rain death down on Cambodians between 1969 and 1973 must assume its rightful leadership role in extending international assistance to their suffering people.

Mr. President, I want to add my voice to those of my colleagues who have been urging that our Government do all that it can to prevent more Cambodians from dying from the appalling famine which grips that country.

As we did in 1975 when we flew an emergency airlift of 400 tons of food each day into Phnom Penh, the United States must now fly an emergency airlift to alleviate the mass suffering and death.

We should, of course, work through the international organizations coordinating this relief effort to Cambodia, and we should use all diplomatic means at our disposal to urge the factions taking part in the civil war there to permit adequate distribution of the needed food and medical supplies.

But in addition I have urged the President to order an airlift to Cambodia and to take action to overcome the logistical and geographic problems with effectively implementing such a plan.

We move ahead with that option while we do all we can to establish a truck route through the countryside to distribute the food and medical aid, a preferable option if and when it becomes available.

I also urged the President to begin such an airlift and to make high-level diplomatic contacts to the Soviet Union and the People's Republic of China to urge them to encourage the factions they are supporting in the Cambodian civil war to accept equitable distribution of the food aid.

I ask unanimous consent to have my letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., October 25, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As the horrors of famine and civil war in Cambodia become more grave with each passing day, your action to make available $69 million from the United States for the international relief effort is especially welcome. Since no nation which took part, either directly or indirectly, in the conflict in Southeast Asia is blameless for the suffering in Cambodia, it is appropriate that the United States recognize its responsibilities now to do what it can to aid that stricken country.

In that regard, I would like to take this opportunity to urge you to order the Air Force to immediately undertake the planning and implementation of an emergency airlift of food and medical supplies for the people of Cambodia and the refugees from that nation in Thailand. As a member of the Committee on Armed Services, I have been discussing the requirements for such an airlift with the Air Force. I have been informed that an operation to deliver to that region the 1,000 tons of food a day estimated as necessary by UNICEF is within the capabilities of our Military Airlift Command, and that, depending on cargo availabilities, we could reach that delivery rate within 72–96 hours after the "go-ahead" is given. I recognize that such an airlift would be costly and could, under certain conditions, strain our airlift resources as they attempt to accomplish this operation along with their regular military missions. Yet the magnitude of the suffering in Cambodia argues that these burdens should be borne to help relieve conditions in that country. The least we can do, as the nation which rained 180,356 tons of bombs on Cambodia between 1969–1973, is to assist in the delivery of the 150,000 tons of food, a lesser figure, which UNICEF estimates is needed within the next six months.

I also realize that it is not sufficient simply to deliver these supplies, but that they must be distributed fairly to those in need. Thus,

I also request that you begin high-level diplomatic contacts with both the Soviet Union and the Peoples Republic of China to encourage them to urge those parties engaged in the Cambodian civil war to permit proper distribution of the airlifted goods.

The ravages of famine know no political boundaries in Cambodia, and the terrible suffering exists among all the people of that starving nation. The more fortunate nations of the world must mobilize their humanitarian resources to lessen this hardship, and the United States should assume a leadership role in these efforts. We can begin to do so by following the steps I have suggested in this letter.

Thank you for consideration of these suggestions.

Sincerely,

CARL LEVIN.

Mr. LEVIN. Mr. President, the State Department indicates that the People's Republic of China has appeared receptive to our entreaties, but that the Soviet Union has been less so. I hope that the U.S.S.R. will change its position in the near future as world opinion becomes aroused and enraged at the suffering.

In the meantime, we should quickly pass S. 1668 to speed needed aid on its way.

THE POLITICS OF STARVATION

● Mr. BIDEN. Mr. President, I have voted to support, as have all my colleagues, S. 1668 which authorizes additional funds to be channeled to Cambodia. I have voted to support, as have all my colleagues, all additional monies that would provide relief for the people of Cambodia. However, Mr. President, let it be stated for the record that no amount of money of itself is sufficient to prevent the proud and gentle people of Cambodia from dying of starvation, malnutrition and illness unless there is a means found to deliver the assistance which they so desperately need.

And it is no secret, Mr. President, that the present government in Cambodia has refused the plea of three eminent and courageous Senators that a land bridge be established to enable adequate food and medical supplies to reach the Cambodian people. I understand that adequate assistance means 1000 tons a day. The only effective delivery and distribution system is the maximum use of all channels, land, sea, air and river. Regrettably, this cannot be established without permission of the government in Phnom Penh.

The problem, therefore, Mr. President, is not at this moment a matter of money. It is a matter of setting up these delivery systems to Cambodia, and distribution networks within Cambodia. And that, tragically enough, is a matter of politics.

As all of us know, the government that is operational in Phnom Penh is a puppet government of Hanoi. It is a government that is not recognized by the United States. It is a government that UN members refused to seat at the United Nations. It is a government that exists at the bidding of the Vietnamese.

The axis that goes from Phnom Penh to Hanoi does not stop there. Moscow has been asked through unofficial as well as official U.S. channels to use its influence with Hanoi to permit the establishment of an expanded delivery system into Cambodia sufficient to save its people from extinction. Precisely what has transpired is not clear. But an agreement has not yet been reached. The Cambodian people lay victim to the decisions of Hanoi. The politics of starvation is a tragic one.

It has been suggested that a multinational air drop be utilized—that a mass parachute drop be initiated which will blanket Cambodia with packages of food and medical supplies. It is a dramatic gesture. It is not a very efficient one. It does not allow representatives of international agencies such as UNICEF and the International Red Cross as well as the private voluntary organization, to distribute supplies in the most effective way. But if it be the only means to stave off mass starvation of 4 million people, then it must be done.

But there is one last effort being made to prevent the tragedy of the Cambodian people. On Monday Secretary Vance will be attending a special Pledging Conference of the United Nations in New York. The ostensible purpose of this Conference is for each nation to formally pledge funds to UNICEF and the International Committee of the Red Cross to be used for Cambodian relief. The world community will commit itself on Monday to the material necessities to avert this impending disaster. Let us hope that the Governments of Vietnam and Cambodia will allow the Cambodian people to be saved.●

Mr. JAVITS. Mr. President, we have inquired on both sides and we know of no further amendments. We are ready for third reading, and we yield back our time.

Mr. PELL. We yield back our time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

MIGRATION AND REFUGEE ASSISTANCE

The PRESIDING OFFICER. Under the previous order, the third reading of S. 1668 having occurred, the Senate will proceed to the consideration of H.R. 4955, which the clerk will state by title.

The assistant legislative clerk read as follows:

Calendar 397, H.R. 4955, an act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.

The Senate proceeded to consider the bill (H.R. 4955).

The PRESIDING OFFICER. Under the previous order, the text of S. 1668, as amended, will be substituted for the text of the House bill.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass?

(Putting the question).

The bill (H.R. 4955), as amended, was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, S. 1668 is indefinitely postponed.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(During the call of the roll Mr. LEVIN assumed the chair.)

Mr. STEVENS. Mr. President, let me thank Senator JAVITS, as ranking member of the Foreign Relations Committee, for his handling of this important legislation. The distinguished Senator from New York was instrumental in our achieving a time agreement on this legislation and as a result some of us from the West will now be able to make our flights home.

Senators DANFORTH and HELMS were also very accommodating in working out the time agreement and I thank them as well.

The Senator from New York was careful to assure that all Members were protected in offering amendments to this bill and his courtesy in this regard is most appreciated.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I would like to take this opportunity to add my own observations to those of my fellow Senators who have spoken of the extraordinary service done the Senate, the Nation, and the cause of humanity by our colleagues Senator SASSER, Senator DANFORTH, and Senator BAUCUS.

It has been a matter of signal pride, I think, to all of us, to see the dignity, the firmness, and the forthrightness with which these three American Senators looked into the face of totalitarianism and did not blanch nor conceal their horror and yet, at the same time, maintained their equanimity.

It is a wonder that this far into the 20th century we are still capable of surprise at the behavior of totalitarian regimes toward their own people, and still somehow resist the thought that this is systemic, and takes place regardless of the peoples involved, their location or their circumstances. But it does.

The refugee is singularly a phenomenon—an institution, almost—of the 20th century. Invariably, it is associated with totalitarian regimes: First, the Fascist regimes of Germany and Italy, and then the rising currency of the Communist regimes that have succeeded them and have already established themselves in Central Europe, then China and Indochina. Wherever that system of government goes, the refugee appears.

There is nothing more eloquent in the world in this day as a symbol of it than the Berlin Wall that stands. The totalitarian nations have had the most extraordinary experience: They can win adherents in the democracies, but never among their own people.

The totalitarian passion that Jean Francois Pavel has spoken of continues to absorb and fascinate the youth and the intellectuals of the free world, while the totalitarian realities all about them see people risking their lives, in fact giving up their lives, just to escape that reality.

It has, in any event, been a service to us all of the three American Senators, that they went to that part of the world and they said to that regime, "You have only to open your borders and your people will be fed," and they have said, "No."

The New York Times had a dispatch from Bangkok today by Henry Kahn which made very clear the judgment of the Vietnamese in charge of Cambodia, that inasmuch as any aid to the persons starving in that country would likely go, as well, to the people of adherence to Pol Pot, they desired no aid. It is an astonishing cruelty. But only the most recent, only the most vivid at this moment, not in this century, alas, but at this moment, this reality has been brought forth with incomparable dignity, equanimity, and firmness by three American Senators, of whom we are justly proud.

I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has there been any morning business today? I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 10 minutes, with Senators permitted to speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JUDGE IN THE SMITH BAGLEY TRIAL

Mr. HATCH. Mr. President, as I viewed the Washington Post article entitled "U.S. Prosecutors Criticize Judge for Handling of Smith Bagley Trial," I became very concerned that, if these allegations are true, the appropriate authorities, especially the Justice Department, must fully investigate these most serious allegations. The letter from these two prosecutors is absolutely astounding. No prosecutors would make these criticisms without great consideration and serious reflection.

Coming on the heels of our passage in the Senate of the judicial tenure bill, serious and adequate attention must be given these charges and any rebuttal thereof.

Therefore, having made the effort to obtain a copy of the letter, I ask unanimous consent that both the provocative Post article and the letter dated October 5, 1979, be printed in the RECORD at this point.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

U.S. PROSECUTORS CRITICIZE JUDGE FOR HANDLING OF SMITH BAGLEY TRIAL

(By Merrill Brown)

Federal prosecutors have accused U.S. District Court Judge Robert Merhige of "outrageous" legal behavior in his handling of the Smith Bagley trial and said the jurist was all too friendly with the defendants.

The charges, leveled by Attorney H. M. Michaux Jr. and Assistant U.S. Attorney Patricia W. Lemley, of Greensboro, N.C., were contained in a letter requested by their superior, Deputy Assistant Attorney General John C. Keeney. A copy of the letter was obtained by The Washington Post.

Bagley, the socialite heir to the R. J. Reynolds fortune, and four others, involved in the bankruptcy of The Washington Group, Inc., a company Bagley once headed, were acquitted of conspiracy and stock manipulation charges by a jury in August. Merhige presided over that trial and was sharply critical of the government's presentation of the case.

Merhige also has been assigned to a variety of civil cases relating to Bagley and the others, stemming from the corporate bankruptcy.

Bagley's lawyers also have asked that a civil case filed by the Securities and Exchange Commission be transferred from federal court in Richmond to a North Carolina location, where Merhige is assigned.

"The antigovernment bias was manifested by Judge Merhige in virtually every phase of the trial," the U.S. attorneys said. "This bias was most clearly reflected in the court's intemperate comments and outrageous jury instructions."

Although the indictment was handed down by a federal grand jury sitting in Winston-Salem, at the request of the defendants the trial was moved to Richmond, Va., where it was heard by Merhige.

According to the letter, after Merhige was assigned to hear the case in North Carolina, the defendants filed motions for a non-jury trial and for the change of venue to Richmond.

"While the significance of these motions may simply lie in defense counsel's skilled advocacy when viewed in light of later events, they suggest that the defense team recognized an all too friendly forum at the outset," they said.

The two U.S. attorneys said that "in overview, the Bagley trial takes on the quality of a 'set up.'"

Individual incidents, which at the time had the appearance of mere intemperance, laid the foundation for jury instructions which had the effect of a direction to the jury to acquit.

"Only at the time of jury instructions did certain of the judge's exclusionary rulings, unsolicited witness cross-examinations and verbal explosions make sense."

The letter dated Oct. 5, was written by Lemley at the request of Keeney and signed by both Lemley and Michaux.

Keeney said last night that he asked for the prosecutors' comments to determine if there were mistakes in the prosecution of the case that could be corrected in the future.

"We do that in cases where the result is different than we expected it to be," Keeney said.

He said the department had no plans to follow up on the letter, although he noted the prosecutors "probably would have used less colorful language if they knew it would be made public."

Attempts to reach Merhige through his secretary were unsuccessful. The secretary said Merhige said he could not talk about the Bagley case.

Lemley, contacted last night, would not comment on the letter. "The words speak for themselves," Lemley said. Michaux could not be reached.

The two charged in their letter that through a series of comments during the trying of the case, Merhige undermined the government's case.

For example, the U.S. attorneys said that Merhige ridiculed a government witness, Wesley Bailey, who purchased Washington Group stock on a "buy-back guarantee."

"The timing of the purchases and the favorableness of the terms underscored the manipulation as charged in the indictment," they wrote.

"Nevertheless, the entire weight of Bailey's testimony was sledge-hammered by judge Merhige off-the-cuff remark. The judge's comments thus had the effect of making the prosecution team appear inept, overbearing and/or erroneous in the jury's eyes."

The letter said Merhige sustained the defense team's objections to the government's introduction of charts in the case, a decision that "again belied his impartiality."

Further, the two attorneys said Merhige "displayed a more than merely solicitous attitude toward the jury." They noted in the letter that Merhige "personally served the panel with coffee and donuts on a daily basis and arranged on at least one occasion for them to lunch at his private club."

In addition, the letter said that the judge's instructions to the jury "were tantamount to a directed verdict.

"Only a thorough reading of these instructions fully reveals the not-guilty bias through their juxtaposition of phrases, concepts and gratuitous comments," they wrote. "The government was never given a chance to present its view of the case and at no time during the trial was the indictment read to the jury."

The prosecutors said that the heart of their case was the allegation that employes of the Washington Group were encouraged to buy stock to inflate its market price.

"The judge took every element of proof such as the encouragement to buy stock and the making and guaranteeing loans for stock purchases, and stated these acts were not unlawful," they wrote.

They also said that the jury could not find the defendants guilty of mail and wire fraud charges, without proving guilt on a manipulation charge. "This ruling is clearly wrong," they wrote.

The letter charged that several of Merhige's instructions to the jury "fail to bear the remotest resemblance to the law."

Merhige is a well-known and controversial figure in the Richmond area for his decision ordering the racial integration in the city's school system.

In addition, Merhige was the presiding judge in the government's case against Allied Chemical Co. and others for their roles in the Kepone contamination of the James River. Merhige fined Allied $8 million, the largest such fine for a pollution case at the time.

U.S. ATTORNEY,
Greensboro, N.C., October 5, 1979.

Mr. JOHN C. KEENEY,
Deputy Assistant Attorney General, Criminal Division, Department of Justice, Washington, D.C.

DEAR MR. KEENEY: This letter is written in confirmation of our recent telephone conversation.

As Mr. Michaux and I related to you, notwithstanding minor factors[1] which may have contributed to the not guilty verdict in the *Bagley* case, the conduct of the trial judge ultimately ensured its outcome. The antigovernment bias was manifested by Judge Merhige in virtually every phase of the trial. This bias was most clearly reflected in the court's intemperate comments and outrageous jury instructions. At times, the courtroom took on a circus-like atmosphere. Additionally, the prosecution team was not sufficiently staffed. This problem was exacerbated by a maniacal trial schedule. Two lawyers and an F.B.I. agent, who was not the case agent, were out-manned by twelve in-court attorneys, supported by unlimited funds, miscellaneous "gophers" and a sub-

Footnotes at end of article.

stantial number of affiliated attorney advisers. We make no apology for the substantive merits of the prosecution or the pre-indictment review process.

In overview, the *Bagley* trial takes on the quality of a "set up." Individual incidents which at the time had the appearance of mere intemperance laid the foundation for jury instructions which had the effect of a direction to the jury to acquit. Only at the time of jury instructions did certain of the judge's exclusionary rulings, unsolicited witness cross-examinations and verbal explosions make sense. An appreciation of the futility of the prosecution once it reached Judge Merhige's hands can only be achieved by gaining an awareness of certain pre-trial matters, and most particularly the court's rulings on motions to dismiss the indictment.

The defendants had argued in a motion to dismiss the indictment that the stock manipulation, Count Two of the indictment, was fatally deficient in that it failed to make specific allegations of "matched orders," "wash sales," fictional quotations and so on, as set forth in Section 9 of the Securities Exchange Act of 1934. It was also argued that stock purchases alleged in the indictment were "real" and hence legal purchases; further, that the government must plead an allegation of a specific intent to defraud.

The government essentially responded to these charges by citing the comprehensive language of Section 10b and Rule 10b–5. We averred that the defendants were improperly attempting to engraft the specific language of Section 9 onto the broad provisions of Section 10 and Rule 10b–5, a proposition which has been rejected by every appellate court which has considered it. We argued that the purchases were made for the express purpose of artificially inflating the price of Washington Group stock, "real" or no.

As to the misapplication charge, brought both substantively and as a goal of the Count One conspiracy, the defendants essentially argued that stock loans could not have been made with the intent to injure or defraud the Northwestern Bank as Smith Bagley's guarantee precluded any potential loss to the Bank. We declined to respond to this evidentiary argument and relied primarily upon *United States* v. *Caldwell*, 544 F. 2d 691 (4th Cir. 1976) which held that although the fruition of a misapplication may be consonant with a bank's financial interests, where bank funds were used to accomplish an illegal purpose, a misapplication would stand. The *Caldwell* case applied directly to *Bagley, et al*, since the indictment charged loans made for the illegal purpose of accomplishing the manipulative and deceptive device by funding the stock purchases themselves. Northwestern Bank was the "key to the piggyback."

Judge Merhige denied the defendants' motions to dismiss in a one-sentence memorandum order.

Another interesting feature of the pre-trial motions was the defendants' motions for jury waiver and change of venue. The indictment in the *Bagley* case was filed in the Middle District of North Carolina. Pre-trial motions, including a motion to dismiss the indictment on pre-trial publicity grounds, were filed before Judge Gordon, Chief Judge, Middle District of North Carolina.

It was only following Judge Gordon's notice to all parties that Judge Merhige was going to hear the case that the defendants filed motions for a non-jury trial and for a change of venue on the same publicity grounds.[2] While the significance of these motions may simply lie in defense counsel's skilled advocacy, when viewed in light of later events, they suggest that the defense team recognized an all too friendly forum at the outset.

Acting in reliance upon the proposition that the judge's rulings constituted the law of the case, we proved our 10b–5 stock manipulation, conspiracy and misapplication case. Over 60 percent of the market demand for Washington Group stock was accounted for by Northwestern Bank loans and the defendants' own purchases. Each defendant was proved to either have made or guaranteed a Washington Group stock loan or have direct knowledge that Northwestern Bank, as guaranteed by a defendant, was the source of the demand for Washington Group stock.

When Washington Group middle level employee purchasing power was not available to account for Washington Group stock demand, the defendants Bagley and Gilley secured other purchases by means of no loss guarantees or guarantees of profit. The timing of controlled purchases and sales were shown to correspond to the inventory of Washington Group stock. The quintessence of the fraud was the utilization of employee profit sharing and stock purchase plan monies to continue the on-going market support activities.

No responsible Washington Group employee was informed of the defendants Bagley and Gilley's decision to sell the entire blue chip stock portfolio of the profit sharing plan and to use the proceeds from this sale to purchase Washington Group stock, thus relieving Bagley and Gilley of certain loan guarantees in the process.

During the trial itself the government was subjected to numerous on- and off-the-record diatribes by Judge Merhige. For example, when we proved that defendant Smith Bagley's R. J. Reynolds money was held in trust out of his direct control and thus, this man of means, so-called by the defense, could not make good on his Washington Group stock loan guarantees, Merhige was provoked to state out of the jury's presence that the government was on a witch hunt and prosecution of the case shocked him. The judge's views that the government had failed after a week of trial to produce a "scintilla" of evidence as to a conspiracy were repeatedly articulated to the jury.

As witnesses testified that they would not have purchased Washington Group stock in the amount and in the manner they had, which was through large loans equal to or greater than their annual salaries, the judge would interrupt direct examination with such questions as "But you bought the stock hoping to make a profit, didn't you?" or "But you knew you were taking a risk, didn't you?" On more than one occasion, Judge Merhige ridiculed the witness or *sua sponte* commented to the jury that he failed to see the relevance of a certain witness' testimony.[3]

One of such comments was unfortunately directed to Wesley Bailey, a friend and an attorney of the defendant James R. Gilley, who on a buyback guarantee made by the defendants Gilley and Bagley bought 5,000 shares of Washington Group stock, sold these into the profit sharing plan two months later, and a month later bought 7,000 more shares under a similar arrangement when the company was in registration in connection with a proposed merger.

In one sense the crux of the case rested with Bailey, as he rebutted any possible assertions that the defendants Bagley and Gilley were simply attempting to assist fellow employees to get in on the ground floor of Washington Group. The timing of the purchases and the favorableness of the terms underscored the manipulation as charged in the indictment. Nevertheless, the entire weight of Bailey's testimony was sledgehammered by Judge Merhige's off-the-cuff remark. The judge's comments thus had the effect of making the prosecution team appear inept, overbearing and/or erroneous in the jury's eyes.

A further means by which the judge shaped the outcome of this case can be found in his ruling regarding Special Agent Zachary Lowe, the supervising case agent. Special Agent Lowe's knowledge of the case and the documents which constituted our proof was instrumental. A week prior to trial pressing problems developed in Special Agent Lowe's personal life. As a result, we requested the court to allow Special Agent Lowe to join us on the third or fourth day of trial. On the grounds that Lowe was a scheduled government witness, the court denied our request. When we then advised the court that we would in no event call Special Agent Lowe to testify, Judge Merhige asked the defense team if they had any objection to allowing the Agent's presence, whereupon counsel for defendant Bagley responded that while they had no present intention to do so, they might call Special Agent Lowe as a defense witness.

Judge Merhige immediately ruled that we could have only one case agent present at trial who was to remain with both prosecution attorneys during all proceedings, unlike the defense attorney second string who came and left the courtroom at will. Special Agent Lowe was barred from the courtroom for the length of the trial. This ruling crippled the prosecution from the outset. In-court and in-chambers arguments failed to loosen Judge Merhige from this ruling.

The judge's ruling regarding the government's introduction of charts, a crucial aspect of our case, again belied his impartiality. Objections to the charts were sustained on two primary grounds. The first chart listed Northwestern Bank stock loans by borrower, amount, date, loan officer (nearly always defendant Chapple), amount of stock purchased and the name of the registered representative (nearly always defendant Thomas). The judge ruled that the repetitious references to the defendants Chapple and Thomas were prejudicial, even though this information came straight from government exhibits already received into evidence.

The second ruling centered around percentage comparisons of defendant-related stock purchases to total Washington Group stock purchases. On a *voir dire* and in argument we presented evidence that the information on these charts came from the trading records of all brokerage firms who acted as market makers or as principals in Washington Group stock. On the grounds that somewhere, at some time or place, some broker may have effected a transaction in Washington Group stock, the judge precluded the use of these charts.

The government was prevented from showing the unfortunate history of the Washington Group stock loans, which evidenced a pattern of renegotiations and personal bankruptcies. Judge Merhige's ruling on this entire area of testimony severely hampered all proof of loss with respect to the Northwestern Bank and thus the defendants' intent to injure or defraud the bank. Revealingly, during the arguments regarding the defendants' motion for judgment of acquittal at the close of the government's case, the judge castigated the government for failing to show any loss by Northwestern Bank. We referred the judge to his own prior rulings.

The judge also prevented any meaningful summary testimony from reaching the jury. For example, an investment banker who as a result of an analysis he had accomplished during the indictment period concluded that the value of Washington Group stock, then being traded at a market price of $19.00 per share, was worth only $7.00. Needless to say, this was a most crucial piece of evidence. Judge Merhige allowed this witness to testify as to his qualifications and conclusion but specifically disallowed our attempt to bring the bases for his conclusion to the jury's attention. He further undercut the probative force of this evidence by giving the standard instruction that the weight to be accorded opinion testimony was affected by the grounds for the given conclusion.

Footnotes at end of article.

The close of the government's case saw the dismissal of the substantive misapplication charges and two mail fraud counts. The mail fraud counts, which were the subject of a blanket, pro-forma motion for judgment of acquittal and which occasioned no argument by either defense or government counsel, were dismissed on the grounds that the mailings were not in furtherance of the fraudulent scheme.[4] These letters concerned arrangements for the sale of blue chip stock in the profit sharing plan, the funds from which were then used to purchase Washington Group stock. The judge's ruling is puzzling and diluted the impact of one of the most outrageous aspects of the charged fraud. The judge predicated his misapplication dismissal upon *United States* v. *Arthur*, 544 F.2d 730 (4th Cir. 1976), stating this case overruled *Caldwell, supra*, in that Section 656 required an attempt to inflict pecuniary injury. The $1 million plus in loans exposed Northwestern Bank to severe pecuniary losses but in any event, if Judge Merhige had desired to rely on *Arthur* rather than *Caldwell* the vehicle should have been clearly appealable granting of the defendants' pre-trial motion to dismiss.[5]

Throughout the course of the trial the judge displayed a more than merely solicitous attitude toward the jury. He personally served the panel with coffee and donuts on a daily basis and arranged on at least one occasion for them to lunch at his private club. The foreman of the jury was quoted in local tableaux as stating the jury had not wanted to let the judge down by its verdict. Judge Merhige is a man of great personal charisma and charm. In this context, the jury stood on the edge of its seat listening to the "law," when given in the instructions. I concluded from my observation of the nodding heads in the jury box that at the close of all arguments at least the defendants Bagley and Gilley had been convicted, if not all five of the defendants; when the jury instructions were given, these same heads were shaking in near disbelief.

It is also worth noting that the final jury argument was given at 10:30 p.m. and jury instructions did not begin until 1:30 p.m. the next day. Even when the not guilty verdict was returned, the jury was somber and reflective, a most unusual feature for a not guilty jury. A juryman was quoted in the newspapers as affirmatively responding to a reporter's question as to whether the case should have been brought by the government.

The judge's instructions were tantamount to a directed verdict. Only a thorough reading of these instructions fully reveals the not guilty bias through their juxtaposition of phrases, concepts and gratuitous comments.[6] The government was never given a chance to present its view of the case as at no time during the trial was the indictment read to the jury.

Count Two, the manipulation charge was read to the jury by the judge only after it had deliberated some seven and one half hours on the case, and upon its complaint that it could not have the charge. The judge accordingly made good his subsequent offer to read both Count Two and the relevant instructions. The jury returned its not guilty verdict in open court 35 minutes later. The jury had previously requested reinstruction on the conspiracy charge an hour and ten minutes after initially retiring.

Another overall feature regarding these instructions is that the government was notified of the substance of the charge only an hour before final argument. We had filed standard instructions two weeks before trial at the judge's request; he had asked the defense at the same time to file any instructions they desired with the court, but if these instructions revealed a defense theory or strategy they need not be disclosed to the government until the defense case commenced.

The charge as given by the judge adopted the request for instructions submitted by defendant Bagley in every material respect; the proposed charge in turn adopted the exact arguments litigated in the initial hearings on the motion to dismiss and disclosed absolutely no new defense theories or views of the case. As you are aware, the defendants introduced no evidence at trial. We had not been notified of the fact that any defense instructions had been filed, much less their substance, although these instructions had indeed been filed prior to trial.

A strenuous objection made in open court not only as advocates but explicitly as officers of the court were of no avail. When the judge asked if there were any objections to the charge after it had been given, I responded an emphatic, "Yes," to which the judge revealingly riposted that the government was not entitled to take exceptions to a jury charge.

In the charge on the conspiracy count, Judge Merhige advised the jury that if the goal of the conspiracy were only to manipulate the market price of Washington Group stock, as opposed to misapplying bank funds, or vice versa, they must find the defendants not guilty. The misapplication counts had been dismissed, which fact the judge noted five times in this conspiracy charge, and while the judge read Section 656, at no time did he describe the elements of a misapplication offense. He also rendered conviction virtually impossible on the conspiracy count by limiting the misapplication objective in the conspiracy to the two loans charged in the substantive counts, which he had dismissed.

The 10b–5 manipulation charge constitutes a miscarriage of justice. Contrary to his earlier rulings on the motion to dismiss, Judge Merhige informed the jury that the government must establish a specific intent to defraud in order to prove its case. A manipulation was defined by the previously rejected "matched order" and "wash sales" language inapplicable to a 10b–5 case. The judge iterated that profit was usually the aim of a stock investment and a shareholder was part owner in the profits and risks of the company, thus harkening back to his own cross examinations; it was against these witness investors the government was required to prove a specific intent to cheat.

The judge took every element of proof, such as the encouragement to buy stock and the making and guaranteeing of loans for stock purchases, and stated these acts were not unlawful. Incredibly, he stated that it was not unlawful to compel, intimidate or pressure employees to buy stock for the purpose of supporting the price of the stock or to engage in buying for the purpose of raising the price of the stock. This was the heart of the case.

The judge erroneously added that even if purchases of stock were undertaken to support the market price, the jury was nevertheless precluded from finding that such purchases were made with manipulative intent if the purchaser also had additional reasons for making the purchase, e.g., an expectation that the price would rise. If the price rose for any other reason in the manipulative conduct, the jury was charged to enter a not guilty verdict.

Once Count Two was effectively emasculated, the entire case, practically speaking, was lost. Count Two impacted on each other Count. Of course, contrary to his earlier expressions articulated in open court, the judge ensured this damaging effect by charging that the jury could not reach the mail and wire fraud counts unless they specifically found guilt on the manipulation count. This ruling is clearly wrong. The judge also advised the jury the mailings and telephone conversations must constitute an "integral" part of the schemes to defraud, an "essential step," and not "routine, intrinsically innocent" communications incumbent to a regular business enterprise. To add insult to injury, the jury was charged that the defendants had to evidence a specific intent to accomplish the mailings and telephone calls themselves, a proposition rejected by the Supreme Court twenty-five years ago. *Pereira* v. *United States*, 347 U.S. 1 (1954). Finally, the judge stated that the jury could not convict the defendants for their mere failure to disclose information but that an affirmative false statement was necessary. These instructions fail to bear the remotest resemblance to the law.

In conclusion, it is hoped these rather cursory thoughts may assist you in analyzing the *Bagley* trial. If we may be of any further assistance, please do not hesitate to call.

Respectfully,

H. M. MICHAUX, JR.,
United States Attorney.
PATRICIA W. LEMLEY,
Assistant United States Attorney.

FOOTNOTES

[1] I refer here, for example, to our decision to oppose the defendant's Jury Waiver Motion, a potential but probably futile failure to make a Motion for Mistrial following the jury instructions, our decision to allow open file discovery, and so on. These factors largely include the type of "why didn't I think of that before" post-mortem mentality that any attorney experiences following an adverse decision.

[2] The jury did not conduct its deliberations unmindful that some cases proceed by jury waiver; they were specifically, and we would submit prejudicially, informed of this fact as part of the instructions.

[3] This pattern of conduct was particularly aggravated regarding testimony of witnesses who had been highlighted in a pre-trial memorandum submitted by the government at the judge's invitation.

[4] This issue had been specifically litigated in pre-trial motion hearings.

[5] In passing, this ruling flies in the face of *United States* v. *Duncan*, 598 F.2d 839 (4th Cir.), *cert. denied*, ——U.S. —— (1979), and was explicitly rejected on August 3, 1979, in *United States* v. *Arthur*, (*Arthur II*), —— F.2d ——, No. 78–1598 (4th Cir.).

[6] For example, twice the judge told the jury that civil remedies were available to any investors. He stated that ignorance of the law could be considered on the issue of specific intent. "Wilfully" was defined as a *specific* intent to do what the law forbids. Where control of stock trading was discussed in the instructions, the judge misdescribed the "float" as constituting the entire number of issued shares.

RICHARD ARRINGTON ELECTED MAYOR OF BIRMINGHAM, ALA.

Mr. HEFLIN. Mr. President, Tuesday, October 30, 1979, marked the beginning of a new era in the history of Birmingham, Ala., for it was on that day that Birmingham elected its first black mayor.

Dr. Richard Arrington, Jr., a 44-year-old native of Sumter County, Ala., and a Birmingham city councilman for 8 years, won the mayor's race with 51 percent of the votes in a runoff with Frank Parsons, a white attorney-businessman. In a city where 44.6 percent of the voting population is black, Dr. Arrington is believed to have received approximately 15 percent of the white vote. I think that this is indicative of both Dr.

Arrington's standing in the community and the fact that attitudes have changed in Birmingham, as elsewhere around my home State.

During the primary election on October 9, 1979, Dr. Arrington led a six-man race with slightly more than 44 percent of the votes cast.

Although the voting in last Tuesday's election was primarily along racial lines, it is clear that without 10 to 15 percent of support from white voters, Dr. Arrington could not have become mayor.

Mr. President, it is ironic that the son of two sharecroppers would become mayor of the largest city in Alabama. It is undisputed that 16 years ago Birmingham was painted as one of the most racist cities in the world—dogs attacking black children, police and firemen using high-pressured water hoses to restrain black demonstrators, a church bombing that killed four black girls, and the multiple jailings of the late civil rights leader, Dr. Martin Luther King, Jr. I hope and believe that Dr. Arrington's election will mark the continuation of a period of harmony between whites and blacks in Birmingham, as each group comes to appreciate the hopes and aspirations of the other. The black community and the white community must continue to meld into the Birmingham community if we are to continue to progress.

Mayor-elect Arrington moved to a suburb of Birmingham—Fairfield, Ala.—at the age of 5 years. He received his elementary and secondary education there.

Dr. Arrington's training in higher education is in the fields of biology and biochemistry. He received an A.B. degree from Miles College in Birmingham, a master's degree from the University of Detroit, and a Ph. D. from the University of Oklahoma. He received additional training at New Mexico Highlands University, State University of Iowa, and Harvard University.

Dr. Arrington has served as professor of biology at Miles College and the University of Alabama in Birmingham. He also served for 4 years as academic dean at Miles College in June 1970. He assumed his present position as executive director of the Alabama Center for Higher Education, an organization of the eight black senior colleges in Alabama, in June 1970.

In November 1971 and 1975, he was elected to 4-year terms on the Birmingham City Council. Dr. Arrington serves on the board of directors of a large number of community service organizations, including the executive board of the Boy Scouts of America, the Salvation Army, the National Goodwill Industry, the Birmingham Urban League, and Positive Maturing (Aging).

Mr. President, as the city of Birmingham faces the rising Sun of a new day, I pledge my cooperation to Mayor-elect Arrington and to the city of Birmingham in making Birmingham a truly model city for all Americans.

Mr. President, I ask unanimous consent that two news articles—one which appeared in the Washington Post on October 31, 1979, entitled "First Black Mayor Narrowly Elected in Birmingham," and the other, which appeared in the New York Times on November 1, 1979, entitled "Birmingham Victor Elated and Determined," be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 31, 1979]

FIRST BLACK MAYOR NARROWLY ELECTED IN BIRMINGHAM

(By Bill Curry)

BIRMINGHAM.—The city of Bull Connor and his dogs, of Martin Luther King Jr. locked up in jail and of a church bombing that killed four black girls—elected a black mayor yesterday.

Richard Arrington, 44-year-old son of a sharecropper, became the Alabama city's first black mayor with 51 percent of the vote in a runoff with a white attorney-businessman, Frank Parsons.

With all 75 polling places reporting, Arrington had 44,798 votes to 42,814 for Parsons.

The triumph of Arrington, following eight years on the city council, is a high point in the evolution of racial accommodation that has followed the violent civil rights struggles that in the 1960s made Birmingham a symbol of racial strife.

Strangely, it was a racial incident last June that forced Arrington into the mayoral campaign. The incident was the erroneous and fatal shooting of an unarmed 20-year-old black woman by a white city policeman.

The 38-year-old Parsons campaigned on a strong law-and-order stance and a pledge to keep the police department under the control of policemen.

In the closing days of the campaign, Parsons supporters ran newspaper ads portraying Atlanta as crime-ridden as a result of electing a black mayor, Maynard Jackson.

But while blacks apparently went to the polls yesterday in greater proportion than did whites, early indications were that Arrington, who was endorsed by both of the city's daily newspapers, received perhaps 20 percent of his support from white voters.

Such support was crucial for Arrington because whites make up more than half of the city's 129,000 registered voters.

"This is a historic occasion for our city," Arrington said last night, "because the majority of voters have tapped one of the sons of color of our city. The decision says more about our city than all the public relations we can do and all the things we can say.

"The voters rejected a campaign based on fear and rejected a campaign based on sneers."

It was only 10 years ago that the Birmingham city council got its first black member. Asked before the election if Birmingham was ready for a black mayor, Arrington said, "I think it is. The transition it represents creates uneasiness—I understand that."

It was widely accepted in Birmingham, and acknowledged by Arrington, that a major task facing the city's new mayor would be to heal the racial wounds left by the shooting of Benita Carter last June.

Neither conservative whites nor change-mined blacks were satisfied with the city's handling of the shooting. Mayor David Vann, whom Arrington helped elect four years ago by bringing together a coalition of blacks and liberal whites, refused to fire the policeman involved but he did set up a citizens' committee to review the incident.

Arrington also will face many of the same problems mayors do in declining northern cities: deteriorated housing, a downtown that has largely been passed over by the so-called Sun Belt prosperity of the 1970s.

Arrington has worked on economic development and finance issues on the city council, and generally receives high marks.

But whatever the problems Birmingham faces in the 1980s, there is not the widespread, racially motivated violence of the 1960s. This is largely because of almost two decades of efforts by business and community leaders to help bring blacks into the mainstream of city life—a change stunningly illustrated by Arrington's election.

First came a change in the city charter, then blacks on the city council, and then the 1975 mayoral race. A coalition of blacks and liberal whites was formed, largely through Arrington's work, and became a dominant force in city politics. It elected Vann, who named a black city attorney, and many saw the coalition as a base for politicians in years to come.

At the same time, the University of Alabama at Birmingham, with its medical schools and research institutes, boomed. The school is, by all accounts, the growth industry that has come to overshadow steel. In 18 years, it has gone from 2,500 to 8,500 employes, and its budget from $10 million to $220 million.

With blacks making up roughly 20 percent of its student body, it has brought them into the classroom with little or no racial problems.

Now that will be Arrington's task in the city at large. "I am a bridge between the races," he says, citing his work on numerous biracial committees. But it will be difficult to please blacks on police conduct while maintaining police support.

Frank Parson, who edged out Vann in an initial mayoral race on Oct. 9 to win a spot in the nonpartisan runoff, said last night, while not yet conceding defeat: "Now we have to unify the city and move forward."

[From the New York Times, Nov. 1, 1979]

BIRMINGHAM VICTOR ELATED AND DETERMINED

(By Howell Raines)

BIRMINGHAM, ALA., October 31.—Since last night, Richard Arrington has spoken twice with President Carter, and Senator Edward M. Kennedy has called four times trying to get through. The Senator's nephew, Robert F. Kennedy Jr., dropped by for a chat yesterday, and Gov. Fob James of Alabama called up this morning to say there's no feeling quite like winning an election.

Mr. Arrington, who took the Governor's call as network camera crews and out-of-town reporters crowded around, agreed happily. For he had just stepped into the heady whirl of national politics—and for that matter, into history—as the first black Mayor of a place that only 16 years ago was regarded by civil rights leaders as the most segregated big city in America.

FINDS PROGRESS IN VOTE

But beyond the congratulatory calls lies a reality of which Mr. Arrington, a 45-year-old educator with a classic up-from-poverty biography, seemed well aware today. He inherits the leadership of a city that has just experienced the most overtly racial political campaign in Alabama since George C. Wallace won the governorship in 1970 by warning that blacks were trying to take over the state with a "bloc vote."

Mr. Arrington hailed his victory in yesterday's runoff election as proof that Birmingham had made "significant progress," but he conceded that the voting was sharply divided along racial lines. That polarization and the tone of the campaign made it clear that he would lead a city with more complex, but by no means more easily solved, racial problems than it faced in the 1960's.

"I'm going to work very hard as Mayor of this city to decrease racial tension," he said. "I think I know something, a little bit, about how to do that. You have to recognize that we're going through a very conservative trend in this country, and that automatically produces some tension."

Such tension, he admitted, led him to cancel a plan to quit politics altogether after two terms on the City Council. Instead, he decided to run for Mayor against a field that originally included a liberal, white incumbent who was his friend and political ally. This happened after a white policeman killed an unarmed black woman last summer by shooting her three times in the back. As a result, he said, "People were coming to me saying, 'We have invested in you. You are the black political leader in this town and we want you to pay off on the investment.'"

CAUTIOUS CAMPAIGN

Mr. Arrington did that by waging a cautious campaign designed not to draw the attention of conservative whites. In the runoff he defeated Frank Parsons, 38, a white lawyer and travel agency owner who warned that election of a black Mayor would lead to increased crime. The vote was 44,798, or 51.1 percent, to 42,814, or 48.9 percent. According to an analysis by The Birmingham Post-Herald, 90 percent of the whites voted for Mr. Parsons and virtually all the blacks voted for Mr. Arrington.

The flight of whites from the city and a controversy-plagued Police Department that is 90 percent white in a half-black city are two of the problems facing Mr. Arrington. He said that only a dozen of the 700 police officers were responsible for the complaints of police brutality that arise regularly from black neighborhoods.

As for white flight, he said he planned housing subsidies for middle-income families.

Richard Ernest Arrington Jr. was born on Oct. 19, 1934, in Sumter County, Ala., of sharecropping parents who later moved here to find work in the steel mills. As a dean at predominantly black Miles College, he played a behind-the-scenes role in the widespread 1963 civil rights protests in this city, writing speeches and public statements for black community leaders. He later earned a doctorate in invertebrate zoology at the University of Oklahoma.

THE TRADE AGREEMENT BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA

Mr. CRANSTON. Mr. President, earlier this week, the President sent to Congress for approval a detailed trade agreement between the United States and the PRC. The submission of this treaty represents a very important step in the ongoing process of normalizing our political and economic relations with the PRC. Once ratified by Congress, this agreement will provide a sound framework for the rapid expansion of our trade with China.

The benefits of this trade promise to be very significant. If the aims of the proposed agreement are fully realized, we may see the volume of trade between the United States and the PRC grow to nearly $21 billion over the next 5 years, as compared with a total of less than $1.2 billion last year. This potential expansion of trade also promises to aid the serious U.S. balance of trade problem by providing, according to Department of Commerce estimates, a $9 billion surplus in the U.S. balance of trade with the PRC during the first half of the next decade.

The administration has submitted the trade agreement to Congress together with a Presidential waiver of restrictions in section 402 of the 1974 Trade Act which would prohibit extension of credits and investment guarantees to the PRC. The terms of this Presidential waiver are fully consistent with the provisions of the so-called Jackson-Vanik amendment, which places curbs on trade with Communist countries denying emigration rights to their citizens.

I support the President's determination that the PRC should now be made eligible for trade credits and investment guarantees. I am confident that the Congress will review the terms of the trade agreement in a timely fashion and will support its adoption.

I think it appropriate that the administration has decided to proceed with extension of most-favored-nation status to the PRC at this time even though a similar step cannot now be taken with respect to the Soviet Union. But I am concerned about the importance of maintaining equity in U.S. policy toward the U.S.S.R. and the PRC. I had hoped—very much—that most-favored-nation states could be worked out for both countries at the same time.

The United States cannot delay indefinitely a recognition of the progress the Soviet Government has been making in liberalizing its emigration policies. At some point, continued U.S. delay in addressing the question of MFN for the Soviet Union is going to be counterproductive to the very purposes the Congress has sought to achieve in linking trade benefits with emigration policy. As one who is deeply committed to the cause of those in the Soviet Union who seek a new homeland and as one who has worked continuously to aid the victims of restrictions in Soviet emigration practices, I believe we must acknowledge the progress made by the Soviet Union in easing emigration restrictions.

I recognize that the current debate over SALT and the future course of American defense efforts does not afford an opportunity for immediate consideration of MFN for the Soviet Union. And I concur with the decision to proceed with the extension of trade benefits to the PRC so as to continue improving our relations with that nation. But I remain convinced of the necessity for early consideration of similar treatment for the U.S.S.R., once the debate over SALT II has concluded. And I hope Soviet actions now and for the future will warrant the granting of such mutual trade benefits.

Mr. President, it is important to state clearly just what we are doing and what we are not doing when we consider extension of most-favored-nation treatment to a Communist country.

First of all, we are not, by any stretch of the imagination, "rewarding" a country for its domestic policies. Nor are we approving of its system of government. We are simply facilitating a growth of trade and economic intercourse in pursuit of our own political and economic interests. This is why the United States has extended such treatment to virtually every country in the world, except for the most backward of totalitarian dictatorships, such as Albania and North Korea.

Second, in extending MFN, we are not offering benefits which are at all unusual. The term "most-favored-nation" is very misleading. "Nondiscriminatory trade treatment" is more exact. MFN treatment simply makes a nation eligible for those basic tariff reductions which we routinely make available to all our trading partners. Again, the expansion of trade facilitated by such action is to the direct benefit of American workers and American consumers.

Finally, and most importantly, extension of certain trade benefits to countries like the PRC and the U.S.S.R. would not mean that the U.S. Government has in any way reduced its commitment to help those seeking to escape political repression in such nations. Indeed, in the case of the Soviet Union where we have monitored the struggle of Soviet Jewry so closely, it is in the hope of improving the plight of such victims that we consider taking this step. The United States promises to have greater leverage to encourage continued improvement of emigration policies once MFN and trade credits have been granted than we would have in their continued absence. Armed with the existing authority of annual review, and if necessary, of withholding extension of the President's authority to waive trade restrictions, Congress would remain in a position to make known its concerns regarding emigration practices in Communist countries.

On the other hand, were Congress to fail to consider extension of trade credits to the Soviet Union and thus, to ignore the gradual improvement which we have seen in Soviet emigration policy, the first to suffer might well be those whom we seek to help—the Jews and other minorities and dissidents who wish to leave the U.S.S.R.

Mr. President, I welcome the new trade agreement with the PRC. I will be working to gain congressional approval for this agreement and to insure that adequate trade credits and investment guarantees are available to realize its aims. I will also continue to monitor the emigration situation in the Soviet Union very closely in the hope that the Soviet Union may be eligible for similar consideration in the near future.

SALT II: THE NONPROLIFERATION FACTOR

Mr. CRANSTON. Mr. President, yesterday, the distinguished majority leader, Senator BYRD, and the distinguished Senator from New York, Mr. MOYNIHAN, engaged in a brief colloquy on the problem of proliferation of nuclear weapons. I commend each of these eminent Senators for the timeliness and perception of their remarks. I would like to offer my concurrence to their views and to add some observations of my own concerning the ramifications of a failure by this body to ratify the SALT II treaty upon the effort to prevent nuclear proliferation.

By undermining the foundation of all nonproliferation efforts, rejection of SALT II would harm U.S. national security interests in ways which extend far beyond the immediate scope of bilateral relations between the United States and the Soviet Union.

The SALT process and the develop-

ment of a nonproliferation regime have been linked from the outset. Signature of the Nuclear Nonproliferation Treaty (NPT) by the United States and the Soviet Union on July 1, 1968, was a precondition for progress on SALT. Indeed, the NPT signing ceremony was marked by the announcement of the beginning of the SALT discussions.

With promotion of the NPT, the superpowers accepted a balance of mutual responsibilities and obligations. Nonnuclear-weapons-states consented to maintain their supposedly inferior status under the NPT only when provided with the superpowers' pledge to seek reduction of their own nuclear stockpiles. This was spelled out explicitly in the articles of the NPT and provided the basis for development of a nonproliferation regime which involved both technical and political barriers to the further spread of nuclear weapons capability. Nonnuclear-weapons-states will continue to accept such a status only if the United States and the Soviet Union continue to make progress on SALT.

Since ratification of the NPT and initiation of the SALT process by the superpowers in 1968, there has been significant progress. The momentum of the nuclear arms competition between the United States and the U.S.S.R. has been slowed. Cooperation between the two nations in adopting certain confidence building measures has increased. And while 109 nations have formally assented to the compromise represented by the NPT, so far only one nation—India—has been willing to incur the heavy political costs of circumventing the nonproliferation regime.

The immediate U.S. response in the instance of the Indian explosion lacked vigor. But subsequently the United States has succeeded in employing the political leverage provided by the NPT–SALT bargain to turn several nations away from the development of a nuclear weapons capability.

The administration has duly noted the relationship between SALT and nonproliferation efforts. On his return from the Vienna summit last June, President Carter stated that failure by the Senate to ratify SALT II would lead to "vastly increased dangers of nuclear proliferation among other nations of the world who do not presently have nuclear weapons."

Former SALT negotiator Ambassador Gerard Smith has declared that—

> The threat to American security from horizontal proliferation is substantially greater than that represented by the continuing improvements in Soviet forces.

And General Seignious, head of ACDA, recently stated before the Armed Services Committee:

> Ratification of SALT II would reinforce our efforts to maintain and enhance adherence to the Non-Proliferation Treaty and thus help prevent the spread of nuclear weapons. In these efforts we are joined by 109 other nations, including the Soviet Union. *Apart from the collapse of the SALT process itself, the most important casualty of SALT failure could be our vitally important effort to prevent the spread of nuclear weapons.*
>
> As a former strategist for the Joint Chiefs of Staff, I can tell you that *nuclear weapons proliferation would create a security nightmare of grave dimensions.* Terrorism and local conflicts could escalate to threaten the security of every American. Those nations that have forsworn nuclear weapons for themselves by adhering to the Non-Proliferation Treaty are closely watching the two superpowers to see whether we are indeed credible in our own commitment to reduce the level of nuclear weaponry. (Emphasis added) (Armed Services Committee, July 30, 1979)

If unchecked, proliferation could lead to the attainment of nuclear weapons capability by some 20 nations by 1990. In such a multiproliferated world, the nuclear firebreak would be too fragile to prevent the use of nuclear weapons in war. The task of crisis management and conflict containment would become virtually impossible.

The Carter administration has joined with Congress to take a number of steps to combat the proliferation dangers. Under the able, bipartisan leadership of the Senator from Ohio (Mr. GLENN), and the Senator from Illinois (Mr. PERCY), the Senate last year adopted comprehensive nuclear nonproliferation legislation by the overwhelming margin of 88 to 3. The 1979 Nonproliferation Act provided material incentives and technical constraints against the spread of nuclear weapons capability. But perhaps most importantly, it made very clear that the United States remains committed to using all of the political leverage available to combat proliferation.

The United States has sought consensus among fellow nuclear supplier nations to strengthen the NPT regime. Not only our key allies, but the Soviet Union as well, have joined in the adoption of new nuclear guidelines which place greater controls over dissemination of materials which may prove suitable for nuclear weapons production.

Another key U.S. nonproliferation initiative has been the convening of the international nuclear fuel cycle evaluation (INFCE), a 52-nation conference which is pursuing the development of more effective safeguards against the spread of nuclear weapons.

The PT regime must be strengthened, not abandoned. Technical barriers to proliferation have been reduced, and will remain low for some time. But this fact should not be used as an excuse for undermining nonproliferation efforts. With the recent reduction in technical constraints upon nuclear weapons spread, it is more important than ever that the United States maintain its political and moral legitimacy in the nonproliferation field. Continued progress on SALT—no matter how imperfect or incremental—is the key element in this effort.

The principal House sponsor of the Nonproliferation Act, JONATHAN BINGHAM, recently stated before the Senate Foreign Relations Committee that—

> The next two years will be a time of particular danger for our policy of inhibiting the spread of nuclear weapons.

This fact becomes apparent when one considers the imminent dangers of a regional nuclear arms race in Southern Asia and South America, or when one notes that the NPT itself is subject to review by all parties next summer. Other key U.S. objectives which require progress on SALT for success include satisfactory conclusion of INFCE, full implementation of the Nonproliferation Act and the accords among nuclear supplier nations, as well as progress toward a comprehensive test ban treaty.

Rejection by the Senate of SALT II simply because it does not go as far as most have hoped toward reducing nuclear arms stockpiles would be an immensely counterproductive gesture with ill effects sure to be felt far beyond the scope of United States-Soviet relations. Even if one considers only the essential goal of our nuclear nonproliferation policy, the abandonment of SALT II by the Senate would clearly lead as General Seignious recently noted, "not to more security" for the United States, but rather to "greater insecurity for all."

THE NEED TO IMPROVE NUCLEAR ENERGY REGULATION

Mr. CRANSTON. Mr. President, 6 months ago, acting in response to the accident at the Three Mile Island nuclear powerplant, President Carter appointed a distinguished group of citizens under the leadership of John Kemeny, president of Dartmouth College, to investigate the process by which the United States regulates the uses of nuclear energy for peaceful purposes. The report of this independent body was just released.

The Kemeny Commission report analyzes many of the problems in current nuclear regulatory practice and offers some specific and useful suggestions for improvement.

Timid though it may be, the Kemeny report is the strongest criticism to date from an official Government source of an industry and a technology which has serious problems.

I welcome this critique because I believe these problems, and other extremely serious problems, such as waste disposal, must be addressed before we proceed any further with nuclear development.

I continue to believe we need a complete moratorium on new plant licensing while this examination goes on. The Kemeny Commission regrettably stopped short of endorsing a licensing halt.

The suggestions it did make for periodic review of existing operating licenses and for remote siting require immediate implementation as a bare minimum. But, by themselves I doubt that they are enough to create public confidence in the nuclear regulatory process.

In the future, much more will have to be done to upgrade the NRC's regulatory capabilities.

Moreover, I believe that at least one of the Kemeny Commission's suggestions might prove counterproductive. That recommendation is that the Nuclear Regulatory Commission (NRC) be abolished as an independent regulatory agency, and be reconstituted within the executive branch under the control of a single administrator.

While the NRC's regulatory practices to date have been neither free of fault nor confidence inspiring, such a move would do little to improve nuclear regulation or justify increased public confidence that public health and safety will be adequately protected.

Furthermore, it would completely defeat the purposes of recent congressional efforts, beginning with the Energy Reorganization Act of 1974, to provide an independent regulatory authority to examine all nuclear application for domestic construction and exports.

The Kemeny Commission report correctly suggests we need changes in NRC personnel, changes in NRC procedures and in the attitudes of the regulators at the NRC. But it should not be used as an excuse for a simple shuffling of bureaucratic chairs, which might hurt rather than help the effort to deal with the problems of nuclear fission.

Less than 5 years ago Congress moved to establish the NRC as an independent agency where nuclear regulation could be achieved in an open, unbiased fashion, by majority judgment of the Commissioners.

The Congress acted from the belief that nuclear power is so complex, controversial, and involves so many risks that a diversity of views must be heard in the decisionmaking process.

Congress set up the NRC with an express effort to free the Agency from the political pressures which might compromise the Agency's regulatory mandate.

Any effort to reverse this decision—made with strong congressional support—would subvert the very important effort to improve nuclear safety.

In this regard, I believe it extremely important that the NRC retain an ability to assess independently the conformity of nuclear export license applications with U.S. nuclear proliferation policy.

I believe that any effort to reduce the authority of the NRC to apply legislatively mandated nuclear export standards would be a serious mistake.

I am pleased that the Kemeny commission refused to adopt suggestions to reduce the NRC's authority in this area.

Congress has consistently supported establishment of an independent regulatory authority for nuclear export licensing.

Just last March, the Congress reiterated its concern on this matter by overwhelmingly adopting the comprehensive Nuclear Nonproliferation Act (Public Law 95–242). This legislation, which I cosponsored, strengthened the NRC's authority over export licensing and provided detailed procedures designed to guarantee that U.S. nonproliferation concerns will be reflected in the licensing process.

Recently there have been signs that the administration's commitment to fulfilling the objectives of the Nonproliferation Act has waned. For example, a new study conducted for the National Security Council and other executive agencies by Henry Rowen and Albert Wohlstetter suggests that—

> By July of this year, at least, a State Department version of the (nonproliferation) policy was in full retreat. Our spokesmen were almost apologizing for having asserted our national views.

The Wohlstetter-Rowen report was particularly critical of the role of the Department of State and the Department of Energy in undermining the export standards which the NRC applies.

In the face of such in-house criticism of the performance of certain executive branch agencies in implementing U.S. nuclear nonproliferation policy, it seems more important than ever that the NRC retain an independent voice in nuclear export licensing.

Thus, I will oppose any attempt to undermine the NRC's role as an independent licensing body.

Mr. President, the Kemeny commission makes several constructive criticisms of the NRC. I will support any initiatives growing out of this study which serve the purpose of improving our ability to control and make safer the uses of nuclear energy.

But we must guard against the temptation to reorganize the bureaucracy every time a crisis finds our Government procedures wanting.

The NRC deserves a great deal of criticism for its inept response to the Three Mile Island accident and for the inadequate procedures it used to review the plant's license application. Those mistakes must not be repeated.

The goal of such criticism, however, should be to improve the Agency, not to destroy it.

I remain convinced that we require an independent, regulatory body, where all public concerns can be fully aired and will be fully considered, to make the very hard decisions ahead regarding licensing for nuclear activities at home and abroad.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on November 2, 1979, he had approved and signed the following act:

S. 975. An act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government for the Intelligence Community staff, and for the Central Intelligence Agency retirement and disability system, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

MESSAGES FROM THE HOUSE

At 12:34 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to H.R. 2515, an act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes.

The message also announced that the House agrees on the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to S. 640, an act to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the amendments of the House to S. 838, an act to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out the purposes of the act, and to initiate an emergency investigation on the striped bass in Atlantic coastal waters.

The message also announced that the House insists upon its amendments to S. 1905, an act to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. FLORIO, Ms. MIKULSKI, Mr. BROYHILL, and Mr. MADIGAN were appointed as managers of the conference on the part of the House.

At 2:14 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 4440, an act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. DUNCAN of Oregon, Mr. STEED, Mr. BENJAMIN, Mr. LEHMAN, Mr. SABO, Mr. STEWART, Mr. BOLAND, Mr. WHITTEN, Mr. CONTE, Mr. EDWARDS of Alabama, Mr. MILLER of Ohio, and Mr. COUGHLIN were appointed as managers of the conference on the part of the House.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself, Mr. HATCH, Mr. HEINZ, Mr. LAXALT, Mr. SIMPSON, Mr. STEVENS, and Mr. THURMOND):

S. 1969. A bill to amend the Administrative Procedure Act to require Federal agencies to analyze the benefits, costs, and other adverse effects of proposed rules, to provide for judicial review of any such analysis, to increase public participation in agency policy determinations and interpretations, and for other purposes; to the Committee on the Judiciary.

By Mr. WILLIAMS:

S. 1970. A bill to amend section 302(c) of the Labor-Management Relations Act of 1947; to the Committee on Labor and Human Resources.

S. 1971. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of employees contributions by employers to certain insurance plans; to the Committee on Finance.

By Mr. SCHMITT:

S. 1972. A bill to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp.; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (for himself, Mr. JAVITS, Mr. HART, and Mr. PERCY):

S. 1973. A bill to provide for uniformity and fairness in the punishment of Federal offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 1974. A bill to amend the Internal Revenue Code to provide for inflation adjustments; to the Committee on Finance.

By Mr. PELL:

S. 1975. A bill to provide grants for the rehabilitation of the part of the Ten Mile River located in Providence, Pawtucket, and Warwick, R.I.; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURENBERGER:

S. 1976. A bill to amend the Internal Revenue Code of 1954 to extend the one-time exclusion of gain from the sale of a principal residence to disabled individuals; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. HATCH, Mr. HEINZ, Mr. LAXALT, Mr. SIMPSON, Mr. STEVENS, and Mr. THURMOND):

S. 1969. A bill to amend the Administrative Procedure Act to require Federal agencies to analyze the benefits, costs, and other adverse effects of proposed rules, to provide for judicial review of any such analysis, to increase public participation in agency policy determinations and interpretations, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. DOLE when he introduced the bill appear elsewhere in todays proceedings.)

By Mr. WILLIAMS:

S. 1970. A bill to amend section 302(c) of the Labor-Management Relations Act of 1947; to the Committee on Labor and Human Resources.

S. 1971. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of employees contributions by employers to certain insurance plans; to the Committee on Finance.

JOINTLY ADMINISTERED GROUP AUTO INSURANCE PLANS

● Mr. WILLIAMS. Mr. President, today I am introducing legislation which would permit employers to offer group automobile insurance coverage to their employees as part of a negotiated fringe benefit package.

As we all know, group insurance rates provide substantial cost savings for participating purchasers. One of the most common methods of establishing a group plan is to have employers make contributions to a life or health insurance plan as part of their negotiated fringe benefit package.

Section 302 of the Taft-Hartley Act (29 U.S.C. 186) was designed to preserve the integrity of the labor-management relationship and the collective bargaining process by prohibiting payments by employers to employee representatives. Over the years, this broad prohibition has been modified through the enactment of a series of exceptions which authorize employer payments to certain employee benefit trust funds, including those providing life, health and accident insurance, so long as certain administrative safeguards are established.

This system has gained wide acceptance, and today most collective bargaining agreements provide for such plans. However, present law does not permit coverage of automobile and casualty insurance on such an employer-supported group basis.

The bills which I have introduced today would eliminate this exclusion by permitting employers and employees to make contributions to trust funds established to provide automobile insurance and casualty coverage for their employees and give workers tax relief for making such contributions.

This proposal would benefit employees in several ways. First, it would result in a drastic reduction in sales, administrative and claim handling expenses—about 15 percent of the total cost—which are presently factored into the cost of individual insurance policies.

Second, it would substantially reduce the cost to individual employees—in some cases as much as several hundred dollars a year. The establishment of a group plan generally guarantees coverage and permits the use of composite rating. This means that each eligible employee will be charged the same premium regardless of his age, driving record, place of residence, or whether or not he drives his car to and from work.

These savings associated with group insurance will be particularly valuable to younger workers, especially single workers under 25 years of age, for whom the cost of individual automobile insurance is very high.

Finally, my proposal amends the Internal Revenue Code to permit the exclusion of employer contributions to a plan from an employee's gross income. This measure is in conformity with the code's treatment of employer contributions to group life, health, accident, and prepaid legal service plans, and would assure broad acceptance of the group automobile insurance concept by employees.

I believe that the changes which my bill makes in amending section 302(c) of the Labor-Management Relations Act and the Internal Revenue Code would result in significant economic advantages for the working men and women of America. I welcome the support of labor and business leaders alike for these important amendments. I ask unanimous consent that the text of both bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 302(c) of the Labor-Management Relations Act of 1947, (29 U.S.C. 186(c)) is amended by inserting immediately after clause 8 the following: "or (9) with respect to money or other thing of value paid by an employer to a pooled or individual trust fund established by such representative for the purpose of providing or defraying the costs of motor vehicle, homeowners multiple peril, fire, or other insurance benefits for employees, their families and dependents: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds.".

SEC. 2. The amendment made by section 1 shall become effective on the date of enactment of this Act.

S. 1971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125 and by inserting after section 123 the following new section:

"SEC. 124. EMPLOYER CONTRIBUTIONS TO PLANS PROVIDING PROPERTY AND LIABILITY INSURANCE COVERAGE FOR EMPLOYEES.

"Gross income of an employee does not include amounts contributed by an employer to or under any insurance plan which provides property and liability insurance coverage for his employees.".

(b) The table of sections for such part III is amended by striking out the item relating to section 124 and inserting in lieu thereof the following new items:

"Sec. 124. Employer contributions to plans providing property and liability insurance coverage for employees.

"Sec. 125. Cross references to other Acts.".

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years ending after the date of the enactment of this Act.●

By Mr. SCHMITT:

S. 1972. A bill to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp.; to the Committee on Energy and Natural Resources.

● Mr. SCHMITT. Mr. President, today I am introducing a bill to authorize the

Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp. in Tesuque Pueblo, N. Mex.

In April of 1970, the Governor of Tesuque Pueblo executed a lease with the Sangre de Cristo Development Corp. for the development of a residential subdivision on a 1,400-acre tract of Pueblo land. The master lease was for a 99-year term and proposed the subdivision of the tract into residential parcels for the sale of subleases. In May of 1970 the Bureau of Indian Affairs approved the lease.

Subsequently, a court suit was entered by those opposed to the development (*Davis* v. *Morton*, 335 F. Supp. 1258) charging that the Department of the Interior was required by the National Environmental Policy Act to prepare an environmental impact statement before approval of the lease. The Court of Appeals for the Tenth Circuit upheld the compliance with the National Environmental Policy Act.

The Department completed the required environmental impact statement in July of 1977. The Tesuque Pueblo Council rescinded its consent to the lease after consideration of all potential impacts on the Pueblo by the development, and the Department withdrew its approval of the lease based on information in the EIS in August 1977.

The Solicitor's Office of the Department of the Interior has advised that the United States is not liable in money damages to any of the parties. However, they also advise that it is unclear whether the disapproval of the master lease may have affected sublease purchasers who, under the law, may be considered bona fide purchasers. Under the law, when rights are vested and are then conveyed to bona fide purchasers for value, in good faith and without notice, any later attempt to cut off the rights of those persons usually fails.

The Department has informed my office that while they are not liable to damages suffered by the sublessees, the sublessees are standing on much firmer equitable grounds than others who suffered losses related to the Tesuque Pueblo lease. Due to this, and in the interest of avoiding future legal problems, the Department recommends legislation to provide reimbursement of the sublessees for their original investment. My staff and representatives of the Department have met and come to an agreement on the language contained in this bill. I am hopeful that this legislation will receive the committee and the Senate's speedy consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior is authorized to reimburse persons who are determined by the Secretary to be bona fide purchasers of subleases from the Sangre de Cristo Development Corporation for subdivision lots on the Pueblo of Tesque Indian Reservation near Santa Fe, New Mexico. The Secretary is authorized to reimburse such persons for the amounts they have expended in the acquisition of a sublease or subleases and upon receipt of such compensation such persons must relinquish all claims or rights, if any, they may have arising from their sublease.

(b) Applications for reimbursement under this Act shall be in such form and contain such information as the Secretary of the Interior, by regulation, shall prescribe. No application for reimbursement shall be considered by the Secretary unless it is submitted on or before the date of expiration of the twenty-four month period following the date of enactment of this Act.

(c) The Secretary shall reimburse those applicants who are determined to be bona fide purchasers of subleases from the Sangre de Cristo Development Corporation, pursuant to its master lease with Tesque Pueblo initially approved May 24, 1970, by the Bureau of Indian Affairs and subsequently disapproved on August 24, 1977. As used in this Act, the term "bona fide purchasers" shall mean anyone who purchased a sublease in an arm's length transaction, for value and without notice.

(d) Within the 180-day period following the date of the enactment of this Act, the Secretary of the Interior shall take such action as may be necessary to inform purchasers of such subleases from the Sangre de Cristo Development Corporation of the fact that the Secretary of the Interior has authority to reimburse any such person determined by the Secretary to be a bona fide purchaser of such sublease for the amounts expended by such purchaser in the acquisition of such sublease. The Secretary shall further inform such purchasers that any application for reimbursement must be submitted on or before the date of expiration of the twenty-four month period following the date of the enactment of this Act.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. BIDEN (for himself, Mr. JAVITS, Mr. HART, and Mr. PERCY):

S. 1973. A bill to provide for uniformity and fairness in the punishment of Federal offenders, and for other purposes; to the Committee on the Judiciary.

SENTENCING REFORM ACT OF 1979

Mr. BIDEN. Mr. President, Senators JAVITS, HART, and PERCY join me in introducing today the Sentencing Reform Act of 1979.

This legislation represents the latest effort by Congress to address the age-old dilemma of the appropriate punishment for crime. Those of us who join together in this bill adhere to a very simple philosophy of crime control: Punishment for crime must be swift and sure.

Already in this Congress we have taken a major step toward that goal by enacting the Speedy Trial Act Amendments of 1979. As chairman of the Subcommittee on Criminal Justice, I am pleased that the full Senate supports the goal of 100-day trials within the Federal system.

Now we must move on to the much more difficult and elusive goal of assuring that swift punishment is sure and certain. As any of us who have practiced in the criminal justice system know, uncertainty, unfairness, and irrationality characterize our system just as much as the chronic problem of delay.

At the heart of the problem is a deceit which has become institutionalized in the criminal justice system. Although most of the public believes that judges sentence criminals, the real authority to determine how long someone will stay in prison is the parole board's. There are two other actors in the criminal justice system who exercise great power—usually out of the public view—the prosecutor, either by the charge he chooses or the bargain he accepts; and prison officials who control work-release and furlough programs, have a much greater impact on who stays in jail, and how long, than most judges and possibly even the parole board.

There is a remarkable amount of unanimity among the sentencing reformers in the Congress. All of us want to achieve the same basic goal. We want to eliminate the kind of uncertainty and hypocrisy I have described and move toward what is known as a "just deserts" theory of sentencing—if an individual commits a particular kind of crime he will receive a very predictable punishment. We do differ on how to achieve that goal.

Therefore, there has been considerable variety among proposals for reform. In the last Congress, many years of research, analysis and debate culminated in Senate passage of S. 1437, the Criminal Code Reform Act of 1978. Many of us who voted for that legislation believed that its most significant reforms were the changes it made in sentencing procedures. For that reason, the chairman of the Judiciary Committee, Senator KENNEDY, the primary architect of that achievement, deserves primary credit for the recent advances in the sentencing reform debate in Congress.

The House Judiciary Committee also addressed the issue of sentencing reform in context of criminal code reform in the last Congress. During extensive hearings in the House, witnesses questioned some of the sentencing-reform provisions of the Senate-passed bill and recommended a number of changes. The House Criminal Justice Subcommittee introduced legislation, H.R. 13959, which responded to many of the criticisms of the sentencing provisions of S. 1437.

In this Congress, the distinguished chairman of the Senate Judiciary Committee has once again introduced comprehensive criminal code reform legislation, S. 1722 and S. 1723. S. 1722 contains most of the sentencing-reform provisions of S. 1437. The other bill, S. 1723, contains the sentencing-reform provisions proposed in this Congress by the House Subcommittee on Criminal Justice, chaired by Congressman ROBERT DRINAN.

The bill I am introducing today embodies many features of previous reform proposals. In addition, the Sentencing Reform Act of 1979 includes a number of provisions not in previous proposals

which I believe are essential to fair and certain treatment of all offenders.

The Sentencing Reform Act of 1979 and the legislation introduced by Senator KENNEDY have many similar features. For example, each would impose parameters on judicial discretion by identifying Congress' purpose or philosophy of sentencing and by establishing a mechanism for promulgating sentencing guidelines and policies via a sentencing commission. They both authorize review of unjust sentences through parole, appeal or both. And each proposes a means of improving current irrational maximum sentences.

There are subtle but extremely important differences between the proposals. At the heart of the difference between these bills, is a basic presumption about the criminal justice system that the authors of the Sentencing Reform Act of 1979 hold—if there is a way for the system to sabotage a reform it will find a way to do so.

Speedy trial is an excellent case in point. Five years ago we established 100-day trials as a goal for the system to be phased in finally this past July. Much to our surprise, we learned at the very last minute that the courts and the Department of Justice had not made a serious effort to comply with the act and faced the prospect of thousands of dismissals. Much as might be expected, there was a strong tendency in the system to sabotage the goal by, in effect, redefining speedy trial through the exceptions to the requirement. Fortunately, Congress rejected that request and simply delayed our original goal for 1 year.

Those of us who join in this sentencing bill are determined not to be sabotaged in our efforts to achieve a "just-deserts" sentencing scheme in the Federal system. My approach to speedy trial was one of pragmatic purism. We take that same approach to sentencing reform in this bill. I would rather see an effective "just-deserts" scheme established eventually rather than see an ineffective system established immediately—just as I was willing to wait 1 year for 100-day trials rather than have 180-day trials immediately and permanently.

A case in point is the fundamental difference between this proposal and S. 1722 on the sensitive question of whether to abolish the Parole Commission immediately or to phase out the Commission and phase-in flat time sentencing. Both bills preserve the Parole Commission for sentences imposed before the enactment of this act as a matter of constitutionally imposed necessity. However, the proponents of S. 1722 would abolish the Parole Commission immediately while we would sunset the Commission in 3 years.

We join the overwhelming majority of sentencing reform experts who believe that if we abolish parole immediately we will just be fooling ourselves and the American people. If a "just-deserts" sentencing system is imposed too quickly without the possibility of parole, the system will find some way to sabotage the goal. Indeed, what will probably happen is that although judges and parole commissioners will be legislatively deprived of discretion—discretion will simply go underground. Prosecutors will "save" the system through plea bargains and undercharging, and prison officials will relieve increasing prison populations through furlough programs.

Those of us who join in this bill want the new sentencing policy to directly address the question of prosecutorial discretion and prison population. As imperfect as the Parole Commission is, we would prefer to preserve it and phase in a new comprehensive "just-deserts" policy rather than create the illusion of such a policy while discretion gives quietly on as usual.

In the same vein, our bill has advantages over other proposals because:

First, it has what we believe is a "purer" statement of the "just-deserts" philosophy;

Second, it goes beyond other proposals and addresses other factors which undermine the credibility of the sentencing system—the capitol punishment impasse, the setting free of violent and habitual offenders, and the fiction of artificially high maximum sentences;

Third, the Sentencing Commission it establishes is more likely to succeed because it is more representative of the criminal justice system which will implement the sentencing guidelines; and

Fourth, it develops a systematic appellate review of sentencing more likely to pass constitutional muster.

PHILOSOPHY OF SENTENCING

The bill's philosophy of sentencing is perhaps its most notable feature because it establishes a framework for addressing all sentencing concerns.

Under current law, a judge has nearly total discretion in sentencing. In fact, judges may impose a sentence for any reason they choose, or for no reason at all. It is not surprising, then, that judges who are given no direction as to the purposes of sentencing impose widely varying sentences for similar offenders who commit similar crimes. Disparity is inherent in a system which allows a judge who sentences for deterrence or rehabilitation to impose a term of probation, and another judge presented with identical facts to impose a lengthy prison term to achieve purposes such as "incapacitation."

A study conducted in the second circuit illustrates the widely varying sentences that too often occur. The judges were all given exactly the same 30 presentence reports and asked to impose sentences. The range of sentences was remarkable. In one case, the judges sentenced the same defendant to as little as 3 years in prison and as much as 20 years in prison plus a $65,000 fine (the second circuit sentencing study, August 1974). The study clearly indicates the need for a common approach to sentencing.

S. 1722 and S. 1723 take a first step toward establishing a congressional statement of purpose or philosophy of sentencing. They authorize a judge to sentence for deterrence, incapacitation, punishment and rehabilitation.

Unfortunately, such broad categories will not narrow the focus of the judges' consideration enough to substantially reduce sentence disparity. Because judges will be able to choose which purpose applies in a particular case, similar offenses will result in widely different sentences just as they do now.

S. 1722 also identifies factors for the Sentencing Commission to consider in implementing the purposes of sentencing. The factors include the defendant's education, vocational skills, previous employment record and community ties. Although some personal characteristics of the defendant may be relevant for determining appropriate probation conditions, I strongly disagree that a defendant's education, community ties, employment record, and the like, should determine whether he or she goes to prison. Those characteristics classify offenders by social status and background—exactly the sort of distinction sentencing reform is intended to prevent.

The Sentencing Reform Act of 1979 implements a single purpose of sentencing—the so-called "just desserts" theory. "Just desserts" means that a sentence is based upon the gravity of the offense, not the personal characteristics of the offender. This single purpose will result in greater fairness than the multiple philosophy approach because, first, a single clear purpose will necessarily produce greater uniformity in application and, second, defendants will be treated more equitably when personal characteristics relating to social status and background are not relevant sentencing considerations.

PUBLIC DISTRUST IN THE SENTENCING SYSTEM

As I have discussed the sensitive issues of sentencing with my constituents and other members of the public, I have discovered other sources of distrust of the sentencing system beyond the question of disparity among sentences:

First. Most members of the public are concerned about the impasse over capital punishment in the Congress and the thought that because the death penalty cannot be constitutionally imposed, capital offenders may be roaming the streets;

Second. They believe that discretionary sentencing means that violent offenders or habitual criminals can be set free under some form of rehabilitation theory; and

Third. They believe that the sentencing system, as reflected in the statute books, is meaningless, because it sets out maximum sentence lengths that have absolutely nothing to do with actual sentences.

Comprehensive sentencing reform must address the issue of capital punishment. Some 13 offenses in current title 18, United States Code, authorize imposition of the death penalty. However, because there are no constitutional procedures for imposing the death penalty for those offenses the sentencing judge is limited to imposing alternative authorized sentences, which generally means either life imprisonment or imprisonment for a specific number of years. Whatever sentence is imposed, the longest an offender will serve in prison prior to consideration for release on parole is 10 years (18 U.S.C. section 4205). To prevent early release of offenders who commit capital offenses, the Sentencing Reform Act of 1979 proposes a new sentencing alternative—life in prison without the possibility of parole. This sentence of life in prison for a serious offense will mean no less than life in prison.

This sentence should be acceptable to proponents of the death penalty. Mary C. Lawton, Deputy Assistant Attorney General in the Office of Legal Counsel, noted in her testimony before the Senate Judiciary Committee last year that proponents of the death penalty have identified the following justifications: Incapacitation of the defendant, the deterrent effect of the death penalty on others who may be disposed to the crime, and retribution or the expression of moral outrage of the community. Assuming that those justifications are valid, a sentence of life in prison without the possibility of parole would achieve each of them. In addition, it is a clearly constitutional solution to the capital punishment dilemma.

The Sentencing Reform Act of 1979 also states Congress view that two specific circumstances make an offense so serious that a prison term must always be imposed. The first is when serious bodily injury results from the defendant's participation in the offense. Victims as well as the general public are entitled to a guarantee that anyone who causes physical injury will serve time in prison. The second type of offense is one committed by a defendant who was previously convicted of a felony. Regardless of crime committed or penalty imposed for the first felony, a second felony is inherently more serious.

The bill mandates imposition of a prison term for such offenses and gives the Sentencing Commission and the sentencing judge the authority to determine the appropriate length of the term according to the specific circumstance of the offense. Thus, there is sufficient flexibility for the judge or the Sentencing Commission to determine that specific aggravating or mitigating circumstances warrant a very short or a very long prison term.

Mandatory prison terms will result in increased respect for the criminal justice system among law-abiding citizens, especially victims, who believe the present system is too soft on criminals. The certainty of a prison term may also serve as a deterrent for offenders who contemplate a second felony or an offense which may result in bodily injury, particularly offenders who now assume that they will receive a sentence more lenient than prison.

Current statutory maximum sentences are neither meaningful nor rational. Nearly all maximum prison terms are unrealistically high in light of sentences imposed and time actually served.

Unfortunately, a simple solution such as reducing all sentences by a uniform percentage is an overly-simplistic approach which will make sentences shorter but not more rational. We took this approach in the last Congress during markup of S. 1437 because it was the only practical way to amend that bill to reduce sentence length. There are better ways to achieve that goal.

Many current maximum sentences are inconsistent with the view that a sentence should be determined by the gravity of the offense. To implement that philosophy, each offense must be carefully reviewed to determine the appropriate sentence for the degree of harm or seriousness of the offense.

The Sentencing Reform Act of 1979 assigns the U.S. Sentencing Commission the responsibility for reviewing all current sentences and submitting to Congress a proposal for reducing all maximum terms consistent with the gravity of the offense. The Sentencing Commission will be the central clearinghouse for research and analysis of sentencing, as well as for issuing sentencing guidelines and policy statements. It is, therefore, a logical extension of its duties to require the Commission to recommend appropriate statutory maximum sentences.

COMPOSITION OF THE U.S. SENTENCING COMMISSION

The Sentencing Reform Act of 1979 parallels the other sentencing reform proposals by establishing a U.S. Sentencing Commission to promulgate sentencing guidelines and policy statements. It makes an important improvement in the other proposals, however, by requiring that the Commission members represent a variety of backgrounds and experience in the criminal justice system. Thus, it will produce guidelines and policy statements which are fair and effective from more than one point of view, more acceptable to all components of the system and therefore, more likely to succeed. Under the bill the Sentencing Commission will have nine members. The Attorney General or his designate and the chairman of the U.S. Parole Commission will serve as ex officio members. One member must be a Federal judge and one must be a Federal public defender. The remaining five members must represent a variety of backgrounds and have demonstrated participation and interest in the criminal justice process.

In comparison, other sentencing commission proposals do not guarantee such diversity of viewpoints. S. 1722 requires only that the Commission members include four Federal judges and three members "representing a variety of backgrounds and reflecting participation and interest in the criminal justice process." (Proposed 28 U.S.C. section 991(a)). S. 1723 similarly requires that the members of the Committee on Sentencing include four judges and three nonjudges who reflect a variety of backgrounds and participation and interest in the Federal criminal justice system.

APPEAL OF SENTENCE

All three of the sentencing reform proposals authorize defendants to appeal sentences. Thus, there is no question that defendant right to appeal is an essential element of sentencing reform. The bills differ, however, in restrictions on the type of sentence that the defendant can appeal.

S. 1722 authorizes the defendant to appeal sentences for felonies or class A misdemeanors which are above the range established for the offense in the sentencing guidelines. The defendant cannot appeal directly to the circuit court if his sentence is within or below the guidelines. As a result, defendants whose sentences are unjust because the guidelines were improperly applied or because mitigating circumstances require imposition of a sentence of less severity than a sentence already below the guidelines do not have the same right to appeal as defendants whose sentences exceed the guidelines. Defendants are also denied the right to seek review in the court of appeals if they are sentenced under the new penalties of order of restitution, order of criminal forfeiture, and order of notice to victims. These penalties can be unfairly imposed and result in great injustice. All defendants who receive unjust sentences should have the same right to review by the court of appeals.

Consequently, the Sentencing Reform Act of 1979 authorizes defendants to appeal any sentence. The only exception to the right is when the sentence is within the guidelines for a sentence which resulted from a plea agreement. This approach guarantees that every defendant who receives an unjust sentence will have the same opportunity for review by the court of appeals.

Our bill does not authorize Government appeal of sentence. There are strong, and I believe convincing, arguments against Government appeal. First, it is contrary to the constitutional prohibition against double jeopardy. The U.S. Court of Appeals for the Second Circuit recently addressed this issue when the Government for the first time appealed a sentence under the authority of the dangerous special offender statute (18 U.S.C. 3576). The court rejected the argument of the attorney for the Government that the defendant was not placed twice in jeopardy because the district court sentence is merely "tentative." The court concluded that:

> The plain command of the Fifth Amendment is that no "person (shall) be subject for the same offense to be twice put in jeopardy of life or limb." Although the phrase "life or limb" suggests only the most serious of penalties, it has long been established that it encompasses all penalties which may be imposed in criminal proceedings. (U.S. v. DiFrancesco — Fed. 2d — (8/6/79) at 4098) that § 3576 subjects a defendant "merely" to a longer term of imprisonment, not to the actual loss of his life, is a difference of degree not of principle for, the double jeopardy clause applies equally to all criminal penalties" (Id. at 4100).

Government appeal of sentence is clearly contrary to interests protected by the constitutional prohibitions against double jeopardy. Those interests include preserving the integrity of final judgments, protecting the individual against government oppression, and protecting the individual against the embarrassment, expense and ordeal of repeated attempts by the government to use its power and resources (Id. 4101).

The last interest, protection from embarrassment and hardship, suggests that government appeal should be rejected for reasons apart from the constitutional prohibitions—that it is wholly contrary to fundamental notions of fair play. Once the Government has brought together all of its investigative and prosecutorial resources to achieve its desired

sentence, it should not be entitled to a second chance.

PAROLE

As I have said, the bill proposes a logical, workable compromise between the view that parole should be abolished immediately and the view that it should be retained.

S. 1722 abolishes parole completely when the new sentencing procedures begin. Proponents of S. 1722 argue that parole must be abolished because "vesting the power to review judicially imposed sentences in a parole board would seriously undermine the operation of the new sentencing guidelines, improperly intrude into the judiciary's realm, and perpetuate the preeminence of the discredited rehabilitative model."

As a strong proponent of abolishing parole, I find the rationale for abolition convincing and virtually irrefutable.

At one time, most criminal justice scholars advocated immediate total abolition. However, subsequent analysis of all of the possible practical effects of sentencing reform have led a substantial number of former advocates of immediate abolition to conclude that the Parole Commission should continue its release functions. A recent letter to the chairman of the House Judiciary Criminal Justice Subcommittee, Congressman DRINAN, summarizes the rationale offered by a number of individuals with extensive and distinguished backgrounds in the criminal justice field who favor retention of parole.

I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 28, 1979.

Hon. ROBERT F. DRINAN,
Chairman, Subcommittee on Criminal Justice, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We note that the Subcommittee on Criminal Justice, in its current deliberations on the Federal Criminal code reform bill, has yet to resolve the status of parole release. The Subcommittee's most recent working draft dated August 24, 1979 poses two options. One is to eliminate parole release and have the judge's sentence determine actual time in confinement. The other is to retain parole release for the present: that is, to continue to have the U.S. Parole Commission issue guidelines on release of offenders from prison, and apply those guidelines in individual cases. As persons who have studied the sentencing process, we strongly support the second option.

The U.S. Parole Commission has taken the lead in this country in developing guidelines for prison term decisions. Its parole release guidelines prescribe specific ranges of confinement, based mainly on the gravity of the defendant's criminal conduct and the extent of his prior criminal history. Most major guideline systems for sentencing and parole throughout the Nation have been substantially influenced by the Commissioner's work. The Commission has also moved toward notifying offenders early of their expected dates of release from prison, thus alleviating much of the suspense and uncertainty that has characterized traditional parole.

Retention of parole release in the Federal sentencing system would not, therefore, involve the wide discretion and rehabilitative ideology that has historically been associated with parole. We ourselves have been critics of that discretion and ideology. Several of us have been active in developing or evaluating guideline systems; others of us have urged a rationale for sentencing that would look chiefly to the blameworthiness of the defendant's criminal conduct, rather than to rehabilitative considerations.

Retention of the U.S. Parole Commission's guideline-setting and releasing functions, for the present time, would have the following advantages.

First, the U.S. Parole Commission now has a working system of guidelines that, however we might debate some of the details, does represent a substantial step toward structuring discretion in decisions about duration of confinement. The proposed new standard-setting mechanism—of having the Judicial Conference write sentencing guidelines—is still untried, and the draft legislation provides few details on what the rationale of those guidelines should be or how they should be structured. Before eliminating the Parole Commission's guideline-issuing power for prison releases, we need to know how well this new mechanism works: whether the Judicial Conference will produce sentencing guidelines that are as specific and carefully structured as the Parole Commission's existing durational guidelines. Retention would allow your committee and the Congress to evaluate the Judicial Conference's performance in writing its initial standards for the unregulated sentencing decsions which judges now make, before authorizing it to take over from the Parole Commission the task of writing standards for duration of actual confinement. Immediate abolition of parole release would be a leap in the dark: we would be eliminating a functioning guidelines system before having any evidence of how well the new proposed mechanism performs.

Second, the Parole Commission now performs a vital time-scaling function. Judges have been accustomed to impcsing lengthy sentences which participants in the process do not expect to be carried out, which could not be carried out given the limitations of prison space, and which would be disproportionately severe were they carried out. It has been a practical function of the parole board to set the actual duration of confinement at more manageable levels. Elimination of parole release would necessitate a sudden reduction in sentence duration, to compensate for the fact that offenders could no longer be released before the end of their terms. The impression of a shift to more lenient sentences would be created, even were there no change in actual time in confinement. Eliminating parole, therefore, would involve a formidable task of public education; the Judicial Conference, as the body that writes the sentencing guidelines, would have to convince judges, prosecutors and a skeptical public that the seeming reduction in sentencing time under its guidelines is not necessarily a real reduction. Is this something one reasonably can expect the Judicial Conference to do at the inception of its guideline-writing labors? It will be difficult enough—even without changing the reckoning of sentencing time—for the Judicial Conference to staff and organize its guideline efforts; to draft guidelines for the sentencing decisions which judges now make; and to develop the rapport with the Federal judiciary, prosecution and defense that will be necessary for acceptance of the standards. It would be unwise to load the Judicial Conference at the beginning with the still more ambitious task of changing the reckoning of sentencing time and of explaining that change. Retention of parole release for the present would avoid this sudden shift to seemingly lower sentences.

Third, the Parole Commission is a compact, specialized body that needs to control the discretion only of a few persons: chiefly, the hearing examiners who—as a full time task—apply the guidelines in individual cases. The Judicial Conference, by contrast, will not have authority to enforce its own guidelines: the guidelines will be applied by 550 Federal judges throughout the country, and compliance will be enforced through appeals to already heavily-burdened higher court judges in the eleven circuits. It is an open question how effective this new enforcement technique will be. As no regulatory mechanism has hitherto governed judges' existing sentencing choices, guidelines with even limited enforcement powers over such choices could well be an advance over no guidelines at all. But prison term decisions are different: these already are regulated by the Parole Commission; elimination of Parole Commission authority could mean a weaker mechanism for insuring compliance with guidelines in the determination of prison terms, and thus more rather than less disparity in this critical area. We think, therefore, it is vital for Congress to wait to see how well the Judicial Conference succeeds in getting judges to cooperate with its initial sentencing guidelines, before considering the elimination of parole and the transfer of power over actual duration of confinement from the Commission to the sentencing judge. An immediate transfer would allow no such opportunity for testing.

Retaining parole release in the Federal system would not mean indeterminacy of punishment in the traditional sense. There would, instead, be norms for both the sentencing and parole release stages. The Judicial Conference would supply guidelines at the sentencing stage, aimed at regulating the decisions that now are not regulated at all: judges' choices of whether to impose a custodial or non-custodial sentence, and their choice of the maximum penalty. The Parole Commission would continue, for the time being, to regulate duration of imprisonment through its parole release standards. This preserves a system of checks and balances: one will not be wholly dependent on a single guideline-writing body, especially an untried one. Sharing of guideline-writing authority between the Judicial Conference and the Parole Commission is not, in short, redundant. We believe the Parole Commission can supplement the proposed new devices for regulating sentences: that sentencing guidelines, parole guidelines, and meaningful appellate review of sentences are not competing concepts but can support each other in striving toward equity and justice in sentencing.

We therefore recommend adoption of the second option, set forth in the Subcommittee's August 24th draft at P. 123, lines 23–33. Prisoners should continue to be eligible for parole release consideration during the last half of the sentence imposed. The Parole Commission should continue to have the duty of writing guidelines for its release decisions. The legislation should call upon Congress to review the status of parole in five years to determine at that time whether further structural alterations are needed. This will allow the Judicial Conference to develop and issue guidelines for sentencing judges, and will allow Congress to evaluate the Conference's efforts. By then, there will also be available to Congress the results of now-ongoing studies of the effects of parole abolition in other jurisdictions, such as California and Indiana. In short, it will permit an informed judgment on the future of parole release in the Federal system. In the meantime, to ensure that the Parole Commission and the Judicial Conference adopt guidelines that are consistent, the legislation should require the two bodies to consult with one another.

Yours sincerely,

Andrew von Hirsch, Professor, Graduate School of Criminal Justice, Rutgers University.

Leslie T. Wilkins, Professor of Criminal Justice, School of Criminal Justice, State University of New York at Albany.

Michael Tonry, Associate Professor, University of Maryland Law School.

Peter B. Hoffman, Research Director, U.S. Parole Commission.

David Rothman, Professor of History, Columbia University.

Donald J. Newman, Dean and Professor, School of Criminal Justice, State University of New York at Albany.

Don M. Gottfredson, Dean and Professor, Graduate School of Criminal Justice, Rutgers University.

Sheldon L. Messinger, Professor of Law, University of California, Berkeley.

Marvin Wolfgang, Professor of Sociology and Law, University of Pennsylvania.

Charles Silberman, Author, New York City.

Caleb Foote, Professor of Law, University of California.

Rendell A. Davis, Executive Director, the Pennsylvania Prison Society.

Richard F. Sparks, Professor, School of Criminal Justice, Rutgers University.

Michael D. Maltz, Associate Professor, Department of Criminal Justice, Department of Systems Engineering, University of Illinois.

Kathleen Hanrahan, Research Associate, School of Criminal Justice, Research Center, Rutgers University.

David T. Stanley, Consultant, former senior fellow, Brookings Institution.

Mr. BIDEN. Mr. President, the Sentencing Reform Act of 1979 offers an alternative approach to parole which meets many of the concerns of both proponents of total abolition and proponents of retention. The bill continues the Parole Commission release function until 3 years after the effective date of the guidelines. Thus, for 3 years the Parole Commission can function as a safety valve while new sentencing procedures are implemented. If all of the new procedures are implemented swiftly and easily, the Parole Commission will have little to do during those years. In the alternative, if there is even a small percentage of the difficulties foreseen by the advocates of retaining parole, the Parole Commission will be extremely busy and perform a necessary function. If implementation problems continue beyond 3 years after the effective date of the guidelines and the Parole Commission is the only effective safety valve, the burden will be on the Sentencing Commission to ask Congress for an extension of the 3-year deadline and to provide convincing data supporting that extension. If the Sentencing Commission makes no such request, under my bill, the Parole Commission will be sunsetted.

ONGOING REFORM

All of the sentencing reform bills purport to be comprehensive. Yet, many factors that have tremendous impact on the criminal sentencing are not addressed. Plea bargaining is one such factor. Although the majority of sentences result from a plea, very little is known about the plea-bargaining process or the effect sentencing reform will have on that process. The Sentencing Reform Act of 1979 identifies plea bargaining as a significant issue for future reform by directing the Sentencing Commission to conduct a complete study of the plea-bargaining process.

The size of the prison population is another factor which has tremendous impact on the entire sentencing process. Prison overcrowding has been described as "the most serious problem facing prisons today" (Vonhirsch, "The Question of Parole" p. 39). In addition, some analysts of the sentencing reform provisions of S. 1437, the Criminal Code reform bill of the last Congress, concluded that the new procedures create a significant probability that people will serve longer in prison and that prison populations will consequently increase substantially.

Unquestionably, the size of the prison population is now a significant factor in the judge's sentencing decision and the parole board's release decision. The next between sentencing policy and prison population, combined with the likelihood of increases in prison population after the new sentencing provisions become effective, makes it essential that sentencing reform address the issue of prison population.

S. 1722 directs the Sentencing Commission, in formulating guidelines, to assure that the most appropriate penal, correctional and other facilities are utilized and to assume that available capacities and services are not exceeded (proposed 28 U.S.C. section 994(f)).

The Sentencing Reform Act of 1979 goes one step further. It directs the Sentencing Commission and the Bureau of Prisons to submit to Congress an annual analysis and recommendations concerning maximum utilization of resources to deal effectively with the Federal prison population. The report must be based upon consideration of a variety of alternatives, including modernization of existing facilities, inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to insure adequate security, and use of existing Federal facilities, such as those currently within military jurisdiction. This process of careful monitoring and planning is necessary to lessen the impact of the prison population on the sentencing decision. An additional benefit of this analysis and planning will be improved facilities and more careful placement of prisoners in appropriate facilities.

Within the next few months the Judiciary Committee will begin to markup comprehensive criminal code reform legislation. As chairman of the Subcommittee on Criminal Justice, I wholeheartedly support the recodification effort. I particularly urge my colleagues to consider recodification legislation as a vehicle for implementing the provisions and principles of the Sentencing Reform Act of 1979.

I ask unanimous consent that the Sentencing Reform Act of 1979 and a section-by-section analysis of the act be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Sentencing Reform Act of 1979".

AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE

SEC. 2. (a) Chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 3579. General provisions relating to criminal sentencing

"(a)(1) Except as otherwise specifically provided by law, a defendant who has been convicted of an offense shall be sentenced under this section and sections 3580 through 3583 of this title.

"(2) An individual found guilty of an offense may be sentenced—

"(A) to probation under section 3580 of this title, or to imprisonment under section 3583 of this title;

"(B) to a fine under section 3582 of this title; and

"(C) to make restitution under section 3581 of this title.

"(3) An organization found guilty of an offense may be sentenced to probation under section 3580 of this title, to make restitution under section 3581 of this title, and to pay a fine under section 3582 of this title.

"(b) A probation officer appointed by the court shall, pursuant to the provisions of Rule 32(c) of the Federal Rules of Criminal Procedure, make a presentence investigation of a defendant and shall report the results of such investigation to the court before the imposition of sentence. Such report shall include information on noninstitutional sanctions.

"(c)(1) The court, in determining the particular sentence to be imposed, shall consider—

"(A) the nature and circumstances of the offense;

"(B) the defendant's role in the offense, and the presence or absence of aggravating or mitigating circumstances relating to the defendant's role in the offense that are not reflected in the guidelines formulated by the Federal Sentencing Commission under section 3584 of this title;

"(C) the types of sentences, including noninstitutional sanctions as a condition of probation;

"(D) the sentence for the offense for which the defendant is convicted, as recommended in the guidelines issued by the Federal Sentencing Commission under section 3584 of this title and that is in effect on the date the defendant is sentenced;

"(E) any pertinent policy statements issued by the Federal Sentencing Commission under section 3584 of this title that are in effect on the date the defendant is sentenced; and

"(F) the need to have uniform sentencing throughout the United States among defendants who have been found guilty of the same offense.

"(2) The court, at the time of sentencing, shall state in open court and for the record the reasons for its imposition of the particular sentence including its finding regarding the applicable guideline, and—

"(A) if the sentence differs from the sentence for that offense set forth in the guidelines established by the Federal Sentencing Commission, the specific reason for the imposition of such sentence;

"(3) The court shall submit to the Federal Sentencing Commission in connection with each sentence imposed, not more than 10 days following the imposition of sentence, a written report of the sentence imposed, the offense for which it is imposed, the age, race, and sex of the offender, any statement made pursuant to paragraph (2), the presentence report, and such other information as the Commission, the court, or either party finds appropriate.

"(d)(1) A defendant may commence proceedings for an appeal of a final sentence under this subsection by filing a notice of

appeal pursuant to Rule 3(a) of the Federal Rules of Appellate Procedure, unless the sentence was part of any plea agreement which—

"(A) was knowingly and voluntarily agreed to by the defendant in open court and on the record;

"(B) was accepted by the court; and

"(C) included a sentence recommended in the guidelines issued by the Federal Sentencing Commission under section 3584 of this title that is applicable to the offense which was the result of the plea agreement.

"(2) If the defendant appeals any other issue in the case by filing a notice of appeal, then such defendant may petition for joinder of the issue of sentence to such appeal.

"(3) The clerk of the district court shall certify to the court of appeals a transcript of any arraignments, the presentence report and any other documents that were submitted during the sentencing proceeding, the transcript of the sentence proceeding, the findings of the court pursuant to section 3579 (c)(2) of this title, and any additional portions of the record designated by either party or the court of appeals. The court shall permit and may require the Government to file an answer in the appeal.

"(4) Upon review, the court shall determine whether the sentence imposed is clearly unreasonable, considering the following factors:

"(A) The sentence set forth in the guidelines issued by the Federal Sentencing Commission under section 3584 of this title in effect on the date the defendant is sentenced.

"(B) Any pertinent policy statement issued by the Federal Sentencing Commission under section 3584 of this title in effect on the date the defendant is sentenced.

"(C) The disparity between the defendant's sentence and sentences imposed upon other persons convicted of the same offense.

"(D) Whether the provisions of sections 3579 through 3583 of this title have been followed.

"(E) The record or any other documents certified to the court of appeals pursuant to subparagraph (3).

"(5)(A) If the court of appeals determines that the sentence is not clearly unreasonable, the court shall affirm the sentence.

"(B) If the court of appeals determines that the sentence is clearly unreasonable, the court shall either impose a new sentence or remand the case for resentencing or further proceedings in accordance with the court's decision. In any case decided or remanded under this paragraph, the defendant shall not receive a more severe sentence than the sentence reviewed.

"(6) Except as otherwise provided in this subsection, the Federal Rules of Appellate Procedure apply to proceedings under this subsection.

"§ 356. Probation

"(a)(1) A defendant who has been convicted of an offense may be sentenced to a term of probation unless—

"(A) the offense is punishable by life in prison;

"(B) the offense is an offense for which probation is expressly precluded by law;

"(2) The term of probation for a felony, together with any extension thereof, shall not exceed 5 years. The term of probation for a misdemeanor, together with any extension thereof, shall not exceed 2 years.

"(3) In deciding whether to impose a term of probation the court shall consider the factors set forth in section 3579(c)(1) of this title. In imposing conditions of probation the court shall consider the factors set forth in section 3579(c)(1) and any other factors directly related to determining appropriate conditions.

"(b) As a condition of probation, the court may provide that the defendant:

"(1) work in specified community service;

"(2) participate in a program of a residential community treatment center for all or part of the period of probation;

"(3) undergo necessary medical or psychiatric treatment, including treatment for drug or alcohol dependency, if the defendant knowingly consents;

"(4) remain in the custody of the Bureau of Prisons for the lesser of 6 months or the term of imprisonment authorized for the offense during the first year of the term of probation; or

"(5) satisfy any other conditions the court deems appropriate.

"(c) The court may, for good cause shown, modify or reduce, after opportunity for a hearing as described in subsection (d)(7) of this section, the term or conditions of a sentence of probation.

"(d)(1) If the probationer violates a condition of probation before the end of the period of probation, the court may, after opportunity for a hearing under paragraph (7) of this subsection—

"(A) continue the sentence of probation, with or without extending the term or modifying the conditions; or

"(B) revoke the sentence of probation and impose any other sentence that was available at the time of initial sentencing.

"(2) In any case in which the sentence of probation is revoked, any fine paid shall be counted toward the maximum fine authorized by law.

"(3) If there is probable cause to believe that a probationer has violated a condition of probation at any time before the end of the period of probation, the court that imposed the sentence of probation, or, if jurisdiction over the probationer has been transferred to the court of another district, such other court, may issue a summons to the probationer or a warrant for the arrest of the probationer.

"(4) Any summons or warrant issued pursuant to paragraph (3) of this subsection shall provide the probationer with written notice of—

"(A) the conditions of probation alleged to have been violated; and

"(B) the probationer's rights under this chapter and any other provision of law.

"(5)(A) Whenever a probationer is summoned or taken into custody on the ground that there is probable cause to believe that the probationer has violated a condition of probation, the probationer shall be afforded within 48 hours, at or reasonably near the place of the alleged violation, a preliminary hearing before a judge, or before a United States magistrate who has been given authority under section 636(b) of title 28 to conduct such hearings, in order to determine whether there is probable cause to hold the probationer for a revocation hearing. The judge or United States magistrate shall maintain a record of the preliminary hearing.

"(B) If the judge or magistrate finds probable cause to exist, such judge or magistrate shall state for the record the evidence that supports the finding and hold the probationer for a revocation hearing before the appropriate judge or United States magistrate. The probationer may be released in accordance with Rule 46(c) of the Federal Rules of Criminal Procedure pending the revocation hearing.

"(C) If the judge or United States magistrate does not find probable cause, the proceedings shall be terminated and the judge or United States magistrate who issued the warrant shall be so notified.

"(D) A copy of the written report of the hearing shall be transmitted to the district of probation jurisdiction.

"(6) A revocation hearing shall be held before a judge or a United States magistrate at or reasonably near the place of the alleged probation violation or arrest within 30 days of such determination of probable cause.

"(7) A hearing held pursuant to this subsection unless knowingly waived by the probationer shall include—

"(A) reasonably notice to the probationer, including any conditions of probation alleged to have been violated, and the time, place, and purposes of the scheduled hearing;

"(B) opportunity for the probationer to be represented by an attorney retained by the probationer, or if he is financially unable to retain counsel, counsel shall be provided under section 3006A of title 18, United States Code, unless the probationer knowingly and intelligently waives such representation;

"(C) opportunity for the probationer to appear and testify, and present witnesses and relevant evidence on his own behalf; and

"(D) opportunity for the probationer to be apprised of the evidence against him and, if he so requests, to confront and cross-examine adverse witnesses.

"(8) A decision of a United States magistrate to revoke probation shall be subject to review upon appeal, including all issues of fact, to a judge of the district court. A decision to revoke probation by a judge of the district court or to affirm a magistrate's decision to revoke probation shall be subject to review upon appeal to the United States court of appeals.

"§ 3581. Restitution

"(a)(1) A defendant who has been convicted of an offense causing bodily injury or death, property damage, or other loss may be sentenced to make restitution to the victim of the offense, or any surviving dependents of such victim, in an amount and manner set by the court.

"(2) For the purposes of this section, the term 'victim' means any individual who, as a direct result of the offense for which the defendant is convicted, suffers bodily injury or death, or any individual who owns real or personal property which, as a direct result of such offense, is damaged.

"(b) In determining the amount of restitution for loss that is the result of death caused by the offense, the court may consider—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses; and

"(2) loss of support to any surviving dependent of a victim, not otherwise paid as compensation for personal injury, for such period as the dependency would have existed but for the death of the victim.

"(c) In determining the amount of restitution for loss that is the result of personal injury caused by the offense, the court may consider—

"(1) all appropriate and reasonable expenses necessarily incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation; and

"(3) loss of past and anticipated future earnings.

"(d) In determining the amount of restitution for damage or loss to property, the court may consider the assessed value of such property damage or loss, not to exceed the actual value of the property.

"(e) Restitution shall be paid through the registry of the court in an amount and manner set by the court. The provisions of section 3582 for determining the amount of payment, the time of payment, and the method of payment apply to a sentence to

make restitution as they apply to a sentence to pay a fine.

"(f) Restitution may be considered a condition of probation if warranted and shall take priority for purposes of enforcement over any fine imposed for the same offense.

"§ 3582. Fines

"(a) A defendant who has been convicted of an offense against the United States may be sentenced to pay a fine.

"(b) The court shall consider factors set forth in section 3579(c)(1) of this title in determining whether to impose a fine. In determining the amount of any fine to be imposed, the time for payment, and the method of payment the court shall consider the factors set forth in section 3579(c)(1) of this title and any other factors relating to the offense or the defendant's finances.

"(c) At the time a defendant is sentenced to pay a fine, the court may provide that the payment be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, payment is due immediately.

"(d) If a defendant is sentenced to pay a fine, the court may not impose an alternative sentence to be served in the event that the fine is not paid.

"(e) If a fine is imposed on an organization, it is the duty of any individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization.

"(f) A defendant who has been sentenced to pay a fine, and who has paid part but not all of such fine, may petition the court for an extension of the time for payment, a modification of the method of payment, or a remission of all or part of the unpaid portion.

"(g) If, after the filing of a petition under subsection (f) of this section, the court finds that the circumstances that warranted the amount of the fine imposed or payment by the time or method specified no longer exist, or that it would otherwise be unjust to require payment of the fine in the amount imposed or by the time or method specified, the court may enter an order—

"(1) extending the time for payment;

"(2) modifying the method of payment; or

"(3) remitting all or part of the unpaid portion.

"§ 3583. Imprisonment

"A defendant who has been convicted of an offense may be sentenced to a term of imprisonment.

§ 3584. Federal Sentencing Commission

"(a)(1) There is established as an independent commission in the Judicial Branch of the Government, a Federal Sentencing Commission (hereinafter in this section referred to as the 'Commission'). The Commission shall be composed of the Chairman of the Parole Commission and the Attorney General (or the Attorney General's delegate) as ex officio members, and seven additional members appointed by the President, by and with the advice and consent of the Senate. One member of the Commission shall be appointed from a list of ten Federal judges provided to the President by the Judicial Conference of the United States. One member of the Commission shall be a Federal public defender. The remaining members of the Commission shall represent a variety of backgrounds and shall have demonstrated participation and interest in the criminal justice process.

"(2) The President may remove any member appointed to the Commission for neglect of duty, malfeasance in office or for other good cause shown.

"(3) The term of members appointed by the President under paragraph (1) of this subsection shall be 6 years, except that the President shall designate members initially appointed so that—

"(A) 2 are appointed for a 2-year term;

"(B) 2 are appointed for a 3-year term;

"(C) 1 is appointed for a 4-year term;

"(D) 1 is appointed for a 5-year term; and

"(E) 1 is appointed for a 6-year term.

"(4) No member appointed by the President under paragraph (1) of this subsection may serve for more than two 6-year terms. Any vacancy shall be filled for the remainder of the term with respect to which such vacancy arises.

"(5) Members of the Commission appointed by the President under paragraph (1) of this section shall receive no compensation for their membership but may receive actual and necessary travel and other expenses as provided under section 5703 of title 5, United States Code, for persons serving without pay. Ex officio members shall receive no additional compensation for their duties on the Commission.

"(b) The President shall designate one of the members of the Commission, other than ex officio members, as chair of the Commission. The chair of the Commission shall direct the use of sums made available to the Commission and the preparation of requests for appropriations for the Commission.

"(c)(1) The Commission, by affirmative vote of at least five members of the Commission, shall make and issue to all appropriate courts, to the United States Probation Service, the United States Parole Commission, and any other interested persons—

"(A) guidelines for use of a sentencing court in determining—

"(i) whether to impose a sentence of probation, a fine, restriction, or a term of imprisonment; and

"(ii) the appropriate amount of a fine or restitution, or the appropriate length of a term of probation or term of imprisonment;

"(B) general policy statements regarding the factors and circumstances considered by the Commission in formulating the guidelines, the application of the guidelines, or any other aspect of sentencing, including the appropriate use of the sanctions described in sections 3579 through 3583 of this title;

"(C) data and any other relevant information concerning patterns and practices in the sentencing of persons convicted of offenses; and

"(D) evaluation of the impact of the sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentencing, and the use of incarceration.

"(2)(A) The Commission, in establishing guidelines under this subsection, shall consider—

"(i) the nature and circumstances of the offense;

"(ii) the defendant's role in the offense;

"(iii) any aggravating or mitigating circumstances relevant to the gravity of the offense and the defendant's role in the offense;

"(iv) the types of sentences available, including the noninstitutional sanctions;

"(v) the requirements of providing certainly and fairness in sentencing; and

"(vi) reducing disparity in sentences imposed for similar offenses;

"(vii) sentencing and release practices, guidelines issued by the United States Parole Commission and the length of prison terms actually served prior to the creation of the Commission.

"(B) If a sentence specified by the guidelines includes a term of imprisonment, then the guidelines may provide for an increase or decrease of up to 5 percent of the term of imprisonment.

"(C) The Commission, in issuing guidelines relating to a sentence of probation, may only consider the factors set forth in section 3584(c)(2)(A) of this title.

"(D) The guidelines shall include a term of prison whenever:

"(1) serious bodily injury resulted from the defendant's participation in the offense; or

"(2) the offense is a felony and the defendant was previously convicted of a federal, state or local felony, unless a substantial period of time has lapsed since the defendant's previous conviction.

"(3) The Commission, in conjunction with the United States Bureau of Prisons, the United States Parole Commission, and the United States Probation Service, shall establish noninstitutional sanctions, including those set forth in section 3580(b) of this title.

"(4) The Commission shall review and revise, in consideration of comments and data, the guidelines issued under this section. In performing its functions, the Commission shall conduct public hearings with the participation of the general public, and representatives of various aspects of the criminal justice system.

"(5) The Commission shall meet at least once each calendar quarter and shall revise the guidelines at least biannually.

"(6) Proceedings under this section shall be carried out in conformity with chapter 5 of title 5, United States Code, and records maintained by the Commission shall be subject to the provision of sections 552 and 552a of such title.

"(d) The Commission, by vote of a majority of the members, shall—

"(1) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations before any submission of such request to the Office of Management and Budget by the Chairman;

"(2) monitor the performance of probation officers with regard to sentencing recommendations, including application of Commission guidelines and policy statements;

"(3) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

"(4) establish a research and development program within the Commission for the purposes of—

"(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices; and

"(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sentencing practices;

"(5) collect data obtained from empirical studies, research, and the experience of public and private agencies concerning the sentencing process, including the sentences actually imposed and the relationship of such sentences to the factors set forth in section 3579 (c)(1) of this title;

"(6) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

"(7) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

"(8) study the feasibility of developing guidelines for the disposition of juvenile delinquents; and

"(9) study the plea bargaining process.

"(e)(1) The Commission, by vote of a majority of the members, shall appoint and fix the salary and duties of the staff director of the Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate payable for grade 18 of the General Schedule of section 5332 of title 5, United States Code.

"(2) The staff director shall supervise the activities of persons employed by the Commission and perform such other duties as are assigned by the Commission.

"(3) The staff director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 81 (compensation for work injuries), 83 (retirement), 85 (unemployment compensation), 87 (life insurance), and 89 (health insurance).

"(f) The Commission, by vote of a majority of the members, may—

"(1) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109 (b) of title 5, United States Code;

"(2) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities, including the Administrative Office of the United States Courts and the Federal Judicial Center, with or without reimbursement;

"(3) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person;

"(4) accept voluntary and uncompensated services, notwithstanding section 3679 of the Revised Statutes of the United States (31 U.S.C. 655 (b));

"(5) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law; and

"(6) perform such other functions as are required to permit Federal courts to meet their responsibilities under laws relating to sentencing and to permit others involved in the Federal criminal justice system to meet their related responsibilities.

"(g)(1) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this section, and may delegate to any member or other appropriate person such powers as may be appropriate other than the power to establish general policy statements and guidelines.

"(2) Upon the request of the Commission, each Federal agency is authorized and directed to make available, to the greatest practicable extent, its services, equipment, personnel, facilities, and information to the Commission in the execution of the Commission's functions.

"(3) A majority of the membership serving shall constitute a quorum for the conduct of business.

"(4) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member of any action taken by the Commission.

"(h)(1) The Commission shall report annually to the United States Judicial Conference, the Congress, and the President on the activities of the Commission. The Commission shall make recommendations to Congress concerning modifications of any law relating to sentencing, penal, and correctional matters that the Commission finds to be necessary to carry out an effective, humane, and rational sentencing policy.

"(2) The Commission, at or after the beginning of each regular session of Congress but not later than the first day of May in each year, shall report to the Congress the guidelines issued under section 3584(c)(1)(A) of this title. The guidelines shall take effect ninety days after the Commission reports them unless the effective date is extended or the guidelines are disapproved or modified by Act of Congress.

"(3) The Commission shall submit to Congress at least annually an analysis of the reports and studies required under this section and any recommendation for legislation that the Commission concludes is warranted by that analysis. Such reports shall not contain any personally identifiable information about any offender.

"(4) The Commission shall submit to Congress within three years of the issuance of guidelines under subsection 7(c) of this Act a proposal for reducing all statutory maximum prison terms consistent with the procedures and purposes of sentencing established by this Act.

"(5) The Commission and the Bureau of Prisons shall submit to Congress an analysis and recommendations concerning maximum utilization of resources to deal effectively with the federal prison population. Such report shall be based upon consideration of a variety of alternatives, including:

"(A) modernization of existing facilities;

"(B) inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to ensure adequate security;

"(C) use of existing federal facilities, such as those currently within military jurisdiction.

"§ 3585. Definitions

"For the purposes of sections 3579 through 3584 of this title, the term—

"(a) 'noninstitutional sanction' means a sentence which does not include the confinement of the defendant in—

"(1) a facility for mentally ill persons; or

"(2) a jail, prison, or other correctional facility, or detention facility;

"(b) 'offense' means an act or an omission to act which—

"(1) is prohibited or required by a Federal statute, the violation of which is punishable by a sentence of a fine, a term of imprisonment, restitution, or probation;

"(2) if qualified by the word 'State', 'local', or 'foreign', conduct for which a term of imprisonment or a fine is authorized by such State, local, or foreign law; and

"(3) constitutes the grounds for a seperate count within an indictment or information; and

"(c) 'organization' means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, estate, society, union, club, church, and any other association of persons.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 3. (a)(1) Chapter 227 of title 18, United States Code, is amended by repealing sections 3575 and 3576.

(2) The table of sections for chapter 227 of title 18, United States Code, is amended—

(A) in the item relating to section 3575, by striking out "Increased sentence for dangerous special offenders" and inserting in lieu thereof "Repealed";

(B) in the item relating to section 3576, by striking out "Review of sentence" and inserting in lieu thereof "Repealed"; and

(C) by adding at the end the following new items:

"3579. General provisions relating to criminal sentencing.
"3580. Probation.
"3581. Restitution.
"3582. Fines.
"3583. Imprisonment.
"3584. Federal Sentencing Commission.
"3585. Definitions.".

(b)(1) Chapter 231 of title 18, United States Code, is amended by repealing sections 3651 and 3653.

(2) The table of sections for chapter 231 of title 18, United States Code, is amended—

(A) in the item relating to section 3651, by striking out "Suspension of sentence and probation" and inserting in lieu thereof "Repealed"; and

(B) in the item relating to section 3653, by striking out "Report of probation officer and arrest of probationer" and inserting in lieu thereof "Repealed".

GOOD TIME ALLOWANCES

SEC. 4. (a) Chapter 309 of title 18, United States Code, is amended by adding at the end the following:

"§ 4167. Vesting of good time allowance

"A determination of whether to grant a good time allowance under section 4161 of this title shall be made within two days after the end of each month. Such allowance vests at the time that it is received. An allowance vested may not later be withdrawn and an allowance that is not earned may not later be granted.".

(b) Chapter 309 of title 18, United States Code, is amended by repealing sections 4165 and 4166.

(c) The table of sections for chapter 309 of title 18, United States Code, is amended—

(1) in the item relating to section 4165, by striking out "Forfeiture for offense" and inserting in lieu thereof "Repealed";

(2) in the item relating to section 4166, by striking out "Restoration of forfeited commutation" and inserting in lieu thereof "Repealed"; and

(3) by adding at the end the following new item: "4167. Vesting of good time allowance.".

AMENDMENTS RELATING TO CAPITAL PUNISHMENT

SEC. 5. (a) Section 34 of title 18, United States Code, is amended by deleting "the death penalty" and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(b) Section 351 of title 18, United States Code, is amended—

(1) by deleting "by death" in subsection (b) and inserting in lieu thereof "by imprisonment for life without the possibility of parole"; and

(2) by deleting "by death" in subsection (d) and inserting in lieu thereof "by imprisonment for life without the possibility of parole".

(c) Section 794 of title 18, United States Code, is amended—

(1) by deleting "by death" in subsection (a) and inserting in lieu thereof "by imprisonment for life without the possibility of parole"; and

(2) by deleting "by death" in subsection (b) and inserting in lieu thereof "by imprisonment for life without the possibility of parole".

(d) Section 844 of title 18, United States Code, is amended—

(1) by deleting "the death penalty" in subsection (d) and inserting in lieu thereof "imprisonment for life without the possibility of parole";

(2) by deleting "the death penalty" in subsection (f) and inserting in lieu thereof "imprisonment for life without the possibility of parole"; and

(3) by deleting "the death penalty" in subsection (i) and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(e) section 1111 of title 18, United States Code, is amended by deleting "suffer death unless the jury qualifies its verdict by adding thereto 'without capital punishment', in which event he shall be sentenced to imprisonment" in subsection (b) and inserting in lieu thereof "be imprisoned for life without the possibility of parole or".

(f) Section 1716 of title 18, United States Code, is amended by deleting "the death penalty" and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(g) Section 1751 of title 18, United States Code, is amended—

(1) by deleting "by death" in subsection (b) and inserting in lieu thereof "by imprisonment for life without the possibility of parole"; and

(2) by deleting "by death" in subsection (d) and inserting in lieu thereof "by imprisonment for life without the possibility of parole".

(h) Section 1992 of title 18, United States Code, is amended by deleting "the death penalty" and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(i) Section 2031 of title 18, United States Code, is amended by deleting "death" and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(j) Section 2113 of title 18, United States Code, is amended by deleting "death" in subsection (e) and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(k) Section 2381 of title 18, United States Code, is amended by deleting "death" and inserting in lieu thereof "imprisonment for life without the possibility of parole".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1980, and the fiscal year ending September 30, 1981, to carry out sections 3579 through 3684 of title 18, United States Code, as added by section 2 of this Act.

EFFECTIVE DATE

SEC. 7. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 60 days after the effective date of the guidelines issued by the Federal Sentencing Commission under subsection (c).

(b) Section 3584 of title 18, United States Code, as added by section 2 of this Act, shall take effect 60 days after the date of the enactment of this Act.

(c) The Federal Sentencing Commission established under section 3584 of title 18, United States Code, is added by section 2 of this Act, shall issue the initial guidelines for sentencing not later than six months after the date of the enactment of this Act.

(d)(1) The following provisions of law in effect on the day before the effective date provided in subsection (a) of this section shall remain in effect for 3 years after such effective date—

(A) chapter 311 of title 18, United States Code;

(B) section 4254 through 4255 of title 18, United States Code;

(C) sections 5041 and 5042 of title 18, United States Code; and

(D) sections 5017 through 5020 of title 18, United States Code.

(2) Notwithstanding the provisions of section 4202 of title 18, United States Code, as in effect on the day before the effective date of this Act, the term of office of a Commissioner who is in office on the effective date is extended to the end of the three year period after the effective date of this Act.

(3) The United States Parole Commission shall continue to be authorized to set a release date, for an individual who will be in its jurisdiction the day before the expiration of three years after the effective date of the guideline. A release date set pursuant to this paragraph shall be set early enough to permit consideration of an appeal of the release date, in accordance with Parole Commission procedures, before the expiration of three years following the effective date of this Act.

(4) Notwithstanding the other provisions of this subsection, all laws in effect on the day before the effective date of this Act pertaining to an individual who is—

(A) released pursuant to a provision listed in paragraph (1); and

(B) (i) subject to supervision on the day before the expiration of the three-year period following the effective date of this Act;

(ii) released on a date set pursuant to paragraph (3); including laws pertaining to terms and conditions of release, revocation of release, provision of counsel, and payment of transportation costs, shall remain in effect as to that individual until the expiration of his sentence.

(5) 180 days prior to the date established in subsection (d)(1), the United States Parole Commission, the Federal Sentencing Commission, and the General Accounting Office shall each report to Congress on the performance of the United States Parole Commission and any recommendations for legislation.

SECTION-BY-SECTION ANALYSIS

Section 1. This section identifies the short title of the Act as the "Sentencing Reform Act of 1979."

Section 2. This section adds seven new sections relating to sentencing to title 18 United States Code (proposed 18 U.S.C. § 3579–85).

Proposed 18 U.S.C. 3579, General Provisions relating to criminal sentencing:

(a) The provisions of this Act relating to sentences of fine, probation, restitution, and imprisonment apply to all federal offenses, except as otherwise specifically provided. A Sentence of fine or restitution may be imposed in addition or as an alternative to any other sentence. An organization may be sentenced to probation, restitution, or to pay a fine.

(b) A probation officer must make a presentence investigation and report the results to the Court. The report must include information on non-institutional sanctions to assist judges in imposing sentences other than prison whenever such sentences are appropriate.

(c)(1) A court must consider specific factors when imposing a sentence: Two of the factors are: (1) the nature and circumstances of the offense, and (2) the defendant's role in the offense and the presence or absence of aggravating or mitigating circumstances relating to the defendant's role in the offense that are not reflected in the guidelines formulated by the Federal Sentencing Commission under section 3584. Thus, the court must consider the gravity of the offense rather than the characteristics of the offender when deciding on an appropriate sentence. The Court must also consider the types of sentences available, including noninstitutional sanctions as an appropriate condition of probation; the appropriate Sentencing Guidelines issued under section 3584; appropriate sentencing statement issued under section 3584 and the need for uniformity in sentencing.

(c)(2) At the time of sentencing the judge must state in open court and for the record the reason for imposing the particular sentence and the guideline applied in selecting the sentence. If the sentence differs from the sentence recommended in the guideline, the statement must include the specific reason for imposition of such sentence. The sentencing process by providing the defendant and the public with a rationale for every sentence. Within 10 days following the imposition of sentence, the Court must submit a written report on the sentence to the Federal Sentencing Commission to use in evaluating the sentencing process and monitoring implementation of the guidelines.

(d) A defendant may appeal a sentence by filing a notice of appeal under Rule 3(a) of the Federal Rules of Appellate Procedure unless the sentence was part of a plea agreement which was knowingly and voluntarily agreed to by the defendant in open court and on the record, was accepted by the court, and is the sentence recommended in the guidelines issued under section 3584 that are applicable to the offense which was the result of the plea agreement. The Court of Appeals determines whether the sentence is clearly unreasonable based upon the applicable sentencing guidelines and policy statements, the disparity between the defendant's sentence and sentences imposed upon other defendants convicted of the same offense, whether procedures of the Sentencing Reform Act have been followed, and any document certified by the clerk of the Court of Appeals. If the Court determines that the sentence is not clearly unreasonable the court may either impose a new sentence or remand the case for resentencing or for further proceedings. In any case, the defendant may not receive a more severe sentence than the sentence reviewed since the possibility of an increased sentence would have a serious chilling effect on defendant's exercise of their rights.

Proposed 18 U.S.C. 3580, Probation:

This section establishes procedures for imposition and revocation of a sentence of probation.

(a) As in current law, probation is precluded if the offense is punishable by life imprisonment or if it is an offense for which probation is expressly precluded by law. The maximum term of probation is five years for a felony and two years for a misdemeanor.

(b) The court may impose any conditions of probation it deems best, including work in specified community service, participation in a program of a residential community treatment center and if the defendant knowingly consents, necessary medical or psychiatric treatment including treatment for drug or alcohol dependence. A term of imprisonment of less than six months during the first year of probation may also be ordered.

(c) The court may reduce or modify terms or conditions of probation for good cause shown after opportunity for a hearing.

(d) If the probationer violates a condition of probation the court, after a hearing, may continue the sentence of probation with or without extending the term or modifying the conditions, or revoke the sentence of probation and impose any other sentence that was available at the time of the initial sentencing.

If there is probable cause to believe that a probationer violated a condition of probation at any time before the end of the period of probation the court may issue a summons to the probationer or a warrant for the arrest of the probationer. The summons or warrant must contain the conditions of probation alleged to have been violated, and the probationer's rights concerning the violation. Within 48 hours after the probationer is taken into custody, there must be a preliminary hearing at or reasonably near the place of the alleged violation. At the preliminary hearing a judge or United States magistrate determines whether there is probable cause to hold the probationer for a revocation hearing. There must be a record maintained of the preliminary hearing.

If there is a finding of probable cause, the judge or magistrate states for the record the evidence that supports the finding. The probationer may be released in accordance with Rules 46(c) of the Federal rules of Criminal Procedure pending the revocation hearing.

The bill establishes a number of procedural protections not afforded the probationer under current law. A revocation hearing must be held before a judge or United States magistrate at or reasonably near the place of the alleged probation violation or arrest within 30 days of the determination of probable

cause. Unless knowingly waived by the probationer, a revocation hearing or preliminary hearing must include: (1) reasonable notice to the probationer including conditions of probation alleged to have been violated and the time, place and purposes of the scheduled hearing, (2) opportunity for the porbationer to be represented by an attorney retained by the probationer or, if he is financially unable to retain counsel, counsel will be provided, (3) opportunity for the probationer to appear and testify and present witnesses and relevant evidence on his own behalf and (4) opportunity for the probationer to be appraised of the evidence against him and, if he so requests, to confront and cross-examine adverse witnesses.

A decision of a United States magistrate to revoke probation is subject to review upon appeal including all issues of fact to a judge of the United States district court. A decision to revoke probation by a judge of the district court or to affirm a magistrate's decision to revoke probation is subject to review upon appeal to the United States Court of Appeals.

Proposed 18 U.S.C. 3581, Restitution:

(a) This section establishes restitution as a separate type of sentence thus increasing the likelihood that it will be imposed than under current law which authorizes restitution only as a condition of probation. Any defendant convicted of an offense causing bodily injury or death, property damage or other loss may be sentenced to make restitution, to the victim or to any surviving dependent of the victim, in an amount and manner set by the court.

(b) The court is directed to consider specific factors in determining the appropriate amount of restitution. The court's consideration is limited to factors directly related to the victim's loss. In determining the amount of restitution for loss resulting from a death the court may consider: (1) funeral and burial expenses and (2) uncompensated loss of support to any surviving dependent.

(c) In determining the amount of restitution for loss resulting from personal injury the court may consider: (1) appropriate and reasonable medical expenses, (2) therapy and rehabilitation expenses, and (3) loss of past and anticipated future earnings.

(d) In determining the amount of restitution for loss resulting from damage or loss to property, the court may consider the assessed value of the property.

Proposed 18 U.S.C. 3582 Fines:

The court after considering the factors set forth in proposed 18 U.S.C. 3579(c)(1) may impose a fine. The court may consider any factor directly related to determining the appropriate amount of fine and in setting the time and method for payment. This section establishes procedure for payment of fine, for changing the time or method of payment and for remitting all or part of the unpaid portion.

Proposed 18 U.S.C. 3583. Imprisonment:

This section authorizes imposition of a sentence of imprisonment.

Proposed 18 U.S.C. 3584. Federal Sentencing Commission:

(a)(1) This section establishes the Federal Sentencing Commission, an independent Commission in the judicial branch. The members of the Sentencing Commission will represent a variety of viewpoints and experiences in the criminal justice system. Members must include the chairman of the Parole Commission and the Attorney General who serve ex officio and 7 members appointed by the President by and with the advice and consent of the Senate: one must be chosen from a list of 10 federal judges provided by the Judicial Conference, one must be a federal public defender, and the remainder must represent a variety of backgrounds and have demonstrated participation and interest in the criminal justice process. The members are appointed for a maximum of two six-year terms. Members may only be removed by the President for neglect of duty, malfeasance in office or for other good cause shown. They receive no compensation but may receive actual and necessary expenses.

(b) The President appoints the Chairman of the Sentencing Commission.

(c)(1) By affirmative vote of five of its members the Sentencing Commission must promulgate guidelines for the use of a sentencing court in determining whether to impose a sentence of probation, fine, restitution, or imprisonment, and the appropriate amount of a fine or restitution or the appropriate length of a term of probation or imprisonment. The Commission must also promulgate policy statements regarding the factors and circumstances considered by the Commission in formulating the guidelines, the application of the guidelines, and any other aspect of sentencing, including the appropriate use of the sanctions. The Commission also serves as a clearinghouse for collection and dissemination of data and other relevant information concerning patterns and practices in the sentencing of persons convicted of offenses. In addition, the Commission must disseminate evaluations of the impact of sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentences and the use of incarceration.

(c)(2) When promulgating the guidelines the Commission must consider factors relevant to the gravity of the offense including: the nature and circumstances of the offense, the defendant's role in the offense and any aggravating or mitigating circumstances relevant to the defendant's role in the offense. The court must also consider factors which promote fairness and reduce disparity, including: the types of sentences available including non-institutional sanctions; the requirements for providing certainty and fairness in sentencing; reducing disparity in sentences imposed for similar offenses; and the sentencing release practices, guidelines issued by the Parole Commission and the length of prison terms actually served prior to the creation of the Sentencing Commission.

Guidelines which include a term of imprisonment may provide for a maximum increase or decrease of 5 percent of the term. The Guideline must always provide for a term of imprisonment when serious bodily injury resulted from the defendant's participation in the offense or the conviction is for a second felony. These are not mandatory sentences in the usual sense, since the Sentencing Commission in its guidelines sets the appropriate term for each offense and the Judge may deviate from the guideline whenever there are aggravating or mitigating circumstances.

The Sentencing Commission, together with the United States Bureau of Prisons, the United States Parole Commission, and the United States Probation Service, must establish a system for effective utilization of non-institutional sanctions in appropriate cases. This provision is a recognition of the value of alternatives to incarceration in appropriate cases—to the community which receives services, to the prison system which is received of the responsibility for inappropriate prison placements and to the defendant who is spared the trauma of prison if it is not the proper penalty for the offense.

The Commission is required to meet at least once each year to review and revise the guidelines and it must hold public hearings with participation by the general public and representatives of various aspects of the criminal justice system to assist in performing its functions.

(d) By majority vote, the Commission must deny or approve appropriation requests, and monitor and instruct federal probation officers with regard to implementation of sentencing guidelines. The Commission is also required to assume a research and education function. Specifically, it is directed to study the plea bargaining process and the feasibility of developing guidelines for the disposition of juvenile delinquents. The results of the studies must be reported to Congress. Together, the Sentencing Commission and Congress can use the data to improve these two important elements of the Sentencing process.

(e) The Commission is authorized to employ a staff director to carry out its duties.

(f) To assist in carrying out its duties the Commission is authorized to utilize the services of other agencies including requesting data and reports which may be released consistent with any other law. The Commission may also perform any other duties necessary to assist federal courts and others in fulfilling their responsibilities relating to sentencing.

(g) The Commission must maintain a public record of all final votes.

(h) The Commission must annually report to Congress on the guidelines, studies, and any recommendations for legislation. The guidelines become effective 90 days after the Commission reports to Congress unless the effective date is extended or the guidelines are disapproved or modified by Act by Congress.

The Commission must also report to Congress within three years of the issuance of the guidelines its proposal for reducing all statutory prison terms. The three year interval allows Congress to consider reducing sentences when the Parole Commission ceases its release function. Without parole, sentences must be reduced to reflect current time served. The Sentencing Commission is encouraged to reduce sentences below current time served, provided reduction is consistent with the gravity of the offense.

In cooperation with the Bureau of Prisons the Commission must report to Congress its recommendations for an effective and efficient system for dealing with the federal prison population. The report must consider effective utilization of alternative facilities and provide a system for classifying inmates so they are placed in the least restrictive facility necessary to ensure adequate security. The study and recommendations will also provide a means of monitoring and adjusting to any changes in the size of the prison population which may result from changes in sentencing procedures.

Proposed 18 U.S.C. 3585. Definitions: The terms "non-institutional sanction", "offense", and "organization" are defined.

Section 3: Technical and Conforming Amendments: Title 18, United States Code is amended to implement the provisions of this Act and 18 U.S.C. 3575 and 3576, relating to Dangerous Special Offenders, are repealed.

Section 4: Good Time Allowance: Title 18, United States Code is amended to add section 4167, Vesting of Good Time Allowances.

Under this provision good time is awarded at the end of the month that it is earned. It may not later be withdrawn and good time may not be awarded later than two days after the end of the month in which the prisoner was eligible. Good time will continue to serve as a means of rewarding satisfactory institutional behavior. Vesting good time earned at the end of the month will bring order to the present system which authorizes prison officials to grant and withdraw good time at any time. Prisoners will have a greater incentive to earn good time which cannot be withdrawn at a later date for minor misconduct.

Section 5: Amendments Relating to Capital Punishment: The new sentence of life imprisonment without the possibility of parole is established. It is substituted for the death penalty in offenses in Title 18, United States Code, which authorize a death penalty that cannot be imposed due to Constitutional barriers. It is not a mandatory sentence. Once imposed, however, the prisoner can not be released on parole under any circumstances.

Section 6: Authorization of Appropriations—Appropriation of sums necessary to implement the provisions of the Act is authorized.

Section 7: Effective Date—The Sentencing Commission becomes effective 60 days after enactment of the Act. The Sentencing Commission must issue guidelines within six months of the enactment of the Act and the remaining provisions of the Act become effective 60 days after the effective date of the guidelines.

The sections in Title 18, United States Code, relating to the United States Parole Commisison remain in effect until three years after the effective date of the sentencing guidelines. Laws relating to release on parole remain in effect for persons under parole supervision until expiration of their sentence.

Mr. JAVITS. Mr. President, I am pleased to join my colleague from Delaware (Mr. BIDEN) in introducing the Sentencing Reform Act of 1979. This bill is a further refinement of S. 204, which I cosponsored last Congress.

During consideration of criminal omnibus code revision in the 95th Congress, a consensus emerged on the general principles for reform of the present system for sentencing Federal offenders. Remarkably, both conservatives and liberals in the House and Senate recognized that the current system was unworkable and despite differing views on the precise mechanisms for reform, there was general agreement on the nature of the changes that must be instituted.

Sentencing reform must meet the following criteria: First, we must devise a means for developing consistent standards to guide judicial discretion and help reduce sentencing disparities. Second, we must reduce the emphasis on incarceration as well as excessive sentence lengths. And, finally, we must recognize that the death penalty has not been an effective deterrent to crime and it should be repealed.

These principles of sentencing reform stand in direct contrast to the approach taken by the omnibus code itself. The code continues to divide the Congress, and the disagreement over differing approaches will no doubt continue into this session. It is my judgment that sentencing reform, on which there is general agreement, should be acted upon now, rather than sacrificed in the effort for an omnibus code revision. Therefore, I am cosponsoring the "Sentencing Reform Act of 1979." I would now like briefly to describe the reasons I support this legislation.

First. Rational and consistent sentencing standards.

Sentencing reform must eliminate standards which have been proven ineffective, and replace them with a coherent system for sentencing. There is no substantial evidence that we know how to rehabilitate an offender or how to determine when a person has been rehabilitated. Moreover, there is no evidence that incarceration has worked as a means of achieving deterrence.

In fact, it is clear that the current sentencing standards have led to a system whereby persons convicted of similar crimes committed under similar circumstances are sentenced quite differently. Some of these problems were identified in a recently released GAO report entitled "Reducing Judicial Sentencing and Prosecuting Disparities: A Systemwide Approach Needed." Some States were found to give criminal defendants prison terms, while others did not for identical offenses. Further, among those States imposing prison sentences, there were great discrepancies in the length of those sentences. While there may be valid reasons to explain some of these differences, these gross disparities must be sharply reduced if the system is to be perceived as just. Yet, last year's omnibus bill did little to provide a coherent sentencing rationale.

The Sentencing Reform Act adopts the "just desserts" theory of punishment. No sanction will be imposed greater than that that deserved by the last crime, or series of crimes for which the defendant is being sentenced. Only criteria which clearly relate to the seriousness of the offense and can be measured with some degree of objectivity are used—for example, the nature and degree of harm caused by the offense and the offender's own role in the offense. In other words, the punishment must be tailored to the crime and not to an arbitrary determination of how much rehabilitation the offender needs.

Further, the act will establish a Sentencing Commission which will study plea bargaining, disseminate data on sentencing practices, and promulgate advisory guidelines to assist judges in sentencing. Importantly, sentences will also be subject to appellate review, which should lead to greater consistency. Finally, the Parole Commission will be phased out over 3 years, permitting parole to continue while the new sentencing system is put in place.

Second. Reduced Emphasis on Incarceration.

Perhaps the harshest aspect of the current sentencing system is the indiscriminate and excessive use of incarceration as punishment for Federal offenders. Many experts agree that imprisonment has little, if any success in meeting its goals of promoting rehabilitation and facilitating an offender's successful reentry into society. On the contrary, it is well established that incarceration is physically and psychologically debilitating, retards progress towards rehabilitation, and reduces that chance of reentering society successfully.

The destructive effects of prisons have been recognized by a number of courts. In one landmark decision, Judge Frank Johnson declared the entire Alabama prison system unconstitutional, finding that these prisons necessarily and inevitably made people worse.

In light of these findings, experts now agree that incarceration should be used as a sanction only when there is no other adequate alternative to protect society from an offender's criminal behavior. Fines, restitution, community based treatment facilities, probation, day fines, community service work and study release, and a range of other alternatives are in most cases preferable to imprisonment as a sanction. The obligation to prove the necessity for restricting freedom should always rest with the State.

S. 1437, the Omnibus Criminal Code bill did not require or even encourage the use of sentencing alternatives. On the other hand, H.R. 13959, the House bill of last Congress, provided for a range of alternatives to incarceration. The Sentencing Reform Act is patterned after the House bill and provides for a range of alternatives such as community work service and restitution.

In addition, I would encourage the Senate to consider the recommendations of the National Commission to Reform the Criminal Laws (the Brown Commission) which recommended a presumption in the favor of a sentence of probation. If a judge does impose imprisonment, we should consider requiring him or her to state on the record why other alternatives were rejected.

Third. Excessive sentence lengths.

As mentioned above, incarceration is now a primary means of punishment. In the past four decades, the percentage of offenders sentenced to imprisonment has increased dramatically. At the same time, the actual time served has grown longer.

S. 1437, the omnibus bill, continues the trend of longer sentences of imprisonment. Senator KENNEDY stated during the floor consideration of S. 1437, that he believes that there will be more time served under this scheme.

Based on the deliberate action of the Senate to increase sentence lengths, and the general mood of the Congress, I believe any attempt to shorten sentence lengths at this time would be futile. Therefore, the Sentencing Reform Act does not address sentence lengths directly. I would hope, however, that the provisions for alternatives to incarceration and sentencing guidelines will bring a reduction in time served.

Fourth. Capital punishment.

There has always been great controversy over whether the death penalty actually provides an effective deterrent to murder. The omnibus code leaves the present Federal legislation on this issue untouched. Authoritative studies have shown no significant reduction in the murder rate when capital punishment is employed. That finding, together with the inhumane characteristics of capital punishment, persuade me that it is appropriate to eliminate that penalty now from the Federal criminal code.

Mr. PERCY. Mr. President, in recent years, much legislative attention has been devoted to the reform of the current sentencing system. Despite this attention, disparities in the sentencing of rich and poor, black and white, rural and urban defendants continue to plague our criminal justice system. These dis-

parities undermine the essential notion of equal justice for all. As a result, the criminal justice system has come to be perceived as arbitrary, unjust, and, hence, deserving of little respect.

Many of us agree upon the objectives to be accomplished and the types of changes that need to be instituted in sentencing reform; however, we differ in what we envision as the precise mechanisms for these reforms. It is important that the Congress debate the issue fully, resolve the remaining differences, and adopt a meaningful proposal for sentencing reform. For that reason, I am pleased to join with Senator BIDEN, Senator HART, and Senator JAVITS in introducing the Sentencing Reform Act of 1979. It is my hope that this legislation will stimulate a final phase of Senate discussion of sentencing reform.

The Sentencing Reform Act of 1979 contains many similar provisions to those found in S. 1722, the criminal code reform legislation introduced earlier this year by Senators KENNEDY, THURMOND, DECONCINI, HATCH, and SIMPSON. S. 1722 is a measure hammered out of years of negotiations and compromise between liberal and conservative elements in the Senate. Its immediate predecessor, S. 1437, passed the Senate by a considerable margin during the last Congress. Much credit should go to Senator KENNEDY, Senator THURMOND, the late Senator John McClellan, and others who have put in endless hours to bring about this monumental reform package.

Both the Sentencing Reform Act of 1979 and S. 1722 limit judicial discretion in determining sentences. Both establish a sentencing commission to promulgate guidelines for Federal judges in imposing sentence. Both authorize, for the first time, sentence review through the appellate process for the criminal defendants. Underlying these reforms is the shared objective of implementing "just deserts" sentencing—sentencing based upon the gravity of the offense committed, not the personal characteristics of the defendant or the size of the caseload on any given day.

However, in my view, certain sentencing provisions in the Sentencing Reform Act of 1979 more completely remedy sentencing disparities and further protect basic rights and civil liberties than the comparable measure in S. 1722.

The Sentencing Reform Act of 1979 narrows the factors to be considered in sentencing a defendant. Punishment would be tailored to fit the crime, without regard to personal characteristics which may reflect a built-in cultural or racial bias.

The Sentencing Commission will be more representative of the criminal justice system. Members will include the Attorney General or his designee, the chairman of the U.S. Parole Commission—both will serve as ex officio members—one Federal judge, one Federal public defender, and five persons representing a variety of backgrounds in the criminal justice process. This diverse group, encompassing all perspectives within the criminal justice system, will lend their expertise in the promulgation of sentencing guidelines, and the analysis of future reforms.

As in the criminal code reform package, criminal defendants will be told why they are receiving their specific sentence, and will have the right to appeal these sentences. The sole exception will be sentences resulting from a plea agreement which fall within or below the guidelines. In appealing his sentence, a defendant must meet a "clearly unreasonable" standard of proof which will weed out frivolous claims.

On the other hand, the Sentencing Reform Act of 1979 does not authorize the Government to appeal the defendant's sentence. There will be times when all of us will view a particular sentence meted out by a judge as too lenient. Nevertheless, allowing the Government to appeal is, in my view, contrary to the interests of both the individual and society. It goes against the spirit, and perhaps the substance, of the protection found in the constitutional prohibition on double jeopardy. Furthermore, notions of fair play would be violated if the Government were able to avail itself of its considerable resources in appealing sentences.

Rather than immediate abolition of the Parole Commission, the Sentencing Reform Act of 1979 would sunset the Commission after 3 years. This cautious approach to reform should ease implementation efforts.

Finally, the Sentencing Reform Act of 1979 would replace the death penalty with a sentence of life in prison without possibility of parole.

I am not categorically opposed to the death penalty. In certain extreme instances, such as a person already serving a life sentence who wantonly murders a prison guard, the penalty of death may serve as a deterrent and may be a just punishment. But, beyond those unusual circumstances, I am not convinced that the death penalty serves as such an additional deterrent to crime that our society is justified in imposing this ultimate deprivation on a broad scale. I cannot believe that the death penalty will result in a more humane or more just Nation.

In the light of recent Supreme Court decisions, the entire Nation is reviewing the moral and social consequences of imposition of the death penalty. The proposal for a sentence of life in prison without possibility of parole will not end the constitutionally and morally complex debate of capital punishment. Yet, this is a clearly constitutional solution to the dilemma we now face.

In cosponsoring this legislation, I recognize the need for swift and certain punishment of repeat offenders and those who would commit crimes of violence. We simply cannot tolerate "revolving door justice" that puts violent men and women back on the street, and leads to a total lack of respect by the public for the criminal justice system. The Sentencing Reform Act would put a halt to this by imposing a mandatory prison term, the length of which would be based upon the specific circumstances of the offense, for previously convicted felons and those who cause serious bodily harm.

On the other hand, we must recognize that far too little rehabilitation has gone on in our prisons, which often serve as little more than warehouses where individuals can be shut off from society and forgotten about. This legislation imposes upon the proposed sentencing commission the task of exploring alternatives to incarceration. Sending wrongdoers to "schools for crime," as our prisons so often are, is certainly not the most humane or most efficient way to protect our society. I would hope that the commission would view this as one of its most important responsibilities.

The ultimate goal of sentencing reform is the development of a body of common sentencing principles that will result in similar sentences for those who commit the same crimes under similar circumstances. The Sentencing Reform Act of 1979, which has the strong support of the American Civil Liberties Union, would provide a solid foundation for this development. Sentencing laws which provide for fairness and certainty of punishment will do much to restore public confidence in our criminal justice sytem.

Mr. BENTSEN. Mr. President, the great American poet, John Greenleaf Whittier, wrote that justice should be "the hope of all who suffer; the dread of all who wrong." Today, too often, it is neither.

Our criminal law is in need of reform. The code is outmoded and cumbersome, and our sentencing practices cannot be justified by logic or fairness. Since 1975 I have sponsored, testified for, and strongly supported sentencing reform. I have introduced S. 1218 in the current Congress, and today, Senator BIDEN is introducing legislation that is similar in purpose and practice to my proposals. I believe his bill is an important step in the movement toward reform, and I commend it to my colleagues' attention. As chairman of the Senate Subcommittee on Criminal Justice, and as someone with extensive personal expertise, his is a distinguished voice for change.

Mr. President, I believe that we are seeing the emergence of a new realism in crime control. What is this new realism?

It is a recognition that laws without certainty of punishment are ineffective and laws without fairness of punishment are unjust.

It is an understanding of the need to identify, prosecute, and imprison those career criminals who time and time again commit violent crimes. Courts are clogged, prosecutors strapped, prisons jammed, and the criminals know it as they spin their way through the revolving doors. We can and we must shut those doors and enable the system to work as it was intended to work.

The new realism involves basic fairness and sound management; a promise to society that the guilty will be punished; and that the punishment will fit the crime, no more, no less.

The new realism involves an understanding that inhumane or inadequate prisons serve neither society nor the offender nor the ideals of this Nation.

The new realism rejects the standard cliches of the past, the reliance on rhetoric, inflated promises, and exaggerated claims.

The new realism encompasses people of diverse viewpoints engaged in a common pursuit of a safer and more just society.

Senator BIDEN's bill, the provisions of the Criminal Code bill drafted by the chairman of the full committee, Senator KENNEDY, and my proposals are complimentary efforts to improve sentencing laws in line with this new realism.

Current laws provide neither certainty nor fairness of punishment. The current system, indeterminate sentencing, might involve a sentencing statute that provides punishment of "no more than 20 years."

There might be a 20-year sentence, or none at all, or anything in between.

There might be early parole release after a third of the sentence, or no parole at all, or anything in between.

There will be numerous offenders who have committed the same crime, who have similar criminal records, who receive vastly different sentences.

There will be dangerous people who will not be punished at all.

There are so few guidelines that virtually any sentence is possible. This is a system without standards, without guidelines, without uniformity, and as one Federal judge has argued, it is so unstructured that it is virtually lawless in itself.

Judges are left adrift in a sea of discretion so turbulent and unpredictable that the criminal law becomes a game of chance.

Society is left adrift in a sea of uncertainty, unsure that the guilty will be punished, unsure that the punishment will fit the crime, unsure that the law will provide protection.

Sentencing reform is compelled from the point of view of society, the victim, the offender, and the American tradition of fair play.

We should establish a system of presumptive sentencing, where sentences are specified for the normal crime that does not involve aggravating or mitigating circumstances. When such circumstances are present, judges should retain discretion, within clear guidelines, with uniform standards, to adjust the punishment to fit the crime.

Violent criminals should be punished severely, and there should be gradations of punishment to insure that the sentence will vary according to the seriousness of the crime and the criminal history of the offender.

Standards should be established to determine what factors should justify a higher or lower sentence, and such standards should be uniformly applied.

Sentences should rise for repeat offenders, and be lower for first offenders.

Sentences should be subject to appellate review. Senator BIDEN's bill would limit appeals only to defendants; my proposal would allow the prosecution to appeal if the original sentence was not in accordance with the sentencing guidelines.

We must explore alternatives to prison for people who should not be there, there must be something between prison and amnesty for nondangerous offenders, we should explore the use of restitution, victim compensation, community service activity, and other means of noninstitutional punishment.

Mr. President, I want to commend my colleague from Delaware for the legislation he introduces today. I also want to commend the distinguished Senator from Massachusetts, Senator KENNEDY, for his effective and longstanding efforts to reform the Criminal Code, and the ranking Republican on the Judiciary Committee, Senator THURMOND, for his bipartisan leadership in the field.

We have an opportunity to work together in the coming months, to pool our ideas and to exercise creative bipartisan leadership on crime control. Senator BIDEN's proposal is one more important step in this direction.

We can help realize America's promise of justice, making the criminal law more credible and more deserving of credibility, make law enforcement more effective, and at the same time moving closer toward the great ideal: "Equal Justice, under law."

By Mr. DURENBERGER:

S. 1974. A bill to amend the Internal Revenue Code to provide for inflation adjustments; to the Committee on Finance.

TAX INDEXING

● Mr. DURENBERGER. Mr. President, today I am introducing a bill to take inflation out of the Internal Revenue Code for the individual income tax, capital gains tax, corporate income tax brackets, and depreciation.

It is clear that our present tax system must be corrected. The system that has evolved over the years places virtually all the burden of inflation on taxpayers, while Government reaps the benefits. In the current era of double-digit inflation, that burden is breaking the backs of many. We cannot sit back and do nothing. Taxpayers are falling farther and farther behind the cost of living and Government spending, funded in large part by the windfall inflation tax, continues virtually unabated.

The fact that Government is the major beneficiary of inflation was emphasized in an article Monday in the New York Times. The Times reported that revenue in relation to the gross national product will rise from 20.5 percent this fiscal year to 21.3 percent next year and 22 percent in 1982. The 1982 ratio will reach a record high, surpassing the peak set in World War II.

An example will point out Government's inflation windfall. Assuming a cost-of-living wage increase of 10 percent per year during the next 3 fiscal years, Government will reap a windfall profit of $13 billion in 1980, $26 billion in 1981, and a staggering $40 billion in 1982. This undeserved revenue, due directly to inflation, will be at the expense of individual taxpayers.

The massive transfer of purchasing power from consumers to the Government, in an attempt to balance the budget, is a true windfall profit. It is unconscionable that the same folks who have created double-digit inflation and caused the American public to suffer from the ravages of inflation by misguided fiscal and monetary policies are now reaping a windfall profit for such policies.

What are these misguided policies? In recent years, we have increased the demand for goods and services by increasing spending, allegedly cutting taxes, and creating money faster than ever. We have had the largest deficits in history. We assumed that supply would automatically rise to satisfy the demand. This policy has not worked. Output has not responded. Output has not responded because Government has restrained it with higher taxes and higher regulatory costs. Government has increased demand and throttled supply resulting in double-digit inflation.

Inflation pushes people into higher tax brackets. Our so-called tax cuts in recent years have not kept pace with inflation, especially if we include social security taxes. The marginal taxes taken out of each cost-of-living increase have reached amazing levels. Even middle income taxpayers now face tax rates of 40 percent to 50 percent on each additional dollar earned.

The high and rising marginal tax burdens have reduced the rate of return to labor. There has been no increase in real after-tax-spendable-earnings for the average worker since 1965. Extra effort is taxed at record rates. Workers have substituted leisure, early retirement, and nontaxable fringe benefits for added work and added pay. A graphic demonstration of the impact of inflation on wages and taxes was published in a monthly economic letter of Citibank:

Take the example of a family of four that earned $15,000 in 1955 and suppose that its income has kept pace with inflation during the ensuing 21 years; that is, its gross income buys neither more nor less in 1976 than it did in 1955. If, for the moment, we ignore changes in the tax law so we can get a clear picture of the pure effects of inflation, the equivalent of a $15,000 income in 1955 is $32,900 in 1976, an increase of 120 percent. But taxes on those equivalent incomes rise from $1,540 to $6,600, a 330-percent increase. This happens because the family's marginal tax rate—the highest rate at which an extra dollar of its income is taxed—increased from 22 to 36 percent. The combination of inflation and tax progressivity lowered the family's real after-tax income by 11 percent even though real gross income was constant.

Capital gains are another area where the Tax Code levies a tax on illusory gains due to inflation. Capital gains have been eroded by inflation to such an extent that most reported gains are really losses when adjusted for inflation. In a study done for the National Bureau of Economic Reserach by Martin Feldstein and Joel Slemrod which analyzed 1973 tax returns, the authors found that individuals paid taxes on $4.5 billion in nominal capital gains made from the sale of stock. But after adjusting for the in-

creases in the Consumer Price Index since the stock was purchased, the study found that the sellers actually had a real capital loss of nearly $1 billion.

The process by which phantom windfalls transform real capital losses into gain is also strikingly apparent in the purchase and sale of a personal residence. Assuming that we could lower inflation and keep it constant at a 6-percent rate for future years, a family that bought a home in 1977 for $40,000 and kept it for 20 years would have to receive $130,000 upon its sale in 1997 in order to receive back their initial investment. In that event, this family would owe a capital gain tax on $54,000 even though the real property value has not increased.

Even more dramatic is the assumption of an inflation rate of 12.2 percent. The $40,000 house in 1977 would have to be sold in 1997 for $400,000 in order to break even, and the family would face taxes on a capital gain of $216,000. While the family may defer its tax liability by buying another home, the potential tax liability remains.

Mr. President, another study by the National Bureau of Economic Research reported that the effect of inflation with the existing tax law was to raise the 1977 tax burden on corporate income by more than $32 billion. This is an amount equal to 69 percent of the real after-tax income of the nonfinancial corporate sector.

Mr. President, the above examples clearly show the need for legislation to adjust certain portions of the Internal Revenue Code for inflation.

The bill I am introducing has four provisions:

First. Individual rate tables, the personal exemption and the zero bracket amount are adjusted annually to reflect the percentage increase of the Consumer Price Index for the current year ending September 30, to that for the year ended September 30, 1978.

Second. Section 11 of the Internal Revenue Code provides a graduated corporate income tax for small businesses of: 17 percent on the first $25,000 of taxable income; 20 percent on the second $25,000; 30 percent on the third $25,000; 40 percent on the fourth $25,000; and 46 percent on the taxable income over $100,000.

This provision would adjust the corporate tax brackets for small businesses by the percentage by which the GNP deflator for the preceding calendar year exceeds the GNP deflator for calendar year 1978.

Third. For the purposes of determining gain or loss on the sale of capital assets such as stock, tangible personal property, and real estate, the basis of the property is adjusted by the percent increase in the Consumer Price Index from the date of purchase.

Fourth. For purposes of determining the allowance for depreciation, the annual deduction is adjusted for inflation or replacement cost of the asset, whichever is lower.

Mr. President, the continuing problem of inflation and prospects for future inflation requires the above adjustments to the Internal Revenue Code to protect the American people from inflation induced tax increases. Inflation has been defined as a hidden tax because it is a tax that can be imposed without specific legislation. It has been labeled as "truly taxation without representation" but I call it taxation with representation as long as we, the elected representatives of the people, allow it to continue. It is also a true windfall profits tax accruing to the Government at the expense of the taxpayer.

Some opponents have said indexing is a concession of defeat in our battle against inflation. That argument ignores the point and the purpose of indexing. This legislation will assure people that they will be required to pay taxes at no more than the statutory rate.

The bill will also take the Government's profit out of inflation. Indexing will not curb inflation. We must take immediate action toward that end. But, while we are working on a remedy, we cannot allow the patient to die of the disease. Indexing will give taxpayers the relief they need.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE II—ADJUSTMENTS TO INDIVIDUAL TAX RATES

SEC. 101. (a) GENERAL RULE.—Section of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—

"(1) IN GENERAL, FOR THE TAXABLE YEARS AFTER 1979.—Not later than December 15 of each calendar year, beginning in 1978, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing—

"(i) the maximum dollar amount on which no tax is imposed under such table, and

"(ii) the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table,

by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A)(ii), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the nearest multiple of $10).

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year, is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for calendar year 1978.

"(4) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index for the months ending in the 12-month period ending on September 30 of such calendar year.

"(5) CONSUMER PRICE INDEX.—For purposes of paragraph (4), the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor."

(b) DEFINITION OF ZERO BRACKET AMOUNT.—Subsection (d) of section 63 of such Code (defining zero bracket amount) is amended to read as follows:

"(d) ZERO BRACKET AMOUNT.—For purposes of this subtitle the term 'zero bracket amount' means—

"(1) in the case of an individual to whom subsection (a), (b), (c), or (d) of section 1 applies, the maximum amount of taxable income on which no tax is imposed by the applicable subsection of section 1, or

"(2) zero in any other case."

SEC. 102. COST-OF-LIVING ADJUSTMENTS IN AMOUNT OF PERSONAL EXEMPTIONS.

(a) GENERAL RULE.—Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(b) EXEMPTION AMOUNT.—Section 151 of such Code is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION AMOUNT.—For purposes of this section, the term 'exemption amount' means, with respect to any taxable year, $1,000 increased by an amount equal to $1,000 multiplied by the cost-of-living adjustment (as defined in section 1 (f)(3)) for the calendar year in which the taxable year begins. If the amount determined under the preceding sentence is not a multiple of $10, such amount is a multiple of $5, such amount shall be increased to the nearest multiple of $10)."

SEC. 103. ADJUSTMENTS IN WITHHOLDING.

(a) IN GENERAL.—Subsection (a) of section 3402 of the Internal Revenue Code of 1954 (relating to requirement of withholding) is amended by inserting after the third sentence the following new sentence: "The Secretary shall, not later than December 15 of each calendar year before 1983, prescribe tables which shall apply in lieu of the tables prescribed above to wages paid during the succeeding calendar year and which shall be based on the tables prescribed under section 1(f) which apply with respect to taxable years beginning in such succeeding calendar year."

(b) PERCENTAGE METHOD OF WITHHOLDING.—Paragraph (1) of section 3402(b) of such Code (relating to the percentage method of withholding) is amended by adding at the end thereof the following new sentence: "The Secretary shall, not later than December 15 of each calendar year before 1983, prescribe a table which shall apply in lieu of the above table to wages paid during the succeeding calendar year and which shall be based on the exemption amount (as defined in section 151(f) which applies to taxable years beginning in the succeeding calendar year."

(c) WITHHOLDING ALLOWANCES BASED ON ITEMIZED DEDUCTIONS.—Paragraph (1) of section 3402(m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(1) by striking out "$1,000" and inserting in lieu thereof "the exemption amount (as determined under section 151(f) for the taxable years beginning in the calendar year)"; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) an amount equal to the maximum amount of taxable income for taxable years beginning in the calendar year on which no tax is imposed by section 1(a) (or section 1

(b) in the case of an individual who is not married, within the meanng of secton 143, and who is not a surviving spouse, as defined in section 2(a))."

SEC. 104. RETURN REQUIREMENTS.

(a) Clause (i) of section 6012(a)(1)(A) of the Internal Revenue Code of 1954 is amended by striking out "$3,300" and inserting in lieu thereof "the sums of the exemption amount and the zero bracket amount applicable to such an individual".

(b) Clause (ii) of section 6012(a)(1)(A) of such Code is amended by striking out "$4,400" and inserting in lieu thereof "the sums of the exemption amount plus the zero bracket amount applicable to such an individual".

(c) Clause (iii) of section 6012(a)(1)(A) of such Code is amended by striking out "$5,400" and inserting in lieu thereof "the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return".

(d) Paragraph (1) of section 6012(a) of such Code is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(e) Paragraph (1) of section 6012(a) of such Code is amended by adding at the end thereof the following new subparagraph:

"(D) For purposes of this paragraph—

"(i) The term 'zero bracket amount' has the meaning given to such term by section 63(d).

"(ii) The term 'exemption amount' has the meaning given to such term by section 151 (f)."

(f) Subparagraph (A) of section 6013(b)(3) of such Code is amended—

(1) by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount",

(2) by striking out "$2,000" each place it appears and inserting in lieu thereof "twice the exemption amount", and

(3) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'exemption amount' has the meaning given to such term by section 151(f)."

SEC. 105. EFFECTIVE DATES.—

(a) The amendments made by sections 1, 2, and 4 of this Act shall apply to taxable years beginning after December 31, 1979.

(b) The amendments made by section 3 of this Act shall apply to remuneration paid after December 31, 1979.

TITLE II—ADJUSTMENTS TO CORPORATE TAX RATES

SEC. 21 (a) GENERAL RULE.—Section 11 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(e) ADJUSTMENTS IN CERTAIN DOLLAR AMOUNTS SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—

"(1) IN GENERAL, FOR TAXABLE YEARS AFTER 1978.—Not later than December 15 of each calendar year, beginning in 1979, the Secretary shall prescribe dollar amounts which shall apply in lieu of the dollar amounts contained in subsection (b) with respect to taxable years beginning in the succeeding calendar year.

"(2) METHOD OF PRESCRIBING DOLLAR AMOUNTS.—The dollar amounts which under paragraph (1) are to apply in lieu of the dollar amounts contained in subsection (b) with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table, by the gross national product deflator adjustment for such calendar year, and

"(B) by not changing the rate applicable to any rate bracket as adjusted under paragraph (A).

If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the nearest multiple of $10).

"(3) GROSS NATIONAL PRODUCT DEFLATOR ADJUSTMENT.—For purposes of paragraph (1), the gross national product deflator adjustment for any calendar year is the percentage (if any) by which—

"(A) the GNP Deflator for the preceding calendar year, exceeds

"(B) the GNP Deflator for calendar year 1978.

"(4) GNP DEFLATOR FOR ANY CALENDAR YEAR.—For purposes of paragraph (3), the GNP Deflator for any calendar year is the average of the Gross National Product Implicit Price Deflator for the quarter ending in the 4-quarter period ending on September 30 of such calendar year.

"(5) GROSS NATIONAL PRODUCE IMPLICIT PRICE DEFLATOR.—For purposes of paragraph (4), the term 'Implicit Price Gross National Product Deflator' means the Gross National Product Implicit Price Deflator published by the Department of Commerce."

SEC. 202. EFFECTIVE DATES.

The amendments made by section 1 of this Act shall apply to taxable years beginning after December 31, 1979.

TITLE III—ADJUSTMENTS TO BASIS OF CAPITAL ASSETS

SEC. 301. (a) IN GENERAL.—Part II of subchapter 0 of chapter 1 relating to basic rules of general application is amended by redesignating section 1024 as section 1025 and by inserting after section 1023 the following new section:

"Indexing of Certain Assets for Purposes of Determining Gain or Loss

"(a) GENERAL RULE.—If an indexed asset is sold or exchanged in a taxable transaction, for purposes of determining gain or loss on the transaction (but for no other purpose) the indexed basis of the asset shall be substituted for its adjusted basis.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock which is common stock or possesses most of the attributes of common stock,

"(B) tangible personal property, and

"(C) real property,

which has been held for more than 1 year and which is a capital asset of property used in the trade of business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—

"(A) IN GENERAL.—The term 'indexed asset' does not include stock in—

"(i) an electing small business corporation (within the meaning of section 1371(b)),

"(ii) a regulated investment company within the meaning of section 851(a)),

"(iii) a real estate investment trust (within the meaning of section 856(a)),

"(iv) a foreign corporation, and

"(v) a personal holding company (as defined in section 542).

"(B) COLLAPSIBLE CORPORATION.—In the case of a sale, exchange, or distribution to which section 341(a) (relating to collapsible corporations) applies, such transaction shall not be treated as a sale or exchange of an indexed asset to which subsection (a) applies.

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the CPI for the calendar month in which the sale or exchange takes place, by

"(B) the CPI for the calendar month in which the holding period of the asset began.

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest 1/10 of 1 percent.

"(3) CPI FOR CALENDAR MONTH.—The CPI for any calendar month is the Consumer Price Index for All Urban Consumers for such month. In the case of any month for which there is no Consumer Price Index for All Urban Consumers, the Secretary shall, by reguation, prescribe an index which is similar to such Index.

"(d) TAXABLE TRANSACTION.—For purposes of this section, the term 'taxable transaction' means a sale or exchange in which gain or loss is recognized in whole or in part to the person disposing of the asset.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of a corporation, a substantial contribution to capital or a substantial reduction in capital,

"(C) in the case of a transaction in which gain or loss is recognized only in part, that portion of the asset to which the recognized gain or loss is property attributable, and

"(D) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset (or the predecessor asset) was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) SECTION CANNOT INCREASE ORDINARY LOSS UNDER SECTION 1231.—To the extent that (but for this paragraph) this section would create or increase the net ordinary loss to which the second sentence of section 1231(a) applies, such second sentence shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the net ordinary loss to which the preceding sentence applies.

"(f) SALES BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or exchange between related persons.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

SEC. 302. (a) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1024 and inserting in lieu thereof the following:

"Sec. 1024. Indexing of certain assets for purposes of determining gain or loss.

"Sec. 1025. Cross references."

SEC. 303. (a) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 1979, in taxable years ending after such date.

TITLE IV—ALLOWANCE ONLY OF REPLACEMENT COST STRAIGHT LINE DEPRECIATION AND OTHER CONSISTENT METHODS OF DEPRECIATION

SEC. 401. (a) IN GENERAL.—

(1) USE OF CERTAIN METHODS AND RATES.—Subsection (b) of section 167 (relating to description) is amended to read as follows:

"(b) USE OF CERTAIN METHODS AND RATES.—The term 'reasonable allowance', as used in subsection (a), shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Secretary, under any of the following methods:

"(1) the replacement cost straight line method, and

"(2) any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the taxable year, does not, during the first two-thirds of the useful life of the property, exceed a total of such allowances which would have been used had such allowances been computed under the method described in paragraph (1).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subsection (a).".

(2) LIMITATIONS ON USE OF CERTAIN METHODS AND RATES.—Subsection (c) of section 167 is amended by striking out ", (3), and (4)".

(3) REPEAL OF SPECIAL RULES.—Subsections (f), (i), (j), and (l) of section 167 are hereby repealed and subsections (g), (h), (k), (m), (n), (o), and (p) of such section are redesignated as subsections (f), (g), (h), (i), (j), (k), and (l), respectively.

(4) REPLACEMENT COST STRAIGHT LINE METHOD.—Subsection (e) of section 167 is amended to read as follows:

"(e) REPLACEMENT COST STRAIGHT LINE METHOD.—For purposes of this section, the term 'reasonable allowance' as used in subsection (a), when computed under the replacement cost straight line method for any period, means an allowance for such period equal to—

"(1) a percentage the numerator of which is the number of months in such period and the denominator of which is the number of months in the useful life of the property with respect to which the allowance is claimed, multiplied by—

"(2) the lowest of—

"(A) an amount equal to the basis of such property, adjusted in accordance with an index, under regulations prescribed by the Secretary which reflects any increase from the preceding period in the value of such property by reason of inflation.

"(B) the cost (determined at the end of such period) to the taxpayer of purchasing property identical to such property,

"(C) the cost (determined at the end of such period) to the taxpayer of reproducing such property, or

"(D) the cost (determined at the end of such period) to the taxpayer of purchasing property which performs functions equivalent to the functions provided by the property for which the allowance is claimed."

(5) ADJUSTED BASIS FOR DETERMINING GAIN.—Subsection (f) of section 167 (as redesignated by paragraph (3)) is amended to read as follows:

"(g) ADJUSTED BASIS FOR DETERMINING GAIN.—Notwithstanding any other provision of this subtitle, under regulations prescribed by the Secretary for purposes of determining the gain on the sale for other disposition during the taxable year of property with respect to which the deduction under subsection (a) is allowable for such year, the adjusted basis on such property shall be equal to—

"(1) the amount so allowable with respect to such property for such year, multiplied by

"(2) the number of years of the useful life of such property with respect to the taxpayer for which such deduction was so allowable to the taxpayer.".

SEC. 402. (a) TECHNICAL AMENDMENTS.—

(1) ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE FOR SMALL BUSINESS.—

(A) ESTATES.—Paragraph 5 of section 179 (d) (relating to definitions and special rules) is amended by striking out "167(h)" and inserting in lieu thereof "167(g)".

(B) ADJUSTMENT TO BASIS; WHEN MADE.—Paragraph (9) of section 179(d) is hereby repealed.

(2) AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.—

(A) RESIDENTIAL REAL PROPERTY.—Paragraph (4) of section 189(e) (relating to definitions) is amended by striking out "section 167(j)(2)(B)" and inserting in lieu thereof "paragraph (6)", and by striking out "section 167(k)(3)(C)" and inserting in lieu thereof "section 167(H)(3)(C)".

(B) RESIDENTIAL RENTAL PROPERTY DEFINED.—Subsection (e) of section 189 (relating to amortization of real property construction period interest and taxes) is amended by adding at the end thereof the following new paragraph:

"(6) RESIDENTIAL RENTAL PROPERTY.—The term 'residential rental property' means, with respect to a taxable year, a building or structure if 80 percent or more of the gross rental income from such building or structure for such year is rental income from dwelling units (within the meaning of section 167(h)(3)(C)). For purposes of the preceding sentence if any portion of such building or structure is occupied by the taxpayer the gross rental income from such building or structure shall include the rental value of the portion so occupied."

(3) EFFECT ON EARNINGS AND PROFITS.—Paragraph (2) of section 312(k) (relating to effect of depreciation on earnings and profits) is amended to read as follows:

"(2) EXCEPTION.—If for any taxable year a method of depreciation was used by the taxpayer which the Secretary has determined results in a reasonable allowance under section 167(a), and which is not a method allowable solely by reason of the application of section 167(b)(2), then the adjustment to earnings and profits for depreciation for such year shall be determined under the method so used (in lieu of the replacement cost straight line method).".

(4) CARRYOVER IN CERTAIN CORPORATE ACQUISITIONS.—Paragraph (6) of section 381 (c) (relating to items of the distributor or transferor corporation) is amended by striking out ", (j), and (k)" and inserting in lieu thereof "and (h)".

(5) DEDUCTION FOR CONTRIBUTIONS OF EMPLOYER TO AN EMPLOYEE'S TRUST OF ANNUITY PLAN AND COMPENSATION UNDER A DEFERRED-PAYMENT PLAN.—

(A) IN GENERAL.—Subparagraph (C) of section 404(a)(1) is amended by striking out "section 167(1)(3)(A)(iii)" and inserting in lieu thereof "subsection (h)".

(B) DEFINITION OF CERTAIN SERVICES.—Section 404 is amended by adding at the end thereof the following new subsection:

"(h) CERTAIN COMMUNICATIONS SERVICES.—For purposes of this section, the services described in this subsection are telephone services, or other communications services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. 701), if the rates for the furnishing or sale of such services, as the case may be, have been established or approved by a State or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.".

(6) SPECIAL RULES FOR CREDITS AND DEDUCTIONS.—Subsection (e) of section 642 (relating to special rules for credits and deductions) is amended by striking out "167(h)" and inserting in lieu thereof "167(g)".

(7) GAIN FROM DISPOSITIONS OF CERTAIN DEPRECIATION REALTY.—

(A) APPLICABLE PERCENTAGE FOR ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1975.—Clause (iii) of section 1250(a)(1)(8) (relating to applicable percentage) is amended by striking out "167(k)" and inserting in lieu thereof "167(h)".

(B) APPLICABLE PERCENTAGE FOR ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1969, AND BEFORE JANUARY 1, 1976.—Subparagraph (B) of section 1250(a)(2) (relating to additional depreciation after December 31, 1969, and before January 1, 1976) is amended by striking out "167(j)(2(B)" and inserting in lieu thereof "189(e)(6)" and by striking out "167 (k)" and inserting in lieu thereof "167(h)".

(C) ADDITIONAL DEPRECIATION ATTRIBUTABLE TO REHABILITATION EXPENDITURES.—Paragraph (4) of section 1250(b) (relating to additional depreciation defined) is amended by striking out "167(k)" each place it appears and inserting in lieu thereof "167(h)".

SEC. 403. (a) EFFECTIVE DATE.—The amendments and the repeals made by this section shall apply to taxable years beginning after the date of the enactment of this Act.●

By Mr. PELL:

S. 1975. A bill to provide grants for the rehabilitation of the part of the Ten Mile River located in Providence, Pawtucket, and Warwick, R.I., to the Committee on Banking, Housing, and Urban Affairs.

● Mr. PELL. Mr. President, one of our greatest urban treasures is the long neglected network of inland waterways which flow through our oldest cities.

For years, our urban rivers have suffered from accumulated pollution, trash, and debris. Flood control, navigational hazards, water quality, river bank erosion, and deteriorated docks and piers are just some of the major problems common to urban rivers. Many neglected historic sites and potential recreational areas abut inland waterways and are in need of assistance before their value is permanently degraded.

Existing Federal programs have been found to be inadequate to deal with the problems of interstate inland waterways. An example of the need for a new approach is the Ten Mile River, which flows through some of the oldest industrial cities in Massachusetts and Rhode Island. The river has been the subject of over 20 years of study by State and Federal agencies, and the Congress has been memorialized by both the Massachusetts and Rhode Island State assemblies to provide a comprehensive solution to the problem.

As a result of discussions with local legislators and my colleague in the House, Representative FERNAND J. ST GERMAIN, a legislative remedy has been developed which has the potential of serving as a model for the rehabilitation of other inland waterway systems. I am today introducing legislation identical to what Congressman ST GERMAIN has already introduced in the House. I look forward to working with the Department of Housing and Urban Development and the committees to find a solution to a longstanding problem.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Urban Rivers Rehabilitation Act of 1979".

SEC. 2. (a) The Secretary of Housing and Urban Development may make grants to the State of Rhode Island, and to any political subdivision of such State, to rehabilitate the part of the Ten Mile River which is located in the standard metropolitan statistical area of Providence-Pawtucket-Warwick (as defined by the Office of Management and Budget) so that such part of the Ten Mile River may be used for recreational purposes.

(b) No grant may be made under this section unless the Secretary of Housing and Urban Development determines that—

(1) 15 percent of the estimated cost of such rehabilitation will be provided by either the State of Massachusetts or the State of Rhode Island; and

(2) 15 percent of the estimated cost of such rehabilitation occurring in a city or town will be provided by such city or town.

SEC. 3. There is authorized to be appropriated to the Secretary of Housing and Urban Development for the fiscal year ending on September 30, 1981, the sum of $1,000,000 to carry out this Act.●

By Mr. DURENBERGER:

S. 1976. A bill to amend the Internal Revenue Code of 1954 to extend the one-time exclusion of gain from the sale of a principal residence to disabled individuals; to the Committee on Finance.

○ Mr. DURENBERGER. Mr. President, today I am introducing a bill to amend the Internal Revenue Code to provide that individuals with severe disabilities will be entitled to a one-time exclusion of the gain recognized on the sale of a personal residence.

This bill would alleviate the burden placed on many disabled persons who because of a severe impairment are no longer able to maintain their present residence and are thus forced to sell their homes. The hardship of having to realize the entire capital gains treatment on the sale of a personal residence at a time when a severe disability makes it difficult to make ends meet is disruptive to an already difficult lifestyle.

Mr. President, the Internal Revenue Code now provides that an individual who has attained age 55 may exclude from gross income, on a one-time elective basis, up to $100,000 of gain from the sale of a principal residence.

The bill I am introducing would modify this provision in the Code to allow an individual who is totally and permanently disabled to exclude any gain recognized from the sale of a personal residence up to $100,000 from his or her gross income whether or not such individual has attained the age of 55. The effect of this legislation would offer enormous relief to the thousands of disabled persons faced with unending financial uncertainty.

The sale of a home by a disabled person is in many cases an event arising out of desperation—the disability wreaks havoc with one's life making it impossible to be gainfully employed on a long-term basis.

Without income from a job, the maintenance of a house is a virtual impossibility. The home that was previously a haven has become an albatross. The only alternative the disabled individual and his or her family has is to sell their home and either purchase a smaller residence or move to a rental unit.

We have made strides in the recent past to serve the needs of the disabled community. Laws have been passed and implemented to assist the disabled individual's transition into the mainstream of society.

However, much more needs to be done. Although the disabled need and desire to be noticed first as indiviuals with rights and responsibilities like the rest of us, they also face specific and unique obstacles that must be addressed. Allowing disabled persons to realize the gain on the sale of a house without having to undertake an enormous and burdensome payment of taxes is an important step in meeting the needs of the disabled in our society.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 121 of the Internal Revenue Code of 1954 (relating to one-time exclusion of gain from sale of principal residence by an individual who has attained age 55) is amended—

(1) in paragraph (1) of subsection (a) by inserting "or the taxpayer has not attained the age of 55 before such date but is permanently and totally disabled (within the meaning of section 104(d)(4)) on such date of," after "exchange"; and

(2) in paragraph (1) of subsection (d) by inserting "or disability" after "age" each place it appears.

(b)(1) The heading for such section 121 is amended by inserting "OR IS DISABLED" after "age 55".

(2) The table of sections for Part III of subchapter B of chapter 1 of such Code is amended by inserting "or is disabled" after "age 55" in the item relating to section 121.

(3) Sections 1033(g)(3), 1034(k), 1038(e)(1)(A), 1250(d)(7)(B), and 6012(c) are each amended by inserting "or is disabled" after "age 55".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to taxable years beginning after December 31, 1978.●

ADDITIONAL COSPONSORS

S. 43

At the request of Mr. HATCH, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 43, the National Ski Patrol System Recognition Act.

S. 1384

At the request of Mr. HATFIELD, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1384, a bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for contributions of certain crops by farmers to certain tax-exempt organizations.

S. 1775

At the request of Mr. TALMADGE, the Senator from Michigan (Mr. LEVIN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1775, the Agricultural, Forestry, and Rural Energy Act.

S. 1953

At the request of Mr. YOUNG, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 1953, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour.

NOTICE OF HEARINGS

SUBCOMMITTEE ON NUTRITION

● Mr. McGOVERN. Mr. President, I wish to announce that the Agriculture Subcommittee on Nutrition has scheduled a hearing on the subject of nutrition training for health professionals. The hearing date has been set for Thursday, November 8, beginning at 9 a.m. in room 324, Russell Building. The subcommittee will hear from invited witnesses only, but written statements submitted for the record are welcome. Anyone wishing further information should contact the committee staff at 224-2035.●

SUBCOMMITTEE ON INTERNATIONAL FINANCE

● Mr. STEVENSON. Mr. President, the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs will hold a series of hearings on trade and technology. The purpose of the hearings is to assess the implications for U.S. trade competitiveness of technological change and international technology transfers, as well as the effects of trade on U.S. technology. The hearings will examine U.S. trade and technological competitiveness in many contexts, including East-West trade, trade with newly industrialized countries, and selected economic sectors: agriculture, steel, electronics, and others.

Earlier this year the subcommittee released its report on U.S. export policy, based on 11 days of hearings on the subject in 1978. The report noted the increased international competition facing the United States in high technology fields where U.S. producers have long been dominant. American agricultural and industrial exports are both technology intensive. Our continued export competitiveness is clearly tied to our comparative advantage in technological innovation and the production of high technology goods.

But as the subcommittee report notes—

We are losing our competitive position in high technology trade, and uncoordinated Federal Government policies make it difficult to remedy the situation.

The subcommittee intends to study thoroughly the interrelationships be-

tween trade and technology. Among the issues to be examined are:

First, the effect of U.S. exports on economic competitiveness, including effects on domestic capital formation and technology development;

Second, the effect on U.S. trade competitiveness of U.S. restrictions on technology transfer;

Third, the effect of U.S. transfer of technology on economic development abroad,

Fourth, the effect of foreign technology subsidies and trade barriers on U.S. competitiveness.

The first hearing in the series will be held on Monday, November 19 in Pittsburgh, Pa. The time and location of the hearing will be announced in the RECORD at a later date. Within the general scope of assessing U.S. trade and technology, the Pittsburgh hearing will focus on the steel industry. The Office of Technology Assessment has released a study which suggests portions of the steel industry may have strong export potential, if current U.S. technological leads are promptly and fully exploited.

Other studies suggest that the steel industry as a whole could dramatically increase its trade competitiveness by adopting new technologies, including some developed abroad. Testimony will also be received on Senate Concurrent Resolution 38, introduced by Senators HEINZ, RANDOLPH, BAYH, GLENN, JAVITS, DOMENICI, METZENBAUM, SCHWEIKER, LUGAR, STEWART, THURMOND, and DURENBERGER on September 20, which calls for consideration in the organization for economic cooperation and development (OECD) of a multilateral agreement to halt predatory Government-subsidized export credits for steel plants and equipment.

The second hearing will be held on Tuesday, November 27, beginning at 10 a.m. in room 5302 of the Dirksen Senate Office Building in Washington, D.C. The hearing will examine trade and technology in the East-West context. A study by the Office of Technology Assessment, entitled "Technology and East-West Trade" will be a focal point for the hearing. Testimony will also be heard on implementation of the recently enacted Export Administration Act of 1979, on policies of the Export-Import Bank, on the effects of barter and countertrade, and on various legislative proposals regarding East-West trade, including S. 339 and Senate Concurrent Resolution 47.

The third hearing in the series will be held Tuesday, January 15, beginning at 10 a.m. in room 5302 of the Dirksen Senate Office Building, Washington, D.C. The hearing will examine trade and technology in the electronics industry. A focal point for the hearing will be the report of the International Trade Commission on its section 332 study of international trade in integrated circuits.

Persons interested in submitting testimony or desiring additional information may contact Robert W. Russell, counsel to the International Finance Subcommittee, (202) 224-0819, or Paul Freedenberg, minority professional staff member, (202) 224-0891.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ARMS CONTROL, OCEANS, INTERNATIONAL OPERATIONS, AND ENVIRONMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Arms Control, Oceans, International Operations, and Environment Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 6, 1979, beginning at 2 p.m., to hold a hearing on the Cambodian refugees.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GENERAL PROCUREMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on General Procurement of the Committee on Armed Services be authorized to meet during the session of the Senate today to hold a hearing on the foreign sale of U.S. Navy vessels.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Committee on Finance will include as part of the hearing on Wednesday, November 7, 1979, S. 1549, dealing with the excise tax on fishing tackle, and S. 873, dealing with residency requirements for deductions and exclusions for individuals living and working abroad, as well as the Technical Corrections Act of 1979.

The hearing will begin at 2:30 p.m. in room 2221 of the Dirksen Senate Office Building.

The subject matter of S. 1549 is included in H.R. 5505, which the House of Representatives passed on October 30, 1979. S. 1549 revises the schedule for payment of the 10-percent excise tax imposed upon the manufacturer's sale of fishing rods, reels, creels and artificial lures, baits and flies. The measure is sponsored by Senators BOREN, BELLMON, DANFORTH, DURENBERGER, NELSON, and PERCY. It has no revenue effect. It will benefit manufacturers of fishing equipment.

S. 873 is sponsored by Senators RIBICOFF, BENTSEN, CHURCH, HAYAKAWA, JAVITS, and TOWER. It would waive the residency requirements for deduction or exclusions of individuals living and working abroad where the individual was forced to return to the United States by circumstances beyond his control in the country in which he is working. The bill would primarily benefit Americans working in Iran who recently were forced to leave. Revenue estimates on this measure are not available at this time.

Witnesses who desire to make oral statements at the hearing should submit a written request to Michael Stern, stff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on November 5, 1979.

Written testimony.—Written testimony submitted by witnesses not making oral statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with 5 copies by November 14, 1979, to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510.●

ADDITIONAL STATEMENTS

THE COMBINED FEDERAL CAMPAIGN

● Mr. MELCHER. Mr. President, on behalf of myself and Senator DANFORTH, as co-vice chairmen of the Combined Federal Campaign effort in the Senate this year, we want to urge our colleagues to do all they can to make the CFC drive a success.

This fine campaign takes place every year at this time. It is the most people-oriented endeavor in which one can participate with the minimum of effort.

All one has to do is contribute money, and this can be made almost painless through the payroll deduction plan.

All of us are from different parts of our wonderful country. But for varying periods in our lives we live in Metropolitan Washington. We have a responsibility to this area and to its citizens, many of whom are very much in need of our help.

It is easy not to get involved. But life is not that simple, and often it is not fair.

There are many human beings in this affluent section of our Nation, which has one of the highest standards of living in the United States, who are desperately in need of our help. They are of all ages, creeds, colors, and backgrounds.

We truly are our brothers' and sisters' keepers. And we can exercise in great part our responsibilities to those less fortunate in our society by contributing of our time, talents, and fortunes to many, many organizations which do humanitarian, lifegiving, and life-inspiring work.

The greatest gift in life is to give of ourselves. A very small portion of your fortune will do much to help ease the burdens and pains of others who are troubled and heavily laden emotionally, physically, psychologically, and financially.

There are almost 200 organizations which are assisted by the Combined Federal Campaign. So our giving is made very easy for us.

We are appealing to our colleagues to assist us in this most worthwhile cause. The question is simply what can you do. First, you can participate yourself. Second, and perhaps even more important, you can encourage and urge your staff members to take part. Your giving will serve as an example to your staffers.

Over the years, the record of giving by Members and staffers of the two branches of Congress has been abysmal. In fact, it has been disgraceful.

Last year, for the first time, there was some minor achievement, when less than $20,000 was raised from almost 5,000 employees of the Senate. In the years before, the annual giving was only several hundreds of dollars.

A goal of $100,000 has been set this year for the Senate. This is a much more realistic figure. The Senate Staff Club has gotten behind the CFC program. Vice President WALTER F. MONDALE is chairman. We, JOHN MELCHER and JOHN DANFORTH, are honored to have been invited to be co-vice chairmen.

The campaign was supposed to be for the month of October. However, in order to give everyone a chance to participate it has been extended to November 15.

There is still time to make this campaign really move and to try to achieve its goal. This can only be done by massive participation.

Please call upon your staff to join the effort. If your office needs materials or pledge cards, have a call placed to Ray Nelson of the Rules Committee staff, who is Staff Club campaign chairman. His number is 224-0298. Bob Guenette, a loaned executive from the Consumer Products Safety Commission, assigned to work with CFC is also available at 488-2087. He is 1 of 32 doing this noble work this year. In addition, there are about 100 loaned executives from private industry who are assigned to work for the umbrella organization, the United Way.

Contributors have the option of designating their gifts to one or more agencies.

Time is now of the essence. If you or your staff want a speaker to talk to a staff meeting, or to have a movie about CFC shown, just make a phone call. There are CFC volunteers waiting to assist you and your office in any way possible in this noteworthy endeavor.

Let us not have just a handful of Senators' offices carry the load this year. Committee staffs and support services and offices are also urged and invited to take part.●

JUNIOR ACHIEVEMENT WEEK (S.J. RES. 107)

● Mr. DURENBERGER. Mr. President, for 60 years the junior achievement organization has led the way in introducing America's youth to the free enterprise system. The program provides a unique experience for high school students throughout the Nation to learn firsthand the pragmatic skills necessary to survive in an increasingly complex and competitive business environment.

In Minnesota alone there are 110 junior achievement organizations, many of which are extremely profitable. An impressive example is the East Bloomington Trade Association, which paid the original 21 stockholders $40 for every $1 invested—a remarkable 3,999 percent return on investment. But junior achievement is an experience in real world economics, and the lessons learned from an unsuccessful enterprise are every bit as important as those drawn from a profitable one. The important thing is participation, and young men and women across the Nation are participating in record numbers.

The other great benefit of junior achievement is the opportunity it provides for retired businessmen to share their expertise with a new generation of America's industrial leaders. These men and women represent one of the Nation's greatest untapped resources, and the program provides a bridge through which their life experience can be transformed into a foundation for the Nation's future industrial growth.

We all benefit from the activities of junior achievement, and those of us in the Senate have a unique opportunity to honor the people whose efforts have made this program such a remarkable success. I have been privileged to join with my distinguished colleague from Connecticut, Senator RIBICOFF, in sponsoring a resolution to designate the third week of January as "National Junior Achievement Week." That resolution, Senate Resolution 66, would give those involved in junior achievement a small measure of the recognition they deserve, and I urge all of my colleagues to join in sponsoring this significant statement of legislative policy and appreciation.

Mr. President, I ask that an article from the Minneapolis Tribune detailing the success of junior achievement in Minnesota be printed in the RECORD.

The article follows:

JUNIOR ACHIEVERS LEARN AND EARN—A 3,900 PERCENT RETURN ON INVESTMENT

(By Dennis J. McGrath)

The company that probably had the greatest profitability in the Twin Cities dissolved two weeks ago after a year of operation. When the East Bloomington Trade Association closed its books, the 21 original stockholders received a 3,900 percent return on their investments.

It was a small, well-managed, diversified company, which earned most of its money by turning discarded Pillsbury cloth flour sacks into aprons.

But by the beginning of April the company knew it was time to wind down, because many of its officers and stockholders had to graduate from high school.

This was one of 111 Junior Achievement (JA) companies and partnerships in Minnesota that were recognized at an annual awards ceremony at the Radisson South Hotel Thursday night.

While it didn't win any awards, the East Bloomington firm was described by a JA official as "one of the most colorful companies in the state." Its adviser, a manager in Pillsbury Company's research and development department, said the student officers demonstrated a creativity beyond what he expects of his own employees.

However, in the competition for production company of the year, they lost out to a Mankato partnership that set a state sales record by manufacturing and selling more than $10,000 worth of automobile emergency kits stocked with a fire extinguisher, flares, starter cables and a flashlight.

Surveys Unlimited, a partnership of 15 students from Benilde-St. Margaret High School in St. Louis Park and Edina East High School, received top honors as the service company of the year for the $5,000 worth of market research and taste tests it conducted for local firms like Peavey Co. and Minnesota Mining and Manufacturing Co.

The East Bloomington group, one of eight finalists in the best-company race, was formed last October by 21 students at Kennedy High School in Bloomington, and had sales of more than $5,000, according to its president, Catherine Francis, a 17-year-old senior.

Its first project was a sinister-sounding plan to "offer protection" to homeowners and apartment dwellers. Actually it was "Halloween prank insurance," Francis explained.

"If a policyholder's house or apartment was egged or whatever by kids on Halloween, we promised to do the best job we could to clean it up," Francis said during an interview in the library of Kennedy High School. (She wanted to hold the interview in the company's headquarters, she explained, but a class was in session in the electronics laboratory.)

Protection cost only one dollar, and only one of the 103 policyholders filed a claim. Their success, as in any insurance offering, was due to avoiding those in the high risk category—"the most unpopular people on the block, those with teen-aged children and apartment landlords," she said.

With the profits from the insurance offering and the $1 each student paid for stock, the trade association launched its big money-maker. The group's advisers, employees of the Pillsbury Co., which sponsored the company, told the students that there were about 1,000 Pillsbury flour sacks gathering dust in the Pillsbury A Mill. Pillsbury switched to paper sacks about 10 years ago because it was cheaper, explained Scot Rutherford, one of the advisers.

A brainstorming session gave birth to the idea of making aprons out of the flour sacks. At first the students did the washing and sewing themselves, Francis said, but "the production was too slow and the quality wasn't satisfactory."

They solved that problem by contracting out to a senior citizens' center in Gilbert, Minn., and paying workers $1.00 for each apron they sewed, 25 cents more than they paid themselves for the work.

"That was a great thing for everyone," Francis said. "The senior citizens could do a better job than we could, they could produce more than we could and they benefited from the money they were making."

The company charged $6.95 an apron and had sales of $5,051. Pillsbury employees bought $1,550 worth, and the students sold the rest (at 10 to 15 percent commissions) door-to-door, to relatives and at trade fairs.

When the trade association liquidated its stock April 16 it paid $844 in taxes to JA, which left profits of $822 to distribute. Each student who had invested $1 received $40 back.

Besides making money, the Achievers, as they call themselves, learned about the business world—sometimes the hard way.

The East Bloomington company, for example, sent off 200 flour sacks to a dry cleaner to be cleaned. They got the sacks back sparkling clean all right, but the problem was that the Pillsbury logo was cleaned off too.

"We thought of suing, but after we calmed down we realized we were as much at fault as the cleaners," Francis said. "We didn't tell them to leave the logo on. The funny part was that the night we got the sacks back, a person from Pillsbury came to speak to us about the value of a trademark—on a night we had no trademark."

The company rebounded from that disaster by selling 100 aprons at $5 apiece to The Friends of the St. Paul Chamber Orchestra with the silk-screened motto: Kitchen Chamber Music.

The entrepreneurs received another lesson when they sold 12 aprons to a store in the Southdale Shopping Center for $5 an apron.

"The store marked them up to $9.99," Francis said. "I think they sold them all."●

RAILROAD CROSSING SAFETY

● Mr. CULVER. Mr. President, a recent article in the Cedar Rapids Gazette presented a chilling picture of the dangers posed by railroad highway grade crossings. Train engineers spoke of many

"close calls" and near accidents at these sites and, in one recent tragic instance, of a fatal collision at a crossing point near Cedar Falls, Iowa.

As the article indicates, many incidents are caused by driver carelessness—an attempt to "beat the train" by driving across the track after the railroad flashings had been tripped. In many other instances, however, collisions between trains and cars have been caused—not by driver recklessness or negligence—but by the absence of modern, automatic safety features at crossing sites.

Since 1973, the Federal Government's railroad crossing safety program has been instrumental in reducing the frequency of death and injuries caused by collisions between motor vehicles and trains. This program provides the States with funds apportioned from the highway trust fund to make safety improvements—including replacing the old railroad "crossbuck" sign with modern flashing lights and swinging gates which more effectively warn motorists of approaching trains.

However, in the past this program has failed to provide optimal safety benefits because of the manner in which safety crossing funds were apportioned among the States. Funding was based upon a State's population area, and mail route mileage. Incredibly enough, however, the formula did not consider the number of crossing sites in a State.

As a result, smaller States with large numbers of crossing sites, with old and inadequate warning signs, received fewer safety funds than larger States with fewer rail crossing sites. The funding formula did not effectively target funds to States with those crossings that needed safety improvements.

The inequities in the old funding formula were significant. Iowa, for example, received an average of $2,700 for each of its 2,500 "on-system" railroad crossings. Other States, with far fewer crossings, averaged as much as $150,000 per crossing.

During consideration of the Surface Transportation Assistance Act by the Senate Committee on Environment and Public Works last year, I successfully offered an amendment to change the railroad-highway crossing safety funding formula to include the number of crossings a State had. This change put the scarce Federal dollars where the rail crossings—and the need for safety improvements—were. Congress gave final approval to my amendment, and the formula change is now law.

As a result of this change, Iowa's apportionment increased from $3.6 million in fiscal year 1978 to $5.3 million in fiscal year 1979. Iowa is using these additional funds to accelerate the replacement of inadequate warning signs with modern, automatic safety signals. The result will be fewer tragic incidences of death and injury on my State's highways and roads.

My change in the Federal railroad crossing safety formula is a graphic example of how Federal dollars can be more effectively allocated without overall increases in the Federal budget or deficit. By reallocating Federal funds more effectively, the railroad crossing safety program can now better accomplish what it was meant to do—to promote the safety and security of our citizens.

Mr. President, I ask that the article from the Cedar Rapids Gazette be printed in the RECORD.

The article follows:

CLOSE CALLS FRIGHTEN TRAINMEN

(By David Avery)

WATERLOO.—Train engineers say they are scared—of motorists.

"If the public only knew how it feels when you go home at night and your stomach feels like glass because you got so many close calls," said Milt Rehlander, a Chicago and North Western Railroad engineer from Oelwein.

Rehlander referred to the number of times his switch engine, which pulls an average 10 to 20 rail cars back and forth between Waterloo and Cedar Falls, comes close to smacking a vehicle at a grade crossing.

The problem of motorists trying to "beat the train" at crossings has led to at least three train-vehicle accidents in about a year in the Waterloo area, said Don Fredbeck, trainmaster for the C&NW in the area. One of the accidents proved fatal.

Police said when a traffic light stopped cars ahead of Diana Marie Kleve, Cedard Falls, Aug. 15 she found herself stalled on the tracks with a switch engine pulling about 20 cars bearing down on her. Police said she attempted to leave the car through the passenger door, but she was too late.

It took the train 143 feet to stop although it was only going about 5 mph and an investigation showed engineer Richard Lee Sanders did everything humanly possible to stop the train before it hit the car.

But the accident has not made believers out of those bent on "beating the train."

A reporter and photographer took a trip on a C&NW switch engine recently and saw the problem first hand. They witnessed as many as 10 motorists driving their vehicles, without stopping, over the grade crossings after the railroad flashers had been tripped.

In one instance they saw a young woman in a red sedan cross the tracks within 25 feet of the switch engine, apparently without noticing the oncoming train.

"We come a lot closer than that," said George Harvey Hill, conductor of the switch engine Rehlander operates.

Hill said school buses and police cars are sometimes the worst offenders.

State law says a school bus driver must stop at all grade crossings, look and listen and only proceed if the crossings can be made safely.

"I looked right down through the window" at the young passengers of one school bus that crossed close to his engine, Rehlander said.

Sometimes conductors and engineers take matters into their own hands. After some close calls, they jot down the license numbers of offending vehicles and fill out forms identifying the vehicles and where they crossed.

The forms are sent to the railroad company's superintendent and letters are sent to the daring drivers warning them to be more cautious.

C&NW Division Manager D. L. Carlisle said education is the only real answer to the "beat-the-train" game.

"The best thing to do is to educate the public. We think the time is right because the statewide problem is bad. It requires attention by all agencies that can do something about it," Carlisle said.●

IMPLICATIONS FOR SALT II OF BREZHNEV'S ARMS CONTROL PROPOSAL

● Mr. GARN. Mr. President, once again the editorial board of the Wall Street Journal has sliced through the murky thinking of U.S. elites with respect to negotiating arms control agreements with the Soviets. Today's Journal editorial, "Brezhnev's Gambit," lays bare the most recent example of insidious Soviet hypocrisy: the offer to marginally reduce its military manpower and hardware in Eastern Europe in return for an agreement by NATO to remain inferior in military power.

Any knowledgeable observer can see that this proposal is aimed at delaying or preventing a positive decision at the NATO ministerial meeting this December to upgrade the alliance's theater nuclear forces. As the Journal accurately notes, "Brezhnev's gambit is indicative of how the Soviets now use arms control negotiations as an offensive weapon to gain real military advantage."

The Soviets have nothing to lose by making this seemingly magnanimous proposal, and everything to gain. A reduction of even 20,000 Soviet troops from East Germany would still leave U.S. troops in the region outnumbered by 80,000. Moreover, the military implications of such a reduction are severely limited given the geographical proximity of the U.S.S.R. Moscow's efforts to upgrade their theater nuclear forces, particularly with the deployment of the SS-20 and the Backfire bomber, are well documented. These systems would be uneffected by the Soviet proposal.

The stark contrast between the theater nuclear capabilities of the Warsaw Pact in comparison with those of NATO are extremely disconcerting. The Soviets now hold a more than 4-to-1 advantage in both theater nuclear vehicles and warheads. And by 1985, the Soviets are expected to increase the number of nuclear warheads on these systems by about 50 percent, from about 2,150 to 3,250 warheads.

It is imperative that NATO approve and move expeditiously to implement the U.S. proposal to modernize its theater nuclear forces by deploying 464 ground-launched cruise missiles and 108 new Pershing-2 ballistic missiles in Western Europe in the early 1980's. Defense/Space Business Daily recently observed that "without the NATO force modernization program, the Soviets will have a warhead advantage that will have increased from about 4 to 1 to about 6 to 1, with a major advancement in the accuracy of the delivery of those warheads."

If we are to be successful in competing with the Soviets in the area of arms control, we need to recognize that Soviet arms control strategy is geared toward undermining Western security. Arms control is a worthy goal to the extent that it is equitable, verifiable, and promotive of international peace and stability.

Thus far, United States-Soviet arms control efforts have been none of these

things. No better example exists of the failure of arms control than the SALT II treaty now under consideration by the Senate.

SALT II is an inequitable, unverifiable agreement masquerading as arms control. The Journal points out that the distinguished minority leader from Tennessee, Senator HOWARD BAKER, has, in the process of the Senate Foreign Relations Committee markup, "compiled a record of the treaty's one-sidedness." Furthermore, the Journal notes that "This is not an accident, but the inevitable result when the U.S. negotiates for arms control and the Soviets negotiate for military advantage."

Mr. President, when the SALT II treaty comes to the floor of the Senate, I hope my colleagues will seriously consider the points raised in this editorial and the grave implications of ratifying SALT II without attaching to it significant amendments.

Mr. President, I ask that the Wall Street Journal editorial, "Brezhnev's Gambit," and the Defense/Space Business Daily article, "Soviet Theater Nuclear Warheads to Increase by 50 percent by 1985," be printed in the RECORD.

The articles follow:

BREZHNEV'S GAMBIT

Early this month, Leonid Brezhnev politely offered to talk about reducing the number of missiles aimed at Western Europe if NATO agrees to abandon plans to modernize its nuclear arsenal. Brezhnev's gambit is indicative of how the Soviets now use arms-control negotiations as an offensive weapon to gain real military advantage.

Moscow is engaged in a vast nuclear build-up against allied forces in Western Europe. It has deployed about 120 SS-20 missiles, which are highly accurate long-range mobile missiles with three independently targeted warheads, and introduced the supersonic Backfire bomber. These weapon systems are not limited by SALT or any other agreement.

By contrast, NATO has almost no offsetting theater-nuclear weapons; only 18 farcical French land-based missiles, an estimated 40 submarine based Poseidons not well adapted to theater warfare, and 156 American F-111 fighter-bombers.

For more than a year, NATO countries have been stuck over what to do in response to the new Soviet SS-20s and Backfires. The U.S. has offered to base 464 ground-launched cruise missiles and 108 new Pershing-2 ballistic missiles in Western Europe in the early 1980s. NATO ministers are slated to make a decision in December on the U.S. proposal.

One thing complicating the decision is the prospect of more negotiations with the Soviets, despite the fact that in the lengthy Mutual and Balanced Force Reduction talks the two sides have been unable to agree even on the actual composition of present forces. At the NATO conference in Belgium in September, Henry Kissinger complained about the idea of delaying our decision to try to negotiate removal of the SS-20s. The former Secretary of State predicted. "If this is our position, all the Soviets have to do is to begin a negotiation to keep us from doing what they are already doing, negotiation or no negotiation."

This is precisely the gambit Mr. Brezhnev played in his Berlin speech. This decision to withdraw 20,000 of the 400,000 Soviet troops stationed in East Germany and to cut its tank force by 1,000 to 6,000 represents only a fractional reduction. It would leave the U.S. troops in the region outnumbered by 80,000, and pulling these Russian soldiers back to the border would still keep them in easy reach of West Germany. The offer to dismantle some older Soviet missiles, whose role is already being taken over by the SS-20 and Backfire, is only a token gesture.

Cracks in the alliance have already appeared over this issue and Mr. Brezhnev's proposition could thus prove to be a harmful wedge. Most observers recognize the phoniness of Mr. Brezhnev's offer, but this is how the Kremlin plays the arms-control game.

What is true of Mr. Brezhnev's gambit has unfortunately become true of arms control generally. In its hearings on SALT-II, the Senate Foreign Relations Committee has been voting down "killer amendments," that is, anything disagreeable to the Soviets. But in the process, Senator Howard Baker has compiled a record of the treaty's one-sidedness: its provision for 308 Soviet heavy missiles not allowed the U.S., its exclusion of the intercontinental-capable Backfire and so on. This is not an accident, but the inevitable result when the U.S. negotiates for arms control and the Soviets negotiate for military advantage.

Harvard Professor Richard Pipes has recently written on the Soviet objectives in SALT for the Committee on the Present Danger. He finds they want four things: To inhibit U.S. response to Soviet long-term strategic programs; to fix the number of U.S. systems and thus facilitate the task of rendering them harmless; to prevent an American technological achievement from suddenly neutralizing their build-up; and to create in the U.S. a political atmosphere obstructive to defense expenditures.

Arms control is well worth pursuing, but genuine arms control can't be achieved if the U.S. allows the Soviets to use the negotiations as an offensive weapon. The way to make the Soviets negotiate seriously is to break the present pattern. Proceeding with theater nuclear forces in Europe is one step toward that end. But an even clearer message would be the outright rejection of the strategic arms agreements.

SOVIET THEATER NUCLEAR WARHEADS TO INCREASE BY 50% BY 1985

The Soviet Union is expected to continue the reduction in numbers of long-range theater nuclear delivery vehicles opposite NATO over the next several years, but the total capability—the number of more accurate warheads, is projected to increase by about 50 percent by 1985.

It is this realization of a continued massive growth in the already threatening Soviet advantage in Europe that highlights the urgency with which the United States and certain NATO leaders view the implementation of the NATO theater nuclear modernization program.

Currently, the Soviet Union has deployed about 1000 long-range theater nuclear force delivery vehicles, down about 100 from the number deployed in 1970, but still more than a 4-to-1 advantage over the NATO nuclear vehicle force level.

Until 1974, the Soviet force was comprised of older systems—the SS-4 Sandal and SS-5 Skean missiles and the Tu-16 Badger and Tu-22 Blinder bombers.

This year, there are, in addition to 390 SS-4 missiles and 80 SS-5 missiles, about 120 SS-20 missiles and about 90 Backfire bombers, plus about 320 Badger and Blinder bombers opposite NATO. The newer SS-20 and Backfire systems now make up about 20 percent of the force.

The SS-4 has a range of 1900 km, the SS-5, 4100 km, as compared with 4400 km for the SS-20. However, the SS-20 has three warheads, while the S-4 and -5 have single warheads, and the SS-20 is 3 times as accurate as the SS-5 and 6 times as accurate as the SS-4.

The Soviet theater nuclear force systems opposite NATO carry about 2150 warheads at the present time, as compared with about 500 warheads for the NATO systems on slightly more than 200 vehicles. This is a Soviet advantage of more than 4-to-1 in both vehicles and warheads.

By 1985, U.S. intelligence estimates that the Soviets will have reduced their total delivery vehicles opposite NATO by about 300, to about 700 vehicles, with almost half of these the newer SS-20 and Backfire systems.

The NATO delivery systems, unless the theater nuclear force modernization plan is implemented, will have dropped slightly and still remain around 200.

Even though the Soviets may have reduced their force numbers by almost a third by 1985, by replacing the older systems with the more advanced ones, the number of warheads on those systems will have been increased by about 50 percent, from about 2,150 to about 3,250 warheads.

Without the NATO force modernization program, the Soviets will have a warhead advantage that will have increased from about 4 to 1 to about 6 to 1, with a major advancement in the accuracy of the delivery of those warheads.

The deployment of about 572 Pershing II and Tomahawk ground launched cruise missiles under the NATO modernization plan would even up the numerical balance between the Warsaw Pact and NATO delivery vehicle force levels and would reduce the Soviet warhead advantage to about 3 to 1.

However, the accuracy advantage would rest with the NATO forces, with the Army/Martin Marietta Pershing II having an accuracy 10-11 times the Soviet SS-20 and even 2-3 times more accurate than the General Dynamics Tomahawk GLCM.

The disadvantage is that the Pershing II is in the over 1000 km range, forcing its deployment in closer to the Warsaw Pact front, while the SS-20 has a 4400 km range that allows it to be deployed in central Russia and the GLCM has an over 2000 km range allowing it to be deployed much farther back, such as in Britain.

All of this is based on intelligence estimates that the Soviets will continue to reduce the number of long-range theater delivery systems through 1985 by as much as one-third. If the Soviets should elect to increase the number of SS-20 and Backfire systems beyond the level estimated, or decide to keep more of the older SS-4, -5, Blinder and Badger systems in service longer to offset the NATO theater modernization program, the improvement of the balance could move much slower.●

SECRETARY OF COMMERCE JUANITA M. KREPS

● Mr. STEVENSON. Mr. President, Dr. Juanita M. Kreps has served as Secretary of Commerce since January 1977. Today Dr. Kreps leaves the Department of Commerce to return to North Carolina to resume her academic career.

Dr. Kreps was a distinguished economist and adviser to business and Government before her appointment as Secretary of Commerce. She now has a distinguished record of public service.

The Department of Commerce encompasses a diverse array of agencies and responsibilities. Many of those responsibilities are critical to the health of our economy: Science, technology, telecommunications, the oceans and atmosphere, exports, productivity, industrial innovation, industrial policy, and economic development.

The country is slowly awakening to the issue of international economic competitiveness, an awakening which owes much to the efforts of Juanita Kreps. Under her leadership the Department of Com-

merce has been marked by initiatives and new experiments. Dr. Kreps was the principal mover in the important beginnings of a national export policy and an innovation policy.

Dr. Kreps has helped to open trade with China. She has administered and enforced the antiboycott law vigorously, and without damaging U.S. interests in the Middle East. She has led the way through two revisions of the Export Administration Act, all of which is service for which the Nation and the Congress is deeply grateful.

Mr. President, I congratulate Dr. Kreps on her record as Secretary of Commerce. I trust she will remain available to counsel the Congress as work continues on many of the initiatives she launched, and I wish her well.●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census Bureau approximations, the total population of the United States as of November 1, 1979 is 221,569,382. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,964,109 since November 1 of last year. It also represents an increase of 173,427, that is, in just the last month.

Over the year, therefore, we have added enough additional people to fill the combined cities of Houston, Tex., and Cleveland, Ohio. In just 1 short month, our population has grown enough to more than fill the city of Spokane, Wash.●

YOUTH AND THE WORKPLACE: RECOMMENDATIONS OF THE NATIONAL COMMISSION FOR EMPLOYMENT POLICY

● Mr. WILLIAMS. Mr. President, the National Commission for Employment Policy released yesterday a set of enlightened and comprehensive recommendations for helping the Nation's youth make the difficult transition from school to work.

Their report, entitled "Expanding Employment Opportunities for Disadvantaged Youth," was presented yesterday to President Carter, and I also had the opportunity to meet with members of the Commission and its chairman, Dr. Eli Ginzberg, to receive the report on behalf of the Committee on Labor and Human Resources.

Mr. President, I regard the Commission's report as one of special importance. It demonstrates the Commission's unusually clear perception of the nature and scope of the problem of unemployment among our youth. And the recommendations chart policy initiatives that are both properly aimed and financially practicable.

I was particularly struck by the uncanny similarity between the Commission's recommendations and the policy directions that were suggested in 2 days of hearings last week by the Committee on Labor and Human Resources on "Youth and the Workplace: The Coming Decade." This similarity strongly suggests that a large degree of consensus is emerging on new directions for youth education and employability development policies for the 1980's.

One of the most important tasks of our committee in the next few months will involve reauthorization of the Youth Employment and Demonstration Projects Act of 1977, now incorporated in title IV of the Comprehensive Employment and Training Act. The revision of these authorities, along with appropriate amendments to the Higher Education Act, the Elementary and Secondary Education Act, and the Vocational Education Act, will afford the committee and the Senate an exceptional opportunity to develop a rational and comprehensive strategy for helping the Nation's youth prepare for a satisfying and rewarding life of work.

Perhaps the most important among the Commission's general recommendations is their admonition that sustained high levels of employment are necessary in the Nation's economy as a whole if sufficient jobs and work-experience positions are to be available for youth. This recommendation underscores a sobering and difficult challenge to the Congress to take all necessary and feasible steps to ward off a recession of significant severity.

The Commission also places a central focus on providing good education and effective training for youth who are most in need, that is, youth who are members of a minority group or of poor families and who have either failed in school or have been failed by their schools.

Among the other most important general recommendations, as I interpret them, are:

State, local, and community leaders should bear a major share of the responsibility and collaborate more closely in planning and implementing the needed efforts.

Racial discrimination and cultural stereotyping, which are a major contributor to workplace difficulties of youth, must be eliminated.

Educational deficiencies of disadvantaged youth must be addressed as a concern of high priority.

Employment and training programs should focus on providing second-chance opportunities for youth who have fallen behind or dropped out.

And new emphasis is needed on moving youth who are ready to work into subsidized private and public jobs in the regular workforce.

Underlying these recommendations is the primary challenge posed by the Commission:

The President and the Congress should identify the employability and employment problems of disadvantaged youth as a domestic issue of critical importance to the future well-being and security of the nation and pledge that the Federal Government and the Nation will devote the resources and efforts necessary to its amelioration.

To identify the problems, the Congress will have to disabuse ourselves of some mistaken notions about the nature and scope of youth unemployment, adjust our focus to the realities and long-term consequences of the problems, and act accordingly with new understanding and perception.

The resources that will be required will be substantial but not overwhelming. The key to our success will be our ability to bridge natural rivalries; to develop an unprecedented degree of collaboration among educators, State and local elected officials, working Americans, and employers; and to insure that Federal policies are coordinated across the whole spectrum of youth needs as they prepare for a life of work.

Mr. President, I ask that the executive summary and the recommendations of the National Commission for Employment Policy be printed in the RECORD for the information of my colleagues.

The material follows:

EXPANDING EMPLOYMENT OPPORTUNITIES FOR DISADVANTAGED YOUTH

I. EXECUTIVE SUMMARY

Goals

Given high and rising rates of unemployment, especially among minority youth, and the cumulative deficits which are often produced by growing up in a low-income or minority family and community, the Commission recommends that the nation make a new commitment to improving the employment prospects of disadvantaged youth. More specifically:

The President and the Congress should identify the employability and employment problems of disadvantaged youth as a domestic issue of critical importance to the future well-being and security of the nation and pledge that the federal government and the nation will devote the resources and efforts necessary to its amelioration.

While the federal government should take the lead role, state and local governments, business, labor, education, and community based organizations must undertake substantial responsibility for improving the employment prospects of disadvantaged youth. The local leaders of all of these organizations should make a new commitment to work together on ameliorating the problem, and local employers should be fully involved in helping to plan and implement these efforts.

Federal resources should be targeted on youth most in need. While there is no simple way to identify this group, those youth most at risk come from low-income families, are members of a minority group, or live in areas with high concentrations of low-income families.

The major objective of federal education, training, and employment programs for youth should be to improve the long-term employability of these youth; that is, their basic education, work habits, ability to absorb new skills on the job, and other competencies which will permit successful integration into the regular work force.

Elements of a youth policy

The Commission believes that any new set of policies should be based on the following set of principles:

Youth unemployment should be viewed principally as a structural problem and long-term solutions sought. Nevertheless, there is no question that sustained high levels of employment are an important precondition for substantially improving the labor market prospects of disadvantaged youth.

Remedying the educational deficiencies of disadvantaged youth must be high on the nation's agenda. Without basic literacy skills, youth are unable to take advantage of further education or training and will be permanently consigned to the bottom of the economic and social ladder.

Our nation should renew its commitment to eliminate racial discrimination and cultural stereotyping in the labor market. In particular, all of our institutions must be involved in creating a new environment of trust and confidence between those who come from different backgrounds so that access to good

jobs and treatment on the job are based on performance alone.

Youth themselves must be more fully involved in improving their own employability and must make greater efforts to meet the performance standards set by our educational and employing institutions. To encourage disadvantaged youth to do so, these performance standards must be clearly articulated and greater rewards for success in meeting them provided at each stage of the employability development process.

Employment and training programs should be carefully targeted to provide second chance opportunities to those youth who for reasons of family background, poor schooling, or race, are likely to be permanently handicapped in the labor market. These programs should be restructured, where necessary, so as to have a cumulative impact on the long-term employability of participants.

There must be a new emphasis on moving those disadvantaged youth who are ready into unsubsidized private and public sector jobs. While sheltered experiences may be appropriate at various stages in their development, the ultimate goal should be to create opportunities for them in the regular labor market. The federal government should consider using a variety of expenditure, tax, and regulatory powers to achieve this objective.

Specific recommendations

The specific recommendations which the Commission believes would implement these principles follow:

To provide adequate job opportunities:

(1) In the event that the unemployment rate rises substantially, that is, to 7 percent or higher, and more particularly if it stays at such a high level for a sustained period, Congress should expand funding for priority national goals such as energy conservation. In so doing it should stipulate that private firms which obtain contracts to further these goals must hire a percentage of disadvantaged youth and adults who are designated by the Job Service or by CETA prime sponsors as being ready to work.

To improve basic educational competencies:

(2) The President and the Congress should support new funding for compensatory education in the secondary schools. These funds should be used to improve the basic skills of young people from disadvantaged backgrounds, through well-funded, intensive programs involving special tutorial efforts, extra after-school sessions, alternative schooling opportunities, compensatory education linked to occupational training, and in-service training for teachers.

The effectiveness of Title I of the Elementary and Secondary Education Act in the elementary schools must not be jeopardized by a reduction in funding at this level. What is needed is a comparable program at the junior and senior high levels (a) to sustain the positive effects achieved at the elementary level and (b) to provide a second chance for those not adequately served at the elementary level.

(3) To encourage a partnership with other local institutions, a portion of the new compensatory education funds recommended in (2) should be set aside for allocation on the basis of close consultation between the schools and CETA. This would be comparable to the 22 percent set-aside under the Youth Employment and Training Program which should continue to be allocated on the basis of such consultation. The new set-aside would encourage additional joint efforts on behalf of CETA-eligible youth and might lead to the development of more alternative schooling opportunities.

(4) The Secretary of Education should be provided with special funding to collect, integrate and disseminate information about exemplary programs, such as the adopt-a-school programs in Oakland, Baltimore, and Dallas. While schools must retain flexibility to deal with local conditions, what has been learned about effective ways of motivating and assisting disadvantaged youth to acquire the basic skills should be mobilized to promote wider sharing and adoption of the successful models.

To broaden opportunities for minority and female youth:

(5) The EEOC should encourage companies with overall low minority and/or female utilization to improve their utilization by hiring job-ready youth from inner-city schools or those trained through CETA programs.

(6) Education, vocational education, and CETA programs should be implemented in ways that will broaden the occupational opportunities of young women from disadvantaged backgrounds.

(7) Teenage mothers should be treated as a high priority group in both WIN and CETA and their child care and income needs should be fully met, with no diminution of support under AFDC when they participate in an education or training program.

To link performance to rewards:

(8) Schools and prime sponsors should be encouraged or required to establish local performance standards and disadvantaged youth who achieve the standards should be rewarded with entrance into a more generously stipended program or with a job opportunity. Those who fail to meet the standards should be given second chance opportunities, whenever possible.

(9) Prime sponsors should encourage the Private Industry Councils to obtain specifications from employers about the criteria they use in hiring young people, and, to the greatest extent possible, secure commitments from them that young people who meet their requirements will have a job opening when they leave school or a training program.

To improve employment and training programs:

(10) The Administration should request, and Congress should enact, a consolidated youth title under the Comprehensive Employment and Training Act, the principal goal of which should be to improve the employability of economically disadvantaged youth ages 16 through 21.

(11) The Department of Labor should encourage CETA prime sponsors to invest substantial funds in remedial programs for the most disadvantaged, even if this increases costs per individual and results in a smaller number being served.

(12) The Job Corps should be maintained as a separate program, and once current enrollment limits are reached, the program should be further expanded.

(13) The Congress should designate the eligible population under the new consolidated youth title as all youth from families in which income was at or below 70 percent of the Bureau of Labor Statistics lower living standard.

(14) Prime sponsors should be permitted to utilize up to 20 percent of their funds under the youth title to assist youth who do not meet the income requirement but nevertheless face substantial barriers to employment.

(15) The majority of the funds for the consolidated youth title should be distributed by formula to local prime sponsors. However, a sizeable portion should be set aside for supplemental grants to areas with high concentrations of low-income families and another portion should be reserved to the Secretary of Labor to reward superior performance or to fund innovative programs, particularly those of an interdepartmental nature.

(16) Congress should provide for forward funding, a five-year authorization and additional emphasis on staff development under the new youth title.

To move disadvantaged youth into regular jobs:

(17) Short-term, subsidized work experiences in the private sector should be permitted under CETA with safeguards to insure that employers do not misuse the program and that the youth are provided with a carefully structured and supervised learning experience or training opportunity.

(18) The President, with advice from the Office of Personnel Management, should consider making youth who have successfully completed a CETA program involving experience in a federal agency, eligible for conversion to entry level positions in the career service on a noncompetitive basis.

(19) The President should direct the Secretary of Defense to review the experience of Project 100,000 during the late 1960s which was successful in recruiting and providing special training for 246,000 young men who did not meet the regular qualifications.

(20) When the various pieces of legislation that authorize grants-in-aid are being considered for adoption or renewal, the Administration and the Congress should consider writing in provisions that would encourage or require that the grant recipients employ a specified percentage of disadvantaged youth who are referred to them as job ready by either the Job Service or the CETA prime sponsor.

(21) The President should direct the Office of Management and Budget, with the assistance of other appropriate agencies, to determine whether and how the procurement process might be modified so that there would be new incentives for employers to hire structurally unemployed adults and disadvantaged youth.

Finally, to insure long-term cumulative progress in improving the employment prospects of disadvantaged youth, the Commission recommends that:

(22) Congress should review annually the extent to which the gross discrepancies in the employment to population ratios and the unemployment rates for minority youth relative to white youth and adults are narrowed as a result of implementing the foregoing recommendations. In the absence of substantial and continuing progress in narrowing the gaps, the Administration and the Congress should seek to fashion revised and new programs which hold greater potential to ameliorate the present intolerable situation where our society has no regular job opportunities for many young people who come of working age.

II. RECOMMENDATIONS

A. A national commitment to disadvantaged youth

While unemployment rates for youth are very high, most youth make the transition from school to work without serious problems. In fact, among white youth, the proportion successfully entering the labor market over the past decade has increased. Among minority youth, on the other hand, there has been a marked decline in the proportion both seeking and finding work. The consequences of not attending to this situation are serious and include crime, alienation, and reduced social mobility as well as lower incomes and lost output.

Past efforts to deal with the labor market problems of disadvantaged youth have tended to stress the provision of jobs and have not fully come to grips with the cumulative deficits produced by growing up in a low-income or minority family and community. Enhancing the employment prospects of these youth can be achieved only if schools, community based organizations, training institutions, and the job market are more effectively involved in joint efforts to overcome the legacy of poverty and racial discrimination.

Given the seriousness of the problem and the nature of the deficits which must be overcome, the Commission believes that:

The President and the Congress should identify the employability and employment problems of disadvantaged youth as a do-

mestic issue of critical importance to the future well-being and security of the nation and pledge that the federal government and the nation will devote the resources and efforts necessary to its amelioration.

While the federal government should take the lead role, state and local governments, business, labor, education, and community based organizations must undertake substantial responsibility for improving the employment prospects of disadvantaged youth. The local leaders of all of these organizations should make a new commitment to work together on ameliorating the problem, and local employers should be fully involved in helping to plan and implement these efforts.

Federal resources should be targeted on youth most in need. While there is no simple way to identify this group, those youth most at risk come from low-income families, are members of a minority group, or live in areas with high concentrations of low-income families.

The major objective of federal education, training, and employment programs for youth should be to improve the long-term employability of these youth, that is, their basic education, work habits, ability to absorb new skills on the job, and other competencies which will permit successful integration into the regular work force.

B. Elements of a youth policy

The reasons that disadvantaged youth have problems in the labor market are many and these reasons interact. Based on the Commission staff's analysis, the most important causes of their joblessness appear to be the inability of the economy to absorb all those who want to work combined with educational handicaps and discrimination which put disadvantaged, and especially minority, youth at the end of the hiring queue, regardless of the state of the economy. The lack of sufficient job opportunities for these youth, or of opportunities for upward mobility consistent with ther aspirations, has produced a situation in which many of our youth no longer strive for excellence in the classroom or the workplace. Employers, for their part, have turned to other sources of labor, leaving subsidized work experience programs in the public sector as the dominant source of employment for minority youth. While these programs provide income and job opportunities which would not otherwise exist, they appear to have few long-term benefits and a limited ability to integrate youth into the regular labor market.

Based on these findings, the Commission believes that any new set of policies should be based on the following set of principles:

Youth unemployment should be viewed principally as a structural problem and long-term solutions sought. Nevertheless, there is no question that sustained high levels of employment are an important precondition for substantially improving the labor market prospects of disadvantaged youth.

Remedying the educational deficiencies of disadvantaged youth must be high on the nation's agenda. Without basic literacy skills, youth are unable to take advantage of further education or training and will be permanently consigned to the bottom of the economic and social ladder.

Our nation should renew its commitment to eliminate racial discrimination and cultural stereotyping in the labor market. In particular, all of our institutions must be involved in creating a new environment of trust and confidence between those who come from different backgrounds so that access to good jobs and treatment on the job are based on performance alone.

Youth themselves must be more fully involved in improving their own employability and must make greater efforts to meet the performance standards set by our educational and employing institutions. To encourage disadvantaged youth to do so, these performance standards must be clearly articulated and greater rewards for success in meeting them provided at each stage of the employability development process.

Employment and training programs should be carefully targeted to provide second chance opportunities to those youth, who for reasons of family background, poor schooling, or race, are likely to be permanently handicapped in the labor market. These programs should be restructured, where necessary, so as to have a cumulative impact on the long-term employability of participants.

There must be a new emphasis on moving those disadvantaged youth who are ready into unsubsidized private and public sector jobs. While sheltered experiences may be appropriate at various stages in their development, the ultimate goal should be to create opportunities for them in the regular labor market. The federal government should consider using a variety of expenditure, tax, and regulatory powers to achieve this objective.

In the sections that follow, the Commission provides a number of more specific recommendations which it feels would further these objectives.

C. Adequate job opportunities

The Commission believes that the employment problems of disadvantaged youth will be severe no matter what the state of the economy and most of its recommendations are directed to needed structural changes for the longer-term. Nevertheless, it is concerned about the possible impact of a recession on the employment prospects of youth. The evidence is clear that youth employment, and especially minority youth employment, is even more sensitive to the business cycle than adult employment. Moreover, in periods of economic slack, other measures will simply reallocate existing opportunities and will be strongly resisted for this reason. Thus, the Commission recommends that:

(1) In the event that the unemployment rate rises substantially, that is to 7 percent or higher, and more particularly if it stays at such a high level for a sustained period, Congress should expand funding for priority national goals such as energy conservation. In so doing it should stipulate that private firms which obtain contracts to further these goals must hire a percentage of disadvantaged youth and adults who are designated by the Job Service or by CETA prime sponsors as being ready to work.

D. New directions for educational policies

Mastery of basic reading, writing, and computational skills is a prerequisite for other kinds of training, including on-the-job training, with the result that these skills are almost universally demanded by employers. High school dropouts, who are disproportionately black or Hispanic, face a significantly higher probability of becoming unemployed than do high school graduates. Even among those who graduate from high school, especially from inner city schools, the acquisition of basic skills is likely to be deficient. Any serious strategy for improving the labor market prospects of disadvantaged youth must put major emphasis on closing the basic skills gap. If this gap is not closed, the employment prospects of these youth will worsen as unskilled jobs in industry or agriculture continue to decline as a proportion of total job opportunities.

The federal government has made a strong commitment toward providing funds for low-income students who wish to go on to college or other post-secondary training. An equally strong commitment must be made to provide funds for remedial programs to serve low-income youth who are not college-bound but who lack the basic skills.

The schools have been, and should continue to be, the primary institution for providing these basic skills. However, it is critical that a partnership with employers and employment and training programs be forged so that disadvantaged youth will have more learning opportunities outside the regular classroom and greater motivation to acquire the basic skills. Accordingly, the Commission makes the following recommendations:

(2) The President and the Congress should support new funding for compensatory education in the secondary schools. These funds should be used to improve the basic skills of young people from disadvantaged backgrounds, through well-funded, intensive programs involving special tutorial efforts, extra after-school sessions, alternative schooling opportunities, compensatory education linked to occupational training, and in-service training for teachers. The effectiveness of Title I of the Elementary and Secondary Education Act in the elementary schools must not be jeopardized by a reduction in funding at this level. What is needed is a comparable program at the junior and senior high levels (a) to sustain the positive effects achieved at the elementary level and (b) to provide a second chance for those not adequately served at the elementary level.

(3) To encourage a partnership with other local institutions, a portion of the new compensatory education funds recommended in (2) should be set-aside for allocation on the basis of close consultation between the schools and CETA. This would be comparable to the 22 percent set-aside under the Youth Employment and Training Program which should continue to be allocated on the basis of such consultation. The new set-aside would encourage additional joint efforts on behalf of CETA-eligible youth and might lead to the development of more alternative schooling opportunities.

(4) The Secretary of Education should be provided with special funding to collect, integrate and disseminate information about exemplary programs, such as the adopt-a-school programs in Oakland, Baltimore, and Dallas. While schools must retain flexibility to deal with local conditions, what has been learned about effective ways of motivating and assisting disadvantaged youth to acquire the basic skills should be mobilized to promote wider sharing and adoption of the successful models.

E. Broadening opportunities for minority and female youth

The policy of the Equal Employment Opportunity Commission (EEOC) to identify patterns of systemic discrimination against minorities and women and to encourage employers to voluntarily pursue remedial actions that will bring them into compliance with Title VII of the Civil Rights Act of 1964 provides a significant opportunity to increase the number and proportion of minority and female youth who can be placed into regular jobs. The EEOC is in a position to identify by prime sponsor area those employers whose work forces are not representative of the local labor force.

Accordingly, the Commission recommends that:

(5) The EEOC should encourage companies with overall low minority and/or female utilization to improve their utilization by hiring job-ready youth from inner-city schools or those trained through CETA programs.

Improving the employability of disadvantaged young women, the vast majority of whom are going to have family support responsibilities at some point in their lives, requires opening up to them a wider range of occupational choices than those that most working women currently have. All youth-oriented labor market policies have a potential impact—for better or worse—on future patterns of occupational segregation which currently confine women, and especially minority women, to the lowest paid jobs.

Within the group of disadvantaged young women, teenage mothers have special needs. They not only need income support but also require money for child care services while completing their schooling or training in order to obtain the requisite skills which will enable them to earn an income equal to or above that available to them as welfare recipients.

It is with these needs in mind that the Commission recommends that:

(6) Education, vocational education, and CETA programs should be implemented in ways that will broaden the occupational opportunities of young women from disadvantaged backgrounds.

(7) Teenage mothers should be treated as a high priority group in both WIN and CETA and their child care and income needs should be fully met, with no diminution of support under AFDC when they participate in an education or training program.

F. Linking performance to rewards

Too often, both in our schools and our employment and training programs, performance standards have not established or maintained. The result is that graduation from high school or completion of a CETA program have had less value in helping young people obtain jobs than would be the case if employers had confidence in these credentials and were willing to commit jobs based on them. This lack of standards is one reason why disadvantaged youth themselves have had little incentive to succeed. They need to be convinced that if they take steps to improve their competencies these efforts will be appropriately rewarded in the labor market. Unless they are motivated to improve their own educational competencies or employability, the chances that such programs can be successful are slim. Therefore, the Commission recommends that:

(8) Schools and prime sponsors should be encouraged or required to establish local performance standards and disadvantaged youth who achieve the standards should be rewarded with entrance into a more generously stipended program or with a job opportunity. Those who fail to meet the standards should be given second chance opportunities, whenever possible.

(9) Prime sponsors should encourage the Private Industry Councils to obtain specifications from employers about the criteria they use in hiring young people, and, to the greatest extent possible, secure commitments from them that young people who meet their requirements will have a job opening when they leave school or a training program.

G. New directions for youth employment and training programs

The Youth Employment and Demonstration Projects Act of 1977 was designed to promote a reassessment and redirection of youth employment programs. Through a variety of new program initiatives and a large-scale research and demonstration effort, much has been learned about what works best for whom, and the relationships between schools, employment and training programs, and the private sector have been explored and fostered.

While the results of these efforts are not complete, the Commission believes enough information is available to recommend that:

(10) The Administration should request, and Congress should enact, a consolidated youth title under the Comprehensive Employment and Training Act, the principal goal of which should be to improve the employability of economically disadvantaged youth ages 16 through 21.

The Commission has been reluctant to support separate programs for separate groups under CETA. However, the severity of the employment problems for disadvantaged youth and the importance of establishing collaboration with the school sytem in serving this age group convinces us that a separate title is needed at this time.

The Youth Title should provide for a new comprehensive program which would replace the Youth Employment and Training Program (YETP), the Youth Community Conservation and Improvement Program (YCCIP), and the Summer Youth Employment Program (SYEP). The present level of funding for these programs must be at least maintained if the desired results of consolidation are to be realized.

Because of severe deprivation, disadvantaged young people need access to a wide range of services including remedial education, skill training, work experience and knowledge of how to look for and get a job. For this reason, the Commission rejects prescribing approaches under the new youth title. However, for youth in need of comprehensive remediation, programs must be of sufficient quality and duration to make a contribution to the youth's employability. Therefore, the Commission recommends that:

(11) The Department of Labor should encourage CETA prime sponsors to invest substantial funds in remedial porgrams for the most disadvantaged, even if this increases costs per individual and results in a smaller number being served.

One of the most successful employment and training programs is the Job Corps, which provides comprehensive services in residential centers to the most seriously disadvantaged youth. Because of its demonstrated record of success in recent years, the Commission recommends that:

(12) The Job Corps should be maintained as a separate program, and once current enrollment limits are reached, the program should be further expanded.

Youth from economically disadvantaged backgrounds are more likely than other youth to be in need of employment and employability development assistance. It is especially important to reach this group—half of whom are nonwhite or Hispanic—at an early age. Accordingly, the Commission recommends that:

(13) The Congress should designate the eligible population under the new consolidated youth title as all youth from families in which income was at or below 70 percent of the Bureau of Labor Statistics lower living standard

This recommendation reconfirms the position taken by the Commission in its *Third Annual Report* that a single set of basic eligibility requirements be used throughout CETA and that youth programs be income-conditioned under the same definitions of income that prevail in other parts of CETA.

To this the Commission would add one variation. The Commission's Youth Task Force heard testimony at its field hearings that a strict income limit may unnecessarily penalize youth from families with incomes slightly above the limit, youth from working poor families and others who are greatly in need of help to succeed in the labor market. Therefore, the Commission recommends that:

(14) Prime sponsors should be permitted to utilize up to 20 percent of their funds under the youth title to assist youth who do not meet the income requirement but nevertheless face substantial barriers to employment

Whether the purposes of a youth title can be achieved and youth most in need served depends on the way in which funds are allocated. If there is poor articulation between the distribution of the population most in need and the distribution of available funds, the employment problems of disadvantaged youth will persist. Moreover, the Commission believes that intensive targeting on areas where there are concentrations of low-income families is needed. Finally, sufficient funds should be reserved to the Secretary of Labor to provide incentives for innovation, coordination and exemplary performance.

Accordingly, the Commission recommends that:

(15) The majority of the funds for the consolidated youth title should be distributed by formula to local prime sponsors. However, a sizable portion should be set-aside for supplemental grants to areas with high concentrations of low-income families and another portion should be reserved to the Secretary of Labor to reward superior performance or to fund innovative programs, particularly those of an interdepartmental nature.

Under the Youth Employment and Demonstration Projects Act, the Secretary of Labor was granted a significant amount of money for research and demonstration. In its *Third Annual Report*, the Commission noted that it recognized the value of such programs, but stated that once these programs have operated long enough to be assessed, the successful ones should be folded into general allocations to the prime sponsors. Now that this large scale effort has been undertaken, the Commission recommends that research and demonstration money under the youth title be reduced. There are, however, two projects the Commission would like the Secretary to pursue under recommendation (15) above. In collaboration with the Secretaries of Education, Commerce, Housing and Urban Development, Health and Human Services, and the Administrator of the Community Services Administration, the Secretary of Labor should support efforts aimed at utilizing funds from various agencies on joint programs and services to improve employability preparation for young people, and to enhance community economic development, particularly in the nation's cities and counties with the largest concentrations of disadvantaged youth. Efforts should be taken to disseminate the findings from the more successful efforts and to modify departmentally-funded programs to reflect the new findings. Second, while all prime sponsors should be expected to achieve their prescribed performance goals, the Secretary should establish an incentive program to reward prime sponsors who do an exceptionally good job at meeting their performance standards.

Crucial to the effective operation of youth employment programs is adequate planning and implementation time, a stable funding and program environment, and dedicated, experienced staff. To accomplish these objectives and promote more effective cooperation among local educational, training and employer communities, the Commission recommends that:

(16) Congress should provide for forward funding, a five-year authorization and additional emphasis on staff development under the new youth title. It should be noted that the major federal education programs already have these components.

H. Moving disadvantaged youth into regular jobs

Federal employment and training programs have failed in the past to adequately involve the private sector in the employability development process. The Youth Employment and Demonstration Projects Act contained several new experiments to encourage the private sector to participate more actively in training and employing young people with labor market handicaps, including up to 100 percent subsidy of their wages. In addition, the Private Industry Councils created under Title VII of CETA have been encouraged to undertake a number of activities to improve the employability of youth. Private Industry Councils, by virtue of their independence and the community standing and experience of their members, are in a unique position to contribute to improving the employability development of youth by insuring that it is related to the skills employers seek and by opening up op-

portunities for training and later employment in the private sector. Finally, the Targeted Jobs Tax Credit, passed as part of the Revenue Act of 1978, provides incentives for employers to hire disadvantaged youth between the ages of 18 and 24.

The Commission has earlier supported all of these initiatives for integrating youth more effectively into the private sector, and believes that such efforts should be carefully monitored and wherever possible expanded. In particular, the current prohibition against private sector work experience under CETA is depriving youth of opportunities to learn more readily transferable skills, to be exposed to a wider variety of work settings, and to acquire valuable contacts and references for future employment. In addition, such experiences could help to break down the resistance of many employers to hiring youth from disadvantaged minority communities. Accordingly, the Commission recommends that:

(17) Short-term, subsidized work experiences in the private sector should be permitted under CETA with safeguards to insure that employers do not misuse the program and that the youth are provided with a carefully structured and supervised learning experience or training opportunity.

While the above efforts to integrate youth into the regular job market are important, they by no means exhaust the leverage of the federal government since the latter accounts, directly or indirectly through its grants to other levels of government and to private contractors, for a substantial proportion of all employment.

With a civilian workforce of 2.8 million and a uniformed military force of 2.1 million, the federal government is the nation's largest employer. Since it believes that the federal government should take the lead in providing opportunities for disadvantaged youth, the Commission recommends that:

(18) The President, with advice from the Office of Personnel Management, should consider making youth who have successfully completed a CETA program involving experience in a federal agency, eligible for conversion to entry level positions in the career service on a noncompetitive basis.

(19) The President should direct the Secretary of Defense to review the experience of Project 100,000 during the late 1960's which was successful in recruiting and providing special training for 246,000 young men who did not meet the regular qualifications.

Federal grants-in-aid to state and local governments are now in the range of $80 billion per year. While a substantial portion of the grant-in-aid funds are used to provide services or benefits to individuals, such as grants for medicaid and income security payments, many of the grants sustain or generate employment. Some movement toward targeting a portion of the employment generated by grant funds has taken place in the recent past. Mandatory approaches were proposed in the Labor Intensive Public Works Act of 1978, and voluntary approaches in the National Public Works and Economic Development Act of 1979. Serious consideration is also being given to the possible use of administrative requirements and incentives to accomplish employment objectives.

The Commission believes these efforts should be extended and recommends that:

(20) When the various pieces of legislation that authorize grants-in-aid are being considered for adoption or renewal, the Administration and the Congress should consider writing in provisions that would encourage or require that the grant recipients employ a specified percentage of disadvantaged youth who are referred to them as job ready by either the Job Service or the CETA prime sponsor.

During fiscal year 1978 the government spent some $95.6 billion through contracts for supplies and equipment; research and development; and construction and other services. About 35 million workers are covered by federal contract compliance regulations under Executive Order 11246. Although the contract procurement mechanism has long been considered a potentially fruitful area for pursuing a targeted employment objective, relatively little is known about the range of employment that is generated through the procurement process. The Commission believes that, as a result of the establishment of a Federal Procurement Data Center under OMB's Office of Federal Procurement Policy, it is now possible to begin to collect data that will help to illuminate the question of whether procurement policy shoud be used to pursue targeted employment goals. Thus, the Commission recommends that:

(21) The President should direct the Office of Management and Budget, with the assistance of other appropriate agencies, to determine whether and how the procurement process might be modified so that there would be new incentives for employers to hire structurally unemployed adults and disadvantaged youth.

1. Monitoring progress

It will not be possible to eliminate the employment problems of disadvantaged youth quickly or cheaply, and the Commission believes that the nation will need to make a sustained commitment over many years if real progress is to occur. This progress must be monitored and changes in programs implemented as more knowledge becomes available. For these reasons, the Commission recommends that:

(22) Congress should review annually the extent to which the gross discrepancies in the employment to population ratios and the unemployment rates for minority youth relative to white youth and adults are narrowed as a result of implementing the foregoing recommendations. In the absence of substantial and continuing progress in narrowing the gaps, the Administration and the Congress should seek to fashion revised and new programs which hold greater potential to ameliorate the present intolerable situation where our society has no regular job opportunities for many young people who come of working age.●

TAXFLATION DOES NOT WAIT

● Mr. DOLE. Mr. President, Treasury Secretary Miller has said that, while he supports recent Federal Reserve efforts to improve control over money and credit availability, he feels the Fed may have acted too soon in implementing its new procedures. Mr. Miller fears that the Fed's new system of controlling reserves may not have as direct and immediate an impact as the Fed expects.

There is no question that the shift in the Fed's operations will require adjustments in financial markets and that bugs in the process will need to be worked out. The Fed will have to learn how best to employ the tools it has available to implement its revised policies. However, these are not arguments against the change: they merely point up the difficulty of achieving the goal of restraining money and credit. We can no longer doubt that such restraint is needed, in light of the inflation rate this year. This is a time when we must all pull together to put a lid on inflation, or we have little hope of success. The administration has said so itself.

That is why Mr. Miller's comments, however intended, are ill-timed and unfortunate. While Mr. Miller may have personal doubts about the effectiveness of the Fed's new approach, he must be aware that the approach cannot succeed without across-the-board support from all levels of Government and from the private sector. As chief economic spokesman for the President, the Secretary of the Treasury must choose his words carefully when discussing a major policy move such as that made by the Federal Reserve. Psychology does matter, and any hint that the administration is backing away from its anti-inflation resolve can only undermine its own efforts. The administration cannot afford to continue to work at cross purposes.

Mr. Miller to the contrary notwithstanding, it appears that the Fed's action cannot have come soon enough. Clearly the battle to control the money supply by regulating interest rates was a losing one. Had Mr. Miller, as Fed chairman, undertaken similar action at an earlier date, we might have avoided the credit crunch that now looms. Inflation could have eased sooner, and we would have avoided hitting taxpayers with such an enormous tax penalty this year.

The tax penalty, or taxflation, is the result of people moving into higher tax brackets as they try to keep pace with inflation. The higher the rate of inflation, the greater the tax penalty. Under the progressive income tax structure, the elasticity of taxes relative to income gains is about 1½ percent. That is, overall tax revenues increase by about $1.50 for every additional dollar in income. This means that an inflation rate of 13 percent, as we have this year, will cost all taxpayers about $19.5 billion if they just keep pace with inflation. This is part of the price we pay for not moving more swiftly and decisively to restrain inflation.

Until inflation is reined in, we cannot expect taxpayers to automatically pump more revenue into the Treasury. I have introduced the Tax Equalization Act, S. 12, which would eliminate the inflation tax penalty. The tax brackets, zero bracket amount, and personal exemption would be adjusted according to the rise in the Consumer Price Index. People would not move into higher tax brackets unless they experienced real income gains. Congress would also have less to gain by allowing inflation to continue.

Mr. President, the Tax Equalization Act has bipartisan support and deserves prompt attention by this Congress. The Secretary of the Treasury should also support S. 12, so long as he feels that haste in battling inflation is unwise. I again urge my colleagues' attention to this matter.●

TELEVISED SPORTS EVENTS

● Mr. SCHMITT. Mr. President, the Communications Subcommittee of the Senate Committee on Commerce, Science and Transportation held lengthy hearings earlier this session on S. 611 and S. 622, bills to amend the Communications Act of 1934. The subcommittee is now deliberating on those amendments.

One area under consideration is the appropriate role of cable television in our national telecommunications system. A particular issue that concerns broadcasters, cable television operators and sports organizations is the regulation of

the distribution of sports events by cable television and pay television including pay cable, subscription television, and direct broadcast satellite.

It is particularly important that this issue be addressed soon because of the recent proposal by the Communications Satellite Corporation to offer pay television by direct broadcast satellite to a substantial percentage of American homes.

Don Kowet has written a provocative column in the latest issue of "TV Guide" that raises serious questions about the future availability on over-the-air broadcasting of popular sports events such as the Super Bowl and the World Series. I request that Mr. Kowet's column be in the RECORD at the conclusion of my remarks.

This column is also quite timely in view of the expiration of the National Football League's (NFL) commitment to refrain from blacking out sold-out games through the 1979 season in accordance with the spirit of Public Law 93-107.

Because of the importance of televised professional sports events to the public legislative language insuring the future availability to local television broadcasters of sold-out home games has been included in a revision of S. 622 that is being circulated by Senator GOLDWATER and myself. I will provide a copy of S. 622 to Pete Rozelle, the commissioner of the NFL and request his comments as well as an indication of the NFL's future plans for distributing NFL games.

The article is as follows:

WITH PAY-TV MOVING IN ON MAJOR SPORTS EVENTS, SECOND-GUESSING THE QUARTERBACK MAY GET EXPENSIVE

(By Don Kowet)

It's kickoff time on Super Bowl Sunday, 1984. You start flicking the TV dial in search of the championship clash—say, the Steelers versus the Cowboys again.

ABC has celluloid football—a repeat doubleheader of "Semi-Tough" and "North Dallas Forty." CBS has college football—a squad of fired up Fighting Irish in ancient leather headgear determined to win one more for "the Gipper." NBC has pro football, Pittsburgh against Dallas all right; a grainy rerun of its 1979 Super Bowl broadcast.

The truth is, this time, for the first time, none of the commercial networks owns the broadcast rights to the Super Bowl. This 1984 Super Bowl is available only to the seven or so million Americans who subscribe to pay-TV.

Farfetched as it may seem, this scenario became possible on March 25, 1977, when the U.S. Court of Appeals overturned Federal Communications Commission rules that had prohibited pay-TV from showing not only first-run movies but first-rate sports events—any big-league championship, play-off or all-star game that had been broadcast on commercial TV during the previous five years.

Suddenly, ABC and CBS and NBC's virtual monopoly over the big-league sports telecasts had ended. Pay-TV was free to become a competitor. But first it had to become widespread, and wealthy.

At the time of that court decision, pay-TV had one million subscribers. And in less than two years, that number of subscribers had climbed to three million, with industry earnings topping $300 million in 1978. Cable analysts are projecting up to seven million pay-TV subscribers by 1981.

"The question isn't whether five years or so down the road you will be paying to see on TV sports that you used to see free, that's inevitable," says one network source. "The question is: which events—second-raters? The Super Bowl?—and when."

Cable systems throughout the country already offer subscribers (for the basic cable fee) a varied menu of sports. UA—Columbia's advertiser-supported cable package includes "games of the week" of the NBA, NHL and major-league baseball, plus events from Madison Square Garden. A half dozen or so actual or would-be "super-stations" (local TV outlets whose satellite signals may be captured by any cable system willing to pay a carrier fee) are following in the wage of yachtsman Ted Turner's WTBS (Atlanta), whose broadcasts of the Hawks and Flames games are currently being delivered to over five million households across the country. And this past September, the Getty Oil-owned Entertainment and Sports Programming Network (ESPN) began filibustering cable systems with a rich diet of sports.

However, the most ominous threat to the network hegemony over big-time sporting events comes not from these basic cable packages (which pay leagues or franchises only nominal rights fees or, in the case of the "superstations", no fees at all), but from pay-TV. Pay-TV, with its potential for pay-per-view, offers the major league the prospects of a brand-new bidder in the auction.

"We see our sports programming, now and in the future, as complementary to the networks, not in competition," says Michael Fuchs, senior vice president for special programming at HBO (the pay-TV titan, with over two million satellite-linked subscribers).

The public modesty of pay-cable moguls isn't surprising. They spent years swearing on a stack of signal converters that they would never—scout's honor, compete against commercial TV. Some of Fuch's executive counterparts at the three commercial networks don't believe him for a second.

HBO broadcasts boxing matches, gymnastics, track-and-field events, all of Wimbledon up to (but not including) the final day, and NFL highlights. Regional pay-TV packagers (as well as a few over-the-air subscription-TV stations) offer local pro teams. PRISM, the Philadelphia-based pay system, shows its 90,000 subscribers the home games of the 76ers, Phillies and Flyers. In the Southwest, Fanfare broadcasts (via satellite) games of the Rockets and Astros. Throughout the country, such regional pay packages are beginning to proliferate.

"I guess what we're really saying," says CBS sports vice president Carl Lindemann, "is that pay can have what the commercial networks don't want."

If, publicly, pay-TV sports programmers profess to be content with feeding off network table scraps, some privately admit that pay-TV, if it is ever to achieve more than mere survival, must reach out for events that are now the property of commercial television. That means pro football—the only major sport that televises all of its games (except those not sold out 72 hours in advance) over commercial TV.

"I think that if anything is going to break the barrier on pay-TV, it's going to be professional football," says NBC's executive producer for sports Don Ohlmeyer. "You are now looking at football, college and pro, that costs about $200 million in rights," he adds. "To break even, you probably have to sell $300 million in advertising. That's on football alone. One-third of the gross of an entire network two years ago. How much money is there in the network marketplace?"

Ohlmeyer envisions a scenario in which the networks get to keep three national NFL games—two on Sunday, one on Monday night. The rest of the NFL schedule is parceled out to pay-TV on a regional basis.

"Let's say in New York you've got 30 per-cent cable-television penetration five years from now—that's about 2.4 million homes. Let's say a third of those, 800,000 are willing to pay $2 a game for a Giants game. Say the Giants are on national TV twice—that leaves 14 Giants games for pay-TV. Multiply 800,000 times $2 times 14. That's almost $23 million, just in New York—and there are 27 other NFL teams!"

The premise, of course, is that pay-TV operators—and their backers—will be willing to invest the sizable capital necessary to endow current pay-channel systems with pay-per-view capabilities. (That is, systems in which viewers pay only for the shows they watch. In most cases, pay and cable subscribers now pay a flat monthly fee, whether they watch the programs or not.) Potential investors are paying close attention to the results of Qube's pay-per-view experiment with Ohio State football in Columbus, Ohio. (ABC—fearful of testing the exclusivity of its NCAA college-football contract in the courts or in Congress—reached a settlement with Warner Cable, which had filed a suit against ABC alleging antitrust violations. As a result, Warner's Qube showed five Ohio State games in 1978 and will show five more in 1979.)

The NFL would have to find a way to bypass Congress's antiblackout provision (which expired as a law before the 1976 season, but which has been voluntarily maintained by the NFL these past three years). In fact, Chip Shootshan, counsel for Rep. Lionel Van Deerlin's House Subcommittee on Communications, does foresee "a gradual erosion of this televising sold-out home-games policy, to the point where home games, at least in major cities like New York and Los Angeles and San Diego, where there's lots of cable, could be carried on pay-TV locally."

Would the FCC stand idly by while the NFL sold part of its schedule to pay-TV? Despite the 1977 court decision, Sen. Ernest Hollings, chairman of the Senate Subcommittee on Communications, says he still thinks that "the FCC has the authority to prevent siphoning of sports if it were to occur."

The problem, says Bill Johnson, chief of the FCC's policy division, is determining when siphoning is occurring. "For example," he says, "a few years ago there was talk about the networks not doing the Army-Navy football game any more. Supposedly, the networks said we're not really interested, so we'll only pay you a little bit. So what if a pay guy comes along and says he wants that game? It's hard to tell whether the networks are just throwing off an event, or whether the pay people are buying it off."

If the FCC didn't take action, would the Congress? A deregulatory fever has been sweeping Capitol Hill. It was in part due to this climate in Congress that ABC felt compelled to compromise with Warner's Qube over the telecasting of Ohio State football games.

"The NFL, today, if it wanted to, could take all of its home games and put them on pay-TV," says Van Deerlin counsel Chip Shooshan. "And I have reason to believe thought is being given to this idea in the NFL right now, for the future—although I don't think they'll admit it. They could certainly take home games that were not sold out 72 hours in advance and put them on, without even violating the spirit of Pete Rozelle's agreement with Congress. As for the major events," he adds, "our feeling is that if the day comes when it looked likely that a Super Bowl or World Series would go over to pay-TV. Congress could, and would, intervene with legislation to prevent that from taking place."

Right now, of course, neither pro football nor baseball is contemplating such blasphemy. Baseball Commissioner Bowie Kuhn sums up not only his philosophy but Pete

Rozelle's too, when he declares: "I can foresee no circumstances where baseball's 'showcase' events, such as the World Series, league championships or All-Star game, would be marketed on a pay-cable or subscription-TV basis."

However, in the real world of broadcasting and the realm of big-league sports, both of which have, in two decades, metamorphosed from comparatively penny-ante pastimes to big businesses, unforeseen circumstances have a habit of what Howard Cosell calls "eventuating." Suppose the baseball and football leagues do decide that the only way to expand their box office is through the parceling out of league schedules among the commercial networks and pay-TV, as NBC's Don Ohlmeyer envisions. Suppose, for that matter, that Pete Rozelle uses the threat of moving the Super Bowl to pay-TV as a stick to beat the networks into meeting his contract demands? Thus provoked, what happens if Congress does enact prohibitive legislation either rescinding the NFL's antitrust immunity or forbidding an NFL shift to pay-TV?

"There certainly are legitimate constitutional questions that are raised any time Government attempts to arbitrarily make decisions in this area," admits Chip Shooshan. "A pro-football game, after all, is a privately owned property."

"And you tell me what constitutional right I have to sit in my living room, in New York, and force the New York Giants to give me their product over commercial TV?" asks NBC's Ohlmeyer.

"In business, as in wrestling," he adds, "a cardinal rule is that you don't take down your opponent till you have a good chance of pinning him. The next time Congress legislates against the NFL, Rozelle may decide that's the time to take Congress to the mat."

The arena for that match would be one far more hallowed than for any Super Bowl: the chamber of the U.S. Supreme Court.●

ELIMINATION OF INTOLERANCE AND DISCRIMINATION

● Mr. JAVITS. Mr. President, this year the United Nations Commission on Human Rights adopted the first three articles of an international declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief. The task of drafting such a declaration has been before this Commission for over 30 years and I believe that its adoption is long overdue.

Dr. Isaac Lewin, a professor of history at Yeshiva University in New York, addressed the United Nations Commission on Human Rights on behalf of the Agudas Israel World Organization, one of the many nongovernmental organizations that have urged the Commission to fulfill its responsibility to the General Assembly and present that body with a draft declaration. I believe that this issue merits the attention of my fellow Senators, and I ask that Dr. Lewin's statement be printed in the RECORD.

The statement follows:

STATEMENT BY DR. ISAAC LEWIN

When we think of the great deal of good which a declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief could achieve just by its inherent moral power and ethical persuasion, we can hardly understand why until now such a a declaration has not yet been proclaimed.

No legal consequences could evolve from such a declaration for any nation. A declaration appeals only to the conscience of mankind.

Like many similar documents in history, a declaration on the elimination of religious intolerance would call on individuals and governments to refrain from certain acts which are inconsistent with the principle that all human beings are created equal. The world, after all, accepted this principle long ago. The Bible extended the principle of equality under law even to a country's strangers, and prohibited doing them wrong. In the 3rd Book of Moses (19:33, it was proclaimed: "If a stranger sojourn with thee in thy land, ye shall not do him wrong. The stranger that sojourns with you shall be unto you as the homeborn among you, and thou shalt love him as thyself."

These words of the Bible expressed the principle of tolerance in a wonderful way. As the great philosopher Hermann Cohen explained: "The alien was to be protected, not because he was a member of one's family, clan, religious community or people, but simply because he was a human being. In the alien, therefore, man discovered the idea of humanity."

What would be more justified for the United Nations than to make a declaration that everyone, citizen and stranger alike, has the right to live in accordance with his beliefs? Taking into consideration the not-so-happy experience with tolerance, or rather intolerance, of the past centuries—the declaration would spell out in a few paragraphs what is meant in our days by tolerance in the field of religion or belief. The world should know the feelings of the community of nations represented by the United Nations, that what cannot be tolerated today is intolerance.

It is a source of great concern that such a declaration encounters opposition. Why should any State disagree with the principle that discrimination between human beings on the ground of religion or belief is an offense to human dignity?

Twenty-three non-governmental organizations in consultative status with the Economic and Social Council urged again this year that the drafting of the Declaration not be further delayed. In their statement (document E/CN.4/NGO/228), they drew the attention of the Commission on Human Rights to the fact that "this matter has been under consideration of United Nations bodies for more than 25 years". They stated that "religious intolerance and discrimination have done, and continue to do, great harm to many people in the world."

The question now before us is: Will the Commission on Human Rights this year again disappoint and disillusion us by reporting to the Economic and Social Council that no draft of a declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief has been prepared? Why should the clear and unequivocal mandate of the General Assembly not be fulfilled?

True, simple matters can become artificially complicated. If we would have to include in the declaration explanations of religious convictions, there would be an unavoidably deep conflict among various groups. Similarly, inclusion of explanations of "belief" might lead to unnecessary complications and even make the whole declaration impossible.

The religious revolution that just recently took place in an important country is a reminder that a solemn declaration on the elimination of religious intolerance is certainly most timely. The declaration would say that the conscience of the world is not asleep, and that the times of persecutions on grounds of religion or belief are over. Such a declaration would possibly even help to eliminate unnecessary misunderstandings and difficulties.

The working group has this year discussed the first three articles of the draft declaration. The adoption of the three articles by the Commission will certainly be a sign that the Commission is at least partly fulfilling the mandate of the General Assembly.

I urge you to adopt the three articles, as proposed by Canada in its draft resolution, and to keep this matter on the agenda for next year.

People suffering from religious intolerance all over the world are waiting impatiently for your action. The General Assembly of the United Nations, which several times adopted resolutions asking the Commission on Human Rights to finalize the drafting of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief, is waiting for your action; and history is waiting for your action too.

Let a ray of hope appear from this session of the Commission on Human Rights for our brothers and sisters who suffer from religious intolerance.●

RUSSO-FINNISH WINTER WAR

● Mr. PACKWOOD. Mr. President, November 30, 1979 marks the 40th anniversary of the date that the Russo-Finnish Winter War of 1939–1940 started. The war was begun by an unprovoked attack by the U.S.S.R. across the border of Finland. The courageous fighting of the outnumbered, poorly-equipped Finnish army is one of the most remarkable stories of this century. Against overwhelming odds, the Finnish troops fought courageously to retain their freedom and independence. All Americans can appreciate the efforts of this nation—the only free European nation bordering the Soviet Union today.

The two articles that I am submitting for the RECORD give two perspectives on this war—personal and historical. The author of these articles, Mr. John Virtanen, is currently serving as the honorary consul of Finland for Oregon. In 1976, in recognition of meritorious services, Dr. Urho Kekkonen, the President of Finland, presented Mr. Virtanen with the insignia of the "Knight, First Class of the Order of the White Rose of Finland." Mr. Virtanen's bravery, and the bravery of his countrymen, deserve our special recognition.

The articles follow:

FINLAND'S "DAY OF INFAMY" FORTY YEARS LATER!

It may come as a shock to many that Finland is today self-determined, free nation, ready to celebrate the country's 62nd Anniversary of the Independence, (December 6, 1917) and the 40th Anniversary of the start of the Winter War of 1939–1940.

A border assault on the Finnish Karelian Isthmus that had a profound influence on European affairs occurred on November 30, 1939, forty years ago, which students of warfare may remember but which is unknown by most people throughout the world today. This day marked the unprovoked attack by the U.S.S.R. on the young independent small democracy of Finland in their attempt to bolster its defence perimeter by forcibly grabbing additional territory and at the same time destroying the sovereignty of a relatively defenseless freedom-loving nation. This day began the three and a half months' long Finnish "Thermopylae" that resulted in the slaughter of hundreds of thousands of Russians as the stubbornly heroic Finns resisted with whatever guerrilla tactics they could devise in the most bitter winter fighting seldom experienced in warfare. It was later learned that the Russians did not expect Finnish resistance to a take-over of their nation. Nikita Khrushchev said in his memoirs, "All we had to do was raise our voice a little bit and the Finns would obey," then added that "over million Russians were killed in that campaign."

At dawn on this cold gray day a planned blitzkrieg to conquer Finland in a week began as over 600 Russian field guns opened a thundering barrage. At the border resort town of Terijoki the Finnish ski troops patrol squad blew up the border river railroad bridge and delayed a tank advance for ten hours before retreating. House-to-house fighting occurred in the border villages all along the eastern boundary of eight hundred miles. Finns fought even with knives and quickly set up snipers—"cuckoos" in the trees which took heavy toll of the invaders before running out of ammunition. The innovation of heavy tanks leading advancing infantry was a terrifying opponent to confront with nothing but conventional machine-guns and confiscated old Russian rifles.

On this day the Finnish High Command heatedly debated: Should there be an all-out stubborn stand against an enemy far superior in numbers and armament, or should there be a concentration only on holding the most effective possible defense point as close to the border as possible? Field Marshal Mannerheim's determination to stand firm at all points became decisive even though the scattered defense garrisons, almost in panic, with only out-dated field artillery, mines, rifles and hand grenades, faced monstrous tanks spewing deadly fire against them.

However, with expert use of make-shift weapons, the Finns by December 5 stopped 80 tanks and destroyed many more by mines. Unfortunately, too, Russian bombers and fighters which numbered 3,000 quickly neutralized the Finnish airforce of 162 antiquated biplanes and Fokkers.

The frontier zone was lost before their anti-tank weapon, the "Molotov Cocktail" was fortuitously devised—a crude kerosene, tar and gasoline in a regular fifths, which proved to become a frightening weapon in the minds of the Soviet tank crews, as the Finns ignited their bottles and threw them, aiming at air intakes or opened hatches.

Expecting that the Finnish proletariat would welcome the Red Army as its "liberators," Stalin did not bother with careful preparation for the invasion. Led to believe by his own intelligence he did not want to put first class soldiers as being sacrificed against a Finnish military composed of many barely-trained reservists? Assured of quick victory, Soviet troops, inadequately clothed for a long frigid campaign in the snow, to their detriment, were hastily dispatched into the frozen forests of the north.

Red propaganda effectively convinced their own troops that the "war-mongering bourgeois government" of Finland had deliberately "provoked the fight by shelling the border village of Mainila and intended invading Soviet territory" and that this "fascist" government would quickly fall because the "oppressed Finnish workers would immediately join the Red legions" in driving the hated White Finns out of the country.

This immediate Finnish resistance forced a massive Russian frontal attack to be launched on December 6 along all sectors of the Karelian Isthmus, but hordes of Red infantry, rushing forward, were mowed down in their tracks by the bullets of unseen sharp-shooting, white-gowned Finnish guerrillas hidden in the snow banks and among the snow-covered trees hemming in the narrow roads. And the foolish Red dream of "liberation" quickly came to an end!

Nevertheless, on November 30, there was definite reason for this early Soviet optimism. The Reds outnumbered the Finnish infantry three to one, in some areas at times: fifty to one, and were far superior in essential equipment. So short were the Finns of essential military items that many small groups did not even have radios. When telephone contact was cut by enemy artillery, battalions were unaware of each other's whereabouts. Even in ski popular Finland—and with skis so necessary now—a division near Lake Laatokka was short 10,700 pairs on December 6. The first haphazard gathering of reservists found many of them without proper uniforms and footwear. There was only two months' supply of small-arms munitions and available artillery shells for about three weeks at the beginning of the conflict. Rationing of shells was imperative at all times. Even ancient artillery of an impractical 1887 model was brought in to fill the gap.

The "Suomi" rapid firing submachinegun was the key Finnish weapon in their forest guerrilla engagements—but even these were in short supply, forcing an allotment of only 250 of them to each Finnish division. Against thousands of modern tanks and armored vehicles, the Finns had 28 obsolete Renault tanks and a few Vickers, only 13 of which were armed. Finnish planes, even including open cockpit types, tried to challenge Russian planes readied for the initial onslaught with countless reserves in the rear for other regions. Industrially, the Russians had better than a forty to one advantage in manpower. If necessary, the Russian labor and armed forces could crush its tiny stubborn neighbor by sheer mass of weaponry. But still, on November 30, this frightening disadvantage of theirs did not deter the Finns from bravely facing the enemy!

The only hope remaining for Finland was the intangible one of a totally unified populace, firm in the preservation of their hard won recent independence from Russia. On the same day Moscow announced the fake Kuusinen government of Finland, the Finns formed a national coalition cabinet with the able Social Democrat, Vaino Tanner, as Foreign Minister—indicating that the rightist groups were now solidly behind the liberals in their determination to save the Republic. Even the great majority of Finnish communists readily volunteered their services in the general defense—to the surprise of Stalin.

Perhaps this reaction was more an anti-Russian than an anti-communist feeling. The senseless repressions of Czarist Russia were still very fresh in many memories. Marshal Mannerheim's declaration to the Finnish Army that ". . . our centuries-old enemy has again invaded our country. . . . We are fighting for home, faith, and country . . ." was enough of a reminder to spur Finnish loyalty to fever pitch in the hearts of all, even in the waverers.

As far back as October 5 the Finns knew they were in imminent danger—having witnessed the rapacious takeover by the Reds of the Baltic States. The reserves had been mobilized, evacuation of the danger areas had started, and by November 30 the Finns fatalistically awaited the showdown, though still not fully expecting war over a land-question.

With 100,000 Lotta Svards, the women's auxiliary of the Civil Guard, all active civilian males in this small nation of four million augmented the minuscule field army and recruits. Immediately when attacked, without hesitation, the nation united to defend to the utmost their precious heritage and their right of self-determination as a democratic nation against the unconscionable aggressiveness of authoritarianism.

This November 30 confrontation thus heralded to the world to witness how one small but brave democratic nation faced the bullying of a tyrant dictatorship. And because of this determined resistance, almost foolishly reckless as a practical act, Finland, forty years later, still remains the only sovereign, freedom-enjoying European nation bordering the Soviet Union.

Within the span of 62 years of independence—forty years from the Winter War—the country has achieved everything it has set their goals or hoped for. But, pehaps one thing they could provide as a message for the Free World is to realize and remember as it flounders about fearfully the blustering and threats of Communist Russia that it takes a sisu, determination and firmness to stand for freedom of mankind.

SISU is a Finnish word which means that after giving everything a person has, he still could give and stand more.

REMEMBERING THE WINTER WAR—FINLAND'S PEARL HARBOR

(By John O. Virtanen)

As though it happened yesterday I remember the November 30 of forty years ago as Finland's "Day of Infamy," its "Pearl Harbor." Then, as Corporal John O. Virtanen, I stood watch at a border river post with my squad thinking only that immediately following breakfast I would be relieved of my duty there and could return to our camp less than a mile away when the opening salvo of the bitter Winter War of 1939 exploded right in front of me.

Presaging the thunderous barrage that defied one's imagination, the first shells fell only a few feet from the cabin where my squad had spent the previous few days and nights. It seemed that heaven had been suddenly rent apart and fallen over me—was my first impression.

By the time the armistice was signed three and a half months later, all of Europe had felt the impact of this "White Death," as the war was sometimes called, and world civilization faced the Nazi threat of World War II. Twenty-four thousand Finns were dead, over a million Russians had been killed, and Allied countries were about to face the ruination that war brings in its onslaught. However, the entire world had witnessed a miracle during this brief preliminary period of struggle—though severely bloodied, with many cities in ruins, a little nation had survived honorably, proud of its battle achievements and its negotiation—not of surrender—but of an armistice with its then colossal enemy.

France and England could not comprehend why Finland did not officially ask their help. Sweden felt relieved from being forced to allow military aid to cross their neutral land to Finland, as was the United States in readying itself to fight Hitler with the Russians as an ally.

That morning was gray, cold. The moon still shone in the sparkling sky of stars at 7 A.M. on that critical day of November 30, 1939.

According to Khrushchev, writing in his memoirs, but then a high Politburo member who knew what was to occur on this day: "The Russians expected the Finns to fall on their knees before the assault."

Two of the first eight shells that fell around the cabin were duds. They shook the land violently but did not explode and we feared they might be timed to go off at any moment.

The Russians had gathered their forces along this border area in total secrecy. Working mostly at night, Stalin's labor camp manpower had helped build wide roads leading to the border, amply wide enough to allow heavy armored trucks and tanks to have easy access to the border. The moment the opening salvo was fired, the infantry started following the heavy tank formations, but now in single file on narrow Finnish wilderness roads. They expected to be greeted as "liberators" of the Finnish proletariat from the heartless clutches of Capitalism and to participate in a victory parade in Helsinki within a week or at least ten days!

Only minutes after the first shells exploded all along the 800 mile border between Finland and Russia, Soviet bombers dropped their explosives on most of the cities of Finland. Giant cannons at distant Leningrad opened up barrages to clear the way for the Red forces to come pouring across the river border in the Terijoki vicinity to take the Finnish troops by surprise.

They were confident on their intelligence reports that the Finns would not dare fire back, that the Finnish High Command would panic and withdraw their troops from the military zones.

For the first three days and nights we fought without withdrawing hardly a kilometer or two. We had to fight with old, confiscated Russian-made rifles that the Finns had captured at the end of the Civil War in 1918. Fortunately, we possessed efficient Suomi machine guns, excellent automatic weapons perfectly suited for guerrilla warfare—though we never had enough of them. The antiquated Civil War rifles were clumsy and inaccurate, so much so that a soldier had to allow the enemy to approach within close range to be sure of making a kill.

Snow had already covered the ground, but only about half of the troops had been issued skis for easier maneuvering in the woods. Those who had been trained as sharpshooters used Finnish-made "pystykorva" rifles; their tactic was to hide themselves within the thick branched spruce trees to better spot the advancing enemy and, by being unseen, mowed them down in droves.

Soon afterwards when all the soldiers had been issued white gowns to wrap over their uniforms, the Finns became fearsome invisible foes who brought terror to the floundering Reds in the snow-covered forested trails. We wanted to draw the enemy into the woods, but they did not dare venture into the thick wilderness of trees that provided cover for invisible Finnish snipers.

But tanks continued to roll along the narrow roads like monstrous killer-dragons and we had no weapons to stop them at first. We invented satchel-charges—hand grenades reinforced with sticks of dynamite—which were thrown into the turrents of the tanks if they were open. Effective as a bull's eye hit was, still more tanks kept clattering over the border, seemingly in an endless stream.

We front line defenders had no sleep for the first three days. No one even had time to think of food. Young recruits became "men" in a hurry and, without any advice from the officers, each man knew instantly what he had to do: kill or be killed and lose home and country! For the first time in our lives, most of us sensed our ultimate duty to Finland, realized our responsibility to those whom we loved at home. We felt an overwhelming desire to win, to live in peace, or die honorably fighting on the battlefield.

Then, after a night's rest, we continued once again the grim defensive fight as the enemy advanced with more tanks, weaponry, and an endless stream of soldiers. We just kept killing the driven horde as fast as we could fire. The insensate slaughter never ceased.

One day a member of my squad, a simple farmhand who had never been trained to fire a rifle, was guarding a lake shore entrance to a village. He and his partner had entered a dugout sauna to prevent the frigid wind from further biting their exposed faces. Just after that a Russian tank rolled to the entrance and killed their buddy left on guard. The farmhand became so enraged that he dashed out of the sauna, forgetting his rifle, and threw a lit kerosene lantern at the tank. To his amazement, the grease on the tank caught on fire and was destroyed. Realizing the effectiveness of his act, he ran to tell me about the happening. We quickly got busy filling bottles with gasoline or kerosene and used them as bombs to set fire to the Russian tanks and burn the men who were driving them. This incendiary antitank weapon became known as the Molotov Cocktail—named as an antidote to the Russian Foreign Minister whom we blamed for starting the war.

By the time I was wounded on February 14, 1940, our company had become decimated to a mere handful of men, with no reserves in sight. We had been expecting a withdrawal to the bunkers of the Mannerheim Line—widely acclaimed as a sort of reinforced Finnish "Maginot Line." To our dismay we learned there never was such a "Line." The men lined up fighting at the front actually was this so-called defensive barricade while the "Mannerheim Line" was an invention of the Russians as an alibi for their devastating losses of manpower.

As the war continued, the winter weather became more severe than it had ever been within recent memory, often 55° below zero! This was a foe both sides faced—the killer Frost. Even the hardy Finns, accustomed to this, endured frozen feet, cheeks, and fingers, while thousands upon thousands of Russians froze to death in the snow.

The Russians heavily reinforced their troops during the first part of February. They put their elite soldiers on skis and were now fighting under a new commander. Tremendous shelling went on for days, turning the no-man's land into a barrier of upturned black soil, tearing apart the tree obstructions, hoping to kill anyone found in that area.

Still too clearly and horribly I remember those days of slaughter and the deafening thunder of cannon. As an ordnance officer I distributed ammunition to my group with the added warning not to fire unless one could clearly see the whites of enemy eyes! We were dreadfully short of ammunition. To add to our frustration, replacements in manpower and vital supplies were tediously slow in arriving—if they came at all. I never saw a single foreign volunteer.

It was on that fateful 14th day that I had to leave my relatively secure storage post to go to the front with our last load of ammunition that I had saved for my company. The Russians were firing explosive bullets which scared the hell out of me when they crackled behind me. But when I became a target for one of the tanks and got hit, too, the war ended for me.

I found the hospitals crowded. Every school was a makeshift hospital. Coming from the thinned-out front lines, it seemed that there were more volunteers serving in the hospital than in the front lines. Unluckily, I was assigned to an inexperienced foreign doctor who, perhaps needlessly, placed my shattered right hand in a stretching device and had holes drilled through my fingernails to keep my hand upright with a weight pulling down from the elbow. Needless to say, my five weeks in that trap were the most excruciatingly painful days of my life when all my fingernails were slowly pulled out of the flesh.

March 13, 1940, was a stunningly clear day when an armistice was signed and the fighting ceased. For all Finns this was indeed a sad day as we thought we had lost the war on the negotiating table. However, as it turned out, this attainment of an armistice was the best thing our country could have done under the circumstances.

Had it been otherwise—by that I mean: had the Finnish Foreign Minister, Vaino Tanner, asked officially for Allied military help, rather than relied on volunteers, they, the France and England at that time would have had to declare war against Russia and then, in consequence, been forced to fight side by side with the Nazis. Would the United States then, too, been forced to fight with the Nazis, is the question I do not want to ponder here. But I presume that the entire history of the world would have changed; and who knows what the political situation would be today?

ADM. ROBERT H. WERTHEIM

● Mr. SCHMITT. Mr. President, it is a pleasure for me to bring to the attention of my colleagues an honor that was bestowed on Rear Adm. Robert H. Wertheim, U.S. Navy, for his dedicated service to our country.

Rear Adm. Robert Wertheim, U.S. Navy, a native of Carlsbad, N. Mex., was awarded the Distinguished Service Medal on October 22, 1979, for exceptionally meritorious service to the Government of the United States.

Admiral Wertheim was born in Carlsbad, New Mex., to Joseph (now deceased) and Emma Vorenberg Wertheim on November 9, 1922. He attended public schools in Carlsbad and New Mexico Military Institute at Roswell, N. Mex., prior to entering the U.S. Naval Academy at Annapolis, Md., in June 1942. He was graduated and commissioned an ensign in June 1945. Through subsequent advancements he attained the rank of rear admiral, to rank from November 1972.

Admiral Wertheim is married to the former Barbara Selig of Los Angeles, Calif., and has two sons, Joseph H. and David A. Admiral and Mrs. Wertheim currently reside in the Virginia suburbs of Washington, D.C., but maintain their official residence in Carlsbad, N. Mex.

The citation accompanying the Distinguished Service Medal reads as follows:

The President of the United States takes pleasure in presenting the Distinguished Service Medal to Rear Admiral Robert H. Wertheim, United States Navy for service as set forth in the following

Citation: For exceptionally meritorious service to the Government of the United States in duties of great responsibility as Technical Director and Director, Strategic Systems Projects under the Chief of Naval Material from September 1971 to October 1979.

Rear Admiral Wertheim's superb managerial ability and professionalism were consistently demonstrated over a sustained period of nearly eight years during which he directed the Trident I C-4 Development Program. Under his decisive leadership, the TRIDENT I C-4 Weapon System evolved from a conceptual stage to a fully proven, operational, and deployed strategic force. Simultaneously, Rear Admiral Wertheim directed the technical and logistical support necessary to assure the continued dependability, survivability, and credibility of the operational Polaris and Poseidon Fleets, as well as the support of the British Naval Ballistic Missile Program.

By his distinguished record of performance, dynamic leadership ability, and tenacious dedication to duty, Rear Admiral Wertheim reflected great credit upon himself and upheld the highest tradition of the United States Naval Service.

For the President,

JAMES WOOLSEY,
Secretary of the Navy, Acting.●

U.S. AMBASSADOR KARL RANKIN BELIEVES NEGOTIATORS OF TAIWAN DEFENSE TREATY NEVER ANTICIPATED ITS TERMINATION BY THE PRESIDENT WITHOUT LEGISLATIVE APPROVAL

● Mr. GOLDWATER. Mr. President, an extremely important statement has been given to me by Ambassador Karl Lott Rankin, who was U.S. Ambassador to the Republic of China during the period of negotiating and concluding the Mutual Defense Treaty with that nation. Ambassador Rankin, who was in Taipei, Taiwan, at the time and was active in the negotiations, has informed my office in a personal conversation that it was never anticipated by the negotiators that any

President would attempt to unilaterally terminate the treaty.

Ambassador Rankin said:

To the best of my knowledge, it never dawned on the negotiators that the treaty would be terminated by the President acting alone.

Ambassador Rankin's comment was made in further explanation of a letter which he sent to me on this subject. In view of the important bearing of Ambassador Rankin's views on the issue of whether unilateral abrogation of the treaty by President Carter is illegal, I ask that the complete text of his letter be printed in the RECORD.

The letter follows:

JUNE 12, 1979.

DEAR SENATOR GOLDWATER: I have your letter of May 21, 1979, asking for information which might be instructive and critical to the outcome of the suit filed in the Federal District Court of the District of Columbia asking that the President's decision to terminate the Mutual Defense Treaty with the Republic of China be submitted to the legislative branch as a joint decision.

As you know, the actual negotiations which led to the Treaty were conducted in Washington, between the Department of State and the Chinese Minister of Foreign Affairs, George K. C. Yeh. I was in Taipei at the time, and was active in following developments in Washington, as well as relaying information and explanations to President Chiang, Acting Foreign Minister Shen, and other Chinese officials. However, I recall nothing which would add substance to the already effective legal brief accompanying your letter to me.

Over and above purely legal consideration, I do not see how a mutual defense treaty can be logically or morally terminated other than by mutual agreement between the parties, or by unilateral action if one party openly determines that relations have become so unfriendly that the question of mutual defense is obsolete. Except in the latter case, the question whether a mutual defense treaty is still needed evidently should be subject to mutual agreement.

Sincerely,

KARL L. RANKIN.●

GETTING TO KNOW THE ECONOMIC ENEMY

● Mr. HUMPHREY. Mr. President, Prof. Stanley Rothman of Smith College states in "Capitalism: Sources of Hostility," a recently published collection of papers edited by Ernest van den Haag, that, with respect to demagogic attacks on the free enterprise system, "Our only hope would seem to lie in heightened rationality," that is, in a better popular understanding of the free market and its less-desirable alternatives.

Unfortunately, Mr. President, as Aram Bakshian, Jr., states in his review of the book in the Wall Street Journal, of November 1:

Hysteria rather than reason seems to be on the increase in our crisis-oriented culture where truth, fad and folly are all forced down the public throat, half-digested, by one of the most remarkable captalist creations of them all—modern mass communications.

One organization seeking to inject reason and logic into the national discussion of our critical problems, Mr. President, is the Heritage Foundation, whose director is Edwin Feulner, and under whose auspices the aforementioned book, "Capitalism: Sources of Hostility," was published. I commend Mr. Feulner and the Heritage Foundation for offering our Nation an intellectual alternative to the hysteria and misinformation which too often pervades our news media and request that it be printed in the RECORD.

The article follows:

GETTING TO KNOW THE ECONOMIC ENEMY

(By Aram Bakshian, Jr.)

Great suffering symposia! Of all the spectacles modern American life affords, few are more touching or absurd than one that is re-enacted hundreds of times each year in corporate headquarters and subsidized think-tanks around the country. Here squirming, perspiring audiences of middle-aged executives gather to have their consciousness, consciences and corporate coffers delved into by rented members of the dread intelligentsia.

Like unhappy, overweight society matrons on the analyst's couch, these troubled captains and lieutenants of industry moan the inevitable question, "why doesn't anyone love us?" The scholars usually reply with a "let me count the ways" medley of capitalist sins and socialist misconceptions, do a little fanning of the corporate paranoia (which, like many cases of paranoia, has more than a little basis in fact), try to end on a moderately upbeat note, and then pocket the sort of fees which only large corporations—or unhappy, overweight society matrons—can afford to pay.

All of which helps explain why most of the scholars leave these sessions pleased while the executives often go away more puzzled and troubled than before, numbly clutching arcane reading lists that will further cloud functional minds better suited to action than introspection.

Fortunately, there are occasional exceptions to the dreary symposium rule, and the result of one of them is "Capitalism: Sources of Hostility," a thoughtful collection of papers examining the current social animosity to many aspects of the free market published under the auspices of the Washington-based Heritage Foundation. With its merciful brevity and minimum of academese jargon, this slender, thought-provoking volume deserves the attention of all those interested in preserving economic freedom, not because it is an avid *apologia* for the system, but because it offers solid thinking and informed speculation on the minds, motives and emotions of those who would destroy or cripple it.

Each of the seven contributors to "Capitalism: Sources of Hostility" is a man of stature in his field. Editor Ernest van den Haag is Adjunct Professor of Law at the New York Law School, a practicing psychoanalyst and a prolific writer on a wide range of social issues. Peter Bauer, who provides an insightful essay on causes for anti-capitalist feeling in the less developed nations, is a Cambridge Fellow and Professor at the London School of Economics. Lewis Feuer, Professor of Humanities at the University of Virginia, concentrates on the outbreak of Marxist-revolutionary fever on American campuses during the sixties (a bit Freudian at times, but more convincing than not in his attempt to link student rebellion against "society" with suppressed personal animosities toward parents and inherited class background).

Dale Vree, Executive Editor of the New Oxford Review and a former student Marxist himself, rejoins with a look at his own more cerebral motivations as a "puritanical" revolutionary appalled by the vulgarity and frivolity of the West, who eventually discovered the same crass materialism behind the Iron Curtain, compounded by lack of individual freedom. Harvard sociologist Nathan Glazer and New York Times editorial board member Roger Starr contribute worthwhile short papers and Professor Stanley Rothman of Smith College provides an excellent synthesis of the whole, reminding the reader of what a fragile, fledgling institution the "free market" society really is:

"Once we recognize that we are concerned with liberal capitalism, in other words, a social system based upon private property which relies heavily upon market mechanisms and is closely associated with representative democracy, we must become aware of how short a time, and over how limited a portion of the globe, this system has been dominant or even ascendant. For most of recorded history, most human beings have lived in social and political systems which, while they may have recognized certain rights in property and were willing to allow for some free play of economic forces, considered it entirely right and proper for the major forms of economic activity to be closely controlled by the state or other public agencies. . . ."

Professor Rothman is right as far as he goes, but he could just as easily have reminded us that for most of recorded history most human beings have led a marginally subsistence life, plagued by famine, disease, ignorance and tyranny. What makes capitalism important is not that it is some sort of pre-ordained natural order. Quite the opposite; capitalism linked with the so-called Calvinist work ethic and the evolution of western democratic values, is a delicate, man-made institution which has made it possible for its practitioners to escape from or mitigate the material ills faced by most of the human race most of the time. It has also allowed for a freer play of ideas and inventiveness than any other system, as Soviet physicist and human rights champion Andrei Sakharov, quoted by Professor Feuer, makes clear:

"It is no accident (Sakharov writes from Russia) that for many years, in our country, new and promising scientific trends in biology and cybernetics could not develop normally, while on the surface out-and-out demagogy, ignorance, and charlatanism bloomed like gorgeous flowers. It is no accident that all the great scientific and technological discoveries of recent times—quantum mechanics, new elementary particles, uranium fission, antibiotics, and most of the new, highly effective drugs, transistors, electronic computers, the discovery of other components of the 'Green Revolution,' and the creation of new technologies in agriculture, industry, and construction—all of them happened outside our country."

Yet, as editor van den Haag points out, in the very immensity of the west's material triumph may lie the seeds of its destruction. Primal drives which earlier generations had to direct against nature for survival—staying alive and free of hunger through grueling hard work—now turn inward on ourselves and our society. By constantly generating rising expectations, the free market may also be abetting its own crisis (and its own critics), especially at a time when the traditional props of church, family and local community are rapidly eroding.

"Given the unlikelihood of a revival of traditional western religious sensibilities," Professor Rothman concludes, "our only hope would seem to lie in heightened rationality," i.e., in a better popular understanding of the free market, its alternatives, and some of the irrational prejudices underlying hostility to capitalism. Unfortunately, hysteria rather than reason seems to be on the increase in our crisis-oriented culture where truth, fad and folly are all forced down the public throat, half-digested, by one of the most remarkable capitalist creations of them all—modern mass communications.●

MIDDLE EAST PEACE TALKS

● Mr. PACKWOOD. Mr. President, today I am submitting for the RECORD an article by the distinguished scholar, Irv-

ing Kristol. This article, which appeared recently in the Washington Post, offers a realistic appraisal of the obstacles that are facing the negotiators in the discussions on the future of the West Bank.

Mr. Kristol clears up the picture on some of the political questions that the participants in the Middle East negotiators must address. Moreover, this essay convincingly states the case in regard to the economic realities that exist on the West Bank. Prime Minister Begin and President Sadat know the economic situation and the impact that this situation has on the issue of the creation of a state on the West Bank. Progress has been slow, but that is because the participants are keenly aware of the depth of the problems.

As Mr. Kristol points out, it is absurd for the United States to view the participants in these talks as "unreasonable" and to view U.S. proposals for a comprehensive settlement as reasonable. It is presumptive and arrogant for the United States to say it knows what is best for Israel's security and what is the best way to deal with the Palestinian refugee question.

I ask that the article be printed in the RECORD.

The article follows:

WHAT A PALESTINE SOLUTION WON'T SOLVE

Public discussion of our Middle East policy is being increasingly bedeviled by two common fallacies. The first is that a solution to the Palestinian refugees problem, in the form of a Palestinian state on the West Bank, is a precondition for any overall Israeli-Arab settlement. The second is that the achievement of such a settlement will result in a significant improvement in the terms of trade between the United States and OPEC, thereby ameliorating our energy crisis.

The establishment of a Palestinian state on the West Bank will not—because it cannot—solve the refugee problem. This is quite evident to Anwar Sadat, to Menachem Begin and to Yasser Arafat, and explains much about their respective foreign policies. It seems less evident to our State Department or to John Connally.

The West Bank is a relatively arid territory one-fourth the size of Massachusetts, with some 700,000 inhabitants, a high birth rate and a limited economic potential. Even now, some 50,000 West Bank Arabs—approximately one-third of the labor force—commute daily to Israel for their jobs. How on earth is this territory going to absorb close to 1 million new immigrants—a figure that assumes that most of the Palestinians now living in Jordan will stay there?

Even with the most generous foreign aid, economic development of this territory will be slow and incremental. Its inadequate water supply by itself guarantees that. Indeed, there exists no plan of economic development that can get much ahead of the growth of the present population, to say nothing of hundreds of thousands of new immigrants—and to say nothing, either, of the natural increase in the refugee population, which also has a high birth rate, in the years ahead.

Is it any wonder that, in the period 1948–1967, when Jordan occupied the West Bank, the idea of this area representing a solution to the refugee problem seems not to have occurred to anyone?

A Palestinian state on the West Bank could not help being irredentist, seeing its future in the repossession of Israeli territory. This explains why Arafat will not recognize the territorial integrity of Israel, why Begin resists the idea of a Palestinian state and why Sadat is trying to finesse the whole issue by focusing on "autonomy" rather than sovereignty. These are all rational men who define their interests in terms of Middle Eastern realities. The notion that they are simply "unreasonable," while Americans are uniquely in a position to design a reasonable and comprehensive settlement, is absurd.

If the notion that the West Bank offers a solution to the Palestinian refugee problem is absurd, the idea that the high price of OPEC oil can be reduced by any alleviation of Arab-Israeli tensions is preposterous.

OPEC is primarily an economic organism. Many important members of OPEC—e.g., Nigeria and Indonesia—are neither Arab nor Middle Eastern. And all members of OPEC have a much keener interest in higher oil prices than in the Israeli-Arab quarrel. How quickly we seem to have forgotten that one of the architects of OPEC was none other than the shah of Iran, who was no political enemy of either Israel or the United States.

Moreover, to the degree that politics does enter the picture, many of the key Arab and Islamic members of OPEC are at least as much anti-America and anti-West as they are anti-Israel. These include Libya, Algeria, Iraq and—today—Iran. Even Saudi Arabia was duly represented at the recent "Third World conference in Havana—a conference that paid relatively little attention to Israel and directed its hostility mainly toward the United States. When and if these nations are inclined to use their oil as an instrument of foreign policy, they will do so, Israel or no Israel.

The problems posed for American foreign policy by the Arab-Israeli conflict and the existence of OPEC are as complex as they are critical. This would hardly seem to be the moment to take flight from these problems by embracing "solutions" so illusory as to be more accurately labeled "panaceas."●

ONE HUNDRED AND FORTIETH ANNIVERSARY OF CENTRAL SYNAGOGUE OF NEW YORK

● Mr. JAVITS. Mr. President, I rise in celebration of the 140th anniversary of the Central Synagogue, the oldest Jewish Reform Congregation in the State of New York. The contributions of its dedicated membership throughout the years to the Nation's pursuit of peace and brotherhood stand as eloquent testimony of the faith and purpose of its founders.

Through its services, classes, schools, and its "Message of Israel" broadcast service, the synagogue has conveyed the reverence and heritage of Judaism not only to the New York community but to the reaches of the continent and beyond.

Its beginnings can be traced to the chartering of the Congregation Shaar Hashomayim in 1839, later to be incorporated into the Central Synagogue, founded in 1846. From their first meetings on Ludlow Street, in the Lower East Side of New York City, 18 men who had recently fled the ghettos of the Old World forged a new community dedicated to the nobility of their faith and to the love of charity and mercy.

In 1870, work began on the building that was later to be distinguished as a landmark of New York City. The cornerstone of the present Sanctuary of Central Synagogue was laid in 1870 by Dr. Isaac Wise, organizer of the Union of American Hebrew Congregations. The oldest synagogue building in continuous use in the city, this twin-spired structure has provided shelter and inspiration to the congregation in its pursuit of the welfare of the community.

Mr. President, the work of the synagogue's leaders exemplifies the kind of dedication and concern that is the hallmark of this institution. Dr. Adolph Huebsch, rabbi from 1865 to 1885, led his congregation in consecrating Judaism to the American scene. Rabbi Alexander Kohut carried on the ideals maintained by Rabbi Huebsch, and his monumental work, the Concordance, established his leadership in Judaic scholarship and devotion.

Rabbi David Davidson expanded the liturgy of the congregation and his prayer and hymn book became known throughout America's Jewish communities. Rabbi Jonah B. Wise, who exercised valuable influence over the overseas relief program of the Joint Distribution Committee in the 1930's, was national chairman of the United Jewish Appeal and founded the United Jewish Laymen's Committee which helped sponsor the "Message of Israel" radio programs. Rabbi David Seligson distinguished the synagogue by scholarship and many contributions to the Jewish community.

The work of the synagogue continues through its services, fine schools, and unfailing leadership. Blessed with rabbis of distinction and congregations of courage and compassion, the synagogue has touched the city and its Nation with the spirit of peace, charity, and love. All New Yorkers, all Americans, owe the Central Synagogue a profound debt of gratitude for its many accomplishments and for the community of brotherhood it has fostered in New York City.●

JUDGE JUAN BURCIAGA

● Mr. SCHMITT. Mr. President, it gives me great pleasure to announce that Juan Burciaga was confirmed on October 31, 1979 by the U.S. Senate for the position of U.S. District Judge for the State of New York.

There are two reasons why I am particularly delighted with this nomination.

First, Mr. Burciaga was recommended to Senator DOMENICI and myself by the New Mexico Federal Judicial Selection Commission. Established in September of 1977, this nine-member bipartisan commission advises us on qualified nominees to fill vacancies for the U.S. District Court, U.S. Attorney, and U.S. Marshal positions in our State. This selection process is designed both to create a merit system for these critical judicial and law-enforcement posts and allow continuation of the prerogative of such selection by the President. Twice, since 1977, this process has resulted in excellent appointments in my home State of New Mexico and the nomination of Juan Burciaga to the position of U.S. District Judge for the District of New Mexico continues this tradition.

Second, Juan's background and personal data are very impressive. I applaud the wisdom of our Selection Commission's recommendation, the President's acceptance of this recommendation, and the Senate confirmation on Wednesday.

Juan's education—University of Colorado, West Point graduate, University of New Mexico law graduate—and 16 years

legal practice with its emphasis on general civil law and trial litigation qualifies him for this important position. To this post, he will also bring a history of personal involvement in his community and Bar Association activities. It is particularly noteworthy, given New Mexico's historic ties to the people of Mexico, that Juan has also given a good deal of his free time to the problems of legal representation for Mexican nationals present in our country without the necessary legal documents to live or work here.

Mr. President, Juan is a loving father of five, a fine attorney, an active participant in his community and professional affairs, and a compassionate human being. I am confident that he will reflect great credit upon our judicial branch of the Federal Government and the people of New Mexico.●

FULBRIGHT PROFESSOR OF LAW ARGUES PRESIDENT CARTER VIOLATED HUMAN RIGHTS AND SELF-DETERMINATION OF THE PEOPLE OF TAIWAN

● Mr. GOLDWATER. Mr. President, in their desperate attempt to find some justification for President Carter's attempted unilateral repeal of the Mutual Defense Treaty with Taiwan, the President's lawyers have claimed that he can do anything at all if it is connected with his act of recognizing another government. First and foremost, this claim has absolutely no relevance to the Taiwan treaty because Congress on the face of a public statute has specifically preserved the life of the defense treaty. In the Taiwan Relations Act, signed into law by President Carter on April 10 of this year, Congress not only continues the existence of the defense treaty and all other treaties with Taiwan, but provides that, for all purposes of the laws of the United States, Taiwan shall be considered to be an independent, sovereign nation.

Whatever merit the recognition argument might have under other circumstances, it is shot down by the impressive line of reasoning developed by Jordan J. Paust, Fulbright Professor of Law at the Institute for Human Rights and International Public Law of the University of Salzburg, Austria. Professor Paust has presented me with arguments, which under international law, prove convincingly that President Carter is in violation of the human rights and self-determination of the people of Taiwan by agreeing with the Peoples Republic of China that Taiwan belongs to China.

Professor Paust believes it can be argued not only that President Carter is in violation of international law, but also that the President has violated the U.S. Constitution by acting contrary to the obligations imposed on the United States under the U.N. Charter, which is itself part of the supreme law of the land.

Mr. President, Professor Paust's letter to me on the subject is self-explanatory and I ask that it be printed in the RECORD.

The letter follows:

MARCH 7, 1979.

DEAR SENATOR GOLDWATER: Thank you for your letter of February 26th. I am still waiting for a copy of your arguments concerning the powers of the President "to unilaterally deem the people of Taiwan . . . suddenly under the . . . sovereignty of the communist regime." However, I have thought of an additional line of argument that incorporates both the international law of self-determination argument and the constitutional restraints on Presidential power in the area of foreign affairs argument mentioned earlier in my letter of Dec. 26th.

It could be argued that under the United States Constitution the President of the United States is bound by international law (see my letter of Dec. 26th, annex, first part, quoting 18 Harv. I.L.J. 19, at 42–44 (1977)), citing cases). There should be no question about the propriety of this first point. Second, one can argue that the most significant indicia of relevant international law in this circumstance is the United Nations Charter (for some evidence of this point, see U.N. Charter, art 103 and the next point). The idea behind Article 103 is that the U.N. Charter is an unusual type of treaty—no ordinary treaty—and a primary, continuing sort of treaty. Third, no other international agreement, treaty or otherwise, that the President may enter into can be valid to the extent that it is inconsistent with the major purposes of the United Nations Charter (see U.N. Charter, art. 103—directly on point). Fourth, the U.N. Charter recognizes the right of peoples to self-determination (see U.N. Charter, art. 1, part 2, as supplemented by the unanimous U.N. Declaration on Principles of International Law Concerning Friendly Relations and Co-Operation adopted in 1970 (references to these will be in Chen, Suzuki, etc. as cited in my first letter); and the U.N. Charter recognizes the right of all persons to human rights (see U.N. Charter, arts. 1, para. 3, and 55, para. c, and 56; as supplemented by the above 1970 Declaration on Principles of International Law, i.e., state "duty"). These are also major purposes of the U.N. Charter (see id., art. 1). At this point, one can argue that the agreement with the P.R.C. is inconsistent with the major purposes of the Charter and is thus void to that extent. Further, the President has no power to enter into such an agreement under U.S. Constitutional law, since the U.N. Charter is itself part of the Supreme Law of the Land under the U.S. Constitution and Article 103 of the Charter, as argued above, forbids the type of agreement that the President has entered into at least to the extent that the agreement is inconsistent with the right of peoples to self-determination and or persons to fundamental human rights.

An additional aspect of the above argument might proceed thusly. Fifth, the U.N. Charter contains an obligation of the United States under Articles 55(c) and 56 to take joint and separate action toward the implementation of a universal respect for and observance of human rights and fundamental freedoms for all persons. Thus, such an obligation is binding on the President of the United States (because of points one and two above). For this reason, the President must take no action that would thwart the United States obligation to take joint and seprate action toward implementation of human rights and fundamental freedoms even though it is recognized that the President has discretion in choosing from among different approaches toward implementation of those rights. The President has discretion to take different measures of affirmative action, but the President cannot take any action that would thwart Articles 1, 55(c) and 56 of the U.N. Charter in such a way as to violate U.S. obligations under the Charter and thus international law and the Supreme Law of the Land.

Nothing in U.S. case law would seem to prevent U.S. courts from stopping the President from violating basic treaty obligations (see Paust, 18 Harv. I.L.J., supra, and 60 Cornell L. Rev. at 235–237; see also 53 Indians L.J. at 668–670). There is a difference between prohibiting a violation of law by the Executive and dictating to the Executive which sort of affirmative, lawful and law-serving approach to foreign policy the Executive should follow. Even the most far-reaching language of the Curtiss-Wright Export case was conditioned by the Court's recognition that the President is bound by the U.S. Constitution—further, that case involved a factual circumstance of joint Congressional involvement).

For these reasons, it can be argued, the President of the United States cannot destroy the right of the people of Taiwan to self-determination (here I assume, from Chen, Suzuki, et al that such a people has such a right). Indeed, to be consistent with the U.S. foreign policy and interests in long-term developments, the President should affirmatively act in order to implement more fully a right of the people of Taiwan. Our country should stand, if for anything, for democratic principles that are mirrored in the U.N. Charter recognitions of self-determination, freely determined, for all peoples. In fact, Congressional legislation already points toward such an affirmative stance—see, e.g., 22 U.S.C. 2304.

JORDAN J. PAUST,
Fulbright Professor of Law.●

AUTHORITY TO RECEIVE MESSAGES DURING THE RECESS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive all messages, and that they may be appropriately referred, between the recess of the Senate today and the hour of convening of the Senate on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE RECESS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Vice President of the United States, the President pro tempore of the Senate, or the Acting President pro tempore of the Senate be authorized to sign all duly enrolled bills and joint resolutions between the time of the recess of the Senate today and the convening hour on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, should the Vice President of the United States, the President pro tempore, or the Acting President, pro tempore not be available to sign duly enrolled bills and joint resolutions on tomorrow, I ask unanimous consent that I may be authorized to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. STEVENS. Will the Senator yield for one moment?

Mr. LONG. I yield.

THANKSGIVING RECESS

Mr. STEVENS. Mr. President, would the Senator from West Virginia think about exploring a means by which we could make some plans for Thanksgiv-

ing? I have just been informed about the sizable number of planes which have been canceled for those of us who must travel long distances to the West. It appears to me that it is going to be most difficult for some of us to be able to get to where we want to spend Thanksgiving if we cannot contemplate leaving on Wednesday.

I wonder if the Senator might consider, and I am not asking for any commitment now, that we might have a Saturday session on the 17th and a commitment to really get our work done as efficiently as possible, with the possibility expressed that if we can do that we could terminate our business on Tuesday evening and leave to go home for Thanksgiving on Wednesday morning.

Mr. ROBERT C. BYRD. Yes; by having a Saturday session on the 17th, which we will probably have to have in any event, and if we can work toward agreements that will assure action on Saturday, so that the workday will be beneficial, and if we can assure progress on Monday and Tuesday, the 19th and 20th, I would be very agreeable to have the Thankgiving holiday begin at the close of business on Tuesday. But I want to be sure we can get some kind of agreement. Otherwise, if some Senators feel we are not going to be in on Wednesday, Thursday, and Friday of that week, we will not get anything done on Monday and Tuesday so they might take those days off, too. So if we can get agreements to be sure that we will be making progress, I will be happy to do that.

I believe the Senator is raising an important point and one that should be considered. I will be glad to try to work that out.

Mr. STEVENS. We will be very happy to work with the majority leader to achieve that. I think the decreasing availability for aircraft for us as we leave here has to be taken into consideration, and I believe Members on both sides will cooperate with the majority leader to bring about a very meaningful Saturday session, if we are sure we can leave on Tuesday evening.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. STEVENS. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Louisiana.

WINDFALL PROFITS TAX

Mr. LONG. Mr. President, as the distinguished majority leader knows, I had indicated to him that I had hoped that we would have passed the so-called windfall profits tax already. That bill entails a great deal more than the House of Representatives sent us. It was the view of the Finance Committee that we should consider not only the tax, as the House considered the tax, but we should also consider the various credits to try to bring on additional conservation and alternative uses of energy, and, in addition to that, we ought to try to consider measures to help the low-income and middle-income people with the high energy bills they would have as a result of the rising cost of energy throughout the world.

We have finished our work. The staff work has been done. As of 1:02 p.m., 2 minutes after 1, today the committee report was available to all Members of the Senate. It is my understanding that the bill and the report are now available. If the leader wants to call up that bill as early as Wednesday afternoon, provided it does not interfere with other plans and other commitments which have been made, that bill could be laid before the Senate. As chairman of the Committee on Finance, I would be pleased to start discussing and explaining that bill and making our plans, if the majority leader wants to bring the bill up that soon.

I know he has been anxious to have this bill before us. He has discussed it with me several times. I just want to say to him here on the floor and for the RECORD that the bill is here and it is available. As far as the Senator from Louisiana is concerned I share the view of the Senator from West Virginia that we should act upon it as early as we can. I hope he will make his plans to schedule it just as soon as that can be done.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Louisiana. I will be happy to discuss this matter with him and with other Senators. There is presently scheduled for Monday the legislation that came out of the Energy Committee, the omnibus energy bill. Of course, along with that bill we will also be discussing the bill that came out of the Banking Committee. I assure the distinguished chairman of the Finance Committee that I have his suggestion in mind and I will be discussing it with him next week.

Mr. LONG. I thank the distinguished majority leader. I intend to cooperate with him to see that this bill is enacted just as soon as the Senate can give it the consideration to which it is entitled. Of course, I know we are not going to vote it through the first day we call it up. I know it will require a considerable amount of debate and a lot of votes. But I am pleased to report to the Senator that at least we are ready to go ahead with the bill. I wish it could have been here sooner but at least it is here now.

Mr. ROBERT C. BYRD. I thank the chairman and I thank him for the time and effort he has put into the hearings and to the markup of the bill, and reporting it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

CAMPECHE OIL SPILL

Mr. WEICKER. Mr. President, I would like to bring to the attention of my colleagues again today a matter which I raised yesterday afternoon and also describe some difficulty I am having in resolving what I think is a rather major problem both to this Nation and to the world as a whole in the sense of the oil spill in the Gulf of Mexico at the Bay of Campeche.

I have been trying to get a sense of the Senate resolution on this floor to be acted upon by the U.S. Senate prior to the leasing of 128 tracts in the Georges Bank area, which is to take place next Tuesday.

The reason that I felt that the sense of the Senate resolution was necessary was that with that resolution in hand the lease sale might at least be postponed until we have an evaluation of what damage has been done in the Gulf of Mexico by that oil spill.

I have to repeat again here today that regardless of the assurances of the Mexican Government, and the silence of our own Government, I can give firsthand knowledge to my colleagues, and that accumulated by a member of my staff who flew over the site last Thursday, that that spill continues, and that the oil is still flowing into the Gulf of Mexico.

I realize that we are all hungry for energy, and I do not want to offend anybody's feelings. I might add that I speak as one who has advocated drilling off the northeast coast. But we are moving into the richest fishing grounds possessed by this Nation. I think we at least ought to know what it is that has happened in the Gulf of Mexico before we subject our own fishing grounds directly to the type of threat posed by the Campeche oil spill.

Mr. President, on Tuesday, the Department of the Interior is scheduled to lease 128 tracts, comprising 728,728 acres of the prime fishing ground on Georges Bank. Here we have one of the greatest of all manmade disasters still continuing, with absolutely no concept as to what the consequences are. The way the law is written, we are supposed to have a national response team give us an evaluation but, the way the law is written, the national response team does not come into being or commence its report until the oil spill is over. This oil spill could go on for another 2 years and we neither have the information as to exactly what has happened in the sense of ecological and environmental damage, nor do we have an answer as to how spills can be prevented in the future.

I suggest that, for the leasing of these lands to go forth—and I have been an advocate of their leasing in the past—for that to go forward in the light of what is going on in the Gulf of Mexico makes absolutely no sense. It is the reason I requested that a sense of the Senate resolution be brought before this body in order to assist in blocking Tuesday's activities.

I am not an environmental nut. I repeat, I have advocated offshore drilling and off the northeastern part of the United States. We need that kind of energy. But I cannot tell, and I think my staff and I have specialized in this area—I cannot in any way explain to the distinguished Senator from Louisiana, who is on the floor, what it is or what has been affected in the sense of the fishing grounds of the southwestern or southern coast of the United States due to the spill. I do not care about the beaches in Texas. That does not bother me at all. That is a pain in the backside and we shall all live with it one way or another. What bothers me and what I think bothers the scientists in that area and the NOAA people in that area is what is going to happen to shrimp beds. That, they have no answer to.

What has happened as far as the food chain is concerned in that area of the ocean is, I repeat, what has not been written about: The oil spill continues. We are now talking about hundreds of miles of ocean—I cannot say laid waste,

because I do not know and my Government does not know. But we are going to go pellmell into the leasing and drilling of our richest fishing grounds without getting the answer.

The sense of the Senate resolution which I drafted merely asked that we get an explanation of Campeche, its consequences, before the sale continues. It does not bear on the sale. I have not made it a broad resolution saying to find out what the general result of oil spills is, et cetera, et cetera. It is a very specific, narrow sense of the Senate resolution. It deserves to be passed. The sale deserves to be postponed or, indeed, now, are we so hungry for energy that we are willing to give up one of our prime sources of food?

Once destroyed, the delicate balance that exists in the oceans and especially on those fishing grounds, and it is the reason why they are the richest in the world—once destroyed, it will never come back in our lifetime.

Mr. LONG. Will the Senator yield?

Mr. WEICKER. I yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I appreciate the Senator's concern, but let me say to the Senator that we in Louisiana have some of the richest marine breeding grounds in the world.

Mr. WEICKER. Absolutely.

Mr. LONG. I would not be surprised if most of the shrimp that are harvested in the Gulf of Mexico or even out in the Atlantic are bred in Louisiana or spawned there.

Mr. WEICKER. I agree.

Mr. LONG. I know I have been just out fishing from time to time and gone past school of shrimp larvae moving out to sea, and I have no doubt that there are enough larvae in those schools that if all of them grew to maturity, there would be enough shrimp so that we could almost walk across from Key West to Cuba on all the shrimp that would be there. Of course, that is thinned out by nature. The bonito and others gorge on all those larvae and fish a great deal larger than that consume those shrimp larvae by the tens of millions. Therefore, there are not nearly as many shrimp left for human consumption.

We also produce a great many oysters. Now, we have had the problem of oil spills in Louisiana in the very areas where the marine life is being spawned, both in the marshlands and also in areas like Barataria Bay, Atchafalaya Bay, you name it—the whole area.

Our experience is that, although we have some temporary damage when we suffer a spill, it has not caused us to have lasting damage. I think the same thing will be true with regard to the Mexican spill. It is a big bother in the short run but, in the long run, I gain the impression that that oil, over a period of time, breaks down in the general chemical composition of the ocean and, over a period of time, the marine life and all the rest are just as good as ever.

For example, in the Louisiana area, we have seen ads on television, and I think they are correct, that fishing is great. We still produce a tremendous amount of oysters and other marine life. As a matter of fact, I was dismayed to find the other day, when I tried to buy some very good crab meat that someone brought up from south Louisiana, that it seems I cannot buy it out of Louisiana because we have a contract to deliver all that up to Maryland, and they call it Maryland crab meat when they sell it in the expensive restaurants up here. Even though it is harvested and picked from the shell right there in Louisiana, it is hauled up to our friends in Maryland, and they advertise it as Maryland crab meat.

So much as I know the Senator is concerned about the matter and I can fully appreciate the feeling when you see that black oil oozing out on that beautiful blue water, over a period of time, it corrects itself.

Mr. WEICKER. Mr. President, the only way of responding is as follows: First, I think the general impression, in this country and throughout the world, is that the Mexicans capped that spill. That was the last word. That is the first point I am making. It is not capped. It is not capped.

Second, Mr. Robert Wicklund of my staff, who, I think, is generally highly respected in the area of ocean science, was the staff member that I sent down there. As he said, he ate some of the Senator's shrimp, or some of the shrimp from that area. This was off the Texas coast. And everybody agreed it tasted like diesel fuel. That is what the shrimp tasted like.

I am not going to stand here and say that the shrimp beds off of the Senator's State are permanently destroyed. I am not in a position to say that. But I do know this: new research indicates that oil, after a time, breaks down into some of the most poisonous toxins known to man. If that gets into the food chain, it eventually is going to end up as a matter for human consumption.

Again, I have to repeat my position in this matter. I have advocated offshore drilling. I understand our energy needs. It is also true that, for the past several years, I have tried to acquire some kind of expertise insofar as the oceans are concerned. I cannot give an answer as to what the results are going to be on what is happening out there.

But I know we have never had anything like it in the history of man, nothing like it in our lifetime.

Before we go pell mell into the other area, I will concede the great, rich fishing grounds off the Senator's State. I do not mean to take away from that. They are all that.

But now, they are going into the other area, the Georges Banks area. The actual figure is that the Georges Banks supplies 17 percent of the seafood to this country, without even ascertaining or evaluating what it is out in any other place.

Now we will go into the Georges Banks area. I think we are playing with fire on this.

Unfortunately, damage done is damage we are not going to be able to retrieve in our lifetimes, and, indeed, much of the results, I suppose, will not show up within our lifetimes.

Would I object if our country admitted it was not capped, had our scientists down there, had onsite investigations?

Mexico will not allow us to do that. And when the President of Mexico comes here, we are afraid to ask for reparations to clean up his mess. That is how sensitive it is. I think it has gone too far the other way.

I do not think anybody can accuse me of being overly concerned in an environmental sense when we have absolutely no impact statement whatsoever, but we will do the whole thing over again in this area of the Georges Banks.

The Senator and I will not argue. He has been out in front on the issue of energy. He is for decontrol, deregulation. We both are. We know we have to look offshore. We have to go deeper. There is no argument on those points.

But I think we should not say that we are just going to accept what is happening, without its evaluation.

I could be as confident as the Senator is that everything will get back to normal. I am not that confident. I think, along with the Senator, I share some knowledge of the oceans, and neither I nor the most brilliant scientific minds in the area can guarantee we have not possibly destroyed, even now, a large part of the fishing grounds in the Gulf of Mexico. I do not want to see the same thing happen off the New England coast.

Mr. LONG. I am sure the Senator knows the reason the ocean is saline is that there have been chlorines and hydrocarbons finding their way into that ocean for eons of time.

For example, it is theorized by some people who have been trying to find oil and gas out in the Atlantic that one reason they have had so little fortune in trying to find something out there is that perhaps over the millions of years in the history of this Earth that the petrochemicals that were formed beneath the Atlantic Ocean, because of cracks and faults in the Earth, might have worked their way out into the ocean over the millions of years of this Earth's history.

The chemical composition of the ocean itself contains just a huge amount of oil that has found its way, not by manmade activity, but just by nature, just cracks in the Earth's surface, into the surface, and some of it in the ocean and some on the land, which has found its way down to the ocean by means of being washed in.

So that as bad as the oil spill is, and it is the worst in the history of the world, I agree with the Senator, it is a matter of real concern, at the same time, I believe the overwhelming view of people who study these matters is that the ocean will absorb it, just as it has the other chemicals that have found their way into it.

Mr. WEICKER. Let me just give two examples. Even though I am not a scientist, this man at my right taught me a lot, having spent his life in the oceans. He is a great expert.

We have seen what happens to wild fowl when oil gets over it. It dies.

The ocean down there is no different from that up here, that something special will not happen there.

Let me give an example to prove my point. Because of the popularity of the Caribbean and the islands down there, we have Americans trooping down there, building houses on all these various islands. Many of these islands have coral reefs around them. Those reefs are dead today, within a matter of a few years. The reason why they are dead is that as

the houses are built on these islands, the trees and the grass is removed and we get a silting action of just dirt—just dirt—washing into the sea.

That dirt washes in, covers over the coral, suffocates it, and it is gone. It is dead in a matter of years.

I think I am correct, roughly, in layman's terms, in what I have described here. It dies. It is gone. And that is the same as the ocean. That is exactly the same to the ocean as a forest fire is to land. We eliminate the habitat for the wildlife.

I cannot believe, when we take the amount of oil that is spilling in the Gulf of Mexico today, it is not suffocating everything that lives below it.

It is one thing to go ahead and contain it in a matter of days or weeks to a narrow area, but this has now spread hundreds and hundreds of miles and continues to do so.

If we do not do anything else, I think, at least, let me have the Government admit it is not capped, let me have the Government of Mexico admit it is not capped, and then proceed from there.

Mr. LONG. Will the Senator yield for a question at that point?

Mr. WEICKER. Yes.

Mr. LONG. All I know about this is what I read in the newspapers. But I believe I read that those who are trying to bring this thing under control have managed to put something over it, I think they call it a bonnet, or something.

Mr. WEICKER. A sombrero.

Mr. LONG. I guess that is what I had in mind.

What it amounts to is something like a very large funnel, so that the oil coming up from the bottom would find itself at a central point where, hopefully, it could be gathered.

Mr. WEICKER. Right.

Mr. LONG. I believe they stated that perhaps 90 percent, or something, approximately that amount, was being captured now and being saved from spilling in the ocean.

Does the Senator have some late information on that?

Mr. WEICKER. The answer is that the sombrero is in place. But it might be assumed they would then be able to pump it from the funnel into tankers.

That is not taking place. It is still going over the surface, and they estimate they are capturing 60 percent off the surface. But it is still there.

As I say, I would assume, when I first heard about this arrangement, that they would be able to take the funnel and start pumping it up. That is not the case. By their own admission, it is 60 percent, and none of the American team down there, the Coast Guard, knows or believes that is the case. But 60 percent of what is gushing out is still an enormous spill.

Mr. LONG. A huge amount, of course.

Mr. WEICKER. A last point, which my aide raises, the natural occurrences which I think the Senator quite correctly alluded to that took place in the Atlantic Ocean, took place over such a long period of time that nature can correct itself.

But what is being man-made here, just comes barreling in on the ecosystems. That is why the ocean cannot clean itself as it did over thousands and millions of years. That is the problem.

Believe me, I know that the Senator's concerns are the same as mine. Next to oil, I am sure fishing is one of the great industries of his State—I know it is.

What I hope to gain here on the floor today—and I will try to introduce my resolution on Monday—is to at least let us have the facts known and not have my Government bury them in the sense of offending a neighbor to the south.

The Mexicans kicked everybody out of there. We have no observers there. They said, "It's capped; everybody out."

I am sorry, I do not believe it. I do not believe them.

The overflight that took place last Thursday by Bob Wilken was at 1,000 feet. Gas is burning off and the oil is gushing out. I do not think that is a satisfactory situation, and certainly it is not a satisfactory prelude to barreling into Georges Bank to do the same thing.

I yield the floor.

Mr. LONG. Mr. President, if the Senator will yield for a moment, my impression is that those are American contractors down there trying to drill these offset wells, to try to bring this well under control. I believe that Red Adair, from Houston, Tex., who is famous for fighting these blowout wells, is the principal contractor. If that is the case, I should think that this Government should be able to get very good information about the matter, simply by asking the American contractors who are drilling those offset wells in an effort to relieve the pressure and to bring this well under control.

Mr. WEICKER. It is my understanding that one relief well definitely has been abandoned and that the other relief well is thought also to be abandoned; that the equipment was leased to the Mexicans, and it is under their operation, not under ours.

The Senator from Louisiana and I are operating from the information we were given a couple of weeks ago. That apparently, however, is not what is occurring on the site at this time.

Mr. LONG. I hope this Government will view the matter with the same gravity as the Senator from Connecticut does, because it is a matter of serious concern.

We do not want to offend the pride of other people, but the fact is that the Americans are far more knowledgeable when it comes to drilling in the ocean than are the Mexicans. The Americans have had a great deal more experience.

One good sign is that when this thing was out of control, the Mexicans did turn to the American experts, who happened to be the best in the world at trying to bring a blown-out well under control. I would be surprised if it were not the case that the experts who brings such a thing under control are on the scene now. Unfortunately, the way that disaster occurred down there was under circumstances that make it one of the most difficult to try to bring under control. I am sure the Senator has discussed with his advisers, and I believe he is familiar with some of the technical aspects of it.

With such a well blowout, after the casing has been set, to try to bring it under control, when you try to plug it up from the bottom, you have to get down to about 10,000 feet under the surface. It means it is like drilling a hole 2 miles deep, to try to intersect something beneath the sea at that distance. It is not easy.

I would think this Nation would use its best efforts to see that everything that could be done would be done to control that spill, because it is a matter of very serious environmental concern, as the Senator has indicated.

Mr. WEICKER. It is not going to do us much good to heat our homes and drive our automobiles if everybody is going to be starving to death. This is the tradeoff which is now taking place. There may be tradeoffs, but I do not think this is a tradeoff we should be making.

I hope my comments today will have some impact. If not, I will be back at the same old stand next week.

It is my understanding that lawsuits are proceeding on behalf of several New England States, to try to block those leases. I wish them all the success in the world. In any event, I hope my words will reach the ears of the judge and that he might investigate for himself.

(Mr. LONG assumed the chair.)

ORDER FOR RECESS TODAY UNTIL 10 A.M. MONDAY, NOVEMBER 5, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10 o'clock on Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, immediately after the two leaders have been recognized under the standing order on Monday, there be a period for the transaction of routine morning business not to exceed 15 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY LEGISLATION MONDAY

Mr. ROBERT C. BYRD. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Has it not already been ordered that on Monday, following morning business, the Senate will proceed to the consideration of energy legislation?

The PRESIDING OFFICER. The Senator is correct.

COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 6, beginning at 2 p.m., to hold a markup session on the SALT II treaty.

Mr. WEICKER. I respectfully object.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

Mr. WEICKER. I thank the distinguished majority leader.

RECESS UNTIL 10 A.M., MONDAY, NOVEMBER 5, 1979

Mr. LEVIN Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 10 a.m. on Monday next.

The motion was agreed to; and at 3:55 p.m. the Senate recessed until Monday, November 5, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 2, 1979:

DEPARTMENT OF STATE

Angier Biddle Duke, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

COUNCIL ON ENVIRONMENTAL QUALITY

Robert H. Harris, of Maryland, to be a member of the Council on Environmental Quality, vice Charles Hugh Warren, resigned.

HOUSE OF REPRESENTATIVES—*Friday, November 2, 1979*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. BRADEMAS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

NOVEMBER 1, 1979.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore on Friday, November 2, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, giver of Your eternal word, speak to us in Your still, small voice that we may hear the words of life and redemption. May we be open to Your truth and power and not so involved in necessary activity that we do not hear the beauty of Your promises. Enable us to grow in faith and in trust one with another as we listen to the words of hope that You have given. May this moment of prayer be for us an opportunity to reflect on Your goodness to us and an occasion to give thanks for this new day in which we live and serve. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 10, answered "present" 3, not voting 151, as follows:

[Roll No. 627]

YEAS—269

Abdnor
Akaka
Alboeta
Anderson, Calif.
Annunzio
Anthony
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boland
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Clay
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Deckard
Derrick
Devine
Dornelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fary
Fazio
Fenwick
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford, Mich.
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Hawkins
Heckler
Hefner
Hightower
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McHugh
McKay
Maguire
Marks
Marlenee
Martin
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Hatchford
Regula
Reuss
Ritter
Roberts
Robinson
Rose
Rostenkowski
Roth
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Sensenbrenner
Sharp
Shuster
Simon
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stangeland
Stanton
Stenholm
Stewart
Stockman
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Udall
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Wolpe
Wyatt
Wydler
Wylie
Yates
Young, Fla.
Zeferetti

NAYS—10

Coughlin
Derwinski
Dickinson
Goodling
Harkin
Hillis
Lloyd
Schroeder
Walker
Wilson, Bob

ANSWERED "PRESENT"—3

Forsythe
Miller, Calif.
Neal

NOT VOTING—151

Addabbo
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Ashbrook
Badham
Beard, Tenn.
Bedell
Biaggi
Bingham
Blanchard
Boggs
Boling
Boner
Broomfield
Brown, Calif.
Burton, John
Carr
Cheney
Chisholm
Clausen
Cleveland
Clinger
Collins, Ill.
Conyers
Corman
Cotter
Crane, Philip
D'Amours
Daschle
Davis, S.C.
de la Garza
Dellums
Dicks
Diggs
Dingell
Dixon
Dodd
Dougherty
Edgar
Edwards, Okla.
Evans, Del.
Evans, Ga.
Fascell
Ferraro
Fisher
Flood
Ford, Tenn.
Fountain
Fowler
Garcia
Gephardt
Giaimo
Gradison
Harris
Harsha
Heftel
Holland
Horton
Huckaby
Ichord
Jacobs
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Kostmayer
Kramer
Leach, La.
Lent
Lewis
Livingston
Loeffler
Long, La.
Lundine
McDade
McDonald
McEwen
McKinney
Madigan
Markey
Marriott
Mathis
Mattox
Mavroules
Mineta
Mitchell, Md.
Modett
Mollohan
Moore
Murphy, Ill.
Nelson
Nichols
Ottinger
Panhayan
Patten
Patterson
Pepper
Pritchard
Quayle
Railsback
Rhodes

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Richmond	Spellman	Wampler
Rinaldo	St Germain	Waxman
Rodino	Stack	Whitley
Roe	Staggers	Williams, Ohio
Rosenthal	Stark	Wilson, C. H.
Rousselot	Stead	Wilson, Tex.
Roybal	Stokes	Winn
Runnels	Stratton	Wirth
Russo	Symms	Wolff
Santini	Treen	Wright
Seiberling	Trible	Yatron
Shannon	Ullman	Young, Alaska
Shelby	Van Deerlin	Young, Mo.
Shumway	Vander Jagt	Zablocki
Smith, Iowa	Vanik	

□ 0910

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 998. An act to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties; and

H.R. 2196. An act to establish a Congressional Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 1281. An act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the vessels SS *United States*, SS *Oceanic Independence*, and SS *Santa Rosa* into the trade.

The message also announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 838. An act to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out the purposes of the act, and to initiate an emergency investigation on the striped bass in Atlantic coastal waters.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4440. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4440) entitled "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAYH, Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. EAGLETON, Mr. DURKIN, Mr. MCCLURE, Mr. MATHIAS, Mr. WEICKER, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1728) entitled "An act to designate U.S. Federal Courthouse Building located at 655 East Durango, San Antonio, Tex., as the "John H. Wood, Jr., Federal Courthouse."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1905) entitled "An act to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. LONG, and Mr. PACKWOOD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1477. An act to provide for improvements in the structure and administration of the Federal courts, and for other purposes.

CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 36, SECOND BUDGET RESOLUTION, FISCAL YEARS 1980, 1981, AND 1982

Mr. PANETTA submitted the following conference report and statement on the Senate concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982:

CONFERENCE REPORT (H. REPT. No. 96-582)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982, having met, after full and free conference, have been unable to agree. However, they have agreed upon all matters except for one—whether Congress should invoke the reconciliation provisions of the Budget Act for fiscal year 1980.

R. N. GIAIMO,
LUD ASHLEY,
LOUIS STOKES,
PAUL SIMON,
NORMAN Y. MINETA,
JAMES JONES,
STEPHEN SOLARZ,
TIMOTHY E. WIRTH,
LEON PANETTA,
BILL NELSON,
WILLIAM H. GRAY,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
LAWTON CHILES,
JOE BIDEN,
J. BENNETT JOHNSTON,
HENRY BELLMON,
PETE DOMENICI,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The members on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the Concurrent Resolution (S. Con. Res. 36) revising the Congressional budget for the United States Government for fiscal years 1980, 1981 and 1982 report that the conferees have been unable to agree. The conferees have agreed on all matters except one—whether Congress should invoke the reconciliation provisions of the Budget Act for 1980.

It is the intention of the conferees that the managers on the part of the Senate will offer a motion in the Senate to agree to a conference substitute which includes both the agreed upon budget figures and the reconciliation instructions originally passed by the Senate. Upon the adoption of that substitute in the Senate, the managers on the part of the House will offer a motion in the House to concur in the Senate amendment with an amendment to strike the reconciliation instructions.

The managers on the part of the House and the Senate submit the following joint statement in explanation of the action agreed upon by the managers. The substitute language which is to be offered as described above (and which should be considered the language of the concurrent resolution as recommended in the conference report for purposes of Section 302(a) of the Congressional Budget Act of 1974)—hereinafter in this statement referred to as the "conference substitute"—is as follows:

That the Congress hereby determines and declares, pursuant to Section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $517,800,000,000, and the amount by which the aggregate level of Federal revenues should be increased is $2,400,000,000;

(2) the appropriate level of total new budget authority is $638,000,000,000;

(3) the appropriate level of total budget outlays is $547,600,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $29,800,000,000; and

(5) the appropriate level of the public debt is $886,400,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $7,400,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979, the appropriate level of new budget authority and the estimated budget outlays for each functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $141,200,000,000;
(B) Outlays, $129,900,000,000.
(2) International Affairs (150):
(A) New budget authority, $13,100,000,000;
(B) Outlays, $8,400,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,850,000,000;
(B) Outlays, $5,700,000,000.
(4) Energy (270):
(A) New budget authority, $39,500,000,000;
(B) Outlays, $7,250,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $12,600,000,000;
(B) Outlays, $11,900,000,000.
(6) Agriculture (350):
(A) New budget authority, $5,000,000,000;
(B) Outlays, $2,550,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $6,800,000,000;
(B) Outlays, $2,850,000,000.
(8) Transportation (400):
(A) New budget authority, $19,500,000,000;
(B) Outlays, $18,600,000,000.
(9) Community and Regional Development (450):
(A) New budget authority, $8,900,000,000;
(B) Outlays, $8,350,000,000.
(10) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $30,900,000,000;

(B) Outlays, $31,000,000,000.
(11) Health (550):
(A) New budget authority, $58,800,000,000;
(B) Outlays $54,450,000,000.
(12) Income Security (600):
(A) New budget authority, $218,500,000,000;
(B) Outlays, $190,000,000,000.
(13) Veterans Benefits and Services (700):
(A) New budget authority, $21,450,000,000;
(B) Outlays, $20,800,000,000.
(14) Administration of Justice (750):
(A) New budget authority, $4,200,000,000;
(B) Outlays, $4,400,000,000.
(15) General Government (800):
(A) New budget authority, $4,450,000,000;
(B) Outlays, $4,200,000,000.
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,050,000,000;
(B) Outlays, $9,050,000,000.
(17) Interest (900):
(A) New budget authority, $58,100,000,000;
(B) Outlays, $58,100,000,000.
(18) Allowances (920):
(A) New budget authority, —$200,000,000;
(B) Outlays, —$200,000,000.
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$19,700,000,000;
(B) Outlays, —$19,700,000,000.

RECONCILIATION

Sec. 3. That the Congress hereby determines and declares pursuant to section 310 of the Congressional Budget Act of 1974 that in order to achieve a balanced budget in fiscal year 1981 and deficit reductions in fiscal year 1980, the following reconciliation instructions are appropriate:

(a) The allocation pursuant to section 302(a) of the Budget Act to the Committee on Appropriations for all legislation within its jurisdiction shall not exceed $390,200,000,000 in budget authority and $343,100,000,000 in outlays as assumed in this budget resolution. If some rescission of appropriations proves necessary to prevent any regular or supplemental appropriation for fiscal year 1980 exceeding the ceilings provided in this section, the Committee on Appropriations shall report legislation to rescind the necessary amount.

(b) Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Education and Labor, shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of these committees sufficient to accomplish the reduction required by this section.

(c) Pursuant to subsection 310(a) of the Congressional Budget Act of 1974, the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $250,000,000 in budget authority and are instructed to report promptly, in accordance with section 310 of such Act, recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of these committees sufficient to accomplish the reduction required by this section.

(d) Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Service shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the legislative jurisdictions of those committees which would require reductions in spending or appropriations and which are sufficient to accomplish the reduction required by this section.

(e) Pursuant to subsection 310(a) of the Congressional Budget Act of 1974, the Committees on Armed Services shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly in accordance with section 310 of such Act, their recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(f) Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Finance and the House Committee on Ways and Means shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $300,000,000 in budget authority and $1,400,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(g) Pursuant to subsection 310(a) of the Congressional Budget Act of 1974, the Committees on Veterans Affairs shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly, in accordance with section 310 of such Act, recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(h) Pursuant to sections 300 and 310 of the Congressional Budget Act of 1974, the authorizing committees specified herein shall report the recommendations required by this resolution within thirty days after Congress has adopted this resolution and congressional action on reconciliation legislation must be completed before the end of the first session of the 96th Congress.

BUDGET TOTALS FOR FISCAL YEARS 1981 AND 1982

Sec. 4(a). In order to achieve a balanced budget recommended by the Senate in fiscal years 1981 and 1982, the following budgetary levels are appropriate for fiscal years 1981 and 1982:

(1) the recommended level of Federal revenues is as follows:

Fiscal year 1981: $610,700,000,000.
Fiscal year 1982: $671,800,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:

Fiscal year 1981: $610,700,000,000.
Fiscal year 1982: —$34,800,000,000;

(2) the appropriate level of total new budget authority is as follows:

Fiscal year 1981: $664,900,000,000;
Fiscal year 1982: $747,600,000,000;

(3) the appropriate level of total budget outlays is as follows:

Fiscal year 1981: $600,500,000,000;
Fiscal year 1982: $653,000,000,000;

(4) the amount of the surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1981: $9,700,000,000;
Fiscal year 1982: $18,800,000,000;

(5) the appropriate level of the public debt is as follows:

Fiscal year 1981: $911,200,000,000;
Fiscal year 1982: $939,100,000,000;

and the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:

Fiscal year 1981: $32,200,000,000;
Fiscal year 1982: $60,100,000,000.

(b) Based on allocations of the appropriate level of total new budget authority and of total budget outlays for fiscal years 1981 and 1982 as set forth above, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (505):
Fiscal year 1981:
(A) New budget authority, $159,800,000,000;
(B) Outlays, $146,400,000,000.
Fiscal year 1982:
(A) New budget authority, $180,500,000,000;
(B) Outlays, $163,300,000,000.
(2) International Affairs (150):
Fiscal year 1981:
(A) New budget authority, $14,100,000,000;
(B) Outlays, $8,700,000,000.
Fiscal year 1982:
(A) New budget authority, $14,900,000,000;
(B) Outlays, $8,800,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1981:
(A) New budget authority, $5,900,000,000;
(B) Outlays, $5,800,000,000.
Fiscal year 1982:
(A) New budget authority, $5,600,000,000;
(B) Outlays, $5,700,000,000.
(4) Energy (270):
Fiscal year 1981:
(A) New budget authority, $4,700,000,000;
(B) Outlays, $7,800,000,000.
Fiscal year 1982:
(A) New budget authority, $24,200,000,000;
(B) Outlays, $9,700,000,000.
(5) Natural Resources and Environment (300):
Fiscal year 1981:
(A) New budget authority, $13,400,000,000;
(B) Outlays, $12,700,000,000.
Fiscal year 1982:
(A) New budget authority, $14,100,000,000;
(B) Outlays, $13,500,000,000.
(6) Agriculture (350):
Fiscal year 1981:
(A) New budget authority, $4,800,000,000;
(B) Outlays, $3,200,000,000.
Fiscal year 1982:
(A) New budget authority, $3,900,000,000;
(B) Outlays, $3,600,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1981:
(A) New budget authority, $5,900,000,000;
(B) Outlays, $3,500,000,000.
Fiscal year 1982:
(A) New budget authority, $6,200,000,000;
(B) Outlays, $3,200,000,000.
(8) Transportation (400):

Fiscal year 1981:
(A) New budget authority, $21,600,000,000;
(B) Outlays, $19,700,000,000.
Fiscal year 1982:
(A) New budget authority, $20,400,000,000;
(B) Outlays, $20,700,000,000.
(9) Community and Regional Development (450):
Fiscal year 1981:
(A) New budget authority, $9,900,000,000;
(B) Outlays, $9,200,000,000.
Fiscal year 1982:
(A) New budget authority, $9,500,000,000;
(B) Outlays, $9,600,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1981:
(A) New budget authority, $31,100,000,000;
(B) Outlays, $30,500,000,000.
Fiscal year 1982:
(A) New budget authority, $31,100,000,000;
(B) Outlays, $30,800,000,000.
(11) Health (550):
Fiscal year 1981:
(A) New budget authority, $70,500,000,000;
(B) Outlays, $62,000,000,000.
Fiscal year 1982:
(A) New budget authority, $82,200,000,000;
(B) Outlays, $69,400,000,000.
(12) Income Security (600):
Fiscal year 1981:
(A) New budget authority, $244,300,000,000;
(B) Outlays, $212,400,000,000.
Fiscal year 1982:
(A) New budget authority, $275,600,000,000;
(B) Outlays, $235,800,000,000.
(13) Veterans Benefits and Services (700):
Fiscal year 1981:
(A) New budget authority, $22,100,000,000;
(B) Outlays, $21,700,000,000.
Fiscal year 1982:
(A) New budget authority, $23,200,000,000;
(B) Outlays, $23,200,000,000.
(14) Administration of Justice (750):
Fiscal year 1981:
(A) New budget authority, $4,400,000,000;
(B) Outlays, $4,500,000,000.
Fiscal year 1982:
(A) New budget authority, $4,500,000,000;
(B) Outlays, $4,500,000,000.
(15) General Government (800):
Fiscal year 1981:
(A) New budget authority, $4,700,000,000;
(B) Outlays, $4,400,000,000.
Fiscal year 1982:
(A) New budget authority, $4,900,000,000;
(B) Outlays, $4,600,000,000.
(16) General Purpose Fiscal Assistance (850):
Fiscal year 1981:
(A) New budget authority, $8,200,000,000;
(B) Outlays, $8,600,000,000.
Fiscal year 1982:
(A) New budget authority, $8,200,000,000;
(B) Outlays, $8,200,000,000.
(17) Interest (900):
Fiscal year 1981:
(A) New budget authority, $60,900,000,000;
(B) Outlays, $60,900,000,000.
Fiscal year 1982:
(A) New budget authority, $62,300,000,000;
(B) Outlays, $62,300,000,000.
(18) Allowances (920):
Fiscal year 1981:
(A) New budget authority, $0;
(B) Outlays, $0.
Fiscal year 1982:
(A) New budget authority, $100,000,000;
(B) Outlays, $100,000,000.
(19) Undistributed Offsetting Receipts (950):
Fiscal year 1981:
(A) New budget authority, —$21,500,000,000;
(B) Outlays, —$21,500,000,000.
Fiscal year 1982:
(A) New budget authority, —$23,900,000,000;
(B) Outlays, —$23,900,000,000.

Sec. 5. The House projects the following budget aggregates for fiscal years 1981 and 1982, based on the policies assumed in sections (1) and (2) above:

(1) The level of Federal revenues is as follows:
Fiscal year 1981: $603,200,000,000;
Fiscal year 1982: $703,400,000,000.

(2) The level of total new budget authority is as follows:
Fiscal year 1981: $668,137,000,000;
Fiscal year 1982: $730,318,000,000.

(3) The level of total budget outlays is as follows:
Fiscal year 1981: $602,699,000,000;
Fiscal year 1982: $655,869,000,000.

(4) The amount of surplus in the budget is as follows:
Fiscal year 1981: $501,000,000;
Fiscal year 1982: $47,531,000,000.

(5) The level of the public debt is as follows:
Fiscal year 1981: $921,900,000,000.
Fiscal year 1982: $920,400,000,000.

General provisions

Sec. 6(a). In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

Within a reasonable period of time after March 15, 1980, the Budget Committee of the House of Representatives shall submit to the House such recommendations as it considers appropriate based on such reports.

(b) The Congress reaffirms its commitment to find a way within the congressional budget process to relate accurately the outlays of off-budget Federal entities to the budget. The Congress recognizes that by law the outlays of off-budget Federal entities are not reflected in the budget totals, and that in fiscal year 1980, off-budget outlays (and, hence, the off-budget deficit) are estimated to be $16,000,000,000.

EXPLANATION OF CONFERENCE SUBSTITUTE

Economic assumptions

The fiscal policy contained in the conference substitute is designed in recognition of the overwhelming necessity to pursue reasonable fiscal restraint in view of the present high rate of inflation.

The economic assumptions underlying the revenue and spending levels contained in the conference substitute are as follows:

[Calendar years; dollar amounts in billions]

	1979	1980
Gross national product:		
Current dollars	2,336	2,571
Constant (1972) dollars	1,410	1,424
Incomes:		
Personal income	1,906	2,107
Wages and salaries	1,221	1,341
Corporate profits	224	239
Unemployment rate:		
Calendar year average	6.2	7.2
4th quarter	6.9	7.2
Consumer Price Index (percent change; year over year)	10.6	9.3
Interest rate, 3-mo Treasury bills (monthly average)	9.1	8.4

YEAR-END WASTEFUL SPENDING

The conferees are very concerned about wasteful government spending which may result from agency practices of obligating substantial amounts of funds during the last weeks and months of the fiscal year in order to avoid lapse of unneeded funds at year end. Although the seasonal nature of some programs may require that obligations be incurred at a greater rate toward the end of a fiscal year, there are undoubtedly many instances of hasty and ill-considered obligations simply because the annual appropriations would otherwise lapse.

Accordingly, the conferees urge continued careful scrutiny of appropriation requests by the Congress to assure that amounts made available for obligation are not excessive, and careful review by the Office of Management and Budget of requests for apportionment to reduce instances of wasteful end-of-year obligation of funds.

In particular, the conferees urge the appropriate committees to consider the need for language in fiscal year 1981 spending bills to control the obligation rates for Federal programs, or consider alternative legislative remedies for this problem. The conferees also urge the President to consider such limitations or remedies as part of his budget and legislative proposals for fiscal year 1981.

BUDGET AGGREGATES FOR FISCAL YEAR 1980

Revenues

The Senate Resolution provided revenues of $514.7 billion in fiscal year 1980, $603.6 billion in fiscal year 1981, and $658.4 billion in fiscal year 1982 and provided that legislation should increase revenues on a net basis by $2.0 billion and $9.7 billion respectively in fiscal years 1980 and 1981, and decrease revenues on a net basis by $38.7 billion in fiscal year 1982. The fiscal year 1982 Senate total assumed a general tax reduction of at least $56 billion.

The House amendment provided Federal revenues of $519.25 billion in fiscal year 1980, and projected revenues of $605.2 billion in fiscal year 1981 and $704.0 billion in fiscal year 1982 based on the revenues the House amendments provided in fiscal year 1980, and to achieve the 1980 level provided that legislation and administrative action should increase revenues on a net basis by $5.05 billion. Within these revenue levels the House assumed $2.8 billion for a new windfall profits tax and additional sums for cash management, foreign oil tax credits, mortgage subsidy bonds, and other revenue raising and losing changes.

The conference substitute provides revenues of $517.8 billion and to achieve that level provides that legislation should increase revenues on a net basis by $2.4 billion. This number represents not a policy position on tax legislation but a compromise on revenues; there is no intent to prejudge the outcome of the conference on the windfall profits tax.

Budget authority

The Senate Resolution provided budget authority of $636.6 billion in fiscal year 1980, $661.7 billion in fiscal year 1981, and $744.0 billion in fiscal year 1982. The House amendment provided budget authority of $631.807 billion in fiscal year 1980 and projected budget authority of $666.459 billion in fiscal year 1981 and $728.402 billion in fiscal year 1982 based on the budget authority the House amendment provided in fiscal year 1980.

The conference substitute provides budget authority of $638.0 billion in fiscal year 1980.

Outlays

The Senate Resolution provided outlays of $546.3 billion in fiscal year 1980, $596.8 billion in fiscal year 1981, and $649.1 billion in fiscal year 1982. The House amendment provided outlays of $548.175 billion in fiscal year 1980 and projected outlays of $603.477 billion in fiscal year 1981 and $655.098 billion in fiscal year 1982 based on the outlays the House amendment provided in fiscal year 1980.

The conference substitute provides outlays of $547.6 billion for fiscal year 1980.

Deficit

The Senate resolution provided for a deficit of $31.6 billion in fiscal year 1980 and surpluses of $6.8 billion in fiscal year 1981 and $9.3 billion in fiscal year 1982. The House amendment provided for a deficit of $28.925 billion in fiscal year 1980 and projected surpluses of $1.723 billion in fiscal year 1981 and $48.902 billion in fiscal year 1982 based on the deficit the House amendment provided for in fiscal year 1980.

The conference substitute provides for a deficit of $29.5 billion in fiscal year 1980.

Public debt

The Senate resolution provided for a public debt level of $890.7 billion in fiscal year 1980, $916.8 billion in fiscal year 1981, and $946.7 billion in fiscal year 1982. The House amendment provided for a public debt level of $885.825 billion in fiscal year 1980 and projected a public debt level of $916.175 billion in fiscal year 1981 and $907.7 billion in fiscal year 1982 based on the public debt level the House amendment provided for in fiscal year 1980.

The conference substitute provides for a public debt level of $886.4 billion in fiscal year 1980.

FUNCTIONAL CATEGORIES

050: National defense

The Senate resolution provided budget authority of $141.2 billion in fiscal year 1980, $159.8 billion in fiscal year 1981, and $180.4 billion in fiscal year 1982, and outlays of $130.6 billion in fiscal year 1980, $145.6 billion in fiscal year 1981, and $163.3 billion in fiscal year 1982. The House amendment provided budget authority of $138.156 billion in fiscal year 1980 and outlays of $128.587 billion in fiscal year 1980.

The conference substitute provides budget authority of $141.2 billion and outlays of $129.9 billion in fiscal year 1980.

150: International affairs

The Senate resolution provided budget authority of $13.1 billion in fiscal year 1980, $14.0 billion in fiscal year 1981, and $14.9 billion in fiscal year 1982 and outlays of $8.3 billion in fiscal year 1980, $8.7 billion in fiscal year 1981, and $8.7 billion in fiscal year 1982. The House amendment provided budget authority of $12.593 billion in fiscal year 1980 and outlays of $8.522 billion in fiscal year 1980.

The conference substitute provides budget authority of $13.1 billion and outlays of $8.4 billion in fiscal year 1980.

The funding levels agreed to are assumed to be not incompatible with providing for increased food assistance and disaster relief in response to the current emergency in Cambodia.

250: General science, space, and technology

The Senate resolution provided budget authority of $5.9 billion in fiscal year 1980, $5.9 billion in fiscal year 1981, and $5.6 billion in fiscal year 1982, and outlays of $5.7 billion in fiscal year 1980, $5.8 billion in fiscal year 1981, and $5.7 billion in fiscal year 1982. The House amendment provided budget authority of $5.833 billion in fiscal year 1980 and outlays of $5.662 billion in fiscal year 1980.

The conference substitute provides budget authority of $5.85 billion and outlays of $5.7 billion in fiscal year 1980.

270: Energy

The Senate resolution provided budget authority of $41.0 billion in fiscal year 1980, $4.7 billion in fiscal year 1981, and $24.2 billion in fiscal year 1982, and outlays of $7.0 billion in fiscal year 1980, $7.6 billion in fiscal year 1981, and $9.5 billion in fiscal year 1982. The House amendment provided budget authority of $36.266 billion in fiscal year 1980 and outlays of $6.801 billion in fiscal year 1980.

The conference substitute provides budget authority of $39.5 billion and outlays of $7.25 billion in fiscal year 1980.

This is an increase of $3.234 billion in budget authority and a decrease of $1.551 billion in outlays from the House resolution for energy programs. The outlay reduction is primarily due to the transfer of one program to another function.

The conference substitute can accommodate funding for such new energy initiatives as the Energy Security Corporation, conservation and solar programs, and the energy-related transportation initiatives proposed by the President. An allowance for energy-related low-income assistance initiatives is included in function 600. The House-passed resolution included this allowance in function 270. The transfer of the allowance for this program merely constitutes a technical adjustment among functional categories, and thus has no programmatic significance.

300: Natural resources and environment

The Senate resolution provided budget authority of $12.7 billion in fiscal year 1980, $13.4 billion in fiscal year 1981, and $14.1 billion in fiscal year 1982, and outlays of $11.9 billion in fiscal year 1980, $12.7 billion in fiscal year 1981, and $13.5 billion in fiscal year 1982. The House amendment provided budget authority of $12.525 billion in fiscal year 1980 and outlays of $11.926 billion in fiscal year 1980.

The conference substitute provides budget authority of $12.6 billion and outlays of $11.9 billion in fiscal year 1980.

350: Agriculture

The Senate resolution provided budget authority of $5.0 billion in fiscal year 1980, $4.8 billion in fiscal year 1981, and $3.9 billion in fiscal year 1982, and outlays of $2.6 billion in fiscal year 1980, $3.2 billion in fiscal year 1981, and $3.6 billion in fiscal year 1982. The House amendment provided budget authority of $4.983 billion in fiscal year 1980 and outlays of $2.542 billion in fiscal year 1980.

The conference substitute provides budget authority of $5.0 billion and outlays of $2.55 billion in fiscal year 1980.

370: Commerce and housing credit

The Senate resolution provided budget authority of $6.8 billion in fiscal year 1980, $5.9 billion in fiscal year 1981, and $6.2 billion in fiscal year 1982, and outlays of $3.0 billion in fiscal year 1980, $3.5 billion in fiscal year 1981, and $3.2 billion in fiscal year 1982. The House amendment provided budget authority of $6.778 billion in fiscal year 1980 and outlays of $2.828 billion in fiscal year 1980.

The conference substitute provides budget authority of $6.8 billion and outlays of $2.85 billion in fiscal year 1980.

400: Transportation

The Senate resolution provided budget authority of $19.5 billion in fiscal year 1980, $21.7 billion in fiscal year 1981, and $20.4 billion in fiscal year 1982, and outlays of $18.6 billion in fiscal year 1980, $19.8 billion in fiscal year 1981, and $20.8 billion in fiscal year 1982. The House amendment provided budget authority of $19.61 billion in fiscal year 1980 and outlays of $18.651 billion in fiscal year 1980.

The conference substitute provides budget authority of $19.5 billion and outlays of $18.6 billion in fiscal year 1980.

450: Community and regional development

The Senate resolution provided budget authority of $8.9 billion in fiscal year 1980, $9.9 billion in fiscal year 1981, and $9.5 billion in fiscal year 1982, and outlays of $8.4 billion in fiscal year 1980, $9.2 billion in fiscal year 1981, and $9.6 billion in fiscal year 1982. The House amendment provided budget authority of $8.991 billion in fiscal year 1980 and outlays of $8.289 billion in fiscal year 1980.

The conference substitute provides budget authority of $8.9 billion and outlays of $8.35 billion in fiscal year 1980.

The conferees again reiterate their strong support of legislation to rationalize the several Federal programs of disaster assistance and thus reduce demands upon the Federal Treasury.

500: Education, training, employment, and social services

The Senate resolution provided budget authority of $29.7 billion in fiscal year 1980, $30.4 billion in fiscal year 1981, and $30.3 billion in fiscal year 1982, and outlays of $30.5 billion in fiscal year 1980, $30.0 billion in fiscal year 1981, and $30.0 billion in fiscal year 1982. The House amendment provided budget authority of $31.291 billion in fiscal year 1980 and outlays of $31.371 billion in fiscal year 1980.

The conference substitute provides budget authority of $30.9 billion and outlays of $31.0 billion in fiscal year 1980.

The conferees are not in opposition to full funding of the Basic Educational Opportunity Grants (BEOGs) program pursuant to the appropriations process.

550: Health

The Senate resolution provided budget authority of $58.8 billion in fiscal year 1980, $70.5 billion in fiscal year 1981, and $82.1 billion in fiscal year 1982, and outlays of $54.2 billion in fiscal year 1980, $61.1 billion in fiscal year 1981, and $68.1 billion in fiscal year 1982. The House amendment provided budget authority of $58.767 billion in fiscal year 1980 and outlays of $54.715 billion in fiscal year 1980.

The conference substitute provides budget authority of $58.8 billion and outlays of $54.45 billion in fiscal year 1980.

600: Income security

The Senate resolution provided budget authority of $216.6 billion in fiscal year 1980, $242.2 billion in fiscal year 1981, and $273.4 billion in fiscal year 1982, and outlays of $188.7 billion in fiscal year 1980, $211.3 billion in fiscal year 1981, and $234.7 billion in fiscal year 1982. The House amendment provided budget authority of $217.658 billion in fiscal year 1980 and outlays of $188.795 billion in fiscal year 1980.

The conference substitute provides budget authority of $218.5 billion and outlays of $190.0 billion in fiscal year 1980

700: Veterans benefits and services

The Senate resolution provided budget authority of $21.2 billion in fiscal year 1980, $21.9 billion in fiscal year 1981, and $22.8 billion in fiscal year 1982, and outlays of $20.6 billion in fiscal year 1980, $21.4 billion in fiscal year 1981, and $22.7 billion in fiscal year 1982. The House amendment provided budget authority of $21.607 billion in fiscal year 1980 and outlays of $20.851 billion in fiscal year 1980.

The conference substitute provides budget authority of $21.45 billion and outlays of $20.8 billion in fiscal year 1980.

750: Administration of justice

The Senate resolution provided budget authority of $4.2 billion in fiscal year 1980, $4.4 billion in fiscal year 1981, and $4.5 billion in fiscal year 1982, and outlays of $4.4 billion in fiscal year 1980, $4.5 billion in fiscal year 1981, and $4.5 billion in fiscal year 1982. The House amendment provided budget authority of $4.269 billion in fiscal year 1980 and outlays of $4.468 billion in fiscal year 1980.

The conference substitute provides budget authority of $4.2 billion and outlays of $4.4 billion in fiscal year 1980.

800: General Government

The Senate resolution provided budget authority of $4.4 billion in fiscal year 1980, $4.7 billion in fiscal year 1981, and $4.9 billion in fiscal year 1982, and outlays of $4.2 billion in fiscal year 1980, $4.4 billion in fiscal year 1981, and $4.6 billion in fiscal year 1982. The House amendment provided budget authority of $4.484 billion in fiscal year 1980 and outlays of $4.301 billion in fiscal year 1980.

The conference substitute provides budget authority of $4.45 billion and outlays of $4.2 billion in fiscal year 1980.

850: General purpose fiscal assistance

The Senate resolution provided budget authority of $9.3 billion in fiscal year 1980, $8.2 billion in fiscal year 1981, and $8.2 billion in fiscal year 1982, and outlays of $9.3 billion in fiscal year 1980, $8.6 billion in fiscal year 1981, and $8.2 billion in fiscal year 1982. The House amendment provided budget authority

of $9.076 billion in fiscal year 1980 and outlays of $9.075 billion in fiscal year 1980.

The conference substitute provides budget authority of $9.05 billion and outlays of $9.05 billion in fiscal year 1980.

900: Interest

The Senate resolution provided budget authority of $58.1 billion in fiscal year 1980, $60.9 billion in fiscal year 1981, and $62.3 billion in fiscal year 1982, and outlays of $58.1 billion in fiscal year 1980, $60.9 billion in fiscal year 1981, and $62.3 billion in fiscal year 1982. The House amendment provided budget authority of $58.038 billion in fiscal year 1980 and outlays of $58.038 billion in fiscal year 1980.

The conference substitute provides budget authority of $58.1 billion and outlays of $58.1 billion in fiscal year 1980.

920: Allowances

The Senate resolution provided budget authority of —$0.1 billion in fiscal year 1980, —$0.1 billion in fiscal year 1981, and $0.0 billion in fiscal year 1982, and outlays of —$0.1 billion in fiscal year 1980, —$0.1 billion in fiscal year 1981, and $0.0 billion in fiscal year 1982. The House amendment provided budget authority of $0.482 billion in fiscal year 1980 and outlays of $0.453 billion in fiscal year 1980.

The conference substitute provides budget authority of —$0.2 billion and outlays of —$0.2 billion in fiscal year 1980.

950: Undistributed offsetting receipts

The Senate resolution provided budget authority of —$19.7 billion in fiscal year 1980, —$21.5 billion in fiscal year 1981, and —$23.9 billion in fiscal year 1982, and outlays of —$19.7 billion in fiscal year 1980, —$21.5 billion in fiscal year 1981, and —$23.9 billion in fiscal year 1982. The House amendment provided budget authority of —$19.7 billion in fiscal year 1980 and outlays of —$19.7 billion in fiscal year 1980.

The conference substitute provides budget authority of —$19.7 billion and outlays of —$19.7 billion in fiscal year 1980.

RECONCILIATION INSTRUCTIONS

The Senate Resolution contained reconciliation instructions to seven Senate committees totaling $3.15 billion in budget authority and $3.6 billion in outlays. The Appropriations Committee also was required to keep all its bills within budget authority and outlay limits specified in the Resolution and to rescind previously enacted budget authority if any of its bills would breach those limits. The House Resolution contained no such instructions.

The conference substitute includes the reconciliation instructions contained in the Senate Resolution. However, it is the intention of the managers on the part of the House to offer a motion to concur in the conference substitute with an amendment to strike the reconciliation instructions.

The Senate position reflects its 90-to-6 vote to mandate that committees of both houses report and enact legislation to make these savings through the reconciliation process provided in the Budget Act. The Senate provision, incorporated in the conference substitute, represents a conviction that these savings—most of which have been assumed but not realized in Presidential and congressional budgets of this and previous years—will not be made except through this reconciliation process.

The House managers strongly support legislative savings, and commend various House committees for their efforts to achieve substantial savings and to stay within the spending bill targets of the First Budget Resolution during the first session of the 96th Congress. The House managers also strongly support the reconciliation process set forth in the Budget Act. The position of the House, however, is that in view of the actions of House committees, implementation of the reconciliation process as approved by the Senate to achieve legislative savings for fiscal year 1980 would not be appropriate or productive for the House.

The House will continue to regard the reconciliation process as a tool provided by the Budget Act that may be necessary to implement in future years to achieve needed spending restraints.

BUDGET AGGREGATES AND FUNCTIONAL CATEGORIES, FISCAL YEAR 1980

[In billions of dollars]

	House passed	Senate Passed	Conference substitute
Revenues	519.250	514.7	517.8
Budget authority	631.807	636.6	638.0
Outlays	548.175	546.3	547.6
Deficit	28.925	31.6	29.8
Debt subject to limit	885.825	890.7	886.4
050 National defense:			
Budget authority	138.156	141.2	141.2
Outlays	128.587	130.6	129.9
150 International affairs:			
Budget authority	12.593	13.1	13.1
Outlays	8.522	8.3	8.4
250 General science, space, and technology:			
Budget authority	5.833	5.9	5.85
Outlays	5.662	5.7	5.7
270 Energy:			
Budget authority	36.266	41.0	39.5
Outlays	8.801	7.0	7.25
300 Natural resources and environment:			
Budget authority	12.525	12.7	12.6
Outlays	11.926	11.9	11.9
350 Agriculture:			
Budget authority	4.983	5.0	5.0
Outlays	2.542	2.6	2.55
370 Commerce and housing credit:			
Budget authority	6.778	6.8	6.8
Outlays	2.828	3.0	2.85
400 Transportation:			
Budget authority	19.610	19.5	19.5
Outlays	18.651	18.6	18.6
450 Community and regional development:			
Budget authority	8.991	8.9	8.9
Outlays	8.289	8.4	8.35
500 Education, training, employment, and social services:			
Budget authority	31.391	29.7	30.9
Outlays	31.371	30.5	31.0
550 Health:			
Budget authority	58.767	58.8	58.8
Outlays	54.715	54.2	54.45
600 Income security:			
Budget authority	217.658	216.6	218.5
Outlays	188.795	188.7	190.0
700 Veterans benefits and services:			
Budget authority	21.607	21.2	21.45
Outlays	20.851	20.6	20.8
750 Administration of justice:			
Budget authority	4.269	4.2	4.2
Outlays	4.468	4.4	4.4
800 General government:			
Budget authority	4.484	4.4	4.45
Outlays	4.301	4.2	4.2
850 General purpose fiscal assistance:			
Budget authority	9.076	9.3	9.05
Outlays	9.075	9.3	9.05
900 Interest:			
Budget authority	58.038	58.1	58.1
Outlays	58.038	58.1	58.1
920 Allowances:			
Budget authority	.482	—.1	—.2
Outlays	.453	—.1	—.2
950 Undistributed offsetting receipts:			
Budget authority	—19.700	—19.7	—19.7
Outlays	—19.700	—19.7	—19.7

FUTURE FISCAL YEARS

The Senate resolution provided a multiyear budget containing aggregate and functional totals for fiscal years 1980, 1981, and 1982. The House resolution contained such totals for fiscal year 1980 and aggregate totals for fiscal years 1981 and 1982.

The Conference substitute includes two sets of fiscal year 1981 and 1982 aggregate totals, both of which provide for budget surpluses in 1981 and 1982.

	Fiscal year 1981		Fiscal year 1982	
	Budget authority	Outlays	Budget authority	Outlays
050 National defense	159.8	146.4	180.5	163.3
150 International affairs	14.1	8.7	14.9	8.8
250 General science, space, and technology	5.9	5.8	5.6	5.7
270 Energy	4.7	7.8	24.2	9.7
300 Natural resources and environment	13.4	12.7	14.1	13.5
350 Agriculture	4.8	3.2	3.9	3.6
370 Commerce and housing credit	5.9	3.5	6.2	3.2
400 Transportation	21.6	19.7	20.4	20.7
450 Community and regional development	9.9	9.2	9.5	9.6
500 Education, training, employment, and social services	31.1	30.5	31.1	30.8
550 Health	70.5	62.0	82.2	69.4
600 Income security	244.3	212.4	275.6	235.6
700 Veterans benefits and services	22.1	21.7	23.2	23.2
750 Administration of justice	4.4	4.5	4.5	4.5
800 General government	4.7	4.4	4.9	4.6
850 General purpose fiscal assistance	8.2	8.6	8.2	8.2
900 Interest	60.9	60.9	62.3	62.3
920 Allowances			.1	.1
950 Undistributed offsetting receipts	—21.5	—21.5	—23.9	—23.9
Total	664.9	600.5	747.6	653.0
Revenues		610.2		671.8
Deficit (—) or surplus (+)		+9.7		+18.8
Public debt		911.2		939.1

Note: Details may not add to totals due to rounding.

Senate aggregate and functional totals

The conference substitute provides aggregate and functional Senate totals for fiscal years 1981 and 1982 as follows:

House aggregates

For fiscal years 1981 and 1982 the House resolution provided aggregate totals which project current House policy into those fiscal years. The aggregates below reflect the conference agreement and make no change in policy or priorities for fiscal years 1981 and 1982.

These aggregate projections have been included to show that continued spending restraint and a healthy economy can result in balanced budgets at an early date.

The House conferees reaffirm their commitment to try to achieve a balanced budget in fiscal year 1981.

[In billions of dollars]

	Fiscal year— 1981	1982
Revenues	603.2	703.4
Budget authority	668.137	730.318
Outlays	602.699	655.869
Surplus	+.501	+47.531
Public debt level	921.9	920.4

The Senate conferees believe that the inclusion of functional as well as aggregate totals is necessary to comply with the multiyear budget mandate of the Public Debt Limit Act and will urge the Senate to observe these limits for fiscal years 1981 and 1982 in order to help assure that Congress achieves the balanced budget provided for in this Resolution for fiscal years 1981 and 1982 and the $55 billion tax cut provided within the balanced 1982 budget.

ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO HOUSE AND SENATE COMMITTEES

Pursuant to section 302 of the Congressional Budget and Impoundment Control Act of 1974, the conference substitute makes the following estimated allocation of the appropriate levels of total new budget authority and total budget outlays among the committees of the respective Houses:

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT

[In billions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1980				
Appropriations Committee	390.2	343.1		
Agriculture, Nutrition, and Forestry Committee	.5	1.4	3.8	3.6
Armed Services Committee	—.5	—.5	11.7	11.7
Banking, Housing, and Urban Affairs Committee	2.4	—1.6		
Commerce, Science, and Transportation Committee	1.3	(1)	.2	.2
Energy and Natural Resources Committee	1.0	.6	.1	.1
Environment and Public Works Committee	23.7	2.1		
Finance Committee	245.5	239.9	38.3	38.1
Foreign Relations Committee	12.4	9.7		
Governmental Affairs Committee	30.9	21.8		
Judiciary Committee	.2	.2	(2)	(2)
Labor and Human Resources Committee	4.4	4.9	3.2	3.1
Rules and Administration Committee	.1	.1		
Veterans' Affairs Committee	1.1	.8	14.0	13.9
Select Committee on Indian Affairs	.3	.2		
Select Committee on Small Business	(3)			
Not allocated to committees	—75.3	—75.3		
Total, budget	638.0	547.6	71.3	70.7
FISCAL YEAR 1982				
Appropriations Committee	400.5	371.8		
Agriculture, Nutrition, and Forestry Committee	.6	2.2	3.3	3.2
Armed Services Committee	(4)	(5)	12.8	12.8
Banking, Housing, and Urban Affairs Committee	3.0	—1.1		
Commerce, Science, and Transportation Committee	1.4	(6)	.2	.2
Energy and Natural Resources Committee	1.1	1.0	.1	.1
Environment and Public Works Committee	9.4	1.8		
Finance Committee	277.2	265.2	39.5	40.3
Foreign Relations Committee	13.6	10.8		
Governmental Affairs Committee	33.5	24.1		
Judiciary Committee	.2	.2	.1	.1
Labor and Human Resources Committee	4.8	5.2	3.2	3.2
Rules and Administration Committee	(7)	(7)		
Veterans' Affairs Committee	1.1	.9	14.6	14.5
Select Committee on Indian Affairs	.3	.3		
Select Committee on Small Business	(8)			
Not allocated to committees	—81.8	—81.8		
Total, budget	664.9	600.5	73.7	74.2
FISCAL YEAR 1982				
Appropriations Committee	449.1	401.1		
Agriculture, Nutrition, and Forestry Committee	.7	2.4	3.6	3.5
Armed Services Committee	(1)	(1)	14.2	14.2
Banking, Housing, and Urban Affairs Committee	3.3	—1.3		
Commerce, Science, and Transportation Committee	1.5	(7)	.2	.2
Energy and Natural Resources Committee	1.1	1.1	.1	.1
Environment and Public Works Committee	8.6	1.6		
Finance Committee	315.2	292.2	42.3	43.1
Foreign Relations Committee	14.8	11.8		
Governmental Affairs Committee	36.5	26.9		
Judiciary Committee	.2	.2	.1	.1
Labor and Human Resources Committee	4.9	5.6	3.2	3.2
Rules and Administration Committee	(8)	(8)		
Veterans' Affairs Committee	1.1	.9	15.3	15.2
Select Committee on Indian Affairs	.3	.3		
Select Committee on Small Business	(9)			
Not allocated to committees	—89.8	—89.8		
Total, budget	747.6	653.0	79.0	79.5

[1] Minus $2,000,000.
[2] Less than $50,000,000.
[3] Less than $5,000,000.
[4] Less than $30,000,000.
[5] Less than $25,000,000.
[6] Less than $45,000,000.
[7] Less than $20,000,000.
[8] Less than $10,000,000.

Note: Details may not add to total due to rounding.

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(A) OF THE CONGRESSIONAL BUDGET ACT

[In thousands of dollars]

House committee and function	Fiscal year 1980 Budget authority	Outlays
Appropriations Committee:		
050 National defense	$141,748,228	$130,448,274
150 International affairs	10,963,403	9,777,995
250 General science, space, and technology	5,845,901	5,695,966
270 Energy	25,976,995	6,926,995
300 Natural resources and environment	14,267,769	13,544,534
350 Agriculture	4,963,547	1,614,144
370 Commerce and housing credit	5,291,586	4,219,014
400 Transportation	10,347,340	19,147,130
450 Community and regional development	8,925,813	8,450,155
500 Education, training, employment, and social services	30,141,174	30,898,339
550 Health	31,182,046	30,797,195
600 Income security	60,465,407	41,649,581
700 Veterans benefits and services	20,902,391	20,743,184
750 Administration of justice	4,200,271	4,405,237
800 General government	7,277,665	7,023,987
850 General purpose fiscal assistance	7,873,219	7,862,655
900 Interest	0	449
920 Allowances	—200,000	—200,000
Committee total	390,172,755	343,104,834
House Agriculture Committee:		
300 Natural resources and environment	243,494	222,695
350 Agriculture	99,122	998,525
450 Community and regional development	12,220	—8,148
850 General purpose fiscal assistance	283,458	283,458
900 Interest	—13,000	—13,000
Committee total	625,294	1,483,530
House Armed Services Committee:		
050 National defense	—114,027	—114,073
(New entitlement authority)	(41,000)	
400 Transportation	30	30
700 Veterans benefits and services	12	12
800 General government	0	0
Committee total	—113,985	—114,031
House Banking, Finance and Urban Affairs Committee:		
050 National defense	0	0
150 International affairs	691,500	—221,521
370 Commerce and housing credit	1,573,351	—1,291,374
450 Community and regional development	34,842	41,883
500 Education, training, employment, and social services	134	85,752
550 Health	0	—187
600 Income security	39,700	0
700 Veterans benefits and services	0	—20,081
800 General government	3,237	2,804
900 Interest	7,828	7,828
Committee total	2,350,592	—1,394,886
House District of Columbia Committee:		
750 Administration of justice	8,640	8,640
850 General purpose fiscal assistance	0	0
Committee total	8,640	8,640

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(A) OF THE CONGRESSIONAL BUDGET ACT—Continued

[In thousands of dollars]

House committee and function	Fiscal year 1980 Budget authority	Fiscal year 1980 Outlays
House Education and Labor Committee:		
500 Education, training, employment, and social services	28,461	25,748
(New entitlement authority)	(−72,000)	
600 Income security	5,720	5,758
(New entitlement authority)	(−115,000)	
Committee total	34,181	31,506
House Foreign Affairs Committee:		
150 International affairs	12,132,506	9,530,935
370 Commerce and housing credit	5,179	4,995
600 Income security	247,445	127,927
Committee total	12,385,130	9,663,857
House Government Operations Committee:		
800 General government	1,337	1,295
850 General purpose fiscal assistance	6,854,924	6,862,578
Committee total	6,856,261	6,863,873
House Administration Committee:		
250 General science, space, and technology	76	74
500 Education, training, employment, and social services	5,660	5,728
800 General government	45,750	50,750
Committee total	51,486	56,552
House Interior and Insular Affairs Committee:		
270 Energy	12,516	12,516
300 Natural resources and environment	60,502	35,789
450 Community and regional development	268,268	207,357
800 General government	91,204	90,578
850 General purpose fiscal assistance	602,748	605,158
900 Interest	2,100	2,100
Committee total	1,037,338	953,498
House Interstate and Foreign Commerce Committee:		
300 Natural resources and environment	0	80
370 Commerce and housing credit	24,751	23,005
400 Transportation	434	443
550 Health	4,620	4,779
(New entitlement authority)	(−326,000)	
600 Income security	4,334,871	4,810,322
850 General purpose fiscal assistance	5,387	5,287
Committee total	4,370,083	4,843,916
House Judiciary Committee:		
300 Natural resources and environment	178	178
370 Commerce and housing credit	15,587	14,876
600 Income security	7,373	2,330
750 Administration of justice	0	−4,966
800 General government	152,019	152,019
Committee total	175,157	164,437
House Merchant Marine and Fisheries Committee:		
300 Natural resources and environment	190,122	157,435
370 Commerce and housing credit	23,000	13,283
400 Transportation	308,065	−52,500
850 General purpose fiscal assistance	3,700	4,300
Committee total	524,887	122,518
House Post Office and Civil Service Committee:		
050 National defense		
(New entitlement authority)	(−70,000)	
300 Natural resources and environment	0	330
370 Commerce and housing credit	7,590	7,245
550 Health	0	−123,802
600 Income security	23,160,700	14,071,971
(New entitlement authority)	(−97,000)	
800 General government	7,760,000	7,760,000
(New entitlement authority)	(72,000)	
920 Allowances		
(New entitlement authority)		
Committee total	30,928,290	21,709,744
House Public Works and Transportation Committee:		
220 Energy	$15,000,000	$1,800,000
300 Natural resources and environment	36,579	37,603
400 Transportation	9,336,000	−3,214
450 Community and regional development	48,758	49,654
Committee total	24,421,337	1,884,043
House Science and Technology Committee:		
250 General science, space, and technology	5,719	5,656
270 Energy	20	20
300 Natural resources and environment	12,171	12,171
Committee total	17,910	17,847
House Small Business Committee:		
450 Community and regional development	1,000	0
Committee total	1,000	0
House Veterans' Affairs Committee:		
700 Veterans benefits and services	1,090,503	619,791
Committee total	1,090,503	619,791
House Ways and Means Committee:		
500 Education, training, employment, and social services	740,148	0
550 Health	35,600,000	31,764,681
600 Income security	134,271,705	133,365,032
800 General government	4,320	4,099
850 General purpose fiscal assistance	306,000	306,000
900 Interest	67,826,000	67,826,000
Committee total	238,748,173	233,265,812
Unassigned to committees:		
050 National defense	−434,201	−434,201
150 International affairs	−10,687,409	−10,687,409
250 General science, space, and technology	−1,696	−1,696
270 Energy	−1,489,531	−1,489,531
300 Natural resources and environment	−2,210,815	−2,210,815
350 Agriculture	−62,669	−62,669
370 Commerce and housing credit	−141,044	−141,044
400 Transportation	−491,889	−491,889
450 Community and regional development	−390,901	−390,901
500 Education, training, employment, and social services	−15,577	−15,577
550 Health	−7,986,666	−7,986,666
600 Income security	−4,032,921	−4,032,921
700 Veterans benefits and services	−542,906	−542,906
750 Administration of justice	−8,911	−8,911
800 General government	−10,885,532	−10,885,532
850 General purpose fiscal assistance	−6,879,436	−6,879,436
900 Interest	−9,722,928	−9,723,377
950 Undistributed offsetting receipts	−19,700,000	−19,700,000
Committee total	−75,685,032	−75,685,481

R. N. GIAIMO,
LUD ASHLEY,
LOUIS STOKES,
PAUL SIMON,
NORMAN Y. MINETA,
JAMES JONES,
STEPHEN SOLARZ,
TIMOTHY E. WIRTH,
LEON PANETTA,
BILL NELSON,
WILLIAM H. GRAY,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
LAWTON CHILES,
JOE BIDEN,
J. BENNETT JOHNSTON,
HENRY BELLMON,
PETE DOMENICI,
BOB PACKWOOD,
Managers on the Part of the Senate.

LEGISLATIVE QUALITY, NOT LEGISLATIVE QUANTITY

(Mr. HALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, it has been noted recently in the media that this Congress has not passed as many bills as the last Congress did at the same point in time. I, for one, welcome this development.

I welcome it because this 96th Congress rightly has placed more emphasis on evaluating the effectiveness of existing programs rather than on creating new programs. Further, there has been a real effort to try to reduce Federal expenditures in all categories of the budget. As the battles over the congressional budget resolutions demonstrated this year, no area of Federal spending is safe from examination and cutbacks.

The American people are not looking to this Congress for legislative quantity. Instead, they are demanding legislative quality.

I commend the leadership for the efforts that have been made this year to bring to the House and pass major legislation addressing our national priorities. Particularly, I applaud the leadership's work in expediting floor consideration of the windfall profits bill, the synthetic fuels legislation, the standby rationing measure, the emergency fuel assistance appropriations, and the energy mobilization board bill.

Energy is a top national concern, and this Congress has done much in a very short time to give it the attention it deserves.

□ 0920

ANDERSON SUPPORTS URBAN GRANT UNIVERSITY PROGRAM

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, I would like to call our colleagues attention to the fine higher education bill which we should be voting on later this morning. And in particular, I would like to congratulate Chairman BILL FORD and the Subcommittee on Postsecondary Education on title XI, establishing an urban grant university program.

I know that our colleague from Michigan has worked long and hard on this, and I can think of few worthier endeavors. The urban grant university program will, if enacted, support universities in urban-oriented education, research, and service projects. The great urban educational institutions we have in this Nation are tremendous resources that should be utilized in addressing urban problems.

In the past, land-grant institutions have contributed greatly to the rural areas in which they were generally established. Research in horticulture and animal husbandry contributed to the development of our Nation. Urban institutions can as well contribute to our further development. They are the storehouses of untapped skills, talents, and knowledge which we must learn to draw upon in a systematic and sustained manner. Let us utilize these valuable resources to help attack the problems facing our Nation's cities. Let us demonstrate how education can be applied to benefit us today, as well as our children tomorrow.

Mr. Speaker, I hope all our colleagues will join together and support the urban grant university program.

WINDFALL PROFITS TAX LEGISLATION NEEDED NOW

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I have not been a stranger to the well in this Chamber during the last week. The reason is a simple one—the callousness of the major oil companies on their dealings with the American public. We are constantly bombarded with news and accounts of how big oil has exploited the consumer. One of the most blatant examples of this behavior is the fact that the Department of Energy is conducting an investigation of some 114 violations levied against the Nation's 35 largest oil refiners. The total dollar amount involved in these alleged overcharges to the consumer is $5.2 billion between 1973 and 1976.

Recent reports emanating out of DOE indicate that soon it will accuse some 15 oil companies of ignoring Federal gasoline allocation rules during last spring's gasoline shortage, a shortage which many contend was contrived.

Mr. Speaker, as I have stated in the past, the attitude toward the American consumer, who so desperately relies upon petroleum products in his daily life, is unpardonable. It is an American tragedy that one industry can so disrupt an entire society of 220 million. We cannot sit idly by with these developments taking place.

Let us take up the windfall profits tax legislation at the earliest date.

REMEMBER WHICH PARTY GOT US OUT OF THE "GREAT DEPRESSION"

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Montana. Mr. Speaker, during this 50th anniversary week of the Great Depression many Americans are looking back, trying to find causes, meanings, and lessons from that difficult time.

During the past several years debates have pursued, primarily among we politicians—not the public—concerning whether the economic theories of that President and that party sent us crashing into that economic debacle of 1929. Republicans continue to do all they can to shed the blame.

Setting the cause of the Depression aside for a moment, let us look to find how President Hoover and the Republicans responded. Herbert Hoover, 1 week after the crash, opened his press conference with these words:

I haven't anything of any news to announce.

Later during that press conference he mentioned the economic difficulties by saying:

The financial world is functioning entirely normal and rather more easily than it was 2 weeks ago.

A year later in his annual message to Congress, Herbert Hoover said:

The fundamental strength of the Nation's economy is unimpaired.

Toward the end of his term in 1932 he sounded a phrase which is hauntingly familiar—

The urgent question today is the prompt balancing of the budget.

Secretary of the Treasury, Andrew Mellon, perhaps said it best for the Republicans:

People will work harder (and) enterprising people will pick up the wrecks from less competent people.

Secretary Mellon and the Republicans were right about one thing. He said the Depression would "urge the rottenness out of the system." He was correct. The cancer that was purged from the system was government by organized money.

So, Mr. Speaker, this week is a good time for Americans to remember that regardless of which President and which party got us into the Great Depression and kept us there, one President and one party got us out.

PRESIDENT SHOULD APPOINT A WOMAN TO NATION'S HIGHEST COURT

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, I rise this morning to ask my colleagues to join me in a letter to President Carter urging the appointment of a woman to the Supreme Court.

To insure that nomination, we should begin a determined effort now to let the President know that such an appointment would have tremendous support among the people we represent and that the failure to appoint a woman would be a setback to the fight for equality under the law.

I found it interesting and perhaps even indicative of a future course of events, that Secretary of Education-designate Shirley Hufstedler secured a commitment that she would not be precluded from consideration for a Supreme Court nomination if she accepted the Cabinet position.

Appointments to the Supreme Court cannot be separated from political and social reality. The Supreme Court has traditionally been a cornerstone of the movement to insure equal rights for all citizens in this country. Supreme Court appointments cannot be made without reference to that cause. Just as the appointments of Louis Brandeis and Thurgood Marshall are hailed as milestones in the Court's history, so would be the appointment of a woman to the Supreme Court.

In appointing Thurgodd Marshall and Louis Brandeis, Presidents Johnson and Wilson did not have to adjust judicial standards. The same is true for the appointment of a woman. It does not compromise the principle of merit selection to ask that after nearly 200 years, a woman be appointed to the Court.

The Carter administration has shown its commitment to increasing the number of women appointed to high Federal office. Five of the nine Justices are now over 70. Without engaging in speculation as to which seat may become vacant, we can reasonably assume that a single retirement among the five is possible in the near future. If a Supreme Court vacancy should occur, President Carter should seize that opportunity to strike the most dramatic blow yet for equality under the law and appoint a woman to the Nation's highest Court.

STANDARD OIL U.S. EARNINGS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLLINS of Texas. Mr. Speaker, how much did the oil companies earn? Standard Oil of Indiana reported 18 per-

cent down from last year in their U.S. earnings from refining, marketing, and transportation. The price of gasoline is rising but so are expenses.

And Standard Oil is reinvesting its earnings in oil and gas exploration. Standard's total U.S. earnings were up 7 percent but exploration expenditures were up 27 percent. U.S. earnings were $603 million whereas U.S. drilling expenditures were $938 million. Standard earned $603 million, yet reinvested for exploration in the United States a total of $938 million.

U.S. oil companies continue to reinvest in exploration more than their earnings. The U.S. oil compaines need more capital to increase domestic production.

Remember 6 years ago the United States imported $3 billion in oil. The OPEC Arab oil this year will total $60 billion. Next year, the United States will import $70 billion in OPEC oil.

Let us help the U.S. oil companies produce more of our needs for oil and gas and reduce the import drain of our dollars.

VICTORY BELONGS TO THE HOUSE

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, several weeks ago the gentleman from Florida (Mr. YOUNG) was successful in having an amendment adopted by this House with a 281 vote to deny Vietnam loans directly or indirectly. It is quite a victory. It expresses the views of the House.

The Washington Post this morning tries to give credit to Bob McNamara to agreeing to what this House had agreed to. The credit belongs to BILL YOUNG and the House, not to Robert Strange McNamara.

QUESTIONS ARE RAISED ABOUT INDEPENDENCE OF FEDERAL ELECTION COMMISSION

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, earlier this week the Washington Post reported that the National Treasury Employees Union was one of the first to jump on the Kennedy bandwagon. Also this week, there was an announcement that the Federal Election Commission's General Counsel was joining the Kennedy committee.

I think both of these incidents raised some questions of conflict of interest, and about the independence of the Federal Election Commission.

First, the Treasury Employees Union is coincidentally the union to which the FEC employees belong. There are approximately 60 of the Commission employees paying union dues which can be used for exempt political activities. They may also be contributing to the union's political action committee.

This same bunch of folks is also charged with the duties of certification, enforcement, and audit procedures for the Presidential financing system. Nobody can call them impartial after their endorsement.

Second, although there is no law prohibiting the General Counsel from gainful employment with the Kennedy committee, his job change is, at best, unseemly. At worst, it creates an appearance of a conflict of interest.

I wonder what the public's perception will be of the FEC's action, or pickup inaction, on the Carter/Mondale complaint now that the FEC's principal enforcer has joined the complainant. I wonder if the public will have confidence that all candidates are being treated equally by the FEC employees when those same employees have a vested, monetary interest in a particular candidate who is becoming used to special treatment.

LEGISLATION TO AMEND CIVIL SERVICE REFORM ACT

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, today I am joining my colleague from Iowa, Mr. LEACH, in introducing legislation that will help hold the line on Federal spending.

Under provisions of the Civil Service Reform Act of 1979, Federal hiring was to have been frozen in order to reduce expenditures by the Federal bureaucracy. However, what we have seen is an increase in the hiring of contract employees, often in an attempt to skirt Federal hiring guidelines.

Since 1970 contracted employment has grown by 130 percent at a price tag of $150 billion annually to the American taxpayer.

I believe that if we are to truly check the growth of Federal employment we must take a tough stand on the question of contracted employment. Among the major points of the legislation we are offering today are:

CONTRACT CEILING

Government agencies will be limited to the levels spent in 1977 for any personal service contracts. Only the President can increase the contract ceiling, and only by proving that such an increase is necessary for good administration and is in the public interest.

PERSONNEL CEILINGS

The Government personnel ceilings established under the Civil Rights Act of 1979 are extended to January 31, 1985.

YEAR-END SPENDING SPREES

The bill will prohibit excessive year-end spending for contracted employees. Agencies can only spend 20 percent of their annual budget in the last 2 months of the year. Far too often, agencies will have a large surplus at the end of the year and will try to spend it all so they do not have to turn the money back into the treasury and risk funding cuts the following year.

ANNUAL REPORTS

Agencies will be required to file annual reports on their success in meeting personnel and contract ceilings.

RECOGNITION FOR GOOD MANAGEMENT OF PERSONNEL AND CONTRACT CEILINGS

How well agency executives carry out the provisions of this bill will be considered when they come up for promotion or merit awards.

The basic intent of this legislation is to establish a reliable monitoring system that will check the cost and number of private contractors hired by the Government.

□ 0930

AMENDMENT TO THE CIVIL SERVICE REFORM ACT

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, I should like to inform my colleagues that today Representative TOM COLEMAN and I are introducing legislation to place restrictions on the growth of contracted Federal employment.

Outlays for grants and contracts which support most of the Government's indirect employees grew 130 percent from about $65 billion in 1970 to $150 billion in 1978.

The implications of the development of this invisible army of contracted employees, the bureaucracy's bureaucracy, is alarming.

One step removed from the checks and balances of the other branches of Government, this shadow work force is so large we have no idea of its true size; so powerful we have no control over conflicts of interest; and so inaccessible we have no way of holding it accountable.

I urge my colleagues to give consideration to the restrictive legislation Representative COLEMAN and I are introducing today. With the level of taxation now reaching 42 percent of national income, I believe we have reached the point where reasonable restraints are needed to protect the public.

SALT II SHOULD BE APPROVED

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, the Members of Congress for Peace Through Law SALT II Task Force has given close attention to the proposed strategic arms treaty over several months. We strongly endorse the treaty on the basis of our conclusion that the security interests of the United States would suffer if it were not ratified. We will continue working in support of ratification until the final vote in the Senate is cast.

As the chairman of the task force, I wish to bring to the attention of my fellow members in MCPL, and all my colleagues in the House of Representatives, the possibility that there is a small, compensating comfort in not having the power of advice and consent under the

Constitution. We in the House are to be spared the subtle missives that a well-financed organization is now printing by the hundreds of thousands to be sent to the Senate. These "fill-in-the-blank" statements of patriotic sentiment are so spontaneous and authentic an expression of public concern over SALT II that the sender need only affix his/her signature, stamp, and mail. The thinking that comprises the content of the card has been done by others: the details of the issue discussed are not left to the discretion of the sender.

Consider, for example, the delicate and gentle persuasion employed in the following mass mailing specimen:

> DEAR SENATOR ———: Eight U.S. Senators who voted to give our Panama Canal to a Marxist dictator were defeated in the last election.
>
> If you vote for the SALT II treaty, I will actively oppose you. And unless you speak out strongly on the need to increase our military strength, I will not consider voting for you now or at any time in the future.
>
> I will urge my relatives, friends and neighbors to watch closely how you vote on the SALT II treaty.
>
> America has never been in greater danger, because of our military weakness compared to the Russians, and the lack of courage by our leaders.
>
> Sincerely yours,
>
> ——— ———.

I submit to you that the kind of technique represented by this bulk-mailing device is clear evidence that the opponents of SALT II have lost the argument. Why else would such heavy-handed appeal to phobia be made in this fashion?

MCPL stands opposed to such methods and the task force in particular will continue to urge discussion of SALT on its abundant merits.

SAVE THE CHILDREN OF CAMBODIA

(Ms. HOLTZMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HOLTZMAN. Mr. Speaker, I am addressing my colleagues today about a matter of life and death.

Tens of thousands are suffering and dying in Cambodia because food is being denied to them. People everywhere are moved by the plight of these Cambodians—especially the children—but, so far, official efforts to save them have proved unsuccessful.

On the grounds that food may be given to opposition soldiers, the Cambodian Government refuses to allow trucks carrying emergency food supplies to cross over from Thailand.

We, the Congresswomen of the United States, cannot sit idly by. We have, therefore, agreed unanimously to call on elected women all over the world to join with us in a plea to the Cambodian Government: "Save the children."

We will go to Phnom Penh within a matter of days to bring our message in person. We want to remind the Cambodian Government that children have no politics.

In fact, there is a precedent for saving the children. The situation in Cambodia today closely parallels the situation in Russia in 1921, when a terrible famine occurred as the result of a bitter civil war. Although fighting was still going on in parts of Russia, the Soviet Government allowed an international relief effort, led by Herbert Hoover, to provide food to starving children.

Millions of lives were saved.

If it could be done 60 years ago, it can be done today.

SAVE THE CHILDREN OF CAMBODIA

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I have great hopes for this international effort by elected women officials to help save the starving children in Cambodia. I am especially hopeful that the women in the Soviet Union will be able to help us. During the great Soviet famine in 1921–22, the United States provided food to save 1 million children in Russia. I am now hoping that the Soviet women will help us save the children of Cambodia.

I hope we can put politics aside and get on with this effort. Pointing the finger and playing the "who's to blame game" will not put food in the stomachs of the Cambodian children. This is a humanitarian effort in every sense of the word—an effort in which we should all participate. If we let millions of Cambodian children die, how will we explain it to our children and to our grandchildren?

SAVE THE CHILDREN OF CAMBODIA

(Mrs. BOUQUARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOUQUARD. Mr. Speaker, the work of Mother Theresa, winner of the Nobel Prize for Peace, symbolizes the concept of compassion and obligation. I feel that the women of the world can find a special meaning in the work and dedication of Mother Theresa and realize the humanitarian obligation we have to the starving people of Cambodia.

Women have a moral, as well as a humanitarian responsibility to focus world attention on what is happening in Cambodia. The more we can perform that role, and the more we as members of the international community can encourage other people to take some action alongside us, the more we will be able to help the children in Cambodia. Now is the time when political considerations need to be put aside, for the more compelling humanitarian reasons which face the world about the Cambodian people.

As Mother Theresa's challenge has been not only to serve the needy, but to attract others to the humanitarian effort, so too must all women come forth and meet the challenge and commit ourselves to the cause of these starving people.

SAVE THE CHILDREN OF CAMBODIA

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, midst the talk of exhorbitant oil profits and the energy needs of our country, we have failed to focus on the human needs of the poor in this world. The bulk of our foreign aid is used to militarize the world, but what about the poor, the starving, and the starving in Cambodia?

I saw children, women, men, and elderly starving in the refugee camps in Thailand. It is the women of the world who must call a conscience to this problem. It is the women who must trumpet the call for morality and concern.

This is an international call to all of the women of the world to join us in this International Year of the Child to save the children in Cambodia.

SAVE THE CHILDREN OF CAMBODIA

(Ms. MIKULSKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MIKULSKI. Mr. Speaker, I would like to join with my sister colleagues and associate myself with their remarks.

Right now an entire nation is headed for extermination, not by some mysterious disease that comes from outside the solar system as was described in the "War of the Worlds," but by starvation, a known disease.

Since politics created the problem, since politics generated the problem, politics can terminate the problem. We can do that in a united worldwide effort.

I am calling, as have my other colleagues, for women around the world to join with us to bear witness and to confront this problem.

In the 1930's when the Nazis started their extermination, and when they marched in the Rheinland, nobody wanted to believe it, nobody wanted to face it, nobody wanted to talk about it. We are confronted with an equal, unprecedented holocaust. We must now stand up for what we believe.

I am encouraging my counterparts around the world to join with us by using whatever channels they have at their disposal to ask that the food supply lines be opened. We know how to bomb. We should know how to feed.

SAVE THE CHILDREN OF CAMBODIA

(Mrs. SPELLMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SPELLMAN. Mr. Speaker, we know the biblical story of Rachel, who wept for her children and would not be comforted because the children were not. It is with similar emotions that the women Members of Congress—and we hope women officeholders throughout the world—embark in a few days on a humanitarian mission to aid the weak and starving children of Cambodia.

Like millions of others around the globe, we women Members have read in recent days the stories of death and suffering that have come out of Cambodia. Like millions of others, we have been

outraged by the tales of devastation and destruction. Our hearts have gone out to all the Cambodian people, but most of all, our hearts have gone out to the children. For, as with all wars, it is the children who are suffering most. And, as with all wars, it is the children of Cambodia who are least responsible. In Cambodia, the death and destruction is such that on the children's fate, quite simply, rests the future of the entire Cambodian people. And, like Rachel, we cannot be comforted, we will not find rest, until we have done all we can for the children.

You may ask, what we, a handful of women, can do in a situation that has stymied whole nations? I can only ask in reply, is there anything we can afford not to do in the face of the pitiful scenes that have stared out at us from our newspapers and flashed across our television screens in recent weeks?

Mr. Speaker, we intend to plead with the Cambodian Government to open the borders and permit convoys of emergency food to come in and save the children. It seems so simple a solution and yet it has proved to be so difficult.

It is our sincere hope, too, that we will not be alone when we make this plea. We believe strongly that this is an issue that transcends nationalities and national borders. We are calling on women leaders from every country in the world to join us in our appeal. We fully expect the many who feel as we do—who will not be comforted because the children are not—will answer our call. And if they do, Mr. Speaker, we feel there is nothing we cannot accomplish.

SAVE THE CHILDREN OF CAMBODIA

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, it is not often that we in the women's caucus can unite unanimously in a cause, but one of the immense mass exterminations in history is being committed in Cambodia, where the native people of that land are being starved to extinction. It is our responsibility to see that this does not happen.

The House has approved funds for help to a starving people who are also being decimated by disease. Their Vietnamese conquerors and the puppet regime in Phnom Penh have refused to allow the vital assistance to reach the dying people.

True, the war continues in Cambodia. Remnants of the Pol Pot regime are still fighting the Vietnamese near the Thailand border, but this cannot be an excuse for refusing the shipments of food and medical help needed for survival of the civilian population.

The women of this Congress of the United States are calling on women elected officials around the world to appeal to the government in Phnom Penh to allow relief for the starving children of Cambodia.

I believe there is some hope we can persuade the Phnom Penh regime to allow help that would save the children. I cannot believe the Vietnamese want to be remembered in history as the perpetrators of the second holocaust of this century.

□ 0940

SAVE THE CHILDREN OF CAMBODIA

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, the women in this Congress fit no mold. They are strong, independent individuals. They come to this House from diverse backgrounds: Economic, geographic, religious, cultural, philosophic, and racial.

Despite those differences which I have learned to respect and admire as one who has served in the House for longer than any other woman Member, I have also learned that there are issues, causes, and concerns which unite the women of Congress and galvanize them into common, concerted action.

The silent slaughter in Cambodia is such a cause.

I therefore speak as co-chair of the Congresswomen's Caucus, but I also speak as the mother of three children.

Our caucus today embarks on an errand of conscience.

Where in the world today does the voice of suffering call out to the human heart more eloquently than from the war-torn mortuary of Cambodia, where the dead and dying from the scourge of starvation are literally piling up faster than they can be counted. Unless something gives, more than 2 million could die. Our caucus' effort to convince the present regime to allow outside humanitarian assistance to enter the country is indeed an errand of conscience.

Our conscience dictates we go and try; the conscience of the world demands that the problem be solved.

Now what will be tested is the conscience of Cambodia.

SAVE THE CHILDREN OF CAMBODIA

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, yes, we have heard from the women of the Congress of the United States, and all of us in this House have heard often about the suffering and health and the problems of our people; but, what is happening in Cambodia is a whole different category.

What we see are the Four Horsemen of the Apocalypse, death, disease, famine, and war, all of them riding across these helpless people. The question is, Does the world stand by and not summon every resource it might have to come to the aid of these people?

I think it was our colleague from Maryland (Ms. MIKULSKI) who said that this is brought on by politics, and she is right. Here, we have an invading army. Are they or are they not going to stop their invasion, recognizing these Four Horsemen? Are they or are they not? Is the government sitting in the palace, safely in the capital, going to allow food to come to their people?

Politics—politics of the most brutal kind—is it reason enough?

SAVE THE CHILDREN OF CAMBODIA

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, I join my remarks with those of our many colleagues who have gone before me. When we encourage women to get into politics, we hope that they will bring the humane qualities of their gender into the political arena. We also know that they have a natural interest in the next generation.

I stand here as a grandmother of eight splendid American children, and it is with an enlightened self-interest that I feel that we must reach out to the children of Cambodia, and that the women of the world, especially those who have been honored by their own colleagues as elected officials, should take the lead in saying that they have brought the humane qualities of compassion, of dedicated service, of love to politics, and that never again shall we allow the children of this or future generations to suffer all the ravages imposed upon humanity by the Four Horsemen of the Apocalypse.

MARITIME APPROPRIATIONS AUTHORIZATION ACT FOR FISCAL YEAR 1980

Mr. MURPHY of New York. Mr. Speaker, I call up the conference report on the Senate bill (S. 640) to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 25, 1979.)

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from California (Mr. MCCLOSKEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge approval of the conference report on S. 640.

Mr. Speaker, on May 24, 1979, the Senate passed S. 640, with amendments, a bill providing for the authorization request of the Maritime Administration of

the Department of Commerce for fiscal year 1980.

On July 27, 1979, the House of Representatives passed by a voice vote H.R. 2462, the companion bill providing for the authorization request of the Maritime Administration of the Department of Commerce for fiscal year 1980, with amendments.

As the Members will recall, the Senate bill, S. 640, was taken from the Speaker's table, all after the enacting clause was struck and the provisions of H.R. 2462 inserted in lieu thereof.

The differences between the Senate and the House amendments were resolved in conference on October 12, 1979.

I would now like to comment on the contents of the conference report.

Section 1, provides for the title identical in both bills as the Maritime Appropriation Authorization Act for fiscal year 1980.

Section 2, sets forth the six elements for which authorization authority is provided. Section 2, paragraph 1, authorizes $101 million for construction-differential subsidy.

The House included in its bill a provision that a vessel receiving construction-differential subsidy (CDS) must be offered for enrollment in a sealift readiness program. In addition, the House provided that the applicable CDS subsidy rate may be reduced by 5 percent unless the Secretary of Commerce determines that the vessel to be constructed is part of an existing or future vessel series. It was concluded that national security interests required that the vessel be offered for the sealift readiness program. Also, it was thought necessary to foster series construction. In conference, the Senate receded from its disagreement to these two amendments and the language of these amendments is now in the conference report.

Section 2, paragraph 2, authorizes $256,208,000 for operating-differential subsidy.

The House included in its bill a provision that no ODS funds may be paid for the operation of any vessel which is not offered for participation in a sealift readiness program approved by the Secretary of Defense. In conference, the Senate receded from its disagreement to this amendment. Again, national interests dictated that these subsidized vessels be offered for enrollment in the sealift readiness program.

The House also provided that a CDS operator may elect, for all or a portion of its ships, to suspend its ODS contract with all attendant statutory and contractural restrictions, except those relating to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels, if, first, the vessel is less than 10 years of age, second, the suspension period is not less than 12 months, third, the operator's financial condition is maintained at a level acceptable to the Secretary of Commerce, and fourth, the owner agrees to pay to the Secretary, upon such terms and conditions as he may prescribe, an amount which bears the same proportion to the CDS paid by the Secretary as the portion of the suspension period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel. Such an operator is entitled to full reinstatement of the suspended contract on request until October 1, 1984.

The purpose of this amendment is to allow flexibility to the subsidized operator. We have heard for many years about the flexibility of operation available to the unsubsidized operators and conversely the subsidized operator is restricted in his operations by a number of inflexible, statutory provisions and rules and regulations resulting from his building the vessel and operating it with governmental subsidy.

I would like to emphasize that there is nothing mandatory about this provision. It is strictly at the discretion of the operator receiving ODS and he may elect to do it for all, some, one, or none of his subsidized vessels. In addition, it must be for a vessel less than 10 years old, and must be for a period from 12 months to 5 years. Importantly, the provision does not apply to the domestic intercoastal or coastwise trades, and the operator's financial condition must be at a level acceptable to the Secretary of Commerce. Finally, the provision would require repayment of CDS in proportion to the time spent in a previously authorized preference trade, this would presumably apply to all preference trades.

In order to provide this flexibility to the subsidized operators, the Senate receded from its disagreement to the House amendment and the provision is in the conference report.

Section 2, paragraph 3, provides $16,360,000 for research and development activities in the Maritime Administration.

This funding is to provide the wherewithal for the Maritime Administration to conduct necessary research and development for the maritime industry. It is our hope that MARAD will allocate some of this funding and its activities to perfecting slow speed diesel propulsion for use in the construction of U.S.-flag vessels. With the tremendous energy problems confronting our Nation, it is imperative that we use every energy conservation device available to us. Slow speed diesel propulsion in vessels is such a device. It must be utilized where possible.

Section 2, paragraph 4, provides a total of $31,372,000 for maritime education and training expenses; $17,132,000 is for maritime training at the Merchant Marine Academy at Kings Point, N.Y.; $10,285,000 for financial assistance to State marine schools; $1,998,000 for State marine school training vessels; and $1,957,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act of 1936.

The funding of the Merchant Marine Academy at Kings Point is for the annual costs of running the Federal Merchant Marine Academy, and the funding for the State schools is for the six State maritime academies. The House added $3.5 million to repair and equip a replacement vessel for the Massachusetts Maritime Academy's T/S *Bay State* which was declared unusable. In addition, the House added $1,998,000 for fuel oil for State marine training ships. This was to provide funding for the alarmingly increased cost of fuel oil for vessels. The Senate receded from its disagreement with these House amendments and the necessary funding is in the conference report.

Section 2, paragraph 5, provides for operating expenses, not to exceed $35,598,000; including, not to exceed $6,377,000 for reserve fleet expenses, and $29,221,000 for other operating expenses.

Section 3 authorizes for fiscal year 1980, in addition to the amounts authorized by section 2 above, such additional supplemental amounts for activities for which appropriations are authorized under section 2 of this act, as may be necessary for increases in salary, pay, retirement, or other employee benefits, and for increased costs for public utilities, food services, and other expenses of the Merchant Marine Academy at Kings Point.

Section 4 amends section 27 of the Merchant Marine Act, 1920, the so-called Jones Act which prohibits foreign-built and foreign-flag vessels from operating in the U.S. domestic trades.

The House added an amendment providing that until October 1, 1984, any vessel documented under the laws of the United States and owned by citizens of the United States may, when operated upon a voyage in foreign trade, transport merchandise in cargo vans, lift vans, and shipping tankers between points embraced within the coastwise laws for transfer to or when transferred from another vessel or vessels, so documented and owned, of the same operator when the merchandise movement has either a foreign origin or a foreign destination. This provision, however, shall apply only to existing vessels or vessels under contract prior to the date of enactment, and shall not apply to movements between points in the contiguous United States and points in Hawaii, Alaska, the Commonwealth of Puerto Rico and United States territories and possessions.

It was agreed at conference between the House and Senate conferees that April 1, 1984 would be substituted for October 1, 1984. Thus, the period of applicability was shortened from 5 years to 4½ years.

In addition, the language limiting the proviso to existing vessels and vessels under contract prior to the date of enactment, was deleted at the suggestion of the Senate conferees and language inserted to the effect that the proviso shall apply only "to vessels which that same operator owned, chartered or contracted for the construction of prior to the date of enactment of the proviso."

In essence, the proviso would permit an unsubsidized U.S.-Flag operator carrying cargo in containers in a foreign-built vessel to offload the containerized cargo at a domestic U.S. port after a foreign voyage and carry the cargo in another vessel of the same company to another domestic port on the same or a different coast where the cargo may be offloaded and then reloaded on another vessel of the same company for trans-

shipment to another foreign destination. This amendment would give such an operator flexibility in the use of his foreign-built vessels in carrying this foreign origin cargo from one domestic port to another domestic port in the continental United States.

Upon acceptance by the House of the two Senate suggestions mentioned above, the Senate receded from its disagreement with the House amendment.

Section 5 amends subsection D(a)(5) of section 30 of the Merchant Marine Act of 1920 to provide that the mortgagee in a ship mortgage situation is a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States, or is a citizen of the United States, and for the purposes of the act the Reconstruction Finance Corporation, shall in addition to those designated in sections 37 and 38 of this act, be deemed a citizen of the United States.

Senator STEVENS introduced this amendment for the following reason: In 1972 the State of Alaska established a fishing revolving fund. The State of Alaska was not a citizen of the United States as defined in the Shipping Act of 1916. Therefore, to have the mortgage recorded and meet the requirements of the act, the State of Alaska was required to go through a trust deed-bond issue procedure. This proved to be costly to the fishermen since they had to pay a service fee to the trustee of one-half of 1 percent of the outstanding balance of the loan. By allowing the States to qualify as citizens for purposes of the act, the extra fee presently required to be paid by the fishermen would be eliminated. The House receded from its disagreement with the Senate amendment and the language is in the conference report.

Mr. Speaker, the conference report before the House at this time amounts to a total of $440,538,000 and represents a very fair resolution of the differences between the House and the Senate on this legislation. I strongly urge my colleagues on both sides of the aisle in the House to approve the conference report on S. 640.

Mr. Speaker, I reserve the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this conference report, although somewhat reluctantly, because two amendments which we adopted in the House after several years of preparation and debate—the amendment prohibiting featherbedding on subsidized ships, and the amendment prohibiting the use of certain subsidy moneys for political activities, were both dropped when the Senate overrode us.

However, I join in supporting the report because I think that in the omnibus maritime bill which the chairman has had us deliberating on for the past 3 months, we will correct these problems as part of the Federal maritime policy of the United States.

Mr. Speaker, this approximately $400 million, in my judgment, is not being spent in the best way to preserve the American merchant marine and to restore a proud U.S.-flag merchant marine. One of the reasons that we are in difficulty today was recently illustrated; if our colleagues have read the Senate dialogs that took place between Senators MAGNUSON and STENNIS yesterday on the subject of shipbuilding, they might have observed that one Senator was able to circumvent the free enterprise competitive bidding system and hold a Navy construction job hostage to the demand that two frigates be built in his particular State rather than elsewhere.

□ 0950

That kind of activity, unfortunately, has characterized both the civilian and the Navy building programs, although I think we will correct that in the omnibus maritime bill that we hope to report to the House early this spring.

With that goal in mind, I am glad to support this conference report.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. I thank the gentleman.

Mr. Speaker, S. 640, the Maritime Administration authorization bill, as reported from the House-Senate conference committee, contains an amendment proposed in the U.S. Senate by the distinguished Senator from the State of Alaska, Senator TED STEVENS. According to Senator STEVENS, his purpose in introducing this amendment to the Merchant Marine Act, 1920, 46 U.S.C. 861 et seq., is to enable the State of Alaska to qualify as a mortgagee under section 30(D)(a)(5) of that act, 46 U.S.C. 922 (a)(5), by providing that the definition of "citizen" also includes the "States, District of Columbia, Commonwealth of Puerto Rico, territories and possessions."

I have no objection to Senator STEVENS' amendment or its acceptance by the conference committee. I am, however, somewhat concerned as to the possible effects this amendment may have on one of my constituents, Puerto Rico Maritime Shipping Authority (PRMSA). PRMSA was created in 1974 by the Commonwealth of Puerto Rico to serve the maritime transportation needs of Puerto Rico. PRMSA is a nonstock, public corporation owned entirely by the Commonwealth of Puerto Rico. Since its inception, PRMSA has been treated as a citizen of the United States under section 2 of the Shipping Act. It has also received financing from the Maritime Administration under the various provisions of the Merchant Marine Act, 1936, 46 U.S.C. 1101 et seq., and it will no doubt continue to seek and require the benefits under this act to which it is entitled because of its status under section 2 as a citizen of the United States. I do not believe that Senator STEVENS' amendment, which in my opinion is a clarifying amendment only, alters PRMSA's status under section 2 of the Shipping Act, but I would like to hear the views of the chairman of the Merchant Marine and Fisheries Committee, my distinguished and respected colleague the gentleman from New York, Mr. MURPHY.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding. I want to assure my colleague from the Commonwealth of Puerto Rico that I share his view that Senator STEVENS' amendment is in the nature of a clarification of the existing law and does not make any substantive change in that law. There is no question in my mind that Senator STEVENS' amendment is not intended to affect and will not affect the status of Puerto Rico Maritime Shipping Authority under section 2 of the Shipping Act and its eligibility for financing from the Maritime Administration under the provisions of the Merchant Marine Act of 1936. It would indeed be inimical to the intended purpose of the various shipping laws to treat Puerto Rico Maritime Shipping Authority as anything but a citizen of the United States. Puerto Rico Maritime Shipping Authority is the largest company using exclusively U.S.-flag vessels and is one of the largest carriers in the U.S. domestic offshore trades. Moreover, it is certainly a corporation, partnership, or association existing under the laws of the United States, or any State, territory, district, or possession thereof within the meaning of sections 1 and 2 of the Shipping Act. Consequently, there is no doubt in my mind that Puerto Rico Maritime Shipping Authority is a citizen of the United States and has been since its creation by the Commonwealth. Therefore I want to assure my colleague from the Commonwealth of Puerto Rico that I share his view that Senator STEVENS' amendment will not affect PRMSA's status under the Shipping Act or its status to receive various financial benefits available to U.S. citizens under the Merchant Marine Act of 1936.

Mr. CORRADA. I thank the gentleman for clarifying this. I want to commend him and all of the conferees for this excellent conference report, and I urge my colleagues to support it.

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time.

Mr. MURPHY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDING THE ANADROMOUS FISH CONSERVATION ACT

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 838) to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out the purposes of the act, and to initiate an emergency investigation on the striped bass in Atlantic coastal waters,

with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

That subsection (c) of the first section of the Anadromous Fish Conservation Act (16 U.S.C. 757(c)) is amended by striking out the second sentence thereof.

SEC. 2. Section 2 of the Anadromous Fish Conservation Act (16 U.S.C. 757b) is amended by striking out "United States" in the last sentence and inserting in lieu thereof "cooperating States or other non-Federal interests".

SEC. 3. (a) Subsection (a) of section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by striking out the first two sentences and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(1) $11,000,000 for fiscal year 1980.

"(2) $13,000,000 for fiscal year 1981.

"(3) $15,000,000 for fiscal year 1982.".

(b) Subsection (b) of such section 4 is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000".

SEC. 4. The Anadromous Fish Conservation Act is amended by redesignating section 7 as section 8 and by inserting after section 6 the following new section:

"SEC. 7. (a) The Secretary shall cooperate with States and other non-Federal interests in conducting studies of—.

"(1) the size and distribution of the population of striped bass (Morone saxatilis), including, but not limited to, studies to determine the amount and geographical location of annual spawning; and

"(2) the factors responsible for the decline in the number of striped bass that are available to the public for recreational and commercial use, including, but not limited to—

"(A) analyses of the extent and causes of mortality at successive stages in the life cycle of striped bass,

"(B) a determination of the effects of pollution on the viability and condition of eggs and larval fish, and

"(C) a survey of the economic importance of recreational and commercial striped bass fisheries.

"(b) The Secretary shall make annual reports to the Congress concerning the progress and findings of the studies conducted pursuant to subsection (a) of this section. Such reports shall, where appropriate, contain recommendations of actions which could be taken to improve the population of striped bass.

"(c) For purposes of conducting the studies required by this section, the Secretary may enter into agreements with States and other non-Federal interests in accordance with the provisions of the first section of this Act or he may carry out such studies directly, as he deems appropriate: *Provided*, That any agreement entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(d) There are authorized to be appropriated for the purposes of carrying out the studies described in subsection (a) of this section not to exceed $1,000,000 for the fiscal year ending September 30, 1980, not to exceed $1,750,000 for the fiscal year ending September 30, 1981, and not to exceed $2,000,000 for the fiscal year ending September 30, 1982. Funds authorized to be appropriated by this subsection are in addition to any funds authorized by section 4 which may be used for projects involving or affecting striped bass. If the Secretary considers that the studies described in subsection (a) should be continued after September 30, 1982, the Secretary shall inform the Congress in writing before February 15, 1981, of the reasons why and for how long such continuation is believed to be warranted.".

SEC. 5. Section 201(e)(2)(D)(i) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(e)(2)(D)(i)) is amended by striking out "harvested" and inserting in lieu thereof "unharvested".

SEC. 6. There are authorized to be appropriated to the Department of the Interior such sums as may be necessary, but not to exceed $800,000, for purposes of preparing a plan for a fishery research laboratory on lands owned by the University of Washington on Big Beef Creek, Washington. For purposes of preparing such a plan, there shall be available to the Department of the Interior any sums previously appropriated for the National Fishery Research Center in the State of Washington and available for expenditure on the date of the enactment of this Act, and such sums shall be treated as having been authorized for appropriation under the preceding sentence. The Secretary of the Interior shall complete and submit such plan as soon as practicable to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate and such plan shall include, but not be limited to, information regarding site adequacy, laboratory conceptual design, recommended agreements that should be entered into regarding Federal agency use of such laboratory as a condition for Federal sharing in its costs, and estimates of the costs involved.

SEC. 7. The aquarium to be built by the City of Baltimore, Maryland, on the site on Pratt Street, Pier 3, of the Baltimore Inner Harbor, shall, on and after the date of the completion of its construction, be known and designated as the "National Aquarium in Baltimore." Any reference in any law, map, regulation, document, record, or other paper of the United States to that aquarium shall be held to be a reference to the National Aquarium in Baltimore.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendment to the House amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York to dispense with the reading of the Senate amendment to the House amendments?

Mr. FORSYTHE. Reserving the right to object, and I will not object, I make this reservation in order that the chairman may explain what is going on here.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank my distinguished colleague for yielding.

Mr. Speaker, H.R. 2035 passed the House on June 25, 1979. As it passed the House, H.R. 2035 would do four things:

First, it would extend the funding authorization for the Anadromous Fish Conservation Act for a period of 3 years at a level not to exceed $11 million for fiscal year 1980, $13 million for fiscal year 1981, and $15 million for fiscal year 1982.

Second, it would authorize to be appropriated $4,750,000 over a 3-year period to study one of the most sought-after fish along the Atlantic coast, the striped bass. One of the major spawning rivers for the striped bass is the Hudson River in the State of New York.

Third, it would require title to lands acquired pursuant to Federal-State programs carried out under the act to be vested in the State or any other non-Federal party involved, in lieu of in the Federal Government where title to such lands are presently vested.

Fourth, it would authorize Federal funds to be used for operation and maintenance of facilities constructed pursuant to a cooperative agreement with the Secretary of the Interior when two or more States are involved in a project, and eliminate the present requirement of having the States bear such costs exclusively.

Mr. Speaker, S. 838 as it passed the Senate on June 18, 1979, would also do four things:

First, it would extend the funding authorization for the Anadromous Fish Conservation Act for a period of 4 years at a level of $10 million for fiscal year 1980, $11 million for fiscal year 1981, $12 million for fiscal year 1982 and $13 million for fiscal year 1983.

Second, it would authorize to be appropriated $6,750,000 over a 4-year period to study the striped bass, but unlike the House bill, the study would be limited to striped bass on the Atlantic coast.

Third, it would change the formula which controls the amount of funds authorized to be received by any State carrying out programs under the act by providing that no State could receive more than $1 million in any 1 year—the maximum amount authorized under present law—or 20 percent of the funds appropriated in any 1 year, whichever is greater.

Fourth, it would provide the same as the House bill with respect to title to lands acquired pursuant to a project carried out under the act and the use of Federal funds for operation and maintenance of facilities constructed under projects involving two or more States.

Mr. Speaker, with a view toward avoiding a conference on the bill, the staffs of the Committee on Merchant Marine and Fisheries and the Senate Committees on Environment and Public Works and on Commerce, Science, and Transportation have worked out compromise language to which both the House and Senate committees agree, and the amendment to S. 838—in the form of a substitute amendment—which the House is being asked to concur in today incorporates that compromise language.

The net effect of the Senate amendment to S. 838, which is the compromise language, is as follows: it retains the language of the House provision of the bill which deletes the prohibition in present law on the use of Federal funds to operate and maintain multi-State common basin facilities constructed under the act and allows the operation and maintenance costs of such facilities to be cost-shared on the same basis as

the costs of other aspects of multi-State projects, that is, two-thirds Federal and one-third State; it retains the language of the Senate provision of the bill that deletes the requirement of present law that title to lands acquired under the Act be vested in the United States and provides instead that title to such lands be vested in the States or any other non-Federal party involved; it retains the language of the House provision of the bill that would extend the act for 3 years at $11 million, $13 million and $15 million, respectively for fiscal years 1980, 1981 and 1982; it rewrites the Senate provision of the bill that would increase the amount of Federal funds any State could receive in any year under the act from $1 million (as provided by present law) to 20 percent of the funds appropriated in any one year, whichever is greater, to provide that the maximum amount any State could receive in the future under the act would be $1,250,000 per year; and it retains, but rewrites, the striped bass study provision of both bills including therein the House version with respect to funding, which calls for a 3-year study for a total cost of $4,750,000, and the House version with respect to scope, which requires the study to cover striped bass populations throughout the country, rather than just those on the Atlantic coast.

Mr. Speaker, with respect to the striped bass study, appropriate legislative history has been developed which the House and Senate committees feel clearly spells out Congressional intent as to how this study should be carried out by the administering agencies and this legislative history follows:

The committees are cognizant of the fact that the striped bass is of importance both recreationally and commercially in a number of regions of the country. It is also noted by the committees that while across the country some of the populations of stripers are in a stable or improving condition, populations in certain areas now show a dramatic and unexplainable decline. Many within the scientific community who are familiar with population trends of striped bass are concerned that the extremely low ebb in the fortunes of the striped bass are the result of more than the to be expected ups and downs of this stock of stripers. Many of these scientists postulate that the length and severity of the decline of the striped bass population in this instance is due primarily or certainly aggravated by pollution, exploitation, or destruction of necessary spawning habitat. They have warned the committees that with respect to the striped bass populations in these waters an all out effort ought to be made immediately to understand what is happening before an even worse turn of events with the bass occurs.

With this in mind the committees, while not wishing to minimize the importance of research to improve the conditions of striped bass populations throughout the country, would like to stress the urgency of the need to address the problems the bass faces in those areas showing the most dramatic decline.

The committees being concerned about the future of the striped bass have directed with the legislation that the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) act with all deliberate haste in carrying out the proposed study. The committees in advancing this study do not suggest that nothing is presently being done. Research conducted by the Federal agencies, States, and universities, although lacking integration, has been substantial.

It is intended that the FWS and NMFS act as cocoordinators of this study and that an overall plan of action be developed prior ot initiation of the study by a committee composed of representatives from the administering agencies, other Federal agencies, the State, other non-Federal interests, and the citizens advisory panel which is described below.

The committees realize that the same people who hold the striped bass so highly in esteem are the best hope for the continued viability of this resource and should be involved in the study conducted under section 4 of the compromise amendment. The committees also understand that the needs and expectations of the various user groups can be defined best by the users themselves. Further, the success of this investigation will ultimately be measured against the satisfaction of the fishermen, businessmen, and consumers who pursue profit from and enjoy the striped bass.

Accordingly, the striped bass study provisions, in recognition of the intense interest in the striper's well-being expressed by these users, direct the codirectors of the study to seek input from these groups in their administration of this investigation by utilizing the existing citizens advisory group. It is of the utmost importance that the panel created should contain a representative balance of both recreational and commercial fishing interests.

The committees are aware that the existing Federal-State striped bass program within NMFS already has an advisory body and it is the intention of the committees that the coordinators of the striped bass program will as appropriate draw from the personnel and experience of this existing group. It may be necessary to expand this advisory panel to include adequate representation for commercial and recreational fishing interests in order to properly address the striped bass study.

It should be noted that the study is separated into two major divisions: First, investigation of the status of population of striped bass; and second, studies of other factors responsible for the decline in numbers of striped bass.

It is the intent of the committees that the investigations which are to be carried out take advantage of and capitalize on the existing capabilities of the involved State and Federal agencies.

For this reason it is requested that the coordinators of the striped bass study use as a guide in (dividing responsibility of the carrying out of such study) the division of such responsibility outlined in the Senate report. It might be noted that while the Senate report does not speak directly to the issue of open ocean contaminant research both the House and Senate committees agree that the NMFS expertise in this area should be recognized and that those portions of the study dealing with this subject should be managed by them.

It should also be understood that this division of responsibility between various levels of government and the State agencies is not to be viewed as a criticism of the management capabilities of those involved in the study. It is, however, a recognition of the differing agency capabilities and the difficulties of working with a fish species in the coastal zone, particularly a migratory species that does not recognize either State or Federal jursdictional lines, and in addition, spends important portions of its life cycle in both salt and freshwater. In working with the NMFS and FWS prior to passage of S. 838, the committees found the agencies to be aware of the overlaps in capabilities that existed and the potential that these overlaps had to cause confusion and delay in the initiation and completion of this badly needed study. They, therefore, worked with the Senate committee to design the responsibility guidelines in the Senate report and agree that they will be of help in increasing the efficient and expeditious completion of the study.

The committees are interested in maintaining maximum cooperation and participation by the States in carrying out the proposed study. It is also deemed to be most important that existing capabilities of the States be utilized by the coordinators wherever possible. Evidence indicates that the States have particularly good capabilities and should therefore be heavily involved in gathering the information needed to complete the size and distribution analysis contemplated in section 4 of the amendment. The committees also realize the interstate nature of this particular portion of the study and would maintain that wherever possible a 66⅔ Federal matching share should be available to those States which actively participate in it.

The committees also understand that, in some cases, the State may not have the best capabilities to accomplish the studies needed in section 4.

The committees have, therefore, included a provision that will allow the coordinators to contract directly with those parties which can best obtain the information desired in this portion of the study. The use of this contract authority should, in those cases where State capabilities are lacking, enable the coordinnators to obtain the necessary information from the most reliable source even if such source is a Federal agency, university, or private entity.

Mr. Speaker, there is one other point I would like to emphasize regarding the funding for carrying out the act and the striped bass study. Our intention is that the extra striped bass funds authorized in S. 838, as amended, be used solely for the studies provided for, and not to augment existing State projects related to, striped bass. Additional funding needs for State striped bass projects not a part of the studies is provided for

in the increased authorizations for the main programs in the bill.

Finally, Mr. Speaker, there are three additional provisions in the amendment relating to other programs which I would like to briefly explain.

First, section 5 of the amendment would make a technical change to section 201(e)(2)(d)(i) of the Fishery Conservation and Management Act of 1976. The word "harvested," which is incorrectly used in this subsection, is corrected to read "unharvested."

Second, section 6 of the amendment would make it clear that funds previously appropriated for purposes of preparing a plan and design for the National Fishery Research Center in the State of Washington would, in lieu thereof, be authorized to be used for preparing a plan and design for a fishery research laboratory on lands owned by the University of Washington. The amendment authorizes up to $800,000 to be used for preparing such a plan and the $600,000 previously included in the 1980 appropriation bill, H.R. 4930, for this purpose is considered to be a part of this authorization.

Third, section 7 would provide that the aquarium to be built in the city of Baltimore on Pratt Street shall be known after its completion as the "National Aquarium in Baltimore" and any reference to that aquarium in the future shall be held to be a reference to such National Aquarium.

Mr. Speaker, I strongly support the Senate amendment and I urge its adoption.

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York to dispense with further reading of the Senate amendment to the House amendment.

There was no objection.

The SPEAKER pro tempore. Is there objection to the original unanimous-consent request of the gentleman from New York?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, would the gentleman from New York kindly answer a question. If we do establish this aquarium in Baltimore, are there any Federal funds that are involved in supporting this aquarium?

Mr. MURPHY of New York. If the gentleman will yield, there are no Federal funds involved in the Baltimore aquarium.

Mr. SENSENBRENNER. Would it be the gentleman's thought that at some time in the future, like beginning next year, there would be an appropriation request for funds for Baltimore, or would we just continue on with the arrangement that was provided for in this bill?

Mr. MURPHY of New York. If the gentleman will yield further, it was very clear in the Senate colloquy that there will be no Federal funds requested for either authorization or appropriation for construction or for planning.

Mr. SENSENBRENNER. Mr. Speaker, with that understanding, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original unanimous-consent request of the gentleman from New York?

There was no obligation.

A motion to reconsider was laid on the table.

□ 1000

REQUEST FOR CONSIDERATION OF SENATE CONCURRENT RESOLUTION 43, HONORING THE 14TH CENTENNIAL OF ISLAM

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (S. Con. Res. 43) honoring the 14th centennial of Islam, and ask its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. FINDLEY. Mr. Speaker, reserving the right to object, I would yield to the gentleman from Indiana for the purpose of explaining the purpose of the motion.

Mr. HAMILTON. Mr. Speaker, Senate Concurrent Resolution 43 is a resolution honoring the 14th centennial of Islam. This resolution was introduced by request of the Department of State and is identical to House Concurrent Resolution 194, which passed the Committee on Foreign Affairs by voice vote October 24, 1979.

Mr. Speaker, November 21, 1979, will mark the 1,400th anniversary of the founding of Islam. This event will be commemorated throughout the world, including most all nations of the world where Muslims live.

November 21, 1979, will also mark the beginning of an American ecumenical commemoration.

The focus of this centennial celebration is on intercultural relations, not politics or theology. It is a celebration by Americans for Americans in America.

It is hoped this resolution and a presidential proclamation can be presented November 21.

President Carter is already on record encouraging the participation and attention of all Americans on this centennial cultural celebration. He said in a letter dated May 7, 1979 that—

> In honoring an important world faith and culture we do honor to our own traditions of tolerance and compassion.

As part of the American ecumenical commemoration, a National Committee to Honor the 14th Centennial of Islam has been established and some 70 prominent Americans of the Islamic, Christian, and Jewish faiths are members of the National Committee. The Honorable Lucius D. Battle, former U.S. Ambassador to Egypt and former Assistant Secretary of State, is serving as chairman of our National Committee and the American effort is also supported by former Deputy Assistant Secretary of State and former U.S. Ambassador to Cyprus and Yemen, William Crawford, who is executive director of the National Committee.

The work of the National Committee will seek:

To show appreciation for the cultural legacy we received from Islam;

To improve our understanding of a richly rewarding culture;

To emphasize the traditions we share;

To show respect for valuable old friends and to invite new ones; and

To join a celebration of national and international cultural dimensions.

The National Committee is in the process of organizing a year-long calendar of events in the arts, humanities and sciences in an effort to foster understanding among peoples by honoring the contributions of Islamic civilization and culture to mankind.

Mr. Speaker, one question for us today is: How can Western societies best foster constructive, purposeful, and expanding relationships with Islamic peoples for our mutual benefit and for the benefit of mankind.

I know that over the last few years many Members have been concerned about the policies of some governments in Muslim-dominated states and aspects of the Islamic judicial system which are at variance with our own judicial practices. Support of this resolution in no way can be construed as support for any government or its policies. Our purpose here is limited. We seek only to recognize an important event. The resolution does not concern any political or theological issues: it emphasizes intercultural relations.

Mr. Speaker, I hope that my colleagues will join me in wishing this National Committee success in its endeavors over the coming year. I urge adoption of this resolution.

Mr. FINDLEY. Mr. Speaker, further reserving the right to object, I know of no objection whatever among the membership of this body. I support the resolution. I also congratulate the committee leadership on going through the proper legislative steps. There have been times in the past when resolutions of this sort have been brought directly to the House floor without committee consideration. Therefore, I congratulate the gentleman from Indiana and others who have followed this process.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana (Mr. HAMILTON)?

Mr. DERWINSKI. Mr. Speaker, I further reserve the right to object and I will not object.

Mr. Speaker, reserving the right to object, I rise in support of the resolution as perfected. Islam is one of the world's great religions. At the same time its tenets and its history are not widely known in this country. Islam's adherents in the United States are growing in number—most of them coming as immigrants. The program anticipated for in this resolution will help enlighten Americans regarding the remarkable traditions, rich culture and underlying philosophy of this major religion.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana (Mr. HAMILTON)?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object.

Mr. Speaker, I have no particular opposition to this resolution which I had occasion to read yesterday, nor to the next resolution dealing with the Baltic States which I strongly support. However, the gentleman from Maryland would like to inform the House that in view of the decision of the majority leadership in the last few weeks to repeatedly report out closed rules on legislation such as the FTC authorization bill and the legislation yesterday dealing with the major overhaul of the welfare system in this country, it will be the intention of the gentleman from Maryland and other Members of the minority to selectively require that the rules of the House be applied in full.

Mr. Speaker, I feel strongly that if we are going to have a gag dictatorship policy applying to major legislation, then we should follow the regular order on many other matters.

Mr. Speaker, I just wanted to make that explanation before objecting to the consideration of Senate Concurrent Resolution 43.

Mr. Speaker, I do object to consideration of Senate Concurrent Resolution 43.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 200, EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE BALTIC STATES AND WITH RESPECT TO SOVIET CLAIMS OF CITIZENSHIP OVER CERTAIN U.S. CITIZENS

Mr. BONKER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 200) expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain U.S. citizens.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, for the reasons I stated before, although I support this resolution I intend to object to its present consideration. I would say this, that in the normal course of things the members of the Committee on Foreign Affairs can go to the Committee on Rules and obtain a rule on this. This is the same Committee on Rules that is now reporting out gag rules.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I take this time in order to inquire of the distinguished minority deputy whip, the gentleman from Illinois (Mr. ROSTENKOWSKI) as to the program for today and next week.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, the program for the balance of today is to consider H.R. 5192, the Education Act of 1980, and H.R. 4007, repayment of loans made to State unemployment funds, with a modified rule, 1 hour of debate, and H.R. 4167, the Milk Price Support Act, votes on amendments and the bill.

Having concluded that, the program for the House of Representatives for the week of November 5, 1979, is as follows:

On Monday, the House will meet at noon with no legislative business.

On Tuesday, that is an election day and it is the intention of the leadership not to have the House in session on that day.

On Wednesday the House will meet at noon and consider:

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H.R. 4904, Welfare Reform Amendments of 1979, under a modified rule with 2 hours of debate. The rule has already been adopted.

H.R. 2313, Federal Trade Commission authorization, under a modified rule, with 1 hour of general debate. The rule has already been adopted.

Complete consideration of H.R. 5192 Education Act Amendments of 1980.

On Thursday and Friday for the balance of the week the House will meet at 10 a.m. on Thursday and 9 a.m. on Friday, to consider the conference report on Senate Concurrent Resolution 36, the second concurrent budget resolution for fiscal year 1980.

We will then consider the following bills:

H.R. 4007, repayment of loans made to State unemployment funds, modified rule with 1 hour of debate.

H.R. 4167, Milk Price Support Act, votes on amendments and the bill.

H.R. 3398, Agriculture Adjustment Act of 1979, under an open rule, with 1 hour of debate.

H.R. 2727, Meat Import Act of 1979, under an open rule, with 1 hour of debate.

H.R. 2603, national security applications of nuclear energy authorizations, fiscal year 1980, under an open rule, with 1 hour of debate.

H.R. 2335, Solar Power Satellite Research and Development Program Act, under an open rule, with 1 hour of debate.

H.R. 3948, Experienced Pilots Act of 1979, under an open rule, with 1 hour of debate.

The House will adjourn by 2 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday.

Conference reports may be brought up at any time and any further program will be announced later.

Mr. BAUMAN. Mr. Speaker, may I ask the gentleman whether it is the intention of the leadership to call up the Consent Calendar on Monday, since that would be in order?

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield further, it is not the intent to have any business on Monday, should the House go over.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

HOUR OF MEETING ON FRIDAY, NOVEMBER 9, 1979

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House convenes on Friday, November 9, 1979, that it convene at 9 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule, November 7, 1979, be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REQUEST TO MAKE IN ORDER CONSIDERATION OF DISTRICT OF COLUMBIA BUSINESS ON WEDNESDAY, NOVEMBER 7, 1979

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that it may be in order to consider District of Columbia business on Wednesday, November 7, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT TO 12 O'CLOCK NOON, MONDAY, NOVEMBER 5, 1979

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ADJOURNMENT FROM MONDAY, NOVEMBER 5, 1979, TO WEDNESDAY, NOVEMBER 7, 1979

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday next, it adjourn to meet at noon on Wednesday, November 7, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REQUEST TO AUTHORIZE THE CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED SENATE BILL, NOTWITHSTANDING ADJOURNMENT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, November 7, 1979, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign the enrolled Senate bill (S. 1905) if duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. SENSENBRENNER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

DISPENSING WITH CALL OF THE CONSENT CALENDAR ON MONDAY, NOVEMBER 5, 1979

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to dispense with the call of the Consent Calendar on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

EDUCATION AMENDMENTS OF 1980

Mr. FORD of Michigan. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5192, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 29, 1979, all time for general debate on the bill had expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill shall be considered by titles as an original bill for purposes of amendment and each title shall be considered as having been read.

The Clerk will designate section 1 and title I.

Section 1 and title I read as follows:

H.R. 5192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1980".

TITLE I—ESTABLISHMENT OF A NEW TITLE I OF THE HIGHER EDUCATION ACT OF 1965

AMENDMENTS

SEC. 101. (a) Title I of the Higher Education Act of 1965 (hereinafter in this Act referred to as "the Act") is amended to read as follows:

"TITLE I—EDUCATION OUTREACH PROGRAMS

"FINDINGS

"SEC. 101. The Congress finds that—

"(1) the rapid pace of social, economic, and technological change has created pressing needs for postsecondary educational opportunities for adults in all stages of life;

"(2) postsecondary educational opportunities in the United States are traditionally provided for persons between the ages of eighteen and twenty-two;

"(3) many adults are barred from advancement or self-sufficiency by lack of access to and retention in postsecondary educational opportunities appropriate to their needs, or by lack of information about available offerings;

"(4) access to postsecondary educational opportunities is severely limited for adults whose educational needs have been inadequately served during youth, or whose age, sex, race, handicap, national origin, rural isolation, or economic circumstance may be barriers to such opportunities;

"(5) with declining population growth rates, the future of postsecondary education in the United States lies in its ability to respond to the challenges of new student populations;

"(6) service in the realm of continuing education will be better achieved through increased emphasis on planning and coordination which more effectively utilizes existing resources of both public and private sectors; and

"(7) to meet the unique problems and needs of adults who are disadvantaged in seeking access to post secondary educational opportunities, resources must be marshalled from a wide range of institutions and groups, including community and junior colleges, community-based educational institutions, business, industry, labor, and other public and private organizations and institutions.

"STATEWIDE PLANNING

"SEC. 102. (a)(1) From 20 per centum of the sums appropriated to carry out the purposes of this title, the Secretary shall allot to each State with an agreement pursuant to section 1203 for comprehensive statewide planning an amount which bears the same ratio to such sums as the adult population of such State bears to the population of all the States with an agreement pursuant to such section, except that for each fiscal year no State shall receive from such sums less than $60,000 for that year.

"(2) If the sums appropriated for any fiscal year are not sufficient to make payments of $60,000 to each such State, then the amount of each such State's allotment shall be ratably reduced. If additional sums become available for any fiscal year for which allotments have been so reduced, then such allotments shall be increased on the same basis as they were reduced, except that if the sums so available exceed the amount required to allot $60,000 to each such State such sums shall be allotted on the basis of population as required by paragraph (1).

"(b) From the sums allotted under this section, the Secretary shall make grants to States with an agreement pursuant to section 1203 of this act for the purpose of conducting comprehensive statewide planning for improving access within the State to postsecondary educational programs for traditional and nontraditional learners, coordinating educational and occupational information and counseling services to youth and adults throughout the State, and promoting more effective and efficient use of available resources for continuing education within the State.

"(c) A State shall submit to the Secretary at the end of each fiscal year for which sums have been received a list of those programs funded under this title, a brief description of the programs' purposes, and an analysis of the relationship between funded activities and the comprehensive statewide planning for postsecondary education.

"(d) Of the sums granted to States for comprehensive statewide planning, not less than 50 per centum shall be for the purpose of carrying out a program of statewide planning for continuing education in order to improve access for adults within the State to postsecondary education programs and to promote more effective and efficient use of available resources, including efforts to ensure equal treatment of applicants in the evaluation of grant proposals. Such planning shall give particular consideration to the educational needs of adults who have been inadequately served by programs of postsecondary education.

"(e) Planning undertaken pursuant to this section shall be coordinated with the planning activities under subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act; the Vocational Rehabilitation Act; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational and occupational information to persons within the State.

"(f) States may use the funds available for this section to conduct studies of student financial assistance needs and resources, information coordination, continuing education, and other topics consistent with the purposes of subsections (b) and (d) of this section.

"STATE GRANT PROGRAMS

"SEC. 103. (a) From 70 per centum of the sums appropriated to carry out the purposes of this title, the Secretary shall make allotments to States with an agreement pursuant to section 1203 for—

"(1) providing information services in accordance with section 104; and

"(2) providing funds under section 105 for continuing education.

"(b) Of the sums allocated under subsection (a) of this section, the Secretary shall allot 25 per centum on an equal basis to all States for information services.

"(c) Of the sums allocated under subsection (a), the Secretary shall allot 25 per centum on an equal basis to all States with an agreement pursuant to section 1203, and the remaining to each such State in an amount which bears the same ratio to such sums as the adult population of such State bears to the adult population of all such States, for continuing education programs.

"(d) No State with an agreement pursuant to section 1203 shall receive less than $90,000 for any fiscal year under this section, except that if the sums appropriated for any fiscal year are not sufficient to make payments of $90,000 to each such State, then the amount of each such State's allotment shall be ratably reduced. If additional sums become available for any fiscal year for which allotments have been so reduced, then such allotments shall be increased on the same basis as they were reduced, except that if the sums so available exceed the amount required to allot $90,000 to each such State such sums shall be allotted on the basis of population as required in subsection (c).

"INFORMATION SERVICES

"SEC. 104. (a) States shall use funds available for this section to conduct programs to develop and coordinate new and existing educational and occupational information and counseling programs to eliminate unnecessary duplication and to provide a more comprehensive delivery of services to both traditional and nontraditional learners seeking educational information and to youth and adults seeking occupational information.

"(b) Such educational and occupational information and counseling programs shall be coordinated to the extent possible with those authorized by subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act; the Vocational Rehabilitation Act; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational and occupational information to persons within the State.

"(c) For the purposes of carrying out this section, States may make grants to, and enter into contracts with, institutions of higher education, public and private institutions and organizations, business, industry, and labor, or any combination thereof.

"CONTINUING EDUCATION

"SEC. 105. (a) The Secretary shall make grants from funds available for this section to States for the purpose of——

"(1) promoting access to and retention in postsecondary educational programs for adults whose educational needs have been inadequately served;

"(2) expanding and improving postsecondary education programs which help adults develop their occupational potential and prepare for transitions between education and work;

"(3) eliminating barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking postsecondary educational opportunities;

"(4) strengthening mechanisms of information, counseling, and referral which provide access to postsecondary education and serve the special needs of adults; and

"(5) developing strategies to promote the financial self-sufficiency of postsecondary education programs initiated pursuant to this title.

"(b) To promote the purposes of subsection (a), States may make grants to and contracts with public and private institutions and organizations, institutions of higher education, business, industry, and labor, or any combination thereof, for programs such as—

"(1) creation or expansion of labor education, training and technical assistance programs, and the development of cooperative relationships between State and local labor organizations and institutions and agencies which provide opportunities for continuing education;

"(2) assistance to remove barriers to continuing education caused by rural isolation or other rural-related factors;

"(3) assistance to older persons through legal, vocational, health, and information services which use preretirement education as a means to adjust to retirement;

"(4) promote resource sharing for innovative uses of technology, including telecommunications, either on an interstate or intrastate basis, to overcome barriers to postsecondary education opportunities;

"(5) educational and occupational information and counseling services designed to meet the special needs of adult women, particularly homemakers, and to assist their entry or reentry into postsecondary education and the labor force;

"(6) collection and dissemination of information, including data banks, on sources of student financial assistance and information designed to assist persons to make choices among postsecondary institutions, programs, and other educational opportunities;

"(7) community education service activities consistent with the purpose of this section for adults in rural areas; and

"(8) postsecondary educational programs suited to those persons whose educational needs have been inadequately served, especially the handicapped, older persons, migrant and seasonal farmworkers, persons who can attend only part time, and persons who otherwise would be unlikely to continue their education beyond high school.

"NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

"SEC. 106. (a) The President shall appoint a National Advisory Council on Continuing Education (hereafter referred to as the "Advisory Council"), consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, incuding but not limited to, one representative each from the Departments of Education; Agriculture; Defense; Labor; and the Veterans' Administration; and twelve members, not in the full-time employ of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose education needs have been inadequately served. The Advisory Council shall meet at the call of the chairman but not less than twice a year.

"(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this title.

"(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this title and other federally funded continuing education and training programs and services.

"(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary commencing on September 30, 1981, of its findings and recommendations, including recommendations for changes in the provisions of this title and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

"(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequest to carry out its responsibilities under this title.

"FEDERAL DISCRETIONARY GRANTS

"SEC. 107. (a) From 10 per centum of the sums appropriated to carry out the purposes of this title, the Secretary is authorized to make grants to and contracts with public and private institutions and organizations, institutions of higher education, business, industry, labor, and States, or any combination thereof to fund activities that—

"(1) develop and evaluate innovative delivery systems to increase access to postsecondary education for underserved adults;

"(2) expand the range of educational and community resources used to meet the needs of underserved adults for continuing education;

"(3) promote the development of interstate educational delivery system, cooperative arrangements, and programs (including telecommunications) which more effectively address regional needs for continuing education;

"(4) stimulate and evaluate creative approaches to the problems of access for adults inadequately served by existing educational offerings;

"(5) develop statewide, regional, or national programs to coordinate educational and occupational information, including information on student financial assistance through creation and expansion of data banks for the more effective coordination and dissemination of such information; and

"(6) assist States to effectively perform their functions of authorizing institutions of higher education.

"(b) No grant may be awarded under this section within a State unless the Secretary has provided the State agency designated pursuant to section 1203 an opportunity to comment on the relationship of the proposed grant to the planning pursuant to section 102.

"DEFINITIONS

"SEC. 108. (a) For the purposes of this title—

"(1) the term 'adults whose educational needs have been inadequately served' means individuals eighteen years of age or older who, because of circumstances of age, sex, low income, handicap, minority status, rural isolation, status of unemployment or underemployment, lack of education, or other significant barriers have been discouraged from obtaining equal educational opportunities;

"(2) the term 'continuing education' means post-secondary instruction and support services designed to meet the educational needs of adults, including the expansion of available learning opportunities for adults whose educational needs are inadequately served by currents educational offerings in their communities;

"(3) the term 'adult population' means the population eighteen years old and older of a State and of all the States which shall be determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"APPROPRIATIONS AUTHORIZED; PAYMENTS

"SEC. 109. (a) For the purposes of this title there is authorized to be appropriated $100,000,000 for fiscal year 1981; $125,000,000 for fiscal year 1982; $150,000,000 for fiscal year 1983; $175,000,000 for fiscal year 1984; and $200,000,000 for fiscal year 1985.

"(b) Payments with respect to the allotment of funds under sections 102 and 103 shall be made to the State agency designated pursuant to section 1203 and shall not exceed two-thirds of the cost of activities funded under sections 102 and 103. The non-Federal share may be in cash or in kind, but may not include payments received under any other Federal program.

"(c) States are authorized to use not more than 50 per centum of funds provided under section 102 for the purposes of carrying out programs under section 103.".

(b) Subpart 5 of part A of title IV of the Act is repealed.

AMENDMENTS OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer technical and conforming amendments.

The Clerk read as follows:

Amendments offered by Mr. FORD of Michigan:

Page 3, lines 1 and 19, strike out "section 1203" and insert in lieu thereof "section 1203(b)(1)".

Page 25, beginning on line 13, strike out "for any reproduction" and everything that follows through line 15 and insert in lieu thereof "by the borrowing library for each such reproduction of a document under copyright delivered by or through the Corporation with the consent of the copyright owner;".

Page 31, beginning on line 17, strike out "means the right' and everything that follows through line 18 and insert in lieu thereof "means the owner of the right to authorize the kind of reproduction of periodical literature to be made by the Corporation;".

Page 35, line 7, insert "(i)" immediately after "(A)"; on line 9, insert "(ii)" immediately after "degree, or"; and strike out lines 17 through 20 and insert in lieu thereof the following:

"(C) except as provided in paragraph (2), has, during the five academic years preceding the academic year for which it seeks assistance under this title—

"(i) met the requiremnt of either subparagraph (A)(i) or (A)(ii), or of both such subparagraphs (simultanously or consecutively); and

"(ii) met the requirement of subparagraph (B); and

Page 38, line 5, strike out "and" at the end of such line.

Page 80, line 3, strike out the close quotation marks and the period thereafter and after such line insert the following:

"(g) The program provided for in this section shall be administered by an identifiable administrative unit.".

Page 130, line 10, strike out "paragraph (1)" and insert in lieu thereof "subparagraph (A)".

Page 132, line 1, insert "without dependents' after "a student"; on line 3, insert "without dependents" after "for students"; on line 7, strike out "and" the second place it appears; on line 8, insert "without dependents" after "other students"; on line 11, insert "and" after the semicolon and after such line insert the following:

"(D) for students with dependents, an allowance based on the expenses reasonably incurred by such students for room and board;

Page 132, after line 20 insert the following new subsection:

"(e) Nothing in this section shall prohibit an institution, in individual cases, from adjusting the financial need determination for a student aided under subpart 2 of part A or part C or E of this title if such adjustment is documented.

Page 139, strike out lines 15 through 17 and insert in lieu thereof the following:

"(J) the impact of the availability of Federal student financial assistance on the availability of student financial assistance from all other sources;

Page 144, after line 6, insert the following new subsection:

(d) Section 438 of the Act is amended by striking out subsections (e), (f), and (g).

Page 205, beginning on line 3, strike out all of title XII through line 15 on page 210 and insert in lieu thereof the following:

TITLE XII—GENERAL PROVISIONS

AMENDMENTS

SEC. 1201. Title XII of the Act is amended by striking out sections 1202, 1203, 1205, 1206, and 1208, by redesignating section 1207 as section 1202, and by adding after such section the following new sections:

"FEDERAL-STATE RELATIONSHIP

"SEC. 1203. (a) Any State which desires to receive assistance under applicable programs shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditons for the relationship between the Federal Government and each individual State for the purposes set forth in such applicable programs as described in subsection (f).

"(b) Such agreement shall be submitted to the Secretary and include—

"(1)(A) a designation of the State agency or agencies or State or statewide boards, commissions, or councils or other statewide planning bodies in the State responsible under State law for comprehensive statewide planning or financing for postsecondary education;

"(B) designation and description of the activities of—

"(i) the State agency responsible for carrying out education information programs pursuant to section 104;

"(ii) the State agency responsible for carrying out continuing education programs pursuant to section 105;

"(iii) the State agency responsible for collection of information required pursuant to section 202;

"(iv) the State agency responsible for administration of the student assistance program authorized by subpart 3 of part A of title IV;

"(v) the State agency responsible for undergraduate facilities planning pursuant to section 711;

"(C) a description of the activities of the State agency or agencies, or State or statewide boards, commissions, or councils in the State responsible for—

"(i) programs which provide educational and occupational information services to youth and adults;

"(ii) programs which provide continuing education services to persons of all ages;

"(iii) administration of student assistance programs;

"(iv) licensing, accrediting, approving, or chartering institutions of higher education; and

"(v) statewide coordination or governance of postsecondary education sectors;

"(D) a description of the relationship between the planning activities of the State agencies designated and described in subparagraphs (A), (B), and (C); and

"(E) an assurance by the State, including a description of the means to be used by the State to fulfill the assurance, that—

"(i) represenatives of institutions of higher education in the State (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary educational services, and the general public are involved in the comprehensive statewide planning processes and, pursuant to paragraph (1), such processes consider—

"(I) the postsecondary education needs of unserved and underserved persons within the State, including those beyond the traditional college age; and

"(II) the resources of those institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State;

"(ii) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of this title as set forth in applicable programs as defined in subsection (f);

"(iii) the State will provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under any title under this Act; and

"(iv) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds; or

"(2) the designations, descriptions, and assurances required by subparagraphs (B), (C), and (E)(ii), (iii) and (iv) of this paragraph (1).

Any State which elects to submit an agreement pursuant to paragraph (2) shall not be eligible to receive assistance under section 102 of this Act.

"(c) The information and assurances provided by a State in accordance with subsection (b), and regulations issued by the Secretary, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program as defined in subsection (f).

"(d)(1) A State's agreement shall remain in effect subject to modification as changes in information or circumstances require.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given the State, finds that there is a failure to comply substantially with the requirements for an agreement established in this section, the Secretary shall notify the State that it is no longer eligible to participate in any applicable program as defined in subsection (f) until he is satisfied that there is no longer any such failure to comply.

"(3)(A) Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in an applicable program as defined in subsection (f), a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

"(B) Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs which is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.

"(e) For the purpose of this section, definition of the State office or body authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(f) For the purposes of this section an 'applicable program' is defined as—

"(1) title I;

"(2) subpart 3 of part A of title IV; and

"(3) part A of title VII.

"TREATMENT OF TERRITORIES

"SEC. 1204. (a) The Secretary is authorized to provide such modifications of any programs under this Act as he deem necessary in order to adapt such programs to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. Such program modifications may include the consolidation of grants on a regional or interterritorial basis. Such program modifications shall be established in cooperation with the governments of such territories and shall be governed by a memorandum of understanding between such governments and the Department of Education.

"(b) In conjunction with the development of program modifications under subsection (a), the Secretary shall within 18 months after the date of enactment of this section, conduct an analysis of the unique educational needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, and report to the Congress on the results of such analysis. Such report shall include recommendations of the Secretary

with respect to the most appropriate form of Federal postsecondary education assistance for such territories, an evaluation of the effectiveness of the authority contained in subsection (a), and whether such authority should be extended or modified.".

Page 210, strike out lines 24 and 25 and insert in lieu thereof the following:

SEC. 1302. (a) Except as provided in subsection (b), the amendments made by this Act shall be effective on October 1, 1980.

(b) The amendment made by section 404 (c)(4) of this Act to section 415C(b)(4) of the Act shall be effective on October 1, 1979.

Page 114, after line 11, insert the following new subsection:

(c) Section 467 of the Act is amended by inserting "(a)" after "SEC. 467." and by adding at the end thereof the following new subsection:

"(b) The Commissioner shall continue to attempt to collect any loan assigned under section 463(a)(5) or referred under subsection (a) of this section until a date which is not earlier than four years after the date of default (determined in a manner consistent with section 430(e)).".

Mr. FORD of Michigan (during the reading). Mr. Speaker, I ask unanimous consent that these technical and conforming amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, the committee amendments which I am offering en bloc have several purposes. They make several technical and conforming changes to take care of drafting oversights or needs for clarification that have come to our attention since full committee consideration of this bill.

They make it clear, for example, that the requirement in title III that an institution must have been in existence for at least 5 years in order to be eligible for assistance means that it must have been in existence for 5 years as either a community college or a 4-year college or both. This has always been the intent of the committee with respect to this requirement.

They continue the requirement of current law that the veterans cost of instruction program be administeerd by an identifiable administrative unit.

They provide that in determining the cost of attendance of students for purposes of the student financial aid programs that separate standards be used for students without dependents and for students with dependents.

They provide flexibility for student financial aid administrators to adjust the financial need of students under the campus base programs based on extraordinary circumstances in an individual case.

This is the current practice under the campus base student financial aid program.

They repeal the authority for the Committee on the Determinaton of Student Loan Special Allowances. This committee completed its work in 1977 and is moribund.

They modify title XII to give the States the flexibility to have more than one State agency undertake planning activities with Federal support, to allow States the option of not participating at all in federally supported comprehensive statewide planning and to give the Secretary broad flexibility in administering the programs under the Higher Education Act with respect to the unique needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Marianna Islands.

This latter modification of title XII was fully explained during the general debate by my good friend and our colleague from Guam (Mr. WON PAT).

At the suggestion of the gentleman from Colorado (Mr. KRAMER) the committee amendment requires that attempts be made to collect defaulted direct student loans for at least 4 years before they are considered uncollectible.

Mr. PERKINS. Mr. Chairman, will the distinguished gentleman yield to me?

Mr. FORD of Michigan. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I take this time in order to comment on one of the technical amendments to title III. I want to concur in Chairman FORD's comments that the amendment relating to eligibility for institutions changing from 2- to 4-year status is a clarifying amendment only.

I simply cannot understand how the Office of Education has so confused this issue. In 1965 when we worked on the legislation to establish title III, it was our intention that the program be directed to institutions who were developing, not by virtue of their recent establishment but because they had over a period of time been struggling to raise their academic standards. The 5-year requirement was intended to preclude participation by newly established institutions.

I understand that the Office of Education has interpreted the law to require an institution changing from 2- to 4-year status to wait out a 5-year period. Mr. Chairman, that makes no sense at all. It was never intended by the Congress, nor does the law require this. In effect, what the Office of Education is saying is that even if a 2-year institution had been in existence for 50 years, it would have to wait 5 years for eligibility for title III money if it changed to a 4-year institution.

May I stress, Mr. Chairman, that this is a clarifying amendment. In my view, it is not necessary for both the law and congressional intent are clear. I support the amendment, however, so that there will be no further misinterpretations by the Office of Education as to congressional intent and the law.

Mr. BUCHANAN. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, these are agreed amendments and I support them. We have tried very hard to meet the concerns of the various educational associations and other interested parties in the country in this entire bill.

I think these amendments clarify that purpose and it has been the purpose of the committee throughout these proceedings to do that.

I must say that I am not certain all these changes in language are necessary, but I certainly have no objection to the changes and I do support the amendments.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. BUCHANAN. Yes, certainly.

Mr. FORD of Michigan. Mr. Chairman, I want to thank the gentleman for his cooperation.

I am not certain that they are necessary, either, but that is why we characterize them as technical. There are people around the country who feel that they need the reassurance of these little technical changes. Since they are consistent with what we thought they were saying, we thought we would accommodate their concerns.

Mr. BUCHANAN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Michigan (Mr. FORD).

The amendments were agreed to.

Mr. FOUNTAIN. Mr. Chairman, I commend and thank the distinguished chairman of the Postsecondary Education Subcommittee, Mr. FORD, for his committee's amendment to title XII of H.R. 5192. Mr. FORD's amendment corrects a problem which I am sure neither he nor Mr. BUCHANAN had anticipated. I also want to express my appreciation to the ranking minority member, my good friend Mr. BUCHANAN, for his cooperation.

I understand that all of the States but two, North Carolina and Wisconsin, have State postsecondary planning agencies or commissions. Title XII, before Mr. FORD's committee amendment, would have required North Carolina and Wisconsin, and such other States as may not have such a bureaucracy, to establish a planning agency like all of the other States, even though they do not want one. Now with Mr. FORD's amendment, concurred in by Mr. BUCHANAN, the planning agency is optional. That decision is still for the States to make, not the Federal Government. I am pleased that North Carolina can make its own decision about planning, and again I thank Mr. FORD and Mr. BUCHANAN for their help in making this intention clearer.

I would like to add to what I understand the subcommittee's intention is in amending title XII. The amendment would change section 1203 so that States may choose one of two agreements with the Secretary. Option 1 is the same as the Education and Labor Committee's version of section 1203. Option 2 encompassed in the amendment proposed today and adopted by the committee, eliminates the requirement that States designate an agency responsible for statewide planning, eliminates the requirement that States describe the relationship among the planning efforts of the various State entities, eliminates the requirement that the States involve institutions in the statewide planning process, and prohibits Federal planning funds to States which elect option 2. If title I of the bill is funded, this would mean about $60,000 for each State.

Frankly, I think our whole country would be better served if we could amend

title XII out of the bill altogether. The Congress should not pass legislation unless the intent is clear and unmistakable, and unless all the people who will be affected by it understand it. Based upon contacts I have had with college and university officials, there are many unanswered questions about title XII.

Let me refer you now to the current law. Current law is clear. States that want to plan and that want Federal money to do it with, have to form a State commission (better known as a 1202 commission) that is representative of all institutions, the public, and the State. North Carolina and Wisconsin said "No thank you" but the other States said yes, and that is fine.

Title XII in the original committee bill would change everything. It gets rid of the old law and the 1202 commissions, and says that States wishing planning money must first make detailed agreements with the Secretary. And why? No one can tell me. The committee report says:

The intent is to permit the States to draw together and coordinate these (postsecondary) functions in a manner most appropriate to each State.

Personally, I think it is unnecessary for the Congress to pass six full pages of legislation to permit the States to do what they are allowed to do anyway.

Mr. Chairman, North Carolina says "No thank you," but your States (except Wisconsin) already get Federal planning money. I remind my colleagues that if title XII is six pages long there will be at least 60 pages of regulations telling your States what they have to do to get what they have already got.

Sections 1202 and 1203 of the current law passed in 1972. The colleges and universities did not like it then and the administration did not like it either. Secretary Weinberger of HEW refused to write regulations for it. But our States and their universities have adjusted and they are talking to each other in their 1202 commissions. I say to my colleagues, I am fearful that title XII, even as amended, rocks the boat when things are just getting settled. Current law seems to be working. No one seems to know what title XII is supposed to do.

However, due to the lateness of the hour and the fact that this matter will be addressed again by the conferees, I want to once again thank my colleagues, the chairman of the subcommittee, Mr. FORD, and the ranking minority member, Mr. BUCHANAN, for their willingness to amend title XII in such a way as not to add new or entirely unnecessary burdens for some of our higher education institutions, including those in North Carolina and Wisconsin.

Mr. ANDREWS of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from North Carolina.

Mr. ANDREWS of North Carolina. I thank the gentleman for yielding.

Let me say to the dean of our delegation, I simply would like to associate myself with the remarks he has made and to also thank him for the very valuable work on behalf of North Carolina, which he has performed in connection with this most important matter.

I thank the gentleman.

Mr. FOUNTAIN. I would like to broaden this, Mr. Chairman, and say on behalf of the entire North Carolina delegation, and I hope on behalf of the delegation from Wisconsin, I want to thank these gentleman for the help they gave in clarifying this matter.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Alabama.

Mr. BUCHANAN. The distinguished gentleman from North Carolina certainly has made a good contribution in calling this to our attention, and I am pleased that we were able, with the chairman's amendments, to correct the situation.

I want to thank the gentleman for his comments.

Mr. FOUNTAIN. I thank the gentleman for his observation.

□ 1020

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: Page 15, line 24, strike out the close quotation marks and the period thereafter and after such line insert the following new section:

"STUDY OF ADULT POSTSECONDARY EDUCATION

"SEC. 110. (a) In order to support the activities authorized by this title, the Secretary shall conduct a study of the remaining barriers to adult postsecondary education which shall analyze the characteristics of current or potential adult postsecondary students, the Federal response to the needs of adult postsecondary students, and the ability of educational institutions to respond to the growing postsecondary student population. For purposes of this study, the term 'adult postsecondary student' shall mean persons 22 years of age or older.

"(b) In analyzing the characteristics of current or potential adult postsecondary students and the Federal response to their needs, the Secretary shall, at a minimum—

"(1) review the extent to which such students are motivated by employment goals, and whether these students seek further education in order to enter the labor force or reenter after an extended absence, advance in a current career, or move from one career to another;

"(2) analyze the relationship between different employment motivations and sources of financial assistance for education, choice of institution or patterns of participation in postsecondary education; and

"(3) evaluate the extent to which the inavailability or inaccessibility of financial aid sources may prevent educational participation by economically or socially disadvantaged adults, or otherwise limit their choice of educational focus or intensity of study.

"(c) In analyzing the ability of postsecondary institutions to respond to the potential adult postsecondary student population, the Secretary shall, at a minimum—

"(1) review the availability of outreach, information, counseling, or supportive service programs, with particular attention to programs serving adults such as homemakers or retirees who are least likely to have access to normal sources of educational information;

"(2) review the availability of alternative methods of evaluating past education credits and experience to promote adult participation in postsecondary education, and the availability of remedial courses for adult students.

"(d) Not later than two years after the date of enactment of this subsection, the Secretary shall make a report to the President and the Congress on the results of the investigation and study authorized by this section, together with such findings and recommendations, including recommendations for legislation, as may be appropriate. All recommendations that contemplate changes in Federal legislation shall be accompanied by draft legislation.".

Mr. BIAGGI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Chairman, I would like to commend the chairman of the committee, the gentleman from Michigan (Mr. FORD), for his ever constant support, for his leadership, and for his constant commitment to higher education. The gentleman from Alabama (Mr. BUCHANAN), whose sympathies are of a similar nature, has been most cooperative. As we all know, these gentlemen are most informed on this subject, and we thank them for their support. This is a simple question, but it is a critical question that needs to be addressed.

Mr. Chairman, I am offering this amendment to title I of H.R. 5192, the education amendments of 1980 which mandates that the Secretary of Education conduct a study to evaluate the remaining barriers to adults in postsecondary education and will determine in what ways we can best serve the needs of the adult student in the future. I offer this amendment with the help of my colleague JOHN BURTON from the House Select Committee on Aging who has been in the forefront of this effort.

This study would identify the current nontraditional—as it has come to be called—student population today. This has been necessitated by the fact that increasing numbers of adults are returning to school, both as full and as part-time students. We are hearing that many of them are facing problems. Colleges and universities are acknowledging the fact that many of them are unable to meet the needs of this growing student population. This study would help us to identify the current effort which is being made by educational institutions at present and will also show us where the deficiencies in the system lie.

Many of these problems came to light during a hearing which I chaired that our Postsecondary Education Subcommittee held at Mercy College in Dobbs Ferry, N.Y. I was joined at this hearing by my colleagues on the committee, Mr. PEYSER and Mr. WEISS as well as Mr. RATCHFORD who has been involved with the shaping of this title from the beginning.

At this hearing, a number of groups, individuals, and institutions came forward to address the needs and the problems of the adult student. Witness after

witness came forward to applaud this committee for holding hearings so that these concerns of the nontraditional student population could be brought to light—problems which they felt had not been addressed.

Financial aid is often the biggest problem faced by adults returning to school. Most adults who return to school also have additional family and job responsibilities and are forced to attend class on a part-time basis. In my own State of New York, part-time students are not eligible for 1 penny of State tuition assistance programs which amount to approximately $206 million according to recent figures. Our Federal programs mandate that to be eligible for grants or loans, students must be in attendance half-time or more. There are large numbers of adults in this Nation who can only afford to attend less than halftime yet are unable to receive financial aid.

Access to information is also a problem for the nontraditional student. Again, in our hearings, many of the students who testified or who spoke with me told me that they were totally unaware of the options available to them for financial assistance. The financial aid office was only open from 9 until 5 and that was when they were at work. School administrators acknowledged that information access was also a problem given their own fiscal problems.

There were also some very fine examples of what schools were doing to assist their nontraditional students, such as flexible office and class hours and a special effort made to reach out to the adults in the community to provide them with the information. This study could provide examples and offer ways in which other schools could be making similar efforts for their students.

Mr. Chairman, last year this body passed the Middle Income Student Assistance Act. As an original cosponsor of this bill, I am pleased to note that with this legislation we have made some form of Federal assistance available to any student who wants to attend college or a vocational or technical school at least halftime. This past July, this body responded to a bill which I introduced which averted a potential crisis in the availability of guaranteed students loans this past fall. With this bill which we have before us today, H.R. 5192, we have acknowledged this nontraditional population in our version of title I which is called "educational outreach programs." However, I feel, and I am sure that many of my colleagues on the committee will agree with me, that in order for this committee to adequately address the needs and problems which are unique to adult learners. We need to be able to identify where these problems currently exist. My amendment would address this problem by providing this body with a survey of this group from the Secretary of Education within 2 years after enactment of this bill.

The future of higher education rests with the ability of the system to recognize the changing nature of the student population. This study will help to provide the kinds of information necessary to plan policy properly. It is complimentary to this bill and I urge its adoption.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to commend the gentleman from New York (Mr. BIAGGI) for the diligence with which he has pursued this solution.

We attempted to consider the objectives of this amendment in the full committee and were unable to work it out. One of the concerns was that it was most difficult to find a way to accomplish this without authorizing a separate appropriation of funds.

The gentleman from New York (Mr. BIAGGI) has worked with the majority and minority staffs, with the gentleman from Alabama (Mr. BUCHANAN), and with me toward the end of accomplishing his purpose, on which I am sure every member of the committee agrees, without the necessity of authorizing new funds.

Mr. Chairman, this does not constitute an add-on or an increase in the authorizations of this bill. We are happy to accept the amendment and recommend that it be adopted.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, we, too, are happy to accept the amendment. I congratulate the gentleman from New York (Mr. BIAGGI) for working this matter out in a way that does not add authorizations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will designate title II. Title II reads as follows:

TITLE II—AMENDMENT AND EXTENSION OF TITLE II OF THE HIGHER EDUCATION ACT OF 1965

AMENDMENT

SEC. 201. Title II of the Act is amended to read as follows:

"TITLE II—COLLEGE AND RESEARCH LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

"PURPOSE; AUTHORIZATION

"SEC. 201. (a) The Secretary shall carry out a program to assist—

"(1) institutions of higher education in the acquisition of library resources, including law library resources, and in the establishment and maintenance of networks for sharing library resources in accordance with part A;

"(2) in the training of persons in librarianship and encourage research and development relating to the improvement of libraries (including the promotion of economical and efficient information delivery, cooperative efforts, and developmental projects) in accordance with part B;

"(3) the Nation's major research libraries to maintain and strengthen their collections, and in making their holdings available to other libraries whose users have need for research materials, in accordance with part C; and

"(4) the establishment of a National Periodical Center, in accordance with part D.

"(b)(1) For fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, there are authorized to be appropriated $60,000,000 for carrying out part A, $60,000,000 for carrying out part B, $20,000,000 for carrying out part C, and $15,00,000 for carrying out part D.

"(2) Notwithstanding paragraph (1), no funds are authorized to be appropriated for part D unless the appropriation for each of parts A, B, and C equals or exceeds the amount appropriated for each such part, respectively, for fiscal year 1979.

"(c) No grant may be made under this title for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

"NOTIFICATION OF STATE AGENCY

"SEC. 202. Each institution of higher education which receives a grant under this title shall annually inform the State agency designated pursuant to section 1203 of its activities under this title.

"PART A—COLLEGE LIBRARY RESOURCES

"RESOURCES DEVELOPMENT GRANTS

"SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to institutions of higher education or combinations thereof (and to each branch of an institution which is located in a community different from that in which its parent institution is located), and to other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis. The amount of a resource development grant under this section shall not exceed $10,000.

"(b) A grant under this part may be made only if the application provides—

"(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

"(2) satisfactory assurance that the applicant will expend, for all library material expenditures (exclusive of construction) during the fiscal year for which the grant is sought, from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part;

"(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(4) for making such reports as the Secretary may require and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports.

"(c) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (a)(2), the requirement for such assurance may be waived. For purposes of this subsection, the term 'very unusual circumstances' means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials and total library purposes, or which resulted in unusually high expenditures for library materials and total library purposes.

"(d) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and to establish and maintain networks for sharing library resources with other institutions of higher education.

"PART B—LIBRARY TRAINING, RESEARCH, AND DEVELOPMENT

"GRANTS AUTHORIZED

"SEC. 221. From the amount appropriated for this part, the Secretary shall make grants in accordance with sections 222, 223, and 224. Of such amount, one-third shall be available for the purposes of each such section.

"LIBRARY CAREER TRAINING

"SEC. 222. (a) The Secretary shall make grants to, and contracts with, institutions of higher education and library organizations or agencies to assist them in training persons in librarianship. Such grants or contracts may be used by such institutions, library organizations, or agenices (1) to assist in covering the cost of courses of training or study (including short term or regular session institutes), (2) to establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows and others undergoing training and their dependents, not in excess of such maximum amounts as may be determined by the Secretary, and (3) to establish, develop, or expand programs of library and information science, including new techniques of information transfer and communication technology.

"(b) Not less than 50 per centum of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

"RESEARCH AND DEMONSTRATIONS

"SEC. 223. The Secretary is authorized to make grants to, and contracts with, institutions of higher education and other public or private agencies, institutions, and organizations for research and demonstration projects related to the improvement of libraries, training in librarianship, information technology, and for the dissemination of information derived from such projects.

"SPECIAL PURPOSE GRANTS

"SEC. 224. (a) The Secretary is authorized to make special purpose grants to (1) institutions of higher education to meet special national or regional needs in the library or information sciences, (2) combinations of institutions of higher education which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment, (3) other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services, and (4) to institutions of higher education who demonstrate a need for special assistance to develop or expand programs or projects that will service the community in which the institution is located.

"(b) A grant under this section may be made only if the application therefor (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that (1) the applicant will expend during the fiscal year for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant, and (2) each such applicant will expend during such fiscal year from such other sources for all library purposes (exclusive of construction) an amount not less than the average annual amount it expended for such purposes during the two fiscal years preceding the fiscal year for which the grant is sought under this section.

"PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

"ELIGIBILITY FOR ASSISTANCE

"SEC. 231. (a)(1) From the amount appropriated for this part, the Secretary shall make grants to institutions with major research libraries.

"(2) For the purposes of this part, the term 'major research library' means a public or private nonprofit institution (including the library resources of an institution of higher education), an independent research library, or a State or other public library, having a library collection which is available to qualified users and which—

"(A) makes a significant contribution to higher education and research;

"(B) is broadly based and is recognized as having national or international significance for scholarly research;

"(C) is of a unique nature, and contains material not widely available; and

"(D) is in substantial demand by researchers and scholars not connected with that institution.

"(b) No institution receiving a grant under this part for any fiscal year may receive a grant under section 211 or 224 for that year.

"GEOGRAPHICAL DISTRIBUTION OF GRANTS

"SEC. 232. In making grants under this part, the Secretary shall endeavor to achieve broad and equitable geographical distributions throughout the Nation.

"PART D—NATIONAL PERIODICAL CENTER

"PURPOSE

"SEC. 241. It is the purpose of this part to establish a National Periodical Center to serve as a national periodical resource by contributing to the preservation of periodical materials and by providing access to a comprehensive collection of periodical literature to public and private libraries throughout the United States.

"ESTABLISHMENT

"SEC. 242. There is established a nonprofit corporation, to be known as the National Periodical Center Corporation (hereinafter in this part referred to as the 'Corporation'), which shall not be considered an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this part, and to the extent consistent with this Act, to the laws of the jurisdiction where incorporated.

"FUNCTIONS OF THE CORPORATION

"SEC. 243. (a) The Corporation shall seek to establish a national system to provide reliable and timely document delivery from a comprehensive collection of periodical literature.

"(b) For the purposes of establishing the system described in subsection (a) the Corporation shall, in addition to the authority provided by section 247, have the authority—

"(1) to acquire current and retrospective periodicals, and to preserve and maintain a dedicated collection of such documents;

"(2) to provide information on periodicals to which the Corporation can insure access, including those circulated from private sector sources, and cooperate in efforts to improve bibliographic and physical access to individuals;

"(3) to make such periodicals available, on a cost reimbursable or other basis as determined by the Board, through libraries by loan or by photoreproduction or other means; and to assure that all fees set by the copyright owners will be paid for any reproduction of a document under copyright delivered by or through the Corporation;

"(4) to cooperate with and participate in international borrowing and lending activities as may be appropriate for such purposes;

"(5) to enter into cooperative agreements with the Library of Congress, the National Library of Medicine, the National Agricultural Library, other Federal agencies, State and local agencies and instrumentalities, and private libraries and other organizations for such purposes;

"(6) to establish regional offices of the Corporation to the extent necessary and appropriate; and

"(7) to coordinate the training of librarians and other users in the use of the Corporation's services.

"BOARD OF DIRECTORS

"SEC. 244. (a) The Corporation shall have a Board of Directors (hereinafter in this part referred to as the 'Board'), consisting of fifteen members, including fourteen members appointed by the President, by and with the advice and consent of the Senate, and the Director of the Corporation.

"(b) The members of the Board appointed by the President shall be representative of the needs and interests of the Government, academic and research communities, libraries, publishers, the information community, authors, and the public. Except for the initial Board of Directors, the members shall be appointed after consultation with the Board.

"(c) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the laws of the jurisdiction in which it is incorporated.

"(d) The term of office for each member of the Board (other than the Director) shall be six years except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of office of members first taking office shall begin on the date of incorporation and shall expire as designated at the time of their appointment, four at the end of two years, five at the end of four years, and five at the end of six years. No member shall be eligible to serve for more than two consecutive terms of six years each. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has taken office.

"(e)(1) The members of the Board shall not, by reason of membership, be deemed employees of the United States. Except as provided in paragraph (2), members shall, while engaged in activities of the Board, be entitled to receive compensation at the rate equal to the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day and, while away from their homes or regular place of business, may be allowed travel expenses.

"(2) Members of the Corporation who are full-time officers and employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Corporation.

"(f) Eight members of the Board shall constitute a quorum.

"(g) The Board shall elect annually one of its members to serve as the Chairman.

"(h) The Board shall meet annually or at the call of the Chairman or a majority of its members.

"DIRECTOR AND STAFF OF CORPORATION

"SEC. 245. (a) The Corporation shall have a Director, and such other officers as may be named and appointed by the Board for the terms and at rates of compensation fixed by the Board. The Director shall have authority with respect to the management of the operations of the Corporation, subject to such rules as may be prescribed by the Board.

"(b) Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of such personnel and may procure temporary and intermittent services.

"NONPROFIT NATURE OF CORPORATION

"SEC. 246. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(b) No part of the incomes or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

"(c) The Corporation shall be exempt from taxation now or hereafter imposed by the United States, or any territory, or possession thereof, or by any State, county, municipality, or local taxing authority.

"AUTHORITY OF CORPORATION

"SEC. 247. (a) The Corporation shall have power—

"(1) to obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(2) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(3) to lease, purchase, or otherwise acquire, own, hold, improve, use or otherwise deal in and with any property (real, personal, or mixed), or any interest therein, wherever situated;

"(4) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets; and

"(5) to enter into contracts, to execute instruments, to incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(b) To carry out its functions and to engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the jurisdiction in which the Corporation is incorporated.

"(c) The Corporation may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States. The Administrator of General Services shall provide to the Corporation on a reimbursable basis such administrative support services as the Corporation may request.

"(d) The Corporation is authorized to accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Corporation. For the purpose of Federal income, estate, and gift taxes, property accepted under this subsection shall be a gift, bequest, or devise to the United States.

"REPORT

"SEC. 248. The Corporation shall transmit to the President and each House of Congress a report not later than March 1 of each year. The report shall contain a detailed statement of the Corporation's operations, activities, financial condition, and accomplishments for the preceding calendar year and may include such recommendations as the Corporation deems appropriate.

"COPYRIGHT ACT

"SEC. 249. Nothing in this Act shall be considered to amend, affect, or define the provisions of title 17 United States Code, relating to copyrights.

"DEFINITIONS

"SEC. 250. As used in this part—

"(1) the term 'access' means the ability to identify, locate, and obtain a specific item (generally a periodical article), and includes both bibliographic access (the ability to identify a speech item from its description) and physical access to materials (the ability to obtain the text of an item in an appropriate form, such as visual, audio, or printed formats);

"(2) the term 'comprehensive collection' means a collection of periodical titles which will provide access to approximately 90 per centum of the requests received, except that such titles need not all be physically located in the same place;

"(3) the term 'copyright owner' means the owner of any one of the exclusive rights comprised in a copyright; and as regards the Corporation, means the right to authorize the reproduction of periodical literature;

"(4) the term 'dedicated collection' means a collection of periodicals maintained for the sole purpose of assuring the provision of permanent physical access;

"(5) the term 'documents' means portions or entire issues of periodicals;

"(6) the term 'document delivery' means the provision of physical access to documents by any means;

"(7) the term 'periodical' means a publication consisting of issues in a continuous series under the same title published at regular or irregular intervals, over an indefinite period, individual issues in the series being numbered consecutively or each issue being dated; and

"(8) the term 'private sector' means nongovernmental, nonprofit, and for-profit organizations.".

The CHAIRMAN. Are there amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—AMENDMENT TO TITLE III OF THE HIGHER EDUCATION ACT OF 1965

STRENGTHENING DEVELOPING INSTITUTIONS PROGRAM

SEC. 301. Title III of the Higher Education Act of 1965 is amended to read as follows:

"TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

"PROGRAM AUTHORIZATION

"SEC. 301. (a) The Secretary shall carry out a program, in accordance with this title, to improve the academic quality, institutional management, and fiscal stability of developing institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

"(b)(1) For purposes of this title, the term 'developing institution' means an institution of higher education—

"(A) the enrollment of which includes a substantial percentage of students from low-income families, and

"(B) the average expenditures of which are low, per full-time equivalent student, in comparison with the average expenditures of institutions that offer similar instruction. Such term also includes an institution of higher education that does not meet the criterion contained in subparagraph (B) if the Secretary determines, based on evidence submitted by the institution, that the institution's failure to meet that criterion is due to its small size or to its location in an area with an unusually high cost-of-living, and that the institution's designation as a developing institution is otherwise consistent with the purposes of this title.

"(2) Any entity which is a branch of an institution of higher education may be considered to be a developing institution if such entity satisfies the requirements of paragraph (1) of this subsection.

"(c) For purposes of this title, the number of full-time equivalent students of an institution is the sum of the number of students enrolled full time, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve), in such institution.

"APPROPRIATIONS AUTHORIZED

"SEC. 302. (a)(1) For the purpose of carrying out this title, other than section 306, there are authorized to be appropriated $140,000,000 for fiscal year 1981; $160,000,000 for fiscal year 1982; $180,000,000 for fiscal year 1983; and $200,000,000 for each of the fiscal years 1984 and 1985.

"(2) Of the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall make available to use for the purposes of this title—

"(A) not less than 24 per centum to developing institutions that are junior or community colleges, and

"(B) the remainder to developing institutions that plan to award a bachelor's degree during that year.

"(b) For the purpose of awarding challenge grants under section 306 there are authorized to be appropriated $25,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $50,000,000 for fiscal year 1985.

"(c) Of the sums appropriated under subsection (a) for any fiscal year, the Secretary shall make available not less than 25 per centum for grants under section 304(b)(1)(B). Any funds made available under this subsection for such grants which are not expended during the fiscal year for which such funds were appropriated shall remain available for expenditure for the purpose of making such grants during subsequent fiscal years.

"ELIGIBILITY FOR ASSISTANCE

"SEC. 303. (a)(1) A developing institution is eligible to apply for a grant from sums appropriated therefor under section 302(a)(1) if it—

"(A) is legally authorized to provide and provides within the State, an educational program for which it awards a bachelor's degree, or is a junior or community college;

"(B) is accredited by a nationally recognized accrediting agency or association determined by the Commissioner to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(C) except as provided in paragraph (2), has met the requirement of subparagraph (A) during the five academic years preceding the academic year for which it seeks assistance under this title; and

"(D) meets such other requirements as the Secretary may prescribe.

"(2) The Secretary may waive the requirements set forth in paragraph (1)(C) in the case of institution—

"(A) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

"(B) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Spanish-speaking people; or

"(C) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income people, especially including those living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions.

"(b) For the purposes of this title, the term 'junior or community college' means an institution of higher education—

"(1) that admits as regular students persons who are beyond the age of compulsory

school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(3) that—

"(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(B) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semi-professional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"PURPOSE AND DURATION OF GRANT

"SEC. 304. (a) From the sums appropriated under section 302(a)(1), the Secretary may award grants to any developing institution with an application approved under section 305 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution. Special consideration shall be given to applications which propose to engage in the following activities pursuant to the institution's plan:

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs; and

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"(b)(1) The Secretary may award a grant to a developing institution under this section for—

"(A) not to exceed three years, or

"(B) not less than four nor more than seven years,

subject for each fiscal year to the availability of appropriations therefor. The Secretary shall not accept the application of a developing institution for a grant under both subparagraphs (A) and (B) for a fiscal year.

"(2) The Secretary shall not award a grant under this title to a developing institution that has, for any prior fiscal year, received a grant under paragraph (1)(B).

"(3) In the event of a multiple-year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"(4) Notwithstanding paragraph (1), the Secretary may award a grant to a developing institution under this section for a period of one year for the purpose of assisting such institution in the preparation of plans and applications under this title.

"APPLICATIONS FOR ASSISTANCE

"SEC. 305. (a) An institution desiring assistance under this title shall apply to the Secretary at such time, in such form, and shall provide such information, as may be necessary to enable the Secretary to evaluate its need for assistance and to determine its eligibility as a developing institution for the purposes of this title. Subject to the availability of appropriations under this title, the Secretary may approve an application under this subsection that meets the requirements of subsection (b) and shows that the applicant is a developing institution which is eligible, under section 303, to apply for a grant.

"(b) A developing institution, in its application for a grant, shall—

"(1) set forth, or describe how it will develop, a comprehensive developmental plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 304(a), and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available under this title to the applicant;

"(5) provide for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title (including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded), and for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

"(6) provide that the institution will comply with the limitations set forth in section 306; and

"(7) include such other information as the Secretary may prescribe.

"CHALLENGE GRANTS

"SEC. 306. (a) From the sums appropriated therefor under section 302(b), the Secretary may award a challenge grant to a developing institution that—

"(1) is eligible for a grant under section 303; or

"(2) would be so eligible if subparagraph (A) of section 303(a)(1) referred to a postgraduate degree rather than a bachelor's degree.

A challenge grant is a grant that is subject to all requirements of this title applicable to other grants made under this title, except that the application therefor complies with subsection (b) of this section.

"(b) A developing institution desiring a challenge grant shall apply under section 305, except that its application must—

"(1) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant; and

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment.

"(c) Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions shall receive such grant and shall notify the institution of the amount of the grant.

"(d) In the review of applications for grants under this section, preference shall be given to those institutions which are receiving, or have received, grants under section 304(b)(1)(B).

"ASSISTANCE TO DEVELOPING INSTITUTIONS UNDER OTHER PROGRAMS

"SEC. 307. (a) Each institution which the Secretary determines meets the criteria set forth in section 303(a) shall be eligible for waivers in accordance with subsection (b).

"(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a developing institution for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from institutions which are not developing institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

"(c) The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for the program for any fiscal year.

"LIMITATIONS

"SEC. 308. The funds appropriated under section 302 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than those set forth in the approved application under section 305."

AMENDMENT OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUKE: Page 41, after line 4, insert the following new sections:

"APPLICATION REVIEW PROCESS

"SEC. 306. (a) The Secretary shall request from institutions of higher education, nominations of persons qualified to review applications for grants under this title. The Secretary shall review the nominations received under this subsection and shall select from among such nominations a sufficient number of qualified individuals to conduct the reviews required under subsection (b). Included among the individuals selected by the Secretary shall be representative of the types of institutions receiving grants under this title. No individual shall be selected by the Secretary unless such individual has expertise in the evaluation of projects described under section 304(a) and is sensitive to the unique needs of developing institutions.

"(b)(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary under subsection (a). The Secretary shall insure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

"(2) All readers selected under subsection (a) shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title, including—

"(A) explanations and examples of the types of activities refered to in section 304(a) that should receive special consideration for grant awards under this title;

"(B) an enumeration of the factors to be

used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

"(c) In awarding grants under this title, the Secretary may take into consideration only those factors enumerated under the instructions given to the readers under subsection (b)(2), and only to the extent and in such manner as specified under such instructions.

"COMMITTEE ON REVIEW

"SEC. 307. (a)(1) There is established a committee to be known as the Committee on Review (hereinafter in this section referred to as the "Committee"), which shall consist of ten members appointed by the Secretary, as follows:

"(A) One member who is a representative of private junior colleges.

"(B) One member who is a representative of private institutions that award bachelor's degrees.

"(C) One member who is a representative of public junior or community colleges.

"(D) One member who is a representative of public institutions that award bachelor's degrees.

"(E) Six other members who are representatives of any of the institutions referred to in subparagraphs (A) through (D).

"(2) In appointing the members of the Committee, the Secretary shall consult with, and review any recommendations received from, associations which represent the interests of the various sectors of the postsecondary education community.

"(3) No individual who is an officer or employee of the United States shall serve as a member of the Committee.

"(4) The terms of the members of the Committee shall be two years, except that of the members first appointed, five shall be appointed for terms of one year, as designated by the Secretary at the time of appointment.

"(b)(1) Any vacancy in the Committee shall be filled in the same manner in which the original appointment was made.

"(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(3) A member may serve after the expiration of his term until his successor has taken office.

"(c)(1) Members of the Committee shall each be entitled to receive $150 for each day (including travel time) during which they are engaged in the actual performance of the duties of the Committee.

"(2) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(d)(1) The Committee shall review, for each fiscal year beginning after September 30, 1980, all grant award recommendations made by the readers used by the Secretary to review applications under this title pursuant to section 306. After reviewing such recommendations, the Committee shall submit to the Secretary a report which contains—

"(A) the recommendations of the independent readers regarding the institutions to be awarded grants under this title;

"(B) such recommendations as the Committee considers appropriate to provide for equitable adjustments in the amounts recommended by the readers for grants in order that the total amount recommended for all grants under this title shall not exceed the amount appropriated for such purpose, such other recommendations as the Committee may consider appropriate, and an explanation of the reason for each recommendation; and

"(C) recommendations of the Committee (reflecting any adjustments required to be made under subparagraph (B)) regarding the amount and duration of any grant to be awarded under this title.

"(2) The Secretary shall be responsible for reviewing the report submitted by the Committee and for making the final determinations with respect to grants under this title.

"(3) Not later than June 30 of each year (beginning in 1981), the Secretary shall publish in the Federal Register, in ranked order reflecting the amount of any grant awarded under this title, the following information:

"(A) The name of each institution which submitted an application under this title.

"(B) The average score given to any such application by the readers under section 306, and any changes in the average score recommended by the Committee (including an explanation of the reasons for such changes).

"(C) The recommendations of the Committee regarding the recipients of grants under this title and the amount of such grants.

"(e) The Secretary shall provide to the Committee such administrative support services and personnel as the Committee may request to enable it to carry out its duties under this section.

Page 41, line 6, strike out "306" and substitute "308".

Page 42, line 17, strike out "307" and substitute "309".

Page 43, line 12, strike out "309" and substitute "310".

Page 41, after line 4, add the following:

"(8) describe in a comprehensive manner any development project for which funds are sought under the application and include—

"(A) a description of the various components of the development project, including the estimated time required to complete each such component;

"(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be a sound investment of Federal funds and those components which would be a sound investment of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any development project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and similar evaluation regarding priorities among the components of any single development project (as described by the applicant pursuant to subparagraph (A));

"(D) in the case of a request for an award for a period of more than one year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate;

"(E) information explaining the manner in which the development project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, increased energy costs, and other problems;

"(F) a detailed budget showing the manner in which funds for any development project would be spent by the applicant; and

"(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F)."

Page 41, line 3, strike out "and"; line 4, strike out the period and insert in lieu thereof "; and".

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, I wish to commend the chairman of the subcommittee, the gentleman from Michigan (Mr. FORD), and the ranking minority member of the subcommittee, the gentleman from Alabama (Mr. BUCHANAN), for the outstanding work they have done on this bill. This legislation comes to the floor with very little controversy, and I think that is a tribute to both of these gentlemen and demonstrates the leadership they have given this subcommittee.

Mr. Chairman, I rise to offer an amendment to title III, the strengthening developing institutions program. The strengthening developing institutions program is the only program in this bill which provides direct assistance to institutions. Consequently, it is also the only program in the bill which provides assistance to those institutions which have special needs because they serve minority groups.

In recent weeks, however, a number of reports stemming from an audit by the General Accounting Office which was released last February 13 have leveled criticisms at the title III program. I believe that the subcommittee and the committee have done an excellent job of meeting most of those criticisms and in fashioning responses to those criticisms which will strengthen the program and make it better.

The gentlewoman from New York (Mrs. CHISHOLM) recently circulated a "Dear Colleague" letter which explains in great detail many of the changes the committee is recommending. I believe the gentlewoman from New York accurately describes those changes.

The single area which the General Accounting Office addresses and which H.R. 5192 fails to address is the subject of my amendment today, and that subject is program administration. Twice the General Accounting Office has said to Congress that there are problems in program administration—once in 1975 and once more last February. The Congress did not address the problems in 1975, and I think for the good of the whole program and the preservation of the program we should do it today.

An entire chapter of the more recent GAO report was devoted to the problems of program administration. I believe, with the changes the subcommittee has already made and with the changes I am suggesting today, we can meet those criticisms.

Briefly, those criticisms were, first,

that the selection procedures for grants awards were inconsistently applied, secondly, that it is questionable if the most deserving institutions were receiving the awards, and, third, that the method for computing grant awards has fallen into the hands of the staff of the Office of Education.

Because I am so concerned about preserving this very good program, I am offering this amendment which would improve the program administration. The amendment would, first of all, establish in statute a method for selecting the independent readers who are responsible for reviewing the application proposals under the title III program. Secondly, it would strengthen the orientation process so the independent readers would be adequately oriented as to the method and process used to evaluate the proposals under this program.

Third, it would establish a committee on review which would be responsible to report to the Secretary recommendations for the adjustment of grant awards if the aggregate amount recommended by the readers exceeds the total amount appropriated for this program. I would note that the Secretary, however, would make all final grant determinations.

Finally, the amendment would require the Secretary to print in the Federal Register a list of the final awards.

During the past year the Office of Education has adopted substantial regulations relating to making of grant awards for the current academic year. The problems we have experienced this year, I think, indicate those regulations have not solved the problem.

Mr. Chairman, I think for the good of the program, in order to preserve this very worthwhile program, it is important that the Congress address this issue, and, therefore. I urge the Members to support this amendment.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to say first that the gentleman from Iowa (Mr. TAUKE) has been one of the hardest working and most stalwart supporters of the efforts of this committee to develop this legislation. I know he has worked very hard, particularly on the problems that have come to light in the last few years with regard to title III.

□ 1030

I had a statement in the RECORD recently responding to newspaper publicity with regard to title III. The fact is that we on the committee have been aware for some time of the concerns which the amendment of the gentleman from Iowa (Mr. TAUKE) would address itself to, and we had those concerns in mind while tailoring this legislation in cooperation with the administration.

Many of us on the committee have been disturbed with the way in which title III has been administered in the past. We thought that some of those concerns could be met by this legislation and, to the extent that we believed that legislating the remedy was appropriate, we have done that in this legislation. But there is a difference between legislating good administration and legislating good substantive law. Unfortunately, you cannot legislate a good administrator.

When I first came to this body, Wilbur Cohen said to me, "Bill, if you are given a choice in your concern for education between a perfectly written bill with a bad administrator, or a poorly written bill with a good administrator, take the poorly written bill and the good administrator every time."

As hard as we try, we cannot legislate in a way that guarantees that the people who have to exercise discretion in the administration of a program are going to do so in a way that is going to be satisfactory to all of us or sometimes to any of us. But to the extent that we thought it was possible to direct the activities and circumscribe the discretion of the people administering this program, we think we have done that.

I must say, on behalf of the administration, that prior to this legislation, even without the adoption of our legislation, some of the problems will be reached because they did recognize in-house that these problems existed. There are now pending final regulations promulgated by the administration that reach about halfway toward the solution of the problem that we propose in this legislation.

We have absolutely no quarrel with the objectives of the amendment offered by the gentleman from Iowa (Mr. TAUKE), and he is motivated by the highest kind of purpose in attempting to restore among those people who have lost confidence in the administration of this particular program the credibility of the program. For that we applaud him. We do feel, however, that this complex structure will really make it difficult if not impossible for the new Secretary of Education and the newly created Department of Education to do the things that we expect that that Secretary will do to carry out the provisions of this law and assure the better administration of title III in the future.

I would make reference to a letter that I have received from Mary Berry, Assistant Secretary for Education, on behalf of the administration, opposing the Tauke amendment, in which she details their objections and her suggestions for how they would administratively deal with the problem.

The letter is as follows:

OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION,
Washington, D.C., November 1, 1979.

Hon. WILLIAM D. FORD,
Chairman, Subcommittee on Postsecondary Education, Committee on Education and Labor, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of October 31 requesting the Department's views on an amendment to be proposed by Representative Tauke to the Education Amendments of 1980, during House consideration of H.R. 5192. As I understand Mr. Tauke's amendment to Title III of the Committee bill, he proposes to legislate how the new Department of Education will administer the Developing Institution program. His amendment would:

Establish in the Higher Education Act the method of selecting independent readers and for reviewing Title III applications;

Require the Secretary of Education to orient the reader selected;

Establish a Committee on Review to review and recommend to the Secretary the amount to be awarded to successful eligible institutions if the award amounts recommended by the readers exceeds the available appropriation;

Require the Secretary to publish in the Federal Register information with respect to the grant evaluation process and the awards made to applicant institutions, including with the recommendations of the readers and the Committee on Review; and

Mandate the contents of the application form for Title III applicants.

The Department opposes adoption of the Tauke amendment. Our opposition stems from the basic premise that good administration cannot be legislated. Mr. Tauke acknowledged this fundamental principle in his October 31 "Dear Colleague." In addition, we believe that many of the smaller colleges, who are the intended beneficiaries of Title III funds would find the provisions of the Tauke amendment unnecessary and onerous. Finally, the Tauke amendment requires a duplication of effort in the review process and will further delay the receipt of Title III funds by successful applicant institutions.

Let me discuss each of our concerns individually.

The Title III, Developing Institutions program has long been plagued with a vague statutory definition of eligible institutions, and poor program administration. Problems with the program were complicated by limited funding available for the many institutions seeking Title III funds. Since early 1977, the Department has sought to correct many of the administrative and program deficiencies evident in the program. Both former Secretary Califano and Secretary Harris have brought new leadership and direction to the program, established new conflict of interest provisions for readers and developed a computerized reader selection process, promulgated regulations which clarified eligibility criteria, and scheduled a series of audits and site visits to Title III institutions in order to improve our monitoring of this program.

The Committee bill, which adopts many of the Administration's Title III reauthorization recommendations, provides a sound basis for effective and efficient administration of the Developing Institutions program. The amendment proposed by Mr. Tauke would limit administrative flexibility to continue to improve the program by requiring certain procedures—some of which have been administratively implemented—but, which may require modification in the future.

The proposed Committee on Review might well render the application review process more complex and less professional. It will certainly make the process longer. One advantage of the present system and the use it makes of external field readers is the comparative anonymity afforded these readers as they perform their task. They are selected for their expertise in substantive areas related to the needs of developing institutions, for their understanding of these institutions, and for their representativeness of the various components of higher education.

These readers may evaluate proposals more objectively because they are removed from many of the political pressures to which a more visible group would be exposed. The Committee on Review, however, would be a highly visible group subject to intense political pressures because of their nearly total control over the amounts and length of awards and the rank order of those proposals to be funded. The pressures upon the Secretary during the selection of these Committee members will be intense, as each of the many interest groups seeks to capture as many of the ten positions as possible for its own members. Indeed, it would very likely be difficult for such a group to evaluate the field readers' ratings and to reach consensus in an

objective manner. Such a Committee would clearly be subject to charges of favoritism by disappointed seekers of funds. We, therefore, believe that the formation of such a statutory committee would be political, as opposed to professional, and would do little to promote the equitable allocation of funds.

The final section of the Tauke Amendment would establish a legislatively prescribed format for Title III applications. We believe the content and format of the application is best left to the regulations. While some of the information which would be required by the Tauke amendment is currently required by regulation, the Tauke language would add substantially to the paperwork burden on applicant institutions. The requirements in subsections (B), (C), (D) and (E) would be particularly onerous.

In summary then, we would urge that the amendment offered by Mr. Tauke not be adopted because: (1) much of what is proposed in terms of administrative improvement is already under way and does not require legislative authorization; (2) the Committee on Review would add an unnecessary layer to the present process, delaying final decisions by the Secretary of final awards to institutions; and (3) the amendment imposes unnecessary additional paperwork requirements on applicant institutions by statutorily requiring the submission of additional information in the Title III application form.

Sincerely yours,

MARY F. BERRY,
Assistant Secretary for Education.

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with the chairman of the subcommittee that there is no way to legislate good administration. There is no way to guarantee rationality and fairness and reasonableness in the administration of law. I want to pledge, so long as I am connected with this subcommittee, very active oversight in this area, however, this law emerges, because GAO pointed this out to us last February in our hearings in which we have deeply explored the problems of title III; and I am convinced that we have not had the administration of that program that we should have had in the past.

The administration has made some rather firm commitments. They have instituted some reforms. We have some others in this law already. I think the thing that is most essential is that we have in the future better administration of this program and that we have very active oversight by this committee.

Having said this, the gentleman from Iowa (Mr. TAUKE) is a very valuable member of this committee. He has worked very hard on this subject and he has offered a proposal to further tighten, to further assure in the law better administration of title III in the future and, therefore, I personally am going to support his amendment.

I think that, given the questions and the criticisms that have been raised, it is rather difficult to do too much to try to assure that in the future we have better administration than we have had in the past, and the gentleman's amendment does attempt to assure that.

One aspect is upgrading and strengthening the role of the readers. These peer group people have been participating in the process. They have been making recommendations as to what applications should be funded and for how long and at what levels. But their recommendations, once made, have not been given particularly great weight, and the Office of Education has been rather erratic in the weight which has been given reader recommendations over against recommendations of the staff of the Office of Education.

It does seem to me that if we are going to have peer group people participate in the process and spend time making input, that that input ought to be real and not only apparent, and that upgrading their role is something that ought to be done, whether it is done administratively or by law. I am not as excited about some other aspects of this amendment, but I do support it and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. TAUKE).

The question was taken; and on a division (demanded by Mr. TAUKE) there were—ayes 14, noes 6.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 33, strike out lines 4 through 7 and insert in lieu thereof the following:

"(B) the average educational and general expenditures of which are low, per full-time equivalent student, in comparison with the average educational and general expenditures per full-time equivalent student of institutions that offer similar instruction.

Page 33, line 10, insert "persuasive" before "evidence".

Page 33, beginning on line 12, strike out "its small size" and all that follows through "cost-of-living", and insert in lieu thereof the following: "factors which, when used in the determination of compliance with such criterion, distort such determination".

Page 33, line 15, insert the following:

"(2) For the purposes of paragraph (1) of this subsection—

"(A) the term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures of physical plant, and any mandatory transfers which the institution is required to pay by law.

Page 33, line 16, strike out "(2)" and insert in lieu thereof "(3)".

Page 33, after line 19, insert the following new paragraph:

"(4) The Secretary shall submit to the Congress each year a report concerning the institutions which, although not satisfying the criterion contained in paragraph (1)(B), have been determined to be developing institutions under this subsection. Such report shall—

"(A) identify the factors referred to in the second sentence of paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with paragraph (1)(B);

"(B) contain a list of each institution determined to be a developing institution, and include a statement of the reasons for each such determination.

Mr. BUCHANAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BUCHANAN. Mr. Chairman, I offer this amendment on behalf of the gentleman from Oklahoma (Mr. EDWARDS) who, unfortunately, is away on official business today but had intended to offer it.

The purpose of the amendment is to broaden a waiver that was put into this bill through an amendment in committee by the gentleman from New York (Mr. PEYSER).

The Peyser waiver gives the Secretary authority to waive the education and general expenditures factor in determining eligibility for the title III program if the institution applying is in a high cost-of-living area and if the institution can show that the computation of the E. & G. is negatively affected by that factor.

There are certain other instances in which there may be merit in permitting a waiver. For example, a heavy mortgage burden, if an institution has recently purchased plant facilities, or high education and general expenditures in regions of the country where energy costs inflate operational expenditures, or in the case, say, of a 2-year technical school, with very expensive equipment and small classes, forcing a high E. & G.

□ 1040

I want to make plain that the intent of this amendment is not to broaden the waiver authority of the Secretary to the extent that the Secretary can exercise the broad waiver power that has been the case in the past where, say, 100 institutions will be waived.

We certainly do not wish to open the floodgates, and it would not be the legislative intent in this amendment to so do.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding.

I appreciate the statement the gentleman just made.

Basically, as long as the thrust of this amendment is to really improve the amendment that I had offered to broaden it in its understanding of what would be eligible and not eligible in the Secretary's interpretation, I find nothing wrong with that. I would certainly be willing to accept it.

I think the point the gentleman made that has to be clearly established is that the thrust of this is to still make the small urban, suburban, and rural poor schools be the ones that would benefit by this expansion of the waiver and not bringing in other schools that really do not have this kind of a need.

With that understanding with the gentleman, and I am sure that is his understanding, I would find no problem in accepting, for my part, the change in my amendment.

Mr. BUCHANAN. I thank the gentleman from New York and want to assure

him I agree completely with what he has said. I want the legislative history to be crystal clear that we do not intend to move away from the small, the poor institutions, the emphasis we sought to set in this title; rather, we are providing for exceptional cases where the Secretary feels an institution should qualify otherwise, but because of some unusual problem like that the gentleman sought to meet in his original amendment, the Secretary can, in that limited number of cases, waive this requirement.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The amendment was agreed to.

Mr. WILLIAMS of Montana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in recent weeks the press has singled out the title III program for management problems identified by the General Accounting Office in its February 13, 1979, report. It is clear that there have been management problems in the title III program in the past, but I emphasize that one, and only one, of the reasons is the random way in which the grants are awarded.

The basic questions we should be asking about title III are where should the support be going and what does Congress hope to accomplish through the program?

It would be alarming if one of our most important institutional aid programs is endangered because of lack of direction and mismanagement. The Office of Education officials readily acknowledge that the focus of the program has been ambiguous, and through the provisions in the bill before us, we have attempted to define developing institutions in a way that will narrow eligibility for the program.

There are, however, two problems with this new definition. The first is that there is no consensus that the definition selected by OE is the most appropriate, and the second is that by following OE's recommendations, we would be giving a competitive edge to the very schools which may have misused this program in the past. We have not determined whether or not that is the case.

Additionally, 93 percent of the authorizations in the higher education amendments are already directed toward student aid programs. Through this title we will be taking funding which has been used for institutional aid in the past and basing eligibility on it for it on student characteristics.

The title III changes proposed by the Office of Education in the administration bill define developing institutions as having a substantial enrollment of students from low-income families. The definition has only one other part, and that is that this low-income characteristic must be accompanied by low-average expenditures per full-time equivalent students.

This definition was based on proposed regulations which the Office of Education issued on title III in November of 1978, which used a formula for eligibility based on points awarded for higher percentage of low-income students and low-average expenditure per full-time equivalent students.

The regulations at that time were clearly outside the intent of the law, and so the Office of Education presented the committee with legislation that fit the regulations. I submit this is a classic case of the tail wagging the dog.

Using low-income enrollment as an institutional characteristic in determining title III eligibility is now a new idea. Attempts to hinge eligibility to this characteristic have been made in the past, but before Congress has always refused to enact such definitions as we are about to enact here today.

In fact, language specifically providing for the use of low-income enrollment as one factor in qualifying for special assistance under title III was approved by the other body in 1972, but was specifically deleted in the conference committee.

Likewise, other characteristics such as geographic location which are repeatedly referred to throughout the legislative history of this program are not used for the purpose of determining eligibility under this bill.

This bill, as amended, would allow the Secretary to waive the criteria if he determines that the institution's failure to meet the criteria is due to its small size or its location in an area with unusually high cost of living, and that the institution's designation as a developing institution is otherwise consistent with the purpose of the title.

This waiver, although it should result in some deserving institutions qualifying for title III, puts the Office of Education back in the business of making subjective decisions about who should be funded under this program.

The Tauke amendment helps clarify some of that. I appreciate and applaud the gentleman for proposing it.

Small colleges are a valuable resource all across this Nation. It is true that we do not have the same need to educate great numbers of students as in previous decades. What we do have though is a need for coping with a tremendous amount of new technical information that is constantly changing. Small colleges have enormous potential for meeting that need. Rather than enacting eligibility criteria by default for lack of a better idea, Congress should be thinking creatively about institutional aid for small colleges and making active decisions about how it can best be put to use.

The CHAIRMAN. The time of the gentleman from Montana (Mr. WILLIAMS) has expired.

(By unanimous consent, Mr. WILLIAMS of Montana was allowed to proceed for 30 additional seconds.)

Mr. WILLIAMS of Montana. The Senate Education Subcommittee will be holding oversight hearings on title III programs on November 9. The Subcommittee on Limitation of Contracted and Delegated Authority, which is chaired by Senator BAUCUS of my home State of Montana, will be continuing oversight hearings on title III on November 14. It is important that in our efforts to eliminate the abuses in this program, that we do not lose sight of the value of title III and institutional aid in general as a tool for meeting legitimate educational needs.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Montana. I yield to the gentleman from Iowa.

The CHAIRMAN. The time of the gentleman from Montana (Mr. WILLIAMS) has again expired.

(At the request of Mr. TAUKE and by unanimous consent, Mr. WILLIAMS of Montana was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. I wish to commend the gentleman for his statement. I think he raises several good issues. There are two observations I would like to make which may parallel or perhaps differ with some of the observations the gentleman offered.

First of all, I think it is fair to say that the committee has done a reasonably good job of turning this program around during the last year. I think that there are still steps that have to be taken, including those I offered today, but I think the program is being directed the right way.

The problem that we have, as I see it, is that we still have not perhaps given proper focus to the program in terms of putting into the law what we really expect the program to do.

My initial concern, for example, was, Is this program being used to prop up institutions that perhaps really should not be saved at a time of declining enrollments? But as I look ahead and see the number of college students projected for 10 years from now and 15 years from now, I am convinced that we are going to need those institutions that we have today, and so perhaps that is a legitimate role of the title III program, to help maintain and preserve some of those institutions we have had for many years, but have faltered today.

The second observation I would make is that while it does seem strange perhaps to have the number of low-income students in an institution be a qualifying factor for eligibility for an institutional aid program, it does seem to me that fits within the realm of what should be the title III program.

I think it is essential that we have a program that meets the unique educational needs of black students, Spanish-speaking students, and other minority students. We have to develop those kinds of institutions, because traditionally we have not had them in this country.

□ 1050

So I think that the title III program can work well in that function also. So although we have not really said those things in the law, I believe that the program is moving to meet those needs, and in that way helping to solve some of the educational problems at the post-secondary level.

Mr. WILLIAMS of Montana. I appreciate having the gentleman's remarks.

I would only comment again that I

believe it is a mistake to confuse a program designed for struggling institutions, which this title III program by definition is, with a program for struggling students. There is a difference between a struggling institution and a struggling student. But today with this legislation we are blurring that distinction.

The CHAIRMAN. The time of the gentleman from Montana has expired.

(By unanimous consent Mr. WILLIAMS of Montana was allowed to proceed for 30 additional seconds.)

Mr. WILLIAMS of Montana. Mr. Chairman, today we are, through the formula we are accepting, defining a struggling institution for the first time as an institution with a significant number of struggling students. There are a myriad of Federal programs and there are hundreds of thousands of Federal dollars for struggling students. We are hereby reducing the amount of money available for struggling institutions unless those institutions contain a significant number of struggling students. I think that is the wrong direction.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was very much interested in terms of the new first generation eligibility income criteria; since 98 percent of the students between the ages of 18 and 24 fall within the specific category of the low income—the target population, why do we have to put into this bill this new first-generation requirement?

I think in a very realistic sense we might be inhibiting persons from applying for the program now that we are bringing the Federal Government in a sense into their lives by requesting information with respect to parental background. Since 98 percent of the students fall between the ages of 18 and 24 and are in the poverty income level, why bring in this new criteria of first generation eligibility criteria. Maybe the gentleman has a rationale for it, but I do not understand it.

Mr. FORD of Michigan. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I am glad to yield to the chairman.

Mr. FORD of Michigan. The first thing I should say to the gentlewoman is that in talking to the people who have administered the program, the fact is 98 percent of the students who are qualifying as low income students when they enter college are first-generation students. It is important to remember what we are talking about. We are not talking about a first-generation American. We are talking about the first person in that family to go to college successfully. The fact that there may have been one or both parents that attended college for some period of time in their life would not block the student out. If a student does not have a parent that is a college graduate, they are a first-generation student.

So, if we look at the present population being served, 98 percent of them are there. We do not think it does any violence at all, but the administrators feel that it helps to focus attention on the kind of population they are looking for. As a matter of fact, we did react to the recommendations of the people who work with this program in adopting the first generation.

I might also say that the Hispanic community across the country is very pleased because they feel this is a clear recognition of their special status with respect to that population in higher education, and they are in very strong support.

Mrs. CHISHOLM. I thank the gentleman.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent Mr. THOMPSON was allowed to proceed 3 additional minutes.)

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to my distinguished friend from Wisconsin.

Mr. REUSS. I thank the gentleman from New Jersey for yielding to me. What I have to report is not necessarily out of order in a discussion of a bill which, like so many others, involves interest rates.

For a change, I have some good news to report. As my colleagues know, the Nation's second largest bank, Citibank of New York, was meeting this morning to contemplate a further increase in its interest rate structure. Many of us felt that interest rates have already gone higher than they should, and that they are out of hand.

To that end I recently addressed a telegram to Mr. Walter Wriston, chairman of the board of Citicorp, asking that they not raise their prime rate today, even though the formula which they have traditionally used might have required it.

The telegram I sent to Mr. Wriston reads as follows:

WASHINGTON, D.C.,
October 31, 1979.

WALTER B. WRISTON,
Chairman of the Board, Citicorp,
New York, N.Y.:

Thank you for your reply to my telegram last week asking you to consider lowering your present record-breaking 15¼-percent prime interest rate.

Your reply is discouraging to me, in that you state that your 15¼-percent prime interest rate is due to "The money market's assessment . . . of the government's determination to stick with its anti-inflation program."

As I have repeatedly said, I support the Federal Reserve's anti-inflationary grip on the monetary aggregates, but a prudent control over the monetary aggregates in no way requires a super high bank interest rate structure, especially one which is based on monetary figures which have now been proved incorrect.

On Friday your Asset and Liability Committee will meet to review and possibly change the prime rate, now 15¼ percent. I urge your Committee to exercise care and judgment in its review. It would be wrong to mechanically apply your formula of setting the prime rate 1.5 percentage points above the average rate for the latest three weeks on 90-day Certificates of Deposit in the secondary market, as you suggest. It would be wrong because during the two-week period October 11–25, money market interest rates were raised to record highs by panic selling of securities and dried-up demand for them as a result of monumental errors in the reported money supply statistics for the weeks ending October 3rd and 10th. At this critical time in our nation's economic and financial history, prudence and sound business practice surely dictate putting your prime rate formula on the shelf until the interest rate structure provoked by the erroneous money supply reports no longer enters into the computation.

It would be especially bad if you raised your prime rate now on the basis of biased data, because the bond and money markets have been rallying, and interest rates falling, ever since we learned that the money supply was in fact $700 million less than reported for the week ending October 3rd and $3 billion less the week ending October 10th. Any rise in the prime rate now could ruin this promising rally, and increase the Federal Reserve's difficulties in implementing its new monetary policy in the weeks and months ahead.

You have ample precedent for using your good judgment instead of your rote formula in times of financial turmoil. In 1974, at the urging of Chairman Arthur Burns, Citibank held the prime rate at 12 percent for nearly three months, from July 12 to September 27, even though its formula called for 13 percent.

The nation was well served by Citibank's restraint in 1974. For, by early October, Citibank's formula called for reducing the prime rate and it was in fact deceased to 11¾ percent on October 7, and further as time passed. The recession of 1974 surely would have been worse had Citibank not used good judgment that summer. It's time for another round of common sense.

HENRY S. REUSS,
Chairman, House Committee on Banking, Finance and Urban Affairs.

I am very happy to report that just a few minutes ago Citibank issued a statement which said that—

Although its formula clearly calls for an increase in its base rate, it is deferring action on the rate this week to assure that its formula does not reflect a temporary aberration in the money supply.

I have just sent a telegram back to Mr. Wriston congratulating the Citibank's action today, which reads as follows:

WASHINGTON, D.C.,
November 2, 1979.

Mr. WALTER B. WRISTON,
Chairman of the Board, Citicorp,
New York:

Congratulations on Citibank's action today refusing a further increase in already astronomical interest rates. I am sure you join in my full support of the Federal Reserve's determination to keep the monetary aggregates under control. As long as the Fed keeps the monetary aggregates under control, higher interest rates than are dictated by competition, far from fighting inflation, simply make it worse.

HENRY S. REUSS,
Chairman, House Banking, Finance and Urban Affairs Committee.

I am delighted at the news. We must keep interest rates down.

I thank the Chairman for letting me speak out of order.

Mr. THOMPSON. Mr. Chairman, H.R. 5192, the Education Amendments of 1980, is the most constructive and best higher education bill that I have seen in my 25 years in Congress. I am proud to have taken part in the formulation of

this legislation as a member of the Subcommittee on Postsecondary Education. I would like to particularly compliment my good friends and colleagues, the gentleman from Michigan (Mr. FORD) and the gentleman from Alabama (Mr. BUCHANAN) for their leadership in producing this bill. It is a credit to their hard work, to that of their staffs, and to their thoroughness, statesmanship, and bipartisan approach.

Happily it is a bipartisan approach. I am grateful also to the ranking member of the Committee on Education and Labor, Mr. ASHBROOK, for his very kind and objective remarks relating to the work of the other gentlemen on this legislation.

The highlight of this legislation is the expansion and refinement of programs providing assistance to students and aimed at achieving the goal of equal educational opportunity. These changes will result in all students having access to a postsecondary education regardless of their financial circumstances, and it will take long strides toward the goal of giving students the choice of pursuing the postsecondary education best suited to their needs, interests, and talents.

In addition, the bill expands and improves the TRIO programs which help students stay in higher education once they have entered and help them to maximize the benefits from the educational opportunities available to them. Equal educational opportunity has to mean getting students in the door, getting them in the right door and making sure that it is not a revolving door. This bill advances us significantly toward all of these objectives.

I would also like to call the attention of my colleagues to the fact that this bill streamlines the Higher Education Act by repealing or consolidating a number of obsolete, redundant or unfunded authorities. Among the programs and authorities which are repealed are:

First. Title I–B, lifelong learning (integrated into the new title I, education outreach programs).

Second. Title I, special programs and projects relating to the problems of the elderly (integrated into the new title I).

Third. Advisory Council on College Library Resources.

Fourth. Advisory Council on Developing Institutions.

Fifth. Service learning centers, subpart 4, part A of title IV.

Sixth. Advisory Council on Financial Aid to Students.

Seventh. Financial assistance for improvement of undergraduate instruction, title VI.

Eighth. Assistance in major disaster areas, part D of title VII.

Ninth. Establishment and expansion of community colleges, parts A and B, title X (integrated into new title I).

Tenth. Comprehensive statewide planning, section 1203 (integrated into new title I).

Eleventh. Advisory Council on Graduate Education.

I think it is also important to emphasize the commitment made through this bill to supporting the research undertaken by postsecondary education. Academic research is vital to our Nation's economic prosperity, its cultural growth and its security in the international arena. For example, the bill continues the program of support for research libraries, provides a new authorization to create a National Periodicals Center, which will serve as a national lending resource to improve access to periodical literature, and expands the purposes of title VII to include the construction, reconstruction and renovation of academic research facilities, including libraries.

In specific, H.R. 5192 extends the Higher Education Act through fiscal year 1985.

Expansion of the basic educational opportunity grant program will provide larger maximum grants and increase the proportion of the total cost of education that may be provided by these grants.

To complement the expansion of the BEOG, the supplemental educational opportunity grant program and the State student incentive grant program are expanded, and the college work-study program is continued.

An expansion of the guaranteed student loan program will provide guaranteed loans to parents to help meet the expected family contribution toward the cost of higher education. The national direct student loan program is continued, and loan maximums under both programs are modestly increased. A revised role for the Student Loan Marketing Association will provide for loan consolidations and for extended and income-sensitive repayment schedules.

The needs analysis system is simplified and a single form for applying for Federal student assistance is mandated.

Important changes are made in the program to strengthen developing institutions (title III) providing a more clearly defined focus, more stringent accountability and incentives for institutions to develop other resources.

The fund for the improvement of postsecondary education, authorized by the General Education Provisions Act, becomes a new title X of the Higher Education Act. The Urban Grant University Act, a proposal carefully developed by the subcommittee in the last Congress, is established as title XI.

Mr. Chairman, this well developed and carefully balanced legislation deserves the support of every Member of this body. I am confident it will receive our overwhelming endorsement.

□ 1100

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent Mr. THOMPSON was allowed to proceed for 2 additional minutes.)

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding. I just wanted to join with the gentleman in what he is saying, particularly in the area that he has touched upon on the student loan program and the abilities of parents also to come into the loan program because one of the major problems, as the gentleman knows full well, is that the middle-income families of the country have been so pushed to the wall by both inflation and the cost of everything that this, I think, is one of the most meaningful sections of this new legislation and one of the most important to families throughout this country.

I thank the gentleman for yielding.

Mr. THOMPSON. I agree with the gentleman from New York, and I thank him. Again, that would lead to paying tribute to our subcommittee chairman, the gentleman from Michigan (Mr. FORD) for his superb bill of last year with the particular emphasis on middle-income families.

The CHAIRMAN. Are there further amendments to title III? If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE

SEC. 401. Section 401(a) of the act is amended—

(1) by striking out "qualified students" and inserting in lieu thereof "eligible students (as defined in section 488)"; and

(2) by striking out "of exceptional need who, for lack of such a grant, would be unable to obtain the benefits of a postsecondary education;" in paragraph (2) and inserting in lieu thereof "who demonstrate financial need;".

BASIC EDUCATIONAL OPPORTUNITY GRANTS

SEC. 402. (a) Section 411(a) of the act is amended to read as follows:

"SEC. 411. (a)(1) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1986, pay to each eligible student (as defined in section 488) for each academic year during which that student is in attendance at that institution, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2) The purpose of this subpart is to provide a basic grant that (A) as determined under paragraph (2), will meet in academic year 1985–86, 75 per centum of a student's cost of attendance not in excess of $3,600; and (B) in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 per centum of a student's cost of attendance, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

"(2)(A)(i) The amount of the basic grant for a student eligible under this subpart shall be—

"(I) $1,800 for academic year 1980–1981,

"(II) $2,100 for academic years 1981–1982 and 1982–1983,

"(III) $2,400 for academic years 1983–1984 and 1984–1985, and

"(IV) $2,700 for academic year 1985–1986,

less an amount equal to the amount determined under section 487 to be the expected family contribution with respect to that student for that year, subject to the limitations established in subparagraph (B)(i).

"(ii) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis in accordance with a schedule of reductions established by the Secretary for the purposes of this division. Such schedule

of reductions shall be established by regulation and published in the Federal Register not later than January 1 of each year.

"(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed—

"(I) 50 per centum of the cost of attendance (as determined under section 487(d)) at the institution at which the student is in attendance for that year, when the maximum basic grant is less than $2,160;

"(II) 60 per centum of such cost of attendance, when the maximum basic grant is at least $2,160 but is less than $2,400;

"(III) 67 per centum of such cost of attendance, when the maximum basic grant is at least $2,400 but is less than $2,700; and

"(IV) 75 per centum of such cost of attendance, when the maximum basic grant is $2,700.

"(ii) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance at the institution at which the student is in attendance. If with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceed the cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the cost of attendance at such institution.

"(iii) No basic grant shall be awarded to a student under this subpart if the amount for that student as determined under this paragraph for any academic year is less than $200. Pursuant to criteria established by the Secertary by regulation, the institution of higher education at which a student is in attendance may award a basic grant of less than $200 upon a determination that the amount of the basic grant for that student is less than $200 because of the requirement of division (i) and that, due to exceptional circumstances, this reduced grant should be made in order to enable the student to benefit from postsecondary education.

"(3)(A) Payments under this section shall be made, in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this section.

"(B) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to satisfy fully all entitlements under this subpart, the amount paid with respect to any entitlement that exceeds an amount equal to the maximum award (under paragraph (2)(A)(i)) less $200 shall be the full amount of that entitlement. The amount paid with respect to any other entitlements shall be a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary. Any schedule established by the Secretary shall contain a single reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that no payment of less than $200 shall be made on account of any entitlement.

"(4)(A) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 per centum or less, then all of such excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

"(B) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make payments required under this subpart to eligible students by more than 15 per centum, then all of such excess funds shall remain available for making such payments but payments may be made under this division only with respect to entitlements for that fiscal year.

"(C) Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary.

"(5)(A) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate course of study being pursued by that student at the institution at which he is in attendance, except that such period may not exceed the equivalent of five academic years as a full-time student, unless the student is or will be unable to complete a course of study within five academic years because of a requirement of the institution that the student enroll in a noncredit remedial course of study, in which case such period may be extended for not more than one additional academic year.

"(B) For purposes of subparagraph (A), a 'noncredit remedial course of study' is a course of study for which no credit is given toward an academic degree, and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to such a degree.".

(b) Section 411(b) of the Act is amended—

(1) by striking out paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3);

(2) by striking out "any fiscal year ending September 30, 1980, if for such fiscal year—" in paragraph (3) (as so redesignated) and inserting in lieu thereof "any fiscal year ending prior to October 1, 1985, in which—";

(3) by striking out "$370,000,000" in paragraph (3)(A) (as so redesignated) and inserting in lieu thereof "$400,000,000, or $480,000,000, when appropriations are available to meet the purposes of subsection (a)(2)(B)(i)(II), (III), or (IV)";

(4) by striking out "$500,000,000" in paragraph (3)(B) (as so redesignated) and inserting in lieu thereof "$550,000,000"; and

(5) by striking out "and" at the end of paragraph (3)(B) (as so redesignated), by striking out the period at the end of paragraph (3)(C) (as so redesignated) and inserting in lieu thereof "; and", and by inserting after such paragraph the following:

"(D) the appropriation for making grants under subpart 3 of this part does not at least equal $76,750,000.".

(c) Section 411 of the Act is further amended by striking out subsections (d) and (e).

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

SEC. 403. (a) Section 413A of the Act is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 413A. (a) It is the purpose of this subpart to provide, through eligible institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of section 487. The purpose of this subpart is to provide grants which in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 1 and 3 of this part, will meet 75 per centum of a student's cost of attendance, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

"(b)(1) For the purpose of enabling the Secretary to make payments to eligible institutions of higher education which have made agreements with the Secretary in accordance with section 482, for use by such institutions for payments to undergraduate students of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $500,000,000 for each of the fiscal years 1981 and 1982, $600,000,000 for fiscal year 1983, $700,000,000 for fiscal year 1984, and $800,000,000 for fiscal year 1985.

"(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.".

(b)(1) Section 413B(a)(2)(A) of the Act is amended to read as follows:

"(2)(A) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution, in accordance with the provisions of section 487, to be needed by that student to enable him to pursue a course of study at the institution, except that such amount shall not exceed $2,000.".

(2) Section 413B(a)(2)(B) of the Act is amended by adding at the end thereof the following new sentence: "For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.".

(3) Section 413(B)(a)(2) of the Act is further amended by striking out subparagraph (C).

(4) Section 413(b) of the Act is amended to read as follows:

"(b)(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate course of study being pursued by that student at the institution at which he is in attendance, except that such period may not exceed the equivalent of five academic years as a full-time student, unless the student is or will be unable to complete a course of study within five academic years because of a requirement of the institution that the student enroll in a noncredit remedial course of study, in which case such period may be extended for not more than one additional academic year.

"(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if the student meets the requirements of section 488.".

(c) Section 413C of the Act is amended to read as follows:

"SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

"SEC. 413C. (a) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which, in accordance with section 482, has an agreement with the Secretary applicable to this subpart, if the individual makes application at a time and in a manner consistent with the requirements of the Secretary and that institution, and meets the requirements of section 488.

"(b) From among those who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 482, and within the amount allocated to the institution for that purpose for that year under section 413D(b), select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

"(c) An eligible institution may use not more than 10 per centum of its allocation for less-than-half-time under graduate students who are determined by the institution to be in need of such grants.".

(d) Section 413D of the Act is amended to read as follows:

"APPORTIONMENT AND ALLOCATION OF FUNDS

"SEC. 413D. (a)(1) From 90 per centum of the sums appropriated pursuant to section 413A(b) for any fiscal year, the Secretary shall apportion to each State an amount which bears the same ratio to such sums as the number of undergraduates enrolled full-time and the full-time equivalent of the number of undergraduates enrolled part time in institutions of higher education in such State bears to the total number of such undergraduates in all States. The remainder of the sums so appropriated shall be apportioned among the States by the Secretary in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sums so appropriated among the States which will most effectively carry out the purpose of this subpart, except that where any State's apportionment under the first sentence for a fiscal year is less than its allotment under the first sentence of section 401(b) of this Act for the fiscal year ending June 30, 1972, before he makes any other apportionments under this sentence, the Secretary shall apportion sufficient additional sums to such State under this sentence to make the State's apportionment for that year under this paragraph equal to its allotment for the fiscal year ending June 30, 1972, under such first sentence. Sums apportioned to a State under the preceding sentence shall be consolidated with, and become a part of, its apportionment from the same appropriation under the first sentence of this paragraph.

"(2) If the Secretary determines that the sums apportioned to any State under paragraph (1) for any fiscal year exceed the aggregate of the amounts that he determines to be required under subsection (b) for that fiscal year for institutions of higher education in that State, the Secretary shall reapportion such excess, from time to time, on such date or dates as he shall fix, to other States in such manner as the Secretary determines will best assist in achieving purposes of this subpart.

"(b)(1) The Secretary shall, from time to time, set dates before which institutions in any State must file applications for allocation, to such institutions, of supplemental grant funds from the apportionment to that State (including any reapportionment thereto) for any fiscal year pursuant to subsection (a).

"(2)(A) From the sums apportioned (or reapportioned) to any State, the Secretary shall allocate amounts to eligible institutions which have submitted applications pursuant to paragraph (1). Eligible institutions may use not more than 10 per centum of such amounts to make awards to otherwise eligible students who fail to meet the requirement of section 488(2).

"(B) Allocations under subparagraph (A) by the Secretary to such institutions shall be made in accordance with equitable criteria established by the Secretary by regulation. Such criteria shall be designed to achieve such distribution of supplemental grant funds among such institutions within a State as will most effectively carry out the purposes of this subpart, except that in establishing equitable criteria the Secretary shall not issue any regulation which has the effect of penalizing institutional or State efforts to provide need-based assistance.

"(3) Payments shall be made from allocations under this subsection as needed.".

GRANTS TO STATES FOR STATE STUDENT INCENTIVES

SEC. 404. (a) Section 415A of the Act is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 415A. (a) It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education.

"(b)(1) There are hereby authorized to be appropriated $100,000,000 for each of the fiscal years 1981 and 1982, $150,000,000 for fiscal year 1983, $200,000,000 for fiscal year 1984, and $250,000,000 for fiscal year 1985, for payments to the States for grants to eligible students under this subpart.

"(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States for the award of student grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.".

(b) Section 415B of the Act is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Whenever the sum appropriated pursuant to section 415A(b)(1) for any fiscal year exceeds $76,750,000, the Commissioner shall allot to each State to which the provisions of section 415C(b)(5)(B) do not apply, from 80 per centum of all such excess sums which would otherwise be available to such States if such excess were allocated under subsection (a)(1)(A), an amount which bears the same ratio to such excess sums as the number of students in attendance at institutions of higher education in such State bears to the total number of students in attendance in all such States. The remaining excess funds shall be allotted to all other States in an amount which bears the same ratio to such remaining excess as the number of students in attendance at institutions of higher education in such State bears to the total number of students in attendance in all such other States.".

(c) Section 415C of the Act is amended—

(1) in subsection (a), by striking out "shall submit" and inserting in lieu thereof "shall have a State agreement pursuant to section 1203 and shall submit";

(2) in subsection (b)(1), by inserting "designated under section 1203(b)(2)(D)" immediately after "agency";

(3) in subsection (b)(2), by striking out "$1,500" and inserting in lieu thereof "$2,000", and by striking out "as an undergraduate";

(4) in subsection (b)(4), by inserting immediately before the semicolon at the end thereof the following: "or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978";

(5) in subsection (b), by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) provides that—

"(A) in any fiscal year for which the total appropriation for this program does not exceed $76,750,000, the payment of the non-Federal portion of such grants from funds supplied by such State shall represent an additional expenditure for such year by such State for grants for students attending institutions of higher education over the amount expended by such State for such grants, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart, whichever such amount expended is greater;

"(B) in any fiscal year in which the total appropriation for this program exceeds $76,750,000, the amount of funds expended by each State for the non-Federal portion of awards made from allotments based on funds appropriated in excess of $76,750,000 shall represent an additional expenditure for that year by such State over the amounts, if any, expended by such State for student grants during the second fiscal year preceding that year, whichever such amount expended is greater, except that this subsection shall not apply to any State which expends in the preceding fiscal year amounts greater than amounts received in such year by such State pursuant to this subpart;"; and

(6) in subsection (b), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by inserting after such paragraph the following new paragraph:

"(7) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years.".

(d) Section 415E of the Act is repealed.

SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

SEC. 405. Subpart 4 of part A of title IV of the Act is amended to read as follows:

"Subpart 4—Special Programs for Students From Disadvantaged Backgrounds

"PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

"SEC. 417A. (a) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified students from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide special services for such students who are pursuing programs of postsecondary education, and to train persons serving or preparing for service in programs and projects so designed.

"(b) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, private agencies and organizations, and, in exceptional circumstances secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

"(c) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $400,000,000 for fiscal year 1981 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1985.

"(d) For the purposes of this subpart—

"(1) the term 'first generation college student' means a person neither of whose parents completed a baccalaureate degree; and

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 per centum of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of Census.

"(e) No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this part by reason of such individual's age.

"TALENT SEARCH

"SEC. 417B. (a) The Secretary shall carry carry out a program to be known as 'Talent Search' which shall be designed—

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youth to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to comolete such programs, to reenter such programs.

"(b) A Talent Search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary

education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

"(c) In approving applications for Talent Search projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application by low-income individuals who are first generation college students;

"(2) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to successfully pursue a program of education beyond high school;

"(3) require that such participants be persons who either have completed six years of elementary education or are at least twelve years of age but not more than twenty-seven years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E; and

"(4) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E.

"(d) In approving applications for Talent Search projects under this subpart for any fiscal year, the Secretary shall require assurances that the project will be located in a setting accessible to the youths proposed to be served by the project.

"UPWARD BOUND

"SEC. 417C. (a) The Secretary shall carry out a program to be known as 'Upward Bound' which shall be designed to generate skills and motivation necessary for success in education beyond high school.

"(b) Any Upward Bound project assisted under the subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in high school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) on-campus residential programs; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) In approving applications for Upward Bound projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

"(3) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to successfully pursue a program of education beyond high school; and

"(4) requires that such participants be persons who have completed eight years of elementary education and are at least thirteen years of age but not more than nineteen years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(d) Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

"SPECIAL SERVICES FOR DISADVANTAGED STUDENTS

"SEC. 417D. (a) The Secretary shall carry out a program to be known as 'Special Services for Disadvantaged Students' (hereinafter referred to as 'Special Services') which shall be designed to provide supportive services to persons participating in the projects.

"(b) A Special Services project assisted under this subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorials;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs; and

"(8) programs and activities as described in paragraphs (1) through (7) which are specially designed for students of limited English proficiency.

"(c) In approving applications for Special Services projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be physically handicapped, or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

"(3) require that there be a determination, with respect to each participant in such project, that the participant has a need for academic support in order to successfully pursue a program of education beyond high school; and

"(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract.

"(d) In approving applications for Special Services projects under this subpart for any fiscal year, the Secretary shall require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

"EDUCATIONAL OPPORTUNITY CENTERS

"SEC. 417E. (a) The Secretary shall carry out a program of paying up to 75 per centum of the cost of establishing and operating programs to be known as 'Educational Opportunity Centers' which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) An Educational Opportunity Center assisted under this subpart may provide, in addition to the services described in clauses (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

"(c) In approving applications for Educational Opportunity Centers under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue a program of education beyond high school;

"(3) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

"(4) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

"STAFF DEVELOPMENT ACTIVITIES

"SEC. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, and workshops designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.".

VETERANS' COST-OF-INSTRUCTION PAYMENTS

SEC. 406. Section 420 of the Act is amended to read as follows:

"VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

"SEC. 420. (a)(1) During the period beginning July 1, 1972, and ending September 30, 1985, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

"(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 and title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

"(i) 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

"(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students

which is less than such per centum for the preceding academic year; and

"(B) the number of such persons is at least twenty-five.

"(2) During the period specified in paragraph (1), each institution which has qualified for a payment under this section for any year shall be entitled during the succeeding year, notwithstanding paragraph (1), to a payment under and in accordance with this section, if the number of persons referred to in such paragraph (1) equals at least the number of such persons who were in attendance at such institution during the preceding academic year or equals at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year, whichever is less. Each institution which is entitled to a payment for any fiscal year by reason of the preceding sentence shall be deemed, for the purposes of any such year succeeding the year for which it is so entitled, to have been entitled to a payment under paragraph (1) during the preceding fiscal year.

"(3) With respect to any academic year ending on or before September 30, 1986, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

"(B) in the event that subparagraph (A) of this paragraph is not satisfied, the Secretary determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such subparagraph (A), to continue to recruit, enroll, and provide necessary services to veterans.

"(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of title 38, and who is in attendance at such institutions as an undergraduate student during such year; and

"(B) in addition, $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V or subchapter VI of chapter 34 of such title 38, or who is disabled or incarcerated, as determined in accordance with regulations promulgated by the Secretary after consultation with the Administrator of Veterans' Affairs.

"(2) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis. In no case shall a payment be made on behalf of a person who attends an institution on less than a half-time basis.

"(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out his functions under this title, and shall—

"(A) set forth such policies, assurances, and procedures as will insure that—

"(i) the funds received by the institution under this section and available to it after the requirements of subsection (e) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) the funds received by the institution under this section will not be used for a school or department or divinity or for any religious worship or sectarian activity;

"(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

"(iv) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

"(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

"(C) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

"(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provisions of educational, vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of title 38, United States Code, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

"(iii) to carry out active outreach (with special emphasis on handicapped, incarcerated, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38), and

"(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38, except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the 'Administrator'), cannot feasibly itself carry out any or all of the programs set forth in divisions (i) through (iv) of this subparagraph, may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution.

The adequacy of efforts to meet the requirements of subparagraph (C) of this paragraph shall be determined by the Secretary, based upon the recommendation of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

"(2) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of paragraph (1)(C) within the first academic year during which it receives a payment under this section.

"(d)(1) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section.

"(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year, shall be $100,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payment set forth in the preceding sentence, in such manner as will result in the receipt by each institution which is eligible for a payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, whichever is less) and then additional amounts up to the limitation set forth in the preceding sentence.

"(e) Not less than 90 per centum of the amounts paid to any institution under subsection (d) in any fiscal year shall be used to implement the requirements of subsection (c)(1)(C)(i), and, to the extent that such funds remain after implementing such requirements, funds limited by such 90 per centum requirement shall be used for implementing the requirements of divisions (ii), (iii), and (iv) of subsection (c)(1)(C), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

"(f) The Secretary, in carrying out the provisions of this section, shall seek to assure that coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38 of the United States Code, and the Administrator of Veterans' Affairs shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.".

PART B—GUARANTEED AND INSURED STUDENT LOANS

EXTENSION OF PROGRAMS

SEC. 411. (a) Section 424(a) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

(b) Section 428(a)(5) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

LOAN LIMITATIONS

SEC. 412. (a) Section 425(a)(1) of the Act is amended—

(1) by redesignating clauses (A), (B), and (C), as clauses (B), and (C), and (D), respectively;

(2) by inserting immediately before clause (B) (as so redesignated) the following new clause:

"(A) that in the case of an independent student (as defined in section 457(c)(2)) who has not successfully completed a pro-

gram of undergraduate education, the total of such loans may not exceed $3,000,"; and

(3) by striking out "clause (B)" in the last sentence of such section and inserting in lieu thereof "clause (C)".

(b) Section 425(a)(2) of the Act is amended by striking out "$7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$12,500 in the case of any student (other than an independent student) who has not successfully completed a program of undergraduate education, $15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(c) Section 428(b)(1)(A) of the Act is amended—

(1) by redesignating divisions (i), (ii), and (iii) as divisions (ii), (iii), and (iv), respectively;

(2) by inserting immediately before division (ii) (as so redesignated) the following new division:

"(i) that the program may not authorize the insurance of loans in excess of $3,000 in the case of an independent student (as defined in section 487(c)(2)) who has not successfully completed a program of undergraduate education,"; and

(3) by striking out "division (ii)" in the last sentence of such section and inserting in lieu thereof "division (iii)".

(d) Section 428A of the Act is amended—

(1) by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student)" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$2,500 (in the case of a student, other than an independent student, who has not successfully completed a program of undergraduate education), $3,000 (in the case of an independent student (as defined in section 487(c)(2) who has not successfully completed a program of undergraduate education), or $5,000 (in the case of a graduate or professional student)"; and

(2) by striking out "$7,500 in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$12,500 in the case of any student (other than an independent student) who has not successfully completed a program of undergraduate education, $15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(e) Part B of title IV of the Act is further amended by inserting immediately before the period at the end of section 425(a)(2) and immediately before the semicolon at the end of sections 428(b)(1)(B), 428A(a)(1)(A), and 428A(a)(2)(A) the following: ", except that the Commissioner may increase the limit applicable to graduate and professional students that are pursuing programs which the Commissioner determines are exceptionally expensive".

DEFERRAL OF REPAYMENT

SEC. 413. (a) Section 427(a)(2)(C) is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(b) Section 428(b)(1)(M) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(c) Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(j) The term 'temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an institution of higher education or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period required continuous nursing or other similar services.".

COLLECTION PRACTICES

SEC. 414. (a)(1) Section 430(b) of the Higher Education Act of 1965 is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance or guarantees pursuant to this part, the Commissioner shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Commissioner to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Commissioner to such organizations with respect to any loan for which the Commissioner has received a notice of default under subsection (a) of this section of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Commissioner has made a payment pursuant to subsection (a) of this section;

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Commissioner pursuant to section 437.

"(B) Such agreements may also provide for the disclosure by such organizations to the Commissioner, upon receipt from the Commissioner of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Commissioner in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Commissioner unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Commissioner has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Commissioner with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) the Commissioner (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D) The Commissioner shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A)(i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.".

(2) Section 427(a)(2) of the Higher Education Act of 1965 is amended by redesignating subparagraphs (H) and (I) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H)(i) contains a notice of the system of disclosure of information concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations,".

(b) Section 430(c) of the Act is amended by adding at the end thereof the following new sentence: "Any forbearance which is approved by the Commissioner under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and diligence in the collection of the loan.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the Commissioner may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to him, from whatever source such information may be derived.".

LOANS TO PARENTS

SEC. 415. Part B of title IV of the Act is amended by inserting immediately after section 428A the following new section:

"LOANS TO PARENTS OF DEPENDENT UNDERGRADUATE STUDENTS

"SEC. 428B. (a) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part.

"(b)(1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation by the Secretary) is $3,000.

"(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed $15,000.

"(3) No loan may be made to any parents or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such students' estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c)(1) Repayment of principal on loans made under this section may be deferred until the earliest of—

"(A) four years from the disbursement date of the first loan made for the educational expenses of the dependent student named in the parent's loan application;

"(B) the student's anticipated date of graduation or completion of studies estimated at the time of the application for a loan;

"(C) the date on which the student ceases to be at least a half time student at an eligible institution; or

"(D) such other date as the parent may request.

Such repayment obligation shall not be further delayed because of any current status of the student, but nothing in this section shall be construed to prohibit a lender from exercising forbearance for the benefit of the borrower.

"(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date later than sixty days after the date such loan is disbursed by a lender, then the interest which would accrue between the date of disbursement and a date thirty days prior to the due date of the first payment shall be calculated and subtracted from the proceeds of the loan before the balance is disbursed. If such repayment begins on a date earlier than thirty days prior to the due date of the first payment, any such interest so retained by the lender which has not been earned shall be used to reduce the principal owing on the loan.

"(4) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date not later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 7 per centum per annum on the unpaid principal balance of the loan.

"(d) Loans made under this section shall be insured by the Secretary in a State only if—

"(1) the State is not served by an agency having an agreement with the Secretary pursuant to section 428(b), or

"(2) an agency in a State having such an agreement does not authorize loans under this section (A) within one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of the State legislature which convenes after the effective date of this amendment.".

MISCELLANEOUS AMENDMENTS

SEC. 416. (a)(1) Section 427(a)(1) of the Act is amended to read as follows:

"(1) made to a student who (A) is an eligible student as required by section 488, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and".

(2) Section 428(a)(2)(B)(i) of the Act is amended to read as follows:

"(i) a student's estimated cost of attendance means the cost of attendance for such student determined in accordance with section (487d);".

(b) Section 428(c)(1)(A) of the Act is amended by striking out everything after "of any insured loan" in the first sentence thereof and inserting in lieu thereof a period.

(c) Section 428(e) of the Act is amended to read as follows:

"(e) From funds appropriated to carry out this part in any fiscal year, the Commissioner shall pay to each eligible institution the amount of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section, for that year. Payments received by an institution under this subsection shall be used for the sole purpose of offsetting the institution's costs for the program under this part.".

(d) Section 428(f)(1) of the Act is amended by striking out "(f)(1)(A)" and inserting in lieu thereof "(f)(1)" and by striking out subparagraphs (B) and (C).

(e) Section 428(f) of the Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The Commissioner shall make payments in accordance with this paragraph to an agency in any State which has an agreement under subsection (b) of this section which provides a lender referral service for students who meet the requirements of subparagraph (B).

"(B) A student is eligible to apply for lender referral services to an agency in a State if (i) such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State, and (ii) such student has sought and was unable to find a lender willing to make a loan under this part.

"(C) The amount which the Commissioner shall pay to any eligible agency under this paragraph shall be equal to one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part on loans made to a student described in subparagraph (B) who subsequently obtained such loans because of such agency's referral service.

"(D) Nothing in this or any law shall prohibit an agency from using all or a portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a loan referral service.

"(E) There is hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this paragraph.".

STUDENT LOAN MARKETING ASSOCIATION

SEC. 417. (a)(1) Section 439(d) of the Act is amended—

(A) in paragraph (1), by inserting "or repurchase" after "purchase" and by inserting "or resell, offer participations, or pooled interests," after "sell";

(B) by amending paragraph (2) to read as follows:

"(2) Any warehousing advance made under paragraph (1) of this subsection shall be made on the security of (i) insured loans, (ii) marketable obligations and securities issued, guaranteed or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (iii) marketable obligations issued, guaranteed, or insured by any agency, instrumentality or corporation of the United States for which the credit of such agency, instrumentality or corporation is pledged for the repayment of principal or interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (ii) and (iii) shall be invested in additional insured student loans."; and

(C) by adding at the end thereof the following new paragraph:

"(4) Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.".

(2) Section 439(1) of the Act is amended by inserting "including those made under subsection (d)(3)" immediately after "All obligations issued by the Association".

(b) Section 439(e)(A) of the Act is amended by striking out "$50,000,000" and inserting in lieu thereof "$100,000,000".

(c)(1) Section 439(f) of the Act is amended—

(A) in paragraph (1), by striking out "having a par value of $100 per share" and inserting in lieu thereof "having such par value as may be fixed by its Board of Directors from time to time";

(B) in paragraph (3), by striking out the last sentence thereof;

(C) in paragraph (4), by inserting "and nonvoting common stock" after "dividends may be declared on common stock" and after "outstanding shares of common stock"

(D) by adding at the end thereof the following new paragraph:

"(5) The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except

that, as to the Association, it shall be transferable only on the books of the Association.".

(2) Section 439(g)(1) of the Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time.".

(d) Section 439(h) of the Act is amended—

(1) by adding the following new sentence at the end of paragraph (1): "The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank.";

(2) in paragraph (2), by striking out "July 1, 1982" and inserting in lieu thereof "October 1, 1984";

(3) by adding at the end thereof the following new paragraphs:

"(4) Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Health, Education, and Welfare or the Secretary of the Treasury, the Secretary of Health, Education, and Welfare or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Health, Education, and Welfare or the Secretary of the Treasury, as the case may be, submit to the Congress a detailed explanation of reasons for doing so.

"(5) The Secretary of the Treasury is authorized in his discretion to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection, to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(6) Notwithstanding any other provision of law, the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.".

(e)(1) Section 439 of the Act is amended by adding at the end thereof the following new subsections:

"(o)(1) The Association or its designated agent may, upon request of a borrower who has received loans under title IV of this Act from two or more programs or lenders and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable either by the Commissioner under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b), except that such State or nonprofit private institution or organization shall provide the Association with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the Association and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

"(3) Notwithstanding any other provision of this part, the Association, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(4) The Association shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.

"(p)(1) Whenever the Secretary, after consultation with and the agreement of the appropriate representatives of a State (including representatives of any agency in such State having an agreement pursuant to section 428(b) of this part), determines that a substantial portion of all eligible borrowers in such State or within an area of substantial population of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary.

"(2) Loans made pursuant to this subsection shall be insurable by either (A) the Commissioner under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or (B) by the agency identified in paragraph (1) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

"(3) The Association or its designated agent shall cease making loans under this part at such time that it is determined by any part to the agreement required by paragraph (1) that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.

"(q) The Association in carrying out its activities under subsections (o) and (p) of this section shall not be deemed to be a creditor for any purposes of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.).".

(2) Section 435(g)(1) of the Act is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(G) for purposes of making loans under section 439 (o) and (p) the Student Loan Marketing Association.".

(f) Part B of title IV of the Act is amended by adding at the end thereof the following new section:

"SEC. 439C. (a) The Truth in Lending Act (15 U.S.C. 1601 et seq.) shall not apply to any loans made under the authority of this title.

"(b) Subsection (a) of this section shall be effective upon its enactment and shall apply to all loans outstanding whether originated prior to or after the date of such enactment.".

PART C—WORK-STUDY PROGRAMS

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 421. Section 441 of the Act is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 441. (a) The purpose of this part is to stimulate and promote the part-time employment of students, particularly students who are in need of earnings from such employment to pursue courses of study at eligible institutions.

"(b) There are authorized to be appropriated for carrying out this part $670,000,000 for fiscal year 1981, $745,000,000 for fiscal year 1982, $825,000,000 for fiscal year 1983, $910,000,000 for fiscal year 1984, and $990,000,000 for fiscal year 1985.".

ALLOTMENT TO STATES

SEC. 422. Section 442 of the Act is amended—

(1) by striking out "2 per centum" in subsection (a)(1) and inserting in lieu thereof "1 per centum";

(2) by striking out "Puerto Rico," in subsection (a)(1);

(3) by striking out "subsection (e)" in subsection (a)(2) and inserting in lieu thereof "subsection (f)";

(4) by inserting "second" immediately after "until the close of the" in subsection (d); and

(5) by striking out "Puerto Rico," in subsection (e).

GRANTS FOR WORK-STUDY PROGRAMS

SEC. 423. Part C of title IV of the Act is amended by striking out sections 443 and 444 and inserting in lieu thereof the following:

"GRANTS FOR WORK-STUDY PROGRAMS

"SEC. 443. (a) The Commissioner is authorized to enter into agreements with institutions of higher education under which the Commissioner will make grants to such institution to assist in the operation of work-study programs as hereinafter provided.

"(b) An agreement entered into pursuant to this section shall—

"(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself (except in the case of a proprietary institution of higher education) or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

"(A) will not result in the displacement of employed workers or impair existing contracts for services;

"(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

"(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

"(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act;

"(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 484 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 447 of this part, and may transfer funds in accordance with the provisions of section 483 of this Act;

"(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with the provisions of section 487, and who meet the requirements of section 488 will be assisted;

"(4) provide that no student in a work-study program under this part shall be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any employment (including work-study or non-work-study or both) is in excess of the determination of the amount of such student's need for that semester under clause (3) of this subsection, but when such excess income equals $200 or more, continued employment under a work-study program shall not be subsidized with funds appropriated under this part;

"(5) provide that the institution will meet the requirements of section 482(2) of this Act (relating to maintenance of effort);

"(6) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement will not exceed 80 per centum of such compensation; except that the Federal share may exceed 80 per centum of such compensation if the Commissioner determines, pursuant to regulations adopted and promulgated by him establishing objective criteria for such determinations, that a Federal share in excess of 80 per centum is required in furtherance of the purposes of this part;

"(7) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this part.

"(c) For purposes of subsection (b)(4) in computing average hours of employment of a student over a semester or other term, there shall be excluded any period during which the student is on vacation and any period of nonregular enrollment. Employment under a work-study program during any such period of nonregular enrollment during which classes in which the student is enrolled are in session shall be only to the extent and in accordance with criteria established by or pursuant to regulations of the Commissioner. Determination of the amount of a student's work-study award allocable toward noneducation related living expenses during a period of nonregular enrollment shall be established by the institution at which the student is enrolled. The needs of the student and customary living costs in the area where the student is residing during such period, shall be taken into account. The amount shall not exceed the normal living expenses of persons in the same geographical area.".

DISTRIBUTION OF ASSISTANCE

SEC. 424. Section 445 of the Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Of the sums granted to an eligible institution under this part for any fiscal year, 10 per centum shall remain available for expenditure during the succeeding fiscal year to carry out programs under this part. Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Commissioner for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

"(c) Up to 10 per centum of the sums the Commissioner determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Commissioner to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.".

JOB LOCATION AND DEVELOPMENT

SEC. 425. Section 447 of the Act is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

PART E—NATIONAL DIRECT STUDENT LOANS

EXTENSION OF PROGRAM

SEC. 431. (a) Section 461(b)(1) of the Act is amended to read as follows:

"(b)(1) For the purpose of enabling the Commissioner to make contributions to student loan funds established under this part, there are authorized to be appropriated $400,000,000 for each of the fiscal year 1981 and 1982, $475,000,000 for fiscal year 1983, $550,000,000 for fiscal year 1984, and $625,000,000 for fiscal year 1985.".

(b) Section 461(b)(2) of the Act is amended—

(1) by striking out "for the fiscal year ending September 30, 1980, and each of the three succeeding fiscal years" and inserting in lieu thereof "for fiscal year 1985 and each of the five succeeding fiscal years"; and

(2) by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1985".

(c) Section 466 of the Act is amended—

(1) by striking out "September 30, 1984" each place it appears in subsection (a) and inserting in lieu thereof "September 30, 1990";

(2) by striking out "March 31, 1985" each place it appears in subsections (a) and (b) and inserting in lieu thereof "March 31, 1991";

(3) by striking out "September 30, 1978" in subsection (b) and inserting in lieu thereof "September 30, 1981"; and

(4) by striking out "October 1, 1984" in subsection (c) and inserting in lieu thereof "October 1, 1990".

LOAN LIMITATIONS

SEC. 432. Section 464(a)(2) of the Act is amended—

(1) by striking out "$10,000" in clause (A) and inserting in lieu thereof "$12,000";

(2) by striking out "$5,000" in clause (B) and inserting in lieu thereof "$6,000"; and

(3) by striking out "$2,500" in clause (C) and inserting in lieu thereof "$3,000".

DEFERRAL OF REPAYMENT

SEC. 433. Section 464(c)(2)(A) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii);

(2) by striking out "or" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof a semicolon, and by inserting after clause (iv) the following new clauses:

"(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

"(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; or

"(vii) is temporarily totally disabled (as defined in section 435(j)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled.";

(3) by striking "clause (ii), (iii), or (iv)" in the second sentence of such section and inserting in lieu thereof "clause (ii), (iii), (iv), (v), or (vii)"; and

(4) by inserting immediately after such sentence the following new sentence: "The period during which repayment may be deferred by reason of clause (vi) shall not exceed two years.".

COLLECTION PRACTICES

SEC. 434. (a) Section 463(a) of the Act is amended by striking out "and" at the end of paragraph (5), by redesignating paragraph (6) as paragraph (7), and by inserting after paragraph (5) the following new paragraph:

"(6) provide that, notwithstanding any other provision of law, the Commissioner will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to him, from whatever source such information may be derived, and".

(b)(1) Section 463 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(c) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Commissioner shall enter into cooperative agreements, in accordance with the requirements of section 430(b)(2), with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Commissioner has received a referral pursuant to section 467.".

(2) Section 464(c)(1) of such Act is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).".

MISCELLANEOUS AMENDMENTS

SEC. 435. (a) Section 462 of the Act is amended by striking out subsection (d).

(b)(1) Section 464(b) of the Act is amended to read as follows:

"(b) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with section 487 and who meets the requirements of section 488.".

(2) Section 464(e) of the Act is repealed.

(c) Section 465(a)(2) of the Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of this paragraph, the term 'handicapped children' has the meaning set forth in section 602(1) of the Education of the Handicapped Act.".

(d) Section 465(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1954.".

PART F—GENERAL PROVISIONS

AMENDMENT

SEC. 441. (a) Part F of title IV of the Act is amended to read as follows:

"PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"DEFINITIONS

"SEC. 481. (a)(1) For the purposes of this title, except subpart 6 of part A and part B, the term 'institution of higher education' includes, in addition to the institutions covered by the definition contained in section 1201(a)—

"(A) a proprietary institution of higher education;

"(B) a postsecondary vocational institution;

"(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

"(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(2) The term 'acredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner.

"(b) For the purposes of this section, the term 'proprietary institution of higher education' means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1) and (2) of section 1201(a), (C) which does not meet the requirement of clause (4) of section 1201(a), (D) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (E) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) For the purposes of this section, the term 'postsecondary vocational institution' means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a) and (C) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have to ability to benefit from the training offered by the institution.

"(d) For the purposes of any program under this title, the term 'academic year' shall be defined by the Secretary by regulation.

"INSTITUTIONAL ELIGIBILITY

"SEC. 482. In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education (as that term is defined for purposes of that program) and must, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition an institution's initial and continuing eligibility to participate in a program upon compliance with the following requirements:

"(1) The institution shall use funds received by it for any program under this title solely for the purposes specified in, and in accordance with, the provisions of that program.

"(2) In the case of an institution participating in any program authorized under subpart 2 of part A or part C of this title for any fiscal year, the institution shall continue to spend in its own scholarship and student aid program, from sources other than funds received under such parts, not less than the average expenditures per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the program participation agreement, except that, under special and unusual circumstances prescribed by regulation, the Secretary is authorized to waive the requirements of this paragraph.

"(3) The institution shall establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

"(4) The institution shall submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purposes of this title.

"(5) The institution shall comply with the requirements of section 485.

"TRANSFER OF ALLOTMENTS

"SEC. 483. (a) Up to 10 per centum of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"ADMINISTRATIVE EXPENSES

"SEC. 484. (a) From the sums appropriated for any fiscal year for purposes of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 482, an amount equal to $10 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A, part C, or part E of this title shall be entitled for each fiscal year for which it receives an allotment under any such part to a payment for the purposes set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment in accordance with regulations of the Secretary, and shall be equal to 5 per centum of the institution's first $2,750,000 for expenditures plus 4 per centum of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 per centum of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E.

"(b) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

"SEC. 485. (a)(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students regarding the institution and financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students and to any prospective student upon request. The information required by this section shall accurately describe—

"(A) the student financial assistance programs available to students who enroll at such institution;

"(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

"(D) the rights and responsibilities of students receiving financial assistance under this title;

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

"(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this paragraph;

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

"(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

"(I) special facilities and services available to handicapped students;

"(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs; and any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

"(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 488(3).

"(2) For purposes of this section, the term 'prospective student' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

"(b) Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

"(c) The Secretary shall make available to eligible institutions descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

"STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

"SEC. 486. (a) It is the purpose of this section to make incentive grants available to the States to be administered in partnership with statewide financial aid administrator organizations, for the purpose of developing materials and conducting programs to increase the proficiency of the individuals within the States who are involved or have a responsibility in the delivery of student financial aid.

"(b) There are hereby authorized to be appropriated $280,000 for fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for equal division among the States.

"(c) To receive a grant under this section a State must provide appropriate assurance to the Secretary that the grant will be matched from State funds by an amount at least equal to the amount of the grant.

"(d) From the funds otherwise allotted to the States for subpart 2 of part A, and for part C and part E of this title for States which have obtained a grant under this section, the Secretary shall transfer to such State an amount equal to .05 per centum of such funds or $10,000, whichever is less, and shall reduce such State allotment by that amount.

"(e) A State which desires to obtain a grant under this section for any fiscal year shall submit an application therefor through or by the State agency administering its program of student grants, or if such agency does not exist, through or by any agency or organization designated for such purpose by the State, at such time or times, and containing such information as may be required by such regulations as the Secretary may prescribe for the purpose of enabling the Secretary to disburse the funds and to coordinate this activity with similar activities conducted under the auspices of the Department of Education.

"(f) All authority of this section shall terminate at the close of September 30, 1986.

"NEED ANALYSIS

"SEC. 48. (a)(1) For the purpose of determining a student's need for financial assistance under this title (other than under subpart 3 of part A and under part B), the Secretary shall publish in the Federal Register, no later than July 1 of each calendar year, a proposed schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, except as is otherwise provided in paragraph (2), together with any amendments thereto, shall become effective July 1 of the calendar year which succeeds such calendar year. During the thirty-day period following such publication the Secretary shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule. Such schedule shall be adjusted annually. The first such schedule shall be presented to the Congress on July 1, 1981.

"(2) The schedule of expected family contributions required for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representative not later than the time of its publication in the Federal Register. If either the Senate or the House of Representatives adopts, prior to the first day of October next following the submission of such schedule as required by this paragraph, a resolution of disapproval of such schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution. If within fifteen days following the submission of the revised schedule either the Senate or the House of Representatives again adopts a resolution of disapproval of such revised schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. This procedure shall be repeated until neither the Senate nor the House of Representatives adopts a resolution of disapproval. The Secretary shall publish together with each new schedule a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.

"(3) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall develop a proposed schedule of expected family contributions each year for publication in the Federal Register.

"(b)(1) For the purposes of this section, the term 'family contributions' with respect to any student means the amount which the student and his family may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination is made, as determined in accordance with regulations. In promulgating such regulations, the Secretary shall follow the basic criteria set forth in paragraph (2) of this subsection.

"(2) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

"(A) The amount of the effective income of the student or the effective family income of the student's family.

"(B) The number of dependents of the family of the student.

"(C) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

"(D) The amount of the assets of the student and those of the student's family.

"(E) Any unusual expenses of the student or his family, such as unusual medical expenses and those which may arise from a catastrophe.

"(F) Any educational expenses of other dependent children in the family.

"(G) Reasonable expenses associated with child care for dependent children.

"(3) For purposes of subparagraph (A) of paragraph (2), the term 'effective family income' with respect to a student, means the annual adjusted family income, as determined in accordance with regulations prescribed by the Secretary, received by the parents or guardian of that student (or the person or persons having an equivalent relationship to such student) minus Federal income tax paid or payable with respect to such income, and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 36 of title 38, United States Code.

"(4) For the purposes of paragraph (2)(D), the parental assets shall be determined by—

"(A) excluding all equity in a single principle place of residence from the computation of assets;

"(B) deducting an asset reserve of not less than $10,000 from the net value of all assets; and

"(C) if net assets include farm or business assets, deducting an additional asset reserve of not less than $50,000 from the net assets.

"(c)(1) The Secretary shall promulgate special regulations for determining the expected family contribution and effective family income of an independent student. Such special regulations shall be consistent with the basic criteria set forth in paragraph (2) of subsection (b). In addition, such regulations shall—

"(A) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

"(B) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under paragraph (1) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student;

"(C) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent students and for independent students who have dependents;

"(D) in determining the family contribution for an independent student who has one or more dependents, the assessment rate which is to be applied to the student's discretionary income shall be the same as the assessment rate applied to discretionary income of the family of a dependent student; and

"(E) provide that a married student shall be considered independent if, notwithstanding prior dependency status, such student certifies that in the year of application he (i) will not live with parents for more than six weeks; (ii) will not be claimed by parents as a dependent on any tax return filed for purposes of Federal income taxes; and (iii) will not receive more than $750 in support from parents.

"(2) For purposes of this title, the term 'independent student' means a student who is determined, pursuant to regulations of the Secretary, to be independent of his parents or guardians, or the person or persons having an equivalent relationship to such student.

"(d) For the purposes of this title, the term 'cost of attendance' means—

"(1) tuition and fees normally assessed a full-time student at the institution at which the student is in attendance;

"(2) beginning in academic year 1981–1982, an allowance of not less than $800 for books, supplies, and miscellaneous personal expenses;

"(3) an allowance for room and board costs incurred by the student which—

"(A) beginning in academic year 1981–1982 shall be an allowance of not less than $1,150 for a student residing at home with his or her parents;

"(B) for students residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

"(C) for all other students, shall be a standard allowance determined by the institution based on the expenses reasonably incurred by such students for room and board;

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, and travel and room and board costs incurred specifically in fulfilling a required period of residential training; and

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study.

"STUDENT ELIGIBILITY

"SEC. 488. (a) In order to receive any grant, loan, or work assistance under this title, a student must—

"(1) be enrolled or accepted for enrollment at an institution of higher education that is an eligible institution in accordance with the provisions of section 482;

"(2) be carrying or planning to carry at least one-half the normal full-time workload for the course of study the student is pursuing, as determined by the institution;

"(3) be maintaining satisfactory progress in the course of study the student is pursuing, according to the standards and practices of the institution at which the student is in attendance;

"(4) not owe a refund on grants previously received at such institution under this title, or be in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at such institution; and

"(5) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

"(b) Any permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands shall be eligible for assistance under this title to the same extent that citizens of the United States are eligible for such assistance.

"FORMS AND REGULATIONS

"SEC. 489. (a) Copies of all rules, regulations, guidelines, instruction, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date.

"(b) The Secretary is authorized to prescribe such regulations as may be necessary to carry out the purposes of this title, including regulations for the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or an agreement entered into under section 482, or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

"(c) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common financial aid application form to be used to determine a student's need and eligibility for financial assistance under this title (other than under subpart 3 of part A and under part B). No student or parent of a student shall be charged a fee for processing the data elements of such form prescribed by the Secretary. The Secretary shall, to the extent practicable, contract with States, institutions of higher education, and private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports. Nothing in this section shall prohibit States, institutions, or private organizations from simultaneously collecting data elements, in addition to those prescribed by the Secretary, as may be necessary to determine a student's eligibility for financial aid funds not covered by this title (or covered under subpart 3 of part A or under part B of this title).

"CRIMINAL PENALTIES

"SEC. 490. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzed, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

"(b) Any person who knowingly and willfully makes any fale statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

"SEC. 491. (a) There is hereby established, as an independent agency within the executive branch, a National Commission on Student Financial Assistance (referred to in this section as the 'Commission').

"(b)(1) The Commission shall be composed of twelve members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, one from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including two Members of the Senate, one from each political party.

"(2) The Chairman shall be designated by the President from among the members appointed by him. If the President has not appointed four members of the Commission and designated a Chairman within sixty days of the enactment of this Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a Chairman who shall continue to serve for the duration of the Commission.

"(3) Any vacancy in the Commission shall be filled by appointment of the same person who appointed the person who has left the Commission.

"(c)(1) It shall be the duty of the Commission to make a report and recommendations to the President and the Congress. The report and recommendations of the Commission shall consider the following issues:

"(A) more effective means to reduce default, fraud, abuse, and delinquency in the programs authorized by this title;

"(B) the appropriate balance between loans and other sources of financing postsecondary education from the point of view of the needs and welfare of students and their parents;

"(C) the adequacy of capital to serve the postsecondary educational needs of students or their parents for credit; if adequate credit is available, the likelihood it will continue to remain available; if adequate credit is not available, the likelihood it will become available and the steps that can be taken to provide adequate credit for the postsecondary educational needs of students;

"(D) the impact of various levels of student borrowing, grants, gift aid, and employment on the educational performance, future career choices, and future educational choices, of students;

"(E) the impact of various levels of parent borrowing for postsecondary education on parents;

"(F) the appropriate annual and aggregate self-help limits and gift aid for parents, dependent students, independent students, and various types of graduate students;

"(G) the most appropriate mechanism for the effective and efficient origination, servicing, and collection of student loans and for the effective and efficient delivery of other forms of student assistance;

"(H) the most appropriate source or sources of student loan capital considering both the cost and the reliability of adequate capital availability;

"(I) the appropriate level of public subsidy to students and parents for the cost of capital for student loans;

"(J) the impact of student loan availability on the availability of other forms of student financial assistance from all sources;

"(K) the impact of the availability of student assistance, particularly from Federal sources, on the level of postsecondary education costs;

"(L) the most appropriate mechanism to provide students and parents with the flexible repayment options and opportunities for consolidation of student loan indebtedness;

"(M) means to remove barriers to capital availability caused by patterns of lender discrimination; and

"(N) the cost to the Federal Government of the arbitrage derived from revenue bonds issued by agencies for the purpose of making or purchasing loans under part B of this title and the appropriate role of such bonds as a mechanism for raising student loan capital.

"(2) In addition to the issues described in paragraph (1), the report of the Commission shall include a response to the special report of the Secretary under section 904, and any recommendations of the Commission with respect to proposals of the Secretary contained in such special report.

"(3) The Commission shall report to the President and the Congress its findings and recommendations as soon as practicable and in no event later than July 1, 1983. Any recommendations that contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations. The Commission shall cease to exist ninety days following the submission of its final report.

"(d)(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive services, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

"(f)(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

"(2) In carrying out its duties under the Act, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

"(4) For the purpose of securing the necessary data and information the Commission may make contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

"(6) The Commission is authorized to utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local and private agencies with or without reimbursement.

"(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"(8) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

"(g) There is hereby authorized to be appropriated an amount not to exceed a total of $10,000,000 for fiscal years beginning on or after October 1, 1980, to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.".

(b) Section 440 of the Act is repealed.

(c) The amendments made by section 6 of the Middle Income Student Assistance Act shall take effect on July 1, 1972.

AMENDMENTS OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. JEFFORDS: Page 54, beginning on line 23, strike out "except that" and everything that follows through the period on page 55, line 6, and insert in lieu thereof the following: "except that where any State's apportionment under the first sentence of this paragraph for a fiscal year is less than its total apportionment under this paragraph for fiscal year 1979, before the Secretary makes any other apportionments under this sentence, the Secretary shall apportion sufficient additional sums to such State under this sentence to make the State's total apportionment for that subsequent year under this paragraph equal to such State's total apportionment for fiscal year 1979 under this paragraph.".

Page 140, line 3, strike out "and"; on line 9, strike out the period and insert in lieu thereof "; and"; and after such line insert the following:

"(O) the effectiveness in serving the purposes of this title of the existing formulas for allotment among the States in subpart 2 of part A and in parts C and E of this title.

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, I offer this amendment to mitigate the unanticipated inequities resulting from the committee's efforts to simplify financial aid administration under the SEOG program. A dramatic 76-percent reduction in the SEOG State allocation to the State of Vermont will result under the language contained in the bill. The State of Maine will lose 75 percent of its SEOG funds, and at least 14 other States are similarly affected. Mr. Chairman, I do not believe that there will be any disagreement to the amendments I am going to offer. As I have said, sometimes when we make what is anticipated to be a good change, the results are quite the reverse. Major distortions in the distribution of funds resulted from what was perceived to be a simplified funding mechanism for SEOG. The purpose of this amendment therefore is to put a hold harmless provision in at the 1979 funding level. The amendment provides for use of the formula established in the bill, but before these funds are distributed, each State will receive at least what it did at the 1979 appropriations level of $340 million.

Additionally, Mr. Chairman, the amendment establishes a study mandating that the National Commission of Student Financial Assistance examine these types of funding problems. That is, they will review the State allocation formulas for all campus-based programs, and come back to this body with recommendations. It is our hope that as a result of this study we will be able to prevent further distortions in financial aid programs in many States. We expect that the study will provide alternatives for more equitable funding under the SEOG program, and yet recognize the needs of those States with higher cost schools.

To explain in more detail how this problem developed, the committee intended to simplify the administration of the SEOG program by removing the distinction between initial year funding and continuing year funding, making every State eligible under the initial year funding formula. With this change 90 percent of the funds would be allocated to the States on the basis of their undergraduate full-time equivalent enrollment. The remaining 10 percent would be allocated by the Secretary based on equitable criteria. Shifting the allocation process to the initial year funding base formula provides a greater percentage of the allocation to States with community colleges and proprietary schools and reduces allocation to States with 4-year schools having higher costs. Specifically, 86 percent of continuing year funds went to 4-year schools, but they received only 66 percent of initial year funds.

Since the 1979–80 portion of continuing year funds is $155 million, the shift away from the 4-year schools is approximately $30 million with this simplification. High-cost schools will lose funding in almost all States; high-cost schools in disadvantaged States will be double losers. Low-cost schools in disadvantaged States will suffer under the State allocation formula, but their losses will be partly offset by the fact that they are now eligible for a larger share of the full 90 percent of SEOG funding.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I want to thank the gentleman for offering these amendments. He does indeed correct a serious but unintended defect in the legislation itself. He improves the legislation, and I congratulate him for his amendments.

Mr. JEFFORDS. I thank the gentleman.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, we accept the amendments.

Mr. JEFFORDS. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. PETRI: Page 95, line 18 redesignate section 417 as 418, and immediately before line 17 insert the following new section:

CANCELLATION FOR MILITARY SERVICE

SEC. 417. Section 437 of the Act is amended—

(1) by amending the heading of such section to read as follows:

"REPAYMENT BY THE COMMISSIONER"

; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) From the amount appropriated under paragraph (4) which are available for this subsection, the Commissioner shall, subject to the allocation schedule established under paragraph (4)(B), repay the per centum or the amount specified in paragraph (3) of this subsection of the total amount of any loan described in clause (A), (B), or (C) of section 428(a)(1) and made after October 1, 1975, for each complete year of service after October 1, 1980, by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be eligible to be repaid under paragraph (1)—

"(A) for service as an enlisted member of the Selected Reserve of the Ready Reserve of the Armed Forces; or

"(B) for service on active duty as an enlisted member of the Armed Forces.

"(3)(A) The percentum or amount of a loan which shall be eligible to be repaid under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) of paragraph (2), 10 per centum or $500, whichever is more, for each year of qualifying service; or

"(ii) in the case of service described in clause (B) of paragraph (2), 20 per centum or $1,000, whichever is more, for each year of qualifying service.

"(B) If a portion of a loan is repaid under this subsection for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(D) Any individual who transfers from service described in clause (A) or (B) of paragraph (1) to service described in the other clause of such paragraph during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Commissioner.

"(4)(A) There are authorized to be appropriated for the purposes of this subsection and section 465(b)—

"(i) $7,000,000 for fiscal year 1981;

"(ii) $11,000,000 for fiscal year 1982;

"(iii) $13,000,000 for fiscal year 1983;

"(iv) $14,000,000 for fiscal year 1984; and

"(v) $15,000,000 for fiscal year 1985.

"(B) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds available under subparagraph (A) during any year for which such appropriation is not sufficient to pay the sum of the amounts eligible for repayment under this section and for cancellation under section 465(b). Such schedule shall allocate priorities for cancellation among the various services and military occupational specialties, but first priority shall be given for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.

"(C) The Commissioner shall equitably distribute the amount appropriated under subparagraph (A) between this subsection and section 465(b)."

Page 115, after line 7 insert the following new section:

CANCELLATION FOR MILITARY SERVICE

SEC. 436. Section 465 of the Act is amended—

(1) by adding at the end of paragraph (3) of subsection (b) the following new subparagraph:

"(D) Notwithstanding any other provision of this paragraph, the amount of a loan which shall be cancelled in the case of any service described in clause (D) of paragraph (2) shall be reduced by the amount by which the loan is cancelled under subsection (b) by reason of the same service."; and

(2) by redesignating subsection (b) as subsection (c) and by inserting immediately before such subsection the following new subsection:

"(b)(1) The per centum or the amount specified in paragraph (3) of this subsection of the total amount of any loan made after October 1, 1975, from a student loan fund assisted under this part shall be eligible, subject to paragraph (4)(B), to be cancelled for each complete year of service after October 1, 1980, by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be eligible to cancelled under paragraph (1)—

"(A) for service as an enlisted member of the Selected Reserve of the Ready Reserve of the Armed Forces; or

(B) for service on active duty as an enlisted member of the Armed Forces.

"(3)(A) The per centum or amount of a loan which shall be eligible to be cancelled under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) of paragraph (2), 10 per centum or $500, whichever is more, for each year of qualifying service; or

"(ii) in the case of service described in clause (B) of paragraph (2), 20 per centum or $1,000, whichever is more, for each year of qualifying service.

"(B) If a portion of a loan is cancelled under this subsection for any year, the entire amount of interest on such portion for such year shall be cancelled.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(D) Any individual who transfers from service described in clause (A) or (B) of paragraph (1) to service described in the other clause of such paragraph during a year shall be eligible to have cancelled a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Commissioner.

"(4)(A) Funds for the purposes of this subsection shall be drawn from the appropriations made under section 438(c).

"(B) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds available under subparagraph (A) during any year for which such appropriation is not sufficient to pay the sum of the amounts eligible for cancellation under this subsection. Such schedule shall allocate priorities for cancellation among the various services and military occupational specialties, but first priority shall be given for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.".

Mr. PETRI (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Chairman, I should like to address myself first of all to the question as to why these amendments are necessary. It seems to me that the recent controversy that we have undergone in this House and in this country demonstrate the need for alternate methods to attract qualified young people to the military.

Whether for or against registration, we can all agree that something must be done to bring our Armed Forces up to strength. If it is not to be done by registration or draft, then we must attract volunteers, and attract qualified volunteers. The present shortfalls total 24,000 in the Active Forces and exceed 130,000 in the Selected Reserve. In addition, the number of those persons with some college entering those enlisted ranks has dropped sharply so that in 1978 only 6.7 percent of new enlistees in the active military, and 5.5 percent of new enlistees in the Selected Reserves, had some college education.

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A strong and adequate Reserve is especially important in light of the 1972 Department of Defense total force policy, which calls for reservists rather than draftees or volunteers, to be the primary source of personnel for the augmentation of active forces in all military emergencies, particularly emergencies should they develop on the European front.

Let me give some details concerning the amendment before us. First, 20 percent or $1,000, whichever is greater, of outstanding student loans, either NDSL or GSL, would be forgiven for each satisfactorily completed year of service in the enlisted ranks of the Active military.

For Selected Reserve service in enlisted ranks 10 percent or $500 whichever is greater, of outstanding student loans would be forgiven for each year of satisfactorily completed service.

The maximum student loan forgiveness is 100 percent, which breaks down to 5 years for Active service and 10 years for Reserves, assuming $5,000 of average loan indebtedness.

Also, under the program the Secretary of Defense would select the services and military occupational specialties that qualify for the program, provided, of course, that priority is given for service in areas of hostility.

Further provisions account for a prorating of forgiveness for transfer from Active to Reserve duty or vice versa, and for a program administration not dis-

similar to the forgiveness programs already in the law.

Finally, the 5-year authorization would be limited to $7 million in the first year, gradually increasing to $15 million in the last, to take account of both continuing and new participants.

The cost of this program is low, and if the incentive is not successful, the cost will be essentially nonexistent, because few people with any college background are enlisting presently, especially in the Reserves.

This program is targeted to a small but definite need for more recruits with some higher education. It is a positive, upfront incentive for persons who have completed 1 or more years of higher educational training financed through NDSL or GSL.

It is a continuing incentive which, unlike some other educational incentives, does not provide an inducement to leave the military but rather encourages reenlistment, in order that 100-percent forgiveness may be obtained.

It is a realistic and tangible incentive which will aid the shortfalls not only in quantity but in quality by attracting young people with a relatively strong educational background.

A vital feature of this measure is that it poses no essential conflict with other current incentive programs but, rather, complements them by crediting education already obtained.

I have worked with various experts in military manpower to develop this proposal, from the Department of Defense, the Rand Corp., and independent service associations, and several higher education associations, and nearly all of those who have been consulted support this amendment wholeheartedly.

This bill contains programs for student loan forgiveness and deferral to encourage students to devote some time to worthwhile and necessary social needs. Surely, at the moment encouraging military service is as great a social need as many of the others already addressed in this bill.

Providing incentives for military duty is a case apart from other manpower policies. We have long had military incentive programs, and we must continue to do so as long as we have an All-Volunteer Force. This bill is the place to address a student loan forgiveness incentive for the military.

This amendment provides the student with an honorable and important way to serve the country in return for the country's service to that student. Please join the National Guard Association, the Reserve Officers Association, the National Association for Uniformed Services, the Noncommissioned Officers Association, and the American Association of Community and Junior Colleges in support of this amendment.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MONTGOMERY and by unanimous consent, Mr. PETRI was allowed to proceed for 4 additional minutes.)

Mr. MONTGOMERY. Mr. Chairman, I certainly want to stand today and commend the gentleman for introducing this amendment and say over the years that a number of Members have worked to get incentives for the regulars and for the National Guard Reserve under an all-volunteer era to attract qualified young people in the regulars as well as the National Guard Reserve. It seems to me this amendment would certainly do this. As the gentleman knows and as my colleagues know, for the first time the regulars in our four services were unable to attract or recruit enough young men and women to fill up their ranks for the last 12 months since we have gone to the volunteer concept.

In the last 3 years, the National Guard and Reserves have had a terrible time attracting qualified young people into the Reserves. The Personnel Director of the Army recently issued a statement where he said 60 percent of the Army recruits were below average mentally—60 percent of them.

It seems under the gentleman's amendment, if we could attract these people to get these loans and improve themselves mentally, they would certainly make better soldiers.

One of the high costs we have—the highest cost we have in the military—is personnel. Sixty percent of the budget passes this year for the military will go to personnel and a large part of this is to train new recruits and new reservists. If this amendment would keep young people in and make them reenlist, in the long run this amendment would certainly save us a lot of money by not having to train over and over again new recruits who come into the service. The amendment has got a lot of merit. I wish we had thought of it a number of years ago. We did come up with an educational program in the Armed Service Commission, but it does not offer enough, and it does not do the job to attract and retrain young people in the reserve.

I commend the gentleman. Maybe it has not had hearings in the committee, but that is why we go into the Committee of the Whole so people like me can make statements and offer amendments to a bill. I hope the amendment will be adopted.

Mr. PETRI. I thank the gentleman.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentlewoman from Maryland.

Mrs. HOLT. I thank the gentleman for yielding. I want to commend the gentleman for the effort he is making this morning to try to get this amendment adopted. I serve on the Personnel Subcommittee, and we have been wrestling to find incentives that we can afford that will really provide incentives to help people who want to serve their country. I think this is an outstanding way to do it. The gentleman is certainly to be commended for making this effort. I support the amendment and I urge the Members of this body to support it.

Mr. PETRI. I thank the gentlewoman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to commend the gentleman for offering this amendment.

Mr. Chairman, I rise in support of the amendment offered by Mr. PETRI.

I am sure my colleagues remember the emotionally charged and politically delicate debate on draft registration which took place a month and a half ago in this Chamber.

The upshot of the debate was that: First, the volunteer armed services, as they exist today, may well not be adequate now and, if present trends continue, will certainly not be adequate in the future; second, the problem of manpower shortfalls in the armed services will simply not go away; and third, alternatives to the draft should be seriously considered.

This amendment provides one palatable and equitable alternative. It encourages participation in the volunteer active military service or Reserve service by students with at least 1 year of postsecondary education. The success of this measure would result in a substantial upgrading of the quality of military enlistees. If it is unsuccessful, it will cost the taxpayer nothing. The amendment provides a limited authorization, in both time and money.

Also, service in the National Guard will qualify students for loan forgiveness under this amendment.

Alternatives to the draft are sorely needed. We must provide a tangible incentive to encourage quality volunteers to enlist. Loan forgiveness provides that incentive. I urge my colleagues to join me in support of this amendment.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Michigan.

Mr. PURSELL. I thank the gentleman for yielding. I just want to clarify what the amendment does. As a former military officer, this is an intriguing amendment. Would this in any way discourage that individual from not finishing his higher education commitment? Would it be an incentive to take him out of the program at too early a date?

□ 1120

Mr. PETRI. It would be just to the contrary. It would be a way for a young person—right now we have a problem with these student loan programs. We have a problem with people having to borrow large amounts of money and starting out life in debt. There are difficulties with universal national service programs that are kind of obvious, in administration and all that. However, here is a way for a person to borrow money, $3,000 a year, from the Government or from a Government-guaranteed lender, and pay that back over a period of years by serving on a part-time basis whether they are in school or after they have graduated or since graduate school, for that matter, in the Reserve and it is

the kind of thing that will enable us to lower the high manpower cost of the military budget. So that we have a good, Ready Reserve.

Mr. PURSELL. That is my question. Is your language clear that it would be after graduation and not try to say, well, this is a nice way to move out of completing education, therefore, they can move into the military at an earlier date than they would want. I would prefer him or her to finish their education.

Mr. PETRI. The amendment provides for both and as you know, under existing programs, people served in ROTC while in college. The Reserves are complimentary rather than in competition with college because the active duty portion is during the summer or can be during the summer. This is the kind of thing I think that will give a lot of young people encouragement because some are reluctant to go into debt.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BIAGGI and by unanimous consent, Mr. PETRI was allowed to proceed for 1 additional minute.)

Mr. BIAGGI. Mr. Chairman, will the gentleman yield for a question?

Mr. PETRI. I yield to the gentleman from New York.

Mr. BIAGGI. We understand the nature of the amendment, but let me ask. what would happen to this amendment if it was enacted in the event of a draft? If the draft was reinstated, how would this become operative? How would this apply? We no longer have the need for the amendment. You are beyond your recruitment stage and yet the law would exist.

Mr. PETRI. Mr. Chairman, people would not be able to take advantage of this who are drafted.

Mr. BIAGGI. How can we be sure of that? You know, sometimes we have wars and they run for 3, 4, or 5 years and there are draftees who might want to take advantage during this period.

Mr. PETRI. I will say to the gentleman, Mr. Chairman, we do not have the draft, we have no legislation on the statute books to provide for a draft, that if we do institute the draft the gentleman's question would be better addressed to those who come forward with that legislation so as to take care of that problem should it ever exist at that time. In addition, the Secretary of Defense may designate the military occupational specialties which qualify, and he can handle the problem that way.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to begin by acknowledging the great interest shown in the higher education legislation by the Committee or Armed Services. This is the largest array of members of that committee that I have seen speaking for a provision in an education bill in my years on the committee. That sort of puts in a nutshell what the problem is.

We have pending now, as I understand it, activities before that committee to determine what our military manpower policies should be. A few weeks ago we were unable to resolve the question of whether we were in need of a registration law. Most of us felt that we wanted to leave in the hands of the Committee on Armed Services, with their greater expertise and ability to study the matter, the problem, and come back to this House sometime in the future with a recommendation on what kind of strategy we should employ to meet our manpower needs in the military.

I do not believe that as a matter of educational policy we should be trying to meddle with military manpower problems. One of the immediate problems that suggests itself was just outlined in the exchange between the gentleman from New York (Mr. BIAGGI) and the author of the amendment. There are a lot of other problems that present themselves.

If we look at the amendment we find that what it is is a front-door GI bill that compensates you with college tuition, in effect, for each year you spend in the military.

Now, as a matter of fact, if you turn on your radio you will find we are already advertising to young people: "If you will come down and sign up we will give you a $1,500 enlistment bonus and $1,000 toward college tuition."

We already have embarked upon, apparently, policies of this kind using money from the Pentagon.

It is a tremendous compliment to the education community in this country that we have the Pentagon, in effect, hitchhiking on education trying to finance the manpower program.

In all sincerity, I must suggest to the advocates of this approach that, if it comes from the Committee on Armed Services and becomes a part of our commitment to our military forces, the likelihood of it being funded at a level appropriate to its needs as a defense program is much greater than the likelihood if it is added to the scarce dollars that we have for education.

Now the gentleman from Wisconsin (Mr. PETRI) has been working on this approach for sometime and we considered a different variation of the approach in the subcommittee where it was limited at that time only to service in the Reserves. We considered an expansion of the proposal in the full committee and again rejected it when we determined that it was going in the opposite direction from the policy we had been following for a number of years with regard to the forgiveness of student loans.

Now, the gentleman's amendment presented today is new. It would extend itself to everyone serving in the armed services and, as the gentleman from New York says, there is nothing in the amendment at the present time that would distinguish between somebody who was induced to enlist as a result of this amendment or someone who was drafted.

Mr. Chairman, the fact is that we have, since 1958, been trying to move away from the use of forgiveness of student loans as a way to develop manpower policy, for all kinds of things. I might suggest that Mrs. Green, when she was chairman of this committee in the 1960's, warned us, and many of us would not listen, about what we were doing with schoolteachers. We now have a surplus in this country. We had as a policy an amendment similar to this well-meaning, well-intentioned effort to forgive student loans for people who would become teachers. It worked so well that we developed a surplus in this country and induced a lot of young people to go into the field of education who are not now able to find jobs.

Mr. Chairman, once we start down this road of using loan forgiveness, it looks like a quick, easy way to do things and it is hard to get off it.

Mr. Chairman, there are two kinds of considerations we give to people with Federal policy involved in terms of repaying loans. One is the deferral of the time in which they make the payment. In other words, if somebody is in a particular status such as the military, we presently defer their obligation to pay back their loan. However, we do not forgive the loan. We do not say that you do not have to pay back the money that you had. We defer the loan for a variety of other reasons.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FORD of Michigan was allowed to proceed for 5 additional minutes.)

Mr. FORD of Michigan. Loan forgiveness is quite a different thing. This is where we actually say that after you borrow the money for educational purposes, if you will do a particular thing for a period of time, for each year of service we will forgive the repayment of principal and interest on that loan. It is a straight out subsidy.

Mr. Chairman, it would appear to be quick and painless. I have no idea, nor do I believe the proponent of the amendment has any idea what this would cost. If it works it could be the most expensive part of this program. I have to tell you honestly we have done everything we possibly can to keep faith with this Congress in coming to you with loan provisions in this bill which we think are going to get us more bang for the Federal buck in the educational field and get us a better recovery of money.

Mr. Chairman, as chairman of the committee, I do not really want to go out across the country and try to explain to people who are already complaining that we do not do a good enough job in collecting back the money the Federal Government advances for education by being more stringent and tough on loan collection, that we as a matter of policy have decided we are going to expand the whole class of people who do not have to pay back their loans at all.

□ 1130

Now, I am perfectly willing to support up front an approach coming from the Committee on Armed Services based on their projections that an effective way of enticing people into the service is to offer education benefits. I will support

that legislation; but that belongs under their jurisdiction. We do not have the capability in my committee to oversee this provision if it becomes a part of the law, because we do not have the expertise on our committee that the Committee on Armed Services has to assess properly the manpower needs of our military forces.

In effect, I am pleading with my friends on the Committee on Armed Services to keep the responsibility and the jurisdiction in that committee and we will work with you when you bring your bill to the floor.

This is not the place for this kind of approach to military manpower programs. It flies in the face of what we are otherwise trying to do in terms of reducing the Federal Government's giveaway programs with respect to loans and tightening up the Federal Government's recovery of loan capital advance.

One final thing: never, never since we encouraged private capital to make student loans have we ever presented them with the possibility that we would come along and say, however, after you lend the money, we may come up with a category of people who borrow the money from you who do not have to pay it back.

Now, we have had loan forgiveness with respect to Federal dollars that go under the national direct student loan program, because we are dealing with our own money; but the amendment of the gentleman goes to the guaranteed student loan money which comes out of the private sector through banks and credit unions and other kinds of lending institutions. I suggest that they are going to get very jumpy if we start playing around with the idea that we are from time to time going to pick out people that they lend money to and excuse them from repaying the loan to them.

We are having enough trouble building confidence with the private sector in this country in our loan programs.

We have never ever attempted to intervene between the borrower and the lender and tell them that we were going to excuse somebody up front. You can only be excused by death or disability at the present time from repaying your loan if you take it out through a bank.

Under the amendment of the gentleman, if you enlist in the service, the bank is going to be told that a thousand dollars of their loan is canceled. The bank is then going to bring the paper to Washington and say, "We want our money."

But the bankers are not going to be very excited about the idea. If we do it for the military, then we ought to do it for medical personnel and we ought to do it for other needs that a lot of people have approached us with as important to them. It is just not a good way to approach manpower policy.

We learned a bitter lesson, many of us who were on the other side of this issue 10 or 15 years ago about this method of trying to meet manpower needs. This is just the wrong place for the amendment.

I have all the confidence in the world that the persistence that the gentleman from Wisconsin (Mr. PETRI) has shown will dictate that we will have a bill out of the Committee on Armed Services at some time in the reasonably near future to consider which will use education benefits as an inducement to meet our manpower needs. I will be standing out here trying to help my friends from the Committee on Armed Services the same way they are trying to help us today.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment, though I want to commend my colleague, the gentleman from Wisconsin (Mr. PETRI) for his interest in what is a real problem of recruitment for both the regular service and the Reserves and also to commend the gentleman on what is an imaginative approach; but I agree wholeheartedly with the chairman of the subcommittee that this is the wrong way to attack the problem.

We have had experience with loan forgiveness programs. The gentleman from Michigan rightfully pointed out that what appeared to be good policy at one point where we provided for loan forgiveness to entice young people to go into the teaching profession; that became a program which took on a life of its own and extended long beyond the time when it was useful.

The gentleman is entirely right, that Mrs. Green and others of us on the Postsecondary Education Subcommittee for years tried to convince our more liberal friends on the committee to do away with the program that was enticing young people into a profession that was already overcrowded.

Now, this will be even more true of the proposed program here, since we are establishing manpower policy, rather than education policy. We are dividing, if this amendment should be adopted, the means to implement manpower policy completely from the place where that manpower policy is established. We will put the funding in the Higher Education Act rather than in the Defense appropriation and we will put the policymaking in the Committee on Education and Labor, rather than in the Committee on Armed Services.

Now, what this amounts to, although it is called loan forgiveness, is an enlistment and reenlistment bonus. Really, that is what it is. You cannot forgive a loan made by the bank. What we will have to do is use appropriated funds to pay the loan on behalf of the student.

Now, this may not even be good policy as far as the student is concerned, the enlistee. What if you had a national defense student loan say of $6,000 or $8,000 or $10,000 at 3 percent interest and you were going into the service today. They were going to give you an enlistment bonus. Would you like to have your loan done away with or would you rather have cash in hand?

Well, you know, if you are half smart, you will take the cash and keep that 3 percent loan and pay it off for over a period of time because what better situation could you be in than to have the cash which you could invest today very easily at 10 percent plus, rather than to have a 3-percent loan reduced; so it is not even good policy as far as the individuals are concerned.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I would be happy to yield to my colleague, the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding. I think the gentleman is presenting an excellent point. I would merely like to add one.

We all believe in amendments. I believe in amendments. If this were what you would call the only shot we had at something like this, I would be inclined to vote for it, because there are oftentimes when this body is confronted with a situation where an amendment of this type is the only way you will ever get it before the Congress, the only way you will ever get a vote on it.

Now, I cannot believe with the leadership that exists on the Committee on Armed Services that some imaginative program of this type cannot emanate from that committee, come before the body, and we would have a direct vote on it and I would certainly be inclined to vote for such a proposal.

I think the credentials of the gentleman in the well and the gentleman speaking as far as supporting the military are well known. I do not believe this vote comes down on that particular basis.

As I say, if I thought this was the only shot we would get, I would be very glad to vote for it, but it is bad policy. It should be brought out in proper form, as the gentleman has indicated, not in an amendment to this bill, but as something that relates to the military and I know it would gain the support of the Members on this side.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his contribution. I would thoroughly agree with him.

I think, with the expressions of interest given on the floor here today by members of the Committee on Armed Services, that it would appear that it ought to be simple for them to bring out legislation that would be tied directly to Defense Department manpower policy. That is where it should be done. It ought not be the Committee on Education and Labor establishing that policy.

As I say, if we create this program, it will probably take on a life of its own and long after it is needed for defense manpower we will continue to have loan forgiveness, just as we did with the student loan forgiveness for those going into the teaching profession.

I hope the amendment is rejected.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(At the request of Mr. BIAGGI, and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I would be happy to yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I would like to thank the gentleman for yielding and I would like to commend the gentleman for his comments and also the comments of my colleague, the gentleman from Ohio (Mr. ASHBROOK).

I, too, share a similar attitude with relation to the military. I have consistently supported and have pledged myself to support the requests of the military of our Nation and the committee; but I exhort us not to take this course.

The gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Ohio (Mr. ASHBROOK) and many others feel as I do, and many of us feel in the same fashion. If it were to be produced by the proper committee in the proper fashion, I would be delighted to vote for it, but this is a bad precedent. It is divisive.

I know the problem, but we are talking about education, not manpower recruiting. I believe that the issue is sufficiently important to be given its day in court, to have the issue dealt with in proper procedure and have full hearings, deal with some of our concerns. In the end, I am sure that it would be enacted into law very effectively and quickly.

Mr. Chairman, I thank the gentleman.

□ 1140

Mr. RATCHFORD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am concerned in three respects about the amendment we have before us this morning. The first is the precedent it sets, the second is the piecemeal approach it takes, and the third is the all important aspect of cost.

I would preface my remarks today by saying that I served 6 years in the National Guard, and I am aware of the fact that the Guard plays a very important role not only in the Nation but at the State level.

However, I would say that we are at a time when the importance of the volunteer is so critical because of the saving impact of the volunteer on inflation, I do not think it is a correct approach to say to the volunteer in the Guard or the Reserves that "We are going to give you special recognition in the form of loan forgiveness, but we are not prepared to do the same in a number of other areas."

For example, if we give this type of treatment to a member of the Reserves or a member of the Guard, should we not give similar treatment to the person who is serving, for example, in the volunteer fire services of his or her area? In my area the taxpayers cannot afford fire services without the involvement of the volunteer, and yet our State does not give special tax treatment to the volunteer fireman. Nor do we give the same treatment to the auxiliary police who serve at the State level, or the person who serves in the civil defense forces, or the ambulance drivers, or the Red Cross worker, or the hospital volunteer, or the volunteer in school services, or the volunteer in the senior centers.

Certainly as a society we should encourage the volunteer. Without the volunteer, we could not offer the type of services that we pride ourselves on in this country today. But if we take this precedent-setting step in the direction of the volunteer who enters the Guard or the Reserve, we are opening up the door. We are opening up the door on the floor of the House, not through the committee process, and we are opening it up at a staggering cost to society.

Mr. Chairman, for all these reasons, as appealing as the amendment is, I would urge its defeat. In fact, I would hope that we would not have to vote on it, and that the gentleman from Wisconsin (Mr. PETRI), who has peaked our sensitivity in this area, having done so, would withdraw his amendment.

Mr. WHITE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, what we are talking about today is not a program that some of us would like because we think it would be nice for some of those we would want to attract into the services. We are talking about a problem of the security of this Nation.

We had a battle on the floor not too long ago in which we asked this House to pass a standby registration because we were so short in our Reserves and because we saw problems in the All-Volunteer Force. At that time many of the Members came to the podium and said, "We don't want a standby registration. We want to support the All-Volunteer Force concept."

But we cannot talk both ways. This is an effort on the part of the gentleman from Wisconsin (Mr. PETRI) to do precisely that, to supplement the needs of the present services without the need of registration or draft.

Mr. Chairman, there are a number of statements that have been made. Members say "We don't want to set a precedent." Well, what did we do when we were talking in terms of the defense overseas schools jurisdiction? Some Members did not want that to be in the Defense Department, and that is what we were saying, that it should be in the Defense Department because policy was set by base commanders. That is our precedent there, if we will recall. Members were asking for that jurisdiction.

One gentleman from Illinois said that we do not want an overcrowding, or we do not want to use this in an overcrowded profession.

Mr. Chairman, let me tell the Members this: This year alone in the All-Volunteer Force there is a shortfall of 24,000 people in recruiting. This is what is happening to the All-Volunteer Force.

Furthermore, the testimony before our committee shows that the services today do not reflect the spectrum of society. We had many people during that debate come up and say, "Well, primarily those who are underprivileged or in lesser income brackets are going to be doing the fighting." And we agree. What we want for a good healthy service is a strong spectrum of people to be infused into the services, people who will be able to cope with the technology we have at the present time.

What we are asking today is to be able to take that type of person and give him the opportunity to have some of his loans forgiven. We have tried all kinds of incentives, but we have determined that education is far more important to the caliber of person we are after than is money in hand.

This is a small step that the gentleman from Wisconsin is taking. I am convinced that education is the way to go. There is not a sufficient spread of society in the services today.

Mr. Chairman, we have proposed this idea before the Defense Department. The Defense Department was very enthusiastic, but it has not acted. We have no jealousy in this jurisdiction. Sure, we would like to have this jurisdiction to do it, and we have got it. We have the jurisdiction here because all the gentleman is doing is amending the basic law to include one more category.

Now, Members say, "Well, this could proliferate into a terribly large program." The gentleman calls for $7 million, as I understand it, in the first year and $15 million the second year, and the big point that all of us have overlooked, including those who have spoken, is that this is a controlled program because the Secretary of Defense has the discretion as to how and where he will apply it. If the program gets into unmanageable proportions, then the Secretary of Defense himself can control, stop, alter, or diminish the program itself.

We have done this for teachers, we have done it for doctors, we have done it for nurses, and we have done it for other categories. Why can we not do it when the security of our country is concerned? I respect the security of this country even more than the policemen or the fire forces, which are important in themselves.

When we talk about this subject, we say we do not want a draft or registration, but do we try to augment the faltering All-Volunteer Force? If we really believe we should and if we believe what we said not too long ago in our debate, then we have got to vote for this amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I have asked the gentleman to yield so I can explain what we are about to do.

At the request of the chairman of the Committee on Interstate and Foreign Commerce, I am going to ask that the Committee rise momentarily and go back into the House so the gentleman can make a unanimous-consent request, which I assume is cleared on the other side. Then we will return to this matter.

Mr. Chairman, I did not want Members

to think that we were trying to cut off the debate. As soon as the gentleman has finished, I will make that request.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I will ask my colleague in all sincerity, if this is a matter of security and in the national interest, why has the Committee on Armed Services not done something about it?

Mr. WHITE. Mr. Chairman, we already have done something. If the gentleman will look back at the last report, he will find we have asked the Defense Department to make full speed in trying to devise a program like this. This amendment would do it. The Department is not moving, and this would do it with a simple change in the law.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WHITE) has expired.

(On request of Mr. ASHBROOK, and by unanimous consent, Mr. WHITE was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, if my colleague will yield further, let me say that he appeals to my sensitivity and to my patriotism when he says national defense is involved and when he says security is involved.

If it is that important a program, let us get it moving in the Committee on Armed Services, let us bring it out and get it to the floor. This is a practical situation. Many of us are confronted with problems, of course, and all of us know we cannot always get a vote, but I cannot understand why the gentleman could not get a bill like that out on the floor.

Mr. WHITE. Mr. Chairman, let me say to the gentleman from Ohio (Mr. ASHBROOK) that we have spent several days here talking about a mobilization board for a fast track in an emergency situation. That is precisely what we are doing here. It is a fast track forward, and the amendment offered by the gentleman from Wisconsin (Mr. PETRI) simply makes a slight change in the law and gets it moving.

Mr. ASHBROOK. Mr. Chairman, I would say to the gentleman that he did not appeal to me on that one.

Mr. WHITE. Perhaps not to the gentleman from Ohio, no.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I must say to the gentleman that I certainly cannot understand why he feels the Committee on Armed Services has to wait for permission from the Defense Department before the committee can move forward on a piece of legislation. I thought that the gentleman's committee, as well as all the committees, recognized their own sovereignty and independence.

Mr. Chairman, let me state the second thing that I really have to question on this matter.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WHITE) has again expired.

(On request of Mr. WEISS, and by unanimous consent, Mr. WHITE was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, if the gentleman will yield further, would the gentleman not agree that those young men and women who would have volunteered to serve in the Armed Forces of our country after high school rather than waiting until they have completed college, should also be entitled to the same forgiveness benefits as those who have completed college?

Mr. WHITE. Mr. Chairman, I would say to the gentleman from New York (Mr. WEISS) that the answer is "Yes." We have programs that we are also augmenting and supporting, and there are programs, I think, in being where a man can go into the service and get his education in the future.

We are talking here about a man who has already had his education, has a loan on his back and he says, "Well, if I go in for 2 years, I can get a forgiveness of these loans."

I know that the gentleman from New York is one of the gentleman who did not like registration. We understand the gentleman's position. We are trying to help him in his position by augmenting the All-Volunteer Force and give it every opportunity to survive before we have to go to something else.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WHITE) has again expired.

(On request of Mr. WEISS, and by unanimous consent, Mr. WHITE was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, if the gentleman will continue to yield to me, it seems to me further that if the gentleman is really concerned and his committee is concerned about a comprehensive program which would provide fairness and equity to both those young men and women who have completed college, as well as those who have just completed high school, that kind of comprehensive program deserves full hearings and full consideration to come out of his committee rather than trying to piggyback it on a bill here and do it halfheartedly and probably do an incomplete and unfair job.

Mr. WHITE. Mr. Chairman, I would say to the gentleman from New York (Mr. WEISS) that we had a provision that we thought was highly important, but it was stricken down by this House. This is before the Committee on Education and Labor.

□ 1150

Mr. WEISS. What is the gentleman talking about, registration?

Mr. WHITE. Yes.

Mr. WEISS. That registration has nothing to do with education.

Mr. WHITE. I am talking about the measure out of the Committee on Armed Services. This is an ongoing matter that affects education and it affects security. It is here. It is now. It is a viable program. It is a well organized program, and we say the House should support it and get it moving, because this is another way to give a valid incentive to join.

Mr. FORD of Michigan. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MONTGOMERY) having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON S. 1905, MILWAUKEE RAILROAD RESTRUCTURING ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other puposes, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from West Virginia could tell us what the plans would be for consideration of this legislation if permission to send it to conference is granted?

Mr. STAGGERS. If the gentleman will yield, we have reached informally an agreement with the Senate. We would confirm that agreement by signatures and bring it back to the House and file it and try to get it completed today because there is an emergency in the Western States.

Mr. BAUMAN. And try and get what, did the gentleman say? The gentleman mumbled and I could not hear him.

Mr. STAGGERS. I am sorry the gentleman from Maryland did not hear what I said.

Mr. BAUMAN. Whether the gentleman mumbled or not I did not hear what the gentleman said.

Mr. STAGGERS. I said there was an emergency on the Milwaukee Railroad. They have closed down.

Mr. BAUMAN. Yes, I understand that. But the question was: What are the plans for the consideration of the this legislation?

Mr. STAGGERS. That we have considered this with the Senate and we have come to an agreement. It is practically the House bill as passed by the House. And we would then, if we can get agreement here, meet and sign the conference report, bring it back to the House and file it and plan to bring it up sometime later today.

Mr. BAUMAN. So if it were filed today, there would have to be, of course,

an additional unanimous consent request.

Mr. STAGGERS. That is the next request I have.

Mr. BAUMAN. I will wait until that request comes. But I would just say, Mr. Speaker, that this is another instance in which one Member's objection could cause the delay or stoppage of important legislation in the House, and every Member has that right. I do not intend to exercise my right in this case, but, as I say, if we continue to have closed rules on many bills it will be more than the Milwaukee Railroad that is stopped.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I have no objection to sending the bill to conference, but I do think that before the next two unanimous consent requests are made, the conference committee report be typed up and filed so that it can be examined, so that the Members can determine whether they would want to object to waiving the 3-day rule and the 2-hour rule.

So I have no objection to the present unanimous-consent request, but I would ask the distinguished chairman of the committee to withhold making the other two unanimous-consent requests until the conference committee has been typed up.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Mr. STAGGERS, Mr. FLORIO, Ms. MIKULSKI, Mr. BROYHILL, and Mr. MADIGAN.

There was no objection

REQUEST FOR PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, MONDAY, NOVEMBER 5, 1979, TO FILE REPORT, ALONG WITH SEPARATE OR MINORITY VIEWS, ON H.R. 3990, TO AMEND TITLE XVIII OF THE SOCIAL SECURITY ACT WITH RESPECT TO MEDICARE PROGRAMS

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Monday, November 5, 1979, to file a report, along with any minority or separate views, on the bill (HR. 3990) to amend certain provisions of title XVIII of the Social Security Act with respect to medicare programs established by such title, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

EDUCATION AMENDMENTS OF 1980

Mr. FORD of Michigan. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5192, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose earlier today, title IV was open for amendment at any point, and pending were amendments offered en bloc by the gentleman from Wisconsin (Mr. PETRI).

Mr. TAUKE. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, I think it is important that we in Congress feel an obligation not to compartmentalize everything in Government. Yet today it seems as though the education people are unwilling to take steps to help those who have needs in other areas. As I have perused this bill, it has been my observation that this has been a standard or a policy that we do not always intend to follow. For example, when it came to urban grant universities, we did not feel any compulsion to send that to the Committee on Banking, Finance, and Urban Affairs to look that over, to review it. Rather, we felt that this was a good way that we could help education and help the urban centers of our Nation at the same time.

I think the same can be said about this amendment, that it does something for the armed services of our country and at the same time helps to strengthen the educational programs of the Nation.

First, I have to say that when the gentleman from Wisconsin offered his suggestion in subcommittee and in committee, I had some questions about it. But the more I have looked at this amendment and the more I have studied the manpower needs of the armed services, the more convinced I am that this is a reasonable solution to a problem, that we should not get hung up on jurisdictions. Perhaps some of the same people who have objected to the Committee on Armed Services reviewing all of the Defense Department-related things should be some of the people who would be in the forefront of having other Members of Congress also take a look at some of the programs relating to the armed services and the defense of the Nation.

I think it is good to have a broad scope of interest in all of the problems facing the Nation in all of the committees in Congress. For that reason, since this is closely related to education, I think that it should be supported, and because it is a program which meets one of the major problems facing the Nation, that it deserves support.

It appears to me that we are willing to include things in the bill if they are supported by us. So I think in this case, when we have a program which everyone thinks is worthwhile, we should include it in this measure.

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, a number of things have been said here which I think need some clarification. In the first place, it was said that the Committee on Armed Services was trying to become piggyback on the Education Committee with regard to college education.

Actually, the GI bill was the first substantial entry of the Federal Government into education, and now we find we cannot afford the GI bill, so the GI bill no longer exists.

Then we attempted in the Committee on Armed Services to provide an incentive for doctors to come aboard to serve in the military. We wrote a good bill which was based upon the educational opportunities for doctors to encourage them to go into military service as doctors. That was all very fine, and it worked pretty good, until from other committees we got legislation which now provides for much better benefits if you do not go into the military. In other words, it is better financially now to go the other federally funded courses. If you just want to pick up the money and get an education in medicine, you are better off not to take the military education at all.

Another thing that I think needs a little clarification here is how easy or hard it is to get things out of the Department of Defense with regard to something like this. The truth of the matter is that most of our military money today is going for personnel. The truth of the matter is that today we are greatly out-tanked, outshipped, out-missiled, and almost in everything else in the way of procurement of military weapons for this country. Our country is not today being adequately defended.

Why is that so? Because of the tremendous expense of personnel. So you have there a very real problem. A great benefit would be had, in Congress and the executive branch, if, when the country is to give benefits in education to the population generally, as is done in this bill, that we be sure we are not undermining the national defense of our country, which, as a matter of fact, the educational provisions of the statutes of the United States now do in many instances.

□ 1200

The statistics now do it, because they offer better opportunity to go the nonmilitary way. So those things ought to be thought about and provided against.

I personally think that the amendment of the gentleman offered on this matter is a good amendment. I would like to see it come from the Committee on Armed Services. A lot has been said here about why we do not get a lot of things like that out of the Committee on Armed Services. It is primarily because the OMB will not approve them if they go for defense matters. Neither will the DOD, because the DOD knows we have to have a certain number of tanks, knows we have to have a certain number of ships, knows we have to have a certain number of airplanes and things of that sort. It simply hopes we are going to be able to get some kind of an address to the problem of personnel in the military but they hesitate to approve more personnel costs.

The Department of Defense failed us by not even asking for registration, because it thought the Congress and the country would not allow it; so this Committee on Armed Services came courageously to ask for a little tiny thing of just registering people. That is all we asked. We were inundated by Congress. It was not allowed.

We can close our eyes to it. We can turn our backs on the national defense of our country, but educational opportunities, welfare programs, all these wonderful things our country does—and they are wonderful things and good things—all these things cannot be done unless we are in fact able to stand on our own feet and protect our country defensewise.

The question today is very real as to whether this country is realistic with regard to its national defense. Most of our allies think not. I think they ought to do a better job, too.

I think when we pass gargantuan bills like this education bill which I read is going to cost $14 billion in 1 year—when we often pass big bills like this, we make it almost impossible to have an adequate defense funding for what is necessary for the national defense. When we approach the national defense to get this kind of money for education, for the incentive, we find out there is no way in which we can afford it in competition with the costs of weapons procurement. At the same time education for the poor can work as disincentive against military service. We are doing ourselves in with regard to our national defense program by not analyzing the fallout effect in the military services when it is more attractive financially to take the nonmilitary alternatives.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Could the gentleman explain to me, if college-educated young men and women are needed in the armed services, why only those who owe money are desirable and those who may have gone with a scholarship or were able to pay for their education are not wanted?

Mr. BENNETT. I do not understand the gentleman's question. I do not think it has much relationship to what is being done here.

Mr. ERLENBORN. It certainly does.

Mr. BENNETT. If I may reclaim my time, this is an incentive to get people to go into the military.

Mr. ERLENBORN. Only those with loans, only those who owe money, who have loans.

Mr. BENNETT. It is an incentive added to whatever other incentives there are.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Texas.

Mr. WHITE. In answer to the gentleman from Illinois, this is one facet. There are other programs by which means we can try to induce people in.

The gentleman spoke of personnel cost escalating. Is it not a fact almost better than one-third of the men who are recruited into the service at the present time do not finish their first-year enlistment and the way to improve on that percentage is to get a different and better caliber of person induced to go into the service?

Mr. BENNETT. I think it would be very helpful. I certainly support the amendment.

The CHAIRMAN. The time of the gentleman from Florida (Mr. BENNETT) has expired.

(At the request of Mr. SIMON and by unanimous consent Mr. BENNETT was allowed to proceed for 1 additional minute.)

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

I voted with the gentleman from Florida and the gentleman from Mississippi and the gentleman from Texas on the registration.

We have problems, but it does seem to me—and I know the gentleman from Florida is a prudent man—that the suggestion of the gentleman from Michigan that we ought to know the cost of this thing before we go ahead, is not an unrealistic suggestion. Would the gentleman agree?

Mr. BENNETT. I agree with the gentleman that I try to be prudent I think, however, that improvement could be added in conference or in some other measure. The gentleman suggested only $7 million and $15 million in funding for this. We are talking about a $14 billion bill. Maybe the amendment could be improved in conference, but I think the thrust of it is good. I think we are whistling "Dixie" if we think the Congress is going to be able to pass a bill like registration or draft that we have been bandying about around here. No way are we going to do that. No way are we going to reinstate the GI bill. No way is it possible. It is not possible at all. This Congress should look at the reality of this and try to help the national defense of our country through educating the people who serve in the military. After all, these people are going to be beneficial to the general society, just like a person who is poor and gets into the educational channel through this bill. There is nothing secondrate about being a military man. They unselfishly serve our country.

In spite of the statements made by the committee in its preface to the Congressional Budget Office cost estimate, H.R. 5192 has extremely high authorizations.

The Congressional Budget Office estimates authorization levels of $9.1 billion, $11.2 billion, $12.5 billion, $13 billion and $14.7 billion in fiscal years 1981 through and including 1985.

Of particular concern are the modifications made in the basic education opportunity grant program. Changes made by this bill will result in maximum awards expanded from $1,800 to $2,160 for the 1981–82 school year and to $2,700 by the school year 1984–85. The proportion of college costs that may be provided by this basic grants program is increased from 50 to 60 percent in 1981–82 and to 75 percent by 1984–85. The modifications contained in this bill will result in a CBO projected cost of $5.4 billion in fiscal year 1981, increasing to $5.9 billion by fiscal year 1983 and $7 billion by 1985, if fully funded.

Other programs contained in this bill are reauthorized at funding levels which seem too high in view of the Nation's fiscal situation.

For example, the national direct student loan program's level of Federal contribution to institutional loan funds is set at $400 million for fiscal 1981–82, $475 million for fiscal 1983, $550 million for fiscal 1984 and $625 million for fiscal 1985. In other words, by fiscal year 1985, the national direct student loan program will have an authorization of $225 million more dollars than the fiscal 1981 authorization, even though the program has major administrative problems.

There is an essential conflict within the Federal Government with regard to educational assistance programs: on the one hand we are prepared to authorize many millions of dollars annually as incentives for individuals to participate in various higher education programs and, and on the other hand we are not prepared to offer programs as attractive to provide a student with an honorable and important way to serve the country in return for the country's services to that student.

Currently we have tremendous shortfalls totaling 24,000 in active forces and 33,000 in the selective reserve in our Armed Forces. We absolutely have to deal in as a direct manner as possible with programs that will make the military a more attractive alternative to the student. Few people with any college background are enlisting presently, especially in the reserves, and this causes me a great deal of concern. Aside from the fiscal aspects of this legislation it does show a very careful consideration of the problems in this field and makes many needed improvements. I expect this legislation to pass; but I urge the appropriations committees to attempt to hold down any unneeded costs in this.

Mr. ADDABBO. Mr. Chairman, I rise in support of the pending amendment. I believe that we should do all possible to retain or obtain the enlistment of young men and women in service.

I recently made a trip to Germany and spoke to our service people regarding the serious questions they have as to their service, dependents, enlistment and reenlistments. One of the most important factors as to the question of their reenlistment is educational benefits and entitlements.

We spend billions for our volunteer

military service enlistments with bonuses and other programs and this would be a very inexpensive and worthwhile effort compared to the end result.

Mr. Chairman, our military weapons are becoming more and more sophisticated and it is essential to our national defense to have the best educated service person and this amendment would be a step in that direction.

Mr. Chairman, I agree this might not be the best vehicle but the armed services or other committees have not acted and we should.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not planning on taking the floor at this time, but I just listened to my good friend from New York, a member of the Appropriations Committee, who perhaps has misunderstood what this legislation will do. It certainly is not going to do anything to improve, if you will, the educational standards of the military forces.

In the first place, I would like to ask the initiator of this amendment some questions, if the gentleman from Wisconsin will respond.

Is my understanding correct that $1,000 is the maximum deduction that can be taken in a given year for a student who owed let us say, $4,000, and he finished college, and now he comes in under the gentleman's program? Is $1,000 the maximum deduction or loan forgiveness that he gets?

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Wisconsin.

Mr. PETRI. No. It is $1,000 or 20 percent for the Active or $500 or 10 percent for the selected Reserve.

Mr. PEYSER. Let us take the example of the person who finishes college and he owes $4,000. He would be eligible, am I correct, for $1,000?

Mr. PETRI. Correct; $1,000 for each completed year of satisfactory service.

Mr. PEYSER. Now, for that $1,000, if he did not come into this program at all, he has 10 years to repay that. Is that correct? Under the student loan program?

Mr. PETRI. I think so, whether his total indebtedness is $1,000 or $4,000.

Mr. PEYSER. That is correct. Now, that payment for that $1,000, for that 10-year period at the interest rate that is involved, is approximately $10 a month.

Now, first of all, I want to know if the gentleman seriously believes that a student in college who has graduated from college, to forgive a $10-a-month payment in that first year, which is all it is, is going to then go into the armed services in order that that $10-a-month payment should not be made? I would like to know if the gentleman seriously feels that is apt to happen?

Mr. PETRI. I would like to respond to the question of the gentleman from New York, if he will yield further.

I would say that I do indeed believe that this would be an important incentive. It does not require active duty. Selected reserve duty also qualifies. It could be combined with other things that the student would want to do in his life.

□ 1210

I would make the additional point if, in fact, it does not work, let us say the gentleman is right, what have we lost?

Mr. PEYSER. I think we have lost a great deal because we have lost an education program that is for the education of the young people of our country and have suddenly worked it into a military program. I do not know if the gentleman is aware of the sensitivities of our young people. I think this thing could be destructive of the student loan program just by the connection that suddenly we are talking to people about a student loan military program which I think would be very bad.

Let me ask one other question. If under the appropriations the gentleman is suggesting of $7 million I believe in the first year, if we were dealing with students again with the $1,000, what is the maximum number of people that would be affected by this?

Mr. PETRI. If the gentleman will yield further, $5,000 for the first year in the Actives, if we assume $5,000 to be the average total indebtedness.

Mr. PEYSER. Five thousand people. What in the world are we cluttering up a national student loan program with an opportunity of young people going to college with one, potentially bringing in 5,000 people into the military forces, potentially be forgiving $10-a-month payments for these people? To me it is absolutely absurd that the Education and Labor Committee should be taking this kind of action.

I would say to my friend from New York on the Appropriations Committee, I really feel the concept of the people who are in the service now, that this has absolutely no impact now, and it only has an impact on those potential 5,000 students who next year might want to go into the armed services to forgive this $10-a-month forgiveness, because that is what we are actually talking about. I really do not think we want to do this. The armed services ought to be able to handle themselves here, and I would hope we would defeat this amendment overwhelmingly.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to my friend from Texas.

Mr. WHITE. Mr. Chairman, in the first place let me say to the gentleman there is a reserve program involved in this too. We are trying to induce people into the Reserves as well, and there is already something like a 130,000 to 180,000 shortfall in the Reserves. This is only one factor. It is not the sole reason anybody goes into something, but it is one more consideration on which they make their decision.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. PEYSER was allowed to proceed for 1 additional minute.)

Mr. PEYSER. The only thing, in response, which I would say to the gentleman is that I am very supportive of the Reserve. I served 11 years in the National Guard prior to my former service. I am very familiar with that issue. But the issue should be resolved for the Reserve and not by this kind of a program. We ought to pay more money into our Reserve and then I will vote for it.

Mr. WHITE. If the gentleman will yield further, if we come in with a massive program then this House will be up in arms. But this provision is going to determine whether or not this is a viable program. It is a little more than a pilot program.

To answer the gentleman from Illinois, the expenditures would be controlled by the Secretary of Defense.

Mr. PEYSER. But does the gentleman not understand that we are talking about a program that forgives $10 a month? I am sure if the armed services want to come in and forgive $10 a month, then we will pass the bill.

Mr. WHITE. I would say to the gentleman it is $1,000 a year. I do not know how the gentleman comes to the $1,000 as $10 a month.

Mr. PEYSER. Because the student now is entitled to take 10 years to repay that, and it would cost him $10 a month.

Mr. WHITE. He may want to forgive $1,000 a year, and that may be the inducement.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Wisconsin (Mr. PETRI).

The question was taken, and on a division (demanded by Mr. PETRI) there were—ayes 16, noes 19.

Mr. PETRI. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum. Does the gentleman insist upon his point of order of no quorum?

Mr. PETRI. Yes, Mr. Chairman, I do.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 628]

Abdnor	Bailey	Bolling
Addabbo	Baldus	Boner
Akaka	Barnard	Bonker
Albosta	Barnes	Bouquard
Ambro	Bauman	Bowen
Anderson, Calif.	Beard, R.I.	Breaux
Annunzio	Bellenson	Brinkley
Anthony	Benjamin	Brodhead
Applegate	Bennett	Brooks
Ashbrook	Bereuter	Brown, Calif.
Ashley	Bethune	Brown, Ohio
Aspin	Bevill	Broyhill
Atkinson	Biaggi	Buchanan
AuCoin	Blanchard	Burgener
Bafalis	Boggs	Burlison
	Boland	Burton, John

Burton, Phillip	Hance	Oakar
Butler	Hanley	Oberstar
Byron	Hansen	Obey
Campbell	Harkin	Ottinger
Carney	Harris	Panetta
Carr	Hawkins	Pashayan
Carter	Hefner	Patten
Cavanaugh	Hightower	Paul
Chisholm	Hillis	Pease
Clausen	Hinson	Pepper
Clay	Hollenbeck	Perkins
Clinger	Holt	Petri
Coelho	Holtzman	Peyser
Coleman	Hopkins	Pickle
Collins, Ill.	Howard	Preyer
Collins, Tex.	Hubbard	Price
Conable	Huckaby	Pursell
Conte	Hughes	Quillen
Conyers	Hutto	Rahall
Corcoran	Hyde	Rangel
Corman	Ichord	Ratchford
Coughlin	Ireland	Regula
Courter	Jacobs	Reuss
Crane, Daniel	Jeffords	Rinaldo
D'Amours	Jeffries	Ritter
Daniel, Dan	Jenkins	Roberts
Daniel, R. W.	Johnson, Calif.	Robinson
Danielson	Jones, Okla.	Roe
Dannemeyer	Jones, Tenn.	Rose
Davis, Mich.	Kastenmeier	Rostenkowski
Davis, S.C.	Kazen	Roth
de la Garza	Kelly	Roybal
Deckard	Kildee	Royer
Dellums	Kindness	Rudd
Derrick	Kogovsek	Sabo
Derwinski	Kostmayer	Santini
Devine	LaFalce	Satterfield
Dickinson	Lagomarsino	Sawyer
Dicks	Latta	Schroeder
Dingell	Leach, Iowa	Schulze
Donnelly	Leath, Tex.	Sebelius
Dornan	Lederer	Seiberling
Drinan	Lee	Sensenbrenner
Duncan, Oreg.	Lehman	Sharp
Duncan, Tenn.	Leland	Shelby
Early	Lent	Shuster
Eckhardt	Levitas	Simon
Edgar	Lewis	Slack
Edwards, Ala.	Lloyd	Snowe
Edwards, Calif.	Loeffler	Snyder
Emery	Long, La.	Solarz
English	Long, Md.	Solomon
Erdahl	Lott	Spellman
Erlenborn	Lowry	Spence
Ertel	Lujan	St Germain
Evans, Del.	Luken	Staggers
Evans, Ga.	Lundine	Stangeland
Evans, Ind.	Lungren	Stanton
Fary	McClory	Stenholm
Pascell	McCloskey	Stewart
Fazio	McCormack	Stockman
Fenwick	McDade	Stratton
Findley	McHugh	Studds
Fish	McKay	Stump
Fisher	Madigan	Swift
Fithian	Maguire	Tauke
Flippo	Markey	Taylor
Florio	Marks	Thomas
Foley	Marlenee	Thompson
Ford, Mich.	Mathis	Traxler
Ford, Tenn.	Matsui	Trible
Forsythe	Mattox	Ullman
Fountain	Mazzoli	Vander Jagt
Frenzel	Mica	Vanik
Frost	Michel	Vento
Fuqua	Mikulski	Volkmer
Garcia	Miller, Calif.	Walgren
Gaydos	Miller, Ohio	Walker
Gephardt	Mineta	Wampler
Gilman	Minish	Watkins
Gingrich	Mitchell, Md.	Weaver
Ginn	Mitchell, N.Y.	Weiss
Glickman	Moakley	White
Goldwater	Moffett	Whitehurst
Gonzalez	Montgomery	Whitley
Goodling	Moore	Whittaker
Gore	Moorhead, Calif.	Whitten
Gramm	Morehead, Pa.	Williams, Mont
Grassley	Mottl	Wilson, Bob
Gray	Murphy, N.Y.	Wilson, Tex.
Green	Murphy, Pa.	Wolpe
Grisham	Murtha	Wyatt
Guarini	Myers, Ind.	Wydler
Gudger	Natcher	Wylie
Guyer	Neal	Yates
Hagedorn	Nedzi	Yatron
Hall, Ohio	Nolan	Young, Fla.
Hall, Tex.	Nowak	Young, Mo.
Hamilton	O'Brien	Zeferetti
Hammer-schmidt		

□ 1230

The CHAIRMAN. Three hundred and forty-five Members have answered to their names, a quorum is present, and the committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin (Mr. PETRI) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 115, not voting 82, as follows:

[Roll No. 629]

AYES—236

Abdnor	Gilman	Myers, Ind.
Addabbo	Gingrich	Neal
Ambro	Ginn	Nowak
Anderson, Calif.	Glickman	O'Brien
Andrews, N.C.	Goldwater	Oakar
Annunzio	Gonzalez	Obey
Anthony	Gore	Ottinger
Archer	Gramm	Panetta
Aspin	Grassley	Pashayan
AuCoin	Green	Patten
Bafalis	Gudger	Pease
Baldus	Guyer	Pepper
Barnard	Hamilton	Petri
Barnes	Hammer-schmidt	Preyer
Bauman	Hance	Price
Beard, R.I.	Harkin	Rahall
Benjamin	Heckler	Regula
Bennett	Hefner	Reuss
Bereuter	Hightower	Rinaldo
Bethune	Hillis	Ritter
Bevill	Hinson	Roberts
Biaggi	Hollenbeck	Robinson
Boner	Holt	Roe
Bonker	Howard	Rose
Bouquard	Hubbard	Rostenkowski
Bowen	Huckaby	Roth
Brinkley	Hughes	Rudd
Brooks	Hutto	Santini
Brown, Ohio	Ichord	Satterfield
Broyhill	Ireland	Sawyer
Burgener	Jacobs	Schulze
Butler	Jeffords	Sebelius
Byron	Jeffries	Seiberling
Campbell	Jenkins	Sensenbrenner
Carney	Johnson, Calif.	Shelby
Carter	Jones, Tenn.	Shuster
Cavanaugh	Kastenmeier	Slack
Clausen	Kazen	Smith, Nebr.
Clinger	Kindness	Snowe
Coelho	Kogovsek	Snyder
Conte	Kostmayer	Solomon
Corcoran	Lagomarsino	Spellman
Coughlin	Latta	Spence
Courter	Leach, Iowa	St Germain
Crane, Daniel	Leath, Tex.	Stangeland
Daniel, Dan	Lederer	Stanton
Daniel, R. W.	Lee	Stenholm
Dannemeyer	Lent	Stockman
Davis, Mich.	Levitas	Stratton
de la Garza	Lloyd	Studds
Deckard	Loeffler	Stump
Derrick	Long, Md.	Swift
Derwinski	Lott	Synar
Dickinson	Lujan	Tauke
Dicks	Luken	Thomas
Dornan	Lungren	Trible
Duncan, Oreg.	McClory	Udall
Early	McCormack	Ullman
Eckhardt	McDade	Vander Jagt
Edwards, Ala.	McKay	Vanik
Emery	Madigan	Volkmer
Erdahl	Maguire	Walgren
Evans, Del.	Marlenee	Walker
Evans, Ga.	Mathis	Wampler
Evans, Ind.	Mattox	Watkins
Fary	Mazzoli	Weaver
Fazio	Mica	White
Fenwick	Miller, Ohio	Whitehurst
Findley	Minish	Whitley
Fish	Mitchell, N.Y.	Whittaker
Fithian	Moakley	Whitten
Flippo	Montgomery	Wilson, Bob
Florio	Morehead, Calif.	Wyatt
Foley	Morehead, Pa.	Wydler
Ford, Tenn.	Mottl	Wylie
Frost	Murphy, N.Y.	Yatron
Fuqua	Murphy, Pa.	Zeferetti
Gaydos	Murtha	
Gephardt		

NOES—115

Albosta	Blanchard	Buchanan
Applegate	Boggs	Burlison
Ashbrook	Boland	Burton, John
Ashley	Bolling	Burton, Phillip
Atkinson	Breaux	Carr
Bailey	Brodhead	Chisholm
Bellenson	Brown, Calif.	Clay
Coleman	Hagedorn	Natcher
Collins, Ill.	Hall, Ohio	Nedzi
Collins, Tex	Hall, Tex.	Nolan
Conable	Hanley	Oberstar
Conyers	Hansen	Paul
Corman	Harris	Perkins
D'Amours	Hawkins	Peyser
Danielson	Holtzman	Pickle
Davis, S.C.	Hopkins	Pursell
Dellums	Hyde	Quillen
Devine	Jones, Okla.	Rangel
Dingell	Kelly	Ratchford
Donnelly	Kildee	Roybal
Drinan	LaFalce	Royer
Duncan, Tenn.	Lehman	Sabo
Edgar	Lewis	Scheuer
Edwards, Calif.	Long, La.	Schroeder
English	Lowry	Sharp
Erlenborn	Lundine	Simon
Ertel	McCloskey	Solarz
Pascell	McDonald	Staggers
Fisher	McHugh	Stewart
Ford, Mich.	Markey	Taylor
Forsythe	Marks	Thompson
Fountain	Matsui	Vento
Frenzel	Michel	Weiss
Garcia	Mikulski	Williams, Mont.
Gibbons	Miller, Calif.	Wilson Tex.
Goodling	Mineta	Wolpe
Gray	Mitchell, Md.	Yates
Grisham	Moffett	
Guarini	Moore	

NOT VOTING—82

Akaka	Gradison	Richmond
Alexander	Harsha	Rodino
Anderson, Ill.	Heftel	Rosenthal
Andrews, N. Dak.	Holland	Rousselot
Badham	Horton	Runnels
Beard, Tenn.	Jenrette	Russo
Bedell	Johnson, Colo.	Shannon
Bingham	Jones, N.C.	Shumway
Bonior	Kemp	Skelton
Brademas	Kramer	Smith, Iowa
Broomfield	Leach, La.	Stack
Chappell	Leland	Stark
Cheney	Livingston	Steed
Cleveland	McEwen	Stokes
Cotter	McKinney	Symms
Crane, Philip	Marriott	Traxler
Daschle	Martin	Treen
Diggs	Mavroules	Van Deerlin
Dixon	Mollohan	Waxman
Dodd	Murphy, Ill.	Williams, Ohio
Dougherty	Myers, Pa.	Wilson, C. H.
Downey	Nelson	Winn
Edwards, Okla.	Nichols	Wirth
Ferraro	Patterson	Wolff
Flood	Pritchard	Wright
Fowler	Quayle	Young, Alaska
Giaimo	Railsback	Zablocki
	Rhodes	

□ 1240

Messrs. LEWIS, ALBOSTA, and HANSEN changed their votes from "aye" to "no."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage in colloquy with the chairman of the committee, the gentleman from Michigan (Mr. FORD).

Mr. Chairman, the bill before us contains in part A of title IV, under "Apportionment and allocation of funds," language which I introduced calling for the Secretary to establish "equitable criteria" for the distribution of supplemental grant funds.

The purpose of the amendment I introduced in committee was to prohibit the Office of Education from penalizing States and institutions which have been making significant efforts to assist students gain collegiate access and to overcome the substantial cost barriers that inhibit their ability to select institutions which they feel would best meet their higher educational needs. None of us want to discourage State and institutional effort. We want to remove those disincentives in existing regulations

which may tempt States and institutions to pull back on their past efforts.

The amendment I introduced is also consistent with the basic theme of our bill, to leave to the States, the institutions of higher education and the individual students sufficient incentives to cover the 25 percent of costs of attendance not covered by the 75-percent Federal commitment and family contribution. Thus, it is a fiscally realistic amendment to avoid future calls for expanding the 75-percent Federal commitment upward.

Under the regulations on Federal campus-based student aid, issued last year by OE, the State and institutional allotments for supplemental grant funds were determined by a formula which deducted half of all institutional grant assistance and 100 percent of all State grant assistance from 70 percent of undergraduate costs.

What I intended through the phrase "equitable criteria" was to alter the existing formula and assure that future allocation formulas for distribution of supplemental grants not continue to penalize States which have provided student assistance funds and institutions providing need-based student assistance. I do not consider it sensible fiscal policy for the Federal Government to impose requirements that penalize State institutional effort in this field.

Mr. Chairman, I would ask the chairman of the committee, the gentleman from Michigan (Mr. FORD), if the gentleman agrees with the intent of my amendment as I have stated it today.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I would be pleased to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman is correct, and it is certainly my expectation that in promulgating new regulations to implement this act, the Secretary will more carefully and sensitively reexamine the issues which the gentleman has raised.

Mr. Chairman, I would add at this point that the gentleman from New York (Mr. BIAGGI) is to be commended by all the Members of this House for the amount of time the gentleman has put into this issue and the statesmanship the gentleman has shown in working out a way to reach a solution without doing violence to the feelings and opinions of other people and other interests. I want to thank the gentleman for engineering a compromise in the finest sense of that word.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman from Michigan for his kind remarks.

AMENDMENTS OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. SIMON: Page 144, after line 6, insert the following new subsection:

(e) Section 417(a)(1)(F) of the General Education Provisions Act is amended by inserting immediately before the period at the end thereof the following: ", including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age, of its beneficiaries".

Page 212, after line 3, insert the following new section:

EVALUATION REPORTS

SEC. 1304. Section 417(a)(1)(F) of the General Education Provisions Act is amended by inserting immediately before the period at the end thereof the following: ", including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age, of its beneficiaries".

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and considered en bloc; and I ask unanimous consent that the second of these amendments be considered at this point, since it does basically the same thing as the other amendment to title IV.

The CHAIRMAN pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SIMON. Mr. Chairman, I will not take the full 5 minutes.

The amendment I am offering has grown out of an attempt on the part of some of us to try to determine really what is happening with our educational programs. This is an amendment to the General Education Provisions Act.

Originally I said that I would appreciate a tabulation on the basis of the impact of the programs, on the basis of sex, race, age, and handicap. I have been advised by the Office of Education that it is unrealistic and very expensive to include the handicapped, so very reluctantly I have not included that.

What we have said is that where there is available data that we would like to have that data compiled.

I understand that the gentleman from Michigan may have an objection or a point of order to the consideration of this amendment. I understand that, and if the gentleman raises that point of order, I will withdraw the amendment, but I want it in the record. I would like the new Department of Education to understand that it is the sentiment of this House that where that data is available, that it be compiled and we know really the impact of these programs.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to my colleague, the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I am embarrassed to admit that the time for me to raise a point of order has passed, so I will not raise a point of order and I really have no objection to the amendment.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I think this is a good amendment. We accept it.

Mr. FORD of Michigan. Mr. Chairman, I should say to the gentleman that I will raise a point of order against similar amendments. I just was distracted and did not do it against this one.

Mr. SIMON. Mr. Chairman, I thank my colleagues.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. SIMON).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 95, after line 16, insert the following new subsection:

(d) Section 428(a)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C)(i) A student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income at the time of execution of the note or written agreement evidencing such loan—

"(I) is less than $40,000; or

"(II) is equal to or greater than $40,000 and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

"(ii) For purposes of this subparagraph, the adjusted family income of a student shall be determined pursuant to regulations of the Commissioner in effect at the time of execution of the note or written agreement evidencing the loan. Such regulation shall provide for taking into account such factors, including family size, as the Commissioner deems appropriate. In the absence of fraud by the lender, such determination of the need of a student under this subparagraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1250

Mr. ERLENBORN. Mr. Chairman, this amendment has to do with the guaranteed student loan program. Let me just very briefly recall the history of the family income limitation on the in-school subsidy and the grace period interest subsidy for the guaranteed student loan program.

Prior to 1976, before the 1976 Education Act amendments were adopted, only students from families with adjusted gross incomes of $15,000 or less were eligible for in-school or grace period interest subsidies. The 1976 Education Act amendments increased the family adjusted gross income ceiling to $25,000.

The Middle Income Student Assistance Act enacted last year removed the income ceiling completely in spite of the opposition of the Carter administration.

My amendment would reinstate a ceiling at the level of $40,000. I offered such an amendment to the Middle Income Student Assistance Act last year, and unfortunately it was not adopted.

But even with my amendment, we should remember that between the years, 1976 and the current time, which is a

3-year period, we will have increased the adjusted family income from $15,000 to $40,000. And, by the way, an adjusted family gross income of $40,000 relates generally, depending on family circumstances, to actual total gross income of $48,000. So those are relatively high middle income families that we are talking about.

What impact would the imposition of this ceiling have? It is difficult to say because, along with the enactment of the Middle Income Student Assistance Act, there was also a change in the practice of finding out what the family income was for those students who were applying for the guaranteed student loans. What we can tell the Members is that in the last year since the enactment of that act there is a 30- to 40-percent increase in the gross volume of guaranteed student loans.

Not all of that is attributable to the ceiling, but there has been mass circulation of information through periodicals—mostly periodicals such as the Wall Street Journal, Business Week, Forbes, Money, and so forth—mass distribution of the information about how wise high income families are taking advantage of the free interest loan or the guaranteed student loan.

Earlier I sent out a "Dear Colleague" letter that spelled out a scenario about how a family could have a student borrow the $2,500 each year. The student would then pay his tuition or part of his tuition with that loan, and the parent could then make a gift of $2,500 to the student, who could invest in a money market certificate and earn something today in the neighborhood of 12 percent-plus on money that he has borrowed at no cost at all to the student or his family.

That just does not make good social sense, and it just does not make good fiscal sense. We have a limited number of dollars available. Sometimes this body acts as though it does not understand that there is a limit on how much of the Federal taxpayer's money we can spend. But there are limits, and those dollars that we have should not be directed to giving free money to high income families to use for investment purposes. That is what is happening today to a great extent.

Nor does it make good social sense for us to make these high income families eligible for these guaranteed student loans because there is a limit as to how much money can be loaned by financial institutions. The much more fiscally and financially sophisticated high income families, those with the best connections with financial institutions, are the ones who are most likely to get these loans, and that means that, when there is a limit to how much can be loaned out, the lower middle income families and middle income families that really need this money for education purposes are less likely to get the loans that they need.

So for the reason of making good fiscal and social sense, I would hope that the Members would agree with me to reestablish an adjusted gross family income limit on the eligibility for subsidized loans.

We should understand that regardless of income, high-income families will still be eligible for guaranteed loans. They will still be subsidized because the maximum interest rate will be 7 percent. Seven percent today has to be a subsidized loan. As a matter of fact, the high income families, even under that scenario, will be able to get cheap money at 7 percent and reinvest it at the higher rates of interest that are now available. But why we should give them totally free money and thereby deny the needs of middle income, lower middle income, and lower income students for the money they really need for educational purposes really escapes me.

So, Mr. Chairman, I would hope the Members will support this amendment because it makes good sense, as well as dollars.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a slightly modified version of the discussion that we have had on the floor before. We had the discussion first, when the Middle Income Student Assistance Act was being passed in 1978, when the gentleman from Illinois (Mr. ERLENBORN) and I debated it very fully. I will not try to bore the House by repeating all of the brilliant responses I made to the gentleman's erroneous assertions at that time.

To put it plainly and simply, this would return us to the requirement that everyone who applied to their bank or their credit union or to any other lending agency for a loan, regardless of income, would have to walk in with all of the paperwork necessary to verify income, first to determine if they were eligible to apply for the loan.

When we were considering the Middle Income Student Assistance Act in 1978, the Senator from New York (Mr. JAVITS) pointed out that the proposed $40,000 cap which the gentleman would now insert in the law would leave such a small group of people uncovered that we would probably spend more money on the paperwork involved to determine who qualified than we would save by not giving the guaranteed loans to the few additional people whom we added to the population of eligible borrowers.

We do not know to what extent people from families of incomes over $40,000 are actually utilizing this program. We do know that since we have taken the income cap off, young people who have been qualified for these loans for years but who were afraid to apply and be rejected, are now receiving these loans.

It is true that this year there is an increase in the number of guaranteed student loans. But it is not Federal money that we lend out in guaranteed student loans; it is private money that we lend out in guaranteed student loans. All we do is guarantee the repayment of the loan and subsidize the interest payment.

These private lenders have been objecting in the past to the fact that there is too much paperwork involved in processing guaranteed student loans. We have eliminated the most onerous part of that paperwork. As a result we have used that, along with some other changes we have made, to coax banks that heretofore were not lending money to students to come into the lending business, to come into this market. We think there is every reason to believe that there is just as much increase in the number of student loans this year because of the additional access that people from middle income and low income families have to banks that heretofore were not lending money but are lending it now because of the changes we made than there is from any other cause.

I think it would be a very definite step backward to once again put an arbitrary ceiling in now. This is a 5-year bill, and I would suggest that at the present rate, while $40,000 might look like the appropriate figure, I suspect that somebody is going to come along later and suggest that it ought to be indexed, and it will be $60,000 at some future time.

The plain fact is that we promised the middle income families of this country that we were going to respond to their concerns without doing so at the expense of the low-income students for whom we have a grant program. This program does not take a nickel away from low-income students. If anything, it holds the middle-income student hostage for greater accessibility to loans by low-income students. There is no benefit to have the right to a guaranteed student loan if one lives in a part of the country where the bankers will not make the loans. If we tell the bankers they have to go back to what they were doing 10 years ago, they will quit making the loans.

Mr. Chairman, this is working very well. I do not think we should tamper with it.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think, as the gentleman correctly pointed out, this is a replay of a recorded vote and a replay of the debate and colloquy we had last fall on this bill.

□ 1300

I think I pointed out then, as I point out now, that over the years there have not been, I do not suppose, more than two or three times that my colleagues and I have disagreed.

The CHAIRMAN pro tempore (Mr. DE LA GARZA). The time of the gentleman from Michigan (Mr. FORD) has expired.

(On request of Mr. ASHBROOK and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 3 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, if my colleague will further yield, there have not been many times over the years that I have disagreed with my very able friend, the gentleman from Illinois, but I have to say, candidly, this is one of them. I know when I went home last fall and I explained the 1978 act, I got

a more positive response to the efforts of this Congress to remove the paperwork burden. And it even goes further than paperwork, I would say to my colleague, the gentleman from Michigan.

We are always talking about the poor, middle-class American and how they have to appear before Uncle Sam prostrate, with their hat out, asking for something. And to restore some dignity and some privacy to their affairs, to where they do not have to walk in, lay everything down, their income, this moves in the direction most of us talk about when we are talking about the problems of dealing with the Federal Government.

So, yes, there may be a few areas where a few people take advantage; but think of the 98 percent of the American families who do not have to lay prostrate before the Government, baring their financial lives in order to get a student loan. To me, that far outweighs any problem that might come from those few people who, as in every case, might take advantage of a meritorious program. It is for that particular reason that I reluctantly—reluctantly, I say, because very rarely do my friend and I disagree—oppose this amendment, as I did last fall, and I hope we do what we did last fall, vote it down.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I share the sentiments of the gentleman on the other side of the aisle, the gentleman from Ohio (Mr. ASHBROOK), a member of the Committee on Education and Labor, as well as that of the chairman. As an original cosponsor of the Middle Income Student Assistance Act last year, we went through all of these positions. There were extensive debates and discussions in connection with this very particular issue.

If I recall correctly, we had a joint session with the Senate, and it was the senior Senator from New York (Mr. JAVITS), who dealt with the issue. The argument was made, "Why provide the rich with the opportunity?" Rich is relative. And philosophically there might be a constituency for that thinking. But on balance, using commonsense and a practical assessment of the situation, which is what the senior Senator did, he said it would not be worth all of the moneys that would be required to process all of these applications and all of the paperwork, in addition to adding more to the redtape jungle that we all abhor. As a question of dollars and cents, it made no sense to eliminate the cap and provide the situation in which we find ourselves today.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, I have had this point researched. As far as the administrative cost to the Federal Government is concerned, the amount is zero, whether we have a cap or not. The administrative cost to the lending institution is approximately $1 million. The savings in interest subsidy is in excess of $14 million. So the argument is fallacious.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman misses the point. It was not the Federal Government that was complaining about the redtape that the bankers have to go through; it was the bankers who were complaining about the costs to them of doing all of this paperwork.

Of course, it did not cost the Government anything. Most of the regulations we put out do not cost the Government anything. But the American people are getting tired of what it costs them.

I have heard the gentleman from Illinois on this floor time and time again, particularly in the field of OSHA, railing against the regulations that we put out that cause American citizens to spend their money complying with what they consider to be useless and vain Federal requirements.

This is not put forth from this side as a saving in Federal dollars; it is a saving in the hassle that the students, the students' parents, and the lending institution, have had to go through in the past. That is what we are trying to eliminate.

Mr. BIAGGI. Mr. Chairman, I do not recall when the bureaucrats of this Nation have complained about the redtape jungle. It seems to me that they are responsible for most of it and flourish on its enlargement.

The point that the chairman makes is a critical point and certainly significant and obviously reflected the intention of the senior Senator from New York.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, even more than that, I say to my colleague, it is the parent, the student, the applicant for the loan who is complaining. They are the ones who have to walk in, fill out the papers, bare their financial life. I know personally of many who just said, "I am not going to do it, there will be no loans for my son or daughter. Even though they need it, I am not going to go through that."

It is not a question of saving money. We talk about invasion of privacy, we talk about making the taxpayer, particularly the middle-income taxpayer, go through this rigorous effort to get a Federal loan. This amendment would put us right back in that position. I am more concerned about that than the million dollars or $10 million.

Mr. BIAGGI. Mr. Chairman, I think we have made a bargain with the middle-income people last year. We stated a position of the Congress and the Government. We produced this Middle Income Student Assistance Act. That was in response to the hue and cry that emanated from the American people who had been neglected from legislative considerations. Here we are, less than 1 year after its enactment, trying to erode the benefit that we granted.

I would also like to go further. My friend, the gentleman from Illinois (Mr. ERLENBERN), stated that it would diminish the sums of money provided for those in the lower income bracket. That does not hold true. It does not hold true. The argument is a poor one.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Illinois.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. BIAGGI) has expired.

(On request of Mr. ERLENBORN and by unanimous consent, Mr. BIAGGI was allowed to proceed for 1 additional minute.)

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, first of all, I have the feeling that my colleague, the gentleman from Ohio, would be with me if he understood the program. He talked about these people not being able to get the loans. From the inception of the guaranteed student loan program, everyone, regardless of income, was entitled to a guaranteed student loan, and they were entitled to have the interest subsidized to the extent that current interest was in excess of 7 percent. So everybody is entitled, and they do not save any paperwork in getting a guaranteed loan as a result of lifting the ceiling.

The question is the inschool subsidy where Uncle Sam pays the entire cost of the interest for the time that the student is in school and for a year thereafter.

In answer to the gentleman's assertion, the only way you can say that this does not take from the ability of the lower-income students is to say that there is an unlimited supply of money available from financial institutions for this program. We know from experience that that is not true. We have had one crisis after another in this program that we have had to meet, just to see that money would be made available.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I merely take this time to respond to my friend, the gentleman from Illinois. The point I thought I was making is that there is no guaranteed loan for the person who does not apply for the loan, and the reason for not applying for the loan is the burdensome requirement of filing papers, one, and two, of baring their financial resources, which many do not want to do. That is precisely the type of person we are talking about. There is no loan for that person if they do not apply.

I think the basic reason for the defeat of the amendment is to make sure that we do not tell the average American that they have to come before the Government hat in hand in order to get a guaranteed loan.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I would like to compliment my colleague, the gentleman from Ohio, and also the gentleman from Michigan, as well as the gentleman from New York.

It was my amendment, when I sat on the Higher Education Committee—it was amended by Father Cornell at that time—that took off the cap.

I think the program is working well. On behalf of the Suburban Caucus—of which I am cochairman and which represents middle-income Americans—I would like to say that this is one program middle-income Americans can make good use of.

So I want to join with my colleague, the gentleman from Ohio, in his rationale and associate myself with his remarks and, hopefully, this amendment will be resoundingly defeated.

Mr. ASHBROOK. Mr. Chairman, I will say to my colleague, the gentleman from Ohio, and in all fairness to my colleague, the gentleman from Illinois, that if he were to come out to Parma, Ohio, he would find street after street full of good, hard-working Americans we are talking about, the kind who do not want to go into an institution and bare their financial life in order to get a loan for their son and daughter. That is precisely who we are talking about.

□ 1320

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 12, noes 25.

So the amendment was rejected.

The CHAIRMAN pro tempore. Are there any further amendments to title IV?

AMENDMENTS OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Are both amendments to title IV?

Mr. TAUKE. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. TAUKE: Page 89, after line 14, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(b) Section 428(d) of the Act is amended—

(1) by redesignating clauses (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting "(1)" immediately after "(d)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) No provision of any law of the United States or of any State (other than a statute applicable principally to such State's student loan insurance program) which prohibits or restricts the attachment or garnishment of wages, salaries, or commissions under the control of an employer or any other person in order to enforce a money judgment for the repayment of a loan shall apply if—

"(A) such judgment is obtained by the United States; and

"(B) such loan is insured (i) by the United States under this part, or (ii) by a State or nonprofit private institution or organization under a program covered by an agreement made pursuant to subsection (b) of this section.".

Page 114, after line 11 insert the following new subsection:

(d) Section 467 of the Act is further amended by adding at the end thereof the following new subsection:

"(c) No provision of any law of the United States or of any State (other than a statute applicable principally to such State's student loan insurance program) which prohibits or restricts the attachment or garnishment of wages, salaries, or commissions under the control of an employer or any other person in order to enforce a money judgment for the repayment of a loan shall apply if such judgment is obtained by the United States for the purposes of collection under section 463(a)(5) or under subsection (a) of this section of a loan made under this part.".

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, these amendments speak to the issue of student loan defaults.

The subcommittee, the committee, and I think the Members of the House, generally are all convinced that it is necessary to address the problem of student loan defaults, and the subcommittee and committee have already done an outstanding job.

Nevertheless, there is a provision of law which I think should be enacted which would enable the Justice Department and others to insure that these student loan defaults are pursued through the courts.

Right now we have an NDSL, National Direct Student Loan, default rate of 17 percent. We have a Guaranteed Student Loan Default rate of 8 percent. The provisions that we have in this bill will probably help lower these rates.

Nevertheless, we have a problem with some State laws that prevent the Justice Department from pursuing these student loan defaults through the court and to achieve repayment of those loans.

The problem is that some of the States have very restrictive limits on garnishment so that right now, although the Justice Department has over 22,000 student loan default cases before it, it is unable to reach a satisfactory conclusion on many of those cases.

For example, in my own State of Iowa, the maximum amount that can be garnished from any individual during the course of 1 year is $250.

Now, if you have a $5,000 student loan, $250 will not even pay the interest on that loan during the course of the year. So what we would like to do with this approach is to waive those garnishment laws in cases of student loan defaults. This probably will affect very few students. It will be used as a last resort. The judge would still look to the State to determine how much could be garnished during the year. But what it would do is give the Justice Department some leverage in negotiating with students to insure that they repay their student loans.

I believe it is a good amendment. It is a necessary one, and I hope that it will receive the support of the committee.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendments and move to strike the last word.

Mr. Chairman, I can understand the problem that the gentleman has with the garnishment laws of Iowa, but I do not believe that his arguments are sufficiently persuasive to have the Federal Government supercede the garnishment laws of all of the 50 States to reach his problem.

If I might personalize it, I understand the gentleman recently served in their legislature, and I assume he must have been interested in the problem of their less-than-adequate garnishment laws, from his point of view. I assume he must have pursued some remedy.

I would hope now with his influence as a Member of Congress from that State, that he will continue to pursue his remedy in Iowa.

Frankly, we do not want the Federal Government to tell us in Michigan what our garnishment laws should be. I do not think other States do either. I do not think that using the special category of a Government loan in the nature of a student loan is a sufficient reason to set this kind of a precedent. It is an important precedent.

We do not now in any other Federal law, I am aware of, interfere with the laws involving the relationships of debtors and creditors within States at the present time and understand that some of the creditors that we are talking about here are, in fact, State agencies. They are State institutions or State lending agencies. We are going to tell the several States what their laws should be with respect to the relationship between debtors and creditors in their State, not only private individuals dealing one with another, but individuals dealing as private citizens with a State agency.

I think that the amendment might very well solve the problem the gentleman has in Iowa, and I would be very happy to help him in any way I can by writing to my friends in Iowa to urge their legislature to deal with it. This is not the place for it.

I urge the defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Iowa (Mr. TAUKE).

The question was taken; and on a division (demanded by Mr. TAUKE) there were—ayes 16, noes 21.

So the amendments were rejected.

□ 1320

AMENDMENT OFFERED BY MR. MAGUIRE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE: page 95, line 13, after D, insert the following:

"(E) For students who have been unable to obtain an insured loan through the lender referral process specified in (B), the agency in a State may undertake to make limited direct loans of last resort, so long as the total amount of such direct loans in any fiscal year does not exceed 20 per centum of the total amount of loans insured by such an agency in a State in the immediately preceding fiscal year, or $2,000,000, whichever is less.

"(F) Any agency, in a State, which provides a minimum of $500,000 of loans of last resort in accordance with (D), or which provides in accordance with (D) a volume of loans of last resort equal to a minimum of 5 per centum of the total amount of loans insured by such agency in the immediately preceding fiscal year, may, when it at any time holds funds owing to the Commissioner under section 428(c)(2)(D) or 428A(b)(5) because of payments made by borrowers on defaulted loans reinsured by the Commissioner, before paying such funds to the Commissioner, deduct from such payment an amount equal to all or part of the funds that agency is eligible to receive (to the extent such funds are appropriated)—

"(1) for payment of reserve fund advances under section 422(c);

"(2) for payment of administrative costs under section 428(f), to extent applicable; or

"(3) for payment of Federal reinsurance obligations under section 428(c)."

Line 14: Change "(E)" to "(G)".

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MAGUIRE. Mr. Chairman, at the outset I would like to take a moment to compliment Chairman FORD and the members of the committee, both majority and minority members, on the work that they have done on this very important legislation. I have been active myself in developing legislative proposals relating to student loan programs, and I am delighted that the committee has agreed on a number of important new features in this reauthorization.

First, there is an income sensitivity provision with respect to "Sally Mae" lending. It is at least a beginning on the notion that there should be income contingency provisions that allow flexibility in repayment.

The bill before us also includes a provision allowing State agencies to provide a lender referral service, an amendment that was offered by our colleague Mr. PETRI, which is now included in the bill, and I think very wisely so.

Also, of course, there is provision to publish the names of those in default, which is an excellent provision, one we have in the State of New Jersey and which I think should be universal.

The bill as a whole strengthens the role of State agencies and provides them more flexibility than we have had to date.

The amendment, which I am now offering, would encourage these State agencies to provide loans of last resort to students who are otherwise unable to obtain guaranteed loans through banks. In spite of a provision that "Sally Mae" can be a lender of last resort, there may still be situations within States where, although there is not a general capital shortage, there may nevertheless be a spot shortage which affects adversely the ability of individual students or groups of students to obtain loans.

My amendment is designed to put State agencies in a better position to deal with this type of shortage. It rounds out and gives fuller play to the increased role the committee obviously intended the State agencies to have and, of course, the lender of last resort provision for State agencies is the natural complement to the lender referral service for the State agencies, which is already included in the bill.

The amendment would provide that, after trying to obtain for a student the services of the bank, if no lender has yet been found, the State agency can jump into the breach. This is what my amendment would facilitate. The State agencies to be precise about this, already have the right to do this, to provide loans of last resort. The difficulty is that many of them have not felt inclined to do that, and some others have tried to do that by raising revenues through bonding, which has a whole series of problems.

My amendment would give the States an incentive to make limited loans of last resort by allowing them to withhold the money they have collected on loans in default to the Federal Government in amounts that the Federal Government would have to be remitting to them anyway for administrative, reinsurance, and reserve fund payments under the existing program.

The amendment, would therefore, reduce the hassle and delays that go administratively into the process of getting these payments back from the Federal Government now. We would be giving the State agencies a liquidity reward—but no more Federal payments—for being a lender of last resort, encouraging them to do that when it was needed.

Of course, a secondary, side benefit of this would be that the States would have an added incentive to actually collect on the defaults, because that would be money that they could immediately make use of with respect to lending as a last resort where banks were unable to do so.

It may be pointed out that "Sally Mae" presently under the bill can move in at the Governor's request. I would suggest that is a somewhat ponderous procedure. The bill does not give specific standards for when that would be an appropriate thing to do, and it is not going to give the kind of flexibility that State agencies might have and I think should have, and which my amendment would provide them.

Also, there are difficulties with revenue bond issues.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

(By unanimous consent Mr. MAGUIRE was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. The State agencies who raises significant amounts of money in revenue bonds—for example, North Dakota recently had a bond issue of $77 million—do not really have the kind of accountability with respect to how those funds are spent that I think we would like to have here. And it is a torturous procedure at best to go the revenue bond route.

So my provision is a modest one which says let us let State agencies use this money which is theirs anyway at an earlier stage in order to facilitate lending to students that might not otherwise be able to get loans. It costs no more money, does not cost any more money at all. It fits well with the lender referral provisions already in the bill and in strengthening the role of State agencies.

I would hope we might find that the amendment was acceptable.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this part of the legislation that the gentleman seeks to amend is probably the most complex program in all of the student assistance that we have to deal with. It is extremely difficult for people who have worked with this legislation for years to try to relate one part to another. As the gentleman from Illinois said a little while ago, even between the closest of friends with many years of work on the legislation, there are times when we have difficulty in perceiving the effect of proposed changes in the same way.

Frankly, we do not know what this amendment would do. We did not discuss this kind of an initiative at any time during the hearings which had some 269 witnesses and 35 days. None of the education organizations, some 61 who have commented on this, have dealt specifically with this approach.

I am left really unable to know what the impact of the legislation would be in the adoption of the gentleman's amendment.

I understand that a similar provision is in the bill being considered in the other body in Senator WILLIAMS' committee, and that they are going to consider this proposal specifically in hearings. In the event they are able to work something out, I assume we would then meet that in conference and we would be able to deal with it.

Trying to legislate at this point, with the uncertainty we have with respect to how this amendment would impact on the legislation, would, I am afraid, be very irresponsible. I am also not persuaded that we need it. I am sort of taking the position this is a program that has enough trouble, and if it ain't broken, don't fix it.

I have difficulty seeing how this improves the situation in the gentleman's State or mine, because, as a matter of fact, his State of New Jersey and my State of Michigan and many other major States are already acting as lenders of last resort. I do not see how this is going to encourage them to do it. I do see, however, where on its face it appears it is going to give us some Federal money for doing that which we are already doing with State money, and as much as I would like to have the windfall for my State that that might produce, I do not think, with the scarce dollars we are dealing with, it is a wise thing to do.

□ 1330

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding. I really think it is important to clear up a couple of points.

I have checked with Senator WILLIAMS, and the bill that is on the Senate side does not include this provision. Therefore, if we are going to have the ability to deal with it in conference, it is important that it be included on this side.

Mr. FORD of Michigan. May I reclaim my time? Let me say that I do not feel any urgency to deal with it in conference. I do not see that it does anybody any good. I am willing to attempt, if the gentleman's Senator puts it in the bill over there, that I will go—as I think the ranking minority member will—to conference and attempt to address a full consideration of it. I do not think the gentleman or I understand it well enough to tell our colleagues how to vote today.

Therefore, as a responsible chairman I have to urge people to vote no.

Mr. MAGUIRE. If the gentleman will yield further for a moment on the other point, it may or may not be the case that we feel free to vote on it; Members will have to make their own judgment, but I think we should have a complete understanding of the amendment.

One of the points is that it does not involve additional Federal funds. These are dollars that would be remitted to the States in any case, and all that is happening is that the States are getting the use of those dollars at a somewhat earlier point in time. So, I stress that this does not involve any increased cost to the Federal Government or to the taxpayers.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, the gentleman from New Jersey has made a very significant contribution to this legislation, and many of the provisions that are in it are his proposals, as he knows. This one, I think, as well deserves our careful consideration. I would not like to pass judgment on it at this moment.

Some of the other proposals the gentleman has made have proven to be meritorious and are in the bill. I would hope that we would have an opportunity to look at this further in conference, and that the gentleman's Senator or someone in that body will make certain that we have that opportunity.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 115, after line 7, insert the following new section:

INTEREST RATE INCREASE

SEC. 436. Section 464(c)(1)(D) of the Act is amended by striking out "shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum" and inserting in lieu thereof "shall provide, for a loan issued prior to October 1, 1980, that such loan shall bear interest, on the unpaid balance, at the rate of 3 per centum per annum, and shall provide, for a loan issued on or after October 1, 1980, that such loan shall bear interest, on the unpaid balance, at the rate of 7 per centum per annum".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, the first of our student loan programs, and one of the very first Federal aid to education programs, was the national defense student loan program. That now has been recast and is called the national direct student loan program, but it still has the same set of initials.

At the time when that program was adopted in 1958, the current rate of 3-percent interest on the loans was established, and it has never been changed. At the time that rate was established, the Treasury rates were 3.3 percent. It is really kind of fun to go back to the days when we could borrow money at that rate. Home mortgages were 5 percent. Of course, today home mortgages are up in the range of 14 or 15 percent, and the Federal Government is paying in excess of 12 or 13 percent for borrowings that they are required to make.

It seems to me that it is long past the time when we should reassess the rate of interest we charge on the NDSL.

Mr. Chairman, we have two loan programs, and without any particular rationale the one program has a 7-percent subsidized rate of interest, and the other a 3-percent subsidized rate of interest, I think the two programs ought to be the same. There is no reason that I have been convinced of that these two programs should bear different interest rates.

Now, Mr. Chairman, I am sensitive to the fact that the hour is late. According to the plans of the administration to complete this bill today, which I hope we can do, I will not take up any more time of the Committee, but instead ask that the Members support my amendment. If it passes overwhelmingly, we will not have to have a recorded vote and we can get this bill finished.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, a few moments ago when the gentleman from Illinois offered an amendment to the guaranteed student loan program it was defeated. In effect the House voted to continue existing benefits to middle-class students. Now we should take care of the poorer students—the poorest of the poor—by defeating this amendment. Almost half of the direct loans to full-time freshmen under the national direct student loan program in 1977 and 1978 were to students from families with incomes of under $12,000—I repeat—under $12,000. Eighty percent were from families with incomes of less than $20,000.

The national direct student loan program has been in operation since 1958. It is the first of our student aid programs, and millions of college students have benefited from the program. The interest rate has always been at 3 percent.

Somewhere along the line, I think that we should serve notice that interest rates should be lower in this country. They are at an intolerable rate today. I feel it would be unjustifiable to place this extra burden on the poorer college students of this country. The purpose of student aid is to help financially needy college students. This is not the time to place an additional burden on the poorest of the poor. They are the ones who get the NDSL loans; it is not the middle-income college students in the country who obtain these loans.

Through the years there have been a number of efforts to increase the interest rate charged low-income students on direct student loans. These efforts have always been rejected, and I urge my colleagues once again to reject this misdirected effort.

Testimony before our committee from students and student aid administrators was in strong opposition to raising the interest rate on that student loan program which serves low-income families. The U.S. Student Association in a letter to me expressing their strong opposition commented, "Many low-income students would suffer from this shift in costs from the Federal Government to the student."

The National Association of Student Financial Aid Administrators wrote, "Our association strongly opposes these modifications."

And finally the American Council on Education wrote on behalf of—

The American Association of Community and Junior Colleges;

The American Association of State Colleges and Universities;

The Association of Catholic Colleges and Universities;

The Association of Jesuit Colleges and Universities;

The National Association of Independent Colleges and Universities; and

The National Association of State Universities and Land-Grant Colleges.

They all urged support for the current 3 percent interest rate.

Mr. Chairman, I know of no one in the educational community—college administrators, students or parents—who supports the gentleman's amendment. And that is understandable because it seeks to take benefits away from students at the bottom on the income ladder.

Last year—and in this very bill before us today—student aid programs are liberalized for middle-income students. I just do not see how we can at the same time increase educational costs for low-income students as the gentleman proposes. These increased costs are substantial. If a student were to borrow $5,000 at 7 percent rather than 3 percent he or she would pay an additional $1,000 in interest charges.

In these inflationary times, which hit hardest at low-income families, we should not and we cannot pass on to them further increases in costs.

Finally, I want to make it abundantly clear to my colleagues that there would be very, very few Federal dollars saved by the gentleman's amendment. This amendment will not make a dent in the Federal budget. The Congressional Budget Office has advised me that virtually no savings would be achieved in the first 3 years by moving the interest rate from 3 to 7 percent.

What this amendment does is substantially increase the burden for a few low-income persons while resulting in no real cost savings to the Federal Government. I urge defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 21; noes 33.

So the amendment was rejected.

□ 1340

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL: Page 45, strike out line 10 and everything that follows through line 15 and insert in lieu thereof the following:

"(I) $1,800 for academic year 1980–1981,

"(II) $1,950 for academic year 1981–1982,

"(III) $2,100 for academic year 1982–1983,

"(IV) $2,250 for academic year 1983–1984,

"(V) $2,400 for academic years 1984–1985 and 1985–1986,

Page 46, strike out line 8 and everything that follows through line 19 and insert in lieu thereof the following:

"(I) 50 per centum of the cost of attendance (as defined under section 487(d)) at the institution at which the student is in attendance for that year, when the maximum grant is less than $1,950;

"(II) 54 per centum of such cost of attendance when the maximum basic grant is at least $1,950 but is less than $2,100;

"(III) 58 per centum of such cost of attendance when the maximum basic grant is at least $2,100 but is less than $2,250;

"(IV) 62 per centum of such cost of attendance when the maximum basic grant is at least $2,250 but is less than $2,400;

"(V) 66 per centum of such cost of attendance when the maximum basic grant is $2,400.

Mr. MICHEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MICHEL. My colleagues do know that I happen to serve as the ranking Republican member on the Subcommittee on Appropriations that funds all these activities in the field of education, and that from time to time over a period of years I have been very critical of the fact that when we have an authorizing bill here on the floor of the House very few questions are raised about the dollar figures that seem to be pulled out of thin air by the authorizing committee. The result is that we have to go to the mat when we are appropriating funds, and are then accused of being miserly when we attempt to cut a few dollars here and there in order to stay within the overall budgetary framework.

Mr. Chairman, my amendment would increase the maximum grant level under the program from the present $1,800 to $1,950 in the academic year beginning in 1981; to $2,100 in 1982; to $2,250 in 1983 and to $2,400 for both 1984 and 1985.

The amendment would also increase the so-called half-cost limitation, which currently states that a student's basic grant may not exceed 50 percent of the cost of attendance. Under the amendment, that percentage would rise to 54 percent in 1981, 58 percent in 1982, 62 percent in 1983, and 66 percent in 1984.)

The basic effect of my amendment would be to strike an approximate midpoint between present funding levels for the basic grant program and the large increases contained in the committee bill.

For instance, according to the Congressional Budget Office just the first year cost increase alone in the bill would amount to a staggering $2.2 billion. The overall cost for the basic grant program would immediately jump to $5.4 billion, which is more than double the current funding level ($2.4 billion).

My amendment, by moderating the program expansion in the bill, would reduce the initial year cost by $818 million. It would, however, still provide a $1.4 billion increase over the current law level.

Over the 5-year duration of the bill, my amendment would reduce total increases in the bill by approximately $3.0 billion. This is still just a fraction of the $30 billion cumulative increase the bill provides, but it does represent at least some effort at moderation.

It is important to keep in mind that my amendment retains the so-called balance or compromise that has been worked out by the various educational organizations. It provides for yearly increases in the maximum grant level, as desired by the private colleges, and provides corresponding increases in the percentage of educational costs, as desired by the public institutions.

What I seek to do is reduce the amount of increase per year. I think the increases in my amendment are more in line with what the actual appropriation increases are likely to be.

I was also intending originally to remove the new provision in the bill which requires that the percentage of family income to be contributed toward educational costs, in determining eligibility for basic grants, be the same for independent students with dependents as for families with dependent students. Removing the provision, and thereby returning to current law, would reduce the cost increases in the bill by an additional $476 million.

In addition, I was planning to remove from the bill the so-called "triggers", which require that specific levels of appropriations be provided for other student aid programs before any funds can be provided for basic grants.

The only reason this bill requires a certain level of appropriations for the supplemental grant program, the work-study program, the direct loan program, and the State incentive grant program is simply that the Education and Labor Committee does not trust the Appropriations Committee, nor this House as a whole, to fund these programs on their own merits.

There is no rational basis for this lack of trust, particularly in view of the fact that every appropriation bill comes to the floor under an open rule, and any Member dissatisfied with the amounts in the bill can therefore offer amendments to change the figures.

The fact is that even if my amendment is adopted, this will still be a very expensive bill, and since it provides a long-term authorization, we really should have the flexibility to allocate funds among the programs in accord with the prevailing opinion of the time without having our hands tied. It may be that 3 or 4 years down the road, we will want to place increased emphasis on one program and less emphasis on another. The "triggers" in this bill would deny us that flexibility. When funds are hard to come by, we really cannot afford to be locked into arbitrary figures.

I have, however, not included these two provisions in the amendment in order to present something that may have a better chance of acceptance.

In conclusion, I need not remind you that we are experiencing a 13 percent annual inflation rate. We are also faced with a $40 billion budget deficit that could run as high as $50 billion according to some estimates. We have just passed a multibillion dollar low income fuel assistance program and are about to approve a multibillion dollar increase in welfare. A $2 billion increase in food stamps is in prospect, and we will be spending billions more on energy. And then this bill comes along and provides a first year increase of nearly $3 billion over current operating costs, and a total 5-year increase of almost $30 billion.

We simply have to apply the brakes somewhere. The money is just not there to undertake these multibillion dollar program expansions all over the lot.

HEW Secretary Harris has expressed strong concern over the high funding levels in this bill, and rightly so. My

amendment would moderate these increases. It is a very reasonable approach, and I respectfully urge its adoption.

Mr. FORD of Michigan. Mr. Chairman, would the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I have conferred with the gentleman from Alabama (Mr. BUCHANAN). The gentleman from Alabama has a substitute to the amendment of the gentleman from Illinois. If the gentleman would accept the Buchanan substitute which is actually the motion of the gentleman from Illinois with a little fine tuning, I think we could probably accept that and work together.

Mr. MICHEL. I had no idea there was a substitute in the offing, but I would say to the gentleman that I have discarded those two propositions I had originally planned to include, and am confining myself only to the basic grant maximums.

Mr. FORD of Michigan. If the gentleman would yield, it was the dropping of those two provisions that interested me in that kind of compromise with the gentleman. Perhaps if the gentleman would consider the substitute we might be able to settle this.

Mr. MICHEL. I thank the gentleman for alerting me to that fact.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I would have mentioned my substitute to the gentleman in the well but I was not certain what we could do until this moment.

Mr. Chairman, my substitute would bring about a cost saving of $651 million which is a substantial part of $818 million which the gentleman would save. It would, however, permit 50,000 additional students to participate and it would help protect the consensus that was rather hard won in the education community pertaining to half-cost provisions.

It would alter the schedule similar to what the gentleman has done. As I indicated, it would save $651 million as against the $818 million.

Mr. MICHEL. Mr. Chairman, I think that is a suitable compromise.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would like to say what my colleague from Illinois is trying to do I think is meritorious. Many of us were somewhat concerned. We put in the report, we sat down, we had a consensus bill and we are very frank to say that some of the parts added up to more than what we had expected. It is for a good cause. I think we all recognize that. I think the amendment offered by the gentleman from Illinois is reasonable and I say as a person who would support it, I think my colleague from Alabama has made a very good point. His amendment does not do a disservice to the amendment of the gentleman from Illinois. I would hope my colleague from Illinois would accept it.

Mr. MICHEL. I thank the gentleman. I do accept the proposed modification.

Mr. Chairman, I will yield back the balance of my time.

AMENDMENT OFFERED BY MR. BUCHANAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MICHEL

Mr. BUCHANAN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN as a substitute for the amendment offered by Mr. MICHEL: Page 45, strike out line 10 and everything that follows through line 15 and insert in lieu thereof the following:

"(I) $1,800 for academic year 1980–1981,

"(II) $1,980 for academic year 1981–1982,

"(III) $2,160 for academic year 1982–1983,

"(IV) $2,340 for academic year 1983–1984,

"(V) $2,520 for academic years 1984–1985 and 1985–1986.

Page 46, strike out line 8 and everything that follows through line 19 and insert in lieu thereof the following:

"(I) 50 per centum of the cost of attendance (as defined under section 487(d)) at the institution at which the student is in attendance for that year, when the maximum grant is less than $1,980;

"(II) 55 per centum of such cost of attendance when the maximum basic grant is at least $1,980 but is less than $2,160;

"(III) 60 per centum of such cost of attendance when the maximum basic grant is at least $2,160 but is less than $2,340;

"(IV) 65 per centum of such cost of attendance when the maximum basic grant is at least $2,340 but is less than $2,520;

"(V) 70 per centum of such cost of attendance when the maximum basic grant is $2,520.

Mr. FORD of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BUCHANAN. Mr. Chairman, I want to express my appreciation to my leader, the gentleman from Illinois, for his statesmanship in this matter. I do think this perfects his amendment and I appreciate his acceptance thereof.

Mr. MICHEL. In accordance with the points brought out in our earlier colloquy, I would certainly be happy to accept the gentleman's substitute for my amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN) as a substitute for the amendment offered by the gentleman from Illinois (Mr. MICHEL).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment of the gentleman from Illinois (Mr. MICHEL), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to title IV? If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—AMENDMENT AND EXTENSION OF TITLE V OF THE HIGHER EDUCATION ACT OF 1965

EXTENSION OF PROGRAMS

SEC. 501. (a) Section 511(b) of the Act is amended by striking out "and for the succeeding fiscal year" and inserting in lieu thereof the following: "and for each of the succeeding fiscal years ending prior to October 1, 1985".

(b) Section 531 of the Act is amended by striking out "and for the succeeding fiscal year" and inserting in lieu thereof the following: "and for each succeeding fiscal year ending prior to October 1, 1985".

TEACHER CORPS AMENDMENTS

SEC. 502. (a) Section 513(c)(2) of the Act is amended—

(1) by striking out "Not to exceed 5 per centum" and inserting in lieu thereof "Not to exceed 2 per centum"; and

(2) by striking out "Puerto Rico," each place it appears.

(b) Section 513(d) of the Act is amended by striking out "section 205(a)(2) of Public Law 874, Eighty-first Congress, as amended," and inserting in lieu thereof "section 130 of the Elementary and Secondary Education Act of 1965".

(c) Section 513(f) of the Act is amended by striking out "goal" and inserting in lieu thereof "the goal."

(d) Section 514(a)(2) of the Act is amended by striking out ", not to exceed $150 per plus $15 per week for each dependent".

TEACHER TRAINING PROGRAMS AMENDMENTS

SEC. 503. (a) Section 531 of the Act is amended by adding at the end thereof the following new sentence: "In the event that the sums appropriated in any fiscal year do not exceed $50,000,000, the Commissioner shall allocate grants under this part in such manner consistent with the other provisions of this part as will most nearly provide an equitable geographical distribution of grants throughout the States.".

(b) Section 532(a)(2) of the Act is amended—

(1) by striking out "local educational agency (or a combination of such agencies) which serve" and inserting in lieu thereof "local educational agency, a combination of such agencies, or an educational service agency which serves";

(2) by inserting "and in collaboration with one or more institutions of higher education which serve teachers" immediately after "experts as may be necessary";

(3) by inserting ", including the use of technology and telecommunications" immediately before the semicolon in subparagraph (A);

(4) by inserting ", testing," immediately after "curriculum development" in subparagraph (B).

(c) Section 532(b) of the Act is amended by inserting ", bilingual education," immediately after "special education".

(d) Section 532(c)(1) of the Acts is amended by striking out "desiring to receive a grant under this section" and inserting in lieu thereof ", or any institution or institutions of higher education, desiring to receive a grant to plan, establish, and operate teachers' centers,".

(e) Section 532(c)(2) is amended by striking out "which has submitted" and inserting in lieu thereof "or institution of higher education or both submitting".

(f) Section 532 of the Act is amended by striking out subsection (e), by redesignating subsection (f) as subsection (e).

(g) 533 of the Act is amended to read as follows:

"TRAINING FOR HIGHER EDUCATION PERSONNEL

"SEC. 533. (a) The Commissioner is authorized to make grants to schools of education for the purposes of—

"(1) developing model projects within schools of education to carry out improved inservice or support activities for practicing elementary or secondary school teachers;

"(2) achieving diversification and redirections of education programs for elementary and secondary school teachers in order to make maximum use of human resources in the fields of education and public service;

"(3) retraining faculty members of such schools of education to provide courses of study for training elementary and secondary school teachers to teach in programs of career education, education of the gifted and talented children, education of handicapped individuals, community education, adult education programs, earth sciences, and other related programs;

"(4) training and orientation projects for faculty members of schools of education designed to prepare the faculty to teach and train personnel to work in conjunction with personnel who carry out projects under the Comprehensive Employment and Training Act, under title VIII of this Act, relating to cooperative and training of individuals to prepare for the workplace; and

"(5) training educational personnel who will specialize in the implementation of the urban and environmental policies of the United States, and for other areas of critical need within education which are developing or are likely to develop as provided in section 465(b)(5) of the General Education Provisions Act.

"(b) The Commissioner is authorized to make grants to schools of education for the fiscal year 1981 and for each of the four succeeding years to carry out model projects for the purposes set forth in subsection (a). No grant may be made under this subsection unless an application is made to the Commissioner, at such time, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require.

"(c)(1) The Commissioner is authorized to enter into agreements with associations or consortia of schools of education for planning programs designed to help member schools of the association or consortium to diversify and redirect programs and curricula of the member schools of education.

"(2)(A) The Commissioner shall develop criteria for determining the regions of the country in which associations and consortia of schools of education are to be established.

"(B) No association or consortium may receive a grant in excess of $200,000 in any fiscal year under the provisions of this section.

"(C) No cooperative agreement may be entered into under this section unless an application is submitted through the State education agency of the State in which the applicant is located. Each such State agency will review and approve the application to assure its consistency with the comprehensive plan mandated by sections 404(a)(12) and 522(2) of the Elementary and Secondary Education Act of 1965. Such application shall be submitted at such time, in such manner, and containing or accompanied by such other information as the Commissioner may reasonably require.

"(d) For purposes of this section, the term 'schools of education' means institutions of higher education, and administrative units of institutions of higher education, specializing in the training of individuals to serve as teachers, guidance and counseling personnel, administrative personnel, or other education specialists.".

EDUCATION PROFESSION DEVELOPMENT

SEC. 504. Title V of the Act is further amended by adding at the end thereof the following new part:

"PART C—COORDINATION OF EDUCATION PROFESSIONAL DEVELOPMENT

"FINDINGS

SEC. 541. The Congress finds that—

"(1) many Federal programs have been enacted to train and develop education professionals;

"(2) such programs make Federal funds available to States, local education agencies, colleges and universities, and other agencies;

"(3) such programs should be coordinated at the Federal level to avoid unnecessary duplication of effort; and

"(4) such programs should be responsive to State needs and priorities for education professional development.

"POLICY

"SEC. 542. Federal programs which support education professional development should be administered in a coordinated manner, and the activities authorized under such programs should have complementary purposes whenever possible in order to provide the most effective use of Federal funds.

"OFFICE OF EDUCATION PROFESSIONAL DEVELOPMENT

"SEC. 543. (a) There is hereby established with the Department of Education an Office of Education Professional Development (hereafter referred to as the 'Office'), the function of which is to review the operations of and to coordinate program activities among the various Federal education professional development programs within the Department of Education (hereafter referred to as the 'Department') to eliminate unnecessary duplication of effort.

"(b) The Office shall review on a biennial basis each education professional development program administered by the Department and shall—

"(1) identify inconsistencies in program policies and procedures;

"(2) identify overlap in program purpose and operations; and

"(3) coordinate program activities among the various Federal education professional development programs, and wherever necessary, make legislative recommendations to coordinate such programs.

"(c) The Secretary shall report biennially to the Congress on the findings and recommendations of the Office."

● Mr. DRINAN. Mr. Chairman, I rise in support of H.R. 5192, the Education Amendments of 1980. This bill reauthorizes and improves programs mandated by the Higher Education Act and other measures, and recalls the findings of President Truman's Commission on Higher Education in 1947:

Only an informed, thoughtful, tolerant people can maintain a free society.

This legislation will strengthen our free society and will increase access to education for all citizens. It aims to improve the educational opportunities of adults who have been disadvantaged in obtaining postsecondary education, by marshaling the resources from a wide variety of institutions, including community and junior colleges, community-based educational organizations, business, industry, labor, and other public and private groups. If successfully implemented, the Education Amendments of 1980 might make education available to enough Americans of varying ages to scuttle the current definition of "college age."

I would like to note a few of the many praiseworthy provisions of the bill now before us. Eligibility for and availability of financial assistance through basic educational opportunity grants, supplemental educational opportunity grants, and college work-study and direct student loan programs is extended to students and families with a wider range of income and education goals.

HOME VALUE AND BEOG

I am particularly pleased that the Subcommittee on Postsecondary Education saw fit to incorporate into H.R. 5192 a bill I introduced, H.R. 272, to remove home value from determination of a student's eligibility for a basic educational opportunity grant (BEOG). Under the current program, a home is grouped with such asssets as savings, stocks, bonds and other investments in determining what a family can be expected to contribute toward the cost of higher education.

The purpose of my proposal was to increase fairness under the BEOG program. Since a home is a nonliquid asset, it should be distinguished from other assets which are a potential source of supplementary income. Congress recognized this distinction in 1976 when it removed home value from the eligibility formulas for supplemental security income (SSI), which is an entitlement program like BEOG.

Home prices have increased more than 60 percent since 1975 alone. This increase, however, has not given homeowners more income and does not mean that homeowners and their families are living in better dwellings. It would be unfair to cut BEOG awards to students whose families have had little, if any, control over the spiraling rise in home values. The rise has already brought higher property tax and insurance payments, and has been accompanied by more expensive maintenance and utility payments. But an increase in home value should not decrease a student's eligibility for BEOG's.

Two students with similar financial and housing situations can now be treated differently if their homes are located in different regions of the country, or even different neighborhoods of the same city. These variations in home value do not accurately reflect a student's ability to afford an education, and should not enter into the BEOG eligibility formula. This provision will help advance one stated objective of the BEOG program—"to treat all students in a consistent manner on a national basis."

FINANCIAL ASSISTANCE

H.R. 5192 recognizes the increasing cost of education by mandating higher BEOG awards. Students will be able to collect larger maximum grants which in turn can constitute a higher percentage of their education expenses. By the academic year 1985–86, students may receive up to $2,700 to cover as much as 75 percent of the cost of their education. Both the grant amount and percentage of coverage represent an increase of 50 percent over current limits. I welcome such a change which will eliminate the bias against lower income students enrolled in the least expensive colleges.

Supplemental educational opportunity grants, now available only to students who would otherwise be unable to afford college, would become available to all

needy students. And while students now may not receive more than $1,500 in a year and $4,000 during the course of their studies, the former figure is increased to $2,000 and the latter limit is repealed.

Under the direct student loan programs, maximum loan limits per year and in all years combined are increased for graduate and undergraduate students. A parallel loan program for parents would be established and steps would be taken to improve the availability of loans by commercial lenders.

Increased funding for college work study is authorized. This important program allows students to pay a portion of their education costs through self help while attending school. I applaud the prohibition of payment under the program of subminimum wages to students. Minimum wages should be just that—minimum; there should be no subminimum. And since students are granted specific college work study awards, lower wages merely force students to work more and study less in order to earn their awards.

Finally, this bill eases the application process for the various programs and approaches to assist students and their families by providing for a single form and system of analyzing needs. I know that the financial aid we are reauthorizing will more than be repaid by the students of America after their ability to contribute to this country has been enhanced.

COLLEGE LIBRARIES

Briefly, Mr. Chairman, I wish to thank the Subcommittee on Postsecondary Education for recommending increased support for college libraries. I have always felt that they are at least as important as classrooms themselves. Not only do these repositories of knowledge provide resources to complement classroom learning, but furnish an opportunity to explore issues and subjects not discussed in class.

As an educator and legislator, I am convinced that education is one of the noblest functions of government. The Education Amendments of 1980 will help meet the aspirations for education by Americans of all ages. I urge my colleagues' support.●

● Mr. PURSELL. Mr. Chairman, the Education Amendments of 1979 (H.R. 5192) before us today, in part, authorizes a new part D of the Higher Education Act of 1965 that would setup a so-called national periodical center (NPC). Establishment of such a center has been a controversial issue both within and outside the library and information services community.

Because of critical questions raised by librarians, publishers and others, the National Commission on Libraries and Information Science (NCLIS) engaged Arthur D. Little, Inc. to study this issue and report back its findings and recommendations. That report, entitled "A Comparative Evaluation of Alternative Systems for the Provision of Effective Access to Periodical Literature," was presented to the Commission this month.

Because this information was not available to Congress when hearings were held on H.R. 5192 earlier this year, I ask that an executive summary, which accompanied the report, be inserted in the RECORD at this point.

EXECUTIVE SUMMARY

This is a report on a six-week project, intended to perform technical-economic analyses of three alternative means for providing access to the historical periodicals literature.

CONTEXT OF STUDY

The National Commission on Libraries and Information Science (NCLIS) has requested this study because of critical questions raised by librarians, publishers and other private sector participants, related to plans for a National Periodicals Center (NPC) under consideration by NCLIS. The current NCLIS concern with regard to an NPC has been focused on drafting of possible federal legislation for an NPC, following several years of studies and consideration by various library-related groups and committees.

Past studies leading up to the NPC concept were concerned mainly with the economics and service levels associated with Interlibrary Loan (ILL), and ILL-associated costs and problems faced by libraries in striving to meet their service objectives. The ILL system in traditional operation was shown to have serious problems associated with high cost, inefficiency, low performance and unreliability. To address these problems, a National Periodicals System (NPS), containing a National Periodicals Center (NPC) as a main component, was proposed as a federally-sponsored entity.

Of the design studies and documents concerned with NPS and NPC, two are of particular importance: the Green Book, "Effective Access to the Periodical Literature," proposing a National Program for improved access to periodicals, prepared in 1977 by an NCLIS Task Force on a National Periodicals System; and the Burgundy Book, the "NPC Technical Development Plan" prepared in 1978 by the Council on Library Resources, Inc. The Burgundy Book takes the Green Book at its point of departure, and considers the design of an NPC, as part of an NPS, to consist of a document-locating and order-fulfillment service that libraries could draw on to order photocopies of articles from periodicals, as an alternative to ILL. The approach is based on photocopying articles from a single centralized collection of 50,000 or more titles, comprising current and back issues of the periodicals most likely to contain articles asked for, in original paper or microform representation. The NPC would serve as a "second tier" for service provision, filling a gap with ILL as the main load-bearing first tier; referral ILL to special resource collections would serve as the third access tier in the NPS, basically to provide access to more esoteric materials. The NPC would displace some 2.7 million to 4.8 million ILL requests, after 4 or 5 years of operations. Publisher participation would be voluntary, and full copyright payments would be made. The Burgundy Book describes the proposed NPC in detail. Its purpose was not, however, to consider alternative approaches.

Since the time of publication of the Burgundy Book, the concept of what an NPC should consist of has been hotly contested, among librarians, publishers and various information industry participants. Radically different viewpoints have been forwarded, representing very different value systems seemingly in opposition. Many articles have been written on the topic, and it has been debated in different forums.

As part of this process, the concept of what an NPC should consist of has itself continued to evolve and today what it should consist of appears to mean different things to different people. To some, it means a single collection as in the Burgundy Book; to others it means a set of cooperating collections, again subsidized and linked by an access network; to others yet it may mean a switching mechanism, an access network linking private sector document suppliers (as well as new comprehensive collections) to user libraries.

Creation of an NPC is perceived as possibly threatening principal interests of and relationships among major stakeholder groups, including research libraries, publishers of periodicals and private-sector suppliers of back article copies. Recognizing a need for mutual interaction among the major stakeholders as a requirement for working through legislation that satisfies the needs of all parties, NCLIS has taken responsibility for creation of fora for stakeholder interaction. The current NPC committee, for example, has representation of the American Association of Publishers and the Information Industry Association, as well as of various library groups. NCLIS has also held open forum hearings on the topic.

Many questions have been raised in the course of these discussions, leading to NCLIS's desire to request the present study. These questions revolve around certain issue clusters:

Whether the Burgundy Book and the studies leading up to it have considered a sufficiently broad range of alternative systems to achieve the objectives identified there;

Whether the cost-effectiveness of the Burgundy Book (centralized collection) approach to an NPC has been sufficiently considered, compared to that of alternative systems;

Whether new technology and private market developments have adequately been taken into account in planning for an NPC; and

Whether possible long-term societal consequences and stakeholder realignments resulting from an NPC have been taken adequately into account.

PURPOSE OF OUR STUDY

The purpose of our study was to address the questions just listed, in as quantitative a framework as possible. To do this, we hypothesized and addressed three systems approaches to a National Periodicals System that could be pursued at this time.

The alternative means are:

A nonintervention approach (system A), which assumes events will be allowed to develop without introduction of federal legislation designed to subsidize or otherwise create an NPS or NPC;

Creation of a centralized single-collection NPC as a main component of an NPS, subsidized with federal funds (system B), along the general lines described in the Burgundy Book; and

Creation of a subsidized utility that offers requesting libraries access tools for identifying the location of periodicals articles, and performs switching of requests for article copies to multiple market-oriented, fee-charging supplier sources. This would be coupled with creation and operation of a dedicated NPC-type back-up collection for items not covered by market-oriented document suppliers (system C).

As part of the NCLIS committee, task force and other NPC-related stakeholder-interaction activities, a legislative drafting team has been hard at work for many months attempting to formulate draft legislation that reflects the interests of all of the stakeholders, and this has culminated in a July 19 final draft, which appears to have at least passive support of all the stakeholder groups involved.

Our sense is that, for the majority but not all of the participants associated with the NCLIS NPC committee activities, the wording and intention of the July 19 draft more reflects an approach along the lines of what

we describe as system C than that of the earlier system B approach. Not all the stakeholders are equally disposed, however, and the draft legislation recently introduced in the House of Representatives is seen by some as more favoring a system B approach.

Our work involved studying dozens of reports, scholarly papers and documents, conducting visits and interviews with individual and groups of stakeholders, meeting with the NCLIS NPS Task Force, with an Information Industry Association Group convened to respond to the NPC proposal and, mainly, an internal analysis effort. In general, we found the previous studies and analyses we reviewed to be responsibly executed within their frameworks of consideration, well done and arriving at reasonable conclusions. Much effort has gone into them that commands respect. Their frameworks of consideration have been extremely narrow, however, and the main intended thrust of this study is to consider the NPS issue in a broader context.

The approaches we considered span a broad selection of possible alternatives. We have concluded that they are the three most logical alternatives to consider at present. There are important limiting considerations associated with them, however, deriving both from the external situation and from the short time frame of our own study.

First, the NPC approach we study in system B, the one outlined in the Burgundy Book, is no longer favored by many of its original supporters, who are now tending to an NPC based on a somewhat more decentralized set of smaller collections, along the line of our system C. The Burgundy Book, however, offers the only documented design approach to an NPC; also, our contract with NCLIS specifically requires consideration of it as an alternative.

Second, no futures study has been made of what the situation would be like if there were no NPS intervention (as is our system A case). All studies of NPS or NPC have tended to look only at the present and past environments of ILL. They have largely ignored the future implications of existing ILL automation efforts, the activities of the bibliographic utilities, the activities of the private sector document suppliers, and the possible impacts of new technologies on electronic document delivery. We have had, then, to create a scenario for such a future environment drawing on our background relating to technological developments and the library field. This scenario is limited by the scope and brief timing of our project effort.

Third, the approach of a subsidized switching network plus a dedicated back-up collection, sytem C, also has not been subject to a systematic design study or economic analysis. We have found it necessary, then, to analyze the performance of a hypothesized system which has not been designed in detail, and which could be created in a variety of different forms.

Our analysis is framed generally in terms of three sets of criteria:

Service-related criteria, ones having to do with the reliability and timeliness of response, completeness of coverage, preservation of materials, adequacy of finding tools, quality of access and other matters of importance to the library constituency served;

Cost and cost/benefit-related criteria, ones subject to quantitative modeling and analysis; and

Criteria having to do with social considerations and longer-term consequences.

The thrust of our study, given the preexisting situation and the limited timing and scope of effort available, has been to highlight the issues of most importance, provide a quantitative framework for viewing costs and benefits, and provide what guidance we can as to what can or should be done next.

We discuss the background and context of our study in additional detail in chapter I, and we expand on the definitions of the systems A, B, and C in chapter II. In chapter III we briefly cover the criteria elements used in our analysis effort. Chapter IV covers our quantitative modeling effort, and chapter V our qualitative considerations. Both chapters IV and V contain findings. We summarize and comment on only the most important of these findings in the remainder of this executive summary.

OVERALL FINDINGS

In summary, the time for a system B, a centralized NPC, has come—and it also appears to have gone. On the one hand, the original economic and level-of-service arguments showing the superiority of such a centralized NPC over ILL as it has been in the past are either becoming irrelevant or will have much less force in the future. The availability of periodical articles will be far improved over that historically experienced due to events separate from an NPC, and already well underway. On the other hand, a centralized NPC based on hard-copy paper or microforms will be prone to technological obsolescence shortly after it reaches full-scale operation in 5 to 8 years.

First. Despite high professional integrity, the collection of past studies leading to recommendations for an NPC have been conducted within a very narrow context. The studies mainly are oriented to the economics and operations of ILL and library operations in the past—rear-view analyses that do not apply to the world of 1985 and beyond. And 1985 is about the first date for a full-functioning NPC, given the (probably favorable) time scale anticipated in the Burgundy Book.

Second. The proponents of an NPC were correct; in the context of comparing ILL costs with NPC costs in the past or even the present, a centralized (System B) NPC appears to be a superb social investment. The introduction of on-line ILL technology promises to reduce the costs of this approach significantly, however, as well as improve its performance; this will largely undercut the economic benefits of System B (and of System C, to some extent) as compared with those of the non-intervention System A.

Third. The future will offer significantly improved capabilities for access to the periodicals literature, due to events already underway, regardless of whether action is taken with regard to a federally sponsored NPS or not. Improvements are to be expected in the geographical scope of ILL efforts, the reliability, responsiveness and timeliness of ILL activities, the distribution of ILL load among libraries, and the comprehensiveness of bibliographic and finding tools relating to periodicals. Improvements will be due to on-line ILL systems being provided by the bibliographic utilities like OCLC, better bibliographic access tools like CONSER, and initiatives of publishers and private sector document suppliers.

Fourth. We are sympathetic with the intention of those supporting the NPC concepts, to assist libraries moving into the present and future by relieving them of some of the burden of exhaustive collection development, to lower the costs and improve the effectiveness of ILL, and thus to serve patrons better. All three systems will tend to have this impact, however, and our sense is that the differential impact of system B (the centralized NPC approach) will be significantly less in the future than it would have been in the past.

Fifth. Whether System B produces net economic benefits or losses in terms of total direct costs is critically dependent on the volume it handles. At high volumes (5 million transactions per year), there is up to a $3 benefit to use of an NPC (system B) as compared to ILL (system A). At low volumes (under 2 million per year) NPC saves little more than $1 per transaction. These savings do not take the costs of the subsidy of NPC into account, however.

Sixth. If subsidy costs also are included when considering either a system B or system C NPC, then the NPC probably can be expected to cost more per transaction than the free-market system A approach except at high volumes.

Seventh. System C occupies a middle position between A and B for costs at high volumes, and is even more sensitive than system B to increase in per-transaction cost with decrease in volume of transactions.

Eighth. The volume of transactions that would pass through a system B—type NPC is vulnerable to two factors that are ill-understood at present: the degree to which publishers would indeed elect to place materials in NPC with a reasonable copyright fee, and the degree to which libraries would elect to use an NPC, given a high quality automated ILL system in competition with it. These remarks also are applicable to system C.

Ninth. While copyright payment appears to be a critical issue for stakeholders concerned with an NPS, total revenues accruable to publishers from the volumes anticipated for any version of a NPC are modest compared to their main revenues from subscriptions.

Tenth. Since most ILL transactions do not result in copyright payments and, by agreement, all NPC transactions will result in copyright payments, a centralized system B NPC would save money for libraries only if the savings due to increased economy of scale of operations (as compared with ILL) exceed the average copyright payment (now about $2 per item, according to the Copyright Clearance Center).

Eleventh. The subsidy anticipated to be required for system B is of the order of $26 million (and about $34 million if interest were charged). The value of this investment could deteriorate significantly in the later 1980's with the development of alternative electronic information storage and transmission means for periodicals articles.

Twelfth. It will be at best very expensive and probably not economically feasible to convert a paper or microform-based NPC collection (systems B or C) into the formats that will be used for electronic information delivery in the future. The one electronic information delivery option available to NPC, facsimile, will probably remain expensive, labor-intensive and not in major use. Thus, technology is apt to bypass and obsolete any NPS collection that might be built up at this point.

It can be tempting to think of first building a microform or paper-based collection (system B), and then planning to convert, as early as possible, to electronic distribution of new materials when publishers convert to electronic distribution means. This expectation may not be realistic, however, since the publishers will own and control the electronic data bases, as they do now in many instances, and they could not want to license use of these to NPC since their own survival in the future may rest on tight control of those data base resources.

Only a continuing process of exploration of mutual interests between publishers and library representatives can ensure long-term viability of an NPC of either type in an increasingly electronic information delivery environment. This points to an important possible long-term role for NCLIS, as well as to the necessity for embodiment of a balanced group of stakeholder representatives in the governance structure of an NPC.

Thirteenth. It is unclear to us at present whether system C is on the whole superior or inferior to system A, or whether some variant of system C might be superior. One might consider a subsidized utility without dedicated collections, for example. Choice among these requires greater clarity of analysis of both economic and policy issues associated with:

The likely information transfer environment of 1985–2000, and how user needs for materials now appearing in periodicals' articles are likely to be met, given the changes that must be expected not only in technology but also in business, leisure and the professions; and

The optimal design of a system C, intended to match the needs of that environment.

We suggest that these matters be studied thoroughly prior to any decision on a subsidized periodicals system.

Our overall view is that cost economies by themselves do not provide a rationale for adopting either system B or C, and that there are other criteria of greater importance.

There is a real question as to whether NPC volumes, for either systems B or C, would be sufficient to produce overall cost savings for libraries. The $26 million subsidy might be employed better by libraries for other purposes, including continuing to develop finding tools which will undergird any electronic location and delivery system for periodicals in the future.

The total impact of systems B or C, in terms of requests by users for single copies of periodicals articles, is not anticipated to be very great. Only 5 million of some 20 million ILL requests are anticipated to be displaced at most (in 1985), and there are another some 20 million or more single copies estimated to be obtained through reprints, photocopying within a library, and photocopying from private subscriptions. Thus, the whole domain of consideration of systems B or C is only a modest portion of the whole demand.

There are several unresolved critical issues, some involving the public-private interface, some involving copyright, some involving jeopardization of intellectual freedom, that far overshadow the monetary ones. Direct Federal involvement in information is a matter of over $20 billion; publisher revenues are comparable. The few million per year saved by libraries (or perhaps spent unnecessarily by the Government) are very small sums indeed compared to the critical issues involved.

$26 million would not be too great an investment to help obtain for libraries a firmer place in the mainstream—one they sought in part here through acquiring freedom to avoid the need to collect locally little-used periodicals. We are in a society in which information is one of our principal national resources. The library community's concern with the NPC derives from a sense of urgency about doing something to increase libraries' service orientation. The value of this thrust from within should not be lightly dismissed. Nor should the library profession allow the energy mobilized behind this initiative to be dispersed without identifying key steps to be taken now to realize its objectives collaboratively in the broader information community in the late eighties.●

● Mrs. CHISHOLM. Mr. Chairman, section 901 of title IX requires submmission of a report to Congress within 2 years on the financing of graduate study. I concur with Congressman BUCHANAN's amendment that the study focus on the financial and educational needs of students from disadvantaged backgrounds.

There is a tremendous need for continued research and study insofar as the needs of students from disadvantaged backgrounds are concerned. Although important gains have been made by these groups in recent years, statistics show that the representation of minorities and students from disadvantaged backgrounds in graduate and professional schools is very low.

Disadvantaged and minority students are underrepresented in most professional fields and receive only a small percentage of the doctoral degrees awarded each year in this country. For example, in 1974, blacks and minorities received only 3.2 percent of the 33,000 doctoral degrees awarded in the United States. This 3.2 percent is an astounding 45-percent increase over the number of doctoral degrees awarded to minorities the previous year.

For a number of minority and disadvantaged students from low income backgrounds, financial aid is a major barrier to obtaining undergraduate and professional degrees. Many of the Federal and State programs—loans, fellowships, and grants—are limited in scope and these students encounter difficulties not faced by wealthier students. In addition to the lack of finances, a lack of institutional support is another problem faced by these students.

Estimates for the dropout rate among minorities and other disadvantaged groups in higher education programs are phenomenally high. For Indians, the rate ranges from 79 to 93 percent. Indian students cite: The nature and quality of previous education, personal finances, institutional racism coupled with personal discrimination, the lack of persuasive role models, and cultural difference between the students and institutions as reasons for their high dropout rate. With this high dropout rate of Indian students, it is difficult to anticipate any larger number of Indian students reaching graduate or professional schools.

Hispanic groups who are underrepresented in graduate and professional schools have recommended that the graduate and professional opportunities program (GPOP) be expanded to include candidates for masters degrees. They have also asked that the criteria of "underrepresentativeness" be included to increase the numbers of Hispanics participating in the public service fellowship programs, the domestic mining program, and the CLEO program. The needs of these students should be explored in any study of the financial and educational needs of disadvantaged students at the graduate level.

Many reports indicate that the demand for Ph. D.'s and graduate degrees is decreasing, but this is not true for blacks and other minorities who hold such degrees. In fact, the demand exceeds the supply. No such oversupply for blacks or minorities is expected in the near future. In the areas of physical and natural sciences, where these groups are grossly underrepresented, there is still a very high demand for minorities with doctoral degrees.

The number of blacks enrolled in ABA approved law schools went from 3,516 in 1971 to 4,334 in 1974. Despite these figures, the dropout and attrition rate among black law school students between 1972 and 1974 was 52 percent. This attrition rate was prevalent not only at white schools of law, but also predominantly black law schools.

The numbers of blacks and minorities enrolled in medical schools are no more encouraging. From 1974–75, the number of blacks in medical schools was 1,106 and in 1975–76, the number was 1,036. From 1975–76, the number was up by 60 students but down from 71 the previous year.

Further research and reports on financing graduate education should help us determine ways of increasing and maintaining the numbers of black, low income, and minority students enrolled and graduating from doctoral programs and professional schools. I strongly support and encourage my colleagues to support this amendment.●

Mr. FORD of Michigan. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. DE LA GARZA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 4440, TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. DUNCAN of Oregon. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R.4440) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

□ 1350

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon? The chair hears none and, without objection, appoints the following conferees: Messrs. DUNCAN of Oregon, STEED, BENJAMIN, LEHMAN, SABO, STEWART, BOLAND, WHITTEN, CONTE, EDWARDS of Alabama, MILLER of Ohio, and COUGHLIN.

There was no objection.

AUTHORIZING THE CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED SENATE BILL, NOTWITHSTANDING ADJOURNMENT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, November 7, 1979, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign the enrolled Senate bill (S. 1905) if duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON S. 1905, MILWAUKEE RAILROAD RESTRUCTURING ACT

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96-583)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this act may be cited as the "Milwaukee Railroad Restructuring Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Milwaukee Railroad threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which such railroad principally operates (the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, Minnesota, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) experienced railroad employees make a valuable contribution toward strengthening the railroad industry; and other railroads have the ability and willingness to employ displaced employees of the Milwaukee Railroad;

(5) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(6) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(7) cessation of such services is imminent; and

(8) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential services by the Milwaukee Railroad would otherwise cause.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "bankruptcy court" means the court having jurisdiction over the reorganization of the Milwaukee Railroad;

(2) the term "Board" means the Railroad Retirement Board;

(3) the term "Commission" means the Interstate Commerce Commission;

(4) the term "employee"—

(A) includes any employee of the Milwaukee Railroad who worked on a line of such railroad the sale of which became effective on October 1, 1979; but

(B) does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

(5) the term "Milwaukee Railroad" means the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; and

(6) the term "restructured Milwaukee Railroad"—

(A) means the entity operating the lines of the Milwaukee Railroad after the 6-month period beginning on (i) the occurrence of an event described in section 22(b) of this Act, or (ii) April 1, 1980, whichever first occurs; but

(B) does not include (i) any line of the Milwaukee Railroad which is the subject of a proposed sale, transfer, or abandonment pending on the expiration of the 6-month period described in subparagraph (A) of this paragraph, or (ii) any entity formed pursuant to section 6 of this Act.

SALES AND TRANSFERS

SEC. 4. (a) The Milwaukee Railroad may negotiate and enter into agreements to sell, to another rail carrier or any other person, all or any portion of its rail properties used in railroad operations as of October 15, 1979. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 22(b) of this Act, or April 1, 1980, whichever first occurs. In taking action under this subsection, the Milwaukee Railroad may consult with the Secretary of Transportation.

(b)(1) The Secretary of Transportation, under the authority of section 5(a)-(e) of the Department of Transportation Act, may develop plans, participate in negotiations, and recommend to the trustee proposals for the sale or transfer of any rail properties of the Milwaukee Railroad which are used in rail operations as of October 15, 1979. In taking action under this paragraph, the Secretary shall give preference to financially responsible persons, including governmental entities, negotiating for the purchase of any lines with the intent of providing common carrier service.

(2) Any sale or transfer proposal developed under paragraph (1) of this subsection shall be submitted to the bankruptcy court. Such a proposal may in no event become final or effective until the occurrence of an event described in section 22(b) of this Act, or April 1, 1980, whichever first occurs.

COURT APPROVED ABANDONMENTS AND SALES

SEC. 5. (a)(1) Upon the occurrence of an event described in section 22(b) of this Act, or on April 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49 of the United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b)(1) Upon the occurrence of an event described in section 22(b) of this Act, or on April 1, 1980, whichever first occurs, the bankruptcy court may authorize the sale or transfer of a line of the Milwaukee Railroad to be used in continued rail operations, subject to the approval of the Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of the United States Code. An application may be initiated with the Commission prior to the date specified in paragraph (1) of this subsection.

(3) Pending review of an application by the Commission pursuant to paragraph (2) of this subsection, the bankruptcy court may, on a preliminary basis, authorize the sale or transfer of lines of the Milwaukee Railroad to another rail carrier. The court may permit the purchasing carrier to operate interim service as a common carrier over the lines to be purchased, without regard to section 10901 of title 49 of the United States Code. In operating such service, the purchasing carrier shall use employees of the Milwaukee Railroad to the extent necessary for the operation of such service. The bankruptcy court may take final action authorizing any such sale or transfer only in accordance with paragraph (1) of this subsection.

(c) Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 6. (a)(1) No later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of the foregoing) may submit to the Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan shall include a comprehensive evaluation of the prospects for the financial self-sustainability of the Milwaukee Railroad.

(2) The Commission shall, within 30 days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5 of the United States Code.

(3) The Commission shall make a finding that the plan submitted under this section is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by April 1, 1980;

(D) the railroad proposed to be operated under the plan can be operated on a self-sustaining basis; and

(E) the plan contains an assessment of all operating practices, and includes agreements by labor and management to make implementing changes designed to achieve labor productivity increases (which may include changes in work rules to increase productivity) consistent with safe operations and adequate service.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent is likely to obtain.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall submit its finding to the bankruptcy court. Within 10 days after the date of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad. The Commission's determination with respect to that issue shall be rebutted only by clear and convincing evidence.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall implement the plan no later than April 1, 1980.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or, unless necessary in connection with the preparation of the plan, to any customer of the Milwaukee Railroad.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 7. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662) is amended by inserting after subsection (b) the following new subsection:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term "restructuring" includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(e)) is amended—

(1) by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000"; and

(2) by striking out the last sentence thereof, as added by P.L. 96-86.

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad, commencing November 1, 1979, to maintain its entire railroad system in accordance with section 22 of this Act, and as required to finance operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 22(b) of this Act or on April 1, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970, and the provisions of section 3(b)(3) and the last two sentences of section 3(d) of such Act shall not apply to such guarantee.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses incurred by such railroad attributable to the maintenance and the continuation of service in accordance with subsection (d) of this section, and (2) the revenues of such railroad.

(f) Notwithstanding the provisions of section 3(c) of the Emergency Rail Services Act of 1970, certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act.

(g) The Commission shall immediately make available to the Secretary of Transportation the sum of $10,000,000, out of funds available for directed service under title 49 of the United States Code. The Secretary of Transportation shall immediately make such funds available to the trustee of the Milwaukee Railroad for purposes of financing the operations of the Milwaukee Railroad, beginning November 1, 1979, in accordance with section 22 of this Act.

RAILROAD HIRING

SEC. 8. Each person who is an employee of the Milwaukee Railroad on September 30, 1979, and who is separated or furloughed from his employment with such railroad (other than for cause) prior to April 1, 1981, as a result of a reduction of service by such railroad shall, unless found to be less qualified than other applicants, have the first right of hire by any other rail carrier that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or executive order, or by the order of a Fedeal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

EMPLOYEE PROTECTION AGREEMENTS

SEC. 9. (a) The Milwaukee Railroad and labor organizations representing the employees of such railroad may, not later than 20 days after the date of enactment of this act, enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad or a restructuring transaction carried out by such railroad. Such employee protection may include, but need not be limited to, interim employee assistance, moving expenses, employee relocation incentive compensation, and separation allowances.

(b) If the Milwaukee Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 20 days after the date of enactment of this Act, the parties shall immediately submit the matter to the National Mediation Board. The National Mediation Board shall attempt, by mediation, to bring the parties to an agreement with respect to employee protection no later than 40 days after the date of enactment of this Act.

(c)(1) If the National Mediation Board is unable to bring the parties to an agreement under subsection (b) of this section within 40 days after the date of enactment of this Act, the Milwaukee Railroad and the labor organizations representing the employees of such railroad shall immediately enter into an employee protection agreement that is fair and equitable.

(2) If an employee protection agreement is entered into under this subsection, any claim of an employee for benefits and allowances under such agreement shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement and shall certify such amount to the Milwaukee Railroad for payment.

(d) Benefits and allowances under an employee protection agreement entered into under this section shall be paid by the Milwaukee Railroad in accordance with section 15 of this Act, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Milwaukee Railroad.

SUPPLEMENTARY UNEMPLOYMENT INSURANCE

SEC. 10. (a) Any employee of the Milwaukee Railroad—

(1) who (A) is employed by the restructured Milwaukee Railroad, and (B) is separated from that employment by reason of any reduction in service by such railroad prior to April 1, 1984; or

(2) who (A) is separated from his employment with the Milwaukee Railroad in connection with a restructuring transaction carried out by such railroad, and obtains employment, prior to April 1, 1981, with another rail carrier, and (B) is separated from employment with such other carrier prior to April 1, 1984,

shall be entitled to receive monthly supplementary unemployment insurance in accordance with the provisions of this section.

(b) Each employee described in subsection (a) of this section shall be entitled to receive supplementary unemployment insurance during each month in which such employee is not employed, for all or a portion of such month, by the Milwaukee Railroad or another rail carrier. Each such employee shall be entitled to receive such insurance for a total of not more than 36 months, except that—

(1) the period of entitlement for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad; and

(2) no compensation shall be provided under this section after April 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such insurance, but after such date, such employee only shall receive such 8-month minimum if such employee is not employed continuously after such date.

(c) Supplementary unemployment insurance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this Act, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(d) An application for supplementary unemployment insurance shall be filed with the

Board in such time and manner as the Board by regulation shall prescribe.

(e) Any supplementary unemployment insurance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

(f)(1) The provisions of this section shall not apply to an employee in the event of his resignation, retirement, or discharge for cause from the employment of any rail carrier.

(2) An employee shall not be entitled to receive supplementary unemployment insurance under this section if he has failed to exhaust all seniority rights or other employment rights under applicable collective bargaining agreements.

(3) An employee shall not be entitled to receive supplementary unemployment insurance under this section for any month or portion of a month in which such employee is unemployed due to normal seasonal unemployment patterns in the railroad industry.

(g) For purposes of this section, any employee of the Milwaukee Railroad who is furloughed shall be considered to be separated from his employment.

(h) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended—

(1) by striking out "The" and inserting "Notwithstanding any other provision of law, the" in lieu thereof; and

(2) by inserting "and the Milwaukee Railroad Restructuring Act" immediately before the period at the end thereof.

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES

SEC. 11. (a) The Board shall prepare and maintain—

(1) a list of individuals separated from employment with the Milwaukee Railroad who indicate a desire to appear on a list to be available to rail carriers; and

(2) a list of employment, by class and craft, available with rail carriers,

based upon information submitted to the Board by the Milwaukee Railroad and other rail carriers. Upon the request of any rail carrier, the Board shall make available to such carrier a copy of the list described in paragraph (1) of this subsection.

(b) The Board shall maintain the lists required by subsection (a) of this section through December 31, 1984.

NEW CAREER TRAINING ASSISTANCE

SEC. 12. (a) Any employee who elects to receive a separation allowance from the Milwaukee Railroad under an employee protection agreement entered into under section 9 of this Act shall be entitled to receive from the Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Board on the basis of an application therefor filed by an emoloyee with the Board.

(d) No assistance may be provided under this section after April 1, 1984.

(e) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000; and

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38 of the United States Code.

ELECTION

SEC. 13. Any employee who receives any assistance under section 10 or section 12 of this Act or under an employee protection agreement entered into under section 9 of this Act shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) There is authorized to be appropriated to provide supplementary unemployment insurance under section 10 of this Act not to exceed $5,000,000.

(b) There is authorized to be appropriated for new career training assistance under section 12 of this Act not to exceed $1,500,000.

(c) There is authorized to be appropriated to the Board to carry out its administrative expenses under this Act not to exceed $750,000.

(d) Amounts appropriated under this section are authorized to remain available until expended.

OBLIGATION GUARANTEES

SEC. 15. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Milwaukee Railroad for purposes of providing employee protection in accordance with the terms of the employee protection agreement entered into under section 9 of this Act. Guarantees under this section shall be entered into without regard to the requirements of subsection (g) of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976.

(b) Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(c) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

(d) The total liability of the Milwaukee Railroad in connection with benefits and allowances provided under an employee protection agreement entered into under section 9 of this joint resolution shall not exceed $75,000,000.

(e) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with any employee protection agreement entered into under section 9 of this Act.

(f) Section 516 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) shall not apply to any obligation guaranteed under this section.

TRANSACTION ASSISTANCE

SEC. 16. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsections:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—(1) Notwithstanding subsections (a) through (e) of this section (other than subsection (d)(3)), the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold or transferred to another person or retained by the restructured Milwaukee Railroad and that will be used for common carrier rail service.

"(2) The Secretary may not take any action under this subsection—

"(A) prior to (i) the occurrence of an event described in section 22(b) of the Milwaukee Railroad Restructuring Act, or (ii) April 1, 1980, whichever first occurs; or

"(B) after April 1, 1981.

"(3) Funds received from purchases by the Secretary pursuant to this subsection may not be used for the rehabilitation and improvement of any line of railroad which carried less than an average of 3,000,000 gross tons of freight per mile per year during the previous three-year period.

"(g) LIMITATION.—Not more than 50 percent of the funds made available at any time for the purchase of redeemable preference shares and trustee certificates under this section may be used for the rehabilitation and improvement of the facilities of any single railroad undergoing restructuring.".

COURT APPROVED ABANDONMENTS AND SALES IN PENDING CASES

SEC. 17. (a) Notwithstanding any other provision of law, in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act, the court may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49 of the United States Code.

(b)(1) Notwithstanding any other provison of law, in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act, the court may authorize the sale or transfer of a line of railroad to be used in continued rail operations, subject to the approval of the Commission under paragraph (2) of this subsection, if the application with respect to such sale or transfer is filed with the Commission on or after November 1, 1979. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

(2) The court described in paragraph (1) may not authorize a sale or transfer pursuant to such paragraph unless an appropriate application with respect to such sale or transfer is initiated with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of the United States Code.

(3) Pending review of an application by the Commission pursuant to paragraph (2) of this subsection, the court described in paragraph (1) may, on a preliminary basis, authorize the sale or transfer proposed in such application. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the carrier subject to the bankruptcy proceeding to the extent such purchasing carrier deems necessary for the operation of such service.

(c) Any action or order of the Commission approving, modifying, conditioning, or disapproving an application for the sale or transfer of rail property that is filed with the Commission before November 1, 1979, in connection with a case pending under

section 77 of the Bankruptcy Act on the date of enactment of this Act—

(1) is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of the United States Code; and

(2) may not be stayed by the Commission.

(d) The authority of the bankruptcy court to authorize abandonments, sales, and transfers of lines of the Milwaukee Railroad shall be governed by the provisions of section 5 of this Act, rather than the provisions of this section.

(e) Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

DIRECTED SERVICE

SEC. 18. Until April 1, 1981, the provisions of this Act shall be in lieu of any directed service on any line of the Milwaukee Railroad under section 11125 of title 49 of the United States Code.

APPLICABILITY OF NEPA

SEC. 19. The provisions of the National Environmental Policy Act shall not apply to transactions carried out pursuant to this Act.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 20. (a) The Board may prescribe such regulations as may be necessary to carry out its duties under this Act.

(b) In carrying out its duties under this Act, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the provisions of this Act.

PUBLICATIONS AND REPORTS

SEC. 21. (a) Within 30 days after the date of enactment of this Act, the Board shall publish, and make available for distribution by the Milwaukee Railroad to all its employees, a document which describes in detail the rights of such employees under sections 8, 9, 10, 11, and 12 of this Act.

(b) During the 2-year period beginning on the date of enactment of this Act, the Board shall submit a report to the Congress every 6 months describing its activities under this Act.

CONTINUATION OF SERVICE

SEC. 22. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on October 15, 1979, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 6(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the estate of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 6(c) of this Act.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 23. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by striking out paragraph (2) and the sentence following that paragraph and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association. Any such approval shall be conditioned upon a written commitment that by December 31, 1980, the railroad will adopt an employee stock ownership plan which will acquire qualifying employer securities with a fair market value of $250,000.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 24. Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting immediately after the comma at the end of clause (A) thereof the following: "except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided,"; and

(2) by amending clause (C) thereof to read as follows: "(C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs.".

(b) Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) 'restructuring' means any activity (including a consolidation, coordination, merger, or abandonment) which (A) involves rehabilitation or improvement of a facility or the transfer of a facility, (B) improves the long-term profitability of any railroad, and (C) results in the enhancement of the national rail freight system through the achievement of higher average traffic densities or improved asset utilization.".

OFFICE OF RAIL PUBLIC COUNSEL

SEC. 25. The Office of Rail Public Counsel may appear and be heard in the case in the bankruptcy court involving the reorganization of the Milwaukee Railroad, for purposes of representing affected shippers, localities, and municipalities with respect to the proposed abandonment of any line of the Milwaukee Railroad.

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD

SEC. 26. If an event described in section 22(b) of this Act occurs, resulting in the survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 or any other Federal legislation shall be conditioned upon good faith efforts by the trustee or the Milwaukee Railroad, or both, to establish an employee stock ownership plan which shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee equal in value to 25 per centum of the amount of such relief provided.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

HARLEY O. STAGGERS,
JAMES T. BROYHILL,
J. J. FLORIO,
EDWARD MADIGAN,
BARBARA MIKULSKI,
Managers on the Part of the House.

WARREN G. MAGNUSON,
RUSSELL B. LONG,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE (SEC. 1)

Senate bill

Section 1 of the Senate bill sets forth the short title of the bill, the "Milkaukee Railroad Restructuring Act".

House amendment

No similar provision.

Conference substitute

The conference substitute adopts the Senate provision.

CONGRESSIONAL FINDINGS (SEC. 2)

Senate bill

Section 2 of the Senate bill sets forth detailed Congressional Findings and declares that emergency measures in the Act must be taken to avoid the unemployment and economic damage a cessation of essential operations by the Milwaukee Railroad would otherwise cause.

House amendment

Section 2 of the House amendment sets forth detailed Congressional Findings and declares that emergency measures in the Act must be taken to avoid the unemployment and economic damage a cessation of essential operations of the Milwaukee Railroad would otherwise cause.

Conference substitute

The Conference substitute is the same as the House amendment.

DEFINITIONS (SEC. 3)

Senate bill

No provision.

House amendment

The House amendment provides definitions for key terms in the bill. Most importantly, the definitions include the term "restructured Milwaukee Railroad", which is defined to describe the Milwaukee Railroad after the railroad is substantially reorganized. The restructured Milwaukee does not include an employee or employee-shipper owned railroad as developed under this bill. It does not include any lines which, at the end of the six-month period after the court

assumes power to abandon or sell Milwaukee property, are the subject of proposed sales, abandonments, or transfers.

Conference substitute

The Conference substitute is substantially the same as the House amendment.

SALES AND TRANSFERS (SEC. 4)

Senate bill

No Senate provision.

House amendment

The House amendment provides that the Milwaukee may negotiate and enter into agreements to sell rail property during the period while the employee ownership plan is being studied. Sales may become effective if an ownership plan is not submitted, rejected by the ICC or the Bankruptcy Court, or if the plan is not implemented. The Secretary of Transportation is allowed, encouraged, and expected to use its full powers under the Department of Transportation Act to aid in arranging sales.

Conference substitute

The Conference substitute is substantially the same as the House amendment.

COURT APPROVED ABANDONMENTS AND SALES (SEC. 5)

Senate bill

Section 4 of the Senate bill provides that the Bankruptcy Court may authorize the abandonment of Milwaukee lines pursuant to the abandonment provisions of Section 1170 of the new Bankruptcy statute if the employee-shipper purchase of the railroad is unsuccessful. The Court must require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under Section 11347 of Title 49 of the United States Code.

The Court may hold hearings on proposed abandonments prior to the determination of feasibility of employee-shipper ownership for the railroad. Section 11346 of the Interstate Commerce Act is amended to require the Commission to give priority to cases involving sales or transfers of lines of a railroad in reorganization with specific time limits for the proceedings. Section 3 of the Senate bill also specifies that nothing in the section shall be construed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this legislation.

House amendment

Section 4 of the House amendment allows the Bankruptcy Court to authorize the abandonment of lines of the Milwaukee Railroad if an employee-shipper ownership plan is unsuccessful. The Court may hold hearings on abandonments prior to the determination of feasibility of an employee-shipper ownership for the railroad.

The Bankruptcy Court is also empowered to authorize the sale or transfer of a line of the Milwaukee Railroad, subject to aproval by the Interstate Commerce Commission within a period of no more than 180 days after an application is filed with the Commission. Pending review by the Commission the Court may authorize a sale on a preliminary basis. The Court may also authorize a prospective purchasing carrier to operate interim service over a line it is seeking to acquire.

The House amendment provides that employees are accorded employee protection rights which are no worse than under existing law.

Conference substitute

The Conference substitute is substantially the same as the House amendment. The Conferees intend that the granting of authority to the Bankruptcy Court to order sales and abandonments not change existing law with respect to employee protection. The employees' right to protection shall be required by the Court to the same extent that it would have been provided by the Interstate Commerce Commission under Section 11347 of the Interstate Commerce Act. Nothing in this section shall be deemed to affect the priorities or timing of payment of employment protection which might have existed in the absence of this section.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN (SEC. 6)

Senate bill

Section 5 of the Senate bill provides for submission to the Interstate Commerce Commission of a plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company, such plan to be submitted by December 15, 1979, and include a method for implementation and an evaluation of the prospects for self-sustainability of that portion of the Milwaukee Railroad. Subsection (a)(2) provides that the Commission shall determine whether the plan is feasible within 30 days after submission; section (a)(3) details the findings to be made in making this determination. If a finding of feasibility is made, subsection (b) requires that the plan be submitted to the Bankruptcy Court which shall, within 10 days, determine whether the plan is fair and equitable to the estate of the Milwaukee Railroad.

Under subsection (c), if the plan is found to be feasible and fair and equitable to the estate, proponents are to implement it by May 10, 1980. Subsection (f) provides that implementation of an ESOP involving Federal funds shall be conditioned upon an appropriate contribution from employees.

House amendment

The House amendment, section 5, contains essentially similar provisions as the Senate bill for an employee stock ownership plan, which must be submitted by December 1, 1979. Other timeframes are the same, except that the plan must be implemented no later than March 1, 1980. Subsection a(2) contains a presumption of feasibility not present in the Senate bill, and subsection (b) provides that the Commission's determination with respect to whether the plan is fair and equitable shall be rebutted only by clear and convincing evidence. The House amendment does not contain language with regard to a contribution from employees.

Conference substitute

The Conference substitute is substantially the same as the Senate bill with several exceptions. The date of implementation has been changed to April 1, 1980; there is no provision for a plan containing one or more alternative system configurations, and the House provision with regard to rebuttal of the Commission's determination whether such plan is "fair and equitable" to creditors has been adopted. In determining feasibility, the Commission must make a finding that the plan contains an assessment of all operating practices and includes agreements by labor and management to make implementing changes designed to achieve labor productivity increases (which may include changes in work rules to increase productivity) consistent with safe operations and adequate services. The term "agreements" in the bill is not to be construed as requiring formal finalized labor agreements. Rather, the intent is that binding written commitments will be made in the form of letters of intent or any other appropriate manner.

Under the conference substitute, submission of the plan is required by December 1, 1979.

EMERGENCY RAIL SERVICES ACT OF 1970 (SEC. 7)

Senate bill

Section 6 of the Senate bill eliminates the findings the Secretary of Transportation must make under section 3(a) of the Emergency Rail Services Act. Further under section 3(a) the Secretary will no longer be required to publish notice of his intention to make financial assistance available in the Federal Register nor will his action be conditioned upon a public hearing on the merits. Section 6 also amends section 3(c) of the Emergency Rail Services Act to authorize the Secretary of Transportation to have flexibility in positioning the Federal government's claim in the debt hierarchy of the carrier if a restructuring is presently underway.

Section 6 of the Senate bill further provides that financial assistance under the Emergency Rail Services Act should be available to the Milwaukee Railroad until a 60-day period is concluded following the implementation of a restructured Milwaukee system on or before May 10, 1979 or upon a finding by either the Commission or the bankruptcy court that a restructuring plan is not feasible. Finally, section 6(f) of the Senate bill provided that all certificates guaranteed under the Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment and that no payment of interest or principal shall be required until the conclusion of the Milwaukee Railroad reorganization proceedings or 3 years from the date of enactment of this Act, whichever first occurs. Section 3(e) of the Emergency Rail Services Act is amended to provide that the outstanding aggregate principal amount of certificates shall not exceed $200 million instead of the current limit of $125 million.

House amendment

The House provision is almost identical, however, the House amendment did not delay payment of interest or principal until the conclusion of the Milwaukee reorganization or 3 years from the date of enactment.

Conference substitute

The Conference substitute is almost identical to the Senate bill minus the language enabling the Milwaukee Railroad to delay payments of principal and interest on the certificates guaranteed under the section. A new subsection (g) was added to mandate the immediate transfer of funds to the trustee of the Milwaukee Railroad to resume operations pursuant to section 22 of the conference substitute.

RAILROAD HIRING (SEC. 8)

Senate bill

No provision.

House amendment

The House amendment provides that any employee of the Milwaukee Railroad, as defined in Section 2, who worked for such railroad on September 30, 1979, shall have the right of first hire until April 1, 1981, with all rail carriers under the jurisdiction of the Interstate Commerce Commission. This right applies to any vacancy not covered by an affirmative action plan required by a Federal or state agency, regulation, Executive Order, or court order or a permissible voluntary affirmative action plan.

Conference substitute

The Conference Committee substantially adopts the House amendment and intends that these eligible employees will be hired without delay, harassment, or discrimination, especially age discrimination, unless the Milwaukee employee is less qualified than any other applicant for a particular vacancy. The provision comports with the assurances by many carriers that they are prepared to offer positions to qualified former Milwaukee employees as positions become available. The successful implementation of this provision depends upon the full and wholehearted cooperation of the other carriers and is important to the full implementation of the supplementary unemployment insurance.

The Conference Committee believes this provision is a significant breakthrough in that it recognizes that there is a pool of skilled employees available to other carriers when there is a reduction in service and urges railroad management and labor to incorporate similar provisions in future bargaining agreements.

EMPLOYEE PROTECTION AGREEMENTS (SEC. 9)

Senate bill

No provision.

House amendment

The House bill provides four specific benefit programs for Milwaukee employees under different qualifying conditions to be paid by the Milwaukee estate.

Conference substitute

The conference substitute establishes a procedure to encourage a voluntary agreement between the Milwaukee Railroad and the respective labor organizations for employee protection. The agreement shall be within the $75,000,000 ceiling on funds available for immediate payment of such benefits. The first opportunity for voluntary agreement is a twenty day period, running from the effective date of this Act, in which the parties are given the opportunity to arrive at an agreement. If no agreement is reached within that time period a second and sequential twenty day time period is provided in which the parties submit the matter to the National Mediation Board in an attempt to reach an agreement. If no agreement is reached during either of the two twenty day periods, the conferees intend that the parties immediately enter into an employee labor protection agreement that is fair and equitable. For purposes of these benefits, if the parties are unable to reach an agreement and the National Mediation Board is unable to resolve the issues, then a fair and equitable agreement shall be exclusively as follows:

INTERIM EMPLOYEE ASSISTANCE

First (a) Any employee of the Milwaukee Railroad who is separated from his employment at any time during the six-month period beginning on (1) the date of the occurrence of an event described in section 22 of this bill or (2) April 1, 1980, whichever first occurs, shall be eligible to receive interim employee assistance under this section for the remainder of such six-month period, except that the period of eligibility for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad.

(b) Interim employee assistance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this bill, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(c) Any claim for interim employee assistance under this section shall be paid by the Milwaukee Railroad in accordance with section 15 of this bill, and shall be treated as an administrative expense of the estate of such railroad.

(d) Any claim of an employee for interim employee assistance under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under this section and shall certify such amount to the Milwaukee Railroad for payment.

(e) Any interim employee assistance received by an employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

MOVING EXPENSES

Second (a) Any employee of the Milwaukee Railroad—

(1) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is required to make a change of residence prior to April 1, 1981, in order to maintain his employment with such railroad; or

(2) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is separated from his employment with such railroad and is required to make a change of residence, prior to April 1, 1981, in order to obtain employment with another rail carrier,

shall be eligible to receive moving expense benefits in accordance with this section.

(b) The benefits to which an employee described in subsection (a) of this section shall be eligible are as follows:

(1) The actual expenses of moving such employee's household and personal effects.

(2) The actual, necessary traveling expenses of such employee and members of his family.

(3) The closing costs involved in disposing of a residence and acquiring a new residence, including a realtor's fee of not more than $3,000.

(4) If the employee holds an unexpired lease on a dwelling occupied by him as his home, reimbursement for all loss and cost in securing the cancellation of such lease.

(c) Any claim for moving expense benefits under this section shall be paid by the Milwaukee Railroad in accordance with section 15 of this bill, and shall be treated as an administrative expense of the estate of such railroad.

(d) Any claim of an employee for moving expense benefits under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under this section and shall certify such amount to the Milwaukee Railroad for payment.

EMPLOYEE RELOCATION INCENTIVE COMPENSATION

Third (a) Any employee of the Milwaukee Railroad—

(1) who is employed by the restructured Milwaukee Railroad; or

(2) who is separated from his employment with the Milwaukee Railroad in connection with a restructuring transaction carried out by such railroad and obtains employment, prior to March 1, 1981, with another rail carrier,

shall be eligible for employee relocation incentive compensation in accordance with this section.

(b) Each employee described in subsection (a) of this section shall be eligible to receive a total of not more than 36 months of employee relocation incentive compensation under this section, except that—

(1) no such compensation shall be provided after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such compensation, but after such date such employee shall only receive such 8-month minimum if such employee is employed continuously after such date; and

(2) there shall be deducted from such 36 month total one month for each month such employee received interim employee assistance under section 8 of this bill.

(c)(1) Employee relocation incentive compensation shall be payable to each employee described in subsection (a) of this section in any month in which—

(A) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this bill; exceeds

(B) such employee's compensation for that month from his new position with the Milwaukee Railroad or another rail carrier.

(2) Employer relocation incentive compensation under this section shall be payable to an employee on a monthly basis in an amount equal to (A) the amount described in paragraph (1)(A) of this subsection, as computed for that employee, less (B) the amount described in paragraph (1)(B) of this subsection, as computed for that employee.

(d) An employee shall not be eligible to receive compensation under this section during any month in which such employee is eligible for or receives supplementary unemployment insurance under section 15 of this bill.

(e) Employee relocation incentive compensation under this section shall be paid by the Milwaukee Railroad in accordance with section 15 of this bill, and shall be treated as an administrative expense of the estate of such railroad.

(f) Any claim of an employee for employee relocation incentive compensation under this section shall be filed with the Board in such time and manner as the Board by regulation shall provide. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

SEPARATION ALLOWANCE

Fourth (a)(1) Any employee of the Milwaukee Railroad may, no later than April 1, 1981, elect to receive a separation allowance from the Milwaukee Railroad in accordance with this section.

(b) A separation allowance under this section shall be payable to an employee in an amount equal to $2,000 for each year of completed service and, in addition thereto, full payment of back pay and for all vacation time earned but not previously taken, except that—

(1) the total amount of separation allowance payable to an employee shall not exceed $25,000;

(2) the amount of separation allowance payable to an employee shall be reduced by the amount of any interim employee assistance received by an employee.

(c) Any separation allowance under this section shall be paid by the Milwaukee Railroad in accordance with section 15 of this bill, and shall be treated as an administrative expense of the estate of such railroad.

ELECTIONS

Fifth (a) Any employee who receives a moving expense benefit under section 9(c) agreement or supplementary unemployment insurance under section 10 of the bill, employee relocation incentive compensation under a section 9(c) agreement or interim employee assistance under 9(c) shall not be eligible for a separation allowance under a section 9(c) agreement or for new career training assistance under section 12 of the bill.

(b) Any employee who receives a separation allowance under a section 9(c) agreement shall not be eligible for moving expense benefits under section 9(c), supplementary unemployment insurance under section 10 of the bill, or employee incentive relocation compensation under a section 9(c) agreement or interim employee assistance under a section 9(c) agreement.

(c) Any employee who receives moving expense benefits under a section 9(c) agreement, supplementary unemployment insurance under section 10 of the bill, employee relocation incentive compensation under a section 9(c) agreement, interim employee assistance under a section 9(c) agreement or severance under a section 9(c) agreement

shall be deemed to waive any employee protection benefits otherwise available to the employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

(d) The Milwaukee Railroad shall submit to the Board, in such form and manner as the Board by rule prescribes, a report of each separation allowance paid by the Milwaukee Railroad under this section. The Board shall review each such report to determine whether such allowance was paid in accordance with this section.

SUPPLEMENTARY UNEMPLOYMENT INSURANCE (SEC. 10)

Senate bill

No provision.

House amendment

The House amendment provides monthly supplementary unemployment insurance for any Milwaukee Railroad employee, as defined in section 2, who is employed by the restructured railroad and is separated by reason of a reduction in service prior to April 1, 1984 or who is separated from his or her employment with the Milwaukee Railroad in connection with a restructuring by the Milwaukee Railroad and prior to April 1, 1981, obtains employment with another carrier and is separated from such employment prior to April 1, 1984. Such entitlement is for a maximum of 36 months if such employee is separated, which shall include furloughs, through April 1, 1984 and a minimum of 8 months, even beyond April 1, 1984 if the employee is separated on April 1, 1984 and is continuously unemployed thereafter. Such insurance guarantees an employee eighty per cent of such employee's average monthly normal compensation, as determined by the Railroad Retirement Board, but not to include overtime hours worked or overtime wages earned from his or her employment with the Milwaukee Railroad from June 1, 1977 to the effective date of the bill (or lesser period for those employees who were not emoloyed by the Milwaukee on June 1, 1977 but are on September 30, 1979), and not thereafter increased by general wage increases, less Railroad Unemolovment Insurance Act benefits or state unemployment benefits and other earnings from emplovment of self-employment for such month. Supplementary Unemployment Insurance benefits are deemed to be compensation for purpose of the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Conference substitute

The Conference Committee adopts the House provision and intends that the Supplementary Unemplovment Insurance will provide an incentive for Milwaukee Railroad employees to seek emplovment with the restructured Milwaukee Railroad or other carriers.

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES (SEC. 11)

Senate bill

The Senate bill establishes a job bank within the Railroad Retirement Board.

House amendment

The House amendment is substantially the same as the Senate provision.

Conference substitute

Same as Senate bill.

NEW CAREER TRAINING ASSISTANCE (SEC. 12)

Senate bill

Section 7 provides that any employee who receives a separation allowance is entitled to up to $3000 for the purpose of new career training, providing that the new career training funds are available for those employees who receive a separation allowance pursuant to an agreement under section 9 of this substitute.

House amendment

Identical provision.

Conference substitute

Same as Senate bill.

ELECTION (SEC. 13)

Senate bill

No provision.

House amendment

The House amendment provides that employees ar not eligible for overlapping benefits.

Conference substitute

The Conference substitute provides that employees gaining benefits under this bill shall not be eligible for statutory or contract labor protection.

AMENDMENTS TO THE DEPARTMENT OF TRANSPORTATION ACT (SEC. 14)

Senate bill

The Senate bill amends Section 5(h)(3)(B) of the Department of Transportation Act (49 U.S.C. 1654(h)(3)(B)) to require the Secretary to reallocate funds not expended during the previous year under the branch-line assistance program for any railroad undergoing restructuring.

House amendment

No similar provision.

Conference substitute

Senate recedes.

OBLIGATION GUARANTEES (SEC. 15)

Senate bill

Section 8 of the Senate bill mandated the Secretary of Transportation, under the authority of Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to guarantee obligations of the Milwaukee Railroad for the purposes of providing protection of employees affected by restructuring, or reduction in service by the Milwaukee Railroad up to $75,000,000 to be treated as an administrative expense of the estate of the Milwaukee Railroad. In addition, $30,000,000 is mandated for approval by the Secretary during 1979 and 1980 for the purpose of Section 511 loans, subordinated to the claims of the creditors, for the purpose of financing equipment repair for the Milwaukee Railroad or its successors.

House amendment

Section 17 of the House amendment mandates the Secretary of Transportation, under the authority of Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to guarantee obligations of the Milwaukee Railroad for the purposes of providing specific labor protection benefits, up to $75,000,000 to be treated as an administrative expense of the estate of the Milwaukee Railroad. A $75,000,000 ceiling is placed on both the liability of the Milwaukee estate and the liability of the United States for the specific labor protection benefits contained in the bill.

Conference substitute

The Conference substitute adopts the House amendment, although the specific labor protection benefits are not specified as they are in other parts of the House bill.

TRANSACTION ASSISTANCE (SEC. 16)

Senate bill

Section 9 of the Senate bill adds a new subsection (f) to section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94-210) which gives the Secretary of Transportation discretion to make a positive finding that the Milwaukee Railroad could be eligible for rehabilitation assistance under section 505 of the 4R Act.

House amendment

The House amendment is similar to the Senate bill, however, the Secretary's discretion is concitioned upon a finding that the specific segment of the rail system earmarked for financial assistance must have carried in excess of three million gross tons of freight per mile during the previous calendar year.

Conference substitute

The Conferees agree to the Senate language. However, the language is amended to provide that any financial assistance must be conditioned upon a finding that the rail line which is the subject of the financial assistance application must have carried no less than an average of three million gross tons of freight per mile per year during the previous three years. Because traffic has declined so rapidly on the Milwaukee system in the last calendar year, Conferees felt that using the last calendar year prior to the submission of an application for financial assistance would be an inaccurate statement of the rail line's actual traffic potential.

COURT APPROVED ABANDONMENTS AND SALES IN PENDING CASES (SEC. 17)

Senate bill

The Senate bill provides that Section 11347 of the Interstate Commerce Act is amended to require the Commission to give preference to sales or transfers of lines of a railroad in reorganization. The Commission may not take more than 180 days if the proceedings do not involve a significant competitive impact, and may not take more than 210 days in any event. This section does not apply to proceedings commenced prior to the date of enactment of this section.

House amendment

The House bill gives the Bankruptcy Court the authcrity to order abandonments and sales in cases pending under Section 77 of the Bankruptcy Act. Sales or transfers can be ordered by the Court after approval by the Interstate Commerce Commission. The Commission shall have no longer than 180 days to review the application for a sale or transfer.

The House bill provides interim operating authority for a purchasing carrier, to be determined by the Bankruptcy Court, and requires that employees' rights under this section shall not be altered from existing law.

Conference substitute

The Conference substitute allows abandonments according to the House amendment. It allows the Bankruptcy Court to authorize sales and transfers, as provided in the House amendment, for all sales for which an application has been filed with the Commission before November 1, 1979. For sales filed with the Commission prior to November 1, 1979, the Conference substitute allows the Commission to continue its jurisdiction over such applications. The right of appeal of the decision made by the Commission is limited to paragraphs (A), (B), (C) and (D) of subsection (2) of Section 706 of Title V of the United States Code. The right of the Commission to stay its own order under Section 705 of Title V of the United States Code or under any provision of the Interstate Commerce Act is explicitly waived. For applications filed prior to November 1, 1979, the Bankruptcy Court shall have no power to grant interim operating authority.

The Conference substitute intends to make no change in existing law as it affects employee protection.

DIRECTED SERVICE (SEC. 18)

Senate bill

The Senate bill does not contain a specific provision on directed service.

House amendment

Section 21 of the House Amendment states that the provisions of this legislation shall be in lieu of any directed service on any line of the Milwaukee Railroad under section

11125 of title 49, United States Code, until March 1, 1981.

Conference substitute

The Conference substitute adopts the prohibition against directed service in the House amendment with one exception; the cutoff date is changed to April 1, 1981 to co-relate to the implementation date set forth in the ESOP section of the conference substitute.

ASSESSMENT OF COAL HAULING NEEDS

Senate bill

No similar provision.

House amendment

The House bill provides for a study by the Secretary of Energy of present and potential coal hauling needs in the area served by the Milwaukee Railroad.

Conference substitute

House recedes.

APPLICABILITY OF NEPA (SEC. 19)

Senate bill

Section 10 of the Senate bill provides that the provisions of the National Environmental Policy Act of 1969 shall not apply to transactions carried out pursuant to this Act.

House amendment

Almost identical.

Conference substitute

Conferees adopt Senate language.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD (SEC. 20)

Senate bill

No similar provision.

House amendment

The House bill provides that the Railroad Retirement Board may prescribe such rules as necessary to carry out its duties under this Act.

Conference substitute

The Conference substitute adopts the House provision.

PUBLICATIONS AND REPORTS (SEC. 21)

Senate bill

No similar provision.

House amendment

The House bill requires the Milwaukee Railroad to inform its employees of their rights as detailed in this legislation.

Conference substitute

The Conference substitute is substantially the same as the House bill.

CONTINUATION OF SERVICE (SEC. 22)

Senate bill

Section 11 of the Senate bill mandates the Milwaukee Railroad to maintain its entire railroad system as it existed on the date of enactment, continue no less than the regular service provided by it as of that date and not to enlarge trafic or abandon or discontinue service over any part of its railroad system until the occurrence of a specified event set forth in section 11(b).

House amendment

Section 25 of the House amendment mandates the Milwaukee Railroad to maintain its entire railroad system as it existed on October 15, 1979, continue no less than the regular service provided by it as of that date and not to embargo traffic or abandon or discontinue service over any part of its railroad system.

Conference substitute

The Conference substitute is substantially the same as the House Amendment.

AMENDMENT TO REGIONAL RAIL REORGANIZATION ACT OF 1973 (SEC. 23)

Senate bill

Section 13 of the Senate bill amended the Regional Rail Reorganization Act of 1973 to increase the principal amount of loans to the Delaware and Hudson Railway under section 211(d) of that Act in an amount which does not exceed $4 million. The bill also extended the deadline for the establishment of an Employee Stock Ownership Plan for one year to December 31, 1980 and requires written commitments from the railroad that it will establish such a plan and the plan will purchase qualifying employer securities with a fair market value of $250,000.

House amendment

The House amendment is identical to the Senate bill except that the stock to be acquired by the Employee Stock Ownership Plan is to have a fair market value of $200,000.

Conference substitute

The conference substitute is substantially the same as the Senate bill.

The conferees believe that the ESOP, required as a condition to the Delaware and Hudson's receipt of additional funds, should purchase or otherwise acquire a significant amount of stock with value if stock ownership is to have the desired motivational effect on the employees of the D&H. The conferees recognize that the present fair market value of the D&H and its stock is very depressed. However, the conferees are also aware that the D&H is in a controlled group of corporations (as defined in Section 1563 of the Internal Revenue Code of 1954) of which the Norfolk and Western Railroad (the "N&W") is the parent. Under the Internal Revenue Code, the ESOP would be permitted to acquire securities of the D&H or the N&W. Accordingly, the conferees believe that the ESOP should purchase or otherwise acquire N&W stock, in an amount equal to $250,000, for the benefit of the D&H employees.

The conferees agree that since an additional $2,000,000 is available under Section 211(d) of the Act, it should be made available to the D&H.

REHABILITATION AND IMPROVEMENT FINANCING (SEC. 24)

Senate bill

No provision.

House amendment

Section 27 of the House amendment amends Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 by providing that if the project to be funded by 505 funds will result in a significant railroad restructuring, the Secretary shall not consider the availability of funds from other sources, but shall instead consider whether such restructuring benefits would be likely to be achieved if assistance were not provided. Section 505(b)(2)(C) of that Act is amended to provide that a restructuring shall be included as a public benefit for purposes of the Secretary's determination of the public benefits of any given project.

A restructuring is defined as any activity which involves rehabilitation or improvement of a facility or the transfer of a facility, which results in the enhancement of the National freight system through the achievement of higher average traffic densities or improved asset utilization.

Conference substitute

The Conference substitute adopts the House amendment with the limitation that no project or set of projects arising out of the restructuring of a single carrier shall receive more than 50 percent of the funds available under Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976. This change in the law will provide all railroads, regardless of their financial status, an opportunity to participate in the 505 program for funding rehabilitation projects if a significant restructuring project is to be undertaken. This provision is consistent with and complements the Secretary of Transportation's efforts under Section 401 of the 4-R Act to bring about greater efficiencies in the National railroad freight system through a restructured physical plant. In particular, the provision will encourage financially healthy railroads to purchase many more lines of railroad for sale by bankrupt carriers than they might otherwise purchase because of the availability of low interest financing for rehabilitation of such lines.

The limitation of no more than 50 percent of the funds being used under section 505 for projects of a single carrier is intended to avoid the problem of using all the funds as part of a single railroad reorganization even though a number of carriers may be purchasing lines of the selling carrier. Conferees emphasize that the funds are to be limited to rehabilitation and improvement, and shall not be used for purchases of lines or new construction of lines. Under the Conference substitute the aggregate amount of rehabilitation loans made to any or all of the purchasing carriers cannot exceed 50 percent of the funds available under the 505 program at the time the loan applications are approved.

Funds will continue to be available to railroads which do not engage in restructuring projects, subject to satisfying the "poverty oath" in Section 505(b)(2)(A).

OFFICE OF RAIL PUBLIC COUNCIL (SEC. 25)

Senate bill

No similar provision.

House amendment

There has been some concern that the Office of Rail Public Counsel may not have the authority to appear and be heard in the proceeding before the bankruptcy court involving the reorganization of the Milwaukee Railroad. Section 28 of the House bill incorporates an amendment passed on the floor of the House designed to eliminate any question as to the Office of Rail Public Counsel's ability to participate.

Conference substitute

In adopting the House provision, Conferees anticipate that all doubt about the Office of Rail Public Counsel's ability to participate should be removed. Further the Conferees not only anticipate but expect the Office of the Rail Public Counsel to begin to take a more active role in this and other proceedings delineated in its specific statutory mandate.

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD (SEC. 26)

Senate bill

Section 12 of the Senate bill mandates that any relief provided for the surviving portion of the Milwaukee Railroad under the Emergency Rail Service Act or any other federal legislation be conditional upon the good faith efforts of the trustee or the Railroad to establish an employee stock ownership plan which would include the purchase of qualifying employer securities equal to 25 percent of the amount of the relief.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

The conferees believe that the future revitalization and recovery of any part of the Milwaukee Railroad will depend to a large degree upon the commitment of its employees toward its success. The most effective way to provide employees with this sense of commitment is to give them a major equity interest in their company. In order to encourage the surviving portion of the

Milwaukee Railroad (the "Milwaukee") to provide its employees with this stock ownership, the conferees agree that any Federal relief provided should be expressly conditioned upon the creation of an employee stock ownership plan ("ESOP") and the acquisition of a significant amount of stock in the Milwaukee by the ESOP. Based upon past Congressional experience in this area, the conferees have determined that the acceptable standard for determining how much stock should be held by the ESOP should be 25 percent of the amount of any Federal relief provided.

HARLEY O. STAGGERS,
JAMES T. BROYHILL,
J. J. FLORIO,
EDWARD MADIGAN,
BARBARA A. MIKULSKI,
Managers on the Part of the House.

WARREN G. MAGNUSON,
RUSSELL B. LONG,
BOB PACKWOOD,
Managers on the Part of the Senate.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if in view of the unusual request made by the gentleman from Virginia, the gentleman could tell us precisely or at least in general what is embodied in this compromise and whether all parties to it have agreed?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, there is one major change that I can relate to the gentleman from Maryland. The conferees agreed to permit the parties for 20 days to try to reach an agreement. If that does not work, then the bill authorizes 20 days of arbitration, and if that is not successful, the provisions of the bill as it passed the House would apply.

Mr. BAUMAN. Do I understand correctly that the concerns expressed by the gentleman from Wisconsin (Mr. SENSENBRENNER), and others, have been satisfied by this agreement?

Mr. STAGGERS. I have been assured that they have been.

Mr. BAUMAN. And that a written copy of the report is available here for Members to inspect?

Mr. STAGGERS. Well, I am sure it is. We have presented one here. I am sure that the gentleman has been satisfied, because the gentleman asked for a copy of the report and the gentleman has seen it.

Mr. BAUMAN. Mr. Speaker, I appreciate the gentleman's assurances, and having talked with other parties, I will not object.

I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I have seen the conference report and I am pleased with the provisions of the conference report and do intend to speak in favor of it once it comes up.

I would urge the gentleman to withdraw his reservation of objection.

Mr. BAUMAN. Well, Mr. Speaker, with that assurance both from the gentleman from West Virginia and from the gentleman from Wisconsin, I would observe that 2 o'clock will be here in about 8 minutes, which is the supposed adjourning time. I hope they will be able to make it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see prior proceedings of the House of today.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virigina?

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I will speak for only 1 minute to say that the House passed this bill here the other day and I believe if we had had a rollcall vote we would not have had one vote in opposition to it. Every Member who spoke on the bill supported it. The conferees have brought back to the House practically the same bill that we passed here at that time, with one little refinement, as I explained a few moments ago, and that is the total change I know of any consequence whatsoever.

So I would urge the House to vote unanimously for the conference report.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of accepting the conference report on S. 1905, a bill relating to the restructuring of the Milwaukee Railroad. Mr. Speaker, as you know, the Milwaukee Railroad filed bankruptcy in December of 1977 and has been a subject of concern to the Congress ever since. The problems encountered in attempting to reorganize the Milwaukee Railroad under the Bankruptcy Act and the Interstate Commerce Act existed primarily because existing law is poorly suited to restructuring and rationalizing the national railroad system. The legislation agreed to by the conferees represents a very significant step toward resolving a problem which has plagued this Nation's railroads for many years. Therefore, this legislation not only resolves the matter involving the Milwaukee Railroad, but establishes an important breakthrough which in my judgment can lead only to the strengthening of our national railroad system.

Yesterday, an embargo went into effect which stopped rail service on nearly three-quarters of the Milwaukee Railroad system. Without enactment of the conference substitute for S. 1905, the Interstate Commerce Commission would immediately begin directed service over those lines of the Milwaukee Railroad which have been embargoed by the judge. That directed service would continue for a period of 8 months and at a cost to the taxpayers in excess of $150 million. As you know, the directed service program is a grant program based on a cost plus 6 percent profit formula and at best would only postpone the restructuring of the Milwaukee Railroad.

Last Tuesday, this body considered and passed legislation designed to bring about the prompt restructuring of the Milwaukee Railroad in order to save the taxpayers money, provide reliable service for most of the shippers served by the Milwaukee Railroad, and to assure certainty and prompt payment of employee protection benefits. The proposal offered by Congressman FLORIO and me was adopted by this body and sent to the Senate as an alternative to the more limited proposal passed by that body. During the last 2 days we have worked out the differences between our bill and the bill adopted by the Senate. The substitute agreed upon by the conferees incorporates most of the provisions contained in the House-passed bill and benefits from a number of changes designed to improve the procedures for arriving at a prompt solution to the Milwaukee problem.

Mr. Speaker, we have come a long way from our considerations of this matter last May when the Senate passed Senate Joint Resolution 81 simply freezing the entire Milwaukee system for a period of 90 days. At that time, the House Interstate and Foreign Commerce Committee reported a bill which would have frozen the Milwaukee system for a period of 45 days. I was not able to support that measure because it represented a cost to the taxpayer without providing any meaningful resolution to the problem of restructuring the Milwaukee Railroad.

During the summer, the members of our committee worked with Chairman FLORIO and me to find a meaningful solution to the Milwaukee problem. The action taken by the House Tuesday and the conference substitute before us today will assure a prompt and workable method for reorganizing the Milwaukee Railroad by permitting sales of lines to other carriers and by providing an affordable method of employee protection which will not totally erode all of the assets of the Milwaukee estate.

It is important, Mr. Speaker, that the court and the administration have a clear understanding of this legislation. It is important because the legislation does provide certainty and a workable method for the reorganization and restructuring of the Milwaukee Railroad. It is important because dilatory tactics or a misunderstanding by either the court or the administration can only serve to cost the taxpayers more money in bringing about a final resolution to this problem.

I recognize that the judge has had a most difficult time in dealing with this reorganization because of the inadequacies of the laws with which he has had to work and the highly political nature of a railroad reorganization. The conference substitute lays out a precise method for the restructuring and reorganization of the Milwaukee Railroad which provides certainty to the difficult job of reorganization now before the bankruptcy court. We have been assured by the administration that it will promptly implement this legislation and focus its efforts on making certain that it works.

Mr. Speaker, first let me address the cost to the taxpayer contained in the conference substitute. There are new authorizations of $5 million for the supplementary unemployment insurance program contained in the substitute and $1.5 million for the new career training program. In addition, there is $750,000 authorized to be appropriated to the Railroad Retirement Board for their role in carrying out its efforts to place as many former Milwaukee employees in the railroad industry as possible.

The primary emphasis in the bill is on the use of Government loans in order to permit the prompt restructuring of the railroad. The Government loans fall into two categories—those which are subordinated to the interests of the creditors and those which are given top priority and considered as costs of administration of the estate. The moneys which will be advanced to the Milwaukee Railroad under the Emergency Rail Services Act in order to continue operations during the several month period necessary for restructuring will be subordinated to the claims of the creditors of the Milwaukee estate. The money advanced to the railroad under the title 5 program; namely, the $75 million for prompt settlement of labor protection—is to be considered as a cost of administration of the estate and given top priority.

The other money provisions of the conference substitute and of the House-passed bill relate to moneys to be used in order to encourage other carriers to buy lines of the Milwaukee. Such money under the title 5 loan program of the 4-R Act will be made available to carriers even if carriers could receive funding from other sources. The reason for this provision is to eliminate the restriction under existing law on loaning money to healthy railroad carriers in order to provide an extra incentive for such carriers to purchase lines needing rehabilitation knowing that low-interest Federal money will be available for such rehabilitation. In my judgment, this approach assures the best possible use of tax dollars by beginning the process of rebuilding our Nation's railroads as soon as possible.

Mr. Speaker, now let me address the heart of the bill before us which is the method and certainty provided in the restructuring and reorganization process. in an effort to take one last look at the possibility of converting the Milwaukee Railroad into an employee or shipper-owned railroad, the conference substitute provides that the Interstate Commerce Commission shall receive any such plan not later than December 1 of this year.

By January 1, the Interstate Commerce Commission must decide whether or not such a plan is feasible. The conference substitute spells out a number of findings that the Commission must make as a test to feasibility. It is also made crystal clear that feasibility must be determined without any illusions that additional Federal money will be made available in order to create an employee-shipper-owned railroad. The burden of showing that adequate funding exists for such an acquisition and implementation falls squarely upon the proponents of such a plan.

While some of the purchase money could perhaps be obtained from employees waiving any claims they might have for traditional labor protection, there will also be the need for the proponents to show that sufficient private and public capital exists for implementing any employee-shipper-owned railroad plan. I want to emphasize that the purpose of this position is simply to give one last review to the feasibility of an employee-shipper ownership plan for the railroads.

Personally, I find that the likelihood of the Commission finding such a plan to be feasible is very remote. To date, there have been at least four studies showing that the huge rehabilitation costs and operating losses of the Milwaukee Railroad make it very difficult to envision how an employee-shipper-owned railroad would be able to accomplish anything more than that which is accomplished under the present management.

Mr. Speaker, it is my expectation that the Commission will find no later than January 1 that an employee-shipper-owned railroad is not feasible. In that event, the trustee of the railroad may immediately sell or abandon those lines of the railroad which are not needed as part of the railroad under his reorganization plan subject only to the approval of the judge. The judge may set time limits for review by the Interstate Commerce Commission of pending sales, but any such time limits cannot exceed 180 days. I would be concerned about the speed within which the reorganization is programed were it not for the fact that lengthy negotiations have already taken place over a long period of time with respect to the restructuring of the Milwaukee Railroad. Under the 401 process of the 4-R Act, the Secretary of Transportation became involved in proposals for restructuring the railroad over a year ago. I am confident that other carriers interested in purchasing the lines of the Milwaukee Railroad will make serious offers to complete those purchases now that the legislation provides certainty as to time in which the Milwaukee Railroad must be restructured.

Mr. Speaker, as I have assured the Members of this body and in particular Members on this side of the aisle, I view the labor protection provisions of this bill as a historic step forward in providing rational but fair and equitable labor protection in this industry. I need not remind you of the tremendous burden placed on the railroad industry under traditional labor protection arrangements. You will recall that under the Washington Job Agreement of 1935 any employee adversely affected by a sale, abandonment or merger is entitled to either 16½ months' severance pay or a guaranteed annual income of 6 years. The total cost of that type of protection for the Milwaukee Railroad has been estimated to run anywhere from $300 million to $1.2 billion. Faced with such a staggering cost, the Milwaukee Railroad could not reorganize because it would have no money left to operate the restructured railroad.

Under the conference substitute, Government assistance is provided in the form of a $75 million loan to the Milwaukee Railroad to be treated as a cost of administration of the estate. That simply means that the repayment of the loan is given the highest possible priority and in view of the assets of the Milwaukee Railroad, I am certain it will be repaid. The purpose of the loan is to permit the Milwaukee Railroad to promptly pay specified labor protection claims if the employee waives traditional labor protection.

In the House-passed bill, the specific claims falling within the $75 million ceiling were enumerated in the legislation itself. Under the conference substitute, an opportunity is provided for employees and management of the Milwaukee Railroad to come up with their own specific labor protection package within the $75 million limitation. The parties are given 20 days following the date of enactment of this bill to arrive at an agreement. If they do not arrive at an agreement during the first 20-day period, there is an additional 20-day period in which the National Mediation Board assists them in reaching an agreement. If an agreement is not reached with the help of the National Mediation Board within that 20-day period, then the statute specifically provides that the agreement shall be fair and equitable. The conference report spells out in no uncertain terms what constitutes fair and equitable. Specifically, fair and equitable shall mean the provisions as passed by the House without any changes whatsoever. In my judgment, this method preserves the rationalization of labor protection as contained in the House bill and at the same time provides the parties themselves the opportunity to play a constructive role if they have a better way to substitute a method for prompt payment of labor protection.

Mr. Speaker, this legislation resolves the matter of restructuring the Milwaukee Railroad. The conference substitute also contains those provisions of the House bill designed to avoid congressional involvement in other railroad restructuring and reorganization problems. For example, the conference substitute gives to the bankruptcy court handling other railroad bankruptcies powers simi-

lar to those provided under the new Bankruptcy Act for railroads filing in bankruptcy on or after October 1 of this year.

Simply stated, the provision gives the judge in a bankruptcy case additional powers to authorize abandonments and sales without having those matters tied up in the Interstate Commerce Commission for years and years. This does not mean that the Interstate Commerce Commission is given no role in deciding sales and transfers of railroad property. The judge, however, sets definite time limits in which the Commission might act and those time limits shall not exceed 6 months.

If the Commission does not act, the judge may proceed with the approval of the sale and transfer of property. The provision in the conference substitute does make it clear that applications for sales already before our Commission are to be decided by the Commission rather than the Court. Such decisions, however, shall not be made the subject of lengthy appeals and are consistent with the committee's desire to get on with railroad restructuring without unnecessary and legalistic delays.

The conference substitute also contains the liberalization of the use of money under section 505 of the 4-R Act in order to rehabilitate railroad lines acquired as a result of the restructuring process. This provision is one which has twice passed the House and has been recommended by the administration. The conference substitute makes certain that no more than 50 percent of the available funds can be used for any rehabilitation projects arising out of this same restructuring. This will assure that the available funds are not siphoned off to one or two particular railroads.

Mr. Speaker, I urge the adoption of this conference substitute. I want to congratulate my colleagues who served with me on the conference committee for their wisdom and dedication in resolving the differences between the House and Senate under severe time pressures in order to resolve this difficult matter. The conference substitute represents a significant breakthrough in the difficult matter of railroad restructuring and labor protection.

Mr. Speaker, I yield at this time to the distinguished ranking member of the Committee on Interstate and Foreign Commerce, the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference substitute for S. 1905.

When the House passed S. 1905, it represented what I considered to be the best possible solution to the immediate problems of the Milwaukee Railroad. The House bill presented the least cost to the Federal Government and provided the best short-term solution for the displaced employees of the railroad.

I am happy to report to the House that the solution represented in the conference substitute will require the same amount of Federal dollars which would have been needed under the provisions of the House bill. This is the first time since I have been a Member of the House that the Congress has been willing to face head on the serious problems associated with railroad labor protection. This compromise which has hammered out with our colleagues in the Senate could save the Federal Government hundreds of millions of dollars in the years to come, not only with respect to the Milwaukee Railroad, but by serving as a good example for the continued restructing of the railroad industry. Last May, the Congress was once again presented with a railroad bailout bill. We were asked to freeze the entire Milwaukee Railroad system and have the Federal Government pick up the operating expense. Fortunately, the Congress has recognized that that proposal would solve none of the problems of the Milwaukee Railroad and would have simply begun a process that would have led the Congress down the easy road using millions of taxpayer dollars to only delay the death of a very sick railroad rather than facing the difficult questions posed by the dire straits of the Milwaukee Railroad and attempting to provide the direction needed to solve some of those difficult problems.

Mr. Speaker, I want to commend Senators CANNON and PACKWOOD, along with Congressmen MADIGAN and FLORIO, for their leadership and I urge my colleagues to vote for this conference substitute.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Speaker, I rise in support of the compromise measure that has been agreed to on the Milwaukee Railroad. Since we passed House Joint Resolution 341, earlier this week, the House and Senate Commerce Committee members and their very capable staffs have worked hard in trying to work out a compromise. I believe we have that compromise.

I can only stress how important it is that we pass this bill now. The Milwaukee has begun an embargo—the employees have been furloughed and now many shippers are without service. It is critical that this legislation become law so further shut downs of major plants do not continue. Hundreds of jobs are in jeopardy in my State alone.

This compromise will allow the railroad to continue with the minimum of Government expense. It has been carefully worked out to provide a fair and equitable way to continue rail transportation.

I urge my colleagues to vote for this bill.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, as the ranking minority member (Mr. MADIGAN) has pointed out, without enactment of this measure, shippers on lines scheduled to be abandoned by the Milwaukee would receive up to 8 months of directed service.

Since copies of the House-Senate compromise are not available, I cannot comment on the specifics of the changes which have been made in the version of the bill passed by the House. The conferees assure us, however, that the compromise contains the substance of the measure I attempted to amend on Wednesday.

As my colleagues will recall, I attempted, through amendment, to insure that shippers would receive at least 2 months of directed service on lines which the Milwaukee ceases service. My amendment was defeated; and, if I understand correctly, the compromise measure before us maintains the prohibition on directed service until after March 1 of 1981.

My colleague (Mr. MADIGAN) has argued in support of this legislation by stating that it is a radical departure from previous cases, such as the Penn Central, and that it minimizes the involvement of the Federal Government. On the other hand, shippers in my district will view it as a classic case of the double standard in which we are on the short end of the stick.

I submit that it is highly unfair for the Government to have created the mess shippers find themselves in today and, then, just to walk away with precious little notice, as will be the case for many shippers under this legislation. As I argued in support of my amendment, the least shippers have the right to expect is that the Congress would allow them the protections provided by existing law; namely, 2 months directed service, with the possibility of an additional 18 days thereafter.

While I wish the proponents of the ESOP every success and sincerely hope that a plan can be found feasible and be implemented, the committee, by its opposition to my amendment, expressed its lack of confidence in that outcome. That is obvious because if the plan is found feasible my amendment would have been moot, would have been to no effect, and would not have cost a dime.

It is the other possible outcome, that the plan will be found infeasible, which concerns me and to which my amendment was directed. The committee has shown by its actions that they believe that outcome is likely, and I simply cannot stand idly by and let it be said that I did not do everything possible to uphold the interests of South Dakota shippers.

Now that the Congress is about to work its will, it should be clear to all concerned that it is not only the Milwaukee Railroad which is, by necessity, abandoning South Dakota shippers. The Congress is doing so as well.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman from South Dakota (Mr. ABDNOR).

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the conference committee report. I thank the gentleman from Illinois for yielding.

I would like to commend the gentleman from Illinois (Mr. MADIGAN); the distinguished chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS); the subcommittee chairman, the gentleman from New Jersey (Mr. FLORIO) and the gentleman from North Carolina (Mr. BROYHILL) for working out an excellent compromise in this very difficult area.

There should be two main points that should be emphasized on why this conference committee report is in the public interest.

First, it will allow for the orderly termination of the litigation that has been going on for almost 2 years relating to the bankruptcy of the Milwaukee Railroad by providing some guidelines for the restructuring and reorganization of the road.

Second, and perhaps more importantly, the deadlines of December 1 for the submission of an ESOP and January 1 for Interstate Commerce Commission review and decision on the ESOP as contained in the House passed bill have been maintained in this conference committee report.

I think that this is a fair compromise for the taxpayers of this country. It is a fair compromise for the shippers, not only in the Pacific Northwest, but in those areas that will be served by the core of the railroad remaining after reorganization.

I join the gentleman from West Virginia in expressing the hope that this conference committee report will be passed unanimously.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I want to thank all the leadership on this, the chairman and the gentleman from New Jersey (Mr. FLORIO) and the gentleman from Illinois (Mr. MADIGAN). This will greatly help our State.

Mr. WILLIAMS of Montana. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. Mr. Speaker, I would first like to thank the distinguished chairman from West Virginia, Mr. STAGGERS, Transportation Subcommittee chairman, JIM FLORIO, and you, Mr. MADIGAN, for your outstanding work on this legislation. Thanks are also due the staff of the Commerce Committee for the long hours you have spent assisting us in this effort. I have to disagree with my colleague from Wisconsin, Mr. SENSENBRENNER, about the purpose of this legislation. Yes; it is an attempt to guarantee that employees of the Milwaukee Railroad are protected, and I am pleased that the Senate has acceded to the House bill which contained vitally needed guarantees to Milwaukee employees. But it is not a means to bring a quick end to Milwaukee service on its transcontinental line west of Miles City, Mont. It is, on the contrary, a guarantee that the coalition of employees and shippers who are developing a plan to provide long-term operation of the Milwaukee through Montana and on to the Pacific coast can present their proposal to the Interstate Commerce Commission and that that agency will give them a fair hearing.

Mr. MADIGAN. Mr. Speaker, I reserve the balance of my time.

Mr. STAGGERS. Mr. Speaker, I just would like to pay tribute to the subcommittee chairman, the gentleman from New Jersey (Mr. FLORIO), and the gentleman from Illinois (Mr. MADIGAN), who helped immeasurably to assure that the legislation passed, showing that it was completely on a bipartisan basis that this was worked out and showing that when this is done on a bipartisan basis it is so much easier to get things through the Congress.

I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for the fact that the gentleman would allow us to bring this bill up. It is so important, not only to the gentleman's section of the country, but to America.

As I said yesterday, it is the breadbasket of the Nation and a lot of things would have spoiled out there if we had not got this bill through today.

I would also like to thank the gentleman from Montana (Mr. WILLIAMS). The gentleman and his staff played a very important part in every stage of this legislation and was very anxious to get this through.

This legislation is important not only for the northern tier States, but for America as well. It is good legislation—good for the gentleman's home State of Montana, and good for America. As the gentleman from Montana pointed out earlier this week, the unity of the States is of utmost importance to this country, and I am proud to see us stand united to avert a disaster for our Northwestern States.

Also, I would like to thank the gentleman from Montana (Mr. MARLENEE) and his staff and the gentleman from South Dakota (Mr. ABDNOR) and his staff for their patience and assistance in a matter that is vital to their constituents.

□ 1400

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Speaker, I would just in final conclusion urge the passage of this conference report, notwithstanding the somewhat expedited process we are using this afternoon. This process is, of course, required because of the emergency nature of this consideration.

Since we considered this bill on Tuesday, an embargo is now in effect on the lines west of Miles City, Mont., to the deteriment of the shippers, and shipments of coal and grain have stopped.

Mr. Speaker, the essence of the conference report is the bill we passed, and I urge that this conference report be approved at this time.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE REPORT ON BILL DEALING WITH ENERGY CONSERVATION WITHIN THE FEDERAL GOVERNMENT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until midnight tonight to file a report dealing with energy conservation within the Federal Government.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could the gentleman from Texas (Mr. BROOKS) tell us what the purpose of this request is?

Mr. BROOKS. Mr. Speaker, the purpose is this, if the gentleman will yield: This is simply a report approved by the Committee on Government Operations subject to minority views, and it will be filed at 4 o'clock. This has to do with energy conservation within the Federal Government. This is from the Committee on Government Operations, which, as the gentleman knows, very seldom ever asks for closed rules.

Mr. BAUMAN. And let me ask, what would happen if permission is not granted.

Mr. BROOKS. Mr. Speaker, the committee would have to work on this all during these next few days instead of devoting our time to saving money and expediting some matters in which we are very interested.

Mr. BAUMAN. Mr. Speaker, I could name one.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 1037, DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. DELLUMS submitted the following conference report and statement on the Senate bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police offices, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits:

CONFERENCE REPORT (H. REPT. No. 96-584)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the Dis-

trict of Columbia and to make certain changes in such benefits, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, with the following table of contents, may be cited as the "District of Columbia Retirement Reform Act".

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TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the retirement benefits authorized by various Acts of Congress for the police officers, fire fighters, teachers, and judges of the District of Columbia have not been financed on an actuarially sound basis. Neither Federal payments to the District nor District of Columbia appropriations have taken into account the long-term financial requirements of the District's retirement programs. As a result, the annual budget cost to the District of Columbia for annuities and refunds of deductions is growing at a rapid rate and, in the case of the retirement program for police officers and fire fighters, is predicted to exceed the cost of salaries for active police officers and fire fighters by the year 2000.

(b) It is the purpose of this title—

(1) to establish separate retirement Funds for police officers and fire fighters, for teachers, and for judges of the District of Columbia;

(2) to establish a Retirement Board with responsibility for managing these Funds;

(3) to require that these Funds be managed on an actuarially sound basis in order to provide proper financing for the benefits to which the District's retired police officers, fire fighters, teachers, and judges are entitled;

(4) to require that the Retirement Board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974; and

(5) to provide for Federal payments to these Funds to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia prior to the establishment of self-government under the District of Columbia Self-Government and Governmental Reorganization Act.

DEFINITIONS

SEC. 102. As used in this title:

(1) The term "Mayor" means the Mayor of the District of Columbia.

(2) The term "Council" means the Council of the District of Columbia.

(3) The term "Speaker" means the Speaker of the House of Representatives.

(4) The term "President pro tempore" means the President pro tempore of the Senate.

(5) The term "Board" means the District of Columbia Retirement Board established by section 121 of this Act.

(6) The term "Custodian of Retirement Funds" means the Board, except that until such time as the members of the Board are first elected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the term "Custodian of Retirement Funds" means the Director of the Office of Budget and Financial Management of the District of Columbia (established by Organization Order Numbered 30, Commissioner's Order Numbered 72-80, April 5, 1972 (D.C. Code, title 1—Appendix)).

(7) The term "retirement program" means—

(A) the program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police force and the Fire Department of the District of Columbia, but does not include the program of annuities and other retirement and disability benefits for members and officers of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division under the Policemen and Firemen's Retirement and Disability Act;

(B) the program of annuities and other retirement and disability benefits for judges of the courts of the District of Columbia under subchapter III of chapter 15 of title 11 of the District of Columbia Code; or

(C) the program of annuities and other retirement and disability benefits for teachers in the public day schools of the District of Columbia.

(8) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone.

(9) The term "party in interest" means—

(A) any person (including a member of the Board) having fiduciary responsibilities under this title;

(B) any person providing services to a Fund;

(C) the government of the District of Columbia;

(D) an employee organization; and

(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B).

(10) The term "Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122, the District of Columbia Teachers' Retirement Fund established by section 123, or the District of Columbia Judges' Retirement Fund established by section 124.

(11) The term "current value" means fair market value where available (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board) or otherwise the fair value (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board), assuming an orderly liquidation at the time of such determination.

(12) The term "future value" means a liability for a given prior fiscal year expressed in terms of the price level expected to prevail in a given future fiscal year, adjusted at the rate of inflation used with regard to determinations made under section 142(a)(1).

(13) The term "qualified public accountant" means a person who is a certified public accountant, certified by a regulatory authority of a State.

(14) The term "enrolled actuary" means an actuary enrolled under subtitle C of title III of the Employee Retirement Income Security Act of 1974.

(15) The term "security" means a security as defined in section 2(1) of the Securities Act of 1933.

(16) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which individuals covered by a retirement program participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning such retirement program.

(17) The term "teacher" means a teacher as defined in section 13 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-733).

(18) The term "judge" means a judge as defined in section 11-1561(1) of title 11 of the District of Columbia Code.

(19) The term "participant" does not include an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division to whom the Policemen and Firemen's Retirement and Disability Act applies; and, unless the context requires otherwise, the term "beneficiary" does not include a beneficiary under such Act of any such officer or member.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

DISTRICT OF COLUMBIA RETIREMENT BOARD

SEC. 121. (a) There is established, as an independent agency of the government of the District of Columbia, a board of trustees to be known as the District of Columbia Retirement Board which shall have exclusive authority and discretion (subject to the requirements of this title) to manage and control the Funds established by this title.

(b)(1) The Board shall consist of eleven members selected as follows:

(A) One member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the members and officers of the Metropolitan Police force.

(B) One retired member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the retired members and officers of the Metropolitan Police force.

(C) One member or officer of the Fire Department of the District of Columbia, to be elected by the members and officers of the Fire Department.

(D) One retired member or officer of the Fire Department of the District of Columbia, to be elected by the retired members and officers of the Fire Department.

(E) One teacher in the public day schools of the District of Columbia, to be elected by the teachers of the public day schools of the District of Columbia.

(F) One teacher in the public day schools of the District of Columbia who is retired, to be elected by the retired teachers of the public day schools of the District of Columbia.

(G) Two individuals appointed by the Council of the District of Columbia.

(H) Three individuals appointed by the Mayor.

A vacancy on the Board shall be filled in the manner in which the original selection was made.

(2) The first election of the Board members described in subparagraphs (A) through (F) of paragraph (1) shall be conducted within six months after the date of the enactment of this title in accordance with regulations which the Mayor shall promulgate. Thereafter, elections shall be conducted by the Board. In any such election, voting shall be by secret ballot, and each individual to be represented on the Board by the winner of such election shall be eligible to vote in such election.

(3)(A) Except as provided in subparagraph (B), the members of the Board shall each serve a term of four years, except that a member selected to fill a vacancy occurring prior to the end of the term for which his predecessor was selected shall only serve until the end of such term. A member may serve after the expiration of his term until his successor has taken office.

(B) Of the members of the Board who are first selected—

(i) two shall serve for a term of one year,

(ii) three shall serve for a term of two years,

(iii) three shall serve for a term of three years, and

(iv) three shall serve for a term of four years,

as determined by lot at the first meeting of the Board.

(4) No individual shall serve more than two terms as a member of the Board, except that an individual serving less than two years of a term to which some other individual was originally selected shall be eligible for two full terms as a member of the Board and an individual serving two years or more of a term to which some other individual was originally selected shall be eligible for only one full term as a member of the Board.

(5) Any individual who was selected as a member of the Board under subparagraph (A), (C), or (E) of paragraph (1) and who ceases to be a member or officer of the Metropolitan Police force, member or officer of the Fire Department, or a teacher, as the case may be, may not continue as a member of the Board.

(6) No member of the Board may hold or be a candidate for any elective office in the District of Columbia.

(7) No member of the Board may have any personal interest, direct or indirect (except as a participant in a retirement program), in any transaction involving assets of the Funds established by this title and shall otherwise comply with the standards of conduct applicable to fiduciaries in the District of Columbia, as well as those standards of conduct established by part E of this title.

(8) Not less than two of the members of the Board appointed by the Mayor under paragraph (1) shall be individuals who have professional work experience in the banking, insurance, or investment industry.

(9) Any member of the Board may be removed from the Board by a vote of two-thirds of the members of the Board for a breach of fiduciary responsibility with respect to a Fund or for a violation of section 184.

(10) The Board shall elect one member of the Board to be chairman of the Board. The chairman shall be elected for a term of one year, but may be removed from such position by a vote of two-thirds of the members of the Board.

(11) The Director of the Office of Budget and Financial Management of the District of Columbia shall be an ex officio member of the Board, but shall not vote, shall not be eligible to be elected chairman of the Board, and shall not be counted for purposes of a quorum.

(c) Subject to the availability of appropriations therefor, each member of the Board shall be entitled to receive the hourly equivalent of the annual rate of pay in effect for the highest step of grade GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each hour such member is engaged in the actual performance of duties vested in the Board, except that any member of the Board who is a full-time officer or employee of the District of Columbia or the United States shall not be entitled to receive pay under this subsection for performance of duties vested in the Board.

(d)(1) The Board shall meet at least once each calendar quarter at a regular and specified time. It shall meet at such other times as the chairman or any three members of the Board may prescribe.

(2) Any six members shall constitute a quorum for the transaction of the business of the Board.

(3) Except as otherwise provided in this title, actions of the Board shall be determined by a majority vote of the members present and voting.

(e) The Board shall from time to time promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business and for the control of the Funds established by this title, and perform such other functions as may be necessary to carry out its responsibilities under this title.

(f)(1) All administrative expenses incurred by the Board in carrying out this title, including compensation for the members of the Board, shall be paid out of funds appropriated for such purpose.

(2) The budget prepared and submitted by the Mayor pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act shall include recommended expenditures at a reasonable level for the forthcoming fiscal year for the administrative expenses of the Board.

(3) The Mayor and the Council may establish the amount of funds which will be allocated to the Board for administrative expenses, but may not specify the purposes for which such funds may be expended or the amounts which may be expended for the various activities of the Board.

(g)(1) The Board shall engage the services of competent investment counsel or counsels who shall be qualified under the Investment Advisors Act of 1940. Such investment counsel or counsels shall be fiduciaries to the extent designated by the Board, with respect to services rendered to the Board. Such fiduciary relationship shall be specified in a written agreement between the investment counsel or counsels and the Board.

(2) The Board may appoint such staff as it considers necessary to enable it to carry out its responsibilities under this title. The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate of basic pay in effect for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(h) Not more than ninety days after all initial members of the Board have been selected in accordance with subsection (b) of this section, the Board shall certify in writing to the Director of the Office of Budget and Financial Management of the District of Columbia that the Board is assuming responsibility for the Funds established by this title.

DISTRICT OF COLUMBIA POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT FUND

SEC. 122. (a) There is established a fund to be known as the District of Columbia Police Officers and Fire Fighters' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the last sentence of subsection (d)(1) or to subsection (c)(5) of the Policemen and Firemen's Retirement and Disability Act or pursuant to the proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935.

(2) Any amount appropriated for such Fund under part C of this title.

(3) Any return on investment of the assets of such Fund.

After September 30, 1979, or after the end of the thirty-day period beginning on the date on which funds are first appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, whichever is later, all payments of annuities and other retirement and disability benefits (including refunds and lump-sum payments) under the Policemen and Firemen's Retirement and Disability Act shall be made from the Fund (except for any such payment which is made to an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or to a beneficiary of any such officer or member).

(b)(1) The last sentence of subsection (d)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-524(1)) is amended by striking out "Such" and inserting in lieu thereof "in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act; and in the case of any other member, such".

(2) The proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935 (D.C. Code, sec. 4-502), is amended by inserting immediately before the period the following: ", except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in section 102 (6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122 (a) of such Act".

(3) The Act entitled "An Act to credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia", approved July 21, 1947 (D.C. Code, sec. 4-504a), is amended by inserting "or the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122(a) of the District of Columbia Retirement Reform Act)" immediately after "District of Columbia," the first place it appears.

(c) The amendments made by paragraphs (1) and (2) of subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (3) of such subsection shall take effect on such date of enactment.

DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

SEC. 123. (a) There is established a fund to be known as the District of Columbia Teachers' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or under the Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of assets of such Fund.

Annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, shall continue to be paid from such fund until all amounts in such fund have been expended or transferred under subsection (c) to the District of Columbia Teachers' Retirement Fund, and thereafter such benefits shall be paid from the District of Columbia Teachers' Retirement Fund.

(b)(1) The Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, is amended—

(A) in the first section (D.C. Code, sec. 31-721)—

(i) by adding at the end of the first paragraph the following new sentence: "After the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, any amounts deducted and withheld pursuant to this paragraph shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of such Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.", and

(ii) in the first sentence of the second paragraph, by striking out "Collector of Taxes, District of Columbia," and inserting in lieu thereof "Custodian of Retirement Funds";

(B) in section 2 (D.C. Code, sec. 31-722), by striking out "The" in the first sentence and inserting in lieu thereof "Until the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the";

(C) in clause (ii) of paragraph (1) of section 5(b) (D.C. Code, sec. 31-725(b)(1)(ii)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act";

(D) in section 9(a) (D.C. Code, sec. 31-729(a)), by striking out "deposit in the fund" in the second proviso and inserting in lieu thereof "repay to the Custodian of Retirement Funds (as defined in section 102 (6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,";

(E) in clause (ii) of section 9(b)(1) (D.C. Code, sec. 31-729(b)(1)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123 (a) of such Act"; and

(F) in section 17 (D.C. Code, sec. 31-737), by inserting "(including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act)" immediately after "Act".

(2) Section 4 of the Act entitled "An Act to increase annuities payable to certain annuitants from the District of Columbia teachers' retirement and annuity fund, and for other purposes", approved September 2, 1958 (D.C. Code, sec. 31-744), is amended by inserting immediately before the period at the end of the first sentence the following: "until such time as all amounts in such fund have been expended or transferred under section 123(c) of the District of Columbia Retirement Reform Act to the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act and thereafter from the District of Columbia Teachers' Retirement Fund".

(3) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31-745), is amended by striking out "the deposit by such teacher to the credit of the teachers' retirement and annuity fund of the District of Columbia" and inserting in lieu thereof "payment by such teacher to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act), for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, may be transferred to the District of Columbia Teachers' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

SEC. 124. (a) There is established a fund to be known as the District of Columbia Judges' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount deposited pursuant to subchapter III of chapter 15 of title 11 of the District of Columbia Code.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of the assets of such Fund.

(b)(1) Section 11-1561(4) of title 11 of the District of Columbia Code is amended by striking out "Judicial Retirement and Survivors Annuity Fund as provided in section 11-1570" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(2) Section 11-1563(a) of such title 11 is amended by striking out "deposited in the fund in accordance with procedures established by the Commissioner" and inserting in lieu thereof "paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the fund".

(3) Section 11-1564(d)(4) of such title 11 is amended in the first sentence by striking out "Judicial Retirement and Survivors Annuity Fund" and inserting in lieu thereof

"Judges Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(4) Section 11-1570 of such title 11 is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting immediately before the period "until such time as all amounts in such Fund have been expended or transferred to the District of Columbia Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act"; and

(ii) by striking out the second and third sentences and inserting in lieu thereof the following: "Thereafter the retirement salaries, annuities, refunds, and allowances provided for in this subchapter shall be paid from such Fund.";

(B) in subsection (b)—

(i) by striking out "such funds" and inserting in lieu thereof "the District of Columbia Judicial Retirement and Survivors Annuity Fund";

(ii) by striking out "from the fund" and inserting in lieu thereof "under the first sentence of subsection (a)"; and

(iii) by striking out "fund" the second place it appears and inserting in lieu thereof "District of Columbia Judicial Retirement and Survivors Annuity Fund"; and

(C) in subsection (d), by inserting "(including moneys in the District of Columbia Judges' Retirement Fund)" immediately after "subchapter".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia Judicial Retirement and Survivors Annuity Fund may be transferred to the District of Columbia Judges' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

MANAGEMENT OF RETIREMENT FUNDS

SEC. 125. (a) The Custodian of Retirement Funds shall be the custodian of the assets of each Fund established by this title and shall manage and invest such assets in accordance with this title.

(b) The assets of each Fund shall be kept separate from other moneys which may be under the control of the Custodian of Retirement Funds, but need not be kept separate from the assets of the other Funds if the Board determines that commingling of such assets is advisable for investment purposes.

(c) The Board shall maintain, in an appropriate depository, a cash reserve for the Funds in an amount determined by the Board to be sufficient to meet current outlays for annuities and other retirement and disability benefits authorized to be paid from such Funds.

PAYMENTS FROM THE FUNDS

SEC. 126. The Mayor shall notify the Custodian of Retirement Funds of any payments to be made from the Funds established by this title for annuities or other retirement or disability benefits (including refunds and lump-sum payments), and the Custodian of Retirement Funds shall make such payments from the appropriate Fund.

PART C—FINANCING OF RETIREMENT BENEFITS

LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

SEC. 141. (a) The assets of the Funds established by this title may not be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(2) Obligations fully guaranteed as to the payment of both principal and interest by the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(3) Real property in the District of Columbia, Virginia, or Maryland.

(4) Loans, mortgages, bonds, notes, bills, or certificates of indebtedness secured, in whole or in part, by real property in the District of Columbia, Virginia, or Maryland.

(b) Until such time as the members of the Board are first selected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the assets of such Funds may only be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the United States Government, or obligations fully guaranteed as the payment of both principal and interest by the United States Government.

(2) Interest-bearing certificates of deposit issued by National, State, or District of Columbia savings and loan institutions.

DETERMINATION OF FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 142. (a)(1) The Board shall engage an enrolled actuary who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), who shall, on the basis of the entry age normal cost funding method and in accordance with generally accepted actuarial principles and practices, make the following determinations with respect to each Fund:

(A) At the times specified in paragraph (2), the actuary shall determine the level percentage of payroll, expressed as a percentage (hereinafter in this title referred to as the "net normal cost percentage"), which shall be the percentage such that the amount equal to the product of such percentage and the present value of future compensation for participants in the retirement program, if paid annually into the Fund from the date of hire of each participant in the retirement program until the date of such participant's death, retirement, or other withdrawal from employment covered by the retirement program, is equal to the amount of the difference between (i) the present value of the future benefits payable from the Fund to such group, and (ii) the present value of all future employee contributions to the Fund.

(B) At the times specified in paragraph (2), the actuary shall determine the amount (hereinafter in this title referred to as the "accrued actuarial liability") that is the difference between (i) the present value (as of the date of the determination) of the future benefits payable from the Fund, and (ii) the sum of—

(I) the present value of all future employee contributions to the Fund; and

(II) the product of the net normal cost percentage and the present value of future compensation for participants in the retirement program.

(C) At the times specified in paragraph (2), the enrolled actuary shall determine the current value of the assets in the Fund.

(D) Each year, not later than sixty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, the enrolled actuary shall determine—

(i) an estimate of the current annual active duty payroll;

(ii) the amount (hereinafter in this title referred to as the "future Federal obligation") that is the amount of the present value of the sum of the amounts authorized by section 144(a) to be appropriated to the Fund for fiscal years beginning on or after the date of the determination; and

(iii) the amount (hereinafter in this title referred to as the "net pay-as-you-go cost") that is the difference between (I) the amount of the obligation of the Fund during the next fiscal year for the payment of benefits payable from the Fund during such year, and (II) the amount of employee contributions to the Fund for such year.

The actuary shall also determine such additional information as the Board may require in order to make the determinations specified in paragraph (4) and in subsection (b).

(2) The actuary engaged by the Board pursuant to paragraph (1) shall make the determinations described in subparagraphs (A), (B), and (C) of such paragraph at the following times:

(A) Not later than sixty days after the date of the enactment of this Act.

(B) Upon a request by the Board or by the Director of the Office of Management and Budget.

(C) Not later than the end of the ninety-day period beginning on the first day of the third fiscal year occurring after the fiscal year in which the last such determination was made pursuant to any subparagraph of this paragraph.

(3) On the basis of the most recent determinations made under paragraph (1), the enrolled actuary shall certify to the Board each year, at a time specified by the Board, the following information with respect to each Fund for the next fiscal year:

(A) The net normal cost, which shall be computed as the product of the net normal cost percentage and the estimate by the actuary of the current annual active duty payroll.

(B) The accrued actuarial liability.

(C) The current value of assets in the Fund.

(D) The future Federal obligation.

(E) The net pay-as-you-go cost.

(F) The unfunded actuarial liability, which shall be computed as the difference between the accrued actuarial liability and the sum of the current value of the assets in the Fund and the future Federal obligation.

(G) The amount equal to the difference between (i) the accrued actuarial liability as of January 2, 1975 (in future value as of the end of the fiscal year for which the determination is made), and (ii) the sum of the future Federal obligation, the current value of previous Federal contributions, and (in the case of the District of Columbia Teachers' Retirement Fund and the District of Columbia Judges' Retirement Fund) the current value of any assets in the predecessor to such Fund as of January 2, 1975, which amount is the difference between the amount that the Federal Government would pay to the Fund if the Federal Government had assumed the funding responsibility for all accrued unfunded liabilities as of January 2, 1975, and the amount actually to be paid by the Federal Government.

For the purposes of subparagraph (F), the term "current value of the assets in the Fund" shall be deemed to include (i) the present value of any payments to be made to the Fund by the District in accordance with subsection (b)(1)(C)(i), and (ii) the present value of the amount of any reduction in the amount of future District payments to the Fund determined in accordance with subsection (b)(1)(D).

(4) The Board shall determine—

(A) the amount of the Federal payment for the next fiscal year for each Fund authorized to be appropriated under section 144(a); and

(B) on the basis of the most recent certifi-

cation submitted by the enrolled actuary under paragraph (3), the amount of the District payment for the next fiscal year for each Fund, as described under subsection (b).

(b)(1)(A) For the District payment for each Fund for each fiscal year through fiscal year 2004, the Board shall determine—

(i) the unfunded actuarial liability for such Fund as of the end of fiscal year 2004;

(ii) the unfunded actuarial liability as of October 1, 1979, in future value as of the end of fiscal year 2004 for such Fund; and

(iii) the amount equal to the lesser of (I) the net pay-as-you-go cost, and (II) the sum of the net normal cost and the amount of annual interest (computed at the valuation rate used in the determination under subsection (a)(1)) on the unfunded actuarial liability, as computed under subsection (a)(3)(F).

(B) If the amount determined under subparagraph (A)(i) is equal to the amount determined under subparagraph (A)(ii), the amount of the District payment for the fiscal year for such Fund shall be the amount determined under subparagraph (A)(iii).

(C)(i) If the amount determined under subparagraph (A)(i) is greater than the amount determined under subparagraph (A)(ii), the amount of the District payment for the fiscal year for such Fund shall be the amount equal to the sum of (I) the amount determined under subparagraph (A)(iii), and (II) the amount of the level amortization payment that, if paid annually into the Fund through the next ten fiscal years (and accrued at the rate of interest used in the determinations under subsection (a)(1)), would reduce the amount determined under subparagraph (A)(i) to the amount determined under subparagraph (A)(ii) by the end of such ten fiscal years.

(ii) A level amortization payment shall not be required under this subparagraph for any fiscal year to the extent that the difference between the amount determined under subparagraph (A)(i) and the amount determined under subparagraph (A)(ii) for such fiscal year is attributable to the failure of the Federal Government (other than a failure because of section 144(d) or 145) to make all or any part of the Federal payment to such Fund for any fiscal year.

(D) If the amount determined under subparagraph (A)(ii) is greater than the amount determined under subparagraph (A)(i), the amount of the District payment for such Fund shall be the amount determined under subparagraph (A)(iii) reduced by the amount of the level amortization payment that, if paid annually for the next ten fiscal years, would have a future value as of the end of fiscal year 2004 equal to the difference between the amount determined under subparagraph (A)(ii) and the amount determined under subparagraph (A)(i).

(E) The amount of a District payment determined under subparagraph (C) may not exceed the amount determined under subparagraph (A)(iii) by more than 10 percent of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, or by more than 30 percent of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Teachers' Retirement Fund or to the District of Columbia Judges' Retirement Fund.

(F) Determinations under subparagraph (A) shall be made in accordance with generally accepted actuarial principles and practices.

(2) The amount of the District payment to each Fund for fiscal year 2005 and for each fiscal year thereafter shall be the sum of (A) the net normal cost, and (B) the amount of annual interest (computed at the valuation rate used in the determination pursuant to subsection (a)(1)) on the unfunded actuarial liability.

(c)(1) On the basis of the most recent determinations made under subsection (a)(4), the Board shall—

(A) not later than March 15 of each year through calendar year 2003, submit to the President and to the Congress a request for appropriation of the Federal payment for the next fiscal year for each Fund; and

(B) not less than thirty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, certify to the Mayor and the Council the amount of the District payment for each Fund.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, and the Council of the District of Columbia, in adopting each annual budget in accordance with section 446 of such Act, shall include in such budget not less than the full amount certified by the Board under paragraph (1)(B) as being the amount of the District payment for the next fiscal year for each Fund. The Mayor and the Council may comment and make recommendations concerning any such amount certified by the Board.

(d)(1) Whenever any change in benefits under a retirement program is made, the Mayor shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), to estimate the effect of such change in benefits over the next five fiscal years on (A) the net normal cost percentage with respect to the retirement program, (B) the accrued actuarial liability with respect to the retirement program, (C) the net pay-as-you-go cost with respect to the retirement program, and (D) the level of the District payments to the Fund. The Mayor shall transmit the estimates of the actuary under the preceding sentence to the Board and to the Speaker and the President pro tempore, and such change in benefits may not go into effect until the end of the thirty-day period beginning on the date such transmittals are completed.

(2) In the event a change in benefits under a retirement program is made that increases the present value of benefits payable from the Fund, a level amortization payment for a period not to exceed 25 years shall be paid by the District to the Fund such that the present value of the sum of each level amortization payments equals the increase in the present value of such benefits. Such payments shall be made in addition to any other payment to the Fund required to be made by the District, and such increase in present value of benefits payable from the Fund and such payments shall be disregarded in calculating the unfunded actuarial liability under subsection (b)(1)(A).

(e) Whenever the amount authorized to be appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund for any fiscal year under section 144(a)(1) is reduced under section 145(c), the District shall, beginning with the next fiscal year, pay a level amortization payment to such Fund for a period not to exceed ten years such that the present value (determined as of the beginning of the fiscal year for which such authorization is reduced) of the sum of such level amortization payments equals the amount of such reduction. Such payments shall be made in addition to any other payment to such Fund required to be made by the District and shall be disregarded in calculating the unfunded actuarial liability under subsection (b)(1)(A).

(f) The Comptroller General of the United States shall have access to all books, accounts, records, reports, files and other papers necessary to carry out the responsibility of the Comptroller General under section 736(a) of the District of Columbia Self-Government and Governmental Reorganization Act and under section 144(e) of this Act.

INFORMATION ABOUT RETIREMENT PROGRAMS

SEC. 143. Upon a request of the Board, the Mayor shall furnish to the Board such information with respect to retirement programs to which this title applies as the Board considers necessary to enable it to carry out its responsibilities under this title and to enable the enrolled actuary engaged pursuant to section 142(a) to carry out the responsibilities of the enrolled actuary under this title.

FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 144. (a) There is authorized to be appropriated from the revenues of the United States for fiscal year 1980 and for each fiscal year thereafter through fiscal year 2004—

(1) as the Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, the sum of $34,170,000, reduced by the amount of any reduction required under section 145(c);

(2) as the Federal payment to the District of Columbia Teachers' Retirement Fund, the sum of $17,680,000; and

(3) as the Federal payment to the District of Columbia Judges' Retirement Fund, the sum of $220,000.

(b)(1) Amounts appropriated as a Federal payment to a Fund established by this title shall not be subject to apportionment and shall be deposited in the appropriate Fund not more than thirty days after they are appropriated or thirty days after the beginning of the fiscal year for which they are appropriated, whichever is later.

(2) Amounts appropriated as a District of Columbia payment to a Fund established by this title shall be deposited in the appropriate Fund in equal quarterly installments, the first of which shall be made on the first day of the first quarter of the fiscal year, or on the first day thereafter that funds for such installment become available, and the remainder of which shall be made on the first day of succeeding quarters of the fiscal year, or on the first day thereafter that funds for such installments become available.

(c) If at any time the balance of any Fund established by this title is not sufficient to meet all obligations against such Fund, such Fund shall have a claim on the revenues of the District of Columbia to the extent necessary to meet such obligations.

(d) If, for any fiscal year, the Mayor and the Council do not carry out the requirements of subsection (c)(2), (d), and (e) of section 142 with respect to a Fund, no funds authorized to be appropriated for such Fund by this section shall be available for such Fund for such fiscal year.

(e)(1) In the year 2004, the Comptroller General shall determine whether the Federal share with respect to each Fund has been paid in full by payments made pursuant to appropriations authorized under subsection (a) of this section and, in the case of the District of Columbia Police Officers and Fire Fighters' Retirement Fund, by payments made or to be made under section 142(e).

(2) For the purposes of this subsection, the term "Federal share", with respect to a retirement program, means the sum of—

(A) 80 percent of the accrued unfunded liability as of October 1, 1979, for participants in the retirement program who retired before January 2, 1975, under a provision of law authorizing retirement and entitlement to an annuity based upon the years of creditable service of the participant (and for the beneficiaries of such participants under the retirement program); and

(B) 33⅓ percent of the accrued unfunded

liability as of October 1, 1979, for participants in the retirement program who retired before January 2, 1975, under a provision of law authorizing retirement and entitlement to an annuity based upon a disease or disability from which the participant is suffering (and for the beneficiaries of such participants under the retirement program).

REDUCTION IN FEDERAL CONTRIBUTION FOR EXCESSIVE COST OF POLICE OFFICERS AND FIRE FIGHTER'S DISABILITY RETIREMENT

SEC. 145. (a) After January 1, and before March 1, of each year beginning with calendar year 1983 and ending with calendar year 2004, the enrolled actuary engaged pursuant to section 142 shall, with respect to the District of Columbia Police Officers and Fire Fighters' Retirement Fund—

(1) determine the estimated present value (as of the date of the determination) of the cost to the Fund of the future benefits payable from such Fund for disability retirements under subsections (f)(1) and (g)(1) of the Policemen and Firemen's Retirement and Disability Act to those officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who first became such officers or members on or before the end of the ninety-day period beginning on the date of the enactment of this Act and who were not retired on the first day of the preceding calendar year;

(2) determine the estimated present value (as of the date of the determination) of the cost to the Fund of the benefits referred to in paragraph (1) determined as if such officers and members retire, had retired, or had to choose whether to retire under the provisions of subsection (f)(2) or (g)(5) of such Act, as in effect on the day after the end of the ninety-day period beginning on the date of the enactment of this Act, except that in making determinations under this paragraph, the enrolled actuary (A) shall not take into account reductions pursuant to subsection (j)(3) of the Policemen and Firemen's Retirement and Disability Act, and (B) shall take into account such factors as the actuary considers to be appropriate and in accordance with sound actuarial practice in order to eliminate age-specific or other bias; and

(3) state whether, in accordance with sound actuarial practice, the ratio of the amount determined under paragraph (1) to the amount determined under paragraph (2) can be said to be greater than 1.02.

The enrolled actuary shall report the determinations and statements made under paragraphs (1) through (3) for any year to the Board and to the Comptroller General of the United States not later than March 1 of such year.

(b)(1) The Board and the Comptroller General shall each transmit a copy of each report by the enrolled actuary under subsection (a) to the Speaker, the President pro tempore, the Mayor, and the Council not later than March 31 of the year in which the report is made, and each shall submit comments on such report.

(2) The Comptroller General shall include in his comments on each such report transmitted under paragraph (1) a statement of whether the determinations and statement made by the enrolled actuary under subsection (a) were made in conformance with generally accepted actuarial practices and principles and whether such determinations and statements fairly present in all material respects the amounts described in paragraphs (1) and (2) of such subsection.

(c) Notwithstanding any other provision of this Act, with respect to the fiscal year commencing in any calendar year in which a report of the enrolled actuary under subsection (a), as transmitted to the Congress in accordance with subsection (b), includes a statement by the enrolled actuary under paragraph (3) of subsection (a) that the ratio of the estimates determined under paragraphs (1) and (2) of such subsection is greater than 1.02, the amount authorized by section 144(a)(1) to be appropriated to the Fund for such fiscal year shall be reduced. Such reduction shall be an amount equal to the product of (1) the amount specified in such section, and (2) the ratio of (A) the number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who retired during the preceding calendar year under subsections (f)(1) and (g)(1) of the Policemen and Firemen's Retirement and Disability Act to (B) the number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who first became such members prior to the end of the ninety-day period beginning on the date of the enactment of this Act and who retired, died, withdrew by taking out a lump-sum payment, or separated from active duty while eligible for a deferred annuity under the Policemen and Firemen's Retirement and Disability Act during such year.

(d)(1) Notwithstanding any provision of the Policemen and Fireman's Retirement and Disability Act or any other provision of this Act, in any case in which any officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia retires during calendar year 1979 or any subsequent calendar year through calendar year 2001 under subsection (f)(1) or (g)(1) of the Policemen and Firemen's Disability Act, the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment of such officer or member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board. In the case of such officer or member, such Board shall determine, within a reasonable time, the percentage of disability of such officer or member giving due regard to—

(A) the nature of the injury or disease;

(B) the percentage of impairment reported pursuant to the preceding sentence;

(C) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the officer or member immediately prior to such officer or member's retirement;

(D) the age and years of service of the officer or member; and

(E) any other factor or circumstance which may affect the capacity of the officer or member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

(2) The Police and Firemen's Relief Board, on or before January 31 of each calendar year from 1980 through 2002, shall make available to the Comptroller General and the enrolled actuary all determinations (including related documents and information) made during the preceding calendar year pursuant to paragraph (1) of this subsection in order to enable the Comptroller General and the enrolled actuary to make the determinations and statement required by this section.

CONFORMING AMENDMENTS

SEC. 146. (a)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-727), is repealed.

Section 14 of such Act of August 7, 1946 (D.C. Code, sec. 31-734), is amended—

(A) in the third sentence, by striking out "The" and inserting in lieu thereof "Until such time as all amounts in the teachers' retirement and annuity fund have been expended or transferred to the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, the"; and

(B) by striking out the fourth sentence.

(3) Section 15 of such Act of August 7, 1946 (D.C. Code, sec. 31-735), is repealed.

(b) The proviso in the fourth paragraph (relating to District government retirement and relief funds) under the heading "Compensation and Retirement Fund Expenses" in the Act of July 31, 1953 (D.C. Code, sec. 31-716a), is repealed.

(c)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved January 15, 1920 (D.C. Code, sec. 31-707), is amended by striking out the second and third sentences of the first paragraph.

(2) Section 14 of such Act of January 15, 1920 (D.C. Code, sec. 31-715), is amended by striking out the third and fourth sentences.

(3) Section 15 of such Act of January 15, 1920 (D.C. Code, sec. 31-716), is repealed.

Part D—Reporting and Disclosure Requirements

PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

SEC. 161. (a) Each member of the Board shall, within ninety days of his selection as a member of the Board and not later than April 30 of each year thereafter, submit to the Mayor, the Council, the Speaker, and the President pro tempore a personal financial disclosure statement with respect to the preceding calendar year. Such statement shall be in such form as the Council may by regulation require and shall contain such information with respect to the member's financial condition as the Council may by regulation require, including the following information:

(1) The amount and source of all income (as defined in section 61 of the Internal Revenue Code of 1954) received during the year.

(2) The identity and category of value of each liability owned, directly or indirectly, that exceeds $2,500 as of the last day of the year (excluding any mortgage that secures real property that is the principal residence of such member).

(3) The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income that has a fair market value of not less than $1,000 as of the last day of the year.

(4) The identity and category of value of any transaction, whether direct or indirect, in securities or commodities futures during the year in excess of $1,000 (excluding any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954), and the identity, date, and category of value of any purchase or sale, whether direct or indirect, of any interest in real or tangible personal property during the year the value of which exceeds $1,000 at the time of such purchase or sale (excluding any purchase or sale of any property that is the principal residence of such member or that is used as furnishings for such principal residence).

(5) The nature and extent of any interest during the year in any bank, insurance company, or other financial institution, or in any brokerage or other securities or investment company.

(6) The nature and extent of any employment during the year by any bank, insurance company, or other financial institution, or by any brokerage or other securities or investment company.

A member shall not be required to submit a personal financial disclosure statement to the Speaker and the President pro tempore for calendar years after calendar year 2004.

(b) For purposes of paragraphs (2), (3), and (4) of subsection (a), the member reporting need not specify the actual amount of value of each item required to be reported under such paragraphs, but shall indicate which of the following categories such amount or value is within:

(1) Not more than $5,000.

(2) Greater than $5,000 but not more than $15,000.

(3) Greater than $15,000 but not more than $50,000.

(4) Greater than $50,000 but not more than $100,000.

(5) Greater than $100,000.

ANNUAL REPORTS

SEC. 162. (a)(1)(A) The Board shall publish an annual report for each fiscal year (beginning with fiscal year 1980) with respect to each retirement program to which this title applies and with respect to the Fund for such retirement program. Such report shall be filed with the Mayor, the Council, the Speaker, and the President pro tempore in accordance with section 164 (a) and shall be made available and furnished to participants and beneficiaries in accordance with section 164(b).

(B) The annual report shall include the information described in subsections (b), (c), (d), and (e) and, when applicable, subsection (f), and shall also include—

(i) the financial statement and opinion required by paragraph (3) of this subsection; and

(ii) the actuarial statement and opinion required by paragraph (4) of this subsection.

(2) If some or all of the information needed to enable the Board to comply with the requirements of this title is maintained by—

(A) an insurance carrier or other organization which provides some or all of the benefits under the retirement program, or holds assets of the Fund for such retirement program in a separate account;

(B) a bank or similar institution which holds some or all of the assets of the Fund in a common or collective trust or a separate trust, or custodial account; or

(C) the Mayor (or the Police and Firemen's Retirement and Relief Board, established pursuant to section 122 of the Act of September 3, 1974, in carrying out the Mayor's responsibilities under the Policemen and Firemen's Retirement and Disability Act);

such carrier, organization, bank, or institution, or the Mayor, shall transmit and certify the accuracy of such information to the Board within one hundred and twenty days after the end of the fiscal year (or such other date as may be prescribed under regulations of the Board).

(3)(A) Except as provided in subparagraphs (C), the Board shall engage an independent qualified public accountant who shall conduct such examination of any financial statements of the Fund, and of other books and records of the Fund or the retirement program, as the accountant may deem necessary to enable the accountant to form an opinion as to whether the financial statements and schedules required to be included in the annual report by subsection (b) of this section are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Fund and the retirement program as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also offer his opinion as to whether the separate schedules specified in subsection (b)(2) of this section and the summary material required under section 164(b)(2) present fairly, and in all material respects, the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountants shall be made a part of the annual report.

(B) In offering his opinion under this section, the accountant may rely on the correctness of any actuarial matter certified to by an enrolled actuary if he so states his reliance.

(C) The opinion required by subparagraph (A) need not be expressed as to any statements required by subsection (b)(2)(G) prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(4)(A) The Board shall engage an enrolled actuary who shall be responsible for the preparation of the materials comprising the actuarial statement required under subsection (d) of this section.

(B) The enrolled actuary shall utilize such assumptions and techniques as are necessary to enable him to form an opinion as to whether the contents of the matters reported under subsection (d) of this section—

(i) are in the aggregate reasonably related to the experience of the Fund and the retirement program and to reasonable expectations; and

(ii) represent his best estimate of anticipated experience under the Fund and the retirement program.

The opinion by the enrolled actuary shall be made with respect to, and shall be made a part of, each annual report.

(C) In making a certification under this section, the enrolled actuary may rely on the correctness of any accounting matter under subsection (b) as to which any qualified public accountant has expressed an opinion if he so states his reliance.

(b)(1) An annual report under this section shall include a financial statement containing a statement of assets and liabilities, and a statement of changes in net assets available for benefits under the retirement program, which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: A description of the retirement program, including any significant changes in the retirement program made during the period and the impact of such changes on benefits; the funding policy (including the policy with respect to prior service cost), and any changes in such policy during the year; a description of any significant changes in benefits made during the period; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest; and any other matters necessary to fully and fairly present the financial statements of the Fund.

(2) The statement required under paragraph (1) shall have attached the following information in separate schedules:

(A) A statement of the assets and liabilities of the Fund, aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year.

(B) A statement of receipts in and disbursements from the Fund during the preceding twelve-month period, aggregated by general source and application.

(C) A schedule of all assets held for investment purposes, aggregated and identified by issuer, borrower, or lessor, or similar party to the transaction (including a notation as to whether such party is known to be a party in interest), maturity date, rate of interest, collateral, par or maturity value, cost, and current value.

(D) A schedule of each transaction involving a person known to be a party in interest, the identity of such party in interest and his relationship or that of any other party in interest to the Fund, a description of each asset to which the transaction relates; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(E) A schedule of all loans or fixed income obligations which were in default as of the close of the fiscal year or were classified during the year as uncollectable and the following information with respect to each loan on such schedule (including a notation as to whether parties involved are known to be parties in interest): The original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof.

(F) A list of all leases which were in default or were classified during the year as uncollectable and the following information with respect to each lease on such list (including a notation as to whether parties involved are known to be parties in interest): The type of property leased (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the property); the identity of the lessor or lessee from or to whom the Fund is leasing; the relationship of such lessors and lessees, if any, to the Fund, the government of the District of Columbia, any employee organization, or any other party in interest; the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost; the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default.

(G) The most recent annual statement of assets and liabilities of any common or collective trust maintained by a bank or similar institution in which some or all the assets of the Fund are held, of any separate account maintained by an insurance carrier in which some or all of the assets of the Fund are held, and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate account or a separate trust, such other information as may be required by the Board in order to comply with this subsection.

(H) A schedule of each reportable transaction, the name of each party to the transaction (except that, in the case of an acquisition or sale of a security on the market, the report need not identify the person from whom the security was acquired or to whom it was sold) and a description of each asset to which the transaction applies; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(3) For purposes of subparagraph (H) of paragraph (2), the term "reportable transaction" means a transaction to which the Fund is a party and which is—

(A) a transaction involving an amount in excess of 3 percent of the current value of the assets of the Fund;

(B) any transaction (other than a transaction respecting a security) which is part of a series of transactions with or in conjunction with a person in a fiscal year, if the aggregate amount of such transactions exceed 3 percent of the current value of the assets of the Fund;

(C) a transaction which is part of a series of transactions respecting one or more securities of the same issuer, if the aggregate amount of such transactions in the fiscal year exceeds 3 percent of the current value of the assets of the Fund; or

(D) a transaction with or in conjunction with a person respecting a security, if any other transaction with or in conjunction with such person in the fiscal year respecting a security is required to be reported by reason of subparagraph (A).

(c) The Board shall furnish as a part of an annual report under this section the following information:

(1) The number of individuals covered by the retirement program.

(2) The name and address of each member of the Board.

(3) Except in the case of a person whose compensation is minimal (as determined under regulations of the Council, which regulations the Council shall initially promulgate within ninety days after the date of the enactment of this Act) and who performs solely ministerial duties (as determined under such regulations), the name of each person (including any consultant, broker, trustee, accountant, insurance carrier, actuary, administrator, investment counsel, or custodian who rendered services to the Board or who had transactions with the Board) who directly or indirectly received compensation from the Board during the preceding year for services rendered to the Board or the participants or beneficiaries of the retirement program for which a Fund was established, the amount of such compensation, the nature of his services, his relationship, if any, to the District of Columbia government or any employee organization, and any other officer, position or employment he holds with any party in interest.

(4) An explanation of the reason for any change in appointment of any accountant, insurance carrier, enrolled actuary, or investment counsel appointed by the Board.

(5) Such other financial and actuarial information as the Council may by regulation prescribe.

(d) An annual report under this section for a fiscal year shall include a complete actuarial statement applicable to the fiscal year which shall include the following information:

(1) The date of the actuarial valuation applicable to the fiscal year for which the report is filed.

(2) The date and amount of the payments to the Fund for the fiscal year for which the report is filed and contributions for prior fiscal years not previously reported, including payments by the participants, the United States, and the District of Columbia.

(3) The following information applicable to the fiscal year for which the report is filed:

(A) The amounts determined under section 142(a)(1).

(B) The accrued liabilities.

(C) An identification of benefits not included in the calculation.

(D) A statement of the other facts and actuarial assumptions and methods used to determine costs.

(E) A justification for any change in actuarial assumptions or cost methods.

(4) The number of participants and beneficiaries covered by the retirement program.

(5) A certification of the amount of the payments to the Fund necessary to reduce the accumulated funding deficiency to zero.

(6) A statement by the enrolled actuary of any change in actuarial assumptions made with respect to the Fund during the year.

(7) A statement by the enrolled actuary of the estimated current value of vested benefits under the retirement program.

(8) A statement by the enrolled actuary that to the best of his knowledge the report is complete and accurate.

(9) A copy of the opinion required by subsection (a)(4).

(10) Such other information regarding the retirement program as the Council may by regulation require.

(11) Such other information as the enrolled actuary may determine is necessary to fully and fairly disclose the actuarial position of the Fund.

The actuary shall make an actuarial valuation of the Fund for every third fiscal year, unless he determines that a more frequent valuation is necessary to support his opinion under subsection (a)(4) of this section.

(e) A report under this section for a fiscal year shall include a statement prepared by the Board of—

(1) the relative riskiness of the investments during the fiscal year of the assets of the Fund;

(2) a comparison of the average return on the investments of the Fund during the year with the average return on the investments of other public pension funds during the year that have comparable asset valuation; and

(3) the average daily balance of, and the average rate earned by, assets of the Fund in each of any time or demand deposits during the year.

(f) If some or all of the benefits under the retirement program are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, a report under this section shall include a statement from such insurance company, service, or other similar organization covering the fiscal year and enumerating—

(1) the premium rate or subsection charge and the total premium or subscription charges paid to each such carrier, insurance service, or other similar organization and the approximate number of persons covered by each class of such benefits; and

(2) the total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such company, service, or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs paid by such company, service, or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose.

If any such company, service, or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include, in lieu of the information required by paragraph (2), a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the Fund, and a copy of the financial report of the company, service, or other organization and, if such company, service, or organization incurs specific costs in connection with the acquisition or retention of any particular Fund or Funds, a detailed statement of such costs.

RETIREMENT PROGRAM SUMMARY DESCRIPTION

SEC. 163. (a)(1) A summary description of each retirement program to which this Act applies shall be furnished to participants and beneficiaries as provided in section 164 (b). The summary description shall include the information specified in subsection (b) of this section, shall be written in a manner calculated to be understood by the average participant or beneficiary, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the retirement program.

(2) A summary of any material modification in the terms of the retirement program and any change in the information required under subsection (b), written in a manner calculated to be understood by the average participant or beneficiary, shall be furnished in accordance with section 164(b)(1).

(b) Each summary description of a retirement program shall contain the following information: The name and type of administration of the retirement program; the name and address of the chairman of the Board, who shall be the agent of the Board for the service of legal process; the name, title, and address of each member of the Board; a description of the relevant provisions of applicable collective-bargaining agreements; the retirement program's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the identity of any organization through which benefits are provided; the procedures to be followed in presenting claims for benefits under the retirement program; and the remedies available under the retirement program for the redress of claims that are denied in whole or in part.

FILING REPORTS AND FURNISHING INFORMATION TO PARTICIPANTS

SEC. 164. (a)(1) The Board shall file with the Mayor, the Council, the Speaker, and the President pro tempore—

(A) the annual reports for a fiscal year within two hundred and ten days after the end of such year;

(B) a copy of each summary description of a retirement program within one year after the date of the enactment of this Act; and

(C) a revised summary description of a retirement program, incorporating any material modification in the terms of the retirement program, within sixty days after such modification is adopted or occurs.

The Mayor shall make copies of such retirement program descriptions and annual reports available for public inspection in an appropriate location. The Board shall also furnish to the Mayor, the Council, the Speaker, and the President pro tempore, upon request, any documents relating to the retirement program or the Fund, including any bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or Fund is operated.

(2)(A) The Mayor or the Council may reject any filing under this section within thirty days of such filing—

(i) upon determining that such filing is incomplete for purposes of this part; or

(ii) upon determining that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If the Mayor or the Council rejects a filing of a report under subparagraph (A), and if a revised filing satisfactory to the Mayor or the Council is not submitted within forty-five days after the determination under subparagraph (A) to reject the filing is made, and if the Mayor or the Council considers it in the best interest of the participants, then the Mayor or the Council may take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

(iii) Bring a civil action for such legal or equitable relief as may be appropriate to enforce the provisions of this title.

The Board shall permit any accountant or

actuary so retained to inspect whatever books and records of the Fund are necessary for such audit.

(3)(A) Either House of Congress may reject any filing under this section within thirty days of such filing by adopting a resolution stating that such House has determined—

(i) that such filing is incomplete for purposes of this part; or

(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If either House of Congress rejects a report under subparagraph (A) and if either a revised filing is not submitted within forty-five days after adoption of the resolution under subparagraph (A) rejecting the initial filing or such revised filing is rejected by either House of Congress by adoption of a resolution within thirty days after submission of the revised filing, then either House of Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, either House of Congress adopts a resolution disapproving such filing.

(b) Publication of the summary retirement program descriptions and annual reports shall be made to participants and beneficiaries as follows:

(1) The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the summary retirement program description and all modifications and changes referred to in section 163(a) within ninety days after he becomes a participant or in the case of a beneficiary, within ninety days after he first receives benefits. The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, every fifth year an updated summary retirement program description described in section 163 which integrates all retirement program amendments made within such five-year period, except that in a case where no amendments have been made to a retirement program during such five-year period this sentence shall not apply. Notwithstanding the foregoing sentence, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, the summary retirement program description described in section 163 every tenth year. If there is a modification or change described in section 163(a), a summary description of such modification or change shall be furnished to each participant and to each beneficiary who is receiving benefits under the retirement program not later than two hundred and ten days after the end of the fiscal year in which the change is adopted.

(2) The Board shall make copies of the latest annual report and of any bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or the Fund is operated available for examination by any participant or beneficiary in the principal office of the Board and in such other places as may be necessary to make available all pertinent information to all participants (including such places as the Council may by regulation prescribe).

(3) Within two hundred and ten days after the close of the fiscal year, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the statements and schedules described in subparagraphs (A) and (B) of section 162((b)(2) for such fiscal year and such other material as is necessary to fairly summarize the latest annual report.

(4) The Board shall, upon written request of any participant or beneficiary, furnish a copy of the latest updated summary retirement program description, the latest annual report, and any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or Fund is operated. The Board may make a reasonable charge to cover the cost of furnishing such copies. The Council may by regulation prescribe the maximum amount that will constitute a reasonable charge under the sentence.

(c) The Council may by regulation require that the Board furnish to each participant and to each beneficiary receiving benefits under a retirement program a statement of the rights of participants and beneficiaries under this title.

REPORTING OF PARTICIPANTS' BENEFIT RIGHTS

SEC. 165. (a) The Board shall furnish to any participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information—

(1) the total benefits accrued, and

(2) the nonforfeitable retirement benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable.

(b) A participant or beneficiary is not entitled to receive more than one report under subsection (a) during any twelve-month period.

PUBLIC INFORMATION

SEC. 166. (a) Except as provided in subsection (b), the contents of the descriptions, annual reports, statements, and other documents filed with the Mayor, the Council, the Speaker, and the President pro tempore pursuant to this part shall be public information, and the Mayor, the Council, the Speaker, and the President pro tempore shall each make such documents available for inspection in an appropriate location. The Mayor, the Council, the Speaker, and the President pro tempore may use the information and data in such documents for statistical and research purposes and may compile and publish such studies, analyses, reports, and surveys based thereon as may be considered appropriate.

(b) Information described in section 165(a) with respect to a participant or beneficiary of a retirement program may be disclosed only to the extent that information respecting that participant's or beneficiary's benefits under title II of the Social Security Act may be disclosed under such Act.

(c) Except to the extent that information which is protected from public disclosure under subsection (b), or which relates to personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is involved, all meetings of the Board shall be open to the public.

RETENTION OF RECORDS

SEC. 167. The Board shall maintain records on the matters required to be disclosed by this title which will provide in sufficient detail the necessary basic information and data from which the required documents may be verified, explained, or clarified, and checked for accuracy and completeness, shall include vouchers, worksheets, receipts, and applicable resolutions in such records, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain. Except to the extent that information is involved which is protected from public disclosure under section 166(b), all such records shall be available for inspection by the public.

ADDITIONAL INFORMATION

SEC. 168. (a) In addition to the information specifically required to be furnished by this part, the Board shall furnish promptly such additional information as the Mayor, the Council, the Speaker, or the President pro tempore may request.

(b) The Board shall, at regular intervals to be determined by the Board, compile and publish all regulations then in effect which were issued by the Board or the Council under this title.

CRIMINAL PENALTIES

SEC. 169. Whoever willfully violates any provision of this part (other than sections 165 and 168), or any regulation or order issued under any such provision, shall be fined not more than $5,000 or imprisoned not more than one year, or both, except that in the case of such a violation by a person not an individual, such person shall be fined not more than $100,000.

Part E—Fiduciary Responsibility; Civil Sanctions

FIDUCIARY RESPONSIBILITIES

SEC. 181. (a)(1) The Board and each member of the Board shall discharge responsibilities with respect to a Fund as a fiduciary with respect to such Fund. The Board may designate one or more other persons who exercise responsibilities with respect to a Fund to exercise such responsibilities as a fiduciary with respect to such Fund. The Board shall retain such fiduciary responsibility for the exercise of careful, skillful, prudent, and diligent oversight of any person so designated as would be exercised by a prudent individual acting in a like capacity and familiar with such matters under like circumstances.

(2) A fiduciary shall discharge his duties with respect to a Fund solely in the interest of the participants and beneficiaries and—

(A) for the exclusive purpose of providing benefits to participants and their beneficiaries;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with the provisions of law, documents, and instruments governing the retirement program to the extent that such documents and instruments are consistent with the provisions of this title.

(b) In addition to any liability which he may have under any other provision of this part, a fiduciary with respect to a Fund shall be liable for a breach of fiduciary responsibility of another fiduciary with respect to the same Fund—

(1) if he knowingly participates in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach of fiduciary responsibility;

(2) if, by his failure to comply with subsection (a)(2) in the administration of his specific responsibilities which give rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach of fiduciary responsibility; or

(3) if he has knowledge of a breach of fiduciary responsibility by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

(c) Except as provided in subsection (f), a fiduciary with respect to a Fund shall not cause the Fund to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(1) sale or exchange, or leasing, of any property between the Fund and a party in interest;

(2) lending of money or other extension of credit between the Fund and a party in interest;

(3) furnishing of goods, services, or facilities between the Fund and a party in interest; or

(4) transfer to, or use by or for the benefit of, a party in interest, of any assets of the Fund.

(d) A fiduciary with respect to a Fund shall not—

(1) deal with the assets of the Fund in his own interest or for his own account;

(2) in his individual or in any other capacity act in any transaction involving the Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries; or

(3) receive any consideration for his own personal account from any party dealing with such Fund in connection with a transaction involving the assets of the Fund.

(e) A transfer of real or personal property by a party in interest to a Fund shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the Fund assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the ten-year period ending on the date of the transfer.

(f) The prohibitions provided in subsection (c) shall not apply to any of the following transactions:

(1) Contracting or making reasonable arrangements with a party in interest for office space, or legal, accounting, or other services necessary for the establishment or operation of the Fund, if no more than reasonable compensation is paid therefor.

(2) The investment of all or part of a Fund's assets in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund and if such investment is expressly authorized by regulations of the Board or by a fiduciary (other than such bank or institution or affiliate thereof) who is expressly empowered by the Board to make such investment.

(3) The providing of any ancillary service by a bank or similar financial institution supervised by the United States or a State if such bank or other institution is a fiduciary of such Fund and if—

(A) such bank or similar financial institution has adopted adequate internal safeguards which assure that the providing of such ancillary service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority, and

(B) the extent to which such ancillary service is provided is subject to specific guidelines issued by such bank or similar financial institution (as determined by the Mayor after consultation with Federal and State supervisory authority), and adherence to such guidelines would reasonably preclude such bank or similar financial institution from providing such ancillary service (i) in an excessive or unreasonable manner, and (ii) in a manner that would be inconsistent with the best interests of participants and beneficiaries of the retirement program. Such ancillary services shall not be provided at more than reasonable compensation.

(4) The exercise of a privilege to convert securities, to the extent provided in regulations of the Council, but only if the Fund receives no less than adequate consideration pursuant to such conversion.

(5) Any transaction between a Fund and a common or collective trust fund or pooled investment fund maintained by a party in interest which is a bank or trust company supervised by a State or Federal agency, or a pooled investment fund of an insurance company qualified to do business in a State, if—

(A) the transaction is a sale or purchase of an interest in the Fund;

(B) the bank, trust company, or insurance company receives not more than reasonable compensation; and

(C) such transaction is expressly permitted by the Board, or by a fiduciary (other than the bank, trust company, insurance company, or an affiliate thereof) who has authority to manage and control the assets of the Fund.

(g) Nothing in subsection (c) shall be construed to prohibit any fiduciary from—

(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the retirement program, so long as the benefit is computed and paid on a basis which is consistent with the terms of the retirement program as applied to all other participants and beneficiaries;

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with respect to the Fund; or

(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

LIABILITY FOR BREACH OF FIDUCIARY DUTY

SEC. 182. (a) Any person who is a fiduciary with respect to a Fund who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to such Fund any losses to the Fund resulting from each such breach and to restore to such Fund any profits of such fiduciary which have been made through the use of assets of the Fund by the fiduciary and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

(b) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

EXCULPATORY PROVISIONS; INSURANCE

SEC. 183. (a) Any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

(b) Nothing in this subpart shall preclude—

(1) the Board from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;

(2) a fiduciary from purchasing insurance to cover liability under this part from and for his own account; or

(3) an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to the Fund from which the annuities and other retirement and disability benefits of the members of such employee organization are paid.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING CERTAIN POSITIONS

SEC. 184. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnapping, perjury, assault with intent to kill, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act, 1947 (29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401), or conspiracy to commit any such crime or attempt to commit any such crime, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as a fiduciary, investment counsel, agent, or employee of any Fund established by this title; or

(2) as a consultant to any Fund established by this title;

during or for five years after such conviction or after the end of such imprisonment, whichever is the later, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in paragraph (1) or (2) would not be contrary to the purposes of this title. Prior to making any such determination the Board of Parole shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board of Parole's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in paragraph (1) or (2) in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee, of any Fund established by this title, or as a consultant to any Fund established by this title, without a notice, hearing, and determination by such Board of Parole that such service would be inconsistent with the intention of this section.

(b) Whoever willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section:

(1) A person shall be deemed to have been "convicted and to be under the disability of "conviction" from the date of entry of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event.

(2) The term "consultant" means any person who, for compensation, advises or represents a Fund or who provides other assistance to such Fund concerning the operation of such Fund.

(3) A period of parole shall not be considered as part of a period of imprisonment.

BONDING

SEC. 185. (a)(1) Each fiduciary of a Fund established by this title and each person who handles funds or other property of such a Fund (hereinafter in this section referred to as "Fund official") shall be bonded as provided in this section, except that no bond shall be required of a fiduciary (or of any director, officer, or employee of such fiduciary) if such fiduciary—

(A) is a corporation organized and doing business under the law of the United States or of any State;

(B) is authorized under such laws to exercise trust powers or to conduct an insurance business;

(C) is subject to supervision or examination by Federal or State authority; and

(D) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Council, which amount shall be at least $1,000,000.

Subparagraph (D) shall apply to a bank or other financial institution which is authorized to exercise trust powers and the deposits of which are not insured by the Federal Deposit Insurance Corporation only if such bank or institution meets bonding or similar requirements under State law which the Council determines are at least equivalent to those imposed on banks by Federal law.

(2)(A) The amount of such bond shall be the lesser of 10 percent of the amount of the funds handled by such fiduciary and $500,000, except that the amount of such bond shall be at least $1,000.

(B) The Mayor, after notice and opportunity for hearing to such fiduciary and all other parties in interest to such Fund, may waive the $500,000 limit.

(C) The amount of such bond shall be set at the beginning of each fiscal year.

(3) For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by the predecessor or predecessors, if any, during the preceding reporting year, or if the Fund has no preceding reporting year under this title, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations to be prescribed by the Council.

(4) Such bond shall provide protection to the Fund against loss by reason of acts of fraud or dishonesty on the part of the Fund official, directly or through connivance with others.

(5) Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6, United States Code. Any bond shall be in a form or of a type approved by the Council, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any Fund official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any Fund without being bonded as required by subsection (a), and it shall be unlawful for any Fund official or any other person having authority to direct the performance of such functions to permit such functions, or any of them, to be performed by any Fund official with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations the Fund or any party in interest in the Fund has any control or significant financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person required to be bonded as provided in subsection (a) because he handles funds or other property of a Fund to be bonded insofar as the handling by such person of the funds or other property of such Fund is concerned.

(e) The Council shall prescribe such regulations as may be necessary to carry out the provisions of this section.

LIMITATION ON ACTIONS

SEC. 186. (a) No action may be commenced under this title with respect to a fiduciary's breach of any responsibility, duty, or obligation under this part, or with respect to a violation of this part, after the earlier of—

(1) six years after (A) the date of the last action which constituted a part of the breach or violation, or (B) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

(2) three years after the earliest date (A) on which the plaintiff had actual knowledge of the breach or violation, or (B) on which a report from which he could reasonably be expected to have obtained knowledge of such breach or violation was filed with the Mayor, the Council, the Speaker, or the President pro tempore under this title;

except that in the case of fraud or concealment, such an action may be commenced not later than six years after the date of discovery of such breach or violation.

CIVIL ENFORCEMENT

SEC. 187. (a) A civil action may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for in subsection (b) of this section, or

(B) to recover benefits due to him under the terms of his retirement program, to enforce his rights under the terms of the retirement program, or to clarify his rights to future benefits under the terms of the retirement program;

(2) by a participant or beneficiary or the District of Columbia for appropriate relief under section 182; or

(3) by a participant or beneficiary or the District of Columbia (A) to enjoin any act or practice which violates any provision of this title or the terms of a retirement program, or (B) to obtain other appropriate equitable relief (i) to redress any such violation, or (ii) to enforce any provision of this title or the terms of a retirement program.

(b) If the Board fails or refuses to comply with a request for any information which the Board is required by this title to furnish to a participant or beneficiary (unless such failure or refusal results from matters reasonably beyond the control of the Board) by mailing the information requested to the last known address of the requesting participant or beneficiary within thirty days after such request, then the Board may, in the court's discretion, be liable to such participant or beneficiary in an amount of up to $100 a day from the date of such failure or refusal, and the court may order the Board to provide the required information and may in its discretion order such other relief as it considers proper.

(c) The Board may sue and be sued under this title as an entity. Service of summons, subpena, or other legal process of a court upon the chairman of the Board in his capacity as such shall constitute service upon the Board.

(d) In any action under this title by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney's fee and costs of action to either party.

CLAIMS PROCEDURE

SEC. 188. In accordance with regulations of the Council, the Mayor shall provide to any participant or beneficiary who has a claim for benefits under a retirement program denied—

(1) adequate written notice of such denial, setting forth the specific reasons for such denial in a manner calculated to be understood by such participant or beneficiary; and

(2) a reasonable opportunity for a full and fair review of the decision denying such claim.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT BENEFITS

SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY

SEC. 201. Paragraph (17) of subsection (a) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-521 (17)) is amended—

(1) by striking out "twelve consecutive months of police or fire service," and inserting in lieu thereof "thirty-six consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, or over any twelve consecutive months of police or fire service in the case of any other member."; and

(2) by inserting "or thirty-six consecutive months, as the case may be," immediately after "twelve consecutive months" the second place it appears.

CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF EMPLOYEE ORGANIZATIONS

SEC. 202. (a) Subsection (c) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-523) is amended by redesignating paragraphs (6) and (7) of such subsection as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6)(A) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this section if such member files an election in accordance with subparagraph (B) and makes payments as described in subparagraph (C). The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this section if the period of time when such member is on approved leave is considered to be police or fire service under this paragraph.

"(B) To be eligible to have any period of approved leave described in subparagraph (A) considered to be police or fire service for purposes of this section, a member described in such subparagraph must, not later than the end of the sixty-day period commencing on the day such member enters on such approved leave or the effective date of this paragraph, whichever occurs later, file an election with the Mayor to have such period of approved leave considered to be police or fire service for purposes of this section.

"(C)(i) To have any period of approved leave described in subparagraph (A) occurring after the effective date of this section considered to be police or fire service, a member described in such subparagraph must each month deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122 (a) of such Act a sum equal to one-twelfth the annual new-entrant normal cost of the

annuity of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time such member entered on such leave.

"(ii) To have any period of approved leave described in subparagraph (A) which occurred before the effective date of this section considered to be police or fire service, a member described in such subparagraph must deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act, in a manner to be determined by the Mayor, a sum equal to the new-entrant normal cost of the annuity of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time such member entered on such leave.

"(iii) The Mayor shall make an annual determination of the new-entrant normal cost for purposes of clauses (i) and (ii) according to information supplied by the actuary retained pursuant to section 142 of the District of Columbia Retirement Reform Act.

"(D) For purposes of this paragraph, the term 'employee organization' means any organization of any kind, or any agency or employer representation committee or plan, in which members or officers of the Metropolitan Police force or the Fire Department of the District of Columbia participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

REQUIREMENTS FOR OPTIONAL RETIREMENT

SEC. 203. (a) Subsection (h)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-528(1)) is amended—

(1) by striking out "who completes twenty years of police or fire service" and inserting in lieu thereof "who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and who completes twenty-years of police or fire service and attains the age of fifty years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such ninety-day period) who completes twenty years of police or fire service."; and

(2) by striking out "twenty years: *Provided*" and inserting in lieu thereof "(A) twenty-five years, in the case of a member who becomes a member after the end of such ninety-day period, or (B) twenty years, in the case of any other member: *Provided*".

(b)(1) Paragraph (2) of subsection (h) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-528) is amended by striking out "in subsection (h)," and inserting in lieu thereof "under".

(2) Paragraph (3) of such subsection is amended by striking out "of this subsection (h)".

DISABILITY RETIREMENT

SEC. 204. (a) Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code sec. 4-527) is amended—

(1) in paragraph (2), by striking out "In any case in which the proximate cause of an injury incurred or disease contracted by a member" and inserting in lieu thereof "In any case involving a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, in which the proximate cause of an injury incurred or disease contracted by the member"; and

(2) by adding at the end thereof the following new paragraph:

"(4) A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia may not retire and receive an annuity under this subsection on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of duty unless—

"(A) in the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within thirty days after the disease was first diagnosed; or

"(B) in the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within seven days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such seven-day period, within seven days after the member became able (as determined by such Board) to report the injury.

The burden of establishing inability to report an injury in accordance with subparagraph (B) within seven days after such injury was incurred and of establishing that such injury was reported within seven days after the end of such inability shall be on the member claiming such inability. Any report under this paragraph shall include adequate medical documentation. Nothing in this paragraph shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or the Fire Department of the District of Columbia with respect to the reporting of an injury incurred or aggravated, or any disease contracted or aggravated, in the performance of duty.".

(b)(1) Subsection (f) of such Act (D.C. Code, sec. 4-526) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(1) Except as provided in paragraph (2), whenever"; and

(B) by adding at the end thereof the following new paragraph.

"(2) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subsection (g)(5)(B)(ii) of this section, except that such annuity shall not be less than 30 per centum of his basic salary at the time of retirement.".

(2) Subsection (g) of such Act, as amended by subsection (a) of this section, is further amended—

(A) in paragraph (1), by striking out "Whenever" and inserting in lieu thereof "Except as provided in paragraph (5), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(5)(A) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with subparagraph (B).

"(B)(i) In the case of any member who retires under this paragraph or paragraph (2) of subsection (f), the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

"(ii) In the case of any member described in clause (i), the Police and Firemen's Retirement and Relief Board shall determine within a reasonable time the percentage of disability for such member giving due regard to—

"(I) the nature of the injury or disease,

"(II) the percentage of impairment reported pursuant to clause (i).

"(III) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement,

"(IV) the age and years of service of the member, and

"(V) any other factors or circumstances which may affect the capacity of the member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

"(iii) The percentage of impairment or the percentage of disability for a member to whom this paragraph applies may be redetermined at any time prior to the time such member reaches the age of fifty and his annuity shall be adjusted accordingly.

"(iv) The annuity of a member who is retired under this paragraph shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with clause (ii), except that such annuity shall not be less than 40 per centum of his basic salary at the time of retirement.

"(v) For purposes of this paragraph—

"(I) the term 'impairment' means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved; and

"(II) the term 'disability' means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment."

(c) The amendment made by paragraph (1) of subsection (a) shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who apply for disability retirement under subsection (g) of the Policemen and Firemen's Retirement and Disability Act prior to the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (2) of subsection (a) shall not apply with respect to injuries incurred or diseases first diagnosed prior to the end of such ninety-day period.

RECOVERY FROM DISABILITY

SEC. 205. (a)(1) Subsection (j)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-530(1)) is amended in the first sentence by striking out "shall cease" and all that follows in such

sentence and inserting in lieu thereof "shall cease—

"(A) upon reemployment in the department from which he was retired,

"(B) forty-five days from the date of the medical examination showing such recovery,

"(C) forty-five days from the date of the determination that he is so restored, or

"(D) in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement,

whichever is earliest.".

(2)(A) Such subsection (j)(1) is amended in the second sentence by striking out "in each of two succeeding calendar years" and inserting in lieu thereof ", in each of two succeeding calendar years in the case of an annuitant who was an officer or member of the United States Park Police force, Executive Protection Service, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,".

(B) Subsection (j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3)(A) If any annuitant who is retired under subsection (f) or (g), who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, receives, directly or indirectly, income from wages or self-employment, or both, in any calendar year after the calendar year in which he retired—

"(i) in an amount in excess of the difference between 70 per centum of the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be reduced by 50 cents for each $1 of such income received during such year in excess of such difference; and

"(ii) in an amount in excess of the difference between the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be further reduced by 20 cents for each $1 of such income received during such year in excess of such difference.

"(B) For the purposes of subparagraph (A), the term 'current earnings limitation', with respect to an annuitant, means the greater of—

"(i) the current annual salary for the position which such annuitant held immediately prior to the retirement of such annuitant; or

"(ii) the current entry level salary for active officers and members, divided by .7.

"(C) The reductions provided for in subparagraph (A) shall be made as follows:

"(i) Such reductions shall be pro rated over a period of twelve consecutive months, with equal amounts withheld from each payment of annuity during such twelve-month period.

"(ii) The twelve-month period during which such reduction is made shall begin as soon after the end of the calendar year involved as is administratively practicable (as determined in accordance with regulations which the Mayor of the District of Columbia shall promulgate).

"(D) If the Mayor of the District of Columbia determines that the level of income of an annuitant whose annuity would otherwise be reduced in accordance with subparagraph (A) has decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the Mayor may authorize the withholding during such period, or any portion thereof, of such lesser amount than the amount prescribed in such subparagraph as the Mayor considers appropriate or the Mayor may waive the requirements of subparagraph (A) if he finds that circumstances justify such waiver.

"(E)(i) Any annuitant who is retired under subsection (f) or (g) and who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall, at such times as the Mayor of the District of Columbia shall by regulation prescribe, submit to the Mayor a notarized statement containing such information as the Mayor shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the Mayor may require such annuitant to submit to the Mayor a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-employment, or both, as the Mayor deems appropriate.

"(ii) Any annuitant described in clause (i) who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such clause shall forfeit all rights to his disability annuity. Any such annuitant who refuses or otherwise willfully fails to timely submit such statement as required by this subsection, payment of the annuity to such annuitant shall cease and such annuitant shall not be eligible to receive such annuity or part thereof for the period beginning on the date after the final day for timely filing of such statement and ending on the date on which the Mayor receives such statement. Nothing in this clause shall affect any rights to a survivor's annuity under subsection (k) based upon the service of such annuitant.".

(b) Subsection (m)(2) of such Act (D.C. Code, sec. 4–533(2)) is amended—

(1) by inserting "(A)" before "If a member";

(2) by striking out the last sentence of such subsection and adding after "is based." the following: "The Commissioner shall not require employment questionnaires under subsection (j)(3)(C) or the medical examination of such member under subparagraph (B) after such member reaches the age of fifty."; and

(3) by adding at the end of such subsection the following:

"(B) The Mayor shall, by regulation, require any annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who retired before, on, or after the date of the enactment of the District of Columbia Retirement Reform Act under subsection (f) or (g) of this section to undergo, during each twelve-month period following the effective date of this subparagraph, at least one medical examination of the disability upon which the annuitant's retirement under subsection (f) or (g) is based. No such annuitant shall be required under such regulations to undergo a medical examination during any such twelve-month period during which the annuitant was required to undergo a medical examination under this subsection in connection with such annuitant's employment. Such annual examination shall be carried out by the Board of Police and Fire Surgeons or by a physician designated by the Board.

"(C) Such regulations shall further provide for notification by the Board of Police and Fire Surgeons to each such annuitant as to the time and place for such examination and the consequences of failure to appear and submit to such examination.

"(D) In any case in which the requirement to undergo a medical examination under this section would impose on an annuitant an undue hardship because of the physical or mental condition of such annuitant, the Mayor, by regulation, shall provide other means sufficient to determine the continuance of the disability on which such annuitant's retirement under subsection (f) or (g) is based.

"(E) Such regulations shall further provide that, in any case involving any such member so retired who refuses or otherwise fails to undergo any medical exam required by this section, payment of the annuity to such member shall cease and such member shall not be eligible to receive such annuity or any part thereof for any period commencing on the day next following the day on which such member was required to undergo such examination, and ending on the date on which such member undergoes such examination. Nothing in this paragraph shall be construed as affecting any rights to a survivor's annuity under subsection (k) based upon the service of such member.".

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2)(B) of subsection (a) shall apply with respect to income from wages or self-employment, or both, received directly or indirectly during calendar year 1979 or the calendar year after the year in which the member retires, whichever is later, and any calendar year thereafter.

SURVIVORS' ANNUITIES

SEC. 206. (a)(1) Subsection (k) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531) is amended—

(A) in paragraph (2)—

(i) by inserting "(A)" immediately after "40 per centum" the second place it appears, and

(ii) by striking out "computed," and inserting in lieu thereof "computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or (B) of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia;"; and

(B) by amending paragraph (3) to read as follows:

"(3) Each surviving child or student-child of any member who dies before retirement, or of any former member who does after retirement, shall be entitled to receive an annuity equal to the smallest of—

"(A) in the case of a member or former member who is survived by a wife or husband—

"(i) 60 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia

divided by the number of eligible children;

"(ii) $1,548; or

"(iii) $4,644 divided by the number of eligible children; and

"(B) in the case of a member or former member who is not survived by a wife or husband—

"(i) 75 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,860; or

"(iii) $5,580 divided by the number of eligible children.".

(2) Subsection (a) of such Act (D.C. Code, sec. 4–521) is amended—

(A) by striking out the period at the end of paragraph (4) of such subsection and inserting in lieu thereof the following: ", in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if—

"(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

"(B) he is the father of issue by such marriage."; and

(B) by inserting the following new paragraph immediately after paragraph (17):

"(18) The term 'adjusted average pay' means the average pay of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one-tenth of 1 per centum in the Consumer Price Index for All Urban Consumers) published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies.".

(b) The amendments made by subsection (a) shall apply with respect to survivor annuities under the Policemen and Firemen's Retirement and Disability Act for survivors of officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia which commence on or after the first day of the first month which begins after the end of the ninety-day period beginning on the date of enactment of this Act.

DEFERRED ANNUITIES

SEC. 207. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsection (l) through (r) as subsections (m) through (s), respectively; and

(B) by inserting immediately after subsection (k) the following new subsection:

"DEFERRED ANNUITIES

"(l)(1) Except as provided in paragraph (2), any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department, except for retirement under subsection (f), (g), or (h), shall be entitled to an annuity commencing on the first day of the month during which such member attains the age of fifty-five or on the first day of the first month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2½ per centum of his average pay for each year of service up to twenty years of service and at the rate of 3 per centum of his average pay for each year of service after twenty years of service, or, in the case of a member who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, after twenty-five years of service, except that such annuity may not exceed 80 per centum of the average pay of such member.

"(2)(A) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who complete five years of police or fire service and who is thereafter separated from his department (other than a member who retires under subsection (f), (g), or (h)) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this section. Receipt of such refund by the member shall void all annuity rights under this section.

"(B)(i) Any member who, by electing to receive a refund under subparagraph (A), loses annuity rights under this section, may reestablish all such rights at any time prior to attaining the age of fifty-five by redepositing the amount of such refund plus interest computer in accordance with paragraph (3).

"(ii) If any member who receives a refund under subparagraph (A) is subsequently reappointed to any department whose members come under this section and elects, at the time of such reappointment, to redeposit the amount refunded to him under subparagraph (A) plus interest computed in accordance with paragraph (3), then credit shall be allowed under this section for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed 60 monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

"(3) The interest which is required by paragraphs (2)(B)(i) and (ii) of this subsection and by paragraph (2)(B) of subsection (d) to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund if he makes a lump sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on redeposits under this section.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund.

"(C) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(2) Subsection (k) of such Act (D.C. Code, 4–531), as amended by section 206 of this Act, is further amended—

(A) in paragraph (2)—

(i) by striking out "or" the first place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,";

(B) in paragraph (3)—

(i) by striking out "or" the second place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,"; and

(C) in paragraph (6)—

(i) by striking out ", may," in the first sentence and inserting in lieu thereof "may",

(ii) by inserting ", and any member entitled to receive an annuity under subsection (l) of this section may at the time such annuity commences," immediately after "such retirement," in the first sentence,

(iii) by striking out "the retired annuitant's" in the first sentence and inserting in lieu thereof "such member's",

(iv) by striking out "the retiring" in the proviso in the first sentence and inserting in lieu thereof "such",

(v) by striking out "retiring" in the second and fourth sentences,

(vi) by striking out "retirement" in the last sentence and inserting in lieu thereof "election", and

(vii) by striking out "or (h)" in the last sentence and inserting in lieu thereof "(h), or (l), as the case may be".

(b) The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON REFUNDS AND ON DEPOSITS FOR PRIOR SERVICE CREDIT

SEC. 208. (a)(1) Subsection (d) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524) is amended—

(A) in paragraph (2)—

(i) by striking out "Any member coming under the provisions of this section" and inserting in lieu thereof "(A) any member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division,"; and

(ii) by adding at the end of such paragraph the following new subparagraph,

"(B) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than five years of police or fire service who is separated from his department, except for retirement under subsection (f), (g), or (h), shall be refunded the amount of the deductions made from his salary under this section. The receipt of payment of such deductions by such member shall void all annuity rights under this section, except that if such member is subsequently reappointed to any department whose members come under this section and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding

sentence plus interest computed in accordance with subsection (1)(3), then credit shall be allowed under this section for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed 60 monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.";

(B) in the proviso at the end of paragraph (3), by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto"; and

(C) in paragraph (4)—

(i) by striking out "after retirement", and

(ii) in the proviso at the end of such paragraph by inserting ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto" immediately before the period.

(2) Paragraph (5) of subsection (c) of such Act (D.C. Code, sec. 4–523(5)) is amended to read as follows:

"(5)(A) A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in subsection (a)(1) of this section, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum, plus interest computed in accordance with subparagraph (B), with the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act. All other members shall deposit such sums with the Mayor of the District of Columbia for credit to the revenues of the District of Columbia. If the member so elects, he may deposit the total amount of such refund in monthly installments not exceeding twenty-four, except that in the case of a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, such monthly installments shall be of equal amounts. No deposit shall be required for days of unused sick leave credited under subsection (h) of this section.

"(B) Interest required on deposits under this paragraph for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

"(i) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits under this paragraph.

"(ii) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(iii) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendments made by paragraph (2) of subsection (a) shall not apply with respect to deposits made, in whole or in part, prior to the end of such ninety-day period.

COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 209. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (m) through (s), as redesignated by section 207(a)(1)(A) of this Act, as subsections (n) through (t), respectively; and

(B) by inserting immediately after subsection (l), as added by the amendment made by section 207(a)(1)(B) of this Act, the following new subsection:

"COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

"(m)(1) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this determination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 per centum for three consecutive months over the price index for the base month each annuity payable under this section which—

"(A) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, and

"(B) has a commencing date on or before such effective date,

shall be increased by 1 per centum plus the per centum rise in the price index. For purposes of this paragraph, the term 'base month' means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this paragraph, except that, until the first cost-of-living annuity increase under this paragraph, the base month shall be the last month which was the base month for purposes of subsection (k)(7) before its repeal by section 209(b) of the District of Columbia Retirement Reform Act.

"(2) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, or to a survivor of any such member, the Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year,

"(3) If in any year the per centum change determined under either paragraph (2)(A) or (2)(B) indicated a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

"(4) The monthly installment of annuity after adjustment under this subsection shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

"(5) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics.".

(2) Subsections (m)(2) and (3) of the Policemen and Firemen's Retirement and Disability Act, as added by the amendment made by paragraph (1)(B) of this subsection, shall apply (A) to any increase after the effective date of such amendment in annuities payable under subsection (k) of such Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change for the purpose of such an increase, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month which was the base month for purposes of subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act before the repeal of such subsection by subsection (b) of this section, and (B) to any increase in each annuity payable under such Act having a commencing date after the effective date of such amendment.

(b) Subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531(7)) is repealed.

(c) Section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (D.C. Code, sec. 4–518) is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.".

(d) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

SEC. 210. Subsection (c) of the Policemen and Firemen's Retirement and Disability Act, as amended by section 205(b) of this Act and redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–533), is amended by adding at the end thereof the following new paragraph:

"(3) Except in a case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than $100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this section.".

COMMENCING DATE OF PAYMENT OF ANNUITIES

SEC. 211. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–534), is amended by inserting after "accrues monthly" in paragraph (1) the following: "(except that an annuity accrues over any portion of a month after the commencing date of such annuity but before the first day of the next month and is payable for such month in an amount pro rated in a manner to be determined by the Mayor)".

PAYMENT OF ANNUITIES TO MINORS AND MENTAL INCOMPETENTS

SEC. 212. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act and amended by section 211 of this Act (D.C. Code, sec. 4–534), is amended by redesignating paragraphs (2) and (3) of such subsection as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Mayor, is responsible for the care of the claimant, and the payment bars recovery by any other person.".

IMPROVEMENTS IN ADMINISTRATION OF DISABILITY RETIREMENTS

SEC. 213. Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (as amended by section 204 of this Act) is further amended by adding at the end thereof the following new paragraphs:

"(6) Not later than ninety days after the date of the enactment of the District of Columbia Retirement Reform Act, the Board of Police and Fire Surgeons shall submit to the Mayor recommendations for regulations to establish specific criteria for determining whether an injury was incurred, or a disease was contracted, in the performance of duty and whether an injury or disease was aggravated in the performance of duty. The Mayor shall promulgate regulations establishing such criteria in a timely manner based on the recommendations of the Board.

"(7)(A) In making determinations under this subsection and under subsection (f), the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall make full use of the medical resources in the District of Columbia and shall make the widest practical use of the medical expertise available to them consistent with fair and even administration of this Act.

"(B) Not later than ninety days after the date of the enactment of the District of Columbia Retirement Reform Act, the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall each submit to the Mayor recommendations for regulations to carry out the requirements of subparagraph (A). The Mayor shall, in a timely manner and based on the recommendations of such Boards, promulgate regulations to carry out the requirements of such subparagraph.

"(C) Failure to promulgate such regulations, or failure to comply with such regulations, shall not invalidate any decision of the Mayor or the Police and Firemen's Retirement and Relief Board with respect to the retirement of any individual.".

RESTRICTION ON RETIRED POLICE OFFICERS AND FIRE FIGHTERS RECEIVING ANNUITY WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA GOVERNMENT

SEC. 214. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act (as redesignated by section 209(a)(1)(A) and amended by section 211) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, the salary of any annuitant who first becomes entitled to an annuity under this section after the date of the enactment of the District of Columbia Retirement Reform Act and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such annuitant's annuity under this section and compensation for such employment is equal to the salary otherwise payable for the position held by such annuitant.".

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

COST-OF-LIVING ADJUSTMENTS OF TEACHERS' ANNUITIES

SEC. 251. (a)(1) Section 21(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739a(b)), is amended to read as follows:

"(b)(1) The Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the per centum change determined under either paragaph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this pargraph shall, effective such commencing date, be increased by such per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum, adjusted to the nearest one-tenth of 1 per centum.".

(2) The amendment made by paragraph (1) shall apply to any increase after the effective date of such amendment in annuities payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946, or from the District of Columbia Teachers' Retirement Fund established by section 123(a) of this Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month before such effective date for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under section 21(b) of such Act of August 7, 1946, as in effect immediately before the amendment of such section by paragraph (1).

(b) Section 21(c) of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739a(c)), is amended—

(1) by striking out "governed by the commencing date of each annuity payable from the fund as of the effective date of an increase" and inserting in lieu thereof "as provided in subsection (b)(2)"; and

(2) by striking out "from the fund" in paragraph (1) of such section.

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

COST-OF-LIVING ADJUSTMENTS OF JUDGES' ANNUITIES

SEC. 252. (a) Section 11–1571(a) of title 11 of the District of Columbia Code is amended by inserting ", or who, before the next such increase first becomes payable under such section, receives such salary or annuity, either" immediately after "salary or annuity".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

SEC. 253. (a)(1) The first section of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–721), is amended—

(A) in the first paragraph by inserting "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately before the period at the end of the proviso in the second sentence; and

(B) in the second paragraph—

(i) in the first sentence—

(I) by striking out "at 3 per centum per annum compounded as of December 31 of each year" and inserting in lieu thereof "computed in accordance with section 24(a) of this Act" and

(II) by striking out "an interest rate of 3 per centum per annum compounded annually" and inserting in lieu thereof "the interest rate computed in accordance with section 24(a) of this Act"; and

(ii) in the second sentence, by inserting "to the date of such death or separation or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "are made".

(2) Section 1A(b) of such Act (D.C. Code, sec. 31–721a(b)) is amended by striking out "with interest at 4 per centum compounded annually" in the first sentence and inserting in lieu thereof ", with interest computed in accordance with section 24(b) of this Act,".

(3) Section 8 of such Act (D.C. Code, sec. 31–728) is amended in the first paragraph—

(A) in the second proviso in the sixth sentence—

(i) by striking out "the accumulated contributions and interest" and inserting in lieu thereof "(1) the accumulated contributions", and

(ii) by inserting immediately before the

colon at the end of such proviso ", and (2) interest thereon computed in accordance with section 24(b) of this Act"; and

(B) in the seventh sentence, by striking out "with interest at 3 per centum per annum compounded annually".

(4) Section 9(a) of such Act (D.C. Code, sec. 31-729(a)) is amended—

(A) in the first proviso—

(i) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "thereon", and

(ii) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "interest" the second time it appears;

(B) in the second proviso, by inserting "(including the interest thereon) plus interest computed in accordance with section 24(c) of this Act" immediately before the colon at the end of such proviso; and

(C) in the third proviso, by striking out ", with interest at 3 per centum compounded annually".

(5) Section 10(f)(3) of such Act (D.C. Code, sec. 31-730(f)(3)) is amended by inserting after "interest" the first time it appears ", earned prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act.".

(6) Such Act is further amended by adding at the end thereof the following new section:

"SEC. 24. (a) For purposes of determining the amount available to purchase an annuity under the second paragraph of the first section of this Act, interest shall be deemed to accrue on deposits at the following rates for the following periods:

"(1) Prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, interest shall accrue at the rate of 3 per centum per annum compounded as of December 31 of each year.

"(2) For the period beginning at the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and ending on September 30, 1981, interest shall accrue at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum).

"(3) After October 1, 1981, interest shall accrue at an annual rate which (as determined by the Mayor of the District of Columbia) is equal to the average annual rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund established by section 123 of the District of Columbia Retirement Reform Act.

"(b) Interest required on deposits under section 1A or 8 of this Act or under the Act of June 27, 1960, shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

"(c) Interest required on deposits under section 9(a) of this Act shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31-745), is amended—

(1) by striking out "and interest"; and

(2) by inserting immediately before the colon at the beginning of the proviso "plus interest computed in accordance with section 24(b) of such Act of August 7, 1946".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON JUDGES' REDEPOSITS

SEC. 254. (a) Subchapter III of chapter 15 of title 11 of the District of Columbia Code is amended—

(1) in section 11-1561—

(A) in paragraph (9)(C), by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier", and

(B) in paragraph (10)(C), by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier"; and

(2) in section 11-1569(c), by inserting "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "such judge" and before the comma.

(b) Such subchapter III is further amended—

(1) in section 11-1563(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11-1564(d)(2)";

(2) by amending section 11-1564(d)(2) to read as follows:

"(2) Interest on deposits under this subsection and section 11-1567(b) shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Judges' Retirement Fund (established by section 124 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(i) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits;

"(ii) for so much of any such period which occurs between January 1, 1948, and the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits; and

"(iii) for so much of any such period which occurs prior to January 1, 1948, the rate of 4 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day

of the month which precedes the month during which the deposit is made.

"(C) If a judge elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

Interest may not be charged for a period of separation from the service which began before October 31, 1956."; and

(3) in section 11-1567(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11-1564(d)(2)".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT OF PREDECEASED BENEFICIARIES

SEC. 255. (a) Section 5(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-725(b)), is amended by adding at the end thereof the following new paragraph:

"(4) In the event an individual designated as a surviving widow or widower or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1978, or at the end of the ninety-day period beginning on the date of the enactment of this Act, whichever is later.

TERMINATION OF TEACHERS' DISABILITY ANNUITIES BASED ON OUTSIDE EARNED INCOME

SEC. 256. Section 4 of the Act entitled "An Act for retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-724), is amended by inserting after the second paragraph thereof the following new paragraph:

"Notwithstanding the foregoing provisions of this section, if during any calendar year an annuitant who is receiving a disability annuity under this section and who has not reached retirement age (as defined in section (3) receives income from wages or self-employment, or both, in an amount not less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, the annuity of such annuitant shall be terminated by the Board of Education effective January 1 of the first calendar year after such calendar year, except that this sentence shall not apply with respect to income received during the year in which the annuitant retired. The annuity of any annuitant whose annuity is terminated under the preceding sentence shall be restored, at the rate which would have been in effect but for such termination, effective January 1 of any year following a year during which the amount of such annuitant's income from wages and self-employment is less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, or effective immediately if the Board of Education determines that, outside of normal fluctuations in such annuitant's income, such annuitant's income is reduced to a level which on an annual basis is less than 80 per centum of such current rate of pay.".

RESTRICTION ON RETIRED TEACHERS RECEIVING ANNUITY WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA GOVERNMENT

SEC. 257. The Act entitled "An Act for retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-721 et seq.), is amended by adding after section 24 (as added by section 253(a)(6)) the following new section:

"SEC. 25. Notwithstanding any other provision of law, the salary of any retired teacher who first becomes entitled to an annuity under this Act after the date of the enactment of the District of Columbia Retirement Reform Act and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such teacher's annuity under this Act and compensation for such employment is equal to the salary otherwise payable for the position held by such teacher.".

And the House agree to the same.

RONALD V. DELLUMS,
WALTER E. FAUNTROY,
R. L. MAZZOLI,
STEWART B. MCKINNEY,
MARC L. MARKS,
Managers on the Part of the House.

ABE RIBICOFF,
TOM EAGLETON,
CARL LEVIN,
CHARLES MCC. MATHIAS, JR.,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate, at the Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1037), submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying Conference Report:

The House amendment struck out all the Senate bill after the enacting clause, and inserted a substitute text.

The Committee of Conference has agreed to a substitute for both the Senate bill and the House amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the differences are noted below:

EFFECTIVE DATE OF FUNDING

The Senate bill began payments by the Federal Government to the pension funds established in this legislation in fiscal year 1981.

The House amendment began Federal payments in fiscal year 1980.

The conference substitute (Section 144(a)) conforms to the House amendment.

DEFINITION OF FEDERAL SHARE

The Senate bill defined the "Federal share" of the payments to be made to the pension funds to cover the unfunded liability for all retirements—service and disability—prior to January 2, 1975, the effective date of Home Rule for the District, with interest accrued to October 1, 1978.

The House amendment defined the "Federal share" to include 75% of the unfunded liability for service retirements and 33⅓% of unfunded liability for the disability retirements, prior to the effective date of Home Rule, with interest accrued to October 1, 1979.

The conference substitute (Sec. 144(e)(2)) commits the Federal Government to provide funding for 80% of the unfunded liability for service retirements and 33⅓% of the unfunded liability for disability retirements as of the date of Home Rule, with interest accrued to October 1, 1979.

The House and Senate conferees continue to maintain the view that a proper statement of Federal responsibility would require funding of the unfunded liability for all service retirements prior to the effective date of Home Rule. However, the conferees agreed to accept a compromise by which the Federal contribution would cover only 80% of the unfunded liability for service retirements, with a commensurate reduction in total funding, in order to produce legislation which could be enacted into law.

AUTHORIZED APPROPRIATIONS

As the Federal payment to the Funds, the Senate bill authorized total appropriations of $1.625 billion between fiscal year 1981 and fiscal year 2005. The House amendment authorized a total of $1.244 billion between fiscal year 1980 and fiscal year 2004. The conference substitute authorizes total appropriations of $1,301,750,000 for fiscal years 1980 through 2004.

On a yearly basis, the Federal payment authorized in the Senate bill was $65 million for fiscal year 1981 and each succeeding year through 2005. The House amendment authorized $49.745 million for fiscal year 1980 and each succeeding year through 2004.

The conference substitute provides (Sec. 144(a)) for an authorized appropriation of $52.07 million as the Federal payment for fiscal year 1980 and each succeeding year through fiscal year 2004. Of that annual sum, $34,170,000 will go to the Police Officers' and Fire Fighters' Retirement Fund, $17,680,000 will go to the Teachers' Retirement Fund, and $220,000 will go to the Judges' Retirement Fund.

DEFINITION OF "CURRENT VALUE"

The House amendment defined "current value of the assets in the fund" so as to exclude any effects in the second and succeeding years of changes in the unfunded liabilities that trigger additional District payments under Section 142(b)(1)(c)(i).

The Senate bill had no comparable provision.

The conference substitute (Sec. 142(a)(3)) conforms to the House amendment.

REDUCTION IN FEDERAL CONTRIBUTION

The Senate bill required a reduction in the Federal contribution in any year when the estimated future cost of disability retirements for police officers and fire fighters, hired prior to 90 days after the enactment of this legislation ("current employees"), exceeds by more than two percent the estimated cost of disability retirements for that same group of employees, if they were subject to the various reforms made by this legislation which apply only to employees hired in the future, more than 90 days after the enactment of this legislation ("future hires").

The Senate bill provided that if such a reduction is required, it would be calculated by taking the ratio of (a) the number of District of Columbia police officers and fire fighters who retired on disability in the preceding calendar year to (b) the total number of police officers and fire fighters who first became members prior to the end of the 90-day period beginning on the date of enactment of this Act and who retired, died, withdrew by taking a lump sum payment, or separated from active duty while eligible for a deferred annuity during such year. This ratio, multiplied by the Federal contribution to the Police Officers and Fire Fighters' Retirement Fund authorized for that year, would equal the amount that the Federal contribution would be reduced. The House amendment required a reduction in the Federal contribution by the percentage difference between the rate of disability retirements in the District of Columbia and the average rate of disability retirements in the five United States cities having the largest combined police and fire departments.

The conference substitute (Sec. 145) accepts the Senate version with an amendment intended to guide the actuary in making his determinations. It is the conferees' intention that the actuary first project, for all future years, based on the actual experience through the previous year, the number of retirements, the percentage of retirements for disability, and the average cost of disabil-

ity retirement. Then, using an appropriate discount rate the actuary shall determine the present value of the cost of these projected disability retirements.

Second, the actuary is to repeat these calculations, but altering the projections of number of retirements, percentage of retirements for disability, and costs of retirements, to reflect what the actuary estimates might have occurred or might occur under subsection f(2) or g(5) of the Policemen and Firemen's Retirement and Disability Act as amended by this Act.

In making these latter estimates the conferees assume that the actuary will make such assumptions and use such data from comparable retirement programs as are consistent with sound actuarial practice.

In computing the ratio of the above computed costs and in comparing it to the trigger of 1.02, the actuary shall make such allowance for age specific and other bias, error of estimate, and other factors as would be consistent with sound actuarial practice. The conferees understand that such allowances may in some cases preclude a conclusion that the ratio can be said to be greater than 1.02.

This "trigger mechanism" was designed and accepted as a compromise during the House-Senate conference on last year's pension bill (H.R. 6536), and it is carried forward by the conferees this year. This legislation represents a policy decision that some of the reforms made in the disability retirement system will apply only to future hires, rather than to current employees. At the same time, the conferees wanted to insure that the retirement program would be tightly managed and the costs would be strictly controlled. This "trigger mechanism" exposes the District of Columbia to the possibility of a substantial reduction in the Federal contribution if the costs of the system for current employees substantially exceed those which would have occurred under the system with the reforms in effect.

The conferees recognize that this "trigger mechanism" is stringent. The Senate conferees, the majority of whom insisted on its inclusion, expressed their willingness to reevaluate the provision if actual experience proved it to be unduly harsh or unworkable in any way.

DETERMINATION OF DIFFERENCE BETWEEN FEDERAL CONTRIBUTION AND TOTAL UNFUNDED LIABILITY

The House amendment required the enrolled actuary to include in his annual report to the District of Columbia Retirement Board a calculation of the difference between (1) the total unfunded liability as of the date of Home Rule, and (2) the sum of (a) the current value of previous Federal contributions to the retirement funds; (b) the amount which the Federal Government is obligated by this legislation to contribute to the funds in the future; and (c), in the cases of the Teachers' and Judges' Retirement Funds, the current value of any assets in the predecessors to these funds as of the date of Home Rule.

The Senate bill contained no comparable provision.

The conference substitute (Sec. 142(a)(3)(G)) conforms to the House amendment.

FAILURE OF FEDERAL GOVERNMENT TO MAKE ANNUAL PAYMENT

The House amendment provided that the payment to each fund by the District Government for any year shall not be increased to compensate for any failure of the Federal Government to make all or any part of the Federal payment to such fund for that fiscal year.

The Senate bill contained no such provision.

The conference substitute (Sec. 142(b)(1)(C)(ii)) provides that the District Government shall not be required to increase its payment to compensate for any failure of the Federal Government to make its full payment, except in the case where the Federal contribution is reduced because of estimated excessive costs of disability retirements under the trigger mechanism of Section 145, or because of the failure of the District Government to provide the required reports under Section 144(d). Reductions in the Federal payment resulting from the "trigger mechanism" or failure to file required reports are intended to penalize the District; in such a case, the District Government will have to make up for any reduction in the Federal payment to the retirement funds.

TERMINATION OF DISABILITY BENEFITS

The Senate bill provided that an individual who has retired on disability shall cease to receive disability benefits on the earliest of the following: (1) upon reemployment in the department from which he was retired, (2) one year from the date of the medical examination showing recovery, (3) one year from the date of a determination that his earning capacity has been restored (based on earnings in another job), or (4) in the case of a disabled officer of the police force or fire department hired in the future, upon a refusal by that person to accept an offer of reemployment in the department from which he was retired.

The House amendment included the same provisions concerning the effect of reemployment, or the failure (of future hires) to accept reemployment, but provided that disability benefits would terminate on the date of the medical examination showing recovery, or 45 days after the date of the determination that earning capacity was restored.

The conference substitute (Sec. 205(a)) adopts the House approach on the disputed points, with a change requiring that disability benefits be terminated 45 days after the medical examination rather than on the date of such medical examination.

PROHIBITION AGAINST DOUBLE-DIPPING

The House amendment prohibits "double-dipping" by individuals who become eligible for retirement benefits after the enactment of this legislation by providing that if such individuals are subsequently employed by the District of Columbia, their salaries shall be reduced by an amount necessary to make the sum of the salary and the retirement benefit equal to the salary ordinarily payable for the position.

The Senate bill had no such provision.

The conference substitute (Sections 214 and 257) accepts the House provision.

STANDARDS FOR DISABILITY AWARDS

The House amendment provided that, not later than 90 days after the date of enactment of this legislation, the Board of Police and Fire Surgeons shall submit to the Mayor recommendations for regulations to set standards for disability awards and that the Mayor shall promulgate regulations establishing such criteria in a timely manner based on the recommendations of the Board.

The Senate bill contained no such provision.

The conference substitute accepts the House provision (Sec. 213).

RONALD V. DELLUMS,
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Managers on the Part of the House.

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TED STEVENS,
Managers on the Part of the Senate.

NORTHEAST CATHOLIC ALUMNI ASSOCIATION OF PHILADELPHIA CELEBRATES 50TH ANNIVERSARY

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, on June 10, 1929, 97 young men from the Northeast Catholic High School Class of 1929 joined to form the Northeast Catholic Alumni Association. Firty years later, on October 21, 1979, over 500 alumni of Northeast Catholic celebrated the half century of outstanding service that their organization has provided in support of Catholic education. The motto of the association is most appropriate—Vestigia nulla retrorsum—Never a backward step. A look at the illustrious history of this organization reflects that its members have been true to its motto.

Nothing epitomizes the Falcon spirit of devotion to their alma mater more than the establishment of the Northeast Catholic Alumni Memorial Scholarship Fund. Taking advantage of the largest active Catholic high school alumni membership in the United States, the Northeast Catholic Alumni Association will be awarding over $20,000 annually to the school, and children of the association so that Northeast Catholic may continue to offer an outstanding education to those students in financial need. Northeast Catholic High School has been providing the city of Philadelphia and our Nation with leaders and high achievers in almost every profession. Alumni includes Bill Keane, cartoonist of the "Family Circus"; Jack Whitaker, CBS vice president for sports and prominent TV sportscaster; Frank "Bucko" Kilroy, former star defense guard for the Philadelphia Eagles and now general manager for the New England Patriots; Bishop Edward J. Scholotterback, former Vicar Apostolic of Southwest Africa; Joseph T. Murphy, judge, court of common pleas; Francis J. "Tim" Dunleavy, president of the International Telephone & Telegraph Corp.; Nicholas Giordano, executive vice president of the Philadelphia, Baltimore, Washington Stock Exchange; Thomas McNulty, business manager of the Plumbers' Union; Wendell Young, president, Retail Clerks Union Local 1357, and others far too numerous to mention. Whatever Northeast Catholic's secret of success is, the association's scholarship fund will help potential students from all economic stratas take advantage of it.

Mr. Speaker, I ask my distinguished colleagues in the House of Representatives to join me in saluting the Northeast Catholic Alumni Association on this, their 50th anniversary.

To President Ray Zegarski, Leonard Knobbs and the committee, "a job well done" (the Falcon).

FURTHER LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this time to inquire of the distinguished acting majority leader of any adjustments in the program that was previously announced during the day.

Mr. MINETA. Mr. Speaker, if the gentleman will yield, on Wednesday, following the consideration on that day of the Welfare Reform Amendments of 1979 and the Federal Trade Commission authorization bill, we will have consideration of H.R. 5192, Education Act amendments, and we will complete consideration of that bill.

On Thursday, following the conference report on Senate Concurrent Resolution 36, we will take up H.R. 4007, repayment of loans made to State unemployment funds, under a modified rule, with 1 hour of debate; and H.R. 4167, the Milk Price Support Act, with votes on amendments and the bill.

Mr. MICHEL. Mr. Speaker, might I inquire of the genteman if he has any word as to how late we might be remaining in session on Wednesday next week, since that will be the first day we will be returning after the 2 days when we will not be in session for the conducting of business?

Mr. MINETA. I believe, Mr. Speaker, it is at this time just a little to difficult to set a specific time or to determine what time we would adjourn.

Mr. MICHEL. Then the Members would be well advised to plan to stay at a late hour on Wednesday?

Mr. MINETA. Mr. Speaker, I assume that the Wednesday practice would still be maintained.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

STOCK OPTIONS WOULD GENERATE NEW TAX REVENUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 20 minutes.

● Mr. FRENZEL. Mr. Speaker, Congressman JIM JONES, six of our Ways and Means colleagues, and I introduced H.R. 5060, the Employees' Incentive Ownership Act which would reinstate the restricted stock option as an attractive form of corporate compensation. In his statement on the bill in the CONGRESSIONAL RECORD, Congressman JONES pointed out three important reasons the bill should be enacted.

First, a return to the use of stock options would promote the productivity improvements desperately needed in our economy. It would allow employees to be granted a stake in the equity growth of their company under terms that would also give them some tax relief.

Employees with stock options would be both compensated and motivated. But, since granting an option causes no out-of-pocket cash expense to the employer, he does not have to raise his product prices to recover that portion of employee compensation cost.

The ultimate cost of stock options is not immediately reflected on profit and loss statements the way cash compensation must be. It is borne by the existing stockholders through the dilution of their shares. The stockholders are, in turn, rewarded by the increased productivity of highly motivated employees.

The second important reason that restricted stock options are needed is that they allow smaller, growing companies, which usually cannot afford to pay high salaries, to attract talented employees. Since the value of the stock of smaller companies often grows faster than larger companies, the opportunity to buy their shares for up to 10 years at a fixed price can be extremely attractive.

Since repeated studies have documented that these smaller, growing companies are the very ones which create new jobs, innovation and exports substantially faster than more mature businesses, our economy will benefit greatly from restoration of restricted stock options.

But it is the third point Mr. JONES made that I want to address most directly today.

At the time we introduced H.R. 5060 we were confident that we had an unusual proposal. We knew it would stimulate productivity and job development. We also thought it would actually generate increased revenue for the Treasury.

Mr. Speaker, I am pleased to report that two studies of H.R. 5060, conducted independently of one another by the Congressional Joint Committee on Taxation and the private accounting firm of Price Waterhouse & Co. both seem to confirm our contention that restoring restricted stock options would actually increase Treasury revenue.

In a letter to me dated October 25, 1979, Mr. Bernard M. Shapiro, chief of staff of the joint committee states that after an initial period of adjustment that may cost the Treasury less than $10 million in 4 years, this proposal would generate $15 million in fiscal year 1984 and twice that—$30 million is fiscal 1985. We should expect the following years to continue that trend.

The Price Waterhouse analysis differs from the joint committees' in its approach. It describes the mechanics of how the substitution of nondeductible options for the current deductible forms of compensation would increase Treasury receipts in nearly all cases.

Together these two letters form a complete picture, and provide a compelling assurance that H.R. 5060 is an important and unusual bill.

The Employees' Incentive Ownership Act will help our economy directly by assisting new and small companies grow. But on top of that, by raising new revenue, it will help reduce the debt, or allow Congress to consider greater tax cuts in other areas than might otherwise be possible.

I commend both these studies to my colleagues. Congressman JONES and I will welcome your cosponsorship of this important bill. The text of the Joint Committee on Taxation's letter, the Price Waterhouse study and the bill follow:

JOINT COMMITTEE ON TAXATION,
Washington, D.C.

Hon. BILL FRENZEL,
House of Representatives,
Washington, D.C.

DEAR MR. FRENZEL: This is in response to a letter from Dave Rosenauer of your staff regarding the revenue impact of H.R. 5060, a bill which would permit the use of restricted stock options while removing the exercise of such options as an item of tax preference. As you know, the Tax Reform Act of 1976 required that a restricted stock option as defined in Section 424(b) of the Internal Revenue Code be exercised before May 21, 1981 or be subject to the same tax treatment accorded nonstatutory options under Section 83. If enacted, H.R. 5060, would continue to allow the issuance of this type of preferred compensation under a more favorable tax arrangement.

Introducing a new and presumably more preferred instrument of executive compensation raises the possibility of some shifting in the make-up of the compensation package, making it difficult to assess the potential revenue impact. We are convinced, however, that although such restructuring is inevitable, the net effect on budget receipts in the near future will be negligible.

Speculation on the long-term revenue impact of H.R. 5060 depends invariably on the vagaries of the stock market, and could be misleading. Nevertheless, elimination of the restricted stock option as an item of tax preference at time of exercise, and the failure to treat this gain as ordinary income does result in a positive net revenue effect. This is due principally to the fact that the granting corporation is no longer allowed a deduction for compensation paid.

Accordingly, should H.R. 5060 become law for taxable years beginning after December 31, 1979 the effect on budget receipts for fiscal years 1980–1983 will be an annual net reduction of less than $2.5 million. This short-term anomaly is a result of the substitution in compensation elements induced by the bill. In years subsequent, when the inevitable disposition of the restricted stock results in its being treated as a long-term capital gain, we estimate the concomitant increase in net revenues to be $15 million in fiscal year 1984 and $30 million in fiscal 1985.

Sincerely yours,

BERNARD M. SHAPIRO.

PRICE WATERHOUSE & CO.,
Washington, D.C., October 24, 1979.

Mr. HERBERT M. DWIGHT,
Financial Incentives Task Force,
Washington, D.C.

DEAR MR. DWIGHT: You have asked us to comment on certain tax aspects of proposed legislation introduced in the House of Representatives by Congressman James R. Jones of Oklahoma. The specific proposal on which you have asked us to comment is H.R. 5060, referred to as the "Employees Incentive Ownership Act of 1979". This proposal would amend Internal Revenue Code Section 424 to reinstate treatment given to Restricted Stock Options prior to 1964. The proposal would also amend Internal Revenue Code Section 57 to exclude restricted stock options from the definition of tax preference items.

In general, the proposal would result in deferring income recognition to an employee recipient, who exercises a restricted stock option, until such time as the stock is sold, rather than at the time the option is exercised. Assuming the option price is at least 95 percent of the fair market value of the stock at the date of grant, and the employee holds the stock for at least one year following exercise of the option, the employee may realize a capital gain on the entire gain attributable to stock acquired by option. Current rules provide that the employee will realize ordinary income on stock acquired by option to the extent the fair market value exceeds the option price at the date of exercise. The option granting employer would not receive a deduction for any value of the shares acquired under the proposed option in excess of the option price.

The deferral of the income recognition under the proposed legislation can be particu-

larly attractive to the employee. Under these rules, the employee would not face the requirement of making potentially significant tax payments when the event giving rise to the tax liability (exercise of the option) has yielded no cash. This provision can be especially important in view of the cash payment necessary to exercise the option. The possible application of capital gain rates, rather than ordinary income tax rates provides additional potential advantage to the employee.

In our capacity as professional accountants, we are not in a position to estimate total revenue impact (including timing of collection) of the proposal to the Treasury of the United States. Neither are we in a position to state whether this proposal is preferable to other incentive compensation arrangements. However, we can state that, depending on the circumstances, the proposed legislation may have a positive effect on revenue collections to the extent restricted stock options are substituted for nonqualified options or cash compensation. The latter point may be illustrated by the following explanation. Under the current law, a corporate employer is allowed a tax deduction for an amount equal to the ordinary income an employee recognizes upon the exercise of stock option. Under the proposal the corporate employer would not receive a tax deduction. Thus assuming an individual is in the top earned income bracket of 50 percent and the corporate employer is in the top 46 percent bracket, the Treasury is in a position to collect only a maximum of 4 percent of the difference between the option price and the fair market value at date of exercise. Under the proposals of H.R. 5060 the gain could ultimately be taxed at rates up to 28 percent, assuming the stock maintains a value at least equal to the value at the date of exercise. Consideration of appreciation in value after exercise is not relevant since it would be subject to the same rules under the existing and proposed law.

The elimination of the corporate tax deduction is the key feature which, depending on the marginal rate of the taxpayer, could cause Treasury collections to increase. For example, assume an option for 100 shares at $10 per share is exercised when the stock is selling for $15 per share, and the stock is sold one year later without either depreciation or further appreciation. Assume further that the individual employee is in the top tax bracket of 70 percent and the employer is in the highest corporate bracket of 46 percent. The tax collections are as follows:

Proposed law:	Tax due
Employee's capital gain tax ($1,500–$1,000) × 28 percent [1]	$140
Ordinary income tax to the employee	—
Ordinary tax reduction for the employer	—
Net revenue under the proposal	140
Current law:	
Ordinary income tax to employee ($1,500–$1,000) × 50 percent [2]	350
Ordinary tax reduction for employer ($1,500–$1,000) × 46 percent	(230)
Net revenue under current law	20
Increase of revenue under this proposed law	120

[1] Maximum capital gain tax rate (100 percent to 60 percent) × 70 percent.
[2] Maximum rate on earned income.

This example reflects an employee and employer in the highest tax brackets. Obviously the effect on Treasury revenues is a function of the employee's and employer's marginal tax brackets. The effect on revenue can be more dramatic if the corporation is in the maximum tax bracket of 46 percent and the employee is in a relatively low rate bracket.

A schedule which details tax collections using various individual marginal tax brackets, assuming marginal corporate tax rates of 46 percent and 26.75 percent, is attached to this letter. The previously stated example and an illustration of a 46 percent rate corporate and a relatively low tax rate employee are included in the schedule. A review of this schedule makes it clear that net revenues to the Treasury are negative under the current rules relating to stock options to the extent the marginal tax rate of the option granting employer exceeds the marginal tax rate of the employee. The converse is true to the extent marginal tax rates of the employee exceed those of the corporation.

Using the assumed facts, the schedule also indicates that the proposed legislation would result in net revenues to the Treasury in each transaction, whereas the present law can result in a net revenue loss to the Treasury in many instances. In fact, the proposed legislation results in increased revenue over that which exists in each example under current law provided that the marginal corporate tax rate is 46 percent. The present law provides revenue in excess of the proposed legislation in only two examples assuming the marginal corporate tax rate is 26.75 percent. The rate of this occurrence increases as the marginal corporate tax rates decrease from 26.75 percent to zero.

Tax revenues under the proposed legislation would decrease below the level reflected on the attached schedule if the price of the stock decreased following exercise of the option, prior to the date of sale. If the value of the stock fell to the option price prior to sale, the revenue would be eliminated.

The proposal to eliminate restricted stock options from the definition of tax preference items should not have a significant negative effect on revenue as currently projected. This is attributable to the fact that additional restricted stock options can not be granted under the law as it currently exists, and all presently outstanding restricted stock options must be exercised by May 21, 1981.

In summary, "The Employees Incentive Ownership Act of 1979" appears to offer the combination of reducing individual tax burdens for the employee and potentially increasing Treasury collections.

Yours very truly,

PETER J. HART,
National Director of Tax Policy.

ATTACHMENT TO LETTER OF OCT. 26, 1979: ILLUSTRATION OF EFFECT OF H.R. 5060 ON TREASURY REVENUE IN GIVEN INDIVIDUAL SITUATIONS

[Assumptions: A. Fair market values at the date of exercise exceeds the option price by $500. B. Corporate tax rate is either 46 percent or 26.75 percent (the maximum corporate rate is 46 percent, while the effective rate on the 1st $100,000 of corporate taxable income is 26.75 percent)]

SUMMARY

Individual Marginal tax bracket—Joint returns	Treasury—Revenue (Expenditure): Current law corporate rate of—46 percent	Current law corporate rate of—26.75 percent	H.R. 5060 proposal [1]
70 percent	[2] $20	[2] $116.25	$140
68 percent	[2] 20	[2] 116.25	136
64 percent	[2] 20	[2] 116.25	128
59 percent	[2] 20	[2] 116.25	118
54 percent	[2] 20	[2] 116.25	108
49 percent	15	111.25	98
43 percent	(15)	81.25	86
37 percent	(45)	51.25	74
32 percent	(70)	26.25	64
28 percent	(90)	6.25	56
24 percent	(110)	(13.75)	48
21 percent	(125)	(28.75)	42
18 percent	(140)	(43.75)	36
16 percent	(150)	(53.75)	32
14 percent	(160)	(63.75)	28

[1] It should be noted that collections are delayed until the recipient disposes of the option stock.
[2] Reflects the 50 percent maximum tax rate on earned income

H.R. 5060

A bill to amend the Internal Revenue Code of 1954 to permit the use of restricted stock options and to eliminate the exercise of restricted stock options as an item of tax preference

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Employees Incentive Ownership Act of 1979".

SEC. 2. (a) Subsection (b) of section 424 of the Internal Revenue Code of 1954 (defining restricted stock options) is amended by striking out "(or if it meets the requirements of subsection (c)(3), an option granted after December 31, 1963)," and inserting in lieu thereof ", an option which meets the requirements of subsection (c)(3) granted after December 31, 1963, and before January 1, 1980, or an option granted after December 31, 1979,".

(b) Paragraph (3) of section 424(c) of such Code (relating to certain options granted after December 31, 1963) is amended by striking out the last sentence.

(c) Paragraph (6) of section 57(a) of such Code (defining items of tax preference) is amended by striking out "or a restricted stock option (as defined in section 424(b))".

(d) The amendments made by this section shall appy to taxable years ending after December 31, 1979.●

TRADE CLARIFICATION ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SCHULZE) is recognized for 5 minutes.

● Mr. SCHULZE. Mr. Speaker, yesterday, I introduced along with my colleague from Connecticut Mr. COTTER a very important piece of trade legislation.

This bill is designed to amend both the Antidumping Act and section 406 of the Trade Act of 1974 in order to clarify and strengthen our trade laws as they apply to nonmarket economies.

As a result of regulations promulgated by the Treasury Department last August, it has become virtually impossible for American firms to obtain redress from unfair nonmarket competition.

These regulations were issued in response to the now infamous Polish golf car case and allow the Treasury Department to play politics with the Antidumping Act. They are based on an assumption that countries of comparable economic development have comparable price levels or other indicators of industrial development. While it is certainly possible to find two countries with similar gross national products, it is economically unwise to assume that products produced within those countries would be sold at comparable prices.

This bill will correct that problem by repealing the Treasury regulations and would instead reinstate the prior practice of looking at the prices of actual producers who are truly comparable in measurable ways.

By accepting this provision, we will prevent the Treasury Department or any executive agency from literally roaming the globe in search of a set of facts that enable the administration to minimize the amount of dumping duties owed.

Additionally, this bill proposes several changes to section 406 of the Trade Act of 1974. Currently this section allows

domestic producers to file petitions for relief with the International Trade Commission who in turn substantiates whether injury has occurred as a result of foreign imports. Should the ITC decide that relief is appropriate, the President then has the option to agree or disagree with its findings.

This bill would permit the President to continue to modify the ITC's recommendation but only if his action is approved by a concurrent resolution of Congress.

We have a responsibility and a commitment to the citizens of this Nation to insure that they may seek relief from injurious imports regardless of their origin. Regrettably, our trade laws currently discriminate against domestic producers who seek relief from nonmarket competition. The primary goal of this legislation is to reverse this situation by reducing the potential for political manipulation. Our trade laws were never intended to serve as an instrument in our foreign policy.

In conclusion, let me say that while the need for this legislation has increased as a result of the President's decision to extend most favored nation to the People's Republic of China, no relief would be awarded to domestic firms unless the nonmarket imports are actually causing material injury to them.

For the sake of our economy, we must act quickly on this legislation and I urge the chairman of the Trade Subcommittee to live up to his commitment to hold early public hearings on this very important issue.

For the benefit of my colleagues, I am including the text of the proposed legislation.

H.R. —

A bill to amend the Tariff Act of 1930 and the Trade Act of 1974 to provide more equitable standards for determining the foreign market value of, and market disruption attributable to, goods manufactured in non-market economy countries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trade Clarification Act of 1979".

SECTION 1. DETERMINATION OF FOREIGN MARKET VALUE OF MERCHANDISE MANUFACTURED IN NON-MARKET ECONOMY COUNTRIES.

Subsection (c) of section 733 of the Tariff Act of 1930 (19 U.S.C. 1677b) is amended—

(1) by striking out "State-Controlled" in the caption and inserting in lieu thereof "Non-market".

(2) by striking out "State-Controlled" and inserting in lieu thereof "a non-market economy".

(3) by striking out "as reflected by either" and inserting in lieu thereof "of the producer or producers located in a free-market economy country, including, but not limited to, the United States, and most nearly comparable in size, sophistication, and technology to the non-market economy producer or producers (hereinafter referred to as the 'most comparable free-market producer or producers') as reflected by either",

(4) by striking out "of a non-State-controlled-economy country or countries is sold" in paragraph (1) and inserting in lieu thereof "is sold by the most comparable free-market producer or producers", and

(5) by striking out "country or countries" in subparagraph (A) and inserting in lieu thereof "producer or producers",

(6) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) the constructed value, as determined under subsection (e), of such or similar merchandise produced by the most comparable free-market producer or producers.".

SEC. 2. MARKET DISRUPTION BY PRODUCTS OF NON-MARKET ECONOMY COUNTRIES.

(a) CAUSATION.—Paragraph (1) of section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) is amended by striking out "Communist country, whether market disruption exists" and inserting in lieu thereof "non-market economy country or countries, whether market disruption, caused by increased imports or artificial pricing, or both, exists".

(b) RELIEF MADE AVAILABLE.—Subsection (b) of section 406 of such Act (19 U.S.C. 2436) is amended—

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following new paragraphs:

"(3) in a case in which the Commission recommends relief for market disruption caused by artificial pricing, if the President reports under section 203(b) that he will take action which differs from the action recommended by the Commission or that he will not provide import relief, and the Congress does not (within the 90-day period following the date on which the President transmits his report to the Congress) adopt a concurrent resolution, a majority of the Members of each House voting in the affirmative, approving the action proposed by the President, the President shall (within 30 days after the 61st day of such 90-day period) proclaim the increase in, or imposition of, any duty or other import restriction on the article which was recommended by the Commission, and

(4) relief for market disruption caused by artificial pricing—

"(A) shall not be subject to subsection (d), (h), or (j) of section 203,

"(B) may be granted or extended for more than five years if a danger of such disruption is likely to continue over a longer period, and

"(C) shall not operate to prevent the initiation of an investigation according to the procedures in section 201(a)(1) when it is alleged that changes in circumstances have occurred after the conclusion of the investigation upon the basis of which relief was granted, and such investigation shall be treated as an original investigation under subsection (a)(1).".

(c) PRESIDENTIAL ACTION WITH RESPECT TO APPARENT MARKET DISRUPTION BY PRODUCTS OF NON-MARKET ECONOMY COUNTRIES.—

(1) Subsection (c) of section 406 of such Act (19 U.S.C. 2436) is amemnded by striking out "Communist country, that market disruption exists" and inserting in lieu thereof the following: "non-market economy country, that market disruption, caused by increased imports or artificial pricing, or both, exists".

(2) Paragraph (2) of section 406(d) of such Act (19 U.S.C. 2436) is amended by striking out "market disruption exists" and inserting in lieu thereof "market disruption, whether caused by increased imports or artificial pricing, or both, exists".

(d) DEFINITIONS; SPECIAL RULES.—Subsection (e) of section 406 of such Act (19 U.S.C. 2436) is amended to read as follows:

"(e) FOR PURPOSES OF THIS SECTION.—

"(1) The term 'non-market economy country' means any country whose economy is State-controlled to an extent that sales or offers of sales of merchandise in that country or to countries other than the United States do not reflect the fair value of the merchandise, including any country dominated or controlled by Communism.

"(2) Market disruption caused by increased imports exists within a domestic industry whenever direct or indirect imports of an article like an article produced by such domestic industry are increasing, either absolutely or relatively, so as to be, either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

"(3) Market disruption caused by artificial pricing exists within a domestic industry whenever an article, like an article produced by such domestic industry, is imported directly or indirectly from a non-market economy country or countries at a price below the lowest free-market price of like articles, so as to be, either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

"(4) The lowest free-market price of like articles is the lowest average price, adjusted for differences in quantity, level of trade, duties or other factors required to ensure comparability, charged for like articles in this country by

"(A) any producer from an appropriate free market country, including the United States, if the producer supplies more than 5 percent of the apparent United States consumption of like articles, or

"(B) by the aggregate of all producers from any appropriate free market country, including the United States, that supplies more than 5 percent of the apparent United States consumption of like articles.

"(5) The term 'like article' means an article which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under this section.

"(6) A country is an appropriate free-market country with respect to an article alleged to be disruptive if—

"(A) the country is not a non-market economy country witrin the meaning of this section,

"(B) no preliminary or final determination has been made under title VII (or, if applicable, section 303) of the Tariff Act of 1930 that a subsidy, bounty, or grant is being provided with respect to like articles from that country, and

"(C) no preliminary or final determination has been made under subtitle B of title VII of the Tariff Act of 1930 that like articles from that country are being, or are likely to be, sold in the United States at less than fair value.

"(7) The term 'domestic industry' means an industry producing an article in whole or in part in the United States, including any territory or possession of the United States.".●

COMMERCE SECRETARY KREPS PRAISED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. JOHNSON) is recognized for 5 minutes.

● Mr. JOHNSON of California. Mr. Speaker, the Commerce Department has sometimes been described as something akin to Noah's ark—except that it has but only one of every type of animal. Indeed, under the umbrella of the Commerce Department can be found a myriad of different Government agencies with sometimes seemingly opposite goals.

But in something less than 3 years, Commerce Secretary Juanita M. Kreps has done a truly amazing job of sewing

a common thread of cohesiveness throughout this massive Department and given it new life and direction. At her hands, the Commerce Department has merged as a major force in formulating national economic policy and in promoting American commerce at home and abroad.

Her background, combining both the academic and the practical, has prepared her well for this challenge. Her 30 years of academic experience has run the gamut, from teaching—displaying expertise in economics, business and social sciences—to management of a large, distinguished university.

In addition to the classroom, Ms. Kreps has an intimate knowledge of the corporate boardroom and the workings of American corporate life. On the boards of directors of more than one-half dozen major American companies, Secretary Kreps displayed true business acumen.

With this experience, Secretary Kreps, the first Secretary of Commerce trained as an economist, has been uniquely suited for her job. Her Department has been revitalized and reorganized, showing verve and leadership in our effort to promote international and domestic trade.

Secretary Kreps' specific accomplishments are impressive in scope and in significance. Here are a few examples:

She organized the Commerce Department's international trade efforts in order to increase exports. This was in response to our need to resolve current balance of trade problems by stimulating overseas sales.

Recognizing the need for morality in business, acknowledging America's commitment to free trade and freedom from religious discrimination, Secretary Kreps vigorously sought to implement America's new antiboycott law. This law and the spirit for strong enforcement of it has shown the world that America can sell products without selling its moral values.

Comprehensive economic development legislation has been implemented by her, including provisions that provide that specific proportions of those funds be used for minority workers. Overall, she has shown a keen sensitivity to the need for bringing more women and ethnic minorities into the work force of America. She has helped make the business community more responsive to the need for social equality.

Under her administration, the National Oceanic and Atmospheric Administration has implemented the coastal zone management program with a special commitment for preserving the Nation's shoreline. NOAA has also succeeded in setting new, higher standards for conservation of whales and other endangered species.

The accomplishments of the Commerce Department under her administration are too numerous to mention. Her special qualities are also numerous. But I have especially grown to appreciate her charm and graciousness. Those characteristics, coupled with her strong leadership skills, have accounted for her reputation as an "iron butterfly."

I am sorry to see her leave Government. I hope she will again be recruited to serve the Nation at a later date. We need more persons like her in public life.●

JUGGLING ENERGY SAVINGS FROM UNIVERSITY OF NEW HAVEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, energy and energy conservation are on everyones mind these days. It is a regular topic of conversation at both business and social gatherings and this Congress has devoted more time to the issue than any other. While I believe that we are making some legislative headway, and I note with pride the action yesterday of the Banking Committee, on which I serve, in approving the National Solar and Energy Conservation Incentive Act, but we still have a long way to go before we gain control over our energy intensive future.

Last spring I took the floor on several occasions, each time emphasizing that conservation is the surest and least expensive path to energy independence. From recent studies it appears that people are thinking more about the energy they are consuming at home, in their automobiles and at the workplace. The opportunity to save money where they can, is surely a significant incentive. Our lifestyle has developed and become so dependent on energy that we sometimes do not realize it when we are using it, let alone wasting precious nonrenewable resources. When it comes to personal automobile travel it is clear to everyone that if you drive less, you use less gas and spend less money, but when it comes to our homes, knowing where and how to use less energy without significant sacrifice becomes a more difficult and technical process often requiring the services of a third party: electrical contractor, furnace repairman, carpenter, builder, insulators installer, and so forth.

While there are many articles, books, advertisements, and television programs devoted to the subject—and that is good because it results in a better informed citizenry—I would like to share with my colleagues an article which appeared in the October 1979 edition of Insight the newsletter for the University of New Haven, Conn., community. The article which was developed by Scott Tilden, the university's public relations director, describes how Prof. Richard Morrison, chairman of the UNH physics department, has found ways to reduce the consumption of energy around his home. The article entitled "Juggling Energy Savings" describes various techniques and devices that can be utilized to reduce energy consumption and what each application is likely to save in terms of reduced energy costs. In addition, the article contains a "Checklist for Saving Energy" that may be helpful to all our constituents.

While the article does not include, as Ed McMahon would say, everything you could possibly ever want or need to know about ways to reduce energy costs in the home, it is a valuable starting point. The article follows:

JUGGLING ENERGY SAVINGS

Professor Richard Morrison is not up in the air about energy savings. He has a lot of ideas. In fact, he's cut his own heating bill by almost 50 percent since 1973. Some of his ideas aren't homegrown. He spent a year in England and found some great suggestions to pass along.

Dick Morrison really believes in saving energy. Six months before the 1973 Arab oil emoargo, he was already preparing a course on energy conservation at the University of New Haven.

Now that heating oil is nearly a dollar a gallon and the cost of gasoline and gas heat are both rising, he has gathered a lot of ideas on ways to save energy.

In fact, he has reduced energy consumption in his own house by almost 50 percent since 1973.

Morrison, UNH professor of physics and chairman of the physics department, says that the usual methods—adding insulation, weatherstripping and storm windows—are fine, but there are a few more things people can do.

He recommends an automatic clock thermostat.

While the device is a novelty in the United States, it is standard equipment in Europe where Morrison found some while spending a year as a visiting professor at the Building Research Station in Watford, England. H was assigned to the Energy Division of the station which was charged with the task of reducing energy consumption in buildings.

The scientists there discovered that an automatic clock thermostat could save 10 percent of the energy in a house. It works by shutting off heat on a regular cycle, usually from bedtime to rising.

"That way, the house is warm when you get up, but not while you're sleeping," Morrison explains.

He says that in Europe, residents use the device to heat only what they want warm, and then only when they want it warm. The English, for example, only heat the living room when someone's in it.

"You don't have to go that far," he laughs.

The clock thermostat costs between $50 and $80 and can be used to turn off the heat during the day when residents are at work, and at night when everyone is sleeping.

The thermostat is not the only gadget on the market that Morrison likes. He identifies at least three other useful tools:

Thermostatic radiator value.—This shuts off an individual radiator when the thermostat reaches a preset level. It is a great energy saver in large buildings where a central thermostat keeps some people warm while other workers overheat. UNH uses them in its Main Building. Cost: about $50.

Outdoor reset control.—This varies the temperature of hot water in a hot water-heating system in accordance with outside temperature. Cost: about $200.

Automatic flue damper.—This closes off the flue in a gas-fired heating system, reducing the intake of cold air into the boiler and the subsequent heat loss. Cost: about $200.

A New Haven resident, Morrison put several energy-saving ideas into his own house and cut energy consumption from 2500 gallons of heating oil in 1973 to 1300 in 1978. He hopes to eliminate another 500 gallons in the next few years, although he admits it will be much harder and will require a large investment.

For example, he's buying a small, gas-fired single-room heater which will be permanently installed in an outside wall. That way he'll be able to heat one room—in this case, his kitchen—without turning on his central heating system.

Morrison teaches several technical and survey courses in energy conservation at UNH. In his classes, he points out additional ways to save energy that require a little perspiration.

He suggests building a vestibule in a house. Common in older homes, a vestibule traps cold air before it can seep into the house.

He says that homeowners should consider building an insulated wall around the perimeter of their concrete basement because cement loses as much heat as a window. If the basement is not heated now, he recommends insulating the floor above to reduce the heat loss into the basement from the rest of the house. He also suggests extra insulation in the attic to cut loss in that direction.

He is not too excited about wood as an alternate energy source. "There just isn't enough wood in Connecticut," he points out. As a result, only a small percentage of residents will be able to burn wood. That will simply increase the price per cord, he adds.

Worse, he continues, most people burn wood improperly and waste much of its heat.

Smoke and gasses rising through the chimney actually create a partial vacuum which sucks warm air out and pulls in cold air. Morrison suggests that fireplace lovers should install a blower and heat exchanger to circulate the heat, and glass doors on the fireplace to contain the heat for the blower.

"The colder the air is outdoors, the less efficient a fireplace is," he reports.

Morrison knows a lot about efficiency. While in England on a National Science Foundation Faculty Professional Development Grant and at Yale University as a Visiting Faculty Fellow, he studied the heat efficiency of various systems. He found, he relates sadly, that the steam heating system in his own house is very inefficient.

That helped prompt some of the additional energy-saving techniques.

"Energy conservation does require a change in thinking," he says. "But it's necessary. Many people will be paying $120 a month for oil, 12 months a year. Not many years ago, they paid that much for a mortgage."

If all else fails in the battle against cold, Morrison owns one final weapon. He has a large, thick, bushy beard which he can tuck down into a flannel shirt in cold weather. Together, they look like they can withstand the worst a New England winter can throw at them. Best of all, the beard comes without a price tag or maintenance cost.

CHECKLIST FOR SAVING ENERGY

Insulate floors and attics;

Repair cracks around windows;

Install weatherstripping around doors and windows;

Keep thermostat turned down, particularly when everyone is asleep or not home;

Install glass windows and blower in the fireplace;

Install thermostatic radiator valve;

Install an automatic clock thermostat;

Install outdoor reset control;

Install automatic flue damper;

Build a vestibule;

Switch to less expensive fuels;

Use storm windows;

Use single room heaters instead of central heating; and

Insulate basement walls: Interior and exterior.

Remember, worn out furnaces, like out-of-tune cars, waste energy as do inadequate insulation, broken windows and other gaps in your home's protection.

There are additional things you can have done, but you may want to call in an expert for help. Many utilities have teams of advisors who will examine your house and tell you how you can save energy. Call and ask them for advice.

With a little effort, you can cool off your energy bills while keeping just as warm as ever.●

ENERGY AND THE ECONOMICALLY DISADVANTAGED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. MITCHELL) is recognized for 5 minutes.

● Mr. MITCHELL of Maryland. Mr. Speaker, in my home State of Maryland, Delegate Larry Young (38th District), has proven to be an essential part of Federal and State efforts to promote certain energy programs. Delegate Young serves on the Maryland State Legislature's House Environmental Matters Committee, and his 5 years of addressing energy related matters has led to the recent signing of his Energy Assistance and Information Program, into Maryland State law.

In addition to numerous other activities, Delegate Young is presently serving as a member of the Department of Energy's Fuel Oil Marketing Advisory Committee (FOMAC). In this capacity, Young coauthored FOMAC's Low-Income Energy Assistance Program, which has been submitted to the Department of Energy.

Delegate Young continues in his position as president of the Center for Urban Environmental Studies (CUES), which is located here in Washington, and presently implementing the Minority Energy Technical Assistance Program (METAP). METAP is designed to involve minority elected officials more fully in energy policy deliberations.

On Wednesday, October 3, 1979, Delegate Young addressed the Public Utilities Reports, Inc.'s Second Annual Utility Regulatory Conference. I am proud to share a copy of this presentation, entitled, "Energy and the Economically Disadvantaged" with my colleagues:

ENERGY AND THE ECONOMICALLY DISADVANTAGED

It is both a privilege and a pleasure to stand before this gathering of decisionmakers in the field of utility regulation to address the topic of "Energy and the Economically Disadvantaged." It is a subject I am eager to present as the elected representative in the General Assembly of Maryland of a poor, urban district; as the President of the Center for Urban Environmental Studies, which has for the past two years been expanding its energy expertise; and as one of the energy advisors to the Congressional Black Caucus.

Just two weeks ago, the Center for Urban Environmental Studies sponsored a "National Energy Teach-In: The Energy War and The Poor," in this very hotel. Keynoting the teach-in was Senator Jacob Javits of New York who said, "Nothing should have a higher priority than arriving at a consensus of how energy policy will impact on the most economically vulnerable sectors of our society and the lives of the urban poor in particular." For the last few years I have spent a significant percentage of my time promoting a national awareness of inter-relationships between energy policy and the disadvantaged.

Many humorists and critics have taken President Carter to task on his statement that the energy crisis presents our nation with the moral equivalent of war. One speaker at our recent teach-in quoted a European source as comparing the latest energy policy proposals of the administration to the moral equivalent of an "appendix transplant." Cartoonists have portrayed the President in full battle gear, sword in hand, swinging wildly at industry, Congress, or the OPEC nations.

I do not personally find anything funny about the suffering of the elderly and the poor who are the true victims in this war. The casualty lists—the 20 senior citizens, most of whom happened to be poor and Black, who died of heat strokes in Dallas, Texas, and the 200 elderly poor individuals who reportedly froze to death in recent winters—these tragic deaths are unforgettable reminders that energy is a necessity of life. Adequate heating and cooling are vital, especially to our aged population, whose weakened cardio-vascular systems make them vulnerable to heat stroke and hypothermia.

I strongly urge that energy for human consumption, in order to survive, be given the highest priority in energy planning in both the public and private sectors of decision-making. A national energy policy which accepts increased suffering by the poor and sometimes death, takes the war-time analogy too far and is fundamentally immoral.

Yet the course of federal energy policy-making to date has done just that—it has cooperated with unprecedented price increases as the only effective way to curb American appetite for oil, gas and electricity and provide suppliers with incentives to explore and develop. This strategy has simultaneously contributed to a staggeringly high inflation rate which is breaking the backs of the poor. The Washington Post columnist Colman McCarthy brings this issue home to the human level in his description of an elderly St. Louis woman—"she worked in a factory for 25 years. But the firm went out of business and she was laid off without a pension. Her husband died 10 years ago. She lives alone on a small social security check.

"She took pride in having made it this far. But now, for the first time in her life, she was frightened. She survived being poor and Black, and she made it being poor and Black and old. But now, on top of it all, you can't depend on the money. She kicked her grocery bag: 'I pay double the prices and get half as much.' This winter, she said, she would have no money for fuel."

The impact of rising energy prices along with steep inflation in all basic necessities—food, clothing, shelter and health—the millions in our nation on low, fixed incomes, are left with impossible choices. For example, the Community Action Agency in Forest Park, Georgia kept track of the household expenditures of twenty elderly households over the five month heating season this past winter in order to see how expenditures changed in response to higher fuel and utility bills.

In forty-two percent of the cases expenditures for food went down as energy costs rose; in thirty-seven percent of the cases, expenditures for prescription medicines dropped as energy costs rose; and in twenty-one percent of the cases higher energy costs meant no regular visit to the doctor that month. These twenty households, with ages between 63 and 79, had average monthly incomes of $212, almost fifty percent of which went to utilities, fuel and water. In one case the percentage was as high as sixty-five percent.

What I have described is a continuing and worsening crisis which exists for all poor and near poor households, and for the elderly among them most severly. It is a crisis which is not triggered by exceptionally bad weather or a family emergency; but which has become a part of the normal condition of life for the elderly and the poor. Bad weather and family emergencies just make matters that much worse.

According to the Fuel Oil Marketing Advisory Committee to the DOE, of which I am a member, "rising energy costs in the United States caused low-income households to suffer a loss in purchasing power of more than 4 billion dollars, in 1978 alone, over and above that which they would have suffered if energy costs had risen at the rate of inflation. This economic loss is aggravated by the fact that public assistance and social security payments have not kept pace with inflation generally. From 1973 to 1978 the Consumer Price Index rose approximately 30 percent, aid to families with

dependent children and supplemental security income rose only about 19%.

Compounding the impact of inflation are structural factors in the energy economy which further disadvantage the poor and substantially restrain this population from conserving energy. First among these factors is the energy pricing structure which continues to utilize inverted pricing schedules with declining rates at higher usage levels.

In all fairness, this pricing structure originated in an era of inexpensive energy when industry was expanding rapidly. It appears fair that large volume energy consumers should receive a discount rate until you consider the social outcome—the poor pay more per unit of energy than do the middle and upper classes. In 1979, with energy conservation a national priority, inverted pricing schedules and declining block rates reward consumption while widening the gap between the rich and the poor in this nation.

Furthermore, utilities and heating oil dealers alike restrict credit and budget plans for the poor, demanding instead "cash on delivery." Consequently the seasonal impact on the cash flow of low-income households is staggering. Robert Pugh, President of the Texas Senior Citizens Association tells of meeting an elderly woman who had just paid her utility bill by adding 67 cents to her Social Security check. She paid that bill, but had nothing for food, rent, medicine or other necessities. She was an asthmatic and a victim of emphysema and had to use a window air-conditioner in order to live.

Energy conservation, widely promoted but largely ignored by the public-at-large, is not a practical answer to the energy dilemma for the poor, at least not in the short-term. For economic reasons, the disadvantaged long ago made energy conservation a way of life. Per capita 1975 figures show the poor using 50 percent less electricity and 24 percent less gas than the well-to-do and their usage has dropped since that time. Yet the energy the poor do use is likely to do them less good, as conditions of low-income homes, appliances and automobiles owned by the poor are less efficient than the national average.

Many houses occupied by the disadvantaged need substantial rehabilitation to even begin to retain heat. Yet even modest investments in weatherstripping and caulking are beyond the limited budgets of most poor people.

Government recognition and response to the special energy hardships of the elderly and the poor can be characterized simply—too little, too late. Crisis intervention programs of the Community Services Administration intended to deal with winter energy emergencies have been implemented in the spring or summertime, well past program target dates. My home town newspaper, the Baltimore Sun reported on September 19th, that the Department of Energy was just then channeling $200 million to the states for weatherization in fiscal year 1979, which ended Sunday, September 30th! Only half of the 90 million dollars provided in the previous two years was spent because of problems with the program's CETA labor force.

State legislatures are beginning to respond with bills and programs of their own to address energy problems of the poor. Most, however, only target the elderly for relief, or deal with limited aspects of the problem such as revising regulations governing utility service terminations. We must still look to the federal government for low-income energy assistance which is substantial and broadly distributed. President Carter has proposed to allocate $2.4 billion a year for low-income energy assistance if the windfall profits tax is enacted. That is a big "if". I am disturbed to think that overdue aid to the poor and aged might be held hostage in the battles to come over synfuels and mobilization boards.

Senators Williams and Kennedy have been more generous in their allocation for the poor, proposing to spend $6 billion dollars a year, but they would also spread that money out to one-third of all U.S. households. I support the enactment of a windfall profit tax to finance low-income energy relief and for other purposes. I believe the Administration proposal is an adequate beginning, it seems to be the most practical proposal in terms of its probability for passage this year.

But it is not my favorite or ideal plan. I prefer the proposal of Senators Javits and Jackson which would distribute to the most needy families a little over $43 billion the first year and around $5 billion in subsequent years. Payments go to vendors who must in return offer reasonable credit terms. The household is required to pay a share of the costs, but the share is to be set at no more than the average percent of income paid by all households.

But none of the proposals just described can be passed or implemented in time for the winter approaching us now. I am concerned that this nation is still unready for the cold winter that is coming and the tragedies it will bring.

And yet our nation has the ability and resources to answer the urgent calls for energy assistance which echo forth from the disadvantaged. Allow me to outline some short-term and long-range recommendations to redress the injustice of energy economics—

For the short-term, I recommended:

1. The provision as soon as possible, of at least $1.6 million (the figure proposed by the Administration) in additional checks to recipients of supplemental security income and aid to families with dependent children.

2. Raising immediately the income eligibility of the elderly to 150% of the poverty level for all energy-related assistance programs.

3. Extending and continuing authorization for federal funding of weatherization and crisis intervention services combined with broad outreach programs to advertise these services.

4. Increased involvement of Blacks, Hispanics, the elderly, and the poor in energy policy-making and program design.

For the long-term, I recommend:

1. Passage of a permanent low-income assistance plan which is substantial and which insures a livable temperature for all and equal opportunity for energy.

2. Development of an urban energy agenda to secure the energy future of our cities and the urban poor.

3. To avoid any greater increases in energy costs without consideration of or compensation to the disadvantaged.

4. To aggressively pursue energy conservation through housing rehabilitation, urban mass transit, weatherization, and education and to maximize the employment benefits of conservation in low-income communities.

5. To promote the fullest implementation of the Utility Conservation Program mandated by the National Energy Act of 1978 to begin January 1, 1980. I urge utility companies to go beyond the letter of law for this program and aim to meet a more demanding social responsibility.

I call on the utilities and regulatory commissions to prepare themselves now as never before for the energy emergencies which will be multiplying in the months ahead. Reexamine your pricing structures, credit practices, and delivery systems for how they add to the burden of the poor, and change them! Add to your criteria for price-making the consideration of social equity. Certainly the companies need a fair return to operate and grow, but your first responsibility must be to the survival of the customers.

Be creative as the Baltimore Gas and Electric Company has been by joining in a venture with the private sector and the local Department of Social Services to establish a Baltimore Fuel Field for Energy Emergencies of the Poor and Aged. I call upon you to recognize in your deliberations and your work that energy is a lifeline for the people, the poorest of whom are struggling to hold on.

Because the winter of 1980 will soon be upon us, there is little time to argue about how these problems occurred and who was responsible. We do not have time to study the problem for months on end to pin down in more precise figures the economic loss and personal suffering which the energy crisis inflicts on the poor. As a representative of minorities, the poor, and the aged, I urge you to act now at all levels of government and in all sectors of society to prevent tragic outcomes of energy policy. Only then can we call our national energy struggle a moral one. Only then can we look toward a future which does not divide us as a nation pitting rich against poor, old against young, advantaged against disadvantaged. Thank you.●

THE STATE OF THE NATIONAL SECURITY COUNCIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

● Mr. ALEXANDER. Mr. Speaker, since the economic, social and political upheaval in the 1930's, legislative bodies in democratic societies have become increasingly more consumed with social issues of the body politic. More recently, in the United States, we have expanded the scope of this trend with the "Consumer Movement" where the national Congress even debates pricing policies, production quality, and manufacturing standards. One of my constituents recently observed that "Congressmen and Senators have become social workers first and national policymakers last." National polling organizations such as the esteemed Harris survey bear this out. Most Americans are concerned with personal and parochial matters before issues of national and international concerns. Speaker O'NEILL puts it like it is. "All politics is local," he said.

Notwithstanding the parochial nature of Congress, I have observed that most Members are serious about national security. For those who are so disposed, I commend the following article by Evans and Novak (Washington Post, Friday, November 2, 1979), entitled "Brzezinski Gets His Say." The column is a revealing observation of the state of the National Security Council.

BRZEZINSKI GETS HIS SAY

(By Rowland Evans and Robert Novak)

Zbigniew Brzezinski's quiet recruitment of a tough-minded Air Force general as top defense strategist for his National Security Council staff, far from being a routine staff addition, signals growing influence and new self-confidence for President Carter's often beleaguered national security adviser.

The new aide is Air Force Maj. Gen. Jasper Welch Jr., considered one of the Pentagon's top experts in the eerie science of U.S.-Soviet military balance—a balance now clearly tipping toward outright Soviet superiority.

Brzezinki's decision to hire Welch was urged by Dr. James R. Schlesinger, the one-time Nixon-Ford defense secretary and until recently Jimmy Carter's energy secretary. It raises important—and as yet unanswerable—questions: as Carter moves toward his final first-term year, does he now begin to share Brzezinski's forebodings about the worldwide threat of growing Soviet power? Or does Brzezinski's new confidence, symbolized by the recruitment of Welch, simply reflect a Carter political tactic to look hawkish to get SALT II through the Senate?

Although there is no answer yet, the new staff role being readied for Welch is certain to produce a much sharper focus within the NSC on overall strategic policy—a focus long desired by Brzezinski. It will also give the NSC a more persuasive voice within the administration.

It is not generally understood even in Carter's Washington that Brzezinski's power to place experts of his own choice in NSC staff positions has been limited until recently. When he accepted the top NSC staff job, foreign policy was in the hands of the McGovernite staffers who controlled appointments to major second-level posts in the State and Defense Departments—and in Brzezinski's own NSC.

For example, Brzezinski had no say in the choice of his No. 2 man, David Aaron, a one-time NSC technician under Henry Kissinger who became foreign policy adviser for Sen. Walter F. Mondale. Vice President Mondale dictated his appointment to the NSC.

The Brzezinski-Aaron relationship has been cool during the whole Carter presidency. Recently, in another display of his rising self-confidence, Brzezinski quietly reduced Aaron's power within the NSC, stripping him of authority over several major functions. U.S. economic policies toward Europe and the Third World were handed over to Henry Owen.

Until recently, Aaron's political clout within the NSC had been profound, thanks mainly to Mondale's patronage. It was Aaron—in cooperation with Mondale and the dovish transition team—who installed a black law professor, Henry Richardson, as chief of Brzezinski's Africa policy section. Richardson espoused the hands-off, pro-Third World policy in black Africa preached by then-U.N. Ambassador Andrew Young and Assistant Secretaries of State Richard Moose and Anthony Lake, major Brzezinski adversaries. Brzezinski managed to ease Richardson out several months ago, after Brzezinski had gone public against Fidel Castro's blatant intervention in foreign countries as Soviet surrogate.

But despite the growing public—and therefore political—awareness that the administration's soft-line approach to the Soviet offensive was clearly not working, Brzezinski continued to move furtively and cautiously, fearful that anti-Brzezinski hostility within the bureaucracy—plus the president's tendency to come down simultaneously on both sides of tough foreign problems—might isolate and destroy him.

That period seems now to have ended. Brzezinski's self-confidence is pushing him to bear down harder with his own more pessimistic views about the U.S. decline. He gained crucial yardage during the recent Cuban crisis over the Soviet combat brigade, even though it was the president who backed down.

Marshal Shulman, the State Department's Soviet expert, had predicted to Secretary of State Cyrus Vance—and thus to Carter himself—that Soviet Foreign Minister Andrei Gromyko would be "flexible" in dealing with Carter's demand that the status quo be changed.

But Brzezinski and his own Soviet experts took a more realistic and, as it turned out, more accurate view; that the Soviets, reinforced by their worldwide military power, had no intention of giving in to Carter or saving his face.

"Zbig had nothing to do with the sorry way the brigade crisis was handled at State," one White House insider told us. More important, Brzezinski argued hard against a proposal that Carter publicly attack Castro after the unsatisfactory conclusion of the crisis over the Soviet brigade. Insiders insist that Brzezinski viewed this propsal as a bluff that could have only one effect: build up the communist dictator of Cuba. Carter took that advice.

Brzezinski wants fewer tough words and more real deeds on the old-fashioned assumption that the only way to deal with the Soviet world offensive is to be backed by adequate military strength.

The recruitment of a high-level Air Force general to the NSC is a major move toward that goal. It signals the terminal point of what one aide calls the "understandable insecurity" that hobbled Brzezinski during the first 30 months. That could stiffen Carter's spine for the harder Soviet battles that lie just ahead.

Coincidentally, a relevant news item is simultaneously published in the Washington Post, which should also be noted, to wit:

[From the Washington Post, Nov. 2, 1979]

SOVIET MILITARY SPENDING UP

The Soviets are spending about 50 percent more on military outlays this year than the United States, CIA analysts told Congress yesterday.

They predicted Soviet military spending will continue to increase at least through 1985 despite the strain on the Russian economy.

A private analyst and two members of the Senate Armed Services Committee said they thought the CIA statistics were too low.

Sen. Robert C. Byrd, (D-W.Va.), chairman of a Senate Armed Services subcommittee, said the panel was seeking to learn if the "massive surge of unprecedented military procurement" by the Soviets in the 1970s was likely to be matched in the 1980s.

Byrd said, "we must have facts to formulate the fiscal 1981 (defense) budget"—which, with increases promised by President Carter or demanded by sectors of Congress, may run as high as $160 billion.

"In 1979, the Soviet total will be about $150 billion, about 50 percent higher than U.S. outlays," said Donald Burton, chief of the CIA's Military Economics Analysis Center.

Total Soviet defense activities for the 1970s, he said, exceeded comparable U.S. outlays by almost 30 percent.

Estimated costs of Soviet defense activities "caught up with U.S. defense outlays in 1971 and have exceeded them by a widening margin in each succeeding year," Burton said.

Byrd scheduled another hearing for Thursday.●

DUPLICATION AND MANAGEMENT ERROR IN FBI COMPUTER SYSTEMS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, the General Accounting Office recently released a report which examined the operation of two separate criminal justice record systems maintained by the Federal Bureau of Investigation. GAO discovered substantial duplication of functions and operations in the two systems. The report also concluded that the FBI failed to follow Federal procurement standards and policies in leasing some of the basic computer and communications capabilities needed to maintain the records. The two systems examined were the automated identification division system (AIDS) and the computerized criminal history (CCH) file of the National Crime Information Center (NCIC).

The GAO study was requested by me as chairman of the House Government Information and Individual Rights Subcommittee. In that capacity I have become increasingly aware of and concerned about the application and use of computer-communications networks by Federal Government agencies. Development and implementation of these systems often occurs with no serious attention being given to real costs and benefits; with inadequate planning for the needs of those who will actually use the system; with no concern for the interests of State and local governments when they may be users of the system or its products; and finally, where personal information flows through the system, with disturbingly little respect for the rights and interests of our citizens.

The GAO study clearly establishes that the first three problems outlined above plague AIDS and the CCH file. Equally disturbing, preliminary findings of the NCIC study by the Office of Technology Assessment indicate that the directions being taken in the development and use of the CCH file and AIDS may result in serious problems for innocent citizens.

In essence, during the development of these systems, the FBI has paid too little attention to the public purse, the public's rights, or even principles of sound management and planning.

The findings of the GAO report and the initial work by OTA also indicate that the recent agreement reached between the FBI and the Judiciary Committee in the Senate concerning the procurement of more advanced computer and communications capabilities requires careful scrutiny and monitoring.

In these remarks, I will explore more fully the GAO findings, the operation of the two information networks, and the implications of these considerations for the recent Senate Judiciary Committee agreement and for future development and procurement in the two systems.

OPERATION OF THE SYSTEMS

AIDS is run by the FBI's Identification Division (Ident), which provides fingerprint identification and arrest records to Federal, State, and local law enforcement agencies. The system is supposed to reduce the high personnel costs and lengthy response times which inevitably occur in manual fingerprint identification and in the consequent dissemination of criminal histories.

CCH is a part of NCIC which makes a centralized set of computer files available through telecommunications links to Federal, State, and local law enforcement agencies. NCIC has an advisory board of officials from State and Federal law enforcement agencies, and is managed and operated by the FBI's Technical Services Division

CCH permits widespread dissemination of criminal histories through a rapid response computer-communications system. The FBI's goal is to decentralize the system's records into computer files in each State. The GAO, however, found that although 15 States have entered records into the system since its beginning in 1971, only 8 States currently participate in the CCH program. During June of 1979, for ex-

ample, Illinois and Minnesota notified the FBI that they were withdrawing their participation in the program.

GAO found that the reasons for State reluctance to participate include worries about costs, the privacy of citizens, and indecision about the system's future, as well as substantial concern that development of the message-switching capability necessary for the FBI to "decentralize" operations would give the Bureau the ability to monitor State and local law enforcement communications and permit the Bureau to dictate the format, content and flow of State and local communications.

The FBI reports that indecision about the future structure of the CCH program causes States not to participate.

A further reason that States do not like the idea of decentralizing records is that they would not be able to control dissemination. Many States have enacted laws restricting dissemination of criminal history records and are concerned that direct access to their central files might create problems in the administration of these laws.

I should note that "decentralization" as envisioned in NCIC is not simply a matter of giving records back to State and local agencies for them to keep. Rather, it is a computer-communications interconnection which would permit nationwide access to the computerized records of a particular State through NCIC, with the FBI operating as manager and traffic controller for the system.

In April 1978, the NCIC Advisory Policy Board, which represents State and Federal officials, proposed decentralizing the CCH records in such a way that no arrest information for State offenses would be physically maintained at the national level. The concept called for message switching through NCIC to exchange criminal histories between States. The FBI would continue to maintain a national fingerprint file, an interstate identification index containing no arrest information, and criminal histories of Federal offenders.

DUPLICATION OF OPERATIONS

The following FBI statistics reflect the degree of duplication between the systems: as of June 1979, 647,990 AIDS records were duplicated in the CCH file—a number representing 44 percent of CCH and 16 percent of AIDS records.

The FBI has made some attempts to reduce the duplication in the AIDS and CCH programs. For example, Federal offender information is entered into the AIDS data base by personnel in Indent and then forwarded to NCIC for entry into the CCH data base.

In 1972, the FBI proposed to the NCIC Board that all of the AIDS information should be entered into CCH in order to provide CCH with faster information on first offenders, to build up CCH, to reduce gaps in the program's geographic coverage and to attract States that had not been participating in the program. No action was taken, however. In 1975, the Board left the decision up to the States whether they wanted to put AIDS information into CCH; but, to date, they have not indicated a desire to do so.

The FBI states that development of both programs in tandem results, at least in part, from the uncertain future of CCH. Both systems are being developed so that either could be the comprehensive one for the nationwide computerized criminal history information system the FBI believes is necessary.

AIDS is being phased in over a period of several years in three stages. AIDS–I involves storing descriptive and background data of arrested persons whose fingerprints have been filed with the FBI in a computer file. The primary identifying information—fingerprints—remains on manual fingerprint cards at this stage. AIDS–II provides for automated name searching of files created by AIDS–I and should, according to the FBI's estimates, reduce the workload of the identification division in this area by 23 percent. AIDS–III will provide for automatic fingerprint searching through the use of an automatic fingerprint reader (AFR). This last phase is scheduled to go into operation in 1983.

Developing a machine for reading fingerprints, as well as the complementary computer storage technology, has been difficult. Delays and cost overruns have characterized development of the AFR. At the request of the systems policy and planning group in the Department of Justice, the FBI has contracted with the National Aeronautics and Space Administration's Jet Propulsion Laboratory to study the need for and costs of automation of the reading of fingerprints. This JPL study is a rare independent analysis of the need for the particular pattern of procurement and development adopted by the FBI in the creation of either of the computerized information systems.

As this description of the AIDS development process indicates, the two programs could operate in a complementary rather than duplicative fashion—if some basic planning and management decisions had been made and coordinated years ago. As the GAO report pointed out, however, further development of the CCH program and the rationalization of the two systems now will cause much of the work done in AIDS–I to be a wasted effort. The taxpayer will be forced to pay the price of the FBI failure to undertake any reasonable planning process, not to mention the failure to carefully consider the needs of users and the concerns of the public in its push for computerization of criminal histories. The failures of the procurement process underline these management failures.

FAILURE TO FOLLOW PROCUREMENT STANDARDS

GAO auditors found that the FBI violated Federal procurement policies and standards in acquisition of its present ADP equipment. In addition, the GAO found that the FBI failed to develop the long-range plan identifying its ADP needs required by OMB Circular A–109 and other procurement policies. Finally, the FBI has not undertaken the comprehensive analysis of alternatives regarding the development of the two information systems which both sound management principles and the problems encountered in the last few years would suggest were necessary.

For example, GAO auditors discovered that while the FBI saved almost $1 million by terminating a previous contract and leasing three computers (for about $2.2 million annually), it could have done better for itself and the Government by obtaining the computers by methods other than straight lease. Procurement regulations require looking at alternatives.

GAO also discovered that the Bureau, in the applications programing for its systems, had employed low-level, machine-dependent languages which impose substantial costs in any subsequent procurements. The programing by the FBI was in conflict with the Federal information processing standards program, which was established specifically to reduce procurement costs and insure the effective use of ADP resources.

IMPLICATIONS FOR THE FUTURE

In the light of all of these concerns, the Subcommittee on Government Information and Individual Rights will be subjecting the current operations and efforts of the FBI in the CCH and AIDS programs to careful scrutiny in the coming months. In particular, proposals for future development of the systems, and even their current configuration, will receive in-depth attention. The GAO report and the OTA report to be released early next year will provide starting points for inquiry.

In keeping with these efforts, I note with interest that the Senate Judiciary Committee has agreed to fund further leasing of computers and communications capabilities for NCIC only on the condition that they not be used for exchanging criminal history data from one State to another through a message-switched network.

In particular, the Senate committee has approved FBI acquisition of a front-end processor designed to operate as a communications controller for the NCIC system. Senate approval was predicted on several specific restrictions. This Senate action provides an important step in effective oversight of the FBI's procurement practices in the development of CCH and AIDS. As spelled out in the committee's letter of September 26 to Admiral Freeman at GSA:

> Committee approval has been made possible by the Bureau's commitments not to acquire a message-switching option nor to use the equipment to message-switch data between states; to program equipment software to give requests for computerized criminal history data the lowest priority; to lease the equipment for the shortest period feasible, but in no case for longer than two years; and to permit biannual General Accounting Office audits of controller transmissions to ensure compliance with these commitments.

This particular procurement of computer and communications capabilities by the Bureau is currently being reviewed by subcommittee staff. It is vital to determine if these capabilities fit into any coherent plan with due consideration given to the needs of both NCIC and AIDS; it is also vital that we insure that the FBI does not, through incremental procurements, build a system that is unnecessarily costly, unresponsive to the needs of end users, disruptive to our Federal system, or potentially dangerous to the rights and interests of our citizens.

Mr. Speaker, I hope to keep you informed on these and other questions regarding the continuing development of computerized law enforcement information networks.

For more information on the subject, I recommend to my colleagues the GAO's report on the subject: "The FBI Operates Two Computerized Criminal History Information Systems," dated September 7, 1979, and numbered GGD–79–81.●

H.R. 4249, TOLL ROAD ENTITLEMENT REPAYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, I rise in support of H.R. 4249, a bill to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978.

Title 2 of this legislation is of vital concern to the citizens of the Third Congressional District of Indiana and, indeed, all of northern Indiana.

The bill allows for the retention of tolls on the Northern Indiana Toll Road, which would be used for the construction of vitally needed interchanges and bridge widening. Of particular interest to me is the inclusion of three new interchanges in the Third Congressional District, which I have the honor to represent, and the completion of a fourth. These new interchanges would provide greater ease of access to major industrial and urban areas in St. Joseph, Elkhart, and LaPorte Counties.

The Indiana Toll Road Commission has promised to move forward on these new interchanges expeditiously so that construction would commence on all interchanges as set forth in the required construction subsection of title II of H.R. 4249, no later than December 31, 1981. Substantial progress in the construction of the interchanges located at Indiana State Highway 912 South, the Mishawaka interchange in St. Joseph County, the Elkhart County interchange, and the Willow Creek Road interchange in Porter County, Ind., is expected by December 31, 1981, date. The remaining interchanges, as well as the interchanges listed under acquisition of right of way for State road 149 interchange in Porter County and U.S. Highway 20 in LaPorte County, are expected to be completed at a date somewhat later than the initial four interchanges, due to the complexity of site design and construction.

Mr. Speaker, it is gratifying when the Federal Government can respond effectively to a local problem, the solution of which is supported by the citizens of Indiana and the entire Indiana congressional delegation.●

AN END TO "PAYLESS PAYDAYS" FOR FEDERAL PERSONNEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BARNES) is recognized for 5 minutes.

● Mr. BARNES. Mr. Speaker, on October 31, I introduced legislation to end the annual budget crises which threaten millions of Federal civilian and military personnel with "payless paydays." It is time Members of both Houses faced up to the situation—our authorization and appropriations process, and our new congressional budget process, are not working properly and the American people are suffering hardships because of it. The "art of compromise" in politics has broken down repeatedly as the House and Senate play a game of chicken on narrow issues that tie up the functions of the entire Government. Special interest constituencies have exerted inordinate influence to tie up essential appropriations bills. We absolutely cannot allow this situation to continue.

There are many Members of this body—and I am one of them—who would support basic reforms in the operation of this institution to conform to the increasing complexities of modern government and the demands of our districts for greater contact with their elected representatives. Despite the advent of computers, Congress in many ways still operates in the 19th century. But the demands on us to perform more competently and effectively multiply, and we need to make changes to insure that we stay up to the job. There are certain types of legislation, such as appropriations bills, which we simply must pass. We can argue over policies and priorities, but in the end the Government of the United States must continue to function.

Based on my observations of the House of Representatives over the last month, too many of my colleagues seem to have lost touch with that reality. A majority of this House has repeatedly engaged in legislative brinksmanship to get its way on very narrow issues of Federal policy. Members seem to have forgotten that we are here also to act, not simply to argue.

I realize that the House of Representatives is not going to change overnight. Reforms take time. But in the meantime we must make some effort to admit that problems exist and that some kind of measures—even if only temporary in nature—must be taken if this institution is to avoid becoming a continual laughing-stock.

DELAY IN APPROPRIATIONS

The continuing appropriations resolution (H.J. Res. 412) finally became law on October 12. The delay of nearly 2 weeks in funding the Government resulted in the issuance of half pay checks to hundreds of thousands of Government workers, as well as substantial extra costs for writing catchup checks, using computer time, notifying financial institutions, and paying overtime to administrative personnel processing paychecks. Failure to pass this essential legislation on time not only caused serious hardship and anguish to many thousands of Americans, but also proved to be very wasteful and inefficient as well.

This matter should be one of growing concern to Members, because we are not out of the woods yet. House Joint Resolution 412 expires on November 20, less than 3 weeks away. The assumption was that we would be able to pass the general appropriations bills by that time, but that is looking increasingly more doubtful. As of today, several major appropriations bills appear stalled in the legislative process. Among them are:

Labor/HEW. The conference report was approved by both Houses long ago, but the controversy over abortion rages without letup. On October 30, the House rejected the abortion compromise language we voted into the continuing resolution. The Senate is not likely to give us its own language without another major series of fights.

Defense. The bill has still not been passed by the Senate.

Interior. In conference.

Transportation. In conference.

As we move further into November, it appears increasingly likely that yet another continuing appropriations bill will be required. Plans should be made to deal with it, so that the House can act expeditiously and the Nation will not be held in suspense.

CHANGE IN HOUSE RULES

I have introduced House Resolution 470 to provide a constructive mechanism to insure that the Government fulfills its obligation to pay the salaries of its employees in full and on time. Federal civilian and military personnel perform a vital service, and they are justifiably outraged that Congress places their well-being in jeopardy to haggle over issues that should be resolved somewhere other than in appropriations bills. However, I also realize that the Congress cannot give up its control over the appropriations process, and that conflicts between the House and Senate will sometimes inevitably arise in this kind of legislation. That fact is not likely to change anytime soon. The basic behavior of this institution, built over 200 years of history, cannot be easily altered.

My resolution would change the rules of the House of Representatives by adding a new rule L to provide procedures for the continuance of pay for Federal employees, pending enactment of general appropriations bills. The new rule provides that whenever the House passes one of the regular general appropriations bills, such passage automatically generates a separate joint resolution providing pay and pay-related expenses for Federal employees at the level provided in the bill. The joint resolution is considered as having been passed, and an engrossed copy sent to the Senate without further action by the House.

The procedure envisioned by this rules change was adapted from the new method of passing legislation to adjust the level of the public debt devised by the able gentleman from Missouri (Mr. GEPHARDT). Public Law 96–78 provides that when the concurrent resolution on the budget is passed by the House, the level of the public debt it specifies is automatically placed in a separate joint resolution and sent to the Senate.

House Resolution 470 provides, for each appropriations bill, a legislative vehicle that can be used to continue the salaries of Federal civilian and military personnel even if the appropriations bill from which it sprang is delayed in controversy over some other policy matter. If the general appropriations bill becomes

law before the start of the fiscal year, there would be no need for further congressional action on these separate pay resolutions.

House Resolution 470 would also provide that the joint resolutions on Federal salaries, if signed into law, would come into effect at any point during the fiscal year if the general appropriations bills to which they relate have not been enacted into law, or if a continuing resolution containing such funds expires without being renewed.

The text of the resolution follows:

H. RES. 470

Resolution to amend the Rules of the House of Representatives to provide for the continuance of authority to pay employees of the various agencies in the absence of the timely enactment of appropriations for such agencies

Resolved, That the Rules of the House of Representatives are amended by adding at the end thereof the following new rule:

"RULE L

"PROCEDURES FOR CONTINUANCE OF PAY FOR FEDERAL EMPLOYEES PENDING ENACTMENT OF GENERAL APPROPRIATIONS BILLS

"1. Upon the adoption by the House of Representatives of any general appropriations bill, the enrolling clerk of the House of Representatives shall prepare an engrossment of a joint resolution, in the form prescribed in clause 2. The vote by which the general appropriation bill was agreed to in the House shall be deemed to have been a vote in favor of such joint resolution upon final passage in the House of Representatives. Upon the engrossment of such joint resolution it shall be deemed to have passed the House of Representatives and been duly certified and examined; the engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action; and (upon final passage by both Houses) the joint resolution shall be presented to the President for his signature (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

"2. The matter after the resolving clause in any joint resolution described in clause 1 shall be as follows: 'There is appropriated such sums as may be necessary to pay the pay and pay-related expenses of the Federal officers and employees employed in organizational units and activities for which appropriations are made in the bill entitled " " (as passed the House) during any period during the fiscal year ending September 30, , for which funds are not appropriated for that organizational unit or activities; except that no funds are appropriated for any period by this resolution for the pay or pay-related expenses for Federal officers or employees in an organizational unit or activity in excess of the number in such unit or activity, as the case may be, at the end of the preceding fiscal year.'; with the first blank being filled with the title of the bill with respect to which the resolution will be engrossed, and the second blank being filled with the calendar year in which the end of the fiscal year to which such bill relates occurs.

"3. The report of the Committee on Appropriations of the House of Representatives accompanying any general appropriation bill shall contain a clear statement of the effect under this rule that the adoption by the House of such general appropriation bill (and the adoption of the joint resolution thereupon prepared and engrossed under clause 1) would have upon the continuing authority for the pay and pay-related expenses of Federal officers and employees covered by such bill. It shall not be in order in the House of Representatives at any time to consider or adopt any general appropriation bill if at that time the report accompanying such bill does not comply with the requirements of this clause.

"4. Nothing in this rule shall be construed as limiting or otherwise affecting the power of the House of Representatives to consider and pass a bill (other than a general appropriation bill), without regard to the procedures under clause 1, which changes the rate of pay or the amount of pay-related expenses for Federal officers and employees, which changes the number of such officers or employees in any organizational unit or activity, or which otherwise expressly relates to the pay or pay-related benefits of such officers or employees; and the rights of Members and committees of the House with respect to the introduction, consideration, and reporting of any such bill shall be determined as though this rule had not been adopted.

"5. As used in this rule, the term 'pay-related expenses' includes the expenses for agency contributions for retirement and health and life insurance coverage, in accordance with applicable law.".

SEC. 2. The amendment made by this resolution shall apply with respect to general appropriation bills for fiscal years beginning on or before October 1, 1980.●

THE FEDERAL RESERVE SHOULD CEASE URGING LAGGED RESERVE REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, as part of the fight against rising interest rates and inflation, the Federal Reserve has long been urged to change the method by which it computes reserve requirements—from a system of lagged reserve requirements to synchronous reserve requirements, which were used prior to 1968. I reiterated my view in a letter to the Federal Reserve on October 12, 1979.

As Nobel Laureate Milton Friedman says in his letter to me of October 26, 1979:

It is an extraordinary sign of bureaucratic inertia that a mistaken policy adopted years ago, criticized by almost every expert on the subject who has considered the subject, apparently cannot be eliminated regardless of how much harm it does to monetary policy.

Because the Federal Reserve has on October 6, 1979, adopted a policy which emphasizes direct control over the monetary aggregates, the present system of lagged reserve requirements is especially harmful. The system unnecessarily pushes up interest rates, and makes it much more difficult for the Federal Reserve to control the money supply.

HOOVER INSTITUTION ON WAR, REVOLUTION AND PEACE,
Stanford, Calif., October 26, 1979.

Hon. HENRY S. REUSS,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR HENRY REUSS: I write primarily to congratulate you on your letter of October 12, 1979 to Chairman Volcker recommending that he give immediate consideration to the elimination of lagged reserve requirements and return to a system of synchronous reserve requirements. You deserve great credit for the consistent campaign that you have maintained on this issue for the past serveral years. It is an extraordinary sign of bureaucratic inertia that a mistaken policy adopted years ago, criticized by almost every expert on the subject who has considered the subject, apparently cannot be eliminated regardless of how much harm it does to monetary policy.

I am enclosing for your information a copy of a Newsweek column which I wrote commenting on Chairman Volcker's statement of October 6 on the Federal Reserve's new policy. Your and my experience in the past with the bureaucratic inertia of the Federal Reserve led me to put in the caveats in that column about whether the Fed really meant what it said. I sincerely hope so. Few things could do more to improve the economic outlook of the country. However, it will remain a question whether a new policy can and will in fact be administered by people who have devoted their professional lives to the earlier misguided policy. I must confess that Peter Sternlight's public press conference does nothing to erase those doubts.

I know you will continue to keep pressure on the Federal Reserve System for the adoption of effective policies for controlling the monetary aggregates. If there is any way in which I can be of any help to you in that task, I hope you will not hesitate to call on me.

Sincerely yours,
MILTON FRIEDMAN,
Senior Research Fellow.

HAS THE FED CHANGED COURSE?

(By Milton Friedman)

The changes in Federal Reserve policy announced by chairman Paul Volcker on Saturday evening, Oct. 6, produced a turbulent week in the financial markets of the world. Yet it will be many months, perhaps even years, before the real meaning of those changes is fully revealed. Perhaps that very uncertainty produced the turmoil.

Volcker announced three changes. The first two—a 1-percentage-point increase in the discount rate (the interest rate at which the Fed lends to member banks) and the imposition of additional reserve requirements—were primarily cosmetic. They have received far more attention than they deserve.

The shifts in policy: The increase in the discount rate was a delayed response to market forces, not a vigorous Fed initiative. The discount rate, at 11 per cent, had been falling farther and farther below the rates that banks have been charging their customers; at 12 per cent, it remains below. In any event, it is of little significance. Member banks have been borrowing about $1 billion from the Fed, a trivial sum by comparison with the $800 billion that commercial banks have been lending to their customers. The discount rate is an anachronism that should be eliminated.

The new Reserve requirement levied on certain liabilities is also a response to market forces. For the most part, it is simply an attempt to close loopholes that ingenious banks have been exploiting in traditional Federal Reserve requirements. In any event, it applies only to increases in liabilities, and hence cannot produce pressure for their reduction.

The third change is potentially the most significant—and also the most ambiguous: in the words of the Fed's release, it is "a change in the method used to conduct monetary policy to support the objective of containing growth in the monetary aggregates." The Fed's targets for monetary growth have become a laughingstock, as it has become clear that any relation between the targets and actual monetary growth is purely coincidental. For more than a decade there has been increasing pressure on the Fed—from academic students of money, the staffs of various regional reserve banks, the staff of the board itself and, more recently, from Congress—to change its operating procedure

by substituting the monetary base (currency plus deposits at Federal Reserve banks) for the Federal funds rate as the primary instrument for controlling monetary growth.

Has the Fed finally gotten that message? The Fed's release sounds like it: "This action involves placing greater emphasis in day-to-day operations on the supply of bank reserves and less emphasis on confining short-term fluctuations in the Federal funds rate." However, those of us who have long favored such a change have repeatedly licked our wounds when we mistakenly interpreted earlier Fed statements as portending a change in operating procedures. I hope that this time will be different—but remain skeptical until performance matches pronouncements.

What difference does it make? Consider simply the past several years. The Fed has consistently talked about the need for a steady policy of monetary restraint. Yet from October 1976 to October 1978, the quantity of money (as measured by M_1, currency plus all deposits at commercial banks other than large CD's) increased at close to 10 per cent per year; from October 1978 to March 1979, at less than 3 per cent; from March 1979 to September 1979, at close to 12 per cent. The rapid monetary growth prior to October 1978 spurred inflation; the subsequent slowdown in monetary growth produced the onset of recession after the usual lag of about six months; the monetary explosion that began in March 1979 aborted the recession after a shorter than usual lag of only about three months. As a result, the third and fourth quarters of 1979 are likely to display renewed inflationary expansion. If the Fed does change its procedures and does slow monetary growth, the recession will be resumed—or a new recession will get under way—in the first or second quarter of 1980. The bright side of that coin is that steady and gradual reduction in monetary growth would end inflation and lay the groundwork for healthy, noninflationary economic growth.

However, there are two slips between the lip and the cup. First, so far this is all promise, not performance. Second, improved operating procedures can be used to inflate as well as to restrain inflation. Will the Fed's excellent anti-inflation sentiments survive climbing unemployment in Election Year 1980?

On October 18, 1979, Federal Reserve Chairman Paul Volcker wrote to me that he is sympathetic with my views on the subject of lagged reserve accounting, and that "the Board has preferred to maintain lagged reserve accounting at least for the immediate future in the hope the membership problem can soon be resolved." This gives the Congress another reason for speedy passage of the Monetary Control Act of 1979, H.R. 7, which eliminates the problems caused by banks' leaving the Federal Reserve System.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. CHENEY (at the request of Mr. MICHEL), for today, on account of official business.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. NELSON (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. RAILSBACK (at the request of Mr. MICHEL), for today, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. WILLIAMS of Ohio (at the request of Mr. MICHEL), for today, on account of official business.

Mr. YOUNG of Alaska (at the request of Mr. MICHEL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) to revise and extend their remarks and include extraneous matter:)

Mr. FRENZEL, for 20 minutes, today.
Mr. SCHULZE, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. JOHNSON of California, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. CAVANAUGH, for 5 minutes, today.
Mr. FLORIO, for 5 minutes, today.
Mr. MITCHELL of Maryland, for 5 minutes, today.
Mr. ALEXANDER, for 15 minutes, today.
Mr. PREYER, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. BARNES, for 5 minutes, today.
Mr. REUSS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FOUNTAIN, to revise and extend immediately following adoption of committee amendments.

Mr. FOUNTAIN, to revise and extend, during general debate on H.R. 5192.

(The following Members (at the request of Mr. SENSENBRENNER), and to include extraneous matter:)

Mr. YOUNG of Florida in five instances.
Mr. BOB WILSON.
Mr. KEMP.
Mr. PAUL in two instances.
Mr. ERLENBORN.
Mr. ASHBROOK in two instances.
Mr. COUGHLIN.
Mr. DANIEL B. CRANE.
Mr. THOMAS.
Mr. OTTINGER.
Mr. LEE.
Mrs. HOLT.
Mr. GILMAN.
Mr. BERKLEY.
Mr. HILLIS.
Mr. MCCLORY.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. GUDGER.
Mr. WALGREN.
Mr. SKELTON.
Mr. GEPHARDT.
Mr. STARK in two instances.
Mr. BAILEY.
Mr. MATTOX.
Mr. EDGAR.
Mr. MOAKLEY in two instances.
Mr. BLANCHARD.
Mr. MCDONALD.
Mr. DRINAN.
Mr. SEIBERLING in 10 instances.
Mr. GAYDOS.
Mr. WEISS.
Mr. WAXMAN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1477. An act to provide for improvements in the structure and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until Monday, November 5, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2755. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting proposed interim final regulations for Part 185 of the Emergency School Aid Act, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2756. A letter from the Chairman, Board of Trustees, Harry S Truman Scholarship Foundation transmitting the Foundation's 1978–79 annual report, pursuant to section 13(b) of Public Law 93–642; to the Committee on Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 2759. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; with an amendment (Rept. No. 96–411, pt. III). Ordered to be printed.

Mr. GIAIMO: Committee of conference. Conference report on Senate Concurrent Resolution 36 (Rept. No. 96–582). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 1905 (Rept. No. 96–583). Ordered to be printed.

Mr. DELLUMS: Committee of conference. Conference report on S. 1037 (Rept. No. 96–584). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. Report on energy conservation within the Federal Government: the Department of Energy's record (Rept. No. 96–586). Referred to the Committee of the Whole House on the State of the Union.

ADVERSE REPORTS

Under clause 2 of rule XIII,

Mr. BROOKS: Committee on Government

Operations. House Resolution 428. Resolution to disapprove Reorganization Plan No. 3 transmitted by the President on September 25, 1979 (Rept. No. 96-585). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 5789. A bill to amend title 28 of the United States Code to establish two divisions for the central judicial district of California; to the Committee on the Judiciary.

By Mr. FLORIO (for himself and Mr. LAFALCE):

H.R. 5790. A bill to amend the Solid Waste Disposal Act to provide authority to respond to releases of hazardous waste which is presently unregulated at the Federal level and which endanger public health and the environment, to establish a hazardous waste response fund to be funded by a system of fees, to establish prohibitions and requirements concerning certain unregulated releases of hazardous waste, and to provide for liability of persons responsible for releases of hazardous waste, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. AKAKA (for himself, Mr. HEFTEL, and Mr. PHILLIP BURTON):

H.R. 5791. A bill to establish the Native Hawaiians Study Commission and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. AuCOIN:

H.R. 5792. A bill to authorize the Secretary of the Interior to provide for the protection, use, and enjoyment of the esthetic and recreational values inherent in the Federal lands and water at Henry Hagg Lake, Tualatin Project, Oreg.; to the Committee on Interior and Insular Affairs.

By Mr. BEARD of Rhode Island:

H.R. 5793. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. BRADEMAS (for himself, Mr. HAMILTON, Mr. SHARP, Mr. FITHIAN, Mr. BENJAMIN, Mr. JACOBS, Mr. MYERS of Indiana, Mr. DECKARD, Mr. HILLIS, Mr. EVANS of Indiana, and Mr. QUAYLE):

H.R. 5794. A bill to designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building"; to the Committee on Public Works and Transportation.

By Mr. COELHO (for himself, Mr. MOORHEAD of California, Mr. CHARLES H. WILSON of California, Mr. LAGOMARSINO, Mr. JOHNSON of California, Mr. PASHAYAN, Mr. FAZIO, Mr. SHUMWAY, Mr. BROWN of California, Mr. BOB WILSON, Mr. LLOYD, Mr. BURGENER, Mr. MATSUI, Mr. GOLDWATER, Mr. PANETTA, Mr. THOMAS, Mr. ROUSSELOT, Mr. MINETA, and Mr. LEWIS):

H.R. 5795. A bill to amend the Agricultural Adjustment Act to allow the crediting of certain obligations of handlers who engage in the marketing of grapefruit, lemons, or oranges subject to marketing orders if such fruits are grown in the State of Arizona or the State of California; to the Committee on Agriculture.

By Mr. FUQUA (for himself, Mr. ROE, Mr. FISH, Mr. DORNAN, Mr. LLOYD, Mr. BLANCHARD, Mr. FLIPPO, Mr. GLICKMAN, Mr. WATKINS, Mr. NELSON, Mr. ETTEL, Mr. PEPPER, Mr. MINETA, Mr. STUDDS, Mr. MOORHEAD of Pennsylvania, Mr. CORRADA, Mr. MURPHY of Pennsylvania, Mr. LEHMAN, Mr. SIMON, Mr. AKAKA, Mr. HEFTEL, Mr. WHITEHURST, Mr. GIBBONS, Mr. CARTER, Mrs. BYRON, Mr. LAGOMARSINO, Mr. BEILENSON, and Mr. EMERY):

H.R. 5796. A bill to provide for an accelerated research and development program to achieve early applications of ocean thermal energy conversion systems and for other purposes; to the Committee on Science and Technology.

By Mr. GEPHARDT:

H.R. 5797. A bill to amend the Congressional Budget Act of 1974 to assure that the congressional budget process reflects a responsible approach to national fiscal and monetary policy, and realistically takes into account the state of the economy, by establishing a new procedure under which the Congress will separately decide upon the size of the Federal surplus or deficit for any fiscal year before it considers or decides upon the specific budget outlays to be authorized in the concurrent resolution on the budget for that year; jointly, to the Committees on Rules, Banking, Finance and Urban Affairs, and Government Operations.

By Mr. GUDGER:

H.R. 5798. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for qualified forestry expenditures that improve the productivity of privately-owned lands, and for other purposes; to the Committee on Ways and Means.

By Mr. LEACH of Iowa (for himself and Mr. COLEMAN):

H.R. 5799. A bill to amend title 5, United States Code, to provide for Federal personnel ceilings (including ceilings on contracts involving personal services), to establish an award for Federal employees for responsiveness to public needs, to provide that performance in administering personnel and contract ceilings are taken into account in evaluating the performance of Federal executives and managers, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PASHAYAN (for himself, Mr. ABDNOR, Mr. ANNUNZIO, Mr. BADHAM, Mr. BEARD of Tennessee, Mr. BEILENSON, Mr. BENJAMIN, Mr. BEREUTER, Mr. BETHUNE, Mr. BURGENER, Mr. JOHN L. BURTON, Mr. CAMPBELL, Mr. CARTER, Mr. CHENEY, Mr. CLAUSEN, Mr. CLINGER, Mr. COELHO, Mr. COUGHLIN, Mr. COURTER, Mr. DANIEL B. CRANE, Mr. PHILIP M. CRANE, Mr. DANNEMEYER, Mr. DASCHLE, Mr. DELLUMS, Mr. DORNAN, Mr. DOUGHERTY, Mr. ECKHARDT, Mr. ERDAHL, Mr. EVANS of the Virgin Islands, Mr. FAZIO, Ms. FERRARO, Mr. FUQUA, Mr. GINGRICH, Mr. GOODLING, Mr. GORE, Mr. GRASSLEY, Mr. GRISHAM, Mr. GUYER, Mr. HALL of Texas, Mr. HINSON, Mr. HUCKABY, Mr. HYDE, Mr. JEFFRIES, Mr. JOHNSON of California, Mr. JOHNSON of Colorado, Mr. JONES of Tennessee, Mr. KEMP, Mr. KOGOVSEK, Mr. KRAMER, Mr. LAGOMARSINO, Mr. LATTA, Mr. LEE, Mr. LELAND, Mr. LEWIS, Mr. LLOYD, Mr. LOTT, Mr. LUJAN, Mr. MARRIOTT, Mr. MATSUI, Mr. MCCLORY, Mr. MCCLOSKEY, Mr. MCKAY, Mr. MILLER of California, Mr. MINETA, Mr. MOORHEAD of California, Mr. MOTTL, Mr. MURPHY of Pennsylvania, Mr. MYERS of Indiana, Mr. NATCHER, Mr. PANETTA, Mr. PATTEN, Mr. PATTERSON, Mr. PEPPER, Mr. PETRI, Mr. PEYSER, Mr. QUILLEN, Mr. RITTER, Mr. ROBINSON, Mr. ROUSSELOT, Mr. ROYBAL, Mr. ROYER, Mr. RUDD, Mr. SAWYER, Mrs. SCHROEDER, Mr. SHUMWAY, Mrs. SMITH of Nebraska, Mrs. SNOWE, Mr. SOLARZ, Mr. SOLOMON, Mrs. SPELLMAN, Mr. STACK, Mr. STANGELAND, Mr. STENHOLM, Mr. STOCKMAN, Mr. SYMMS, Mr. TAUKE, Mr. THOMAS, Mr. TRIBLE, Mr. VANDER JAGT, Mr. WALKER, Mr. WAMPLER, Mr. WAXMAN, Mr. WEAVER, Mr. WHITEHURST, Mr. WHITTAKER, Mr. BOB WILSON, Mr. CHARLES WILSON of Texas, Mr. CHARLES H. WILSON of California, Mr. WOLPE, Mr. YOUNG of Florida, and Mr. YOUNG of Alaska):

H.R. 5800. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Bryan Lewis Allen; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TRAXLER (for himself and Mr. BONIOR of Michigan):

H.R. 5801. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake erosion control measures at Lexington Harbor, Mich.; to the Committee on Public Works and Transportation.

By Mr. WYDLER:

H.R. 5802. A bill relating to purchases and sales of gold by the United States; to the Committee on Banking, Finance and Urban Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAILEY:

H.R. 5803. A bill for the relief of Yang Mi Hoffer; to the Committee on the Judiciary.

By Ms. OAKAR:

H.R. 5804. A bill for the relief of Sleiman M. Alameh; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXIII, sponsors were added to public bills and resolutions as follows:

H.R. 1411: Mr. HUBBARD.

H.R. 1516: Mr. WEISS, Mr. FISH, and Mr. LAGOMARSINO.

H.R. 2291: Mr. ALBOSTA, Mr. BETHUNE, Mr. EDWARDS of Oklahoma, Mr. GINGRICH, Mr. HAMMERSCHMIDT, Mr. HILLIS, Mr. HYDE, Mr. MARKEY, Mr. RAILSBACK, and Mr. YOUNG of Missouri.

H.R. 3401: Mr. RICHMOND, Mr. HUGHES, and Mr. BONIOR of Michigan.

H.R. 3532: Mr. CHARLES H. WILSON of California, Mr. HUGHES, and Mr. BONIOR of Michigan.

H.R. 3558: Mr. LUKEN.

H.R. 4646: Mr. ANNUNZIO, Mr. BOB WILSON of California, Mr. HALL of Ohio, Mr. FOUNTAIN, and Mr. SWIFT.

H.R. 4659: Mr. CAMPBELL, Mr. SWIFT, Mr. KINDNESS, Mr. OBERSTAR, Mr. SYMMS, Mr. AMBRO, Mr. CHARLES WILSON of Texas, Mr. CARTER, Mr. WHITEHURST, Mr. BURGENER, Mr. AKAKA, Mr. MATHIS, Mr. ZEFERETTI, Mr. SANTINI, and Mr. GINGRICH.

H.R. 4786: Mr. COLLINS of Texas, Mr. EDWARDS of Oklahoma, and Mr. GINGRICH.

H.R. 4878: Mr. DOWNEY, Mr. WIRTH, Mr. LEE, Mr. DANNENMEYER, Mr. TAUKE, Mr. CAVANAUGH, Mr. PASHAYAN, Mr. BEDELL, Mrs. SPELLMAN, Mr. OBERSTAR, Mr. LUNDINE, and Mr. FITHIAN.

H.R. 5243: Mr. WHITEHURST.

H.R. 5348: Mr. FOLEY.

H.R. 5561: Mr. COLLINS of Texas, Mr. PHILIP M. CRANE, Mr. GRASSLEY, and Mr. EDGAR.

H.R. 5571: Mr. NOWAK.

H.R. 5586: Mr. THOMAS.

H.R. 5591: Mr. LEVITAS and Mr. MOAKLEY.

H.R. 5610: Mr. BROYHILL, Mr. MCDONALD, Mr. SHARP, and Mr. YATRON.

H.R. 5671: Mr. RAHALL, Mr. STANGELAND, Mr. MURPHY of Pennsylvania, Mr. ROE, Mr. TAUKE, Mr. MURPHY of Illinois, Mr. ADDABBO, Mr. FROST, Mr. HYDE, and Mr. BEVILL.

H.J. Res. 372: Mr. FROST, Mr. STACK, Mr. LENT, Mr. ARCHER, Mr. WOLPE, Mr. RAHALL, Mr. BENJAMIN, Mr. CARNEY, Mr. FAZIO, Mr. CHARLES WILSON of Texas, Mr. WHITEHURST, Mr. MARKS, Mr. MURPHY of New York, Mr. PRENZEL, Mr. OBERSTAR, Mr. BONIOR of Michigan, Mr. RINALDO, Mr. FISH, Mr. KEMP, and Mr. NOLAN.

H.J. Res. 414: Mr. ANDERSON of California, Mr. ANTHONY, Mr. ASHBROOK, Mr. BADHAM, Mr. BAUMAN, Mr. BEARD of Tennessee, Mr. BEDELL, Mr. BETHUNE, Mr. BONIOR of Michigan, Mr. BUTLER, Mr. CARTER, Mr. CLAUSEN, Mr. COLLINS of Texas, Mr. CONABLE, Mr. CONTE, Mr. CORCORAN, Mr. DERWINSKI, Mr. DEVINE, Mr. DICKINSON, Mr. DORNAN, Mr. ECKHARDT, Mr. FINDLEY, Mr. GILMAN, Mr. GOLDWATER, Mr. GOODLING, Mr. GORE, Mr. HAGEDORN, Mr. HALL of Ohio, Mr. HAMMERSCHMIDT, Mr. HANSEN, Mrs. HECKLER, Mr. HILLIS, Mr. HOLLENBECK, Mr. HORTON, Mr. HUGHES, Mr. ICHORD, Mr. JEFFORDS, Mr. LATTA, Mr. LEACH of Iowa, Mr. LOTT, Mr. LUJAN, Mr. MCCLORY, Mr. MARTIN, Mr. MICHEL, Mr. MILLER of Ohio, Mr. MOORE, Mr. OBERSTAR, Mr. O'BRIEN, Mr. PECKLE, Mr. PRITCHARD, Mr. QUILLEN, Mr. RAHALL, Mr. RAILSBACK, Mr. REGULA, Mr. RHODES, Mr. ROBERTS, Mr. RUDD, Mr. SEBELIUS, Mr. SHUSTER, Mr. SIMON, Mrs. SNOWE, Mr. SNYDER, Mr. SOLOMON, Mr. SPENCE, Mr. STANGELAND, Mr. SYMMS, Mr. TAYLOR, Mr. VANDER JAGT, Mr. WALKER, Mr. WHITTAKER, Mr. WOLPE, Mr. WYLIE, Mr. YOUNG of Florida, Mr. BAFALIS, Mr. DANIEL B. CRANE, Mr. GRADISON, Mr. SAWYER, Mr. STANTON, and Mr. WOLFF.

H. Con. Res. 129: Mr. LUNGREN.

H. Res. 383: Mr. GRASSLEY.

H. Res. 445: Mr. DEVINE and Mr. MYERS of Indiana.

AMENDMENTS

Under clause 6 of rule XXIII,

H.R. 2603

By Mr. DERRICK:

(To the committee amendment.)

—In lieu of the matter proposed to be inserted by the committee amendment, insert page 9, line 7 "$8,000,000, of which $3,000,000 shall be available only for plant engineering and design at the Savannah River Plant, Aiken, South Carolina".

EXTENSIONS OF REMARKS

FEDERAL LOAN GUARANTEES TO THE CHRYSLER CORP.

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. HILLIS. Mr. Speaker, I was encouraged by the announcement today by the administration that it will recommend $1.5 billion in Federal loan guarantees to the Chrysler Corp. This issue has already been the subject of hearings by the Subcommittee on Economic Stabilization of the Banking, Finance and Urban Affairs Committee. Hopefully, that subcommittee will soon report H.R. 5630 introduced by Congressman BLANCHARD and cosponsored by me. H.R. 5630 authorizes the Federal Government to give emergency loans and loan guarantees to the Chrysler Corp.

Before the House votes on H.R. 5630 or a similar measure, I believe there are two questions which should be addressed. The first is whether Federal assistance to Chrysler, or any private corporation close to bankruptcy, is a proper function of our Government and in the best interest of the American people. The second question is whether the particulars of the Chrysler situation warrant Federal assistance. Today I will limit my comment to the first question and address the second question tomorrow.

Direct Federal assistance to a troubled company is a serious issue, the consequences of which must be reviewed carefully. We must be aware of the dangers and benefits of the Federal Government granting assistance to a company to prevent bankruptcy. After all, the preservation of our economic system must receive high priority.

The philosophical questions which need to be addressed are: If the U.S. Government comes to the aid of troubled industries or individual companies, will the free enterprise system in the United States be weakened or protected? Would such assistance establish an undesirable precedent? If assistance is offered, what form should it take?

Like most Americans I am a strong believer in, and supporter of, the free enterprise system. However, we do not have a true or pure free-enterprise system in the United States—particularly in cases where Federal regulations intervene in the policy decisions of private companies. There are numerous industries where Federal intervention has weakened the essence of the free enterprise system, that is, competition, to such a point that the normal checks and balances which allow the system to operate no longer do so adequately.

For example, the free enterprise system no longer operates freely in the agriculture industry where Federal subsidies and controls are widespread. The motor-carrier industry is treated as a public utility and is, therefore, extensively regulated. Housing offers another good example of an industry heavily controlled by Government. Almost every small community has some type of Federal housing through FHA or FmHA. The medical industry is so heavily regulated that the freedom of decision within individual hospitals is extremely limited.

Examples of Federal intervention in the free enterprise system are numerous. Through Federal regulation, tax policies, and programs, competition in our business community has been reduced. The proper role and degree of involvement of the Federal Government in the business community is subject to much discord. However, the status quo will not change in the next few months. We must, therefore, not debate at this point the present policies of the Federal Government. The question of whether Federal assistance to Chrysler will help or weaken our free enterprise system must be considered within the context of present policies.

The automotive industry, while not as regulated as some other industries, has had its product line completely revamped by Federal energy, emission, and safety standards within the last 5 years. While these regulations are unique to the automotive industry, other Federal regulations are not.

Like all U.S. industries, the automotive industry has had to comply with Federal regulations such as OSHA, and environmental emission standards on manufacturing plants as opposed to the car itself. There are also thousands of other Federal programs many of which require forms to be filled out which cost American industries millions of manhours and billions of dollars each year.

Chrysler estimates that research, development, and retooling costs needed to meet Federal safety, pollution, and fuel-efficiency standards will cost the U.S. auto industry $80 billion over the next 7 years. The total effect of all these regulations has reduced the amount of competitiveness in the auto industry. The fiscal impact of Federal regulations on larger companies is less per unit of manufactured item than on smaller companies. The cost of Federal regulations per car for General Motors is $340. The cost of Federal regulations per car for Chrysler is $620—almost twice as much. That $280 makes a significant difference to the consumer.

Certain industries such as the steel, the electronics, and the automotive industry face tremendous competition from imports. Car imports have increased dramatically over the last 20 years. In 1960 imports accounted for only 6.35 percent of all cars sold in the United States. In 1978 that figure was 26.1 percent—a substantial increase.

In both major foreign auto manufacturing countries, Japan and West Germany, the Federal Governments have national policies to insure that their industries remain solvent. The relationship between the U.S. Federal Government and industry is an adversary one—in Japan and West Germany the Federal Government acts almost as a partner.

Federal loans or loan guarantees to private corporations are common in other countries. West Germany, for example, provides research and development subsidies and low-interest loans to auto manufacturers.

Labor costs are also higher in the United States than other countries. In the United States, Ford Motor Co. estimates that net Japanese cost advantage on a subcompact vehicle sold in the United States is $525. Obviously, this gives Japanese manufacturers a tremendous added advantage—particularly since the duty on imported cars is only 2.5 percent in the United States.

The essence of the free enterprise system is, of course, competition. However, for the system to work as it was intended or designed, that competition must be fair. The free enterprise system in the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

United States—and in the automotive industry in particular—has been hurt by excessive Government intervention and unfair foreign competition.

In answer to my first question, I do not feel that certain economic assistance from the U.S. Federal Government to troubled domestic corporations will necessarily undermine, weaken, or threaten our economic system. A pure free-enterprise system simply does not exist in the United States today. We cannot, therefore, expect that system to provide all the answers to a particular industry's or company's financial problems. At times, the answer must come from outside the free enterprise system.

I believe the question of precedent, particularly with loan guarantees, is a moot point. The Federal Government already has established precedents for assisting private industries, including the automotive industry, by providing assistance to American Motors in the form of a tax break in 1967. The assistance given to Lockheed in 1971, while often sighted as a precedent, in reality was not. Long before 1971 there were Federal programs designed to assist private businesses, particularly the smaller ones. There are literally hundreds of Federal programs which through one mechanism or another intervene into the free enterprise system and provide aid to private companies. Loan guarantees have become commonplace and have proven to be effective.

If assistance is to be offered, the question of which type of assistance is in the best interest of the American people, is more difficult to answer. To a substantial degree the answer depends on the particulars of the situation in question. However, in general terms I believe there are several important considerations.

First, the cost to the Federal Government should be kept to a minimum. Loans, and particularly loan guarantees, are, therefore, one of the most desirable forms of assistance which can be offered. At the same time, direct grants are less desirable. Further, the assistance to be offered should not give one company a competitive advantage.

Therefore, in the particular case of Chrysler, exempting it from meeting fuel and emissions standards is not very desirable. Such an exemption would also be inconsistent with what the Congress has already determined to be in the best interest of the Nation. Special tax breaks limited to one company are undesirable and should be avoided.

Philosophically, then, I believe it is fair to say that Federal assistance per se will not necessarily undermine our economic system nor will it establish an undesirable precedent. Loans and loan guarantees are probably the best type of assistance which can be offered.

Having reached these conclusions, the particular problems facing Chrysler must be addressed in order to determine if the Federal Government should offer it any assistance. Tomorrow I will enter another statement in the RECORD on that subject.●

THE OLYMPIC DEVELOPMENT FUND

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. KEMP. Mr. Speaker, as a member of the President's Commission on Olympic Sports and a former professional athlete, I would like to take this opportunity to remind the Congress that it was the overwhelming conclusion of that body that all levels of amateur sports, whether local, State, regional or national, are inadequately funded to allow for the development of athletes, coaches and officials; to promote adequate competition; to construct and maintain facilities; and to insure professional administration. Our amateur athletic system is at a point of crisis, and with the help of the Congress of the United States we can begin to get the system back on the track and on the road to recovery.

In order to make a positive step in the direction of adequate financing of our amateur sports system, I have introduced legislation, H.R. 5222, that would provide for a $1 checkoff on future Federal income tax forms. The money collected would be placed into a special fund for Olympic development. These funds would then be directly transferable from the general fund of the U.S. Treasury to the United States Olympic Committee (USOC), to be used to expand and improve our amateur athletics in the United States.

A companion bill, S. 1630, has been jointly introduced by my colleagues, Senator INOUYE, Senator STEVENS, Senator LAXALT, Senator STONE, Senator PRESSLER, and Senator CULVER.

Let me stress that this fund will not be used to support our elite athletes, those participating in Olympic or Pan American competitions. Support of these athletes is already relatively self sustaining through the use of the USOC's own financial resources.

This fund is targeted at grassroots development, in conjunction with USOC policy goals, to build and reinforce the participation and competition base essential to the eventual development of our country's best athletes. While the fund is geared toward increasing the athletic opportunities of all Americans, particularly youth, special emphasis will be given to eliminating the bias in our athletic system against participation by the handicapped, women, minorities, and the aged. We must seek an effective integration of programs for these individuals into the mainstream of our athletic system.

Most important, this legislation allocates only private funds. No public funds are allocated under its provisions. I cannot overstate the significance of this approach. The voluntary $1 contribution is either taken out of a tax refund or included as an extra amount in the tax payment; it does not use public money.

Public opinion strongly favors this approach. After the 1976 Olympic games, a great deal of citizen interest was expressed to the President and the Congress for a tax checkoff system to finance our Olympic teams and amateur sports. This tax checkoff system should raise more money than the $31.9 million raised for the Federal election fund through the tax checkoff in 1974.

Not only would it provide a constant source of funding for amateur athletic programs, but the funds collected would also stimulate greater private sector involvement and participation in the entire amateur athletic system. The United States would reap tremendous benefits, not only in the development of its young athletes, but also in expanded and improved facilities, better administration, and greater training opportunities for its elite athletes.

At the end of each fiscal year, the USOC would submit an annual report to the President's Council on Physical Fitness and Sports with a breakdown of expenditures and future recommendations. The Council would then submit its own report to Congress discussing the committee's report and evaluating the effectiveness and usefulness of the program.

Mr. Speaker, with the 1980 Olympic games just around the corner and the needs of our athletes fresh in the public mind, I feel that we in the Congress have a serious responsibility to provide the means of positive change by which our amateur athletics can be rebuilt and strengthened, once again making the United States a formidable competitor in the eyes of the world. I ask all of my colleagues to support this crucial legislation.●

NOW HEAR WARNING OF JANE'S

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Dallas Morning News, Sept. 21, 1979]

NOW HEAR WARNING OF JANE'S

Jane's Fighting Ships, the most authoritative publication on naval strength, has recently warned that the United States and other free world nations have let their navies wane to the point that they can no longer watch the Soviet navy, let alone keep it from cutting our sea lanes.

Our own navy has been slashed by nearly half just since the end of the Vietnam War. The Soviet navy now has more than four times as many combatant ships. Equally worrisome is the fact that the Soviets have bases handy to the routes by which we must import oil and other raw materials.

In Washington, where the leading lights still glow with warm feelings about detente and the presumed end of the cold war, these facts may not be alarming. But in the real world, the free part of it that will suffer quick collapse if denied these raw materials, alarm bells should be ringing at maximum volume.

We have to wake up from the World War II-induced dream that we still rule the waves. We don't. Most of the free world, certainly including the United States, is as dependent on supplies that come in on those waves as Britain was in the 1940s.

Once the Red Navy shuts down those sea lanes, it's just a matter of time until our power runs down.●

BIG BROTHER WANTS TO JOIN YOUR FAMILY

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, President Carter's ridiculous proposal for a Federal Government bureaucracy to regulate family life has to be the most baldfaced attempt to control the lives of Americans that he has dreamed up yet.

His big spending policies are responsible for inflation, yet his solution to inflation is more and more big spending and more and more bureaucratic control over every facet of our lives.

President Carter came into office promising to cut back Government regulation and redtape. In fact, he said he would accomplish that if he did nothing else.

Well, he must have opted for "nothing else," because his policies have been for more big Government growth and more inflation. His "Office of Families" is the latest step in making the American people the slaves of Government.

The Cincinnati Enquirer has editorialized against this absurd idea, and it would benefit all concerned with American family life to study his newspaper's opinion.

CARTER'S REPUGNANT PROPOSAL

"President Carter has become an unfortunate parody of himself.

"His newest proposal to make good his promise of a government 'as full of love as the American people themselves'—an Office of Families in the Department of Health, Education and Welfare—is morally repugnant to those who genuinely care about the sanctity of the American family.

"The President's notion is absurd on its face. 'Many families have been strained to the breaking point by social and economic forces beyond their control,' the President said in Kansas City the other day. 'Some indeed have broken.' What he failed to say is that it is government taxation and government inflation that have created the 'economic forces beyond' the control of most American families.

"The American family is too important to the very fabric of this society to let it become the plaything of a liberal, activist bureaucracy, a pork-barreling Congress, a judiciary out of touch with mainstream America, and an executive in desperate search of re-election.

"Who can resist the temptation to suggest that the Office of Families (OOF) could become the moral equivalent of OSHA, the Occupational Safety and Health Administration, or of EEOC, the Equal Employment Opportunity Commission. Would we have unannounced, unwarranted investigators peering into the kitchens, the parlors, the family rooms and the bedrooms of American homes? Do we have an equal number of male and female children here? Is love adequately distributed amongst all the members of the family? Did you wash behind your ears? Have you spent 20 hours this week filling out the proper government forms, in triplicate? Is this family represented by counsel?

"If we have learned our lessons from Washington, it is that whenever government finds the excuse, it grows bigger on its own momentum. This is one more example in that vein. And we would have Mr. Carter to thank."●

NURSING SHORTAGES

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mrs. HOLT. Mr. Speaker, health care issues are among the major concerns of this Congress, and I have been alarmed by the increasing number of reports that we are getting of nursing shortages around the country. A recent newsstory by United Press-International quotes the director of nursing at Anne Arundel General Hospital, in Maryland, on the seriousness of this situation. I think this is a matter of interest to my colleagues, and I ask that this newsstory be placed in the CONGRESSIONAL RECORD.

The article follows:

NURSE RECRUITING WIDENS

Hospitals in various American communities are offering bounties ranging from $100 to $1,000 for registered nurses, according to the American Nurses Association.

Hospitals in Detroit, Minneapolis, Philadelphia, Chicago and Corpus Christi, Tex., are paying bounties or rewards for help in recruiting nurses, a spot-check of those cities by the nurses' association has reported. New York was not included in the survey.

Despite the bounties, those who did the checking said, the shortage remains acute in many places in the nation.

Other groups concerned with the situation have estimated that by 1982 the national shortage may range as high as 100,000.

One problem, all agree, is low salaries. The most recent national sampling of salaries of registered nurses, taken by the A.N.A. in 1977 under contract with the Department of Health, Education and Welfare, reported that their average annual income was $13,000.

Another index of the shortage, according to the nurses' group, is the unemployment rate for nurses. Last year, the association said, the rate was 1.8 percent—the lowest in a decade. "The employment climate, salaries and job-related stress must be thoroughly examined to encourage nurse employment," said Barbara Nichols, president of the association.

"Furthermore," she went on, "the Federal Government must re-examine its stand on curtailing educational funds to assist prospective nurses and nurse educators." Her association said that directors of nursing services had reported a "serious scarcity" of highly skilled registered nurses, especially those qualified to care for the critically ill.

One respondent in the survey by the nurses' association was Roberta M. Conti, director of nursing at Anne Arundel General Hospital in Maryland and a member of the Maryland Board of Examiners of Nurses. She told the national group that she foresaw no easing of the severity of the shortage.

"As director of nursing," she said, "I spend endless hours strategizing about how to obtain enough nursing manpower hours to meet the needs of patient populations that we are presently serving.

"I do not see the picture becoming any brighter in the future because of the increasing older population and the complexity of their illnesses and the present increase in births. We will have a double-edged health service delivery problem."

Since 1972, a 40 percent increase in specialized units—recovery rooms, cardiac and intensive care—has contributed to the squeeze on hospitals in search of nurse specialists, the nurses' association said.●

TITLE IV, HIGHER EDUCATION ACT

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mrs. CHISHOLM. Mr. Speaker, although great strides have been made in assuring that our Nation's children have the opportunity to receive the education of their choice, there remain formidable barriers to access of higher educational opportunities for those students from economically disadvantaged backgrounds. In recent years the rising costs of postsecondary institutions have also impacted on the ability of middle-income parents to see their children through the educational process. We are therefore faced with a situation in which we must find some viable means of easing the burden on middle-income families, while protecting the access to higher educational opportunities of those income groups who have been historically excluded from participation in postsecondary education.

Title IV of the Higher Education Act seeks to eliminate the economic barriers facing many students pursuing a higher education. The most important program impacting the access of low-income students to postsecondary educational opportunities is the basic grants program. I want to commend the Committee on Education and Labor for their work on the BEOG's program as presented in H.R. 5192. The sliding increase in the maximum allowable BEOG grant over the period that this legislation is to be authorized is a necessary step in dealing with the increased costs of a higher education.

In addition, although I might prefer the total elimination of the so-called half-cost rule on the basic grant, which impacts negatively on the poorest students attending low-cost institutions, I am aware that the committee was faced with the competing concerns of the public and private colleges and universities and I support the delicate compromise that the committee has reached with these parties.

I would also like to commend the committee's work to tighten up and strengthen the current Federal student loan programs. However, I must disagree with the committee's assessment of the GSL and NDSL program's ability to adequately assure the availability of loan capital for all students in need.

After careful consideration of the complex issues surrounding reform of the current Federal loan programs, I have concluded that S. 1600, the Kennedy-Bellmon Student Loan Reform Act, best represents our national commitment to providing access to higher educational opportunities for all this Nation's children.

The current Federal loan programs do not adequately assure access to loan capi-

tal for many students in need. The guaranteed student loan program has inherent limitations because of its dependence upon the willingness of banks to lend money during various economic circumstances; the uneven geographic distribution of participating banks and institutions throughout the country; and the tendency of banks to lend to children whose families have a prior relationship with the bank. The latter point represents an often insurmountable problem of access to capital for the most needy student, who is often rejected as a bad credit risk. The expansion of eligibility for subsidized loans to higher income borrowers, mandated by the Middle-Income Student Assistance Act, will further exacerbate the problem of availability of loan capital for low-income students, as large numbers of middle-income students choose to take advantage of the program and private lenders direct their resources toward these better credit risks. In addition to this problem confronting all lower income students, we must be cognizant of the particular problems of minorities in securing loans from financial institutions which continue to perpetuate discriminatory practices.

The campus based national direct student loan program provides only a limited amount of funds, and many institutions either choose not to participate or are unable to do so because of the burden of loan collection and the requirement of institutional capital investment. In addition, there are serious problems with the State allocation formulas which have no relationship to the actual financial needs of students in institutions across the Nation.

Thus, neither program, nor the two programs combined adequately address the problem of available loan capital for needy students.

In addition to the problem of loan access, neither loan program is based specifically on the actual financial need of the student in attending the institution of his or her choice. Under the guaranteed student loan program, private lenders can lend up to $2,500 to anyone regardless of economic background or the actual cost of attendence at a chosen institution. The amount of the national direct student loan is usually much smaller and is dependent upon a variety of factors, including the relative demands of other students on campus.

The National Student Loan Reform Act would eliminate the problems of loan access by assuring that every student in need of a loan to complete a comprehensive financial aid package will receive one. Unlike the current programs, the new program would be entirely need based, thus guaranteeing that no student will be denied access to higher educational opportunities on the basis of being unable to secure an adequate loan.

The National Student Loan Reform Act recognizes the importance of the campus-based approach to student financial aid packaging, while making needed reforms in current distribution and collection of student loans. There is a great deal of concern over the alarming default rates that the national direct student loan program has experienced. I believe that the default problem is wisely dealt with in S. 1600 by placing the collection of loans in the hands of financial experts rather than educational institutions, facilitating the consolidation of loans, and liberalizing the stringent repayment schedules of the programs currently in existence.

The default rate on direct student loans at many of our black colleges remains extremely high. These are institutions which have disproportionately high administrative costs because they serve large numbers of low-income students receiving a variety of Federal aid. There is no reason to further burden these institutions with the task of loan collection, and threaten to penalize them on the basis of something over which they have no real control.

The flexibility with which S. 1600 addresses terms of loan repayment is a vast improvement over the current situation. Allowing the student to opt for a graduated repayment plan over straight mortgage payments realistically deals with the normal increase in income that most individuals enjoy as their years away from school increase. The legislation also recognizes that for low-income individuals it may be necessary to extend the repayment period over a greater time. I believe that both these provisions, beyond addressing the specific needs of some individuals, will help to alleviate the default problem.

The National Student Loan Reform Act will replace a poorly targeted system which is currently inadequate in meeting the need to assure access to necessary loan capital for all students, particularly those most in need. It will replace a system that is becoming increasingly expensive to the Federal Government, the cost of which will rise further if we are to continue to make the guaranteed loan program attractive to private lenders and hold down the interest rate of the direct student loan program to 3 percent. I am convinced that a more financially stable system which will assure equitable availability and distribution of loan capital to needy students is preferable to an inadequate program with an interest rate hopelessly out of date and exceedingly costly to the taxpayer.●

PROFITS AND LOSSES

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. ERLENBORN. Mr. Speaker, we have heard it said that "Beauty is in the eyes of the beholder." The same axiom must hold true for logic also, for what else could explain the news reports we have seen over the past few days.

Late last week and early this week, the third quarter earnings for many major U.S. oil companies were disclosed. One elected official after another denounced the increase in oil industry profits; some even went so far as to label these profits as obscene, and the President has decreed that the oil industry must be punished by the levy of stiff taxes.

Then came reports of the third quarter losses of the Chrysler Corp.; total losses for 1979 are predicted to exceed $1 billion, the largest corporate loss in business in history. Yesterday we received the President's suggestion on how the taxpayers should bail out this struggling company.

The only conclusion that can be logically derived from these two observations is that profits are something dirty and obscene in the eyes of the Federal Government, something that should be penalized with stiff taxes, while business losses are a thing of beauty and should be subsidized by the U.S. Treasury.

My eyes behold neither obscenity in profits nor beauty in losses, and the convoluted logic exhibited by Federal policymakers should make all our colleagues do more than just blink.●

LOAN GUARANTEES TO CHRYSLER

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. BLANCHARD. Mr. Speaker, in considering whether or not the Federal Government should provide assistance to the Chrysler Corp. many have questioned the idea of providing loan guarantees. Some have asserted that providing loan guarantees to Chrysler would constitute a "dangerous precedent." In the interest of insuring that we make an informed decision on this matter, I think it is important for my colleagues to be aware of the fact that such assertions are simply untrue.

According to the Office of Management and Budget, in 1980 Federal loan guarantees will amount to $408.8 billion outstanding. I make this point not because I am happy that the Government has been required to play such a role, but rather to illustrate that this kind of assistance has been necessary. It has been necessary not only in the industrial sector, but also in numerous fields including areas such as housing, farming, energy, and transportation. Providing loan guarantees to Chrysler would certainly not be a precedent.

Our economy, our balance of trade deficit, our ability to meet the need for more domestically produced fuel-efficient cars, and the lives of hundreds of thousands of people would all be severely affected by a Chrysler failure. Therefore I believe that this is another instance where the national interest would be best served by providing the necessary assistance to Chrysler.

I am including a table from the budget which outlines the amount of loan guarantees outstanding from various Government agencies. This table illustrates the extent to which loan guarantees have become a necessary form of Government assistance in a variety of different areas.

The table follows:

TABLE F-5.—GUARANTEED LOAN TRANSACTIONS OF THE FEDERAL GOVERNMENT

[In millions of dollars]

Agency or program	Commitments			Loans guaranteed		
	1978 actual	1979 estimate	1980 estimate	1978 actual	1979 estimate	1980 estimate
Funds appropriated to the President:						
International security assistance:						
New transactions	1,584	1,465	1,563	1,678	1,550	1,625
Net change				1,359	970	925
Outstandings	1,150	1,065	1,003	4,463	5,433	6,358
International development assistance:						
New transactions	161	210	240	101	141	219
Net change				62	103	179
Outstandings	342	411	433	803	906	1,085
Agriculture:						
Farmers Home Administration:						
New transactions	10,398	10,735	10,658	10,047	9,850	11,279
Net change				6,281	7,302	5,768
Outstandings	973	1,858	1,237	28,221	35,523	41,291
Rural Electrification Administration:						
New transactions	2,593	8,219	5,738	2,093	3,124	4,693
Net change				2,093	3,124	4,693
Outstandings	6,959	12,054	13,099	4,829	7,953	12,646
Commerce:						
Economic development assistance:						
New transactions	202	252	430	106	349	430
Net change				74	316	395
Outstandings	96			298	614	1,010
National Oceanic and Atmospheric Administration:						
New transactions	25	34	34	25	34	34
Net change				21	27	25
Outstandings				48	75	100
Maritime Administration:						
New transactions	469	1,110	1,000	900	937	888
Net change				451	730	661
Outstandings	433	606	719	5,168	5,898	6,558
Energy:						
Geothermal resources development fund:						
New transactions	32	111	107	2	111	107
Net change				2	111	107
Outstandings	30	30	30	14	125	232
Health, Education, and Welfare:						
Medical facilities guarantees:						
New transactions	15			23	38	
Net change				−9	7	−32
Outstandings	38			1,347	1,354	1,322
Health programs:						
New transactions	31	213	285	31	213	285
Net change				31	213	283
Outstandings				135	348	630
Education programs:						
New transactions	1,854	2,250	2,500	1,854	2,250	2,500
Net change				613	946	1,075
Outstandings				8,150	9,097	10,172
Housing and Urban Development:						
Subsidized low-rent public housing:						
New transactions	12,641	14,208	14,944	9,448	11,310	14,193
Net change				365	1,810	3,003
Outstandings	12,916	14,844	15,345	14,567	16,377	19,470
Federal Housing Administration:						
New transactions	23,953	24,656	27,705	14,292	16,450	18,601
Net change				4,377	5,978	7,074
Outstandings	13,563	16,505	19,703	98,129	104,107	111,181
Urban renewal:						
New transactions	46	8	5	46	52	27
Net change				−430	−223	−286
Outstandings	803	759	737	791	568	282
New Communities Administration:						
New transactions						
Net change				−85		
Outstandings	48	15	15	144	144	144
GNMA: Mortgage-backed securities:						
New transactions	15,194	15,000	16,560	15,194	15,000	15,500
Net change				10,032	9,836	10,500
Outstandings				52,964	62,800	73,300
Interior:						
Indian programs:						
New transactions	7	46	3	7	46	3
Net change				4	34	−8
Outstandings				52	86	78
Transportation:						
Rail programs:						
New transactions	90	503		86	213	15
Net change				55	300	−70
Outstandings	289	576	564	677	977	907
Washington, D.C. Metro bonds:						
New transactions						
Net change						
Outstandings				997	997	997
Aircraft loans:						
New transactions		50	100	41	50	100
Net changes				27	29	70
Outstandings				209	238	308
Treasury:						
Guarantee of New York City notes:						
New transactions		500	250		500	250
Net change					490	213
Outstandings					490	702
NASA Long term satellite leases:						
New transactions		110		180	183	136
Net change				180	183	136
Outstandings	267	195	59	237	419	555
Veterans' Administration:						
New transactions	16,744	18,498	20,470	14,849	16,259	18,264
Net change				8,871	8,951	9,739
Outstandings	2,788	2,928	3,074	80,794	89,745	99,484
Export-Import Bank:						
New transactions	5,489	8,097	9,465	4,213	4,845	5,572
Net change				−334	−89	54
Outstandings	7,657	9,160	11,097	5,407	5,318	5,373

TABLE F-5.—GUARANTEED LOAN TRANSACTIONS OF THE FEDERAL GOVERNMENT—Continued

[In millions of dollars]

Agency or program	Commitments			Loans guaranteed		
	1978 actual	1979 estimate	1980 estimate	1978 actual	1979 estimate	1980 estimate
Small Business Administration:						
Business loan guarantees:						
New transactions	3,063	3,900	3,895	2,306	2,975	3,275
Net change				1,121	1,733	1,813
Outstandings	1,358	1,963	2,128	6,901	8,634	10,447
Lease and surety bond guarantees:						
New transactions	1,177	2,000	1,700	1,177	2,000	1,700
Net change				126	200	100
Outstandings				504	704	804
Lease guarantees:						
New transactions						
Net change				−31	−30	−30
Outstandings				259	229	199
Disaster Loan fund:						
New transactions	1			1	1	
Net change				−1		−1
Outstandings	1			10	10	9
Pollution control bond guarantees:						
New transactions	17	50	50	17	50	50
Net change				16	46	44
Outstandings				23	70	114
National Development Bank:						
New transactions			3,165			1,832
Net change						1,777
Outstandings			1,332			1,777
Other agencies and programs:						
New transactions	752	104	12	870	149	58
Net change				115	133	15
Outstandings	134	89	44	1,151	1,284	1,299
Subtotal, guaranteed loans (gross):						
New transactions	96,536	112,329	120,819	79,586	88,680	102,634
Net change				35,385	43,230	48,313
Outstandings	49,125	63,062	70,619	317,292	360,522	408,835

THE CHRYSLER ISSUE: ISOLATED INCIDENT OR OMEN?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. ASHBROOK. Mr. Speaker, the Congress will soon be considering whether or not the Federal Government should provide $1.5 billion in loan guarantees to the Chrysler Corp. The issues raised in the public debate on this matter have had the familiar ring of the Lockheed loan fight of 1971. But is it the same situation? In 1971 the Lockheed Corp., got into trouble as a result of contract problems with several Defense Department projects. I voted against the Lockheed loan because I felt any industry that bolsters its business by dealing with the Federal Government should know what it is getting into. Is Chrysler a different case? In many respects it is. Chrysler's woes stem from the backbreaking burden of Government regulation that has been crushing private initiative and investment in this Nation for years. Chrysler has had to raise prices and cut profits in order to meet the avalanche of Federal guidelines and conflicting bureaucratic policies. As Chrysler has been cutting back to meet the Government imposed price increases the relatively unregulated foreign cars have taken an increased portion of the U.S. car market. Chrysler was caught in this economic crossfire and went down the drain.

The question should be asked as to why General Motors and Ford seem to be relatively healthy and yet they have weathered similar regulatory burdens and foreign competition. One possible answer is outlined in a scholarly analysis by the American Enterprise Institute. The article is from this month's issue of Regulation. The authors maintain that there has been substantial commentary on how various tax laws affect different groups and income levels in society. They go on to say that tax incidence analysis should also be used to review regulatory impacts, as regulations are also a form of taxation. The case of Chrysler is an example of a business being overburdened by regulatory "taxes" far beyond the proportional burden on its competitors, because of its lesser market share and lower production volume. If this analysis is correct it could mean that Chrysler is only the first domino to fall as big government continues its destruction of the private sector. This is an ominous point to ponder as we consider reauthorizing the Federal Trade Commission and other regulatory goliaths. I offer the Regulation article as an interesting and constructive addition to the debate on the future of regulation and the future of Chrysler.

The article follows:

REGULATING CHRYSLER OUT OF BUSINESS?

(By Kenneth W. Clarkson, Charles W. Kadlec, and Arthur B. Laffer)

When regulations to protect the environment, improve safety, and meet other national goals were first proposed in the mid-1960s, the costs of complying with those regulations were widely assumed to be far less than the expected benefits. In recent years, that assumption has been challenged by experience and by the first empirical efforts to quantify at least the direct costs of regulatory compliance to the nation's economy.

What is not yet fully realized, however, is that regulatory requirements that appear uniform and "fair" may substantially alter the competitive structure of an industry because the burden tends to fall disproportionately on smaller firms. Thus the inadvertent result may be to cripple the smaller firms and concentrate market share in the hands of the biggest and wealthiest corporations. The automotive industry, a product of more than seventy-five years of development and a bulwark of the U.S. economy, provides a primary example of these effects of regulation on competition.

In 1965, the automotive industry was singled out by Ralph Nader for producing "unsafe" cars. The next year Congress responded to Nader's exposé by passing a law authorizing the Department of Transportation to regulate auto design and manufacture, the primary purpose being to increase auto safety. Less than five years later, pollution became a primary societal concern, leading to new laws whose primary purpose was a 90 percent reduction in automotive emissions. Then, in 1974, a group of oil-producing countries, acting as a cartel, raised the price of oil fourfold. The Congress, perceiving an oncoming "energy crisis" in the United States, reacted by passing a law regulating energy consumption—including in it mandatory minimum automotive fuel-efficiency standards.

THE REGULATORY "TAX"

It will illuminate our analysis to think of regulations, from the perspective of the firm, as a form of taxation. The government, after all, once it decided that the national interest would be served by a cleaner environment, safer work place, and fuel-efficient cars, could have then appropriated funds out of the Treasury to gain these objectives. Instead, to a large extent, it has chosen the course of requiring firms to install the equipment or take the design action necessary to comply with a regulatory mandate. To the extent that the requirements are effective, the companies commit resources in ways other than they would have in response to demands of the marketplace. (That, in this context, is what "effective" means.) The expenditures are made as a condition of staying in business and are therefore viewed properly as a tax payment: the economic value of compliance *to the firm* is equivalent to a receipt for taxes paid.

To take this approach is not to argue that

expenditures required to comply with regulations produce no benefits, any more than recognizing income taxes as a cost of doing business argues that government programs funded by those taxes are worthless. The treatment of regulatory burden as a tax is perfectly consistent with the fact that a reduction in auto emissions leads to a cleaner environment, and the further fact that a cleaner environment has economic value.

Nevertheless, whatever the other effects of regulation, it does act as a tax. In both the short and long run, real prices to consumers will rise, while payments to resources will fall. Individual firms, when faced with the costs of complying with the regulations, will not be able to pass on more of those costs than what is permitted by the competitive response in the industry. (This point is of major importance for our analysis.)

Of course, the form of the regulatory tax is as important as its existence. If the regulation imposes an ad valorem burden—that is, imposes costs directly proportional to the value of the company's output—it is equivalent to a uniform sales tax. If the regulation imposes a per unit burden, it is equivalent to a tax bearing most heavily on those units with the least value added. Finally, if the regulation imposes a fixed burden without regard to the quantity of output, it is equivalent to a lump-sum tax. Given generally similar unit values of output, such a uniform requirement for each firm in the industry will impair the performance of small firms relative to large firms. That is, the lower the value of the output, the higher the lump sum is in relation to that value.

THE TAX AND CHRYSLER

These distinctions are far from being purely academic. For example, federal regulations designed to reach national health, safety, environmental, and fuel-efficiency objectives have been assumed to affect individual auto firms in the same way as a flat rate tax affects individual taxpayers. That is, they are assumed to take a given—uniform—percentage of income from each company. But, for the auto industry, this assumption is incorrect: as a rule, regulation has hurt the smaller full-line firms more than the larger ones. Chrysler Corporation's current predicament is properly viewed as an example of the unintended effects of increasingly more stringent regulation. The "lump-sum" effect of this regulation is furthered by the fact that the government forbids the auto companies to pool their research, requiring each company to make roughly the same (lump-sum) research expenditures.

As a hypothetical example, imagine that it costs all auto firms $5,000 to develop a device to control emissions. If the cost of producing each device is $10 and if the smaller firm installs the device on 100 units (cars) and the larger company installs it on 300 units (cars), the investment and extra production costs are $6,000 for the smaller firm—$5,000+(100×$10)—and $8,000 for the larger firm—$5,000+(300×$10). The smaller firm must receive $60 per device to recover these costs ($6,000 divided by 100), while the larger firms needs to receive only about $27 ($8,000 divided by 300).

Plainly, the larger firm has an advantage—its unit costs are lower. Competitive forces dictate, however, that the per-unit charge levied in an effort to recoup the investment and extra production costs be approximately the same for each auto company. Thus, if the larger firm charges its customers the price that recovers the $27, the smaller firms will have to charge approximately $27—or less than half the $60 they actually expended. It is a point of prime importance that, throughout the last decade, when regulators asked U.S. auto firms to estimate the cost of manufacturing catalytic converters, General Motors' estimates were consistently well below Chrysler's. This led regulators to disbelieve Chrysler when in fact both firms may well have been correct in their estimates.

Let us take the example a step further. If the smaller company spends $5,000 for R&D and the larger one spends much more, say $12,000, the smaller firm's cost stays at $60 per unit while the larger firm's cost rises to $50. General Motors, the largest U.S. auto firm, has in fact consistently spent more than Ford or Chrysler on R&D for government-mandated emission controls. This greater expenditure permitted General Motors to pursue separate research tracks during the period when emission standards were evolving. Chrysler, with its more restricted financial resources, pursued multiple tracks as well. Indeed, its generic engineering advantage yielded a "lean-burn" engine system that would have satisfied emission standards slightly less stringent than actually proposed. But the government's final standards eliminated the lean-burn engine as a viable alternative, forcing all firms to employ the catalytic converter.

This governmental decision emphasizes the important point that the specific standard chosen as well as the form of the regulation may have substantial effects on competition in the industry. If policy-makers had chosen the 1979 automobile emission standards as their goal, Chrysler's market position would have been strengthened rather than weakened (since the lean-burn engine system could have met the 1979 levels without a catalytic device) and Chrysler would have been able to capture the benefits of leasing or selling its lean-burn technology. Faced with the actual final emission standards for 1980 and thereafter, it had no choice but to develop the catalytic device.

Things are made worse by the fact that, beginning in 1980, U.S. auto firms will not be allowed to count the cars they import, even if they produce those cars themselves, to help achieve the fleet-wide average fuel efficiencies required by the regulations. For the domestic industry's smaller firms, the rule against counting imports will force (lump-sum) fixed investment in domestic facilities, shifting the nature of the regulatory tax to place a greater burden on smaller firms. And for all the firms, the rule will reduce the benefits of economies of scale.

SALES, PROFITS, AND ESTIMATED REGULATION-MANDATED COSTS FOR THE BIG 3

	Chrysler	Ford	General Motors
Cost of regulation (millions)[1]	$800	$1,000	$2,000
Cost as percent of sales	7.0	4.2	4.6
Cost as percent of aftertax profits	496.9	112.7	68.5
Cost per car produced	$550	$340	$345
Net sales (millions)[2]	$11,390	$23,969	$43,430
Aftertax profits (millions)[2]	$161	$887	$2,918
Number of cars produced (thousands)[2]	1,451	2,933	5,782

[1] Average for 1978–85.
[2] Figures are for 1977 North American operations.

THE COST OF THE TAX

The companies have provided the Department of Transportation with estimates of their fixed costs for complying with existing emissions, safety, and fuel-economy standards over the eight years ending with 1985. The estimates are staggering: $800 million a year for Chrysler, (65 percent for fuel economy, 30 percent for emissions, 5 percent for safety), $1,000 million a year for Ford, and $2,000 million per year for General Motors—in 1977 dollars. Moreover, the expenditures required are proportionately greater for Chrysler than for Ford or GM.

A glance at the table shows that Chrysler's estimated regulation-induced investment is five times its profits and 7 percent of its sales for 1977, while Ford's is greater than its profits and 4.2 percent of its sales for that year. Only for GM is current profit greater than estimated regulatory cost (though equal to 4.6 percent of 1977 sales). This suggests strongly that the tax rate imposed on Chrysler by government regulations is roughly 80 percent greater in relation to sales than the tax rate imposed on either Ford or GM.

Moreover, the estimated costs of the regulations are more than $300 per car (60 percent) higher for Chrysler than for either Ford or GM. The source of the disparity, by and large, is the fixed-cost component of the R&D and the basic retooling needed to attain compliance. For Ford, the tax rate appears to be roughly the same as for GM, even though Ford is the smaller firm. The cost of complying with the regulations is approximately $340 per passenger car for Ford and $345 for GM.

By their very nature, regulations also reduce diversity, each requirement in turn eliminating product features previously available. The more aspects of a product that are regulated, the narrower the distribution of choices around the "average" or "standard" product. Thus, new regulation reduces opportunities for firms to specialize in providing unique combinations of features to the consumer. Indeed, if the government required absolute standardization of a product, in time all firms producing that product would merge into the one most efficient firm. If the government dealt out a single blueprint of a standard auto and required all autos to be built to those specifications, all specialty firms would be forced to dissolve (it would be illegal, for example, to manufacture Checker Cabs). If a product could not be differentiated (whether by quality, warrantee provisions, or whatever), price alone would be the consideration, and the firm that could stamp out the standard auto most efficiently would drive all others out of business.

Different auto firms exist because firms cannot at all times and in every way be superior to all other firms. Even physically flawless and intellectually superior individuals, for example, would have trouble competing with a blind person in speed-reading Braille. Similarly, an auto firm may concentrate its resources on producing the greatest number of automobiles at the lowest price; but smaller firms can still compete by concentrating their resources on developing specialty vehicles, superior styling, greater durability, engineering excellence, and so forth. Obviously, Ford and Chrysler are not small firms—but they are smaller than GM, and they have thus aimed more at specialized sub-markets and less at the market as a whole. But, by its very nature, government regulation increasingly has been herding all three toward a standardized product for the mass market, inadvertently and unconsciously undermining Chrysler's advantages (and Ford's).

OUR SCENARIO

While it is impossible to predict the final long-run effect of these regulations, it is clear that there will be fewer motor vehicles produced, that some real resources will go to other industries, and that users of automobiles will pay higher prices. To try to measure the potential impact on the industry and its individual firms, we set up a simulation—a future scenario. Let us explain it briefly.

In order to calculate the effect of the new requirements, assumptions had to be made about company responses to the regulations—especially those involving pricing—and about the way the consumer will react to price changes. Essentially, we made two assumptions about pricing. First, we assumed that the Big Three auto manufacturers compete with each other, partly on prices, so that no one company will raise its prices much more than any other company—and, specifi-

cally, so that Chrysler will not raise its prices significantly more than GM or Ford. Second, we assumed that when prices go up, the number of units sold (both by the industry and by the firm) goes down correspondingly, so that overall sales revenues do not change. (In economists' terms, there is a unitary price elasticity of demand.) This assumption simplifies our calculations and is supported by numerous studies of the automobile industry.

Now, obviously, if the number of units sold goes down, the manufacturer will make fewer units, which (all other things being equal) will reduce total costs of production. For simplicity's sake, we assumed that the amount saved by making fewer units balances the increased variable cost per unit sold (the increased variable cost, that is, mandated by federal requirements), so that the total variable cost of manufacturing the cars—the "cost of goods sold"—does not change. In fact, what is saved by cutting production does not offset the increased production costs per unit so that this understates the effects of the requirements, but it makes the figures much easier to work with. Even if the effects are understated, they are still far too large to be happy about.

According to our assumptions, then, when Ford or GM or Chrysler tacks on price increases because of federal requirements, say $350 per car each year, the company will get no additional total revenues (because units sold will go down) and have no additional cost of goods sold (because the decline in number of units sold will balance the increased variable cost per unit). The only change on the company's books will be the increased investment in plant and machinery necessary to comply with the new requirements—if the $350 per car covers the cost of compliance. If it does not—if it costs Chrysler $550 to comply and if only $350 can be tacked on to the price—then Chrysler's profits go down substantially and may disappear, or worse. On the other hand, if Chrysler raises its prices by $550, and the other companies raise theirs by $350, Chrysler's sales go down, and its profits may disappear, or worse. No matter which of the probable courses of action is followed, all three firms, with profit not increasing and investment going up substantially, will find their rates of return (profit divided by investment) going down.

There is, of course, a possible way out of the dilemma. If GM and Ford based their price increases on what Chrysler needed (that is, if they raise prices by $550), then Chrysler would maintain its market share and might still show profits. There would, however, still be a differential effect of the regulations. Chrysler might be neither better nor worse off, but GM and Ford would be made better off relative to Chrysler. And, of course, in the real world, GM and Ford do not make their decisions according to what Chrysler needs.

It should be emphasized here that traditional accounting statements do not present fully accurate pictures of the impact of regulation on profits and rates of return. It is more appropriate to use an economic model with price-level adjustments and R&D expenditures capitalized. Because capital is allocated in the marketplace according to perceptions of probable rates of return into the indefinite future, and because "accounting rates of return" are merely snapshots picturing the financial condition of the company at discrete time intervals, adjusting these accounting snapshots, smoothing them out, provides a better view of economic reality. This view is the one we want to use. So, in our simulation, we calculated the economic rates of return on net worth for the three firms for 1970–77, smoothing out cyclical variations, and then used these figures for projecting the impact of regulation for 1978–85. It should be noted that this is a period in which the firms anticipate major additions to capital outlays for general research and tooling in order to comply with the mandated federal regulations.

General Motors, with its incremental (government-mandated) investment of $2 billion a year, shows an average economic rate of return of 12.1 percent without this $2 billion annual outlay and 3.3 percent with it. The difference is 8.8 percentage points. Ford, with its incremental (government-mandated) investment of $1 billion per year, shows an average economic rate of return of 9.9 percent without additional regulation and 1.9 percent with additional regulation. The difference is 8 percentage points. Chrysler, with its incremental (government-mandated) invest of $800 million per year, shows an average economic rate of return of 2.6 percent a year without additional regulation and −13.8 percent with additional regulation. The difference is 16.4 percentage points.

WHAT DOES IT ALL MEAN?

The results suggest that the adverse effects of government regulation on Chrysler are extraordinary—both in absolute terms and relative to Ford and GM. Bad years in particular are accentuated, as regulation-induced investment expenditures remain high, while sales and profits fall below average. Thus, while regulation of the auto industry depresses the profitability of all firms (which in itself significantly diminishes the ability of small firms to compete), it further acts against the smaller firms by assuming they fit the mold of the larvest firm

The sheer magnitude of the cost of compliance with the higher standards scheduled to take effect in the years through 1985 threatens substantial dislocations throughout the industry, with the effect falling disproportionately on Chrysler and (to a smaller extent) Ford. The final stages of emission-control standards will have to be met in this period and the most dramatic of the fuel-efficiency standards will be faced in the year 1985, when the National Highway Traffic Safety Administration (NHTSA) is directed by law to require an increase in the average fuel economy of new cars to 27.5 miles per gallon. Our study suggests that Chrysler may not survive as a full-line auto manufacturer. Moreover, unless there should be a burst of real economic growth in the 1980s, Chrysler would have little chance of raising needed capital, given the negative rates of return on investment implied by our analysis.

Ford's viability as a full-line auto manufacturer will also be impaired, especially given that its current profitability arises largely from its foreign operations. In commenting on the standards on December 11, 1978, Ford Motor Company observed, "We believe that 27.5 mpg would press us to the limit—and our financial resources are neither the largest or smallest in the industry." Ford also pointed out the fallacy of NHTSA's findings that the standard is economically practicable "for the industry as a whole": it is not "the industry" but individual companies that must meet the standards, and the financial resources of General Motors are not available to other firms.

Thus we conclude that there will be an undesirable rise in concentration in the U.S. auto industry as a result of the regulatory burdens imposed on the industry over the eight years ending 1985, with General Motors dramatically increasing its relative position. But even as GM expands its market share, its average economic rate of return will tend to fall well below its average for the ten years ending in 1977—unless real prices of automobiles substantially increase. This could eventually lead to elimination of low-profit model lines and to a consequent reduction in choices available to the American consumer.

The smaller the producer, all other things being equal, the greater the effect of the safety, emission and fuel-economy standards. That is, these regulations, though uniformly applied, significantly favor the largest manufacturers. Moreover, as the regulations grow tighter, the payoff goes more and more to economies of scale, and less and less to engineering knowhow or product differentiation. With profits at $161 million a year and the estimated costs of regulation at $800 million a year, it is no wonder that Chrysler is hurting. And if Chrysler has been trying intelligently to carve out a market for itself as number three, by some means other than GM's economies of scale (which are not available to it), then Chrysler's problems are the inevitable result of regulations that place a premium on being like GM.●

FIRST NATIONAL BANK OF BOSTON CHAIRMAN'S TESTIMONY BEFORE CONGRESSIONAL SUBCOMMITTEE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. MOAKLEY. Mr. Speaker, recently, Richard D. Hill, the distinguished chairman of the board of the First National Bank of Boston, testified before the Senate Subcommittee on Taxation and Debt Management in support of S. 1435, the Capital Cost Recovery Act of 1979.

While not committing myself to passage of this legislation, I do believe that Mr. Hill's testimony is thought provoking and exceptional in its responsible approach to an important piece of legislation pending congressional consideration. I urge my colleagues to read Mr. Hill's testimony as they consider all of the information at their disposal on the subject of capital cost recovery.

The statement follows:

STATEMENT OF RICHARD D. HILL

Mr. Chairman: My name is Richard D. Hill. I am the Chairman of the Board of The First National Bank of Boston. I am testifying today before your distinguished Subcommittee on Taxation and Debt Management on behalf of The Business Roundtable in support of S. 1435, the Capital Cost Recovery Act of 1979.

The Business Roundtable has long supported the concept of replacing the existing and outmoded system of tax depreciation with a capital recovery allowance system that would enable American business to increase the level of capital investment in plant and equipment. S. 1435 would introduce a simplified and accelerated method of writing-off the cost of business assets, sometimes referred to as the "10–5–3" system, which would represent a significant improvement over today's complex and unrealistic tax depreciation system. S. 1435 has been constructed to respond to capital formation needs in all segments of our economy, and as a result, this proposed legislation has broad-based support throughout the entire business community.

The overriding challenge to our domestic economy today is the need to encourage capital formation and establish a long-term pattern of sustained economic growth. Capital formation is essential for economic progress. Accelerating the rate at which businesses recover their cost of investment in plant and equipment will improve rates of

return and enhance business cash flow and thus, contribute importantly to increasing the level of capital investment by American industry, thereby permitting it to:

Improve the declining productivity rate,

Combat chronic inflation,

Modernize and expand its facilities,

Contribute to a higher standard of living, and

Compete effectively in domestic and foreign markets.

There is an acute need for capital investment to attain these goals. Over the past decade, while there has been a significant increase in the labor force, there has been a significant decrease in the rate of growth of plant and equipment. This has reduced the growth of labor productivity, reduced the growth rate of real wages and contributed to the nation's expanding list of economic problems. If the United States is to overcome these problems, the Federal government must reorder its priorities and adopt public policies, including tax policies, that will influence businesses—both large and small—to invest in productive plant and equipment for the long-term health of the nation's economy.

INTERNATIONAL COMPARISONS

The United States currently has the lowest rate of private capital investment and also the lowest rate of growth in labor productivity among the principal industrialized countries of the world. This weak performance is borne out by government statistics.

RATIO OF NONRESIDENTIAL FIXED INVESTMENT TO GROSS DOMESTIC PRODUCT AND GROWTH RATES OF LABOR PRODUCTIVITY

	Investment ratio [1]		Average annual percent change in productivity [2]			
	Percent	Rank	1967–72	Rank	1972–77	Rank
Japan	26.4	1	9.2	1	3.5	1
West Germany	17.4	2	4.8	3	3.5	1
France	[3] 16.7	4	5.0	2	1.0	4
Canada	17.2	3	4.5	4	3.1	3
United Kingdom	14.9	5	2.8	5	.8	5
United States	13.5	6	1.1	6	.6	6

[1] Measured as real nonresidential fixed investment as a percent of real gross domestic product, 1966–76.
[2] Measured by growth in real domestic product per employed civilian, using own country's price weights.
[3] 1970–75.

Source: Economic Report of the President, 1979 and Joint Economic Report, 1979.

Some portion of the poor relative productivity performance of the U.S. economy can be attributed to technological catch-up by other countries. However, the Joint Economic Committee noted in its 1979 Report that the higher rates of capital formation in other countries played an important role in their productivity performance. The Joint Economic Committee concluded that, if the 1967–77 trends in productivity should continue into the 1980's, output per worker in France, Germany, Japan and Canada would all exceed that in the United States by 1985 or shortly thereafter.

The most recent data on U.S. productivity growth do not dispel this outlook. In 1978, real domestic product per employed civilian declined by 0.3 percent, and the even greater rate of decline in the first half of 1979 makes it likely that U.S. labor productivity will again show no gain at all for 1979 as a whole.

Despite a large dollar investment by U.S. companies in recent years, the United States is still lagging behind other major industrial countries, including West Germany, Japan and Canada, in the rate of capital investment. Over the last 15 years, the ratio of real business fixed investment to real Gross National Product (GNP) has averaged only about 10 percent (both in 1972 dollars). Real nonresidential fixed investment will have to total about 12 percent of real GNP in the years ahead in order to meet vital national economic and social goals.

Many of our principal international competitors have stimulated capital investment and productivity increases by improving their capital recovery allowance systems. Recent enhancements to the investment tax credit have somewhat improved the competitive position of U.S. business vis-a-vis their foreign competitors. Enactment of S. 1435 would accelerate the recovery period for depreciating business assets and more closely align the capital recovery allowances in the United States with those of other industrialized countries.

U.S. ECONOMIC CLIMATE

The U.S. economy is suffering from spiraling inflation while the rate of capital formation and growth in productivity decline. Some of the reasons cited for the productivity slowdown range from faster employment growth, a more service-intensive economy and increasing government regulation to lackluster research and development activities and rising energy prices. However, the most important single cause of the productivity slowdown has been the weakness of business fixed investment over the past several years.

The Council of Economic Advisers has pointed out that between 1948 and 1973, high rates of U.S. private investment led to a growth in the capital-labor ratio amounting to almost 3 percent per year (measured by the ratio of net nonresidential capital stock to aggregate hours worked in the private non-farm sector). Since 1973, however, that growth rate has dropped to 1.75 percent per year. At the same time, the rate of growth of labor productivity in the non-farm business economy fell to 1.0 percent per year from its 1948–73 average of 2.4 percent.

In its analysis of these trends the 1979 Report of the Joint Economic Committee concluded: "The cumulative loss of capital stock during the recession, combined with projections for continued rapid labor force increase, strongly suggests that special measures to promote capital spending are needed if productivity growth is to recover even the modest levels of 1967–73."

Inflation is the nation's number one economic problem. Controlling inflation without producing politically unacceptable levels of unemployment is, at best, a very difficult task. However, there is a growing awareness among public officials, economists, academicians and others that increasing supply rather than restricting demand is a more appropriate way of combating inflation. There is a correlation between savings and investment and increased productivity, job creation and lower prices. Therefore, emphasizing public policies aimed at increasing productive capacity and output is highly desirable. Consistent with this need, S. 1435 would generate an increase in business investment and production.

UNDERSTATEMENT OF CAPITAL COSTS

Inflation causes business profits to be overstated because they are based on accounting practices that undervalue the cost of depreciation and inventories. Current tax depreciation, based on historical cost, was designed in a noninflationary environment and does not provide sufficient deductions to recover replacement costs. It acts as a deterrent to capital investment.

Although Congressional actions in 1971, principally enactment of the Class Life Asset Depreciation Range (ADR) system, went part way to improve the rate of capital recovery in the United States, existing capital recovery, based on the "useful life" concept of depreciation, still does not adequately take into account the ever-increasing cost of asset replacement in an inflationary economy.

The extent to which nonfinancial corporations have understated their capital costs is shown in the following tabulation comparing current-cost double declining balance (DDB) depreciation with depreciation allowed nonfinancial corporations for Federal income tax purposes. As can be seen from the tabulation, the excess of current-cost DDB over tax depreciation has grown from a negative amount in 1965 to $28.2 billion in 1978.

NONFINANCIAL CORPORATIONS EXCESS OF CURRENT-COST DDB OVER INCOME TAX DEPRECIATION, 1965–78

[In billions of dollars]

	Current cost DDB [1]	Income tax depreciation [2]	Excess of (1) over (2)
	(1)	(2)	(3)
1965	35.7	36.4	−0.7
1966	39.6	39.5	.1
1967	44.2	42.9	1.3
1968	48.5	46.7	1.8
1969	53.8	51.3	2.5
1970	58.5	54.6	4.9
1971	64.5	58.7	5.8
1972	68.8	65.3	3.5
1973	75.7	70.5	5.2
1974	89.3	77.8	11.5
1975	105.6	85.0	20.6
1976	115.1	92.3	22.8
1977	124.7	100.8	23.9
1978	137.0	108.8	28.2

[1] 75 percent of bulletin F lives.
[2] Estimate of depreciation allowed for Federal income tax purposes.

Source: Department of Commerce.

Either full indexing of the tax system or adoption of some form of replacement cost depreciation probably represents the only real solution to the problem of understated capital costs during periods of inflation. Short of adopting either of these concepts, enactment of the "10–5–3" system, which would significantly shorten the capital recovery period, would contribute importantly to alleviating the problem.

PROPOSED CAPITAL RECOVERY ALLOWANCE SYSTEM

S. 1435 would, in essence, provide a capital recovery allowance system under which:

The recovery period for industrial, distribution and retail buildings is 10 years,

The recovery period for machinery and equipment is 5 years,

The recovery period for automobiles and light trucks (up to $100,000 per year) is 3 years, and

A full (i.e., 10 percent) investment tax credit is allowed for all eligible property in the 10- and 5-year classes and a 6 percent credit is allowed for all eligible property in the 3-year class.

The enactment of the "10–5–3" system would be a major step toward the simplification of our tax laws which would be especially beneficial to the nation's smaller businesses. It would eliminate most of the complexities of the present depreciation tax law including the determination of useful life, proper guideline classification and estimated salvage.

The new "10–5–3" capital recovery allowance system would contribute significantly to improved cash flow for businesses investing in productive facilities. Essential to the acceptability and effectiveness of the proposed capital recovery allowance system are both the availability of the investment tax credit and the use of accelerated methods. Accelerating the recovery makes after-tax funds available sooner for maintaining, upgrading or expanding the stock of capital assets. Furthermore, by increasing the return on investment, the proposed capital recovery allowance system would increase the likelihood that important, but otherwise financially marginal, projects would be undertaken. This, in turn, would lead to more employment.

Over the past decade, expenditures for research and development (R. & D.) in the United States, exclusive of the space program, have barely kept pace with the growth of the economy. R. & D. is critical to successful innovation, but it is only the first step through which technological knowledge is translated into commercially viable products. This process usually involves substantial investment in new plants, modern machinery and equipment, market development, employee training and the like.

Investment in R. & D. is governed by the same risk/reward considerations as investments in tangible business property. Acceleration of R. & D. can be promoted by correcting the same economic and political factors that caused the decline in the growth of business investment generally. Enactment of the "10-5-3" system would improve the crucial risk/reward ratio which is the basic determinant of the level of business investment. By contributing to a more favorable business investment climate, enactment of S. 1435 would help to reverse the decline in R. & D. investment and innovation.

S. 1435 is not "targeted" to help one particular geographical area of the United States or segment of industry. The "10-5-3" system of capital recovery is aimed at stimulating investment in new plant and equipment by all businesses, large and small, located in all areas of the domestic economy, in order to achieve the vital national economic goals of increasing productivity, controlling inflation, improving the balance of trade, and providing jobs and a better standard of living for the citizenry.

In the area of competitiveness in domestic and international markets against foreign companies, it is essential that the industrial plant in the United States be upgraded and modernized because the technological lead which the U.S. once had over the rest of the industrialized world has been substantially narrowed in recent years. If the national economy is strong, growing and competitive in international markets, all areas of the country and types of businesses will benefit.●

A TRIBUTE TO PARLIER HIGH SCHOOL

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. PASHAYAN. Mr. Speaker, I would like to call the attention of my colleagues to the excellent achievements of Parlier High School in the 17th District of California, and its chapter of the Future Farmers of America.

Mr. Robert Hunt, Parlier's FFA adviser and agriculture department teacher, has come to Washington with two Parlier High School students, Miss Maria Betencourt and Miss Grace Reyes, as part of the California delegation's FFA tour. At the end of this tour, they will accept the 1979 national award in the FFA's Building Our American Communities program on behalf of the entire Parlier chapter. Success in this very competitive program is testimony to Mr. Hunt's dedication to his students, and the fine efforts of the entire Parlier community, young and old, teacher and student, school officials and parents, and the local, State and Federal governments.

This award-winning project involved the beautification of the Parlier High School grounds and stadium. Over 3,600 shrubs and flowers were planted in this effort, which also involved thousands of working hours, which were dedicated to this cleanup and renovation project.

This FFA award is one of many which have been bestowed upon the Parlier FFA chapter. Last year, Parlier High School received a Presidential citation for their service to the community and the Nation through environmental protection achievement. Also, this energetic group has been invited to Sacramento to receive the Golden Governor's Citation for one of their environmental projects.

It has been my good fortune to see the results and to share in Parlier's excitement about their renovation project and this FFA award. I am very proud of the numerous achievements of Mr. Robert Hunt, and the Parlier High School FFA chapter, and I am certain that my colleagues join me in congratulating the community of Parlier on this and their many fine achievements.●

NONFUEL MINERALS POLICY REVIEW: A $3.3 MILLION WASTE

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. SANTINI. Mr. Speaker, there is a short editorial in the October 1979 edition of Mining Engineering, the publication of the Society of Mining Engineers that I believe sums up the frustrations of the mineral professionals in this country. The society's disenchantment with the administration's "non-analyses" of problems, its first phase of the nonfuel minerals policy review, adds to the existing long list of like opinions. The draft "Report on the Issues" according to the editorial "hits rock bottom."

What the editorial does not say is that 20 months of wasted effort cost the Federal Government $3.3 million.

The editorial follows:

NONFUEL MINERALS STUDY: DISASTER ON THE POTOMAC

A draft of the "Report on the Issues Identified in the Nonfuels Mineral Policy Review" was finally released to the public in August 1979. Embarrassed is the only word for the author of ME's July editorial, who optimistically stated that "accusations of an administrative 'whitewash' of the final draft are ludicrous."

The July editorial was based on a preliminary draft which, for all intents and purposes, is "nonexistent" when one talks with government officials. The curious thing is that I and many, many others have this "nonexistent" preliminary document sitting conspicuously on our bookshelves.

Even more curious, though, is the draft report which was released to the public. It would take some true detective talents to find the resemblances between the "nonexistent" preliminary report that had been prepared for internal consumption and the report published for public consumption. As AMC's Al Overton put it, the public report represents a "slipshod job and should itself give no occasion of pride to those associated with it." With release of the public report, the mineral industry's collective faith in an objective probem analysis by the study group has hit, shall we say, rock bottom.

Specifically, references to the cumulative impact of government policies on the health of the US minerals industry was the most obvious omission. Yet many consider it the largest hurdle to production, as Asarco's Simon Strauss testified at the study group's Los Angeles hearing. A reading of the final draft indicates that some of the major issues were identified, but clever wording and reorganization of the text makes the reader wonder if the US is faced with any problems at all. "The existing nonfuel mineral policy-making process can be said to work adequately," is an example of this kind of word play.

The mining industry's reaction to the document was matched by that of Rep. Jim Santini (D-Nev.), chairman of the House Subcommittee on Mines and Mining. He termed the report "flim-flam . . . a masterpiece of understatement . . . so innocuous that it is virtually impossible to draw conclusions from . . . ." The report, Santini continued, is "a device to acquit the government of responsibility for the debilitating effect of its policies on America's mineral industry" and was intended "to absolve the Interior Department of the responsibility to carry out the mandate of the Mining and Minerals Policy Act." Furthermore, "by purposely obfuscating the problems, the report commits the greater sin of deception. Its designers believe they can take a serious national problem and, like a piece of putty, shape an assessment into any design they wish." Santini vowed that his subcommittee "is not going to let this occur."

ME believes that the objectives of the original Project Management Plan derived from the Presidential Order in December 1977 have been largely ignored. It's been said many times that the impact of mineral shortages may have far more reaching consequences than the current energy crunch. With increasing mineral trade deficits growing from $3 billion in 1973 to $8 billion in 1978, the economic ramifications are obvious. Phase I in its final form appears to be a major blow to the minerals industry. ME hopes that input from the private sector during the public hearings, together with pressures from Santini's subcommittee, will be significant enough to turn around this dangerous imbalance. The consequences are too great and have been ignored too long.●

KLAN MARCH IS OFFENSIVE

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. MATTOX. Mr. Speaker, the scheduled march of the Ku Klux Klan in downtown Dallas on Saturday is offensive to me personally and to the vast majority of my constituents. The Klan's history of hatred and violence are not only un-American but also contrary to the climate of racial understanding that has been developing in Dallas in recent years.

Under our constitutional system of government, all groups, even those on the outer fringe of society like the Ku Klux Klan, are granted freedom of speech. However, that does not mean that the Klan has the right to intimidate others or to deny anyone the rights it enjoys.

I am confident that the people of Dallas will conduct themselves with restraint Saturday, and that when the day is over, the Klan will have succeded only in embarrassing itself and not our great city.●

CZECHOSLOVAKIA'S UNJUST VERDICT

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. COUGHLIN. Mr. Speaker, the recent conviction of six Czechoslovakian human rights activists for so-called subversive activities has shocked not only the Western nations but the Communist bloc countries as well. These convictions on indictments of "undermining" the prestige of the Nation because their protests were printed in publications abroad have opened up a new chapter of subversive crimes through associations.

A recent editorial appeared in the Philadelphia Inquirer clearly expresses the absurdity of this situation. I am including the following article for my colleagues consideration:

PRAGUE'S "INIQUITIOUS VERDICT"

The conviction in a show trial, open to everyone except journalists and supporters of the defendants, of six human rights activists by a subservient Prague court was as disgusting as it was predictable.

Five of the six, including the celebrated Czech playwright, Vaclav Habel, drew sentences ranging up to five years (one receiving a two-year suspended sentence). The government accused them of "subversion of the republic." All were signatories of Charter 77, the Czechoslovak human-rights manifesto which, in early 1977, courageously charged the Czech Communist government with violating its human-rights pledges at the 35-nation Helsinki conference of 1975.

One of those pledges was, of course, freedom of speech and expression, and in 1977 the Czech government promptly confirmed the charge by refusing to permit publication of the manifesto and by arresting some of its signatories (including Mr. Havel). One of the Helsinki guarantees is of the right to "seek, receive and impart information regardless of frontiers and of whether it is oral, written or printed." The indictment of the six charged that their protests had appeared in publications abroad, stretching subversion by association beyond absurdity.

According to the Czech Communist Party daily Rude Pravo, the six defendants were justly punished for "undermining" the prestige of the nation. The Czech government has no prestige, subservient as it is to the *diktat* of Moscow and determined to crack down on citizens who speak up for freedom.

If any comfort can be taken, it is in the chorus of protest from governments (the U.S., France, Britain, West Germany, and Italy among them) and citizens abroad. Even Communist parties in Italy, France, West Germany and Spain have denounced the "iniquitious verdict in Prague," as the French Communist paper, L'Humanite, called it. Unfortunately, little is being heard from those "third world" governments which are so quick to denounce such "imperialist" Western democracies as the U.S. and Israel for their alleged violations of human rights.

Charter 77 declared that "every individual bears a share of responsibility for the general conditions in the country." Every individual and every government that calls itself civilized shares responsibility for speaking up against violations of human rights wherever they may occur.

I am also submitting a copy of the personal protest Congressman RONALD MOTTL and myself have sent to Czechoslovak President Gustav Husak urging a full reconsideration of these convictions. The letter follows:

WASHINGTON, D.C., *October 29, 1979.*

Hon. GUSTAV HUSAK
President
Czechoslovak Socialist Republic

DEAR MR. PRESIDENT: By its signing of the Helsinki Accords, the Government of Czechoslovakia officially recognized its responsibilities as a member of the world community to abide by provisions that spell out human rights' protections.

We, therefore, protest—respectfully but forcefully—the recent trials and convictions of six Czechoslovak citizens: Vaclav Havel, Peter Uhl, Vaclav Benda, Jiri Bienbier, Mrs. Otta Bednarova and Mrs. Dana Nemvoca.

The particular concerns of Congressman Ronald Mottl, prominent member of the American Czechoslovak community, and myself, who was sharply criticized by the Czech Communist media for my published account of experiences in your country this year, have been confirmed by this trial of dissidents.

The circumstances and manner in which the six were tried and convicted have evoked protests in the United States and a number of European countries. As a signatory to the 1975 accords on human rights the Government of Czechoslovakia cannot—in good faith or conscience—argue that the trials and convictions are an "internal matter."

By trying and convicting the six in a courtroom which barred journalists and supporters, the Government of Czechoslovakia further aroused world sensibilities by its continued defiance of the Helsinki Accords. We are dismayed that your government would so blatantly display its disregard for a human rights agreement that it signed of its own will.

Such conduct casts an ominous shadow of suspicion on the Government of Czechoslovakia in its relations with other governments whether over human rights, mutual trade or other international considerations.

We urge that you use the powers of your good office to acknowledge your obligations under the Helsinki Accords and release the six defendants from prison.

Sincerely,

RONALD M. MOTTL.
LAWRENCE COUGHLIN.●

It is our hope that this international outcry will provide some assistance to these Czech citizens who dared to question the actions of their own government.●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. CLINGER. Mr. Speaker, on November 2, 1979, I was absent from the first vote before the House as I was attending a briefing by Under Secretary Warren Christopher, Department of State, the White House Working Group on Cambodia and AID officials concerning Cambodia starvation—what is the United States doing? Had I been present, I would have voted in the following fashion:

Rollcall No. 627: Journal. The House approved the Journal of Thursday, November 1, 1979, "yea".●

THE TRIO PROGRAMS

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mrs. CHISHOLM. Mr. Speaker, for a number of years, I have been actively involved in examining issues and developing proposals for the reauthorization of the Higher Education Act. Of particular concern to me has been those programs which target funds toward youth from low-income families—the TRIO programs.

These programs are designed to correct the inadequacies of precollege education which prevent many low income and disadvantaged students from developing their full potential, therefore limiting their educational opportunity. The TRIO programs have been among the most successful of many efforts to provide needed educational services for poor and educationally disadvantaged students. The impact of long-range assistance which TRIO provides is virtually immeasurable. The role of the TRIO programs in providing access to higher education for minorities and low-income students who might otherwise fail to qualify for admission is indeed quite significant.

For well over a year now, I have been working on legislative proposals designed to clearly define the eligibility criteria for the proportional mixture of low income and educationally disadvantaged students under these respective programs. Although the Education and Labor Committee in its bill, H.R. 5192, has adopted the first generation eligibility criteria, I have not been able to fully understand its practical application. The first generation criteria is defined as a student whose parents have not attained a baccalaureate degree. The administrative complexities associated with the use of the first generation concept would result in ambiguous and confusing justification, validation and definition. The paperwork necessary to effectively manage the first generation requirement would necessitate explaining the meaning of the term and convincing applicants of the need to reveal information on parental educational attainment. This process could well inhibit program participation.

Additionally, the certification that a student is a first generation college student would also be difficult to process administratively. Who would certify that neither of a student's parents went to college? If the Federal Government makes a determination of certification, it would be viewed as excessive Federal intrusion into the lives of applicants. If program managers took the certification responsibility, the Federal Government would not be able to verify the necessary data for implementation.

My utmost concern is the burden of proof which would inevitably fall on the student applicant. The survey of income and education estimates that 98 percent of individuals 18 to 24 years of age are not only first-generation students, but

also low-income individuals as well. The question, then, is why introduce a new criteria if the modified income criteria alone will lead to serving virtually the same desired target population. I have adopted in my bill, H.R. 5680, the 150 percent eligibility criteria as an applicant guideline for admission.

I hope the members of this body will carefully review this new concept before moving in the direction of perhaps placing additional burdens on low-income students. The lack of an adequate education itself is the greatest burden one can bear.●

THE HAZARDOUS WASTE RESPONSE ACT OF 1979

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. FLORIO. Mr. Speaker, releases of hazardous wastes from inactive and abandoned sites is the most serious environmental problem facing our Nation today. The past months have brought to public attention a series of inadequate and illicit hazardous waste management practices. These practices have imposed unacceptable social and environmental burdens, as well as staggering cleanup costs on our society. Such tragedies as occurred at Love Canal, N.Y., Valley of the Drums, Ky., and Pittston, Pa., and scores of other cases throughout the country have revealed a pattern which is both alarming and dismaying. Decades of improper disposal practices have resulted in a legacy of potentially thousands of problem sites which may require billions of dollars in response costs.

Current Government authority to correct this problem is extremely limited. Government response to inactive and abandoned sites under existing funded statutory authority first requires documentation of an imminent and substantial threat to public health or welfare and successful judicial action to enjoin responsible parties before any remedial actions may occur. This can require months and often years. Where a responsible party cannot be identified or is not financially viable, no effective Government response is authorized by existing laws, unless the disposal site discharges oil or specifically designated hazardous substances into navigable waters.

For these reasons I am today introducing the Hazardous Waste Response Act of 1979. The bill would establish a comprehensive system of notification, emergency Government response, enforcement, and liability for releases of hazardous wastes from inactive and abandoned disposal sites. Specifically, the bill would:

Require owners or operators of hazardous waste sites or others who might contribute to hazardous waste releases to notify the Government if a release takes place.

Empower Government to respond promptly to releases at inactive and abandoned sites.

Prohibit releases from inactive and abandoned sites. Persons responsible for a release would be required to take remedial actions. Government action is only authorized when responsible parties fail to take necessary response actions.

Establish liability without fault to enable persons and Government agencies to recover from responsible parties.

Establish a fund to assure moneys to carry out these authorities. The fund would be raised from Federal appropriations and an industry-based fee. The fund would raise $1.3 billion over a 4-year period.

Enlist the aid of the States by authorizing the Federal Government to make grants to States, enter into coperative agreements, or contract with States to respond to releases at sites. If response costs exceed $300,000 at a given site, States would be required to contribute 10 percent of the response costs.

The Interstate and Foreign Commerce Subcommittee on Transportation and Commerce held a series of hearings and undertook extensive deliberations on superfund legislation as applied to inactive and abandoned disposal sites. The bill I am introducing today is a result of those hearings and deliberations.

I am hopeful that Congress will give prompt attention to this bill. By so doing the Government will be able to respond effectively to the public health and environmental threats posed by hazardous wastes at inactive and abandoned disposal sites. The health and safety of our citizens cannot afford anything less.●

FROM "CABBAGE PATCH" TO "GARDEN OF EDEN"

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. GAYDOS. Mr. Speaker, I am always dismayed when I read in the news of another American company that has "run away" to a foreign location. I always wonder if the trip is necessary. Too often it means a loss of American jobs, a severe jolt to the economy of the community which the plant was located and the disruption of the family life of the former employee.

Consequently, I have introduced or sponsored various pieces of legislation designed to discourage "runaways" who leave for purely profit reasons. I would favor Federal assistance to firms whose futures are jeopardized by economic factors beyond their control or to the communities who depend on their existence if such assistance can be justified.

I am annoyed, however, when a major corporation comes before this Congress seeking financial help on the grounds it wants to save American jobs while at the same time that corporation is planning to build a new $100 million plant in Mexico.

I refer, of course, to Chrysler Corp., which is asking "a helping hand, not a handout" of hundreds of millions of dollars in a taxpayer-backed loan guarantee to help pull its operations out of the financial red. I understand the corporation has divested itself of some foreign holding and is in the process of closing plants in various areas of this country, including a parts depot which employs workers who live in my 20th Congressional District of Pennsylvania, in the interest of economy. I suspect these actions also are to demonstrate to Congress the corporation's sincerity in attempting to put its financial house in order and help gain support for its loan request.

As you know, that request is controversial. There are Members who feel the Federal Government has absolutely no right to assist a private company whose decisions and operations have put it in financial hot water. There are others who believe the economic consequences of allowing this major employer to go bankrupt will be so severe that Federal aid to avoid the potential catastrophe is absolutely essential.

I will probably support the proposed loan guarantee, but I admit I am greatly disturbed over reports of Chrysler's proposed Mexican plant. According to news reports earlier this month, the corporation will spend $110 million—would it be part of the federally guaranteed loan?—to construct a four-cylinder engine plant which would become operational in 1981 and assemble 270,000 engines a year.

The reason given is Chrysler is seeking independence from Volkswagenwerk and Mitsubishi Motors upon whom it relies heavily through long-term purchase contracts to supply its current and future cars with small, fuel-efficient engines. This spirit of independence is admirable. But, I also see just a tradeoff of jobs. Instead of German or Japanese autoworkers assembling the engines they will be Mexican autoworkers. There is no benefit for the American autoworker.

Mexico, it seems, is becoming a haven for American companies. Industry Week magazine, in its Oct. 29 issue, headlined a story: "A Border Stampede Down Mexico Way." The article stated more than 450 U.S.-owned plants have been established there and it cited several reasons for this southward trek.

Last year, for example, the Mexican Government changed its regulation which required an American company exporting to Mexico to import an equal amount of goods. Also, the American firms benefit from cheap labor rates—less than $2 an hour—and special reduced tariffs on goods brought back into the United States.

Mr. Speaker, the area where many of these companies have settled once was described as "a cabbage patch." I contend it has now become a "Garden of Eden" for runaway companies. I regret that Chrysler Corp. may have succumbed to temptation for the fruits of its production will leave a bitter taste in the mouths of American autoworkers.●

CONCURRENT RESOLUTION ON FISCAL POLICY

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. GEPHARDT. Mr. Speaker, I am today introducing legislation that would amend the Congressional Budget Act to require the Federal Reserve Board to submit to the House of Representatives and the Senate a recommended level of surplus or deficit, based on anticipated levels of revenue and outlays and other economic data to pursue a successful economy for the next fiscal year. This data would be submitted at least 1 month before the first and second budget resolutions, respectively. Using the submitted recommendations and any other appropriate recommendations, each House would then act by concurrent resolution to establish the surplus or deficit level to be utilized by the House and Senate Budget Committees in the congressional budget process.

Each passing week seems to find a new proposal being offered to balance the budget or, short of that, to limit Federal spending. While these are noble goals that I hope we will achieve someday, we should recognize that a rigid balanced-budget rule likely would have a destabilizing effect on the economy. It would require fiscal policy to be restrictive in recessions and stimulative in booms. A macroeconomic model simulation done by Data Resources, Inc., indicates that a rigid balanced budget rule would have greatly deepened and prolonged the 1974–75 recession, resulting in unemployment rates about 11 percent in both 1975 and 1976 and remaining above 9 percent as late as 1977.

Unfortunately, even a more flexible spending limitation rule may ultimately be destabilizing. An optimally designed rule would determine the appropriate spending level and, ultimately, the size of the budget surplus or deficit, according to the degree of slack existing in the economy. The budget should be in surplus when utilization is high and in deficit when low. A problem with such a contingency rule is that it requires a reliable indicator of economic slack whose meaning does not change over time. We simply do not have such an indicator.

The hard fact is that it requires judgment to assess current economic data and determine the tightness of the economy. However, there is no way to write judgment into a mechanical budget balance or spending rule.

There is an alternative to a mechanical rule that both allows Congress to insulate fiscal policy from short-term political pressures and permits judgment to be exercised in budget decisions given changing economic conditions. The Congress could require the Federal Reserve Board to recommend a surplus or deficit for the coming year. This recommendation would be submitted to the House and Senate Budget Committees at least 1 month before the first and second budget resolutions. Using other economic data at their disposal—for example, the recommendations of the Congressional Budget Office, OMB, economists, and so forth—the respective committees would recommend and the House and Senate would then set surplus or deficit levels within which the budget would be established.

These levels would not necessarily be the same as those recommended by the Federal Reserve Board, but at least we would have the independent judgment of the governmental entity most responsible for fiscal and monetary policy on the state of the economy and the relative need for surplus or deficit.

The important point is that Congress would take into consideration and decide on the overall size of the budget before deciding on actual, specific outlays.

In sum, consideration of a Federal Reserve Board recommendation on fiscal policy as an alternative to a mechanical rule does help clarify the major issue in the debate:

The movement of Congress toward ceding its authority over budget balance is apparently motivated by a desire to insulate fiscal policy from short-term political pressures.

The determination of the appropriate fiscal policy requires judgment in the interpretation of the available data, and such judgment cannot be written into a mechanical rule.

Congress should want to exercise great care before it gives up any of its authority over fiscal policy. Before adopting a mechanical rule, it must carefully weigh the benefits of such a change against its costs. This rule would allow a decision concerning the Federal deficit to be made separately and before addressing the specifics of the budget. I recommend the concurrent resolution on fiscal policy to you.●

FREQUENT QUESTIONS ABOUT HOSPITAL COST CONTAINMENT ACT OF 1979

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. WAXMAN. Mr. Speaker, during the last several weeks a number of Members have asked questions about the Hospital Cost Containment Act of 1979, H.R. 2626, which has been reported by both the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means. I believe it would be useful to respond to some of the most frequently asked questions.

Why should standby controls be proposed for hospitals but not for other inflationary sectors of the economy?

The hospital sector is different because the traditional competitive forces of the marketplace do not operate in the hospital industry. More than 90 percent of all hospital bills are paid by third parties. Medicare, medicaid and Blue Cross commonly pay on a cost-plus basis. In general, this means the more the hospital spends, the more it gets. Other insurers pay established charges. There is little incentive for hospitals to hold those charges down.

Given this situation, it is no surprise that hospital expenditures have increased at double-digit rates for more than a decade.

This bill sets reasonable limits on the amounts hospital revenues can increase. It encourages hospitals to budget on a prospective basis, and act in a cost-conscious manner.

How can a limit be placed on a hospital's revenues and not its costs?

The limit on revenues is really a limit on how much hospital revenues can increase over and above the amount a hospital's costs increase. The limit is based on (a) wage increases, and (b) inflation in the goods hospitals purchase. It is adjusted if more people are served. What this bill does is to exercise some reasonable control over additional increases that are not due to increases in costs or people served.

Will the legislation prevent my State from developing its own cost-containment program?

No, the legislation does not prevent State cost-containment initiatives; it encourages them. Effective State cost-containment programs operate in place of a Federal program; this is the best incentive that could be designed to get State programs in place that work. The bill even provides grants covering up to 50 percent of the cost of planning, establishing or operating State mandatory cost-containment programs. Grants would be available to both new and existing State programs.

How can a State be exempt from the Federal mandatory program?

A State can be exempt by establishing a State mandatory cost-containment program. A number of States have already authorized or established a mandatory program: Colorado, Connecticut, Illinois, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Washington, and Wisconsin. Any other State can be exempt if it establishes a State mandatory program which is (a) applicable to all hospitals in the State and to all revenues except medicare (or to 75 percent of revenues including medicare); (b) treats all payers, hospital employees, and hospital patients equitably; (c) does not discourage philanthropy; and (d) is effective (that is, holds revenue increases to within 1 additional percent of the State's voluntary goal).

Why not just let the voluntary program work now and pass a bill later?

Everyone hopes the voluntary effort will work. This bill was carefully designed to let it work—nationally, in a State, even in an individual hospital. But it is our responsibility in Congress to provide some assurances that increases in hospital costs will be controlled.

The backup mandatory program provides us with a guarantee. It provides the industry with incentives to make the voluntary program work; in fact, the expectation that enactment of this legislation was imminent is probably one of the major reasons the voluntary effort has worked so far. If we remove the teeth from this bill, we say to the hospital industry, do what you can, but if costs are not controlled, we will not interfere. This is not the assurance the poor and the elderly and the American taxpayer need.

Would a State mandatory program have to cover all hospital revenues in a State in order to have an acceptable cost-containment program?

No, the bill provides that the program must apply to all revenues or expenses for inpatient hospital services (except for medicare) or to at least 75 percent of all revenues or expenses for inpatient hospital services (including medicare). This second option would enable a State such as Michigan which is now preparing to control revenues from medicaid and Blue Cross, to extend controls to medicare, and qualify on that basis. Such a State would be exempt from the Federal mandatory program, if the conditions relating to equity, effectiveness, and philanthropy were met.

Are Federal hospitals covered under the bill?

Federal hospitals are not covered under the version of H.R. 2626 which was reported by the Committee on Interstate and Foreign Commerce and which we will be voting on in the House. Expenditures and revenues of VA hospitals and other Federal facilities are already controlled through the budget and appropriations process. It is unnecessary to include them.

Are the hospitals in my community going to be adversely affected because of population growth that is taking place?

No, the bill recognizes that growing populations will mean more rapidly increasing hospital expenditures. Under the voluntary program, increases in an area's population are taken into consideration. The percentage increase in an area's population would be added to the other factors which make up an individual hospital's voluntary percentage limit.

How will the bill affect the wages of hospital workers?

The bill contains a wage passthrough for nonsupervisory workers. The wage passthrough is necessary so that nonsupervisory workers will not bear more than their fair share under cost containment.

During the economic stabilization program when controls were in place and there was no passthrough, wages of hospital workers declined relative to other nonsupervisory workers. These wages have been and are still below the wages of other nonsupervisory employees.

How much is this bill likely to save the American taxpayer?

Enactment of H.R. 2626 will mean savings to both our citizens and the Federal Government. The administration estimates that the 5-year savings that will result from the Commerce Committee's bill is $41.2 billion, $16.7 billion of which is a savings to the Federal Treasury which will result from lower medicare and medicaid costs.

Why was it necessary to put various exceptions in the bill where the Secretary would be exercising discretion?

Exceptions are necessary in order to recognize the particular situations of individual hospitals. The bill is designed to set out a general formula for controlling costs. That formula recognizes the situation of each individual hospital—it reflects its own wage increases, its own market basket, the increase in prices and population growth in its area—but it is a uniform rule applied to all hospitals.

However, of course, hospitals are in different situations—some are changing their capacity, some have extreme changes in admissions, some are adding services. There had to be some way to respond in an individualized manner to special circumstances. That necessarily means exceptions—and discretion. To eliminate that discretion would make the bill too rigid. But to make everything subject to individualized decisions with no general rules would be too uncertain and too difficult to administer. In this bill, we have tried to walk the middle ground.●

AFRICAN INITIATIVES ON HUMAN RIGHTS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. STARK. Mr. Speaker, for many people, the continent of Africa is a faraway land—distant not only in miles but in understanding as well. Too often, in recent years our perceptions have been shaped by Uganda's Amin, Libya's Khadafy, Equatorial Guinea's Masie, and the Central African Republic's Emperor Bokassa.

Many others view Africa as one, failing to distinguish its individual parts—its sovereign nations.

Yet, as the African nations evolve into global actors, it is important that we begin to make the necessary distinctions. Mindful of these distinctions, we notice an interesting and praiseworthy situation in many African nations. African human rights movements are doing well. Amin, Macias, and Bokassa have been overthrown. Popular elections were recently held in Nigeria, ending years of military rule. Not only was Bokassa ousted, but his ouster was expedited by the joint condemnation of five African nations following their investigation into the Emperor's activities. This investigation was, as Richard Moose writes in a State Department memorandum, "in itself a landmark in African attention to human rights."

These developments are welcome, and they signal the need to develop a greater understanding of the African nations. As in other parts of the world, human rights progress will wax and wane in Africa. But we ought to note and encourage progress wherever and whenever it does occur.

This is why I would like at this time, then, to insert in the RECORD Mr. Moose's memorandum, entitled "African Initiatives on Human Rights."

The memorandum follows:

DEPARTMENT OF STATE,
Washington, D.C., September 6, 1979.

To, D—Mr. Christopher
From, AF—Richard M. Moose
Subject, African Initiatives on Human Rights

One of the most persistent criticisms of American emphasis on human rights observance has been labeling it "cultural imperialism", an attempt to impose American standards upon other societies. Against this background recent developments in Africa pose an arresting counter-balance. Since the beginning of 1978, several African nations have taken significant steps towards furthering the human rights of their citizens. Simultaneously with the political initiatives, individual Africans have been meeting in both official and private capacities to provide an intellectual framework for a greater observance of human rights in Africa.

The most spectacular developments have occurred in Uganda and Equatorial Guinea, where two of the continent's most deplorable records of human rights violations had been amassed for eight and eleven years, respectively. The overthrow of Idi Amin and Nguema Biyoto Masie within four months of each other has ended two governments founded upon terror, political murders, and corruption. Another government, that of the Central African Empire, has been condemned by an investigation conducted by five African nations, in itself a landmark in African attention to human rights. The fate of Emperor Bokassa is still uncertain, but the concern of Africans over the abuses alleged to have occurred in the CAE points to the necessity of some modification in the regime's arbitrary powers. The findings of the five-nation commission were cited by the French in suspending all economic aid to the CAE, except for health, food, and education assistance. The Senegalese have also expressed their displeasure by closing their embassy in Bangui.

Peaceful improvements in furthering greater political participation have been provided by a return to civilian rule in several countries. Nigeria held an intricate series of elections over seven weeks during July and August 1979, ending a twelve-year ban on political activity in effect since the military seized power in 1966. The military governments which had ruled Upper Volta and Mali for more than a decade voluntarily returned their countries to civilian rule in 1978 and 1979. Despite a military coup, Ghana has held elections as scheduled during the summer of 1979, and has scheduled the installation of a civilian president in October 1979.

African nations with a democratic tradition have strengthened their commitment to the rule of law. Senegal held national elections for the first time in February 1978 under a new constitutional provision providing for a three-party system. When Kenya's only president, Jomo Kenyatta, died in 1978, Daniel arap Moi became president through an orderly transition, entirely in accord with the Constitution.

Changes have slowly occurred in nations such as Guinea and Zaire. Guinean President Sekou Toure has released hundreds of political prisoners over the past two years, including Archbishop Tchidimbo. Zairian President Mobutu has embarked upon a reform program, following IMF guidelines for stabilizing the economy. He is also retraining and restructuring the Zairian Army (FAZ) to provide greater security for the civilian population by bringing an end to abuses committed by the FAZ.

The pace of African concern over human rights has quickened in recent months, as evidenced by the activities of two pan-African conferences. The July OAU conference in Monrovia passed a resolution calling upon a group of experts to draft a charter of human rights for Africa "as soon as possible." A UN-sponsored seminar, also in Monrovia, is scheduled for September 10–21, 1979. It is being convoked to study the feasibility of creating an African regional human rights commission. The encouraging developments of July-September 1979 culminate a series of conferences held by Africans to study human rights in Africa:

Khartoum Consultation on Violations of Human Rights, sponsored by the All Africa Council of Churches, February 1975, 11 states represented.

Dar-es-Salaam seminar to consider human rights in a one-party state, September 1976, seven states represented.

Butare Colloquium on Economic Development and Human Rights in Francophone Africa, July 1978, six states represented.

Dakar Colloquium on Economic Development and Human Rights, September 1978, 12 countries represented.

Sierra Leone, African Bar Association's conference, "Human Rights in Africa", August 1978.

Cape Town, First International Conference on Human Rights in South Africa, January 1979.

Dakar, Francophone Lawyers Conference, January 1979.

The Dakar conference in January 1979 ended with the laying of the cornerstone for the Dakar Institute on Human Rights Education, the first human rights institute on the African continent.●

HOME HEATING FUEL CRISIS—PART VII*

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. GILMAN. Mr. Speaker, I rise to once again draw to the attention of my colleagues the timely issue of the home-heating fuel crisis.

It has become apparent that time is steadily running out for the Congress to enact the appropriate legislation to meet our Nation's energy needs for this coming winter. Certainly, a valid concern in addition to trying to provide adequate supplies is the problem of cost and subsequent financial hardship. Energy Secretary Duncan has assured us that his Department is doing everything within its capacity to insure that the stockpiled fuel of 240 million barrels will be in the homes of our citizens before bad weather sets in, making fuel transportation a risky, if not impossible, task. I am hopeful that the distribution pipelines will be utilized to their fullest extent and that our fears of empty storage tanks will not materialize.

However, even if the supply problem is overcome, we are faced with yet another—perhaps equally severe in nature—the critical issue of exorbitant home-heating fuel bills. I am concerned with the high cost of home-heating fuel and fully realize that many Americans will not be able to meet their bills without some form of assistance. It was for that reason that I voted in favor of House Joint Resolution 430, which passed the House late last week and provides $1.35 billion for special energy assistance to those low-income families who will need it the most at the outset of the heating season. That emergency bill will fund the States block grants ($250 million) and the money will be distributed according to approved State plans to households with incomes below 125 percent of the poverty level. Other portions of the appropriated funds would go toward a one-time allowance to recipients of supplemental security income (SSI), with $404.8 million set aside, and, finally, $791.2 million to be used for special energy allowances to recipients of aid to families with dependent children (AFDC). This measure will provide approximately $200 assistance for each family.

Realizing that this aid will go only to the very poor, and that the burden of high fuel costs also afflicts middle-class Americans, I am cosponsoring legislation that is presently before the Ways and Means Committee that will provide a tax relief to the middle-income taxpayer who will be expected to pay 60 to 70 percent more for heating oil than he was paying last year. This legislation will allow an individual with a moderate income to take a credit for up to one-third of his heating oil expenses, up to a maximum of $400. The full credit will be allowed for adjusted gross incomes of up to, and including, $30,000. After that, the credit will be reduced according to a sliding scale. The credits will be funded from revenues resulting from the windfall profits tax.

Measures of this nature are absolutely essential in order to protect the consumer from the mind-boggling profiteering that the major oil companies are engaged in, as well as the apparent, and at times illegal, pursuit of profits by some of these companies. To illustrate this point I am inserting into the RECORD at this point, in full, two recent articles that appeared in the Washington Post and which demonstrate the lack of interest by these companies in protecting the welfare of the American citizen, not to mention our national interests.

Mr. Speaker, I urge my colleagues to cross-examine the behavior of the oil companies in connection with this year's third-quarter profit reports, and to then formulate their opinion concerning the need for Federal assistance and the need for any Federal investigation as recommended in the above articles. I firmly believe that this is not only a sorely needed Federal involvement, but considering the circumstances, a minimal involvement. Undoubtedly, the oil companies will continue to report rising profits, albeit in relation to price hikes by the OPEC cartel, without any consideration for their stateside customers.

We have an obligation to the American people that does not stop with any tax credit or any one-time allowance for heating bills; rather, we have a continuing obligation that transcends all barriers. I urge my colleagues to support not only measures of this nature, but also to act above and beyond the call of duty in order to avert any further energy crisis.

The articles follow:

DOE TO ACCUSE OIL FIRMS OF IGNORING SUPPLY RULES

(By Larry Kramer)

Sometime in the next month or two, the energy department will accuse some of the top 15 oil companies of ignoring federal gasoline allocation rules during last spring's gasoline shortage, DOE sources said yesterday.

The department will use evidence gathered during a special investigation ordered last spring by President Carter to charge the companies with a variety of violations that may have contributed to the long gasoline lines earlier this year.

Under the direction of DOE Special Counsel Paul Bloom, dozens of auditors pored over inventory records and other documents and filings of the top 15 oil companies during the past several months. The investigation was separate from several others Bloom is conducting into industry compliance, or non-compliance, with complex federal pricing and allocation regulations from 1973 to 1976.

In the audit of 1979 practices, the sources said, the department concentrated on three types of violations which will likely also be the focus of the allegations eventually filed.

Did the major oil companies give retailers and resellers their proper allocations? There were charges, for example, that some majors were deliberately holding back allocations to independent dealers in favor of the company-owned retailers. Such a system would have created spot shortages that the allocation system was designed to prevent.

Were the monthly supply and allocation statements provided by the companies accurate? The Energy Department has apparently found computation errors in some oil company filings which were supposed to show how much oil was being allocated to various customers.

Did the companies give the government accurate inventory information? This aspect of the probe forced investigators to look as far back in the distribution chain as the high seas. The government sought to find out if the companies underreported their inventories by not including some crude oil that might have been in transit, or on ships waiting at ports to be unloaded.

Also under scrutiny here are unusual drops in production that occurred during the shortage, and possible diversion of some crude oil to the spot were occurring here.

It was not known if any criminal charges, such as conspiracy, would grow out of the investigation. But such a possibility has not been ruled out by DOE staffers. The Justice Department would be involved in the decision to file criminal charges.

But whatever civil charges are made will come in the form of administrative actions within department procedures, sources said.

Bloom's office has already filed charges alleging some $5 billion worth of overcharges and other violations on the part of several oil companies as part of the 1973–1976 audit.

But few cases have reached settlement, and only a minute amount of that money has actually been collected.

The industry has claimed that the complex regulations involved in both investigations could be interpreted in many ways, and that the interpretations used by the companies at the times in question were, in

*Part VII is part of a series of reports on the home heating fuel crisis with No.'s 1, 2, 3, 4, 5, 6, appearing in the CONGRESSIONAL RECORD on September 17, p. 24942, 24944, September 21, p. 25779, September 29, p. 26956, October 12, p. 28206, and October 26, p. 29800, respectively.

fact, largely approved by government regulators.

And, even in the 1979 investigation, DOE sources stress that in most cases it would be virtually impossible to prove deliberate violation of the highly complex rules by companies.

CITIES SERVICE ACCEPTS $200 MILLION IN PENALTIES

(By Edward Roby)

Cities Service Co. has agreed to accept $220 million in penalties, including rollbacks in heating oil prices, as part of a settlement of alleged price control violations, the Energy Department said yesterday.

The agency said the consent order signed by the Tulsa firm is the first comprehensive settlement its enforcement officials have obtained from any of the top 15 refiners.

On the basis of continuing department audits, the special counsel has issued 135 citations totalling about $5.2 billion against the major oil companies for alleged price violations that occurred between August 1973 and October 1979.

The Cities Service settlement raised the amount of cash refunds wrested from the majors to $370 million. Most of the alleged violations or discrepancies resulted from selling petroleum products above price control ceilings imposed in 1973.

Under the consent order, the firm agreed to roll back its wholesale heating oil and diesel fuel price by as much as 3 cents a gallon—a $20 million cost reduction this heating season.

The company also agreed to set aside $10 million to cover valid claims made by those who purchased its products during the period.

The settlement also requires the company to deduct $132.4 million from deferred or "banked" gasoline charges that could have been applied to future sales, deduct $15 million from banked propane costs and cancel banked costs on certain exempted products.

In a letter to Energy Secretary Charles Duncan, the company promised to boost its exploration and production budget by $150 million in the next two years.

Paul Bloom, the agency's special counsel, said the settlement "stemmed from a desire by both parties to develop a remedy responsive to the national concern that sufficient supplies of heating oil be available this winter at reasonable prices."

The consent order, which included no admission that violations occurred, settled all disputes between the agency and the company except on the proper allocation category of oil from certain marginal wells.●

TORSTEN LINDSTROM'S SAGE ADVICE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. McCLORY. Mr. Speaker, in connection with a gala concert at the Kennedy Center in September 1977, where the guest conductor was Ulf Bjorlin of Sweden, I had occasion to meet an outstanding Swedish industrial leader and philanthropist, Torsten Lindstrom, who is president of ASEA, a Swedish multinational corporation.

Mr. Speaker, Torsten Lindstrom is a most thoughtful individual whose vision extends beyond the scope of his industrial empire to include cultural and social concerns with which our Nation and our world are faced.

Mr. Speaker, in an issue of ASEA International magazine earlier this year, Mr. Lindstrom wrote a most perceptive article entitled, "Technology, Youth and Unemployment."

In this article, Mr. Lindstrom pointed out the opportunity for business leaders to reach out to the young people of today both in this country and in Western Europe, as well as throughout the world to encourage their involvement in our market enterprise system in which they may learn and benefit.

Mr. Speaker, in addition to Torsten Lindstrom's position as president and member of the board of directors of ASEA, he is a distinguished engineer, being a fellow of the Royal Swedish Academy of Engineering Sciences and member of the Swedish National Committee for World Energy Conference and many other technical and scientific societies.

Mr. Speaker, I am proud, indeed, to attach to these remarks Mr. Lindstrom's illuminating and thought-provoking article:

SAGE ADVICE

(By Torsten Lindstrom)

There are serious new dimensions to the continuing problem of unemployment in the industrialized countries of the world which should be receiving urgent attention from all corporate and social planners.

More threatening to existing political and market institutions than general unemployment, these new problems relate to growing unemployment among the youth, particularly in the West where they constitute a disproportionate percentage of the unemployed in many countries.

A U.S. Department of Labor report reveals that youth unemployment in 1976 was in the 12 to 14 percent range in the United States, France, Great Britain and probably Italy. Worse, teenage unemployment rates in these countries were in the 17 to 23 percent range. In the past Sweden has had, by far, the lowest jobless rate for persons under 25, 4.4 percent. But this is now changing and in 1977 unemployment increases were greater for youth in Sweden than for adults.

In human terms this translates into a growing army of disaffected youth, increasing social welfare costs and a labor force which is not being prepared to provide the work force of the future. More important, it is an army increasingly bent on jeopardizing existing public and private institutions. It is therefore a problem and a challenge which should be receiving thoughtful attention from politicians, educators and industrialists. For the effect may well be more serious than the cause.

Certainly many of these young people lack the elementary skills and knowledge that would enable them to enter the labor market at any but the most menial levels. To us in industry it is however more alarming that many of the unemployed young do not want to work in a market economy. They reject technology as a threat to society. They make common cause with social and political activists to fight technology on many fronts—in campaigns against the use of nuclear energy, in well-meaning but not always well-thought-out battles in the field of environmental protection, and in bitter attacks on the policies and practices of large industrial organizations.

The common denominator of this antagonism is a fear and distrust of modern technology and its impact on society, reenforced by an increasing dependence on governmental theorists who sometimes claim to have simple solutions to an extremely complex problem. One result is that industry is being penalized by governmental policies and edicts that restrict productivity and actually contribute to the unemployment and disaffection of young people.

We now have, in most of the industrialized countries, a vast subculture of youth—employed as well as unemployed—whose attitude toward working and organized industry is distinctly negative and whose members have been led to believe that technological progress is a threat to their hopes of enjoying a rewarding life.

It would be a mistake for industrial leaders to assume that resentment of the disciplines and practices of industry is limited to the so-called underprivileged or to minorities. Many young people who have been educated in leading colleges, universities and technical institutes—and who are gainfully employed in progressive companies—have questioned the industrial ethic.

The dimension of the problem cannot be minimized. The problem will not diminish. Instead, it is likely to become greater as industry demonstrates increasing capacity to produce more and more goods with fewer and fewer workers. The skeptical and disenchanted young person who confronts us today is likely to become an increasingly frustrated voter tomorrow, receptive to extremist proposals that threaten the always fragile stability of the modern social order.

News reports carrying figures on jobless youth competed with grim headlines announcing the displacement of more workers by robots, the closing of plants and the liquidation of entire companies, and new "social legislation" whose practical effect is to make it difficult for industry to expand its payrolls at a time when there is an urgent need for productive workers.

Technology has always been a handy scapegoat for those who are unwilling or unable to accept change and progress. In England, and in the early days of the Industrial Revolution, the Luddite workers wantonly destroyed new textile machines which they perceived as threats to their personal livelihood. When automatic telephone exchanges were first developed, it was widely feared that they would threaten the employment opportunities of unnumbered thousands of telephone operators. Ford's introduction of assembly line techniques for the mass production of automobiles—the forerunner of similar applications in virtually all of the modern industrial world—was accepted with reservations and widely criticized as inhumane.

We may, indeed, well imagine that our unknown ancestor who invented the wheel was stoned out of his tribe for unforgivable sin of developing a new technology.

In the light of our relatively brief experience—scarcely two centuries—since the Industrial Revolution became a major concern of human society, it would be difficult to argue that technology has been responsible for reducing the percentage of the human population for whom meaningful, productive work has been available.

Even today, in a period when unemployment is probably close to record highs in many countries, the "help wanted" advertisements of our daily newspapers bear silent witness to many new avenues of employment opened up by modern technology. Speak to the industrial personnel manager who is having problems filling his quota of jobs at all levels of skills and training. Speak to the householder who cannot locate a reliable craftsman to paint his living room, install new plumbing, or repair his automobile, television set or high-fidelity sound system. Both can testify that there is work to be done, and

plenty of employers willing to pay well to have that work performed.

UNDERSTANDING THE MARKET ENTERPRISE SYSTEM

The robot on the factory floor or the automated conveyor in a modern port terminal may eliminate youth's opportunities to obtain monotonous, back-breaking employment, but they have by no means reduced the amount of work that remains to be done in the world. Whatever the sins that may legitimately be attributed to it, modern technology cannot be blamed exclusively for making it more difficult for young people to obtain meaningful employment in some sectors of our complex industrial society.

Youth's distrust of technology is based in part on a lack of understanding of the choices involved in the operation of a "market enterprise" system. It is often accompanied by excessive idealization of alternative systems that are not responsive to market forces.

I deliberately avoid use of the conventional term, "free enterprise," because it wrongly implies that industrialists (or, if you will, capitalists) have unlimited freedom to operate without powerful external restraints.

Technology is an integral element of "market enterprise" because it provides the means of satisfying market demands for goods and services at prices the market is willing to pay. A company or country that disassociates itself from the pursuit of technological progress does so at considerable risk. It will lose its place in the market and, inevitably, its ability to create jobs for its youth.

No system of human organization can function effectively in the absence of incentives and rewards for participating in the system. Yet social policy in many countries, including Sweden, has tended to keep young people from becoming effective participants in a system based on modern technology. Legislation designed to promote job security and safety at work in Sweden is so restrictive that it prevents many people from becoming wage earners. The so-called "Aman Laws" make it so difficult to detach an employee from a payroll that many companies—notably small and medium size ones—are extremely hesitant about hiring new personnel.

Once a young person has landed a new job, high rates of taxation discourage him from overtime work or the assumption of additional responsibility that could contribute to the strength of the enterprise. If the employee elects to "accumulate overtime" and take payment in the form of holidays (beyond the minimum of five weeks prescribed by law for all employees), the effective performance of his work is seriously delayed or disrupted. Because it no longer offers adequate incentives or rewards, work is no longer regarded as a challenge to personal growth and development, regardless of whether it is made available in a high-technology company or a small retail shop.

The total social and economic costs of policies that discourage the employment of young people are probably beyond measure. In addition to the tragic waste of manpower that is involved, there are the direct costs of social welfare payments and the equally substantial indirect costs of lost wages and taxes.

Industrialists cannot escape criticism when market factors force the closing of a plant, or when new processes or technologies dictate the retraining or relocation of employees. But we can do a much better job of interpreting the requirements of the market enterprise system and of encouraging new attitudes toward work itself.

As long as there is work to be done in the world, there will be a place for young people in modern technological society. It is up to all of us to do more than we have done in the past to help them find it. If we do not face this task squarely, we will all suffer.

Clearly, politicians, educators and industrialists must create new approaches to solution of this problem. Politicians must reexamine government policies which inhibit employment of young people. Educators must direct attention to developing greater understanding of what I have called the "market enterprise" system and respect for the work ethic.

They must also reevaluate educational curricula to ensure that all are educationally prepared for gainful employment so that they will not emerge well-educated culturally but prepared for nothing but unemployment insurance.

Finally, industrialists must look for innovative ways to improve their performance to integrate more youth into their work forces and must reexamine their business ethics to win understanding and respect for the market economy. They must also cooperate with and encourage both politicians and educators to join with them in an aggressive, determined effort to address these threatening new dimensions in the problems of unemployment. Time is running out.●

SOMOZA: U.S. PUT GUN TO MY HEAD

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. PAUL. Mr. Speaker, I would like to call the attention of my colleagues to a column by Jack Cox that appeared in the Houston Chronicle on October 14. Mr. Cox was granted an exclusive interview with former President Anastasio Somoza of Nicaragua at his home in Paraguay. Mr. Cox quotes President Somoza as saying that "Never in my wildest dreams did I think the United States would be part of a plot to place their strongest ally and supporter in the hands of the Communists." Challenged by Cox to name individuals within the U.S. Government who were most responsible for the delivery of Nicaragua to the Communists, Somoza named Bob Pastor of the National Security Council, Mark Snyder of the State Department, Warren Christopher, Deputy Secretary of State, Patricia Derian, Assistant Secretary of State for Human Rights and wife of Hodding Carter III. These people were singled out by Somoza as Communists, that is, people who act, speak, and think like Communists. These charges are very serious, and they deserve investigation by this Congress. Unfortunately they are not likely to receive the attention they deserve, for this body sees no enemy to the left, and apparently feels that the greatest danger to the Nation comes from the right. I ask that the entire interview with President Somoza be published so that the Members of Congress will at least be aware of what they should be investigating.

The article follows:

SOMOZA: U.S. PUT GUN TO MY HEAD

(By Jack Cox)

ASUNCION, PARAGUAY.—Avenida Mariscal Lopez, the principal avenue in Asuncion, is lined on both sides with embassies from around the world. In one of these homes, a one-story green stucco with white trim, lives Anastasio Somoza, who had been president of Nicaragua 12 years when he resigned July 17.

As I approached the home, security was evident. At an outer black, iron-gated fence stood three of Somoza's aides. Our paths had crossed many times before in Managua, Nicaragua.

The aides greeted me with smiles, and advised that the president was not in but that he was expecting me and would return shortly. They beckoned me to enter and we started toward the door. However, I was stopped short of the entrance by two Paraguayan soldiers. Even though the aides knew me and stated that I was expected, the two sentries inspected my passport and wrote down my name and passport number. At that point I was permitted to enter the newly acquired residence of Anastasio Somoza.

These precautions are necessary. Some segments in Latin America, including communists, see Somoza as the enemy and, therefore, he must live a protected life.

Upon entering, I was met by Gen. Israfael Porras and Gen. Jose Somoza, the older brother of Anastasio. I had known both men in the past, but I had known Porras much better. I first met him in December 1972, on the day after the devastating earthquake in Managua. At that time he was a captain, did not wear glasses, and had no gray hair.

Porras is the kind of man any president would want for an aide and confidant. A graduate of the Military Academy in Nicaragua, he reflects dignity and compassion. He is low key in all things, but efficiency is his trademark. Also, he is totally dedicated to Somoza and, if there is such a thing, he is Somoza's strong right arm.

Seeing this fraction of Somoza's old staff gave me an eerie feeling. Transported thousands of miles were the remnants of what once was a sizeable staff. But these people with him now had served long and faithfully, and they would continue to serve so long as the "chief" desired.

It should have come as no surprise, but I have never seen so many huge packed boxes. There were boxes and then there were more boxes stacked upon boxes. The cars were parked in the driveway and the garage was filled with packed boxes.

These boxes house the selected contents of an administration which was in power many years. (The Somoza family governed Nicaragua 42 years.) These contents could reveal the coming and going of presidents, generals, ambassadors and politicians from all levels of the political spectrum. As I gazed at the boxes, I thought, therein lie intimate and secret details which involve governments and people.

Gens. Somoza and Porras and I drank strong but tasty Paraguayan coffee while we waited for "Tacho," as he is known to his friends. The three of us had one thing in common: We had all been in Managua the day Somoza's government fell to the Sandinistas, a group of nationalists strongly influenced by Marxists and including modern communists.

I was there as part of a television team to film a documentary on Nicaragua and the other countries of Central America. They were there as part of the army and the administration of Anastasio Somoza.

In approximately 15 minutes, Somoza returned. The greeting was warm and friendly. I thought he looked extremely well and made the comment to him. Many deposed leaders with the recent experience of Somoza would have appeared haggard and weary. As I looked at him, I felt that this man still carried the pride of West Point, where he received military training. As usual, he was immaculate in his starched white guayabera. He stands about 6 feet, 2 inches and carries about 210 pounds on a solid frame. He ad-

mitted, though, that he needed to lose 10 pounds.

This was the first of three visits which would cover parts of three days. As might be expected, this initial visit dealt in generalities—his health, his attitudes, the feeling that comes from living in a new country and his thoughts of the future. In essence, his health was good; he was neither depressed nor despondent. He likes Paraguay and feels comfortable living here. He feels the people of Paraguay are sincere and that he has been accepted. Somoza holds fast to his Roman Catholic faith and faces the future with the belief that he stands right with God and, therefore, will continue to be useful and productive.

In our many hours of conversations, Somoza not once mentioned nor did he allude to the prospects of returning to his homeland. Being human, he must hold such thoughts, but if he does, they are buried beneath an exterior untroubled, calm and collected. Due to an innate curiosity, I wanted to explore those inner thoughts, but with the scars of battle hardly healed, I felt an intrusion of this nature would not be appropriate.

We discussed current events, the Pope's visit to the United States and even Army's football team. On Army football, he surprised me. He said it was very difficult for Army to compete in big-time football because, first, the academic requirements at West Point are too tough for many athletes and, second, the better college prospects have their eyes on pro football, where they can become rich and famous.

It seemed incongruous to be sitting in a modestly furnished home in Paraguay discussing Army football with Anastasio Somoza. This visit had been casual and the heavy questions which were in my mind would have to wait until later. Luncheon was scheduled for the following day and, as it developed, the luncheon lasted the better part of four hours.

Since coming to Paraguay, he had not granted a single interview to the press. Requests had come from major newspapers, wire services and television. Mine was the first and only interview he had granted. He feels strongly that he was maligned and badly mistreated by the news media in the United States. He further believes that the U.S. news media was largely responsible for his loss of power in Nicaragua. He is convinced the move against him was communist-inspired and that communists and the Sandinistas are one and the same. (The Sandinistas deny this.)

These next two days proved to be revealing and in many ways shocking. Somoza held nothing back and called "a spade a spade." I heard accusations of leftist connections of people in high places. I listened to taped telephone conversations between Somoza and various officials in the U.S. government. Some of these, to say the least, were startling. In the final analysis, evidence was presented which, in my opinion, proved conclusively that the U.S. was deeply involved in the takeover of Nicaragua by communists.

Somoza could not believe that President Carter would appear on national television and say to the American people that neither Cuba nor the U.S. had anything to do with the overthrow of the Nicaraguan government. In his words, "Jimmy Carter is a pitiful liar." To back up this statement, he quoted the U.S. ambassador to Nicaragua as saying, "We got what we wanted. We have worked for this over a year." Somoza had a news clipping in which Ambassador Lawrence Pezullo was quoted.

Somoza said, "President Carter is a fool and lacks the intelligence to be president of the U.S." He added that Carter's leadership ability rated zero. He questioned Carter's success as a peanut farmer and said he was a failure as governor of Georgia. Then, he asked, "How could the American people expect him to be a success as president of the United States?"

Somoza felt the opposition's success—and he maintains it was a communist success—in Nicaragua was due more to the activities of the State Department and Secretary Vance than to the poorly advised Carter. He stated firmly that for more than a year he had asked the United States to find someone in the opposition camp who was responsible and a non-Marxist to replace him. He said the U.S. couldn't replace him.

The U.S. couldn't or wouldn't do it, he added. He then stated that there were several reputable members of the U.S. Congress who knew of this good faith offer and could verify this statement. In Somoza's opinion, "Ambassador William Bowdler simply failed." He described Bowdler as "a typical bureaucrat who wanted to serve out his time and retire." (Bowdler, a career diplomat, was sent to Nicaragua to help negotiate Somoza's departure.)

Somoza then made an interesting point. He said in the entire history of the United States no previous secretary of state would have done what Vance did to Nicaragua. He said that there was a reasonable solution, but the president and the State Department failed to implement the U.S. hemispheric policy. "This solution," he said, "would have been a Nicaragua without the Somozas, but with a non-Marxist government." I was rather surprised at his evaluation of his own place in the history of Nicaragua. He felt that in the long run and from a historical point of view, Anastasio Somoza was not all that important; that the thing that really matters is the country and the people of Nicaragua. He pointed out that these are proud people and contends that they are strongly anti-communist.

"Never in my wildest dreams," he stated, "did I think the U.S. would be part of a plot to place their strongest ally and supporter in the hands of communists." (The junta now governing the country denies such allegations.)

At that point in the conversation I asked him if he cared to be explicit and name those who he felt were largely responsible for the actions of the U.S. government. He replied, "I am happy to give you the names of those who contributed most to the communist success in Nicaragua." These, he stated, were advisers to Vance and Carter. "One of the movers in the plan to 'get Nicaragua' was Bob Pastor, who is in charge of Latin American affairs with the National Security Council. Then there is Mark Snyder (a former aide to Sen. Edward Kennedy), who is with the State Department. And you have Warren Christopher (deputy secretary of state), who is the No. 2 man to Vance. He added that he should not leave out Assistant Secretary of State for Human Rights Patricia M. Derian of Mississippi, who is the wife of Hodding Carter III, press spokesman for the Department of State. He said, "She is so far out in left field she is in the grandstands."

I then asked Somoza if he thought these people were communists. He responded, "In my opinion they are, but you probably think that's going too far, so I'll put it another way for you. If a person acts like a communist, speaks like a communist and thinks like a communist, what do you have?"

I was curious about many things, but one in particular. Why did Somoza quit on that fateful day? I decided it was a fair question to ask. "In essence," he said, "the U.S. put a gun at my head and I had no other choice. They told me—your government—that there would be no more arms, no more ammunition and there would be no more supplies—not from any source in the world. Actually, the U.S. placed a blockade on all of Nicaragua, while giving the communists free shipment of men, arms and ammunition. If I stayed, there would be more bloodshed and it became abundantly clear that with the U.S. on the other side, my troops, my people and I were in a no-win situation. Therefore, I had no other choice. I had to leave."

Another point that concerned me was Somoza's brief stay in Miami—three days. This question brought forth a surprising answer. He said two events convinced him that he should not stay in the United States, a country he loved and considered a second home.

It will be recalled that after Somoza departed Nicaragua, an interim president was sworn in as the new president. He lasted 36 hours and these were hectic hours. After being sworn in, the new president announced that he wanted to serve out the unexpired term of Somoza. This announcement caused much turmoil. It was then, Somoza said, that Christopher of the State Department called him and told him in no uncertain terms that if the new president didn't live up to the agreement that he (Somoza) had made that he (Somoza) would not be welcome in the United States. "In other words," Somoza stated, "I was being held responsible for decisions and actions over which I had no control." He went on to say that under those conditions it would be impossible to stay in the U.S.

The real clincher, and a bombshell it was, came when Ambassador Pezullo called Somoza. This conversation was on tape. Incidentally, all telephone calls with U.S. government officials were taped. This means that Somoza has a record of everything that was said. He presumes the U.S. government did the same thing with his conversations.

Somoza said the call from Ambassador Pezullo was a threat and involved politics on the highest level. He said Pezullo told him: "If you get together with (Ronald) Reagan, we will extradite you." "Plainly put," Somoza said, "if I talked to Reagan, I would be signing my own death warrant because those SOBs could, at their discretion, handcuff me, put me on an airplane and send me back to Nicaragua to face a communist firing squad." "That," he expanded, "was the final straw. I knew for certain that I had to leave the United States."

In one conversation Somoza asked me if I knew Jack Anderson. I told him that I didn't know the man personally, but I had read his columns and had seen him on television. This question intrigued me so I pursued the matter. "General," I asked, "why was Jack Anderson after you in such a determined fashion?" He replied, "Because he was being paid handsomely for doing so." The obvious question to follow was by whom was he being paid? Somoza replied: "Our intelligence agents have unequivocal proof that Anderson is being paid by the government of Venezuela. Actually, Jack Anderson should be listed as a foreign agent for Venezuela." He stated further, "If the U.S. government or the IRS wants the proof, then let them come to me and ask for it. They will receive my cooperation." Venezuela was active in its support of the Sandinistas in Nicaragua.

With Thomas Borge, a well-known Marxist and close friend of Fidel Castro, wielding influence in Nicaragua, it is possible that Nicaragua could become a carbon copy of Cuba. I asked Somoza about this possibility. He said it was not a possibility but a certainty unless the U.S. acted very quickly. He jotted down some figures and showed them to me—2,000 students have already been sent to Cuba for education and indoctrination. 1,000 Cuban teachers have already been sent to Nicaragua, and 5,000 teachers in Nicaragua have been fired because they are non-Marxists. Following the Cuban plan, block captains have been named in most of the blocks in Managua. Their purpose, according to Somoza, is to report on all the

families in their respective blocks, the coming and going of visitors, and, if they choose, search any home suspected of having weapons.

Recently, the U.S. Government asked the rebel government in Nicaragua when it would hold free elections. The reply was perhaps in three years elections could be held. Somoza said, "This information came from a well-known U.S. congressman who sees Nicaragua as a communist takeover." He added, "In three years Nicaragua will be a fortified communist stronghold." Somoza went on to say that at this moment the United States could rescue Nicaragua from what he calls the communist camp but that it would probably not do so. "The answer," he said, "lies in calling for free and supervised elections immediately." It is Somoza's opinion that the people of Nicaragua are vehemently opposed to communism and if given the choice, would vote for an anticommunist government.

I asked Somoza to give me his opinion on where he thought the United States stood today in the family of nations. He stated, "Today the U.S. stands at the crossroads of history." He feels that there is little or no respect for the U.S. throughout the world. He believes that unless the United States makes a 180-degree turn, the end is in sight for the most powerful nation the world has ever known. He believes the Soviet Union is outsmarting the U.S. in every regard. He pointed out, "The communists act and you react, but reactions of the U.S. are woefully weak. In most instances, your reactions represent appeasement to the Soviet Union." He said that all one had to do was look at a map of the world and see that the successes of the communists are painfully clear. "Lets be specific," he said.

"First you had the Iron Curtain, then the Bamboo Curtain and now you have a Banana Curtain. This latter curtain is drawn across Nicaragua from the Atlantic to the Pacific and separates North America from South America."

Finally, he said, "If your country, the United States of America, continues to follow its present course, in five years your once great nation will be an isolated island, much as England is today."

Then there was the farewell. There stood former President Anastasio Somoza, tall, erect and proud. As I waved goodbye to Gen. Porras and five other members of the staff, all of whom live in the house with Somoza, I thought, "Is this all that's left?"

At the end of his reign as president of Nicaragua, Somoza was asking only one thing of the United States—"Don't let my country fall into the hands of the communists."●

A MEXICAN PERSPECTIVE ON ILLEGAL IMMIGRATION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. SEIBERLING. Mr. Speaker, as president of the Peace Through Law Education Fund I am offering for insertion in the RECORD remarks made by Mexican Ambassador Hugo B. Margain at the October food and population breakfast meeting sponsored by the fund.

Mr. Margain served as Mexico's Ambassador to Great Britain from 1973 to 1976 and from 1964 to 1970 served as Ambassador to the United States. He has held numerous positions in the Mexican Government including Under Secretary of Industry and Secretary of the Treasury. In 1970 Mr. Margain served as president of the board of governors of the Inter-American Development Bank and from 1970 to 1973 was a governor of the International Monetary Fund. He has also authored numerous books and articles on tax and fiscal policy.

Mr. Margain discussed his government's efforts to control population growth and increase food production and addressed the problem of illegal Mexican immigration to the United States. The Ambassador suggested that the United States and Mexico draw up a bilateral temporary migration program similar to the one in existence from 1942 to 1964.

Mr. Speaker, ever since my first year in Congress in 1971, when I went down to the Mexican border areas with our distinguished colleague, Hon. PETER RODINO, then chairman of the Immigration and Naturalization Subcommittee, the Congress has been wrestling, without success, with the problem of illegal immigrations, most of it from Mexico. Since the illegal immigrants must live and work outside the law, they are at the mercy of unscrupulous employers and are forced to work for substandard wages and under substandard, often deplorable conditions.

In the meantime, the number of illegal aliens has increased by the millions.

This situation has caused not only widespread injustice and exploitation of the immigrant workers, but, because they cannot bargain effectively with employers or enlist the support of the law to protect their rights, the illegal immigrant workforce tends to lower wage and work standards and to undercut the wages and standards and bargaining position of the legally resident, American citizen workforce.

Ambassador Margain's suggestion for a new agreement between the two governments for a temporary migrant worker program deserves prompt and serious consideration. It may well provide a workable solution to this problem that is of growing concern, not only for its undesirable effects on our economy but as a growing source of friction between our two countries.

The full text of the Ambassador's remarks follows:

A MEXICAN PERSPECTIVE ON ILLEGAL IMMIGRATION

This morning I would like to talk about two fundamental problems facing my nation: migration and population growth.

When I was a university student in Mexico City in the 1930's, my teachers explained how Mexico lost the northern extension of its territory due to its extremely sparse population. They noted that Mexico's economic and political problems were partially a function of our small population in relation to our large land mass and since the colonial epoch the slogan was, "To govern is to populate."

In the 30's, we were very much unaware of the dramatic surge in population taking place in my country. Whereas in 1900 there were 14 million Mexicans, today there are 65 million. The University of Mexico was constructed in the 1950's for 20,000 students. Today this same University has more than 165,000 students, and their numbers continue to grow every year. Classrooms built to accommodate 35 are filled with up to 200 students.

Mexico City itself is overflowing with people. Its total population is estimated at 14 million—the same number of people in the entire country in 1900. With crowded and unhealthy slums on its outskirts and increasingly serious problems of pollution and traffic congestion, this once-beautiful city is slowly being choked to death.

Other cities in Mexico, including Guadalajara, Puebla and Monterrey are much smaller in size, each having a population of over one million. The present government in Mexico is doing everything possible to keep these cities at their present size and to encourage the creation of other urban areas which would attract people away from Mexico City.

President López Portillo is trying to slow the pace of internal migration by providing more rural families with enough productive land so they can be self-supportive. In many parts of Mexico unchecked population growth and a persistent failure to bring new lands into cultivation means that the same amount of arable land which used to support five members of one family now has to support five or six families.

Although unacceptably high population growth in Mexico continues to play a key role in the rural exodus to Mexico City, the increase in the population growth rate has now peaked and is starting to decline. From an all-time high of 3.5, the birth rate has fallen to the present figure of 2.7 and is expected to fall to 2.2 by the middle of the 1980's.

More than three million Mexican women now use birth control methods. The Catholic Church, once strongly opposed to modern means of contraception, has now diminished the severity of its attitude. Especially in urban areas, birth control clinics have been established and the government has launched an extensive campaign for "responsible parenthood" which stresses the economic and social responsibilities of having children and has made "family planning" a popular concept.

In analyzing the problem of migration between the U.S. and Mexico, it is clear that there are "push" as well as "pull" factors at work. Chronic underemployment as well as unemployment, resulting from an excessively high population growth rate, forces many of our young people to look for temporary work in the United States. We need 800,000 additional jobs each year to absorb new entrants into the labor force; yet, our economy doesn't create nearly that many new jobs.

At the same time that there are conditions in Mexico which are pushing young people out of the country, there are relatively high wages and abundant jobs in the southern part of the United States which attract thousands of Mexican workers. This is the "pull" factor. Some American labor specialists now estimate that this country will be experiencing a serious labor shortage by the middle of the 1980's due to the growth and the age structure of the American population.

There is every indication that you will need a continuous supply of foreign workers in agricultural and industrial enterprises. My personal opinion is that one way to provide this source of labor is for the U.S. and Mexico to draw up a bilateral temporary migration program similar to the one in existence from 1942 to 1964, naturally brought up to date for the present day situation. During these years our countries were much better able to regulate the legal flow of migrant labor than is the present case with its rampant abuses and illegal activities on both sides of the border. Mexico was able to provide legal protection for its nationals while they were working in the U.S. and American businesses and farms benefitted from an assured supply of documented workers. The most important achievement of the 1942 bilateral agreement was in relation to human rights: no Mexi-

can could be drafted for the U.S. armed forces. They would not be subjected to discriminatory actions and they would enjoy protection in regard to transportation, living expenses and repatriation. The present situation lends itself to persistent and serious human rights abuses. It is highly exploitative in that it has led to the deterioration of working conditions, and in many instances, to the payment of less than the hourly minimum wage.

When I presented my credentials to President Johnson, in January 1965, for my first tour of duty as Ambassador of Mexico, he told me that he was not opposed to a bilateral agreement in regard to the temporary workers. However, he felt that his hands were tied due to the strong opposition of the labor unions. Their objections could change nowadays, in light of the clear inadequacies of the present system which fails to protect either Mexican or American workers. The present-day illegal situation could be reversed through a bilateral understanding capable of finding a solution, with the participation of our two governments with the cooperation of the American and Mexican labor unions. This is the purpose of the recently assigned commissions of both countries, directly involved with this problem.

For the thousands of Mexican "campesinos" who participated in the program from 1942 to 1964 it meant the difference between working 100 days as opposed to 200 or 300 days per year. Instead of remaining idle for many months in their villages, they followed the planting or harvesting cycles first in Mexico, and then in the U.S., then back to Mexico. A similar program was devised for different activities.

My personal feeling is that it would be adequate to reconsider the temporary worker program. We do not want to lose our young labor force. That would be an irreparable damage for Mexico. Therefore, my government is now taking the necessary steps to stem the massive flow of migrants from rural to urban areas and to this country. We now have the programs called FIDER, for rural development of the most backward regions of the country. Financed with matching funds from international organizations and my government, zones that a few years ago were very poor are now progressing. They are not sources of migrants as in the past, and attract labor from surrounding areas. The situation will be very different in ten years time, when with sufficient investments from the revenues of oil and additional financial support from the World Bank and the Interamerican Development Bank, as well as the Mexican government, all the countryside of Mexico will have received the help it needs for economic development.

For the people living in our overcrowded city slums, we are going to start a program again with the revenues of oil, to develop high intensive labor activities, to give these people a better standard of living.

We are conscious that with oil and natural gas, for the first time in our history, we can solve this important social problem. This is a real challenge for our generation and I am certain that we are going to be able to overcome all obstacles.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following vote on September 13, 1979. If I had been present, I would have voted as follows:

Rollcall No. 468, "yes."●

JAMAICA'S DAILY GLEANER BATTLES FOR FREEDOM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. McDONALD. Mr. Speaker, in the ragged, bankrupt socialist democracy that Jamaica has become under Prime Minister Michael Manley's Marxist People's National Party (PNP), there is a single opposition newspaper battling for freedom of the press, a free economy and for a continuation of representative government.

Daily Gleaner editor Morris Cargill has written some biting commentaries on Prime Minister Manley, who styles himself a "conceptualizer," and his grandiose delusions as a radical Third World leader after the manner of his Caribbean mentor, Fidel Castro.

Two of these editorials, I believe, would be of particular interest to my colleagues.

The editorials follow:

BITING THE HAND

EXCERPTS

One of the most commonplace of observations is, of course, the arrogance of the incompetent, it is a universal phenomenon, but many third world leaders serve as good current examples of it. Our own dear addled comrade leader must be included.

Here in Jamaica, little goes right. Our generator of light and power is a sometime thing, our educational system is in chaos, so are the banana and sugar industries. The manufacturing sector can make no headway against the vast disease of bureaucracy. The tourist industry shows no indication of any real recovery apart from the wish-fulfilling fantasies of the tourist board, unemployment increases, our road system is falling into potholes, our economy is in a shambles and we live from hand to mouth, dependent upon U.S. generosity and I.M.F. aid.

Yet the chief author of this vast failure, the great conceptualizer, goes to Cuba and lectures the U.S.A. and the world, when he is quite unable to make even a small success of his own tiny country.

He does more than this, he bites the hand that feeds him, he also does his level best to defeat the best efforts of the I.M.F. and his own minister of finance.

In Havana the worthy Fidel, whose economy is almost wholly dependent upon Russia, opens the conference with a slashing attack upon the U.S.A. accusing it of just about every human ill except bubonic plague, understandably, he's a communist and is serving his master. But then our great conceptualizer leaps up and, not to be out done, supports him with a string of irrationalities, inconsistencies and nonsequiturs, instinct for failure.

One test of sanity, as we wrote some time ago, is whether a person is irrational and, more important, self-defeating. The great conceptualizer has a natural instinct for failure, as his own administration proves, it seems as if he fears any kind of success, except the dubious one of cheap and temporary acclaim. Just as the I.M.F. is working anxiously toward restoring confidence in Jamaica as a place fit for foreign investment, and Mr. Bell, at the end of his tether, is stalking the corridors of Washington and the West, our own prime minister throws a spanner in the works. Success, apparently is not good for the masses, they must remain good socialists, hungry, unemployed and ill-educated.

Moreover, we now witness our prime minister describing Cuba as a genuine non-aligned country; thus making public abuse of the U.S.A. and public praise of Russia the qualification for genuine non-alignment; were this country entirely rational, the logical process upon the prime minister's return would be to certify him and put him into a strait-jacket.

In one sense, though, it is all good knock-about comedy. It also proves how careful one must be about the writing of satire, for in the West Indies nature outstrips the wildest invention of the satirist.

No intelligent person in Jamaica any longer takes the conceptualizer seriously; one must pray that this is also the case in Washington, but we have come to a sorry pass when we have to face the fact that our future well-being depends upon foreign powers understanding that for the time being we have as prime minister a poor fellow who gets utterly carried away by schoolboy enthusiasms under the stimulus of the moment, however self-defeating these enthusiasms may be, and, who, in any event, seems not to mean what he says for any longer than the magic moment. No balanced man, after all, takes pride in confessing to perjury, or for that matter, placing in jeopardy his country's only chance of economic salvation by self-indulgent and illogical posturings.

ANANCYISM CUBED

(By Morris Cargill)

TEXT

The logical processes of our prime minister are not very good at the best of times but recently they seem to have gone completely askew, as witness his heatedly enthusiastic defence of the Cuban ambassador and, before that, his brilliant self-satire in Havana; both of which, I must confess, have left me green with envy. Such inspired and very funny nonsense is beyond the reach of my pen.

The prime minister disappointed me, though, on his return from his one-day visit to Venezuela. All he said was that he was "satisfied". I had had hopes of at least a new aluminum smelter, if not an atomic power plant. Perhaps, as it was only a short, cheap trip, the journey to Venezuela called for only a short and relatively low-priced accounting.

One remembers other odysseys, though, in which our borborygmatous Jason had brought home the Golden Fleece; or if not he, at least his lieutenants; a vast sugar contract from Iran, a huge new alumina plant, an oil refinery, a purchase of thousands of tons of cement from Nigeria, and most lately, a new Hungarian alumina enterprise and a jointly profitable venture into the purchase of obsolescent Fiats from Russia; none of which greater enterprises have ever come off, nor will they in the future.

The prime minister, in between air trips abroad, and the minister of security, in between spasms of ill-temper, never cease telling us how peaceful demonstrations by the J.L.P. [Jamaica Labor Party] interrupt our economic recovery, apparently unaware that there is no recovery to interrupt, so, to reinforce this argument, the prime minister now promises that for every J.L.P. protest there will be an equal and opposite P.N.P. [People's National Party] protest on the streets at the same time; a protest which, one would imagine, would convert a peaceful protest into a hostile confrontation, and which, we must assume, will do no harm to "recovery" as the prime minister advocates it. Indeed, the prime minister (and some other ministers) even led a small (very small) army against the GLEANER.

TO THE 4TH DEGREE

In this heroic enterprise, undertaken no doubt because he has no useful work to do, the prime minister did not exactly scale the Alps with elephant, like Alexander; but he managed to traverse the potholes of North Street, a task hardly less demanding. For as each successive victory of socialism and Cuban solidarity (the solidarity being mostly between the ears) is announced, our streets continue to be choked with refuse and fall into potholes; our hospitals close, our unemployment and poverty increase and our balance of payments worsens.

The comrade conceptualizer's democratic socialism is doubtless a beautiful thing; the only problem being whether we shall all manage to survive to enjoy it. The next time you cannot afford your bill at the supermarket, or fracture your front suspension on a pothole, remember, please, that you are suffering for a great ideal, and for the greater glory of Cuban-Jamaican hands-across-the-sea (when they are not in the pockets of the Yankee capitalists).

Now, as a final gesture towards the good life, we are elevating ourselves not to mere anancyism, but to anancyism to the fourth degree.

Let me explain. One of the more endearing qualities of the P.N.P., as it is in the case of all actual or potential totalitarians, is its habit of throwing a brick at someone, and then yelling the place down about the other bloke's aggressiveness. It is a compliment that lying totalitarians pay to civilized people, which is why I call it endearing. But the thing is now reaching marvelous dimensions.

The J.L.P. warns, in effect, that the P.N.P. may be planning to throw bricks at themselves in order to blame the J.L.P. Note, in passing, the Reichstag fire, for this technique is also a well-known totalitarian technique. So what does the P.N.P. do? It says that the J.L.P. will throw the brick in order to make people think that the P.N.P. has thrown the brick. This is anancyism to the power of two.

DEVIOUSNESS

But it won't stop here. The obvious J.L.P. retort is that the P.N.P. will throw the brick in order to make people think that the J.L.P. has thrown the brick in order to make people think that the P.N.P. is throwing bricks at themselves. This is anancyism cubed. At which point there will be anancyism to the power of 4; in which the brick takes on a life of its own.

The chief conceptualizer, flanked by Trevor Munroe on one hand, and Arch-Bishop Duncan on the other, will regale us on T.V. as to how the brick was thrown by the editor of the GLEANER in order to make the J.L.P. accuse the P.N.P. of throwing bricks at itself in order to make people think that the P.N.P. was doing so in order to accuse the C.I.A. of making the brick in the first place.

A brick-making plot will be invented. Poor Mr. Eddie Seaga will be locked up under emergency powers for having 84 barrels of bricks, supplied by the U.S. Embassy, each marked "Made in Cuba" to make people think that Senor Estrada had supplied the bricks so that people will think. . . .

Please don't ask me to go on. Deviousness of that high quality is quite beyond me. All I do know is that Hungary and Jamaica ought to get together. Only Hungarians can equal us in deviousness. It is said that if one has an Hungarian as a friend, one needs no enemies. I suppose, too, that if one has the comrade conceptualizer as a leader, it could be said that we have no need of hurricanes, earthquakes, or indeed, any natural disaster.●

HOSPITAL COST CONTAINMENT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. WALGREN. Mr. Speaker, I would like to insert in the RECORD the text of an editorial which appeared in the October 29, 1979, New York Times on hospital-cost containment. With the floor debate on cost containment drawing closer, I believe it is important for every Member to take a hard look at what rising health-care costs are doing to his or her constituents and to base his or her decision on that, rather than on the propaganda of the health-care industry.

I supported the hospital cost-containment legislation in the Interstate and Foreign Commerce Committee and will support it when it is considered by the full House. I urge that you join me in the fight against inflation by voting for hospital cost containment.

The text follows:

LET'S SEE WHO CARES ABOUT INFLATION—THE TEST FOR CONGRESS IS HOSPITALS

Congress will soon reveal how much it really cares about inflation. The test will be the Administration's bill to hold down soaring hospital costs, the only major anti-inflation measure before it this year.

The bill, as modified by the House Ways and Means Committee, would limit hospital cost increases this year to 11.6 percent, the very goal the industry has set for itself. But hospitals that do not voluntarily observe the limit—to be pegged to the inflation rate in succeeding years—would suffer the sanctions of the law. Government and private insurers would be allowed to reimburse them only to the prescribed limit. If they nonetheless persist with higher charges, they could also be fined.

The hospital industry has understandably cried foul, arguing that its inflation rate—13.3 percent in the first seven months of this year—is somewhat lower than the horrendous average of 15 percent it experienced over the last decade. The industry resents being singled out for sanctions, especially now that the rest of the economy is galloping up alongside.

This argument, however, is misleading. To see how, one has only to look at a breakdown of hospital costs this year. The industry's wage rates, representing half of all expenses, are up 8.5 percent. All costs—labor plus food, fuel and supplies—are up 9.4 percent. So the charges to patients are running nearly 4 percentage points above the costs of maintaining existing services. The problem is that hospitals are busily *adding* services, personnel and machines without compensating improvements in productivity.

Despite the efforts by some hospitals to cut overtime, save energy and improve management, the industry as a whole is still plagued by waste, inefficiency and duplication. Atlanta, for example, has 17 CAT scanners, those marvelous, and wildly expensive computer x-ray machines; the entire state of Connecticut, with twice the population, says it needs only eight. National health guidelines recommend four hospital beds for every 1,000 in population, but many communities far exceed that ratio. In fact, the nation has an excess of 130,000 hospital beds, whose cost runs into the billions. Eliminating much unneeded surgery and unnecessary diagnostic tests for nonsurgical patients could save hundreds of millions more.

The industry is renowned for its lobbying skills—there are hospital boards in every Congressional district—and it is playing hard on the antiregulation mood on Capitol Hill. It asks why Congress would want to entangle hospitals in new red tape just as it is deregulating certain other industries.

One answer is that the industry's voluntary effort has failed. Another is that hospitals feel few of the competitive pressures of a normal marketplace. Patients do not decide what services they need or what prices they can afford; hospitals and doctors decide for them. And since more than 90 percent of all hospital bills are paid by government or private insurers, none of them has any real incentive to hold down costs. Generally, the more a hospital spends, the more it gets back.

Standby controls would not create any bureaucratic monster. The necessary supervision and data reporting systems are already in place, helping government to pay 55 percent of all hospital costs. Hospitals would have to report only one new fact—their wage rates for nonsupervisory employees. The Government would need an additional 100 employees and $10 million to enforce the limits. Whether this bill would save consumers $30 billion in five years, as the Congressional Budget Office predicts, or $50 billion, as the Administration contends, it's a bargain. No other measure before Congress offers such dramatic returns.

THE PRESIDENT'S TEST IS VEGETABLES

Some smaller but still important tests lurk in the trade area. Consumers finally won one when the House beat back efforts to raise sugar price supports. Now President Carter can rebuff the special interests that want to tax Americans at the checkout counter. His issue is the price of winter vegetables—tomatoes, peppers, eggplants, squash, cucumbers—from Mexico.

Florida's vegetable growers want the Mexican produce treated like imported industrial goods and barred from sale at a price below their average cost of production. That sounds fair, but it isn't. For as supplies ebb and flow across the growing season, the market price of perishable vegetables varies widely. Sometimes prices fall well below production costs, sometimes they rise well above. And growers from every region—including Florida—routinely accept these vagaries of the market, expecting to make up for lean weeks with fat ones.

The Floridians do no better arguing the law than the equities. The courts have given the Treasury board discretion to interpret the ambiguities of the "anti-dumping" statute. Moreover, the principal authors of the law have stated that they never intended it to restrict imports of perishables.

The real claim of the Florida growers is political. They simply hope to persuade President Carter that he can't do without their support. The question, then, boils down to whether the White House will choose to placate several thousand strategically located farmers at the cost of higher vegetable prices for all Americans. If the President really believes that fighting inflation is the best politics, the decision should be easy.●

THE BUDGET OF HOPE AND OPPORTUNITY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. THOMAS. Mr. Speaker, about a month and a half ago, this Congress was debating the Federal budget, and I and a number of my colleagues spoke in support of the Republican budget of hope.

Today, I would like to address once again the problems of the budget of despair and its considerable impact upon my congressional district.

I rise today to speak on behalf of the budget of hope and opportunity—a budget which, if Congress were to give it a fair hearing and a chance to work, would allow Americans to help themselves out of the economic mess created by the last 25 years of Government overspending.

The majority budget is the product of a legislative body which has been under the control of free spenders for the past 13 Congresses in succession. As a statement on the Government's role in our economy and in our whole society, the majority budget offers nothing new. It is filled with defeatism, disappointment, and despair, and it is a testament to bankrupt concepts.

The American people face recession, increasing unemployment, spiraling inflation, and energy problems, and yet they are offered a national budget which fails to address any of these problems from a new perspective. Instead, it plods onward in the familiar path of huge deficits financed by intolerably high taxes.

I believe we would reduce inflation by increasing our productivity, and that we can foster real economic growth through lower taxes and less Government spending. How much less? Well, the Republican budget, which I support, calls for a $20 billion tax cut next year to help ease the coming recession's blow to all working Americans.

But this plan, the Republican budget—a budget of hope and opportunity that proposes to change the shape and the direction, as well as the size of the Federal budget—is a program that will not be known by most Americans. The chance to put this budget into effect will be denied Americans by the free-spending majority in Congress, the self-same majority which pays lipservice to budget cutting.

When the Federal budget is discussed and debated, a lot of numbers are thrown around. We talk about inflation percentage points, unemployment percentage points, and billions of dollars.

What do these numbers represent? All of us in Congress must bring these numbers down to the human level. What we are talking about, after all, is people and the Government's impact on their lives, an impact that grows greater with each year's increase in the size and scope of the Federal Government.

Californians have much at stake in the current budget process. California's economy, were California an independent country, would rank fifth among the world's nations. Its economy constitutes more than 11 percent of the national economy, and California's economy is growing a full percentage point ahead of the national economy.

But California's economic growth is beginning to slow, and the budget of despair for 1980 would insure that the national recession would not miss our State. At a time when we need to increase productivity and revitalize our economy, the majority budget policies are proposing nothing to help do this—only higher inflation, higher unemployment, and lowered expectations for all Americans, including Californians.

The number of Californians thrown out of work by the recession will swell to 235,000 by the end of 1980 under the budget of despair, and that is an optimistic estimate. Some predictions place the figure closer to 320,000.

In my home district over 4,000 more workers will have lost their jobs by the end of next year if we continue the budgetary policies of the majority.

Unemployment in California, currently at about 6.5 percent, is expected to rise to 7.6 percent by the end of this year and to reach somewhere between 8½ to 9 percent under the budget of despair. In the 18th District, unemployment could reach more than 9 percent by the end of 1980.

We will not solve inflation by throwing people out of work. Rather, we must keep people on the job and boost productivity.

We will not balance the budget by crunching down the economy in the usual pattern employed by the majority. For every added percentage point of unemployment, the Federal Government must spend another $20 billion to offset unemployment, thereby increasing the deficit.

The budget of hope will propose approximately a $20 billion tax cut in 1980 to ease the coming recession's blow to working Americans. The budget of hope would also offer new tax incentives for capital investment which is so badly needed to revitalize our industry and create more jobs in the private sector.

For California, the budget of hope would mean fewer people out of work—nearly 100,000 jobs saved, in the 18th District, 2,000 jobs saved—and it would mean more money in the pockets of workers who need it to meet the rising cost of living.●

TRIBUTE TO E. R. VADEBONCOEUR

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. LEE. Mr. Speaker, I am privileged to share with you and my colleagues the central New York area's pride in one of its foremost citizens, E. R. "Curly" Vadeboncoeur, president of the Newhouse Broadcasting Corp., who will be honored Wednesday, November 7, as the 17th recipient of the Simon LeMoyne Medal, presented by LeMoyne College, in Syracuse, N.Y.

The award, given each year since 1968 by the college at annual Founders' Day ceremonies, is presented to a nationally prominent leader who has made significant and humanitarian contributions to society. There are no better words to summarize the achievements of Curly Vadeboncoeur.

He is joining the distinguished ranks of previous recipients of the medal, given in the name of Rev. Simon LeMoyne, the first European to visit the Syracuse area when it was inhabited by the Onondaga Nation—a roster including such prestigious Americans as Dr. Melvin A. Eggers, chancellor of Syracuse University; Dr. William P. Tolley, chancellor emeritus at Syracuse; John T. Connor, president of Allied Chemical Corp.; and Edith Green, a former Member of this House.

I know Rev. William J. O'Halloran, S.J., president of LeMoyne College, and Robert E. Pietrafesa, chairman of the LeMoyne board of regents, will extoll Curly's accomplishments in the field of communications and human services as they present his citation:

CITATION

Nearly half a century ago, a young newly-wed couple wandered through the sloping fields of an area now called "the Heights," thinking to build their first home there. When this proved unfeasible, they bought property just down the hill from what was soon to become the LeMoyne College campus. Curly and Orletta Vadeboncoeur were fond neighbors of the fledgling institution for more than a decade.

E. R. Vadeboncoeur has known the weight, as well as the rewards, of responsibility nearly all his long and productive life. By the age of 10, he had already established himself as a diligent worker—not only among his school fellows, but in the business world as well. Because of his father's untimely death, his wages earned selling newspapers and transporting film reels from theater to theater were important to his family's livelihood.

For Curly, education was not confined to the schoolroom. An avid reader, he devoured the classics, contemporary fiction, works of history, and above all, the newspapers, setting a course that he would follow all his life. With his vital interest in world affairs and his love of the written word, his advancement from newsboy to reporter was a quick one. After 19 years in the newspaper field, including positions with the Syracuse Journal as Sunday editor, news editor and city editor, Mr. Vadeboncoeur joined WSYR. By 1941, he had been appointed vice president and general manager of the station, and 11 years later he was named president. Just this past summer, he celebrated his 40th anniversary with WSYR.

As president of the Newhouse Broadcasting Corporation, E. R. Vadeboncoeur holds a position of vast authority. Yet all who know him call him Curly—an indication of his unpretentious, congenial nature.

His involvement in all phases of operations at WSYR Radio and Television is complete. A demanding man, he is the first to set the example of a job well done. His insistence upon correct English usage is an inspiration at a time of general laxity.

At his office before eight each morning, Mr. Vadeboncoeur knows the value of each moment. Despite his deep commitment to his work in the communications field, he had never allowed his professional responsibilities to encroach upon the time spent with his wife and daughter, with whom he shares his hours of relaxation in stimulating conversation, travel and social events.

A connoisseur of fine art, fine wine and fine cuisine, a sports enthusiast, and a history buff, Curley has a keen appreciation for all that life has to offer. He has given unstintingly of himself, not only to his profession, his family and his friends, but to society at large. His many contributions to broadcasting, the health services, education and the civic arena have included three terms as chairman of Broadcast Music Incorporated, his presidency of the New York State Division of the American Cancer Society and his presidency of the Syracuse Chamber of Commerce.

With gratitude for the inspiring standard E. R. Vadeboncoeur has held aloft for all of us, LeMoyne College salutes him and proudly presents The Simon LeMoyne Medal for Outstanding Achievement.●

MONESSEN RESIDENT HONORED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. BAILEY. Mr. Speaker, on the 17th of this month, John G. Lucas, a Monessen resident dedicated to the continued commitment of a better education for

the children of Monessen, will be honored by the community. This special recognition is well deserved by this outstanding citizen as he has actively participated in civic activities for many, many years, including 24 years as a member of the Monessen School Board.

Having been educated in the Monessen public schools, a 1931 graduate, John has continued to exert unwavering dedication toward the continued growth and success of the school system by serving on the school board and, at various times, acting as its president, vice president, and secretary.

But avid interest in Monessen's educational opportunities has not been John's only interest. For 30 years he has been actively involved in local government as a Democratic committeeman and has been a member of various boards connected with the Westmoreland County Juvenile Court, Monessen Recreation Board, Monessen Public Library, and the civic center. In addition, he has devoted 15 years of remarkable service to the Monessen Slovak Home as a trustee and is a charter member of the organization.

John and his wife Angie have two children and are members of the Holy Name Church where John is a member of the board of trustees. Prior to John's 21 years of service at United States Steel's Irvin Works in Clairton, he served in the 9th Armored Division of the U.S. Army during World War II and received a Presidential citation for his brave conduct during the Battle of Bastogne.

It gives me great pleasure to bring these admirable activities of this fine man to your attention and the attention of our colleagues. He has been a great leader in the city of Monessen and I am very pleased that his accomplishments are being recognized by his many friends.●

TAX INCENTIVES FOR FORESTRY MANAGEMENT

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. GUDGER. Mr. Speaker, as you know, this country is presently in the grip of an energy crisis that has demoralized our national spirit and created doubts about the future. As painful as this situation is, it forces recognition of the fact that this country must anticipate future demands for its limited resources and plan for an investment in its future. Only by doing this will we avert similar situations in the next century with regard to our precious natural resources. For this reason and others, I have today introduced a bill entitled the "Forestry Tax Incentive Act of 1979."

In the future, wood and wood products are destined to play an increasingly important role in satisfying this country's demand for energy, goods, and services. For example, the recent Forest Service planning assessment indicates that the demand for softwood sawtimber will increase 57 percent by the year 2030. The demand for hardwood sawtimber is projected to increase by 160 percent over the same time period. This increased demand has meant and will continue to mean higher prices. Selected species of hardwood have seen tremendous price increases. However, the big gainer has been softwood lumber. From 1969 to 1978, softwood lumber prices increased at an average annual rate of 11 percent compared with 6 percent for all nonfarm prices.

Not only does the United States need to produce more wood simply to meet demand levels, but the need for energy conservation dictates that greater use be made of wood. Consider that steel manufacture requires over 5,000 kilowatt hours of energy per ton produced. Aluminum smelting requires over 20,000 kilowatt hours of energy per ton produced. In comparison, lumber manufacture, including logging, requires only 900 kilowatt hours per ton. As you can see, increased use of wood and wood products will result in energy savings for this country. In addition, the production of wood for energy to take the place of oil, coal, and natural gas can make a very real contribution to this country's struggle to achieve energy self sufficiency. For example, more and more people are returning to the wood burning stove as a method of heating their homes in North Carolina. As a matter of fact the famous Buck Stove is manufactured in my own district.

Although the United States has substantial acreages of public forest land, their harvest potential is constrained by the congressionally mandated even-flow policy, long rotations, and nontimber management goals such as wilderness. The key to meeting the increased demand for forest commodities is in the hands of the private nonindustrial landowner who owns 60 percent of the commercial forest land in this country and nearly 75 percent of the commercial forest land in the South.

In my own State of North Carolina, 245,000 small woodlot owners have 80 percent of the commercial forest land. However, these holdings are diverse and fragmented. Two hundred thousand of these owners have tracts of land less than 100 acres in size and one-half of these tracts are less than 20 acres. Furthermore, the emphasis of ownership is not on wood production.

Comparatively few of the estimated million small forest landowners in the South, and other regions of the country, are practicing forestry on their lands. The Forest Service estimates that timber stand improvement work is needed on 90 million acres in the South alone. It is also estimated that less than one-third of the pine-type lands harvested in the South is being adequately regenerated into pine. Forest Service surveys indicate that 22,000 acres of pine-type land are lost each year in North Carolina.

These problems can be partially attributed to the fact that the small landowner lacks the appropriate incentives to properly manage his land for multiple-use purposes. The private nonindustrial landowner in our Nation, while owning 60 percent of the commercial forest land, accounts for only 36 percent of the annual removals of softwood growing stock. As a matter of fact, reforestation costs and current tax regulations actually discourage investment in forestry. Reforestation expenses can reach up to $150 per acre, and this cost does not generate any income for 20 to 30 years. Furthermore, current tax regulations exacerbate the situation by only allowing these costs to be deducted from income at that time in the future when income is produced as a result of harvesting the trees or seed planted. Many landowners cannot afford to carry reforestation expenses for 20 to 30 years without adequate incentives. The average manufacturing factory owner is allowed tax credits for investment in machinery and other capital equipment. It is time that the forest landowner is allowed a tax credit for investment in his factory—the land.

There are many barriers that prevent the small landowner from engaging in forestry management practices. Our approach to the removal of these barriers must be comprehensive and multifaceted. Education, technical assistance, cost sharing, credit, tax incentives, and insurance are six tools that we can use to remove these barriers. Education, technical assistance, and cost sharing have been provided for in existing Federal and State legislation such as the Cooperative Forest Management Act of 1950 and the Cooperative Forestry Assistance Act of 1978. The Congress is to be commended for this progress. Presently pending before the House is legislation that would provide credit to the small landowner. Now, I propose a bill to create tax advantages that would stimulate reforestation and forestry management practices.

I am also proposing this legislation for reasons of equity. A landowner who establishes a stand of trees or engages in some other management practice is providing a social benefit for which he is not compensated. Forest lands of this country provide recreational opportunities, wildlife habitat, soil stabilization, esthetics, and clean air. In recognition of these facts, my bill makes eligible for a tax credit forestry management practices designed to enhance some of these nontimber commodities. A tax incentive in the form of a credit would demonstrate that society recognizes the importance of these benefits.

I welcome the responsibility and the challenge of helping this country meet future demands for wood products. I can honestly say that this is a product worthy of promotion, because, Mr. Speaker, wood is a renewable resource.●

DEMOCRATIC PLATFORM OF 1892

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. PAUL. Mr. Speaker, as a Republican, I would like to congratulate the Democratic Party on its magnificent platform. It is a platform I could easily

run on, with its strong support of the Constitution and individual liberty; its opposition to centralization in Washington; its resistance to Republican tariffs and endorsement of free trade: its denouncement of "cowardly make-shift" antitrust legislation; its upholding of honest gold and silver money, and its demand that all paper currency be fully "redeemable in such coin," since inflation harms our defenseless citizens the most; its support for a strong national defense, with no entangling foreign treaties, and a policy of friendship with all nations; its recognition that we should build, and keep, a canal in Central America.

One small point: This is the Democratic Platform of 1892, upon which the great Grover Cleveland ran. His platform of 1884 was strong as well, with its statement that—

We believe in honest money, the gold and silver coinage of the Constitution, and a circulating medium convertible into such money without loss.

For my colleagues' edification, for Republicans as well as Democrats, I would like to quote some excerpts from the great Democratic platform of 1892. There is much we can learn from it.

The platform follows:

DEMOCRATIC PLATFORM OF 1892

The representatives of the Democratic party of the United States, in National Convention assembled, do reaffirm their allegiance to the principles of the party, as formulated by Jefferson and exemplified by the long and illustrious line of his successors in Democratic leadership, from Madison to Cleveland; we believe the public welfare demands that these principles be applied to the conduct of the Federal Government, through the accession to power of the party that advocates them; and we solemnly declare that the need of a return to these fundamental principles of free popular government based on home rule and individual liberty, was never more urgent than now, when the tendency to centralize all power at the Federal capital has become a menace to the reserved rights of the States that strikes at the very roots of our Government under the Constitution as framed by the fathers of the Republic. . . .

We denounce Republican protection as a fraud, a robbery of the great majority of the American people for the benefit of the few. We declare it to be a fundamental principle of the Democratic party that the Federal Government has no constitutional power to impose and collect tariff duties, except for the purpose of revenue only, and we demand that the collection of such taxes shall be limited to the necessities of the Government when honestly and economically administered.

We denounce the McKinley tariff law enacted by the Fifty-first Congress as the culminating atrocity of class legislation; we endorse the efforts made by the Democrats of the present Congress to modify its most oppressive features in the direction of free raw materials and cheaper manufactured goods that enter in general consumption; and we promise its repeal as one of the beneficient results that will follow the action of the people in entrusting power to the Democratic party. Since the McKinley tariff went into operation there have been ten reductions of the wages of the laboring man to one increase. We deny that there has been any increase of prosperity to the country since that tariff went into operation, and we point to the fullness and distress, the wage reductions and strikes in the iron trade, as the best possible evidence that no such prosperity has resulted from the McKinley Act.

We call the attention of thoughtful Americans to the fact that after thiry years of restrictive taxes against the importation of foreign wealth, in exchange for our agricultural surplus, the homes and farms of the country have become burdened with a real estate mortgage debt of over $2,500,000,000, exclusive of all other forms of indebtedness; that in one of the chief agricultural States of the West there appears a real estate mortgage debt averaging $165 per capita of the total population, and similar conditions and tendencies are shown to exist in other agricultural-exporting States. We denounce a policy which fosters no industry so much as it does that of the Sheriff.

Trade interchange, on the basis of reciprocal advantages to the countries participating, is a time-honored doctrine of the Democratic faith, but we denounce the sham reciprocity which juggles with the people's desire for enlarged foreign markets and freer exchanges by pretending to establish closer trade relations for a country whose articles of export are almost exclusively agricultural products with other countries that are also agricultural, while erecting a customhouse barrier of prohibitive tariff taxes against the richest countries of the world, that stand ready to take our entire surplus of products, and to exchange therefor commodities which are necessaries and comforts of life among our own people. . . .

We denounce the Republican legislation known as the Sherman Act of 1890 as a cowardly make-shift, fraught with possibilities of danger in the future, which should make all of its supporters, as well as its author, anxious for its speedy repeal. We hold to the use of both gold and silver as the standard of the country . . . and we demand that all paper currency shall be kept at par with and redeemable in such coin. We insist upon this policy as especially necessary for the protection of the farmers and laboring classes, the first and most defenseless victims of unstable money and a fluctuating currency . . .

Freedom of education being an essential of civil and religious liberty, as well as a necessity for the development of intelligence, must not be interfered with under any pretext whatever. We are opposed to State interference with parental rights and rights of conscience in the education of children as an infringement of the fundamental Democratic doctrine that the largest individual liberty consistent with the rights of others insures the highest type of American citizenship and the best government . . . .

The Democratic party is the only party that has ever even given the country a foreign policy consistent and vigorous, compelling respect abroad and inspiring confidence at home. While avoiding entangling alliances, it has aimed to cultivate friendly relations with other nations, and especially with our neighbors on the American Continent, whose destiny is closely linked with our own, and we view with alarm the tendency to a policy of irritation and bluster which is liable at any time to confront us with the alternative of humiliation of war. We favor the maintenance of a navy strong enough for all purposes of national defense, and to properly maintain the honor and dignity of the country abroad . . . .

For purposes of national defense and the promotion of commerce between the States, we recognize the early construction of the Nicaragua Canal and its protection against foreign control as of great importance to the United States . . . .

Upon this statement of principles and policies, the Democratic party asks the intelligent judgment of the American people. It asks a change of administration and a change of party, in order that there may be a change of system and a change of methods, thus assuring the maintenance unimpaired of institutions under which the Republic has grown great and powerful.●

H.R. 5241—FUEL ASSISTANCE ACT OF 1979

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. MOAKLEY. Mr. Speaker, today, I would like to voice my concern over the spiraling prices of home heating oil and offer a viable alternative solution to the problem.

As you know, with the continuing OPEC price increases, double digit inflation and the cost of decontrol, millions of Americans are faced with the cold reality of not being able to afford to meet their most basic of all residential needs—heat.

Statistics released by the Department of Energy paint a gloomy portrait of the crisis. On the national scene, the average household spent 4.7 percent of its annual income on energy for household purposes, while the average low-income and elderly households spent a whopping 18.4 percent of its income for this purpose.

I cannot emphasize enough, that the heating oil situation is considerably worse in New England. As you may know, the New England region is by comparison 37 percent colder than the Nation as a whole. States to the North, such as Maine and Vermont, are 66 percent colder than other parts of the Nation. Thus, the New England region, and in particular my congressional district, is more reliant on oil than anywhere in the country. We cannot continue to pay exorbitant prices for oil to heat our homes. The future forecast predicted by the Department of Energy indicates that the situation will get worse before it gets better. This being the case, the low income and elderly people will be facing a critical dilemma this winter: Whether to heat or eat.

The bill I am cosponsoring with my colleague, JIM SHANNON, attempts to alleviate the burden of the poor and elderly, in addition to providing a tax credit to middle income households who use home heating oil.

Under title I, persons with incomes less than 125 percent of Federal poverty levels, or 150 percent for elderly households, would be eligible for fuel assistance. Payments would be for primary residential heating fuels, including oil, natural gas, propane, or electricity; or for cooling purposes for the elderly. Payments would be made to the fuel vendor chosen by the recipient. Federal funds would be distributed to the States based on the following criteria: low income and elderly population, weather, fuel costs, and age of housing.

Title II provides a tax credit for middle income households using heating oil

earning up to $20,000 per year. The maximum credit allowed would be $300 per household, or $150 per individual, which would phase out as income increases.

This bill will assist 24 million households which will encounter great difficulty surviving a winter of escalating inflation spurred by skyrocketing energy costs. No one in our great Nation should be forced into the dilemma of deciding whether or not to heat their homes or spent their limited dollars on food. The real possibility of low income and elderly people dying from the cold should not be a possibility this winter.

Thus, I believe the bill I am cosponsoring today will provide the immediate relief to those most affected by the harsh winters of New England—the poor and the elderly, and, at the same time, provide incentives to middle income households to conserve energy.

Because this legislation carries such import for so many people in New England, I will do everything I can, together with Congressman JIM SHANNON, the bill's sponsor, and other cosponsors to bring this measure to a vote as quickly as possible. I am confident my colleagues in the House will agree that this issue deserves our immediate attention.●

MR. CURTIS LOWERY

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. JONES of Tennessee. Mr. Speaker, I would like to take this opportunity to commend the attention of my colleagues the recent recognition given Mr. Curtis Lowery of Brownsville, Tenn. Mr. Lowery was recently named recipient of the Southern Industrial Development Council's Volunteer of the Year Award at the council's annual meeting here is Washington.

Mr. Lowery serves on a volunteer basis, as chairman of the Brownsville Industrial Development Committee. Under his leadership during 1978, the committee was instrumental in locating several new industrial prospects in Brownsville and assisting in the expansion of three industrial facilities already operating there. More than 300 new jobs will be created as a result of his efforts. During the course of Mr. Lowery's volunteer work for which he receives no renumeration, he uses his own car to provide tours of the town for industrial prospects and even goes so far as to entertain those prospects in his own home.

All of these accomplishments are in addition to his regular duties as postmaster of the Brownsville Post Office and vice president of the local chamber of commerce. He is also active in his church, teaching Sunday school and serving as a deacon.

The Volunteer of the Year Award is given for civil leadership, community service, and voluntary effort on behalf of his friends and neighbors. Mr. Lowery was chosen from a list of 13 nominees for this year's award.

In these times when local communities are being called upon to do more for themselves rather expect the Federal Government to do everything for them, Mr. Lowery's dedication to the improvement of his community is a fine example of what can be accomplished with determination and perseverance. I know his family and his community are appreciative and honored by the Southern Industrial Development Council's award. He is a credit to his community and to the State of Tennessee, long known for its volunteer spirit.

I am proud to be able to call Mr. Lowery my friend, and I congratulate him on the award recognizing his outstanding volunteer service to his community.●

JUANITA M. KREPS BUILT AN ENVIABLE RECORD IN CABINET

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. BRADEMAS. Mr. Speaker, as she retires this week from President Carter's Cabinet. I take this time to pay tribute to Juanita M. Kreps. During the 3 years Mrs. Kreps served as Secretary of the Department of Commerce, she built an enviable record. Her service to the administration of President Carter and to the people of the United States was marked by outstanding competence and dedication.

Mr. Speaker, I believe that the leadership of Secretary Kreps in promoting exports by American industry will rank high among her many accomplishments. Especially noteworthy was the trade agreement with the People's Republic of China which she negotiated in the spring of 1979.

That trade agreement, in addition to opening new commercial opportunities for American business and industry, advanced the overall relations between the United States and China. Over the next 5 years, this agreement is expected to make possible a near tripling of American exports to the PRC.

Secretary Kreps was equally instrumental. Mr. Speaker, in developing other initiatives to increase our exports, including the establishment of new foreign trade zones, the expansion of already existing zones, the adoption of a national export policy and the creation of the United States-Japan Trade Facilitation Committee to eliminate barriers to the sales of American goods to Japan.

At the same time, the Commerce Department under the leadership of Secretary Kreps was responsible for carrying out, through its highly successful Economic Development Administration, the provisions of the 1977 Public Works Act and the local public works program under which more than 8,500 local projects totaling $4 billion were approved and started in a 2-month period. This program was a major factor in the economic recovery of 1977.

Mr. Speaker, Secretary Kreps' accomplishments are, in fact, spread throughout the many divisions and functions of the Department of Commerce.

Beyond all these achievements in carrying out her official duties, Juanita Kreps is a person who won the affection and respect of those of us in the House of Representatives who came to know her. I know that all of us wish Juanita well on her return to Duke University.●

MR. DANIEL C. ROGERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. SKELTON. Mr. Speaker, it is with sadness that I bring to your attention the passing of a very special friend of mine, Mr. Daniel C. Rogers of Fayette, Mo. This is a loss not only for his family and friends but for the State of Missouri.

Mr. Rogers was born December 23, 1889, in DeWitt, Mo. He graduated in 1911 from Carrollton High School and attended Central Methodist College, graduating in 1915. Mr. Rogers worked for about 5 years for the Wabash Railroad as a telegrapher starting when he was 16 years old. He taught school in Poplar Bluff for the year of 1915–16 and then in Fayette for 2 years.

Mr. Rogers served as assistant marketing commissioner of the State and Federal Board of Agriculture in 1921. It was at this time that he came upon the idea of a State-owned and operated radio station which would broadcast marketing news and reports to farmers. The station was established in the dome of the State capitol and went on the air in 1922 with the call letters WOS (Watch Our State). A few years later, the State sold the station, and the private owner renamed it KWOS (Keep Watching Our State).

From 1934 to 1936, Mr. Rogers served as mayor of Fayette. While in office, he promoted the building of the Fayette swimming pool which opened in 1936. At his suggestion, another city lake was built in 1971 and was named the D. C. Rogers Lake in his honor.

Mr. Rogers was admitted to the Missouri Bar in 1923, and was appointed general counsel of the Missouri Public Service Commission by Gov. Guy Park. He served in that capacity for 6 years. In 1951, he was named chairman of the State mediation board by Gov. Forrest Smith, and he served for eight 3-year terms under five different Governors. Mr. Rogers practiced law in all the courts in Missouri and handled two cases before the Supreme Court of the United States, winning both.

He was a member of the Linn Memorial Methodist Church and a member of the Round Table for 47 years. Central Methodist College honored him with the Distinguished Alumnus award in 1956.

D. C. Rogers was a devoted friend and a model citizen. The memories of his many accomplishments and his warm

friendship will long remain as a fitting tribute to a very special man.●

CONGRESSIONAL SALUTE TO BERNARD GALLIS AND MARK MUSKINAR, EAGLE SCOUTS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. MURPHY of Pennsylvania. Mr. Speaker, the Boy Scouts of America is an institution that admirably encourages our young citizens to serve their fellow Americans. Confidence in themselves and service to their community is enhanced by encouraging the young participants to excel through the ranks of this Scouting organization by assisting in civic activities. These activities create worthwhile services to the American public. I commend Bernard Gallis and Mark Muskinar for attaining the esteemed rank of Eagle Scout for which each worked diligently to attain. As a result of the qualities displayed by these two young men, it is only fitting that we recognize their accomplishments exemplified by this distinguished award.

During the difficult times that have faced this country, a large percentage of our leaders who have led us to prosperity have been former Scouts. Today in government, business, and industry, many of the decisionmakers who direct our country's fate are former Scouts. Certainly, when tomorrow's generation receives the torch of leadership, names such as Bernard Gallis and Mark Muskinar will be among those who continue this country's proud traditions and heritage.●

HANDGUN VIOLENCE CLAIMS 530 LIVES IN SEPTEMBER

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. DRINAN. Mr. Speaker, in the month of September, another 530 lives were lost as a direct result of the misuse of handguns. This brings the total dead since January 1, 1979 to 5,832. The necessity of taking swift action to control the misuse of handguns becomes clearer each time we realize that if there were comprehensive handgun control laws in this country, the deadly problem of handgun crime and violence would be brought under control.

In October Attorney General Benjamin Civiletti released the annual FBI crime report which shows an increase of 5.2 percent in violent crime during 1978. According to the report, handguns were used in 49 percent of the murders in the United States in 1978. The violent crime rate has increased in 1979 as well, indicating that the misuse of handguns continues to increase unabated.

Comprehensive legislation has been introduced in the Senate and several bills await some action in the House.

Handgun Control, Inc., has compiled a list of the victims of media-reported handgun deaths in September. The list follows:

ROLL OF HANDGUN DEAD

ALABAMA (15)

Albert Cameron, Ensley; Willie Dent, Birmingham; Kenneth Falkner, Kingston; James Howard, Athens; James Johnson, Birmingham; Leonard Joshaus, Prichard; Bobbie Moore, Dora; Jerry Pettaway, Mobile; Robert Smith, Birmingham; David Temple, Mooresville; Mitchell Townsend, Birmingham; Malcomb Turner, Trafford; Gary Warnken, Vestavia; Chester Williams, Leeds; T. J. Williams, Troy.

ARIZONA (13)

Levi Adams, Phoenix; Howard Camp, Cottonwood; Paul Campbell, Tempe; Steffanie, Campbell, Tempe; B Sonny Epps, Phoenix; Clifford Hardin, Phoenix; Santos Hernandez, Phoenix; Betty Marking, Phoenix; Rosemary Powers, Tucson; Dorothy Smock, Yuma; Jean Trial, Huachuca City; Howard Vandeinse, Tucson; unidentified male, Yuma.

ARKANSAS (7)

Lawrence Cain, College Station; Charles Cory, Little Rock; Norman, Daudvuin, Bentonville; Perry Ford, Little Rock; Thomas Stacker, Little Rock; Kenneth Willker, Russellville; Unidentified Male, Bentonville.

CALIFORNIA (97)

Manuel Abelar, Los Angeles; Jimmy Aguilar, Los Angeles; Thomas Albritton, Huntington Beach; Ead As Al-Hiwati, Los Angeles; Wadell Allen, Penasquitos; Jacobo Almeron, Sun City.

Ruben Arrendondo, Los Olivos; Arturo, Poway; Michael Balderas, Norco; Barbara Ballman, Glendale; Derek Carbajal, Los Angeles; Willie Carter, San Diego; Ruth Casper, Escondido; Joella Champion, Torrance.

Ronald Clark, Tujunga; Salvador Cortez, Compton; Vernon Costa, Berkeley; Diane Craddock, Santa Barbara; James Davis, San Diego; Robert Dey, Santa Ana; Omero Flores, Los Angeles; Socorro Flores, Merced; Lydia Gonzales, Lodi.

Armando Gutierrez, Los Angeles; Keith Haflich, Ventura; Charles Hamilton, Los Angeles; George Hill, Torrance; James Hill, Pasadena; Yvonne Hill, Santa Barbara; Harold Hoffman, Camarillo; Ethel Holladay, Santa Rosa; W. Nobel Holladay, Santa Rosa; Patricia Holly, San Francisco; Jose Huesa, San Diego; Tony Johnson, Los Angeles; David Kubly, Los Angeles; Patricia Laney, Santa Barbara; Kenneth Lange, San Diego; Edward Lillard, Madera; Frank Martinez, Wilmington; Guillermo Martinez, Van Nuys; Robbie Martinez, Ontario; Mariano Mendoza, Los Angeles; Sara Vidrio Mendoza, Salinas.

Christopher Montano, Monrovia; Michael Moore, South Gate; Donna Mosier, Bakersfield; Ernie Navarete, Los Angeles; Jose Navarro, Los Angeles; Lupe Ochoa, Los Angeles; Luis Oliver, Los Angeles; Clarence Orozco, Los Angeles; Phil Pardee, Oakland; Abel Parra, Wilmington; Wanoell Perkins, Torrance.

Hoa Minh Pham, Huntington Beach; Tam Minh Pham, Huntington Beach; Eddie Rankin, Jr., Long Beach; Hallet Reidelberger, Martinez; Jacqueline Rook, Santa Barbara; Joey Rubio, Woodlake; Catina Salarno, Stockton; Keith Sanchez, Santa Barbara; Mary Sarris, Santa Barbara.

Bill Satow, Stockton; Ann Sena, Sacramento; Tony Sena, Sacramento; Brian Severson, San Ramon; Ruth Simmons, Escondido; Robert Sines, Oxnard; Larry Siskron, Ingleside; William Sloan, Napa; Alex Smith, Lynwood; James Smith, San Jose; Charles Snodgrass, Santa Monica.

Roland Storbakken, Monrovia; Rudolfo Torres, Monterey; Elias Trujillo, Sacramento; Anthony Truman, Los Angeles; Edward Tucker, San Louis Obispo; Greg Whitaker, Los Angeles; Curtis Wickersham, Novato; Kay Wolf, Oakland; Larry Wyatt, Lompoc; Bruce Young, Redondo Beach; unidentified male, Lake Tahoe; unidentified male, San Diego; unidentified male, Van Nuys; unidentified male, Pasadena.

Unidentified male, Mira Loma; unidentified male, San Francisco; unidentified male, Fresno; unidentified male, Desert Hot Springs; unidentified male, Los Angeles; (9-20-79); unidentified female, Los Angeles; unidentified male, Poway; unidentified male, Los Angeles (9-23-79); unidentified policeman, Los Angeles.

COLORADO (9)

Carol Cox, Durango; Patti Davis, Coaldale; Robert Lamb, Westminster; David Leavitt, Rangely; John Oswill, Steamboat Springs; Angelo Santiago, Grand Junction; Larry Sena, Denver; Jean Smith, Lakewood; Carl Wishhousen, Leadville.

CONNECTICUT (6)

Raymond Burne, Farmington; Gilbert Evans, Sr., Goshen; Roosevelt Jefferson, Bridgeport; Antonio Ortiz, Bridgeport; Patricia Reagan, Waterbury; Ronald Wynn, Groton.

DISTRICT OF COLUMBIA (3)

Harmon Bethea, Rodney Jones, Bertha Speight.

FLORIDA (25)

Cosett Blocker, Southport; Rosalyn Bothuell, Miami; John Boyland, Miami; James Burch, Hialeah; Charles Camp, Beverly Hills; Harold Carey, Tampa; Sari Conklin, Miami; John Elkin, Fort Lauderdale; Thomas Evans, Lake Alfred; Jose Garcia, Miami; Bessie Gerald, Coral Gables; Kenneth Johnson, Jacksonville.

Nelson Johnson, Fort Lauderdale; Tellice Jones, Miami; Morgan King, St. Petersburg; Otis Lamb, Lake Worth; Henry Mutcherson, Chattahoochee; Arthur Pinson, Jacksonville; Janice Pinson, Jacksonville; Iraldo Rodriquez, Miami; Omara Rodriquez, Miami; Marie Wilson, Lake Worth; Alex Young, Fort Lauderdale; unidentified male, Palm Beach; unidentified male, Palm Beach; unidentified male, Miami.

GEORGIA (13)

Vernon Bates, Atlanta; Charles Bramlett, Chatsworth; Okey Collins, Atlanta; Jeffrey Cox, Atlanta; Willie Davis, Atlanta; Herbert Edwards, Atlanta; Tommy Huff, Columbus; John Lucas, Atlanta; Charles Mutashobya, Atlanta; Charles Smith, Savannah; David Thomas, Springfield; Joseph Weaver, Atlanta; Henry Wong, Atlanta.

HAWAII (4)

Gary Chun, Honolulu; Charles Chun, Honolulu Macrima Corpuz, Honolulu; unidentified male, Honolulu.

IDAHO (4)

Edward Blankenship, Lewiston; Philip Jennes, Pullman; Robert Putnam, Pocatello; Melvin Sparks, McCall.

ILLINOIS (10)

Melvin Abraham, Chicago; Yvonne Bender, Morton Grove; James Commodore, Chicago; Gregory Donald, Chicago; Victor Gonzalez, River Grove; Robert Markovich, Chicago; Coleman Moore, Chicago; Sue Ovington, Morton Grove; Thomas Peterson, Wilmette; Edward Phillips, Chicago.

INDIANA (7)

Terry Esdridge, Laporte; Robert Glenn, Fort Wayne; Michael Harrison, Frankfort; Max Leon Ridgeway, Warsaw; William Robinson, Bloomington; Miguel Rodriguez, Hammond; Bonnie Stimens, Elkhart.

IOWA (4)

Rosella Diehl, Creston; Judy Fox, Osage; Roberto Hernandez, Muscatine; Phillip Hilva, Winterset; Julio Serrano, Muscatine.

KANSAS (2)

Robert Jones, Iola; unidentified male, Colby.

KENTUCKY (6)

Rita Beard, Elizabethtown; Diann Cain, Barbourville; Terrance Fitzgerald, Louisville; Roy Rogers, Richmond; Carolyn Stevens, Perryville; Winifred Taylor, Lexington.

LOUISIANA (18)

Arthur Bohmfalk, Metarie; Inez Daniele, Lake Charles; Jimmy Donninick, New Orleans; Jack Dysart, Shreveport; David Guidroz, Port Allen; Edward Harris, New Orleans; Rose Lundy, Bogalusa; Joseph Mayfield, New Orleans; Edgar McMillan, Shreveport; William Miller, Lake Providence; Rene Palassie, New Orleans; Rosemary Vicknair, Head-of-Island; Mary White, Denham Springs; Peter Williams, Mossville; Sinclair York, Baton Rouge; unidentified male, New Orleans.

MARYLAND (15)

Norman Barnes, Baltimore; Booker Bridges, Baltimore; Barry Coleman, Baltimore; Larry Distance, Baltimore; Edward Fleming, Baltimore; Beryl Friedrick, Baltimore; Vernon Hoshall, Baltimore; Sonia Kuntson, Bel Air; Armand Rainville, Baltimore; John Reed, Baltimore; Mildred Reed, Baltimore; Norman Smith, Baltimore; Sanders Smith, Baltimore; Roger Williams, Baltimore; unidentified male, Baltimore.

MASSACHUSETTS (3)

James Matera, Boston; Anna Shellhorn, Worcester; Asa Shellhorn, Worcester.

MICHIGAN (4)

Joseph Briody, Westland; Cindy Dueweke, Mt. Clements; Karl Dueweke, Mt. Clements; Mark Dueweke, Mt. Clements.

MINNESOTA (3)

Betty Clobes, Osakis; Randy Josephson, Osakis; Curtis McCoy, St. Paul.

MISSISSIPPI (3)

Harold Caldwell, Corinth; Charles Glaude, Moss Point; Michael Turner, Laurel.

MISSOURI (17)

Houston Carruthers, St. Louis; Eddie Easterling, St. Louis; James Gully, St. Louis; Loyd Hall, Windsor; Mary Ivory, University City; Wheeler Jackson, St. Louis; Otis Kimble, Allen; Mark Miller, St. Louis; Darrell Pendleton, St. Louis; Frank Rozier, St. Louis; Edgar Stennis, St. Louis; Taylor Frentice, Jr., St. Louis; Dwight Thomas, St. Louis; Gary Thomas, St. Louis; unidentified female, St. Louis; unidentified male, Kansas City; unidentified male, Washington, Co.

NEBRASKA (5)

James Forbis, Belvidere; Arthur Mathis, Omaha; Raymond Metoyer, Omaha; Richard Rogers, Ashland; Justice Schneider, Wauneta.

NEVADA (4)

Daniel Carpenter, Reno; Ralph Seranno, Las Vegas; Michael Willhite, Las Vegas; unidentified male, Minden.

NEW JERSEY (16)

Thomas Addair, Atlantic City; Pierre Alziphat, Wildwood; Joe Bronson, Newark; Sandra Garris, Newark; Ocosta Gomes, Chesterfield Township; James O'Brien, Burlington Township; Leroy Packard, Palmyra; Michael Palmer, Trenton; Jaime Szeimbert, Paterson; John Tamburro, South Orange.

NEW MEXICO (6)

Harold Brooks, M.D., Albuquerque; Edward Wilson, Clovis; unidentified female and 3 unidentified children, Las Croces.

NEW YORK (33)

Mrs. Mahmet Bici, Brooklyn; Bernadette Canman, New York City; Hector Canman, New York City; Margaret Canman, New York City; Vincent Cotrone, Brooklyn; Edwin Fogel, New York City; Melvin Hopkins, New York City; Daniel Hutchins, New York City; Carl W. Jablonski, Lackawanna; Felix Lopez, New York City.

Manuel Montonegro, Bronx; Dennis Morreno, New York; George Pantells, Rev., Buffalo; Israel Pearl, New York City; Lola Pennix, Queens; Erwin Port, New York City; Marcus Ramos, Bronx; Joseph Reid, New York City; Sherwyd Reid, Brooklyn; Jose Reyes, Bronx; Henry Ryant, New York City; John Scandura, Long Island; John Taylor, Bronx; Ferdinand Vargas, New York City.

Philip Weinstein, New York City; Andrea Whitelocke, Brooklyn; Unidentified male, Brooklyn; 9-4-79; unidentified male, Brooklyn; 9-20-79; unidentified male, Eden; unidentified male, New York City; 9-29-79; unidentified male, New York City; 9-30-79; unidentified male, New York City; 9-30-79; unidentified male, New York City 9-30-79.

NORTH CAROLINA (4)

Fred Boggins, Southern Pines; Thelma Brush, McBean; John Creech, Goldsboro; Charles Ellington, Henderson; Bobby Needham, Asheboro.

OHIO (16)

John Allen, Akron; Gregory Andersen, Akron; Daniel Barnett, Cleveland; Gary Berry, Columbus; William Bornman, Cleveland; Elliott, Harden, Cleveland; Levi Holmes, Cleveland; Terry Louderback, Columbus; Lorin Mayhorn, Columbus; Jackie Minter, Cincinnati; Jeff Nevels, Columbus; D'Angelo, Nickinson, Akron; Roberta Peters, Newark; Henrietta Powell, Akron; Ronnie Troxel, Milford; David Wiley, Mayfield.

OKLAHOMA (11)

Rex Allen, Enid; Paul Cantrell, Poteau; Bobbie Drake, Thackerville; Carol Futrell, Oklahoma City; Garland Garrison, Oklahoma City; Patricia Lay, Weleetka; Robbie Pearce, Lone Grove; David Puckett, Shawnee; Billie Shelton, Oklahoma City; Floyd Shelton, Oklahoma City.

OREGON (7)

Fran James, Monroe; Rocky James, Monroe; Nelson McKinley, Warm Springs; Marion Rice, Myrtle Point; Betty Ann Scraigg, Portland; John Scraigg, Portland; Rodney Wick, Portland.

PENNSYLVANIA (16)

John Adelizzi, Philadelphia; Ali Besik, Philadelphia; Winfred Bournes, Farrell; Ethelbert Collins, Philadelphia; Dominick Didonato, Elizabeth; Moises Gomez, Wrightstown; Edward Hutt, Philadelphia; William Livezey, Landsdale; Milton Logan, Philadelphia; Mike Lokus, Bensalem Township; Louis Mincer, Philadelphia; Angel Rivera, Philadelphia; Milton Robinson, Philadelphia; Hasan Sarikaya, Philadelphia; Billy Thomas, Philadelphia; Victor White, Philadelphia.

RHODE ISLAND (1)

Juan Perez, Pawtucket.

SOUTH CAROLINA (7)

Mitchell David, Lake View; William Davis, Newberry; Frank Earle Jr., Spartanburg; Kenny Green Loris, William Lang, M.D., Beaufort; Billy Logan, Spartanburg; Master Lovette Jr., North Charles.

SOUTH DAKOTA (1)

Lester Simons, Brookings.

TENNESSEE (22)

Mrs. Zella Adams, Memphis; Danny Brimingham, Memphis; Clarence Buchanan, Alcoa; Jack Carruthers, Memphis; Willie Clark, Chattanooga; William Daugherty, Kingsport; Linda Driver, Dresden; Billy Gentry, Chattanooga; Leroy Hagan, Nashville; John Hathcock, Memphis; Roger Hedrick, Murfreesboro; Niley Horton, Nashville; Teresa Kemp, Nashville; John Leston, Chattanooga; Naida Lyon, Memphis; Gregory Marshall, Memphis; Gary Mason, Nashville.

LaJane McBee, Memphis; Charles Meadows, Knoxville; Lydia Payne, Memphis; James Roberts, Athens; Charles Sarber, Kingsport; Robert Tate, Chattanooga; Lyle Ward, Greenville; Mark Willien, Knoxville; unidentified male, Philsdale; unidentified male, Memphis; unidentified male, Clarksville.

TEXAS (72)

Fernando Alvarez, San Antonio; Manual Barajas, Santa Rosa; Ronald Blount, West Columbia; Dwight Boyd, Brownsboro; Tyler Arthur Brown, Austin; Elna Buzbee, Rusk; George Callendar, Colorado City; Danny Casias, San Antonio; Victor Castaneda, Kingsville; Agnes Churchill, Euless; Caroline Corson, Austin; Robert Cottrell, Friendswood.

Walter Danner, Austin; Ray Davis, Austin; Rosetta Davis, Austin; Deanna Dunnam, Big Sandy; Roger Edwards, Garland; Earl Erickson, Austin; Vera Errickson, Austin; Cesar Facio, El Paso; Cristino Garcia, Beaumont; Ramon Garcia, San Antonio; Marion Gardiner, Vidor; Hector Gomez, Laredo.

Mitchell Graham, Hutchins; Nathan Graves, El Paso; Mariel Guerro, Nacogdoches; John Guest, San Antonio; Terry Hamby, Hereford; Willie Harris, San Antonio; Dario Hernandez, Las Cruces; James Hightower, Port Arthur; Fred Howard, Abilene; Larry Jackson, Houston; Margaret Johnson, Galveston; Arthur Jones, Lubbock; Arthur Kemmerling, El Paso.

Elizabeth Laniera, Austin; William Lynch, Lefors; Ida Marek, Leroy; Douglas Martin, Jr., Center; Eloy Martinez, Beeville; Joe Martinez, San Antonio; Travis Mason, Fort Worth; J. T. McKinney, Waco; Richard Ortiz, San Antonio; Nathaniel Payton, Texarkana; Mario Perez, Brownsville; Jeremy Plunkett, Lubbock; Larry Provart, Dallas; Mary Ramon, Rotan; Eddie Robinson, Houston; Jimmy Rodgers, Arlington; Jessie Rodrigues, Corpus Christi; Richard Rogers, Jr., Fort Worth; John Rush, Orange.

Charles Russell, Irving; Sjana Russell, Irving; Maria Sanchez, Corpus Christi; Louis Scarborough, Houston; Margaret Smith, Coleman; Esteven Soliz Jr., San Antonio; James Sonnier, Port Arthur; David Torres, Fort Worth; Eluterio Torres, Lubbock; Elisco Valasquez, Houston; Richard Vaught, Corpus Christi; Jose Velez, Robstown; Mary Wagner, San Marcos.

Willie Williams, Bryan; August Zimmerly, Freeport; Unidentified male, Houston; unidentified male, Houston; unidentified male, San Antonio; unidentified male, Dallas; unidentified male, San Antonio.

VIRGINIA (8)

Catherine Ballenger, Chesterfield; Velda Burrell, Richmond; Douglas Castle, Waynes-

boro; John Gallaher, Richmond; Richard Grant, Henrico; Lewis McGriff Jr., Richmond; Danny Shouse, Radford; Linda Shouse, Radford.

WASHINGTON (4)

Steve Bradley, Kennewick; Lonnie Clemmons, Port Angeles; Marvin Oberg, Seattle; Susan Talmadge, Seattle.

WEST VIRGINIA (1)

Edward Stubbs, Mullins.

WISCONSIN (5)

Casaloma Acosta-Gomez, Oak Creek; Robert Austin, Milwaukee; Sahit Berisha, Milwaukee; John Earle, Milwaukee; Henry Klein, Milwaukee.

WYOMING (1)

Tom Frank Butler, Buffalo.

NOTE.—The "Handgun Body Count" is based on a compilation of news report of handgun violence appearing in the nation's daily and weekly newspapers during that month. The figure includes murders, suicides, and accidents by handguns.●

UNITED STATES OF AMERICA

Congressional Record

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FIRST SESSION

VOLUME 125—PART 24

NOVEMBER 5, 1979 TO NOVEMBER 13, 1979

(PAGES 30,933 TO 32,252)

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Monday, November 5, 1979*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. MINETA).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

NOVEMBER 3, 1979.

I hereby designate the Honorable NORMAN Y. MINETA to act as Speaker pro tempore on Monday, November 5, 1979.

THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Be exalted, O God, above the heavens! Let thy glory be over all the earth.—Psalms 57: 5.

We praise Your name, O God, for the opportunity of living a new day. We admit our faults and failures, and yet by Your grace, we look forward to facing today's concerns with the assurance that You are with us.

Allow us to see our world in the light of Your eternal plan and not be dismayed or discouraged. May the beauty of Your presence ever shine over us and give us peace. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4955. An act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1491. An act to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building";

S. 1535. An act to name a certain Federal building in Rochester, N.Y., the "Kenneth B. Keating Building";

S. 1655. An act to designate the building known as the Department of Labor Building in Washington, District of Columbia, as the "Frances Perkins Department of Labor Building"; and

S. 1686. An act to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
November 2, 1979.

Hon. THOMAS P. O'NEILL, JR.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted at the close of business November 2, 1979, the Clerk has received on this date the following message from the Secretary of the Senate:

That the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill S. 1905 entitled "An Act to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes."

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, JR.,
Clerk, House of Representatives.
W. RAYMOND COLLEY,
Deputy Clerk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to the authority granted the Speaker on Friday, November 2, the Speaker did on Saturday, November 3, sign the following enrolled bill:

S. 1905. An act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad.

ELECTION OF THE HONORABLE JIM WRIGHT AS SPEAKER PRO TEMPORE DURING THE ABSENCE OF THE SPEAKER

Mr. HARRIS. Mr. Speaker, I offer a privileged resolution (H. Res. 475) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 475

Resolved, That Honorable JIM WRIGHT, a Representative from the State of Texas, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Honorable JIM WRIGHT as Speaker pro tempore during the absence of the Speaker.

The SPEAKER pro tempore. Without objection the resolution is agreed to.

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I am wondering if the gentleman from Virginia can inform the House why this resolution is necessary?

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Speaker, this privileged resolution is in order to carry out certain administrative functions of the House. It is necessary at this time that we have present a Speaker pro tempore, and this resolution just accomplishes that and nothing more.

Mr. SENSENBRENNER. If the gentleman will explain further, what administrative functions are necessary to be done requiring the election of the Speaker pro tempore?

Mr. HARRIS. It is only for the simple task of signing an enrolled bill so that it can go forward.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the resolution is agreed to.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

SWEARING IN OF THE HONORABLE JIM WRIGHT AS SPEAKER PRO TEMPORE DURING THE ABSENCE OF THE SPEAKER

The SPEAKER pro tempore (Mr. MINETA). The Chair now asks the gentleman from Virginia (Mr. HARRIS) to administer the oath of office to the gentleman from Texas (Mr. WRIGHT), as Speaker pro tempore.

Mr. WRIGHT assumed the chair and took the oath of office administered to him by the gentleman from Virginia (Mr. HARRIS).

FAIR DISTRIBUTION OF OIL TO HOMEOWNER AND DRIVER

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, after months of discussions between the Congress, the administration, and the major oil companies to insure an adequate supply of home heating oil for this winter, the goal of 240 million barrels of oil in storage before October 31, has been met. The latest report shows 245 million barrels in storage as of October 26.

This target was reached as a result of a series of hard-line negotiations with the major refiners. However, we must not lose sight of the fact that while the supply rose substantially during this period, so did the price of this precious product. This membership must not be lulled into thinking that the battle is over regarding home heating oil—it is not.

In addition to the heating oil stocks figures, the DOE report also indicated that the Nation's refiners only operated at 81.9 percent of capacity. This figure compares a capacity utilization of 89.8 percent for this same week last year. The key to price moderation this winter will be a continued supply of product during those months.

Mr. Speaker, we must continue to impress upon big oil the need for a higher rate of utilization so that both the homeowner and driver may be served this winter without contrived shortages of either product.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, as you know I was absent on official business Friday when you were my guest in my district. If I had been present, I would have voted "yes" on rollcall No. 627, to approve the Journal of Thursday, November 1, and "yes" on rollcall No. 629, an amendment to H.R. 5192, that provided for a program of student loan forgiveness for service as an enlisted member of the Selected Reserve of the Ready Reserve or on active duty as an enlisted member of the Armed Forces.●

SALES REPRESENTATIVES PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 5 minutes.

● Mr. CORMAN. Mr. Speaker, I am very pleased to join in cosponsoring an important piece of legislation, H.R. 5099, the Sales Representatives Protection Act.

The bill is designed to eliminate abuses in the practices of manufacturers toward their commissioned sales representatives. By encouraging the existence of contracts to define the relationship between sales representatives and their principals, this legislation seeks to protect sales representatives from unjust or sudden terminations from accounts by their principals without unduly penalizing fair and reasonable principals.

The Sales Representatives Protection Act provides minimum standards for a contract between the two parties. In the absence of a conforming contract, the bill provides a system of post-termination compensation in the event that a sales representative is abruptly and without good cause terminated.

I am proud to be associated with this bill and urge the committee to take prompt action and pass this measure to the House for its consideration.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MOAKLEY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. NELSON, for 5 minutes, today.
Mr. CORMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) and to include extraneous matter:)

Mr. MICHEL.
Mr. RAILSBACK.
Mr. BROOMFIELD.
Mr. ERDAHL.

(The following Members (at the request of Mr. MOAKLEY) and to include extraneous matter:)

Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Ms. HOLTZMAN in 10 instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. ANDERSON of California in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. ULLMAN.
Mr. DRINAN.
Mr. SCHEUER.
Mr. OBERSTAR.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1905. An Act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker pro tempore:

H.R. 2515. An act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes.

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until Wednesday, November 7, 1979, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. "Report on Low-Cost/No-Cost Residential Conservation: the Department of Energy Record"; (Rept. No. 96-587). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3990. A bill to amend certain provisions of title XVIII of the Social Security Act with respect to the medicare program established by such title, and for other purposes; with an amendment (Rept. No. 96-588, Pt. I). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4000. A bill to amend the Social Security Act with respect to health programs authorized under it, as for other purposes; with an amendment (Rept. No. 96-589, Pt. I). Ordered to be printed.

Mr. DANIELSON: Committee on the Judiciary. H.R. 4395. A bill to require the public disclosure of lobbying and related activities; with an amendment (Rept. No. 96-590). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. MOORHEAD of Pennsylvania (for himself, Mr. WRIGHT, Mr. BLANCHARD, and Mr. MCKINNEY) (by request):

H.R. 5805. A bill entitled the Chrysler Corporation Loan Guarantee Act of 1979; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. RAILSBACK:

H.J. Res. 437. Joint resolution proposing an amendment to the Constitution to protect the people of the United States against excessive governmental burdens and unsound

fiscal and monetary policies by limiting the total outlays of the Government; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5033: Mr. HOLLENBECK, Mr. MITCHELL of New York, Mr. SOLARZ, and Mr. STACK.
H.R. 5648: Mr. RUSSO.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2626

By Mr. BUCHANAN:

(To the amendment in the nature of a substitute.)

—Page 103, line 2, strike out "or".

Page 103, line 4, insert after the comma "or".

Page 103, insert after line 4 the following new subparagraph:

"(G) (i) is primarily engaged in providing, by or under the supervision of physicians, to inpatients rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and (ii) is not a part of any other hospital."

H.R. 5192

By Mr. WOLFF:

—Page 77, line 8, strike out "and"; on line 13 insert "and" after the comma; and after line 13 insert the following:

"(v) to carry out coordinated programs with the readjustment counseling program authorized under section 620 of title 38, United States Code, and with the veterans employment and training initiatives authorized under the Comprehensive Employment and Training Act and under chapters 41 and 42 of title 38, United States Code, as may be necessary to serve the unique readjustment, rehabilitation, personal counseling, and employment needs of veterans."

Page 77, line 19, strike out "(iv)" and insert in lieu thereof "(v)".

Page 79, line 12, strike out "(ii), (iii), and (iv)" and insert in lieu thereof "(ii), (iii), (iv), and (v)".

SENATE—*Monday, November 5, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Reverend James David Ford, D.D., Chaplain of the House of Representatives, offered the following prayer:

Let us pray.

Gracious God, our heavenly Father, we thank Thee for the gift of a new day with its opportunities and responsibilities. May we have ears to hear Thy word, Thy promises of hope, and Thy healing forgiveness. Grant that we will not become so involved in the necessary details of life that we will not thrill to the glory of Thy creation and hear Thy message of life and redemption. Assure us that our attempts to serve our neighbor are blessed by Thy spirit and that all good deeds, done in Thy name, will bring honor and praise in Thy kingdom. In Thy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. EXON). The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 5, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the Proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY PRODUCTION LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, in the weeks ahead we will consider in the Senate several matters of the utmost importance to the future of our country. The decisions we will make on these questions will, to a large measure, determine our course at home and abroad for the next decade and beyond. This is a sober and momentous time; a time for careful thought and contemplation of the consequences of our actions.

Today we begin debate on omnibus energy legislation to accelerate the development of domestic energy supplies. This is a matter of paramount importance, with our national and economic security in the balance. Our unchecked dependence on foreign oil and the continued flow of American dollars abroad represents an unprecedented threat to our national future. The urgent need for the United States to increase domestic energy sources, thereby lessening our dependence on insecure foreign energy supplies, cannot be too often repeated. The strategic and economic danger that marks our dependence on OPEC makes it imperative that action be taken now to bring new energy sources online.

The statistics speak for themselves. Since the oil embargo of 1793–74, U.S. oil imports have increased more than 25 percent, from 6.3 million barrels per day to 8 million barrels per day. Half of the petroleum we use is imported, at a cost of nearly $70 billion a year—and that price is only going up. Oil on the spot market now sells for over $40 a barrel. In 1973, crude oil on the world market sold for just $1.70 a barrel. Last month, the United States suffered from its 40th consecutive trade deficit, due primarily to increases in the price and volume of the oil we import. We are witnessing an unparalleled transfer of wealth from the consumers of energy to the producers of oil, and that phenomenon carries with it grave implications for the balance of economic and strategic power in the world. The rest of the world feels our energy policies through the oil we import, and the slightest shift in world oil supplies could be the signal for a crisis of international proportions.

At the time the gasline formed this past spring, the distinguished chairman of the Committee on Energy and Natural Resources (Mr. JACKSON) initiated an effort to devise a comprehensive program to hasten development of our own domestic energy sources. He understood and articulated the frustration of the American people as they waited in long lines at the gas pump while our plentiful energy resources and American ingenuity went unused. On June 11, Senator JACKSON introduced an omnibus energy production bill outlining a national program for action. I was pleased to cosponsor that legislation, believing then, as I do now, that the energy crisis requires a new comprehensive effort by Congress to accelerate the use of our own domestic energy resources.

In the past months, numerous strategies have been offered as means to produce or conserve our way to greater energy security. President Carter, at the conclusion of his domestic summit at Camp David, proposed a sweeping oil import reduction program encompassing ideas which, to some extent, are reflected in the measure before us. The House of Representatives passed legislation, in the form of an amendment to the Defense Production Act, to stimulate the development of synthetic fuels. A number of Senators have contributed their ideas and devoted their efforts to devising solutions to the critical issues of energy supplies and conservation.

I take this opportunity to commend the distinguished chairman of the Energy Committee (Mr. JACKSON) and the distinguished chairman of the Banking Committee (Mr. PROXMIRE) for their outstanding work and cooperation on this legislation. Although the means may differ, both share the same goal—to overcome the strategic and economic

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

vulnerability which this Nation now suffers on account of our overdependence on foreign oil. Their tireless effort, valuable expertise, and courageous leadership were crucial to the development of these energy production initiatives.

The magnitude and complexity of the problem demanded the wisdom and expertise of many others as well. Senator JOHNSTON and Senator FORD provided particular leadership to the deliberations of the Energy Committee. This was a bipartisan effort, and the cooperation and support of the ranking minority member of the Energy Committee (Mr. HATFIELD) the distinguished Senator from Alaska (Mr. STEVENS) and the distinguished Senator from New Mexico (Mr. DOMENICI) are to be commended.

In addition, the uncertain budget implications of this legislation required the expertise of those who know that process best. At the request of the distinguished chairman of the Budget Committee (Mr. MUSKIE), consideration of this legislation was postponed so that careful study of the impact of these proposals could be made. Under the leadership of Senator HART, a Synthetic Fuels Task Force of the Budget Committee was formed to solicit expert, independent advice on the technical and financial issues entailed in synthetic fuels development. These studies, and the summary report issued by the task force, have provided invaluable information to aid in this debate.

Finally, the contributions of the distinguished chairman of the Committee on Environment and Public Works (Mr. RANDOLPH) and the distinguished chairman of the Governmental Affairs Committee (Mr. RIBICOFF) must be recognized. Their cooperation and assistance permitted the expeditious consideration of these initiatives at a time when the public demanded immediate action.

As this debate unfolds, a difference of opinion will be expressed regarding the extent to which the Federal Government should be involved in the development of alternative energy sources. Some believe that Federal involvement should be minimized and that the responsibility for this initiative lies primarily with private industry. Others question the economic and environmental risks which accompany the development of synthetic fuel production capacity. Although these issues merit attention, I do not believe that we can wait any longer to undertake a major effort to develop new energy resources. A viable synthetic fuels industry is one means of mitigating our dependence on foreign oil. It is a means to express our commitment to energy independence and it is the logical next step in the transition from oil dependence to reliance on alternate forms of energy.

There can be no question that synthetic fuels offer a long-term solution to our energy problems. Conservation is undoubtedly the short-term answer to reducing our immediate need for imported oil. But there is no practical substitute for liquid fuels for our present transportation system. Our national defense network is built under the implicit assumption that our modern weapons can be fueled with petroleumlike products. Synthetic fuels from coal and oil shale have the potential for providing significant amounts of such future energy supplies, but the effort must begin now. A fragmented program, rather than a definitive, long-range Federal policy, will irreparably delay the development of commercial synthetic fuel capability and will only further protract our intolerable reliance on foreign oil.

For these reasons, I endorse the program set out in the Energy Committee legislation. I introduced an amendment to the Interior appropriations bill recently which provided for the appropriation of $20 billion to a special Treasury account, called the energy security reserve, for the express purpose of alternate fuel production. The Senate adopted that amendment by an overwhelming vote. This legislation is complementary to the appropriations measure and provides the authorization for a comprehensive synthetic fuels program. This measure is the best possible national insurance policy against future OPEC price increases and energy shortages.

Coal gasification and the extraction of liquid fuel from both coal and oil shale are two of the most promising energy alternatives. With known recoverable deposits of 215 billion tons, coal accounts for almost 85 percent of our fossil fuel reserves, but provides only 18 percent of our energy needs. Coal gasification and liquefaction require no technological breakthroughs. What is needed are demonstrations of commercial feasibility. The immediate need is to develop a number of commercial size synthetic fuel plants that would be sufficient to demonstrate the technology, environmental effects, and economic practicality of various synfuels options. There should be no artificial ceiling placed by Congress on the size plant which may be constructed or on the technology to be used. Rapid expansion to a full-scale production goal demands a comprehensive initial effort.

This legislation does far more, however, than inaugurate a synthetic fuels program. This bill is directed toward achieving maximum use of all our domestic energy resources, including the production of energy from agricultural products, wind, geothermal, and solar power. This legislation will bring about prompt commercialization of these technologies by providing the direction and funding that is needed to make the promise a reality.

Title II of the Energy Security Act is the Gasohol Motor Fuels Act of 1979. This important initiative will provide a boost to the production and marketing of alcohol fuels, which can be used to stretch gasoline supplies. The Office of Alcohol Fuels, which this title would establish in the Department of Energy, is mandated to pursue a national production goal of the equivalent of 60,000 barrels per day by 1982. At that time, the Office is to report to Congress on ways to achieve the greater goal of alcohol use for 10 percent of all gasoline consumption in the United States by 1990.

Three different types of production incentives are included in this title. First, the Director of the Office of Alcohol Fuels is authorized to enter into purchase agreements with alcohol fuel producers. This mechanism is intended to provide a minimum market for the fledgling gasohol producer.

Second, the director may provide loan guarantees for up to 90 percent of the costs of an alcohol fuels project.

Third, the title authorizes price guarantees for alcohol fuels. The price and loan guarantees will reduce uncertainty and increase confidence in alcohol fuel production.

Both the Banking and Energy Committees reported out a title establishing a Solar Energy Development Bank. The need for a bank to provide interest subsidies for solar equipment loans was well established in the hearings which both committees had on this part of the bill.

The Solar Bank is simple in function. It will make lump sum payments to regular financial institutions for the difference between the prevailing market interest rate and the subsidized rate.

Homeowners will have the opportunity to purchase solar heating and cooling equipment at a competitive level with conventional systems under this program.

Initiatives in geothermal and wind energy are contained in the bill. A program to provide insurance for geothermal operators will reduce the risk associated with production to a level where more production should occur because financing is available. Banks will be more willing to lend money to persons engaged in geothermal projects when insurance and reinsurance are available.

Wind energy, including some forms of solar energy, will be closely studied, and utilized wherever practical on Federal buildings. The Department of Energy is required to produce a wind energy commercialization plan, including loans for installing such systems.

Americans must also respond to a changed energy situation by curtailing the direct use of energy in their homes and businesses. It is estimated that savings of 25 to 50 percent in the average household use of energy can be achieved if our citizens are provided with the proper incentives to do so. For example, almost 30 percent of the residences in our country may be completely uninsulated. Conservation may be our best energy source in the short term and it can produce energy quickly and, in many cases, cheaply. Conservation can buy us time while we make the transition from oil to alternative energy resources.

Both the Energy Committee and the Banking Committee have devised detailed plans for assisting individuals to finance the purchase of energy conservation measures. Both bills include the establishment of an Energy Conservation Bank. This is the type of innovative program which we need to spur greater investment in conservation, leading to decreased dependence on foreign oil.

Mr. President, a journey of 1,000 miles begins with but a single step. We are taking that step here today. There are uncertainties and risks, but the wisdom of this long-range effort to develop new sources of energy cannot be challenged. The longer we delay, the more vulnerable this Nation becomes to the whims of the oil-exporting countries. If we are to retain our economic preeminence in the world and assure our national security, we must begin on this journey.

I urge the Senate's support of these initiatives.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, I thank the Chair. I have no need for my time under the standing order. We have no requests for time, and I yield it back.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

TOP SOCIAL SECURITY AIDE ROSS TO JOIN CALIFANO'S NEW LAW FIRM

Mr. MOYNIHAN. Mr. President, over the weekend we read in the press that Mr. Stanford G. Ross, who scarcely 1 year ago was nominated by the President and confirmed by the Senate as the U.S. Social Security Commissioner, had announced, and I quote the Washington Post:

> He is quitting the Government to join the new law firm being formed by his close friend and former boss, Joseph A. Califano, Jr.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOP SOCIAL SECURITY AIDE ROSS TO JOIN CALIFANO'S NEW LAW FIRM

(By Spencer Rich)

Social Security Commissioner Stanford G. Ross announced yesterday that he is quitting the government to join the new law firm being formed by his close friend and former boss, Joseph A. Califano Jr.

Ross, a Harvard law school classmate of Califano, worked with him in the Johnson White House in the late 1960s. They are personal friends and play tennis on weekends. Califano, secretary of health, education and welfare from early 1977 until he was fired by President Carter last summer, brought Ross in as commissioner of Social Security one year ago.

The job is one of the most important in the government, overseeing distribution of over $100 billion in benefits to 35 million Social Security pensioners and another $12 billion a year in welfare benefits.

Ross said the new law firm will be known as Califano, Ross and Heineman. The third partner is Ben W. Heineman Jr., who also worked for Califano at HEW. (Many others of Califano's "team" have also left or will soon leave.)

Before becoming commissioner, Ross was a tax and administrative specialist with the law firm of Caplin and Drysdale, and, according to a financial statement filed early this year, made $194,151 in partnership income from the firm in 1978.

Ross said he is leaving, effective sometime in December, because he always wanted to have his own law firm, and had viewed his role in government as that of a troubleshooter who comes in, helps solve a difficult problem and then goes. He said he had "absolutely no policy differences" with President Carter and HEW Secretary Patricia Robert Harris. However, he declined to endorse either Carter or Sen. Edward Kennedy (D-Mass.) in the presidential race.

Sources said Harris had sounded out former commissioner Robert Ball, who held the job for 11 years in the Kennedy, Johnson and Nixon presidencies, on whether he would be interested in taking it again, but he declined.

Mr. MOYNIHAN. Mr. President, as a member of the Committee on Finance, and as chairman of the Subcommittee on Public Assistance, I find myself troubled by this announcement. As Mr. Ross will know, there were those who at the time of his nomination were uncertain of his commitment to putting in the time and the large portion of career that would be required to make the necessary mark in the Social Security Administration in a job that is one of the most important in the Government, one that touches the lives of American people more than any other.

I find it troubling that after barely 12 months in this job, a job in which great men have put decades of their lives—Robert Ball put in 11 years—he is already leaving, evidently—one reads, and can infer—for the purpose of improving his financial position. What is the conception of public service held by such persons? Mr. Ross is quoted as saying he is leaving because he always wanted to have his own law firm and had viewed his role in Government as that of a troubleshooter who comes in, helps solve a difficult problem, and then moves on.

Mr. President, one would ask Mr. Ross what trouble has he shot, and why, when he came to us and asked us to confirm him in a job of this consequence, did he not describe himself as a troubleshooter who comes and goes? Rather, he represented himself as a serious public servant who would commit a large portion of his career to a sacred trust, the Social Security Administration.

He knows, does he not, that the Advisory Council on Social Security is soon to make major recommendations about changes in the program? He knows, does he not, that the Finance Committee is considering whether to apply a portion of the windfall profits tax to reduce the prospective increase in payroll tax payments? He knows, does he not, that the Senate has had to deal with HEW's own assertion that there is $4 billion worth of "waste, fraud, and abuse" in its programs, mainly in those programs over which he presides?

I will be holding hearings next Friday asking what do we do with this, having had much to do on the floor of this Chamber with the reductions imposed in the House of Representatives because of so-called waste, fraud, and abuse in these programs and, Mr. President, I would like to announce that I am going to invite Commissioner Ross to lead off the hearings on Friday morning, unless Secretary Harris wishes to do that, and to explain to us why he is leaving so precipitously a job manifestly not completed.

There have to be standards of public service in this Government or it will not work. The men who conceived the Social Security Administration did not see it as a place where an ambitious Washington lawyer could spend 12 months and thereby improve his range of contacts.

I do not wish to describe Mr. Ross in any way that would be inimical to his future career, but I do think he will want to make a full explanation to the committee which, in the first instance, recommended his confirmation as Social Security Commission to the full body of the Senate.

Mr. President, I thank the Chair, and I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from New York.

Mr. MOYNIHAN subsequently said: Mr. President, there being a momentary absence of business in the Senate, I will take the opportunity to extend the remarks I was making just previously with respect to Mr. Ross's announced departure.

I would wish to be explicit that I do not suggest that Mr. Ross has done anything dishonorable or, in the circumstances, culpable, but I do mean to ask whether such a departure was contemplated by him at the time he took this job barely a year ago, and if that was the case, ought he not to have made that clear to the Senate and to the Finance Committee? Or, alternatively, has some new event entered into his concern that requires him to leave? Obviously he is not being forced to leave; or is it possible that he is being forced to leave?

We need to know. The wholesale departure of persons from the executive branch at this time is one of the anomalies of Government. I have never seen an administration losing its best people at the very moment when it most needs them, when it is being tested in electoral combat. I ask Mr. Ross, what kind of standard does he think he has set? I ask him what troubles he has shot, indeed, what troubles he has even shot at. There have to be standards of public service. At a time when men and women of the Executive branch are imprisoned in the U.S. Embassy in Tehran, the cost of service with the American Government becomes a very explicit and clear one, and those who have been appointed by the President and confirmed by the Senate need to set standards which I cannot be certain are being set or ever maintained in this instance.

That is the extent of my remarks, Mr. President, save that I omitted to ask unanimous consent to speak out of order, and would ask unanimous consent now that I be permitted to do so.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished majority leader.

Mr. ROBERT C. BYRD. We have some budget waivers, and I would like to call them up at this time.

BUDGET ACT WAIVERS

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the distinguished minority leader.

I send to the desk two budget waiver resolutions, Senate Resolution 233 and Senate Resolution 268, which have to do with the energy legislation coming up today, that reported out of Mr. PROXMIRE's committee and that reported out of Mr. JACKSON's committee. I ask unanimous consent that the resolutions be considered en bloc.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The resolution (S. Res. 233) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 932, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 932. Such waiver is necessary because S. 932 authorizes the enactment of new budget authority which would first become available in fiscal year 1979, and such bill was not reported on or before May 15, 1979, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible in this instance because proposals to reduce oil imports through increased residential and commercial energy conservation measures and through expanded production of alcohol fuels had not been formulated by May 15. This expanded role of conservation and alcohol in reducing our dependence on imported oil was not foreseen at the time the previous authorization was approved.

The effect of defeating consideration of this authorization will be to impede seriously this important effort to reduce our oil imports and rapidly rising residential and commercial utility bills.

The resolution (S. Res. 268) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 932, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 932. Such waiver is necessary because S. 932 authorizes the enactment of new budget authority which would first become available in fiscal year 1980, and such bill was not reported on or before May 15, 1979, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

Compliance with section 402(a) of the Congressional Budget Act of 1974, was not possible in this instance because proposals to enhance the national security by reducing the political and economic vulnerability of the United States from dependence on oil imports by increasing the production and conserving the supplies of domestically available renewable and nonrenewable energy supplies through (1) the demonstration of a domestic synthetic fuels production program, (2) the production of gasohol, (3) the establishment of a domestic energy policy plan, (4) the mandating of an energy conservation program, (5) the development of domestic geothermal energy, (6) the achievement of commercial solar applications, (7) the performance of wind energy systems commercialization and utilization, and (8) the creation of a solar energy development bank had not been formulated by May 15. This measure represents the details of the national energy program and new energy initiatives for which accommodation was made in the revised concurrent resolution on the budget. Neither the magnitude or the impact of the rises in the cost of imported fuel nor the resulting potential threat to the national security or the immediate and direct threat to the individual health and welfare of the American people could be anticipated and a comprehensive energy program developed prior to May 15.

The effect of defeating consideration of this authorization would be to seriously impede efforts to reduce oil imports and rapidly rising residential and commercial utility bills, further imperil the national security of this Nation, and gravely endanger the health and welfare of individual Americans.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider, en bloc, the votes by which the resolutions were agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, can morning business now be closed?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate a message from the House of Representatives on S. 932.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 932) entitled "An Act to extend the Defense Production Act of 1950, as amended", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Defense Production Act Amendments of 1979".

DECLARATION OF POLICY

SEC. 2. The second sentence of section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended by striking out the period at the end thereof and inserting in lieu thereof "or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including petroleum, and which would adversely affect the national defense preparedness of the United States. In order to insure the national defense preparedness which is essential to national security, it is also necessary and appropriate to achieve greater independence in domestic energy supplies".

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

SEC. 3. (a) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended by striking out "the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce," and inserting in lieu thereof "the Department of Defense, the Department of Energy, the Department of Commerce, the Tennessee Valley Authority,".

(b) Section 301(e)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2092(e)(1)) is amended—

(1) by striking out "Except with the approval of the Congress, the" and inserting in lieu thereof "The"; and

(2) by striking out "$20,000,000." and inserting in lieu thereof "$38,000,000, unless the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed obligation and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such obligation. For purposes of this section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period.".

(c) Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) in the first sentence, by striking out ", and manufacture of newsprint" and inserting in lieu thereof ", manufacture of newsprint, and production of energy"; and

(2) in the second sentence, by striking out "$25,000,000" and inserting in lieu thereof "$48,000,000".

(d)(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended by striking out "and mining of critical and strategic minerals and metals" and inserting in lieu thereof "mining, and production of critical and strategic minerals, metals, and materials".

(2) Section 408(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(b)) is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 2015".

(3) Section 303(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(g)) is amended by striking out "and upon a certification" and all that follows through "other national emergency,".

(e) Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091–2094) is amended by adding at the end thereof the following new section:

SEC. 305. (a) The President, utilizing the provisions of this Act and any other applicable provision of law, shall achieve a national production goal of at least 500,000 barrels per day crude oil equivalent of synthetic fuels and synthetic chemical feedstocks not later than five years after the effective date of this section and at least 2,000,000 barrels per day crude oil equivalent of synthetic fuels and synthetic chemical feed stocks not later than ten years after the effective date of this section The President is authorized to require fuel and chemical feedstock suppliers to provide synthetic fuels and synthetic chemical feedstocks in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States.

"(b) To assist in carrying out the objectives of this section, the President, subject to subsections (c) and (d), shall—

"(1) contract for purchases of or commitments to purchase synthetic fuels and synthetic chemical feedstocks which may be used as fuels and feedstocks for Government use or resale for use conducive to defense needs or for use in the United States, its possession or territories, or by domestic users; and

"(2) encourage the development and production of such synthetic fuels and synthetic chemical feedstocks for national defense preparedness

"(c) Purchases, commitments to purchase, and resales under subsection (b) may be made without regard to the limitations of existing law, regarding the procurement of goods or services by the Federal Government, except as provided in section 717(a) of this Act, for such quantities, and on such terms and conditions, including advance payments and for such periods as the President deems necessary, except that—

"(1) no contract for purchases or commitments to purchase may be entered into after September 30, 1995, or the achievement of the production goals authorized in subsection (a), whichever occurs first; and

"(2) purchases or commitments to purchase involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) or anticipated loss on resale shall not be made unless it is determined that supply of synthetic fuels and synthetic chemical feedstocks could not be effectively increased at lower prices or on terms more favorable to the Government, or that such purchases are necessary to assure the availability to the United States of supplies overseas for national defense purposes

"(d)(1) Except as provided in paragraph (2), any purchase or commitment to purchase synthetic fuels and synthetic chemical feedstocks under subsection (b) shall be made by sealed competitive bidding.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids have been submitted which are acceptable to the President, the President may negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President retains the right to refuse delivery of the synthetic fuels and synthetic chemical feedstocks involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuels and synthetic chemical feedstocks as specified in the contract involved exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuels and synthetic chemical feedstocks on the delivery date specified in such contract.

"(4)(A) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award contracts for the purchase or commitment to purchase more than 100,000 barrels per day equivalent of synthetic fuels and synthetic chemical feedstocks. With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award contracts for the purchase or commitment to purchase of more than 75,000 barrels per day equivalent of synthetic chemical feedstocks unless both Houses of Congress have been notified in writing of such proposed contracts or commitments and 30 days of continuous session of Congress have expired following the date on which such notice was transmitted to the Congress and neither House of Congress has adopted, within such 30-day period, a resolution disapproving such proposed contracts.

"(B) Contracts for the purchase or commitment to purchase synthetic fuels or synthetic chemical feedstocks may be entered into only for synthetic fuels or synthetic chemical feedstocks which are produced in facilities which are located in the United States.

"(C) For purposes of this paragraph, the term 'United States' means the several States, the District of Columbia, the Common wealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

"(5) In any case in which the President, under the provisions of this section, accepts delivery of and does not resell any synthetic fuels or synthetic chemical feedstocks, such synthetic fuels or synthetic chemical feedstocks shall be used by the appropriate Federal agency. Such Federal agency shall pay the market price, as determined by the Secretary of Energy, for such synthetic fuels or synthetic chemical feedstocks from sums appropriated to such Federal agency for the purchase of fuels and feedstocks and the President shall pay, from sums appropriated for such purpose under the second sentence of section 711(a), an amount equal to the amount by which the contract price for such synthetic fuels and synthetic chemical feedstocks as specified in the contract involved exceeds such market price.

"(6) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the fuel or feedstocks under that contract.

"(e) The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined any products procured under this section.

"(f) When in his judgment it will aid the national defense, the President is authorized to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons.

"(g) Each Federal officer and agency having authority to issue any permit for, or to otherwise approve or authorize, the construction or operation of any facility which is to produce any synthetic fuel or synthetic chemical feedstock for which the President has contracted (or entered into a commitment to contract) under this section shall, to the maximum extent practicable—

"(1) expedite all actions necessary for the issuance of such permit, approval, or authorization, and

"(2) take steps designed to result in final action thereon not later than 12 months after the date application for such permit, approval, or authorization is made.

After taking any such action, such officer or agency shall publish notification thereof in the Federal Register.

"(h)(1) Subject to paragraph (2), the President is authorized to organize corporations for purposes of achieving the production goals authorized in subsection (a). Any such corporation shall have the power—

"(A) to produce and acquire synthetic fuels and synthetic chemical feedstocks; and

"(B) for purposes of producing synthetic fuels and synthetic chemical feedstocks—

"(i) to purchase and lease land;

"(ii) to purchase, lease, build, and expand plants;

"(iii) to lease such plants to any person; and

"(iv) to purchase and produce equipment, supplies, and machinery.

"(2) No such corporation may be organized unless both Houses of Congress have been notified in writing of the proposed organization of such corporation and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to both Houses of Congress and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such organization of such corporation. For purposes of this section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period.

"(3) Any corporation organized pursuant to the provisions of this subsection shall be subject to the provisions of the Government Corporation Control Act (31 U.S.C. 841–870) and shall for the purposes of such Act be deemed to be wholly-owned Government corporations as defined in section 101 of such Act (31 U.S.C. 846).

"(i) Notwithstanding any other provision of law, products acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this section, shall be transferred to the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) or to the Strategic Petroleum Reserve, when the President deems such action to be in the public interest.

"(j) For the purposes of this section, the terms 'synthetic fuels' and 'synthetic chemical feedstocks' means fuels and chemical feedstocks produced by the conversion of renewable and nonrenewable resources, including, but not limited to, products produced from coal gasification, coal liquefaction, shale, tar sands, lignite, peat, solid waste, and other mineral gasification, liquefaction or other conversion, and the conversion of any organic material into fuel. Such term includes fuels and chemicals feedstocks produced from tar sands and heavy oils if the hydrocarbon content thereof has a gravity of 15 degrees or less (API). For purposes of applying the preceding sentence, the President may substitute a higher gravity rating (API) for 15 degrees in any case in which he determines that the application of the higher gravity rating would further the purposes of this section.

"(k) Nothing in this Act shall be construed to authorize the President to institute, without the approval of the Congress, a program for the rationing of gasoline among classes of end-users.".

GENERAL PROVISIONS

SEC. 4. (a) Section 702(d) of the Defense Production Act of 1950 (50 U.S.C. App. 2152 (d)) is amended by striking out "atomic".

(b) The first sentence of section 703(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2153(a)) is amended by inserting "(except as provided in section 305)" after "other than corporate agencies".

(c) Section 711(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)) is amended—

(1) by striking out "There" and inserting in lieu thereof "Except as provided in the following sentence, there"; and

(2) by inserting after the first sentence the following new sentence: "There are hereby authorized to be appropriated without fiscal year limitation from general funds of the Treasury not otherwise appropriated or from any fund hereafter established by Congress after the date of enactment of this sentence not to exceed $3,000,000,000, which shall remain available until expended, to make payments in accordance with the contract provisions specified in section 305(d)(3) and with the provisions of section 305(d)(5).".

(d) The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(e) Section 701(d) of the Defense Production Act of 1950 (50 U.S.C. App. 2151(d)) is amended by striking out "Defense Production Act Amendments of 1955" and inserting in lieu thereof "Defense Production Act Amendments of 1979".

SEC. 5. Beginning one year after the effective date of this section, and annually thereafter, the President shall submit a report to the Congress on actions taken under this section.

EFFECTIVE DATE

SEC. 6. The amendments made by this Act shall take effect on October 1, 1979.

Amend the title so as to read: "An Act to amend the Defense Production Act of 1950 to extend the authority granted by such Act and to provide for the purchase of synthetic fuels and synthetic chemical feedstocks, and for other purposes.".

The ACTING PRESIDENT pro tempore. Under the previous order, the amendment in the nature of a stubstitute reported by the Committee on Energy and Natural Resources as a substitute for the House subetitute for the Senate bill, shall be considered as agreed to as original text for the purpose of further amendment, and the amendment in the nature of a substitute reported by the Committee on Banking, Housing, and Urban Affairs for the House substitute for the Senate bill shall be considered as a substitute for the amendment in the nature of a substitute from the Committee on Energy and Natural Resources.

ENERGY SECURITY ACT

The amendment in the nature of a substitute, as reported by the Committee on Energy and Natural Resources, agreed to is as follows:

SECTION 1. This Act may be cited as the "Energy Security Act".

TITLE I—SYNTHETIC FUELS

SHORT TITLE AND TABLE OF CONTENTS

SHORT TITLE

SEC. 101. (a) This Title may be cited as the "Synthetic Fuels Corporation Act of 1979".

(b) TABLE OF CONTENTS.—

Sec. 101. Short Title; Table of Contents.

SUBTITLE A—FINDINGS AND PURPOSES

Sec. 102. Findings.
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SUBTITLE B—ESTABLISHMENT OF CORPORATION

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SUBTITLE I—DISPOSAL OF ASSETS

Sec. 181. Tangible Assets.
Sec. 182. Disposal of Other Assets.

SUBTITLE J—TERMINATION OF CORPORATION

Sec. 191. Date of Termination.
Sec. 192. Winding Up the Corporation's Affairs.
Sec. 193. Transfer of Powers to Department of the Treasury.

SUBTITLE K—DEPARTMENT OF THE TREASURY

Sec. 195. Authorization.

SUBTITLE A—FINDINGS AND PURPOSES

FINDINGS

SEC. 102. The Congress finds and declares that:

(a) The achievement of energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(b) Dependence on foreign energy resources can be significantly reduced by the production by 1995 of the equivalent of at least 1,500,000 barrels of oil per day of synthetic fuels from domestic resources;

(c) Attainment of synthetic fuels production in the United States in a timely manner and in a manner consistent with the protection of the environment will require financial commitments beyond those expected to be forthcoming from nongovernmental capital sources and existing government incentives; and

(d) Establishment of an independent entity of limited duration which will provide additional financial assistance in conjunction with private sources of capital to assist the development of domestic nonnuclear energy resources for the production of synthetic fuels will facilitate the expeditious achievement of synthetic fuels production from domestic resources.

PURPOSES

SEC. 103. (a) The purposes of this Title are to utilize to the fullest extent the constitutional power of Congress to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions and increase the Nation's security by reducing its dependence upon imported oil.

(b) Congress finds and declares that these purposes can be served by—

(1) demonstrating at the earliest feasible time the practicality of synthetic fuels production from the widest variety of technologies and energy resources;

(2) fostering the creation by 1995 of commercial synthetic fuels production facilities of diverse types with the aggregate capability to produce in an environmentally acceptable manner the equivalent of at least 1,500,000 barrels of oil per day of synthetic fuels;

(3) creating the Synthetic Fuels Corporation, a self-liquidating corporate entity of limited duration formed to provide financial assistance to undertake synthetic fuel projects;

(4) providing for financial assistance to encourage and assure the flow of capital funds to those sectors of the national economy which are important to the domestic production of synthetic fuels;

(5) encouraging private capital investment and activities in the development of domestic sources of synthetic fuels and to foster competition in the development of the Nation's synthetic fuel resources;

(6) encouraging and supplementing and not competing with or supplanting private capital investments in the development of domestic sources of synthetic fuels; and

(7) fostering greater energy security and reducing the Nation's economic vulnerability to disruptions in imported energy supplies.

GENERAL DEFINITIONS

SEC. 104. As used in this title the term—

(1) "concern" shall mean any—

(A) person, or

(B) State or any political subdivision or governmental entity thereof, Indian tribe or tribal organization, or

(C) foreign government or agency thereof when participating in joint ventures with (A) or (B), or

(D) combination of the aforementioned, which is engaged, or proposes to engage, in a synthetic fuel project or projects pursuant to this title;

(2) "financial assistance" shall mean any of the following forms of financial assistance, or combinations thereof, but excluding grants, as provided in subtitle D—

(A) loans;

(B) guarantees of, or commitments to guarantee, indebtedness, including principal and interest (hereinafter referred to as "loan guarantees");

(C) guarantees of, or commitments to guarantee, the price received or to be received by a concern from the sale of synthetic fuel (hereinafter referred to as "price guarantee");

(D) contracts to purchase synthetic fuel, guarantees thereof, or commitments therefor (hereinafter referred to as "purchase agreements");

(E) contracts with a concern pursuant to section 136 to jointly construct a synthetic fuel project module (hereinafter referred to as a "joint-venture"); and

(F) acquisition and lease back of a synthetic fuel project pursuant to section 137(c);

(3) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(4) "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, or any entity organized for a common business purpose;

(5) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(6) "synthetic fuel" shall mean any liquid, gaseous or solid hydrocarbon (including mixtures of coal and petroleum) which can be used as a substitute for supplies of petroleum or natural gas (and for any derivatives thereof) derived from domestic sources of:

(A) coal, including lignite and peat;

(B) shale;

(C) tar sands, including those heavy oil resources which cannot technically or economically be produced using conventional or unconventional petroleum recovery techniques; and

(D) biomass, which shall include timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter;

(7) "synthetic fuel project" shall mean any facility located in the United States for the purpose of commercial production of synthetic fuel, including any necessarily related transportation or other facilities and including the equipment, plant, machinery, supplies, and other materials associated with the facility. It also may include the land, mineral rights, services and working capital required directly for use in connection with the facilities for the production of synthetic fuels. In the case of a facility for the commercial production of synthetic fuel derived from biomass, such term shall inclued a facility for the production of alcohol or other synthetic fuels derived from timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter: *Provided, That* such term shall include any facility located in the United States and used solely for the purpose of commercial production of mixtures of coal and petroleum for direct use as a fuel: *Provided further,* That such term shall include for the sole purpose of financial assistance pursuant to subtitle D any commercial magnetohydrodynamics facility located in the United States.

SUBTITLE B—ESTABLISHMENT OF CORPORATION

INCORPORATION

SEC. 111. (a) There is hereby created a body corporate, to be known as the Synthetic Fuels Corporation (hereinafter referred to as the "Corporation").

(b) The principal office of the Corporation shall be located in the District of Columbia. The Corporation may establish offices elsewhere in the United States as determined by the Board of Directors of the Corporation.

BOARD OF DIRECTORS

SEC. 112. (a)(1) The power of the Corporation shall be vested in the Board of Directors, except those functions, powers, and duties vested in the Chairman of the Board by this Title.

(2) The Board of Directors shall consist of (A) a Chairman and four other members appointed by the President by and with the advice and consent of the Senate, in a voting capacity; and (B) the Chairman of the Energy Mobilization Board, the Secretary of the Treasury, and the Secretary of Energy, in a nonvoting and ex-officio capacity. Of the five voting members of such Board, not more than three shall be members of any one political party. The Chairman shall devote his or her full working time to the affairs of the Corporation and shall hold no other salaried position.

(b) The Chairman and other voting Directors shall serve for five-year terms. Of the five Directors first appointed, the Chairman shall serve as Chairman for a term of five years, one Director shall serve for a term of four years, one shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year. Upon expiration of the initial term of each initial Director, Directors appointed thereafter shall serve for a term of five years. Whenever a vacancy shall occur on the Board of Directors, the President shall, with the advice and consent of the Senate, appoint a person to fill such vacancy for the remainder of the applicable term. Upon the expiration of a term, a Director shall continue to serve at the pleasure of the President until his or her successor shall have been appointed and shall have qualified. Any Director may be removed from office by the President for neglect of duty, or malfeasance in office.

(c) Each Director, other than the Chairman, may serve in a full-time or part-time capacity. Directors who are serving in a part-time capacity, other than ex-officio members, may not hold other Federal positions. Directors who are serving full-time shall hold no other salaried position. Directors shall be reimbursed for reasonable expenses which are incurred in connection with their services as Directors of the Corporation.

(d) Before assuming office, each Director shall take an oath faithfully to discharge the duties thereof. All Directors shall be citizens of the United States.

(e) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly. A majority of the Directors serving in a voting capacity shall constitute a quorum, and any action by the Board shall be effected by majority vote of all members of the Board serving in a voting capacity. The Board of Directors shall adopt, and from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(f) All meetings of the Board of Directors of the Corporation held to conduct official business of the Corporation shall be open to public observation, and shall be preceded by reasonable public notice. The Board may close, pursuant to such bylaws as it may establish, a meeting to consider matters of information which, if disclosed, would (1) invade personal privacy, (2) disclose confidential financial, commercial, or proprietary information (including trade secrets), (3) disclose privileged information, (4) disclose information which is likely to adversely affect financial or securities markets or institutions, or (5) otherwise frustrate the activities of the Corporation. The determination to close any meeting of the Board for the foregoing purposes shall be made in a meeting of the Board open to public observation preceded by reasonable notice. In the event that the Board shall close any meeting to the public, it shall prepare minutes of such a meeting. Such minutes shall be made public except for those portions of such minutes the disclosure of which, in the judgment of the Board, is inconsistent with the foregoing.

(g) The compensation of the voting members of the Board of Directors shall be fixed initially by the President and may be adjusted from time to time upon recommendation by the Board and concurrence of the President.

OFFICERS AND EMPLOYEES

SEC. 113. (a) The Chairman of the Board shall be the chief executive officer of the Corporation, and shall be responsible for the management and direction of the Corporation.

(b) The Board of Directors shall—

(1) establish the offices and appoint the officers of the Corporation (including, but not limited to, a General Counsel and Treasurer), define their duties and fix their compensation;

(2) adopt a schedule for compensation of officers which shall be comparable to the Executive Schedule prescribed by subchapter II of chapter 53 of title 5, United States Code, and a schedule for compensation of corporate employees which shall be comparable to the General Schedule prescribed by subchapter III of chapter 53 of title 5, United States Code: *Provided,* That in the event that the Board of Directors finds that an officer or a category or categories of employees should be compensated at a level in excess of such schedules, the Board shall recommend to the President the proposed compensation level and many compensate the officer or employee at such level if the President does not disapprove such recommendation within a period of sixty days; and

(3) provide a system of organization to fix responsibility and promote efficiency.

(c) Except as specifically provided herein, directors, officers, and employees of the Corporation shall not be subject to the laws of the United States relating to governmental employment.

(d) The Chairman shall appoint such employees as may be necessary for the transaction of the Corporation's business to, and discharge such employees from, positions established in accordance with the schedule adopted pursuant to subsection (b)(2).

(e) No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation, except as provided in section 112(a)(2).

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

SEC. 114. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (Public Law 95-521) applicable to persons occupying positions compensated under the Executive Schedule shall apply to all Directors serving in a voting capacity and to officers of the Corporation and to employees of the Corporation whose position in the schedule established by the Board pursuant to section 113(b)(2) of this Title is equivalent in duties and responsibilities to that classified at GS-16 or above.

(b) The provisions of law governing post-Federal employment activities shall not apply to former Federal employees who may be employed by the Corporation when acting on behalf of the Corporation.

(c)(1) Except as permitted by paragraph (3) hereof, no Director of the Corporation shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his or her knowledge, he or she, his or her spouse, minor child, partner, an organization (other than the Corporation) in which he or she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment has a financial interest.

(2) Action by a Director contrary to the prohibition contained in paragraph (1) hereof shall be cause for removal of such Director, but shall not impair or otherwise effect the validity of any otherwise lawful action by the Corporation in which the Director or officer participated.

(3) The prohibition contained in paragraph (1) hereof shall not apply if the Director first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of the financial interest he or she holds, and the Board determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of the Director's services for the Corporation in that matter. The Director involved shall not participate in this determination.

(d) For purposes of subsection (a) of section 207 of title 18, United States Code, and of subsections (f), (h), and (j) of such section to the extent they relate to subsection (a), former Directors, officers, and employees of the Corporation shall be deemed to be former officers or employees of the executive branch of the United States Government, and, as to such employees, the Corporation shall be deemed to be an agency of the executive branch of the United States Government.

DELEGATION

SEC. 115. The Board of Directors may, by resolution, delegate to the Chairman of the Board functions, powers, and duties assigned to the Corporation under this Title other

than those expressly vested in the Board of Directors pursuant to sections 112(f), 113(b), 114(c)(3), 122(a)(1)(D), 122(b), 123(c), (e), and (f), 131 (a), (b), and (f), 132 (a) and (d), 133 (a) and (b), 134, 135(a), 136(a) and (b), 137(b) and (c), 141(a), 154, 171 (a) (8) and (c), 173 (a) and (b), 181 (a) and (c), and 191(b). The Chairman of the Board may, by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this title to such other full-time Directors, officers or employees of the Corporation as the Chairman deems appropriate.

AUTHORIZATION OF ADMINISTRATIVE EXPENSES

SEC. 116. (a) The Corporation is authorized to make cash outlays not to exceed $35,000,000 during any fiscal year for its reasonable and necessary administrative expenses. For purposes hereof, administrative expenses shall be that portion of the Corporation's account for general and administrative expenses which includes salaries of personnel and consultants, expenses for computer usage, for space needs of the Corporation and similar expenses: *Provided*, That for each fiscal year commencing after September 30, 1980, the $35,000,000 limitation shall be increased as of October 1 each year by an amount equal to the percentage increase in the Gross National Product implicit price deflator, as published by the Department of Commerce or successor, for the year then ended over the level so established for the year ending September 30, 1979.

(b) Funds authorized for administrative expenses shall not be available for the acquisition of real property or for expenses related to corporation construction projects pursuant to subtitle E.

(c) The Corporation may make expenditures, without further appropriation, for reasonable and necessary administrative expenses not to exceed the limit provided in subsection (a) in any fiscal year and then only in accordance with a detailed statement of such expenditures which has been transmitted to the Congress, the Senate Committee on Energy and Natural Resources and the appropriate committees of the House of Representatives pursuant to section 153 along with the President's budget for such fiscal year: *Provided*, That such expenditures for fiscal year 1980 may be made without such prior statement. It is the intention of this section that the Corporation's expenditures for administrative expenses shall reflect due consideration for economy and to the extent practicable shall be consistent with standards applicable to Federal agencies generally.

SUBTITLE C—PRODUCTION GOALS OF THE CORPORATION

OVERALL PRODUCTION GOALS

SEC. 121. There is hereby established a national goal of achieving by 1995 a synthetic fuels production capability of at least 1,500,000 barrels per day of crude oil equivalent from domestic energy resources.

PRODUCTION STRATEGY

SEC. 122. (a)(1) In order to assure achievement of the national goal set forth in section 121 and the purposes of this Title, the Corporation shall—

(A) pursuant to section 123(a), solicit proposals for synthetic fuel projects;

(B) pursuant to section 131(a), provide financial assistance to those proposals acceptable to the Board of Directors;

(C) after providing financial assistance pursuant to clauses (A) and (B), if in the judgment of the Board of Directors, there are, or will be, insufficient acceptable proposals as necessary to achieve the purpose of this Title, the Corporation shall undertake to negotiate contracts pursuant to subtitle D as necessary to achieve the purposes of this Title; and

(D) only after fulfilling the requirements of clauses (A), (B), and (C), if in the judgment of the Board of Directors, there still are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this Title, the Corporation may, consistent with the objectives set forth in paragraph (2) hereof and subject to the limitations of subtitle E, undertake Corporation construction projects pursuant to subtitle E as necessary to achieve the purposes of this Title.

(2) Prior to the approval of a comprehensive stategy pursuant to subsections (b) and (c), the Corporation in discharging its responsibilities under paragraph (1) shall employ financial assistance pursuant to subtitle D or Corporation construction projects pursuant to subtitle E in such manner as will, in the judgment of the Board, (A) best demonstrate a diversity of technologies (including differing processes, methods and techniques) for each domestic resource that offers significant potential for use as a synthetic fuel feedstock as well as (B) offer the potential for achieving the national synthetic fuels production goal set forth in section 121. For the purposes of this paragraph the term "domestic resource" shall be construed so as to require the consideration of different types and qualities of coal (such as high- and low-sulphur coal, or Eastern and Western coal), shale, tar sands, and biomass, as different domestic resources.

(3) Prior to the approval of a comprehensive strategy pursuant to subsections (b) and (c), the Corporation, in a case of synthetic fuel projects for the commercial production of synthetic fuel derived from biomass, shall award financial assistance pursuant to subtitle D only to those synthetic fuel projects which are of a size and type that offer a significant potential to contribute to the national synthetic fuels production goal set forth in section 121: *Provided*, That such financial assistance for synthetic fuel projects using biomass resources in the aggregate shall not exceed $1,000,000,000.

(b) The Corporation shall, consistent with the purposes of this Title, establish a comprehensive strategy to achieve the national synthetic fuel production goal set forth in section 121. In the formulation of such strategy, the Corporation shall consider all practicable means for the commercial production of synthetic fuels from domestic resources, employing the widest diversity of feasible technologies. Such strategy shall, to the extent feasible, set forth the recommendations of the Board of Directors on the Corporation's objectives and schedules for their achievement. Such strategy, unless disapproved pursuant to subsection (c), shall become the strategy of the Corporation for the achievement of the national synthetic fuels production goal set forth in section 121.

(c)(1) Not later than three years after the effective date of this Title, the Corporation shall submit its proposed comprehensive strategy to the Congress. Such strategy shall be deemed approved, after sixty calendar days of continuous session of the Congress have expired following the date of such submission unless either House of the Congress has, during such sixty-day period, adopted a resolution disapproving such proposed strategy. In the event that a plan is disapproved by either House of Congress, the Board of Directors shall modify the strategy and resubmit the modified strategy to the Congress within ninety calendar days for approval as provided by this subsection.

(2) The Board of Directors may, consistent with the purposes of this Title, amend the approved strategy if, in their judgment, such amendment is necessary to achieve the national synthetic fuels production goal set forth in section 121. Any such amendment and its justification shall be included in the subsequent quarterly report to the Congress pursuant to section 177(c).

SOLICITATION OF PROPOSALS

SEC. 123. (a) The Corporation is hereby directed to solicit proposals from time to time from concerns interested in the construction or operation, or both, of synthetic fuel projects.

(b) All solicitations of proposals for financial assistance shall be conducted in a manner so as to encourage maximum open and free competition.

(c) Each solicitation for proposals pursuant to the authority of this section shall set forth general criteria, as determined by the Board of Directors, taking into account achievement of the national synthetic fuels production goal and the requirements of section 122(a), for a general type of synthetic fuel project taking into account:

(1) the type of domestic resource used by the project;

(2) the type or types of technologies to be employed; and

(3) the types and amounts of synthetic fuels to be produced.

(d) Thirty days after enactment of this Title, the Secretary of Energy on behalf of the Corporation and pursuant to the authorities granted in this Title, may make a solicitation for commercial scale high-Btu coal gas plants which shall be reviewed and acted upon by the Corporation pursuant to this Title.

(e) The Corporation shall give priority consideration to applications for financial assistance from those concerns proposing a synthetic fuel project in those States which, in the judgment of the Board of Directors, indicate an intention to expedite all regulatory, licensing, and related government agency activities related to such project.

(f) Any concern may request the Board of Directors to issue a solicitation pursuant to this section for proposals for a general type of synthetic fuel project and the Board of Directors, if it deems the action to be in accordance with the objectives and provisions of this Title, may issue such a solicitation.

(g)(1) Within six months after the date of enactment of this Title, the Corporation shall make an initial set of solicitations directed by subsection (a) by publication in the Federal Register and by such other notice as is customarily used to solicit proposals for Federal assistance for major research and development undertakings.

(2) Such set of solicitations shall encompass a diversity of technologies (including differing processes, methods, and techniques) for each potential domestic resource as well as all of the forms of financial assistance authorized in subtitle D.

SUBTITLE D—FINANCIAL ASSISTANCE

AUTHORIZATION OF FINANCIAL ASSISTANCE

SEC. 131. (a) Financial assistance shall be awarded to the qualified concern whose proposal is most responsive to the solicitation for proposals and is most likely to advance the purposes of this Title, including consideration of price and other factors. Whenever, in the judgment of the Board of Directors, it is practicable and provident to do so the Corporation shall award financial assistance on the basis of competitive bids.

(b)(1) Subject to the limitations set forth in this Title, the Corporation is authorized upon such terms and conditions as the Board of Directors shall determine—

(A) to provide financial assistance to a qualified concern whose proposal is responsive to a solicitation for proposals issued under the authority of section 123;

(B) with the consent of the recipient, to renew, modify, or extend such financial assistance; and

(C) in connection with the provision of financial assistance, to require such security and collateral as the Corporation deems appropriate for the repayment of any fixed or contingent obligations to the Corporation.

(2) The proposal selected for financial assistance pursuant to any solicitation shall

be that proposal which, in the judgment of the Board, is most advantageous in meeting the national synthetic fuel production goals as determined by the Board of Directors. Preference in such selection shall be given to—

(A) the proposal which represents the least Federal financial commitment and the lowest unit production cost within a given technological process, taking into account the amount and value of the anticipated synthetic fuel products; and

(B) in determining relative Federal commitment, in decreasing order of priority, preference shall be given to—

(i) price guarantees or purchase agreements,

(ii) loan guarantees,

(iii) loans, and

(iv) joint-ventures.

(3) If after a formal solicitation for competitive bids no bids are received during the period for response or those received are not acceptable to the Board of Directors and the Board makes a finding (A) that the synthetic fuel project is essential for the achievement of the national synthetic fuel production goal and the requirements of section 122(a) and (B) that competitive bids are not appropriate, the Board shall report such findings to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives and may then proceed to negotiate a contract of financial assistance for such project with a qualified concern.

(4) For the purposes of this section the term "qualified concern" means a concern which shall demonstrate to the satisfaction of the Board evidence of its capability to undertake and complete the design, construction, and operation of the proposed synthetic fuel project.

(c) All contracts and instruments of the Corporation to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(d) Subject to the conditions of any contract for financial assistance, such control shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(e) Any contract for financial assistance shall require the development of a plan, acceptable to the Board of Directors, for the monitoring of environmental and health related emissions from the construction and operation of the synthetic fuel project. Such plan shall be developed by the recipient of financial assistance after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy.

(f) The Corporation may, in its sole discretion and upon request of the recipient of financial assistance, reimburse such recipient for any reasonable costs in connection with a synthetic fuel project if construction of such project cannot occur within five years of the award of such financial assistance due to any Government regulatory action, or lack of action which, in the judgment of the Board of Directors, could not have been reasonably foreseen by the recipient, and such reimbursement, in the judgment of the Board, is consistent with the purposes of this Title.

(g) No financial assistance may be provided unless an application therefor has been submitted to the Corporation in such manner and containing such information as the Corporation may require.

(h) The Corporation in providing financial assistance shall give due consideration to promoting competition.

(i) Every applicant for financial assistance under this Act shall, as a condition precedent thereto, consent to such examinations and reports thereon as the Corporation or its designee may require for the purposes of this title. The Corporation shall require such reports and records as it deems necessary from any recipient of financial assistance in connection with activities carried out pursuant to this title. The Corporation is authorized to prescribe the manner of keeping records by any recipient of financial assistance and the Corporation or its designee shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was provided.

(j) In no case shall the aggregate amount of financial assistance made or committed under this title to any one concern, either directly or indirectly, exceed at any one time 15 per centum of the obligation authority of the Corporation authorized under section 151.

(k) Each price guarantee under section 134 or a purchase agreement under section 135 shall specify in dollars the maximum amount of the liability of the Corporation thereunder.

(l) With regard to a synthetic fuel project proposed by a concern whose rates are regulated, the Corporation is authorized to consider as a factor in any decision to award financial assistance whether the regulatory body, or bodies, are likely to issue a ratemaking decision which will protect the financial interests of the investors and the Corporation.

(m) In the case of a synthetic fuel project for the commercial production of synthetic fuel derived from biomass, financial assistance shall only be available for such portion of such project which is associated directly with the production of synthetic fuels: *Provided*, That financial assistance shall not be available for such a project if it will produce synthetic fuel derived from waste paper which has historically been recycled for nonenergy uses.

(n) The Corporation, as a condition to providing financial assistance, other than loans pursuant to section 132 and loan guarantees pursuant to section 133, may require that the Corporation share in profits from the operation of a synthetic fuel project on a fair basis.

(o) Whenever the Corporation, by one or more actions, awards a combination of two or more forms of financial assistance for a single synthetic fuel project, the Corporation shall insure that the recipient of such financial assistance shall bear a reasonable degree of risk in the construction and operation of such project.

LOANS MADE BY THE CORPORATION

SEC. 132. (a) The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into loans to any concern for a synthetic fuel project: *Provided*, That such loans shall not exceed 75 per centum of the total costs of the synthetic fuel project, as estimated by the Corporation as of the date of the loan or commitment to loan. In the event the total costs of the project are thereafter estimated to exceed the total costs initially estimated by the Corporation, the Corporation may in addition, upon application therefor, loan up to 60 per centum of the difference between the then estimated total costs and the total costs initially estimated.

(b) Each loan made under this subtitle shall bear interest at such rate as the Corporation may determine, giving consideration to the needs and capacities of the recipient and the prevailing rates of interest (public and private): *Provided*, That such rate shall not be less than a rate determined by the Secretary of the Treasury, for the Corporation, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such loans. No loan shall be made unless the Corporation shall have determined that there is a reasonable prospect of repayment or that such synthetic fuel project will have a substantial demonstration value.

(c) Loans may be made either directly or in cooperation or participation with banks or other lending institutions. Loans may be made directly upon promissory notes or other evidence of indebtedness or by way of discount or rediscount of obligations tendered for the purpose.

(d) If the Board of Directors determines that—

(1) the borrower is unable to meet payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of each project; and the probable net benefit to the Corporation in forbearing from exercising its rights under a loan agreement will be greater than that which would result in the event of a default;

(2) the amount of any payment which the Corporation would be required to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay at that time; and

(3) the borrower agrees to reimburse the Corporation for such payment on terms and conditions, including interest, which are satisfactory to the Corporation,

then the Corporation may forebear from exercising its rights under the loan agreement.

(e) The terms and conditions of loans shall provide that, if the Corporation makes a payment of principal or interest upon the default by a borrower, the Corporation shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan or related agreement).

LOAN GUARANTEES MADE BY THE CORPORATION

SEC. 133. (a)(1) The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into loan guarantees against loss of principal and interest on bonds, notes, or other obligations (including refinancing thereof) issued solely to provide funds to any concern for a synthetic fuel project: Provided, That such guarantee shall not exceed 75 per centum of the total costs of the synthetic fuel project, as estimated by the Corporation as of the date of the guarantee or commitment to guarantee. In the event the total costs of the project are thereafter estimated to exceed the total costs initially estimated, by the Corporation, the Corporation may in addition, upon application therefor, guarantee up to 60 per centum of the difference between the then estimated total costs and the total costs initially estimated.

(2) Any guarantee made by the Corporation under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof; and shall be conclusive evidence that such guarantee complies fully with the provisions of this Title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(b) If the Board of Directors determines that—

(1) the borrower is unable to meet payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Corporation in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default;

(2) the amount of any payment which the Corporation would be required to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay at that time; and

(3) the borrower agrees to reimburse the Corporation for such payment on terms and conditions, including interest, which are satisfactory to the Corporation,

then the Corporation is authorized to pay the lender under a loan guarantee agreement, an amount not greater than the principal and interest which the borrower is obligated to pay.

(c) The terms and conditions of loan guarantees shall provide that, if the Corporation makes a payment of principal or interest upon the defaults by a borrower, the Corporation shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements.)

PRICE GUARANTEES MADE BY THE CORPORATION

SEC. 134. The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe to commit to, or enter into price guarantees providing that the price that a concern will receive for all or part of the production from a synthetic fuel project shall not be less than a specified sales price determined as of the date of execution of the commitment or the price guarantee: *Provided*, That no such price guarantee may be based upon a "cost plus" arrangement or variant thereof which guarantees a profit to the concern, except that the use of a "cost of service" pricing mechanism by a concern pursuant to law, or by a regulatory body establishing rates for a regulated concern, shall not be deemed to be a cost plus arrangement or variant thereof: *Provided further*, That if the Corporation determines in its sole discretion that such project would not otherwise be satisfactorily completed or continued and that completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee may be renegotiated.

PURCHASE AGREEMENTS MADE BY THE CORPORATION

SEC. 135. (a) The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into purchase agreements for all or part of the production from a synthetic fuel project. The sales price specified in a purchase agreement shall not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Corporation determines that such sales price must exceed such estimated prevailing market price in order to insure the production of synthetic fuel to achieve the purposes of this Title.

(b) The Corporation in entering into, or committing to enter into a purchase agreement shall require—

(1) assurance that the quality of the synthetic fuels purchased meets standards for the use for which such fuels are purchased;

(2) assurances that the ordered quantities of such fuels are delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(c) Each purchase agreement, or commitment to enter into a purchase agreement, shall provide that the Corporation retains the right to refuse delivery of the anythetic fuels involved upon such terms and conditions as shall be specified in the purchase agreement.

(d) The Corporation is authorized to take delivery of synthetic fuels pursuant to a purchase agreement and to sell such synthetic fuels to a person. In any case in which the Corporation accepts delivery of and does not sell such synthetic fuels to a person, such synthetic fuels shall be purchased by the Federal Government for use by an appropriate Federal agency. Such Federal agency shall pay the prevailing market price, as determined by the Secretary of Energy, for such synthetic fuels from sums appropriated to such Federal agency for the purchase of fuels.

(e) The Corporation is authorized to transport and store and have processed and refined any synthetic fuels obtained pursuant to a purchase agreement under this section.

JOINT VENTURES BY THE CORPORATION

SEC. 136. (a) Prior to the approval of a comprehensive strategy pursuant to section 122 (b) and (c), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or to enter into joint ventures for synthetic fuel project modules. In a joint venture the Corporation may undertake the construction and operation of a synthetic fuel project module only by contract: *Provided, however*, That the Corporation shall not finance more than 75 per centum of the total costs of the synthetic fuel project module, as estimated by the Corporation as of the date of execution of the joint venture.

(b) Joint ventures shall be restricted to synthetic fuel project modules which, in the judgment of the Board of Directors, will—

(1) demonstrate the commercial feasibility of a technology for the production of synthetic fuels from a significant domestic resource which offers potential for achievement of the national synthetic fuel production goal; and

(2) can, at the same site, be expanded into a synthetic fuel project.

(c) With regard to any joint venture, the initial contract may provide for purchase pursuant to such joint venture agreement of the equity interest of the Corporation in such joint venture by the participating concern, or concerns, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module. The purchase price set forth in the joint venture agreement shall be established by the Board of Directors: *Provided*, That if such purchase from the Corporation is not provided for in the initial joint venture agreement or is not exercised by such concern, or concerns, the Corporation, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module pursuant to a joint venture agreement shall dispose of its participation in such agreement pursuant to section 181 of this Title.

(d) For the purposes of this section, the term—

(1) "synthetic fuel project module" means any facility located in the United States which (A) is of a size smaller than a synthetic fuel project, (B) will, if successful, demonstrate the technical and economic feasibility of the commercial production of synthetic fuels, and (C) can eventually be expanded at the same site into a synthetic fuel project; and

(2) "joint venture" means an agreement under which the Corporation and one, or more, concerns participate in (A) the ownership and (B) the management, construction or operation, of a synthetic fuel project module:

Provided, That the ownership of the Corporation in such joint venture shall be in proportion to the relative contribution of the Corporation to the joint venture.

CONTROL OF ASSETS

SEC. 137. (a) The Corporation may acquire or retain control of a synthetic fuel project only—

(1) by foreclosure of a security interest or pursuant to a default under any financial assistance contract;

(2) pursuant to section 136, and 137 (b) and (c); or

(3) pursuant to subtitle E.

(b) The Corporation may acquire control of a synthetic fuel project which is the subject of financial assistance under this Title prior to the approval of the comprehensive strategy pursuant to sections 122 (b) and (c) under the following circumstances:

(1) substantial progress has been made toward completion of the construction and operation of such project and the Board of Directors determines that such project will not commence operation, or will cease operation unless acquired by the Corporation;

(2) the operation of such project will make a significant contribution toward achieving the objectives of this Title;

(3) such acquisition of control will not result in losses to the Corporation disproportionate to the benefits that operation of the project will produce in demonstrating a particular technology;

(4) failure of the Corporation to acquire such project would result in a greater financial liability by the Corporation than acquisition of the project by the Corporation; and

(5) with respect to projects subject to loans or loan guarantees, the concern anticipates going into default, or is in default:

Provided, That the Corporation may not acquire any such control until it has submitted a plan, approved by the President, for such acquisition to the Congress and neither House of Congress has passed a resolution disapproving such plan within thirty days of continuous session following the date such plan was submitted: *Provided, further*. That any completion of the construction or operation of any such project the control of which was acquired pursuant to this subsection may only be undertaken by contract.

(c) With respect to synthetic fuel projects subject to loans and loan guarantees where the Corporation acquires control pursuant to subsection (b), the Corporation, on such terms and conditions as the Board of Directors may prescribe, is authorized to lease back to the concern involved such synthetic fuel project where such lease will assure the production of synthetic fuel from such project consistent with the purposes of this Title: *Provided*, That the Corporation may not lease back such a project until it has submitted a plan approved by the President for such lease-back to the Congress and neither House of Congress has passed a resolution disapproving such plan within thirty days of continuous session following the date such plan was submitted.

(d) For the purposes of this section, the term—

(1) "operating asset" shall mean any real or personal property used in the synthetic fuel project; and

(2) "control" shall mean the power to direct the use or disposition of operating assets of the synthetic fuel project through (A) direct ownership; or (B) ownership of the majority of the voting securities of a corporation or other concern which (i) owns or (ii) leases a synthetic fuel project: *Provided*, That "control" shall not be deemed to result from the ownership of operating assets of a synthetic fuel project which are leased to and in the possession of parties independent of the Corporation.

UNLAWFUL CONTRACTS

SEC. 138. For the purposes of sections 431 through 433, inclusive, of title 18, United States Code, the Corporation shall be deemed to be an agency of the United States and such sections shall apply to all contracts, instruments, or agreements of the Corporation. Such contracts, instruments, or agreements include, but are not limited to, financial assistance, advances, discounts and rediscounts, acceptances, releases, and substitution of security, together with extensions or renewals thereof.

FEES

SEC. 139. (a) The Corporation may charge and collect fees in connection with the financial assistance provided pursuant to this Title: *Provided*, That such fees shall not exceed 1 per centum of the amount of such financial assistance. Fees received by the Corporation may be applied against the administrative expenses of the Corporation related to providing financial assistance and probable losses.

(b) The Corporation shall prescribe and collect an annual fee in connection with each loan guarantee provided pursuant to this Title of one-half of 1 per centum of the amount of such loan guarantee. Sums realized from such fees shall be deposited in the synthetic fuel account and shall be used solely to meet obligations arising from default by a recipient of financial assistance under this Title.

DISPOSITION OF SECURITIES

SEC. 140. The Corporation may sell in public or private transactions all or any part of the notes, bonds, or any other evidences of indebtedness of any other person ownership of which is acquired by the Corporation pursuant to this Title. Upon any sale by the Corporation under this section, upon the repayment to the Corporation of any of its loans or upon any other action relating to financial assistance resulting in the receipt of proceeds by the Corporation, any proceeds therefrom shall be subject to section 154.

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

CORPORATION CONSTRUCTION AND CONTRACTOR OPERATION

SEC. 141. (a) Subject to the requirements of sections 122(a)(1)(D) and 142, the Corporation is authorized to own, and shall contract for the construction and operation of, synthetic fuel projects (hereinafter referred to as a "Corporation construction project"): *Provided*, That, prior to the approval of a comprehensive strategy pursuant to section 122 (b) and (c), the Corporation may undertake such projects only if, in the judgment of the Board of Directors, the Corporation construction project is necessary to meet the objectives of section 122(a)(2) and would not otherwise be constructed pursuant to subtitle D.

(b) The power of the Corporation to own and contract for the construction and operation of a corporation construction project shall include, among other things, the authority to—

(1) take delivery of synthetic fuels from such project;

(2) transport and store and have processed and refined such synthetic fuels;

(3) sell such synthetic fuels to a person; and

(4) take all actions reasonably necessary therewith: Provided, That to the maximum extent feasible, the Corporation shall utilize the private sector for the activities associated with this subsection.

(c) Contracts for corporation construction projects shall be negotiated on the basis of solicited bids pursuant to section 123: Provided, That any such contracts shall be expressly contingent upon the availability of sufficient funds.

(d) The Corporation is authorized to undertake contractual agreements with, among others, any Federal entity (including, but not limited to, the Department of Energy, the United States Army Corps of Engineers, and the Tennessee Valley Authority) to provide the design, the construction or the management of the operation of corporation construction projects: *Provided*, That in the case of a Federal entity, such entity has the available experienced personnel to perform such project management function.

LIMITATIONS ON CORPORATION CONSTRUCTION PROJECTS

SEC. 142. (a) Prior to approval of a comprehensive production strategy pursuant to section 122 (b) and (c), the Corporation is authorized not more than three Corporation construction projects subject to the requirements of sections 122(a)(1)(D) and 141.

(b) Subject to the requirements of sections 122(a)(1)(D) and 141, proposals for any Corporation construction projects in excess of the three such projects authorized in subsection (a) shall be submitted to the Congress. Such proposals shall be deemed approved after sixty calendar days of continuous session of the Congress have expired following the date of submission unless either House of Congress has, during such sixty-day period, adopted a resolution disapproving such proposed project.

(c) After the approval of a comprehensive production strategy pursuant to section 122 (b) and (c), the Corporation shall not undertake new, or expand any existing Corporation construction projects.

ENVIRONMENTAL, LAND USE, AND SITING MATTERS

SEC. 143. (a) Corporation construction projects and joint ventures by the Corporation pursuant to section 136 shall be subject to all Federal and non-discriminatory State and local environmental, land use, and siting laws to the same extent as such laws apply to privately sponsored synthetic fuel projects receiving financial assistance under this Title and other similarly situated and used property. Nothing in this section shall be deemed to limit the powers of the Energy Mobilization Board with respect to projects constructed under this subtitle or section 136.

(b) Contracts for the construction and operation of Corporation construction projects shall provide for the monitoring of the environmental and health related emissions from the construction and operation of such project. Such monitoring shall be conducted in accordance with a plan developed by the contractor after consultation with the Environmental Protection Agency and the Department of Energy.

PUBLIC DISCLOSURE

SEC. 144. Information collected by the Corporation as a result of the activities directly associated with a corporation construction project authorized by this subtitle shall be cataloged and, upon request, any such information shall be made available to the public, except that this section shall not require disclosure of matters exempted from mandatory disclosure by section 552(b) of title, 5, United States Code with respect to corporation construction projects. The disclosure of information by the Corporation, its Directors, officers, and employees, shall be subject to the provisions of section 1905 of title 18, United States Code.

PROJECT REPORTS

SEC. 145. Within three years of the initial operation of each Corporation construction project, the Corporation shall publish a report providing detailed information including, but not limited to—

(a) whether the synthetic fuel product can be sold at a price which is competitive with imported crude oil;

(b) whether such technology can be operated on a commercial scale in compliance with applicable environmental requirements, including the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175) and the Clean Air Act, as amended (42 U.S.C. 7400 and following);

(c) the effect on regional and local water supplies of the project and the commercial operation of such technology;

(d) the health effects on workers and other persons of the projects including, but not limited to, any carcinogenic effects; and

(e) the social and economic impacts on local communities which were most directly affected by such projects.

FINANCIAL RECORDS

SEC. 146. Recipients of contracts under this subtitle shall keep such records and other pertinent documents as the Corporation shall prescribe, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any corporation construction project and such other records as the Corporation may require to facilitate an effective audit. The Corporation and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such reports and other directly pertinent documents.

SUBTITLE F—CAPITALIZATION AND FINANCE

OBLIGATIONS OF THE CORPORATION

SEC. 151. (a) To the extent provided in appropriation Acts, the Corporation is authorized to issue, solely to the United States of America acting by and through the Secretary of the Treasury (who shall retain), notes or other obligations of the Corporation in the aggregate principal amount of $88,000,000,000 as follows: $20,000,000,000, including such sums as necessary for initial administrative expenses, shall become available to the Corporation on the date of enactment of this Title and the remainder shall become available upon approval of a comprehensive strategy pursuant to section 122.

(b) The Corporation shall not issue any note or other obligation to the Secretary of the Treasury without prior consultation with the Secretary of the Treasury.

LIMITATIONS ON TOTAL AMOUNT OF OBLIGATIONAL AUTHORITY

SEC. 152. (a) The Corporation may not incur obligations or make commitments, including administrative expenses and other operating costs, in excess of $88,000,000,000 in the aggregate: *Provided, however*, That prior to the approval of a comprehensive strategy pursuant to section 122 such obligations shall not exceed $20,000,000,000 in the aggregate.

(b) For purposes of determining the Corporation's compliance with this section, loans by the Corporation shall be counted at the initial face value of the loan, loan guarantees shall be valued at the face value of the loan guarantee, price guarantees and purchase agreements shall be valued by the Corporation as of the date of each such contract based upon the Corporation's estimates of its maximum potential liability pursuant to section 131(k) under each contract; and joint-ventures and corporation construction projects shall be valued at the current estimated costs to the Corporation. Such determination shall be made in accordance with generally accepted accounting principles, consistently applied. If more than one form of financial assistance is to be provided to any one synthetic fuel project or if the financial assistance agreement provides a right to the Corporation to purchase the synthetic fuel project, then the obligations and commitments thereunder shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(c) Any commitment by the Corporation to provide financial assistance or make capital expenditures which are nullified or voided for any reason shall not be considered in the aggregate for the purpose of subsection (a).

BUDGETARY TREATMENT

SEC. 153. The obligations and outlays incurred by the Secretary of the Treasury in connection with the purchase of notes and other obligations of the Corporation shall be included in the totals of the budget of the United States Government. The receipts and disbursements of the Corporation in the discharge of its functions shall be presented annually in the budget of the United States Government but shall not be included in the totals of the budget.

RECEIPTS OF THE CORPORATION

SEC. 154. (a) Moneys of the Corporation, other than those received pursuant to sections 139(b) and 151, shall be used to defray administrative expenses and, to the extent that surplus is available thereafter, to provide financial assistance pursuant to subtitle D. In the event that additional surplus is available thereafter such additional surplus shall, when authorized by the Board of Directors, be used in the purchase for redemption and retirement of any notes or other obligations of the Corporation.

(b) Moneys of the Corporation not otherwise employed shall be—

(1) deposited with the Treasury of the United States subject to withdrawal by the Corporation, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

(2) with approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

(3) deposited in federally insured interest bearing accounts subject to withdrawal by the Corporation.

TAX STATUS

SEC. 155. (a) The Corporation, its franchise, capital, reserves, surplus, income, and intangible property shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, county, municipality, or local taxing authority, except that—

(1) any real property owned in fee by the Corporation shall be subject to State, territorial, county, municipal, or other local taxation to the same extent, according to its value, as other similarly situated and used real property, without discrimination in the valuation, classification, or assessment thereof; and

(2) the Corporation and its employees shall be subject to any nondiscriminatory payroll and employment taxes intended to finance benefits based upon employment (such as social security and unemployment benefits) to the same extent as any privately owned corporation.

(b) With respect to any loan or debt obligation which is (1) issued after the enactment of this Title by, or on behalf of, any State or local government, (2) guaranteed by the Corporation prior to the approval of a comprehensive strategy under section 122 (b) and (c), and (3) not supported by the full faith and credit of the issuer as a general obligation of the issuer, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Corporation shall pay to such issuer such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (A) on obligations of said issuer, if any, or (B) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

SUBTITLE G—UNLAWFUL ACTS, PENALTIES, AND SUITS AGAINST THE CORPORATION

FALSE STATEMENTS

SEC. 161. Whoever makes any statement, knowing or having reason to believe it to be false, or whoever knowingly overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under this Title, extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Corporation or for the purpose of obtaining money, property, contract rights, or anything of value, under this Title, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both.

FORGERY

SEC. 162. Whoever—

(a) falsely makes, forges, or counterfeits any agreement, instrument, contract, or other obligation, or thing of value, an imitation of or purporting to be an agreement, instrument, said Code, and in accordance with such terms and conditions as the Secretary of the Treasury shall

(b) passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited agreement, instrument, contract, or other obligation or thing of value purporting to have been issued by the Corporation, knowing the same to be false, forged, or counterfeited, or

(c) falsely alters any agreement, instrument, contract or other obligation, or thing of value, issued or purporting to have been issued by the Corporation, or

(d) passes, utters, or publishes, or attempts to pass, utter, or publish, as true any falsely altered or spurious agreement, instrument, contract, or other obligation, or thing of value issued or purporting to have been issued by the Corporation, knowing the same to be falsely altered or spurious.

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

MISAPPROPRIATION OF FUNDS AND UNAUTHORIZED ACTIVITIES

SEC. 163. Whoever, being connected in any capacity with the Corporation—

(a) embezzles, extracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to the Corporation; or

(b) with intent to defraud the Corporation or any other body politic or corporate, or any individual or to deceive any officer, auditor, or examiner of the Corporation, makes any false entry in any book, report, or statement of or to the Corporation, or, without being duly authorized, draws any bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or

(c) with intent to defraud, participates, shares, or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other act of the Corporation, or

(d) gives any unauthorized information concerning any future action or plan of the Corporation, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation receiving financial assistance from the Corporation.

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both. With respect to subsection (d) above, the Corporation is authorized to obtain injunctive relief against the threatened misuse of information.

CONSPIRACY

SEC. 164. Whoever conspires with another to accomplish any of the acts made unlawful by section 161, 162, or 163 shall, upon conviction thereof, be subject to the same fine or imprisonment, or both, as is applicable in the case of conviction for doing such unlawful acts.

INFRINGEMENT ON NAME

SEC. 165. No individual, association, partnership, corporation, or business entity may use the words "Synthetic Fuels Corporation" or a combination of these words in a manner which is likely to mislead or deceive, as the name or a part thereof under which he, she or it shall do business.

ADDITIONAL PENALTIES

SEC. 166. In addition to any other penalties provided in this subtitle, the defendant in any action brought pursuant thereto shall be liable to the Corporation for any loss by the Corporation and any profit or gain acquired by the defendant as a result of the conduct constituting the offense.

SUITS BY THE ATTORNEY

SEC. 167. (a) If the Corporation created pursuant to this title shall engage in or adhere to any action, practices, or policies inconsistent with the policy and purposes of this title, or shall obstruct or interfere with any activities authorized by this Title, or shall refuse, fail, or neglect to discharge the duties and responsibilities under this Title, or shall threaten any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which such corporation or other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States, to grant such equitable relief as may be necessary or appropriate to prevent or terminate such conduct or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this Title.

(c) Nothing in this section shall be deemed or construed to prevent the enforcement of the other provisions of this title by appropriate officials of the United States.

CIVIL ACTIONS AGAINST THE CORPORATION

SEC. 168. United States district courts, and courts referred to in section 460 of title 28, United States Code, and Public Law 95–157 shall have original jurisdiction for all civil actions against the Corporation: *Provided, however*, That the Corporation shall be regarded as "Federal agency" of the United States Government for the purposes of the Federal Tort Claims Act (28 U.S.C. 2671 et seq.) except that the Corporation may represent itself in any such action, may compromise any claims against it without seeking the approval of the Attorney General and shall pay any judgment or compromised claim from its funds: *And provided further*, That the Corporation shall be liable for contract claims only if such claims are based upon a written contract to which the Corporation is an executing party. The liability of the Corporation shall be limited to the assets of the Corporation.

SUBTITLE H—GENERAL PROVISIONS

GENERAL POWERS

SEC. 171. (a) In carrying out the purposes of this Title, the Corporation shall have the power, consistent with the provisions of this Title—

(1) to adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with individuals and private or governmental entities: *Provided, however*, That the Corporation shall not provide any financial assistance except as specifically permitted hereunder;

(3) to lease, purchase, accept gifts or donations of, or otherwise to acquire, and to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and be sued, subject to the provisions of section 168, in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial and other legal proceedings;

(6) subject to section 113, to select, employ, and fix the compensation (including, without limitation, pension, and health benefits, incentive compensation plans, paid vacation, sick leave, and other fringe benefits) of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Corporation;

(7) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable;

(8) to indemnify Directors serving in a voting capacity and officers of the Corporation, as the Board of Directors may deem necessary or desirable;

(9) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment or executive agency or department of the executive branch in carrying out the provisions of this Title and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(10) to determine and prescribe the manner in which obligations of the Corporation shall be incurred and its expenses allowed and paid;

(11) to obtain the services and fix the compensation of experts;

(12) to use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment and conduct of a corporate entity, to the achievement of the purposes of this title and the exercise of its powers, purposes, functions, duties, and authorized activities.

(b) The foregoing powers shall only be exercised in connection with administrative activities, financial assistance, and corporation construction projects authorized by this title.

(c) In addition to the powers granted under subsections (a) and (b), the Corporation may, in connection with any corporation construction project, acquire interests in real property, including property owned by any State or local government body or entity, including Indian tribes, only as necessary to provide access to the site for project site related transportation, power transmission, and other services, by the exercise of eminent domain in the United States district court for the district in which such real property is located: *Provided*, That such real property shall not include the site of the Corporation construction project nor property for any coal slurrying pipeline: *Provided further*, That the Corporation may acquire such property by eminent domain only upon a finding by its Board of Directors that the property involved is necessary for access to such project and that no other reasonable alternative access to such facilities is available. Such findings shall not be reviewable.

COORDINATION WITH OTHER FEDERAL ENTITIES

SEC. 172. (a) (1) Prior to providing, or making any commitment to provide, financial assistance for any synthetic fuel project, the Corporation may seek the advice and recommendations of, or information or data maintained by, any Federal agency to assist the Corporation in determinations to be made hereunder. Any such advice, recommendation, information, or data, to the extent permitted by law, shall be provided to the Corporation within thirty days of its request: *Provided, however*, That where such information or data comprises a trade secret, or confidential or proprietary data, the Corporation shall agree to receive such data under the same terms of confidentiality agreed to by the agency. For the purposes of section 1905 of title 18, United States Code, the Corporation shall be deemed to be an agency of the United States.

(2) At the request of the Department of Energy or the Environmental Protection Agency for access to information or facilities of the Corporation relating to environmental matters, the Corporation shall afford the requesting agency reasonable access thereto, except to the extent prohibited by law.

(b) The Secretary of Energy is authorized to provide such technical assistance to the Corporation as is necessary to carry out the purpose of this Title.

(c) The Corporation may contract on a reimbursable basis with Federal entities to provide technical, economic, environmental, and any other analyses and services which the Corporation deems necessary to accomplish the purposes of this Title.

PATENTS

SEC. 173. (a) Any contract to provide a loan pursuant to section 132, a loan guarantee pursuant to section 133 or a joint venture pursuant to section 136 may, in the judgment of the Board of Directors, require that whenever any invention is made or conceived in the course of or under such contract title to the patent for such invention shall vest in the Corporation and the Corporation shall have the right to license the patent on a nonexclusive basis.

(b)(1) In the case of any patent the title to which is vested in the Corporation, the Corporation may grant a nonexclusive license but it may not grant an exclusive or partially exclusive license except as provided in paragraph (2).

(2) The Corporation is authorized to grant an exclusive or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, on the basis of competitive bids and following an opportunity for a hearing, upon notice in the Federal Register thereof to the public, only when, in the judgment of the Board of Directors, such exclusive or partially exclusive license is necessary to assure substantial utilization of such invention within a reasonable time.

(c) Each exclusive or partially exclusive license shall contain such terms and conditions as the Corporation may determine to be appropriate for the protection of the interests of the United States and the general public, including provision for the Corporation, commencing two years after the grant of a license pursuant to subsection (b), to terminate such license if (A) it has not been applied to the commercialization of domestic energy resources or (B) steps have not been taken as necessary to assure substantial utilization of such invention within a reasonable time.

(d) Loan or loan guarantee agreements entered into pursuant to sections 132 and 133, respectively, shall include such terms and conditions consistent with this subsection with respect to patents as the Corporation deems appropriate to protect the interests of the Corporation in the case of default. Such agreements shall require in the case of default that all patents, technology, and other proprietary rights resulting from the synthetic fuel project shall be available to the Corporation or its designee, to complete and operate the defaulting project. Such agreements shall contain a provision specifying that other patents, technology, and other proprietary rights owned by the borrower which are necessary for the purpose of completion and operation of the synthetic fuel project shall be licensed to the Corporation and its designees on equitable terms, including due consideration to the amount of the default payments due to the Corporation.

(e) Patents, technology, and proprietary rights vested in the Corporation as a result of default on a loan or loan guarantee agreements or vested in the Corporation pursuant to subsection (a) shall be transferred to the Secretary of Energy for administration under applicable law upon termination and liquidation of the Corporation.

(f) Any contract entered into by the Corporation pursuant to subtitle E shall be subject to section 9, subsections (a) through (m) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) except that, for the purpose of subtitle E, "Administrator" in section 9 shall mean the Chairman of the Board of the Corporation; "Administration" in section 9 shall mean the Corporation; "Government" in subsections 9(a) and 9(d) shall mean the Government and the Corporation; "any Government agency" in subsection 9(h)(2) shall mean the United States, and "United States" in section 9 shall mean the Corporation. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 shall not apply to financial assistance pursuant to subtitle D.

(g) The United States Government shall have a royalty-free, nonexclusive license to any patent in which the Corporation owns title or reserves a license pursuant to subsection (a). The Corporation may assign title in any patent in which it has the title to the United States Government.

SMALL AND DISADVANTAGED BUSINESS UTILIZATION

SEC. 174. In providing financial assistance, the Corporation shall require the recipient thereof to provide for the fair and reasonable participation by small and disadvantaged businesses in the synthetic fuel project receiving financial assistance and the Corporation shall do so with respect to corporation construction projects under subtitle E.

RELATIONSHIP TO OTHER LAWS

SEC. 175. (a) No action of the Corporation except the construction and operation of synthetic fuel projects pursuant to subtitle E shall be deemed to be a "major Federal action significantly affecting the quality of the human environment" for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969, as amended; and with respect to corporation construction projects, the Corporation shall be deemed to be a Federal agency for the purposes of such Act.

(b) The provisions of the Davis-Bacon Act and the Service Contracts Act shall apply to the Corporation as if it were an agency of the United States. All laborers and mechanics employed for the construction, repair, or alteration of synthetic fuel projects funded, in whole or in part, by the Corporation pursuant to section 132, 133, or 136 of this Title shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Corporation shall not extend any loan or loan guarantee for construction, repair or alteration of synethetic fuel projects unless a certification is provided to the Corporation prior to the commencement of construction or at the time of filing an application for a loan or loan guarantee, if construction has already commenced, that these labor standards will be maintained upon the synthetic fuel project. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(c) For the purposes of the Investment Comoany Act and the Public Utility Holding Company Act, the Corporation shall be deemed to be an instrumentality of the United States.

(d) The antitrust laws, as defined in section 12 of title 15, United States Code, shall apply to the Corporation as if it were an agency of the United States.

(e) Notwithstanding any provision of law, except as may be specifically provided by reference to this section in an Act or Acts enacted after the effective date of this Title, no law, rule, or regulation now existing or hereafter enacted or promulgated establishing or limiting, in any manner the price (including allocation or first sale and subsequent resale) chargeable for commodities or allocation thereof shall apply to synthetic fuel which is produced by a synthetic fuel project receiving financial assistance under this Title or produced by a corporation construction project under subtitle E.

(f) Nothing in this title shall be deemed or construed to make the Government Corporation Act (31 U.S.C. 841 et seq.) applicable to the Corporation.

(g) Except to the extent expressly provided herein, the Corporation shall not be deemed to be an agency of the United States or an instrumentality of the United States.

(h) Employees of the Corporation shall be covered by the provisions of the Longshoremen's and Harbor Workers' Compensation Act, as amended, which shall provide the exclusive remedy for the causes set forth therein.

(i) Nothing in this title shall be deemed to limit the powers of the Energy Mobilization Board with respect to synthetic fuel projects receiving financial assistance under this title or corporation construction projects.

(j)(1) For purposes of section 211(b) of the Powerplant and Industrial Fuel Use Act of 1978, a petitioner shall be deemed to have demonstrated that he meets the requirements of section 211(b)(1) and section 211(b)(2) of said Act if he has entered into a legally valid agreement with a qualified producer of synthetic fuels, for the future delivery of sufficient quantities of synthetic fuels, to be used at the facility for which the exemption is sought to comply with the applicable prohibitions of said Act. Evidence of the existence of such a legally valid agreement also shall be deemed to satisfy the requirement that the petitioner file and maintain a compliance plan satisfying the requirements of section 214(b) upon the submission of such evidence to the Secretary of Energy.

(2) For purposes of paragraph (1), a person shall be deemed to be a "qualified producer of synthetic fuels" if he receives a loan, loan guarantee, purchase agreement or price guarantee pursuant to this Title.

(3) In addition, in order to constitute a "legally valid agreement" for purposes of paragraph (1), the agreement with the qualified synthetic fuel producer must provide for initial deliveries of synthetic fuel within the time specified pursuant to section 211(e) of said Act.

(4) For purposes of section 211(b) of said Act, an extension or renewal under section 211(e)(1) or 211(e)(2)(B) thereof may be granted at the time the original exemption is issued, or at any subsequent date.

(5) Nothing in this subsection shall be construed to relieve the petitioner from compliance with the prohibition of subtitle A of title II of the Powerplant and Industrial Fuel Use Act of 1978 at the end of the exemption granted pursuant to section 211(b) of said Act.

SEVERABILITY

SEC. 176. If any provision of this Title, or the application of any such provision to any person or circumstance, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the remainder of this Title, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

FISCAL YEAR, AUDITS AND REPORTS

SEC. 177. (a) The fiscal year of the Corporation shall coincide with the fiscal year of the United States Government.

(b)(1) The Corporation shall retain a firm or firms of nationally recognized public accountants who shall prepare and report an annual audit of the accounts of the Corporation including the statements identified in section 851 of title 31, United States Code.

(2) The General Accounting Office is authorized to conduct such audits of the accounts of the Corporation and to report upon the same to the Congress, as such Office shall deem necessary or as the Congress may request, but not less than every three years.

(3) All books, accounts, financial records, reports, files, papers and property belonging to or in use by the Corporation shall be made available to the person or persons conducting the audit for verifying transactions.

(c)(1) The Corporation shall submit quarterly reports to the Congress and the President. Each report will state the aggregate sums then outstanding or committed for financial assistance under subtitle D and for Corporation construction projects under subtitle E, and a summary of any financial assistance retired or any synthetic fuel projects liquidated by the Corporation pursuant to subtitle I. Each report shall contain a listing of the concerns receiving financial assistance involved in Corporation construction projects.

(2) The quarterly report in which any expenditures or commitment to a concern or synthetic fuel project is first noted shall contain a brief description of the factors considered by the Corporation in making such expenditure or commitment. The report shall include (A) financial statements prepared in accordance with generally accepted accounting principles consistently applied as of the end of the Corporation's fiscal quarter preceding the date of the report and (B) compensation of persons employed or under contract by the Corporation at salary rates exceeding $2,500 per month.

(d)(1) The Corporation shall submit to the Congress and the President an annual report containing, in addition to the information required in the quarterly report, (A) a general description of the Corporation's operations during the year, (B) a specific description of each project in which the Corporation is involved, (C) a status report on each such project, and (D) an evaluation of the contribution which the project has made and is expected to make in fulfilling the purposes of this Title (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(2) The annual report shall describe progress made toward meeting the objectives (including the commercial production goals) of this Title and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Corporation in achieving the objectives of this Title. The annual report shall address the environmental impacts of the Corporation's generic programs and decisions.

(3) The annual report shall contain financial statements prepared by the Corporation in accordance with generally accepted accounting principles consistently applied and certified by the accountants retained under section (b)(1).

(e) On or before September 30, 1990, the Corporation shall submit to the Congress and the President a report evaluating the overall impact made by the Corporation and describing the status of each then current synthetic fuel project. This report shall contain a liquidation plan. The liquidation plan shall describe how each synthetic fuel project, and every substantial asset or liability of the Corporation will be liquidated, terminated, satisfied, sold, transferred, or otherwise disposed of. Each annual report thereafter made by the Corporation will describe the progress made in effecting such liquidation plan.

WATER RIGHTS

SEC. 178. (a) Nothing in this Title shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(b) No project constructed pursuant to the authorities of this Title shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

SUBTITLE I—DISPOSAL OF ASSETS

TANGIBLE ASSETS

SEC. 181. (a)(1) The Corporation, by and through its Board of Directors, is authorized, from time to time, on the basis of the criteria of subsection (b), to dispose of any portion or all of the tangible assets of the Corporation when in the best interests of the Corporation in carrying out the purposes of this Title either—

(A) on the basis of competitive bids, to sell to any person or concern any portion of the assets of the Corporation, or

(B) by transfer to a Federal agency of any portion or all of the tangible assets of the Corporation, or

(C) on the basis of a negotiated contract, consistent with paragraph (2), to sell to a person or concern any portion or all of the tangible assets of the Corporation.

(2) With regard to the sale of tangible assets pursuant to clause (a)(1)(C), the Corporation shall—

(A) publish in the Federal Register notice of the proposed sale of such asset,

(B) convene a prospective bidders conference, and

(C) no earlier than thirty days after such notice and conference, undertake negotiations for the sale of such asset.

(3) At least thirty days prior to the disposal of any tangible asset pursuant to paragraph (1), the Corporation shall notify the President, the Senate Committee on Energy and Natural Resources and the appropriate committee of the House of Representatives of the intended disposal of such tangible asset.

(b) For the purpose of this section, the term "tangible asset" shall mean any single asset, or aggregation of assets, with a value of $1,000,000 or more.

(c) In establishing the acceptable terms and conditions of the sale or transfer of tangible assets constituting a synthetic fuel project, or portion thereof, or a Corporation construction project, or portion thereof, the Board of Directors shall make every reasonable effort—

(1) to recover the financial investment, if any, of the Corporation in such assets,

(2) to foster competition within the industry to which the assets are to be sold,

(3) to assure that such assets will be productively utilized and, if possible, will continue in operation.

(d) With regard to the sale or transfer of tangible assets not included under subsection (c), the Corporation shall establish terms and conditions for the sale or transfer of such tangible assets in order to maximize the financial return to the Corporation.

DISPOSAL OF OTHER ASSETS

SEC. 182. Except as provided for in section 181, the Corporation is authorized, from

time to time, (1) consistent with the requirements of the Federal Property and Administrative Services Act, to sell to any person any portion of the assets of the Corporation, or (2) transfer to a Federal agency any portion of all of the assets of the Corporation.

SUBTITLE J—TERMINATION OF CORPORATION

DATE OF TERMINATION

SEC. 191. Notwithstanding any other provision of this Title—

(a) the Corporation shall make no new commitments for financial assistance under subtitle D for synthetic fuel projects after September 30, 1990.

(b) The Corporation shall terminate on September 30, 1955: *Provided, however*, That the President, on recommendation of the Board of Directors, may by Executive order, terminate the Corporation at an earlier date, but in no event prior to September 30, 1990.

WINDING OF THE CORPORATION'S AFFAIRS

SEC. 192. (a) From and after the final commitment date under section 191(a), the Board of Directors shall diligently commence all practical and reasonable steps to achieve an order winding up of the Corporation's affairs on or prior to its date of termination pursuant to section 191(b).

(b) The step taken pursuant to subsection (a) may include the disposal of the tangible assets of the Corporation pursuant to section 181 and the disposal of other assets pursuant to section 182.

(c) On termination of the Corporation any contract or obligation for financial assistance pursuant to subtitle D shall be administered pursuant to section 193.

TRANSFER OF POWERS TO DEPARTMENT OF THE TREASURY

SEC. 193. (a) If, on the date of termination of the Corporation, its Board of Directors shall not have completed the winding up of its affairs and the liquidation of its assets pursuant to subtitle I, the duty of completing such winding up of its affairs and liquidation shall be transferred to the Secretary of the Treasury, who for such purposes shall succeed to all the powers, duties, rights, and obligations of the Corporation, its Board of Directors and Chairman under this Title and nothing herein shall be construed to affect any right or privilege accrued, any penalty or liability incurred, any criminal or civil proceeding commenced, or any authority conferred hereunder, except as herein specifically provided in connection with such winding up of the affairs and liquidation of the remaining assets of the Corporation. Following such transfer, the Secretary of the Treasury may assign to any officer or officers of the United States in the Treasury Department the exercise and performance, under such Secretary's general supervision and direction, of any powers, duties, rights, and obligations so transferred from the Corporation to the Secretary.

(b) When the Secretary of the Treasury finds that the liquidation of any remaining assets will no longer be advantageous to the United States and that all of the legal obligations of the Corporation have been provided for, the Secretary shall pay into the Treasury as miscellaneous receipts the unused balance of the moneys belonging to the Corporation and shall make a final report on the Corporation to the Congress. Thereupon the Corporation shall be deemed to be dissolved.

SUBTITLE K—DEPARTMENT OF THE TREASURY

AUTHORIZATIONS

SEC. 195. (a)(1) There is hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury $88,000,000,000 to purchase and retain notes or other obligations of the Corporation. Such moneys shall be deposited within the Treasury in a separate account (hereafter called the "Synthetic Fuels Account") which shall be available to the Secretary for the purpose of carrying out the purposes of this Title.

(2) On the basis of notification to the Secretary of the Treasury of financial assistance by the Corporation, consistent with the formula set forth in paragraph 153(a)(1), the Secretary of the Treasury shall reserve within the synthetic fuel account an amount equal to the known and estimated liabilities of the Corporation. As amounts become available for this purpose, the Secretary shall repay to the general fund of the Treasury an amount equal to all lending which has been extended to the Corporation.

(3) Any obligations of the Corporation held by the Secretary of the Treasury shall be retired at the time the synthetic fuel account repays the general fund pursuant to this subsection.

(b) For purposes of purchasing the obligations of the Corporation pursuant to subsection (a), the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under such Act are extended to include such purchases.

(c) All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

TITLE II—GASOHOL

SHORT TITLE AND TABLE OF CONTENTS

SHORT TITLE

SEC. 201. (a) This Title shall be known as the "Gasohol Motor Fuels Act of 1979".

(b) TABLE OF CONTENTS.—

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SUBTITLE I—NATURAL GAS PRIORITIES

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SUBTITLE A—FINDINGS AND PURPOSES

FINDINGS

SEC. 202. (a) The United States is currently importing large quantities of crude oil.

(b) A substantial portion of this crude oil is needed for the production of gasoline sold in interstate commerce.

(c) Renewable resources in the United States can provide a sufficient source of alcohol suitable for blending with gasoline or which may be used in lieu thereof, to decrease the need for imported oil.

PURPOSES

SEC. 203. The purposes of this Title are—

(a) to contribute toward the development of a secure liquid fuel supply in the United States by providing the foundation for a viable alcohol fuel industry;

(b) to increase the security and enhance the economic health of the United States by reducing our Nation's dependence on imported oil;

(c) to establish a mechanism for implementing improved natural resource practices on a broad scale;

(d) to establish a national goal for the production of alcohol fuels from renewable resources;

(e) to require the President to establish an independent office in the Department of Energy to expedite Federal financial assistance for the purpose of commercialization of alcohol fuels from renewable resources and to achieve the national goal; and

(f) to encourage and assist production of alcohol fuels by small alcohol fuel projects as well as larger alcohol fuel projects.

GENERAL DEFINITIONS

SEC. 204. As used in the title the term—

(1) "concern" shall mean any—

(A) person, or

(B) State or any political subdivision or governmental entity thereof, Indian tribe or tribal organization, or

(C) combination of the aforementioned, which is engaged, or proposes to engage, in an alcohol fuel project or projects pursuant to this title;

(2) "financial assistance" shall mean any of the following forms of financial assistance, or combinations thereof—

(A) guarantees of, or commitments to guarantee, indebtedness, including principal and interest (hereinafter referred to as "loan guarantees");

(B) guarantees of, or commitments to guarantee, the price received or to be received by a concern from the sale of alcohol fuel hereinafter referred to as "price guarantee"); and

(C) contracts to purchase alcohol fuel, guarantees therefor or commitments therefor (hereinafter referred to as "purchase agreements");

(3) "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, or any entity organized for a common business purpose;

(4) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marians Islands;

(5) "alcohol" means methanol, ethanol, or any other alcohol which is produced from renewable resources and which is suitable for use by itself or in combination with other fuels as a motor fuel;

(6) "alcohol fuel" means alcohol produced for use as a motor fuel;

(7) "motor fuel" means any substance suitable as a fuel for vehicles designed primarily for use on public streets, roads, highways, and off-road use;

(8) "alcohol fuel project" shall mean any new facility or expansion or improvement of an existing facility located in the United States for the purpose of commercial pro-

duction of alcohol fuel, including the equipment, plant, machinery, supplies, and other materials associated with the facility and including accessory equipment for control of environmental emissions. It also may include the land, services, and working capital required directly for use in connection with the facilities for the production of alcohol fuel;

(9) "Secretary" means the Secretary of Energy;

(10) "United States" means each State of several States and the District of Columbia and its territories and possessions;

(11) "renewable resource" means any substance which is a source of energy, and which is available in an inexhaustible supply in the foreseeable future, such as crops and crop waste, timber, animal and timber waste, cellulosic waste, food processing waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter;

(12) "Office" means the Office of Alcohol Fuels;

(13) "Director" means the Director of the Office of Alcohol Fuels;

(14) "small alcohol fuel project" means an alcohol fuel project with a capacity to produce not more than 2,000,000 gallons of alcohol per year; and

(15) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

SUBTITLE B—ESTABLISHMENT OF THE OFFICE OF ALCOHOL FUELS

ESTABLISHMENT

SEC. 210. (a) For the purpose of achieving the national goals described in section 220, the President shall establish the Office of Alcohol Fuels Production as an independent Office in the Department of Energy, to be headed by a Director.

(b) The Director shall be appointed by the President, by and with the advice and consent of the Senate and who shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

AUTHORITY OF THE DIRECTOR

SEC. 211. (a) Subject to the general supervision of the Secretary, the Director shall be responsible for determining the terms and conditions of financial assistance agreements and the selection of recipients of financial assistance. The Director shall be subject to the direct supervision of the Secretary for all other matters.

(b) The authority of the Secretary under subsection (a) shall be nondelegable.

BUDGET SUBMITTAL

SEC. 212. In each annual authorization and appropriation request, the Secretary shall identify the portion thereof intended for the support of the Office and include a statement by the Office (a) showing the amount requested by the Office in its budgetary presentation to the Secretary and the Office of Management and Budget and (b) an assessment of the budgetary needs of the Office. Whenever the Office submits to the Secretary, the President, or the Office of Management and Budget, any legislative recommendation or testimony, or comments on legislation, prepared for submission to Congress, the Office shall concurrently transmit a copy thereof to the appropriate committees of Congress.

ANNUAL REPORT

SEC. 213. (a)(1) The Office shall submit to the Congress and the President an annual report containing—

(A) a general description of the Office's operations during the year;

(B) a specific description of each project in which the Office is involved;

(C) a status report on each such project; and

(D) an evaluation of the contribution which the project has made and is expected to make in fulfilling the purposes of this Title (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(2) The annual report shall describe progress made toward meeting the objectives (including the commercial production goals) of this Title and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Office in achieving the objectives of this Title.

(3) The annual report shall contain financial statements prepared by the Office in accordance with generally accepted accounting principles consistently applied.

(b) On or before September 30, 1990, the Office shall submit to the Congress and the President a report evaluating the overall impact made by the Office and describing the status of each then current alcohol fuel project. This report shall contain a plan for the termination of the work of the Office.

INTERAGENCY COORDINATION

SEC. 214. The Director, acting through the Secretary, is required to consult with the Secretary of the Treasury, the Secretary of Agriculture, the Administrator of the Farmer's Home Administration, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Community Services Administration, the Administrator of the Environmental Protection Agency, or their appointed representatives, and to coordinate the programs under the Director's responsibility with other programs within the Department of Energy and in the abovementioned Federal agencies, which are related to the production of alcohol fuel.

PUBLIC INFORMATION

SEC. 215. (a) The Secretary shall make available such public information concerning alcohol fuel as the Secretary may have at his disposal. Such information shall include but is not limited to information regarding types and availability of all loans relative to the production of alcohol fuel and construction of alcohol fuel plants, technical information concerning such production and construction, and other such technical and nontechnical public information as may be requested.

(b) The Secretary may, at his discretion, assess reasonable charges for any printed information made available and distributed to the public under subsection (a) of this section. However, in no case will such charges be assessed in excess of the actual cost of printing such information.

(c) The disclosure of information pursuant to this section shall be subject to section 552 of title 5, United States Code, and section 1905 of title 18, United States Code.

REPORT

SEC. 216. (a) Within one hundred and twenty days of the date of enactment of this legislation, the Secretary shall submit to the Congress a comprehensive list of all types of loans, grants, incentives, rebates, or any other such private, State, or Federal economic or financial benefits now in effect or proposed which can be or have been used for the study, planning, construction, and production of alcohol to be used as a motor fuel or motor fuel blend.

SUBTITLE C—ALCOHOL FUEL PRODUCTION

NATIONAL GOAL

SEC. 220. (a) The President, utilizing the provisions of this Title and any other applicable provision of law, shall seek to achieve a national goal of a volume of alcohol fuel from renewable resources equal to 10 per centum of the estimated gasoline consumption in the United States by 1990, subject to the results of the report prescribed in section 221.

(b)(1) Within six months after the date of enactment of this Title the Director of the Office shall submit a report to the Congress recommending a national production goal for alcohol fuels for the calendar year 1982. The goal shall be as high as is technically and economically feasible, taking into account any other factors that the Director deems appropriate, but in no case less than 60,000 barrels per day. The report shall include an analysis substantiating the recommended goal.

(2) The President shall exercise the authority under this Title and under other applicable provisions of law, so that the Nation shall achieve the production goal recommended under paragraph (1), or an alternative goal which he determines and transmits to the Congress, together with a report substantiating the alternative goal.

PRODUCTION STRATEGY

SEC. 221. (a)(1) In order to assure achievement of the national goal set forth in section 220, the Office shall—

(A) pursuant to section 222(a), solicit proposals for alcohol fuel projects;

(B) pursuant to section 230(a), provide financial assistance to those proposals acceptable to the Director; and

(C) after providing financial assistance pursuant to clauses (A) and (B), if in the judgment of the Director, there are, or will be, insufficient acceptable proposals as necessary to achieve the national goal,

the Office shall undertake to negotiate contracts pursuant to subtitle D, as necessary.

(2) Prior to the adoption of a comprehensive strategy pursuant to subsections (b) and (c), the Office in discharging its responsibilities under paragraph (1) shall employ financial assistance pursuant to subtitle D in such manner as will, in the judgment of the Director—

(A) as a first priority, assure the achievement of the goal established under section 220(b)(1); and

(B) as a second priority, assure the commercial availability of new technologies (including differing processes, methods, and techniques) which will be able to utilize new feedstocks, or which will have the capability of utilizing multiple feedstocks, at least some of which are not now considered to be feedstocks for commercial operations, in order to achieve the national goal.

(b) The Office shall, consistent with the purposes of this title, establish a comprehensive strategy to achieve the national alcohol fuel production goal set forth in section 220(a). Such strategy shall include in its formulation consideration of all practicable means for the commercial production of alcohol fuel from renewable resources, and report on the feasibility of attaining the national alcohol fuels production goal, pursuant to section 220(a). Such strategy shall, to the extent feasible, set forth the recommendation of the Director on the objectives and schedules of the Office.

(c) Not later than September 30, 1982, the Office shall submit its proposed comprehensive strategy to the Congress. The Director may, consistent with the purposes of this title, amend the approved strategy if, in the Director's judgment, such amendment is necessary to achieve the national alcohol fuel production goal set forth in section 220(a). Any such amendment and its justification shall be included in the subsequent annual report to the Congress pursuant to section 213(a).

SOLICITATION OF PROPOSALS

SEC. 222. (a) The Officer is hereby directed, from time to time, to solicit from concerns proposals for financial assistance for alcohol fuel projects, which proposal shall serve as the basis for negotiations of contracts for financial assistance pursuant to subtitle D.

(b) Within six months from the date of enactment of this title, the Office shall make the initial solicitation directed by subsection (a).

(c) For the purpose of expending applications for financial assistance, the Office shall establish a procedure for certifying that an applicant is eligible for such financial assistance:

(1) the Office shall establish this procedure within six months after the enactment of this title;

(2) the Office shall solicit and receive public views and comments concerning this procedure;

(3) information explaining this procedure and all materials necessary to apply for such certification shall be published in the Federal Register, and shall be made generally available through the Agriculture Extension Service, the Energy Extension Service, Department of Energy Offices, and other appropriate regional and local offices of the Federal Government, at the discretion of the Director;

(4) all locations where such information and material are available, shall accept and file applications for certification, and shall forward the applications to the Office;

(5) the Office shall determine the disposition of the application for certification within ninety days after receipt of the application: Provided, That no time shall be counted against the ninety days, when mutually agreed upon by the applicant and the Office;

(6) when so certified, the Office shall enter into negotiations with the applicant to determine the terms and conditions of the contract. In order to expedite the process of negotiation, the Director may make a unilateral offer of uniform terms and conditions, including, in the case of price guarantees and purchase guarantees, price. If the Director does propose a uniform price, he shall consult with the Secretary of Energy, and shall insure that such price shall serve as a sufficient incentive to the development of the domestic alcohol fuel market;

(7) the certification procedure established by the Office shall provide for categories of alcohol producers according to size, providing, to the maximum extent feasible, the simplest procedure for the smaller producers; and

(8) an applicant may obtain certification from the Office only upon a showing that he has obtained all necessary Federal, State, and local permits: *Provided*, That the Office may waive the requirements of this subsection if the applicant has filed for all necessary Federal, State, and local permits, and there is a probability that the applicant will obtain such permits.

(d) The Office shall, in cooperation with the Department of Agriculture, provide technical assistance to small alcohol fuel projects.

(e) The Office shall, working through the Energy Extension Service, provide educational projects on a wide geographic basis to demonstrate equipment suitable for use by small alcohol fuel projects in the production of alcohol fuel. Such projects shall be for the purpose of encouraging new small alcohol fuel projects.

SUBTITLE D—FINANCIAL ASSISTANCE

AUTHORIZATION OF FINANCIAL ASSISTANCE

SEC. 230. (a) Subject to the limitations set forth in this title, the Office is authorized and empowered upon such terms and conditions as the Director shall determine (1) to provide financial assistance to any concern which is engaged, or which proposes to engage, in an alcohol fuel project, (2) to select concerns to receive such assistance, (3) with the consent of the recipient, to renew, modify, or extend such financial assistance, and (4) in connection with the provision of financial assistance, require such security and collateral as the Director deems appropriate for the payment of any fixed or contingent obligations to the Federal Government.

(b) All contracts and instruments of the Office to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(c) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(d) No financial assistance may be provided unless an application therefor has been submitted to the Office in such manner and containing such information as the Office may require.

(e) The Office in providing financial assistance shall give due consideration to maintaining competition.

(f) Every applicant for financial assistance under this title shall, as a condition precedent thereto, consent to such examinations and reports thereon as the Office or its designee may require for the purposes of this title. The Office shall require such reports and records as it deems necessary from any recipient of financial assistance in connection with activities carried out pursuant to this title. The Office is authorized to prescribe the manner of keeping records by any recipient of financial assistance and the Office or its designee shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was provided.

(g) In no case shall the aggregate amount of financial assistance made or committed under this title to any one concern exceed at any one time 20 per centum of the obligation authority of the Office authorized under section 240.

(h) Each price guarantee under section 232 or a purchase agreement under section 233 shall specify in dollars the maximum amount of the liability of the Federal Government thereunder.

(i) Priority for financial assistance shall go to applicants demonstrating a likelihood of economic viability.

(j) Not less than one-third of the amount authorized in section 240(a) for obligations or commitments shall be used to support small alcohol fuel projects.

(k) Priority for financial assistance under this subtitle shall accrue to those alcohol fuel projects whose alcohol fuel production will, as determined by the Director, likely displace a greater quantity of motor fuel by substitution of such alcohol fuel than the quantity of motor fuel consumed in the production of such alcohol fuel. The Director shall establish guidelines for use in granting such priority, which will seek to decrease over an appropriate period of time the relative consumption of motor fuel derived from petroleum in the production of such alcohol fuel.

(l) Whenever the Office, by one or more actions, awards a combination of two or more forms of financial assistance for a single alcohol fuel project, the Office shall insure that the recipient of such financial assistance shall bear a reasonable degree of risk in the construction and operation of such project.

LOAN GUARANTEES MADE BY THE DIRECTOR

SEC. 231. (a)(1) The Director is authorized, on such terms and conditions as he may prescribe, to commit to, or enter into loan guarantees against loss of principal and interest on bonds, notes, or other obligations (including refinancing thereof) issued solely to provide funds to any concern for an alcohol fuel project: *Provided*, That the Director shall not guarantee more than 90 per centum of the total costs of the alcohol fuel project, as estimated by the Director as of the date of the guarantee or commitment to guarantee. In the event the total costs of the project are thereafter estimated to exceed the total costs initially estimated, by the Director, he may in addition, upon application therefor, guarantee up to 60 per centum of the difference between the then estimated total costs and the total costs initially estimated.

(2) Any guarantee made by the Director under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof; shall be conclusive evidence that such guarantee complies fully with the provisions of this Title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee; and shall be valid and incontestable in the hands of a holder of a guaranteed security, obligation, or loan, except for fraud or material misrepresentation on the part of such holder.

(b) If the Director determines that—

(1) the borrower is unable to meet payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default;

(2) the amount of any payment which the Office would be required to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay at that time; and

(3) the borrower agrees to reimburse the Office for such payment on terms and conditions, including interest, which are satisfactory to the Director,

then the Office is authorized to pay the lender under a loan guarantee agreement, an amount not greater than the principal and interest which the borrower is obligated to pay.

(c) The terms and conditions of loan guarantees shall provide that, if the Director makes a payment of principal or interest upon the default by a borrower, the Department of Energy shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

(d) For purposes of this section an alcohol fuel project includes any facility having a noncommercial purpose, if the definition of alcohol fuel project in section 204(8) is otherwise met, and if the owner or joint owners of the facility will consume the alcohol fuel as a motor fuel.

PRICE GUARANTEES MADE BY THE DIRECTOR

SEC. 232. The Director is authorized, on such terms and conditions as he may prescribe, to commit to, or enter into price guarantees providing that the price that a concern will receive for all or part of the production from an alcohol fuel project shall not be less than a specified sales price deter-

mined as of the date of execution of the commitment or the price guarantee: *Provided*, That no such price guarantee shall be based upon a "cost plus" arrangement or variant thereof which guarantees a profit to the concern: *Provided further*, That if the Director determines in his sole discretion that such project would not otherwise be satisfactorily completed or continued and that completion or continuation of such project would be necessary to achieve the national goal, the sales price set forth in the price guarantee may be renegotiated.

PURCHASE AGREEMENTS MADE BY THE DIRECTOR

SEC. 233. (a) The Director is authorized, on such terms and conditions as he may prescribe, to commit to, or enter into or commit to enter into purchase agreements for all or part of the production from an alcohol fuel project. The sales price specified in a purchase agreement shall not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Director determines that such sales price must exceed the market price in order to (1) insure the production of alcohol fuel to achieve the goals established by section 220, and (2) as is necessary to insure the demonstration of new technology.

(b) The Director in entering into, or committing to enter into a purchase agreement shall require—

(1) assurance that the quality of the alcohol fuels purchased meets standards for the use for which such fuels are purchased;

(2) assurances that the ordered quantities of such fuels are delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(c) (1) The Office is authorized to take delivery of alcohol fuels pursuant to a purchase agreement. In any case in which the Office accepts delivery of such fuel, such alcohol fuel shall be used by an appropriate Federal agency. Such Federal agency shall pay the prevailing market price, as determined by the Secretary of Energy.

(2) The Director shall consult with the Secretary of Defense and the Administrator of the General Services Administration in the performance of his duties under this subsection. The Director is then authorized and directed to designate a Federal agency for receipt of this alcohol, in accordance with existing law.

(d) Each purchase agreement, or commitment to enter into a purchase agreement, shall provide that the office, on behalf of the Federal Government, retains the right to refuse delivery of the alcohol fuels involved upon such terms and conditions as shall be specified in the purchase agreement.

CONTROL OF ASSETS

SEC. 234. (a) The Office may acquire an alcohol fuel project only by foreclosure of a security interest or pursuant to a default under any financial assistance contract.

(b) Such project shall be disposed of according to existing law.

FEES

SEC. 235. The Office may charge and collect fees in connection with the financial assistance provided pursuant to this Title: *Provided*, That such fees shall not exceed 1 per centum of the amount of such financial assistance.

DISPOSITION OF SECURITIES

SEC. 236. The Director shall transfer to the Secretary of the Treasury any part of the notes, bonds, or any other evidences of indebtedness of any other person, ownership of which is acquired by the Office pursuant to this Title, and the Secretary of the Treasury shall dispose of them according to applicable law.

PATENTS

SEC. 237. (a) Any contract to provide a loan guarantee pursuant to section 231 may, in the judgment of the Director, require that whenever any invention is made or conceived in the course of or under such financial assistance title to the patent for such invention shall vest in the United States and the Secretary shall have the right to license the patent on a nonexclusive basis.

(b) (1) In the case of any patent the title to which is vested in the United States, pursuant to this section, the Secretary may not grant an exclusive or partially exclusive license except as provided in paragraph (2).

(2) The Secretary is authorized to grant an exclusive or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, on the basis of competitive bids and following an opportunity for a hearing, upon notice in the Federal Register thereof to the public, only when, in the judgment of the Secretary, such exclusive or partially exclusive license is necessary to assure substantial utilization of such invention within a reasonable time.

(c) Each exclusive or partially exclusive license shall contain such terms and conditions as the Secretary may determine to be appropriate for the protection of the interests of the United States and the general public, including provisions for the Secretary, commencing two years after the grant of a license pursuant to subsection (b), to terminate such license if (A) it has not been applied to the commercialization of alcohol fuel production from domestic resources or (B) steps have not been taken as necessary to assure substantial utilization of such invention within a reasonable time.

(d) Loan guarantee agreements entered into pursuant to section 231 shall include such terms and conditions consistent with this subsection with respect to patents as the Director deems appropriate to protect the interests of the United States in the case of default. Such agreements shall require in the case of default that all patents, technology, and other proprietary rights resulting from the alcohol fuel project shall be available to the Secretary or his designee. Such agreement shall contain a provision specifying that other patents, technology, and other proprietary rights owned by the borrower which are necessary for the purpose of completion and operation of the alcohol fuel project shall be licensed to the Secretary and his designees on equitable terms, including due consideration to the amount of the default payments due to the Office.

SUBTITLE E—AUTHORIZATION AND FUND

LIMITATIONS ON TOTAL AMOUNT OF OBLIGATION

SEC. 240. (a) The Office may not incur obligations or make commitments in excess of $650,000,000 in the aggregate.

(b) For purposes of determining the Office's compliance with this subsection, loan guarantees shall be valued at the initial face value of the loan guarantee, price guarantees and purchase agreements shall be valued by the Office as of the date of each such contract based upon the Office's estimates of its maximum potential liability pursuant to section 230(h) under each contract. Such determination shall be made in accordance with generally accepted accounting principles, consistently applied. If more than one form of financial assistance is to be provided to any one alcohol fuel project, then the Office's obligations thereunder shall be adjusted so that they reflect the Office's maximum exposure on such project.

(c) Any commitments by the Office to provide financial assistance which are nullified or voided for any reason shall not be considered for the purposes of subsection (a).

THE FUND

SEC. 241. (a) There is hereby created within the Treasury a separate fund (hereafter in this section called the "fund") which shall be available to the Office without fiscal year limitation for the purpose of carrying out the program authorized by this Title.

(b) All amounts received by the Office, fees, and any payments derived by the Office from operations under this title, shall be deposited in the fund, and shall be available subject to appropriations to carry out the purposes of this Title.

(c) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Office under this Title shall be paid from the fund. If at any time the Director determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

(d) To enable the Director to discharge his responsibilities as authorized by this Title, the Director is authorized, as provided for in appropriation Acts, to issue to the Secretary of the Treasury, not to exceed $450,000,000 in notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Director from appropriations or other moneys available under subsection (b) for financial assistance authorized by subtitle D. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

(e) There is hereby authorized to be appropriated to the fund $200,000,000 without fiscal year limitation. Of this amount, no more than $10,000,000 shall be used for administrative expenses in fiscal year 1980.

(f) Upon establishment of the Synthetic Fuels Account pursuant to section 195(a)(1) of Title I of this Act—

(1) $650,000,000 less any amount otherwise appropriated pursuant to the authority of this Title shall be transferred from such fund to the fund established by this section, and such sum shall be available solely for the expenditures made by the Office, as provided in this Title, without fiscal year limitation; and

(2) the authority of subsections (d) and (e), to the extent that they have not already been exercised, shall no longer be available.

SUBTITLE F—UTILIZATION OF EXCESS SUGAR

SUGAR STOCKS FOR GASOHOL

SEC. 250. (a) Within three months of the date of enactment of this Title, the Commodity Credit Corporation (hereafter referred to as the "Corporation" in this section) shall, pursuant to section 1427 of title 7 of the United States Code (section 407 of the Commodity Credit Corporation Charter Act), make every reasonable effort to sell its stocks of sugar (whether raw or processed) from crop years prior to and including 1978 (such crop years to be designated by the Secretary of Agriculture) in accordance with the requirements of such section 1427. Notwithstanding any other provisions of law, the Corporation shall make every reasonable effort to sell any such sugar stocks not sold after such three-month period, without regard to the price requirements of such section 1427, for the restricted use (1) of processing into ethanol for use in motor fuel, or (2) as a livestock feed.

(b) For any stocks of sugar (whether raw or processed) from crop years after 1978

(such crop years to be designated by the Secretary of Agriculture), the Corporation shall, pursuant to such section 1427, make every reasonable effort to sell such stocks in accordance with such section 1427 within a reasonable time (such time to be determined by the Secretary of Agriculture, taking into account market conditions, the price support program and the objectives of such section 1427, but in any event no longer than one year after acquisition of such sugar). Notwithstanding any other provision of law, the Corporation shall make every reasonable effort to sell any such sugar stocks not sold after such one year period, without regard to the price requirements of such section 1427, for the restricted use (1) of processing into ethanol for use in motor fuel, or (2) as a livestock feed.

(c) If the requirements of subsections (a) and (b) do not result in substantial sales of the stocks of sugar held by the Commodity Credit Corporation, within a reasonable time (but no longer than one year after the Corporation is authorized to sell such stocks without regard to the price requirements of such section 1427) then such Corporation shall enter into processing agreements for the purpose of processing the stocks into ethanol, whereupon the Corporation shall make this ethanol available for purchase for the exclusive use as a motor fuel in motor vehicles owned or leased by the Federal Government.

(d) Nothing in this section shall be construed as modifying the application to such sugar stocks of the provisions of such section 1427, except to the extent expressly provided in this section.

SUBTITLE G—FEDERAL USE OF GASOHOL

USE OF GASOHOL IN FEDERAL MOTOR VEHICLES

SEC. 260. (a) Notwithstanding any other provision of law, motor vehicles owned or leased by the Federal Government and which are capable of operating on gasohol, shall use gasohol where available at reasonable prices and in reasonable quantities.

(b) The President may promulgate exceptions to the requirement of subsection (a) where necessary to protect the national security.

(c) For the purposes of this section, the Secretary shall define, by rule, the meaning of the term "gasohol", including specifications for its use.

SUBTITLE H—MOTOR VEHICLE STUDY

MOTOR VEHICLE STUDY

SEC. 270. The Secretary shall in consultation with the Secretary of Transportation submit to the Congress within nine months of the date of enactment of this Title a report on—

(a) the need for and practicality of, mandating through legislation that any new motor vehicle sold in the United States shall be capable of using gasohol as a motor fuel in specified alcohol-gasoline mixtures, including either methanol or ethanol, or alcohol as the only fuel; and

(b) the need for any other legislation to address technical or institutional barriers to the widespread marketing of gasohol.

SUBTITLE I—NATURAL GAS PRIORITIES

PRIORITIES

SEC. 280. (a) For the purposes of section 401 of the Natural Gas Policy Act of 1978 (Public Law 95-621) the term "essential agricultural use" shall include use of natural gas in sugar refining for production of alcohol.

(b) For the purposes of section 401 of the Natural Gas Policy Act of 1978 (Public Law 95-621) the term "essential agricultural use" shall include use of natural gas for agricultural production on set-aside acreage or acreage diverted from the production of a commodity (as defined in the Agricultural Act of 1949, as amended) to be devoted to the production of any commodity for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel.

SUBTITLE J—STANDBY ALLOCATION

STANDBY AUTHORITY

SEC. 290. Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended, is amended by adding at the end thereof, the following new subsection (f):

"(f) (1) If the President finds that there are significant quantities of alcohol suitable for use in motor fuel that are not being used for that purpose because of an unavailability of crude oil with respect to a specific refiner or unavailability of refined petroleum product with respect to persons engaged in the marketing of such refined petroleum product, then the President shall exercise the authorities granted him in paragraphs (2), (3), and (4) so as to result in the use of that alcohol in motor fuel.

"(2) Using the authorities of the mandatory allocation program under subsection (a) the President may to the extent practicable and subject to all other requirements of this Act, as amended, provide for the allocation of the maximum reasonable supply of (A) crude oil for refineries engaged in the production of gasoline or other refined petroleum products which are to be mixed with alcohol, to the extent of such production for such mixing, and (B) refined petroleum products to persons engaged in the production or marketing of such gasoline or such other refined petroleum product to the extent of such production or marketing.

"(3) In exercising the authority granted under paragraph (2) the President shall seek to avoid disruption of crude oil and refined petroleum product markets and to avoid causing unreasonable increases in the price of alcohol.

"(4) In the implementation of this subsection, due consideration shall be given to the adequacy of quality control in any refinery operations related to the receipt of an allocation under paragraph (2).

"(5) For the purposes of this subsection, 'alcohol' means methanol, ethanol, or any other alcohol which is produced from any source and which is suitable for use in combination with other fuels as a motor fuel.".

TITLE III—ENERGY TARGETS

SHORT TITLE AND TABLE OF CONTENTS

SHORT TITLE

SEC. 301. (a) This title shall be known as the "Domestic Energy Policy Act of 1979".

(b) TABLE OF CONTENTS.—

Sec. 301. Short title.
Sec. 302. Findings.
Sec. 303. Purpose.
Sec. 304. Definitions.
Sec. 305. Energy Targets.
Sec. 306. Annual Energy Report.
Sec. 307. Consideration by Congress.
Sec. 308. Energy Impact Reports.
Sec. 309. Relationship to the National Environmental Policy Act.

FINDINGS

SEC. 302. Congress finds that—

(a) the United States faces an increasing shortage of petroleum;

(b) this petroleum shortage and our increasing dependence on insecure foreign energy supplies present drastic threats to the economy and national security of the United States and its allies and to the health, safety, and welfare of its citizens;

(c) a strong national energy program is needed to meet the present and future energy needs of the Nation consistent with overall national economic, environmental, and social goals;

(d) the likelihood of development of such a program is presently substantially reduced because no comprehensive consideration of the Nation's imported and domestic energy needs and the methods of meeting those needs is required as a part of the energy policy process; and

(e) unless Congress establishes and regularly reviews and revises, as necessary, the energy targets of the Nation no definitive decisionmaking by Congress will be possible with respect to future energy consumption and supply patterns.

PURPOSE

SEC. 303. Congress declares that establishment of the Nation's future energy targets is in the public interest and will promote the general welfare by assuring coordinated development and effective administration of Federal energy policy. It is the purpose of this Title—

(a) to establish a set of energy targets for imports and domestic production for the years 1980, 1985, 1990, 1995, and 2000;

(b) to update these targets annually, taking into account changes in circumstances;

(c) to provide for a mechanism through which a coordinated national energy policy can be formulated to deal with the short-, mid-, and long-term energy problems of the Nation (including programs stimulating domestic energy production and offsetting shortages of imported energy supplies); and

(d) to require submission of a plan for the coordination and management of a balanced and comprehensive energy program, including—

(1) requirements for energy research, development, and demonstration in order to meet the energy targets established under this Title;

(2) priorities necessary to meet those requirements;

(3) programs for the development of the various forms of energy production and for energy conservation;

(4) information resulting from such programs (including information on the commercial feasibility and use of energy from fossil, nuclear, solar, geothermal, and other energy technologies); and

(5) programs to accelerate the development of hydrocarbon resources in the Western Hemisphere.

DEFINITIONS

SEC. 304. As used in this Title the term—

(1) "crude oil and NGL" includes liquid products obtained from lease operations, field facilities, and natural gas processing plants and liquid petroleum obtained from shale and tarsands;

(2) "coal" when used in connection with domestic production, includes coal which is converted to gaseous or liquid fuels;

(3) "renewables" includes energy or fuel derived directly from sunlight or from biomass, wood, or other plant or animal wastes, hydropower and geothermal sources;

(4) "end use consumption" does not include exports of fuel or electricity;

(5) "decentralized renewables" excludes the production of electricity for delivery to multiple points of end-use consumption through an electric power grid network;

(6) "conversion loss" includes heat or other forms of energy not recovered in the conversion of raw energy resources, fuels or electricity into alternate form prior to delivery for end-use consumption;

(7) "designated energy form" means one of the categories of energy production, imports, or end-use consumption for which targets are transmitted pursuant to in section 305;

(8) "technology demonstration" means a commitment by the Federal Government of funds, tax incentives, regulatory actions, or other assistance to the demonstration of a particular technique for producing, recovering, converting, or consuming energy; and

(9) "cost per barrel of crude oil equivalent" means with respect to the cost of producing energy by any technique the cost of produc-

ing 5.8 million British thermal units (Btu) of energy by such technique.

ENERGY TARGETS

SEC. 305. No later than January 31 of the first calendar year after the enactment of this Title, the President shall transmit to the Congress a set of energy targets in the following form:

Energy targets

(Quadrillion Btu's per year)

	1980	1985	1990	1995	2000
Domestic production:					
Crude oil and NGL					
Natural gas					
Coal					
Nuclear					
Renewables					
Subtotal					
Imports:					
Crude oil and refined petroleum					
Natural gas					
Coal					
Subtotal					
Total supply					
End-use consumption:					
Petroleum liquids					
Natural gas					
Direct coal					
Electricity					
Decentralized renewables					
Subtotal					
Conversion loss					
Total consumption					

ANNUAL ENERGY REPORT

SEC. 306. (a) The President shall submit an annual energy report prepared, to the extent practicable, pursuant to Title VIII of the Department of Energy Organization Act (42 U.S.C. 7321), to Congress no later than January 31 of each year. Such report shall contain a review of the energy targets proposed to Congress under section 305 and, beginning in the second year following enactment, a review of the targets approved by Congress and any recommendations to Congress for further revision of such targets and in addition:

(1) the actual and projected (as applicable) domestic end-use consumption, imports, and domestic production (in quadrillion Btu's), by designated energy form, for the year preceding the current year, the current year, and the year following the current year;

(2) the projected domestic end-use consumption, imports (including the proportion which is insecure, as defined by the Secretary) and domestic production (in quadrillion Btu's) by designated energy form for the years 1980, 1985, 1990, 1995, and 2000 to the extent these years are not addressed under paragraph (1);

(3) if the year previous to the current year is one for which targets are established under this Title, and if any such target is not achieved in that year, then the reasons therefor; and

(4) if the figures obtained under paragraph (1) regarding the actual domestic end-use consumption, imports, and domestic production for the year preceding the current year are significantly different from the corresponding figures that were obtained in the year two years preceding the current year as projected domestic end-use consumption, imports, and domestic production for the year preceding the current year, then the reasons therefor.

(b) The first report prepared under this section and any subsequent report (if such subsequent report contains proposed changes in any energy target) shall include a plan which shall—

(1) identify energy production, consumption, conservation, or other programs necessary to achieve the energy targets (or proposed revisions thereof) of the United States;

(2) identify the strategies that should be followed and the resources that should be committed to implement the programs under paragraph (1);

(3) describe any differences between the plan contained in such report and the most recent plan or plans developed pursuant to title VIII of the Department of Energy Organization Act (42 U.S.C. 7321); and

(4) recommend legislative and administrative actions necessary to achieve the energy targets (or proposed revisions thereof) including recommendations on taxes or tax incentives, Federal assistance, regulatory actions, antitrust policy, foreign policy, and international trade policy.

(c) The report under subsection (a) shall include—

(1) whatever data and analysis are necessary to support the objectives, resource needs, and policy recommendations contained in such plan;

(2) a summary of energy research and development efforts and energy technology demonstrations funded by the Federal Government;

(3) a review and appraisal of the adequacy and appropriateness of procedures and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of such plan; and

(4) an assessment of the cost effectiveness of each planned technology demonstration, including a summary sheet, containing at the minimum the following information:

(A) a description of the technology to be demonstrated;

(B) the cost of the technology demonstration in total, and in each year;

(C) practical limits on the amount of energy to be produced by such technology;

"(D) the cost per barrel of crude oil equivalent of the energy produced by the technology demonstration and an estimate of such cost at the time when the technology is commercialized; and

(E) a brief description of special problems associated with the technology demonstration, such as environmental or transportation problems.

CONSIDERATION BY CONGRESS

SEC. 307. (a) (1) The proposed targets transmitted under section 305, the report required by section 306(a) and the plan required by section 306(b) shall be referred to the Committee on Energy and Natural Resources in the Senate and to the appropriate committee in the House of Representatives.

(2) In each subsequent year, any review and proposed revision of energy targets under section 305(a) and the plan, if any, under section 306(b) shall be referred to such committees.

(b) (1) During the first calendar year after enactment of this Title, each such committee shall review the proposed energy targets transmitted under section 305 and on or before May 15 of such year, shall report to the Senate or to the House of Representatives, as the case may be, a joint resolution establishing energy targets in the form set forth in section 305.

(2) In each subsequent year each such committee shall review established energy targets and, on or before May 15 of such year, report to the United States Senate or House of Representatives, as the case may be, a joint resolution prescribing any changes in established energy targets or reaffirming such targets.

(c) (1) Any joint resolution once introduced with respect to any matter referred to in subsection (b) shall immediately be referred to the Committee on Energy and Natural Resources or to the appropriate committee in the House of Representatives (and all resolutions in the same House with respect to the same energy targets shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(2) In the case that no report is filed pursuant to subsection (b) in any year by the Committee on Energy and Natural Resources in the Senate or, in the House, by the appropriate committee of the House of Representatives, it shall be in order at any time after May 15 and before July 15 of such year to move either to discharge such a committee from further consideration of such resolution or to discharge such a committee from further consideration of any other resolution establishing, prescribing changes in or reaffirming energy targets (as the case may be) which has been referred to such committee.

(3) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee involved has reported a resolution referred to in subsection (b)), and debate thereon shall be limited to not more than one hour, to be equally divided between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(4) If the motion to discharge has been agreed to or disagreed to, the motion may not be renewed, nor may any other motion to discharge the committee involved be made with respect to any other resolution with respect to the same matter referred to in subsection (b).

(d) (1) When the Committee on Energy and Natural Resources has reported, or has been discharged from further consideration of, any resolution with respect to a matter referred to in subsection (b), it shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. Debate in the Senate on any such joint resolution and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than twenty hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager except that in the event the manager is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions shall be received. Such leaders or either of them, may, from the time under their control on the passage of the joint resolution allot additional time to any

Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed three, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager.

(4) Notwithstanding any other rule, an amendment, or series of amendments proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such joint resolution so as to make such mathematically consistent or so as to maintain such consistency.

(e) (1) Debate in the House of Representatives on any such joint resolution is in order at any time after a discharge motion is approved under subsection (c) or at any time after the tenth day (excluding Saturdays, Sundays, and legal holidays) following the day on which any report of the appropriate committee of the House upon any such resolution was made available to Members of the House. Any motion to proceed to the consideration of any such joint resolution is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any joint resolution on the energy targets in the House of Representatives shall be limited to not more than twenty hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the joint resolution is not in order, and it is not in order to move to reconsider the vote by which the joint resolution is agreed to or disagreed to.

(3) Consideration of any joint resolution on the energy targets by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be read for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

(4) Debate in the House of Representatives on the conference report on such joint resolution shall be limited to not more than five hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(5) Motions to postpone, made with respect to the consideration of any joint resolution on the energy targets and motions to proceed to the consideration of other business, shall be decided without debate.

(6) Appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any joint resolution on energy targets shall be decided without debate.

ENERGY IMPACT REPORTS

SEC. 308. The President shall prepare for each bill or resolution of a public character that is reported by any Committee of the House of Representatives or the Senate, or any rulemaking by any agency or executive order by the President, and submit to the jurisdictional Committees handling energy matters in the House and Senate:

(a) an estimate of the impact of such bill, resolution, rulemaking or order on the energy targets; and

(b) such estimate shall be submitted and included in any report accompanying such bill or resolution, rulemaking or order.

RELATIONSHIP TO THE NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 309. Preparation and transmittal to the Congress of energy targets, under section 305(a), review and proposed revision under section 306(a) and plans under section 306 (b) shall not be considered to be "a major Federal action significantly affecting the environment" within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (83 Stat. 85) and an environmental impact statement need not be prepared on energy targets, revisions thereof or any plan submitted under section 306(b).

TITLE IV—ENERGY CONSERVATION

SUBTITLE A—SHORT TITLE, FINDINGS AND PURPOSES, DEFINITIONS

SHORT TITLE

SEC. 401. (a) This Title may be cited as the "Energy Conservation Act of 1979".

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FINDINGS AND PURPOSE

SEC. 402. (a) FINDINGS.—The Congress finds (1) that the most rapid and economical method for reducing domestic dependence on insecure supplies of high-cost foreign petroleum and for extending to the maximum extent possible the available domestic reserves of nonrenewable energy resources is to increase the efficiency with which energy is used; and (2) that increased energy efficiency and reduced foreign energy dependence will have advantageous effects on employment, the economy, the environment, and the national security.

(b) PURPOSE.—It is the purpose of this Title to facilitate the efficient use of energy through the establishment of programs designed to assist and encourage residential and commercial use of energy conserving measures and devices.

DEFINITIONS

SEC. 403. For the purpose of this Title the term—

(1) "Department" means the Department of Housing and Urban Development;

(2) "Secretary" means the Secretary of Housing and Urban Development;

(3) "Association" means the Government National Mortgage Association;

(4) "applicant" means any eligible person who submits an application for a loan authorized by subtitle B or a grant authorized by subtitle C;

(5) "eligible person" means any principal owner or lessee of a dwelling unit or commercial building;

(6) "dwelling unit" means any house, apartment, group of rooms or single room, occupied or intended for occupancy as separate living quarters, and located in any State;

(7) "State" means the District of Columbia, the Commonwealth of Puerto Rico, or any State, territory or possession of the United States;

(8) "Governor" means the chief executive officer of the State;

(9) "residential building" means any building used as a principal residence which—

(A) is not a new building to which final standards under section 304(a) and 305 of Public Law 94-385 apply;

(B) contains at least one dwelling unit; and

(C) has a system for heating or cooling, or both;

(10) "commercial building" means any building other than a residential building which—

(A) is not a new building to which final standards under section 304(a) and 305 of Public Law 94-385 apply,

(B) is used primarily to carry out a for-profit or non-profit business, and

(C) is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities;

(11) "residential energy conservation measures" shall be defined as in section 210 (11)(A) through (G) and (I) of Public Law 95-619;

(12) "commercial energy conservation measure" means an installation or modification of an installation in a commercial building which is primarily intended to reduce petroleum, natural gas, or electric power consumption including—

(A) insulation of the building structure and systems within the building;

(B) storm windows and doors, multi-glazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(C) automatic energy control systems;

(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(E) furnace or utility plant and distribution system modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof, which substan-

tially increase the energy efficiency of the heating system,

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights,

(F) caulking and weatherstripping;

(G) replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system without increasing the overall illumination of a facility (unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary of Energy);

(H) energy recovery systems;

(I) cogeneration systems which produce steam or forms of energy such as heat, as well as electricity, for use primarily within such building or complex of buildings served by the furnace or utility plant and which meet such fuel efficiency requirements as the Secretary of Energy may by rule prescribe; and

(J) such other measures as the Secretary of Energy identifies by rule for purposes of this Title;

(13) "energy conservation expenditure" means an expenditure made after August 1, 1979 for the design, acquisition, or installation of residential or commercial energy conservation measures, including planning and technical services for that purpose and residential or commercial energy audits;

(14) "residential energy audit" means—

(A) an inspection of a residential building performed under Title II of Public Law 95-619, or

(B) a determination of the energy consumption characteristics of a residential building which—

(i) identifies the type, size, and rate of energy consumption of such building and the major energy using systems of such building;

(ii) recommends any modifications in the maintenance or operations of the building which would significantly reduce energy consumption;

(iii) contains information regarding energy conservation techniques which are adjustments in energy use patterns or modifications of activities and which can be employed by the customer to save energy without requiring the installation of residential energy conservation measures, and the estimated savings in energy costs likely to result from the use of such techniques;

(iv) recommends the installation of any residential energy conservation measure determined to be advantageous to the customer based on costs and benefits and the availability of Government assistance programs;

(v) informs the customer of the estimated cost of purchasing and installing the residential energy conservation measures recommended and the energy cost savings likely to result from installing these measures;

(vi) includes, if available, the lists described in paragraphs (2) and (3) of section 213(a) of Public Law 95-619; and

(vii) contains such other elements as the Secretary of Energy may, by rule, prescribe;

(15) "commercial energy audit" means a determination of the energy consumption characteristics of a commercial building which—

(A) identifies the type, size, and rate of energy consumption of such building and the major energy using systems of such building;

(B) indicates appropriate energy conserving maintenance and operating procedures; and

(C) indicates the need, if any, for the acquisition and installation of energy conservation measures; and

(D) contains such other elements as the Secretary of Energy may, by rule, prescribe;

SUBTITLE B—ENERGY CONSERVATION BANK

PURPOSE

SEC. 404. It is the purpose of this subtitle to encourage the use of energy conservation measures, and thereby lessen the Nation's dependence on foreign sources of energy supplies, by providing subsidies for below-market interest rate and graduated-payment loans made to owners and lessees of residential and commercial buildings for the purchase and installation of energy conservation measures in such buildings.

ESTABLISHMENT OF THE BANK

SEC. 405. (a) There is hereby created the Energy Conservation Bank (hereafter referred to as "the Bank") which shall be in the Association. The Bank shall have succession until September 30, 1985.

(b) The General Accounting Office shall periodically audit the financial transactions of the Bank, and, for this purpose, shall have access to all of its books, records, and accounts.

(c) The Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

POWERS

SEC. 406. The Secretary shall have the power to fix different levels of subsidy on loans subsidized by the Bank and the interest rates paid by borrowers on such loans, but not lower than 6 percentage points below the maximum interest rate permitted on a mortgage insured under section 203(b) of the National Housing Act, and from time to time to alter the levels of subsidy and interest rates for new loans subsidized by the Bank. In doing so, the Secretary shall minimize the frequency with which the levels of subsidy and interest rates are altered and shall give consideration to such factors as the Secretary shall deem appropriate, including, but not limited to:

(a) the prevailing market rates of interest for home mortgages, home improvement loans, and commercial loans, as well as prevailing market rates of interest for Government and corporate bonds;

(b) the availability of other Federal Government incentives and subsidies for energy conservation expenditures, including Federal income tax credits;

(c) the prevalent repayment terms and loan amounts elected by the applicants in the program;

(d) the costs of nonrenewable energy resources and systems;

(e) the costs of residential and commercial energy conservation measures; and

(f) the levels of subsidy needed to induce consumers to install such energy conservation measures in residential and commercial buildings.

SUBSIDY PAYMENTS

SEC. 407. (a)(1) The Bank shall, beginning with fiscal year 1980, make payments to financial institutions for the purpose of subsidizing below-market-rate and graduated-payment loans which are made by such institutions to owners or lessees of residential or commercial buildings for the purchase and installation of energy conservation measures in such buildings and which meet the requirements of this section. The repayment schedule for such loans may be graduated as prescribed by the Secretary, subject to the limitations of paragraph (2).

(2) The amount of any payment made with respect to any loan or qualifying portion of a loan shall be a lump-sum payment and shall be in an amount necessary, as determined by the Secretary, to compensate the financial institution for the difference in yield between making such loan at an interest rate determined by the Secretary and making such loan at a market rate. The Secretary shall set the interest rate subsidy for graduated-payment loans so that the cost to the Association of providing a subsidy for a level-payment loan equals the cost to the Association of providing a subsidy for a graduated-payment loan.

(3) The Bank may, with respect to any loan for which a subsidy payment is made under this subtitle, require the financial institution to repay the Bank any amount to which the Bank is entitled as a result of the borrower's failure to meet his or her obligation under the loan.

(b) A payment may be made under this section with respect to a loan or qualifying portion of a loan only if—

(1) the term of repayment does not exceed fifteen years and is not less than three years except that the financial institution may set a shorter term of repayment at the request of the borrower if the loan or advance credit is repaid at any time before the term of repayment expires;

(2) in the case of an application for a loan to finance a residential energy conservation expenditure, the financial institution makes available to the applicant, prior to making a loan commitment to the applicant, information on the availability of residential energy audits;

(3) in the case of an application for a loan to finance a commercial energy conservation expenditure, the applicant submits a copy of a commercial energy audit with the loan application;

(4) the amounts of such loans allocable to energy conservation expenditures does not exceed $2,500 per independent dwelling unit whether detached, semi-detached or attached; $2,000 per dwelling unit in any residential building which contains two, three, or four units; and $50,000 per commercial building: *Provided*, That such dollar limits shall be increased 10 per centum on January 1, 1981, and on each anniversary thereafter for the duration of the program;

(5) the loan is not made to the owner of a residential building containing more than four dwelling units;

(6) the loan does not finance expenditures of a lessee for energy conservation measures for a dwelling unit in a residential building containing more than four dwelling units;

(7) in the case of financing residential energy conservation expenditures, the loan is not made to a member of a household which has an annual income greater than 315 per centum of the Lower Living Standard Income Level as defined for the area of the member's domicile by the Department of Labor in the most recent reporting period for which statistics are available;

(8) in the case of financing commercial energy conservation expenditures, the loan is not made to an applicant who conducts more than $1,000,000 in gross annual sales;

(9) the loan does not finance expenditures of a lessee for energy conservation measures for a dwelling unit or a commercial building unless the lessee pays for the energy used to heat or cool such unit or building, and the unit or building is either separately metered for the purpose of measuring the delivery of such energy, leased under an arrangement which requires the lessee to pay for such energy for a period of at least one year, or managed so that the lessee has been paying for such energy for at least one year;

(10) the loan does not finance expenditures for residential energy conservation measures which will not be installed by either the loan applicant or a contractor listed pursuant to the provisions of section 213(a)(2) of Public Law 95-619;

(11) the security for the loan meets requirements of the Association;

(12) the energy conservation measures to be financed will be purchased and installed after the date of enactment of this Act, except as provided in section 412; and

(13) the applicant certifies that no grant or loan has been received pursuant to the provisions of this title or section 232 of Public Law 95-619 for the expenditures for which a loan under this subtitle is sought, and that no residential tax credit has been received pursuant to section 101 of Public Law 95-618 for such expenditures, and that to the applicant's knowledge the loan will not cause the sum of all energy conservation measures paid for or subsidized pursuant to this title, to section 232 of Public Law 95-619, or to title I of Public Law 95-618 to exceed the limit established in section 407(b)(4) of this subtitle.

(c) Not less than 75 per centum of the amount of subsidy payments made under this title in any year shall be for the purpose of assisting the financing of energy conservation measures in residential structures.

TRANSFER OF PROPERTY

SEC. 408. (a) Any person who transfers a dwelling unit for which a federally subsidized energy conservation expenditures has been made for residential energy conservation measures pursuant to this title shall disclose to the purchasers in writings on or before the transfer of such dwelling unit (1) the amount of any such loan, grant or tax credit received and (2) the amount of expenditures made for such measures.

(b) Any lessee who has received a grant, loan or tax credit for energy conservation expenditures for a dwelling unit shall disclose in writing to the principal owner, or owners, before the termination of his occupancy of such dwelling unit (1) the amount of any loan, grant or tax credit received, and (2) the amount of expenditures made for such measures.

(c) The owner of any dwelling unit for which a grant or loan has been made under this title, or a tax credit claimed, shall disclose in writing to the prospective lessee prior to the execution of a lease or other occupancy agreement—

(1) the amount of any such grant, loan or tax credit, and

(2) the amount of expenditures made for such measures.

(d) Whoever knowingly and willfully fails to disclose information in accordance with this section shall be liable to any person entitled to such information in the amount of three times the value of the undisclosed loan, grant and tax credit benefits provided to such person under this Title. The requirements for disclosure under this section shall be limited to the duration of this program.

PENALTIES

SEC. 409. Except as provided in section 408, any person who knowingly makes any false statement or misrepresents any material fact with respect to any loan or grant under this subtitle shall be fined not more than $10,000 or imprisoned not more than one year, or both.

REPORT

SEC. 410. The Secretary shall report to both Houses of Congress, within nine months from the date of enactment of this Act, on the market penetration of assistance provided by the Bank.

PROMOTION AND COORDINATION

SEC. 411. (a) The Secretary shall promote the program established by this subtitle by informing financial institutions and consumers of the benefits of this program and by actively seeking their participation in the program. The Secretary is authorized to use any available means of communication to accomplish the goals through the electronic media, print media, and the postal system. The Secretary shall also assure effective coordination with State, local, regional, and Department of Energy promotion, outreach, and assistance programs.

(b) The Secretary shall require all financial institutions receiving subsidy payments from the Bank pursuant to the provision of this subtitle to make available applications for grants authorized in subtitle C of this Title, and to inform loan applicants of the availability of such grants.

RETROACTIVITY

SEC. 412. Consumers who have borrowed money from a financial institution for the purchase and installation of an energy conservation measure after August 1, 1979, shall be eligible for assistance by the Bank if the original loan is refinanced after the date of enactment of this Title.

RULES AND REGULATIONS

SEC. 413. As soon as practicable, but in no case later than six months after the date of enactment of this Title, the Secretary shall promulgate such rules and regulations as may be necessary for the operation of the program authorized by this subtitle.

ADVISORY BOARD

SEC. 414 (a) As part of the Bank, there is established an Advisory Board (hereafter referred to as the "Board") consisting of five members which shall provide advice to the Secretary for the purpose of assisting the Bank in carrying out the provisions of this part. The President shall appoint to the Board from among persons who are not officers or employees of any governmental entity or any entity engaged in the exploration, development, production or delivery of any energy resource—

(1) two members who are able to represent the views of the general public as a result of their education, training, or experience;

(2) a third member who is able to represent the views of the scientific community as a result of the member's education, training, or experience;

(3) a fourth member who is able to represent the views of the commercial building industry as a result of the member's education, training, or experience; and

(4) a fifth member who is able to represent the views of lending and financial institutions as a result of the member's education, training, or experience.

(b) If any member of the Board becomes an officer or employee of a governmental entity or an entity engaged in the exploration, development, production, or delivery of any energy resource, such person may continue as a member of the Board for not longer than the ninety-day period beginning on the date such person becomes such an officer or employee.

(c) Members appointed under subsection (a) shall be appointed for a term of five years.

(d)(1) Except as provided in paragraph (2), members of the Board shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board.

(2) While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service area allowed expenses under section 5703(b) of Title 5 of the United States Code.

(e) The Chairman of the Board shall be elected by the members of the Board.

FUNDING

SEC. 415. There are authorized to be appropriated to carry out the purposes of this subtitle, not to exceed $150,000,000 for the fiscal year ending September 30, 1980; $450,000,000 for the fiscal year ending September 30, 1981; $450,000,000 for the fiscal year ending September 30, 1982; $450,000,000 for the fiscal year ending September 30, 1983; $450,000,000 for the fiscal year ending September 30, 1984; and $450,000,000 for the fiscal year ending September 30, 1985.

SUBTITLE C—RESIDENTIAL ENERGY CONSERVATION GRANTS

PURPOSE

SEC. 416. It is the purpose of this subtitle to establish a Federal grant program, administered by the States, to provide funds to improve the energy efficiency of residences.

THE RESIDENTIAL ENERGY CONSERVATION OFFICE

SEC. 417. (a) The Residential Energy Conservation Office is established as an office of the Department of Energy. The Office shall function continuously pursuant to the provision of this subtitle, and shall be administered by a Director.

(b) The Director of the Office shall be appointed by the Secretary of Energy and be compensated without regard to the provisions of Title 5. United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such Title. The Director of the Office shall administer and be responsible for the discharge of the functions and duties of the Office.

(c) The Director of the Office is subject to the direction of, and shall report to, the Secretary of Energy. The Director is authorized, with the concurrence of the Secretary of Energy, to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and duties of the Office with any person including a government entity. Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized, and shall give careful consideration to a request, to furnish to the Director of the Office, upon written request, on a reimbursable basis or otherwise, such assistance as the Director deems necessary to carry out the functions and duties of the Office. Such assistance includes transfer of personnel with their consent and without prejudice to their position and rating.

DUTIES OF THE DIRECTOR

SEC. 418. (a) The Director must notify each State as soon as practicable that it will become qualified to administer funds made available under this subtitle upon the approval by the Director of a State Supplemental Plan as described in section 419.

(b) If the Director determines that the supply or availability of insulation or other energy conservation measures or qualified labor is sufficiently limited to warrant controlling the amount of Federal expenditures made pursuant to this subtitle during any calendar year, the Director may limit the number of residential buildings to which this subtitle will apply in any calendar year by establishing a schedule which sets forth the time at which eligible persons shall be entitled as provided in a State Supplemental Plan to receive reimbursement for energy conservation expenditures: *Provided*, That any such schedule shall permit all eligible persons so entitled to receive such reimbursements no later than September 30, 1985.

(c)(1) From appropriations made to carry out the provisions of this subtitle, the Director shall disburse funds to qualified States within thirty days of the beginning of the fiscal year for which the appropriations are made, or within thirty days of the enactment of the appropriations act, whichever is later.

(2) Up to 5 per centum of such funds may

be used by a qualified State for administrative expenses.

STATE SUPPLEMENT PLAN

SEC. 419. (a) To become a qualified State, the Governor of that State must submit and the Director must approve a State Supplemental Plan, submitted as an addendum to a State Residential Energy Conservation Plan submitted in accordance with the provisions of sections 210 through 218 of Public Law 95-619.

(b) A State Supplemental Plan must include—

(1) a plan for notification of eligible persons of the availability of grants under this subtitle and loans under subtitle B for residential energy conservation expenditures;

(2) a plan for the expeditious dispersal of grants to qualified applicants;

(3) a plan for the administration of the funds made available to the State under the provisions of this subtitle;

(4) grant application requirements which shall include those listed in subsection (c); and

(5) such other information as the Director finds essential to the administration of this program.

(c) An application for a grant under this program shall include, but not be limited to—

(1) the applicant's name and address, and the address of the dwelling unit or units for which the energy conservation expenditures were made or will be made;

(2) invoices or contracts, or certified copies of such invoices or contracts, which list separately the costs of the materials and labor for which the applicant seeks reimbursement;

(3) a description of the residential energy conservation measures acquired or to be acquired and the unit prices of materials and labor for the assessment, purchase, and installation of such measures;

(4) a statement that the applicant has received information on the availability of loans under subtitle B and residential energy audits; and

(5) a document certifying that the applicant has not received a loan or grant pursuant to the provisions of this title or section 232 of Public Law 95-619 or a residential energy tax credit pursuant to section 101 of Public Law 95-618 for the residential energy conservation expenditures for which a grant under this subtitle is sought, and that to the applicant's knowledge the grant will not cause the sum of all energy conservation expenditures paid for or subsidized pursuant to this title, to section 232 of Public Law 95-619, or to section 101 of Public Law 95-618 to exceed the limit established in section 407(b)(4) of subtitle B.

(d) The Governor of a qualified State shall reimburse residential energy conservation expenditures according to the following schedule:

(1) for a principal owner of a dwelling unit:

(A) for an independent dwelling unit, whether detached, semidetached or attached, 60 per centum of the first $250 in expenditures, 40 per centum of the second $250 in expenditures, and 20 per centum of the third $250 in expenditures;

(B) for a dwelling unit in a residential building which contains two, three, or four units, 60 per centum of the first $250 in expenditures and 40 per centum of the second $250 in expenditures; and

(C) for a dwelling unit in a residential building which contains more than four units, no reimbursement shall be allowed.

(2) for a principal lessee of a dwelling unit where the lessee pays for the energy used to heat or cool such unit, and the unit is either separately metered for the purpose of measuring the delivery of such energy, leased under an arrangement which requires the lessee to pay for such energy for a period of at least one year, or managed so that the lessee has been paying for such energy for at least one year:

(A) for an independent dwelling unit whethe detached, semidetached or attached, 90 per centum of the first $200 in expenditures, 50 per centum of the second $200 in expenditures, and 10 per centum of the third $200 in expenditures; and

(B) for a dwelling unit in a residential building which contains not more than eight units and not less than two units, 90 per centum of the first $200 in expenditures, and 50 per centum of the second $200 in expenditures;

(C) for a dwelling unit in a residential building which contains more than eight units, no reimbursement shall be allowed.

(3) for an applicant who has attained the age of sixty-five years, 150 per centum of the reimbursement otherwise specified in paragraph (1) or (2); *Provided*, That no reimbursement to such applicant shall exceed 90 per centum of the residential energy conservation expenditures for which reimbursement is allowed.

(e) The dollar limits on expenditures as provided in subsection (d) shall be increased 10 per centum on January 1, 1981, and on each anniversary thereafter for the duration of the program authorized by this subtitle.

(f) Any owner of a residential building containing not more than four dwelling units may apply for reimbursement of residential energy conservation expenditures made on such building up to the combined maximum level of grant under paragraph (d)(1) for all dwelling units for which no previous federally subsidized residential energy conservation expenditures have been made.

PROHIBITIONS

SEC. 420. (a) No grant under this subtitle may be provided for a residential energy conservation expenditure for which the certification required in section 419(c)(5) cannot be made.

(b) No grant under this subtitle may be provided for expenditures for residential energy conservation measures which are not installed by either the applicant or a contractor listed pursuant to the provisions of section 213(a)(2) of Public Law 95-619.

TAX TREATMENTS OF GRANTS

SEC. 421. All reimbursements made pursuant to this subtitle shall not be considered income under section 61 of the Internal Revenue Code.

INCOME TEST

SEC. 422. No applicant shall be reimbursed for energy conservation expenditures pursuant to this subtitle who is a member of a household which has an annual income greater than 170 per centum of the Lower Living Standard Income Level as defined for the area of the applicant's domicile by the Department of Labor in the most recent reporting period for which statistics are available.

PROMOTION AND COORDINATION

SEC. 423. (a) The Residential Energy Conservation Office shall promote the program established by this subtitle, actively seeking maximum participation of all eligible persons in the program. The Director is authorized to use any available means of communication to accomplish the goals of this part, including advertising through the electronic media, print media, and the postal system.

(b) The Director may delegate the responsibilities prescribed in paragraph (a) of this section to any qualified State. In such instance, the State may use up to 3 per centum of funds disbursed to it pursuant to section 419(c)(1) for carrying out these responsibilities, additional to the 5 per centum pursuant to section 419(c)(2).

RETROACTIVITY

SEC. 424. Residential energy conservation measures installed after August 1, 1979, and qualifying for reimbursement under the provisions of this subtitle shall be eligible for such reimbursement after the date of enactment of this Act.

RULES AND REGULATIONS

SEC. 425. As soon as practicable, but in no case later than six months after the date of enactment of this Act, the Director shall promulgate such rules and regulations as may be necessary for the operation of the program established by this subtitle.

PENALTIES AND TRANSFER OF PROPERTY

SEC. 426. (a) Any person who knowingly makes any false statement or misrepresents any material fact with respect to any grant assisted under this subtitle shall be penalized in accordance with the provisions of section 409 of subtitle B.

(b) Any owner or lessee of a dwelling unit for which a grant under this subtitle has been received shall, upon transfer of such unit, conform to the provisions of section 408 of subtitle B.

REPORT TO THE CONGRESS

SEC. 427. Twelve months following the date of enactment of this Act, and every twelve months thereafter until expiration of this subtitle, the Director shall provide a written report to Congress regarding the status of the program established by this subtitle, including the estimated amount of energy conserved as a result of this program and any recommendation for improving the program's effectiveness.

EXPIRATION

SEC. 428. The authorities under this subtitle shall expire on September 30, 1985.

FUNDING

SEC. 429. There are authorized to be appropriated to carry out the purposes of this subtitle not to exceed $150,000,000 for the fiscal year ending September 30, 1980, $450,000,000 for the fiscal year ending September 30, 1981, $450,000,000 for the fiscal year ending September 30, 1982, $450,000,000 for the fiscal year ending September 30, 1983, $450,000,000 for the fiscal year ending September 30, 1984; and $450,000,000 for the fiscal year ending September 30, 1985.

SUBTITLE D—RESIDENTIAL ENERGY EFFICIENCY IMPROVEMENT PROGRAM

FINDINGS

SEC. 431. The Congress finds—

(a) that energy conservation offers the most immediate prospect for major reduction of the Nation's dependence on insecure, high-cost supplies of foreign petroleum;

(b) that an effective energy conservation program requires the cooperation of the Federal Government, State and local governments, regulated and nonregulated utilities, and public utility regulatory authorities of States and localities in the formulation and implementation of programs to increase the efficiency with which energy is used in buildings throughout the Nation.

(c) that major energy savings and reductions in foreign oil imports can be achieved through systematic programs to bring about the installation of energy conservation measures in residential buildings throughout the Nation;

(d) that the problems facing property owners and tenants in identifying and selecting appropriate energy conservation measures, the cost of such measures, and the lack of readily available, organized programs for the delivery of energy conservation services pose serious impediments to achieving major reductions in the Nation's energy consumption; and

(e) that the national interest in reducing dependence on foreign oil imports requires the implementation of such programs.

PURPOSE

SEC. 432. It is the purpose of this subtitle—

(a) to reduce the Nation's dependence on foreign oil supplies by encouraging State and local government, State regulatory authorities and public utilities to participate in the demonstration of innovative, systematic programs for the installation of energy conservation measures in all residential buildings within their respective jurisdiction or service areas;

(b) to propose for demonstration of a prototype plan under which energy conservation measures could be made available for delivery to property owners and tenants under centralized direction without charge, thereby encouraging widespread installation of residential energy conservation measures;

(c) to demonstrate such plan with a view to its implementation throughout the Nation, if determined to be economically viable and in the public interest;

(d) to increase the energy efficiency of residential buildings;

(e) to protect energy consumers against rising energy costs; and

(f) to reduce the need for the construction of new energy production and transmission facilities to meet energy demands.

SEC. 433. The National Energy Conservation Policy Act is amended by adding before section 210, a subpart heading:

"SUBPART A—UTILITY RESIDENTIAL ASSISTANCE PROGRAM",

by changing all reference to "this part" in sections 210 through 225 to "this subpart": and by adding following section 225, a new subpart, as follows:

"SUBPART B—RESIDENTIAL ENERGY EFFICIENCY PROGRAM

"SEC. 226. (a) Not later than one hundred and twenty days after the enactment of this subpart, the Secretary shall by rule establish a program to encourage State regulatory authorities, the public utilities over which they have ratemaking authority, and nonregulated utilities to undertake the demonstration of the prototype residential energy efficiency improvement plan set forth in this subpart; *Provided*, That no such demonstration project shall be implemented by the Secretary unless the affected public utility agrees to such demonstration and such demonstration is approved by the State regulatory authority having ratemaking authority over the affected public utility in the affected State, and by the Governor of the affected State, unless under State law the responsibility for such approval has been delegated to another agency or official.

"(b) Not later than fifteen days after the establishment of the program under subsection (a) the Secretary shall request each State regulatory authority and each public utility to consider the implementation of the prototype residential energy efficiency improvement plan set forth in this subpart. Pursuant to such request, each such authority and utility shall consider such plan and make a decision as to the feasibility of demonstrating the plan within its jurisdiction or service area. Each such regulatory authority and utility shall report its determination to the Secretary in writing within ninety days of such request, which report may include recommendations for modifications of the plan deemed necessary to make it feasible for implementation. The Secretary may upon the request of the State regulatory authority or public utility extend, for good cause, the period for submission of such report for an additional sixty days. If a regulatory authority or a utility determines that the plan is not feasible within its jurisdiction or service area, such report shall specify the reasons for the determination. Nothing in this subpart shall be construed to authorize the implementation of a project where such project has been disapproved by State law.

"(c) Each report received by the Secretary shall be reviewed promptly upon its receipt. based on such reports, and consistent with subsection (a) the Secretary shall identify and designate utility service areas or groups of contiguous service areas in which the prototype residential energy efficiency improvement plan set forth in this subpart may be demonstrated. Such areas shall be representative of the variety of climatic conditions, seasonal variations, fuel sources, building types, capacity requirements, energy measures and costs, and other factors that affect energy consumption throughout the Nation and shall take account of the varying needs for improved energy efficiency based on such variations. The Secretary may institute the plan in as many such utility service areas as he determines necessary in order to test its conservation effectiveness and economic viability. Following a reasonable demonstration period, as determined by the Secretary and subject to a determination by the Secretary that the program has resulted in significant energy savings, which determination shall be reported to both Houses of the Congress, the Secretary is authorized in his discretion to institute the program in other areas of the Nation subject to the approvals required by subsection (a) and in accordance with this subpart.

"(d) To carry out the purposes of this subpart, the Secretary is authorized to enter into such agreements as may be necessary to obtain the implementation of the residential energy efficiency improvement plan in utility service areas identified pursuant to subsection (c). Such agreements shall provide for the implementation of the plan in accordance with the requirements thereof.

"SEC. 227. The prototype residential energy efficiency improvement plan authorized by this subpart shall be as described in subsection (a):

"(a) The plan shall—

"(1) require the Secretary to designate a Federal, State, or local government agency which shall—

"(A) negotiate a contract with an energy conservation company to undertake a home energy retrofit program as described in paragraph (2);

"(B) designate the geographical area in which residential buildings will be retrofitted pursuant to the contract; and

"(C) establish with the approval of the Secretary the per unit price which the designated Government agency will pay yearly during a twenty-year contract term for a given increment of energy (electricity, natural gas or oil) actually saved as determined in accordance with paragraph (3).

"(2) require an energy conservation company, as a condition of its contract, to agree to undertake a home energy retrofit program whereby the company—

"(A) utilizes home energy retrofit experts who shall offer to conduct systematic audits of all residential buildings designated in the contract without charge to the owners or occupants thereof;

"(B) directs the home energy retrofit expert to enter a residential building upon permission of a resident, inspect the residence, identify residential energy conservation measures or load management techniques, or both, and prescribe such measures or techniques so as to maximize the amount of energy actually saved in relation to the per unit price to be saved;

"(C) arranges, upon obtaining permission of the owner and resident, for the supply and installation of prescribed residential energy conservation measures or load management techniques, or both, without charge to the owner or resident;

"(D) shall utilize, to the greatest possible extent, local suppliers and installers when supplying and installing prescribed measures and techniques; and

"(E) assures that such measures and techniques are properly installed and maintained during the reasonable life of the residential buildings in which such measures or techniques are installed.

"(3) require the designated Government agency to establish accurate normalized measurements, which may include a statistically reliable sample, of actual energy use by type of energy before and after the installation of prescribed retrofit measures for an area designated in the contract referred to in paragraph (1). Such measurements shall measure actual energy savings of fuel or capacity, or both, produced by an energy conservation company under the contract for a reasonable period of time (not less than three years) following installation of energy conservation measures or load management techniques, or both.

"(b) To carry out the plan, the Secretary is authorized and directed to make funds available to Government agencies designated under the plan to meet contractual obligations in whole or in part on an agreed upon basis to pay the energy conservation company for energy actually saved as determined pursuant to paragraph (3):

"(1)(A) In order to obtain funds to meet obligations under this subsection, the Secretary is authorized and directed, after consultation with the appropriate State regulatory authority, to require the affected public utilities to make periodic payments to the Secretary not to exceed the value of the savings in a given year that such utilities as a result of the energy actually saved.

"(B) For purposes of this subsection 'value of savings' shall include—

"(i) either—

"(I) the value of any savings in fuel minus any unavoidable costs;

"(II) the value of any savings in capacity minus any unavoidable costs; or

"(III) both (I) and (II).

"(ii) the selling price of conserved natural gas minus any unavoidable costs of selling the conserved natural gas or fixed charges to residential customers which would be assessed if such costs were not subtracted from the selling price.

"(C) Any payment under this subsection shall be treated as if it were a cost of service.

"(D) Notwithstanding any other provision of law, in order to maximize the value of savings, an affected public utility is authorized and directed to sell any energy available to it as a result of a home energy retrofit program authorized under this subpart at the highest price which a willing nonresidential buyer will pay for it.

"FINANCIAL ARRANGEMENTS

"SEC. 228. (a) There is hereby established in the Treasury of the United States a separate account to provide for the operation of the residential energy efficiency improvement plans authorized under section 227. There shall be covered into the account any sums received from utilities under subsection 227(b)(1)(A) and the proceeds from any obligations issued pursuant to subsection (b) of this section. The Secretary may draw on such account for the payment of any obligation incurred under any project instituted under this subpart.

"(b) If at any time the moneys in the account established under subsection (a) of this section are insufficient to enable the Secretary to meet any payment under the plan, the Secretary may issue obligations to the Secretary of the Treasury in such amounts as may be necessary therefor and as provided in Apropriation Acts, but not to exceed $100,000,000 for the fiscal year ending September 30, 1980, and not to exceed in the aggregate $400,000,000 for all subsequent

fiscal years. Such obligations shall be in forms and denominations, bear such maturities, be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is authorized and directed to purchase such obligations and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended. At any time, the Secretary of the Treasury may sell any such obligations and all sales, purchases and redemptions of such obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

"(c) The obligation issued by the Secretary under subsection (b) shall be repaid from moneys subsequently received by the Secretary from utilities in accordance with the plan implemented pursuant to section 226(d). To the extent that such moneys received are found to be insufficient to repay such obligations within the appropriate repayment periods, there are hereby authorized to be approoriated such amounts as may be necessary to complete repayment.

"Sec. 229. The Secretary shall not authorize the residential energy efficiency improvement plan pursuant to this subpart unless he determines that there is a reasonable likelihood that the total payments to be received from utilities under such plan and sums available under subsection 28(b) will be sufficient to cover all payments required of the Secretary under such plan and to retire any obligations respecting such plan issued by the Secretary under section 228(b).

"Sec. 230. (a) Prior to instituting the plan or any demonstration thereof under this subpart, the Secretary shall publish notice of such intention in the Federal Register, including a description of such plan, and shall provide the public thirty days to submit comments thereon.

"(b) Any public utility required to make period payments pursuant to a residential energy efficiency improvement plan or any state regulatory authority with ratemaking authority over such utility may request the Secretary to adjust the amount of such payment on the basis that it exceeds the value of the savings experienced by the utility under such plan. Upon receipt of such a request, the Secretary shall determine, in accordance with section 553 of title 5, United States Code, whether and to what extent such payment shall be adjusted.

"Sec. 231. Nothing in this subpart shall be construed as restricting the authority of any officer, agency or instrumentality of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices. Nor shall anything in this subpart be deemed to convey to any person immunity from civil or criminal liability, create defenses to actions under the antitrust laws, or modify or abridge any private right of action under such laws.

"Sec. 232. The Secretary is authorized to promulgate such rules as he determines may be necessary to carry out this subpart.".

SUBTITLE E—UTILITY PROGRAM

SEC. 441. The National Energy Conservation Policy Act (Public Law 95-619) is amended—

(a) In section 215 by—

(1) striking the phrase "arrange for a lender to make" in subsection (b)(1)(C) and inserting in lieu thereof "make, or arrange for another lender to make.".

(2) inserting an "and" after the semicolon following subparagraph (c)(1)(A) and striking subparagraphs (c)(1)(C) and (c)(1)(D).

(3) striking the text of subparagraph (c)(2)(A) and inserting in lieu thereof, "(A) Nothing in this part requires that the costs incurred by a public utility in carrying out any activity as a part of a utility program under this part (other than an activity described in section 215(c)(1)(B)) shall be recovered in a manner other than the manner specified by the State regulatory authority over such utility (or in the case of a nonregulated utility, in the manner specified by such nonregulated utility); and"

(4) striking subparagraph (c)(2)(C); and

(5) striking subsection (f) and relabeling subsection (g) as subsection (f).

(b) In section 216 by—

(1) Amending the heading to read as follows:

"SEC. 216. SUPPLY AND INSTALLATION BY UTILITIES:";

(2) amending subsection (a) to read as follows:

"(a) Except as provided in this section, no public utility may supply or install for any residential customer a residential energy conservation measure.";

(3) replacing the reference to "subsection (a)(1)" in subsection (b) with "subsection (a)";

(4) amending subsection (c) to read as follows:

"(c) The prohibition contained in subsection (a) shall not apply to any measures supplied or installed by a public utility through a contract between such utility and an independent supplier or contractor where such supplier or contractor—

"(1) is on the lists of suppliers and contractors referred to in section 213(a)(2);

"(2) is not subject to the control of the public utility, except as to the performance of such contract; and

"(3) if selected by the utility, is selected in a fair, open and nondiscriminatory manner."

(5)(A) replacing the phrase "supply, installation or financing" wherever it appears in subsection (d) with the phrase "supply or installation"; and

(B) striking the phrase "or financed" in paragraph (d)(1); and

(6) striking subsection (g) and relabeling subsection (h) as subsection (g).

(c) In section 220 by adding a new subsection (e) to read as follows:

"(e) All loans and related transactions made by a public utility under this part shall be construed as an activity or business within the meaning of the Public Utility Holding Company Act (15 U.S.C. 79 a-z) which is reasonably incidental and economically necessary and appropriate to the operation of utilities and utility systems.".

EFFECTIVE DATE

SEC. 442. (a) The effective date of the amendments made by this subtitle shall be the date of the enactment of this subtitle.

(b) As soon as practicable, but in no event later than one hundred and twenty days after such date of enactment, the Secretary shall promulgate rules amending the regulations under section 212 of the National Energy Conservation Policy Act reflecting the amendments made by this subtitle.

(c) The provisions of section 218 of the National Energy Conservation Policy Act shall apply with respect to temporary programs proposed under such section after the effective date of this subtitle, except that for the purposes of such application the phrase "180 days after the promulgation of rules pursuant to section 212" shall refer to one hundred and eighty days after the promulgation of the amendments to such rules required by this section.

SUBTITLE F—ENERGY AUDITOR TRAINING AND CERTIFICATION

SEC. 451. It is the purpose of this subtitle to encourage the training and certification of qualified energy auditors for residential and commercial buildings in order to serve the Nation's various private and public needs for energy audits of residential and commercial buildings.

SEC. 452. For the purposes of this subtitle the term—

(1) "Governor" means the chief executive officer, elected or appointed, or his designee, of a State, including the Mayor of the District of Columbia.

(2) "State" means a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Government of the Northern Mariana Islands.

(3) "Energy audit" means an onsite inspection by a trained and certified auditor of a residential building or a commercial building to evaluate, and provide useful information on, the various energy-related aspects of the building, as appropriate. The energy audit may deal with the potential of the building for improved energy efficiency, for enhanced utilization of renewable resources, and for switching from one fuel source to another, and may include actions by the auditor to improve the energy efficiency of, or to make other energy-related improvements in, the building.

(4) "Secretary" means the Secretary of Energy.

SEC. 453. (a) The Secretary may, by rule, establish and implement a program to make grants to the Governors to support State training and certification of energy auditors, in the performance of energy audits for residential and commercial buildings.

(b) To be eligible for financial assistance under this subtitle, the Governor must submit an application to the Secretary, containing such information as the Secretary may require. Such application may be made as part of the State Supplemental Plan submitted to the Director pursuant to section 419.

(c) The application shall also contain such assurances as the Secretary may require, including an assurance that the financial assistance provided under this subtitle will be used to supplement, and not supplant, State or local funds, and to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this subtitle.

(d) The Secretary shall, subject to the availability of funds, select those applications and fund them in the amounts that the Secretary determines best carry out the purpose of this subtitle.

SEC. 454. There are hereby authorized for carrying out the provisions of this subtitle, $10,000,000 for fiscal year 1980 and $15,000,000 for fiscal year 1981, all such sums to remain available until expended.

SUBTITLE G—AMENDMENTS TO THE RESIDENTIAL CONSERVATION SERVICE PROGRAM

SEC. 461. The National Energy Conservation Policy Act is amended by adding at the end thereof the following new title:

"TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"PART I—GENERAL PROVISIONS

DEFINITIONS

"SEC. 710. (1) The definitions of section 210 are applicable to this title, except as otherwise provided in this section.

"(2) As used in this title, the term 'public utility' means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, to eligible customers.

"(3) As used in this title, the term 'building heating supplier' means any person which is engaged in the business of selling No. 2, No. 4, or No. 6 heating oil, kerosene, or propane to eligible customers.

"(4) As used in this title, the term 'commercial building' means a building which was completed on or before the date of enactment of this Act, and is used primarily for carrying out a for-profit or nonprofit business, or for carrying out the activities or administration of a State or local government, but which is not used primarily for the manufacture or production of products, raw materials, or agricultural commodities. A 'Federal building' as defined in section 521(2) is not a 'commercial building.'

"(5) As used in this title, the term 'multifamily dwelling' means a building used for residential occupancy completed on or before the date of enactment of this Act that is not a new building to which final standards under sections 304(a) and 305 of the Energy Policy and Conservation Act apply and which contains five or more dwelling units.

"(6) As used in this title, the term 'energy efficient improvements' means any change in the operation or maintenance of a commercial building or multifamily dwelling that is primarily intended to reduce energy consumption, and which has been identified by the Secretary in the rules promulgated under section 712(a) or approved by the Secretary for consideration in the energy audits offered to eligible customers under sections 716, 717, or 718.

"(7) As used in this title, the term 'energy conservation measures' means those measures that are identified by the Secretary in the rules promulgated under section 712(a) or approved by the Secretary for consideration in the energy audits offered to eligible customers under sections 716, 717, or 718.

"(8) As used in this title, the term 'eligible customer' means, (A) with respect to a public utility, the owner, authorized representative of the owner, or tenant of a commercial building or a multifamily dwelling which uses natural gas or electric energy from that public utility and to whom a public utility sells natural gas or electricity, or (B) with respect to a building heating supplier, the owner, authorized representative of the owner, or tenant of a commercial building or a multifamily dwelling which uses heating fuel from that supplier, and to whom a building heating supplier sells No. 2, No. 4, or No. 6 heating oil, kerosene, or propane.

"(9) 'Energy audit' means an onsite inspection by a trained and certified auditor of a residential building or a commercial building to evaluate, and provide useful information on, the various energy-related aspects of the building, as appropriate. The energy audit may deal with the potential of the building for improved energy efficiency, for enhanced utilization of renewable resources, and for switching from one fuel source to another, and may include actions by the auditor to improve the energy efficiency of, or to make other energy-related improvements in, the building.

"COVERAGE

"SEC. 711. This title shall apply in any calendar year to a public utility only if during the second preceding calendar years either—

"(1) sales of natural gas by such public utility for purposes other than resale exceeded 10 billion cubic feet, or

"(2) sales of electric energy by such public utility for purposes other than resale exceeded 750 million kilowatt-hours.

"RULES OF SECRETARY FOR SUBMISSION AND APPROVAL OF PLANS

"SEC. 712. (a) Within one hundred and twenty days of enactment of this Act, after consultation with the Secretary of Housing and Urban Development and the heads of such other agencies as he deems appropriate, the Secretary shall publish proposed rules on the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings which meet the requirements of this title. After publication of such proposed rules, the Secretary shall afford interested persons (including Federal and State agencies) an opportunity to present oral and written comments on such proposed rules. Rules prescribing the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings shall be published not earlier than forty-five days after publication of the proposed rules.

"(b) The rules published under subsection (a) may, (1) identify energy efficient improvements in different types of commercial buildings and multifamily dwellings by climatic regions and by categories determined by the Secretary on the basis of type of construction and any other factors which the Secretary deems appropriate, which shall be considered in the inspection offered to eligible customers under sections 716, 717, and 718 and (2) for good cause shown, exclude certain categories of commercial buildings and multifamily dwellings from coverage under this Title.

"(c) The rules published under subsection (a) shall integrate the development and implementation of State energy conservation plans for commercial buildings and multifamily dwellings to the extent practicable with the program for residential energy conservation plans under Title II, part 1 of the National Energy Conservation Policy Act. Such rules shall not have the effect of delaying the submission, approval or implementation of residential energy conservation plans under Title II, Part 1 of the National Energy Conservation Policy Act.

"(d) The Secretary may prescribe any other rules necessary to carry out the provisions of this Title.

"PART 2—ENERGY CONSERVATION PLANS

"PROCEDURES FOR SUBMISSION AND APPROVAL OF STATE ENERGY CONSERVATION PLANS FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"SEC. 713. (a) Not later than one hundred and eighty days after promulgation of rules under section 712(a), the Governor of each State or any State agency specifically authorized to do so under State law, may submit to the Secretary a proposed energy conservation plan for commercial buildings and multifamily dwellings which meets the requirements of the rules promulgated under section 712. Within such one hundred eighty-day period, each nonregulated utility shall submit a proposed plan, which meets the requirements of the rules promulgated under section 712, to the Secretary unless a plan submitted under the preceding sentence for the State in which the nonregulated utility provides utility service applies to nonregulated utilities as provided in subsection (b). The Secretary may, upon request of the Governor or State agency or nonregulated utility, extend for good cause shown, the time period for submission of a plan. Each plan submitted in accordance with this subsection shall be reviewed and approved or disapproved in accordance with the procedures of section 212(c)(1) (B) and (C).

"(b) Any plan submitted by a Governor or State agency under subsection (a) may, in the discretion of the Governor, if he notifies the Secretary within thirty days after promulgation of rules under section 712(a), apply to nonregulated utilities providing utility service in the State in the same manner as to regulated utilities. In any such case, reference elsewhere in this title to regulated utilities (including references to utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references elsewhere in this title to nonregulated utilities shall not apply. For purposes of this paragraph, the term 'nonregulated utility' shall not include any public utility which is a Federal agency.

"(c) A plan applicable to building heating suppliers may be submitted by the Governor in his discretion.

"(d) In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in the Governor or State agency shall be vested in the Tennessee Valley Authority.

"STATE PLANS FOR REGULATED UTILITIES

"SEC. 714. No proposed energy conservation plan for commercial buildings and multifamily dwellings submitted for regulated utilities shall be approved by the Secretary unless such plan—

"(a) requires each regulated utility to implement a program which meets the requirements of section 716 and such other requirements as may be contained in the rules promulgated by the Secretary under section 712;

"(b) provides adequate State procedures for implementing and enforcing the plan;

"(c) provides procedures for insuring that effective coordination exists among various local, State, and Federal energy conserving programs within and affecting such State; and

"(d) is adopted after notice and public hearing.

"PLANS FOR NONREGULATED UTILITIES AND BUILDING HEATING SUPPLIERS

"SEC. 715. (a) No plan proposed by a nonregulated utility shall be approved by the Secretary unless such plan meets the same requirements as provided under section 714 for regulated utilities. In applying the requirements of section 714 in the case of a plan for nonregulated utilities under this section, any reference to a regulated utility shall be treated as a reference to a nonregulated utility.

"(b) No plan proposed for building heating suppliers shall be approved by the Secretary unless such plan meets the same requirements as provided under section 714 (c) and (d) and in addition—

"(1) meets the requirements of section 717 and contains adequate enforcement procedures with respect to such requirements;

"(2) meets such requirements applicable to building heating suppliers as may be contained in the rules promulgated under section 712; and

"(3) takes into account the resources of small building heating suppliers.

"PART 3—UTILITY PROGRAMS

UTILITY PROGRAMS

"SEC. 716. (a) Each utility program shall include procedures designed to ensure that each public utility—

"(1) offers to each eligible customer, no later than twelve months after the approval of the applicable plan and every twenty-four months thereafter until 1990, an energy audit of the customer's building (either directly or through one or more inspectors under contract) to (A) identify energy efficient improvements for such building and (B) evaluate the potential need, if any, for the acquisition and installation of energy conservation measures;

"(2) maintains a report of each audit performed of a commercial building or multifamily dwelling pursuant to the offer of this subsection for not less than ten years which shall be available to any subsequent owner,

owner's representative, or tenant of such commercial building or multifamily dwelling; and

"(3) shall not be required to conduct an energy audit of a building which has already been audited pursuant to this Title or Title III;

"(b) Each State regulatory authority or nonregulated utility shall, within one hundred and eighty days after promulgation of rules under section 712(a), or such longer period as the Secretary for good cause may allow, provide—

"(1) that all amounts expended or received by the utility which are attributable to the utility energy audit program (including any penalties paid by such utility under section 718) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility;

"(2) that all amounts expended by a utility for providing information concerning the availability of the energy audit offered pursuant to subparagraph (a)(1) are to be treated for such purposes as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service; and

"(3) that all other amounts expended by a public utility to carry out the provisions of the Title, are, in the discretion of such State regulatory authority or nonregulated utility—

"(i) treated as current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service, or

"(ii) charged to the eligible customer for whom the activity is performed.

For purposes of this subsection, the term 'ratepayer' means any person, State agency, or Federal agency who purchases electric energy or natural gas from a utility for purposes other than for resale.

"BUILDING HEATING SUPPLIER PROGRAM

"Sec. 717. (a) Each building heating supplier program shall include procedures for building heating suppliers identical to the procedures required for utilities in section 716(a)(1) through (3), except as otherwise provided by the Secretary.

"(b) A building heating supplier who wishes to participate in the program established pursuant to this section may so notify the Governor.

"PART 4—FEDERAL IMPLEMENTATION

"FEDERAL STANDBY AUTHORITY

"Sec. 718. (a) If a State does not have a plan approved under section 713 within two hundred and seventy days after promulgation of rules under section 712(a), or within such additional period as the Secretary may allow pursuant to section 713(a), or if the Secretary determines after notice and opportunity for a public hearing that an approved plan is not being adequately implemented in such State, the Secretary shall—

"(1) promulgate a plan which meets the requirements of section 714, and

"(2) under such plan, by order, require each regulated utility in the State to offer, no later than ninety days following the date of issuance of such order, to its eligible customers a utility energy audit program prescribed in such order which meets the requirements specified in section 716.

"(b) If a nonregulated utility which is not covered by an approved State plan under section 713 does not have a plan approved under section 713 within two hundred and seventy days after promulgation of rules under section 712(a) or within such additional period as the Secretary may allow pursuant to section 713(a), or if the Secretary determines that such nonregulated utility has not adequately implemented an approved plan, the Secretary shall, by order—

"(1) promulgate a plan which meets the requirements of section 715 and which applies to the buildings which would have been covered had such a plan been so approved or implemented, and

"(2) require such nonregulated utility, under such plan, to offer, not later than ninety days following the date of issuance of such order, to its customers a utility program prescribed in such plan which meets the requirements specified in section 716.

"(c) If the Secretary determines that any person has violated any provision of this title, any plan approved or promulgated under this title, or any order issued pursuant thereto, he may file a petition in the appropriate United States district court to enjoin such person from violating such provision, plan, or order. The provisions of section 219 (c) and (d) apply for any violation of any order or plan promulgated by the Secretary under authority of subsections (a) and (b) of this section."

SEC. 462. The table of contents of the National Energy Conservation Policy Act is amended to add a new title VII to read as follows:

"TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"PART 1—GENERAL PROVISIONS

"Sec. 710. Definitions.
"Sec. 711. Coverage.
"Sec. 712. Rules of Secretary for submission and approval of plans.

"PART 2—ENERGY CONSERVATION PLANS

"Sec. 713. Procedures for submission and approval of State energy conservation plans for commercial buildings and multifamily dwellings.
"Sec. 714. State plans for nonregulated utilities.
"Sec. 715. Plans for nonregulated utilities and building heating suppliers.

"PART 3—UTILITY PROGRAMS

"Sec. 716. Utility programs.
"Sec. 717. Building heating supplier program.

"PART 4—FEDERAL IMPLEMENTATION

"Sec. 718. Federal standby authority.".

SUBTITLE H—INDUSTRIAL ENERGY CONSERVATION

SEC. 471. There are hereby authorized to be appropriated to the Secretary of Energy to accelerate research, development, and demonstration of energy productivity in industry not to exceed $40,000,000 for each of fiscal years 1980, 1981, and 1982 in addition to such funds as have been authorized for this activity in other measures.

SUBTITLE I—PRESIDENTIAL ENERGY AUDIT

SEC. 481. Part 1 of Title II of the National Energy Conservation Policy Act is amended by adding at the end thereof the following new section:

"RESIDENTIAL ENERGY AUDITS

"Sec. 233. (a) Any financial institution, the deposits of which are insured by an agency of the Federal Government, may not provide financing for the purchase of a residential building that is served by a public utility offering a utility program or participating home heating supplier to the residential customer who owns or occupies that residential building, unless,

"(1) a copy of the energy audit report prepared under section 215(b)(1)(A) or section 217(a)(2)(A) within the last five years is made available to the purchaser;

"(2) the purchaser posts with the financial institution a $50 bond, including a cash bond, that is refundable at such time as the purchaser obtains the energy audit report under section 215(b)(1)(A) or section 217(a)(2)(A), or

"(3) the requirements of this subsection are inapplicable to the purchase under regulations prescribed pursuant to (b).

"(b) The Secretary may be rule establish exemptions to the requirements of subsections (a) where—

"(1) the residential customer who owns, occupies, or purchases the residential building has made a good faith effort to obtain the report described in section 215(b)(1)(A) or section 217(a)(2)(A), but was unable to obtain such report because of inaction by the public utility or participating home heating supplier serving that residential building, or

"(2) the residential building is located in (A) a geographic region which the Secretary has determined by rule to be a region in which application of this section would not likely lead to significant energy savings, or (B) the State of Hawaii.

"(c) The provisions of this section become effective with respect of purchases made after January 1, 1981, but these provisions shall no longer apply after January 1, 1986.

"(d) Failure to comply with any requirement of this subtitle shall not result in the invalidation or revocation in whole or in part of any purchase, financing or transfer of title of a residential building subject to this subtitle.".

TITLE V—GEOTHERMAL ENERGY

SHORT TITLE

SEC. 501. (a) This Title may be cited as the "Geothermal Energy Act of 1979".

(b) TABLE OF CONTENTS—

Sec. 501. Short Title.

SUBTITLE A

Sec. 511. Loans for Geothermal Reservoir Confirmation.
Sec. 512. Loan Size Limitation.
Sec. 513. Loan Rate and Repayment.
Sec. 514. Program Termination.
Sec. 515. Regulations.
Sec. 516. Authorizations.

SUBTITLE B

Sec. 521. Reservoir Insurance Program.

SUBTITLE C

Sec. 531. Feasibility Study Loan Program.

SUBTITLE D

Sec. 541.

SUBTITLE A

LOANS FOR GEOTHERMAL RESERVOIR CONFIRMATION

SEC. 511. (a) The Secretary of Energy (hereinafter referred to as the Secretary) is authorized to make a loan from funds available in the Geothermal Resources Development Fund established under Public Law 93-410 to any municipality, electric cooperative, industrial development agency, nonprofit organization, or person for the purpose of exploring for or confirming the economic viability of a geothermal energy reservoir.

(b) Any such loan shall be repayable out of revenue from production of the geothermal energy reservoir for whose confirmation the well is drilled, at a rate not to exceed 20 percent of the annual gross revenue from the reservoir, except that if any disposition of the geothermal rights to that reservoir is made by the borrower, the full amount of the loan balance outstanding or the full amount of compensation received, whichever is less, shall be paid immediately. If the reservoir is confirmed, the Secretary may impute a reasonable revenue for purposes of determining repayment (1) if reasonable efforts are not made to put such reservoir in commercial operation, (2) if the borrower or other person utilizes the resources without a sale of energy, or (3) if a sale of energy resources is made for an unreasonably low price. No such imputation of revenue shall be made for a period of three years following reservoir confirmation. In the

event of failure to begin production of revenue within five years of drilling (or in the case where no sale of energy is made, the production of energy for commercial use), the Secretary may take action to receive the value, not to exceed the balance due, of any assets of the project in question, including resource rights.

(c) The Secretary may cancel the unpaid balance and any accrued interest on any loan granted if he determines on the basis of evidence presented by the loan recipient that the geothermal energy reservoir, with regard to which the loan was made, contains insufficient heat energy or has other characteristics which make that reservoir economically or technically unacceptable for commerical development.

LOAN SIZE LIMITATION

SEC. 512. The amount of any loan shall not exceed 50 percent of the cost of a project consisting of surface exploration and drilling of one or more exploratory wells, except that the loan is to a person, municipality, nonprofit organization, corporation, or Indian tribe proposing to make application of the resource of space heating or cooling or process heat for one or more structures or facilities existing or under construction, the amount may be 90 percent of project costs. No loan shall be made in excess of $3,000,000.

LOAN RATE REPAYMENT

SEC. 513. (a) Each loan made pursuant to section 511 shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (41 U.S.C. 1962(d)-17(a)).

(b) Each loan shall be for a term which the Secretary deems appropriate, but no loan term shall exceed twenty years beyond the date production begins. If revenues are inadequate to fully repay the principal and accrued interest within twenty years after production begins, any remaining unpaid amounts shall be forgiven.

PROGRAM TERMINATION

SEC. 514. No new loans shall be made under this authority after September 30, 1986. Amounts repaid prior to September 30, 1986 on loans made pursuant to section 511 shall be deposited into the Geothermal Resources Development Fund. Amounts repaid after that date and amounts remaining in the fund on or after that date and not required to secure outstanding obligations shall be deposited into the United States Treasury as miscellaneous receipts.

REGULATIONS

SEC. 515. All regulations made with respect to this title shall be promulgated no later than one year after the date of enactment of this title.

AUTHORIZATIONS

SEC. 516. There are hereby authorized to be appropriated for each of the five fiscal years beginning with fiscal year 1981, not to exceed $150,000,000 for loans to be made pursuant to section 511. Amounts appropriated shall be deposited in the Geothermal Resources Development Fund and shall remain available until expended.

SUBTITLE B

RESERVOIR INSURANCE PROGRAM

SEC. 521. (a) The Secretary of Energy is authorized and directed to establish and implement within six months of the enactment of this title a program, in cooperation with the insurance and reinsurance industry, to provide reservoir insurance to any qualified eligible applicant.

(b) For the purpose of this section, the term—

(1) "investment" means the expenditure of, and any irrevocable legal obligation to expend funds (together with the reasonable interest costs thereof) for the purchase of construction of machinery, equipment, and facilities manufactured, or for services contracted to be furnished, for the development and utilization of a geothermal resource in the United States to provide energy in the form of heat for direct use or for generation of electricity;

(2) "geothermal resource" means a resource in the United States including: (A) all products of geothermal processes embracing indigenous steam, hot water, and hot brines; (B) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (C) heat or other associated energy found in geothermal formations; and (D) any byproducts derived from them, where 'byproduct' means any mineral or minerals (exclusive of oil, hydrocarbon gas and helium) which are found in solution or in association with other geothermal resources and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(3) "risk" means the hazard that a reservoir of geothermal resources will cease to provide sufficient quantities of geothermal resources at minimum conditions required to maintain an economically or technically viable operation for utilization of the geothermal resource;

(4) "reasonable premiums" means premium amounts determined by the Secretary to be reasonable in light of the amount of investment subject to the risk and premiums charged in similar or analogous situations by private insurers where private insurance is concerned and by insurers or guarantors, both public and private, where public insurance is concerned;

(5) "other insurance" means any combination of private or public insurance other than investment insurance provided by the Secretary under this section;

(6) "reservoir" means the physical subsurface geologic structure which forms the natural repository for the undisturbed geothermal resource;

(7) "person" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity, where any such entity is a United States citizen, as determined by application of the test for United States citizenship contained in section 802 of Title 46, United States Code.

(c) Any person with a total direct investment of not less than $1,000,000 in the development and use, not including exploration and testing, of a geothermal resource associated with a reservoir, and unable to obtain other insurance at reasonable premiums for the amount of his investment subject to risk, as determined by the Secretary under this section, shall be eligible for investment insurance.

(d) Any eligible person seeking investment insurance under this section shall file an application with the Secretary setting forth: (1) the total amount of the contemplated investment in a geothermal resource and associated reservoir; (2) the views of the applicant concerning the nature and extent of the risk, including a geologic, engineering, and financial assessment based on site specific results of exploration and testing of the geothermal resource and the reservoir as specific as is possible; (3) the status of all required Federal, State, and local approvals, permits, and leases for the proposed development and utilization operations at the site; and (4) the extent to which the applicant has been able to obtain other insurance against the risk; and such other information as the Secretary may require.

(e) Unless the Secretary determines the risk proposed by the applicant is unreasonable, the Secretary, within ninety days of receipt of a satisfactory application, shall determine in writing and submit to the applicant: (1) the risk which may cause loss of investment for the applicant; (2) the total investment subject to the risk; (3) the amount of the other insurance which is available at reasonable premiums for the purpose of indemnifying the applicant against the risk; (4) the amount of investment insurance available pursuant to this section, which shall be the difference between the total investment subject to the risk and the total other insurance determined to be available at reasonable premiums, but not in excess of 90 per centum of, or $50,000,000 of, whichever is the lesser, the loss of investment subject to the risk; and (5) any reasonable terms and conditions necessary for the prudent administration of the program, including reasonable premiums for the insurance pursuant to this section (which shall be deposited in the Geothermal Resources Development Fund).

(f) The Secretary, within ninety days of the determinations under subsection (e), and upon agreement of the applicant to the determinations, shall issue a certificate of insurance, which shall not be transferrable without the express approval of the Secretary for good cause shown, with any specified terms and conditions and shall execute a contract with the applicant setting forth the terms and conditions of the investment insurance, and such other provisions as may be necessary to protect the interests of the United States, including ownership, use, and disposition of any currency, credits, assets, or investments on account of which payment under such insurance is to be made, and any right, title, claim, or course of action existing in relation thereof.

(g) Any holder of a certificate of insurance pursuant to subsection (f) who claims a loss of values of his investment by reason of the risk shall receive compensation to the extent the Secretary determines that: (1) such holder is eligible to receive compensation pursuant to the certificate and the contract; and (2) the amount and loss incurred by the holder which is subject to insurance and for which the holder has not received and will not receive compensation from other insurance.

(h) Any compensation received by the holder shall be withdrawn from the Geothermal Resources Development Fund. The full faith and credit of the United States is hereby pledged to the payment of any compensation under this section.

(i) A person shall not be denied insurance pursuant to this section, solely because such person is the recipient of any other Federal assistance under this Act, or any other Act.

(j) There are hereby authorized to be appropriated to the Geothermal Resources Development Fund, established pursuant to the Geothermal Energy Research, Development and Demonstration Act of 1974 (30 U.S.C. 1144), as amended, an amount not to exceed $100,000,000, for fiscal year 1980 which shall be available until expended.

(k) The Secretary may also enter into agreements to reinsure any private insurer for any risk associated with insurance for development and utilization of a geothermal resource and associated reservoir, using the procedures of subsections (c) through (i), as he deems appropriate to provide an incentive for the participation of the private insurance industry in geothermal development. The Secretary also is authorized and directed to use any other available authority to obtain such greater participation of the private insurance industry. The Secretary shall submit a report to the Congress within one year of the enactment of this section on the need for any additional authorities to obtain such participation.

SUBTITLE C

FEASIBILITY STUDY LOAN PROGRAM

SEC. 531. (a) The Secretary of Energy is authorized and directed to establish a program of assistance for the accelerated development of geothermal resources for nonelectric applications by geothermal utility districts, geothermal industrial development districts and projects, and other persons.

(b) The Secretary is authorized to make a loan to any qualified applicant, pursuant to subsection (a), to defray the costs of up to 90 per centum for (1) studies to determine the feasibility of such geothermal development pursuant to subsection (a) and (2) preparing any application for any necessary license or other Federal, State, and local approvals respecting such development. The Secretary may cancel the unpaid balance and any accrued interest on any loan granted pursuant to this subsection if he determines on the basis of the study, that such development is not technically or economically feasible.

(c) The Secretary is authorized to make a loan to any qualified applicant, pursuant to subsection (a), to defray the costs of up to 75 per centum of the costs directly related to the construction of systems for nonelectric geothermal development pursuant to subsection (a), where the Secretary finds—

(1) all necessary licenses and other required Federal, State, and local approvals for construction of systems have or will be issued,

(2) the project will have no significant adverse impact on the environment, and

(3) the applicant requires such assistance for the project.

(d) Each loan made pursuant to this section shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (41 U.S.C. 1962(d)-17(a)). Each loan shall be for such term, as the Secretary deems appropriate, but not in excess of ten years for loans under subsection (b) and thirty years for loans under subsection (c).

(e) Amounts repaid on loans made pursuant to this section shall be deposited in the Geothermal Resources Development Fund. Loans pursuant to this section shall be funded by the Geothermal Resources Development Fund. There are hereby authorized to be appropriated to the Geothermal Resources Development Fund, for the purposes of this section, $50,000,000 in fiscal year 1980, which shall remain available until expended.

SUBTITLE D

SEC. 541. Title II of the Geothermal Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101, et seq.), as amended, hereafter in this Title referred to as "the Act", is amended—

(a) by adding at the end of section 201(c) (30 U.S.C. 1141(c)) "except that any guarantee made for a loan to an electric, housing, or other cooperative, or to a municipality, as defined in section 3(7), part I, of the Federal Power Act, may apply to so much of the principal amount as does not exceed 90 percent of the aggregate costs of the project."

SEC. 542. Section 1143 of the Act is amended by striking "1974" and insert in lieu thereof "1979".

SEC. 543. The Administrator of the Small Business Administration, the Administrator of the Rural Electric Administration, the Administrator of the Farmers Home Administration, and the Secretary of Housing and Urban Development may, with the express approval of the Secretary of Energy, utilize funds in the Geothermal Resources Development Fund established by section 1144 of the Geothermal Energy Research, Development and Demonstration Act of 1974 (30 U.S.C. 1101, et seq.), as amended, and the procedures of subsection 1144(c), for the purpose of providing loan or loan guarantee assistance, consistent with the objectives of that Act, for geothermal energy development and directly related activity, by means of loan and loan guarantee programs otherwise authorized by law in such agencies and departments. Such assistance shall be in full conformance with any requirements or limitations in such laws authorizing such assistance. The total amount of all such assistance using the Geothermal Resources Development Fund shall not exceed $50,000,000 of the total amount of funds available in the fund in any fiscal year.

SEC. 544. The Act is further amended by adding new section 1146, as follows:

"SEC. 1146. The Secretary shall ensure, to the maximum extent possible, that any action associated with a loan guarantee under this chapter, which is pursuant to section 102(c) of the National Environmental Policy Act, takes the maximum cognisance allowable under law of any action associated with the project, which is the subject of the loan guaranty. No such action associated with the loan guaranty shall duplicate any such action associated with such project.".

SEC. 545. (a) The Act is further amended by adding new section 1147, as follows:

"SEC. 1147. (a) The Secretary of Energy within sixty days after enactment of this section shall establish and implement orderly and expeditious procedures for the processing of loan guarantee applications pursuant to subchapter II of this Act. The procedures shall require that all such applications shall be approved or disapproved within four months of the date of filing. Such procedures shall include, at a minimum, explicit direction on the handling of such applications, express deadlines for the solicitation and collection of views of the consulted officials in the Department of Energy and in any other appropriate Department or agency (with identified officials responsible for meeting such deadlines), a Department of Energy coordinating authority to monitor the processing of such applications, predetermined procedures for expeditious handling on intradepartment and interagency disagreements and appeals to higher authorities, and similar administrative mechanisms. To the maximum extent practical, an applicant should be advised of all information required of the applicant for the entire process for every departmental element and agency's needs at the beginning of the process.

Potential controversial applications should be identified as quickly as possible so that any required policy decisions or consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances, certifications, or evidentiary showing, for the decisions required by this section. The processing of any application proposed and filed as of the date of enactment of this section shall not be delayed pending the implementation of these procedures. Any such application, however, shall be subject to final approval or disapproval in not more than four months after such enactment.

"(b) The Secretary of Energy shall include in the procedures required by subsection (a) expedited consideration of loan guarantees for nonelectric applications of geothermal energy, generally, and specifically for nonelectric applications by municipal utilities, geothermal utility districts, geothermal industrial development districts, rural cooperatives, and other such public entities seeking to develop geothermal energy for community, rural, and local industrial applications.".

SEC. 546. (a) The Secretary of Energy shall initiate immediately a full and complete review of all relevant considerations associated with the significantly accelerated development of geopressures methane in the United States and on the Outer Continental Shelf, with emphasis on legal, institutional, and regulatory barriers to such development. The review also shall address the current status of technology development to support such accelerated development, and shall consider the earliest opportunities for demonstration efforts. The review shall be coordinated with the Interagency Geothermal Coordinating Committee. The Secretary shall submit a report to the Congress, within six months of the enactment of this section with appropriate recommendations for any administrative or legislative actions necessary to support such accelerated development of geopressures methane.

(b) The Secretary of Energy and the Secretary of the Interior shall initiate immediately a full and complete review of all relevant considerations associated with the significantly accelerated development of the potential of hot dry rock systems in the United States, with primary emphasis on the status of technology development to support such accelerated development. The review also shall address the earliest opportunities for demonstration projects, specifically including such projects at facilities and installations of the Federal Government. The review additionally shall consider any legal, institutional, or regulatory barriers to such development. The review shall be coordinated with the Interagency Geothermal Coordinating Committee. The Secretary shall submit a report to the Congress, within six months of the enactment of this section, with appropriate recommendations for any administrative or legislative action necessary to support such accelerated development of hot dry rock systems.

(c) The Secretary of Energy, in coordination with the Interagency Geothermal Coordinating Committee, and with the Administrator of the Environmental Protection Agency, shall immediately conduct a full and complete review of the need for environmental control technology, generic or specialized for a particular form of geothermal energy, to support, pursuant to all applicable Federal environmental laws, the significantly accelerated development of all forms of geothermal energy. The review shall also include the adequacy of the Department of Energy's environmental control technology development program for geothermal energy. The Secretary shall submit a report on the review to the Congress, within six months of the enactment of this section, with appropriate recommendations for any administrative or legislative actions necessary to support such accelerated development of all forms of geothermal energy in the United States.

SEC. 547. The Secretary of Energy is authorized and directed to initiate a new program for utilization of geothermal energy in Federal buildings, Federal facilities, and Federal installations in the United States. The program shall, to the maximum extent feasible, be developed in full coordination with the existing programs for solar utilization and energy conservation in Federal buildings and installations. The Secretary is authorized to cost share with any other Federal agency or department the incremental increase in retrofit or new construction costs resulting from initial capitalization of any such geothermal system in a Federal building, facility, or installation, to the extent the Secretary deems appropriate to provide a further incentive for geothermal development in a given geographical area or on a nationwide basis. The Secretary also shall direct each power marketing administration in the Department of Energy to consider affirmatively the development and use of geothermal energy in its system. The option of use of geothermal energy shall be considered fully in any new Federal building, facility, or installation in geothermal resource areas designated by the Secretary of Energy.

SEC. 548. The Public Utility Regulatory Policies Act of 1978, Public Law 95-617, is amended, as follows:

(a) Section 201 is amended by inserting "geothermal resources" after "renewable resources" in the definition of "small power production facility" in subsection (17)(A)(i) of section 3 of the Federal Power Act.

(b) Section 202 is amended by inserting "geothermal power producers, including nonutility producers" after "any" in the phrase, "Upon application of any" at the beginning of subsection (a)(1) of section 210 of the Federal Power Act.

(c) Section 203 is amended by inserting "geothermal power producers, including nonutility producers," after "Any" at the beginning of subsection (a) of section 211 of the Federal Power Act.

(d) Section 210 is amended by—

(1) inserting "geothermal power producers of not more than 80 MWe capacity (except for not more than one project to be designated by the Secretary of Energy of a maximum of 200 MWe capacity)," after "encourage" in the phrase "necessary to encourage" at the beginning of subsection 210(a), and

(2) inserting "geothermal power producers of not more than 80 MWe capacity (except for not more than one project to be designated by the Secretary of Energy of a maximum of 200 MWe capacity)," after "which" in the phrase "prescribe rules under which" in subsection 210(e)(1).

TITLE VI—RENEWABLE ENERGY INITIATIVES

SHORT TITLE

SEC. 601. (a) This Title may be cited as the "Omnibus Solar Commercialization Act of 1979".

(b) TABLE OF CONTENTS—

Sec. 601. Short title.
Sec. 602. Findings.
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Sec. 607. Energy Self-Sufficiency Initiatives.
Sec. 608. Small Business Set-Aside.
Sec. 609. Photovoltaic Amendments.
Sec. 610. Authorization of Appropriations.

FINDINGS

SEC. 602. The Congress finds and declares that—

(a) the United States faces an energy shortage arising from decreasing supplies of domestic petroleum and insufficient development of renewable energy resources;

(b) unless effective measures are promptly taken by the Federal Government and other users of energy to increase the rate of use of renewable energy resources, the United States will become increasingly dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies and unable to provide the energy to meet future needs;

(c) the Federal Government can promote the commercialization of solar energy systems by installing cost effective solar energy systems in Federal buildings; and

(d) the formal establishment of a coordinated network for the dissemination of information to the public is a prerequisite to the development of an improved public understanding of the potential of solar energy systems.

PURPOSE

SEC. 603. The purpose of this Title is to establish incentives for the use of renewable energy resources, to coordinate information dissemination and outreach programs and to promote the use of renewable energy resources, to require the use of certain cost effective solar energy systems by the Federal Government, and to establish a program for the promotion of local energy self-sufficiency.

DEFINITIONS

SEC. 604. For the purposes of this Title—

(1) the term "Secretary" means the "Secretary of the Department of Energy";

(2) the term "renewable energy resource" means any energy resource which has recently originated in the Sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, photovoltaic energy, products of photosynthetic processes, organic wastes, and others;

(3) the term "solar energy system" means any system or collection of systems which provides useful energy from renewable energy resources(s) and which is in conformity with such criteria and standards as shall be prescribed by the Secretary;

(4) the term "active solar energy system" means any system which employs the energy of the Sun directly to produce electrical, mechanical or thermal energy to heat or cool buildings; or to heat hot water; or to provide other services; and which relies principally for energy transfer and any electrical or mechanical device or combination of devices such as collector; pumps, or sensing devices;

(5) the terms "Federal building" and "Federal agency" have the meaning provided by Public Law 94-385, section 303; and

(6) the term "passive solar energy system" means a space heating, heating and cooling, or hot water heating system which is characterized by reliance principally on natural convection, conduction and radiation for heat transfer, and which collects and stores thermal energy from the sun by devices that are structurally integrated with occupied space such as a storage wall, a storage roof, a greenhouse, an atrium or sunspace, reflector assemblies, shading devices, or reflective surfaces or glazings.

INFORMATION DISSEMINATION AND OUTREACH SERVICES

SEC. 605. (a) It shall be the policy of the Secretary to support the development of a coordinated network to—

(1) collect, review, process, and disseminate information and data; and

(2) provide educational, training, and related outreach services designed to actively promote the development, commercialization, and use of solar energy systems and related energy efficient systems.

(b) It shall further be the policy of the Secretary to insure that the coordinated network makes appropriate use of organizational components at the national, regional, State, and local levels, to insure that potential users of these services can receive accurate information, in a timely fashion, and at a level of detail that is appropriate to their particular needs.

(c)(1) The Secretary shall establish a National Solar Energy Information Center (hereafter referred to as the "Center") for the purpose of providing informational and referral services to the general public, the private sector, government organizations and the various organizations participating in the coordinated network referred to in subsection (a).

(2) The Center's informational and referral services shall be designed to support and complement the related informational, education, training, and other outreach services developed and performed by the Department of Energy, the Department of Housing and Urban Development, and other Federal agencies, the Solar Energy Research Institute, the Technical Information Center, the Regional Solar Energy Centers, the Energy Extension Service, State, and local offices, libraries, educational institutions, and other organizations involved in the outreach activities identified in subsection (a).

(3) The services provided by the Center shall include—

(A) the retrieval and dissemination of information relating to the development, commercialization, and use of solar energy systems and energy efficient systems that are integral to solar energy applications, including a national toll-free telephone number and a mailing address to receive inquiries, and a publications distribution service to provide pertinent and timely responses to these inquiries;

(B) a national energy information referral service to link information requires with the specific organizations and resources that can best followup on each inquirer's particular needs; and

(C) other outreach and support activities as prescribed by the Secretary.

(d) The Secretary shall consult with the Secretary of the Department of Housing and Urban Development on matters relating to the programs and services provided by the National Solar Energy Information Center.

(e)(1) The Secretary shall provide for the development and dissemination of timely and accurate publications and other informational materials designed to promote the development, commercialization, and use of solar energy systems and energy efficient systems that are integral to solar energy applications. These publications and materials should be tailored to meet the specific needs of—

(A) researchers and designers,
(B) manufacturers,
(C) engineers, architects, builders, and contractors, installers,
(D) the financial community,
(E) the insurance community,
(F) the legal community,
(G) auditors who assess the solar energy or energy efficiency potential of facilities,
(H) building appraisers and inspectors,
(I) Government officials,
(J) trade and professional organizations,
(K) industry,
(L) consumers, and
(M) others who are involved in the development, commercialization, or use of solar energy systems and energy efficient systems that are integral to solar energy applications.

(2) The Secretary shall further provide for the development and implementation of conferences, workshops, training sessions, and other outreach programs, designed to promote the development, commercialization, and use of solar energy systems and energy efficient systems that are integral to solar energy applications.

(f)(1) The Secretary shall assign to an appropriate element in the Department of Energy the principal responsibility for the development of publications and other informational materials identified in paragraph (e)(1). These materials may be disseminated to the appropriate target audiences by the National Solar Energy Information Center, the regional solar energy centers, and the other appropriate organizations participating in the outreach network identified in subsection (a). The activities under this subsection shall be performed under the direction of the Secretary.

(2) The Secretary shall also assign to an appropriate organization, upon request, in Energy the responsibility of providing support services to assist the regional solar energy centers, the Energy Extension Service, State and local energy offices, and other appropriate organization, upon request, in the development and implementation of conferences, workshops, training sessions, and other outreach programs referred to in paragraph (e)(2).

(g) The Secretary shall coordinate the information activities, and other outreach services performed by the Solar Energy In-

formation Center, the Solar Energy Research Institute, the regional solar energy centers, the Energy Extension Service, and other organizations funded by the Department of Energy that provide services referred to in this subsection.

(h) In implementing the policy and requirements of this section, the Secretary shall give due consideration to an orderly transition from requirements under existing law. Activities pursuant to the section shall incorporate all requirements of and be deemed to satisfy information dissemination provision in Public Law 93-409, Public Law 93-473, Public Law 93-577 as amended, and Public Law 95-590.

(i) The Secretary shall provide Congress and the appropriate authorizing committees with an annual report on the programs and activities established in this section, by January 15, of each year following the date of enactment of this title. The report shall include but not limited to—

(1) an assessment of the performance of the overall outreach network identified in subsection (a) and of the network's individual organizational components funded by the Department of Energy; and

(2) recommendations for modifications in the structuring of the outreach network.

ENERGY INITIATIVES IN NEW AND RENOVATED FEDERAL BUILDINGS

SEC. 606. (a) Effective one hundred and eighty days after the date of enactment of this title, the head of each Federal agency responsible for the construction of any new civilian Federal building or for the leasing of new structures constructed wholly for use by the Federal Government or the substantial renovation or reconstruction of existing Federal civilian buildings shall require to the maximum extent practicable, inclusion of, or the use of, cost-effective solar energy systems.

(b) For the purposes of this section, a solar energy system shall be considered cost-effective if the sum of all capital and operating expenses associated with the system, with future costs being appropriately discounted over the expected life of the system or during a period of thirty years, whichever is shorter, does not exceed the sum of all capital and operating expenses, similarly discounted, including fuel costs using the projected cost of world oil, of an alternative conventional energy system.

(c) For the purposes of this section an active solar energy system shall be defined as the most cost-effective, commercially available active solar energy system.

(d) Subsections (a) and (b) shall not apply to those buildings which are designed to operate without heating, cooling, or hot water systems.

(e) For the purposes of this section, a Federal building is considered a "new Federal building" if the contract for the design and construction of that building or for a substantial renovation of that building has not been signed prior to the date prescribed in subsection (a).

(f) The Federal agency responsible for the costs of renovation or construction of a new Federal building or leasing of structures constructed wholly for use by the Federal Government shall also fund the costs of any solar energy system used on that building which may be required pursuant to this section.

(g) The methods established pursuant to section 545 of Public Law 95-619 shall be modified as appropriate to include the requirements of this section.

(h) Requirements of this section shall not apply to any Federal building selected for demonstration under title V, part 2 of Public Law 95-619, selected for use of systems acquired under the authority of Title V, part 4 of Public Law 95-619, and Title V and Title VI of this Act.

(i) The "Energy Conservation in Existing Buildings Act of 1976" (Public Law 94-385, as amended by Public Law 95-619) is amended by adding a new paragraph after section 412 (9) (F) as follows—

"(G) materials associated with passive and active solar energy systems; and", and relabeling section 412(9) (G) as section 412(9) (H).

ENERGY SELF-SUFFICIENCY INITIATIVES

SEC. 607. (a) The purpose of this section is to establish local, State, regional, and national energy self-sufficiency programs to demonstrate by 1990 energy self-sufficiency through the use of renewable energy resources in local jurisdictions in the United States.

(b) The Secretary shall establish such programs as the Secretary determines are necessary to meet the purpose of this section, including programs—

(1) to promote the development and utilization of synergistic combinations of different renewable energy resources in specific projects aimed at reducing fossil fuel importation;

(2) to initiate and encourage energy self-sufficiency at appropriate levels of government so that removal of institutional and legal barriers to the development of renewable energy resources can be accelerated; and

(3) to stimulate private industry participation in the realization of the objectives outlined in subsection (a).

(c) In carrying out the provisions of this section, the Secretary is authorized to assign to an existing office in the Department of Energy the responsibility of undertaking programs he determines to be necessary to fully accomplish the goals established in subsection (a). The Secretary shall prepare a detailed plan within one hundred eighty days of the enactment of this Act, setting forth the responsibilities of the Office including the Federal actions and the expected State/local industry responses, needed to encourage and promote the adoption of programs for energy self-sufficiency.

(d) The Secretary shall report to the Congress on the plan, including in the report suggested legislative initiatives needed to fully implement the plan, within one year of the enactment of this Title.

SMALL BUSINESS SET-ASIDE

SEC. 608. Not less than 30 per centum of the total dollar amount of all contracts and grants awarded pursuant to section 606 of this Title for the procurement of goods and services shall be reserved exclusively for small business concerns, unless the contracting officer is unable to obtain two or more small business concerns that are competitive in terms of the demands of any particular grant or contract.

PHOTOVOLTAIC AMENDMENTS

SEC. 609. The Federal Photovoltaic Utilization Act (Public Law 95-619, Title V, part 4) is amended—

(a) in section 562(1) by adding a sentence to read "The term 'Federal facility' also applies to facilities connected with programs administered by the Federal agencies";

(b) in the first and third sentences of section 565 and in the second and third sentences of section 567(a) by inserting after the word "Secretary" the words "or other Federal agencies under delegation from the Secretary";

(c) in section 566(2) by deleting the words "such rules and regulations" and inserting the word "requirements" in lieu thereof; and

(d) in section 566 by deleting the word "and" at the end of subsection (2) and adding it at the end of subsection (3); and adding a subsection (4) containing the words "not be subject to the requirements of section 553 of Title 5, United States Code under this part notwithstanding any other provision of law.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 610. There is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1980, the sum of $50,000,000 to carry out the purposes of this subtitle.

TITLE VII—WIND ENERGY INITIATIVES

SHORT TITLE

SEC. 701. (a). This Title may be cited as the "Wind Energy Systems Commercialization and Utilization Act of 1979.".

(b) TABLE OF CONTENTS.—

Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. Purpose.
Sec. 704. Definitions.
Sec. 705. Wind Energy Systems Commercialization Programs.
Sec. 706. Criteria for Program Selection.
Sec. 707. Monitoring, Information Gathering, and Liaison.
Sec. 708. Analysis of Applications of Wind Energy Systems.
Sec. 709. Federal Wind Utilization Program.
Sec. 710. Small Business Set-Aside.
Sec. 711. Authorization of Appropriations.

FINDINGS

SEC. 702. The Congress finds and declares that—

(a) it is the Nation's interest to provide opportunities for the increased production of electricity from renewable energy sources;

(b) the early wide-spread utilization of wind energy for the generation of electricity and for mechanical power could lead to relief on the demand on existing non-renewable fuel and energy supplies;

(c) the use of wind energy for certain applications has already proven feasible and economical;

(d) an aggressive commercialization program could provide an assured and growing market for wind energy during the next decade, and maximize the future contribution of wind energy to this Nation's future energy production;

(e) it is the proper and appropriate role of the Federal Government to undertake such a commercialization program in wind energy technologies and to assist private industry, other entities, and the general public in hastening the general use of such technologies; and

(f) the widespread use of wind energy systems to supplement and replace conventional methods for the generation of electricity and mechanical power would have a beneficial effect upon the environment.

PURPOSE

SEC. 703. The purpose of this title is to establish the following wind energy program objectives—

(a) to reach by fiscal year 1986, the installation to the maximum practicable, of the maximum megawatt capacity in the United States from wind energy systems which are life-cycle cost effective in comparison with conventional energy sources;

(b) to reduce by the end of fiscal year 1986, the average cost of electricity produced by installed wind energy systems to a level competitive with conventional energy sources;

(c) to accelerate the growth of a commercially viable and competitive industry to make wind systems available to the general public as an option in order to reduce national consumption of fossil fuel;

(d) to reduce fossil fuel costs to the Federal Government; and

(e) to stimulate the general use within the Federal Government of methods for the minimization of life-cycle costs; and to develop performance data on wind systems.

DEFINITIONS

SEC. 704. For the purposes of this Title—

(1) the term "Secretary means the "Secretary of the Department of Energy";

(2) the term "renewable energy resource" means any energy resource which has recently originated in the Sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, photovoltaic energy, products of photosynthetic processes, organic wastes, and others;

(3) the term "wind energy system" means a system of components, or a series of systems, which converts the kinetic energy of the wind into electricity or mechanical power, including all components necessary to provide electricity or mechanical power for individual, agricultural, commercial, industrial, or governmental use and use by utilities;

(4) the term "small wind energy system" means a wind energy system having a capacity of less than one hundred kilowatts at a wind speed of twenty miles per hour;

(5) the term "Federal facility" means any building, any commercial, agricultural, or industrial complex, or any device, and the land necessary for such building, complex or device, and includes facilities connected with programs administered by Federal agencies;

(6) the term "conventional energy source" means energy produced from oil, gas, coal, and nuclear fuels; and

(7) the term "cost-effective" means the sum of all capital and operating expenses associated with the system, with future costs being appropriately discounted over the expected life of the wind energy system or during a period of thirty years, whichever is shorter, does not exceed the sum of all capital and operating expenses similarly discounted, including fuel costs, using the projected cost of world oil, of an alternative conventional energy system.

WIND ENERGY SYSTEMS COMMERCIALIZATION PROGRAMS

SEC. 705. (a) The Secretary shall establish such commercialization programs as the Secretary determines are necessary to meet the purposes of this title, including programs—

(1) to promote and accelerate research, development, field experimentation, and commercialization of wind energy systems and components thereof; and

(2) to coordinate Federal efforts to accomplish the objectives outlined in section 703.

(b) In carrying out the provisions of this section, the Secretary shall establish a program to allow public or private entities wishing to install a wind energy system in conjunction with any new or existing facility or to undertake a project to facilitate the utilization of a wind energy system, to apply for Federal assistance in investigation, designing, fabricating, testing, purchasing, installing, and marketing such wind energy system.

(c) In carrying out the provisions of this section, the Secretary is authorized—

(1) to enter into agreements with any entity applying under paragraph (b), based on the need to obtain scientific, technological, economic, market, environmental, and safety information from a variety of wind energy systems under a variety of circumstances and conditions, on land and offshore, for the investigation, design, purchase, fabrication, testing, installation, and commercialization of such a system, as well as the identification of suitable sites for wind installations;

(2) to provide as part of any agreement entered into under paragraph (1), loans to cover the estimated difference in costs between a wind energy system and available conventional power sources at the time the loan is to be made. Such estimated cost difference shall be determined in the following manner:

(A) In the case in which the wind energy system represents a displacement for conventional fuels, such difference in cost shall be considered to be the difference between the annual capital, operation, and maintenance costs of the wind energy system, which, for the purposes of this subsection only, shall include any new transmission system which the Secretary determines is required to be constructed in order to connect the wind energy system into the electrical system, and the annual cost of available conventional fuels;

(B) In the case in which the wind energy system represents base-load generating capacity, the difference in cost shall be considered to be the difference in power production costs between the power produced by the wind energy system and power produced by available conventional fuels; and

(C) The percentage of the purchase and installation costs of such wind energy system covered by such loan shall be set as to cover the cost differential between the wind energy system and available conventional power sources as determined in paragraphs (a) and (b);

(3) to enter into such contracts and make such grants or cooperative agreements as may be necessary or appropriate for the development of wind energy systems including the field experimentation of prototype systems for commercial production and utilization, in accordance with the applicable provisions of sections 7, 8, and 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906, 5907 and 5908) and with procedures established in conjunction with subsection (b);

(4) to enter into arrangements with appropriate Federal agencies to carry out such projects and activities with respect to Federal facilities as may be appropriate for the development, field experimentation, and commercialization of wind energy systems which are suitable and effective for use in Federal facilities; and

(5) to undertake other programs and activities which further the purposes of this title.

(d) Title to and ownership of the wind energy systems constructed or installed, or both, under the provisions of this section may be conveyed to purchasers of such systems under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser shall (in such manner and form and on such terms and conditions as the Secretary may prescribe) observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of any such wind energy system for a period of five years and that such purchaser (including any subsequent owner of the system) shall regularly furnish the Secretary with such reports on such system as the agreement may require.

(e) For the purposes of this section, with the exception of subsections (c)(1) and (2), the Secretary shall terminate Federal subsidization of purchases of wind energy systems by profitmaking entities when the Secretary determines that wind energy systems have become competitive with conventional energy sources, or September 30, 1986, whichever occurs first.

CRITERIA FOR PROGRAM SELECTION

SEC. 706. The Secretary shall set priorities which are, as far as possible, consistent with the intent and purpose of this title and which are set in accordance with the following criteria:

(a) The construction, operation and maintenance costs of wind energy systems shall be minimized;

(b) Programs established under this title shall be conducted with the express intent of bringing wind energy system costs down to a level competitive with energy costs from conventional energy systems; and

(c) Priority shall be given in the conduct of programs established under this title to those projects in which funds are provided by private, industrial, agricultural, or governmental entities or utilities for the purpose of sharing with the Federal Government the costs of purchasing and installing wind energy systems.

MONITORING, INFORMATION GATHERING, AND LIAISON

SEC. 707. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of wind energy systems installed under this title.

(2) collect and evaluate data and information on the performance and operation of wind energy systems installed under this title; and

(3) from time to time carry out such studies and investigations and take such other actions (including the submission of special reports to the Congress when appropriate) as may be necessary to assure that the programs for which the Secretary is responsible under this title effectively carry out the purposes of section 703.

(b) The Secretary shall also maintain continuing liaison with related industries and interests and with the scientific and technical community in order to assure that the benefits of programs under this title are and will continue to be realized to the maximum extent feasible.

(c) The Secretary, pursuant to section 605 of Title VI, shall assure subject to 5 U.S.C. 552 and 18 U.S.C. 1905 that full and complete information with respect to any program, project, or other activity conducted under this is made available to Federal, State, and local authorities, relevant segments of the economy, the scientific community, and the public so that the early, widespread, and practical use of wind energy throughout the United States is promoted to the maximum extent feasible.

ANALYSIS OF APPLICATIONS OF WIND ENERGY SYSTEMS

SEC. 708. The Secretary of Energy shall—

(a) initiate and conduct a "Federal applications study for Wind Energy Systems", cooperatively with appropriate Federal agencies to determine the potential for the use of wind systems at specific Federal facilities; and this study shall—

(1) include an analysis which determined those sites that are currently cost-effective for wind energy systems as defined by section 704(6), as well as those which would be cost-effective as expected future market prices;

(2) identify potential sites and uses of wind energy systems at the following agencies as well as any others which the Secretary deems necessary:

(A) the Department of Defense;

(B) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(C) the Department of Commerce;

(D) the Department of Agriculture; and

(E) the Department of the Interior;

(3) provide a preliminary report to the Congress within nine months following the enactment of this title; and

(4) include the presentation of a detailed plan for the use of wind energy systems for power generation at specific sites in Federal Government agencies to the Congress within twelve months following the enactment of this title;

(b) initiate and conduct a study of the effects of the widespread utilization of wind energy systems on the existing electrical utility system;

(c) initiate and conduct a study involving the prospects for applications of wind en-

ergy systems for power generation in foreign countries, particularly lesser developed countries and the potential for the exploration of these energy systems; This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this title; and

(d) in carrying out his functions under this section, the Secretary shall consult with the appropriate government agencies, industry representatives, and members of the scientific and technical community having expertise and interest in this subject; The Secretary, as appropriate, may merge any continuing or ongoing studies within the Department of Energy or other Federal Agency with those required under this section to avoid any unnecessary duplication of effort or funding.

FEDERAL WIND UTILIZATION PROGRAM

SEC. 709. (a) There is hereby established a wind energy utilization program for the accelerated procurement and installation of wind systems for power production in Federal facilities.

(b) The program established by subsection (a) shall provide for the acquisition of wind systems by the Secretary or other Federal agencies under delegation from the Secretary for their use by Federal agencies. The acquisition of wind systems shall be at an annual level substantial enough to allow use of low-cost production techniques by suppliers of such systems. The Secretary or other Federal agencies under delegation from the Secretary is authorized to make such acquisitions through the use of multiyear contracts. Authority under this part to enter into acquisition contracts shall be only to the extent as may be provided in advance in appropriations Acts.

(c) The Secretary shall administer the program established under this section and shall—

(1) consult with the Secretary of Defense to insure that the installation and purchase of wind systems pursuant to this section shall not interfere with defense-related activities;

(2) implement practices to monitor and assess the performance and operation of wind systems installed pursuant to this section; and

(3) report annually to the Congress on the status of the program.

(d)(1) The Secretary shall establish, within sixty days after the date of the enactment of the Title, a wind systems evaluation and purchase program to provide such systems as are required by the Federal agencies to carry out this Title. In acquiring wind energy systems under this section, the Secretary, or other Federal agencies under delegation from the Secretary, need not require that such systems be life-cycle cost effective at the time of purchase, but that, to the maximum extent practicable, by the making of the purchase there is a probability that they could become life/cycle cost-effective in the future and shall schedule purchases in a manner which shall stimulate the early development of a permanent low-cost private wind production capability in the United States, and to stimulate the private sector market for wind systems.

(2) Nothing in the section shall preclude any Federal agency from directly procuring a wind system (in lieu of obtaining one under the program under subsection (a)), except that any such Federal agency shall notify the Secretary before procuring such a system.

(e)(1) There is hereby established an advisory committee to assist the Secretary in the establishment and conduct of the programs established under this section.

(2) Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the Chairman of the Federal Trade Commission, the Postmaster General, and such other persons as the Secretary deems necessary. The Secretary shall appoint such other nongovernmental persons to the extent necessary to assure that the membership of the committee will be fairly balanced in terms of the point of view represented and the functions to be performed by the committee.

SMALL BUSINESS SET-ASIDE

SEC. 710. Not less than 30 per centum of the total dollar amount of all contracts and grants awarded pursuant to sections 705 and 709 of this Title for the procurement of goods and services shall be reserved exclusively for small business concerns, unless the contracting officer is unable to obtain two or more small business concerns that are competitive in terms of the demands of any particular grant or contract.

AUTHORIZATION OF APPROPRIATIONS

SEC. 711. There is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1980, the sum of $100,000,000 to be used for the programs authorized in this title.

TITLE VIII—SOLAR ENERGY DEVELOPMENT BANK

SHORT TITLE

SEC. 801. (a) This Title may be cited as the "Solar Energy Development Bank Act of 1979".

(b) TABLE OF CONTENTS—

Sec. 801. Short Title.
Sec. 802. Purpose.
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Sec. 806. Advisory Board.
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Sec. 808. Penalties.
Sec. 809. Reports.
Sec. 810. Promotion of program.
Sec. 811. Authorization of appropriations.

PURPOSE

SEC. 802. It is the purpose of this title to encourage the use of solar energy, and thereby reduce the Nation's dependence on foreign sources of energy supplies, by establishing a Solar Energy Development Bank to provide subsidies for below-market interest rate loans made to owners or builders of commercial and residential structures for the purchase and installation of solar energy systems in such structures.

DEFINITION

SEC. 803. For the purpose of this title, the term—

(1) "Secretary" means the Secretary of Housing and Urban Development; and

(2) "solar energy systems" shall be defined as in section 2(a) of the National Housing Act, as amended by section 241 of the National Energy Conservation Policy Act, and shall also include wood-burning appliances, solar process heat, solar electric devices, and earth shelters which are in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.

ESTABLISHMENT OF THE BANK

SEC. 804. (a) There is hereby created a Solar Energy Development Bank (hereinafter referred to as the "Solar Bank") which shall be in the Government National Mortgage Association. The Solar Bank shall have succession until five years after the date of the enactment of this Title or until dissolved by an Act of the Congress, whichever occurs first.

(b) The General Accounting Office shall periodically audit the financial transactions of the Solar Bank, and, for this purpose, shall have access to all of its books, records, and accounts.

(c) No officer, attorney, agent, or employee of the Solar Bank may participate, directly or indirectly, in any manner in the deliberations upon, or the determination of, any matter affecting his personal interest, or the interests of any corporation, partnership, or association with which he is directly or indirectly associated.

(d) The Solar Bank may impose or charge for its services which shall be deposited into the miscellaneous receipts of the Treasury.

POWERS

SEC. 805. (a) The Secretary, with the Advisory Board established by section 804, shall have the power to fix the level of subsidy, not to exceed 6 percentage points below the current maximum interest rate permitted on a mortgage insured under section 203(b) of the National Housing Act, on loans subsidized by the Bank and the interest rate paid by borrowers on such loans, and from time to time to alter the level of subsidy and interest rates for new loans subsidized by the Bank. In doing so the Bank shall give consideration to such factors as it shall deem appropriate including, but not limited to the following:

(1) the prevailing market rates of interest for home mortgages, home improvement loans, and commercial loans, as well as prevailing market rates of interest for Government and corporate bonds;

(2) the availability of other Federal Government incentives and subsidies for solar energy equipment, including Federal income tax credits;

(3) the costs of nonrenewable energy resources and systems;

(4) the costs of solar energy systems; and

(5) the levels of subsidy needed to induce consumers and builders to install solar energy systems in residential and commercial buildings.

(b) The Secretary shall establish eligibility criteria which do not discriminate against simple passive or hybrid solar energy systems and which do not subsidize nonenergy related housing costs. Criteria may take into account energy saved through the use of simple passive and hybrid solar energy systems.

ADVISORY BOARD

SEC. 806. (a) As part of the Solar Bank, there shall be an Advisory Board which shall make the report described in section 809 and provide advice to the Secretary for the purpose of assisting the Solar Bank in carrying out the provisions of this title. Such Advisory Board shall be composed of—

(1) one individual who is not an officer or employee of any governmental entity and who is able to represent the views of the general public as a result of his or her education, training, and experience;

(2) one individual who is not an officer or employee of any governmental entity or of any entity engaged in the exploration, development, production, or delivery of any energy resource and who is qualified to serve on the Board as a result of his or her education, training, and experience in scientific endeavors;

(3) one individual who is able to represent the views of the solar energy industry as a result of his or her education, training, and experience;

(4) one individual who is able to represent the views of lending and financial institutions as a result of his or her education, training, and experience; and

(5) one individual who is able to represent the views of low-income persons as a result of his or her education, training, and experience.

(b) The individuals described in paragraphs (1), (2), (3), (4), and (5) of subsection (a) shall be appointed by the President of the United States.

(c) If any member of the Advisory Board becomes an officer or employee of a government or becomes employed in a manner which would disqualify the person from being on the Board, he or she may continue as a member of the Board for not longer than the ninety-day period beginning on the date he or she leaves that office or becomes such an officer or employee, as the case may be.

(d)(1) Except as provided by paragraphs (2) and (3) of this subparagraph, members appointed under paragraphs (1), (2), (3), (4), and (5), of subsection (a) shall be appointed for a term of two years.

(2) Of the members first appointed, those appointed under paragraphs (1) and (2) of subsection (a) shall be appointed for a term of two years and those appointed under paragraphs (3), (4), and (5) of subsection (a) shall be appointed for a term of three years.

(3) Any member appointed under paragraph (1), (2), (3), (4), or (5) of subsection (a) to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his or her term until a successor has taken office.

(e)(1) Except as provided in paragraph (2) of this subsection, members of the Advisory Board shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Advisory Board.

(2) While away from their homes or regular places of business in the performance of services for the Advisory Board, members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(f) Three members of the Board shall constitute a quorum but a lesser number may hold hearings.

(g) The Chairperson and Vice Chairperson of the Advisory Board shall be elected by the members of the Advisory Board. The term of office of the Chairperson and Vice Chairperson shall be two years.

SUBSIDY PAYMENTS

SEC. 807. (a)(1) The Solar Bank may, beginning with fiscal year 1980, make payments to financial institutions for the purpose of subsidizing below-market rate loans which are made by such institutions to owners or builders of commercial and residential structures and to units of local government in connection with programs described in subsection (d)(3) for the purchase and installation of solar energy systems in such structures and which meet the requirements of this section. Such payments may also be made with respect to the portion of a larger loan which is allocable to the solar energy systems.

(2) The amount of any payment made with respect to any loan or qualifying portion of a loan may be in a lump-sum payment and shall be in an amount necessary, as determined by the Solar Bank, to compensate the financial institution for the difference between the interest rate determined by the Secretary and the yield it would have received if the loan were made at a market rate.

(3) The Solar Bank may, with respect to any loan for which a subsidy payment is made under this Title, require the financial institution to repay the Solar Bank any amount to which the Solar Bank is entitled as a result of the borrower's failure to meet his obligation under the loan.

(b) A payment may be made under this section with respect to a loan or qualifying portion of a loan only if—

(1) the term of repayment does not exceed thirty years and is not less than five years, except that there shall be no penalty imposed on the borrower if the loan or advance of credit is repaid at any time before the term of repayment expires;

(2) the amount of such loan allocable to purchase an installation of a solar energy system does not exceed $10,000 per unit in the case of any one- to four-family residential structure, $5,000 per unit in the case of any residential structure with five or more dwelling units (not to exceed $200,000 per loan), and $200,000 in the case of any commercial structure;

(3) the solar energy system purchased and installed with such loan is covered by a warranty that the installer or manufacturer, or both, will remedy any defects in materials, manufacture, or installation of the system without charge and within reasonable time (including, if necessary, repair or replacement at the site) which becomes evident within one year from the date of installation or such longer period as the Secretary determines is reasonable. The Secretary may also require that such warranty include a requirement that the installer will provide, without charge and within fifteen days before the expiration of the warranty, an onsite inspection of the system and components for the purpose of discovering and remedying any defects which may be present;

(4) the security for the loan meets the requirements of the Government National Mortgage Association; and

(5) the solar energy system to be financed will be purchased and installed after the date of enactment of this Title.

(c) At least 60 per centum of the amount of subsidy payments made under this section in any year shall be for the purpose of assisting the financing of solar energy systems in residential structures.

(d)(1) At least 5 per centum of the amount of subsidy payments made under this section in any year shall be for the purpose of assisting the financing of solar energy systems in the residential structures occupied by low-income persons. The Secretary shall fix special subsidy levels on loans subsidized by the bank pursuant to this subsection.

(2) Any failure to expend funds specified in this subsection shall not delay payments made under other susbections. Funds available for this subsection that are not expended in a given year shall remain available for the following year.

(3) For the purposes of this subsection, a unit of local government shall be considered an eligible recipient of a subsidized loan on behalf of low-income persons in connection with a project carried out with other housing or rehabilitation programs.

PENALTIES

SEC. 808. Any person who knowingly makes any false statement or misrepresents any material fact with respect to any loan assisted under this title shall be fined not more than $10,000 or imprisoned not more than one year, or both.

REPORTS

SEC. 809. The Advisory Board shall make an annual report to both Houses of Congress and to the President of the United States for the purpose of providing a detailed accounting of the operation of the program established by this title, making recommendations for improvements in such program, and identifying problem areas within the solar energy industry, the Federal Government, and lending institutions which may be inhibiting the success of such program. Such report shall include the majority and minority and dissenting views of the Advisory Board and the views of the Secretary.

PROMOTION OF THE PROGRAM

SEC. 810. The Solar Bank shall promote the program established by this title by informing financial institutions and consumers of the benefits of such program and by actively seeking their participation in the program.

AUTHORIZATION OF APPROPRIATIONS

SEC. 811. There are authorized to be appropriated to carry out the purposes of this title not to exceed $50,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $275,000,000 for the fiscal year ending September 30, 1982.

TITLE IX—EXTENSION OF DEFENSE PRODUCTION ACT

SHORT TITLE

SEC. 901. This title may be cited as the "Defense Production Act Extension Amendments of 1979".

AMENDMENT TO DEFENSE PRODUCTION ACT OF 1950

SEC. 902. The first sentence of section 717 (a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166a) is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1981".

ENERGY FINANCING ACT OF 1979

The amendment of the Committee on Banking, Housing, and Urban Affairs reads as follows:

SHORT TITLE

SECTION 1. This act may be cited as the "Energy Financing Act of 1979".

TITLE I—DEFENSE PRODUCTION ACT AMENDMENTS

DECLARATION OF POLICY

SEC. 101. The second sentence of section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended by striking out the period at the end thereof and inserting in lieu thereof "or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including petroleum, and which would adversely affect the national defense preparedness which is essential to national security, it is also necessary and appropriate to achieve greater independence in domestic energy supplies.".

SYNTHETIC FUELS DEMONSTRATION PROGRAM

SEC. 102. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091-2094) is amended by adding at the end thereof the following new section:

"SEC. 305. (a) The President, utilizing the provisions of this section, shall establish a program to determine the commercial viability of synthetic fuels technologies.

"(b) The purpose of this program is—

"(1) to stimulate development of synthetic substitutes for crude oil and conventional natural gas while minimizing Government involvement;

"(2) to determine what additional efforts on the part of the Federal Government are necessary and appropriate to assure development of synthetic fuels production capacity at an optimal pace;

"(3) to expedite design, construction, and operation of synthetic fuels commercial demonstration plants by minimizing Federal Government procedural requirements for selecting projects to receive Federal financial assistance under this section; and

"(4) to test synthetic fuels technologies to determine, their potential role in meeting the Nation's energy needs in terms of—

"(A) their commercial viability;

"(B) their environmental impact, including, but not limited to, water consumption, water pollution, and air pollution;

"(C) their health and safety aspects, including, but not limited to, any carcinogenic effect;

"(D) their effect on regional and local agricultural production;

"(E) their social and economic impacts; and

"(F) their thermodynamic balances.

"(c) The President shall—

"(1) invite submission of proposals from interested persons (hereinafter referred to as 'bidders'), requesting Federal assistance in the form of purchase commitments, loan guarantees, or a combination of the two, for the design, construction, and operation of synthetic fuels commercial demonstration projects (hereinafter referred to as 'projects'). The President shall require that each proposal contain such information as necessary for the purposes of preventing selection of more than one project involving the same technology and insuring selection of projects which best serve the purposes of this section as set forth in subsection (b): Provided, That the President shall minimize requirements for information to be included in the proposals by directing the Office of Management and Budget to eliminate duplicative reporting forms issued by one or more agencies so that an applicant will be relieved of multiple filings of similar or identical information;

"(2) not later than one year after the invitation for proposals, select on a competitive basis to the maximum extent practicable up to twelve proposals which are deemed most likely to contribute to the purposes of this section and which each employ a different processing technology; no more than six such proposals employing the same generic feedstock; and

"(3) subject to the provisions of this section, enter into contracts with bidders providing for commitments to purchase synthetic fuels produced by the proposed projects and with public or private financing institutions for guaranteeing loans for design, construction, and operation of the proposed projects.

"(d) Such contracts shall be subject to the following conditions:

"(1) the proposed project must be located in the United States, including the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States, but no project may be owned or operated by the United States or any department or agency thereof;

"(2) no contract shall require or permit advance payments;

"(3) loan guarantees may be employed only if the President determines that the purposes set forth in subsection (b) could not be achieved through purchase commitment contracts alone;

"(4) all contracts must be entered into before October 1, 1981;

"(5) no contract may commit the Federal Government to purchases beyond the seventh year of synthetic fuels production from a project, unless both Houses of Congress have been notified in writing of such proposed contract and thirty days of continuous session of Congress have expired following the date on which such notice was transmitted to the Congress and neither House of Congress has adopted, within such thirty-day period, a resolution, described in subsection (k), disapproving such proposed contract;

"(6) any purchase commitment contract shall provide that the President retains the right to refuse delivery of the synthetic fuels involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuels as specified in the contract involved exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuels on the delivery date specified in such contract;

"(7) with respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award contracts for commitment to purchase more than fifty thousand barrels per day equivalent of synthetic fuels, or make loan guarantees for design, construction, and operation of a plant designed to produce over fifty thousand barrels per day equivalent of synthetic fuels;

"(8) any purchase commitment contract shall commit the Government to purchase fixed amounts of fuels at fixed prices adjusted by a formula that may take into account inflation, world oil prices or such other prices as the Secretary deems relevant except that project costs may not be considered as a factor;

"(9) Federal loan guarantees shall not exceed 75 per centum of a project's estimated costs at the making of the contract;

"(10) the President shall establish such terms and conditions for loan guarantees under this section as necessary to implement the purposes of this section and insure the prompt repayment of loans;

"(11) the President may not enter into any contract providing a Federal loan guarantee of an amount in excess of $500,000,000 unless both Houses of Congress have been notified in writing of such proposed contract and thirty days of continuous session of Congress have expired following the date on which such notice was transmitted to the Congress and both Houses of Congress have not adopted, within such thirty-day period, resolutions, described in subsection (k), disapproving such proposed contract;

"(12) guarantees may be made only to the extent appropriated funds are available. For the purposes of this section, $3 of guarantee authority shall be available for every $1 appropriated for this purpose. Appropriated funds shall remain available until termination of all guarantees; and

"(13) the amount of purchase commitments shall not exceed $3,000,000,000, subject to approval in an appropriation Act.

For the purpose of clause (13) only the excess of the price per unit in commitments issued over the market price shall be charged to any appropriation.

"(e) The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined any products procured under this section.

"(f) Each Federal officer and agency having authority to issue any permit for, or to otherwise approve or authorize, the construction or operation of a project selected under this section or for construction or operation of any facility for production or distribution of energy or for exploration or development of Federal land in connection with energy production shall—

"(1) in accordance with Executive Order 1219, expedite all actions necessary for the issuance of such permit, approval, or authorization, and

"(2) take final action thereon not later than twelve months after the date application for such permit, approval, or authorization is made. After taking any such action, such officer or agency shall publish notification thereof in the Federal Register.

"(g) Notwithstanding any other provision of law, liquid fuels acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this section, shall be transferred to the Strategic Petroleum Reserve, when the President deems such action to be in the public interest.

"(h) The President shall submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth a comprehensive plan to implement the program described in this section. In preparing such a comprehensive plan, the President shall consult with the heads of the Department of Energy, the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Agriculture, and the Department of the Treasury. The plan shall include, but not be limited to—

"(1) regulations required to carry out the purposes of this section;

"(2) a list of Federal agencies, governmental entities, and other persons who will be consulted or used to implement the program by this section;

"(3) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect; and

"(4) the methods and procedures to insure that the projects will be no larger than necessary to demonstrate the commercial viability of the technologies.

"(i) The President shall submit annually a detailed report to the Congress concerning the actions taken or not taken by the President under this section during the preceding fiscal year including, but not limited to—

"(1) a discussion of the status of each project financed under this section including progress made in the development of such projects, and the expected or actual production from each project, including byproduct production therefrom, and the distributions of such products and byproducts;

"(2) a detailed statement of the costs of the program established by this section;

"(3) data concerning the environmental, social, and economic impacts of each such project;

"(4) the administrative and other costs incurred by the Federal agencies in carrying out this program;

"(5) recommendations as to the appropriate level of further Government involvement in commercialization of synthetic fuel technologies; and

"(6) such other data as may be helpful in keeping the Congress and the public fully and currently informed about the program authorized by this section.

"(j) The reports required by subsection (i) of this section shall be a part of the annual reports required by section 657 of the Department of Energy Organization Act, except that the matters required to be reported by this section shall be clearly set out and identified in such annual reports.

"(k)(1) The resolution disapproving proposed contracts under this section shall read as follows after the resolving clause: 'That the does not favor the taking effect of the contract terms transmitted to Congress by the President on .', the first blank space therein being filled with the name of the resolving House and the second blank space therein being filled with the day and year.

"(2) Upon introduction, the resolution shall be referred immediately to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House.

"(3)(A) If the committee to which a resolution of disapproval has been referred has not reported it at the end of seven calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution of disapproval which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution of disapproval), and debate thereon shall be limited to not more than one hour, to be divided equally between

those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution of disapproval.

"(4)(A) When the committee has reported, or has been discharged from further consideration of, a resolution of disapproval, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution of disapproval shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(5)(A) Motions to postpone, made with respect to the discharge from committee or the consideration of a resolution of disapproval, and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any resolution of disapproval shall be decided without debate.

"(l) Nothing in this section may be construed to authorize any program of fuel allocation or rationing.".

PRODUCTION OF HEAVY OILS AND TAR SANDS

SEC. 103. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091–2094) is amended by adding at the end thereof the following new section:

"SEC. 306. (a) In order to expand production of petroleum products from heavy oils and tar sands, the President is authorized to enter into contracts with persons proposing to extract such heavy oils and tar sands from the ground. Such contracts shall provide to such persons Federal Government guarantees of a market price for such heavy oils and tar sands determined as follows:

"(1) the amount of the guaranteed market price shall be initially set at and never be lower than 90 per centum of the world oil price for petroleum of comparable grade on the date of enactment of this Act, as determined by the President;

"(2) the amount of the guaranteed market price shall be increased annually to equal the lesser of—

"(A) 90 per centum of the new world price of oil, as determined by the President, or

"(B) 90 per centum of the world price oil on the date of enactment of this Act, as determined in subparagraph (1) above, adjusted annually for inflation using the gross national product deflator.

"(b) For the purposes of this section, the terms 'heavy oils' and 'tar sands' include fuels if the hydrocarbon content thereof has a gravity of twenty degrees or less (API). For purposes of applying the preceding sentence, the President may substitute a higher gravity rating (API) than twenty degrees in any case in which he determines that the application of the higher gravity rating would further the purposes of this section.

"(c)(1) Price guarantees shall not be available under this section for heavy oils or tar sands produced outside of the United States, including the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(2) No person, including any person substantially controlled by such person as determined by the President, shall be eligible to receive a guarantee of a market price under this section with respect to more than fifty thousand barrels per day oil equivalent.

"(3) No guarantee issued under this section shall extend beyond 2000.".

GENERAL PROVISIONS

SEC. 104. (a) Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended by adding at the end thereof the following:

"(g) The words 'synthetic fuels' mean any product derived from coal (including anthracite, lignite, and peat) or oil shale which is suitable for substitution for petroleum or natural gas.".

(b) Section 711(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)) is amended—

(1) by striking out "There" and inserting in lieu thereof "Except for the purposes of section 305, there"; and

(2) by inserting after the first sentence the following new sentence: "For the purposes of section 305, there are hereby authorized to be appropriated without fiscal year limitation not to exceed $3,000,000,000.".

(c) The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2165(a)) is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1981".

TITLE II—SOLAR ENERGY DEVELOPMENT BANK

PURPOSE

SEC. 201. It is the purpose of this title to encourage the use of solar energy, and thereby reduce the Nation's dependence on foreign sources of energy supplies, by establishing a Solar Energy Development Bank to provide subsidies for below-market interest rate loans made to owners or builders of commercial and residential structures for the purchase and installation of solar energy systems in such structures.

ESTABLISHMENT OF THE BANK

SEC. 202. (a) There is hereby created a body corporate to be known as the Solar Energy Development Bank (hereinafter referred to as the "Solar Bank") which shall be in the Department of Housing and Urban Development. The Solar Bank shall have succession until five years after the date of the enactment of this Act or until dissolved by an Act of Congress, whichever occurs first, and it shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of jurisdiction and venue in civil actions, to be a District of Columbia Corporation.

(b) There is established in the Department of Housing and Urban Development the position of President, Solar Bank, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate now or hereafter prescribed for Executive level IV by section 5315 of title 5, United States Code. Subject to the direction of the Board of Directors of the Solar Bank, the President shall manage and supervise the affairs of the Solar Bank and shall perform such other functions as the Board may prescribe.

(c) The General Accounting Office shall periodically audit the financial transactions of the Solar Bank, and, for this purpose, shall have access to all of it books, records, and accounts.

(d) No officer, attorney, agent, or employee of the Solar Bank may participate, directly or indirectly, in any manner in the deliberations upon, or the determination of, any matter affecting his personal interest, or the interests of any corporation, partnership, or association with which he is directly or indirectly associated.

(e) The Solar Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

(f) The Solar Bank shall have the same corporate powers given the Government National Mortgage Association in 309(a) of the National Housing Act.

BOARD OF DIRECTORS

SEC. 203. (a) The Solar Bank shall be governed by a Board of Directors (hereinafter referred to as the "Board") which shall provide advice to the President of the Solar Bank and to the Secretary of Housing and Urban Development for the purpose of assisting the Solar Bank in carrying out the provisions of this Act. The Board shall consist of the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Secretary of Energy. The Board shall adopt, and may amend or repeal, such regulations as are necessary or convenient for the functioning of the Solar Bank.

(b) Two members of the Board shall constitute a quorum.

(c) The Chairperson of the Board shall be the Secretary of Housing and Urban Development.

(d) The Board, in consultation with the Advisory Board established by section 5, shall have the power to fix the levels of subsidy on loans subsidized by the Bank and the interest rates paid by borrowers on such loans, but not lower than 6 percentage points below the current maximum interest rate permitted on a mortgage insured under section 203(b) of the National Housing Act, and from time to time to alter the levels of subsidy and interest rates for new loans subsidized by the Bank. In doing so the Bank shall give consideration to such factors as it shall deem appropriate, including, but not limited to the following:

(1) the prevailing market rates of interest for home mortgages, home improvement loans, and commercial loans, as well as prevailing market rates of interest for Government and corporate bonds;

(2) the availability of other Federal Government incentives and subsidies for solar energy equipment, including Federal income tax credits;

(3) the costs of nonrenewable energy resources and systems;

(4) the costs of solar energy systems; and

(5) the levels of subsidy needed to induce consumers and builders to install solar energy systems in residential and commercial buildings.

(e) The President of the Bank shall establish eligibility criteria which do not discriminate against simple passive or hybrid solar energy sytems and which do not subsidize nonenergy related housing costs. Criteria may take into account energy saved through the use of simple passive and hybrid solar energy systems.

ADVISORY BOARD

SEC. 204. (a) As part of the Solar Bank, there shall be an Advisory Board which shall make the report described in section 207 and provide advice to the President of the Solar Bank and to the Board of Directors for the purpose of assisting the Solar Bank in carrying out the provisions of this title. Such Advisory Board shall be composed of—

(1) one individual who is not an officer or employee of any governmental entity and who is able to represent the views of the general public as a result of his or her education, training, and experience;

(2) one individual who is not an officer or employee of any governmental entity or of any entity engaged in the exploration, development, production, or delivery of any energy resource and who is qualified to serve on the Board as a result of his or her educa-

tion, training, and experience in scientific endeavors;

(3) one individual who is able to represent the views of the solar energy industry as a result of his or her education, training, and experience;

(4) one individual who is able to represent the views of lending and financial institutions as a result of his or her education, training, and experience; and

(5) one individual who is able to represent the views of low-income persons as a result of his or her education, training, and experience.

(b) The individual described in paragraphs (1), (2), (3), (4), and (5) of subsection (a) shall be appointed by the President of the United States.

(c) If any member of the Advisory Board becomes an officer or employee of a government or becomes employed in a manner which would disqualify the person from being on the Board, he or she may continue as a member of the Board for not longer than the ninety-day period beginning on the date he or she leaves that office or becomes such an officer or employee, as the case may be.

(d)(1) Except as provided by paragraphs (2) and (3) of this subparagraph, members appointed under paragraphs (1), (2), (3), (4), and (5), of subsection (a) shall be appointed for a term of two years.

(2) Of the members first appointed, those appointed under paragraphs (1) and (2) of subsection (a) shall be appointed for a term of two years and those appointed under paragraphs (3), (4), and (5) of subsection (a) shall be appointed for a term of three years.

(3) Any member appointed under paragraph (1), (2), (3), (4), or (5) of subsection (a) to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his or her term until a successor has taken office.

(e)(1) Except as provided in paragraph (2) of this subsection, members of the Advisory Board shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Advisory Board.

(2) While away from their homes or regular places of business in the performance of services for the Advisory Board, members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(f) Three members of the Board shall constitute a quorum but a lesser number may hold hearings.

(g) The Chairperson and Vice Chairperson of the Advisory Board shall be elected by the members of the Advisory Board. The term of office of the Chairperson and Vice Chairperson shall be two years.

SUBSIDY PAYMENTS

SEC. 205. (a)(1) The Solar Bank may, beginning with fiscal year 1980, make payments to financial institutions for the purpose of subsidizing below-market rate loans which are made by such institutions to owners or builders of commercial and residential structures and to units of local government in connection with programs described in subsection (d)(3) for the purchase and installation of solar energy systems in such structures and which meet the requirements of this section. Such payments may also be made with respect to the portion of a larger loan which is allocable to the solar energy systems.

(2) For purposes of this title, the term "solar energy systems" shall be defined as in section 2(a) of the National Housing Act, as amended by section 241 of the National Energy Conservation Policy Act, and shall also include wood-burning appliances, solar process heat, solar electric devices, and earth shelters which are in conformity with such criteria and standards as shall be prescribed by the Secretary of Housing and Urban Development in consultation with the Secretary of Energy.

(3) The amount of any payment made with respect to any loan or qualifying portion of a loan may be in a lump-sum payment and shall be in an amount necessary, as determined by the Solar Bank, to compensate the financial institution for the difference between the interest rate determined by the Board of the Solar Bank and the yield it would have received if the loan were made at a market rate.

(4) The Solar Bank may, with respect to any loan for which a subsidy payment is made under this title, require the financial institution to repay the Solar Bank any amount to which the Solar Bank is entitled as a result of the borrower's failure to meet his obligation under the loan.

(b) A payment may be made under this section with respect to a loan or qualifying portion of a loan only if—

(1) the term of repayment does not exceed thirty years and is not less than five years, except that there shall be no penalty imposed on the borrower if the loan or advance of credit is repaid at any time before the term of repayment expires;

(2) the amount of such loan allocable to purchase and installation of a solar energy system does not exceed $10,000 per unit in the case of any one- to four-family residential structure, $5,000 per unit in the case of any residential structure with five or more dwelling units (not to exceed $500,000 per loan), and $200,000 in the case of any commercial structure;

(3) the solar energy system purchased and installed with such loan is covered by a warranty that the installer or manufacturer, or both, will remedy any defects in materials, manufacture, or installation of the system without charge and within reasonable time (including, if necessary, repair or replacement at the site) which becomes evident within one year from the date of installation or such longer period as the Board of Directors of the Solar Bank determines is reasonable. The Board of Directors may also require that such warranty include a requirement that the installer will provide, without charge and within fifteen days before the expiration of the warranty, an on-site inspection of the system and components for the purpose of discovering and remedying any defects which may be present;

(4) the security for the loan meets the requirements of the Board of Directors of the Solar Bank; and

(5) the solar energy system to be financed will be purchased and installed after the date of enactment of this Act.

(c) At least 60 per centum of the amount of subsidy payments made under this section in any year shall be for the purpose of assisting the financing of solar energy systems in residential structures.

(d)(1) At least 5 per centum of the amount of subsidy payments made under this section in any year shall be for the purpose of assisting the financing of solar energy systems in residential structures occupied by low-income persons. The Board of Directors shall fix special subsidy levels on loans subsidized by the Bank pursuant to this subsection.

(2) Any failure to expend funds specified in this subsection shall not delay payments made under other subsections. Funds available for this subsection that are not expended in a given year shall remain available for the following year.

(3) For the purposes of this subsection, a unit of local government shall be considered an eligible recipient of a subsidized loan on behalf of low-income persons in connection with a project carried out with other housing or rehabilitation programs.

PENALTIES

SEC. 206. Any person who knowingly makes any false statement or misrepresents any material fact with respect to any loan assisted under this title shall be fined not more than $10,000 or imprisoned not more than one year, or both.

REPORTS

SEC. 207. The Advisory Board shall make an annual report to both Houses of Congress and to the President of the United States for the purpose of providing a detailed accounting of the operation of the program established by this title, making recommendations for improvements in such program, and identifying problem areas within the solar energy industry, the Federal Government, and lending institutions which may be inhibiting the success of such program. Such report shall include the majority and minority and dissenting views of the Advisory Board and the Board of Directors and the views of the President of the Solar Bank.

PROMOTION OF PROGRAM

SEC. 208. The Solar Bank shall promote the program established by this title by informing financial institutions and consumers of the benefits of such program and by actively seeking their participation in the program.

USE OF HOUSING AND URBAN DEVELOPMENT PERSONNEL

SEC. 209. The Secretary of Housing and Urban Development may permit the Solar Bank, to the extent deemed necessary, to utilize the services of personnel of the Department of Housing and Urban Development, including the personnel of the Government National Mortgage Association, for the purpose of carrying out the provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 210. There are authorized to be appropriated to carry out the purposes of this title not to exceed $50,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, $225,000,000 for the fiscal year ending September 30, 1982, $300,000,000 for the fiscal year ending September 30, 1983, and $400,000,000 for the fiscal year ending September 30, 1984.

TITLE III—RURAL ENERGY PRODUCTION AND USE

SEC. 301. The Food and Agriculture Act of 1977 is amended by adding at the end thereof a new title XX as follows:

"TITLE XX—RURAL ENERGY PRODUCTION AND USE

"SHORT TITLE

"SEC. 2001. This title may be cited as the 'Rural Energy Independence Act of 1979'.

"FINDINGS AND STATEMENT OF PURPOSE

"SEC. 2002. (a) Congress finds that—

"(1) the effective production and marketing of agricultural commodities are dependent upon an adequate amount of fuel;

"(2) to achieve energy independence, the United States must develop the capability to produce energy economically and efficiently from sources other than fossil fuels;

"(3) renewable resources—agricultural commodities and forest products—can, with the development of advanced technology and production and marketing facilities, become an efficient source of energy for the people of the United States;

"(4) United States farmers must have reliable sources of fuel in order to insure

that the people of the United States have adequate supplies of food and fiber at reasonable prices; and

"(5) rural communities suffer inordinately from shortages of fuel.

"(b) The purpose of this title is to provide for additional research and other activities necessary for the speedy development and use of renewable resources as an economic and efficient source of energy for the benefit of the people of the United States, and to insure that United States farmers and rural communities will have reliable supplies of energy as fossil fuels become less available and more expensive.

"RENEWABLE RESOURCES ENERGY PRODUCTION LOAN GUARANTEES AND GRANTS

"SEC. 2003. (a) In order to facilitate the development of renewable resources as a source of energy, the Secretary of Agriculture shall establish projects for the production of energy from agricultural commodities and forest products through guaranteed loans as provided in this section, to finance the construction, establishment, or operation of commercial and on-farm projects.

"(b) In order to encourage the adoption of renewable resources energy production projects and techniques by farmers and rural organizations, the Secretary is authorized to make grants for the construction, establishment, or operation of demonstration projects for the production of energy from agricultural commodities and forest products. The Secretary shall establish criteria defining what constitutes a demonstration project. The total amount of grants for projects may not exceed $250,000,000 during fiscal years 1980, 1981, 1982, 1983, and 1984, of which no State may receive more than 5 per centum.

"(c) Loans may be guaranteed and grants made under this section—

"(1) with respect to on-farm projects, to any farmer or rancher in the United States, or any on-farm, cooperative, or private domestic corporation or partnership that is controlled by farmers or ranchers and engaged primarily and directly in farming or ranching in the United States, and

"(2) with respect to commercial projects, to any domestic public, private, or cooperative organization organized for profit or not for profit, or to any individual who is a United States citizen.

"(d) No loan may be guaranteed and no grant may be made under this section unless the Secretary determines that the total energy content of the alcohol and other fuels to be manufactured under the project will exceed the total energy from petroleum and natural gas used in manufacturing the alcohol and other fuels.

"(e) The total amount of loans guaranteed under this section shall not exceed $500,000,000 for the fiscal year ending September 30, 1980, $750,000,000 for the fiscal year ending September 30, 1981, $750,000,000 for the fiscal year ending September 30, 1982, $1,000,000,000 for the fiscal year ending September 30, 1983, and $1,000,000,000 for the fiscal year ending September 30, 1984. Not less than one-third of the total amount of loans guaranteed under this section in any fiscal year shall be allocated to projects that use wood or wood wastes.

"(f) The Secretary shall establish such terms and conditions for guaranteeing loans under this section as necessary to implement the purpose of this section and to protect the Government from loss. The Secretary may guarantee under this section the principal and interest on any loan that is made by a legally organized lending agency, except that—

"(1) such guarantee shall not exceed 90 per centum of the principal and interest of the loan; and

"(2) a guarantee fee shall be charged and collected in an amount sufficient to cover applicable administrative costs and probable losses on guaranteed obligations, but such fee shall not exceed 1 per centum per annum of the outstanding indebtedness covered by such guarantee.

"(g) Insofar as practicable, not less than 75 per centum of the loan guarantees and grants under this section in any fiscal year shall be executed by May 31.

"(h) The Secretary may use any agency of the Department of Agriculture—including the Farmers Home Administration and the Agricultural Stabilization and Conservation Service—to carry out the loan and grant program under this section.

"(i) The Secretary shall coordinate the program under this section with (1) the industrial hydrocarbon and alcohol loan and grant programs under section 1419 of this Act and section 509 of the Rural Development Act of 1972, as added by section 1420 of this Act, (2) the farm loan programs under the Consolidated Farm and Rural Development Act, as amended by section 1448 of this Act, that authorize loans to farmers and ranchers for the acquisition and installation of non-fossil-energy systems or equipment that uses solar energy, and (3) the program for solar energy model farms and demonstration projects under sections 1452 through 1454 of this Act.

"(j) The Secretary is authorized to issue such regulations as deemed necessary to implement this section.

"(k) The provisions of this section shall be carried out through the Commodity Credit Corporation. In guaranteeing loans under this section, the Secretary may also use the authorities vested in the Secretary under the Consolidated Farm and Rural Development Act. Any contract guarantee executed under this section shall be an obligation of the United States and incontestable except for fraud or misrepresentation of which the holder of the contract has actual knowledge.

"(l) No loan may be guaranteed and no grant may be made under this section after September 30, 1984.

"AGRICULTURAL, FORESTRY, AND RURAL ENERGY BOARD

"SEC. 2004. (a) The Secretary of Agriculture shall establish within the Department of Agriculture an Agricultural, Forestry, and Rural Energy Board (hereinafter called the 'Board') to assist the Secretary to perform the functions and duties imposed by this title. The Secretary shall be the chairperson of the Board.

"(b) The Board shall be composed of nine members, as follows:

"(1) the Secretary of Agriculture;

"(2) the Deputy Secretary of Agriculture;

"(3) the Under Secretary for International Affairs and Commodity Programs;

"(4) the Assistant Secretary for Food and Consumer Services;

"(5) the Assistant Secretary for Natural Resources and Environment;

"(6) the Assistant Secretary for Marketing Services;

"(7) the Assistant Secretary for Rural Development;

"(8) the Director of Economics, Policy Analysis, and Budget; and

"(9) the Director of the Science and Education Administration.

"(c) The Board shall be responsible for advising the Secretary on agricultural, forestry, and rural energy needs and production potential. Specifically, the Board shall periodically determine, and report to the Secretary—

"(1) ways in which agricultural commodities and forest products and residues can be used to meet the United States energy needs;

"(2) policies and procedures to insure that production and agricultural commodities and forest products are not interrupted by energy shortages; and

"(3) energy-related problems of the agricultural, forestry, and rural sectors.

"(d) The Board shall establish and operate, in cooperation with the agencies of the Department of Agriculture and other Federal departments and agencies, wood and biomass energy demonstration centers in each Forest Service region. Each center shall provide demonstrations of—

"(1) production of fuel from wood and other biomass material;

"(2) the use of energy from agricultural commodities and forest products for industrial park, and small cities;

"(3) wood gasification for crop drying, poultry, poultry housing, and other agricultural uses; and

"(4) the direct burning of wood for industries, such as the textile industry.

"(e) The Board shall meet at least once during each six-month period, and shall submit to the Secretary by December 1 of each year a written report on agricultural, forestry, and rural energy needs and production potential, including a report on the operations of the wood and biomass energy demonstration centers during the previous fiscal year. Copies of this report shall be sent to the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, the Joint Council on Food and Agricultural Sciences, established under section 1407 of this Act, and the National Agricultural Research and Extension Users Advisory Board, established under section 1408 of this Act.

"RURAL ENERGY RESEARCH

"SEC. 2005. (a) In order to facilitate the development of advanced technology and production and marketing facilities for the economical and efficient use of renewable resources as a source of energy, the Secretary of Agriculture shall develop and implement a national rural energy research program that shall include, but not be limited to, research to develop—

"(1) economical and energy-efficient fuel from agricultural commodities and forest products;

"(2) techniques for using energy derived from non-fossil-fuel sources in the production and processing of agricultural commodities and forest products, especially techniques that farmers may use; and

"(3) economical ways in which rural communities can use energy derived from non-fossil-fuel sources.

"(b) The Secretary shall establish rural energy research as a separate and distinct mission of the Department of Agriculture, and the Secretary shall increase support for such research to a level that provides resources adequate to meet the energy research needs of farmers and rural United States.

"(c) The Secretary shall conduct a study on the feasibility of alternative crop-livestock systems specifically designed to produce both foodstuffs for domestic and export markets and biomass for use in the production of energy. The study shall include, but not be limited to, determination of—

"(1) the technical feasibility of such alternative systems;

"(2) potential fuel, livestock, and grain production under such alternative systems;

"(3) the practical farm-level applicability of alternative systems; and

"(4) potential economic and Government-policy initiatives to promote the development of such alternative systems.

The study shall be completed, and a report of the Secretary's findings submitted to Congress by December 31, 1981.

"RURAL ENERGY EXTENSION

"SEC. 2006. The Secretary of Agriculture shall establish a national rural energy extension program to disseminate the results of rural energy research performed under section 2005 of this title and encourage farmers and rural organizations to adopt projects for the production of energy from agricultural commodities and forest products and

techniques for using energy derived from non-fossil-fuel sources. The program shall include on-farm demonstrations of techniques by which farmers may produce their own energy supplies.

"COORDINATION OF RESEARCH AND EXTENSION EFFORTS

"SEC. 2007. The Secretary of Agriculture shall coordinate rural energy research and extension activities under this title with food and agricultural research, extension, and teaching activities under title XIV of this act and, notwithstanding any other provision of law, may use the appropriations, programs, and organizations authorized under title XIV to implement the research and extension activities required under this title.

"ANNUAL REPORT

"SEC. 2008. The Secretary of Agriculture shall submit to Congress by December 31 of each year a report of the activities of the Department of Agriculture under this title during the immediately preceding fiscal year. The report shall include—

"(1) data describing loans, loan guarantees, and grants under this title;

"(2) a summary of other measures taken to achieve rural energy independence; and

"(3) the Secretary's estimate of the progress made to achieve rural energy independence.

"AUTHORIZATION

"SEC. 2009. To carry out section 2003(b) and section 2003(e), there are authorized to be appropriated such sums as may be necessary.

"EFFECTIVE DATE

"SEC. 2010. The provisions of this title shall become effective October 1, 1979.".

TITLE IV—CONSERVATION BANK

SHORT TITLE

SEC. 401. This title may be cited as the "Conservation Bank Act".

PURPOSE

SEC. 402. It is the purpose of this title to encourage the use of energy conservation measures, and thereby lessen the Nation's dependence on foreign sources of energy supplies, by establishing a Conservation Bank to provide subsidies for below-market interest rate loans made to owners of commercial and residential structures for the purchase and installation of energy conservation measures in such structures.

ESTABLISHMENT OF THE BANK

SEC. 403. (a) There is hereby established a Conservation Bank which shall be in the Government National Mortgage Association. The Conservation Bank shall have succession until September 30, 1984.

(b) The General Accounting Office shall periodically audit the financial transactions of the Conservation Bank, and, for this purpose, shall have access to all of its books, records, and accounts.

(c) The Conservation Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

POWERS

SEC. 404. The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall have the power to fix different levels of subsidy on loans subsidized by the Bank and the interest rates paid by borrowers on such loans, but not lower than 6 percentage points below the maximum interest rate permitted on a mortgage insured under section 203(b) of the National Housing Act, and from time to time to alter the levels of subsidy and interest rates for new loans subsidized by the Bank. In doing so the Secretary shall give consideration to such factors as he shall deem appropriate, including, but not limited to—

(1) the prevailing market rates of interest for home mortgages, home improvement loans, and commercial loans, as well as prevailing market rates of interest for Government and corporate bonds;

(2) the availability of other Federal Government incentives and subsidies for energy conservation equipment, including Federal income tax credits;

(3) the costs of nonrenewable energy resources and systems;

(4) the costs of energy conservation measures; and

(5) the levels of subsidy needed to encourage the installation of energy conservation measures in residential and commercial buildings.

SUBSIDY PAYMENTS

SEC. 405. (a)(1) The Conservation Bank shall, beginning with fiscal year 1980, make payments to financial institutions for the purpose of subsidizing below-market rate loans which are made by such institutions to owners of commercial and residential structures for the purchase and installation of energy conservation measures in such structures and which meet the requirements of this section. The repayment schedule for such loans may be graduated pursuant to regulations issued by the Secretary.

(2) For the purpose of this title, the term "energy conservation measures" shall be defined as in section 210(11) (A) through (G) and (I) of the National Energy Conservation Policy Act and section 391(2) (other than subparagraphs (E) and (F)) of the Energy Policy and Conservation Act.

(3) The amount of any payment made with respect to any loan or qualifying portion of a loan shall be a lump-sum payment and shall be in an amount necessary, as determined by the Secretary, to compensate the financial institution for the difference between making such loan at an interest rate determined by the Secretary and the yield it would have received if the loan were made at a market rate. The Secretary shall set the interest rates for graduated-payment loans so that the cost to the Government National Mortgage Association of providing a subsidy for a level payment loan equals the cost to the Government National Mortgage Association of providing a subsidy for a graduated-payment loan.

(4) The Conservation Bank may, with respect to any loan for which a subsidy payment is made under this title, require the financial institution to repay the Conservation Bank any amount to which the Conservation Bank is entitled as a result of the borrower's failure to meet his or her obligation under the loan.

(b) A payment may be made under this section with respect to a loan or qualified portion of a loan only if—

(1) the term of repayment does not exceed fifteen years and is not less than five years, except that there shall be no penalty imposed on the borrower if the loan or advance credit is repaid at any time before the term of repayment expires;

(2) the amount of such loan allocable to purchase and installation of energy conservation measures does not exceed $5,000 per unit in the case of any one- to four-family residential structure, $2,500 per unit in the case of any residential structure with five or more dwelling units (not to exceed $250,000 per loan), and $200,000 in the case of any commercial structure;

(3) the security for the loan meets the requirements of the Government National Mortgage Association; and

(4) the energy conservation measures to be financed will be purchased and installed after the date of enactment of this title, except as provided in section 409.

(c) At least 75 per centum of the amount of subsidy payments made under this section in any year shall be for the purpose of assisting the financing of energy conservation measures in residential structures.

PENALTIES

SEC. 406. Any person who knowingly makes any false statement or misrepresents any material fact with respect to any loan assisted under this title shall be fined not more than $10,000 or imprisoned not more than one year, or both.

REPORT

SEC. 407. The Secretary shall report to both Houses of Congress within nine months from the date of enactment, the market penetration of assistance provided by the Conservation Bank. If market penetration is less than that necessary to expend the funds provided in the title, the Secretary shall recommend alternative financial delivery systems including the involvement of nonprofit energy conservation and development finance corporations dedicated to the purposes of the title. The report shall also include a detailed accounting of the activities of the Conservation Bank.

PROMOTION AND COORDINATION

SEC. 408. The Secretary and the Government National Mortgage Association shall promote the program established by this title by informing financial institutions and consumers of the benefits of such program and by actively seeking their participation in the program. The Secretary shall also assure effective coordination with promotion and assistance programs in the Department of Energy.

RETROACTIVITY

SEC. 409. Consumers who borrowed money from a financial institution for the purchase and installation of energy conservation measures after September 13, 1979, shall be eligible for assistance by the Conservation Bank if such loan is refinanced after the date of enactment of this title.

RULES

SEC. 410. The Secretary may issue rules to insure the quality and effectiveness of the conservation measures subsidized under this title.

LOW- AND MODERATE-INCOME HOUSING

SEC. 411. The Government National Mortgage Association shall implement the authority provided under section 242 of the National Energy Conservation Policy Act and shall coordinate the program under such section with the Conservation Bank.

FUNDING

SEC. 412. There are authorized to be appropriated to carry out the purposes of this title not to exceed $150,000,000 for the fiscal year ending September 30, 1980, $850,000,000 for the fiscal year ending September 30, 1981, $1,700,000,000 for the fiscal year ending September 3, 1982, $1,700,000,000 for the fiscal year ending September 30, 1983, and $1,700,000,000 for the fiscal year ending September 30, 1984.

The Acting President pro tempore. The Chair recognizes the Senator from Washington.

Mr. JACKSON. Mr. President, today the Senate begins its consideration of S. 932, legislation recommending a broad array of programs to help reduce the Nation's increasingly dangerous dependence on foreign oil imports. It is a bill to help the United States regain control over its energy and economic future. To overcome the threat to our national security posed by our present dependence on highly insecure, and outrageously priced, foreign oil supplies. The economy of the United States and of the entire free world has been undermined and thrown into disarray by the oil pricing practices of the OPEC countries. The implications for our future national security are nothing short of alarming.

Strong immediate action is needed to lay in place programs to hasten the development of the Nation's own massive domestic energy resources in order to free ourselves from this gravely dangerous situation. The legislation now before the Senate will move us in that direction, and there is no higher priority facing the Congress.

As reported by the Energy Committee, S. 932 calls upon the Congress to mount a major national program to bring about the commercialization of the Nation's enormous coal, oil shale, tar sand, and biomass resources for the production of synthetic fuels. The ultimate goal is to reduce oil imports by 1.5 million barrels a day by 1995. The bill would make available to the private sector the financial assistance that must be forthcoming from the Government if we are to bring on line a synthetic fuels industry to harness these massive domestic resources.

It also provides financial assistance to stimulate the production of alcohol and other fuels from biomass. It calls for major new energy conservation initiatives including a Conservation Bank to provide low-interest energy conservation loans, and a conservation grant program to be administered by the States. It provides financial assistance and risk insurance to accelerate the development of our geothermal energy resources. And it provides important new programs, including a Solar Energy Development Bank, to promote the commercialization and broader use of our renewable energy resources.

In sum, Mr. President, the Energy Committee bill recommends a balanced, far-reaching effort to address the Nation's short- and long-term energy needs through an integrated program of production and conservation initiatives.

As the Senate knows, S. 932 was jointly referred to the Energy Committee and the Committee on Banking on July 9. The bill has been jointly reported to the Senate, and the two committees are in disagreement respecting the approach the Congress should take to bring about the commercialization of the Nation's synthetic fuels resources. We differ concerning synthetic fuel production goals, concerning the Government mechanism that should be used, and the level of funding needed to bring a full-scale synthetic fuels production industry on line. And we differ on a variety of other matters. The Energy Committee recommends a broader, more comprehensive bill. The Banking Committee, a more limited program.

This means, of course, that the Senate is confronted with alternative programs and must choose the one it feels is best for the Nation.

In my judgment, the overriding questions facing every Senator in this debate—and every concerned citizen will be listening for the answers—have to do with the magnitude of the commitment we are prepared to make to free the Nation from its dependence on foreign oil.

Are you ready to make the kind of national commitment the Nation needs to rid itself of the bondage imposed by OPEC—the economic bondage—the increasing threat to our national security?

Are you prepared to mount the major national program it is going to take to create an industry capable of bringing on line our enormous reserves of coal, oil shale, tar sands and other resources for the production of synthetic fuels in order to back off OPEC oil and regain control of America's future?

Or is it to be "business as usual" as some seem to suggest.

"Are we going to leave the present energy emergency solely in the hands of the major energy companies?" The answer to this one has to be a resounding "No." Neither the American people nor the Congress is about to tolerate leaving the Nation's energy future solely to the promises of "big oil."

The people are demanding leadership from Congress and the executive branch. There must be a commitment by Congress to match the emergency.

The Banking Committee proposes that the synthetic fuels commercialization program be handed over to some undefined Federal agency to be handled among its other duties. The Energy Committee and the President recommend that the task be placed with a special-purpose, mission-oriented, Synthetic Fuels Corporation. This is a paramount issue that will be decided early on in this debate. It will be a test of the measure and quality of our commitment to a national synthetic fuels program. Is it going to be business as usual or are we willing to establish the kind of mechanism that is essential to get this job done?

The Synthetic Fuels Corporation is hardly an unprecedented notion. Over the years, Congress has established successful Government corporations to carry out discrete, relatively short-term programs such as this one. Government corporations were used to foster our synthetic rubber industry and to facilitate our wartime mobilization efforts. The corporate mechanism has worked in the past and will work here.

Every Senator has to ask himself how placing this program inside the bureaucracy would, as the Banking Committee suggests, "minimize Federal interference"? The Department of Energy—the most logical candidate for the job—has been unable to bring even one commercial-size synthetic fuels project on line despite billions of expenditures and is hardly noted for a hands-off policy toward industry. The Department's responsibilities are essentially regulatory and research and development in nature. And I daresay that few Senators will disagree that it has had its hands full in recent years.

DOE will necessarily play a very important advisory and technical assistance role to the Synthetic Fuels Corporation, but to suggest that its direction of this program would minimize Federal interference is a line of reasoning that is hard to follow. In fact, the argument runs in the opposite direction. If we are to minimize Federal interference and delay, we clearly need a new, financially oriented organization—one that will be fully accountable to the people and Congress, but free of the institutional and bureaucratic restraints that pervade DOE and the rest of the executive branch.

The Banking Committee also suggests that the Synthetic Fuels Corporation is somehow inconsistent with a phased approach to a synthetic fuels commercialization program. But here, again, their reasoning is hard to follow. There is general agreement that the program should proceed in stages. That is precisely what the Energy Committee bill does. During phase I, the Corporation will be restricted to identifying and financing a limited number of synthetic fuel commercialization projects. The emphasis will be on diversity—the commercial-scale demonstration of a variety of ready technologies using a variety of resource bases.

The Banking Committee also takes issue with the funding authorization recommended for the Synthetic Fuels Corporation. It suggests that the Energy Committee bill entails an irreversible authorization of $88 billion for the program. This is not the case at all. Neither the Energy Committee nor the administration recommends any such irreversible commitment. The Energy Committee proposes a conditional authorization for the overall program—to become available to the Corporation in stages, subject to the appropriations process.

Of the total, $20 billion is made available immediately for the phase I program—subject again to action by the Appropriations Committee. The balance of the authorization would not become available until after an acceptable comprehensive strategy has been submitted to Congress, and until the additional funding has been appropriated. Contrary to the Banking Committee's suggestion, there is nothing at all irreversible about the broader authorization. We are talking about a present commitment of $20 billion—not $88 billion.

And, Mr. President, it is an investment, it is not an expenditure. We are hopeful that these programs will work and the money, of course, will be paid back out of the sale of product.

There is no question that even $20 billion is a large commitment, but it is certainly not excessive. In fact, this kind of commitment has already been made by the Senate. The recently passed Interior appropriations bill includes $20 billion for alternative fuels programs subject to authorizing legislation and further action by the Appropriations Committee.

Mr. President, I urge every Senator to keep this matter in perspective. According to current estimates, the United States may pay as much as $70 billion for oil imports in 1980, and substantially more in years to come. And we will suffer the consequences in every facet of our economy. By comparison, a present $20 billion commitment to a multiyear national effort to develop our own domestic energy resources is eminently reasonable.

This level of commitment is necessary to backstop American industry's commercialization of synthetic fuels. The projects we are talking about require extraordinarily large investments—approximately $3 billion a project in some cases and up to 7 years for construction. Industry needs the backing of the Government if it is to generate that kind of

private capital. Such investments will not be forthcoming unless we are willing to pledge the Nation to this kind of commitment.

Again, the fundamental question to be answered by each Senator is whether we are ready to make the kind of national commitment that is needed to try to overcome our present bondage to OPEC and regain control of our energy future and national security.

Finally, Mr. President, I invite each Senator's attention to the history of our synthetic fuels policy set forth at pages 126–129 of the Energy Committee's report. The subject is hardly new to the Energy Committee or to the Senate. The promise of synthetic fuels has occupied our attention since the O'Mahoney-Randolph Synthetic Fuels Act was passed in 1944. It has figured prominently in every major plan for energy self-sufficiency developed over the years.

In the early 1970's, I introduced legislation to establish a Coal Gasification Development Corporation. It was opposed by the then-administration and no final action was taken.

In the Federal Nonnuclear Energy Research and Development Act of 1974, we authorized a broad program to foster commercial-scale demonstration of coal gasification, oil shale, and coal liquefaction.

The Senate has consistently supported efforts to achieve a national synthetic fuels production capability. In 1975, we approved the Synthetic Fuels Act to authorize $5 billion in loan guarantees for new energy technologies—only to have the provision rejected by the House.

The Department of Energy has been given authority to guarantee loans, to provide price guarantees, purchase agreements, and the authority for Government-owned, contractor-operated synthetic fuel projects.

But none of these authorities has produced any major demonstrations of synthetic fuels technologies.

At every step of the process, there has been general agreement on the need for actual operating experience from several commercial scale synthetic fuel plants.

Both Republican and Democratic administrations have recommended substantial assistance to advance such programs.

Despite all this, we have failed to bring even one such project on line. We have lagged far behind other nations, some of which have far less economic ability, fewer resources, and, perhaps, far less urgent needs for new energy resources.

Canada is developing its tar sands.

In fact, they have two large plants in operation.

South Africa is greatly expanding its coal liquefaction capability.

China is producing a portion of its oil requirements from shale.

Instead, we are still immersed in largely academic arguments over the potential merits, hazards, and economic viability of synthetic fuels.

Continuing arguments that further delay will improve the technological basis for commercial demonstration, continuing reluctance to make the necessary financial commitment, and the idle hope that industry will do the job on its own have sapped our will to proceed.

Our programs to explore this vital energy option have been stifled in the annual budgetary process and by the vagaries of bureaucratic decisionmaking.

Mr. President, I say to the Senate that it is time to put away our indecision. It is time to recognize today's energy reality and the hazard to our future national security. It is time to take the bull by the horns and get about the business of bringing commercial synthetic fuel projects on line. And the American people are not going to be satisfied by half a program.

Mr. President, as I indicated, and to sum up, in 1975 and again in 1976, by an overwhelming vote the Senate voted to go forward on a synthetic fuels program. The program was killed in the House in both instances by reason of the action taken by extremes on the left and on the right.

We could be producing synthetic fuels today had those measures not been killed.

The Senate Energy and Natural Resources Committee has an outstanding record. We held hearings on the Energy Mobilization Board back in 1975. We had to forego acting on that bill when we found we did not have anything to mobilize because the synthetic fuels program had been killed in the House.

Mr. President, this measure is before us once again. I do not see how any Senator can go back to his constituents, especially in the environment that many of us have been warning about for months and for years, namely, ever-escalating prices, and a more fragile source of supply, and say to his or her constituents, "Well, we voted down this very large undertaking in the field of synthetic fuels."

This is one program that we must begin, and it will only, with all of this investment, make available 1½ million barrels of oil a day by 1995.

Mr. President, we must send a signal to OPEC. Look at what is going on at this very hour in Iran. How far do we have to go toward a catastrophe to bring the message home to the American people that the oil we are getting—over 8 million barrels a day—comes from highly fragile, highly unreliable, highly uncertain sources? How long do we have to repeat this refrain? Clearly—clearly—we face cutoffs.

How can any Member of this body go home and face his constituents and when they ask "Well, what did you do about the energy problem?" say, "Well, I voted against all this."

If there is anything we can do to make a beginning, it is in the area of synthetic fuels. In this field, this Nation possesses the greatest abundance of coal and oil shale of any nation on the face of the Earth.

This is the challenge to the U.S. Senate. Are we going to go forward with a real program or are we going to offer a puny program? Are we going to do nothing more than spend more time on research and development?

I can see the people crying out as they wait in oil lines, "Well, that Senator simply voted for more research and development."

Is it not time we produced? Is it not time we get something done in the midst of this crisis? I think the public has the right to call upon the U.S. Senate to produce, and produce here and now, by adopting this legislation.

Mr. President, this legislation is a result of a truly bipartisan effort. We have dealt with the problem and not with petty partisan issues.

I want to especially thank the ranking minority member (Mr. HATFIELD) who, during all of this, was ably assisted on his side by Senator DOMENICI, in particular, and all of his colleagues, in trying to put together a bill.

The Senator from Louisiana (Mr. JOHNSTON) has been outstanding in conducting the hearings and the markups for me, as chairman. I cannot thank him enough for his work, and the support he received on the other side of the aisle in crafting together what I think is a bill that makes a lot of sense.

One last word of warning: We have the old coalition again. We have the people on the right and the people on the left, one group saying it is socialism and another that it is a sellout to big business.

Look at the list of those who are participating. We can see that they are more concerned, Mr. President, about an ideological posture they want to maintain than they are in solving the problem that this Nation faces.

Mr. President, this Nation is in the worst economic peril since the Great Depression of the 1930's. I say that as we look at the spot price of oil last week, when it touched $48 a barrel, when we find that no longer are they moving oil into the spot markets solely to use it as a market testing device, but they are using it more and more to get a higher price.

The effect of this on our economy is all pervasive. It will be devastating in terms of the Consumer Price Index, Mr. President. It will be devastating in terms of interest rates, because the Fed is embarked on a policy of orchestrating interest rates with the inflationary rate. As the price of oil continues to go up and we do nothing about it, interest rates go right up with it.

Many of us have been warning about this over a long period of time. We are now at the point of reckoning. I am hopeful that the Senate will recognize its responsibilities and its duties to vote for a sensible bill, a realistic bill, a bill that will embark this Nation on a program of capital investment.

This is not expenditures. It is an investment which will bring great profits and dividends to the American people.

No other course of action is available to us at this time. Only by supporting the bipartisan effort here of the Energy Committee can we begin.

Mr. President, I shall ask Senator JOHNSTON for most of the time to carry the load on our side managing this bill. We have all of the other titles in the bill that are of tremendous importance. We have a massive program in connection with the gasohol effort, in which Senator

CHURCH and the distinguished Senator from Nebraska, who is now presiding, have taken a keen interest. We have a very large program on solar energy. We have a very large program on conservation.

This is an omnibus bill to answer the problems that this Nation faces.

Mr. President, over the past 5 months the Committee on Energy and Natural Resources has given careful attention to a broad array of potential initiatives for dealing with the increasingly threatening energy situation that confronts this Nation.

Since the 1973–75 embargo, our oil imports have increased from 6.3 million barrels per day to over 8 million barrels per day. Today we rely on imports for almost 50 percent of our oil supply—a statistic with alarming economic, geopolitical and national security implications. Much of these imports come from countries that have a potential for political instability and that are militarily vulnerable. This poses an unprecedented threat to our national security. Our bill for imported oil contributes heavily to our balance-of-payments problem and puts pressure on the dollar in international markets. Our dependence on foreign oil also exports jobs and potential profits away from American business.

The long lines at the gasoline stations of this past year and the continuing concern about the supplies of heating oil for the winter are merely the most apparent signs of what the American people have come to know well—that we are dangerously dependent upon imported oil. And, I regret to say, Mr. President, that the prospect for an improvement in this situation—without bold action by the Congress and the President—is, indeed, remote.

America has a massive capital investment that is dependent upon liquid fuels. Department of Energy forecasts have projected that, in the absence of a significant program such as that proposed by the Senate Energy Committee, oil imports might rise as high as 12 million barrels of oil per day by 1990. But supplies are scarce, and the level of foreign oil production is not within our control. Oil imports require our bidding against our principal trading partners which drives up the price of oil for us and for them. In 1980, the United States is likely to pay as much as $70 billion for imported oil. This cost will be substantially higher in the years to come. The toll in terms of real wages of American workers and the standard of living of our people may be very large.

The 1973–74 oil price increases helped send the world into its sharpest postwar recession—a recession in which unemployment in the United States shot up nearly 3 million. The Council of Economic Advisers estimates that the increase in OPEC prices from December 1978 to June 1979 will raise U.S. unemployment next year by 800,000 persons. We do not have the luxury of contemplating business as usual. We must reduce our appetite for imported oil.

During the 1980's and 1990's, major improvements in our energy supply and demand balance are possible. Private sector actions, assisted by the Government where necessary, can increase the efficiency of energy use in all sectors, shift flexible uses from oil to coal and to potentially inexhaustible and renewable sources, and develop new oil and gas production to slow or offset the current decline. Indeed, we currently have in place a number of programs pursuing all these approaches—through research, development and demonstration, regulation and financial incentives—and we are now proposing significant additional measures to accelerate them.

The conservation response has been encouraging. Industry has reduced average energy use per dollar value of product over 15 percent since 1973. Automobile mileage per gallon has turned upward to meet the mandate; now the market has begun to demand even better fuel economy. Homeowners have responded. The Department of the Treasury reports that 6 million taxpayers claimed the conservation tax credit on 1978 returns, reporting $4.2 billion in energy-saving investments.

But the magnitude of the problem and the diversity of the American economy and our energy needs dictate increasing supply as well. We need additional liquid and gaseous fuels to take advantage of the massive capital investments already in place, the unique needs of our transportation and building sectors, and the environmental advantages of such fuels. In addition to offsetting the decline in production of conventional oil and gas by developing new fields, we need to begin taking advantage of the truly massive resources we have in coal, oil shale, and biomass.

The oil contained in U.S. shale alone dwarfs the Middle-Eastern oil reserves. And our coal is enough to satisfy electrical generation, direct process heat, and synthetic fuel needs for well over a century.

The bill reported by the Energy Committee is a comprehensive effort to address our national energy problems. The bill establishes a Synthetic Fuels Corporation, which will draw upon America's vast reserves of energy and upon private enterprise to meet its goal of the production of 1.5 million barrels per day of oil equivalent by 1995. These synthetic fuels will come from coal, oil shale, tar sands and biomass. The bill also establishes a separate program to accelerate domestic production of alcohol for use as motor fuel. The bill will require the President to set targets for this Nation's production and consumption of energy. A separate title supports the conservation of energy in major sectors of our economy. Geothermal energy, renewable resources and wind energy are the targets of new initiatives to enable us to improve our energy supply situation. This bill also provides for a Solar Energy Development Bank.

A principal element of the Energy Committee bill is the creation of a corporation with a life of 12 years to carry forward the synthetic fuels program. We believe that an effective production effort for synthetic fuels requires this type of mechanism, and not just another business as usual DOE program. Our approach is not unprecedented. The Federal Government has successfully established corporations to carry out discrete, relatively short-term efforts such as this before. For example, corporations have fostered our synthetic rubber industry and have facilitated our wartime mobilization efforts. The corporation mechanism has worked and will work here.

By comparison, the Banking Committee version of S. 932 would establish a new corporation to carry out a solar energy program, as well as a new Conservation Bank. It would create a new board within the Department of Agriculture to establish energy projects using agricultural commodities and forest products as the resource. It would not, however, create a corporation to administer the limited demonstration program it authorizes for synthetic fuels. Instead, it requires that the program be carried out by an agency of the executive branch.

The Synthetic Fuels Corporation proposed by our committee would have a single purpose and focus, as well as a business perspective and a high degree of independence and flexibility. It would act quickly and decisively and to attract and keep the people best qualified to get the job done. Furthermore, the Corporation will be accountable to the Congress, without being encumbered with the frustrating gauntlet of administrative complexities that today confound and delay Federal agency action.

The use of the corporate format is the key to developing commercial scale production quickly. The Energy Committee proposal is not simply an experimental program, as is the Banking Committee version. The synthetic fuels technology exists today. We need to provide, efficiently and expeditiously, the financial incentives necessary to bring synthetic fuels on line faster than the economics of the marketplace would otherwise permit.

The committee has also required that within 3 years of its establishment, the Corporation is required to submit to the Congress its proposal for a comprehensive strategy to achieve the national synthetic fuels production goal of 1.5 million barrels per day by 1995. The committee has altered this goal for the Corporation from what the President initially proposed in order to reduce the production level and to increase the period over which the goals are to be achieved. The proposed comprehensive strategy is subject to congressional approval. Prior to the adoption of the strategy, the bill authorizes the Corporation to provide up to $20 billion in financial assistance to private industry to stimulate the production of synthetic fuels from a diverse range of technologies and feedstocks. Of this $20 billion authorized, $1 billion is set aside for biomass projects, which will consist mostly of large-scale gasohol projects.

Several points need to be made with regard to this $20 billion authorization and the $68 billion that could be made available in later phases. First, this is an authorization. Funds would still have to be appropriated to the Corporation, but we hope that the recent actions of the Congress in the budget resolution that the

Interior and Related Agencies Appropriation Act presage a large commitment in that regard. Second, the $20 billion authorized is the maximum program level permitted for the Corporation for this initial phase. It is not the amount of money that the Corporation will expend during this initial phase. Indeed, the outlays during this initial phase will be quite low and will remain low if world oil prices continue to increase.

The $20 billion is the maximum level of program activity authorized for the Corporation and the maximum possible exposure of public funds during this initial phase. It works this way. If the Corporation determined to guarantee a loan for a synthetic fuels plant, it could guarantee up to 75 percent of the costs of the construction of the plant. If the amount guaranteed were $2 billion, the Corporation would, as a result of making that guarantee, have reduced its program level by $2 billion. If this were the first action of the Corporation, the Corporation during this first phase would have $18 billion of financial assistance remaining. If the loan is successfully repaid by the borrower so that the Corporation never has to pay a dollar on the loan guarantee, the program level remains at $18 billion in this example, even though the Corporation's liability is at an end and not a dollar has been expanded.

We believe that this is the most fiscally responsible procedure we could have to insure that we fully understand the commitment that the Government has made. It will insure that we never permit the obligation of the Government to exceed a level that the Congress has specifically approved and can continually monitor.

This approach differs substantially from the approach of the Banking bill. The Banking bill would permit $3 of loan guarantee to be made for each dollar authorized. The Banking Committee bill would have the effect then, if all financial assistance were provided in the form of loan guarantees, of permitting as much as $9 billion to be guaranteed, not $3 billion as the authorizing language implies.

Furthermore, the Banking bill permits the funds initially made available to be "rolled." In other words, if in the example where $2 billion was guaranteed but no outlays were made by the Corporation because the borrower paid off the loan, the Banking bill would permit the $2 billion to be used again to provide additional financial assistance without further congressional approval. Under this procedure, the overall level of program activity may be considerably larger than the bill suggests, but is never directly authorized by Congress or approved in appropriation acts. Furthermore, it is too indefinite to represent a Federal commitment or to provide industry with a measure of the size of the effort which is expected.

The $20 billion authorized under the Senate Energy Committee version expresses the maximum financial exposure that the Corporation could commit to without further congressional approval.

Although the $20 billion level is a sizable commitment, it is a relatively small investment when viewed in terms of our current expenditures for imported oil—estimated to be $70 billion in 1980—and in terms of the years over which the financial assistance may be available. And remember, we are not talking about outlays, we are talking primarily of providing financial guarantees or contingent liabilities.

Furthermore, it is important to recognize that these synthetic fuels plants are extremely expensive and require an expenditure of capital and a degree of risk that private industry has not yet found worth taking. These plants may cost as much as $3 billion each and will take as long as 7 years before they produce fuel. It will require, even in this initial phase, a program level of close to $20 billion to produce results; to demonstrate to industry our firm commitment in this effort; and to show the American people and our foreign partners and adversaries our resolve to meet our energy needs and reduce our foreign dependence.

Mr. President, while the Synthetic Fuels Corporation recommended by the committee builds upon the program proposed by the President last summer, it also differs markedly from the administration's proposal in several important aspects.

First, we have not accepted the proposal for a one-shot authorization for an $88 billion program. Instead, we have provided for a carefully phased effort, congressional approval of a second-phase limited to $20 billion which itself would be subject to the usual appropriation process. The Corporation could not expose the taxpayers to a dollar of contingent liability beyond that level without congressional approval of a second-phase strategy.

Second, while removing much of the administrative redtape that hamstrings conventional Government agencies, we have gone well beyond the administration in insisting on accountability. Various provisions of the bill require open meetings, public access to information, competitive bidding, annual audits by a public accounting firm and avoidance of conflicts of interest. Coupled with the thoroughgoing GAO authority to audit the Corporation that we have insisted upon, the Corporation will be held appropriately accountable.

The Senate Energy Committee bill provides $1.65 billion of financial assistance to support the production of alcohol and other fuels from biomass. The Synthetic Fuels Corporation will be chartered to provide $1 billion of the $1.65 billion to support major production, particularly for alcohol fuels facilities of 30 million gallons per year or larger. The funds provided the Corporation would be able to assist 25 to 75 such plants, depending on the amount of support each needs to be economically viable. Gasohol, with assistance provided by this bill, is economic. The bill also provides $650 million to be administered by a special office, established in the Department of Energy, with a Director appointed by the President. This office would be able to use price supports, purchase commitments, and loan guarantees to support specifically gasohol production and to support innovative technologies. At least one-third of the funding must be used to support small-scale projects, such as "on the farm" applications. The bill's goals are to reach a minimum of 60,000 barrels of alcohol production per day (900,000,000 gallons per year) by 1982, and to replace 10 percent of all gasoline by alcohol by 1990.

This bill will provide the largest stimulus of alcohol production ever attempted in this country.

Title III of the bill requires the President to submit annually to Congress a set of energy production and consumption targets for specific forms of energy for the years 1980, 1985, 1990, 1995, and 2000. The purpose of this title is to force Presidential action and congressional debate and votes on the Nation's energy goals once each year. The targets and goals so determined will be the objectives which the Department of Energy as well as other Federal agencies will strive to achieve.

Title IV provides a set of major new conservation initiatives and the expansion of present conservation programs. Conservation is our primary source of alternative energy in the near- and mid-term. Using existing technology, we can achieve savings of 20 to 30 percent of our residential, commercial, and industrial energy use if we can accelerate conservation investments. Such investments will reduce fuel costs, ease pressure on our import balance—with all the inherent benefits to national security—and will result in a cleaner, safer environment. This title will accelerate individual and business investment in conservation measures by closing the gaps in our current conservation programs. It is a balanced approach that targets the kinds of incentive most likely to be attractive to each conservation investor group.

Increased initial costs are a significant barrier to increased conservation activity. While tax credits have elicited a response among upper income Americans, less affluent citizens and small businesses do not have the savings or credit available to make conservation investments. The Energy Conservation Bank, provided by this title, will alleviate this problem for middle-income groups by providing low-interest, long-term financing. As a result, homeowners' cash flow will be immediately larger due to the reduction in fuel bills. For lower income owners and renters who are often not in a position to borrow money, direct cash grants for a portion of their conservation expenditures will be provided. The loan and grant programs total $4.8 billion over the next 5 years.

Since creation of the original Residential Conservation Service, it has been demonstrated that one-step conservation services like those provided by TVA and Oregon utilities are attractive and effective. This bill removes the existing prohibition on utility financing of conservation, while providing a safeguard to maintain competition through a requirement that all utility sponsored work be performed by subcontractors. The bill also expands the Residential Conservation Service to include multifamily residences and small businesses, two areas where substantial fuel savings can be gained. The bill will fund a State program to train and certify energy auditors to insure the availability of competent personnel able to assist consumers in their energy conservation efforts.

In addition to these incentives to homeowners, renters, and commercial businesses, the bill provides for demonstrating innovative conservation approaches and for implementation of sophisticated "house doctor" auditing approaches. This bill will allow States and utilities, if they so desire, to test the appropriateness and effectiveness of such measures against more conventional conservation practices.

The bill provides that, at the time a residence is sold, a seller must make a good faith effort to provide an energy audit to the buyer. This provision will enable buyers to understand the energy efficiency of the house and thus make a more informed buying decision. The legislation is qualified to avoid potential title and conveyancing problems.

Lastly, conservation needs of the industrial sector are addressed by substantially increasing the funding for industrial research and development conducted by the Department of Energy.

Title V of the bill is included to expand support for the development of the Nation's geothermal resources. While much progress has been made under the aegis of the Geothermal Steam Act of 1970, the Geothermal Energy Research, Development, and Demonstration Act of 1974, and the 1978 energy legislation, these statutes must be augmented so that progress toward full utilization of this resource will accelerate. This title provides financial assistance through the form of forgiveable loans of up to 50 percent of the costs for geothermal exploration and, in certain cases, up to 90 percent for feasibility studies for geothermal projects. These loans will bear interest at below market rates. In addition, the Secretary of Energy is directed to establish a geothermal reservoir insurance program to afford protection to the developers of geothermal reservoirs. Further mandates of this title include consideration of geothermal applications for each new Federal building, a commercialization study and certain changes in present geothermal loan and loan guarantee programs. Further, the title changes certain portions of the Public Utility Regulatory Policies Act of 1978 to expand advantages to geothermal projects.

Title VI is intended to promote the commercialization of renewable energy resources by providing for important new initiatives. Among other things, title VI will mandate cost effective capital investments in renewable energy systems in new and renovated Federal buildings. It will also provide for a coordinated and augmented program of information dissemination and outreach services to reach the public more effectively. It will supply much needed information about the practical use of renewable energy resources. The title would also require the Department of Energy to establish new programs to promote energy self-sufficiency, as well as insure that small business is given a generous opportunity to participate in the programs that the title will create. Finally, title VI contains amendments to the Federal Photovoltaic Utilization Act to expedite procurement of solar photovoltaic cells to generate electricity at Federal facilities.

Title VII is designed to expand the Department of Energy's wind demonstration and commercialization activities by, among other things, providing financial assistance. This includes loans to subsidize incremental costs of wind systems over conventional energy systems. It requires the Department of Energy to make a large procurement of cost effective wind systems. The systems purchased will be used by Federal agencies and are expected to stimulate expansion of the wind industry, thus resulting in economies of scale and lower prices. The Department is also required to study and report on the potential for use of wind systems at specific Federal facilities and to monitor and assess the performance of wind systems. The overall goal of this title is to spur faster development, commercialization, and installation of systems designed to produce energy from wind, a renewable resource which is virtually untapped at present.

Title VIII establishes a Solar Energy Development Bank. The primary purpose of the Bank is to provide interest subsidies for loans and mortgages to finance the purchase and installation of solar energy systems. Solar energy systems eligible for assistance must carry an approved warranty and must meet criteria established by the Department of Housing and Urban Development (HUD) in consultation with the Department of Energy. These systems include residential and commercial solar systems, wood burning appliances, solar process heat systems, solar electric devices, and earth shelters.

The Solar Bank, which will have 5-year life, will be lodged in the Government National Mortgage Association in HUD. The Bank's management will be advised by a Presidentially appointed Advisory Board composed of representatives of the general public, the scientific community, the solar energy industry, the financial community, and the low-income population. The Bank will have the power to provide payments to financial institutions. These in turn will offer subsidized loans to owners or builders of commercial and residential buildings for the purchase and installation of solar energy systems. The Bank will set on interest subsidy of up to 6 percent. It will consider the level of existing interest rates, the availability of other Federal incentives, the costs of nonrenewable resources and systems, the costs of the desired systems, and the level of incentives necessary to induce solar investments. At least 60 percent of all subsidy payments must assist homeowners and at least 5 percent assist low income persons.

The authorizations of Bank appropriations are the following: $50 million for fiscal year 1980; $150 million for fiscal year 1981; and $275 million for fiscal year 1982.

Title IX extends the expiring titles of the Defense Production Act of 1950, as amended, for 2 years.

In summary, Mr. President, S. 932 as reported by the Energy Committee represents a balanced and far-reaching effort to address both our short- and long-term energy needs through an integrated series of supply and conservation initiatives. It is the product of long and careful study by our committee. I strongly urge this body to approve this package so that we can put in place a program that truly comes to grips with the energy realities facing the Nation.

Mr. President, I ask unanimous consent to have printed in the RECORD letters received from the Secretary of Energy and from the American Gas Association relating to this bill.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., November 5, 1979.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: As the Senate begins consideration of the differing versions of S. 932 reported by the Committee on Energy and Natural Resources and the Committee on Banking, Housing and Urban Affairs, I want to convey the Administration's strong support for the basic elements of the Energy Committee's version and to urge that the Senate act favorably on it. The Energy Committee's bill, reported after extensive hearings and weeks of markup, is an integrated bill that covers the short-term—with conservation, the mid-term—with gasohol, and the longer-term—with synthetic fuels, solar energy, and geothermal energy. It is, in our view, a measure far superior to that reported by the Banking Committee.

The centerpiece of the Energy Committee's bill is the establishment of the Synthetic Fuels Corporation to provide, on a phased basis, financial assistance to the private sector to stimulate the commercial production of synthetic fuels from coal, oil shale, tar sands and biomass. We share the Committee's view that a Congressionally-chartered corporation, made appropriately accountable but freed from the administrative and personnel complexities which today confound and delay actions by Federal agencies, is essential to a successful synthetic fuels commercialization effort. This Corporation will bring aggressive and expert management and business principles to bear on all aspects of the program. The Banking Committee's bill does not provide for a corporation, but instead contemplates a "business-as-usual" approach. This approach simply will not produce in a timely fashion the results the Nation urgently requires.

As drafted by the Energy Committee, funding would be provided to the Corporation in future appropriation acts. The initial phase of the program would make available $20 billion for all forms of financial support, a funding level the Senate recently approved in principle during floor action on the Interior and Related Agencies appropriation bill (H.R. 4930). The $20 billion for this initial phase would be the total exposure of the government.

Actual outlays would be spread over several decades and in total would probably be substantially lower than $20 billion. Outlays would initially be low and remain relatively low if the world price of oil continues to increase. Funding after the initial phase would also be subject to appropriation acts as well as the submission by the corporation to the Congress of an acceptable strategy for providing further financial support.

The Energy Committee has also developed an aggressive residential conservation proposal. Title IV of the Energy Committee ver-

sion of S. 932 proposes residential conservation actions that promise to yield significant savings of oil and gas beginning immediately. It provides major conservation incentives in the form of loan subsidies to households and businesses, which should induce substantial energy-saving investments. By permitting utility financing and arranging for installation of conservation measures, it allows utilities to offer a "one-stop" conservation service which has already proven successful in several states. It expands the Residential Conservation Service to provide energy audits of apartments and small businesses, and provides funds to the states to train and certify energy auditors, protecting consumers and strengthening the delivery of conservation information. We believe that the bill would be strengthened significantly by limiting financial incentives to loan subsidies which stimulate larger conservation investments and by more tightly focusing the loan subsidies on those families with incomes below the median, whose need is greatest and who have historically been less able to make energy-saving investments.

Title II of S. 932, as reported by the Senate Energy Committee provides a mechanism and funding to stimulate the aggressive development of gasohol. It focuses on production from plants smaller than those the Synthetic Fuels Corporation would best support (Title I authorizes a billion dollars for synthetic fuels from biomass). We strongly support production of gasohol, which can help enhance our supplies of unleaded gasoline even in the near-term. Together with the Synthetic Fuels Corporation, this title would contribute significantly to producing the motor fuels we need for our mobility.

The Senate Energy bill contains other important initiatives—establishment of a solar bank and other programs for renewable resources—which we believe make it a comprehensive and effective measure for contributing materially to the solution of our energy problems.

Although a bill of this breadth will unquestionably require adjustments to make it fully effective, we vigorously endorse its principal elements and look forward to working with the Senate as it considers this measure.

When coupled with the establishment of an Energy Mobilization Board and the enactment of a windfall profits tax, favorable Congressional action on the Energy Committee's version of S. 932 will put in place the basic elements of an urgently needed program for dealing with our deepening energy crisis.

Sincerely,

C. W. DUNCAN, Jr.

AMERICAN GAS ASSOCIATION,
Arlington, Va., November 2, 1979.

The American Gas Association (A.G.A.), representing 300 natural gas distribution and transmission companies serving over 160 million U.S. customers in all 50 states, and accounting for nearly 85% of the nation's gas utility sales, urges you to support the Senate Energy Committee version of S. 932, as reported out of the Committee, a bill to develop alternative energy sources.

Since May of this year, when the House Banking Committee reported out legislation to encourage prompt development of synthetic fuels as a means of reducing the nation's dependence upon imported foreign oil, Members of Congress and private sector groups like ours have been confronting the question of whether existing federal agencies will be capable of effectively implementing a program to reduce oil imports.

After considerable discussion with our member companies, we have concluded the Department of Energy will be unable to implement such a program in a timely fashion and, therefore, the A.G.A. strongly endorses Title I of the "Synthetic Fuels Corporation Act of 1979", S. 932 as reported by the Senate Committee on Energy and Natural Resources. We believe this measure is an important step toward reducing our nation's dependence on foreign oil through support of the commercialization of alternative fuels, including coal gasification. When examined against its counterpart, reported from the Senate Committee on Banking, Housing and Urban Affairs, the Energy Committee measure is clearly superior for the following two reasons:

(1) While both the Senate Banking and Energy Committees synthetic fuel titles are really only financing mechanisms to allow the private sector to construct synthetic fuels plants, the Banking Committee title is limited in scope and places severe restrictions on program implementation. Under Phase I of the Banking plan, only one project in any given technology could receive assistance (i.e., one Lurgi high-Btu coal gasification plan) and a loan guarantee incentive could be awarded only if the President decided a price guarantee could not be used. The restriction on technology will preclude the multiple demonstration of commercially promising processes on different resources (i.e., different coals) and will result in less attractive technologies being demonstrated. The Senate Energy Committee places no such restrictions on awarding loan guarantees and allows multiple demonstration of promising technologies.

(2) The other major problem with the Senate Banking Title I is that it favors price and purchase guarantees and will, therefore, be anti-competitive by limiting the size of companies which can afford to come forward with the necessary front-end capital. Regulated utilities and small companies will not be able to raise the necessary front-end capital required to construct a synthetic fuels plant; so that loan guarantees and other front-end incentives, provided for by the Senate Energy Committee, are absolutely essential.

One important advantage of the Senate Energy Committee Title I provisions is that it will permit immediate solicitation by the DOE of proposals for a loan guarantee incentive for a commercial-scale high-Btu coal gasification project. This interim solicitation mechanism will allow the proposed Synthetic Fuels Corporation to award a loan guarantee and commencement of construction of a high-Btu project by spring 1980, perhaps one year earlier than under the Banking title. Even for those coal gasification projects which do not receive an award, this interim mechanism will allow the Corporation to receive proposals which it can subsequently act upon. By contrast, the Banking Committee version will necessitate greater delay in making an award in that it requires the creation of a new office and new procedures within DOE. The plan also establishes extensive concurrence procedures within the federal bureaucracy (i.e., EPA, HUD, DOI, DOL, DOA, and DOT) which will delay program implementation.

Some concern has been voiced over permitting the Synthetic Fuels Corporation to have Government Owned Contractor Operated (GOCO) facilities. The restricted application of the GOCO principle in the Senate Energy Committee bill is an appropriately limited means of federal government involvement, but one which may represent the most practical approach to encourage the development of emerging technologies.

Finally, the Senate Energy Title I provides a special incentive (joint ventures) for second generation demonstration plants (commercial modules). The Banking alternative provides no such assistance. There are several promising synthetic fuels processes which have been demonstrated at pilot plant scale, but are not ready to be scaled-up to full commercial size. These processes may offer efficiency, cost, and resource utilization advantages (e.g., may permit the gasification of Eastern coals; while without this provision only Western coal would be used). The Energy Committee title will allow the construction of demonstration plants using commercial scale components which could subsequently be scaled-up into commercial size plants; the Banking title does not.

SUMMARY SHEET: ADVANTAGES OF TITLE I OF SENATE ENERGY COMMITTEE BILL COMPARED TO SENATE BANKING COMMITTEE BILL

The Senate Banking Committee Bill will be anti-competitive by restricting available incentives to purchase and price guarantees (unless the President determines these incentives will not be effective to achieve program goals). Regulated utilities and small companies will not be able to raise the necessary capital required to construct a synthetic fuels plant; so that loan guarantees and other front-end incentives, provided for by the Senate Energy Committee, are absolutely essential.

The Senate Energy Bill will remove implementation of the Synthetic Fuels Program from the DOE bureaucracy. The creation of a Synthetic Fuels Corporation as a financing vehicle will break the deadlock which has prevented the commercialization of synthetic fuels since 1974 (passage of Federal Nonnuclear Act).

The Senate Energy Bill by providing for an interim solicitation mechanism for high-Btu coal gasification will allow an early (spring 1980) commencement of construction. The Senate Banking Bill could delay this technology a year.

Title I of the Senate Energy Bill allows greater flexibility in process and technology selection than the Banking Committee version. The Banking Committee Bill prohibits multiple technology demonstration—even in diverse resources.

The Senate Banking Bill is directed primarily at liquid fuels and will therefore result in significantly less domestic synthetic fuels production than the Senate Energy Committee Bill. This lower production will necessarily result in higher foreign oil payments and a concomitant negative impact on the U.S.

The restricted application of the GOCO principle in the Senate Energy Committee Bill is an appropriately limited means of federal government involvement, but one which may represent the most practicable approach to encourage the development of emerging technologies.

The Senate Energy Bill provides a special incentive (joint ventures) for promising "second generation" synthetic fuels processes. The Banking Bill does not provide an incentive for the demonstration of these technologies at the commercial module scale.

Attached is a fact sheet summarizing the major points of A.G.A.'s support of Title I of the Senate Energy bill, S. 932, as reported out of Committee.

I hope you will find our views on this important legislation helpful. Thank you for your careful attention to this issue of importance to the gas utility industry. If we can be of further assistance to you, please feel free to contact me or Mike Baly (841-8616) or Bob Boyd (841-8591) of my staff.

Sincerely yours,

GEORGE H. LAWRENCE.

Mr. HATFIELD. Mr. President, I congratulate the chairman of the Energy Committee for a very comprehensive presentation of this very important measure we are considering today, and I associate myself with his remarks.

This morning, the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Mexico (Mr. DOMENICI), and I were at the White House, discussing this measure with President Carter.

In order to indicate some of the thoughts that were expressed to the

President this morning and to express more comprehensively some of my own views, I should like to make a brief statement before turning the management of this section of the bill over to the Senator from New Mexico (Mr. DOMENICI), who introduced one of the first measures in this Congress dealing with synthetic fuels. He has been one of the major stalwarts in the Energy Committee in the development of this measure.

Mr. President, the Energy and Natural Resources Committee has laid before the Senate an answer to the question, "What can we do about energy besides just giving the big oil companies more time and more money?"

It is a comprehensive answer. It deals with right now, and it deals with 1995. It deals with making liquid hydrocarbons, and with making them less necessary. It deals with motivating the people and institutions of an entire nation.

Answers less forceful, less sure, or less complete will not do. We have tried them.

Mr. President, at the foundation of the Energy Committee's bill are two cornerstones. Without them this bill would be no stronger than our previous responses have been to the oil problem that first hit us in 1973.

First, the bill creates a new instrument—the Synthetic Fuels Corporation—which stands to be a very potent force for the commercial testing of synfuels technology. There are few who would dispute that we should be today where this Corporation will get us in 3 to 5 years. In that period we will test a number of technologies and their impacts and potential for producing the fuels on which our Nation runs. Today we do not know what our options will be. We do not know what kind of role we should expect synfuels to play in our energy future. Without the Corporation, I suggest we will not know for a good deal longer than 5 years. The oil companies have displayed their intentions in the matter by opposing this bill, and the Department of Energy has displayed no talent for commercialization in this or any other energy area.

The second cornerstone is a concept embodied in the committee's bill. It is the bill's treatment of conservation as an energy resource. What synfuels cannot do, nor any other resource in the next decade, energy conservation can. We must develop it and deploy it as our first and most important energy resource. The committee bill begins to recognize this for the first time. We must elevate conservation measures and technologies to their rightful place among our priorities. The multi-billion-dollar conservation program of this bill is the first major step we will take within this new framework.

Conservation is cost effective. It is energy production. It is the wise and careful husbanding of limited material resources. It makes more fuel available for truly needed uses. But we have never before been willing to look at it in quite this way, nor spend the money that is now quite evidently warranted.

Mr. President, the environmental community is scared. I believe, however, that we can make some modest adjustments and meet their legitimate concerns.

Big oil, on the other hand, is just plain greedy. There is nothing more we should do in this bill for them. We are prepared to offer the energy industry—big and small alike—the financial inducements to do things they are not willing to do by themselves right now. But big oil apparently wants synfuels all to themselves, and in their own good time. If we wait for them, or if we amend the committee's bill to take out our ability to leverage technically competent smaller companies into the synfuels business, we will have sold this country's future to the sheiks.

Mr. President, I am pleased to ask the distinguished Senator from New Mexico (Mr. DOMENICI) to manage this section of the bill. I know that in concert with the Senator from Louisiana (Mr. JOHNSTON), we will be able to provide Senators with any answers to the questions they may wish to raise.

Mr. DOMENICI. Mr. President, I thank the Senator from Oregon (Mr. HATFIELD) for his kind remarks regarding my efforts in connection with this bill and the matter before the Senate.

In a few short moments, he has placed this matter clearly before the Senate so that every Member should be able to understand it. It is a very significant statement by the Senator from Oregon. I thank him for his confidence, and I will do my best.

Mr. HATFIELD. I thank the Senator.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Washington (Mr. JACKSON) for his kind comments about me.

Today, the Senate will begin the debate which will determine whether the United States is ready in 1979 to take the essential step to free itself from its unacceptable dependence on imported petroleum. That step is the development of the capability to produce gaseous and liquid hydrocarbons from abundant domestic resources of coal, shale, tar sands, heavy oils, and biomass. This is a step we have failed to take several times in the past when specific opportunities were presented. It is a step we must take now.

In 1973, the price of imported crude oil was approximately $3.40 per barrel. Last week the Department of Energy estimated that the average cost of internationally traded crude oil in October 1979 was $21.60 per barrel. This October 1979 average figure—over six times higher than the 1973 level—is in fact a composite of prices held below what the market would actually dictate and the far higher spot prices which are our only hint at the real demand clearing price of crude oil. Saudi Arabia sells a large amount of its oil for $18 per barrel—a political concession to the West. Spot crude oil prices are more than twice that—approximately $40 per barrel.

The world price of crude oil is now limited only by the fear of the oil producing countries that further price increases will bring economic chaos and ruin their investments which are measured in the currencies of the consuming countries. The minute the oil producer cartel can convince itself that the Western economies have managed to absorb the latest round of increases in energy costs, it will impose another one on us.

So our efforts to adjust to higher and higher energy prices will ultimately fail unless we take that essential step to establish a program to set a limit on the price we can be forced to pay for oil.

There is only one real way to set such a limit. That is to develop the capability to produce other domestic sources of energy, particularly gaseous and liquid hydrocarbon fuels, as alternatives to imported oil.

That is the purpose of the Energy Security Act, S. 932, as reported by the Committee on Energy and Natural Resources. This bill establishes the fundamental elements of Federal policy to develop the real alternatives to imported oil:

A comprehensive, credible commitment to develop gaseous and liquid fuels from abundant domestic resources of coal, shale, tar sands, heavy oil, and biomass;

The largest, most flexible set of energy conservation initiatives ever reported to any House of Congress, including authority which the Congressional Budget Office estimates will result in nearly $4 billion in Federal outlays for energy conservation between now and 1985—and a far greater expenditure of private funds—to "produce" energy by improving the efficiency with which we use it;

A major effort to speed the production of gasohol, derived from abundant domestic biomass and coal resources, as a substitute for the commodity which is most affected by our need for imported oil: High octane, unleaded gasoline; and

Initiatives in solar energy, wind power, and other renewable sources of energy which, taken together, constitute a watershed in Federal commitment to a mature, major program to commercialize alternative renewable sources of energy.

Mr. President, I ask unanimous consent that a more detailed summary of the Energy Security Act be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSTON. Mr. President, the legislation reported by the Committee on Energy and Natural Resources is comprehensive. Its major provisions complement and reinforce each other. Each of these provisions is needed if an effective policy is to be established. In the case of this legislation, the whole is greater than the sum of its parts.

This concept is important, because it is evident that certain special interests are promoting to Members of the Senate the notion that a meaningful synthetic fuels program can be established without one or another of the key elements of the Energy Security Act.

For example, these interests object to the Synthetic Fuels Corporation established by the bill. They object to the authority for commercial size Government-owned, contractor-operated synthetic fuels plants (GOCO's). They com-

plain that the commitment of funds is too large: $20 billion in the first phase of the program, and, ultimately, $88 billion; if congressional approval of a specific production strategy is obtained.

Mr. President, these elements of the Energy Security Act are precisely the ones which guarantee the credibility—to OPEC and to the world—of the commitment of the United States to the development of domestic alternatives to imported oil. If we lose any one of these major provisions, the legislation we adopt will be fundamentally flawed, and the value of the message we send to foreign producers of conventional oil will be irretrievably diminished.

The special interests maintain that we can effectively address the immense and growing problems posed by our dependence on foreign oil by a substantially lower commitment of funds, by a total reliance on "market mechanisms" or by waiting for further academic discussion and evaluation of the results of laboratory-bench experiments before any real commitment is made to synthetic fuels development. To lend credibility to these arguments is to pretend that symbolism can replace substance, that an aggressive and realistic program can be rejected in favor of business as usual.

The coalition opposing the comprehensive approach adopted by the Committee on Energy and Natural Resources is a peculiar one—a confection of odd couples. It is not, however, unprecedented. This mix of unlikely allies—major, international oil companies, and extreme environmentalists—are united in their opposition to the Energy Security Act. They have been together before, whenever the public policy of the United States came too close to providing Americans with an alternative to chronic, ever-increasing oil prices. For these environmentalists, rising energy prices mean economic stagnation and an end to growth, prospects they somehow find desirable. For the major international oil companies higher prices simply mean profits, and more profits, guaranteed by continued reliance on conventional sources of oil, a source of energy they control as no one else does.

Support for the position that the United States ought to defer establishment of a national policy to develop synthetic fuels options also comes from certain academic economists. Their arguments are based on theories which suggest that the undeniably lower cost of extracting conventional oil will dominate petroleum economics until world conventional oil resources are exhausted. These theories, however, do not incorporate any information about, or any experience with, the worldwide cartel which controls the available incremental unused supplies of oil. More importantly, no purely economic analysis can incorporate the need to protect our own national security from the political uncertainties built into this cartel.

In my opinion, this country has had enough of oil companies, environmentalists and economists telling us that we should wait, yet another period of years, until the price of oil is higher and our need for energy supplies is greater, or until a few huge international oil companies with enormous financial interest in reserves of conventional oil located overseas decide that the time is right to develop our domestic reserves of coal, shale and tar sands.

We have been down this road before. At least twice since 1970, the advice of those who urged the development of domestic synthetic fuels has been rejected in the public policy process. During that time we have suffered a massive oil embargo and two incredibly steep and wrenching increases in oil prices. As a direct result, our people have come to regard double digit inflation as inevitable.

We are no closer now to taking the necessary steps to set a limit on future price increases than we were then. And, incredibly, we are still advised to place our faith in a small number of privately owned international oil companies to respond to the national need to develop domestic sources of hydrocarbon fuels. This is asking far too much of these companies, whose rightful allegiance is to profit maximization, not the national security of the United States. What is needed is not a policy which passes the buck to the private sector. Nor do we need an inefficient and costly Federal crash program which ignores the legitimate role of private sector in the production, processing and distribution of goods and services.

What we have tried to do in the Energy Security Act is draw the middle ground between these positions. The essential features of the committee proposal are three:

First, we need an Energy Security Corporation. We do not need a replica or, worse, some segment of the existing energy bureaucracy. The Energy Security Corporation will be a financial institution with technical expertise, but first and foremost a financial institution. While subject to congressional oversight, it will not be snarled in the redtape which so characterizes the bureaucratic experience. The Corporation will be able to make realistic and credible commitments to private industry for large projects with long leadtimes without the uncertainty of year-to-year budgetary second guessing.

Second, we need a significant Federal commitment of funds. The program must be of sufficient size to attract, and support; a broad spectrum of private sector efforts at synthetic fuels commercialization. The commitment of the Congress must be credible in financial terms and large enough to permit more than the few major international oil companies to participate. Indeed a program which does not bring forth and support competitors to the major oil companies in the production of synthetic fuels cannot be viable. Therefore, I believe the $20 billion phase I commitment combined with the flexible array of financial arrangements set forth in the Energy Security Act is absolutely essential to the success of the program. No less necessary is the commitment, once a broader production strategy has been developed, to substantial funding during phase II.

Third, the resort to Government-owned, contractor-operated facilities during phase I is essential, to insure that the Federal Government is able to participate in the bargaining process with the private sector on even terms. Unless private companies know that a realistic alternative to their good faith participation is a government-owned facility, there will be, as history shows, little real attempt, at least on the part of the major established firms, to further the development of synthetic fuels.

A failure in this Congress to establish a real synthetic fuels program, incorporating the key elements of the Energy Security Act, will only guarantee that the job we do not begin during the chronic energy shortages of the 1970's will be initiated during the acute shortages of the 1980's and 1990's. Failure to establish a prudent and realistic program now will only guarantee that a program started at a later date—in the late 1980's or early 1990's—will be inefficient and enormously disruptive both environmentally and economically. For no matter what we do now, the next 20 years are going to be tough years from the point of view of energy supply. We need to work as hard as we can now just to keep our import dependence from getting worse than it is now. The Energy Security Act is a prudent middle-ground approach to synthetic fuels development. If we fail to enact this program now we are setting the stage for a demand by the people for a substantially larger and truly draconian Federal presence in the hydrocarbon fuels business in the future.

Mr. President, these elements of a Federal synthetic fuels policy will permit the initiation of a diverse group of commercial scale projects. Actual experience—as opposed to conjecture and study—can then provide us with the necessary information upon which to base decisions to move forward. I ask unanimous consent that a table of likely projects to be funded under the $20 billion phase I program be inserted in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. JOHNSTON. Mr. President, the key to this list is diversity. It represents a series of options we should long ago have begun to clarify with real experience. We as a nation can no longer afford to wait for others to decide whether or not to investigate these options further.

The case for the Energy Security Act is stated in two separate letters I recently signed with other members of the Committee on Energy and Natural Resources and distributed to all my Senate colleagues. I ask unanimous consent that these letters be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. JOHNSTON. Mr. President, I would also like to conclude this statement by quoting, from the report of the Committee on Energy and Natural Resources, an eloquent summation of the background and need for this legislation, the Energy Security Act, at this point in our history:

SUMMATION OF BACKGROUND AND NEED

The history of Federal policy toward synthetic fuels related above displays nearly 40 years of Congressional recognition of the potential for supplementing petroleum-based fuels with synthetics created from plentiful domestic energy resources. At every step in the policy process, there has been general agreement on the need for actual operating experience from several commercial-sized demonstration plants. In many instances there has been strong support for an aggressive effort to achieve substantial production of fuels from synthetic sources.

In recent years, as the prospect of continued national strategic and economic vulnerability to imported petroleum has become evident, Republican and Democratic Administrations have both recommended programs of substantial Federal financial assistance to establish a synthetic fuel capability based upon coal, oil shale, biomass and plentiful and secure domestic energy resources.

The Congress, similiarily, has strongly supported research and development of the relevant synthetics fuels technologies and has already authorized financial support for demonstration plants.

Despite this evidence of support, no large-scale demonstrations of any such technology have yet been undertaken. Indeed, the United States has lagged behind many nations with less economic ability, fewer resources, and perhaps less urgent need for such new energy sources.

Canada is developing its tar sands, South Africa is greatly expanding its existing coal liquefaction capability, and China annually produces a portion of its oil from shale. Domestically, we are still immersed in academic arguments over the potential merits, hazards, and economic viability of synthetic fuels as a part of our energy future.

Our present policy choices would be based upon solid experience rather than speculation if a few demonstrations had been initiated as proposed in 1971, or even if the authorities actually enacted by the Congress in 1974 had been implemented. In each instance, however, suggestions that delay would improve the technological basis for such undertakings, reluctance to make the financial commitments necessary, and the idle hope that industry would enter into such ventures on its own have sapped the will to proceed. The initial decisions to embark upon the inevitable vital exploration of a major option in energy policy have been consistently stifled in the annual budgetary process and the vagaries of bureaucratic decisionmaking.

The purpose of this measure is to address the failures of the past and to set in motion an organizational and financial arrangement which can sustain a multi-year commitment. The purpose of this measure is to put synthetic fuels into perspective for our national energy future.

Mr. President, we have two or three basic questions to answer with respect to synfuels. The Senate Energy Committee bill answers those questions one way, and the Senate Banking Committee bill answers those questions another way. To me, it is hardly even a debatable question as to which bill is the better.

The Banking Committee bill is the result of trying to engraft energy jurisdiction in places where it does not belong, and you end up, in the process, with not a tight, coordinated bill that is about where it should be but, rather, a bill that goes all the way from HUD to Agriculture to the Commodity Credit Corporation to the Government National Mortgage Association to the Secretary of the Treasury, and a little piece in the Department of Energy.

What we have is no coordination, not enough money to solve the problem, not the kind of Federal effort that is going to be needed.

Why do we have a separate Corporation? That is perhaps the key question in this bill.

We have created a five-member Corporation, with terms of 5 years each, to be appointed with the advice and consent of the Senate; and they can be removed only for malfeasance or nonperformance of duty—a really independent Corporation. Why do we want to do that?

Mr. President, the history of synthetic fuels in this country provides the first answer. The history of synthetic fuels in this country has been on again, off again, start, build some plants, then withdraw.

We started in this country in 1916 with synthetic fuels. At that time, we built two experimental retorts near Rifle, Colo. We also built a refining research center near Boulder, Colo. This was in 1916, more than 50 years ago. Those facilities operated, and operated rather successfully, for more than 10 years.

Finally, there was opposition, mainly from the major oil companies, and President Hoover, in 1930, closed down all operations, saying that it was not necessary to follow through our approach toward synthetic fuels or shale oil at that time. Of course, in 1916, that was during World War I, and they thought that perhaps we were running out of fuel. But they were rather successful with those two experimental retorts near Rifle, Colo. However, that was shut down in 1930.

Then we came along in 1944. Senator RANDOLPH, who at that time was in the House of Representatives, together with Senator O'Mahoney, who was chairman of the Senate Interior Committee, introduced and passed the Synthetic Liquid Fuels Act of 1944. This was a $24 million undertaking, with pilot plants built again near Rifle, Colo. Those plants operated for more than a dozen years, with some great success.

By 1953, the Under Secretary of the Interior, Mr. Northrup, wrote to Senator Sparkman:

It now appears that costs have been reduced to a point of approaching a level with petroleum products.

In 1954, a Bureau of the Mines pamphlet stated that recent cost estimates show that commercial cost of making shale gasoline and other liquids on a large-scale basis would closely approach the cost for the corresponding petroleum products.

So the Synthetic Liquid Fuels Act of 1944 was off and running and showing real success. But again there was a pullback by the Federal Government, a stopping of what we had started.

We have had other starts and stops.

Union Oil in 1948 had a small pilot plant, with $12 million invested. There was a 1957 demonstration plant with 300 tons per day capacity. There were expressions of great satisfaction from Union Oil, but it was shut down in 1958 supposedly because of the flood of imported oil.

Occidental Petroleum's efforts out in Colorado show great promise as does the efforts of a number of other companies.

But, Mr. President, each time we get up to the edge Congress pulls back.

This Senate in 1975 passed the Synthetic Liquid Fuels Act of 1975. We passed it overwhelmingly. There were at that time two interagency White House studies recommending that we go into it in a big way. One ERDA study of June 28, 1975, called for a goal of 7 million barrels a day by the year 2000. The interagency task force of July 1975 said that a minimum goal by 1985 should be 350,000 barrels a day with two other alternatives, one of 1 million barrels a day and one of 1.7 million barrels a day by 1985.

That was in 1975. And what happened with all the great flurry that the Senate passed the bill with? It got over in the House of Representatives and with the same old tired coalition they beat back synthetic fuels.

So, Mr. President, we have started and we have stopped. We have started in the Senate; they have killed us in the House of Representatives. We have started with one administration; another administration comes along and kills it.

With synthetic fuels we are talking about tremendous financial undertakings. These plants, the 50,000-barrel-a-day variety, will cost somewhere in the neighborhood of $2 billion, according to the estimates of Cameron Engineering and Pace Engineering, and a whole host of other engineers, about $2 billion each.

Now it is going to be chancy technology, even though we know and we have known since the 1957 report in Rifle, Colo. We have known we could make oil from shale. The Germans produced 80 percent of their aviation gasoline from coal during World War II. We have known these technologies for a long time. However, there are the economics of scale, and the difficulties of massive synthetic fuels plants. With respect to their economies, it is a massive undertaking.

I believe that the only way we are going to be able to get private industry to invest in these plants is to give them a Government agency with whom they can deal and in whom they can have confidence in its continuity, its imperviousness to political change, and its ability to deliver on what it contracts to do and it purports to contract to do. In other words, the only way we are going to get private industry to invest a major part of a $2 billion plant is to be able to count on Government to say what it is going to do and not change its mind as has been the history.

So, for that purpose, we created in this legislation the Synthetic Fuels Corporation.

Again, Mr. President, it is a five-man Board, with 5-year terms and with staggered terms. The President makes the appointment initially with the advice and consent of the Senate but there will be removal only for nonperformance or

malfeasance. This will create a real independent Board with authority and power to act.

Mr. President, the second essential point of our legislation is the amount of funding. We provide for $20 billion. The Banking Committee provides for $3 billion. Why $20 billion? Because everyone agrees that it is going to take $20 billion to do the job.

What is the job? The job is 10 to 12 commercial demonstrations of one-of-a-kind synthetic fuels technology. We do not want to build any replications at all under what we call phase I of this legislation because in phase I we want to find out how these technologies will work on a commercial demonstration basis.

But in order to test out the number necessary it will take 10 to 12 plants; 10 to 12 plants by any estimate are going to require $20 billion, and that is the reason we fixed the $20 billion in our legislation.

The Banking Committee does not disagree with the 10- to 12-plant figure, but they provide only $3 billion, and $3 billion will build about 1½ plants.

The Banking Committee bill says they want 10 to 12 plants. So either they do not mean that or in any event they do not provide the funding necessary.

Mr. President, I think it is time for this country to do something. In the newspapers over the weekend and this morning there were a number of articles which I found to be particularly interesting.

One in this morning's paper pointed out a poll taken among Members of the House of Representatives who were asked this question:

Over the next 10 years, how likely does the Representative think it is that the United States will undergo sharp political, social, and economic upheaval brought on by a shortage of energy?

Mr. President, 62 percent thought that that was likely. Almost two-thirds of the Members of the House of Representatives foresee sharp political, social, and economic upheaval. It is facing us in the future. And yet what were the other articles in the paper over the weekend?

On Sunday we found that the NRC was announcing a moratorium on nuclear plant licensing. That is going to extend it into the 1980's. Two of our colleagues, two of our leaders, one in the House of Representatives and one in the Senate, are asking for a 3-year moratorium. We are finding that a coalition, including the State of Massachusetts, the Conservation Law Foundation, the Fishermen's Association, and others, are suing to stop the Georges Bank lease which is set for tomorrow saying that little oil spills do lasting harm. There is a report coming out on coal and how dirty coal is.

Mr. President, we are getting to the point in this country where we cannot produce any energy anymore. We cannot do anything except go to court, write reports, file lawsuits, and have debates.

Now, Mr. President, this bill says "let us begin to do something we should have been doing a long time ago," and that is produce our domestic resources. This bill will say "Let us do it." We are not spending $20 billion in a pellmell program to produce a lot of replications of commercial demonstrations until we know whether they will work. But we will, Mr. President, make commercial demonstrations of each of those technologies which have the greatest promise.

Mr. President, I hope the Senate is willing to do business, is ready to go after it as far as energy is concerned, and to help solve this country's problems.

EXHIBIT 1

SUMMARY: S. 932, ENERGY SECURITY ACT

SYNTHETIC FUELS (TITLE I)

Purpose of the measure

The Synthetic Fuels Corporation Act of 1979 (Title I) would create an independent, wholly federally owned corporation called the Synthetic Fuels Corporation. The five member Board of Directors would be appointed for five year staggered terms, subject to Senate confirmation. The Chairman is to be designated for an initial five year appointment. In addition, the Chairman of the Energy Mobilization Board, the Secretary of the Treasury, and the Secretary of Energy are to serve as non-voting members of the Board.

The purpose of the Corporation would be to foster commercial production, by private industry, of any liquid, gaseous and solid hydrocarbon (including mixtures of coal and petroleum) which can be used as a substitute for petroleum and natural gas or for any derivative thereof, which is derived from coal (including lignite and peat), shale, tar sands (including heavy oil) and biomass. In addition, commercial MHD projects are eligible for financial assistance.

Goals and objectives

A national goal would be established to create by 1995 the capability within the United States to produce synthetic fuels at a level of 1.5 million barrels of oil equivalent per day, under a two-phased (or staged) commercialization program.

The Phase I objective would be to develop experience with differing synthetic fuel technologies and significant resource bases (or feedstocks), while developing the industrial base to undertake in Phase II achievement of the 1995 production goal. The emphasis of Phase I would be on diversity of technologies (including differing processes, methods and techniques). An obligation authority of $20 billion (including up to $1 billion for biomass) is authorized for Phase I, subject to appropriations.

The Phase II objective is achievement of the 1995 national synthetic fuel production goal. As a conditioned precedent to beginning Phase II the corporation would have to develop and submit to the Congress, within three years of enactment of this measure, a comprehensive production strategy. The strategy would be subject to a one-House disapproval within 60 days. Upon Congressional acquiescence in the production strategy, the maximum obligation authority available to the Corporation would be increased to $88 billion. This additional amount, however, would be subject to appropriations. No obligations for financial assistance in excess of $20 billion could be entered into by the Corporation prior to Congressional acquiescence in the comprehensive production strategy and appropriation of the necessary funds to implement Phase II.

Financial assistance

The Corporation would be empowered to provide financial assistance for commercial synthetic fuel projects in the following order of decreasing priority:

(1) purchase agreements and price guarantees;

(2) loan guarantees (up to 75 percent of project costs and 60 percent of any overruns);

(3) loans (up to 75 percent of project costs plus 60 percent of overruns); and

(4) joint ventures (up to 75 percent of project costs) during Phase I, for commercial modules.

Also the Corporation, under certain circumstances, would be authorized to purchase and leaseback synthetic fuel projects.

Corporation construction projects, which would be government-owned but contractor constructed and operated, would be authorized only during Phase I and only for one-of-a-kind facilities employing technologies (utilizing significant domestic resources), and only after no participant could otherwise be found who would be willing to proceed under one or more of the above forms of financial assistance. During Phase I up to three such projects would be authorized on such a last resort basis; any additional Corporation construction projects would be submitted to the Congress for approval, subject to a one-House veto within 30 days. No such projects would be authorized during Phase II.

Financial structure

The Synthetic Fuels Corporation is structured to be a Federally chartered financial enterprise and empowered with various forms of financial assistance to permit achievement of the purposes of the Title. The financial structure of the Corporation has been formulated to provide a substantial degree of independence to its operations, while preserving the integrity of the Federal budgetary process and the opportunity for Congressional reconsideration of funding levels between Phase I and Phase II in the event of major subsequent changes in current projections of future energy supplies and prices.

The financial resources available to the Corporation over its 16-year lifetime would be up to $88 billion, subject to appropriations. The Corporation would be authorized to borrow these funds from the Treasury in amounts necessary to meet obligations. There would be established an account in the Treasury called the Synthetic Fuels Account. Appropriations would be deposited in the Synthetic Fuels Account, in at least two installations, by the terms of this authorization act. The first installment of $20 billion to support Phase I would be authorized upon enactment, and would be subject to appropriations. The second installment for Phase II would be authorized after three years, upon acquiescence by the Congress of a comprehensive production strategy to achieve the national synthetic fuel production goal. This amount would be subject to appropriations. Should the Congress foresee a need to alter the spending pattern after Phase I, and prior to the availability of any installment of borrowing authority for Phase II, they would, of course, have the option of enacting such a change.

Treasury operations

Upon the receipt of notification from the Corporation that an amount of borrowing authority in the Synthetic Fuel Account had been encumbered pursuant to a contract or other agreement by the Corporation, the Secretary would deduct that amount from the balance available in the Synthetic Fuels Account. When the Corporation needs actual funds, for example, for administrative expenses or to support financial assistance such as loans, the Secretary of the Treasury would be authorized to purchase notes of the Corporation to the extent of its appropriated borrowing authority from the Synthetic Fuel Account in the United States Treasury. Notes would be retired upon revenues or dissolution of the Corporation.

Budgetary aspects

All financial transactions between the Secretary of the Treasury and the Synthetic

Fuels Corporation would be reflected in the budget of the United States. Thus the extent of actual borrowing by the Corporation from the Department of the Treasury (and the Synthetic Fuel Account) will be reflected as outlays of the United States Government.

The internal financial operations of the Corporation would not be reflected in the Federal budget since it is to be an independent entity. However, the salaries and expenses of the Corporation, its contractual obligations, and its accounting system would be available for scrutiny through statutorily required annual and quarterly reports and audits.

Relationship to other laws

Corporation construction projects would be subject to the EIS requirements of the National Environmental Policy Act and environmental, land use and siting laws to the same extent as a privately sponsored project.

Davis-Bacon and Service Contracts Act would apply to loans and loan guarantees by the Corporation.

The recipients of financial assistance and the Corporation construction projects are required to provide for reasonable participation by small and disadvantaged businesses.

Crude oil and other petroleum products produced by synthetic fuel projects receiving financial assistance would be subject to price or allocation controls only where expressly imposed by the Congress.

Termination

The authority of the Corporation to obligate funds would cease after September 30, 1990. And the Corporation must terminate its affairs by September 30, 1995. Upon termination the outstanding contracts for financial assistance would be transferred to the Secretary of the Treasury for administration.

GASOHOL—TITLE II

The Gasohol Motor Fuels Act of 1979 (Title II) will accelerate domestic production of alcohol for use as a motor fuel by establishing national goals for future production and by providing Federal financial assistance to assure the construction of production facilities. The President shall seek to achieve a national goal of a volume of alcohol fuel from renewable resources equal to 10 percent of the estimated gasoline consumption in the United States by 1990.

For the purpose of focusing Federal energy policy and for coordinating financial assistance for commercial production of alcohol fuels, the President is directed to establish an independent Office of Alcohol Fuels within the Department of Energy. The Office is responsible to the Secretary of Energy; the Title prohibits any delegation of this authority of the Secretary to any other Office in DOE.

This goal will be examined in a report and a comprehensive strategy to be prepared by the Office and submitted to the Congress and the President in 1982. Concurrently, the President shall exercise his authority under this Title and under other applicable provisions of law so that the nation will achieve an annual production as large as is technically and economically feasible, but not less than 60,000 barrels per day, of alcohol fuels from renewable resources in 1982. This interim goal is considered to be a challenge to the country and one that should be met; it is equivalent to the production of almost 1 billion gallons per year in alcohol fuels. The Department of Energy's current policy is designed to achieve 500 to 600 million gallons annually by 1985. However, with significant Federal incentives provided through loan guarantees, price guarantees, and purchase agreements, the nation should be able to triple the DOE estimate for 1982 of 20,000 barrels per day and thereby achieve a minimum of 60,000 barrels per day.

At the end of 1982, the Office will then be in a position to accurately assess the ability of the United States to reach the national goal, and the methods which the nation will have to utilize to achieve this goal and to adjust the goal, if necessary.

The purpose of having an independent Office is to assure that the focus on alcohol fuel production will be maintained for the life of the Office. The Office should not be subject to organizational changes within DOE, and should be insulated from other intra-Department problems. Yet, by maintaining the authority of the Secretary over the Office, national energy policy will still be coordinated and uniform and the Office itself will operate as part of an agency of the Federal government. Therefore, all civil service laws and other laws applicable to a government agency will apply to this Office.

The Office will be authorized to issue loan guarantees, price guarantees and purchase guarantees to qualified projects to assure production of a sufficient quantity of alcohol fuels to achieve the national goals. The Office is authorized $200 million for a revolving fund to back up the contractual commitments it makes for Federal financial assistance. This amount of money will allow the Office to contract for $650 million in the aggregate, to provide Federal financial backing for alcohol production facilities.

The Committee was concerned with the lack of progress that alcohol fuel has made under the present Federal agency structure. Therefore, they decided a separate office in one agency was needed to establish the necessary priority and in order to achieve the goals of this Title. Since several Federal agencies have roles in the development of alcohol fuels, the Committee decided, consistent with the intent of the Department of Energy Organization Act, to establish an office in the Department of Energy, to focus the efforts of the Federal government on the goals of this Title. In addition, the Committee had received a report from the Office of Technology Assessment, issued in September, 1979, which concluded that the Department of Energy's "role has been more aggressive than that of USDA (the Department of Agriculture)", which support the Committee's choice.

Title II contains a subtitle that requires the Commodity Credit Corporation to sell its surplus sugar stocks as a feedstock for ethanol production to be used in gasohol.

The provision affords the CCC a period of time in which it may sell each crop of surplus sugar for other purposes, besides conversion into ethanol. Those other purposes include food production and any other purpose permitted under existing law. For the 1977 and 1978 crop year, this period of normal sales is 3 months after the date of enactment of this Act. For later sugar crops the period is one year after acquisition of the sugar. Once this period elapses then the CCC must make every reasonable effort to sell the sugar surplus crop exclusively as a feedstock for ethanol to be used in gasohol, or as a livestock feed.

If that one year effort does not result in substantial sales of the sugar surplus, then the CCC is required to enter into processing agreements to convert the sugar into ethanol and any ethanol produced under such processing agreements will be made available for use by the Federal motor fleet.

The next subtitle directs the Federal government to use gasohol in any motor vehicles, capable of using gasohol, which it owns or leases. Exceptions apply where the gasohol is not available in reasonable quantities or at reasonable prices or where necessary to protect the national security.

The Secretary of Energy is required to conduct a study on whether legislation is needed to mandate that any new motor vehicle shall be capable of operating on gasohol or on pure alcohol. In addition the study will assess the need for any other legislation to address technical or institutional barriers that inhibit the widespread marketing of gasohol.

The purpose of the subtitle on Natural Gas Priorities is to provide that two specific uses of natural gas are included under the term "essential agricultural use" for purposes of natural gas supply priority under section 401 of the Natural Gas Policy Act of 1978. These uses are:

(1) sugar refining for production of alcohol; and

(2) the use of natural gas for agricultural production on set-aside acreage or diverted acreage, where the commodity produced will be converted into industrial hydrocarbons and blended into gasoline or other fossil fuels for use as a motor fuel or industrial fuel.

Existing law is amended to require the President to exercise his standby allocation authority if he finds that significant quantities of alcohol suitable for use in motor fuel would not otherwise be used for that purpose because of an unavailability of petroleum products into which the alcohol would be blended.

Specifically, where the President finds such situation to exist he shall use his authorities under section 4(a) of the Emergency Petroleum Allocation Act to allocate crude oil to specific refiners or petroleum products to gasoline marketers so that the available alcohol will be blended into motor fuel.

In exercising this authority the President is to give due consideration to quality control in refinery operations affected by his action under this provision, to avoid disruption of the markets for crude oil or refined petroleum products, and to avoid causing unreasonable increases in the price of alcohol.

TITLE III—ENERGY TARGETS

Title III, the Domestic Energy Policy Act of 1979, requires the President to submit annually to the Congress a set of energy production and consumption targets for specific forms of energy for the years 1980, 1985, 1990, 1995 and 2000 in a format set forth in the bill. The targets must be accompanied by a report containing a plan for reaching these targets. The President is required to review the targets annually thereafter and to update the plan to achieve the targets as necessary.

The purpose of this Act is to require that the Congress debate a comprehensive and internally consistent set of energy targets for the Nation and that the Congress vote on and the President approve, a specific set of such targets.

Therefore, a mechanism is established for amendment and adoption of the initial set of energy targets by Congress as well as for annual Congressional review and, if necessary, revision of the targets. The appropriate jurisdictional committees of the House and the Senate are directed before May 15 of the first year after enactment to report a joint resolution containing targets in the same format required for the President's report. In subsequent years such a resolution would reaffirm or, if necessary, modify, the targets established in the previous year. If a Committee fails to report before May 15, any member of Congress would have access for a specified period (to July 15) to expedite procedures to discharge that committee of any resolution establishing, revising or reaffirming targets.

After a Committee has reported such a joint resolution (or, after May 15, if a motion to discharge a Committee from such a reso-

lution has passed) the debate on the targets in the resolution would take place. Debate is limited to 20 hours and amendments which preserve the mathematical consistency of the targets would be in order. Because the Act prescribes a joint resolution, it is intended that a conference resolve any differences in the results of the debate in each House and that the targets be submitted to the President for his signature. Once enacted the targets would function as a guide to Federal energy programs. However, these targets would not constrain these programs in a legal sense.

TITLE IV—ENERGY CONSERVATION ACT OF 1979

Findings, purposes and definitions

Subtitle A establishes the findings, purposes, and definitions for the Energy Conservation Act of 1979.

Energy Conservation bank

Subtitle B of the Energy Conservation Act of 1979 (title IV) establishes a subsidized loan program wherein the Government National Mortgage Association makes payments to banks and other financial institutions which are willing to make low-interest loans for energy conservation improvements in residences and commercial buildings. The interest rate to borrowers under this program may be as much as 6 percentage points below the market rate. The payments from GNMA to the banks will be in such amounts as are necessary to compensate the banks for the difference in yields between the low-interest loans and market-rate loans.

Eligibility for subsidized loans depends upon both the status of the borrower and the type of structure the borrower would improve. Total annual income of the borrower's household must not exceed $40,000, adjusted for inflation, for family size, and for cost-of-living differences between different areas of the country. A borrower may not be an owner of a residential building of more than four dwelling units. A borrower may not be a business which conducts more than $1 million in gross annual sales. A borrower, who is not the owner of the structure the borrower would improve, must be paying the energy bills.

Loans are limited to a total of $2,500 per independent dwelling unit—whether detached, semi-detached or attached—and $2,000 per dwelling unit in a two-to-four unit building. Loans are limited to $50,000 per commercial building. An applicant must certify that the sum of all Federally subsidized energy conservation expenditures which have been made on the applicable dwelling unit or commercial building does not exceed the loan limit. In other words, expenditures used to obtain an income tax credit nad expenditures used to obtain a grant are subtracted from the limit otherwise allowed. The limits will be indexed 10 percent per year for inflation.

Residential energy conservation grants

Subtitle C of the Energy Conservation Act of 1979 establishes a state-run grant program wherein the Federal government will cost-share residential energy conservation measures. Eligibility for grants depends upon the status of the grantee and the type of structure.

Total annual income of the grantee's household must not exceed the national median, adjusted for inflation, for family size, and for cost-of-living differences between different areas of the country. A grantee may not be an owner of a residential building of more than four dwelling units. A grantee who is a renter must be paying the energy bills. A grantee who is aged 65 or older is eligible for 150 percent of the grant that would otherwise be obtained.

The grant schedule produces a maximum grant of $300 per dwelling for owners at a level of expenditures of $750. For renters, the maximum of $300 is reached at expenditures of $600.

GRANT SCHEDULE

[Will be indexed 10 percent per year beginning Jan. 1, 1981]

	Independent dwellings			Dwelling units in buildings of 2–4 units	
Expenditures	1st $250	2d $250	3d $250	1st $250	2d $250
Owners (percent)	60	40	20	60	40
Grant	$150	$100	$50	$150	$100
Cumulative total	$150	$250	$300	$150	$250
	Independent dwellings			Dwelling units in buildings of 2–8 units[1]	
	1st $200	2d $200	3d $200	1st $200	2d $200
Renters (percent)	90	50	10	90	50
Grant	$180	$100	$20	$150	$100
Cumulative total	$180	$280	$300	$180	$280

[1] Must be separately metered or leased under arrangement whereby lessee pays energy bills.

Residential energy efficiency improvement

Subtitle D of the Energy Conservation Act of 1979 establishes a program to ascertain the conservation effectiveness of contracting with private energy conservation companies to conduct systematic residential energy audits and install energy conservation measures throughout defined geographic areas. Such companies would be compensated under contracts with State or local agencies only for energy actually saved. Initially, the Secretary of Energy would institute the program on a demonstration basis in a limited number of utility service areas, and only with the agreement of affected public utilities and designated State authorities. If determined by the Secretary to be successful, and after a report to the Congress, the program would be expandable to other parts of the country. Funding for the program would be provided through payments by participating public utilities based on the value of them of the energy actually saved by the conservation measures installed under the program, and to the extent necessary out of funds borrowed by the Secretary from the Treasury of the United States. To carry out the program the Secretary is authorized to borrow up to $100 million for fiscal year 1980 and, in the aggregate, an additional $400 million in subsequent fiscal years, all subject to appropriation acts.

Utility program

Subtitle E amends Parts 1 of title II of the National Energy Conservation Policy Act (NECPA—Public Law 95–619) which requires public utilities above a certain size to establish utility programs under which residential customers of those utilities will be informed of the possibilities for making energy conserving improvements in existing residences. NECPA contains specific requirements with respect to the recovery of costs by utilities under these programs and generally prohibits the supply, installation or financing of residential energy conservation measures by the utilities covered by the Act.

The purpose of subtitle E of the Energy Conservation Act of 1979 is to remove certain of the detailed Federal rules with regard to cost recovery under utility programs, to relax the prohibition on supply or installation of residential conservation measures by utilities if these activities are undertaken through independent suppliers and contractors, and to eliminate any Federal prohibition on the financing of residential energy conservation by utilities. The basic structure of the utility program under NECPA would not otherwise be changed.

Energy auditor training and certification

Subtitle F of the Energy Conservation Act of 1979 authorizes a program in the Department of Energy for two-year funding of $50 million to support State training and certification of energy auditors, and to pay for related State administrative costs. The proposed training program would be managed by the States and conducted by either States, local or regional governments, utilities or private firms. The auditors would be licensed by the State and could work for utilities or in the private sector.

Residential conservation service

Subtitle G of the Energy Conservation Act of 1979 expands the Residential Conservation Service (RCS), established by the National Energy Conservation Policy Act, to all residential buildings and to small commercial buildings. The present RCS covers only residential buildings with one through four dwelling units. Audits would be available to landlords and tenants, as well as to owner-occupants, of these buildings.

Industrial energy conservation

Subtitle H of the Energy Conservation Act of 1979 authorizes an additional $40 million for each of fiscal years 1980, 1981 and 1982 to accelerate the industrial energy conservation research, development and demonstration programs of the Department of Energy.

Residential energy audits

Subtitle I of the Energy Conservation Act of 1979 would encourage residential homeowners and occupants to accept the offer made by public utilities to perform an energy audit of residential buildings as required under existing law (NECPA) and to provide purchasers of residential buildings with an energy audit of the building they are purchasing. This provision prohibits a financial institution whose deposits are insured by an agency of the Federal government from financing the purchase of a residential building unless an energy audit of the building is made available to the purchaser or the purchaser posts a $50 bond that is refunded when he obtains an energy audit of the building that he is purchasing. This provision does not apply where a good faith, but unsuccessful, effort has been made to obtain an audit, where the Secretary of Energy has exempted that particular geographic region, or where there is no utility audit program serving that residential building. These requirements begin January 1, 1981, and remain in effect for five years.

TITLE V—GEOTHERMAL ENERGY

The Geothermal Energy Act of 1979 (Title V) establishes in the Department of Energy loan programs to promote the confirmation of geothermal reservoirs, and to provide funding for feasibility studies and construction of specific geothermal projects. The confirmation and feasibility study loans are forgivable if certain findings are made by the Secretary of Energy. The private sector is required to finance 50 percent of a confirmation loan for an electric application, 10 percent of a confirmation loan for a nonelectric application, 10 percent of a feasibility study loan, and 25 percent of a construction loan. The interest rate in each case is equal to the interest rate set in the Water Resources Development Act.

A Federal insurance and reinsurance program is also established to protect against reservoir failure. Funding for this program will come from the Geothermal Resources Development Fund.

The loan guarantee limits in the Geothermal Loan Guarantee Program are raised from 75 percent to 90 percent for municipalities and cooperatives, and supplemental fundings for loans and loan guarantees are made available to the Small Business Administration, the Rural Electric Administration, the Farmers Home Administration and HUD from the Geothermal Resources Development Fund.

The Secretary of Energy is directed to identify and report on the economic, institutional, regulatory, and technical impediments to the accelerated commercialization

of geothermal energy in the specific areas of geopressured methane, hot dry rock, and environmental control technology as it relates to all areas of geothermal energy.

The Secretary is also directed to initiate a program for the use of geothermal energy in Federal buildings and each Federal agency is directed to fully consider the use of geothermal energy in its buildings, facilities, and installations.

Section 210 of the Public Utility Regulatory Policies Act of 1978 is amended, so that the exemptions from the Federal Power Act and the Public Utility Holding Company Act and other requirements will be available for geothermal projects 80 megawatts in size, rather than 30 megawatts currently, with one exception for which the limit is raised to 200 megawatts.

The Committee intends that DOE, in implementing the geothermal loan guarantee program under existing law and the new program authorized by this Title for reservoir insurance, will include, as part of the project costs eligible for a guarantee or insurance coverage, the necessary new transmission system required for interconnection of remote geothermal projects to existing transmission systems.

Also, the Committee feels that geothermal sites across the country should be examined, however, the major effort of the government has been in the West. This accurately reflects the interest of the industry, but sites in other parts of the country, for example in New England, should also be examined.

TITLE VI—RENEWABLE ENERGY INITIATIVES

Title VI directs the Secretary to support the development of a coordinated renewable resources information dissemination network, which makes use of local, State and regional entities as well as Federal programs. The Secretary is also directed to establish a National Solar Energy Information Center for the purpose of providing informational and referral services to public and private organizations.

The Secretary is required to provide certain specific publications, materials, and outreach programs and is required further to assign to an appropriate element in DOE the principal responsibility for the development of these publications and materials.

Title VI requires the head of each Federal agency to incorporate, to the maximum extent practical, cost-effective solar energy systems in new and substantially renovated civilian Federal buildings. The definition of cost-effective requires a comparative test be made between the total life-cycle costs of the solar energy system and the total costs of an alternative conventional system. Fuel costs for the conventional system are to be based on the projected price of world oil.

The title amends the existing weatherization program to include materials associated with passive and active solar energy systems as eligible weatherization materials.

The title establishes a new program on energy self-sufficiency in an existing office of the Department of Energy. The program must initiate and encourage energy self-sufficiency at the local level and to demonstrate by 1990 energy self-sufficiency in some local jurisdiction.

The title provides a 30 percent small business set-aside and amends the Federal Photovoltaic Utilization Act to allow purchasing of photovoltaic systems for a wider range of uses by Federal agencies.

The budget authority for the title is $50,000,000 from which no funds may be used for cost-effective solar energy systems in new or renovated civilian Federal buildings.

TITLE VII—WIND ENERGY INITIATIVES

The Wind Energy Commercialization and Utilization Act of 1979 (Title VII) provides for a number of initiatives to promote the development and commercialization of wind systems:

(a) it requires the Secretary of Energy to establish a wind commercialization program including a program of low-interest loans for buyers of wind systems;

(b) it requires the Secretary of Energy to conduct a study of wind energy use in Federal facilities, utility application and overseas; and

(c) it establishes a Federal wind system procurement program.

The authorization for this Title is $100 million in fiscal year 1980.

TITLE VIII—SOLAR ENERGY DEVELOPMENT BANK

The Solar Energy Development Bank of 1979 (Title VIII) establishes a Solar Energy Development Bank within the Department of Housing and Urban Development for the purpose of providing long-term, low interest loans to residential and commercial purchasers of solar systems.

The Bank will operate through existing financial institutions and reimburse these institutions for interest subsidies granted to borrowers.

For subsidies, $50 million is authorized in fiscal year 1980, $150 million in fiscal year 1981, and $275 million in fiscal year 1982.

TITLE IX—EXTENSION OF DEFENSE PRODUCTION ACT

The purpose of Title IX, the Defense Production Act Extension Amendments of 1979, is to extend for two additional years the expiring titles of the Defense Production Act of 1950, as amended.

SUMMARY OF AUTHORIZATIONS

[In summary, the authorizations in S. 932, the Energy Security Act are as follows]

[By fiscal years; in millions of dollars]

	1980	1981	1982	1983	1984
Authorization:					
Title I	20,000			[1] 68,000	
Title II	650				
Title III	1	2	2	2	3
Title IV	450	1,255	940	900	900
Title V	150	150	150	150	150
Title VI	50				
Title VII	100				
Title VIII	50	150	275		
Title IX	3	3			
Total	21,454	1,560	1,367	[1] 69,052	1,053

	1980	1981	1982	1983	1984
Estimated outlays:					
Title I	10	25	35	36	37
Title II	1	1	2	2	2
Title III	1	2	2	2	3
Title IV	10	615	1,070	1,095	1,030
Title V	5	70	145	188	169
Title VI	5	30	15		
Title VII	5	20	50	25	
Title VIII		115	240	120	
Title IX	3	3			
Total	40	881	1,559	1,468	1,241

[1] Contingent upon congressional approval of comprehensive production strategy and separate appropriations action.

EXHIBIT 2

SYNTHETIC FUELS PROJECTS—PHASE I OF S. 932

The objective of Phase I is to demonstrate the widest possible diversity of synthetic fuels technologies. It is impossible to make a definitive list of the projects which would be built because the proposals will depend largely upon the judgment of the industrial participants who come forward. Furthermore, because of the uncertainties of costs and of possible financial arrangements, it is impossible to be definitive concerning how many projects would be built.

The following list, therefore, is based upon potential proposals and is a representative mix which would meet the objectives and provisions of Phase I of the measure.

I. High BTU gasification of coal.—to produce pipeline gas.

There are at least 7 potential technologies and several active proposals.

Assume two plants would be built at 25,000 to 50,000 barrels per day oil equivalent each.

II. Low-medium BTU gasification of coal.—to produce boiler fuel.

There are at least 4 technologies.

Assume two plants at 25,000 to 40,000 barrels per day oil equivalent each.

III. Solvent refining of coal.—to produce a clean, high-energy solid or liquid boiler fuel.

There are at least two technologies.

Assume two plants at 20,000 barrels per day equivalent each.

IV. Methanol from coal.—to produce a fuel additive or to be upgraded to gasoline.

There are at least two technologies.

Assume one plant at 25,000 to 50,000 barrels per day each.

V. Coal liquefaction.—To produce a refinable product.

There are at least three technologies.

Asume two plants at 20,000 to 40,000 barrels per day each.

VI. Surface-retorted shale oil.—to produce a refinable product.

There are at least five technologies and several active proposals.

Assume two projects at 50,000 barrels per day each.

VII. Modified in situ shale oil.—to produce a refinable product.

There is an active program.

Assume one project at 50,000 barrels per day.

VIII. Ethanol and other biomass.—to produce fuel or additives.

There are various processes and proposals.

Assume 30 or more plants for a total of 60,000 barrels per day.

SUMMARY

Technology	No. of plants	Output B/D
High BTU gas	2	75,000
Low/Medium BTU gas	2	65,000
SRC	2	40,000
Methanol	1	50,000
Coal liquid	2	60,000
Surface shale	2	100,000
In situ shale	1	50,000
Ethanol-biomass	30	60,000
Total (12 major, 30 small)		500,000

EXHIBIT 3

COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, D.C., November 5, 1979.

DEAR COLLEAGUE: This week the Senate will consider S. 932, the synthetic fuels bill.

The Senate Energy and Banking Committees have reported different versions of the measure. Although each version also includes other important provisions, it appears that the most controversial votes will be those on the choice between the two approaches for encouraging the production of synthetic petroleum and natural gas substitutes from domestic energy sources such as coal, shale and biomass.

The Energy Committee's version of the measure would establish an independent Synthetic Fuels Corporation. The Corporation, on behalf of the Federal Government, would assist industry in financing a number of major synthetic fuels projects. The Corporation would function primarily as a banking institution and thus could offer a variety of price guarantees, product purchases, loan guarantees or direct loans only as a last resort, and only within the first three years could contract with industrial partners who would construct and operate not more than three Federally financed commercial plants.

The total Federal involvement in the first phase of the program woud be limited to $20 billion. Only a small portion of this amount would result in actual expenditures of Federal funds. Most would be contingent liabilities, in other words, insurance against a portion of the risk taken by the industrial participant. A second phase of the program, to achieve by 1995 the 1.5 million barrels per day production goal, would be initiated only after the Corporation submits a plan to achieve the production goal to the Congress for its approval, and only after further appropriations are made.

The reason for the establishment of the Corporation is to create an independent, single-purpose management which will be free of the continual policy redirections, priority changes, and bureaucratic and administative tangles which have defeated the implementation of previous synthetic fuel initiatives. The program size, while prudent, is adequate to demonstate a wide variety of available technologies and resource bases. Considering the financial leverage of the Federal participation, this level of support would accommodate between 10 and 12 large commercial facilities with several smaller gasohol or biomass plants.

The authority for the Corporation to resort to government-owned, but contractor-operated, (GOCO) projects is a strictly limited last resort. It is an essential tool if the Corporation is to be able to explore a promising technology for which no industry partner is prepared to take or share the risk. It is also an essential safeguard if the Corporation must negotiate with a potential partner where no other competitive proposal is available. GOCO as a fallback also will be an important provision which has the effect of forcing industry to participate earnestly in the program. That is why they are opposing it so stridently.

We view the total Title I program to be a responsible, workable initiative toward establishment of the infrastructure for a synthetic fuels industry—one which can ultimately make significant reductions in U.S. dependence upon imported petroleum, and place a ceiling upon the extortionary prices of the world oil market.

The Energy Committee's report on the bill relates the long history of previous efforts to begin to demonstrate synthetic fuels. The Senate has always strongly supported such programs, but they have been defeated in the House or stified in implementation.

Now, again, the same forces and arguments which have prevented previous initiatives from becoming reality are being marshalled to resist this proposal. The major oil companies, who have chosen not to use their abundant financial capabilities and technical expertise to build such projects, are objecting to Federal assistance which might assist other, less unjustifiably enriched corporations to undertake them. The extreme environmental groups, who espouse a policy of deprivation and curtailment, propound all sorts of speculative objections and resist any effort to explore and ascertain the real effects of synthetics. We are treated to a picture of unusual coalitions among interest groups who cannot possibly share the same objectives, for example, environmentalists and major oil companies.

These are the same coalitions which lobbied against earlier bills and the same arguments which prevented us from demonstrating a U.S. synthetic fuels capability in the decade of the 1970's. We can thank them for the fact that the economic, environmental and social consequences of a synthetic fuels industry are as much conjecture today as they were in the days of the first embargo, the "project independence" proposal and the subsequent OPEC oil price increases.

If they succeed in hamstringing and stalemating this initiative once again, we will be just as ignorant of our domestic options in the decade of the 1990's, when chronic petroleum curtailments and unconscionable prices are certain to become commonplace. Eventually, we will be driven to a crash program in synthetics. A program without planning, without safeguards, and perhaps without time enough to avert economic disaster.

I urge you to support the Energy Committee proposal. The choice is not between more or less investment, between one or another management approach, or whether GOCOs are in or out. The choice is whether a credible, workable program will belatedly get started now or whether it will again be frustrated by special interests and spurious fears at the expense of the American people.

Sincerely,

WENDELL H. FORD.
PETE V. DOMENICI.
HENRY M. JACKSON.
J. BENNETT JOHNSTON.

NOVEMBER 2, 1979.

DEAR COLLEAGUE: One of the most significant bills to emerge from our Energy and Natural Resources Committee in recent years comes to the Senate floor on Monday, November 5, when the Senate takes up Title I of our version of S. 932, legislation establishing a synthetic fuels program for America.

Our Committee, using hearings and reports over a five-year span, has developed a comprehensive synthetic fuels program that puts the emphasis on private development of America's vast deposits of coal, oil shale, and tar sands. We have considered requests for broader programs and have rejected these recommendations.

What we have reported to our colleagues in the Senate is a prudent, flexible approach that reflects the consensus of judgment of dozens of witnesses from the business and financial community, science and educational experts, energy policy specialists, and engineers in the field.

Here's what Title I of our legislation would do:

Establish a new, lean private corporation called the Synthetic Fuels Corporation, with a five-member Board of Directors subject to the full approval and oversight of Congress;

Empower this Corporation to serve as a financial central clearinghouse to process requests for financial aid from private firms interested in developing commercial quantities of synthetic fuels;

Limit to $20 billion the amount of funding that would be "on call" to fulfill the financial obligations to private enterprise that the Corporation would make. This money would not be appropriated in one lump sum, thus avoiding having such a large amount lying idle;

Provide a "Sunset" provision that limits the Corporation's life to ten years;

Give the Corporation a wide variety of financial incentives, as recommended by all witnesses, so that private firms of almost all sizes could participate in synthetic fuels development;

Place strong limitations on government construction projects, allowing such projects only when private firms have expressed no interest or no ability in developing a promising, commercial technology and limiting projects under all circumstances to three during the first phase of the program only.

Here's what our bill will not do:

It will not allow government domination of synthetic fuels, since the Corporation is mandated to act merely as a financial clearinghouse for private enterprise;

It will not commit the government to a "crash" $88 billion program;

It will not waive or override substantive environmental law or regulations;

It will not establish a new bureaucracy with an indefinite lifespan;

It will not merely pour more money into the existing administrative structure that has failed to bring commercial synthetic fuels on board.

We have all heard the threat of a 40 percent hike in crude oil prices by some members of the OPEC cartel. We can see what this year's price increases in imported oil have done to our economy; $70 billion of our resources exported to foreign lands, along with the loss of hundreds of thousands of jobs, and a raging inflation rate that threatens the fabric of our economy.

We on the Energy Committee, for the third time in five years, come to the Senate with legislation to use our vast synthetic fuels resources to break the OPEC stranglehold on our nation. Passage of this legislation will be the clearest signal to Americans, and to foreign lands, that we are serious about ending our dependency on foreign sources of energy.

We ask your help in passing Title I of S. 932 as we have recommended it to the Senate. If you need further information or have questions you want answered, please call Dick Morgenstern (4-0099) or Steve Bell (4-6621).

With warm regards.

Sincerely,

J. BENNETT JOHNSTON,
WENDELL H. FORD,
PETE V. DOMENICI,
HENRY BELLMON,
U.S. Senators.

Mr. JOHNSTON. Mr. President, I yield to my friend from New Mexico.

Mr. DOMENICI. Mr. President, I thank the Chair.

Mr. PROXMIRE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I yield.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that M. Danny Wall, John Daniels, Linda Zemke, Paul Winslow, Leon Reed and Kenneth McLean of the Committee on Banking, Housing and Urban Affairs, have the privilege of the floor during the consideration of S. 932 which extends the Defense Production Act of 1950 as amended. I also ask that Donald Chamblee of my office staff be granted the privilege of the floor also during consideration of this bill.

Mr. JOHNSTON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. At some point, probably today, as soon as we can get it cleared, I would like to suggest to my distinguished friend from Wisconsin that we have a unanimous-consent agreement to take this bill up title by title so that we can deal first with synfuels, amend that, and then pass that title. Then move on to another title so we will not have to be coming back and amending, I think we have, eight or nine titles of the bill. It has not been cleared yet on the Republican side, but I hope we can enter into that agreement.

Mr. PROXMIRE. So far as I am concerned, that is fine. It sounds like an orderly way to proceed, and that is acceptable to me.

Mr. DOMENICI. Mr. President, I personally would say as manager of title I, that I would agree to that, but we will try to keep the Senator posted and inform him later on when he is available as to what the situation will be.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I, too, have a rather detailed statement.

Mr. President, late last week, an unusual coalition of antigrowth, anti-business groups joined their traditional adversaries, big business, in an effort to once again kill the beginning of a long overdue Federal effort to encourage development of synthetic fuels as part of America's fight for energy self-sufficiency. This coalition takes to the ultimate the old saying, "politics makes strange bedfellows."

Now, how can one explain this conjunction of forces so diametrically opposed to one another on such issues as the free enterprise system, economic growth, economic freedom, environmental law and regulations, and the role of Government in the private sector? Let us name this coalition for the kind of hybrid monster that it is—a cynical marriage of convenience between parties each bent on maintaining part of its political and ideological fiefdom.

On the one hand we have Exxon, the most profitable oil company in the world, a company that totaled profits of more than $1.1 billion higher this past quarter than a year ago. Exxon, and some of its free enterprise natural allies in this fight, have joined with some of the so-called environmental groups, committed above all to limiting the economic growth of this Nation and to forcing Americans to accept a reduced standard of living.

What are average Americans, concerned about the extraordinary dangers in which this Nation's energy policy has placed us, to make of this battle, now joined here on the Senate floor as we on the Senate Energy and Natural Resources Committee bring our synthetic fuels bill to our colleagues for action? What are the unemployed to make of this battle, as they watch hundreds of thousands of jobs vanish as the OPEC cartel hikes oil prices again and again? What are those tens of millions of Americans, crushed by an inflation fueled by rising energy costs, to make of this confrontation? What are those who must pay more to heat their homes this winter than to eat to understand as they see Congress, beset by special interest groups that have their own private concerns paramount, waver once again?

I will tell you what I think my neighbors in New Mexico think because they have told me. They think Congress has failed to act decisively on synthetic fuels and that this failure could cost the Nation its economic freedom. Scientists at Sandia Laboratories in Albuquerque, the very scientists who work in the most innovative research in the energy field in the world, have urged me to take the case for synthetic fuels to Congress. They have told me, "Pete, we're doing a lot of good, important research, but we believe America knows enough now to begin a real thrust to commercialize synthetic fuels. We have to do the research at the same time we build commercial plants." That is what scientists in my State urge. And I might add, these scientists walk the beautiful mountains and streams of my State, and many of them are active members of environmental groups. Yet, they know that synthetic fuels can be developed without significant environmental degradation and they believe we should get on with the job.

What about other citizens, those who are not scientists or active in the field of synfuels? They, too, in their letters to me, in personal conversations, in letters to the State's newspapers, urge the Congress to move aggressively to develop synthetic fuels from oil shale, coal, and tar sands as soon as possible.

Why is such a consensus measured at about 75 to 25 in favor of synthetic fuels by national polling organizations? The answer is simple: Americans have waited in gas lines, seen their heating bills soar, found their vacations put out of reach by higher prices, worried about the next major interruption of crude oil from overseas, and they have decided that America must get serious about energy. And, they know that we have enough readily recoverable oil shale to produce more than 500 billion barrels of oil; enough coal sites with sufficient water right now to produce the equivalent of 4 million barrels per day of petroleum products; about the same amount of potential oil from tar sands as we have presently identified recoverable crude oil resources. Above all, they see American science, American technological genius, working in other nations to develop oil from coal, fuel from agricultural products, oil from tar sands, and they know that America has the knowledge and the resource. What they do not know yet, and what it is our duty this week on the Senate floor, is to show that America also has the will.

I have heard opponents of our bill say that they agree with me, they agree that we need synthetic fuels, that Government must encourage their development, that we have endangered our Nation by neglecting such resources. They say that the debate this week is merely whether to accept a synthetic fuels effort of a modest scale or to accept the Energy Committee's more ambitious plan. That contention is simply wrong. The debate is not merely a quarrel over jurisdiction, or economic efficiency, or some equally arcane consideration. This debate clearly focuses on two approaches: The Banking Committee approach, in all of its forms, or the Energy Committee approach. And, at the core of that debate is the clearly diametrical presumptions behind the two bills.

The Banking Committee approach is a "business as usual" approach. It is the same approach that the Banking Committee adopted 5 years ago when it heard testimony on the Energy Independence Authority and decided to do nothing. The under-funded, fragmented approach of the Banking Committee, using merely the same old Federal bureaucracy that has failed to give us synthetic fuels in commercial quantities so far, it is exactly the kind of thinking that has brought us to our present vulnerability in energy. The Banking Committee bill, supported by those environmentalists who are opposed to synthetic fuels at almost any cost, says, "Well, just offer a few little concessions here and there and maybe this flap will go away." That is the attitude that has doomed the last two synthetic fuel bills that the Congress has considered. It is the same kind of attitude that has led to this situation, according to the Congressional Research Service: with present Government policy, including present incentives, no commercial production of synthetic fuels is anticipated by the year 1995. And, the Banking Committee approach is merely present Government policy with a little fancy ribbon wrapped around it.

Let us take a look at what the Energy Committee bill attempts to do. It says, "Present policy won't work. Business as usual won't work." It establishes a lean, business-oriented Synthetic Fuels Corporation. This Corporation's Board of Directors would be appointed by the President with the advise and consent of the Senate. In addition to five members chosen by the President and confirmed by the Senate, the chairman of the Energy Mobilization Board, the Secretary of the Treasury and the Secretary of Energy would serve as nonvoting members of the Board of Directors. The Corporation would be a financial clearinghouse for private firms that wish to develop commercial-sized plants to produce synthetic fuels from oil shale, coal, tar sands, and biomass.

The Corporation would embark on its goal—a goal of aiding private industry to create by 1995 the capability to produce 1.5 million barrels of oil equivalent from synthetic fuels—in two phases. In the first phase, the Corporation would have at its disposal $20 billion to aid private industry in developing experience with differing synthetic fuel technologies of diverse kinds at the commercial level. This is the "high-risk" stage, one in which some technologies that have great future potential for commercial production, but are still too risky to draw private industry venture capital, would be supported. The Government, in essence, would reduce the economic risk and encourage private enterprise development in the field. After this first phase, in which the Nation and private enterprise would get economic, environmental, and

technological experience with these diverse technologies, the Corporation would report back to Congress. This report would detail just what the first phase has taught us: What technologies seem most promising for larger scale commercial development; what kinds of engineering innovations we will need to protect the environment; what kinds of economic incentives have worked and for what kinds of companies in what kinds of economic circumstances; and what probabilities exist for reaching the 1.5 million barrels per day capability by 1995. Congress then would consider the report of the Corporation and decide whether to implement the second phase—a phase aimed at fulfilling commercial production goals with the most economically and technologically sound processes, as revealed by the first stage.

This two-stage approach, first recommended years ago under President Ford's administration, seems the most prudent way to begin this forceful program. It is the kind of approach recommended by consultants to the Senate Budget Committee's Subcommittee on Synthetic Fuels, of which I was ranking minority member, during compilation of an in-depth study of the economic sophistications of synthetic fuels production. This two-stage approach, combined with creation of the Synthetic Fuels Corporation, does several important things that witnesses before the Congress have stressed for several years: we need a focused, streamlined approach that is insulated in its day-to-day deliberations from the vagaries of congressional budgetary processes, but allows at critical junctures policy oversight by the Congress; it allows us to gain practical experience from a first stage of production of between 300,000 and 500,000 barrels per day of oil equivalent; it provides that we not have to make a huge appropriations commitment at the beginning of this process, only to see the money lie idle (a contractionary effect on the economy that could be counter-productive); it insures that the taxpayer's interests and risks are protected to a very high degree.

Under our bill's title I, the Corporation could provide financial aid to private industry in the following order of priority: Purchase agreements and price guarantees; loan guarantees (up to 75 percent of project costs and 60 percent of any overruns); loans (with the same restrictions as loan guarantees); and joint ventures (up to 75 percent of project costs) during the first stage for commercial module endeavors suggested by private industry.

The Corporation, during the first phase of existence only, would embark on Government-owned, but contractor-operated, projects, and even then would have a limit of three such ventures allowed it. These GOCO's would be a last-resort item in those technologies in which private industry was unable or unwilling to provide feasible plans for developing promising technologies in a field deemed important to the Nation's future energy needs.

The Corporation has been designed specifically to use the flexibility in financial mechanisms that all consultants to the Senate Budget Committee and witnesses before the Senate Energy and Natural Resources Committee urged as critical to the success of a synthetic fuels program. The financial structure of the Corporation would allow it substantial independence, and real freedom from politics as usual or pork barrel pressures. All of its dealings would be on-budget, and subject to the Federal budgetary process. If Congress decided to proceed with phase II of the program total resources available to the Corporation over its 16-year lifespan could be as high as $88 billion, subject to Congressional appropriations. The Corporation would borrow these funds from the Treasury in amounts necessary to meet obligations to private industry and only as the funds were actually needed. The Synthetic Fuels Account within Treasury would not be funded by a windfall profits tax.

I should point out that no substantive environmental laws would be waived under our legislation. All present environmental laws would be working as the projects aided by the Corporation proceeded.

That is the essence of the Synthetic Fuels Corporation recommended by the Senate Energy and Natural Resources Committee to this body. This recommendation follows literally years of reports, hearings, investigations, and studies into synthetic fuels by our committee and its predecessor, the Senate Interior Committee. Our recommendations follow the general guidelines set forth by witnesses this year from private industry, the academic and scientific community, financial institutions, and from engineering experts within the field.

The experts recommend a two-stage approach, and we recommend the same. Experts recommend a program insulated to a large degree from the day-to-day whims of Congress, a situation in which the board of directors can make business-like decisions on finances free from political pressure, and we have adopted this strategy, also. Experts recommend a financing program for the Corporation that will reduce its contractionary impact on our economy, and we have provided for this. All experts recommend a wide flexibility in financial mechanisms that the Corporation can use to aid business, and we have agreed that this is a sound idea. We have rejected a wide-scale Federal involvement in construction, ownership, and operation of synfuels plants. We have rejected a crash program, free of all congressional oversight. We have rejected reliance on a new Federal bureaucracy with unlimited lifespan.

Let us look for a moment at the myths about our bill that our opponents attempt to spread:

First. Myth: The Energy and Natural Resources Committee approach is a crash program.

Fact: The Energy Committee approach is not a crash program by almost anyone's definition. For example, the study done for the Senate Budget Committee by PACE (Cameron-Engineers) shows that a "crash" program, as this consultant defines it, would lead to more than 2 million barrels a day of oil equivalent by the year 1990. The Energy Committee approach would lead to a capability of producing 1.5 million barrels per day of oil equivalent by the year 1995, with the full realization that such a goal might not be met. In truth, if one looks at the PACE study, the Energy Committee approach is much more like what PACE has termed "The Accelerated Engineering Program." The National Academy of Sciences' study on coal liquefaction and coal gasification indicates that a crash program would yield about 3.5 million barrels per day of oil equivalent in just those two technologies within a 20-year period. Our bill envisions about one-fifth of that production capability 15 years from now. The committee has rejected the "crash program" option.

Second. Myth: The Energy Committee approach allows no mechanism for midcourse correction, or phasing-in.

Fact: The Energy Committee approach is specifically two-phased. This approach is endorsed by the Congressional Budget Office, the Office of Technology Assessment, the Committee for Economic Development, and by others who have studied the problem.

Third. Myth: We do not need a Synthetic Fuels Corporation.

Fact: Present government programs have failed. The Banking Committee approach, using the Department of Energy, Department of Transportation, and Department of Defense, merely pours more money into existing agencies. Here is what David Goodman of Morgan, Stanley & Co., one of the most experienced financial houses in the energy field, had to say about the need for Synthetic Fuels Corporation:

> Philosophically, I would rather not see a new entity created for syn-fuels. However, to make the program work, the decision-making will have to be crisp, hard-nosed, and attuned to the needs of business. A regulator's mentality would be anathema to the purpose of the program. As a practical matter, I question whether there are sufficient personnel with the proper background to staff this undertaking in government at the present, or whether they can be attracted to the Civil Service. On balance, I conclude that a separate, Government-owned corporation, with a limited life, such as is contemplated by the legislation, is probably the best way to go.

That is the considered opinion of perhaps the single-most energy-oriented financial house in the Nation.

Accepting our Synthetic Fuels Corporation, contrary to the report issued by the Banking Committee, streamlines Federal involvement in synfuels development, allows us to put a businessman in charge of this program, focuses our energies, and gives us greater fiscal control. It is fully consistent with the phased development approach and still allows Congress to have the final say on the amount of money we ultimately will spend on our program. If you have doubts about a single-focus Corporation, such as we recommend, merely ask yourself if you want decisions on multibillion dollar synthetic fuels plants made by the Department of Energy. How much confidence will a businessman have when he begins to think about investing $3 to $4 billion in a synfuels plant after he realizes that backing for his investment will depend upon a bureaucrat in the Department of Energy and a far-from-certain appropriation from Congress? Failure to accept the Corporation truly means a failure to develop synthetic fuels in the most business-like and cost-effective manner.

Above all, a corporation, along the lines that we on the Energy Committee have endorsed, provides important insulation between the political process, with all its vagaries and whims, and the synthetic fuels program. Congress still has the oversight, control of the purse strings, and the ultimate say, but our recommendation presents the best opportunity for decisions on financing of synthetic fuels plants to be made in the most businesslike and economically sound manner.

Fourth. Myth: Government-owned, contractor-operated plants in the Energy Committee bill are not needed.

Fact: The Energy Committee bill allows so-called GO–CO's only as a very last resort. Our bill puts the emphasis on participation by the private sector. It is only when a promising technology is not endorsed by private industry that a GO–CO could be created. We have mandated stiff procedures to make sure that private industry has the first shot at every technology and every process. One must realize that to absolutely prohibit all GO–CO's would mean that we run the risk of allowing some companies to "hold up" the taxpayer. The GO–CO's are a club in the closet, an attempt to insure that companies that come to the Government with synthetic fuels development plans will keep cost estimates in line. We cannot allow ourselves to be held hostage to unreasonable negotiations because we have completely prohibited the GO–CO option. Again, GO–CO's are a last resort, not a substantial portion of the recommendations the Energy Committee has made to the Senate.

Fifth. Myth: If the market wanted to develop synthetic fuels, it would. We do not need Government.

Fact: The oil industry, which has the majority of holdings in some synthetic fuels technologies, has failed to develop one single commercial synthetic fuels plant in this Nation. This situation exists despite the fact that some of the industry leaders have earned literally billions of dollars in profits in recent years. Instead of developing synthetic fuels plants, some of these companies have bought department stores, electrical equipment companies, and similar ventures. Those who want total reliance on the market are saying, to paraphrase, "What's good for Exxon is good for America." No one in a responsible policy-making position can endorse that. The fact is that under present energy economy conditions, it is simply more profitable for companies to keep their resources in the ground, watching them increase in value, and take their profits from conventional crude oil and natural gas. They wish to develop synthetic fuels at their own speed and under conditions they dictate.

In a truly competitive energy market such an approach would cause no grave damage. But America finds itself prey to an energy cartel that threatens to destroy our economy. We cannot afford the luxury of "business as usual." The Energy Committee recommendation is an intelligent response to the need to "prod" business into taking a risk and allowing a larger number of firms to compete in the energy business.

We have used Government to build the finest road system in the world. We have used Government to bring housing to those that found it difficult to get housing. We have used Government to provide impetus to a transcontinental railroad system. Our agricultural system, unique in the world, has benefited from such programs as the Homestead Act, land grant colleges, the Extension Service, and the Federal agricultural credit system. Our civilian aviation industry evolved from the research and development of military aircraft. Using Government as a partner with industry to meet the Nation's economic and social goals is a tradition that has helped make this Nation the power it is today. The Synthetic Fuels Corporation idea follows in this tradition.

Sixth. Myth: We will spend $88 billion of the taxpayer's money under this plan.

Fact: No one knows how much the taxpayer will be out when the final tally is made, but history indicates that the taxpayer may well recover all of the costs of the program. The synthetic rubber program of World War II was an expensive proposition. But at the end of the war, all assets were sold to private industry and the taxpayers recovered 96.6 percent of their investment. And this is the key point about the Energy Committee's recommendation: We are asking for an investment, which will be repaid over time.

Ultimate costs to the Nation will vary according to the costs of conventional crude oil and natural gas. Estimates from those with the most experience in synthetic fuels indicate that syncrude from coal today could be in the range of $25 to $35 a barrel, oil from shale in the $25- to $33-per-barrel range, and gas from coal slightly higher in cost. Spot oil prices for conventional crude have already passed $40 a barrel. The so-called posted price will probably be $30 a barrel by January of this coming year. If this is, indeed, the case, synthetic fuels will get a tremendous boost and the taxpayers will probably recoup all of their investment. In addition, the Corporation we recommend will have many requests for financial assistance and the goal of diverse, competitive private industry synthetic fuels industry will be that much closer to reality.

If energy prices continue to climb dramatically, the ultimate concept behind synthetic fuels may manifest itself: Synthetic fuels may be cheaper than conventional crude oil. This would be a tremendous step toward energy self-sufficiency for the Nation and would dampen an inflation that has been fueled into double digits by energy price hikes. At the present time, we have no supply alternatives for our liquid fuels. We are fully dependent upon crude oil. Synthetic fuels offer one of our last great hopes for an alternative to conventional crude oil; and they offer one of the few realistic chances that energy prices will some day stabilize.

Many other myths abound, but I expect that during this week's discussion we will confront them one by one. I will not attempt to guess here what tack the discussion will take. But the facts are clear from a scientific point of view: Synthetic fuels can be produced in America, in an environmentally sound manner, with present technology.

Let me close these remarks today by noting that one of the responsibilities for policymakers is the responsibility to judge risks and then act. We have had 5 years in which to see what our lack of policy in synthetic fuels has created. If we had started this kind of program 5 years ago, when it was first brought to the Senate, we would now have a few plans nearly completed. We would know from empirical data the answers to questions that many have about synfuels, but we wasted that chance. Now, we are facing $40 a barrel crude oil, the loss of 2 million jobs during the next 3 years because of this extraordinary increase in energy costs, and an inflation that is rending our society. We have waited far too long, because we weighed the risks and failed to act. It may be that we can salvage things during the next, crucial decade. Part of that salvaging process must involve synthetic fuels development. The Energy Committee approach moves prudently, but aggressively, toward synfuels development. The Banking Committee approach, underfunded, unfocused, and biased toward allowing only the biggest of businesses to compete in the field, simply is no approach at all

I want to speak about the enormity of the issue that confronts the Senate today. Let me start by saying last week a very unusual coalition of antigrowth and antibusiness groups joined with their traditional adversaries, big business, in an effort to once again kill the beginning—and I stress the beginning—of a long, overdue Federal effort to encourage the development of synthetic fuels as part of America's fight for energy self-sufficiency.

This coalition takes to the ultimate the old saying that politics make strange bedfellows. How can we explain this conjunction of forces that are so diametrically opposed to one another on such issues as free enterprise and the free enterprise system, economic growth, economic freedom, environmental law and regulation and the role of Government in the private sector?

Well, let us call this coalition for the kind of hybrid that it is. It is a cynical, as I see it, marriage of convenience between parties each bent on maintaining part of its political and ideological fiefdom—and I do not say that about nor attribute that to any Members—but, I do believe that America is in too serious an economic energy crisis to let anyone

try to maintain part of a political and ideological fiefdom unless the maintenance of that fiefdom is at least as important as America's future, that broad, that deep, and that significant.

On the one hand, we have Exxon—and we all know about them, a very profitable oil company, $1.1 billion profits higher this past quarter than a year ago—and I have not been one to join the increasing attack on them, but it does seem to me that they and some of their free enterprise allies in this fight have joined with some of the so-called environmental groups committed above all to limiting economic growth of this Nation and forcing America to accept a reduced standard of living, and to me this is extraordinary and unbelievable.

Now, Mr. President, I want to succinctly state the issue as I see it. The United States of America has an abundance of energy, but we cannot use it, we cannot develop it, and today we are going to try to take one small step toward permitting America to use what it owns, what it has, what it has been endowed with.

Now, listen carefully this country of ours, which today is on its knees with both hands tied because it is dependent upon 8 million to 9 million barrels of crude oil a day. We are on our knees, tied, strangling at the mercy of a cartel.

One would think that a country in that position must be bankrupt in terms of resources, would not one? Well, let me tell you how bankrupt we are. This country has 700 billion barrels of oil potential from shale—not millions, billions. And we are at the mercy of a cartel monopoly for 8 million barrels of crude oil. Let me repeat that we have 700 billion barrels of crude oil potential from just shale oil. That is one item.

We have 300 years worth of coal, if coal was used for every bit of our energy needs. Listen again: we are on our knees because we cannot produce 8 million barrels a day of oil, and we have coal, 300 years worth of coal, not in Arabia, not in Kuwait, not in Venezuela, not in Canada, but in America, the USA.

Third, we have 30 billion barrels of oil potential from tar sands. I have just taken three resources, and I am trying to make the point for America and for this Senate that "business as usual" has put us in this position where we have an abundance, but are bankrupt; where we have an abundance, but are totally dependent; where we have an abundance, but those who know of our vulnerability wake up every morning in a cold sweat wondering, "When will somebody embargo America again."

We have seen one embargo. Now what approach is the cartel taking? A new scheme: No embargo but less oil will be produced by the cartel countries, and at a higher price. Less at a higher price, the exact opposite of enterprise economics. When are we going to learn that enterprise economics are not totally relevant today when the cartel says, "Less at higher prices," but our whole theory has been that higher prices should produce more?

We have brought to the Senate a Synthetic Fuels Corporation that many will oppose because they think business as usual will take care of it. Or what? They are afraid. Afraid of what? Afraid that somehow a Fuels Corporation, whose goal it is to finance the development of synthetic fuel—by whom? By the private sector—and they are afraid that somehow or other this is going to destroy the free enterprise system. Somehow or other the creation of something different threatens them. And, of course, the present energy-crisis does not demand anything different, they seem to tell us, because it is something we can handle in a business as usual manner—but this different approach, say certain big business leaders of America, has somehow or other built into it the capacity to destroy the enterprise system or at least destroy the energy enterprise system.

I have great fear, too, as an American, as a Senator, tremendous fear, tremendous fear that we are about ready as a nation to commit suicide. While we have 700 million barrels of oil equivalent in shale, 300 years of coal, we are about to commit energy suicide, because we are afraid to try anything different.

We are going to listen to the prophets here today who say "just a little bit of financial assistance and we will take care of this." Utter and absolute nonsense. It has not happened and will not happen, until we do something bold enough to match the problem; and the problem is about as big as America has ever had.

Then there is the third kind of reaction, and that is timidity. We do not want to risk anything. We do not want to take any chances, and that holds for big business and the environmental risks. We do not want to take any chances. It is all going to work out.

Yes, it is going to work out. When? There are some who say 10 percent of the inflation rate in America today, if traced back, is attributable to energy problems; 10 out of 13. I am not sure I believe that yet, but there are some credible people who say it. Almost everyone says the 13 to 14 percent inflation rate is the most serious economic problem we have ever had, and if we cannot break it we are in big trouble. Institutionally, we will see a change in our lifestyle, our way of life. There will not be any business as usual.

And yet, some will still take no risk at all. We do not want to develop that resource, and if we do, we do not want to take any chance at all that we will either harm the environment or change in any way the way the private sector has handled the development of synthetic fuel.

It just appears to me that this country needs an incredible series of events to be able to predict and act. We needed a war to help the aluminum companies develop an aluminum capacity. They were just as fearful then as they are today. "Don't get the Government involved. It will take over. Somehow we will have a nationalized aluminum industry." On that occasion the prophets of gloom lost because we were in war. We did that through a national corporation. We built the strongest, most significant aluminum industry in the world in the shortest period of time. We gave it back to the companies. They purchased it and we gave the American people a profit to boot, and we did not take over the aluminum companies.

Synthetic rubber—identical. But we were in a war. We had no synthetic capacity. We chartered a corporation and we built the synthetic industry, sold it back to the private sector, made a profit for the American taxpayers, and won a war.

Now, let me say this: I do not believe we are going to have the leisure that we had before, if we have another war. We are not going to have a Pearl Harbor after which we can mobilize, get ready, do all these interesting things, argue on the floor of the Senate about aluminum or synthetic rubber. We all ought to know that we are today not only vulnerable militarily, but also we can be strangled economically because we have such strong dependence upon crude oil in its conventional form and natural gas in its conventional form. We have grown accustomed to these being cheap and we have grown accustomed to regulating everything.

Is it not amazing that those who oppose this bill will talk about it as being too much Government involvement when, as a matter of fact, one of the principal reasons we will not get synthetic fuel without this bill is because of regulatory risks and economic risks, both of which the Government has a tremendous amount to do with?

Now, let me just explain, in my own way, what this financial institution that we are going to create will do and why we must have it. An average synthetic fuel plant producing 50,000 barrels oil equivalent will cost between $2 billion and $3 billion. It might take between 4 and 9 years to build. It might take 5 years of permitting before you can turn the first spade.

Now, let me just ask: How many companies do we expect to be running a 100-yard dash up to get that first permit, to invest in the technology that we know will work but has not been commercialized, at least not here, not knowing the price of crude oil 9 years from now when it is finished, not knowing what kind of regulatory schemes we are going to have, and not knowing whether America even wants what it will produce?

Those are economic and regulatory risks which you cannot expect the private sector to assume. Regardless of what will be said on the floor here by those who oppose this bill, you just cannot expect them to do it. The bad thing is that most of them, with the exception of three or four large corporations, know it; and because they are afraid to take a chance, they would rather not have any synthetic fuel than to go with something different that scares them, that is a little bit different than business as usual. That is the issue.

What we do with our bill is take that set of economic and regulatory facts, plus technological advice that says, "If South Africa can turn coal into liquid fuel with the assistance of American engineers and American contractors, because South Africans are afraid for their survival, America ought to get on first base and get on with it." We are the ones that

know how. We only have 700 billion barrels of oil potential in shale and 300 years of coal, and we have not started yet.

Now, our bill merely says, "Private sector, we want 8, 9, 10, maybe 11 plants, each capable of producing the equivalent of 30,000 to 50,000 barrels, in a number of technologies in those three basic products that we have much of, those basic resources. We want you to tell us: What does it take for you to build them? What does it take for you to own them? What does it take for you to get with it?" And we say: "We will finance you with loan guarantees. You do it. You own it. You sell the product. We want to get you in the position where you are excited enough and have enough confidence to do it. We want to be in the position to buy your product in case the military needs it, so we will guarantee to purchase the product if you will get out and build it. We want to say to you, in case you can't get the money, we will lend it to you."

Those people who talk about throwing $20 billion at something just do not want to believe that we are lending, we are buying, we are investing—and I will make a prediction right here. If we go with this program and the cartel continues what it is doing now—15- to 20-percent increases per year in the price of crude oil—the U.S. taxpayers will not pay one penny for synthetic fuel under this bill. Because, come time to pay the loans off, they will be paid off because that first plant will be economically successful when it comes on board, because crude oil will be so high synthetic fuels' time will have arrived. But if we do not start now we will always be 8 to 10 years late. We will be 8 to 10 years at their mercy regularly and continually until we get started.

If we buy the product from them and it turns out that the purchase price is not as high as the price of crude oil, who wins? The American taxpayer. We buy crude oil or liquid gas cheaper than the cartel can sell it to us; is that a bad deal? Is that throwing money away?

It appears to me that unless and until we understand that it is not business as usual to bring this kind of industry on board and therefore will require something different, we will be arguing down here forever. And America's 700 billion barrels of crude oil locked up in oil shale will be locked up as inflation goes to 20 percent—and we send—instead of $50 billion—$60 billion, $70 billion, or $80 billion a year to the cartel countries for oil that we refuse to unlock and make available. We will continue to use crude oil or one of its products for home heating and under boilers to produce electricity, when we have 300 years of coal locked up in our own mountains, in our own deserts, on the surface and underground across this great land.

It will stay there because we want to limit its use, because we are timid and afraid to convert it to a synthetic which is clean and has much broader use than the basic product.

That is the issue.

And then we are asked, Is this some kind of crash program? This $88 billion, an ultimate goal, is thrown around as if this Energy Committee just likes to get involved in throwing money around.

Well, let me tell you, Mr. President, for those who have listened—if you have not seen a scenario unfold in the past 3½ years in terms of our being strangled by a monopolistic cartel, if you have not seen that evolve and are not willing to take a few chances, then I do not know where you have been.

And there is no $88 billion crash program in this bill. This bill says in the first phase develop 8 to 10 commercial 30,000- to 50,000-barrel plants in each of the significant technologies, in all three of those resources, and then report to Congress, report to the President, and tell us whether we should proceed. Either House of Congress can say no, and the President can say no.

Let me ask this in closing—is a country as great as ours obviously so dependent upon energy survival? Is a country so free that there is no freedom without it in the world? Are we too timid, are we so afraid, that we are going to leave the resources that this country has, which can solve our problems, locked in Mother Earth while we talk about do not waste a few dollars; do not take any chances; continue to be afraid, timid, fearful? Business as usual got us where we are, but it is going to get us out all by itself.

I hope the Senate will be bold. I hope it will say to the President, "We are going to send you a bill."

I hope it will say to the private sector, "We are going to give you the help, not just a few of you, but a broad based private sector of people to get on developing the resources we have."

I yield the floor.

Mr. STENNIS. Will the Senator yield briefly to me, Mr. President?

Mr. DOMENICI. I yield.

Mr. STENNIS. I know the Senator from Wisconsin wants to proceed so I will be brief.

I want to ask these two Senators a question, now that the Senator from New Mexico has finished.

What are the probabilities, in the opinion of the Senator, of bringing to success one or more of these ventures the Senator has mentioned which are in the bill? I lean with the Senator on the bill. I think it is striking out in an unknown land, but it must be done.

I am going to be asking for more money than this in a few days for just one year for the military. What does the Senator think about the probability of success in one or more of these areas? That question is addressed to either Senator. I hope both Senators will be brief.

Mr. DOMENICI. Let me briefly answer and say the Senator has a custom of getting right to the point. That really is the point, the one asked by the Senator.

There is no doubt in my mind that given proper financial assistance to get rid of the grave economic risk involved, as I have described it, that we can develop, within the period provided here, one, natural gas from coal without question; liquids from coal without question—and the only problem there might be price, but we will develop it and it will be ready—and we will, without question, produce oil from shale in commercial quantities.

I do not think there is any doubt but all three of those will be on board if this bill is passed.

Mr. STENNIS. The Senator is a rather hard-headed, private enterprise man. Does the Senator think this is the Government's duty under our system, or does the Senator think private enterprise should be called upon to spend that much money?

Mr. DOMENICI. I will say to the chairman that I am a private enterprise man. The private sector will be involved in this. In fact, they will produce the success stories that will come from this bill. Only under the most dire technological facts would we even consider, under this bill, building a plant owned by the Government and then limited and operated by the private sector.

Mr. STENNIS. May I address those questions to the Senator from Louisiana, for whom I also have a high regard?

Mr. JOHNSTON. I would be very pleased to answer those questions. My answers are very similar to what the distinguished Senator from New Mexico has said.

There is not any question at all that each of these technologies can work. There are three or four different kinds of technologies for liquid from coal which have already been proved. The Chinese are already getting oil from shale. They are doing that right now.

The South Africans in their SASOL I plant have, for years, been getting over 20,000 barrels a day of liquids from coal.

The old town gas used to be the low Btu process, before the days of natural gas. They used to run an old town gas which was a very simple, low Btu gasifier process. There is not any question that it will work, but the question is the economics.

As far as the economics are concerned, the administration estimate for synfuels production in 1979 dollars is as follows, as to what the cost will be: Coal liquids, $38 a barrel; shale oil, $32 a barrel; coal gasification, $36.50; biomass, $38 a barrel; for an average of $36.10 a barrel.

The distinguished Senator from Washington was talking a little earlier about the spot price of oil this last week hitting $48. In effect what we would be doing through this Synfuels Corporation is underwriting what we believe to be the future price of oil, worldwide. This Government can do that through this synfuels corporation and make a big guarantee of that price. If they are right and if the price of oil goes up to that price, then it does not cost the synfuels corporation or the American people one thin dime.

On the other hand, if they are wrong and the price of oil is a lot lower, then the American public as a whole is the big winner, because even though it has cost a little bit in the synfuels corporation, the American people win because the price of oil has been lowered because of this.

Any expert I know about will tell the Senator that the average price of oil through the latter half of the 1980's, and

certainly into the 1990's, is going to exceed $36 a barrel in 1979 dollars. It is almost there now. We are heading that way in a great rash. But for a company to spend this $2 to $3 billion, they cannot speculate. It is a highly questionable thing where that price will be. They have to have some guarantee. That guarantee is what we are about in the Synfuels Corporation.

Loan guarantees are important, too, so that not just the five biggest companies can get into it. We want to spread it around a little bit. It is not a mom and pop thing for the little partnership down the street, but we do not want it limited just to Exxon. That is one of the reasons we have loan guarantees in the bill.

But with all that, I do not have any doubt at all that it will work and we can produce a tremendous amount of energy in an environmentally acceptable way and produce it fairly soon.

Mr. DOMENICI. Could I say to my good friend, also, that in South Africa, as I indicated, because they consider their country to be very vulnerable, they have gone on with developing it. An American corporation is the engineering, design, and construction company for SASOL II in South Africa. This is American talent, American know-how, being used over there, yet not over here.

Mr. STENNIS. I thank each of the Senators.

May I make this comment, too? I hope the Senators think that now there is a better environment and understanding of the need than there has been, so as to bring a bill along this line to a conclusion and get it enacted into law. Is the Senator strongly hopeful on that score?

Mr. JOHNSTON. I am strongly hopeful. I believe that the Senate, as the House of Representatives, finally recognizes the seriousness of the proposition.

I do not know if the Senator saw the morning's paper. There was a poll just taken of the House of Representatives. They were asked the question—let me get the precise wording, because I think this is quite interesting.

Mr. STENNIS. If the Senator will excuse me, I had already heard him deal with that.

Mr. JOHNSTON. That says 62 percent of the House Members think we are ready for a very sharp upheaval. I think perhaps the number who think that in the Senate may be even higher. I happen to hold to that view. I think we are headed toward that social-economic upheaval. I think we are in it right now. A 15-percent interest rate, I think, is a social-economic upheaval. I do not see any end to that. I think it is caused directly by energy.

Mr. STENNIS. I thank the Senator again and make one comment: I have been through this bill carefully. I think it is so important, and I feel encouraged that we have this bill ready for consideration. I ran across the old stumbling block, as I call it—as I see it—of these provisions in here that one House or two Houses may veto this, or do this or do that. I am afraid we are setting some bad precedents there that may look necessary, but we could well find ourselves encroaching so much on our own powers, giving to some future half of this body plus one the authority to undo in part what we have done.

Also, as to the executive branch, when we have the three distinct, separate units of our system, I think that we ought to try, with great deference, to work out a better way to avoid here what could be a pitfall, although I can see it is a mighty good instrument, sometimes, to get agreement on matters.

I point that out with great deference.

I thank both of the Senators. I expect to back them in this bill as far as I can because of need. Nothing like this has ever happened in peacetime, nothing; it is because of need. If the Senate will suspend some of the environmental laws so as to give the bill a little more power, that would be helpful.

I thank the Senators.

Mr. PROXMIRE. Mr. President, the Senator from New Mexico questions the motives of those who support our bill. I must point out that industry groups supporting the Banking Committee substitute do not oppose synfuels, and the oil and coal industry groups have indicated clearly, particularly the coal industry, that they want the Banking Committee funding to be increased. They favor significant funding for synfuels, but they think limited guarantees do the best job.

Also, the small business community emphatically favors this bill. As a matter of fact, they do not come in with just what a few of their officials feel. The National Federation of Independent Business has taken a poll in every State of the Union. They find that in every single State, their members oppose the Energy Security Corporation, with one exception, Connecticut. Overall, nearly 60 percent of their members oppose this approach.

I point out also that the Committee for Economic Development, one of the earliest, most enthusiastic, most expert supporters of synfuels, favors the approach in the Banking Committee bill. The spokesman for them, Roderick Hills, the former Chairman of the Securities and Exchange Commission, a man of outstanding integrity, has favored synfuels. As he points out, he and his organization have, for 2½ years, pleaded with Congress to provide a sensible approach.

They think our approach will get synthetic fuels working much better; that it is far less inflationary; that it will not involve this tremendous commitment of $88 billion—$88 billion—for this one effort.

We wonder, all of us in this body, how the Government grows so big. How does it happen? It is always a good cause—it may be education on the one hand, may be the cities, and you can always make a powerful argument that we ought to go ahead and spend a lot of money. Mr. President, this is another example. The experts tell us that the best way to handle this problem is to phase it in—phase it in carefully, phase it in so we know where every one of our dollars is going and not just throw $88 billion at it.

I do not think that there is really a scrap of testimony before either the Energy Committee or the Banking Committee that says we ought to have $88 billion, not $60 billion or not $40 billion, or not $90 billion, for that matter.

Furthermore, Mr. President, do not let anybody kid you by saying this is not an $88 billion bill. It is exactly what it is. Let me read on page 112, section 152 (a), starting on line 15:

> SEC. 152. (a) The Corporation may not incur obligations or make commitments, including administrative expenses and other operating costs, in excess of $88,000,000,000 in the aggregate: Provided, however, That prior to the approval of a comprehensive strategy pursuant to section 122 such obligations shall not exceed $20,000,000,000 in the aggregate.

Now, if we go back to the sections referred to here, it says that before the additional $68 billion will be added to the $20 billion, which would be made immediately available, the following procedure has to be followed. This is on page 81 of the bill, beginning on line 17:

> (c) (1) Not later than three years after the effective date of this Title, the Corporation shall submit its proposed comprehensive strategy to the Congress. Such strategy shall be deemed approved after sixty calendar days of continuous session of the Congress have expired following the date of such submission unless either House of the Congress has, during such sixty-day period, adopted a resolution disapproving such proposed strategy.

What that means, of course, is that as soon as they make a report, that report will go to the Energy Committee and it is up to the Energy Committee as to whether to report it. I just checked with the Parliamentarian. The Parliamentarian indicates that the Energy Committee can bottle it up. If the Energy Committee favors spending this money, they can sit on it. What can we do if we want to call it out? The Parliamentarian could not think of anything to do.

Suppose it comes out and three Senators decide to filibuster the disapproval resolution; what can we do? All they have to do is get 41 Senators to oppose cloture and they have it made, even though a majority solidly feel that we should not spend this $88 billion. There is no cloture provision in this bill.

So, A, it can be bottled up in committee; B, it can be filibustered on the floor.

Anybody who thinks that we are going to stop this later on and that, really, we are only providing $20 billion now, not $88 billion, has not read the bill. The bill makes a commitment of $88 billion.

Mr. President, I think, above all, that we should not fool ourselves that the Banking Committee bill is antisynfuels or that its supporters are antisynfuels. We are prosynfuels and we argue that the way to proceed is an orderly, measured way so that we know what we are doing.

The purpose of this is to develop information so that the private sector will be able to move ahead without undue risk, which no prudent businessman can take in a new technology until it is proven and operating on a commercial basis. The most prudent businessmen, all the ones I have listed, and also the chamber of commerce, say this is the prudent way to move, to go ahead.

Mr. President, let me also respond to a point made by my good friend from Louisiana (Mr. JOHNSTON), who criticized

the Banking Committee substitute on the grounds that authorities are parceled out all over the Government—to HUD, to GNMA, to the Commodity Credit Corporation, and to the Department of Energy. I must point out to my good friend that that is an apparent misunderstanding. These authorities do not involve synfuels. The CCC gets authority for alcohol fuels. After all, with respect to alcohol—which, of course, is primarily a farm product—there is some reason for involvement of the CCC.

GNMA gets authority for conservation. HUD gets authority for solar. The Energy Committee bill puts many of these authorities in the same place the Banking Committee does. So we should not labor under the misimpression that our synfuel title parcels authority for synfuels all over the Government.

Mr. President, the No. 1 issue facing this country, certainly domestically, and I think above all others, is inflation. I do hope Members of the Senate have a chance to read the Banking Committee bill because, as we are able to presume, there is every reason to expect that the Energy Committee bill, this $88 billion proposal, this crash program, is certainly going to result in very serious inflation. It is inevitable.

Take the availability of professionals in the field alone. There are today about 45,000. The number of professional people who would be brought in to handle this synthetic fuels crash program is an additional 24,000.

How will they be able to get them, to train them and put them in the positions they should be in, without serious inflation, without tremendous adjustment, and without very serious problems in the field where they would be taken from?

In addition to that, this $88 billion, of course, is one whale of a lot of money. It involves a draining of financial resources from other areas.

In our economy, when there is a super demand for resources, prices go up. All of the specialized equipment necessary for developing shale oil and liquefying or gasifying coal on the scale proposed by the Energy Committee will have a tremendous inflationary factor involved in it.

As a matter of fact, the estimates we have are that if we proceed on the crash basis the committee proposes, the cost of the plants could be 50 percent more than under a more deliberate program.

Mr. President, I do not think anybody proposes—I hope not—that we have the Government move in and take over synfuels. We are trying to develop the commercial experience which will enable free enterprise to understand what the technology costs are, what the economic situation is, so they can go to their bankers, and others, and secure private funds and move ahead in the private sector on a profitable basis.

We submit the Banking Committee program, which is supported overwhelmingly by the business community, particularly the people who have had a chance to look at it, could be phased in on an orderly basis.

This is, I assume, not as appealing, glamorous, or exciting, but a far better approach.

The Senator from Washington earlier said, How can a Senator go home and tell his constituents he is opposed to this $88 billion crash program?

I want to know how a Senator can go home and tell his constituents how he favors spending another $88 billion, or involving the Federal Government to move in an area, when our overwhelming problem is inflation and the size of the growth and burden on Government and the huge part Government plays in inflation.

Mr. President, I suggest the absence of a quorum.

(Mr. LEVIN assumed the chair.)

Mr. JOHNSTON. Mr. President, if the Senator will withhold, let me clear up one point here about which there may be some confusion. That is, the question of the amount of the funding.

Mr. President, the amount of the funding in the Senate bill is not $88 billion. The amount of funding in the Senate energy bill is $20 billion, of which $1 billion is biomass. The $88 billion figure, Mr. President, amounts to, really, nothing more than a goal which will be implemented by later action of the Congress.

Mr. President, before that second phase which the $88 billion goes to finance can be implemented, three things must happen. First, a report must be submitted to the Congress, submitting a comprehensive strategy. This is from the Synfuels Corporation, an overall comprehensive strategy. That strategy will outline what their plans are with respect to phase two of the synfuels development, after more is known about the economics, the environmental impact.

So, first, the report must be submitted. Second, Congress must be given the opportunity for a one-House veto. All it takes is one House to kill that strategy and they must start all over again.

Finally, Mr. President, if that is all approved, then it cannot be implemented without appropriations from the Congress.

So, in truth and in fact, phase 2, the $88 billion phase of this corporation, is nothing more than a sort of long-term goal to which we all aspire, but for which there is no present authority for action provided for in this bill.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. JOHNSTON. Certainly.

Mr. PROXMIRE. How can the Senator argue this is not an $88 billion bill in view of the plain language on page 112, lines 15 to 29, where it says, $88 billion?

It does provide that the provisions the Senator suggested will be adopted.

But I point out, No. 1, the report which triggers the additional $68 billion above the other can come down any time.

Two, even if it goes the whole 3 years, what will we know, how many synfuel plants will be operating to be in a position to make a judgment as to whether or not to go ahead with the additional $68 billion.

Mr. JOHNSTON. My answer to the question is just precisely what I said, that $88 billion is nothing more than a long-term goal because it cannot be spent without the action of Congress.

In other words, we are not giving this energy corporation $88 billion. We are simply giving them the right to file a report asking the Congress to appropriate the $88 billion.

If we struck that out, it would make very little difference because the corporation, without that authority, can do as much as they can with it, which is——

Mr. PROXMIRE. Will the Senator from Louisiana join the Senator from Wisconsin in striking that out?

Mr. JOHNSTON. I frankly do not think it is particularly important to have the $88 billion goal in there.

Mr. PROXMIRE. Will the Senator from Louisiana join the Senator from Wisconsin in striking that out?

Mr. JOHNSTON. The importance of it is this. If we are going to ask a company to come along and spend $2 billion to $3 billion, which, by the way, is the entire amount of funding of the Banking bill for one plant, then we have to show we are going to have a long-term commitment of great proportions to synfuels.

I think the $88 billion is symbolic of a commitment of the country to synfuels.

Mr. PROXMIRE. Is the Senator arguing the additional authorization would be needed to provide any sum up to $88 billion?

Mr. JOHNSTON. Yes. An authorization of appropriations——

Mr. PROXMIRE. Sure.

Mr. JOHNSTON. If the Senator—

Mr. President, if the Senator is going to ask a question now, please give me a chance to answer.

Will there be an additional authorization? Indeed, yes. Both an authorization for appropriation and actual appropriation, which is the precise way we are doing with the $20 billion.

Under the phase one, we have just passed out of the Senate authorization for appropriation in the amount of $20 billion.

Now, the Senate and the Congress will have to come back and actually appropriate as against those authorizations for appropriations.

Mr. PROXMIRE. What assurance does this give business that they will get $88 billion, if this is only symbolic. This will be the second time, in the past 3 weeks that we adopted symbolic measures. We have had a symbolic action of many billions of dollars for synthetic fuels——

Mr. JOHNSTON. There is no assurance——

Mr. PROXMIRE. Eighty-eight billion dollars is only symbolic. As I say, why not take it out? They would have to be pretty stupid businessmen if they are persuaded by symbolism, if it has to be appropriated again.

Mr. JOHNSTON. Of course, business has no assurance $88 billion will ever be appropriated. We do not know if it is necessary, or not. It is a symbolic commitment to synthetic fuels.

Is it important? Frankly, I do not think it is essential.

I do not think it is essential, and if the Senator wants to take it out, I would

vote against it. If it comes out of the bill, I would not cry about it because it is not essential, but it is an important symbol.

But for the Senator to say this is an $88 billion bill is simply not correct. It is not. It is a $20 billion bill.

Mr. PROXMIRE. Any time the Senator introduces legislation which says that the Corporation may not incur obligations or make commitments, including administrative expenses, and so forth, in excess of $88 billion in the aggregate, I assume they cannot make them up to $88 billion.

That is what it says. They can make commitments. Those will be of a corporation which has been sanctioned by the Congress of the United States, established by law. On the basis of all the experience I have had, I think the Senator from Louisiana would have to agree that once those commitments are made on our behalf and we have provided the legal framework for it, we honor it.

Mr. JOHNSTON. The Senator knows that those commitments cannot be made.

Mr. PROXMIRE. We tell them they can make commitments.

Mr. JOHNSTON. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I will be glad to yield for questions; but if the Senator is going to ask questions, he will have to wait for the answers and not make a speech. I say that in all goodwill to my friend from Wisconsin.

Mr. President, I think this question is answered very well by section 152 of the bill, which reads as follows:

> The Corporation may not incur obligations or make commitments, including administrative expenses and other operating costs, in excess of $88,000,000,000 in the aggregate: *Provided, however,* That prior to the approval of a comprehensive strategy pursuant to section 122 such obligations shall not exceed $20,000,000,000 in the aggregate.

So until Congress approves the strategy, nothing can be done; no action can be taken to expend money to make obligations or anything else. After that strategy is approved by Congress pursuant to the one-House veto method, then the Synfuels Corporation, in effect, is empowered to ask Congress for appropriations. Unless those appropriations are forthcoming, no money can be spent, because no money is provided.

Mr. DOMENICI. Mr. President, will the Senator yield

Mr. JOHNSTON. I yield.

Mr. DOMENICI. I would like to ask my good friend from Wisconsin——

Mr. PROXMIRE. Before the Senator does, let me follow up——

Mr. DOMENICI. In his earlier remarks, the Senator from Wisconsin quickly referred to all those who supported his bill. I hope he will tell the Senate whether or not he thinks that $3 billion is sufficient to bring a synthetic fuels program on board.

It is my understanding that the coal association does not support our approach, but it does not support the approach of the Senator from Wisconsin, either. They would rather have it, but the $3 billion will not do it.

I make that point because the Senator from Wisconsin seems to be saying it is inflationary for our bill but not for his, even though almost everyone believes that any program that is going to work has to be bigger than the one in his bill.

Mr. PROXMIRE. The House bill provides $3 billion.

I think the point the Senator makes is a good point, and it is a point we are conscious of.

We were told by a number of people that it would have to be bigger than $3 billion.

Speaking more for myself, I would be prepared to support an increase to $10 billion or $12 billion, something in that area.

However, I point out to the Senator that our bill does provide $3 billion; but if that is a loan guarantee, the $3 billion works out to a total of $9 billion in Federal commitments as compared with the Energy Committee bill, because we have $1 of appropriation necessary for $3 of guarantee. So it is not really $3 billion in the same way that the Energy Committee bill would be $3 billion.

However, even allowing for that, I would be happy to support a somewhat larger amount.

I think the fundamental difference between the two bills is the fact that ours is a carefully phased-in approach without any commitment—implied, symbolic, real, or whatever—that we would provide another $68 billion.

The concluding remark of the Senator from Louisiana, as I recall, was that, on the basis of this language on page 112, lines 15 to 21, we would have to appropriate additional funds, but he implied that we would not have to authorize additional funds. This is to authorize to $88 billion, with the appropriations process having to go to work.

Mr. JOHNSTON. No. The mechanism used under this bill is to have passed by the Appropriations Committee and to have passed by Congress authorizations for appropriations and later to come in with the actual appropriations of budget authority.

It is an unusual kind of legislative animal, but it is what we have done recently with respect to the Interior Appropriations Committee bill, which is now in conference.

Mr. PROXMIRE. What gives me great trouble—and I hope it will give other Senators concern—is that the language says that the Corporation may not incur, and the implication is that it may incur that much, in excess of $88 billion. If they make commitments and incur obligations of $30 billion, $40 billion, or $50 billion, what are we going to do? Will we say we are not going to authorize the money—forget it?

Mr. JOHNSTON. Will the Senator read the second paragraph?

Mr. PROXMIRE. The second part of the paragraph or the second paragraph?

Mr. JOHNSTON. It says:

> *Provided, however,* That prior to the approval of a comprehensive strategy pursuant to section 122 such obligations shall not exceed $20,000,000,000 in the aggregate.

Mr. PROXMIRE. As I point out to the Senator, section 122 goes back to Corporation's report, and the report triggers this additional $68 billion; and the report can be held up by a filibuster or by the committee. The Senate is not in the position of being able to exercise its authority by effective veto. So far as I know, the Energy Committee and the House Committee can bottle it up. So that the committees that favor this would be able to stop a majority of the House or the Senate from preventing this kind of commitment from going into effect.

Mr. JOHNSTON. There are so many safeguards that you would have to have two actions, basically, of the Appropriations Committee before the $88 billion could be authorized, which is the precise method we are following with respect to the present appropriations bill pending in the conference committee, which will be approved.

Mr. President, the Senator from Wisconsin, after having just stated that the Banking Committee bill is well thought out, is now inclined to change his bill from $3 billion to $10 billion or $12 billion. If this bill is so well thought out, how can the Senator be here, on the eve of bringing it up on the floor of the Senate, talking about increasing it fourfold?

The fact is that it is not well thought out. A $3 billion program will not—and never would—put together a synfuels strategy which would produce one-of-a-kind commercial demonstration such as this country needs. It never would have; $10 billion or $12 billion will not do it, either. It is going to take the full $20 billion.

It is true that the mechanism under the Banking Committee bill provides that $1 of appropriation can give you $3 in loan guarantees—not $3 in price guarantees, but $3 in loan guarantees—which means, simply, that we do not know what $3 billion means. Three billion dollars could mean $9 billion; $3 billion could mean $3 billion, or anywhere in between.

If you increase it to $10 billion or $12 billion, using the mechanism that the House has suggested, that could mean anywhere between $12 billion and $36 billion.

If that is a well thought out bill, one that can vary from $3 billion at the low spot to as high as $36 billion, if amended, it is the kind of pig in a poke that I do not want to buy on the floor of the Senate.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. PROXMIRE. The Senator has interesting standards of judgment. He would say that the $3 billion, because we are willing to increase it, or I am willing to consider increasing it, indicates that it is not very well thought out.

I point out, in the first place, that the House of Representatives, the whole House, after debate, adopted a bill providing a bigger goal than the Energy Committee does, in terms of the amount of barrels a day that would be produced eventually from synthetic fuels, and they provide $3 billion.

I point out, also, that I do not think anybody is very impressed by the $88 billion or the $20 billion. I submit that

the problem here is that we just do not know. Therefore, the prudent way to proceed is with a limited amount, which is what the business organization and the conservation organizations together argue we should do.

The Senator is saying that the sky is the limit—$88 billion. Should we not proceed in a more careful and thoughtful way and take the lower figure?

Mr. JOHNSTON. The Banking Committee bill says that we should have a dozen plants, with not more than six shale and not more than six coal.

Mr. PROXMIRE. We say that is the maximum. We do not say that it has to be a dozen. We say that 12 is the limit. At one point we had six in committee and we decided after considerable debate and discussion we make a larger provision to incorporate a diversity of technologies.

Mr. JOHNSTON. Very well. Under either loans or grants, or whatever mechanism the Senator suggests, how many of those plants could be brought on line with $3 billion in authority?

Mr. PROXMIRE. Under guarantees obviously three times as many as you could without the guarantee approach.

Mr. JOHNSTON. Will the Senator agree with me somewhere between one and three?

Mr. PROXMIRE. The Senator may be correct, depending, of course, on the technology. You would need probably, as I say, $10 billion in order to provide these plants. I do not concede you necessarily need $2 or $3 billion to bring a single plant into fruition. You may need that in some cases. You can do far less than that in others. It depends partially on the size of the plant, the readiness of the technology, and the amount of Federal guarantees needed.

Mr. JOHNSTON. The Senator is saying that the $3 billion provided in the Banking Committee bill will not achieve the goal stated in the Banking Committee bill. If a dozen plants is the goal then it will not achieve that very clearly. Is that not correct?

Mr. PROXMIRE. It does not, if we go that far, if we go to a dozen, but as I say that is a maximum. There is no reason we cannot provide that (A) in the bill or (B) if we prefer to do it at a later time. I think it is properly provided in the bill. Others may disagree with that.

Mr. JOHNSTON. How many would the Senator recommend to the Senate or how many would the Banking Committee recommend?

Mr. PROXMIRE. I think as many as are ready for commercialization. We have a situation now where we do not have any commercial operations with synthetic fuels in this country at all, none. It may be that one, two, or three will come on that have the efficiency, and are sufficiently ready to go ahead, and it may be that we have more than that.

Mr. JOHNSTON. The Senator then disagrees with the Energy Committee when we say that a goal of 10 plants is realistic in phase 1. Does the Senator and the Banking Committee disagree with that or does he have another view and if so what is that view?

Mr. PROXMIRE. Where does the Energy Committee say that—10 plants?

Mr. JOHNSTON. The $20 billion, as stated in our report, is the appropriate sum for 10 commercial demonstrations. Of the commercial demonstrations, they have not, of course, been picked at this point. But the House Banking Committee says 10 to 12. I had thought that the Senate Banking Committee had 10 or 12.

Mr. DOMENICI. Eight to twelve.

Mr. PROXMIRE. The Banking Committee says up to 12. But I wish to see the documents that you need 2 billion or 3 billion, and both figures have been used, for a commercial plant as a minimum. I have not seen that.

Mr. JOHNSTON. Cameron Engineering said it and Pace Engineering said it, and I believe the Senator's own report refers to those figures, if I could have a moment.

Mr. PROXMIRE. It could go that high certainly, I think, in some cases; of course, it could be substantially less than that.

Mr. JOHNSTON. We are talking about a 50,000 barrels a day commercial demonstration, and $2 billion to $3 billion in 1979 dollars is the figure that virtually almost every expert uses. Does the Senator disagree with that?

Mr. PROXMIRE. It could be less than 50,000; 50,000 is the maximum size for a plant in our bill. We may be able to prove the technology with a smaller plant. They do not all have to be 50,000.

Mr. JOHNSTON. No; but using the methodology determined by the Congressional Budget Office, which assumed that the initial subsidy would begin about 1987 and decline to zero by the year 2000, then based on current world oil prices, there is implied a cost to the Government of $4 billion to $5 billion for every 100,000 barrels of production. If you want to cut that in half it is $2 billion to $2.5 billion for every 50,000 barrels. That is using the methodology of the Congressional Budget Office and, of course, making certain assumptions with respect to cost.

But, take your choice, using the Congressional Budget Office, the Senate Budget Committee report, Cameron Engineering, Pace Engineering, almost any of these engineers, and we have a whole plethora of reports on them, and they all indicate cost ranges in this size, and the very point is that take most any engineering firm you want to and they will say that under the banking bill, under the price guarantees, you get about one plant in the 50,000 barrel a day capacity.

Mr. PROXMIRE. The Senator is an excellent lawyer and I see why he was a smashing success as a lawyer and why he is such a great Senator. What he is doing is concentrating on our proposal. The fact is that both bills have similar problems. Our bill provides a certain amount and the Senator may shoot all day at that, and his bill provides $88 billion.

Mr. JOHNSTON. $20 billion.

Mr. PROXMIRE. Now I say to the Senator where are the documents for the $88 billion? I can read on page 112. It says $88 billion. They can make commitments, they can incur obligations up to $88 billion as soon as that report clears its 60-day period, and we have to come in, as we always do when commitments are made and obligations are made, and provide appropriations. We do not have much alternative. Where is the justification for the $88 billion? How many plants would that be, 40, 45? Why do we need that many?

Mr. JOHNSTON. The second phase, and let me explain it again—I have explained it just as clear as the noonday sun on a cloudless day, and every time I have the point made the distinguished Senator——

Mr. PROXMIRE. The Senator has a stupid colleague here.

Mr. JOHNSTON. Every time I think I have the point made with the distinguished Senator from Wisconsin he comes back and brings out the same old tired $88 billion figure.

Mr. PROXMIRE. That is right.

Mr. JOHNSTON. I said over and over again you cannot spend more than the first phase money until after Congress approves it, and then there are at least two mechanisms for congressional approval: First, approval of the report and, second, the appropriation of the money. And we intentionally divided synfuels into two phases. Phase 1 is making of the building of the one-of-a-kind commercial demonstrations to see if they work. Phase 2 is to build the replications of high Btu gas. If this is the best technology, or one of the best, then we will come in and build 4 or 5 or 10 or whatever the number is of replications of those plants. The same is true of the shale oil and solvent refined coal and all the rest. The ones that work best under phase 2 we will build. Not until then. We made a very deliberate distinction between phase 1 and phase 2 with a deliberate decision not to fund phase 2, and it is absolutely clear. It is to the very heart, to the very essential nature of our bill, that you do not start phase 2 until you have the information provided in phase 1 and until Congress signs that report. That is the real difference, but we do provide $20 billion in authority for phase 1 which is the amount necessary to do the job.

We are not trying to kid the Senate. We are not trying to kid the American people by holding out some carrot of $3 billion and acting as though that will do the job. We know that it will not do the job. No engineer says it will do the job. We do provide enough for phase 1, and we are going to do phase 1 and then stop, read the report, study it, and approve it before you can go into phase 2, and then Congress must appropriate the money.

Mr. PROXMIRE. If the Senator will yield once more, and then I will sit down and my good friend from Colorado is prepared and I am sure he wishes to talk on this subject, I just wish to make it clear that my position is this. When you look at the Energy Committee bill it is clear that if we pass this bill we are going to make $88 billion available with two very, very thin protections. Protection No. 1 is that we are requiring the Corporation, before they can obligate the $88 billion, to make a report. They can obligate $20 billion but the additional $68 billion requires a report, a report involving anything that will satisfy the Energy Committee, in effect, because once that

report is filed it sits in the Energy Committee.

The Parliamentarian told me he knows of no way we can get that report out.

Say we get the report out. Then there can be a filibuster on the part of Senators to block for 60 days the opportunity for us to act on that. And even if we disapprove the report, the Corporation is ordered to come back within 90 days.

The other provision is that we do not have to appropriate this additional $68 billion. Once these commitments are made and we are telling this Security Corporation they can make commitments, I do not know of another Senator who would not support it, including me. I may think the commitment was very bad, but if the full faith and credit of the United States of America is behind it and we have authorized and given this corporation to make that kind of commitment, incur that kind of obligation, then we will stand behind it unanimously.

There is no protection at all.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, let me say to my friend from Colorado, who wishes to speak, that I will take 3 minutes and then I will yield the floor. I want to just make a couple of points here with reference to some statements made by the Senator from Wisconsin.

First of all, while I generally appreciate the Senator's concern, I say to my good friend, about inflation in this country that I am firmly convinced, as I indicated in my opening remarks, that in the final analysis the biggest contributor to inflation will be proved to be America's energy dependence and the $70 billion we are now sending overseas to buy foreign oil, and we will not solve inflation or the high interest rates until we begin to control our energy destiny better than we have up to now.

So since I wholeheartedly believe that, I have some people who support that proposition, I believe we must as soon as possible make a frontal attack on our dependence. It appears to me that to make a frontal attack on our dependence and move toward independence that we have got to utilize these huge quantities of resources we have got at home, and if that means we must spend, cause American industry to invest with our guarantees and the like in synthetic fuels, so be it.

But that would just be a theory of nondependence or attacking dependence. However, the major task force study that we had done in the Budget Committee, as a condition precedent to the Energy Committee going ahead with this bill, concurred that a phased-in program of $20 billion over the next few years would not be inflationary, and they so state on page 426. The experts and CBO contend that that would not be significantly inflationary. In fact, let me see how much they say—one-tenth of a percent to two-tenths of a percent added to inflation as the absolute high they say as a matter of expert study.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DOMENICI. Two other points and I will then yield the floor.

I hope everyone understands that the Banking Committee has some new faces, some very distinguished new faces—one of whom is waiting here to speak—but it sings the same old tune. New faces, new players, same melody, same tune.

They had an opportunity in October of 1975 to consider doing something different to produce synthetic fuels. The consequence was, "No, let the same old bureaucracy, the Department of Energy, the Department of Transportation, HUD, just give them a little more authority and they will bring synthetic fuels onboard." Some old tune.

The urgency is greater now than then, the dependence is greater, inflation is higher, the price of crude oil is higher, but we have not brought any synthetic fuel onboard. The same old tune. A few more dollars and a little bit of recognition that maybe we ought to get serious.

So 4 years have passed, and we have done nothing. Inflation has become rampant, and now we have the argument, "We don't want to create anything new. Use the established bureaucracy with loan guarantees and the like, and somehow or other, even though it has not worked in the past, it is going to work now."

I just say to the new members of the committee who now have joined with the good chairman—and the Business Roundtable and big business and Exxon in saying it will really happen, "Just leave us alone a little while longer,"—I commend you for your consistency.

I yield the floor.

Mr. PROXMIRE. Mr. President, I just want to respond to my good friend from New Mexico. In the first place, Mr. President, he said $20 billion would not be inflationary, and he read off some people who gave that opinion as economists, and I suppose if you just tried to increase the budget by $20 billion over 10 years that probably would not have more than a marginal inflationary effect—some, but it would be relatively slight.

But we are not talking about $20 billion. We are talking about an $88 billion program, as I have tried to make clear over and over again, and the inflation that occurs is in this particular industry because it has limited personnel available and there is limited equipment available. Much of this has to take place in the State of my good friend, the Senator from Colorado, and it is not surprising that the two Senators from Colorado, one a Republican and one a Democrat, and the Governor of Colorado are opposed to the bill. This is the State where it is going to take place. They know their State, and they understand it. They know how disastrous the results are going to be, how ravaging they will be. It is going to be very inflationary in Colorado, inflationary in this industry, a misallocation of resources and great inefficiency because we have a crash program.

Now, my good friend from New Mexico also talked about the Rockefeller program of $100 billion, and why the committee did not go for that in 1975. Thank heavens we did not. I think all of us have second thoughts about some of the votes we have cast since we have been in the Senate. That is one where I have no second thoughts at all. It was a nuclear program not a synthetic fuel program.

DOE has spent millions of dollars in research over the past 3 or 4 years, and they have not been able to make the kind of breakthroughs they would like to make.

As I say, we are for synthetic fuels, but we want to develop them and do it in an orderly way.

I think we also ought to look at the fact that even if we develop synfuels and reach the goals the Energy Committee itself has set, how much of our energy needs will be met by synthetic fuels? Three percent. How much by solar? Solar could meet in the next 20 years 20 percent of our needs. How much do they provide for solar? Four hundred and fifty million dollars. Eighty-eight billion dollars for synthetic fuels. Does that make any sense? I think not, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I wish this debate was being televised because, in my judgment, the issue we are addressing here today is one of the two or three really important policy decisions of this decade, and I think if the entire country was able to follow this on television there would be millions of people who would do so.

I am not one of those who thinks if we televise the activities of this Chamber every day, it would be a particularly enriching experience. But I think if a gavel-to-gavel coverage of this particular debate were available around the country, it would be a very meaningful thing. I believe those who would watch it would see a display of some of the most knowledgeable, some of the most precise, and some of the most eloquent arguments on both sides of this question.

I rise in support of the position which has been so admirably put forth by the distinguished chairman of the Banking Committee, Senator PROXMIRE, and I am going to reserve my opening statement and detailed remarks about the comparison between the Energy Committee's bill and the Banking Committee's bill until a little later. But I do want to put into perspective some of the things which have been advanced thus far during the course of the debate, perhaps in the nature of a rebuttal or at least by way of clarification.

I am glad that my distinguished friend from New Mexico is here because, in part, I am going to address myself to arguments which he has raised, and which I think deserve to be carefully considered.

I do so knowing full well that to engage the Senator from New Mexico on the floor is a task which is a formidable one because the Senator from New Mexico is one of the most skilled legislators in this Chamber and, in my view, possibly the most skillful legislator on the Republican side.

The Senator from New Mexico is one who is able to marshal not only facts but emotion. He has done his homework, and he has made a very, very good presentation of the case in support of the Energy Security Corporation.

I regret that he has done so because this will be one of the very few issues on which my friend from New Mexico and I will be on opposite sides of the question.

However, I think the arguments which he has raised in support of the Energy Security Corporation deserve to be carefully analyzed and, in my judgment, they will not finally withstand that kind of analysis.

I think if Senators and the general public will look carefully at the reasons that have been presented here today, and that I anticipate will be presented, they will conclude, as I have, that the Energy Security Corporation is not a good idea.

First of all, the proponents of the Energy Security Corporation have suggested that what we really have here is a choice between producing synfuel or not producing synfuel. As a debating tactic, that may be a very desirable contrast to make, but I would like to suggest that that is simply not the case at all.

What we really have in the two proposals advanced today and the other two alternatives which will be before the Senate within the month is a choice among alternatives which some of us believe offer a better, surer, more economical, and more certain approach to producing synthetic fuel.

There is an old saying among lawyers, I am told, that when the facts are on your side you argue the facts, when the law is on your side you argue the law, and when neither is on your side you bang on the table.

That is what our friends on the Energy Committee are doing; they are banging on the table. They are saying, "If you are not for our bill, you are not for synfuel."

I think we should not let that stand unchallenged, because I am here to tell you I am for synfuel. I was for synfuel last year, the year before that, and the year before that. Out in Colorado, we are proud of our synfuel and other alternative energy resources development. We are developing it, but many of us do not feel that the bill brought before us by the Energy Committee is the best way to do so. So I think for anybody to stand here and say, "The choice is between our bill and no synfuel" simply is not supported by the facts.

Nor do I believe it is fair to characterize the situation before us as a choice between producing synthetic fuel or business as usual. I particularly would say to my friend from New Mexico that to say what we now have in this country is business as usual, with the implication that the free enterprise system has been left alone to develop synthetic fuel with little or no Government action, is simply not the way I see the facts.

Let us talk about the Energy Committee, by way of background.

For about the last 22 years, natural gas in this Nation has been very closely regulated. In fact, it has been regulated with increasing persistence, and an increasingly burdensome and complicated system has been evolved since 1958, when the Supreme Court upheld the right of the Federal Power Commission to impose price controls and other regulations upon interstate sales of natural gas.

When that happened, and the FPC began to impose those controls, several things began to develop. First, the consumption and sales of natural gas began to increase. Consumption of natural gas was artificially stimulated, and pretty soon a natural gas shortage developed. Within a few years this happened, and it was not long before those who favored increased Government intervention in the energy economy came forth with a predictable solution. Their solution was to bring an even greater degree of Government regulation over the energy sector of the economy; and that is exactly what we have done, the last such piece of regulation being the natural gas deregulation bill recently passed by Congress.

This was a scheme which, although it claimed to be a form of deregulation, in fact was exactly the opposite; it imposed for the first time Federal jurisdiction and regulation over intrastate natural gas, where there was no shortage, by the way, where a free enterprise economy was working well, and imposed for the first time an additional 23 different classifications of natural gas.

So the pattern that we have seen in natural gas is a very simple one. We had abundance under a free enterprise situation, and as the Government has gradually imposed its will on natural gas, the shortage has grown worse and worse, until in many areas, in the last several years, we have seen school closings and factories shut down, which has had an increasingly severe effect.

Mr. DOMENICI. Mr. President, will the Senator yield on that point?

Mr. ARMSTRONG. Yes, of course.

Mr. DOMENICI. Maybe you would not agree, but it seems to me that since that new natural gas bill was passed, we have not had as many problems with natural gas in the country. Is that in any way related to the bill, or is that a phenomenon of something else?

Mr. ARMSTRONG. Well, I would say to the Senator that the connection, I think, is quite clear; that as we have imposed additional regulation, as the Government has entered more and more deeply into those aspects of the economy which have traditionally been within the scope of free enterprise, the result has been counterproductive.

Mr. DOMENICI. I do not disagree. I guess what I was saying is that there were many people, at the point in time when we came up with the compromise on the natural gas bill, who were saying all or nothing, deregulate or leave it like it is. I was one who said, "Let us do it gradually, and provide for a change sometime before we go totally bankrupt energywise."

I am just suggesting that we have had no natural gas shortages since we passed that bill which began to equalize the price. It seems like we are going to get a lot more production without having to go all the way to deregulation immediately.

I just wondered if you shared that observation.

Mr. ARMSTRONG. I think it is correct to say that we have not suffered shortages in the months since we passed that bill. However, I would say to the Senator that I think that was a most unwise piece of legislation. It solved a short-term problem by, in effect, picking off the gas that was in abundance in the intrastate market and making that subject, for the first time, to the interstate regulatory scheme.

However, that is not central to the argument that I am trying to develop. I am satisfied if I have reached the point of agreement with the Senator from New Mexico that, in general, the increase in Government regimentation over natural gas has been counterproductive; and I think we can agree on that.

Let me comment briefly on the situation that has developed in petroleum, because it is pretty obvious that the reaction of Congress over the last 6 years to the growing shortage of domestic petroleum has been to create a new Government agency—a number of new Government agencies, in fact—and a very complex scheme of regulation, including price controls, including all kinds of standards and compliances, and so forth.

I think the pattern can be read fairly clearly in the RECORD. I have, at various times, inserted in the RECORD statistical documentation. I do not propose to do so today. But the message is pretty clear; there is an inverse relationship between the amount of Government activity and the amount of oil. The more Government we have, the less oil we have.

This brings me to the Department of Energy. After we had monkeyed around for 2 or 3 years trying to cope in some way with the worsening shortage of domestic petroleum and the growing dependence on the OPEC nations, somebody came up with the bright idea that maybe what we ought to have is a Department of Energy. Now, there was a proposal that had a certain superficial dynamic quality to it. It sounded bold. It sounded like it was a progressive, dynamic step; and, anyway, as some people were saying privately, we have to do something, even if it is wrong.

So we created a Department of Energy, and in a very short period of time it began to spend $13 billion a year. The first 12 months of operation, it promulgated 3,250 pages of regulations, and the results, I think, clearly indicate that it has been a flop on every count.

The idea was to increase domestic production of petroleum, but in fact domestic production of petroleum has declined. The idea was to reduce our dependence on OPEC oil. In fact, we are more dependent on OPEC oil today than we were at the time the Department of Energy was created.

Some people said the idea was to hold down the price, and clearly that has not worked, either.

Then there is the question of the role of the Department of the Interior and other Federal land management agencies

in the domestic energy production cycle. It is pretty obvious—and I know that my friend from New Mexico is keenly aware of this—that we would have a lot more natural gas and oil production today in this country if the Department of the Interior would just get off the dime and begin to grant some leases that have been requested long ago.

In my own State, we have documented something like 200 requests for oil and natural gas leases which have been applied for and which have not been denied, but which simply have not been granted, either. They have been in limbo, some of them for 2 years, 3 years, 4 years, or 5 years or more. As a matter of fact, I have asked the General Accounting Office to conduct an investigation and the Senate Committee on Energy and Natural Resources to hold oversight hearings to see if we cannot break the logjam and bring this oil and natural gas to market.

I present all of these thoughts merely to set the stage for the debate which we are going to begin now on the question of the Energy Security Corporation.

At every step, every time somebody has perceived there was a problem in the production or consumption of energy, we have been presented with the alternative of a deeper and deeper Government involvement in the production, distribution, and consumption cycle. I would suggest to you that the record of this kind of involvement is very mixed at best. On balance, I think it is the opinion of most people in industry, a growing number of consumers, a lot of consultants, and most of the academicians and, I trust, a rising majority of the Members of the Senate, that the Government's heavy hand of regulation and tight controls has been very, very counterproductive.

So I do not think it is fair for the Senator from New Mexico to characterize the choice as between business as usual or the Energy Security Corporation.

I would suggest to him that one of the alternatives which I will propose at the right time is indeed not to continue the present environment, but to return more nearly to business as usual and to remove some of the existing restrictions which have so severely hampered the development of energy of all kinds, including specific development of synthetic fuels.

Let me comment on what some of those restrictions are.

Mr. DOMENICI. Will the Senator yield?

Mr. ARMSTRONG. I am very happy to yield.

Mr. DOMENICI. The Senator knows I have the greatest respect for him, not only as a Senator but as a person, and about his ideas for our country and his logic of Government. There is very little difference between the Senator and myself in terms of the free market, incentives, Government as a burden rather than an asset in terms of independence, and production in this country. But I want the Senator to know that when I speak of business as usual, I mean the reality of today's economic environment, including whatever it is that Government has done, mostly of a negative nature.

When I look at that, I ask myself, how can we get from there to a more free, more incentive laden, and economically-sound environment where the private sector will be turned loose to do some things?

I come down on the side that we have to take the pragmatic approach. I do not mean business as usual in the sense that the private sector initiative is in a posture that is normal to itself and customary if it is going to do its job, but, rather, the reality of where we are. It is in the aspect and knowing that we cannot change all the things that put us into this posture that forces me to look to ways to utilize more quickly the energy we have. It is in that context that I used the word.

Mr. ARMSTRONG. I appreciate the Senator's explanation. He has put it into good perspective. Perhaps it is fair to say I am more optimistic than the Senator from New Mexico about the prospects of alleviating or repealing much of the regulatory burden that has presented such a terrible problem in the development of energy, particularly synthetic fuels. I would like to take a moment to share with my colleagues in the Senate some of the facts about the development of synthetic fuels out West, particularly in my own State of Colorado.

In Colorado we have been working on oil shale for a number of years, and I can report to the Senate there are at least two and possibly three companies that are right on the verge of producing oil from synthetic sources on a commercial scale.

Union Oil Company has testified before the House Ways and Means Committee that they are prepared to go forward and have said in effect, "Look, as soon as you do the one thing that we feel is called for we will be ready to start building our plant to produce synthetic oil from shale on a commercial scale practically the next Monday morning, when we start building the plant."

The recommendation they have made is in fact for $3 a barrel tax credit, a proposal which has been endorsed on two occasions by the Senate and which is now pending in the House of Representatives.

Another company has, for some time, been asking permission of the Department of Interior to build on a tract of land which they think is particularly well suited to the development of oil shale according to what they call the three mineral process. They are not asking for any Government subsidy. They are not asking for loan guarantees. They are not asking for financing or a guaranteed market. They are not asking for anything except to have the Department of the Interior put this land up for lease.

For some time, in fact before this administration took office, I contacted the Department of the Interior and tried to get that lease broken out. I have been pursuing it ever since. What we have discovered is that they are just unwilling to do it because it runs contrary to their pet schemes. They are unwilling to give somebody else the chance to develop this particular process.

Are these two isolated examples? Well, I say to my friends, they are anything but isolated. They are, in fact, a common denominator of practically every contact between energy developers and the Federal Government.

The Senator from Utah (Mr. GARN) shared with the committee the other day the details of a proposal which people in his State of Utah have come forward with to produce oil from tar sands. As we all know, that is already being done on a commercial scale in Canada. It is a promising technology which seems to hold great possibilities for synthetic fuel development in the future in this country.

Again, this company is not asking for subsidy. They are not asking for technological help or research. They are certainly not asking for a new Federal agency to regulate them. What they are asking is simply that the Government put up for lease a tract of land on which they may conduct their operations, financed with private capital, with the product to be sold to the private market.

I stress that it is my understanding this Utah company is not asking even that the particular tract of land be given to them or leased to them, but simply that it be put up for bidding on a competitive basis for leasing for this purpose.

Well, those are three examples and I can cite a number of additional instances in which development of energy has been hampered by the existing governmental structure. But it puts into perspective one of the real choices that we are confronted with in this legislation and the other energy bills that are coming down the pike over the next several months, the choice between more Government, the creation of a new energy corporation, more regulators, more direct involvement by the Federal Government in energy production—that is one choice, which is before us in the energy bill—or the concept of deregulation, fast tract permitting, and fast tax depreciation, which is the preferable approach, in my judgment.

During the last several months Congress has called forth experts from energy, from the Nation's colleges and universities, private consultants, financiers, people who are knowledgeable in what it takes to produce synthetic fuels for all kinds of sources, tar sands, biomass, coal, different sources of that kind. We have said to them in effect, "Look, our country needs oil from synthetic sources. We need fuel of all kinds from synthetic sources. What does it take to bring synthetic fuel on line?"

The answers coming back have been strikingly similar. You will get a handful of answers. They say, "We have to do something about the regulatory environment. We have to cut the redtape. We have to have faster permitting. We have to have some restored incentives in the private sector from the tax standpoint." The two mentioned most commonly are accelerated depreciation of equipment and plant used in synfuel production and production tax credits, such as the $3 a barrel credit I mentioned earlier.

Last but not least, these experts we have talked to have recommended that

in some cases to get synthetic fuel of some form on line we might have to have a guaranteed purchase program where we would, say, put up for bidding in various technologies the right to supply a certain specified quantity of synthetic fuel to the Government at a price to be determined by bidding.

How would that work? Well, very simply, we would say, "Look, we are going to buy x barrels of oil produced from shale. Who wants to supply it to us at $28 a barrel?" In effect, we would have sort of an auction process.

That is what industry and other private experts have said is necessary.

Interestingly, out of all the testimony submitted to the task force of the Budget Committee, on which I was pleased to serve, submitted to the Banking Committee, where I sat through 3 days of extraordinarily interesting and meaningful testimony, the testimony submitted to the Energy Committee, and in fact the testimony submitted to more than 50 committees of the House and Senate, it is interesting that almost unanimously nobody said that what we really have to have in order to get energy production moving in this country is another Federal agency.

That is an idea that surfaced from an entirely different forum. It did not come forward from the private sector.

Now, Mr. President, I would like to turn to discussing briefly the coalition which has arisen to oppose the creation of the Energy Security Corporation.

An hour or so ago the Senator from New Mexico pointed out that a very unusual coalition of interests has arisen. I think he pointed out the old cliche that politicians make strange bedfellows. We all know this is true, but perhaps it has never been more true than when you think of the coalition which has come forth to say that the Energy Security Corporation is a bad, indeed a terrible, idea.

Included in this coalition of different interest groups are many organizations which, as the Senator from New Mexico has pointed out, have never worked together before. There are Senators from just about every portion of the ideological spectrum; there are business groups; there are environmental groups; there is a group which is interested primarily in the long-run economic development of the country. It is really an extraordinary convergence of interests, of people who have little in common in the day-to-day run of issues coming before the Senate and who even have different ideas about the size and shape of an energy program for the future of this country.

Last week, on Wednesday, I joined with a number of Senators and with seven or eight outside interest groups to hold a news conference in which each of us expressed our different points of view. We do not all agree upon what kind of energy program we ought to have. Some of us think it ought to be primarily private sector; some of us think it ought to be mostly tax incentives; some of us think that the size and shape of the program should be larger than some others we are talking about. But the interesting common denominator of the groups who came together and spoke last week is that they all feel that the wrong way to get started is with an Energy Security Corporation of the kind which is suggested by this legislation.

My friend from New Mexico has suggested that, really, this is a marriage of convenience, that these groups coming together is really just a case of different groups protecting their own political turf. I say to the Senator from New Mexico, as one of those who not only participated in the news conference but suggested that it be held, that I do not have any political turf to protect on this issue. I do not care a bit about which committee has jurisdiction over energy legislation. I do not have any amendment, necessarily, that I am burning to have identified with my name. And I think that is true to a very large extent of those who are a part of this coalition.

I think we should, Mr. President, at this point, think seriously about why it is that this unique, nearly unprecedented alliance of Senators and interest groups has come together. When we vote on this issue, I suppose there will be some who will say that a bill which has incurred the wrath of the National Wildlife Federation, the major oil companies, the Sierra Club, the U.S. Chamber of Commerce, the Conservation Foundation, the Independent Petroleum Association, the National Federation of Independent Businesses, and various Western Governors cannot be a good bill.

I imagine there will be some who will say that a bill that is opposed by all of these people cannot be all bad. I should like to suggest, however, that when that spectrum of interest groups comes together to say that a bill is bad, it might be a time when the proponents and the Senators might think seriously about this bill and may come to the conclusion I have, that it is a remarkably bad piece of legislation.

The Energy Security Corporation is a classic illustration of what can go wrong when a major policy decision is crafted to meet the political needs rather than the economic needs of the country. I am sure that Senators are all well aware that the news reports indicate that this idea, the Energy Security Corporation, originated not with the Nation's energy experts in the private sector, nor even with the energy experts within the national administration, nor with the President's economic experts of the Council of Economic Advisers. Rather, according to published accounts, it popped up at a brainstorming session between a White House aide and a Washington lawyer over a long lunch at a posh French restaurant.

Politically, the idea was dynamite, or so it seemed at the time. The reasoning was something like this: We have an energy crisis. We need to do something that is forceful and vigorous and dynamic and, after all, what could be more forceful and vigorous than some kind of a crash program of synthetic fuel development?

Interestingly, however, the idea peaked at the very instant that it was born and it seems to have been slipping ever since. As the details of the President's program got out and the synfuels experts, who should have been consulted in the first place but were not, got a chance to examine the program, attitudes about the Energy Security Corporation began to change. The Banking Committee and the special task force of the Budget Committee held extensive hearings on the Energy Security Corporation. The witnesses who testified—from Government, from private industry, from the academic community, and elsewhere, were remarkably unanimous in their assessment of it. They said, in that circumspect style of witnesses testifying before congressional committees, that the Energy Security Corporation is a bad idea.

To begin with, there is the economic objection. The Energy Security Corporation will spend a potential $88 billion to produce 2.5 million barrels per day of syncrude by 1990 and, even under the most optimistic assumptions, scarcely a drop before then. I invite my colleagues to think seriously about the per-barrel cost of that first 2.5 million barrels. Can we liberate America from the high price of OPEC oil by forcing the Nation to pay twice as much for Government generated syncrude that will not be available for at least a decade?

Then there is what might be characterized as the Pollyanna syndrome. We are throwing around a lot of figures. The figures which the President picked for his projected costs and output of synthetic fuel production are really not based on anything at all. They are actually just wild guesses, so far as I am able to determine. I say that after questioning and closely discussing this with representatives of the administration.

Many experts think the Energy Security Corporation, if it goes forward as now proposed, will cost twice the $88 billion the President projects and that, if we go forward in this way, we shall be lucky to obtain half the estimated 2.5 million barrels per day called for in this bill. The truth of the matter is that nobody knows exactly how much synthetic fuel is going to cost and the more we know about it, the higher the estimates seem to rise. For a detailed discussion of this phenomenon of price increase tied to detailed engineering knowledge, I invite my colleagues to look at the report of the Pace Engineering Consultants, which is contained in the special task force report to the Senate Budget Committee.

I am also concerned about the fact that in effect, the Energy Security Corporation becomes an all-the-eggs-in-one-basket kind of operation. Under the plan endorsed by the President and brought to us by the Energy Committee, the Energy Security Corporation will select a few of the various technologies available and then throw the $88 billion in behind them. This could lead to expensive white elephants that do not work, or we could find ourselves, a decade from now, having expended $20, $30, $40, $50, up to $88 billion, with no more synthetic fuel than we have today.

You may say that is a farfetched concern, that, surely, the Government would not make a mistake like that. I suggest that if we put synthetic fuel production

under the same kind of basis, say, as the Postal Service, that is not an unrealistic fear. Or if we look at the way the Government is operating the Nation's railroads, it does not stretch my imagination to suggest that we might spend billions and billions and have little to show for it.

I also want to mention the environmental objections. Making oil from oil shale, as an example, requires enormous quantities of water which, in the arid West, is as precious as oil. The same applies to other forms of synthetic fuel production. In many cases, we are talking about the utilization of vast amounts of water.

The environmental effects of synfuel development need to be carefully monitored in order to prevent irreparable damage. The Energy Security Corporation might or might not exercise that kind of care. There is a real danger, when we create an atmosphere of a crash program, that they might run roughshod over that kind of environmental concern. That is one of the reasons why I favor development of synthetic fuels more on a step-by-step, prove-it-as-it-goes-along basis, rather than on a crash basis.

Each of the experts who testified before the Energy Committee, the Banking Committee, and the Budget task force in the last several months was, in effect, asked, "What will it take to get syntheic fuel production moving?" As I pointed out earlier, almost none—I know of only one exception—has suggested the creation of a huge new Government bureaucracy such as the Energy Security Corporation. Instead, they have made recommendations to cut redtape and provide incentives for the private sector. The Senate has already acted on legislation which will have that effect.

Others said decontrolling the price of oil and natural gas will stimulate production not only from these conventional sources, but also synfuels production.

They have called for tax credits, accelerated depreciation, and a streamlined process for issuing permits.

We talk about this coalition which has arisen. It does not have a name. It is not called a coalition or an alliance. That is just a handle. That is just a name to identify this group of Senators and interest groups who come forward without agreeing on the final details of the plan we would like to see enacted, but with the full appreciation of the difficulties of the Energy Security Corporation and who have reached the same conclusion that it is a very poor idea.

Interestingly, this coalition is not a static thing. In fact, I had printed in the RECORD last week, and I direct the attention of my colleagues to it, a list of those who participated in the press conference last week. I will not add more to that other than to call the attention of the Senate to the remarks in the CONGRESSIONAL RECORD, October 31, 1979, p. 30369. I submitted all of the statements of the Senators and interest groups.

(During the preceding remarks, Mr. BRADLEY assumed the chair.)

Mr. ARMSTRONG. Mr. President, at this time I would like to point out that the bandwagon, the anti-energy security corporation bandwagon, continues to pick up momentum and speed. I would like to have printed in the RECORD statements of three organizations which in the last 2 or 3 days have taken a long, hard look at this corporation and have decided it is not a good idea.

First, I ask unanimous consent to have printed in the RECORD a telegram from the president of the National Coal Association.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TELEGRAM TO MEMBERS OF THE BOARD, PRODUCERS NOT ON BOARD, RESOURCE DEVELOPERS AND GOVERNMENT RELATIONS COMMITTEE

Contrary to yesterday's mailgram there is little chance that the Energy Committee's synthetic fuels corporation bill (S. 932) will be amended to delete authority for government-owned synthetic fuels facilities. Energy Committee leadership has decided to oppose the deletion. Senator Church will not offer amendment.

First vote on synthetic fuels, probably Monday or Tuesday, will be on substitution of Banking Committee version of S. 932 for Energy Committee bill. Consistent with NCA strong opposition to any and all bills permitting government ownership of commercial-scale synthetic fuels facilities, we are now advising all Senators of our opposition to Energy Committee bill and support of Banking Committee bill. We believe Banking Committee bill, which does not permit government-owned facilities, is susceptible to amendments to provide many of the authorities which NCA considers necessary to develop a private, competitive synthetic fuels industry utilizing coal.

Urge you to immediately contact Senators in support of Banking Committee bill.

CARL E. BAGGE.

Mr. ARMSTRONG. Mr. President, I point out to my colleagues in the Senate that up until the middle or end of last week, that association was, to my knowledge, supporting the concept of the Energy Security Corporation as it is embodied in the Energy Committee's bill.

This is what the telegram to members of their board and others interested in the Coal Association says:

Contrary to yesterday's mailgram there is little chance that the Energy Committee's synthetic fuels corporation bill (S. 932) will be amended to delete authority for Government-owned synthetic fuels facilities. Energy Committee leadership has decided to oppose the deletion.

They go on to discuss some of the tactical reasons for that. But it sums up as follows:

We are now advising all Senators of our opposition to Energy Committee bill and support of Banking Committee bill. We believe Banking Committee bill, which does not permit Government-owned facilities, is susceptible to amendments to provide many of the authorities which NCA considers necessary to develop a private, competitive synthetic fuels industry utilizing coal.

Mr. DOMENICI. Could I ask my friend, on the Coal Association telegram, when that decision was made?

Mr. ARMSTRONG. This telegram is dated November 2, 1979, and I believe that was Friday of last week.

Mr. DOMENICI. I thank the Senator.

Mr. ARMSTRONG. Prior to that, I understand it was supporting the concept of the Energy Security Corporation.

Mr. President, I would like to share with Members of the Senate the thoughts of the American Mining Congress in a letter dated November 3. Without reading the entire text at this time, I would like to read one sentence which really sums up the issue in the opinion of the American Mining Congress.

After pointing out the objectives of the bill and commenting that they support this objective of more synfuel, they comment as follows:

However, the Banking Committee version impresses us as a vastly more promising vehicle for attaining the objectives.

Mr. President, I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 3, 1979.

U.S. SENATE,
Washington, D.C.

DEAR SENATOR: The Senate will take up on Monday, November 5, the amendment reported by the Energy and Natural Resources Committee to S. 932, Title I of which authorizes a Synthetic Fuels Corporation. Under the consent agreement, the first order of business will be Title I of the substitute reported by the Banking Committee.

The American Mining Congress is impelled to support the Banking Committee substitute, providing it is amended. The amendments should include authorization to use a $20 billion trust fund approved by the Senate in a 59–38 vote last month on an amendment by Majority Leader Robert Byrd. The Mining Congress is of the view that this sets an appropriate level of funding for a synthetic fuels program at this time.

We further believe that government funding should be restricted to assisting initial commercial-scale plants that demonstrate synfuels technology. This could include loans, loan guarantees and purchase contracts. It is our view that a new Energy Security Corporation is not required to accomplish these goals.

Chairman Henry M. Jackson and his colleagues on the Senate Energy and Natural Resources Committee are certainly to be commended for their diligent work to establish a vigorous program of synthetic fuels development in this nation. The American Mining Congress supports this objective.

However, the Banking Committee version impresses us as a vastly more promising vehicle for attaining the objectives.

One of the main reasons for our opposition to the Energy Committee version is that it would create a Synthetic Fuels Corporation and authorize it to establish up to three government-owned synthetic fuels facilities, if the funding incentives provided in the bill do not result in the Corporation's desired level and mix of private endeavors.

As we explained in a letter of October 5 to Chairman Jackson, the American Mining Congress believes that government-owned facilities would be a hindrance to the sound development of a synthetic fuels industry. Once the authority is granted, there will inevitably be pressures for creating these government-owned facilities which, by competing with private companies, will undercut the viability of the latter.

The result, like most self-fulfilling prophecies, will be greeted as evidence of the need to expand the governmental role even further.

As a consequence, there may well be a general shift from primary reliance on the private sector—as the legislation purports to promote—to a greater dependence on government-owned facilities. The government's record in the efficient and economical operation of essentially commercial ventures does not encourage us to regard this development with a hopeful air.

It is unfortunate that the different roles of business and government are not identified clearly in the debate surrounding this issue. Business and industry operate under a system designed to create maximum efficiency for the consumer—the market system of competitive enterprise. Unfortunately, government has many conflicting responsibilities. As a result, efficiency is eroded by the political pressures for sociological and political demands which may be alien to the stern disciplines of competitive efficiency.

Further, mismanagement by existing federal agencies has contributed largely to the energy crisis, and to argue that creation of one more agency is part of the solution, seems on a par with tossing a drowning man an anchor. We can only envision another cadre of officials who will seek the utmost limits of their authority and maximum interference in the marketplace. While it is theoretically possible to have a federal agency that does not try to extend its domain, in reality such an agency has been seen with about the same frequency as a unicorn.

In point of fact, no synthetics fuels program is likely to work unless the oppressive regulatory regime already in being is reformed. This holds true for development of other domestic energy resources as well.

We strongly believe that regulatory reform coupled with appropriate financial incentives will allow sound development by private industry of the synthetic fuels potential of this nation and that industry will respond to the challenge.

Your attention is invited to the precedent of the Korean War, when 5-year tax amortization certificates and governmental commitments to purchase aluminum, copper and nickel at specified or prevailing market prices enabled the private sector to overcome serious shortages in these strategic materials.

Similar incentives would now stimulate a marked increase in private development of a synthetic fuels industry. But the government cannot do this with the one hand, and with the other hold ready the means of sabotaging its own objectives.

The growing dependence of the United States on foreign sources of oil is now generally recognized as perilous in the extreme. The volatility of these foreign sources poses stark geopolitical risks for our national security, while our bondage to these sources tends to feter American foreign policy At the same time, the rising cost of oil imports due to higher volume and prices stimulates inflation at home and undermines the economic order of the globe.

There is no alternative on the immediate horizon other than making greater and better use of energy resources domestically available, including oil, gas, coal and nuclear power. In the short term, at least for the next decade or two, expanded use of the nation's abundant coal reserves is essential.

For all these reasons, we are absolutely persuaded that the substitute measure by the Banking Committee—appropriately amended—offers the best hope of helping to overcome this nation's perilous dependency on foreign energy resources. It is our earnest hope that your vote will reflect the concurrence with this position.

Sincerely,

J. ALLEN OVERTON, Jr.,
President.

Mr. ARMSTRONG. Mr. President, I bring to the attention of the Senate a new survey regarding the Energy Security Corporation. It was taken by the National Federation of Independent Business (NFIB), the Nation's largest small business organization with more than 585,000 members nationwide.

The small business survey on the merits of the Energy Security Corporation is the second taken by NFIB. In the first poll, 58 percent of members responding opposed the creation of the Energy Security Corporation and 38 percent supported it.

Because of complaints from proponents of the Energy Security Corporation about the wording of the question, NFIB again surveyed its small business members. The result is a more resounding veto of the Energy Security Corporation. A total of 80 percent of those responding rejected the idea with only 16 percent supporting it.

Obviously, the idea of an $88 billion Energy Security Corporation continues to lose grassroots support as more and more people become aware of the proposed legislation. I hope that my colleagues will show the foresight shown by their constituents and vote against this terrible idea.

Mr. President, I ask unanimous consent to have the survey printed in the RECORD.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

Below are the results of the early cut (10/15/79—10/31/79) on Mandate #422. Total early returns of 40,704:

	Pro	Con	Undecided
1.	46	49	5
2.	16	80	4
3.	41	48	11
4.	54	33	13
5.	78	20	2

Mr. ARMSTRONG. Mr. President, I will shortly yield the floor. My purpose in rising is simply to express concern over the direction of this legislation as outlined in the opening remarks of the backers of the bill.

As I said at the outset, I am going to reserve my own detailed remarks and comparison of the Energy Security Corporation provisions of title I of the Energy Committee's bill and the alternatives suggested by the Banking Committee for later.

I think from a parliamentary standpoint, it would be well for me to have those thoughts collected and placed in the RECORD as part of a comprehensive statement when the Energy Committee's amendment is actually before us.

But at the outset, I wanted to at least provide this frame of reference for the debate and to express my concern about the Energy Security Corporation.

Before I yield the floor, I again compliment my friend from New Mexico for his study and concern. While I disagree with him about the creation of an Energy Security Corporation, I assure him and all my colleagues that I share completely the sense of urgency about closing the energy gap. I share completely his enthusiasm for the development of a synfuels industry. I regret that I do not see eye to eye with him on the best format in which to do so.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I know I need not tell my good friend from Colorado of the great respect I have for his philosophical approach to economics in this country and where we ought to be, because I think he knows that.

I want to make two or three points and perhaps the Senator from Colorado might want to address them. They are, in a sense, prompted by his.

I hope everyone knows that while the Senator from Colorado speaks of water and its scarcity in certain parts of America, and the fact that synthetic fuels need water, they will also know that this bill before us, title I, for synthetic fuels development—as well as the Senate's version of the fast track legislation—both provide that the States will permit the water needed for these kinds of plants.

In a nutshell, if he is right, that there is not enough water, the plant will not be built where there is not enough water because the State within which it will be built or proposed to be built will control the appropriation of water and the permitting of that water for that use.

I do not know of greater protection we can offer in terms of competing issues.

I do not know how we can more decentralize the decision on water than that, to say the State will permit it or it will not be permitted, the State will appropriate, or not, for a synthetic fuel plant.

Second, I want to talk about the risk involved in moving with that innovative approach to provide financial flexibility through a board of directors, as provided in the Energy Committee's bill. I would be totally without understanding of what is happening in America and the enterprise system if I did not agree there is some risk. Indeed, there is.

However, I am going to predict right now, on the floor of the Senate, that within the next 3 to 5 years, the risks we are going to take in this country in order to try to get out from under the dilemma of dependence will be enormous compared with the risk involved in creating this entity. That is how I see it. My intuition and every fact I can read tells me that we are in big, big energy trouble. If the biggest risk we are going to take is to create a board of directors with financial flexibility to assist the private sector to expedite synthetic fuel development in a diversified manner—if that is the biggest risk we are going to take in the next 3 to 5 years, we will be blessed and fortunate beyond anything the facts indicate and anything we have done to deserve it.

The Senator is right in saying that the National Coal Association belatedly indicates that it does not support this approach, the Energy Committee's approach. However, they unequivocally do not support the $3 billion in the Banking Committee's bill. They remain firm that we need about $20 billion, precisely the number that is in our bill. That is number one.

For those who think this is too big an approach and want to take a little solace

in the fact that the coal association does not support it, I say that they are merely for doing it another way, but with equally as much Federal Government financial assistance as provided in ours. In fact, you might read it that if you go with a number as big as that in the Banking Committee bill, and since there is a 3-to-1 allowable, they may even be talking about $60 billion in finance mechanisms that they would support.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. DOMENICI. Let me make the second point, and then the Senator can address both points.

The second point is that everyone should know that when we are talking about the coal association, we are not talking only about coal companies; we are talking about energy companies, and they all vote in this association. Exxon votes very heavily in the coal association, and they use this weighted kind of voting, depending on how much money is put in for membership.

I want to make this last point as to the Energy Committee bill and the GOCO's. The bill says, in a nutshell, that we will not have Government built, private sector operated plants unless it is a last resort, to develop a technology that is deemed necessary for the diversity required for this great country, and it cannot be built any other way. If anyone can provide language that will make that more certain, more firm, we are for that. But does anyone really believe that the Exxon's of this world are against this bill because of one, two, or three GOCO's that, perhaps at best, are a last resort, if ever? I do not believe it; I do not believe it at all. I believe they would rather have the assistance of the Federal Government on their terms, rather than the terms which probably will evolve here, which is competition, spread out the resource so that more than the big three or four can get into it. That is at the basis of their objection.

I will speak about water in a moment, but at this time I yield to the distinguished Senator from Colorado.

Mr. ARMSTRONG. I want to make an observation regarding a point the Senator from New Mexico has made.

I think he has identified correctly a place where the issue can be divided as to the format of the Government's involvement—that is, energy corporation or some other way, and the dollar amount.

I believe the Senator is correct in pointing out that there are those who are backing the Banking Committee's bill and who harbor, nonetheless, the idea of further amendments. It is my understanding that when the Banking Committee's title is laid down and adopted, it then will be treated as original text and will be available for further amendment. I think that is exactly right; and in my judgment, that makes the issue a very clear one.

The issue is not the dollar amount; the issue is not how many plants per year. The issue is this: Do we want a Government energy corporation or not? When the time comes, I will be prepared to argue vigorously over the dollars.

The decision is whether or not we have a Government Energy Corporation. Senators who are for that will vote against the Banking Committee's substitute. Senators who are against the Government becoming more deeply involved will vote the other way. The dollars are an issue to be debated separately.

I add that Exxon may vote in the National Coal Association, but they do not vote in NFIB, the Sierra Club, or the National Wildlife Association.

Mr. DOMENICI. I understand.

It is customary that things I support would have the support of independent businessmen. I love them. They endorsed me in my campaign. But I submit to the Senator that if we had a cross-section of 50 of them listening to this debate, we would not get 60 or 70 percent on the side of the Banking Committee bill. They are purists philosophically, as is the Senator from Colorado. They are not approaching this business as usual as we are approaching it but, rather, are assuming that we will get synthetic fuel without the approach we have. If we asked them we would see where the votes were and where the percentages were. That is going to be the issue.

Mr. President, I will make two other points.

The Senator from Colorado says that no one in finance and no one in the energy industry favors the security corporation. I say this to my colleagues: The strange thing is that they all favor the goals and they all say we should get there. They just feel that we are going to get there another way. That is the issue. Are we going to get where they all say we should be unless we do it through an extraordinary vehicle that adequately protects everyone?

Even with that, there are economic purists who believe, as does the Senator from Colorado, that we should go back 15 or 20 years and wipe the slate clean of all regulatory delays, all involvement of the Government, and we just will not need this venture. There are some who feel that way and still say that we have to go this way. We have to go with the Energy Committee.

David Goodman, of Morgan, Stanley and Co., based on his background, is one of the most experienced financial people in the country, and he is with one of the most experienced financial houses in the energy field. He says this about the corporate entity we are creating:

> Philosophically, I would rather not see a new entity created for syn-fuels. However, to make the program work, the decision-making will have to be crisp, hard-nosed, and attuned to the needs of business. A regulator's mentality would be anathema to the purpose of the program. As a practical matter, I question whether there are sufficient personnel with the proper background to staff this undertaking in government at the present, or whether they can be attracted to the Civil Service. On balance, I conclude that a separate, government-owned corporation, with a limited life, such as is contemplated by the legislation, is probably the best way to go.

I think that summarizes it for those who feel as I do about the private sector helping us solve our problems, but that sometime in history we have to help them help us, which is what I see a corporate entity doing here, if we can get it established and functioning.

With reference to the amount of money involved and possible inflation, three things.

I am indeed pleased that the Senator from Colorado, in admitting that the issue is form not substance, thinks we need far more money than the Banking Committee provides, in fact, something closer to our $20 million. I am pleased that he acknowledges that. That should eliminate the issue of whether it is inflationary or not. That should eliminate the issue of whether we can do it with personnel or not, because I have not heard anyone say that a plant built with loan guarantees under the Banking Committee bill or a plant built under the jurisdiction of our flexible finance plan for the same amount of dollars will require any different personnel to build or has any different aspects as far as inflation.

So I think it all boils down to whether we will get synthetic fuels without the extraordinary umbrella that we are talking about or will we get it under the banking bill? So I am pleased that the Senator addressed that issue.

Second, for those who think that loan guarantees, or purchase agreements in the amount of $20 billion, present an extraordinary endeavor by America, let me give them two facts.

On the floor of the Senate last year it took us a full 15 seconds to approve $15 billion worth of new authority for the Tennessee Valley, $15 billion new authority to do what they have to do over the next 10 or 15 years. No one said we were going to break the bank; no one said we were throwing billions at the problems. We were providing them the flexibility to invest and recoup back money to stay in the business of providing energy to the Tennessee Valley users—$15 billion; 15 seconds. No one argued the kind of economic chaos and ruin that has been argued here about the Senate bill.

Third, the best investors and financial people say that in the next 20 years the private sector of the United States will invest a full $1.1 trillion in all kinds of energy and energy-related alternatives. It seems to us that $20 billion to bring on board diverse commercial technologies in the fields of shale development, liquids, and natural gas from coal, and crude oil from tar sands is a meager commitment to preventing a national disaster that is impending.

I yield the floor.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Ric Fenton and Tom Altmeyer of my staff be accorded the privilege of the floor during debate and any votes on the pending legislation and amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I do not speak just to be another participant in Senate debate. I counsel with my colleagues in reference to the pending legislation because I believe the subject matter is of extremely vital importance, not just Senators, Members of Congress, or the administration now

holding public office, but to Americans today and tomorrow and in the years ahead because it concerns the very lifeblood of this Nation as we continue to not only sustain our form of Government but to expand properly the society of which we are a part.

When we talk of the extension of the Defense Production Act of 1950, as amended (Senate 932), we are thinking of action which can be taken which will lead to the reestablishment of a Federal commitment to develop a domestic fuel industry based upon synthetics.

In making this statement, I have both enthusiasm and a certain amount of disappointment. Disappointment because of still being able to use the phrase as I had in 1943 in connection with H.R. 3209. That measure, cosponsored by Senator O'Mahoney, who was in the Senate, and the Senator now speaking, who was then in the House of Representatives, authorized the Secretary of Interior through the U.S. Bureau of Mines to construct, maintain, and operate one or more plants to produce synthetic liquid fuels from coal, and other substances, including oil shale, and waste from industry and agricultural products.

At that time I stated and I repeat the words, "we certainly do not want to let ourselves be panicked into emptying our national petroleum reserves of every drop while waiting for satisfactory coal liquefaction methods to be developed."

Very frankly, I respect my colleagues and their judgment, although at times I differ with their opinions, as I had to differ with Senator TSONGAS recently during debate on the Interior appropriations bill when he said that a synthetic fuels industry, if passed now, could not be in active production, supplying the Nation's needs for 10 years. But, I say again as I did when we both occupied the floor at that time, that if it is to be 10 years from now and we wait to do it next year it will be 10 years from then; if we wait to do it 5 years from now, it will be 10 years before such a program is brought into being.

The time is now. The time is not later. It is imperative that the Senate, Congress, and the administration act now. We have to make an all-out frontal effort to bring into being a viable program for developing a synthetic fuels program before the week is out.

So, I have enthusiasm, as I have indicated, because today we have a legislative vehicle before us through which we can create a synthetic fuels industry, in a reasonable framework, within the United States.

We thus have the potential—to regain the initiative which was provided, on April 5, 1944 when President Franklin Roosevelt signed into law the mandate to develop new technologies to produce ethanol, methanol, and other liquid fuels from coal, oil shale, and agricultural wastes. Approximately $82 million were spent on this program prior to its termination in 1955. Synthetic fuels could not compete economically with cheap petroleum and natural gas supplies. When that program was terminated we lost data that could now be used as a statistical base from which to develop a sound synthetic fuels program. Such a base would have assured that the massive amount of funds we are now ready to commit, in the absence of unlimited oil and gas supplies, be applied to specific technologies guaranteed to produce the fuels needed now.

Yes, we have the opportunity, and we have even a greater responsibility, because an opportunity ceases to exist if it is a real opportunity and we do not embrace it, with the following through in responsibility.

We cannot dwell, however, on what could have been. Instead we must develop a record here in the Senate which will provide fast and effective policies to produce synfuels in the time frame required for our national security.

The version of the bill reported by the Senate Banking Committee after 3 days of hearings indicate that synfuels is an uncertain and expensive technology, which will not yield noticeable results in the short term, or should we vigorously pursue conservation and solar technologies, which can yield much quicker and much more certain results.

The Energy Committee's National Security Act reported, after 23 days of related hearings, assumes that conservation and renewable energy are part of the solution but we should move as quickly as possible to use our domestic reserves of coal and oil shale. It is my intention to support title I of the National Security Act.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. RANDOLPH. Yes, I yield.

Mr. JOHNSTON. I do not think that most Senators know how long the Senator from West Virginia (Mr. RANDOLPH) has been a leader in the field of synthetic fuels. I do not know whether most Members know that the Senator from West Virginia in 1944 was the coauthor of the O'Mahoney-Randolph Synthetic Fuels Act of 1944, and that it operated successfully for a dozen years and pioneered the field here.

I was very interested this morning when we met with the President—and the President backed this bill, and I do not know whether the Senator from West Virginia has been informed, but the President remarked, he said:

> You know, I don't think I have been for a single energy bill that the Senator from West Virginia (Mr. Randolph) has not been a cosponsor of in earlier Congresses.

And he said:

> I really mean that seriously, because the Senator from West Virginia (Mr. Randolph) seems to have thought of most everything to it.

I thought the Senator from West Virginia would be interested to know that the President is aware that his leadership extends far prior to even the 1973 embargo, and if we had followed the Senator from West Virginia's advice and leadership in the whole area of energy, but particularly synthetic fuels, we would not be in the difficult shape we are in right now.

Mr. RANDOLPH. Mr. President, I am very grateful for the words that have been spoken by the knowledgeable and able Senator from Louisiana. He is very thoughtful in bringing this report from the White House. I do not say in any spirit of jest, but I hope those words of the President were taken down there and were not just off the cuff. I would like to keep them in mind, and sincerely thank President Carter for the recognition of my legislative efforts in the energy area.

Mr. JOHNSTON. Mr. President, may I say to the Senator those words should have been said on television. Unfortunately, they were said at a meeting with a bipartisan group of the Senate Energy Committee, at which the President announced his strong support of the Senate Energy Committee's bill. But he remarked at that time that:

> Since 1976, when I was elected, it seems like I have been spending my whole term backing energy bills, and everything I have backed, the Senator from West Virginia backed first.

He had, of course, particular reference to the synfuels bill, but other bills as well.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. RANDOLPH. Yes, I yield to my able colleague from Oregon.

Mr. HATFIELD. Lest the RECORD indicate this was purely a colloquy between two members of the Democratic Party, I would like to affirm the report of the Senator from Louisiana and to underscore the words that he spoke to make it a bipartisan report to the Senator from West Virginia.

In fact, I do not believe the President restricted it to any legislation relating to synfuels. I think and I believe the Senator from Louisiana implied, if not explicitly so, that the President was very broadsweeping in his remarks saying:

> I don't believe there is an energy bill that has been introduced since I have been President that the Senator from West Virginia (Mr. RANDOLPH) had not sponsored or cosponsored earlier on.

I thought it was a great tribute to the Senator from West Virginia and one in which those of us who serve on the Energy Committee are quite familiar with, that is, his record. So it does mean a great deal to the Senator from Louisiana, I know, as well as for myself today, as the managers of the bill, to have the support of the Senator from West Virginia (Mr. RANDOLPH) for this bill, and I am sure it is not only a matter of historic record but a bit of nostalgia to remember that when the Senator sees some of these ideas that have been floating around so long which finally come to fruition, and let us be hopeful we have the votes on the floor today, or whenever we vote on it, to make this a reality and not one of those illusions which tends to disappear the moment we think we have a grasp on it.

So I want to thank the Senator from West Virginia for his support of this bill and to affirm the comments made by the Senator from Louisiana.

Mr. RANDOLPH. Mr. President, I shall not attempt to express the gratitude felt except to say it is very much appreciated. I always am grateful for the privilege

of working with others who have the knowledge, the understanding and, vision in energy matters. I say to the managers of S. 932 today that we should approach this subject matter not so much as Democrats and Republicans, one across the aisle from the other, but as those interested in the needs of America before it is too late.

We might make some mistakes here today. But I say to Senators JOHNSTON and HATFIELD that if we do not act shortly, if we do not begin today, we may find ourselves in a condition in this country where we will not have the chance to make future mistakes.

Mr. JOHNSTON. Mr. President, will the Senator yield on that point?

Mr. RANDOLPH. Yes.

Mr. JOHNSTON. The Senator would be interested to know, along the same lines, that Sheik Yamani, who is the Oil Minister from Saudi Arabia, had a luncheon here last week with a number of Members of the Senate. At that luncheon, Sheik Yamani—whom some have referred to as the most powerful man in the world because, as someone put it, they say that Breshnev may have the nuclear button which he can push, but nobody thinks that he will push that button, but Yamani has the oil valve which he can turn, has turned, and is likely to turn, so that makes him, according to some estimates, the most powerful man in the world.

In any event, Sheik Yamani told this group of Senators that, with luck, in 1980 we will not have any gasoline lines in the United States. He said that is going to take a lot of luck, like no disturbance in the Middle East and strong conservation measures. He said that by 1981 we will begin to have serious spot shortages in the United States, attended by gasoline lines and the other kinds of difficulties we had this last summer.

Sheik Yamani said that by 1982, those shortages in the United States will be chronic, they will be deep, and they will be of long duration. From that point on, he said things will be increasingly difficult. So when the Senator from West Virginia says that we had better act now or we may lose that capacity to act, then I say that Sheik Yamani, the man who should know and who does have his hand on that world oil valve, strongly reinforces what the Senator from West Virginia has said.

If we had taken the advice of the Senator from West Virginia in 1944 and followed through on that program, we would now have a synfuels program in place. If, in 1975, we had passed the bill which the Senator from West Virginia supported, along with a number of other Senators, which passed the Senate and was killed in the House, we would probably have in place now a producing commercial venture of appropriate size in synfuels, or we would be on the very eve of having that producing commercial venture. We lost our opportunity at that time. We dare not lose that opportunity another time, because, if another 4 years rolls by, as it did since the last time the Senate passed that legislation, another 4 years of inaction, the situation will be that much more critical, the problems much deeper, and the economic consequences much more chronic and much more devastating in terms of the life styles of Americans.

Mr. RANDOLPH. Mr. President, again I thank the managers of the bill and concur in what Senator JOHNSTON has just said. It is difficult for us to overstate the need for this legislation. I am not going to say the man you speak of is the most powerful figure in the world, but the power he holds within his hand makes him a force in determining whether the United States of America will have the supplies necessary not only to sustain but even to strengthen our economy.

We are at the end of a 10-year period highlighted by two significant oil supply interruptions, in 1973–74 and 1979, and a sixfold to sevenfold increase in world oil prices. Oil now accounts for 19 of the 37 million barrels, in equivalent terms, we consume in this country each day. Of the 19 million barrels per day consumed, 9 million barrels, or 50 percent, is imported. To make matters worse, we have lost control over oil prices and are forced to pay the price OPEC asks. This warrants the strongest kind of effort to develop the capacity to make use of our vast coal and oil-shale reserves.

Mr. HATFIELD. According to our information, if the Senator will yield, he is stating the situation correctly.

I might also add two other factors. The Senator from Washington (Mr. JACKSON), chairman of the Senate Energy Committee, earlier this morning indicated that the spot market price had reached $48 a barrel. And we know that the situation in Iran today is very, very precarious. I understand that we are obtaining, at this point, around 500,000 or so barrels per day, which could conceivably be cut off as a result of the crisis that exists in Tehran.

So there are many factors that give support to the thesis now being espoused by the Senator from West Virginia, both from the standpoint of Nigeria, specifically, and the world market, but also in other areas of supply which we have relied upon and of which many such areas are in a very tenuous situation from a political standpoint, which could lead to a severance of that supply line at any moment under such precarious political circumstances.

Mr. RANDOLPH. I continue to express appreciation for the expertise of those who are managing the bill from the Energy Committee. I believe the existing phase 2—Congress is giving the program is economic. The huge front-end costs combined with an uncertain world oil market have prevented private developers from going ahead with commercial projects.

By providing authorizations at the beginning of each phase—$20 billion at the start of phase 1 and $68 billion for phase 2—Congress is giving the program momentum. In addition, it sends the signal to the Nation that we want a synfuels program. While title I of the National Security Act gives the program financial momentum, it also allows for a second congressional check at the end of phase 1, when either House would be able to block phase 2 and the authorization of the additional $68 billion by passing a resolution of disapproval. In addition, Congress would have to appropriate funds for phase 2.

Also, by providing for a very limited number of Government-owned, contractor-operated projects the Energy Security Corporation is provided with bargaining power. If a company demands an unreasonable amount of financial assistance, the Corporation can develop the project itself.

In developing an energy security corporation we must insure that its charter includes a mandate to subsidize first generation synthetic processes that are small, but commercially viable. We must define clearly the responsibilities of a synthetic fuels authority and make definite distinctions between its functions and the Department of Energy. We must insure that there is an orderly transition of programs without allowing existing energy development efforts to come to a halt. We must insure that small consortiums of energy companies have access to the Energy Security Corporation.

Once we have an entity established to encourage the development of synthetic fuels, we must conduct regular congressional oversight of its activities. This is an area we often neglect once a law has been placed on the books. Also, an independent Government authority must use the professional expertise we have available within Government agencies, as well as that in the private sector.

I believe the National Security Act accomplishes these objectives. But while we strive for a synthetic fuels capacity that will produce 1.5 million barrels of oil equivalent a day by 1990, we must vigorously pursue coal conversion programs. Coal capable utility boilers now burning oil and gas should be reconverted to burn coal. Reconversion of these boilers will save 724,000 barrels of oil per day by 1985. Accelerated construction of new boilers fired by coal and other fuels replacing oil and gas could save 900,000 barrels of oil a day, again by 1985, and 1 million barrels per day by 1990.

In regard to coal conversion, it is highly important that Congress give attention to the administration and placement of existing and proposed financial aid programs to assist utilities in converting from oil and gas by quickly considering coal replacement legislation and amending legislation to the Fuel Use Act.

It is of utmost importance to include environmental assessment and participation from the "ground up" with regard to commercializing synthetic fuels, so we can avoid many problems that otherwise would have to be negotiated by an energy mobilization board. Inclusion of environmental concerns in the design and demonstration of synfuels plants will alleviate the retrofitting problems that have become common obstacles for reconverting electric power generation facilities. Commercialization of synfuels plants may permit environmentally clean fuels to be produced, distributed and used in areas now experiencing difficulties in meeting clean air standards.

Emission control technology exists or can be developed to reduce potential pollutants to acceptable levels through better scrubbing techniques and atmospheric fluidized bed cleaning. If properly controlled, synfuel plants yield an environmentally acceptable product. They produce traditional pollutants in smaller amounts than do large coal-burning powerplants, oil refineries and the like.

The first congressional hearings to awaken the interest of Americans in securing oil and gasoline from sources other than petroleum were held by the Subcommittee on Coal of the House Committee of Mines and Mining in June and July of 1942. Before this subcommittee, of which I was chairman, appeared some of the Nation's foremost scientists to testify on the methods used in Europe, England, and Japan for making gasoline from coal or gases. A complete transcript of these hearings was published under the title, "Production of Gasoline from Coal and Other Products." Later in 1942, hearings specifically directed to consider methods to increase petroleum discoveries, and also on the production of gasoline and oil from coal or shale, were held before a subcommittee of the Senate Public Lands Committee. In 1944, Harold L. Ickes, then petroleum administrator for war, and former Secretary of the Interior, wrote to me saying:

> We need synthetic liquid fuels now, but we have not got them. It took other nations years to develop their synthetics and even the great fuel industries of this country, which have urged this government to embark forthwith on the program set forth in your bill, do not feel such a new industry can be established quickly. It is our purpose to avoid any interference with the unknown future of this war, but the Army and the Navy and all familiar with synthetic fuels possibilities believe that we must start our program now.

I was not in the Congress when our synthetics development program was ended. In 1958, when I was elected to the Senate, I again began to work for a national fuels and energy policy, including synthetic fuels. I testified before the Senate Interior Committee in 1961 and said:

> Every year that passes in which we become more and more dependent on foreign oil to buttress our national economy and security perhaps is one year nearer to disaster. We are gambling on our country's future.

The fresh look at synthetic fuels, which we begin today, must produce positive results for investment in our country's energy future. If our national energy policies are to be responsive to national needs, we must develop energy resources of every form—not competition between energy resources.

This attitude is documented in the report on synthetic fuels, issued by the Subcommittee of Synthetic Fuels of the Budget Committee on September 27, 1979. In that report four independent groups drawing conclusions on U.S. energy policy stated:

> A two-stage Federal approach to developing synthetic fuels would have economic advantages over a single-stage approach.
>
> Price guarantees are the most economically effective incentive, but a variety of financial mechanisms will be needed to overcome financial barriers to production of synthetic fuels, and
>
> More conservation, conventional burning of more coal, and deregulation of oil prices will reduce oil imports in the short run at lower cost than producing synthetic fuels with processes known today.

The time for gasification and liquefaction from coal and oil shale is now, whether by direct Federal subsidies or price supports. The incentives must be tailored to the technology. The Senate Banking Committee's substitute to title I of the National Security Act for 12 projects and $3 billion is too research oriented. It does not go far enough.

The technologies, of course, can be refined, can be continually developed for better results. But we need more than an expanded program of research at the Department of Energy.

The bill from the Banking Committee, with all respect to its chairman and the result of the vote, does not do the job. It just is short of the commitment that this Senate and this Congress must make.

(Mr. MOYNIHAN assumed the chair.)

Mr. RANDOLPH. Because of our preoccupation with minimizing the short-term effects of inadequate domestic energy supplies we have failed, Mr. President, to solve our long-range problems.

We must correct this situation. It is a situation, highlighted, by the fact that we are hostage to overseas oil interests as the Presiding Officer, Senator MOYNIHAN, has stated in the past. In his terms, my terms, anyone's terms, we are hostage to overseas oil interests.

So, Mr. President, we must correct this tragic situation. It is necessary now to move forward affirmatively to vote down, the substitute offered by the Banking Committee. Timid steps toward a synthetic fuels policy will not suffice.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been listening to this debate, basically between the Energy Committee and the Banking Committee, for quite a while. I have been very interested in the nuances and the distinguishing characteristics between the two bills, that of Senator PROXMIRE, of course, being before us at this time, and the administration bill as drafted by the Committee on Energy and Natural Resources.

It seems to me that with regard to production authority, the Energy Committee version creates a new Energy Security Corporation outside of the Government. As I understand, five members are appointed by the President and confirmed by the Senate, plus there are three nonvoting members from the Government, the Secretary of Energy, the Secretary of the Treasury, and the Chairman of the Energy Mobilization Board. The Banking Committee version authorizes the President to lodge synfuel support authority within the existing agencies of DOD, DOE, and DOI.

The House committee version is very similar to the Senate Banking Committee version, except that it has DOE, DOD, DOC, and TVA. Of course, the Energy Committee bill seeks 1.5 million barrels of oil per day from various types of facilities and technologies by 1995, while the Banking Committee version is trying to demonstrate the commercial viability of synfuel technology and expand production of heavy oil and tar sands.

There is a similar goal on behalf of the House version, which is a desire to stimulate production of 500,000 barrels of oil per day from synthetic fuel by 1985 and 2 million barrels by 1990.

The major difference which appears to me between the Energy Committee version, the Banking Committee version, and the House version, is in the matter of cost. The Energy Committee version would authorize $88 billion in two phases, $20 billion for phase one with the Energy Security Corporation having 3 years to formulate strategy and policy for phase two, which would go into effect unless either House of Congress disapproves.

To repeat, as I understand it, the Energy Committee bill will authorize $88 billion, $20 billion up front for the phase one or the first 3 years, while the Energy Security Corporation formulates a strategy for phase two, but phase two, which will amount to $66 billion more, goes into effect automatically unless either House of Congress, in effect, disapproves.

The Banking Committee version authorizes $3 billion which is considerably less than the Energy Committee version in direct appropriations. Loan guarantee authority, as I understand it, is $3 for each $1 appropriated, for a maximum possible outlay authority of $9 billion, versus the $88 billion of the Energy Committee.

The House version authorizes $3 billion in direct appropriations for purchase commitments, $38 million in loan guarantees, $48 million for direct loans, and has no limit on loans and guarantees if neither house vetoes. At least it is my understanding that total price is one significant difference between the three basic versions of the synfuels bill.

With regard to the Government ownership of production facilities the Energy Committee version authorizes the Energy Security Corporation to use any form of incentive, including, in this order, price guarantees or purchase agreements, loan guarantees, direct loans, joint ventures and outright Government ownership. The Banking Committee version authorizes use of purchase commitments, price guarantees and, as a last resort, loan guarantees up to 75 percent of cost, but no advance payment is authorized and no project can receive more than $500,000,000 in Federal moneys.

The House version allows for the primary authority in loans, loan guarantees, and purchase commitments, but the President is authorized under the House version to organize corporations to produce and acquire synfuels.

In addition, the Energy Committee version provides that, as a last resort, the Energy Security Corporation is authorized to build and operate up to three Government-operated and Government-owned organizations or Government-

owned and company-operated organizations or more if neither house disapproves.

Where the Banking Committee version outlaws or prohibits Government ownership, the House version, I believe, gives even broader descretion to the President. Also, I might add, the Energy Committee version would permit the Energy Security Corporation to acquire federally-aided projects in financial trouble under certain conditions without respect to the above limits.

What it looks like is that we not only have an $88 billion bill in two phases—$20 billion for the first 3 years and $68 billion thereafter unless Congress disapproves, specifically disapproves, but they can use almost any form of incentive and can actually build, own, and operate Government-owned and Government-controlled businesses up to three if neither House disapproves, and in addition, can purchase or acquire federally-aided projects in financial trouble under certain conditions.

With regard to the technological limits, the Energy Committee version provides that there are no limits on the number of projects or types of technology, while the House version limits the types of projects to 12 different technologies, 6 each from oil shale and coal. The House version allows for purchase contracts limited to 100,000 barrels per day per project.

As I understand the duration aspects, the Energy Committee version provides that the Energy Security Corporation loses authority to make new commitments in 1990 and goes out of existence in 1995. The Banking Committee version has an indefinite authorization, but provides that no project can receive assistance for longer than 7 years. The House version does not have provisions for the technological and project duration limitations on duration.

With regard to the categories of technology that are covered, all three are quite specific.

The notion of creating a Government corporation to push synthetic fuels technology reflects a potentially costly misconception in the eyes of many on the floor regarding how the American economy functions. I should like to make some points on this and, of course, continue to consider both of these versions of the synfuels bill and try to make the right decisions in the end.

With upfront expenditures of taxpayers' money for production capital, some would argue that such a subsidy of commercial synthetic fuels production is, at best, unnecessary if synthetic fuels can be produced at competitive prices; and there is little point in doing so if they cannot be produced at competitive prices. To the extent that synthetic fuels are technologically feasible and economically competitive, private industry will be willing to invest in their production without Government subsidization. There is, after all, nothing inherent in the synthetic fuels programs that makes it different from other programs in which the private sector is willing to invest. It requires no new fundamental scientific or technological advantages, as exemplified by the existing South African program. And though large capital expenditures are required, they are less than required for many other projects presently undertaken by industry such as the Alaskan oil pipeline.

First, long leadtimes are required, but these are no longer than those required in designing and producing new types of airplanes. Where the Government has tried to subsidize analogous efforts, it has risked major errors. For example, Congress narrowly avoided subsidies for the supersonic transport. The complete failure of the British and French subsidized Concorde to find a market shows how foolish such subsidies would have been.

Second, the proposed synthetic fuels program could lock us into particular technologies which would be neither efficient nor economic. It is private industry and not the Government in the form of some synthetic fuels corporation which is the best position to determine which technologies are most economic. As American history has repeatedly shown, private enterprise is more flexible and more highly motivated than the Government bureaucracy. Those of us who have worked with the Government bureaucracy have come to a definite conclusion on that matter.

Third, a subsidized synthetic fuels program like that proposed by the Energy Committee may very well promote sweetheart deals in which the business firms participating would have the option of substantial profit without taking substantial risks. Specifically, companies would know that, under a broad range of circumstances, they would be reimbursed for "any reasonable costs" arising from actions that "could not have been reasonably foreseen."

Their own commitment would not need to be great in any sense of that term, because they could enter into joint-venture arrangements with this synthetic fuels corporation in which they would have the right to purchase the corporation's shares of ownership if things went well. If things went badly, the affected business could be bought out by the corporation under a broad range of criteria, with the option of leasing the project back. These advantages simply diminish the vigilance of the business concerns.

Fourth, Government-subsidized programs of this kind cannot, by their nature, produce the desired results, the true, marketplace test of the competitiveness of the technology. Private industry would go into the synthetic fuels business under a false set of profit signals induced by the protective climate of backing by the synthetic fuels corporation.

Second, the cost effectiveness of the synthetic fuels technology would be largely time-dependent and out of date by the year in which it was completed. Specifically, the competitiveness of the fuel produced would depend upon the relationship between the cost of the capital required to build the plant at the start and the future price level of competitive oil a decade later when the plant actually produced.

In the absence of a long-term continuation of subsidization, interested companies would not be much better off in determining whether to invest in synthetic fuels than they are now. The importance of these two points cannot be overemphasized, because the Energy Committee bill is predicated on the belief that many new synfuel plants would be built after the liquidation of the Corporation and that the quantity of synthetic fuel produced by these latter investments would far exceed that produced during the existence of the Corporation.

Fifth, the proposed subsidy program would be detrimental to the economy by competing with other more desirable investments.

This program could only drain badly needed capital from throughout the economy for potentially inefficient uses which, in turn, would limit the productive capacity of the economy in the next decade, thereby contributing to further unemployment.

Sixth, a subsidized synthetic fuels program would artificially inflate energy consumption and discourage diversification.

In these days of dwindling fossil fuel reserves, prices should be permitted to rise to their true economic values in order to limit consumption. Yet, the synthetic fuels program would artificially hold prices down, thus giving the wrong signal to consumers about reducing their consumption. At the same time, these consumers would actually be paying for the increased production cost of synfuels through taxes. In addition, the incentive for new exploration of conventional energy sources or development of other energy technologies would be reduced because producers would find it easier and less risky to take Government subsidies for synthetic fuels production.

Seventh, the proposed synthetic fuels program might have to be subsidized long after the liquidation of the Corporation.

Synthetic fuels might never sell unless the Government continues to subsidize the price difference between synfuels and conventional oil. They may have to be a reality we will have to face. Plants in which large amounts of capital have been invested might force the Government to make hard choices between giving up the investment on the one hand or keeping unprofitable plants in business on the other.

In the final analysis, I tend to think that the conventional market stimulus would be vastly preferable over vast, direct, Federal investment in synfuels production to reduce the dependence of this country on foreign fuels.

Mr. JOHNSTON. Will the Senator yield?

Mr. HATCH. Yes.

Mr. JOHNSTON. What did the Senator mean by the conventional market stimulus?

Mr. HATCH. By what?

Mr. JOHNSTON. The Senator said we would be better off with a conventional market stimulus.

Mr. HATCH. That means lifting the price controls. In other words, give incentives to the private sector to find more, to discover alternative forms of

energy, let the price lift so that people pay the replacement cost and, in the process, we will reduce demand for the utilization of oil and gas in this country.

Mr. JOHNSTON. As someone who has always been trying to give more incentive to oil and gas, does the Senator think there is a likely prospect in this Congress this year, next year, any time in the foreseeable future, where more deregulation of oil and gas prices will be a possibility or a feasibility?

Mr. HATCH. Yes. If we can continue to work together as we have in the past, I believe within the next 4 to 6 years we will bring about total deregulation, as people begin to realize that is the only way to have incentives enough to resolve the difficulties we are presently undergoing.

I think if we do that, and I am a firm believer that we have to develop the alternative fuel systems as well, including synfuels, we will be able to do both and, in the meantime, the incentives in the private economic system would not only reduce demand, but also increase supply.

Mr. JOHNSTON. I hope the Senator will think carefully about being for this bill.

Mr. HATCH. I am.

Mr. JOHNSTON. The principle tool in this bill is the price guarantee. The Department of Energy projections are that it would take an average price of $36.10 in 1979 dollars to make synfuels a paying proposition.

Mr. HATCH. Whose opinion is that?

Mr. JOHNSTON. The Department of Energy.

Mr. HATCH. I hope their opinion on that is better than many others that are brought forward in economic matters.

Mr. JOHNSTON. I quite agree.

Mr. HATCH. I have talked with a number of experts in synfuels, particularly on tar sands, oil shale, who indicate we could produce synthetic fuel from a commercially competitive standpoint for considerably less than $36.00/661.

Mr. JOHNSTON. I have heard those same estimates. I hope they are correct.

Mr. HATCH. I do, too.

Mr. JOHNSTON. But the point is that nobody can predict precisely where the prices will go. But all we have to do is make a Government guarantee of a price that is going where we think it will go anyway, especially, with a spot market price of $48 last week. All we have to do is give them that guarantee that, let us say, by the time they are on line that we will guarantee a price of $35 a barrel by 1987, let us say, which I think is a very safe bet. If we make that guarantee and that is sufficient to get them on line, it seems to me that is a guarantee for the American people. Because if prices reach that level, then it costs the American public nothing. All we have done is that we have made a guarantee which we do not have to pay off on.

On the other hand, if prices are less than that, then the American people win even more because, even though that would cost the corporation some dollars, the American people win by prices not having gone to where we think they will go anyway.

So it seems to me it is the genius of this price guarantee proposition, that the American people win if prices go up and they win if they do not go up. Either way, it is a good deal for the American public.

Mr. HATCH. It may be very true, in order to have an efficient and good program there will have to be some sort of guarantee against an oil price warfare that could be brought about by concerns, interests and powers outside the scope of the United States ability to control.

On the other hand, it may very well be if we want a program, and I do, and I think we have to go ahead with alternative fuels development, that the Federal Government will have to maintain a minimum price and a minimum market volume for those synfuels to be developed now.

On the other hand, the question is, should we do it by creating a governmental corporation, albeit outside of the Government? I claim that could interfere with the incentives that could come from free market development.

I have talked to many leaders in the field, oil and gas produces and others who literally are leaders in synfuel technology development, who say that if the Government is off their backs, they could produce at a profit now. I have talked to advocates on both sides of this, some feel they want the Government to come in, finish the job for them. The others say that if the bureaucrats are off their backs, that they could solve problems far more readily than with Government interference.

A number said they would prefer the Banking Committee bill because it does give a greater measure of freedom, in their eyes, with at least some protection.

The distinguished Senator is one of my acknowledged experts on energy in this Senate, he has really worked for——

Mr. JOHNSTON. I thank the Senator.

If I may just reply, Mr. President, to that, and let me tell the Senator on that point——

Mr. HATCH. Let me just finish making the point.

Mr. JOHNSTON. Yes.

Mr. HATCH. Then I will be happy to yield.

The fact is that there are, basically, three viewpoints. One is, just let us alone, we can develop them, but we are afraid once we put the tremendous capital into the programs, there might be some price war caused by those who would care to kill the program.

There are those who argue, let us let the Government do it for us. There are those who argue for a reasonable composite of the two, which appears to be closer to the Banking Committee position.

I have to acknowledge I have difficulties with all three positions. I am trying to solve those in my mind, to come up with a better approach.

What bothers me is that in the committee bill they are going to spend, whether we like it or not, $88 billion. That money has to come from somewhere.

Mr. JOHNSTON. Will the Senator yield on that point?

Mr. HATCH. Yes.

Mr. JOHNSTON. Under the Senate Energy Committee bill, we authorize $20 billion.

Mr. HATCH. I understand. But for the first phase, and when those 3 years and that analysis is done, then we have $66 billion, unless either House comes in and denies it, and I predict that will not happen.

Mr. JOHNSTON. In addition, first of all, we have the one-House veto.

Mr. HATCH. But that is not going to happen.

Mr. JOHNSTON. Well, it depends on the plan, whether it is good and appropriate.

Second, we must have the affirmative action of Congress in appropriating additional moneys because no money may be expected in phase 2 until and unless it is appropriated.

Mr. HATCH. That is true. But like all Federal programs, once they start, and we start funding them, they are difficult to kill. We do not want to admit that it was a big bust to begin with, that we did not face the realities of the problems on the floor, and we just continue to fund them and the taxpayer winds up being shortchanged.

Let me say something. Corporations do not pay these taxes, this $88 billion. We consumers pay those taxes. Anybody who thinks otherwise does not understand economics.

The fact is that the big oil companies are not paying taxes into this Government. It seems, theoretically, to pay what are called taxes. But they are just passing them on to the consumers. So the consumer ultimately pays the taxes. That is what a lot of consumers fail to recognize.

What I have difficulty with, primarily, with the approach around this surrealistic community, is the belief that the Federal Government can handle our moneys better than private sector organizations can.

I have not seen any evidence that the Federal Government understands anything about cost effectiveness. We may have to have a synfuel program. Let us assume that is essential, and I feel that it is essential. The question is, what is the best approach to use? Is it the committee bill, the Banking Committee bill, the House bill, or a composite of all three? I suspect that before we are through, it will be a composite of all three. I just hope that the final measure eliminates or sharply limits any direct investment of Federal moneys in the ownership or management of energy production facilities. I also hope that we do not spend more of the public's money than it can afford.

The trouble is with a bill that gives the Federal Government the potential to launder money through its bureaucracy. Bureaucracies tends to feed on consumer funds such as these, which are really costs that are passed on to the consumers as an additional tax or inflation; a tax that we in Congress are not willing to assess directly, and inflation that we as-

sess even more indirectly. We say that we are going to benefit the consumer by spending $88 billion for the synthetic fuels program at presumably no cost to them. The end result, when we launder costs and put them through the Federal Government which has no functional incentive to manage and operate efficiently, is an insidious fraud against the public.

That is why I have a tendency at this point to agree with the Banking Committee version of the bill.

I do respect my very good friend and colleague from Louisiana. I know he understands this area very well, as does my friend from Oregon. Both are dear friends and both are highly respected in this body, and they are deeply respected by me. But I have these problems, and I think they are legitimate, significant problems.

Every time we want to solve a problem, we indirectly tax the people more and we say that we have to hit those big corporations. We say that we should not let those big oil companies get away with those profits, rather than saying to the oil companies that they should spend the money to find alternative forms of energy. We do not say that. We say that we are going to spend the money for the benefit of the people, and we wind up with less oil and gas and wages that buy less and less every day.

The Government never has been competitive nor efficient, and it never will be. In the end, the consumers pay for it all, anyway. We do this so that we can tax the people indirectly because we do not have the guts to tax them directly.

That is not necessarily a criticism of this bill, but it smacks of criticism of this bill.

It bothers me, because I do not see us putting the incentives where they really should be, in the efficiency and the productivity and the competitive areas in the private sector, and I do not think this does it.

Then, again, I am just one Senator, and all I can do is speak up and do the best I can.

I am interested in listening to the Senator from Louisiana, and I will be listening carefully to this debate. Right now, I have to say that I lean against the Energy Committee version of the bill because of the $88 billion. I do not think there is any question that we will have to provide a floor in order to have the synthetic fuels industry develop. I think most people have to acknowledge that that is the way it is, because it is going to cost billions of dollars. The question is, should we do it through the Government by laundering the money through a bureaucracy that never functions well, or should we do it through the private sector, through incentives? That is the question involved in this debate.

I believe that the Senator from Louisiana desires as much as I do total deregulation in the field of energy. I also agree with him that there has to be a change in Congress in order to do so, in order to benefit this country in the appropriate manner, and I believe that is going to occur, and it will occur in the next 4 to 6 years. Until then, we have to do the best we can, and I assume that one of these versions will be the best we can have in this area.

Mr. JOHNSTON. I thank the distinguished Senator from Utah, because he has contributed much in his ideas on energy.

It seems to me that if we can get across—those of us on the Energy Committee—what we are trying to do, we can count on the Senator for support, and I hope so.

First, let me talk about the $88 billion. The original program of the President, which was $88 billion in scope, was referred to our committee. We held hearings, and we came to the deliberate, decided, intentional decision not to fund $88 billion, for all the reasons the Senator from Utah has stated. We simply said $88 billion is too much.

Mr. HATCH. But, in essence, that is what it is.

Mr. JOHNSTON. What we decided to do was to go to two phases. In the first phase, you put one of a kind on line. Then, while they are developing their information base, their one-of-a-kind projects, such information as economics, the environmental effect, the social effect, what it does to the various communities—after they are well enough along into that process, about 3 years along, then they should be in a position to recommend a strategy to Congress, a long-term strategy. That strategy is subject to the one House veto.

Mr. HATCH. My experience with bureaucracy is that they typically recommend a strategy that perpetuates them and benefits them, and does not benefit the taxpayers of America. That is the problem I have with it. Then Congress will not act to change that, because we created this monster, and we will have to live with it for the rest of our lives.

Mr. JOHNSTON. I can tell the Senator that it is no more my intention to go with an $88 billion program than it is his.

Mr. HATCH. I know that.

Mr. JOHNSTON. If that is the chief concern here, we may be able to change that language, alter it slightly, to make it more clear than it is: That the second step in this process, which is the replication of what we have done in the first step, can be taken only with the assent of Congress. That, to me, is clear in the bill.

Mr. HATCH. It is not clear. The second steps says that we have to act to disaffirm, rather than that it cannot go forward without an affirmative approach of Congress. I would be much more interested in the Senator's bill, which he is sponsoring and arguing for, if we had a little stronger language such as that.

Mr. DOMENICI. Would the Senator from Utah vote for it if we did that?

Mr. HATCH. I do not know. I certainly would consider it more than I am considering it right now. There are some other aspects of the bill that I find to be a little odious, also.

Mr. JOHNSTON. I say to the Senator from Utah that that is no more my intention than it is his; and if there is something we can do to make that intention of the committee clear——

Mr. HATCH. Does not the Senator agree that the language is written so that in order to stop phase 2, which involves $66 billion, which inevitably will be brought forward by the bureaucracy, which will want to perpetuate itself—does not the Senator agree that the only way to stop that is to have a 1-house veto? Is that not the way it is written?

Mr. JOHNSTON. I think the Senator misconceives our program.

Mr. HATCH. I do not think I do.

Mr. JOHNSTON. The 1-house veto applies to the strategy. In other words, the synfuels corporation comes in with a strategy. They may say, "Yes, we want to go." They may say, "No, let's delay. Let's not decide until we get the plants on line and producing." We do not know what they will say. But they present that strategy to us, and they cannot even ask for money until the strategy is approved.

Mr. HATCH. The Senator is saying that it becomes an annual appropriations matter which the full Congress can look at each year?

Mr. DOMENICI. Thereafter.

Mr. JOHNSTON. Under the $20 billion program—and the $68 billion program in phase two would be like the $20 billion program—you have a two-phase appropriations action. The first phase is to appropriate appropriation authority, and we have done that in the appropriations bill which is now pending in Congress. That is $20 billion appropriated to this revolving fund.

Mr. HATCH. And if phase three calls for $68 billion, that will be appropriated as well.

Mr. JOHNSTON. Follow me on this. We have to have the affirmative action of Congress in appropriating the budget authority. Second, it requires a second appropriation. So that, in effect, in the $20 billion program now pending, it is going to require two acts of Congress before the money is forthcoming.

So what we have before we can go into phase two here is a one-House veto on the strategy and two acts of Congress with budget authority and with appropriations that have to be approved affirmatively.

To us on the Senate Energy Committee, that meant, in effect, that you are going to stop and let Congress decide when, if, and how much on phase two. That always has been our intention.

We philosophically rejected the original approach in the administration which said, "Let's go with the $88 billion program now—with $22 billion additional authorized every other year."

We specifically rejected that.

I say one other thing to the distinguished Senator. When he makes his decision between the Banking Committee bill and the Energy Committee bill, and particularly with reference to this Corporation, let me tell the Senator why I think the Corporation will work much better. We set up an independent corporation with five members which cannot be removed except for malfeasance or nonperformance in action. It is not as

bad as an impeachment. In other words, they can be removed only for cause. The President has indicated he will appoint people to that Corporation who have as their first interest the fulfillment of the object of this law which is to demonstrate synfuels technology. They will not be charged with anything else except demonstrating that technology. And they will be insulated from Presidential elections, from the latest fad in Congress, and from the latest whims of the American public in terms of changes of opinion.

That danger of a change in opinion may be totally imaginary. It may be that the American public, Congress, and the President have all resolved now and forever to go through with this program.

But let me tell the Senator the history of synfuels in this country would indicate that is not so. We have started and stopped so many times that industries which would contract with the government agency will have a lot more confidence in this kind of synfuel corporation which is made up of tough-minded business people rather than they would in dealing with DOE. I share with the Senator his sentiments about DOE. It is a bureaucracy as bad as I guess any we have. They are slow-moving. You just cannot get anything out of that crowd over there. I mean the trouble with energy in this country may be epitomized to some extent by inaction in DOE. Let us get a separate corporation, give them the mandate, and say:

> Look, put on line about 10 of the synthetic fuels plants so we can find out if they work, if they work economically, and if they work environmentally and if they work socially, but let us do it once and get them on line and let us do it as quickly as we can consistent with sound economics and sound environmental policy."

That is the genius, it seems to me, of our bill.

Mr. HATCH. I understand.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. JOHNSTON. Certainly, I yield.

Mr. DOMENICI. I say to my good friend from Utah I agree, as one of those who has worked hardest on this bill——

Mr. HATCH. And I commend my colleague.

Mr. DOMENICI. —that bureaucracy is what is going to hold up synfuel, and he should be down here arguing against that Banking Committee bill and the expansion on it. It is going to be expanded before it leaves the floor to $20 billion, because it is acknowledged that $3 billion will not do anything in the field of synthetics. They are going to expand it. And what is going to be the result? Exactly what concerns the Senator, because the Departments of Energy, Transportation, and some other bureaucracy, are going to run that program. What we decided was that that will not work. The private sector will not contract with that kind of institutional relationship. It just will not fly.

So if the Senator does not want any, then he should vote against ours. If he does not want any synthetic fuels vote against this one because if he is voting against ours to have theirs because he wants synthetic fuels, then every one of his arguments apply, every one. He will have bureaucracy ad nausea. We have had it for 4 years. There is an authority down there and they have not produced one single pint of synthetic fuel and financial experts, contrary to what is being said that they do not favor the Corporation, favor everything the Corporation stands for and can do.

Ask yourself: If everyone says what this Corporation can do is what we need, but we are not for it, then what are you for? They will admit that you will not get any production through the bureaucracy. So we would be at this point: We get no synthetic fuel development, a nation with huge resources sitting there undeveloped, with our defenses in a state of vulnerability every day, 700 billion barrels of crude oil locked up in shale, 700 billion.

Mr. HATCH. I am very aware of that.

Mr. DOMENICI. We are hostage by 8 million a day. The Senator gets up every day worried about America because of energy, requiring 8 million barrels a day. We have 700 billion barrels locked up undeveloped, and 300 years of coal, not barrels, 300 years of today's Btu's locked up in coal. Are we just going to burn it or are we going to turn it into gas, going to turn it into liquids, going to turn it into ethanol which in turn makes gasoline? No, some say, let the South Africans do it with American genius while we stand around arguing precisely as the Senator has that the bureaucracy cannot do it and conclude wrongly when we say, therefore, do not vote for the corporation. Because that is precisely why he should vote for it, because it is not bureaucracy. It is not civil service. It is five people. The President is committed to a prominent businessman to head it, goal oriented, hard-nosed.

I commend the testimony of one of the best finance men in America, David Goodman, of Morgan, Stanley and Co., who concludes precisely as the Senator does:

> Philosophically I hope we do not have to have a corporation. I wish we did not have to because I do not like to create new entities. However, it will never happen dealing with a bureaucracy. It will never happen with a Banking Committee bill. I reluctantly conclude, we better create an independent entity, give it hard decision-making ability, and get on with producing it.

Mr. HATCH. I think the point that the Senator from Louisiana made was a good one, and that is when are we going to be able to get full deregulation which would provide an overwhelming incentive to go out and find the solution to these problems?

Mr. DOMENICI. We will not get it in time.

Mr. HATCH. There is some question that we will ever get it. If I am right, it will be in the next 4 to 6 years. That is still a delay factor that could be very harmful. That does argue favorably for some aspects of the Senator's position. I have to admit I am still considering both versions of this thing.

The point I am more concerned about than anything else, though, is the $88 billion cost. Maybe $3 billion will not do much. The Banking bill does provide more actual involvement than $3 billion, but $88 billion through the Federal Government, as a matter of fact, with the right to put this money almost anywhere these few people at the Energy Security Corporation desire to put it, I do not think that is the answer either. As a matter of fact, I know it is not, I am sure that if Gerald Ford were President there would be concern on the other side of the aisle about who is going to head this Corporation; while Jimmy Carter is the President, there has to be concern on this side of the aisle. If TED KENNEDY is President, there has to be concern on both sides of the aisle, as far as I am concerned, because he has a specific philosophy with which many within this body on both sides of the aisle disagree as far as energy and energy development are concerned. But that does not mean that his ideas are not good, they are simply at odds with those, of many of his colleagues.

I would say, in summation, a commercially viable synthetic fuel industry cannot be created in a synthetic economic context, and that may be what we are doing here, violating the basic role of the free market, which is more likely to create white elephants than to successfully prime the pump of synthetic fuel.

Indeed, the Government tendency to subsidize energy prices discourages industry from synthetic fuel production because businessmen fear tampering with their own prices. When the time for synfuels comes, American firms will be recognizing it, and I think act accordingly.

What I am worried about is the wasting of scarce American capital. Now is certainly not the time to be wasting scarce capital pursuing big Government's traditional predilection with the Rolls Royce solutions to problems that would be better solved with pickup truck ideas. More importantly, it is not the time to promise the public free, Government, solutions to problems that under any circumstances are going to be very costly to all Americans.

One of my dear friends happens to be Dr. Oblad at the University of Utah. Alex Oblad is one of the top catalytic chemists in the world. At the University of Utah they have been working on developing oil from tar sands for the past several years.

They feel they achieved a breakthrough, and they can solve the remaining problems. With a few incentives they can literally develop the tar sands, vast quantities of which exist in Utah and elsewhere in this country and in Canada. Yet they have asked for a mere $350,000 for the University of Utah to be able to accomplish this, and instead they have been cut back 60 percent.

Mr. PROXMIRE. Mr. President, will the Senator from Utah yield?

Mr. HATCH. I yield.

Mr. PROXMIRE. I want to commend my good friend from Utah, and I want to point out that in his colloquy with the Senator from New Mexico he seemed to have been put in the position of not favoring synthetic fuel.

Mr. HATCH. Oh, no, I favor it.

Mr. PROXMIRE. I am sure the Sena-

tor does. The Senator's position in support of the Banking Committee bill is based on the fact that this is the way you are much more likely to get an orderly, more effective, and substantial production of synthetic fuel than through a crash program.

Certainly it has been my conclusion, and the experts who testified before our committee were unanimous in the notion, that if you go ahead with a crash fuel program, you go ahead with a huge Government corporation dominated by the Government, that you must——

Mr. HATCH. By one person, in essence——

Mr. PROXMIRE. By one person.

Mr. HATCH. Is what is going to happen, whoever he may be.

Mr. PROXMIRE. Furthermore, you are guaranteeing, if you try to have this very large number of projects come on all at once, a tremendous inflation in equipment prices in that area, in manpower prices in that area.

I pointed out this morning the number of professionals who are capable of working in this area are about 45,000, and these projects will come in and demand 24,000 in addition to that. Where are they going to come from? I mean the effect of this program is bound to be distorting, inflationary, and inefficient, and could result in discouraging the private sector from moving in as only they can move in, efficiently and effectively, to produce what we need. That is why the private sector, so far as I can tell now, is overwhelmingly in favor of the approach we have suggested.

Mr. HATCH. I appreciate the comments of the distinguished chairman of the Banking Committee.

Mr. DOMENICI. Mr. President, will the Senator clarify something for me? I think the Senator from Wisconsin was not present when you said you had not made up your mind to support any of the bills at this point. He is indicating you support the banking bill. You have not said that, have you?

Mr. HATCH. That is correct. I have not made up my mind on it, but I will say this: I do tend to support the banking bill over this one because of the potency of $88 billion in direct Government expenditures and other dubious approaches that are taken in this bill. But basically they have been compromise approaches trying to put something together.

I commend both of my colleagues who are managing the bill at this time because they have both worked long and hard in a very difficult context and in a difficult committee, which we have watched operate now for the past 3 years and amid tremendous conflicts in the field of energy in both the House and Senate, and both have worked long and hard, I think favorably, for the American people.

Mr. JOHNSTON. Mr. President, I wonder if the Senator would yield?

Mr. HATCH. I commend the Senators for it.

But, on the other hand—and I will yield in just a few seconds—I am concerned about the bill that has come out of the Energy Committee, and it does bother me.

I yield to the Senator from Louisiana.

Mr. JOHNSTON. I wonder if the Senator will yield long enough for me to clarify something that the Senator from Wisconsin stated when he just said that as far as he could tell the private sector is for the banking bill. Let me say that it is a little bit difficult to find out precisely where the private sector is, but I am advised that, for example, the American Gas Association is for the Senate Energy Committee bill; I am advised that the National Association of Manufacturers is neutral on the question of the Banking versus the Senate Energy Committee bill. I do not know where the Chamber of Commerce stands.

Mr. PROXMIRE. The Chamber of Commerce definitely is for our bill. They were at our press conference.

Mr. JOHNSTON. The American Gas Association is for our bill; the National Association of Manufacturers is now neutral.

Mr. PROXMIRE. Well, may I say the National Coal Association has changed their position. The letter read by the Senator from Colorado indicated they now support the Banking Committee bill. Also the Committee on Economic Development which, of course, is an outstanding business organization, supports it; also the Chamber of Commerce; also the National Federation of Independent Business supports it. Also, the American Mining Congress supports our bill.

I would say on the basis of that, that it is a pretty solid support in the business community for the banking bill.

Mr. DOMENICI. Mr. President, will the Senator yield? The Coal Association supports it if you will amend it to $20 billion. They do not think $3 billion does very much.

Mr. PROXMIRE. That is what the telegram says.

Mr. DOMENICI. They do not put $3 billion in, but they indicate a minimum is $20 billion.

Mr. HATCH. Since I have the floor, if I can say this, would the two Senators who are managing the bill support it if we had $20 billion? The fact is you would not. We are talking about $88 billion.

Mr. PROXMIRE. That is right.

Mr. HATCH. My problem is we come up with these programs around here that are really, in essence, indirect taxes on the consumers and taxpayers of America. We do not go up front and tax them, but we wind up really escalating costs more than ever, and in the process a small select group of people here in Washington wind up buying votes with that money, and that is really what happens.

Maybe there is less chance with one supposedly quasi-governmental corporation with only five people at its head, one man who is supposed to be a super businessman whom everybody is going to love, who can make these decisions in an impartial, wonderful, reasonable context.

I do share—and I might mention this to my good friend from Wisconsin—the concern that my two friends from Louisiana and New Mexico have raised that in the Banking Committee bill we will be turning over whatever funds are approved, assuming that the Banking bill is passed, to the DOE and other presently existing agencies of Government that have not shown a propensity for being able to produce energy solutions for America thus far.

I have to share their viewpoint that it may be impossible for them to ever show a propensity that benefits the American people with regard to the creation of energy or the conservation of energy in America.

Part of that, though, I still have to admit is the Congress fault because we have not faced reality and acknowledged that really deregulation of prices is the best way to create conservation and stimulate production. It is the best way to reduce the demand, and probably the best way to increase supply, as you give incentives to go out and find more and make it economically viable to do it.

I have just brought out another point. Dr. Oblad, I just chatted with him yesterday, told me that for $350,000 they can continue this tremendous program of resolving tar sands production problems and they have been cut back 60 percent by the people here in Government. What is $350,000 when we are talking about $88 billion, and here is one of the leading scientists in the world working there at the University of Utah to achieve significant progress toward a solution? I do not understand. I never will understand it. We do talk about $88 billion, and we cannot even raise $350,000 for one of the best catalytic chemists in the world, and a whole crew of people he has brought together, when he is working without salary, at the University of Utah, donating his time. To me that does not make sense, and yet that is exactly what is happening.

I do not think any of you here on the floor would disagree with what I am saying right now. When you have somebody donating his time, who is an acknowledged expert in the field, who has brought together tremendous expertise, and who has accomplished more in this field than anybody, and yet he cannot even get some Federal funding that is commonly given in this area.

I think that is a tragedy.

Now, all I am trying to say—and I guess I should end here for today— because I will have more to say on this bill—is that I worry about the way both bills are written. I am extremely concerned about $88 billion laundered through the Federal Government that we have to pay throughout this country.

The Western States have a tremendous reserve of synthetic fuel resources. We have a tremendous amount of oil that can be drilled for in the overthrust belt in Utah and its extension in other Western States. It used to take up to 90 days to get an oil well drilling permit. Now it takes a year and a half or more.

Mr. DOMENICI. Mr. President, will the Senator yield for a question? What does "laundered" mean? How are we going to launder the taxpayer's money through

this bill? Maybe I do not understand the bill.

Mr. HATCH. When I am talking about about laundering the money, I am talking about indirect forms of taxation that quite literally come from the private sector having to support vast nonproductive bureaucracies in addition to the actual private investments required to produce energy. I do not think that the Energy Committee's bill corrects this.

That is what bothers me. There is $88 billion. Who is going to work with that money? We may have some superbusinessman who would please everybody in America. I would like to meet him if he can do that. Some day we may find such a man, but he has to have literally thousands of bureaucracy members to help administer this program. I do not think there is any way around it. Maybe I am wrong about that; I would be happy to be corrected if I am wrong.

We are talking about 88 billion bucks that have to come from somewhere. We are not going to tax the people. We are going to tax them indirectly. We are going to tax them indirectly by making them pay more for the energy that is found.

These bills concern me. I want synfuels developed. I want alternative energy sources developed. I think if we would give incentives to the private sector, we could do that, and I think probably what I am talking about more than anything else is total deregulation of the market, so that could give them the incentives to go out and find oil and gas.

The people of the Northeast, who are really energy insufficient at this time, many of the representatives of the people of the Northeast are constantly arguing for the lower prices that come about as a result of price controls. The fact of the matter is that the more we keep price controls on, the less energy we are going to have, and the higher prices are going. Some of us who have energy-rich States, albeit manufacturing-poor States, perhaps—I am not talking about Utah, because I think we are rich in both areas; we are certainly rich in energy resources that could be developed for the benefit of the East—I think we could solve most of the East's problems, but the only way we are going to get there, certainly, is to have total deregulation of the cost of energy in America. With the replacement cost of energy rising, we would, it seems to me, naturally conserve, and will find more energy and have more energy, to help resolve the problems we have been going through.

I am not sure that the Energy Committee version does that. I acknowledge the tremendous efforts of my two colleagues who have argued for that bill on this floor. I have inestimable admiration for both of them. I have seen the frustrations they have gone through over the last 3 years and before that. I would like to support them under ordinary circumstances, and I am not sure I will not support them yet; but even they have to admit there are better ways of solving these problems than this particular bill, and perhaps even than the Banking Committee version.

The question is, Is the Banking Committee version a better bill in the final analysis, and will we be farther ahead, with less cost to our consumers and more incentives to go out and find more oil and gas and alternative forms of energy to solve the problems we have in this country?

Those are the problems as I see them, I think it makes no sense that, in order to go out and buy more votes, we will have an excess profits tax which, again, will be laundered to fit the bureaucracy, to the detriment of every consumer in America, under the ostensible purpose of nailing the big oil companies, which may have faults, but, on the other hand, I am sure could be given incentives to spend those moneys in a conservative, free enterprise, private sector, efficient way, to give them incentives to go out and find more oil and gas and develop alternatives as these supplies dwindle. And solve the problems this country faces.

Mr. President, I yield the floor.

(Mr. PRYOR assumed the chair.)

Mr. EXON. Mr. President, I would like to address myself to the issue that confronts us in the United States Senate. I have been studying this issue for some time now. I do not serve on either the Banking Committee nor do I serve on the Energy Committee. But, over the last several years, I have had a great deal of experience, both as an individual American and as the Governor of a State, in trying to allocate and administer the Federal energy programs.

Frankly, the Federal Government has never come up with a program that is very workable or does too much good. I am not sure that the one, two, or three bills that we are discussing here are going to solve the problem.

But I say, once again, let us put this in perspective. The facts of the matter are that the United States of America today is at one of its most serious crossroads in this Nation's history. If we were in this room today debating whether or not we were going to spend $88 billion, maybe, in some form on a phased basis for national defense, there would not be any question about how the vote would go.

May we have order in the Senate? I am delighted to see this many Senators on the floor of the Senate, but I would like to have them hear what I am saying.

The PRESIDING OFFICER. The Senator from Nebraska is correct. The Senator has the floor. Senators should show him the courtesy of an attentive listening.

Mr. EXON. I do not particularly like the part of the Energy Department's bill that says we are going to create a new bureaucracy. I do not like that. It would seem to me that we should somehow be able to work this through the Department of Energy, which is already an overblown bureaucracy that has not done its job for the last several years. Nor am I particularly thrilled about that portion of the bill that says that we are going to take $20 billion to start with and possibly up to $88 billion before we are finished, to pump taxpayers' money into a program that some think the free enterprise system can solve. So I am not happy with those parts of the Energy Committee's recommendations.

But, after studying this and after listening to arguments on both sides of the issue by Members of this body whom I hold in the highest possible esteem. I am convinced, Mr. President, that we only have one real option, and that is to come down in support of the bill offered by the Energy Committee, because it seems to me that every other thing before us is a situation, once again, of too little and too late.

How late are we? Mr. President, in 1973, when we were strangled by the first embargo on oil, we were importing at that time about 35 percent of our petroleum-based energy needs from abroad, most of it from the OPEC countries. There was a lot of wringing of the hands at that time and there was very little action. We were talking then about an energy crisis.

But since 1973, despite well-intentioned Federal programs, despite the creation of a Department of Energy, despite the creation of what was supposed to be some incentive, despite the fact that we have finally come to the deregulation or partial deregulation of oil domestically produced—and I recognize that we have not given that enough time to work yet—but despite all of those actions during those intervening years from when it hit us between the eyes in 1973 up until now, we have increased, Mr. President, our imports of oil from 33 or 35 percent, until today 50 percent of the petroleum that we consume in the United States of America is being imported.

What do we see looking into the future? I do not think any of us know what we are looking for in the immediate future. But we have got to try to look through a window, if you will, and see where we are.

I hold no torch for the major oil companies, nor do I think that they should be made a political whipping boy time and time again and be blamed for all of the problems that we have had in the energy area. They are at fault. I am at fault, as an individual, because I use too much energy. Certainly the Congress of the United States, the House of Representatives and the Senate, have been at fault. Certainly the executive has been at fault. But I believe that we should give credit where credit is due in this instance, at least at this time. The President of the United States has come forth and is backing the first program that we have had that attempts to lick the problem.

Looking into the future, Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks an article that appeared in the Oil Daily on October 29, 1979, by Mr. David Tinker, wherein he quoted an executive of the world's largest oil company, Exxon Corp. The title of the article is "U.S. Imports To Reach 64 Perdent by 1990 Despite Quotas, Exxon Executive Predicts."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I would like to point out that the first paragraph of this article states as follows:

The United States will end up importing up to 64 percent of its crude oil needs by 1990 despite a downward trend in refined products consumption, an Exxon Company U.S.A. official predicted here.

He goes on to say that between now and 1990 we will be in a very tight balance, and if there is another Iranian thing we will have another serious shortfall.

We are strapped today.

The news today says a group of Iranian students, of all things, has taken over the U.S. Embassy in that country and we are powerless to do much about it.

I heard Senator JACKSON on the floor of the Senate this morning, when I was in the chair, talking about the fact that we are powerless. I think most of us would like to say let us call everybody out of there. Let us call them home and let Iran worry about themselves.

Do you know why we cannot do that today, Mr. President? The facts are that the oil imports we have from Iran are in such a tedious balance in meeting our daily needs where half of the gasoline I burn in my automobile and half of the gasoline burned by people of the United States across this land is imported from abroad, and yet a rather small percentage of that comes from Iran.

The facts are that that is such an important part, and it is in such a tedious balance that we are facing day in and day out that we dare not act.

What we are debating here today is whether or not we are going to do something, even if we are going to make some mistakes, in relieving the situation that this country is confronted with today and has been confronted with for a long, long time. That is the foreign powers today literally have their hands around our military and economic necks in the United States of America.

I would say to you, Mr. President, that the prediction by the president of the Exxon Corp. is likely to come to pass, if, Mr. President, the people in that part of the world are still interested or are still in a position to ship their oil to us which we so badly need.

I join with the vast majority of my colleagues in the Senate today in concern over the ever growing power of the Soviet Union militarily. I would predict, regardless of the outcome of the upcoming debate on SALT, we are going to be spending billions and billions of dollars more for national defense because that is something that most people in the United States can understand. They are rightfully fearful of the ever growing power of the Soviet Union in the area of military expansion, if not superiority in some areas, over the United States.

The point that I am trying to make, Mr. President, is that what we do on energy is, in my opinion, even more critical in the years ahead, certainly by 1990, to the interests of the United States and the entire free world, even than the increased military expenditures we are going to make. We really do have a crisis.

I do not know, Mr. President, whether we are taking the right action or not, but I would say, in closing, that, after studying these bills—there is no perfect bill—I believe it is in the best interests of the United States of America if we get on with endorsing the proposal which has been carefully thought out by the Energy Committee of the Senate. While it is not a perfect bill, if we are going to make a mistake, Mr. President, let us make it on the side of the United States of America, or if we are going to err, let us err on the side of too much investment to meet this Nation's energy needs.

EXHIBIT 1

U.S. IMPORTS TO REACH 64 PERCENT BY 1990 DESPITE QUOTAS, EXXON EXEC PREDICTS

(By Dave Tinker)

DENVER.—The United States will end up importing up to 64 percent of its crude oil needs by 1990 despite a downward trend in refined products consumption, an Exxon Co. USA official predicted here.

William R. Finger, Exxon's coordinator of energy analysis, said the Organization of Petroleum Exporting Countries has the capability to supply U.S. oil needs. However, they can "collapse that number."

"Between now and 1990, we will be in a very tight balance. If there is another Iranian thing, we'll have another serious shortfall. If not, oil supplies should be sufficient," Finger said.

ABOVE CARTER QUOTA

He admitted that the 64 percent import level would surpass President Carter's goal of 8.5 million barrels a day, and probably in the next two years.

"To go less than that (the 8.5 million), something must happen in the 1980–82 time frame. The government anticipates a higher domestic production level. If they're right, then the 8.5 is attainable.

"But it's hard to see what can hold up domestic production. The biggest impact on consumption is the economy. You can't hold down consumption and have economic growth," Finger asserted.

Finger's projections show economic growth shrinking from a 4.1 percent gross national product increase for the past 10 years to about 3 percent. At the same time, energy demand will drop from about 4.1 percent to 1.8 percent.

"The ratio of real economic growth to energy growth is changing," he noted.

The highest savings between now and 1990 will come from transportation, including automobiles, which will cut consumption by 35 percent. That compares to a savings of only five percent in 1977.

"What this will do," Finger said, "is turn gasoline from a growth fuel to a non-growth position. Gasoline in the mid-80s might shrink to six million barrels a day demand from 7.5 million in 1978. Demand in 1979 is projected at about seven million barrels."

INDUSTRY SAVINGS

Industry will account for the second highest energy savings up to 1990, cutting its use by 23 percent. Finger explained that by noting that industry is presently in a retrofitting phase which will be complete by the mid-80s.

Electrical utility consumption will grow only 3.6 percent, Finger said.

Mr. RANDOLPH. Will my able colleague from Nebraska yield?

Mr. EXON. I will be glad to yield.

Mr. RANDOLPH. I think it is heartening to hear in this Chamber these words of realism on reference to the need for the passage of the pending legislation reported from the Energy and Natural Resources Committee. It is not a pleasantry when I commend the knowledgeable Senator who comes from an area of the country that can join other areas of the country in producing the substantial supplies of oil and coal and agricultural and even forestry products that can go into a general, across-the-board, synthetic liquid fuels program.

The Senator is so right in saying that to delay, of course, simply means possibly to invite defeat. I hate to use those words but they certainly are true, because inextricably our energy strength must be assessed against our military strength. Let us keep ourselves here at home, strong, vibrant, and able, with the ability to take care of ourselves if direct physical confrontation comes again, until as Tennyson said in Locksley Hall, in that famous poem:

Till the war drum throbbed no longer,
And the battle flags were furled;
In the parliament of man, the federation of the world.

We hope his prophecy can come true. But we must be realistic in this Senate, in the Congress, and in the Administration. I think the majority of the American people are not only aware, I say to Senator EXON, of this situation, but they are alarmed. They look to all us in authority at the Federal level of political jurisdiction to act now, not later. As I said earlier today, if we wait we might not have the opportunity of making mistakes, that only effect funding levels of programs we know are tied to our national security.

I appreciate the soundness of the remarks made by our colleague.

Mr. EXON. I thank my friend from West Virginia, Mr. President, very much for those remarks. I did hear his earlier statement. I certainly wish to associate my remarks likewise with those of the senior Senator from West Virginia.

In conclusion, let me say that, while this is probably not a perfect bill and while some amendments might be accepted as a part of the Senate deliberations in this regard, it seems to me that we must be awfully careful that we do not fall back into the trap of fighting the new kid on the block, which happens to be the proposal advanced by the Energy Committee, just because it is going to launder some taxpayers' funds through the Federal bureaucracy, or because the free enterprise system is going to be interfered with once again.

I hope that we can realize and recognize that if we are dependent upon 50 percent of our oil imports today from foreign countries and if it is true that this is likely to go up in the future to something like 64 or 65 percent in 1990, then I say, Mr. President, that, without the massive investment of Federal dollars that is necessary, even if it has to be laundered through the bureaucracy and even if we have to help out, along the line with Government involvement, the free enterprise system—as we have done many times in the past, when we have been in a national crisis—let us not be persuaded with those old arguments that I think do not stand the scrutiny that we need to give as we look

to the vital energy crisis of the United States of America.

Mr. President, it seems to me that we have dillydallied too long. Once again, I say, let us move forward as best we can under what I think has been a reasonably well-thought-out program that has been advanced by our Energy Committee.

I thank the Chair and I yield the floor.

Mr. DOMENICI. Mr. President, I rise to commend the distinguished Senator from Nebraska for his analysis and his words of wisdom here this afternoon. I hope the Senators who are in the process of making up their minds with reference to this legislation will heed his words.

I only say to the Senator that if the United States ends up having a serious economic downfall or a significant military loss because of our dependence upon foreign crude oil and we, as its leaders, have left 700 billion barrels of crude oil locked up in the shale ore of America, 300 years' worth of coal that could be converted with our genius to alcohol and ultimately to gasoline, 30 billion tons of oil in the tar sands of this country—if those events occur and that is still locked up there, then I submit the arguments against this bill will pale when it comes to the question of who will bear the responsibility for the failure to act when action was needed.

I commend the Senator.

Mr. JOHNSTON. Mr. President, I join in the commendation of the distinguished Senator from Nebraska who has given what I think is one of the best formulations I have heard of the fix this country is in and what it is going to take to get out of it. I hope he will be on the floor with us to repeat that message. I think it is one that really needs to be heard.

It is better, as the Senator says, to err on the side of being sure that we have the resource developed, rather than being so concerned about other things. We have simply had enough delays.

It was 52 years ago that the Federal Government began its first experimental retort on shale oil—52 years ago. The old Department of Coal Research began 52 years ago. Since then, we have had more starts and more stops and more changes of mind and shifts in the direction of the political winds. It is time now, in 1979, 52 years later, for us to say we have had enough false starts; let us make up our minds now and create a group that has the power and the mandate to develop those resources.

Give them that mandate. Give them a sufficient amount of money in phase 1 to get it done, and do it. But do it now and let us not have another 52 years or not even another 52 weeks of delay.

Mr. President, I think I am at liberty to say that on this synfuels bills, we do not intend to have any votes today. Unless some other Senators want to be heard, I suspect that we shall call for a quorum and yield the floor. I understand the majority leader may want to bring up some other items on which there may be votes, but I think that, by the will of the majority and the minority, as well as Senator PROXMIRE, there will be no votes on this synfuels bill today.

So, if no one else has a word to say, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, the distinguished Senator from Louisiana and the distinguished Senator from New Mexico have criticized the $3 billion authorization in the Banking Committee bill. They have also criticized my statement that we intend to raise our authorization. They say our figure is not well thought out and that the figure is still too low.

I would like to briefly discuss several reasons why our bill would require a lesser authorization than the $88 billion provided in the Energy Committee bill.

It is true that $2 billion to $3 billion might be right for a 50,000-barrel-day plant for the life of a project. The Banking Committee feels that what we should do is to provide for the broadest kind of understanding in the private sector, and not just great big plants, but smaller plants, too.

We provide assistance, for example, for a single commercial module in several cases.

For instance, oil shale industry representatives have testified that one module may be sufficient to demonstrate the technological and economic viability of a given process.

So in the case of oil shale, the Banking Committee bill could mean a 10,000 barrel/day module, not a plant made up of five 10,000 barrel/day modules.

Oil from shale is nearly price competive, as the Senator from Colorado pointed out, and that is where two-thirds of the shale in this country is located. It is nearly competitive with world oil prices now.

Oil from shale is estimated to cost about $25 a barrel. Assuming the price of world oil will rise faster than the price of oil from shale, one can easily argue that Government price guarantees will result in little or no Government outlays.

Therefore, probably little of the $3 billion provided by the banking bill would eventually go to shale projects.

I might point out to the Senate that the two fundamental synthetic fuel areas are oil shale and coal.

Purchase commitment/price guarantee contracts running more than 7 years would be subject to a one-house congressional veto under the banking bill.

Therefore, most, if not all, such contracts would provide subsidies for 7 years or less.

The $2 billion to $3 billion cost figure of the Energy Committee is based on subsidies running for the life of the plant.

Since the Energy Committee appears to believe that synfuel prices will soon become competitive with world oil prices there is no reason to assume such long-standing support will be needed or justified.

That is why we argue that the $2 billion to $3 billion cost per project is, in any event, more than is probably going to be needed.

Because loan guarantees are limited to 75 percent of a project's cost we obviously get more mileage out of a loan guarantee than if it were 100 percent. For every $75 million put in, you get a $100 million project.

Furthermore, because $1 appropriated for loan guarantees would permit $3 in guarantees under the Banking Committee bill, $1 authorized under this bill would support a $4 investment. So a $1 billion coal gasification project would be supported by a $250 million appropriation under the Banking Committee bill.

If the authorization of the Banking Committee is increased, I would favor an absolute limit on loan guarantees to preserve the preference for purchase commitments.

The energy bill requires a $1 set-aside for each dollar of contingent liability. The Banking Committee has no such requirement.

Mr. President, I point out to the Senate that a great deal of criticism has been focused on the $3 billion in the Banking Committee bill and not much has been focused on the $88 billion in the Energy Committee bill.

I am informed that that $88 billion was arrived at over lunch, and it is my best understanding that it was arrived at between a prominent Washington lawyer and a member of the administration. As lunches go, I would not be surprised if the lunch had been pretty well lubricated, and as they got into the first martini, this might have been $20 billion. At the second martini, maybe it went up to $40 billion. At $88 billion, the only way you can explain it is by the quality of the martinis in this town—particularly when the vermouth is of low quality and the gin is of high quality. It is clear that these gentlemen were flying high when they moved into $88 billion.

I do not know of any program that has that big a price tag. What justification have we had for $88 billion, except that it was arrived at during lunch by a conference of congenial companions, after a typical Washington libation or two? There is no justification for $88 billion.

We are challenged on the $3 billion all over the place and I have just given a careful analysis of how that $3 billion could provide for a great deal of synthetic fuel commercial development. I also have indicated our willingness and our flexibility to provide for some increase, and perhaps a substantial increase.

Mr. President, I hope that, under those circumstances, we can get some kind of justification for going to $88 billion. As I say, the biggest single vote I can recall at any time for a new program is this one.

There are other ways the funding requirements would be greater for the Energy Committee bill. It provides for

Government funding of Government-owned plants and joint ventures, which are not permitted to be built under the Banking Committee bill. By definition, the Government-owned, contractor-operated—the so-called GOCO—and joint venture plants would be in addition to plants that otherwise would be built under either bill. That is in the Energy Committee bill; it is not in the Banking Committee bill. This adds to the expense right off the bat. The fact that these plants would be less efficient than the privately funded plants would add further expense.

Although the Energy Committee says that 8 to 10 plants would be built in the first round, the bill does not require that, and there could be more.

The Synthetic Fuels Corporation is authorized to spend $35 million annually for administrative expenses. With adjustments for inflation, this expenditure could easily exceed $1 billion over the life of the program.

Because of the requirement that the second phase begin within 3 years, the second-round duplicative plants will be under construction at the same time as the first-round plants.

Mr. President, the whole purpose of both these bills is to develop information, understanding, and confidence in the private sector, so you have a commercial operation that has been tried, a commercial operation that works, a commercial operation that can get funding, a commercial operation that has had the bugs worked out.

That is why we think it is desirable to proceed with a first phase first, to know what we are doing, before we decide whether we want to go ahead with 10 or 20 or no additional funds. None may be needed. If the first phase works out, as it possibly would, particularly in the area of oil shale, where they are very close to commercialization now, it may be unnecessary to have a second phase funded by the Government.

So, for many reasons, which are detailed in the Banking Committee report, the Energy Committee's procedure is much less efficient—with respect to a second-round duplicative plant under construction at the same time as first phase plants. It is much less efficient and much more costly than a deliberate approach such as embodied in the Banking Committee substitute.

Mr. President, these are some of the many reasons why I believe the Banking Committee substitute, which will soon be before the Senate, is more efficient and less costly than the Energy Committee substitute.

Mr. President, I suggest the absence of a qourum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROCEDURAL PROPOSAL

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to express the hope that it might be possible to proceed through the pending business, S. 932, title by title.

The need for that procedure is due to the fact that the bill contains several major titles with steep subject matter—for example, solar bank, energy conservation, synfuels—and different floor managers are required for the different titles.

I raise this possibility today, and I ask the respective cloakrooms to explore it through the hot line, and I invite Senators to respond to the Democratic Policy Committee staff no later than noon tomorrow.

So I give notice in the RECORD today, to give Senators time to respond, hoping that it might be possible to put together this kind of request. It would allow for an orderly procedure.

I invite the distinguished Senator from Wisconsin, if he will, to give his reaction to it at this time.

Mr. PROXMIRE. I say to my good friend, the Senator from West Virginia, the majority leader, that I favor this. I think it is an orderly way to proceed. If we do that, as I understand it, we will finish with one title.

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. Then we could concentrate on the other, and all Senators would know exactly what is coming up. They would be prepared to speak, if they wished to do so. They would be prepared to offer amendments. I believe this is an efficient way to proceed.

Mr. ROBERT C. BYRD. It also would accommodate the various managers and the ranking managers on the various titles, would it not?

Mr. PROXMIRE. Yes, indeed. It certainly would. It would be very convenient for Senators. I know of Senators who have a strong interest in the conservation title—for example, the Senator from New Jersey. There are others interested in the solar title, for example, the Senator from Massachusetts. And they would feel unhappy, I think, if in the middle of the debate on synfuels they had an amendment come up on their titles and could not be here to take part in the debate and take part perhaps in the vote.

Mr. ROBERT C. BYRD. Yes.

I have discussed this with Senator JOHNSTON and Senator JACKSON and they seem to think that this would be the better approach. So I leave it for Senators to consider. I thought it best to make the suggestion and see if we get some favorable responses.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimus consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 729

(Subsequently numbered amendment No. 570.)

Mr. PROXMIRE. Mr. President, I understand under the rules the first amendment to be called up is an amendment I was offering in behalf of the Banking Committee; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, I ask that that amendment be called up at the present time.

The PRESIDING OFFICER. The Senator will have to send the amendment to the desk.

Mr. PROXMIRE. It is a Banking Committee substitute to title I.

I will call it up a little later if it is not at the desk. I understood it was at the desk.

Mr. DOMENICI. Mr. President, I think it is in the bill.

Mr. PROXMIRE. I think so, to. I think it is in the bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 729.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. The Senator from New Mexico alertly pointed out it is in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language intended to be proposed by the Committee on Energy and Natural Resources to the House amendment to S. 932, line 3, page 59 through line 12, page 147, insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Energy Financing Act of 1979".

TITLE I—DEFENSE PRODUCTION ACT AMENDMENTS

DECLARATION OF POLICY

SEC. 101. The second sentence of section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended by striking out the period at the end thereof and inserting in lieu thereof "or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including petroleum, and which would adversely affect the national defense preparedness which is essential to national security, it is also necessary and appropriate to achieve greater independence in domestic energy supplies.".

SYNTHETIC FUELS DEMONSTRATION PROGRAM

SEC. 102. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091-2094) is amended by adding at the end thereof the following new section:

"SEC. 305. (a) The President, utilizing the provisions of this section, shall establish a program to determine the commercial viability of synthetic fuels technologies.

"(b) The purpose of this program is—

"(1) to stimulate development of synthetic substitutes for crude oil and conventional natural gas while minimizing Government involvement;

"(2) to determine what additional efforts on the part of the Federal Government are necessary and appropriate to assure development of synthetic fuels production capacity at an optimal pace;

"(3) to expedite design, construction, and operation of synthetic fuels commercial demonstration plants by minimizing Federal Government procedural requirements for selecting projects to receive Federal financial assistance under this section; and

"(4) to test synthetic fuels technologies to determine their potential role in meeting the Nation's energy needs in terms of—

"(A) their commercial viability;

"(B) their environmental impact, including, but not limited to, water consumption, water pollution, and air pollution;

"(C) their health and safety aspects, including, but not limited to, any carcinogenic effect;

"(D) their effect on regional and local agricultural production;

"(E) their social and economic impacts; and

"(F) their thermodynamic balances.

"(c) The President shall—

"(1) invite submission of proposals from interested persons (hereinafter referred to as 'bidders'), requesting Federal assistance in the form of purchase commitments, loan guarantees, or a combination of the two, for the design, construction, and operation of synthetic fuels commercial demonstration projects (hereinafter referred to as 'projects'). The President shall require that each proposal contain such information as necessary for the purposes of preventing selection of more than one project involving the same technology and insuring selection of projects which best serve the purposes of this section as set forth in subsection (b): *Provided*, That the President shall minimize requirements for information to be included in the proposals by directing the Office of Management and Budget to eliminate duplicative reporting forms issued by one or more agencies so that an applicant will be relieved of multiple filings of similar or identical information;

"(2) not later than one year after the invitation for proposals, select on a competitive basis to the maximum extent practicable up to twelve proposals which are deemed most likely to contribute to the purposes of this section and which each employ a different processing technology; no more than six such proposals employing the same generic feedstock; and

"(3) subject to the provisions of this section, enter into contracts with bidders providing for commitments to purchase synthetic fuels produced by the proposed projects and with public or private financing institutions for guaranteeing loans for design, construction, and operation of the proposed projects.

"(d) Such contracts shall be subject to the following conditions:

"(1) the proposed project must be located in the United States, including the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States, but no project may be owned or operated by the United States or any department or agency thereof;

"(2) no contract shall require or permit advance payments;

"(3) loan guarantees may be employed only if the President determines that the purposes set forth in subsection (b) could not be achieved through purchase commitment contracts alone;

"(4) all contracts must be entered into before October 1, 1981;

"(5) no contract may commit the Federal Government to purchases beyond the seventh year of synthetic fuels production from a project, unless both Houses of Congress have been notified in writing of such proposed contract and thirty days of continuous session of Congress have expired following the date on which such notice was transmitted to the Congress and neither House of Congress has adopted, within such thirty-day period, a resolution, described in subsection (k), disapproving such proposed contract;

"(6) any purchase commitment contract shall provide that the President retains the right to refuse delivery of the synthetic fuels involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuels as specified in the contract involved exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuels on the delivery date specified in such contract;

"(7) with respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award contracts for commitment to purchase more than fifty thousand barrels per day equivalent of synthetic fuels, or make loan guarantees for design, construction, and operation of a plant designed to produce over fifty thousand barrels per day equivalent of synthetic fuels;

"(8) any purchase commitment contract shall commit the Government to purchase fixed amounts of fuels at fixed prices adjusted by a formula that may take into account inflation, world oil prices or such other prices as the Secretary deems relevant, except that project costs may not be considered as a factor;

"(9) Federal loan guarantees shall not exceed 75 per centum of a project's estimated costs at the making of the contract;

"(10) the President shall establish such terms and conditions for loan guarantees under this section as necessary to implement the purposes of this section and insure the prompt repayment of loans;

"(11) the President may not enter into any contract providing a Federal loan guarantee of an amount in excess of $500,000,000 unless both Houses of Congress have been notified in writing of such proposed contract and thirty days of continuous session of Congress have expired following the date on which such notice was transmitted to the Congress and both Houses of Congress have not adopted, within such thirty-day period, resolutions, described in subsection (k), disapproving such proposed contract;

"(12) guarantees may be made only to the extent appropriated funds are available. For the purposes of this section, $3 of guarantee authority shall be available for every $1 appropriated for this purpose. Appropriated funds shall remain available until termination of all guarantees; and

"(13) the amount of purchase commitments shall not exceed $3,000,000,000, subject to approval in an appropriation Act.

For the purpose of clause (13) only the excess of the price per unit in commitments issued over the market price shall be charged to any appropriation.

"(e) The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined any products procured under this section.

"(f) Each Federal officer and agency having authority to issue any permit for, or to otherwise approve or authorise, the construction or operation of a project selected under this section or for construction or operation of any facility for production or distribution of energy or for exploration or development of Federal land in connection with energy production shall—

"(1) in accordance with Executive Order 1219, expedite all actions necessary for the issuance of such permit, approval, or authorization, and

"(2) take final action thereon not later than twelve months after the date application for such permit, approval, or authorization is made. After taking any such action, such officer or agency shall publish notification thereof in the Federal Register.

"(g) Notwithstanding any other provision of law, liquid fuels acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this section, shall be transferred to the Strategic Petroleum Reserve, when the President deems such action to be in the public interest.

"(h) The President shall submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth a comprehensive plan to implement the program described in this section. In preparing such a comprehensive plan, the President shall consult with the heads of the Department of Energy, the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Agriculture, and the Department of the Treasury. The plan shall include, but not be limited to—

"(1) regulations required to carry out the purposes of this section;

"(2) a list of Federal agencies, governmental entities, and other persons who will be consulted or used to implement the program by this section;

"(3) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect; and

"(4) the methods and procedures to insure that the projects will be no larger than necessary to demonstrate the commercial viability of the technologies.

"(i) The President shall submit annually a detailed report to the Congress concerning the actions taken or not taken by the President under this section during the preceding fiscal year including, but not limited to—

"(1) a discussion of the status of each project financed under this section including progress made in the development of such projects, and the expected or actual production from each project, including byproduct production therefrom, and the distributions of such products and byproducts;

"(2) a detailed statement of the costs of the program established by this section;

"(3) data concerning the environmental, social, and economic impacts of each such project;

"(4) the administrative and other costs incurred by the Federal agencies in carrying out this program;

"(5) recommendations as to the appropriate level of further Government involvement in commercialisation of synthetic fuels technologies; and

"(6) such other data as may be helpful in keeping the Congress and the public fully and currently informed about the program authorized by this section.

"(j) The reports required by subsection (i) of this section shall be a part of the annual reports required by section 657 of the Department of Energy Organization Act, except that the matters required to be reported by this section shall be clearly set out and identified in such annual reports.

"(k)(1) The resolution disapproving proposed contracts under this section shall read as follows after the resolving clause: 'That the does not favor the taking effect of the contract terms transmitted to Congress by the President on .', the first blank space therein being filled with the name of the resolving House and the second blank space therein being filled with the day and year.

"(2) Upon introduction, the resolution shall be referred immediately to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House.

"(3)(A) If the committee to which a resolution of disapproval has been referred has not reported it at the end of seven calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution of disapproval which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not

be made after the committee has reported a resolution of disapproval), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution of disapproval.

"(4)(A) When the committee has reported, or has been discharged from further consideration of, a resolution of disapproval, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution of disapproval shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(5)(A) Motions to postpone, made with respect to the discharge from committee or the consideration of a resolution of disapproval, and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any resolution of disapproval shall be decided without debate.

"(1) Nothing in this section may be construed to authorize any program of fuel allocation or rationing.".

PRODUCTION OF HEAVY OILS AND TAR SANDS

SEC. 103. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091–2094) is amended by adding at the end thereof the following new section:

"SEC. 306. (a) In order to expand production of petroleum products from heavy oils and tar sands, the President is authorized to enter into contracts with persons proposing to extract such heavy oils and tar sands from the ground. Such contracts shall provide to such persons Federal Government guarantees of a market price for such heavy oils and tar sands determined as follows:

"(1) the amount of the guaranteed market price shall be initially set at and never be lower than 90 per centum of the world oil price for petroleum of comparable grade on the date of enactment of this Act, as determined by the President;

"(2) the amount of the guaranteed market price shall be increased annually to equal the lesser of—

"(A) 90 per centum of the new world price of oil, as determined by the President, or

"(B) 90 per centum of the world price of oil on the date of enactment of this Act, as determined in subparagraph (1) above, adjusted annually for inflation using the gross national product deflator.

"(b) For the purposes of this section, the terms 'heavy oils' and 'tar sands' include fuels if the hydrocarbon content thereof has a gravity of twenty degrees or less (API). For purposes of applying the preceding sentence, the President may substitute a higher gravity rating (API) than twenty degrees in any case in which he determines that the application of the higher gravity rating would further the purposes of this section.

"(c)(1) Price guarantees shall not be available under this section for heavy oils or tar sands produced outside of the United States, including the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(2) No person, including any person substantially controlled by such person as determined by the President, shall be eligible to receive a guarantee of a market price under this section with respect to more than fifty thousand barrels per day oil equivalent.

"(3) No guarantee issued under this section shall extend beyond 2000.".

GENERAL PROVISIONS

SEC. 104. (a) Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended by adding at the end thereof the following:

"(g) The words 'synthetic fuels' mean any product derived from coal (including anthracite, lignite, and peat) or oil shale which is suitable for substitution for petroleum or natural gas.".

(b) Section 711(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)) is amended—

(1) by striking out "There" and inserting in lieu thereof "Except for the purposes of section 305, there"; and

(2) by inserting after the first sentence the following new sentence: "For the purposes of section 305, there are hereby authorized to be appropriated without fiscal year limitation not to exceed $3,000,000,000.".

(c) The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1981".

Mr. PROXMIRE. Mr. President, I urge support for the Banking Committee's synthetic fuels program. The amendment I have offered would substitute the synfuels title reported by the Banking Committee for the synfuels title reported by the Energy Committee.

As you know, Mr. President, the Banking Committee and the Energy Committee share joint jurisdiction over the bill before us today. To simplify floor consideration of the two quite different committee versions, Majority Leader BYRD, Chairman JACKSON, and I have agreed to a procedure by which the Senate will choose between the two synthetic fuels proposals before either is amended further.

This history of the bill before us is unique. S. 932 was originally reported by the Senate Banking Committee and passed by the Senate as a simple extension of the Defense Production Act. However, the House broadened the purpose of this bill by adding an amendment to the Defense Production Act creating a synthetic fuels program. Rather than proceed to conference on this new proposal which had not received previous Senate consideration, the House-passed bill was referred jointly to Banking and Energy.

I want to emphasize right at the start that the two different committee proposals do not represent a squabble over jurisdiction. We have had no trouble at all between Senator JACKSON and myself and other members of the committee, on jurisdiction. Both committees have clear jurisdictional interests in this matter. The Banking Committee's involvement results from its jurisdiction over financial aid to commerce and industry, financial institutions, credit policy, capital markets, and the Defense Production Act of 1950. The Energy Committee is involved, of course, because the provisions of the House-passed bill have important energy policy implications.

It is important that the Senate recognize that there are a number of important issues which are addressed by the legislation before us. Certainly, energy supplies are an important concern. And synthetic fuels may offer a partial solution to our future energy needs. But, the size and pace of the synfuels program, and the proper mix of technologies, cannot be considered in an energy vacuum. We must also consider the impact of such a program on the economy—on inflation, on capital markets, and on government intervention in the marketplace.

It would be a shame if we ignored these considerations because we believe energy resources must be exploited at any cost.

I believe both the Banking and Energy Committees recognize the importance of developing new energy resources. This is certainly not the issue today. I would like to take a few minutes to discuss what this debate and what the upcoming vote are about.

First of all, and this may be the most important statement I make, the vote to decide whether we will work with the Banking Committee substitute or the Energy Committee substitute, is not a vote for or against synthetic fuels. The Banking Committee bill is most definitely not an antisynfuels bill. Our bill is prosynfuels. It is a very ambitious bill. It is, for instance, much more ambitious than any synfuels bill previously passed by the Senate. It would provide for construction of up to 12 commercial size synfuels plants using coal or shale as a feedstock. It would provide us, and more importantly, potential synfuels producers, with the information on costs and technological readiness that they need to proceed with further development.

As I say, that is the most important part of the synfuels situation, no matter whose amendment is adopted. We must obtain the information, the understanding, the knowhow, the confidence provided to the private sector so they can move ahead.

So, if we are not faced with a choice between a prosynfuels bill and an antisynfuels bill, what is the choice we will be making shortly? When we decide whether we are going to work with the Energy Committee's synfuel bill or the Banking Committee's synfuel bill, what will we be deciding?

First of all, we will be deciding the general approach we want to take to synfuels development. It is highly unlikely that either bill will be approved in its current form. Whichever bill is approved, many amendments will be offered, some of which will undoubtedly be accepted. Specific details are going to be changed. For instance, the $3 billion authorization contained in the Banking Committee substitute will undoubtedly be adjusted. We are also studying language dealing with the question of completion guarantees, which were suggested

by the Committee for Economic Development and other witnesses. Technical, clarifying, and perfecting amendments will be offered. We may want to clarify the description of the types of plants to be built, to make certain that people understand we are talking about commercial size plants and modules. Some people appear to believe that our bill describes an R. & D. program. That was clearly not the committee's intent, and we want to correct any possible misinterpretation.

We believe that R. & D., pilot and demonstration plants are properly handled as they are now, in the DOE authorization process. Such projects do not require the same types of treatment as do the commercial plants that would be supported under provisions of S. 932.

(Mr. HEFLIN assumed the chair.)

Mr. ARMSTRONG. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. Yes, I am delighted to yield to my friend from Colorado.

Mr. ARMSTRONG. Let me make sure I understand the point that the Senator is making. If I understand you, you are saying that the Banking Committee's intention was to provide for limited Federal subsidies for as many as 12 commercial size plants or commercial size modules using coal or shale as a feedstock. Is that correct?

Mr. PROXMIRE. That's entirely correct. It was the committee's intent that these be plants which can show the true commercial, technological, and environmental characteristics of these conversion processes. This purpose would not be achieved with construction of pilot or demonstration plants.

Mr. ARMSTRONG. So, it is the committee's intent that this program would provide for testing a diversity of technologies in one-of-a-kind plants, using purchase commitments, price guarantees, and loan guarantees as appropriate. Is that correct?

Mr. PROXMIRE. Yes, it is. We would provide for construction of up to six coal plants and up to six shale plants, provided that a sufficient number of technologies or processes were ready for commercial plant construction.

Mr. ARMSTRONG. How would projects be selected for Federal support?

Mr. PROXMIRE. Well, the President or his designee would evaluate the proposal, the readiness of the process in question for commercialization, the relative merits of other proposals using the same process, and the range and amount of Federal support requested. A preference is expressed for purchase commitments and price supports over loan guarantees. All other things being equal, a proposal requesting loan guarantees only would be preferred to a proposal utilizing the same process requesting both purchase commitments and loan guarantees.

Mr. ARMSTRONG. It is intended that the one-of-a-kind limitation be strictly applied?

Mr. PROXMIRE. No. not at all. Our intention is to avoid having exactly the same thing demonstrated more than once. As we say in the committee report, we anticipate that projects using different proprietary processes, though having similar descriptions, would be considered separate processes for purposes of this limitation. This provision was aimed only at one thing—to avoid duplicative construction of identical plants. The committee believed this was necessary to avoid the temptation of getting into a crash program.

Mr. ARMSTRONG. What about the case where a coal gasification project requests loan guarantees only and a different type of plant, such as a coal liquefaction plant, requests purchase commitments only? Would the liquefaction plant receive preference?

Mr. PROXMIRE. No, they would not be competing against each other. Because of the requirement for one-of-a-kind plants, projects would only be competing against like projects. Since most gasification projects would require only loan guarantees, the preference expressed for purchase commitments would not be relevant. Clearly, a gasification plant requesting both types of subsidy would be less preferable than one requesting loan guarantees only.

Mr. ARMSTRONG. Is it the committee's intent that the preference expressed for purchase commitments would not preclude Federal support for gasification plants, which would probably need loan guarantees but not purchase or price guarantees?

Mr. PROXMIRE. It is clearly the committee's intent that regulated gas companies not be prevented from participating in gasification projects. I think everyone recognizes that the synthetic fuels project nearest to being ready for commercial construction is a coal gasification project sponsored by a consortium of regulated companies. The sponsors of this project have invested a significant amount of their own funds in design and arranging for permits. The project would be one of few synfuels processes which could make a contribution to our energy needs over the relatively near term. We believe that it and other gasification projects should be given a fair chance to receive the needed assistance from the Government.

Mr. ARMSTRONG. At the appropriate time, would the Senator object to an amendment, if were necessary, to clarify the committee's intention that the preference for purchase commitments should not preclude support of gasification projects requiring loan guarantees?

Mr. PROXMIRE. Certainly not, if it were a matter of potential confusion about our intent. We clearly intended that the preference for purchase commitments over loan guarantees would apply in those cases where a potential producer might plausibly request either or both. The committee intended that its bill support a diversity of technologies, including shale conversion, coal liquefaction, and coal gasification, and I would hope that the bill approved by the Senate reflects that understanding.

Mr. ARMSTRONG. I thank the Senator for this opportunity to clarify matters.

Mr. PROXMIRE. This very useful colloquy illustrates the point I was just making. When the Senate takes its choice between the two bills, it will be choosing the general approach it wants to follow toward synfuel development, not the specific details.

So, we should consider the major philosophical differences between the two bills. What are the general characteristics that the Senate will have to choose between when it makes its choice?

The most important differences between the two bills are the different role provided for the Federal Government and the initial commitment made to an all-out program.

The Banking Committee's bill establishes a limited role for the Federal Government. The Government is authorized to provide limited financial guarantees and to evaluate the progress made in achieving the results of the program and the need for further Federal incentives. That the limit of the Federal role.

The Energy Committee would have the Government involved in synfuels right up to its eyeballs. Let us consider a few of the provisions in the Energy Committee substitute.

First, it creates a large, unaccountable, and uncontrollable Synthetic Fuels Corporation with the single purpose of promoting and developing synfuels. The Corporation itself is given an annual budget of up to $35 million—plus inflationary increases—for administrative expenses. That means it could hire somewhere between 500 and 1,000 people. Why will it need so many employees? Certainly not just to act like a bank, as the Energy Committee says it will. It will need those people because it will act like a new Government agency, with lawyers, budget officers, interagency coordinating committees, and all the other trappings of the bureaucracy.

The Corporation is made totally unaccountable. It is given initial authority to spend $20 billion, and is almost automatically given an additional $88 billion whenever it spends that first $20 billion.

The Banking Committee unanimously rejected the proposal to create a new Federal corporation. Instead, the committee's bill assigns to the President limited authority to select recipients of financial assistance and evaluate progress in achieving the goal of synthetic fuels development. Under existing provisions of the Defense Production Act, the President may delegate this authority to any existing or new Federal agency, but he is specifically prohibited from creating a new corporate entity.

There were many reasons why the committee rejected the proposal to create a new Federal corporation to manage the synthetic fuels program. Some of the committee's more important objections are discussed below.

First. Creating a Federal corporation for the sole purpose of managing a synthetic fuels program is inconsistent with the committee's intent to minimize Federal interference with and involvement in synthetic fuels development efforts;

Second. Creating the Corporation is inconsistent with the phased-development approach approved by the committee;

Third. Initial and irreversible authorization of $88 billion for Federal financial assistance is excessive and further promotes a high degree of Federal interference in the program; and

Fourth. The time needed to create a new Federal corporation would be likely to delay initiation of the first phase of commercial testing.

The level of irreversible financial commitment to the Corporation and the range of subsidies it could offer would dictate that it play a substantial role in managerial decisions better left to the private firms developing synthetic fuels projects. The Corporation would have the authority to provide direct financing to private ventures and to construct Government-owned plants using processes not considered by industry to be ready for commercialization.

Additionally, under certain circumstances, the Corporation would be empowered to take over the ownership and operation of insolvent or failing projects. These factors guarantee substantial diseconomies in the synthetic fuels program and eliminate the possibility of a true test of the commercial and technological promise of synfuels processes. In rejecting this approach, the Banking Committee approved a plan which places the predominant technological and cost risk on the private developers, thus promoting development only of those processes considered by industry to have true commercial promise.

Prof. Robert S. Pindyck of MIT argued that open-ended Federal commitments could lead to excessive Federal support of unpromising technologies:

> Private industry is much better able than any government bureaucracy to stop the development of a particular project if it later turns out that it is not as promising as it once appeared. By letting the government commit us to one or more particular technologies, we create a set of political forces which make the termination of an undesirable project difficult, and which make increased subsidies to make the project "successful" very likely.

The committee also rejects arguments by the supporters of the Synthetic Fuels Corporation who state that the Corporation will necessarily speed the development of synthetic fuels. Creation of the Corporation could actually hinder synthetic fuels development. To the extent that the Corporation would create momentum for construction of duplicative pioneer plants, all of the cost and technological penalties associated with a crash program would come into play. The Corporation is also intended to expedite achievement of a production goal which could not be achieved under any circumstances.

In addition, the time taken to organize the new Corporation would unnecessarily delay the inception of the commercial testing and demonstration program. Roderick Hills, testifying for the Committee for Economic Development, spoke to this point:

> If you have an agency that doesn't work, it has always seemed to me you would do a better job of trying to make that agency work than creating another agency . . . In our judgment the needed results can be accomplished by expanding Presidential authority, and then the President can put that organization wherever he may wish.

I might say that, for this initial stage, hiring one or two bankers and having them operate at the Department of Energy, or the Department of Treasury, or under an executive order, makes a lot more sense to me than spending the next two years trying to create a new agency just after we've spent a couple of years trying to make the Department of Energy work. It takes time to organize a new agency. It takes time to run an old agency. It takes time for a perfectly good agency to have somebody come in and try to take control over it. We can't afford that kind of time if we're going to have the information that Dr. Rivlin and we suggest is needed to make decisions about synthetic fuel.

In the Energy Committee bill, the Corporation is given the authority to require whatever financial records it desires from the contractors. We do not have any way of knowing what the Administrator of the Corporation would require. He might not ask for any records of any sort, and just spend the Corporation's funds blindly. Or, he might place such an onerous reporting and disclosure burden on the projects that they would be diverted from project development by the need to comply with voluminous reporting requirements. We do not know what it would involve. We just tell the Corporation that anything it wants is fine with us.

The Synfuels Corporation would be required to push synfuels development at a rate faster than the optimum pace of development. The Energy Committee bill requires the Corporation to submit its comprehensive plan for the second phase within 3 years. It can submit the plan as soon as it wants to, but it must do so within 3 years. Then, if the plan is not rejected by either House within 60 days, the $68 billion is automatically authorized.

(Mr. ROBERT C. BYRD assumed the chair).

Mr. PROXMIRE. Of course, the chances that either House would reject this plan are minimal. The chances that it would even be put to a vote are slight.

If there was determined opposition, it would be very hard for those who oppose the legislation to secure action on it. As I said earlier today, the Parliamentarian has indicated to me that he knows of no way that a Senator could get this out of the Energy Committee and there is no anti-filibuster language in here. So how we could make this veto provision effective is not very clear. It is clear to me, however, that it provides $88 billion, and that is the ball game.

Obviously, the distinguished Senator from Washington and the distinguished Senator from Louisiana are very enthusiastic about the Energy Committee's substitute and about the Synthetic Fuels Corporation. It is likely that one of these Senators—or perhaps the distinguished Senator from New Mexico, an equally devoted supporter of the Corporation—would be chairman of the Energy Committee at the time the plan is submitted, and I suspect they would not want to refer the comprehensive plan to the Senate floor for debate. It would be likely to die in committee. Even if the Senate happened to reject the plan, we would get into a war of attrition, because the Corporation is ordered by the Energy Committee substitute to revise its plan and present it, again and again if necessary, within 90 days after it is rejected.

Mr. ARMSTRONG. Will the Senator yield for a question?

Mr. PROXMIRE. I would be delighted to yield.

Mr. ARMSTRONG. Is the Senator saying that the substitute offered by the Energy Committee would require no congressional approval to authorize the additional $68 billion?

Mr. PROXMIRE. That is correct. No congressional approval would be required. The $68 billion is automatically authorized 60 days after the report is submitted unless the report is rejected by one House of Congress.

Mr. ARMSTRONG. Is there any provision in the Energy Committee substitute which would require the committee having jurisdiction to refer a resolution of disapproval to the floor for debate?

(Mr. BURDICK assumed the chair.)

Mr. PROXMIRE. I have found no such provision. And, as I said, the Corporation is ordered by the Energy Committee substitute to keep coming back at the Congress with revised plans, time after time, within 90 days after any rejection. And, once Congress approves a plan, the Corporation can modify it any way it wishes without any Congressional review. So, its a war of attrition which the Corporation would win sooner or later. It is inconceivable that the second stage would not eventually be approved.

Mr. ARMSTRONG. I thank the Senator for yielding.

Mr. PROXMIRE. So, nobody should deceive themselves that the Energy Committee bill has a $20 billion pricetag. It will cost $88 billion, just like the original administration proposal. There is no chance that the comprehensive plan would be rejected.

And, what will be the status of the projects at the time the plan is presented for congressional review?

Let me just take a minute before I get into that, Mr. President, by pointing out that once we set up this corporation, once we have authorized them to obligate and to incur commitments of $88 billion, appropriation is automatic. I have served on the Appropriations Committee now for about 18 years and in those 18 years I have never seen a commitment made by a legally constituted entity of the Congress or the Government which has not been honored. I would vote for honoring it even though I vigorously oppose. A Senator would have to vote to honor. What are you going to do, Mr. President, with a business that has gone out and spent its money and made commitments with the understanding or the assurance of Federal officials that they are going to come through with a billion or a billion-and-a-half dollars? Of course we are going to honor it. Once we have approved this bill, as I say, there goes $88 billion.

Anybody who wonders why this Government of ours has exploded the way it has, why it has gotten so big, so intrusive so dominant in our society and economy can see this bill as a superb example.

At the time we get this plan will we have any more information about these technologies than we do now? Will we be in a position to evaluate the cost and technological promise of these technologies on the basis of any operating experience?

The answer is no we will not. Because of the complexity of these processes, it is going to take a great deal of time for the project sponsors to prepare their proposals. Then, it is going to take more time for the Government to negotiate with the sponsors of the proposals. There is a good chance that, within the 3-year deadline set for delivery of the comprehensive plan, some of the projects will not have even broken ground for their plants. Certainly none will be operating.

Since this is the case, why are we in such a hurry to push on to phase 2? For that matter, if we insist on releasing the second $68 billion in funding before we know anything about the technologies that we do not know today, why wait as long as 3 years to do so?

Of course, the answer is clear. The Energy Committee bill, despite protestations to the contrary, does not provide a phased approach to synfuels development. It is, in essence, the original administration crash program with a few changed numbers. There is an illusion of phased development, but not the reality.

Phasing is a key element of the Banking Committee bill and I would like to discuss why we rejected the crash program and provide for phasing.

The committee concludes that many of the limitations on synfuels development are beyond the control of the Federal Government. Enactment of a law which declares that synfuels technologies are ready for commercialization will not alter that many synfuels technologies are in a relatively primitive and untested state of development. Nor can Congress change the cost penalties associated with a crash program, the water limitations in the prime resource areas, and the significant environmental and socioeconomic deterioration which would accompany an effort to increase greatly synfuels production capacity over the short term.

One major problem relates to the scaling up to commercial size of processes which have been applied only on a small scale. This issue was highlighted at the committee's hearings by Max Eliason, chairman of the Rocky Mountain Oil and Gas Association's Committee on Oil Shale:

> The risk of loss is particularly hard to assess in the case of pioneer plants using sophisticated technology not previously demonstrated at the commercial level. While individual developers may be able to project favorable production costs and project economics, these projections are subject to scale-up risks, possible delays and design changes, potential cost overruns, and other uncertainties which are common with first-of-a-kind plants.

Another problem involves the ability of commercial plants to sustain production at rated capacity. Even at the pilot or demonstration stage, most plants have operated for only brief periods. The question remains whether large synfuels projects will be able to operate on a regular basis without prolonged periods of "downtime" for maintenance. The ability to sustain production at rated capacity will have a significant effect on the cost of the program, its economic viability, and its long-term potential for replacing imported oil.

Successful operation of 30 to 50 full-size plants would be necessary in order to attain the ambitious goals set by the Moorhead bill and the administration proposals. However, immediately successful operation of this many first-generation facilities is highly unlikely. In a report for the Senate Budget Committee, Pace Consultants and Engineers addressed this point:

> The probability is high for pioneer plants that they will not work as planned for some time, or until additional investments are made to correct the problems.

Perhaps the most significant delays and cost increases would result from bottlenecks in supply of critical components for synfuels plants. Pace engineers concluded that:

> The first few plants committed would contract for most of the available U.S. manufacturing capacity for key items such as valves, pumps, compressors and high pressure vessels. As additional plants reach the procurement stage, equipment suppliers will quote longer and longer delivery times. Longer delivery times also require higher price contingencies to cover unknown increases in supplier costs. Longer delivery times are death to large capital projects, because time is money. We estimate that almost half the total per barrel cost of synthetic fuels is simply the carrying cost of the capital investment. Project owners will therefore be willing to bid up the prices for crucial equipment in order to save time. A single week's delay may increase costs by millions of dollars.
>
> Because of the potential for hyperinflation, we believe that costs could increase dramatically in a crash program. Building 20 plants could cost considerably more than twice as much as building ten plants. Any savings in design costs by building duplicate plants would be wiped out by the cost increases. Plant construction costs during an all-out crash program are likely to increase by 50 percent or more.

The Rand study, prepared for DOE, agreed with this conclusion:

> Bottlenecks in the supply of components and engineering services for plant construction . . . would lead to sharply increased costs or major delays, or both, for plants under construction.

Another serious concern is the effect that these projects could have on local areas.

Because of the relatively sparse population and undeveloped nature of the oil shale areas of Colorado and Utah, there would also be many other potentially serious localized effects of synfuels development. Governor Lamm expressed particular concern about the added cost of synfuels plants that would be borne by State and local governments. He noted that "a single 50,000 barrel per day surface retorting plant and associated underground mine would be one of the largest mining operations in the United States and would, itself, be the largest industrial complex in the State of Colorado." He noted further that the President's original synfuels program called for construction of eight such facilities by 1990.

Because of a quirk of geological fate, virtually all of the high-quality shale in this country is located in a relatively small area of northwestern Colorado and eastern Utah. This area is among the least developed and most sparsely populated regions of the continental United States. Governor Lamm pointed out that the oil shale-bearing area of Colorado has a present population of only 14,500 people. He estimated that construction of a 400,000 barrel per day capacity shale industry would add 70,000 to 75,000 people to the population of this area. He estimated that State and local spending requirements would include $100 million for new roads and at least $400 million "in community services alone, exclusive of housing." Included among the problems anticipated by too-rapid expansion of the shale industry were:

> Lack of front-end money to meet community needs before the tax base is in place; rapidly increasing demand for community services; immediate housing shortage as workers arrive to build the plants or mines; and increases in social problems associated with unplanned growth.

Governor Lamm argued that the State of Colorado was willing to accept oil shale development, but that stimultaneous development of numerous full-size commercial facilities would place an unacceptable burden on the financial resources of the State and local governments.

One additional local and regional socioeconomic impact aroused some concern—the "boom town" phenomenon, and its related effects on local budgets, quality of life, and worker productivity.

The Department of Energy addressed this problem in a written response for the record:

> As with other resource related growth, new synthetic fuels liquids plants would create local and regional impacts. The magnitude of these impacts depends upon the technology itself as well as the size, location, and other preexisting conditions of the host community. Because of the uncertainties involved, it is extremely difficult to estimate the specific costs of community expansion from any type of energy facility.

The Department of Energy concluded that the local impacts of a new energy facility would be "dependent upon the number of immigrants for whom public facilities, services and housing have to be provided." As stated earlier, the total population of the oil-shale resource areas of western Colorado is approximately 14,000, and the State of Colorado has estimated that oil shale development could add 70,000 to 75,000 people to this population base.

DOE recognized the potential impact in sparsely populated areas of the Western United States. Its statement said:

> A potentially high impact community, typically located in rural isolated areas in the Western United States is unlikely to have the indigenous labor pool necessary to fill the required jobs. The community would experience rapid and substantial immigra-

tion with characteristic boom-town effects, including social disruptions, shortfalls of public facilities, services, housing and inflation.

Governor Lamm of Colorado argued that the explosive population growth associated with synfuels plant development would affect more than the local and State budgets and the quality of life in local communities. He stated that:

The issue of explosive, unplanned growth not only affects the people living in the community, but the productivity of the community itself. Chaotic community conditions will thwart an expeditious synthetic fuels program simply because companies will not be able to attract or keep quality workers. Eventually, communities will not look favorably on participating in synthetic fuels development.

Enough studies have been done to demonstrate that this productivity decline occurs during the construction as well as the operating phase, a situation that can also contribute to the large cost overruns mentioned earlier. We therefore believe that the costs of the development could escalate dramatically if the essential community planning and services are not in place. For example, in the construction of the Jim Bridger Power Generating Facility in Rock Springs, Wyoming, the company suffered greatly from productivity problems due to social disruption. Some observers have estimated that the impact of this productivity decline nearly doubled the originally estimated cost of the plant.

A national synthetic fuels program cannot treat such compelling social issues as an afterthought. We must incorporate successful community and housing programs, pacing the development accordingly, if we are to make this national effort work.

Because of these limitations the committee rejects proposals calling for an all-out commercialization effort. The committee believes that a crash program would be less efficient and more costly than a more deliberate program, such as that embodied in the committee proposal, of testing a number of technologies in minimum-size comercial plants. More importantly, though, the Banking Committee's approach is likely to maximize the long-term potential for the synthetic fuels industry. A crash program would be guaranteed to fail, because it would attempt to do too much too soon. Even if the stated goals were only partially attempted the Government could be left with costly and inefficient "white elephants" that would be less efficient, more environmentally offensive, and more expensive to operate than future plants. Additionally, if the program failed to accomplish its goals, either because of delays or because the plants failed to meet operating expectations, public faith in the synthetic fuels program and in Government energy policy, as a whole, would be seriously shaken.

Roderick Hills, representing the Committee for Economic Development, stated at the committee's July hearings, shortly after the House approved the Moorhead bill and the administration announced its crash program:

. We have been with this idea, Mr. Chairman, for almost two years, and frankly in the last few weeks we have a feeling we're about to be loved to death by an approach that will literally kill what we have set out to propose to this Congress . . . It may be more dangerous to do too much in the area of synthetic fuel financing than to do too little.

Similarly, Mel Horwitch, of the Harvard Business School energy project testified that:

The historical track record in synthetic fuels—of grandiose schemes and attractive technological and economic promises, followed by disappointment and dramatically rising cost estimates—should give us pause at this time when we are presented with the most ambitious proposals for synthetic fuels ever encountered in the United States.

Dr. Horwitch spoke of the disaffection that would follow the predictable failure of a crash synfuels program:

All large-scale, public-private technological endeavors can experience dramatic lifecycles which often end in failure . . . A massive synthetic fuels program would be visible and under public scrutiny; it is too controversial a subject to be otherwise. It will be battled on every front by a host of parties that disagree with this strategy. It will therefore be very difficult for the managers of such a program to keep it on track and shielded from criticism, much of which would probably be justified. There is the strong likelihood that a massive synthetic fuels program would follow the same pathological pattern as the SST or nuclear power. It is this kind of failing life cycle which we need to avoid in order to maintain synthetic fuels as a possible long-term option.

(Mr. METZENBAUM assumed the chair.)

Mr. PROXMIRE. Nearly every witness who testified before the Banking Committee recommended that synthetic fuels legislation should incorporate several principles. The two most frequently mentioned principles were:

That initial synthetic fuels efforts should be confined to a limited number of one-of-a-kind plants and should be followed, if feasible, by wider commercialization; and

That Government interference with the operations of the synthetic fuels program should be minimized.

I might note that, in the 3 full days of hearings we held, we heard from witnesses representing synfuels producers, environmental groups, the administration, business groups, the Harvard Business School energy team, and other academic groups. Except for the administration witnesses, no witness who testified before the Banking Committee thought that the Energy Security Corporation was either feasible or desirable.

Instead, most of the witnesses argued that the technological, environmental, cost, and capacity problems which I just mentioned are reasons why near-term development efforts should concentrate on constructing and demonstrating a limited number of different synfuels technologies on a limited commercial scale.

By avoiding duplication of first-generation plants, this strategy would minimize the initial expense to the Government. In addition, by minimizing the potential investment in nonproductive technologies, this approach would minimize the risk of failure.

The team of witnesses from the Harvard Business School recommended a near-term approach to test synthetic fuels technologies with little if any emphasis on production of oil. The Honorable Alice Rivlin, Director of the Congressional Budget Office, also supported this approach:

A certain production threshold is necessary to develop the critical technical, environmental, and economic information needed to choose the most efficient technologies and resources that should be developed over the long run. Although this threshold is difficult to estimate, it most probably falls between 200,000 and 400,000 barrels of oil equivalent per day. This represents four to eight commercial-size plants of alternative technologies and resources. A strong case can be made to set a program at this level on the grounds that the United States will eventually have to change to alternative fuels and that such a base of knowledge will help in choosing those resources and technologies that will allow an efficient transition.

The Honorable John H. Gibbons, Director of the Office of Technology Assessment, agreed with this recommendation:

I am sympathetic with Dr. Rivlin's position on this matter. It seems to me it is perhaps time, given the fundamental national security issues we face in the next decade, to move ahead toward some full-scale pioneer plants, but being careful to make this an information gathering, an experience gathering time, very much in parallel with what major industries do with major new plants, rather than precommitting to very, very large investments on production.

Roderick Hills, representing the Committee for Economic Development, made a similar recommendation:

Our observation is that it is useful to create approximately 10 plants. Dr. Rivlin suggested 8 plants producing about 400,000 barrels of oil (per day); we suggest 10 plants producing about 500,000 barrels of oil (per day). There is no essential difference between the positions.

It is the informed guess of this group of people that an intelligent, competitively directed, guaranteed price program will produce about 10 commercial scale synthetic fuel plants in the near future, and that is about what the country needs today. To do more than that would only distort the information that we are trying to get.

The committee took special note of testimony to the effect that a relatively modest first phase which would concentrate on gathering the information needed for a decision on full-scale commercialization could actually result in more rapid development of the synthetic fuels industry than programs which appear to make a more ambitious commitment. Gov. Richard Lamm testified to this possibility:

No one really knows what any of the available oil shale technologies will do or what they will cost in $/Bbl to go commercial until modules are actually built and operated and we collect investment and operating cost data to permit making some good economic predictions. The numbers you have seen up to now are only preliminary projections.

By the phased approach we can actually get more production sooner with fewer mistakes. Some of the technologies currently being touted may not pass the module test from an environmental or economic standpoint. We could start construction of several commercial plants immediately and with confidence after a successful module demonstration.

Accordingly, the bill approved by the Banking Committee contains several provisions intended to insure that the first phase of development will test a wide variety of technologies and focus on gathering information. These provisions include:

A limitation on the number of projects which may receive Federal support in the initial phase. The bill stipulates that the government may support no more than six projects using coal as a feedstock and six projects using shale as a feedstock. This provision will guarantee that the synthetic fuels development effort will not attempt to force the pace of plant construction beyond the capacity of the construction industry or beyond the state of synfuels technological readiness;

A stipulation that no more than one project using any given technology may be assisted. This provision is intended not only to insure testing of a wide variety of technologies but also to minimize the inefficiencies involved in duplicating construction of plants to test the same process; and

A requirement that synfuels projects funded in the initial phase be no larger than the minimum size necessary to demonstrate the commercial prospects of the process and yield answers to technological and environmental questions.

The committee believes that these requirements are necessary in order to guarantee proper concentration on testing and demonstrating of various technologies during the first phase. Failure to include any of these limitations would leave open the possibility that the synthetic fuels project administrator would attempt to implement an immediate program of full-scale commercialization, which the committee believes would be unwise.

Because of the uncertainties inherent in an ambitious and risky commercial test and demonstration program, the committee did not set deadlines for initiating subsequent efforts to construct second-generation plants, nor did the committee attempt to define the scope or degree of Federal involvement in any such efforts.

Many witnesses argued that advance provision for a substantial Federal role in a second phase of commercialization would be inappropriate because the need for such involvement should not be prejudged. In fact, the committee anticipates that the need for future Federal assistance will decline as a natural result of increased knowledge about the technological and commercial feasibility of the synfuels production processes and about the price of world oil.

While the technological and cost uncertainties involved in constructing pioneer plants necessitate Government financing guarantees, these uncertainties will be greatly reduced once several plants have been constructed and operated. Once this has happened, private industry investment in synfuel plants will entail much less risk, and private lenders should be more willing to advance necessary funds.

The Pace report, previously discussed, supported this view. It concluded that:

Beyond the pioneer plants, government involvement can start to diminish, owing to a lessening in technological risk and economic uncertainty. Standard or replicated plants can be built, based on pioneer commercial plant designs, although modifications and improvements will be ongoing. Capital access assistance by the government may still be necessary for these plants, but at no risk to the government. Production incentives at this point, owing to a better definition of actual economics, can be tailored to encourage production, as necessary.

Harry Pforzheimer, representing the Paraho oil shale project, agreed that Government assistance could diminish after operational characteristics were demonstrated.

The Standard Oil Co. of Ohio, one of the partners in the Paraho project, also agreed that Federal support of already demonstrated technologies could be expected to diminish:

Sohio believes that following the successful completion of fullscale testing of any synthetic technology there should be a time during which the private companies could assume the risk of commercializing such technology without the use or risk of the taxpayers' money. If it becomes apparent that private industry is not doing adequate work along those lines, Congress may then wish to consider incentives to further commercial synfuel development.

The Committee for Economic Development was even more insistent that Federal support for subsequent commercialization efforts should diminish. Testifying for CED, Roderick Hills stated:

Let me reemphasize that any government program should be limited to providing incentives for a limited capacity of synthetic fuels from first-of-a-kind production plants. The incentives should not be open-ended. Rather, once the first increment of capacity has been brought on stream and the economic and environmental factors have been established, further expansion should be determined by cost-competitive decisions of the market place—unsubsidized by the government.

The possibility for this diminished Federal role would be precluded if the synthetic fuels legislation enacted by Congress:

Provided for a crash program of synthetic fuels plant construction;

Required phased development but defined or provided for a substantial Federal role in any second phase of commercialization; or

Created a special Government entity, such as the Energy Security Corporation, whose sole purpose would be to provide Federal assistance to and to monitor synthetic fuels projects.

For this reason, the committee has not attempted to define the timing or degree of Federal involvement in the second phase. Nor has the committee created a new pseudo-government corporate entity which would impose Federal direction of development of a synthetic fuels industry.

The bill approved by the committee requires the President to report regularly to the Congress on the progress achieved in meeting the goals of the synfuels program. This report format could provide the basis for recommendations to the Congress on subsequent synthetic fuels commercialization efforts. Such follow-in efforts could involve a substantial role for the Federal Government if circumstances warranted such a role, but the committee believes that legislation enacted before the inception of the commercial testing phase should not prejudge the level of support needed in subsequent commercialization efforts.

I have listened to the descriptions by the distinguished Senator from Louisiana (Mr. JOHNSTON) of what the Energy Committee bill involves on several occasions, including right here during the debate on the Byrd amendment to the recent Interior Appropriations bill. Sometimes I must confess I am tempted to ask him if he is not really endorsing the Banking Committee bill.

It has been said that the Energy Committee bill is significantly scaled back from the President's original proposal. I do not think it is.

It provides the same level of funding as the administration proposal. The original Carter synfuels proposal called for $88 billion, to be made available in $22 billion increments every 18 months. The Energy Committee bill also provides $88 billion; $20 billion is provided immediately, and the corporation is required to file a comprehensive plan within 3 years. After this plan is filed, the other $68 billion is automatically made available unless the plan is rejected by Congress. There is no requirement for congressional approval.

It provides for the Energy Security Corporation, renamed the Synthetic Fuels Corporation, with the same irreversible funding commitment, lack of accountability, and charter to force feed the synfuels industry which the administration requested.

It provides the same broad range of subsidies requested by Carter and rejected by the Banking Committee: Direct loans, Federal-private joint ventures, and Government-constructed plants. These incentives were opposed by the Banking Committee on the grounds that they involved increased risk to the Government, negate the principle of testing the economic characteristics of the processes, and diminish the reliance on market forces.

It contains no limit on the number of plants in the first phase. The only first-phase limit is the $20 billion in spending authority; and, in essence, the subsequent $68 billion installment can be made available as soon as the first $20 billion is spent.

The bill assumes substantial Government involvement in the second phase, through provision of $68 billion in second phase spending authority.

In short, the only major difference between the Carter proposal and the Energy Committee bill is that the Carter proposal set its production goal for 1990. The Energy Committee bill establishes the same synfuel production goal (1.5 million barrels per day) for 1995.

It has been argued that the Energy Committee bill provides for a limited first phase of synfuels development, with a limited number of one-of-a-kind plants. If this is the case, then the argument between the committees is truly confined to the existence of the Synthetic Fuels Corporation and the overall

authorization for phase 2, because the Banking Committee bill also provides for this type of program. In fact, if the Energy Committee bill were truly as described, the Banking Committtee could be accused of being reckless. After all, we provide for up to 12 plants, and it is said that the Energy Committee bill provides for only 8 to 10.

However, I do not think that the Energy Committee bill really provides for such a modest program. I have looked and looked, and I cannot find a single word in the Energy Committee substitute bill or report about one-of-a-kind plants. It just is not there.

And, of course, there is nothing in the bill which requires that we have any first-phase test results before we move on to the second phase. In fact, as I said a few moments ago, it would be impossible to have any test results before the $68 billion is released. The Banking Committee concluded, as I said earlier, that if we waited before moving on to the second phase, we might be able to reduce the level of Federal involvement in this phase.

As I have said, this reflects the fundamental difference between the two committees' approaches. The Banking Committee substitute puts the emphasis on private sector initiative, while the Energy Committee substitute requires substantial Government involvement.

Mr. President, if we have learned anything in the last 15 years, it is that we do not solve problems by saying, "Let's show that we have the will and the guts to spend a lot of money." We tried that approach of Federal forcefeeding on our cities. We went from $2 billion a year in 1957 to $85 billion a year today. Some of that increase in spending is good, but I think an increase of fortyfold is hard to justify in that limited period of time. It is interesting that a study by Dr. Richard Nathan, of the Brookings Institution, has shown that after spending this huge amount, this enormous increase, the cities are worse off now than they were before we spent the money.

He shows that poverty is now worse in the cities. He shows that on the basis of age of housing, an excellent objective criterion, the cities are worse off. He shows that on the basis of availability of jobs, the cities are worse off. Here we are spending not twice, not 10 times, we have increased spending fortyfold. That is the result we have gotten in our cities.

Take education. Mr. President, there are few perfect correlations in human relationships. There are some mechanical correlations in physics and higher mathematics, but you very seldom find them in human relationships. We have massively increased Federal assistance for education, especially since 1964. Mr. President, every single year that we have increased spending, scholastic aptitude scores have gone down. One of the few almost perfect correlations you can find is in the correlation between the amount of Federal spending for education and the negative performance of our kids on scholastic aptitude scores. The more we spend, the dumber they get.

Again, I am not saying we should not spend money in these areas. Of course we should. But it is a matter of how intelligently, how thoughtfully, how perceptively we spend the money and especially how we engage the energy and the enthusiasm of the local people. That is why this approach, the Banking Committee approach of trying to inspire action locally, action by the private sector, is a superior approach.

Mr. President, what would we get for our $88 billion in energy? Would the synthetic fuels industry develop in a healthy way so that it could make a contribution to our energy needs?

Well, the Energy Committee bill provides that the Federal Government can build up to three plants of its own. The Government would not have the fun of operating the plants, of course, just of paying for them. The Government could build more than three if the proposal for additional Government-constructed plants is not rejected by the Congress. The Banking Committee bill, by contrast, prohibits Government construction projects.

Such a program is inconsistent with the committee's overall approach toward synfuels development, and would be inherently inefficient for several reasons.

First, by definition, it would guarantee the construction of projects using processes considered by industry to be unready for commercial demonstration. Thus, the risk of cost increases, delays and operating inefficiency, or of outright project failure, would be significantly higher.

Second, Government construction would transfer the cost and technological risk from the private ventures to the Government. This acceptance of risk is fundamentally inconsistent with the purpose of the committee's bill, which is to place primary reliance on market forces.

Third, this acceptance of risk by the Government would reduce the incentives for efficient operation which would otherwise prevail. The Honorable Alice Rivlin, Director of the Congressional Budget Office testified to this point:

> If the Federal Government itself were to build these plants, it would then absorb all the risks—that is, the technological and cost risks, as well as the risk associated with any future changes in OPEC prices. This would give contractors less incentive to build the most cost-effective plants, since no private sector money would be at risk. Overall efficiency would, therefore, be reduced.

Finally, the GOCO's would not yield the answers to cost and financial questions sought in the first phase of synfuels development. A report prepared for the Senate Budget Committee by ICF, Inc., discussed this problem:

> The President proposes to allow the ESC to initiate GOCO's as a last resort. GOCO's contradict every one of the guidelines just cited from the MIT work. The demonstration would be removed from the normal workings of the private sector; project managers (most likely working on a cost plus fixed fee basis) would not be subject to serious market or cost reduction pressures, and full federal financing would provide no information about the likely financing cost for a commercial project.

The ICF report went on to point out that GOCO plants "would be unlikely to provoke private sector investment." In fact, ICF concluded, "Government participation has even discouraged private activity in some energy areas."

Inasmuch as the purpose of the program approved by the Banking Committee is to promote private sector participation in synthetic fuels and to yield the most accurate cost information about a number of synthetic fuels production processes, the committee believes that authorization of GOCO plants would be counterproductive to the long-term goal of creating a healthy synthetic fuels industry, would be likely to diminish private corporate interest in synthetic fuels projects, and would promote a vastly increased Federal role in subsequent stages of synfuels commercialization.

Mr. President, why did the Energy Committee include GOCO's, and why were they recently listed as one of the three key features of the Energy Committee substitute? We have heard that GOCO's are needed as a club over industry, to make sure that they do not suppress synfuels technologies; if the big oil companies will not produce synfuels, there is the threat that the Government will.

Additionally, we have heard that GOCO's can act as a competitive force, helping to hold the price of synfuels down, and giving us a better picture of what these technologies should cost.

I believe that the Energy Committee is wrong in its devotion to GOCO plants. I believe they misunderstand what has prevented the development of synfuels, and I think they also misunderstand the characteristics of GOCO plants.

First of all, the reason synfuels have not developed is simple. Current projections show that it will cost more to produce synfuels than the price at which they could be sold. Synfuels could not be produced and sold at a profit at today's oil prices. I do not think any company or industry can be accused of suppressing development of a technology merely because they do not invest their money in what looks like a sure losing proposition.

A second factor which also acted to prevent development has been the complicated question of uncertainty: Uncertainty about technological risk, uncertainty about future world oil prices and the effect of oil price increases on domestic inflation, and uncertainty about future Federal regulatory policy. These plants are going to be very expensive. Each full-size plant is going to cost well over a billion dollars. That is a lot of money to invest in a process which might or might not work and which might or might not be permitted to operate by the Federal Government.

So, we have to ask whether providing for GOCO plants responds to the real reason why synfuels have not been developed.

(Mr. BURDICK assumed the chair.)

Mr. ARMSTRONG. Will the Senator yield for a question?

Mr. PROXMIRE. I am delighted to yield for a question.

Mr. ARMSTRONG. Would the Senator not agree that providing for GOCO's might actually diminish the willingness

of industry to participate in developing synfuels? After all, if a construction company has the choice of building a billion-dollar plant on a cost-plus contract for the Synthetic Fuels Corporation or building a plant for a private firm, does it not seem reasonable that it would choose the Government work?

Mr. PROXMIRE. The Senator is so right. He could not be more right. Who would not do that? Cost plus? Perfect; it is a businessman's dream. You cannot miss on a cost-plus basis. That has been the trouble with our military procurement.

Mr. ARMSTRONG. If the Senator will yield further, it appears to me that with GOCO's, we get away from having the producer make hard choices about which technology shows the most promise, and we get into the world of slick brochures and salesmen. Would the Senator not agree that if the Government agrees to take all the risk, we might have all kinds of harebrained schemes coming before the Corporation? I emphasize that, under the Energy Committee substitute, the Government can only build a synfuels plant of its own if no private firm is interested in doing it itself. It seems to me that with the Energy Committee approach, we are asking for all sorts of wild and crazy ideas to be funded.

Mr. PROXMIRE. I could not agree more. The Banking Committee bill puts most of the risk squarely where it belongs—on the shoulders of the producers. The producers have said that they are willing to accept that risk if they can also get the rewards.

If the Government agrees to shoulder all the risk, then this discipline just evaporates. If the Government is going to bear the loss, then there is no reason not to go ahead and ask them to build your plant.

Mr. ARMSTRONG. I thank the Senator for his comments. While I am on my feet, I should like to compliment the distinguished Senator for a very meaningful analysis of the comparison between these two bills. I certainly think he has made it clear why the Banking Committee version of this legislation is vastly to be preferred.

Mr. PROXMIRE. I say to my good friend from Colorado that I deeply appreciate that. I had an opportunity to hear his speech this morning. Not only was I very impressed by that speech as one of the best speeches I have heard in a long, long time, but a number of other Senators, Democratic Senators, told me how impressed they were about it. They heard it on the squawk box and they had no idea what a strong case we had against the Energy Committee bill, which the Senator from Colorado made so ably this morning.

Mr. President, the final point I would like to make with regard to GOCO plants is that such facilities are highly unlikely to be models of efficiency. Even if it were true that synfuel technologies had been suppressed by industry, I seriously question whether GOCO plants are the way to bring competitive pressure to bear. The testimony of the Congressional Budget Office before the Banking Committee argues that exactly the opposite is true, that GOCO plants are likely to be highly inefficient.

The Energy Committee bill would also allow the Government to take over failing projects, to forgo loan payments if a project were in trouble, and to otherwise indemnify the producers against risk. Uncle Sam is going to play Uncle Sucker.

The Energy Committee substitute would also allow joint ventures between Government and industry. I cannot resist pointing out that these joint ventures could involve R. & D. projects. The Energy Committee report states, on page 172, that these joint ventures can be "small-scale demonstration operations." It also states that:

> In some instances, full scale facilities would not be practical because of technical and economic risks.

Members of the Energy Committee have attempted to minimize the Banking Committee substitute by saying that it is only an R. & D. bill. We, of course, utterly reject this characterization, and point out that the Energy Committee substitute, insofar as it provides for joint ventures, does appear to be the R. & D. bill that they want to ridicule. R. & D. projects clearly fall within the jurisdiction of DOE, and are totally out of character with S. 932.

In summation, these two substitutes represent a sharp difference in philosophy about the proper role of the Government and industry in energy policy. The Energy Committee believes that we need a massive, unaccountable new bureaucracy to manage the synfuels program. The Energy Committee believes that we have to make an initial irreversible commitment of $88 billion to synfuels. The Energy Committee says that we have to keep the Government involved in synfuels development right up to the hilt.

Mr. SCHMITT. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield to my friend from New Mexico.

Mr. SCHMITT. I just wanted to alert my two distinguished colleagues, whose discussion today has been so useful, I think, to understanding the difference between these two bills, that some have claimed that both of the Senators, and I guess I am lumped in the same basket, have claimed that they are against synthetic fuel development, and all of this is just a red herring to prevent that kind of development.

I do not know what they would claim the Senator is for, but they would claim he is against synthetic fuel development. I know he is not. But how does the Senator stand up to that kind of thing?

Mr. PROXMIRE. I am delighted the Senator brings that up. I think it is a point.

The very first statement I made here today was that the most significant remark I could make was that I am for synthetic fuels development. The Banking Committee bill is for synthetic fuels development. We favor spending billions of dollars for synthetic fuels development.

We favor spending more for the synthetic fuels development than for solar energy, more than many other areas.

I indicated I would suggest personally a higher commitment than the $3 billion here because some people feel that would not be enough to provide the commercial plants that are necessary. But, certainly, not the $88 billion.

The argument we are making is not that synthetic fuels are wrong. They are great. We need them. It would not provide as much as some other disciplines might for the energy we need. But they can be helpful.

We are arguing that the best way we can test out synthetic fuels and get the information we need for the private sector is to do it in a limited, orderly way, with one-of-a-kind plants.

So we do not have a crash program. It is going to make this industry very expensive, inflate costs greatly, and will provide a tremendous burden on the taxpayer.

Mr. SCHMITT. The Senator is saying that by taking a phased approach in which technology and economics of particular categories are examined through a series of demonstration plants, with the financial assistance of the Government, at least loan guarantees on the part of the Government, that we will realize a higher level of synthetic fuels production at a lower cost sooner than we will if we provide through the Energy Security Corporation as proposed by the Energy Committee a more massive crash program aimed at production using existing technologies and economics.

Mr. PROXMIRE. The Senator is correct.

I would like to say, not demonstration plants, but demonstration of the technology in commercial plants, so the bugs are worked out for a very large amount of production, up to 50,000 barrels a day.

The Banking Committee bill provides for commercial-sized plants. We will then know what all the commercial problems are and the financial problems, so we can win the confidence of the financial community to finance further development, as well as the confidence of the people who will run and operate it.

As pointed out, I think the Senator from New Mexico was the first person to call this to my attention. There are a limited number of professionals in this field, 45,000 I think is the number. If we go the Energy Committee route, they will need, by some calculations, 24,000 additional personnel.

Where are they going to come from? It means we cannot train them overnight, or in 6 months or 1 year. It takes time to build that up.

For that reason, it would seem we want to be very careful and very sure what we do is as useful as possible, and not move in in a crash way which will sabotage the effort.

Mr. SCHMITT. The usual source of people for crash programs are people working for somebody else doing other useful tasks. I think one could sit down and identify at least the categories of individuals that would be hired in a massive crash program of this kind.

One has to ask, What would be the effect of the loss of this personnel to the

other industries where they come from, whether a powerplant industry, or other aspects of the mining industry besides coal and maybe oil shale, and other aspects of agriculture, if that happens to be one of the synthetic fuel areas designated for crash production.

Mr. PROXMIRE. There are two other problems that are predicted. One is inflation of salaries and pay which will mean higher prices. Much more serious will be that they will greatly reduce the efficiency of the other operations, and they will not have the personnel to provide the kind of energy production we should have in a crash program. That is going to eliminate much efficiency which we have at the present time in our energy operations.

Mr. SCHMITT. I think the Senator is correct.

The important bottom line is that those of us in this large, broadly based group of people in this country that are not convinced a crash synthetic fuels program is the way to go at this time, we are, nonetheless, advocating a steady, efficient and rapid increase in the availability of synthetic fuels to our society.

The problem is that we feel we have to do that in a much more logical and measured way than is proposed by this $88 billion program that is the core of the Energy Committee bill.

I think the Senator from Wisconsin and the Senator from Colorado did an excellent job today beginning this debate in a reasonable way, making it absolutely clear—and I hope it has been made clear—we all do favor acceleration of synthetic fuels technology, the acceleration and identification of economic bottlenecks, the removal of those bottlenecks through the kind of program envisioned by the Senator's bill and by other research and development efforts being funded in other ways.

I thank the Senator for yielding.

Mr. PROXMIRE. I thank the Senator from New Mexico.

I commend him on the tremendous expertise he has in this area. He is one of the very few scientists we have in the Congress of the United States. I guess he is the only, that I know at least, expert geologist who really understands the technology of this far better than not only we do, but than our staffs do.

It is a great comfort to have a man with this remarkable background and understanding so enthusiastically and positively working on our side.

Mr. President, I have just a few more remarks.

The Banking Committee has tried to design a program which addresses the problems of markets and financing. We emphasize private initiative. We keep the Government out of the energy business. We believe that synfuels will develop if we give them a fair chance, and our bill has the Government step back and give them that chance.

However, although the Banking Committee believes that synfuels are important to our energy future, we believe it is important to keep things in perspective. Synthetic fuels represent a mid- to long-term prospect, and they are likely to be quite expensive.

While we are considering synthetic fuels, we should not completely forget other energy options that show more near-term promise, such as solar and conservation processes. In the coming days, we will also be debating sections of S. 932 which establish incentives for these processes, and we should keep in mind that we cannot use synthetic money to fund these projects, as the distinguished Senator from New Mexico pointed out so well in our press conference. The Banking Committee approved a balanced and responsible energy package, with funds for synthetic fuels, solar, alcohol fuels, and conservation.

I have been persuaded it may be necessary to increase funding from that level provided. That will be taken care of later.

But let us briefly consider relevant costs and benefits. The Energy Committee provided $88 billion for synthetic fuels, as the President requested.

If the production goal is met, synfuels will provide about 3 percent of our energy needs by 1995. Solar, on the other hand, could, by some estimates, provide up to 20 percent of our energy needs by 2000, at a much lower cost per barrel of oil replaced.

In response to the Banking Committee's action, the Energy Committee did go on and include other types of energy programs. But what did they provide? With solar, for instance, their response was particularly begrudging. They cut our 5-year authorization for the Solar Bank back to 3 years—as compared to a 15-year lifetime for the Synfuels Corportation—and they provided a total of only $450 million, which comes out to about one-half of 1 percent of the amount set aside for synfuels.

And the distinguished Senator from Louisiana complained in his additional views that "this legislation provides excessive subsidies to individuals," and that "the subsidies are unreasonable by any standard."

So, although the debate on the first substitute is not about solar or conservation initiatives, we should keep in mind that we may use up our energy venture capital on synfuels if we provide the $88 billion, and have little or nothing left over for the more promising technologies. Then we would indeed have put all of our eggs in the synfuels basket, and we would be in serious trouble if this option met with total or partial failure.

I would like to call the attention of the Senate to the diverse group that rejects the need for a Synthetic Fuels Corporation to manage a massive Federal commitment to synthetic fuels. Some supporters of the Energy Committee substitute have argued that the only opponents of their bill are "Big Oil" and the unnamed "No-Growthers." This is simply not true. A diverse coalition of business, scientific, and environmental groups support the general approach embodied in the Banking Committee substitute.

The U.S. Chamber of Commerce opposes the creation of the Corporation, as does the American Petroleum Institute and the National Coal Association. The Energy Coalition, which is made up of more than 50 national and local environmental groups, supports our bill. The National Federation of Independent Business, made up of more than 500,000 small businessmen, overwhelmingly rejected the creation of the Synfuels Corporation. The Western Regional Council, made up of mining and electric utility companies in the Western United States, where most synfuel resources are located, oppose the Corporation, as does Richard Lamm, Governor of Colorado, the State with the greatest concentration of synfuels resources. The Committee for Economic Development has called for a program of limited subsidies, consistent with the Banking Committee bill. The Federation of American Scientists has rejected the Synthetic Fuel Corporation and synfuels subsidies of the level proposed by the Energy Committee.

This group was termed a "strange bedfellows" coalition by the Washington Post, and that is what it is. Nowhere else are you likely to find big business, small business, and environmentalists in such total agreement as they are on the question of an $88 billion commitment to a Synthetic Fuels Corporation. These groups do not regard the Banking Committee's bill as perfect. However, they do recognize that the Banking Committee bill represents the better approach to synfuels development and to the approach which is more likely to pay off in synfuels production over the long term.

Therefore, I urge every Member of the Senate to read the committee reports on S. 932, and to study the issue. I urge them to consider the near-term limits on synfuel development, the type of subsidies that are needed, and the need for funds for other near-term energy options. When they have considered these matters, I am sure the Members will recognize that the Banking Committee's bill comes closer to providing the degree and types of Federal support required for development of a healthy synfuels industry.

Mr. President, I thank my friends from Colorado and New Mexico for their very helpful participation in this discussion.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I rise in support of the Banking Committee substitute amendment for title I of the Energy Committee version of S. 932, the synfuels section of the Defense Production Act extension.

I share the view of nearly everyone who has spoken in this debate that it is very important that we immediately begin to decrease our dependence on imported oil and to deal with our long-range energy problems.

The reasons for relieving the Nation from foreign oil dependence—which makes us vulnerable to blackmail on

price, supply, and political issues by foreign nations, particularly Arab nations—have been stated many times.

Virtually every vital public issue facing our Nation is in some way negatively impacted by our foreign oil dependence: Our national security interests; our fight against inflation; our efforts to achieve a balanced budget and a healthy economy; and our need for continuing supplies of energy to run our economy.

It is certainly clear to me that we need a cohesive, progressive and multifaceted energy program that will relieve us of our dependence on imported oil as promptly as sensible relief is available.

Hopefully, the outcome of this session of Congress will be to complete the task begun last year of providing us with the main legislative ingredients of that program.

I certainly will be supporting legislation to achieve the elements of such an energy program.

It seems to me that our energy program must necessarily embody vigorous efforts to achieve better energy efficiency, eliminating much of the extravagant waste of precious energy resources that up to now we have taken for granted.

The program must encourage and support the development and commercialization of renewable energy resources—because ultimately our dependence on fossil fuels, foreign or domestic, will have to be eliminated before our fossil fuels are depleted.

It is important to remember that if we simply replace imported oil with domestic oil, we will use up our own diminishing supply of oil faster than we are already doing.

Finally, our energy program will need to take a balanced approach to the development of new energy sources and be diverse.

Too often, we have settled for the quick fix and put all our eggs in a single basket.

Once, cheap petroleum was thought to be the single answer to our energy needs.

When the nuclear age began, fission energy was supposed to be the answer to our needs for abundant, inexpensive energy.

But this resource has proved to involve unsolved technological problems, environmental risks, and to cost far more than was ever predicted.

There are no quick fix solutions to our long-term energy problems.

There is no single source that can provide all the energy we need, within the time frame that is necessary, at a price which our economy can reasonably afford.

And there is a serious danger from overcommitment to any single source.

There is the risk that too much investment, too early, in a single technological alternative or group of alternatives, will dry up the capital, divert the support resources of the economy, and restructure parts of our society in such a way that we may be denied the ability to proceed with other options.

We cannot afford to reject out of hand the number of competing and sometimes very promising technologies embraced under the generic term "synfuels."

But we cannot afford to put so many of our resources into development and commercialization of synfuels that we deny ourselves the ability to proceed with other options.

Such a strategy runs several very real risks, Mr. President, not the least of which is that we may spend most of our available capital on a series of technologies that will produce no energy in the short run, and may not be able in the long run to produce energy at economic or environmental costs which we are prepared to pay.

This is not a case in which one can measure the degree of one's commitment to energy development, even synfuels development, by the amount of funding one is willing to support in this bill.

In fact, Mr. President, several witnesses in the Banking Committee hearings made the point that too sizable a Federal commitment too early might be counterproductive, and hinder the development of the most competitive, cost-effective, technologically feasible, environmentally sensitive synthetic fuels.

There are two important issues raised by the competing approaches to a synfuels program before us, and on both of these issues I prefer the Banking Committee bill.

The first is the question of whether we need a public synfuels corporation—an additional bureaucracy—at a time when the public is crying for less bureaucracy, not more.

The second is the question of what is a reasonable level of synfuels energy development.

And on that question, there is a large body of opinion from all sides of this debate that modest Federal subsidy, rather than a gangbusters approach, is far more likely to produce more synthetic fuels technologies at lower costs, with less environmental damage, with less expenditure of taxpayer dollars at a lower rate of inflation, than the $88 billion subsidy that the Energy Committee bill would commit us to.

In both respects, I believe the Banking Committee bill is preferable.

I urge the Senate to accept the Banking Committee substitute.

(Mr. TSONGAS assumed the chair.)

Mr. TOWER. Mr. President, there are several things Congress could do to reduce U.S. oil import dependence and stimulate domestic fuel production more effectively and efficiently than any of the synthetic fuels commercialization bills now before us. The policy changes I have in mind would reduce the cost of Government, relieve the increasingly burdensome taxload being carried by most Americans, and move us quickly and surely toward alternative fuels and true energy security.

First, we should move quickly to decontrol completely the price of domestic crude oil and natural gas, and without the imposition of the politically inspired and misnamed windfall oil profits tax. The removal of price controls on domestic oil and gas would do more than anything else to stimulate development of synthetic fuels as well as the production of crude oil and natural gas. Second, we should redress the imbalance which now exists in the environmental laws and regulations promulgated during the last decade. Finally, we should move more aggressively to cut the tangles of red-tape and delays which now stifle private investment and innovation.

I am somewhat encouraged that Congress in some limited ways is now beginning to move in the direction of economic deregulation and a more balanced and rational approach to the need for environmental protection. That process of policy evolution will take time, however, and the need for production of synthetic fuels is urgent. I have concluded, therefore, that there is a need now for the Federal Government to provide some additional, limited incentives to the development of a commercial-scale synthetic fuels industry.

Had the Federal Government pursued a more reasonable course in energy policy and environmental protection in the past, extraordinary inducements of the sort we are now discussing would not be needed. Plainly, however, that has not been the case. Excessive regulatory delays, frequent Government policy shifts, unnecessarily stringent environmental regulations, groundless environmental lawsuits, and the artificial economic distortions of energy price controls have made most energy companies understandably unwilling to take the necessary financial risks.

So, if we are to achieve the critically important goal of expedited, commercial-scale production of synthetic fuels, it is necessary, in my view, that the Federal Government provide some additional assistance. A crash development program of the kind first proposed by President Carter, however, is clearly unwise.

Past mismanagement of our energy resources by Federal regulators has clearly demonstrated that Government is not a viable alternative to a free energy market. As certain as it is that we will need synthetic fuels in the future, it is even more certain that if we leave it to Government to produce them, we will never have them. In this connection, some manner of risk splitting by Government and industry may be warranted to encourage synthetic fuels development, but the Federal preemption of this nascent industry—as proposed by the President—is clearly unwarranted.

I believe, instead, that a prudent, cost-effective approach is one that entails a minimum of Government involvement and maximum reliance on private industry. There should be no direct Government involvement in the ownership or operation of synthetic fuels plants.

Certainly, there can be no justification whatsoever for the creation of any new Government agency or Government-sponsored corporation to administer a synthetic fuels assistance program.

I believe that the general approach embodied in title I of the bill reported by the Banking Committee, on which I serve, is the most responsible approach to synthetic fuels development. I think the Banking Committee bill can be improved somewhat, but it is, in my estimation, far superior to the more heavily funded and Government-oriented development pro-

gram established by the Energy Committee bill. I support the Banking Committee bill because I believe it will enable us to substantially accelerate synthetic fuels development at the least cost to the Government and with a minimum of Government interference.

The development of a viable synthetic fuels industry is essential to utilize most effectively our abundant energy resources such as coal and oil shale. That can best be done, however, not by massive Government-owned and Government-operated energy facilities, but through the efforts of private industry—by eliminating the layers of Government overregulation and uncertainty which now stifle private investment in these risky capital intensive projects.

In the meantime, I urge my colleagues to provide the necessary additional financial incentives authorized in title I of the Banking Committee version of S. 932.

Mr. STONE. Mr. President, I want to express my strong support for the legislation which the Senate Energy Committee has reported to establish an Energy Security Corporation, S. 932. Our country faces the specter of serious energy supply shortages over the next several decades. It is now absolutely clear that, even with new incentives for more domestic oil and natural gas production and more coal and nuclear, we must now begin to develop a strong synthetic fuel program. The pending legislation puts the country on the right track in stimulating synthetic fuel development.

On June 19 of this year, I joined Senator DOMENICI and others in introducing S. 1377, a bill which is the parent bill of the legislation now before the Senate. I am encouraged that the Senate Energy Committee, working with the administration has moved this and other similar proposals along the legislative process to the point that the Senate is now near passage of a major synthetic fuel program.

I have long been interested in a full-scale approach to the commercial use of the vast resources of oil shale, coal, biomass, urban waste products, geothermal energy, and similar sources of energy. I have been as frustrated as my colleagues with the Congress inability to translate its desire for energy self-sufficiency into constructive use of the billions of barrels of oil equivalent that now lies underneath America's surface.

A proper partnership between Government and the free enterprise system can solve this Nation's energy problems, in my judgment. We have lagged far too long, as nations such as Germany, the Soviet Union, Canada, and South Africa have used already available technology to produce hundreds of thousands of barrels of oil equivalent a day from synthetic fuels plants.

We know that almost a trillion dollars of investment will be needed in the energy field during the next 15 to 20 years in order to meet projected domestic demand. And, we know that private investors are very reluctant to commit such sums in the present uncertain regulatory and economic climate. S. 932 will establish a Government program to make investment more attractive and the regulatory delays less burdensome.

We will insulate investment, to a certain extent, from actions by the OPEC cartel that might be aimed at slowing America's progress toward energy self-sufficiency, and we will let the American people and our allies abroad know that we are, indeed, serious about protecting our economy, our security, and our way of life.

I believe in the free enterprise system, and I believe that it should be the primary instrument in meeting the energy challenge. But, we cannot rely on market forces alone in solving America's energy problems. I urge my colleagues to join in supporting the Energy Committee's bill.

● Mr. CHURCH. Mr. President, I am happy to support the Energy Committee version of title I of the bill S. 932. While there are many who may wish to modify the Energy Committee version of the bill, I urge the Senate's support for that version, because it is the most comprehensive approach to the myriad of problems that are associated with a program to test the utility of synthetic fuels in our economy.

The major difference between the Energy Committee version and the Banking Committee version is the creation of a Synthetic Fuels Corporation, by the former. Some may ask why we need to create this Federal corporation and may feel that the Department of Energy already has existing authority to perform a synthetic fuels program. However, the very fact that we have been giving the Department funding and authority to accomplish something for 5 years, and the fact that nothing much has happened, is proof enough that DOE should not be relied upon for this.

Many times since the Arab oil embargo of 1973, this Nation has gone through energy shortages, which have quickened our resolve to test this Nation's capability to produce synthetic fuels. Each time, as the crisis passes, and as our enthusiasm wanes, we have fallen away from the task.

Every year, when the annual budget review for DOE begins, we see that there are millions of dollars for more studies but very little tangible progress to augment our domestic fuel supply. A perfect example of this occurred in the fiscal year 1980 budget. All of us here have heard of the great potential which lies in the oil shale deposits of our country. With such great promise, the Government, you would think, should pursue a program which would at least test one technology of a modular size in order to determine the effects of production and the cost of the oil. Yet, as we slid into another crisis this year, and gas lines formed again, we were presented with a budget for oil shale modular demonstration that cut last year's funding to zero. As chairman of the Energy Research and Development Subcommittee, I have seen this type of vacillation become the hallmark of the synthetic fuels program for the past 5 years. An agency that is going to be subject to the outcome of an annual authorization and appropriation process will never be able to maintain the commitment needed to produce synthetic fuels.

Financiers who wish to back synthetic fuels ventures have tried in vain to work in this annual budget cycle, only to be frustrated time and time again. The proposal we present to you today will answer these problems by establishing a public corporation, the Synthetic Fuels Corporation. It will be primarily a financial corporation which will have a maximum life of 15 years. In addition, it will have sufficient budget authority to finance 10 to 12 large synthetic fuels plants which will test a representative set of technologies, utilizing domestic resources. After the first testing phase, the Congress will examine a comprehensive plan by the Corporation to achieve a national production goal for synthetic fuels.

Therefore, I urge my colleagues to consider favorably the Energy Committee bill and the establishment of the Synthetic Fuels Corporation.

In addition, there are many other advantages to the Energy Committee version which I wish to point out. First of all, the Banking Committee version puts all responsibility for the testing of synthetic fuels in the President, pursuant to the Defense Production Act. This act was never written to address the very complex problems associated with testing synthetic fuels and the establishment of such a capital intensive industry, utilizing such advanced technologies. On the other hand, the Energy Committee version has addressed almost all of the issues involved in this complicated field.

Second, the Banking Committee version limits the size of synthetic fuel plants to no more than 50,000 barrels per day. This size may have been the optimum economic size in the past, but we have received testimony in the Energy Committee that, at least for some processes, this size will be uneconomical. Therefore, the Banking Committee has potentially excluded some of the technologies for coal conversion from any possibility of assistance under this act. This is arbitrary. The Energy Committee version has no limit, letting market economics dictate the size that is viable.

Third, the Banking Committee version grants the President the authority to sign purchase guarantees for 7 years; any longer guarantee will have to return to Congress. This was included by the Banking Committee to review large commitments and thereby protect the Treasury, but in fact this is no protection at all for the Government.

As world oil prices increase, they will approach and finally surpass the cost of producing synthetic fuels. It is clear, therefore, that the Federal Government will be exposed to its maximum liability under a purchase guarantee in the first 7 years and relatively little thereafter. For example, a 100,000 barrels per day plant with a $15 per barrel subsidy would result in over a half of a billion dollars liability in the first year, declining quickly as the world oil prices rises. Therefore, this provision provides no real protection and the Energy Committee did not utilize it.

Fourth, the Banking Committee bill has no absolute dollar limitation on loan

guarantees, so that under its bill we do not know what the maximum exposure of the Federal Government in this program will be. Similarly, the authorization for purchase guarantees, which is $3 billion, can be utilized again and again, or rolled over. By contrast, the Energy Committee version has established the maximum amount of exposure by the Federal Government, for the first phase, at $20 billion.

Finally, I would like to point out that the Banking Committee version does not provide any incentive for the development of one of our Nation's most abundant resources, municipal solid waste. The only provision for the development of biomass in the Banking Committee version is in the title on rural energy development, which does not include the waste generated in our Nation's urban areas. This is a serious oversight. Our cities produce vast amounts of waste which have been estimated to reach 201 million tons of municipal solid waste annually by 1985, with 112 million tons being technically feasible for conversion to energy sources. If all of the material which is technically feasible to convert were processed, the Nation could realize energy savings equivalent to over 310,000 barrels of oil daily. The Energy Committee version recognizes this fact and sets aside $1 billion of the $20 billion authorized for biomass conversion, which will include municipal solid waste plants. This will provide for as many as 20 plants throughout the country, part of which will explore this vast energy resource.

The Energy Committee version contains, in addition, eight other titles which go very far in the development of other forms of energy. The committee feels that all of these other forms should be given the accelerated attention that synthetic fuels will have. In particular, I would like to call attention to the titles on gasohol (title II) and geothermal (title V), which I have sponsored. I intend to introduce further remarks concerning those titles at the times of their consideration.

In conclusion, I urge support for the Energy Committee version of title I and, in addition, for the rest of the bill as reported by that committee.●

Mr. ROBERT C. BYRD. Mr. President, I yield momentarily to the distinguished Senator from Kansas.

SENATE RESOLUTION 273—MAMIE GENEVA DOUD EISENHOWER

Mr. DOLE. Mr. President, for myself and Senators KASSEBAUM, THURMOND, ARMSTRONG, and ROBERT C. BYRD, I send to the desk, a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 273) to honor Mamie Geneva Doud Eisenhower and to express the sorrow of the Senate with respect to her death.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, there is no objection on this side, and I applaud the distinguished Senator from Kansas for offering the resolution. I ask unanimous consent that the distinguished Senator permit me to be a cosponsor.

Mr. DOLE. I am pleased to do that.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, 2 days ago, the people of Kansas bowed their heads as Mamie Geneva Doud Eisenhower was laid to rest in Abilene. Today official Washington paid their respects at a memorial service held in the post chapel at Fort Myer. Mamie contributed greatly to our national character and as such deserves to be remembersd as a permanent part of the fabric which constitutes our national heritage.

Mr. President, it is entirely fitting that this body go on record in expressing its condolences to Mrs. Eisenhower's family, on this day when official Washington pays its tribute to a woman who was never less than a perfect partner to one of our Nation's greatest heroes. I extend my deepest sympathy to Mamie's family and to all her friends for whom her example remains bright and vivid. Her memory will survive and live on to inspire others who will follow in her path.

It is with a real sense of personal loss, which I know is shared by each person who knew Mrs. Eisenhower, that I offer this resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

SENATE RESOLUTION 273

Whereas Mamie Eisenhower supported one of America's heroes through a world war and two distinguished terms in the Oval office;

Whereas Mamie Eisenhower was deeply committed to public service;

Whereas as First Lady she infused the White House with her graciousness, warmth and style making it a home, and all America her family;

Whereas she matched her husband's heroism with courage and his leadership with grace and elegance; and

Whereas she was a beloved national figure: Now, therefore, be it

Resolved, That the United States Senate expresses its profound sorrow at the passing of Mamie Eisenhower, whose courage and support will be remembered always, and to express deep sympathy to her family and friends.

UNANIMOUS-CONSENT REQUEST S. 932

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, the Senate temporarily lay aside the energy legislation and proceed with the consideration of H.R. 5359, the Department of Defense appropriation bill, with the following provisos:

That there be a time limitation of 4 hours on the bill, to be equally divided between and controlled by the Senator from Mississippi (Mr. STENNIS) and the Senator from North Dakota (Mr. YOUNG) or his designee;

That there be a limitation of 1 hour, to be equally divided, on any amendment, except a limitation of 2 hours, equally divided, on an amendment to be offered by Mr. MOYNIHAN dealing with the Maybank language; a limitation of 3 hours, to be equally divided on an amendment to be offered by Mr. PROXMIRE relative to a nuclear aircraft carrier; and a limitation of 2 hours, equally divided, on an amendment by the Senators from Alabama (Mr. HEFLIN and Mr. STEWART);

That there be a limitation of 20 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate; and

That the agreement be in the usual form as to the division and control of the time;

Provided, further, that the amendment by Mr. HEFLIN and Mr. STEWART be the last amendment before the Senate proceeds to third reading.

Mr. TOWER. Mr. President, will the Senator from West Virginia withhold on that request for a moment? There is some question about whether or not it is cleared all the way on this side.

Mr. ROBERT C. BYRD. All right.

Mr. TOWER. Why does not the Senator go ahead and propound his agreement, and I will reserve the right to object?

Mr. ROBERT C. BYRD. Provided further, that the amendment by the Senators from Alabama not be called up until Thursday morning, with the further proviso that a call for the regular order not bring down the DOD appropriations bill tomorrow.

Mr. YOUNG. Mr. President will the Senator yield?

Mr. ROBERT C. BYRD. Yes. This would mean, too, that the Senate would go back to the energy bill on Wednesday.

Mr. YOUNG. The Senator from Colorado (Mr. ARMSTRONG) wanted 1½ hours on his amendment, but if he has 1 hour, I can yield him a half hour from my time.

Mr. ROBERT C. BYRD. Yes, the Senator can, off the time on the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. TOWER. Reserving the right to object, Mr. President, I wonder if the distinguished majority leader would consider withholding the propounding of that unanimous-consent request until I can check with some of the leadership on this side.

Mr. STENNIS. Mr. President, reserving the right to object, and I do not expect to object, may I ask the Senator from Texas if he can give it his attention now, because it will take a while?

Mr. TOWER. We are in the process of giving it that attention now.

Mr. STENNIS. Mr. President, reserving the right to object, in the majority leader's reference to the helicopter amendment by Mr. HEFLIN and Mr. STEWART does he intend to say that it will be called up Thursday morning?

Mr. ROBERT C. BYRD. It is my understanding, from talking with Mr. HEFLIN, that it would be unlikely that he would be prepared to go ahead with the amendment tomorrow.

Mr. STENNIS. Yes.

Mr. ROBERT C. BYRD. Of course, that might be possible tomorrow, but if that were not possible, he would be assured that the amendment could be carried over until Thursday.

Mr. STENNIS. Yes. I do not object to its being carried over, but I would like the agreement to provide that it would be called up Thursday morning if not before, so as to assure handling of the bill on Thursday.

Mr. ROBERT C. BYRD. That was my understanding, that Thursday morning would be the agreed time, yes.

Mr. President, before the Chair puts the question on the request, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the request is agreed to, it is with the understanding that the Senate will resume consideration of the energy legislation on Wednesday.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request temporarily.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1979

The Senate continued with the consideration of the bill S. 932.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment offered by the Senator from Wisconsin to the energy bill.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 2 seconds.

There being no objection, the Senate, at 5:34 p.m., on Monday, November 5, 1979, adjourned until 5:34:02 p.m., the same day.

AFTER ADJOURNMENT

MONDAY, NOVEMBER 5, 1979

The Senate met at 5:34:02 p.m., pursuant to adjournment, and was called to order by Hon. PAUL E. TSONGAS, a Senator from the State of Massachusetts.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to exceed beyond 1 minute, that Senators may speak in that 1 minute, that no resolutions come over under the rule, that a call of the calendar under rule VII and VIII be dispensed with, and that no action under rule XIV transpire.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

PUBLIC INTEGRITY SECTION REPORTS TO CONGRESS

Mr. PERCY. Mr. President, in March of 1976, the public integrity section was created within the Department of Justice. Its purpose was to consolidate and coordinate Federal efforts against corruption of public officials. Last year, in the Ethics in Government Act, the Congress expressed its strong support for the work being done by the public integrity section. At my request, this act included a requirement that the Attorney General report annually to Congress on the activities and operations of this section.

The first report includes a complete list of public corruption cases from March 1976 through June 1979 in which indictments were returned, and for which the public integrity section itself had full or shared responsibility. Additionally, the Attorney General also submitted to the Congress a report compiled by the public integrity section which outlines the Federal prosecutions of corrupt public officials from 1970 to 1978, which were carried out by both the public integrity section and the individual U.S. attorneys offices. I ask unanimous consent that portions of these reports be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY, Mr. President, upon reading these reports, I was struck by the great strides we have made in insuring the prosecution of public officials who abuse the privileges of their position. In 1970, only 63 officials of Federal, State, and local governments were indicted. Forty-four of these were convicted. In 1978, however, 557 public officials were indicted, 409 were convicted, and another 205 are awaiting trial.

Detecting and exposing public corruption should continue to be one of the highest priorities of our criminal justice system. As a society, we cannot tolerate the abuse of power by those people whom we choose to govern us. Corruption undermines both the ability of Government to function effectively, and the faith that the citizenry places in it. The above statistics indicate that the public integrity section and the individual U.S. attorneys' offices are performing an important and necessary function in a vigorous manner. I commend the 28 attorneys on the public integrity section staff and particularly the section chief, Thomas H. Henderson, Jr., for their efforts.

EXHIBIT 1

REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION

INTRODUCTION

Section 529 of the Ethics in Government Act of 1978, 28 U.S.C. § 529, requires the Attorney General to "report to Congress on the activities and operations" of the Public Integrity Section. This report is submitted in fulfillment of that requirement. Because this is the first such report, we have set forth the matters handled by the Public Integrity Section since it was formed in March, 1976. In the future, the annual report will include matters handled during the preceding year.

I. Background

The Public Integrity Section was created as part of the Department of Justice's Criminal Division in March, 1976 for the purpose of consolidating the responsibility for nationwide coordination of the Federal efforts against official corruption at all levels of Government. The Section is responsible for coordinating enforcement of all Federal statutes dealing with bribery, conflicts of interest and miscellaneous offenses in offices that are committed by officers or employees of the three branches of the Federal Government. In addition, the Section shares with the United States Attorneys responsibilities for the Federal Government's recent prosecutive initiatives in the area of local corruption through utilization of relatively new prosecutive theories under the Hobbs Act (18 U.S.C. 1951), the Federal mail fraud statute (18 U.S.C. 1341) and the Racketeering Influence and Corrupt Organizations statutes (18 U.S.C. 1961–1968). Finally, the Section has responsibility for coordinating enforcement of all Federal criminal laws dealing with election irregularities and fraud, politicization of the Federal Service and Federal programs, the Federal Election Campaign Act, and assorted statutes dealing with elections and lobbying.

The Section is also charged with educating United States Attorney and FBI personnel in investigative and prosecutive techniques, with developing effective prosecutive theories, and with attaining nationwide standards for Federal prosecutions against elected or appointed public officials who abuse the trusts bestowed on them by the public they serve.

The Section was formed in March, 1976 under the direction of Section Chief Thomas H. Henderson, Jr. with eight attorneys. The Section has gradually expanded to 28 attorneys and remains under the experienced leadership of Mr. Henderson.

II. Operations

The Section is primarily an enforcement unit with the capacity to receive an allegation and follow it through investigation, trial and appeal. Many matters are referred directly to the Section by Federal agencies, investigative agencies or from within the Criminal Division. A large number of cases are referred to the Section by United States Attorneys who are unable to handle the matter because of a conflict or because of insufficient manpower or expertise. In addition to the cases handled exclusively by the Public Integrity Section, many cases are handled jointly with United States Attorneys' offices, with the Section's role ranging from providing lead attorneys to the Section simply advising the United States Attorney when problems arise.

TABLE I.—FEDERAL PROSECUTIONS OF CORRUPT PUBLIC OFFICIALS, JAN. 1, 1970 TO DEC. 31, 1978

	1970	1971	1972	1973	1974	1975	1976	1977	1978	Total
Federal officials indicted	9	58	58	60	59	53	111	129	133	670
Federal officials convicted	9	40	42	48	51	43	101	94	91	519
Federal officials awaiting trial on Dec. 31	0	0	4	2	1	5	1	32	42	87
State officials indicted	10	21	17	19	36	36	59	50	55	303
State officials convicted	7	16	10	17	23	18	35	38	56	220
State officials awaiting trial on Dec. 31	0	0	0	0	0	5	30	33	20	88
Local officials indicted	26	46	106	85	130	139	194	157	171	1,054
Local officials convicted	16	28	75	64	87	94	100	164	127	755
Local officials awaiting trial on Dec. 31	0	0	0	2	4	15	98	62	72	253
Others involved indicted	18	35	27	80	66	27	190	171	198	621
Others involved convicted	12	24	15	52	56	24	144	144	135	606
Others involved awaiting trial on Dec. 31	0	0	1	14	0	2	70	83	71	241

TABLE XI.—FEDERAL PROSECUTIONS OF CORRUPT PUBLIC OFFICIALS, CONVICTIONS OF PUBLIC OFFICIALS BY JUDICIAL DISTRICTS, 1976–78

	1976	1977	1978	Total
Alabama, northern	0	6	4	10
Alabama, middle	9	4	5	18
Alabama, southern	1	0	1	2
Alaska	4	3	0	7
Arizona	2	3	0	5
Arkansas, eastern	1	3	2	6
Arkansas, western	0	1	0	1
California, northern	0	0	0	0
California, eastern	0	0	0	0
California, central	10	8	3	21
California, southern	1	2	3	6
Canal Zone	(1)	(1)	1	1
Colorado	0	1	1	2
Connecticut	0	5	4	9
Delaware	3	0	1	4
District of Columbia	9	10	14	33
Florida, northern	1	0	0	1
Florida, middle	4	1	5	10
Florida, southern	0	0	3	3
Georgia, northern	6	2	6	14
Georgia, middle	9	7	1	17
Georgia, southern	0	1	0	1
Guam	(1)	(1)	2	2
Hawaii	0	0	0	0
Idaho	0	0	0	0
Illinois, northern	(1)	(1)	16	16
Illinois, eastern	1	0	8	9
Illinois, southern	0	0	4	4
Indiana, northern	4	6	5	15
Indiana, southern	0	3	0	3
Iowa, northern	0	0	0	0
Iowa, southern	1	0	0	1
Kansas	9	4	0	13
Kentucky, eastern	5	6	5	16
Kentucky, western	1	0	2	3
Louisiana, eastern	(1)	(1)	6	6
Louisiana, middle	1	0	0	1
Louisiana, western	0	1	0	1
Maine	0	0	2	2
Maryland	2	5	20	27
Massachusetts	3	5	7	15
Michigan, eastern	1	4	1	6
Michigan, western	1	1	1	3
Minnesota	1	0	0	1
Mississippi, northern	0	2	3	5
Mississippi, southern	1	0	5	6
Missouri, eastern	4	2	1	7
Missouri, western	1	0	0	1
Montana	1	0	0	1
Nebraska	0	1	0	1
Nevada	1	1	1	3
New Hampshire	0	0	2	2
New Jersey	14	10	15	39
New Mexico	9	9	1	19
New York, northern	1	0	2	3
New York, southern	0	8	3	11
New York, eastern	21	21	7	49
New York, western	0	5	1	6
North Carolina, eastern	1	0	1	2
North Carolina, western	0	0	0	0
North Dakota	0	0	0	0
Ohio, northern	2	5	6	13
Ohio, southern	12	18	7	37
Oklahoma, northern	0	0	0	0
Oklahoma, eastern	0	0	0	0
Oklahoma, western	0	0	4	4
Oregon	0	0	1	1
Pennsylvania, eastern	8	6	13	27
Pennsylvania, middle	21	27	16	64
Pennsylvania, western	9	39	12	60
Puerto Rico	1	5	0	6
Rhode Island	(1)	(1)	0	0
South Carolina	19	15	8	42
South Dakota	0	0	0	0
Tennessee, eastern	0	4	0	4
Tennessee, middle	1	1	2	4
Tennessee, western	2	7	3	12
Texas, northern	6	4	4	14
Texas, southern	8	3	6	17
Texas, eastern	0	1	3	4
Texas, western	4	2	0	6
Utah	0	0	2	2
Vermont	0	0	1	1
Virgin Islands	(1)	(1)	0	0
Virginia, eastern	4	4	1	9
Virginia, western	0	1	1	2
Washington, eastern	0	0	0	0
Washington, western	0	1	0	1
West Virginia, northern	0	0	1	1
West Virginia, southern	2	0	6	8
Wisconsin, eastern	1	4	2	7
Wisconsin, western	0	3	0	3
Wyoming	0	0	0	0

[1] Not available.

ILLINOIS TAKES THE LEAD IN COMBATTING COMPUTER CRIME

Mr. PERCY. Mr. President, over the last several years, I have become concerned with the rapid growth of computer crime in the United States. Thus, it was my great pleasure to join with my colleague, Senator RIBICOFF, in June 1977 in introducing S. 1766, the Federal Computer Systems Protection Act. This is the first Federal legislation specifically designed to prohibit the misuse of computers owned or controlled by the U.S. Government, financial institutions, or corporations operating in or affecting interstate commerce.

Although that measure did not become law in the 95th Congress, hearings on the bill were held in June 1978 in the Criminal Justice Subcommittee, ably chaired by Senator BIDEN. In the 96th Congress, we have again introduced the measure, now S. 240, with certain revisions suggested by the Department of Justice.

We have continued to work closely with Senator BIDEN, and with other members of the Criminal Justice Subcommittee, particularly Senator HATCH and Senator LAXALT. We all want to make certain that S. 240 accurately and effectively reflects the Federal Government's vital interest in stopping computer crime, and in protecting the integrity of the business and financial transactions of this country. I believe we have been successful in that regard. I look forward to early consideration of this measure by the full Judiciary Committee so that the Senate will have the opportunity to take a firm and necessary step in the fight against white collar crime.

The legislation originates from a study released in March 1977 by the Governmental Affairs Committee which revealed the insufficient security of Government computers and the absence of adequate protection in our Federal laws against computer crime. Prosecutors have found themselves hamstrung trying to fight 20th century crimes with 19th century statutes.

We are moving closer and closer to becoming a cashless society. In so doing, the potential for fraud and abuse through manipulation of computers becomes an ever greater threat. Huge sums of money are already lost each year as a result of computer crimes, with estimates ranging from $100 million to more than $3 billion. And the chances of getting caught are minimal.

A few States have begun to take action. I am proud to say that Illinois is among them.

The Illinois State Legislature has recently passed and Governor Thompson has signed a computer crime law. In many of its provisions, it is similar to S. 240. I ask unanimous consent that the text of the Illinois act be printed in the

RECORD following my remarks. The Illinois Legislature is to be congratulated for attempting to combat this problem.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. However, Mr. President, the problem is nationwide, and well beyond the resources and expertise of many State and local jurisdictions. Through the wizardry of electronics, a computer crime can be initiated in California, executed in New York, and affect the lives and assets of people in every State of the Union. It is time that we in the Senate address the national scope of this problem, and move expeditiously to enact S. 240, the Federal Computer Systems Protection Act.

EXHIBIT 1

An Act to add Section 16-9 to and to amend Section 15-1 of the "Criminal Code of 1961", approved July 28, 1961, as amended.

Be it enacted by the People of the State of Illinois, represented in the General Assembly.

Section 1. Section 15-1 of the "Criminal Code of 1961", approved July 28, 1961, as amended, is amended, and Section 16-9 is added thereto, the added and amended Sections to read as follows:

(Ch. 38, par. 15-1)

Sec. 15-1. Property. As used in this Part C, "property" means anything of value. Property includes real estate, money, commercial instruments, admission or transportation tickets, written instruments representing or embodying rights concerning anything of value, labor, or services, or otherwise of value to the owner; things growing on, affixed to, or found on land, or part of or affixed to any building; electricity, gas and water; birds, animals and fish, which ordinarily are kept in a state of confinement; food and drink; samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, computer programs or data, prototypes or models thereof, or any other articles, materials, devices, substances and whole or partial copies, descriptions, photographs, prototypes, or models thereof which constitute, represent, evidence, reflect or record a secret scientific, technical, merchandising, production or management information, design, process, procedure, formula, invention, or improvement.

(Ch. 38, new par. 16-9)

Sec. 16-9. Unlawful use of a computer. (a) As used in this Part C:

1. "Computer" means an internally programmed, general purpose digital device capable of automatically accepting data, processing data and supplying the results of the operation.

2. "Computer system" means a set of related, connected devices, including a computer and other devices, including but not limited to data input and output and storage devices, data communications links, and computer programs and data, that make the system capable of performing the special purpose data processing tasks for which it is specified.

3. "Computer program" means a series of coded instructions or statements in a form acceptable to a computer, which causes the computer to process data in order to achieve a certain result.

(b) A person commits unlawful use of a computer when he:

1. Knowingly obtains the use of a computer system, or any part thereof, without the consent of the owner (as defined in Section 15-2); or

2. Knowingly alters or destroys computer programs or data without the consent of the owner (as defined in section 15-2); or

3. Knowingly obtains use of, alters or destroys a computer system, or any part thereof, as part of a deception for the purpose of obtaining money, property or services from the owner of a computer system (as defined in Section 15-2) or any third party.

(c) Sentence:

1. A person convicted of a violation of subsection (b) (1) or (2) of this Section where the value of the use, alteration, or destruction is $1,000 or less shall be guilty of a petty offense.

2. A person convicted of a violation of subsections (b) (1) or (2) of this Section where the value of the use, alteration or destruction is more than $1,000 shall be guilty of a Class A misdemeanor.

3. A person convicted of a violation of subsection (b)(3) of this Section where the value of the money, property or services obtained is $1,000 or less shall be guilty of a Class A misdemeanor.

4. A person convicted of a violation of subsection (b)(3) of this Section where the value of the money, property or services obtained is more than $1,000 shall be guilty of a Class 4 felony.

(d) This Section shall neither enlarge nor diminish the rights of parties in civil litigation.

Section 2. This Act takes effect on becoming a law.

THE GENOCIDE CONVENTION: A LESSON IN PRINCIPLE

Mr. PROXMIRE. Mr. President, I would like to speak one final time on Louis Henkin's article, "Constitutional Rights and Human Rights."

For the last 2 days, I have pointed out Professor Henkin's observations that not only does the Constitution allow the Senate to ratify the Genocide Convention, along with other human rights treaties, but, in fact, obligates us to. Professor Henkin does continue on, however, to point out what benefits fulfillment of this obligation would harvest.

At the present stage of world affairs, the United States' position as a moral leader is still unsure. Our policy has been too inconsistent. State Department official Mark Schneider testifying before the Senate Subcommittee on International Organization explained that "for too long, we had become identified with regimes which denied human rights rather than with the victims whose rights were violated."

Professor Henkin points out that adherence to human rights treaties, including the Genocide Convention, would help dissociate the United States from gross violations of human rights around the world. Inconsistencies in our human rights policy would be corrected and our position as a moral world leader improved.

Without a firm and positive world image, America's effectiveness in shaping international policy is diminished. Other nations do not respond to a country marred with inconsistency and paralyzed by inaction.

More importantly, if we fail to ratify human rights conventions—if we fail to emphasize our faith in the sanctity of human life—we risk losing sight of our own principles and goals. Professor Henkin most aptly explains our present situation in the following passage:

We will learn better, I believe, and more importantly, we will teach and maintain our ways more effectively, if we join the international human rights movement. We must recognize that our constitutional rights are part of universal rights, and that as we are part of mankind, so must our rights be part of the human rights of all.

I urge my colleagues to consider the words of Professor Henkin. It is time we realize the importance of a consistent human rights stance. It is time we ratify the Genocide Treaty.

CONTROLS AND ROLLBACK OF THE PRICE OF HOME HEATING OIL URGED

Mr. KENNEDY. Mr. President, inflation in the United States today is at the highest point it has been since the period immediately following World War II.

One vital component of the cost-of-living index stands out from all the others as the cause of this inflation—energy. The administration itself has argued that without including energy we would have single digit inflation rather than 13-percent inflation. But in the real world, energy is included in the cost of living. The fact is, energy costs now account for as much as half of the 13-percent inflation from which the Nation is suffering today.

While the average American's buying power has been reduced by these inflation rates, the oil companies have shown record profit increases. In the third quarter the average increase for the 17 top companies was 106 percent over the third quarter of 1978, with Sohio at 191 percent; Texaco at 211 percent; Exxon at 118 percent.

The huge profit increases have resulted from increased prices at every stage of operations of the industry.

Refiner margins, the amount of costs and profits which refiners add to the crude oil they buy, have risen every quarter this year. Today they are nearly 70 percent higher than their level in January. These increases are not caused by OPEC, they are increases added above and beyond OPEC costs by the refineries in the United States, who have been taking unconscionable advantage of American consumers by their exorbitant price increases.

In fact, the OPEC price increases, unreasonable as they are, account for less than half the inceased price of oil products in the United States. Why? Because our oil producers and oil refiners are taking full advantage of the tight market and exercising no restraint at all. At the crude oil level, the industry is being decontrolled rapidly and is exempt from the anti-inflation guidelines. At the refinery they are faced with no controls on fuel oil and weakened controls on gasoline, and the guidelines have been completely ineffective.

Last Saturday in Buffalo, I urged President Carter to take a stand on energy, by acting to combat the steady erosion of his windfall tax proposal in Congress. I urged him to pledge a veto of any windfall profit tax that recovers less than 50 percent of the windfall.

In response, the administration refused to consider such a veto, thus jeopardizing our effort in the Senate to adopt an effective tax. As a result, even larger amounts of windfall profits will be flowing into the profits of the oil companies instead of into the public Treasury.

In addition, the skyrocketing cost of heating oil, fueled by the oil companies' demand for the highest possible profits, are bringing hardship to consumers in many parts of the Nation, especially the New England region, the Northeast, mid-Atlantic and some Southern States.

The President has the power to ease this hardship:

He can reimpose—and even strengthen—the price controls on fuel oil, which were removed in 1976, at a time when the oil sold for 39 cents, instead of the 85 cent level we face today.

He can suspend his plan to decontrol U.S. crude oil prices by 1981, a plan which will triple or quadruple the cost of half our oil supply in the coming 3-year period;

He can reverse the decontrol steps he has taken already this year, steps which are rapidly pushing the prices of domestic oil to OPEC levels, or higher; and

He can limit the price levels of large amounts of previously decontrolled oil, so that U.S. producers cannot compound their windfalls every time the OPEC price goes up.

I therefore call upon the President to announce that he will use these tools at his disposal unless the oil industry promptly agrees to initiate substantial voluntary rollbacks in the price of home heating oil and to maintain stable home heating oil prices in order to alleviate the severe hardship that would otherwise occur this winter.

We can no longer tolerate a situation where every other segment of the economy is asked to practice price and wage restraint, while the oil industry is allowed to reap unlimited profits.

This is not a time for polite requests, or idle threats—it is a time for an ultimatum on inflation that will be backed up by firm Presidential action. These oil price increases have been made possible by White House action. They must now be reversed by White House action.

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

Under the order of the Senate of November 2, 1979, the Secretary of the Senate, on November 3, 1979, received a message from the House of Representatives reporting that the Speaker has signed the following enrolled bill:

S. 1905. An act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 1:44 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker pro tempore had signed the following enrolled bill:

H.R. 2515. An act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. EXON).

The message also announced that the Hon. JIM WRIGHT, a Representative from the State of Texas, was elected Speaker pro tempore during the absence of the Speaker.

At 2:45 p.m., a message from the House of Representatives deliver by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 1308) to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on November 3, 1979, he presented to the President of the United States the following enrolled bill:

S. 1905. An act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2418. A communication from the Director of the Defense Security Assistance Agency, Transmitting, pursuant to law, a report on the proposed letter of offer from the Department of the Army to Greece for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2419. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to authorize the establishment of a Senior Cryptologic Executive Service and Merit Pay and Awards System within the National Security Agency and to make necessary amendments to Title 5, United States Code; to the Select Committee on Intelligence.

EC-2420. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Navy Does Not Know If It Has Too Much Electronic/Electrical Depot Maintenance Capability, Too Little, Or The Right Kind"; to the Committee on Armed Services.

EC-2421. A communication from the Chairman of the Consolidated Rail Corporation (CONRAIL), transmitting, pursuant to law, a draft of an Employee Stock Ownership Plan together with a report on the progress made in establishing and administering the Plan; to the Committee on Commerce, Science, and Transportation.

EC-2422. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, a report on the study of public maritime coast station services with particular emphasis on high seas telecommunications; to the Committee on Commerce, Science, and Transportation.

EC-2423. A communication from the Chairman of the Advisory Committee on Federal Pay, transmitting, pursuant to law, a report summarizing the first eight years of experience under the Federal Pay Comparability Act of 1970; to the Committee on Governmental Affairs.

EC-2424. A communication from the Acting Assistant Secretary of the Interior, transmitting, a draft of proposed legislation to amend the Act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims, and for other purposes; to the Select Committee on Indian Affairs.

EC-2425. A Communication from the Chairman of the Board of Trustees of the Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, the annual report of the Harry S. Truman Scholarship Foundation for fiscal year 1979; to the Committee on Labor and Human Resources.

EC-2426. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination Of Financial Statements Of The Government Printing Office For Fiscal Year 1978"; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. MUSKIE), from the Committee on the Budget, without amendment:

S. Res. 233. A solution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 932.

S. Res. 268. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 932.

S. Res. 262. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1918.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PACKWOOD (for himself, Mr. DOLE, Mr. DOMENICI, and Mr. RIEGLE):

S. 1977. A bill to amend title XVIII of the Social Security Act to eliminate certain restrictions and limitations imposed for the receipt of home health services and to make more accessible home health services to those in need, and for other purposes; to the Committee on Finance.

By Mr. TALMADGE (for himself, Mr. DECONCINI, and Mr. GOLDWATER):

S. 1978. A bill to establish an improved program for extra long staple cotton; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE:

S. 1979. A bill to extend section 530 of the Revenue Act of 1978 involving the tax treatment of employees and independent contractors; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD (for himself, Mr. DOLE, Mr. DOMENICI, and Mr. RIEGLE):

S. 1977. A bill to amend title XVIII of the Social Security Act to eliminate cer-

tain restrictions and limitations imposed for the receipt of home health services and to make more accessible home health services to those in need, and for other purposes; to the Committee on Finance.

● Mr. PACKWOOD. Mr. President, I am introducing today with Senators DOLE, DOMENICI, and RIEGLE, a bill designed to prudently expand the medicare home health care program to assist senior citizens remain functionally independent, and to avoid their unnecessary hospitalization and premature institutionalization.

The aged population of this country, which presently consists of over 23 million persons 65 and over, is expected to increase to over 32 million persons by the year 2000. At that time, much of the senior population will be over age 75, and their health-related problems will increase and diversify because of increased age.

Research has shown that providing health care in the home is an effective way to meet many medical needs of the aged. Not only does home health care provide greater comfort for the individual, but it also works toward reducing costs.

The recent publication of "Health, USA," 1978, reported that:

> In a recent H.C.F.A. study (soon to be released) it has been estimated that a year of home care services based upon a 1975 average of $428 per year for those 65 years of age costs approximately half the monthly bill for a nursing home (using a 1975 nursing home cost average of $800 per month).

Since it is clear that providing home health care for older Americans will benefit all concerned from both a humane and an economic standpoint, it would behoove the Congress, and particularly this committee, to begin strengthening the home health care program under medicare. I believe the provisions contained in S. 1977 will help us achieve this.

In addition, the changes I am suggesting in this bill, coupled with the home health amendments I introduced earlier and which the Finance Committee has already agreed to, are significant steps toward the gradual development of comprehensive, community-based, long-term health care system for seniors.

The provisions of this bill are twofold:

First, to change the home health aide program to homemaker-home health aide and the program description would therefore be changed to "homemaker-home health aide" services.

Under current law, a home health aide is allowed to provide limited "homemaker" services such as light housekeeping and meal preparation, but only if these activities do not substantially increase the amount of time spent in a client's home.

By allowing homemaker-home health aides to participate in the medicare home health program, it is believed that, such services will increase the ability of seniors to remain at home in their own communities and avoid unnecessarily long hospital stays.

In addition, by covering homemaker-home health aide services in one program, we can eliminate the need for two persons—funded through different funding sources—to perform similar tasks. The delivery of services will thus become much more efficient if one person is allowed to provide a wider array of services.

In my own State of Oregon, we have a highly successful program entitled Project Independence, which is designed to provide these kinds of support services to seniors with the goal of helping them remain in their own homes.

I strongly believe we should implement this approach on a national scale by combining homemaker-home health aide services together under the medicare home health program.

To limitedly liberalize the current homebound requirement which requires that an individual be confined to his/her home to be eligible for home health services.

While the historical intent of home health services is clear, that is, for the patient to receive such services in the home, this requirement has been found to be severely restrictive and often prevents seniors from maximizing their independence. Many States, under title XX, have established adult day care centers. These centers provide care during the day for seniors who are unable to care for themselves, whose families can in turn care for them at home at night. The centers provide an excellent setting, in addition to the home, in which home health recipients should be able to receive services.

The second provision of my bill therefore prudently liberalizes the current homebound requirement to allow persons who are receiving home health services under medicare to receive such services in an adult day care setting.

These two provisions will, I hope, make significant improvements in the medicare program. Not only will they help us provide more humane, yet more economical care for seniors, but they also move use closer to the creation of a comprehensive, community-based, long-term health care system.●

By Mr. TALMADGE (for himself, Mr. DECONCINI, and Mr. GOLDWATER):

S. 1978. A bill to establish an improved program for extra long staple cotton; to the Committee on Agriculture, Nutrition, and Forestry.

IMPROVED PROGRAM FOR EXTRA LONG STAPLE COTTON

● Mr. TALMADGE. Mr. President, I am introducing today on behalf of Senators DECONCINI and GOLDWATER and myself a bill to improve the price support program for extra long staple cotton.

The bill was developed by the Department of Agriculture, working closely with the Supima Association, an organization of ELS producers.

The ELS cotton program is authorized by legislation that was enacted in 1968. The legislation provides for acreage allotments, marketing quotas, and a loan and payment program with a minimum support level of 65 percent of parity. The loan level must be set between 50 and 100 percent in excess of the loan level for upland cotton. Payments are required if the loan level does not provide the minimum support level.

No payments have been necessary under the ELS cotton program during the past 3 years. However, in the absence of legislation, the Department of Agriculture estimates that payments will be required beginning with the 1980 crop because of a lower upland cotton loan level and a sharply higher parity price for ELS cotton.

Returning to a payment situation is not desired by either the Department of Agriculture or the majority of the ELS cotton producers. To eliminate the necessity of making payments, the bill I am introducing would first, reduce minimum required support level for ELS cotton to 55 percent of parity, and second, increase the minimum and maximum loan levels to 185 and 235 percent, respectively, of the upland cotton loan level.

The bill also makes changes in the ELS cotton legislation relating to the transfers of allotments.

Mr. President, I ask unanimous consent that there be printed in the RECORD first, the text of the bill, second, the letter from the Secretary of Agriculture transmitting the legislation, and third, the Department's press release of October 15, 1979, announcing the 1980 ELS cotton national quota and allotment.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective with respect to the 1980 and subsequent crops of extra long staple cotton, section 101(f) of the Agricultural Act of 1949, is amended by—

(1) striking out "1968" and inserting in lieu thereof "1980";

(2) striking out "50" and insertng in lieu thereof "85";

(3) striking out "100" and inserting in lieu thereof "135"; and

(4) striking out "65" and inserting in lieu thereof "55".

SEC. 2. Effective with respect to the 1980 and subsequent crops of extra long staple cotton, the Agricultural Adjustment Act of 1938, is amended as follows:

(1) Section 344(m)(2) is amended by inserting immediately before the period at the end of the first sentence the following: ": *Provided*, That any extra long staple cotton allotment that is voluntarily surrendered to the county committee must be surrendered not later than January 15 of the year in which the crop is planted"; and

(2) Section 347(f) is amended by striking out the first and second sentences and inserting in lieu thereof the following: "Notwithstanding any other provision of law, beginning with the 1980 crop of extra long staple cotton, the Secretary shall (1) permit the owner and operator of any farm for which an extra long staple cotton acreage allotment is established to sell or lease not later than January 15 of the year in which the crop is planted all or any part or the right to all or any part of such allotment to any other owner or operator of a farm in any State or county for transfer to such farm: *Provided*, That no such allotment shall be permitted to be leased by an owner or operator for any total period greater than three years; and (2) permit the owner of a farm to transfer not later than January 15

of the year in which the crop is planted all or any part of such allotment to any other farm in any State or county owned or controlled by him.".

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 26, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for your consideration is a draft bill "to establish an improved program for extra long staple cotton."

The current extra long staple (ELS) cotton legislation was enacted in 1968. It is continuing legislation that provides for acreage allotments and marketing quotas, and a loan and payment program with a minimum support level of 65 percent of parity. The loan level must be set between 50 and 100 percent in excess of the upland cotton loan level. Payments are required if the loan level does not provide the minimum support level. No payments have been necessary for the past three years, but payments will be required again beginning with the 1980 crop because of a lower upland cotton loan level and a sharply higher parity price. Current estimates indicate a minimum 1980 payment rate of 11 to 12 cents per pound. Neither the Department nor the majority of ELS cotton producers want to get back into a payment situation. Consequently, we have worked closely with the Supima Association (ELS producer organization) in developing this legislative proposal. This proposal would:

1. Reduce the minimum required support level to 55 percent of parity.

2. Increase the minimum and maximum loan levels to 185 and 235 percent, respectively, of the upland cotton loan level.

3. Require that transfers of ELS allotments by sale, lease or owner be permitted.

4. Permit sale, lease and owner transfers of ELS allotments across State lines.

5. Limit leasing of ELS allotments to no more than a cumulative total of three years.

6. Establish January 15 as the final date to release or transfer ELS allotments.

The lower support level and higher minimum and maximum loan levels should preclude any payments during the next several years. The higher minimum loan level should not cause any problems since the loan level has generally been set at or near 200 percent of the upland loan level in order to minimize payments. Government outlays would be reduced.

Requiring that transfers of ELS allotments be permitted should present no problem because transfers have been permitted each year since such authority was enacted. Allowing cross-State-line transfers will permit movement of allotments from some areas of Texas and New Mexico—which are not now utilizing the allotment—to Arizona which could use more allotments. This would also permit establishing a lower national allotment since a larger percentage of the allotment would be utilized. Limiting leases to no more than three years will facilitate the permanent movement of allotments to producers utilizing the allotments. The January 15 deadline will facilitate the movement of allotments earlier so producers can make their plans accordingly.

The enclosed tables show projected support levels and government outlays for the next four years under current legislation and with the proposed changes.

An identical letter and draft bill have been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget advises that there is no objection to the presentation of this report and that enactment of this proposed legislation would be consistent with the President's program.

Sincerely,

BOB BERGLAND,
Secretary.

Enclosures.

ELS COTTON: PROJECTED SUPPORT LEVELS AND GOVERNMENT OUTLAYS

	Projected parity for October of prior year	Total support [1]	ELS loan level [2]	Percent of upland loan level	ELS payment rate	Total payments	Net loan outlays	Total outlays
CURRENT LEGISLATION								
Crop year:								
1980	1.64	[1] 106.60	95.00	200	11.60	4.7	+5.7	+1.0
1981	1.76	[1] 140.40	97.00	200	17.40	7.6	.6	8.2
1982	1.86	[1] 120.90	99.50	200	21.40	9.2	.1	9.3
1983	1.98	[1] 128.70	99.50	200	29.20	12.9	1.0	13.9
4-yr total						34.4	+4.0	36.4
PROPOSED LEGISLATION								
Crop year:								
1980	1.64	[3] 90.20	90.20	190	0	0	+5.9	+5.9
1981	1.76	[3] 96.80	96.80	200	0	0	.8	.8
1982	1.85	[3] 102.30	102.30	205	0	0	.3	.3
1983	1.98	[3] 108.90	108.90	219	0	0	1.4	1.4
4-yr total						0	+3.4	+3.4

[1] Based on 65 percent of parity.
[2] Set at level to minimize payments.
[3] Based on 55 percent of parity.

USDA ANNOUNCES 1980 ELS COTTON NATIONAL QUOTA AND ALLOTMENT

WASHINGTON, October 15.—Secretary of Agriculture Bob Bergland today announced a national marketing quota of 137,000 bales (480 pounds net weight) and a national acreage allotment of 112,027 acres for the 1980 crop of extra long staple (ELS) cotton. The marketing quota is the same as for the 1979 crop while the acreage allotment is 2,938 acres fewer, due to slightly higher average yields.

Bergland also announced a referendum to be held Dec. 3–7 to allow ELS cotton producers to vote on the national marketing quota.

ELS cotton includes three varieties: American-Pima, Sea Island and Sealand.

The 1980 quota is based on estimated domestic needs (65,000 bales) plus exports (estimated at 40,000 bales), minus 2,000 bales of estimated imports. To this 103,000 figure 34,000 bales were added to assure adequate stocks. The 1980 acreage allotment was determined by multiplying the national quota of 137,000 bales by 480 pounds (net weight of a standard bale) and dividing this figure by the national average yield of 587 pounds per planted acre of ELS cotton for the four calendar years 1975 through 1978.

Following is the apportionment of the national allotment by state:

[Allotment in acres]

State	1979	1980
Arizona	49,714	48,557
California	552	488
Florida	142	136
Georgia	150	146
New Mexico	23,282	22,599
Texas	41,125	40,101
U.S. total	114,965	112,027

State allotments will be apportioned among the following designated counties:

Arizona: Cochise, Graham, Maricopa, Pima, Pinal, Yuma;

California: Imperial, Riverside;

Florida: Alachua, Hamilton, Jefferson, Madison, Suwanee, Union;

Georgia: Berrien, Cook;

New Mexico: Chaves, Dona Ana, Hidalgo, Luna, Otero, Sierra;

Texas: Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Ward.

For ELS marketing quotas to remain in effect, at least two-thirds of the ELS producers voting in the mail referendum must approve quotas. Farmers who produced ELS cotton in the designated counties in 1979 will be eligible to vote in the referendum. Individual allotment notices will be mailed to operators of ELS cotton farms prior to the referendum.

Marketing quotas are in effect for the 1979 ELS crop and have been approved by growers for the last 26 years.

If the quotas are approved in the referendum, ELS producers will be eligible for loans on 1980-crop ELS cotton if they have complied with their farms' ELS cotton acreage allotments. In addition, they may also be eligible for payments if the loan level does not provide the statutory minimum total support of 65 percent of parity, in which case the payment rate would equal the difference between 65 percent of parity and the loan level. The 1980 loan and payment rates will be announced later.

Growers exceeding their allotments will not be eligible for loans or any payments and will be subject to penalties on the farms' excess production of ELS cotton. The penalty rate will be 50 percent of the parity price for ELS cotton as of June 15, 1980, or 50 percent of the total support price (loan plus payment), whichever is higher.

If marketing quotas are not approved in the referendum, the allotment program will remain in effect, but there will be no payment program. Loans will be available at 50 percent of parity to cooperators who plant within their allotments.

The ELS cotton program is administered

by the department's Agricultural Stabilization and Conservation Service.●

By Mr. DOLE:

S. 1979. A bill to extend section 530 of the Revenue Act of 1978 involving the tax treatment of employees and independent contractors; to the Committee on Finance.

Mr. DOLE. Mr. President, the Revenue Act of 1978 contains a very important provision, which I sponsored, dealing with the tax treatment of independent contractors. Essentially, the act allows employers to continue to treat their workers as independent contractors if there was a "reasonable basis" for treating them as independent contractors in the past. The employment tax controversy, up until the passage of section 530 of the Revenue Act of 1978, was an issue that had been nagging Congress for several years.

The distinction between an independent contractor and an employee is important because employers do not have to withhold on wages of independent contractors, nor pay social security or unemployment taxes. If the IRS prevails on a reclassification of employment tax status from an independent contractor to employee, the employer becomes liable for employment taxes which have not been withheld or paid to the Treasury.

Mr. President, earlier this year I introduced S. 736, the Employment Tax Act of 1979 which clarifies the law. The Subcommittee on Taxation and Debt Management has held hearings on my bill. However, it appears that Congress will not substantively address the issue during the remainder of this year.

COMMON LAW

Independent contractors are distinguished from employees for tax purposes by common law. The adoption of the common law rules and the application of these rules by the court have produced decisions that are widely understood and accepted. However, several years ago, many taxpayers, including direct sellers, insurance salesmen, and realtors complained that the IRS was distorting the common law test used in making its employment classification.

Mr. President, the Senator from Kansas has attempted to rationally address this important issue. The industries involved have made good-faith attempts to solve this dilemma. However, because of the impasse largely caused by the Treasury Department, I believe Congress needs more time. Therefore, my bill simply extends for 1 more year the provisions of section 530 of the Revenue Act of 1978. I remain committed to solve this troublesome problem and will push for solution next year.

I ask unanimous consent the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IN GENERAL.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1980) is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

(B) by striking out "1980" in the subsection heading and inserting in lieu thereof "1981", and

(C) by striking out "1979" in the heading for paragraph (3) and inserting in lieu thereof "1979 and 1980".

SEC. 2. PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1981".

ADDITIONAL COSPONSORS

S. 1705

At the request of Mr. MOYNIHAN, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1705, a bill to amend the Internal Revenue Code of 1954 with respect to the deduction of charitable contributions to organizations from which the taxpayer or a member of his family receives services.

S. 1754

At the request of Mr. MOYNIHAN, the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 1754, a bill to determine the causes and effects of acid precipitation throughout the United States and to develop and implement solutions to this problem.

AMENDMENTS SUBMITTED FOR PRINTING

DEFENSE OFFICERS PERSONNEL MANAGEMENT ACT—S. 1918

AMENDMENT NO. 567

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG (for himself, Mr. MORGAN, Mr. DOLE, and Mr. HUMPHREY) submitted an amendment intended to be proposed by them, jointly, to S. 1918, a bill to amend title 10, United States Code, to revise and make uniform the provisions of law relating to appointment, promotion, separation, and retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the grade of commodore admiral in the Navy, to equalize the treatment of male and female commissioned officers, and for other purposes.

DEFENSE PRODUCTION ACT EXTENSION—S. 932

AMENDMENT NO. 568

(Ordered to be printed and to lie on the table.)

Mr. BRADLEY submitted an amendment intended to be proposed by him to S. 932, a bill to extend the Defense Production Act of 1950, as amended.

AMENDMENT NO. 569

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to S. 932, supra.

AMENDMENT NO. 570

(Ordered to be printed.)

Mr. PROXMIRE proposed an amendment to S. 932, supra.

DEPARTMENT OF DEFENSE APPROPRIATIONS—H.R. 5359

AMENDMENT NO. 571

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG (for himself, Mr. MATSUNAGA, Mr. CHAFEE, Mr. DURENBERGER, Mr. DURKIN, Mr. HUMPHREY, Mr. LUGAR, Mr. SCHMITT, Mr. STONE, and Mr. WARNER) submitted an amendment intended to be proposed by them, jointly, to H.R. 5359, an act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMMITTEE ON ARMS CONTROL, OCEANS, INTERNATIONAL OPERATIONS, AND ENVIRONMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Arms Control, Oceans, International Operations, and Environment Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 8, 1979, beginning at 2 p.m. to hold a hearing on the Cambodian refugees.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a markup session on S. 95, S. 96, and S. 97, legislation to designate certain lands in Idaho as wilderness.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit and Rural Electrification of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, November 8, to hold an oversight hearing on the Farmers Home Administration (FmHA).

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE COURAGE OF THE DISSIDENTS

Mr. BRADLEY. Mr. President, I submit for the RECORD an article written by Mrs. Jeanette Williams, the wife of my distinguished colleague from New Jersey (Mr. WILLIAMS). The article is entitled "The Courage of the Dissidents," and was published in the Washington Post on October 27, 1979.

The article follows:

[From the Washington Post, Oct. 27, 1979]

THE COURAGE OF THE DISSIDENTS

(By Jeanette Williams)

Andrei Sakharov said, "Today, during the day of the Belgrade Conference political prisoners in the USSR are carrying out a hunger strike, fighting not for themselves but for the principles which should be dear to all freedom loving peoples. Let us be worthy of them."

The raw courage of Soviet dissidents to join together and protest their oppression has startled the world into a renewed awareness of how barbaric Soviet society can be. Although Americans have become more aware of the dissidents' plight through press reports, increased contact with these stoic individuals would add a new dimension to their struggle.

Only by communicating directly with the dissidents can we learn how political opponents of the Kremlin are systematically stripped of citizenship. Of course, we in the West owe a great deal to our newspapers for exposing the plight of Soviet Jews and other minorities. But monitoring the Helsinki Accords on Human Rights should not be left just to the press with its uncertain priorities, nor our government with its cautious policies.

Independent citizens, mindful of human rights but obligated neither to prevailing government dicta or the whims of space-conscious newspaper editors, can provide a valuable link to these people. By identifying ourselves with their struggle, we guarantee that their cries for freedom will be heard. The dissidents' brave assertion of their rights as human beings has kindled a flame of admiration all over this earth.

When he accepted the Nobel Prize for Literature, William Faulkner said, "I decline to accept the end of man . . . I believe that man will not merely endure: he will prevail. He is immortal not because he alone among creatures has an unexhaustible voice, but because he has a soul, a spirit capable of compassion and sacrifice and endurance." Faulkner's statement could have no better example than that of the Soviet dissidents.

One direct result of their inspiration was the founding of the Congressional Wives for Soviet Jewry, which Helen Jackson and I co-chair.

Founded two years ago, the Congressional Wives provide moral support for the targets of Soviet reprisals. Among our first experiences was meeting with Mrs. Natalia Scharansky. I saw her as a heroic figure. More than that, I sensed the combination of frustration, despair, and hope which she conveyed to all about her.

I have often thought that there must be a certain identity of experience among women in this situation which permits them to feel emotional stress so keenly. In fact, I wonder whether the presence of the wives of Soviet leaders at this meeting might have helped bring about a more humane policy in the Soviet Union.

There have been many other lessons for us from our experiences. The bond of humanity that joins the religious and political dissidents dramatically demonstrates the desire for freedom as an endowment of every human soul. Soviet Jewish dissidents have been joined by political and religious dissidents of every conceivable description.

We would be destitute of feeling if we were not deeply affected by the mental and physical cruelty inflicted on these people. Let each of us resolve to identify these individuals, establish friendships with them, and fight as they fight. Let us stand with them, and put the Soviet authorities on notice that we are there, watching and waiting.●

SUM—THE SHALLOW UNDERWATER MOBILE SYSTEM

● Mr. HATFIELD. Mr. President, as Congress has asked to commit this Nation to a mobile MX missile system, which will be the largest such project in history, I have sought to offer a viable and strategically sound alternative. As my colleagues are aware, I believe that the Shallow Underwater Mobile system (SUM) proposed by Mr. Richard Garwin and Mr. Sidney Drill can offer dramatic strengths compared to the proposed land-based deployment of the MX missile.

Prior to a more extensive debate on this subject, I want to bring to the attention of my colleagues two recent articles which discuss the proposal.

The first is written by Mr. Paul A. Chadwell and appeared in "National Defense." The second is an article which appeared in the October 12 issue of "Science," written by Eliot Marshall. I strongly urge that my colleagues give thorough review to the SUM alternative to the immense and growing problems posed by the MX racetrack system. I ask that both articles be printed in the RECORD.

The articles follow:

THE CASE FOR THE SLBM FORCE

(By Paul A. Chadwell)

(The author is a former member of the Ordnance and Chemical Corps intelligence services and the Defense Intelligence Agency. He is multi-lingual and has written and analyzed classified material dealing with the technical capabilities of foreign powers for 20 years. He is retired but writes about international economic and military subjects.)

Our silo based intercontinental land missiles are becoming so vulnerable to a pinpoint attack that we are making every effort to harden their sites. This course is being followed even though it is increasingly evident that such missiles will soon be irretrievably exposed to incoming ICBM's. We now plan to additionally safeguard our land missile viability by substituting mobile versions for emplaced types as well as hiding what we have. Mobile versions would be shifted around the country along railroad tracks which would be covered or tunneled along certain stretches to confuse an enemy regarding missile locations. However, aboveground missiles on the move would be exposed to enemy ICBM's; it is therefore hoped that (at least while they are in tunnels) the whereabouts of such missiles would be screened from attack.

The plan to harden existing silo sites to protect our missiles against blast also provides for melding newer sites into a multiple aim structure (MAS) [1] system. Accordingly, there would be many more sites than missiles and most of the proposed new silos would house dummy missiles. Large sums have already been committed to associated research and development in the effort to attain an acceptable system of MAS protection. Although there is increasing emphasis on the mobile missiles, both efforts are premature and counterproductive because there is a better option.

SHELL GAME SHORTCOMINGS

Under existing concepts, the MAS proposal relating to newly emplacable missiles would scatter up to 6,000 silos over vast land areas in the mid-continental United States in a complex that proposes to shelter some 200 live missiles from an enemy in an undisclosed distribution pattern. The solution is illogical for a number of reasons including: (1) Cost (2) The time needed to effectively install the decoy system and (3) The likelihood that an enemy might be prompted to over-saturate most of our mid-continent with his missiles to prevent a preemptive or a retaliatory strike against his homeland.

Simply stated, our land based missiles, already largely indefensible, would be pinned down by successive waves of incoming nuclear tipped enemy missiles. This is so because of the fragility of an outgoing missile, in its booster phase, to the intense X-rays emanating from exploding incoming missiles. According to testimony given by Richard L. Garwin [2] to the House Armed Services Committee on February 7, 1979, the state of the art in intercontinental missilery indicates that, on a global basis, incoming missiles will be capable of striking within 10 meters of a fixed target by 1982–83—no matter whence the firings originate. Although the cited 10 meter CEP [3] may appear exaggerated even the 100 meter CEP accuracy that is in the offing will certainly suffice to neutralize emplaced missiles in hardened sites. Consequently, it will be pointless to dig holes all over the country (even though most of the holes will contain nothing fireable) because an enemy could blanket the entire system for less cost than we can create it—thereby preventing effective launchings of our own types.

MOBILE SYSTEM WEAKNESSES

Rail-cum-tunnel versions are likewise inappropriate. Exposed track would be torn up by enemy firings, thereby inhibiting missile shiftability. Also, the latest concept of roofed-over silos along stretches of track under which missiles would be hidden when not in transit, will afford splendid ingress and egress targets for incoming missiles.

Proposed airborne versions of ICBM's would be somewhat less vulnerable to inflight elimination by an enemy than either emplaced missiles or track oriented types would be. But maintaining such a system on a 24-hour flying alert would be extremely costly. Not only would large numbers of missile-equipped aircraft have to be continually airborne but vast tonnages of expensive and increasingly scarce high octane fuels would have to be expended under a system of constant patrol. Moreover, missile carrying aircraft are also highly vulnerable to enemy air-to-air missiles, similar to Sidewinder, armed with heat-seeking devices.

Another airborne proposal envisages the use of widely dispersed and readily operational ICBM-armed V/STOL aircraft.[4] Although this solution might be more economi-

[1] Also sometimes referred to as MAP, MVPS, MPS.

[2] Much of the technological detail cited here stems from the Garwin testimony. Mr. Garwin has formidable qualifications in military science and is also active in the arms control field. His work in government includes studies of antisubmarine warfare; nuclear and low temperature physics; sensors, elements and superconductors used in communications nets; and satellites and strategic systems with special reference to assessing and improving their capabilities. He has testified before numerous Congressional Committees on matters involving national security and has been a member of the President's Science Advisory Committee over long periods. He is also a member of the Council of the Institute for Strategic Studies (London).

[3] Circular Error Probability—the accuracy factor of a missile.

[4] Vertical or Short Take-off and Landing.

cal than having the aforementioned system of continuous patrol, it would necessitate large initial outlays for specialized airframes and would also involve us in a virtually insoluble electronic warfare communications problem. Even now, enemy submarine launched ballistic missiles (SLBM's) originating in the Pacific would allow us but 8 minutes of prior alert before penetrating our continental airspace. This is a totally insufficient warning span in which to scramble special-purpose V/STOL aircraft for a retaliatory ICBM strike.

THE SUBMARINE OPTION

We are therefore increasingly led to the conclusion that only submersible ICBM's (SLBM) can give us an acceptable defensive-offensive posture intercontinentally.

This option combines both mobility and undetectability. There is the additional advantage of the resilient cover afforded by the shock absorbent power of water which will shield a submerged target even in the case of a near miss by an incoming ICBM. Therefore, it is considered that only submersible ICBM's, to be carried by mini-subs and virtually invulnerable to enemy attack, can adequately and safely serve our spiralling intercontinental defensive needs.

Such missiles, hidden in the world's oceans, are ostensibly preferable to their land based or airborne counterparts. Although the law of the sea precludes missiles from being emplaced along the reaches of our continental shelves under the water (nor does it permit their fixed deployment along the deep sea bottom) it does not prevent us from creating a force of roving submersible ICBM carriers.

Recently publicised information that the U.S.S.R. now has lighter and faster submarines that can operate at greater depths than our equivalent Los Angeles attack type by no means negates the usefulness of the mini-sub ICBM delivery concept. Attack submarines have to operate in deep waters whereas our mini-subs will be pre-eminently adapted to the shallower areas over the continental shelves. The missions of an enemy hunter-killer submarine relates primarily to pursuing and destroying larger attack submarines or Polaris, Poseidon and Trident in deep seas. They are well fitted for this task but would be at an operational disadvantage in maneuvering close to shore. In addition, it would be especially difficult for any type of enemy submarine to achieve a fix on a mini-sub on station and skulking motionlessly pending ultimate missile firings. Such stationary targets are virtually uniocatable.

The concept of a fleet of mini-subs, mounting encapsulated and horizontally-oriented missiles outside their pressurized hulls, dates from 1967. The classic study of U.S. strategic force options, made in that year, also envisaged the vertical emplacement of missiles within a pressurized hull—since attained in Poseidon and Trident. Technological advances made since 1967 have rendered the externally mounted versions quite feasible—as unclassified material indicates. Also, the concept does not violate present SALT restrictions and, indeed, the proposed trimodal MX missile, when it becomes operational, will increase our bargaining power in future SALT negotiations. It is therefore obvious that a fleet of mini-subs with missiles attached to their outer hulls would now admirably serve our defense purposes. The vessels would displace some 300 tons, would be relatively cheap to build, and would require but 2 to 3 man crews. Guidance systems would be integral to the missiles and this would eliminate space-consuming instrumentation within the submarine hull.

COMMUNICATIONS

Command and control systems for a mini-sub fleet are now also quite feasible. Normally, the subs would be in constant communication with the National Command Authority (NCA) via Very Low Frequency (VLF) signal picked up by a swimming receiver submerged a few feet below the surface and hovering above each vessel. Should ground-based transmitters be destroyed, their role would be assumed by TACAMO aircraft which can radiate signals from a long trailed wire. A number of other continuous communications systems would also be available—among them a fiber optic thread type to be unreeled as the mini-sub cruises. New reels would be hooked up at pre-arranged junction points on patrol. (The crew would have no capability either to fire a missile or to delay its firing upon the receipt of the requisite encrypted command)[5]. A principal criticism of SLBM's has been their presently insufficient accuracy when fired. It is my opinion that targetings from stationary mini-subs will be at least as accurate as what is attained by standard sized submersibles fitted with SLBM's. And as technology advances in this sector, mini-sub firing accuracies will increase along with those of the MX missiles that will become available to the rest of the submarine fleet.

Since these small submersibles would need to deploy but a few hundred miles from our mainland, their operational speed need not exceed 5 knots. Consequently, such a roving, SLBM-equipped mini-sub force, which could be powered by engines using low cost diesel fuel, would be economically maintained while prowling the ocean. Should diesel engines prove to be too noisy and thereby tend to give away vessel locations, battery operated versions or modes might be preferred. Snorkels would be used for air intake purposes in any event.

Since these submersibles would be virtually undetectable when submerged and motionless, there would be little threat to them in consequence. In contrast, both airborne and land-based missile type ICBM forces (whether fixed or mobile) would entice attack and overkill with consequent enhanced danger to the entire U.S. population in the event of intercontinential hostilities.

NEW COMPLEXITY

In view of our logical need for an enhanced and diversified SLBM capability, the relevant research and development program should be undertaken immediately. A roving fleet of slowly moving submersibles would be much more economical and deceptive than any number of MAS emplacements, or either a rail serviced or airborne system. Mini-submarines would burden an enemy with limitless aiming problems because a potential attacker could not even begin to locate an indeterminate number of shiftable underwater targets. This is assured because three dimensional scanning techniques, essential for pinpointing and destroying underwater objects, cannot be perfected in the foreseeable future.

The development of a new weapons system is time-consuming but it is unlikely that the solution advocated here would take longer to perfect than a fully fledged MAS or airborne system.

According to General Lew Allen, Jr.,[6] who is USAF Chief of Staff, it will take some six years from the time a decision is made to adopt MAS to achieve its Initial Operational Capability (IOC) and about 5 more years to attain Full Operational Capability (FOC) for the baseline system. The development of a new missile alone takes some 7 years. This would apply to the new MX and it would take somewhat longer to develop a version fully common to the Air Force and the Navy. There could therefore be but little delay in perfecting even a tri-modal system if MX is also made compatible for mini-sub launchings. It would be unfortunate if we immediately opt for enhanced land-based and/or air launched MX programs without concurrently fully exploring supplemental underwater missile launch systems based on mini-subs. Delay of a few months, with particular reference to MAS, would be unimportant in any event because the latter system—quite apart from MX—cannot function adequately before the 1990's, regardless of the intensity of the construction effort. The immense engineering problems involved will preclude the early operational effectiveness of such a system.

It is most timely for our naval forces to advocate the proposed supplemental and highly effective SLBM capability. If this is not done at this time, our opponents will do it first and thereby again outpace us in this area of defense—to our continuing detriment.

[5] Ibid.

[6] In a letter dated December 29, 1978, addressed to the Hon. Melvin Price, Chairman, Committee on Armed Services, House of Representatives.

MX MISSILE TO ROAM 200 RACETRACKS

(By Eliot Marshall)

Jimmy Carter announced on 7 September that he had made the most important decision for America's nuclear forces in more than a decade, likening it to President Truman's decision to create the Strategic Air Command and Kennedy's creation of the Minuteman missile force. Carter endorsed a plan drawn up by the Defense Department to install the newest and most lethal nuclear missile, called the MX, on movable launchers and have them hauled about by 3000-horsepower locomotive-like trucks. These will be sent to roam over 500 miles of as yet unbuilt military highway in the Southwest, where they will play hide-and-seek with Soviet satellites. As soon as it was announced, the scheme began to draw critical fire from the arms control community.

Debate over the basing system for the MX, which became quite frenetic within the government this year, is now officially at an end. But some independent defense analysts say the decision should not be considered final, for they believe it was a serious mistake and will soon be recognized as such. They argue that, in the interest of national security, the debate should be resumed, because there are simpler and safer approaches than the one the President has taken. Furthermore, there is time to reconsider, they say; the MX will not be ready for deployment until 1985.

The Administration's basing system, nicknamed the "racetrack," will call for an enormous construction project in the Southwest's desert valleys, where water, labor, and support facilities are scarce or nonexistent. The basic plan calls for building 200 road loops, each 15 to 20 miles long, in the deserts of Nevada and Utah. In each loop there will be one missile aboard a mobile launching vehicle (called a transporter-erector-launcher or TEL). A motorized shed on wheels will surround the TEL and accompany it whenever it moves along the loop. The shed will be used to hide the missile's true location from the Soviets.

Around each road loop, at 7000-foot intervals, will be 23 underground garages made of thick concrete to resist the blast of incoming missiles. When it is time to install the missile in a garage, the TEL will drive into its appointed loop with the shed moving along above it. The shed will drive up to each garage on the loop as though to install the TEL at each one. But in reality the TEL will slip out under the shed and park surreptitiously in only one of the garages. At monthly or bimonthly intervals, the shed will visit all the garages and move the missile to a new site. At greater intervals—perhaps

once every 6 months or every year—slats in the roofs of the sheds and the garages will slide open to reveal that there is, in fact, only one missile in each loop.

On notice of a Soviet missile attack, the TEL's, without their sheds, will "dash" from their garages at 30 miles an hour, park in a new garage, and prepare for launching.

The Defense Department estimates that it will cost $2 million to build each garage and that the total program, missiles and all, will cost about $33 billion in 1980 dollars. The entire network of 4600 garages should be in place, barring unforeseen political, legal, or environmental problems, by 1989 or 1990.

"It's a Rube Goldberg scheme," says Sidney Drell, a defense analyst and deputy director of the Stanford Linear Accelerator Center: "I've never heard of anything so rococo in my life. It's absurd." Richard Garwin, another veteran defense consultant, former director of applied research at IBM, and professor at the Kennedy School of Government at Harvard University, says Carter's choice for MX basing is "absolutely wrong." The racetrack, he claims, is "a vulnerable system; I will bet that within 2 years it will be regarded as just as vulnerable as the Minuteman it is replacing."

Drell and Garwin have looked closely at the proposals for basing the MX and have become vocal critics of the racetrack scheme. In 1978 Drell headed a study on the future of U.S. missile policy that was conducted at the Stanford Research Institute for the Defense Department. He concluded that mobile missiles should be based on small submarines patrolling off the east and west coasts. Garwin sat on a task force on missile modernization put together by the White House Office of Science and Technology Policy, and, like Drell, he concluded that submarines offered the best solution to the problem of missile basing in the 1980's. This conclusion was rejected by the Pentagon, although defense officials agree there is merit in it. As Garwin put it, "Mostly they say it's a very good idea for the 1990's after we finish building Trident [the new nuclear submarine] and get the MX deployed." Understandably, the authors of the minisub proposal have an interest in defending their own research. But their criticism of the racetrack is so fundamental it can hardly be brushed aside as sour grapes.

Drell and Garwin argue that the President has opted for an unnecessarily costly and cumbersome program that will not even come to grips with the problem it is supposed to solve. They agree that the problem requires action: by 1982 or thereabouts, America's most accurate big missiles—the land-based Minuteman-III force—will become vulnerable to a Soviet first-strike attack. This will occur because Soviet missiles will have better guidance systems by then. If the Soviets wished to start a nuclear war, they would be able to use their land-based missiles to destroy over 90 percent of the U.S. Minuteman arsenal. For this to happen, the United States would have to leave its missiles in the ground after being warned that the Soviet missiles were in the air. And even if this first strike were successful, the Soviets would not be able to destroy simultaneously all American bombers and submarines. These would still be free to shower several thousand warheads on the Soviet Union—enough to end civilized life there.

Thus, "Minuteman vulnerability" is a largely theoretical problem. But it is worrisome because it diminishes confidence in the most accurate, heaviest, and best-controlled segment of the U.S. nuclear triad. (Submarines and bombers are the other segments.) This may not be the most important practical problem confronting our strategic forces, Garwin says, but it is the one which the Defense Department has advertised most and seems most concerned about.

Garvin points out that there are several quick and relatively cheap measures that could be taken to restore full confidence in our nuclear forces, and he recommends that all of them be followed. They involve such things as improving the guidance and communications for submarine-based missiles to make them as threatening to the Soviets as Minuteman, installing simple nonnuclear defenses around Minuteman silos, and developing an airborne missile equivalent to Minuteman. But, he says, the Pentagon does not like to solve problems with technical fixes; it prefers to buy whole systems. For this reason, the only solution that meets the Pentagon's terms of acceptability is one that creates a new and truly invulnerable heavy missile system—one which, like Minuteman, is highly accurate and securely linked with a central command post.

According to Garwin and Drell, one of the glaring flaws in the racetrack scheme is that it will be just as vulnerable to a Soviet first strike as Minuteman during the early part of its construction. This is so because the Soviets will have enough warheads to aim two at each missile garage during this period. Only when the construction program enters the final stage—in 1988 or 1989—will U.S. missile garages be so numerous as to present targeting problems for the Soviets. There is another catch: the SALT II treaty, now being considered by Congress, is due to expire in 1985. If it is allowed to lapse, the Soviets will be free to place more warheads on their missiles and, of course, to build more missiles beginning in 1985. Yet the racetrack system will not be finished until 4 or 5 years later. The invulnerability of the racetrack scheme thus depends on persuading the Soviets to limit the number of warheads on their missiles, or alternatively, on building $2 million garages in the Southwest faster than the Soviets can place warheads on their missiles.

Garwin recently wrote that the United States is buying itself an "anti-bargaining chip" for the next round of negotiations with the Soviets: "Can you imagine that in 1983 as SALT III negotiations are coming down to the wire, the U.S. says to the Soviet Union, 'Please Mr. Soviet Union, we have committed $30 billion to the deployment of the [new missile] system, which will be vulnerable if you deploy a lot more warheads. Therefore, won't you be so good as to agree in SALT III not to have enough warheads to threaten the MX?' No doubt the Soviet Union will be only too glad to agree, but what price will they exact as a condition of that agreement?"

Garwin says he has been warning Defense officials for years that if they say that the Soviet Union is going to imperil Minuteman in 1982 but then provide no solution until 1988, "they're just going to be laughed out of court." He continued: "They get everybody to feel that Minuteman vulnerability is unacceptable and a terrible political threat, and then they say, 'By the way, you have 7 to 10 years of assured vulnerability'. What kind of business is that?"

When asked about this weakness in a press conference, William Perry, undersecretary of defense for research and engineering, said he doubted the Soviets would try to place more warheads on their missiles, because the United States would be able to expand and accelerate its racetrack construction program, building 10,000 rather than 4600 shelters by 1989:

We can do that while still maintaining the final operational date—1989—provided we know what is happening by about 1983 or 1984. It's a matter of how many shelters we build and how many missiles we build. We can build about 2000 shelters a year without going into a war emergency kind of a footing. . . . We can demonstrate, not only to you and to the Congress, but I believe to the Soviets, that . . . they cannot win that sort of a race. . . .

A second major flaw in the racetrack, Drell says, is its dependence on deception. For the system to work, it must contain more garages than the Soviets have warheads, but it must also deceive the Soviets about the missile's location.

This will require elaborate security controls to keep information from the crews that operate the missile bases, and it will mean that the garages and the sheds that hide the TEL's must be designed to give the Soviets the impression that each one has a missile in it. The Defense Department, for example, has not yet decided whether it will be necessary to install huge concrete weights (at a total cost of $1.4 billion) in each shed to deceive seismic sensors. In an article written for the Arms Control Association, Drell says that in adopting deception as a defense (rather than a straightforward concealment), the United States will be trying to compete on the Soviets' home turf: "The Soviet system is far better adapted to the imposition of controls, secrecy, and limitations on their population. The Soviets also have 2½ times the territory of the continental U.S. . . . in which to deploy and 'hide' mobile ICBMs. We should prefer to compete with the Soviets on our own home turf of mobility based on new systems and reliable technologies."

A third flaw in the racetrack plan, say Garwin and Drell, is that it will make arms control more difficult. It may magnify fears of a surreptitious "breakout" strategy, in which surplus missiles are stockpiled slowly and then, in a surprise move, rushed to preconstructed launching sites. If the Soviet Union were to copy the U.S. racetrack and put 200 missiles in 4600 concrete shelters, Garwin claims, there would be no way to assure the public that the Soviets were not building a threatening stockpile of more than 200 missiles. Fears of this sort could frighten both sides into producing more warheads.

A submarine missile system based near the coast would eliminate or diminish nearly all of these problems, according to Drell and Garwin. They claim that most of the technology is available and could be adapted for an operational system much sooner than the racetrack scheme will be ready—perhaps by 1985 or 1986. Germany already has built 18 modern subs weighing 450 tons each (as compared with 8000 tons for the Poseidon and 18,000 tons for Trident), and uses them in the Baltic Sea. In the Garwin-Drell scheme, the small vessels would be fitted with two or three external missile capsules, a power system already in use on commercial surveying subs, and a new communications system. About 100 of these little subs could be built in fairly short order, the proponents say, at a much lower cost than the racetracks proposed by the Defense Department. In terms of security, their most important feature is invulnerability; unlike the land missiles which are safe only in the aggregate, the submarines are individually invulnerable. Each one, as it puts to sea, diminishes the perceived Soviet threat to Minuteman. They do not require a massive program of deception. They have a distinct advantage in terms of arms control; because they are easy to count as they are assembled in shipyards, they would create no fear of a breakout.

Air Force officials say the idea has technical flaws. For example, they argue that the submarines might be rolled over or destroyed in the turbulence that could be caused by a Soviet barrage of American coastal waters. And they fear that—no matter how sophisticated—the communications link with the little subs would be markedly inferior to the one planned for the racetrack. Garwin disputes both points.

Perhaps even more important than the technical criticism is the feeling, as one Air Force officer puts it, that moving into subs would be like telling the Soviets they

had "chased us off the land." In this context, it is useful to keep in mind the Defense Department's doctrine of the strategic triad: America must have invulnerable nuclear forces in the water, in the air, and on the land. Under this doctrine, one does not solve the weakness of a land-based force by putting a new force underwater. Besides, the Air Force, which is due to get the MX, is not eager to go underwater, and certainly not in diminutive German submarines. The Navy is bored with the idea, Drell suspects, because it would siphon off funds from the Trident construction program, which is already a huge financial burden, and slow the pace of the ambitious new conventional shipbuilding plan. As Drell claims, "The principal obstacle [submarine] system at this time is that it has no institutional home or constituency."●

DANIEL H. WINBORNE—TRANSPORTATION SPECIALIST FOR CLOSE UP

● Mr. JOHNSTON. Mr. President, I would like to call attention today to a man who, for the last 2 years, has been responsible for arranging transportation for thousands of young Americans who come from all parts of the country to participate in the Close Up program in Washington, D.C. Daniel H. Winborne, transportation specialist for the Close Up Foundation, is leaving his position on November 19, 1979, to further his career interests with an important new assignment in the airline industry in Miami, Fla.

The Close Up program is one of the most successful educational experiences I know. There has never been a more critical time for young Americans to become knowledgeable about and involved in our Government. Dan Winborne has been responsible for making transportation arrangements for over 25,000 students and teachers to come to Washington over the last 2 years to gain a firsthand look at their Government. He has also been deeply involved in planning for more than 14,000 participants for the 1979–80 program year.

In my own State of Louisiana, where we are fortunate to have both Shreveport-Bossier and Greater New Orleans as Close Up communities, Dan's behind-the-scenes efforts have made it possible for thousands of young people to get to Washington for the Close Up Week.

In shouldering one of the program's more vital but thankless burdens, he has built a solid reputation that will serve him well in his new position.

I know that my colleagues in the Senate would wish to join me in commending the outstanding efforts of Dan on behalf of the teacher and student participants in the Close Up program.●

SENATOR PROXMIRE'S VIEWS ON CHRYSLER

● Mr. GARN. Mr. President, the Committee on Banking, Housing and Urban Affairs will soon be considering proposed legislation to provide Federal loan guarantees to Chrysler Corp.

A recent issue of the New York Times Magazine contains an article by Senator PROXMIRE, chairman of the Banking Committee, forcefully arguing against the use of loan guarantees in the Chrysler case. The article should be very useful to Senators and their staffs during consideration of the Chrysler proposals. Accordingly, I ask that "The Case Against Bailing Out Chrysler" be printed in the RECORD.

The article follows:

THE CASE AGAINST BAILING OUT CHRYSLER

(By WILLIAM PROXMIRE)

You're chairman of the Senate Banking Committee. You're in a position of responsibility and decision in considering any bailout of the floundering Chrysler Corporation that involves credit. The two kinds of bailouts most likely to be used, a loan or a loan guarantee, involve credit. So the ball's in your court. What do you do?

The answer will depend upon how you feel about a few basic points. As a matter of principle, for example, who's to blame when a corporation gets in trouble? What are the alternatives to a Chrysler bailout? What are the stakes for the millions of taxpayers a Senator is supposed to be representing?

Last year, more than 6,000 American businesses of every size and variety went bankrupt. In some cases, the bankruptcies were caused by the incompetence of the management, or by the vigor and good luck of competitors. In some cases, midtown companies folded when their customers moved out to areas made convenient by newly constructed Federal highways. In some cases, the public just stopped buying the company's product—it had become obsolete, gone the way of the buggy whip.

But in virtually all cases, an infusion of capital—a loan guarantee or a favorable loan—could have staved off bankruptcy. Question: Why didn't the Federal Government just step in? A lot of misery could have been avoided: the nightmare vision that haunts many owners of firms in this country of losing their whole investment; the anguish of being poor, out of work, marked a failure, the hardship for the family.

Last year, alone, we could have preserved hundreds of thousands of jobs. We could have prevented losses of millions of dollars by banks and other creditors. Suppliers caught in the fall of their customers could have been saved. All these slings and arrows could have been avoided by a Government with the good heart to step in and say, "You're not going to fail. We won't let you. You say you need a thousand dollars or a million or a hundred million or—in the case of a Chrysler—a billion? Here it is. Try again. We're with you."

What's wrong with that? Answer: Just about everything. Millions of products and services we don't want would be produced. Efficient firms would suffer unfairly because their inefficient competitors were, in effect, being subsidized by the Government. Clearly, such largess would be the end of the free-enterprise system.

We all know that failure, or rather the possibility of failure, is a linchpin of the free-enterprise system. If you can't put together the smart management and the skilled work force and the capital, and if you can't keep it together, you're out. It is in part the specter of failure that over the years has kept American companies producing. Lenders and investors, insiders and outsiders, know they are on their own. They have to exercise judgment; if they misjudge, they pay the price.

Yes, the system can be cruel. It can throw innocent, hard-working men and women out of a job. It can ruin a good and conscientious man because he has made a mistake, or simply because he has been unlucky. But, by and large, the system accomplishes its basic missions.

It reduces, even if it doesn't eliminate, incompetence in management. It provides the rewards and punishments that foster good judgment on the part of lenders and investors. It eliminates products when the market for those products has disappeared, whether they be gas-guzzling automobiles or sailing schooners.

What would happen if Government chose to go down that long road of bailing out failing firms? For a start, the incompetence and misjudgments that led to failure in the first place would simply be cast in concrete. Moreover, one of the oldest laws of Government spending would come into effect: once the Government invests in an enterprise, it has little choice except to continue. Failure to keep the Federal money flowing would bring about the conditions that inspired assistance to begin with—jobs lost, banks in difficulty, competition reduced. But even worse for the Government personnel who had made the decision, such a change of signals would expose the stupidity and waste involved in making the investment to begin with. So the bailouts would continue and expand.

That prospect has kept the Government out of the save-everybody business to date, but a very dangerous precedent was established in the matter of the Lockheed Corporation. The Government bail-out in that case was a $250 million loan guarantee. Lockheed was the nation's biggest defense contractor, with two-thirds of its production going to the Government for military weapons, and the national security was cited by those in favor of the loan. Those who opposed the loan pointed out, among other things, that the troubled segment of Lockheed's operation was outside of defense and Government procurement, but to no avail. The loan guarantee went through.

I was against the Lockheed bailout. I am, if it is possible, even more opposed to the Chrysler proposition. And my opposition is based not only upon principle, but upon certain realities that tend to get obscured in what little serious discussion the issue has received.

Chrysler has argued, for example, that the only options for the company are bailout or bankruptcy, and that bankruptcy would be an unmitigated disaster. Actually, there is a real possibility that Chrysler could make it on its own. But leaving that aside, what would bankruptcy mean? Would the 10th largest corporation in America evaporate overnight, leaving its plants idle and rusting, its workers, dealers and suppliers out on the street?

Our bankruptcy laws have always been expressly designed to keep that from happening, to give a failing company a breathing spell while it works out its problems. In fact, a revised law that took effect Oct. 1 makes it even easier to reorganize and continue functioning. Under the law, the company goes to court to file for bankruptcy and gets an automatic stay of its debts while it tries to work out with its creditors a plan for getting back on its feet. Meanwhile, the plants keep operating, management stays in place and most workers are kept on the job.

Of course, this is not to suggest that bankruptcy is without pain. Once the plan is agreed upon, there may be plant closings and job losses. New management may be required. Stockholders may suffer a loss; they almost certainly will be forced to do without dividends for some time. Creditors may have to stand back and wait for satisfaction.

Bankruptcy is a tough solution, but it is not an unthinkable solution. What it really means is a chance to save the healthy elements of a company, to give it a fresh start.

That issue aside, what are the arguments offered for a Chrysler bailout? Some are so thin as to be almost invisible.

Is Chrysler, as some would suggest, a struggling little outfit—a veritable mom-

and-pop operation that just needs a friendly banker, a little more capital, to keep going? Not exactly, with its 1978 sales of more than $13 billion on operations around the world. It may be smaller than Ford and General Motors, but that doesn't make it small.

Does Chrysler provide an essential product or service, vital to the national health or safety, that could not be supplied by others? Obviously its passenger vehicles do not seem to fall in that category. Chrysler does sell about 5 percent of what it produces to the Government for defense. Its tanks are turned out at a profit to the corporation and to the customer's satisfaction. No matter what happened to Chrysler, however, those defense goods would continue to be produced, in all likelihood, by Chrysler itself.

There are other justifications offered for a Chrysler bailout that at first glance seem to have greater weight.

BAILOUT ARGUMENT NO. 1: JOBS

According to a Department of Transportation study, Chrysler operating full-blast provides 119,500 direct jobs and 292,000 indirect jobs (through dealers and suppliers) for a total of 411,500. If these people were thrown out of work, they would cut back on their purchases, which would in turn affect still more jobs.

One "worst-case" scenario that has been bruited about claims that, assuming a total Chrysler shutdown, 500,000 direct and indirect jobs would be lost temporarily and about 200,000 permanently. In fact, such figures are patently ridiculous. No major bankruptcy has ever led to such a high proportion of job loss, and this one certainly would not.

That some jobs would be lost in the event of bankruptcy is inevitable. But some of those jobs would have to be lost in any event. The company, if it is to be profitable and have any chance of recovery, must peel off its high-cost, losing units. That means some plants employing thousands of Chrysler workers must shut down. However, the difference in the number of jobs between a Chrysler that is bailed out by the Federal Government and a Chrysler that is in default and operating under a court-reorganization procedure might be relatively small. In addition, the number of cars bought by the American public will not diminish simply because Chrysler goes into bankruptcy. The other two automobile companies, moving in to fill the void, will hire many Chrysler employees.

BAILOUT ARGUMENT NO. 2: COMPETITION

Just how important is it that Chrysler be saved from bankruptcy in order to preserve competition in the automobile business? The argument is that a Big Three is oligopolistic enough. The disappearance of No. 3 would be the death knell of competition in the industry.

On the face of it, that seems logical enough. But with foreign competition providing the principal performance as well as price options for American customers, the actual benefits of a week third competitor are probably quite modest.

There is actually a more important consideration as to the impact of a bailout on the competitive climate. What kind of competition can we expect when one of the Big Three has the Government, with its endless resources, as principal creditor?

The bailout terms the Treasury recommends and the terms the Congress accepts almost certainly would, the first time round, avoid giving Chrysler an unfair capital advantage over its competitors.

But suppose—as seems likely—that Chrysler doesn't make it on that first round. Rather than lose the investment it has already made in the company, the Government will inevitably put in more. And what will be the effect of these extra funds? They will enable Chrysler to keep trying performance and engineering and style innovations until it hits pay dirt with a model or two that can win a big slice of the market.

Now comes the next stage of the bailout. Chrysler's forward surge is making trouble for Ford, which comes knocking on Washington's door. And at this point, having helped out one competitor, what can the Federal Government do except to provide necessary capital to help the other competitor?

What a prospect! The Federal Government up to its neck in the business of bankrolling two of the Big Three producers in the industry that—above all others—has long been hailed as the flower of the free-enterprise system.

BAILOUT ARGUMENT NO. 3: FEDERAL REGULATION

Chrysler's problems, some say, are not of its own making but rather the result of Federal regulations calling for cars that produce less air pollution, are safer and have greater fuel efficiency. The argument goes this way: A smaller company like Chrysler has to spend as much as General Motors to develop the technology to meet such Federal requirements. But since Chrysler makes so many fewer cars than G.M., the per-unit cost of that technology is higher, putting Chrysler at a competitive disadvantage in the market.

There's something to this argument. Government regulations may well have an unequal impact on the three competing auto makers—as they do on companies of differing size in other industries. But clearly this is not the major reason for Chrysler's problems. (More important causes are a series of bad management decisions: immediately after the Arab embargo, the company failed to go with smaller, more fuel-efficient cars and stuck with the larger automobiles; it purged engineers and designers to reduce cost and overhead, although strong engineering had been Chrysler's prime strength; and during the past decade, it made heavy and poorly timed investments in European facilities in order to compete with the international growth of Ford and General Motors.) In any event, no one has seriously suggested that the Government should resolve the inequality among American companies by paying the difference in cost to outfits bearing a higher relative burden. It would require billions upon billions of dollars a year.

As to Chrysler's complaints about the fuel-efficiency requirement, the company tries to argue it both ways. On the one hand, Chrysler says it has been unfairly damaged by the cost of meeting the ruling. On the other hand, the company says that its development of the fuel-efficient Omni and Horizon make it more competitive with the other companies. Yet it seems unlikely that Chrysler would have developed these high-mileage cars in the absence of those painful Government requirements.

BAILOUT ARGUMENT NO. 4: THE ECONOMY

A Chrysler bankruptcy, it is suggested, would have a disastrous overall effect on the economy. Recession would be deepened and perhaps lengthened,

This argument wholly overlooks the reality of a bankruptcy proceeding. Most of the company's operations would continue. Most employees would come to work at the same time every day. Cars would be produced. Dealers would continue to sell the cars. Suppliers would continue to provide the necessary parts. The company might be smaller, but the parts of the company dropped would be the losers. Any short-term damage done to the economy would be more than compensated for in relatively short order.

Some have also suggested that the loss of Chrysler as the third of the Big Three, with its presumed effect of decreasing competition, would have an inflationary impact. Less competition presumably would bring higher prices. In fact, a reorganized company, with its excess baggage peeled away, could offer better, tougher, stronger and certainly more enduring competition than that offered by a company barely limping along, dependent upon Government-subsidized capital.

My conclusion: A decision by the Congress to bail out Chrysler would be a disaster for American business, for the American economy and for the American taxpayer. It would be a signal to line up at the trough. To date, the only major petitioners for a bailout have been big cities like New York (which got it) or utilities like Penn Central Railroad (which did not) or the country's major defense contractor. A bailout for Chrysler would open the floodgates. And the United States would thereby have put into effect a sure-fire system for insuring incompetence and unwanted products and services, achieved at colossal new cost to the Federal Government.

And yet, in spite of the importance of this issue and for all of the danger it poses to the public, the issue of the Chrysler bailout is all but decided. The company is going to get its helping handout. And one of the saddest things about the situation is that it will be no contest.

In my years in the Senate, I have seen many close fights over legislative decisions. Sometimes Presidents win, sometimes they lose. Sometimes labor wins, sometimes it loses. Sometimes the banks or the aerospace industry or the educational lobby or the conservation people or the consumer groups win; sometimes they lose. And I have seen it happen, occasionally, that a cause will win though the preponderonce of lobbying power and know-how is on the other side. But not this time. Chrysler can't lose. The fix is in.

Just about all the power, all the clout, all the money, all the influence is on one side.

The President of the United States is for Chrysler, and so is the entire executive branch, including Treasury, Commerce, Budget, Labor, Defense, the works.

The United Automobile Workers union with its hundreds of thousands of members all over the country is for a Chrysler bailout. Its president has made this his top-priority issue. The U.A.W. has a special clout as a labor organization because it is so highly respected. It is clean. It is honest. Its leadership is highly competent. It is generally a solid public-interest-oriented force. So when it goes for a special payoff, it carries one whale of a wallop.

The banks are for Chrysler. The company is into the banks for billions of dollars. If Chrysler goes bankrupt, the banks in some cases might suffer significant losses at least temporarily. And these are not just a few Wall Street banks, nor are they confined to the six states where Chrysler has its greatest production; these are banks all around the country. And since bankers are community leaders who frequently either contribute or lend large sums to members of Congress to finance election efforts, bankers are listened to with great respect in Congress. On the Chrysler issue, they can be counted upon to speak out and write and buttonhole.

The hundreds of thousands of Chrysler workers and members of their families in six states with 12 Senators are an imposing political force, and they favor a Chrysler bailout. They will write letters, corner their Congressmen and Senators in person and on the telephone.

Chrysler suppliers, who employ hundreds of thousands more in many states and Congressional districts, are behind the company. They will let their Congressional representatives know their feelings. So will Chrysler dealers by the score, in every part of the nation.

Then there are the lobbyists Chrysler has hired, the best money can buy—and that is very, very good. Thomas Boggs of the law firm Patton, Boggs and Blow is working with the Democrats, and William Timmons, another prominent Washington lobbyist and

former Nixon and Ford White House aide, is working with the Republicans. According to a Wall Street Journal article last September, "Chrysler's current efforts . . . dwarf what it has done before. . . . By the end of September, Mr. Boggs says, 'at least a dozen' of the 60 or so attorneys in his law firm [were] working full time to 'sell the company on a one-to-one basis' to every member of Congress." Such lobbyists know how to appeal to liberals and conservatives. They are winners and they're going to win this one big because they have everything going for them.

But what, you may ask, about the opposition? Who is on the other side? Who is saying the taxpayer should not be called upon to bear the loss or the risk of a loss that stockholders and creditors are rewarded for bearing? Who is going to say that to bail out Chrysler would be a precedent that could haunt our system for many years to come as our businesses lose the courage to accept the consequences of their mistakes.

The answer: Virtually no one. Oh, there has been some editorial protest. The National Association of Manufacturers, an organization I do not always find in my corner, has indicated that it disapproves of special Government financial assistance for Chrysler, though it seems unlikely that the N.A.M. will mount a major lobbying campaign on that issue. In fact, all the power, all the money, all the skilled lobbyists, all the labor clout and business clout and banking clout, plus the force of hundreds of thousands of Americans who have an immediate stake in the decision, are on one side.

The Chrysler bailout can't lose. But the American taxpayer can—and will.●

THE STOCK MARKET CRASH OF 1929

● Mr. HATFIELD. Mr. President, the 50th anniversary of the great stock market crash of 1929 has drawn a great deal of attention in recent days—and deservedly so. I would like to bring to the attention of my colleagues an excellent article on this subject written by one of Oregon's most distinguished journalists.

Robert C. Notson has helped to shed considerable light on the economic, political, and emotional forces which coalesced at the time of the Great Depression. He also reveals, quite importantly, the role Herbert Hoover played prior to and during the economic crisis. Mr. Notson quite rightly points out that Mr. Hoover was one of the first to chastise the Federal Reserve Board for the credit and inflationary policies it was pursuing prior to the disastrous stock market collapse of October 1929.

Mr. Notson has made a significant journalistic contribution to the general public understanding of the dark days of the early depression. I highly recommend his article, which appeared in the foreign section of the Sunday Oregonian, to my colleagues. I ask that it be printed in full in the RECORD.

The article follows:

CRASH OF 1929: WHY DID BOOM END UP AS BUST?

(By Robert C. Notson)

At the end of World War I, the economy of the United States remained essentially intact, while that of the other great powers of the day lay in disarray and ruin. The wounds of war, including the loss of the flower of its youth, left Europe groping in a recuperative uncertainty.

The Treaty of Versailles had shorn Germany of its colonies and imposed upon its people an economic bondage represented by an impossible reparations load. The cost of rebuilding and the burden of taxation staggered the nations.

The center of world finance moved from London to New York. Everything the United States produced, the rest of the world needed and was willing to buy—within the limits of shattered resources and credits. And, meanwhile, the war had shifted American industry into high gear.

During the decade after the war's end, efficiency of the American manufacture increased by 30 percent per person. Three-fourths of the gains went to increase industrial wages and one-fourth to profits. Although the farmers and white-collar workers shared only modestly in these benefits, the nation reveled in what appeared to be unexampled prosperity.

Certain it was that buying power had been enhanced for the industrial workers. Growing demand for goods at home and lack of competition from abroad produced a booming market and steadily increased profits. Further expansion was the inevitable result. There was general acceptance of the idea that America had achieved an "economy of abundance."

The "new era," this revolution in industry, trade and finance, had its most visible expression in the stock market. It was here that the confidence and the emotions of the American people found an exuberant outlet. With industry thriving and more dollars in circulation, the trend in stock prices was strongly and inevitably upward.

The achievements of trade and industry for these early days appeared always to meet or surpass expectations. The bull market of the 1920s gained momentum.

At this point, speculation moved into the market, anticipating every favorable trend and frequently overanticipating many. So great was the faith of investors in this new prosperity game, however, that little heed was paid to any miscalculation. What did it matter? Things would catch up next quarter. And, thus, prices of stocks frequently reflected overblown expectations rather than actual current results.

Such stocks as Bank of America were repeatedly bid up just before quarterly reports to stockholders were due. A. P. Gianini, while deploring the speculative binge in his bank's stock, seemed seldom to disappoint the investing public. He told intimates that it couldn't keep up, and moved defensively against the speculators.

There were clouds on the horizon, to be sure. Not only were stock prices outdistancing earnings in the speculative eagerness of investors, but there were other factors to bring pause to the more discerning. The world, especially Europe, simply lacked the cash and credit to absorb the rising output of America's accelerated industry. Increasingly, this also became true of the farmers and white-collar workers in this country.

Rising prices, matched against sluggish incomes of these important segments of the consuming public, slowly restricted the retail markets. Inventories increased, but cocky American businessmen were certain that they could sell all they could produce. As unsold merchandise clogged the channels of trade, the debt load to carry it also increased, and some businesses began to struggle.

Something similar was happening to American agriculture. During the war, prices soared on basic commodities such as wheat, corn and meat. Riches were open to the farmer and he responded by acquiring more land and raising more produce. Demand seemed unlimited. Up went the price of land, and enterprising wheat or corn growers found bankers ready to lend funds to finance more acreages. The horn of plenty was flowing.

But peace brought a slackening of demand. Foreign production resumed. And markets abroad dwindled for lack of purchasing power. Prices stalled. The farmer, caught in the middle by forces he could not control, tried to enhance his income to pay his debt services by planting still larger acreages. Bumper crops glutted the markets and sent prices down still further.

The embattled grain growers sought government relief. One of the better-known measures proposed was the McNary-Haugen bill, co-authored by Sen. Charles L. McNary of Oregon. It was a plan for government price supports on grain, and became the basis of farm relief legislation enacted in 1933. But in the mid-'20s, the Coolidge administration was indifferent.

Now the unwise borrowing to buy high-priced land became apparent. Farmers slowed payments, and bankers, sitting on troubled loans, became uneasy.

One of the factors fueling the stock market advance was the easy credit that prevailed. Stocks could be purchased on "margin." In that day one could pay 10 percent down on the price of a stock purchase and borrow the other 90 percent from the broker. The latter found no difficulty in obtaining his cash from the banks.

Thus, a small investor with $10,000 could get into market action with $100,000. As long as the market inevitably went upward, there was nothing but unconcealed joy. In fact, it seemed difficult not to make a growing paper profit on AOT—any old thing.

Stocks were bought, held for an expected advance and sold at a profit. With the increased capital, and ready margin loans for reinvestment, an aggressive trader could run paper fortunes up to fantastic figures. And many did. It seemed that everywhere one looked people were making money in the market. Even bootblacks discoursed on their investments.

A young lawyer friend of mine, modestly salaried as an incurance adjuster, told enviously of a classmate who, in turn, had boasted of his market prowess. The classmate asserted confidently that "We are living in a new day" and there was big money to be made by those who were willing to invest.

He said that he had run his small capital up to $45,000—a princely sum in those days of 1929. Within a year, he added, he expected to reach his goal and retire to an easy life of recreation and travel. There seemed no limit to what a citizen could attain—not earn—if he only "invested in the new America."

There were many of his persuasion.

During 1929, the stock market had several nervous episodes but then steadied and went on much as before. It was enough for cautious investors to cash their holdings. Among those opting out were Charles G. Dawes, Bernard Baruch and Joseph E. Kennedy (head of the Kennedy dynasty).

Some of them advised friends to do the same. Publicly, Roger Babson, economist, predicted that the stock bubble was about to burst. Few were listening because almost no one wanted to hear.

It may come as a surprise to many that the chief alarm was sounded in official circles by the man who was ultimately to be castigated as himself the author of the stock market collapse in the fall of 1929 and the Great Depression that followed.

Fifty years have cooled passions and provided new perspective. Researchers now agree that the unsound economy, which gave way at that time, was evolved before Herbert Hoover assumed the presidency.

Much attention has been given lately to action of the Federal Reserve Board tightening credit as a means of curbing inflation. The action has rightly been credited with precipitating a stock market selloff early this month. To those of us who were around in 1929, the sudden drop in the Dow Jones averages gave a strange feeling of deja vu.

But, Paul Volcker, chairman of the Federal Reserve, has defended the drastic increase in the rediscount rate as necessary to

curb credits and redress the present inflationary trends. Both he and ex-Chairman Arthur Burns say that gradualism has not worked and that only a shock would gain the attention of the American people.

What the board has done at this time may very well have been the kind of medicine advocated by Hoover when he was secretary of commerce. During the Coolidge administration, he appealed both to the president and to Andrew Mellon, secretary of the Treasury, to restrict credit. Neither reacted.

His alarm, according to Edgar Eugene Robinson and Vaughn Davis Bornet in their book, "Herbert Hoover, President of the United States," was over the credit inflation "deliberately created" by the Federal Reserve Board. In Hoover's opinion, the board had misused its powers in a futile attempt to aid faltering European finance. The strategy, which misfired, was aimed at stimulating buying power and creating a stronger market for European exports in this country.

Later, Hoover wrote that, in his opinion, the board "must assume the greater responsibility" for the events that followed.

It was in November 1925 that Hoover first protested that board policies would mean "inflation with inevitable collapse which will bring calamity on our farms, our workers and legitimate business." It was an accurate prophecy.

Board members assured Hoover that business leaders, especially financiers, urging that they help to moderate the situation. Almost all agreed that something was needed, but no one knew exactly what, when or how.

The Reserve Board, under pressure from the President, began an extended debate on the subject. In April, the word was spread that the board was ready to pull the plug on credit. Secretary Mellon urged investors to leave stocks and turn to bonds. The market wobbled.

But Charles E. Mitchell, president of the National City Bank, expressed opposition to administration policies and offered large credits for stock market operations. Stocks resumed their climb.

The bull market reached its peak Sept. 3. From Labor Day on it seemed to lack buoyancy, worried by dismal economic news from abroad and rumbles of bank problems. It was as though a gigantic gasbag in the economic sky had developed a leak. On Sept. 24, the Big Board started to crumple, but regained its poise for a short time, only to be overtaken by a series of convulsive drops which started Oct. 19, continued through Black Thursday, Oct. 23, and Monday and Tuesday, Oct. 28 and 29.

On Oct. 24, a group of bankers, headed by Thomas Lamont, raised a pool of $50 million to "steady the market." Richard Whitney walked onto the floor of the New York Exchange at midday. Trading ceased as every eye followed him. He stopped at Post 2 and asked the last quotation on United States Steel.

When he was told "195" he promptly placed an order for 10,000 shares at 205. Cheers followed him as he marched from post to post, placing large orders. Prices steadied and many thought the crisis was over. The bankers had saved the day, but that was about all.

Calls went out over the weekend for more margin. This meant that more cash must be produced by clients, or the brokers would sell them out to protect their loans. The damage had been done. Thousands of traders, large and small, were either frighened or unable to produce the needed funds.

Orders to "sell at the market" engulfed the exchange Oct. 28 and stocks lost altitude precipitately. Monday was bad enough, but Tuesday, Oct. 29, was the day of real collapse. Panic and near riot broke out on the exchange floor. A numbed nation watched while 16,383,700 shares were dumped, and over $10 billion in losses were absorbed by traders—more than twice the amount of currency then in circulation.

It has been estimated that the market collapse provoked total losses of more than $74 billion, and that some 1 million Americans were directly affected by it.

Portland reaction to the sudden bursting of the stock market balloon was restrained. Generally, it was believed that it was something that had happened to "those Wall Street gamblers." There was no panic. Some were hurt quite badly, but it seemed that losses were mostly "paper profit." Many subscribed to the national newspaper editorial assessments that:

The shakeout was long overdue.

Business was "fundamentally sound" and would continue to prosper.

Damage was largely confined to the stock market.

Few thought it portended anything serious for the economy of the Pacific Northwest. We would go right on "sawing wood." So we thought.

Most observers, while recognizing that Hoover bore an undeserved blame, gave him credit for accurately diagnosing the inflationary trend and its probable consequences, but some critics insist that he acted with unfortunate timidity in martialing government forces to avert trouble.

A few are unrelenting. Economist John Kenneth Galbraith takes Hoover sharply to task.

"He was in the boat and knew where he was headed," writes Galbraith, referring to Hoover's place in the Coolidge Cabinet. "But, having warned the man at the tiller, he rode along into the reef."

Hoover, in his memoirs, stoutly maintains that he did all that the Constitution and federal law then permitted. And, he says, Congress was in no mood to grant him additional powers to control either the market or banking. Actually, many of the measures ultimately dramatized by the New Deal were started under his administration.

As an economist, Hoover was more aware than most of the hazardous portents of the situation for all business and he undertook a steadying hand. At that interval, he was concerned lest too strident an activity might itself provoke panic.

He called conferences at the White House for leaders of business, finance and labor. He exacted pledges from labor not to strike for higher wages and from business not to cut wages. He importuned lenders not to press distressed debtors but to let them have opportunity to work things out. He stepped up the volume of public works at the federal level and urged all state and local governments to do likewise.

But the crash was a blow to the financial process. Something had suddenly gone out of American business—*confidence*—and had been replaced by a negative force not common to our psyche—*fear*.

Worldwide depression vastly complicated our problems and slowed all recovery efforts. Now the imbalances in the national and international economics asserted themselves. All the unwise expansion of industry and agriculture.

Cash flow dried up. Industry slowed down, living on its inventory and cutting prices to stimulate sales. Plants curtailed output or closed down, throwing millions out of work. Increasingly, industrialists and farmers gave up the battle to pay off their loans and defaulted, carrying their banks down with them.

Slowly, but surely, the nation sank into depression—an economic and spiritual insolvency that was to reach its nadir in the bank holiday of March 1933.●

SOVIET MILITARY MIGHT

● Mr. HUMPHREY. Mr. President, one of my valued constituents, Comdr. Robert Marvel, USN, retired, has written a thoughtful article about Soviet military might. I cannot attest to the facts on which the article is based, but I can attest to the character of Commander Marvel, and I wish to share his viewpoint with those who read the RECORD.

The article follows:

AMERICA'S GATHERING STORM

In October of 1978 Russia completed a 10 year military construction program which produced 45,000 65 ton battle tanks complete with spare parts and associated equipment. These tanks are far superior to anything the United States has both in numbers and tactical advantages on the battlefield. Nothing the United States has can match the firepower, mobility, protective armament and ease of maintenance and repair built into these tanks. It is doubtful that Russia intends to use these machines of war to haul trailers, plows, harrows, hayracks, reapers or as bulldozers. They were made for war and will be so used. The big question is—which war and where?

During the 10 year construction period the stage for this war was being carefully set by Russia using the strategy of propaganda, subversion, intimidation, harassment, compliments and the like coupled with terrorism and guerilla tactics. The targets of such strategy were, and still are, President of the United States, Congress of the United States and the sovereign nations of central America. The first evidence of this strategy appeared several years ago when we heard rumbling that a new treaty with Panama was in the making relative to ownership of our canal. While we didn't pay much attention Russia was hard at work in Panama, our own State Department and the United Nations. As we went about our daily task of earning a living, secure in the belief that our elected representatives were doing their job by making sure America came first, gullible organizations like the council on world affairs, church groups and others were being indoctrinated by our own State Department and the United Nations to insure that public pressure was brought on the President and Congress which would result in passage of a new canal treaty.

Typical in New Hampshire were the public meetings across our State sponsored by the World Affairs Council. These meetings featured Ambassador Bunker, one of the treaty architects, who told us in glowing terms of the advantages we would reap by giving our canal to Panama, a nation governed by a then known communist, one General Omar Torrijos. We all know the result—the old treaty went up in the smoke of perpetuity and a new treaty complete with give away funds is in effect. The stage was set—Russia had, without firing a shot, the necessary toehold between North and South America. Concurrent with their Panama Canal treaty program Russia was pushing like strategy in the Nicaragua campaign. Their passive strategy coupled with terrorism and guerilla operations did the job. Another small Central American nation, which depended on the United States for protection against invaders, was ignored and now reposes in the communist block. What is the next step?

It doesn't take much common sense to figure out just what is going on. The little nation of Costa Rica, already subjected to Russia's strategy is now in the "jaws" between Nicaragua and Panama. As it can be gobbled up any time we may now be privileged to see it by-passed with Guatemala and Honduras next. A strategy learned from America during WW II when we isolated Japanese held islands in the Pacific. So much for this step—who's next?

Mexico, already feeling the effects of Russian strategy, is beginning to evidence contempt for the United States because of our "lack of guts" in dealing with communism to the south of their border. After the conquest of Guatemala, Honduras and Costa Rica, Mexico will become a member of the communist block for one reason—they want to be on the winning side. What nation or people in its or their right mind wants to experience a blitzkrieg?

With the new Panama Canal treaty our government provided "the platform" for off-loading 45,000 65-ton battle tanks. Russian strategy dictates takeover of all Central America and Mexico to provide the "launching platform" for mechanized warfare and attack of the United States on our own soil. As any strategic planner knows, the only way to destroy an industrial nation is to cut it in half. It doesn't take much common sense to realize that the great ground plain of our Mississippi River valley and the southwestern United States is ideal for mechanized warfare.

Where do Americans run to when the first Russian battle tank reaches Chicago? ●

FIFTIETH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER TO BE 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, I am pleased to offer to my colleagues and readers of the RECORD an essay on Herbert Hoover by Henry Graff, professor of history at Columbia University. Dr. Graff's essay, "Reassessing the Depression Chief," has been submitted to me for publication in the series of essays commemorating the 50th anniversary of the inauguration of Hoover as our 31st President.

In Dr. Graff's view, Hoover's surge in recent years in the rank of Presidents could only have taken place in conjunction with a "cataclysmic change in national mood * * * that makes discarded ideas sound fresh and accepted values appear outmoded and debilitating." One of the more recent boosts for Hoover's reputation comes from the David Burner study, "Herbert Hoover: A Public Life," which Dr. Graff describes as the "most thorough and thoughtful reading of the Hoover sources we have had to date."

Mr. President, Professor Graff's essay gives us a brief glimpse of Hoover's life, his career, and his reaction to the historical events in which he was such a major figure. I ask that his essay, as well as a brief biographic sketch of Dr. Graff, be printed in the RECORD.

The material follows:

REASSESSING THE DEPRESSION CHIEF

The reshaping of Presidential reputations is a familiar process to the American people for it is going on all the time. And because the judging of Presidents is a judging of the nation itself, the public feels keenly—and indeed, has—a powerful stake in the verdicts. While the standings of Washington and Lincoln seem permanent, like the "fixed stars" in the firmament, others fluctuate and even flicker.

Herbert Hoover's rank in the line of the Presidents has been improving steadily in the last decade—a trend that gives work to historians as well as hope to every politician who has fallen from grace and office. What is required to alter a judgment as profoundly as that of Hoover has been altered is a cataclysmic change in national mood such as is taking place today—veritably a new Zeitgeist—that makes discarded ideas sound fresh and accepted values appear outmoded and debilitating. Hoover, who lived longer as an ex-President than any of his predecessors, almost lived long enough to witness the turnabout he faithfully awaited with Quaker patience and resignation. But surely he could not have guessed that it would come so soon—an early arrival that seems to be as much of an historiographic miracle as it is a personal vindication.

Even the Eisenhower Presidency, the first Republican Administration since his own, did not bring much comfort to the Depression Chief. He once vented some of his feelings in a conversation with Harry S. Truman, who related the episode to me in this fashion: "When I was on vacation in Florida I heard that Mr. Hoover was nearby, so I went to see him. He was on the beach painting, with the arms of his sweater tied around his neck. He was the damnedest looking ex-President you ever saw. I wanted to ask him if he would find it politically impossible to come to Independence to help dedicate the Truman Library, which was about to open. Mr. Hoover replied without a moment's hesitation that he would be delighted to come. 'After all,' he said, 'that soldierboy in the White House isn't listening to me any more than to you.' "

Now David Burner's study* gives Hoover due and overdue justice—the kind that cannot make even an ardent New Dealer of yore feel outraged or uncomfortable. The author's account of the "public life" of his subject is based on the most thorough and thoughtful reading of the Hoover sources we have had to date. His subtitle is too timid a description, however, for what emerges is Hoover the man—armed with poise, self-confidence, high accomplishment, and a first-hand knowledge of several cultures, though still not irresistibly attractive as a person.

Coming upon the scene just as radio broadcasting was about to cause a political earthquake, just before picture magazines permanently transformed popular journalism, and just before an activist Federal government made civics books obsolete, Hoover was the last of the unknown presidents. He had authority and power because he was wrapped in the mystery that is necessary to both. Being an engineer by training, he was elected to the Oval Office chiefly to superintend the efficient operation of a flourishing economy. His failure to perform as expected was not nearly so tragic to him personally as it was for the American people. For if he could come to grief in the Presidency, how could the Republic ever again recruit its highest leadership with confidence?

It is well that the voters at large never knew how often Hoover walked the floor of the White House at night, burdened by problems that refused to yield to traditional methods of management and thinking, of which he was the proven master. Writes Burner with what can only be viewed as heavy irony: "Hoover suffocated problems with solutions—if one did not work another would."

Hoover had been confronting and wrestling with problems almost from the time of his birth on August 10, 1874. Some were severely personal (he was an orphan and had to find his own place and way in the world); some were vocational (he was a multimillionaire Quaker who desperately had to keep busy despite his wealth); some were historical (he had the ill-luck to face the Great Depression with the manner and the style of an Edwardian American).

It is stirring to read of Hoover's adventurous early years. They were full of an energetic purposefulness, almost always channeled into mining enterprises that he turned into glowing successes. Hoover seemed to be wherever metallurgical resources were to be found and exploited. Large—even enormous—sums of money were usually at his disposal for investment and development. If he is known as the first engineer to become Chief Executive, he is also the first businessman. By the beginning of the 20th century he was being spoken of with awe as "young Hoover," the implication being that his youth notwithstanding, he had already made his mark—chiefly as a builder and promoter of companies in many parts of the world. As head of the relief for Belgium in World War I, he also honed his undoubted genius as an administrator.

Although his religious upbringing bound him to be self-effacing, by 1928 Hoover's reputation had become, as Walter Lippmann later said, "a work of art." He was wafted into the White House by a public convinced it had acquired the services of a wonder man it could not be sure it fully deserved. To his credit, he never succumbed to an impulse to believe what was being said and thought about him. On the eve of his inauguration he confided presciently to a newspaper editor: "I have no dread of the ordinary work of the presidency. What I do fear is the result of the exaggerated idea the people have conceived of me. They have a conviction that I am a sort of superman, that no problem is beyond my capacity. . . . If some unprecedented calamity should come upon the nation. . . . I would be sacrificed to the unreasoning disappointment of a people who expected too much."

The new President's goals for America were lofty, even visionary. In fact, his plans had conservative circles worrying he might turn out to be an unbridled Progressive and place roadblocks in the path of American business.

He began his term impressively. The steps he took in the field of civil liberties, short and mincing as they were, brought him and the nation onto a fresh footing in advancing racial justice; in several arenas he was a reformer and an activist—in penology, women's rights, child labor, Indian affairs, public power. But the Great Depression that fell upon the nation and the world before the Hoovers had even become comfortably settled in the White House totally eclipsed these initial moves of his Administration. Further, while Hoover's often frenetic efforts to resuscitate the economy foreshadowed important elements of Roosevelt's New Deal, they failed, alas, in their ultimate goal—being neither massive nor dramatic enough. In the eyes of the people, this failure far outweighed Hoover's achievements.

Hoover's own conviction was that if the economy were invaded excessively by government, bureaucratic statism would be the inevitable result, including the loss of personal liberty in all its ramifications. Above all, and Burner returns to the point again and again—Hoover's ultimate faith and commitment centered on voluntarism in dealing with the economic disaster the country faced, a voluntarism that would preserve societal order and at the same time replenish the fountainhead of individual responsibility. To the end, Hoover's appeal to the nation (like the appeal of those who espouse these ideas today) was intellectual and bloodless. When Hoover ran for reelection in 1932 his speeches were marked by platitudes, homilies and endless statistics. The electorate was not interested in any of this, because they could not reconcile what Hoover was saying with what they were experiencing daily. Hoover's lackadaisical campaign efforts proved to be not only a harbinger of his political ruin but also the very symbol of it.

The time to flay Hoover for his failure to rescue the nation from the Depression is now past. Burner's balanced book formally ends it (though one must observe that for some time now historians have been giving Hoover increasingly higher marks as an architect of United States foreign policy). As Hoover begins to take his rightful place in the national Valhalla and ceases to be left standing apart from his fellow Presidents, like a hapless Untouchable, Americans will be grateful to Burner for his labors. His book is not bedtime reading, nor does it contain a gripping story to be pleasurably swallowed in one sitting. This complex man lived a life of constant challenge and risk-taking, infused with spiritual idealism and often incredibly hard work. Hoover was, in addition, controlled by an iron self-discipline matched by an inborn inability to give the appearance of ever enjoying himself. Of such stuff the present age does not make its heroes. Herbert Hoover's ultimate standing, then, relies on the effect that the passage of time can have on historical perception.

*Herbert Hoover: A Public Life, New York, Alfred A. Knopf, 1979, 433 pp. Mr. Burner is Professor of History at the State University of New York at Stony Brook.

BIOGRAPHIC SKETCH OF HENRY F. GRAFF

Born: August 11, 1921.

Education: B.S., College of the City of New York, 1941; M.A., Columbia University, 1942; Ph. D., Columbia University, 1949.

Professional Experience: Columbia University; Lecturer, 1946–47; from instructor to associate professor, 1947–1961. Chairman, Department of History, 1961–63, Professor of History, 1961.

Memberships: American Historical Association; Organization of American Historians Academy of Political Science; National Council for the Social Studies; The Authors Guild; and Society of Historians of American Foreign Relations.

Publications: Bluejackets with Perry in Japan, 1952; The Modern Researcher (with Jacques Barzun), 1957; The Adventure of the American People (with John A. Krout), 1959; American Themes: Selected Addresses of John Allen Krout, 1963 (with Clifford L. Lord); Cons. ed., The Life History of the United States, 1963–64; The Free and the Brave, 1967; Ed., The American Imperialism and the Philippine Insurrection, 1969; The Tuesday Cabinet: Deliberation and Decision on Peace and War under Lyndon B. Johnson, 1970; The Call of Freedom (with Paul J. Bohannon), 1977; and The Promise of Democracy (with Paul J. Bohannon), 1977.●

IRANIAN TAKEOVER OF AMERICAN EMBASSY

● Mr. HEFLIN. Mr. President, I have read with great concern the accounts of the weekend siege by Iranian students of the American Embassy in Tehran and the resulting kidnaping of American citizens.

As I speak here today as many as 50 to 80 American citizens are being held hostage by a desperate and angry mob of students. These kidnapers seem to be acting on behalf of, or with the tacit approval of, the Iranian Government.

I fear the past record of Iranian revolutionaries indicates that our countrymen may be in danger of their lives.

These revolutionaries are attempting to blackmail the United States into returning to Iran the ailing Shah of Iran who is in the United States undergoing cancer surgery in a New York hospital.

Mr. President, blackmail in any form is one of the most deplorable acts known to man—and blackmail involving the lives of scores of people is a most insidious act. To endanger the lives of innocent civilians because of ideological differences is, in my judgment, unforgiveable.

I deplore and denounce these officially sanctioned actions taken by the Iranian students and I call upon the Iranian Government to take immediate steps to release these innocent people unharmed.

I further call upon the President of the United States to take any appropriate action to secure the safety of our citizens in Iran.

Certainly our relationship with Iran has deteriorated greatly since the fall of the shah earlier this year, but the kidnaping of American citizens marks a new low in American-Iranian relations.

We must insure the safety of American citizens who are living abroad in service to our Nation. This violent and desperate act cannot—and must not—be taken lightly. It may be necessary to remove our Embassy personnel from Iran if their safety cannot be absolutely assured.

I recommend that the Foreign Relations Committee of this body make an immediate investigation into this matter and study the long-range effects this action will have on American-Iranian relations.

I call upon the Iranian Government to immediately release these American citizens and to take steps to see this never happens again.●

MEDICARE SERVICES

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to join with Senators PACKWOOD, DOMENICI, and RIEGLE in introducing a bill designed to improve the delivery of certain medicare home health services to the elderly.

The bill, which we are introducing, has two provisions, both of which are designed to assist the elderly in maintaining their present level of functioning and thus avoid unnecessary institutionalization.

The first provision of the bill would provide for the redesignation of home health aides as homemaker-home health aides.

Under present law, a home health aide is allowed to provide limited homemaker services but only if providing them does not substantially increase the length of the visit in the patient's home. It is not our intention to change this provision of the law, it is our intention to allow for both homemaker chores and home health aide services to be provided by a single individual. In many instances, these services are provided by different personnel from within the same or separate agencies. Consolidating the homemaker and home health aide service will allow these services to be provided under the auspices of one agency and by one individual and perhaps provide a more efficient and cost effective product.

The second provision of our legislation liberalizes the requirement that an individual be homebound to be eligible for home health services under medicare by allowing for reimbursement for these services when provided to an individual in an adult day care center.

The adult day care centers, created in many instances under the title XX program, provide care during the day for individuals who are unable to care for themselves and who could in many instances benefit from home health services if they were provided. These centers actually serve as homes to these individuals who are then cared for by their families at night. By allowing services to be provided to individuals located in these centers, it is not our intention to significantly alter the home health care benefit, but rather to make sure that it is afforded to individuals who could benefit from it.

The Senator from Kansas believes that home health care services should be readily available to individuals in the medicare program. As I am sure many of you are aware, the Finance Committee has recently agreed to a number of provisions which would lift the current limit on days of home health care services, thereby creating further incentives for utilization of this benefit.

I believe this legislation, in addition to the decisions that we have recently made, will assist us in providing a more sensitive and yet also more economical service to medicare beneficiaries. I am pleased to join my colleagues in this effort.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1979

The Senate continued with the consideration of the bill S. 932.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business, morning business having transpired and a new legislative day?

The PRESIDING OFFICER. The business before the Senate is S. 932, the energy bill.

Mr. ROBERT C. BYRD. I thank the Chair.

Now, Mr. President, S. 932 is the unfinished business, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. No.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on pages 2 and 3 of the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The assistant legislative clerk proceeded to read nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President,

I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Anthony C. E. Quainton, of Washington, to be Ambassador.

Harry Roberts Melone, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

Thomas O. Enders, of Connecticut, to be the Representative of the United States of America to the European Communities, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Barbara W. Newell, of Massachusetts, to be Ambassador.

Anne Forrester Holloway, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

Robert B. Oakley, of Louisiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

Genta A. Hawkins, of California, to be an assistant administrator of the Agency for International Development.

William J. vanden Heuvel, of New York, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

BOARD FOR INTERNATIONAL BROADCASTING

Thomas H. Quinn, of Rhode Island, to be a member of the Board for International Broadcasting.

PEACE CORPS

William G. Sykes, of Maryland, to be Deputy Director of the Peace Corps.

AMBASSADOR

Abelardo Lopez Valdez, of Texas, to be Ambassador.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the votes by which the nominees were considered and confirmed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MARITIME AUTHORIZATIONS, 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD, Mr. President, I submit a report of the committee of conference on S. 640 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 640) to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 25, 1979.)

Mr. TOWER. Mr. President, it is my understanding that this has been cleared by the minority.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, the Committee on Foreign Relations may be authorized to meet until 1:30 p.m., while the Senate is in session, to consider the SALT treaty.

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

ORDER FOR RECESS UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 11:30 tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR HATCH, SENATOR JEPSEN, AND SENATOR TSONGAS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders, the following Senators be recognized, each for not to exceed 15 minutes: Mr. HATCH, Mr. JEPSEN, and Mr. TSONGAS and that, following the orders for the recognition of those Senators, the Senate proceed to the consideration of H.R. 5359, the Department of Defense Appropriation bill, with the understanding that that bill would be laid aside at the close of business tomorrow, if not earlier, and that the Senate return then, at the time the bill is laid aside, to the consideration of the energy legislation.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Reserving the right to object, Mr. President, and I hope not to object, would the majority leader add to that that the first matter taken up after the opening statements on that bill will be the Proxmire amendment relating to the carrier?

Mr. ROBERT C. BYRD. Yes, I am glad to include that in the request.

The PRESIDING OFFICER. Is there objection to the request?

If not, without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 11:30 a.m. tomorrow.

The motion was agreed to; and, at 5:44 p.m., the Senate recessed until tomorrow, Tuesday, November 6, 1979, at 11:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 5, 1979:

DEPARTMENT OF STATE

Anthony C. E. Quainton, of Washington, Director of the Department of State's Office for Combatting Terrorism, for the rank of Ambassador.

Harry Roberts Melone, of New York, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

Thomas O. Enders, of Connecticut, a Foreign Service officer of the class of Career Minister, to be the Representative of the United States of America to the European Communities, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Barbara W. Newell, of Massachusetts, for the rank of Ambassador during the tenure of her service as the U.S. Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization at Paris, France.

Anne Forrester Holloway, of the District of Columbia, to be Ambassador Extrordinary and Plenipotentiary of the United States of America to the Republic of Mali.

Robert B. Oakley, of Louisiana, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

William J. vanden Heuvel, of New York, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Genta A. Hawkins, of California, to be an Assistant Administrator of the Agency for International Development.

BOARD FOR INTERNATIONAL BROADCASTING

Thomas H. Quinn, of Rhode Island, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1982.

PEACE CORPS

William G. Sykes, of Maryland, to be Deputy Director of the Peace Corps.

AMBASSADOR

Abelardo Lopez Valdez, of Texas, for the rank of Ambassador during his tenure of service as Chief of Protocol for the White House.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

HUMAN INTELLIGENCE: A VITAL BUT ENDANGERED SPECIES

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 5, 1979

● Mr. BROOMFIELD. Mr. Speaker, the recent concern about Soviet troops in Cuba underscores the important role intelligence plays in the shaping of our foreign policy. It also vividly illustrates the importance of human intelligence.

To this day, we do not know why the Soviet troops are there. Good human intelligence could have supplied the answer to that question. As one former high level U.S. intelligence officer, Cord Meyer, wrote recently in his Washington Star column, "one well placed human agent in Castro's government could have provided early warning of the brigade's presence and described what its true purpose was." Unfortunately, in recent years too much emphasis has been placed on the mechanical means of gathering intelligence and it has been at the expense of human intelligence. I am afraid we have been seduced by the argument that—thanks to fantastic technological breakthroughs—we can now learn all we need to know about our potential adversaries via overhead satellites and other advanced methods of surveillance. Admittedly, some of these techniques are quite sophisticated, but so far a camera has not been developed that can photograph the intentions sequestered in the minds of a Brezhnev or a Castro.

Seventeen years ago we were in the midst of another flap with Cuba over Soviet missiles there. The intelligence furnished by CIA Russian agent, Oleg Penkovskiy, concerning Soviet strategic capabilities and intentions was most useful to President Kennedy and his advisers as they pondered their response to that crisis. Lamentably, that kind of information is not available to President Carter and his advisers today.

Many are now asking why we have lost so much of our human intelligence capability. While part of the reason can be attributed to an over reliance on technology, the continuing revelations of the identities of those covertly employed by our intelligence community also is having a profoundly adverse effect upon the U.S. intelligence effort.

Existing laws are almost wholly inadequate in preventing these identity disclosures (now reportedly numbering nearly 1,000 individuals) which have often resulted in the destruction of our intelligence sources and methods. These statutes have not deterred for a moment those who are attempting to destroy our intelligence services.

There was a time when those who were working against us communicated their secret information solely and directly to a foreign intelligence service, and were paid their reward. Today, however, those who hawk our intelligence secrets are more sophisticated. They just as effectively damage our country by publishing all their knowledge in a book or article. Moreover, for some of their efforts, they collect handsome royalties and even become heroes in certain circles. By publishing what they know, regardless of its effect on our national security and the physical safety and well-being of U.S. intelligence personnel and their families, they are confident that concern for every American's first amendment rights will sanctify their deeds. But valid and proper concern for the integrity of the first amendment should not obscure the true nature of their acts of betrayal.

In recognition of the human collection problems confronting our intelligence community, I have cosponsored legislation which would make it a crime for anyone to deliberately and maliciously expose individuals who they know are under cover and performing legitimate activities on behalf of the United States. Such legislation is long overdue and hopefully will become law soon so that our Nation's intelligence services can again operate in a manner that insures the national security of the United States.●

RULE TO BE REQUESTED ON TITLE IV OF H.R. 2759, THE DEEP SEABED MINING LEGISLATION

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 5, 1979

● Mr. ULLMAN. Mr. Speaker, on November 2, 1979, the Committee on Ways and Means favorably reported to the House title IV of H.R. 2759 relating to deep seabed mining. The other titles of this bill are within the jurisdiction of the Committees on Merchant Marine and Fisheries, Interior and Insular Affairs, and Foreign Affairs. Title IV would impose an excise tax on hard minerals recovered by mining companies from deep seabed mining. These excise tax revenues would be deposited into a Deep Seabed Revenue Sharing Trust Fund established by the legislation. The amounts in the trust fund would be available for appropriation by Congress to make payment of any obligations which might arise under an international deep seabed treaty for the sharing of revenues from deep seabed mining.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for the consideration of title IV of H.R. 2759 on the floor of the House.

The Committee on Ways and Means has specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First, committee amendments, which would not be subject to amendment;

Second, one hour of general debate, to be equally divided;

Third, waiving all necessary points of order; and

Fourth, one motion to recommit.

It is our intention to request a hearing before the Committee on Rules concurrently with the other three committees involved in this legislation.●

NATIONAL SCHOOL BOARDS ASSOCIATION URGES ALTERNATIVES TO SCHOOL LUNCH CUTS

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 5, 1979

● Mr. ERDAHL. Mr. Speaker, as you are probably aware, the Subcommittee on Elementary, Secondary, and Vocational Education has been conducting hearings on the administration's proposal to cut the school lunch program. The testimony presented by Jean Tufts, first vice president of the National School Boards Association, represents in my opinion a lucid analysis and summary of the basic issues involved in the administration's controversial proposal. As the testimony noted, this is one occasion on which Chairman PERKINS and the ranking Republican on the committee, Mr. ASHBROOK, stand shoulder to shoulder in opposition to the proposed cuts. I commend this testimony to my colleagues. Testimony follows:

TESTIMONY ON BEHALF OF THE NATIONAL SCHOOL BOARDS ASSOCIATION

I. STATEMENT OF CONCERN

The concerns which the National School Boards Association bring to the authorizing committee today are rather unique since they relate primarily to the appropriations for the school lunch program. We are extremely distressed that the Administration and the budget committees have seriously entertained initiatives to reduce funding below current formula levels. These initiatives have not only challenged the priority for the entire program, but also threaten to create new uncertainties in the management of the program. Certainly, proposals before the budget committee could interfere with school district price setting and budget planning.

Our statement today also recommends that the Committee continue to provide oversight to determine how unnecessary federal paperwork and administrative overburden can be removed from the program. Since school systems tend to subsidize the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

school lunch program, we do not believe that the Administration should propose funding cuts without reducing the local costs of federal regulation.

II. ADEQUATE NUTRITION: ESSENTIAL FOR HEALTH AND MEANINGFUL EDUCATIONAL OPPORTUNITY

For more than thirty years Congress has recognized the connection of food to the educational and general health of America's school children, and, in turn, to the national well-being. Indeed, within the National School Lunch Act, the Congress declared that, . . . "as a measure of national security, to safeguard the health and well-being of all our Nation's children, and to encourage the domestic consumption of nutritious agricultural commodities and other foods." We believe that when difficult funding priorities are determined, Congress intended that child nutrition maintain adequate levels of support.

We know of no statistical or empirical evidence which in any way suggests that the role of the Federal government should be diminished. High quality nutritious foods are as essential to the health and well-being of American citizens today as they were in 1946, when the program began. According to Dr. Julius B. Richmond, U.S. Surgeon General, "Americans are healthier than ever." He said: "Without a doubt, the major reasons are related to overall improvements in living conditions: (1) Better nutrition, (2) better sanitation, (3) less-crowded housing, (4) more employment opportunities, and (5) greater access to education." We believe that the thirty years of federal support in providing nutritious, reasonably priced lunches to school children has played an important role in achieving two of those factors: better nutrition and greater access to education.

While the link between nutrition and education has been well documented (e.g., the Iowa Breakfast studies), a few examples should illustrate the point. N. E. Matheson's work at the University of Southern California showed significant gains in arithmetic and symbol decoding skill if the children were given specific food in the morning hours. Dr. Stephen Kreitzman of Emory University studied two 4th grade classes: one had only milk, while the other had a balanced high quality meal. The results reported by the teachers of those children having a complete meal were (1) not one child fell asleep during the day, (2) apathy all but disappeared, and (3) hyper-irritability was greatly reduced. Furthermore, the teacher reported subjectively that children were better able to master and retain conceptual material.

III. STUDENTS FROM MIDDLE INCOME FAMILIES NEED FULL PAID SUBSIDIES

The Administration's budget request included three major components: (1) limit student eligibility for "free lunches" by cutting the family income factor from 125% of poverty, to 100%, (2) limit student eligibility from "reduced lunches" by cutting the family income factor from 195% of poverty, to 175%, and (3) reduced the federal commitment for "paid lunches" by 5 cents. Ironically, the first two items would have impacted hardest on those economic groups least able to pay. Fortunately, the pursuit of those proposals has not been the focus of the current budgetary debate. The question which now arises is whether to reduce funding for paid lunches by 5 cents.

Proponents of the cut argue that a 5 cents reduction from the reimbursement rate for "paid" lunches would result in a federal expenditure reduction of $120 million—to be absorbed by children and parents of children. In addition, USDA projected in their budget that approximately 4 percent or 600,000 "paying" children would drop out, effecting another $26 million savings for the federal government. But it is the students' "dropping-out" of the program that gives us cause for concern.

In dealing with the drop-out issue, we believe that the proposed five cent reduction needs to be placed in practical perspective. A 5-cent increase equals $9.00 per year per child. Therefore, if there were a 5-cent cut in "paid lunch" reimbursement, plus a 10-cent increase in non-subsidized program costs (as a result of inflation), then the cost would total $27.00 per child per year. For a three-child family this would amount to $81.00 per year—not five cents.

In reviewing USDA's projections that children would drop out of the program, Congress needs to give some thought to the income category of these children and whether an equally nutritious alternative will be available to them. We expect that those middle income children who will drop out first will be those whose families are just above the "near poverty" cut-off for the reduced lunch program. In addition, since many children involved in the program are from relatively young single-income families, i.e., those hardest hit by inflation, some of the drop outs might be substantially above the poverty line. In such cases, there is no reason to believe that the nutritional value of the "brown bag" alternative will be adequate.

While we have no reason to take issue with USDA's projections that a nickel increase will force out 600,000 students, NSBA is presently surveying approximately 75 district food services directors to get an indication of past increases in prices and their influence on the number of drop-outs. On this point, we request that the record remain open for the next month so that the results of our survey may be included (NSBA's survey instrument is attached). Since these computations will not reflect current and expected downturns in economic conditions, USDA's projections and our own results on student drop-out may be conservative indicators.

As a policy, NSBA believes that when economic conditions are difficult, Congress should not pick and choose among children of different economic groups. The general health of all students and mimimal requirements for in-school learning are too vital to depend upon "brown-bag" substitutes.

IV. REDUCTION IN THE "PAID" LUNCH SUBSIDY; ADVERSE EFFECTS ON FREE LUNCHES

Some proponents of the 5-cent reduction argue that apart from saving federal dollars, cutting the "paid" lunch reimbursement rate can enable greater focusing of assistance on lower income levels.

Presently, 72.4% of the school lunch funds are utilized for "free meals", 7.5% for reduced, and 20% for "paid" meals. At the same time, 36.9% or 9.4 million of the participants receive free meals and 8% or 2.1 million receive reduced price meals. In other words, while 54.9% of the participants or 14 million children from middle income families are involved in the program, they expend only 20% of the funds. To the extent that a 5-cent reduction in the "paid" lunch reimbursement, and any efforts toward further reductions, causes middle-income children to drop out, the program will become confined to economically needy children. This raises two problems; (1) identification and discrimination, and (2) affected economies of scale. The passage of P.L. 91-248 required that schools prevent overt identification of needy children. If lower middle income children are forced out of a school lunch program, in some attendance areas, the identity of the remaining in the program will be obvious.

Another problem relates to the economies of scale. In the state of Indiana 85 percent of the children "pay" for their lunches and in Cobb County, Georgia, 90 percent "pay". In programs such as these, which are in every state, the number of "paid" participants allow the school district to provide food at the lowest cost per unit. The point is, that at some level, cuts in the paid lunch reimbursement rate can remove enough children to cause a price spiral which will not yield sufficient funds to feed the remaining children—including the free and reduced eligible child. In such instances the choices would be to (1) eliminate current cafeteria programs, (2) subsidize the program with local property tax increases, or (3) divert funds from the educational program. Given these options, we believe that at the very least, current data on the economies of scale issue should be developed before giving further consideration to the Administration's position.

V. BOOKKEEPING CONCERNS

In a number of cases, school districts have expressed concern over the increased bookkeeping requirements associated with the federal school nutrition programs. Some large systems have met the requirements by hiring more administrators. For example, one urban district recently hired four college graduate level administrators specifically for this function. Many school systems cannot afford the option of hiring more personnel. Yet in such instances, increased bookkeeping reaches beyond the capabilities or time of cafeteria personnel who may not have been trained, or hired to deal with extensive regulation.

Building principals have picked up the slack by diverting more of their time or that of other education administrators to school cafeteria operations. Rather than expanding on individual cases at this time, we simply wish to alert the committee to the fact that increased federal regulations are a problem—especially if at the same time funding for the program is going to be cut! We look forward to offering the Committee a more extensive report on paperwork once our costs survey data is tabulated.

CONCLUSION

The Administration and some members of the Budget Committees have proposed to cut back on the federal subsidy for paying children under the school lunch program. Especially at a time when real income is falling—and is expected to fall further—these cuts can have a serious impact on those families which are just over the income level for the reduced lunch program. To some extent lower middle-income children are forced to drop out of the program as a result of other increased family costs, the health and educational opportunities of this group will suffer. Further, especially since the paying children subsidize the non paying portion of the program, the economies of scale lost through students dropping out will ultimately jeopardize the financial and political viability of the free-lunch component. We are also concerned about the precedent of Congress considering this entitlement program in the last minute negotiations of the new budget process—which has been completed as we enter the second month of the school year. Sound budget planning and meal price-setting at the local level cannot tolerate that kind of uncertainty.

Finally, we suggest that the Congress look closely at the hidden costs associated with regulations and paperwork in school feeding programs. The government needs to design the most efficient accounting system possible as a means of saving tax dollars before it considers forcing children to drop out of school lunch.

For the foregoing reasons, NSBA is totally opposed to any cut in the school lunch subsidy. In closing, we wish to commend both Chairman Perkins and Representative Ashbrook for their efforts to preserve authorized funding levels for this program.●

FEDERAL SPENDING LIMITATION

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 5, 1979

● Mr. RAILSBACK. Mr. Speaker, today I am introducing a resolution that sets forth a proposal for a constitutional amendment to establish a limit on Federal outlays by prohibiting Federal spending from climbing faster than the overall economy.

Excessive Federal spending is the chief cause of our ever-worsening inflation, and I believe that Federal spending is now out of control. Right now, more than 40 percent of all the dollars being earned in our country are going to pay for the Government. In 1928, just over 50 years ago, total Government spending amounted to only 10 percent of our national income. This alarming rate of growth is the result of years of spending decisions made without enough consideration of available revenues. Traditionally, Congress determines its spending priorities first, and then instructs the Treasury to supply the needed funds to cover these outlays either through taxation or borrowing. Since Congress is reluctant to increase taxes directly, it has resorted to deficits and indirect tax increases. The result has been an accumulation of massive public debt, and rising rates of inflation.

It is not hard to see why Government spending grows at such a rapid pace. While nearly everyone agrees that restraint in outlays should be exercised, when it comes to a specific expenditure for a given program, the short-term benefits provided by the program tend to eclipse the long-term costs to the country as a whole. Yet while the upsurge in Federal spending has added heavily to the taxes of productive and hard-working people, it has not made much difference in solving our Nation's problems of urban blight, unemployment, crime in our cities, and reliance on Government as a way of life. Further, the inflation that is a product of continual deficit spending has brought about the shrinking value of the dollar, decreased productivity, and a lowered standard of living for the American people. Unquestionably we have reached the point when the need for fiscal restraint cries out. Our Nation can no longer afford the devastating price of huge deficits and Government expenditures that consume an increasing portion of our national debt. It is clear that this trend has to be reversed, and in my opinion a constitutional amendment to limit spending is needed in order to compel Congress to give thought to the broad and long-term effects of what it enacts, and to counter the temptation to yield to every program that seems desirable.

The constitutional amendment that I am proposing today closely parallels the recommendations made by the National Tax Limitation Committee. The basic limit on Federal outlays has two parts. The first limit applies whenever inflation is 3 percent or less, and it simply states that total outlays cannot increase at a faster rate than does the gross national product. It limits Federal spending to a specific percentage of the GNP, and in doing so, it links each year's limit to the actual spending of the previous year. The total outlays include both budget and off-budget outlays in order to cover as fully as possible all spending by the Government.

If inflation is more than 3 percent, spending may still rise, but the growth rate will not be quite as fast as the rate of growth in the gross national product, for the permissible percentage increase in spending would be reduced by one-fourth of the excess of inflation over 3 percent. The 3-percent inflation cushion would provide room for unavoidable zigzags in inflation from year to year. At the same time, the inflation penalty establishes a strong pressure for responsible management of the Federal budget. Over a span of years this would cause the percentage of GNP consumed by the Federal Government to shrink, the budget to come into balance, and inflationary pressures to ease.

Besides establishing this two-part limit on spending, my amendment specifies that any surplus must be used to reduce the national debt. Also, in order to be workable a spending limit should have provisions to allow flexibility for emergencies or changing situations. Therefore it states that if the President declares an emergency, Congress is authorized to exceed the limits in any given year by a vote of two-thirds of both Houses. The permanent limit on total outlays prescribed may also be changed by a specified amount if three-quarters of the Members of both Houses agree to such a change.

The problem at which this amendment is directed is not minor, and will not go away. Additional Government spending will only contribute to inflation, increase the Federal deficit, and add to economic instability. A constitutional amendment mandating a limit on spending appears to be the only viable solution. With this in mind, I would like to submit the text of my resolution for the benefit of my colleagues.

The resolution follows:

H.J. RES. 437

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. (a) Total outlays of the Government of the United States during any fiscal year shall not increase by a percentage greater than the percentage increase in the nominal gross national product during the last calendar year ending prior to the beginning of such fiscal year. If the inflation rate for that calendar year is more than 3 per centum, the permissible percentage increase in total outlays during such fiscal year shall be reduced by one-fourth of the percentage by which the inflation rate exceeds 3 per centum.

"(b) For purposes of subsection (a)—

"(1) the inflation rate for a calendar year is the percentage by which the percentage increase in nominal gross national product for that calendar year exceeds the percentage increase in real gross national product for that year; and

"(2) total outlays includes both budget and off-budget outlays, but does not include outlays to repay the public debt or emergency outlays authorized under section 3 of this article.

"SEC. 2. When, for any fiscal year, total revenues received by the Government of the United States exceed total outlays, the surplus shall be used to repay the public debt of the United States until such debt is eliminated.

"SEC. 3. Within ninety days following declaration of an emergency by the President, the Congress may authorize, by a two-thirds vote of each House of Congress, a specified amount of emergency outlays in excess of the limit prescribed by section 1 for the current fiscal year.

"SEC. 4. The limit on total outlays prescribed by section 1 may be changed by a specified amount by a three-quarters vote of each House of Congress. The change shall become effective for the fiscal year following approval.

"SEC. 5. For each of the first six fiscal years beginning after ratification of this article, total grants to State and local governments shall not be a smaller fraction of total outlays than in the last three fiscal years beginning prior to the ratification of this article.

"SEC. 6. This article shall apply to the first fiscal year beginning not less than ninety days after the date of its ratification and to each succeeding fiscal year.

"SEC. 7. The Congress shall have power to enforce this article by appropriation legislation."●

CHRYSLER CRISIS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 5, 1979

● Mr. HILLIS. Mr. Speaker, on November 1, I placed a statement in the CONGRESSIONAL RECORD outlining why it is the proper role of the Federal Government to come to the aid of the Chrysler Corp. As outlined in that statement, I do not feel that Federal assistance to private corporations undermines our economic system. Since the United States does not have a pure free enterprise system, we cannot expect that system to provide all the answers to a particular corporation's financial problems. At this time, the answer must come from outside the free enterprise system.

Having reached that conclusion, the particular problems facing Chrysler must be addressed in order to determine if the Federal Government should offer it any assistance. In determining an answer to Chrysler's request for assistance, there are several aspects and considerations which we must take into account.

Has the Chrysler Corp. done everything it can to prevent bankruptcy? Can Chrysler avoid bankruptcy without Federal assistance? What would be the effects of Chrysler's failure on the Federal budget and our economy in general? What would be the effect of Chrysler's failure on the automotive industry? Are there sources of assistance other than

the Federal Government? If the Federal Government grants loans or loan guarantees to Chrysler, how much should be given?

As delineated by Lee Iacocca before this subcommittee on October 18, Chrysler has made many significant efforts to improve its financial situation. The corporation has sold many of its overseas assets; corporate executives have reduced their salaries; new management policies have been enacted; and new top level personnel have been hired. Chrysler has made a good faith effort to solve its own problems. The policies which contributed to Chrysler's troubles, such as the "sale bank" concept which is the practice of manufacturing cars prior to their being ordered, have been eliminated.

While Chrysler has programs to improve its market penetration in the 1980's, it must continue to invest in modernization efforts and improve the emissions and fuel economy of its products to meet Federal regulations. These steps will cost the corporation millions of dollars which it simply does not have, and which it will not be able to obtain without Federal assistance.

It has been estimated that a Chrysler bankruptcy would cost the Federal Government around $10 billion. The combination of unemployment benefits, food stamps, and other assistance programs would be substantial. Further, Chrysler employees and others who would eventually lose their jobs, would no longer be paying social security and other taxes which would reduce Federal, State, and local revenues.

The Chrysler Corp. employs 131,000 people and thousands more are dependent on it indirectly for their livelihood. Obviously, some States, and particularly some cities, would be devastated by a Chrysler bankruptcy. As everyone in this room knows, Michigan would be hit the hardest. However, other States such as Indiana, Illinois, Missouri, and Ohio have over 5,000 Chrysler employees. In Indiana alone wages, salaries, and fringe benefits for Chrysler employees amount to over $410 million a year.

While the loss of Chrysler jobs alone would be significant, consider the additional thousands of employees of smaller companies which are totally dependent upon Chrysler as a purchaser of their products. The Indiana Department of Commerce has identified 105 independent companies which sell their products to automobile manufacturers. These companies employ in the neighborhood of 55,000 people. Since Chrysler is not a highly integrated corporation, it must rely heavily on small independent companies for many of its component parts. These companies cannot sell their products to GM or Ford since both of those corporations are highly integrated. The human and financial impact of Chrysler's failure would be tremendous.

If the impact of Chrysler's failure would be severe nationally, it would be catastrophic to certain cities. While Detroit would be the most visible case where the impact would devastate a city, there are other cities which would be hit as hard or harder.

My hometown is Kokomo, Ind. I have lived there my entire life and know firsthand that if Chrysler fails, Kokomo and its people will suffer a terrible hardship. Kokomo has a population of about 50,000. When he appeared before this committee, Coleman Young, the mayor of Detroit, stated that 40 percent of all jobs in Kokomo would be affected by the direct and indirect effects of a Chrysler shutdown. Two million dollars in local taxes would be lost. Every aspect of life in that quiet Midwestern town would suffer.

Mayor Young also stated that one-third of all the jobs in New Castle, Ind., would be lost if Chrysler fails. Chrysler employs approximately 2,100 in New Castle which has a population of only 21,000 people. Without Chrysler there is very little chance of New Castle surviving. The town has relied on Chrysler for over 75 years as basically its single source of income.

It is really impossible for anyone to be able to accurately calculate the impact of a Chrysler shutdown. However, all indications are that such a situation would have severe and long lasting adverse effects on our economy.

The effects of a Chrysler failure on the automotive industry would be dramatic. Without Chrysler, Ford and GM would unquestionably be faced with antitrust actions by the Federal Government. Since 1976, the Federal Trade Commission has been studying the competitive situation in the auto industry. Some antitrust action against GM is already possible, even without Chrysler failing.

There are organizations which oppose Federal assistance to Chrysler on the grounds that without the corporation, there is no way GM can survive an antitrust action. The Washington Post reported on August 2 that the potential for antitrust action against GM was one reason Ralph Nader cited for his opposition to any Government assistance to Chrysler.

We cannot be blind to the fact that there are people in this country who simply oppose large corporations on principle. However, there are industries, and the automotive industry is one of them, where the capital of large corporations is needed to meet the problems of the future. The problems of meeting environmental, safety, and efficiency standards are monumental. It would be impossible to disassemble GM or Ford without hampering their capabilities to improve emissions, safety, and efficiency. The pure turmoil of the situation would make long-term planning impossible. The result of such actions would be to force our domestic auto industry into a sharp decline while foreign competitors, with the assistance of their governments, take an increasing portion of the U.S. auto market.

In 1978 U.S. imports of passenger cars exceeded exports by $10.5 billion. Not only would imports pick up a portion of Chrysler's U.S. market, but Chrysler exports would also be lost. Thus our balance of trade would be hurt by the increased imports and decreased exports.

I do not believe that GM or Ford will automatically buy Chrysler's facilities and hire its employees should Chrysler fail. GM and Ford are much more likely to increase and improve their own facilities and hire back their own employees who are currently laid off. Due to retooling cost and transportation difficulties, it would be cheaper for GM or Ford both not to simply take up where Chrysler left off. Remember also that with the present economic situation, neither GM nor Ford is working at full capacity. Before one Chrysler employee could be hired by either company, every GM or Ford employee currently not working would have to be rehired.

After reviewing the Chrysler situation, I do not see any available alternatives to Federal assistance that insure the economic stability of the corporation. Chrysler is in the middle of a massive reorganization and rebuilding program. That program will increase Chrysler's penetration into the marketplace starting in 1981. It must be completed and successful for Chrysler to survive.

This rebuilding program is not only very expensive, but it is critical to Chrysler's future. I am familiar with this effort since Chrysler has announced its intentions to expand its transmission plant in my hometown of Kokomo, Ind. The expansion will cost $120 million in new tools and facilities. When completed, the transmission plant will provide the capacity to build automatic transaxles for new front-wheel drive cars in 1981. This program represents just one step in Chrysler's 5-year, $7.5 billion program for plant modernization and construction for the redesign of its entire line of products.

Chrysler originally had requested a $50 million FmHA loan to help finance this project. It is my understanding that the loan will not be granted because of its size. With interest rates now at 15 percent and money extremely tight, I really do not know where a company could go to obtain a loan of that size other than the Federal Government.

As I mentioned earlier, it will be impossible for Chrysler to obtain the requisite capital to complete its total reorganization and rebuilding program without outside assistance. It has already received some assistance from those States and cities which would be most affected by its failure. Yesterday, the UAW announced its intentions to make a $400 million concession with Chrysler in order that the union members can do their part in helping the corporation. As Douglas Fraser phrased it when he testified before this committee, "We are well aware of our responsibility and we will not run from it." Mr. Fraser deserves recognition for his leadership in this matter and his efforts to protect not only the interest of his union, but that of the Nation.

Even with the assistance it has already received, Chrysler needs Federal assistance. There is no substitute for, or any alternatives to, Federal assistance other than bankruptcy.

If this committee makes the wise decision to recommend loans and/or loan guarantees for Chrysler, I would suggest that great care be taken to insure that enough assistance is offered to insure the

corporation's survival. It would be a drastic mistake to come to the aid of Chrysler in such a manner and at such a level that the corporation is forced into actions which in the long run will permit its bankruptcy.

The administration has proposed that Chrysler receive $1.5 billion in loan guarantees, coupled with a commitment that Chrysler first raise the same amount through its normal lines of credit. This proposal seems to be reasonable and has received support from both Lee Iacocca and Douglas Fraser of the UAW. Although the House and Senate must review the administration proposal carefully, I am hopeful that it will be enacted.

Federal aid to Chrysler is the philosophically correct step. It is in the best interest of the Nation. It is vital that Chrysler not go bankrupt if we are to avoid severe economic disruptions and a possible deterioration of the entire auto industry.●

THE BILLION-DOLLAR FARM CO-OPS NOBODY KNOWS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 5, 1979

● Mr. SCHEUER. Mr. Speaker, like so many of us, when someone says "co-op" I think of a few small family farmers banding together to get their crops to market. Indeed, this is what the Congress had in mind when it said that co-ops which do not unduly raise prices should be exempt from the antitrust law. However, the proposal to amend the FTC Act (H.R. 2313) to prohibit any investigation of cooperatives for illegal antitrust activities will exempt from FTC scrutiny some of this country's largest corporations, including nine members of the Fortune 500.

For the benefit of our colleagues and other readers of the RECORD, I insert the following excerpts from a Business Week article of February 7, 1977, which notes the real nature of cooperatives to be protected by Mr. ANDREW's amendment.

THE BILLION-DOLLAR FARM CO-OPS NOBODY KNOWS

In the six years from 1970 through 1976, the sales of Farmland Industries Inc. tripled, to $1.9 billion. And when Ernest T. Lindsey, the urbane, soft-spoken president and chief executive officer of Farmland, talks about the record of his diversified merchandising and manufacturing operation, he sounds like the proud top officer of any big, successful corporation.

But Lindsey is not an industrialist. And giant, Kansas City-based Farmland is barely known outside the Midwest. For Farmland is not a publicly owned corporation, but a cooperative—owned by some 500,000 farmer-members.

While Farmland is the nation's most aggressive co-op, the 7,500 other U.S. farm co-ops as a whole have matched its stunning growth record in the 1970s. In fact, the co-ops, many of them linked in intricate, mutually supportive networks, are emerging as the most important force in U.S. agribusiness—the $165 billion market that encompasses the crops that farmers sell and the machinery and supplies they buy. In the first half of the 1970s, total revenues of the farm co-ops ballooned from $25 billion to $57 billion, giving them a third of the total market.

Until recently, this growth has been one of the best-kept secrets in the U.S., largely because the co-ops maintain a low profile. That obscurity was shattered briefly in 1973 when two executives of Associated Milk Producers Inc. (AMPI), the nation's largest dairy co-op, were jailed for making illegal contributions to senatorial election campaigns. But now the surge of all co-ops is alarming many in private industry. And despite the co-ops' considerable clout in Washington, their growth and power are attracting government attention.

A major reason is that the co-ops' power is becoming increasingly concentrated. Besides Farmland and AMPI, four other co-operatives—Agway, Grain Terminal Assn., Land O'Lakes, and Far-Mar-Co—had annual sales in 1975 exceeding $1 billion, and Illinois Grain Corp. broke through that barrier last year. In all, the 10 biggest (table) accounted for 20 percent of 1975's total sales for all co-ops—nearly double the corresponding percentage in 1960.

That is only part of the story. Originally formed to market crops, the co-ops have been tightening their grip on farm commodities. Over the last decade, dairy co-ops increased their share of the wholesale dairy market from 65 percent to a commanding 80 percent. And co-ops today market 37 percent of the nation's cotton crop, compared with 25 percent a decade ago. Now, with a big part of the market for those and other farm products, the co-ops have begun to take the next logical step: They are dramatically stepping up construction of downstream food processing plants. These eventually could cut deeply into the business of such customers as Kraft Inc. and Borden Inc.

DEVELOPING POWER

Similarly, the co-ops have stepped up their second business—buying supplies in bulk and reselling them to farmers. In just the last decade, the so-called supply co-ops have boosted their share of the $7 billion retail fertilizer market to 42 percent from 30 percent; of the $3.3 billion farm petroleum market to 40 percent from 26 percent; and of the $2.5 billion retail market for agricultural chemicals to 40 percent from 16 percent.

Such expansion has forced independent farm suppliers out of business in droves. "In many farm towns, there used to be a feed store, a seed store, a hardware store, and a fertilizer dealer," says Richard L. Gilliland, executive vice-president of the National Fertilizer Solutions Assn. "Now many have but one store—the co-op store."

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THE AGRIBUSINESS VIEW

Even the current power of the co-ops has led to increasing bitterness among the agribusiness companies that must compete with them in the manufacture of goods for farmers. Private businessmen find the competition unfair for two reasons:

The co-ops enjoy an enormous tax break because they do not have to pay federal income tax on profits returned to their owners. On average, the tax rates of the co-ops are only about one-third those of their industrial competitors.

The government has allowed the co-ops to join in ownership of manufacturing facilities. At the same time, their competitors must hew to increasingly tough antitrust standards.

"If cooperatives are allowed to grow and merge unchallenged as they have," fumes Lloyd L. Jaquier, executive vice-president of the Agricultural Chemical Group of W. R. Grace & Co., "private enterprise will be squeezed out of agribusiness, and we'll wind up with a half-dozen co-op executives dictating to the American farm market." Many executives share his view but are reluctant to speak out because they do not want to jeopardize their use of the co-ops' superior distribution system to move their products.

Indeed, some agribusiness execs admit to ambivalence. "The co-ops can make things happen for your products in the marketplace," says one, "but I have mixed emotions about dealing with them because I feel I'm helping to build a monster that will eventually get me."

Washington's concern with the co-ops' growing power is very recent, but it is picking up. In particular, the Justice Dept. has been conducting a major study of the co-ops, and last week it released a sweeping 585-page report on its investigation. It sharply criticizes complicity between the Agriculture Dept. and the dairy co-ops in using their nearly complete control of the nation's milk market to set prices well above free market levels.

While the report focuses on the dairy co-ops, it raises serious questions as to whether long-standing antitrust immunities granted all co-ops under federal law were ever intended to authorize the mergers and joint-ownership arrangements now being made by some of the largest U.S. co-ops. Thus the Justice report may spark the first congressional drive to reduce or eliminate the preferential legal treatment that all co-ops now receive.

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Similarly, though co-ops are no big threat to major oil companies, in the past five years they have doubled their refining capacity, to 400,000 bbl. per day—about 80 percent of total farm petroleum demand. To protect that investment, they are pushing exploration efforts.

Last year, for example, Farmland drilled 62 wells, six times the number it drilled five years ago, and its oil reserves are three times as big now as in the mid-1960s. National Cooperative Refinery Assn., a refinery owned by six regional co-ops, expanded its annual drilling budget from $3 million five years ago to $13 million last year. And 14 major co-ops last year collectively bought the international drilling concessions of Tulsa-based LVO Corp., set up a co-op called LVOI Inc., and began drilling in Egypt and Ghana.

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FOOD PROCESSING

If agribusiness has reason to worry about the co-ops' increasing clout, so do the nation's food processors. Large grain cooperatives such as Far-Mar-Co and Farmers Union Grain Terminal Assn., for example, have moved strongly into soybean manufacturing, with the result that co-ops now control some 15 percent of the nation's grain processing vs. only 2 percent a decade ago. Another reason for Far-Mar-Co's interest in merging with Farmland is its need for capital that will allow it to put into production a new method it has developed for splitting a wheat kernel into its four basic components without damaging them. Present processes destroy one or more of the components and thus waste part of the kernel. "If there's a margin to be made in grain processing," says George Voth, Far-Mar-Co's general manager, "we want to make it and return it to our farmer-owners."

The dairy co-ops which were originally set up to wholesale unprocessed milk, already did 25 percent of the nation's dairy processing a decade ago. Today they control an estimated 33 percent of that business, and some of them are diversifying further afield. None is more ambitious than Land O'Lakes Inc., the nation's largest maker of butter, which is intent on becoming a complete food processor. "Frankly, I am envious of those bigger returns in food processing," says

President Ralph Hofstad, "and we want our share of that business to improve the income of our farmers." Besides such dairy products as packaged milk and cheeses, Land O'Lakes has been adding to its line such things as egg products for institutional markets, frozen turkeys, and even margarine—long considered anathema by dairy farmers.

Similarly, fruit co-ops that are already major processors are trying to broaden their base. Ocean Spray Canberries, Inc., a Hanson (Mass.) co-op that processes 60 percent of the annual U.S. cranberry crop into sauce, juice, and other products, last year amended its charter and bought a grapefruit processor. It has now organized Florida citrus growers into a cooperative pool to supply its plant. And Welch Food Inc., a subsidiary of National Grape Cooperative Inc. which processes and sells 40 percent of the nation's Concord grapes, has been diversifying into such things as cranberry, apple, and tomato juices, frozen bakery items, and even cut flowers.

Besides their accelerated move into processing, the marketing cooperatives are taking another, newer tack. They are bidding to cash in on the boom in U.S. agricultural exports—a business that until now has been the exclusive preserve of such huge multinational corporations as Cargill, Continental, and Cook. In 1968, for example, five major grain co-ops formed Farmers Export Co. and a year later began exporting from a new port terminal in New Orleans. Since then, the volume of grain passing through that facility has doubled.

All told, co-op terminals now handle 16 percent of the nation's export grain, a threefold growth in 10 years, and that share could jump to 25 percent by 1980 when Farmers Export completes two terminals it is planning for the Gulf and East Coasts. "We are moving into exporting," says Bernard J. Malusky, president of Grain Terminal Assn., the country's second largest grain co-op, "because the further we can carry the raw material to the ultimate user, the more profit there is for the farmer."

In their drive to increase profits, the managers of the nation's co-ops differ little from their counterparts in private industry. But co-ops have enormous advantages over corporations, and not the least of them is their basic, profit-sharing structure and the loyalty of their members.

Co-ops deal with their members buying their output and selling them supplies—at competitive market prices. But at the end of the year, a co-op is allowed to pass profits back to the farmers who have dealt with it. The so-called "patronage refund" varies in size—from 2 percent of sales for the Midwest grain cooperatives and 6 percent to 8 percent for most supply cooperatives, to as much as 15 percent to 20 percent for a few highly profitable processing cooperatives like Welch and Ocean Spray. The more supplies a farmer buys and the more products he markets through his local co-op, the larger his refunds. For example, a farmer who buys $10,000 of farm supplies from his local co-op in a year may get back $800 in cash and stock at the end of that year.

Such refunds have drawn farmers like a magnet, to the point where today five of six farmers belong to at least one co-op. But their loyalty also reflects a deep distrust of business. Co-ops were originally formed to increase crop prices and drive down supply costs, and the agribusiness companies responded by starting price wars and branding co-ops as socialistic. The co-ops survived—and farmers prospered—by sticking together. "My father would come after me with a gun if I ever sold any grain any way except through our local co-op," says an only half-joking Robert S. Bergland, the Minnesota grain farmer who is President Carter's Agriculture Secretary.

DISTRIBUTION PROCESS

The co-ops' clout, of course, is not in the local's but in the large, regional co-ops into which they have combined to gain greater economies in marketing and distribution. Farmland, for example now distributes its supplies through stores that are operated in 15 states by its 2,200 local co-op owners. Such distribution bases, with their solid market feel, have allowed the co-ops to venture into manufacturing at very low risk. "Most manufacturers start with a risk. "Most manufacturers start with a product and try to push it through a market they do not control, but co-ops started at the marketplace and developed a distribution system no one can match," observes Midland's Sampson. "The agribusiness companies wail and weep about our tax advantages, but that's not what beats them."

Some regional co-ops have gone into manufacturing projects on their own, and the most notable example is Farmland. It has led the way into refining, oil drilling, fertilizer production, beef processing, the manufacture of hardware and paint, and now the making of herbicides. Says Farmland's Lindsey: "We like to paddle our own canoe."

More commonly, though, regional co-ops have banded together to form so-called "interregional" co-ops expressly designed to perform a particular manufacturing or service function and achieve the maximum economies of scale. And it is the appearance of the interregionals that, more than anything else, has prompted the growing volume of complaints from agribusiness that the federal government has been too permissive with the co-ops on antitrust matters.

PROFESSIONAL MANAGERS

Still another factor behind the meteoric rise of the co-ops is the dramatic changes they have made in their managements. As late as the 1950s, most co-ops were still dominated by founders who could sign up new members with evangelical zeal but who lacked professional management skills. Most co-op managers then had only high school training, and for years the co-ops put little premium on developing executive talent. "We once went after talent for the lowest dollar," admits Francis L. Lair, executive vice-president of Universal Cooperatives Inc., an interregional farm equipment manufacturer.

That attitude is becoming history, however, and the big co-ops are increasingly raiding the executive suites of their corporate competitors to buy off top talent. Farmland's Lindsey, for example, was recruited from Celanese Corp., where he was vice-president for manufacturing, and since joining Farmland he has recruited executives from Esmark Inc., Armour & Co., and other food processors to guide his co-op's drive into meat processing. Lindsey also recently has pulled executives from Global Marine Inc. and other petroleum-related companies to head Farmland's expanded search for oil. And Exxon Corp. is providing other co-ops with much of their top oil expertise. The three interregional oil drilling and refining co-ops (ECL, LVOI, and NCRA) all are run by newly recruited Exxon grads, and even CF's Baxter had a stint with Exxon, as well as with Standard Oil Co. (Indiana).

Such co-op managers have a profit drive that earlier ones did not. Concedes CF's Baxter. "The new breed of cooperative managers, such as Mr. Lindsey and myself, are more bottom-line oriented."

TAX AND ANTITRUST BREAKS

Despite such past mistakes, the agribusiness companies now losing market share to the charging co-ops insist that the major reasons for the co-ops' success are the tax and antitrust breaks they get—breaks that corporate managers consider to be unfair. And while co-ops do their best to discount it, the tax break they get is unquestionably enormous. A corporation has to pay income tax on its dividends to shareholders, but a co-op does not have to pay income tax on its patronage refunds. Since most co-op earnings go into such refunds, the income tax paid by most co-ops are very small.

In 1975, for example, taxes paid by the 10 largest co-ops averaged only 12.4 percent of their pretax income; a comparable average for 10 major agribusiness corporations with which the co-ops compete was 34.6 percent (table). The difference is far greater if one of the co-ops, Agway, which for various reasons is organized and taxed as a corporation, is ignored. Farmland's 1975 tax rate of 4.8 percent and Land O'Lakes' 5.4 percent are typical for the big co-ops. One co-op executive quips: "That's about the edge I like to have going into competition."

From the standpoint of generating cash, the co-ops' tax break is even better than it looks. While some marketing co-ops, such as Sunkist Growers Inc., return to the farmer all net proceeds from their sales in cash, most co-ops give 50 percent or less of their refunds in cash. The rest is in the form of stock certificates that farmers may not redeem in cash for 10 years or more. That gives the co-ops another major source of nontaxable, internally generated funds that corporations do not have. "The cooperatives have become giants of American industry," argues Ciba-Geigy's O'Brien, "yet their tax advantages have not been tailored down to recognize their new power, and that's unfair."

As for antitrust, the focus of private industry's discontent is the broad interpretation that the co-ops have given the Capper-Volstead Act passed by Congress in 1922. The law, intended to exempt coops from the provisions of the Sherman and Clayton Antitrust Acts, permits farmers to market and fix prices on their goods collectively. But Capper-Volstead did not deal with supply co-ops, which came later, and it did not envision the co-ops' wave of acquisitions and their merger into regional and interregional organizations.

Even so, Capper-Volstead up to now has been an effective legal shield for cooperatives. Relatively few antitrust cases have been brought against them, and only four have gone to the Supreme Court—the last in 1967, before the co-op's biggest surge. The co-ops naturally insist that antitrust charges are unjustified. Hofstad, for example, calls them "phantom charges" and maintains that Land O'Lakes' profits are half or less than those of the food companies that have given up buying milk from farmers to focus on processing.

Many corporate executives concede that cooperatives have to be big to compete with big companies but insist that interregional co-ops go one step too far. "If we tried to merge our fertilizer business with that of our big competitors, the Justice Dept. would be on us immediately," says Jaquier of Grace. "But that's what the co-ops are doing, and nobody says a word."

PRESSURE IN WASHINGTON

Yet the co-ops are coming under increasing scrutiny in Washington. Last week's lengthy report by the Justice Dept. on dairy co-ops is one sign. And the Federal Trade Commission recently began a study of the co-ops' growth, particularly the mergers in the dairy and citrus fruit industries and the merger of Farmland and Far-Mar-Co.

Many critics of the co-ops believe, however, that new legislation may be needed to rein them in. Some Congressional observers believe that the House subcommittee on monopolies and commercial law will respond to the Justice report by undertaking its own study of Capper-Volstead's antitrust immunities. Meanwhile, the National Association for Milk Marketing Reform, a Washington-based group of independent milk processors, is urging legislation to amend Capper-

Volstead to insure that antitrust laws apply to co-ops, though not to the point of prohibiting their formation.

The co-ops have powerful support in Washington, however. Both President Carter and Agriculture Secretary Bergland are unabashed advocates of co-op growth—Carter's mother and brother own stock in a fertilizer co-op (Mississippi Chemical Corp.), which has supplied Carter peanut farm. In fact, key advisers to both men are considering a plan that would lend government support to the drive by the big grain co-ops to expand in the export market. Revelations that the big grain export corporations have been guilty of malpractices "are tipping the scales in favor of some action along this line," says one Carter adviser.

Even prior to the Carter Administration, the co-ops have had more than enough protection from powerful allies in Congress. The only recent challenge to the co-ops came last year when Representative Edward Mezvinsky (D–Iowa) proposed a bill to authorize a full-blown investigation of their role in skyrocketing food prices. The co-ops swiftly organized opposition, the bill never got out of the Rules Committee, and Mezvinsky was defeated for reelection last November. "No President or his Administration has or ever will seriously damage farm cooperatives," brags one influential farm lobbyist. "An attack on cooperatives is akin to denouncing the flag."

If neither the courts nor new laws limit the growth of the co-ops, it is possible that another throttle, financing strains, will. Until recently, co-ops have not had much problem getting the money they needed for expansion, and at low interest rates. Besides their own members, they could turn, for example, to Banks for Cooperatives—a system of 12 district banks with a central bank in Denver—which was created with government seed money in the Depression. These banks operate like interregional co-ops, paying their own patronage refunds. And when those refunds are considered, the effective interest rate on loans from these banks ranges from ¼ percent to 2 percent below the going commercial rates. But in the last five years, the annual loan rate of these banks has zoomed from $2.1 billion to $8.9 billion, and large co-ops, such as Farmland and CF Industries, are running up against the lending limits for individual customers.

More important is the money pinch imposed by the co-ops' farmer-owners themselves. As farms become more capital-intensive, farmers are demanding—and getting—more cash from their co-ops. A decade ago, many co-ops commonly paid only 20 percent of their patronage refund in cash, the minimum required under federal laws. For big farmers, those in 30 percent-or-higher tax brackets, this is not enough cash to cover the income taxes they must pay on their refunds of cash and stock. So such cooperatives as Land O'Lakes and Midland have had to boost the cash portion of their refunds to 40 percent or more.

Farmers are also demanding faster redemption of their stock. Co-op stock is not traded and thus does not appreciate, so inflation gnaws at its value. "The farmer no longer wants to wait until he dies before his co-op stock is redeemed," observes Midland's Sampson. Gold Kist, the big Atlanta-based co-op, began a stock redemption program three years ago and has now paid off all of the stock it issued before 1960. And four years ago Farmland started a program under which it shares with its local member co-ops the cost of redeeming stock at a farmer's retirement.

CAPITAL SHORTAGE

With such changes, the larger, more aggressive co-ops face a shortage of capital, and they are seeking new sources. CF Industries began to tap outside money markets two years ago, and late last year it borrowed $100 million from banks and insurance companies to finance its Florida phosphate mine purchase. Soon afterward, CF and its Canadian partners borrowed $180 million more to finance their nitrogen complex in Canada.

In 1975, moreover, Farmland embarked on a program to sell $150 million worth of debentures to the public over a three-year period, and a number of other large co-ops, such as Land O'Lakes, are studying the feasibility of selling stock shares to the public. But there are obvious drawbacks for the co-ops in such moves. "The cooperatives are going to have to find new methods of public financing," says Ray A. Goldberg, professor of agriculture and business at the Harvard Business School. "And that is going to mean SEC regulation, more financial information being provided to the government, and generally more scrutiny than they have had to date."

With or without public financing though, the surprising growth of U.S. co-ops—and their increasingly pervasive competition with private business—is bound to force them to a higher level of visibility. And that could prove to be their biggest problem in the next decade. For it is becoming apparent that there is little difference in market power between a giant investor-owned agribusiness corporation and a giant farmer-owned cooperative. If that is so, the obvious corollary, to many observers, is that there is no reason for treating them differently before the law.●

WHAT A STRIKE COSTS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 5, 1979

● Mr. MICHEL. Mr. Speaker, we are so familiar with the term "strike" that we think we know all of its consequences for business. We realize that productivity is lost and we realize that a certain amount of money is lost because of this.

But it would appear that most of us have not grasped the full dimension of a strike. There is damage not only during the strike but before and after as well. And there may be long-range damaging consequences that no one can calculate beforehand.

A recent article in the Harvard Business Review offers some idea of the hidden costs of a strike and suggests to employers basic ideas as to how to deal with situations that lead to strikes.

At this time I wish to insert in the RECORD "Strikes Cost More Than You Think," by Woodruff Imberman, originally published in the Harvard Business Review and reprinted in Best of Business, fall 1979:

STRIKES COST MORE THAN YOU THINK

(By Woodruff Imberman)

Would you believe that a four-week strike at a manufacturing plant with 100 production workers cost the company about $400,000, or that a four-week strike at a 500-man plant cost about $3,000,000?

An examination of 28 strikes in the last three years showed that there are many strike costs that companies are not aware of or that they disregard. In these 28 strikes, standard strike costs ranged from about $200 per man-day for smaller companies with 100 or fewer production employees to about $300 per man-day for companies with 500 to 1,000 production employees. For example, a company with 750 employees on strike had a standard cost of about $225,500 per day, or about $1,125,000 for a five-day week. Some of this was reflected in the next quarterly earnings statement; some was spread over years.

These are more or less standard costs—that is, they are common to many strike situations. Uncommon costs peculiar to individual situations will boost the man-day cost even more—in some cases, far beyond the standard.

Strikes normally entail lost net earnings. Since a company usually expects a certain level of earnings, any shortfalls are attributed to the strike. These shortfalls are commonly supposed to be the total cost of the strike.

For example, Johns-Manville estimated that strikes at three Ohio plants reduced its fourth-quarter (1977) earnings by $2.5 million. Hughes Tool reported that a five-week strike at its Houston facility in 1977 "cost about 10 cents a share." Gerber Products reported that the 18-week strike at its Fremont, Michigan, plant led to "an 8.8 percent earnings decline" for the fiscal second quarter (1978). Chicago Pneumatic Tool said that its 1977 strike at Franklin, Pennsylvania, "cost 37 cents a share" despite record sales.

These summaries of strike costs actually report merely the numbers that sink to the bottom of the earnings statement like sunken ships. The problem is that not all the costs are instantly visible. In my study, strikes involved three major kinds of standard costs: (a) prestrike costs, (b) costs during the strike, and (c) longer-term costs. Some costs were immediate, some deferred. Some were overt, some hidden.

BEFORE: LESS WORK, LESS QUALITY

Productivity loss: When union leaders and the company begin to trade charges, workers usually retaliate by putting forth less effort and less care. Productivity declines about 2 percent to 12 percent in the three or four weeks preceding the strike.

Contract year loss: Major manufacturers commonly query suppliers about their labor contracts. When a manufacturer finds that Component-Supplier A has a labor contract due to end within a year, it will normally do two things—(a) split its order for components between Supplier A and Supplier B so as to be protected against a strike at A's plant at contract termination, and (b) demand that Supplier A produce and warehouse a 30-day supply of components, so that the manufacturer is not caught short. General Motors, Chrysler, Ford, Davidson Rubber, Eaton Corporation, and others follow this practice.

For Supplier A, this involves overtime in producing the surplus 30-day supplies, plus transportation to outside warehouses and warehousing costs. In addition, the tendency of the manufacturer to give Supplier A only partial orders in the contract year is a prestrike loss of business for Supplier A.

Even major companies are not immune to this situation. In July 1978, Inland Steel reported that "because of the strike threat, customers have placed orders with other steel mills." In July alone, the company lost 100,000 tons of "documented orders" at its East Chicago, Indiana, plant. "A lot of that business we'll lose completely," said Michael Tenenbaum, president of Inland.

DURING: EXECUTIVES AT THE PUNCH PRESS

Lost profits: A strike normally entails lost production, shipments, revenues, and net earnings, together with the cost of idled equipment; but there are other, less commonly noticed expenses.

Executive time: A common practice in strikebound plants is to assign platoons of executives to production or shipping. But executives are not paid to run a punch press or a packaging machine. In their normal in-

carnation, their job is to be managers and to perform more profit-making chores. If they are sweating on the production line or in the shipping department, their executive salaries are being wasted.

In 1978, Boise Cascade Corporation reopened two struck paper mills in Stellacoom, Washington, and St. Helens, Oregon, by bringing in a number of management personnel, such as sales managers from various locations around the country, to run the two mills. According to *The Wall Street Journal*, "About 100 management personnel currently are operating the Stellacoom plant and about 115 management personnel are operating the St. Helens mill." Who was minding the store while these managers were getting out production?

Gorham Silver Company in Providence, Rhode Island, used secretaries, division managers, and other white-collar employees in order to fill some sterling-flatware orders from anxious brides during the company's eight-month strike in 1976. Gorham's president, Walter J. Robbie, became a silver-polisher, according to *The Washington Post*. Who took care of their executive duties?

AFTER: LOST WORKERS, LOST CUSTOMERS

Loss of employees: During a strike, some employees drift away and never return. In such cases, costly advertising, selection, and training procedures for the new employees are involved. The loss of business during a strike sometimes means that many employees are not recalled, which wipes out the company's investment in their selection and training.

Dayton Malleable reported losses of $440,000 and $1,300,000 in two quarters (1978) because of a 14-week strike at two Ohio foundries: "Several customers canceled orders during the period," chairman John F. Torley said. "In fact, only 800 of the 2,000 workers at the struck plants have been recalled because of low production levels."

Sometimes investment in an entire work force is lost, but the cost is overlooked. Because of a 15-week strike in 1977, A-T-O Inc. relocated its construction-equipment operations and consolidated three product lines into a new plant at Charleston, South Carolina. This was estimated as costing at least 50 cents a share, and that cost did not cover investment in old personnel and the acquisition of new employees.

Overtime expense: After a strike, expensive overtime is often involved. Following a two-and-a-half-month strike, Roy A. Anderson, Lockheed chairman, reported: "We'll be a little light on production in our second quarter [1978] in order to rebuild inventories. It takes time and extra overtime to build up the back shop, such as fabrication work and subassemblies. Therefore, our financial results, particularly in the new quarter, will be depressed. . . ."

Loss of customers: Many customers discover substitute sources after a strike, sometimes even at seductively lower prices. They never return to their original source. This represents lost profit in the future.

In discussing retail trade in the nation's capital, *The Washington Post* called attention to one effect of Gorham Silver's eight-month strike in 1976. "It's incredible how the strike boomed the other silver companies," said Kristen Walter, manager of one of the major gift shops in Georgetown. "They were besieged with orders." How do you get brides to switch back to Gorham after they've bought someone else's sterling flatware?

The case is similar with durable products. James A. McDevitt, president of Pullman-Standard, in a letter to 2,000 strikers at the Bessemer, Alabama, plant in 1977, pointed out that railroads count on freight-car builders to deliver completed cars on schedule. "We can't expect to get a new order if we can't tell the customer when his order will be ready," he wrote. "And once an order is lost, it is lost forever."

As a result of the strike that closed down *The New York Times* and the *Daily News*, "advertisers who depend heavily on newspapers have found a wider and more flexible array of advertising media available to them." *The Wall Street Journal* reported on November 2, 1978. "It hasn't been damaging at all," said a spokesman for a retail merchants' trade association.

Lowered sales effort: Obviously, when production is curtailed, the sales force cuts back on its marketing efforts. This is not an immediate cost but may cut the backlog and future profit.

Mesta Machine Company, for example, in posting a fourth-quarter (1977) net loss of $626,000 compared with a year's earlier profit of $743,000, found that year end order backlogs were only $72,100,000—off 40 percent from $119,800,000 at the end of 1976—as a result of a continuing strike at a key plant in West Homestead, Pennsylvania.

Dayton Malleable, after its 14-week strike at two plants in Ohio, found that "the return of orders to these divisions continues to be slow, and volume hasn't been adequate for satisfactory operations," according to John F. Torley, chairman. "All alternatives for resolving the problem of low volumes are being studied, especially with respect to these two plants."

SABOTAGE, PLANT CLOSINGS, AND OTHER UNCOMMON COSTS

In some instances, the uncommon costs of a strike are astonishing. These are costs peculiar to some situations but not included in the standard per man-day cost.

For example, sabotage crops up in almost all strikes, but it is a major cost factor only in some situations. Dow Chemical Company's strike in 1974 at Midland, Michigan, was marked by "a night of rock-throwing and window-smashing by several hundred Steel Worker members and their families," who caused an estimated $50,000 worth of damage when they broke some 500 windows in the main building and six research wings, reported the Associated Press.

Before this display of solidarity, which was explained by the Steel Workers Local president as "a demonstration on the part of people who are frustrated at the company's attitude toward our bargaining position," a Dow Company brine well was set on fire. State fire crews were called in to handle the fire because the Homer Township volunteer firemen refused to cross the Steel Workers' picket line. Ten of the township's volunteer firemen, including the chief, were Dow employees and union members.

Sabotage may take more subtle forms. In September 1978, for example, LaPointe Industries, at its Rockville, Connecticut plant, lost two Navy contracts valued at more than $6 million. Before the nine-week strike, the company experienced difficulty "in passing reliability tests" for the navigation equipment. Jack Lopes, president of LaPointe, said that the contracts had been expected to generate about 50 percent of sales for the fiscal year.

STANDARD STRIKE COSTS PER MAN-DAY

Costs	Plant A [1]	Plant B [2]	Plant C [3]
Legal counsel and executive time spent in prestrike negotiations	$1.79	$1.65	$0.80
Prestrike slump in productivity and resulting loss of operating profits	8.78	5.75	2.32
Loss of operating profits due to prestrike order-splitting by cautious customers	[4] 27.23	15.47	1.22
Loss of operating profits due to lack of production during strike	6.60	14.50	3.60
Cost of legal counsel and executive time spent in negotiations to settle strike	2.29	1.48	.95
Loss in operating profits due to strike-related production disruptions and shutdowns in other plants of multiplant integrated corporation	47.13	0	0
Carrying raw and semifinished inventory during strike	.59	1.38	1.49
Carrying strikers' hospital, medical, and life insurance during strike	[5] 7.30	[6] 6.60	[6] 3.18
Continuing salaries of nonexempt office staff	4.42	9.50	5.44
Maintaining extra security guards at plant during strike	9.42	9.58	17.64
Hiring and training replacements for employees who did not return after strike	7.26	5.20	3.48
Overtime to catch up on orders after strike	144.51	51.85	0
Unrealized operating profits on lost future sales due to customers' switching to other suppliers because of strike	25.16	23.20	30.71
Executive time devoted to production or shipping during strike	6.11	39.71	0
Carrying semifinished inventory in other disrupted plants of multiplant, integrated corporation	2.50	0	0
Overtime in other plants to fill part of customer requirements normally handled by struck plant	0	0	[7] 59.04
Excess distribution costs to ship product to central point in city where struck plant is located	0	0	[7] 24.00
Leasing trucks and central warehouse away from struck plant, hiring additional drivers, maintaining additional security for drivers and warehouse	0	0	[7] 49.41
Total	301.69	185.97	203.28

[1] Stamping plant with 500-man unit, part of 7-plant integrated company: 4-week strike.
[2] Independent aircraft parts and accessories manufacturer with 200-man unit: 5-week strike.
[3] Commercial bakery with 200-man unit; part of 5-plant chain: 10-week strike.
[4] This loss was due to a 20-percent sales decline in 2d quarter before strike, followed by a 35-percent drop in sales in quarter immediately before strike.
[5] Carried entire strike.
[6] Carried for 6 weeks.
[7] This kind of cost is normally found in strike situations involving bakeries, food processors, meat packers, canner packers.

Another uncommon cost is the closing of a plant due to a strike. This is distinct from the standard cost of replacing personnel. Mohawk Rubber, in closing its plant in East Akron, Ohio, as a result of a dispute with United Rubber Workers in late 1978, said that the actual closing of the plant was expected to cost the company between $3.5 million and $5.5 million after taxes.

Another uncommon cost is sometimes involved when a manufacturer (such as General Electric) maintains two plants manufacturing the same item, so that if one plant is strikebound, the other will continue to operate.

Still another uncommon cost is the arbitration involved in reemployment of some strikers alleged to have committed violence on the picket line. After a lengthy strike at the Allentown, Pennsylvania, plant of Kraft Foods, expensive arbitration hearings went on for six months.

FINAL COSTS

How the more or less standard costs break down (in cost per man-day) appears in the table. Uncommon costs are not included, though in some cases those costs are many times the standard costs.

Taking all these factors into consideration, and ruling out the uncommon costs, standard strike costs as stated earlier range from about $200 per man-day for smaller companies with 100 or fewer production employees to about $300 per man-day for companies with 500 to 1,000 production employees.

Such a price may not be too high for a company to pay to preserve its management freedom, self-respect, or competitive position. Nor am I trying to alarm and stampede managements into acquiescing supinely to union demands. Strikes are expensive for unions and union members also. In addition, there is some evidence that a strong management position in a strike dissipates at least part of a union's demands.

HEARING WORKERS OUT

Most companies would love to avoid a strike. But how can this be done? In many cases, as in disputes over pay raises, prevention may be almost impossible. But, considering what we have discovered about the costs of strikes, companies should explore any promising avenue of prevention. One technique that has proved successful is based on satisfying the desire of workers to be heard. Where this desire is reasonably satisfied, there is likely to be a high degree of labor-management understanding and perhaps an absence of strikes.

The goal of a listening program is to determine from the hourly workers the state of their morale—that is, what their attitudes are toward management on all levels; what their feelings are about the company products; and whether they feel they are being dealt with fairly, decently, and honestly. These areas are probed; plant management then interprets the employees' comments and deals with their problems and perceptions.

In a listening program, employees are grouped arbitrarily, one worker from this department, one from that, and so on. The production manager or a foreman or even the plant manager sits in on the discussions to hear the complaints and to present management's view on the issues.

During the first round of conferences, employees are likely to complain about such matters as ventilation, rest rooms, or security in parking lots. They often interpret the failure of a busy management to deal with such matters as cold indifference to their concerns.

Prompt action taken by management on the smaller issues can open the door to an airing of more serious grievances, such as failure of communications, work interruptions, ineffectual flow of materials, faulty parts, and equipment failures. Comments from employees in one company are typical of such grievances:

"There's no communication between day and night foremen. The day foremen don't pass on what they know to the night foremen; they just say, 'Let them find out for themselves.' Do we have to continue making the same mistakes? What kind of management is that?"

"So many of our fabricated parts don't have part numbers. We don't know what they are. Why don't the operators tag them or write a ticket or something so we would know what they are? They should put some sort of number on for the next guy to know. It's a madhouse."

"Whenever you talk to supervision on how production can be increased, they say, 'You're not an engineer.' So what? I know a better, cost-saving way of doing what I'm doing. Why shouldn't somebody care?"

A common reaction is poor internal performance, manifested in high absenteeism low productivity, high spoilage, and waste. Eventual reactions often are contract rejection and strike.

The technique of getting workers to air their complaints and then dealing with them in a suitable program of improvement is a key to strike avoidance. But it does have some drawbacks. At least a year is normally required to carry out the entire project. Great diligence and some expertise are needed for interviewing, evaluation of the comments, and managing the response program. People can be trained to do that. Although managers usually cooperate, the burden on a few plant executives is sometimes heavy. Finally, some company expense is involved. But, as we have seen, all this is nothing compared with the stress and the cost of a strike.

Many managements operate on the assumption that efficiency and employee work satisfaction cannot be obtained at the same time; there can be only one or the other. This is an illusion. The future is hopeful for managements that are willing to strive to achieve this double objective in order to avoid strikes.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 5, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following vote on Wednesday, October 24. Had I been present, I would have voted as follows:

Rollcall No. 592, "yes."●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, November 6, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 7

9:00 a.m.

Commerce, Science, and Transportation
To hold hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

Energy and Natural Resources
To hold closed hearings to review the current international crude oil supply and demand situation.
S-407, Capitol

Environment and Public Works
Resource Protection Subcommittee
To hold oversight hearings to review and compare worldwide wildlife conservation programs.
4200 Dirksen Building

9:30 a.m.

Governmental Affairs
To hold hearings on the nominations of Henry H. Kennedy, Jr., and Frank E. Schwelb, both of the District of Columbia, each to be an Associate Judge of the Superior Court of the District of Columbia.
3302 Dirksen Building

*Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings on S. 1106, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
1224 Dirksen Building

Labor and Human Resources
To hold hearings on S. 1089, to revise the reporting and recordkeeping requirements under the Employee Retirement Income Security Act (ERISA) and to enforce the IRS Code requirement with respect to pension plans.
4232 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To continue oversight hearings on the implementation of the Rehabilitation, Comprehensive Service, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).
457 Russell Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
Business meeting on pending calendar business.
324 Russell Building

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To continue joint oversight hearings with the Subcommittee on Civil Service and General Services of the Committee on Governmental Affairs to examine the financial spending activities of the Federal Government for

former Presidents of the United States, focusing on the office allowances established for former Presidents.
1318 Dirksen Building

Banking, Housing, and Urban Affairs
Business meeting, to mark up proposed legislation to strengthen the ability of the Federal Reserve Board to conduct monetary policy, to promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Conferees
On H.R. 4930, making appropriations for fiscal year 1980 for the Department of the Interior and related agencies.
H-140, Capitol

Finance
Business meeting, to continue markup of S. 350, 351, 748, and 760, bills to encourage and facilitate the availability, through private insurance carriers of basic health insurance at reasonable premium charges.
2221 Dirksen Building

Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Office Building

Governmental Affairs
Civil Service and General Services Subcommittee
To continue joint oversight hearings with the Subcommittee on Treasury, Postal Service, and General Government of the Committee on Appropriations to examine the financial spending activities of the Federal Government for former Presidents of the United States, focusing on the office allowances established for former Presidents.
1318 Dirksen Building

Rules and Administration
Business meeting, to consider legislative and administrative business.
301 Russell Building

1:30 p.m.
Conferees
On S. 1157, authorizing funds for fiscal year 1980 for the Department of Justice.
2141 Rayburn Building

2:00 p.m.
*Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To resume joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
S-207, Capitol

Judiciary
To hold hearings on the nominations of Peter H. Beer, to be U.S. District Judge for the Eastern District of Louisiana; and Charles B. Winberry, Jr., to be U.S. District Judge for the Eastern District of North Carolina.
2228 Dirksen Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on H.R. 2797, making technical, clerical, conforming, and clarifying amendments to provisions of the Revenue Act of 1978.
2221 Dirksen Building

NOVEMBER 8

9:00 a.m.
Armed Services
General Procurement Subcommittee
To resume oversight hearings to review past and current Soviet defense expenditures and programs.
1114 Dirksen Building

Commerce, Science, and Transportation
To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold oversight hearings on dietary training programs offered to health professionals.
324 Russell Building

Conferees
On S. 241, authorizing funds for each of the next 5 fiscal years through 1984, for the Federal Law Enforcement Assistance Administration.
H-128, Capitol

10:00 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To continue joint oversight hearings with the Subcommittee on Civil Service and General Services of the Committee on Governmental Affairs to examine the financial spending activities of the Federal Government for former Presidents of the United States, focusing on the need for Secret Service protection for former Presidents and their spouses.
1318 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 1136, to develop an integrated program of financial assistance to provide States and local governments with greater flexibility in handling various environmental programs.
4200 Dirksen Building

Finance
Business meeting, to continue markup of S. 350, 351, 748, and 760, bills to encourage and facilitate the availability, through private insurance carriers of basic health insurance at reasonable premium charges.
2221 Dirksen Building

Governmental Affairs
Civil Service and General Services Subcommittee
To continue joint oversight hearings with the Subcommittee on Treasury, Postal Service, and General Government of the Committee on Appropriations to examine the financial spending activities of the Federal Government for former Presidents of the United States, focusing on the need for Secret Service protection for former Presidents and spouses.
1318 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, the National Endowment for the Humanities, and Institute of Museum Services; and S. 1429, authorizing funds through fiscal 1982 for programs under the Museum Services Act.
4232 Dirksen Building

*Select on Indian Affairs
To hold hearings on S. 1273, to restore Federal recognition to certain bands of Palute Indians.
357 Russell Building

10:30 a.m.
Appropriations
Business meeting to markup H.R. 4391, making appropriations for fiscal year 1980 for military construction programs of the Department of Defense.
Room S-128, Capitol

12 Noon
Conferees
To mark up H.R. 4440, making appropriations for fiscal year 1980 for the Department of Transportation and related agencies.
S-126, Capitol

2:00 p.m.
*Agriculture, Nutrition, and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To hold oversight hearings to examine the current operations of the Farmers Home Administration, focusing on recent problems relating to the outstanding debt to the agency and personnel problems associated with loan supervisions and counseling; also to examine the implementation of the guaranteed agricultural loan programs and the economic disaster loan program; and to review the installation of a management information system at the agency.
324 Russell Building

*Foreign Relations
Arms Control, Oceans and International Operations, and Environment Subcommittee
To receive testimony on the Cambodian government's attitude toward relief efforts and U.S. contingency plans.
4221 Dirksen Building

Judiciary
To hold hearings on the nominations of Andrew L. Jefferson, Jr., of Texas, to be U.S. Circuit Judge for the Fifth Circuit; Lucius D. Bunton III and Harry L. Hudspeth, each to be a U.S. District Judge for the Western District of Texas; William O. Bertelsman, to be U.S. District Judge for the Eastern District of Kentucky; and James T. Giles, to be U.S. District Judge for the Eastern District of Pennsylvania.
2228 Dirksen Building

NOVEMBER 9

9:30 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

10:00 a.m.
Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To resume joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on title III, providing aid to developing institutions, of the Higher Education Act.
4232 Dirksen Building

NOVEMBER 13

9:30 a.m.
Environment and Public Works
Business meeting on pending calendar business.
4200 Dirksen Building

Judiciary
To resume consideration of S. 1246, to protect against the growth of a monopoly power among major petroleum companies and to encourage oil companies to invest profits back into oil exploration, research, and development.
2228 Dirksen Building

10:00 a.m.
Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 14

9:30 a.m.
*Commerce, Science, and Transportation
To resume oversight hearings to review proposed technical methods for industrial development.
235 Russell Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
324 Russell Building

Banking, Housing, and Urban Affairs
To hold hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corp.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
324 Russell Building

Governmental Affairs
To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 15

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on S. 770, to prohibit further abuse and trade price manipulation within the potato futures market.
324 Russell Building

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

*Governmental Affairs
Intergovernmental Relations Subcommittee
To resume oversight hearings to examine the scope of the general revenue sharing policy.
1114 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of James V. Day, of Maine, to be a Federal Maritime Commissioner.
235 Russell Building

Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To hold hearings on S. 1567, to protect and restore certain coastal lands on Yaquina Head in Oregon.
3110 Dirksen Building

Governmental Affairs
To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

NOVEMBER 16

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

Finance
Public Assistance Subcommittee
To hold oversight hearings on alleged fraud and mismanagement practices within HEW directed toward erroneous State payments to recipients of the Aid to Families with Dependent Children and Medicaid programs under the Social Security Act.
2221 Dirksen Building

Joint Economic
To resume hearings to examine the current unemployment trends and any relation thereto to the increase in criminal activity.
340 Cannon Building

NOVEMBER 19

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

NOVEMBER 20

9:30 a.m.
*Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of the U.S. maritime policy.
235 Russell Building

Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.
3110 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1730 and 1632, bills to declare certain lands in the States of Arizona and New Mexico to be Indian reservation lands.
1202 Dirksen Building

NOVEMBER 21

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

Rules and Administration
Business meeting, to consider legislative and administrative business.
301 Russell Building

NOVEMBER 26

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1855, authorizing funds through fiscal year 1982 to provide technical assistance for tribally controlled community colleges.
5110 Dirksen Building

NOVEMBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings to examine U.S. and East-West trade and technological competitiveness, focusing on S. 339, to provide identical requirements for determining the eligibility of any Communist state for "most favored nation" status and Export-Import Bank credits, and for reviewing and limiting such credits; S. Con. Res. 47, to approve the extension of nondiscriminatory treatment with respect to the products of China; and to review a report prepared by the Office of Technology and Assessment entitled "Technology and East-West Trade".
5302 Dirksen Building

NOVEMBER 28

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees
To hold joint hearings to examine the implications of grain sales to the Soviet Union on the U.S. transportation system.
457 Russell Building

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1466, to provide for distribution of certain judgment funds in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma.
1202 Dirksen Building

NOVEMBER 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees
To continue joint hearings to examine the implications of grain sales to the Soviet Union on the U.S. transportation system.
457 Russell Building

DECEMBER 4

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River and Lake Henshaw, Calif., to be operated and maintained by specified bands of Mission Indians.
Room to be announced

DECEMBER 7

10:00 a.m.
Joint Economic
To resume hearings on the employment-unemployment situation and price data information for November.
Room to be announced

JANUARY 15, 1980

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings to examine U.S. trade and technological competitiveness with other industrialized countries, focusing on a report by the International Trade Commission on international trade in integrated circuits relating to the electronics industry.
5302 Dirksen Building

CANCELLATIONS

NOVEMBER 8

10:30 a.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To mark up S. 988, authorizing funds through fiscal year 1983 to increase the effectiveness of research in biomedical sciences.
155 Russell Building

SENATE—*Tuesday, November 6, 1979*

(Legislative day of Monday, November 5, 1979)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Lord God Almighty, guide, we pray Thee, all those to whom Thou hast committed the Government of this Nation, and grant to them at this time special gifts of wisdom and understanding, of counsel and strength; that upholding what is right, and following what is true, they may obey Thy holy will and fulfill Thy divine purpose; through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 6, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to reserve my time, for the moment, until after the orders for other Senators.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I ask unanimous consent to reserve my time.

I might say that the purpose for doing that is to accommodate a Member on this side who requested a special order too late to be accommodated in the sequence we arranged last evening.

So if there is no objection, I hope to reserve that time and allocate a major fraction of it to the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Utah (Mr. HATCH) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Who is recognized?

The ACTING PRESIDENT pro tempore. The Senator from Utah (Mr. HATCH) for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask that the time be equally charged against the time of the two leaders without prejudice to the order to recognize Senator HATCH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. TSONGAS be recognized, without prejudice to the other Senators whose orders were entered yesterday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Massachusetts is recognized for 15 minutes.

Mr. TSONGAS. I thank the Chair.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

DECISION ON SALT

Mr. TSONGAS. Mr. President, the subject of my remarks today will be the SALT II agreement. I have made my decision on the treaty. There is no point in delaying the announcement. My distinguished colleagues should know what my position is and why I have adopted it.

I want to state, Mr. President, that my decision has not come easily. Strategic arms limitation is one of the most complex issues the Senate has ever considered. It is also profoundly important to the cause of peace and security. Our deliberations here will have a far reaching significance. We say that on most issues, but this is one where it certainly applies. It is our responsibility to inform ourselves as completely as possible on this vital issue.

For expert help, I first turned to my home State of Massachusetts. Blessed with many universities and sophisticated, industrial enterprises, Massachusetts is renowned for its abundance of intellectual talent. The field of strategic affairs is no exception.

I decided to form a Massachusetts advisory group of 25 SALT experts. I could easily have formed a group four times as large, given the extraordinary pool of brains and talent in my State.

The range of opinion in the group is wide, from armament to disarmament advocates. We have met three times since February, each session lasting 3 hours.

I owe a profound debt of gratitude to this group for educating me in the complexities of SALT and the strategic balance.

I am also indebted to the many Government experts who came to my office to brief me on various aspects of SALT. A luncheon group organized by Senator CRANSTON and concerned exclusively with the SALT II agreement has been extremely helpful. I have carefully followed the SALT hearings in both the Foreign Relations and the Armed Services Committees.

There has been no lack of information on SALT, and no shortage of debate. I am here to say that I have heard enough; my mind is made up. I will support SALT II. In its present form, the agreement is acceptable. It can be improved, however, by several understandings and reservations such as those which the Foreign Relations Committee has already approved in its deliberations.

I think that my knowledgeable colleagues are already well acquainted with the provisions of the treaty. I need not go into great detail. Essentially, SALT II imposes equal overall ceilings on the number of strategic nuclear delivery systems for both the United States and the Soviet Union. The two sides agreed to count launchers rather than the actual weapons, and the numerical ceilings apply to launchers of intercontinental ballistic missiles, launchers of submarine-launched ballistic missiles, heavy bombers, and air-to-surface ballistic missiles. Within the overall ceiling, there is an important sublimit on the number of launchers of land-, sea-, and air-based ballistic missiles equipped with multiple independently targetable reentry vehicles, or MIRV's.

The treaty also limits fractionation on the number of MIRV'd warheads per missile, a key provision. The treaty prohibits mobile launchers of heavy ballistic missiles. Both sides are limited to the development of only one new strategic missile.

This brief summary of the treaty suggests the scope of this arms limitation document. SALT does not disarm the superpowers, but it touches almost every aspect of present and future strategic forces. It took 7 long years of tough negotiations and the efforts of three American Presidents to reach an agreement. We can be proud of the results.

At the same time, we must be realistic and levelheaded about this treaty. In its complexity and scope, the treaty invites misconceptions and errors of interpretation. Critics and even some advocates of SALT carry clouded perceptions of what SALT really represents. A great deal of misinformation passes for revealed truth. I think the air should be cleared of these misconceptions.

Critics of the treaty have charged that we cannot trust the Russians to uphold their end of the SALT bargain. According to this view, the Soviets are our enemies, and a treaty based on trust is unworkable.

This criticism is based on one crucial but false assumption—that SALT is based on trust. The SALT negotiations brought together two mutually suspicious, frequently antagonistic adversaries. Each side sought to advance its interests while recognizing, at the same time, that some form of arms limitation was mutually beneficial. The climate of the talks was anything but trustful. The document before us today is the product of that cautious, careful process. Trust was not a factor.

It should be equally clear that the enforcement of the treaty will depend on verification procedures, not trust. We are equipped with a vast array of detection devices in space, in the air, on land, and on the sea, many of which are aimed at the Soviet Union. Any violation of the treaty which would significantly affect the strategic balance is detectable. The Joint Chiefs of Staff have come to that conclusion. I have come to that conclusion. Trust is not involved. Vigilance is.

A second misconception, often voiced by SALT critics, is that if the Soviets want SALT, then we should reject it. This shallow reasoning is based on the zero sum game: Anything the Soviets gained must be equivalent to what we lost in the negotiations. If this were true, then any negotiation between adversaries would be impossible. It ignores the fundamental fact that the two sides have found areas of agreement which advance the interests of both parties. As in a trade between two strangers, both sides leave with their conditions improved. This is what our SALT negotiators have achieved. The treaty enhances our security. The Russians undoubtedly feel the same way about SALT and their security, and that is the way it should be.

The third misconception is that SALT I and SALT II are to blame for the Soviet military buildup. By the same logic, SALT is blamed for the expected vulnerability of our own land-based missiles to a Soviet first strike in the mid-1980's. SALT is seen as a sinister plot to diminish our strength relative to the Soviet Union. In that view, SALT becomes some sort of 1950's style sellout.

This logic is not only faulty, it is dangerous. The Soviet military buildup began long before SALT was a glimmer in Lyndon Johnson's eye. The momentum of the Soviet program has continued through SALT I and will finally break up against the limits of SALT II during the terms of the treaty.

By the same token, the vulnerability window of our land-based ICBM's has been predicted by our defense analysts for years. SALT did not create this dilemma of vulnerability—the culprit is the technology of the arms race. The accuracy of ICBM warheads, both ours and the Russians', has advanced to the point where the allowance for error is measured in feet, not miles. No land-based silo can withstand so accurate a strike. It seems to me that blaming SALT for the relentless spiral of the arms race is more than unfair, it is dangerous and absurd.

The final misconception I want to address has to do with high expectations for SALT. I think we all have been tempted by this one, but it should be clear now that SALT II is not disarmament, or is it not an end to the arms race. It does not even achieve significant reductions in the nuclear arsenals of the two superpowers. In his enthusiasm, President Carter oversold SALT in the first months of his administration. He then saw his hopes for disarmament dashed by the harsh realities of the arms race and the strategic balance. Some of us have not yet accepted what has become a distressing fact—arms control is attainable step by step, not by a giant leap.

We know now that SALT II will not usher in the millenium. Those of us who had high hopes must look very carefully at what we have in hand. Is SALT II in our interest? Does it accomplish enough? Is ratification worth fighting for? The answer is "yes" to each question. The SALT II agreement is vital to our national interests—it will enhance our national security. Let me briefly explain why.

First, we should understand how this treaty will limit Soviet strategic programs. By the end of the treaty's term, 1985, the Soviets will have dismantled 10 percent of their strategic forces. They will not be allowed to deploy their mobile strategic missile, the SS-16, and that weapon is developed and ready to go. The Soviets will not be able to exploit their throw weight advantage because SALT places limits on the number of warheads on each missile. The Soviets will be limited to one new missile out of the

four which they have currently under development. These are significant restraints. SALT imposes them.

What about limitations on American programs? Hawks should be happy to hear the list of current weapons programs which SALT does not disturb. For example, the new Trident submarine and Trident missile program is permitted. Development and eventual deployment of our highly advanced air-launched cruise missiles are not restrained. If we wish to go ahead with the controversial MX program, SALT poses no effective limits. We can modernize our bomber forces and modernize NATO theater nuclear forces if we so choose. SALT does limit the United States, but not in ways which interfere with present programs.

What would happen if the Senate rejects SALT II? A world without SALT is definitely not in our interests. Consider these disadvantages: SALT II prohibits deliberate concealment of strategic weapons. Without SALT, the Soviets could proceed with secret programs free of any obligation to respond to the objections of the United States. Without SALT, we will know less about the Soviet force structure and have almost no control over its development. Without SALT, the Soviets could continue their ICBM program and deploy warheads and missiles far in excess of the SALT II limits. In the case of the Soviet heavy missile, the SS-18, the Soviets could deploy up to five times the number of warheads permitted by SALT, up to 15,000 warheads according to Secretary of Defense Harold Brown.

I do not think it is necessary to elaborate in greater detail why SALT enhances our national security. I am convinced that the case for ratification is overwhelming.

Why, then, is SALT in trouble? The answer is in two parts: Linkage and defense spending. First, let us talk about linkage.

The history of the SALT negotiations shows a uniform pattern. At every point in time when a Soviet-American confrontation in the Third World seemed to threaten our interests, we quickly linked Soviet behavior to the SALT talks. Consequently, the SALT talks have been a flawless barometer of the slightest shift in Soviet-American relations. If relations sour, SALT is off. When the problem fades away, SALT is on.

The pattern is very consistent. When South Vietnam fell in 1975, SALT suffered. When the Soviet-supported faction prevailed in the Angolan Civil War, we forced a pause in the SALT talks. When Soviet arms and Cuban troops arrived in Ethiopia during 1977, and when Zaire was threatened by the invasion of Shaba province last year—in each case—the SALT negotiations were stalled, at our insistence. The pattern continued after the treaty was signed in Vienna this June. I refer, of course, to the impact of the Soveit combat brigade on the SALT debate. In this case, SALT was the victim of a 17-year-old Soviet provocation. It seems that the fate of SALT can be linked to almost anything.

As is usual in such episodes, a vocal minority exploited an opportunity to weaken SALT by pointing to Soviet adventurism. For a time, it was doubtful whether SALT would reach the Senate floor this year. But, these linkage rituals flower briefly and then wither quickly away. Thankfully, we are now back on track in the Senate.

My objections to linkage do not mean that I wish to ignore Soviet misconduct in the Third World. To the contrary, Soviet behavior frequently requires a strong U.S. response. The question is how best to impose costs on the Soviets. Zeroing in on SALT assumes that only Soviet interests are at stake. That is pure nonsense. Our interests, American security interests, are equally at stake in the SALT process.

The fundamental reality is that SALT is important to both superpowers. Linkage ignores this fact. It is therefore senseless and ineffective. This can be seen in the ephemeral fortunes of each episode. SALT endures in spite of these attempts to destroy it with extraneous arguments.

I am reminded of Gulliver, whose size and strength was checked by a gang of Liliputians equipped only with the weakest thread. SALT faces the same sort of threat from linkage. On its merits, the treaty is unassailable. Henry Kissinger, the Joint Chiefs of Staff, and Secretary Brown have stated that the treaty should be ratified. There is strong bipartisan support for SALT II in the Senate. The reason SALT is in trouble is not because of any defect in its construction. SALT is imperiled by these Liliputians of linkage.

SALT deserves better. Certainly the Soviets have not succumbed to this uniquely American urge to shoot ourselves in the foot. When we mined Haiphong Harbor and bombed rail lines in North Vietnam in May of 1972, the Soviets did not cancel the SALT summit scheduled for later that same month. In fact, May 26, 1972, was the date we signed SALT I with the Soviets. One can imagine what we would have done in similar circumstances.

In the same way, the Soviets did not use the Chinese invasion of Vietnam earlier this year to delay the SALT negotiations. The China attack came precisely at the moment when Washington was extending a very warm welcome to Premiere Deng Xiaoping. The Soviets objected strongly to the coincidence, but did not seek vengeance on SALT.

No, SALT linkage is a uniquely American pastime. It is the product of our vigorous democracy in which advocates of an inflated defense budget can use whatever tactics they feel comfortable with to attain their objective. And the defense budget, of course, is the underlying issue in the SALT debate. SALT II is not in dispute; the battle will be fought over how much for defense.

The lines are drawn clearly in the Senate. The advocates of a big defense increase are saying openly that the price of their SALT vote is an irreversible commitment to significantly higher defense budgets. They are offering to make a cynical exchange: arms procurement in return for arms control. The program, the weapons, the precise expenditures are not of immediate concern. The aim is for overall percentage increases in the defense budget. The details, we are told, will come later.

I am willing to discuss the merits of any spending program on its merits. That includes defense spending proposals. I am concerned about the Soviet buildup and I think we need to carefully consider what countermeasures might be necessary. I will not, however, sign over a blank check to any part of our Government. Congress cannot be denied its basic responsibility to scrutinize budgeting requests item by item. This applies to housing, welfare, veterans programs; that is, every function in the budget, and that should include defense.

In closing, let me say that I am hopeful that the Senate will ratify the SALT treaty. As the moment draws near for the decisive Senate votes, I believe that many of my undecided colleagues will recognize the awesome implications of a world without arms control. I think that the horrible devastation of a nuclear exchange will enter their computations in a more profound way. They will return to the fundamental issue—our national security. They will vote for a reduction in the risk of nuclear war. They will vote for a continuation of the arms control process, they will vote by a two-thirds majority in favor of SALT II.

Mr. President, let me just end up with two comments.

First, I reflect the feelings expressed last week by Senator LEAHY of Vermont. He spoke about his children and the impact that he feels emotionally of his obligation to insure that the world he leaves behind for them is one worth living in. I share those sentiments.

Second, again in reflecting the remarks of the Senator from Vermont, I believe that the performance of the majority leader in this debate on this issue will secure his place in history.

I have seen politics at the city council level, the county commissioner level, and the congressional level. I have seen great statesmanship, and I have seen cowardice. I have seen people who believe that their reelection is in the national interest, and I have seen people who could care less about the issue.

Perhaps the reality of the Senate is a little different from what one perceives on the outside. But I think that the reason we have people in leadership is to provide that leadership, and I hope that those colleagues of ours who are concerned about reelection, concerned about politics, and concerned about those kind of things should look to the performance of the majority leader.

I say to you, Mr. Majority Leader, that I am proud of your performance and I am proud to be a member of your majority.

I thank the Senator from Wisconsin.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for his very gracious remarks.

I comment on his speech, however. I thought it was a very well reasoned and thoughtful presentation of the facts in support of the SALT treaty.

I noted over the weekend his public announcement in support of the SALT treaty. I talked with him yesterday on the telephone and commended him, and I commend him today publicly on that decision. I think it was the right decision. I think it reflects upon the vision and foresight that are characteristics of the Senator. He did not arrive at that decision without careful study and contemplation, and that is reflected in his decision and in his statement.

I thank him.

Mr. TSONGAS. I say to the majority leader that I am pleased by his comments and I am concerned about his approval, but even more important to me is the approval of my two children who are not here but in whose interests we are voting.

I thank the majority leader.

RECOGNITION OF SENATOR HATCH

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Utah (Mr. HATCH) is recognized for not to exceed 15 minutes.

Mr. HATCH. I thank the Chair.

SMITH BAGLEY STOCK FRAUD TRIAL

Mr. HATCH. Mr. President, last Friday I expressed my deep concern with respect to certain circumstances surrounding the Smith Bagley stock fraud trial, and specific allegations concerning the conduct of Federal district court Judge Robert R. Merhige, Jr. At that time, I requested that the Washington Post article entitled "U.S. Prosecutors Criticize Judge for Handling of Smith Bagley Trial" be printed in the RECORD along with a letter from the two prosecutors to the Justice Department.

Once again, I call to the attention of my colleagues the seriousness of these allegations. I cannot believe that two U.S. attorneys would accuse a U.S. district court judge of "outrageous" legal behavior in the handling of a Federal criminal trial without adequate consideration of the extreme seriousness and possible consequences of such accusations.

For these two Federal prosecutors to call the Bagley trial a "set up" certainly conjures up questions of impropriety and misconduct. These are questions and issues which must be resolved if we are to maintain the image and integrity of our Federal judiciary. These allegations and accusations must be scrutinized carefully and forthrightly.

I also ask my colleagues to carefully review a very provocative, enlightening article by Jack Anderson which appeared in yesterday's Washington Post entitled "Judge Had Ties to Defendant Bagley."

The chronology of events and circumstances that are revealed are most astounding and deserve immediate attention. I think it is incumbent upon the Justice Department to fully investigate Judge Merhige's conduct and the circumstances surrounding the Smith Bagley trial. To quote from Jack Anderson's article, "When law enforcement becomes entangled with political and social strings, the Justice Department becomes vulnerable to the political fix." I hope my colleagues will join with me in requesting a prompt and thorough investigation.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUDGE HAD TIES TO DEFENDANT BAGLEY

For several weeks we have been investigating the strange conduct of federal judge Robert R. Merhige Jr. in the criminal fraud trial of socialite Smith Bagley. We can confirm the misgivings of the two prosecutors who wrote a damning nine-page complaint to the Justice Department.

Bagley was acquitted of criminal fraud charges last August after Judge Merhige gave dubious instructions to the jury—instructions that the prosecutors claimed did not bear "the remotest resemblance to the law.

"[An] antigovernment bias was manifested by Judge Merhige in virtually every phase of the trial," the letter alleges. "This bias was most clearly reflected in the court's intemperate comments and outrageous jury instructions."

This unprecedented attack upon a powerful judge was signed by U.S. Attorney H. M. Michaux Jr. and Assistant U. S. Attorney Patricia W. Lemley of Greensboro, N.C.

Our own investigation has uncovered a pattern of circumstances that gives off a strong whiff of lime. The story can best be told by starting at the beginning:

Smith Bagley is the 44-year-old heir to the R. J. Reynolds tobacco fortune. Tall, dark, and gangling, he came to Washington in 1975, bought a $500,000 home in fashionable Georgetown and began throwing lavish parties.

He and his wife Vicki have close ties to Jimmy Carter, whom they introduced to Washington society in 1976. They raised funds for the Carter campaign, and after his election, the new president-elect slipped off to Bagley's Musgrove Plantation on St. Simons Island for a vacation.

The judge who was later to preside over Bagley's trial, it now turns out, was a close friend of the family. Our associate Clark Molenhoff learned, for example, that Merhige was "like a brother" to a distant Bagley relative, the late lieutenant governor J. Sargeant Reynolds of Virginia. In fact, Reynolds helped to persuade President Johnson to appoint Merhige to the federal bench in 1967.

When Reynolds died four years later, Bagley was in charge of the burial arrangements and Merhige was a pallbearer. In his will, Reynolds named his wife and his friend the judge to be executor of his estate.

Bagley's financial operations, meanwhile, got him into hot water with the law. His attorneys made the motions that shifted the trial from North Carolina to Virginia, where Merhige could preside.

The chief judge, Eugene Gordon, asked Merhige if there was any reason he should not conduct the Bagley trial. "No reason," responded Merhige without mentioning his close relations with Bagley's family.

Later Merhige asked the prosecutors whether they had "any objections" to his assuming jurisdiction over the case. They didn't object, but learned later of Merhige's close personal and political ties to the Reynolds family.

Next, Bagley's lawyers tried to waive the right to a jury. If it had not been for the prosecutors' strenuous objections, the case would have been tried before Merhige without a jury.

When the prosecutors learned of the judge's ties to Bagley's family they decided it was too late to challenge him. A challenge at that stage would have been an affront to the judge and might have jeopardized the case.

There was another curious development. The two prosecutors found themselves badly outgunned by Bagley's battery of high-powered attorneys and advisers. Complained the two lonely prosecutors in their letter to the Justice Department:

"The prosecution team was not sufficiently staffed. This problem was exacerbated by a maniacal trial schedule. Two lawyers and an FBI agent, who was not the case agent, were outmanned by 12 in-court attorneys, supported by unlimited funds, miscellaneous 'gophers' and a substantial number of affiliated attorney advisers."

When law enforcement becomes entangled with political and social strings, the Justice Department becomes vulnerable to the political fix.

CHRONOLOGY OF EVENTS SURROUNDING THE SMITH BAGLEY TRIAL

Mr. HATCH. Mr. President, with regards to the chronology of events concerning the Smith Bagley trial, I am sure my colleagues are aware of my deep concern in regard to the circumstances and events surrounding the Smith Bagley stock fraud trial. Because of this concern and my desire for all Members of the Senate to be aware of the serious nature of these circumstances, I offer the following chronology of events which I believe to be from reliable sources:

The trustee in bankruptcy of Washington Group, Richard A. Gilbert, at the direction of Chief Bankruptcy Judge Rufus Reynolds, Greensboro, requested a 10-month investigation by Attorney G. Edwin Allman. Based on the subsequent report charging fraud, misconduct, irregularities and mismanagement by Smith Bagley and James Gilley, and others, a $60 million suit was filed by Gilbert on July 26, 1978. Also on July 26, 1978, another suit was filed which sought to recover approximately $500,000 that was lost by employees participating in five profit-sharing pension and stock purchase plans, apparently as a result of stock manipulation by Bagley, Gilbert, and others. The gravamen of both complaints was that Bagley, Gilbert and others had used their position to sell off blue chip stocks held by the pension fund plan and repurchase Washington Group stock at triple its actual price.

The office of U.S. Attorney H. M. Michaux for the Middle District of North Carolina started a Federal grand jury investigation for possible criminal law violations. Assistant U.S. Attorney Patricia Lemley also took an important lead role in the case.

It has been alleged that at this point certain representatives of the R. J. Reynolds Corp. suggested the possibility of job offers to Assistant U.S. Attorney Lemley, who was pursuing the criminal investigation of stock fraud and manipulations involving Smith Walker Bagley. Mr. Bagley is one of the heirs of the R. J. Reynolds fortune. He was also one of the early (January 1976) financial and political supporters of Jimmy Carter's campaign for the Democratic Presidential nomination.

U.S. Attorney Michaux and Assistant U.S. Attorney Lemley planned to return the indictment in February 1979; they

were stopped by a telephone call from the Justice Department. Apparently the Justice Department had agreed to a request from Bagley's lawyers that the Justice Department review the investigation being conducted by Michaux and Lemley.

Michaux and Lemley went to Washington to have the case reviewed and to enter into discussions of the case with Assistant Attorney General Phillip Heymann, Deputy Assistant Attorney General John Keeney, and Mark Richards, a fraud expert in the Criminal Division. No serious fault was found with the indictment that Michaux and Lemley were expecting to seek. Heymann indicated that since no objection could be raised with the proceedings or with the evidence or the theory under which they were proceeding the Justice Department would make no objection.

On March 13, 1979, the indictment was returned against Smith Bagley, James Gilley, and three other defendants. It was returned to the court of Chief Judge Eugene Gordon for the Middle District of North Carolina, and would normally have been tried before one of the two U.S. district judges in that district.

A crowded civil docket in the Middle District of North Carolina and the prospect of a 6-month criminal trial caused Chief Judge Eugene Gordon to request an outside judge.

U.S. District Court Judge Robert R. Merhige, Jr., from the Eastern District of Virginia in Richmond, then volunteered that he had some free time for handling any litigation in the Middle District of North Carolina, whereupon Chief Judge Gordon assigned him the case without making additional inquiries as to the availability of other judges. Judge Gordon indicated that he asked Merhige if there was any reason Merhige could not handle the case, and Merhige replied that there was "no reason" why he could not handle it. The arrangement would be that Judge Merhige would try the case in North Carolina, not Virginia.

Assistant U.S. Attorney Lemley first received notice that Judge Merhige would handle the case in a letter from Judge Merhige. At that time, neither Michaux nor Lemley were aware that Judge Merhige was acquainted with the defendant, Smith Bagley. They did not learn until some weeks later that Judge Merhige was the political protegé of Smith Bagley's first cousin, the late J. Sargent Reynolds, former lieutenant-governor of Virginia. Somewhat later they learned that Judge Merhige had served as a pallbearer at J. Sargent Reynolds' funeral in June 1971, and was still serving as executor of the Reynold's estate at the time of Bagley's trial.

Smith Bagley and the other four defendants asked for a change of venue from the Federal court in North Carolina to Judge Merhige's district in Richmond, Va., on grounds that Government-inspired publicity would make it impossible for them to receive a fair trial from a North Carolina jury. Judge Merhige overruled the objection of the prosecutors to the change in venue and ordered the trial moved to Richmond.

Subsequent to the change in venue, the defendants made a motion to waive their right to a jury trial, and to permit Judge Merhige to rule on all issues on the alleged fraud and manipulations. The Government prosecutors argued vehemently against letting Judge Merhige rule upon all issues, and insisted that the Government also had a right to trial by jury. They noted that the precedents were nearly uniform that the Government was entitled to have a jury decide the guilt or innocence of the defendants, and furthermore that in cases like the pending Bagley case the precedents were unanimous.

Prior to the start of the trial in Richmond in mid-July, U.S. Attorney Michaux was informed by the Justice Department that he had been recommended for appointment to the White House staff. Michaux received many flattering comments from his superiors, including the assertion that he was regarded "as one of the best, if not the best, U.S. Attorney" in the Nation. Michaux was told by the Justice Department that White House Chief of Staff Hamilton Jordan and White House special assistant for congressional relations, Frank Moore, would be in touch with him.

It is my understanding, on at least three occasions during the trial and one time thereafter, Michaux was invited to the White House to meet with Hamilton Jordan, Frank Moore, and other officials for discussion of a White House position in keeping with his talents "as one of the best, if not the best, U.S. Attorney." Michaux rejected the offer of a congressional liaison position on the grounds that he did not believe he had any special talent for it. He was asked to submit an alternative position.

For the outset of the trial, Judge Merhige was critical of prosecutors Lemley and Robert Clark, a Justice Department lawyer assigned to the case. Judge Merhige expressed some of this criticism in the presence of the jury. At different times during the trial he said he was "embarrassed" that the Government had brought the case, that he was "shocked" that the Government had brought the case, and from what he had seen he regarded it as little less than a "witch hunt." These comments received prominent dissemination in the press and were no doubt available to members of the jury.

During the trial, Judge Merhige repeatedly interrupted the questioning of witnesses to ask his own questions which were in line with the defense theory of the case. During the testimony of a key witness to establish the pattern of stock-sales to manipulate the stock price, Judge Merhige commented that he could not see the relevance of the testimony.

Judge Merhige used, also entirely, the suggestions of the defense lawyers as the source of his instructions to the jury; which the prosecutors have claimed are an "outrageous" misstatement of the law on such stock manipulation and fraud cases.

Judge Merhige did not make the instructions to the jury available to the prosecutors until a short time before reading them to the jury, and he overruled the objection of Justice Department lawyer Clark that one of the key instructions was an erroneous statement of the law on stock fraud manipulations.

When Assistant U.S. Attorney Lemley tried to enter an exception to that instruction after the jury had been excused to start its deliberations, Judge Merhige cut her off with the declaration: "The Government is not entitled to exceptions."

Following the trial and the subsequent acquittal of all the defendants on criminal charges, Judge Merhige overruled an earlier order by Chief Bankruptcy Judge Reynolds of North Carolina barring the trustee in bankruptcy, Richard A. Gilbert, from using the funds of the Washington Group for the expenses of the employees whose pension funds had been lost in the alleged fraud. Judge Reynolds had entered a general order for Gilbert to take what action was necessary to obtain damages from the Gilley associates in July 1978.

In January 1979, Judge Reynolds entered a more specific order for the trustee to pay the costs (except for lawyers fees) of the employees and former employees who were seeking $500,000 lost when the trustees of the pension funds got out of blue chip stocks and paid $21 a share for Washington Group stock at a time when it was worth only $7.

In August 1979, the lawyers for Bagley, Gilley, and the other defendants appealed Judge Reynold's order to the U.S. district court where it was ruled upon by Judge Merhige. Judge Merhige, in September, overruled and reversed Judge Reynold's order and barred the use of Washington Group money to assist the employee litigants. The order by Judge Merhige was appealed to the Fourth Circuit Court of Appeals the first week of October 1979.

Mr. President, concerning the Smith Bagley trial, complaints and denials from both sides of the case continue to come forth. I will continue to bring these matters before this body, not in behalf of one position or the other, but out of a sense of duty and responsibility as a member of the Judiciary Committee. The integrity of neither the Federal judiciary nor the Department of Justice should be impugned lightly. Allegations which reach to the very heart of the justice system of this country should and must receive the closest attention possible. I ask unanimous consent that an article from this past weekend's Washington Post, entitled, "Smith Bagley Lawyers Renew Complaints About Prosecutors" be printed in the RECORD. I urge my colleagues to consider the ramifications of these matters and solicit their efforts in requesting a timely and thorough investigation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SMITH BAGLEY LAWYERS RENEW COMPLAINTS ABOUT PROSECUTORS

(By Merrill Brown and Charles R. Babcock)

Attorneys for Smith Bagley have renewed their complaints of misconduct against the prosecution team that handled the unsuccessful conspiracy and stock manipulation

case against Bagley earlier this year, sources revealed yesterday.

A formal complaint was recently filed by Bagley attorney's at the Office of Professional Responsibility at the Justice Department, the sources said.

The complaint charges that an FBI agent on the case had a conflict of interest because his family had been leasing a plant to the bankrupt firm Bagley once headed, sources said.

This same charge was brought up in February in an effort to halt the prosecution, but was unsuccessful.

But the recent complaint also alleges that the same FBI agent, Zachary Lowe, another agent and a prosecutor made misstatements to the grand jury, sources said. Lowe was unavailable for comment yesterday.

Michael Shaheen counsel for the Office of Professional Responsibility, declined to confirm receipt of the complaint. His office automatically investigates charges of misconduct by department employees.

Disclosure of the complaint is the second controversial development in the case, which concluded with the acquittal of Bagley and four others in August.

The Washington Post reported Friday that the two U.S. attorneys based in North Carolina had accused the presiding judge in Bagley's trial, U.S. District Court Judge Robert Merhige, of "outrageous" legal behavior in his handling of the case.

The case was tried by Assistant U.S. Attorney Patricia W. Lemley, who wrote the letter. It was also signed by her immediate superior, U.S. Attorney H. M. Hichaux.

Bagley, an heir to the R. J. Reynolds tobacco fortune and now a Washington socialite and businessman, was indicted by a federal grand jury in North Carolina.

Daniel A. Rezneck, an attorney for Bagley, issued a formal statement on the letter, calling Merhige "one of the most respected members of the federal judiciary.

"The Department of Justice should not seek to blame its mistakes on the courts," Rezneck said. "The department owes the court, Judge Merhige and the jury in this case an apology."

S. 1960—ANTITRUST ENFORCEMENT IMPROVEMENTS ACT OF 1979

Mr. HATCH. Mr. President, I am introducing today the Antitrust Enforcement Improvements Act, which will transfer the antitrust adjudicatory authority of the Federal Trade Commission to the federal district courts. The result will be the elimination of delay in antitrust cases and more efficient and effective antitrust enforcement by the Federal Trade Commission. The disposition and trial of antitrust cases will be greatly expedited, and litigants will be assured fairness and uniformity of treatment in these proceedings.

First: The bill will greatly expedite FTC cases resulting in more effective and efficient antitrust enforcement.

At the present time, the FTC and the Department of Justice have duplicative investigative and prosecutorial antitrust responsibilities. Cases brought by the Department of Justice are adjudicated in the Federal district courts. Cases brought under the same statute by the FTC are adjudicated by the commissioners of the Federal Trade Commission. Department of Justice cases are typically handled much more expeditiously in the district courts. FTC cases are typically subject to long delays in trial and adjudication.

Transfer of FTC antitrust adjudicative powers to the Federal district courts will expedite FTC cases resulting in more efficient and effective antitrust enforcement.

Delay and inefficiency in antitrust enforcement is contrary to the public interest in expeditious determination of antitrust violations. Parties against whom FTC actions have been brought should not be required to incur substantial expenses to defend actions that are unduly lengthy and unnecessarily complex. Nor should the public be required to pay the ultimate cost of such delay.

Pending FTC proceedings such as in the matter of Exxon, and others, FTC docket No. 8934, and in the matter of Kellogg, and others, FTC docket No. 8883, are prime examples of the inefficiency and inordinate delay which have characterized FTC antitrust proceedings.

The Exxon case has been pending since July 18, 1973. FTC complaint counsel have consumed 6 years in attempting to formulate a discovery program. Those efforts have been totally unproductive. As a result, complaint counsel have not advanced the case beyond its most preliminary stages, with a prospect for ultimate resolution of the case no more meaningfully defined today than when the Exxon complaint was filed 6 years ago. Complaint counsel recently acknowledged that they were not ready—and would not even be ready—for trial for at least another 6 years. What district judge would accept a representation by a prosecutor, 6 years after the filing of the complaint, that a case would not be ready for trial for another 6 years?

The FTC's handling of the Exxon case is a prime example of the inefficiency and ineffectiveness surrounding the FTC's antitrust enforcement. In an article in the ABA Journal in October 1975, Peter A. White, former chief complaint counsel in the Exxon case, argued forcefully that the FTC Act should be amended to require the litigation of all FTC cases in Federal district court. Mr. White argued that transfer of FTC's adjudicative functions would eliminate the Commissioners' dual role of prosecutor and judge, and free the Commissioners to "make the mid-litigation decisions and resource allocations that it should now be making under its mandate from Congress."

The FTC case involving the cereal industry is another example of inordinate delay in FTC antitrust adjudication. The FTC investigation in the Kellogg case started in 1970 with numerous interviews and demands for documents. The complaint was issued in April 1972. Theoretically, the case was then ready for trial. However, the investigation continued. Numerous subpenas, both ad testificandum and duces tecum, were issued. Subpena returns were made before the administrative law judge and lengthy depositions were taken, with no narrowing of issues and no control or suggestion of control over the relevance of testimony. This interminable postcomplaint investigation continued for 4 years, with thousands of pages of recorded testimony.

It was not until April 1976, that the trial began. Now, in July 1979, almost 10 years after the investigation began, and 3 years after the trial commenced, the trial continues. Taking into account the expected duration of the trial, time for rendering a decision by the administrative law judge, and subsequent appeals, it is expected to be several more years before the matter is fully resolved.

The Federal courts have demonstrated a clear capability of handling complex antitrust cases in a far more expeditious manner. This point was made quite forcefully by Richard A. Posner in his separate opinion to the 1969 report of the ABA Commission to study the Federal Trade Commission. Professor Posner, in reviewing the FTC's performance in handling antitrust cases, concluded that "the FTC has displayed no comparative advantage over ordinary courts. If anything, the opposite has been true." Professor Posner reached this conclusion after noting that, first, the Federal courts, as a result of greater prestige, are able to attract more competent individuals; second, the Federal courts, contrary to the myth of administrative expertise, have been able to develop more flexible procedures for antitrust cases, and, third, "while comparison is difficult, it is a fair guess that a major antitrust case takes longer to try before the FTC than before a Federal district court."

The transfer of the FTC's adjudicative powers to the Federal district courts will not overburden the Federal courts. The FTC normally has approximately 30 antitrust cases in adjudication before its 12 administrative law judges. Transfer of these antitrust cases to the Federal courts will certainly not overburden the courts. Moreover, 117 new Federal district judges and 35 new circuit judges will soon be appointed. Thirty FTC cases added the caseload of over 400 Federal district judges clearly would not have any significant or cognizable impact on the Federal courts. Given the increase in the number of Federal judges, as well as the excellent record of the Federal court system in expediting antitrust cases, it is clear that the immediate transfer of the FTC's antitrust adjudicatory authority to the Federal district courts would significantly reduce delay, save substantial justice.

FTC expertise in adjudicating antitrust cases is a myth. The FTC's jurisdiction encompasses the entire diverse realm of American industry. The FTC cannot in any meaningful way claim to have expertise in any industry, since all commissioners but one have been primarily career Government employees. Between 1970 and 1978, there have been approximately six commissioners appointed to the FTC with no significant prior antitrust experience. Indeed, three of the five present commissioners had no significant prior training in antitrust prior to their appointment to the FTC.

Throughout its history, the FTC has never displayed any comparative advantage over Federal district courts. On the contrary, Federal district courts have demonstrated a far greater ability to handle antitrust cases in a more expeditious manner. Experience has shown

that administrative law judges at the Federal Trade Commission cannot maintain the necessary strength and independence to force FTC complaint counsel to adequately structure and focus their cases. As a result, unless the adjudicative function is transferred, Federal Trade Commission antitrust proceedings necessarily will continue to be protracted, unfocused, and therefore, unduly expensive.

Second: Fundamental fairness is lacking in FTC antitrust proceedings.

It is of utmost importance that Government antitrust enforcement be conducted in such a manner as to assure adherence to fundamental concepts of fairness. The FTC's dual role of prosecutor and judge severly strains these concepts of fairness. The appearance of partiality pervades and undermines the credibility of every FTC adjudication.

Criticisms of the fundamental unfairness of the FTC adjudicatory process are longstanding. Nevertheless, no significant changes have occurred, despite the fact that such reform has been called for by special commissioners created to address the problem, FTC commissioners, former FTC staff members, consumer groups, and academicians.

The 1969 ABA commission to study the Federal Trade Commission, found:

> The FTC, in appearance and in practice, should attempt to avoid acting both as prosecutor and judge. As long as the commission reviews investigation files and passes on recommendations for the issuance of complaints or for closing investigations, it will continue to disable itself from appearing to pass with absolute impartiality on the merits of each case when it comes before the commission in due course. Moreover, when the commissioners review an investigational file and then authorize the filing of a complaint, necessarily taking into account whether the action would be in the public interest and whether there is sufficient evidence to justify a formal proceeding, it is, we believe, virtually impossible for those same commissioners subsequently to pass on the merits of the proceeding with impartiality and without pre-judgment.

Similarly, the report of the ABA section of Antitrust Law on the Ash Counsel report concluded: "It is conceptually wrong for one tribunal to decide what cases are to be brought, to prosecute these cases, and then to sit in judgment of these cases." The report further concluded that the FTC's adjudicatory function should be transferred to a Federal trade court with primary jurisdiction.

In August 1970, former Commissioner Phillip Elman told the antitrust section of the ABA that it was time for structural reform" of the FTC to cure the "chronic unresponsiveness and basic deficiencies" of its performance. In a thoughtful and thorough examination of the combination of prosecutorial and adjudicative powers in the FTC, he states:

> On the basis of my own experience and observations, the strongest argument I would make against agency adjudication of alleged violations of law is that the blending of prosecutorial and adjudicative powers in a single tribunal imposes intolerable strains on fairness. The problem of avoiding prejudgment, in appearance or in fact, constantly hovers over all agency activity, and is troublesome to the agency members in almost every kind of action it takes. It can arise in the most subtle as well as most obvious forms.

Commissioner Elman also cited other factors which impinge upon thorough and impartial agency adjudication, noting that an FTC commissioner, unlike a Federal judge, may be concerned with whether the outcome of a case advances or retards an important program to which substantial resources have been committed. He also cannot escape the implications of his leadership role in the agency, and he may fear the effect on staff morale if he votes to dismiss a complaint or reject the agency position in an important case. Commissioner Elman, although noting that he long held the opposite view, argued that he had become convinced that the FTC's function of case-by-case adjudication of alleged violations of law should be transferred either to the district courts or to a new trade court.

Most recently, during the course of the proceedings of the National Commission for the Review of Antitrust Laws and Procedures, testimony was received from a panel of expert witnesses, and letters and memoranda received from numerous antitrust practitioners, addressed to the impact and undesirability of blending prosecutorial and adjudicative powers in the FTC, and the conclusion was reached by some commissioners "that the antitrust adjudicative function which currently exists in the Federal Trade Commission should be transferred to the Federal district courts."

The suggestions that the adjudicative function of the Federal Trade Commission be transferred to the Federal courts was first made to the Commission by William Simon, a prominent antitrust practitioner. Mr. Simon testified on the need to expedite FTC antitrust cases and inherent conflict involved in the continuation of the adjudicative function of the FTC:

> I know that my client, whether I am plaintiff or defendant, and I am both, will receive fairer trial in federal court before a federal judge than before an administrative agency. I say this to you because when the federal judge gets down to deciding how to decide a case, he doesn't have to say to himself: 'Did I make a mistake in bringing this case in the first place, because I filed the case?' That is what a commissioner has to say at the Federal Trade Commission: 'I brought this case.' Then a commissioner has to say to himself: 'We have spent $5 million or $25 million,' and I can document cases where they have spent $30 million in the trial of a case. And, the commissioner has to ask himself: 'Can I afford to dismiss a case, where I brought the case and I have spent $30 million of the taxpayer's money? Can I dismiss it?' I say to you that inherent in that system is something inherently unfair.

Mr. Simon also pointed out that FTC administrative law judges do not have the effective power or independence to maintain control over the actions of complaint counsel.

As a result, FTC cases are extremely long and unmanageable. The principal advantage of transferring the adjudicative function to the Federal courts, according to Mr. Simon, is that it will expedite the transferred proceedings, and will not significantly burden the Federal district courts. Mr. Simon testified:

> The record is that even though the federal judges have a case load of from three to nine times the case load of the administrative law judges of the Federal Trade Commission . . . the antitrust cases in the federal courts get tried in roughly one-third the time that it takes to try them at the Federal Trade Commission.

It is no answer to say that problems of partiality can be controlled by judicial review of FTC actions. As Professor Berger has noted, "So long as administrative disinterestedness is suspect, judicial review of virtually unreviewable factfindings can be no adequate substitute for initially dispassionate adjudication."

The present FTC procedure, whereby the respondent is judged by its accuser, violates the fundamental principle that "no man shall be a judge in his own cause." The present bill will eliminate the evils of the prosecutor-judge combination of functions in the FTC, while increasing the effectiveness of the FTC in antitrust enforcement.

Third: The bill will strengthen FTC antitrust enforcement.

In contrast to the many antitrust "reform" bills now pending in Congress, the "Antitrust Enforcement Improvements Act of 1979" does not seek to drastically rewrite our substantive antitrust laws. Instead, the bill would simply assist in improving the effective and impartial enforcement of existing antitrust laws. Effective and impartial antitrust enforcement is crucial to the goal of maintaining a free and competitive economic system. This bill represents a significant step toward insuring such enforcement.

Transfer of the adjudicative function from the Federal Trade Commission is not sought for the purpose of, and will not have the effect of, decreasing the antitrust role of the Commission. In fact, the removal of the dual antitrust functions within the Federal Trade Commission will have the beneficial effect of allowing the FTC to more competently perform its prosecutorial function. Once the Commission is freed of the shackles of the quasi-judicial antitrust function, it will be able to exercise aggressive and effective prosecutorial leadership.

It should also be noted that the present bill will not alter the "consumer protection mission" or the rulemaking authority of the FTC. The bill which I am introducing seeks to transfer solely the antitrust adjudicative function of the FTC. Indeed, an indirect advantage of the bill is that it will enable the Commission and administrative law judges at the FTC to devote their entire time to consumer protection proceedings.

The transfer of the FTC antitrust adjudicatory powers to the Federal district courts is not a new concept. The trend in recent years has clearly been in that direction. With the enactment of the 1972 "TAPS Amendment" (15 U.S.C. § 53(b)), the FTC is already halfway there, since it presently has the power to seek preliminary and permanent injunctions against potential violators in Federal district courts. It is only a small step to

vesting remaining adjudicatory responsibility.

The one basic change in FTC structure which will result from the bill—FTC's adjudicatory function vested in Federal courts—will cure many of the problems which have plagued the FTC and have reduced dramatically its efficiency and effectiveness. The five FTC Commissioners would retain the power to issue antitrust complaints, but would lose the right to decide the merits. Instead, this function would be transferred to district court judges. Relieved of the need to separate themselves from their staff, Commissioners could more closely supervise the agency's prosecution of antitrust cases. Such reforms would not only make the entire procedure more fair, but also would expedite the whole process, resulting in substantial savings to taxpayers and litigants.

Fourth: Description of the bill.

The principal features of the bill are as follows:

First: Section 5 of the FTC act is amended to draw a distinction between the "competition mission" of the FTC, that is, protection against unfair methods of competition, and the "consumer protection mission" of the FTC, that is, protection against "unfair or deceptive acts or practices." It is provided that actions with respect to unfair methods of competition are to be instituted in the Federal district courts, and thus are to be subject to the normal rules of such courts. Actions with respect to unfair or deceptive acts or practices will continue to be handled by administrative proceedings.

Second: The Clayton Act is amended to provide that FTC actions to enforce provisions of the act be instituted in the Federal district courts.

Third: It is specifically provided that the bill shall not impair the validity of any existing FTC order. It is further provided that the changes made by the bill shall not apply to those proceedings in which an FTC complaint had been issued and served prior to the effective date of the bill.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "Antitrust Enforcement Improvements Act of 1979."

PURPOSE

SEC. 102. It is the purpose of this Act—

(1) to provide for the elimination of the exercise of the antitrust adjudicative function of the Federal Trade Commission by vesting that function in the district courts of the United States;

(2) to retain in the Federal Trade Commission its present authority to investigate alleged violations of antitrust provisions, and to confer upon them authority to bring civil actions in the district courts of the United States for the enforcement of statutory provisions with respect to which they are given specific antitrust enforcement power.

TITLE II—FEDERAL TRADE COMMISSION ACT AMENDMENTS

UNFAIR METHODS OF COMPETITION

SEC. 201. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by

(1) redesignating subsection (b) as subsection (c)(1); and

(2) by inserting the following immediately after subsection (a):

"(b)(1) Whenever the Commission has reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in or affecting commerce, and if it appears to the Commission that a proceeding by it in respect thereof would be to the interest of public, the Commission may institute in its name, through any of its attorneys designated by it for that purpose, a civil action in a district court of the United States to prevent or restrain such alleged violation or a threatened violation, and pray that the court enter an order requiring that such person, partnership, or corporation ceases and desist from using such method of competition.

"(2) If upon conclusion of its trial, the court finds that the method of competition is prohibited by this Act and that the enjoining of it would be to the interest of the public, it shall enter such order, in the nature of a permanent injunction, as it shall deem appropriate."

UNFAIR OR DECEPTIVE ACTS OR PRACTICES

SEC. 202. (a) Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended in subsection (c)(1) as redesignated by section 201 of this Act by:

(1) striking out "unfair method of competition or" in the first sentence,

(2) striking out "the method of competition or" and "such method of competition" in the fifth sentence, and

(3) striking out "in subsection (c)" and inserting in lieu thereof "in subsection (c)(2)" in the proviso.

(b) Section 5 of that Act is further amended—

(1) by redesignating subsection (c) as subsection (c)(2);

(2) by striking out "method of competition or" in the first sentence,

(3) by striking out "or to competitors" in the third sentence.

(4) by redesignating subsection (d) as subsection (c)(3).

(5) by redesignating subsection (e) as subsection (c)(4).

(6) by redesignating subsection (f) as subsection (c)(5).

(7) by redesignating subsection (g) as subsection (c)(6), and paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), (D), respectively.

(8) by redesignating subsection (h) as subsection (c)(7).

(9) by redesignating subsection (i) as subsection (c)(8).

(10) by redesignating subsection (j) as subsection (c)(9).

(11) by redesignating subsection (k) as subsection (c)(10).

ACTIONS TO RECOVER CIVIL PENALTIES

SEC. 203. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is further amended—

(1) by redesignating subsection (1) as subsection (d), and by striking out in the first sentence "an order of the Commission," and inserting in lieu thereof "any order of a court or the Commission authorized by this Act," and by inserting "of a court or" in the second and third sentences immediately before "of the Commission."

(2) Section 5(m)(1)(B) of the Federal Trade Commission Act is amended by striking out "If the Commission determines a proceeding under subsection (b) that any act or practice is unfair or deceptive" and inserting in lieu thereof "If a court determines in a proceeding under subsection (b) that any act or practice is an unfair method of competition, or the Commission determines in a proceeding under subsection (c) that any act or practice is unfair or deceptive."

TEMPORARY RESTRAINING ORDER

SEC 205. Section 13(b)(2) of the Federal Trade Commission Act (15 U.S.C. 53) is amended by

(1) inserting "a court or" immediately after "complaint is dismissed by" and immediately before "the Commission or set aside," and

(2) inserting "a court or" immediately after "or until the order of" and immediately before "the Commission made thereon."

TITLE III—CLAYTON ACT AMENDMENTS

PRICE DISCRIMINATION

SEC. 301. (a) The second proviso contained in section 2(a) of the Clayton Act (15 U.S.C. 13(a)) is amended by inserting immediately after "fix and establish quantity limits" the following: "by rules prescribed under section 18 of the Federal Trade Commission Act (88 Stat. 2193; 15 U.S.C. 57(a))."

(b) Section 2(b) of that Act (15 U.S.C. 13(b)) is amended by striking out "at any hearing on a complaint under this section," and inserting in lieu thereof "in any action for the enforcement of this section or any rule prescribed under this section."

ENFORCEMENT AUTHORITY

SEC. 302. Section 11(a) of the Clayton Act (38 Stat. 734, as amended; 15 U.S.C. 21(a)) is amended to strike the language "and in the Federal Trade Commission where applicable to all other character of commerce."

RESTRAINING VIOLATIONS

SEC. 303. Section 15 of the Clayton Act (15 U.S.C. 25) is amended by striking out the first sentence and inserting in lieu thereof the following:

"The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of this Act. It shall be the duty of the several United States attorneys in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain violations of this Act. It shall be the duty of the Federal Trade Commission to institute proceedings in equity to prevent and restrain violations of sections 2, 3, 7, and 8 of this Act."

TITLE IV—SAVING AND TRANSITIONAL PROVISIONS

SEC. 401. (a) No amendment made by this Act shall render invalid or impair the enforcement of any cease and desist order or other enforcement order entered by the Federal Trade Commission under any statute amended by this Act if that order has become final before the effective date of this Act. For the purposes of this section, the finality of any such order shall be determined, and proceedings for the enforcement thereof shall be taken, pursuant to the applicable provisions of law which were in effect on the date preceding the effective date of this Act.

(b) Any such order entered before the effective date of this Act by the Federal Trade Commission upon the merits of any proceeding for the enforcement of any statute amended by this Act shall be subject to judicial review and to enforcement proceedings, and the finality thereof shall be determined, pursuant to the applicable provisions of law which were in effect on the day preceding the effective date of this Act, if such order has not become final before the effective date of this Act.

PENDING PROCEEDINGS

SEC. 402. (a) In any matter in which the Federal Trade Commission, before the ef-

fective date of this Act, (1) has issued a complaint alleging the violation of any statute amended by this Act, and (2) has served that complaint upon one or more parties named therein as respondents, the hearing and determination of that matter by the Federal Trade Commission, the finality of any enforcement order entered with respect to that matter, judicial review of such order, and proceedings for the enforcement of any such order which has become final shall be governed by applicable provisions of law which were in effect on the day preceding the effective date of this Act.

(b) In any matter, other than a matter described in subsection (a), in which the Federal Trade Commission before the effective date of this Act was begun or conducted any study or investigation to ascertain whether any statute amended by this Act has been violated by one or more parties, all further action by the Federal Trade Commission in or relating to that matter shall be taken and conducted in accordance with the applicable provisions of law as amended by this Act.

EFFECTIVE DATE

SEC. 403. This Act shall take effect on the first day of the third month beginning after the date of enactment of this Act.

Mr. HATCH. Mr. President, I also ask unanimous consent that the bill I have just introduced or I am about to introduce be jointly referred to the Commerce and Judiciary Committees.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, it has not been cleared with me. Has it been cleared with the minority leader?

Mr. HATCH. Let me do this, Mr. President. It is my understanding that it has been cleared with the respective committees. I was going to ask unanimous consent in the following language, and that if and when one committee reports the bill, the other committee shall be given 60 days to act, and that each committee shall be authorized to file a report.

I understand that language is objectionable to Senator FORD of the appropriate Commerce Committee, and Senator METZENBAUM, who is on the floor, the appropriate Judiciary Committee. It is my understanding that Senator METZENBAUM and Senator FORD will agree to this joint referral. If that is not so, then I ask unanimous consent, Mr. President, that this bill be referred jointly to the Commerce and the Judiciary Committees, and if the two committee chairmen do not agree, then that the majority leader and the parliamentarian and the minority leader resolve the conflict.

Mr. ROBERT C. BYRD. Mr. President, I would have to reserve the right to object. It has been my policy, brought on by necessity, that such request for referrals has to be cleared with both the majority and minority leaders, not only with the chairmen and ranking members, but with both of the leaders; not that I have any personal desire to take on any additional burdens, but the matter of joint and sequential referrals has reached the point where it can contribute to a tremendous legislative logjam.

Mr. HATCH. Mr. President, if the majority leader will yield——

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. It was my understanding that this was cleared, but perhaps I am in error. I know it is cleared with the distinguished minority member of the Judiciary Committee and, presumably it would be satisfactory to the minority leader.

So let me propound a unanimous-consent request, and if it is not——

Mr. ROBERT C. BYRD. Let us clear it first. That is the way it ought to be done.

Mr. HATCH. And I would file the bill today.

Mr. ROBERT C. BYRD. Pardon?

Mr. HATCH. I will file the bill today and ask that it either be referred by the appropriate people to refer it—and I will check with the minority leader and see if he has any objection to a joint referral to the Commerce and Judiciary Committees—with my understanding that the two appropriate committee chairmen have acceded to that and have requested that.

It has been a major conflict because both committees have wanted the bill, and we have had to work this out, and we thought it was worked out. If it is not, let us work it out.

Mr. METZENBAUM. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. If the Senator will allow me to suggest, clearances should be arranged by him——

Mr. HATCH. We would be happy to do that.

Mr. ROBERT C. BYRD. With the chairmen and ranking members and with the majority and minority leaders. I do not ask for the burden personally, and I do not object to the referral.

Mr. HATCH. The appropriate committee Senator is here.

Mr. ROBERT C. BYRD. The Senator from Ohio raised the question of referral, for a joint or sequential referral or otherwise, and I raised an objection.

Mr. METZENBAUM. I remember it. It was with some dismay, and I had cleared it with both committee chairmen, and the Senator from West Virginia indicated as a matter of policy that he would not agree to joint referrals because he said he did not want that to be a continued program around here.

Mr. HATCH. I will be happy to do that.

Let me ask my distinguished colleague from Ohio——

Mr. ROBERT C. BYRD. Does the Senator then withdraw his request for the moment?

Mr. HATCH. Yes, I will withdraw the unanimous-consent request.

Let me ask my friend from Ohio, it is true as long as we take that 60-day provision, it is our understanding that your office has agreed to refer it jointly to the two committees.

Mr. METZENBAUM. In response to my friend from Utah, I personally have no problem on that.

Mr. HATCH. That is my understanding.

Mr. METZENBAUM. But I recognize, and I think the Senator from Utah recognizes, that I am not the chairman of the overall committee, and this is a matter within his jurisdiction not mine. I do not know whether or not——

Mr. HATCH. We will be happy to check with him. It is our understanding it is all right, but I will check.

Mr. METZENBAUM. I just want to say to my good friend from Utah that I just received word 15 minutes ago that the Senator from Utah was going to make this unanimous-consent request.

Mr. HATCH. Yes, our office called you to be sure you had the opportunity to be here.

Mr. METZENBAUM. I think in all fairness, Senator, that if you knew this was a matter of concern, that saying "Our Senator is going to be on the floor momentarily making a unanimous-consent request" is hardly the means by which we normally treat each other in this body.

Mr. HATCH. Senator, let me interrupt——

Mr. METZENBAUM. I think I have the floor. Just a moment.

Mr. HATCH. Mr. President, who has the floor?

Mr. METZENBAUM. Just a moment. I am not yielding to the Senator.

Mr. HATCH. I am not yielding to the Senator. Parliamentary inquiry, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. HATCH. Who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Utah has the floor.

Mr. HATCH. I would like to make this comment: Everybody who knows me on this floor knows that I have the utmost respect, I take the utmost care and courtesy as to my colleagues and, particularly, my friend from Ohio. I know Senators who do not call other Senators and invite them to the floor.

We have been planning on putting this in for weeks. We have gone back and forth with the Senator's staff people, and we have finally even acceded on the floor, because we knew the Senator was going to object, and we called the Senator so that he could come over and object, and had the Senator not come over and objected, I would have said to the minority leader that Senator METZENBAUM has an objection to the 60-day clause, but we understand that the Senator agreed to the joint referrals. If I am wrong on that, I would like to know, but I do not want to be accused on the floor of the Senate of showing discourtesy to the Senator from Ohio because I have never done so.

Mr. METZENBAUM. Well, my friend from Utah has——

Mr. HATCH. If you want me to yield to you, I will be happy to yield for a question or a statement.

Mr. METZENBAUM. Will you be good enough to yield?

Mr. HATCH. I will be happy to yield to you.

Mr. METZENBAUM. The Senator from Utah and I have worked together quite well.

Mr. HATCH. We certainly have.

Mr. METZENBAUM. As a matter of fact, as you well know, this morning I chaired a hearing in an effort to work with you.

Mr. HATCH. That is correct.

Mr. METZENBAUM. And after a while, I adjourned the hearing because you were not able to make it.

Mr. HATCH. No, you adjourned the hearing because there was not a quorum there. You were the only one there, other than a few other Republicans. And I was willing to come down from the Foreign Relations Committee executive session.

Mr. METZENBAUM. I think Senator DECONCINI, who was present, will not enjoy that comment of yours. I think Senator BAUCUS will not enjoy that comment of yours.

The ACTING PRESIDENT pro tempore. The Senator from Utah's 15 minutes has expired. Under the previous order, the Senator——

Mr. HATCH. I ask unanimous consent that I be granted an additional 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, for 10 years, may I say to my friend——

Mr. HATCH. I ask the distinguished majority leader——

Mr. ROBERT C. BYRD. For 10 years, I have objected to this type of request, whether it comes from my side of the aisle or not. We gave the Senator 15 minutes. I have always objected to requests that such orders be extended. I have done it for 10 years and if I live 10 more years I will object to it, whether it comes from my side of the aisle or whatever.

The next Senator who has an order, if he will be kind enough, may yield to the Senator from Utah.

Mr. HATCH. Will the distinguished Senator from Iowa yield me 1 minute?

Mr. JEPSEN. I will be happy to yield 2 minutes to the distinguished Senator from Utah.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. JEPSEN) is recognized for not to exceed 15 minutes and hereby is yielding 2 minutes to the Senator from Utah.

Mr. HATCH. If I may just say so, I think I can just clear this up with the Senator from Ohio. I have been trying to accommodate Senator FORD on this. Frankly, I would just as soon file the bill and let the Senate work its will on where it goes. I have also tried to accommodate the Senator from Ohio. And he has admitted that I have always tried to accommodate and be courteous to him.

With regard to the Judiciary Committee meeting this morning, there was no quorum. I was willing to come down to the Judiciary Committee meeting if he had a quorum, but I was also in the closed executive session of the SALT hearings and was very concerned about that, as I have been for better than 2 years now; actually, much more than 2 years.

So I apologize that my friend from Ohio feels put out to have to come to the floor. But we did call him. He has known we were going to do this. We have delayed it repeatedly. We have tried to accommodate him and the distinguished Senators on the Commerce Committee and we will try to accommodate them in the future.

Had he not been here, I would have raised his objection for him, which is the way I do things around here, and I think that is the utmost courtesy, and I am not sure other Senators would have done that.

But, in any event, I have the utmost respect and admiration for my friend from Ohio. We work well together and I intend to continue to work well together with him in the future. I will do what the distinguished majority leader asks me to do and I will check with the minority leader and the other people we have to check with.

I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his understanding, and I apologize for having to object to his request.

Mr. HATCH. I understand.

(Later the following occurred:)

Mr. METZENBAUM. Mr. President, I thank the Senator for yielding.

In my remarks concerning my good friend from Utah relative to this morning, no personal offense was meant. I know well it was necessary for him to read what he read. He always has been cooperative in working out matters in the Judiciary Committee. Certainly, no personal offense was meant.

Mr. HATCH. Mr. President, I appreciate those comments of the Senator. I would also like to make clear we have tried to accommodate our friend from Ohio, and we worked closely with his staff on this. I personally feel that he has raised a good point, that it would have been better had we given him more notice than the phone call to come over to the Chamber. But I also want to reassure him that I would never have gone into a unanimous-consent request with a time agreement in it knowing that he had an objection to it.

I did automatically delete it, even though he was on the floor. I believe he understands I would never deliberately take advantage of my friend from Ohio, and I understand he meant no offense by some of the comments he made.

Mr. METZENBAUM. Mr. President, I thank the Senator from Utah. I thank the Senator from New Mexico for yielding.

(Conclusion of later proceedings.)

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

CHRYSLER: AN ALTERNATIVE TO BAILOUT

Mr. JEPSEN. Mr. President, in recent weeks I have been working very hard on the problems of the Milwaukee Railroad, which is bankrupt and ceased operations. I have no doubt that its lines will eventually be taken over by another, stronger railroad, but in the meantime we must keep it operating in order to move Iowa grain. This is why I have supported limited Federal aid to the Milwaukee.

In the course of working on the Milwaukee problem it occurred to me that, perhaps, there was something here which might have relevance to the Chrysler problem. As everyone knows, Chrysler has lost an enormous amount of money this year and is begging for Government aid. My inclination is to dismiss Chrysler's plea as unjustified, but I have concluded that this may be too harsh an attitude.

If it were merely a question of whether Chrysler's creditors and stockholders or the U.S. taxpayer should bear the cost of Chrysler's mistakes, then the answer would be obvious. Chrysler's owners and creditors took the risk upon themselves voluntarily and must suffer the consequences. The taxpayer owes no responsibility to Chrysler.

But there are other considerations. Thousands of workers, who bear no responsibility for Chrysler's mistakes, will bear the greatest brunt of its demise. And if Chrysler were to cease operations it would have ripple effects on thousands of others who are even more innocent of responsibility for Chrysler's errors.

For this reason, I feel that we in Congress have a responsibility to do more than either approve a massive $1.5 billion bailout or let the company cease to exist and say, "tough luck." There must be a middle ground which protects the innocent while insuring that those who bear the risk accept their responsibility.

Therefore, I am working on legislation which will make Federal aid to Chrysler contingent upon the company's filing for reorganization. The object of this aid will be the protection of workers, not stockholders and creditors.

In my view, it is impossible for Chrysler to continue to operate as it has, as a full-line car maker. The sooner the company begins to make the transition from full-line automaker to a more specialized automaker like American Motors, the better. The Company still has many profitable operations and products which should continue, but a radical restructuring of the company will be necessary if it is to be restored to financial health. The company management assures us that such restructuring will take place and we need only tide them over until their 1981 car line is out. In my opinion, giving Federal aid on this basis will only put off the day of reckoning. I fear that in 1981 or 1982 Chrysler will only come back to us saying that just a little more aid will be needed for it to turn the corner. At this point, we will all be in the position of a banker who must decide whether to cut his losses and get out or try to keep the company alive and hope for the best. By then we will, presumably, have a $1.5 billion investment tied up in Chrysler. It will be very tough to write that off, and pressure for more aid will be even more intense than it is now. It will only be a short step before we are following the British road of infinite subsidies, because we did not have the guts to do what was necessary.

Reorganization is the key. For once the company has filed for reorganization then we are assured that a fundamental restructuring of Chrysler must take place. It insures that the owners and creditors of Chrysler will bear their share of the cost. And the company will be protected by the courts while restructuring takes place.

At this point, after reorganization, Federal aid is appropriate—not before.

Limited Federal aid can be used to smooth Chrysler's transition from a full-line car maker to a smaller, more specialized firm which all analysts agree is necessary. And the aid will also help workers in their transition from Chrysler divisions which will be closed or sold to other jobs.

I might point out that several large foreign car makers, such as Volkswagen, Mitsubishi, and Renault have expressed interest in Chrysler at one time or another. They are not going to enter into negotiations for buying out Chrysler so long as Federal aid seems likely or bankruptcy remains imminent. On the other hand, once the die has been cast and reorganization has begun, these other firms will be encouraged to move in and take over some of Chrysler's operations.

In conclusion, I feel that my proposal is a reasonable compromise between two polarized positions. On the one hand we have those who are pushing hard for massive aid, while on the other we have those who oppose any aid whatsoever. I think that such polarization is unnecessary and getting us nowhere. I intend to pursue an alternative and propose it as a substitute for the administration's aid proposal if and when it comes to the floor. As I said, this is just a proposal at this time which I am exploring. I welcome input from other offices on this matter and I will welcome any suggestions.

I yield back the remainder of my time, Mr. President.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. JEPSEN. The Senator from Iowa yields to the distinguished Senator from New Mexico.

Mr. SCHMITT. Mr. President, will the Senator withhold yielding back his time to be sure that there is sufficient time for the Senator from New Mexico to make a presentation?

Mr. ROBERT C. BYRD. Mr. President, the Senator from Iowa did have consent earlier to yield his time. How much of that time remains?

The ACTING PRESIDENT pro tempore. The Senator from Iowa has 7 minutes remaining. The minority leader has 9 minutes remaining.

Mr. SCHMITT. Mr. President, I would ask unanimous consent that the 7 minutes and 9 minutes, respectively, be assigned to the Senator from New Mexico.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I will not object, I wonder if the distinguished Senator from New Mexico and the distinguished Senator from West Virginia would be good enough to permit the Senator from Utah and the Senator from Ohio each to have 1 minute of that total of 16 minutes.

Mr. SCHMITT. I would have no objection. I would be happy to yield that time out of the total time.

Mr. METZENBAUM. I appreciate that.

Mr. JEPSEN. The Senator from Iowa yields his remaining time to the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, if I could have the attention of the Senator from Ohio and the Senator from Utah, do they desire their time now?

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is asking a question of the Senator from Utah and the Senator from Ohio.

Mr. SCHMITT. Mr. President, does the Senator from Utah or the Senator from Ohio desire time now? I will be happy to yield 2 minutes to the Senators.

(Statements at this point by Senator METZENBAUM and Senator HATCH are printed earlier in the RECORD.)

RESTORING LEGISLATIVE ACCOUNTABILITY TO THE FEDERAL TRADE COMMISSION

Mr. SCHMITT. Mr. President, we are rapidly approaching a decision on restoring legislative accountability to the Federal Trade Commission.

Mr. President, in the past several months the Federal Trade Commission has received a great deal of criticism from an almost unbelievably broad spectrum of the small business community and the public in general. Under the vigorous leadership of Chairman Pertschuk, the Commission has probed into an increasing number of commercial activities, most of which have previously been unregulated or regulated only by State, rather than Federal Government. Not fear of being found out in some unfair and deceptive practice, but fear of being unfairly put out of business by a bureaucracy that neither understands nor wants to understand the marketplace, is what underlies the motivation of this broad group of people and business concerns who are raising questions about the Federal Trade Commission.

At present, there is a list of some 23 industry and trade practices which are under investigation by the FTC with an eye toward increasing regulation of those practices. Mr. President, I ask unanimous consent that that list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Mobile Homes.
Funeral Homes.
Protein Supplements.
Eyeglass II (distributorship).
Used Cars.
Credit Practices.
Nutrition Advertising.
Health Spas.
Over the Counter Drugs.
Hearing Aids.
Over the Counter Antacids.
Warranties—Refunds.
Thermal Insulation.
Flammable Plastics.
Children's Television Advertising.
Pipeline Ownership.
Life Insurance.
Games of Chance in Food Retailing and Gasoline Industries.
Standards and Certification.
Octane Posting.
Appliance Labeling.
Consumer Claims and Defenses.
Care Labeling (Textiles).

(Mr. EXON assumed the chair.)

Mr. SCHMITT. Mr. President, while I support the efforts of the Commission to eliminate unfair and deceptive trade practices of the few in the areas that are contained in the above list, it seems clear that the public must be protected from overzealous regulation. If the Commission would think of itself as a referee rather than a manager of business competition, they would not be under such scrutiny today.

Under the broad statutory language which governs the Federal Trade Commission, the FTC can regulate virtually every aspect of American commercial life.

The FTC authorizing legislation and statutory law merely provides that "unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful."

Considering that rules of the Commission may apply to any act or practice "affecting commerce," and that the only statutory restraint is that it be unfair or deceptive, the apparent power of the Commission with respect to making commercial law is virtually as broad as the Congress' power itself. In fact, the Federal Trade Commission may be the second most powerful legislative body in the country. Unfortunately, they are not elected. The FTC claims the power to declare any commercial act, practice, or commission to be "unfair" regardless of State law, and thereby to amend all State statutes and reverse all State cases from the courts which may be inconsistent with its declaration.

All 50 State legislatures and State supreme courts can agree that a particular act is fair and lawful, but the five-man appointed FTC can overrule them all.

The FTC rules are not just narrow interpretations of tightly drawn statutes; instead, they more and more take on the character of broad national policy pronouncements. Congress has an obligation to take the final responsibility for making such national policy pronouncements.

In the areas of advertising, divestiture, standards and certification, insurance regulation and many others, we are seeing the FTC move into major policy areas, areas heretofore reserved to the Congress.

Congress has delegated to the FTC the authority to write rules and regulations having the effect of major law and in some cases raising fundamental constitutional questions. It is only appropriate, consequently, that we hold back to ourselves the power to oversee and possibly disapprove those rules when an agency strays too far afield in the making of law and national policy in commerce. The concept of a legislative veto, grounded in the necessary and proper clause of the Constitution, is the most appropriate and most workable means of retaining this power in the hands of our elected representatives without preventing the FTC from exercising its "necessary and proper" functions.

Mr. President, amendment No. 212 to S. 1020, the FTC authorization bill, will provide for rules proposed by the FTC to be subject to a legislative veto under strict procedural safeguards, safeguards which will prevent any possible abuse by

narrow, special interests. Under the amendment, a proposed FTC rule would sit before the Congress for up to 90 days before going into effect. If neither House acts on the rule, the rule goes into effect after only 60 days. Should one House pass a resolution of disapproval within the 60-day period, the other House has 30 days to overturn that action, in which case the rule would not go into effect and the prerogatives of both Houses would be protected. If one House agrees to a resolution of disapproval and the other House refuses to overturn it within a 30-day period then the rule would be disapproved.

This disapproval would be a signal to the FTC to reevaluate the appropriateness of the particular regulation and of the particular policy area in which it is pertinent. The committee and the floor debate would provide an extensive body of legislative history and would show the intent of Congress to the FTC in this respect. The lack of any signal from the Congress for the FTC action in many of the areas contained in my preceding list is one of the major objections that people have relative to present FTC activity.

If the Congress merely wanted a different approach to regulation, as a consequence of the debate on the resolution of disapproval, the FTC could present a new rule to the Congress to go through the procedure once again. This rule could revise, according to the concerns expressed in committee and in floor debate, the previously proposed rule.

Many of our colleagues now believe that this is a reasonable and workable procedure. It is similar to procedures used in dozens of laws now on the books.

Each regulation, for example, of the Federal Election Commission is now presented to the Congress for possible review, yet neither the Congress nor the committees of jurisdiction have been tied into knots because of this procedure. In fact on September 18 of this year the Senate vetoed a Federal Election Commission regulation dealing with funding and sponsorship of debates between national candidates.

The floor debate on this legislative veto was not a prolonged affair. There was no discussion of the constitutionality of the legislative veto procedure and the resolution was passed on a voice vote with no objection being expressed. This is a procedure with a proven track record. There is little question that it will work. However, due to the concerns that have been expressed over its workability, the amendment being offered to the FTC authorization bill, amendment No. 212, contains a 3-year sunset provision. In the unlikely event that the review procedure should prove ineffective, then it can be abandoned at that time, when a new authorization will be required.

Mr. President, this legislative veto procedure is one of the most effective systems that we can develop to insure that the people of this Nation, through their elected representatives, can regain control over the lawmaking process. The fundamental question that this amendment seeks to answer is this: Who writes the commercial laws in America? Is it to be the unelected bureaucrats at the FTC, or the elected Representatives of the people?

At present, regulations are streaming from the bureaucracy in toto at a rate which dwarfs the lawmaking process in the Congress.

By a ratio of more than 18 to 1, rules and regulations outnumber statutes passed into law by the Congress. Increasingly, the law of the land is not that which is debated in the Senate and the House of Representatives, but that which is developed by a commission and promulgated in the Federal Register.

The people of this Nation are calling on us for relief from the burden of excessive and unresponsive regulation. The people recognize the need for a governmental referee in the conduct of commercial activities, but they want much less of governmental management of such activities. The legislative veto is not a panacea, but it provides Congress with a tool that can be put to good use on behalf of the public. It means that we would share the burden of lawmaking by rulemaking rather than leaving that burden solely on the shoulders of the unelected regulators.

Many Members of this body have expressed their desire for strong action to bring the bureaucracy and the regulatory process under greater congressional control.

Thirty-five of those Members have cosponsored, as of this time, amendment No. 212 that would provide a legislative veto over FTC rulemaking authority.

This amendment provides an opportunity for us to demonstrate not only that our commitment to regulatory reform is real but that we believe in strengthening the constitutional basis as well as the legislative basis for consumer protection through the Federal Trade Commission.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 5359, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. STENNIS. Mr. President, if the Chair would indulge me just 1 minute, please.

The PRESIDING OFFICER. The Chair is pleased to accommodate the Senator from Mississippi.

Mr. STENNIS. Mr. President, the Senator from North Dakota (Mr. YOUNG) is the ranking minority member of the Subcommittee on Appropriations that prepared this bill and presented it to the full committee. He will be in the Chamber in just a few minutes and he will also have some remarks.

Mr. President, it goes without saying that this is a highly important bill. It goes without saying that it is an essential bill, that some appropriation bill for our Department of Defense will have to be passed. I do not know of any bill that has been gone over more thoroughly and considered by more knowledgeable people in this area than has this measure today, which, incidentally, if passed in its present form or near thereto, will be the largest appropriation bill that has ever been passed by Congress in peacetime or in wartime.

Mr. SCHMITT. Will the Senator yield?

Mr. STENNIS. Yes, I am glad to yield to the distinguished Senator from New Mexico.

Mr. SCHMITT. I would like to take this opportunity at the beginning of the consideration of this very, very important bill to compliment the Senator from Mississippi for seeing to it, not only in the authorization process but in the appropriation process, that in this very critical time, we begin to reverse those trends, those adverse trends in our national defense picture that have unfortunately contributed to that picture. As we approach the debate on the SALT treaty, there can be no more important consideration than what is the status of our national defense in the environment in which that treaty might be implemented. The efforts of the chairman and the other members and the ranking member of the Committee on Appropriations and the Defense Subcomittee, as well as the entire Appropriations Committee, I think, should be recognized as beginning the process once again of creating a national security situation in which we can negotiate treaties and implement treaties from strength.

There is much more to be done and I am sure the Senator from Mississippi agrees with that. But we must start. We must begin to move as rapidly as the country can in this area.

The Senator from Mississippi, as well as the distinguished Senator from North Dakota, are to be commended for seeing that this process has begun and moves forward rapidly.

Mr. STENNIS. Mr. President, I thank the Senator from New Mexico, for myself and on behalf of the Senator from North Dakota. As he said, this bill is of interest and concern to everyone. It affects every American, whatever group or whatever the interest. It is highly important that we keep abreast of the splendid technology that we have, the possibilities that we have within that area of accomplishment.

I referred to the size of this bill. There was no one trying to make it the largest appropriation bill that Congress has ever considered. It got to be that way in spite of the effort to hold it down and hold it within limits dollarwise. We have not lost sight of the fact that this money is taxpayers' money that has been exacted from the taxpayers by the powers of the Government. It is supposed to be used only for what are thought to be necessary purposes. We have not quit insisting on management of a high order, really a higher order than we are getting in the expenditure of this money. By management, I mean the exercise of reasonable frugality and commonsense judgment

and the planning for making these dollars go just as far as they can be made to go.

Mr. President, it reflects the times. Our energy problems bring out more clearly the fact that, in a way, we are a spoiled people. We have had so many of the good things that came relatively easy that we are spoiled, and I am spoiled along with the rest. But we are going to have to tighten our belts—that is an expression that I used to use and still like to use.

We also have directed our attention toward the personnel, the manpower requirements of our military services, which is different from any other branch of the Government—more demanding in lots of ways.

We are looking for qualities in these men and women that cannot be bought with dollars alone. We are looking for performance that requires dedication. We are looking for a performance that comes only from discipline.

I am one of those believing that we have not emphasized that discipline enough and that we will not get better results until we do emphasize it, as we did in former days.

But I am not here now to argue that matter at length. We have to move on and consider these matters we have ready for passage.

I am glad we have amendments. I do not resent them at all. I would like to see the end, though, at some time, and not have it stretch out too long. But it is well under our process to have these amendments.

Here is one to strike out the nuclear carrier, another to strike the MX—a new version of the intercontinental ballistic missile concept.

It brings those matters in for more debate, more scrutiny, and they are expensive items. We will get to those this afternoon.

For the benefit of those who may be listening on the speaker that goes into the offices of Senators, after the Senator from North Dakota has had the floor, I hope we will be able to take up an amendment by Mr. PROXMIRE to strike from the bill the nuclear-powered carrier.

It may be possible to follow that with an amendment that is expected to be offered by the Senator from New York (Mr. MOYNIHAN) regarding the so-called Maybank amendment.

We hope to continue on with one vote after another until we have disposed of the bill. We hope also, of course, in the afternoon to get an outright agreement as to the time.

Mr. President, may I inquire now, has there ever been a time agreement yet on the Proxmire amendment on the carrier?

The PRESIDING OFFICER. There has yet been no time agreement.

Mr. STENNIS. I thank the Chair.

Mr. President, it is expected there might be a time agreement, when the Senator can come to the floor, of 1½ hours to a side.

Mr. President, the Committee on Appropriations has carefully considered H.R. 5359, the Defense Appropriations bill, and recommends an appropriation of $131,742,959,000 in new budget authority for the Department of Defense for fiscal year 1980.

Many difficult choices were required in order to arrive at this recommendation, but we believe that it establishes a level of spending that will be adequate for our national security while it is commensurate with our resources and the priorities of the budget.

The Committee on Appropriations has spent many hours examining the various programs submitted in the administration's budget. The Defense Subcommittee held 19 separate sessions of hearings from February to April of this year, and the 9,500 pages of transcript taken at these hearings fill five volumes.

Mr. President, to give an idea of how large this appropriations bill has become, and also a concept of our recognition of the need for research and development, the $13.3 billion included in this bill for research and development is greater than the entire defense budget for fiscal year 1949. The Senator from North Dakota and I were both here that year, and we remember the comparison.

We dug this figure up to show the careless remark that is made sometime that we are not spending any money on research and development, we neglect it, it is being cast aside, and so forth.

I do not think that is true and the facts reflected here in this bill will prove it.

An appropriations bill of this magnitude naturally requires a great deal of work. In order to convey the magnitude of the task facing the committee, let me point out that the defense budget request considered by the committee include 3,021 separate, distinct line items.

A line item means a line in the bill that carries a figure at the end of the line that is proposed and we are supposed to make a judgment on each one of those line items. The 3,021 distinct line items show, obviously, a great volume of work.

This includes 477 line items in military personnel and retired pay, 659 in operation and maintenance, 1,047 in procurement and 838 in research and development. Even those numbers do not reveal the total picture, for the military personnel and operation and maintenance accounts are further subdivided into numerous separate items. But I believe these figures clearly demonstrate the high level of effort required.

Mr. President, there has been a great deal of discussion concerning the levels of defense spending in recent weeks. I would like to take a few moments to place the committee's overall recommendations in perspective.

The President's amended budget request for this bill was $132,320,000,000. The House version of this bill provides $129,523,578,000. The committee recommendation of $131,742,959,000 restores $2,219,381,000 to the House bill, but it is still $577,606,000 below the budget request.

Mr. President, compared to past years, the reduction to the defense budget recommended by the committee is small. This reflects, I believe, the growing acceptance of the fact that, for the foreseeable future, we cannot afford to make substantial reductions to our military programs, either in dollars or in personnel.

Of course, this does not mean that the Appropriations Committee will not do all it can to persuade Defense Department managers to cut costs and economize on manpower, as I have already stated. As a matter of fact, most of the reductions recommended by the committee are aimed specifically at keeping this kind of pressure on Defense Department officials. To cite only a few examples, this bill contains reductions of $410 million in the amount budgeted for inflation in the operation and maintenance accounts; $92 million in the amount requested for administrative travel by Defense Department employees; and $50 million in the amount budgeted for civilian overtime pay.

Mr. President, I shall continue to press for prudence and care in the management and spending of the military dollar. We cannot lose sight that these dollars come from taxpayers' money. The fact that money is spent for military purposes does not authorize extravagance and poor management. To support military readiness a Senator does not have to be a wastrel.

Throughout its deliberations, the committee has not tried to arrive at a specific percentage increase for this budget over the amount appropriated last year. What we have tried to do is to look behind the overall dollar totals and examine specific programs which will provide the necessary resources to continue improving our military capability. In my opinion, this is a balanced bill which accomplishes that goal. While not all of the Senate will be content with every recommendation in this large bill, I believe that the bill as a whole deserves the support of the entire Senate.

We hear a lot of discussion on the radio and television, in the magazines and newspapers, about percentage increases and what the Congress has done and what it has failed to do.

We looked with danger on the idea of just a percentage increase, but looked to the need, the items, and the balanced bill which accomplished the goal of what we believed to be the need.

We believe that this bill does that purpose and it deserves the support of the entire Senate.

Mr. President, fiscal year 1980 has already begun. The authority contained in the continuing resolution for the Department of Defense runs out on November 20. I hope that the Senate can now proceed expeditiously on this bill, so that we can go to conference with the House and pass a conference agreement in short order. Many new programs and new initiatives scheduled to begin on October 1, 1979, cannot begin until this bill is passed.

I emphasize that, Mr. President. We brought a bill here as soon as we could, which is far later in the calendar year than we ordinarily get here with it. There is no use to go back and recount all the obstacles and try to assess blame. The fact is that we do have the bills here now. The continuing resolution, I believe, will run out 2 weeks from today, unless this bill or some bill is passed,

and that is an event we cannot afford to let happen. We can pass this bill today or tomorrow or the day after tomorrow.

I urge all Senators to come to the floor, if need be. If they have recommendations to make in the way of amendments, I urge them to offer the amendments. We can make a calculation as to a reasonable time for a debate, agree to the time, and take up each amendment in an orderly fashion. The managers of the bill will agree to any reasonable proposal as to time for debate.

We invite amendments. We are ready to present them in the best way, from our viewpoint. Something has to be done to make the bill move.

As a last resort, we might just have to call up amendments, if the authors do not call them up; we will present our discussion and then move to table. There is nothing else remaining that we can do in order to get to these amendments and dispose of them. I do not think that will be necessary. We certainly do not relish anything like that.

OVERALL RECOMMENDATIONS

Mr. President, a moment ago I mentioned that the $131,742,959,000 in new budget authority contained in this bill is $577,606,000 below the budget request and $2,219,381,000 above the House allowance. Including the amount we expect to appropriate next spring to cover the recent pay raise, there will be an increase of approximately 11 percent over the amounts appropriated in fiscal year 1979; fully adjusted for inflation, this is a real increase of roughly 3 percent over last year's amount.

The bill recommended by the committee will result in outlays of $84,553,000,000 in fiscal year 1980. These outlays, plus outlays of $36,002,000,000 from prior year Defense appropriations, will result in total Defense outlays of $120,555,000,000 in fiscal year 1980. In addition to the $132,742,959,000 in new budget authority contained in this bill, the committee proposes transfers totaling $364,986,000, so that the amount recommended actually totals $132,107,945,000. The committee has also recommended a rescission of $30,000,000 in fiscal year 1979 operation and maintenance funds related to cancellation of overhauls for three aging Naval Reserve destroyers.

The recommended bill provides $32,069,185,000 for the Department of the Army, $44,428,724,000 for the Navy Department, $38,196,322,000 for the Department of the Air Force, $5,597,228,000 for the Defense Agencies and related items, and $11,451,500,000 for retired military pensions.

By title, the committee's recommendations include: $28,850,721,000 for military personnel appropriations, $11,451,500,000 for retired military personnel, $42,036,195,000 for operation and maintenance accounts, $35,993,008,000 for procurement, $13,348,408,000 for research and development, including the small special foreign currency program, and $63,127,000 for the Central Intelligence Retirement Fund and for other miscellaneous items. This bill does not include funds for military construction, family housing, foreign military assistance, civil defense, or nuclear weapons production, all of which are included in other appropriations bills.

Title VII of the bill does not actually appropriate any money. This title includes general provisions which authorize the Defense Department to spend money for certain purposes or place limitations on how appropriated funds can be used. Mr. President, in recent years there has been a growing trend in Congress to attach substantive legislation to appropriation bills in the form of general provisions. Just by way of example, 10 years ago, the fiscal year 1970 Defense Appropriations Act included only 42 general provisions. The fiscal year 1980 Defense appropriations bill passed by the House includes 75 general provisions. This use of general provisions on annual appropriations bills to bypass the established authorization process is a dangerous practice which the Congress should stop. This year, the committee is beginning to move in that direction. This bill deletes 11 of the general provisions included in the House bill which are clearly legislative in their intent.

MAJOR CHANGES FROM THE HOUSE BILL

There is a very large number of changes in the bill before you when compared to the House bill. For convenience, the committee summarized and highlighted the major changes on pages 5 through 10 of its report. I shall insert those pages in the RECORD at the end of my statement, since they provide a convenient summary.

DEFENSE BILL IN RELATIONSHIP TO THE SECOND CONCURRENT RESOLUTION ON THE BUDGET

Mr. President, on page 12 of the committee report, there is a table comparing the amounts in the bill with the estimated committee allocation in the Senate version of the second concurrent resolution. I shall insert the table at the conclusion of my remarks. The committee has used the Senate version of the second concurrent resolution because both Houses have not adopted the conference agreements on the resolution yet. The bill as reported is approximately $3 billion below the budget authority allocation and $4 billion below the outlay allocation that would be made to the Defense Subcommittee under the Senate version of the second concurrent resolution. I should point out that the conference agreement on the second concurrent resolution is very close to the Senate version for the national defense function.

I must advise the Members that this is not as great a saving as it may appear, since the committee currently expects to receive a supplemental request of $2.9 billion. This is the current estimate of the amount of the 7-percent pay raise effective October 1, 1979, for military and civilian personnel. On the basis of past history, however, reductions will be made to the supplemental request both within the executive branch and by the Congress. I am confident, Mr. President, that the amounts ultimately appropriated for the Department of Defense in fiscal year 1980 will be well within the level contained in the second concurrent resolution for fiscal year 1980.

SUMMARY OF ITEMS IN THE BILL

The funds recommended in the committee bill buy two basic things—the day-to-day pay and operating costs of our military forces, and second, investment in new items of military equipment, including both research and development of new weapons and equipment, as well as actual procurement.

The bill includes recommendations of $70,855,790,000 for the pay and operating costs of active duty military, Reserve Forces, and Department of Defense civilians. This amount includes $28,850,721,000 for the pay and allowances of our military personnel, and $42,036,195,000 for operation and maintenance costs. These operation and maintenance funds meet the day-to-day operating costs of aircraft and ships, provide for the utilities and upkeep on our military bases, and include the pay of most Defense Department civilian employees.

In the first category, the recommended funds will pay for an Active Army of 15 divisions and 6 separate brigades, a Navy with 453 commissioned ships in the active fleet and 5,213 active and reserve aircraft, 3 active Marine Corps divisions, each with an associated aircraft wing, and an Air Force with 9,157 active and reserve aircraft and 1,054 intercontinental ballistic missile launchers.

Manpower funded in the bill is: 2,043,300 in the Active Forces and 803,500 in the Reserve components, for a total of 2,846,800. In addition to the military manpower, funds are included for a total of 983,500 civilian employees of the Department of Defense. This is a reduction of 1,500 from the budget request and funds the full authorization of civilian manpower for fiscal year 1980.

Now I shall turn to the second aspect of the purpose of the funds in this bill: The development and procurement of new weapons and equipment for our Armed Forces. The committee recommends $49,334,749,000 for these programs, which are a key part of the modernization needed by our Military Establishment. This amount consists of $13,341,741,000 for research and development and $35,993,008,000 for procurement.

The committee recommends a total of $2,785,309,000 for Army research and development. This includes a reduction of $75 million from the authorized amount for the ballistic missile defense programs; $128.7 million for the Patriot surface-to-air missile; $28 million for the Pershing II theater nuclear missile; $33 million for continued development of the fighting vehicle system; $176.2 million for the Advanced Attack Helicopter; and $14.2 million for development of a backup engine for the XM-1 tank.

A total of $4,536,337,000 is recommended for Navy research and development. This includes $25.6 million for the Trident II missile system; $45 million to continue development of the surface effect ship; $179 million for LAMPS antisubmarine helicopter development; $180 million for the Marine Corps AV-8B aircraft; $310.8 million for the Navy F-18 air combat fighter; and $103.4 mil-

lion for the Tomahawk tactical cruise missile.

For Air Force research and development, the committee recommends $4,892,043,000. This includes $670 million for engineering development of the MX intercontinental ballistic missile; $90 million for the strategic air launched cruise missile; $60.9 million for the ground launched cruise missile; $25.3 million for research to upgrade the night attack capability of tactical aircraft; and $182.6 million for the NAVSTAR ground positioning system.

The Defense agencies will receive $1,048,322,000 in research and development funds as recommended by the committee. This includes $89.2 million for basic research; $84.7 million for strategic technology; $102 million for nuclear weapons effects research; and $160 million for major technical initiatives.

In the area of procurement, some of the major programs include the following:

For the Army: $13.7 million for the procurement of 10 C-12 utility aircraft; $29.5 million for 15 AH-1S attack helicopters; $28.7 million for 6,260 TOW antitank missiles; $283.3 million for 410 U.S. Roland surface-to-air missiles; $61.9 million for 1,764 general support rocket systems; $225.4 million for fighting vehicle systems; $562.7 million for 352 XM-1 tanks; $94.8 million for the tactical fire direction (TACFIRE) system; $51.0 million for 155 universal engineering tractors; and $11.9 million for 175 forklift trucks.

For the Navy, the committee recommends: $145.1 million for the A-6E aircraft program to include a buy of 6 aircraft; 153.2 million for 6 EA-6B electronic warfare aircraft; $569.5 million for 30 F-14A fighter aircraft and $126.5 million for advance procurement; $890 million to buy 25 F-18 fighter aircraft and $130.1 million for advance procurement; $29.5 million for the procurement of 2 C-9B airlift aircraft; $155.9 million to buy 15 CH-53E aircraft; $244.5 million for 12 P-3C antisubmarine warfare aircraft; $173.2 million for 6 E-2C early warning aircraft; $25.9 million for 22 UC-12B utility aircraft; $121.7 million for 144 MK-48 torpedoes; $30.1 million for the Tomahawk cruise missile program; $2,094 million for construction of a fourth *Nimitz* class aircraft carrier; $738.8 million for the construction of 2 SSN-688 class submarines; $820.2 million for construction of a second DDG-47 class guided missile destroyer; $41 million in long lead funding for an LSD Landing Ship Dock; $1,204.2 million for the construction of 6 FFG guided missile frigates; and $104 million for the construction of 3 T-AGOS Surtass ships.

For the Air Force, the committee recommends: $789.5 million for the procurement of 144 A-10 aircraft; $888.5 million to buy 60 F-15 fighter aircraft; $1,426.3 million for 175 F-16 aircraft; $178.5 million for 4 KC-10A advanced tanker-cargo aircraft; $246 million for 3 E-3A AWACS aircraft; $77.2 million for 8 C-130H airlift aircraft; $31.5 million for 2 TR-1 tactical reconnaissance aircraft; $55 million for EF-111 modifications; $15 million for the KC-135 reengining program; and $59.6 million for procurement of 2 defense satellite communications system (DSCS II) satellites.

The bill also includes $11,451,500,000 for retired military personnel. There will be approximately 1,300,000 retired persons on the rolls in fiscal year 1980. The $6,667,000 recommended for the special foreign currency program provides dollars for the purchase from the Treasury of excess foreign currencies which are used to finance Defense programs overseas.

The final items funded in the bill are $51,600,000 to meet the unfunded liability of the CIA retirement pension fund, and $11,527,000 to support the Intelligence Community Staff, an independent body responsible to the Director of Central Intelligence for oversight of the entire intelligence community and associated programs.

Mr. President, this concludes my remarks. I will be glad to answer any questions Members may have.

I thank the Senator from Wisconsin for his usual promptness in coming to the floor. I believe he will offer the first amendment.

I hope the Senator from North Dakota will seek recognition at this time.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. YOUNG. Mr. President, the distinguished chairman of the Subcommittee on Defense Appropriations, Mr. STENNIS, has very ably outlined the provisions of this bill, and my views with respect to this bill are in general agreement. My statement will deal with additional comments and provisions of this bill.

The bill, as recommended by the Senate Committee on Appropriations, is for $131,742,959,000, which is $577,606,000 below the budget estimate and $2,219,381,000 over the House. Let me hasten to add that the House did not consider in their bill the later budget amendment which represented an additional request of $2,700,000,000. Had they considered this additional amount, which was justified to offset inflation, the House bill would have undoubtedly been higher and closer to the amount recommended by the Senate Committee.

The total amount of the Senate bill is well below the $134,700,000,000 amount approved by the House-Senate conference report on the second concurrent budget resolution.

Mr. President, everyone is concerned today about the serious inflation problem. The effects of inflation are undoubtedly more excessive and as difficult to deal with in the Department of Defense as they are for most people.

The administration sent the Defense portion of the fiscal year 1980 budget request to the Congress with an unrealistic estimate of 6.3 percent for inflation. As inflation rose this calendar year to 13 or 14 percent, the administration finally realized that it would be impossible to manage the programs for Defense, much less realize any real growth, in the Defense budget as proposed by the President.

The most glaring example of the effect of inflation has been in fuels. Witnesses testified before the committee that fuel prices had risen from 45 cents to 90 cents per gallon this year alone. Needless to say, this 100 percent increase in fuel costs far exceeds the 6.3 percent average inflation rate contained in the budget request as originally submitted. The budget amendment that the President sent to Congress requested $880,000,000 for fuel costs over and above what was requested in the budget just last January. Other examples of the administration's request for additional funds to offset inflation are $470 million to offset foreign currency exchange rates, $113 million for increased utility rates, and $175 million for increased transportation costs.

These are but a few of the inflationary impacts that must be funded if the Defense Department and armed services are to be provided sufficient funds to realize the President's proposed 3 percent real growth. This also conforms to the Hollings/Nunn amendment to the second concurrent budget resolution which would increase the real spending by 3 percent in fiscal year 1980 and by 5 percent in fiscal year 1981. The Senate overwhelmingly approved the Hollings/Nunn amendment.

This total budget of $131,742,959,000 recommended by the committee I believe is well within the limitation placed by the final action of the Budget Committees of the House and Senate. It falls far short, however, of the 5 percent increase in Federal spending for succeeding years.

Mr. President, the SALT treaty will be considered by the Senate in the near future. Much of the controversy over the SALT agreement concerns whether Congress will appropriate funds to increase our military capability. Out of all the publicity the SALT treaty has received, I think the most important point is that it has underlined and emphasized the fact that we no longer can be certain that the United States is the number one power in the world. In fact, our Defense Department has now taken a position of maintaining "rough equivalency" with the U.S.S.R. The perception that the United States is no longer considered the number one power in the world is evidenced by the Soviet adventurism in Africa, the Middle East, Southeast Asia, Cuba, and elsewhere.

I believe that a majority of the Members of the Senate recognized the strength of the U.S.S.R. and the need to increase the strength of our Armed Forces in the vote on the adoption of the Hollings/Nunn amendment that I mentioned earlier. It is for these reasons that I strongly supported, in subcommittee and full committee, funding weapons systems and research and development to the authorized levels recently approved by both Houses of Congress. I have consistently advocated the appropriation of adequate funds to make sure that we have the most modern weapons possible, second to none. In addition, I feel it is absolutely necessary that we increase funding to offset inflation for fiscal year 1980.

This bill contains the funds to build another *Nimitz*-class nuclear powered aircraft carrier. The President's budget requested a conventional powered aircraft carrier which was not authorized. The authorization bill recommended a nuclear carrier at a cost of $2,094,000,000. This is about $400 million more than the cost of the conventional carrier requested in the President's budget.

Mr. President, I support the nuclear carrier contained in this bill because I believe that our Navy needs this additional new carrier to cope with increased Soviet military capability. I also believe that with the fuel shortage we are facing today, and will continue to face for a decade or more, a nuclear carrier which needs to be refueled only about every 13 years is the prudent alternative and one that in the long run will be less costly.

In addition to the nuclear carrier, the bill contains the authorized amounts to buy the aircraft, missiles, tanks, ships, and other items requested in the budget. Even though this may be considered a "high dollar" bill, I strongly urge the Defense Department and the armed services to make an extra effort to manage these funds even more efficiently and economically to effect the maximum savings feasible in fiscal year 1980. I say this because I am very much concerned about charges of abuse and negligence in the management of funds for goods and services in the Defense Department and the armed services.

Mr. President, I urge my colleagues to approve the Defense appropriations bill. I believe it contains the minimum necessary if we are to reverse our present course, which can only end in our becoming a second-rate power.

Mr. STENNIS. Mr. President, I thank the Senator from North Dakota for his remarks and I thank him many times over for the fine attention, work, diligence, effort, and knowledge that he has put in on this bill since even before the January hearings started.

Mr. President, if it is in keeping with the wishes of the Senator from North Dakota, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as amended be considered as original text for the purpose of further amendment with the understanding that no points of order be considered as having been waived by reason thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 2, line 10, strike "$9,668,294,000" and insert "$9,719,853,000";

On page 2, line 19, strike "$6,809,305,000" and insert "$6,863,834,000";

On page 3, line 3, strike "$2,093,100,000" and insert "$2,074,757,000";

On page 3, line 12, strike "$7,873,500,000" and insert "$7,902,275,000";

On page 3, line 24, strike "$591,300,000" and insert "$606,700,000";

On page 5, line 15, strike "$213,500,000" and insert "$214,400,000";

On page 6, line 2, strike "$859,430,000" and insert "$867,700,000";

On page 7, line 10, strike "$9,791,832,000" and insert "$10,031,355,000";

On page 7, line 20, strike "$13,134,875,000" and insert "$13,352,224,000";

On page 8, line 12, strike "$797,881,000" and insert "$802,726,000";

On page 8, line 22, strike "$10,190,580,000" and insert "$10,590,409,000";

On page 9, line 5, strike "$3,440,435,000" and insert "$3,555,196,000";

On page 9, line 21, strike "$419,755,000" and insert "$421,374,000";

On page 10, line 8, strike "$434,399,000" and insert "$347,136,000";

On page 10, beginning with line 11, insert the following:

Appropriations provided under this heading in the Department of Defense Appropriation Act, 1979, are rescinded in the amount of $30,000,000.

On page 10, line 22, strike "$21,923,000" and insert "$22,003,000";

On page 11, line 8, strike "$430,225,000" and insert "$431,107,000";

On page 11, line 25, strike "$801,220,000" and insert "$797,350,000";

On page 12, line 21, strike "$1,088,007,000" and insert "$1,089,687,000";

On page 13, line 22, strike "$98,200,000" and insert "$113,200,000";

On page 14, line 8, strike "$370,000,000" and insert "$470,000,000";

On page 15, line 17, strike "$962,837,000" and insert "$1,000,437,000";

On page 16, line 10, strike "$1,088,100,000" and insert "$1,173,200,000";

On page 17, line 3, strike "$1,786,600,000" and insert "$1,824,100,000";

On page 17, line 20, strike "(INCLUDING TRANSFER OF FUNDS)";

On page 18, line 11, strike "$1,243,900,000" and insert "$1,229,900,000";

On page 18, line 11, strike "and in addition, $52,500,000 which shall be derived by transfer from "Procurement of Ammunition, Army, 1979/1981";";

On page 19, line 8, strike "$1,379,710,000" and insert "$1,611,510,000";

On page 19, line 9, strike "$47,000,000" and insert "$36,400,000";

On page 19, line 23, strike "$4,601,293,000" and insert "$4,518,000,000";

On page 20, line 13, strike "$1,914,014,000" and insert "$1,988,214,000";

On page 21, line 9, strike "$440,300,000" and insert "$788,400,000";

On page 21, line 16, after the semicolon, insert "for the T-AGOS SURTASS ship program, $104,000,000; for the LSD-41 ship program, $41,000,000; for the LPA ship conversion program, $49,500,000;";

On page 21, line 24, strike "$6,163,950,000" and insert "$6,706,550,000";

On page 22, line 24, strike "$2,524,309,000" and insert "$2,604,456,000";

On page 22, line 25, strike "$46,500,000" and insert "$34,700,000";

On page 23, line 2, strike "$16,900,000" and insert "$5,100,000";

On page 23, line 14, strike "$277,285,000" and insert "$288,785,000";

On page 23, line 17, strike "(INCLUDING TRANSFER OF FUNDS)";

On page 24, line 7, strike "$7,981,300,000" and insert "$7,941,340,000, and in addition, $13,800,000, which shall be derived by transfer from "Aircraft Procurement, Air Force, 1979/1981";

On page 25, line 12, strike "$2,170,485,000" and insert "$2,175,200,000";

On page 25, line 13, beginning with "$19,300,000" strike through and including "1979/1981" in line 17, and insert in lieu thereof "$15,000,000, which shall be derived by transfer from "Aircraft Procurement, Air Force, 1977/1979";

On page 26, line 11, strike "$2,534,373,000" and insert "$2,632,131,000";

On page 26, line 12, strike "$38,700,000" and insert "$13,600,000";

On page 26, line 12, beginning with "$14,000,000" strike through and including "$21,700,000" in line 14, and insert in lieu thereof "$10,600,000";

On page 27, line 8, strike "$275,685,000" and insert "$286,185,000";

On page 27, line 19, strike "$2,817,674,000" and insert "$2,785,209,000";

On page 28, line 7, strike "$4,478,081,000" and insert "$4,536,237,000";

On page 28, line 8, strike "$15,886,000" and insert "$20,886,000";

On page 28, line 18, strike "$4,913,012,000" and insert "$4,892,043,000";

On page 29, line 12, strike "$1,030,056,000" and insert "$1,048,322,000";

On page 42, line 2, strike "and civilian";

On page 47, line 23, strike "Upon" and insert "During the current fiscal year, upon";

On page 48, line 2, strike "working capital" and insert "the appropriations or"

On page 48, line 3, strike "of the Department of Defense or funds made";

On page 48, line 4, strike "in this Act";

On page 52, line 18, after "psychologist," insert "optometrist,";

On page 52, line 18, strike "or";

On page 52, line 18, after "nurse-midwife," insert "certified psychiatric nurse, or other certified nurse practitioner,";

On page 54, beginning with line 22, strike through and including page 55, line 12;

On page 55, line 13, strike "753" and insert "752";

On page 56, line 1, strike "754" and insert "753";

On page 57, line 8, strike "755" and insert "754";

On page 57, line 11, strike "756" and insert "755";

On page 57, line 16, strike "757" and insert "756";

On page 57, line 22, strike "758" and insert "757";

On page 58, line 3, strike "759" and insert "758";

On page 58, line 7, strike "760" and insert "759";

On page 58, beginning with line 11, insert the following:

Sec. 760. None of the funds appropriated by this Act shall be obligated under the Competitive Rate Program of the Department of Defense for the transportation of household goods to or from Alaska or Hawaii.

On page 58, beginning with line 15, strike through and including line 22;

On page 58, line 23, strike "763" and insert "761";

On page 59, beginning with line 3, strike through and including line 15;

On page 59, line 16, strike "765" and insert "762";

On page 59, line 23, after the period insert the following:

Further, funds appropriated by this Act shall be available to provide support in accordance with sections 4 and 8 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C., 403e and 403j), to certain Department of Defense cryptologic personnel stationed overseas as designated by the Secretary of Defense.

On page 60, beginning with line 4, strike through and including page 63, line 10.

Mr. STENNIS. Mr. President, another unanimous-consent request, the usual kind with reference to the correction of technical matters.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in the engrossment of the Senate amendments to H.R. 5359.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, it was generally understood among us last night as well as this morning that the Senator from Wisconsin with his amendment on

the nuclear-powered carrier would have a chance to offer his amendment at this point. He has been in the Chamber, and I am sure he will return quite soon. We do not have an agreement on time yet, as I understand, and I understand there is not unanimity yet about a time limitation.

The Senator from Wisconsin had requested an hour and a half himself under his control to present his amendment and customarily we yield to the opposition the same amount of time.

So, at the proper time the request will be made in keeping with that general outline so far as management of the bill is concerned.

Mr. President, in order to take care of an interim period here that I think will be only 2 or 3 minutes at the most, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 730

(Purpose: To delete funding for the CVN *Nimitz-class* aircraft carrier program)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 730:

On page 21, lines 13 and 14, strike out "for the CVN *Nimitz*-class aircraft carrier program, $2,094,000,000;".

Mr. PROXMIRE. Mr. President, first I ask unanimous consent that Ron Tammen, of my staff, be accorded the privilege of the floor during debate on this amendment and the vote on the amendment.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I heard the distinguished Senator from Mississippi speak about how this is the largest appropriations bill in peacetime. It is my understanding, and I certainly stand to be corrected, this is the largest appropriations ever, peace or war. It is a tremendous bill. It is far over what we appropriated, of course, last year. It is necessary, although it is unfortunate, but it is necessary for us to spend billions of dollars, tens of billions of dollars to defend this country. Of course, it is an investment that I think the overwhelming majority of the American people approve. But I do think that because it is so big, because it has not only military importance but fiscal importance, we should discuss it carefully and we should be very sure of our approving particularly the parts of the bill that involve the large amounts of money.

Mr. President, over the past several years we have had an opportunity to act on aircraft carriers that have been proposed. We have had very few votes on them, unfortunately, in the Chamber. We did have some years ago. But I think it is about time we considered whether or not it is wise for us to proceed to put this tremendous amount of money that is being proposed here, about $2.1 billion, just in the construction of the carrier itself, an additional $7.5 billion, according to our calculations, on the airplanes that will go on the carrier, and an additional $500 or $600 million in inflation costs of constructing the carrier which has not been fully provided for in the $2.1 billion but which will be necessary in supplemental appropriations. This whole package is going to be over $10 billion.

Mr. President, it is also a fact that this carrier was so controversial last year, President Carter vetoed the bill because of his concern about the carrier.

Although I have no illusions of the support I am going to get on this, there are a number of Senators who are concerned about it so I think we should have a debate. I think we should have a rollcall vote. And I think all Senators should be aware of the enormous commitment we are making and what our options are and what this does to our opportunity costs in providing an effective navy.

Mr. President, the nuclear aircraft carrier is a magnificent thing to behold. It is the glamor girl of the fleet. One rarely sees a movie about the navy without the aircraft carrier in it because it is such a marvelous weapons system. It has a full load displacement of 91,700 tons. It is 1,040 feet long or more than three football fields—it is about 3½ football fields; 134 feet wide, with two nuclear reactors, a speed in excess of 30 knots, an unlimited cruising range curtailed only by the 13-year core life of the reactor and a crew of 6,300 people—which in my State would be a pretty good-sized city.

Its power is awesome. A typical Navy carrier air wing operates with about 89 aircraft including 24 F-14 or F-4 fighters, 24 A-7E light attack bombers, 10 medium attack A-6Es, 10 fixed-wing ASW aircraft called the S-3A; 6 rotary wing SH-3 ASW helicopters, 4 EA-6B electronic warfare aircraft; 4 early warning E-2's; 4 tankers (KA-6), and 3 reconnaissance aircraft either FA-5 or RF-8's. The firepower carried by these aircraft probably exceeds that of most of the world's developing countries.

There are 13 carriers currently in our fleet of which 12 are deployable around the world. At any given time two will be in overhaul, two will be stationed in the Pacific, two in the Mediterranean, three in the eastern Pacific, and three in the Atlantic. Of the latter two categories of three each, two of the three normally would be in port. Under emergency conditions it is quite likely, according to the Department of Defense, that 10 of the 12 carriers could be deployed to sea. There are six carriers in mothballs.

Our carriers are a remarkable national asset. They are extremely versatile and they are called upon to perform many missions. For instance, they are often the instrument most frequently called to action, as former Secretary Kissinger has recently noted, to respond to local crises, to show the flag, and if necessary to provide force as in the Mayagues incident. Their 34 attack aircraft can project power ashore. They can patrol the sea lanes. They can carry out missions of good will and humanitarian assistance. They are floating American islands in an increasingly contested sea.

The capabilities of the modern nuclear aircraft carrier exceed that over any other tactical ship known in the world. With our overseas bases being reduced from 105 in 1969 to 30 today and considering the growth in nationalism among developing countries which inevitably will curtail basing rights, the aircraft carrier represents an asset that is irreplaceable in modern warfare. As the distinguished chairman of the Senate Armed Services Committee has said:

We had better not turn our back to the facts that the carrier is the best and most effective set of armour and weaponry in a day-to-day, year-to-year deterrent role.

ASSETS MASK PROBLEMS

Well, Mr. President, the facts I just presented are correct and I do not intend to challenge them. The carrier is a remarkable, versatile, powerful instrument of U.S. policy be it in peacetime or wartime. But that does not mean that we can continue to hide behind these facts without examining the implications of adhering to the large carrier philosophy.

The Senate needs to know the answer to the question—what drives the need for 12 carriers—rather than debate the utility of any one carrier. We need to know the price of dedicating our naval strategy to the large carrier concept. What is the opportunity cost in this? What have we foregone in the military sense? We need less attention to specific capability and more attention to the issue of doctrine stagnation and tatical singlemindedness.

We should keep in mind that we are always talking about how the Russians are superior to us, how they have more tanks, how they spend more on technology, and so on. Well, I do not think that is correct but, nevertheless, here is one area where you are not going to hear any such arguments because they have two small carriers about half the size of each of our carriers, whereas we have 13 carriers, 12 of which are deployable. From the standpoint of comparison we have not just an marginal advantage, we have an overwhelming advantage, whether we build this carrier or not. There is not any question that we are going to continue to have an overwhelming advantage as far as the aircraft carriers are concerned.

Now, what have we foregone with the aircraft carrier in a military sense?

What are the substitutes for the large carrier? What would be the effect of simultaneous depolyment of two cheaper carriers vice one more expensive commitment? To what extent do we insure adherence to the status quo by purchasing just one more nuclear carrier? At what point will we look back and say if only—if only we had diversified our combat capability, if only we had more modern surface combatants, if only we had focused less on large group tactics and more on coordinated single ship maneuvers.

Somehow in the narrow focus of the

Senate we concentrate only on the immediate and the detailed, leaving aside the consequences of incremental thinking and incremental force structuring. We do not often take the time to critically reevaluate prior commitments, to update and modernize our thinking as easily as we overhaul, update, and modernize our fleet. We remain rooted to simple-minded axioms, outdated cliches and mindless stay-in-the-same-old-rut creeds that live on without challenge long after the world has moved in a new direction.

Today we can begin the process of stopping the momentum which propels our aircraft carrier philosophy—that inevitable argument heard through these halls for the past 9 years—"just one carrier more," "this is the last carrier," "only one more time and we will change to a new philosophy."

For 9 years I have been hearing that, Mr. President, that this is the last carrier, but every couple years we come in and there is another carrier. Anyone who has taken the time to read the CVAN-70 debates and the Senate report on this matter can only stand back and murmur how little has changed.

For better or worse, today I offer the Senate the opportunity to vote for a more aggressive naval policy, a stronger future naval force, and a clearer picture of the changing battle at sea conditions.

CVN-MISSION IN QUESTION

The mission of the modern nuclear or nonnuclear carrier today is caught in a paralyzing contraction. Why cannot it do the job it should? Here is why: The carrier is outfitted for an intense battlefield environment, armed with the capability to meet enemy forces on a more than equal footing at the most modern level, but because of geography and concentration of forces, it cannot effectively accomplish this dedicated mission. On the other hand, this same carrier is a supreme example of gold-plating. We are buying far more than we need. We are paying billions for a custom-made Cadillac, when a small Chevie will do just as good a job for us. In fact, the modern carrier is perfectly fitted for war against medium threats, midintensity threats. It would be absolutely perfect against medium-sized powers with seacoasts and airpower not greater in sophistication than the 1950's or early 1960's. It would be most useful against India, Pakistan, Brazil, perhaps South Africa if these nations were our potential enemies. It had utility against North Vietnam and North Korea—but in each of these cases there was the limiting factor of Soviet reluctance to provide weapons that could challenge our carriers at sea.

But how about our real adversary, the Soviet Union?

In congressional testimony the Navy has indicated that our carriers would not be able to operate against Soviet targets in Soviet home waters until our antisubmarine warfare aircraft and ships had reduced the Soviet submarine capability to a very low level. The naval force planning study and Secretary Brown both confirm that our carriers will venture into high risk areas only at great peril and that Soviet home waters cannot be cleared for carrier activity for a considerable period of time. What this means in effect is that a line can be drawn around the periphery of the U.S.S.R. measuring several hundred miles. Inside this barrier, our carriers fear to steam lest they be put out of action immediately.

Suppose the carrier were faced with the threat of 100 land-based aircraft with torpedoes, bombs, and missiles? The answer from Admiral Hayward is simple:

You wouldn't go into an area which had the potential described without assembling the right amount of force to counter that threat.

Add to this the conclusion of several highly classified Navy studies that our carriers in the Mediterranean would absorb substantial fatalities and probably could not operate there consistently given persistent Soviet land based bomber attack and the geographic noose closes tighter. We might choose to keep carriers there and take the losses while inflicting substantial casualties on the enemy. The question then becomes, Is this the best use of our resources? Is the threat of a quick kill acceptable simply for political reasons? It is not an easy question to answer and opinions vary on this within the Navy.

Similarly our carriers cannot operate successfully in the Baltic Sea or the Barents Sea. They will be effective between Iceland and the United Kingdom, on convoy duty across the Atlantic, and in safeguarding the oil supply routes from the Middle East, Africa, and South America. But would they be as effective in these roles than other ships which could be purchased in greater numbers? That is the critical issue.

THE CARRIER—FLOATING FORTRESS OR COFFIN?

Just how vulnerable is the modern carrier? Not very, according to its supporters. Former Secretary of the Navy J. William Middendorf II and Adm. Thomas H. Moorer, former Chairman of the Joint Chiefs, have collaborated in a recent article which repeats the often heard claim:

A heavily armored high speed ship at sea presents a rapidly moving and maneuvering target extremely difficult to find much less to hit and to hurt . . . The punishment a modern carrier can take was—unfortunately and unintentionally—demonstrated in 1969 when nine 500 pound bombs (the equivalent of six Soviet cruise missiles) exploded on the flight deck of the USS *Enterprise*. . . . Despite the damage done, the *Enterprise* could have resumed flight operations within a matter of hours.

Now what do other naval experts have to say about this? The U.S.S. *Enterprise* spent 4 months in port being repaired. A similar accident in 1967 on the U.S.S. *Forrestal* put that ship in the yards for about 1 year. The clue is the phrase "in a matter of hours." What happens in the interim? Either the carrier stays in the hostile zone and cannot retrieve its aircraft and cannot adequately defend itself, or it makes for a safer area. A carrier that cannot immediately land and launch aircraft is a carrier in trouble. Returned normal flight operations, within a matter of hours, on a carrier out of the action, with a lengthy tour in the repair shed, is not exactly the same picture as some would have us believe. Nontheless, I admit that a carrier can take some damage on the flight deck and still carry on.

Let us examine the real threats to our carriers as opposed to those small rocket bomb explosions. The carrier task force, the carrier, its escorts, aircraft and submarines, are confronted with a wide variety of Russian offensive weaponry. What do we face? According to the Congressional Budget Office report on Navy budget issues for fiscal year 1980:

Although its (the carrier) capabilities exceed those of any other ship, the carrier is threatened by the development of Soviet cruise missile capabilities.

More specifically the report states:

Soviet air, surface and submarine capabilities are expected to improve further during the remainder of the century. The Backfire is expected to replace all other bombers in the Soviet Naval Air Force and will number some 225 units, with a like number in the Long Range Aviation Force . . . It is anticipated that the IL-86 Tanker, recently introduced in the Soviet air fleet, could serve to refuel Backfire, increasing its range by about 50 percent. Further the Soviet Union is developing the AS-6 missile, with an estimated operational range of about 150 miles; Backfire could carry two of these missiles.

What all this indicates, Mr. President, is that with every month that passes, certainly with every year that passes—and it is going to take 5 or 6 years before this ship will be able to go to sea—with every month and year that passes, the carrier is more vulnerable, easier to knock out, because of the clear progress the Soviet Union is developing in weapons systems that will be able to hit and greatly damage the carrier.

Last, Backfire may itself be replaced in the 1990's by a still more capable bomber, whose appearance in the long-range aviation force is anticipated in the early 1980's as a replacement for Badger aircraft.

NATURE OF THE THREAT

The composite Soviet antiship threat is staggering. They have the Styx missile on four ship types with a range of 25 nautical miles; the Sepal and Shaddock on five types with a range of 250 nautical miles; the extremely dangerous SS-N-7 on *Charlie* class submarines with a range of 30 miles; the Siren on the *Nanuchka* with a 60 mile range; and the SS-N-12 on the *Kiev* carrier with a 300 mile range. Soviet cruise missiles also can be launched from aircraft notably the Badger with the long range AS-2 Kipper; the Bear with the Long range AS-3 Kangaroo; the Blinder and Backfire with the modern AS-4 Kitchen with a 250- to 300-mile range; the Badger with the AS-5 Kelt short range cruise missile, and the Badger also with the AS-6 long range cruise missile. Quite a formidable array of cruise missiles for an aircraft carrier to ward off.

Is not this just a localized threat—just off the coasts of the U.S.S.R? Not according to Admiral Hayward. He has testified that—

At the present time the Soviet Navy is capable of conducting large scale antiship missile strike operations in most of the

world's oceans. Thus Soviet antiship cruise missile capabilities present a very real threat to Western surface forces, a threat which will increase as newer weapons reach operational capability.

Specifically, how vulnerable is the large carrier to the cruise missile? Well, this issue has been studied and answers are available. Unfortunately, they are classified for the most part. Last year a Member of the House quoted the sea-based air platform study conducted by the Center for Naval Analysis to the effect that two to five cruise missile hits would put the carrier out of action—meaning "unable to launch or recover aircraft for at least 1 hour after the attack. The ship is inoperable at least for a short time and may also be inoperable for a much longer time or indefinitely."

That was the Center for Naval Analysis' judgment.

Considering the hundreds of cruise missile launchers available to the U.S.S.R. and taking into account the reload factor of these units, it is likely that any carrier would sustain multiple hits during heavy fighting. A carrier with multiple hits probably would have to retire. A carrier hit by the new Soviet torpedo in the vulnerable magazine probably would blow up. Blow up and sink. That would be the end of the carrier. A carrier hit with several torpedoes in other less vulnerable sectors could have a series of problems ranging from propulsion reductions to secondary fires and ammunition explosions. Note, Mr. President, that I have said "could" and "probably" in qualifying what might happen to a carrier. The reason for this is simple. Every hit sets up different circumstances, and no straight-line thinking or probability analysis can account for every outcome.

In addition, Soviet submarines will gain substantially increased capability with the continued introduction of the nuclear-powered *Charlie*-class cruise missile firing submarine and the advanced *Victor*-class torpedo submarines. A new Soviet torpedo is in this year's authorization hearings, which indicates that progress has been made in antiship torpedo capability and that the new design is "aimed at achieving a high degree of target damage." Admiral Hayward went on to say that—

> There is currently no full scale test data available as to the vulnerability of our carriers to this (the new torpedo) threat. This is one of the areas that (we) are investigating and we are hopeful that we will be able to determine the magnitude of the problem and provide a viable solution.

Note that the qualifying term on carrier vulnerability is "hopeful"—we are "hopeful" we can solve the problem. Admiral Hayward goes on to indicate that the carriers are safe from sinking except if hit in the ammunition magazine area. At present he seems to indicate that the magazine is in an area which can be attacked by a torpedo. We are looking at ways to correct this situation, but it is not a very comforting conclusion.

Now, Mr. President, up to this point, I have dealt exclusively with conventional cruise missiles and torpedo warheads. I think I have established the fact that the carrier is vulnerable to conventional weapons.

Obviously, the carrier would be extremely vulnerable to a nuclear warhead and the Soviets do have nuclear warheads on some of their cruise missiles, according to official testimony.

NO PLACE TO HIDE

You can run but you cannot hide is a favorite line from the boxing community. And so it is in the modern world of ocean surveillance. The most striking lapse of logic occurs when carrier advocates continually point out that their vessel is maneuverable, fast, evasive—a phantom of the seas. So it was with the German pocket battleships that raided the Atlantic. Today technology would provide a few surprises for those raiders just as British and American radar (and a judicious amount of code breaking) turned the battle of the Atlantic into a Western victory.

American newspapers have carried a number of stories about a breakthrough in Soviet intelligence—the radar satellite. This satellite or family of satellites reportedly scans the oceans with improving accuracy in order to mark and identify the U.S. naval order of battle. Satellites can listen, can take pictures, and can scan large areas with various devices including infrared, radar, and other highly sophisticated techniques. Judging by the newspaper accounts, the Russians either now have the capability to pinpoint our aircraft carriers at sea or they soon will have that capability. Considering that the carriers built today will last for 30 years, it is immaterial for general purposes to argue whether or not the capability comes this year, next, or 3 years from now. They have some capability today, and will gain considerably more later on.

What good does this information do? In theory it could be telemetered down to the U.S.S.R. and then radioed to waiting submarines or aircraft or antiship cruise missile vessels. In coming years perhaps Soviet ships and planes could actually ask the satellite directly for the information to keep dramatically up-to-date on our carrier movements. Undoubtedly it will be possible to feed this satellite data into targeting systems for the cruise missiles.

In the past the Soviet long-range ship cruise missile program has been hampered by the unavailability of targeting data for long range launches. Clearly they have the 200–300 nautical mile range to be of grave concern to us should they get a precise location of our forces. They might need in-flight corrections. They might need instant updating. All of this is possible with satellite systems.

If the satellite can provide targeting information just to get the cruise missile close, without the launch platform being anywhere nearby, then various homing devices can take over and finish the task. A sea-borne fire and forget cruise missile program cannot be too many years in the future for the Soviet Navy. And when that day comes, given the numbers of Soviet antiship cruise missiles on 12 different ship types and four different aircraft platforms, then barrage launches and saturation launches will be impossible to overcome—no matter how sophisticated the defense or long range the ASW and fleet air defense. The age of the carrier will be over. And that time is nearly here today.

We are spending $2 billion right here in this appropriation bill and will spend, before we are through, $10 billion counting aircraft and support cost. By the time that is ready to go, there is every likelihood that the age of the carrier will be over.

The Soviets do not rely on satellites alone. Consider that they trail our carrier task forces with dozens of intelligence collection ships. Further, they have submarines in the general area of the carriers. And they have sophisticated underwater listening devices to pick up the sounds of large fast moving carriers. In the air are the long-range Soviet bomber/naval reconnaissance aircraft.

And, Mr. President, consider the fact that we are not talking about a small object. We are not talking about something the size of this desk or even something the size of this room. We are talking about something that is 1,040 feet long, longer than three football fields end to end. How you can hide something like that is just beyond me. It should be evident to all of us that it would be hard to find an easier target.

The carrier, therefore, is monitored every minute of the day by some form of Soviet intelligence activity—by ship, by satellite, by submarine, by underwater listening device, by aircraft. All of these systems can provide targeting data for the launch of Soviet cruise missiles. The satellite is important, perhaps crucial in the long run, but is just one part of the massive Soviet investment in finding our carriers.

A carrier pinpointed is a carrier in deep, deep trouble.

CARRIERS NOT DEFENSELESS

But let me back up a minute and be fair to the carrier. That threat is not here today. And the carrier does have significant air and ship defenses that I have not credited it with. The carrier is not an island to itself. It is surrounded by a defense in depth.

First are the long range early warning aircraft; then a picket line of fighter/interceptors with long range air-to-air missiles; then additionally launched fighters; then the fleet air defense missiles and close in firing batteries of the ships around the carrier—the normal complement of three or four nuclear (if we have them) escorts. And, of course, there are the submarines on the flanks of the carrier group listening for enemy submarines.

The key to the submarine protective screen is the range of Soviet antiship cruise missiles—the longer the range, with corrected targeting, the less effective our submarines for the ocean area to be covered expands vastly. Even today our ship captains privately express distress over the capabilities of the 30 nautical mile SS–N–7 missile on the *Charlie*-class submarine which can be launched while the submarine is submerged and undetected.

The near term future will dramatically increase this threat both in terms of improved range and more numerous C class vessels. The key to cruise missile air defense is the F–14/Phoenix combination. There are 350 Badger, Blinder, and Backfire bombers assigned to naval warfare plus 195 attack submarines and 65 cruise missile submarines. The F–14 will have to defend against some mix of the incoming aerial force not to mention the low flying cruise missiles.

CAN IT DO THE JOB?

The Congressional Budget Office has broken down this threat by theater. Soviet antiship missile launchers in the Pacific fleet for the years 1977 and 1978 are about 522 based on 42 launcher units (aircraft, submarines, and surface ships). The number for the Northern fleet is 624 based on 39 launching units. Now what is the F–14 going to do against this combined threat from the air, from under the seas, from just above the water?

According to a GAO report issued earlier this year, the F–14 is not going to do much. I quote directly from the unclassified section of the secret GAO report:

> Operational testing conducted by the Navy's Operational Test and Evaluation Agency prior to and during fleet introduction and fleet exercises showed that the effectiveness of the F–14/Phoenix is marginal at best against the current and postulated threat . . . the test further showed the F–14/Phoenix weapon system was seriously degraded." It was effective against bomber sized targets but not against cruise missiles. The GAO said, "Several improvements to the weapon control system and Phoenix missile are being developed or planned to correct many of the operation limitations identified during operational and fleet testing. However, they will not correct or improve the capability of the F–14A/Phoenix weapon system to counter antiship missiles or aircraft. . .

There have been severe shortages of parts for the F–14 which has resulted in cannibalization to keep them flying. In 1978, 100,000 maintenance man-hours were used to cannibalize about 20,000 F–14 parts. How did the Pentagon respond to the GAO charges? They wrote that the F–14A Phoenix is effective against bombers and antiship platforms but not against low flying cruise missiles. Once past the F–14s, a low flying cruise missile is not likely to be knocked down by any shipboard system now installed although the AEGIS promises some improvement in this area.

Two final points about the F–14. The first is that the operational readiness rates of the F–14s have been dismal—as low as below 50 percent. Improvements have been made and the statistics are better this year but the overall readiness rates still remain below what is required.

Second, there is every expectation that the F–14/Phoenix combination has been compromised to the U.S.S.R. during the revolution in Iran. The Soviets undoubtedly are working on countermeasures to defeat the Phoenix and its black box.

So what we have is a plane that does not yet come up to readiness requirements on board the ship, a missile system that cannot successfully attack incoming cruise missiles, and the strong possibility that the entire system has been compromised to the Russians. Hardly a situation that evokes confidence in the survivability of the carrier.

Let me repeat that, Mr. President, because it is a vital part of our concern as to whether the $2 billion we are asked to invest in this bill, by itself, in this weapons system, is a good risk. What we have is a plane, F–14, the plane that is to be relied upon by the carrier, that does not yet come up to readiness requirements on board the ship, a missile system that cannot successfully attack incoming cruise missiles, and the strong possibility that the entire system has been compromised to the Russians. That is hardly a situation that evokes a confidence in the survivability of the carrier.

WHAT PRICE SUCCESS?

At what price do we procure a new large carrier? To an economist the term price indicates several things. Obviously it refers to the dollars, be they current or inflated, that will be committed to the project. But it also refers to the cost—the opportunity cost of the money involved.

The total price package of the carrier has been computed in various fashions. The Library of Congress has put forward a figure of $42 billion in "then year" life cycle costs.

Mr. President, I think I ought to repeat that figure because it is shocking, I think, to anybody. The cost of one carrier task force when you consider the life cycle cost of operating the carrier and escorts, building the carrier, maintaining the carrier, according to the Library of Congress, are reported in then year dollars with a reasonable rate of inflation, is $42 billion.

For the sake of pure objectivity, however, I will take the Navy's figures only. The Navy calculates that the construction of a nuclear carrier without aircraft would be $2.56 billion. Aircraft procurement for two air wings adds another $7.81 billion for a total of $10.37 billion. To this must be added the operation and support costs of the ship and the aircraft over their normal life cycle. The ship operation and support cost, including a midlife conversion, would be $3.75 billion and the aircraft would be $4.29 billion. Adding these totals together, procurement of the carrier and aircraft plus operation and support of the carrier and aircraft over normal life cycles results in a total of $18.41 billion.

That is the minimum. As I say, the Library of Congress total is about 2½ times that, or $42 billion.

It should be noted that these are 1980 dollars. It does not reflect inflation or cost overruns. It does not accurately represent the dollars that will be requested in the appropriations process. And it does not include the cost of the escorts required by the nuclear carrier. Providing the nuclear carrier with two DDG–47's and two CGN–38's would cost an additional $3.07 billion in procurement and $4.53 billion in 30-year operating and support funds for a total escort life cycle cost of $7.60 billion.

Now add this $7.60 billion with the carrier total of $18.41 billion and you get the CVN battle group life cycle cost of $26.01 billion without considering inflation or cost overruns.

Twenty-six billion dollars for one carrier task force.

These official Navy figures can be computed from the data supplied on page 1,311 of the Senate Armed Service Committee hearings, part 3, and page 582 of Senate Armed Services Committee hearings, part 2.

Twenty-six billion dollars in today's dollars is a large commitment for one ship group. It is a substantial tie-up of resources over a 30-year period. It dramatically raises the point so well put by the Senator from Arkansas (Mr. BUMPERS) earlier this year, when he argued that we are robbing ourselves of other needed naval and ground force equipment by the automatic commitment to this one large vessel.

Mr. President, unfortunately, the distinguished Senator from Arkansas cannot be here today. He shares my view on this ship and on this amendment. It was impossible, unfortunately, for him to be here. He feels very strongly that the carrier is a waste of this money, that we could spend our money far better to strengthen our naval forces.

Dr. William Perry referred to this in testimony before the Armed Services Committee earlier this year. He said we have a problem with finding enough surface combatants necessary to support the carriers. He pointed out that 12 carriers lead to a total of 72 to 108 surface combatants to work with them and that, under present conditions, we cannot fill that need.

This is Mr. Perry, who probably is as respected an expert on defense as we have in the Defense Department. He is a man of remarkable ability. He points out that we simply do not have the surface ships to handle the 12 carriers, let alone the additional carrier we are building now. So we can see that the purchase of another large carrier is also driving deficiencies in our surface combatant forces.

UNILATERAL DISARMAMENT

What this all distills down to is unilateral disarmament. In a strange sense, the more we pour our limited resources into centerpieces of great capability and importance, the lower our force levels go. Secretary Perry recently said that the cost of military fighter aircraft has been increasing tenfold—tenfold, mind you—every 20 years since World War II and that if this trend continues, even with a 3-percent real growth in the defense budget, by the year 2110, the Pentagon will need to spend its entire budget to buy a single aircraft.

Think of that, Mr. President. We shall have to spend our entire Pentagon budget to buy one plane. That is what gold plating is doing to us. That is what we are doing by buying the most expensive kinds of planes and the most expensive kind of aircraft carrier and insisting on perfection at every step of the way, instead of recognizing the practical fact that we have to limit and ration and make painful judgments on the limited resources that we have available.

Mr. Perry could just as easily have been referring to our naval fleet and the

concentration of resources on the large carrier. As put by the Congressional Budget Office study:

The carrier has strongly influenced the size, structure and composition of the fleet. Carriers require escorts for protection, replenishment ships to sustain long distance operations, and a variety of support ships for at-sea repair work. In all the current carrier force needs an estimated 179 additional ships to support carrier operations.

No less than 35 percent of all surface combatant escorts are tied to the large carrier requirement. This brings us back to opportunity lost. It comes in two forms. The first is in hardware, the second in tactical and strategic thinking. By concentrating our resources in the large carrier task force, by being forced into providing defense in depth for the carrier, we find that 35 percent of all surface combatant escorts, two-thirds of the aircraft on the carrier itself, and a number of submarines are dedicated to a static mission—protecting the carrier. What a different kind of Navy we could have if those resources were released, reorganized, and adapted to new offensive strategies. We could complicate the Soviet naval picture more by beginning to release these carrier-dominated forces to new objectives rather than continuing to establish targets for Soviet antiship weaponry.

The alternatives are numerous and well studied. We can substitute the modern and impressive LHA, such as the *Tarawa* class, which is a general-purpose helicopter assault ship equivalent in size to World War II *Essex*-class carriers or the Soviet's *Kiev* carrier, for a nuclear carrier in many situations. We can increase the role of land-based aircraft. We can examine the possibility of home porting in the Pacific, which allows a higher deployed force with fewer total assets. We could find a way to speed up shipyard repair and conversions. We could further explore crew rotation policies. We should recognize that the 3-for-1 carrier rotation policy of the Navy is not fixed in cement. More carriers are ready for battle, by DOD testimony, then the 3-for-1 policy contends.

Mr. President, I refuse to believe that there are not innovative concepts to be tested which would allow the existing carrier force to be used with greater effectiveness, without the introduction of yet another large platform.

Therefore, I offer this amendment to provide a vote on an issue which has not been recorded for some years in this body. I propose to drop the nuclear aircraft carrier from this bill.

In summary, Mr. President, the carrier is vulnerable. It is vulnerable to conventional, not just nuclear weapons. It can be put out of commission for many months by cruise missiles, not armed with nuclear warheads but armed with conventional bombs. It can be destroyed if hit in the magazine ammunition area. All this can happen with conventional forces the Russians now have in abundance. Against strictly conventional forces, the carrier would be vulnerable in any battle near Russia, vulnerable in the Baltic or Barents Sea, even very vulnerable in the Mediterranean.

And all this is against conventional Russian weapons. How about nuclear weapons? How about a military clash with the Soviet Union? Then the likelihood of escalation to nuclear weapons would be very great, indeed. With any reasonable assumptions about ordinary Russian intelligence, this massive three-football-fields-long target, with a speed of 35 miles per hour, and moving at a static altitude—sea level—would be the classic sitting duck. A nuclear hit would be, as Senator Symington, our first Air Force Secretary, used to say, like "hitting a bull in the butt with a bass fiddle." You just cannot miss it. A few minutes after a nuclear exchange began, this $10 billion beauty would be no more. It would not simply be vulnerable in certain areas; it would be a sitting duck anywhere, including snugly in a San Diego port.

Yes, indeed, the carrier does perform a limited function in areas of the world where we are at peace or where we would not confront our prime adversary. But we have an overwhelming predominance of big carriers now, a virtual monopoly on them, an immense edge over the U.S.S.R. They have no big carriers—just two small ones.

So for this fabulously expensive, magnificantly glamorous supership that is more vulnerable with each passing month, we are pouring resources that would and should go elsewhere. For the $10 billion construction cost of the carrier and its planes and the much greater operations cost of the carrier, we could build and maintain and operate a far more useful flotilla. We could build ships that would begin to make up the rapidly developing disadvantage we suffer in force levels vis-a-vis the U.S.S.R. Yet we continue to insist on pouring so much of our limited resources into this far less useful glamour ship that costs so much and is worth so much less with every passing day.

Mr. President, by the time we finish producing this ship 5 years from now and it is commissioned and at sea, it will be even more obsolete. It will be even more vulnerable. It will be even more constricted in the area of the world where it can safely and prudently provide this Nation any effective military protection.

Mr. President, let us cast a vote for prudence, economy, and good sense. Let us save not only the $2.1 billion that is in this bill but the $7.5 billion we will have to pay for the planes that this carrier would require. Let us vote $10 billion for economy, and then decide how much of that massive sum we should spend to provide an effective, up-to-date, modern logical defense for this country.

Mr. President, I reserve the remainder of my time.

(The following proceedings occurred during Mr. PROXMIRE's remarks:)

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. PROXMIRE. I am happy to yield to my good friend from West Virginia, with the understanding that his remarks appear in the RECORD before or after my presentation.

Mr. ROBERT C. BYRD. And with the understanding that the Senator's statement is not interrupted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President—and I have cleared this with the minority leader and the distinguished ranking Republican member of the Appropriations Committee (Mr. YOUNG), the chairman of the Armed Services Committee (Mr. STENNIS), and the Senator from Wisconsin (Mr. PROXMIRE)—I ask unanimous consent that there be a time limitation on the pending amendment of not to exceed 3 hours, inclusive of the time that has already been taken by the distinguished Senator from Wisconsin, the time to be equally divided between the two sides—between Mr. PROXMIRE, the author of the amendment, and Mr. YOUNG.

Is that agreeable?

Mr. YOUNG. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, may I ask the Chair approximately how much time I have taken? About 10 or 15 minutes?

The PRESIDING OFFICER. The Senator has spoken for 19 minutes.

Mr. PROXMIRE. As I understand it, then, we each have an hour and a half all together; and I have used up 19 minutes of my hour and a half.

The PRESIDING OFFICER. The Senator is correct.

(Conclusion of earlier proceedings.)

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, as a start, I yield myself 5 minutes. I want to make this announcement.

It appears now that all of the allotted time on this amendment, the Proxmire amendment, will not be taken up. I hesitate to say how much will be, but I do not believe it all will be. We expect to make brief arguments, Mr. President, hopefully varied and to the point, but we shall not take a great deal of time. I hope that it will work around. There is no agreement yet, but the Senator from New York (Mr. MOYNIHAN) is preparing to be ready to go with his amendment next. I hope further that we can get prepared here to take up the MX amendment, which refers to strategic intercontinental ballistics missiles, as they are known.

Mr. President, this is an important story, but an old story about the carrier.

This carrier, that is proposed in this bill now, is really to replace a carrier that will be taken out of the fleet and retired because of longevity about 1985 to 1986, and the auxiliary ships, planes, and all that are part of it at that time, will be available to continue their service. But, of course, in time, they would have to be replaced.

So it does change the situation some. All of this purchase, whatever it may amount to in addition, does not have to be made before we would have the benefit of the service of this additional nuclear carrier, which according to all of the plans in the Navy now, this nuclear carrier in this bill is the last one that is expected to be requested.

This carrier is that same one we have

talked about for a long time. But it just adds up to one carrier because last year that was the choice of the legislative branch of the Government, but it was vetoed at that time by the President.

So I do not think there is any response. This has been a great part of our naval strength for years and years. It is unchallenged and unequaled anywhere else now, or any time in the prospective future.

I do not see how we could argue against keeping our present carrier strength up to what it is when we all agree, everyone agrees, new matters have arisen in the Indian Ocean which have not yet been taken care of, not yet been met in the way of forces at sea, much less a tremendous force like a nuclear carrier which, as we know, carries its own crew, carries its own planes, carries its own defenses, carries its own fuel. It carries everything and goes full strength and is ready to fight or go into action within minutes after it arrives at its destination.

It is literally a floating airfield, transferable from one side of the world to another in a matter of a very few days and a very few hours. As I say, they get there ready to go.

There is nothing that compares with it when it comes to deterrence, nothing this side of all-out nuclear warfare.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. STENNIS. I yield myself some time.

Mr. PROXMIRE. Will the Senator permit us to get the yeas and nays?

Mr. STENNIS. Yes.

Mr. President, I yield myself 5 additional minutes and I yield to the Senator.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. I thank the Senator.

Mr. President, I hope that the Senator from North Dakota—a longtime member of our committee, an advocate of proper naval seapower—permits me to say that he is really an expert when it comes to judgment matters in this field.

I hope he will seek the floor, perhaps now. So, Mr. President, I yield the floor and yield back the allotted time.

I yield the Senator such time as he may use, Mr. President.

Mr. YOUNG. About 3 minutes.

Mr. President, I listened to the argument of my friend from Wisconsin about the vulnerability of an aircraft carrier.

Mr. President, every weapon we have is vulnerable to some degree, some more than others.

For example, NATO, Russia and the Warsaw Pact countries have 20,000 or more tanks which is enough tanks to destroy all our Army and NATO tanks in Europe. So, our forces are vulnerable on land as well as at sea.

But more important we have a real problem at this time in the Middle East. We need to protect our interest over there, and without strong allies in that area of the world, the U.S. needs sufficient aircraft carriers and associated ships and planes to station in that area.

I do not place much confidence in the views of the Library of Congress as indicated by the Senator from Wisconsin a few minutes ago. On many matters, they are very good. But I do not consider them experts in the field of military affairs.

The Armed Services Committees of both Houses have studied these weapons systems carefully. The Presidents of the United States have all advocated a continuation of aircraft carriers.

The only thing that seems to be in dispute now between the Congress and the White House is that the White House wants another big carrier—but a conventional carrier. A conventional carrier would cost less. But most everyone is agreed that for the time being there is no alternative, to the nuclear carrier. We have to maintain our sea power and keep the sealanes open in the event of another conflict, we have to have this carrier and especially to assure our future oil supplies from the Mideast where we have few bases and little military support.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. I yield 10 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, it is pretty much agreed among those involved in national defense that another carrier is very important to the United States. There is a difference of viewpoint as to whether that new carrier should be a nuclear-powered carrier or whether it should be conventionally powered.

But there is no significant dispute about the fact that another carrier is greatly needed.

Both the Senate and the House of Representatives last year supported a new carrier. That legislation was vetoed by the President. This year the President advocates an additional carrier, but not a nuclear-powered carrier. This bill provides for a new nuclear carrier.

Mr. President, with the increasing difficulty facing the United States in regard to petroleum, it certainly seems wise that if we are to have a new carrier that it should not be a conventionally powered one, with oil, but it should be a nuclear carrier.

Mr. President, events throughout the world, dramatized, perhaps, by what is occurring right now in Iran and what has occurred recently in other areas, suggest that the United States is in, or could be in, a very precarious position.

Since 1972, the Soviet Union has embarked on the most massive military buildup perhaps in the history of the world. The United States has not matched that to any degree at all. A very large percentage of our defense budget goes for personnel and personnel-related costs. A relatively small percentage goes for procurement of weapons systems and for research and development. Precisely the opposite is the case with the Soviet Union. The percentage of the military budget which the Soviet Union expends for personnel costs is very low, and the amount it spends for procurement of weapons systems is very high.

An additional aircraft carrier is strongly supported by the Joint Chiefs of Staff. It is strongly supported, as one would expect, perhaps, by the Navy. It is strongly supported, without significant opposition, by virtually all those involved in our defense programs.

Mr. President, I hope that the Senate, as it did last year, will support the appropriation for an additional nuclear-powered aircraft carrier.

The PRESIDING OFFICER (Mr. BENTSEN). Who seeks recognition?

Mr. HARRY F. BYRD, JR. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 5 minutes of the 10 minutes allocated to him.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum, with the time to be charged against the remainder of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEWART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEWART. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. STEWART. The Senator's amendment seeks to delete funding for this nuclear-powered carrier. Does his amendment speak to the need that the Senator from Virginia spoke to, or does it take out the money for the carrier that is presently in the appropriations bill?

Mr. PROXMIRE. My amendment deletes the $2.094 billion for the carrier. It takes it out completely. We do not try to substitute anything else, but I do indicate that this will permit us in the future to move ahead. We will have more resources available in the military and the Air Force for other weapons systems.

The difficulty is that is only a down payment. It is the full payment, theoretically, on the hull itself, but there is another $7.6 billion for planes for the carrier and at least another $500 or $600 million we will have to pay in overruns and inflation, which are not written into the $2.094 billion figure.

Mr. STEWART. But the Senator does not seek to substitute the conventionally-fueled carrier or the nuclear-powered carrier?

Mr. PROXMIRE. No; we do not seek to substitute any conventional carrier. That is correct.

Mr. STEWART. I thank the Senator.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STENNIS. Mr. President, I yield the Senator from Texas such time as he may require.

Mr. TOWER. Mr. President, at a time when the United States faces the prospect of losing naval supremacy to the

Soviet Union, it seems almost incredible that we would even consider denying ourselves the wherewithal necessary to maintain, if not a thin margin of supremacy, parity with the Soviet Union at sea.

For the past 25 years, the Soviet Union has been developing a blue water Navy, under the leadership of Admiral Gorskoff. The Soviet Union has changed its naval doctrine from that of deploying a Navy for coastal defensive purposes to a Navy that has a blue water capability, capable of challenging our control of the major sealanes and sealines of communication in the world.

Why are the Soviets projecting their naval power globally? The Soviet Union is virtually self-sufficient in terms of the resources it needs. About the only thing it imports is perhaps a little chocolate, a little bananas, and some bauxite. So why are they developing a Navy that challenges the ability of the free world to maintain freedom of the seas? It is because they have global objectives that involve the self-aggrandizement of the Soviet Union: The projection of Soviet influence throughout the world, ultimate Soviet political and economic domination of the world.

I cannot think of a worse time to delete an important capital ship from a defense appropriations measure. Already, the Soviet Union is beginning to produce capital ships at a greater rate than the United States. To date, the Soviets have had us outnumbered in combat vessels. We have had superior tonnage to that of the Soviet Union, but that tonnage effort is going to go.

According to "Janes' Fighting Ships," the only thing that gives the United States a dimension over the Soviet Union in naval capability is the aircraft carrier.The aircraft carrier is a precision instrument of diplomacy. The carrier task force is the best means that any modern Government of the United States has found as an instrument of crisis management.

When the Soviets deployed a Soviet task force off Socotra, off the coast of Saudi Arabia, last spring, we responded by the deployment of a U.S. naval carrier task force. That was the only way we could mount any dimension of naval superiority over the Soviet Union in that vital area off the Persian Gulf, astride the major sea route down around Africa, through the Mozambique Channel, through which flows 70 percent of the free world's oil supply.

How foolish and shortsighted we would be if we deleted from this appropriations bill a ship that, projected into the future, will enable us to maintain our capability of deploying a credible naval task force in the Indian Ocean and its littorals and environs, to protect our vital interests in that area.

Even with only one additional carrier, we still will not be able to meet the challenge in that area without drawing down on our naval resources in other parts of the world. It gives our friends in the Western Pacific—the Japanese, the Koreans, and the others—small comfort that when we deploy naval units in the Indian Ocean, we must draw down our ability to defend the Western Pacific at sea.

It is a fact now that given a Soviet naval facility at Cam Ranh Bay, which we very thoughtfully built for them back during the Vietnamese war, they can deploy a naval force into the Indian Ocean faster than we can deploy one from Subic Bay.

Now the nuclear aircraft carrier is an essential ingredient in our ability to respond to Soviet naval deployments in areas of vital interest to the United States.

I will not go into all the statistics. I think the Senate has heard them many times before. We went through the carrier debate in the authorization bill and an amendment that had been offered to delete the carrier from that bill was withdrawn.

I think Senators know that a nuclear carrier can be deployed for a longer period of time with less in the way of supply train than a conventional carrier and that now over the life of the ship itself a nuclear carrier will be less expensive when we calculate the increased costs of petroleum than a conventional carrier. It gives us more capability.

Of course, the issue here is not between a conventional carrier and a nuclear carrier but whether or not we should have a carrier at all. I have heard all the arguments advanced about the vulnerability of the carrier. To begin with, the carrier is the least vulnerable of all our naval vessels excepting submarines, and it is less vulnerable than a submarine once it has been detected.

We have seen carriers operate innumerable times, sorely stricken and hit, still launching and recovering missions. It is not easy to sink a ship of that size. It is highly compartmentalized. But beyond that it carries with it the means of its own defense and its own protection.

But aside from these questions of vulnerability, which I will not burden the Senate with because they have been heard so many times before and in fact short of an all-out shooting war in terms of responding to brushfire conflict or in responding to provocative moves by an adversary the carrier has no peer.

The very presence of a modern American aircraft carrier in the Indian Ocean makes it unlikely that the Soviets would challenge us there. They have two carriers afloat now operational, the *Kiev* and the *Minsk*, and the third one on the way. They obviously understand the importance, the strategic and tactical necessity of being able to project airpower at sea.

In a standoff with an American aircraft carrier, the *Kiev* class is no match because it carries aboard it so-called short takeoff and landing or vertical short takeoff and landing aircraft, the Yak-36, which is no match for the fixed-wing jets that we carry on our aircraft carriers.

With the appearance of the American carrier task force off Socotra in response to the Soviet presence there last spring the Soviets finally withdrew. That itself is testimony to the value and effectiveness of a carrier.

In a day and age when the United States is no longer self-sufficient, when our very livelihood depends on our ability to keep the sea lanes open, we can do no less than fund this carrier. I wish we were funding three more. I wish we were funding more cruisers, more destroyers, more SSN's, because right now given our current authorization of shipbuilding and what is projected for the next 5 years, we are not doing enough in the area of shipbuilding to maintain the thin edge that we have at the moment and which we could very well lose in 5 to 10 years.

It would be an act of enormous irresponsibility and an act of singular lack of vision if to save a few bucks now we mortgaged both the future military and economic security of the United States of America.

So I urge the Senate, Mr. President, to give this amendment the treatment that it so eminently deserves, and that is resounding defeat.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Virginia (Mr. WARNER).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Thank you, Mr. President, and I thank my distinguished colleague, Senator STENNIS, the chairman of the Armed Services Committee.

Mr. President, I rise in opposition to this amendment. The Senate has been over this issue many times and each time the case becomes more and more convincing:

We need at least one more aircraft carrier, and the most cost-effective and combat capable carrier is a nuclear powered *Nimitz*-class carrier.

Both the House and the Senate agreed with that judgment last year after very thorough consideration. Unfortunately, the President did not agree and he vetoed the bill containing the authorization of a nuclear carrier.

The decision to approve the nuclear carrier made a great deal of sense last year—it makes even more sense this year.

The President now has on his desk the defense authorization bill. I expect he will sign it in the near future, or perhaps he has already signed it. That bill—approved by the House and the Senate—contains the authorization for a *Nimitz*-class nuclear carrier. The House has already approved funding for this carrier.

Without going into a great deal of detail, I would like to summarize some of the more important reasons for supporting the funding of this carrier.

First and foremost, we are an island nation heavily dependent on the sea for our economic and military security. We simply must maintain a strong Navy capable of insuring our access to the seas.

The aircraft carrier is an essential part of the U.S. naval fleet and is the key to our continued maritime superiority. It provides the localized air superiority which is so necessary for successful maritime operations. It is the air superiority provided by carrier-based aircraft that would allow the U.S. Navy to keep open the sealanes in a time of war. The Soviet Navy has grown substantially over

the past decade and now provides a formidable threat to our Navy and it is only the aircraft carrier that provides us with a slim margin of superiority over the Soviet Navy.

The *Nimitz*-class carrier is the most combat-capable carrier. It carries 90–95 aircraft. It carries 50 percent more aircraft ammunition and twice as much aviation fuel as a comparable sized conventional carrier such as the *Kennedy* class. It can launch and retrieve aircraft in sea and weather conditions that would force a halt to the operations of any other type of carrier. Its nuclear power provides substantial operational advantages including higher sustained speeds, greater endurance without logistical support—and I could go on.

It is the most survivable, least vulnerable ship afloat. It has high mobility. Its escorts and its air-wing provide several layers of protection against any threats—air, surface, or submarine. It has substantial armor plating, over 2,000 watertight and shock resistant compartments and improved firefighting and flooding systems to limit damage. It has substantial redundancy in ship systems including four catapults, four aircraft elevators, and four propellers. The ongoing procurement of *Aegis* ships will increase even further the survivability of the carrier.

It is the most cost-effective carrier. Although a nuclear carrier costs more to procure than a conventional carrier, much of the initial investment is offset by lower operating costs over its 30 year life cycle. According to the latest cost studies provided to Congress, the lifetime cost of a *Nimitz*-class carrier and a conventional carrier of the same size are about equal, within 1 percent, and that assumes no increases in the price of oil. When the military advantages of a *Nimitz* carrier are added in, the *Nimitz* clearly becomes the most cost-effective operation.

It does not make sense to intentionally build a ship which will be operating into the 21st century and make it dependent on oil—costly, dwindling in supply, and nonrenewable. We should not needlessly hobble the ship by making it less combat capable and utterly dependent on oil.

Mr. President, the need for this *Nimitz* carrier was clear several years ago and recent events have only served to underscore the need for naval power to protect American interests.

It is time we made a decision.

It is time we built this carrier.

Mr. President, I shall proceed now directly to what I consider the heart of the matter today; namely, the issues raised by my distinguished colleague from Wisconsin concerning the vulnerability of the *Nimitz*-class aircraft carrier.

First, I compliment my distinguished colleague from Wisconsin. I think it is imperative that each time Congress appropriates money for a ship of this magnitude it should be critically examined.

I feel that only after exhaustive studies and discussions that the House and Senate Armed Services Committees successfully urge their respective bodies to authorize the fourth nuclear-powered *Nimitz*-class carrier for fiscal year 1980.

Despite this overwhelming support, there are some who still assert that we have fallen prey to the "bigger, therefore, better" Pentagon philosophy with respect to our ships.

They insist that the carrier is a "dinosaur of WW II vintage" and equate its vulnerability to that of a "sitting duck." This argument ignores the quantum improvements in today's carrier task force which have enabled it to keep pace with any potential enemy threat.

IS THE NUCLEAR AIRCRAFT CARRIER VULNERABLE?

First, is the nuclear aircraft carrier vulnerable? The answer I give is yes. Yes, but in comparison to what? Are we to believe that these mobile airfields are easier to detect and pretarget than our dwindling number—now fewer than 30—overseas land bases?

Several hundred U.S. operating bases were completely lost in World War II.

In Korea all our airbases were captured by the North Koreans in the first few days of that conflict. And how well I know that our men fought valiantly to regain those airstrips to push ahead with the defense of South Korea by the American forces.

In Vietnam we left all our airbases but every single aircraft carrier returned to the United States.

In contrast, within 1 hour the high-speed carrier can shift its position in any direction requiring the enemy to search an area in excess of 3,500 square miles. In addition, its inherent mobility allows the carrier to exploit weather cover, electronic silence, and deceptive techniques as it proceeds silently to a new place of operations.

IS THE CARRIER ABLE TO DEFEND ITSELF ONCE DETECTED?

Another question: Is the carrier able to defense itself once detected?

The answer is positively yes. Assuming a normal carrier task force of one aircraft carrier, one Aegis destroyer—and I am optimistic that that weapons system will soon be joining the fleet, the Aegis weapons system—two cruisers, two DD-963 destroyers, and three frigates, consider the formidable response which can be generated by this oceangoing arsenal.

This is popularly referred to as the *Nimitz* task force.

INCOMING AIR THREAT

On each deck of a *Nimitz* carrier there will be at least four E-2C's early warning aircraft which will detect incoming hostile aircraft and provide vector information to the fighters. On one flight the 24 F-14 fighters are capable of destroying six each of the cruise type missiles which might be launched by Backfire or Badger bombers. Additionally, they have the capability to launch nearly 200 air-to-air missiles at incoming aircraft well before they become a threat to the carrier. Those aircraft and/or missiles which penetrate the fighter force will be met by the rapid fire Aegis system with 88 surface-to-air missiles (40-mile range) and 176 Terrier missiles (40-mile range). Should some hostile aircraft/missiles avoid both the fighters and missiles, they will encounter twelve 5-inch guns (10-mile range) and a concentrated bombardment from 12 highly acurate Phalanx weapons systems utilizing the 3,000-round-per-minute 20-mgun (1-mile range).

SURFACE THREAT

On one flight the carrier's 34 light and heavy attack aircraft can deliver nearly 450,000, almost one-half million, pounds of bombs and rockets upon hostile surface ships well before they become a threat to the carrier task force. Complementing the aircraft are 16 Tomahawk cruise missiles (approximately 300-mile range), 64 Harpoon antiship missiles (60-mile range), and the 5 inch/54 caliber gun (10-mile range).

SUBMARINE THREAT

The 10 highly sophisticated S-3A jet aircraft along with 6 S-H3 and 7 Lance helicopters carrying a total of 66 MK-46 torpedoes provide a formidable defensive barrier against hostile submarines. Their objective, of course, is to detect and destroy submarines beyond their torpedo launch range, appproximately 12 miles. The airborne antisubmarine efforts are supported by the 125 missiles launched from the ASROC systems (5-mile range) and 130 torpedoes carried aboard the cruisers, destroyers, and frigates of the task force.

We know that a carrier moves about 12 miles in the time it takes a ballistic missile to travel from launch to a minimum range target, making it practically invulnerable to ballistic missiles—even those with midcourse correcting guidances.

The aircraft carrier can adjust to different threats by altering the types of aircraft carried. (In anticipation of a high submarine threat, the carrier can augment its complement of S-3 and S-H3 aircraft).

SURVIVABILITY FEATURES

No matter how effective the total defensive system, we can expect that in a massed cruise missile attack a small percentage of attacking missiles could reach the carrier. It is for this reason that extensive survivability features have been included in the modern *Nimitz* design.

Flight deck and lower decks armored with newer high-yield strength steel specified to defeat major caliber semi-armor piercing explosive and shape charged warheads.

Side plating and new concept internal arrangements to resist penetration to the magazine by high- and low-angle attacking missiles.

Torpedo protection provided by a new energy absorbing hull design which will counter major caliber torpedo explosive warheads.

Over 2,000 watertight and shock resistant compartments, improved fire-fighting and flooding systems to limit damage.

Thirty fully equipped damage control stations manned by trained and practiced personnel.

In 1969 a fire aboard the nuclear powered *Enterprise* caused nine major caliber bombs—an equivalent of six cruise missile hits—to detonate on the flight deck. The ship was able to conduct flight operations within 4 hours after the

fire was extinguished. Seaworthiness and main propulsion were not affected.

SUMMARY

If one asserts that the carrier is vulnerable, one must logically compare its vulnerability to the only alternative—launching aircraft from land bases to insure the unfettered use of those vital sea lanes. This comparison clearly must yield to those who have supported the *Nimitz* carrier which is:

Less vulnerable to pretargeted ballistic missile attacks.

Less vulnerable to detection.

Less vulnerable to complete loss (no aircraft carrier has ever been captured).

Equally vulnerable to mission interference and damage.

Less vulnerable to political and military denial.

Less vulnerable to ICBM attack.

Less vulnerable to nuclear effects.

The modern carrier task force is not a remnant of the World War II era.

Mr. President, the modern Navy of the United States has the carrier as the mother ship. It provides the air cover by which the other ships of the U.S. Navy perform their missions.

I daresay at this very moment, as we are here in the Chamber debating this issue, that those in authority in our Government from the President on down who are addressing this abominable crisis in Iran which, hopefully, will not involve any military intervention by this Nation, I can assure you that those persons right now are studying military operation alternatives, and every single one of those military options is predicated on the use of a U.S. aircraft carrier.

I conclude by saying I hope this Nation does not have to resort to military force to free our Americans being held hostage. But I assure you that every single option now being considered involves the use of a U.S. Navy aircraft carrier.

I thank the Chair.

Mr. STENNIS. I thank the Senator.

Mr. President, I yield 5 minutes to a valued member of our Committee on Armed Services, an active member, the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

Mr. President, I will be relatively brief. I have been listening to the excellent explanations as to why we should proceed with the carrier, as outlined by some people who have served on the Committee on Armed Services for a long, long time.

I have the highest regard for the chairman, as you know, and the ranking minority member of the committee, Senator TOWER from Texas, and I thought he gave a very excellent explanation of why he firmly feels we should proceed with this.

I have just listened to another freshman colleague of mine, the distinguished Senator from Virginia, and the former Secretary of the Navy. All of those gentlemen made some very excellent points on a subject that most of them have dealt with for a long, long time.

As a new Member of the Senate and as a new member of the Committee on Armed Services I claim no particular expertise in these matters. In fact, when the carrier first came up during our discussions in the Committee on Armed Services I was one of those who felt basically that the carrier was one of those pieces of military hardware we probably could do without.

I listened with keen interest to what I assumed was the fact that an aircraft carrier was one of the most vulnerable sitting ducks we could have in our military hardware.

I was very skeptical and, at one time, Mr. President, I would say I was prepared to vote against the authorization for another carrier. But then I began listening to the other side.

I certainly think there have been some excellent arguments made by those who are supporting the amendment to delete this carrier, the amendment offered by my friend from Wisconsin. All I can say is my mind has not been changed the second time.

As I said, when I first heard about this in the early stages of deliberations in the Committee on Armed Services, I was opposed to the carrier. After I listened to the arguments pro and con I came around finally in support—not of the nuclear carrier—but I was convinced that since we have only 11 carriers in our fleet now, and since we have nothing in the works to build any more carriers possibly for the next 20 years, I was finally convinced, Mr. President, that it was indeed in the interests of the military security of the United States and the free world if we were to proceed with a carrier based on diesel power and that, I believe, was what came out of the Committee on Armed Services.

This matter then went into conference with the House, and the House held out firmly for a carrier, but a nuclear-powered carrier. Therefore, while I would like to point out that a nuclear carrier is going to cost some $700 million more than what was originally authorized by the Committee on Armed Services, and while I do not like that, I would at the same time, agree that possibly there are some people who have some insight into this that I do not have.

Therefore, I intend to vote in support of the House position, after consultation with the House of Representatives. I think, Mr. President, that under the circumstances, and after having looked at both sides of this issue in some detail, I would hope that my fellow Senators would go along with the chairman and the ranking minority member of the Armed Services Committee, and I intend to support the carrier and, therefore, vote against the amendment offered by the Senator from Wisconsin.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, I yield myself a few minutes. I will not take very long.

The distinguished Senator from Mississippi, the manager of the bill, will conclude the debate with a couple of minutes of summary.

Mr. President, I am very impressed with the speeches we have heard. We have a former Secretary of the Navy, JOHN WARNER, who is an outstanding Senator and certainly is a great expert in this area; and the other Senators who have all spoken on this are certainly people who, as we know, have devoted a great deal of time and effort over the years to defense affairs and understand the carrier very well. I do not mean in any way to attack their ability or their understanding, but I do think that all of us tend to get into a position where we are more comfortable with the situation as it exists.

Mr. President, we had the argument on the last carrier, the same argument, in 1971 when we were told, "This is the last carrier; no more. We know they are getting obsolete. We know we cannot build them in the future." The Culver language last year indicated we should move to a new philosophy; that is, no more carriers. That language was approved by the Senate.

We have enough carriers now for service in the Indian Ocean. We can rotate a carrier from the Pacific to the Indian Ocean as needed.

It is true that other ships are vulnerable. I think Senator WARNER made an excellent point that other ships may be more vulnerable in some ways than the carrier. But the carrier has a particular vulnerability because, first, of its size. After all, it is one thing to hit a small ship and it is something else to hit a ship that is 1,040 feet long. Second, because of the number of cruise missiles, which the Navy's own testimony indicates makes the carrier much more vulnerable. Third, is the ability of the Soviet Union to detect the carrier, to know where it is, to follow it wherever it goes.

The argument has been made that we need the carrier to keep the sea lanes open. Mr. President, why do we need to keep the sea lanes open? We need to keep them open, of course, primarily against the threat of Russian submarines. And for that we need antisubmarine warfare ships. The main threat in the Atlantic is certainly the Soviet submarines. We need more hunter-killer submarines, more antisubmarine warfare aircraft and ships for the Atlantic, rather than aircraft carriers.

Now, as far as Iran is concerned, we cannot bomb the Embassy. A carrier is not as effective as a helicopter assault ship in relieving the problems that we have in the Iranian Embassy. For the carrier to swoop down with its forces and make any kind of sortie in defense of our Americans who are held hostage there would hardly be a sensible solution.

The argument was made over and over again that we will be losing naval supremacy to the Soviet Union. Well, Mr. President, buy this carrier, spend most of our funds on large carriers and starve other ships, other aircraft, other antisubmarine warfare capability, stay locked into a World War II mentality; that is the way to lose naval supremacy.

This is the difficulty: We spend $10 billion, $10 billion in construction on this ship and its planes. Twenty-six billion dollars, according to the Navy's own figures, in 1980 dollars on the total cost, including operational cost of this one ship and its escorts. Of course it is difficult for us to match the Soviet Union.

The Soviets produce more ships? Of course, they do. We could produce more ships, far more, if we were not into this carrier mentality, when we already have overwhelming supremacy in this area.

Supremacy? The Soviets do not have one modern catapult type carrier. They have two World War II-sized *Kiev* class antisubmarine warfare carriers, and that is all.

We have carrier capability. We can use it in the Pacific. Need another carrier? Well, why not try homeporting, crew rotation, faster turnover time in shipyards? These are alternatives that are available to us at a far lower cost than to spend billions of dollars on a new carrier.

The carriers could operate, it is true, near North Korea and North Vietnam, as was said in the debate. But why? Only because neither country at that time had cruise missile capability.

I think all of us should recognize that in the event of any kind of a controversy that involves the Soviet Union or the Soviet Union's perceived allies, the Soviet Union could easily see that they have a cruise missile capability which would make the operation of the carrier much more difficult.

Mr. President, it has been admitted that many cruise missiles will get through to the carrier. The Center for Naval Analysis, not the Library of Congress and not the Budget Office, the Center for Naval Analysis study reportedly said two to five cruise missile hits would put the carrier out of business. Again, I am not talking about nuclear hits, I am talking about conventional hits.

Mr. President, two final points: In the first place, this amendment does not reduce our carriers to zero. We still will have 13 carriers until the *Midway* retires in 1986, and then, with homeporting and crew rotation, we could still have the effectiveness of a 13-carrier fleet. People say, "You will not be able to respond to a situation in South America or Africa." Of course we can respond. What are those other 12 carriers doing? As I say, in a confrontation with the Soviet Union, nobody, including the Navy, says they would be in a position to stand up. But in these conventional situations, they can be useful, and we have the fleet available to do so.

Finally, Mr. President, not one word has been said in rebuttal to the fantastic cost of this operation as far as our budget is concerned. The No. 1 problem facing this country today is inflation. We all know that.

Certainly there are many causes of this. One very important cause is excessive Federal spending. In this bill, we are providing $2.1 billion for a new aircraft carrier, as I say, that will entail, require, mandate $7.6 billion additional for new planes. It will require an additional half a billion dollars for the unallowed inflation factor; that is, $10.2 billion. And the Navy figures alone, in 1980 dollars, for operation of this one ship and its planes and escort ships, will be $26 billion.

Now, Mr. President, if Senators really believe in economy, if they believe we do face an inflationary situation, and if they do feel that we have any sense of opportunity cuts and recognize what we can do with these dollars if we spend part of them, it would not have to be a very big part, we could certainly make our Navy more formidable by having a variety of additional ships to counteract the threat of the Soviet Union.

Mr. President, I reserve the remainder of my time. I will probably yield it back after the distinguished Senator from Mississippi finishes his remarks.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STENNIS. Mr. President, so far as I know, there is no one else who wishes to speak on this matter now. I will only take 2 or 3 minutes, if I may, to sum up quite briefly the situation as I see it.

Everyone knows everywhere in the world that the presence or prospective presence of one of our carriers now flying the American flag has a very definite deterrent effect to deter war and to deter trouble. That does not mean it stops it, not in the least.

But we have over and over seen these instances whereby our flag, with these powerful planes and everything that goes with it, can get to a given place to exert this influence almost overnight.

Now, this carrier is built over a period of years. This sum of money is not going to cause the mercury to run up the thermometers here on inflation. This will be a 6- or 7-year project, as is well known.

Furthermore, it is a worldwide display. It carries its own power units. In this day of uncertainty for our situation with power, energy sources and reexamination of known sources of energy, nothing has a greater appeal than this fine, proven, powerful energy unit that this massive fleet carries within itself, as well as an airport base, around the world over and over and over.

So I think that is why the Congress keeps coming back year after year after year wanting this step toward modernizing our fleet.

Mr. THURMOND. Mr. President, I rise in opposition to the pending amendment to strike from the defense bill funds to procure a *Nimitz*-class nuclear-powered aircraft carrier.

Mr. President, the Navy's requirement for another aircraft carrier has never been in dispute in Congress, only the type of carrier we would purchase.

Last year, Congress authorized and appropriated funds for a nuclear carrier but it was vetoed by the President. The nuclear carrier in this bill has been approved by all four defense committees. It is essential if we are to continue minimum control of the sea lanes vital to our national interests.

Aircraft carriers are indispensable components of U.S. naval strength today and in the foreseeable future. The carriers provide essential sea-based capability to defend worldwide sea lanes vital to our national security. The reduction of overseas bases, the threat to our oil sources, and continued Communist aggression all indicate we must project our power if world stability is to be maintained.

Mr. President, in addition, the nuclear carrier provides inestimable strategic and tactical value in wartime. It can move faster, stay on station longer, and fight more effectively than any seagoing vessel. It is not dependent on oil except for its aircraft.

Mr. President, I urge this amendment be rejected.

● Mr. HART. Mr. President, I oppose the amendment of the Senator from Wisconsin. The issue here cannot be presented simply as the nuclear carrier. The fact is that this bill includes not just a nuclear carrier, but an integrated aircraft carrier package of which the nuclear carrier is only one part.

If this bill included only a nuclear carrier, I would tend to agree with the Senator from Wisconsin that it should not be funded. We are in an era when the vulnerability of each surface ship, regardless of type, is increasing. The large aircraft carrier—nuclear or conventional—is so expensive that it can be procured only in small numbers. To put our resources into a small number of ships at a time when each ship is becoming more vulnerable makes no sense.

But that is not what this bill does. While it does appropriate funds for one more large aircraft carrier, it also moves us forward toward smaller aircraft carriers for vertical take-off (V/STOL) aircraft which we will be able to afford in large numbers. The bill includes a carrier package of one large carrier, the first small V/STOL carrier (a converted amphibious ship), continued design funds for new construction V/STOL carriers, and R. & D. funds for a V/STOL aircraft we could have in service by the mid-1980's, the AV—8B+.

This package is a viable investment where a nuclear carrier alone would not be. Through the V/STOL carriers, we can move toward dispersing our aircraft onto a sufficient number of ships that the inevitable losses of carriers of all types need not cripple us. The large carrier's viability is improved since the enemy can no longer concentrate all his attacking forces on a very small number of ships. Further, the V/STOL carriers greatly improve our capability against submarines, which in my view remain the most serious threat to all surface ships, including the large carriers.

This carrier package is viable. It is a sound defense investment. It provides for a continuing force of 12 deployable large carriers through the end of the century, and at the same time moves us toward smaller carriers we can afford in the larger numbers we need. It will put the first V/STOL carrier at sea in the very near future, and will move us along toward a naval V/STOL aircraft, not in the late 1990's, but in the mid-1980's.

Mr. President, I urge my colleagues to reject this amendment.●

Mr. STENNIS. Mr. President, if the Senator from Wisconsin is willing to yield back the remainder of his time, I will yield back my remaining time.

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. STENNIS. I yield back the remainder of my time also, Mr. President. The yeas and nays have been ordered.

May I say, Mr. President, that the so-called amendment to the Maybank

amendment would be the next amendment to be considered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators wishing to vote?

The result was announced—yeas 20, nays 72, as follows:

[Rollcall Vote No. 387 Leg.]

YEAS—20

Bayh	Hatfield	Pell
Burdick	Kassebaum	Proxmire
Church	Leahy	Riegle
Cranston	McGovern	Stevenson
Culver	Metzenbaum	Tsongas
Eagleton	Muskie	Weicker
Goldwater	Nelson	

NAYS—72

Armstrong	Hart	Percy
Baucus	Hatch	Pressler
Bellmon	Hayakawa	Pryor
Bentsen	Heflin	Ribicoff
Biden	Heinz	Roth
Boren	Helms	Sarbanes
Boschwitz	Hollings	Sasser
Bradley	Huddleston	Schmitt
Byrd, Harry F., Jr.	Humphrey	Schweiker
Byrd, Robert C.	Jackson	Simpson
Cannon	Javits	Stafford
Chafee	Jepsen	Stennis
Chiles	Johnston	Stevens
Cohen	Laxalt	Stewart
Danforth	Levin	Stone
DeConcini	Long	Talmadge
Dole	Lugar	Thurmond
Domenici	McClure	Tower
Durenberger	Magnuson	Wallop
Durkin	Mathias	Warner
Exon	Matsunaga	Williams
Ford	Meicher	Young
Garn	Morgan	Zorinsky
Glenn	Moynihan	
	Nunn	

NOT VOTING—8

Baker	Gravel	Packwood
Bumpers	Inouye	Randolph
Cochran	Kennedy	

So Mr. PROXMIRE's amendment (UP No. 703) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. MOYNIHAN. I yield to the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New York (Mr. MOYNIHAN).

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. May we have order so that the Senator can be heard? The Senate will be in order.

The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5359

Mr. ROBERT C. BYRD. Mr. President, Mr. STENNIS and Mr. YOUNG, the manager and ranking member, have been interested in securing an agreement on the pending bill.

Mr. STENNIS. Mr. President, would the Chair help to get quiet in the Chamber so we can hear?

The PRESIDING OFFICER (Mr. BAUCUS). The Senate will be in order. The Senate will be in order. The Senator will not proceed until there is order. The Senate is not in order.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

Mr. President, I am prepared to propound the following unanimous-consent request, which I believe has been cleared all around. It would be as follows: That there be 4 hours equally divided on the bill, the time to be controlled by Mr. STENNIS and Mr. YOUNG; that there be 1 hour equally divided on any amendment; that there be 2 hours equally divided on an amendment by Mr. MOYNIHAN, dealing with the Maybank language; 2 hours equally divided on an amendment by Mr. HEFLIN, dealing with helicopter training; 30 minutes on any amendment in the second degree; 20 minutes on any debatable motion, appeal or point of order, if the Chair should sustain debate thereon; 3 hours equally divided on an amendment by Mr. HATFIELD on the MX missile, with the proviso such amendment not be called up before Thursday of this week.

Mr. STENNIS. I beg the Senator's pardon, will he repeat that?

Mr. ROBERT C. BYRD. Three hours on an amendment by Mr. HATFIELD on the MX missile with the proviso such amendment not be called up before Thursday of this week.

Three hours equally divided on an amendment by Mr. ARMSTRONG on the pay cap.

Mr. STEVENS. What is that?

Mr. ROBERT C. BYRD. One and one-half hours equally divided on an amendment by Mr. HELMS on abortion; and that the agreement be in the usual form with respect to the division and control of time; provided further that if the bill cannot be completed today, and of course it cannot, it will not be in order to bring the bill back up until title I of S. 932, the synfuels bill, has been acted upon, and that will not occur until tomorrow.

May I say to all Senators, it would be my desire after today to complete action on the energy bill before the Senate returns to this bill, which would mean that this bill would not come back before Thursday, if then.

Mr. STEVENS. Reserving the right to object, is it my understanding the majority leader would want the total energy bill completed before we return to the defense appropriation bill?

Mr. ROBERT C. BYRD. I would hope that would be the case. However, that might change. There would be a proviso that if the bill cannot be completed today, it would not be in order to bring this bill back until title I of S. 932, the synfuels bill, is completed, and I think I would have to say it would not be brought back before Thursday, at the earliest.

Mr. STEVENS. Reserving the right to object further, I wonder if we might discuss the problem of the time for voting today.

Mr. MAGNUSON addressed the Chair.

Mr. STEVENS. We do have a series of Senators leaving town. I wonder, if possible, we might get some understanding if amendments are called up after 7:30 this evening that they will be voted on tomorrow?

Mr. ROBERT C. BYRD. This bill probably will not be brought back up tomorrow.

Mr. STEVENS. They could be voted on when we resume consideration of this bill, then?

Mr. ROBERT C. BYRD. I would be very glad to discuss that. Could we get this order first? Could we get this agreement ordered first?

Mr. STEVENS. Let me confer, and yield to the Senator from Washington.

Mr. MAGNUSON. Reserving the right to object, I understand the importance of the energy bill. But there actually is not any time limitation on the energy bill and there is a time limitation on appropriation bills.

I understood the majority leader to suggest that when we were ready with appropriation bills, that we would have the right of way and continue on them until we finished them.

Now, we have until November 20 on a continuing resolution, and this is one of the big bills. This has been ready. Well, we waited 2 days. This has been ready since last Thursday, or Wednesday. Here it is a week and we are still fooling around with something else to come in between.

Now, I appreciate the importance of the energy bills and getting them done. But, surely, if there is any priority timewise, it should be to get the appropriation bills over with.

Mr. ROBERT C. BYRD. Does the Senator object to this time agreement?

Mr. MAGNUSON. Well, I do not like to object to it, but I do not know why we cannot continue with the defense bill tomorrow.

Mr. ROBERT C. BYRD. We were ready to bring it up last week. I intended to bring this bill up last week.

Mr. MAGNUSON. I know.

Mr. ROBERT C. BYRD. And intended to keep the Senate in Saturday and do this bill, but it was not reported out.

Mr. MAGNUSON. Well, it is reported out now.

Mr. ROBERT C. BYRD. It is reported out now. If it had been reported out in the last week, we would have been on it last week, and in Saturday, working on this bill. I programed it for the last week. But, for some reason, it was not reported out of the committee for 2 or 3 days.

Mr. MAGNUSON. It was reported out, but the 3-day limit held it up.

Mr. ROBERT C. BYRD. If it had been

reported out 2 days earlier, the 3-day limit would have run.

Mr. MAGNUSON. All right. But now we are on it.

Mr. ROBERT C. BYRD. Does the Senator want me to withdraw this request? I am trying to get a time agreement.

Mr. MAGNUSON. I do not object to the time agreement on the amendments, but what I object to is to lay this bill aside and proceed with the energy bill.

Mr. ROBERT C. BYRD. The 3-day rule was waived on this bill. I am trying to get a time agreement on this bill right now.

Mr. MAGNUSON. Well, the time agreement is all right with me.

Mr. ROBERT C. BYRD. Well, as the Senator continues to talk, somebody else will object to this time agreement. I will not even be able to get it.

Mr. MAGNUSON. Well, do not say, "The Senator continues to talk."

Mr. ROBERT C. BYRD. Well, the appropriation bill would have been called up last week if it had been reported out of the Appropriations Committee.

Mr. MAGNUSON. Now it is up.

Mr. ROBERT C. BYRD. Well, we were told it was going to be reported out, but some dispute arose in the Appropriations Committee, over which I had no control.

Mr. STENNIS. Mr. President, reserving the right to object, may I mention this?

We are here. The amendments are here. We are ready to proceed. We know there are other matters, but let me call attention again to the fact that we have this continuing resolution, and the problem of the payroll. We have a bill here that must become law—must become law. It has to go to conference.

Many of these amendments, with all deference to them, are language amendments. Many of them have been passed on by the body before.

If we could just get in here now and run this afternoon and tonight—tonight—and get rid of some of this stuff, and then give us some time Thursday, just 2 hours, maybe we could work on it and get some of these agreed on—maybe—and fix it where we could finish this bill and do deference to the energy bill too.

Mr. ROBERT C. BYRD. I am willing to accommodate the needs of the Senate. I want to get the energy bill finished. I want this bill to be finished. I am sure that the chairman of the Appropriations Committee wants to see this bill sent to conference, and so does the distinguished chairman of the subcommittee. But, first of all, I am trying to get an agreement. If we do not get this agreement here, we are not going to finish this bill this week, nor will we finish the energy bill, either.

Mr. MAGNUSON. Mr. President, I am not objecting to the time agreement.

Mr. ROBERT C. BYRD. I withdraw it, Mr. President.

Mr. STENNIS. Do not do that.

Mr. ROBERT C. BYRD. Are we going to concentrate on the request, or are we going to argue on other things?

I renew the request.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. Mr. President, reserving the right to object, there was a provision that this would not come up until Thursday. If we could amend it so that mine would not come up before Thursday, I have no objection.

Mr. ROBERT C. BYRD. I include that in my request.

Mr. MAGNUSON. I have no objection to the time agreement. I just object to the bill being set aside.

Mr. ROBERT C. BYRD. It is not set aside yet. Let us fight that war when we get this skirmish over.

Mr. STEVENS. Mr. President, I do not object. The Senator from New York will call up his amendment. We understand that amendments will be called up in order to accommodate Senators who want to leave by 7 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators for their patience, courtesy, and cooperation.

UP AMENDMENT NO. 731

(Purpose: To permit limited exceptions to the so-called Maybank amendment)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), on behalf of himself and Mr. BRADLEY, Mr. LEVIN, Mr. RIEGLE, Mr. JAVITS, Mr. HEINZ, Mr. METZENBAUM, Mr. SCHWEIKER, Mr. DURKIN, Mr. BIDEN, and Mr. WILLIAMS, proposes an unprinted amendment numbered 731.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, line 8, strike out the colon and insert in lieu thereof a comma and the following: "except that nothing herein shall be construed to preclude total labor surplus set-asides pursuant to section 15(d) of the Small Business Act (15 U.S.C. 644(d)) in cases in which the Secretary of Defense or his designees specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices:"

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MOYNIHAN. Mr. President, for more than a quarter century now, an obscure provision in the annual Defense appropriations bill has contributed to high unemployment in many parts of the country. This provision has undermined the efficacy of a basic Federal policy objective by prohibiting its application to the Department of Defense.

Since 1952, it has been the policy of the Federal Government to target its purchases of goods and services on private businesses in areas of high unemployment, whenever appropriate and practicable. The objective of this policy is as clear as it is desirable: to reduce unemployment in regions where it is exceptionally acute. This policy of channeling procurement to high unemployment areas—referred to as the "surplus labor set-aside" policy—was first spelled out in Defense manpower policy No. 4, issued by the Office of Defense Mobilization in 1952, and was affirmed by Congress in section 15(d) of the Small Business Act in August of 1977. In compliance with this general policy, all Federal agencies but one must routinely "set aside" contracts for firms that are located in areas burdened by disproportionately high unemployment.

The one exception to this sensible policy is the Department of Defense, exempt from this requirement as a result of the so-called Maybank amendment. Due to the routine incorporation of the Maybank amendment into every defense appropriations bill since 1953, the Department of Defense has been forced to obtain the lowest possible price for all the goods and services it buys, and is prohibited from paying the slightly higher prices for goods and services that would allow such procurements to be "targeted" on areas in economic distress. This effectively prevents the Pentagon from restricting bidding to firms in high unemployment areas, and thus from playing its proper role in the solution of our serious economic problems.

The Maybank amendment, first introduced by Senator Burnet Maybank of South Carolina, was originally intended to prevent the Secretary of Defense from awarding contracts at higher prices to New England textile mills just to keep them in the North. At that time, southern mills were able, because of lower labor costs, to submit lower bids on contracts than the New England mills. Obviously, this problem has long since disappeared, as New England's domination of the textile industry is only a memory; which is to say, the Maybank amendment contributed to the destruction of the New England textile industry.

In 1953, this was framed as a regional issue. My colleagues, having heard me address regional issues on other occasions in this chamber, may suppose that it is being framed as a regional issue again. I want to emphasize that this is not the case. The Maybank amendment is no longer a regional issue; it is a national issue.

No one region would bear a disproportionate share of the costs or reap a disproportionate share of the benefits if the Maybank amendment were modified. Roughly one-quarter of the Nation's cities and counties are designated by the Labor Department as labor surplus areas—that is, areas qualifying for set-asides. Forty-eight of the fifty States contain such labor surplus areas. The Northeast and Midwest have 45 percent of all labor surplus areas, while the South and the West have 55 percent. Pockets of concentrated unemployment are a national phenomenon.

So modification of the Maybank amendment can best be evaluated in the context of national economic policy. As the Nation enters a recession, it would be unconscionable for Congress to continue to permit the agency whose procurement expenditures account for three-quarters of all Federal procure-

ments to avoid its macroeconomic responsibilities.

As unemployment rises during the next year, freeing defense procurements from the straitjacket of the Maybank amendment would provide jobs for people who are willing to work. This would not only result from the increased number of defense jobs; the increase in procurement dollars would also generate a "multiplier effect" within a community, producing several times the initial investment in private economic activity. These combined catalysts would reduce the pressure on and the costs of unemployment compensation and other income maintenance programs. These are costs which soar during periods of economic downturn; the Congressional Budget Office estimates that every 1 percent rise in unemployment costs the Federal Government $20 billion.

We realize that the primary purpose of this Nation's defense efforts is to protect the national security, not to combat unemployment. It is for this reason that our proposed amendment is quite limited in scope. It would simply allow the Defense Department to participate in set-aside programs, in the same manner that other agencies are allowed to do so. It would not require the Secretary to do so in any instance; rather, it would give him the discretion to do so when he found it appropriate, and when there was a sufficient number of bidders to insure the Government a reasonable price on a contract. Hence it is misleading to charge that our proposal would tie the hands of the Secretary of Defense. In truth, the opposite is the case. It would untie his hands.

Most important, our amendment would in no way restrict the Pentagon's flexibility in procuring strategic items. Fortunately, there is no shortage of nonstrategic procurements. Every year, the Defense Department purchases $15 to $20 billion of such goods and services as uniforms, medical supplies, office furniture, and refrigeration equipment. The list of items is long. I am submitting a list of 71 representative nonstrategic items for the RECORD.

There is nothing contained in our amendment that would require changes in standard contracting procedures for nonstrategic items. For years, Government contracting officers have given preferences to various groups of suppliers—the small business set-aside program is an excellent example. The surplus labor set-aside program simply awards a contract to the lowest bids from high-unemployment areas. So the competitive process will still determine who receives contracts from the Defense Department.

There would be no shortage of qualified bidders. With one quarter of this Nation's cities and counties falling within "labor surplus" areas, tens of thousands, perhaps hundreds of thousands of firms could be expected to participate in set-aside programs if given the opportunity. Manufacturing areas, which over the years have tended to be particularly burdened by high unemployment, probably have a higher concentration of qualified firms than any other areas of the country.

The Maybank amendment was originally intended to thwart Defense manpower policy No. 4, issued by the Office of Defense Mobilization in 1952, which directed Federal purchases to areas of high unemployment. This order was designed to minimize idle manpower and machinery in connection with the Nation's efforts in Korea. The policy's originators also felt that in case of a larger war or other national emergency, there would be a greater number of firms "tooled up" for defense production. Although this argument may sound somewhat antiquated today, I do not believe that it should be casually disregarded. By directing Federal purchases to firms in areas of high unemployment, our proposal would help to insure that the Nation's defense needs are met by a broad-based and diversified production capability. The economy of the entire Nation would be strengthened as a consequence.

On September 18, the Senate voted to increase defense spending by 3 percent, above inflation, in fiscal 1980, and by 5 percent in 1981 and 1982. If these targets are achieved, an additional $35 billion will be spent in the short interval between now and 1982.

I voted for these increases because I feel that we need to respond to the dramatic Soviet arms build-up of recent years. But I also voiced an important reservation: Higher defense expenditures worsen the pressures on this Nation's domestic program. Certainly, maintaining our security may take precedence for a time over some of our social priorities. But it is no longer clear that the two issues can be kept separate. I am coming to suspect that higher defense spending, when it is perceived as thwarting other important political objectives, may begin to threaten the underlying political consensus needed to support the national defense effort.

It is for this reason, above all others, that I have proposed a modification of the Maybank amendment. My proposal would allow increased defense spending to be coupled with some economic relief for areas with acute unemployment. It would thus help to mediate an incipient political conflict which might otherwise prove divisive in the coming years.

It is well known that the Pentagon's purchases of strategic items are concentrated in areas with highly developed "defense industries," and it is hardly coincidental that such purchases contribute to the relative prosperity of such areas. Channeling some nonstrategic procurements to economically depressed communities in all parts of the country would be conducive to the vitality of the Nation as a whole, because it would permit Federal dollars to be spent where they will do the most good. Sound national policy requires such balance. Modification of the Maybank amendment would constitute an important first step toward achieving it.

Mr. President, the first point I wish to make about the amendment before the Senate is that it modifies the so-called Maybank amendment, which has been part of the Defense appropriation bill for almost a generation now. The Senate has deleted or modified the Maybank amendment three times before.

Once in the 93d Congress Maybank was deleted, while twice in the 94th Congress, a measure repealing the so-called Maybank amendment as approved by the Senate, having been proposed by the former Senator from Maine, Mr. Hathaway, who made it a special interest of his. On each occasion, however, the measure failed in conference. The Senate was forced to withdraw.

This year, a new situation obtains. In the House of Representatives there is strong support for this measure, such that if the Senate repeats its previous actions, we can be sure with a high order of confidence that we will now succeed.

The second point I wish to make is that something new has intervened in the last several years. It is something which seems to us—the Senator from New Jersey; the Senator from Pennsylvania, who will speak on this matter; as well as the Senator from Michigan—to make it especially important that this amendment be approved once again.

I note with pleasure that the distinguished chairman of the Subcommittee on International Trade of the Committee on Finance, the senior Senator from Connecticut is on the floor. He, in a masterful way, brought about the nearly unanimous approval of the multinational trade negotiation, known as the Tokyo round, earlier in this session of Congress. His being here is a happy circumstance, as it enables me to point out—and my associates will do so as well—that when Congress adopted the new multilateral trade agreements, we undertook to abandon the labor surplus area set-aside provisions that govern all the procurement practices of the U.S. Government, except the Defense Department.

I also see that the chairman of the Small Business Committee, the distinguished Senator from Wisconsin, is in the Chamber, and I note with appreciation the attention with which he is following my remarks.

I would note that under the Small Business Act, the U.S. Government is required to set aside a portion of its procurement for high unemployment areas. This makes for quite efficient national policy. It is surely better that men and women have productive jobs than that they have make-work; and it was for that purpose that Congress adopted this program.

However, this program, the program that Senator NELSON has brought about so brilliantly, is going to be lost. Senator NELSON's program has been traded away in the MTN. The only way to preserve what the Senator from Wisconsin has done is to act now to make this program applicable to the Defense Department, as has been required for all other Government departments for over a generation.

When we adopted the multinational trade agreement, the Senate, which ratified that agreement, entered into a social contract with the workingmen and the business men and women of this

country. We promised that in exposing them to competition with foreign trade, we would not allow them to be decimated by it. We now have an opportunity to prove that this commitment was made in good faith.

It is with this in mind, Mr. President, that I ask unanimous consent to have printed in the RECORD a letter which Senators BRADLEY, LEVIN, WILLIAMS, and I sent to the President on October 17 in connection with this matter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 17, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In March of 1978, as part of your urban policy, you announced an expanded program of emphasizing federal procurement in areas of labor surplus across the country. Later that year, you issued Executive Order 12073, which calls upon executive agencies to "emphasize procurement set-asides in labor surplus areas in order to strengthen our Nation's economy." We applaud your commitment to this policy, and urge you to take an active role in assuring its full implementation. We believe that a vital step in that regard is enabling the Department of Defense, the largest government purchaser, to participate fully in the labor surplus program.

Since 1953, a provision known as the Maybank amendment annually has been attached to the Defense appropriation bill. The General Accounting Office has ruled that this provision prevents the Defense Department from targeting its procurement to firms in labor surplus areas. We do not believe that uniquely excluding DoD from the labor surplus program can be justified in light of the overriding importance of the program's objectives of encouraging economic stability and combating unemployment. These are made particularly urgent by the prospect of an economic downturn in 1980. We hope that having expressed your support for the labor surplus set-aside policy, you will support repeal or modification of the Maybank amendment so as to permit full and effective implementation of the program.

This effort is especially necessary at this time because of the effects of the recently-enacted Multilateral Trade Agreements. These are designed to facilitate free trade, and we support that objective. However, implementation of the Government Procurement Code requires that the United States waive the labor surplus policy for contracts let by those government entities which fall within the Code's coverage. In its report on the implementing legislation for the Code, the Senate Finance Committee urged that "the program of procurement set-asides for labor surplus areas be strengthened and expanded by those entities and for those purchases which are not on the U.S. list, in order to compensate for losses that the program will suffer due to the waiver of the program for those entities which are listed." Greater participation by DoD in the labor surplus program will be needed simply to compensate for the adverse effect of the Code on the program's objectives.

We believe that a larger role for the Defense Department in the labor surplus procurement program is vital to the federal government's efforts to relieve unemployment in economically-depressed areas of the country, and we hope you will make every effort to assure that DoD is able to make its contribution. Because the Defense appropriation bill will be coming to the Senate floor in the near future, a prompt response is urgently requested.

Sincerely,

CARL LEVIN.
HARRISON A. WILLIAMS, Jr.
DANIEL PATRICK MOYNIHAN.
BILL BRADLEY.

Mr. MOYNIHAN. Third, Mr. President, I wish to make the point that this is not a measure which requires the Secretary of Defense to act. He is merely allowed to do so, as his judgment dictates.

Furthermore, the language of the amendment makes explicit that this will not affect the procurement of major strategic arms systems. This never could apply to them; and in that sense, it is not a security issue at all. It applies to the small components of military supply which are the everyday needs of a large Army and Navy.

I have here a list of some 70-odd items that are clearly eligible: Photographic supplies, storage tanks, surgical dressing materials, tents and tarpaulins, typewriters, kitchen equipment, laboratory equipment, motorcycles, musical instruments, nails, keys and pins, nuts and washers, office furniture and office supplies—the kind of production that the distinguished chairman of the Small Business Committee had in mind when he put this policy in place for the rest of the Government.

I ask unanimous consent to have this list printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

DEFENSE DEPARTMENT PROCUREMENT CATEGORIES NOT RELATED TO NATIONAL SECURITY

Air conditioning equipment.
Alcoholic beverages.
Bags and sacks.
Bolts.
Bottles and jars.
Brooms, brushes, mops, and sponges.
Building glass, tile, brick, and block.
Circuit breakers.
Commercial fishing equipment.
Compressors and vacuum pumps.
Dogs and cats.
Draperies, awnings, and shades.
Dyes.
Electric hardware and supplies.
Electric lamps.
Electrical connectors.
Fencing, fences, and gates.
Fertilizers.
Floor coverings.
Floor polishers and vacuum cleaning equipment.
Fuel oils.
Fuses and lightning arresters.
Games and toys.
Hose and tubing, flexible.
Hospital furniture, equipment, utensils, and supplies.
Household furnishings.
Household furniture.
Iron and steel scrap.
Jewelry.
Kitchen equipment and appliances.
Laboratory equipment and supplies.
Luggage.
Lumber and related basic wood materials.
Marine lifesaving and diving equipment.
Motorcycles, motor scooters, and bicycles.
Musical instruments.
Nails, keys, and pins.
Nuts and washers.
Office furniture.
Office supplies.
Optical equipment.
Padding and stuffing materials.
Paper and paperboard.
Passenger motor vehicles.
Perfumes, toilet preparations, and powders.
Personal toiletry articles.
Phonographs, radios, and television sets.
Photographic supplies.
Plumbing, heating, and sanitation equipment.
Plywood and veneer.
Punched card equipment.
Refrigeration equipment.
Road clearing and cleaning equipment.
Roofing and siding material.
Screws.
Seeds and nursery stock.
Signs, advertising displays, and identification plates.
Space heating equipment and domestic water heaters.
Storage tanks.
Surgical dressing materials.
Tents and tarpaulins.
Textiles and fabrics.
Time-measuring instruments.
Toiletry paper products.
Typewriters and office-type composing machines.
Underwear and nightwear.
Vending and coin-operated machines.
Winches, hoists, cranes, and derricks.
Wire and cable, electrical.
Woodworking machines.
Yarn and thread.

Mr. MOYNIHAN. Mr. President, this excellent policy will now lapse because of the trade agreement. We can keep the Senator's policies intact and effective for small business only as we repeat our two prior successful attempts to modify this amendment in this body; only this time it will go the distance, as they say in sports.

I see that my dear friend, the distinguished Senator from New Jersey, is in the Chamber. I know he wishes to speak.

So, I conclude with a fourth and final point, which is that this proposal should not be seen as a regional measure. It has to do with cities and counties. Forty of the fifty States have labor surplus areas. They will all benefit.

I see the Senator from Wisconsin is in the Chamber consulting with the majority leader.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. MOYNIHAN. I am happy and honored to yield.

Mr. NELSON. I did not get a chance to read the amendment and was discussing the matter with the distinguished Senator from South Dakota so I did not hear precisely how this one is designed and what is included and what is exempted.

I wonder if the Senator will repeat that.

Mr. MOYNIHAN. I am happy to state that this is exactly the language of the Nelson amendment in the Small Business Act. The amendment states, in effect, that the Secretary of Defense may use this power at his discretion only where there is a reasonable expectation of a sufficient number of bids to obtain a reasonable price.

This language makes it explictly clear that weapons systems will not be procured using this procedure.

Mr. NELSON. The items that the

Senator was reading a few moments ago are the kinds of items that would be procured in this way.

Mr. MOYNIHAN. Precisely.

Mr. NELSON. Let me say I commend the distinguished Senator. In the small business omnibus bill that is in conference now, there was a proposal by the distinguished junior Senator from Michigan (Mr. LEVIN) to strike out the limitation which for technical reasons I objected to at this time because there appeared to have been an understanding by silence that we would not tackle that question on this omnibus bill.

I think the Senator is entirely right. There is no reason in the world that an opportunity should not be had by small business bidders to contract with the Government for these items that are ordinary items that are used by any department of Government. When they are prepared to compete fairly and produce the product, they should have the opportunity.

I wish to ask the Senator if I could join as a cosponsor of his amendment.

Mr. MOYNIHAN. Mr. President, the Senator from Wisconsin (Mr. NELSON) wishes to be recorded as a cosponsor of the amendment, and I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I see that my neighbor and friend, the Senator from New Jersey (Mr. BRADLEY), is in the Chamber and on his feet. I am happy to yield to him such time as he desires.

Mr. BRADLEY. Mr. President, I thank the distinguished Senator from New York and say that I am proud to join with him and with my colleagues from Michigan and Pennsylvania in offering the Senate an important opportunity to use Federal dollars in an efficient way—a way that maximizes a number of national objectives.

For each dollar we spend, we must be sure that we get the most we can in terms of benefits for our entire country.

In fact, this efficiency principle was enacted into law by Congress in 1977. Congress amended the Small Business Act to authorize Federal procurement officers to set aside certain contracts for small businesses and for businesses in so-called labor surplus areas.

Today the Department of Labor defines these areas as all cities with a population exceeding 50,000, and all counties or county equivalents of any size where the unemployment rate has been at least 20 percent higher than the national average for the previous 2 years.

The act gives first preference to small businesses in labor surplus areas, gives second preference to small business anywhere, and only gives last preference to firms in labor surplus areas, regardless of size.

The program refined the existing Federal policy aimed at directing procurement to areas of high unemployment, a policy that has been in existence since 1952 and recently has been reaffirmed by two Executive orders.

Our amendment simply seeks to conform the procurement of nonstrategic items by the Defense Department to this basic principle of sound economic policy, to the existing Federal procurement policy, and to existing labor surplus set-aside law, a law which now applies to all Federal agencies and departments except the Department of Defense.

If our amendment is adopted, moneys spent by the Defense Department to procure nonstrategic items such as brooms, bottles, building blocks, and all the other items that the distinguished Senator from New York listed, will also be money spent to alleviate severe unemployment. This would be a truly cost-effective use of Government money.

Our military will continue to procure the goods and services necessary to carry out its daily functions, but people living in areas of high unemployment will have new job opportunities.

Mr. President, there is no good reason for failing to use money which the Government must spend anyway to help eradicate pockets of painful unemployment. These pockets are in every State, in every region, sometimes side by side with prosperous communities, sometimes clustered together in regions of persistent economic stagnation.

By the most recent count, there are some 954 labor surplus areas designated by the Secretary of Labor. Again no region is immune from such areas. Few States are without one.

For example, according to the latest figures published in May of this year, California has 69 such areas, Mississippi has 36, Tennessee has 30, and my own State of New Jersey has 22.

All of these areas across the country stand to benefit by bringing DOD's nonstrategic procurement into the Government's labor surplus set-aside program.

It makes no sense to exclude the Government's single largest purchaser, DOD, from a program whose economic desirability is recognized by law and which governs the procurement practice of every other Federal department and agency.

The policy behind this program dates to 1952, and I ask unanimous consent to print the history of this amendment in the RECORD.

There being no objection, the history was ordered to be printed in the RECORD, as follows:

HISTORY

DEFENSE MANPOWER POLICY NUMBER FOUR A (DMP-4A)

Defense Manpower Policy Number Four (DMP-4), issued by the Office of Defense Mobilization in 1952, reaffirmed by the General Services Administration in 1977 as DMP-4A, and the subject of Executive Order 12073 (issued by the President in August 1978), makes it the policy of the federal government to direct federal procurements, nonformula grants, and executive agreements to businesses in areas of excessive unemployment. Last year, this kind of government spending amounted to approximately $120 billion.

The original purpose of DMP-4, as issued by the Office of Defense Mobilization in 1952, was to minimize the idle manpower and machinery in connection with the nation's efforts in Korea. By directing federal purchases to firms in areas of high unemployment, the policy was to help insure that the nation's defense needs would be met by a broad-based and diversified manufacturing capability. DMP-4 was designed to guarantee against procurement delays caused by a lack of manpower at qualified manufacturing facilities. In case of a war or other national emergency, there would be a greater number of firms "tooled up" for defense production. Since it helped relieve unemployment as well, DMP-4 also was viewed as a socioeconomic policy.

THE MAYBANK AMENDMENT HAS PREVENTED FULL IMPLEMENTATION OF DMP-4

Before the DMP-4 program got off the ground, Senator Burnet Maybank's amendment to the 1954 Defense Appropriations Act drastically reduced its potential. By requiring the Defense Department to buy goods and services at the lowest possible price, it was prohibited from restricting the bidding on some contracts to firms in high-unemployment areas. In order for the Defense Department to meet the requirements of DMP-4 and still comply with the provisions of the Maybank Amendment, contracts under the program had to be split into two production runs. One production run was advertised for unrestricted nationwide competitive bidding—to determine the lowest (or base) price the government would have to pay—and the other reserved for a firm in a high-unemployment area that could match the base price.

This additional burden on Pentagon procurement officials, coupled with the limited amount of Defense Department purchases that could be split into two production runs, prohibited effective implementation of DMP-4.

Provisions of the Maybank Amendment also were included in regulations governing purchases made by federal civilian agencies to maintain uniformity in government procurement policies. This scuttled any hope of using the federal government's vast purchasing power to help stimulate economic development in distressed areas.

An additional obstacle to wider implementation of DMP-4 was the government's changing definition of high-unemployment (labor surplus) areas. In 1955, when the national unemployment rate was about 3 percent, the Labor Department ruled that labor market areas with unemployment rates of at least 6 percent—twice the national average—would be designated "labor surplus areas" and be eligible for preference under DMP-4. But despite substantial increases in the national unemployment rate, the Labor Department's definition of a labor surplus area remained unchanged for 22 years. As a result, virtually every area of the nation qualified for preference under DMP-4.

RECENT EFFORTS TO FULLY IMPLEMENT DMP-4A

In early and mid-1977, three congressional subcommittees held hearings to examine the vast, untapped potential of DMP-4: the Subcommittee on Minority Enterprise and General Oversight of the House Small Business Committee; the same committee's Subcommittee on Capital Investment and Business Opportunities; and the Government Procurement Subcommittee of the Senate Select Committee on Small Business. These subcommittees heard testimony from representatives of major government agencies, who uniformly reported that the restrictive nature of the Maybank Amendment was largely responsible for their failure to more rigorously enforce the provisions of DMP-4.

In July 1977, the General Accounting Office reviewed the federal procurement process and DMP-4 in particular to determine whether such programs helped relieve high levels of unemployment. GAO's findings mirrored those of previous studies by the Northeast-Midwest Institute: DMP-4 was ineffective in its present form as a government tool to help reduce unemployment. GAO recommended that the policy either be strengthened by giving it a statutory basis or rescinded while modifying existing socioeconomic programs to deal with the unemployment problem.

In August 1977, following these developments, Congress amended the Small Business Act to authorize "total labor surplus area set-asides of federal procurements." This amendment permitted departments and agencies of the federal government to restrict the bidding on some purchases to firms in areas classified by the Labor Department as labor surplus areas. This action effectively repealed the Maybank Amendment provisions requiring the government to award contracts at the lowest obtainable price. In the absence of this restriction, the total amount of a government contract could be reserved for a firm in one of the nation's labor surplus areas, provided that enough responsible bids were received to insure that the government is paying a reasonable—but not necessarily the lowest—price.

In September 1977, Congress passed the fiscal 1978 Defense Appropriations Act with the Maybank Amendment intact, again requiring Pentagon procurement officials to buy goods and services at the lowest obtainable price.

In November 1977, the General Services Administration revised DMP-4 to reflect these legislative initiatives and reissued it as DMP-4A.

But even though federal civilian agencies have been released from the restrictions of the Maybank Amendment, their annual procurement purchases of $20 billion are dwarfed by Pentagon procurements. Failure to remove the Maybank Amendment restrictions from Defense Department purchases seriously undermines the potential of DMP-4 for relieving unemployment in the nation's economically distressed communities.

LABOR SURPLUS AREAS

Under Labor Department regulations, counties, county equivalents, and cities with populations of at least 50,000 are classified as labor surplus areas if their average unemployment rate for the prior two years has been 20 percent above the national unemployment rates. Cities with populations of 50,000 or more must qualify on the basis of their own unemployment rate, even if they are located within a county that qualifies. The eligibility list is updated every year on June 1 and printed in the Labor Department's publication, "Area Trends."

The national unemployment rate used for the current eligibility list, covering June 1, 1979 to May 31, 1980, was 6.6 percent. This means that labor surplus areas for this period had an average unemployment rate of at least 7.9 percent.

Roughly one-quarter of the nation's cities and counties are designated as labor surplus areas (954 out of 4,073). They are distributed on a relatively even basis across the nation. The Northeast and Midwest have 45 percent of all labor surplus areas, while the South and West have 55 percent.

The Labor Department may, in some cases, waive the eligibility criterion in areas where a sudden and precipitous increase in unemployment has occurred that would not be reflected in the unemployment rate for the reference period. Such exceptions may arise from natural disasters, plant closings, contract cancellations, and the like that have a substantial impact on an area's unemployment situation and are not the result of temporary or seasonal factors. In instances where such exceptional circumstances exist, the Labor Department may respond to a petition from a state's employment security agency by declaring such areas eligible for DMP-4A preference for a period not to exceed one year.

COMPETITION FOR LABOR SURPLUS AREA SET-ASIDES

A firm is eligible for a labor surplus area set-aside if it agrees to perform a substantial portion of production, manufacturing, or appropriate services in labor surplus areas, as of the date of the contract award. A "substantial portion" means that the aggregate costs incurred by the recipient and its first-tier subcontractors in a labor surplus area amount to more than half the total contract price.

When making awards under DMP-4A, as well as the Small Business Set-Aside Program, government procurement officials must adhere to the following list of priorities:

(1) total set-asides for small businesses located in a labor surplus area

(2) total set-asides for small businesses located anywhere

(3) partial set-asides for small businesses located anywhere

(4) total set-asides for firms located in a labor surplus area, regardless of the size of the firm

Neither small businesses nor minority-owned enterprises could be hurt by repeal of the Maybank Amendment. Under law, all opportunities to award contracts to small businesses in the labor surplus area program must be exhausted before bids can be accepted from larger firms. Minority-owned businesses would be helped by an expansion of the labor surplus set-aside program, since most such enterprises are located in labor surplus areas.

PENTAGON PROCUREMENT AFTER REPEAL OF THE MAYBANK AMENDMENT

Repeal of the Maybank Amendment would allow Defense Department procurement officials to review purchasing needs in order to determine which contracts could be set aside for firms in labor surplus areas. In other words, if there were enough labor surplus area firms producing the goods or services needed by the Defense Department, the contracting officer would invite bids from only labor surplus area firms or small businesses. Following the priorities established by amendments to the Small Business Act of 1977, award of the contract would be made on the following basis:

If enough firms bid on the contract to insure adequate competition, the small business in a labor surplus area submitting the bid would receive the contract.

If no qualified small business in a labor surplus area submitted a competitive bid, a small business elsewhere would receive the contract.

If no qualified small business bid competitively, the contract would be reviewed for a partial small business set-aside.

If this were not feasible, the contract would be awarded to the labor surplus area firm submitting the lowest bid.

If for any reason there were not enough bidders on a contract to insure a reasonable price, the procurement official then could reopen the bidding to all interested companies.

Nothing in the labor surplus area program required the Defense Department to award a contract to a firm located in a high-unemployment area if there is not adequate competition to guarantee a reasonable price. In fact, procurement officials must be convinced that they will receive enough bids on a contract before they decide to set it aside under either the small business or labor surplus area program. To help procurement officials make set-aside decisions, the Small Business Administration has compiled a computerized listing of small businesses and the products they manufacture. Such a system could be expanded to provide a listing of labor surplus area firms, thus facilitating the review of contracts for set-asides.

This contracting procedure currently is used on a routine basis by the Defense Department as part of the small business set-aside program. The only difference repeal of the Maybank Amendment would make is in the preference given to small businesses in labor surplus areas or in the award of contracts to large firms in labor surplus areas when no small businesses qualify. Repeal of the Maybank Amendment would not require changing the basic procurement procedures used by the Defense Department. It would only insure that companies in areas with high unemployment rates receive preference over firms in other areas.

Mr. BRADLEY. Mr. President, the Maybank language obstructs Federal policy—and the law enacted by Congress in 1977—because, as interpreted by the GAO, it effectively prevents DOD from setting aside any of its contracts for labor-surplus areas.

This is because GAO holds that restrictions on bidding create the presumption that a price higher must be paid than would be paid without such restrictions. Total set-asides by DOD for labor surplus areas are in violation of Maybank—regardless of how low the actual bid would turn out to be—regardless of whether there were a sufficient number of competitors in labor surplus areas to assure that the Government would get a reasonable price on its contract.

Mr. President, it is an unfair and unreabuttable assumption—that to obtain a competitive and reasonable price DOD must survey the entire country for bids.

Our amendment seeks to overcome this preposterous assumption in a sensible, balanced way. It preserves the Maybank general proscription against higher costs, but introduces some flexibility by exempting only those contracts where the Secretary of Defense or his designees have determined that the availability of a plentiful supply of bidders insures a reasonable price to the Government. Consequently under our amendment:

DOD is protected against significantly higher contract costs as a result of the set-asides program;

The Secretary of Defense or his designees retains discretion to make determinations as to which contracts can be set aside;

DOD is able to conform to the overriding Federal policies designed to reduce unemployment;

Our society benefits from having Government dollars simultaneously serve two purposes;

Areas of high unemployment gain a chance at revitalization; and

Finally, national security is in no way prejudiced but is, in fact, enhanced.

National security is in no way prejudiced because the Secretary of Defense chooses which contracts can be set aside on the basis that there are a large number of suppliers in labor-surplus areas. This will rarely be the case concerning the production of major weapons systems: accordingly, in these cases, nationwide bidding will continue to be necessary to assure a reasonable price.

Moreover, the benefits derived from targeting procurement to areas of high

unemployment would go beyond the direct effect of spending Federal dollars in these areas. These dollars would have a multiplier effect throughout the local economy. It has been estimated that each Federal dollar spent generates $3 to $4 of private sector activity. Thus the impact of targeting can be enhanced threefold or fourfold, with no additional cost to the Government.

There are large numbers of suppliers in labor-surplus areas across this country that are waiting to get a chance to bid on the sizable dollars that the Defense Department spends every year.

Mr. President, I suggest that the money spent in such a procurement policy will return sizable benefits to the American people because it will reduce the money that we now presently spend on unemployment compensation, welfare, and assorted Government subsidy programs.

Mr. JAVITS. Mr. President, will the Senator yield at that point, because it is so pertinent?

Mr. BRADLEY. Yes, I yield to the Senator from New York.

Mr. JAVITS. I would like to ask the Senator this question: This particular bill is a third of the budget roughly, about $130 billion. Right now we are said to be facing a recession which we are putting on ourselves to control inflation, with unemployment inching up to 6 percent.

We noted that in the postrecession recovery from 1974 to roughly 1978 it was the defense industry areas, California, Texas, and so forth, and the energy area that had low unemployment—3 percent, 4 percent. We had 10 percent in New York. The Senator had more than that in New Jersey.

Is there any point more important than this one, when we are heading into a recession that we are creating through controlled inflation, with exactly this kind of an amendment in the national interest of our country?

Mr. BRADLEY. I agree fully with the Senator from New York. I would like to elaborate simply by pointing out to those who, like myself, are concerned about the budget and the budget deficits, that as unemployment increases, every 1 percent of unemployment costs the Federal Government another $20 billion, according to the Congressional Budget Office, this means that if we are heading into a recession we can anticipate sizeable additional expenditures in order to counter the effects of unemployment.

I think the Senator is correct and right on target to call this to the attention of the Senate.

I urge my colleagues to support this amendment. I think that it rights a wrong that has existed for a great number of years.

I will admit that directing procurement is a small weapon. It is not the answer to our total unemployment situation in the country, but it is certainly a weapon that has a useful end, and an end that can further the national goals of retaining a strong defense, of reducing unemployment, and reducing the Federal deficit all simultaneously.

I thank the distinguished Senator from New York.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Has the floor been yielded?

Mr. MOYNIHAN. Mr. President, I am happy, having reserved the remainder of my time, to yield the floor to the distinguished chairman of the Committee on Armed Services.

Mr. STENNIS. I thank the Senator.

Mr. President, what I am going to say here now is a warning to every Member of this body that at the very best it is not easy to tell what effect this amendment will have should it become law.

Mr. President, there have been no hearings, no recent hearings that I can determine about anything directly on this amendment. This amendment was not presented to the Senate Appropriations Committee. There were no hearings on it, no argument, no presentation, no explanation, not anything. Let me say that the first time I heard about it was after the bill was ready to be presented, or nearly ready to be presented, to the floor.

The Senator from New York has related the fact that this amendment or one very similar to it has been presented to the Senate before and has been accepted.

Checking back on the full facts in connection with that matter, I find the amendment was presented here on the floor, but that it was not explained so far as I have been able to find out. It certainly was not debated, but it was accepted by the managers of the bill. That was taken to conference. But that is a far cry from the Senate's having considered and adopted this amendment when it was dropped in conference.

We come back and there are still no hearings, no presentation to the committee, no chance for the staff to make deliberate studies of it. I warn now that it is very difficult for anyone to say at best how much extra it is going to cost the Government, and how many firms, large and small, are going to be excluded from any participation in these contracts because they do not come from a high-unemployment area. That is the most far-reaching and sweeping provision in this entire amendment. If you are not in these areas then you are not eligible for these contracts, and the Secretary of Defense will have to make a determination along that line.

I cannot be certain as to what the effect of it would be, but we know from those facts that this matter could be devastating. We know if it is going to be passed it ought to be not only after the most microscopic examination and determination by competent staff members but of knowledgeable Members of this body in this field. So I warn against just going along with this at the present time.

Now, just a moment about the history of the so-called Maybank amendment. The late Senator Maybank was from South Carolina. He was a member of the Appropriations Committee. He served here until he passed away sometime in the early fifties. They had been having trouble along this line, and an amendment that took his name was adopted. It worked so well that it has been renewed every year since the early 1950's as a limitation on appropriation bills. It is not a good way to legislate in that field of law, but an accepted one by the entire Congress because it survived all of these years.

It has been fair and it has worked well, and there has been general satisfaction with it.

Now the proposal to change this without any hearings, without any weighing of it, without knowing what it means—and I speak with all deference here to those who are for the amendment—it has just come in lock, stock, and barrel; it would change the law, reverse everything, and set up here something the consequences of which we are unsure of.

Just because it has been accepted here on the floor by the managers of a bill, without debate and explanation and without hearings, is not an argument in favor of adopting a rule like that which we can follow.

I have an estimate here that was made, hurriedly prepared, by the Department of Defense as to some of the things that would result, in their judgment, from this amendment.

I am going to read, now, from a letter of Dr. William J. Perry, who is Under Secretary of Defense for Research and Engineering, and all of us who know him rely very heavily upon anything he says in his field of operations.

He says, in a letter addressed to me as chairman of the subcommittee on November 5—here, briefly, is his analysis of the Moynihan amendment's effects:

> Reduce competition among defense suppliers and increase prices for defense purchases.
>
> Jeopardize making awards to the best qualified and most efficient producer and result in decreased quality and delays in defense production.
>
> Affect mobilization planning adversely by denying some firms in the mobilization base the opportunity to bid for contracts.
>
> Replace regular contracting procedures with administrative judgments on which contracts should be set aside from normal competitive procedures.
>
> Place intense political pressures on our contracting officials from local firms and governments.
>
> Divert contracts now awarded to small businesses and minority firms not in an LSA.

There are other reasons that he gives, but that is the trend and substance of his whole analysis here.

I think that further proves—there is no doubt in my mind that it proves many times over—the absolute necessity of going into this matter in depth by competent people, so that we will know what we are doing and where we are going.

Now, there is something even more serious, as I see it, than that. I am going to read here from a paper what I believe is a true analysis, prepared by a staff member of competence:

> Requiring the Department of Defense to give preference to contractors that are located in labor surplus areas can have especially dangerous effects where there are only a small number of qualified candidates. For example, of the one-half dozen major aircraft manufacturers—

Now, this is big money. I am calling names:

> Only Northrup, in California, and McDonnell Douglas, in St. Louis, are located in labor surplus areas. Under the test proposed by the Moynihan amendment, this would be a competitive procurement, but only two of the major manufacturers would be eligible, regardless of whether their proposals were technically the best or the cheapest. This would exclude Grumman from New York, Boeing from Seattle, Lockheed in California, Fairchild in New York and Maryland.

And so on:

> Likewise, there are only two manufacturers remaining for military jet engines. It appears that one of those manufacturers, Pratt and Whitney in Connecticut, is not in a labor surplus area, while another, G.E. in Massachusetts, is in a labor surplus area.

It would absolutely be absurd, Mr. President, to decide on a major engine contract based on this criterion, but that could be an effect of requiring the Defense Department to participate in total labor surplus area set-asides.

Senators will recall that we recently had a controversy about where to build some of the new breeders. Other examples could be given, but the point is clear: Where there are a small number of competitors, the Moynihan amendment would inject serious distortions, mandatorily inject serious distortions, into the process of arriving at the best weapons system at the lowest possible price.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. STENNIS. May I just conclude with this sentence?

Certainly these are warnings enough, in this unexplored field, with no hearings, to demand—to demand—that we go into this matter further and give the committees and the Senate a chance to know what we are doing.

The Senator from North Dakota is the ranking minority member. I yield first to him.

Mr. YOUNG. Mr. President, I will be very short.

I oppose the repeal of the Maybank amendment on the grounds that it would adversely affect Defense Department procurement policies and procedures, and would result in still higher costs for military procurement.

One reason that I am deeply concerned about is that in my State, for example, where we have low unemployment, but we have four Indian tribes, three of the tribes now have minority military contracts. Those would no longer be possible if the Maybank amendment were stricken, and the Indians would go back on relief.

Mr. MOYNIHAN. Mr. President, does the Senator yield?

Mr. STENNIS. Yes, I am glad to yield to the distinguished Senator from New York.

Mr. MOYNIHAN. I thank the distinguished chairman and the ranking minority member.

I rise, however, to say that I regret very much that the chairman has been misinformed by the Department of Defense as to the purpose of our amendment. I am disappointed that the Department would have done this. It could have spoken to us in advance.

As I made clear, as the Senator from New Jersey made clear, and as the amendment clearly states, our proposal could never apply to a situation involving the procurement of airplane engines. We made it explicit that this change of policy would not apply to situations where there are such a small number of producers bidding for a contract that the Government cannot obtain via reasonable price.

Mr. President, I previously submitted to the RECORD a list of the kinds of things we were talking about: Surgical dressings, photographic equipment, office equipment, tents, tarpaulins, and tar. We have gone out of our way not to enter in the area of strategic weapons or even conventional arms.

It is disappointing that the Defense Department is so indifferent to this subject. The Department believes it is going to see its budget doubled in the next 6 years; but the Department will do nothing to improve the social distribution of the resulting burden.

We are beginning to see a bit of the mad scientist in the people who run the Defense Department. They do not live in the real world. And if they do not live in the real world of the American economy, do they live in the real world of any problem?

It is surprising and disappointing to find our case so misrepresented; and I am disappointed that it should have been done to a man of such perfect honor as our chairman. I wonder if the Senator from New Jersey does not share my disappointment.

Mr. WARNER and Mr. BRADLEY addressed the Chair.

Mr. MOYNIHAN. I am happy to yield to the Senator from New Jersey.

Mr. BRADLEY. I wish to reemphasize the concern of the Senator from New York about the interpretation given to this amendment. I think the language of the amendment itself answers the question that the distinguished chairman raised, in that there can be no labor set-aside unless the Secretary of Defense decides that it will happen. There will be no labor set-aside unless the Defense Department has determined that there are enough firms bidding so that there will be adequate competition.

The real question is one of broader national policy, a question of whether, in the time of limited resources, a time when we need to balance the Federal budget, we are going to use those Federal dollars we do spend to accomplish two purposes simultaneously.

I would argue that this amendment is as helpful to States like Mississippi and Florida, as it is to States like Michigan and Illinois. It is an amendment which is directed at pockets of painful unemployment throughout the country. It is an amendment which is timely, timely to our circumstances as a nation, and it is an amendment which in no way deteriorates the strength of our Armed Forces.

Mr. WARNER. Will the Senator yield?

Mr. MOYNIHAN. Reserving the remainder of my time, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I yield to the Senator from Virginia for a few moments.

Mr. WARNER. Thank you, Mr. President.

Mr. STENNIS. I yield 8 minutes, Mr. President.

EXPLANATION OF AMENDMENT

Mr. WARNER. Mr. President, the pending amendment while in the form of a modification in effect repeals the Maybank amendment, since it would authorize defense awards in the manner which the Maybank amendment now prohibits. For 26 years as the Senate knows the Maybank language has prohibited the use of defense funds to pay a price differential on defense contracts to relieve economic dislocations. The amendment would authorize a price differential in the form of authority for total procurement set-asides for labor surplus areas which would be made on "that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices."

The amendment would legally activate certain labor surplus provisions passed in 1977 which are now inoperable because of the Maybank amendment.

CERTAIN FUNDAMENTALS SHOULD BE NOTED

What is a labor surplus area? The current definition of a labor surplus area which is determined by the Secretary of Defense is those counties and cities with a population of over 50,000 with an unemployment rate of 20 percent above the national average or with a rate of 10 percent or more. (Since the current national average is 6.6 percent, an area would be labor surplus with an unemployment rate of 7.9 percent. In other words, a nonlabor surplus area is one with an unemployment rate below 7.9 percent.

Mr. President, the fine mathematical line on what is a labor surplus area is critical. It points out the fallacy of the premise that if an area has an unemployment rate of only 7 percent or any percentage below 7.9 percent, it should be deprived of the opportunity for defense business solely on the basis that the area with the rate of 7.9 percent or above is more deserving and that the business should go to the labor surplus area even at a higher cost to the Government.

IMPLICATION OF TOTAL LABOR SURPLUS SET-ASIDE

Mr. President, in this amendment the meaning of the word "total" should be clearly understood. This language means that the entire procurement would be totally set aside for labor surplus areas. Firms geographically located in nonlabor surplus areas would by definition be barred from any competition since the award would be totally set aside geographically for labor surplus areas.

Further, Mr. President, it should be clearly understood the award price would be determined not under low bid competition but on the reasonable expectation that awards would be made at reasonable prices. No definition of "reasonable" is set forth.

NO LIMITATION ON THE EXTENT OF TOTAL SET-ASIDE AWARDS

Mr. President, the record should be clear that neither in the pending amendment nor elsewhere is there a limit on

the defense procurement funds which would be subject to the total labor set-aside authority either in the form of a dollar limitation or in the type of defense contract. The $15 to $20 billion target cited by the amendment's proponents in no way represents either a statutory or regulatory limit. I might note that the northeast coalition study in support of the $15 to $20 billion figure states that in fiscal 1978 the Defense Department awarded only $230 million in contracts "on a preferential basis to businesses in areas of higher unemployment."

REASONS FOR REJECTING THE AMENDMENT

Increased defense cost: Mr. President, under the so-called reasonable price expectation formula, the pending amendment would increase the cost of defense in an unknown magnitude because of the additional cost which would be paid for the goods and services. If the so-called reasonable prices were to be only 5 percent above the low bid system, the additional cost would be $750 million on the basis of the low figure of 15 billion which the proponents suggest for targeting to labor surplus areas.

The amendment has the effect of cutting the defense budget since the price of the goods and services will be increased with no increase in defense capability. This amendment is therefore wholly contrary to the recent actions of the Senate increasing the funds available for defense purposes.

POTENTIAL FOR POLITICAL ABUSES OF TOTAL SET-ASIDE AUTHORITY

Mr. President, as far as I know it has long been congressional policy that defense contracts should be awarded on the basis of low bid competition and not on the basis of political pressure. The Senate should never grant to any administration, Democratic or Republican, the unlimited authority to distribute defense contracts by geographical area based on whether or not it is defined as labor surplus. The potential for political abuse is obvious under the reasonable price expectation formula. Even in the best of good faith this grant of unlimited authority uncontrolled by any low bid requirement favoring a particular geographical area will inevitably produce the strongest political pressures to distribute defense related contracts to those eligible areas.

It is true that the amendment would vest the authority in the Secretary of Defense but in the real world, as we know from recent events, Cabinet officers come and go when cooperation with the White House is not satisfactory.

Mr. President, the Senate should note that the underlying statute that would become operative by this amendment places no limit on the size of the firms which would be eligible to receive the total labor set-aside awards.

Again, Mr. President, I emphasize that this amendment would deal with funds of a sizable magnitude. The proponents suggest only $15 to $20 billion procurement funds would be affected. As I pointed out, however, there is no dollar limit on the extent to which procurement funds would be subject to the so-called total set-aside.

EXTREME UNFAIRNESS TO FIRMS AND EMPLOYEES IN AREAS NOT DEFINED AS LABOR SURPLUS

Mr. President, the pending amendment rejects every concept of reward for fair competition in granting authority whereby as a matter of law firms and their employees would be denied the right to participate in low bid defense contract competition because of the sole fact that they were located in a geographical area with an unemployment rate below 7.9 percent. I ask what is our response to efficient employees and employers who desire to compete for a defense contract but are denied the right because of their location in a geographical area with an unemployment rate below 7.9 percent. For what reason are they less deserving than those employers and employees in the labor surplus areas who could not otherwise effectively compete under the low bid system?

THE AMENDMENT WOULD CREATE NO NEW JOBS—BUT WOULD CAUSE A GEOGRAPHICAL REDISTRIBUTION OF EXISTING JOBS

Mr. President, one fallacy being propounded on behalf of the amendment is that its passage would result in the creation of additional job opportunities. Such is not the case. The same jobs that would be gained in the so-called labor surplus areas to which defense awards would be shifted, would also be lost in the nonlabor surplus areas where the award would be excluded because of the total set-aside. There would be no net national job gain.

Mr. President, the national job result of a labor surplus proposal is in sharp contrast to the other special Federal programs such as small business and equal opportunity which are both aimed at increasing the total labor opportunities through training and expansion of the industrial base. These programs do not cause a geographical job shift—a geographical job shift at a high cost to the taxpayer.

REGRETTABLE REGIONAL OVERTONES

Mr. President, I regret the regional overtones regarding the Maybank amendment. Many in the northeast region assumes a beneficial result from a Maybank repeal. I observe that a principal document for repeal was prepared by the Northeast-Midwest congressional coalition.

I would hope that every geographical area of the country would expect to compete on a competitive basis without preferential price treatment at the expense of the taxpayer. We all know there are scores of the most important defense contractors in the Northeast who have successfully competed on a low bid basis for defense business and I would doubt that these firms would expect that they should be excluded from the burden of price competition merely because they might be geographically located in a so-called labor surplus area.

SUMMARY

Mr. President, there have been no hearings on this proposal of far-reaching implications. In summary, this amendment would:

First, increase the cost of defense in an unknown magnitude without any increase in defense capability,

Second, grant the authority for the geographical shifting of defense contracts, a process which would be subject to obvious potential abuse and pressures, and

Third, provide for no discernible net national gain by its enactment.

May I put a question to the distinguished Senator from New Jersey? I have carefully read the amendment but I fail to find the proposed revision by which the effect of the amendment goes only to what the Senator has characterized as nonstrategic items. I have before me a list which I presume the distinguished Senator has had included in the RECORD. Where is the definition by which such a list has been published in the amendment?

Mr. BRADLEY. In answer to the Senator, the wording says there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns. Regarding the Senator's particular concern, the answer is first that the Secretary of Defense will decide which contracts can be set aside and surely he would not endanger the national security by setting aside inappropriate procurements. Second, the Secretary, under our amendment must determine that there is a sufficient number of firms bidding to assume a reasonable price. Now clearly concerning strategic items, such as planes and missiles there is not a sufficient number of firms in labor surplus areas in the country to allow such items to qualify for a labor set-aside.

Mr. MOYNIHAN. Will the Senator yield?

Mr. BRADLEY. I yield.

Mr. MOYNIHAN. This point must be made explicit. If it turns out that there were 50 plants building nuclear submarines, would the Secretary of Defense be required to choose one of them in a labor surplus area? He would not be; and, may I ask my colleague, the Senator from New Jersey, what reason would he have to give for not doing it?

Mr. BRADLEY. He would have to give no reason.

Mr. MOYNIHAN. Exactly: He would be required to give no reason whatever. He could simply say "I choose not to." Let us be clear about this. I am surprised the Department of Defense has ignored this fact, and in doing so misrepresented this legislation. Time after time we have voted for them and supported them only to see them now mislead us. I would simply like to say: What Harry Truman thought to be a good policy, still is.

Mr. WARNER. To the distinguished Senator from New York, if I might put the question once more, referring to page 2 of the Senator's letter to our colleagues, the Senator says it deals only with the $15 to $20 billion a year in Defense Department purchases of nonstrategic goods and services. But now the Senator is talking about reposing the discretion in the Secretary of Defense. This is written as if the law separates.

Mr. BRADLEY. Is the Senator talking about the amendment or the letter?

Mr. WARNER. I am talking about the amendment, but the letter is written as if the amendment writes into law the

definition of strategic materials. It does not.

Mr. MOYNIHAN. The Senator is correct. It does not. It states simply that the discretionary powers in the Small Business Act may be exercised in cases where the Secretary of Defense or his designees specifically determine there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices.

The Secretary exercises a discretionary power in this matter.

Mr. WARNER. Assuming he will apply what is a reasonable price, however.

Mr. MOYNIHAN. The Secretary has absolute discretion regardless.

Mr. WARNER. But I ask the distinguished Senators from New York and New Jersey if we are not establishing a rather dangerous precedent by which the Secretary of Defense is given such broad and sweeping discretionary authority with respect to the defense dollars at the very time those dollars are recognized by this Chamber in recent votes to be an insufficient amount to meet America's defense needs.

Mr. BRADLEY. Will the Senator yield?

Mr. WARNER. I yield.

Mr. BRADLEY. I am interested in the pockets of unemployment in Virginia, of which there are 23 and in New Jersey, where there are 22. I am quite interested in affording those pockets of unemployment in the State of Virginia, as well as New Jersey the benefit of these kinds of contracting set-asides.

And I am also just as interested as the Senator from Virginia about protesting the national security of our country. Therefore I would ask the Senator if we could remove all doubt about strategic supplies being subject to the set-aside, would the Senator then be in support of the amendment?

Mr. WARNER. Will the Senator repeat his question? One of my colleagues addressed me during the delivery of the question.

Mr. BRADLEY. If we could remove all doubt about the question the Senator has raised concerning the chance that strategic goods would be subjected to labor surplus areas set-asides, would that clear up the objection of the Senator? Would the Senator support the amendment?

Mr. WARNER. No. I regret to inform my distinguished colleague from New Jersey that I think philosophically I am opposed across the board to the removal of a law which has served our Nation for a quarter of a century very satisfactorily.

Mr. BRADLEY. I am glad we now know the root of the distinguished Senator's objection, and that it is not that he is not in doubt about the impact on national security but that he is opposed on philosophical grounds.

Mr. WARNER. No. The philosophical point goes to the heart of the fact that our security dollars are in short supply today, and any interpretation of the Senator's proposal leads to procurement of fewer beans, bullets, and blankets, if the Senator so classifies them as nonstrategic, than would be under existing law.

Mr. BRADLEY. The procurement of fewer in number?

Mr. WARNER. That is correct, at the same price.

Mr. BRADLEY. In other words, if there were 25 labor surplus areas that were bidding on a contract, would you not say 25 companies in these 25 areas not provide sufficient competition? Would the Senator please explain what is the uniqueness about competition between labor surplus areas and areas that are not labor surplus?

Mr. WARNER. Because of the likelihood of those areas receiving the contract to be performed at a higher price than the lowest bid elsewhere.

Mr. BRADLEY. Can the Senator cite evidence of that?

The PRESIDING OFFICER. The Senator's 8 minutes have expired. Who yields time?

Mr. MOYNIHAN. Mr. President, does the Senator from Mississippi desire time? The Senator from Michigan would like to speak on this side.

Mr. STENNIS. Yes, on the amendment.

Mr. MOYNIHAN. Would the Senator like to continue speaking?

Mr. STENNIS. I thank the Senator. We can switch from side to side and try to follow that pattern.

Mr. MOYNIHAN. Mr. President, I am happy to yield to my associate, and cosponsor, the Senator from Michigan.

Mr. LEVIN. I thank my friend from New York.

Mr. President, I am pleased to join with my colleagues from New York and New Jersey in offering this amendment modfying the so-called Maybank amendment, which for many years has been routinely incorporated in the defense appropriation bill by the Senate. The purpose of our modification is to permit, and I emphasize permit, the Department of Defense to participate, in an appropriately limited manner, in the Government-wide program of targeting Federal procurement to areas suffering under the burdens of excessive unemployment.

The goals of the labor surplus program are, I believe, unobjectionable. The Federal Government has a longstanding policy of using its procurement dollars in the pursuit of important national policy objectives. We use our purchasing power to support and encourage small businesses and minority-owned businesses and, since 1952, have had a policy of channeling some procurement to firms in areas with a surplus of labor. The original objectives of the labor surplus program, were articulated in defense Manpower policy No. 4 in 1952.

I emphasize that. This was a defense policy that originated the labor surplus program.

These objectives were: First, to preserve management and employee skills necessary to the fulfillment of Government contracts and purchases; second, to maintain productive facilities; Third, to improve utilization of the Nation's total economic potential by making use of the economic resources of each area; and, fourth, to help insure timely delivery of required goods and services and to promote readiness to expanded efforts by locating procurement where the needed labor force and facilities are fully available.

Mr. President, those are defense objectives.

These objectives are, if anything, more essential today than they were in 1952. It is clearly in the national interest to encourage optimal utilization of all of our industrial and human resources by targeting Federal dollars to areas where the labor force is ready and willing, but adequate employment is not available. In fact, only 2 years ago, in amendments to the Small Business Act, Congress strongly affirmed its support for the labor-surplus program by authorizing total labor-surplus set-asides by all Federal agencies on contracts where an adequate degree of competition exists to insure a reasonable price to the Government.

In this regard, I say to my friend from Virginia that indeed, dollars are in short supply. They are in short supply in the defense budget, they are in short supply in social areas. There is an equality of shortness of supply. The purpose of the labor set-aside program is not only to take care of the pockets of unemployment, to promote readiness, to make sure we use our economic capacity; the purpose is also to avoid the expenditures for welfare and for unemployment compensation which cost the Federal Treasury so dearly and which makes it difficult for us to have sufficient dollars for defense and for social purposes.

This amendment was intended to apply to all departments and agencies of the Federal Government. However, by the terms of the Maybank amendment, as interpreted by the General Accounting office, the Defense Department may not make total labor-surplus set-asides. Maybank prohibits DOD from paying a price differential on contracts for the purpose of relieving economic dislocation. When bidding on a contract is restricted, an agency cannot be absolutely certain that it will get the lowest possible price, and for this reason, GAO has stated that Defense is prohibited from participating in the labor-surplus program.

I do not believe that this unique exclusion can be justified, in view of the overriding objectives which the program is designed to achieve. Targeting contracts to labor-surplus area firms may involve some additional costs to DOD, as does any set-aside program, but these costs would be more than adequately recovered by the increased economic activity that would be generated in depressed areas, with an accompanying increase in Federal tax revenues, and by a decrease in Federal transfer payments such as unemployment compensation and welfare, to areas of higher-than-average unemployment. This amendment must be examined in the context of its overall impact on the Federal budget, and we believe that it offers a real opportunity for reduction in Federal spending.

Our amendment would simply authorize—I emphasize authorize—the Defense Department to participate in this program by making set-asides of complete contracts to labor-surplus area firms, on the same basis as all other Federal agencies.

Again, I say to my friend from Virginia, this is not a new precedent being set. All other agencies, all other Cabinet positions and posts have the same power already. These procedures are not new. They are well tried, well worn, well proven. DOD should not be exempt from the same authority that every other agency of this Department has.

DOD would retain more than adequate discretion in its procurement procedures. Set-asides would not be required on any particular contracts; would not be required if a reasonable price could not be guaranteed; would not be required on strategic purchases or purchases which affect the national security, and the program would not create administrative chaos for Defense procurement officers. In fact, the Small Business Act establishes a rational set of priorities for the awarding of procurement contracts, which integrates the small business and labor-surplus set-aside programs, and provides adequate guidance for contracting officers to use in determining the appropriateness of set-asides for given contracts. These priorities also insure that implementation of the labor surplus program will not prevent any small or minority business from bidding on a set-aside contract, but would, rather, provide additional priority consideration to such firms when located in labor surplus areas.

What precisely would this amendment do? It would authorize, not require the Department of Defense to make total labor-surplus set-asides—in other words, to restrict bidding on entire purchases to firms in labor surplus areas—on certain contracts, when and only when the Secretary of Defense or his designee determines that "there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices." This would enable DOD to conform its procurement policies to Government-wide practices. And the types of procurements with which we are concerned are not related to national security. Instead, they are the Defense Logistics Agency's annual purchases of $15 to $20 billion worth of routine items such as clothing, food, tools, furniture, and so on, which could be adequately and efficiently produced by thousands of small labor-surplus-area firms in all parts of the country.

Mr. President, the Maybank issue has been with us for some time, and we should pay tribute to our former colleague, Senator Hathaway, who took the lead on the issue for the last several years. Despite this history, the need for modification of Maybank is particularly pressing at this moment. As my colleagues know, Congress recently enacted implementing legislation for the multilateral trade agreements, which we all hope will lead to freer and fairer international trade. One of the concessions we made in those negotiations, with respect to the Government procurement code, was an agreement to waive the labor-surplus set-aside program for purchases by those Government agencies specifically covered by the terms of the code.

This will do significant damage to the program. In its report on the implementing bill, the Senate Finance Committee urged that "the program of procurement set-asides for labor-surplus areas be strengthened and expanded by those entities and for those purchases which are not on the U.S. list," to offset the damage done to the program. The largest entity which is substantially excluded from the U.S. list, and therefore from coverage by the code, is the Department of Defense, which thus offers the greatest opportunity for expanding the labor surplus program without violating our international agreements.

Finally, Mr. President, this is not a question of regional advantage or preference. This is not a matter of North against South, East against West, or Frost Belt against Sun Belt. It is an unfortunate fact of life that excessive unemployment exists in pockets which are distributed across all regions of our Nation, and as an inevitable result, labor surplus areas exist in all parts of the country as well. The issue here is not whether modification of Maybank would result in wholesale displacement of defense procurement from region A to region B, for it is not our expectation or intention that DOD, as a result of our amendment, would ever feel obligated to procure goods for a military base in one State from a factory in another State. What we do hope to accomplish is an assurance that, in placing nonstrategic contracts, DOD will give or be authorized to give consideration to firms operating in areas where people who want to work cannot find work, and where Federal dollars can have maximum impact in terms of stimulating economic vitality and strength and, hopefully, save some dollars for the Treasury in forms of unemployment compensation and welfare, which does not then have to be paid.

I have no doubt that most Senators in this body would, at least in principle, support policies to distribute more evenly economic activity and available employment within his or her own State, so as to reduce the hardship and economic costs associated with pockets of unemployment. I submit that this amendment offers a reasonable and carefully crafted means of pursuing that goal, and I hope that it will win the support of all of my colleagues.

Mr. MOYNIHAN and Mr. WARNER addressed the Chair.

Mr. MOYNIHAN. Mr. President, before the Senator from Virginia responds may I thank the Senator from Michigan for a superb summation of this case and I ask unanimous consent to have printed in the RECORD the previous Senate debates on this issue raised by Senator Hathaway and appproved by the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The following is the floor debate accompanying Senator Hathaway's first attempt to repeal Maybank. August 2, 1974.

Mr. HATHAWAY. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 42, line 4, beginning with the word *"Provided,"* strike out all down through the colon in line 7.

Mr. HATHAWAY. Mr. President, this amendment, which is cosponsored by the distinguished Senator from Rhode Island (Mr. PASTORE), would strike from the defense appropriation bill the provision that no funds shall be used for the payment of a price differential on contracts made for the purpose of relieving economic dislocation.

This has greatly inhibited the program. I have discussed it with the chairman of the committee and I believe that it is acceptable.

This language in the bill has come to be known as the Maybank amendment. It was named for Senator Burnet R. Maybank, who offered the amendment in 1953. Its restrictive language has the effect of severely limiting the Government's program of aiding areas of high unemployment through the award of contracts under the labor surplus area procurement program.

The Maybank amendment was first inserted in the defense appropriation bill over 20 years ago to prevent negotiations of contracts at premium prices with firms in labor-distressed areas. At that time the New England textile industry was moving south, and in an effort to keep some of the textile industry in New England, the Defense Department was inclined to award contracts at a higher price to New England mills than to southern mills.

During that period southern mills were able, because of lower labor costs, to bid much lower on contracts than the New England mills were. The Maybank amendment was intended to prevent the Secretary of Defense from awarding a contract to a New England textile mill at a higher price than he would award the same contract to a southern textile mill, in order to keep the New England mills where they were.

The problem that existed then has now taken care of itself. Most of the textile mills have moved south and very few are left in the New England area. Even though the problem, which the amendment addressed itself to, has been taken care of, the prohibitory language has been included in the Defense Appropriations Act year after year for more than 20 years.

In my opinion, the Maybank amendment is an idea whose time has passed. It has outlived its usefulness, and we should reconsider the purpose of this provision in the light of present economic conditions.

Although the language of the Maybank amendment does not specifically state that it applies to the labor surplus area procurement program, as authorized in Defense Manpower Policy No. 4, it has been interpreted by the procuring agencies, as well as the Comptroller General, to apply to that program.

The labor surplus area program was initiated in 1952 to encourage full utilization of existing production facilities and workers in preference to creating new plants or moving workers. By channeling Government contracts into areas of high unemployment, the program helps preserve management and employee skills, maintains productive facilities, imoroves utilization of the Nation's total manpower, and helps assure timely delivery of required goods and services.

There are three categories of labor surplus areas under the program: First, areas of substantial unemployment, second, areas of sustained unemployment, and third, areas of concentrated unemployment or underemployment.

Under the program, certain Government contracts are set-aside for bidding by firms in labor surplus areas. In other words, in such a set-aside, only firms located in areas

of high unemployment may bid on the contracts. At that point the problem arises with the application of the Maybank amendment. The prohibitory language of the amendment requires the guarantee that any contract which is awarded as a result of preference procedures to firms that qualify for labor-surplus-area assistance must be awarded at the lowest possible price.

To meet this required guarantee of the lowest possible price, every procurement set-aside for labor surplus area firms must be split. One part of the procurement is open for unlimited competitive bidding by any firm interested in bidding on the contract. The other part is set-aside for exclusive award to labor surplus area firms.

Once the price has been established for the part of the procurement that is open to competitive bidding throughout the country, that is the price the Government will pay for the remaining part of the procurement made available for firms in labor-surplus areas.

This complicated procedure greatly restricts the labor-surplus-area program by making only partial set-asides rather than total set-asides available to labor-surplus-area firms.

The amendment I offer today would delete from the Defense Appropriation Act the recurring restrictive language of the Maybank amendment and assure that labor surplus areas get a greater share of Defense Department contracts by allowing total set-asides for labor-surplus-area firms rather than partial set-asides.

In fiscal year 1973 civilian and defense procuring agencies total contract expenditures amounted to $45 billion. Only 0.4 percent, or $195.7 million, was awarded under the labor surplus area program.

Several witnesses testifying before the Government Procurement Subcommittee of the Small Business Committee on this program last year agreed that, without the Maybank amendment restricting the program, labor surplus area procurement would surely expand.

In 1952, when the labor surplus area program was initiated, unemployment was 3 percent. From the most current data, for July of this year, it is 5.3 percent. Unemployment today is more grave than it was when this program was initiated. Expanding the labor surplus area program would be one means of combatting this unemployment problem, but unfortunately the restriction imposed by the Maybank amendment against total set-asides for labor surplus area firms is one of the reasons the program is not more effective. I think it is time to look at the program in terms of giving it new life and direction.

With the deletion of the restrictive language of the Maybank amendment from the defense appropriations bill, procuring agencies would have the right to set aside totally an appropriate procurement for firms which qualify under the labor surplus area program. They would no longer be required to go through the complicated process of splitting the procurement.

This does not mean that the Defense Department would be allowed to confine bidding to a particular labor surplus area in, say, New England, or California, or in any other specific geographical area of the country. It would mean that firms in any labor surplus area would have an opportunity to bid, so there would be bidders on the contract all the way from Maine to Hawaii.

The program does not favor any particular section of the country. Classified sections of concentrated unemployment or underemployment include parts or all of 421 cities, 677 counties, in all states, 31 Indian reservations, and the Commonwealth of Puerto Rico.

Firms in labor surplus areas are fully competitive businesses.

The facts do not indicate that contracts awarded under a total labor surplus area set aside, now prohibited by the Maybank amendment, would be at substantially higher prices. In a total set-aside, that would allow only labor surplus area qualified firms to bid, those qualified firms from all over the country would be competing among themselves and their prices would necessarily be competitive. If in the opinion of procurement officials the lowest bid is considered excessive, compared with current prices in the marketplace, then the Government could, and indeed it should, cancel the set-aside and readvertise the procurement without restriction.

A high percentage of the contracts awarded under the labor surplus area program go to small businesses. It is a valuable means of placing more contracts with small business and there can be no more worthy goal than that. By helping small businesses to grow, we are investing in their long-term growth, with attendant new job opportunities.

The cost of the program is very reasonable. During hearings held by the Government Procurement Subcommittee, a witness from the Department of Labor testified that the cost per placement of a person under this program is only $40, as compared with $1,000 to several thousand dollars per individual placement under other job preparation and training programs.

Operation of the program under the encumbrance of the Maybank amendment also makes the program more costly. The requirement that no price differential is to be paid necessitates the splitting of the procurement into two or more contract awards. This increases the time, work, and resulting expense to the procuring agencies. Instead of one contract award there are two or more contracts to award, two or more contract performances to administer and close out and more contractors to pay. These additional measures necessarily add to the cost of administering the contract. Costs are also increased by the Government's not being able to take advantage of greater quantity discounts which would be available if the procurement were not split.

The restrictive language of the Maybank amendment is highly detrimental to the labor surplus area program. In my opinion this obstacle, which is no longer relevant to the evil it was designed to avoid, should be removed.

The labor surplus area program holds out promise for relief of our unemployment problem. It should not be fettered with an outdated restriction which prevents it from fully operating to supply an ever-growing need. In the interest of aiding business, particularly small business, and adding stimulus to a much needed program, I urge my colleagues to join with me in striking from the Defense appropriations bill the restrictive language of the Maybank amendment.

Mr. MCCLELLAN. Mr. President, I have considered this matter. It has been in the law for a long time. It would appear now that it is more or less obsolete, and no longer needed. I have agreed to take it to conference. Unless the House has some strong position about it, I would have no objection to its passage.

If there is no objection on the part of anyone, I will agree to take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine. (Putting the question.)

The amendment was agreed to.

The following is Senator HATHAWAY's second attempt to modify Maybank:

Mr. HATHAWAY. Mr. President, I call up my unprinted amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 49, line 19, strike out the colon and insert new material as follows: "except where the Secretary of Defense has specifically determined that sufficient price competition exists to insure a reasonable price to the government:".

Mr. HATHAWAY. Mr. President, the amendment I offer today is similar to one the Senate adopted a year ago. It went to conference but did not survive the conference.

The amendment has been modified to satisfy the objections that the Defense Department had to it at that time.

I have discussed the amendment at great length with the distinguished chairman of the committee. I believe it is acceptable to him.

Mr. President, the amendment I propose today would modify language contained in this Defense Appropriations bill, and in every DOD appropriation since 1953. The language I wish to modify is the so-called Maybank amendment, named after Senator Burnet R. Maybank who first introduced it. It states that:

No funds shall be used for the payment of a price differential on contracts made for the purpose of relieving economic dislocations.

Senator Maybank's goal was to prohibit the DOD from paying more for textiles obtained from mills in New England than from mills in other parts of the country, particularly the South, where labor costs were lower. At that time the DOD was prone to pay these higher costs in an attempt to stop or slow the trend of many New England firms moving to areas with lower labor costs. The Maybank amendment was desirable legislation to counteract this regional favoritism which imposed higher costs for the defense of the country as a whole.

As we all know, most of the mills moved, and therefore the historic phenomenon to which the Maybank amendment was addressed no longer is significant.

The Maybank amendment, however, has lived on, and became a significant problem in its own right as it has affected the DOD's labor surplus area set-aside program. This program was initiated in 1952 under Defense Manpower Policy No. 4 which requires that certain procurement contracts be set-aside for bidding in areas of substantial unemployment. The program was meant to preserve management and employee skills useful to the Nation's defense during times of economic downturns. This program is a valuable one, and ought to gain increasing attention today as unemployment hovers at an unacceptable level of 8.6 percent.

The General Accounting Office has, however, in its construction of the Maybank amendment and the labor surplus area set-aside program, limited implementation of the goals of the latter by its determination that a defense procurement contract cannot be totally set aside for award to firms located in labor surplus areas, but rather must be split up into two or more units with at least one of those contract units being bid competitively among all firms, within and without labor surplus areas. Under the GAO interpretation, the open competition on a portion of the total contract award determines the highest price payable on the remaining portion of the contract to be set aside for labor surplus areas. This construction is based on the theory that the best price can only be obtained by an open competition among all sorts of firms and would not be obtainable under a total set-aside to labor surplus areas. Such a theory might have made some sense in times of low levels of unemployment where there were few qualifying labor surplus areas, but makes little sense today. I might add that in 1953, when Senator Maybank first introduced his amendment, unemployment was only 3 percent. In a time of 8.6 percent unemployment, when approximately 800 areas across the country have been designated by the Secretary of Labor as having substantial unemployment,

setting aside a Government contract for procurement among firms in these areas would surely yield a competitive price. Furthermore, the GAO interpretation which refuses to allow such a total set-aside severely limits the labor surplus area set-aside program's goal of helping alleviate localized severe unemployment. The time has come to change the statutory structure to allow total labor surplus set-asides and to eliminate the GAO's tortured construction to the Maybank amendment.

My amendment would allow the Secretary of Defense or his delegate, the contracting officer, to make a total set-aside to labor surplus areas of a Government contract when the Federal Government will not be forced to pay an unreasonable contract price. In order to make that determination the officer should look at the number of labor surplus areas, the overall unemployment level, the number of firms within the labor surplus areas willing and capable of performing such contracts and the probability of such firms completing such contract at a fair and reasonable cost.

This determination would be made on a contract-by-contract basis, substituting specific criteria for the present procedure which arbitrarily decides that a total labor surplus set-aside is not feasible.

The procedure I suggest for allowing total labor surplus area set-asides borrows heavily from current procedures followed by a contract officer in placing a procurement into a total small business set-aside, regarding which the Armed Forces Procurement Regulation states that:

The entire amount of a procurement may be set aside for exclusive small business participation if the contracting officer determines that there is a reasonable expectation that offers will be obtained from a sufficient number of responsible small business concerns so that awards will be made at reasonable prices.

This procedure has worked well for such total small business set-asides. The procurement officers solicit bids from available firms on bidders lists compiled by the Small Business Administration and from lists compiled by the DOD of firms which have bid in the past on other contracts to insure adequate competition. The same sort of lists could be obtained of the labor surplus area firms.

The contracting officer has an additional safeguard against an unreasonably high bid price under total small business set-aside which would also be available under a total labor surplus area set-aside; he may cancel the set-aside and readvise among all firms.

My amendment would extend these well established and workable procedures to make them applicable to total labor surplus area set-asides, and would remove the current blanket prohibition against such set-asides.

My amendment would not mandate a total labor surplus area set-aside in situations where such a procedure would prove uneconomical. In previous Congresses I had attempted an outright repeal of the Maybank amendment. In fact, in the last session of the 93d Congress, an amendment offered by Senator PASTORE and myself which did repeal Maybank, was accepted by the Senate, but dropped in conference, apparently due to DOD opposition. The DOD objected to outright repeal because in certain circumstances a total labor surplus set-aside would not result in an economical contract price, such as where there were an insufficient number of firms within the labor surplus area to generate a fair price. I appreciate the nature of such objections and have this year drafted my amendment accordingly. My amendment would preserve the positive features of the Maybank amendment and at the same time unfetter the labor surplus area set-aside program, so badly needed in today's economy.

I urge my colleagues to support me in this effort.

Mr. MCCLELLAN. Mr. President, I discussed this item with the distinguished Senator from Maine and also with my distinguished colleague, the ranking minority member on the Appropriations Committee, and I am prepared to accept the amendment and take it to conference, unless someone objects.

I am ready for the vote and I yield back the remainder of my time.

Mr. HATHAWAY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

The following is Senator HATHAWAY's third attempt to modify Maybank.

UP AMENDMENT NO. 285

Mr. HATHAWAY. Mr. President, I send a second amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an unprinted amendment No. 285.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, line 5, beginning with "except" strike out all down through "Government" in line 7 and insert in lieu thereof the following: "except that nothing herein shall be construed to preclude total labor surplus area set-asides pursuant to Defense Manpower Policy No. 4 (32A C.F.R. Part 8) if the Secretary specifically detemines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices".

Mr. HATHAWAY. Mr. President, the purpose of this amendment is to include language that would allow the Secretary of Defense to make contracts or set asides in labor surplus areas provided the Secretary specifically determines there is a reasonable expectation that offers would be obtained from a sufficient number of eligible concerns so that awards would be made at a reasonable price. An amendment similar to this amendment was tacked on to the same bill last year and I understand the floor manager has no objection.

Mr. President, in offering this amendment, I would first like to note that it is entirely consistent with the language already included in section 723 of this bill as reported. I am merely striking "except where the Secretary has specifically determined that sufficient price competition exists to insure a reasonable price to the Government:" and substituting the more precise language of my current amendment, which accomplishes the same goal as the language to be dropped. I have had a long time interest in this subject matter and was successful last year in adding the language for which I now intend to substitute. This occurred during the Senate's consideration of the 1976 Department of Defense Appropriation on November 18 of last year.

Mr. President, to elaborate on my intention in offering the previous amendment and in support of my modified amendment today, I ask unanimous consent that my remarks as contained in the RECORD for November 18, 1975, be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. HATHAWAY. Mr. President, the amendment I offer today is similar to one the Senate adopted a year ago. It went to conference but did not survive the conference.

The amendment has been modified to satisfy the objections that the Defense Department had to it at that time.

I have discussed the amendment at great length with the distinguished chairman of the committee. I believe it is acceptable to him.

Mr. President, the amendment I propose today would modify language contained in this Defense Appropriations bill, and in every DOD appropriation since 1953. The language I wish to modify is the so-called Maybank amendment, named after Senator Burnet R. Maybank who first introduced it. It states that:

"No funds shall be used for the payment of a price differential on contracts made for the purpose of relieving economic dislocations."

Senator Maybank's goal was to prohibit the DOD from paying more for textiles obtained from mills in New England than from mills in other parts of the country, particularly the South, where labor costs were lower. At that time the DOD was prone to pay these higher costs in an attempt to stop or slow the trend of many New England firms moving to areas with lower labor costs. The Maybank amendment was desirable legislation to counteract this regional favoritism which imposed higher costs for the defense of the country as a whole.

As we all know, most of the mills moved, and therefore the historic phenomenon to which the Maybank amendment was addressed no longer is significant.

The Maybank amendment, however, has lived on, and became a significant problem in its own right as it has affected the DOD's labor surplus area set-aside program. This program was initiated in 1952 under Defense Manpower Policy No. 4 which requires that certain procurement contracts be setaside for bidding in areas of substantial unemployment. The program was meant to preserve management and employee skills useful to the Nation's defense during times of economic downturns. This program is a valuable one, and ought to gain increasing attention today as unemployment hovers at an unacceptable level of 8.6 percent.

The General Accounting Office has, however, in its construction of the Maybank amendment and the labor surplus area set-aside program, limited implementation of the goals of the latter by its determination that a defense procurement contract cannot be totally set aside for award to firms located in labor surplus areas, but rather must be split up into two or more units with at least one of those contract units being bid competitively among all firms, within and without labor surplus areas. Under the GAO interpretation, the open competition on a portion of the total contract award determines the highest price payable on the remaining portion of the contract to be set aside for labor surplus areas. This construction is based on the theory that the best price can only be obtained by an open competition among all sorts of firms and would not be obtainable under a total set-aside to labor surplus areas. Such a theory might have made some sense in times of low levels of unemployment where there were few qualifying labor surplus areas, but makes little sense today. I might add that in 1953, when Senator Maybank first introduced his amendment, unemployment was only 3 percent. In a time of 8.6 percent unemployment, when approximately 800 areas across the country have been designated by the Secretary of Labor as having a substantial unemployment, setting aside a Government contract for procurement among firms in these areas would surely yield a competitive price. Furthermore, the GAO interpretation which refuses to allow such a total set-aside severely limits the labor surplus area set-aside program's goal of helping alleviate localized severe unemployment. The time has come to change the statutory structure to allow total labor surplus set-asides and to eliminate the GAO's tortured construction to the Maybank amendment.

My amendment would allow the Secretary of Defense or his delegate, the contracting officer, to make a total set-aside to labor surplus areas of a Government contract when the Federal Government will not be forced to pay an unreasonable contract price. In order to make that determination the officer should look at the number of labor surplus areas, the overall unemployment level, the number of firms within the labor surplus areas willing and capable of performing such contracts and the probability of such firms completing such contract at a fair and reasonable cost.

This determination would be made on a contract-by-contract basis, substituting specific criteria for the present procedure which arbitrarily decides that a total labor surplus set-aside is not feasible.

The procedure I suggest for allowing total labor surplus area set-asides borrows heavily from current procedures followed by a contract officer in placing a procurement into a total small business set-aside, regarding which the Armed Forces Procurement Regulation states that:

"The entire amount of a procurement may be set aside for exclusive small business participation if the contracting officer determines that there is a reasonable expectation that offers will be obtained from a sufficient number of responsible small business concerns so that awards will be made at reasonable prices."

This procedure has worked well for such total small business set-asides. The procurement officers solicit bids from available firms on bidders lists compiled by the Small Business Administration and from lists compiled by the DOD of firms which have bid in the past on other contracts to insure adequate competition. The same sort of lists could be obtained of the labor surplus area firms.

The contracting officer has an additional safeguard against an unreasonably high bid price under total small business set-aside which would also be available under a total labor surplus area set-aside; he may cancel the set-aside and readvise among all firms.

My amendment would extend these well established and workable procedures to make them applicable to total labor surplus area set-asides, and would remove the current blanket prohibition against such set-asides.

My amendment would not mandate a total labor surplus area set-aside in situations where such a procedure would prove uneconomical. In previous Congresses I had attempted an outright repeal of the Maybank amendment. In fact, in the last session of the 93d Congress, an amendment offered by Senator PASTORE and myself which did repeal Maybank, was accepted by the Senate, but dropped in conference, apparently due to DOD opposition. The DOD objected to outright repeal because in certain circumstances a total labor surplus set-aside would not result in an economical contract price, such as where there were an insufficient number of firms within the labor surplus area to generate a fair price. I appreciate the nature of such objections and have this year drafted my amendment accordingly. My amendment would preserve the positive features of the Maybank amendment and at the same time unfetter the labor surplus area set-aside program, so badly needed in today's economy.

I urge my colleagues to support me in this effort.

Mr. HATHAWAY. Mr. President, as noted in my remarks given last year, that amendment was modified to meet objections voiced by the Defense Department and others to my amendment offered the year before which repealed the Maybank amendment. Subsequent to the Senate's accepting my amendment, further difficulties with the Defense Department developed, and again the amendment was dropped in conference. For the benefit of the conferees, I prepared two letters, dated November 26, 1975, and December 2, 1975.

I also wish to commend the distinguished chairman of the Appropriations Committee for his efforts in my behalf, which were supported ably by the senior Senator from Rhode Island. But ultimately, the House conferees were adamant and the amendment was dropped. For the benefit of my colleagues and to further describe my intention in offering this amendment today, Mr. President, I ask unanimous consent that these letters I sent to the chairman be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 26, 1975.

Hon. JOHN L. MCCLELLAN,
Chairman, Senate Appropriations Committee, Washington, D.C.

DEAR JOHN: I understand that you have been contacted by the Department of Defense regarding its objection to the Senate amendment to H.R. 9861, which modifies the Maybank Proviso to permit a procurement contract to be totally set aside for firms located in labor surplus areas where the Secretary of Defense determines that sufficient competition exists in these areas to insure a reasonable price to the government. Such a total set-aside is not possible under the current G.A.O. interpretation of the Maybank Proviso.

First, I would like to stress that the amendment as finally drafted was intended to meet the previously expressed objections from DOD to my earlier attempts to repeal the Maybank Proviso. On those occasions, the DOD had objected on the grounds that the Maybank Proviso was necessary lest the government be forced to pay unreasonable prices on contracts, whether or not procured through the labor surplus set-aside program. Consequently, my amendment this year was intended both to allow for total labor surplus area set-asides and insure that contracts would be bid at a fair price to the government. At the time the amendment was offered, I was advised that the DOD had no objections, that it met DOD's concerns. Now it is disturbing that a new source of objection has arisen, and ironic that DOD bases its objection over a concern for small business. While I understand that the DOD opinion could change upon further reflection, I wonder whether this further objection ought to be considered to be in good faith, and not simply motivated out of an aversion to any change in status quo.

The DOD's objection, as I understand it, is based upon a concern that such a modification would result in fewer contracts going to small businesses which are not located in labor surplus areas. As you may recall, the same concern was expressed last year by the Small Business Administration to a Senate amendment which would have repealed the Maybank Proviso. At that time I offered a rebuttal to their expressed concern, but unfortunately the amendment was dropped in Conference. I repeat that rebuttal now.

The Small Business Act provides that small businesses shall receive a fair proportion of total government purchases and contracts. To implement this mandate, the Armed Services Procurement Regulations establish preference categories when set asides are to be made.

A procurement officer gives primary consideration, or first preference, to making a small business set-aside, a portion of which is further set aside for small businesses located in a labor surplus area. Thus the first preference is given to small business both in and out of labor surplus areas.

Second preference is given to partial set-asides in labor surplus areas. With the modification of the Maybank Proviso, total set-asides could be given to those labor surplus areas.

Third preference is given to total set-asides to small business only when no part of the procurement being reserved to small businesses located in labor surplus areas.

Fourth preference is given to partial set-asides to small business.

The DOD seems to be concerned that, if the restriction against total set-asides is eliminated from the second preference category, more procurements will go into the labor surplus area program and fewer procurements will be assigned to the third category, giving total set-asides for small business only.

Last year, 73.4 percent of the contracts set aside for labor surplus areas went to small business. I am of the opinion that, with the authority to make total set-asides to labor surplus areas, larger numbers of contracts will go to this program, and small business will most likely retain its proportionate share. The enlargement of the labor surplus area program has a two-fold purpose—one, to aid small business and the other to alleviate unemployment in labor distressed areas.

If modifying the restrictive language of the Maybank Proviso does result in fewer contracts being set aside for small business under the third preference, then in accordance with the mandate of the Small Business Act, the preference categories should be rearranged to assure that a fair proportion of purchases and contracts go to small business.

In fact, a reordering of these relative priorities is now being considered by the Office of Federal Procurement Policy of the Office of Management and Budget. Mr. Hugh Witt, Administrator of the O.F.P.P., stated in testimony at hearings before my Subcommittee on November 11 that a determination would be made within 60 days of that date. The Senate amendment, by allowing total labor surplus set-asides, would give the O.F.P.P. increased flexibility in making such a determination.

The claim that allowing for increased use of the labor surplus area set-asides would injure small business located outside labor surplus areas rests on a false premise: that any increase in one program would result in a concurrent loss in the other. It is far more likely that small businesses located both inside and outside labor surplus areas would benefit from an increase in the variety of set-aside programs which the DOD must fulfill. In this way the total number of contracts going to small business in all areas would increase.

My intention in offering the amendment to modify the restrictive language of the Maybank Proviso from the Defense Appropriations bill was to aid small business in an area which I feel is being hampered by the restrictions of the Maybank Proviso. I believe that the modifications will be an aid to small business, and I urge the members of the conference committee to support the modification of this restrictive language from the legislation before it.

With best regards,

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., December 2, 1975.

Hon. JOHN L. MCCLELLAN,
Senate Appropriations Committee, Washington, D.C.

DEAR JOHN: I would like to supplement my letter to you dated November 26, to explain further my goal in offering my amendment to H.R. 9861 and my hope that this amendment will be retained in conference.

It is my understanding that the Department of Defense has now been joined in opposing the amendment by the Small Business Administration and the Office of Federal Procurement Policy. I would agree that the united opposition of these different entities of the Executive Branch ought to be

carefully considered, but also ought to be examined for motive and purpose.

All of these entities seem to be concerned that any increased emphasis on the labor surplus area set-aside program would necessarily have an adverse impact upon the small business set-aside program. Such a result would be contrary to existing law and contrary to the intent of my amendment. I suspect that this charge on the part of these entities is motivated more by an affection for the status quo than any legitimate dispute regarding the impact of the amendment.

At heart, the objections are based on a unified sentiment that the amendment would be difficult to administer, that it would be hard to simultaneously fulfill the Nation's defense goals and to channel contracts to areas of high unemployment and to small business. Of course the task may be difficult but it can and ought to be done. Without the amendment it will never be done and the labor surplus area set-aside program will continue as a dead letter with little if any practical significance.

All of the expressed objections could be met with a simple reordering of the current Armed Services Procurement Regulations, to allow for total labor surplus area set-asides and uphold the precedence of small business in this and other set-aside programs. I would envision the following priority structure emerging from this administrative change in regulations:

1. Highest priority be given to total set-asides for small businesses located within labor surplus areas, followed by:

2. Total set-asides for small businesses located anywhere, then:

3. Partial set-asides for small business anywhere, and finally:

4. Total set-asides for firms located within labor surplus areas, whether or not small businesses.

Such a change in the priority structure or something very close to it would be required in order to assure the precedence of small business as mandated by the statutory authority of the Small Business Act. I believe the SBA makes a mistake in seeing the current regulations as static and not requiring such change.

Regulations are not static and must change as their statutory underpinnings change. Let us not lose this opportunity to remove an anachronistic constraint from the Defense Appropriations legislation simply because the Executive branch prefers not to amend its regulations.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senate.

Mr. HATHAWAY. Mr. President, subsequent to these difficulties, I determined to attempt to reach some accommodation with these objections which caused the elimination of my amendment. I focused my efforts on attempting to achieve some sort of understanding with the Office of Procurement Policy of the Office of Management and Budget, which it is my understanding retains overall responsibility for the procurement policies of the executive branch. As a result of these informal contacts, I learned that OFPP would be willing to undertake a test of expanded utilization of the labor surplus area set-aside program and would thereby monitor closely the interaction between this program and the small business set-aside program.

As time approached for the Senate's consideration of this year's DOD appropriation, I solicited OFPP's comments, along with those of DOD and the Small Business Administration and the GAO, which had commented earlier on a bill I submitted to repeal the Maybank proviso. Again, Mr. President, to describe further my goals today, I ask unanimous consent that this correspondence be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 13, 1976.

Mr. HUGH E. WITT,
Administrator for Federal Procurement Policy, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR HUGH: During the Senate's consideration of the 1977 Defense Appropriation bill it is my intention to once again attempt to modify the Maybank Proviso. I appreciated your assistance last December, and it is my hope that more can be accomplished this time around.

I have enclosed for your information a copy of my recent letter to Comptroller General Staats which details alternative approaches and summarizes past efforts, along with a copy of a letter from the Comptroller to Chairman Ribicoff.

I would very much appreciate your comments regarding the suggestions contained in my letter to the Comptroller. I am aware of the progress being made by Mr. Trimble and Mr. Birnbaum of your office in structuring a test of expanded utilization of the labor surplus setaside program, involving total setasides and it is my goal to make the authority under which such a test would be conducted explicit, rather than relying solely on an administrative waiver from GAO.

I hope to hear from you at your earliest convenience, and thereby avoid some of the problems we ran into in December. As I mentioned in my letter to Mr. Staats, I would appreciate it if a copy of your views could also be sent to Chairman McClellan for the Committee's consideration.

Best regards,

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

U.S. SENATE,
Washington, D.C., July 13, 1976.

Mr. ELMER B. STAATS,
Comptroller General, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: I appreciated receiving the comments of your office contained in a letter of April 6, 1976 (B-129709) to Senator Ribicoff with regard to my bill S. 2659, a copy of which I have attached.

While to my knowledge there is no action scheduled on that particular bill, the Senate Appropriations Committee will be considering the 1977 Defense Appropriations bill, H.R. 14262, upon its return from the current recess, and floor action on this bill is scheduled later this month. I intend to ask that a modification of this bill be considered at those times.

It is my understanding that over the last few months your office has been in contact with the Office of Federal Procurement Policy with regard to the feasibility of conducting a study utilizing total labor surplus area setasides in certain areas involving both the DOD and the civilian sector. For purposes of such a study I understand you would be willing to waive your current interpretation of the Maybank Proviso. This study would form the basis for determining the appropriate role of the labor surplus setaside program with the various other setaside measures, such as small business.

I hope that continued progress can be made on this subject. At the same time, I would like to see the Defense Appropriation bill amended to state explicitly that total labor surplus area setasides are permissible, if certain determinations concerning price and competition can be made.

I have included the following two alternative approaches for your consideration and comments.

1. *"Provided further,* That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations, *except that this shall not be deemed to preclude use of total labor surplus area setasides pursuant to Defense Manpower Policy No. 4 (32A C.F.R. Part 8) by the Secretary of Defense on a test basis at selected locations in cases where it is specifically determined that sufficient price competition exists to insure a fair and reasonable price to the Government;"*

2. *"Provided further,* That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations, *except that this shall not be deemed to preclude total labor surplus area setasides pursuant to Defense Manpower Policy No. 4 (32A C.F.R. Part 8) if the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices;"*

The former approach was suggested to me last December by Hugh Witt, of O.F.P.P., and was concurred with at that time by DOD, and the S.B.A. The latter follows closely the suggested revision contained in your letter of April 6. Either would represent a marked improvement over the present state of the law where the labor surplus program is all but ignored, and the Maybank Proviso is cited as an immutable bar to any improvement.

Because of the tight legislative schedule I would appreciate your comments on an expedited basis. I would ask too that you send a copy of your response directly to Chairman McClellan of the Appropriations Committee.

Best regards.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., April 6, 1976.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Government Operations, U.S. Senate.

DEAR MR. CHAIRMAN: By letter of December 8, 1975, you requested our comments on S. 2659, 94th Congress, a bill to repeal the prohibition against payment of a price differential on certain Department of Defense (DOD) contracts made for the purpose of relieving economic dislocations, and to state the manner and order in which contracts will be awarded to carry out labor surplus area and small business set-aside programs. While the law which this bill in part seeks to amend has expired, the Committee staff has informally requested that we provide our comments on the bill due to the recurring nature of its provisions.

The bill would repeal section 823 of the 1975 DOD Appropriation Act, Pub. L. 93-437, which prohibited the use of appropriated funds for payment of a price differential on contracts made for the purpose of relieving economic dislocations. Similar provisions have been contained in prior appropriation acts, and this provision was also contained in section 723 of the 1976 DOD Appropriation Act, Pub. L. 94-212. An attempt to delete this provision from the 1976 DOD Appropriation bill was defeated in conference. H. Rept. 94-710, 94th Cong., 1st Sess. 60 (1975).

We have held that this type of provision precludes expenditure by DOD of appropriated funds under any contract awarded on the basis of a labor surplus area set-aside in excess of the lowest price obtainable on an unrestricted solicitation of bids or proposals. We have also held that set-asides for surplus labor areas of more than 50 percent of particular procurements can be justified only by definite determinations that prices on the non-set-aside portion of the procurement could not reasonably be expected to

be greater than for the total quantity of the procurement. While no Federal law specifically authorizes a preference for labor surplus areas in the award of Government contracts, such a preference is contained in Defense Manpower Policy No. 4 (Revised), 32A C.F.R. Chapter 1, and Department of Labor Regulations, 29 C.F.R. Part 8, and is in turn contained in the Armed Services Procurement Regulation (ASPR) and the Federal Procurement Regulations (FPR). However, the prohibition against payment of a price differential for these contracts is also contained therein.

Whether the legislation should be enacted is a policy matter for the Congress to decide. If the bill is to be enacted, we recommend the inclusion of a provision in the bill as follows:

(c) No total set-aside shall be made under the authority of paragraph (b) above unless the contracting agency determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that any awards will be made at reasonable prices.

Sincerely yours,

R. F. KELLER,
Acting Comptroller General of the United States.

U.S. SENATE,
Washington, D.C., July 13, 1976.

Mr. DALE R. BABIONE,
Deputy Assistance Secretary of Defense (Procurement), Department of Defense, The Pentagon, Washington, D.C.

DEAR MR. BABIONE: I have enclosed for your information a copy of my recent letter to Comptroller General Staats concerning my interest in modifying the Maybank Proviso, which is contained perennially in the Defense Appropriation legislation. Also enclosed is a copy of a letter from GAO to Chairman Ribicoff concerning my bill, S. 2659 which proposed outright repeal of the Maybank language.

I am aware that the DOD has in the past expressed reservations regarding any changes in the Maybank Proviso because of the complexities in the interactions between the labor surplus area and small business setaside programs. Because of this OFPP is prepared to conduct a test study in both the defense and civilian procurement sectors to better evaluate these interrelationships. It is my conviction that the goals of both programs would be enhanced by the expansion of the labor surplus area program. My proposed amendment which remove the bar to any such experimentation which the Maybank Proviso has represented for the last 25 years.

I would like to receive comments from the Department of Defense on the alternative approaches contained in my letter to Mr. Staats. It is my understanding that the first version was cleared last December with DOD by OFPP. I have also written to Mr. Niederlyner the General Counsel because I was not certain whether this matter fell most immediately under his or your jurisdiction.

Because of the tight legislative schedule, I would appreciate your comments on an expedited basis. Likewise, I would appreciate it if you could forward a copy of your letter directly to Chairman McClellan of the Appropriations Committee.

Best regards.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

U.S. SENATE,
Washington, D.C., July 13, 1976.

Mr. MITCHELL R. KOBELINSKI,
Administrator, Small Business Administration, Washington, D.C.

DEAR MITCH: I have enclosed for your information a copy of my recent letter to Comptroller General Staats concerning my interest in modifying the Maybank Proviso which is perennially included in the Defense Appropriation legislation. It is my goal to allow for the utilization of total labor surplus area setasides, which are currently barred by a GAO interpretation of the Maybank Proviso, as explained in the enclosed letter from GAO to Chairman Ribicoff of the Government Appropriations Committee.

I am aware that the interaction of the labor surplus program and the small business setaside programs have been a source of controversy in recent years. I am confident that these difficulties could be worked out to the satisfaction of the SBA and the small business community.

Further, it is my understanding that Administrator Witt of the Office of Federal Procurement Policy in the Office of Management and Budget is willing to structure a test to study these interactions. I would like to amend the bill to allow explicitly such a test.

Because of the tight legislative schedule, I would appreciate your comments on the alternative approaches contained in my letter to Mr. Staats. The first approach was cleared with SBA by OFPP last December.

I would appreciate it if you could forward a copy of your letter directly to Chairman McClellan of the Appropriations Committee.

Best personal regards.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

U.S. SENATE,
Washington, D.C., July 13, 1976.

Mr. LEONARD NIEDERLYNER,
General Counsel, Department of Defense, Washington, D.C.

DEAR MR. NIEDERLYNER: I have enclosed for your information a copy of my recent letter to Comptroller General Staats concerning my interest in modifying the Maybank Proviso, which is contained perennially in the Defense Appropriation legislation. Also enclosed is a copy of a letter from GAO to Chairman Ribicoff concerning my bill, S. 2659 which proposed outright repeal of the Maybank language.

I am aware that the DOD has in the past expressed reservations regarding any changes in the Maybank Proviso because of the complexities in the interactions between the labor surplus area and small business setaside programs. Because of this, OFPP is prepared to conduct a test study in both the defense and civilian procurement sectors to better evaluate these interrelationships. It is my conviction that the goals of both programs would be enhanced by the expansion of the labor surplus area program. My proposed amendment which remove the bar to any such experimentation which the Maybank Proviso has represented for the last 25 years.

I would like to receive comments from the Department of Defense on the alternative approaches contained in my letter to Mr. Staats. It is my understanding that the first version was cleared last December with DOD by OFPP. I have also written to Deputy Assistant Secretary Babione because I was not certain whether this matter fell most immediately under his or our jurisdiction.

Because of the tight legislative schedule, I would appreciate your comments on an expedited basis. Likewise, I would appreciate it if you could forward a copy of your letter directly to Chairman McClellan of the Appropriations Committee.

Best regards.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

Mr. HATHAWAY. Mr. President, as detailed in the letter sent to Chairman RIBICOFF by GAO in connection with my bill, and in my return letter to Comptroller Staats, the amendment I offer today is almost identical to the GAO recommendation and would accomplish the goal of amending existing law to avoid the current restrictive interpretation of the GAO.

To this point I have not received formal response to those letters, but informally I have learned that the OFPP is prepared to approve the GAO approach as being consistent with its long-term procurement goals and as being desirable to foster the conduct of a test which would allow for increased utilization of the Labor Surplus Area Set-aside program.

At this point I would like to express my appreciation for the assistance and support the Chairman has given me in this effort over the last 3 years and I am confident that this year we have come up with an approach which will be satisfactory to all parties concerned.

Mr. PASTORE. Will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. PASTORE. I hope this amendment will be accepted. We do have spotty situations of high unemployment. I do not think this takes anything away from the budget, but it does give priority in those sections where they really need the work. I would hope the amendment would be taken to conference.

Mr. HATHAWAY. Mr. President, I thank the Senator from Rhode Island, who has been of great help in respect to this amendment. I hope this year the House will go along with it in conference and it will be accepted and enacted into law.

Mr. MCCLELLAN. Mr. President, the committee recommended inclusion in this bill language similar to Senator HATHAWAY'S amendment on this subject last year. As I recall, we accepted a similar amendment last year and took it to conference, but we were unsuccessful in conference: After that recommendation had been made, the committee was advised that the General Accounting Office had examined this issue and redrafted language of the amendment. This is a redrafted amendment to that which was accepted last year.

GAO recommended that if Congress deemed it advisable to modify the prohibition in the Defense Appropriation Act against payment of a price differential on contracts made for the purpose of relieving economic dislocations, the language proposed in the amendment as now presented by the distinguished Senator from Maine should be used.

Therefore, Mr. President, as last year, I have no objection to the amendment. If there is no objection on the part of the committee or anyone, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I believe it is our practice to exchange times. I see that the Senator from Mississippi is on his feet. Reserving the remainder of my time, I am happy to yield to the distinguished Senator.

Mr. STENNIS. I yield 6 minutes to Senator TOWER.

Mr. TOWER. I thank the distinguished chairman of the Defense Appropriations Subcommittee.

Mr. President, there are several reasons why this amendment should be rejected. It will result in increased defense cuts with no increase in defense capability and a reduction in competition.

It does create a great potential for political abuse since the President is given discretion to establish what is reasonable price.

In my view, one of the worst things it does is discriminate against minority-owned business enterprises in my State

and in other parts of the country. It discriminates against the black businessmen in Houston. It discriminates against the Mexican American businessmen in Houston, or the Mexican American businessmen in San Antonio.

It discriminates against these minority enterprises, often small, in order to channel Federal contracts to sometimes much larger businesses in areas that are declared to be in labor surplus.

Let us make no mistake about it, this amendment would not create new jobs. It would just shift jobs from one geographical area to another.

What about that shift? What is the nature of it? It would shift jobs from geographical areas that have created an unfavorable political climate for business. It would shift contracts there and away from areas that have created a favorable political climate for business.

Mr. BRADLEY. Will the Senator yield?

Mr. TOWER. A lot of the problems in these labor surplus areas are created by the political climate.

Why is it that business in the so-called Frost Belt is going to the Sun Belt?

Mr. STENNIS. May we have quiet to hear the speaker?

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order?

Mr. BRADLEY. Will the Senator yield for a question?

Mr. TOWER. In a moment.

The Wall Street Journal has concluded that one of the reasons is because of the enormous tax and regulatory burdens that in some major industrial States have been placed on the business community.

I note with great interest the proponents of the amendment have circulated, I suppose to each Senator, a list of the so-called labor surplus areas in their respective States that would be eligible under the terms of this amendment. That is very interesting. A labor surplus area is defined as a jurisdiction of 50,000 people with a certain percentage of unemployment, as I understand it.

I notice in my State there are some 19 counties they have scraped together out of 254. One of them is Loving County. That is a splendid county in Texas noted for wide open spaces, a substantial livestock population, and a human population of 114.

So I would suggest that my colleagues examine these lists that have been circulated to them.

There are some other counties much more populated. Sabine County probably has 10,000 people in it. LaSalle County, the county seat which is Cotulla, may have 5,000 or 6,000 people in it.

I would suggest these be closely examined, including also Killeen, where there are armored divisions stationed, and the unemployed figures are implemented by the fact that dependents of Army personnel are looking for jobs. But I would not say the Fort Hood area is an economically distressed area.

Mr. MOYNIHAN addressed the Chair.

Mr. TOWER. Mr. President, I hope this capricious amendment, designed to try to provide some assistance to areas that have brought about their own economic stagnation, will be rejected by the Senate.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Go ahead.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Briefly, Mr. President, in response to the Senator from Texas' quite appropriate question, may I say that the labor surplus area is defined as either a city of 50,000 or more, or a county.

It is quite true that Texas, I believe, has more counties than any other State. Texas has more of almost anything than any other State, and that is its glory.

I am sure there are not many people in Loving County because the Senator says so.

We have counties like that in New York. But I think it is also the case that many in Texas live in such labor surplus areas as Brownsville City, El Paso, Galveston, and Port Arthur.

The Senator from Louisiana mentioned a county recently and said, "The only thing we have is a sawmill." We all have counties like that; but we also have counties with large concentrations of people.

There are about five States on the high plains that have almost no surplus areas. Otherwise, we all do.

I see that both Senators from New Jersey are present. The junior Senator is on his feet.

Mr. BRADLEY. I am pleased to yield to the senior Senator, if he would like.

Mr. WILLIAMS. I appreciate that, Mr. President.

Mr. MOYNIHAN. Will the Senator yield?

Mr. WILLIAMS. Certainly.

Mr. MOYNIHAN. I did not realize the senior Senator wished to speak at this moment, that being the case, may I say——

Mr. BRADLEY. I would like to respond.

Mr. MOYNIHAN. May I say we have been waiting for the final summation on our case from a man who for more than a generation has stood for the informed and intelligent use of national resources in labor markets.

There is no man who knows more about, or who has done more to improve, American labor policies than the senior Senator from New Jersey. I hope the Senate will listen to him speak; I am sure it will.

Mr. BRADLEY. May I ask my distinguished colleague to yield for 1 minute in order to recompose himself after that very accurate description?

Mr. WILLIAMS. Yes.

Mr. BRADLEY. Mr. President, in response to the Senator from Texas, I simply say that I am pleased to hear his concern about minority set-asides. That is one that I hold, as well.

I simply suggest that the areas that are labor surplus areas, and, therefore, eligible for a set-aside, would be the areas that would have the highest proportion of minority businesses. Most, minority citizens live in large labor surplus areas. Therefore minority enterprizes would be helped by improvement of the labor surplus set-aside program. It is implausible that this program could hurt minorities.

Finally, concerning the conversation about the eligible areas, jurisdictions I would just like to point out that in Texas there are 23 eligible jurisdictions. In New Jersey, we have only 22.

So it seems to me that the comment about what is the source of the economic climate that allegedly has necessitated this set-aside program, bears a little closer scrutiny.

Mr. WILLIAMS. Mr. President, I am very grateful to the Senator from New York for coming on with this amendment. I am more than pleased to join in support of the amendment offered by the Senator from New York (Mr. MOYNIHAN), which would permit the Secretary of Defense to exercise greater flexibility in defense procurement practices.

Throughout our Federal procurement system, we have sought to promote several social and economic objectives which Congress has determined have a high national priority. One such basic social and economic objective is to reduce unemployment in regions where it is exceptionally high through the countercyclical application of Government procurement. Focusing Government procurement on areas of high unemployment, so-called "labor surplus areas," has had a very positive effect in improving chronic or acute unemployment is those areas. For example, my own State of New Jersey has 22 labor surplus areas which benefit from this policy. In fact, Congress reaffirmed this policy in amendments to the Small Business Act in 1977.

The single exception to this social and economic policy is the Department of Defense, which had been exempted from the policy since 1953 by the so-called Maybank Amendment. The Secretary of Defense is denied the flexibility to participate in negotiating contracts in labor surplus areas and is precluded from participating in solving the serious economic problems that exist in them.

I point out that this amendment will not interfere with the Secretary of Defense in his decisions to procure strategic items. The amendment deals only with nonstrategic goods and services which constitute about $15 to $20 billion worth of purchases a year. Further, the amendment requires that there be sufficient competition in the area so that awards are made at reasonable prices.

Mr. President, I believe that the rising unemployment rates make it imperative that Congress institute a uniform Government procurement policy to provide some relief to depressed economic areas. The proposed amendment would be conducive to the economic vitality of the Nation as a whole, and it would permit Federal dollars to be spent where they do the most good. Therefore, I urge its adoption.

Mr. President, the Senator from Texas indicated that stagnation is the fault of the area where there is labor surplus. The Senator from Texas, a good friend,

recognizes that where there are local situations and there is a Government program designed to reach a local situation of adversity, it should be used.

I joined him in bringing one of our urban development programs to a very rich general area, but within that rich general area was an area of stagnation, depression, decay.

Together, we fashioned a measure that reached that smaller island of depression within a greater area of affluence. Again, it was national policy directed to an objective, and it was applied there.

We are just saying that we have a national objective to use procurement where it fits, to relieve labor surplus where there is unemployment. It fits here.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. WILLIAMS. I yield.

Mr. TOWER. I want to make one suggestion to my distinguished friend from New Jersey.

One method of assisting these areas in relieving the problems of surplus labor and unemployment would be for them to pass right-to-work laws and relieve the enormous tax burdens and regulatory burdens imposed on the business community in that State.

I recommend that course, and then the Senator from New Jersey would not have to come to us and ask us for this kind of assistance.

Mr. WILLIAMS. I believe Texas lives under right to work. Am I right about that?

Mr. TOWER. Right.

Mr. WILLIAMS. Notwithstanding the right-to-work laws of Texas, we did amend the urban development action grants to meet the problems of depression in Texas.

So, notwithstanding the "opportunities" that exist with right to work, you have your problems, too, I suggest to the Senator from Texas.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. MOYNIHAN. On whose time?

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I have promised others that I would yield. I am sorry.

Mr. MOYNIHAN. I am happy to yield to the Senator from Virginia.

Mr. WARNER. I thank the distinguished Senator from New York.

I address this question to Senator Williams: What I have difficulty understanding is how there is any net gain of jobs here. This, basically, gives the Secretary of Defense the discretionary power to shift work from one geographical jurisdiction to another. What happens to the poor individual back in A, who could have put in the low bid, when the contract is shifted from his plant to another plant where there is a labor surplus?

Mr. WILLIAMS. I gather that the Senator is saying that when the contract is assigned to an area, somebody else who could have had it——

Mr. WARNER. Loses the job.

Mr. WILLIAMS. I gather that it would be from an area with no problems of high unemployment to an area of high unemployment.

Mr. WARNER. But what do you say to the individual who lost his job in the area which does not meet the surplus requirements?

Mr. WILLIAMS. I gather that he is in an area where that will not be the same kind of problem we have, where there is an area of high unemployment.

The Senator from New York, who has offered this amendment, will describe, I am sure, that we are decreasing the opportunities for general unemployment by increasing the amount of authorization under this bill.

I ask the Senator from New York whether that is true.

Mr. MOYNIHAN. What the Senator from New Jersey says is most emphatically true; and when he speaks, this Chamber listens.

It is for good reason that he has guided the Committee on Labor and Human Resources as he has.

He has made the point that we are increasing defense spending at a rate without equivalent since the Korean war. There has been no time of peace when defense spending has risen at the rate it is rising now and will be rising in the near future.

Three weeks ago, Dr. Brzezinski made a speech in which he said that President Carter has increased defense spending in every year of this administration. This is the first time since before the Korean war that this has happened in peacetime.

We are talking about the equitable distribution of new resources. The Senator from Virginia is right to ask, "Who might lose a job?" The answer is, "No one."

The question is, will we use our resources most efficiently? Will we use them where there is a surplus of labor?

I think that in the recent exchange, we have learned what this debate is about. If you are against the right to work, you are against this amendment. If you are for working people and their rights, you are for it.

When the senior Senator from New Jersey stands and says this is just and this is sound, the Senate should listen.

Mr. BRADLEY. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I will be happy to yield to the Senator from New Jersey.

I wish to make one other point about the senior Senator from New Jersey: He is the man most responsible for the labor and economic legislation of the past generation which has produced 98 million jobs in this economy. He knows of what he speaks, and I, for one, am proud to listen to him.

Mr. STENNIS. Mr. President, may I yield some time now?

Mr. MOYNIHAN. I will be happy to yield to the chairman.

Mr. STENNIS. Mr. President, the Senator from North Carolina (Mr. MORGAN) is next on my list of those requesting to be recognized. So I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, I wish to say a few words about the proposal to strike or repeal what is known as the Maybank amendment.

This amendment has been in effect since 1954 and provides that no funds appropriated for the Department of Defense shall be used for the payment of a price differential on contracts for the purpose of relieving economic dislocations.

What the amendment does, in effect, is to remove Defense procurement from participation in the labor surplus area set-aside program. This program provides for making Government contract awards on a priority basis to firms in those areas of high unemployment, even if the prices bid by firms in those areas are not the lowest prices that could be obtained.

We are currently in a very precarious national defense posture. We have heard solid testimony in our SALT II hearings that we were superior to Russia, that we then reached a posture of equivalence, and now we are at "rough equivalence." Mr. President, if we have moved down the scale from superiority to equivalence to rough equivalence, that means to me that we have moved from superiority to inferiority.

I can accept the idea that there is no way in this modern world to race for superiority without bankrupting both our nations. But for our national safety I am not willing to accept inferiority in our defense posture.

We must make the necessary expenditures to bring our military back to a position of parity with Russia. This is going to be a very expensive proposition. There is fierce competition for scarce Federal funds. Inflation is eating away at our economic and military strength. The more we spend on defense the worse inflation gets, because by definition when resources of labor, material, and energy go into production of military items, this does not serve to satisfy consumer demand, thus increasing inflation.

The last thing we need is to artificially increase the amount we spend for defense by paying higher prices than competition would produce. If we have to pay the premium prices that the labor surplus area programs bring, we will be able to buy less defense for our dollar. By increasing what we spend for defense unnecessarily, we fuel inflation, increase unemployment and create more labor surplus.

While it might be attractive to help labor surplus areas for the short term, in the long term we will only be increasing the problem.

Mr. President, achieving the social goals of the labor surplus set-aside program is a desirable goal. But I do not believe we should do it at the expense of our critical defense needs and by creating worse inflation.

I believe we should not repeal the Maybank amendment.

Mr. President, I have a great deal of respect for the Senator from New York and the problem that he is trying to address. He makes a very appealing argument. I am concerned, also, and he has pointed out there are 18 counties in my State that would be affected and as he has also pointed out to me my State gets far less than the average share of defense spending.

But, Mr. President, let me plead with Senators to turn this amendment down.

I am a member of the General Procurement Subcommittee in Defense. I chair the Subcommittee on Procurement Policy. I am telling Senators that if there is an area in Government that needs more competitiveness in the awarding of its contracts, it is the military. By necessity there are many cases where we cannot award contracts on competitive bids because there may be only one supplier or one manufacturer. But with all of those exceptions and then with the small business set-asides and all of the other set-asides there just is not enough competition in military procurement.

In fact, my chairman asked me to go into great detail in my subcommittee about what we can do to increase competition.

Anyone who looks at the General Services Administration and the fraud that has taken place there can readily understand what will happen when we give more and more discretion to individuals in Government. Here the Secretary of Defense is given certain discretion. He is subject to political pressures as are all of the rest of us.

What are we talking about when we say "reasonable prices?" How much more will these prices be over and beyond what would be paid under competitive contracts?

If we continue to eliminate competitive contracts from defense procurement we are going to find ourselves one day where we can only procure by going out and negotiating prices.

So while I have voted for EDA, I have voted for UDAG, I have voted for CETA, I have voted for all kinds of programs dealing with labor, I believe we will open the door if we say that the Secretary of Defense has discretion to award contracts not on competitive bids but to labor high unemployment areas at prices that he considers to be reasonable. Since we do not define "reasonable," we are opening ourselves up to the kind of situation we found in GSA.

Mr. President, I urge my colleagues not to vote to repeal this. This is an area where there is too little competition now.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. MORGAN. Yes.

Mr. LONG. Here is the problem I find with it and there is a list provided on my desk. It indicates that certain areas in north and south Louisiana could become eligible. But if we are thinking in terms of what work might one find to put somewhere, one point that readily occurs to me is ship repair. If Louisiana is not getting its fair share of ship repair, they have the right to bid for the business. We do not have difficulty getting business on bids. We know if we are on the list of bids, we will get our share.

The area where the shipyards are, where the repair work will be done, does not appear to be here as one of the areas of unemployment, that is of labor shortage. But there are areas listed here where there are areas of labor shortage where if one could get some work in the areas where the ship repair yards are, people would go from these rural parishes and be glad to drive 30, 40, or 50 miles in order to find the work.

What causes this Senator to wonder is when you list some rural parish that has a surplus, whether that really shows a problem. If you take a parish like St. James, for example, or St. Bernard, that is listed here, or St. Charles, I believe is listed, people from those parishes, if there is work, let us say, at the Havendale Shipyards in Jefferson Parish, people in that area will go to find the work. The difficulty with some of these parishes listed is that they do not have any plants and no industry, and that being the case, even if you did have a preference for a contract, if you do not have any plant to bid for the contracts, what good is it going to do you if you are a labor surplus area?

For example, a parish like Catahoula—it is listed as Catahoula County I notice—if you are in Catahoula Parish all you have there is a sawmill and the Army is not asking for bids on sawmill products so I wonder what particular payroll do you have there that is going to get the defense business. If they had the factories perhaps they could get the business. I do not see how you are going to get the business if you do not have a factory to begin with.

Mr. MORGAN. Mr. President, my colleague makes a good point.

Mr. President, I conclude by saying there is no fairer way to procure Government property than the competitive process. I hope we will defeat this amendment.

Several Senators addressed the Chair.

Mr. STENNIS. Mr. President, if I may yield to one more Senator, I am happy to yield to the Senator from South Carolina (Mr. THURMOND).

Mr. THURMOND. Mr. President, I rise in opposition to this amendment.

If this amendment is accepted the Senate will be opening a Pandora's box of political influence which will bring down the present sound practice of low bid competition on billions of dollars of defense contracts.

A similar effort was made in the House where it was beaten by a 2 to 1 vote in the House Appropriations Committee and beaten 187 to 174 on the House floor despite the fact the amendment was offered by the chairman of the Defense Subcommittee.

MAYBANK AMENDMENT

Mr. President, defense contracting has been restricted to the low bidder since 1954 when the Maybank amendment was passed. It states:

> No funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations.

Simply stated that means a contract is not awarded at prices higher than those otherwise obtainable simply because a certain level of unemployment exists in a given area.

If this amendment is accepted it will have a number of adverse impacts. Such imoacts could be any or all of the following:

First. Open the way for political pressure to award contracts to certain firms for reasons other than cost consideration.

Second. Result in less defense goods obtainable from the already constrained defense budget.

Third. Reduce readiness as available dollars would not be spent in the most efficient manner.

Fourth. Replace established contract procedures with administrative judgments and drag out contract awards, and

Fifth. Divert contracts from efficient small business and minority firms which are not presently in labor surplus areas.

CHANGE NOT NEEDED

Mr. President, I do not think this amendment is even needed as a substantial portion of defense contracts already go to labor surplus areas.

Between fiscal year 1975 and fiscal year 1977 an average of 67 percent of defense contracts were awarded in labor surplus areas, but the awards were made on the basis of merit, low bid, and efficiency. The average in fiscal year 1978 fell to 43.5 percent, but this resulted from a Labor Department change in how labor surplus areas were designated.

CREATE NEW PROBLEMS

Mr. President, amendments of this type could create new areas of unemployment. Imagine that we have two counties side by side, one a labor surplus area and the other not. If business is transferred from one county to another and awarded to a higher bidder, it not only costs the Government more money but creates a new labor surplus area. Also, the question arises as to how much money above the low bid should be paid to aid a labor surplus area firm. In such cases our Senate offices could be filled with representatives from companies arguing their respective cases as the contract award will be a judgment call, rather than to the low bidder.

Mr. President, the more I hear this matter argued the more convinced I am it would be a great mistake if we repeal the Maybank amendment. How are Senators going to go back home and explain to their constituents that they voted not to have competition in awarding defense contracts? I just do not see how the public is going to judge a Senator in any way except in an unfavorable way if that is done.

There is no question in my mind that if we repeal this amendment we are going to have little businessmen, medium-sized businessmen, big businessmen camping in our offices, knocking on our doors, and saying, "Won't you help me? No longer do we have competition. And the Secretary of Defense can do this if you have influence and can get him to do it."

Mr. President, I think this is one of the most dangerous amendments that has come before the Senate since I have been a Member here. Senator Maybank happened to have been from my State, and he was a very fine gentleman and a good friend of mine, but that is not the reason I am voting to try to save this amendment.

I am voting to try to save this amendment because it is the honest thing to do. Why should not a firm with the lowest

bid get the contract? It does not make sense to give it to anyone else.

What is the use to have competition in anything? Will we not be setting a precedent here in the Senate, not only on defense matters but other matters in the future, if we take away competition?

Competition is the very heart of private enterprise. Private enterprise is what has made this the greatest country in the world from an economic standpoint. If we award contracts because some area has a high unemployment situation, we are taking away that competitive spirit, we are destroying the right of people to bid and do it cheaper for the public.

Mr. President, I think it would be a great mistake if we passed this amendment and abolished the Maybank amendment.

I say further that I think it would result in less defense goods obtainable, and we already have a constrained budget.

The people now want to balance the budget. They want to reduce expenses. We want to get all we can for the dollar for the taxpayers. This amendment will get less for the taxpayers. The goods will come higher to the taxpayers if we abolish the Maybank amendment.

Another thing is readiness. I think this amendment would reduce readiness as available dollars would not be spent in the most efficient manner. That is not in the best interests of the taxpayers. I think if we do this it would replace established contract procedures with administrative judgments. Who is going to make this judgment? Are we going to give one man, with all of his duties as Secretary of Defense, who is charged with the preparedness of this Nation to defend itself, additional burdens? Someone will have to study all these contracts and determine who should get a particular contract. One community might have 10 more unemployed people or 1 percent more. The Secretary of Defense would have discretion here to make a judgment. Where do you think he will make the judgment?

If the President of the United States is running for office, whoever he may be, then he may tell the Secretary of Defense: "Let us award this contract in this State," or in that State or some other State, "because it will help me in my election."

Mr. President, we are playing with fire here. We are playing with a very dangerous situation. I hope the Senate will not take this backward step and do away with competition, do away with awarding contracts to the lowest bidder, because the taxpayers of this country want them to go to the lowest bidder. The taxpayers want the contracts to go to the people who are prepared to produce on those contracts from an efficiency standpoint. The taxpayers of this country to not want these contracts diverted to other areas.

Speaking about small business I am convinced that small business fares better under the present system. The small firms currently win $2 out of every $3 they receive on the basis of unrestricted competition with their big business brethren.

With small business now gaining under the system we have at present, how would this help small business? How are we going to help minorities if we change that system?

For instance, in 1978 DOD awarded $54.4 billion to U.S. business firms. Of this amount, $10.7 billion was awarded to small business, but only $3.4 billion as a result of set-aside preference.

Mr. President, the arguments here that have been made by the able Senator from New York and the able Senator from New Jersey just do not hold up, they will not stand up. I want to say now that, in my opinion, the only honest way, the only just way, the only fair way, the only equitable way, to award a defense contract is to the lowest bidder. That will be handled in such a way that no one can complain, and the small businesses and the minorities who are now faring fairly well under this, will continue. Otherwise, they will be hurt if we change this system.

Mr. President, I want to say that I have a letter here from the Office of the Under Secretary of Defense. They favor keeping it like it is now. This letter gives the reasons and it sets out why we should keep the present system and not allow competition to be destroyed, not cause the taxpayers to pay more money and not cause contracts to be lost to small businesses and to minority firms.

Mr. President, I ask unanimous consent that this letter be placed in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE
UNDER SECRETARY OF DEFENSE,
Washington, D.C., October 24, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: This is in reply to your request for the Department of Defense (DOD) position regarding the repeal of the Maybank Amendment and a DOD analysis of the House of Representatives debate on September 28th regarding this Amendment.

The DOD is and has been consistently opposed to the repeal of this provision of the DOD Appropriations because we perceive that total set-aside of contracts exclusively for labor surplus areas (LSA) would have the following principal harmful effects:

Reduce competition among defense suppliers and increase prices for defense purchases.

Jeopardize making awards to the best qualified and most efficient producer and result in decreased quality and delays in defense production.

Affect mobilization planning adversely by denying some firms in the mobilization base the opportunity to bid for contracts.

Replace regular contracting procedures with administrative judgments on which contracts should be set aside from normal competitive procedures.

Place intense political pressures on our contracting officials from local firms and governments.

Divert contracts now awarded to small businesses and minority firms not in an LSA.

Details regarding to the foregoing impacts are contained in the Enclosure 1.

Our analysis (Enclosure 2) of the House debate is offered with intent of clarying from the DoD standpoint certain statements and issues relating to the House debate as recorded in the Congressional Record of September 28. In this regard, our comments are keyed by page number, column number and paragraph number of the Congressional Record.

We appreciate this opportunity to be of service to you. Please call me if we can provide any further information or assistance.

Sincerely,

DALE W. CHURCH,
Deputy Under Secretary (Acquisition Policy).

Mr. NUNN addressed the Chair.

Mr. STENNIS. Mr. President, I yield 6 minutes to the Senator from Georgia.

Mr. NUNN. Mr. President, I am opposed to the amendment of the Senator from New York (Mr. MOYNIHAN) and others which would change the so-called Maybank amendment in the Department of Defense appropriations bill by requiring the Department of Defense to participate in setting aside procurement contracts for award in so-called labor surplus areas. This change would, in effect, repeal the Maybank amendment.

I have listened with care to the eloquent and thoughtful statements of Senator MOYNIHAN, my colleague and good friend from New York. He has made, I think, a very thoughtful statement about the need for increased participation in Department of Defense activities in the Northeast, and I do not take issue with his position on that. However, this current amendment should not be viewed as simply a regional matter. The amendment would require the Department of Defense to totally set aside certain procurement actions for award to contractors located in so-called labor surplus areas.

The Department of Labor lists about 23 percent of the total number of civil jurisdictions in the country as labor surplus areas. Only three States—Kansas, New Hampshire, and Wyoming have no jurisdictions designated as labor surplus areas. In the State of Georgia, there are several labor surplus areas including the cities of Atlanta, Augusta, Albany, and Macon. Unemployment is a serious problem in these areas, and I support efforts, including Federal programs, to reduce the too high level of unemployment.

I cannot, however, support this amendment which would attempt to place requirements on the Department of Defense to solve social and economic problems because it will result in less competition and increased costs. It will result in less competition because only firms in less than one-quarter of American civil jurisdictions would be eligible to compete for these set-aside contracts. I would also add that such a program could hurt small business by giving an advantage to a large business just because it was located in a labor surplus area even though the small business might offer the product or service at a lower price. Concerns have often been expressed about the need to increase competitive procurement because increased competition leads to lower costs. This amendment will decrease competition and increase costs. In addition, another administrative burden will be placed on contracting officers to determine whether or not a contract meets the criteria for a labor surplus area set-aside. Increasing administrative

burdens does not come free and will result in additional administrative costs.

I have emphasized the need for increased defense spending—to increase defense investment. I have also emphasized the need to get more out of the dollars we do spend on defense. This amendment by lessening competition will increase the price we pay in defense procurements and by increasing administrative burdens will increase the cost of making contracts. So the effect of this amendment will be to increase. defense spending but with no additional contribution to real defense needs.

In their November 1 "Dear Colleague" letter, Senator MOYNIHAN and the amendment cosponsors state:

> Our amendment would bring the Defense Department into step with the rest of the Government.

The impression is that the Department of Defense is ignoring labor surplus areas. This is not the case. Many people apparently do not realize that defense policy does give preference but not a total set-aside to contract awards in labor surplus areas. In fiscal year 1978, the Department of Defense placed $25 billion in contracts in labor surplus areas—about 2½ times the amount for all other Federal agencies. The Department of Defense placed 43.5 percent of its number of awards in labor surplus areas while the civilian agencies placed only 37.7 percent.

In other words, the Department of Defense had a larger percentage of the number of awards going to labor surplus areas than the other branches of our agencies in Government. I am not comparing dollars, I am comparing number of awards, and I will make that distinction in advance. But the number of dollars is also close to being as much as was in the other agencies. But they do not do it by accepting a reasonable cost. They do it by accepting the low bid, and when we compute the difference between the reasonable cost as imposed in this amendment and the low bid, which is the current practice, the amount of dollars may be staggering. I do not know whether it would be or not because nobody knows what the discretion of the Secretary of Defense would be in this regard. In addition, the Department of Defense made these awards on the basis of less cost because competition was not restricted. So $25 billion in contracts were awarded in labor surplus areas without paying a price differential. Part of the cost of this amendment would be the price differential applied to these contracts.

It would appear that other Federal agencies could learn something from current defense procurement policies. It is not at all clear that many more contract awards could result from a total set-aside program. It is clear that permitting the Department of Defense to pay a price differential for making an award in a labor surplus area would increase defense costs and decrease the efficiency with which every defense dollar needs to be applied.

For all these reasons, I conclude that this amendment is a poor way to attempt to solve serious economic problems, and I urge my colleagues' support to oppose the amendment.

Mr. WARNER and Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I am happy to yield 2 minutes to the able Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Senator from New York, and I also thank the Senator from Mississippi for yielding.

Mr. President, I rise in support of this very important and constructive amendment to the Department of Defense appropriations bill.

The amendment, which I have actively supported for many years, would simply place the Department of Defense under the same purchasing guidelines as most of our other Federal Cabinet departments with respect to the purchase of goods and services.

Mr. President, my able colleagues have gone into detail concerning the positive impact that the repeal of the Maybank amendment would have upon the economy of our Nation, and most particularly those areas, located in all parts of this Nation, which suffer from high unemployment or other symptoms of economic depression. I will simply state that this amendment is needed more now than at any time since I have been pressing for its adoption.

Whatever one's view of the merits of the Federal Reserve Board's recent action, all observers agree that these actions are bound to result in more unemployment than would otherwise have been the case, and that a recession of some magnitude is almost inevitable. Allocating purchases of nonstrategic goods and supplies by the Department of Defense to economically depressed areas is a sound and reasonable way to mitigate the effects of the Fed's policies. In principle, it is similar to the idea of countercyclical aid to economically depressed areas which has received general acceptance in recent years.

I might add, Mr. President, that there is another added justification for repeal of the Maybank amendment at this particular time, and it is one with which I am very familiar. As the ranking Republican on the Senate Finance Subcommittee on International Trade, I worked very hard to help produce the recently completed multilateral trade agreements. However, one effect of those agreements is to reduce the number of Government departments which may give special consideration to labor surplus areas in purchasing goods and supplies. Therefore, it is even more important that we seek to compensate for the reductions caused by the trade agreements by allowing the Department of Defense to make such purchases of nonstrategic goods and services.

Mr. President, let me summarize by saying that, by freeing such procurements from the straitjacket of the Maybank amendment, this proposal would require the Defense Department to shoulder its share of the Federal Government's domestic economic responsibilities. It would serve to provide jobs for people who are willing and able to work, and would thereby reduce the pressure on and the costs of unemployment compensation and other income maintenance programs. These are costs which soar during periods of economic downturn; the Congressional Budget Office estimates that every 1 percent rise in unemployment costs the Federal Government $20 billion.

Channeling nonstrategic procurements to economically depressed communities in all parts of the country would be conducive to the economic vitality of the Nation as a whole, because it would permit Federal dollars to be spent where they will do the most good. Sound national policy requires such balance.

Mr. President, I believe this issue of labor surplus purchase policy is important not only with respect to Defense Department appropriations for this year, but also with respect to any increased defense expenditures, over the next 5 years. In this regard, I have written a letter to the President urging him to consider factoring in domestic economic considerations in planning the allocation of defense spending over the next 5 years. As I state in the letter, "defense expenditures can make significant contributions to the revitalization of those parts of our country that suffer from chronic underemployment and economic deterioration". Mr. President, I ask unaminous consent that this letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEINZ. Mr. President, I strongly urge that this amendment be adopted, and I also urge the President to include domestic economic factors in his planning for defense purchases over the next 5 years and beyond.

I shall not prolong the debate, Mr. President. I just want to make one point in particular.

Mr. STENNIS. Mr. President, may we have quiet? May we have it quiet, so that the Senator can be heard?

The PRESIDING OFFICER. The Senator will suspend until order is restored.

Mr. HEINZ. I just want——.

The PRESIDING OFFICER. The Senator will please suspend. The Senate will be in order.

The Senator from Pennsylvania.

Mr. HEINZ. The point I would like to emphasize, Mr. President, is that in addition to other numerous justifications for the amendment that have been advanced, there is one with which I happen to be particularly familiar. It grows out of work, in fact, of the Finance Committee, on which the Senator from New York and I serve, and the Senator from New Jersey (Mr. BRADLEY) serves as well. I refer to the recently completed multilateral treaty agreement.

Mr. President, in those agreements the United States has made an international procurement agreement. The purpose of that agreement is to open up procurement policies for any foreign governments to our exports; but similarly, it allows many American Government departments to be open to foreign government exports into this country.

It is, in a sense, a diminution of our "Buy American" Act, an act which has been particularly helpful to our labor surplus areas in our purchases of goods and supplies for all Government agencies, but particularly with respect to defense procurement.

Therefore, Mr. President, it is all the more important that we seek to compensate for the diminution of the effectiveness of the "Buy American" Act by passing this amendment.

EXHIBIT 1

WASHINGTON, D.C.,
November 6, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Your forthcoming five-year defense plan can be expected to have a great influence not only upon our global military posture but also upon our domestic economy. I therefore urge you, when formulating this plan, to take into explicit consideration the effect that federal defense spending will have upon the various regions of our nation, and to include some accounting of the expected regional effect in your report to Congress.

I welcome your attempt to provide a long-range focus for our defense budget. An increase in defense spending is an idle gesture unless the additional money is directed to military programs that, in accordance with a clear plan, make significant contributions towards acquiring a more secure deterrent to nuclear war. I would hope that this goal would be what primarily determines where our defense dollars are spent.

Yet at the same time, we are fully aware of the significant contributions that defense expenditures can make to the revitalization of those parts of our country that suffer from chronic under-employment and economic deterioration. Whenever appropriate and feasible—and especially, whenever non-strategic articles are in question—military procurement should be concentrated in regions where it will give the greatest stimulation to private-sector development. I urge you to follow this policy as far as possible in your five-year defense plan. And I would request that you include an analysis of the anticipated regional economic effect of this plan, including a breakdown of exactly where our defense monies will be spent, in the report presented to Congress.

I believe that we cannot maintain a credible military deterrent unless we show that we are capable of controlling our foreign policy and responding competently to our domestic problems; mismanagement of affairs at home can undermine the credibility inspired by the best weapon systems. It is for this reason more than any other that you should take all due consideration of your defense plan's regional economic consequences.

Sincerely,

JOHN HEINZ,
U.S. Senate.

Mr. MOYNIHAN. Mr. President, I take this opportunity to thank the Senator from Pennsylvania; the able Senator who was a principal architect of the multinational trade agreements.

He is precisely correct; the Senate should know what has happened in the bargaining that went on in the Tokyo Round. The U.S. Government and the President of the United States decided it was in the best interests of this country to give up the "Buy American" Act. It no longer is in effect. It, in effect, was repealed when we agreed to the Tokyo Round. The one exception in the procurement code is national defense. This is the only area in which we still can provide protection to small businesses and to labor surplus areas.

Second, the Senator from Georgia has made an able, factual, unemotional presentation on these matters; matters about which he feels strongly and about which he knows so much. I point out that he talked about how the Secretary of Defense would use his discretion, that all we give the Secretary is discretion. I wish to state for the record, on behalf of the managers of this bill, as part of the legislative history, that the issue raised by the ranking minority member of the Appropriations Committee, the Senator from North Dakota (Mr. YOUNG)—and I know that his colleague from North Dakota cares about this also—is: Would this interfere with any minority set-aside?

I wish to state that it is the explicit desire that the Secretary of Defense shall not interfere with any minority set-aside, and most particularly any one involving Indian reservations, where that program has worked so well.

This supplements that program; in no way should it displace it. That is the legislative history that I would like to have made clear.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield for a question. I do not have much time.

Mr. LONG. Am I to understand from the Senator's statement that the "Buy American" Act no longer applies to the Department of Defense and that foreign——

Mr. MOYNIHAN. No, no.

Mr. LONG. That foreign companies would have an equal right to bid on these procurements?

Mr. MOYNIHAN. No. I would say that the only procurement area in the Federal Government to which the "Buy American" Act still does apply is defense, and that is why we wish to use the set-asides in that fashion. That is the point the Senator from Pennsylvania made.

I am haopy to yield—I see the Senator from Texas on his feet. I am happy to yield back the remainder of my time.

Mr. BURDICK. Mr. President, will the Senator yield

Mr. MOYNIHAN. I am happy first to yield to the Senator from North Dakota.

Mr. STENNIS. On your time.

Mr. MOYNIHAN. On my time, yes.

Mr. BURDICK. I have been advised that the Defense Department states that if the present arrangement is changed, it would mean that contracts now awarded to small business and minority firms not in the labor surplus areas would be disturbed.

Mr. MOYNIHAN. The Senator has been so advised, but he has been wrongly advised. It comes as a great disappointment that this simple, progressive measure has been so misrepresented.

It gives the Secretary of Defense no such instruction. I would like to make it very clear that we do not want that to happen. If it does happen, I will be the first to come to the floor and ask that it be repealed.

I yield to my distinguished senior colleague.

Mr. JAVITS. Mr. President, another effort which is a misrepresentation is to represent this as some kind of Northeast deal. Now, there are 48 States with labor surplus areas, and they are very numerous in the major defense contracting States: California, Texas, Georgia, and Washington.

Mr. President, this is a national problem and it is going to get worse, because unemployment is coming, and that is when it is going to hit us the hardest; and that is why it needs to be corrected now.

Mr. STENNIS. Mr. President, I am afraid we are going to get into a jam on time here. May I yield 5 minutes to the Senator from Texas, at this point?

Mr. BENTSEN. I thank the Senator from Mississippi.

Let me say to my friend from New York, the senior Senator, that I agree, this is not a Northeast deal. This is a national concern and a national problem.

I also say to my friend from New York (Mr. MOYNIHAN) that there is no man in the Senate who has more compassion or more concern for the unemployed than my friend from New York. He has brought me the list of labor surplus areas in Texas. There are 23 of them in Texas. I have people who have the lowest level of income in the United States. That is not in the State of the Senator from Mississippi, it is in my State. It is in labor surplus areas such as El Paso and Laredo, and quite a number of others.

But today we are debating things like a budget resolution, trying to decide, with the House, what the priorities are in this country.

Mr. STENNIS. Mr. President, may we have order so the Senator from Texas may be heard?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BENTSEN. And trying to decide whether we have a 3 percent above inflation or 5 percent, deciding where the priorities are, and what we have to cut back on.

To say that we are going to come along and restrict the list of bidders, it does not take some great economist to tell you that that has to increase the costs. If you narrow down the number of people who are going to bid, you have less facilities that are competing. I have got a lot of them in my State in those labor surplus areas that would compete. But you have to drive the costs up.

Mr. NUNN. Will the Senator from Texas yield?

Mr. BENTSEN. Yes.

Mr. NUNN. Just one point on that. I think that is so important, because if this bill does not increase the cost, there is no need for the bill.

Mr. BENTSEN. That is correct. That is absolutely right.

I heard one of my friends saying, "Then, what is the difference between competition in a labor surplus area and a non-labor surplus area?" Well, the question is where the bid goes, where the lowest price is. That is what we are seeking. That is what we are trying to bring about.

Look at what we have done for the last 25 years in defense procurement in this country. If we are going to go out and buy nuts and bolts, then we try to get the most nuts and bolts for the buck. That is what we have been trying to do.

In recent months, Mr. President, we have heard a great deal in this Chamber and in the committee hearing rooms about national defense and the appropriate levels of expenditures for this vitally important activity. Regardless of where one stands on the question of defense expenditures, I would venture that there is broad agreement in this Chamber that we should strive for maximum efficiency from the defense dollar. With our urgent and compelling defense requirements for the future—requirements that have been highlighted by the debate over the SALT II treaty—it is apparent that we must sacrifice in the cause of a stronger, more secure America. Given that necessity for sacrifice, waste in defense expenditures is simply and totally unacceptable.

This proposal to abolish the Maybank amendment would lead directly and inevitably to either increased defense spending or a less effective utilization of available resources.

It would precipitate a bureaucratic nightmare in an area—defense policy—where we can least afford it.

It would restrict competition among defense suppliers.

It would hinder our mobilization efforts.

And it would punish thousands of small businesses and minority enterprises simply because they do not happen to be located in labor surplus areas.

Mr. President, the best way to understand what would happen if this amendment were adopted is to take a look at current DOD contracting procedures and contrast them to the situation that would prevail in the absence of the Maybank amendment.

For the past 25 years, whenever DOD had a requirement for, let us say, nuts and bolts, they have had the discretion to select the supplier—anywhere in this country—who could supply the best and the most nuts and bolts for the buck. If you are interested in efficiency, this is not a bad way to go about your business.

As the Senator from Georgia has pointed out, proponents of this amendment maintain that labor surplus areas are somehow short-changed or discriminated against in the contract award process. This assertion is belied by the facts. In fiscal year 1978, after the Department had adopted a more stringent definition of LSA's, DOD awards to labor surplus areas totalled $25 billion, or 43.5 percent of total awards. That is not a bad percentage when you consider that only one-third of the areas nationwide now qualify as LSA's.

Now, what happens if we abolish the Maybank amendment? How would that action impact on our defense procurement policies?

First, Mr. President, it would mean that the competition on some 10 million DOD procurement actions each year would be severely restricted. Companies in two-thirds of the area of this country would be precluded from bidding on those contracts. They would become the exclusive domain of LSA's.

You do not have to be an economist, you do not have to have practical business experience to appreciate that when you restrict competition to that extent you increase costs and decrease efficiency. You are going to pay more for the product.

Once you have abolished the criterion of cost-effectiveness as the basis for procurement decisions you also open up the whole process to delay, confusion, and political pressures. There will inevitably be disputes over which LSA is most deserving of a contract.

And what happens, Mr. President, to the small business or the minority enterprise unfortunate enough to be located someplace not an LSA. I will tell you what happens—they lose business they have earned in the past by being competitive. By producing the best product at the best price.

As I say, Mr. President, I have 23 LSA's in the State of Texas. I would like to see these areas benefit from defense contracts. But I think our overriding concern here should be the best possible material at the lowest possible price. It has been demonstrated that a very substantial proportion of contract awards go to LSA's on the basis of competitiveness. These areas can and do compete effectively for the defense dollar. And, with the Maybank amendment, we are assured that DOD can make the most effective use of its resources.

Abolish the Maybank amendment and you open up the whole DOD procurement process to considerations other than efficiency and cost-effectiveness. That is not a trend I would welcome.

Mr. President, I urge the defeat of this amendment.

Mr. STENNIS. Mr. President, the Senator from Georgia was cut off. I will yield him 1 minute.

Mr. NUNN. I do not need any more time. I thank my friend.

Mr. STENNIS. I yield 4 minutes to the Senator from Nebraska.

Mr. EXON. I thank my friend from Mississippi.

Mr. President, I share the concerns of Senators from States suffering high rates of unemployment. I fully realize the drain placed on our national economy caused by Federal unemployment payments and benefits for those who cannot find work.

However, it is my feeling that we need to squeeze the most out of every defense dollar we spend. The amendment offered here today permits the Defense Department to let "labor surplus set-aside" contracts in situations where the Secretary of Defense determines that there are sufficient bidders to assure the Government a reasonable price on that contract. However, the factsheet accompanying the "Dear Colleague" letter on this amendment states that this reasonable price does not have to be the lowest price.

Mr. President, I have supported increases in defense spending during this session of Congress. I have done so because I feel there are specific needs in this area. I do not want these extra funds to be expended without purchasing as much military muscle for the United States as possible, regardless of pockets of unemployment. If the Maybank amendment is stricken from law, then we will be, or certainly could be, spending more defense dollars without receiving more capability.

I intend to vote consistently for getting the most out of our defense dollars. Where consolidations are possible and will save money, I will support them. Where we can cut fat out of the Defense budget, I will be willing to make tough decisions for cuts. It is my feeling that the Defense budget should not be a tool for economic help in one region of the country or another.

A substantial portion of the Federal budget already is involved in this principle.

I am further persuaded from the arguments on the floor that the Department of Defense has not been blind in this area in the past, as some would believe.

In short, this amendment will take us in the wrong direction. It could reduce competition, reduce our industrial mobilization base and subject defense contracts to unnecessary and costly practices and further redtape. If it is adopted, then we will be moving away from the direction in which this Senator thinks we should move—that is, toward the most efficient expenditure of defense funds. Therefore I urge my colleagues to defeat this amendment.

Therefore, Mr. President, recognizing that a good point has been made by those who do not agree with me, I urge my colleagues to defeat this amendment.

I thank my friend from Mississippi for yielding.

Mr. STENNIS. Mr. President, are there others who wish to speak?

Mr. GOLDWATER. Will the Senator yield 2 minutes?

Mr. STENNIS. I really do not have but 3. I will have to stop here, if I may. If the Senator wants to speak on the amendment——

Mr. GOLDWATER. Forget about it.

(Mr. MORGAN assumed the chair.)

Mr. STENNIS. Mr. President, I think some kind of a summary is necessary here, and I speak with great deference to the author and those who have worked hard on this amendment, his coworkers, the junior Senator from New Jersey, and others. Let me make clear, I am not trying to defend the Department of Defense in this matter, not one iota. I have insisted, all the time that I have been chairman, on effective management of the procurement responsibility. But with all deference to everyone, this amendment is thrown together with what seems to me to be careless language. No one came out to ask for a hearing or a development of a fair operation, a formula of some kind. The senior Senator from New Jersey has well observed this point over the years. He was not asked to prepare something in this field.

It looks to me as if this language is reckless and full of holes. It cannot and will not bring about a better result.

The Secretary of Defense is going to have this terrific responsibility without any guidelines except language of the

vaguest kind. It talks only about reasonable prices.

Someone handed me a sheet concerning areas in Mississippi which are low-income areas, rural counties of a rural State. They are not going to share in any program devised for this purpose.

It seems to me that without any notice, without hearings, without the usual safeguards, guidelines, and effort to treat all with fairness, we have had an amendment thrown at us on which we have to say yes or not, an amendment which has terrific consequences, which will relieve the Department of Defense of some of their responsibilities without compensating areas of benefit.

My plea is not that we drop the whole thing but that we drop this amendment, that we not put it on this bill at this time until more facts are known.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. In closing the debate, may I thank the gracious and always fairminded chairman of the committee? I will only respond to his remarks, that the language of this amendment is the language which has been adopted twice already by the Senate in the 94th Congress, and incorporated into the Small Business Act.

I yield my remaining time to the Senator from New Jersey who has spoken so ably on this matter.

Mr. BRADLEY. Mr. President, I, too, thank the distinguished chairman for his courtesies in this debate.

Mr. President, it makes no sense to exclude the Government's single largest purchaser, DOD, from a program whose economic desirability is already recognized by law, and which now governs the procurement practices of some 35 other Federal departments and agencies.

Mr. President, most of the discussion today has been about how we get the most out of the defense dollar. Yet I think this body is sufficiently well-informed to address the broader and more important question of how we get the most out of the Federal dollar. If we are talking about a recession that is on the horizon and talking about $20 billion increases in the Federal deficit for every 1-percent increase in unemployment and if we are clear in recognizing this program as an alternative, I expect that the Senate will concur that this is the preferred answer.

● Mr. RIEGLE. Mr. President, I rise in support of the Moynihan amendment that would increase nonstrategic procurement in labor surplus areas. DOD buys between $15 and $20 billion worth of goods and services each year. Items ranging from lamps, to thread, to hose, to virtually every sundry product imaginable. These products are found in every State in the country, and I see no reason why we cannot structure our procurement policies to assist areas that suffer from high unemployment.

We have made a commitment to full employment in the Nation, and have passed several statutes directing Federal purchasing to be aimed toward those areas with a labor surplus. DOD, however, has enjoyed a blanket exemption from these directives, to the detriment of our national security and vitality.

This amendment would diversify our defense suppliers, and would induce a three-fold increase in private sector activities. There would be very little increase in overall procurement costs of these goods, and, in fact, we might even see a reduction in costs once more firms became involved in this type of contracting.

Fifty-eight cities and counties in my State would qualify as labor surplus areas, and hence be eligible for these contracts. As Senators know, my State historically suffers disproportionately from a recession, which we have entered, and I see this amendment as a step toward mitigating the impact of an economic downturn on the many small communities included in the labor surplus designation.

Beyond that, Mr. President, I understand that 47 of the 50 States would have some areas eligible for contracts, if the Maybank language were modified, so this cannot be viewed as benefitting any single region in the Nation.

For these reasons, Mr. President, I support and cosponsor the amendment of the Senator from New York. We must dedicate our efforts to the goal of using all of our resources to combat unemployment, and this amendment will put the considerable power of the Defense Department into that fight.

I submit for the RECORD a letter addressed to all Senators dated November 1, 1979.

The letter follows:

U.S. SENATE,
Washington, D.C., November 1, 1979.

DEAR COLLEAGUE: For more than a quarter century now, an obscure provision in the annual Defense Appropriations Act has obstructed efforts to fight high unemployment in many parts of the country by blocking the application of a basic federal policy objective that is followed elsewhere in the government.

The objective is as clear as it is desirable: to reduce unemployment in regions where it is exceptionally high through the countercyclical application of federal procurement policy by focusing such procurement, whenever appropriate and practicable, on areas with chronic or acute unemployment problems.

In compliance with this general policy, most recently affirmed by Congress in 1977 by amendments to the Small Business Act, federal agencies routinely "set aside" contracts for firms that are located in such areas.

The exception is the Department of Defense, effectively exempt from this requirement since 1953 as a result of the so-called "Maybank Amendment," which denies the Secretary the necessary flexibility in negotiating procurement contracts and thereby keeps the Pentagon from playing a role in the solution of serious economic problems.

As the nation enters a recession, and as unemployment rates—already painfully high in many places—continue to rise, it is unconscionable that Congress should continue to permit an agency whose expenditures account for one quarter of all federal spending to avoid this responsibility.

We would emphasize that our amendment would in no way restrict the Pentagon's flexibility in procuring strategic items. It deals only with the fifteen to twenty billion dollars a year in Defense Department purchases of non-strategic goods and services such as uniforms, medical supplies, food and cleaning materials. By freeing such procurements from the straitjacket of the "Maybank amendment," our proposal would require the Defense Department to shoulder its share of the federal government's domestic economic responsibilities. It would serve to provide jobs for people who are willing and able to work, and would thereby reduce the pressure on and the costs of unemployment compensation and other income maintenance programs. These are costs which soar during periods of economic downturn; the Congressional Budget Office estimates that every one percent rise in unemployment costs the federal government $20 billion.

Our amendment would bring the Defense Department into step with the rest of the government by permitting what are known to procurement specialists as "labor surplus set-asides," but only in situations where the Secretary determines that there are sufficient bidders to assure the government a reasonable price on a contract.

It is perhaps not surprising that the Pentagon's purchases of strategic items are concentrated in areas with highly developed "defense industries," and it is hardly coincidental that such purchases contribute enormously to the relative prosperity of most such areas. Channeling some non-strategic procurements to economically depressed communities in all parts of the country would be conducive to the economic vitality of the nation as a whole, because it would permit federal dollars to be spent where they will do the most good. Sound national policy requires such balance.

That is what we propose, and that is why we urge you to co-sponsor our amendment. We have enclosed a fact sheet and a list of representative non-strategic defense items. If you have questions, please contact us, or have your staff members contact Eric Hemel with Senator Moynihan's staff (x4-4451), Ava Feiner with Senator Bradley's staff (x4-3224), or David Hansell with Senator Levin's staff (x4-6221).

We look forward to your support.

Sincerely,

DANIEL PATRICK MOYNIHAN.
CARL LEVIN.
DONALD W. RIEGLE, Jr.
BILL BRADLEY.
JOHN HEINZ.●

● Mr. MUSKIE. Mr. President, during debate on H.R. 5359, the Defense appropriation bill for fiscal year 1980, an amendment was offered to the bill which had the effect of striking the so-called Maybank provision which precludes the award of defense contracts on a basis of relieving local economic problems.

I agree with the need for the Federal Government to use its economic influence to assist local areas in creating economic stability. For this purpose, we have the Small Business Administration, the Economic Development Administration, and various economic opportunity provisions in numerous Federal laws. I support all of these endeavors as they were specifically created to address the economic problems in question.

I could not support the attempt to repeal the Maybank provision because I believe repeal would do more harm than good to overall defense procurement policy and also increase defense costs.

Repeal of this provision would increase defense costs because no longer would a low bid for an item or services be a basis for award of contracts. Further, the ability of the Department of Defense

to procure the best equipment and contractual services for the dollar could be severely restricted because the capability of contractors to perform work satisfactorily would not be a basis for contract award.

Mr. President, since price and contractor performance would no longer determine how defense contracts are awarded, the foundation of the competitive procurement process would be eroded. Further, the import of denying price and performance as a basis for awarding contracts could have a severe damaging effect on Maine's defense industry. Although Maine has a high unemployment rate, the repeal of the Maybank provision would not help areas of greatest unemployment in the State because those areas do not possess a high level of potential defense activity.

It is my view, and I believe a view shared by many in my State, that Maine's defense industry has repeatedly demonstrated the capability to obtain defense work on the basis of sound cost control and management capability and superior contractor performance. This should be the basis that determines award of defense activity.●

The PRESIDING OFFICER. All time on the amendment has expired. The question now is on agreeing to the amendment.

Mr. MOYNIHAN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Mississippi (Mr. COCHRAN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The PRESIDING OFFICER. Is there any Member of the Senate present who has not voted?

The result was announced—yeas 29, nays 59, as follows:

[Rollcall Vote No. 388 Leg.]

YEAS—29

Baucus	Cranston	Heinz
Bayh	Eagleton	Jackson
Bradley	Glenn	Javits
Chafee	Hatfield	Leahy
Levin	Nelson	Schweiker
McGovern	Pell	Stone
Magnuson	Randolph	Tsongas
Mathias	Ribicoff	Weicker
Melcher	Riegle	Williams
Moynihan	Sarbanes	

NAYS—59

Armstrong	Ford	Muskie
Bellmon	Garn	Nunn
Bentsen	Goldwater	Pressler
Boren	Hart	Proxmire
Boschwitz	Hatch	Pryor
Burdick	Hayakawa	Roth
Byrd, Harry F., Jr.	Heflin	Sasser
	Helms	Schmitt
Byrd, Robert C.	Hollings	Simpson
Cannon	Huddleston	Stafford
Chiles	Humphrey	Stennis
Church	Jepsen	Stevens
Cohen	Johnston	Stewart
Culver	Kassebaum	Talmadge
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Matsunaga	Warner
Durenberger	McClure	Young
Exon	Morgan	Zorinsky

NOT VOTING—12

Baker	Durkin	Metzenbaum
Biden	Gravel	Packwood
Bumpers	Inouye	Percy
Cochran	Kennedy	Stevenson

So the amendment (UP No. 731) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, we will try to get along with the business here. The Senator from Arizona and the Senator from Nevada do not have an amendment, but they would like to have a brief colloquy. Following that, I hope the amendment by Senator ARMSTRONG and Senator MATSUNAGA could be taken up next. That is an amendment for a pay increase. That would bring about some debate.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. MATSUNAGA. I believe Senator ARMSTRONG is not available. The last word he gave me, when he left earlier today, was that he would not bring it up today but tomorrow or Thursday. I have been looking for him.

Mr. STENNIS. Let us see if we can locate him.

The Senator from Arkansas has two amendments which will be fairly brief.

We have two major amendments, and we must press forward with this bill. If we can proceed with the other amendments and just have the two major amendments come up Thursday, that would be much better. If we do not get to vote on all the others, perhaps we could debate them tonight.

Mr. CANNON. Mr. President, when the fiscal year 1978 defense appropriations bill came up before the Senate, Senator GOLDWATER and I offered an amendment to delete $3.9 million in R. & D. funding that was added in committee to start another prototype program for the Enforcer aircraft. The total cost of this prototype program was estimated at over $10.0 million and would build 4 new Enforcer aircraft.

The Enforcer is a World War II P-51 type aircraft reengined with a turboprop. In 1971 its inventors provided an Enforcer prototype to the U.S. Air Force for a flight test competition. That competition, called "Pave Coin" was for a light strike counterinsurgency airplane for South Vietnam, but the Enforcer was rejected. One of the original prototypes exists today and is hangared in Florida.

The inventors of the Enforcer continue to promote the aircraft in the Congress. Hearings on the plane were held by the House Appropriations Committee, May 1974; the House Armed Services Committee, August and November, 1974; the Senate Appropriations Committee in May 1975, the Senate Armed Services Committee's R. & D. Subcommittee, July 1975; and the Senate Armed Services Committee, Tactical Air Subcommittee, March 1977. Despite all of these hearings, held at the request of the inventors of the Enforcer, there has never been a budget request for the aircraft by the Department of Defense, and there has never been an authorization of funds by either the House or Senate Armed Services Committee prior to this year.

The Defense Department has made several evaluations of the Enforcer's potential as a modern combat airplane in today's high threat air defense environment. It consistently has been rejected by the Marine Corps, the Navy, and the Air Force. The latest rejection was from the Secretary of the Air Force in 1979 and the Joint Chiefs of Staff in April 1977, who stated that there was no need to build or operationally test an Enforcer prototype and that it was not as cost effective or survivable as our current modern aircraft inventory.

I ask unanimous consent to have this correspondence printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., March 22, 1977.

Gen. GEORGE S. BROWN,
Chairman, Joint Chiefs of Staff,
The Pentagon,
Washington, D.C.

DEAR GENERAL BROWN: On March 16, 1977, the Tactical Air Power Subcommittee held a hearing on the Enforcer aircraft. At that hearing Senator Goldwater asked Lieutenant General Alton D. Slay, the principal Air Force witness, to ask the Joint Chiefs of Staff on behalf of the Subcommittee, for their judgement on the requirement for such an aircraft for our Services.

The purpose of this letter is to make a formal request. We would like to have the collective, as well as individual, judgement of the Joint Chiefs of Staff on whether there is a requirement for this type of aircraft and, if so, would it provide a militarily valuable and needed addition to our tactical air forces. In addition, we want your judgement on whether it is necessary to build four prototypes of the Enforcer aircraft for operational testing to make that determination.

In view of our pending mark-up schedule

we would appreciate a reply at your earliest convenience.

Sincerely,

HOWARD W. CANNON,
Chairman, Tactical Air Power Subcommittee.

BARRY GOLDWATER,
Ranking Minority, Tactical Air Power Subcommittee.

THE JOINT CHIEFS OF STAFF,
Washington, D.C., April 8, 1977.

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: This responds to your letter requesting the judgment of the Joint Chiefs of Staff on whether there is a requirement for the Enforcer aircraft in the US tactical air forces.

It is the judgment of the Joint Chiefs of Staff that there is no requirement for the Enforcer in the US tactical air force inventory. That judgment has been supported by an extensive review of the Enforcer proposal, including the capabilities and vulnerabilities of such an aircraft in the predicted threat environment used in structuring tactical air forces. Each of the Services is constantly seeking systems which will provide the most effective combat capability at the least cost. Given the spectrum of conflict which must be considered in force structuring, the growing sophistication of the Soviet threat, and budgetary constraints, cost effectiveness of each system becomes paramount. The Joint Chiefs of Staff believe the fighter/attack aircraft in the current inventory plus those programmed for procurement best fit that criterion. The United States cannot afford to hedge its bet by further procurement of a highly specialized aircraft, however inexpensive, when thorough review of all analysis to date shows it not to be as cost effective or survivable as other aircraft already being procured.

Further, the Joint Chiefs of Staff can see no requirement for building or for operational testing of prototypes of the Enforcer. Specific capabilities of the Enforcer have not been at question in previous analysis. The technology embodied in the aircraft and its systems makes its operational characteristics predictable with confidence.

The Joint Chiefs of Staff trust this will establish clearly their position concerning the Enforcer aircraft.

For the Joint Chiefs of Staff:

GEORGE S. BROWN,
Chairman, Joint Chiefs of Staff.

HILL UNIT VOTES FUNDS TO TEST MODERNIZED VERSION OF P-51

(By George C. Wilson)

The Senate Defense Appropriations Subcommittee yesterday voted to spend $3.9 million to build test models of a modernized World War II fighter that the Joint Chiefs of Staff do not want.

If the rest of Congress goes along the plan is to appropriate another $6.7 million next year to finance testing and building of a modified P-51 fighter called the Enforcer.

David Lindsay, a Sarasota, Fla., newspaper publisher who developed the Enforcer, has been trying for seven years to get the Air Force to broaden its previous tests of the plane, arguing that it has not had a fair trial.

In hearings this March by the Senate Armed Services Tactical Air Subcommittee, Lt. Gen. Alton D. Slay, Air Force research chief, testified that "there is no need for a flight test of the system" and that "there is no place in the Air Force inventory for an aircraft such as Enforcer."

Slay, under questioning by Sen. Barry Goldwater (R-Ariz.), agreed it would be a waste of taxpayers' money to build test versions of the Enforcer.

In a followup letter to the subcommittee, Gen. George S. Brown, chairman of the Joint Chiefs of Staff, said "there is no requirement for the Enforcer." He added that the judgment by the chiefs "has been supported by an extensive review of the Enforcer proposal . . ."

Lindsay predicted in a telephone interview last night that even if the rest of Congress endorses the subcommittee's action, the Air Force will resist going forward on grounds it cannot award such a research contract without open bidding.

P51 FIGHTER: CAN A WW2 GHOST FLY?

The ghost of the World War II P51 fighter—with modern improvements—is being offered as a money-saving attack plane for the United States to use against ground targets.

The military hasn't been interested, but some cost-conscious members of Congress think it may be worth a try.

The plane, known as the Enforcer, exists as a prototype which uses a P51 airframe, parts from various other aircraft and a turboprop jet engine to turn its single propeller.

It was designed by a former test pilot and Florida newspaper publisher, David Lindsay, who sold the project to the Piper Aircraft Co. in 1970 and has remained active in promoting it.

Lindsay's plane originally was aimed as a close support fighter to succeed the Korean war vintage Al Skyraider, resurrected from mothballs for use in the Vietnam war. The Air Force considered it and other designs in 1971, but decided not to buy them.

With help from Sen. Strom Thurmond, R-S.C., and others, Lindsay and Piper President J. Lynn Helms won a hearing in Congress, where they testified the Enforcer would be a cheaper and in some cases better alternative than the Air Force's new $6.1 million A10 ground support fighter.

Senator Barry Goldwater, R-Ariz., described the Enforcer at one session as a "World War II P51 reengined with a turboprop."

Lindsay conceded four planes he proposed the government buy for testing at about $900,000 each were based on "hulks of four aircraft which are partial P51's," but Piper had plans for a new airframe.

The Senate Armed Services Committee voted down his proposal after the Air Force research and development chief said an analysis found "the Enforcer was deficient in two very important attributes of a close support aircraft . . . lethality and survivability."

Sens. William Proxmire, D-Wis., and Lawton Chiles, D-Fla., then took it to an appropriations subcommittee. Noting the Air Force might not spend Enforcer money because of its opposition, the panel voted $3.9 million for the Navy to start a test program next year.

The provision slid through the full committee without challenge and is on its way to the Senate floor. If approved there, it still faces a conference committee with the House, which has voted no Enforcer funds.

Its future is cloudy, but some sources say the Enforcer might squeak through.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., September 24, 1979.

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: This responds to your request for the current Air Force position regarding the Enforcer aircraft. As you are aware, the Air Force has provided evaluations and testimony concerning the Enforcer aircraft to Committees of the Congress for the past eight years. Our witnesses have consistently stated there is no requirement for an Enforcer aircraft in the Air Force tactical inventory and no reason for further flight tests of the Enforcer. Our basic position remains unchanged.

Given the spectrum of conflict which must be considered in force structuring, the growing Soviet threat, and budget constraints, the cost effectiveness of each weapons system becomes paramount. We believe the fighter aircraft in the current inventory plus those programmed for procurement best fit that criterion. We cannot afford to hedge our bet by further procurement of a highly specialized aircraft, however inexpensive, when a thorough review of all analyses shows it not to be as cost effective or survivable as other aircraft already being procured.

The current Enforcer design is an improved aircraft in comparison to the model tested in 1971. Specific capabilities of the Enforcer have not been at question in our analysis. We believe that, based on what is already known about the prototype and what can be predicted with confidence, there is currently no need for further tests. If we had a requirement for Enforcer and a decision were made to proceed to full scale development, we could do so without a prior flight test of the prototype. In any event, prior to such a decision to enter full scale development of any aircraft, it would be beneficial to conduct an industry-wide competition. The Air Force has had several unsolicited proposals for similar type aircraft from other manufacturers.

We understand and fully support Congressional interest in evaluating low cost options to improve our capability to cope with the increasing threat. Once again, however, we must state that the Enforcer does not address a current requirement, and does not merit further government funded testing.

Sincerely,

HANS MARK,
Secretary of the Air Force.

Mr. CANNON. Mr. President, in the fiscal year 1975 Defense bill the Senate Appropriations Committee added funding for prototypes of the Enforcer, but those funds were deleted on the floor as a result of our amendment (pp. 36520–36528, CONGRESSIONAL RECORD, November 13, 1975). Again in 1977 the committee added funding despite the fact that there was no budget request for it, that a proposal for authorization of funds was rejected by the Senate Armed Services Committee, and that the Defense Department has stated that there would be no useful purpose in testing the plane again. No attempt was made to fund the Enforcer in fiscal year 1979, but in fiscal year 1980 $6 million was authorized by the Senate Armed Services Committee—over our objection, I might add—and although deleted by Senate appropriations and not part of this bill, it nevertheless is in the House appropriations bill.

Mr. President, I congratulate the subcommittee and the committee for deleting that program. I hope that when they go to conference with the House, they will remain firm and not squander the taxpayers' money in such a fashion as would be done if this project were approved.

I believe that building new Enforcer prototypes is certainly not required and would be a needless waste of taxpayer's money.

I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the Senator from Nevada has made the point I want to make.

This was discussed in conference. The $6 million is not in the appropriations bill; and we want to make sure that when this is discussed again between the two Houses, the Senate does not recede from its position.

As the Senator from Nevada has said, this has been a matter of discussion on this floor for year after year after year.

As late as September 24 of this year, a letter was received from the Secretary of the Air Force. I had written a letter to the Department of the Air Force, and Senator CANNON had done so at the same time.

I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C.

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: This responds to your request for the current Air Force position regarding the Enforcer aircraft. As you are aware, the Air Force has provided evaluations and testimony concerning the Enforcer aircraft to Committees of the Congress for the past eight years. Our witnesses have consistently stated there is no requirement for an Enforcer aircraft in the Air Force tactical inventory and no reason for further flight tests of the Enforcer. Our basic position remains unchanged.

Given the spectrum of conflict which must be considered in force structuring, the growing Soviet threat, and budget constraints, the cost effectiveness of each weapons system becomes paramount. We believe the fighter aircraft in the current inventory plus those programmed for procurement best fit that criterion. We cannot afford to hedge our bet by further procurement of a highly specialized aircraft, however inexpensive, when a thorough review of all analyses shows it not to be as cost effective or survivable as other aircraft already being procured.

The current Enforcer design is an improved aircraft in comparison to the model tested in 1971. Specific capabilities of the Enforcer have not been at question in our analysis. We believe that, based on what is already known about the prototype and what can be predicted with confidence, there is currently no need for further tests. If we had a requirement for Enforcer and a decision were made to proceed to full scale development, we could do so without a prior flight test of the prototype. In any event, prior to such a decision to enter full scale development of any aircraft, it would be beneficial to conduct an industry-wide competition. The Air Force has had several unsolicited proposals for similar type aircraft from other manufacturers.

We understand and fully support Congressional interest in evaluating low cost options to improve our capability to cope with the increasing threat. Once again, however, we must state that the Enforcer does not address a current requirement, and does not merit further government funded testing.

Sincerely,

HANS MARK,
Secretary of the Air Force.

Mr. GOLDWATER. Mr. President, I will read an excerpt from the letter:

The current Enforcer design is an improved aircraft in comparison with the model tested in 1971. Specific capabilities of the Enforcer have not been at question in our analysis. We believe that, based on what is already known about the prototype and what can be predicted with confidence, there is currently no need for further tests. If we had a requirement for Enforcer and a decision were made to proceed to full scale development, we could do so without a prior flight test of the prototype.

Mr. President, I repeat what the Senator from Nevada said. This a World War II aircraft. It was probably the best single-seater fighter aircraft in World War II if we might eliminate the ME-109 and possibly the Spitfire. It was a wonderful fighter, but it will not measure up to what the proposers of this amount of money say it will. It has a turboengine driving a three-bladed propeller and a rifle hit on a turbo blade puts the engine out of commission. It takes a lot more than just one small engine to fly ground support in today's modern war, and aircraft of this type would be literally a sitting duck for any enemy who would want to resist it.

So, I thank my friend from Nevada for having brought this up and I particularly call attention of the chairman, Senator STENNIS, to the fact that we want to stand firm on this. There is no need. It is only $6 million, and I guess that is not a lot of money around here. But it is a principle of the thing that we resist the constant push to get an airplane that the Air Force wants no part of, and I think I can safely say they will not even test if we give them the $6 million. So, I hope that my chairman when he goes back to the House of Representatives, will remember the colloquy here in the Chamber today and stand by his people.

Mr. STENNIS. Mr. President I appreciate the sentiments expressed here by the Senators from Nevada and Arizona. This is an unusual situation. This matter was approved by the authorizing committees. I did not vote for this particular item. It is outside the Air Force program, and I thought we should keep responsibility in the Air Force. But the majority voted for it. That is the authorizing committee.

It came over here in the appropriations bill. The House of Representatives had put in $6 million, and no one offered anything on it in our hearings or in our committee markup or anything like that. So it is blank, and that means the Senate did not approve it.

That would be the Senate's position but no one can guarantee what will come out of conference, as we all know.

The Senator from South Carolina has indicated to me that he wants to say a few words. I suggest Senators reduce their time to 4 minutes apiece, if we are going to move at all on another amendment. Will that satisfy the Senator timewise?

Mr. THURMOND. I say about 6 minutes will be all right.

Mr. STENNIS. All right. As far as I am concerned, Mr. President, I ask the Chair to recognize the Senator for 6 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I have the greatest respect for the distinguished Senator from Arizona. I supported him for President. He is a great Senator and a great man, but he is just as wrong on this as he can be. The distinguished Senator from Nevada is a pilot. But those two Senators are being so influenced by the Air Force here that I do not think they have presented this matter in an air of equilibrium. I say this:

To my knowledge only three or four Senators have ever taken the floor to oppose the test of the low-cost, highly effective Enforcer close support aircraft. This is another case of saving money.

That is a very good record, in my opinion, but since one or two continue to oppose even a test of this new concept in close support I feel obligated to reply.

First, let me point out to the Senate that the Senate-House conference on the fiscal year 1980 military procurement bill approved this test and it has therefore been authorized. It is not in the pending bill, however, although the Senate Appropriations Committee has twice before approved it.

Those who now speak out against it were heard in the recent Senate-House Armed Services Committee conference and their position was not upheld. Both of these Senators argued the matter before the conference but the conference did not go along with them. They are speaking today because the House Appropriations Committee has funded this test in the House bill. The House Appropriations Committee feels it is important to test it. It does not cost much to test it, and if the test works out, it can save millions and millions of dollars.

Mr. President, I wish to make a few brief remarks on this subject.

The Enforcer is a lightweight, inexpensive turboprop aircraft that potentially offers a great deal of capability in the close support role. The Senate-House procurement conference approved $6 million to support development, testing, and operational demonstration of the Enforcer aircraft during fiscal year 1980.

AIR FORCE SAYS NEW AIRPLANE

Despite charges that it is an old aircraft which has already been tested, Air Force testimony by Lt. Gen. James Stewart termed it "an essentially new airplane from what we have seen before."

The Enforcer is a state-of-the-art technology. It has the new ceramic armor protecting not only the pilot, but also the engine, a feature no other plane in the world within my acquaintance can claim. Its size makes it a small target. Its engine does not generate the heat which attracts missiles. Its armor and redundant systems make it highly survivable. It can be based in forward areas, operate off rough fields, and carry the 30-millimeter pod or other weapons such as the Maverick missile or iron bombs.

Its speed is equal to the A-10 and it has the needed thrust to get out of the danger zone once its weapons are delivered. It has great loiter capability and very low fuel costs.

Mr. President, what kind of plane do we want for close air support if this does not meet the qualifications?

COSTS VERY LOW

Mr. President, this aircraft could cost as little as around $1 million a copy, one sixth—I repeat one-sixth—the cost of current close support aircraft. What are they afraid of? Why not give it a test? That is all we are asking—a test of this aircraft. When the numbers disadvantage we face in NATO is considered it is hard for me to understand why some would oppose even a test of this aircraft.

Mr. President, the Air Force has opposed this test for several years. They say there is no "requirement" for the Enforcer. This is a play on semantics, a "requirement" can be written in a few hours. There was no requirement for the atomic bomb, the jet engine, or the SR-71, but they were invented and have been useful in providing our security.

THERE IS REQUIREMENT

There is a requirement for an effective, highly survivable, low-cost close support aircraft to counter the overwhelming numbers of Soviet tanks. As Senators know, the Soviets have many more times the numbers of tanks that we do.

Mr. President, the few critics of this test have also claimed that computer tests have already been made on the Enforcer and no hardware tests are necessary. Any pilot will tell you that subjective inputs into a computer cannot measure the worth of a plane.

Only a few years ago we tested the F-16 and F-17 as lightweight fighters, with no intention to procure them. These tests could not have been made with a computer. Also, the results led us to procure both aircraft for our Air Force and Navy tactical forces.

Mr. President, only a pilot's eye behind the gun and his hands on the controls can truly evaluate this weapon system.

CONGRESS DECIDES PROGRAMS

It is also charged that if Congress approves the test the Air Force will not test it and not procure it. These claims are absurd on their face, as Congress makes such decisions, not the Air Force.

Mr. President, my only purpose in speaking today was to not permit the record to appear one-sided on this subject. There is strong support in Congress for this test as evidenced by the Senate-House procurement conference approval of this program.

In conclusion, I ask unanimous consent that an article entitled "Less Sophisticated Aircraft Could Lower Cost" which appeared in the April 26, 1979 issue of Aerospace Daily be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LESS SOPHISTICATED AIRCRAFT COULD LOWER COST, INCREASE READINESS, CONGRESS TOLD

A former high-level Pentagon official said yesterday Congress should consider pressing for development of less sophisticated military aircraft "with the hope of lowering cost and reversing the downward trends in equipment/crew readiness and force size."

Charles E. Myers Jr., who was director for air warfare in the Directorate of Defense Research and Engineering from October 1973 through November 1977, told the House Armed Services procurement subcommittee that if present trends continue fighter planes may cost about $34 million each, in current dollars, by the 1990s. He said it should be possible to develop a comparatively simple "blitz fighter" for perhaps $5 million.

Under questioning, he said the aircraft he envisioned would be an "austere" plane with a single turbofan engine whose main armament would be a 30-millimeter cannon, and which "hopefully" would be able to operate from grass landing strips. "Somebody should spend a couple of million dollars to study it," he said.

Myers declared that "if I'd known" during the years when he was involved in DOD planning of aircraft and missile programs "I would have fought a lot harder against the development of highly sophisticated aircraft."

Now, he testified, "trends are taking us further and further into decreased combat readiness and erosion of forces. We're trying to rely on technological sophistication to bail us out of our problems. We failed—I along with everybody else."

Most subcommittee members praised Myers' presentation. Chairman Melvin Price (D-Ill.), who also heads the full committee, called it a "thought-provoking statement," adding that "I think the committee will look deeper into these matters."

Myers, who has returned to his private consulting business, had said in his prepared testimony that "in view of the demonstration of ills of the multipurpose/all-weather syndrome, it seems incredible that responsible military and civilian factions continue to call for increased sophistication in all fighters. Instead, they should be encouraging the design of less sophisticated versions . . .

"The really discouraging aspect . . . is that the Congress, while emphasizing the necessity to improve military strength, and in the face of the popular demand for decreased spending, continues to be victimized by a technology cartel which conjure new promises and portray deterrence as a contest in technological sophistication unrelated to combat utility, force size and readiness."

"If we continue to drive toward higher levels of sophistication," he said, "we are destined toward a smaller and less ready combat force. I cannot believe the Congress is comfortable with that trend."

He warned against "decisions being made on tactical air hardware until the (congressional) members/staffs have extracted an accurate assessment of readiness and force erosion prospects for the near term. Further, they should avail themselves of information which correctly portrays the expected return-on-investment (ROI) from the promised all-weather, air-to-air and air-to-ground combat capability of proposed versions of existing aircraft.

"The measure of ROI should be combat force effectiveness rather than technological image comparisons with the Soviet Union. It should also include ROI comparisons of alternatives to tactical aircraft for attacking some of the popular all-weather targets as well as a realistic assessment of the war relevance of these target arrays during darkness or in bad weather."

Mr. THURMOND. Mr. President, I wish to thank the distinguished chairman.

Mr. STENNIS. I thank the Senator.

Mr. President, that concludes that matter for the time being. We are under an unusual procedure but it is no doubt justified.

We have one matter here that I would like to take up and have the argument on, but one of the authors, Senator ARMSTRONG, cannot be found now. It is a proposed pay increase.

We have an amendment here on this noted subject of abortion. We could, perhaps, dispose of that before 7 o'clock if we can agree to it. It is a matter which is familiar to everyone, particularly the author, the Senator from North Carolina, and the Senator from Washington.

In the absence of the leaders, Mr. President, I think I can put that unanimous-consent request that we take up the proposed amendment I have just described by the Senator from North Carolina, limit debate to 20 minutes to the side, and then have a rollcall vote. Is that satisfactory? I make that request.

The PRESIDING OFFICER. Does the Senator understand that this supersedes the previous hour-and-a-half allotted to this amendment?

Mr. MAGNUSON. Mr. President, reserving the right to object, I had a conversation with the Senator from North Carolina, and this is a very important amendment. It is going to require some discussion, and I do not know whether we should take it up tonight or whether we should wait until Thursday.

There are a lot of Senators who have left, I am sure, anticipating that there would not be any more votes tonight.

Mr. STENNIS. All right. It is just the pleasure of the Senate, and if there is objection that is all right.

Mr. MAGUNSON. I might say for the benefit of Senators, it is a new amendment called abortion. [Laughter.] I suggested that he bring it up at the end of the discussion on these other important amendments, because it still deals with authorizing language in an appropriation bill, and I do not think that it is the proper time to bring it up now.

Mr. STENNIS. All right. Suppose we have an agreement on time now because our continuing resolution is going to run out in 2 weeks. We have several amendments. We have several amendments we have to carry over, and I suggest an hour to the side; is that all right?

Mr. MAGNUSON. If we are going to finish the bill tonight that is one thing, but apparently we cannot.

Mr. STENNIS. Well, this request just relates to the time when it does come up that it will be a time of 1 hour to both sides.

Mr. MAGNUSON. It will be under a time agreement when it does come up.

Mr. STENNIS. Yes.

Mr. HELMS. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am advised that it is one of those that is under agreement now.

Mr. HELMS. That is correct.

Mr. STENNIS. An hour and a half equally divided, correct?

Introduce the amendment.

The PRESIDING OFFICER. Does the Senator withdraw his request for a unanimous-consent agreement?

Mr. HELMS. I am reluctant to submit my amendment because of the Foreign Relations Committee meeting in the morning.

Mr. STENNIS. The Senator could let us see what it is anyway.

Mr. HELMS. I would be delighted to do that. I will send it to the desk and ask that it be stated.

The PRESIDING OFFICER. Does the Senator from Mississippi withdraw his request?

Mr. STENNIS. If I may——

The PRESIDING OFFICER. Does the Senator from North Carolina withdraw his amendment?

Who yields time?

Mr. STENNIS. Mr. President, I yield to the Senator from North Carolina. What time would he want?

Mr. HELMS. Will the Senator consent

to a brief quorum call while we discuss this?

Mr. GOLDWATER. I would like to ask, as long as the majority leader is here, I have heard that there will be no more amendments tonight on the defense bill, and when tonight ends we will not take this bill up again until we have disposed of the energy bill; is that correct?

Mr. ROBERT C. BYRD. Mr. President, it is all news to me. There is a way of operating around here from time to time in which Senators say that there will be no more votes tonight, and they do not ask the leadership whether there will be any or not. It might be that the leadership may want to call up something else and get votes on it, so I wish Senators would not take the responsibility upon themselves to tell other Senators that there will not be any more votes. One of these days they are going to have problems when they do that.

By way of partial answer to Mr. GOLDWATER, does Mr. HELMS wish to call up an amendment now?

Mr. HELMS. Mr. President, if the Senator will yield, I told the distinguished chairman that I would be willing to enter into a unanimous-consent agreement of a 20-minute time limit, 10 minutes to the side, on this amendment. He propounded such a request and there was an objection.

We now have an hour-and-a-half time limitation on the amendment.

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. My interest is in saving Senators' time. We have discussed this issue over and over again.

Mr. ROBERT C. BYRD. Yes. Will the Senator call up his amendment and then we can talk about time?

UP AMENDMENT NO. 732

(Purpose: To provide that no funds are appropriated for the performance of abortions except where the life of the mother would be endangered)

Mr. HELMS. I sent it to the desk once, and I will send it to the desk again. Mr. President, I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 732.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Act, add the following: "None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.".

Mr. HELMS. Now, on my time, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold his request?

Mr. HELMS. Yes.

Mr. ROBERT C. BYRD. Would it be possible for us to agree on 1 hour equally divided or 40 minutes equally divided?

Mr. HELMS. From my standpoint I will say to the Senator yes.

Mr. MAGNUSON. This is a very important amendment. I do not think we should dispose of it in 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request. Let us take the full 1½ hours.

The PRESIDING OFFICER. The request is withdrawn.

Mr. MAGNUSON. I do not know that the Senators were advised that this important amendment was coming up at this very hour, and I have no objection to a time agreement, but I am wondering whether we should bring it up tonight. Now it is all right with me if we have a time agreement, but I am sure there are a lot of Senators who want to be heard on this amendment.

Mr. ROBERT C. BYRD. Mr. President, may I say to the Senator——

Mr. MAGNUSON. As far as I am personally concerned I can do it in 5 minutes.

Mr. ROBERT C. BYRD. The amendment already has a time agreement of 1½ hours.

Mr. MAGNUSON. I know, but I was talking about bringing it up tonight. If we are going to go on for 1½ hours tonight it is all right with me. But I am sure there are a lot of Senators who want to be apprised of the fact that this amendment was coming up.

Mr. ROBERT C. BYRD. Of course, they are apprised. They know that any Senator who obtains recognition can call up his amendment at any time if there is no other amendment pending.

Mr. HELMS. Mr. President, if the Senator will yield, I want to make this point.

Mr. MAGNUSON. It is all right with me. Go ahead with the amendment.

Mr. HELMS. Mr. President, I want to make clear that I have called up this amendment at the request of the leadership and others because no other amendment was available at this time. I was trying to be cooperative. Whatever time the Senator from Washington wants suits this Senator fine. But I do not think we ought to take a great deal of the Senate's time.

Mr. MAGNUSON. I want to say to the Senator from North Carolina that I personally would not take over 5 minutes. I am just thinking about some other Senators who may want to speak on this very important amendment. I do not know that there are, but I am sure the impression was around that this amendment would not be brought up until Thursday with the other important amendments.

Mr. HELMS. I do not know who made that assurance. I did not.

Mr. ROBERT C. BYRD. There is no assurance that this bill is going to be back on Thursday, may I say to my friend from Washington.

Mr. STENNIS. Mr. President, I want to state my position. I want to pass the bill, if we have to stay here tonight as long as need be, or any other time. I want some assurance, too, that we will get back on the floor with this bill on Thursday.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. YOUNG. I would like to say to my friend from Washington that I think he has previously stated that we have voted on this issue 33 times before. So I do not know why we need more than 20 minutes.

Mr. MAGNUSON. We voted on this amendment 32 times in the Senate and 65 times in the past 4 years when you add up both House and Senate votes.

Mr. YOUNG. Thirty-two times. We do not need a long debate at this time. I believe 20 minutes enough?

Mr. MAGNUSON. It is all right with me. I am just speaking for some Senators who I know would like to be heard. If they do not want to, it is all right with me. The situation is, the committee knocked out the so-called Hyde amendment on this appropriations bill and the Senator from North Carolina is moving to put the Hyde amendment in.

Mr. HELMS. That is correct.

Mr. MAGNUSON. If you want to go ahead, do so. Maybe the 33d time will be the charm.

Mr. STENNIS. Mr. President, if I may, will the Senator yield to me for half a minute?

Mr. HELMS. I yield.

Mr. STENNIS. The amendment is the pending matter. There is an agreement on a time limitation of an hour equally divided. I understand we have until 7 o'clock that we could proceed. I think we ought to just proceed and try to finish the bill, proceed with the debate.

Mr. HELMS. Very well.

Mr. MAGNUSON. Let the Senator from North Carolina proceed and we will see that some of the other Senators are alerted and if they do not want to talk on it, I do not think—well, I can make my speech right now on it.

Mr. HELMS. I yield to the Senator.

Mr. MAGNUSON. I do not want any more time, so go ahead. Go ahead with it.

Mr. PRYOR. Mr. President, will the Senator from North Carolina yield to me for a moment?

Mr. HELMS. Yes.

Mr. PRYOR. The Senator from North Carolina stated that one of the reasons his amendment was called up at this time and not at a later time was because there were no other amendments that were ready to be brought up. I would like for the record to indicate that the Senator from Arkansas has two amendments ready to be brought up that, for one reason or another, are not going to be brought up this evening. But I wanted the Senator to know that, in case he did not want to bring up his amendment and the distinguished chairman of the Armed Services Committee, the Senator from Mississippi, wanted to hear two other amendments discussed, I am ready, willing, and able at this point to bring up mine. Otherwise, I assume that other arrangements have been made. I did want the record to indicate that two other amendments were ready at this time.

Mr. HELMS. I would be delighted to lay aside this amendment and have the Senator proceed.

Mr. STENNIS. Gentleman, let us understand that the Senator from Arkansas has two amendments there. He asked me to recommend that the

committee accept them. I have not had a decent time to read them or talk to him, a decent time without interruptions for other things. I had never heard of the amendments until either today or yesterday afternoon.

Senators know what has happened here today. If we have got an amendment now that we can debate, that we are going to vote on, let us do it. Let us proceed. Let us proceed with the matter. I will look at the Senator's amendments tonight and maybe we can do something about it.

Mr. PRYOR. I appreciate that.

Mr. STENNIS. Maybe we can do something about it. I do not know. But we are in motion now, and, Mr. President, I call for the regular order. If the Senator is ready to proceed, let us debate the issue.

Mr. HELMS. I thank the distinguished manager of the bill. I am sorry we got into this confusion.

But again I say that the Senator from North Carolina was asked to call up his amendment now and I was not even ready; I had to get ready on the spur of the moment. If the distinguished majority leader suggests it to me, I will be glad to lay aside this amendment. I want to cooperate with him in any way, and I certainly want to cooperate with the distinguished chairman of the Armed Services Committee.

Mr. President, today we are again confronted with the issue of the use of taxpayers' money to perform abortions. There is a difference this time versus the previous times. This time we are not involved with the question of whether indigent women or poor families should be provided with abortions which the rich can afford.

This has been the argument time and time again on previous occasions. With this amendment, we are only addressing the question of taxpayer financing of abortions of military personnel or their dependents—people who can obtain abortions in private facilities with their own funds if necessary.

In addition, there are various agencies which will furnish funds for this purpose without requiring the expenditure of taxpayers funds. We have heard time and again on this floor the concern of many Senators, that while they personally oppose abortion, they feel that they must use taxpayers' funds to provide equal access and treatment for the poor. While I believe this to be a gross distortion of ethical priorities, I think I can understand this concern, misplaced as it may be, for the poor. But, now we are confronting a different issue: Shall the taxpayers provide abortions for those who can financially afford them?

A vote against this amendment is simply a vote to promote abortion among a segment of the American people. It has nothing to do with the poor. It has everything to do with the furtherance of a national policy of abortion on demand financed by the taxpayers. Now, I hope those distinctions are clear in the consideration of this amendment, because. I repeat, this amendment does not present a question of equal protection. I would hope that those Senators who are opposed to abortion and who do not intend to promote abortion throughout the United States, but who have nevertheless sought to allow the poor the same access to abortion as the rich will support my amendment.

The language of my amendment provides for abortions only in cases where the mother's life is endangered. It has been approved by the House. And in talking with Members of the House of Representatives who are interested in this question, I have been assured that the House will stand firmly on its position.

I urge the adoption of the amendment so that needless delay can be avoided and this vital Department of Defense Appropriations bill can be passed without a long and protracted battle over providing abortions for those who can afford to pay for them privately.

That is the sum total of my remarks, Mr. President.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. LEVIN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I reserve the remainder of my time.

Mr. STENNIS. Mr. President, I will be glad to yield to the Senator from Washington, the chairman of the Appropriations Committee. I do want to be heard on it briefly, but after he has been heard.

Mr. MAGNUSON. Mr. President, this is a repeat of the Hyde amendment.

Mr. STENNIS. May we have quiet, Mr. President, and have the attention of the Chair?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. This is a repeat of the so-called Hyde amendment, which the Senate has voted against, as I mentioned before, 32 times. We voted 65 times on this amendment in the House and the Senate. Sixty-five.

I am not going to move to table this amendment, but I will make the same speech that I have made before. It does not belong on the appropriations bills at all. It always comes up on every appropriation bill now. It used to be only on HEW; now it is on defense, it is on foreign aid, it is on the Peace Corps, D.C. and possibly others next year. I would not be surprised to see it on the Interior Department bill.

I think the Senate is ready to vote on it. I only made my point. I do not know how many people want to speak on this, but there are Senators who are interested. I am hopeful that the amendment will be defeated. Then we will have to go to the House again with a conference on the so-called Hyde amendment.

Mr. STEVENS. Will the Senator yield?

Mr. MAGNUSON. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Senator YOUNG is in charge of the time on that side.

Mr. YOUNG. I yield 5 minutes.

Mr. STEVENS. Mr. President, the language of the Senator from North Carolina which is before us now is a very limited amendment. It provides that none of the funds provided for in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

I would like to remind the Senate that in the past we have at least stood by the language which dealt with the exceptions for medical procedures necessary for victims of rape or incest. We have dealt with those instances where severe and long-lasting physical health danger to the mother would result if the pregnancy were carried to term. We have dealt with those circumstances regarding the drugs and devices to prevent the implantation of the fertilized ovum or for medical procedures necessary for termination of an ectopic pregnancy.

This language probably is the most extreme form of an abortion amendment I have seen. I have great respect for my friend from North Carolina, but I do not believe this belongs on a Department of Defense appropriations bill.

When we dealt with the supplemental appropriations bill I indicated at that time that some of us were making a concession for the purpose of settling the hiatus that we faced then. But for now I see no reason to burden the Department of Defense bill with this kind of language. The services that are performed for dependents or for members of the armed services are performed for them because we have assumed that obligation when either the service personnel or their dependents become part of the military establishment.

I see particularly no reason to eliminate the areas of rape and incest or the areas where there is severe and long-lasting physical health damage to the mother.

I think the best thing we can do with this is to follow the suggestion of the chairman of the Appropriations Committee and defeat it. The Hyde language will still be before the conference. Let the conference work out the language that will prevail as far as the Department of Defense activities are concerned. Certainly, it is my feeling that we will come out about where we came out last year with the language that this Senate has adopted, by my count, 34 out of 35 times that we have voted for the same language. I stand corrected. I am told it is 32 times we have voted for the same language. My assistant keeps track of these things a little closer than I do, perhaps. In any event, repeated actions of the Senate have stood by the same language.

I could offer that language as a substitute for the amendment of the Senator from North Carolina and we could go through three or four votes. But the simplest way is to defeat this amendment. I think we should tell the House that we are going to stand by our language, that if they want to put that language in, fine.

Every time it comes up we face a question of inching away. Last time in the appropriations bill it was 7.8 percent of the abortions performed in the last year which were deleted by a very technical amendment. I have not had time to figure out how many this amendment would eliminate, but this is a different

question now because it is the Department of Defense and we do provide medical services for members of the Defense Department and their dependents. We are not now saying that this is something that a State will pay, Mr. President.

In the other circumstances, when we were dealing with HEW, we were talking about who should pay. Should a State pay or should the Federal Government pay? But if we pass this amendment, the dependents of military personnel stationed around the world are going to find that their services are limited in this field. That would be a misrepresentation of justice so far as these people are concerned. We have agreed to provide their medical services, period. We have not limited them in any way. This would be the first time, to my knowledge, that we have tried to totally limit the services for military personnel or their dependents.

I hope the amendment will be defeated. I say to my good friend from North Carolina I think if it is, we will face language that comes out of the conference committee quite similar to that which became law last year, which was accepted by both House and the Senate and I think fairly states the position that should be followed as far as the expenditures of Federal funds for performing abortions for people who are entitled to services because either they serve in one branch of the military service or they are dependents of someone who so serves. I urge the defeat of this amendment.

Mr. MAGNUSON. Mr. President, I yielded back the remainder of my time.

Mr. STENNIS. Mr. President, I believe Senator HELMS controls the time on the affirmative side.

Mr. WEICKER. Who controls the time in opposition?

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WEICKER. And how much time is there in opposition to the Helms amendment?

The PRESIDING OFFICER. Thirty-six minutes remain in opposition.

Mr. WEICKER. At this time I ask for 15 minutes in opposition to this amendment.

Mr. STENNIS. Let us see how many there are who want to speak, if the Senator does not mind. I do not know how many want to speak. I want much less than 15 minutes.

Mr. THURMOND. Mr. President, I have in mind offering an amendment which the Senate has already approved, or just add it to the Helms amendment. There should not be any question about it.

Mr. STENNIS. I will yield to the Senator from Connecticut. I will yield 12 minutes.

Mr. WEICKER. Will the Senator yield me 10 minutes?

Mr. STENNIS. I yield.

Mr. WEICKER. I thank the distinguished Senator from Mississippi.

Mr. President, I ask unanimous consent that Mr. Stanley Twardy of my staff be given the privilege of the floor during debate on this bill, H.R. 5359.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I rise in opposition to the amendment of the distinguished Senator from North Carolina. In doing so, I would point out to my colleagues that we are now at the logical end of a road which started quite a while back both in the House and in the Senate. The issue is not, as the Senator from North Carolina has phrased it, a matter of taxpayers money for abortions. The issue is very simple. It is whether or not the tenets of any religious faith are going to take precedence over the Constitution of the United States.

Mr. President, I wonder if we might have order?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Will Senators please clear the well so we can hear the Senator from Connecticut?

The Senator from Connecticut.

Mr. WEICKER. I indicated on October 22 when we considered the District of Columbia appropriations bill that that was the last time the fight was going to be fought on the grounds of those who advocate no Federal funds for abortions. That is going to be the case, because after we dispose of this matter, and I hope we defeat it, there are two amendments which I will be ready to offer, and I will offer them in time to get the matter going the other way.

One of them will say:

> None of the funds provided for in this Act shall be used to perform abortions after the second trimester of pregnancy, except where the life of the mother would be endangered, or where, as determined by the attending physician, health damage to the mother would result, if the pregnancy were carried to term.

In other words, all I am asking us to do is conform policy to what is the law of this country. That is the law.

The second amendment would say:

> None of the funds provided for in this Act shall be used to perform abortions except where: the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians; or except where the fetus is at risk for genetic disorders, chromosomal abnormalities, or has been exposed to a known teratogenic agent; or except where the mother has sickle cell disease.

Now, in this amendment, we would add the element which has been totally disregarded by everybody in the debate. That is, the health of the child.

I am not here arguing against this amendment offered by the Senator from North Carolina because it in any way impairs the right of those serving the Armed Forces of the United States. I think that is important. But there is one common denominator which is more important. That is that we are all citizens of the United States. And it is to all Americans that the law is directed, for whom policies are devised.

It was only a matter of time before we got the Hyde amendment before us in its purest form. Indeed, what I would say here is that we should go to an even purer form and, instead of having those who advocate the tenets of a particular religious faith run around Robin Hood's barn, we should have on the floor of the U.S. Senate the direct issue of whether or not abortion is legal. Period. Let us make that decision, instead of coming at it in a backhanded way.

The policy of the United States has already been made amply clear by the Senate, and the House, and Presidents to the extent that any serious medical procedure is going to be funded by this Government. Is there anybody, on the other side of the "abortion issue," who would deny that an abortion is a serious medical procedure? Why, then, do we have the issue before us? We have it before us because those who advocate the tenets of a particular religious faith know that, were the issue up or a vote on the question of the legality of abortions, they probably could not carry the day.

I hope that we shall start to understand what it is that we are doing here in the constitutional sense. That is our job—again, I repeat the words I said a few weeks ago—not to take up the slack for what somebody cannot do from the pulpit on Sunday. That is not our job. Our job is to see to it, both by our actions on the floor and the position that we enjoy as leaders of this Nation, that we give support to what is the law of the land.

The law of the land is that the mother's right to abortion is a constitutionally guaranteed right, within the parameters of the Roe against Wade decision. Only after the fetus has reached viability can the Government proscribe abortion. Slowly but surely, this position has been nibbled to death, if you will. Now we are confronted with the penultimate decision here, on the floor of the U.S. Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask the Senator if he will yield without losing his right to the floor.

Mr. WEICKER. I yield without losing my right to the floor.

ORDER FOR VOTE ON HELMS AMENDMENT NO LATER THAN 7 P.M. TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a vote, up or down, on the amendment by Mr. HELMS at 7 o'clock, with no amendments to the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. And that there be a motion to reconsider the vote and the tabling.

Mr. ROBERT C. BYRD. Yes, that would come after it.

Could we say not later than 7?

Mr. HELMS. I do not think I shall need any more time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, in its seminal decision on this matter, the Supreme Court prefaced its discussion of the constitutional issues involved in the abortion question by acknowledging that:

> One's philosophy, one's experience, one's exposure to the raw edges of human existence, one's religious training, one's attitudes toward life and family and their values, and the moral standards one establishes and seeks to observe, are all likely to influence and to color one's thinking and conclusions about abortion. In addition, population growth, pollution, poverty, and racial overtones tend to complicate and not to simplify the problem.

Yet, the Court recognized that these philosophical and emotional factors were extraneous to its consideration of the issue.

> Our task, of course, is to resolve the issue by constitutional measurement, free of emotion and of predilection.

As Senators, we, too, are entrusted with the responsibility of handling this issue in a rational manner, adhering to the strictures of the Constitution. We are called upon to decide this matter, keeping the basic constitutional rights of all Americans in mind. We are not here to carry the water for a vocal minority.

To set the appropriate tenor for our discussion, I want to review with my colleagues the constitutional under pinnings of this issue. We must turn to the Supreme Court's decision in Roe against Wade, in which the Court recognized a woman's right to decide whether to have an abortion.

The Supreme Court's decision in Roe against Wade was premised on the conclusion that "the right of personal privacy includes the abortion decision." However, the Court recognized that this right is not absolute and must be considered against the State's interest in regulation.

These are the competing interests which we must bear in mind throughout our discussion. The mother's right of personal privacy can only be impinged upon where there is a "compelling" State interest to justify the intrusion upon that right.

The parameters for our discussion were laid out by the Supreme Court in Roe against Wade, where the Court specifically enumerated the rights of the mother and the rights of the State during the various phases of the pregnancy:

> (a) For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician.
>
> (b) For the stage subsequent to approximately the end of the first trimester, the state, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.
>
> (c) For the stage subsequent to viability, the state in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

These, Mr. President, are the parameters in which the discussion should take place. But it does not and it has not been for months, indeed, years. We have not discussed the issue within what is the law of the United States of America.

The Supreme Court's statement of the right to abortion is clear. The State may not interfere during the first trimester of pregnancy. After the first trimester, the State's "interest in the health of the mother" justifies its regulation of "the abortion procedure to the extent that the regulation reasonably relates to the presevation and protection of maternal health." Only after viability of the fetus, which the Court, based upon medical knowledge, places at 24 to 28 weeks, does the State's "interest in potential life" outweight the privacy rights of the mother. Only at this point may the State interfere and "go so far as to proscribe abortion during that period, except where it is necessary to preserve the life or health of the mother."

In subsequent decisions, the Supreme Court has refined the contours of the abortion rights, but it has not "retreat(ed) from Roe." In Planned Parenthood of Central Missouri against Danforth (1976) the Court found that the abortion right impermissibly burdened by statutory provisions requiring spousal or parental consent or medical procedures not widely available. In Maher against Roe (1977) the Court endorsed the position of the Department of Health, Education, and Welfare that the medicaid statute neither requires nor prohibits State funding of nontherapeutic abortions, that is, the Court endorsed a neutral approach to funding. Underlying these, and other Supreme Court decisions concerning the abortion question, is the holding in Roe against Wade that the woman's right to an abortion "protects the woman from unduly burdensome intereference with her freedom to decide whether to terminate her pregnancy." *Maher* v. *Roe*, 432 U.S. 464, 473–474 (1977).

Despite the pronouncements of the Supreme Court, we in Congress have interfered with a woman's right to decide whether to terminate her pregnancy. At the time of the 1977 Supreme Court decision in Maher against Roe, the medicaid statute provided reimbursement for all abortions medically necessary for the preservation of physical or mental health. The fiscal year 1979 medicaid abortion funding language restricts all Federal medicaid abortion funding to abortions necessary to preserve the life of the pregnant woman; abortions needed for rape and incest victims; and abortions necessary to prevent serious long-lasting damage to a woman's physical health. Thus, the fiscal year 1979 language excludes abortions necessary to preserve a woman's health but not required to prevent long-lasting physical health damage. A Federal court has found this language to be violative of the 14th amendment of the U.S. Constitution by denying equal protection.

Recently, we have gone even farther into interfering with the woman's right to abortion. In the continuing appropriations bill and the D.C. appropriations bill, the provision for funding abortions necessary to prevent serious long-lasting damage to the woman's physical health was deleted. We did this despite the clear statement by the Supreme Court in Roe against Wade that the State may not regulate, even during the third trimester, abortion "where it is necessary * * * for the preservation of the * * * health of the mother."

The amendment which I am offering would bring the funding of abortions under this appropriations bill within the parameters of the constitutional guarantees afforded to pregnant women, as enunciated by the Supreme Court in Roe against Wade and its progeny.

I am aware, but perhaps my colleagues are not, of the fact that 4,500 babies are born every year with Down's syndrome. That is 1 of every 650 children born a year. Women over 35 have 1 in 100 chances of producing a child with chromosomal abnormalities; 1 of every 750 babies born has myelomeningocele, or spinabifida, a defect of spinal formation. Epileptics who use Dilantin have a 30 percent chance of giving birth to a child who has serious birth defects. Thus, when we limit funding to abortions which are "medically necessary," whatever that means, we are denying women faced with the prospect of bearing a child with serious defects of the choice to make a decision.

I am also aware, but perhaps my colleagues are not, of the fact that women with sickle cell disease have a 25 percent chance of going into sickle cell crisis and dying as a result of pregnancy—while the normal pregnancy rate is 0.2 percent. However, no matter how careful her care and physicians monitoring, it cannot be known whether the state of her disease will remain unaffected by pregnancy. Yet, under present law, we deny indigent women with sickle cell disease the funds to obtain the abortion which may be necessary to save their life.

What we have done in the past is impose a governmentally ordained morality on an indigent woman. She knows she will not receive funds for an abortion. Today, as a result of the D.C. and continuing appropriations, she will not receive funds for an abortion even if she is facing "severe and long-lasting physical health damage." Yet, if she chooses to follow the state-encouraged morality and bear her children, she will be reimbursed not only for her predelivery and delivery expenses but also for her children's postnatal costs. Prof. Laurence Tribe, the constitutional scholar from Harvard Law School, has aptly characterized the discussions concerning the viability of a fetus as "unmistakably religious." By denying funds for abortions while providing a significant financial incentive for bearing a child, the Federal Government is interfering with a religious choice. This interference is violative of the first amendment.

These are the matters that should be discussed on the floor of the U.S. Senate, and will be discussed on the floor of the U.S. Senate. Not whether or not we slowly gravitate toward the tenets of any religious faith.

No. It is not a monetary decision. The monetary decision was made as a matter of policy when we agreed to tend to those who needed medical care.

It is now a matter as to whether or not we are going to insist that religion stay in the pulpit and that the law of the land, in its spirit and its detail, be not only adhered to, but advocated by the leaders of this Nation.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, I want to be as gentle as I can in my response to my friend from Connecticut. I understand his emotional involvement in this question, and I respect him for it.

But I do not fully understand what the Senator was saying when he repeatedly referred to the imposition of the tenets of a religious faith.

Mr. WEICKER. Any religious faith.

Mr. HELMS. Any religious faith, then.

If he wants to specify what he meant, I will be glad to yield time to him.

Mr. WEICKER. Will the Senator yield for a response?

Mr. HELMS. Certainly.

Mr. WEICKER. I do not know the tenets of all the religious faiths in this country. I do not really care to know them all. I do know there are those that find abortion a matter of murder, of being against that which they believe in. Who they are, I do not know and I do not care to know with specificity.

I have only one guideline to what it is I talk about and what I do on the floor—the Constitution of the United States.

Mr. HELMS. I will get to that in just a moment.

Mr. President, on Sunday evening I flew to Raleigh, N.C., I spoke at a regional meeting of the Knights of Columbus. A very fine group of men and women attended that dinner. The Senator from North Carolina was given an award.

When they presented the award, I told the Knights of Columbus this had to be the most ecumenical event since Notre Dame beat Southern Methodist in football because I am a Baptist and a deacon in my church. I try to teach Sunday school—not very well, but I try.

So I do not know what the Senator from Connecticut is talking about when he speaks of imposing the "tenets of any religious faith." I assume he was referring to the Catholic Church.

Well, this Baptist believes that the termination of innocent human life ought not to be funded with money taken from taxpayers of the United States. It is just as simple as that.

If the Senator from Connecticut can persuade me that abortions are not the deliberate termination of innocent human life, I am going to back off. I will not address this issue again.

But until that persuasion occurs, Mr. President, I have got to say that this Congress ought not to vote to supply funds to terminate innocent human life. It is just as simple as that.

But let me move on, the Senator referred to the Constitution and the law of the land. I am glad he did, because in 1977 there were three Supreme Court decisions, the Maher case, the Beal case, and the Poelker case.

In each of these cases, the Supreme Court said that Government need not fund abortions. So I think that washes out the argument of the Senator from Connecticut.

As for the repeated concerns about the health of the mother, I share those concerns. I am the father of two daughters, and I fully agree that when the life of the mother is at stake medical care should be available. But that is a matter of self-defense under the law. I do not think anybody has ever argued against the principle of self-defense. Certainly, this Senator has not.

But when we have the promotion of abortion on demand, as we do in this country today, so that abortion becomes a means of birth control, that is where the Senator from North Carolina draws the line.

I have no apologies for offering what is known as the Hyde amendment. Congressman HYDE has repeatedly put it in on the House side, and Senator HELMS has repeatedly put it on the Senate side. As long as I can make it to this floor, this Senate is going to vote on this question over and over and over again, because I do not believe we have a right to require the taxpayers of the United States to finance the deliberate termination of innocent human life.

A vocal minority, my friend from Connecticut says. How does he know?

I would like to have a referendum on this question after it has been fully discussed and fully considered on its merits.

But I say again, Mr. President, that this amendment addresses itself to the deliberate termination of innocent human life. I do not think that this Congress ought to try to play God and decide who ought to live and who ought to die. That is the purpose of this amendment.

Mr. President, I reserve the remainder of my time.

Mr. WEICKER. Mr. President, I wonder if the Senator will yield me 5 minutes.

Mr. YOUNG. I yield 5 minutes to the Senator.

Mr. WEICKER. Mr. President, I would like to respond specifically to the points raised by the distinguished Senator from North Carolina.

The Senator from North Carolina keeps on saying, "I do not believe." In that phrase, he is probably joined by millions of Americans—I do not believe.

He used the terms "persuasion" and "I am not of the persuasion that." In that, he is probably joined by millions of Americans.

He refers to the ecumenical meeting he had when he received his award, between he, a Baptist, and others, who are Catholic.

The point I make here today is that it is not a matter of what one's persuasion is. It is not a matter of what one believes. It makes no difference whether one is a Baptist, a Catholic, or an Episcopalian. It is only a matter of what is legal. Abortion is legal. That is not a matter of belief or persuasion. We cannot go running around the United States declaring that we are going to debate that which is right or wrong, from a religious point of view. We must consider that which is legal, and has been so acknowledged on numerous occasions by the Supreme Court. This is what differentiates our society and our political system from others.

The Senator from North Carolina indicates that he would like to have this left as a matter of referendum. I would be delighted. If we can end all abortion amendments on the floor of the Senate, let us have a constitutional amendment. We have constitutional amendments in all sorts of matters: Women's rights; busing; limitations on the expenditures of Government. I would be totally satisfied to cut this debate off and leave this matter for decision by all the States, if anybody wants to raise a constitutional amendment on this issue. But that will not be done, because it would not succeed.

The Senator from North Carolina made the statement that he assumed that this Senator has been referring to the Catholic faith. That is an incorrect assumption. I have made my statement as to what I believe in. It is the constitutional principles of this country. If there are those who are opposed to these principles well, if the shoe fits, wear it.

As I indicated, aside from the tenets of my own faith, which happens to be Episcopalian, I have no idea what the tenets of other people's faiths are. As I said, I do not care, except that I hope they will have the opportunity to practice their religions in total freedom.

As I said before, my only job, and our job here, as far as religion is concerned is to see to it that all Americans are free to practice the religion of their choice. Our job is not to act so that we go back to the situation which caused the founding of this Nation, when indeed there were States religions and there was State oppression of those religions with which a majority disagreed.

The Senator from North Carolina made the statement that I am emotionally involved. No, I am not. I have a Downs child. This fact makes no difference as to what I do on the floor of the Senate, any more than does the fact that I personally do not believe in abortion. These are matters of my personal religious belief, and they have no bearing nor right to be used as a basis for my decisions on this floor.

What is right and wrong has been determined already by the Supreme Court, and that is the supreme law of the land. The law is not a matter of belief or persuasion, or of any one of us going out and doing our anarchistic thing on this subject. Rather, our job is to see to it that the policies of the land conform with the law of the land. If we are going to change the policy, let us do so for all. But we should not, in our religious fervor, single out one religious tenet and try to incorporate into the laws of this Nation the religion of any faith in the Nation.

Mr. STENNIS. I yield myself 6 minutes.

Mr. President, I think we all have to be frank. I wish I had a formula. I greatly treasure the privilege of being a member of the Senate Appropriations Committee. This thing has swung around in the last few years to where, as Chairman MAGNUSON has said, we vote 30 times or 32 times or 35 times on an amendment concerning abortion—on an appropriation bill or HEW or a Department of Defense bill.

I recall once when we had quite an audience and the vote was very close as the roll was being called. Senators were a little slow in coming in. If a Senator voted aye, one group in the audience would cheer. When a Senator would vote

no, another group would cheer. Everybody cheered when we finally finished.

We have gone on to where this thing has become so ridiculous that we held up a continuing resolution, which indicated that a great body had failed to function on time. We were trying to get a temporary way to run the entire Federal Government, so far as money was concerned.

I am not thinking in terms of individual criticism, but I have to criticize myself first and all of us as officials, when we fail to work out something here as to a subject which is semisacred, if not fully sacred, which would be applied uniformly and applied with dignity, rather than the ridiculous state it is in now, and applied uniformly as Federal law, with respect to all agencies and all Federal money, rather than the situation we have now.

So far as using money of any kind to promote abortions is concerned, I am totally opposed to all that. It is contrary to man's law, contrary to God's law, contrary to nature, and contrary to any other standards. It is bound to have a very degrading influence on the family and family life, and the family is the bedrock of our society.

So I believe we are failing in our duty until we do push aside this nonsense, these amendments. Some kind of policy and law seems to be necessary for the time being. I feel that it is our duty to work it out, and then that will be the law. It should have some teeth in it and it should be enforced on that basis, and thereby restore the whole concept of abortion to respectability.

I recall the time when there was great respect for that problem. I see the toll it has taken, not just on individuals but on the family as well. That is the main point.

On this bill, we found ourselves in a situation in which we had a House amendment—strict construction, strict amendment. As a choice, I like the Hyde amendment best. I thought we would just go ahead and we might get the Hyde amendment in conference, but that did not prevail, and that is all right.

I am going to vote for the next thing to it and vote for the Hyde amendment in this bill, hoping thereby to settle the matter so far as this bill is concerned. I hope that before we have another general appropriation bill—Department of Defense or any other department—we will make some headway in seriously tackling this matter, have a uniform policy, and elevate the whole thing as much as we can, and start the evolutionary process that will receive some respect to the whole concept of abortions, and strengthen the foundations of the family as an institution.

I think it comes down to what a person thinks best, in view of those points. I am speaking mainly as a Member of the Senate.

I yield back whatever time I have remaining.

Mr. HELMS. Mr. President, the Senator from Mississippi is always impressive, and I thank him for the remarks he has just made.

He is correct that if this amendment is approved by the Senate, there will be no question about it in conference and there will not be any holdup of funds. We will be able to move on with the work of the Senate.

Mr. President, what is the time situation as to both sides?

The PRESIDING OFFICER. The Senator from Mississippi has 11 minutes. The Senator from North Carolina has 25 minutes, but there was an agreement that the vote on this amendment would take place no later than 7 o'clock.

Mr. HELMS. Correct.

Since I have far more time remaining than the Senator from Mississippi why do we not both yield back our time?

Mr. STENNIS. Yes. I very gladly agree to yield back the time on both sides.

Mr. HELMS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back the question is on agreeing to the amendment of the Senator from North Carolina.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Arkansas (Mr. BUMPERS), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. STEVENSON), the Senator from Florida (Mr. CHILES), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maryland (Mr. MATHIAS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall vote tonight.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

Mr. MAGNUSON. Mr. President, regular order.

The result was announced—yeas 38, nays 47, as follows:

[Rollcall Vote No. 389 Leg.]

YEAS—38

Armstrong	Exon	Lugar
Biden	Ford	McClure
Boschwitz	Garn	Melcher
Byrd, Harry F., Jr.	Goldwater	Proxmire
Church	Hatch	Randolph
Cohen	Hatfield	Roth
Danforth	Helms	Schweiker
DeConcini	Huddleston	Stennis
Dole	Humphrey	Stone
Domenici	Jepsen	Thurmond
Durenberger	Johnston	Warner
Eagleton	Laxalt	Young
	Long	Zorinsky

NAYS—47

Baucus	Chafee	Hollings
Bayh	Cranston	Jackson
Bellmon	Culver	Javits
Bentsen	Glenn	Kassebaum
Bradley	Hart	Leahy
Burdick	Hayakawa	Levin
Byrd, Robert C.	Heflin	Magnuson
Cannon	Heinz	McGovern
Matsunaga	Pryor	Stewart
Metzenbaum	Ribicoff	Talmadge
Morgan	Riegle	Tower
Moynihan	Sasser	Tsongas
Muskie	Schmitt	Wallop
Nelson	Simpson	Weicker
Nunn	Stafford	Williams
Pell	Stevens	

NOT VOTING—15

Baker	Durkin	Packwood
Boren	Gravel	Percy
Bumpers	Inouye	Pressler
Chiles	Kennedy	Sarbanes
Cochran	Mathias	Stevenson

So Mr. HELMS' amendment (UP No. 732) was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. LAXALT. Mr. President, I support H.R. 5359, the Department of Defense appropriations bill for fiscal 1980. As I see it, this is the very least we can do to meet a growing threat to our national security.

On its face H.R. 5359 is a "high dollar" bill. As reported from the Committee on Appropriations, on which I serve, it provides $131.8 billion in new obligational authority for the Department of Defense. This is $2.3 billion over the House version and $11.2 billion over the fiscal 1979 appropriation of $121.1 billion. However, only because of what is now a rather shaky assumption of a 7 percent inflation, is it within the 3 percent real growth target set out by the Carter administration

Even so, it makes some useful R.D.T. & E. and procurement decisions for essential strategic forces. For example, it provides $1.1 billion plus $14.2 million in advanced procurement funding for an eighth *Trident* submarine. It contains $2.1 billion for the construction of a fourth *Nimetz* class CVN or nuclear powered aircraft carrier. It also contains $670 million for full-scale engineering development (prototype testing) of the proposed MX intercontinental ballistic missile, and approximately $150 million for further development of air-launched and ground-launched cruise missiles.

H.R. 5359 also is helpful in the general purpose force area. It contains $29.5 million to purchase 15 new attack helicopters, $28.7 million to buy 6,200 new antitank missiles, and approximately $617 million to purchase 420 M-60 and XM-1 tanks. For the Navy in the general purpose area, the bill provides funding for 30 new F-14A's, 25 F-18's, 2 SSN-678 attack submarines, 2 guided missile cruisers of the DDG-47 class, and 6 FFG guided missile frigates. The Air Force in this bill gets $789.5 million for 144 A-10's, $88.5 million for 60 F-15's, and $1.4 billion for 175 F-16's.

While all this sounds impressive, much more is needed. A recent Rand Corp. study has indicated that the Soviet Union in the last 10 years has spent $100 billion more than the United States on its strategic forces. Soviet investment in weapons systems over the past 3 years, according to the Joint Chiefs of Staff recent testimony has exceeded ours by 75 percent overall, and by a factor of

3-to-1 in strategic forces. It will take this Nation a long time to recover from the consequences of so grievously under funding our defense effort.

As Congressman KEMP points out in his additional views to the House bill, even if our defense budget were to grow at a 5 percent annual rate, assuming Soviet defense budget continues to grow at the same rate estimated by the CIA, it will take 42 years for U.S. defense investment to catch up with the Soviet Union. Of course this bill does not provide such a rate. At an optimistic 3 percent existing disparities will grow rather than narrow.

The hardware consequences of previous under funding are now becoming clear. In ICBM's the Russians have added 150 to 200 per year and we have added none. The Russians have produced six new ballistic missile submarines a year and we have produced none. The Russians have produced 30 to 50 new intermediate- and long-range bombers and we have produced none.

The momentum inherent in this Soviet strategic forces build-up is now such that one can only consider restrained the statement of the Joint Chiefs Chairman, Gen. David Jones, who when testifying on the SALT treaty declared that the United States will lose "essential equivalence with the Soviet Union by the early 1980's."

Of course the loss of what is called "essential equivalence" is of the utmost seriousness for this country. Because our strategic doctrine has placed such a high emphasis on superior strategic power, while the Soviets have traditionally emphasized local and regional superiority, an equivalence in strategic power is tantamount to underscoring our inferiority elsewhere with potentially devastating political consequences.

Mr. President, we are already clearly in a crisis situation. We now need to dig out from the consequences of a disastrous series of decisions made in the late 1960's and early 1970's, principally in reaction to the Vietnam war. As former Secretary of State Henry Kissinger told the Foreign Relations Committee at the time of the ratifications of SALT I, the B-1 was scheduled to become operational in 1979. The MX was to come on line in 1983, and the *Trident* submarine and missile would become operational in 1978 together with various kinds of cruise missiles in the early 1980's. Every one of these programs has now been canceled, delayed, or stretched out. Now only the *Trident* can become operational during the period of the projected SALT treaty, and to quote Dr. Kissinger again, "We now face the challenge of the early eighties with forces designed in the sixties."

In an objective sense there is little that can be done to rectify past errors in a way that will cover our period of the early 1980's. The damage is done. The lead time for the development of strategic weapons is simply too long.

As Lieutenant General Rowney put it:

> The greater momentum of the USSR will cause the U.S. to fall behind the USSR strategically. By any objective measure the U.S. will become strategically inferior to the Soviet Union in the early 1980's.

Then what? As my colleagues well know, the problem extends beyond strategic forces. Since the end of World War II we have depended upon our strategic forces to help counterbalance the Soviet general purpose superiority. The counter is now or soon will be gone. As the Soviets acquire a superior strategic capability, their conventional capability, which is also growing, looms ever larger in crisis situations. Since we no longer possess a nuclear check we are forced even more to come to grips with the stark reality of our conventional inferiority.

The political paralysis likely to be induced by the loss of strategic superiority is probably going to be acute. Even assuming a direct nuclear exchange is avoided. Conventional proxy wars against critical U.S. interests in the Middle East, in Europe, and in Africa are to be expected. The Soviets attempted such efforts in Korea, Greece, and Iran in the late 1940's and may be expected to return to them with a vengeance as our strategic nuclear capability begins to wane.

I believe we are now getting a foretaste of what is to come, a qualitative jump in the nature of Soviet adventurism under the umbrella of their growing strategic preponderance. The sorry episode of the discovery of a Russian combat brigade in Cuba is just one example. Here there was no attempt by the Soviets to make any concession whatever. As I understand it, direct demands were made upon them and for the first time since the end of World War II we were turned down flat.

Since the earliest days of the cold war the Russians have been willing to anoint certain factions in internal disputes in so-called wars of liberation. They then provided certain forms of financial and material assistance. But now we see a qualitative change. Direct, open, military intervention by proxy forces is bringing the reality of Soviet power home and weakening Western interests in key areas throughout the Third World.

The irony of all this is that it is so unnecessary. As Henry Kissinger noted in his well publicized lecture on the future of NATO: NATO has three times the GNP of the Soviet Union and four times its population. The Soviets have totally unenviable leadership, social, ethnic and economic problems. Indeed about the only thing their system does do well is accumulate military power.

As Dr. Kissinger put it:

> Our adversaries are not really in control of their own future. Their system and their conditions in many ways makes them victims of their past. We around this table are in the extraordinary position that we can decide a positive future for ourselves if we are willing to make the effort.

Mr. President, I believe that we must do what needs to be done in the defense area. I believe this not because I am any great fan of expending scarce resources on the military. I believe this because we are faced with a dire threat. And that each of us in this body, if we are to uohold our constitutional responsibilities, must now come to grips with it.

There may not be anything that can be done about the consequences of underfunding our defense 5 to 10 years ago. But this is no excuse for inaction. We have a strong obligation both to make sure that the error is not repeated and to rectify it as rapidly as we can. Mr. President, I support H.R. 5359 and I urge my colleagues to likewise. It is the very least that we can do. But I am hopeful that we can do even better in fiscal 1981.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, I will not object, but will the majority leader state for the record here, so we can find out, just what the situation is on this bill?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

THE UNITED STATES MUST NEVER SUBMIT TO BLACKMAIL

Mr. CHURCH. Mr. President, I endorse President Carter's refusal to accede to the demands of the Iranian students who have seized the American Embassy in Teheran.

The Shah is in the United States in conformity with American law. He is receiving treatment for an advanced stage of cancer. To deliver him from his sick bed in New York City into the hands of his self-proclaimed executioners would be dishonorable.

This country must never submit to blackmail. If we do, there will never be an end to it, and no American will be safe anywhere abroad in the future.

Mr. CANNON. Mr. President, I associate myself completely with the remarks made by the distinguished Senator from Idaho.

Mr. GOLDWATER. Mr. President, I also associate myself with the remarks made by the distinguished Senator from Idaho.

I will go a step further: Let us send all the Iranian students home.

Mr. THURMOND. Mr. President, I associate myself with the remarks of the distinguished Senator from Arizona.

Mr. CANNON. I agree with the suggestion of the distinguished Senator from Arizona as well.

THE DUMBARTON OAKS CONFERENCE ON ENERGY CONSERVATION

Mr. PERCY. Mr. President, on October 17 and 18, 1979, the Alliance to Save Energy and Harvard University cosponsored a symposium on the Dynamics of Energy Efficiency at Dumbarton Oaks, in Washington, D.C. To underscore the historic significance of this gathering, it should be noted that the last time Dumbarton Oaks opened its doors for a major conference was in 1944. Those important international discussions led to the formation of the United Nations.

This month, for the first time in this way, leaders from government, business, industry, unions, and the academic world met in a concerted effort to explore and discuss in detail the whole range of issues surrounding energy conservation and efficiency. As President Carter stated, conservation is "our cheapest and best way to cut down on imports."

Leaders from varied fields were divided into workshops where the potential for conservation was analyzed in the residential, commercial, industrial, and transportation sections of our economy. Their findings will soon be available.

The symposium participants were also given the opportunity to listen to important speeches regarding energy efficiency by President Carter; His Excellency Shaikh Ahmad Zaki Yamani, Minister of Petroleum and Mineral Resources in Saudi Arabia; Adm. Stansfield Turner, Director of the Central Intelligence Agency; and Charles Duncan, Secretary of Energy.

In view of the importance of this symposium and its findings on our country's energy future, I ask unanimous consent that these speeches and introductory comments by Senator ALAN CRANSTON and myself be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN SENATOR CHARLES PERCY'S OPENING REMARKS AND INTRODUCTION OF CIA DIRECTOR ADM. STANSFIELD TURNER

Thank you, Mr. Giles Constable, for your welcome to Dumbarton Oaks on behalf of Harvard's President Bok.

Admiral Stansfield Turner, distinguished guests, ladies and gentleman, I welcome you to what we of the Alliance to Save Energy and Harvard University hope will be the beginning of a dialogue on energy efficiency that clarifies issues and charts a new energy future for America.

We are grateful to President Bok and Harvard University for making these beautiful facilities available. And we are grateful to the John D. and Catherine T. McArthur Foundation and chiefly Bill Kirby, Director, for helping to fund this Symposium.

We are honored, also, to have in attendance a carefully chosen group of Americans from every sector of society. I hope you have each had an opportunity to get acquainted with the people seated around you at your table. You will find among the participants in this Symposium, legislators, consumer activists, government administrators, labor leaders, corporate executives, university professors, and association executives.

You are each a leader of America. You have an opportunity in the next 24 hours to identify the energy policies that should guide us through the 1980's. This Symposium is a decision-maker's conference of the highest order.

It seems fitting, therefore, that we have chosen Dumbarton Oaks as the setting. Look about you not only at the people in attendance, but at the beautiful rooms and grounds. There is much history here.

Just thirty-five years ago, this very room was the site of two important meetings which led to the creation of the United Nations and a renewed hope for world peace. Likewise, these facilities attract researchers and scholars who find in Dumbarton Oaks an inspiring atmosphere for learning. But this is the first conference of this type in 35 years.

By precedent, this is a gathering place for men and women of vision, a place for the birth of new ideas, a setting for sober contemplation about the past and the future of this great country.

The energy future of the United States, indeed, has become increasingly unclear and a subject of much debate and contemplation. The dark events of the 1970's—the embargo, the price escalations by a cartel, the strikes and revolts, the Iranian revolution, the gas lines—have left Americans confused and disillusioned with their leadership. The prospects of relying on conventional energy sources have grown dim. The development of a national energy plan has seemed a hopeless task.

Yet in the last few months, a little light has begun to appear at the end of the tunnel. Three major research publications—two from researchers at Resources for the Future and one from the Harvard Business School, simultaneously, have struck a note of optimism. Our energy future can be bright if we recognize the opportunities available to us through improvements in the ways we use energy, through improvements in energy efficiency, through conservation.

This is not a conservation of sacrifice, of curtailment, or of economic stagnation. This is conservation that creates jobs, that keeps petro dollars stateside, that allows economic growth, and that retains the high standard of living to which we are accustomed.

That this optimism about energy efficiency is contagious is evidenced on Capitol Hill in recent months where we have seen introduced a spate of bills designed to significantly increase the financial incentives to conserve. These incentive proposals include increased tax credits, grants, low-interest loans, and new regulations.

As recently as this weekend, in his second radio question-and-answer program, President Carter has stated that conservation is our number one resource, "our cheapest and best way to cut down on imports." What better time than this for America's leaders to move beyond the optimistic rhetoric of conservation to specific policies. We must make energy efficiency competitive with energy waste, and competitive with conventional energy sources. By what route—tax credits? Loans? Grants? Regulation?

Exploring these questions and the whole range of issues surrounding energy conservation and improved energy efficiency—that is the purpose of this Symposium.

The task is enormous. The U.S. consumes each day the oil equivalent of 39 million barrels of energy, much of which is dissipated as waste heat. The Harvard Business School study estimates that we could, through appropriate conservation measures capture 8 to 10 million barrels of that waste. Since we import each day between 8 and 9 million barrels of oil, then the energy we waste—in homes, offices, factories, and transportation—is equal to all the oil we presently import.

No one technical fix can tap that 8 million barrels a day. It will require the concerned efforts of tens of millions of American families, businessmen, laborers, and educators. Add to this a dramatic increase in the direct use of coal, of which we have an abundance, and we would be a long way down the road of resolving the energy crisis.

Our conference is potentially a major beginning.

The issues we must deal with are tough issues: should utility ownership of cogeneration facilities at industrial cites be encouraged? Are efficiency standards for industrial equipment feasible? What level of financial incentives will stimulate investments in building retrofits? Should utilities be involved in the retrofit business? Should the gasoline tax be raised to $1.50 or more? By what means should mass transit, vanpools, and carpools be promoted? What long list of institutional, behavioral, and financial barriers impedes conservation?

These are the subjects of our workshops tomorrow. These difficult questions and issues are worth addressing now, at this opportune moment in history when conservation is enjoying renewed public interest. Our latest sampling of American public opinion, conducted by Cambridge Reports in late July and early August, indicates that never before have Americans been so aware of the need for a vigorous national energy conservation effort. Never before have they acknowledged that the alternative is serious energy shortages in the nineteen eighties.

These same citizens are optimistic that we can keep the wolf from the door, but they are insistent that they need more public discussion of the "how-to", the specifics of energy conserving actions, the many fixes at home, at work, and on the road that add up to millions of dollars and barrels of oil saved for the Nation.

For us, the challenge is how can the public and private sectors work more effectively together to get conservation into the market place and make it competitive with conventional energy sources, competitive with waste.

It is not just a national challenge. It is an international challenge. For that reason, our conference is all the more timely. The International Energy Agency has declared October to be International Energy Conservation Month. The United States has joined 19 other major industrialized nations in sponsoring this event. The purpose: to focus citizen attention on the urgent need for energy conservation.

I quote President Carter:

> "As the world's major consumer of energy, it is essential that the United States become a leader in conserving energy . . .
>
> "The effectiveness of our efforts to conserve energy in the years ahead will have a substantial impact on both the Nation's ability to meet future energy needs at home and on the stability of social, political and economic institutions around the world."

The urgency of this assignment has been stressed by many independent researchers from Harvard and MIT to the Ford Foundation and the Bureau of Mines.

Chief among the serious analysts of energy projections has been the staff of the Central Intelligence Agency, whose World Energy Outlook released in 1977 created a stir among students of the subject, but very little refutation. If the world continues on its present course a shortfall in world oil supplies will occur by the mid-1980's.

To bring us up to date on these findings and to keynote this Symposium, I asked CIA Director Stansfield Turner to join us tonight.

Without further introduction, welcome Admiral Turner.

ADDRESS BY ADMIRAL STANSFIELD TURNER

Gas lines have disappeared. Oil stocks are being rebuilt. To the average citizen, the pressure to conserve is dissipating rapidly. Yet, the international oil market remains precariously balanced. It is highly vulnerable to supply or demand disruptions. A coal strike or harsh winter, for instance, could cause temporary shortages and push oil prices higher. Further, political disruptions in OPEC countries like Iran could not only cause longer term shortages, but could create a psychological panic that would have more than psychological repercussions.

Even if there are no such untoward events, the outlook for oil supply is dim. The emerging economic recession is welcome, perhaps, only because it will moderate oil demand.

The next upswing of the business cycle will cause demand to rise again. When it does, we cannot count on increased supplies being available. Beyond the mid 1980s, it would be unwise to count on any substantial increases in world oil output.

Senator Percy referred to our 1977 publication on the world energy outlook. That was the beginning, incidentally, of a new policy on the part of the Central Intelligence Agency to release as much information as we can in an unclassified form, not only on energy issues but on other issues of national import. We hope our studies, the research that we do on the country's behalf, will help to improve the quality of national debate on important subjects. That oil study in 1977 concluded that—and I quote—"In the absence of greater energy conservation, projected world demand for oil will approach productive capacity by the early 1980s. In these circumstances, prices will rise sharply to ration available supplies."—end quote. We were widely criticized for being overly pessimistic. As it turned out, we were right on target. Witness the 60 percent increase in oil prices since 1978, and the prospects for continued serious oil market problems in the foreseeable future.

It has become conventional wisdom to blame this situation on the events in Iran last winter which removed 3 to 4 million barrels of oil per day from the world market. If we survey the outlook for oil production in the Middle East today, however, the situation has worsened everywhere, not just in Iran. Plans for increasing productive capacity in the 1980s have been trimmed; production ceilings have been imposed at levels below today's capacities.

In Saudi Arabia, policy is to limit output to 8½ million barrels a day, except when they believe circumstances make it necessary to mitigate this policy to prevent severe market disruption. Current production of about 9½ million barrels a day is close to their sustainable capacity, and little or no increase in capacity is in prospect. There once were plans to increase productive capacity to 16 million barrels per day by the mid-1980s, but those plans are uncertain today.

Iraq and Kuwait have both indicated a strong preference to cut back production rather than increasing it. In Iran, the slowdown of maintenance activities will soon eliminate the option that might exist to raise output on short notice even if the government in Tehran wanted to do so. Basically, these policies reflect a strong preference for production profiles that stretch out reserves over long periods. They also reflect an aversion to even a small risk of impairing ultimate oil recovery; and a concern, in the wake of the Iranian revolution, with the disruptive effect of rapid economic development spawned by massive inflows of oil money.

I also believe that these oil producing nations think that we in the oil consuming world have insatiable appetities. They sense that the greater they make their productive capacity, the more they will be subjected to pressure to utilize it. The more they can protect their interests by simply not having the capacity, the more they will. On top of this, a lesser proportion of Persian Gulf production will be available to the industrial countries in the future simply because these countries themselves are industrializing and will need more for domestic requirements.

If then we cannot hope for substantial increases in OPEC oil production, what if we look elsewhere? If we start with the OECD countries, the industrially developed countries, we cannot expect much improvement in oil production there either. North Sea production will peak around 1982–1983 at 1.5 million barrels per day more than today. That will help. But, at the same time, most private sector analysts expect U.S. oil production to resume its downward trend now that the Alaskan pipeline is full. U.S. oil output has exceeded additions to reserves by about a two-to-one margin every year since Prudhoe Bay was added. The Department of Energy projects U.S. output remaining about stable, apparently in the belief that improved incentives due to price decontrol and other measures will greatly increase oil drilling and recovery. I know that this is a controversial matter, I am simply suggesting that industry consensus is on the side of a decline in U.S. output.

Looking beyond the OECD countries, to the non-OPEC, lesser developed countries, production there is growing fairly rapidly, especially in Mexico. But most of the increase, except in Mexico, will be consumed locally as industrialization increases. Mexico, by 1982, should be producing about 2.5 million barrels of oil per day of which about 1.1 million barrels will be available for the international market that is not there today. In the longer term, Mexican oil resources should permit greatly increased production and exports, but it is likely that Mexico will follow cautious, conservationist policies. Therefore, it would be unwise to count on large increases in Mexican oil exports during the 1980s.

Next we can look at the Communist countries. What can they contribute? Unfortunately, our prediction of a decline of Soviet oil production and a consequent shift in the position of the entire Soviet Bloc from being net exporters to net importers still is our position. It was controversial when we annunicated in in 1977, but nothing has occured to cause us to change our opinion since. We continue to expect Soviet oil production to peak this year or next and to decline soon thereafter. Developments during the past two years reaffirm this 1977 estimate and we find growing support among other analysts for these broad conclusions, if not for the particular numbers we project.

Soviet oil production has been nearly flat in the past year. This is below the Soviet plan. Development trends in the Soviet industry point to an impending decline. Production in the older basins, especially in the Urals has been falling. The entire increase in production in recent years has come from West Siberia, and about 60 percent of that from its supergiant field, Samotlor, alone. Moscow had hoped to get large increases in production from the newer, smaller fields in West Siberia in the past year or two, but their development is considerably behind schedule.

To keep production rising, the Samotlor field has been pushed well above planned levels. Once that field hits peak production, which it may have already, it will probably not be able to sustain that level very long. With production dropping in the older areas and in the Samotlor field, the Soviets can keep total production from falling only by developing new fields at a far greater rate than in the past. The Soviets are pouring large investments into West Siberia, but they face severe constraints such as the remoteness and difficult conditions of the area, including its severe climate. In addition, there are real limitations on what the Soviet oil equipment industry can produce for exploration and development.

This is not to overlook the large unexplored areas of the Soviet Union which may hold substantial deposits of oil and gas. Soviet reserves may be large. But, exploratory drilling has been stagnant for years because of continuous pressure to raise oil output through further development of known fields. In any event, it would take a decade or more to develop any large new fields that may be found whether they be on-shore, in remote tundra-covered areas, or off-shore.

The Soviets are, of course, searching for alternative energy sources. Moscow has been pushing gas production with considerable success, but plans for exploiting coal resources are not being met. On balance the outlook is for greatly reduced growth in the total energy production.

This forces them to look at whether and how much energy conservation could help them. The Soviets' problem is different from ours and we believe that they will have a difficult time achieving greater energy conservation. Very little oil is consumed by private automobiles. Transportation relies mostly on rail so is already energy efficient. Much heat of homes and buildings is already supplied by cogeneration, or the efficient use of waste heat from the generation of electricity. Overall, the bulk of energy in the Soviet Union is used in heavy industry. Reductions in this area of high priority to them would be difficult and costly.

The Soviets, therefore, will face painful choices in allocating their oil and other energy supplies. I might add that one of the great strengths of our country is that part of the responsibility for that kind of decision rests with the individual citizen. We have capacity in this country for groups like the Alliance to Save Energy, for individuals, for corporations to affect oil consumption in a major way. In the Soviet Union those decisions all have to be made by a central authority.

They could cut their oil exports to the West about a million or a million and a half barrels a day right now. Or they could increase oil imports from the Middle East. You recognize, however, that their ability in either of these directions is limited by their hard currency position, and today almost half of the dollar value of total Soviet exports is earned by their oil exports. A different direction for relief would be to cut their exports to Eastern Europe about a million and a half barrels a day right now. From what we can understand, their current plans are to keep that production at about its present level through 1985 or so. They also must recognize that substantial cuts in these deliveries in energy to Eastern Europe would compound the already serious economic problems those countries are having, and they would also have to be concerned with the effect such cuts-backs might have on the political stability in that tender area. Another option for Moscow would be to force even greater reductions in an already declining rate of economic growth. It is impossible to predict which combination of these options Moscow will follow. Part of the oil shortfall will probably impact on the Soviet economy and part on the balance of payments.

Where does all this leave us? These trends in production—in the OECD, in the non-OPEC lesser developed countries, in the Communist countries, and in OPEC all add up to a prospective decline in the supply of oil available to the OECD countries. Any decline in oil supply for the OECD nations is an alarming prospect. Traditionally, economic growth has been accompanied by a growth in energy consumption. Now, we do not fully understand the nature of the relationship between economic growth and the growth in energy consumption. It may be flexible to some extent as was evident after the 1973–74 price rises. But, we do estimate that OECD economic growth will be constrained to no more than 2 to 2½ percent by the supply of energy that we believe will likely be available to OECD in the next 3 to 4 years. As we grapple today with incipient recession and accept such unpleasant measures as high interest rates, we must be concerned at the prospect that the next economic recovery may ultimately be limited by a lack of accompanying growth of energy supply.

All of the calculations and predictions that I have shared with you this evening may well be challenged in their particulars. I think the key point I would like to leave with you, whether or not the specific predictions are correct, is that we are living in a era of great fragility in the supply of energy. First, the

situation is fragile because we are so dependent on one area of the world, the Middle East, an area that is so vulnerable to political turmoil today, and an area which is experiencing a revival of traditional religious tenets. Yet at the same time, it is experiencing, particularly through the impact of vast new oil wealth, the often antiethical changes which Westernization and modernization of society bring with them. There is also the danger of unpredictable and erratic, but nonetheless influential, national leaders on the scene. If you look at the panoply of problems in that region today, it is easy to conclude that it is almost inevitable that some form of turmoil will beset this area within the next few years that will affect the availability of oil supply.

A second key factor is that even if there is not some physical upheaval in the Middle East, a major change of the last six years is a clear recognition by leaders of these countries that it is not necessarily in their best interests to produce as much oil as the OECD would want.

Against this situation, with the fragility of supply and the increasing pressures for protection of reserves, the role of conservation becomes more prominent. This role, which the Alliance to Save Energy advocates so well, is the only practical remedy for the next few years. The alternative, substantially slower economic growth, would be distinctly more unpleasant. Nothing else can be as certain to help bring supply and demand into balance in the immediate years ahead. It is also the case that if the OPEC nations are ever to be induced to increase production beyond what they may consider to be in their economic best interests, the earnest of extensive and successful US conservation will almost certainly be necessary. Today I received an intelligence report on the attitude of one important OPEC leader toward US conservation. It said that this man has been unsympathetic to US pleas for price restraint by OPEC, charging that such restraint merely enables the major importers to put off the task of conservation. He believes the US record on conservation is particularly poor. Only with a firm signal on conservation from the United States could the OPEC nations possibly be induced to increase production enough to permit a future economic upswing to continue rather than be stymied for lack of energy supplies.

Thus, there is every reason to encourage you to continue encouraging our nation to move boldly in the near term to eliminate the wasteful consumption of energy.

I can only applaud the foresight, the patriotism, the determination of Senator Percy, Senator Cranston and those of you who have supported them and this alliance. As I have already said, the strength of America lies in part in the fact that we as individual citizens, that you as an alliance, can band together and help to solve our nation's problems, not relying only on central governmental direction. I certainly commend and encourage the fact that you are exerting this leadership. It is critical to our country and to our future.

Thank you very much.

REMARKS BY CHARLES W. DUNCAN, JR.

Ladies and gentlemen, I take special pleasure in appearing before the Alliance to Save Energy and Harvard University symposium today to discuss energy conservation.

The words "energy conservation" don't ring well with everybody, though they certainly do with me. In fact, one newspaper article I saw recently said the words sound "dreary." They make some people think of sacrifice, or self-denial or changes in lifestyle. The facts are that energy conservation is a requisite of future economic growth and a lifestyle comparable to that we now enjoy. I was very interested in the recent report of a Committee of the National Academy of Sciences which concluded that in the year 2010 "very similar conditions of habitat, transportation, and other amenities" could be had from an economy that uses either twice as much energy as we do today—or, very interestingly—20 percent less. The difference lies in conservation.

We have no alternative but to push conservation as hard as we can. This is my first priority. It is the cheapest, the quickest, the most immediately beneficial way to improve our energy security, to lessen our dependence on foreign oil imports, to strengthen our economy, and to reduce our public, corporate, and personal budgets. Conservation improves the quality of our environment and enhances our position of international leadership. I believe in energy conservation—it is the foundation of our energy policy—both now and in the future. And, I intend to assure that it receives top attention in the Department of Energy.

CONSERVATION INITIATIVES

Conservation has many advantages: It is not as expensive as today's traditional fuel sources—a fact that will undoubtedly be even more true in the future; it does not require long leadtimes to show results; it does not challenge the integrity of our environment; it does not tax our economy; and, it does not alter our international relations. Conservation reduces oil imports. It helps hold down rising energy prices.

For more than 100 years, the United States prospered while energy supply and price were not pressing concerns. Economic growth and energy consumption went hand-in-hand. We had plenty of both. They moved up together, one in ratio with the other.

But, we have learned that energy use is not necessarily linked to the level of economic activity. Energy consumption decreases have accompanied economic output increases. In fact, energy use actually declined in the industrial sector by about 6 percent from 1973 to 1978 while the index of industrial production increased by 12 percent.

Conservation does not necessarily mean doing without. Rather, it means achieving the same level of output more efficiently—with greater productivity and less energy.

Saving energy and using it more productively, however, is not something the Federal Government can accomplish alone. It depends on millions of individual choices made by individual consumers in different circumstances who have different perceptions of their need for energy.

Conservation is a matter of enlightened self-interest. I know you agree and we must work together to communicate this message.

OVERVIEW

In my remarks today, I want to share with you my sense of the urgency of our overall energy problem. I want to discuss the steps that this Administration is taking both to encourage greater conservation, and to increase domestic energy supplies. First, let us discuss the supply side of the equation.

The Free World consumes more than 50 million barrels of oil per day. This level of consumption has been rising at a rate of 5 percent a year for the last 10 years. If we were to continue this same rate of consumption increase, we would have to find new production to meet this increasing demand which would be equivalent to:

A new Mexico every 6 months;
A new Alaska every 9 months;
A new Texas every year; or
A new Saudi Arabia every third year.

This is just to stay even. It is clearly obvious that our collective use of liquid petroleum must be reduced—and now.

We keep referring to an energy crisis; we have had and probably will continue to have some crises, but in a longer term sense it is rather more of a transition than a crisis. Liquid petroleum is a finite resource, and the years of supply remaining at current consumption rates are few. The issue is do we manage this transition away from liquid petroleum in an orderly way, with careful planning, or do we allow a series of crises to have precipitous and adverse impacts on our social and economic structure.

Excluding Alaska, U.S. production has been declining at a rate of almost 4 percent a year since 1973. All expert opinion indicates that the best we can hope for in the future, given decontrol of crude oil prices and given other production incentives, is to arrest the decline and maintain a flat production rate. Expert opinion also indicates that OPEC production potential will peak and begin to decline sometime in the late 1980s.

There is also the possibility that individual countries may decide to produce less; there is the possibility of political, malicious, or other disruptions to production. This speculation has impacted spot market prices which is a cause for serious concern. We have seen price increases this week from several major producers. We can only conclude that over the next several decades we will have to meet our future energy demand growth, not only with oil and gas, but increasingly with coal, nuclear, solar energy, and other renewables and unconventional sources. It is equally clear that it is of paramount importance that we move aggressively in the area of conservation.

PROGRAM DEALING WITH THE CRISIS

The fundamental strategy is straightforward: The nation is overly dependent on oil imports and they must be reduced. Our goal is to reduce them by half by 1990.

To accomplish this goal, the nation must invest more heavily in conservation to reduce demand and, at the same time, we must pursue a wide variety of energy sources to increase available supplies.

Let me begin by discussing those steps that we are taking to increase supply.

First, we must diversify our sources of oil so that we are not so dependent on one area of the world for our oil supplies. To do so, we must encourage the development of our remaining domestic oil and gas, and we must enhance our relationship with countries closer to the United States; an example is the recent Mexican gas purchase.

To remedy this situation, the President has initiated the gradual decontrol of domestic crude oil between now and September 1981, and the immediate decontrol of "heavy" oil—of which the U.S. has an estimated reserve of 10 billion barrels. His program calls for increased leasing of Federal lands on the Outer Continental Shelf and the North Slope of Alaska.

Secondly, we must increase the use of our abundant fossil fuel resources. To stimulate use of our enormous coal reserves, the program would require utilities to reduce by half their current use of oil by 1990. This would save 750,000 barrels of oil per day.

To meet this critical need for liquid and gas fuels, the President's program would stimulate the development and use of synthetic fuels and unconventional gas by providing financial incentives to the private sector through the Energy Security Corporation. I emphasize the word "incentives;" the Energy Security Corporation will not make investments.

The President's program also recognizes that in today's climate, a special mechanism—the Energy Mobilization Board—is necessary to ensure that critically important energy projects are not delayed for years in the maze of Federal, State, and local permits required for a new facility.

Our third set of supply initiatives will increase the use of solar and other renewable energy resources in this country. The President has established an ambitious goal of

providing 20 percent of our total energy needs from solar and renewable energy sources by the end of this century. Financial incentives to stimulate the solar market have been proposed, including a solar bank to provide interest subsidies.

The Government must provide good, solid information to consumers to ensure that they know how to save energy in the most cost-effective manner possible. Moreover, the Government's research and development programs can help ensure that every possible avenue to save more energy is explored by the scientific community. Our budget this year is $200 million for research and development of better conservation measures.

The Federal Government must also provide financial and regulatory incentives to achieve conservation benefits for the nation above what the market is providing. The Department is currently working on new standards of performance and efficiency for buildings and major appliances.

In fact, the Department of Energy is working actively in each of the areas I have listed. The conservation programs currently underway in the department are good, and I support them, but they are not enough. I am dedicated to seeing that the Department provides the leadership, the attention, and the care that are needed to help energy conservation reach its full potential for contributing to the solution of our energy problems.

We at the Department of Energy are planning new initiatives—new challenges to the American people—and new opportunities for business men and women to join us in this endeavor.

We can start right at home—in the houses we live in. About 15 percent of total U.S. energy consumption is used to heat, cool, and provide hot water for the Nation's 50 million single family homes and 25 million residential units in apartment buildings. We believe that the potential exists to reduce this energy use by up to 50 percent—saving oil and gas in the equivalent of 2 million barrels of oil per day by 1990.

Achieving these savings, however, will require total private and public investment of as much as $100 billion (in 1979 dollars) for insulation and other energy conserving measures—or an average of about $1,500 for every single family home.

The people of this country are beginning to make the investments needed to conserve energy at home. A recent Department of Energy survey and the 1973 income tax returns for the conservation tax credit, indicate that in each of the last two years roughly 6 percent of all homeowners have made an average of $700 worth of insulation investments. This amounts to about $4.2 billion worth of investments in the last two years to make our homes more energy efficient.

However, our recent data and analyses show that, for the most part, these investments are being made by higher income families and not by large numbers of low and moderate income families. Therefore, we have recently proposed a new residential conservation program that would provide $5.8 billion over ten years to subsidize loans made by private lenders for residential conservation investments made by low and moderate income homeowners and renters. This could reduce payments for new insulation and storm windows and doors to about $15 per month. These payments would be more than offset by the savings in fuel bills from the investments.

The really great thing about these investments is that they not only save the homeowner money in the very first year, but the savings are greater every year thereafter because the cost of conservation is fixed once and for all, while the prices of the fuels saved will undoubtedly continue to rise as they become more scarce.

There are other aspects of this new residential initiative that we do not have time to discuss here—such as requiring utilities to offer conventional energy audits to all of their customers; new funding for sophisticated energy audits; and, test trials of Senator Bradley's residential conservation plan in several areas. You will be hearing more from us in the coming months about these initiatives—and others.

CONCLUSION

We need your help in all of this. We need your help in educating consumers on the enormous benefits to be derived from conservation. We need your help in getting Congress to act expeditiously on our proposals. We need your help to look for new and creative ways to save energy and to apply them in the American economy.

We want to work closely with you on conservation initiatives. By working together, we can make an enormous difference—and change this country for the better.

Let us get on with it.

Thank you.

SENATOR PERCY'S INTRODUCTION OF SHAIKH YAMANI

Distinguished guests, ladies and gentleman, our conference has reached its midpoint, and I know you are anxious to get back to your respective workshops this afternoon. We are challenged now to pull together the threads of discussion in the morning sessions, and identify the key issues and recommendations which we will take to the White House this afternoon.

Last night, in his keynote address, Admiral Turner, Director of Central Intelligence, impressed upon us the urgency of our task. In his update of the World Energy Outlook, a Central Intelligence study first published in 1977, he made it painfully clear that the world can no longer count on increases in oil production to meet its energy needs. If anything, the situation since 1977 has deteriorated in the light of events in Iran and the increasing inclination of the oil producing nations to limit production in order to stabilize their own economic position.

Outside OPEC, the pattern is much the same. Norway and Mexico have announced they will not rush into greater production merely to satisfy the demands of oil hungry nations. CIA intelligence indicates that such production increases that do occur in non-OPEC countries will likely be offset by a rise in consumption in oil-deficient Third World nations.

At the same time, U.S. oil production is certain to continue its decline in the early 1980's. North Sea oil output will increase only briefly and then begin to decline in the mid-1980's. If the world is not exactly running out of oil, it is becoming increasingly difficult and expensive to meet the rising world demand for oil.

Admiral Turner was firm in his insistence that energy conservation is one of the most important options the United States must adopt and pursue aggressively. The alternative is soaring oil prices which would accelerate inflation, restrict economic growth, and imperil world political stability.

At the Tokyo economic summit in June, the major industrialized oil importing nations recognized this fact in calling for strong actions to bring oil imports under control. President Carter subsequently announced in July a pledge that the United States would never again import more oil than the 8.5 million barrels per day record set in 1977. As the world's leading importer of oil, the United States must lead in restraining imports.

This is the theme Mr. Carter has maintained in proclaiming October 1979 as International Energy Conservation Month. Along with the leaders of 19 other major industrial nations, he has stressed that energy conservation and improvements in energy efficiency are our best hope in the coming decade for avoiding an energy crisis far more serious than the disruptions and price rises the country experienced this Summer.

An important voice in trying to get this message across to the American people and to the oil importing nations as a whole is that of our distinguished guest this afternoon.

When we first began planning for this conference almost a year ago, one of the very first persons we decided to invite is, indeed, our luncheon speaker today, an outspoken proponent of efficient energy use both in his own country and abroad—Shaikh Ahmad Zaki Yamani, Minister of Petroleum and Mineral Resources in Saudi Arabia.

His own country of Saudi Arabia has been a pioneer in research and development of renewable energy resources, particularly solar energy, preparing for the day when Saudi Arabia too must face the post-petroleum era.

Saudi Arabia in the 1970's has been a steadying influence at the table of international oil politics. Shaikh Yamani himself has repeatedly articulated his own commitment to a stable international order.

We are extremely pleased that Shaikh Yamani has agreed to address this Dumbarton Oaks Symposium on an oil-exporting nation's view of the need for energy conservation.

I am proud to introduce his excellency Shaikh Ahmad Zaki Yamani, Minister of Petroleum and Mineral Resources in Saudi Arabia.

Mr. Yamani.

OIL FACTS—FROM ILLUSION TO REALITY

(Address by Ahmed Zaki Yamani)

Since the outbreak of the oil crisis in 1973, hundreds of conferences were convened and myriads of books and articles have been published in order to deal with the problem of energy and the manner in which it may be resolved.

The problem in itself is very clear, no matter how much certain economists (probably for political motives) try to shroud it within a shell of ambiguity. Its solution, although evident, is difficult to achieve. This is so because it requires the adoption of a number of strictly enforced political decisions which would lead to substantial reductions in energy consumption, as well as effective and accommodating adjustment of existing ecological regulations and also to huge investments in alternative sources of energy. But, unfortunately, political leaders seem incapable of taking such decisions, lest they are deprived of much of their popularity, the essential prerequisite for their re-election. They are also apprehensive of the lack of co-operation of legislative bodies whose members reflect the wishes of their electors.

The oil problem in fact consists of two fundamental trends. Proven oil reserves in the world (excluding the USSR, Eastern Europe and China) are now equivalent to about 600 billion barrels, an amount sufficient to cater for world consumption at annual levels of 19.2 billion barrels (excluding again the USSR, Eastern Europe and China) for 31 years, some four years less than one decade earlier. Meanwhile, oil consumption is still rising, one year after another.

The solution to the problem is also clear. It lies in arresting the accelerated growth in consumption, coupled with an active resort to alternative sources of energy to make up for the depletion in oil reserves. This process should continue on all fronts until the day comes when a main and almost perfect substitute for oil is found, and oil itself is directed to noble uses, particularly as feedstock for petrochemicals.

We should have expected those who seven years ago were in charge of meeting world oil needs to issue an early warning to the con-

sumers about the urgent need to commence the transition away from oil towards other forms of energy. The truth of the matter is that the oil problem was evident at least to the international oil companies long before the 1973 crisis. It was well known to them in those days that the brisk growth in world demand at about 5 per cent per annum would have ultimately led to the virtual depletion of world resources by about the year 2005. Annual consumption at such rates would have reached 100 million barrels a day in 1989 and 200 million barrels a day in the year 2004. By then, remaining world reserves, including new discoveries, would have been so derisory that they would be sufficient to cover such a level of consumption for only five years.

Naturally, economic catastrophe would have befallen us well before that time. Oil production does not drop suddenly under normal circumstances. It first continues to grow until a plateau is reached, and then it commences its inexorable downward trend. Consumption, on the other hand, would be exposed to a sudden reduction as a result of acute economic crisis if the proper steps were not taken in advance to contain its wild growth.

Nonetheless, oil companies continued to conduct their business on strictly commercial bases. The motive behind their behaviour was either the drive to make profits, or their fear to arouse the wrath of their home countries' governments. Oil prices were then set by them at an incredibly depressed level which bore no relation to the rapid depletion of a unique but finite natural resource, nor to the higher cost of developing alternatives. All attempts to apply serious upward adjustments to oil prices by producing countries had failed. The partial doses of increase which came about intermittently during 1971 and 1972 were ineffective in reversing the trend.

When the oil crisis of 1973 unexpectedly erupted, it set in motion certain shock waves in the world's economic and political relations that seemed at the time unfortunate. But what it did in reality was save us all from the brink of an economic abyss to which the world was so impetuously being driven. World opinion has finally awakened to what might have been perceived as a discernible oil crisis. The increase in oil prices that followed revealed the gravity of the true supply and demand situation. This in fact served as an early warning that heralded the impending scarcity of world energy resources, and the need to conserve them in a rational manner. Fortunately, the level they reached was sufficient to encourage the speedy development of oil fields in Alaska, the North Sea, and last but not least those in Mexico and other areas.

Unfortunately the lesson all of us ought to have learned from that experience was soon forgotten. We did not draw the benefit from it that we really should. True, many countries have laid down certain restrictions on oil consumption in order to arrest its pronounced growth. In fact, countries of the Free World have succeeded in bringing down aggregate oil consumption from about 7.4 percent per annum in the six-year period immediately preceeding the application of the price increase of 1974 to about 3 percent in 1976 through 1978. But that measure in itself was not enough, for the world continued to rely on oil as a major source of energy supplies, albeit at a reduced rate. Nothing much has so far been accomplished in the consuming countries by way of converting their requirements from oil to other sources of energy in a balanced manner, a goal which, if attained, would have contributed remarkably towards a fundamental solution of the problem.

Sources of energy other than oil are much more abundant, but their utilization is being carried out at a rate far below that warranted by their due share in world energy resources. Whereas oil's share in total world reserves of fossil fuels is currently about 16 per cent, its share in world energy consumption is an astoundingly disproportionate 46 per cent. Coal, on the other hand, constitutes about 60 per cent of total fossil fuel reserves, but has only a share of 33 per cent in the world's total production of those fuels. The corresponding figures for shale oil and tar sands combined are 13 per cent in the case of reserves and only 0.1 per cent of total production.

Natural gas accounts for the remainder, i.e., 11 per cent of world reserves and a share of 20.9 per cent of world production. On top of that, nuclear power and hydro-electricity generate an amount of electricity equivalent to 19 per cent of total world crude oil consumption, or about 12 million barrels per day of crude in terms of heat value.

This anomaly was further aggravated by the oil discoveries in the North Sea and Alaska, whose speedy utilization created a short-lived over-supply situation. The illusory effect of oil abundance subsequently re-created among consumers had evoked a feeling of complacency and indifference among their leaders, who thought that inaction was the best safeguard to the maintenance of their positions.

We, the producers, have so many times reiterated the need for reducing consumption and checking wasteful practices, stressing at the same time the importance of promoting alternative sources of energy. Unfortunately, our message did not find attentive ears among nations. The oil problem to them could be understood solely within the context of prices and the necessity to maintain a freeze upon them, without paying the slightest attention to the disastrous consequences that would emerge as an outcome.

A little less than a year ago, a new oil crisis did arise as a result of the political events in Iran. Its force has had a much greater impact upon the world than that of 1973. Oil prices in 1973 and 1974 had risen steeply as the natural outcome of a long period of artificial suppression of market forces that could not be controlled any longer. They have risen sharply once more in 1979, albeit under different circumstances, but for the same old reasons that inhibited prices from seeking their true level freely during the last five years.

The question that confronts us now is this: are we to benefit from the lesson so clearly provided to us by the crisis of 1979? And if so, are we to draw a constructive and well-studied plan that will rescue our great civilization from an impending collapse, or relegate the whole matter to limbo, as we have unwisely done following the events of 1973? The world reacted rather violently towards the 1973 oil crises.

Unfortunately, the measures supposedly adopted then to rectify the situation were far from being constructive. Instead, they were rather erratic, unobjective and superficial. A good example of this was the creation of the International Energy Agency, an organisation conceived as an instrument of confrontation with the oil producing countries, and entrusted with the cherished goal of breaking OPEC. Another example of these measures was the official proclamation in the United States of "Project Independence", a much publicised plan under which the United States would supposedly reduce oil imports gradually until full independence from "The Arabs" was to be reached in 1980. What has happened in fact is that between 1973 and 1978 U.S. imports of oil from Arab members of OPEC multiplied more than three times, and during the early months of 1979 they increased by a further 15 per cent.

Even exports of energy from U.S. sources were predicted and page-length articles were written in the Press to celebrate the likely occasion, and denounce the Arab Sheikhs. Others have gone so far as to call for military invasion of Arab oil fields. The crisis finally came to an end, and all the imaginary plans, whether political, economic or military, have vanished. The Arabs, headed by Saudi Arabia, provided proof after proof that they are the real friends of the Americans and the West. They have repeatedly demonstrated that without Arab sacrifices the economies of the Western world would have been in the doldrums.

As the world now is approaching the finale of the Second Oil Crisis, we hear about certain responses of less emotional character than those which were experienced earlier. We also hear about the formulation of new policies that contain elements of objectivity and feasibility, an approach entirely absent from previous ones. True, there are some politicians who still contend, to our dismay, that the crisis is the concoction of the oil companies, and that OPEC stands behind it. Fortunately, public opinion in the United States has started to awaken to facts, and is cognizant, more than at any time in the past, of the real causes of the crisis. So are we now to expect the application of a series of painful decisions, designed to rectify the situation, where political courage was lacking in the past and could not put them into practice.

Taking into account the events of the recent past, are we to expect a serious application of the oil import schemes pledged by the Americans in the Tokyo summit meeting, as well as a wider enforcement of President Carter's energy plan? Are we to forget the legend of breaking OPEC and rather expect a truthful acknowledgement of the fact that the real cause of the energy problem does not lie in the price of oil but its availability?

The world has had one lesson, followed by another. Should a further oil crisis erupt, it will not only be a lesson but a penalty.

REMARKS AT THE WHITE HOUSE

SENATOR CRANSTON

This afternoon's activities at the White House bring to a dramatic conclusion The Dumbarton Oaks Decision Makers Conference of the Alliance to Save Energy. We convened under Senator Charles Percy's able leadership because of our deep concern that our standard of living and the health of our nation's domestic economy are gravely threatened by the fact that our country now depends on imported oil for almost half of our petroleum needs. This harsh fact, this dangerous dependence, hurts our efforts to fight inflation, balance the budget, to strengthen the dollar, to improve our balance of trade, to keep our economy moving to insure that our national defenses are strong. President Carter and the Congress are working hard to put in place approaches and programs designed to reduce our dangerous dependence by providing energy alternatives to imported oil, but these alternatives won't be fully available.

In the meantime we can and must all use energy more efficiently. Efficiency—the avoidance of waste—is the quickest, cheapest, safest, cleanest and most immediately available substitute for imported oil. Through energy conservation and efficiency we could save about 8 billion barrels of oil equivalent per day—almost as much as we now import. The sad fact is that today we waste about as much energy as we import. That waste must stop. The Alliance to Save Energy consists of citizens with diverse backgrounds and viewpoints who have joined together to bring about a national commitment to energy conservation and energy efficiency. Our conference was a joint effort with Harvard University to build among our nation's leaders—in both the public and private sectors—a national framework to

evaluate our past and present energy policies and to shape decisions about America's energy future. It is now my pleasure to present Professor Robert Stobaugh of Harvard University, co-editor of the important new book *Energy Future* and co-chairman of this conference. He will report the highlights of our session briefly to you and the President of the United States. Professor Stobaugh . . . .

PROFESSOR STOBAUGH

Thank you very much Senator Cranston. First I want to announce that we came over by public transportation today. I am very pleased to report on this historic conference sponsored, of course, by the Alliance to Save Energy and by Harvard University. This is the first general meeting to be held at Dumbarton Oaks since the historic U.N. meeting in 1944 in which the U.N. was established and we hope that our meeting today will also turn out to be an historic meeting.

As you well know, Mr. President, there is no quick, easy solution to the energy problem and that was one of the themes that ran through our proceedings. There are many different points of view to these problems but in spite of these many different points of view there were certain common themes.

The first is that conservation be considered as a major source of energy and a relatively quick source of energy available in relatively large quantities. The potential is there. In fact one of the lessons we learned in the last 6 years—learned the relatively hard way—is that conservation does have a big potential that we have got to take advantage of. We believe that conservation does present an opportunity to the U.S. for more jobs, for business, and for continuation of our life style.

As my colleague Dan Yergin has often written, conservation is often viewed in a negative way. It is viewed as a sacrifice and a deterioration in life style. We think that this negative image that conservation has is one of the reasons why more progress has not been made.

Now, of course, in many areas progress has been made. It has been made especially in many of the larger companies where they made important investments and important energy savings. There has also been progress in the transportation sector through the mandatory miles per gallon regulation even though the measure that you get in the EPA may not be the measure you get on the road. But we are making progress there and we'll make more.

Still there are a number of barriers that prevent greater progress. In the first case energy is priced lower than its marginal replacement cost in many instances. That gives consumers bad information and causes under-investment to conservation.

Now prices are rising and they will gradually continue to rise and sooner or later consumers will be getting more appropriate price signals. But until the gap between what consumers pay and the marginal cost of energy is closed then there need to be incentives to close that gap. And generally, on incentives of the conclusions reached that the carrot works better than the stick.

In addition to direct payments, at times there also needs to be capital supplements in the form of either lower interest rates and loans. This capital is not only important to homeowners but also to industry.

On the regulation side, there are some regulations that we believe are standing in the way of preventing a move toward more conservation. One regulation for example is the one that prevents utilities from going into the business of delivering conservation to homeowners. We believe that no one should be excluded from the delivery system. We don't believe that utilities should be granted a monopoly. But we don't believe that they should be kept out of it. What is needed is a one-stop delivery service for consumers so that they can have an audit or house doctor visit as our colleague, Bob Williams of Princeton, has talked so much about. This audit and house doctor would tell the homeowner what needs to be done. We need the installations handled, the financing, and a quality guarantee. That way the consumer will not be worried about rip-offs in terms of having spending money and not getting something for it.

Another important barrier is the gap in information and technical assistance. There is an effort, especially at the local level to help educate consumers, we believe it would be very worthwhile. These consumers are not only homeowners but they also include commercial property owners and many small and medium manufacturing firms. We found the large manufacturing firms tend to have the staff to look more closely at energy savings while the small and medium firms tend to lack that.

Overall, one of the themes that ran through our discussion was that in the 1980s we really face a choice of three things on the energy scene. One is to attempt to rely on more and more imports—I think that many people now believe that we will be unable to increase our imports. It would be unwise to allow them to stay as high as they are and that a goal of reducing them would be a desirable goal in terms of the impact on U.S. economy, U.S. security and the world oil market.

Our previous policy of relying on ever-increasing oil imports is something that many people think is not a good one. Another alternative is slow economic growth broken by intermittent recession. People generally don't like that as a solution. Finally, there is the solution that using the energy more efficiently that we have available and that means energy conservation. We think it is wrong to think in terms of an optimal energy solution. There are so many different forces at work that we are not going to get any kind of optimal and undoubtedly if we move forward on conservation is going to be waste. But there is likely to be a lot less waste moving forward on conservation than if we continue our present route of low economic growth and rely on imports.

As I said when I started out, there are many views and not every one at the conference agrees with what I just said. I would like to present you with some white papers that we used as background material and once we get a summary of the proceedings we will be forwarding them to you.

SENATOR CRANSTON

President Jimmy Carter has made energy efficiency and conservation a cornerstone of his vitally important energy program. He is leading our nation in the effort to awaken the people of our fair land to the energy challenge which we all—together—face. Ladies and Gentlemen, the President of the United States.

PRESIDENT CARTER

Bob Stobaugh threw me when he said that you came to the White House in public transportation. I came over from the Oval Office and walked. I think those two remarks would not have been made a year or two ago. And a growing realization on the part of the American people that we do indeed have an energy problem is a slow developing but ongoing process.

In April of 1977 following an oil embargo in 1973 and 1974, the public still discounted any public expression of an energy shortage or the need to deal with the reducing oil imports. My preeminent responsibility as President is to guarantee the security of our nation and I believe sincerely that excessive dependence on oil imports is a direct danger or a threat to our nation's security.

We derive half of our oil from uncertain sources and the price that our people have to pay for that oil is not controllable by us. We have seen what a very slight reduction in oil imports can do to the consciousness of America and the concern of America and I have seen—just since I have been in the White House as President—the variation in mood in our country from panic, on the one hand, to almost absolute apathy on the other. And the cycles of rapid concern cause disruption in the private lives of our people and throughout the economic and social structure of America.

We have a lot of assessment done. The energy in our country has probably been studied and assessed as thoroughly as any other nation on earth. I have met with foreign leaders on three different occasions since I have been President and every time energy has become an increasingly important preeminent subject.

In June in Tokyo it dominated the consciousness of seven of us who met there representing Western democracies in a developed nation. We still don't have all the answers and I think your studies at Dumbarton Oaks, and before the Harvard study and longstanding Alliance to Save Energy, is a base on which a careful analysis can be made and options can be presented to the public. One of the concerns that I have—to be perfectly blunt—is the insistence by purists—some of whom are in this room—that unless everything is done exactly how a particular person prefers that the entire process ought to be discounted. And it's a 100 percent or nothing. This doesn't help us as we move on a multi-faceted way toward the resolution of an energy threat, or the reduction of an energy threat. There is no automatic answer to it. There is no panacea that we are going to realize in our lifetime. There is no way to reduce the price of energy. The supplies in the future are going to be shorter. Prices are going to be higher.

My own judgment is that OPEC at this time is probably producing energy at a maximum level and the tendencies are toward reduced production and reduced world supplies rather than the contrary.

Some nations such as Saudi Arabia are producing more oil than they want to produce. More oil than they need to produce for their own internal benefits. They would be better to leave that oil in the ground and to cut their production substantially. They are trying to hold their production levels higher than they personally prefer to benefit the world economy to the concern of some of their friends including us.

Other nations, of course, are simply running out of known oil reserves because of excessive production in the past or the technical reasons that they are not exploring enough, or because the oil simply is not there. And there are also oil producing nations like Libya, for instance, who are eager in time of crisis or sensitivity on the part of the world market to cut back on production for political punishment or harassment or perhaps even blackmail.

Those kinds of tendencies all show a downward likely supply of oil in the future. We recognize that. And the developed nations of the world have committed ourselves to reduce oil imports in the future. The preeminent way to do it is exactly what you have been studying and that is through conservation. We are wasting too much energy in this country and we have got to save energy. And as Bob pointed out very clearly, there is not a subject that ought to concern people or cause trepidation or doubt or let them feel that they are making an unwarranted or unpleasant sacrifice.

It can be a mechanism of concern in our nation that will bind us together in a spirit of patriotism and sharing and unselfishness and marshalling national efforts to a common goal that could be existing and pleasant and give us a better life. I am convinced of that.

And I see the eagerness on people's faces when they talk to me in a town meeting format about what they, themselves, have done in their family or their community to save energy and it's an exciting thing.

And we are constantly probing for new ways not only to conserve energy which is your and my primary concern, but also to make our nation more self-sufficient. Saving energy in homes, in an automobile, or on the job is not all of the opportunities for conservation.

Charlie Duncan and I were down at Georgia Tech recently at a Seminar where I think about 20 people presented ideas for helping in the future to alleviate our energy concern.

Just using Georgia as an example—we produce twice as much biomass in a year as the total amount we consume. Sixty-five percent of our land is covered with forest—most of it privately owned. We waste at least 35 percent of all our forest products in treetops, limbs, and so forth, that we don't use at all. And here's an opportunity for us to conserve waste of energy before it gets to the consumer by using alternative products for that purpose.

I was in Illinois this week and a man stood up—senior citizen—about my age—and said that he had been working in his community on traffic analysis and that he was a professional engineer. He had made a meticulous count of all the stop lights, stop signs in his region and he said that a third of them were unnecessary.

Coincidentally, when I was governor during the 1973–1974 period, I had the state highway department doing analysis of how many stop signs or stops lights were unnecessary in Georgia to try to keep cars and trucks from stopping and having to start again.

We eliminated a great deal of them. I was not popular in Plaines because we had two stop lights which were very important status symbols. I closed both of them down.

And I might say that my subsequent election to the Presidency is only partially restored to status that was lost by having two stop lights.

But I called Neil Goldschmidt and talked to him about it and I think that's the kind of idea that I really had forgotten about that might be worthy of exploration. The point I am making is that there are hundreds—literally hundreds—of opportunities in business, in government, in our private lives that we have not yet adequately explored to give us sharp reductions in energy consumption with no decrease at all in the quality of our lives. I think that is the main message that needs to be pursued.

We have taken government action trying to encourage the weatherization of homes, the requirement for energy audits, the granting of tax credits for more high income people. Nine percent of all American families participated in taking tax credits for energy savings within their own homes.

Since the 1973 scare or warning, we have had about a 12 percent growth in total production in industry. We have a 6 percent reduction in energy consumed in energy in industry. This shows that when the bottom line is measured by profits and losses the constraint to eliminate energy waste is a powerful factor and that constraint is just now beginning to be felt in the homelife of Americans. It's going to be a more powerful factor in the future. We are trying to do everything we can to alleviate suffering and minimize inconvenience. We don't want to punish people, particularly those with low incomes in order to make them cut out waste. But the balancing of this is a very important consideration. We have had difficulty getting legislation through the Congress. I think we are going to be successful this year. I think we have got a good prospect. We have been working on it now for two and a half years.

Last year we got about 65 percent roughly of what we had proposed in April 1977. We didn't get one line of legislation passed concerning oil. But this year I think there is a growing realization that we are going to round it out by doing something about petroleum products and that will be a major step in the right direction. And through tax credits incentives, rewards, carrot and stick approach.

We are trying to make every American conscious of the fact that each person has a responsibility. I don't have any doubt that our country can do it. We put a man on the moon which is a tremendous achievement. It was a kind of isolated thing where Americans pay taxes and the money was spent through NASA to get a man on the moon. It was a great common achievement but energy threat or possibility or opportunity is equally momentous perhaps even more so.

And every single American can contribute directly not just through paying taxes but in our own personal lives. And I never have a chance to talk to an audience that I don't remind them to go home tonight to sit down with your families to just assess in your own way whether the kids are 5 years old or the grandmother is 95 years old. What can we do in our own home in our own life, to and from work to save energy. I think in many ways the saving of energy lets a family be drawn closer together through a common goal and when we slow down in our cars or ride a bicycle or walk or jog or whatever we see the beauty that God has given us in a much more personal way than we would if we were dashing madly at top speed from one place to another.

I don't really see the deleterious effect of energy conservation. We are doing a lot of other things which I'm not going into, but I think that you see in this meeting at Dumbarton Oaks that there is no way to cover the gamut of questions or problems, difficulties, obstacles, or opportunities in one seminar. You could have a seminar on just how you make rental housing more efficient or what you can do on a family-owned farm to save energy. Or what you can do about traffic lines. Or you could have a seminar just on one of literally hundreds of questions and I think over a period of time we will see a closer melding of government at all levels, of universities, think tanks, private industry, agricultural leaders.

I think we will come more and more to a common realization of our opportunities and I hope the public can be educated about the opportunities that we have in the conservation of energy.

Not too long ago in the Cabinet room I met with the top executives of all the television networks—the top executives like the chairman of the board or the president of those networks. And I asked them in every way possible through public service announcements and otherwise to let Americans know how serious this problem is, and also to let Americans know the exciting possibilities of resolving this serious problem.

I am the President and I am involved in it but all of you are equal partners with me. And I am very grateful to you as President to come and give hours of your time in the preparation for this conference. I know that results of it will be very helpful to our country.

Alan asked me to answer a couple of questions. I won't keep you here any longer, but if you have a question or two I would be glad to try to answer it.

GARY DELOSS

A large part of our discussion at the conference was centered on the book, Energy Future edited by Mr. Stobaugh and Mr. Yergin and as energy conservation is a cornerstone of your energy policy and large subsidies for energy conservation are the cornerstone of their book's proposed policies. Now their policies on tax credits in the range of 50 percent on energy conservation. Would you comment on that—I know that the administration is not presently supporting tax credits of that nature in Congress. I wonder if you can comment.

PRESIDENT CARTER'S RESPONSE

Well, you know we already have tax credits already built into the law for both solar installations in homes and also weatherization projects. As I said I think last year about 9 percent of our people participated in claiming those tax credits when they paid their income taxes.

We would like to see that expanded and the Congress, so far may be to excess in the Finance Committee of the Senate, has moved in that direction. But I think the tax credit is going to be expanded in the future. There are other ways to do it including more rapid depreciating energy schedules particularly for energy saving measures.

We have encouraged every public official with a personal letter from myself. I sent 6,000 letters to all the top executive officers of all the counties in the nation, all the cities, and most of the mayors and governors to encourage them through their tax procedures or through building codes or otherwise to enhance conservation.

But I would say that a major untapped way to encourage energy savings is through tax credits. I can't tell you that there would be a 50 percent tax credit but I think that is a trend and I think Congress would agree that is a good opportunity for the future.

Of course, that doesn't help the low income families much and there you have to have some subsidy for renters or homeowners and you also have got to have some incentive for utility companies to help do audits or through our CETA.

We have had mixed results with this. We have tried to encourage previously unemployed young people to work with professionals in weatherizing homes. I was in Baltimore recently and they have got a goal this year which they will reach. The goal is weatherizing 3,000 low income homes. They only used three full-time city employees. Sixty-five to 70 of their CETA employees have now graduated to full-time employment with private companies doing the same work. The average cost per home was about $175 and the mayor estimated that they will save that much per home the first year.

That I think is a notable example of success. In other areas it hasn't been so successful. But through tax credits and government programs of this kind and the encouragement of the utilities to help their purchasers of electricity or energy sources we'll move a long way. But tax credits are an important idea. Maybe one more question—

QUESTION

Mr. President, the oil companies tell us that fuel efficiency deteriorates about 20 percent if you go 65 mph rather than the speed limit which is 55 mph. My question to you is: do you think you might have some more influence on the governors of our states to enforce that completely through the highway funds or some other way. Certainly in many of the states I drive in that you drive 55 mph and they go right by you at 65 or 70 mph. That's an opportunity for energy conservation that does not require additional capital.

PRESIDENT CARTER'S RESPONSE

It's hard to answer that question. The Transportation Department now has the authority to withhold funds if the states blatantly violate the requirement of law enforcement. You almost broach on constitutional delineation of authority when you get down to the federal government injecting itself to the enforcement of laws.

If the governor certifies that he is doing the best he can even though speed checks show that the cars are exceeding the speed limit, you have to make a human judgment here. It would not be possible for me, for instance, to say that if there is a highway in a state like Georgia where the average speed is 62 mph instead of 55 mph that all federal funds would be cut off for highway construction. That would not be productive.

In my judgment most governors are really trying to do a good job. The only complaints we have that are consistent are those where the states in the west have towns so far apart and where you might have 75 miles of just straight road with no intersections. Those people have habitually driven those long distances to and from work. But I think that, in general, we have moved toward much more stringent enforcement of the law. There is an even greater opportunity for saving.

The question is so broad that I can get into all the subjects. Trucking deregulation is almost nauseating to hear the horrible examples of the requirements by the government—that is the ICC and others—that empty trucks travel our highways for hundreds of miles or take circuitous routes so that they won't encroach on the prerogatives of what I consider to be a monopoly that is not deserved.

The ICC now—with the new appointees that I have put on there—are moving strongly toward deregulation of the trucking industry and have already been successful in deregulating the airline industry. And as the ICC moves toward that decision-making goal the trucking industry which is opposed to deregulation to preserve special privileges are now beginning to support the legislation a little bit more enthusiastically. There is such a broad range of opportunities that it is hard to describe them all. Enforcing the speed limit is obviously one of them.

I might point out that this summer we have realized one mph better mileage on automobiles throughout the nation than we projected and a mile per hour saving on every car in the United States today is a tremendous savings. This saving is primary because the price of gasoline has gone up. And you know what has happened to the automobile industry with their stocks for the gas guzzler. It has really been a shock to them.

I wish that five years ago they had taken the warning and insisted upon manufacturing small automobiles but they were trying to accommodate American purchasers desires.

But I think that throughout the auto industry we have great opportunities for saving still. The American purchaser, consumer, or driver will be the main one to make the decisions cumulatively and effectuate the savings more than the autocratic way of forcing them to do this.

The marketplace I think is the best enforcer. You have spent hours talking about this and I know I am not adding anything new to your thoughts. But I hope no one will overlook the importance of personal deep thought and innovation. One never knows when you might have what sounds somewhat frivolous as an idea which perhaps might—with exploration and refinement—become a very fine constructive idea to help our nation.

And we have seen the move now among automobile manufacturers, the trucking industry, the American Institute of Architects and others who in the past have been somewhat callous about saving energy. They now see that it is to their advantage to accommodate the desires of their customers and I hope that if you are involved in those industries or others like them like the chemical industry or whatever, that you might spread the word among your peer groups that you have learned at this session. Don't just go back home and enjoy the experience of having met with exciting people to talk about a very interesting subject because everyone of you have been invited to this seminar because you are a leader in your own right. And it is through trade journals, periodicals or speeches that you might make or meetings with your own friends that I think you can point out ideas that are fairly simple.

Some executives in major corporations have sent out—for instance, enclosed in their bills or order forms—just a mimeographed sheet pointing out what they have done to save energy. And we have so far had notable success in industry with a 15 or 18 percent increase in efficiency in the last five years just by the desire to make a higher profit margin on sales. And this is the kind of thing that can be promulgated by word of mouth, correspondence, or your own public voice. I am deeply grateful to you.

It's a matter which is worthy of your attention not just on a two-day seminar but on a continuing basis. And I am proud to be a partner with all of you.

SENATOR PERCY

Mr. President, on behalf of all of us, I thank you very much indeed.

You mentioned the need for simple ideas. At one of the seminars this afternoon—the Industrial seminar, one of the top executives of IBM said that they have done a lot domestically but he told of an experience when he visited their German plant. In the middle of a hot day as he was sitting in the conference room he noticed that all of a sudden, as the sun moved around the building the automatic venetian blinds outside the windows closed. He asked for an explanation. Someone told him "Oh, we make them automatic so that when the sun comes around they close." The executive asked why the blinds were outside and the answer was "Why put them inside when by the time the sun has come through the window the heat has already come inside the room."

Well that is one novel idea and we will send you and DOE a whole packet of ideas developed in this symposium. I am deeply grateful for everyone's presence and, Mr. President, for your hospitality.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE DIRECTOR OF THE NATIONAL CANCER PROGRAM—MESSAGE FROM THE PRESIDENT—PM 130

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 410A(b), Part A, Title IV of the Public Health Service Act, I am transmitting to Congress the Annual Report for 1978 of the Director of the National Cancer Program.

This report has been prepared by the Director of the National Cancer Program and submitted to me as required by law. The Report describes the Programs' activities in 1977 and the first nine months of 1978.

JIMMY CARTER.

THE WHITE HOUSE, *November 6, 1979.*

REPORTS ON OCCUPATIONAL SAFETY AND HEALTH—MESSAGE FROM THE PRESIDENT—PM 131

The PRESIDING OFFICER laid before the Senate a message from the President, together with accompanying reports, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 26 of the Occupational Safety and Health Act of 1970 (Public Law 91–596), I herewith transmit the Annual Reports of the Department of Health, Education, and Welfare on Occupational Safety and Health for 1976, 1977 and 1978.

JIMMY CARTER.

THE WHITE HOUSE, *November 6, 1979.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on November 4, 1979, he had approved and signed the following act:

S. 1905. An act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad.

The message also reported that on November 5, 1979, he had approved and signed the following act:

S. 1030. An act to establish an emergency program for the conservation of energy and to provide for a standby rationing plan for motor fuel.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2427. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to regulate the production, sale, and shipment of animal biological products, and to repeal the act of March 4, 1913; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2428. A communication from the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, transmitting, pursuant to law, a report on the Selected Reserve recruiting and retention incentives as of August 31, 1979; to the Committee on Armed Services.

EC–2429. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Alaska and Puerto Rico Interstate Feasibility Study"; to the Committee on Commerce, Science, and Transportation.

EC–2430. A communication from the Assistant Legal Adviser for Treaty Affairs of the Department of States, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to November 1, 1979; to the Committee on Foreign Relations.

EC–2431. A communication from the Deputy Secretary of the Treasury, transmitting, a draft of proposed legislation to authorize the Bureau of Engraving and Printing to use recording clocks to record time and attendance of employees; to the Committee on Government Affairs.

EC–2432. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the disposal of excess property in a foreign country for fiscal year 1979; to the Committee on Governmental Affairs.

EC–2433. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on October 9, 1979; to the Committee on Governmental Affairs.

EC–2434. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on October 9, 1979; to the Committee on Governmental Affairs.

EC–2435. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on the suspension of deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC–2436. A communication from the Secretary of Health, Education, and Welfare, transmitting notice that the annual report on activities under the Comprehensive Alcohol and Alcoholism Prevention, Treatment, and Rehabilitation Act covering fiscal years 1978 and 1979 will be submitted by January 31, 1980; to the Committee on Labor and Human Resources.

HOUSE BILL REFERRED

The following bill was referred, pursuant to section 401(b)(2) of the Congressional Budget Act, to the Committee on Appropriations for not to exceed 15 days that the Senate is in session, to be discharged from further consideration, if not reported by that date:

H.R. 1543. An act to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment and an amendment to the title:

S. 6. A bill to amend the Agricultural Act of 1949, and for other purposes (Rept. No. 96–400).

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S.J. Res. 107. A joint resolution authorizing and requesting the President to issue proclamations designating the weeks of January 21 through January 27, 1979, and January 20 through January 26, 1980, as "Junior Achievement Week" (Rept. No. 96–401).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

John Zeldes Bernstein, of Maryland, to be General Counsel of the Department of Health, Education, and Welfare.

N. Jerold Cohen, of Georgia, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service).

(The above nominations from the Committee on Finance were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. THURMOND, Mr. COCHRAN, Mr. HELMS, and Mr. LAXALT):

S. 1980. A bill to provide for more expeditious, effective, and equitable enforcement of the antitrust laws; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 1981. A bill to improve judicial machinery by amending the jurisdiction and venue requirements and damage provisions in all suits involving the False Claims Act, and for other purposes; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 1982. A bill to amend the Internal Revenue Code to extend in certain cases the six month deadline for exempting exports from the manufacturers excise tax; to the Committee on Finance.

Mr. MATHIAS (for himself, Mr. METZENBAUM, Mr. KENNEDY, and Mr. JAVITS):

S. 1983. A bill to amend section 1979 of the Revised Statutes to provide that States, municipalities, and agencies or units of government thereof, may be sued under the provisions of such section; to establish rules of liability with respect to such States, municipalities, and agencies or units of government thereof; and for other purposes; to the Committee on the Judiciary.

By Mr. WALLOP:

S. 1984. A bill to amend the Internal Revenue Code of 1954 to provide an unlimited marital estate and gift tax deduction, to modify provisions relating to special valuation of certain farm and other real property, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. THURMOND, Mr. COCHRAN, Mr. HELMS, and Mr. LAXALT):

S. 1980. A bill to provide for more expeditious, effective, and equitable enforcement of the antitrust laws; to the Committee on the Judiciary.

(The remarks of Mr. HATCH when he introduced the bill appear earlier in today's proceedings.)

By Mr. DECONCINI:

S. 1981. A bill to improve judicial machinery by amending the jurisdiction and venue requirements and damage provisions in all suits involving the False Claims Act, and for other purposes; to the Committee on the Judiciary.

1979 AMENDMENTS TO THE FALSE CLAIMS ACT

● Mr. DECONCINI. Mr. President, I am today introducing a bill, the proposed amendments to the False Claims Act of 1979, which would provide the United States with an effective and useful tool to combat fraud in modern times.

This bill was developed by the Department of Justice in an attempt to bolster the mechanism available to the Department to carry out its responsibility of vigorously pursuing fraudulent practices in dealings with the Federal Government.

There can be no doubt that a need exists for reforming the False Claims Act, which has not been amended in any substantial respect since its enactment by the Congress in 1863. Although I retain some reservations about certain provisions of the bill, I am convinced that, on the whole, it is a valuable and necessary step forward in our struggle to protect the taxpayer from those who would defraud the United States.

The wholesale reform contemplated by the act would include provisions expanding jurisdiction and venue, increasing recoverable damages, raising the forfeiture levels and redefining the mental element required for a successful prosecution. In addition, the burden of proof would be altered, nolo contendre pleas would take on more serious consequences in subsequent civil actions and a mechanism would be established to provide the necessary investigative tools so crucial to the development of a case in the face of these sophisticated schemes.

Mr. President, present law is hopelessly anachronistic. It does not provide the Federal Government with the legal tools necessary to protect itself from the unscrupulous. Unfortunately, the American taxpayer loses millions of dollars each year as the result of false claims. The legislation I am offering will modernize and streamline the basic statute governing civil fraud against the Government. I view it as legislation designed to protect the taxpayer and urge my colleagues to support it. I ask unanimous consent that the text be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 3490, 3491 and 3494 of the Revised Statutes, as amended, are amended as follows:

SECTION 1. Section 3490 of the Revised Statutes, as amended, is amended as follows:

(1) By deleting from section 3490 of the Revised Statutes the following words "who shall do or commit any of the acts prohibited by any of the provisions of section 5438, title 'Crimes' shall forfeit and pay to the United States the sum of two thousand dollars, and, in addition, double the amount of damages which the United States may have sustained by reason of the doing or committing of such act, together with the costs of suit; and such forfeiture and damages shall be sued for in the same suit" and, inserting in lieu thereof the following:

"who:

"(a) makes or causes to be made, or presents or causes to be presented, for payment or approval, to or by any person or officer in the civil, military or naval service of the United States, any claim upon or against the Government of the United States, or any department or officer thereof, knowing such claim to be false or fictitious; or

"(b) for the purposes of obtaining or aiding to obtain the payment or approval of such claim, makes uses or causes to be made or used, any false bill; receipt, voucher, roll, account, claim, certificate, affidavit, deposition, computer print-outs or other computer-readable media, including, but not limited to, magnetic discs, paper tapes, punch cards and discs, knowing the same to contain any false or fictitious statement or entry or

"(c) knowingly enters into any agreement, combination, or conspiracy to present, or cause to be presented, any false or fictitious claim to the Government of the United States, or any department or officer thereof, by obtaining or aiding to obtain the payment or allowance of any false or fictitious claim,

shall be liable to the United States as provided in the next subsection."

(2) By adding new subsections (a) and (b), as follows:

"(a) Any person who shall do or commit any of the acts prohibited by any of the provisions of the preceding subsection shall for each such claim, forfeit and pay to the United States the sum of $5,000; and in addition thereto:

"(1) double the amount of its damages, including double the amount of its consequential damages, which damages the United States would not have sustained either but for:

"(i) the doing or commission of any of the acts set forth in the preceding section; or

"(ii) having entered into or made any contract or grant as a result, in any material part, of any false statement; and, in addition thereto,

"(2) the costs of suit; minus

"(3) any credits to which the defendant may establish entitlement, which credits shall be deducted only after the damages sustained by the United States have been doubled as set forth in subsection (2) hereof.

Such forfeiture or forfeitures and damages shall be sued for in the same suit."

"(b) The term 'knowing' or 'knowingly', as used in this Act, shall mean either that the defendant:

"(1) had actual knowledge; or

"(2) had constructive knowledge in that:

"(i) the defendant acted in reckless disregard of the truth; or

"(ii) the defendant should have known that the claim was false or fictitious;

and, in any suit under this Act, no proof of intent to defraud or proof of any other element of a claim for fraud at common law shall be required."

Sec. 2. Section 3491 of the Revised Statutes, as amended, is amended as follows:

(a) by deleting subsection A of Section 3491 and adding a new subsection A in lieu thereof as follows:

"(A) The district courts of the United States, the United States District Court for the District of Columbia, the United States District Courts for the Districts of Puerto Rico, the Virgin Islands, Guam, and any territory or possession of the United States, shall have jurisdiction over any action commenced by the United States under Sections 3490 through 3494 of the Revised Statutes, as amended, and venue of such action shall be proper in any district in which any defendant, or in the case of multiple defendants, any one defendant either can be found, resides, transacts business or in which any act proscribed by this Act shall be alleged by the United States to have occurred, and a summons as required by the Federal Rules of Civil Procedure shall be issued by said district court and served at any place within the United States, Puerto Rico, the Virgin Islands, Guam, and any territory or possession of the United States, or in any foreign country. The Court of Claims shall likewise have jurisdiction of any such action if such is asserted by way of counterclaim by the United States, which may join as additional parties in such counterclaim all persons who may be jointly and severally liable with such party against whom a counterclaim is asserted by reason of having violated sections 3490 through 3494 of the Revised Statutes, as amended, *provided however*, that no cross-claims or third-party claims shall be asserted among such additional parties except as such claims may otherwise be within the jurisdiction of the Court of Claims."

(b) By adding new subsections G, H, I, and J, as follows:

"(G) In any action hereafter brought under sections 3490 through 3494 of the Revised Statutes, as amended, the United States shall be required to prove all essential elements of its cause of action, including damages, by a preponderance of the evidence."

"(H) A final judgment hereafter rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action brought by the United States pursuant to sections 3490 through 3494 of the Revised Statutes, as amended.

"(I) Any person, including, but not limited to, any partnership, firm, corporation or other association, State or political subdivision thereof, who shall pay or give, directly or indirectly, any thing of value to any officer or employee of the United States to influence such officer or employee in the performance of his official duty shall be liable in a civil action by the United States for any such amount so paid or given and, in addition, any contract made with such person, partnership, firm, corporation or other association, State or political subdivision thereof, in which such officer or employee shall have performed any substantial function, made within one year preceding, or following the payment or receipt or the agreement for the payment or receipt, of any such thing of value shall be null and void and the United States may retain all benefits or consideration received by it pursuant to such contract and sue to recover in addition all benefits or consideration conferred or paid by it. Jurisdiction, venue, service of process and trial subpoenas and burden of proof in such actions shall be the same as in actions brought pursuant to sections 3490 through 3494 of the Revised Statutes, as amended.

"(J) The Attorney General or his designee may apply to any district court having jurisdiction over any action commenced pursuant to sections 3490 through 3494 of the Revised Statutes, as amended, for provisional relief whenever he has reasonable cause to believe that said sections may have been violated, and, if the Court shall find there is a reasonable likelihood that the United States will prevail after trial on the merits of its claim, it shall enjoin the defendant from taking any action which the Court, in the exercise of its discretion, finds reasonably likely to hinder or delay the United States in the collection of any judgment which may be obtained in such action and, in addition, the Court may from time to time make such other orders as it deems appropriate including, but not limited to, requiring the defendant to post security for judgment, or to seek the prior approval of the Court before making any transfer without an adequate and full consideration in money or moneys worth, paying an antecedent debt which has matured more than 30 days prior to payment, or otherwise engaging in any transaction not in the usual and regular course of the defendant's business. Except as provided for herein, such application by the Attorney General and proceedings hereunder shall be governed by Rule 65 of the Federal Rules of Civil Procedure."

Sec. 3. Section 3494 of the Revised Statutes, as amended, is amended as follows:

(a) by deleting the words "and not afterwards" and inserting in lieu thereof, the following: "or within three years from the time when facts material to the right of action are known or reasonably should have known by the official within the United States Department of Justice charged with responsibility to act in the circumstances, whichever shall occur last", and

(b) by further amending section 3494 to add the following new subsections 2, 3, 4 and 5, as follows:

"Sec. 2. For the purpose of subsections 2 through 5 of Section 3494:

"(a) The term 'False Claims Act law' includes:

"(1) Each provision of sections 3490 through 3498 and 5498 of the Revised Statutes, commonly known as the False Claims Act; and

"(2) Any statute hereafter enacted by the Congress which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to any false claim or bribery or corruption of any officer or employee of the United States;

"(b) The term 'False Claim Act investigation' means any inquiry conducted by any False Claims Act investigator for the purpose of ascertaining whether any person is or has been engaged in any False Claims Act violation, including any bribery or corruption of any officer or employee of the United States proscribed by subsection I of Section 3491 of the Revised Statutes, as amended;

"(c) The term 'False Claims Act violation' means any act or omission in violation of any False Claims Act law;

"(d) The term 'False Claims Act investigator' means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect any False Claims Act law;

"(e) The term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any state or political subdivision;

"(f) The term 'documentary material' includes the original or any copy of any book, report, memorandum, paper, communication, tabulation, chart, or other document; and

"(g) the term 'custodian' means the custodian, or any deputy custodian designated by the Assistant Attorney General of the Civil Division."

"Sec. 3. (a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Civil Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a False Claims Act investigation, he may, prior to the institution of a civil proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to answer in writing written interrogatories, to give oral testimony concerning documentary material or information, or to furnish any combination of such material, answers, or testimony.

"(b) Each such demand shall state the nature of the conduct constituting the alleged False Claims Act violation which is under investigation, and the provision of law applicable thereof.

"(1) If it is a demand for production of documentary material—

"(A) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(C) identify the custodian to whom such material shall be made available.

"(2) If it is a demand for answers to written interrogatories—

"(A) propound with definiteness and certainty the written interrogatories to be answered;

"(B) prescribe a date or dates at which time answers to written interrogatories shall be submitted; and

"(C) identify the False Claims Act investigator to whom such answers shall be submitted.

"(3) If it is a demand for the giving of oral testimony—

"(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(B) identify a False Claims Act investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted.

"(c) No such demand shall require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers or testimony would be protected from disclosure under—

"(1) the standards applicable to subpoenas or subpoenas duces tecum by a court of the United States in aid of a grand jury investigation, or

"(2) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of Sections 3490 through 3494 and 5498 of the Revised Statutes.

"(d)(1) Any such demand may be served by any False Claims Act investigator, or by any United States marshal or deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

"(2) Any such demand or any petition filed under subsection 5 of this section may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

"(e)(1) Service of any such demand or of any petition filed under subsection 5 of this section may be made upon a partnership corporation, association, or other legal entity by—

"(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

"(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(2) Service of any such demand or of any petition filed under subsection 5 of this section may be made upon any natural person by—

"(A) delivering a duly executed copy thereof to the person to be served; or

"(B) depositing such copy in the United States mails by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

"(f) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(g) The production of documentary material in response to a demand served pursuant to this section shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(h) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons responsible for answering each interrogatory, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

"(i)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

"(2) The False Claims Act investigator or investigators conducting the examination shall exclude from the place where the examination is held all other persons except the person being examined, his counsel, the business, or in such other place as may be taken, and any stenographer taking such testimony.

"(3) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the False Claims Act investigator conducting the examination and such person.

"(4) When the testimony is fully transcribed, the False Claims Act investigator or the officer shall afford the witness (who may be accompanied by counsel) a reasonable opportunity to examine the transcript; and the transcript shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the False Claims Act investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days of his being afforded a reasonable opportunity to examine it, the officer or the False Claims Act investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reason, if any, given therefor.

"(5) The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness, and the officer or False Claims Act investigator shall promptly deliver it or send it by registered or certified mail to the custodian.

"(6) Upon payment of reasonable charges therefor, the False Claims Act investigator shall furnish a copy of the transcript to the witness only, except that the Assistant Attorney General in charge of the Civil Division may, for good cause, limit such witness to inspection of the official transcript of his testimony.

"(7)(A) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, either upon the request of such person or upon counsel's own initiative, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person shall not otherwise object to or refuse to answer any question, and shall not by himself or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, the False Claims Act investigator conducting the examination may petition the district court of the United States pursuant to subsection 5 of this section for an order compelling such person to answer such question.

"(B) If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code.

"(8) Any person appearing for oral examination pursuant to a demand served under this section shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States."

"Sec. 4. (a) The Assistant Attorney General in charge of the Civil Division of the Department of Justice shall designate a False Claims Act investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and such additional False Claims Act investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

"(b) Any person upon whom any demand under subsection 3 of this section for the production of documentary material has been duly served shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to subsection 5(d) of this section) on the return date specified in such demand (or on such later date as such cus-

todian may prescribe in writing). Such person may, upon written agreement between such person and the custodian, substitute copies for originals of all or any part of such material.

"(c)(1) The custodian to whom any documentary material, answers to interrogatories, or transcripts of oral testimony are delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return of documentary material, pursuant to this section.

"(2) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts or oral testimony as may be required for official use by any duly authorized official or employee of the Department of Justice under regulations which shall be promulgated by the Attorney General. Notwithstanding paragraph (3) of his subsection, such material, answers, and transcripts may be used by any such official or employee in connection with the taking of oral testimony pursuant to this section.

"(3) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, so produced shall be available for examination, without the consent of the person who produced such material, answers or transcripts, by any individual other than a duly authorized official or employee of the Department of Justice. Nothing in this section is intended to prevent disclosure to either body of the Congress or to any authorized committee or subcommittee thereof.

"(4) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe, (A) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by any duly authorized representative of such person; and (B) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or his counsel.

"(d) Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(e) If any documentary material has been produced in the course of any False Claims Act investigation by any person pursuant to a demand under this section and—

"(1) any case or proceeding before any court or grand jury arising out of such investigation, or any proceeding before any Federal administrative or regulatory agency involving such material, has been completed, or

"(2) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or agency through the introduction thereof into the record of such case or proceedings.

"(f) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, answers or transcripts, the Assistant Attorney General in charge of the Civil Division shall promptly (1) designate another False Claims Act investigator to serve as custodian of such material, answers, or transcripts, and (2) transmit in writing to the person who produced such material, answers, or testimony notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have, with regard to such material, answers or transcripts, all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred prior to his designation."

"SEC. 5. (a) Whenever any person fails to comply with any civil investigative demand duly served upon him under section 3 or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General, through such officers or attorneys as he may designate, may file in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section.

"(b) Within 20 days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any False Claims Act investigator named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such False Claims Act investigator a petition for an order of such court, modifying or setting aside such demand. The time allowed for compliance with the demand, in whole or in part, as deemed proper and ordered by the court shall not run during the pendency of such petition in the court, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person.

"(c) At any time during which any custodian is in custody or control of any documentary material, answers to interrogatories delivered, or transcripts of oral testimony given by any person in compliance with any such demand, such person may file, in the district court of the United States for the judicial district within which the office or such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section.

"(d) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof.

"(e) To the extent that such rules may have application and are not inconsistent with the provisions of this section, the Federal Rules of Civil Procedure shall apply to any petition under this section.

"(f) Any documentary material, answers to written interrogatories, or transcripts of oral testimony provided pursuant to any demand issued under this Act shall be exempt from disclosure under section 552 of title 5, United States Code."

SEC. 4. This act, and the amendments made by this act, shall become effective upon enactment but shall not be applicable to cases pending on that date.●

By Mr. BENTSEN:

S. 1982. A bill to amend the Internal Revenue Code to extend in certain cases the 6-month deadline for exempting exports from the manufacturers excise tax; to the Committee on Finance.

MANUFACTURERS' EXCISE TAXES—12-MONTH EXTENSION OF CURRENT 6-MONTH EXPORT DEADLINE IN CASES OF CIVIL UNREST

● Mr. BENTSEN. Mr. President, I am today introducing a bill to give the Secretary of the Treasury discretion to extend for an additional 12 months certain excise tax deadlines with respect to exports in cases of civil unrest in a foreign nation.

Under section 4221 of the Internal Revenue Code, certain manufacturers' excise taxes do not have to be paid for those goods which will be exported within 6 months from the date of sale by the manufacturer (or if earlier, on the date of shipment by the manufacturer.) If the goods are not exported within this 6 month period the excise tax must be paid. (The excise tax is subsequently refunded upon the export of the goods.)

Earlier this year many American firms purchased goods for export to Iran. Due to the civil unrest in that nation the transfer of many of these goods has been delayed. These delays necessitate the payment of the excise tax even though the tax will be refunded later when the goods are exported.

My proposal simply gives the Secretary of the Treasury discretion to extend the deadline an additional 12 months in situations involving civil unrest.

In light of our current trade deficit of some $30 billion, it is essential that Federal law provide greater flexibility for exporting firms.

We cannot expect to reverse our trade deficit unless our Government assists U.S. exporters to the same extent that foreign governments assist their own exporters. There is substantial precedent in current tax law to give IRS discretion in these types of cases. For example, penalties for late filing of tax returns can be waived for exceptional circumstances.

Mr. President, I urge the Senate to enact this technical tax proposal which would simply help recognize the added risks of engaging in export activities.●

By Mr. MATHIAS (for himself, Mr. METZENBAUM, Mr. KENNEDY, and Mr. JAVITS):

S. 1983. A bill to amend section 1979 of the Revised Statutes to provide that States, municipalities, and agencies or units of Government thereof, may be sued under the provisions of such section; to establish rules of liability with respect to such States, municipalities, and agencies or units of Government thereof; and for other purposes; to the Committee on the Judiciary.

CIVIL RIGHTS IMPROVEMENTS ACT OF 1979

● Mr. MATHIAS. Mr. President, I now send to the desk for myself, Senators METZENBAUM, KENNEDY, and JAVITS, the Civil Rights Improvements Act of 1979. This bill is similar to S. 35 which I introduced in the 95th Congress and which was the subject of 4 days of hearings before the Senate Judiciary Subcommittee on the Constitution last year. The bill would make a series of amendments to the Civil Rights Act of 1871 (42 U.S.C. 1983), which has been a principal tool in this Nation's efforts to fulfill its commitment to the civil rights and liberties of the American people.

Specifically, the Civil Rights Improvement Act would:

Provide that States, as well as the District of Columbia, municipalities, counties, and other forms of local governments are "persons" for the purposes of section 1983;

Define the circumstances under which States, the District of Columbia, municipalities, counties and other forms of local governments will be liable for the actions of their employees and agents in violation of section 1983;

Recognize the delay and expense caused by the strict application of the abstention doctrine to section 1983 cases and thus set forth circumstances when a Federal court may certify a question of State law to the highest court of the State;

Provide that the doctrine of exhaustion of State judicial and administrative remedies is inapplicable in section 1983 suits;

Embody within section 1983 the limited circumstances when a Federal court can intervene in a pending criminal proceeding and restrict the equitable doctrine of *Younger* v. *Harris*, 401 U.S. 31 (1971) to criminal proceedings.

Prescribe the limited instances in which the doctrine of res judicata is applicable in section 1983 cases; and

Establish a national statute of limitations to govern all section 1983 suits.

The primary purpose of the Civil Rights Improvements Act is to insure the continued vitality of section 1983. Basically, my bill would achieve this important goal in two ways. First, it would clarify and elaborate upon a recent Supreme Court decision, *Monell* v. *Board of Social Services*, 436 U.S. 658 (1978), which holds out the prospect that in the future section 1983 will be interpreted to provide broader protections for victims of official misconduct and will encourage local governments to adopt preventive measures to deter constitutional violations in the future. Second, the proposal would respond to certain earlier Supreme Court rulings which have seriously curtailed access to Federal courts for civil rights litigants.

I. MONELL AND GOVERNMENTAL LIABILITY UNDER SECTION 1983

At the time I introduced S. 35, January 10, 1977, I noted that one of the major impediments facing litigants under the Civil Rights Act of 1871 was a 1961 decision, *Monroe* v. *Pape*, 364 U.S. 167, where the Supreme Court held that cities were not "persons" within the meaning of section 1983 for purposes of monetary relief. Later decisions extended this immunuity to counties (*Moor* v. *Alameda*, 411 U.S. 693 (1972)) and to suits for injunctive relief (*City of Kenosha* v. *Bruno*, 412 U.S. 507 (1973)). These decisions were all based on the Court's interpretation of the legislative history of section 1983 and thus are subject to congressional alteration. I stated at the time I introduced S. 35 that the Court's narrow interpretation of the scope of section 1983 had crippled the statute both as a source of deterrence and compensation: It limited the incentive for public entities to take preventive measures against possible misconduct by their officers and employees, and it had the practical effect of precluding recovery against "judgment proof" public employees, thus leaving many litigants with a right but not a remedy.

S. 35 was designed to increase the effectiveness of section 1983 as a source of compensation and deterrence by removing the absolute immunity conferred on governmental entities and defining the circumstances when they should be liable for the constitutional torts of their employees. S. 35 would not have imposed financial liability on governments for all of the constitutional violations of their employees, although the adoption of such a "respondeat superior" approach is well within Congress' constitutional authority. Rather, under the bill, governmental liability would generally have been restricted to situations where there is a reasonable expectation that the fear of monetary damages would lead the entity to adopt preventive measures aimed at deterring future constitutional violations:

First, where the conduct was authorized by statute, ordinance, policy or practice of the entity or was undertaken by those making such policies, such as where a police officer enforces an unconstitutional statute;

Second, where a supervisor encouraged or directed his subordinate to engage in the unconstitutional conduct;

Third, where a Government employee has a history of misconduct and his supervisor has failed to take the necessary remedial action to prevent its recurrence; and

Fourth, where a constitutional violation is documented but the identity of the offending officer cannot be determined, such as the Jackson State case, or where a police officer conceals his badge.

Shortly after the Senate Judiciary Subcommittee on the Constitution completed its hearings on S. 35 last year, the Supreme Court handed down its decision in Monell. The case involved a claim that the New York City Board of Education and Department of Social Services compelled pregnant employees to take unpaid maternity leaves before such leaves were required for medical reasons.

In ruling in favor of the plaintiffs' claim for injunctive relief and back pay for unlawful forced leave, the Court concluded that its prior reading of the legislative history of the Civil Rights Act of 1871 was in error; the Court overruled Monroe against Pape, "insofar as it holds that local governments are wholly immune from suits under section 1983," and held under certain circumstances local governments would be liable for the constitutional torts of their employees.

Since Monell was handed down, I have reviewed the Court's decision, with special attention to its impact of the governmental liability provisions of S. 35. As a result of this review, I have concluded that the need for these provisions continues after Monell; and that Congress must complement the Court's decision by enacting governmental liability provisions. The 1979 version of my bill does exactly that by adopting the same standards originally proposed in S. 35.

Although the Court in Monell abandoned the inequitable doctrine of absolute immunity for local governments, it leaves a number of important issues unanswered. The governmental liability provisions of the Civil Rights Improvements Act are designed to resolve these issues. Following is a brief discussion of these remaining issues and how they would be resolved by my bill.

First. In Monell, while the Court did away with the absolute immunity conferred on local governments from section 1983 suits, it refused to adopt a "respondeat superior" approach which would have made such governmental units liable for all of the constitutional torts of its employees. By not doing so, the Court necessarily thrust upon itself and the lower Federal courts the task of defining the circumstances when such liability would exist. But, the majority opinion in Monell gives us little guidance in this regard. It merely states that such liability must depend on a "policy statement, ordinance, regulation or decision officially adopted * * * governmental custom even though such custom has not received formal approval through the body's official decisionmaking channels." Since Monell involved an official policy of the New York City school and social services authorities, it was an easy case to decide under this test.

But what about other cases where the degree of governmental involvement is not so apparent? For example, would Monell reach the type of indefensible conduct found in the Jackson State case where a number of plaintiffs, including the survivors of the students killed during a confrontation at the university, brought suit under section 1983? Despite a finding that the firing into a crowd of students by State and local police was an excessive response, the plaintiffs were unable to recover from any of the defendants.

The State of Mississippi and the city of Jackson were held immune under the doctrine of Monroe against Pape, and the individual officers were also held not liable because the plaintiffs had failed to prove which of the officers had fired the fatal and wounding shots. We do not know if Monell would cover such a situation and rectify this obvious injustice. But, under the Civil Rights Improvement Act it is far more likely the governmental units would not escape liability in such cases.

It might require years of litigation for the Federal courts to delineate the contours of governmental liability under section 1983. By enacting the Civil Rights Improvement Act with its clear specifications of governmental liability, Congress could shorten this process. Significantly, the standards of liability contained in the bill are not foreign to section 1983 litigation. By and large, they reflect the case law that has developed in the lower courts in suits against supervisory officials, where plaintiffs sought to have them held liable for the torts of their subordinates. Thus Federal judges will have a wealth of related precedent to rely upon when confronted with suits brought under the governmental liability provisions of the Civil Rights Improvements Act.

Moreover, since local governments now have little guidance as to when they will face section 1983 liability, they are hampered in their efforts to develop effective risk management programs aimed at deterring future constitutional violations. Enactment of my bill would have the salutary effect of giving Government units much greater notice of potential liability than they now have. This would allow the units to develop and modify their preventive programs accordingly.

Second. Also left unresolved by Monell was whether States are "persons" for purposes of section 1983. Until recently the 11th amendment's grant of sovereign the awarding of money damages against States and State officials acting in their official capacity. But, in *Fitzpatrick* v. *Bitzer*, 427 U.S. 445 (1976) the Supreme Court paved the way for such suits. In Fitzpatrick, the Court held that the 11th amendment and the doctrine of State sovereignty were limited by the enforcement provision of section 5 of the 14th amendment and thus recognized that Congress could authorize retroactive monetary damage awards against States.

Prior to Fitzpatrick and Monell, State liability under section 1983 was denied routinely. In fact, in *Edelman* v. *Jordan*, 415 U.S. 651 (1974), the Court noted that the 11th amendment was a bar to monetary damage suits brought under section 1983. But, after Monell was decided last year, the argument was made that Monell's reinterpretation of the legislative history of section 1983 undermined Edelman and that section 1983 money damage suits were permissible against States. Regrettably, in *Quern* v. *Jordan*, 99 S. Ct. 1139 (1979), the Court rejected this argument and reaffirmed its holding in Edelman that section 1983 does not abrogate the 11th amendment immunity of the States. Thus after Quern, we are left with the anomalous situation in which States are fully immune from section 1983 suits for money damages, but local governments are not. There is no public policy justifying this dichotomy. It is a result of the Court's reading of the legislative history of section 1983. Thus it can be offset by Congress. And, it should be. The Civil Rights Improvements Act would do just that by treating local and State governments the same under section 1983.

Third. In Monell the Court stated:

> Since the question whether local government bodies should be afforded some form of official immunity was not presented as a question to be decided on this petition and was not briefed by the parties nor addressed by the courts below, we express no views on the scope of any municipal immunity beyond holding that municipal bodies sued under section 1983 cannot be entitled to an absolute immunity, lest our decision that such bodies are subject to suit under section 1983 be "drained of meaning."

Thus after Monell the question remains, which if any of the personal immunities or defense available to individual defendants—good faith, prosecutorial, legislative, or judicial—can be claimed by governmental entities now suable under section 1983? Section 2(d)(1) of the Civil Rights Improvements Act would answer this question. The proposal would make no alterations in the ability of an individual defendant to utilize any of the existing immunities or defenses, but it would provide that governmental entities would not be entitled to claim any common law or statutory immunities or defenses available to their agents. Thus section 1983 plaintiffs who are met with a successful claim of immunity by an individual will nonetheless be able to proceed directly against the governmental entity.

For example, where a police officer enforces an unconstitutional statute in the good faith belief that it is constitutional, it is both fair and sound public policy to relieve him of liability under section 1983; but, it would be inappropriate to shield the governmental entity from liability. The entity itself has abused its powers in an unconstitutional way; it is more equitable that the costs associated with the entity's unconstitutional actions be borne by society as a whole rather than absorbed entirely by the victim of the official misconduct. Such an approach is consistent with the thrust of Monell and would help insure that plaintiffs have both a right and a remedy under section 1983.

Fourth. In *District of Columbia* v. *Carter*, 409 U.S. 418 (1973), the Supreme Court ruled that the District of Columbia is not covered by section 1983. Once again, this decision was based entirely on the Court's interpretation of the legislative history of the Civil Rights Act of 1871. There is no constitutional impediment to congressional alteration of the result in Carter. Such congressional action is especially appropriate since the Supreme Court recently recognized that the citizens of the several territories are protected by section 1983 from the unconstitutional acts of local officials acting under the color of territorial law. *Examing Board* v. *Flores de Otero*, 426 U.S. 572 (1976). The decision in Flores de Otero leaves the District of Columbia as the only American jurisdiction whose inhabitants are not covered by section 1983. It is time that Congress end this inequitable situation. Section 2 of the Civil Rights Improvements Act would achieve this laudable goal and make the District of Columbia a "person" for purposes of section 1983.

II. LIMITING ACCESS TO THE FEDERAL COURTS

Access to the Federal court system is being constricted. A number of recent Supreme Court decisions, leaning heavily on judicial doctrines such as comity, standing, and federalism, have significantly curtailed access to the Federal courts to those seeking relief under section 1983. Justice Brennan expresses his concern over the direction the Court has taken in these narrowing decisions in these terms:

> A series of decisions have shaped the doctrines of jurisdiction, justiciability, and remedy, so as to increasingly bar the Federal courthouse in the absence of a showing, probably impossible to make. It is true, of course, that there has been an increasing amount of litigation of all types filling the calendars of virtually every state and federal court. But a solution that shuts the courthouse door in the face of a litigant with a legitimate claim for relief, particularly a claim for the deprivation of a constitutional right, seems to be not only the wrong tool, but a dangerous tool for solving the problem. The victims of the use of that tool are most often the litigants most in need of judicial protection of their rights: the poor, the underprivileged, the deprived minorities. The very life blood of the courts is the popular confidence that they mete out evenhanded justice and discrimination that denies these groups access to the courts for resolution of their meritorious claims, unnecessarily risks the loss of that confidence.

Typical of these judicially erected barriers to access to the Federal courts, is the court's expansion of the doctrine of *Younger* v. *Harris*, 401 U.S. 37 (1971), regarding Federal intervention in State court proceedings.

In Younger, the court set out the limited circumstances under which a Federal court could enjoin a pending State criminal proceeding—in effect, only where the State or local officials are prosecuting a defendant in bad faith. Although Younger dealt solely with a pending State criminal proceeding, the court has applied Younger to certain civil matters, (see e.g. *Huffman* v. *Pursue Ltd.*, 420 U.S. 593 (1975), *Trainor* v. *Hernandez*, 431 U.S. 434 (1977), *Judice* v. *Vail*, 430 U.S. 327 (1977) and *Moore* v. *Sims*, No. 78-6, (June 11, 1979)) and Justice Brennan at least believes the majority has already decided to bring all civil proceedings within Younger and "merely the formal announcement * * * is being postponed." Moreover, in *Rizzo* v. *Goode*, 423 U.S. 362 (1976), there is an indication that not only may Younger be extended to civil proceedings, but that injunctions against State and local administrative proceedings also may fall within the doctrine. Finally, the Court has applied the Younger rationale even to instances where a Federal court proceeding has actually commenced prior to the filing of a State action. *Hicks* v. *Miranda*, 422 U.S. 332 (1975). This is a particularly troublesome ruling—one which State prosecutors could use to file a local suit to oust the Federal courts of jurisdiction.

The practical effect of the application of the Younger doctrine to civil cases would be largely to negate the congressionally declared right to a Federal forum for suits aimed at vindicating constitutionally protected rights. The Civil Rights Improvements Act would preclude extension of the Younger rationale to civil proceedings and limit its application to criminal cases. In effect, the bill would establish statutory standards designed to strike an appropriate balance between the traditional and legitimate State interest in conducting criminal proceedings without fear of Federal intervention and the longstanding congressional policy that an individual be provided a Federal forum to litigate his section 1983 claim.

In my view, the judicial expansion of Younger is illustrative of a number of decisions in which the Court has strayed from the original intent of the authors of section 1983 who intended that the Civil Rights Act of 1871 establish the Federal Government and the Federal courts as the primary protectors of our civil rights and civil liberties. As the Court said in *Mitchum* v. *Foster*, 407 U.S. 225 (1977):

> The legislative history (of the Reconstruction era civil rights enactments) make evident that Congress clearly conceived that it was altering the relationship between the States and the Nation with respect to the protection of federally protected rights . . .
>
> The very purpose of section 1983 was to interpose the Federal courts between the States and the people, as the guardians of the people's Federal rights—to protect the peoople from unconstitutional action under color of state law . . .

The time has come for Congress to restore the original intent of the reconstruction era Congress when it enacted the Civil Rights Act of 1871 and to insure that Federal courts remain open to those seeking to vindicate federally protected rights. We should respond promptly to the judicial expansion of the Younger doctrine and other decisions which have had the effect of curtailing access to the Federal courts. At the same time, we must act to preclude the possibility that the Court will render future decisions further narrowing the scope of section 1983. In light of recent history, it is conceivable that judicial doctrines such as abstention, exhaustion of State judicial and administrative remedies and res judicata, may be applied in such a fashion.

The Civil Rights Improvements Act was drafted with these concerns in mind. It is designed both to offset some of the Court's more limiting decisions and also to forestall further rulings restricting access to the Federal courts.

CONCLUSION

Mr. President, there has been a number of significant Court decisions affecting section 1983 since the original version of the Civil Rights Improvements Act was introduced over 2 years ago. A large proportion of them concern the liability of governmental units for the constitutional violations of their employees; and the judicial expansion of Younger. Above all, Monell has altered drastically the complexion of the entire debate regarding the section 1983 liability of local governments. For the first time, these governments face the possibility of money damage liability under section 1983. But, as I have noted, Monell leaves many key questions unanswered. It may well take years of litigation to resolve them. At the same time, the Court's decisions in Judgice and Trainor confirm my fear that the Younger rationale may be applied to all civil proceedings. Obviously, the entire area of law governing section 1983 is in flux. The time has come for Congress to turn its attention to the Civil Rights Improvements Act and give stability to this changing area of law.

Mr. President, over the past several months I have received a number of comments and suggested changes in the Civil Rights Improvements Act. Some of these suggestions have already been incorporated into the bill. Others have not. However, some of those that have not been made part are thoughtful and deserve the careful consideration of my colleagues on the Senate Judiciary Committee in the forthcoming hearings.

I ask unanimous consent that the text of the Civil Rights Improvements Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Improvements Act of 1979."

SEC. 2. Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended to read as follows:

(1) by inserting "(a)" immediately before "Every"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, 'person' means any natural person, any association or combination of natural persons, any partnership, corporation, or other legal entity, any State or territory, any municipality, county, parish, or other State, territorial, or local governmental subdivision, unit, or agency, the District of Columbia, or any agency of the District of Columbia; and 'State or territory' shall include the District of Columbia.

"(c) A State, municipality, or any unit of government or agency thereof shall be liable for the conduct actionable under paragraph (a) of this section of any officer, employee, or agent of, or other person clothed with the authority of, such State municipality, or unit of government or agency thereof, when—

"(1) for purposes of damages or other monetary relief—

"(A) the conduct was authorized or required by a statute, ordinance, policy, or practice of the entity, unit, or agency, or was undertaken by a person or persons appointed or elected to make such policy;

"(B) the officer, employee, agent, or other person clothed with the authority of the entity, unit, or agency engaged in such conduct at the direction or with the encouragement of a supervisory officer;

"(C) a supervisory officer, with the authority to act, knew or should have known that an inferior officer, employee, agent, or other person clothed with the authority of the entity had previously engaged in such conduct or similar conduct and failed either to halt such conduct or to take reasonable steps to prevent the recurrence of such conduct;

"(D) one or more officers, employees, agents, or other persons clothed with the authority of the entity, unit, or agency, engaged in such conduct and the person seeking relief under this Act cannot by reasonable effort identify such officer, employee, agent, or other person or prove causation with respect to a particular officer, employee, agent, or other person clothed with such authority;

"(2) for purposes of injunctive or declaratory relief the officer, employee, agent, or other person clothed with the authority of the entity, unit, or agency engages in such conduct. The Court shall direct the State the State municipality, or any unit or agency thereof, to adopt whatever disciplinary or other remedial measures are necessary to prevent the recurrence of such conduct, or, when otherwise appropriate.

"(d)(1) In suits against an entity, unit, or agency pursuant to subsection (c), it shall not be a defense for such entity, unit, or agency that the officer, employee, agent, or person clothed with the authority of the entity, unit, or agency, is personally immune from liability under this Act because of the existence of a common law or statutory immunity attaching to such officer.

"(2) Supervisory officers having command responsibility superior to any person engaging in conduct actionable under this Act, shall be jointly and severally liable with such persons whenever under subsection (c) of this Act the State, municipality, or unit or agency thereof, would be liable.

"(3) A plaintiff may join to a claim under this Act any other claim or claims arising under the laws of any State, territory, the District of Columbia, or of the United States, against the same defendant, additional defendants, or both, if the latter claim or claims and any one claim under this Act derive from a common nucleus of operative fact; and a court of the United States shall proceed to hear all such claims, as well as any additional claims under this Act that may be joined in the action.

"(e)(1) In any action brought under this Act, a court of the United States may certify to the highest court of a State a question of State law if—

"(A) the State has established a procedure by which its highest court may answer questions certified from such court of the United States;

"(B) the question of State law may be controlling in the action and cannot be satisfactorily determined in the light of the State authorities; and

"(C) the court expressly finds that certification will not cause undue delay or be prejudicial to the parties. Except as provided in this subsection, no court of the United States shall stay or dismiss any action under this Act for the purpose of obtaining a decision as to the law of the State from a State court.

"(2) No court of the United States shall stay or dismiss any civil action brought under this Act on the ground that the party bringing such action failed to exhaust the remedies available in the courts or the administrative agencies of any State, territory, or the District of Columbia, or subdivisions, units, or agencies thereof.

"(3) In the absence of extraordinary circumstances, no court of the United States shall enjoin a pending criminal prosecution under the law of any State, territory, subdivision of any State or territory, or the District of Columbia, if such prosecution—

"(A) was commenced prior to the time of filing of the action in the court of the United States;

"(B) is maintained against the party who brings the action in the court of the United States or against a person who is in privity with such party; and

"(C) provides a full and fair opportunity for the presentation and resolution in the courts of such State, territory, subdivision thereof, or the District of Columbia, of every claim of deprivation prevented in the action in the court of the United States.

For purposes of this subsection, 'extraordinary circumstances' include but are not limited to the existence of a criminal prosecution commenced or maintained in bad faith or to enforce a statute, ordinance, or regulation, that is, in whole or in part, facially unconstitutional.

"(4) In an action brought under this Act, a court of the United States may enjoin a pending criminal prosecution under the law

of any State, territory, subdivision of any State or territory, or the District of Columbia, that was commenced subsequent to the time of filing of the action in the court of the United States, and shall enjoin such prosecution if it finds that the prosecution was initiated in response to a suit under this Act.

"(5) In an action brought under this Act, a court of the United States may enjoin a proceeding in the courts of any State, territory, subdivision of any State or territory, or the District of Columbia, which is noncriminal in nature, even if such proceeding is in aid of and closely related to the enforcement of a criminal statute, ordinance, or regulation, irrespective of whether the proceeding was commenced prior to or subsequent to the action.

"(f) In an action brought under this Act, the prior judgment of a court of any State, territory, subdivision of a State or territory, or the District of Columbia, shall be given merger and bar effect, and no other effect, as against any claim presented by a plaintiff in an action in a court of the United States, but such effect shall be given to that prior judgment only if it—

"(1) was rendered on the merits of the same claim,

"(2) following a full and fair hearing,

"(3) in an action commenced by the present plaintiff:

Provided, however, That when a court of the United States hears a claim not so barred it shall not grant as relief the modification or setting aside of any judicial order with respect to damages, irrespective of whether the order has been executed.".

"(g)(1) Every civil action commenced under this Act shall be barred unless the complaint is filed within four years after the right of action first accrues. The action of any person under legal disability or outside the United States at the time the claim accrues may be commenced within three years after the disability ceases. Any time utilized seeking relief through state remedies shall not be counted in determining the time within which the complaint must be filed.

(2) If any person having a cause of action under this Act dies after the accrual of his claim, the legal representatives of the deceased shall have such action therefor and may recover damages (to be distributed in accordance with the law of the state in which the deceased resided) for the benefit of the next of kin of the deceased or if there be no next of kin for the benefit of the estate to be disposed of in accordance with the law of the State in which the deceased resided.

SEC. 3. Nothing contained in this Act shall be construed to constrict the availability of relief under any other provision of Federal law or impair the availability of any other remedy for denials of any rights, privileges, or immunities secured by the Constitution or laws of the United States in the courts of the United States or of any State, territory, subdivision thereof, or the District of Columbia.

SEC. 4. In evaluating the need for relief under this Act, no court of the United States shall consider the availability of a remedy under the laws, ordinances, or regulations of any State, territory, subdivision thereof, or the District of Columbia.

SEC. 5. This Act shall apply in any action arising as a result of any deprivation of any rights, privileges, or immunities secured by the Constitution or laws of the United States—

(a) with respect to the amendments made by section 2 (b) through (f) of this Act, to any deprivation occurring after the date of enactment, and

(b) with respect to the remaining amendments herein made, to any action pending on the date of enactment of this Act and to any action subsequently brought.●

● Mr. METZENBAUM. Mr. President. I am pleased to join Senator MATHIAS in introducing the Civil Rights Improvement Act of 1979. This bill, which is the successor to S. 35 in the 95th Congress, makes errant public officials and governmental entities accountable to the people, by providing a means for redressing official misconduct. It does so by amending the basic civil rights statute, 42 U.S.C. 1983, enacted in the reconstruction era to protect blacks from the outrages of the Ku Klux Klan. This legislation strengthens the original statute by authorizing suits against State and local governments as well as their employees whenever their conduct violates an individual's constitutional and civil rights. The bill also addresses a number of Supreme Court decisions which have restrictively interpreted section 1983 and limited access to the Federal courts, particularly for poor people.

The courts have traditionally played an essential role in protecting the civil rights of the poor and minorities. Often the Federal judiciary is the only institution that will do something when the Government itself is the law breaker. Today, the civil rights plaintiff is someone who is the victim of police misconduct, someone denied equal access to Federal benefit programs, or an institutional inmate subjected to unlawful conditions of confinement. In situations like these, where State officials are the defendants, the Federal courts have proved to be almost the only consistently receptive forum when called on to uphold the law of the land.

I presided over four days of hearings on this measure last year. The Constitution subcommittee heard from a variety of witnesses including representatives from the Department of Justice, the Public Interest Bar, the NAACP, the National Black Police Association, the Hispanic Community and Civil Rights experts from academic institutions. The subcommittee also received testimony from State and local public officials, the National Association of Attorneys General, the National District Attorneys Association and the National Association of Counties. All the witnesses agreed that when public officials and employees violate someone's civil rights, there should be an adequate remedy at law.

Some questioned the necessity of exposing the governmental unit itself to liability for these violations, but the Supreme Court disposed of part of that problem by ruling that municipalities are liable. It was also suggested that this bill might open the courts to frivolous actions by those seeking to harass dedicated public servants. Obviously this criticism deserves close attention, but experience indicates that the problem may be more theoretical than actual. The basic American concept of limited Government which subjects public agencies and officials to the rule of law must be maintained and should not be compromised by merely abstract conjectures.

Unfortunately, present law limits the ability of the courts to deal with civil rights cases. By upholding the barrier of sovereign immunity on the one hand, and the good faith defense of the individual officials on the other, Supreme Court decisions have reduced the effectiveness of section 1983. Also, by refusing to let Federal courts hear important constitutional cases until State courts have acted, the Supreme Court has permitted unnecessary delay or total denial of a remedy even though the underlying cause of action represents a Federal and not a State interest. Some of these cases reflect the fears of those who believe that the civil rights caseload has expanded to unmanageable proportions. But, surely, Mr. President, there are more acceptable methods of managing judicial resources that do not involve frustrating the legitimate claims of civil rights plaintiffs. Just last year, Congress substantially added to the capacity of the Federal judiciary by creating 152 new judgeships. Still other proposals for expanding judicial resources are pending in this Congress, including the magistrates and the diversity of citizenship bills. I have consistently supported these measures, believing that the courts would be more effective in resolving important Federal questions such as those presented by section 1983 cases. Regrettably, only modest progress has been made in this direction.

Mr. President, in the wake of hearings on S. 35, the Supreme Court in *Monell* v. *Board of Social Services*, 436 U.S. 658 (1978), held that municipalities are not absolutely immune to section 1983 suits. This reversed prior decisions and, in some measure, achieved what we sought to accomplish with this legislation. However, the Court declined to elaborate beyond the specific facts of that case as to what circumstances would give rise to liability. Also, in a case subsequent to Monell, the Court decided that in spite of municipal liability, it would not hold States liable under section 1983 because Congress had expressed no clear intent to override the 11th amendment immunity from suit. The Court recognized of course, that Congress, acting under the 14th amendment, can restrict State immunity. Indeed, the Supreme Court has forthrightly acknowledged this in the case of *Fitzpatrick* v. *Bitzer*, 427 U.S.C. 445 (1976). Therefore, the Court has paved the way for our present effort to amend the Civil Rights Act. In the case of *Quern* v. *Jordan*, 995 Ct. 1139 (1979), Justice Brennan, the author of the Monell case, made this direct appeal to us:

> The 42d Congress, of course, can no longer pronounce its meaning with unavoidable clarity. Fitzpatrick, however, cedes to the present Congress the power to rectify this erroneous misinterpretation. It need only make its intention plain

Mr. President. this legislation provides the Congress with the means for "making its intention plain" on this important subject. I sincerely hope that prompt action will be taken to revitalize our civil rights laws and to restore access to the Federal courts.●

● Mr. KENNEDY. Mr. President, I am pleased to join Senators MATHIAS, METZENBAUM, and JAVITS in cosponsorship of the Civil Rights Improvement Act of 1979. This legislation will greatly enhance the ability of our citizens to obtain redress in Federal court when constitutional violations occur.

The act would strengthen one of our most important civil rights statutes—42 U.S.C. 1983—which provides that any person who, under color of law, violates

the constitutional rights of our citizens may be sued in Federal court. This legislation would enhance the effectiveness of section 1983, by eliminating unjustified barriers to such suits, ensuring access to a Federal forum, and authorizing adequate remedies to prevent further violations.

In the past, adequate recovery for official actions which violate citizens' constitutional rights often have been precluded by court decisions holding that liability under section 1983 was limited to individuals. This legislation would define "persons" under section 1983 to include not only natural persons but also States and local governments in appropriate circumstances. It also codifies the criteria for determining such liability.

These provisions will settle many important questions left unanswered by the recent Supreme Court decision in *Monell* v. *Board of Supervisors*, 436 U.S. 658 (1978). Although the Monell decision held that cities may be sued under section 1983, the scope of that responsibility is unclear. Without congressional action it will require extensive litigation to settle the precise contours of liability for both cities and municipal employees.

At the same time, Monell leaves a striking disparity between local governments, on the one hand, and the States which remain immune from Section 1983 liability under previous court decisions. States have been held immune because of the 11th amendment. But the Supreme Court has also indicated that Congress could make States liable in order to implement fully the 14th amendment protections against official violation of constitutional rights.

With this legislation, all units of State and local governments, and their employees will be subject to liability under uniform standards. It is important to note, Mr. President, that the Civil Rights Improvements Act does not impose strict liability on either governments or supervisory officials for every violation of rights committed by public employees. States, cities, and supervisors would be liable only in those situations specified in the bill where there has been a sufficiently high degree of official involvement or negligence.

During the hearings on this bill we will continue to explore the issues of liability for Government employees in supervisory positions. I am not wedded to the language now contained in the proposed provisions dealing with supervisory employees individual liability. The committee will work with all interested parties in order to insure that the bill accommodates any legitimate concerns of State and local officials about their ability to perform their official responsibilities.

The Civil Rights Improvements Act also provides citizens with the ability to prevent continuation of widespread misconduct by expanding the circumstances in which injunctive relief is available. The bill limits the holding in *Rizzo* v. *Goode*, 423 U.S. 362 (1976), that a Federal court had no authority to require administrative and disciplinary procedures within the Philadelphia Police Department, which the plaintiffs had sought to prevent future violations of their constitutional rights. The courts would be given specific authority to require disciplinary procedures or other appropriate remedial measures.

The recent dismissal of the most significant allegations of the Justice Department's complaint against the Philadelphia Police Department underscores the need for this legislation. If the district court's dismissal order is not overturned on appeal, private enforcement of constitutional rights under section 1983 is imperative. But, even if the complaint is ultimately upheld, or if legislation is passed establishing the Department's right to bring such actions, protections of constitutional guarantees should not rest entirely with public enforcement. In hearings last year on an earlier version of this legislation, the Justice Department testified that private suits were a crucial complement to its own enforcement efforts. The rights at issue are so fundamental that victims should have the opportunity to sue directly for appropriate monetary or injunctive relief. This legislation will help insure the continued vitality of an important civil rights statute regardless of the outcome of the proceedings in Philadelphia.

Other restrictions on section 1983 suits would be eased by this bill. For example, in a series of recent cases based on *Younger* v. *Harris*, 401 U.S. 31 (1971), the courts have been eroding the power of Federal courts to hear section 1983 suits which involve pending State court proceedings. The legislation will permit Federal courts hearing section 1983 suits to stay either civil or criminal State proceedings which were commenced in bad faith or were based upon unconstitutional statutes.

Mr. President, I commend the efforts and leadership of the Senator from Maryland in his long labors on this bill. The Civil Rights Improvements Act will take us one more step forward in our unfinished task of making the bold promises of the Bill of Rights a reality for all Americans.●

● Mr. JAVITS. Mr. President, I am pleased to join as a cosponsor of a bill drafted by my distinguished colleague from Maryland to effect substantive revisions of section 1983 of title 42 of the United States Code. This is the basic statutory cause of action by which private citizens may seek vindication of federally guaranteed rights against persons alleged to have violated these rights under color of State or local law. Enactment of this bill would be the first major reworking of section 1983 since its original enactment in 1871.

It is the consensus among those who have studied the section, including among others the Justice Department and the Civil Rights Committee of the Bar Association of the city of New York, that an overhaul of 1983 as it currently stands is in order.

The bill, as I see it, has these principal aims which I fully support:

First. To make clear that State and local governmental entities—and this would include the District of Columbia—are proper defendants in civil rights suits brought under 1983;

Second. To give the circumstances, standards of accountability, under which governmental entities (and supervisory officers) may be held liable in a 1983 suit; and

Third. To enhance the ability of Federal courts to stay pending or threatened State court proceedings where a 1983 suit to vindicate Federal rights is at stake.

The bill makes a number of other revisions in current law and with these proposals, I am likewise in general agreement.

I invite the close attention of my colleagues to each of the bill's provisions to the end that the legislation, in its final version, will be the best reform we can achieve.

In this spirit, I may be recommending changes concerning—among other sections—those governing supervisory officers' liability and the defenses available to governmental entities when a 1983 suit is brought against them.

As I have indicated, I support the underlying aims of the bill and believe the time has come to improve the procedure for private citizens' redress of injuries sustained by reason of violation of Federal rights.

I hope others of our colleagues will join in supporting Senator MATHIAS in the effort to bring about this needed reform.●

By Mr. WALLOP:

S. 1984. A bill to amend the Internal Revenue Code of 1954 to provide an unlimited marital estate and gift tax deduction, to modify provisions relating to special valuation of certain farm and other real property, and for other purposes; to the Committee on Finance.

ESTATE AND GIFT TAX AMENDMENTS OF 1979

Mr. WALLOP. Mr. President, I rise today to introduce my proposals for correcting certain inequities and eliminating certain complications presently contained in the estate and gift tax laws. Primarily my concerns are with the requirements contained in current law relating to the special use valuation for farms and other closely held businesses and the limitations on the marital deductions for estate and gift taxes.

Mr. President, under the estate tax law as it existed prior to 1976 the value of property was included in the gross estate of a decedent at the fair market value of the property on the date of the decedent's death. One of the most important considerations used in determining fair market value was the highest and best use to which the property could be put. The IRS interpreted "highest and best" to mean that use which would bring the most money if the property was sold. By this practice, IRS agents would value a working farm not on the basis of its actual use as a farm but on the basis of whatever use would bring the highest return at auction. Most of the time this meant that the IRS agent would envision a working farm as if it was simply a tract of land to be subdivided into one-quarter-acre lots for housing. The IRS routinely totally ignored the income stream that the farm, as a farm, generated. How many lots could be carved

out? That was the determining factor for the IRS. Then multiply the number of imaginary lots by the average cost of a developed building lot in the area, and voila. Fair market value according to the tax collector. In many cases, the greater estate tax burden generated by the unrealistic valuation makes continuation of farming or of operating a closely held business not feasible because the income potential from these activities is insufficient to service extended tax payments or loans obtained to pay the tax. Thus, the heirs are forced to sell the land for development purposes.

In 1976, the Congress recognized, at least to some extent, the value of the family farm. The Congress believed that when land is actually used for farming purposes or for other closely held business purposes, it is inappropriate to value the land on the basis of its potential "highest and best use" especially since it is desirable to encourage the continued use of property for farming and other small businesses. Also, where the valuation of land reflects speculation to such a degree that the price does not bear a reasonable relationship to its earning capacity, we in the Congress believed it unreasonable to require that this "speculative value" with respect to land devoted to farm or closely held businesses be included in an estate. For these reasons, the Congress in 1976 changed the law to provide for the special use valuation for estate tax purposes in situations involving real property used in farming or in certain other trades or businesses.

It was a grand idea. Because of inflation the concept is more valid today than it was in 1976. However, the provision has not worked as well as it was intended. It is burdened by overadministration and overregulation and in an attempt to prevent abuse it is burdened with regulations and requirements that often vitiate its effectiveness.

Mr. President, the bill I am introducing today is not an additional giveaway of Federal funds. It is not a relief program for farmers, although farmers could use some relief. My bill does nothing more than remove the obstacles so that the concept and plan that we approved in 1976 will work in 1980.

When we were considering the special use valuation for farms, we were concerned that a new loophole was being created for the "Wall Street Cowboy." We made it very clear that our intent was to help the family farm and not the investment broker who owned a hobby farm in Iowa. In response to our concerns, the staff recommended and drafted language that required "material participation" in the operation of the farm by the decedent prior to his death and the heir following the decedent's death in order to qualify for this special use valuation. This requirement to "materially participate" has generated lawsuits, raised the cost of administering an estate, and in many instances has prevented a legitimate farm operator from utilizing this provision.

The IRS has issued lengthy regulations attempting to define material participation. Numerous factors are to be considered but basically the IRS will find material participation only when the activity is conducted on a substantially full-time basis. The IRS regulations suggest 35 hours a week or more actively managing the property as the criteria for material participation. This may present no problem with many farms but experience has shown it prevents a whole industry from using the provision.

The statute, section 2032A of the Internal Revenue Code, specifically included in the definition of a farm, operations such as orchards and woodlands. Unfortunately, the regulations as issued by the Internal Revenue Service do not mention either orchards or woodlands. This is particularly unfortunate because woodlands, that is, our timber industry, is perhaps the most obvious area in which "material participation" simply does not work. Because of the long rotation periods which include intervals of management inactivity and the need for professional advice and service, material participation rules as written for other crop farming does not speak to timberland owners or tree farmers.

In contrast to other agricultural farming, the crop period for timber growing often spans 30 to 60 years. Many timber owners make only one timber sale in their lifetime, and for the timber stand, that one sale may be only a thinning, improvement, or other intermediate cut. Tree farming and the management of timber does not require frequent or substantial work each year or even at 5- or 10-year intervals and thus they cannot comply with the regulations although this industry was clearly and specifically intended to benefit from this provision.

But the timber industry is only one area where material participation works an injustice. It also strikes at the infirmed widow who inherits the farm from her husband. It strikes and works an injustice on the decedent himself if he suffered a prolonged illness prior to his death and could not actively manage his farm.

Certain social security regulations require that the farmer not work in his later years in order to be eligible for old age benefits while the material participation requirement demands that the farmer must work in order to qualify for the special use valuation provision. These rules are mutually exclusive and it forces the farmer to choose during his last years whether he wants social security benefits or a lower estate tax. It was never contemplated that a farmer should have to make this choice. It was never intended that this relief provision should be denied to a widow who is infirm and incapable of physically managing a farm. It was never intended to deny the application of this provision in the situation where the heir is incompetent or too young to immediately assume the full management of the farm. Yet these are the results under existing law and this is why I offer my bill.

My bill would eliminate the requirement of material participation. But to quiet critics who would be quick to say that this creates yet another loophole, I offer in my bill another provision to make other requirements for the application of this section even stiffer. If the purpose of the material participation requirements was to prevent the speculative investor from gaining a tax break, then I propose that the special use valuation for farms and other closely held businesses be inapplicable to any estate unless the qualified property makes up at least 65 percent of the adjusted value of the gross estate. This provision would certainly eliminate any casual investor or Wall Street cowboy from gaining special treatment under this provision.

Another restriction contained in the law as it was passed in 1976 was that the special use valuation could not reduce the fair market value of property by more than $500,000. The purpose of this restriction is obvious. We did not want to permit wealthy landholders from obtaining special use tax treatment. But the Congress overlooked present-day economics in farming.

The modern farmer may have a quarter of a million dollars pass through his hands during the course of 1 year. Note that I said that a quarter of a million dollars passes through his hands, it does not stay there. He expends large amounts of money in equipment and labor and debt service. He borrows huge amounts of money from the banks and is constantly in debt. At the end of the year large amounts of money have literally passed through his hands but very little remains in his pockets. Just consider a modest sized farm in the Midwest of approximately 300 acres. Many, many farms in the West far exceed that size. But if an IRS agent can value that 300-acre farm at "its highest and best use" and places an arbitrary value of $3,500 an acre on that property, then the widow, much to her surprise, is told that the IRS considers her a millionairess.

If this 300 acre farm is worth, as an operating farm, no more than $100,000 or $200,000, it must still be valued at at least $500,000 and taxes assessed at that level. This is because of current law that says that the value cannot be reduced by more than $500,000. This farm must be valued at over half million dollars and the widow must pay estate tax on it. In other words, because of unrealistic assumptions by the IRS in conjunction with this maximum reduction, many farms are denied access to this relief provision. This is wrong. This is an injustice. There is no reason for this artificial level of reduction. Therefore, in my bill, I have proposed the repeal of this restriction.

Another stumbling block to the full utilization of this provision is the requirement in present law that provides for a recapture of tax if the farm is sold or otherwise is disposed of within 15 years following the decedent's death. Thus, if within 15 years after the death of the decedent the property is disposed of to a nonfamily member or ceases to be used for farming or other closely held business purposes, all or a portion of the Federal estate tax benefits obtained by virtue of the reduced valuation are to be recaptured. This recapture provision is to apply not only where the qualified real property is sold to nonfamily members but also where the property is disposed of to nonfamily members in a tax free exchange.

If the recapture event occurs more than 10 but less than 15 years after the decedent's death, the amount subject to recapture is phased out on a ratable monthly basis. This phaseout of the recapture of tax is nothing but an added complication and serves only to raise the cost of administering the law as well as complying with it. I therefore propose to reduce the time within which recapture can occur from 15 years to 10 years. Under my provision, during the first 10 years following the decedent's death, the law would work exactly as it does today. In other words, if the property was sold, the full recapture of tax would occur. My proposal would remove only the complicated formula used to prorate recapture if the property is sold between the 10th and 15th year.

However, my proposal does make one additional change in this area in that it would permit the exchange of qualified property without incurring a recapture of tax. In other words, if an heir had inherited a farm in which special use valuation was elected, and that heir wished to continue farming but perhaps in a different area or a different State, under present law he could not do that without triggering a recapture of the estate tax.

My proposal would allow an heir to exchange his qualified property for other qualified property. If there would be no tax on the exchange then there would be no recapture under my proposal. However, should the exchange involve some additional property or cash then my proposal would trigger a proportionate recapture of the estate tax.

Mr. President, my bill would make two other changes in existing law under the special use valuation section of the Internal Revenue Code. First, under present law, there is no recapture of estate tax in the event of an involuntary conversion. However, present law makes the heir elect not to have a recapture of tax. We have found that this additional requirement of an election not to be taxed is a trap for the unwary. There is no need for such an election.

An involuntary conversion usually comes about when the Government condemns or appropriates a piece of land for its own use. The owner in order not to be taxed under the recapture provisions must then reinvest the money received from the Government in like property. But for the Government to first take the man's land, and then trigger a recapture tax because the owner failed to file an election, is a Government "gotcha." Therefore my bill would eliminate the need to make this election.

Second, under the statute as it was written in 1976, one method of valuing farms was by the use of a special formula using the gross cash rental value of comparable farms. The IRS agents are directed to consider comparable cash rental value of the property and using the formula in the statute arrive at a special use valuation. However, one thing that was overlooked by the draftsman is that many farms do not operate on a cash rental basis. Many have a lease calling for crops in payment or a net share rental.

The IRS has taken the position that it cannot consider any net share rental comparables in determining valuation because the statute says "cash" and if there are no comparable cash rentals the estate is not permitted to use the special formula in the law. Since in many areas of the country it is the custom to have crop rental payments rather than cash payments, it only makes sense that both should be permitted as a guideline in valuation. My bill would do that.

Mr. President, one section of my bill would remove any limitation on the so-called marital deduction for estate tax and gift tax purpses. Under present law there is currently an estate tax marital deduction for property passing from the decedent to the surviving spouse but it is limited to the greater of $250,000 or one half of the decedent's adjusted gross estate. There is also a gift tax marital deduction which provides for an unlimited deduction for transfers between spouses for the first $100,000 in gifts. Thereafter, the deduction allowed is 50 percent of the interspousal lifetime transfers in excess of $200,000.

Also under existing law, the limitation on the estate tax marital deduction is reduced by the amount of the marital deduction allowed for lifetime transfers in excess of 50 percent of the value of the transfers. However, experience has shown that the limitations on the marital deduction for estate and gift tax purposes are unsatisfactory. This is because it results in the imposition of a transfer tax on the movement of property from spouse to spouse and forces couples into an unnatural arrangement of recordkeeping of interspousal transfers. In addition, frequently, the tax that has to be paid as a result of an interspousal transfer comes at the death of a spouse, a time when significant sources of income may disappear and, hence, not a time when further economic adjustment should be required to pay taxes on the transfer.

Gifts between husbands and wives should be generated out of that most basic element of human nature—love, and should not be sullied with tax considerations and recordkeeping. A 100-percent marital deduction with no disqualification of community property would eliminate all of the concerns and bring to full fruition from a tax standpoint the often pressed attitude of husband and wife that the property is "ours" without regard to the technical legal ownership requirements.

I have no doubt that Treasury will oppose my proposal for an unlimited marital deduction. Yet it was Treasury in their famed 1969 proposals that advocated just such an unlimited deduction. The question is: When one spouse dies before the other, should a tax be levied upon the estate of the first to die? In 1969, Treasury advocated that no tax be levied under the circumstances. In 1969 Treasury advocated a 100-percent marital deduction be implemented. The underlying question is what is the appropriate unit upon which to base tax liability? The choice is to treat the family as a unit or as separate members of the family.

The Federal estate tax recognizes the individual rather than the family ownership of property. The central rationale for an unlimited marital deduction is the belief that it is unreasonable to treat the surviving members of a family as receiving a capital gain when one member dies. Actually, the reverse is true. The death of either the husband or the wife leaves the remaining members of the family worse off. If the family includes children at home, the death of the mother will sharply increase the cost of maintaining the family because many of the services typically provided free by the mother must now be purchased. The death of the father will also sharply reduce the income available to support the family. Mr. President, my bill simply recognizes those facts of life.

My bill makes one additional change in the gift tax area. Present law permits a person to exclude up to $3,000 given to another individual per year without having to pay gift taxes on the transfer. The present level of the exclusion has not been raised in 35 years. During that 35-year period inflation has more than quadrupled the cost of goods and property. Despite this, the exclusion remains at $3,000. I am not looking to quadruple the exclusion to match the inflation rate. But I am recommending that the exclusion be doubled to $6,000.

Finally, my bill makes one clarifying change in this area. Under present law if a decedent has made a reportable gift within 3 years of his death, the gift is included in his gross estate. However, it is not clear whether the whole gift or only that amount in excess of the annual exclusion is included. My bill would make it clear that only the excess over the exclusion is included in the gross estate.

ADDITIONAL COSPONSORS

S. 1074

At the request of Mr. KENNEDY, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 1074, to amend the Small Business Act to strengthen significantly the role of small, innovative firms in federally funded research and development, to promote their formation and growth, and to promote a higher level of innovation and productivity in the Nation's economy.

S. 1179

At the request of Mr. BAYH, the Senator from Alabama (Mr. HEFLIN), the Senator from Washington (Mr. JACKSON), and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of S. 1179, a bill to incorporate the Gold Star Wives.

S. 1203

At the request of Mr. BAYH, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1383

At the request of Mr. MELCHER, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1383, the Fuel Energy Conservation Act of 1979.

S. 1444

At the request of Mr. BAUCUS, the Senator from Minnesota (Mr. DURENBERGER) and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 1444, a bill to amend the Internal Revenue Code of 1954 and title 28 of the United States Code to provide for the award of reasonable court costs, including attorney's fees, to prevailing parties in civil tax actions, and for other purposes.

S. 1523

At the request of Mr. THURMOND, the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of S. 1523, the Veteran Senior Citizen Health Care Act of 1976.

S. 1583

At the request of Mr. RIEGLE, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1583, a bill to amend the Motor Vehicle Cost Savings and Information Act.

S. 1598

At the request of Mr. NELSON, the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 1598, a bill specifying the period within which contributions, equivalent to social security taxes, should be made by States having in effect agreements for social security coverage of State and local employees under section 218 of the Social Security Act.

S. 1860

At the request of Mr. NELSON, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 1860, the Small Business Innovation Act of 1979.

S. 1808

At the request of Mr. LAXALT, the Senator from Utah (Mr. GARN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1808, the Family Protection Act.

AMENDMENT NO. 564

At the request of Mr. RIBICOFF, the Senator from Michigan (Mr. LEVIN) and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of amendment No. 564 intended to be proposed to S. 932, a bill extending the Defense Production Act of 1950, as amended.

AMENDMENTS SUBMITTED FOR PRINTING

DEFENSE PRODUCTION ACT EXTENSION—S. 932

AMENDMENT NO. 572

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN (for himself, Mr. BAUCUS, Mr. COHEN, Mr. DURENBERGER, Mr. LEAHY, Mr. RIBICOFF, Mr. DURKIN, Mr. HEINZ, and Mr. SCHMITT) submitted an amendment intended to be proposed by them, jointly, to S. 932, a bill to extend the Defense Production Act of 1950, as amended.

ACID RAIN AMENDMENT

● Mr. MOYNIHAN. Mr. President, I rise today to submit an amendment to S. 932 that will provide for a comprehensive Federal program to address the problem of acid precipitation.

Today we are debating the nature of our energy future, and the extent to which synthetic fuels will play a part in that future. It is clear given our limited range of energy options and given our energy demand that synthetic fuels will be a necessary and increasing source of energy in the coming years. I see this and I agree that such a synfuels effort should be undertaken.

Yet, while we plan our energy future, we must not forget the byproducts of this new energy supply. Acid precipitation, is in part caused by the combustion of fossil fuels. So, for that matter, is carbon dioxide, a separate but similar issue addressed by Senator RIBICOFF and other of my colleagues. As we set this country on a path that will increase its dependence on fossil fuels—particularly those of higher sulfur content than the imported oil from which we seek to wrest ourselves—I say that it is appropriate at this time to look closely at the effects of such a step, and to increase our understanding of the consequences of our actions.

My amendment would do precisely this. It will establish a comprehensive and long-term effort to understand and solve the problems of acid rain, and in the interim will encourage short-term efforts to ameliorate the effects of the problem.

In outline, the amendment I am now proposing will provide the following:

It will establish a Federal Acid Precipitation Task Force composed of representatives of the Departments of Interior; Energy; Health, Education, and Welfare; Commerce; Agriculture; the National Science Foundation; the Tennessee Valley Authority, and four persons appointed by the President to represent all regions of the Nation.

The task force will be chaired by the Administrator of the Environmental Protection Agency;

It directs this task force to develop a comprehensive plan to coordinate the efforts of Federal and State agencies, localities, university and other research and demonstration centers and public and private corporations; and

It authorizes an additional $125 million to be spent by the Federal Government over the next 11 years on the acid rain programs developed in this plan.

At the Federal level the amendment proposes that the task force programs be designed to:

Understand the complex meteorological and chemical process involved in the acid rain phenomena;

Determine and document the effects of acid rain, and develop recommendations for the redressing of these effects;

Foster scientific and management interchanges and agreements with foreign governments and public and private multinational organizations; and

Consider and recommend regulatory and nonregulatory solutions to the problem, which may include compensatory payments or effluent charges to industry, rehabilitation of affected areas, adjustment of pollution standards, and other emission control techniques.

At the State level, this legislation would:

Encourage Federal and State cost-sharing opportunities for the capital expenditures needed for controlling pollution sources and rehabilitating affected areas; and

Authorize $15 million in Federal funds for the States to implement such recommendations.

In addition, this legislation will authorize another $40 million in Federal funds to be allocated to universities and other research and demonstration centers to carry out activities set out for them by the acid precipitation task force. Such actions should include:

Developing course curricula on acid precipitation problems;

Establishing university centers to evaluate the effectiveness of proposed solutions to the acid rain problems; and

Establishing university extension services in local communities to involve local groups in the overall program set out by this legislation.

The Federal task force is also directed to assess the effectiveness of all its programs in meeting the overall objectives of the act. Each year a report will be submitted to Congress documenting the progress made to date toward finding solutions to the acid rain problem. While research is the emphasis in the early years of the act, implementation programs are given greater incentives in the later years of the act.

Mr. President, I ask unanimous consent that the text of the amendment, together with an article entitled "Acid Rain: An Increasing Threat," from today's New York Times, be printed in the RECORD.

There being no objection, the amendment and article were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 572

At the appropriate place, insert the following:

SEC. (a) STATEMENT OF FINDINGS AND PURPOSE; GENERAL DEFINITION.

(1) The Congress finds that acid precipitation—

(A) contributes to the increasing levels of heavy metal concentrations in public reservoirs, water distribution systems, and waterways which often exceed recommended standards for human health;

(B) causes a retardation of a wide variety of forest growth;

(C) is responsible for the fact that hundreds of lakes no longer support fish life;

(D) is a growing problem in many areas of the country;

(E) may significantly reduce wildlife presence and productivity in both aquatic and terrestrial environments;

(F) damages natural ecosystems;

(G) is associated with the corrosion of metals caused by atmospheric sulfur pollutants, costing approximately $7 per person in the United States in 1970;

(H) especially damages such materials as galvanized steel, nickel-plated steel, painted woodwork, antirust painted steel, limestone, and sandstone;

(I) apparently results from combinations of sulfur, nitrate, and chloride emissions in upwind locations which are often remote from the authority and control of affected States;

(J) comes from such diverse sources as auto exhausts, powerplants, home heating plants, and industrial processes;

(K) has increased in its areas of impact and effects as a result of increased fossil

fuel combustion and certain regulatory pollution abatement efforts such as the increase of stack heights and the removal of particulates;

(L) will increase as alternative energy sources such as coal and synthetic fuels replace oil and natural gas in combustion;

(M) has long- and short-term effects that are not clearly understood or documented;

(N) is a serious problem in Europe, Canada, and the United States, where studies in these countries indicate that there are no simple or quick solutions to the acid precipitation problems;

(O) is an interstate and international problem that must be dealt with over vast airsheds encompassing many jurisdictional boundaries and requires interstate and international solutions; and

(P) is presently addressed by the Federal Government inadequately and in a manner lacking interagency coordination.

(2) The Congress declares that it shall be the policy of the United States to—

(A) identify the sources of acid precipitation;

(B) understand the airborne chemistry resulting in acid precipitation;

(C) determine the environmental, social, economic, and human impacts of acid precipitation;

(D) develop and implement a comprehensive plan to mitigate the harmful effects of acid precipitation in this Nation;

(E) utilize universities and other research and demonstration centers to encourage public participation in activities to influence the causes of acid precipitation and to rehabilitate affected areas; and

(F) encourage State participation in solving acid precipitation problems.

(3) For purposes of this Act the term "acid precipitation" means the wet or dry deposition from the atmosphere of chemical compounds, usually in the form of rain or snow, having the potential to form an aqueous compound with a pH level lower than the level considered normal in natural conditions, or lower than 5.6.

(b) INTERAGENCY TASK FORCE AND COMPREHENSIVE PLAN.

(1) There shall be formed an Acid Precipitation Task Force which shall consist of the Administrator of the Environmental Protection Agency as the head of the task force, and one representative each from the Department of the Interior, the Department of Health, Education, and Welfare, the Department of Energy, the Department of Commerce, the Department of Agriculture, the National Science Foundation, and the Tennessee Valley Authority. There shall also be an additional four members who are to be appointed by the President with the concurrence of the appropriate congressional committees, and who shall represent all regions of the United States.

(2) The members of the task force shall prepare a comprehensive plan of action (hereafter in this Act referred to as the "comprehensive plan"), which shall be a coordinated plan to ameliorate the harmful effects of acid precipitation by the end of the ten-year life of this Act by focusing the combined efforts of Federal agencies, State agencies, universities, other research entities and private and public corporations on this problem. In the preparation of the comprehensive plan the members of the task force shall review similar efforts such as the plan prepared by the President's Council on Environmental Quality.

(3) The comprehensive plan shall include but not be limited to programs for—

(A) establishing and operating a nationwide monitoring network similar to the Organization for Economic Cooperation and Development (OECD) Programme on Long Range Transport of Air Pollutants employed in western Europe, which would cooperate with similar programs in Canada and Mexico.

(B) identifying and measuring the sources of acid precipitation;

(C) understanding the airborne chemistry responsible for acid precipitation;

(D) assessing the economic, social, human health, and environmental impacts of acid precipitation;

(E) developing recommendations to eliminate or reduce the adverse impacts of acid precipitation;

(F) effecting scientific and management interchanges and agreements with appropriate foreign governments and with public and private multinational organizations such as the OECD, which is currently recognized as an effective coordinator of European acid precipitation programs, and bilateral efforts between Canada and the United States on the transboundary air pollution problem;

(G) commenting on the adequacy of the provisions and funding levels authorized in this Act;

(H) documenting all current Federal activities related to acid precipitation efforts and recommending steps to assure that efforts which are compatible with the comprehensive plan are maintained;

(I) considering, evaluating, and, as appropriate, recommending both regulatory and nonregulatory solutions such as—

(i) economic sanctions against sources of acid precipitation including, but not limited to, compensatory payments to individual victims, governmental jurisdictions, corporations, businesses, and others who are harmed by such acid precipitation,

(ii) rehabilitation of habitats, buildings, and areas already harmed by acid precipitation,

(iii) adjusted pollution standards and regulations for proven sources of acid precipitation, and

(iv) alternative means of control of acid precipitation source areas where existing or adjusted uniform standards have contributed to such a problem;

(J) developing a methodology to assess the benefits and costs of alternate solutions to the problem, the cost effectiveness of recommended options vis-a-vis other options, and the social and institutional mechanisms available to implement recommended options;

(K) establishing performance evaluation standards for the recommended options;

(L) making recommendations as to the appropriate role of universities, public and private organizations and individuals to carry out the work set forth in the comprehensive plan through such action as—

(i) offering courses, assistantships, fellowships, and scholarships for acid precipitation related subjects,

(ii) developing centers and projects to demonstrate solutions or alternatives for those affected by acid precipitation,

(iii) interpreting available research findings to groups who can use the information, and

(iv) establishing extension services to businesses, homemakers, corporations, resort owners, foresters, farmers, fishermen, and other affected groups to involve them in the overall program;

(M) describing a role for affected and contributing States to participate in this national effort to reduce acid precipitation and to rehabilitate affected areas by encouraging those States to—

(i) coordinate current actions associated with acid precipitation,

(ii) develop future programs to deal with acid precipitation,

(iii) integrate current and future State actions with Federal efforts to attain the national goal, and

(iv) develop counterparts to the task force where appropriate;

(N) recommending to the Congress potential Federal-State cost-sharing opportunities for worthwhile capital expenditures to control sources or rehabilitate affected areas;

(O) identifying State agencies that should be encouraged to develop and implement acid precipitation programs with funding authorized under this Act; and

(P) utilizing and coordinating programs and expertise in public and private corporations relevant to the solution of the acid precipitation problem.

(4) All of the subjects to be addressed in the comprehensive plan shall be dealt with on the basis of our presently limited knowledge, and the fact that there may be insufficient data to make certain determinations at this time shall not be grounds for postponing the completion of the comprehensive plan by the required deadline.

(5) The comprehensive plan shall be—

(A) the basis for determining goals and for determining who is to receive the funds authorized under this Act;

(B) the basis for establishing diplomatic initiatives and bilateral treaties with other countries involved in acid precipitation programs;

(C) submitted to the Congress and for public review one year after the date of the enactment of this Act;

(D) available for public comment for a period of sixty days;

(E) revised if appropriate as a result of consideration of public comment; and

(F) considered in final form, with respect to the first, second, and third year expenditures recommended, thirty days after the close of the public comment period.

(6) The task force shall convene as necessary during the period of eleven fiscal years which begins with the fiscal year in which the plan is submitted.

(7) The members of the task force shall be responsible for the implementation of all recommendations after public and congressional review and modification.

(8) The task force shall submit to Congress, on the annual anniversary date of the submission of the comprehensive plan, an annual report which shall—

(A) summarize and evaluate, vis-a-vis the goals of this Act, all Government-sponsored acid precipitation activities to date;

(B) summarize and evaluate, vis-a-vis the goals of this Act, the expenditure rate for all funds authorized under this Act;

(C) summarize and evaluate, vis-a-vis the goals of this Act, the progress to date in implementing the comprehensive plan and in reaching the national goal;

(D) document the results of the analysis of alternatives and performance evaluation actions conducted pursuant to subparagraphs (J) and (K) of subsection (b)(3) of this section;

(E) contain recommendations for additional funding needs where appropriate; and

(F) contain recommendations for cost-sharing capital expenditure with State governments to control sources or rehabilitate affected areas.

(9) The task force shall modify the comprehensive plan to reflect current knowledge and performance evaluations of overall progress. Such a modified plan shall be submitted to Congress and for public review and comment for a period of sixty days.

(c) AUTHORIZATION OF APPROPRIATIONS.

(1) For the purpose of establishing the task force and developing the comprehensive plan there are authorized to be appropriated $1,000,000 for the first fiscal year beginning after the date of the enactment of this Act.

(2) For the purpose of carrying out the duties of the task force in each of the ten fiscal years following the fiscal year referred to in subsection (c)(1), there are authorized to be appropriated $200,000 for each such fiscal year.

(3) For the purpose of implementing those

provisions of the comprehensive plan which require Federal action under subparagraphs (A) through (K) of subsection (b)(3) of this section, there are authorized to be appropriated—

(A) $3,000,000 for each of the first three fiscal years following the fiscal year described in subsection (c)(1);

(B) $5,000,000 each year for the fourth and fifth fiscal years following the fiscal year referred to in subsection (c)(1);

(C) $8,000,000 each year for the sixth and seventh fiscal years following the fiscal year referred to in subsection (c)(1);

(D) $10,000,000 each year for the eighth and ninth fiscal years following the fiscal year referred to in subsection (c)(1); and

(E) $12,000,000 for the tenth fiscal year following the fiscal year referred to in subsection (c)(1).

(4) For the purpose of implementing those provisions of the comprehensive plan relating to the utilization of university and other research and demonstration centers, as described in subsection (b)(3)(L) of this section, including the making of grants to such entities, there are authorized to be appropriated—

(A) $6,000,000 for each of the first four fiscal years following the fiscal year referred to in subsection (c)(1);

(B) $4,000,000 each year for the fifth, sixth and seventh fiscal years following the fiscal year referred to in subsection (c)(1);

(C) $2,000,000 for the eighth fiscal year following the fiscal year referred to in subsection (c)(1); and

(D) $1,000,000 each year for the ninth and tenth fiscal years following the fiscal year referred to in subsection (c)(1).

(5) For the purpose of implementing those provisions of the comprehensive plan relating to the encouragement of State participation, as described in subparagraphs (M) and (O) of subsection (b)(3) of this section, including the making of grants to States, there are authorized to be appropriated $2,500,000 for each of the first six fiscal years following the fiscal year described in subsection (c)(1).

(6) All funds authorized under this Act shall be appropriated to the Environmental Protection Agency, which shall carry out the provisions of this Act, including the making of grants as authorized under subsections (c)(4) and (c)(5) of this section.

(7) The Administrator of the Environmental Protection Agency, after agreement by the members of the task force, may, beginning with the fourth fiscal year following the fiscal year referred to in subsection (c)(1), shift amounts authorized under one subsection of this section for use as provided under another such subsection if he determines, based upon research and rate of attainment of goals under the comprehensive plan, that the funds would be more usefully spent if so shifted. No amount in excess of 15 per centum of the amount authorized for any fiscal year under any subsection may be so shifted, except that up to 30 per centum of the amount authorized for any fiscal year under any subsection may be so shifted by the Administrator if given approval by each of the chairmen of the committees of the House and Senate having jurisdiction over this Act.

[From the New York Times, November 6, 1979.]

ACID RAIN: AN INCREASING THREAT

(By Bayard Webster)

TORONTO.—The rapid rate at which rainfall is growing more acidic in more areas has led many scientists and governmenal officials to conclude that acid rain is developing into one of the most serious worldwide environmental problems of the coming decades.

Rainfall with an acidity level of vinegar that can have a deleterious effect on aquatic and terrestrial ecosystems has been reported in widely separated areas of the earth in recent years. And the trend toward more acidic rain has been accelerating in eastern Canada, the northeastern and northwestern United States, the southern Appalachians, parts of Florida, and in Europe and sections of Asia.

A three-day conference here last week on acid precipitation and its movement across national boundaries attracted more than 700 scientists, government officials, industrialists and environmentalists from Canada, the United States and Europe. In more than a score of seminars and meetings, discussions and lectures were held on the sources and cause of acid rain, the extent of its air pollution role, possible corrective measures and the outlook for the future.

John Fraser, Canada's Minister of the Environment, who addressed the conference, said in an interview that acid rain was "the most serious environmental problem that Canada faces." He noted that toxic fumes from Canada's smokestacks that caused acid rain were transported across the border to the United States, where they had a damaging impact, just as American emissions carried northward had a major impact in Canada.

"The problem can't be solved without an agreement between the two countries," he said, adding that diplomats were working on a treaty and that President Carter and Canadian Prime Minister Joe Clark were scheduled to discuss joint action when they meet in Ottawa next weekend.

Gus Speth, the chairman of the United States Council on Environmental Quality, told the conference that "too much damage has already been done by acid rain—too many trout lakes and salmon streams have already been rendered lethal to fish, and valuable wilderness areas are beginning to show signs of acidification."

Although many aspects of the physical and chemical actions that occur in the formation of acid rain are not known, scientific research has pinpointed the major events that take place. Acid rain is formed when the gases of nitrogen oxide and sulfur oxide are emitted into the atmosphere and as they are carried along by wind currents, they combine with water vapor molecules and are transformed over a period of hours or days into microscopic drops of nitric and sulfuric acids. These are returned to earth when they encounter rain- or snow-producing clouds, sometimes hundreds or thousands of miles from their original point of emission.

Sulfur dioxide, which comprises about 60 percent of the acid components of acid rains, is created almost entirely by the combustion of coal and oil in power plants, smelters, steel mills, factories and space heaters. Nitrogen oxide, which makes up about 35 percent of the acid in the rains, originates in the exhausts of internal combustion engines, mostly in automobiles, and in the emissions resulting from high-temperature fossil fuel combustion processes.

TROUT AND SALMON AFFECTED

In North America, surveys by chemists, biologists and nature conservation groups such as the National Wildlife Federation have shown that the United States and Canada discharge some 50 million tons of sulfur and nitrogen oxides into the air each year. In Europe, industrialized countries such as Britain, Germany and France produce millions of tons that affect their neighbors, particularly Scandinavia.

The effects of acid rains include the decimation or malformation of fish, particularly trout and salmon, in acidified streams and lakes in North America and Europe. It has been estimated that some 50,000 lakes in the Adirondacks and Canada have become acidified to the point that the fish population has declined or been destroyed.

Several scientists at the conference said that acid rains can cause the leaching of essential plant nutrients from the soil and can reduce nitrogen fixation by microorganisms, causing the soil to be less fertile. They also reported that above-normal amounts of acids in lakes and streams tend to cause the extraction from the bottom sediments of toxic metals such as cadmium, lead and aluminum. These, like sulfuric and nitric acids, can destroy fish and contaminate drinking water.

RELATIVELY LITTLE RESEARCH

The acidity or alkalinity of water is commonly measured by the pH scale, which ranges from 0 to 14. A reading of 7 is neutral; readings above 7 are alkaline and below 7 are acidic. Biologists consider that rainfall or water with a pH lower than 5.6 can be harmful to plant, animal and human life. The average pH of normal rainfall, 5.6, is slightly acidic but harmless because of the naturally and human-generated carbon dioxide in the air, which forms mild carbonic acid when united with water molecules.

The advent of acid rains that have lowered the pH of some lakes and streams to levels ranging from 5 to 2.8 has become most noticeable in the last 10 years as the number of power plants, ore smelters and automobiles has multiplied in industrialized countries. As a result, there has been comparatively little scientific research into the effects of sulfur dioxide and nitrogen oxides on soil and on animal and plant life. More has been discovered about the impact of sulfur oxides than that of nitrogen oxide because the latter chemical involves a more complicated series of chemical actions in the formation of acid rain than does its constant companion, sulfur dioxide.

Attempts have been made to disperse or detoxify the emissions that cause acid rain, to offset the rain-caused acidity of lakes, streams and soils, and to breed new plant or animal species that would be acid-resistant. Biologists, agronomists and industrial concerns have devised various systems, devices and breeding programs, most of which, ironically, have had effects opposite to those intended.

SCRUBBERS ARE EFFECTIVE

Smokestack scrubbers, which remove much of the sulfur at the point of emission, have been found to be an effective but expensive way of alleviating the problem at the source. But the following methods and plans have proved counterproductive or hold little hope for the future:

Tall smokestacks. Originally built to disperse acid emissions that fell on surrounding urban areas, the stacks have been found to send the offending chemicals high in the atmosphere, providing them with the air currents that transport them to rain clouds miles away. A copper smelter smokestack in Sudbury, Ontario, is 1,200 feet tall and has been found to be the cause of acid rains that fall miles away.

Liming of acidified lakes. In attempts to decrease the acidification of lakes, tons of lime have been added to the water. But the lime has combined with heavy metals in the bottom sediment, freeing them and increasing the toxicity of the water.

Breeding acid-resistant fish. Dr. Harold Harvey, a University of Toronto zoologist told the conference that "it makes no sense to breed acid-resistant fish," adding, "Would we breed a gas-resistant canary for miners?"

Many scientists told the audience that perhaps the most serious problem would turn out to be the long-range irreversible effects of acid rains. In an interview Dr. Jay Jacobsen of the Boyce Thompson Institute at Cornell University said of acid rain: "It occurs repeatedly, it affects large regions and it falls on different political arenas. So it's going to be hard to cope with. What happens when you change the soil's chemistry for example?

We're going to have to institute a long-range monitoring program for air, soil and water before we really find out the extent of the problem." ●

AMENDMENT NO. 573

(Ordered to be printed and to lie on the table.)

Mr. TSONGAS (for himself and Mr. HART) submitted an amendment intended to be proposed by them, jointly, to S. 932, a bill to extend the Defense Production Act of 1950, as amended.

DEPARTMENT OF DEFENSE APPROPRIATIONS—H.R. 5359

AMENDMENT NO. 574

(Ordered to be printed and to lie on the table.)

Mr. HEFLIN (for himself and Mr. STEWART) submitted an amendment intended to be proposed by them, jointly, to H.R. 5359, an act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold hearings on legislation to provide loan guarantees to the Chrysler Corp. on November 14, 15, 16, and 19, 20, and 21, 1979. The hearings will begin at 10 a.m. in room 5302 of the Dirksen Senate Office Building. For further information, please contact Elinor Bachrach of the committee staff at 202-224-7391.

SUBCOMMITTEE ON CRIMINAL JUSTICE

● Mr. MATHIAS. Mr. President, I wish to announce that the Subcommittee on Criminal Justice will hold a hearing on November 16, 1979, to investigate the effects of the drug paraphernalia business on children and young people. The hearing will be held in Baltimore in room 1208 of the Fallon Federal Office Building, and will begin at 10 o'clock. Senator BIDEN, chairman of the Subcommittee on Criminal Justice, and I will chair the hearing.●

ADDITIONAL STATEMENTS

MILTON EISENHOWER

● Mr. MATHIAS. Mr. President, I count it among the blessings of my life that fate has allowed me the honor and pleasure of having Milton Eisenhower as a friend. This remarkable man has set a standard of public service that is matchless. He has been an example to and an influence on generations of Americans who know him only for the breadth of his interests and achievements.

For his friends, he has been a constant source of wisdom, wit, and warmth. He possesses in abundance that greatest of all God's gifts, "an understanding heart."

It is difficult to capture a man of Milton Eisenhower's stature and spirit in words. I am happy to say, however, that columnist Hugh Sidey has come very close to doing that in a column entitled "The Last of the Eisenhowers," which appeared in Time magazine on October 29, 1979. I ask that it be printed in the RECORD.

The article follows:

THE LAST OF THE EISENHOWERS

He has the microwave smile that warms another person without heat. His feeling for America is long and loving. Milton Eisenhower, the last of that remarkable cluster of Kansas boys, turned 80 the other day and wished he could sculp a U.S. President out of proven parts. He would weld his brother Dwight's heart bone to Franklin Roosevelt's head bone. What a work of political art that might be, he chuckles.

"No one matched Dwight Eisenhower in his love of people and his belief in people," said Milton. "He possessed great honesty and he had no selfish purpose. F.D.R. was a master at communication with the people. They believed him. And then he possessed great optimism. The people learned to believe in themselves and they were able to overcome their troubles."

Milton Eisenhower knows that the political environment is a lot more complicated today than it was 20 years ago. "The whole system of electoral government is on serious trial," he said. He worries particularly about the fact that we in the U.S. are making politics a life-time career. The search for "electoral immortality," he calls it. "Those in Congress know the causes of inflation," he insisted, "but the solutions are unpopular politically. They vote for re-election, not what helps the nation."

Eisenhower would like to see congressional terms limited and he is an advocate of the single six-year presidential term. Such restrictions might, in his view, restore a higher degree of courage to our process. "We should have had energy rationing three years ago," he said. "I mean the right kind of rationing that would cut waste."

Many of those who were swept into office by the professional tactics developed in recent years, says Eisenhower, come to Washington with "the assumption that they don't dare be truthful" about the great questions facing the nation. The presidential selection process of dozens of state primaries preceding the conventions is also on the Eisenhower list of political abominations. He sees political maneuver being placed over purpose. "We are guaranteed that we are not going to get the kind of person we need," he declared.

In the White House a President wastes half his time on trivia, Eisenhower estimates. He recalls his brother's being constantly interrupted by a tap on the Oval Office door followed by an invasion of the alfalfa growers or some such organization. Roosevelt once told Milton Eisenhower: "In this job you have a hundred responsibilities each day. You can redeem only four or five of them . . . You must make choices that are not very happy."

Milton Eisenhower, diplomat and scholar, collected his wisdom from service with eight Presidents. He wrote messages for Calvin Coolidge, was a global troubleshooter for Roosevelt and worked a bit for John Kennedy, long enough so that he came to believe J.F.K. would have been a great President if he had lived.

Eisenhower believes that historians are already beginning to view Dwight with more appreciation. One of the reasons, he thinks, is Dwight's understanding of power and its consequences, and his firsthand knowledge of the people who ran the world in his day. Experience, suggests Milton Eisenhower, lies at the heart of successful leadership.

That kind of experience must be founded on deep wonder and humility, generated by an appreciation of the special blessings granted the U.S. His memory of his Abilene childhood is vivid and it still guides him. "Responsibility became as much a part of our being as eating and sleeping," he said. It seemed just right last Wednesday night when Milton Eisenhower, No. 1 Baltimore Orioles fan, threw out the first baseball in the last game of the World Series. The Orioles lost, but he is already cheering for next year.●

COURAGE IN CZECHOSLOVAKIA

● Mr. KENNEDY. Mr. President, the Government of Czechoslovakia has rightly been condemned for its imprisonment last week of five prominent dissidents, including the important playwright Vaclav Havel. The arrest of these courageous intellectuals, the charges of "attempts to subvert the Republic," the sham trial, and the appalling sentences of up to 5 years imprisonment are harsh commentary on a country that once produced such great democrats as Masaryk and Benes.

These events revive the terrible memories of 1968, when the Soviet tanks rolled in to crush the fragile freedoms of the "Czech Spring." They remind the Czech people, as well as all of us, of the limits of freedom in their country. An active agent of this repression is the Husak government, which was installed by the Soviet Union in 1968 and has closely followed its directions ever since.

The sad result of these pressures is what the world saw last week. For legal protest through official channels, for asking their Government to abide by its own promises, Vaclav Havel and his compatriots are sentenced to up to 5 years in prison.

Clearly the Czech Government is in violation of its obligations under the Helsinki Accords. Just as clear is the mandate given to the signatories of that treaty—not least the United States—to vigorously condemn what amounts to a gross violation of basic human rights.

Mr. President, in Monday's edition of the Washington Post there was a compelling editorial that captured both the tragedy of this crackdown and the outrage that so much of the world has expressed. I strongly commend it to my colleagues, and I ask that the editorial "Prague Fall," from the November 5, 1979, edition of the Washington Post, be printed in the RECORD.

The editorial follows:

PRAGUE FALL

It is, when you stop to think about it, like a play by Vaclav Havel; the Czech government agrees, in the Helsinki Accords, to respect certain basic rights of its citizens. When it fails to do so, Mr. Havel, along with other Czechs whose humanistic challenge to the reigning orthodoxy marks them as "dissidents" in the state's eyes, launches a legal protest through official channels. The authorities ignore the protests, which are then picked up by Amnesty International and other outsiders. For thus making a legal protest asking the government to abide by its own promises, the Havel group is accused of "subversion." After a sham trial, the playwright and his four comrades are sentenced to up to five years in prison.

It's just happened, of course. It's sickening. Elsewhere in in Eastern Europe the local Communist Party leaders are open to ways to prevent individual challenges from becoming public confrontations. As Hungary's minister of culture said not long ago, some

disagreements go to "the very foundations of our society" but "we have no wish to solve these problems dramatically." In Czechoslovakia, however, the rulers are permanently chilled by the specter of another "Prague Spring"—the period in 1968, before Soviet tanks rolled in, when patriotic Czech communists tried to create "socialism with a human face." Rather than flexibility accommodate considerations of human rights, the Prague leadership reacts harshly and immaturely in the Soviet style. Its evident purpose in the Havel affair is not only to punish one group of dissidents but also to intimidate Amnesty International.

Foolish thought. The attention that Amnesty and others turn on Prague arises from the wishes and interests of the brave men and women whose rights are being trampled. Moreover, it is not only human rights groups that care. Many Western governments, including the United States, have expressed their dismay at the Czech government's dishonoring of its international obligations. The Communist parties of Western Europe have voiced their embarrassment at the latest tawdry display of socialism with a policeman's face. Mr. Havel and his jailed comrades deserve honor—and their liberty.●

GSA—REVISITED AND UPDATED

● Mr. BAUCUS. Mr. President, for more than a year now the country has been exposed to the rawest kind of revelations on the General Services Administration. Allegations have been followed by investigations. Indictments and guilty pleas have proliferated among lower-level GSA employees, and most observers are certain there is much more to come. A few Members of Congress have tried to grapple with this multifaceted affair, notably our distinguished colleague from Florida, LAWTON CHILES, whose Governmental Affairs Subcommittee has done first-rate work in oversight of GSA. This in turn has inspired others, including myself, to look to other areas of GSA, and results have been similar.

My Judiciary Committee subcommittee has conducted a 6-month evaluation of certain areas in GSA, that culminated in late September hearings. What the investigation and hearings unearthed, at least in part, I wish to share with my colleagues today.

The U.S. Government, in preparation to refight World War II, stockpiles large quantities of scores of raw materials. This stockpile is managed by GSA. It is also worth billions of dollars and attracts constant and substantial commercial attention. In one place we found GSA had built a roadbed out of zinc slabs, on which to run forklift trucks. In another place GSA had built a roadway over a large stockpile of manganese. The situation dealing with disposal of surplus lithium raises a number of serious antitrust questions that have yet to be resolved.

We also found that the U.S. Government has entered into a number of long-term stockpile sales contracts with certain companies. By entering into such long-term commitments, even though the price may subsequently rise very substantially, the U.S. Government remains locked into a long-term commitment to sell a certain company a specific stockpile item at a much lower price. Testimony at our hearings elicited the admission that there were at least 20 such contracts and that no specific public, agency-wide prohibition against further contracts of this type had been delineated in any formal sense by GSA.

We looked at all GSA's internal audits for the last decade; some 4,000 of them. GSA auditors have done a good job despite a policy of not giving them adequate staff and funds required to do their job properly.

GSA's Public Building Service, which handles construction and leasing of public buildings, is in very serious difficulty. Federal construction projects in major cities have been seriously mishandled. Change orders have been abused. Federal leasing has been abused. Certain Federal buildings have been so poorly constructed as to require purchase by the United States of adjoining properties in order to raze them. Claims against the Federal Government by certain contractors seem to have assumed epidemic and gigantic proportions. In all, this is perhaps the saddest, most abused program or division within GSA, and that says a lot.

A similar situation pertains in the area of purchasing. The same can be said of the self-service store system. The same can be said of the GSA motor pool system and its methods of maintenance for vehicles and buildings.

Report after report, year after year, shows the problems are nationwide, cumulative and thus far, virtually unchanged. Audits performed a few weeks ago are, if anything, more depressing reading than audits of a decade ago.

At the National Archives a trust fund has been abused, travel and personnel rules are being broken with abandon, and whistleblowers have been retaliated against in the crudest, most inexcusable manner. In one case, elementary due process seems to have been denied an employee.

In the Automated Data and Telecommunications System Division, a similar situation prevails. Sole-source contracting that ignores free enterprise competitive bidding seems common. Presently, a proposal is being seriously considered, that would, on an interim sole-source basis, award a 5-year contract to the local phone company for conversion of all 260,000 Federal telephones in the National Capital area. This proposed contract, named Metrex, woud cost in the neighborhood of $300 million over a 5-year period. Questions were raised at our hearings about this. Questions have been raised at the Office of Management and Budget and within ADTS about it. Yet this proposal continues to advance, and perhaps best of all epitomizes the state of affairs at GSA as of this time.

I think the leadership of GSA and its Inspector General is decent and sincerely motivated. They have cooperated fully with my efforts. But I fear they are in a no-win situation, for we are dealing here with a compromised system that has gotten worse with time.

The next step for my subcommittee will be to trace what happened to certain allegations against some higher-ups at GSA. Our work at GSA will continue indefinitely, and I commend the investigation of the agency to my colleagues individually and collectively. We cannot continue to deal effectively on behalf of our constituents with this kind of an operation. There is room here for many substantive investigative efforts in the public interest. We have an obligation to ask these questions.●

HEALTH POLICY: AN EMPLOYER'S PERSPECTIVE

● Mr. LUGAR. Mr. President, I wish to commend to the attention of my colleagues a speech by Richard D. Wood, chairman of the board of Eli Lilly and Co. "Health Policy: An Employer's Perspective," was recently delivered before the Washington Business Group on Health, and is a speech which deserves special note, I believe, in light of the continuing pressure being placed upon the health community to reduce its costs.

Dick Wood is a highly respected leader of the business community, and was recently featured in the cover story of the October 29, 1979, issue of Business Week for the consistently outstanding accomplishment in drug research and development for which Eli Lilly has been renowned throughout the years. I am pleased to submit today the thoughts of Mr. Wood on steps the business community can take to reduce spiraling health care costs. He does not advocate "quick-fix" relief, but rather a common-sense, measured reform of the fundamental causes of inflation in this area of our economy.

At this time, I ask that the text of Mr. Wood's speech be printed in the RECORD.

The speech follows:

HEALTH POLICY: AN EMPLOYER'S PERSPECTIVE

I am very pleased to be with you this morning and to have an opportunity to talk about health policy, a subject that is important to you as representatives of your companies, important to employers like myself, and of increasing concern to all citizens of this country. Health policy is a very emotional subject, one that lends itself to political distortion. Such distortion adds to the problems faced by business as we try to do our jobs in a climate that is changing for both technology and regulation—and that changing climate affects the health delivery system just as it affects energy, environmental protection, and most other important areas of public policy.

The Washington Business Group on Health has an important opportunity to assess this climate, to relate to our business colleagues the proposals made in Washington, and to subject them to the kind of factual analysis that will break through the emotion of politics and result in sound public policy.

Most of my remarks this morning will be confined to issues and policies touching on the cost of health care. I come to these issues from my experience as vice chairman of the Business Roundtable Task Force on Health: as the chairman of a large, diversified, multinational employer; and also from years of involvement in the pharmaceutical manufacturing industry. This industry is a provider of about 5 percent of the national health spending. It has a large stake, and also a good dealt of experience, in understanding what works and what does not work in providing increasingly productive, quality health care to the citizens of this country.

We of the Business Roundtable have come to realize in the past few years that business must pay more attention to the management of health care benefit programs. This is true

not only because of their increasing cost but because of the effect that cost-containment can have on the quality of health care. We must also participate in the shaping of public policy toward health. We as management must be concerned that our employees and their families receive quality care and that society as a whole enjoys better health and longer life. Because we believe in the economic system that has brought us where we are today, we are also concerned about the increased involvement of the federal government in any segment of our society served, traditionally and well, by the private sector.

The media and the politicians concentrate on the areas where we fall short. This is the nature of news. Walter Lippmann defined "news" sixty years ago in his book Public Opinion. He said, "News is what protrudes from the ordinary." The fact is that for most of the people most of the time our health care system performs very well indeed. The quality of health care has improved dramatically over the years. Indeed, the health of the American people has never been better.

In recent years, leadership in these developments has come principally from the United States, rather than from abroad. I am convinced that has happened because of our largely private-sector orientation toward financing and delivery of health care goods and services. Importantly, there have been the incentives and the means to pursue research and development in private institutions—medical schools, hospitals, manufacturers of pharmaceuticals and other goods and devices—as well as in the public sector. Such pluralism has added greatly to our society's ability to innovate.

The American public is clearly aware of the values and achievements of its health care system. Members of the typical American family have deep respect for the doctors who treat them and think that the overall level of care received is generally satisfactory. They do not want a health care system totally run by the same group that runs the post office department. These conclusions are supported over and over again by public opinion polls.

However, making these points in no way denies that there are problems that should be addressed, and it is in this context that business needs to concentrate. Health programs are costly—at least partly because of the costs of continual research and development. And cost is what the average U.S. citizen is concerned about. Since employee benefit programs pay for perhaps one-quarter of our nation's health care costs, much of the impetus for improvements in the system's efficiency can come from the corporate group represented by the people in this room. But we must be careful to protect the ability to grow in effectiveness as well as in efficiency.

I believe that in recent years a great deal of misinterpretation has crept into the whole subject of health care costs and the reasons for their growth. The resulting confusion has come about not only from faulty analysis of the situation but often from an effort to advocate or strengthen a particular point of view. In any event, these are the facts about health care cost increases:

From fiscal year 1965 to fiscal year 1978 total health care spending in this country increased very significantly. About 56 percent of this increase had nothing at all to do with the health field. It was caused merely by the pass-through of general inflation and by growth in the population.

Only 8 percent was caused by medical care price inflation, as such. It is interesting to note that most of this price inflation occurred following the introduction of Medicare and Medicaid. The remaining 36 percent of the increase in total health care spending—and this is crucial to an understanding of potential policy impact—was caused by growth in demand for health care goods and services. This was true whether individuals were Medicare or Medicaid recipients, active employees or members of their families covered by employee benefit programs, or individuals paying their own way. We all demanded more-sophisticated, more-expensive health care services—and with greater frequency than ever before. We all have benefited in terms of longer lives and better health.

The bottom line of these figures, from the policy point of view, in this: When we look at price increases for the various health care goods and services, after making allowance for inflation, it is apparent that their additional increased price has not been out of line with the trends in the economy in recent years. From 1977 to 1978 the prices of all services less medical care services went up 8.5 percent, while medical care services went up 8.5 percent, while medical care services rose 8.6 percent. More recently, from August of last year to August of 1979, while the total consumer price index went up nearly 12 percent, all medical care prices rose 9.2 percent.

Any thoughtful analysis of these figures would suggest that a significant effort aimed solely at reducing the cost of health care would end up in one of two ways: Either it would lower the quality of care or it would ration its availability in order to control the demand side of the equation. Such potential impact of health policy actions on the quality and availability of health care in the future is, in my opinion, the most important and the most easily overlooked aspect of health policy analysis.

Can we slow the growth of that part of health care spending that may be excessive? Can we halt any undesirable increase in the share of Gross National Product devoted to health care spending without destroying the great benefits of the unique public-private system developed in this country? The answer is, "Yes"—provided that we really address the fundamentals. For example, here are some suggestions for actions that can be continued or initiated by business men and women working within their companies and within their communities:

1. We can support efforts of hospitals and other health care delivery institutions to become more efficient in terms of basic business-management principles.

2. We can change the emphasis of our benefit programs to provide incentives for patients to use outpatient or ambulatory care, instead of care in the far-more-expensive hospital environment.

3. We can shift benefits away from complete coverage of routine services to greater copay and deductible systems, but with greater catastrophic coverage as a trade-off.

4. We can modify insurance programs to avoid unequal coverage of alternative benefits—for example, inpatient surgery or testing rather than outpatient care. Such unequal coverage can lead the insured to take advantage of what is covered rather than to utilize what may be more appropriate in terms of more-efficient or better-quality care.

5. We can expand and improve methods of utilization review to help make certain that health services are being provided according to the best professional and cost-effective standards of care in the community.

6. We can continue to support a pluralistic health care system in this country so that both the provider and the consumer have a variety of choices from which to choose health care. A pluralistic system helps to increase competition and creates greater efficiencies in the health care delivery system.

7. Business has an important role to play in the new health "planning" efforts at the institutional, local, and state levels. Involvement with the Health Systems Agencies, hospital prospective-rate-review commissions, and the Voluntary Effort will be especially important as the effectiveness of these institutions is tested in actual performance. These institutions came about because of the assumption that without them existing free market forces cannot operate effectively. Preserving the mix of government, consumers, and business in these efforts is important. Local- or state-level control of these institutions must also be maintained as our delivery and financing systems for health care continue to develop. As a practical matter, Health System Agencies, hospital rate-setting, and the Voluntary Effort are all designed to implement health policies. The more that business organizations participate in these programs in their communities, the more influence business will have in implementing our nation's health policy. For some time, of course, the Washington Business Group on Health, as well as the Business Roundtable, has urged that employees of all of our companies should participate in these efforts and should serve on hospital governing boards.

Through these suggestions we are trying to strike a delicate balance between efficiency and cost-containment, on the one hand, and, on the other, the preservation of two powerful principles of our democratic society: namely, the dignity of the individual and freedom of choice.

In the real world, of course, consumer choice must inevitably face the reality of the limit on resources. Achieving the benefits of freedom and choice in all things while facing this constraint is, I believe, our most important goal. The suggestions I have made attempt to strengthen the financial constraints on both provider and consumer choice. Such constraints have been somewhat weakened—and even distorted—in parts of our company benefit plans and other financing mechanisms.

We must also recognize that additional cost-constraining forces will take time to develop—their success is certain but will not be immediate. I favor them not only because they will save money tomorrow but because they utilize the fundamental strengths of our free society, rather than relying on centralized political control. The alternative approach—the search for a quick-fix—is doomed to failure, as we have learned so many times in recent years. The quick-fix can also result in the destruction of even more of our fundamental strengths and vitality.

Let me turn now to another important role of business in the health policy arena of the 1980s. With the rampant inflation and depressed productivity so visible today, it seems to me that our country has many deep-seated economic problems to solve before it can seriously consider any new public-sector programs in the health care area. From my point of view, it would seem more prudent to work within the available public and private systems and to seek improvements where indicated. Business can and must work for a public policy for health care that reflects the expertise and perspectives it has developed. The business community can certainly work with its own health programs and with existing private health care systems to make improvements without delegating the problem to the federal government. At the same time, business should assist the public sector in providing programs that give the poor and the disadvantaged (including the unemployed) appropriate access to our country's vast health care resources.

Medicaid and Medicare are very basic instruments of our public policy toward health care and its financing. These programs are very popular. They are economically feasible for the kinds of people they now cover, to the extent that these groups represent the economically disadvantaged and those who are otherwise uninsurable in any practical sense.

Let me discuss briefly the approach I believe business should take toward Medicaid and Medicare. These are expensive programs that at one time seemed to promise a great many people almost unlimited access to very important benefits. You remember the political claims made in the 1960s. I think we can all agree that government programs cannot possibly deliver on these kinds of promises. Since these programs were instituted, inflation, population growth, and medical technology have progressed, causing an astounding growth in their cost. Pressures on government budgets, which must allocate limited funds among many alternatives, have become intense—especially since the national real economic growth potential has declined.

Along with these cost pressures has come a tendency to impose more and more bureaucratic controls on both providers and patients in public programs. Our quite-natural response has been to regulate the system that provides the care rather than the politically more difficult response of regulating the demand. Business in general—and the Washington Business Group on Health in particular—can be an important voice in helping to resolve this conflict between needs and values.

The principles I discussed earlier for strengthening employee benefit programs are potentially just as applicable to Medicaid and Medicare. They will be even more difficult to implement in public programs than they will be in private programs. However, I see no other solutions to the problems of Medicaid and Medicare in the sort of governmental budget environment we have been facing and that we will continue to experience in the 1980s.

Business policy goals toward Medicaid, as well as toward all areas of health policy, should be based on this principle: Direct federal government intervention—including financing—should be minimized. Medicaid programs should be shaped, even more than at present, toward state-designated and state-administered programs. The advantages of utilization review based on management-by-exception principles are far more attainable when the individual states handle the administration. The demonstration and improvement of program cost-effectiveness can, thus, be achieved without more involvement from Washington.

If we have learned anything during the 1970s it is that the benefits perceived from new federal regulatory efforts are often heavily outweighed by the enormous costs of regulation and bureaucratic redtape. In addition, we all know the stifling effect that federal regulation has on the ability to innovate and to benefit from technological advances. This is true whether you produce automobiles, rubber tires, barrels of oil—or are directly involved in the health care industry. This unquantifiable factor is, perhaps, the greatest cost of regulation to the people of the United States.

When any part of our economy is brought under politically oriented bureaucratic control, every part of the business community suffers. As a matter of principle, attrition of the private sector must be resisted—especially when there are more-viable private-sector alternatives available, as there are in health care.

I hope that our country can discuss and debate the subject of health care in a positive and productive fashion. The alternative, I fear, would be unthinkable—a one-track system that, no doubt, would result in an actually lower level of health quality, create accessibility problems, and ultimately increase the nation's health costs.

I appreciate the opportunity to participate in this meeting of the Washington Business Group on Health and hope that the productivity of your efforts continues to grow. Since you represent business, you have an important voice in the reevaluation of health care policy that is currently taking place in this country. I hope that your work continues to contribute to the effective representation of business and to the formation of policies that will continue to give our people the kind of health care they deserve, in the kind of framework of private initiative and personal choice they respect.

Sources, or causes, of increased health care costs[1] *(fiscal year 1965–fiscal year 1978)*

	Percent
General inflation plus population growth	56
Excess medical care price inflation	8
Greater per capita utilization of health care goods and services	36
	100

Price (Inflation) comparison[2]

(BLS Consumer Price Index)

	Percent
Increase 1977–1978:	
All services less medical care services	8.5
Medical care services	8.6
Increase August 1978–August 1979:	
Total CPI	11.8
All medical care	9.2

[1] Based on methodology in John R. Virts, "U.S. Health Care Spending: A Macro Analysis," Business Economics, September 1977. Data updated by the author.

[2] Various Bureau of Labor Statistics publications. All Urban Consumers Index used for 1978–1979 comparisons.●

SIXTY-SIXTH NATIONAL FOREIGN TRADE CONVENTION

● Mr. STEVENSON. Mr. President, the 66th convention of the National Foreign Trade Council was held October 23 in New York City. The convention adopted 15 resolutions charting a national trade policy to improve U.S. export competitiveness. I commend the resolutions to the attention of my colleagues and especially the Senate Export Caucus. A number of legislative initiatives are already underway which closely parallel the National Foreign Trade Convention's recommendations, and others will be forthcoming.

Mr. President, I ask for the resolutions to be printed in the RECORD.

The resolutions follow:

RESOLUTIONS OF THE 66TH NATIONAL FOREIGN TRADE CONVENTION

The following resolutions incorporate recommendations of this Convention for charting a new national trade policy to improve our export competitiveness, increase our exports, and reduce the large deficits in the U.S. trade balance.

1. A commitment to expand exports of both goods and services must be a policy goal of high priority. All policies and programs both of government and business affecting trade and its interrelationship with investment must be evaluated and modified as necessary in the light of their effects on exports. Counterproductive laws and regulations should be revised in accordance with the President's 1978 statement on national export policy which directs Executive departments and agencies to weigh the export consequences of regulatory actions. Consistent with our national security interests, trade should be freed of arbitrary restrictions imposed for foreign policy objectives which should properly be achieved through diplomatic means.

2. To increase the nation's productivity, U.S. laws should be amended to eliminate disincentives and to provide additional incentives for savings, investment and innovation. Furthermore, antitrust laws should be interpreted to permit firms in appropriate circumstances to pool resources for cooperative research efforts.

3. Because any improvement in export competitiveness could be offset by inflationary prices, it is essential that the current rate of inflation be reduced. A reduction of government spending should be coupled with deliberate fiscal and monetary restraint.

4. Since high levels of oil imports at increased prices contribute to inflation in the United States, impact unfavorably upon our balance of payments and pose threats of supply disruption for our economy, it is essential that policies be adopted to assure that in the long run, oil imports will be reduced by encouraging conservation plus the development of domestic fossil fuels, and nuclear and other alternative sources of energy.

5. To assure a coordinated national trade policy, it is recommended that the Administration's proposals to consolidate trade policy functions in the Office of the Special Trade Representative, and operational functions in the Department of Commerce be adopted. Service industry trade support should be strengthened within both the Office of the Special Trade Representative and the Commerce Department.

6. The lending authority of the Export-Import Bank should be increased. In addition, Section 402 (the Jackson-Vanik Amendment) of the Trade Act of 1974 should be revised to eliminate the restrictions on the financing of sales to the Soviet Union and China and the granting of most-favored-nation tariff treatment for both countries.

7. The Webb-Pomerene Act of 1918, authorizing the formation of export trade associations, should be revised to include service industries, to strengthen the antitrust exemptions, and to allow U.S. companies to form consortia to bid on major foreign projects. Legislation should also be enacted to foster the formation of export trading companies which would market services as well as products worldwide.

8. To retain and encourage U.S. managers and skilled workers to serve overseas thereby strengthening our competitive capability, the Foreign Earned Income Act of 1978 should be revised to liberalize the tax treatment of the income of such expatriates so that it will be less at variance with practices of other industrialized nations.

9. The United States should exercise continued leadership in the implementation of the agreements reached at the Tokyo Round of the Multilateral Trade Negotiations. Our government will require the close cooperation and support of the business community in obtaining adherence to the agreements by our trading partners and in the prompt dismantling of their non-tariff barriers. In future trade negotiations reduction of restrictions on service industries and the adoption of a safeguards code should be given priority.

10. The Administration should make every effort to forestall any further adoption of protectionist measures. In the long run such protectionist devices threaten to provoke a destructive spiral of retaliation and counter-retaliation which would significantly reduce the nation's exports.

11. U.S. government export promotion and market research programs should be expanded to cover the service industries as well as products and should be directed primarily towards medium and small business concerns. It is essential that export consciousness be fostered among small and medium sized companies.

12. U.S. private enterprise must place greater emphasis on export markets and exercise the highest degree of resourcefulness in providing goods and services adapted to the needs of foreign customers at competitive prices.

13. U.S. foreign direct investments create and stimulate exports and traditionally contribute significantly to our balance of payments. U.S. Government policy should encourage further foreign direct investments and should make every effort to support and protect investments from expropriation or other arbitrary actions of foreign governments which are taken in a manner contrary to established international law.

14. The foreign tax credit provisions of the Internal Revenue Code and the present system of taxation exempting the undistributed earnings of foreign subsidiaries of U.S. companies must be retained to meet competition of foreign companies. So also the Domestic International Sales Corporation provisions of our tax laws, which provide an incentive for exports, should be retained. H.R. 5076, which would amend the Internal Revenue Code to prohibit states from including in income subject to tax, or taking into account, the income of a foreign corporation which is a member of the affiliated group, should be enacted.

15. U.S. exporters should be assured that confidential business information they provide to the Commerce Department regarding export shipments will not be disclosed. H.R. 5233 providing for exemption of Shipper's Export Declaration from disclosure should be enacted.●

GRAIN CAR SHORTAGES

● Mr. BAUCUS. Mr. President, shortages of rail cars continue to plague U.S. grain producers.

At the same time, Montanans and other grain producers are paying excessively high freight rates.

Mr. President, grain car shortages and high freight rates are not just a Montana problem. Every Senator should be concerned about the impact of grain car shortages on farmers in his or her State and on the Nation's balance of payments.

Shortages of transportation equipment threaten to curtail agricultural exports. Secretary of Agriculture Bob Bergland announced recently that U.S. agricultural exports reached a record high of $32 billion during fiscal year 1979. But at the same time, Agriculture Department officials are concerned that transportation tie-ups may reduce potential exports by $1 billion. The United States desperately needs these export revenues to bolster the balance of trade.

MONTANA'S CAR SHORTAGE

Because it has no transportation alternatives, my home State of Montana is particularly hard hit by the grain car shortage. The Burlington Northern Railroad, which traditionally transports about 60 percent of Montana's grain, is 23,000 cars behind system-wide and 7,000 in Montana alone.

Montana farmers have been largely unable to ship 220 million bushels of grain harvested in 1979, and 120 million bushels that remain in storage from previous years. Grain shipped by railroad declined 5 percent from 1978 to 1979 in spite of unprecedented demand for rail car service.

Normally, 70 percent of Montana's grain moves by rail. At the present time, only 60 percent is moving by rail. Not only is trucking generally more expensive for shippers, but increasing truck traffic is adversely affecting the State's highways.

FREIGHT RATES

Rail car shortages are aggravated by rapidly increasing freight rates. The Interstate Commerce Commission recently authorized the Nation's railroads to increase export grain rates by 11.8 percent. Surcharges and fuel recovery increases which amount to 4.7 percent boost recent increases in grain tariffs by 16.5 percent. These increases have driven freight rates to $1.20 or more per bushel from eastern Montana locations. Montana farmers are paying more than one-third of the value of their grain for transportation services.

I filed a verified protest to oppose the recent increase, pointing out that Montana grain freight rates are not justified by railroad costs. Other Montana grain interests including some 130 members of WIFE (Women Involved in Farm Economics) also protested.

RECOMMENDATIONS

Inadequate grain car service is a long-term problem that demands long-term solutions. I have four specific recommendations for congressional action.

First, we must preserve the western lines of the Milwaukee Railroad. These lines are essential to provide competition in the Northern Tier and capacity for expanding grain exports to China and other Asian countries.

I commend my colleagues for their action in approving S. 1905 on November 2. This legislation prevented a permanent shutdown of service west of Miles City and insures that a proposal by western interests to reorganize the Milwaukee as a transcontinental, employee and shipper owned railroad will receive full and fair consideration by the Interstate Commerce Commission.

Along with Senator BENTSEN, I have introduced S. 1104 to temporarily suspend tariffs on imported rail cars. One factor contributing to the grain car shortage is the inability of domestic manufacturers to fill orders for new boxcars and covered hoppers. Mexico is a major rail car producer, but the present 18 percent tariff discourages rail car imports. This tariff should be eliminated until the backlog in grain car orders ends.

Third, members of the Senate should demand an Interstate Commerce Commission investigation of the rail car shortage. The Commission has allowed the current shortage to persist for almost 3 years with no comprehensive study of either causes or possible solutions. The Commission has constantly evaded my request for such a comprehensive study.

Finally, Congress should provide financial incentives for rail car production. As chairman of the Subcommittee for Oversight of the Internal Revenue Service, I intend to introduce legislation to provide tax credits for railroads, farm cooperatives, or individuals who put new or refurbished grain cars into service.

Mr. President, the initiatives I have outlined are necessary to resolve the persistent problem of grain car shortages.●

GLOBAL INCOME ASSESSMENT

● Mr. MATHIAS. Mr. President, the executive board of the International Chamber of Commerce has adopted a resolution criticizing the use by California, and a few other States, of worldwide combination which the resolution describes as an attempt "* * * to impose the 'global' or 'unitary' form of assessment based on income of companies involved in international operations outside the U.S."

S. 1688, which I introduced on August 3, would resolve this problem by requiring the States to follow tax procedures, accepted internationally, by prohibiting them from using worldwide combination and limiting their taxation of foreign source dividends to the extent such dividend income is effectively taxed by the Federal Government.

Mr. President, I ask that the resolution adopted by the executive board of the International Chamber of Commerce (ICC) be printed in the RECORD.

The resolution follows:

RESOLUTION

The ICC views with concern the inevitability that an increase in cases in which profits taxes are levied by political sub-divisions unencumbered by treaty obligations, will result in mounting double taxation of profits (which tax treaties set out to avoid). This is particularly so if the basis of assessment in any such political sub-divisions is not entirely consistent with that of the country itself and extends to operations carried on outside the country. This problem has manifested itself in an acute form in connection with the attempts of the State of California to impose the "global" or "unitary" form of assessment based on income of companies involved in international operations outside the U.S.

The dangers of double taxation and the administrative problems arising from the taxation policy of California, and other political sub-divisions, have undoubtedly deterred would-be investors from making investments which would otherwise have been undertaken. This approach, if it should spread, could easily become a most important threat to international trade since international operations would inevitably be confronted with a real danger of multiple taxation of the same profits and unacceptable administrative burdens. The dangers were also recognized by the Council of the OECD in rejecting the so-called "global" method in its recent report on Transfer Pricing (*Transfer Pricing and Multinational Enterprises* (OECD, Paris, July 1979) pp. 14–15).

The ICC reconfirms its view that, as a general rule, tax should be based on a fair measure of income as computed by reference to the amount which could be expected to arise between independent parties dealing at arm's length. This rule has universal application. The ICC therefore recommends that, in all cases where the taxation policies of political sub-divisions extend to non-domestic operations, all possible measures should be taken to ensure that the terms of an agreement or treaty dealing with taxation on income should bind all authorities having jurisdiction within the boundaries of each contracting State. This recommendation is in accordance with the OECD model taxation Convention 1977 (Art. 2) and a considerable number of international friendship, trade and shipping treaties.●

DOMINGO LAINO MUST BE RELEASED

● Mr. KENNEDY. Mr. President, on September 15, 1979, prominent Paraguayan opposition leader Domingo Laino was arrested for allegedly having insulted President Alfredo Stroessner of

Paraguay. He has since been placed in "internal exile" in the small town of Mbuyapey, where he is permitted to leave his room only to walk to a police station a short distance away. He has been denied permission to see his two children and his wife, who is in the final stages of pregnancy.

Only last year, on July 13, 1978, Dr. Laino was beaten, kidnapped, and imprisoned without charges following a visit to Washington, where he discussed with members of the Congress and the administration the critical situation in Paraguay. Following statements by concerned persons around the world, including myself, the Paraguayan Government chose to release Dr. Laino from prison. He has since been unflagging in his struggle for human rights in Paraguay.

Dr. Laino's current confinement represents a severe setback for the human rights situation in Paraguay. Because of human rights violations in that country, the Paraguayan Government is currently denied U.S. military assistance. In view of the prominence of Dr. Laino as a symbol of the human rights struggle in Paraguay, his confinement should be grounds for a further review of all of our relations with the Paraguayan Government. In particular, if Dr. Laino is kept in confinement, the United States should consider the termination of economic assistance to Paraguay.

The case of Dr. Domingo Laino has come to represent more than the plight of just one man. Dr. Laino has come to symbolize the larger cause of human rights for all Paraguayans. With this in mind, the United States should take strong action for his release in the near future.●

GAO DESERVES CONGRESSIONAL SUPPORT

● Mr. BAUCUS. Mr. President, Members of the House and Senate are quite aware of the tremendous amount of work that goes into making the legislative branch function as a separate, useful arm of our National Government. Beyond the long, often unheralded hours put in by Members' personal staffs, committee, and supportive staffs of Congress, is the work of the Library of Congress, Office of Technological Assessment, Congressional Budget Office, the General Accounting Office, and others.

Right now, there is legislation before Congress designed to help the General Accounting Office (GAO) increase its ability to do its job well. This legislation, introduced in the Senate by Senator GLENN, is designed to extend authority of the General Accounting Office in several areas and to increase GAO's independence vis-a-vis the executive branch.

The bills doing this are S. 1878, the General Accounting Office Act of 1979, the General Accounting Office Personnel Act of 1979.

Mr. President, I am no expert on the workings of GAO. This expertise is lodged in the Governmental Affairs Committee chaired by Senator RIBICOFF, and in its subcommittee chaired by Senator GLENN. However, my Judiciary Subcommittee is heavily involved in a broad array of oversight work and relies extensively on quality products produced by GAO.

I have written Senator GLENN and Senator RIBICOFF offering my support for efforts designed to increase authority and independence of GAO in its workings with the executive branch. I would like to share with my colleagues one point I made in these letters: All of us in Congress who depend on GAO's ability to do serious policy work and to get answers to difficult questions we ask of it, must work to insure that GAO has resources and tools it needs to do its job.

When GAO asks the Senate to support measures such as the Personnel Act of 1979 and other legislation designed to clarify its authority to help it do work we request, I believe we should act as expeditiously as possible.

I hope all my colleagues who use GAO's services will recognize its need for our support. By enacting these measures we will give GAO a vote of confidence, as well as a boost to its proven effectiveness.

If the legislative branch is to function as a separate useful arm of National Government, it must have the requisite research and auditing capability that is essential to legislative and oversight activity. I believe these proposals will enhance GAO's capability and will help insure that Congress research and analytical resources continue to provide information and analytical work of the highest quality.●

JUDGE JUAN BURCIAGA

● Mr. SCHMITT. Mr. President, it gives me great pleasure to announce that Juan Burciaga was confirmed on October 31, 1979 by the U.S. Senate for the position of U.S. district judge for the State of New Mexico.

There are two reasons why I am particularly delighted with this nomination.

First, Mr. Burciaga was recommended to Senator DOMENICI and myself by the New Mexico Federal Judicial Selection Commission. Established in September of 1977, this nine-member bipartisan commission advises us on qualified nominees to fill vacancies for the U.S. district court, U.S. Attorney, and U.S. Marshal positions in our State. This selection process is designed both to create a merit system for these critical judicial and law-enforcement posts and allow continuation of the prerogative of such selection by the President. Twice, since 1977, this process has resulted in excellent appointments in my home State of New Mexico and the nomination of Juan Burciaga to the position of U.S. district judge for the district of New Mexico continues this tradition.

Second, Juan's background and personal data are very impressive. I applaud the wisdom of our selection commission's recommendation, the President's acceptance of this recommendation, and the Senate confirmation on Wednesday.

Juan's education—University of Colorado, West Point graduate, University of New Mexico law graduate—and 16-year legal practice with its emphasis on general civil law and trial litigation qualifies him for this important position. To this post, he will also bring a history of personal involvement in his community and bar association activities. It is particularly noteworthy given New Mexico's historic ties to the people of Mexico, that Juan has also given a good deal of his free time to the problems of legal representation for Mexican nationals present in our country without the necessary legal documents to live or work here.

Mr. President, Juan is a loving father of five, a fine attorney, an active participant in his community and professional affairs, and a compassionate human being. I am confident that he will reflect great credit upon our judicial branch of the Federal Government and the people of New Mexico.●

INTELLIGENCE FAILURES

● Mr. HARRY F. BYRD, JR. Mr. President, the Richmond News Leader of Tuesday, October 30, contained an editorial which expressed dismay at the inability of American intelligence to verify an alleged nuclear explosion near South Africa. In the view of the Richmond News Leader the possible South African test "has verified the unverifiability of SALT."

Failures of American intelligence efforts directed toward Korea and Cuba have been, I feel certain, a deep concern to the Congress and to the American people. Indeed, the public is entitled to question the ability of our intelligence agencies when they have been unable to detect the presence of a Soviet combat brigade in Cuba, apparently for several years. The public has good reason to question the ability of our intelligence agencies when they underestimate the size of the North Korean Army, again for a period of years, and by a very wide margin.

Testimony received last week in the Subcommittee on General Procurement of the Committee on Armed Services indicates that the Central Intelligence Agency may even now be underestimating Soviet military procurement by as much as a factor of two.

I ask that an editorial from the Richmond News Leader, entitled "South Africa's Nuke," be printed in the RECORD.

The editorial follows:

SOUTH AFRICA'S NUKE

The story that South Africa may have tested a nuclear bomb is important not so much for what it could reveal about South Africa's nuclear capabilities but for what it says about the sorry state of U.S. intelligence. As such, the incident could play a crucial role in the SALT debate.

In September a U.S. spy satellite detected a nuclear explosion off the coast of South Africa. Last week the Carter administration announced the blast occurred when South Africa detonated a small nuclear bomb. South Africa immediately countered, saying a Soviet submarine patrolling the area could have set off the blast. (One prominent nuclear scientist believes the U.S. satellite recorded the explosion of a Soviet missile that crashed into the sea several years ago.)

The administration subsequently retreated from its original position. Now it says only that while a satellite recorded an explosion, the source of the blast has not been determined. It could have been a South African test, a test by another nuclear-capable country—Israel, India, Pakistan, the USSR, or Red China—a Soviet sub, or whatever.

American inability to identify the source of the explosion casts doubts on our ability to verify Soviet compliance with SALT. The administration repeatedly has reassured wary Senators that the U.S. can uncover Soviet cheating. Yet if a sophisticated satellite monitoring a relatively open area cannot pinpoint the cause of a nuclear blast, then how can the U.S. verify SALT—especially when the Soviets will do their best to thwart American efforts?

We may never know what actually exploded off the South African coast. But the blast has verified the unverifiability of SALT.●

MONTANA SEVERANCE TAX ON COAL

● Mr. BAUCUS. Mr. President, recently there has been a good deal of discussion concerning the Montana coal severance tax. For the benefit of my colleagues, I would like to share with them some of my thoughts concerning the Montana severance tax.

The State of Montana is facing challenges to its coal severance tax on numerous fronts. Four coal mining companies doing business in the State have alleged for various reasons that the tax is in violation of the U.S. Constitution and law. Legislation is now pending which would limit the level of severance tax that a State could levy on energy resources produced on certain Federal lands. The controversy threatens to result in a court action and potential invalidation of the highest coal tax in the Nation. At stake for Montana is a major revenue source.

The present projected levels of coal production in the State make the coal tax issue one of major consequence and significance. Less than a decade ago, a little over 1 million tons of coal were mined in Montana. That amount increased to over 26 million tons in 1976. The Montana Energy Research and Conservation Office predicts that in excess of 96 million tons will be mined in 1990.

The Montana coal severance tax was enacted by the 1975 Montana State Legislature. It is important to note that the revenue committees of the Montana Legislature decided to assess both in-State and out-of-State coal users with the cost of alleviating the impact of coal development and increasing the flow of revenue to the State's general fund. Contrary to popular belief, the Montana tax is not assessed at a uniform rate of 30 percent. The 1975 act provided that surface mined coal with heating quality under 7,000 Btu per pound would be taxed at 20 percent of its contract sales price. A tax of 30 percent of value is imposed on strip coal in excess of 7,000 Btu. Income from the severance tax is intended, "to improve the total environment and minimize damage thereto." Under the act, the people of Montana are indemnified for the extraction of a nonrenewable natural resource.

Many utility companies, outside Montana, have argued that the Montana coal severance tax has hindered interstate commerce. They contend that the citizens of Montana are unfairly benefitting by the sale of interstate coal. Yet, the Montana law makes no distinction between intrastate and interstate coal use. The statute states—

A severance tax is imposed on each ton of coal produced in the State.

As I mentioned earlier, Montana's coal severance tax is the Nation's highest. This severance tax adds roughly 2 percent to the utility bill of an individual customer. Put another way, it adds less than a dollar to a utility bill of $50. Contrast this with the 5 percent sales tax added by most States, which would add $2.50 to the same utility bill. A sales tax of this size would more than double the amount of the Montana tax. Yet, the States that employ this form of taxation have not lost a precious natural resource, nor have they suffered the environmental impact that the producing State does.

The biggest cost associated with Montana coal is transportation. Load centers which use most of the product are located hundreds or thousands of miles from our State. For example, in 1975, Montana coal cost $5 a ton at the mine. However, it costs $11 per ton to transport it to Detroit Edison. Our severance tax on that ton of coal amounted to $1.30.

Today, it costs $19 per ton to transport Montana coal to Texas. Thus, our tax is less then the annual increase in freight rates. Rather than challenging Montana's coal severance tax, I think all Americans would be better served by studying the impacts of regressive sales taxes and freight rates on energy costs. The effect of Montana's coal severance tax on utility customers is miniscule. The severance tax helps the State of Montana alleviate the impact of coal production.

BTU COMPARISONS

A recent study by the Texas Department of Revenue compared the Texas tax on oil and gas with that of its neighboring States. That study concluded that the only fair way to compare these relative taxation costs was by per million Btu's—in other words, their energy value.

Texas levied taxes totaling 8.64 cents per million Btu's; Oklahoma, 8.13 cents; New Mexico, 7.95 cents, and Louisiana 10.26 cents. Montana's tax was rated at 9.8 cents per million Btu's, or in line with the taxing levels of Texas and her neighbors.

Although these dollar levels are close, there is an important distinction to be made between Texas and Montana. For historical reasons, Montana entered statehood with a great deal of Federal land within its borders. Many Western States harboring Federal lands would be penalized if they were limited in their ability to assess severance taxes. It is the presence of these Federal lands, which are effectively beyond the reach of the States, which make it imperative that their development not impact unfairly on the States. We in the West have neither the population nor the revenues to handle heavy influxes of strip mining on Federal lands.

We desperately need severance tax revenue to build schools and roads and other support facilities in those counties most heavily impacted by strip mining of Federal lands. Montanans and other residents near the Fort Union coal seam will suffer the disruption of land, loss of water, and water aquifers, resulting power lines and a host of other problems.

Much of Montana's wealth is in its natural resources, and throughout the State's history, those resources have been exploited for processing and use elsewhere. As a result, the State's economy has been radically tied to forces and decisions beyond its control. The Montana coal severance tax is a levy on the severance of a major State resource. It is a reasonable and rationale attempt to level out the complex and largely unforeseeable loss of coal development.

In the weeks ahead, I hope that my colleagues will consider my comments during the discussion of coal severance taxation.●

ADDRESS BY SENATOR BIDEN TO NATO OFFICIALS

● Mr. MATHIAS. Mr. President, the distinguished Senator from Delaware (Mr. BIDEN) recently addressed a high level group of Western European officials of the Northern Atlantic Treaty Organization (NATO). In his address, Senator BIDEN spoke movingly of the ravages of drugs on the youth of both Europe and the United States, and he urged that NATO nations join forces in an effort to fight the worldwide epidemic.

His address is timely and important. Threats to our security come in many guises, and the Western Alliance stands as a deterrent to military adventurism. The same Alliance could help meet the insidious threat posed by dangerous drugs. I urge all of my colleagues to give Senator BIDEN's proposal immediate consideration. The magnitude the problem requires nothing else.

I ask that the text of his address and the editorial comments on it be printed in the RECORD.

The material follows:

ADDRESS BY SENATOR JOSEPH R. BIDEN, JR.

Secretary Luns, Mr. Costle, distinguished members of the NATO Committee on Challenges of Modern Society, it is both a pleasure and an honor to be invited to address you today.

Let me begin by joining the previous speakers in congratulating this committee on its accomplishments over the past decade in identifying and formulating answers to the social problems common to the Western World.

But even as I offer you my sincere congratulations, I have the somewhat uncomfortable duty today of calling a new and profoundly serious challenge to your attention—a major international problem I believe ranks high on the agenda of unfinished business for the western alliance.

That problem may be very simply stated—and I believe the evidence for it is compelling, despite the reluctance of many nations to confront it—the abuse of narcotic drugs, especially heroin, which for many years has plagued the United States, is reaching epidemic proportions in Western Europe.

A flood of opium, morphine and heroin is pouring out of the unpoliced tribal areas of Pakistan and Afghanistan into the western world, so much so that those areas have replaced the fabled "golden triangle" of southeast Asia as the major source of the worldwide illegal drug traffic.

It is a flood that threatens to overwhelm all of us, unless we find the means for dealing with it, and find them soon.

It is altogether appropriate, I think, that we should consider this problem here today—the NATO alliance is designed not for the exclusive benefit of any one country but for the mutual benefit of all which are parties to the alliance.

There was a time, perhaps, when it was possible for other members of NATO to regard the illegal heroin trade and its disastrous consequences as primarily a problem of concern to the United States.

My message to you today is that that time has passed—the illegal drug traffic has become massively international in its proportions, and it is no longer a uniquely, or even primarily, American problem.

That's why I believe this committee is the proper forum for discussing this challenge and for engaging the resources of NATO to meet it.

In developing an agenda for action on nonmilitary issues, this commitee has been effective in addressing critical problems affecting all or many members of the alliance.

I come before you to make the case today that international narcotics control is just such an issue.

This is a truly international challenge that is not confined within the borders of any member of the alliance and has reached proportions far beyond the control of any single NATO nation.

It is a challenge facing all of us, and it can be met only through the development of a multi-lateral global strategy involving all the members of NATO—those already afflicted by large-scale durug abuse and those who cannot escape that affliction if it is not promptly brought under control.

I want to convince you of what is already known by your social scientists and law-enforcement officials—nothing threatens the internal security and social fabric of any nation as directly and as direly as the prospect of massive heroin addiction and the related crime and violence it breeds.

I say this is an official of a country that has undergone a heroin epidemic and as chairman of the Senate Judiciary Subcommittee on Criminal Justice.

I know how demoralizing widespread drug abuse can be, especially how it can demoralize the young. I have seen the chaos caused by the street crime, much of it violent, bred by heroin addiction. I recognize the hysteria such crime can foster within an otherwise confident population.

During the decades of the sixties and the seventies, the heroin epidemic was indeed our problem and not yours.

To our misfortune, we led the world with a spiraling addict population and an accelerating crime rate. In 1970 the greatest cause of death among our youth was not the automobile nor even the war in Vietnam—in 1970, in New York City, there were a thousand deaths from heroin overdose—

A rate that had grown five-fold in ten years.

Addicts who had developed thirty-dollar to a hundred-dollar-a-day drug habits turned to shoplifting, mugging, burglary and armed robbery to pay for heroin.

Perhaps as many as eight hundred thousand addicts were committing at least two billion dollars a year in crimes against property, which often included crimes against persons, to support the high cost of their addiction.

The crime rate went right through the roof, with an impact on the morale of law-abiding citizens from which we have not yet recovered.

That in turn had an impact on our national politics. The allegation that Democrats had been "soft on crime" was a major factor in the Republican Presidential victory in 1968.

Another consequence was some of the most repressive anti-crime proposals our Nation has ever known were suggested, though not adopted.

However, President Nixon, to his credit, did eventually develop a narcotics-control policy that enjoyed some success.

He recognized that coping with illegal narcotics meant confronting the economic realities of a flourishing black market in drugs.

He knew, and he convinced Congress and the American people, that to control the drug traffic we had to control the forces of both supply and demand.

Therefore, we undertook a massive program to treat our addicts and thereby reduce demand for drugs. This program eventually cost us three and a half billion dollars, and we are still spending more than three hundred million dollars a year on the treatment of addicts.

At the same time, we stepped up our domestic and international law-enforcement efforts, until today we are spending nearly half a billion dollars a year on narcotics law enforcement, for a total of more than two billion dollars since 1969.

It didn't take long for us to realize that spending all that money would do no lasting good unless we could reduce the production of opium abroad. Our response was a program of financial assistance to countries willing to join us in that effort.

Our successes in reducing the supply of opium from abroad—although admittedly sometimes temporary—are well known. They were achieved through a combination of diplomatic initiative and economic assistance.

In 1972, with the cooperation of Turkey, France and the United Nations, the so-called "French-Turkish Connection" was broken. The Turks banned the production of opium and French police, working with ours, closed the heroin processing laboratories in southern France.

With that major trafficking route blockaded, Mexico became the major source of heroin moving into the United States, and that country became the focus of our efforts to stop the drug trade. A multimillion-dollar joint four-year U.S.-Mexican program to wipe out opium production is finally beginning to stem the flow of heroin over our southern border.

For the first time in ten years, the number of heroin addicts in the United States has begun to decrease, dropping by more than a hundred thousand in the past few years. The death rate from heroin overdose is down from about a hundred to a hundred and fifty to about thirty per month.

Our law enforcement experts believe the disruption of the Mexican and French-Turkish connections have reduced the amount of heroin imported into this country from as much as eight tons to less than five tons per year.

That leaves us still facing a major problem with heroin addiction and related crime in this country, but it does demonstrate that concerted, cooperative international efforts can do something about the drug trade.

Flushed with such success, our narcotics control officials might reasonably be expected to beam with pride—but they're doing no such thing.

Instead, they're beset with grave fears for the eighties. Privately, they are talking about a return to the epidemic of the early seventies.

Why?

Because they know that the opium required to supply the heroin needs of nearly half a million American addicts can be grown on ten square miles of land beyond any government's control in the "golden triangle" of Laos, Thailand and Cambodia.

And because they know that even if we control the major shipping point for Southeast Asia in Hong Kong to contain "Golden Triangle" opium, that ten-square-mile production area will simply move to the border area between Pakistan and Afghanistan which is equally beyond the control of either government.

Insurgency in the tribal areas of Afghanistan and political instability in Pakistan have forestalled international efforts to substitute other crops that would pay farmers there as much as they make for growing opium poppies.

Moreover, instability in these two countries and in Iran facilitates the smuggling of opium or morphine across borders along smuggling routes that have existed for thousands of years.

Indeed, our intelligence people tell us that a bumper crop of opium is about to be harvested in the rural provinces in this new "Golden Triangle." That opium is bound for heroin processing plants in the Middle East, where it will be exported first to your sons and daughters in western Europe, and when that market is saturated, to the streets of American cities.

The magnitude of the production in these countries dwarfs anything we have known before in Mexico, Turkey or the Golden Triangle.

Our experts estimate opium production there could provide the base for eighty tons of heroin a year, well over ten times the current U.S. consumption.

That excess has to go somewhere, and that somewhere, economically and geographically, is western Europe.

Indeed, heroin from this new area is the primary cause of the drug epidemic now raging in West Germany and threatening the rest of Europe.

The statistics are disturbing, but inescapable.

The heroin overdose rate in Germany has increased from nine in 1969 to an estimated 600 for this year, a rate that exceeds the rate in the United States.

In Italy the rate has increased four-fold in as many years.

I'm sure if you check with your own medical examiners, you will find similar increases in other western European countries.

We are finding high rates of addiction among American servicemen in Europe. In some of our military units there, routine heroin use may be as high as twenty percent.

We have no reliable statistics on the rate among other NATO forces. Indeed, no one can make reliable projections of the magnitude of the epidemic among your civilian or military populations, or even among our own troops.

We have only rough estimates—but I are sure the actual figures would be even more terrifying.

More disturbing to us in the United States is the suggestion from our law-enforcement officials that a replacement for the French Turkish connection may be in the making.

There is evidence that organized-crime figures in this country have renewed their contacts with their European counterparts to use processing labs in the Middle East and southern Europe and once again swamp the United States with south Asian heroin.

So it is not only in your interest, but also in our own, that I urge your countries to join the United States in putting a stop to the international traffic in illegal drugs.

The experience of the seventies teaches us that the supply of heroin can be reduced in the producing countries—but that when production is curtailed in one area, the enormous economic incentives involved will create production in other countries.

It also teaches us that no one country, whatever its motivation and resources, can control the drug trade—it requires a truly international effort with a global perspective.

Now, let me be honest.

When the United States Government last came before the international community to ask for help in curbing narcotics traffic, we were pointing our finger at others. We told you, more than a little self-righteously, that you were not sufficiently concerned with our problem.

That is not my message today.

We know that it is the seemingly insatiable demand of American addicts, as well as the complacence of other countries where heroin is produced and shipped, that feeds the black market in illegal drugs.

But in acknowledging our share in the responsibility, I must also point out that our epidemic has become your epidemic, too.

That is the new reality, and the new challenge, that we must face together if the contagion is to be halted.

Accordingly, I want to propose a number of general initiatives for my country and its allies.

First, we must escalate our efforts to reduce demand in this country through treatment and rigorous enforcement of the law. We understand that, and I think you will see renewed efforts forthcoming.

Second, we must increase our commitment to international efforts by increasing the amount of money and effort we put into our State Department's program to reduce foreign supplies. This, too, I believe, we will accomplish.

Third, we must admit the obvious—and that's what I'm trying to do today—we must admit that we can't go it alone and make any real headway in solving what has become increasingly an international problem.

We must formulate a global strategy for combatting illegal drugs—a global strategy for a global problem affecting your countries as well as ours.

In your own interests, as well as in the interests of a healthy NATO, I believe you will find out that cooperation not merely desirable but absolutely essential.

Fourth, we know that one basic element of such a strategy is recognition that the production of opium is intimately and inevitably related to international rural poverty and to the politically sensitive topic of agrarian reform.

And it's worth noting right here that while the opium poppy is attractive as a cash crop to third world farmers, because there is a market for it, the cash return is not great at the field level—the major profits occur much further down the line—so that it is not inordinately difficult to persuade those farmers to turn to another cash crop, especially if enforcement makes the poppy burdensome.

Fifth, such a strategy must be based upon meaningful data on the scope of the epidemic and the factors that are causing it.

Therefore, we hope you will join us in asking the Organization for Economic Cooperation and Development to create an internationally-respected base of data on the magnitude of the drug problem facing all of us.

Sixth, we must recognize that economic development in the third world is not only the ultimate solution, but also that we must approach it carefully lest we exacerbate the problem in trying to resolve it.

We have proposed that the Development Assistance Committee of the Organization for Economic Cooperation and Development include narcotics control as a factor in bilateral and multilateral assistance programs. We are concerned that such assistance programs deliberately exclude opium production from the irrigation projects and other agricultural programs they sponsor.

Seventh, a centerpiece of a global strategy combatting narcotics abuse must be the United Nations.

One important U.N. instrument will be the Fund for Drug Abuse Control. The fund's now-political nature has been especially useful in non-aligned Afghanistan, as well is in more western-oriented Pakistan.

The fund has been active in traditional law enforcement, crop substitution and research in South Asia and other opium-producing areas of the world. It would be very much in the interest of all of our countries to increase contributions to the fund.

Eighth, it is axiomatic that any of these multilateral efforts can and should be supplemented by any bilateral arrangements any NATO nation can make with any producing country. It really doesn't matter who convinces a producing country to eliminate illegal opium production—when production is eradicated, we all benefit.

The whole history of diplomacy teaches us that the first requirement of international action is the conviction of individual nation states that they have a mutuality of interest susceptible to international cooperation.

The global dimensions of the illegal-drug epidemic makes the case beyond all doubt, I believe, for a mutuality of interest in narcotics control.

But I realize that none of you will leave this room today fully convinced that a major social crisis based upon the international drug traffic is actually upon you and your fellow citizens.

So, while I hope you will consider this partial agenda for international action, I do not ask you to simply take my word for its necessity.

What I do ask is that you make a commitment to yourselves, right now, to go home and talk to your own experts. Find out how serious the drug problem is or will become in your own homeland. Ask yourselves how it is likely to affect your society. And, finally, examine the ability of your country, alone, to solve its drug problems with no help from its allies.

I think I know what answers you will find, and I believe your response will allow us to go forward together to solve a problem none of us can cope with singly.

As you leave to begin that assessment, let me send with you a picture of what it was like in parts of the United States when we were in the midst of the drug epidemic of the early seventies.

It is not a pretty picture, but it is one you may find reproduced in your own countries if we fail to meet the challenge of the eighties.

I am reading from a report by a congressional committee that visited a neighborhood in New York City that was swamped with heroin addiction and resulting crime.

"It was like a war-torn city—gutted-out buildings, boarded-up windows, debris littering the streets and sidewalks, and a feeling of deprivation and decay permeating the air."

You all know, better than most Americans, what a war-stricken city looks like. You would no doubt like to feel that the drug epidemic cannot visit such devastation again on your cities—on Paris, London, Rome, Amsterdam or Berlin—but I tell you that it can. We have seen it here.

If the addict population grows large enough in any city, if the price goes high enough, heroin addiction can duplicate the landscape of war, because it produces a war between civility and barbarism, in the proudest city of any nation in the world.

Biden's Worthy War for NATO

It isn't that the North Atlantic Treaty Organization hasn't had enough to do. NATO was organized just about 30 years ago for a specific purpose: to protect Western Europe from Russia or any other potential aggressor. It has fulfilled that purpose in the same sense that the old greeting, "May your house be safe from tigers" fulfills its purpose as long as there aren't any incursions into your house by *panthera tigris*. It has carried out that function despite difficulties such as procurement of uniform weapons systems and national jurisdictions; Western Europe has not been subjected to invasion in the three decades of NATO's existence.

Delaware's Sen. Joseph R. Biden Jr., however, has now proposed a more active function for the treaty organization, and it sounds like a great idea.

The senator suggested, in a talk to the NATO Committee on Challenges of Modern Society, that the parent organization commit itself to waging a war: a war on illegal drugs and the international traffic in them.

No single nation can assume this task, Mr. Biden pointed out. It will require a concerted effort by a multinational organization.

And the task, as the senator stated, is an urgent and worthwhile one.

Mr. Biden, who is chairman of the Senate Judiciary Committee's subcommittee on criminal justice, used some moving phrases about the ravages that the heroin traffic, for example, causes in the community. The effects of a high population of addicted people, he said, results in war between civility and barbarity.

The outlook for Western Europe unless something substantial is done about heroin is grim.

In the famed Golden Triangle of Laos; Thailand and Cambodia, there is a prospect for such a record crop of opium as to raise expectation of an 80 million ton production of heroin in the next year. U.S. consumption represents only a small fraction of that 80 million ton figure and merchants of illegal drugs will be looking to expanded markets in Europe, where increased supplies from Pakistan, Afghanistan and Iran already have been flowing in.

The problem is particularly grim in West Germany. The magazine Der Stern last week proclaimed that "In no other country is heroin abuse as bad as in West Germany . . . more than 400 deaths in nine months, most of them young people . . ."

In fact, the overall death toll from narcotics overdoses in affluent West Germany is expected to reach 600 this year—in a population of 60 million, compared to a decreased U.S. total estimated at 380 in a population of more than 220 million.

Sen. Biden has suggested a worthwhile project indeed for the NATO countries: to combine in combatting a ral scourge.

Biden Appeals to NATO To Aid in Heroin Fight

(By Pat Ordovensky)

Washington.—Sen. Joseph R. Biden, Jr. yesterday called for an international effort to stem a new flood of heroin from the Far East that "threatens to overwhelm all of us."

Speaking to a group of government officials from Western Europe, the Delaware Democrat said "our epidemic has become your epidemic, too."

He warned that U.S. intelligence reports that "a bumper crop" of opium, from which heroin is produced, is about to be harvested in unpoliced tribal areas along the Pakistan-Afghanistan border. The size of the crop, he said, "dwarfs anything we have known before."

"That opium is bound for heroin-processing plants in the Middle East, where it will be exported first to your sons and daughters in Western Europe," he told the NATO bureaucrats, "and when that market is saturated, to the streets of American cities."

Biden is chairman of the Senate's criminal

justice subcommittee which recently completed a series of hearings into illegal drug trade. He spoke yesterday at a luncheon of NATO's Committee on Challenges of Modern Society, which deals with non-military issues facing the North Atlantic nations.

He told them the United States stemmed the flow of heroin from abroad only by working with other countries, such as Turkey, Mexico and France, to shut down the opium poppy farms and the plants that converted opium to heroin.

For the first time in 10 years, Biden said, the number of heroin addicts in this country has decreased. He said law enforcement experts estimate heroin imports are down from eight tons to five tons a year.

"The experience of the '70s," Biden said, "teaches us that no one country, whatever its motivation and resources, can control the drug trade. It requires a truly international effort."

He urged the NATO nations to join a cooperative effort to stamp out the poppies wherever they are grown, through such organizations as the U.N. Fund for Drug Abuse Control. A strategy, he suggested, would be to persuade Third World farmers that other crops can be equally profitable, "especially if enforcement makes the poppy burdensome."

"Go home and talk to your own experts," Biden told the Europeans. "Find out how serious the drug problem is or will become in your own homeland. Ask yourselves how it is likely to affect your society. . . . I think I know what answers you will find."

Biden cited a congressional report describing a drug-infested area of New York as "a war-torn city—gutted-out buildings, boarded-up windows, debris littering the streets and sidewalks and a feeling of deprivation and decay permeating the air."

"You all know, better than most Americans, what a war-stricken city looks like," he told the NATO officials. "You would no doubt like to feel that the drug epidemic cannot visit such devastation again on your cities.

"But I tell you that it can," he said. "We have seen it here."●

STEEL INDUSTRY NEEDS HELP RENOVATING COKE OVENS

● Mr. HEINZ. Mr. President, one of the most serious crises facing the American steel industry is the growing decline in coke oven capacity and the resulting increase in coke imports. Last year this problem cost Americans an added $500 million to our trade deficit to pay for imported coke, plus an additional $200 million to pay for imported oil used by the industry in place of gas produced as a byproduct of coke manufacturing. Had these 5.7 million tons of imported coke been produced domestically, there would have been 3,400 more jobs in coke manufacturing and some 6,000 additional jobs in the mines.

One of the most cogent analyses of the problems of America's coke ovens was recently prepared for the Department of Commerce by William T. Hogan and Frank T. Koelble of Fordham University's Industrial Economics Research Institute. It makes clear the tremendous cost to our economy, our trade deficit, our employment, and our energy conservation efforts of the continuing decline in coke oven renovation and rebuilding in the United States, and it discusses in detail the capital the steel industry will need if anything is to be done.

One solution, Mr. President, lies in an amendment I intend to propose to the windfall profits tax bill (H.R. 3919) which would make coke ovens eligible for the additional 10 percent alternative energy property investment tax credit. This amendment, which the Senate passed as part of the Energy Tax Act of 1978, but which was dropped in conference, would recognize the special role coke ovens have in producing byproduct gas which is an important source of energy for steel companies, and it would provide equal treatment for coke ovens with other equipment intended to produce the same kind of gas. This amendment, coupled with language currently in the bill extending the period during which the credit can be claimed under certain circumstances, would have a positive impact on steel companies' schedules for coke oven renovation and would have the effect of bringing more coke ovens into operation sooner. And that, of course, is what we need to solve the problems mentioned in Commerce's study.

Mr. President, I request that the summary and conclusions section of the study be printed in the RECORD.

The material follows:

ANALYSIS OF THE U.S. METALLURGICAL COKE INDUSTRY

(By William T. Hogan, S.J. and Frank T. Koelble)

SUMMARY AND CONCLUSIONS

The United States faces a critical situation in respect to a shortage of metallurgical coke, which will worsen in the next three to five years. Coke is an essential, energy-based industrial material used primarily in the steel industry's blast furnaces to make iron that is subsequently refined into steel. Under current conditions, it seems certain that the nations' metallurgical coke industry cannot provide a viable source of adequate supply, raising the prospect of increased dependence on imported coke and eventual curtailments of iron and steel production.

During 1978, for the first time in nearly 40 years, the coke industry produced less than 50 million tons of coke, its output of 48.6 million tons falling 14.1% below the nation's consumption of 56.6 million tons. To offset the resulting shortages, consumers turned to overseas sources of supply, and coke imports jumped from 1.8 million to a record 5.7 million tons or 10% of U.S. requirements. This marked the sixth consecutive year that imports exceeded the million-ton level, and despite recent, temporary improvements in domestic availability and the current slowdown in steel activity, 1979 is certain to become the second largest import year.

The need to import substantial quantities of coke on a regular basis is an anomalous situation, since the United States has the largest and best coking-coal reserves known in the industrialized world. It represents yet another example of the nation's growing dependence on foreign sources for an energy-based industrial material; and in this case, it is a needless dependence, for quite unlike the problems posed by diminishing crude-oil reserves, domestic coking-coal deposits are particularly abundant and suited to metallurgical application.

TRADE AND EMPLOYMENT EFFECTS

The 5.7 million tons of coke imported in 1978 cost the nation $408 million, exclusive of freight and insurance charges, which boosted the total outlay closer to $500 million, thereby adding significantly to the balance-of-payments deficit. At the same time, coke imports produced from foreign coal carried a high price in the loss of job opportunities. If the 5.7 million tons of imported coke had been produced in this country from domestically mined coal, there would have been 3,400 more jobs at the coke ovens and approximately 6,000 jobs in the nation's coal mine.

Decline in coke capacity

The coke industry's inability to meet the nation's needs and the resulting increase in coke imports have been caused by a chronic lack of coke-oven capacity, which has been declining in recent years and will continue to do so over the period through 1985. Since year-end 1975, the industry has lost 10.9 million tons of annual capacity, and based on the excess of scheduled coke-oven abandonments over installations, it will lose an additional 5.3 million tons of annual capacity by the end of 1985. Notably, 90% of this scheduled capacity loss will occur by the end of 1982, when environmental-control deadlines must be met. Of more immediate concern is that fact that 2.2 million of the 5.3-million-ton loss will occur by the end of the current year.

By December 31, 1985, compared to the status of its inplace capacity 10 years earlier, the industry will have lost 66 coke-oven batteries and 3,779 ovens, having a combined annual capacity of 16.2 million tons. In the past three and one-half years, its actual productive capability has declined by more than 10 million tons to 52.5 million annual tons, and further declines to the 47.0-million-ton level are scheduled over the period through 1985. The end result will be to seriously impair its ability to satisfy the nation's requirements for metallurgical coke.

With the present and future shortages, it is painfully evident that whenever the steel industry in the United States functions at an operating rate of 83% or more—and this should be often in the next five years—it will be forced to depend on foreign sources for coke. Further, there is a real question as to whether these sources can be counted on in the event of an increase in steel production throughout the industrialized world.

Imports of metallurgical coke

The United States was able to import 5.7 million tons of coke in 1978 because the industrialized nations of Western Europe, as well as Japan, did not experience rates of steel production comparable to those in this country; as a consequence, they had excess coke capacity available. The operating rate was 86% of capacity in the United States, while Western European and Japanese operating rates hovered between 70% and 75% of capacity.

Dependence on foreign coke does not present undue supply problems when the steel industries in exporting countries are at a relatively low rate of operations. However, when their operating rates increase to between 85% and 90% their coke will be in tight supply, and, if it can be obtained from them at all, the price will increase significantly. During the 1973–1974 worldwide steel boom, companies in the United States imported a substantial amount of coke for $125 a ton, which was over $50 per ton more than it cost to produce coke at that time in this country. At the height of the 1974 boom, prices for spot sales were $130 to $140 per ton and, in one instance, rose as high as $164 per ton. Should an increase in steel operations develop abroad, this situation could easily recur.

The principal source of imported coke is West Germany; it provided 4.0 million of the 5.7 million tons imported in 1978. The balance came from a number of other countries in relatively small amounts, with five countries, the Netherlands, Japan, the United Kingdom, Argentina, and Italy providing various amounts, ranging from 200 thousand tons to somewhat in excess of 300 thousand tons.

A detailed examination of the situation in these countries indicates that a revival of steel-mill operations would make it impossible for many to export coke and difficult for others. Thus, during periods of active worldwide steel activity, when U.S. coke production is inadequate to meet requirements, it would most likely be impossible to fill the void by imports. It can be assumed that long-term contracts will be honored, but there are few of these.

Causes of the coke shortage

The reasons for the lack of adequate coke-oven capacity in the United States are multiple, and an analysis of the situation indicates that the problem will not be solved in the next few years. Virtually every major steel producer has had to resort to imports, and this practice will continue in a number of cases, in the present coke-oven capacity of these companies is scheduled to be reduced.

The loss of coking capacity has resulted from a number of economic, technical, and regulatory causes, the most significant of which are as follows:

Long-term limitations on market growth and producer profits, thereby restricting the flow of investment capital into coke-oven replacement and modernization.

The consequent problems of coke-oven age and obsolescence, reduced operating efficiency, and increased oven emissions.

The enforcement of environmental-control regulations, which have mandated the closing of older coke plants that would otherwise have been sustained in operation and, at the same time, have forced other plants to curtail their operating rates and reduce their levels of output.

Environmental-control restrictions on the construction of both new and replacement coke ovens in certain specified geographic areas.

Escalating capital costs for coke-oven facilities attributable to inflation and the need to install complex pollution-control and occupational-safety equipment.

The fluid state of cokemaking technology and the uncertainty of investing in unfamiliar equipment that continuing change may soon render obsolete.

Additional obstacles to investment deriving from regulatory uncertainty as to future rules governing coke-oven facilities.

These causes are interrelated and are listed without regard to ranking or degree of importance as contributors to the ongoing capacity loss and the resulting coke shortage.

The Environmental Protection Agency (EPA) is of the opinion that environmental regulations have played a secondary role to economic and other causes. However, it is difficult to disregard the connection between environmental influences and the loss of capacity, particularly in view of the high degree of correlation between the timing of EPA regulations and capacity shutdowns.

The need for pollution control is indisputable; however, it has had its effect on coke capacity and production. In order to bring some old facilities into compliance with regulations, it would have been necessary to retrofit them with costly controls. In a number of cases, it was decided that since the remaining life was too short, it would be more economical to shut down the operation and procure coke from outside sources.

A very large percentage of the coke ovens in operation today are either in compliance with environmental standards or moving toward that goal. Thus, batteries which had a number of years of life remaining have been or are being retrofitted with pollution-control devices, while any new battery or complete replacement is equipped with the best available control technology.

The three areas where pollution was a problem, namely, charging the ovens, pushing the coke from ovens, and quenching the coke, have received considerable attention, and technology requiring substantial capital investments has been applied to reduce emissions to a bare minimum. It must be recognized, however, that the installation of pollution-control equipment often requires a change in operating practices and this has slowed down the coking process considerably, with an 8% loss of oven throughput.

Capital investment requirements

The capital investment required for a coke-oven battery has risen sharply during the last ten years to a point where the installation of an annual ton of coke capacity requires between $180 and $200. Thus, a 1.0-million-ton coke-oven battery requires an expenditure of between $180 million and $200 million. This huge investment is a result, in part, of inflation that has driven up all capital costs. In 1959, the cost of installing a ton of coke-oven capacity was $75 to $85, or a total of $75 million to $85 million for a 1.0-million-ton battery. This represents almost a 150% increase in ten years.

A significant portion of the total investment, about 22% to 25%, is required for pollution-control and occupational-safety equipment. An example of this and how it has added to capital needs can be had from the cost of the quenching car which receives the coke as it is pushed from the oven. New cars with gas cleaning involve an investment of $6.5 million, compared with $150 thousand for a conventional quenching car used ten years ago.

Pollution controls and capacity

In the next few years, plans call for less than a complete replacement of those ovens scheduled to be abandoned, while there are no announced plans to add to capacity. The absence of decisions to expand capacity and to replace only part of that which will be abandoned is due to a number of causes, including environmental regulations.

In the Clean Air Act the country is divided into attainment and non-attainment areas. The former have air quality with less than 75 micrograms of suspended particulate matter per cubic meter. The latter have more than 75.

To construct facilities which emit particulate matter in a non-attainment area, there are a number of conditions that must be met.

1. The technology employed must provide the least attainable emission rates (LAER).

2. A company desiring to add a new installation must have all of its facilities in the entire state in compliance with EPA standards or be under agreement to bring them into compliance.

3. There must be an offset in the non-attainment area where the facility is to be placed, which would reduce pollution by the amount that will be generated from the new facility.

4. The company must demonstrate continuing progress in the reduction of particulate matter toward the attainment of the 75 microgram level.

The third condition poses a problem for a new company moving into an area, if it has no other facilities on which pollution can be reduced. This is a limiting factor on growth and expansion, for even if the new company had the necessary funds to build a coke-oven battery in a non-attainment area, it would be extremely difficult to do so, since no pollution trade-off is possible.

Most of the nation's coke-oven batteries are located at steel plants, where coke is used in the blast furnace, and gas from the ovens provides energy for a number of functions throughout the mill. Therefore, new batteries would logically be built at steel mills, which in many instances are in non-attainment areas.

The difficulties involved in building coke ovens are compounded by the fact that the same restrictive conditions that govern the installation of new capacity apply to replacements. If a battery that has been in operation is torn down to be replaced by the same capacity, this is considered a new source of pollution.

Age of coke-oven capacity

In spite of the problems that surround coke-oven construction, solutions must be found if the United States is to update its coking capacity, much of which is over 25 years old. Despite the fact that 20 million tons of coking capacity, predominantly for replacements, have been installed in the last 10 years and 14 million of that in the last five years, 35% of existing capacity, or 23.4 million tons, is over 25 years old; and nearly one-fifth of capacity is in the 20 to 25 year age category. The generally accepted standard is that 25 to 30 years represents the normal, effective life span of a coke-oven battery. As ovens advance beyond this age level, they tend to incur serious maintenance problems from leaking doors and seals, as well as from overall structural deterioration. Based on this standard and the age distribution of existing coke-oven capacity, the coke industry faces an acute problem of facility obsolescence, which has serious negative implications for its ability to produce coke in the years ahead.

Future coke shortages

Dependence on foreign suppliers for coke, particularly in a period when the world steel industry is operating at a high rate of capacity, can have a limiting effect on U.S. steel production. By 1985, with a minimal growth of 2% in steel output, the demand for coke in the United States will be approximately 50 million tons, so that the domestic coke shortfall could be about 10 to 12 million tons. Such a shortfall could be remedied, in part, by outside purchases of coke, but under the assumption of an active worldwide steel market, these would be significantly curtailed.

Accounting for advances in blast-furnace technology between now and 1985, it will take 0.560 tons of coke to make one ton of pig iron; thus, an approximate 10-million-ton shortfall in coke for blast-furnace use will result in a 17-million-ton decline in the availability of iron for steelmaking. As a result, despite a growing emphasis on the scrap-based electric steelmaking furnace, raw-steel output will be reduced by some 29 million tons. This reduction, representing the equivalent of 21.5 million tons of finished steel products, accounts for the expected mix of steelmaking processes to be employed in 1985 and the consequent input of 0.590 tons of iron for each ton of steel produced.

Under these shortage circumstances, the steel industry will have finishing facilities that are idle while the country is in need of steel. To fill the demand for 21.5 million tons of steel in an active world market, the U.S. steel industry will have to pay very high prices for coke, if indeed it is procurable at all; or, steel consumers will have to import an additional 21.5 million tons of steel products at a time when demand is high. This will mean exorbitant prices for steel imports, for whenever they are needed and come into the United States as a supplement to domestic steel rather than in competition with it, prices reflect what the traffic will bear. This was borne out in 1974, when import prices for steel were 80% to 100% above domestic prices.

The foregoing analysis assumes an increase in steel demand of about 2%. It should be pointed out that even if the growth rate is 1%, there would not be enough coke to fill the nation's requirements. A 1% increase in steel production would require 55 million tons of coke in 1985, thus leaving a shortfall

of 8 million tons, which would have a significant negative effect on pig-iron and steel production.

To maintain a strong steel industry, it is necessary that all of its components be adequate to perform their tasks. Thus, there must be a workable solution to enable the steel industry in the United States to supply itself with coke.

An increase in coke-oven capacity will make the industry much more self-sufficient by reducing imports which, in turn, will improve the balance of payments and increase job opportunities.●

SOVIET DECEPTION IN SALT

● Mr. HUMPHREY. Mr. President, there is substantial and convincing evidence of Soviet deception in the SALT negotiations. This evidence spans both SALT I and SALT II, and relates both to Soviet negotiating behavior and the operation of Soviet strategic forces. Several articles from "Strategic Review" indicate that the Soviets deceived the United States in May 1972, on each of the three main issues of SALT I: constraints on ICBM and silo size increases, constraints on SLBM's and constraints on mobile ICBM's. The articles also indicate that in SALT II, the Soviets have continued to negotiate deceptively in order to avoid all effective constraints on "new type" ICBM's. Moreover, President Brezhnev's statement on Backfire bombers is deceptive, because by denying Backfire's intercontinental range and refueling capabilities, it contradicts agreed U.S. intelligence judgments.

Mr. President, Soviet deception will clearly be an important issue in the impending SALT II debate on the Senate floor. I urge all of my colleagues, regardless of their present views on the SALT II treaty, to read and study these Strategic Review articles. In addition, it is well known that a highly classified CIA study on Soviet SALT deception exists. This study has been described as one of the best pieces of intelligence analysis ever produced by the CIA. I have read the classified CIA study, and I urge all of my colleagues to do the same, no matter what their views. Special arrangements can be made with CIA for reading it.

Accordingly, Mr. President, I submit for the RECORD these Strategic Review articles.

The articles follow:

THE LEGACY OF SALT I: SOVIET DECEPTION AND U.S. RETREAT

(By David S. Sullivan)

IN BRIEF

In SALT I the United States fell victim to Soviet deceit, and to its own gullibility and myopic assumptions. In essence, the United States traded off its superior ABM technology in return for what proved to be illusory constraints on Soviet offensive strategic capabilities. Carefully shrouding their ongoing and ambitious strategic programs, the Soviets negotiated ceilings that in no way compromised their force goals. They used this deception and loopholes in the SALT agreements both to camouflage and legitimize a thrust to strategic superiority that will endure at least into the 1980s. As the debate over the ratification of SALT II gathers, the question becomes even more insistent: Has the United States learned from its blatant mistakes or is it destined to compound them, with ever more dire consequences for its security?

The Strategic Arms Limitation Talks (SALT) between the United States and the Soviet Union are significantly shaping the terrain that will hold the strategic environment of the future. The SALT I concords of May 1972–October 1977 have been extended for over a year. Many of their provisions will be continued and expanded in the emerging SALT II Agreement. In the meantime, awesome strides by the Soviet Union in strategic programs and weapons deployments since 1972 have startled many U.S. policymakers. Hindsight illuminates more clearly Soviet negotiating behavior and intentions in May 1972 as indicators of future behavior and intentions. It is therefore vitally important, as we approach the ratification debate over SALT II, that we recognize keenly the lessons of the past.

In casting this backward look, this article advances five general propositions about the "arms race" and SALT. The first proposition is that SALT has not led to true or balanced arms control. The Anti-Ballistic Missile (ABM) Treaty of 1972 is not a valid exception to this statement, nor was the required deactivation of the 210 old Soviet SS–7 and SS–8 intercontinental bassistic missiles (ICBMs) under the Interim Agreement on Offensive Systems. The ABM Treaty in effect limited only U.S. ABMs; there is no known evidence that in 1972 the Soviets planned to deploy more than the ABM system around Moscow. The old Soviet ICBMs in 1972 were probably slated for retirement anyway, and it can be argued that SALT in fact prolonged their life; they nevertheless may have been replaced under the SALT I Interim Agreement by the reported covert stockpiling of an equivalent number of mobile SS–16 ICBMs, as well as by 210 modern sea-launched ballistic missiles (SLBMs). There has thus been double replacement of the old ICBMs, not to mention the numerical implications of the refire capability of the new "cold-launched' SS–18s and SS–17s and the probable stockpiling of about 1,000 older SS–11s.

The second proposition is that the Soviets clearly have gained the most from the SALT process. Throughout the SALT negotiations period, from 1969 to the present, the Soviet Union has continued the pace of both its quantitative and qualitative improvements over the full spectrum of weapons capabilities. The Soviets have carefully and deceptively negotiated provisions to accommodate the deployments originally programmed by them, and they have taken maximum advantage of every loophole and ambiguity in the agreements. Indeed, Soviet strategic advantages in many categories have widened throughout this period. At the same time, the Soviets successfully thwarted the U.S. strategic program of greatest concern to them: the more technically advanced U.S. ABM program. The Soviets have used the SALT negotiations process as a smokescreen to conceal their mounting strategic superiority from a complacent United States.

A third and corollary propostion is that SALT has stimulated the arms race by allowing a Soviet build-up without any real quantitative and qualitative constraints. Given the self-imposed reins on quantitative U.S. deployments after 1967, a qualitative upgrading of U.S. ICBMs and SLBMs through MIRVing became necessary in June 1970. The Soviet Union responded by accelerating its own program of MIRVing Soviet ICBMs, even while continuing the massive deployment of SLBMs. This Soviet response probably occurred sometime later in 1970, after the United States deployed Minuteman III and Poseidon. In 1975, after Vladivostok, the Soviets probably decided to deploy large numbers of MIRVed SLBMs in imitation of U.S. plans for Trident. It is clear, however, that these Soviet MIRV deployments would have taken place sooner or later, irrespective of the fact or timing of U.S. programs.

Fourth, the United States could have achieved a Strategic Arms Limitation Agreement more advantageous to itself much earlier than May 1972. In April 1970, the United States and the USSR reportedly were in general accord on the shape of an ABM agreement: each side was to be allowed one ABM complex to defend its capital. These terms were tantamount to those of the ABM Treaty of 1972, especially as amended in July 1974 to allow one ABM site each to the United States and the USSR. It was U.S. insistence upon linking an ABM Treaty to constraints on Soviet offensive programs that delayed agreement on a SALT I package until May 1972. Meanwhile, in this 1970–1972 period, the Soviets reportedly added about 400 new launchers (mostly SLBMs). Moreover, the purported "freeze" of Soviet offensive programs through 1977 ostensibly achieved by the May 1972 agreement has turned out to be a sham. There was clearly no freeze of either quantitative or qualitative Soviet deployments.

The final proposition advanced in this article is that under SALT I the United States has traded away its ABM in return for a tripling or quadrupling of the Soviet strategic threat against it, all the while tolerating Soviet negotiating deception and massive operational concealments and ruses in Soviet strategic deployments. Moreover, in one important case revealed by the State Department in February 1978, the Soviets admitted that they were then in violation of SALT I by having failed to deactivate by March 1976 the required number of SS–7s and SS–8s.[1] Most observers agree that in all other compliance areas the Soviets stretched their interpretation of the SALT I agreements to the limits of the wording of the provisions and of U.S. tolerance.

U.S. STRATEGIC RETREAT SINCE 1963

History will record that the vaunted "U.S. strategic missile build-up" was in reality shortlived, essentially spanning three years between 1960 and 1963. It was during this brief period that the United States made the force structure decisions that would result in levels by 1967 of 1,054 ICBMs and 41 submarines with 656 SLBMs. In fact, the selection of these levels was arbitrary: they were considerably below those desired by the U.S. Air Force and Navy. The U.S. B–52 bomber force has dwindled since 1965, and the deployment of new ICBM and SLBM launchers stopped in 1967.

The United States and the USSR drew opposite conclusions from the Cuban Missile Crisis of October 1962. The U.S. strategic posture since that period can be characterized as one of strategic retreat. Both the U.S. strategic budget and strategic force structure have been declining since 1963, when the United States commenced the deactivation of its more costly medium bombers and early ICBMs. Conversely, the humiliation suffered by the Soviet Union in the Cuban crisis evidently prompted a decision in the Kremlin to overcome Soviet strategic inferiority at all costs. It is now clear that simultaneous with the cutbacks in U.S. strategic programs decided upon in 1963, Khrushchev cast the decision for the massive Soviet strategic build-up of the 1960s in ICBMs, SLBMs and ABMs.

The U.S. approach under Secretary of Defense McNamara was one of unilateral restraint, because it was believed then that U.S. superiority was unshakable. In 1963, McNamara ordered the start of the deactivation of about 185 Atlas and Titan I ICBMs, some of which had been operational only since 1960 and most of which had only recently been completed. Moreover, he also ordered the phasing out of the entire force of U.S. B–47 and B–58 medium bombers. These U.S. unilateral decisions in 1963 were rendered for the sake of greater "cost effectiveness" in the U.S. defense budget: the

Footnotes at end of article.

forces marked for deactivation were more expensive to maintain and operate than the newer Minuteman I ICBMs and B–52 bombers. Yet, these cutbacks were not matched by any commensurate deactivations of weapons systems by the Soviet Union. It is well known that most of the 700 or so Soviet Tu–16 Badger and Tu–22 Blinder bombers—comparable to the U.S. B–47 and B–58 forces—are still in active service in 1979, and the last of the 210 Soviet SS–7 and SS–8 ICBMs, comparable to the U.S. Atlas and Titan I, have only recently been deactivated. Moreover, even before the Cuban Missile Crisis, the United States had decided to remove its forward-based IRBMs from Europe. In contrast, Soviet MR/IRBM forces taregted on Western Europe have remained in place since the late 1950s.

By 1965, Secretary McNamara's Defense Posture Statements reflected the goal of stabilizing the aggregate number of U.S. strategic delivery vehicles, improving only their quality. "Assured destruction" came increasingly into vogue thereafter as the U.S. strategic doctrine (becoming "mutual assured destruction" as the Soviets reached parity by about 1969). Assured destruction called for only finite U.S. forces, capable of destroying merely a certain percentage of Soviet urban-industrial ("value") targets. It was believed that deterrence required that the United States be capable under all circumstances of destroying about one-third of the Soviet urban-industrial target base.

The U.S. Defense Posture Statement of 1965 and a survey of the U.S. press during that year indicate two important decisions taken by McNamara at that time. The first was the decision to develop and retrofit MIRVed warheads in both the existing Minuteman ICBM silos and Polaris SLBM tubes. With this decision, the United States shifted the emphasis of its strategic programs to qualitative developments—principally to MIRVs for ICBMs and SLBMs (MIRV deployment levels were not announced until December 1970). The Soviets evidently followed suit in the mid-1960s with the development of their own MIRV programs—the fourth-generation SS–19, SS–18 and SS–17 missiles—programs which would not bear fruit until after 1972. In 1965, also, the United States began active development of an anti-ballistic missile system.

Notwithstanding these qualitative development moves, the series of decisions in the early 1960s can only be characterized as a strategic retreat by the United States. The retreat began as early as in 1963, when Secretary McNamara decided to end ICBM and SLBM deployment in 1967 and initiated his "cost effectiveness" cutbacks in U.S. strategic forces.

An analysis of the Soviet press suggests that it was Khrushchev who made the decision in early 1963 to increase dramatically the Soviet ICBM and SLBM construction programs.[2] In February 1963 it was announced that Khrushchev's 1959–1965 Seven Year Plan was being revised. By March it became apparent that this revision was directly related to the concurrent preparation of the new 1966–1970 Five Year Plan. Some massive new investments evidently prodded this planning activity. It is significant that Dmitri F. Ustinov, who had previously managed the Soviet defense industries and is now Defense Minister, was made responsible for management of the entire economy. Ustinov's promotion in early 1963 suggests that the new investments in the revised Seven Year Plan and new Five Year Plan were related to bolstering the Soviet defense posture.

It is therefore a myth that a chastened Khrushchev favored a Soviet posture of minimal deterrence after the Soviet Union's humiliation in the Cuban Missile Crisis. The high levels in Soviet strategic forces achieved by 1970 clearly point to a decision in 1963 to augment massively the Soviet strategic posture. Moreover, a reading of the Soviet press suggests that the 1963 strategic decision required the rewriting of the last two years of Khrushchev's 1959–1965 Seven Year Plan, concurrent with the preparation of the 1966–1970 Five Year Plan. The changed Soviet economic priorities in favor of defense spending thus determined the momentum of the Soviet strategic build-up that has continued into the present period. Indeed, it is now clear that the Five Year Plans of 1966–1970, 1971–1975, 1976–1980 and 1981–1985 have served—and continue to serve—as the framework for programming the Soviet build-up.

It is also worth noting that Khrushchev's decision in 1963 with respect to a massive Soviet strategic program was paralleled by diplomatic progress toward the U.S.-Soviet Limited Nuclear Test Ban Treaty, which was signed on July 25, 1963. At least in terms of circumstantial evidence, we thus have an early example of the Soviet Union's use of arms control negotiations to deflect attention from concerted Soviet strategic armaments efforts.

THE NIXON-KISSINGER DESCENT FROM SUPERIORITY TO "SUFFICIENCY"

In July 1968, the Soviets had agreed to enter into negotiations with the United States toward strategic arms limitations, but the Soviet invasion of Czechoslovakia in August delayed the opening of the talks. One important motive in the Soviet decision to enter into SALT in 1968 was surely their desire to protect their approaching position of strategic parity against qualitative advances by the United States in ABM and MIRV technology, and against possible new U.S. weapons deployments. By about 1968 the Soviets had achieved parity with the United States in terms of total ICBM, SLBM and bomber forces (counting those probably under construction at the time).

It is worth reemphasizing that in contrast to the steady growth in the Soviet strategic posture after 1963, the United States did not increase the number of its ICBMs or SLBMs after mid-1967, when the last Minuteman silos and Polaris SSBNs became operational. The last B–52 bombers had been delivered to SAC in 1962;[3] in fact, the U.S. B–52 force declined after 1965 in the wake of McNamara's decision to phase out the older one-third of the force and as a result of attrition in the Vietnam conflict. The aggregate of U.S. strategic delivery vehicles thus peaked in 1967, and has been declining ever since.

Like Barry Goldwater before him in 1964, Richard Nixon campaigned in 1968 on a platform of promising the maintenance of U.S. superiority over the Soviet Union: "As a candidate, Nixon had stressed the need for 'clear cut military superiority' over the Soviet Union, sharply criticizing the Democrats for settling for anything short of that."[4] By January 1969, when President Nixon and his National Security Adviser, Henry Kissinger, assumed office, this goal was evidently scaled down to the one of preserving only a rough strategic balance between the United States and the USSR.

The Joint Chiefs of Staff in early 1969 put pressure on Nixon to resume expansion of the U.S. strategic arsenal in order to keep pace with the accelerating Soviet build-up. The JCS recommended that the United States resume the construction of ICBMs . . . and that the United States step up its production of nuclear-powered submarines and long-range bombers. Kissinger realized that the Soviet strategic arsenal was growing every day but, during an NSC meeting on March 5 devoted exclusively to a review of the ABM system, he argued strenuously against the JCS recommendations on the ground that they would escalate the arms race, thereby jeopardizing the long-range prospect for SALT and unnecessarily antagonizing the Russians.[5]

Moreover, also in early 1969, Dr. Kissinger received a series of studies he had ordered of the existing and future U.S.-Soviet strategic equation. These studies indicated to Kissinger the magnitude of the strategic shift underway and the low likelihood of redressing it. Kissinger's biographers describe the inferences that were drawn: "It was impossible to escape the conclusion. [NSC staffer Morton] Halperin noted to Kissinger, that no conceivable American strategic program would give you the kind of superiority that you had in the 1950's."[6]

This striking conclusion reached in early 1969 had a profound effect upon a U.S. strategic posture that had already been restrained in terms of aggregate delivery vehicles. Kissinger convinced Nixon that, since the objective of regaining superiority seemed no longer feasible, some other goal had to be substituted. He recommended that "sufficiency" should be substituted for "superiority" as the goal of the U.S. military policy. Nixon bought the idea, but he sought to camouflage his strategic retreat by suggesting that it would be a mistake to concentrate on semantics. . . . he said on 29 January 1969, "I think sufficiency is a better term, actually, than either superiority or parity."[7]

"Sufficiency" therefore was different from "parity." The use of the term opened the way to a U.S. descent into inferiorty which, given the long development lead-times for strategic weaponry, seems ordained into the 1980s.

Thus, in early 1969 the Nixon Administration rejected proposals by the military to resume new U.S. deployments of ICBM and SLBM launchers and bombers in response to the still continuing and massive Soviet ICBM and SLBM build-up. This U.S. unilateral decision not to keep pace with the Soviets was justified with allegations of the necessity to be conciliatory toward the Soviets. Moreover, Nixon and Kissinger reportedly believed that, against the background of an unpopular Vietnam war, the U.S. public would not support additional expenditures for new strategic weapons.[8] Furthermore, Nixon wanted to open SALT negotiations with the Soviets in the hope that arms control negotiations and agreements could restrain ongoing Soviet ICBM and SLBM programs and thus help cushion the problems facing the United States in the strategic competition. More pointedly, it was hoped that SALT could solve the problem posed by the increasing vulnerability of the U.S. Minuteman ICBM force to the growing number of Soviet heavy SS–9 ICBMs, by buying the Soviet Union's restraint in the deployment of such systems.

In looking to SALT for the solution of American problems, Nixon and Kissinger proceeded on a path already charted by McNamara. The latter had sought arms negotiations in order, first, to prevent or limit an ABM deployment by the United States, which he viewed as "destabilizing" and in a needless expense, and second to constrain the Soviet ICBM threat to the United States. He thus inaugurated the trend that cast the United States into the role of diplomatic demandeur in SALT. This concessionary bargaining posture was to continue under Dr. Kissinger and has prevailed throughout SALT II.

By early 1969, Kissinger shared McNamara's aversion to a concerted U.S. ABM program. He tended to see the ABM as a "weapon system in search of a rationale."[9] In early 1969, Nixon shifted the rationale of the U.S. ABM program from population and area defense to ICBM site defense, renaming it from Sentinel to Safeguard. Kissinger evidently became a lukewarm supporter of the ABM in this new deployment context, but it is important to examine an apparently significant motive shared by him and President Nixon:

Footnotes at end of article.

"Uncited by the President [in his arguments justifying the Safeguard ABM], but perhaps most significant of all, was the 'bargaining chip' rationale. The ABM, in the President's view, would give the United States some negotiating currency in any forthcoming dealings with the Russians." [10]

Kissinger was persuaded "by the President's argument that the U.S. needed an ongoing weapons system to trade off during SALT." [11] This kind of bargaining ploy seems a strange rationale for developing a U.S. weapon system, especially one as expensive as the U.S. ABM and earmarked for a clear military purpose: namely, that of defending an increasingly vulnerable force of U.S. ICBMs. In any event, the role of the U.S. ABM, as defined by Nixon and Kissinger, was therefore simply that of grist for the bargaining process.

Kissinger's approach to deployment of U.S. MIRVs is less clear. According to his biographers, he was ambivalent with respect to the U.S. MIRV programs, but in the end went along with the reaffirmation in 1969 of the earlier decision to deploy them.[12] One apparent motive was that the development of MIRVs would obviate the deployment of new U.S. ICBM and SLBM launchers.

The irony is that Kissinger reportedly discerned in 1969 the real thrusts of the Soviet strategy in SALT: "Their strategy . . . would be to engage in arms talks to lull the Americans into a false sense of security." [13] According to accounts by Admiral Zumwalt of conversations with Kissinger in November 1971 and May 1972, the latter held to the Spenglerian view that the U.S. had "passed its historic high point like so many earlier civilizations," and that the U.S. was going "downhill and cannot be roused by political challenge." His job was "to persuade the Russians to give us the best deal we can get, recognizing that the historical forces favor them." He prophetically believed that "the American people have only themselves to blame" for his having negotiated SALT terms favorable to the Soviets, "because they lack stamina to stay the course against the Russians who are 'Sparta to our Athens.'" [14]

Kissinger thus seemed to realize that the Soviet objectives in SALT I were to put shackles on the U.S. ABM, while at the same time resisting U.S. attempts to limit the numbers and quality of Soviet weapons. By 1969, the Soviets probably were after a safe charter for their quantitative ICBM and SLBM deployment programs, as well as for their superior MIRVed ICBM and SLBM follow-on systems then under secret development.

In that same context, an important part of the Soviet SALT I negotiating strategy evidently was to delay a SALT agreement as long as possible in order to be able to complete their build-up and achieve superiority in both quantitative and qualitative categories. The longer SALT I continued, the more favorable the elapsed time was for Soviet programs of developing and deploying ABMs, ICBMs, SLBMs and MIRVs, while the United States was only fashioning MIRVs and ABMs.

In contrast, the United States had no quantitative deployment programs to protect in SALT. Minuteman III and Poseidon MIRV flight-testing began in August 1968, and the testing of the ABM Sprint and Spartan systems took place throughout the late 1960s. The U.S. Minuteman III and Poseidon MIRV programs consisted only of retrofitted replacements. In terms of opposing bargaining assets, the United States could credibly offer ABM constraints only in a bid for reciprocal limitations of the Soviet ABM program.

In other words, SALT I represented a highly asymmetrical strategic and negotiating situation, in which the Soviets had the advantages of strategic momentum and better bargaining leverage. The Soviets could bargain from an increasingly strong position, while the U.S. position was growing progressively weaker. Moreover, the Soviets benefitted from the inherent advantages of a closed society in a bargaining situation: they knew U.S. programs and goals, while the United States was uncertain about Soviet efforts and objectives. It can reasonably be deduced from the SALT dialogue that the Soviets were aware of how little the United States knew of the Soviet Union's secret new MIRV programs. This asymmetry in favor of the Soviets was to prove crucial.[15]

In sum, by early 1970 the Nixon Administration favored deployment of the U.S. ABM system in order to use it as a SALT "bargaining chip" to extract concessions from the Soviets in the form of restraints on their offensive strategic programs. Kissinger was reportedly ambivalent about the U.S. Minuteman III and Poseidon programs, but went along with the decision to deploy these MIRVed systems and ABM.

ABM deployment in the United States began in April 1970, and MIRVed ICBM and SLBM deployment followed in June 1970. By December 1970, U.S. plans were announced for retrofitting MIRVed warheads on 550 ICBMs and 496 SLBMs through 1975. These plans had been under discussion in U.S. Defense Posture Statements since 1965, when the decision was made to improve the quality of U.S. strategic forces while freezing the number of delivery vehicles. Meanwhile, the Soviets were continuing to build additional ICBMs and SLBMs while accelerating the development of their own MIRVs for ICBMs and SLBMs.

THE MAY 1971 SALT COMMUNIQUE

Two major events stand out in the 1970–1971 period. The first was the reported U.S. proposal in early 1970 for an agreement covering only ABMs and calling for one ABM site on each side to protect the National Command Authority, or capital. Unexpectedly, this "NCA only" proposal by the United States was accepted immediately in April 1970 by the Soviets, causing the United States to draw back.[16] Yet, this withdrawn proposal amounted to essentially the same equation as the "two-and-two-sites" formula embodied in the 1972 ABM Treaty, especially with the July 1974 modification of the latter agreement to permit one ABM site each to the United States and the USSR. Had the United States gone ahead with the original proposal, it would have gained the same ABM agreement as it did in 1972, but without the codification of Soviet ICBM and SLBM superiority which was explicit in the Interim Agreement of May 1972.

The second major event of this period was the SALT I Communique of May 20, 1971. The Communique was worked out in top-level U.S.-Soviet diplomatic exchanges between January and May. It established the broad framework for the SALT I agreements and laid the basis for the May 1972 SALT Summit. It contained a simple formula. By linking an agreement on ABMs with an agreement on offensive weapons, it made one agreement contingent upon the other. This linkage had long been a Kissinger goal. The agreed framework also allowed for the "modernization and replacement" of offensive weapons on both sides. As it turned out, this caveat was to hamper U.S. efforts in 1972 to impose constraints on Soviet deployment of new heavy ICBMs. The Soviets insisted on leeway for modernization and replacement in order to protect their own secret ICBM MIRV programs, which had probably been underway since 1965.

There was, however, one notable complication in converting the May 20, 1971 Communique into the SALT I Agreements. Reportedly, neither the Communique nor the diplomatic record provided for the inclusion of a constraint on Soviet SLBMs in the agreement on offensive forces.[17] This early concession by Dr. Kissinger became a problem later in 1971 and in early 1972, because by then the United States had decided that an offensive weapons agreement would have to include SLBMs. Thus the United States was forced to expend more negotiating time in getting the SLBMs back into the framework—and, as we have noted, the passage of time favored the Soviet strategic build-up and bargaining position. Reportedly, the construction of Soviet SSBN/SLBMs continued apace throughout the 1969–1972 SALT I period (as well as thereafter), although there was evidently a brief pause in the Soviet ICBM construction program during this period, probably in anticipation of the advent of the new, MIRVed Soviet ICBMs after 1972.[18]

THE MAY 1972 SALT I SUMMIT

By early 1972, the objectives of the May 20, 1971 Communique were approaching fulfillment. In April 1972, Dr. Kissinger traveled to Moscow and finally achieved inclusion of SLBMs in the offensive agreement that was taking shape. The stage was being set for the summit meeting in May.

In Moscow, Brezhnev himself reportedly proposed to Dr. Kissinger that the Soviets allowed 62 SSBNs with 950 SLBMs.[19] The United States had in operation only 41 submarines with 656 tubes, and none had been constructed since 1967. In 1972 the new U.S. system of follow-on MIRVed Trident SLBMs was in its earliest design stages, and the first Trident boat was not planned for launch until 1978 or 1979, well after the five-year (1972–1977) timeframe of the Interim Agreement. We shall consider later the significance of these proposed Soviet numbers of 62 SSBNs and 950 missiles and the Soviet justification for them, as well as the complicated negotiations required for the United States to accept them.

By May 1972, the main outlines and most of the details of the ABM Treaty had also been agreed upon. The two sides had concluded that each would be allowed two ABM complexes—one for the protection of the capital and the other to defend an ICBM site. Although the Soviets had preferred minimal radar restrictions, they finally agreed to radar power constraints in the ABM Treaty. As far as the Treaty was concerned, all that was left for the summit was agreement on the relatively minor issue of the precise distance of separation between the two allowable ABM complexes. The United States wanted to maximize this distance, in order to prevent the Soviets from overlaping the coverage of the two allowed complexes and forming them into an area defense of large sections of territory and large population centers. During the summit, this distance was set at 1,300 kilometers, as reflected in the ABM Treaty.

Thus the main task for the May 1972 Summit was to complete the Interim Agreement on Strategic Offensive Weapons. The three main issues of the SALT I Interim Agreement discussed at the Moscow Summit reportedly were:

1. The missile-silo size issue, which revolved around U.S. attempts to constrain the sizes of new Soviet ICBMs intended to replace older ones. The United States was especially trying to prevent the Soviets from placing heavy ICBMs in silos previously housing light ICBMs. The U.S. purpose in all this was to constrain the Soviet ICBM threat to U.S. Minuteman ICBMs.

2. The question of establishing a ceiling on Soviet SSBNs and SLBMs, which also entailed agreeing to a baseline of Soviet SSBNs operational and under construction, above which the Soviets could build to their higher ceiling only by deactivating some old weapons.

Footnotes at end of article.

3. The question of whether mobile ICBMs were to be banned.[20]

As has been noted, the principal Soviet goals in SALT I were probably to constrain the more technically advanced U.S. ABM program, while at the same time keeping their own new ICBM and SLBM modernization programs unrestrained. The Soviets were successful in achieving these goals in the SALT I Interim Agreement. The circumstances during and after the Summit suggest that an element of negotiating deception was involved in the Soviet approach to each of the three main issues of SALT I. Moreover, the Soviets evidently exploited the lack of knowledge in the United States of new Soviet strategic programs and of the characteristics of the new Soviet ICBMs and SLBMs.

An explanation of the circumstances suggesting Soviet negotiating deception in May 1972 is really quite simple and is derived wholly from the public record. The Soviets by this date reportedly had under secret development a new generation of MIRVed ICBMs—the fourth-generation SS–19, SS–18 and SS–17—intended to replace the SS–9 and SS–11 forces. Of these, the SS–19 seems most important. However, these secret new ICBMs reportedly were not flight-tested until late 1972 and early 1973, well after May 1972.[21] The Soviets also had a new SLBM, the SS–N–8, which had been flown before the Summit, but only over a limited range. After the Summit, the SS–N–8 reportedly was tested over an intercontinental range of about 4,000 nautical miles.[22]

Given the long lead-times in strategic weapons development, the new SS–19, SS–18, SS–17 and long-range SS–N–8 SLBM programs must have been underway in the Soviet Union since the mid-1960s, in all likelihood since about 1965. In 1972, however, the existence and characteristics of these new missiles were evidently known only to the Soviets. It later became clear to the United States that the SS–19 was a heavy ICBM by the standard that the United States was proposing in May 1972 to define such a missile.[23] Moreover, the SS–N–8 with its long-range capability could reach most U.S. targets without even leaving home ports.[24]

One of the most important U.S. objectives in the Interim Agreement was to constrain the heavy ICBM threat by the Soviet Union. In an attempt to restrict heavy Soviet ICBMs and to prevent heavy missiles from replacing light (SS–11) ICBMs, the United States proposed Article II of the SALT I Interim Agreement: "The Parties undertake not to convert land-based launchers for light ICBMs, or for ICBMs of older types deployed prior to 1964, into land-based launchers for heavy ICBMs of types deployed after that time." [25]

As can readily be seen, in order to constitute an effective constraint, this provision calls for a definition of a "heavy ICBM." Because (unknown to the United States at the time) the SS–19 was indeed a heavy ICBM by the U.S. definition of 1970–1972, and because the Soviets in May 1972 evidently had plans to deploy it widely,[26] Moscow faced a negotiating problem. How could they agree to Article II while still deploying the SS–19? They could do so obviously by not agreeing to the required definition of a heavy ICBM, thus rendering Article II ineffectual. This is exactly what happened. No agreement was reached on a definition of a heavy ICBM, leaving a large loophole in the provision designed to deal with the most important U.S. goal in SALT I: constraints on Soviet heavy ICBMs. The United States finally was forced to offer the following Unilateral Statement on May 26, 1972:

"The U.S. Delegation regrets that the Soviet Delegation has not been willing to agree on a common definition of a heavy missile. Under these circumstances, the U.S. delegation believe it necessary to state the following: The United States would consider any ICBM having a volume significantly greater than that of the largest light ICBM now operational on either side to be a heavy ICBM. The U.S. proceeds on the premise that the Soviet side will give due account to this consideration." [27]

On June 15, 1972, in a Congressional briefing at the White House, Dr. Kissinger made clear the U.S. interpretation of Article II and the U.S. definition of a heavy missile. However, he very misleadingly implied that the U.S. Unilateral Statement defining a heavy ICBM could be made binding upon the Soviet Union in the context of constraints on heavy missiles replacing high missiles. He said the following in response to a question by Senator Jackson:

"Now with respect to the definition of heavy missiles, this was the subject of extensive discussions at Vienna and Helsinki and finally Moscow. No doubt one of the reasons for the Soviet reluctance to specify a precise characteristic is because undoubtedly they are planning to modernize within the existing framework some of the weapons they now possess. The agreement specifically permits the modernization of weapons."

There are, however, a number of safeguards. First, there is the safeguard that no missile larger than the heaviest light missile that now exists can be substituted. Secondly, there is the provision that the silo configuration cannot be changed in a significant way and then the agreed interpretive statement or the interpretive statement which we made, which the other side stated reflected its views also, that this meant that it could not be increased by more than 10 to 15 percent. We believe that these two statements, taken in conjunction, give us an adequate safeguard against a substantial substitution of heavy missiles for light missiles . . . as far as the break between the light and heavy missiles is concerned, we believe that we have assurances through the two safeguards that I have mentioned to you.[28]

The first "safeguard" alleged by Dr. Kissinger is really a synthesis of the agreed wording of Article II and the U.S. Unilateral Statement. Thus Dr. Kissinger made a U.S. Unilateral Statement appear to be binding on the Soviet Union, when in reality is was not. He seemed to be misleading Congress on the most crucial issue of SALT I. The stakes riding on this U.S. interpretation were heightened even further. Thus John Newhouse wrote in his book published in 1973 that ". . . language worked out in Helsinki [i.e., in May 1972] probably assures protection against any increase in the number of missiles in the SS–9 class [i.e., Article II], but it is nonetheless a bit vague and incomplete, lacking for example, a definition of what constitutes a 'heavy' missile. The Soviets were determined to keep it that way. And they did. Still, any violation of the spirit of this language, let alone the letter, would probably oblige the United States to withdraw from the agreements. Moscow understands that." [29] Thus, even Newhouse, who was quite sympathetic to Kissinger's policies, considered the Article II-heavy missile issue of paramount importance, involving a threat of abrogation of the agreement by the United States if its unilateral definition of a heavy missile was not honored by the Soviets. As it turned out, the definition was not honored by the Soviet Union.

As has been noted, various public accounts indicate that the Soviets tested and deployed a new SS–11 replacement missile after May 1972. This missile was the SS–19. It is quite clear from public statements by Kissinger that the United States did not know the existence, size or capabilities of the SS–19 until well after 1972. Given the long leadtimes involved, the SS–19 must have been under development since about 1965. Public data also reveals that the SS–19 is a heavy ICBM, in terms both of the U.S. definition proposed in May 1972 as well as the U.S. Unilateral Statement defining a heavy ICBM as any missile significantly larger than the SS–11 and Minuteman III. The SS–19's throw-weight is comparable to that of the only U.S. heavy ICBM, the Titan II. The SS–19 is now being widely deployed.

The Soviet deployment of SS–19s has not constituted a violation of the SALT I Agreement, notwithstanding the allegations of some observers. It is not a compliance issue, but an important example of Soviet negotiating deception at the May 1972 Summit with respect to a central issue of SALT I. The Soviets protected their right legitimately to deploy a large number of SS–19s, all the while leading the United States to believe that such a missile would be prohibited. It is worth noting that three years after his June 1972 Congressional Briefing, Dr. Kissinger completely reversed himself on the question of the SS–19. On December 9, 1975, Kissinger said: "The Soviet Union specifically disavowed . . . unilateral American statements. I think it is at least open to question whether the United States can hold the Soviet Union responsible for its own statements when the Soviet Union has asserted that it does not accept that interpretation." [30] Kissinger added that the agreement to constrain increases in silo dimensions to not more than 15 per cent "is the only legal requirement in the agreement" affecting the deployment of heavy missiles as SS–11 replacements. These two statements are in direct contrast to his combination of the U.S. Unilateral Statement and Article II in June 1972. Finally, Kissinger said three years after the fact:

"Starting in the middle of 1974, it became apparent that at least one of them [i.e., the new Soviet ICBMs], the SS–19, could be as much as 40 per cent larger [i.e., than the light SS–11]. So we had the dilemma that we have a missile that is larger, by that percentage, than the SS–11 put into a hole that is not, however, in violation of the agreement by a better utilization of existing space and more efficient use of fuel. And that raises a serious question. We are attempting—the assurances I gave in 1972, which were based on the provision of the agreement [i.e., the 15 per cent constraint on silo dimensional increases], obviously dealt with the missiles we then knew. We obviously did not know in 1972 what missiles the Soviet Union would be testing in 1974; and the questions I was asked were always concerned with whether the Soviet Union would be able to put the SS–9 into the SS–11 hole—the SS–11 hole being the smaller one. And all of my answers, obviously, had to be directed toward the missiles I knew [i.e., in 1972 these were the SS–9 and the SS–11], and not toward the missiles that came along 2 years later [i.e., the new, heavy SS–19]." [31]

Kissinger thus acknowledged openly that only the Soviets knew in May 1972 that their new SS–19 was a heavy missile by U.S. standards, and that in order to protect their plans to deploy this missile they would not agree to a definition of a heavy missile. Kissinger thereby acknowledged that the Soviets had engaged in a negotiating deception. This revelation by Kissinger in 1975 also strengthens the inference that Congress had been misled on this crucial issue of SALT I in June 1972. Indeed, since Article II of the Interim Agreement was perpetuated in the Vladivostok accord of November 1974 without a definition of a heavy ICBM, we can conclude that the Soviet Union deceived the United States twice with respect to the SS–19.

We now turn to the complex issue of the

Footnotes at end of article.

Soviet SLBM ceiling, and the subissue of replacement baseline. These issues were embodied in Article III of the Interim Agreement and in the SLBM Protocol. In the interest of brevity, we can conclude that the ceiling of 62 SSBNs and 950 SLBMs put on Soviet sea-based strategic systems corresponded with Soviet force goals through 1977. Brezhnev himself proposed these numbers to Kissinger in April 1972, and no U.S. analysts could understand them then.[32] According to Raymond L. Garthoff:

"The price for Soviet agreement to include SLBM launchers (i.e., in the SALT I Agreement) was to place the 'limitation' at a very high level—indeed, at the highest level then estimated that the Soviet Union might deploy in the five year period of the interim freeze even without any SALT limitation! (Theoretically possible higher Soviet SLBM levels for 1977, developed after the April Moscow meeting, were later cited as support for the value of the limitation.) . . . No real restraint was provided for the short term duration of the Interim Agreement . . . The momentum of the Soviet SLBM buildup was not impeded."[33]

It is apparent in retrospect that the Soviets negotiated deceptively to persuade the United States to accept the 62/950 numbers in the belief that they represented a constraint or "freeze" on Soviet SLBM construction, when the numbers probably represented their original program objectives through 1977. The Soviets evidently also concealed the thirty old H-class SLBMs in the 950 total in order to preclude their deactivation.

A U.S. condition for extending to the Soviets this high ceiling for SSBNs and SLBMs was that a certain number of old weapons were to be deactivated. In order to negotiate the number of old weapons to be disposed of, it was necessary first to negotiate a "baseline" of Soviet SSBNs and SLBMs operational and under construction as of May 1972. The Soviets tried to minimize the number of old weapons to be deactivated, probably by maximizing the numbers of submarines (48) and SLBM tubes (768) they claimed were then operational and under construction.[34] This Soviet ploy involved the exaggeration of the numbers both of boats and tubes. As Kissinger himself said in his press conference on May 26, 1972, in their negotiations on this replacement baseline issue:

"The Soviets claim that they have more than that [i.e., the Soviets claimed 48 boats with 768 tubes operational or under construction in May 1972]. . . . The Soviets may not tell us exactly what they have, but they are in a better position to know than we, painful as this is to admit."[35]

According to Cold Dawn, however, the United States estimated in May 1972 that the Soviets had only 42 submarines with 640 SLBM tubes operational or under construction. This falsification of boat and tube numbers clearly constituted negotiating deception. Moscow thus exploited U.S. uncertainties with respect to Soviet capabilities.

Equally significant, the Soviets exaggerated by 6 boats and 128 tubes. Moreover, like the heavy SS-19 ICBM which was secret during the May 1972 Summit, the Soviets had another new missile whose characteristics they wished to conceal. This was the SS-N-8 which, as was noted earlier, was fired only in late 1972, after the Summit, over a range of about 4,000 nautical miles.[36]

The main Soviet argument for being allowed the high 62/950 ceilings related to the "geographical asymmetries" rationale. The Soviets argued that because they lacked forward bases for submarines comparable to the ones that the United States had access to in Guam, Spain and Great Britain, their submarines had to operate on longer patrols; therefore, they should be allowed more submarines and SLBMs in compensation. Kissinger seemed to accept this rationale in developing the argument that the Soviets required three SSBNs for every two of the United States—three-to-two ratio. Kissinger said as much to Congressional leaders on June 15, 1972: "Then there are such factors as deployment characteristics. For example, because of the difference in geography and basing, it has been estimated that the Soviet Union requires three submarines for two of ours to be able to keep an equal number on station."[37]

Therefore, in comparison with 41 SSBNs for the United States, the Soviets were allowed 62. Yet, the long range of the SS-N-8, which was demonstrated only after the Summit, showed that it could be fired to most U.S. targets without even leaving home ports. The reportedly broad deployment of SS-N-8 missiles on D-class submarines invalidates the Soviet "geographical asymmetries" argument; indeed, it could be argued that the U.S. should have been compensated. It is another example of negotiating deception, because the Soviet leaders surely knew of the SS-N-8 capability in May 1972.

Finally, we must consider briefly the third principal issue of May 1972—that involving mobile ICBMs. The United States tried to negotiate a formal ban on mobile ICBMs, but the Soviets refused, suggesting that mobile ICBMs would not be deployed:

"Nixon and Brezhnev recognized the complexity of the problem. After lengthy debate, *they promised one another that they would not build land-based mobile ICBMs.* But Brezhnev refused to write this promise into the interim agreement. Nixon stressed that the United States would state its own understanding of the prohibition in a separate declaration that would be submitted to Congress; and he warned that if the U.S. caught Russia cheating on this issue, it would immediately abrogate the entire SALT agreement. *Brezhnev said that he understood and agreed.*"[38]

Yet, according to the *New York Times* of November 2, 1977, and other public sources, the Soviets have produced and covertly stockpiled about 100 mobile SS-16s. Stockpiled mobile ICBMs are potentially more dangerous than visibly deployed ones, because they could be quickly hauled out for use in time of crisis. This covert stockpiling is inconsistent with Brezhnev's promise not to build mobile ICBMs, and also with the U.S. Unilateral Statement against such deployment. Such covert stockpiling of a mobile ICBM gives the Soviets an equivalent to a proposed U.S. multiple aim point system (MAPS) *already*. Moreover, the Soviets reportedly have camouflaged and concealed all SS-16 production and development activity from U.S. national technical means of verification, thereby confusing U.S. intelligence.[39]

The above analysis clearly indicates that the Soviet leadership negotiated deceptively on *each* of three key issues of SALT I: constraints on heavy ICBMs, the SLBM ceiling and replacement baseline, and mobile ICBMs. A comparison of Kissinger's remarks in 1972 and 1975 shows that in 1972 Brezhnev and other Soviet negotiators deliberately shrouded significant Soviet capabilities in order to ensure that Articles II, III and the Protocol of the SALT I Interim Agreement did not constrain Soviet programs. Brezhnev evidently even falsified the claimed Soviet submarine and tube baselines in order to try to minimize the numbers of old Soviet weapons to be deactivated. Despite the threat of U.S. abrogation, Moscow also reneged on Brezhnev's promise not to build mobile ICBMs and has actively concealed them.

Notwithstanding this conclusive evidence, many U.S. observers seem to cling to a belief in the basic sincerity of Soviet negotiating behavior. In his memoirs published in 1978, former President Nixon still accepts uncritically Brezhnev's denial in May 1972 that the Soviets were engaging in deception at that time. Nixon reports that in the context of a discussion of U.S. concerns about verification and compliance during the May 1972 Summit, Brezhnev said in an injured tone of voice: "If we are trying to trick one another, why do we need a piece of paper? We are playing clean on our side. The approach of 'catching each other out' is quite inadmissible."[40] Inexplicably, it has taken the United States six years to "catch out" the Soviets in their deception.

THE LONG SHADOWS OF SALT I

Both of the SALT I concords—the ABM Treaty and the Interim Agreement—were inimical to U.S. interests and to the U.S. strategic posture.

First, the ABM Treaty resulted in the demise of the technically more advanced U.S. ABM program. In May 1972, four U.S. ABM sites intended to defend ICBMs were funded by Congress, and two of these sites were under advanced construction. Construction on one was stopped immediately after the SALT I agreements were signed and the other two funded deployments were soon abandoned. Then, in July 1974, the United States and the Soviet Union in effect agreed to only one ABM complex on each side, and the remaining U.S. ABM system was deactivated in February 1976 just after it had achieved its initial operational capability. In both ABM Agreements, the United States thus opted for less than was allowed. In effect, the ABM Treaty destroyed all political support in the United States for any ABM capability.

Meanwhile, the Soviets reportedly kept their remaining Moscow ABM-1 system. It is also well known that the Moscow system probably protects some Soviet ICBMs. There is no evidence that Soviet ABM efforts and intentions were really constrained: evidently the Soviets never planned more than one ABM complex, while continuing a large and very active R&D program that reportedly continues apace. Dr. Kissinger himself admitted in May 1972 that the U.S. ABM program was superior to that of the Soviet Union: ". . . it is perhaps true that in the ABM field we had the more dynamic program which is being arrested as a result of these developments."[41] Yet, he clearly rationalized this in terms of a linkage between the U.S. ABM concessions and the "success" in persuading the Soviets to agree to a "freeze" on offensive weapons: "I would think it probable, however, that we could not have negotiated the limitations on offensive weapons if it had not been linked to the limitations on defensive weapons and to their desire of stopping the deployment of the ABM system."[42]

Yet, what did the United States achieve in return, in the way of effective constraints on Soviet offensive strategic programs? SALT I constituted the codification of a roughly three-to-two Soviet advantage over the United States in each category of strategic missilery—in ICBMs and SLBMs. The USSR was allowed 1,408 ICBMs and 950 SLBMs, as against 1,054 ICBMs and 656 SLBMs for the United States. The aggregate ceilings under SALT were 2,358 Soviet and 1,710 U.S. missiles, meaning an overall advantage to the Soviets of 648 missiles. SALT I also codified an overwhelming Soviet superiority in missile throw-weight.

It has often been noted by the defenders of SALT I that intercontinental bombers were not limited by the accords. Although the United States has about 349 B-52s as against approximately 150 Soviet long-range bombers, this apparent U.S. advantage must be sharply discounted in light of the overwhelming Soviet superiority over the United States in effective air defenses.

Footnotes at end of article.

Moreover, SALT I placed no real constraints on Soviet weapons programs. First, SS-19 deployments swept through the SALT I loophole with respect to heavy ICBMs. Second, there were no reins on MIRV development, allowing the Soviets to catch up in this key qualitative arena. Third, the original Soviet SSBN/SLBM program through 1977 was evidently codified, not constrained. It must also be recalled that this codified Soviet level was reportedly above the highest U.S. estimates of what the Soviets could deploy in the 1972-1977 period. Fourth, Soviet mobile ICBM production was evidently not curtailed. Finally, there is the clear evidence of Soviet negotiating deception with respect to each of the three main issues of the May 1972 SALT I Summit, and their exploitation of U.S. uncertainties about the existence and characteristics of new Soviet ICBM and SLBM programs.

The Soviets had reason to be jubilant about the results of SALT I. Soviet Ambassador to the United States Dobrynin reportedly admitted this about SALT I: "Frankly, we were elated at the results of SALT I. It gave us the strategic advantage in central systems necessary to offset your Forward Based Systems, and it reserved for us the right to match you with regard to warheads in the future."[43]

Dr. Kissinger tried to justify the SALT I Agreements by claiming that they imposed a "freeze" on Soviet ICBM and SLBM programs—that in the absence of SALT I these Soviet programs would have ascended to even higher levels. He thus argued that the United States was merely restraining the degree of Soviet superiority, which had already been conceded by U.S. inaction since 1967: ". . . The question to ask in assessing the freeze is not what situation it perpetuates, but what situation it prevents. The question is where we would be without the freeze. The question of whether the freeze perpetuates a Soviet numerical superiority is beside the point. The question is: What would the margin have been without the freeze? That is the justification for the margin."[44] Yet, as we have seen, there actually was no freeze on Soviet ICBM and SLBM programs. Massive flight-testing and deployment of the new SS-19, SS-18 and SS-17 MIRVed ICBMs and SS-N-8 began after 1972, and the Soviet SLBM build-up continued uninterrupted to the 62/950 levels.

Kissinger also argued that the ostensible offensive "freeze" was really a Soviet concession to the United States. In answer to a question on May 26, 1972, on whether the United States had emerged with a bad bargain with respect to submarines, Kissinger asserted: "That is an absurdity. It is a total absurdity. It was the United States which insisted that the submarines be included. The United States was in a rather complex position to recommend a submarine deal since we were not building any and the Soviets were building eight or nine a year, which isn't the most brilliant bargaining position I would recommend people to find themselves in."[45] He added on June 15, 1972: "Neither the freeze of ICBMs nor the freeze of submarine-launched missiles was a Soviet idea, and hence, it is not an American concession. On the contrary, in both cases it was the Soviet Union which reluctantly acceded to American proposals after the long and painful deliberation."[46]

But the validity of these arguments depended on whether the Soviets were actually constrained or "frozen" in ICBMs and SLBMs. As we have seen, there is overwhelming evidence that they were not. In arguing that the United States proposed the ICBM and SLBM freeze, Kissinger must also admit that in reluctantly agreeing to them, the Soviets were likely to have proposed freeze levels favorable to themselves and in accord with their original plans. In exchange for accepting the principle of ceilings, the Soviets were permitted to determine these ceilings. In both the ICBM and SLBM cases, these levels represented their original goals. This freeze rationale for the SALT I Agreements merely bolsters the conclusion that the United States was deceived by the Soviets in May 1972.

In addition to the "freeze" justification for the Interim Agreement, Kissinger advanced several equally questionable arguments. We have already seen that the U.S. advantage in bombers must be severely discounted because of Soviet air defenses. The argument of geographical asymmetry to support higher SSBN-SLBM ceilings was invalidated by the large-scale Soviet deployment of long-range SS-N-8 missiles. Kissinger has also argued that U.S. Forward Based Systems (FBS) in NATO and the Far East in effect conferred upon the United States adequate compensation for the three-to-two advantage to the Soviets in ICBMs and SLBMs. Omitted in this argument, however, is the fact that the Soviets have their own forward-based systems that already checkmate those of the United States. Their approximately 600 MR/IRBMs in the Western USSR, together with the large Tu-16 Badger and Tu-22 Blinder medium bomber forces and their numerous fighter-bombers, are more than a match for U.S. land- and carrier-based aircraft in Europe and the Pacific. Recent massive Backfire and SS-20 deployments, for which there are no Western equivalents, add to the imbalance in Europe.

Kissinger claimed, as we have seen, that the SALT I Agreements were the best we could achieve under the circumstances, in May 1972. This argument founders in light of the fact that the United States could have achieved the essential outcome of the ABM Treaty as early as in April 1970 when the Soviets unexpectedly accepted the ABM proposal by the United States providing for the defense of national capitals. This would have been a better agreement than was achieved in May 1972, because while the United States was "standing still" and trying to constrain the Soviets in the 1970-1972 period, the Soviets reportedly added more than 400 launchers (mostly SLBMs) to their force.[47]

Kissinger argued that the U.S. M RV capabilities deployed after June 1970 gave the United States an important edge over the Soviet Union in numbers of warheads. Yet, in his May and June 1972 statements he acknowledged that the Soviets, too, could be expected to develop and deploy their own M RVs during the 1972-1977 period—which they did. Hence, this too was a spurious argument. Indeed, the U.S. advantage in numbers of MIRVed warheads is rapidly shriveling and probably will be wiped out by 1985. All analysts agree that with or without SALT II, by as early as 1982 the Soviets will probably have mustered enough superiority in MIRVed ICBM warheads to threaten the U.S. Minuteman force. Moreover, it should be remembered in comparing MIRVed warhead totals that most U.S. re-entry vehicles are small, inaccurate Poseidon warheads for attacking cities, while the bulk of Soviet vehicles are large and accurate RVs on ICBMs for attacking U.S. silos.

Public evidence also suggests that Kissinger relied on the "China factor" as a redressive element with respect to Soviet strategic advantages and regarded British and French strategic capabilities as additional balancing factors. Irrespective of such considerations, however, his famous utterance in Moscow on July 3, 1974, of the question—"What in the name of God is the meaning of strategic superiority?"—reinforces the impression that Kissinger basically regarded strategic superiority as a phenomenon that is neither measurable nor operationally meaningful.

In his May 26-27 and June 15, 1972 briefings, Kissinger tried to disavow responsibility for the unfavorable bargaining position in which he found himself in May 1972. He explained:

"By 1969, therefore, we had no active or planned programs for deploying additional ICBMs, submarine-launched ballistic missiles or bombers—in other words, as a result of decisions made in the 1960's, and not reversible within the time-frame of the projected agreement, there would be a numerical gap against us in the two categories of land and sea-based missile systems whether or not there was an agreement. Without an agreement, the gap would steadily widen."[48]

Kissinger did not mention that in 1969 he had recommended against a resumption of ICBM, SLBM and bomber construction by the United States. Why did he do so? Perhaps Soviet Ambassador Dobrynin supplies the answer: ". . . It was Dr. Kissinger's view that the American people would not make the sacrifices necessary to maintain parity."[49]

THE INSISTENT QUESTIONS

SALT I leaves to SALT II six principal legacies. First, America's strategic inferiority codified by SALT I in the 1972-1978 period is ordained by development lead-time problems to be perpetuated into the 1980s. Second, we can assume that Soviet deception in defending fourth-generation missiles against SALT I constraints is likely to be repeated in SALT II in efforts similarly to give free rein to the five new fifth-generation Soviet ICBMs and SLBMs known to be under development. Third, SALT II will explicitly allow the Soviets about 700 heavy, MIRVed SS-19s and SS-18s, compared to only 50 obsolete, single-RV U.S. Titan IIs due to be phased out. Fourth, the failure by the United States in SALT I to prevent the heavy SS-19 from replacing the light SS-11 means that the new un-MIRVed ICBM envisaged by the Soviets to replace about 400 older SS-11s under SALT II will be as heavy as the SS-19. Thus by 1985 the Soviets could command 1,100 heavy launchers as contrasted with zero for the United States. Fifth, the SS-16 is already available to the Soviet Union for mobile deployment or multiple aim point basing, while under SALT II the United States may be constrained with respect to similar deployment options. Finally, in light of the Soviet record of deception, any assurances by Brezhnev with respect to basing and operations of the Backfire bomber can be considered neither credible nor durable.

Whatever may have been the rationalizations for the American failures in SALT I, the shadow of the outcome of those negotiations pervades the fateful arena of the U.S.-Soviet strategic competition. As we approach the climactic debate over SALT II, the question becomes ever more insistent: Does a great nation learn from its past mistakes—from the clear record of the adversary's deceit and its own gullibility—or does it continue headlong on the road to potential disaster?

FOOTNOTES

[1] U.S. Department of State, *Selected Documents*, No. 7, February 21, 1978, p. 7.

[2] Frank B. Horton III, Anthony C. Rogerson and Edward F. Warner III, editors, *Comparative Defense Policy* (Baltimore: Johns Hopkins University Press, 1974), p. 314; William T. Lee, "The Political-Military-Industrial Complex of the USSR," *Journal of International Affairs*, Vol. 26, No. 1, p. 78.

[3] Norman Polmar, *Strategic Weapons* (New York: Crane, Russak and Company, 1975), p. 29.

[4] Marvin Kalb and Bernard Kalb, *Kissinger* (Boston: Little, Brown and Company, 1974), p. 107.

[5] Ibid., p. 109, emphasis added.

[6] Ibid., p. 107.

[7] Ibid.

[8] Admiral Elmo R. Zumwalt, Jr., USN (Ret.), *On Watch* (New York: Quadrangle/New York Times Book Co., 1976), pp. 304, 319.

[9] Kalb and Kalb, op. cit., p. 108.

[10] Ibid.

[11] Ibid.

[12] Ibid., p. 109.

[13] Ibid., p. 110.

[14] Zumwalt, op. cit., p. 319. See also pp. 390–391.

[15] Robert L. Pfaltzgraff, Jr., *Contrasting Approaches to Strategic Arms Control* (Boston: D. C. Heath, Lexington Books, 1974), pp. 14–15.

[16] Raymond L. Garthoff "Negotiating With the Russians: Some Lessons from SALT," *International Security*, Spring 1977, Vol. 1, No. 4.

[17] Ibid. See also Raymond L. Garthoff, "Negotiating SALT," *The Wilson Quarterly*, Autumn 1977, Vol. 1, No. 5.

[18] Raymond L. Garthoff, "SALT and the Soviet Military," *Problems of Communism*, January–February 1975.

[19] John Newhouse, *Cold Dawn: The Story of SALT* (New York: Holt, Rinehart and Winston, 1973, p. 244.

[20] Ibid., pp. 240–272.

[21] *U.S. Defense Posture Statement 1974; U.S. JGS Posture Statement 1974.*

[22] *Washington Post*, September 27, 1973; *New York Times*, October 4, 1974.

[23] Garthoff, op. cit., "SALT and the Soviet Military," p. 32. See also Colin S. Gray, "SALT I Aftermath: Have the Soviets Been Cheating?," *Air Force Magazine*, November 1975.

[24] *U.S. Defense Posture Statement 1974.*

[25] "Message from the President of the United States Transmitting the ABM Treaty and Interim Agreement and Associated Protocol," June 13, 1972.

[26] *U.S. Defense Posture Statements* for 1974, 1975, 1976. Also, Dr. Henry A. Kissinger, Secretary of State, Press Conference, December 9, 1975.

[27] "Message from the President," op. cit.

[28] Dr. Henry A. Kissinger, Assistant to the President for National Security Affairs, White House Congressional Briefing, June 15, 1972. Emphasis added.

[29] Newhouse, op. cit., p. 252. Emphasis added.

[30] Kissinger, op. cit., Press Conference, December 9, 1975. Emphasis added.

[31] Ibid. Emphasis added.

[32] Ibid.; Newhouse, op. cit., pp. 244–247.

[33] Garthoff, op. cit., "Negotiating with the Russians," pp. 9, 16. Emphasis added.

[34] Newhouse. op. cit., pp. 247–248. See also, Dr. Henry A. Kissinger, Press Conference, May 26–27, 1972; *Washington Post*, August 16, 1972.

[35] Kissinger, op. cit., Press Conference, May 26–27, 1972. Emphasis added.

[36] *U.S. Defense Posture Statement 1974; Washington Post*, September 27, 1973.

[37] Kissinger, op. cit., White House Congressional Briefing, June 15, 1972. Emphasis added.

[38] Kalb and Kalb, op. cit., p. 320. Emphasis added.

[39] Melvin Laird, "Arms Control: The Russians Are Cheating!," *Reader's Digest*, December 1977. See also numerous articles in *Aviation Week and Space Technology*.

[40] Richard M. Nixon, *R.N.: The Memoirs of Richard Nixon* (New York: Grosset and Dunlap, 1978), p. 611.

[41] Kissinger, op. cit., Press Conference, May 26–27, 1972.

[42] Kissinger, op. cit., White House Congressional Briefing, June 15, 1972. Emphasis added.

[43] Zumwalt, op. cit., pp. 486–487.

[44] Kissinger, op. cit., Press Conference, May 26–27, 1972. Emphasis added.

[45] Ibid. Emphasis added.

[46] Kissinger, op. cit., White House Congressional Briefing, June 15, 1972.

[47] Garthoff, op. cit., "SALT and the Soviet Military," pp. 30–31.

[48] Kissinger, op. cit., White House Congressional Briefing, June 15, 1972: Kissinger, op. cit., Press Conference, May 26–27, 1972.

[49] Zumwalt, op. cit., p. 486.

A SALT DEBATE: HARD BUT FAIR BARGAINING

(By Walter Slocombe)

IN BRIEF

Soviet negotiators predictably have driven a hard bargain in SALT, but they cannot be plausibly faulted for deceiving their American counterparts. The Soviets could not be expected to be completely forthcoming in SALT I about the nature and extent of their strategic programs, but none of these programs has come as a real surprise; this applies also to the so-called heavy Soviet ICBMs deployed after 1972. The SALT I experience did teach us the lesson of greater precision in treaty language—a lesson that is reflected in the present treaty and in the genuine concessions made by and constraints imposed on both sides.

The article by David S. Sullivan, "The Legacy of SALT I: Soviet Deception and U.S. Retreat," which appeared in the Winter 1979 issue of Strategic Review, contains some important, if by now familiar, reminders that the Soviets can be very tough negotiators. Mr. Sullivan underscores the point that the Soviets operate from a distinctive set of strategic premises which are not always easy for us to appreciate. He also calls attention to factors which may impart a momentum to the Soviet strategic effort and consequently may shape Soviet arms control behavior. But Mr. Sullivan goes further by attempting a general indictment of SALT which is based largely on the belief that the United States fell victim to Soviet deception in SALT I. His analysis contains serious inconsistencies and errors which this rebuttal will address.

SALT AS AN ARMS RACE DAMPENER

Mr. Sullivan begins by advancing a number of "general propositions" about the arms race and SALT. The first of these is that: "SALT has not led to true or balanced arms control." He argues that neither the deactivation of 210 Soviet SS–7 and SS–8 ICBMs nor the limitation of Soviet ABMs is significant.

These are to some degree matters of judgment, but the elimination of over 200 Soviet ICBM launchers is hardly trivial. It has been the Soviet practice to retain older systems (as has been the case, for example, with substantial numbers of still older SS–4 and SS–5 shorter-range missiles); SALT I required that older ICBMs be destroyed as new systems came on line. The United States had serious concerns about the capabilities of the SS–7s and SS–8s. Because of their high throw-weight they were sometimes referred to in internal U.S. government discussions during SALT I as "shadow SS–9s," since as long as those missiles were in the force they were available for modernization or upgrading. In short, the United States is clearly better off with the systems retired than not.

With respect to the Soviet ABM program, Mr. Sullivan contends that "there is no known evidence that in 1972 the Soviets planned to deploy more than the ABM system around Moscow." Even assuming that to be true, the ABM agreement is of indefinite duration; it affected more than Soviet plans in 1972. The Soviets have a continuing interest in—and a vigorous R&D program for—ABM. The ABM Treaty bars them from translating that interest into deployments. As is often the case with arms control agreements, the most significant effect of the SALT I agreement may have been in preventing future developments which were not yet planned, but which would have been a source of great concern had they later been adopted. This may well have been the case for Soviet ABM deployments.

Mr. Sullivan suggests that "the reported covert stockpiling of an equivalent mobile SS–16 ICBM has offset any advantage from the retirement of the SS–7 and SS–8." There is no evidence to support the contention that there has been "covert stockpiling of . . . mobile SS–16 ICBMs." There is some possibility that the Soviets have deployed a very limited number of SS–16s in silos as replacements for SS–13s, but no evidence that they have been deployed as mobile systems.

SALT AND ABM

Mr. Sullivan's second proposition is that "the Soviets have clearly gained the most from the SALT process." In support of this proposition, he argues that the "Soviet Union has continued the pace of both its quantitative and qualitative improvements." That is clearly true of the Soviet Union, but it is true of the United States as well. It is often neglected that during the period of the SALT I negotiations and the validity of its agreements, the United States deployed 1,000 MIRVed missiles and quadrupled its number of warheads, in addition to developing cruise missile technology, moving the Trident missile and submarine systems near IOC (initial operating capability), and bringing the MX missile to the point where we are now able to proceed to full scale development.

Mr. Sullivan also argues that the Soviets "successfully thwarted the U.S. strategic program of greatest concern to them: the more technically advanced U.S. ABM program." It was the judgment of President Nixon, who signed the 1972 Treaty—a judgment confirmed by both of his Presidential successors—that it was in the interest of the United States not to permit a nationwide Soviet ABM system, and that for this reason the limitations of the ABM agreement were in the interest of the United States. Presumably the Soviets also perceived an interest in limiting ABMs; otherwise, they would not have signed the Treaty. No international agreement between independent nations is possible unless there is some mutuality of interest perceived by the two sides.

SALT CONSTRAINTS ON SOVIET ARMS

Mr. Sullivan's third proposition is that "SALT has stimulated the arms race by allowing a Soviet build-up without any real quantitative and qualitative constraints." In support of this proposition, Mr. Sullivan gives his reconstruction of the Soviet decision process at various points. The impact of his assertion that "SALT has stimulated the arms race" is somewhat undercut by his conclusion that "the Soviet MIRVed deployments would have taken place sooner or later irrespective of the fact or timing of U.S. programs." This seems to imply that since the deployments were not limited by SALT I, they would have taken place no matter what the United States had done. It is hard to see how that is consistent with the proposition that SALT "stimulated" Soviet developments.

His fourth proposition is that "the United States could have achieved a Strategic Arms Limitation Agreement more advantageous to itself much earlier than May 1972." On examination, however, it turns out that this "more advantageous" agreement would have been acceptance of the Soviet proposal to limit only ABMs and not offensive systems. That would indeed have been easy to do. However, Mr. Sullivan's conclusion that the United States should have accepted this Soviet proposal is inconsistent with his argument in the previous column that the ABM Treaty is disadvantageous to the United States.

Mr. Sullivan denounces the "purported 'freeze'" of Soviet offensive programs as a "sham." Again this conclusion rests on his assertion that the Soviets would have stopped building new ICBMs and retired their older ones even had there been no agreement. Obviously Soviet actions in the absence of an agreement are a matter of

judgment, and it is difficult for anyone to draw firm conclusions. That is not only because there are gaps and ambiguities in our evidence about Soviet plans, but more importantly because such judgments require a prediction of what the Soviets would have decided had there been no SALT I—in other words, a prediction of how they would have reacted to a situation that never developed, namely, the collapse of the SALT I effort.

One could concede for purposes of argument the highly plausible proposition that during SALT I negotiations the Soviets matched their negotiating positions substantially to their approved modernization programs (which we did as well), and that they also made some adjustments in their overall programs before the conclusion of the agreement. But this conduct proves very little about what the Soviets would have done had the SALT I process collapsed.

There can be no reasonable doubt that the Soviets were perfectly capable—whatever their intentions—of continuing to build new ICBMs at the rate of one hundred or so annually, of retaining older systems, and of carrying out their submarine-launched ballistic missile construction program without "trading in" older systems. The investment necessary to replace an SS–9 silo with an SS–18 is unlikely to be significantly less than building a whole new SS–18 and leaving the SS–9. Had the Soviet Union not been constrained by the SALT I freeze on missile launchers, its force would very likely have been much larger. The Soviets could, for example, have built the same force of SS–17s, SS–18s and SS–19s and the same new submarines while retaining the 210 SS–7s and SS–8s. They could have made the SS–18 force additive to the SS–9s, and retired no Y-class SSBNs as Delta IIIs were built. SALT I denied them such options.

Mr. Sullivan's fifth proposition is that "under SALT I the United States had traded away its ABM in return for a tripling or quadrupling of the Soviet strategic threat against it, all the while tolerating Soviets negotiating deception and massive operational concealments and ruses in Soviet strategic deployments." The first point relates to weapon loading growth on both sides. Like Soviet loadings, U.S. strategic force loadings have tripled or quadrupled during the period of SALT I, and for essentially the same reason—the introduction of MIRVs. The judgment that the United States wished to retain the option to MIRV its forces was a major U.S. decision point in SALT I. Once made, this decision clearly implied equivalent flexibility for the Soviets—as was fully recognized at the time. As to the claim of "massive operational concealments," the very complete and detailed State Department report on compliance makes clear that while certain Soviet patterns of concealment have been matters of concern, they were not—in the judgment of the Ford Administration, or of the Carter Administration—violations of the agreement.

With respect to the charge that "the Soviets admitted that they were in violation of SALT I by having failed to deactivate by March 1976 the required number of SS–7s and SS–8s," Mr. Sullivan misconstrues both the facts and the State Department report which he cites. The procedures worked out to implement the SALT I agreements involved detailed requirements for dismantling or destruction to be accomplished in connection with the replacement of ICBMs by SLBMs. There is no doubt that the Soviet ICBMs in question were deactivated. The issue was whether all of the required dismantling actions had been completed on time. As the report notes, the Soviets acknowledged that not all of the requirements had been met on time. They also stated that all requirements would be complied with by a fixed date a few months hence, and agreed to the U.S. demand that no additional SLBM submarines begin sea trials until all ICBM launchers in question were in full compliance with agreed procedures. Those conditions were met.

THE HEAVY ICBMS ISSUE

The core of Mr. Sullivan's attack is the section which deals with the final negotiations of SALT I at the May 1972 Summit. A comprehensive response would require reanalysis of the massive data which Mr. Sullivan employed in his classified study. Mr. Sullivan's overall theme is that the results in SALT I (at least so far as the offensive agreement is concerned) were governed by Soviet "negotiating deception in May 1972." He discusses four specific instances.

First is the missile silo size issue, turning on whether the Soviets would be permitted to deploy their SS–19 ICBMs in spite of the ban on increasing the number of launchers for "heavy" ICBMs. Mr. Sullivan correctly observes that the United States has proposed a definition of "heavy ICBMs" which would have barred such deployment, and that the Soviets could not agree to it unless they were prepared to give up the then still-untested but far-advanced SS–19, which obviously they were not. He also recites the outlines of the negotiations which resulted in failure to reach agreement on the definition of a heavy ICBM. What he does not say is that it is very difficult to find Soviet "deception" in the negotiation of this issue.

The Soviets in 1972 were clearly on record as not agreeing to the U.S. (or any other) definition of a heavy ICBM. (That they did not agree with our view is clear even from the so-called Common Understanding published in 1972.) There is no obligation on the part of a negotiator to make clear his motives as opposed to the content of his position. As a general rule, the Soviets should be presumed to be protecting something when they refuse to agree to a specific limitation. American negotiators operate under the assumption that when the Soviets refuse to agree to a provision which would potentially have an impact on a Soviet program, it is likely to be because they do indeed have a program that it would impact upon. It is hard to believe that in 1972 so skilled a negotiator as Dr. Kissinger did not draw a similar conclusion about Soviet reluctance to agree to our heavy missile definition.

Dr. Kissinger and the other U.S. negotiators also had available more direct evidence. The fact is that whether or not it would have been deceptive to keep silent on their reasons, the Soviets did reveal quite precisely why it was that they could not—and would not—agree to the U.S. definition of a heavy missile. Whatever U.S. intelligence may have known about Soviet programs that had not entered testing, and whatever defenders of SALT I may have claimed in the subsequent argumentation, the Soviets said explicitly that the reason for their refusal was that the U.S. definition (that any missile larger in volume than the SS–11 was a heavy missile) was in unacceptable conflict with their plans.

Ambassador Gerard Smith, the chief U.S. negotiator of the first SALT agreements, has written: "At Helsinki we had been informally advised that while the Soviet Union would be deploying missiles of larger volume in SS–11 silos, they would not approach the halfway mark between an SS–11 and the admittedly heavy missile, the SS–9." ("Wrestling with the Plowshares Problem," *New York Times*, January 16, 1976.) The Soviets' negotiating position (and their subsequent conduct) was consistent with this statement. Mr. Sullivan indeed agrees that "The Soviet deployment of SS–19s has not constituted a violation of the SALT I agreement notwithstanding the allegation of some observers."

Thus, far from being "an important example of Soviet negotiating deception at the May 1972 Summit," this issue shows that the Soviets made quite clear why they were insisting on their position.

Without going into an exegesis of all Dr. Kissinger's statements on the subject, it is clear that the quotations given, as well as the rest of his record, do not support the assertion that "Kissinger acknowledged that the Soviets had engaged in negotiating deception" on this issue.

THE SLBM CEILING ISSUE

With respect to the second instance of alleged deception, the issue of the Soviet SLBM ceiling, Mr. Sullivan's basic charge is that "the ceiling of 62 SSBNs and 950 SLBMs put on Soviet seabased strategic systems corresponded with Soviet force goals through 1977." The quotation from Ambassador Garthoff indicates that such was indeed the assumption which the United States' negotiators made about the situation. However, Mr. Sullivan goes on to find in this Soviet protection of their programs not just rigidity and unwillingness to cut very deeply in arms limitations, but another instance of Soviet negotiating deception. The basic contention is that the Soviets falsified their claim as to the number of submarines which they had under construction in 1972 so as to reduce the number of systems they would later have to deactivate in order to accommodate completion of their SSBN program. (They did subsequently deactivate exactly the number implied by the claim that 48 were under construction or operational.)

The short answer to all this is what Dr. Kissinger said in 1972—that while we were able only to draw estimates of Soviet construction status, the Soviets were in a position to know. It was very difficult to claim that we were right and they were wrong about how many submarines were "under construction." The term "under construction" is clearly a term which is subject to different interpretation by the people who are doing the constructing and by those who are doing the observing.

There was no question, however, that what was at stake was the degree to which the Soviets would be required to retire old systems to deploy new ones. The charge of falsification boils down to a charge that the Soviets used a spurious factual claim to support an entirely overt substantive position. That is not much of a "deception." It is hardly a presumption of international negotiation that one can use arguments based on vague terms like "under construction" only if one's application of the term is one that would be accepted by an objective observer as uniquely correct. Presumably the U.S. negotiators in 1972 agreed to these numbers not because they were persuaded that they were "true" but because they concluded the overall agreement was in U.S. interests.

Mr. Sullivan's third claim of deception is, apparently, that the Nixon Administration wrongly accepted the validity of Soviet claims that the so-called "geographical asymmetries" entitled them to more submarines, whereas in fact their new, longer-range SLBM, the SS–N–8, would overcome those limits. The alleged deception arises from the Soviets having concealed from the U.S. the SS–N–8's full capability by not testing it to full range until the talks were over. Not all Soviet problems of geography and basing are overcome by greater range; there are other factors relevant to Soviet perception of their requirement for submarines. Not the least of these factors is that the Soviet SS–N–8 in question is not a MIRVed SLBM (the first Soviet MIRVed SLBM was deployed only recently). Nor are all their SLBMs SS–N–8s.

In any case, this line of argument is more that President Nixon and Dr. Kissinger were persuaded by a line of argument that Mr. Sullivan finds unconvincing than that the Soviets were deceptive. There is surely no

requirement for SALT negotiators to reveal the detailed performance characteristics of their systems—or even to avoid arguments which the other side would find unpersuasive if they knew all the facts. Again, it is simply not credible that Nixon and Kissinger were convinced of the objective validity—the rightness—of the Soviet "geography" rationale for why they should be entitled to 62 SSBNs; instead they decided that the overall deal was a sound one for the United States.

THE ISSUE OF MOBILE ICBMS

Finally, with respect to mobile ICBMs, the fourth area of alleged "deception," Mr. Sullivan's contention is not that the Soviets negotiated deceptively, but that they have violated the unilateral U.S. warning against deployment of mobile ICBMs. This is, on its face, not even an assertion of deception, quite apart from whether the Soviets could ever be expected to abide by a U.S. unilateral statement. Nor is the factual statement—that the Soviets have deployed mobile SS-16s—correct. As noted earlier, while there is some question about the development of SS-16s in silos as a replacement of SS-13s, there is no evidence of any mobile deployment. The mobile testing which has been undertaken is not a violation even of the U.S. unilateral statement (which related to deployment), much less of the provisions of the Treaty.

In addition to these reservations about whether Mr. Sullivan has established "deception" (as opposed to rigidly self-interested bargaining) by the Soviets, the issue in assessing SALT I or SALT II is not the "basic sincerity of the Soviet negotiating behavior." The United States—no matter who is President or chief negotiator—does not enter into SALT agreements with the Soviets relying on trust, and still less on their "sincerity." We enter into such accords on the basis of our interest in putting limitations on the strategic arms competition where those limitations are equitable and verifiable. This was true of the SALT I accords, and still more so of those which have been negotiated in SALT II.

THE "LONG SHADOWS" OF SALT I

Mr. Sullivan's points in the concluding section of his article about the alleged "long shadows of SALT I" warrant a brief response:

(1) "U.S. ABM killed." The ABM Treaty did not result in the demise of the U.S. ABM program. We are maintaining a vigorous R&D program against the possibility of Soviet violation of that agreement.

The Soviets have kept their 64 launcher ABM-1 system, but there is no evidence that it protects Soviet ICBMs in any significant way. Nor, for that matter, does it provide significant protection of Moscow, since the system could be easily overwhelmed by incoming warheads.

(2) "ABM-only agreement preferable." Mr. Sullivan restates his belief that an ABM-only agreement in 1970 would have been better than the ABM-plus-offensive freeze concluded in 1972. He believes this to be so for the curious reason that during those two years "the Soviets reportedly added more than 400 launchers (mostly SLBMs) to their force." Why Mr. Sullivan believes that the Soviets would have refrained from building those additional launchers if an ABM agreement had been concluded in 1970 is unclear. Does he believe Soviet force levels would actually have been lower without a freeze than they were under one?

The SALT I Interim Offensive Agreement was not a perfect and comprehensive accord. If it had been, it would not have been an interim measure and we would not have spent the last six years negotiating a follow-on agreement. The interim freeze served its purpose of limiting the expansion of the Soviet strategic offensive missile force. Few people in 1972 were as confident as Mr. Sullivan seems to be today that the Soviet quantitative build-up had already come to an end by 1972.

(3) "U.S. effort limited." The Interim Agreement imposed no limitations on U.S. strategic programs that were planned or underway. Mr. Sullivan's real complaint about SALT I seems to be that the United States did not have any ICBMs, SLBMs or heavy bombers under construction during the talks. Undoubtedly the negotiations would have proceeded differently if the United States had in progress a massive building program comparable to the Soviets. But we had decided long before the SALT process began to concentrate on qualitative improvements in our strategic offensive forces. That decision was hardly the responsibility of U.S. negotiators or the result of Soviet deception.

(4) "Legacies." Mr. Sullivan concludes his article by enumerating six principal legacies of SALT I. First, he says that the U.S. "strategic inferiority" supposedly codified in SALT I will continue into the 1980s. In fact SALT II actually removes any suggestion of codified inferiority by setting an equal aggregate of strategic nuclear delivery vehicles for both sides. By the end of 1981 both sides will be limited to 2,250 launchers, a ceiling which will require the Soviets to reduce their strategic offensive arsenal by some 250 bombers or missile launchers.

Second is the claim that their deception will allow the Soviets to deploy five new fifth-generation ICBMs and SLBMs. SALT II permits each side to deploy only one "new type" ICBM. Only minor modifications to existing ICBMs are permitted; any significant change in dimensions, launch-weight or throw-weight—and any change in number of stages, of propellant type or any increase in number of RVs—would cause the missile to be counted as a new type. Only if a "fifth generation" missile fits within the quite limited envelope of permitted modifications of existing types will it be allowed under SALT II (other than as the one exemption).

Third, Mr. Sullivan claims that SALT II will enable the Soviets to have over 700 MIRVed "heavy" ICBMs while the United States will be left with 54 obsolete Titan IIs. SALT II actually permits the Soviets to retain 308 modern heavy ICBMs. The SS-19 (which Mr. Sullivan evidently counts with the SS-18s to reach 700) is a "light" missile; the United States has a right to up to 820 such ICBMs if we chose to build them.

The United States gave up its right to a modern heavy ICBM because our military planners showed no interest in such a missile. We will be permitted under SALT II to build an MX missile as large as the Soviet SS-19, and to deploy it with ten warheads per missile—the same number permitted the Soviets on their largest heavy missile, the SS-18. SALT II thus permits us to build the largest missile we are interested in building while constraining the Soviet missile threat by limiting the number of warheads they will be permitted to deploy. This limit was specifically set equal to that allowed for the MX.

Fourth, it is true that the Soviets will be allowed to replace the SS-11 with the SS-19, but they will still be limited to 308 heavy missile launchers and to a total of 820 launchers for MIRVed ICBMs. Again, the United States will have a comparable right to replace its Minuteman missiles.

Fifth, Mr. Sullivan claims that the Soviets could deploy the SS-16 mobile missile under SALT II, while a comparable U.S. deployment may be constrained. In fact, the Soviets have agreed not to deploy (or produce or test) the S-16 for the duration of the Treaty. Mobile ICBM launchers will be permitted after the Protocol expires, and the only constraint which the United States has accepted on its deployment of a mobile system is that it must be adequately verifiable through national technical means. The basing modes we are now considering will meet that condition, and we will insist on the same standard for any Soviet mobile system.

Finally, Mr. Sullivan does not believe that any Soviet assurances with respect to the Backfire bomber would be credible or durable. The Soviets have agreed in the context of SALT II not to increase the rate of production of the Backfire above 30 aircraft per year—and made qualitative commitments which we view as obligations essential to the SALT agreement obligations themselves. We do not rely on Soviet goodwill for compliance with these means. We would learn of any significant Soviet violation in time to take appropriate action.

We have learned some important lessons from SALT I—and these lessons have informed our approach to SALT II negotiations. Perhaps the most important lesson was to be as specific and precise as possible in drafting treaty language constraining Soviet options. This is part of the reason why the SALT II agreement is so lengthy and complex a document, and why it took so long to negotiate.

These lessons include the observation that Soviet secretiveness left it mainly to the United States to learn enough about Soviet programs to negotiate effective limitations. It is also true that the Soviets bargained sharply to protect programs they considered important. While they did not make false statements about their programs in the course of negotiations, they did not correct U.S. ignorance or misperception about their programs when it worked to their advantage.

The record of SALT I amply illustrates the difficulty of negotiating an arms control agreement with the Soviet Union, but it provides virtually no support for Mr. Sullivan's charges of deception.

A SALT DEBATE: CONTINUED SOVIET DECEPTION

(By David S. Sullivan)

IN BRIEF

Not only was the United States deceived by the Soviet Union in SALT I, but that deception, which has since been acknowledged by former American officials who were its victims, is compounded in the SALT II Treaty. Soviet deception has embraced not only negotiation tactics, but also active concealment of offensive programs. The triumph of those tactics is a SALT II Treaty that seems to guarantee an overwhelming Soviet strategic superiority, with all of its implications, for the 1980s.

Mr. Slocombe's rebuttal to this author's original article is welcome, because controversy can help to illuminate the issues of the day—especially as complex an issue as SALT. Moreover, this reply permits an elaboration of some of the themes expressed in the original article.

The reader should be aware of what is probably a fundamental philosophical disagreement between Mr. Slocombe and the present author about the political significance of strategic nuclear power. Thus, an Adelphi Paper composed by Mr. Slocombe in 1971 addressed the implications of U.S.-Soviet strategic parity, but it carried the underlying theme that the United States could safely tolerate a decline of its strategic posture into a form of minimum deterrence.[1] By contract, I believe that the United States should maximize its strategic power in order to sustain its technological lead and to ensure the "extended deterrent" over U.S. alliance commitments in Europe and Asia. If U.S. strategic superiority is irrevocably forfeited, however, then the maintenance of world peace demands that we settle for nothing less than a strategic equality that is strictly applied to all categories of strategic power. A corollary belief is that, while arms

Footnotes at end of article.

control can be a vital element in shoring up an increasingly unstable international system, it can play this stabilizing role only if negotiated agreements adhere strictly to the principles of equality and mutual restraint.

THE SOVIET UNION'S SS-19 DECEPTION

The crux of Mr. Slocombe's critique is directed to what I deemed in my article a blatant case of Soviet deception in SALT I: namely, the ongoing deployment of the SS-19 "heavy" ICBMs. The SS-19s are a pivotal factor in the growth of the Soviet counterforce threat, because the missiles today comprise about one half of this threat.

Mr. Slocombe contends that there was no Soviet negotiating deception in May 1972 regarding the SS-19—that the Soviets told us in May 1972 "quite precisely," "quite clearly" and "explicity" about the SS-19's large size and heavy throw-weight. Ambassador Gerard Smith (Chief of the U.S. delegation in SALT I) has made the same allegation.[2]

Yet such notions regarding Soviet negotiating candor fly in the face of all the available evidence. Dr. Kissinger's statements in 1972 and 1975 with respect to the SS-19, cited in the original article, clearly indicate that Kissinger did not know about the large size of the SS-19 in May 1972.

If, on the other hand, Mr. Slocombe's contentions were accurate and Kissinger did know of the SS-19's large size in May 1972, the implication would be that Kissinger knowingly misrepresented U.S. knowledge of the SS-19 to the Congress in 1972 and again in 1975. The implication would be, indeed, that Kissinger suppressed or covered up information on the SS-19 to delay U.S. recognition of its large size.

We need not engage in such speculation, however, because additional evidence has come to light which shows clearly that U.S. SALT I negotiators were guilty of naivete rather than ex post facto misrepresentation. Ambassador Smith's New York Times article, contains only half of the fascinating story. It is true that in early May 1972 the Soviets informally told U.S. SALT negotiators that they had under development two new missiles, now known as the SS-19 and SS-17, which were represented by them as somewhat larger than the SS-11 ICBM. Yet, the Soviets deliberately misled their American counterparts with respect to the real sizes of the new missiles and Moscow's commitment to their deployment.[3]

Indeed, the Soviets added a touch of irony to their deception when they tried in May 1972 to justify their refusal to agree to a definition of a heavy ICBM by arguing that such a definition was unnecessary because both sides already knew which ICBMs were heavy and which were light. In a similar deceptive vein, the Soviets also hinted at a possible willingness to agree to a total ban on any larger missiles replacing the SS-11. From what we know in retrospect of the Soviet commitment to their SS-19 program, this could not have been a serious gambit, and it was clearly designed to strengthen the misconceptions of the American negotiators.

Was U.S. intelligence deceived? In 1971 USAF intelligence warned of the likelihood that the Soviets would replace their small SS-11 missiles with a much larger, heavier missile. Yet, this warning went unheeded, and in 1971 the U.S. intelligence community erroneously estimated that the SS-11 replacement missile would be a "new small ICBM." This misjudgment of what was to become the large, heavy SS-19 persisted through the May 1972 negotiations. Indeed, even after SALT I was ratified and before the SS-19 was flight-tested in early 1973, U.S. intelligence still referred to the SS-19 as the "new small ICBM."

Senior policymakers in the Nixon Administration consistently demonstrated their misconceptions not only regarding Soviet missile programs, but also of the extent of the loophole that they left in the SALT I Interim Agreement for the SS-19 deployments that now threaten the survivability of the U.S. land-based ICBMs. We have noted Kissinger's statements to Congress on June 15, 1972, to the effect that "There is the safeguard that no missile larger than the heaviest light missile now existing can be substituted," and that we had "adequate safeguard against a substantial substitution of heavy missiles for light missiles."[4]

Similar statements came from other Administration members during the summer 1972 SALT I ratification hearings. For example, on June 6, 1972, Defense Secretary Laird said this about permissible increases in missile volume: "Senator Jackson . . . I believe that any growth of light missiles, in either diameter or depth, that exceeds 10 to 15 percent would be a violation of the agreement. . . ."[5] Laird added on July 24, 1972: ". . . In no case would it be possible for the Soviet Union to retrofit their SS-11 silos with a new significantly larger missile. . . . I believe that up to a 30 percent volume increase in one dimension could be possible and I believe anything over and above that would be a violation under the most liberal interpretation of the agreement."[6]

In light of his later contentions, it is also interesting to note a statement by Ambassador Smith on June 28, 1972: "Well, our position stated unilaterally was if they tried to deploy in SS-11 holes a missile substantially larger in volume than the SS-11, that would be considered a heavy missile and would count, and would be a violation of the nonconversion provision." When asked what the limits were on the size of new missiles, Smith then conceded that "we have no specific benchmark. I think we will have to look at what comes along."[7]

Mr. Slocombe, in alleging that U.S. negotiators were not deceived with respect to the Soviet SS-19 missiles, clashes with the admissions by prominent members of the Nixon Administration. Thus, the then Secretary of Defense Schlesinger confessed in March 1974: "What we were unprepared for was the enormous expansion of Soviet throw-weight represented by the SS-X-19 as the potential replacement for the SS-11. Earlier versions of the SS-11 were of lesser throw-weight but the SS-X-19 has a throw weight of two or three times as much as even the SS-11 Mod 2. . . ."[8] In fact, the SS-19 turned out to be 50 to 60 per cent larger in volume than the SS-11 and has four to five times its throw-weight.

Dr. Schlesinger added in a 1974 press conference that the SS-17 and SS-19 "can no longer be treated as light missiles." Nevertheless, it took the United States as long as until early 1975, after the Ford-Brezhnev meeting and the Vladivostok "framework," even to question the Soviets about the SS-19 for the first time—whereupon Washington meekly retreated, conceding that the SS-19 counterforce ICBM was a "light missile" after all. The Soviets have regarded it as a heavy missile all along.

Finally, we now have the (belated) testimony of the principal victim of the Soviet deception himself. In a "Meet the Press" program on August 12, 1979, Henry Kissinger reminisced as follows:

In 1972, the Soviet Union had two missiles that we were aware of. The SS-11 and the SS-9. The SS-9 was a heavy missile. At that time, the biggest worry that we had—in fact, the only worry we had about substitution—was the emplacement of the SS-9 into the SS-1 silos, and we thought that we had sufficient assurance that the SS-9—that is to say, the heavy missile—would not be emplaced into the SS-11 silo. What we did not understand at that time and on which we had no evidence whatever at the time, because it didn't exist, was that the Soviet Union would construct a missile [the SS-19] which was sort of half-way between the SS-11 and SS-9; that is, technically did not violate the limitations of a fifteen per cent increase, but which, using all the fine points of the print, was technically within the agreement. It was simply our lack of knowledge that such a missile existed or could be built. . . . I would call it sharp practice [by the Soviets].[9]

The CIA reportedly has reached the conclusion that "we cannot exclude the possibility that the Soviet leaders, if they believed they could succeed, would approve a program of concealment and deception designed to help gain a strategic advantage over the United States."[10] The facts of the "heavy missile" episode in SALT I render this a startlingly tame judgment. The combination of Soviet deception and U.S. gullibility and negotiating sloppiness already has given the Soviet Union an enormous strategic advantage—one that throws its shadow upon the fundamental viability of the U.S. strategic deterrent. What would stop the Soviets from trying it again?

One final observation needs to be made about Mr. Slocombe's rebuttal in this context. He mistakenly describes the U.S. *Unilateral Statement D*, which sought to define a heavy ICBM, as a "Common Understanding," thereby missing the entire point.

THE SOVIET SLBM DECEPTION

The elaborate deception by the Soviet Union with respect to submarine-launched ballistic missiles in SALT I was basically fourfold. First of all, the Soviets obscured from the United States the fact that the ceiling of 950 SLBMs that was agreed upon in effect represented the force planned by them for 1977. Nor did U.S. negotiators know that 30 old Soviet SLBMs on nuclear H-class submarines were hidden beneath those ceilings.

Second, the Soviets in 1972 deliberately falsified the claim that they had 48 SSBNs and 768 SLBMs operational or under construction. They did this in order to minimize the number of old ICBMs that would have to be deactivated by them. The United States discovered this fact only in 1978.

Third, even the compromise ceiling of 740 SLBMs in all probability exceeded the actual Soviet force level in May 1972, still allowing them to minimize their required deactivation.

Finally, the whole rationale of "geographical asymmetries" upon which the Soviets based their claim for higher SLBM ceilings than the United States turned out to be a sham. It was belied by the unveiling of the long-range SSN-8 missile, which was tested only after the 1972 SALT Summit.

Moreover, the Soviets have concealed submarines and submarine hull sections under construction; they have built dummy submarines; and they have constructed berthing tunnels. Thus, active physical deception was harnessed to negotiating deceit.[11]

Mr. Slocombe concedes the fact that the SALT I Agreement failed to impose a freeze on Soviet SLBM deployment, but he argues that U.S. negotiators were not deceived in 1972—that they knew that 62 submarines with 950 missiles represented the original Soviet force plan through 1977. He supports this contention with a reference to Raymond L. Garthoff, who was a key member of the U.S. SALT I delegation. Inexplicably, however, Mr. Slocombe neglects to mention that Garthoff made his statement about likely Soviet force goals in 1977—that is, with the clear benefit of hindsight. The fact is that in 1972 senior U.S. officials were unanimous in their testimony to Congress to the effect that SALT would freeze Soviet SLBM construction—that in the absence of the 62/950 ceiling the Soviets would construct as many as 90 strategic submarines by 1977. Either they were deceived, or—if indeed they knew better—they deceived the U.S. Congress.

Footnotes at end of article.

Mr. Slocombe also seems to concede (at least by implication) the possibility that the Soviets in 1972 presented a false claim of the number of Soviet SLBMs then operational or under construction, but he belittles this as "not much of a 'deception'." Are we arguing about the fact of deception or its magnitude?

As for the case of the SS-N-8, the long-range SLBM which the Soviets tested only after the conclusion of SALT I (and which negated the Soviet "geographical asymmetries" rationale for higher SLBM requirements), Mr. Slocombe avers that "There is surely no requirement for SALT negotiators to reveal the detailed performance characteristics of their systems." This goes to the heart of the U.S. debilitations in SALT and of a major failure of the SALT process. The negotiations have largely been conducted on the basis of U.S. data with respect to the strategic postures of both sides. Even the SALT II quantitative data exchange, which some have deemed a significant crack in Soviet secrecy, is highly suspect. Judging from the Data Exchange memoranda of SALT II, the Soviets provided data about the numbers of their systems which could easily have been derived from the U.S. press. It is not surprising that this information is then found to be consistent with U.S. intelligence data, and therefore considered valid.

As long as these one-sided ground rules persist, the Soviets will obviously exploit them to the hilt. Whether this entails Soviet deception or U.S. self-deception is an arguable but academic point.

THE MOBILE ICBM DECEPTION

Mr. Slocombe has apparently misunderstood the points made in the original article about mobile ICBMs. The contention was not that the Soviets violated the U.S. Unilateral Statement with respect to mobile ICBM deployment, but rather that the Soviets had violated Brezhnev's private pledge to President Nixon not to "build" mobile ICBMs.

There is in fact solid evidence that the Soviets, in contravention of Brezhnev's solemn pledge, have "built" and tested mobile ICBMs, a large number of SS-16s.[12] Moreover, the testing and production of the SS-16 have proceeded under cover of active concealment.[13]

Indeed, I argued in the original article that the covert stockpiling of mobile SS-16s by the Soviet Union constituted a potentially greater danger than their actual deployment today because of the shock effect that their sudden deployment would carry in a crisis situation. It needs to be noted, however, that even the current deployment status of SS-16 ICBMs is in doubt because their launchers are identical to those of the SS-20 intermediate-range missiles, which are not governed by SALT and which the Soviets are deploying in growing numbers.

There is additional evidence of Soviet deception involving mobile ICBMs. According to Ambassador Smith, the Soviets told the U.S. negotiators in SALT I that inasmuch as the Interim Agreement constituted a freeze on "ongoing programs," and since neither side had mobile ICBMs, "it was inappropriate to include them in a freeze." [14] Yet, as we now know, the Soviets did have a mobile ICBM program ongoing at the time.

The contention that the Interim Agreement did not constrain Soviet ICBM and SLBM programs rests largely on two considerations. One, as has been alluded to already (and as Mr. Slocombe concedes), the SALT I ceilings on SLBMs coincided with Soviet SLBM force plans through 1977. If the Soviets endeavored (successfully) to avoid any real constraints on their SLBM programs, then it would defy all logic to assume that Moscow willingly agreed to constraints on ICBM deployments, the most important component of Soviet strategic forces.

Both logic and evidence suggest, rather, that the Soviet Union could readily accommodate to the SALT I ceilings on ICBM launchers because of a fundamental decision, made in mid-1970, to enhance the Soviet ICBM force through MIRVing rather than the quantitative addition of ICBM launchers. A number of factors account for this decision. The Soviet ICBM arsenal had already surpassed in number the U.S. ICBM launchers. Indeed, the United States was emphasizing at the time qualitative improvements of its ICBM force through MIRVing, and the Soviet leadership obviously assigned priority to efforts to catch up to the United States in this qualitative arena. Yet, Soviet production capabilities could not provide enough missiles for both new launchers and the retrofitting of old launchers. In July 1970 the Soviets themselves reportedly proposed that they could accept a ceiling of only 300 to 350 very heavy ICBMs. These numbers probably reflected their original plans, and they bracket the 308 that were allowed.[15]

Raymond L. Garthoff has summed up the situation that obtained in early 1970 as follows:

* * * Having surpassed the United States in number of ICBMs, the Soviet leaders decided to cease the buildup of ICBM launchers. After SALT began, no additional groups of ICBM silos were begun for a year. Indeed, three groups of SS-9s in early construction were abandoned in 1970. * * * The Soviet cessation of its ICBM buildup was, in my view, intended as a "signal" in SALT, although it also reflected a Soviet intention to shift to a new generation of ICBMs . . . construction began (i.e., in 1970) on some 80 new ICBM launcher silos. * * *[16]

Garthoff reports that the new silos that were started by the Soviets in late 1970 were for the MIRVed SS-18 and SS-19. The abandonment of the old SS-9 silos at the same time reinforces the conclusion that a shift in ICBM generations was in progress, the thrust of that shift being from number of launchers to MIRVing.

Inasmuch as Mr. Slocombe has alluded to a classified study by this author, it seems only fair to note the following reference:

It is difficult to envision how SALT II will contain Soviet strategic developments. As with SALT I, U.S. critics contend the SALT II Agreement merely codifies planned Soviet strategic deployments—a view substantially bolstered by the CIA analysis done by former CIA employee Dave Sullivan. Sullivan's analysis, based on U.S. intelligence monitoring of Soviet communications, reportedly illustrates quite clearly that the Soviet military has not allowed the SALT process to infringe on planned Soviet strategic forces and programs. . . .[17]

In short, it is difficult to believe that the Soviet Union accepted any real SALT constraints on its strategic programs.

SOVIET SALT VICTORIES

Mr. Slocombe elsewhere has evinced puzzlement about the purposes underlying the massive Soviet strategic build-up: "Exactly why the Soviets are pushing so hard to improve their strategic nuclear capabilities is uncertain." [18]

Striking evidence of Soviet negotiating intentions in SALT I and II has recently come to light. A senior researcher affiliated with the Institute of the U.S.A. and Canada (IUSAC), Rostislav G. Tumkovskiy, wrote the following in an obscure Soviet historical journal, Voprosy Istorii:

In essence, signing of the Interim Agreement signified the recognition by the American side of the defeat of the basic policy of the U.S.A. in the arms race unleashed by it against the Soviet Union calculated to achieve a decisive quantitative superiority over the U.S.S.R. in the sphere of strategic delivery vehicles. In addition, it affirmed the effectiveness of the U.S.S.R.'s reciprocal measures to strengthen its defense and deter imperialist nuclear aggression. The political significance of this victory of the Soviet Union in the arms race unleashed against it can hardly be overevaluated . . . [the] 1972 Moscow agreements, like the Vladivostok agreement of 1974, noted the defeat of the American strategic arms race policy. The reciprocal actions of the U.S.S.R. destroyed all attempts by the U.S.A. to achieve nuclear superiority and to employ it in the interests of its imperialistic policy.[19]

Tumkovskiy's frankness is surprising, especially given the timing of the publication of his article just prior to the U.S. Senate's SALT debate. Such a statement would be unlikely to appear in the IUSAC's journal USA, intended for American readers. The best explanation for its publication in the obscure Soviet historical journal is that it was aimed at a Soviet audience.

Tumkovskiy implies that defeat of a presumed U.S. intention to preserve superiority has opened the way for a Soviet thrust for that same goal. The Soviet "reciprocal" military measures allude to the massive Soviet military build-up.

Tumkovskiy's statement also exposes once again the harshly competitive role that the Soviets assign to SALT, as contrasted to the pervasive American view, reflected in Mr. Slocombe's analysis, of SALT as a cooperative "non-zero-sum" game in which both sides can win, and the whole world benefit, through mutual concessions. The Marxist dialectical approach to all negotiations dictates that one side must win and the other must lose. As such, another implication of Tumkovskiy's boast (as well as its timing) is that, as in SALT I, the Soviet leadership has signed a SALT II Treaty which, it believes, yields to it important unilateral advantages.

But we do not need Tumkovskiy's testimony. Ten years of detente and SALT have yielded ample evidence that the Soviets have been exploiting the SALT process to cripple U.S. weapons programs and to lull the United States into complacency while they complete their broadly based military build-up and expand their influence on a global scale. The chief architect of SALT I, Dr. Henry Kissinger, now seems to recognize the dangers: "* * * The 1980s could turn into a period of great instability. . . . For a period of five to seven years the Soviets may develop an advantage in power useful for political ends. . . . We could be heading into a period of maximum peril. * * *[20]

The record of SALT and the larger context of Soviet assertiveness during the past decade show conclusively that Moscow hardly views arms control negotiations as an abstract exercise in legal compromise and "problem-solving." SALT is an integral element of Soviet military policy, and the Soviet military clearly has dominated Soviet decision-making in SALT. Their objective is to gain unilateral advantages which, once achieved, are stubbornly defended. They seek to induce complacency and false hopes. They practice deception to bolster negotiating positions. Their most powerful negotiating weapon has been tenacity.

HAVE WE LEARNED THE LESSONS?

Notwithstanding Mr. Slocombe's denial, SALT I in fact codified U.S. strategic inferiority, which clearly will persist throughout the period covered by the SALT II Treaty. The quantitative levels of about 2,650 Soviet to 2,060 U.S. delivery vehicles under SALT and presently existing are indisputable, as are the massive Soviet advantages in ICBM throw-weight and overall throw-weight that have asserted themselves particularly since 1972. While the SALT II Treaty ostensibly provides for

Footnotes at end of article.

equality in the number of "launchers" permitted to the superpowers, even this index of "essential equivalence" is a sham. Thus, for example, the Soviet Backfire bomber force, which will number about 375 by 1985, will be exempted from SALT ceilings, while U.S. Poseidon SLBMs dedicated to the NATO theater are included in all U.S. SALT II aggregates. Moreover, the United States is currently planning to deactivate unilaterally 10 Polaris submarines carrying 160 SLBMs. It is, to say the least, highly doubtful that the United States will ever attain its permitted level of 2,250 launchers.

The Soviets will, under SALT II, preserve their monopoly in heavy ICBMs. The 314 Soviet SS-18 ICBMs, carrying at *least* 3,140 warheads, can credibly threaten to destroy all 1,054 U.S. ICBMs, 154 ICBM launch control centers, 25 bomber bases, and 4 strategic submarine bases. The Soviet SS-18 force alone carries more megatonnage than the entire U.S. missile force of ICBMs and SLBMs—roughly 2,618 megatons as against 1,814 megatons.[21] The SS-18 force by itself can thus neutralize all U.S. strategic forces. Similarly, the SS-19 force of at least 310 heavy ICBMs, carrying at least 1,860 warheads, also can threaten all U.S. strategic forces. The Soviets thus have in effect two independent first-strike forces. The remaining Soviet ICBM, SLBM and bomber forces would comprise a formidable Soviet reserve for second-strike use.

Has the United States learned from the SALT I record? Mr. Slocombe avers, for example, that SALT II permits the Soviets to deploy only one new ICBM of a "new type," and to make only "minor modifications" to others. We have seen that the pace and extent of the modernization and replacement that the Soviets carried out within SALT I came as a shocking surprise to U.S. policymakers. The SS-19 and SS-N-8 missiles turned out to be much more powerful than anything that had been anticipated.

Nevertheless, the Soviets have again been allowed to achieve the ambiguous language in SALT II's Article IV with respect to new types of ICBMs. Their arrogant and continued use of encrypted telemetry on SS-18 tests suggests quite clearly that there are things in their modernization program that the Sovies wish to hide from us. Moreover, the ambiguity in both Article IV (on new type ICBMs) and Article XV (on verification) gives to Moscow the leeway to test and deploy all five of the reported new fifth-generation ICBMs and SLBMs fully within the terms of SALT II. No less an authority than CIO Director Stansfield Turner has reportedly testified to this effect before the Senate Intelligence Committee.[22]

Dr. Kissinger stated recently, with the obvious benefit of sorrowful hindsight: "We have to count on the fact that the Soviet Union is likely to push to the very limits of the [SALT II] agreement and do things that we cannot now foresee that would be technically legal but are now unforeseeable." [23] What make this prospect all the more disturbing is the reported admission by a U.S. Defense Department official to the effect that U.S. SALT II negotiators "know that the Russians deliberately negotiated Article IV so that they could go ahead and test and deploy all their new missiles without violating the Treaty." [24] Are we being deceived by adroit Soviet negotiators *and* by our own officials?

THE UNREPAIRED "HEAVY ICBM" LOOPHOLE

But again: Have we profited from the lessons of SALT I? Mr. Slocombe argues that we did so in negotiating SALT II, and that "the most important lesson was to be as specific and precise as possible in drafting treaty language constraining Soviet options." Mr. Slocombe was even more specific in a 1976 statement: "The lessons drawn from this episode [the SS-19 problem] by U.S. officials is the need for explicit and precise acknowledgment by the USSR on even the most technical details." [25]

But if those were the lessons, why in the course of SALT II did we repeat not once, but twice, the most glaring mistake committed by the United States in SALT I—namely, the failure to negotiate a clear definition of a heavy ICBM? In Vladivostok in November 1974 we preserved the key SALT I prohibition on heavy ICBMs replacing light ICBMs, but again, as in SALT I, without an agreed definition of a heavy ICBM.

The failure has been compounded. It is worth noting first that, mindful of the sorry history of the U.S. Unilateral Statement on a heavy ICBM in SALT I, U.S. negotiator Paul Warnke in his February 1977 Senate confirmation hearings clearly ruled out any future such U.S. unilateral statements:

My conviction is that with regard to any agreement which is entered into at this time on control of offensive nuclear weapons, that we could not afford to have unilateral declarations. The trouble with the unilateral declaration is that you say "I am now about to say something which you refuse to say" so that is almost a built-in formula for disagreement and I don't think that in the kind of arms control agreement that we ought to use to replace the interim agreement, we ought to have that kind of a situation.[26]

Nevertheless, there is again an important U.S. unilateral statement in the SALT II Treaty's final negotiating record—and again, incredibly, it involves the troublesome definition of a heavy ICBM. We still have no agreed definition of a heavy ICBM in the SALT II Treaty. Paragraph 7 of SALT II's Article II partially defines heavy ICBMs, but a clear definition requires an agreed and rigorous distinction between light and heavy ICBMs.

The SS-19 is to be the baseline between light and heavy ICBMs. In order to be effective, however, a definition must have clear, specific, agreed data on the SS-19's launch-weight and throw-weight. We must rely upon the negotiating record for these specific weights. The Secretary of State's SALT II Letter of Submittal with Annex provides the required negotiating record:

On August 16, 1977, in a plenary statement, the United States informed the Soviet Union informed the Soviet Union that ". . . for planing purposes, with respect to ICBMs it might develop, test or deploy in the future, the United States considers launch-weight limit on light ICBMs to be 90,000 kilograms and the throw-weight limit to be 3,600 kilograms." These figures are based on our estimates for the SS-19. The Soviet Union did not respond to this statement. The United States will regard these figures as the limits for the one new type of light ICBM permitted to the United States under Paragraph 9 or Article IV.[27]

This is the full negotiating record on the definition of a heavy ICBM. Thus the United States in effect unilaterally defined U.S. heavy ICBMs in terms of the SS-19. But we evidently did not even try to get the Soviets to agree to such a definition for Soviet ICBMs. The above statement thus only implies unilaterally that any ICBM on the Soviet side with a launch-weight greater than 90,000 kilograms (198,000 lbs.) and a throw-weight greater than 3,600 kilograms (7,937 lbs.) will be regarded by the United States to be a heavy ICBM. Not only did the Soviet Union not agree to these baseline data; it did not even respond to them. Indeed, our present unilateral definition of what constitutes a heavy ICBM must be deemed even weaker than the more explicit U.S. unilateral statement of 1972.

The significance of the continued failure to define a heavy ICBM is that it continues to allow dangerous Soviet deployment options: the Soviets are free to go ahead and test and deploy new ICBMs heavier than the heavy SS-19. When the United States complains and charges noncompliance in the Standing Consultative Commission, the Soviets can merely reply that they never agreed to the U.S.-supplied baseline data on the SS-19, and that these data are in any case wrong. They could then supply their own "correct" data, which would show their new heavy ICBMs to be really light missiles.

Moreover, all constraints on the testing and deployment of new missiles of no more than 5 percent larger or smaller than older Soviet ICBMs reportedly also rely upon U.S. baseline data on the launch-weight and throw-weight of existing Soviet missiles. The same is true of the silo dimensional data for all Soviet missiles, which would comprise the baseline data from which to measure the incredibly large permissible increase of up to 32 percent in silo volume.

The clear conclusion is that the United States did not learn the main lesson of SALT I. The claim is again being made that heavy and new type ICBMs will be constrained, but this claim will again be proven wrong. One has to agree in this context, unfortunately, with Mr. Slocombe's observation: "The Soviets should be presumed to be protecting something when they refuse to agree to a specific limitation."

Mr. Slocombe concludes with the observation that "Soviet secretiveness left it mainly to the United States to learn enough about Soviet programs to negotiate effective limitations." There is a presumption implied in this statement that is undeserved. As already noted, we need not have conceded meekly to the Soviet Union the enormous advantages that one-sided secrecy bestows in negotiations. The proposition that we can somehow outsmart the Soviets about the status and capabilities of their own secret programs—and then induce them to agree to constrain themselves through SALT—seems incredible.

THE FLAWS OF SALT II

In sum, we have not learned the lessons of Soviet negotiating deception in SALT I. Our failure has led to the following fateful flaws in the SALT II Treaty:

The gross inequalities in very heavy and heavy ICBMs, throw-weight and counterforce capabilities, which neutralize or checkmate all U.S. strategic forces, and undermine deterrence at intercontinental, theater nuclear and conventional levels;

The failure to include intercontinental Backfire bombers;

The destabilizing constraints (even if temporary and negotiable) on vital U.S. ICBM survivability options in the face of the permitted growth in the Soviet counterforce threat;

The grossly one-sided constraints on U.S. theater systems (GLCMs and SLCMs);

The failure adequately to control missile production, stockpiling, excess missiles, and refire capabilities;

The failure to prevent the Soviet program of camouflage and deception from hindering verification.

Totally within the provisions of the SALT II Treaty, by 1985 the Soviet Union will probably have superiority in total warheads and accuracy, this toppling the last U.S. strategic advantages. Soviet strategic forces will carry as many as 14,500 warheads, as against roughly 11,900 for the United States. They will probably have about four times the throw-weight of U.S. ICBMs, about a three-to-one advantage in combined ICBM and SLBM throw-weight, and roughly a two-to-one ratio in total throw-weight (including bomber payload equivalent).

Footnotes at end of article.

If this is "arms control," which is the side that is controlled? And which is the side that has been deceived?

FOOTNOTES

[1] Walter Slocombe, *The Political Implications of Strategic Parity*, Adelphi Paper No. 77 (London: International Institute for Strategic Studies, May 1971).

[2] Ambassador Gerald C. Smith, "Wrestling With the Plowshare Problem," *New York Times*, January 16, 1976.

[3] Ibid.; see also Jack F. Kemp, "The SS-19 and the New Soviet ICBMs vis-a-vis SALT II," *Congressional Record*, August 2, 1979, p. E4076.

[4] U.S. Senate, Hearings before the Committee on Armed Services, *Military Implications of the Treaty on the Limitation of Anti-Ballistic Missile Systems and the Interim Agreement on Limitation of Strategic Offensive Arms*, 92nd Congress, 2nd Sess., June-July 1972, pp. 128–129.

[5] Ibid., p. 165.

[6] Ibid., p. 548. In addition, Senator Jackson asked the following question for the record in July 1972, and Defense Secretary Laird and the Defense Department supplied the following answers (ibid., pp. 565–566):

Question: The largest part of the Soviet land-based ICBM force is in the SS-11 silos. If the Soviets were to retrofit their SS-11 silos with a new missile, how much could they:

a. increase the volume of those silos?

b. increase the volume of the missiles that go into those silos?

DOD Answer: Up to about 30 percent in both cases. This volume increase is not sufficient to permit installation of an SS-9 class missile in an SS-11 silo. [Note: the SS-19 is 50–60 percent larger in volume that the SS-11 and can thus be considered an SS-9 class missile.]

Question: Why, in your view, did the Soviets refuse to agree to a prohibition on the deployment of ICBMs larger than 70 cubic meters (in excess of 313 permitted "heavy" launchers)?

DOD Answer: In my view the Soviets might have decided they wanted to retain the option to deploy a slightly larger version of the SS-11.

[7] U.S. Senate Commitee on Armed Services, *Military Implications*, op. cit., pp. 341–342.

[8] *Report of the Secretary of Defense James R. Schlesinger to the Congress on the FY 1975 Defense Budget and FY 1975–1979 Defense Program*, March 4, 1974. See also, "News Conference with Secretary of Defense James Schlesinger and Dr. Fred C. Ikle, Director, Arms Control and Disarmament Agency" (Washington, D.C.; Department of Defense, 1974), p. 12. Also, U.S. Senate, Foreign Relations Committee, *U.S.-USSR Strategic Policies*, 93rd Congress, 2nd Sess., pp. 4–5. Defense Secretary Schlesinger said the following:

Subsequent to the signing of the [SALT I] agreement, we see a Soviet research and development program of astonishing depth and breadth. This is not to say that they deceived us in the agreement or that the program had been designed to emerge after the agreement. Obviously, these developments were in the cards years in advance because the Soviets have the same kind of lead time problems that we have. But I think it is fair to say that many people, particularly people in the arms control community, have been surprised by the strength of those programs.

Later evidence has allowed the judgment that the Soviets in fact did deceive the United States with the SS-19, SS-16 and SS-N-8, and that the flight-tests of these programs may have been timed or conducted with the status of SALT I in mind.

[9] "Meet the Press," NBC–TV, August 12, 1979, p. 9.

[10] Jack Anderson, "Soviet Subterfuge: A SALT Concern," *Washington Post*, May 22, 1979.

[11] *U.S. Defense Posture Statements; Washington Post*, September 27, 1973; Michael B. Donley, ed., *The SALT Handbook* (Washington, D.C.: The Heritage Foundation, 1979). See also Jack F. Kemp, "Congressional Expectations of SALT," *Strategic Review*, Winter 1979, p. 23; and Jake Garn, "The SALT II Verification Myth," *Strategic Review*, Summer 1979, pp. 19–20.

[12] Bernard Weintraub, "Pentagon Aides Say Moscow Has Mobile Missiles Able to Reach U.S." *New York Times*, November 2, 1977.

[13] See footnote No. 11 above.

[14] U.S. Senate Committee on Armed Services, *Military Implications*, op. cit., p. 381.

[15] William R. Van Cleave, in U.S. Senate Committee on Armed Services, *Military Implications*, op. cit., p. 581, said: "... It is clear that for the past two years expected modernization of Soviet forces has been regarded as the most likely contingency and the greatest matter of concern to us and this is not at all stopped by the agreements." Dr. Kissinger, ibid., said: "The field in which it is most likely that they [the Soviets] will make progress is in the modernization of the missiles that are permitted under the agreement. That is, they will not violate the numbers of the agreement, but they will improve the quality, accuracy, number of warheads, and this is what will represent a threat to our strategic forces." Dr. Foster (DD/RNE), ibid., p. 245, said: "There is no evidence that they plan to deploy missiles beyond the new starts they had already made."

[16] Raymond L. Garthoff, "SALT and the Soviet Military," *Problems of Communism*, January-February 1975, p. 30.

[17] Peter Hughes, "SALT and the Soviet Search for Superiority," *Air Force Magazine*, March 1979, p. 51.

[18] Walter Slocombe, public statement on SALT II, March 21, 1978, Department of Defense, mimeo.

[19] Rostislav Tumkovskiy, *Voprosy Istorii* (Problems of History), April 1979.

[20] Interview with Henry Kissinger, *The Economist*, February 3, 1979, p. 17. Also testimony statement of Dr. Kissinger to the Senate Foreign Relations Committee, July 31, 1979, pp. 3, 28.

[21] Seymour Shwiller and Adam Klein, *Strategic Missile Counterforce Capability, U.S. vs. USSR*, U.S. House of Representatives, Armed Services Committee, unclassified staff paper, 1978.

[22] *Baltimore Sun*, August 10, 1979, p. 1.

[23] "Meet the Press," op cit., pp. 9–10.

[24] Rowland Evans and Robert Novak, "SALT Soviet Style," *Washington Post*, August 10, 1979.

[25] Walter Slocombe, "Learning from Experience: Verification Guidelines for SALT II," *Arms Control Today*, February 1976, p. 5.

[26] Paul C. Warnke, Confirmation Hearings, U.S. Senate, Armed Services Committee, February 1977, p. 53.

[27] *SALT II Agreement*, State Department Document, No. 12A, June 1979, p. 13.●

PAPERWORK AND REDTAPE REDUCTION ACT OF 1979

● Mr. PRYOR. Mr. President, last weekend I was in Jonesboro, Ark., and had an opportunity to discuss with several pharmacists the burdensome regulations, redtape, and paperwork that are inflicted on them as small businessmen.

Once again, Mr. President, I have been presented with evidence that the small businessman is suffering from regulations that are overly complicated and technical. Ninety-seven percent of the pharmacists in Arkansas participate in the medicaid program and they are experiencing a time-consuming and costly paperwork load. Forms and more forms are required for application and reapplication for the medicaid reimbursement process for prescriptions. These regulations and forms do not necessarily translate into greater protection for the consumer.

It is discouraging to these pharmacists as businessmen, Mr. President, but even more importantly, it is costly and time consuming. It is costly not just to the pharmacist but eventually to the consumer to whom some of these costs must be passed on. After spending some time with these businessmen and going through their numerous forms with them, it appears to me that our Federal bureaucracy is "overregulating" in many cases.

For these reasons and others, Mr. President, I have joined with my distinguished colleagues Senators CHILES, BENTSEN, and DANFORTH in sponsoring S. 1411, the Paperwork and Redtape Reduction Act of 1979. This legislation is an attempt to come to the aid of the small businessman by easing his paperwork requirements.

Mr. President, I ask that articles from the Jonesboro Sun and the Commercial Appeal about my visit with the pharmacists be printed in the RECORD.

The articles follow:

[From the Jonesboro Sun, Nov. 4, 1979]

SENATOR PRYOR VISITS LOCAL PHARMACISTS

(By Rae Ann Ritter)

Two Jonesboro pharmacists met with U.S. Sen. David Pryor here Saturday to discuss government interference in the pharmacists' business. Over-regulation, red tape and paperwork were the key words in the discussion.

Albert Soo, owner of Soo's Quality Drugs, and John Douglas, owner of Douglas Medical Pharmacy and president of the Arkansas Pharmacists Association brought the senator's attention to the growing amount of regulation on the state and federal level by the Federal Drug Administration and in such programs as Medicaid.

Douglas told Pryor that 97 per cent of the pharmacists in Arkansas participate in the Medicaid program. The Medicaid program is time consuming, and expensive for the pharmacists, he said.

The state will reimburse a pharmacist for certain amounts on drugs sold to those on Medicaid. But first a lengthy form must be filled out and sent to Arkansas Blue Cross and Blue Shield, then to the state. The result is that hundreds and sometimes thousands of dollars of capital are tied up for three months while the pharmacist is waiting to be reimbursed. Pryor surmised as the two agreed.

Often the pharmacist is not reimbursed in full. If a doctor prescribes a brand-name drug, the state will only reimburse for a generic drug—which is sometimes much cheaper—unless another form is filled out to verify that the doctor would allow no substitutions, the two told Pryor.

"A national organization which has studied the cost of filling out forms to be paid

for brand name drugs said it is 85 cents a form," Douglas said.

Another problem pharmacists have with the Medicaid program is that many times customers apply for and receive retroactive benefits. Then the pharmacist has to backdate the forms and take from his files prescriptions for drugs covered under Medicaid prior to the customers qualification.

Some forms for reimbursement are denied and the pharmacist has to reapply, Douglas said.

Another complaint the two voiced dealt with FDA regulations. The FDA now requires "patient package inserts," or literature explaining in detail the effects of a drug.

The FDA is now trying to regulate inserts on an expanded number of drugs without legislation, Douglas said.

"Hold the FDA back on regulating PPI's (patient package inserts)," Douglas asked the senator.

"Do you think the FDA has over-stepped the authority given it by Congress?," Pryor asked.

"Yes, sir," was Douglas' answer.

"I think many of the regulations coming out of Washington today aren't written by Congress. In the last 30 years, everything has gotten so complicated and technical that many of the regulations have been written by private consultants," Pryor said.

When asked what he as a senator could do about agency regulations, Pryor replied that he has heard several complaints from small businessmen about the amount of paperwork required by regulatory agencies. As a result, he became cosponsor of a bill entitled "Federal Anti-Paperwork Legislation."

The bill is an attempt to relieve the small businessman of red tape, he said.

PRYOR TOLD OF PHARMACISTS' WOES

(By Scott McClure)

JONESBORO, ARK.—The president of the state Pharmacists Association and a local pharmacist Saturday told Sen. David Pryor (D-Ark.) that federal regulations on filing Medicaid prescriptions require a "mountain of paperwork" that costs pharmacists valuable time.

Pryor, who was in Jonesboro attending the Arkansas State University Legislative Weekend, took time out to visit Soo's Quality Drugs, owned by Albert Soo.

"We want to show Sen. Pryor some of the problems we run into with Medicaid," John Douglas pharmacists association president, said before the senator arrived. "We're going to show him the mass of paperwork we're faced with every day."

Soo told Pryor the Medicaid forms used by the federal Food and Drug Administration were long and complex.

"It takes me two to three times as long to fill a Medicaid prescription as it does to fill a regular prescription," he said. "I usually have to fill out the order and then come back to the form later."

Soo said it takes three months for him to be reimbursed for Medicaid orders.

Both pharmacists told Pryor that Medicaid was an important program but added the federal government had made handling the program a burden.

Douglas said he was concerned that the federal government was working to establish more requirements for the Medicaid program, including a patient package insert which was denied by Congress earlier this year.

"We appreciate what you guys did," he told Pryor, "but the FDA is still trying to make it a requirement."

He said the agency had recently sent pharmacists a list of generic drugs they must use.

"But if a doctor writes down a drug not on the list, we have to call him back and check if we can use the substitute," he said. "If not, we have to get the doctor to sign the form and send it to Little Rock to get refunded for the order. It just costs us that much more profit."

Pryor said he understood the pharmacists' problem, saying he believed many federal agencies were overstepping their designated powers.

"Today, I have seen an enormous amount of paperwork and red tape," he said. "To me, it looks like a lot of over-regulation.

"Congress needs to become more aware, more sensitive to the smaller businesses who are being overrun with paperwork," he said.

Pryor also urged the pharmacists to continue voicing their complaints and said he would continue pushing an antipaperwork bill he is co-sponsoring.●

IRANIAN STUDENT TAKEOVER OF U.S. EMBASSY

● Mr. DOLE. Mr. President, once again turmoil in Iran greets Americans as they read the front pages of newspapers across the country: "U.S. Embassy in Iran Invaded, 100 Hostages Held." Once again American lives and American property are in danger. Why is it that less than a year after the U.S. Embassy was captured by Iranian mobs, adequate measures were not taken to prevent the same thing from happening again? Why were we not better prepared, since one of the reasons the administration did not allow the Shah to come to the United States in the first place was because we were afraid it would endanger Americans in Iran and cause riots by Iranian students in this country?

Why is it we had not taken any precautions when the Shah, a sick and dying man, finally did enter our country over a week ago? And now what has the U.S. Government done to free the 100 hostages? Is there anything left that we can do, with the deterioration of American power around the world? Even if we had advance warning, could we have sent a military force to deter such an event? The American people and the Senator from Kansas are tired of seeing some third-rate country whose government cannot claim the allegiance of all its own people attempting the political blackmail of the United States.

A WEAK FOREIGN POLICY

The United States is alone in the Persian Gulf area. What countries will give us overflight rights and let us stop for refueling? Will Turkey, who has denied permission in the past and still hesitates to allow us to monitor the Soviet Union and verify SALT II from its borders? Will Saudi Arabia help us, when they fear radical unrest and believe the United States too weak to resist? Only Israel has been an ally we could count on, and we repay them by trying to force the PLO on them, the same PLO who was the first foreign mission to pay an official visit on Khomeini after the revolution. Perhaps this kind of incident illustrates just how impotent our power has become in the last few years. I do not advocate invasion, but could we go in and get our citizens and diplomats if we had to?

Can we project a strong, credible military or naval presence in this area any more, when our fleet has been allowed to become its smallest since Pearl Harbor? Are we prepared to meet the Russians as equals under SALT II when we cannot meet with the Ayatollah except in weakness? There has been a lot of talk of a Middle East strike force for over a year. Are there any concrete plans or concrete capabilities? Has the United States turned into a paper tiger under this administration's de facto military cutbacks, through lowered defense spending and hardware program cutbacks (like the nuclear aircraft carrier and the B-1)?

Some say we must be careful about what we do because of the oil weapon. We should not let ourselves be constrained in our action for fear of the oil weapon. The Iranian oil is important, but it is not so vital to us that we can give in to blackmail. The United States imported more oil this year than it did last year with the supplies from Iran. Even if the Iranian oil supplies were a desperate necessity, we would still be able to act if the President had maintained the legally mandated amount of oil in our strategic petroleum reserves.

The situation that the United States now faces arises out of an indecisive, nearsighted foreign policy that reacts to short-term events without a clear vision of future goals and needs. It is a policy that refuses to take into account the many volatile areas of the world, our stake in those areas and the necessary actions we must prepare in advance to deter and, if need be, act upon hostile events.

WHAT NOW?

At this point, we must use the tried and true negotiation techniques worked out in long experience in the past with terrorists and unbalanced psychopaths who take hostages. Perhaps some of our leading experts in our largest metropolitan police forces should be called in to consult with the State Department in such delicate negotiations, providing them with valuable experience and expertise. Along with the pressure of our regular diplomatic exertions on the Iranian Government, this remains our only rational or realistic approach to extricating our Embassy personnel. Although the United States has little to bargain with, we must not send the Shah back to a country that has so little respect for the law and for the centuries-old sanctions against harming diplomatic personnel.

Ali Agah, the chargé d'affaires of the Iranian Embassy in Washington, recently charged Senator GOLDWATER with a "callous and vicious attitude" when he criticized Iran's threatened use of the oil weapon. Now that we see the tacit approval, if not outright instigation of the Iranian Government in this "callous and vicious" approach to international diplomacy, using the lives of Embassy people as pawns in a game of diplomatic blackmail, perhaps now we will begin to redress our position of weakness and powerlessness in world affairs.

What we do after our Americans are safe, however, ought to reflect our experience with this religious fanatic, Khomeini, and his blood-stained hands. It is obvious now that Iran is in a state of civil chaos. Only mob actions incited

by hate and united by anti-Americanism give a flickering semblance of order and purpose in this strife-torn land. Until a civilized civil authority regains control of the state, the United States ought to withdraw from Iran. Until we have the power to protect American interests and lives in Iran, or can reasonably expect the government there to do so, we cannot again put our people in jeopardy.

Let the Japanese and the Europeans who wish to do so buy Iranian oil; their purchases will leave us slack elsewhere for ours. Let the protesting Iranian students in the United States go elsewhere where they will not have so much to protest. Since Iran is dissolving as a political entity, let us declare all Iranian passports and visas no longer valid—return the revolutionary students to Teheran where they can do some good, by constructively working to rebuild the government they have torn down, or let those among them of goodwill and sense remain here by applying as refugees to become permanent citizens. If they do not feel they can give up their homeland, let them return there and put their goodwill and intelligence to work in a country desperately in need of it. Those few who are genuine students, properly enrolled and attending classes, can reapply for special visas that will allow them to complete their education. Many are not here to learn, however; they use the freedoms our society grants to conduct a vigilante campaign under Khomeini's fanatic banner. They represent a danger to our society just as the present Government in Iran represents a danger to that part of the globe. We should get rid of them. The United States can no longer tolerate or deal with barbarians.●

S. 240 IS VOTED OUT OF CRIMINAL JUSTICE SUBCOMMITTEE

● Mr. RIBICOFF. Mr. President, the Subcommittee on Criminal Justice of the Judiciary Committee has voted out S. 240, the Federal Computer Systems Protection Act.

As the author of this bill, and in behalf of Senator PERCY and other sponsors of this legislation, we express our appreciation for the consideration given the measure by the subcommittee chairman, Senator BIDEN, and other members of the subcommittee. I am hopeful that the progress that has been made will continue and that S. 240 will go forward in the legislative process.

Mr. President, I request that the following documents be printed in the RECORD: A letter from F. William McCalpin, secretary of the American Bar Association, accompanying a resolution adopted by the House of Delegates of the ABA meeting in Dallas, Tex., on August 14 and 15, 1979, regarding computer law; an article from the New York Times of September 27, 1979, by Peter J. Schuyten; an article from Canadian Business by Lydia Dotto; an article from the Los Angeles Times of August 20, 1979, by Craig Turner; an article by Angeline Pantages and an article by Vin McLellan from the August 1979 issue of Dun's Review.

The document and articles follow:

AMERICAN BAR ASSOCIATION,
Chicago, Ill., September 11, 1979.

Re Jurisdiction over crimes committed against or through use of computers.

Hon. ABRAHAM RIBICOFF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RIBICOFF: At the meeting of the House of Delegates of the American Bar Association held August 14–15, 1979 in Dallas, Texas, the attached resolution was adopted upon recommendation of the Section of Criminal Justice. The action taken thus becomes the official policy of the Association in this matter.

This resolution is transmitted for your information and whatever action you may deem appropriate. Please do not hesitate to let us know if you need any further information, have any questions or if we can be of any assistance.

Sincerely yours,

F. WM. MCCALPIN.

RESOLUTION

Be it resolved, That the ABA support legislation to establish federal jurisdiction, concurrent with state jurisdiction, over certain offenses committed against, or through the use of computers, computer systems or computer networks;

Be it further resolved, That the proposed federal concurrent legislation reach:

(a) the use or attempted use of a computer, computer system or computer network to obtain money, property or services by means of false or fraudulent pretenses, representations or promises;

(b) intentional, unauthorized accessing for the purpose of alteration, damage, destruction or theft of a computer, computer system, computer network or any computer software, program or information contained therein;

(c) intentional, unauthorized interception of nonaural communications by wire or radio between computers, computer systems, or computer networks;

Be it further resolved, That legislation creating concurrent federal jurisdiction over offenses committed against or through the use of computers, computer systems or computer networks require the Attorney General, in consultation with state and local enforcement authorities, to publish guidelines for the exercise of that jurisdiction by the United States;

Be it further resolved, That legislation denominating federal offenses committed against or through the use of a computer or computer systems or computer network should:

(a) preclude the charging of a federal offense based upon the same facts except for proof of an element involving a computer, with a charge brought under the computer crime statute;

(b) provide for gradation of offenses and a graduated scale of penalties consistent with ABA policy on the sentencing scheme of the proposed Federal Criminal Code, with a sanction not to exceed five years imprisonment or $50,000 or both; and

Be it further resolved, That additional study be undertaken to find solutions to the procedural and evidentiary problems that impede the detection and prosecution of computer crimes under existing law.

[From the New York Times, Sept. 27, 1979]

TECHNOLOGY COMPUTERS AND CRIMINALS

By Peter J. Schuyten

The setting: a quiet university town somewhere in the Northeast. An "intruder" electronically penetrates the operating system of the town's centralized data processing center. After causing a series of bizarre accidents, the interloper threatens to "crash" the system, throwing municipal services into chaos unless a 5 million ransom is paid and electronically transferred to a numbered bank account somewhere overseas.

Fanciful? Not really. According to experts in the field, Louis Charbonneau's novel of computer crime, "Intruder," could indeed happen. They say that such a scenario is technically feasible—and easier than most people realize.

According to a Government report a few years ago, anyone with the right background in computer sciences and, say, nine months of working experience on a particular operating system could conceivably take over the system, using it to work against itself. Some experts say it would not even take that long.

"Software systems aren't perfect," says Theodore M. P. Lee, manager of system security for the Sperry Univac division of the Sperry Rand Corporation. "If someone really put his mind to it, he could take over a system. He might have to work at it a bit, but he could get into a position where he could read the computer's files and even change them, using the power of the computer against itself."

Stanley Mark Rifkin stole 10.2 million from California's Security National Bank in less than an hour. He knew enough about computers to crack the bank's software codes, causing the money to be transferred to an account in a New York bank, whereupon it was sent to Zurich and used to buy diamonds.

Mr. Rifkin was caught, but the experts suspect that most computer crime goes undetected or even unreported for fear of the embarrassment it would cause and the difficulty in making a prosecution stick.

"We only read about the failed computer criminals," says Robert A. Jacobson, president of International Security Technology Inc., a computer security consulting concern, adding, "The really successful ones are never really detected in the first place."

Security is an issue that many computer users apparently prefer to ignore. It is complicated and expensive. "The typical company doesn't really care about security," says Larry Wells, president of Creative Strategies, a market research firm.

With the rapid proliferation of computers, and in particular the trend toward distributed data processing (where a number of terminals are hooked by communication lines to a large central processor), companies are highly vulnerable not only to crimes such as fraud and theft of trade secrets but also to the accidental loss of valuable financial operating data through malfunctions, fire and the like.

What can the computer user do?

Most computer manufacturers build a certain level of security into their software. "You already get some of the mechanisms you need to restrict access to files in data banks," says Mr. Lee of Sperry Univac. "The difficulty is getting people to use them."

Beyond that, there is physical security, including a backup power system, air-conditioning, automatic fire detection and extinguishing, and a secure, usually computerized, locking system. The computer companies will usually supply a list of architects and contractors who specialize in facilities of this kind.

For minicomputers and intelligent terminals, Transaction Security Inc., of New York has recently developed a portable self-contained enclosure that provides these features.

For systems that use communication lines, backup lines to the telephone company central office are usually recommended, and devices that scramble data at one end and reassemble at the other end may be necessary.

Beyond that, the concerned user can hire a consultant. Mr. Jacobson of International Security Technology, for example, has developed a software program called Ramp that evaluates security risks of an installation and assesses the cost of additional protection. Then too, most of the "Big Eight" accounting firms have consulting arms that provide periodic audits of how secure a data processing system is.

"This is not a once-a-year assessment, a temperature taking, but rather an ongoing identification of threats and shortcomings," explains George H. Rittersbach, a principal at Peat, Marwick, Mitchell & Co. He says: "What most people overlook is that this is a changing process. You add a terminal here, people with passwords there, or alter the softwear."

In addition, there are companies that specialize in what are known as "software locks," programs costing between $5,000 and $15,000 that are designed specifically to protect computer systems from unauthorized use by outsiders and even by insiders. One such company is Pansophic Systems Inc. of Oak Brook, Ill.

Then too, there are programs called audit trails, which record every entry into a system, the user, the nature of the transaction and the length of time the computer was used.

For very large computer users, there are backup facilities available to avoid a system crash. Companies such as Sun Information Services of Valley Forge, Pa., or Contingency Group Inc. of Bensonville, Ill., provide such services—for $2,500 to $4,000 a month.

Finally, some companies, particularly those providing time-sharing services such as the General Electric Information Service Company, use "computer busters." One of these is the System Development Corporation of Santa Monica, Calif. Its job is to try to break into their computer systems.

THE NEW COMPUTER CRIMINALS—MOUNTING LOSSES TOTAL $300 MILLION ANNUALLY

(By Lydia Dotto)

Shortly before midnight on Aug. 20, 1977, five men crept stealthily into the University of Alberta's Agriculture Building and made their way to Room 274. There they bagged their long-sought quarry—a young man industriously working at a computer terminal. "He was speechless," recalls Dale Bent, U of A's director of computing services.

For nearly a month, Bent and his staff had, with mounting frustration, been tracking an elusive meddler who was causing crashes of the university's $9-million computer system, disrupting the work of some 5,500 authorized users. On Aug. 19, as staff members tried to put material into the memory banks from magnetic tapes, the meddler, working at a remote terminal, promptly wiped it out.

Bent and his colleagues then brought the computer's ability to monitor the activities of its users into play. They pinpointed a terminal in the Agriculture Building and discovered the nineteen-year-old meddler. Last December he and an accomplice were convicted of mischief and theft of a telecommunications facility. They received suspended sentences and were put on probation because tampering "had not been for financial gain."

This was Canada's first computer fraud case in court, but there is no doubt the computer will figure prominently in the future world of crime. Information is a tangible, salable commodity; information is power; information is money.

The computer is the most effective and versatile repository and processor of information the world has ever seen—except, perhaps, for the human brain. A 1971 report for the Organization for Economic Cooperation and Development (OECD) suggests that by the end of the next decade "most recorded information . . . will be in computer-readable form."

More than mere storage of information is at issue. The computer is a powerful tool for reorganizing and selecting information. As the OECD report notes, "The evaluation of a vast quantity of information imparts a new and potentially more dangerous quality to it." Moreover, the ease with which data banks can be tied together increases the likelihood of unintended use of information.

This has prompted concern about the proliferating use of social insurance numbers by governments, banks, and private business. When all files—educational, financial, medical, etc.—carry a single identifying number, can the electronic dossier be far behind?

Computer information can be reproduced instantly and can be transmitted over telephone lines. The central data base can be penetrated from afar by people using remote terminals. Computer fraud expert Donn Parker of the Stanford Research Institute says, "The criminal no longer has to be at the site of the crime. Theoretically, if he has access to a telephone in Outer Mongolia, he can instantaneously commit a computer crime here in Toronto."

An estimated $300 million is lost worldwide each year through computer abuse, but there is no way of knowing exactly how much the careful thieves who haven't been caught are getting away with. Many companies, fearing embarrassment and a loss of reputation, prefer to deal with computer crimes quietly. And the inadequacy of laws dealing with such technological crime makes convictions rare.

Computer crime falls into three categories: theft of computer time; manipulation or destruction of computer information—particularly financial information—for personal gain; and theft or unauthorized use of information sorted in computers. Theft of computer time occurs when employees or students use the computer for personal and often frivolous purposes, such as calculating mortgage payments or drawing Snoopy cartoons. Such use is ubiquitous and is not generally considered a serious problem.

Theft of money by manipulating financial data banks is the most publicized of computer crimes. In the tradition of spectacular heists, there's an element of art to the more clever computer-assisted thefts, with none of the heavyhandedness involved in marching into a bank toting a gun. Stanley Rifkin, a California computer consultant, stole $10 million from a bank by means of a 10-cent telephone call using his knowledge of the bank's wire system to transfer money. There is also what Donn Parker calls the salami technique: "stealing small slices of money from a large number of accounts so that nobody notices."

Our present rate of theft by computer will pale if and when electronic funds transfer—the so-called cashless society—becomes a reality. Data then will become money, and the potential for what one consumer advocate calls "remote mugging" becomes staggering.

Stealing money is not the only way in which financial data banks can be abused. They can be altered for personal gain (someone could change a computer file to reflect a good credit rating). Or they can be used—along with medical, educational, criminal, welfare, and other data banks—for purposes not intended when the data were collected. Hearings last year into Royal Canadian Mounted Police activities revealed that the Mounties had almost unlimited, if under-the-counter, access to the central computer index of social insurance numbers. They not only had used the information to track down suspects but also had shared the data with other police departments. Tax, customs, and immigration officials, also had access to the file. The Government stopped this practice last year but announced it wanted to legalize police access to the file.

No definition of privacy is universally accepted, but in the context of computer crime two recurrent elements emerge. First, individuals should be able to find out what kind of personal information is being stored and whether it is accurate; second, they should be able to find out who has access to the information and, to some extent, to control its dissemination.

There are still other concerns relating to computers. One is that the individual has a harder time leaving his past behind. A computerized record can pursue him to his grave and even, through loss of reputation, beyond. Another problem arises from the ability to link computer files together, which makes surveillance of an individual's activities infinitely easier.

These concerns, along with the growing incidence of computer-related crime, have intensified the quest for the uncrackable computer. Most new techniques are designed to increase the "work factor"—the amount of work required for an average programmer to penetrate the system. "Perfect security is never obtainable," notes the OECD report. "The most that can be achieved is a 'work factor' so long that it deters would-be infiltrators."

According to Dale Bent, the man who helped catch the student computer thieves, the kind of security system in use on the University of Alberta computer (which he says is superior to those commonly used in industry) requires inside knowledge and expertise to crack. Thus, though it provides good protection against unskilled users, on a university campus "it must be assumed that there are many users with the expertise to commit violations . . . Judged by this standard, security cannot be excellent."

Computer experts agree that there is, as yet, no impregnable computer. It's not uncommon for university students to undertake computer-cracking projects as class assignments. In 1976 the U of A system was plagued by the use of a program that reduced the charges assessed for computer time. The program, developed as a course project by a computing sciences student, somehow got into the hands of several users.

One of the major problems in computer security is finding ways to prevent abuse by legitimate users. This is why technological barriers are not enough; one expert estimates that only one in 500 computer crimes would have been prevented by sophisticated encrypting codes.

John Carroll, a computer science professor at the University of Western Ontario, queried fifty third-year computer science students—anonymously, of course—and found that 34 per cent had tried to penetrate the security of the system; 20 per cent had tried intentionally to crash it; 34 per cent had tried to obtain computer time without paying for it; and 28 per cent had used a talk circuit to harass other users. Carroll emphasizes that the computer in question is used exclusively for teaching and research, and that "there's nothing worth stealing in it."

Would the students have refrained from crashing the system if the computer had contained anything worth stealing? "I'd like to believe so, but I wouldn't bank on it," he says. Many of the students believed they weren't doing anything wrong, unless they were harming an identifiable individual. Cheating a large organization didn't seem to count.

Carroll was alarmed to find a high correlation between competence and an inclination to engage in questionable behavior—probably because of the challenge involved. "The better kids, the smarter kids, are more likely to do it," he says. For the business world, that's a rather ominous conclusion.

Carroll is trying to devise a test containing seemingly innocuous questions that could pinpoint high-risk individuals. Such a test might weed out most potential computer abusers, but it could also weed out many of the brightest and most talented applicants. So even if Carroll is successful, companies might not use his test. Genuine talent has been so hard to find that industry has tended not to ask too many questions.

The idea of background checks inevitably raises questions about civil rights, but Donn Parker says, "You have to balance civil rights with society's right to security. I think there's a reasonable balance. People in a position of trust must anticipate their backgrounds will be known."

Like many other experts, Parker believes that licensing, accreditation, or certification can do much to establish a minimum level of competence—but can't guarantee honesty. University of Toronto computer expert C. C. Gotlieb believes that licensing would have little impact unless removal of the license or certificate would prevent the person from his livelihood. Certificates now can be obtained by passing an examination administered by the Institute for the Certification of Computer Professionals, but computer operators and programmers can work without them.

But even if there were professional regulation, it seems doubtful that this would entirely stifle human ingenuity—or larcenous inclinations.

[From the Los Angeles Times, Aug. 20, 1979]

SECURITY POOR: COMPUTERS AN EASY TARGET FOR CRIMINALS

(By Craig Turner)

Computer experts like to tell the story of the office worker who discovered he could print multiple copies of his company's paychecks simply by pressing the "repeat" button on the firm's computer.

Until he was turned in by a suspicious bank teller, the employe illegally inflated his salary by printing as many as 200 duplicates of his regular paycheck.

That anecdote, drawn from the files of computer security specialist Donn Parker, shows that not all computer crimes require extensive technical knowhow.

Others, however, can be far more sophisticated, more lucrative and less easily detected. And as American businesses, consumers and government agencies become more reliant on computers, the potential for fraud and theft increases enormously, according to a growing number of experts.

"It's not currently possible to build an adequate, technically secure computer system," said Parker, senior consultant at SRI, Inc. (formerly Stanford Research Institute) in Menlo Park and author of the book, "Crime by Computer."

"Even if we did know how to design and produce a technically secure computer system, that's not the problem. "It's the environment in which the computer is used . . . Even when they (computer customers) get all the security systems, they find it sometimes interferes with the use of the computer, so they don't use the security."

Meanwhile, most law enforcement agencies are admittedly unprepared to deal with the growing problem. While police for years have used computers to help catch criminals, they seem hard pressed today to catch criminals who use computers.

"We really haven't trained our investigative apparatus in computer crime, or white-collar crime, for that matter," said Washington lawyer August Bequai, a former federal prosecutor now in private practice. "By and large, our police forces are defenseless in this area. The leadership in our police forces haven't been interested . . . Prosecutors are no better. They don't have any training either."

Authorities are beginning to recognize the problem, however.

There is a waiting list for classes in computer crime at the FBI Academy in Quantico, Va. Students there have included police detectives, federal investigators and representatives of Scotland Yard and the Royal Canadian Mounted Police as well as FBI agents.

The federal Law Enforcement Assistance Administration is planning this year to fund a $400,000 training center in computer crime for local prosecutors and investigators. Five states have adopted laws aimed specifically at computer crime and bills are pending in the California Legislature and in Congress. In Los Angeles, the district attorney's office has set up an electronic crimes section within the major frauds division, and the California District Attorney's Assn. sponsors the National Computer Crime Data Center.

Business has been slower to react.

"It's been treated as a minor technical matter when it's really a major corporate problem," said Robert P. Campbell, president of a Woodbridge, Va., computer security firm.

No one knows the precise cost of computer crime in America. The FBI estimates the average loss from a computer crime as $620,000. The U.S. Chamber of Commerce places the annual total at $100 million. Parker, who has files in 680 cases, said the figure may be as much as $300 million annually, but classifies all estimates as "guesswork" because only a small number of computer crimes—perhaps fewer than 15%—are reported to authorities.

The potential earnings of electronic fraud are starkly illustrated by Parker's study of computer-aided bank embezzlement, however, In an interview, Parker said that while FBI statistics for all embezzlements show an average take of $19,000, his review revealed a loss of about $450,000 in the typical computer-related embezzlement.

Last year, Stanley Mark Rifkin, a Los Angeles computer analyst, used his knowledge of a secret fund transfer code to impersonate a bank official and steal $10.2 million from Security Pacific National Bank. Rifkin pleaded guilty and was sentenced to eight years in prison last March.

Computer crimes, however, cover a broad spectrum, ranging from vandalism—computers have been bombed, burned and riddled with bullets—to industrial espionage, blackmail and theft.

Moreover, the criminal potential is increased by the ongoing explosion in computer technology and use. So-called "minicomputers," some as small as an office copying machine, are, for the first time, bringing computer technology—and the attendant security problems—to small businesses.

"They (minicomputers) are sitting out in the middle of offices, available to everyone, even the contract janitor," noted Thomas Foster, a computer auditor for the national accounting firm of Main Hurdman & Cranstoun.

Foster told how one of his client companies was defrauded by an employe who regularly "purchased" goods manufactured by the firm. The worker, a computer operator, never paid for the products, but programmed the computer to "forgive" the amount each month, thus balancing the books.

"The only way that would be caught, would be for someone to go through and manually add up the figures on the computer, but no one would ever do that because everyone assumes computers are always right," Foster said.

The employee was caught when he was absent from work one day and the computer broke down, forcing another worker to manually balance the books, according to Foster.

Many of the elements that make computers attractive to business, industry and government—speed, efficiency and elimination of paperwork—also make them vulnerable to criminal intent. Compounding the problem is the complexity of computer technology and the public's relative inexperience with computer crime.

For example, as recently as four years ago there were no laws in the United States specifically directed toward computer crime, according to Phil Wynn, head of the electronic crimes section of the Los Angeles County district attorney's office. Authorities have prosecuted cases under grand theft, fraud and even forgery statutes, but often it has been like "pounding round pegs into square holes," Wynn said.

Does it constitute grand theft, for instance, to steal a $50 roll of magnetic tape? Prosecutors would argue that it does when the tape contains a company's computer program the thief might sell to a competitor for $1,500. A judge unfamiliar with computer processing might disagree, however, "even though that same judge would have no problem saying $10 worth of paint and $10 worth of canvas can be valued at $10,000 if done by a Picasso," noted prosecutor Becker.

Five states have adopted laws defining computer crime and the California Legislature is expected to act this fall on a similar bill by Sen. Lou Cusanovich (R-Woodland Hills).

Don Metzker, the state data processing officer who helped draft Cusanovich's bill, said it tackled the thorny problem of defining as property the electronic signals and commands within a computer program.

Even with a new law, however, most California law enforcement agencies would be illequipped to cope with a rise in computer crime, most experts agree.

"Law enforcement is very uninformed about computer security," said former Los Angeles police chief Tom Reddin, now an industrial security consultant. "The people who are best informed are the computer programmers, but they don't think much about security. They just think of all the wonderful things computers can do."

In Orange County, second largest county in the state and the destination for growing numbers of computer-reliant businesses, the district attorney's office admits it is short on expertise when it comes to white-collar crime.

Jack Ryan, who heads the office's fraud unit, said he has no accountants on his staff and thus is dependent on the cooperation of victim businesses, a situation that makes it nearly impossible to penetrate a corporate coverup.

Relatively few companies are willing to provide that cooperation, Ryan believes. "I'm sure we only see a small percentage of the cases," he said.

Los Angeles prosecutor Wynn agrees. "I think so many times these crimes of allegations are buried and the (suspected) employe is rotated or dismissed," he said. "That's because the companies don't want to wash their dirty linen in public. They don't want the public to know their security has been breached."

But Robert H. Courtney, manager for internal security and privacy for IBM, said it is merely a matter of business sense.

"Often the hurt done by reporting it (in lost public confidence) exceeds the harm done by the crook," Courtney said. "Even if the company does report it, who knows if the prosecutor wants its? White-collar crimes are tough to prosecute. It's a lot easier for him (the prosecutor) to go after a bank robber or burglar. He can get four or five convictions a day with those if he's lucky. With white-collar crime, he's got to spend a lot of time and put several investigators

on it to make one case, and even then it's just one more bean on the bean pile."

Courtney also dissents from the view that computer crime is on the rise.

"There's nothing new; these are the same people who have always committed white-collar crime," he said. "What computers may have done is make white-collar crime more democratic."

A greater problem, according to Courtney, is simple ineptitude in computer operations. "The crooks," he said, "are never going to keep up with the incompetents."

In any event, large corporations are paying increased attention to computer security, although they frequently are reluctant to discuss it with outsiders.

It's a matter of survival, according to the computer security chief for a major retail chain.

"Many of our systems are so close to the computer that if for some reason those units went out it would be only a matter of time before we'd go out of business," he said in an interview conducted on the understanding that neither he nor his employer would be identified. "The computer room is looked on as a big bank vault."

Like many large firms, his company decided to train its own computer security specialists from among data processing employes. "We took computer people and taught them security because we found that was a lot easier than taking security people and teaching them computers," he noted.

Smaller companies without extensive data processing staffs do not have the luxury, however. Moreover, one of the reasons they probably bought a computer in the first place was to reduce the number of employes.

If they worry about security at all, executives of small firms are likely to turn for advice to local independent security consultants—usually ex-policemen who know a lot about locks and burglar alarms and almost nothing about computers.

If they do find a consultant who specializes in computer protection, they probably are going to find his advice costly and often unwelcome.

Although most computer specialists believe almost all business computers can be made reasonably secure from tampering, "It's expensive because we're playing catch-up," explained consultant Campbell. In addition, tight computer security also means controls on employes.

"It's extraordinarily difficult when you go into an organization to get people to recognize that the greatest threat is among their own employes," said Peter S. Browne, president of Computer Resources Controls, Inc., a Rockville, Md., security firm where the client list includes Chase Manhattan Bank and the U.S. Dept. of Health, Education, and Welfare.

Nonetheless, American Workers today are subject to greater on-the-job surveillance than ever before. More television cameras, metal detectors, magnetic card locks and even lie detectors are finding their way into factories and offices.

Even with sophisticated screening techniques, however, companies might find it difficult to sweep out the potential computer criminal, according to most experts. Parker interviewed 25 computer criminals and found "they're exactly the kind of people a data processing manager would want to hire. They're young, highly motivated, intelligent . . . They tend to otherwise be highly honest people. They would never steal money from a person.

In any case, security specialists concede they have not kept pace with rapidly changing computer technology.

"It's a catch-up ballgame now," said one. "Many companies are in the position analogous to deciding they have to put a stoplight on a street corner after somebody already has been killed in an accident."

SOPHISTICATED CRIME

(By Angeline Pantages)

It is generally agreed that computer crime is not uncommon, but nobody really knows just how widespread it actually is. The reason is that most crime committed through the manipulation of computers is difficult to detect and, if discovered, is frequently unreported because of the embarrassment to the company involved.

Computer crime expert Don Parker has 670 cases of such abuses in his files at the Stanford Research Institute. They range from the embezzlement of funds to the theft of equipment, from a stock swindle to the destruction of computer centers, from the theft of programs to the stealing of computer time ("Many Ways to Cheat," page 97). Parker readily admits that his files are incomplete. In fact, these cases may represent no more than 5 percent of what is happening, according to security expert Robert Jacobson.

There are many reasons for the failure to detect computer crime, according to Jacobson, a former security director at Chemical Bank who now heads his own New York-based consulting firm. A major one stems from the complexity and capability of today's systems and the lack of auditing techniques to deal with them. Moreover, too many corporations lack good controls and too few auditors assume the responsibility for detecting fraud, maintains Jacobson. The only reason the 1973 Equity Funding swindle was brought to light was that somebody snitched, he points out.

Corporations often are reluctant to report computer crimes because the legal difficulties, the embarrassment and the loss of public confidence can be more damaging to the company than the crime itself. In fact, SRI's Parker readily admits that he advises some of his clients not to report certain computer crimes for these reasons.

Even when computer fraud is reported and prosecuted, convicted computer criminals frequently receive no more than token sentences, particularly if they practiced the "R&R" defense—repent and repay. In many cases, the prosecutors bog down in the complexities of finding and presenting the evidence. A by-product of all this is that computer crime has been bathed in glamour. For some criminals, it represents an intellectual challenge whose rewards include beating the establishment, which can "afford it."

STIFFENING THE LAW

The nation's lawmakers are now attempting to knock the glamour out of computer abuse. The Federal Computer Systems Protection Act of 1979, introduced by Connecticut Senator Abraham Ribicoff and cosponsored by a large bipartisan coalition, would crack down hard on computer crime. The measure, now before the Judiciary Committee, mandates whopping sentences (up to fifteen years) and stiff fines (up to $50,000) for destruction of computer equipment. For fraud or theft, the bill would fine the culprit two-and-one-half times the amount stolen, in addition to a maximum fifteen-year sentence.

A number of reports from federal agencies show large numbers of computer abuse cases within the government itself. As a result, lawmakers feel the federal communications networks can not be fully secured and are concerned about massive theft and destruction that could foul up a host of federal programs such as Social Security, veterans benefits and tax collecting. Moreover, the lawmakers are concerned that organized crime is becoming involved in corporate rip-offs and that crucial data could fall into politically "wrong hands."

As electronic funds transfer networks become more commonplace, the nation's banking system is particularly vulnerable to computer crime. And, in the next decade, with most retail customers likely to pay for their purchases through the insertion of a plastic card in a computer terminal, department and other stores are bound to become more susceptible.

A corporation's financial liability for computer crime committed by its employees is a vague, sensitive subject that few care to discuss. Obviously, a company is not automatically open for legal troubles because some programmer pilfers a few million dollars from its coffers. But there are laws and rules that can apply.

Strangely enough, one is the Foreign Corrupt Practices law. Aimed primarily at illegal corporate acts, like bribes overseas, this law also makes management responsible for its accounting and internal controls. Conceivably, corporations could face legal troubles if they are grossly negligent in applying proper data-processing, auditing and accounting controls and as a result suffer in material loss. As better auditing and security appear, the definition of negligence in data processing may be put to the test.

Some federal regulatory agencies are now beginning to issue rules on data processing to the industries they oversee. The Food and Drug Administration, for example, promulgated new regulations last spring that govern how computer systems used in manufacturing, processing, packing and storing drug products should be operated and controlled.

CORPORATE LIABILITY

Lawyer Robert Bigelow, in his publication Computer Law and Tax Report, says that the drug company that fails to "set up and enforce the appropriate controls on security, back up, access, and documentation" may be opening itself to prosecution. And the programmer and systems analyst who fails to do his part may also be liable. Bigelow strongly advises corporate counsel to keep data-processing management up-to-date on such industry regulations.

When it comes to reporting computer crimes, only banks have a legal requirement to do so. Lawmakers are often loath to force business to admit being victims, and that is a major reason so little computer crime has been recorded, according to some experts in the field.

The State of Colorado has just revised its criminal code and has included a statute stating it is the duty of a corporation to report crime, although it isn't a crime not to. Colorado lawmakers say they want to change the attitude toward such reporting and hope companies will view it as a business responsibility.

Not surprisingly, most firms that use computers have policies to protect them from fraud. But the policies generally are not labeled "data processing" and there is no one form to cover everything. That's why Harry Chadwick, senior underwriter at insurance brokers Chubb & Sons Inc., advises companies to seek underwriters who will modify policies to spell out, in plain English, data-processing problems they want covered. While clearer language could mean higher premiums, he advises firms to "pay the price for peace of mind."

"Named peril" insurance can cover damage to equipment by outside terrorists or other criminals, as long as that particular peril is named. "'All risk' insurance may also cover such a situation but make sure," says Chadwick.

Other types of policies that should be considered include: employee dishonesty coverage to protect the company from actions by its own workers; business interruption insurance, for those terrible times when the whole system is crippled by destruction of files or equipment; valued paper and other insurance that will cover destructions or theft of specified, valued data.

Since employees are frequently involved in

computer crime, companies should carefully screen applicants for jobs in this area. A corporation's personnel staff, its psychologist and its own sense of ethics and humanity are critical factors in avoiding unnecessary vulnerability. The company should:

Keep employees happy and fairly treated. The greater the responsibility, the greater the compensation should be.

Educate employees on security procedures and disciplinary actions for violations.

Instill a high level of ethics.

Avoid hiring "high risk" personalities for key jobs.

Distribute key responsibilities in data-processing operations to avoid the "one man knows all" problem.

Track, without violating employee privacy, severe personal problems that may affect business judgment.

Ethics is probably one of the most controversial subjects in the computer field today. A corporation cannot assume uniform standards of ethics among its computer staff. This does not mean data-processing professionals are crooks, but, short of theft of money and goods, they don't always agree what constitutes a high ethical standard.

Some of this confusion stems from the industry's early history when computer programs were frequently exchanged because of the lack of software. In fact, until recently it was not unusual for programmers at competing service companies to trade software. While such cosy relationships can be perfectly aboveboard, they can contribute to unethical revelations about a competitor.

CREATING CROOKS

Another problem is that in the last fifteen or twenty years, university computer science departments have encouraged "computer busting"—finding ways to gain unauthorized access to the system—among the students, often making this practice an assignment. Some academicians defend this as a means of teaching systems design and creativity to students, since they must learn a great deal before they can successfully engage in computer busting.

While this may be true in some instances, students around the nation have been taking advantage of the invitation to be clever. There have been at least half-a-dozen recorded instances in which grades already in a computer have been changed (sometimes for a fee). And recently, at the University of Alberta in Canada, two students were prosecuted for gaining repeated unauthorized acces to commercial accounts serviced by university computers. Allegedly, some of their professors had encouraged it.

This case was the focus of a discussion at the recent National Computer Conference in New York. At the session, the industry's professionals demonstrated a wide range of disagreement on whether to teach students to break the system. One professor defended the creative benefits and even denied university resoonsibility for those who took the assignment too far. "We are not here to teach ethics; they should have learned them before they arrived on campus," he argued.

What can corporations do to protect themselves against computer abuses?

A perusal of the literature and discussions with experts show that self-protection is expensive but necessary. Here's a partial list of do's and don'ts that indicate the difficulties involved:

1. Check corporate liability for failing to apply controls.

2. Analyze the risk of disaster and the potential losses to help determine what preventive steps to take and at what cost.

3. Learn the warning signals that indicate the company may be vulnerable to fraud (for example, a very complex business structure with on effective internal auditing staff).

4. Buy insurance, but make sure the underwriters know data processing and incorporate your firm's specific requirements in the policy.

5. Make sure that employees understand company ethics and security rules and what will happen if they don't abide by them.

6. Hire data-processing auditors who are of a high caliber and possess a knowledge of computers as well as auditing.

7. Make auditing procedures a part of the computer system design.

8. Audits should be a surprise.

9. Don't use the computer vendor as a prime security adviser; while loyal and trustworthy, his goal is to sell equipment, not scare you out of it.

10. Use common sense. When it comes to security, watchmen, guard dogs, passwords and padlocks are useless if the back door is unlocked.

While no system is foolproof, a company that employs the do's and don'ts cited is bound to be in a better position to combat computer crime. The cost of not being vigilant could be bankruptcy.

MANY WAYS TO CHEAT

Computers are neither the perpetrators nor the victims of crimes. Computer crime, like all crime, is people-oriented. Someone initiates it; someone benefits from it; someone is victimized by it.

Semantic problems understandably confuse the innocent in any discussion of computer abuse. The computer is a tool, a system separate from the information that is manipulated as the system generates a report, figures a payroll or otherwise performs an assigned task. But often the distinction between the computer and the information becomes confused; the most common of all so-called computer crimes is actually "data diddling"—feeding false or unauthorized information into a computer to produce an inaccurate or phony report.

The computer can, of course, be used as an instrument of crime—usually in planning or testing a scheme. But far more often, the computer system becomes either the environment for a crime (false data input or unauthorized but correct password access, for example) or itself the object of an illegal scheme (in which the system is internally modified to effect a crime).

Categories of criminal computer abuse could probably be created and recreated infinitely. The Federal Deposit Insurance Corp. uses four general categories of threat in discussing the vulnerabilities of data-processing systems; physical, transactional, programming and electronic. Each requires different types of skill, knowledge and access.

Physical acts include destructive attacks on equipment, data or programs; false data input through normal manual methods; and scavenging for information available in physical form (printouts, punch cards, disk packs, etc.)

Transactional acts include impostering (assuming the identity and privilege of another person) and "piggy-backing" (unauthorized second use of a terminal).

Programmine acts can include a variety of sophisticated techniques to corrupt the system's controlling software. This is the wonderland for the criminal technocrat, and the next major computer crime may involve an esoteric programming technique called a "logic bomb," or a "Trojan Horse attack." The former is a programmed instruction to a computer to perform an unauthorized act when, for example, the cash balance reaches a certain level. The latter is the placing of an unauthorized program within an authorized one. There are many other techniques in a field still wide open, unfortunately, for initiative and innovation.

Electronic threats include wire-tapping and computer hardware modifications that could produce the same results as software modifications.

CASE HISTORIES

Since the beginning of the decade, a federaly-funded study at the Stanford Research Institute has been collecting and cataloguing case histories of computer-related crime, and the industry trade press regularly reports cases ranging from automated teller heists to extortion. For example, the former employee of a European multinational talked his way into the media library and drove off with a truckload of financial records, tapes and disks, and then stopped to pick up the backup copies at another location before demanding $1 million ransom.

Some of the more impressive dollar figures are attached to cases in which nothing more sophisticated than false data entry was used. In the Equity Funding case, for example, approximately $2.1 billion in phony insurance policies were created in the system simply by entering them into the files. After that, it was a matter of using special programs to omit or cover up the bogus policies in billing, balance preparation and other audit statements.

More recently, a Chicago company president, a data-processing manager and a programmer were charged with a $40 million fraud after allegedly inflating the computerized inventory records to cover up poor management. The hyped inventory was discovered by the board of directors, which in turn set about to deflate the figures slowly to avoid a drop in the firm's publicly traded stock. At this stage, the SEC and Justice Department moved in.

As for physical destruction, computers have been shot, knifed, bombed, battered and had milkshakes poured into them. The perpetrators have been disgruntled employees, dissidents and terrorists. In Italy alone in the last three years, terrorists, with great technological expertise, have blown up 25 computer centers. One of the worst occurrences in the U.S. was the destruction of the Army Research Center at the University of Wisconsin, where one employee was killed.

Automated teller machines have given a computer connection to a lot of old-fashioned con men. Citibank had to modify its auto teller system to require double entry of the magnetic card, at the beginning and end of transactions, because of the "piggybacking" threat. In a typical case, a customer inserted his card, punched in his password—only to be waved away from the "broken machine" by a man at the bank's emergency telephone. When the cardholder walked away from the teller terminal, a second man rushed over to punch in a withdrawal from the other's account.

Most computer crimes, however, seem to be "inside jobs." The computer system is never more vulnerable than in the hands of those who feed and care for it; and data-processing security is never stronger than the weakest or most vulnerable employee in a position of trust.

The value of unused computer time apparently spurs the entrepreneurial spirit. Two programming managers working for the science and engineering group at Univac's Blue Bell, Pennsylvania, plant were convicted of conspiracy and mail fraud after they used company computers to run a small business arranging sheet music by computer. When they were arrested, their music business was using three-fourths of the computer capacity assigned to the Blue Bell science and engineering group. Elsewhere, there have been several cases of employees at time-sharing firms undercutting their boss' price with their own bid using the boss' equipment.

The possibilities of manipulating a computer's software programs to slip money or information into the wrong hands are numerous. The controller at a chemical firm, aware of the sort of irregularities that alerted auditors to investigate corporate payments, used the computer to model the company's accounts payable activities so he could issue checks to himself through phony vendor accounts while keeping the cash flow within normal parameters.

One of the now-classic techniques—well understood in theory, but rarely put into effect in real life—is the "trap door." In the development of large computer programs, programmers usually provide breaks in the code for the insertion of capabilities, for example, subtotals). Most operating systems are designed to prevent additions or modifications to their program code, but programmers sometimes insert these breaks—or "trap doors"—to handle necessary changes while the system is still in development. Although these are supposed to be removed during the final editing of the program, sometimes they are overlooked. There are other cases in which a programmer has built a "trap door" in a program that he could later use for his own, possibly illegal, purposes.

The "trap door" can be used to hide instructions given to the system so that the computer's own internal controls aren't aware of it. It can be like a large well-hidden cave in an otherwise well-patrolled park; anything could be happening in there and no one would know.

A RARE CASE

In one of the rare reported cases, a bright programmer discovered a trap door in a computer system's Fortran compiler and he was able to use it to have the computer execute his instructions secretly. The computer was a commercial time-sharing system and with the trap-door facility this man was able to gain access to the data and programs confidentially filed by other users and have the computer execute large amounts of work without billing him.

Like most ingenious criminal schemes using program techniques, this case was uncovered through an unusual accident rather than through any conventional system-security program. This widespread limitation of security systems is a critical problem in detecting computer crime.

S. 344: THE COMMITTEE VOTE ON BILLBOARD CONTROL WILL OCCUR NEXT WEEK

● Mr. STAFFORD. Mr. President, the Senate Committee on Environment and Public Works will vote next week on whether or not to report S. 344, my bill that would return the billboard control law to those States wishing to assume control.

Until recently the Federal Highway Beautification Act proved to be a fairly effective tool. But the 1978 highway amendments made billboard control so restrictive and costly—and infringed so greatly on local zoning prerogatives—that the present Federal program is no longer workable.

The only option, in the opinion of this Senator and most of the law's original supports, is to return the program to the States, or, at least, to return it to those States that desire to take control.

The Committee on Environment and Public Works held 2 days of hearings this past summer on S. 344. The bias of the present law became obvious when the only group testifying against S. 344 turned out to be the billboard industry itself.

By contrast, the American Association of State Highway and Transportation Officials testified in favor of S. 344; 38 of its member States support S. 344.

The list of other groups endorsing S. 344 is long and varied. It includes:

The American Farm Bureau;

The American Institute of Architects;

The National Conference of State Legislatures;

The National Wildlife Federation;

The Garden Clubs of America; and

Environmental Action.

I believe we need to do something to rescue this situation, to keep faith with the intent of the 1965 Beautification Act. The American people do not want laws that promise one thing, but provide the opposite. That is why the public is losing faith in Washington.

To keep faith with the public, I believe, we must admit our mistake and turn this program back to the States, to free this program from the burdens of continued Federal strangulation and regulation.

Mr. President, two interesting articles on this subject appeared recently in the Christian Science Monitor. I ask that these articles be printed in the RECORD.

The articles follow:

SAN DIEGO VS. "BLEAK MATERIALISM"

(By Yale Maxon)

The first day of spring this year brought a message of hope for Californians and others fed up with billboard blight. On that day the California Supreme Court, in a landmark ruling, approved the total ban on commercial offsite billboards maintained by the city of San Diego.

The decision parallels recent state court holdings in Massachusetts, New York, and elsewhere regarding the value of aesthetics in modern life. But it breaks new ground in applying these concepts to a large metropolitan area in a major state. Hence the decision has enormous potential importance for urban communities everywhere.

During the last half century a number of scenic rural routes in the state had been cleared of billboards through the operation of county zoning laws. And some 130 California towns and small cities had outlawed them. The question was whether a total ban could be made to stick in a "major metropolitan area." (San Diego is now the second-largest city in the state.) The court's answer to that is a resounding "Yes!"

The San Diego ordinance had two goals: to promote traffic safety and to improve the appearance of the city. The billboard companies brought suit to prevent its enforcement, alleging that it threatened free speech and that, in allowing amortization rather than requiring compensation as stipulated under certain circumstances by federal law, it denied equal protection. They also argued that the ban was beyond the city's power, since, although it spoke of traffic safety, the real purpose of the ordinance was aesthetic.

In the trial court the city lost, the judge faulting the ordinance partly on free speech grounds and partly because its substantial adverse effects on the companies seemed to him to indicate an "unreasonable" exercise of the police power against "a legitimate, commercial use of property."

The city appealed, but once again a three-judge court was able to find a rationale for concluding that the ordinance "is too broad, too general . . . and constitutes an unreasonable and arbitrary exercise of the police power."

To justify this holding the judges had to reach back to a 1909 decision of the California Supreme Court (Varnery and Green v. Williams) which had proclaimed two major principles: the first was that aesthetics are "a matter of luxury and indulgence" and cannot alone justify exercise of the police power. The second was that a city "in absolutely prohibiting the erection or maintenance of billboards for advertising purposes" was exceeding its powers.

The holding regarding aesthetics had, over succeeding decades, been considerably weakened as citizens, city planners, and ultimately judges had come to recognize that aesthetics, while indeed essential to the good life, are also inseparable from property values. The other principle—that regulation could not encompass total prohibition—had not, however, been challenged, and reliance on this principle was central to the appellate court's opinion.

The March decision, penned by Mr. Justice Tobriner, sweeps away both legs of Varney and Green. This decision is one more indication that the country is coming of age, culturally speaking. States like Hawaii, Oregon, Vermont and Maine totally or almost totally outlaw billboards. Smaller cities and counties have acted to preserve both the rural and the urban scene from billboard blight. Now the way has been cleared for major cities to act.

Let us hope that they will do so! For is it not incongruous to invest our civic love and resources in fine architecture, public parks and open spaces, in magnificent roads and highways, while simultaneously permitting the constant, night-and-day nagging and visual harrassment of larger-than-life billboards urging us to smoke, drink, or purchase a thousand harmful or irrelevant commodities?

In the concluding words of Mr. Justice Tobriner: "To hold that a city cannot prohibit offsite commercial billboards for the purpose of protecting and preserving the beauty of the environment is to succumb to a bleak materialism."

BILLBOARDS: SEEING THE FOREST THROUGH THE PLEAS

(By Yale Maxon)

Most Americans, preoccupied with other problems, are unaware that the quality of their visual environment is now in jeopardy. As a result of amendments to the Highway Beautification Act of 1965, pushed through the Congress last fall by the Outdoor Advertising Association of America, the right of state or local governments to cause the removal of "any" once-permitted outdoor advertising billboard is now hampered by an outrageous requirement that such removal must be accompanied by "compensation" to both sign owner and landowner involved.

Historically the usual method of regulating outdoor advertising has been by zoning and amortization. Signs (billboards) could be forbidden in certain zones and after a suitable period for amortization (normally 3 to 5 years) could be ordered removed as public nuisances. Most such removals have, over the years, been carried out by the states or by local government acting under state authority.

Both state courts and the U.S. Supreme Court have repeatedly held that off-site commercial billboards adjacent to public thoroughfares are not a bona fide use of the private property on which they are situated but are instead a use of public property—the highway—for private gain. Hence a requirement that they be removed has not constituted a "taking" in the constitutional sense, and therefore has not required compensation.

Even after passage of the Highway Beautification Act, which did require payments to billboard owners and landowners for removal of signs adjacent to the Interstate network, a number of state courts have held that billboards illegal under both state and federal law could be removed under state law with-

out payment of compensation, since the state's "police power" under the Tenth Amendment was still intact. It was in response to this dilution of the federal largess to which (though unjustified in law) it had become accustomed that the OAAA was able to secure the amendments described above.

Doubtless Congress overreached itself in passing those 1978 amendments; for if interpreted literally they would severely limit, if not cripple, the powers of state and local government throughout the country. Nevertheless, the outdoor advertising companies, utilizing the calculated deception implicit in the overbroad language of the amendments, are now attempting to bamboozle state legislatures into passing state laws requiring "compensation" for all sign removals. A California bill to require such mandatory compensation which begins deceptively "To ensure compliance with federal law . . ." has passed the state Senate and at this writing is before the Assembly committee on local government. A similar bill which passed both houses of the Oregon Legislature has fortunately just been vetoed by the Governor.

Likewise the California Supreme Court, which earlier this year upheld San Diego's total ban on off-site commercial billboards, has now, as a result of the OAAA amendments, consented to hear new arguments in the case. Thus there is little doubt that the Highway Beautification Act in its present form now serves to protect the billboard interests rather than to promote highway beautification.

In sum, the practical effect of the mandatory compensation requirement, in light of the present mood of the U.S. taxpayer, may well be to bring to an end for the time being billboard removals in the U.S., since neither the states nor local governments have money to spend for unnecessary payments even when the latter are federally mandated.

To remedy this sorry state of affairs Senator Stafford of Vermont has introduced a Bill (S. 344) which would return primary responsibility for highway beautification to the states. It is significant that at the recent mid-July hearings on the bill representatives of six conservation groups (Keep Maine Scenic, Garden Club of America, Environmental Action, National Wildlife Federation, California's Planning and Conservation League, and the Washington Roadside Council) all spoke in favor of the bill. Spokesmen against it came chiefly from the outdoor advertising interests.

The fate of S. 344 now rests with the 14-member Senate Committee on Environment and Public Works. Its members should hear promptly from citizens interested in the quality of their visual environment.●

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall for the day, and the bill will now go over. Tomorrow the Senate will return to the energy bill, and the pending amendment on that bill, I believe, is Mr. PROXMIRE's amendment.

At the moment I cannot say, may I say to the Senator from Mississippi, when the Senate will be able to return to this bill, but we are very mindful of the need to get action on it as soon as possible. I know how desirous the chairman of the Appropriations Committee is, and how desirous the Senator from Mississippi is, but at the moment I cannot tell.

Mr. STENNIS. We do have a time limitation on it.

Mr. ROBERT C. BYRD. Yes, we do have a time limitation on it, that is true.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. I hope we will be able to proceed with this bill on Friday and get it over with before the weekend, because, again, I make the plea that there is a time limitation on appropriation bills, and as important as the energy bill is, there is no time limitation on it.

Mr. ROBERT C. BYRD. Yes. Mr. President, I think I ought to take this occasion to say that Senators should be prepared to stay here Saturday.

Mr. MAGNUSON. Yes.

Mr. ROBERT C. BYRD. We still have the conference report on the budget resolution, we still have this very important appropriation bill, we have the energy bill out of Senator JACKSON's committee, and behind that bill we have another energy bill. The Senate has had to come in late because of objection to the Foreign Relations Committee meeting. We had to come in later than we would have ordinarily, and it is our responsibility to get our work done. I do not like Saturday sessions, but a long time back all Senators were notified that they could expect Saturday sessions, that it was a possibility or even a probability. Now we do not have much time left this year. Not much time left; so I think it is important that Senators be alerted to what I consider the necessity of being here on Saturday and completing action on this appropriation bill, completing action on the budget resolution conference report, and, I hope, completing action on the energy bill.

The Senate will not be in session on Monday, so it seems to me that, in the interests of getting the people's business completed, we will have to be here on Saturday.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from South Carolina.

PROTECTION FROM U.S. LAW SOUGHT BY BRITAIN

Mr. THURMOND. Mr. President, the contents of an article in today's Washington Post of November 1, 1979 provides the basis for considerable alarm by the United States with respect to the enforcement of antitrust laws and commercial regulations against multinational corporations and international cartels.

The article, "Protection From U.S. Law Sought," by Leonard Downie, Jr., of the Washington Post foreign service, from London on October 31, begins by stating:

Striking a major blow in an escalating international legal battle, Britain acted today to protect its firms against increasing efforts by the United States to enforce its antitrust laws and commercial regulations against multinational corporations and international cartels.

Prime Minister Margaret Thatcher's government introduced unprecedented legislation which is virtually assured of approval by Parliament, that would block enforcement here of American court judgments against British firms in certain antitrust cases.

Other references in the article are made concerning damage awards, U.S. subpoenas and court orders to supply information and documents, the U.S. attempts to impose its laws and regulations on foreign countries, and the lack of success in solving these matters through diplomatic negotiations. While this particular article refers specifically to the United States-Britain situation, general reference is made to these same type problems that exist between the United States and many other foreign countries.

Mr. President, this is a matter of the most serious concern, especially when we look, as we must, at the continuing international trade problems that the United States is experiencing. Certainly, there are a number of measures that we can, and should, consider as we attempt to deal with these problems in the best public interest.

One such measure that is already under consideration, but unfortunately it will only serve to make these matters worse, is S. 1246, the Energy Antimonopoly Act of 1979. This measure, if enacted, would exacerbate these very same problems that are already plaguing the United States in its international trade activities.

Mr. President, we must develop and implement positive measures, not negative measures such as S. 1246, if the American people, through their international trading corporations, are to compete effectively, both economically and politically, with other nations around the world.

Mr. President, in order to share this informative article with my colleagues, I ask unanimous consent that it be printed in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROTECTION FROM U.S. LAW SOUGHT

(By Leonard Downie, Jr.)

LONDON, October 31.—Striking a major blow in an escalating international legal battle, Britain acted today to protect its firms against increasing efforts by the United States to enforce its antitrust laws and commercial regulations against multinational corporations and international cartels.

Prime Minister Margaret Thatcher's government introduced unprecedented legislation, which is virtually assured of approval by Parliament, that would block enforcement here of American court judgments against British firms in certain antitrust cases.

The legislation also would block enforcement here of punitive double- and triple-damage awards by the U.S. courts, a common remedy sought in civil antitrust cases. If a British firm is forced by a U.S. court to pay punitive damages there, it would be able to recover the money in a British court.

Finally, the legislation also would authorize officials here to stop British firms from being compelled by U.S. subpoenas or court orders to supply information and documents sought in U.S. antitrust investigations, or by U.S. regulatory agencies.

The British action comes at a time when the United States is trying to win increased cooperation from foreign nations in an effort to control the operations of multinational corporations. One of the most recent U.S. concerns has been in the banking area.

The legislation applies to attempts by any foreign country to impose its laws and regulations beyond its borders on British firms. But the bill is clearly aimed at Washington in retaliation for what the British government calls "the accumulation of attempts by the United States to impose its own economic and other domestic policies on individuals and companies outside its territorial jurisdiction."

The British have been unhappy that U.S. agencies and courts have claimed jurisdiction over and tried to punish British companies operating outside the United States that are subsidiaries or affiliates of U.S. firms or whose activities anywhere are judged to have an impact on U.S. commerce or its foreign trade.

They also object to U.S. claims that firms with just 25 percent American ownership are subject to U.S. law even if they do no business there, attempts by U.S. regulatory agencies like the Securities and Exchange Commission and Commodities Futures Trading Commission to impose disclosure and other requirements on firms incorporated and doing business here, and attempts to force British subsidiaries of U.S. firms to obey U.S. policy in dealing with the Arab boycott of companies that trade with Israel.

"It is one thing for a firm to be expected to abide by the laws of an overseas country while it is doing business in that country," Thatcher's trade secretary, John Nott, said today. "It is quite another thing to be expected to abide by the laws of that country, to accept the judgments of its courts or the requirements of its authorities when operating elsewhere."

Several British firms are currently defendants in major U.S. civil antitrust cases for price fixing activities outside the United States in the shipping and uranium industries that adversely affected U.S. firms and commerce, but which the British claim violated no laws here. These firms could be ordered by U.S. courts to pay punitive triple damages totalling several billion dollars.

"We have tried to solve this situation quietly" through diplomatic negotiations, "but with little success," Nott said. "So we decided to show a little bit of muscle to defend our companies and our sovereignty."

Although Britain has antimonopoly laws of its own, they differ considerably from much more comprehensive U.S. antitrust laws and allow many kinds of mergers, monopolies, and agreements to set prices and limit competition that would be illegal in the United States. Britain also does not allow the awarding of punitive damages in civil cases, a practice Nott today called "one of the most objectionable of all American legal devices."

Meanwhile, it has become American policy, embodied in law, to pursue aggressively antitrust violators and international cartels that control the supply and price of commodities and services like uranium or shipping no matter where they operate if they adversely affect U.S. commerce or trade.

As Nott noted, this trend has angered other important trading partners besides Britain, including Canada, which is now considering more limited protective legislation of its own. Nott said he expected other countries to give Britain's far-reaching legislation "a warm welcome" and perhaps copy it.

The breach between Britain and the United States on this issue widened shortly after Thatcher's new business-supported Conservative party took office last May.

In June, the Justice Department prosecuted seven shipping companies, including two British firms operating outside the U.S. and their top executives, for price-fixing that harmed American shippers. After the British government intervened diplomatically, Nott acknowledged today, they were allowed to plead no contest and pay sizeable fines.

But then, contrary to British expectations, the companies and executives were sued by 34 American shippers for punitive damages that could total several billion dollars.

RADIO EDITORIALS ON THE SALT II TREATY

Mr. THURMOND. Mr. President, two excellent radio editorials on the SALT II agreement were broadcast September 2 and September 23, 1979, by radio stations WBZK–AM, York, S.C., and WDZK–FM, Chester, S.C.

These editorials are concise and lucid in pointing out the inequalities in this treaty. The points made by these stations will be key issues in the Senate floor debate in the next few weeks.

Mr. President, I ask unanimous consent that these two editorials be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial scripts were ordered to be printed in the RECORD, as follows:

WBZK/WDZK–FM EDITORIAL FOR SEPTEMBER 2, 1979

Keep your fingers crossed and hope the SALT Two treaty won't be ratified this fall. The treaty is lengthy and complicated, but it is filled with objectionable parts which could mean disaster for the U.S. national defense.

(1) Our heaby bombers, such as the B–52 and B–1 types, are included in the objectionable listing. However, the new Soviet Backfire bomber is not included in the SALT Two limits. This means the Soviets can maintain their present production of 30 new Backfires a year . . . a plane 15 years newer than our own B–52 bomber which is subject to treaty limits. And you know production of our newest . . . the B–1 bomber, was cancelled by President Carter in 1977.

(2) According to the terms of SALT Two, each party undertakes to limit after January 1981, strategic offensive arms to not more than 2,250. The fallacy is that our ICBM the minuteman, has a carrying capacity of one megaton. The Russians SS–18 ICBM can carry a warhead of fifty megatons. It's like comparing toy trucks to the real thing. And you know who has the smaller ones.

(3) Each party agrees not to deploy cruise missiles with a range of more than 600 kilometers . . . 347 miles. The end result is that we cannot accelerate our MX mobile missile program in order to protect our highly vulnerable Minuteman missiles. And it means that nearly all of the Soviet Union is more than 347 miles away from our missiles . . . we would reach only 15 percent of their population, while they can hit 69 percent of the United States population by cruise missiles from the Atlantic, Pacific, and Gulf coasts.

It appears the Soviets have out manuevered us again . . . which seems to be more of the usual turn of events. With this weeks revelation of nearly 3,000 Soviet troops in Cuba, it's time Congress took a hard, long look at SALT Two. We're on the short end now; ratification of the treaty is unthinkable.

WBZK/WDZK–FM EDITORIAL FOR SEPTEMBER 23, 1979

Two weeks ago, we talked about the SALT Two treaty talks . . . and expressed our opposition to them. Today, we'll give a few more reasons why they are not good for the United States.

(1) During the seven years of SALT Two negotiations, the Soviets developed, tested, and deployed four new missile systems. The U.S. did not develop, test, or deploy any. The treaty prevents the U.S. from catching up with the Soviets. It prohibits us from building, testing, or deploying any new missile except the MX mobile missile (after January 1, 1982), and it prohibits us from making the MX a heavy missile like the Soviet SS–18.

(2) But that's not all. The treaty places no limit whatsoever on the power of Mirved warheads. The Soviet SS–18 and SS–19 MIRV's are estimated at a power of 1.2 megatons each. Multiplying 1.2 megatons by 6,152 MIRV's gives the Soviets at least 7,382.4 megatons (7 billion, 382 million, 400 thousand tons) of TNT explosive equivalent in their land-based MiRVed missile force. The U.S. Minuteman III MIRV's are only 0.17 megaton each. Multiplying 0.17 megaton by 1,650 U.S. MIRV's gives us 280.5 megatons (280 million, 500 thousand tons) of TNT explosive-equivalent in our land-based MIRVed missile force. The treaty thus allows the Soviets to have land-based ICBM MIRV's with explosive power more than 26 times that of ours. It is no wonder that the MIRV warhead "limits" were not specified in the treaty. Defense Secretary Harold Brown did not tell these facts when he testified on SALT Two before the Senate Foreign Relations Committee.

(3) The treaty limits don't apply to ICBM and SLBM "test and training launchers". In our open society, it is easy to find out how many the Soviets have. At the time of the SALT One treaty in 1972, the Soviets refused to say how many ICBM's they had, but out intelligence reported that we had spotted 1,618 land-based missile launchers. The Soviets now claim they have only 1,398. What happened to the other 220? Are they now in the uncounted "test and training" category? The Soviets could have a thousand "test and training" ICBM's and not be in violation of this treaty.

(4) This is another provision to make sure the U.S. is prohibited from building our new MX mobile missile as a heavy, ICBM. The treaty allows only the Soviets to possess, test, or deploy heavy missiles. The U.S. is forbidden to have any heavy missiles, fixed or mobile.

The SALT Two treaty is bad for us. Instead of standing for strategic arms limitation treaty, it really says . . . surrender a little at a time. This is the second surrender we've made to the Soviet Union. Adoption of this treaty is nothing less than dumb. It must be defeated if our nation is to survive in freedom.

THE DEATH OF MAMIE EISENHOWER

Mr. THURMOND. Mr. President, it was with much sadness that I learned of Mamie Eisenhower's death. This great lady, whose quiet inner strength and beaming smile made her loved by millions of people, embodied a spirit which endeared her to all Americans.

Mamie Eisenhower was a gracious, charming woman who perceived herself as an extension of her husband. She stood by Ike for the 53 years of their marriage and was always content to remain in his shadow. While her actions were probably not viewed too favorably by feminist groups, her unwavering commitment to her home and her husband made her greatly admired.

Mrs. Eisenhower never played a public role in politics, never concerned herself with the issues of the day, and rarely even made a speech on her husband's behalf. She was simply a woman supremely content with herself and with her life. As the poet Robert Greene said:

Sweet are the thoughts that savor of content;
The quiet mind is richer than a crown.

Mamie Eisenhower made us all richer by her life. She was a courageous woman, and her passing has touched the very heart of America.

Mr. President, a beautiful, stirring memorial tribute to Mamie Eisenhower was paid by Rev. Edward L. R. Elson, the Chaplain of the U.S. Senate. Additionally, several newspaper editorials and articles concerning Mamie Eisenhower have appeared recently.

In order that I may share this fine tribute and representative newspaper clippings with my colleagues, I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Nov. 3, 1979]

MAMIE DOUD EISENHOWER

Mrs. Eisenhower was possibly the last of the nation's First Ladies to eschew a public role so completely that she made no speeches—not even to say that Dwight Eisenhower was doing a good job for the country and deserved a second term. She was so reticent that on an occasion when she should have spoken in her own behalf—to accept an honorary degree at St. Joseph's College in Emmitsburg, Md.—the president had to speak for her.

Helping her husband, and maintaining a home for her family in what she estimated were 35 locations over the 53 years of their marriage, did seem to sum up Mamie Eisenhower's pre-occupations from the time she and the future general and president were married in 1916. She was 19. His pay as a 25-year-old first lieutenant was $151.67 a month. National prominence did not seem to be in store for them for many years; when Ike made major in 1920, it was his last promotion for 12 years. For a quarter of a century they led a fairly uneventful life at garrisons around the States, in Panama and the Philippines. The promotion she remembered best was when Dwight got his first star, in September 1941. Soon he was catapulated to command of the Allied forces in Europe, while she waited here.

When the honored general ran for president in 1952, Mrs. Eishenhower had only to smile from the platform. It was soon a famous smile, beneath the girlish bangs she continued to wear into her widowhood, and she remained one of the bestloved of Americans until her death Thursday at the age of 82.

Recollections of her White House years are of contrasting trends. The jet age brought an unprecedented succession of foreign visitors for state occasions. Mrs. Eisenhower won praise as a gracious hostess, and was seen to shake 1,500 hands at one huge reception. She was viewed as a strict custodian of the executive mansion as a national legacy. The Eisenhowers' social occasions became less frequent through the president's successive illnesses. After eight years, Mrs. Eisenhower was glad to retire to Gettysburg.

Mrs. Eisenhower could be given poor feminist marks, we suppose, for being complacent as wife, mother and grandmother and not doing enough to establish an independent identity. She was old-fashioned when queried on her feelings about women's liberation: "I never knew what a woman would want to be liberated from." Her contentedness with being married to Dwight Eisenhower was perhaps a limitation. In its lack of pretension, it also was a part of her charm.

[From the Washington Post, Nov. 6, 1979]

I REMEMBER MAMIE

Mamie Eisenhower was worth listening to. The trouble was that, when Ike was alive, she was careful not to talk publicly too often and, after he died, few of us tried to find out what she had to say. Her health was often frail, but she had strong will and had thought life through

I spent a day with her in the Bicentennial summer when she made a rare public appearance by riding on the Freedom Train from Gettysburg to York, Pa. I had never met her, and my recollections were that she was Ike's smiling, attractive partner, bland of remark, the proper Republican woman I was to learn something.

The Freedom Train crawled across the countryside, so Mamie had time to see the clusters of people in fields and in small towns. They waved and their mouths formed the words "Mamie," causing her to beam.

"It makes your heart warm," she said. "I am fortunate, because most widows are forgotten."

Ike was her life, and everybody asked about their years together. "When people remark how close I was to him, well, of course we were close," she said. "But you never really know a person; you only understand them. Nobody knows anybody else's inner thoughts."

She saw Ike as the head of the house, as the man who deserved to come home to her and dinner and a pleasant evening with no heavy discussion of the military or the presidency or politics. She had a keen sense of divided responsibilities; his was work and hers was home and hearth.

When he asked, "What should I do about this situation?" she usually turned the question away. And if he ventured toward her territory, he was in trouble. When Ike sent a memo to a White House staffer about menus, Mamie countermanded the order.

She believed in the old values. For instance, children should be given leeway to find themselves, but not before age 20. "There is too much leniency with children today," she said firmly, "and too much freedom in their dress, especially in church." She was glad that her son John phoned her every week, but she wasn't sure that most mothers got such calls. And she wondered about the feminists. "I don't know about this Ms. business," Mamie told me. "God made you to have children. I feel sorry for people who don't."

She didn't like the way the country was going, either. "We emphasize money too much," she said. There is no aristocracy in America, only people who are money crazy. We've lost the art of doing a good job. There's no competition these days. Clerks don't want to wait on you.

"I was taught to pay for everything," she said. Nowadays people think about what they can get out of paying for. I was taught to save money and then spend it. I'm still wearing the same clothes I had when we were in the White House. I took care of them."

Though she defended the old-fashioned way, Mamie said she wouldn't give advice to the new generation. "What worked for Ike and me might not work today," she said.

Mamie never claimed she was Ike's quiet strength, but his friends knew she was. Her speech was Midwest-accented, and she seemed to epitomize sweet domesticity. But Mamie came from a sophisticated, wealthy family and knew the way of the world. Farmer boy Eisenhower did not.

"It would have been *Colonel* Dwight David Eisenhower if it weren't for Mamie," Kevin McCann, Eisenhower's speechwriter, once told me. "In their early years, Mamie was a broadening influence."

In her declining years, she was increasingly alone. Sgt. John and Dolores Moaney, the black couple who worked for Ike and Mamie for many years, retired. She tried to cook her own meals and wound up mostly with TV dinners. She saw fewer visitors. Friends persuaded her to take an apartment in Washington, but she only spent a few weeks in it each winter. Out of respect for Ike, she felt a duty to stay at the farm.

"I miss him terribly," she said. "I come down to the porch and remember how he would paint and I would sit and play solitaire. We didn't say a word, but we were together. It was companionship. I had to steel myself to being lonely many times when he was gone—he was away three years once [World War II]. But it was so hard to steel myself when he was really gone."

Nowadays, wives of public men like Mamie seem out of fashion. But in their time there was no more popular couple than the Eisenhowers. Tom Stephens, Eisenhower's White House appointments secretary once told me why. "Ike and Mamie," he said. "They're like people you know."

[From the New York Times, Nov. 6, 1979]

MAMIE EISENHOWER EULOGIZED AT MEMORIAL SERVICE

WASHINGTON, November 5.—Rosalynn Carter, former President and Mrs. Richard M. Nixon and a gathering of generals and politicians from the past paid their last respects today to Mamie Eisenhower.

The widow of former President Dwight D. Eisenhower was eulogized, in a memorial service in the Fort Myer, Va., chapel, as "carrying on always as a silent partner in the affairs of state."

Mrs. Eisenhower, who died last Thursday, was buried Saturday next to her husband in a small chapel in Abilene, Kan.

"Mamie never competed for anything," said the Rev. Edward L. R. Elson. "She didn't need to She had Dwight D. Eisenhower."

The 200 mourners included Mrs. Eisenhower's son John and his wife their four children, including David Eisenhower who is married to the Nixon's daughter Julie.

FIGURES OF THE PAST

Among those present were Eisenhower comrades-in-arms: Maxwell Taylor—former Army Chief of Staff; Lauris Norstad, former commander of the North Atlantic Treaty Organization, and Gen. Andrew Goodpaster, a former supreme allied commander in Europe.

William P. Rogers, Attorney General in the Eisenhower Administration, and Ezra Taft Benson, then Secretary of Agriculture, were also present. So were Arthur F. Burns, former Federal Reserve Board chairman, and two Republican Senators, Bob Dole of Kansas and Strom Thurmond of South Carolina.

The Nixons' other daughter, Tricia, and Linda Bird Robb, daughter of the late President Lyndon B. Johnson, were there with their husbands.

Mr. Elson described Mrs. Eisenhower's life as one that "has spoken with its own quiet elegance to us and to millions around the world."

Mrs. Eisenhower's memory was also honored today with a day of mourning in Pennsylvania, where she had made her home, and there was a memorial service yesterday in Boone, Iowa, where she was born.

MEMORIAL TRIBUTE TO MAMIE DOUD EISENHOWER

(By the Reverend Edward L. R. Elson, S.T.D., Chaplain, U.S. Senate)

We have foregathered here this morning to offer our simple tribute of affection and esteem for Mamie Doud Eisenhower whose life has spoken with its own quiet eloquence to each of us and to millions of others. She stood tall in those days in Denver and Abilene in Fort Sam Houston and a score of Army posts in Columbia University, in the White House, and in post-presidential years, and she will stand tall in the memory of Americans forever.

Some women achieve distinction as club leaders or teachers. Others reach great heights in the professions or the arts. But to be the mate of man, to be fused heart to heart, mind to mind, soul to soul, in a single entity—to complete his incompleteness, to make a strong man stronger—that too is the essence of greatness.

Mamie never competed for anything. She did not need to. She had the only thing that counted—Dwight Eisenhower. Yet she was perennially voted the most admired woman in America.

Long before she was officially America's First Lady, she was first, last and always a lady—warm, vibrant, high spirited, radiant, sensitive, courteous, full of good humor and quick in repartee.

In the highest and best sense Mamie Eisenhower was "to the manor born." She belonged to the only aristocracy we know in America—not of title or heritage or wealth but an aristocracy of inner being—a spiritual aristocracy. She exemplified the virtues we American admire. She was never too high to be lowly. Comfortable with the great and the mighty, she was completely at home with the humblest, unfailingly courteous, gracious, tolerant, and kind. And it is not easy to be this kind of person in public life when others thoughtlessly are sometimes persistent, inconsiderate and rude. But to everybody she remained the epitome of the gracious lady.

Mamie Eisenhower was always a good homemaker—not in terms of toting pots and pans or chasing dust, but rather in providing the pervading presence of good taste, skillful planning, culture, dignity. She planned and made the choices that make the difference between simple elegance and mediocrity in the home.

She had a strong sense of duty. Once I called upon her at the White House, she asked if she might continue to recline on the daybed, where she was resting with her right arm on a pillow.

Her entire forearm and hand, as well as her ankles and feet were swollen, the result of shaking hands with hundreds of people at a White House ceremony the day before. But she had uncomplainingly carried on as always, the silent support and partner in official duties of state. And she would begin the grueling physical strain all over again within a few hours. Duty, honor, country were her commitments as surely as if she had picked up the phrases at West Point.

Mrs. Eisenhower made and kept friends. Hers was a natural open-heartedness and a retentive affection. With the passing of the years, friends grew in number and variety. The oldest were from Army days. There was a durability to such friendships, but one never felt harassed or possessed by them; couples would meet and become attached at one post, and then renew the friendly alliances in successive tours of duty years later in another place. Those to whom she opened her heart wide in later years were loved none the less because they came later.

The family for her was more than blood relatives. In a very real sense, as the world saw at the state funeral for President Eisenhower, the "family" encompassed the whole household—staff and aides, housekeepers, orderlies, drivers, Secret Service men and their families, all held together by the warm inclusiveness of the man and woman around whom they gathered for service.

It is noteworthy that a man reared in a strict River Brethren home and a woman reared in an equally devout Presbyterian home combined to make a marriage, a home and a religious faith on an ecumenical basis long before the word "ecumenical" was in current use.

Both Mamie Doud and Dwight Eisenhower were brought up in religious households. Both attended Church and Church School. Both participated in daily family prayer and Bible reading. Religion was table talk quite as much as business or politics. The Bible was the source book of Christian worship, a text-book for education, the inspiration for freedom and the guide to the establishment of political institutions.

They were faithful members of the Church. Not only were they unfailingly present at Sunday services, but they honored the special seasons of Lent, Holy Week, Maundy Thursday, Good Friday—Thanksgiving Day, the National Day of Prayer. Mrs. Eisenhower opened the annual Church Fair, usually arriving with some cakes and pies from the White House kitchen. She entertained the women's groups. Church women from twenty-four foreign nations were not only received at the White House but invited to breakfast. When it came time to build the new National Presbyterian Church she followed the President in supporting the project.

There was no parade of piety. Like her husband, Mamie Eisenhower was not an exhibitionist about religion. Like him also, she was impervious to high commendation or low condemnation in affairs of the soul. Like her husband, she lived by the Protestant principle of individual, direct access to God. The "priesthood of all believers" was both a doctrine and a practice. But here was also appreciation for the institutional church and the ministry of the clergyman. Whatever else may have helped in times of crisis, there was never any doubt in Mamie's mind that prayer would carry her through. This faith in the transcendent ever-present God sustained her in the War Years and especially during the President's serious illnesses.

I recall now a time when I realized how firm and how deeply rooted was this faith of Mamie Eisenhower. In 1955, the President was still convalescing from his first heart attack, and the Eisenhowers had just acquired their Gettysburg home. Several times during the remodeling of their farmhouse, the President and the First Lady had spoken to me of their desire to dedicate this home with a religious service. On November 14, 1955, the President wrote:

"DEAR DR. ELSON: Mrs. Eisenhower may have mentioned something to you yesterday concerning her hope that you and Mrs. Elson might come up to Gettysburg for luncheon on the day following Thanksgiving, and at that time have the little 'house blessing' ceremony of which we have sometimes spoken. Of course something may happen to upset that program, but I am sure that at present this is what she is contemplating, if such would meet with your convenience."

Another note of instructions followed five days later: "The period you would be here before luncheon should allow you and Mrs. Eisenhower to determine on exactly the kind of service you would consider most appropriate. I think this would be better than to attempt to plan the ceremony in advance because I am sure that she wants to conduct it in the simplest way possible and with no publicity whatsoever."

On the day after Thanksgiving, November 25, 1955, Mrs. Elson and I were driven from Washington across the Maryland and Pennsylvania countryside, freshly sprinkled with fall snow, to the Gettysburg farm. It was about eleven o'clock in the morning when we reached the house and were received at the front door personally and graciously by Mrs. Eisenhower, and very shortly afterward were joined by the President.

After lunch, the grandchildren, who ate elsewhere in the house, joined the group in the cosy drawing room, beautifully furnished with mementos from the many parts of the world where the President had served. When we were all settled in chairs, the President rose, walked toward the open fireplace, assumed a "Parade rest" stance, with his feet comfortably apart, and then began talking earnestly. He related how both he and Mrs. Eisenhower had been reared in the presence of an open Bible, revered as the Word of God, and with family prayers as a daily practice. They had lived in many dwellings in their long association with the Army—some twenty-two quarters, but this was the first they could call their very own home. It seemed proper to dedicate their home to God.

I replaced the President in front of the fireplace and began the service: "Behold, I stand at the door, and knock: if any man hear my voice, and open the door, I will come in". Then I read the Twenty-third Psalm, some passages from the New Testament, quoted the old song by Helen Taylor, "Bless This House," then offered the following prayer:

"Eternal God, Whom we know as Our Father, as Thou hast accompanied these Thy servants in many dwelling places, through manifold services in the uttermost parts of the earth, accept now, we beseech Thee, the dedication of this house, that it may henceforth be a place of health and healing, a haven of tranquility, an abode of love, and a sanctuary of worship. Bless all who name it home, and all the loved ones and friends who are encompassed by it in abiding love and devotion to Thee.

"Here may hallowed memories and sacred recollections be called forth. Here may Thy servants know the gratitude of all the people of the nation. Here may Thy name be honored. Here may there ever be a witness to Thy Grace and Truth. Let goodness and mercy follow these Thy servants all their days, that they may abide in Thy House forever.

"Through Christ Our Lord, Amen."

When I said, "Let us pray", the President's grandchildren—Dwight David, Barbara Anne, and Susan Elaine—spontaneously knelt down at a low, carved-ebony table, the gift of President Syngman Rhee of Korea.

There was something profoundly moving about the spirituality of the occasion—not only because it was the President of the United States with his family, worshiping together in their very own home after the anxiety of a serious illness, but because this was a good Christian family and an exemplary American household.

Now Dwight and Mamie Eisenhower are both in that other home whose Builder and Maker is God.

The dedicated Gettysburg home is to become an historic shrine in the public domain and its profound inner message will radiate to millions throughout the world.

One of the physicians at Walter Reed Hospital remarked that when the Eisenhowers left Ward 8 a great Spirit, felt by all, departed with them. Yet that spirit has not departed. That Spirit of triumphant faith and invincible goodness floods the earth and will continue to do so from age to age. Much of that spirit was communicated by the gracious and valiant woman who in her life revealed the Christian qualities described by St. Paul in his message to the Corinthians, which we read at the dedication of the Gettysburg home years ago.

"Love is patient and kind; love is not jealous or boastful; it is not arrogant or rude. Love does not insist on its own way; it is not irritable or resentful; it does not rejoice at wrong, but rejoices in the right. Love bears all things, hopes all things, endures all things."

That was Mamie. With thankful hearts we give her back to Our God who first gave her to us.

PRAYERS

Almighty God, Father of mercies and Giver of all comfort, deal graciously, we pray Thee, with all those who mourn this day, that casting every care on Thee, they may know the consolation of Thy love, the healing of Thy grace, and the companionship of Thy presence.

Through Jesus Christ our Lord. Amen.

PRAYERS

Dear Lord and Father of us all, we thank Thee for the good and gracious influence of Mamie Doud Eisenhower. We thank Thee for the faith by which she lived, for the home she made and the quiet steadfast service she rendered. Surround those who mourn with the comfort of Thy presence. As coming generations, cherish her memory, may something of her gentleness, her strength, her patriotism and her spiritual power encourage better living and more sacrificial service.

In this perilous and difficult time wilt Thou support and strengthen all those women whose husbands are in the public service?

We pray in His name who came that we might have life, and have it more abundantly. Amen.

PRAYERS

Prayer of St. Francis of Assisi—

"Lord, make us instruments of Thy peace. Where there is hatred, let us show love; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

"Divine Master, grant that we may not so much seek to be consoled, as to console; to be understood, as to understand, to be loved, as to love. For it is in giving that we receive, it is in pardoning that we are pardoned, and it is in dying that we are born to eternal life." Amen.

O Eternal Father, suffer us not to miss the beauty of this hour. May a new spirit arise in us this day. Give us eyes to see and hearts to feel the undaunted courage, the invincible faith, the tender love of Thy servant, Mamie, that we may be true as she was true, loyal as she was loyal; that we may henceforth be good enough and great enough for our times Through Jesus Christ our Lord. Amen.

And now, O Father, who doest all things well, with thankful hearts that Thou has given her to us for a season, we give Thy servant, Mamie, back to Thy tender care, until the shadows flee away, and the brighter day dawns, when the visible and invisible are as one in Thy higher kingdom. Through Jesus Christ our Lord. Amen.

Mr. PROXMIRE obtained the floor.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Wisconsin yield?

Mr. PROXMIRE. I am happy to yield to the majority leader.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by Mr. PROXMIRE occur, up or down, tomorrow at 1:30 p.m.

Mr. STEVENS. Mr. President, reserving the right to object, we do have an objection to that being agreed to at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. Mr. President, what time would we start, and how much time would we have?

Mr. ROBERT C. BYRD. We can start at 11:30 and have 2 hours equally divided.

Mr. President, for the moment I withdraw my request.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I repeat my request with respect to the vote on the Proxmire amendment tomorrow at no later than 1:30 p.m.

Mr. STEVENS. Reserving the right to object, Mr. President, it is no later than 1:30 p.m.?

Mr. ROBERT C. BYRD. That is correct.

Mr. STEVENS. Will the majority leader mind making that at 1:30 p.m.?

Mr. ROBERT C. BYRD. I will be glad to.

Mr. DOMENICI. Reserving the right to object, could I ask, are we going to have 2 hours or 1 hour equally divided preceding the vote, or is there any way we can get an extra half hour by starting at 11 or at 10:30?

Mr. ROBERT C. BYRD. Yes, if the Senator would like that.

Mr. DOMENICI. I am not sure that we would be here to use it, but I think there is enough potential that we should do that.

Mr. ROBERT C. BYRD. We should do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMBODIA: STRESSING THE NEED FOR THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, for the past 12 years I have stood before this body and spoken to my distinguished colleagues about the need for ratifying the Genocide Convention. This body has hesitated, perhaps because until recently the last clear-cut example of genocide occurred some 30-plus years ago. And since then there has been nothing of a similar scale. And I am sure that all the Members of this body believed we had seen the last case of outrageous mass slaughter.

Our assumption has proven incorrect—another mass slaughter is going on at this very moment. By now the situation in Cambodia is known to everyone. The circumstances are abominable. The atrocities have been brought to the attention of leaders worldwide. The shock and horror expressed by the United States was followed by attempts to provide massive relief to the starving Cambodians. But they have refused our aid. Thus, it seems many more may die. With their refusal of aid, there appears to be little more for us to do.

However, there is one outlet for the United States to pursue in ending this ongoing slaughter. I refer to the Genocide Convention of 1949, the treaty for which I have spoken many times. Ratification by the Senate at this time would provide some much-needed impetus for our Nation and those which have already ratified the treaty to step in and halt the unnecessary murders.

Mr. President, as more light is shed upon the facts about Cambodia, it is becoming increasingly important that action be taken. I take this opportunity to recommend that we ratify the Genocide Treaty as a first step toward alleviating the horrible events happening in Cambodia.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 408, 409, 410, and 419.

Mr. STEVENS. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk reported the first bill.

Mr. ROBERT C. BYRD. I ask unanimous consent, there being no committee amendments on them, that the various measures be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

HUN SIK SANDERSON

The bill (S. 405) for the relief of Hun Sik Sanderson was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (12) and (23) of section 212(a) of the Immigration and Nationality Act, Hun Sik Sanderson may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act.

SEC. 2. This exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the date of the enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–381), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provisions of existing law relating to an alien of the immoral and narcotics classes in behalf of the wife of a U.S. citizen.

STATEMENT OF FACTS

The beneficiary of the bill is a 28-year-old native and citizen of the Republic of Korea who was found excludable because of two convictions for smoking marihuana and sentenced to 6 months and 10 months imprisonment, respectively. An American Embassy investigation also revealed that she worked as a prostitute from the age of 20 years to 24 years. She is the mother of two illegitimate children who have been adopted by U.S. citizens, both of whom reside in the United States. On June 21, 1975 she married Sgt. Michael Frederick Sanderson, a U.S. citizen, who was born January 29, 1941 in Commins, Mich. He has been a member of the U.S. Army since 1960 and is presently stationed at Fort Benning, Ga. He has a monthly income of $784 and assets totaling $5,000. He is aware of the beneficiary's two marijuana convictions and her previous profession.

JENNIFER FERRER

The bill (S. 919) for the relief of Jennifer Ferrer was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Jennifer Ferrer, the minor daughter of Romeo N. Ferrer, a permanent resident of the United States, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report

(No. 96–382), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States the minor daughter of a permanent resident of the United States, for permanent residence.

STATEMENT OF FACTS

The beneficiary of the bill is a 5-year-old native and citizen of the Philippines, born June 16, 1974, and whose natural mother died on September 4, 1976. The beneficiary is the illegitimate daughter of a permanent resident of the United States who filed an affidavit recognizing the beneficiary as his natural daughter, with the local registrar in Cebu City, Philippines, on March 4, 1976. On December 28, 1977, the beneficiary's natural mother filed an affidavit in Manila giving custody of the child to her natural father. The beneficiary resides in the Philippines with her aunt. The beneficiary's father is single, residing in Seattle, Wash., and employed by the city of Seattle Engineering Department earning $1,200 per month. His estate includes a home he is purchasing, an automobile, furniture, a small savings and checking account. He also holds a bachelor of arts degree in civil engineering from the Philippines.

JOSE QUINTANA DOMINGUEZ SENDEJAS

The bill (H.R. 3319) for the relief of Jose Quintana Dominguez Sendejas was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–383), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status to permanent residence of the adopted child of citizens of the United States.

GENERAL INFORMATION

The beneficiary is a 21-year-old native and citizen of Mexico who was adopted in the Superior Court of the State of California on May 8, 1978. He was a victim of polio and was first admitted to the United States to attend a school for crippled children. He has resided with and been supported by his adoptive parents since 1974.

DISTRIBUTION OF FILM "REFLECTIONS: GEORGE MEANY"

The bill (H.R. 5279) to provide for the distribution within the United States of International Communications Agency film entitled "Reflections: George Meany" was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–392), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this bill is to authorize the release within the United States of the International Communication Agency (ICA) film "Reflections: George Meany."

BACKGROUND

Section 501 of the United States Information and Exchange Act of 1948 prohibits the release within the United States of ICA materials (films, books and radio programs) which have been produced for distribution abroad. In order for an ICA-produced film to be shown in the United States, a specific exemption from this provision must be legislated. This has been done on approximately 50 occasions in the past.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the votes by which the various bills were passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECESS UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION IN TIME ALLOCATED TO LEADERS UNDER THE STANDING ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on tomorrow be reduced to 5 minutes.

Mr. STEVENS. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 932 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the two leaders under the standing order tomorrow, the Senate resume its consideration of the energy measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will return to the consideration of the energy bill at approximately 10 or 15 minutes after 11 a.m. tomorrow, and the time between the time of the resumption of consideration of the Proxmire amendment and the hour of 1:30 p.m. will be, by unanimous consent, equally divided between Mr. PROXMIRE and Mr. JACKSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 a.m. tomorrow.

The motion was agreed to; and the Senate, at 7:26 p.m. recessed until Wednesday, November 7, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate November 6, 1979:

THE JUDICIARY

Jose A. Cabranes, of Connecticut, to be U.S. district judge for the district of Connecticut, vice Jon O. Newman, elevated.

Robert J. McNichols, of Washington, to be U.S. district judge for the eastern district of Washington, vice a new position created by Public Law 95–486, approved October 20, 1978.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Margaret Joan Giannini, of New York, to be Director of the National Institute of Handicapped Research (new position).

DEPARTMENT OF TRANSPORTATION

Susan J. Williams, of Virginia, to be an Assistant Secretary of Transportation, vice Terrence L. Bracy, resigned.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code.

To be major general

Brig. Gen. Irving G. Ray, 036–16–1963FG, Air National Guard of the United States.

Brig. Gen. Bobby E. Walls, 445–28–2829FG, Air National Guard of the United States.

To be brigadier general

Col. William J. Davis, 318–26–0165FG, Air National Guard of the United States.

Col. Charles K. Evers, 410–38–8299FG, Air National Guard of the United States.

Col. Richard C. Freeman, 441–22–5549, Air National Guard of the United States.

Col. Ray P. Greenwood, Jr., 529–38–0949FG, Air National Guard of the United States.

Col. William E. Haymes, 229–16–6168FG, Air National Guard of the United States.

Col. Raymond E. Hebrank, 544-28-2743FG, Air National Guard of the United States.

Col. Frank L. Hettlinger, 185—24-2973FG, Air National Guard of the United States.

Col. Edward J. Power, 295-16-7374FG, Air National Guard of the United States.

Col. Hugh A. Ward, 250-07-4419FG, Air National Guard of the United States.

IN THE COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of captain:

Alan C. Peck
Joseph J. Wicks
James D. Martin
William P. Hewel
Alan B. Smith
Richard C. Walton
William J. Irrig
Hugh J. Milloy
David H. Freeborn
Geoffrey T. Potter
Jack C. Goldthorpe
William G. Walker
Ronald M. Poland
James T. Montonye
Stephen J. Masse
David L. Pepple
John T. Howell
Joseph E. Vorbach
Donald L. Hofler
James W. Coste, Jr.
Peter A. Bunch
James L. McDonald
Jules A. Peebles
Roy E. Dash
James L. Haas
John W. Klotz
Joel D. Sipes
Paul A. Welling
James E. Focis
Daniel C. Mania
Bruce G. Lauther
Harold E. Stanley
Lawrence Graham
James F. Eckman
Joseph M. Tanguay
Dean L. Webster
James E. Mitts
Francis J. Honke
Richard H. Hill
Raymond H. Spoltman
Thomas F. Tutwiler
Marshall H. Shytle
John H. Holmead III
Allen J. Taylor

Harold F. Norton, Jr.
Robert E. Shenkle
William B. Howland
George E. Krietemeyer
Albert J. Allison III
Robert B. Workman, Jr.
Frank W. Olson
Garald H. Mcmanus
Peter C. Lauridsen, Jr.
William P. Leahy, Jr.
Walter S. Rich
James G. Heydenreich
David H. Freese, Jr.
William H. Hayes, Jr.
Charles S. Mincks
Edmond G. Case
Dean A. Frankenhauser
Stephen D. Csintyan
Paul Resnick
Richard J. Clements
Eugene E. Moran
Karl F. Wassenberg
Leroy G. Krumm
Walter T. Leland
David E. Ciancaglini

IN THE MARINE CORPS

The following-named Naval Reserve Officers Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 2107, subject to the qualifications therefor as provided by law:

Alameda, James H.
Anderson, Keith R.
Babin, Landrya N.
Baker, Michael L.
Barnett, Mike
Bates, Glenn H.
Baxter, Edward H.
Bebo, Mark L.
Becker, David R.
Bell, Stephen B.
Berg, David W.
Bettis, William J.
Brynuldson, Robert G.
Buckner, Edward C.
Campbell, Clive W.
Carson, Martha A.
Carston, Walter J.
Casto, Paul C.
Cobert, David D.
Cochran, Mark W.
Consolazio, Marianne P.
Conyers, Kevin E.
Davidovich, Paul J.
Deatherage, Raymond F.
Dewolfe, Dean D.
DiSilva, Debra A.
Doering, Brian G.
Duff, Ronald R.
Durrance, Benjamin L.
Esker, Bascom D.
Elliott, Donald M.
Engelke, Andrew D.
Ganyard, Stephen T.
Gawler, William C.
Goodman, Harry A.
Gossard, Ronald S.
Gough, James L.
Grabowski, Reed H.
Green, Gregory P.
Haeuptle, Andrew S.
Hartman, Gregory D.
Herrick, Thomas E.
Herzog, Mark W.
Hodges, Charles E.
Holcomb, Ricky A.
Horn, Myron C.
Howe, Robert P.
Hower, Raymond W.
Hulcher, Michael E.
Hulst, David A.
Ingram, Melvin T.
Israels, Scott M.
Ishizaki, Gerald C.
Johnson, Ronn C.
Jones, Michael A.
Kessler, James A.
Lethin, Clarke R.
Macveigh, Craig A.
Martin, Jonathan B.
Mattimoe, Michael J.
McGurgan, Michael F.
McIntosh, James J.
Meyer, Dwain A.
Nellis, Stephen M.
Neuenfeldt, Richard C.
Niesen, Donald A.
O'Neal, Allen M.
Park, Richard L.
Patton, Rodney D.
Pearson, Diana L.
Peters, Mark H.
Philbin, William J.
Porter, Cedric R.
Prescott, Robert T.
Ridenour, William E., II
Rideout, Bruce W.
Roe, Murray O.
Scharver, Jeffrey R.
Schoendorfer, David L.
Schoendorfer, Dean L.
Smith, Paul J.
Sugimoto, Lee M.
Takacs, Robert L.
Tangen, Eric C.
Thompson, David W.
Vandenberg, Robert J.
Vellucci, Lawrence M.
Warren, Patricia F.
Wells, Nolan W.
White, Cameron S.
Wynne, Raymond K.
Youngdale, Carl A.

SENATE—*Wednesday, November 7, 1979*

(Legislative day of Monday, November 5, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. BIRCH BAYH, a Senator from the State of Indiana.

PRAYER

The Reverend David Jeremiah, pastor, Blackhawk Baptist Church, Fort Wayne, Ind., offered the following prayer:

Let us pray.

O God, we give thanks to Thee today for Thy gracious provision for us in this land. Thou hast blessed us beyond measure.

According to Thy sovereignty, Thou has chosen us from among all nations to be the recipients of Thy grace. As we acknowledge the good and perfect gifts which are ours at Thy hand, we also acknowledge the tremendous responsibility which accompanies them, for to whom much is given, much is required.

As we seek to meet the great and demanding needs of our country at this hour, may we remember the promise given to Thy people of old:

If My people which are called by My name shall humble themselves and pray and seek My face and turn from their wicked ways, then will I hear from heaven and will forgive their sin and will heal their land.—II Chronicles 7: 14.

Grant to us, O God, in this hour the honesty to acknowledge our need of Thee and to commit ourselves anew to the godly principles upon which our country was established.

Grant to us, O God, the wisdom to discern Thy will in the many challenges which lie before us as a nation.

Grant to us, O God, the courage not to sacrifice righteousness upon the altar of expedience. These requests are made known unto Thee with thanksgiving, in the name of our Lord and Saviour, Jesus Christ. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 7, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may reserve my time momentarily. I understand Senator RIEGLE wants time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield to the distinguished acting Republican leader.

Mr. STEVENS. Mr. President, I make the same request. I suggest that I yield my time to the distinguished Senator from New Mexico, who is also on his way.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield such of my time as the Senator may wish to use. I believe I have 5 minutes, do I not?

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. RIEGLE. I thank the Senator. I will not need that much time and I will yield back the remainder.

CHRYSLER CORP.

Mr. RIEGLE. Mr. President, next Wednesday, November 14, 1979, the Senate Banking Committee will begin hearings on Federal financial aid to the Chrysler Corp. Those hearings will dig below some of the superficial statements that have been heard about what a Chrysler collapse would mean to this country and the easy judgments about what the national response should be to the corporation's financial crisis.

I have been studying this problem in great detail in recent months. One of the most powerful facts I discovered is the number of firms that would be severely weakened or destroyed by the collapse of Chrysler.

In all, Chrysler does business with 20,000 supplier firms and about 4,800 dealerships that are involved in marketing Chrysler products. Many other firms would also be affected by a Chrysler bankruptcy and shutdown.

Many of those who would pay the price of a Chrysler collapse are those who are efficient and effective elements of our economy. In particular, many of the suppliers and other firms closely related to Chrysler are technologically advanced and very competitive. Many would suffer severe setbacks or be driven out of business. Many of them are the primary employers in small communities in many regions of the country.

I have heard from a number of these businessmen, and I find their case adds an important dimension to the question of assistance to Chrysler.

I would like to share with my colleagues this morning a letter from one of these businessmen. His firm is quite typical of the smaller companies that are closely tied to the future of Chrysler.

The letter was written by Thomas Pascoe, vice president of the Binderline Development Corp., St. Clair Shores, Mich. I ask unanimous consent to have that letter printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BINDERLINE DEVELOPMENT, INC.,
St. Clair Shores, Mich., October 19, 1979.

GENTLEMEN: Many times I sit and try to understand what we are trying to accomplish in this fine country of ours. It is hard to believe some of the things that happen because of decisions that come down from Washington.

After World War II we gave billions of dollars to friends and foe alike to rebuild the destruction that was caused by war. Today we still do the same.

Now would be a good time for the auto industry to surrender and hope to be rebuilt. The government has rained down destruction on the industry with decisions that make very little sense to most connected with the industry. The automobile industry that helped to pay employees, who in turn paid taxes to help refinance much of the reconstruction for the war torn lands of World War II and all the wars after. This incidentally again is hurting the good old U.S.A. with their dumping policy practiced in some of the rebuilt countries. Foreign governments and banks have cooperated and helped industries in their respective countries. What is the big problem in our country?

When Chrysler decided to build a plant in Pennsylvania no help was offered. Volkswagen purchased the same site and received all kinds of help from the state. The master plan seems to be help every one but our own!

People in Washington are saying don't help Chrysler they created their own problems. Have they? Who has tried to help the underprivileged? Who has tried to help the city of Detroit and its problems? Who has passed laws that are costing billions of dollars more to manufacture cars?

How can you truthfully measure the true effect the bankruptcy of Chrysler would cause on the national economy? The true economy of the world is based on the manufacturing of automobiles and I base this on the simple fact that the standard of living in every country that is in the automobile industry has a much higher standard of living.

Never in the history of modern time has a company the size of Chrysler gone bankrupt. How do we really know what the true effect would be? We can only guess!

Our company is so small you have never heard of us. I dare say very few people at Chrysler have ever heard of us. I can tell you what would happen to us. We and many like us would have a hard time surviving. We employ 51 people that have over 100 dependents and pay in excess of $400,000 in federal income taxes and $80,000 in state taxes. This is not including single business taxes, property taxes, etc. Before the present slow down we employed over 80 people with dependents of approximately 200 with taxes and income in the same ratio. Multiply this by the thousands of vendors Chrysler uses and it becomes frightening.

We have not been sitting by and asking others to sacrifice and not be included. We have not had a rate increase in 2 years. We have discounted our Chrysler Accounts Receivable with a discount of 2% and given our employees a $300 rebate for any Chrysler product purchased. We are doing this because we realize this is our livelihood and without it life could become difficult for many people.

This letter is like the Fram Filter Commercial "If you don't pay now you'll pay later." It would be hard to imagine the loss of earning power, taxes lost and added expenses of unemployment, relief rolls etc.

We hope in your good judgment you can look at this as an investment in our country and her people who would much rather be productive and hold their heads high rather than beaten and depressed.

Sincerely,

THOMAS PASCOE,
Vice-President.

Mr. RIEGLE. Mr. President, this letter captures very well the problem being faced by most of the 20,000 supplier firms connected directly to the Chrysler Corp.

Mr. President, there has been some easy talk that it would somehow be "the American way" to let Chrysler fail as punishment for the past mistakes of its management. I firmly reject that talk, although I make no defense of the decisions of Chrysler's earlier management over a period of time. It is talk that thoroughly ignores the far-reaching damage that the failure of the Nation's 10th largest manufacturing firm would do to the Nation's economic strength.

I urge my colleagues to consider carefully the impact of a Chrysler collapse upon supplier firms along with the other compelling reasons for an effective Federal response.

I thank the majority leader for his courtesy in yielding me the time, and I yield back the remainder of my time.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield the remaining time I have to the distinguished acting Republican leader. We could yield it back and start on the bill.

Mr. STEVENS. Mr. President, I agree with the majority leader. We will yield back our time, and that will start the time running on the energy bill.

Mr. ROBERT C. BYRD. Yes.

I yield back my time.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 932, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 932) to extend the Defense Production Act of 1950, as amended.

The Senate resumed consideration of the bill.

AMENDMENT NO. 570

The ACTING PRESIDENT pro tempore. The business of the Senate is on the amendment of the Senator from Wisconsin.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, a parliamentary inquiry. What is the time circumstance now with regard to the Proxmire amendment?

The ACTING PRESIDENT pro tempore. There will be 130 minutes, equally divided—65 minutes per side.

Mr. STEVENS. The Senator from Utah wishes to speak. The two managers of the bill are not here. With the consent of the majority leader, I would like to yield some time to the Senator from Utah.

How much time does the Senator wish?

Mr. GARN. Five minutes would be sufficient.

Mr. ROBERT C. BYRD. Will the Senator speak on the subject matter before us?

Mr. GARN. Yes.

Mr. ROBERT C. BYRD. Mr. President, on behalf of both my colleagues, I yield 5 minutes from their time. I ask that it be equally divided between Mr. JACKSON and Mr. PROXMIRE.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GARN. Senator PROXMIRE is on his way to the Chamber. We were in a Banking Committee markup and just left. He will be here soon.

Mr. STEVENS. The time is taken equally from both sides.

Mr. ROBERT C. BYRD. Mr. President, I take the liberty of yielding time to the distinguished Senator from Utah (Mr. GARN) from Mr. PROXMIRE's time.

Mr. GARN. I thank the distinguished Senator.

Mr. President, we have before us legislation designed to develop synthetic fuel sources in the United States. Certainly that is important, in view of our growing dependence on foreign oil. But it is also important to be realistic, to present real solutions to difficult problems. We will not help our cause by promising more than we can deliver, or by persuading the American people that passage of this legislation, in whatever form, is all that needs to be done about energy.

I have some specific concerns, Mr. President, about the sheer feasibility of building the number and kind of synthetic fuel plants that will be needed if we are just to meet the goals of President Carter's proposals, modest as they are.

I speak not just as a member of the Banking Committee, supporting the Banking Committee's energy bill, but also as a Senator from the State of Utah, where 95 percent of all the tar sands in the United States is located: where a large portion of the oil shale exists—in Utah, Wyoming, and Colorado; where a 300-year supply of coal for the entire country exists within my State.

So I do have a rather vital interest in synthetic fuel developments, and I speak both as a member of the Banking Committee and as a Senator from a State that is vitally concerned in this issue.

On July 15, President Carter proposed that by 1990 we would be producing 1.5 million barrels per day of synthetic oil properly considered. He also proposed that we produce another million barrels per day equivalent from tar sands, natural gas and heavy oil.

Now in order to get that kind of production, it will take a minimum of 35 synfuel plants, some oil shale plants, some coal gasification or liquefaction plants. Based upon the analysis and testimony of consultant engineers published in a report by the Subcommittee on Synthetic Fuels of the Committee on the Budget, constraints exist, besides price, that could impede the development of a synthetic fuels industry. These constraints are the basis of my concerns.

Before us now are two synfuels bills. Given the state of production technologies and the significant amounts of materials, labor, and fuels required, it is projected that no matter which funding mechanism is utilized, no significant production will occur until fiscal year 1987.

In the year 1980, planning might begin for at most two plants. Actual plant starts would reach no more than six per year by 1984 and a maximum of eight plants per year by 1990. Assume that it will take 7 years to complete each 50,000-barrel-per-day synthetic fuel plant. A typical coal gasification plant with surface mine will require about 4,900 man-years of construction labor, and 1,100 operators. Underground mines to supply a commercial gasification plant would employ about 3,000 people. A typical oil shale plant will also require about 3,000 construction employees during peak periods and 1,100 operators.

In addition to direct employment at the synfuels plants, in both operators and construction workers, additional support people will be required in the community, resulting in a population increase of three to four times that of the construction or operating labor. Numerous analyses of the socioeconomic impacts of synfuels plants indicate that problems such as front-end financing and needed facilities and services will place major strains on small communities.

In the anticipated 35 large commercial-scale projects that will be initiated, most will reach the drawing boards about 1984 or 1985; thus, much of the design engineering and construction work will be running concurrently. With 35 projects having an average annual expenditure of $400 million, each working simultaneously, the engineering and construction capacity of the Nation's engineering and construction industry will be severely taxed.

In fact, the controlling restraint will probably be construction industry capability to engineer, design, and construct plants capable of producing synthetic fuel at a production level of 50,000 barrels per day, which is the minimum rate needed to reach the President's goal if they operate at a 90-percent capacity.

Achieving a production level on the order of the announced administration goals could require 50 percent of the total existing capability of the industry. For example, Cameron Engineers, in a report given before the Subcommittee on Synthetic Fuels, notes that the following expenditures in manpower input can be anticipated for the years 1985 through 1990, when most of the actual construction will take place. It will require 27,000 professional employees to build and run these plants. But there are only 45,000 professional employees in the total industry in 1978.

According to data received from the U.S. Department of Labor, Bureau of Labor Statistics, there will be only 53,500 professional and technical positions by 1985. In other words, we will need at least 19,000 more professionals than there will be.

For the construction labor force the requirements for the period of 1985 through 1990 will be 210,000 workers compared with 4,500,000 workers for the total construction industry in 1978.

That too is a substantial increase. These figures, based on the development of 35 commercial-scale projects, highlight the strain such a program would place on the capacity of the Nation's engineering and construction industry. And it may well be that these requirements are far too low, since they are based on 50,000-barrel-per-day plants. It is far more likely that plants will be only 35,000 barrels per day or so, calling for far more engineering, construction, and operating manpower.

To complicate matters, because of the size and complexity of such projects, with an average annual expenditure of $400 million, the contracts will go to only the large design and construction firms; for only they have the management and the technical skills needed to handle such projects. A review of the existing capability of such firms, according to an Engineering News Record survey of April 12, 1979, indicates that of the firms that engage in the design and construction of manufacturing process plants, only 21 contracted for work in 1978 having a total accumulated dollar value near the level required by one large commercial synfuel project. We are talking about at least 35, and maybe as many as 70, of these plants. We simply do not have the engineering capability.

This brings us to another point. The Energy Committee bill mandates that only proven technologies be eligible for funding and that research and development in the field continue under the Energy Department. According to a report prepared by Cameron Engineers:

> There is only one coal liquefaction technology ready for commercial application. This is the Fischer-Tropsch (SASOL) process used in South Africa, based on Lurgi coal gasifiers. A variation of the process to produce methanol instead of Fischer-Tropsch liquids could probably be developed to commercial readiness in five years. The only high BTU coal gasification technology ready for commercial application is also based on Lurgi coal gasifiers.

The report also identifies three other coal gasification processes which could be ready for engineering design by 1985. It also indicates that a number of above-ground oil shale retorting processes are ready, or nearly so, for development up to a scale capable of commercial production. It goes on to say:

> There is no established class of "second generation" retorting processes on the horizon. Modified in situ processes are being tested by several companies, and may be ready for commercial application in five years if satisfactory yields can be demonstrated. There is no significant or large scale effort under way to develop technology for extracting U.S. tar sands.

Oil shale retorting technology is relatively far advanced in comparison to coal liquefaction. As the Cameron report indicates, the major reason for this is that oil shale has a higher hydrogen-to-carbon ratio than coal, and can be processed at milder temperatures and pressures. Coal liquefaction involves solid-liquid and solid-gas streams not normally found in petroleum processing. This creates a number of serious problems in attempting to scale-up operations to commercial plant size. Direct coal liquefaction will not be ready for commercial design until several thousand hours of sustained operation have been accumulated in large pilot plants. Any attempt to bypass normal development steps and proceed with building commercial plants before this experience is achieved will involve considerable technical and financial risks.

Lack of workable technology is not a major impediment to the production of synfuels. There is a problem however, in that only a limited number of processes can be considered as commercially proven, and these processes are generally viewed as having operational or economic drawbacks. The development schedule for a new technology under orderly conditions is approximately 15 years from the time a small-scale pilot plant is started to the time a commercial plant can begin operation. This time

scale can be hastened by skipping steps, but then the technical risk becomes substantial. As the risk rises, the willingness of sponsors and lenders to back the technology decreases. When these technical risks are coupled with marginal, or worse, economics, it is obvious why there are no commercial synfuels ventures in the country.

It is this risk, Mr. President, which is the most objectionable feature of the Energy Committee version of synfuel legislation. What the Energy Committee says to us, in effect is this: private investors will not invest in synfuel plants. The proponents of this bill have said as much, during this debate. American industry hesitates to put up the capital, because of the risks involved. The technology on this scale is uncertain, there may not be sufficient engineering talent available, as I have just outlined.

And so, the Energy Committee says, since business will not invest, we will invest the taxpayers' money. We will take $88 billion of the taxpayers' money, money that we probably do not have, and certainly money the taxpayer can ill afford, and we will invest it for them. We will choose the appropriate technologies; we will select the companies; we will pass on the details of their management, and we will decide how best to invest that money.

Mr. President, I ask this: Does this investment become less risky because Government is making it, instead of private investors? No, of course not. But the element of choice is avoided. The choice of whether or not to invest, the choice of where to invest will be taken from us. Those decisions will be made by an independent energy corporation, answerable to no one. We cannot elect the officers; we cannot depose them; they are not susceptible to stockholders suits if they mess up. They have $88 billion of our money, and they will invest it for us.

Mr. President, I would like to clarify one small point. The "investors" I am talking about here are not faceless millionaires. For the most part, they are people like us, ordinary working people, who have put their money in a bank, or who have some money in a retirement fund, or an investment fund, or in an insurance policy. That is whom we are talking about as investors. But notice that those are exactly the same people we are talking about as taxpayers. It is the same people. The taxpayers and the investors who are being asked to invest in this $88 billion corporation are the same people—with one important difference.

As investors, they can choose. They can choose to buy the bonds of the synfuel corporation, or choose not to. They can buy stock in Occidental Petroleum, or they can put the money in Sun Oil, which has no oil shale operations. They can choose to put their money in a savings and loan, or a credit union; they can choose, through their company representatives and union representatives, to invest their retirement funds in energy stocks, or in synfuel stocks, or in drug companies. As investors, they have full freedom.

As taxpayers, all those choices are gone, all that freedom is removed. Their money is to be taken from them, and is going to be invested in the way the directors of a faceless corporation see fit.

Talk about accountability. Talk about unresponsive business. This $88 billion monster is about as faceless, about as unapproachable, about as unresponsive as it is possible to get. The Energy Committee has carefully insulated it from any kind of financial restraint. It has an enormous pot of money to play with. Its directors are appointed by a President, in this case by the most political President in the history of the Nation. They are protected from conflict of interest laws, from disclosure laws, from laws preventing them from going to work for the companies they have aided. They are, we are told, "nonpolitical"; but three executive department heads sit on the board, and even though they do not vote, is there anyone gullible enough to think that they will not have a great deal to say about what this corporation does?

These directors cannot be removed for financial incompetence. If they were the directors of a private corporation, and they consistently chose the wrong technology, you can bet they would be gone mighty quick. But not these directors. They can stay on and on, and if they lose a few billions of the taxpayers money, why, there is another $88 billion where this one came from. Just crank up the printing press, or increase taxes.

So that is the worst feature of this legislation, Mr. President. It involves a loss of freedom to the individual. It makes no sense to talk about this corporation as if it were free enterprise. This has already been said earlier in the debate, and the administration did the same thing when they were lobbying for this bill on the Hill. But this is not free enterprise. Every kind of free market check on the corporation is carefully removed by this legislation. This is nationalization, or at least a great step toward it.

Some of this proponents of this bill profess to be surprised by the opposition of the energy industry to this bill. They talk about Big Oil, conveniently forgetting that the small businessman is even more opposed to this bill; the National Federation of Independent Business hates it like poison. They should not be so surprised. Business sees this bill for what it is: a giant step toward a total takeover of the energy industry by the Government. That is why they are opposed to it, and there is no reason for surprise.

I am not even surprised that all big business is not opposed to this takeover. There was some indication earlier in this discussion that the business roundtable lobbying against the Energy Committee bill. But the business roundtable has not lobbied against it. The business roundtable has taken no position on it. And the National Association of Manufacturers favors the Energy Committee version. Why?

Well, it has long been known that not all business is opposed to Government support and the control that comes with it. In this case, the strongest business argument against the Energy Security Corporation is not the position of big business, which is divided, but the position of small business, which is not. Some big business will make out very well under an Energy Security Corporation. After all, the bill provides for the taxpayer to build synfuel facilities for large corporations like Exxon and Mobil to run.

The surprise is not that they favor the Banking Committee version, but that they do not favor an Energy Committee version that could provide them with a soft living for a lot of years. But small business will not make out well, and small business knows it. That is why small business is here lobbying against an Energy Security Corporation, and I wish them every success.

So there we have it, Mr. President. We are asked to take from the investor his freedom of choice, and as a taxpayer, force him to take risks he would not take as an investor. Some Senators may be willing to apply that kind of force to the people of America, but I am not. Some may think the people of America will thank them for the loss of freedom, but I do not. Everything I read, everything I hear, all the mail from home convinces me that people have had enough. They do not want another agency to give them synfuels. They want Government out of it, and most of all, they do not want another $88 billion in taxes, whether direct or hidden as inflation.

There are those who say that the $88 billion will come from the oil companies, in the form of a windfall profits tax. But we should, by now, have laid that lie to rest. Companies do not pay taxes; oil wells do not pay taxes; refineries do not pay taxes; tankers floating on the sea do not pay taxes. Only people pay taxes. And it is the American people who will pay these taxes, the American people who will be taxed to support an enterprise that cannot tempt money even from the supposedly greedy oil companies. Mr. President, that kind of socialization of risk is alien to us, and should not be undertaken here.

The Energy Security Corporation is a bad, bad idea. We should defeat it, and I hope we will.

Mr. President, the difference between the Banking Committee version, on which we worked long and hard, and the bill presented by the Energy Committee is one of the creation of a new bureaucracy, of creating this new Government agency, taking $88 billion, deciding how that money will be spent, and the technologies involved.

One of the worst mistakes I have made since I have been in the Senate was to vote for the Department of Energy. I heard the same kind of rhetoric at that time: that all we had to do was to create this new Department and that would solve our problems.

Now we have a Department with a budget in excess of $10 billion a year, with 22,000 employees. That is more money than all the oil companies put together spent last year in looking for new oil and natural gas.

So, with respect to the creation of an Energy Security Corporation, I hear the same rhetoric, and my hindsight tells me it will not work. The Banking Committee version relies on tax incentives, tax credits, and guaranteed purchase price to stimulate incentive in the private sector, without the massive Gov-

ernment involvement of taxpayers' funds and the creation of an Energy Security Corporation that I doubt will work very much better than does the Department of Energy.

So I hope that my colleagues, when the vote comes up today at 1:30, will take the route of voting for the Banking Committee bill, which will produce energy faster and at a much lower cost to the taxpayers of this country, without the necessity of creating another Government agency.

Mr. JOHNSTON. Mr. President, 36 years ago yesterday there was an article in the Elkins, W. Va., newspaper about a plane using coal gasoline. It so happens that this airplane departed for Washington from West Virginia with our colleague, who was then Representative JENNINGS RANDOLPH, on board the airplane. By quirk of fate just recently a constituent of Senator RANDOLPH found this old article underneath a rug and sent it to the Senator and it arrived and is now available to him after all these years.

Mr. President, I have a copy of the article and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PLANE USES COAL GASOLINE

MORGANTOWN, W. VA., November 6.—An airplane using gasoline made from coal took off at the Morgantown airport today, for Washington.

Forty gallons of the synthetic fuel were brought here yesterday from the U.S. Bureau of Mines experimental plant at Pittsburgh for the first actual test of the product in an airplane.

After a seven-minute flight over the airport, Maj. Arthur C. Hyde, wing commander of the Maryland-District of Columbia Civil Air Patrol, said he was well-pleased with the results.

Before departing for Washington, Maj. Hyde, who flew here with Rep. Jennings Randolph (D-W. Va.), conducted another short test with Dr. Charles E. Lawall, president of West Virginia University. Several northern West Virginia coal operators were present.

The fuel was made under the supervision of Dr. H. H. Storch, manager of the Mines Bureau experimental plant, who was present for the test.

Randolph and Senator O'Mahoney (D-Wyo.) each have introduced bills to establish a number of semi-commercial plants for the manufacture of synthetic gasoline from coal.

Mr. JOHNSTON. Mr. President, the interesting thing about that article and about our colleague's involvement is that, along with Senator O'Mahoney, back in 1944 he was the author of the Synthetic Liquid Fuels Act of 1944 pursuant to which act a great deal of work was done over a dozen years involving synthetic liquid fuels. That work came on top of a prior effort begun in 1916 by the Bureau of Mines where they opened up two experimental retorts in Rifle, Colo. But as in the 1916 efforts which operated for a decade and the 1944 efforts that operated for over a dozen years, this country started and almost made a success with synthetic fuels but then decided to stop.

So, Mr. President, I think it is appropriate that we go back and review that history when we talk about synthetic liquid fuels today. One of the strongest points about our bill, that is the Energy Committee bill, is the fact that it has an independent corporation which will be impervious to the swings of energy thought and style in this Congress, the swings of opinion, such as we had following the 1944 act and the 1916 efforts of the Department of Energy.

Mr. President, this separate corporation will be manned by a five-member board who have staggered terms of 5 years each. It is the very essence of this corporation that we will be able to get some tough-minded busiessmen on that corporation who have experience in plants, in industry, in banking, and have sufficient stature to make these business judgments.

Mr. President, that is the real difference between our bill and the Banking bill, one of the most essential differences, because the Banking bill puts it over in the Department of Energy where you are going to have these decisions made by and large by people who are fulltime, who are career Government people who almost by definition have no experience in banking, in business, in making that plethora of decisions involving the taking of business risks.

This incorporation that we have created will allow us to seek and secure for service on this Board the most qualified people in the business community in this country. It will be a challenge that will attract the best business people in the country, and they will be able to serve on this Board for a period of 5 years with one goal in mind, that is, to produce synthetic liquid fuels. I think that one point is one of the very strongest arguments in favor of the Energy Committee bill rather than the Banking bill.

Second, we have the amount of money necessary to do the job for synthetic liquid fuels. We have $19 billion. Every expert agrees that it is going to take at least $19 billion to do the job for synthetic liquid fuels in its first phase. The first phase is the building of commercial demonstrations, approximately 10 in number, large enough to demonstrate the various technologies, large enough to demonstrate, for example, in modified in situ shale a 50,000-barrel-a-day plant, large enough to test a retort or two involving different kinds of technologies for retorting of shale, large enough to try at least probably high Btu gas from coal, to also try a low Btu gas from coal because the technologies, the methods are different, and large enough probably to try a Fisher-Tropsch process such as they use in the SASOL I plant in South Africa, as well as perhaps the Exxon donor solvent process, approximately 10 in number. And that is going to take every bit of the $19 billion in loan authority and price guarantee authority which we have in the Energy Committee bill, and the $3 billion provided in the Banking Committee bill simply will not do the job.

I reiterate that the $88 billion figure is a goal in our bill. If there is any doubt about that we are prepared to make it absolutely clear. There is no doubt about it. The first phase money is $19 billion for synfuels together with an additional billion dollars for biomass and you cannot go beyond that without action of this Congress. If that is a concern to any Senator it can be totally cleared up, but it is absolutely clear, I think, in the bill at this time. It is certainly our intention.

Mr. President, we had a briefing this morning from the CIA relative to events in Iran and in the world oil markets. While some of that information was secret, I can tell my colleagues in the Senate that there is not one encouraging fact on the energy horizon in this world. There is much to be discouraged about. I think to sum up the position we are in, as indicated in our briefing this morning, we face the real possibility, almost a probability, as we go into early 1980 of being short of crude oil in the world. I would say a probability of being short of crude oil as we go into 1980, possibly in the latter part of 1979, that there is a probability of gas lines reappearing during 1980 and in each subsequent year things should get more and more difficult.

Mr. President, if this Congress wants to respond to that need, and I know they do, I know there is probably not one single Member of this Senate who does not recognize the seriousness of the situation which this country finds itself in. But if we are to respond to that we cannot do it with synfuels with a $3 billion program such as the Banking Committee has. It simply will not do it.

The Banking Committee's own engineers in their own report show that we cannot build 10 or 12 plants with $3 billion in loan guarantees or price guarantees or in any other method even with the 3 to 1 leverage which they have with respect to loan guarantees.

It simply cannot be done. And I submit if we want to have it done we should get out with an independent corporation which is charged with one mandate, that is building synthetic fuel plants, and get away from the bureaucracy at the Department of Energy.

The Department of Energy and its predecessors have had 53 years in which to make a meaningful start with synfuels, 53 years, beginning with the experimental retorts at Rifle, Colo., and, Mr. President, each time they have started they have changed their minds. Each time they have started, the pressure, whether from international oil companies or from whatever other source, has politically caused the Department of Energy or their predecessors in the Bureau of Mines of the Department of Interior to change their minds and to say "We do not need any longer synthetic fuels."

The independent corporation created by this act, Mr. President, will have the necessary independence, will have the necessary experience, not just in energy but in matters financial and technological, in order to be able to respond to this great need of this country.

Mr. President, we are not as a nation, up until now certainly, doing what needs to be done with respect to energy. Just this week we read that the Nuclear Regulatory Commission has embarked upon an indefinite moratorium on our nuclear plants. Some plants destined to come on line at this particular time will not be able to come on line. One in the Vepco region that serves my home in Virginia will not be able to come on. Certain

Members of Congress are advocating longer moratoria; some are advocating that some existing plants be shut down.

Mr. President, this is not the time and place to debate that matter, but it is safe to point out that that situation with respect to nuclear energy makes even more clear the need for sources of energy from synthetic fuels. It makes even more acute the difficulty in which this Nation finds itself.

Mr. President, with each passing week, with each passing month, things are getting worse in this country. It is becoming a crisis. We talked about, we have been talking about, the energy crisis since 1973, and that is almost a contradiction in terms to have a crisis last that long. I do not think it has been a crisis exactly in the past. I think it has been an acute shortage, but we are approaching the point, Mr. President, where it will be a crisis affecting the very social fabric of this Nation, affecting our total economic system.

I submit to my colleagues that it is time for this Senate to pull together on a program that is backed by the Energy Committee, by the President of the United States and, I hope, by a big majority of Senators in this Chamber.

Mr. PROXMIRE. Mr. President, I am going to yield to the Senator from Colorado in 1 minute, but before I do that I would like to answer my good friend from Louisiana by saying that those of us who support the Banking Committee bill feel very strongly that this is a pro-synthetic fuels bill. This is the best way to get synthetic fuels produced, and get them produced effectively and as promptly as possible.

We feel that the crash program will be far less efficient, we feel that we will get less synthetic fuels produced under it, and I want to make that argument a little later on but, at this moment, I want to yield 10 minutes to my good friend from Colorado. Senator HART.

Mr. HART. Mr. President, I thank the distinguished chairman of the Banking Committee.

There is not a State in the Union that would be more affected by the outcome of the legislation under consideration by the Senate today than the State of Colorado. All of our colleagues well know that the State of Colorado possesses 80 percent or more of a resource called oil shale. Oil shale, of all the potential sources of synthetic fuels, is the most attractive economically. It has had the most intensive investigation and scientific research, and is in the most ready position for commercial demonstration.

The State of Colorado also posseses extremely large coal reserves. We could feel the impact of a synthetic fuels industry based on those reserves also. Therefore, Mr. President, I feel very strongly that what the Senate does regarding a synthetic fuels industry today will have as great an impact on the future of the State of Colorado as any legislative measure that we will undertake in the coming years. Consequently, Mr. President, I would like to express some views concerning the synthetic fuels legislation presently before us.

At the outset, Mr. President, I think it must be made clear that the issue before the Senate, before the Congress, and before the American people is not whether we have an energy crisis; not whether that crisis is as great and as severe as the Senator from Louisiana has stated. If anything, the Senator from Louisiana, the Senator from Washington (Mr. JACKSON), and others may have understated the case. We are in extremely perilous times. All of us agree that among the energy steps we must take, we must take steps in the public sector to create a synthetic fuels industry as much as possible in the private sector.

The real issue before the Senate, Mr. President, is what kind of industry should there be; what the economic impact of that industry will be on the Federal treasury; and what the impact will be on the structure of Government, and on the States affected. The issue is how will we get there; not whether we should go.

So, Mr. President, let me express my strong support for the Banking Committee approach to establish that synthetic fuels program. Except for some minor provisions, in my judgment the Banking Committee bill establishes a program to accomplish what is needed without the severe liabilities of the Energy Committee's program. The Energy Committee bill, in contrast, does so much more than is needed that it could be, in fact, counterproductive and could be seriously detrimental to the future of my State. And to the structure of the U.S. economy.

In July of this year, the Senate Budget Committee established a special Subcommittee on Synthetic Fuels. As chairman of that subcommittee, I have studied in detail the economic and budgetary aspects of various synthetic fuels proposals. My views regarding synthetic fuel legislation come primarily from the information contained in the report of the Senate Budget Committee's Subcommittee on Synthetic Fuels, as well as 15 years personally considering the various aspects of an oil shale program in this country.

This country's supplies of coal and oil shale are vast. Over the past few decades, processes have been developed to convert coal or oil shale into a substitute for crude oil or for natural gas. Many of these processes have been tested in laboratories and in small-scale or pilot-sized projects. None of the processes have been tested in this country at the full, commercial-scale size.

If all or some of the technologies to create synthetic fuel from coal or oil shale actually work as anticipated, this country could produce the equivalent of hundreds of millions of barrels of oil per day. All of this production would be used to reduce the dependence of the United States on foreign oil.

There are two key questions concerning the oil shale and coal processes. First, their economic practicality; second, their environmental quality. The only way this country can be assured these processes are economically practical and environmentally desirable is to test each of the processes in a full-scale, commercial-sized demonstration plant.

TWO PHASES

This country should be prepared to duplicate the desirable technologies in large numbers of synthetic fuel plants. The preparation for duplicating these plants should begin soon. But the decision to build duplicate plants should be postponed until the environmental and economic aspects of these technologies are known for certain.

In this era of budgetary stringency brought about by the need to balance the Federal budget and to reduce the burden of taxes, we must create a Federal program which can do the job with the least cost to the taxpayer and the least amount of Government intervention in the private sector or substitutes for private action. To this end, the synthetic fuels program should provide the needed incentives to encourage private industry to invest its capital resources. However, the Federal Government should not substitute its own financial resources for those of the private sector.

The administration of the Federal synthetic fuels program should rest with a Federal office large enough and independent enough to do the job, but not so large as to constitute a major increase in the size of the Federal Government or to constitute a threat to the Constitution or to increase Government intrusion into the ownership and means of production of energy supplies.

With those goals in mind, Mr. President, I think it is clear that the provisions of the Senate Banking bill, although they are somewhat imperfect, come much closer to the goals and the direction we should be going in than those of the Senate Energy Committee.

With the above goals in mind, I now turn to the key provisions in the Senate Banking Committee bill and compare those with the Senate Energy Committee bill.

ENERGY COMMITTEE'S PHASE II: TOO SOON TOO MUCH

Both the Banking and Energy Committee bills contain provisions for a first-phase program. The Banking Committee version contains no second phase. The Energy Committee version authorizes $68 billion for a second phase, which would automatically go into effect within 3 years unless Congress disapproves. Although I believe we should prepare for a second phase, I believe the Energy Committee version is unacceptable in this regard.

It is extremely unlikely that sufficient information on the economical practicality and environmental safety of synthetic plants can be gained within 3 years. In fact, it is likely that most synthetic fuel plants will take 5 years or more to construct. Therefore, the earliest date information will be available to consider a second phase will be in the mideighties

The Energy Committee bill contains a goal of producing 1.5 million barrels of oil a day by 1995. I believe this goal is certainly in the range of potential production from synthetic fuels. If the processes tested in the first phase are acceptable. I believe that the United States is likely to be able to reach this production goal. However, at this time, it is undesirable to require the establishment of a

plan to achieve that goal. In light of the economic practicality and environmental consequences of the best synthetic fuels technologies, it may be found that this goal is too large or unreachable by that date. Alternatively, the technologies could work even better than expected, and the goal could be too small. It just makes no sense to authorize $68 billion now for a program containing such uncertainty.

Because the Banking Committee bill authorizes no second phase at this time, I strongly favor this approach. Although the banking bill does not require such a plan, it would certainly be expected that the administration in the mid-1980's would advise the Congress on the wisdom of proceeding with a second phase at that time.

INCENTIVES RELATED TO PRODUCTION OF FUEL NOT TO COSTS OF CONSTRUCTION

The second question concerns the types of incentives in the two proposals. Both bills suggest price guarantees or purchase agreements as the primary incentive vehicle, and also provide loan guarantees. These incentive mechanisms are extremely desirable because they place most of the risk on the private companies which will build the projects. The assumption of this risk by the individual companies is absolutely necessary to weed out undesirable processes.

Because the companies themselves will bear what is called the technological risk, they will be sure that the process has a high probability of success before constructing a commercial-size plant. The price guarantees and purchase agreements will reduce the other current obstacle of risk market uncertainty. Since the Federal Government projects a substantial increase in world energy prices throughout the 1980's, price guarantees would, in effect, insure the private investor the equivalent of those projected world oil price increases. By keeping the price guarantees at reasonable levels, the Government will encourage private industry to weed out for themselves projects which would have an extremely high cost.

The provision of loan guarantees does somewhat reduce the risk of companies investing in synthetic fuels plants. In effect, by sharing the cost of investment through a loan guarantee, the Government reduces the risk of failure for an individual company. In general, I oppose loan guarantees. However, in this specific instance, I think loan guarantees are necessary to encourage the participation of companies which are too small to otherwise raise the capital for the commercial-scale synthetic fuels plants.

Without loan guarantees for these smaller companies, only the dozen or so largest oil companies could build synthetic fuels plants. Only those very large companies have the capital assets large enough to be able to borrow money for such risky ventures. We need to encourage the participation of all sorts of companies, including intermediate-size corporations and those not now engaged in oil production. Therefore, loan guarantees are an important aspect of a synthetic fuels program.

UNDESIRABLE SUBSIDIES

The Energy Committee bill also contains further incentives which I believe are both unnecessary and undesirable. In fact, there are three types of incentive mechanisms that should be omitted—Government-owned company-operated plants direct loans, and joint ventures.

Although they are listed as low priority, the Energy Committee proposal would allow the Government to construct synthetic fuels plants at Federal expense and then to hire contractors to operate them. The Energy Committee offers this financial mechanism as a potential whip to drive the oil companies into spending their own money on synthetic fuels plants.

I believe such Government-owned company-operated facilities, GOCO's, as they are called, are a counterproductive element in the Energy Committee bill.

To the extent that the threat of GOCO's does drive the oil companies to invest their own funds in synthetic fuels plants when they wish not to, this could be counterproductive. Some synthetic fuels technologies are in need of more development before commercial plants are built. Fearing competition from a GOCO, a company might prematurely schedule construction of a plant before a process is completely developed. If we want to have processes which are economically practical and environmentally safe, we should also be sure that companies develop these processes to their satisfaction before the commercial plant is built. In this sense, the GOCO whip could crack back and lash the driver.

Second, the potential for investing in GOCO's could actually induce some companies to go that route. There are some companies that do not now own oil shale reserves and do not have the resources to purchase them. These companies under current conditions have an incentive to combine with other companies with greater financial resources or with oil shale reserves to jointly establish a commercial demonstration.

I am concerned that once the Government becomes involved in owning its own plants on Federal oil shale lands, the Government will be involved forever. I would much prefer that private corporations acquire and then invest their own capital resources in these demonstration plants so the corporate executives would be ready to invest even vaster sums of money in the duplication of successful technologies.

The Energy Committee proposal also contains provisions for direct Federal loans and joint ventures. Direct Federal loans would substitute for a loan guarantee in those cases where the private investor had such little ability to convince the financial sector in this country that this technology was good, that only the Government would make a loan. I believe if the technology and the company combined are in such poor shape, that they cannot attrack private financing, this is a strong signal that the Federal Government should not get involved. Instead, the Government might help fund a pilot plant to provide more information which might ultimately result in greater private participation and an eventual commercial plant.

Similarly, if a given company fails to form joint ventures because it cannot convince other companies of the relative merits of a particular process, I believe again that this is strong reason why the Federal Government should not become a participant.

In summary, the Banking Committee bill contains necessary elements to hasten the construction of prototype commercial plants. The Energy Committee bill contains further incentives which are unnecessary and undesirable.

ENERGY SECURITY CORPORATION

The next question concerns the Energy Security Corporation. The Banking Committee bill would rest the administration of the synthetic fuels program with the President. The administration of synthetic fuels incentives must be specifically the responsibility of some Federal office. But the Energy Committee provision for an Energy Security Corporation cannot be justified.

The idea of the Energy Security Corporation was conceived as a mechanism to spend $88 billion on a synthetic fuels program. Such an entity might be needed if Congress were to go along with the three dozen or so synthetic fuels plants needed to achieve the President's long-term goals at this time. But I am sure that a new independent agency is not needed to fund the half dozen or so prototype commercial-scale synthetic fuel plants that would be implemented in the first phase of the synthetic fuels program.

Not only is the establishment of an Energy Security Corporation unnecessary, it is also undesirable. As proposed by the administration and the Senate Energy Committee, the Corporation would be outside the control of both the executive branch and the Congress. Tens of billions of dollars would be allocated to the managers of the Corporation and would be spent without further control or approval by the executive branch or Congress. Never has this country proposed that an agency responsible neither to the Congress nor to the President spend tens of billions of dollars of the taxpayers' money. I am concerned that the mere existence of the Federal Corporation would establish a level of Federal intrusion into the marketplace which, if anything, would drive out the high degree the private sector participation that will be required to establish a competitive synthetic fuels industry.

Furthermore, the mere establishment of a new corporation will take time. The most important element of the first phase of the synthetic fuels program is that it be begun immediately. It could take many months to establish a working corporation. I would prefer that an Office of Energy Security be established instead. This office would be smaller, leaner, and faster starting.

Mr. President, from a standpoint of those of us from the Western United States where many of these resources are located, as I said, I believe that the Banking Committee approach is vastly superior to that offered by the Energy Committee. I believe it contains all the

mechanisms necessary to establish a first-phase synthetic fuels program in the United States. With necessary levels of funding, the Banking Committee approach can achieve the construction of 8 to 10 prototype commercial plants in the mid-1980's. It will establish these plants without Government intrusion and substitution of the public sector for the private sector. It will minimize the cost to the taxpayer and maximize the degree of involvement by the private sector by large companies and small companies.

If I were to characterize the Energy Committee approach compared to the Banking Committee approach, I would say that the Energy Committee is doing the equivalent of authorizing an amount of money to build an armada of new battleships before the first battleship has ever been constructed. The Department of Defense learned long ago the need and wisdom of testing competing designs for the Navy before deciding upon a final approach. By authorizing the second phase of the synthetic fuels program before the first phase is actually in production, the Energy Committee proposal could result in duplicate plants before the first plant for any process is in operation.

The Banking Committee approach does not necessarily mean a slower approach, but it certainly means a more effective one. I believe that in the mid to late 1980's, this country will have a better chance of convincing OPEC that it can produce large amounts of synthetic fuels if it has a half dozen to a dozen finely tuned, well functioning, and environmentally sound plants. The alternative that could result from the Energy Committee proposal would be a lot of plants that are economically impractical and ones surrounded by environmental lawsuits.

Mr. President, as one who has the privilege of representing what many of us consider to be the most beautiful State in the Union but also one which contains, perhaps, the solution to part of this country's energy needs in its vast oil shale and coal reserves, I strongly urge my fellow Senators to vote for the Banking Committee approach. The Banking Committee will, in my judgment, come the closest to meeting the balance of problems faced by the State of Colorado and this country, in terms of its need to solve this energy problem and create a much needed synthetic fuels program as part of that solution but, at the same time, not destroy our State in the process.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HART. Yes, I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from Colorado on his statement. I think it is most significant that the Senator from Colorado, representing as he does a State where 80 percent of the oil shale is—that is where the activity is going to be—gives us the advice on how this will affect his State. We should listen to him. We listen to other Senators about how legislation will affect their States. The junior Senator from Colorado agrees with him. The Governor of Colorado testified along the same lines before our committee.

The record is clear: the effect of a crash program in Colorado will be tremendously inflationary and very damaging to the environment. The arguments made by the distinguished Senator from Colorado, I think are most compelling. I thank the Senator very much for his comments.

Mr. HART. I thank the Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time to the Senator from Ohio?

Mr. METZENBAUM. Mr. President, I ask the Senator from Louisiana to yield me 10 minutes.

Mr. JOHNSTON. Mr. President, I yield 10 minutes to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to discuss this legislation and the pending amendment. I think that the synthetic fuels bill before us is one of the most important pieces of legislation that we will consider this year. This piece of legislation could create one of the most major boondoggles in the history of our country, or it could do that which it is framed to do, which is to help us develop a synthetic fuels industry in this country.

The way the bill's language is set up, it has a good chance of working and achieving the objective that we seek. I recognize that it is fraught with dangers, and yet I feel that that is a calculated danger that we have to take in order to try to achieve a synthetic fuels industry and actually develop synthetic fuels in this country.

There are other measures and means of approaching this problem that are suggested in the pending amendment, and I am not prepared to denigrate the validity of that proposal, but it is my view, based upon my experience with the Department of Energy in the past, that if you just have a price guarantee or a loan guarantee, if you do not have an agency totally dedicated to developing synthetic fuels, I am afraid it will not happen.

As a matter of fact, realistically speaking, the Department of Energy has had the authority, the ability, and the funds to go ahead with the gasification of coal, the liquefaction of coal, and the development of other synthetic fuels sources that are contemplated to be developed under this legislation. But they have dragged their feet, and nothing has happened.

It occurs to me that it is worthwhile taking the chance of spending the $20 billion or $22 billion we are talking about here, and the possible $88 billion—which, incidentally, only represents about the equivalent amount of money that we spend in 150 days for oil in this country, assuming a $30 per barrel price; it is a lot of money, but it is not a lot of money when we talk about the oil industry and the importation of oil into this Nation, or when we talk about purchasing foreign oil at an expenditure of $70 billion a year at the present time.

Frankly, I am not particularly concerned whether the number is $3 billion, $10 billion, $20 billion, or $88 billion, this Nation has to find alternative energy resources if we are going to be able to be a viable Nation in the future. So what do you do under those circumstances? You try to put together a piece of legislation that will achieve that objective. I am not certain that you achieve it totally; you try to provide a piece of legislation that protects conflicts of interest, and I am not totally satisfied with the language of this bill, but at least it makes the effort. You attempt to provide for Government profit sharing, so that it may get insurance for its invested dollars, or those dollars it has put up at risk; and I am not totally satisfied with that language, but I think it will achieve the objective.

You try to provide for the protection of Government patent rights; you try to provide for a guaranteed cash fund to cover possible losses; and although I think the figure ought to be larger than it is in this legislation, at least it provides some measure of protection for the people of this country and the Treasury of this country.

Probably most importantly of all, we have made it possible to create Government-owned corporations, if they are necessary to commercialize technologies which the energy companies are not willing to develop. To me the whole concept of the GOCO's is essential if we are to have an adequate bargaining tool to deal with the oil companies and the energy companies involved and the largesse that will flow from this piece of legislation. It gives the Government a good bargaining tool. It does not mean the Government is going to go in business, but it does say that the Government can go in business if it wishes, by moving forward in an appropriate manner and a manner to protect the Treasury of the United States.

The GOCO's provide that such techologies as are available can and will be commercialized. It does make it possible to provide for an element of competition in this legislation, and it does have a little bit—not a whole lot, but a little bit—of protection for the consumer, who has so often been forgotten in the energy legislation that we have passed and considered in this session of Congress.

I must say, frankly and publicly, that I am very disturbed about the fact that after the Energy Committee spent days on end negotiating, amending, working together to try to develop an adequate concept for the development of Government corporations, GOCO's, that the next thing I learned about it was that the White House had agreed with the National Association of Manufacturers and other business groups to drop its support for the GOCO's and actually be against the GOCO's. That, to me, is actually pulling the rug out from under the energy subcommittee which spent days and weeks in trying to develop a piece of legislation. All I can say about that is that I was shocked about the White House change of position on that particular subject.

There are several provisions that do not deal with title I but they have to do

with the conservation aspects of the legislation.

There are portions of this bill which provide for as strong, mandatory conservation measures as anything this Congress has been considering. Every time we have talked about conservation in this Congress, we have backed up, we have weakened the measure. There are provisions in the conservation portion of this legislation that, if not included, would cause me to find the legislation to be less than acceptable and I would be prepared to consider some other approach.

I believe we are talking about a total package. I believe the Energy Committee has made every effort to accommodate the interests and concerns of those who would be developing the energy, those who are concerned about the consumer aspects, and those who are concerned about conservation. I think that the package which is presented before us today for our consideration is the best that we are able to put together. I believe it makes sense for us to take this calculated gamble, a phrase that I used previously but a phrase I believe this bill represents. It is that, and that is a good enough reason for us to stick with the bill which came out of the Energy Committee in its present form.

If and when it should be changed, and there should be concessions and accommodations to various special interests which are involved, then I think it would be important to take another look. But the bill in its present form has sufficient validity, has sufficient value, has sufficient advantages for the American people that I hope we will accept the Energy Committee bill, and at this point in time not look favorably upon the Banking Committee bill which, itself, does have some merit to it.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from New Mexico.

ENERGY MADNESS

Mr. SCHMITT. Mr. President, the solution to our energy supply and cost problems does not lie in more Government regulations, more Government management or more Federal taxes. The solution lies in the mobilization of the strength of Americans and their system of free enterprise.

More Government regulations, more Government management and more Federal taxes are at the root of our energy supply and cost problems. A giant bureaucracy called the Department of Energy has not solved these problems. An additional bureaucratic and judicial morass called an Energy Mobilization Board will not solve these problems. A massive new tax on the consumer called a windfall profits tax will not solve these problems. An uncontrolled and unfair competitor to American ingenuity and enterprise called an Energy Security Corporation will not solve these problems.

The only thing that will solve these problems will be Americans working and achieving as only they can. Government must be a benevolent referee and coordinator, but not a voracious adversary and competitor.

The proposal to create an Energy Security Corporation for the primary purpose of substituting major quantities of synthetic fuels for imports of foreign oil is based on worthy aims. No one will deny that. There is no question that the most clear and present danger to our national security is dependence on high-cost foreign imports for 50 percent of our oil supplies. Unfortunately, an $88-billion crash program in synthetic-fuel production will not remove this clear and present danger.

The only short-term answer is to recreate the deregulated environment that used to exist and which will mobilize the domestic oil and gas producers, particularly the independents and their investors. These people who find 80 percent of the oil discovered in this country are part of the typical American business community. They search for oil and gas because it is both exciting and profitable and because they want to help this country. They expect the Government to referee their competition but they do not need Government to participate in and thereby destroy that competition. This is our short-term resource.

A crash synthetic-fuels production program will divert us away from the achievement of short-term energy independence by raising false hopes; by wasting capital, people, equipment and resources; by distorting the American enterprise system; and by aggravating energy price inflation. One of the best analyses of these factors is that of Congressman DAVE STOCKMAN of Michigan. I ask unanimous consent that his paper on this subject be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SYNFUEL MADNESS

(By Representative DAVE STOCKMAN)

The current synfuels stampede is official Washington's version of tank-topping—a momentary eruption of the herd instinct based on yesterday's news and today's apprehensions. Fortunately, the Nation's gasoline lines are already diminishing in response to improving news, marginally better fuel supplies and the recovery of public composure.

Our best interests now will be served if the synfuels line on Capitol Hill dissipates and if President Carter, if he is to avoid yet another bad idea, forswears support for the synfuel stampede

To be sure, synthetic fuels produced from heavy oils, tar sands, shale or coal will someday be as commonplace as imitation brick fireplaces. The energy appetites of industrial societies, the prodigious deposits of these substitutes that are available and our existing technical knowledge virtually guarantee this. But what will happen someday is not the issue.

The question is whether, on this side of the horizon, a $60 to $150 billion program to turn out 2 to 4 million barrels a day of synthetic fuels would accomplish any of its backers' aims. The answer, despite all the rhetoric and breast-beating, is that it wouldn't.

A crash program of this kind would have virtually no impact on the OPEC oil cartel's power in the 1980s and little impact in the 1990s. It would not significantly enhance our national security or our energy independence. It would not lower the current high world oil price or appreciably slow future price increases. Most important, it would not reduce our vulnerability to Iranian-type oil supply interruptions resulting from political instability, which are currently at the heart of our problem.

Yes, there may well be reason for Washington to promote a few demonstration synfuel plants at present, and there are other important steps we can take. But the last thing we need is a multibillion-dollar illusion to satisfy our national macho, to stroke ourselves with the mistaken belief that, finally, we are "doing something" about the energy problem.

What's happened amid the current synfuels euphoria is that many inconvenient facts have been ignored. The proposed plants, for example, wouldn't come off some Department of Energy cookie cutter. They would require massive engineering and construction feats for "first of a kind" projects.

Coal-liquids and shale-plant technologies, feedstock characteristics and site potentials vary so widely that they are not likely to become standardized any faster than light-water nuclear reactors have been. Yet there are only a handfull of world-scale engineering firms with the resources and specialized manpower to handle detailed, final plant designs and construction management.

These plants would also result in major environmental assaults, involving many air and water pollutants and, in the case of shale, the disposal of massive volumes of toxic tailings. Even a fast-track approval process by environmental regulators would likely take two to three years because of the irrational complexities of Clean Air Act preconstruction requirements.

In addition, simultaneous construction of 10 to 25 such plants would severely tax the skilled manpower and manufacturing capacity for a long list of critical components and subsystems. Finally, we should not ignore the experience of the only large-scale syncrude plant functioning today, the 130,000-barrel Canadian tar sands facility. It has been plagued with startup problems for nearly a year and is currently producing at substantially below rated capacity.

All this should make it clear that a massive synfuels program authorized this year would not affect the world oil price by so much as a dime before 1987. We would be fortunate to have 500,000 barrels a day of reliable output by the end of the next decade. That would be less than a 1 percent addition to the 50 million barrel a day world petroleum market—not much of a lever on oil prices. Even if we managed to turn out 2 million barrels a day by the early 1990s—which would take an estimated 40 synfuel plants—it would increase world supply by only 3 percent, again with only a modest impact on price.

Whatever the long-run prospects, then, a major U.S. synfuels program would do practically nothing about OPEC, and precious little about the world oil price, for at least a decade and a half.

Or you might want to consider the cost-benefit equation another way: A 2-miles-a-gallon increase in the average fuel economy of the U.S. auto fleet in 1985 would equal the annual output of 10 synfuel plants.

Another misleading notion of the synfuels crusaders is that the world oil price now is rising fast enough and production costs will be low enough for coal and shale liquids to be competitive by the time the synfuel plants are operating. The ease of taking giant risks with other people's money, of course, often makes bureaucrats and politicians overlook critical distinctions that private investors can ignore only at the peril of losing their own money.

Private investigators, for example, do not believe the cost estimates derived from their own DOE-financed pilot projects. There is a world of difference between back-of-the-envelope estimates drawn from small-scale experiments and the detailed engineering specifications needed for full-scale plants.

The experience of the Colony Group that planned to build a surface retort shale plant

shortly after the first oil embargo is instructive. The back-of-the-envelope estimate before November 1973 was under $7 a barrel. By the time the detailed engineering specifications had been completed in August 1975, the break-even price had jumped to $22 a barrel. That figure is now nearly $30 a barrel, and that doesn't include additional expenses stemming from toxic-substance and environmental regulations.

There should be no illusions, therefore, that most synfuels would cost anything less than the equivalent of $30 to $40 a barrel of crude oil—and that is in real dollars. If we keep inflating our economy at 10 percent a year, the nominal dollar cost would double to the $60 to $80 range before 1985.

Indeed, the naive assumption that the world oil price is rapidly closing in on the range at which synfuels will become competitive stems from our habit of measuring the world oil price in terms of the counterfeit money we print at home. What matters to foreign oil sellers, naturally, is not the nominal dollar price but the real terms of trade—the command over Western steel, engineering services and foodstuffs held by each barrel of a wasting asset.

In the context of that buying power, a substantial share of the oil price increase this year was necessary just to restore the terms of trade established in the fall of 1975. From then until last December, the real OPEC oil price—adjusted for dollar-exchange value loss and Western inflation—declined by a full 20 percent. If the new $19 average price sticks, by year's end the real price of oil will have risen by less than 9 cents a gallon over the past four years.

In short, it would take a 4 percent annual increase in the real oil price over the next 15 years to close the present competitive gap. In light of the prospects for new production outside OPEC and continued fuel substitution and energy efficiencies around the world, that rate of real price escalation is by no means guaranteed. Scratch another argument.

What the synfuel stampeders fail to recognize is that our current vulnerability does not stem from price pronouncements following the theatrics of the oil ministers' meeting in Geneva. The real dangers for us are unplanned and undesired convulsions in the producing areas themselves—the Iranian syndrome—and our failure to be prepared for them. The synfuels panacea would do almost nothing to ease this problem.

THE PIPELINE PROBLEM

Our vulnerability lies in the structure of the world oil production system, not in our absolute level of daily imports. There is simply no spare production capacity available now anywhere in the world, with the questionable exception of Saudi Arabia. This means that the mammoth free world oil supply system is balanced precariously on a "ragged edge." Any significant production curtailment will touch off a worldwide scramble for suddenly scarcer supplies, with enormous upward pressure on prices until production is restored or a new price equilibrium is reached.

The key question here is whether the proposed new synfuel plants, if and when they are ever built, would be held in reserve as spare capacity or would simply become part of the world's base capacity.

It is inconceivable to me that synfuel crusaders intend for these multibillion-dollar giants to stand idle most of the time, waiting for a bomb-thrower in Baghdad to require a throttle-up to full production. Just a million barrels a day of standby synfuel capacity would cost nearly $100 million a week to maintain in idle plants, even at today's optimistic estimates of capital costs.

In a world in which the marginal sources of petroleum supply carry an exceedingly high cost, the only way to get off the "ragged edge" is with low-cost storage.

Crude petroleum can be stored in salt domes and other geological formations for substantially less than $1 a barrel. An internationally coordinated 2-billion-barrel storage program for all the non-Communist industrialized nations that are members of the Organization for Economic Cooperation and Development (OCED) would cover a production outage of up to 5.5 million barrels a day for a year—or two years' worth of last winter's net loss from the Iranian interruption.

There may well be a persuasive rationale for a few demonstration synfuels plants at present. But the suspicion that these plants are not yet competitive could be readily tested are not yet competitive could be readily tested simply by taking bids at a guaranteed purchase price of no more than $5 a barrel above the world price over the life of the plants. If such a limited arrangement does not coax private capital out of the banks, it would be good reason to keep billions in public capital in the Treasury.

Mr. SCHMITT. Let me quote just a few paragraphs from Congressman STOCKMAN's discussion:

A crash program of this kind would have virtually no impact on the OPEC oil cartel's power in the 1980s and little impact in the 1990s. I would not significantly enhance our national security or our energy independence. It would not lower the current high world oil price or appreciably slow future price increases. Most important, it would not reduce our vulnerability to Iranian-type oil supply interruptions resulting from political instability, which are currently at the heart of our problem.

To further illustrate the folly of a crash synthetic-fuels production program, some facts supplied by the U.S. Geological Survey are enlightening.

I ask unanimous consent that those facts and a list accompanying those facts be printed in the RECORD at this point.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

Coal Feed Stock Requirements for 50,000 bbl/day Commercial Synfuel Plant:

Feedstock (tons coal/day for bituminous coal) = 20,000.

No. days operational/year = 300.

6,000,000 tons of bituminous coal required/year/ synfuel plant.

If lignite used, then 40,000 tons coal/day would be needed or 12,000,000 tons/year would be required for each synfuel plant.

What are coal requirements for Synfuel Plant with 30-year life span?

Bituminous coal: 30×6,000,000 = 180,000,000 tons.

Lignite: 30×12,000,000 = 360,000,000 tons.

These figures represent the approximate amount of coal to be converted in each synfuel plant.

How much in-the-ground coal resources would have to be available in a tract for each plant?

To answer this requires an analysis of the amount of coal that can be recovered by surface mining; by underground mining.

Generally, for surface mining a recovery factor of 80 percent is realistic; for underground mining the recovery factor, depending upon mining method, may be 30 to 35 percent. A nationwide average of 50 percent is not unrealistic, if certain assumptions are made.

Therefore:

The total in-the-ground bituminous coal resources required, if a 50 percent recovery factor is used, is 360,000,000 tons; for lignite 720,000,000 tons; subbituminous coal requirements would be between these two numbers.

What were the 50 largest bituminous and lignite mines in 1978?

The accompanying list, from the Keystone Coal Industry manual, gives the largest coal mines in the U.S. Note that only six mines produced more than 5 million tons during 1978. However, close scrutiny of the list suggests that very few surface or underground mines produce 6 to 12 million tons of coal per year. Generally, an underground mine with a production of 1 million tons/year is considered large; a surface mine which has a production of 5 million tons/year is considered large.

It is a good assumption that each synfuel plant will have a 30-year dedicated or captive coal reserve. This assumption arises from the large investment required for each plant—$1.2 to $3 billion.

Each plant should be (and probably will be) tailored to the physical and chemical characteristics and properties of a particular coal bed or a blending of several coal beds.

The first 6 to 12 Synfuel Plants will likely be easy to locate because of readily available coal capacity and water. However, those that follow will be faced increasingly with identifying the required large blocks of existing captive coal reserves, delineating uncommitted water resources, and overcoming societal and environmental barriers. Also, these synfuel plants will be competing more and more for coal with power plants converting from oil and gas to coal or new plants constructed solely for coal combustion.

The lead time for development of a coal mine varies by state, type of mine, and ownership. The new surface mining regulations add at least two years to previous lead times. Federal ownership adds at least an additional several years. The current best guess at lead time for coal mine development is: Surface—average 4 to 8 years; underground—average 6–10 years.

50 BIGGEST BITUMINOUS AND LIGNITE MINES IN 1978

[Compiled by Keystone Coal Industry Manual]

[The 50 biggest bituminous and lignite coal mines in 1978 produced 170,065,874 tons or 25.9 percent of the estimated total production. 41 were commercial operations; 9 captive, 22 increased their output over the previous year]

Company	Name of mine	State	Production 1978	1977	1950
1. AMAX Coal Co.	Belle Ayr (S)	Wyoming	18,065,564	13,331,844	New 1972
2. Western Energy Co.	Rosebud (S) (C)	Montana	10,576,000	9,773,676	New 1968
3. Decker Coal Co.	Decker Nos. 1 & 2 (S)	Montana	9,073,592	10,290,421	New 1972
4. Utah International Inc.	Navajo (S)	New Mexico	8,000,000	6,900,000	New 1963
5. Peabody Coal Co.	Keyenta (S)	Arizona	6,771,768	6,097,578	New 1974
6. Bridger Coal Co.	Jim Bridger (S)	Wyoming	5,175,540	5,448,953	New 1973
7. Washington Irr. & Devel. Co.	Centralia (S) (C)	Washington	4,700,000	4,955,242	New 1970
8. Peabody Coal Co.	River King (D&S)	Illinois	4,597,514	4,521,969	New 1957
9. Kemmerer Coal Co.	Elkol-Sorenson (S)	Wyoming	4,061,794	4,385,147	New 1963
10. Sunoco Energy Devel. Co.	Cordero (S)	Wyoming	3,800,000	2,128,545	New 1976

50 BIGGEST BITUMINOUS AND LIGNITE MINES IN 1978—Continued

[Compiled by Keystone Coal Industry Manual]

[The 50 biggest bituminous and lignite coal mines in 1978 produced 170,065,874 tons or 25.9 percent of the estimated total production, 41 were commercial operations; 9 captive, 22 increased their output over the previous year]

Company	Name of mine	State	Production		
			1978	1977	1950
11. Consolidation Coal Co., Western Reg	Glenharold (S)	North Dakota	3,686,094	3,382,000	New 1965
12. Baukol-Noonan Inc	Center (S)	North Dakota	3,400,000	1,791,273	New 1973
13. Glenrock Coal Co	Dave Johnston (S) (C)	Wyoming	3,326,616	3,326,616	New 1958
14. Southwestern Illinois Coal Corp	Captain (S)	Illinois	3,200,000	3,100,000	New 1961
15. Arch Mineral Corp	Medicine Bow (S)	Wyoming	3,100,000	2,800,000	New 1974
16. Pittsburg & Midway Coal Mining Co	McKinley (S)	New Mexico	2,992,958	1,369,199	New 1692
17. Energy Fuels Corp	Energy No. 1 (S)	Colorado	2,909,272	3,048,584	New 9596
18. Knife River Coal Mining Co	Gascoyne (S) (C)	North Dakota	2,871,839	2,520,363	9,458
19. Rosebud Coal Sales Co	Rosebud (S)	Wyoming	2,868,048	2,702,888	New 1962
20. Big Horn Coal Co	Big Horn (S)	Wyoming	2,838,862	2,394,532	350,841
21. Arch Mineral Corp	Seminoe No. 2 (S)	Wyoming	2,800,000	2,800,000	New 1971
22. Peabody Coal Co	Sinclair (D&S)	Kentucky W	2,655,851	3,625,599	New 1962
23. Carter Mining Co	Rawhide (S)	Wyoming	2,620,000	1,000,000	New 1975
24. Western Coal Co	San Juan (S)	New Mexico	2,613,030	2,186,637	New 1974
25. Westmoreland Resources, Inc	Absaloka (S)	Montana	2,554,201	4,529,053	New 1974
26. Peabody Coal Co	Lynnville (S)	Indiana	2,552,602	3,365,003	New 1955
27. Central Ohio Coal Co	Muskingum (S) (C)	Ohio	2,525,651	3,125,220	New 1952
28. Peabody Coal Co	Black Mesa (S)	Arizona	2,515,820	4,427,704	New 1970
29. Arch Mineral Corp	Seminoe No. 1 (S)	Wyoming	2,500,000	2,300,000	New 1971
30. AMAX Coal Co	Leahy (S)	Illinois	2,274,880	2,342,907	New 1971
31. Peabody Coal Co	River Queen (D&S)	Kentucky W	2,224,959	3,766,210	New 1957
32. Clinchfield Div., Pittston Co	Moss No. 3 (D&S)	Virginia	2,221,440	3,327,634	New 1958
33. Old Ben Coal Co	Old Ben No. 2 (S)	Indiana	2,154,693	2,424,483	New 1975
34. Mountain Drive Coal Corp	No. 1 Strip (S)	Kentucky	2,100,000	1,606,824	New 1967
35. Peabody Coal Co	No. 10	Illinois	2,096,287	2,807,593	New 1952
36. Peabody Coal Co	Big Sky (S)	Montana	2,064,886	2,343,877	New 1970
37. Monterey Coal Co	No. 1 (C)	Illinois	2,006,000	2,524,815	New 1970
38. Martiki Coal Corp	Martiki (S)	Kentucky	2,000,000	1,480,976	New 1975
39. Thunder Basin Coal Co	Black Thunder (S) (C)	Wyoming	1,983,334	42,000	New 1975
40. Consolidation Coal Co., Midwestern Reg	Burning Star No. 4 (S)	Illinois	1,958,683	2,016,000	New 1973
41. Peabody Coal Co	Universal (S)	Indiana	1,947,341	2,376,732	New 1970
42. Knife River Coal Mining Co	Beulah (S) (C)	North Dakota	1,887,267	1,885,230	412,338
43. Consolidation Coal Co., Eastern Reg	Ireland	West Virginia	1,860,986	1,626,232	New 1957
44. Consolidation Coal Co., Midwestern Reg	Burning Star No. 5 (S)	Illinois	1,832,714	1,832,714	New 1975
45. Kerr-McGee Coal Corp	Jacobs Ranch (S)	Oklahoma	1,800,000	----------	New 1974
46. Old Ben Coal Co	Old Ben No. 1 (S)	Indiana	1,760,611	2,388,212	1,224,190
47. Island Creek Coal Co	Pevier (D & S)	Kentucky W	1,726,726	2,188,704	New 1972
48. U.S. Steel Corp	Maple Creek 1 & 2 (C)	Pennsylvania	1,614,000	2,044,000	New 1959
49. U.S. Steel Corp	Robena (C)	Pennsylvania	1,612,000	2,233,000	3,137,832
50. Consolidation Coal Co., North West Virginia Reg	Robinson Run	West Virginia	1,586,351	2,099,000	New 1968
Total production, 50 mines			170,065,874	165,801,189	5,134,659
U.S. total production, bituminous and lignite			656,000,000	688,575,000	516,311,000
Percent listed mines to national total			25.9	24.1	1.0

Symbols: (C) captive mines, (S) surface mines, (D) deep mines—tonnage not coded is deep.

Mr. SCHMITT. Mr. President, I particularly would like to point out in those facts some that deal with the availability of a resource base in coal to support the kind of program advocated by the Energy Committee.

I asked the survey what are the 50 largest bituminous and lignite mines existing in 1978. They gave me a list, which is the list which has been printed in the RECORD.

Close scrutiny of the list suggests that very few surface or underground mines produce 6 to 12 million tons of coal per year, which is what would be required to support a single 50,000 barrel a day commercial synfuel plant.

Generally, an underground mine with a production of 1 million tons per year is considered large. A surface mine which has production of 5 million tons is considered large.

The first 6 to 12 synfuel plants will be easy to locate because there are readily available coal capacity and water, and this is the number envisioned by the Banking Committee bill. However, those that follow will be faced increasingly with identifying the required large blocks of existing captive coal reserves, delineating uncommitted water resources, and overcoming societal environmental barriers. Also, these plants will be competing more and more for coal with powerplants converting from oil and gas to coal or new plants constructed solely for coal consumption.

Those who now propose an Energy Mobilization Board, a massive new "windfall" tax on the American consumer, and an $88 billion Energy Security Corporation, put less faith in American free enterprise than they put in the management capabilities of "big government." They put less faith in American technology and ingenuity than they put in the abilities of "big government." They put less faith in American competitive instincts than they put in the economic policies of "big government."

In their zeal to "stick it to 'big oil,'" the "big government" advocates inadvertently would destroy the small independent producers who find 80 percent of America's oil and gas. They would destroy the financial investments of millions of American stockholders, pension-fund members and investors. They would saddle an already overburdened American taxpayer with massive new taxes. They would further discourage an already discouraged American consumer with accelerated inflation. Increased Government inefficiency and increased prices for energy and goods and services produced by energy is no cure for inflation or anything else.

Many of those who have bent with the environmental winds of the sixties and seventies now would sacrifice the environment and water of the West with a crash program to make synthetic fuel out of coal and oil shale. At the same time, they turn their backs on the vast and environmentally sound resources of domestic oil and gas, of safe and wise use of nuclear power, of conservation through technological efficiency, and of solar and fusion energy.

Within a decade, we must be in a technical and economic posture for the private sector to begin to substitute major investments in synthetic fuel plants for major investments in fewer and fewer oil and gas fields. Research, development, and commercial demonstration in synthetic fuel production must be accelerated and at the same time we must rapidly increase domestic oil and gas production to remove the clear and present danger represented by our excessive imports of foreign oil.

Unfortunately, we are moving in a direction opposite to that which common sense would dictate. There is no other expression for what is happening except "energy madness." Let us work to make sure that the Congress will wake up before this madness destroys our economy and our freedom.

The PRESIDING OFFICER (Mr. HOLLINGS). The time of the Senator has expired.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the Senator from Kentucky.

Mr. FORD. I thank the distinguished floor manager.

Mr. President, I rise in support of the Energy and Natural Resources Committee's synfuels title I in S. 932. My colleagues on both sides of the issue have set forth the facts and arguments with precision and eloquence. I shall not retrace their steps.

Mr. President, I do wish to make a few observations of my own. These observations are based on my experience with the first State-funded synthetic fuels

program in the Nation, observations based on 3 years of hard work by the Energy Committee.

My colleagues have described the dangers that face this Nation—$70 billion a year in foreign oil imports; possible and even probable cutoff of foreign supplies at any time; $900 billion in Eurodollars floating and manipulated to destroy our monetary system.

Mr. President, we have lost our independence. We have lost our freedom of choice. We have lost them to a combination of greed on one hand and a philosophy of no growth on the other hand. Mr. President, we have an opportunity now to regain our independence, to regain our freedom of choice. It may well be our last big chance.

Here, in the fall of 1979, when it finally appears that this body is ready to approve a major commitment toward the establishment of a domestic-based synthetic fuels industry, those of us who have long advocated this course are still in the position of having to apologize, explain and rationalize just what we are seeking to accomplish.

I cannot understand why it must be this way, and we are hearing nothing but the same time-worn arguments of the past.

We are told that the cost of this program is too high, and that we should have further study and investigation before spending that much money. We are told that there are other ways that we can reduce our dependence on foreign sources—just give us time and we will think of them.

How much longer can we afford to wait? How many more months—not years, but months—can this country's economy hold up amidst the continued uncertainty over future energy supplies?

A major synthetic fuels program such as this is something we could and should have done years ago. But because we did not, the cost of undertaking such an effort now will be considerably more expensive.

Mr. President, the Banking Committee version of S. 932 is a prime example of this "go slow, go slow" state of mind. Moreover, for all practical purposes, it mandates price and purchase guarantees for its limited number of projects.

What does this mean? It means a program for big oil, by big oil.

The only companies that would be in a position to raise the front-end money in the magnitude of $2 to $3 billion are the big oil companies. This is the way they want it and this is the way it would be under the "go-slow" approach. This is the way it will be even more if we do not come up with an adequate windfall profits tax.

Mr. President, I ask my colleagues to keep in mind that these are the same people who promised us synthetic fuels in the 1940's, who promised us synthetic fuels in the 1950's, in the 1960's and in the 1970's. These are the same people who, last month, gave us record profit reports largely based on their foreign operations. These are the same people who, largely under foreign duress, are refining much more of their imported crude oil products overseas—products that domestic synthetic fuels are intended to replace.

Mr. President, I believe that the Energy Committee's version of title I is a better balanced bill, a bill that better meets the requirements of today. I need not repeat the particulars in support of the position so ably set forth on Monday by Senators JACKSON, JOHNSTON, HATFIELD, DOMENICI, RANDOLPH and others. But I would like to touch on just a few points.

The $20 billion in phase I and $68 in phase II authorized would be the maximum total Federal exposure. Loans and loans guaranteed would be charged against the maximum at the figure of the loans, not in terms of any reserve requirement, as is usual with Federal loan guarantees. On Monday it was argued that the full $88 billion was, for practical purposes, an appropriation. This argument came from those whom I have heard so eloquently oppose charging loan guarantees against budget program totals—existing loan guarantees that in 1980 will top $408 billion.

Mr. President, the Energy Committee bill, with its estimated 12 major and 30 small plants, with its wider forms of financial assistance, will open up participation to other than Big Oil. It will open up participation to regulated utilities and carriers, to chemical companies who possess real technological ability, to small oil companies, to energy companies who cannot raise large amounts of front-end money.

It was not easy to put this variety of financial assistance in the Energy Committee bill. It will not be easy to retain it on the floor.

Why? Because of the same alliance that has defeated synfuels in the past—a temporary cohabitation: Big Oil and the organized environmental movement. They were working together when the bill was in the Energy Committee to achieve different purposes—the oil companies to insure that only oil companies will be involved in synthetic fuel development; the environmentalists to insure the same thing or, if they can achieve it, defeat of the whole synfuels program.

I caution the oil companies of the dangers of their present policy of rule or ruin so similar to that of the railroads in the years gone by: If there is not diversification in the synfuels program, your present allies will have you and synfuels and the Nation boxed in.

Once Big Oil is made the only real participant in synfuels, be prepared for antimerger legislation, be prepared for divestiture legislation, be prepared for nationalization proposals. Then there will be no synfuels program, and your real enemies may well gather allies from among those who, in the past, have been your supporters.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I realize that both the Energy Committee and the Banking Committee have worked long and hard on this bill. Members who are supporting one or the other feel very deeply about the positions they have taken. It is paramount that we not take lightly either of the two versions we have before us. Today I intend, however, to speak in favor of the Banking Committee version of S. 932, the Energy Financing Act of 1979.

Today, and for much of this week, the U.S. Senate is on trial. We are being watched by citizens all across the country. They are angry about gasoline lines.

They are angry and concerned and uncertain about our future energy supplies. They seem to feel our country has lost its way, that we cannot adequately provide enough energy to assure our citizens that we are going to have supplies. They are concerned that a country like Iran, can add so much instability to our situation. Of course, they are concerned about skyrocketing energy prices, and they will have good reason to be concerned again in December, if the supplies from Iran are cut off once more.

Americans are understandably fed up with our excessive dependence on foreign oil. They wonder why we have gotten into this situation, why we were not prepared for it. But they certainly expect us to do something about it and do something about it now—not a decade or a decade and a half from now.

This, I think, is the main difference of opinion we have. The principal argument is whether or not we put our primary emphasis, our No. 1 priority, into the synthetic fuel field or into other areas. I have consulted with members of the business community, with whom I have worked for many, many years. The U.S. Chamber of Commerce. The Committee for Economic Development. Their consensus seems to be the same that is being reached in all the monumental studies that have been done on this subject—studies by the Ford Foundation, the "energy future" study that has just been completed by the graduate school of business of Harvard University.

These works conclusively show that there is a source of energy available now in much greater supply than any of us would previously have believed—conservation. We should do everything we can to maximize that. Synfuel has its place, but it should not become America's No. 1 priority.

This week, the Senate has an opportunity to start to clean up the energy mess we are in, and begin a new era for our country, one that puts a major emphasis on the abundant, domestic sources of energy that we have barely begun to tap: Coal, solar power, and most importantly, conservation.

In addition, we have the potential to produce millions of barrels of synthetic oil through the conversion of coal, biomass, oil shale, and tar sands. These energy sources can, together, lead to significant reductions in the amount of oil we import each year.

Determining the most prudent path with which to exploit these domestic resources is the task the Senate faces now. We have before us now two versions of the same bill—S. 932—with very different answers.

Both bills, to their credit, offer significant sums—billions of dollars in

fact—to encourage a national program to install solar and conservation devices in businesses and homes. The Banking Committee's version offers over $7.2 billion in low-interest loans for these measures, with $4.2 billion more allotted for gasohol and biomass production—a total of $11.4 billion.

Mr. President, may we have order, please, on the floor? There are at least four different conversations going on—five.

The PRESIDING OFFICER. The Senate will be in order.

The Senator's 5 minutes have expired.

Who yields time to the Senator from Illinois?

Mr. PROXMIRE. I yield 1 more minute. We are running short of time.

Mr. PERCY. I would like to have 5, if we have them.

Mr. PROXMIRE. We are very limited on time.

I will yield 2 more. Will that do it? It is because I believe we are running out. We have a number of speakers.

Mr. PERCY. How about 3 more minutes?

Mr. PROXMIRE. All right. Three more minutes.

Mr. PERCY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, the Energy Committee's bill establishes a similar low-interest loan program for solar and conservation installation, but with less money—$2.8 billion. In addition, Energy Committee sets aside nearly $5 billion more for such innovations as weatherization grants for low-income dwellings, mandatory energy audits, wind and geothermal loans, and a Solar Energy Information Center.

Mr. President, a few weeks ago, a monumental conference was held at Dumbarton Oaks—the first conference held there since the founding of the United Nations.

That conference was addressed by Sheik Yamani. It was addressed by Charles Duncan, Secretary of Energy; by Admiral Turner, the Director of CIA; and, when the group of business and labor leaders moved to the White House, by the President of the United States.

Every single one of the speakers emphasized the absolute importance, the absolute first priority, that must be given to conservation.

Our future is fine, for those who can afford it. Certainly, if we could afford to designate $88 billion for a synthetic fuel program for the future, then we would be a country of luxury.

But we are not in that kind of condition. We are facing a perilous situation. We have got to do something now.

What the Banking Committee bill does is recognize that synthetic fuels has a role. It has a place. There are important things that can be done. But it ought to be put in perspective. We should not set up a Synthetic Fuel Corporation.

The administration's original concept to set this up was as an energy security corporation, with much more leeway than this Synthetic Fuel Corporation to get into other areas, to invest in such areas as conservation.

This country uses about the equivalent of 39 billion barrels of oil a day. That is oil equivalent energy usage.

We import 8 million to 9 million barrels a day. The potential for saving is 40 percent. It is clear that we can save as much as we import now, with a strong conservation program.

With that perspective, it is crucial that we approve support of the banking bill today.

The dollar amount differences between the two bills are obviously substantial, but the most substantive difference lies in their treatment of synthetic fuels.

The version passed by the Energy Committee would focus America's finances and energies toward substantial synthetic fuels production for the 1990's and beyond. It would create a Synthetic Fuels Corporation and reserve for it $88 billion for synfuels demonstration and commercialization plans. The Energy Committee bill would proclaim an official synfuels goal for America of 1.5 million barrels a day of oil equivalent by 1995. In effect, it amounts to a congressional decree that developing our synthetic fuel supply is and should be America's No. 1 priority.

The bill presented by the Banking Committee takes a far different approach. It allots as much as $9 billion to synthetic fuel research and demonstration, and of course, it leaves wide open the possibility of additional funding for these technologies in the future.

But it also recognizes that synthetic fuels should not be our No. 1 priority at this time—conservation claims that honor.

The Banking bill shows a sensitivity to the many unanswered questions about the economic and environmental impacts of synthetic fuels. It recognizes that the Government's role should be to help answer these questions before any massive commitment of the taxpayer's money is made. While synthetic fuels may represent an important long-term measure for domestic energy production, there remains a more immediate measure—conservation—that deserves our top budgetary priority.

It is the Banking bill's sensitivity to this fact that leads me to enthusiastically endorse it here today.

I am concerned that some advocates of the Energy Committee's version of S. 932 have raised questions about their opponents' desire to see synthetic fuels come online in this country. They claim that, if we really care about synthetic fuel production, we should be willing to create a new Government entity and give it $88 billion with which to make loans to synfuels producers, buy synthetic fuel products, and even buy synthetic fuel plants. The Energy Committee bill calls for a 3-year demonstration period for different synthetic fuel processes in order to evaluate their relative merits. And yet, it mandates that, no matter what these demonstrations show, we will have 1.5 million barrels of synthetic oil by 1995.

I cannot believe that this is a responsible plan to develop synthetic fuels. One fact should be crystal clear already, but I will state it again: Americans in and out of business do not want more Government intervention in the energy marketplace. They want less. By this criterion alone, the Banking bill is far superior to the Energy Committee bill.

As a Senator from Illinois, a State that is fourth in the Nation in producing one of the most abundant sources of synthetic fuel—coal—I hope that the gung-ho optimism of the Energy Committee proves to be warranted. There is nothing I would rather see than the hundreds of unemployed coal miners in Illinois put back to work tomorrow making coal gas, fuel oil, and crude oil from coal. Unfortunately, this may well turn out to be a pipedream, and we know for a fact that it will not happen for 10 years, at best. The fastest and most secure way to put coal miners back to work is through increasing our direct use of coal, not through synthetic fuels.

We must take a more cautious and deliberate approach toward synfuel exploration than that espoused in the Energy Committee bill.

In supporting the Banking Committee version of S. 932, I am supporting a bill that is dead serious about meeting the synfuels challenge, now. Between $3 billion and $9 billion in purchase or loan guarantees would be awarded by the President for a diversity of synthetic fuel demonstration projects, based on competitive bidding. Congress would review any loan promises over $500 million, and all contracts would be entered into by October 1, 1981.

The authors of this bill, rightly, have found no need for a new Government entity, for exemptions from conflict-of-interest laws, or for premature promises of synfuel production levels. They see, in fact, that the creation of a powerful, unaccountable corporation for synfuels jeopardizes the objective analysis of this energy source that we all want.

A synthetic fuel corporation, created to encourage the commercial production of synfuels before their economic and environmental impacts are known, threatens to turn synfuels facilities into gold-plated Edsels.

I have been impressed by arguments offered by Mel Horwitch, one of the authors of the Harvard Business School's "Energy Future," and by Roderick Hills, of the Committee for Economic Development, against the creation of a massive crash program to commercialize synthetic fuels. For example, Dr. Horwitch said that—

> A massive synthetic fuels program is an example of choosing a conceptually simple technocratic solution for what is a complex societal problem. . . . There is strong likelihood that a massive synthetic fuels program would follow the same . . . pattern as the SST or nuclear power.

Legislation is needed that gets us looking now at the true costs and benefits of synfuels. If their potential is promising, the Congress should pass any additional legislation that is needed in several years to help carry these fuels into the commercial stage. To lead us toward answers on the merits of synfuels in the meantime, Mr. President, the Banking Committee bill takes a crucial first step.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from Maine (Mr. MUSKIE).

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I would like to indicate my support for the Senate Banking Committee synthetic fuels title with a few reservations; namely, I believe a higher level of funding and a broader mix of financing mechanisms are warranted.

First of all, as every Member of the Senate knows, it is a rare occasion when the chairman of the Budget Committee can come to the floor of the Senate and support a higher level of funding. However, in this instance, my posture is consistent with both the level of funding for new energy initiatives in the pending budget conference agreement and with our national energy needs.

Since the energy crisis of October 1973, we have debated energy policy and its impact on the U.S. economy, the quality of life, and our national security. We can debate no longer. Now is the time to act, the time to commit the resources required to lessen our dependency on imported oil.

The synfuels title offered by the Senate Banking Committee is an important step in developing alternative sources of liquid fuels. However, based upon the testimony heard before the Budget Committee's Subcommittee on Synthetic Fuels, the level of funding and the mix of financing mechanisms included in the banking title are inadequate to meet the challenge.

To stimulate private development of synthetic fuels projects and to accommodate a diversified commercial demonstration program of 8 to 12 varied synfuel technologies, up-front financing of up to $20 billion is needed. At the same time, to insure the broadest range of participation and development of pioneer technologies, a mix of economic incentives must be offered. Price guarantees and purchase agreements are required to stimulate the participation of large-scale corporations. These also tend to promote the utilization of proven technologies. Loan guarantees and direct loans are required to insure the participation of smaller corporations which lack access to capital. They also provide the up-front financing required to develop unknown technologies.

In light of these requirements, I support the Banking Committee's use of purchase and price agreements. However, I believe the limits on loan guarantees must be amended and direct loans included as a financial incentive. At the same time, I recommend limited eligibility for direct loans and loans guarantees. Only those entities, who because of financial limitations would not otherwise participate in the synfuels program, should be eligible.

Mr. President, with the inclusion of up to $20 billion authorization level and a mix of financial incentives, I would feel confident that the Senate had made an important step toward lessening the U.S. dependency on imported oil and I would strongly support the Senate Banking Committee's synthetic fuels title.

Mr. President, the development of energy policy in America has been a tremendous challenge. Last year the Congress sent the President the omnibus energy legislation that he had requested in 1977. But that legislation was insufficient to deal with our overall energy problems. The gas lines of this spring led to a further request by the President for major new legislation in the energy field.

The legislation before the Senate today, S. 932, has nine titles. It deals with issues that range from synfuels, gasohol, and energy conservation to wind and solar energy. The principal discussion on the Senate floor is likely to focus on the first title, which deals with synthetic fuels.

The Nation needs to develop test projects to see if oil and gas can be developed synthetically from other natural resources. But it would be wrong to pretend that this alternative has already been tested and made feasible. I believe the entire Senate is ready to commit billions of dollars to commercial test facilities. That is a major step forward in developing synthetic fuels.

But we must remember that we have time—and must take time—to place synthetic fuels in their proper perspective in energy policy.

If the commercial tests of synfuel plants are successful, then it is possible that this technology can make a useful contribution to solving some of our energy problems. But that contribution will come in the 1990's, if it comes at all.

In the 1980's, other actions will have to lead us to solutions. And many of these solutions are less costly, more probable, and more environmentally acceptable. We must have a strong emphasis on conservation. In many cases this will mean national efforts to conserve in order to reduce the regional impact of scarce fuels. The President's program announced this summer would do a number of important things to develop solutions that will be available in the 1980's, not just the 1990's. Heavy oil, solar energy, and unconventional gas are likely to produce significant fuel supplies in the next few years if we press their development quickly.

We ought to keep this in mind as we urge commercial testing of synthetic fuels. If we emphasize these other alternatives, we will see an improvement in our energy posture in the next decade.

The Senate Banking Committee and the Senate Energy Committee have reported different versions of S. 932. As I approach the Proxmire amendment on synthetic fuels and the Energy Committee title, a key guideline has been to preserve the flexibility needed in making a major decision on a massive commitment to commercial development of synthetic fuels.

Unfortunately, the Senate's action on the Energy Mobilization Board legislation has impaired our flexibility in the way we might approach synthetic fuels. Because these facilities will be eligible for waivers of substantive environmental controls and other important laws once they are under construction, we must insure that adequate substantive standards are in place prior to the construction of any broad-scale commercial program.

Without this potential waiver, we might have been able to approach the development of synthetic fuels with greater flexibility. But that has now been ruled out. We must insist that large commercial development not occur until substantive standards are in place, and until we are sure that adequate environmental controls are available. I would have preferred to allow these controls to develop as we increased our experience with these new plants. But because the waiver option is available to be used, we cannot rely on that pattern of development.

In terms of Government organization, economic considerations, and environmental protection, the most sensible approach to synthetic fuels is to develop a limited number of commercial demonstration plants. This means withholding commitments about production goals, final Government organization, environmental acceptability, and economic desirability until those test projects are completed, analyzed and reviewed. The Proxmire amendment fulfills these objectives. The Energy Committee bill does not.

First. It is premature to make a commitment to a Federal governmental corporation as the means of developing synthetic fuels. The Banking Committee title has no such corporation. The Energy Committee version does have a corporation, and authorizes the Government to construct these facilities, whereas the Banking Committee title does not. In addition, if the decision were made to have a corporation, the Energy Committee version is not the best kind of corporation to create.

Second. As the study by the Budget Committee's Subcommittee on Synthetic Fuels shows, the method of financial support for synthetic fuels chosen will have significantly different impacts on the Federal budget. Commitments to a large-scale production program should not be made until test projects are producing and can be analyzed from this perspective.

Third. Great uncertainty surrounds the environmental impact of synthetic fuel plants. There are potential benefits, but also appear to be many potential disadvantages. Reliable information will simply not be available until test facilities are actually in operation. It may be necessary to curtail these plants once their impact is fully known. The commitment to a production goal of 1.5 million barrels of oil equivalent per day by 1995 would make a decision to curtail activities very difficult. The energy bill creates such a production commitment.

Fourth. The decision on the second phase of the synfuel program of the Energy Committee bill will be made before the test projects are in operation. It will come in the form of a report from the Energy Security Corporation in 1982 outlining a strategy for future production and development. The plan would go into effect unless vetoed by Congress within 60 days, with no expedited procedures for a vote. The decision on the second phase is much too important to leave to this kind of process. I will now discuss these points more completely.

ENVIRONMENTAL IMPACTS

Mr. President, the Senate is being asked to launch a massive, crash program to develop synthetic fuels. The Senate is being asked to sanction a program without any clear idea of what impacts

this will have on our health or natural resources.

The only thing we do know is that the program will have a major impact on the environment. A key question facing us now is whether we make an irrevocable commitment to synthetic fuels before their environmental impacts are fully understood.

Too often we have waited to observe the effects of long-term exposure to hazardous pollutants and only then recognized our mistakes.

Too often we have tried to remedy those mistakes only to find that the effects on human health and on our environment are tragically irreversible.

We should not knowingly repeat those mistakes now. Yet that is exactly what we are being asked to do.

The bill offered by the Energy Committee would launch a massive program to develop synthetic fuels.

We would commit our Nation to an investment of $88 billion and incalculable damage to air quality, water quality, drinking water, and most important, the health of our citizens.

The Energy Committee legislation has been described as a two-stage approach. If this were really the case, perhaps such a large program would be justifiable.

However, it is in reality just a one-stage approach, with two phases. In the first phase, the Synthetic Fuels Corporation is given $20 billion to distribute for the construction of a limited number of synfuel facilities.

Yet, before any experience can be gained from the construction and operation of those plants, the Corporation must submit its comprehensive development plan to Congress.

The Corporation will have no opportunity to learn from the demonstration facilities.

The Congress will have no opportunity to learn from the demonstration facilities. In fact, the Congress will have no opportunity to assess the wisdom of a crash synfuels program with the benefit of some knowledge.

This is our one opportunity to make that assessment.

So Mr. President, I cannot in good conscience make an affirmative assessment today.

The only knowledge I have indicates the following:

First, synthetic fuels technologies have been uneconomic for many years;

Second, the processes may not yet be technologically viable;

Third, there is a long list of conventional environmental hazards known to be associated with each synfuel process;

Fourth, there may be a long list of unconventional carcinogenic pollutants generated by these processes; and

Fifth, there are no pollution control requirements applicable to synfuels technologies now.

Frankly, this does not suggest to me the wisdom of the Energy Committee approach.

Another factor in this equation is the existence of the grandfather provision in the bill creating an Energy Mobilization Board.

This provision authorizes the Board to waive any Federal, State, or local requirement for a priority energy project once construction has begun. No matter what we learn about the hazards of a technology, once even the site has been cleared no remedial action can be taken.

No additional cleanup can be required, even if we find that toxic pollutants are threatening local populations.

No additional cleanup can be required, even if ground water supplies of the local population become contaminated.

This provision, in my mind, is one of the critical factors in evaluating the two different synfuels bills before us now.

Not only do we have inadequate knowledge about the impacts of synfuels technologies, but once we do have some knowledge, we will not be able to apply it to acknowledged problems.

And, last week the House authorized the Energy Mobilization Board to waive any Federal substantive law which might delay the construction of a priority energy project. I suspect that this provision may find its way into the conference agreement. I hope not. The Senate is on record against that provision, and by a wide margin.

This unprecedented way of legislating away safeguards enacted over the last decade removes the assurance of protection from the impacts of synthetic fuel plants.

Mr. President, should we not pause and consider what kind of a monster we are creating in the guise of an energy policy?

Waiving existing laws for unknown results?

Waiving future regulation of unknown pollutants with unknown impacts on our health?

Waiving our prerogative to reject a massive commitment to synthetic fuels once we learn about their impacts?

It seems to me that an energy policy based on so many unknowns is worse than no energy policy at all. Sooner or later we will have to pay the high price for acting in ignorance.

The projects which are meant to benefit by all of these extraordinary measures remain unbuilt today not because of regulatory delay, not because of environmental obstructionism, but because they are dubious contributors to energy independence, and they are questionable technologically and economically.

They need waivers of law and financial support not because they suffer from overregulation—they have no Federal environmental regulations now—but because at this point they are problem makers, not problem solvers.

The development of these huge projects could constitute an irreversible commitment of massive capital outlays without sound consideration of the need, the costs and the harmful side effects of these technologies.

For all of these reasons, Mr. President, I believe that the best approach is the one contained in the Banking Committee bill.

Their approach permits a true multibillion dollar test of synthetic fuel technologies prior to a second multibillion dollar Federal commitment.

A real phased approach will give us some of the answers to the myriad of questions about the economic, technological and environmental impacts prior to a full-scale synfuels development program.

No commercial size synthetic fuels plants have ever been operated in this country. The only responsible course of action we can take is a one-of-a-kind test program of the various synfuels technologies.

The Banking Committee bill provides for this by authorizing up to 12 plants, each utilizing a different technology.

It does not prejudge the viability of these technologies by setting a production goal.

It does not commit us to a second phase of second generation plants.

It does not define the scope of Federal involvement in a subsequent stage.

It does not create a Federal corporation with a mission to achieve a production goal.

Only these limitations will guarantee proper concentration on testing and demonstration of different technologies during the first phase.

I would like to have printed in the RECORD at this point a discussion by the President's Council on Environmental Quality of some of the environmental impacts which a demonstration phase would provide more knowledge on prior to an irreversible commitment to synfuels.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POTENTIAL ENVIRONMENTAL IMPACTS OF A LARGE SYNFUELS INDUSTRY [1]

The environmental impacts of the synfuels program described here assume that 85 percent of the proposed 2.0 mmb/d capacity by 1990 would come from coal liquefaction and 15 percent from oil shale. This assumption implies 34 coal liquefaction plants (50,000 b/d capacity) and 0.3 mmb/d from oil shale plants. For coal liquefaction, ¾ of the coal fuel is assumed to come from the West.

I. DISRUPTION OF LAND DUE TO MINING

It is likely that new coal liquefaction plants would be constructed in the arid West (e.g., Montana, North Dakota, and Wyoming), where there are large amounts of low-cost strippable coal. If we assume ¾ of the coal comes from strip mines in the West, 700 square miles of arid western land would be strip-mined over the 30 year lifetime of the plants. Another 140 square miles would be required for mining of oil shale and disposal of shale wastes. U.S. oil shale resources are concentrated in Colorado, Utah, and Wyoming. Land reclamation in dry regions, where much of our western coal and shale resources are located, is difficult and sometimes impossible. Our experience with reclamation in these areas is limited, as is our knowledge of the potential impact of coal and shale mining on critical ground water resources.

The 25 percent of the coal mined in the East could render about 7,600 square miles of land subject to subsidence over 30 years, if mined underground. Subsidence, which is difficult to predict or prevent, can damage roads and other structures, as well as disrupt natural water course patterns. If the coal in the East were to be surface-mined, 1300 square miles would be affected. This area, together with the 700 square miles in the West, is about the size of Delaware.

Mine drainage, soil erosion, and alteration of runoff patterns are effects of both coal and shale mining. The mining of shale wastes, however, results in a volume of processed shale that is about 1.2 times greater than the raw shale. The consequent difficulty in storing the shale waste in the excavated areas has led to proposals to use natural canyons as storage space for piles of spent shale up to 250 feet deep. This action might lead to the permanent loss of many canyon lands, as well as to the destruction of natural habitats for a number of rare and endangered species. Furthermore, the longterm stability of spent shale is uncertain. Revegetation of spent shale has not yet been demonstrated, and it is uncertain whether canyons filled with spent shale can be reclaimed for other uses.

II. DEMAND FOR WATER

The water requirement for synfuels production arises mainly from the need for cooling water to dispose of waste heat and the chemical need for hydrogen in the conversion process. Water may also be used to quench gaseous products to remove oil and particulates, in dust suppression, in land reclamation, and in solid waste disposal. The coal liquefaction program would require 245,000 acre-ft/yr of water in the West for operation of the plants and another 11,400 acre-ft/yr for mining the coal. In oil shale processing, water is chemically consumed in the generation of hydrogen for reactions with the raw shale, and still much larger quantities are consumed in mining and disposing of the shale. Oil shale operation would require an additional 43,000 acre-ft/yr for this synfuels program. This water would be sufficient to irrigate about 150,000 acres of agricultural land per year. Although this much water may be physically available at appropriate locations in the West, much of it is already committed to agricultural use. Acquiring the water rights to this much water may be a formidable problem. If significant amounts of western water are diverted from agricultural purposes for synfuels plants and coal mining, a decline in agricultural production may result. Indeed, some farmland may be purchased solely to acquire the accompanying water rights for use in synfuels production.

In addition to the water consumed in the synfuels plants, the new towns of workers (over a thousand per plant for the 5 to 6 years necessary for construction) will put a further drain on water supplies.

III. WATER POLLUTION

Any reduction in downstream flow carried by consumption of water at a synfuels plant may increase the temperature and salinity of the water below the diversion point. For example, the withdrawal of low salinity water from the Upper Colorado River Basin for use in synfuels processing will produce an increase in salinity in the Lower Colorado because of the decreased dilution effect.

Although, with strict controls direct emissions of contaminated water from coal liquefaction plants may be minimized by recycling and using waste treatment ponds, some water pollution would result from leaching of the solid wastes from coal liquefaction plants. These solid wastes consist of mineral residue, sludge from water treatment, particulates, char, and heavy tar residues. Leachates from these solid wastes may contain silicates, trace metals, hydrocarbons, nitrogen compounds, and polynuclear aromatics. Some of these substances are known or suspected carcinogens, and many are toxic to aquatic and terrestrial flora and fauna.

Surface coal mining may pollute ground water through leaching of minerals and trace elements from the mine wastes. Common solids dissolved by this downward percolation of water are carbonates, sulfates, chlorides, phosphates, and trace metals. Water pumped from underground coal mines may be acidic and high in concentrations of trace elements and dissolved solids. The mining of coal for coal liquefaction contaminates water by alkaline runoff from solid waste piles. Mining the coal for this coal liquefaction program would also contaminate western water sources with traces of heavy metals, sulfates, and 340,000 tons of dissolved solids.

For oil shale development, the impact on water by alkaline runoff from solid waste pile, with in situ processes the possibility of disruption and/or contamination of ground water aquifers exists with consequent impacts on the quantity and quality of water drawn from wells for domestic, industrial, and commercial use. Raw and spent shale piles can leach salts and otherwise contaminate groundwater and surface water bodies. For surface retort operations, information is still incomplete on the means to minimize leaching of shale piles and effluents from retort and other waste waters. Retort water can contain hazardous substances, such as ammonia, dissolved solids, hydrogen sulfide, and organic compounds.

IV. AIR POLLUTION

Although there are presently no federal performance standards for synfuel plants, it is expected that they will be required to meet federal standards. The two main sources of air pollution from synfuels plants are the combustion of fuels to provide heat, steam, and electricity for the plant and the emission of sulfur-containing waste gas from sulfur recovery operations. Even assuming application of "best available" emission controls, these synfuels plants would produce, for example, 130,000 tons of SO_2 and 230,000 tons of NO_x per year. Other air pollutants include 42,000 tons of particulates and 14,000 tons of hydrocarbons. The mining of coal for coal liquefaction would produce an additional 3,200 tons of particulates per year, as well as significant quantities of SO_2.

V. PUBLIC AND WORKER HEALTH

The chief concern over air and water quality is that people will be exposed to toxic or hazardous substances through breathing contaminated air, drinking contaminated water or otherwise being exposed to hazardous and/or carcinogenic substances from coal and oil shale, such as sulfur oxides, nitrogen oxides, particulates, aromatic hydrocarbons, and trace metals.

In the second generation technologies planned for a U.S. coal liquefaction program (H-coal, Exxon donor solvent, SRC–II), trace elements such as arsenic, cadmium, and selenium, may be vaporized during the liquefaction process and (unlike coal gasification or coal methanol processes, where apparently more of the trace elements are left in the residue) some of these trace elements will be carried through into the synthetic crude product. Some of these trace elements are known or suspected carcinogens to man. Many of the same trace elements are also present in oil shale, and some of them will remain in the syncrude product as well.

Although differences in emissions from shale or coal syncrude and those of conventional fuel are not fully identified, the main differences may be the higher concentration of trace elements and aromatics in the synfuels. The potential for exposure of the general public to these trace elements during transportation, handling, and combustion of the final products may therefore be greater with second generation liquefaction processes.

VI. ENVIRONMENT STANDARDS

Careful siting of synfuels and strict adherence to pollution control standards, some of which have not been developed, would tend to mitigate adverse environmental consequences. Much additional research and development is necessary to determine the toxicity and/or carcinogenicity of many of the air and water pollutants as well as to determine the optimal pollution control and siting strategies for the various facilities and activities involved.

Mr. MUSKIE. Mr. President, the scientific community is also concerned about the additional carbon dioxide released into the atmosphere from the synfuels technologies which use coal. A July 1979 report to the Council on Environmental Quality concluded that massive synfuels would accelerate the warming trend of the Earth, depleting the ozone layer. This in turn would result in a "greenhouse effect," with potentially drastic environmental implications.

An Energy Committee print on synthetic fuels describes this as a chicken-egg situation in which there is delay on the part of the agencies in promulgating standards due to little operational data, and pertinent data cannot be generated because there are no commercial-scale demonstration plants.

The report concludes:

This chicken-egg situation could be avoided by following a policy which would provide for collection of pertinent data on environmental impacts and on occupational health and safety from the initial commercial-scale plants rather than trying to guess or estimate the precise nature and magnitude of the pollution problems in advance.

Mr. President, I have not prejudged the ultimate viability of synthetic fuels as a major contributor to domestic energy independence. It may be possible to minimize adequately the known and unknown environmental impacts associated with synfuels. It remains to be seen.

But if in the demonstration phase it is determined that the hazards are too great, the risks to our basic environmental structure too severe, the unknowns too unresolvable, we must preserve our option to walk away from those technologies.

GOVERNMENT CORPORATIONS: CONSTRUCTION AND OWNERSHIP OF SYNTHETIC FUELS PLANTS

One of the issues debated extensively in this legislation is the question of the role of the Federal Government in constructing and owning synthetic fuels plants. In the Energy Committee bill these are known as "corporation construction projects."

The concept of developing a Government corporation to build a few "yardstick" plants was discussed in previous energy debates over the last few years. There is a legitimate role for Government corporations in the synthetic fuels area. The Government corporation could be a means of providing the Government with full information on all aspects of the development of these new projects. The Government would then have a way of measuring the accomplishments and requests for support from the private sector. These requests could be measured against the Government's own experience with its own plants.

Government corporations can also consider additional objectives, such as

[1] Only traditional environmental impacts are treated here. The climatic impacts associated with increasing CO_2 concentration in the atmosphere are not addressed.

social, economic development, and environmental policies that are not likely to be represented in private ventures.

Unfortunately, the kind of corporation and the kind of Government construction projects available in the Energy Committee bill does not meet the characteristics I have discussed. A Government construction project would not be allowed unless all other means of bringing the project into construction had failed. In other words, the Government would be given the right to build the projects most likely to fail, and be barred from construction facilities where private interests might exist.

When could the Government build its own "Government construction project"?

Only when all private interests had rejected price supports;

Only when all private interests had rejected long-term purchase guarantees;

Only when all private interests had rejected loans or loan guarantees;

Only when no private interests were available to work in a joint venture with the Government; and

Only when all private interests had refused to develop and agree to a specially negotiated contract free from the competitive bidding process.

In short, the Government would be limited to building those plants that no private interest was willing to undertake even when the Government removed most risks from the project.

Mr. President, that seems to be a clear invitation for the Government to try something that is bound to fail.

There are two meanings given to the word "corporation" in this synfuels debate. I have been discussing the first, which is Government ownership of a construction project.

The second is to use a corporation as the general organizational form for developing all aspects of the synthetic fuels program. This would include administering price supports, loan guarantees, and any financial support mechanisms. Until we know whether or not a massive developmental commitment should be made to synthetic fuels, the concept of a corporation as a governing organization is premature. During a testing program of commercial demonstration projects, the present governmental structure is adequate. In fact, the present agencies should be able to move more rapidly than a new corporation. They are in existence with procedures, regulations, and personnel in place. A new corporation would have to be organized, with rules and regulations to be adopted.

In addition, the symbolic commitment to a massive synfuels program which the corporation format stands for is a premature commitment.

In summary, the symbolic commitment to an overall corporation is premature, and the authority for corporation construction projects of specific plants is too flawed in the present Energy Committee bill to be supportable.

The Banking Committee title is preferable. It allows the President to assign to existing Government organizations the task of stimulating synthetic fuels. It does not allow Government construction projects. It is interesting that the Banking Committee unanimously rejected the proposal to create a new Federal corporation. The committee report on pages 31–33 contains a convincing discussion as to why no Energy Security Corporation is needed in the present synthetic fuels legislation. Let me quote from the four principle arguments raised on page 31 of the report:

1. Creating a Federal corporation for the sole purpose of managing a synthetic fuels program is inconsistent with the committee's intent to minimize Federal interference with and involvement in synthetic fuels development efforts;

2. Creating the Corporation is inconsistent with the phased-development approach approved by the committee;

3. Initial and irreversible authorization of $88 billion for Federal financial assistance is excessive and further promotes a high degree of Federal interference in the program; and

4. The time needed to create a new Federal corporation would be likely to delay initiation of the first phase of commercial testing.

Mr. President, I ask unanimous consent that Charlene Sturbetts and Karl Braithwaite of the Committee on Environment and Public Works be granted privilege of the floor during the consideration of S. 932 which extends the Defense Production Act of 1950, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, 6½ years ago, before the Arab oil embargo, I spoke to an Earth Week audience in the small town of Burlington, Wis. Earth Week 1973 was organized around the theme of "Energy Conservation" in recognition of the fact that our most significant potential source of "new energy" is that energy we conserve. The people of Burlington engaged in a 1 week program of energy conservation and energy education. The Burlington program attracted nationwide attention and was covered by the television networks and the national press.

We organized Earth Week around the theme of energy conservation because we were already in a major energy crisis even though there was very little public awareness or discussion of it. By 1973, there should have been no doubt that we were in urgent need of a national program directed toward energy conservation and the development of alternative energy supplies, solar energy and synthetic fuels. The Nation's ability to supply energy has been increasingly tested since then by the demands of consumers. Consumer demands, as a result, have been subject to rejection for the first time in our history. Abundant sources of inexpensive energy are no longer available. And since we must reduce our reliance on foreign energy, we have no choice but to establish a bold national strategy pursuing all avenues for alternative energy sources.

No one can be absolutely certain today what strategies are in fact the best. We must pursue a wide variety of options in an intelligent fashion, adjusting our plans year by year in accordance with scientific and technological developments.

The avenues to be pursued include the expansion of solar energy, enhanced oil and gas recovery, gasohol, biomass and synthetic fuels. At some stage, one of these alternatives may become more significant than the others; this would alter the strategy to be followed. But for now, no preconceived notion or prejudice for a particular alternative can serve our Nation well.

The degree of success which energy conservation achieves is sure to affect the choice of energy actions which the Nation must face. Increased production programs cannot succeed if energy consumption continues to increase. Sweeping conservation measures must be pursued immediately to increase the efficiency of our automobiles, our factories, and our homes. If the energy savings from conservation begin to approach the intensity of the conservation rhetoric, the need for alternative energy supplies would be significantly reduced. Our strategy would then be modified to accommodate the reduced demand.

Among the strategies, the one which has been the most controversial is the synthetic fuels approach. The potential for synthetic fuels is great, in quantity and quality. We cannot ignore this fact. There are vast supplies of coal, oil shale, and tar sands within our borders. Synthetic fuels permit us to use these resources with flexibility. As we look ahead and gain experience with synthesizing oil and gas from these resources, we will develop the necessary information to modify our approach to guarantee a balance between the need for energy and the importance of protecting our natural environment. Indeed, with increased conservation and breakthroughs in alternative energy technology, the day may arrive when synthetic fuels will not be needed. However, that day is not imminent at this time. In fact, there is a higher likelihood that synthetic fuels will play a useful part in our Nation's future in ways both symbolic and real.

While it is clear that reservations have been raised about synthetic fuels, it is equally clear that this Nation cannot run the risk of having insufficient energy to meet the country's industrial and residential needs. The allegations about synthetic fuels can and must be answered. Enormous production of synthetic oil and gas is mechanically possible but is not desirable as an initial goal. Moreover this bill is designed carefully to avoid setting excessive objectives. In fact, this bill creates a synthetic fuels corporation to examine synthetic fuels carefully and to determine at an appropriate time if the program should be expanded, maintained, or curtailed.

This is not permanent commitment by the Congress, rather, it is a beginning. No individual or group can chart the course of this corporation with certainty. Some uncertainty is inevitable in any new venture and creating a synthetic fuels corporation is a major departure from business as usual. However, failing to

act courageously now would be more disturbing for the Nation in the future.

The United States already has, at this time, demonstration plants and laboratories producing synthetic fuel in amounts which justify further development. This bill would provide the momentum and the funds to build upon the many years of completed research in order to produce commercial fuel from these technologies. As a nation, we must have this capability available to increase our options for response to the unpredictability of world events. At such a time as this commercial capability is achieved, it may be that additional policy decisions will be necessary to direct the use of this potential. But without the capacity in place, the Nation finds itself in a perpetual state of vulnerability which overshadows any uncertainty connected with synthetic fuels.

No one should be surprised that since 1973 we have accomplished so little in satisfying these needs. Americans, citizens, and public officials alike, too often have avoided the harsh realities of a world with limited resources. America is at a crossroads of different choices. The only easy option is continued denial of our energy problem. The hard option means still harder choices, all of which involve some lowering of our expectations and a willingness to follow self-discipline for the common good.

Fortunately, our Nation has within its borders some of the world's most abundant supplies of energy. To develop and use this energy wisely will require a nationwide effort of uncommon leadership, unquestionable fairness, and uncompromising personal honesty. How America resolves the energy problem in the two remaining decades of this century will determine much about our future as a nation and as a people. There are no short cuts. There is no way to avoid making some mistakes. But we have delayed too long already. Five years of hearings and scores of witnesses provide the basis for this legislation. An impending disaster, if we fail again to act decisively, provides a compelling motivation.

The United States in 1979 is actually more dependent on oil for its energy supply than we were in 1973, the year of the oil embargo. Instead of weaning ourselves from this dangerous vulnerability on foreign and domestic sources of petroleum, we are now actually more dependent. In the 6 years since 1973, our dependence on oil rose from 46.7 percent of the Nation's total energy consumption to 48.6 percent. During that same period, use of our only abundant domestic resource, coal, barely increased from 17.8 percent to 18 percent of total consumption. This year alone, Americans will pay out over $70 billion just to purchase foreign oil. Clearly, we have no choice except to reduce imports. But how do we accomplish this?

First, we must begin immediately in the short term by expanding our conservation effort. An approach which combines financial incentives and disincentives, pricing policies, voluntary choice and mandatory policies, when necessary, is a first step. Based upon research conducted by the Department of Energy, the Federal Highway Administration, the President's Commission on Coal, and the Department of Transportation, evidence indicates that the Nation could save 5.5 million barrels of oil per day by 1985 through a conservation program. These energy conservation steps are neither exotic nor unreasonable in cost. They include: Increased automobile fuel economy (2,250 million barrels per day); increased gasoline prices (375,000 barrels per day); accelerated coal conversion of EPA approved utilities (725,000 barrels per day); thermostat controls (375,000 barrels per day); State and local recycling initiatives (250,000 barrels per day); weatherization of homes and buildings (500,000 barrels per day); and increased utilization of mass transit (300,000 barrels per day). These are practical opportunities which must be pursued immediately. Better utilization of the energy we already have is equivalent to the discovery of new oil reserves.

As ambitious as the conservation program outlined here is, it cannot be sufficient by itself. Merely reducing foreign oil dependence does not solve our problem. In the decades to come, domestic exploration for oil and natural gas will become increasingly unsuccessful. We will spend more, drill more, drill deeper, and find less oil and gas. This is the nature of finite resources. Consequently, we are assured of having less natural liquid and gaseous fuel at our disposal. Therefore, we must develop synthetic fuel alternatives. In short, we must direct more effort toward our more abundant resources of coal, oil shale, and tar sands. Choosing this direction does not relieve us of the need to conserve, for these synthetic fuels cannot be commercialized in significant amounts for at least a decade. Conservation and enhanced oil and gas recovery are our only meaningful large-scale solutions for this next decade. However, to be ready for the period thereafter, we must begin synthetic fuels now.

The people of our country appear to be ready to move now. A recent Louis Harris poll reports that 75 percent of the people surveyed favor risking Federal moneys to aid in the building of a synthetic fuels industry for converting coal to oil and gas. Only 19 percent of the people were opposed. A sizable 61 percent supported using $10 billion for product purchase guarantees to buy the synthetic fuels when produced. And 57 percent wanted additional sources of energy rather than more conservation. Only 21 percent of those surveyed in this poll favored more emphasis on conservation than on energy development. Clearly, the Harris poll and others by the Gallup organization and the New York Times, demonstrate that the public wants and expects the Federal Government to act.

I support this bill because I believe every reasonable effort has been expended to balance the three most essential components: Energy development, environmental protection, and public accountability. The synthetic fuel corporation created by the bill will be subject to the full oversight of Congress. Moreover, it has a limited life of 10 years which will prevent any permanent expansion of the public sector by this unit. The corporation neither usurps present activity in the private sector nor duplicates any ongoing effort from another agency in the public sector. It will focus on enhancing and financing the production capabilities of private sector firms which can prove satisfactorily that they can produce what they promise. These "promises" must be supported by thousands of hours of laboratory, bench-scale, and demonstration plant testing. This is not a program to throw money at carelessly conceived schemes. On the contrary, it is designed to be a rigorous process of evaluation to select judiciously those technologies with the greatest potential for delivering oil and gas substitutes in the shortest period of time.

The money authorized for this effort is large enough to pursue the objective boldly, but small enough to prevent indiscriminate distribution of funds. The environmental posture of the corporation is strict enough to prevent a waiver of substantive law and yet flexible enough to streamline the procedure and give decisive signals to the private sector. The degree of Government participation is large enough to coordinate the varied proposals submitted but small enough to avoid obstructing the energy professionals who will apply from the private sector.

In the last analysis, legislation to create a synthetic fuels corporation comes down to a question of options. Should we pursue this effort now despite the high cost and some risk in order to have a working technical capacity in place by the 1990's? Or should we take a change solely on an option which relies on technologically more remote renewable energy sources. This latter course may require considerably more time and as yet unseen scientific breakthroughs. In my judgment we must pursue each of these options. We cannot afford the risk of ignoring any of them.

Without a coherent national energy policy, every passing day represents an erosion of the diminishing energy options at our disposal. Without options, our future is in serious jeopardy.

Recent nuclear accidents have seriously reduced support for a nuclear energy option and weakened public faith in assurances provided by the scientific and technological community. The Harrisburg accident and the continuing unresolved problem of nuclear waste promise to set nuclear power back for years. Even if the nuclear option can recover technically from this accident, it is uncertain whether adequate political and financial support can be generated again.

Notwithstanding the current U.S. agreement with Saudi Arabia, the Organization of Petroleum Exporting Countries (OPEC) as well as independent oil producers have given every indication that they will cut back or limit future crude oil production to amounts significantly beneath their potential. This course of action limits another of our options—increased imports. Current in-

creased oil production from Saudi Arabia is contingent upon our willingness to resolve the Palestinian question and our promise not to place any oil in the relatively empty strategic petroleum reserve. This sort of contingency is alarming. One can also speculate easily about the varied demands likely to be forthcoming from nations less sympathetic to America such as Iran and Libya.

The synthetic fuel alternative is, so far, another underutilized option. Even under optimal conditions the most advanced synthetic liquid fuel technology in the United States today cannot be commercialized until 1986. And optimal conditions are not likely.

Where is America going with this confused energy policy? What might the future dictate to us if we fail to have adequate options?

World oil production increased by 1 percent last year to 60.3 million barrels of oil per day. Usage in the United States is now at the rate of almost 18 million barrels per day. In short, we are using almost a third of the world's daily energy supply even though we represent only 6 percent of the world's population.

While the OPEC nations have just accelerated their oil price increase to approximately $22 per barrel, the oil not sold on long-term contract is now selling on the "spot" market for $40 to $45.

A second example is the new pipelines designed to carry surplus Alaskan oil to the South and natural gas to the Midwest. After constant permit difficulties, Sohio abandoned its plans, saying that too many agencies and too many restrictions mitigated any chance for success. The natural gas pipeline has experienced financing uncertainties which may plague the Northern Tier oil pipeline as well.

Phased natural gas price deregulation, mandated under the 1978 National Energy Act, has produced increased prices as expected. Unexpected, however, was the magnitude of the glut of natural gas which immediately came on the market. Even more unexpected was the decrease in exploration for natural gas which had been predicted to increase as a result of the act. Considering this unusual combination of circumstances, and the new DOE mandate for industries to switch to natural gas, the excess of natural gas will disappear quite soon. The delay in new gas exploration will contribute then to another shortage in the near future.

The coal industry is facing a crisis. A lack of pricing consistency, accompanied by labor disruptions and conflicting Government signals, has impeded coal exploration and commercial development. Government failure to speed coal conversion orders for utilities and factories has depressed demand for coal. This failure has been so widespread that the U.S. coal companies find themselves with surplus coal and unemployed miners while an increasing trade deficit goes to pay for OPEC oil.

The recent report on nuclear power by the Kemeny Commission has cast doubt on the future of the nuclear power option. Until the safety questions surrounding nuclear power are resolved, it is clear that the country will not expand its reliance upon nuclear power in any significant way.

Obviously, something must be done soon to accelerate domestic energy development. The process for obtaining a construction permit is too time consuming. Construction and drilling processes are slow. Equipment is in short supply as are skilled laborers to operate it. More crucial in the immediate future will be an assessment of labor needs for producing the equipment and for operating the new plants to be built when the shortfall in energy supply and demand becomes widespread public knowledge. Waiting for the day of public recognition will be too late.

Failure to develop adequate domestic energy supply has renewed American interest in synthetic fuels. In recent years, the Department of Energy has limited the breadth of synthetic fuel research and development. Because of inadequate funds, research was often limited to one or two alternatives in coal liquefaction and gasification. If that method does not succeed, or does not succeed as soon as it is needed, the entire field is left without a working substitute. In the eventuality of another oil embargo, for the Nation to be without a certain category of fuel; that is, a clean solid fuel for an already heavily impacted inner city environment, is to be vulnerable beyond a reasonable limit. More discussion of joint ventures, Government-owned, commercially operated (GOCO) synthetic programs; that is, rubber in World War II, will be necessary. Even though this option may be politically unpopular, it may be the only effective method for pressuring the private sector into rapid action.

One might reasonably ask what prevents America from having a well-planned, functional national energy policy. At least four kinds of obstacles have plagued us so far: environmental obstacles; political obstacles; economic obstacles; and bureaucratic obstacles.

In order to maintain the quality of the environment at a given level, appropriate protective technology and procedure must be applied in the exploration and utilization phases of energy development. This technology is expensive and the procedures for implementation require time, which is similarly expensive. Costs of this kind are not readily absorbed by the private sector; therefore, they must be passed along to consumers in higher prices. These price increases are, of course, inflationary, but environmental protection preserves a natural resource upon which no price can be placed. Attempting a shortcut to reach increased energy production by disregarding environmental quality would surely return to haunt us.

In the trade-off between energy and environmental concerns, the environmental compromises must be restricted to procedural matters. Speeding up deliberative processes in order to provide clear signals to investors and developers is appropriate. Riding roughshod over substantive environmental standards is not only totally unacceptable, but it is counterproductive as well.

In the years since the Arab oil embargo, political obstacles have been the most serious impediment the Nation has faced in designing an energy policy. Too often, the energy alternatives proposed by public officials have been selected on the basis of their potential for popularity. Whether the technology or the policy would work well and prove itself effective has not been the primary objective. The overriding concern has usually been whether the active, vocal constituent groups liked the idea immediately.

These political concessions were justified by the policymakers as responsiveness to the public interest. But in reality the truly tough policy choices were being postponed or ignored. Solar energy, for example, is a potentially viable large-scale fuel source over the long term, but it is only a partial answer for the near term where the most immediate energy supply problems will be encountered.

Year after year, synthetic fuels research programs were cut from the budget for political reasons or forced to find funds through reprograming actions from other budgetary allocations. Promising technologies such as in situ gasification were eliminated to save money. A coal liquefaction technology, completing the demonstration plant phase this fall, was unable to obtain funds for the commercialization stage due to efforts to reduce the budget deficit.

Beyond research, relatively little Federal governmental activity has been devoted to the specific problems of commercial development. Private sector activity in this direction, however, has been substantial although not highly visible. Recent Government interest in synthetic fuels has been a mixed blessing for the private sector. The potential for increased funding is, of course, appealing, but increased publicity has brought with it more intense public criticism. And while such an economic policy of deficit reduction might be theoretically desirable, the pursuit of that policy in recent years has retarded energy development and jeopardized the long-term stability of the economy.

Inasmuch as many American companies already consider nuclear power more uncertain, other alternative energy sources must be found to fill the void which will be created by the absence of additional nuclear power. Failure to fund the synthetic fuels program on a scale approximate to our energy needs will negate the possibility of using synthetics to diminish that void.

Since the current synthetic fuels proposals surfaced 5 months ago, there have been numerous criticisms raised in opposition to an immediate program to develop synthetic fuels. None of the critics has yet suggested that synthetic fuels technology will not work. Why have they not suggested this? Perhaps because variations on the technology are well known and have worked in other countries, for example, Germany and South Africa, during the last 40 years. Yet there appear to be six criticisms which are most commonly cited to discredit a synthetic fuels program for America.

Critics suggest that the prices for synthetic fuels will continue to rise artificially to a point always above prices for natural fuel. This would, allegedly, produce huge profits for the corporations in control of the technologies. If an unfair

or monopolistic pricing mechanism were to develop, there are both legislative and judicial courses of action available to counteract these excesses if indeed it became necessary.

A second criticism is that the environment will be damaged by synthetic fuels. The negative questions about synthetic fuels are asked, but the positive answers to these questions are seldom mentioned. While it is appropriate to identify potential environmental problems, responsible criticism must admit that solutions to those problems exist today.

The basic technology associated with synthetic fuel processes is well known. As construction of synfuels plants proceeds, unanticipated advancements will be realized in fuel production and environmental protection. It is important to note, however, that the technology already exists to enable synthetic fuels to meet Federal, State and local environmental standards.

Environmental criticism of synthetic fuels falls into two categories: Air quality and water quality.

The concern about air quality issues involves sulphur and nitrogen oxides, as well as particulates. Methods already exist for removing these pollutants. These methods are sufficient to meet current State and Federal standards.

During the gasification and liquefaction processes, acceptable methods of control include solvent extraction and absorption, lime scrubbing, steam and ammonia injection, flue gas recirculation, and various catalytic processes. The emission of particulates during combustion also can be controlled through electrostatic precipitators, scrubbers and filters.

The water conflict has two main components: Availability and quality. The availability of water in the West for synfuels is limited. Consequently, the development of oil shale in the West may have to be postponed until a satisfactory resolution of the water problem is possible. However, massive deposits of oil shale in the East, for example, in Kentucky and Ohio, are located contiguous to adequate water supplies and, therefore, could be developed without danger of exhausting the water supply.

Water used in the coal liquefaction process is recycled until extinction. All of the water is consumed in reactions or evaporated with no waste-water discharged to the surface draining system. Water runoff is captured for use in the plant, as well as to reclaim tank impurities. Moreover, separators and flotation units may be used to remove any oil remaining in the water and organic matter. Biological treating units can control the biological and chemical oxygen demand in order to prevent environmental imbalance and reduce effluent discharge.

Americans are going to face an unbridgeable gap between the supply and demand for liquid fuels if we continue on our present course. We can obtain the necessary domestic liquid production only by significantly increasing the amount of synthetic crude oil we generate from abundant national coal sources. This increase can occur without decreasing environmental standards.

A third criticism focuses on the limited amount of money available for energy research and development. This view suggests that those moneys ought to be directed away from synthetic fuels which are capital intensive in order to fund conservation and other alternative energy sources which require less capital expenditure. It is true that synthetic fuels will require substantial amounts of capital.

However, the liquefaction and gasification processes which produce synthetic fuels have a probability for large-scale production of energy higher than any of the customary alternatives mentioned. Furthermore, they have the greatest likelihood of producing energy in amounts significant enough to reduce foreign oil imports by substantial proportions.

However, supporting synthetic fuels does not mean opposing conservation or alternative energy methods. Inasmuch as all of these options will be needed, we must pursue them all. In the next decade, when large-scale synthetic fuels plants will be a rarity, far-reaching conservation methods will have to be employed. Alternative, renewable energy from passive and active solar power to small hydro power to biomass options will have to complement that conservation effort.

But none of these endeavors produces a liquid fuel for use in our transportation network. None of these alternatives derives a liquid substitute for use as a lubricant or as a petrochemical base. And energy use patterns in this Nation show no sign of moving away from liquid fuels in the foreseeable future.

A fourth criticism suggests that synthetic fuel development will be inflationary. There is no question that substantial Federal expenditures for developing synthetic fuels do contribute to shortrun inflation. However, a recent study by the Congressional Budget Office indicates that inflation will increase only one-tenth of 1 percent as a result of this bill. Moreover, the continuing increase in foreign oil import prices is far more inflationary, and also tends to decrease employment and economic stability in this country, as well as damaging our attempts to balance exports and imports on the international market.

Conversely, when synthetic fuels are developed in America, using abundant domestic energy sources, the jobs created by such development will be maintained or expanded within our country. In addition, the multiplier effect operates to expand the opportunities for other economic activity well beyond just the initial expenditure of money.

Another criticism is that synthetic fuel development would be unnecessary if the American people would only conserve. Conservation must, of course, be a major component in any energy plan, but it cannot be the entire plan. Important as it is, it cannot produce the complete answer by itself.

A final criticism suggests that America has moved too rapidly into synthetic fuels development and must slow down this process in order that we might reconsider our direction. While any concern about undue haste is understandable, our precarious energy supply situation demands that we move now with all deliberate speed. Commercialization of synthetic fuels technologies requires substantial lead-time to meet appropriate permit standards and construction schedules. These plants cannot be built in a year. Indeed, at full speed after initial commercialization, construction of a 50,000 barrel-per-day facility will require approximately 3 years for completion.

The projections of future energy availability indicate that Americans are going to face an unbridgeable gap between supply and demand if we continue on our present course. Something must be done to fill this gap. The gap will not be filled by promises or politics. It can be filled only by increased production and conservation. We can obtain the necessary production only by significantly increasing the amount of energy we generate from synthetic fuels and alternative energy sources.

Most of the critics of the synthetic fuels option have focused on the potential flaws in synthetic fuels. This is their right; however, they also have an obligation to propose substitute plans of their own. Those critics who do provide some sort of alternative typically admit that their alternatives probably will not work or could not be accomplished given the character of contemporary American society.

Responsible public policy formulation requires that each participant, citizen and politician alike, avoid recommending alternatives which are clearly insufficient or cannot pass when brought to a vote. Regardless of the apparent attractiveness of an idea, it is foolhardy and deceptive to promote such an idea when it will not succeed. Synthetic fuels can succeed it they are given a fair chance.

A fair chance means full-scale development through public and private cooperation for the next two decades. The result of such cooperation would be a fundamental reduction in foreign oil imports. The money saved would be released for expenditures on a wide variety of domestic items, which contribute to economic stability, an increase in employment, and a moderation of inflationary trends. Now is the time to begin. And this bill before us is the instrument with which we must start.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that I may proceed for 5 minutes on the time previously allocated to the Senator from Wisconsin. I state to the Chair that I believe that will be consistent with the wishes of the Senator from Wisconsin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, today the Senate will vote on whether to create an $88 billion Energy Security Corporation (ESC). The administration and the Energy Committee says such an agency is needed to stimulate an organized synthetic fuel production. Some proponents go so far as to suggest that a vote against ESC is a vote against synthetic fuel. Nothing could be further from the truth.

The Energy Security Corporation has considerable superficial appeal. The nation needs synthetic fuel. And with OPEC becoming more and more intransigent, a crash program seems like a symbol of our moral and financial commitment to get unhooked from foreign energy sources. It is bold. Dramatic.

But the Energy Security Corporation is a seriously flawed concept. ESC would probably turn out to be one of the costliest boondoggles of all time. ESC would be likely to impede, rather than stimulate, synthetic fuel production. It also threatens seriously adverse environmental consequences.

MASSIVE GOVERNMENT BUREAUCRACY NOT NEEDED

The ESC is an idea which originated with people who have little or no direct experience in production of synthetic fuel. It is not supported by those who are knowledgeable of what it takes to stimulate meaningful production of energy from oil shale, tar sands, coal, et ceteras.

During the last several months, the Senate Energy Committee and other committees of the House and Senate have heard much testimony from industry experts, economists, engineers, financiers, scholars and consultants. In effect, we have said to these authorities "what will it take to get synthetic fuel production moving?" Interestingly, almost none has suggested creation of the "Energy Security Corporation" or similar massive bureaucracy. Instead they have recommended measures designed to cut redtape and provide incentives for the private sector:

Fast track permitting process;

Decontrol of oil and natural gas prices;

Production tax credits—such as $3 per barrel tax credit;

Accelerated depreciation; and

Guaranteed purchased plans or similar incentives.

INADEQUATE FINANCIAL CONTROLS

No one knows the ultimate cost of developing synthetic fuels. Consultants point out that the estimated cost per barrel of synthetic fuels is increasing rapidly. "Although there are many contributing factors . . . the most important single influence seems to be a steadily increasing knowledge of costs, as a result of more detailed engineering design," according to PACE consultants.

Synthetic fuel developed by the private sector will be subject to the stringent discipline of market economics. Many diverse areas will be considered. But only when individual firms or consortia are willing to risk their money on an idea will large sums be spent. Government administrators, on the other hand, often push expensive large-scale programs when technological or economic factors do not warrant such development.

ESC IS NOT NEEDED

Hundreds of millions of dollars have already been committed by private sector companies to the production of synthetic fuel. Some companies say they are awaiting only the release of Federal lands for development. Another company states it will proceed at once with a large scale synthetic fuel production plan immediately upon the enactment of a $3 per-barrel-tax credit which, as you know, has twice been approved by the Senate and for which there is growing widespread support in the House. Under the circumstances, it may turn out that creation of another large Government bureaucracy would slow down, rather than stimulate, existing and contemplated synthetic fuel production plans. After all, what company will proceed on its own to do something without subsidy the same task for which it might obtain subsidy?

INAPPROPRIATE ANALOGIES

ESC has often been compared with the Manhattan and Apollo projects. However, both of these projects had a single customer for their output: The U.S. Government. And for these projects cost and economic factors were not a primary consideration. There was no substitute product on the shelf that could be used if the new product turned out to be too costly. If the devices worked technically, the projects were deemed a success. But energy technology, such as synthetic fuel development, will be successful only if many individual users, each considering a different situation, decide that the new technology has market advantages over a wide array of alternatives available in the market.

POLITICAL CONSIDERATIONS

As long as the Government holds the purse string, ESC will be subject to political pressure. If past experience is any guide, there is every danger that decisions of project funding and research will be heavily influenced by political considerations rather than sound economics and technology.

ENVIRONMENTAL CONCERNS

If the Government bulldozes ahead with large-scale programs, the impact upon the environment is likely to be far more adverse than if multiple, diverse, small-scale efforts are undertaken within the discipline of the private economic market. A crash program—based on political rather than economic or technological considerations—is likely to have seriously adverse environmental and social consequences.

Can the private sector develop synfuels without Government involvement? The answer is yes, and we have fact and precedent to support this point of view. All it takes is the Federal Government to provide the appropriate incentives. In this case, the appropriate incentives are exactly what industry says it needs to develop synfuels; even more astounding is the fact these incentives will save taxpayers billions over the needless incentives provided by the Energy Security Corporation.

Experts both inside and outside the energy industry stress that massive Government subsidies, loan guarantees, direct loans Government energy corporations and all the rest are not needed to develop synfuels. Rather, most experts say accelerated depreciation, production tax credits, and fast-track permitting are all that is needed to develop synfuels.

Canada offers the perfect example of how these so-called balance sheet incentives can effectively encourage synfuel development. Canada has massive oil reserves in its rich tar sand deposits. Rather than provide massive subsidies to its "syncrude project," the Canadians took two simple steps. First, the Canadian Federal Government guaranteed that the output of the syncrude plant would be exempt of any price controls. Second, the Canadians gave syncrude company officials accelerated depreciation; that is, allowed the company to write off its capital investment in 3 years instead of the conventional 13. Those incentives are exactly what the company said it needed to produce synfuel.

The result?

The syncrude plant is producing 100,000 barrels of oil per day from tar sands. The plant operates at a profit. Plans are now underway to further expand the facility.

The lesson here is obvious. Provide the necessary incentives, cut redtape, and synfuel will be developed, economically.

The Banking Committee does not have the proper jurisdiction to provide accelerated depreciation or production tax credits. Yet, the Banking Committee rejected the temptation to commit massive federal subsidies to a crash program of synfuel development.

That is why I am pleased with the general approval of synthetic fuel development portion of the energy legislation recommended by the Senate Banking Committee. While I disagree with some provisions, I believe the Banking Committee's approach for developing synfuels is superior to other legislation pending in the Senate. To its credit, the Banking Committee rejected proposals to commit massive federal funds to a crash program of synthetic fuel production; instead, the committee worked toward the enviable goal of relying on the private sector, not the Federal Government, for synfuels development.

This bill achieves that goal in three ways: First, it provides limited financial assistance to competing private industry projects; Second, it does not create a massive new Government entity to administer the synthetic fuels program; Third, it directs all Federal agencies to expedite decisions on all energy development projects.

The committee wisely crafted legislation which recognizes that synthetic fuel by itself will not solve this Nation's challenging energy problems. And the committee recognizes that synthetic fuels development will be quite expensive and, at best, can only provide minimal contributions to our energy supplies through the early 1990's.

I regret the way some people are jumping to conclusions about how to develop the Nation's synthetic fuel resources. The assumption that "syn" fuel development justifies massive Government intervention in the private market is erroneous, in my opinion.

Again, I compliment the distinguished chairman of the Senate Banking Committee for the leadership he has shown in crafting the Banking substitute now before the Senate today. After careful study, I believe that a majority of my colleagues will agree that an Energy Security Corporation is a costly, unnecessary, and undesirable approach to the Nation's synthetic fuel needs and will, therefore, join me in voting for the more responsible, more moderate Proxmire amendment.

Mr. President, I shall summarize the situation, after a week of very interesting and productive debate on the merits of the synthetic fuel program which is pending before us, to be voted upon in about an hour.

The issues come down to this: First, there has been no credible showing of need, as to why we need to create a huge energy bureaucracy such as that contained in the Energy Committee's bill.

As has been brought out over and over again, the experts who have testified—that is, the people in industry, the private companies, the consultants, the economists, the financiers, the scientists, those who know the most about what it takes to produce synthetic fuels—say that we need accelerated depreciation, tax credits, fast track predicting, an end to redtape. I do not know of one who has said that what we really need is another Government agency to manage this effort. Not one has said that, to my knowledge.

Second, the costs which are suggested by the Energy Committee proposal are just out of sight. It is almost beyond belief that, at a time when budgets are tight and inflation is the most serious nonenergy problem facing this country, we would think in terms of an $88 billion corporation. The recommendation of the Committee on Banking is for an initial $3 billion, and certainly there is the possibility of increasing that next year and the year beyond, as we manage a careful, step-by-step approach to the problem.

Third—and I think this should be underscored—if we get the Government deeply involved in the decisionmaking process, there is the ever-present concern of politicizing the whole development of synthetic fuel in this country. It is at least open to question whether or not decisions will be made on the basis of sound economic considerations, technology, and market forces or, on the contrary, the whole process will be subject to the kind of political situations which have been characteristic of, for example, the Post Office or Amtrak.

Under the circumstances, it is no wonder that a very broad and diverse coalition of interests within and outside Congress have come forward in support of the Banking Committee proposal and in opposition to the proposal brought to us by the Committee on Energy.

Those who are backing the energy bill are from practically every segment of the energy economy, from practically every major environmental organization, and such groups as Common Cause, which came forward yesterday, for the first time, to comment on that matter.

I should like to read to my colleagues one paragraph from that very thoughtful analysis:

> Both the Energy and Banking Committee bills are based on the need to fund synthetic fuel development. The fundamental difference between the two proposals is the way in which this goal is to be accomplished. The Energy Committee bill establishes a Synthetic Fuels Corporation, a quasi-independent body empowered to invest government funds in synthetic fuels. The Banking Committee bill funds synthetic fuels at a lower but significant level without the creation of a new government entity. Common Cause strongly supports the Banking Committee approach which has been offered as an amendment by Senator Proxmire.

Mr. President, I ask unanimous consent that the entire communication from Common Cause be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMON CAUSE,
Washington, D.C., November 6, 1979.

DEAR SENATOR: Tomorrow the Senate will resume consideration of two versions of S. 932—the "Synthetic Fuels Corporation Bill" reported by the Energy and Natural Resources Committee, and the "Energy Financing Act" reported by the Banking, Housing and Urban Affairs Committee.

Both the Energy and Banking Committee bills are based on the need to fund synthetic fuel development. The fundamental difference between the two proposals is the way in which this goal is to be accomplished. The Energy Committee bill establishes a Synthetic Fuels Corporation, a quasi-independent body empowered to invest government funds in synthetic fuels. The Banking Committee bill funds synthetic fuels at a lower but significant level without the creation of a new government entity. Common Cause strongly supports the Banking Committee approach which has been offered as an amendment by Senator Proxmire.

In our view, the need for a new entity to fund synthetic fuels has not been demonstrated. The testimony of many expert witnesses supports an expanded federal role in the promotion of synthetic fuels, yet few have suggested that a quasi-independent corporation is necessary to accomplish this goal. We believe that the problems inherent in the Synthetic Fuels Corporation created by the Energy Committee make it unacceptable.

The Synthetic Fuels Corporation—while subject to some accountability standards—is exempt from the application of key accountability laws which apply to other government bodies. For example, directors and employees of the Corporation are exempt from the important revolving door provisions passed last Congress. While the Corporation would be subject to some open meetings requirements, it is exempt from the carefully drawn Government in the Sunshine Act that applies to other federal agencies. Moreover, the independence of the Synthetic Fuels Corporation restricts the ability of the President to oversee and develop a comprehensive, coordinated energy program. Since the President has no power to direct the Corporation or to remove directors (except in cases of neglect of duty or malfeasance in office), the actions of the Security Corporation could be in total contradiction to the national energy policy. We believe that the Banking Committee approach avoids these problems and urge you to support the Proxmire amendment.

In addition, one of the most disturbing aspects of the Energy Committee bill is the low level of funding provided for conservation. While the Energy Committee bill does include many important and innovative conservation programs, they are not funded at adequate levels.

Use of synthetic fuels is only one possible way to reduce our dependence on foreign oil. Recent studies indicate that we could lessen our dependence on imported oil at a faster rate and to a far greater degree by seriously investing in conservation. Common Cause strongly supports amendments to be offered to the Energy Committee bill by Senator Paul Tsongas which would increase the funding for the Conservation and Solar Banks. We also urge that you oppose efforts to weaken the conservation provisions of the bill.

Common Cause believes that vigorous new government energy development and conservation efforts are necessary if we are to reduce our growing dependence on foreign oil imports. We urge you to support the Proxmire amendment and to support a major financial commitment to conservation and renewable resources.

Sincerely,

DAVID COHEN,
President.

FRED WERTHEIMER,
Senior Vice President.

Mr. ARMSTRONG. Mr. President, in an editorial this morning, the New York Times sums up the situation very well:

> Synfuels may or may not be the best way to power our cars and heat our houses in the 1990's. We won't know until we try. But, as the Banking Committee suggests, we can try most economically by taking one step at a time.

The Times has hit the nail right on the head. I ask unanimous consent to have the entire editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SYNTHETIC FUEL, NATURAL CAUTION

The prospect of synthetic fuels is alluring: all the oil and gas the nation needs for centuries, secure from foreign interference. But the potential costs of a rush to develop "synfuels"—the capital wasted on inefficient technology, the damage to the environment—are so great that caution is warranted. That is why the Senate Banking Committee now wants a program of Government-assisted demonstration projects before committing the country to a major production effort. Such prudence deserves support.

The initial push for a synthetic fuels program came from the House last June. Legislators on their way home for the July Fourth recess were eager to show voters that something—anything—was being done about the gasoline shortage. The result was a lopsided 366-to-25 vote authorizing $3 billion in subsidies for synthetic fuels. President Carter then jumped ahead of what he thought was an unstoppable bandwagon. He asked Congress for a gigantic $88 billion, 10-year effort to produce the equivalent of 2.5 million barrels of oil each day, enough to replace about 30 percent of the nation's imports.

The Senate Energy Committee's response, coming after the gasoline lines had disappeared, was less than the President asked for. It provided for only $20 billion, to achieve a target of 1.5 million barrels a day. But this plan remained in spirit a crash program, including creation of an Energy Security Corporation with the power to press ahead with commercial development of synfuels.

The Banking Committee, which shares jurisdiction for synfuel financing, has been more cautious. At the urging of environmentalists and private business groups, it approved only $3 billion to produce at most 600,000 barrels a day to demonstrate a broad range of technologies. Government would be limited to providing purchase and loan guarantees to private firms; no independent Energy Security Corporation would be established.

The Senate, which must now choose between these approaches, would be wise to take the Banking Committee's route. The basic technology for synthesizing oil and gas from coal is 40 years old. But no one has ever

tried to use it on the scale needed to make a dent in America's oil imports. It is hard to predict which technologies will be the cheapest or which will be compatible with worker safety and a clean environment. In committing the country to production on a commercial scale, Congress could endow us with a white elephant with alarmingly dirty habits.

The Banking Committee's approach need not delay creation of an efficient synfuel industry. It, too, calls for timely development of demonstration plants. But it would require the President to come back to Congress for approval of any big program costing tens of billions. If the development program is successful, additional funding should be no serious problem for a fuel-hungry America. If it isn't, why make it easy to throw good dollars after bad?

Synfuels may or may not be the best way to power our cars and heat our houses in the 1990's. We won't know until we try. But, as the Banking Committee sugrests, we can try most economically by taking one step at a time.

Mr. ARMSTRONG. Mr. President, it seems to me that the conclusion is obvious. I hope all Senators will join me in backing Senator PROXMIRE's amendment and the Banking Committee's approach to developing synthetic fuels.

● Mr. WALLOP. Mr. President, as a member of the Energy and Natural Resources Committee and as someone who has sat through numerous hours of hearings and markups on this subject, I wish to compliment the leadership of Senators JACKSON, JOHNSTON, and DOMENICI on this issue. Sadly I find, however, that I must rise in opposition to the synthetic fuels bill proposed by the Energy Committee.

Let me explain. We are asking the American people to take a gamble. The stakes are high. The ante is more than $88 billion. For that sizable sum we offer no guarantee that will solve the problem. Instead, we promise only a new Government Corporation and a congressional willingness to try. Of and by itself that gamble under the present circumstances is laudable, clearly the country needs a gamble. But let us take a look at the odds and results. If this idea succeeds, we get a synthetic fuels industry that is capable of producing an uncertain amount of synthetic fuel. If we lose, we have led the citizens of this country down a primrose path that historians may call the biggest boondoggle in our history.

A number of informed witnesses have testified that the creation of the Synthetic Fuels Corporation may not be the most cost-effective means of bringing about a synthetic fuels industry. If Congress is right, the regulatory impediments and risks can already be minimized through the Energy Mobilization Board. The economic risks associated with unknown technologies can be reduced through the application of purchase price guarantees or loan guarantees. But neither an $88 billion corporation, the Department of Energy, or any other organization can overcome the impediments of the laws of thermodynamics. That takes time and deliberative step-by-step solutions.

The magnitude of the Synthetic Fuels Corporation could stifle the administrative and managerial skills of any business entity—let alone the Federal Government. It is a colossal undertaking. This legislation authorizes the appropriation of $88 billion to carry out the purposes of title I. Exxon, the leader of the Fortune 500 asset rankings, listed assets at $38.5 billion. The assets of the Synthetic Fuels Corporation would be larger than the combined assets of this Nation's three largest corporations.

As a historical footnote, it is noteworthy to compare $88 billion figure with the cost of other goal oriented projects. The transcontinental railroad cost approximately $16 million. The Manhattan project was $2 billion. The Apollo project, which put a man on the Moon, was $23 billion. Even with inflation considered, the comparison is significant.

It is not that I am opposed to the concept of a synthetic fuels industry. Instead, I question the means which are proposed to bring it about. It has been stated in this debate, that industry has been unwilling to invest their abundant financial capabilities and technical expertise to build such projects. A recent report by Cameron engineers suggest that there is a flurry of activity in the synthetic fuels area by both Government entities and private business. In the March 1979 report, this organization lists ongoing synthetic fuels projects. The report reveals 26 oil shale projects for a combined cost of $6.4 billion, 3 oil sand projects totaling $11.3 billion, and 261 coal projects costing $15.5 billion, are already underway without a multimillion-dollar Government Corporation to shepherd and prod them into taking action. That is over $32 billion already committed to synfuels in the private sector.

But let me speak in detail about my objections to a new Government Corporation. I do not believe that the innovation of the synthetic fuel industry with its associated products, supplies, services, and processes can be efficiently financed, managed, and controlled by a Government Corporation. It would circumvent the creative genius of America. Any large firms, including ones such as the Synthetic Fuels Corporation, tend to improve products that they are currently producing. But would they actually stimulate a market that can be easily integrated into our existing system? I believe not.

Xerox was not invented by an office equipment manufacturer. Transistors were not invented by a vacuum tube producer. The ballpoint pen was not invented by a pen producer. The hydromatic auto shifting mechanism was not invented by a Detroit automotive firm. In fact, Chester Carlson, the inventor of Xeroxgraphy, approached 20 office equipment manufacturers unsuccessfully. He finally found financing elsewhere.

It is my concern that ideas competitive to those selected by the Synthetic Corporative may be simply buried and never heard from again. And let us assume for the moment that many of the products brought on line in the Synthetic Fuels Corporation are not compatible to the local framework of use and distribution. Then, there is always the possibility of coercive measures being applied to end users to force them to incorporate them into their systems.

To meet a production objective of 1.5 million barrels of oil per day, would require the building and operation of 30 synthetic fuels plants, each producing an average of 50,000 barrels per day. At present, only the Canadian tar sand plants can operate at this level of production. The coal liquids production in South Africa is on a much smaller scale. It is generally agreed that even where synthetic fuel technology has actually been demonstrated, substantial new problems in commercial plants of a technical, economic or environmental nature, are most effectively met in a competitive private environment, and not in a "dollars are of no consequence" public corporation.

The goal of the Synthetic Fuel Corporation may be unrealistic for reasons the committee has not considered. The 30 sites required to produce 1.5 million barrels per day oil by 1995 may simply not be available as fast as the Energy Security Corporation would be willing to spend money, even with the help of the Energy Mobilization Board. The availability of raw materials, water, transportation, construction resources, and skilled manpower would be real constraints to accelerated siting decisions. The ESC has no way to overcome these problems. The temptation will be to commit ever larger sums of money.

It has been stated that the Synthetic Fuels Corporation is necessary for a fast and effective start "out of the blocks." I believe, however, that the administrative restraints on this new Corporation have been underestimated. Remember, this is not some obscure new Federal agency we are creating. It is more than twice the size of the Nation's largest corporation. By-laws must be proposed, studies must be debated and adopted for a variety of new and complicated procedures. Rules must be set up to solicit contracts, to standardize bookkeeping procedures for both the corporation and the participants in the financial incentives program. There must be procedures to solicit competitive bids, to purchase ongoing projects, to acquire and dispose of assets, and to assure that small businesses are accorded a proper share of the benefits.

A judicial arm must be assembled to effectively negotiate patent rights, exclusive and nonexclusive licensing, constraints and cooperative agreements to enable the Corporation to work with existing Federal agencies. Employees must be hired, training programs implemented, benefit plans negotiated, office space acquired and furniture bought.

Admittedly, some problems appear more cumbersome than others. The point is that there is much administrative work which must be completed before one drop of synthetic fuel is produced or indeed one contract let. Only after the organisation is assembled, do they face the complicated problems of overcoming the technical barriers to synthetic fuels production.

It has been stated, Mr. President, that those of us who oppose the Corporation are afraid to take bold new steps to solve

our energy crisis. I reject that, there are bold alternatives available, but I am not quite sure whether I am more troubled by the possibility of failure or the possibility of success with the ESC.

If it fails, the consequences are obvious. We would have assured the American taxpayer that something was being done about the energy dilemma even though we erred. There would then be the lingering debate over what opportunities we lost by not spending the money elsewhere.

But if it succeeds, it may well be a mixed blessing. It will certainly be hard to wean a fledgling industry from the benefits of its mother corporation. As we have all seen, once special interest groups have slurped from the Government trough, it is hard to pull them away.

Let us not kid ourselves that $88 billion from a benevolent Government corporation will not, in itself, create a substantial political following. But that will not be the only argument to keep it going. Let us assume that the goal of 1.5 million barrels per day is achieved by 1995. That would be less than 10 percent of our current consumption of crude. It will represent an even smaller percentage in the year 1995. So there would be a natural inclination to say "let's keep it going." Why not let the Corporation run until we can produce 3 million barrels per day or 6 million or 9 million barrels per day?

And let us not overlook the often used adage against the Federal Government getting deeper involved in mineral extraction in the public domain. It goes something like this: "If you love the Post Office, you'll love a Federal oil and gas company." That makes good sense but if this powerful Synthetic Fuels Corporation is moderately successful, that argument becomes mute. In fact, the Corporation would become a natural receptacle for other attempts to involve the Federal Government in energy exploration and development.

In closing, Mr. President, I do not want to leave the impression that I view the Corporation idea as pure heresy. All of us in public life have experienced the pressure on our system of government as we come to grips with the realities of dwindling resources. Gasoline allocations, coal conversion legislation, and mandatory mile per gallon standards are all subtle indicators that our political and economic system is slowly changing. The demands of the 1980's will undoubtedly add more constraints and pressures to our democratic system. We will be asked to resolve conflicts between higher energy cost against the ability of many of our citizens to meet those expenses. We will be asked to weight the basic rights of citizens against the common good. We will be forced to look at more Government involvement. They are not problems for the future—they are here now.

There are many avenues that can and should be tried before we launch an extensive program such as that proposed by title I of the Energy Committee bill. Right now the Nation should proceed with energy price decontrol, expand the DOE synthetic fuel program, and place renewed emphasis on the potential for near-term solutions, such as conservation and the development of renewable resources. Such an approach is both cheaper and quicker and every bit as effective.●

Mr. JOHNSTON. Mr. President, I simply wish to make clear there has been an issue raised on the floor which is totally a red herring issue, and that is the question that we have the intention of having this be an $88 billion program. Nothing is further from the truth. We have tried to make it precisely clear in the bill.

Nevertheless, because of the concern that some Senators have stated, we are prepared to make it clear in amendments to be adopted after this vote that as to phase 2 which contains the difference between the $20 billion in phase 1 and the $88 billion, that phase 2 may not be embarked upon until affirmatively approved by resolution of both Houses, adopted pursuant to expedited treatment. So, in other words, there can be no money authorized, appropriated, or otherwise obligated beyond phase 1, the $20 billion, until and unless both Houses, the House and Senate, concur in a resolution which resolution would fix the amount..

So we want to make that clear, and I have a "Dear Colleague" letter and I ask unanimous consent that the "Dear Colleague" letter from myself and Senator DOMENICI be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., November 7, 1979.

DEAR COLLEAGUE: Many of you have inquired about the second phase of the Synthetic Fuels program in the Energy Committee's bill. We certainly did not intend the second phase to proceed without specific Congressional approval.

In order to clarify this situation, we, the Floor Managers of the bill, will, if we prevail with the Energy Committee's bill, offer an amendment which will do the following:

1. Extend the period for the first phase from three years to five years, after which the Congress will have the power to give a "go" or "no go" on second phase development.

2. The one and one-half million barrels of oil a day equivalents and the $88 billion are goals and targets for the total program.

3. The Board of Directors will present the comprehensive strategy for Congress's approval and, simultaneously therewith, will recommend the appropriate funding levels for phase two, which both Houses of Congress will have an opportunity to approve or disapprove under expedited legislative processes. None of the additional $68 billion may be obligated unless authorized as above and appropriated by the Congress.

J. BENNETT JOHNSTON,
PETE V. DOMENICI.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield 1 minute to the Senator from New Mexico?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. And then we wish to yield to Senator DURENBERGER as soon as I finish, if that is all right.

Mr. JOHNSTON. Yes.

Mr. DOMENICI. I concur. It was never our intention that phase 2 of this program be anything automatic. As a matter of fact, I have drafted a proposed amendment, and I am on the colleague letter that the Senator has referred to.

We want that $88 billion and a million and a half barrels to be targets and goals for America, and our board of directors will analyze it as they proceed through phase 1 and they will make recommendations to Congress, both on the program for the second phase and the level of funding. We did not intend that in one shot here without further congressional involvement we were approving an $88 billion program. Indeed, we thought it could be vetoed by Congress and certainly it has always been subject to appropriation.

But since much has been made of that issue, we thought we should clarify it here today.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the Senator from Minnesota (Mr. DURENBERGER).

Mr. DURENBERGER. Mr. President, I have listened with great interest to the comments of both the Senator from Louisiana and the Senator from New Mexico about what they propose to do if the Energy Committee's proposition prevails this afternoon, and I have also asked the Senators certain questions that relate to my concerns about the Energy Security Corporation and the Energy Committee bill.

I wish to ask several questions of the Senators that relate to their comments.

First, I have a summary response from each of the Senators before me to my own concerns, and I wish to ask the question, first, as to the time period for phase 1 contemplated by the Senator's amendment. Is it the Senator's intention that the time period be extended beyond the 3 years originally proposed in the bill as it came out of the committee?

Mr. JOHNSTON. I say to the Senator that we will extend the period for giving the comprehensive report to a period of 5 years. Actually the phase 1 period of the bill is 10 years; that is, during the period of 10 years they can obligate money, so when we are talking about this $20 billion phase 1 that will be spend and obligated over a period of 10 years. The 3-year period for the comprehensive report in the amendment to be offered after the next vote will be extended to 5 years, as the Senator from Minnesota and others have requested.

Mr. DURENBERGER. Under the amendment as the Senator will propose it, may ask what parliamentary status will attach to the phase 2 plan when it is presented to Congress? In other words, will it require the approval of only a single House, or of both Houses, before additional expenditures will be authorized?

Mr. JOHNSTON. Both Houses will have to approve, I say. Both the House and the Senate must approve it and they must fix the amount not to exceed an additional $68 billion. So if they do not act at all, there is no money that can be spent or obligated. If they do act, they can fix the amount up to $68 billion or at some lesser figure.

Mr. DOMENICI. May I say the Senator was specifically concerned about this because he wanted Congress to take a good

look at the second phase and the amendment which we have told the Senator about will make two recommendations. The corporation will recommend the plan and the level of funding, both of which must be approved or modified by both Houses of Congress.

Mr. DURENBERGER. Will it be possible to amend that plan in committee or on the floor of the Senate?

Mr. DOMENICI. Indeed it will.

Mr. DURENBERGER. Will there be any time limit on the period for approval of the plan?

Mr. DOMENICI. Yes; our proposal will provide for the expedited procedure as provided in that bill, which is 60 legislative days, and it must be presented to both bodies in ample time for approval or modification to take place, or for refusal to accept.

Mr. DURENBERGER. In what way will the plan differ from any other authorization bill considered by Congress?

Mr. DOMENICI. Only as to the expedited process, and I say to my good friend that the bill as drawn provides that the second phase funding has to be appropriated. That remains. So it is appropriated also, besides being authorized under the expedited procedure. Both are in.

Mr. DURENBERGER. I believe the next question may have been answered in part by the Senator from Louisiana. But I appreciate the reaction also of the Senator from New Mexico. How will the proposed amendment affect the $88 billion authorization contained in the bill as reported by the committee?

Mr. DOMENICI. I say to my good friend from Minnesota the $88 billion remains in the bill as does the million and a half barrel equivalence as national targets or goals. The figure, however, is subject to a recommendation by the board. It cannot exceed the $68 billion that remains after the first $20 billion. But it can recommend less.

Mr. DURENBERGER. What is the role, as the Senator understands it, of the targets, the $88 billion and the 1.5 million barrels, in designing the phase 2 plan?

Mr. DOMENICI. When phases 1 and 2 were designed, the $88 billion was the best economic assessment of what it might cost to get to the million and a half barrels a day based upon those economic facts at that point in time. So the dollar figure continues to be a target or a goal, just as the million and a half barrels.

Mr. DURENBERGER. The last question: Will the Senator be willing to take the Energy Security Corporation out of the bill and let another agency of the Federal Government do the phase 1 and phase 2 recommendations that are contained in the Energy Committee's recommendation?

Mr. JOHNSTON. May I say to the Senator from Minnesota that I believe that the Energy Security Corporation, which has independence, is an essential part of our concept. I hope the Senator will keep in mind the fact on this board, a five-member board, we will be able to get people who have experience not just in energy, but in banking and in industrial enterprises, as opposed to the Department of Energy, which has career-type bureaucrats, and I do not use the word "bureaucrat" in an altogether disparaging manner except those career bureaucrats, almost by definition, do not have experience in business, in banking, and in the business venture.

We think that having a Security Corporation which has independence from the change in election, independence from the change in mood of Congress, and these high-type experienced business people, will better be able to deal with it than the Department of Energy. It is that history of on-again off-again start and stop that has prompted the administration to propose not to endorse the idea of a separate corporation.

I think it is a better way to do it.

Mr. DOMENICI. Let me say, Senator, I think we have almost nothing until we have a separate entity with its own goals, limited by congressional power as this Corporation is, and it is not because the Department of Energy is working. If we had a working, effective Department of Energy I submit you cannot make these kinds of business transactions with bureaucracy. Whether it is good bureaucracy or inefficient bureaucracy, you cannot make $2 billion and $3 billion multiyear transactions unless you are dealing with something that is distinguished from Government. So I think it is absolutely imperative that we have it.

Mr. DURENBERGER. Mr. President, I thank the Senator from Louisiana and the Senator from New Mexico for their sensitivity to my concerns and for the responses to the questions I have posed.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. On the Senator from Wisconsin's time. We are about out.

Mr. PROXMIRE. Mr. President, I yield the Senator 2 minutes.

Mr. HART. Is not the issue of the Energy Security Corporation, in response to the Senator from Minnesota's question, not how to get around the bureaucracy but around the Congress, and that is where the Energy Committee's structural proposal is faulty. The on-again-off-again is not the fault of the Department of Energy or the so-called bureaucrats. It has been the Congress. If you look at the history of oil shale research and development, it has been the Congress that has been on-again and off-again.

Mr. JOHNSTON. I would disagree with the Senator.

Mr. HART. What many of us fear with the Energy Security Corporation is not its getting around the bureaucracy but getting around the Congress of the United States. What the Senator from Minnesota is afraid of he should be afraid of. Even though there are these pro forma ways of coming back for approval of $88 billion, you are still trying to bypass the Congress.

Mr. JOHNSTON. I would disagree with the Senator. It has been the Executive at least on two occasions who has stopped ongoing Government programs. In 1930 President Hoover issued an order, an Executive order, withdrawing further lands from oil shale lease and terminating that program which had been begun in 1920.

Secretary Kleppe, under the Ford administration, also issued three prototype leases and then later that program was terminated by Secretary Kleppe.

It is true that Congress shares that responsibility for on-again-off-again. In 1975 the Senate passed a synfuels bill which was killed in the House. So we share our complicity in that on-again-off-again.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HART. I do not see how the Energy Security Corporation is going to avoid the on-again-off-again of the administration either.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the Senator from Idaho.

The PRESIDING OFFICER. Does the Senator from Idaho wish recognition?

Mr. McCLURE. Mr. President, I thank the Senator for yielding this time.

I take this time only to indicate that the junior Senator from Idaho has had a very difficult time arriving at a decision as to what to do in the various alternatives that are presented to us. Part of that lies in the diametrically opposite approach to the problem of how we should get there, and the other is the rather difficult parliamentary situation in which we find ourselves, and I understand how we got into that parliamentary situation, in which the people who are proposing either of the two major alternatives are promising people that "you vote with me and I will change it."

That, very frankly, is where the Senator from Idaho finds himself in the belief that neither measure is perfect. Each measure has some strength, and each measure needs some strengthening in some areas. As those changes are made the two come closer and closer together.

If, as a matter of fact, the Banking Committee does what I have heard them say the proponents will do, and that is increase the amount of money that is available under this and, at the same time, the proponents of the Energy Committee measure shrink the amount of money that can be committed without congressional approval, we come very close to the same position with respect at least to one of the items in contention.

Mr. President, after a great amount of thought and consideration regarding the best way to develop the synthetic fuels in the United States, I have decided that the Energy Committee rather than the Banking Committee substitute is a better approach. Accordingly, I rise now in support of the Energy Committee bill and urge my colleagues to defeat the substitute.

My decision is based on two fundamental conclusions: First, the substitute does not—and I repeat does not—provide an adequate approach to insure that we proceed with all deliberate and reasonable speed to develop our domestic energy resources in the next decade.

Second, the Energy Committee bill, including the synthetic fuel corporation, provides a positive approach to the timely and well-reasoned development of a synthetic fuels industry.

Additionally, unlike some of my colleagues and friends in this body, I am convinced that the Energy Security Corporation concept can be and will be closely limited and restricted to prevent any abuses of authority or misdirection into a Federal oil and gas corporation. In fact, at the appropriate time I will offer a series of carefully drawn amendments to buttress and strengthen the existing limitations and restrictions on the corporation in the Energy Committee bill to insure that the corporation is a limited financial assistance mechanism.

I also am satisfied that both the requirements for separate appropriations for phase 2 and the amendments for an effective reauthorization in 5 years that the managers will offer will assure the phase 2 and that the full $88 billion will be completely subject to another affirmative policy decision, both in a reauthorization and another appropriation.

Mr. President, in a separate but related development on the floor of the Senate when we had to do with the question of setting up an energy security reserve system of $20 billion, I opposed that move because it seemed to me that we should not be identifying, in advance of appropriation, moneys that have not yet been authorized or appropriated. But the Senate and the Congress in their wisdom have decided that is the direction to go, to identify a sum of money that is going to be committed in the future—it is not committed but it is a promise—and I think that similarly a $88 billion program here is perhaps a little unwise—will the Senator yield 2 additional minutes?

Mr. JOHNSTON. I have 16 minutes left and I have about 20 minutes allocated.

Mr. McCLURE. One minute?

Mr. JOHNSTON. I will only do this for the distinguished Senator from Idaho because he is speaking in support of our bill.

Mr. McCLURE. I thank the Senator and I will not take further time thanking him. I will do that without charging the time.

But I am convinced that unless we get on with the business of producing energy in this country our consumers are going to continue to pay extortionate rates for the energy that the whole world knows now can be charged to the American consumer.

There is only one way that I know of to solve that problem and that is to get on with the business of producing energy in this country and almost without regard to what the cost is, because it is going to cost us less to produce it here than it is not to produce it and lay ourselves open to the extortion of foreign producers.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. PROXMIRE. Mr. President, I yield 1 minute to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the Senator from Wisconsin for yielding.

I first want to thank the Senator from Louisiana for his clarifications this morning of a number of matters which, I think, are very important, including making it clear that the $88 billion is not an authorization but simply going to be stated as a goal, and I thank him for other clarifications.

I do have one question I would like to squeeze in, however, and that is if at the end of 5 years the Energy Security Corporation did not have sufficient information to come up with a comprehensive plan, would the Senator be willing to accept an amendment later on which would permit them to seek an extension of that time, and unless disapproved by Congress, to have it so they would have sufficient information upon which to base a comprehensive plan?

Mr. JOHNSTON. Certainly; it is not our intent to rush them into judgment prematurely. The idea of the 5 years is that we want an answer to the program outlines at least by that time; that is, at least a report on what they have done by that time. But, of course, if they are not ready to make a final judgment on which direction the program should go in, they should have that time and we will accept such amendments.

Mr. LEVIN. I thank the Senator, and I thank the Senator from Wisconsin again.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I wonder if the Senator will yield 4 minutes at this point. Does he have 4 minutes for me?

Mr. JOHNSTON. Mr. President, I yield 4 minutes to the distinguished Senator from New Mexico.

Mr. DOMENICI. I want to make a couple of remarks about the statements of the Senators who have addressed the issue this morning. I did not get a chance to read the entire statement of the distinguished Senator from Maine, but I commend him. Apparently he is not going to vote for the Energy Committee version, but he quite properly indicated why the Banking Committee bill will not work. The level of funding is inadequate and, obviously, the diversification of technologies will not come forth from that bill. That is true. He is right. I wish he could then conclude that ours is the approach to get us there, because we think it is.

I have had a chance to review the RECORD of the opening day's debate on title I, S. 932, the Energy and Natural Resources Committee's recommendations on a synthetic fuels program, and I am struck by several things.

First, I am struck by the fact that, despite what proponents of the Proxmire amendment contend, the amendment they have offered will not produce any synthetic fuels. I suspect that this is why the antisynthetic fuels organizations in this country have rallied behind the Proxmire amendment. I suspect, also, that those big oil companies who do not want any competition in the energy-producing business have rallied behind the Proxmire amendment for exactly the same reason.

Oh, I know that my friend from Colorado (Mr. ARMSTRONG) will take strong exception to my contention. He says he is a friend of synthetic fuels. So, I must ask him directly, as a friend of synthetic fuels, why he supports a bill that will lead to a synfuels capacity, at most, of two plants. That is right: The Banking Committee bill, under the most generous interpretation, will give us only two plants. When one looks, for example, at the Badger Engineering study for the Department of Energy, one finds that a commercial-sized coal to gasoline plant will cost about $4.3 billion in constant dollars. The Banking Committee's bill will involve $3 billion. Give them all allowances—assume that all $3 billion will be in the form of loan guarantees—and you reach $9 billion in financial power, since they permit you to multiply by three. If you go for the kind of plant I have just described, you do not even have enough money; you do not even have enough money for it and there would be nothing left over for the great variety of plants that we must have. That will build two commercial-sized plants of the kind that Badger Engineering has proposed.

Mr. President, this is not a time for timidity. This is not a time to be afraid. This is a time to act.

So, it is very simple for the Senate to put into perspective the Banking Committee bill: It is a popgun response to the moral equivalent of war. If the Banking Committee had been running the war of independence, we would all still be British subjects. And, I am sure the chairman of the committee would be trying to reassure us that if we just leave everything alone, if we just follow "business as usual," well, those evil British will just go away and let us be free.

Let us get serious about this. Iran is tottering. The highest councils in the land, and in the world, are meeting as Iran goes through yet more turmoil. And, some Senators sit here and try to contend that the Proxmire amendment will help us avoid these uneasy days and nights in the future.

To summarize, a vote for the Proxmire amendment is a vote to kill any kind of significant synthetic fuels program.

I am struck, secondly, by the inability of the proponents of the Proxmire amendment to decide among themselves what they want. The amendment has $3 billion, but the Senator from Wisconsin says he knows that is not enough money. The Senator from Colorado says he suspects that we do not need any Federal money. I suspect that the two Senators, at the end of this entire debate, may not agree on what they want.

Third, I am struck, I would almost say, thunderstruck, by the support of

my good friend from Colorado (Senator ARMSTRONG), for a bill, the one proposed by the Banking Committee, that would continue price controls. I am sure that surprises him. But, yes, the Banking Committee bill, on page 27 and 28, for example, in section 103, imposes price controls on tar sands and heavy oil production. Is the Senator from Colorado advocating this approach? And, if he is not, why is he supporting the Banking Committee in its efforts to gut the Energy Committee's synthetic fuels program?

Next, I am astounded that the Senator from Colorado would advocate to those of us who have so often supported him, and often worked closely with him, that we support an amendment that will pour more money into an already-discredited bureaucracy. We have offered him an approach that will put a businessman at the head of a lean and responsive corporation, a businessman who knows the ins and outs of finance and risk-taking, and he is asking us to, instead, adopt the Proxmire amendment that will put a civil servant in the position of negotiating contracts with multibillion dollar firms.

I only wish he would talk about this facet of our approach to his many friends in the synfuels industry. I think he would find that they would unanimously agree with David Goodman of the Morgan Stanley financial house, who said, and I quote:

> To make the program work, the decision-making will have to be crisp, hard-nosed and attuned to the needs of business. A regulator's mentality would be anathema to the purpose of the program . . . On balance, I conclude that a separate, government-owned corporation with a limited life, such as is contemplated by the legislation, is probably the best way to go.

To conclude my analysis of the Proxmire amendment, I will point out what it does:

It guarantees that no more than 2 commercial-sized synfuels plants will be built;

It pours more money into those very agencies of Government that have already said, in writing, that they cannot handle a commercial program of significant size in synthetic fuels;

It will put a bureaucrat, instead of a businessman, in the position of trying to negotiate complex, multibillion dollar deals with the private sector;

It restores price controls on production from tar sands and heavy oils, in direct contradiction of every tenet of good economics;

It guarantees that only the very biggest firms in the world, and perhaps only three or four of those firms, will be able to develop synthetic fuels, thus extending the monopoly on energy production even further;

And, as the antisynthetic fuels groups have recognized it will be a vote against synthetic fuels.

Yes, that is the Proxmire amendment. That is what the Senator from Wisconsin believes is the proper response to the gravest national crisis this country has faced since World War II. The Proxmire amendment does nothing for synthetic fuels; it does nothing to give us hope for eventual energy self-sufficiency; it does nothing to prevent us from staying prey to the fragile supply of oil from abroad.

To vote for the Proxmire amendment is to wave the white flag of surrender in this war for energy security, in this war for national security.

The Energy Committee, knowing that timid responses are worse than no response at all, has taken a bold, new course.

We have advocated $20 billion in funding, in the form of obligational authority.

We have advocated that a business-like approach be taken, where an experienced businessman will deal with other businessmen in this complicated and expensive world of synthetic fuels.

We have given this businessman flexible forms of financing, as every expert advocated, so that firms of all sizes can compete in producing synthetic fuels.

We have given our Corporation a definite lifespan, so that no permanent, new bureaucracy be formed.

We have offered a two-staged approach, where the Congress will have the power to say "no," if it wishes, after the first phase. Under our approach, Congress must act twice if any further money beyond $20 billion is to be obligated. Congress must first approve the comprehensive strategy report for the second phase that the Corporation will submit to us. And, secondly, Congress must then actually appropriate the moneys required.

This Senate has the power to confirm or reject appointees to the Corporation's Board of Directors.

None of this—repeat, none of this—exists in the Proxmire amendment.

I think the real key, as I said at the outset, is to look at who supports the Proxmire amendment. It is supported by groups who have vowed to kill synthetic fuels. It is supported by organizations representing companies who do not want competition from synthetic fuels production in the hands of smaller firms. And, it has been offered by the very Senator who helped kill a similar approach 4 years ago.

It appears to be antisynthetic fuels. It smells like it. It walks like it. I can only conclude that, as some of the organizations supporting it contend, it is antisynthetic fuels.

Adoption of the Proxmire amendment would please those who are against synthetic fuels, of course. But, adoption of this amendment would please even more those foreign nations who now hold America energy hostage. Remember that, it would please those nations who now jerk this country around like a puppet on a string.

So the Senate has a chance to send a clear signal overseas. We can adopt the Energy Committee recommendations and send a signal that we are serious about energy self-sufficiency. Or we can adopt the Proxmire amendment and send the signal that we will lie idle and helpless, while our economy is ravaged and our society disintegrated by our energy ignorance.

In conclusion, I repeat that the Proxmire measure, if it is adopted, will guarantee that no more than two commercial-sized synthetic fuels plants will be built; it pours more money into those very agencies of Government that have already said, in writing, that they cannot handle a commercial program of significant size in synthetic fuels.

Mr. President, it just seems to me that we have reached the time to make some decisions. We do not need any more time to consider whether or not we need synthetic fuels. Senators have said on the floor we need time to analyze. We do not need any time to analyze. The time is too late already. We do not need any research and development in synthetic fuels. We need development of synthetic fuels.

The time has come when the American people properly expect us to get on with developing the 700 billion barrels of oil tied in shale and the 300 years of coal that are locked in the American hinterland. They do not expect us to continue forever to make excuses.

My last point is this: There are those who say that this is more bureaucracy. I would ask, if you put it in the Department of Energy, are you not going to have to hire people to do this work? Does somebody expect it is going to be done by nonpeople? We say put it in a separate entity with business people that can work with business people, not in the Department of Energy, which cannot get the job done.

The PRESIDING OFFICER (Mr. HART). The Senator's 4 minutes have expired. Who yields time?

Mr. JOHNSTON. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Wisconsin has 17 minutes. The Senator from Louisiana has 11.

Mr. PROXMIRE. Mr. President, my problem is that the people that I have who are going to speak, as often happens, are not available at the moment. So I will take a little of my time right now, Mr. President.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the Senator from New Mexico keeps harping away at the suggestion that we have only $3 billion in the bill—of course, that is a whale of a lot of money—and that $3 billion means 1½ plants, 2 plants, or something of that kind.

Mr. President, as we have tried to point out over and over again, that $3 billion we are perfectly willing to amend, to increase the amount. Furthermore, th $3 billion is only the beginning. It translates into $9 billion of guarantees; and furthermore, we would guarantee 75 percent of the plant. Therefore, in effect, so far as a guaranteed plant is concerned it translates into $12 billion.

As I say, we are going to beef that up, just as the distinguished Senator from New Mexico and the distinguished Senator from Louisiana have conceded they are going to change their bill if they prevail.

They made, I must say, a very interesting and useful concession, but it completely contradicted what was brought

out on the floor in the initial debate on this matter. They initially indicated that $68 billion was going to be triggered automatically by the report, if the report was not disapproved. Now we have quite a different situation, a situation in which that report has to be approved affirmatively, as I understand it—and I hope they will contradict me if I am wrong—by the Congress. That makes some difference. It is a help.

However, I would point out that the Energy Committee bill still leaves unamended Government-owned, contractor-operated plants, and I think it is clear why those are so resented and opposed by the private sector. It still leaves the Synthetic Fuels Corporation, which would be free, as the Senator from Colorado pointed out so well, from the protections provided by the Federal procurement laws, from the Administrative Procedures Act and other safeguards that we have. The amended Energy Committee substitute would still leave authorization for joint ventures between Government and industry on pilot plants.

Mr. President, I would point out to the Senate that the Banking Committee substitute is supported very solidly by the business community. The Committee for Economic Development, a most enlightened business group that has been studying synthetic fuels for 2 years, has come down in support of our amendment. The National Federation of Independent Business, their first poll showed 58 percent of their members to be opposed to the Energy Security Corporation, so they were asked to poll again. They polled again, and it showed 80 percent of their membership throughout the country, in every single State, opposed to the Energy Security Corporation.

Conservation organizations are solidly behind the Banking Committee amendment. They recognize the adverse effect this can have. The National Coal Association; Common Cause has been added to this list.

Mr. President, a few minutes ago a Senator said he was very concerned about the notion that the reason the industry favors our approach is that they are afraid of competition. Mr. President, there is something to that.

We should be very aware of what they are concerned about. I think it is a very legitimate concern.

What happens if we come in with a crash program that demands 24,000 more professionals, in a field where they only have 45,000? Where do we get them from? Any industry, whether oil, coal, or whatever it is, requires trained specialists, and if the Government takes them for a crash synfuels program, it is going to hit every sector of the economy very hard.

What happens to the equipment available, and to the people who produce the equipment? There again, the costs are going to go sky high. The inflationary effect of the Energy Committee bill is transparently very clear. The term used in the Pace Co. report prepared for Senator HART's task force was "hyperinflation"—there could be hyperinflation in the construction industry if we adopt the Energy Committee substitute.

The Senator from Louisiana has already referred to the editorial in the New York Times. I would like to read another part of it, because I think it is a very timely observation. The New York Times, as we know, has no vested interest here. I think it is the outstanding newspaper in the United States, a highly objective and competent paper, with an outstanding and brilliant editorial staff. I will start at the beginning:

> The prospect of synthetic fuels is alluring: all the oil and gas the nation needs for centuries, secure from foreign interference. But the potential costs of a rush to develop "synfuels"—the capital wasted on inefficient technology, the damage to the environment—are so great that caution is warranted. That is why the Senate Banking Committee now wants a program of Government-assisted demonstration projects before committing the country to a major production effort. Such prudence deserves support.
>
> The Senate Energy Committee's response, coming after the gasoline lines had disappeared, was less than the President asked for. It provided for only $20 billion, to achieve a target of 1.5 million barrels a day. But this plan remained in spirit a crash program, including creation of an Energy Security Corporation with the power to press ahead with commercial development of synfuels.
>
> The Banking Committee, which shares jurisdiction for synfuel financing, has been more cautious.

The editorial goes on to say:

> The Senate, which must now choose between these approaches, would be wise to take the Banking Committee's route. The basic technology for synthesizing oil and gas from coal is 40 years old. But no one has ever tried to use it on the scale needed to make a dent in America's oil imports. It is hard to predict which technologies will be the cheapest or which will be compatible with worker safety and a clean environment. In committing the country to production on a commercial scale, Congress could endow us with a white elephant with alarmingly dirty habits.

Mr. President, I think we ought to keep in mind the fact that while synfuels are very important and we should do all we can to encourage them, the fact is that of our total energy needs synfuels will supply at best, if we meet the goal the Energy Committee sets, about 3 percent, compared to solar which could provide about 20 percent compared to conservation, which could also make substantial contributions to our energy needs. To go ahead with a program which is highly inflationary, which is opposed overwhelmingly by experts in the business community who have experience with this, and which is opposed by such objective outside experts as the New York Times, I think is a mistake. I am happy to yield 5 minutes to my good friend from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Senator from Wisconsin, my distinguished colleague and chairman of our committee, for yielding.

Mr. President, I express my strong support for the amendment offered by the Senator from Wisconsin which substitutes title I of the bill reported by the Banking Committee for title I of the Energy Committee's legislation. The debate on this amendment has covered the issue of the need for Government assistance to develop a domestic synthetic fuels industry thoroughly. I would like to add, however, before the Senate votes, my reasons for supporting the Banking Committee position and my perception of the crucial substantive issues in this debate.

First, I would like to make it understood that I support efforts to encourage the development of technologies which will enable us to utilize more extensively domestic resources to meet our energy needs. However, I do not believe that it is necessary to commit the Federal Government to a massive program, both in terms of funding and Government authority, as I believe the Energy Committee version of this bill does.

In addition, I would like at the outset to respond to those who have criticized the Banking Committee for being unrealistic in its approach by providing only $3 billion to fund the program. Comments which suggest that this is an inadequate sum to fund the projects authorized in the bill and to undertake synfuel development at the level required to protect our national interest are well taken. In fact, it was the view of most members of the Banking Committee when the bill was being marked up that the issue of funding levels could best be resolved on the floor. Thus, the committee agreed to use the figure adopted by the House for the purpose of reporting the bill.

It should also be noted that the Banking Committee reported this bill at the beginning of September, at a time when there were many uncertainties surrounding the question of how much revenue would be available for development of synthetic fuels.

At this point, however, it is clear that a substantial increase in the amount authorized in the bill is imperative. Most cost estimates for plants of the size authorized in the bill cluster near the $1 billion mark. If 12 such plants, the maximum permitted by the bill, were constructed $12 billion would be needed. I am confident that this figure not only can be adjusted but will be adjusted so as to insure that there will be sufficient funds to undertake a meaningful and aggressive synthetic fuels development program. I hope that my colleagues who are still weighing the merits of each side of this issue will not look upon the funding level as a substantive difference of intent between the Banking and Energy versions.

Second, I believe that careful consideration of the reasons that a commercial synthetic fuels industry has not yet emerged in the United States will reveal that it would be unwise at this time to commit the country to a massive $88 billion development program. While technology exists today to convert coal from solid form to a more versatile gas or liquid form, no such commercial facility has been built in the United States primarily because of the uncertainty surrounding the cost of producing a product that would compete with domestic or imported petroleum products.

Several companies, with the assistance of the Department of Energy, have undertaken the construction of small-scale

plants which are testing second generation technologies developed in this country.

However, the uncertainty as to whether or not these plants can be operated at commercial scale is great enough to prevent the firms participating in the projects from making a commitment to their own technologies. Certainly, the business and technical judgment of these companies exceeds that of the Federal Government. I am reluctant to authorize the construction of plants based on these technologies at this time when their sponsors are uncertain of the advisability of short circuiting the traditional development process.

The Banking Committee recognizes the need to proceed with an agressive development program and has provided the authority to meet this need. However, it does not prejudge the experience that will be gained from this additional testing at smaller scale facilities. Based on this information, a decision will be made by the private sector and the Federal Government as to what the obstacles are to the establishment of a domestic synfuels industry and what part the Federal Government should play in encouraging the development of a commercial industry.

In addition to the uncertainty surrounding the cost of producing synfuels, there is great uncertainty concerning the environmental impacts of a commercial synfuels industry. Currently, the largest operating coal conversion facility consumes 6,000 tons of coal per day. A commercial scale plant would convert 5,000 tons of coal per day. Dealing with this amount of material alone presents problems which are yet to be resolved. In addition, questions have been raised and not sufficiently answered concerning possible toxic byproducts of the process and the impact on the carbon dioxide levels in the atmosphere. Until these and possibly other questions can be more thoroughly addressed through a demonstration plant project, I believe it would be unwise to make a decision on production goals and commercialization strategies, as, in fact, the Energy Committee bill does.

So, Mr. President, I hope my colleagues will join in substituting the Banking Committee bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute to read one paragraph from a statement of the President of the United States made on Monday. He said as follows:

> Without the Energy Security Corporation, it would be almost impossible to have synthetic fuels and other supplies developed on a competitive basis. We will have an almost complete domination of energy supply opportunities by just a few major oil companies. So the passage of the Energy Security Corporation this week by the Senate is crucial to provide competition, to let our Nation have adequate energy supplies, and also, of course, to implement a major additional conservation effort. All of these factors contribute to our Nation's security.

I urge my colleagues to keep the President's statement in mind as they vote.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. JOHNSTON. I yield 4 minutes to the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, we are right back to where we were in 1975 and 1976 when this body, after the cutoff of 1973–74, passed two very substantial bills dealing with synthetic fuels by overwhelming margins, only to be defeated in the House by the same coalition which is fighting this bill.

The facts are very clear. We are importing over 8 million barrels a day. The testimony we had at Energy Committee hearings this morning is that domestic production, no matter what incentives occur, will remain at about 10 million barrels so we will continue to have this deficit.

Mr. President, how can any Member of this body vote for this amendment and go back to his or her constituency and answer the question, "What have you done to bring about an increase in production of oil and petroleum products?"

The facts are, and they are not disputed even by the industry, that they are not going to increase the production of oil and gas in the United States.

Mr. President, half of the 18 million barrels of oil that we burn every day, is under boilers. There we have two alternatives: Nuclear or coal.

A lot of Members in this body are opposed to nuclear and when you say nuclear, they say "coal." When you say coal, then you have problems.

I just heard a comment here which was rather incredible, that the answer is that only 3 percent or 5 percent will be taken care of in synthetic fuels, and 20 percent by solar. I would like to see the candidate running next year get up and say, "The answer is solar," and the constituent says, "Well. how do you get it into your gasoline tank?"

I say once again, we are going back to the gas lines. We are going back to the gas lines. How can any Member of this body stand up and say, "I voted against the synthetic fuels program, that is true, because the alternative is solar."

We have solar in this bill. We are doing everything we can in solar. We have conservation in this bill, we have biomass in this bill. But for the next 20-odd years, we shall still have to burn gasoline and diesel oil for automotive purposes and for heating.

Mr. President, we have to face the cold, hard fact that we have an opportunity now either to vote for a puny bill—really a research and development bill or a significant bill. We have been researching it since 1916, Mr. President, and they say this is a large sum of money. Well, Mr. President, we have dawdled since 1975 and 1976; when we had a chance to act, and we could be well on the way to producing oil now, we have dawdled. We could have it moving. We could have the oil.

And what has happened to costs? We paid $7 billion for imported oil in 1973. Now we are paying $70 billion a year, Mr. President. And we are arguing over a downpayment of $20 billion over the next 3 or 4 years to get a synthetic fuels program going.

Mr. President, I can only say that we are in a critical situation in Iran. As of yesterday, there was a cutoff of oil deliveries. Today, it might be back on. Who knows about tomorrow? And what happens if Iran has its spillover effect on other countries.

I suggest we send a signal, a strong signal, not a muted or a confused signal, so the world will know that we are making a beginning, even if it is a small beginning. Surely, we do not want to make a puny beginning.

The VICE PRESIDENT. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

Mr. President, the Chinese are, today, producing oil from shale. The Canadians are embarked upon a massive tar sands program involving an almost $2 billion plant. The South Africans are in phase 2 of their SASOL plant, using the Fisher-Tropsch process, and will soon have all of their liquid fuels in that country produced from synthetic fuels.

The Brazilians, Mr. President, are into the gasohol field on a massive basis and will soon have all of their liquid fuels from gasohol produced from sugar.

In Europe, Mr. President, they are developing breeder reactors; they are going in a nuclear direction.

Mr. President, we have a chance today to make a choice at least to put this Nation in a partial direction toward energy self-sufficiency. If we do not do this today, if we do not opt for synthetic fuels, then we are either going to have to suffer the very serious consequences of lack of fuel or we are going to have to make another choice. That choice is, as my distinguished colleague from Washington said, nuclear power. I think many do not want to do that.

The VICE PRESIDENT. Who yields time?

Mr. JOHNSTON. Mr. President, how much time is left?

The VICE PRESIDENT. The Senator has 2½ minutes.

Mr. JOHNSTON. I yield 2½ minutes to the distinguished majority leader.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the American people are watching to see whether or not Congress is going to commit this country to a program that will lead us toward energy independence. For 40 consecutive months, this country has run a trade imbalance and in September, there was the highest trade imbalance of all, $5.8 billion.

Mr. President, we are spending at the rate of $70 billion a year for imported oil. Only so much can be done with respect to inflation because a major factor is the rising volume of oil imports and the rising cost of oil imports.

Mr. President, I offered an amendment to the Interior appropriations bill to add $20 billion for the synfuels program. That money is in conference. This is the authorization that would provide

for the appropriate expenditure of that money. I say, Mr. President, that today is the day of decision. Time is running out on beginning commercial production of synthetic fuels. We have talked about synthetic fuels for years. Now is the opportunity to put our money where our mouth is.

Mr. President, if the Senate adopts the amendment by Mr. PROXMIRE—and I say this with all due respect to my friend, and he knows I respect and love him—I can see the headlines: "Senate labors and brings forth a mouse." A mouse, $3 billion for research and development.

We have been talking about research and development for years.

Earlier this week I commended the distinguished chairman of the Senate Energy Committee (Mr. JACKSON) for his leadership and hard work in developing a comprehensive energy production bill. I have stated my endorsement for this approach and I urge the Senate's support for title I as reported by the Energy Committee. There will be few more important votes which can be cast to insure this Nation's strategic and economic security. This is a matter of the greatest urgency and importance, with our Nation's future in the balance.

We cannot continue our dangerous dependence on foreign oil. Circumstances such as we are now witnessing in Iran underscore the immediate need to develop our own energy resources. We must mount a major national program to create a synthetic fuels industry in order to bring on line our enormous resources of coal and oil shale.

A fragmented program, rather than a definitive, long-range Federal commitment to the development of synthetic fuels, would be a sign that we are unwilling to curb our foreign oil appetite and prepare for the future. The consequences of such inaction could be dire.

The Energy Committee bill represents a comprehensive initiative which reflects the consensus of numerous experts from the business, science, and financial communities. It establishes an independent agency to channel financial aid to private industry to encourage the commercial development of synthetic fuels.

A synthetic fuels production capacity of 1.5 million barrels per day will require a unique cooperation between Government and the private sector. The approval of the Synthetic Fuels Corporation will not create a vast new bureaucracy and it will not put the Government in the energy business. It will, however, provide the evidence of national commitment and the continuity of purpose to make the synthetic fuels program a reality. It will send a signal to the financial and business communities that the risks entailed in such an effort will be worth taking.

This legislation does not commit the Government to the open-ended expenditure of $88 billion. Those who use that argument to oppose this bill ignore the fact that the funds authorized are to be used primarily for price and loan guarantees. Successful commercial production of synthetic fuels from coal or oil shale, combined with a continued rise in world oil prices, will mean that the actual Government investment will be minimal.

However, this legislation defines the terms for large-scale commercial synthetic fuel production by the end of this century by creating the framework for future action. Investments of this dimension cannot be made piecemeal. This bill provides for continued commitment while allowing for congressional participation in the decision to proceed with the synfuels effort. This is the proper balance and in my opinion is one of the essential elements of a successful synthetic fuels program.

Last month, I authored the amendment to the Interior appropriations bill which provided for the appropriation of $20 billion to a special Treasury account called the Energy Security Reserve. These funds were approved by an overwhelming vote of the Senate for the express purpose of alternate fuel production. This legislation authored by the Energy Committee is complementary to that appropriations measure. I believed then, as I do now, that the energy crisis demands a new congressional commitment to accelerate the production of synthetic fuels from our own domestic energy resources. Recent events have only proved the urgency with which we must act.

The American people are angered by inflation fueled by rising energy prices as the OPEC cartel hikes prices over and over again. Our national security is threatened although no foreign troops approach our borders. We must act prudently, but we must act in recognition of the extraordinary dangers in which the energy crises places us. This legislation is the appropriate response and demands our support.

Now, Mr. President, the time has come to make this commitment firm and to let the American people know that the Senate stands behind this commitment. Let us not march up the hill and down again.

The gaslines are going to be back. The Senator from Washington spoke about the gaslines. They will be back, and much too soon. And, Mr. President, when they are back, those who vote for a $3 billion research and development program that will just go on, like Tennyson's book, forever, are going to be asked questions: How did you vote? How did you vote?

Mr. President, I urge the Senate to vote down this amendment, and I say this with love and affection for my colleague. The time has come for the Senate to stand up and be counted and let the American people and the world know that we are committed to a meaningful program that will lessen our dependence on fuel oil imports from abroad within the next few years. It will not be tomorrow or the next day, but we have to start at some point.

Mr. PROXMIRE. Mr. President, I appreciate the love and affection of the Senator from West Virginia, but I wish he had not made that speech.

I yield 2 minutes to the Senator from Montana.

Mr. BAUCUS. Mr. President, today as we consider the second part of this year's energy legislation, I believe it is important that we discuss some basic principles about energy.

All of us agree that we have a responsibility to make this country as energy independent as possible. The Arab embargo of 1973 should have taught us this lesson, but it did not. This past summer's gasoline and diesel shortages underline how important self-sufficiency is. Once again, though, it also points to our failure to reach that goal.

Equally important, our national energy policy must be sensible. It is tempting to rush headlong into the future, ignoring what commonsense tells us is the correct approach.

There is no doubt that unnecessary Government redtape and bureaucratic entanglements have tied up vital energy projects—often for years. These procedures must be streamlined.

There also is no doubt that Congress has simply been too timid to make the tough decisions necessary to create an effective national energy policy.

The year's energy agenda recognizes the inadequacy of our past efforts. It recognizes that we have the opportunity to chart a new course, that we can reduce our imports of oil, that we can provide the kind of incentives necessary to encourage Americans to conserve significant amounts of energy, that we can increase domestic oil and gas production and, that we can insure synthetic fuels are part of our national energy arsenal.

The legislation before us presents several basic issues. How we vote on these questions will determine the speed, scope, and cost of synthetic fuels development in the United States.

The bills before us represent two basic approaches to the development of a synthetic fuels industry. Both bills have strengths and weaknesses, but our choice is clear.

I urge the Senate to make its decision based on the two principles I spoke of just a few moments ago: Energy independence and a commonsense approach to energy development.

Mr. President, it is my view that when we analyze the legislation before us in the light of these principles only one conclusion emerges: Reject the creation of a Synthetic Fuels Corporation.

In my view the Energy Committee's proposal is just the wrong way to reach these goals. It would push us too fast down a road to synthetic fuels development—without any guarantees that our money would be well spent.

The Energy Committee's bill speaks loud and clear on this point. Its proposal authorizes $20 billion for a phase I program and requires a full report to Congress on the results of that effort.

As I read the bill, however, that is where our role ends. It looks to me as if once that report is completed, moving on to phase II—and authorizing another $68 billion—is very easy, and virtually impossible to prevent.

Throwing money at a problem is not always the way to find a solution. We ought to know by now that this is a risky approach.

Industrialists, engineers, investment analysts, and others agree development

of a synthetic fuels industry will take time. The pace of discovery should not carelessly be rushed. Perfecting the technology for these massive plants—each of which would be the largest commercial scale, industial plants in the Nation—is a long, complex process where mistakes would be extremely costly.

Producing synfuels in the quantities envisioned in the President's July 15 speech and in the Energy Committee's bill will take years. Everyone agrees to that. Rushing that process will only result in costly mistakes, wasted Federal funds and could even harm irreparably the future of synthetic fuels.

The Energy Committee's bill is just too big in its scope. It not only costs too much, but its scale is too large.

The Energy Committee's plan refers to the importance of technical diversity and for competition among all applicants to both large and small processes.

But I do not believe that will be the result if its bill is enacted into law. In my view, its bill is going to result in the largest possible synthetic fuels plants—while overlooking equally viable and valuable small-scale projects.

The technology is not proven, and we do not know how long it will take to get the bugs out. The Banking Committee's approach is the sensible one. Let us obligate a modest, reasonable amount of Federal funds and see if the technology is going to work. Let us take a close look at the report from phase I before we pour another $68 billion on what could amount to nothing more than a shallow hole.

Let us determine how synthetic fuels plants will affect our environment.

It is easy to argue for this approach when you are from a "synfuel" State. Montana and a handful of others will feel the burden of synthetic fuels because our water—the lifeblood of our economy—would be threatened, our air potentially polluted, and our communities bursting into boom towns. But even if I were not from a synfuel State, I would make these arguments, because only unwise national policy produces such economics and environmental consequences.

The Department of Energy has admitted to me that they lack information about some "critical water impact areas." They do not know how development of commercial-size synthetic fuels plants would affect the rivers of Montana that now provide drinking water, water for agriculture, and water for States on downstream. I think we should know a lot more than that before we commit major sums of money.

Likewise, the effect of a synthetic fuels plant on our local communities would be profound. Where will the funds come from for the new schools, roads, hospitals, sewers, and other public facilities needed to serve the thousands of new residents?

How will massive strip mining affect the landscape of the West?

These are all questions that must be answered before rushing toward synthetic fuel development on the scale proposed by the Energy Committee. Analyzing the phase I results to determine the answers to these questions will require time—time the Energy Committee's bill does not give Congress.

Finally, I am concerned about the Energy Committee's vision of the role of the Federal Government in the development of synthetic fuels.

Creating an independent and relatively unaccountable Federal corporation for the sole purpose of promoting synfuels could actually hinder the development of synthetic fuels.

I have always understood the role of the Federal Government to be that of a wise shepherd, using public funds to do what private investors cannot risk to do, spurring development of promising technologies for the investment market.

But as I read the Energy Committee proposal the Synthetic Fuels Corporation would be a lot more than that.

If the synthetic fuels industry is to be a success—in terms of efficiency and in the marketplace—Government should play a minimal role. The Banking Committee bill envisions such a role, providing limited Federal financial assistance for a program to demonstrate synfuels technologies on a commercial basis.

The Synthetic Fuels Corporation would create a new Federal bureaucracy to do a job that would be done better in the private sector.

In my view, the Energy Committee's proposal proceeds too fast, is too expensive, is too much of a threat to our environment, and represents too much Government.

Synthetic fuels must be given a fair chance. They will play a role in our energy future. But in fashioning that role, I ask my colleagues not only to consider the importance of energy independence but also to adopt a commonsense approach to synfuel development. Such analysis leads me inexorably to support the Banking Committee proposal. I urge my colleagues to do likewise.

Mr. PROXMIRE. I yield the remaining time to the Senator from New Hampshire.

The VICE PRESIDENT. Forty-five seconds.

Mr. HUMPHREY. Mr. President, before the advent of modern medicine in modern times, the practice in medicine was bleeding the patient. If the patient did not get well, he was bled some more.

That is what we will do to our economy today if we choose to bleed off $88 billion from the private sector in the name of expediency, and everything else, and turn it over to the politicians and bureaucrats to dribble it away, as they always do.

I believe in the private enterprise system. Yes. Let us develop our resources by letting the private sector work and not bleed it more.

Have we not learned our lesson, for heaven's sake?

I support the Senator from Wisconsin's amendment. I hope my colleagues do.

Once again we have gathered to debate the establishment of another Federal entity designed to solve a problem created by big government. Despite our experiences, we continue to spew out legislation that adds layer upon layer to the stifling Federal bureaucracy.

But this time we have a choice; a choice between haste and prudence, a choice between substantial Federal interference and limited Government involvement, and a choice between $3 and $88 billion. The Senate Banking Committee's version of title I to S. 932 is clearly the responsible choice. By any standards $3 billion is a very large amount of money. It seems a modest proposal only when compared to the dangerously gargantuan proportions of the Senate Energy Committee's plan.

Many of my distinguished colleagues have pointed out the serious flaws contained in the proposal put forth by the Senate Energy Committee. A crash effort of the size envisioned by the Energy Committee would strain the market for available materials, subject areas of the West to explosive, unplanned population growth, strain the limits of water supply, and commit an unprecedented amount of money and Federal involvement to what should be a private sector market. Whether or not such a program is funded by the windfall profits tax, the American taxpayer will foot the bill. The limited vision of this bill would lock us into a narrow band of the alternate energy spectrum. Also, were such an effort to fall short of its goal, public opinion could be soured for many years. Such a reaction would foreclose less hastily conceived plans to develop this technology.

Finally, the option the synthetic fuels corporation holds to establish joint ventures is an unwarranted step toward Federal assumption of risk and cost best left to private investment. The fact that the Government can absorb financially troubled projects discourages efficiency. Joint ventures remove the risk element and encourage premature technologies, transfer cost and risk to the taxpayer, and vitiate incentives for efficient operation.

The Senate Energy Committee has set a target of 1.5 million barrels of synthetic fuels production a day by 1995. Decontrol will result in an equivalent amount of extra production by 1985, 10 years earlier than the synfuels target date. There are more appropriate incentives to promote synfuels production than those contained in the Energy Committee's plan. We can free up public lands, provide tax credits, hasten decontrol, and change our punitive tax structure. The massive program planned by the Energy Committee is not what we need now. The Banking version is the reasonable choice.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Wisconsin.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent there be 1 additional minute for Mr. PROXMIRE and 1 for Mr. STEVENS.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I merely want to say that I think the proposal before us that came from the Energy Committee is a credit to the work of the Senator from Louisiana (Mr. JOHNSTON)

and the Senator from New Mexico (Mr. DOMENICI).

This is a bill that I think has great promise for the country. Coming from a producing State, I still believe we must dedicate as much of our resources as possible to the synthetic fuels program.

I congratulate the two Senators for the hard work they have put into this bill. I, personally, hope the Proxmire amendment is defeated.

Mr. PERCY. Mr. President, I am not completely satisfied by the Banking Committee's version of S. 932. In particular, I am concerned that, in providing $3 billion in assistance to help develop synthetic fuel processes, we may be aiding the creation of one more lucrative energy industry in which the small businessman or the independent oil producer plays no part. We have a new chance with synfuels—just like we do with solar energy and conservation—to create a broad base of activity, insure competition and unimpeded entry into the marketplace.

I would like to address a question about my concerns to the chairman of the Banking Committee (Mr. PROXMIRE).

It has been said that the Banking Committee bill will be anticompetitive—more so than the Energy Committee's version—because it restricts available incentives to purchase and price guarantees, and to loan guarantees of up to $500 million. Congress would have to approve loan guarantees above this amount.

Supporters of the Energy Committee bill argue that regulated utilities and small companies are going to need bigger loans and loan guarantees than your bill allows if they are going to play any role at all in synthetic fuel development. Purchase and price guarantees do them little good.

How do you respond to these charges? Are we, in essence, guaranteeing a big business synfuels monopoly?

Mr. PROXMIRE. I thank the Senator from Illinois for his most thoughtful question. With him, I agree that we should promote competition and participation by smaller firms to the maximum extent practicable.

I would point out that the Banking Committee substitute does provide for loan guarantees, which are generally needed by smaller firms. Congressional approval is not required for guarantees larger than $500 million. Rather, such guarantees can be reviewed by the Congress, and disapproved if both Houses reject it. This is not a one-House veto, but a two-House veto.

I am committed to a program which would maximize participation by smaller firms.

REDUCING OUR DEPENDENCE ON OPEC

● Mr. BIDEN. Mr. President, I rise in opposition to the Banking Committee substitute synthetic fuels title to the Omnibus Energy Bill before this body today, S. 932.

I oppose the Banking Committee substitute not because this synthetic fuels provision is without substantial merit. In fact, I believe title I of the Banking Committee bill is superior to title I of the Energy Committee bill we are debating. However, I believe both of these titles merit substantial modification. These modifications with respect to the funding levels authorized for synfuel development, and the structures we create for effecting that development, are contained in the substitute amendment I am pleased to cosponsor with my distinguished colleagues, Mr. HART of Colorado and Mr. TSONGAS of Massachusetts. I hope that regardless of the outcome of the vote on the Banking Committee title I substitute, that this body would act favorably on the Hart-Tsongas-Biden amendment.

Mr. President, synthetic fuels development must play an important role in reducing our dependence of foreign sources of crude oil. We simply cannot tolerate continued growing vulnerability to the volatility of developments in the Middle East and throughout the OPEC cartel. Synfuels, however, will only play a "part" in reducing that dependence. For the foreseeable future aggressive commitment to energy conservation will play a much more important role. We also must fundamentally redirect our energy goals to the development of renewable sources of energy—the cleanest and most abundant forms of energy supply available to us.

Only these energy sources will once and for all offer us energy independence—independence not only from foreign governments, but also from anticompetitive behavior on the part of the energy industry. In many respects, therefore, titles II, III, and IV of S. 932 are more significant than the synfuel provisions of title I. These other titles of S. 932 encourage accelerated development of renewable energy sources, and more aggressive commitment to a national policy of energy conservation.

Mr. President, the Banking Committee title I synfuels provision we are voting on now simply does not authorize sufficient appropriations for a vigorous, but judicious synfuel development program. The Energy Committee title, however, prematurely locks us into a massive commitment to synfuels. Nothing could be worse for this country, Mr. President, than for the United States to commit itself to full throttle synfuel development, and to find that such development poses unacceptably high environmental, technical, financial, or other consequences. We would then, by braking such a technology, demonstrate more vulnerability to the foreign oil cartel than is even now apparent. We simply should not today set in motion an unprecedented commitment of Federal dollars, $88 billion, with all the uncertainties entailed in synthetic fuel development.

We must, Mr. President, devote sufficient capital to give this technology a good boost. This is what the amendment I am cosponsoring with Senators HART and TSONGAS provides for. We must not straitjacket ourselves into major Federal commitments which initial investments may demonstrate are unwise. That is what the Tsongas/Hart/Biden title I substitute guards against.

Mr. President, we must get moving and wean ourselves off of foreign sources of energy. The synfuels incentives we enact here today will help us do that. But they will only play a part in lessening that dependence. Our commitment to a national policy of energy conservation must be no less aggressive, as should our commitment to expeditiously developing renewable sources of energy. We must do this while we maximize domestic production of oil and gas—and increase our utilization of this country's natural endowment of plentiful coal reserves. To do less would be to adopt policies we will live to regret.●

Mr. LEVIN. Mr. President, I intend to vote for the synthetic fuel title proposed by the Energy and Natural Resources Committee, and against the Banking Committee substitute. While I believe that both approaches represent responsible attempts to provide Federal financial support for a fledgling synthetic fuels industry, I think that the Energy Committee's version, as the committee has indicated they will be willing to amend it, represents a more forthright and well-reasoned commitment to the production of synfuels, and for that reason I intend to support it.

I believe that the energy program we adopt in this bill must be a balanced one, and must do everything possible to reduce our reliance upon imported oil. In order to reduce imports, we must cut down the margin between what we produce within our own country, and what we consume. We cannot afford to neglect either side of the equation.

Later in the consideration of this bill we will focus on measures for reducing consumption through conservation and increasing our reliance on alternative forms of energy. Synthetic fuels offer one of the potentially most promising means of increasing domestic supply, because it would allow us to make use of our abundant domestic supplies of coal, oil shale, tar sands, and biomass to produce or displace a commodity which is not so abundant: oil. Although a great deal remains to be learned about synfuels, with respect to their technological and economic viability and the environmental problems that may be associated with them, they represent too important a potential source of a type of energy we need; namely, transportable liquid fuel, to weaken their development potential.

The Energy Committee has crafted a sensible two-stage approach to synfuel production. In the first stage, the Corporation would be charged with the responsibility of demonstrating a diversity of synfuel technologies, and only after those had been adequately tested would we proceed to full-scale development of an industry capable of producing 1.5 million barrels per day. Moreover, the committee has indicated its willingness to accept certain modification to the program which remove some of the more problematic features.

First, the floor manager, the distinguished Senator from Louisiana, has indicated that he will clarify that the $88 billion referred to in the bill is a goal for expenditure in the problem, not an authorization. I believe that it would be premature for the Congress at this stage to authorize that enormous amount, without having the specifics of the program before it for consideration.

Also, the Senator has indicated that he will postpone the deadline for sub-

mission of the second-stage plan by the Corporation, and allow for some flexibility if the Corporation feels it needs more time to develop information on which to base its program. This also will make for a more careful and deliberate approach to the development of the program. These modifications would, in my view, strengthen the committee's amendment, and with these understandings I am pleased to support it.

● Mr. HUDDLESTON. Mr. President, I rise in strong support of the synthetic fuels provisions reported by the Senate Energy Committee.

The threat to this Nation of our dependence on foreign oil cannot be overstated. This dependence cannot continue if we are to survive as a free and prosperous Nation.

Already we have suffered embargoes and production cutbacks for which we were ill prepared, and the events in Iran are a brutal reminder of our vulnerability.

Already we are feeling the painful economic consequences of sending $70 billion overseas each year for oil payments, and with oil prices nearing $50 per barrel on the spot market, that will only get worse.

As the Energy Committee pointed out in their report, "even should all national energy conservation proposals be successful and conventional energy supplies be forthcoming, in 1990 the United States still would have to import approximately 6.5 to 7.5 million barrels of oil per day."

Can there be any question that we have to have an aggressive synthetic fuels program?

The Energy Committee has given us the blueprint for a massive national program to commercialize the production of synthetic fuels from our Nation's enormous resources. It is an investment in the future of this Nation—a very modest investment, I believe, when you consider what is at stake. Certainly we can accept no less.

Substitutes will be offered to weaken the Energy Committee's proposal; we will be cautioned to slow down, to lower our sights, to skimp on our investment.

We simply cannot afford to let that happen. I strongly urge that weakening substitutes be rejected, and that we proceed as quickly as possible to the establishment of an Energy Security Corporation with enough financing and flexibility at its disposal to make a major contribution to our energy self-sufficiency.●

The VICE PRESIDENT. Who yields time?

Mr. PROXMIRE. I yield back my time.

The VICE PRESIDENT. All time has been yielded back. The question recurs—

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the clerk repeat the name of the Senator and the vote after each vote is cast.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I suggest that on this vote we do not permit ourselves to gather in the well of the Chamber.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. WILLIAMS (when his name was called). On this vote I have a pair with the Senator from New Hampshire (Mr. DURKIN). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withhold my vote.

Mr. STEVENS (after having voted in the negative). On this vote I have a pair with the Senator from Alaska (Mr. GRAVEL). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withdraw my vote.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 37, nays 57, as follows:

[Rollcall Vote No. 390 Leg.]

YEAS—37

Armstrong	Hart	Proxmire
Baucus	Hatch	Pryor
Boschwitz	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Sarbanes
Chafee	Humphrey	Schmitt
Cochran	Kassebaum	Simpson
Cohen	Laxalt	Stafford
Cranston	Leahy	Tower
Culver	Lugar	Tsongas
Dole	McGovern	Wallop
Garn	Muskie	Weicker
Goldwater	Packwood	
	Percy	

NAYS—57

Bayh	Glenn	Morgan
Bellmon	Hatfield	Moynihan
Bentsen	Hayakawa	Nelson
Biden	Heflin	Nunn
Boren	Hollings	Pell
Bradley	Huddleston	Randolph
Bumpers	Inouye	Riegle
Burdick	Jackson	Roth
Byrd, Robert C.	Javits	Sasser
Cannon	Jepsen	Schweiker
Chiles	Johnston	Stennis
Church	Levin	Stevenson
Danforth	Long	Stewart
DeConcini	McClure	Stone
Domenici	Magnuson	Talmadge
Durenberger	Mathias	Thurmond
Eagleton	Matsunaga	Warner
Exon	Melcher	Young
Ford	Metzenbaum	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Stevens, against.
Williams, for.

NOT VOTING—4

Baker	Gravel	Kennedy
Durkin		

So the amendment (No. 570) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 733

Mr. JOHNSTON. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STEWART). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. DOMENICI, proposes unprinted amendment numbered 733.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 81, line 12, strike "unless disapproved" and insert "when approved".

On page 81, strike subsection (c) (1) and insert in lieu thereof the following:

"(c) (1) Not later than five years after the effective date of this title, the Corporation shall submit its proposed comprehensive strategy to the Congress. Such strategy shall be deemed approved if both Houses of Congress have adopted, within sixty calendar days of continuous session of Congress, a concurrent resolution approving such proposed strategy. In the event that a plan is not approved within such 60 day period, the Board of Directors shall modify the strategy and resubmit the modified strategy to the Congress within ninety calendar days for approval as provided by this subsection.

"(2) Upon introduction, the resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee of the House of Representatives.

"(3) (A) If the committee to which a resolution of approval has been referred has not reported it at the end of 30 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution relevant to this matter which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution of disapproval), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution of approval.

"(4) (A) When the committee has reported, or has been discharged from further consideration of, a resolution of approval, it is at any time thereafter in order (even though a previous motion to the same effect his been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution of approval shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution.

A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(5) (A) Motions to postpone, made with respect to the discharge from committee or the consideration of a resolution of approval, and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any resolution of approval shall be decided without debate."

Renumber the succeeding paragraphs accordingly.

On page 112, strike line 2 and insert in lieu thereof the following: "in the aggregate principal amount of $20,000,000,000, plus such sums as are authorized in the resolution referred to in section 122 (the total of which shall not exceed $88,000,000,000)".

On page 112, strike lines 6 through 8 and insert in lieu thereof the following: "enactment of this Title. Such sums as are authorized, not to exceed $68,000,000,000, shall become available upon approval of the comprehensive strategy pursuant to section 122".

On page 112, strike line 18 and insert in lieu thereof the following: "of the aggregated principal amount of $20,000,000,000, plus such sums as are authorized in the resolution referred to in section 122 (the total of which shall not exceed $88,000,000,000): *Provided, how-*".

On page 146, strike line 5 and insert in lieu thereof the following: "Secretary of the Treasury $20,000,000,000 plus such sums as are authorized in the resolution referred to in section 122 (the total of which shall not exceed $88,000,000,000) to pur-".

On page 82, after line 13, insert the following subsection:

On page 892, after line 13, insert the following subsection:

"(c) (1) The resolution approving the proposed comprehensive strategy under this Title shall read as follows after the resolving clause: 'That approves the comprehensive strategy transmitted to the Congress by the Corporation on and dollars are hereby authorized to be appropriated without fiscal year limitation to the Treasury to purchase and retain notes or other obligations of the Corporation.', the first blank space therein being filled with the name of the resolving House, the second blank space therein being filled with the day and year and the third blank space therein being filled with the appropriate dollar figure.

Mr. JOHNSTON. Mr. President, this is the amendment which we referred to in the Chamber submitted on behalf of the Senator from New Mexico (Mr. DOMENICI) and myself which limits phase two. It expressly limits it without the affirmative action of the Senate.

I yield to the Senator from New Mexico to explain the amendment.

Mr. DOMENICI. Mr. President, this amendment will extend the period of time for the first phase from 3 years to 5, after which Congress will have an opportunity to say go or no go or partially go or partially no go on the second phase development.

The second thing it will do is it will set the 1½ million barrels a day equivalence as a target. The 1½ million barrels of oil a day equivalence and $88 billion are goals and targets for the total program.

The third thing that it will do is it authorizes the board of directors to present a comprehensive strategy for Congress approval, and I stress that "for Congress approval" and simultaneously therewith will recommend appropriate funding levels for phase 2, which both Houses of Congress will have an opportunity to approve or disapprove under expedited legislation, the process heretofore adopted by the Senate in EPCA.

None of the additional $68 billion may be obligated until thus authorized and appropriated as provided for in the bill.

I believe that a number of Senators understood we would do this, and it more clearly, in my opinion, conforms with the intent of a majority of the Energy Committee when we adopted this two-phased measure.

Mr. PROXMIRE. Mr. President, will the Senator from New Mexico yield?

Mr. DOMENICI. I am pleased to yield.

Mr. PROXMIRE. Does this amendment provide the amount of the so-called second phase funds available? The $20 billion is left in the bill, as I understand it. Is that right? Twenty billion is authorized.

Mr. DOMENICI. Authorized, that is correct.

Mr. PROXMIRE. But before any additional funds beyond that $20 billion would be authorized it would be necessary for both the House of Representatives and the Senate to act. Expedited procedures means that the legislation would have to come out of the committee within what, 10 days?

Mr. DOMENICI. It would have to be on the floor within 60 days.

Mr. PROXMIRE. Within 60 days on the floor.

Mr. DOMENICI. Thirty days discharge, in answer to the Senator's question.

Mr. PROXMIRE. Thirty days discharge, and then we mandate a vote within 10 days.

Mr. DOMENICI. We mandate a vote in both Houses within 30 thereafter. So the total is 60.

Mr. PROXMIRE. I see. All right. But the amount would not necessarily be $68 billion or $10 billion or $20 billion. It would be whatever is recommended in the committee's recommendation and Congress finally approved; is that correct? The $68 billion would just be the ultimate goal.

Mr. DOMENICI. That is exactly right. That is the maximum. That is the ceiling.

Mr. PROXMIRE. It is a ceiling.

Mr. DOMENICI. That is the ceiling.

Mr. PROXMIRE. I see. All right. I thank the Senator.

I congratulate the distinguished Senators for doing an effective job on this. We thought the vote was going to be close. We could not have been more wrong. We were rolled over. The Senators did a great job. But I do think that if nothing else the debate on this bill did establish something that we dearly wanted, and that was to eliminate the commitment which we thought was automatic as originally written into the Energy Committee bill for $88 billion. What this does is to provide initial funding of $20 billion and then more after the first phase and after Congress has an opportunity to determine what we discovered on the basis of the $20 billion that has been spent for commercialization; is that correct?

Mr. JOHNSTON. The Senator is correct, and I am delighted that the distinguished Senator from Wisconsin is reassured by this amendment, and I hope and trust he will join with us now in the bill since we have taken care of his concern.

Mr. PROXMIRE. May I say I would be happy to, but there are a couple of other things.

For instance, I am very much opposed to the Government-owned, contractor-operated plants. And there are two or three other items I think we can clean up in the bill. I think it is greatly improved, and I congratulate the Senator.

Several Senators addressed the Chair.

Mr. JOHNSTON. Mr. President, I move the adoption of the amendment.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. PRYOR). The Senator will state it.

Mr. TSONGAS. Senator HART and I have a substitute compromise between the Energy Committee version and the Banking Committee version which includes very much what the Senator from Louisiana and the Senator from New Mexico are offering at this point.

Would a substitute after this is voted upon be in order, or would it be in order to now move the substitute which would include this language? I do not want to get foreclosed in a parliamentary sense before I can offer my amendment.

The PRESIDING OFFICER. While this amendment is pending a substitute for title I will not be in order. But after the amendment is disposed of the substitute amendment to title I would be at that time in order.

Mr. TSONGAS. If that substitute amendment incorporates much of what is in this amendment that would not be precluded?

The PRESIDING OFFICER. Will the Senator restate the inquiry?

Mr. TSONGAS. The substitute that we have to title I incorporates much if not all of the amendment that is now before us. I inquire whether there would be a point of order sustained against the substitute based on the fact that the substitute includes language that has already been passed upon should this be voted upon now.

The PRESIDING OFFICER. The amendment can include language as long as it is substantially different from title I, as amended.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Would it be in order——

The PRESIDING OFFICER. Will the Senator suspend? The Senate will be in order. The Senator may proceed.

Mr. HART. Would it be in order for the Senator from Massachusetts to call up our amendment as a perfecting amendment to the pending amendment of the Senator from Louisiana?

The PRESIDING OFFICER. If it is in-

deed a perfecting amendment, it would then be in order.

Mr. TSONGAS. Will the Chair advise us as to whether the substitute would be a perfecting amendment?

The PRESIDING OFFICER. The substitute amendment is not a perfecting amendment.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 734

(Purpose: To provide for studies relating to carbon dioxide atmospheric accumulation)

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the amendment in the nature of a substitute of the Senator from Louisiana be temporarily laid aside so that I can call up an amendment.

The PRESIDING OFFICER. Is there objection to the setting aside of the pending amendment? The Chair hears none, and it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. RIBICOFF), for himself and others, proposes an unprinted amendment numbered 734.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

"SEC. . (a) The President shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive assessment and investigation of the impact of projected levels of fossil fuel combustion on the accumulation of carbon dioxide in the atmosphere as a basis for a specific assessment of such impact by the projects and technologies which are proposed in this Act. The study shall also assess the effects of various possible levels of atmospheric carbon dioxide accumulation on climate and the economic, physical, and social impacts of such climate changes. In conducting this study, the Academy is encouraged to work with other nongovernmental and intergovernmental bodies so as to develop an interim worldwide assessment of this problem, and to arrange for original research on any aspect of the problem as the Academy deems necessary.

(b) The study shall also recommend—

(1) how a long-term program of domestic and international research, monitoring, modeling, and assessment of the causes and effects of atmospheric carbon dioxide accumulation should be structured;

(2) how the United States can best play a role in the development of such a long-term international program;

(3) what domestic resources should be made available to the study of such accumulation;

(4) how the ongoing United States Government carbon dioxide assessment program should be restructured and strengthened so as to provide information and recommendations of the highest possible value to governmental policymakers; and

(5) how often reports should be made to the Congress, in conjunction with any long-term assessment program that the Academy may recommend.

(c) A report and recommendations with regard to the study required under this section shall be submitted to the Congress not later than two years after the date on which an agreement is reached by the President with the Academy. The President shall report to the Congress within six months after the date of enactment of this Act regarding the status of the negotiations to implement the study required under this section. The report shall not be subject to any prior clearance or review, nor shall any such prior clearance or conditions be imposed on the Academy as part of the arrangements made by the President with the Academy under this section.

(d) The Secretary of Energy, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Director of the National Science Foundation shall furnish to the Academy at its request any information which the Academy determines necessary for the purpose of conducting the study authorized by paragraph (1) of this subsection.

(e) Of the funds authorized to be appropriated under this Act, such amounts as are required shall be available to carry out the study authorized by paragraph (1) of this subsection. The determination as to the expenses which will be required to conduct this study shall be made by the National Academy of Sciences, but shall not exceed $2,000,000.

Mr. RIBICOFF. I want to take this opportunity to thank the distinguished Senators from Louisiana, New Mexico, Massachusetts, and Colorado for their consideration.

The amendment I propose is to provide for studies relating to carbon dioxide atmospheric accumulation. I am pleased to offer this amendment on behalf of myself, and Senators MUSKIE, DURENBERGER, GLENN, HART, JAVITS, MOYNIHAN, TSONGAS, LEVIN, and BRADLEY.

Mr. President, last July the Committee on Governmental Affairs held a symposium to examine the effects of synthetic fuels production programs on the accumulation of carbon dioxide in the atmosphere, the so-called greenhouse effect.

The problem posed by this accumulation, which is caused by man's increased cumbustion of fossile-based fuels, was drawn to my attention by a number of prominent scientists last summer, and by Chancellor Helmut Schmidt of West Germany. The Chancellor believes that it is a major threat to the future of mankind. The problem is being addresed on a limited basis within the U.S. Government by an interagency task force led by the Department of Energy. Groups within the National Academy of Sciences have also recently done some preliminary assessments.

The symposium of scientists and Senators which I convened last July in the Government Affairs Committee reached conclusions similar to those recently announced to the Academy's climate research board. The symposium found that—

The possible long-term impacts of CO_2 accumulation in the atmosphere are important enough to require continuous high-level attention of scientists and energy policy makers both in the United States and abroad. . . . Questions still exist on many aspects of the CO_2 problem. . . .While these uncertainties remain we cannot predict the precise consequences of uncontrolled fossil fuel use.

Specifically, the findings were that:

First. Increasing concentrations of CO_2 into the atmosphere have been at a rate faster than can be absorbed by the oceans and land biological systems.

Second. A doubling of the present atmospheric concentration would probably occur within 50 years and cause a major heating of the Earth—averaging around 2 to 3 degrees Centigrade.

Third. This heating may well cause severe climate changes varying greatly from region to region and have severe impacts on some societies.

Fourth. There are still major uncertainties in the pace and impact of the warming, and how the effects will occur. We have not even begun to address the question of reducing the severity of some of the possible effects.

Fifth. Thus we need to deepen our understanding of this phenomenon as quickly as possible. We need to know more about the carbon cycle, future fossil fuel use and fossil-based synthetic fuel use, climate changes which are likely to occur at different CO_2 levels.

Sixth. The CO_2 problem is a global one which needs global solutions. There is some effort, but inadequate and uncoordinated to get at this problem in the international community. There is some work going on in the World Meteorological Organization, and some planning by the United Nations environment program. There have also been some recent studies by the International Council of Scientific Unions. This Council has a subcommittee, the Scientific Committee on Problems of the Environment, or SCOPE, which consists of representatives from 33 nations. SCOPE has recently looked into various matters relating to the carbon cycle, and there is interest there in doing further work. Our National Academy is a member of SCOPE and it is my expectation that the Academy will, as a result of my amendment, take a leadership role in developing an international program which befits the magnitude of the problem we face.

It is important that we marshal the resources to focus on all aspects of this problem as soon as possible. If it becomes necessary to make decisions on our fuel mix in order to reduce the dangers that may arise from CO_2 concentrations, we will need 10 to 20 years to do it. Other nations will also need accurate information on the potential danger to shift their fuel mixes if necessary and to reduce whatever effects climate change may bring.

This amendment would authorize the National Academy of Sciences in conjunction with other nongovernmental bodies (like SCOPE) and intergovernmental bodies (such as the World Meteorological Organization) to develop a worldwide assessment of the impact of fossil fuel combustion, including a specific assessment of the impact of synthetic fuel programs on CO_2 accumulation. The Academy would report to the Congress on three things:

First, how a long-term program of domestic and international research, monitoring, modeling, and assessment of the causes and effects of atmospheric CO_2 accumulation should be structured.

Second, how the United States can best lead this effort.

Third, how the ongoing U.S. Government assessment program can be strengthened to provide information and recommendations of the highest possible value to policymakers.

I have consulted with the President of the Academy, Dr. Philip Handler on this proposal, and am pleased to report that the amendment would strengthen the Academy's ability to "provide independent and timely advice—to both the Congress and concerned Federal agencies." It would also allow more basic research be done now—particularly in the form of climate modeling—than had been contemplated. Dr. Handler assured me that the Academy would promptly enlist the support of the appropriate international bodies in this effort.

Mr. President, I ask unanimous consent to insert an exchange of letters between myself and Dr. Handler, in which he expressed the Academy's great interest in this program, in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OCTOBER 30, 1979.

Dr. PHILIP HANDLER,
President, National Academy of Sciences, Constitution Avenue, NW., Washington, D.C.

DEAR PHIL: Our discussions last July regarding the problem of Carbon Dioxide accumulation in the atmosphere were most helpful in arranging the Governmental Affairs Committee Symposium: "Carbon Dioxide Accumulations in the Atmosphere, Synthetic Fuels and Energy Policy." I proposed this symposium to take a closer look at the problems we discussed and to produce a report on the deliberations of the experts.

The recommendations of the experts outlined in the report stressed the need for continued monitoring and examination of the impacts of synthetic fuel production on Carbon Dioxide accumulation and climate. There was a consensus that the impact of Carbon Dioxide accumulation must be addressed on an international as well as national level.

As a result of these recommendations, I am proposing legislation which would authorize further study of the Carbon Dioxide problem associated with synthetic fuel production. It would be of great value if the National Academy of Sciences were to direct this effort.

The National Academy would be authorized to:

1. conduct a comprehensive assessment of the accumulation of Carbon Dioxide in the atmosphere by synthetic fuel projects,
2. assess the effects of Carbon Dioxide accumulation on climate,
3. work with other nongovernmental and intergovernmental bodies to develop a worldwide assessment of the problem, and
4. conclude within two years with a report and recommendations for a long-term program to the President, the Secretary and the Congress.

The specific details of the proposal are enclosed. I believe that the program to investigate this problem is an important complement to any national effort to product synthetic fuels. I hope that the Academy will be able to participate.

I appreciate your past advice, and hope we can continue to work together on this important issue. I look forward to hearing from you on this proposal.

Sincerely,

ABE RIBICOFF.

NATIONAL ACADEMY OF SCIENCES,
November 1, 1979.

Hon. ABRAHAM A. RIBICOFF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RIBICOFF: I was most pleased to have your letter of October 30 and to know that we in the Academy were of some assistance to your Committee in its deliberation on the problems associated with future accumulation of carbon dioxide in the atmosphere. Academy groups that have looked at this problem have emphasized the need for a continuous program of monitoring and examination of these accumulations and of the impact which future energy policies may have on such accumulation.

As you may be aware, a five-year plan for the study of climate has been mandated under the National Climate Act of 1978 which relates to the matter outlined in your proposed amendment. The language of your proposed amendment clearly indicates the importance given by the Congress to the need for addressing the problems associated with future accumulation of carbon dioxide and would strengthen the ability of the Academy to provide independent and timely advice on these matters to both the Congress and concerned Federal agencies. It also would allow us to undertake certain study considerations that require more emphasis than is contemplated by the present national plan.

Upon enactment of such a legislative mandate, the Academy, of course, will be pleased to work with the government in assuring that such an assessment gets under way promptly and that necessary steps are taken to enlist appropriate international participation at both governmental and nongovernmental levels.

The proposed draft language accompanying your letter is consistent with the format used in other instances where the Congress wished to enlist the service of the National Academy of Sciences under the authorization of its initial Congressional Charter.

Please let me know if we can be of further assistance to you in this effort.

Sincerely yours,

PHILIP HANDLER,
President.

Mr. RIBICOFF. Mr. President, the Office of Science and Technology Policy in the White House recently asked the National Academy to do a preliminary synthesis of the state of scientific knowledge on various aspects of the carbon dioxide problem. This report, which is now done, confirms that the problem is a long-term one with serious—but still uncertain and controversial—ramifications. It is supportive of the kind of work that I propose be done in this amendment. I ask unanimous consent that the summary and conclusions of this report be printed in the RECORD.

There being no objection, the summary and conclusions were ordered to be printed in the RECORD, as follows:

SUMMARY AND CONCLUSIONS

We have examined the principal attempts to simulate the effects of increased atmospheric CO_2 on climate. In doing so, we have limited our considerations to the direct climatic effects of steadily rising atmospheric concentrations of CO_2 and have assumed a rate of CO_2 increase that would lead to a doubling of airborne concentrations by some time in the first half of the twenty-first century. As indicated in the first section of this report, such a rate is consistent with observations of CO_2 increases in the recent past and with projections of its future sources and sinks. However, we have not examined anew the many uncertainties in these projections, such as their implicit assumptions with regard to the workings of the world economy and the role of the biosphere in the carbon cycle. These impose an uncertainty beyond that arising from our necessarily imperfect knowledge of the manifold and complex climatic system of the earth.

When it is assumed that the CO_2 content of the atmosphere is doubled and statistical thermal equilibrium is achieved, the more realistic of the modeling efforts predict a global surface warming of between 2° C. and 3.5° C., with greater increases at high latitudes. This range reflects both uncertainties in physical understanding and inaccuracies arising from the need to reduce the mathematical problem to one that can be handled by even the fastest available electronic computers. It is significant, however, that none of the model calculations predicts negligible warming.

The primary effect of an increase of CO_2 is to cause more absorption of thermal radiation from the earth's surface and thus to increase the air temperature in the troposphere. A strong positive feedback mechanism is the accompanying increase of moisture, which is an even more powerful absorber of terrestrial radiation. We have examined with care all known negative feedback mechanisms, such as increase in low or middle cloud amount, and have concluded that the oversimplifications and inaccuracies in the models are not likely to have vitiated the principal conclusion that there will be appreciable warming.

The known negative feedback mechanisms can reduce the warming, but they do not appear to be so strong as the positive moisture feedback. We estimate the most probable global warming for a doubling of CO_2 to be near 3° C with a probable error of ±1.5° C. Our estimate is based primarily on our review of a series of calculations with three-dimensional models of the global atmospheric circulation which is summarized in Chapter 4. We have also reviewed simpler models which appear to contain the main physical factors. These give qualitatively similar results.

One of the major uncertainties has to do with the transfer of the increased heat into the oceans. It is well known that the oceans are a thermal regulator, warming the air in winter and cooling it in summer. The standard assumption has been that, while heat is transferred rapidly into a relatively thin, well-mixed surface layer of the ocean (averaging about 70 m in depth), the transfer into the deeper waters is so slow that the atmospheric temperature reaches effective equilibrium with the mixed layer in a decade or so.

It seems to us quite possible that the capacity of the deeper oceans to absorb heat has been seriously underestimated, especially that of the intermediate waters of the subtropical gyres lying below the mixed layer and above the main thermocline. If this is so, warming will proceed at a slower rate until these intermediate waters are brought to a temperature at which they can no longer absorb heat.

Our estimates of the rates of vertical exchange of mass between the mixed and intermediate layers and the volumes of water involved give a delay of the order of decades in the time at which thermal equilibrium will be reached. This delay implies that the actual warming at any given time will be appreciably less than that calculated on the assumption that thermal equilibrium is reached quickly. One consequence may be that perceptible temperature changes may

not become apparent nearly so soon as has been anticipated. We may not be given a warning until the CO_2 loading is such that an appreciable climate change is inevitable. The equilibrium warming will eventually occur; it will merely have been postponed.

The warming will be accompanied by shifts in the geographical distributions of the various climatic elements such as temperature, rainfall, evaporation, and soil moisture. The evidence is that the variations in these anomalies with latitude, longitude, and season will be at least as great as the globally averaged changes themselves, and it would be misleading to predict regional climatic changes on the basis of global or zonal averages alone.

Unfortunately, only gross globally and zonally averaged features of the present climate can now be reasonably well simulated. At present, we cannot simulate accurately the details of regional climate and thus cannot predict the locations and intensities of regional climate changes with confidence. This situation may be expected to improve gradually as greater scientific understanding is acquired and faster computers are built.

To summarize, we have tried but have been unable to find any overlooked or underestimated physical effects that could reduce the currently estimated global warmings due to a doubling of atmospheric CO_2 to negligible proportions or reverse them altogether. However, we believe it quite possible that the capacity of the intermediate waters of the oceans to absorb heat could delay the estimated warming by several decades. It appears that the warming will eventually occur, and the associated regional climatic changes so important to the assessment of socioeconomic consequences may well be significant, but unfortunately the latter cannot yet be adequately projected.

Mr. RIBICOFF. Mr. President, I urge the support of the Senate for this amendment and its adoption.

Mr. JOHNSTON. Mr. President, this is an excellent amendment. It sets aside $2 million to study this difficult problem of pollution by coal. Coal, I think, is a major part, perhaps the preponderant part, of the answer to the energy crisis in this country. Nevertheless, coal, Mr. President, does involve environmental problems the scope and dimensions of which we do not know fully in this country yet. We do not know what the problems of all the pollutants from coal are.

This study, relatively modest in cost, will help us in that direction. We think it improves the bill and it is something we should be doing anyway, and we enthusiastically support the amendment.

Mr. DOMENICI. Mr. President, in behalf of the minority, we commend the Senator for offering this amendment. It improves the bill. It is obviously something we must do; we might as well authorize it and provide for it right here in this authorization. We support the measure.

Mr. RIBICOFF. I thank the Senator.

Mr. TSONGAS. Mr. President, may I inquire of the Senator from Connecticut, does the amendment provide for the study of the carbon dioxide levels from not only coal and other fossil fuels, but synthetic fuels generally?

Mr. RIBICOFF. That is correct, all synthetic fuels to the extent that they produce carbon dioxide in the atmosphere.

Mr. TSONGAS. I would just say, Mr. President, this issue is not going to get a lot of attention here this afternoon, but it is going to become a major issue as time goes on.

Mr. JOHNSTON. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Massachusetts, I believe, at this time has the floor.

Mr. JOHNSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. TSONGAS. I yield.

Mr. JOHNSTON. I ask unanimous consent that the name of the Senator from Indiana (Mr. BAYH) be added as a cosponsor of the Domenici-Johnston amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Connecticut.

The amendment (UP No. 734) was agreed to.

Mr. RIBICOFF. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, again I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HART. Reserving the right to object, may I just inquire as to what the parliamentary situation is here?

The Senator from Washington knows that the Senator from Massachusetts intends to offer a substitute to the pending amendment and we are waiting for the managers.

The PRESIDING OFFICER. If the Senator will suspend, debate is not in order.

Mr. HART. I am asking a question so I can find out what the purpose of the request is.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Has the quorum been called off?

The PRESIDING OFFICER. No.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HART. Reserving the right to object——

The PRESIDING OFFICER. The Senator may not reserve the right to object. He may only object, or not object.

Mr. JACKSON. I am doing this in cooperation with the Senator from Massachusetts.

Mr. HART. That is all I wanted to know.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UP AMENDMENT NO. 735

(Purpose: To provide for a comprehensive national synthetic fuels programs and for other purposes)

Mr. TSONGAS. Mr. President, I call up my perfecting amendment which is at the desk, and I ask unanimous consent that the names of Senator BIDEN and Senator HART be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS), for himself, Mr. BIDEN, and Mr. HART, proposes an unprinted amendment numbered 735.

Mr. TSONGAS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment proposed by the Senator from Louisiana, UP 733, add the following:

Provision of this title:

SHORT TITLE

SECTION 1. This Act may be cited as the "Energy Security Acts".

TITLE I—SYNTHETIC FUELS

SHORT TITLE AND TABLE OF CONTENTS

SEC. 101. (a) This title may be cited as the "Synthetic Fuels Act of 1979".

(b) TABLE OF CONTENTS.—

TITLE I—SYNTHETIC FUELS

Sec. 101. Short Title; Table of Contents.
Subtitle A—Findings and Purposes
Sec. 102. Findings.
Sec. 103. Purposes.
Sec. 104. General Definitions.
Subtitle B—Establishment of the Office of Energy Security
Sec. 110. Establishment.
Sec. 111. Authority of the Director.
Sec. 112. Annual Report.
Sec. 113. Authorization of Administrative Expenses.
Subtitle C—Production Goals of the Office of Energy Security
Sec. 121. Overall Production Goals.
Sec. 122. Production Strategy.
Sec. 123. Solicitation of Proposals.
Subtitle D—Financial Assistance
Sec. 131. Loan Guarantees Made by the Office of Energy Security.
Sec. 132. Price Guarantees Made by the Office.
Sec. 133. Purchase Guarantees Made by the Office.
Sec. 134. Limitations on Contracts.
Subtitle E—Water Rights
Sec. 141. Water Rights.
Subtitle F—Department of the Treasury
Sec. 151. Authorizations.

SUBTITLE A—FINDINGS AND PURPOSES

FINDINGS

SEC. 102. The Congress finds and declares that—

(1) the achievement of energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(2) dependence on foreign energy resources can be reduced significantly by the production of synthetic fuels from domestic resources; and

(3) attainment of synthetic fuels production in the United States in a timely manner and in a manner consistent with the protection of the environment will require financial commitments beyond those expected to be forthcoming from nongovernmental capital sources and existing Government incentives.

PURPOSES

SEC. 103. The purposes of this title are—

(1) to stimulate development of synthetic substitutes for crude oil and conventional natural gas while minimizing Government involvement;

(2) to provide the information necessary to advance toward the goal of at least $1,500,000 barrels of oil per day of synthetic fuels in consideration of both the economic desirability and environmental acceptability of such action;

(3) to provide financial assistance to encourage and assure the flow of capital funds to those sectors of the national economy which are important to the domestic production of synthetic fuels;

(4) to encourage private capital investment and activities in the development of domestic sources of synthetic fuels and to foster competition in the development of the Nation's synthetic fuel resources;

(5) to test synthetic fuels technologies to determine their potential role in meeting the Nation's energy needs in terms of—

(A) their commercial viability;

(B) their environmental impact, including, but not limited to, water consumption, water pollution, and air pollution;

(C) their health and safety aspects, including, but not limited to, any carcinogenic effect;

(D) their effect on regional and local agricultural production;

(E) their social and economic impacts;

(F) their thermodynamic balances; and

(6) to foster greater energy security and reduce the Nation's economic vulnerability from disruptions in imported energy supplies.

GENERAL DEFINITIONS

SEC. 104. As used in the title the term—

(1) "concern" means any—

(A) person, or

(B) State, or any political subdivision or governmental entity thereof, Indian tribe or tribal organization, or

(C) combination of the aforementioned, which is engaged, or proposes to engage, in a synthetic fuel project or projects pursuant to this title;

(2) "financial assistance" means—

(A) guarantees of, or commitments to guarantee, indebtedness, including principal and interest (hereinafter referred to as "loan guarantees");

(B) contracts to purchase synthetic fuel, guarantees thereof, or commitments therefor (hereinafter referred to as "purchase agreements"); and

(C) guarantees of, or commitments to guarantee, the price received or to be received by a concern from the sale of synthetic fuel (hereinafter referred to as "price guarantee");

(3) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(4) "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, or any entity organized for a common business purpose;

(5) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(6) "synthetic fuel" means any liquid, gaseous or solid hydrocarbon (including mixtures of coal and petroleum) which can be used as a substitute for supplies of petroleum or natural gas (and for any derivatives thereof) derived from domestic sources of—

(A) coal, including lignite and peat;

(B) shale;

(C) tar sands, including those heavy oil resources which cannot technically or economically be produced using conventional or unconventional petroleum recovery techniques; and

(D) biomass, which shall include timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter;

(7) "synthetic fuel project" means any facility located in the United States for the purpose of commercial production of synthetic fuel, including any necessarily related transportation or other facilities and including the equipment, plant, machinery, supplies, and other materials associated with the facility, including the land, mineral rights, services and working capital required directly for use in connection with the facilities for the production of synthetic fuels. In the case of a facility for the commercial production of synthetic fuel derived from biomass, such term shall include a facility for the production of alcohol or other synthetic fuels derived from timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter: *Provided*, That such term shall include any facility located in the United States and used solely for the purpose of commercial production of mixtures of coal and petroleum for direct use as a fuel.

SUBTITLE B—ESTABLISHMENT OF THE OFFICE OF ENERGY SECURITY

ESTABLISHMENT

SEC. 110. (a) For the purpose of achieving the national goals described in section 121, the President shall establish the Office of Energy Security as an independent Office in the appropriate Federal Agency, to be headed by a Director.

(b) The Director shall be appointed by the President, by and with the advice and consent of the Senate and who shall serve at the pleasure of the President. The salaries of both the Director and the employees shall not be subject to civil service.

AUTHORITY OF THE DIRECTOR

SEC. 111. The Director shall be responsible for determining the terms and conditions of financial assistance agreements and the selection of recipients of financial assistance.

ANNUAL REPORT

SEC. 112. (a) (1) The Office shall submit to the Congress and the President an annual report containing—

(A) a general description of the Office operations during the year;

(B) a specific description of each project in which the Office is involved;

(C) a status report on each such project; and

(D) an evaluation of the contribution which the project has made and is expected to make in fulfilling the purposes of this title (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(2) The annual report shall contain financial statements prepared by the Office in accordance with generally accepted accounting principles consistently applied.

(b) The Director shall, not later than three years after the effective date of this title, submit a phase II plan to Congress or request for an extension. The phase II plan shall include an evaluation of phase I and a determination of whether further involvement is necessary to achieve the goals of this Act. Contingent upon the phase II report's own recommendation for further Federal involvement the plan should reassess the goals of this Act and should include a formulation of a strategy, considering all practicable means for the commercial production of synthetic fuels, that will achieve the newly stated goals with the minimum Federal involvement.

AUTHORIZATION OF ADMINISTRATION EXPENSES

SEC. 113. (a) The Office is authorized to make cash outlays not to exceed $25,000,000 during the period ending September 30, 1980, for its reasonable and necessary administrative expenses. For purposes hereof, administrative expenses shall be that portion of the Administration's office account for general and administrative expenses which includes salaries of personnel and consultants, expenses for computer usage, for space needs of the Office and similar expenses.

(b) Funds authorized for administrative expenses shall not be available for the acquisition of real property or for expenses related to corporation construction projects pursuant to subtitle E.

(c) The Director may make expenditures without further appropriation for reasonable and necessary administrative expenses not to exceed the limit provided in subsection (a) in any fiscal year and then only in accordance with a detailed statement of such expenditures which has been transmitted to the Congress, the Senate Committee on Energy and Natural Resources and the appropriate committees of the House of Representatives along with the President's budget for such fiscal year except that such expenditures for fiscal year 1980 may be made without such prior statement. It is the intention of this section that the Director's expenditures for administrative expenses shall reflect due consideration for economy and to the extent practicable shall be consistent with standards applicable to Federal agencies generally.

SUBTITLE C—PRODUCTION GOALS OF THE OFFICE OF ENERGY SECURITY

OVERALL PRODUCTION GOALS

SEC. 121. There is hereby established a national goal of achieving by 1995 the synthetic fuels production capability of at least 1,500,000 barrels per day of crude oil equivalent from domestic energy resources.

PRODUCTION STRATEGY

SEC. 122. In order to assure achievement of the national goal set forth in section 121 and the purposes of this title, the Office shall—

(1) within six months of the date of enactment of this Act, invite submission of proposals from interested concerns (hereinafter referred to as "bidders"), requesting financial assistance in the form of purchase commitments, price guarantees or loan guarantees, or a combination of the two, for the design, construction, and operation of synthetic fuel projects (hereinafter referred to as "projects"). The Director shall require that each proposal contain such information as necessary for the purposes of preventing selection of more than one project involving the same technology and insuring selection of projects which best serve the purposes of this title;

(2) not later than eighteen months after the invitation for proposals, select on a competitive basis to the maximum extent practicable up to twelve proposals which are deemed most likely to contribute to the purposes of this title and which each employ a different processing technology except that not more than six such proposals shall employ the same generic feedstock; and

(3) subject to the provisions of this title, enter into contracts with bidders providing for commitments to either purchase synthetic fuels produced by the proposed proj-

ects, guarantee price for the produced synthetic fuel or with public or private financing institutions for guaranteeing loans for design, construction, and operation of the proposed projects.

SOLICITATION OF PROPOSALS

SEC. 123. (a) Preference for selection of projects under section 122 shall be given to—

(1) the proposal which represents the least Federal financial commitment and the lower unit production cost within a given technological process, taking into account the amount and value of the anticipated synthetic fuel products; and

(2) in determining relative Federal commitment in decreasing order of priority, preference shall be given to—

(A) price guarantees or purchase agreements; and

(B) loan guarantees.

(b) For the purposes of this section the term "qualified concern" means a concern which demonstrates to the satisfaction of the Office evidence of its capability to undertake and complete the design, construction, and operation of the proposed synthetic fuel project.

(c) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud, or material misrepresentation on the part of the holder.

(d) Any contract for financial assistance shall require the development of a plan, acceptable to the Office, for the monitoring of environmental and health related emissions from the construction and operation of the synthetic fuel project. Such plan shall be developed by the recipient of financial assistance after consultation with the Administrator of the Evironmental Protection Agency and the Secretary of Energy. Any contract entered into by the Office for financial assistance must include consultation with appropriate State agencies in the formulation of the applicant plan acceptable to the Director of the Office of Energy Security.

(e) The Office may, in its sole discretion and upon request of the recipient of financial assistance, reimburse such recipient for any reasonable costs in connection with a synthetic fuel project if construction of such project cannot occur within five years of the award of such financial assistance due to any Government regulatory action, or lack of action which, in the judgment of the Office, could not have been reasonably foreseen by the recipient and such reimbursement is consistent with the purposes of this title.

(f) No financial assistance may be provided unless an application therefor has been submitted to the Office in such manner and containing such information as the Office may require.

(g) The Office in providing financial assistance shall give due consideration to maintaining competition.

(h) The Office shall give priority consideration to applications for financial assistance from those concerns proposing a synthetic fuel project in those States, which, in the judgment of the Office, indicate an intention to expedite all regulatory, licensing, and related government agency activities related to such project.

(i) Every applicant for financial assistance under this Act shall, as a condition precedent thereto, consent to such examinations and reports thereon as the Office or its designee may require for the purposes of this title. The Office shall require such reports and records as it deems necessary from any recipient of financial assistance in connection with activities carried out pursuant to this title. The Office is authorized to prescribe the manner of keeping records by any recipient of financial assistance and the Office or its designee shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was provided.

(j) Each price guarantee under section 132 or a purchase agreement under section 133 shall specify in dollars the maximum amount of the liability of the Office thereunder.

(k) With regard to synthetic fuel project proposed by concern whose rates are regulated, the Office is authorized to consider as a factor in any decision to award financial assistance whether the regulatory body, or bodies, are likely to issue a ratemaking decision which will protect the financial interests of the investors and the Office.

(l) Whenever the Office, by one or more actions, awards a combination of forms of financial assistance for a single synthetic fuel project, the Office shall insure that the recipient of such financial assistance shall bear a reasonable degree of risk in the construction and operation of such project.

SUBTITLE D—FINANCIAL ASSISTANCE

LOAN GUARANTEES MADE BY THE OFFICE OF ENERGY SECURITY

SEC. 131. (a)(1) The Office is authorized, on such terms and conditions as the Office may prescribe, commit to, or enter into loan guarantees against loss of principal and interest on bonds, notes, or other obligations (including refinancing thereof) issued solely to provide funds to any concern for a synthetic fuel project. Loan guarantees shall be awarded to persons participating in a project, rather than to a project itself. The Director shall provide a loan guarantee only upon a finding that such a guarantee is needed to ensure the participation of the person, in light of the financial strength and resources of that person in relation to the costs of that person's participation in the project. Loan guarantees shall be limited to 75 per centum of the amount that such person has at risk in the project. Amounts not included as at risk shall include mines not associated with the conversion process, and costs deducted due to investment tax credits.

(2) Any guarantee made by the Office under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof, and shall be conclusive evidence that such guarantee complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(b) If the Office determines that—

(1) the borrower is unable to meet payments and is not default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Office in paying the principal and interest due under a loan guarantee agreement will be greater that that which would result in the event of a default;

(2) the amount of any payment which the Office would be required to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay at that time; and

(3) the borrower agrees to reimburse the Office for such payment on terms and conditions, including interest, which are satisfactory to the Office.

then the Office is authorized to pay the lender under a loan guarantee agreement, an amount not greater than the principal and interest which the borrower is obligated to pay.

(c) The Office shall establish such terms and conditions for loan guarantees under this title as necessary to implement the purposes of this title and insure the prompt repayment of loans.

(d) The Office may not enter into any contract providing a Federal loan guarantee of an amount in excess of $500,000,000 unless both Houses of Congress have been notified in writing of such proposed contract and thirty days of continuous session of Congress have expired following the date on which such notice was transmitted to the Congress and both Houses of Congress have not adopted, within such thirty-day period, resolutions disapproving such proposed contract.

(e) Guarantees may be made only to the extent appropriated funds are available. Appropriated funds shall remain available until termination of all guarantees.

(f) The terms and conditions of loan guarantees shall provide that, if the Office makes a payment of principal or interest upon the default by a borrower, the Office shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

PRICE GUARANTEES MADE BY THE OFFICE

SEC. 132. The Office is authorized on such terms and conditions as the Board of Directors may prescribe, commit to, or enter into price guarantees providing that the price that a concern will receive for all or part of the production from a synthetic fuel project shall not be less than a specified sales price determined as of the date of execution of the commitment or the price guarantee. No price guarantee shall be based upon a "cost plus" arrangement or variant thereof which guarantees a profit to the concern except that if the Office determines in its sole discretion that such project would not otherwise be satisfactorily completed or continued and that completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee may be renegotiated.

PURCHASE GUARANTEES MADE BY THE OFFICE

SEC. 133. (a) The Office is authorized, on such terms and conditions as the Office may prescribe, commit to, or enter into or commit to enter into purchase agreements for all or part of the production from a synthetic fuel project. The sales price specified in a purchase agreement shall not exceed the estimated prevailing market price as of the date of delivery, as determined by the Office, unless the Office determines that such sales price must exceed such estimated prevailing market price in order to insure the production of synthetic fuel to achieve the purposes of this title.

(b) The Office in entering into, or committing to enter into a purchase agreement shall require—

(1) assurance that the quality of the synthetic fuels purchased meets standards for the use for which such fuels are purchased;

(2) assurances that the ordered quantities of such fuels are delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(c) The office is authorized to take delivery of synthetic fuels pursuant to a purchase agreement and to sell such synthetic fuels to a person. In any case in which the Office accepts delivery of and does not sell such synthetic fuels to a person, such synthetic fuels shall be purchased by the Federal Government for use by an appropriate Federal agency. Such Federal agency shall pay the prevailing market price, as determined by the Secretary of Energy, for such synthetic fuels from sums apppropriated to such Federal agency for the purchase of fuels.

(d) The Office is authorized to transport and store and have processed and refined any synthetic fuels obtained pursuant to a purchase agreement under this section.

LIMITATIONS ON CONTRACTS

SEC. 134. Contracts entered into under section 122 shall be subject to the following conditions:

(1) no contract shall require or permit advance payments;

(2) loan guarantees may be employed only

if the Director determines that the purposes set forth in section 103 could not be achieved through purchase commitment contracts alone;

(3) all contracts must be entered into before October 1, 1983;

(4) no contract may commit the Federal Government to purchases beyond the seventh year of synthetic fuels production from a project, unless both Houses of Congress have been notified in writing of such proposed contract and thirty days of continuous session of Congress have expired following the date on which such notice was transmitted to the Congress and neither House of Congress has adopted, within such thirty-day period, a resolution disapproving such proposed contract;

(5) any purchase commitment contract shall provide that the Office retains the right to refuse delivery of the synthetic fuels involved and to pay the concern involved an amount equal to the amount by which the price for such synthetic fuels as specified in the contract involved exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuels on the delivery date specified in such contract;

(6) with respect to any concern, including any other person who is substantially controlled by such concern (as determined by the Secretary of Energy), the Director may not award contracts for commitment to purchase more than fifty thousand barrels per day equivalent of synthetic fuels, or make loan guarantees for design, construction, and operation of a plant designed to produce over fifty thousand barrels per day equivalent of synthetic fuels; and

(7) any purchase commitment contract shall commit the Government to purchase fixed amounts of fuels at fixed prices adjusted by a formula that may take into account inflation, world oil prices or such other prices as the Director deems relevant, except that project costs may not be considered as a factor.

SUBTITLE E—WATER RIGHTS

WATER RIGHTS

SEC. 141. (a) Nothing in this title shall (1) affect the existing jurisdiction or authority of the States and the United States over waters of any stream or over any ground water resource, including the authority to determine or allocate rights to the use of waters of any stream or any ground water resource; (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(b) No project constructed pursuant to the authorities of this title shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

SUBTITLE F—DEPARTMENT OF THE TREASURY

AUTHORIZATIONS

SEC. 151. (a) There is authorized to be appropriated for purposes of this Act $14,000,000,000 without fiscal year limitation to be allocated as follows: $4,000,000,000 in 1980, $4,000,000,00 in 1981, and $6,000,000,000 in 1982 as well as $25,000,000 for annual administrative costs. Such moneys shall be deposited within the Treasury in a separate account which shall be available to the Director for the purpose of carrying out the purposes of this title.

(b) On the basis of notification to the Secretary of the Treasury of financial assistance by the Office, the Secretary of the Treasury shall reserve within the synthetic fuel account an amount equal to the known and estimated liabilities of the Office. As amounts become available for this purpose, the Director shall repay to the general fund of the Treasury an amount equal to all lending which has been extended to the Office.

Mr. TSONGAS. Mr. President, Congress is about to pass the first truly comprehensive energy bill. It has all the elements. It has a major program to stimulate conservation, solar energy, alcohol fuels, geothermal, wind and synthetic fuels from oil shale and coal. It has initiatives that pay off soon, and initiatives that pay off later.

Both bills have unprecedented programs for synthetic fuels development. Both committees have worked hard to craft a bill that would substantially accelerate the pace of synthetic fuels development. Both attempt to stimulate commercial production by private industry. Both have staged programs with the first stage focused on a limited number of one-of-a-kind plants.

But there are significant differences in the mechanisms chosen to embody this approach. Energy has a corporation; banking does not. Banking authorizes price and purchase agreements, with loan guarantees. Energy also includes direct loans, joint ventures, and GOCO's. Energy authorizes $68 billion for phase II unless vetoed by one House; banking does not. Banking authorizes $3 billion. Energy has $20 billion.

Mr. President, it was my fate to serve on both committees. Having sat through the deliberations of both committees, I think there is a middle ground, and I believe Senator HART does as well. There is a compromise that takes advantage of the best part of both bills. The middle ground, I think, would be attractive to many people on its merits; and we believe it is possible—as we did 3 weeks ago—to sit down and look at the objectives to be achieved by both the Banking Committee and the Energy Committee and to craft those objectives into one compromise.

This substitute is not a rejection of the Banking Committee or the Energy Committee bill. It is not a rejection of the administration's program. It represents a consensus of thinking after careful consideration of both bills. The elements of the compromise, in essence, take what we feel are the best provisions of both bills and hope to achieve a consensus. Let me go into the difference.

The corporate issue:

The Energy Committee established a corporation because it wants to assure that the Federal negotiator of synfuels assistance has the will and the financial capability to consumate the agreements. They also want the program to be immune to changes of policy in the executive branch and annual congressional budget competition. We concur in that concern.

The Banking Committee, on the other hand, does not establish a corporation, because it believes that it is unnecessary and would lead to overinvolvement by the Federal Government.

The problem with the success of either version is that it does not incorporate the advantages of the other argument. Our compromise represents a middle ground. It calls for the establishment of an independent synfuels office that would derive its funds as needed from the synthetic fuels account in the Treasury Department. It would thus have the budgetary independence that the corporation enjoys. Because it is an independent office responsible to the President, it could enjoy simplified regulatory procedures, reduced political infighting, and less red-tape than if it were just another program in DOE. But it also will help to coordinate the synfuels program with energy policy and will not create a vehicle that would lead to an unwarranted Federal role. A corporation is unnecessary, but synfuels legislation should include language to assure a smooth working program.

Mr. President, I point out that in the parliamentary procedure we have before us, this corporation is just an example of the fact that in the headlong clash between two committees, we end up in a situation in which the rationale and wisdom of one committee either will succeed or be rejected. We do not feel that that makes sense, either from the jurisdictional point of view or as to method, in order to get the best possible legislation.

The second issue is financial assistance:

The Energy Committee includes the power to establish three GOCO's. The Banking Committee has no provision for GOCO's. While GOCO's are necessary at the advanced R. & D. stage it is desirable to have the private sector conduct the commercial scale demonstrations. This was pointed out at length in the Banking Committee hearings.

At the commercial stage, GOCO's are inefficient mechanisms for promoting a new industry: they are insulated from market signals, they have less incentive for efficiency, they provide little information about the commercial viability of the technology, and do not spur private sector investment. That is not to say that in particular circumstances GOCO's are appropriate if there are no private companies interested, but there is significant commercial promise despite the absence of private proposals. That window of circumstance, I believe, is something we have to deal with, and we do so.

The important question is whether we wish to define these criteria in the bill or make a case by case determination as we do for other major Government expenditures of $3 billion, such as nuclear carriers. Some argue that if a GOCO requires a new authorization, it will not be built. This would remove the GOCO threat that the Synfuel Office could use in negotiating with industry. The Energy Committee feels that the threat would not be credible if a new authorization were needed. Given the gas lines that we are going to see every year now and given the severe vulnerability we have to foreign cutoffs, it is unlikely that the pressure will be off. Request for authorization will not be impossible to get where the office shows that industry is not interested but the technology looks good. It would not require new funding, just authority to construct. We think that is credible enough and it is not necessary to give GOCO authority.

Phase II:

Again, we find ourselves in a situation in which there are competing arguments on both sides. What we have done in the compromise on phase II is not unlike what the Johnston-Domenici amendment addresses itself to.

The Energy Committee requires in 3 years that a phase II plan is submitted. Unless there is a one-house veto within 60 days, $68 billion is automatically authorized. The banking version has no phase II. The compromise sets up a framework for phase II but does not prejudge on authorization. Three years from enactment, the Director of the Synfuels Office shall submit a phase II plan to Congress or request an extension.

The phase II plan would include an evaluation of phase I, a determination of whether further involvement is necessary, a list of what types of incentives should be included, an estimate of when they should become available, a revision of the production goals, and a request for authorization. This approach assures that the synfuels programs momentum is not lost. It will cause a reasoned, comprehensive review of the production phase of this initiative. It does not prejudge it, does not lock it in concrete. The requirement for a new authorization will not slow things down because it needs a new appropriation.

I think that argument is obvious on its face, and I suspect that is the reason why the other amendment has been offered. I hope that will not cause any controversy.

Funding level for phase I:

Mr. President, I was present when both committees arrived at their figures. The Energy Committee has $20 billion. and the Banking Committee has $3 billion. We feel that $3 billion is too low and that $20 billion is too high.

But neither figure, in our opinion, has any solid technological basis to justify it.

The $14 billion program that we have introduced hopefully is based on not a round figure but on technology.

The $14 billion of purchase agreements/price guarantees and loan guarantees provided for in this bill in concert with the tax credits being made available through Finance Committee action insure that all the synthetic fuels participants reasonably close to initiating commercial ventures will receive the incentives they need to initiate action. We expect that this combination of incentives will motivate commercial oil shale investments from Union Oil Co., Tosco and Arco, Occidental and Rio Blanco. Furthermore, we believe that sufficient funds are present both for investments in low, medium, and high Btu coal gasification plants and a coal liquefaction plant as well as for a number of biomass plants.

The funding is authorized up front and placed in a synthetic fuels account in Treasury. Appropriations necessary to make these funds available are limited to $4 billion in fiscal year 1980, $4 billion in fiscal year 1981, and $6 billion in fiscal year 1982.

The funding level is realistic. We feel it can accommodate a rational synfuels program and leave room for a balanced program in conservation and renewable resources.

Both bills want the same results. Both take different tacks. The Banking Committee is much more cautious; the Energy Committee is much more aggressive.

The Energy Committee tries to get in motion a major program that is harder to slow down than to maintain. It tries to keep the decisionmaking power in the administration to avoid future congressional delays. The Banking Committee takes a single step forward. The compromise which established a 1995 goal and provides for a phase II program is an amalgam of these objectives. It seeks more program continuity than Banking but also more flexibility and review than the Energy Committee version.

Given our precarious energy situation, our Nation will never again forget the urgency of finding solutions. I am not worried that if we give Congress an opportunity to review GOCO's or phase II or give the President the opportunity to integrate the program in the executive branch that the program will collapse or be delayed. I think it will insure that the program is on target, learns from the information it generates, and has the proper private-public sector balance. It provides the flexibility to increase the public sector role if that is warranted.

The compromise is middle ground. Neither the Banking nor the Energy Committees should see approval of this substitute as a defeat. It represents a rational combination of both bills and a political accommodation of diverse interests.

Mr. President, let me make one final point.

I am glad to see that neither committee argues for a crash program as the House has passed. We cannot legislate away scale up risks, design changes, cost overruns. We cannot merely wish our Nation to have the capacity to provide the labor, construction capacity, transportation capacity, and raw materials for $88 billion worth of synfuels plants and still do other things and not create massive capacity shortages and hyperinflation. It would divert resources from more effective energy investments. Some say that we need a massive synfuels program to show the world we are serious about cutting imports, to build our own self-confidence. We think we have done this. But such an approach will never meet our expectations the way it is written in the Energy Committee version and will be sure to fail. No one will be fooled, especially our constituents. We have to have a program that tracks the learning curve that is directed at long term synthetic fuel viability and not immediate, wasteful activity.

Mr. President, a lot of time has gone into this compromise, and I wish to acknowledge the efforts of the Energy Committee and the Banking Committee because indeed it was their activity and deliberations which gave us the factual data for this compromise version.

Mr. JOHNSTON. Mr. President, I have a question here for the distinguished Senator from Massachusetts. On page 9 of his bill, subsection 113(b), it provides as follows:

Funds authorized for administrative expenses shall not be available for the acquisition of real property or for expenses related to corporation construction projects pursuant to subtitle E.

My problem is I do not find a substitle E nor do I find corporation construction projects. I wonder if the Senator could explain what that means?

Mr. TSONGAS. I say to the Senator that the original intent was to go ahead with the substitute. That substitute had that section stricken because it is not in concert and had we not had this parliamentary dilemma we faced an hour ago that would have been deleted and the Senator is quite correct.

Mr. JOHNSTON. Mr. President, I have very high regard for the distinguished Senator from Massachusetts, for his real concern about solving the energy crisis, and for his hard work in the area. I wish I could have as high regard for his amendment.

This amendment takes the worst features of the Banking Committee bill and brings them forward into a sort of a hodgepodge bill that is cut and pasted from various bills and under the title of a compromise. They have simply brought forward, as I say, the worst features of the Banking bill.

Let me explain what the really heart of this Tsongas amendment is. First of all, they provide for an independent office, but they do not say where that independent office would go. But they say that the office that would run synthetic fuels would be in an appropriate Federal agency. We do not know what that appropriate Federal agency is. It could be the Department of Energy, of course. It could be the Environmental Protection Agency, and I am sure that some would like that. It could be any agency that the President chose.

The fact of the matter is even if it were put in the Department of Energy it will carry forward the very essence of what we have been trying to get away from by the energy bill, and that is in the energy bill we want to have an independent office, staffed by a board that is independent of the political whims and changes of mood of both Congress and the changes in the administration.

The reasons for that are two. First, a historic reason, because Congress has been on again, off again. They have passed legislation in 1944 and then that was later canceled. The President has undertaken programs as long ago as 1916 and then canceled it in 1936, and then canceled the program in the midfifties.

The House of Representatives killed the Senate bill that we passed on synthetic fuels in 1975. In order for industry to make the kinds of investments which they need to make, $2 billion to $3 billion, it is estimated by Camerom Engineering for a synthetic fuels plant in the neighborhood of 50,000 barrels a day, in order to make those kinds of investments they need to be able to rely on the consistency, upon the stickability of the Government group with which they deal.

It is the essence of the Energy Committee bill to create a group that will have some continuity and will be able to make a contract on which the private sector may reply.

Second, the Tsonga bill provides for $14 billion; whereas, the Energy Committee bill provides for $20 billion. Of course, on the Energy Committee bill $1 billion of the $20 billion is provided for biomass. The other $19 billion is provided for synthetic fuels other than biomass and other than gasohol, gasohol being provided for in a separate title.

Almost every estimate that we have had indicates the cost of a 50,000-barrel-a-day facility at somewhere between $2 and $3 billion.

The Tsongas amendment, as did the Banking Committee bill, refers to 12 plants, not more than 12 plants, I believe, is the phrase, not more than 6 coal and 6 shale oil.

Mr. President, you simply cannot build the plants for the $14 billion authorization. The $19 billion figure used in the Senate Energy Committee bill was a figure based upon what we need to do to demonstrate the commercial viability of the principal technologies in synthetic fuels. Less money than that, Mr. President, will not demonstrate these figures. It may be a compromise arrived at by taking the difference between the Energy Committee bill and the Banking bill, but it is not a compromise that makes any sense. We either ought to take the route of the Banking Commitee bill, which is a dabble of money, $3 billion for R. & D., in effect, or go to the Senate Energy Committee bill which is a sufficient sum to do the job, to demonstrate in phase one the commercial viability of one-of-a-kind synthetic fuel plants.

That is the purpose, Mr. President, and I urge the Senate to keep in mind the purpose of what we are trying to accomplish in this legislation rather than think in terms of compromise between this personality or that personality or trying to reach a middle ground between two arithmetic figures. That is not what we should be doing. We should be attempting to address and we should be addressing that need to demonstrate these technologies.

Mr. President, I also point out that the Secretary of Energy has written, under date today, strongly opposing the Tsongas amendment. Just to read the first paragraph of his letter, he says as follows:

It is our understanding that Senators TSONGAS and HART intend to propose an amendment in the nature of a substitute to Title I of S. 932, and I am writing to express the Administration's strong opposition to that amendment.

Mr. President, the Secretary of Energy goes on to point out that this amendment involves, as he says, "business as usual," in pointing out the basic difference between the approach of the Banking Committee incorporated in the Tsongas amendment and the approach of the Energy Committee.

I ask unanimous consent that this letter from the Secretary of Energy be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., November 7, 1979.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: It is our understanding that Senators Tsongas and Hart intend to propose an amendment in the nature of a substitute to Title I of S. 932, and I am writing to express the Administration's strong opposition to that amendment.

While enlarging the financial commitment for synthetic fuels beyond the level proposed by the Banking Committee to $14 billion, the Tsongas-Hart substitute would lodge management of the program in a new office in "an appropriate Federal agency" rather than in an independent corporation. In other respects, the substantive provisions of the proposed substitute are largely patterned on the Banking Committee's version of Title I of S. 932.

In the Administration's view, the Tsongas-Hart substitute suffers from three principal defects. First, while appearing to move towards the principle embraced by the Energy Committee that "business as usual" will not be adequate to produce the needed results, the substitute would prohibit the establishment of an independent, Congressionally-chartered corporation. For the reasons stated in my letter of November 5, we believe that an independent entity, freed from the bureaucratic limitations under which present agencies function, is critical to a successful synthetic fuels production program. The Energy Committee version of Title I of S. 932 reflects a careful balancing of the need for accountability with the need for flexibility and action, a balance nowhere suggested in the substitute.

Second, the Tsongas-Hart proposal, while appearing to increase significantly the funds available for synthetic fuels, still falls short of the $20 billion that we think is essential for the first phase of a commercialization program. This funding level was approved in principle during recent Senate floor action on H.R. 4930, and I strongly urge that there be no retreat from this level of commitment.

Finally, the Tsongas-Hart substitute, in failing to provide authority for loans and in subjecting the loan guarantee authority for major projects to cumbersome Congressional review procedures, will severely limit the ability of the Nation to meet necessary production levels in a timely fashion. Moreover, these same deficiencies will make it difficult for smaller enterprises, which experience greater capital formation problems, from undertaking projects—thereby limiting potential competition in the synthetic fuels industry we are endeavoring to establish.

As underscored by events over this last week, we must take action to reverse the Nation's still growing dependence on imported oil. An ambitious but achievable program for synthetic fuels development is an essential part of our strategy for reaching energy security, and I strongly urge the Senate to sustain the Energy Committee's version of Title I of S. 932 against weakening amendments.

Sincerely,

C. W. DUNCAN, Jr.

Mr. JOHNSTON. Finally, Mr. President, the Tsongas amendment does not provide for joint ventures and does not provide for loans.

We heard testimony that joint ventures for what we call particular modules, modules being a commercial demonstration on a limited scale, are a very important step, particularly with those technologies which are not ready at this point to go to the full-scale 50,000-barrel-a-day demonstration plants.

According to our testimony, Mr. President, joint ventures are very important for that modular kind of commercial demonstration. I do not know why that was omitted from their bill, Mr. President, but it certainly is an oversight. It is a badly needed mechanism.

He also eliminates loans from the kinds of financial assistance which this office would be able to give. Mr. President, loans, as well as loan guarantees, as well as price guarantees, as well as the other methods, may well be necessary in order to evoke the kind of response from the private sector we think is necessary.

Mr. President, in summary, the Tsongas-Hart amendment simply takes the basic theory of the Banking Committee bill, which is business as usual, and the same Federal bureaucracy, and promotes that forward in almost the same sense as they are doing it now. We think it involves too little, it involves no independent office as in the Energy Committee bill, and we think it is a very deficient approach to the problem of synfuels.

Mr. President, I want to give the proponents of this amendment plenty of time, and I do not want to cut them off, but I will say for my colleagues that at some appropriate point this afternoon I will offer a motion to table, but I will not do so until the Senators have had additional time to develop their amendment.

Mr. HART addressed the Chair.

The PRESIDING OFFICER (Mr. PELL). The Senator from Colorado.

Mr. HART. Mr. President, as a principal cosponsor of this measure, I want to restate the critical nature of what we are doing here today to the State of Colorado and to the Rocky Mountain West. I know that other parts of the country, Appalachia and coal-producing areas, will be affected by the policy established for synthetic fuels. But there is no part of the country that will feel the effect of this legislation more than my region and more than my State.

We are critically and vitally concerned about the actions to be taken by Congress and the administration in this area and, consequently, I have to register once again my strong and deep feelings about the actions proposed by the Energy Committee and the justification supporting an alternative which attempts to address the nature of those concerns.

Once again, Mr. President, it is not an issue of business as usual versus doing something. Everybody and everyone is for doing something. Everyone is for a synthetic fuels industry. The question is not whether, the question is how. The question is what kind of rights we are going to trample on in the process. The question is what kind of economic system we are going to have in this country, and the question finally is who is going to be responsible.

I do not believe that if you are not for "business as usual", you need to be for an Energy Security Corporation.

The only difficulty with it is that the problem is created by the Constitution of the United States.

What the Energy Committee is trying to do is to try to get around the bureaucracy "problems" created by our constitional system. The administration proposes, the Congress of the United States legislates and oversees and that is the system we have. I think we are threatening to sacrifice the very system of checks and balances which makes this country work, as well as a good chunk of the free enterprise capitalistic system that makes it work. That is what the issue is.

To say that people who do not agree with the administration are for business as usual I think is a very unfortunate position for the administration and, particularly, the Secretary of Energy to take. It is essentially a charge that if you do not want to do anything or care anything about the energy crisis, you will support some other measure and will not go along with the administration.

If you are really concerned, then the only alternative you have is to support this the Energy Committee bill. That is nonsense, and I think the Secretary of Energy and the proponents of the Energy Committee proposal understand it is nonsense; and to send a letter around saying "If you do not agree with us you are for business as usual, you do not care about the energy crisis," is just patent nonsense.

We had on the floor an appropriation measure, as I recall, a couple of weeks ago. The majority leader, the distinguished Senator from West Virginia, was taking the position that we had to pass the funding level of $20 billion to keep our options open. That was the argument. It did not commit us to anything.

The Secretary of Energy says:

> Second, the Tsongas-Hart proposal, while appearing to increase significantly the funds available for synthetic fuels, still falls short of the $20 billion that we think is essential for the first phase of a commercialization program. This funding level was approved in principle during recent Senate floor action on H.R. 4930, and I strongly urge that there be no retreat from this level of commitment.

We did not make any level of commitment. The majority leader said we were keeping our options open. Talk about a classic example of the camel's nose in the tent. We are asked to approve something to keep our options open until we hear the Energy Committee's report. Then we are told that we have a level of commitment. Well, this administration and the Energy Committee cannot have it both ways. The Senate was offered that $20 billion, and some of us voted against it because we saw the train coming down the track, and here it is, a level of commitment.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. HART. Yes, I would love to hear what the response is.

Mr. JOHNSTON. I think it is a level of commitment. Commitment is not a word of precision or a word of art. It is something less than an appropriation of funds; that is clear. Because the $20 billion which has now been approved in the conference committee—the rest of the bill has not been approved, but the $20 billion has been approved—that cannot be spent until further action of Congress in appropriating the money. In other words, that $20 billion was appropriated to a fund and that money made available to the fund, but it may not be withdrawn from the fund until further appropriation by Congress.

Now, is that a commitment? I think it is, in the sense that Congress has said we want $20 billion for synfuels. It is something less than a commitment, in the sense that anyone can spend that money. There was certainly no razzle-dazzle——

Mr. HART. Mr. President, the Senator from Louisiana misses the fundamental point here. If you go back and read the RECORD when that proposal was before the Senate, the principal sponsors of that proposal sold it to the Senate and the American people on the grounds that it was no commitment, that it was keeping our options open; and those are the very words the majority leader of the Senate of the United States used. Nobody was committed to anything until the Energy Committee came up with this figure. It was to keep a kind of a general leeway that the Energy Committee was talking about in there. The Energy Committee could come up with anything up to that amount.

What I am arguing about is the Secretary of Energy now saying that we committed ourselves to something, when that was not the way it was sold to this body.

Mr. JOHNSTON. May I say to the Senator that if either the Energy Committee bill or the Tsongas-Hart amendment or any other amendment passes that is now pending, we will still not be committed, in the sense that it will take a further action of the Congress in appropriating money before anybody can spend that $20 billion. There is a commitment, in my judgment, to the $20 billion as a figure. Yes, I think there is.

Mr. HART. Well, I will just ask any American or Senator or reporter or anyone else to go back and read the RECORD, of the people who carried the administration's water on that. The Senate of the United States was definitely told that it was not any kind of commitment, we were not tying ourselves to anything, and now the principal administration spokesman is saying otherwise. It is a very, very serious problem, and I think it is a question of credibility, frankly, Mr. President.

We are told one thing on one day and suddenly, 2 or 3 weeks later, we are told just the opposite. I think it is a very serious problem, when we are trying to straighten out ourselves and the American people on where we ought to be headed. I could not object to it more. To use the argument that 2 or 3 weeks ago the majority of the Senate, some of whom made it very clear that they were not tying their hands to any figure, went ahead and approved a measure and now we are told that it is a commitment by the Senate to that figure, it is just not the case. That is not what the Senate was told. I think the Secretary of Energy is way off base when he sends a letter saying that.

I further object to the alternative argument that in supporting the Energy Committee legislation the Senate is for business as usual. As I have already said, I think that is nonsense and it is beneath the dignity of the administration to lay that one at the step of people who disagree with this approach and who are concerned about the effect of it. Arguments of this sort, I think, are not going to further the administration's position or give them very much credibility with the American people.

Back to the fundamental point, Mr. President, and that is who is going to be responsible? We have got two choices, it seems to me, on the question of synthetic fuel. We can go outside the normal governmental structure where the administration proposes specific measures, the appropriate committees of oversight of Congress look at those measures, approve them, authorize them, appropriate funds for them, and then oversee their operations or, we can step outside of that structure, create this autonomous Energy Security Corporation, which has minimal responsibility to, or for anyone, which steps outside of the normal authorization and appropriations procedure, give it a ton of taxpayers' dollars, and then tell it to go solve the problem. We may or may not feel responsible for what it does down the road.

Well, that may be wonderful for States that do not have to bear the burden, but the State of Colorado is going to have to bear the burden, and I want to play a role in that. I do not want to hand over my constitutional responsibilities as an officer under the Constitution—as a Member of the Senate—to any nonelected, autonomous body as to the future of what the State of Colorado is going to be. And that is what is at stake here, Mr. President, the future of the State of Colorado, if nowhere else.

I am being asked to vote to create some body that is not responsible for its actions to Congress, and the future of my State rests on what that body is going to do—a bunch of, we are told, experts, nameless faces because we do not even know who they are going to be, except they are going to have a lot of experience in economics and banking and energy.

They may or may not have seen the western part of Colorado, and they may or may not care what happens to it. And that is what I am concerned about.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. JOHNSTON. Mr. President, the Senator has criticized the Energy Committee proposal because of the nameless, faceless people who have not yet been appointed. But can the Senator tell me, in his amendment, which Federal agency would be used?

Mr. HART. The Senator from Colorado would much prefer that it would be the Department of Energy, the Department this Congress created to run the energy programs of this country. I think it is really too bad that 2 or 3 years later, when the Senate of the United States, the Energy Committee of the Senate of the United States admits that it cannot even trust the Department we created to run this program. That is effectively what we are saying, that we do not trust the Department of Energy. I think it is our job to make it work. If it is not working, let us make it work or abolish it.

We should not go outside the constitutional structure of Government because we do not trust or do not like the energy agency we created. We are responsible for that agency, and I say let us make it work. If we want a synthetic fuels program, let us have the Department of Energy. Under my proposal DOE can hire

new expert staff outside the civil service limits to run it. That is what I say. Everyone does not agree with that. A lot of people want to go back home and trash the Department of Energy. Fine; there is plenty there to trash. We created it. We are responsible for it. We ought to make it work.

The reason this amendment does not state that this office is going to be in the Department of Energy is because there are some people who want to vote for this amendment that do not want to vote for an office in DOE. And I think it is unfortunate.

Mr. GARN. Mr. President, will the Senator yield?

Mr. HART. I yield to the Senator from Utah.

Mr. GARN. I thank the Senator from Colorado for yielding. The Senator just made some points that I want to back up very strongly.

Through this entire debate—and I might say I am disappointed that the Banking Committee version did not pass, not just because I am a member of the Banking Committee, but because I happen to be a Senator representing the State of Utah.

I mention that in reference to what the Senator from Colorado has said. It is amazing to me the debate that we have heard, and all these experts, our colleagues from around the country and others who are not impacted by this legislation at all. The major impact is going to be in our States. Ninety-five percent of all of the tar sands in the entire United States are in the State of Utah. Most of the oil shale overlaps the Colorado-Utah border, more of it in Colorado, but into eastern Utah. And here we, who have a responsibility to represent those States, have not been heard very much. We have all the experts from other States who do not know very much about shale or tar sands or coal or anything else, who want to create this Energy Security Corporation to tell us what to do.

So I share the resentment of the Senator from Colorado at having those concerns ignored. We do not need to create another body to administer this amount of money, to dictate technologies and sites and all of those kinds of things.

I support this amendment and I hope my colleagues will vote for it.

Mr. HART. Is the Senator from Utah as concerned as I am about the autonomous nature of the Energy Security Corporation in terms of responsibility to Congress for what it is doing, and the fact that it can undertake programs in our States and in our regions that can have serious effects on those States and yet do so outside the normal, congressional authorization and oversight process?

Mr. GARN. I am absolutely concerned about that. I do not think it should be the right of any Federal agency to come in and have the authority to run roughshod over State and local concerns. That may not happen, but at least this legislation allows the possibility of them doing that. And I am opposed to that.

Mr. HART. And the Senator would agree that the protection that we have is through that normal constitutional process. Congress has an obligation and responsibility to oversee what administrators of Federal programs are doing, so that we can follow what is up, not just on an annual basis, but any time we desire a hearing, we should be able to find out what is happening in a program, what environmental effects it is having, what social effects it is having in our States, what impact it is having on our economy, our transportation system, on the total fabric of that State and that region. Does the Senator agree with that?

Mr. GARN. I agree completely. The problem is magnified because in the West our States are largely federally owned, so the impact of Federal legislation has a great deal more to do with our total decisionmaking than it does in States which are mostly privately owned. It is even more important that we be heard, that our Governors, our legislators, our local county officials, county commissioners, and others have input into this decisionmaking process.

We happen to be fortunate to have a great deal of energy in our States. It is not that we are not willing to share that energy to help the national problem. We simply want it to be done properly so that we are not exploited, and so that our local concerns are considered.

Mr. HART. Would the Senator from Utah agree that part of the genius of the Founding Fathers was to establish one House of Congress that was not based on population but had equal representation in that body, so that no action would be taken by the Government of the country against any region without a vote equal to that from every other State in the Union? Is that not an important factor to consider?

Mr. GARN. It is absolutely important. As a matter of fact, during most of the history of this Senate, if both Senators from a State objected to a particular program, that senatorial courtesy was allowed because they did represent the entire State. That does not seem to make much difference any more. We see it happening all the time, that Senators representing a particular State or area are simply overlooked without a great deal of concern for the interests of their State.

Mr. HART. I thank the Senator from Utah for his comments.

The point that is trying to be made here is not the detailed niceties of one approach over another in terms of whether we ought to have this type of incentive or that type of incentive, or some small detail of management or administration. The issue is as fundamental as the Constitution of the United States, and the issue is as fundamental as the future of the State of Colorado. That is what is going on here.

I think the Energy Committee has done absolutely a very good job in trying to solve a very difficult problem. I think they have worked hard. I think they are as concerned as any group of Senators, Members of Congress, or Americans about the problems this country faces. That is not the issue. Nobody is accusing the Energy Committee of bad faith or anything else.

The issue is, what effect is this measure going to have on my State and my region, and what am I going to be able to say about it?

Under the proposal put forward by the Energy Committee I am going to have very little, if anything, to say about it, once this train leaves the station. It concerns me. It concerns my State. And we have another way to do it which I think is just as supported by the facts as those presented by the Energy Committee.

Mr. President, the Senate has recently rejected a proposal by the Senate Banking Committee to substitute for the synthetic fuels title of the Energy Committee's proposal. Despite some limitations in the Banking Committee proposal, I strongly supported it. I now urge the support of my colleagues for a compromise proposal.

This compromise proposal would result in a synthetic fuels program that is roughly midway between the Energy Committee proposal, and the Banking Committee proposal. Differences between the Banking and the Energy Committee proposals, I believe, can best be highlighted by an analysis of four major issues. These four major issues are as follows:

First. What should be the administrative mechanism? Should there be an Energy Security Corporation, or something else?

Second. Should the Congress decide now to authorize a second phase for the synthetic fuels program to achieve particular production goals in the 1990's?

Third. What are the appropriate financial incentive mechanisms?

Fourth. What are the required funding levels for the program?

Before comparing the provisions of this compromise proposal to the Banking Committee or Energy Committee proposals, I would like to discuss provisions of this compromise as they pertain to these four major issues.

First, the compromise proposal contains an Office of Energy Security. Rather than create a large and completely autonomous Federal agency to administer the synthetic fuels program, this compromise would establish a much more modest Federal office to administer the program. The Director and staff of the Office of Energy Security would not be subject to civil service limitations, so that hiring could be done quickly. The best administrators in the country could be attracted. Under this compromise, the President could place the Office of Energy Security in the appropriate department within the administrative branch of Government. Authorizations and appropriations for this office would be done through normal congressional procedures. It would not preclude, however, a large amount of initial funding for the Office of Energy Security so that firms signing contracts for price guarantees would be assured that the Office could meet its obligations in the distant future.

Second, this compromise proposal retains the idea of a second phase syn-

thetic fuels program. It retains the goal of 1.5 million barrels of oil equivalent to be produced in the mid-1990's. This proposal requires the Director of the Office of Energy Security to submit a plan to the Congress for a second phase. It is anticipated that this plan would be submitted within 3 years. However, the Director of the Office of Energy Security could request a delay in the submission of this plan if needed to obtain additional information on the economic and environmental aspects of the synthetic fuels processes.

In the second-phase proposal, which the Director would submit to Congress, there would be recommendations for any changes in the production goals for the 1990's, any changes in the types of financial incentive mechanisms offered, and a request for authorization. There would be no second-phase authorization in this legislation before you today. In other words, the anticipation of a second phase in this compromise is present, but the limits of the second phase, meaning the degree of Federal involvement, remain flexible for the next 5 years or so.

Third, financial mechanisms in this compromise are limited to price guarantees, purchase agreements, and loan guarantees. Price guarantees and purchase agreements are the same as in the Energy Committee and Banking proposals. Loan guarantees are limited in one new sense. In order to sign a contract for a loan guarantee, the Director of the Office of Energy Security must issue a finding that such a loan guarantee is necessary to insure the participation of the company in a particular project. The finding will include an analysis of the financial strength of that company in relation to the size of the share of that company in a project.

There would be no GOCO's, no direct loans, and no joint ventures in this compromise.

Fourth, the funding level in this compromise is a total of $14 billion. This $14 billion would be spread over the next 3 fiscal years. It is anticipated this funding level is required to initiate the half dozen or so 50,000 barrel per day synthetic fuel plants. Several additional plants would probably be built only on the basis of the tax credits provided in the Finance Committee's proposal.

COMPARISON WITH BANKING VERSION

I would now like to turn to a discussion of why this compromise proposal is an improvement to the Banking Committee's substitute which was defeated in the Senate a short time ago. First, I would like to remind my colleagues that the Banking Committee substitute had no provision for administering the synthetic fuels program. There was some likelihood that the administration of the program under the Banking Committee proposal would be in the existing Department of Energy. The Energy Department is notorious for being unable to make speedy and correct decisions.

The new substitute which I am urging my colleagues to cosponsor would provide a new Office of Energy Security. Even if the President chose to locate this office in the Department of Energy, it would be a new entity, with new employees not subject to civil service, and would contain efficient administrators and financial experts to negotiate major contracts with the half dozen or so ventures for major synthetic fuel plants. I personally prefer this approach because it improves DOE.

Alternatively, the President may elect to keep the new Office of Energy Security outside the Department of Energy by locating it in another department, such as the Department of Defense or the Department of Treasury. Or, the President may elect to keep the Office of Energy Security within the Executive Office of the President.

The second major departure between this substitute and the Banking Committee approach relates to the second phase. The Banking Committee approach contained no second phase whatever. This compromise proposal does anticipate a second phase. It agrees with the Energy Committee in establishing a goal of 1.5 million barrels per day of production in the mid-1990's. In the compromise provision, this goal is flexible as is the date at which the Director of the program would submit a plan for the second phase to Congress. This is an important change from the Banking Committee approach because it tells American industry that we want industry to develop a major capability for producing synthetic fuels in this country.

The third major difference between this substitute and the Banking Committee approach is over the funding level. In the Banking Committee approach, only $3 billion is authorized for the first phase of the synthetic fuels program. thorization of $14 billion. I believe that This compromise proposal offers an au- $14 billion reflects accurately the probable requirements to initiate commercial-sized demonstrations of the promising technologies in oil shale and coal as well as demonstrations of smaller plants related to biomass, particularly alcohol fuels.

Based on the information in the synthetic fuels report by the Budget Committee's Subcommittee on Synthetic Fuels, there are approximately nine large-scale commercial prototypes to be built to test the promising synthetic fuel technologies. I believe that about three of these plants will be initiated with tax credits provided by the Finance Committee bill. That leaves six plants to be initiated with incentive mechanisms we are providing today. The synthetic fuels report shows that price guarantees cost up to $3 billion over the lifetime of each 50,000 barrel a per plant. In light of recent increases in world oil prices, it is hoped that price guarantees can be negotiated at lower levels, at roughly $2 billion per price guarantee for each major synthetic fuel facility. This would obligate about $12 billion for half a dozen plants. Another $2 billion, more or less, would be available to provide loan guarantees.

In sum, I believe that the funding level proposed in this substitute represents an amount which the U.S. Government would likely have to spend to initiate construction of the commercial prototypes in the first phase of the synthetic fuels program.

COMPARISON WITH ENERGY COMMITTEE VERSION

I would now like to compare this compromise proposal with that offered by the Energy Committee. First, there is no new large Federal agency embodied in an Energy Security Corporation. Instead, the Office of Energy Security offered in this compromise would be subject to the usual congressional oversight and administrative regulations. The only difference would be is that its employees would be outside civil service restrictions. This provision is designed to allow the Office to attract high-quality personnel immediately.

Second, this compromise proposal is flexible regarding the second phase. The Energy Committee bill contains an inflexible 1.5 million barrel per day goal and authorizes $68 billion to achieve this. In effect, the Energy Committee bill says "Mr. Administrator, find a way, no matter how much it costs, to produce 1.5 million barrels of synthetic fuel a day by 1995. We'll give you at least $68 billion and come back and ask us for more if you need it."

In contrast to this, our proposed compromise would leave the production goal at a desirable level, but allow flexibility. It is anticipated that the second phase plan not be initiated until at least some operational experience is gained from the first phase. In addition, the types of financial incentive mechanisms would be modified substantially for the second phase.

The third issue contains the types of incentive mechanisms offered. Compared to the Energy Committee bill, the proposed compromise eliminates three types of incentives which, in effect, substitute the Federal Government for responsibilities of the private sector. GOCO's are eliminated, joint ventures between the Federal Government and private companies are eliminated, and direct loans are eliminated. In order to insure that companies of relatively smaller financial strength can participate in the synthetic fuels industry, loan guarantees are left in the compromise proposal. In our estimation, loan guarantees provide less substitution of Federal involvement for private sector responsibilities compared to the alternatives which are removed from the Energy Committee proposal.

The fourth issue is the level of authorization. This compromise proposal contains no funding for the second phase at this time. The second phase of the synthetic fuels program may require only a few billion dollars or might require many tens of billions of dollars. It is inappropriate at this time to decide to authorize $68 billion for that purpose.

The compromise proposal would authorize $14 billion for the first phase compared to the Energy Committee's $20 billion. I believe that $14 billion is sufficient to accomplish the job. An amount larger than this would encourage investors in synthetic fuel plants to ask more of the Federal Government than they need. Of course, in the event that larger sums are actually needed, Congress could authorize larger sums in the next year or the following one.

OIL SHALE AND COAL IN COLORADO

I am sure that all of my colleagues are aware that Colorado contains by far the major share of this country's resources of oil shale and large coal reserves. In a relatively small area in western Colorado lies the fossil resources with the equivalent of potential energy supply from some OPEC nations. For many years I have studied oil shale resources and oil shale technologies. Recently, as the chairman of the Budget Committee's Subcommittee on Synthetic Fuels, I have studied intensively the relationship between the needs of the potential oil shale companies and the appropriateness of Federal incentives to help that industry get started.

I felt for many years that in Colorado the question is not whether we will have an oil shale industry, but when and how big will it be. In all candor, I must express to my colleagues that the size of the synthetic fuels program which we are embarking upon this week is a frightening prospect for western Colorado. The amount of mining that would have to be done for just one synthetic plant would be larger than any mining operation existing in the United States today. The people that will come to construct and to operate the mines and the plants will increase the population of western Colorado many times.

As a result of oil shale development, I am concerned that the quality of life improve with the quantity of production. To this end, it is vitally important that the processes which are used to process oil shale are environmentally sound. The rate of development of oil shale plants should be on the moderate pace to allow the optimization of the technologies as they are first employed.

It is vitally important that every oil shale project in Colorado be as clean as it possibly can be. While I do not believe we can quantify them at this time, we know that there are finite limits to acceptable change in air quality, water quality, or changes in patterns of water use that are acceptable in western Colorado. If each plant is extremely clean and minimizes water use, western Colorado can accept a greater number of plants.

The separation between the first phase and the second phase of this country's synthetic fuels program is vitally important to Colorado. The first phase of the program is likely to result in four or more major oil shale plants in Colorado. We should certainly not embark on the duplication of any technology before a particular technology is demonstrated to be desirable in a full-scale commercial plant. As commercial plants themselves are built, I would hope that the companies would build them up slowly, testing the plants one module at a time so as not to cause environmental harm if problems arise, and so as not to cause themselves financial hardship if changes are needed to be made.

For the sake of the country, it is necessary that Colorado's oil shale resources be developed wisely.

In conclusion, Mr. President, let me reiterate that the compromise proposal we are offering today largely improves the Banking Committee proposal the Senate did not adopt a short time ago. In particular, this compromise proposes an Office of Energy Security, establishes a mechanism for initiating a second phase, and greatly increases funding levels compared to the Banking Committee bill. In contrast, compared to the Energy Committee bill, this compromise offers a small increment to the intrusion of the Federal Government into the private sector than the Energy Security Corporation would provide. It makes the second phase more flexible, and possibly much cheaper. And it minimizes the amount of Federal Government substitution for private sector responsibilities. Further, it slightly decreases the amount of funding for the first phase and postpones a decision on funding for the second phase entirely.

Mr. President, a great deal of effort has been made in constructing this compromise proposal. I believe that the compromise is a superior approach on the merits either to the Banking Committee or the Energy Committee bill. I urge my colleagues to adopt this compromise vehicle.

The Budget Committee of this Senate has looked into this issue. Based on the Synthetic Fuels Subcommittee's report I believe we can achieve the same objectives for $14 billion, still an enormous amount of money, but we do not have to spend up to the larger amount. Believe me, to accept the approach which is embodied in this substitute amendment is not business as usual. I hope the Secretary of Energy understands that. You do not have to be for the administration's program to be concerned that there is an alternative. It is a $14 billion alternative which will achieve the same results and will not trample on the rights of the States in the process.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, let me say first of all I was a member of the Budget Committee task force on synfuel, and that report, unless I am sadly mistaken, did not say that this job could be done for $14 billion. Indeed, if I recall correctly, it did not endorse any particular figure for phase I. It did endorse the idea incorporated in the Senate Energy Committee bill that the commercialization of synthetic fuels be divided into two phases, the first phase to demonstrate one of a kind technologies, as in the Senate Energy Committee bill, and the second phase to involve the replication of those technologies. So it is the Senate Energy Committee bill that is entirely consistent with that Budget Committee report.

Let me just say very briefly, Mr. President, on this question of business as usual, I do not think the Secretary of Energy in calling the Tsongas-Hart amendment business as usual meant that in a deprecatory way to either of the sponsors of this amendment, but, rather, I think it was a rather accurate description of the fact that it would continue the authority for synthetic fuels in the Department of Energy where it has been since the Department of Energy was created. That is what is meant by business as usual.

Before that, it was reposed in the predecessors of the Department of Energy, that is, the Secretary of the Interior and the Bureau of Mines.

Mr. President, business as usual with respect to those departments has meant 52 years of no progress. It has been 52 years since the Bureau of Mines built those first retorts in Rifle, Colo., and we still do not have an operating commercial plant. That is what business as usual means.

There comes a time, Mr. President, when things get so severe that we have to break out of the mold of business as usual. We have done it many times in this country. For example, in World War I we created the U.S. Shipping Board Emergency Fleet Corporation and charged that group, an independent corporation very similar to the structure of this corporation, with the duty of building a merchant marine fleet in the United States. Previous to World World I we had no merchant marine fleet because the United States had respected the international treaties on maritime shipping.

We financed that corporation with $2.5 billion, which was a tremendous sum in 1916. That independent corporation did the job, not with business as usual but breaking out of the usual mold of bureaucracy in the Federal Government.

We have done it many other times: The War Finance Corporation in 1918, a separate corporation; the Reconstruction Finance Corporation, in 1932, spending a total of $54.4 billion to get us out of the depression. And there are many other examples from Amtrak to Comsat to the War Production Board, and others.

We create these corporations, Mr. President, not when we have business as usual but when there is some unusual need, when there is an unusual purpose to be accomplished by the corporation to which the independent corporate status is particularly and peculiarly appropriate. Such is the purpose today.

Why is an independent corporation appropriate for this purpose? Because, Mr. President, the kind of decisions which this corporation will make with respect to synfuels are the kinds of decisions which call for a seasoned business judgment. They call for people who have made banking and financial decisions before.

There is not a professional, I would venture to say, Mr. President, in the Federal Government, or certainly not in the Department of Energy, who has ever made, or been called upon to make, business judgments with respect to banking or finance. They have not put together industrial enterprises. They have not built a big industrial plant, none of them. They have never been involved in risk-taking. They have never even been involved in management on a big scale.

What we propose, Mr. President, is to

get into this five-man corporation men of seasond business judgment, men who perhaps headed up some of America's large corporations, who know about risk-taking, and who can sit across the table from the Exxons and the other large corporations who may want to get into this business and be able to understand the elements of risk and be able to understand how far the United States as a country must go in giving financial aid in order to get the purpose accomplished, the purpose being, of course, to demonstrate these commercial technologies.

That is the reason for an independent corporation, Mr. President, so that we will have the benefit of that expertise.

We simply cannot fight that in the Department of Energy now. We simply do not have that even with the Assistant Secretaries, Mr. President. It is not structured that way. It is very important to have these independent corporations.

Mr. President, at this time, I yield the floor to my distinguished colleague from New Mexico.

Mr. DOMENICI. I thank my friend from Louisiana.

Just as a matter of reference, Mr. President, I ask the Senator from Colorado if he will cite for me the language in the synthetic fuels report—I am not saying it is not in there. I do not know where it is—that this will do the same as the energy bill.

Mr. HART. The Tsongas-Hart amendment will achieve the first-phase goals of testing technologies at a cost of $14 billion. I am basing that on the testimony of our experts and upon the calculation that others and I have made that there will be certain industry response—in terms of the construction of facilities—to the Finance Committee's tax credit proposals—perhaps three or more commercial plants.

With the incentives in the Tsongas-Hart proposal six or more different technologies, perhaps as many as a dozen, can be demonstrated for about $14 billion. I was extrapolating from the statistics in that report plus the estimates of what the industry response to the Finance Committee will be.

I want to make it clear, because those were the terms under which that study was done, that that report does not make any recommendations. There are economic data and statistics in the report which support our approach.

If, in fact, the efforts of the Energy Committee and the sponsors of this substitute amendment are to test technologies in a first-phase mode, $14 billion can do it; $20 billion is not needed.

Mr. DOMENICI. I appreciate the clarification, because I could not find any example in the report, which was properly stated by the Senator. It was not a recommending report, it was an assessing report, from which people could make conclusions and draw premises for themselves upon which to base their own conclusions.

Mr. President, I did find, on page 204, a case II summary study by—I guess this is Cameron, which I think is one of the better firms—that by 1990, if we were to divide up and have oil shale at 300,000-to 400,000-barrel equivalent; coal at 400,000 to 450,000 equivalent, and oil sands for 20,000, it is their estimate that the total expenditure would be in the nature of—total investment of $24 to $29 billion.

The Senator is not agreeing or disagreeing with that in his previous statement, and I understand that, but if we are merely using our corporate entity to finance, with various finance mechanisms, that is a pretty good case study for what might happen by 1990, as I see it.

Mr. HART. If the Senator will yield, I think there is a difference between total investment by private corporations and Treasury exposure with incentives. What we are discussing here today is Treasury exposure, not the total investment of the private corporations.

Mr. DOMENICI. Ours is 20 and this is almost 30.

Mr. HART. Including private financing. What we are talking about is $14 billion in Federal spending. We believe we can achieve the deserved results with $14 billion in Treasury exposure, not total investment.

Mr. DOMENICI. Let me make just a few points for my fellow Senators. I really am sorry that the Senator from Colorado and the Senator from Utah assume that this National Synthetic Fuels Corporation is directed at taking away from the States significant rights that they presently have with reference to where, how, when, and if synthetic fuel is ever developed. I do not believe it does that.

On the other hand, I say to my good friend from Colorado, when we were passing a National Clean Air Act, which had a tremendous effect on the State of Colorado and the State of Utah and the State of New Mexico, in fact, it had some pristine preservation provisions in it that were in perpetuity. They were not $20 billion worth. The Senator did not get on the floor and say, "We do not want you trampling on our rights, we want to have something to say about that in Colorado" or Utah or New Mexico.

That was a national program, with national significance, answering a national need, on which I, he, and many others happened to agree that the way the Federal program was going was what we wanted. He did not argue about it and say "States' rights, do not tell us about pristine areas in our States." At that point, the Senator was here saying "That's Federal, national." And he did not say, "Do it for 5 years at a time subject to authorization or appropriation. We are getting rid of our oversight authority."

The Senator said, "Put it in that statute, because I think it is right."

Mr. HART. If the Senator will yield, it was also in the interest of Colorado to have clean air.

Mr. DOMENICI. It was in the interest of Colorado as determined by GARY HART when he came to the floor 3 years ago as a Senator, subject to whatever he thought the clean air requirements of the State of Colorado were. Right now, the Senate is going to pass on what the national program in synthetic fuels should look like in one respect: With reference to the National Government providing financial incentives to develop pilot commercial projects. I think it is absolutely right that we not have one for Colorado and one for New Mexico and one for Utah and one for West Virginia and one for Pennsylvania. It is a national program to bring plants on board—and now let me clarify this.

Some would make it sound like we are going to develop 200, 300, or 400 plants in this country. The first phase is somewhere between 8 and 10 plants. And they are not all going to be in Utah or Colorado or West Virginia or New Mexico. In fact, they will be in many parts of the United States and I find nothing in this proposed law that the Energy Committee has before the Senate that says, "We waive State water law." Quite to the contrary, it says State water law governs in every respect.

We are not going to force anything where the resources are not there. We are not going to force that down any State's throat. We know that and everybody else knows that. If the technology and the resource and the environment do not accommodate, it will go somewhere else.

We are only talking about 8 or 10 plants; we are not talking about covering the landscape of the United States or putting 10 or 12 of them in any State. There are only 8 to 10 of them in all of America.

Why do you think coal State Senators are for it? They do not expect us to build oil shale conversion plants. They expect us to build coal liquefaction plants. Those two will use up most of the money anyway—at least, over half of it.

Likewise, I want to give an analogy to the Senate. The Tennessee Valley Authority has $15 billion new authority for it to accomplish its goals in many States. It does some things in one and others in another. With that $15 billion, they will build some new powerplant. I understand that they might even build some new nuclear plants. They will build some new transmission lines. Let me complete the analogy.

If the amendment of Senator TSONGAS and Senator HART were applied to the TVA authority, what we would say to them is, "We give you $15 billion in authority to go out and do your job for your people under your charter, but before you can approve of any finance plan, we want congressional oversight. Bring it back up here and let the committees look at it, because Tennessee ought to look at the new power plant before you build it." And we just do not do that.

Mr. HART. Will the Senator yield?

Mr. DOMENICI. I shall yield in just a moment.

Mr. HART. I just want to ask a question.

Mr. DOMENICI. Sure.

Mr. HART. Is the Senator from New Mexico suggesting that the Energy Security Corporation is another TVA?

Mr. DOMENICI. No, I am not.

Mr. HART. All right.

Mr. DOMENICI. In fact, it is much smaller and has far fewer kinds of authority. It is very limited, very restricted; $20 billion, only certain projects, no more.

Mr. HART. The same concept, though.

Mr. DOMENICI. Not at all.

Mr. HART. So the analogy is not very good, is it?

Mr. DOMENICI. My analogy is good in terms of budget authority. We are not afraid to give an entity authority to do

what we tell it to do if we challenge it right. We do not say, "Come back and don't do that in our State unless we look at it." That is what the Senator is saying, that before we give any of these loans, we want to look at it.

Either we are going to have a synthetic fuel program or we are not. There is no waiver of substantive law, no Clean Air Act being waived in this law. Nobody should think that. Again, I repeat, there is no waiver of water law in this bill. Whatever the law is, it is. If there is not enough water in New Mexico for one of these plants, it will not be built there.

The Government cannot condemn the price and take them away from anybody, nor can this Corporation.

The last point in this, a new independent office is what we are talking about in this bill, the substitute, a new independent office.

I say this, how independent is independent? I mean, we do not want a separate entity like the Energy Committee, but we want an independent office within the Department of Energy. We do not want this Corporation, but we do not think the Department of Energy can do it, but we want an independent office within the Department of Energy.

I will close by saying that we do expect the business community to build, own, and, hopefully, make a profit on synthetic fuel plants. The crux is this, there is no way they will sit down with the Department of Energy if we call it an independent office within the Department of Energy, or whatever we want to call it, and enter into the kind of business transactions that a $3 billion plant requires.

We may hope they will. I am sure the good Senator from Massachusetts wants that to happen. But I am saying that it just is not going to happen.

The financial experts that testified before our committee said, "Well, we wish we could tell you that we do not need any new corporation or any separate entity, but in the final analysis we are not going to be able to enter into financial packages of the type required to bring this industry on board with the Department of Energy and bureaucrats."

We did not know about an independent office or we would have asked them that. "Could you work with an independent office in the Department of Energy, with the same kind of people, would that have worked?"

I think if we had asked they would have said "No." But I have to acknowledge that we did not ask that question.

Mr. TSONGAS. Will the Senator yield?

Mr. DOMENICI. I want to say that I agree with the Secretary of Energy in his letter to the majority leader on November 7 when he indicates that from the standpoint of bringing to the American energy scene a significant synthetic fuel demonstration, that the substitute offered by the Senators from Massachusetts and Colorado is not significantly better than the one we defeated this morning and, most certainly, nowhere as good as the one the Energy Committee reported.

I think the Secretary's analysis is right. I hope the Senate will defeat the substitute and provide the American people with a real plan for an alternate source of energy.

Mr. TSONGAS. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield. In fact, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I would like to inquire of the Senator from New Mexico, with whom I ordinarily agree on energy-related matters, the problem in this world is that no matter what issue we are talking about, right and wisdom do not always reside on one side. I am sure the Senator would agree with that.

Mr. DOMENICI. One hundred percent.

Mr. TSONGAS. The fact is that if we reject the Tsongas-Hart substitute, we are, in fact, saying that the Energy Committee was 100 percent right and the Banking Committee was 100 percent wrong.

Is that not the case?

Mr. DOMENICI. If we reject the Tsongas-Hart substitute, we are saying that the Energy Committee is 100 percent right—is that the question?

Mr. TSONGAS. That is right; and the Banking Committee is 10 percent wrong.

What we are in effect saying is that all the work of the Banking Committee, all the deliberations and the testimony, do not amount to anything. We have totally rejected that approach.

Mr. DOMENICI. Well, I guess one could say "yes" to that.

On the other hand——

Mr. TSONGAS. Now that I have the Senator saying the right things, let me continue.

Mr. DOMENICI. Wait a minute. I was answering the Senator's question and I want to finish.

On the other hand, the Energy Committee's bill is, itself, the result of diverse views, and one could start back 3 months ago and pick three proposals before the Energy Committee that are not in this, all different colors, shades, or dimensions of it.

Mr. TSONGAS. I acknowledge the point. I am the only Member in the Senate who actually serves on both committees.

I find it difficult to say that everything the Banking Committee did was invalid. That is why it was clear, when we had this kind of game of chicken with both committees coming headlong into a confrontation, that what we were going to lose in this battle was the possibility that both sides had something of merit.

We sat down and looked at both reports.

Now, what did we do? As the Senator knows on a number of issues the majority were much closer to the Energy Committee version. Certainly, on the dollars figure. Fourteen is a lot closer to 20 than 3. We have the particular plants. We can enumerate how we came up with the 14.

The second issue is the subject of the amendment.

So, clearly, the issue of the phase two approach is something we are in accord with.

The third issue is the corporation.

I sat in the Banking Committee listening to the various people argue against the corporation. What we tried to do was say that perhaps the people who testified before the Banking Committee had some wisdom, and to put together a compromise that gave the fast-track capability, but did not run the risks of the corporation.

My concern is that we ended up, for a number of reasons, before the body earlier today with a vote that, in essence, said that one side was right and the other side was wrong.

I would suggest that in the real world, life is not that simple.

What this compromise does is give people a chance to say "yes," what the Energy Committee did was valid, they worked hard and came up with a good work product. But the Banking Committee was also worthwhile, and the things they came up with deserve the consideration of the Senate.

That is why the compromise was put together, to say, in effect, that both committees worked, and worked hard. Both, I think, achieved significant results, and this is the amalgam of that wisdom. I think it should be voted for.

UP AMENDMENT NO. 735, AS MODIFIED

Mr. TSONGAS. Mr. President, I ask unanimous consent that the technical changes pointed out by the Senator from Louisiana which were in the original substitute, but because of the parliamentary situation were not in the perfected amendment, be agreed to—page 9 was the most obvious example.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Reserving the right to object, I have not seen the amendments. There will be no objection, but——

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. TSONGAS. I can withhold.

Mr. JOHNSTON. I am sure we will have no objection.

Mr. DOMENICI. Will the Senator from Massachusetts yield 1 minute to me?

Mr. TSONGAS. Yes.

Mr. JOHNSTON. Mr. President, we have no objection.

The Senator does have that right.

The PRESIDING OFFICER. The clerk will state the modification for the information of the Senate.

The legislative clerk read as follows:

On page 9 of amendment No. 735, strike out lines 19 through 22.

The amendment, as modified, is as follows:

At the end of the amendment, proposed by the Senator from Louisiana (UP 733) add the following:

Provision of this title:

SHORT TITLE

SECTION 1. This Act may be cited as the "Energy Security Acts".

TITLE I—SYNTHETIC FUELS

SHORT TITLE AND TABLE OF CONTENTS

SEC. 101. (a) This title may be cited as the "Synthetic Fuels Act of 1979".

(b) TABLE OF CONTENTS.—

TITLE I—SYNTHETIC FUELS

Sec. 101. Short Title; Table of Contents.

Subtitle A—Findings and Purposes

Sec. 102. Findings.
Sec. 103. Purposes.
Sec. 104. General Definitions.

Subtitle B—Establishment of the Office of Energy Security

Sec. 110. Establishment.
Sec. 111. Authority of the Director.
Sec. 112. Annual Report.
Sec. 113. Authorization of Administrative Expenses.

Subtitle C—Production Goals of the Office of Energy Security

Sec. 121. Overall Production Goals.
Sec. 122. Production Strategy.
Sec. 123. Solicitation of Proposals.

Subtitle D—Financial Assistance

Sec. 131. Loan Guarantees Made by the Office of Energy Security.
Sec. 132. Price Guarantees Made by the Office.
Sec. 133. Purchase Guarantees Made by the Office.
Sec. 134. Limitations on Contracts.

Subtitle E—Water Rights

Sec. 141. Water Rights.

Subtitle F—Department of the Treasury

Sec. 151. Authorizations.

SUBTITLE A—FINDINGS AND PURPOSES

FINDINGS

SEC. 102. The Congress finds and declares that—

(1) the achievement of energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(2) dependence on foreign energy resources can be reduced significantly by the production of synthetic fuels from domestic resources; and

(3) attainment of synthetic fuels production in the United States in a timely manner and in a manner consistent with the protection of the environment will require financial commitments beyond those expected to be forthcoming from nongovernmental capital sources and existing Government incentives.

PURPOSES

SEC. 103. The purposes of this title are—

(1) to stimulate development of synthetic substitutes for crude oil and conventional natural gas while minimizing Government involvement;

(2) to provide the information necessary to advance toward the goal of at least 1,500,000 barrels of oil per day of synthetic fuels in consideration of both the economic desirability and environmental acceptability of such action;

(3) to provide financial assistance to encourage and assure the flow of capital funds to those sectors of the national economy which are important to the domestic production of synthetic fuels;

(4) to encourage private capital investment and activities in the development of domestic sources of synthetic fuels and to foster competition in the development of the Nation's synthetic fuel resources;

(5) to test synthetic fuels technologies to determine their potential role in meeting the Nation's energy needs in terms of—

(A) their commercial viability;

(B) their environmental impact, including, but not limited to, water consumption, water pollution, and air pollution;

(C) their health and safety aspects, including, but not limited to, any carcinogenic effect;

(D) their effect on regional and local agricultural production;

(E) their social and economic impacts;

(F) their thermodynamic balances; and

(6) to foster greater energy security and reduce the Nation's economic vulnerability from disruptions in imported energy supplies.

GENERAL DEFINITIONS

SEC. 104. As used in the title the term—

(1) "concern" means any—

(A) person, or

(B) State, or any political subdivision or governmental entity thereof, Indian tribe or tribal organization, or

(C) combination of the aforementioned, which is engaged, or proposes to engage, in a synthetic fuel project or projects pursuant to this title;

(2) "financial assistance" means—

(A) guarantees of, or commitments to guarantee, indebtedness, including principal and interest (hereinafter referred to as "loan guarantees");

(B) contracts to purchase synthetic fuel, guarantees thereof, or commitments therefor (hereinafter referred to as "purchase agreements"); and

(C) guarantees of, or commitments to guarantee, the price received or to be received by a concern from the sale of synthetic fuel (hereinafter referred to as "price guarantee");

(3) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(4) "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, or any entity organized for a common business purpose;

(5) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(6) "synthetic fuel" means any liquid, gaseous or solid hydrocarbon (including mixtures of coal and petroleum) which can be used as a substitute for supplies of petroleum or natural gas (and for any derivatives thereof) derived from domestic sources of—

(A) coal, including lignite and peat;

(B) shale;

(C) tar sands, including those heavy oil resources which cannot technically or economically be produced using conventional or unconventional petroleum recovery techniques; and

(D) biomass, which shall include timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter;

(7) "synthetic fuel project" means any facility located in the United States for the purpose of commercial production of synthetic fuel, including any necessarily related transportation or other facilities and including the equipment, plant, machinery, supplies, and other materials associated with the facility, including the land, mineral rights, services and working capital required directly for use in connection with the facilities for the production of synthetic fuels. In the case of a facility for the commercial production of synthetic fuel derived from biomass, such term shall include a facility for the production of alcohol or other synthetic fuels derived from timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter: *Provided*, That such term shall include any facility located in the United States and used solely for the purpose of commercial production of mixtures of coal and petroleum for direct use as a fuel.

SUBTITLE B—ESTABLISHMENT OF THE OFFICE OF ENERGY SECURITY

ESTABLISHMENT

SEC. 110. (a) For the purpose of achieving the national goals described in section 121, the President shall establish the Office of Energy Security as an independent Office in the appropriate Federal Agency, to be headed by a Director.

(b) The Director shall be appointed by the President, by and with the advice and consent of the Senate and who shall serve at the pleasure of the President. The salaries of both the Director and the employees shall not be subject to civil service.

AUTHORITY OF THE DIRECTOR

SEC. 111. The Director shall be responsible for determining the terms and conditions of financial assistance agreements and the selection of recipients of financial assistance.

ANNUAL REPORT

SEC. 112. (a) (1) The Office shall submit to the Congress and the President an annual report containing—

(A) a general description of the Office's operations during the year;

(B) a specific description of each project in which the Office is involved;

(C) a status report on each such project; and

(D) an evaluation of the contribution which the project has made and is expected to make in fulfilling the purposes of this title (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(2) The annual report shall contain financial statements prepared by the Office in accordance with generally accepted accounting principles consistently applied.

(b) The Director shall, not later than three years after the effective date of this title, submit a phase II plan to Congress or request for an extension. The phase II plan shall include an evaluation of phase I and a determination of whether further involvement is necessary to achieve the goals of this Act. Contingent upon the phase II report's own recommendation for further Federal involvement the plan should reassess the goals of this Act and should include a formulation of a strategy, considering all practical means for the commercial production of synthetic fuels, that will achieve the newly stated goals with the minimum Federal involvement.

AUTHORIZATION OF ADMINISTRATIVE EXPENSES

SEC. 113. (a) The Office is authorized to make cash outlays not to exceed $25,000,000 during the period ending September 30, 1980, for its reasonable and necessary administrative expenses. For purposes hereof, administrative expenses shall be that portion of the Administration's office account for general and administrative expenses which includes salaries of personnel and consultants, expenses for computer usage, for space needs of the Office and similar expenses.

(c) The Director may make expenditures without further appropriation for reasonable and necessary administrative expenses not to exceed the limit provided in subsection (a) in any fiscal year and then only in accordance with a detailed statement of such expenditures which has been transmitted to the Congress, the Senate Committee on Energy and Natural Resources and the appropriate committees of the House of Representatives along with the President's budget for such fiscal year except that such expenditures for fiscal year 1980 may be

made without such prior statement. It is the intention of this section that the Director's expenditures for administrative expenses shall reflect due consideration for economy and to the extent practicable shall be consistent with standards applicable to Federal agencies generally.

SUBTITLE C—PRODUCTION GOALS OF THE OFFICE OF ENERGY SECURITY

OVERALL PRODUCTION GOALS

SEC. 121. There is hereby established a national goal of achieving by 1995 the synthetic fuels production capability of at least 1,500,000 barrels per day of crude oil equivalent from domestic energy resources.

PRODUCTION STRATEGY

SEC. 122. In order to assure achievement of the national goal set forth in section 121 and the purposes of this title, the Office shall—

(1) within six months of the date of enactment of this Act, invite submission of proposals from interested concerns (hereinafter referred to as "bidders"), requesting financial assistance in the form of purchase commitments, price guarantees or loan guarantees, or a combination of the two, for the design, construction, and operation of synthetic fuel projects (hereinafter referred to as "projects"). The Director shall require that each proposal contain such information as necessary for the purposes of preventing selection of more than one project involving the same technology and insuring selection of projects which best serve the purposes of this title;

(2) not later than eighteen months after the invitation for proposals, select on a competitive basis to the maximum extent practicable up to twelve proposals which are deemed most likely to contribute to the purposes of this title and which each employ a different processing technology except that not more than six such proposals shall employ the same generic feedstock; and

(3) subject to the provisions of this title, enter into contracts with bidders providing for commitments to either purchase synthetic fuels produced by the proposed projects, guarantee price for the produced synthetic fuel or with public or private financing institutions for guaranteeing loans for design, construction, and operation of the proposed projects.

SOLICITATION OF PROPOSALS

SEC. 123. (a) Preference for selection of projects under section 122 shall be given to—

(1) the proposal which represents the least Federal financial commitment and the lower unit production cost within a given technological process, taking into account the amount and value of the anticipated synthetic fuel products; and

(2) in determining relative Federal commitment, in decreasing order of priority, preference shall be given to—

(A) price guarantees or purchase agreements; and

(B) loan guarantees.

(b) For the purposes of this section the term "qualified concern" means a concern which demonstrates to the satisfaction of the Office evidence of its capability to undertake and complete the design, construction, and operation of the proposed synthetic fuel project.

(c) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud, or material misrepresentation on the part of the holder.

(d) Any contract for financial assistance shall require the development of a plan, acceptable to the Office, for the monitoring of environmental and health related emissions from the construction and operation of the synthetic fuel project. Such plan shall be developed by the recipient of financial assistance after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy. Any contract entered into by the Office for financial assistance must include consultation with appropriate State agencies in the formulation of the applicant plan acceptable to the Director of the Office of Energy Security.

(e) The Office may, in its sole discretion and upon request of the recipient of financial assistance, reimburse such recipient for any reasonable costs in connection with a synthetic fuel project if construction of such project cannot occur within five years of the award of such financial assistance due to any Government regulatory action, or lack of action which, in the judgment of the Office, could not have been reasonably foreseen by the recipient and such reimbursement is consistent with the purposes of this title.

(f) No financial assistance may be provided unless an application therefor has been submitted to the Office in such manner and containing such information as the Office may require.

(g) The Office in providing financial assistance shall give due consideration to maintaining competition.

(h) The Office shall give priority consideration to applications for financial assistance from those concerns proposing a synthetic fuel project in those States which, in the judgment of the Office, indicate an intention to expedite all regulatory, licensing, and related Government agency activities related to such project.

(i) Every applicant for financial assistance under this Act shall, as a condition precedent thereto, consent to such examinations and reports thereon as the Office or its designee may require for the purposes of this title. The Office shall require such reports and records as it deems necessary from any recipient of financial assistance in connection with activities carried out pursuant to this title. The Office is authorized to prescribe the manner of keeping records by any recipient of financial assistance and the Office or its designee shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was provided.

(j) Each price guarantee under section 132 or a purchase agreement under section 133 shall specify in dollars the maximum amount of the liability of the Office thereunder.

(k) With regard to synthetic fuel project proposed by a concern whose rates are regulated, the Office is authorized to consider as a factor in any decision to award financial assistance whether the regulatory body, or bodies, are likely to issue a ratemaking decision which will protect the financial interests of the investors and the Office.

(l) Whenever the Office, by one or more actions, awards a combination of forms of financial assistance for a single synthetic fuel project, the Office shall insure that the recipient of such financial assistance shall bear a reasonable degree of risk in the construction and operation of such project.

SUBTITLE D—FINANCIAL ASSISTANCE

LOAN GUARANTEES MADE BY THE OFFICE OF ENERGY SECURITY

SEC. 131. (a) (1) The Office is authorized, on such terms and conditions as the Office may prescribe, commit to, or enter into loan guarantees against loss of principal and interest on bonds, notes, or other obligations (including refinancing thereof) issued solely to provide funds to any concern for a synthetic fuel project. Loan guarantees shall be awarded to persons participating in a project, rather than to a project itself. The Director shall provide a loan guarantee only upon a finding that such a guarantee is needed to ensure the participation of the person, in light of the financial strength and resources of that person in relation to the costs of that person's participation in the project. Loan guarantees shall be limited to 75 per centum of the amount that such person has at risk in the project. Amounts not included as at risk shall include mines not associated with the conversion process, and costs deducted due to investment tax credits.

(2) Any guarantee made by the Office under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof, and shall be conclusive evidence that such guarantee complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(b) If the Office determines that—

(1) the borrower is unable to meet payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Office in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default;

(2) the amount of any payment which the Office would be required to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay at that time; and

(3) the borrower agrees to reimburse the Office for such payment on terms and conditions, including interest, which are satisfactory to the Office.

then the Office is authorized to pay the lender under a loan guarantee agreement, an amount not greater than the principal and interest which the borrower is obligated to pay.

(c) The Office shall establish such terms and conditions for loan guarantees under this title as necessary to implement the purposes of this title and insure the prompt repayment of loans.

(d) The Office may not enter into any contract providing a Federal loan guarantee of an amount in excess of $500,000,000 unless both Houses of Congress have been notified in writing of such proposed contract and thirty days of continuous session of Congress have expired following the date on which such notice was transmitted to the Congress and both Houses of Congress have not adopted, within such thirty-day period, resolutions disapproving such proposed contract.

(e) Guarantees may be made only to the extent appropriated funds are available. Appropriated funds shall remain available until termination of all guarantees.

(f) The terms and conditions of loan guarantees shall provide that, if the Office makes a payment of principal or interest upon the default by a borrower, the Office shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

PRICE GUARANTEES MADE BY THE OFFICE

SEC. 132. The Office is authorized on such terms and conditions as the Board of Directors may prescribe, commit to, or enter into price guarantees providing that the price that a concern will receive for all or part of the production from a synthetic fuel project shall not be less than a specified sales price determined as of the date of execution of the commitment or the price guarantee. No price guarantee shall be based upon a "cost plus" arrangement or variant thereof which guarantees a profit to the concern except that if the Office determines in its sole discretion that such project would not otherwise be satisfactorily completed or continued and that completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set

forth in the price guarantee may be renegotiated.

PURCHASE GUARANTEES MADE BY THE OFFICE

SEC. 133. (a) The Office is authorized, on such terms and conditions as the Office may prescribe, commit to, or enter into or commit to enter into purchase agreements for all or part of the production from a synthetic fuel project. The sales price specified in a purchase agreement shall not exceed the estimated prevailing market price as of the date of delivery, as determined by the Office, unless the Office determines that such sales price must exceed such estimated prevailing market price in order to insure the production of synthetic fuel to achieve the purposes of this title.

(b) The Office in entering into, or committing to enter into a purchase agreement shall require—

(1) assurance that the quality of the synthetic fuels purchased meets standards for the use for which such fuels are purchased;

(2) assurances that the ordered quantities of such fuels are delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(c) The office is authorized to take delivery of synthetic fuels pursuant to a purchase agreement and to sell such synthetic fuels to a person. In any case in which the Office accepts delivery of and does not sell such synthetic fuels to a person, such synthetic fuels shall be purchased by the Federal Government for use by an appropriate Federal agency. Such Federal agency shall pay the prevailing market price, as determined by the Secretary of Energy, for such synthetic fuels from sums appropriated to such Federal agency for the purchase of fuels.

(d) The Office is authorized to transport and store and have processed and refined any synthetic fuels obtained pursuant to a purchase agreement under this section.

LIMITATIONS ON CONTRACTS

SEC. 134. Contracts entered into under section 122 shall be subject to the following conditions:

(1) no contract shall require or permit advance payments;

(2) loan guarantees may be employed only if the Director determines that the purposes set forth in section 103 could not be achieved through purchase commitment contracts alone;

(3) all contracts must be entered into before October 1, 1983;

(4) no contract may commit the Federal Government to purchases beyond the seventh year of synthetic fuels production from a project, unless both Houses of Congress have been notified in writing of such proposed contract and thirty days of continuous session of Congress have expired following the date on which such notice was transmitted to the Congress and neither House of Congress has adopted, within such thirty-day period, a resolution disapproving such proposed contract;

(5) any purchase commitment contract shall provide that the Office retains the right to refuse delivery of the synthetic fuels involved and to pay the concern involved an amount equal to the amount by which the price for such synthetic fuels as specified in the contract involved exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuels on the delivery date specified in such contract;

(6) with respect to any concern, including any other person who is substantially controlled by such concern (as determined by the Secretary of Energy), the Director may not award contracts for commitment to purchase more than fifty thousand barrels per day equivalent of synthetic fuels, or make loan guarantees for design, construction, and operation of a plant designed to produce over fifty thousand barrels per day equivalent of of synthetic fuels; and

(7) any purchase commitment contract shall commit the Government to purchase fixed amounts of fuels at fixed prices adjusted by a formula that may take into account inflation, world oil prices or such other prices as the Director deems relevant, except that project costs may not be considered as a factor.

SUBTITLE E—WATER RIGHTS

WATER RIGHTS

SEC. 141. (a) Nothing in this title shall (1) affect the existing jurisdiction or authority of the States and the United States over waters of any stream or over any ground water resource, including the authority to determine or allocate rights to the use of waters of any stream or any ground water resource; (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(b) No project constructed pursuant to the authorities of this title shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

SUBTITLE F—DEPARTMENT OF THE TREASURY

AUTHORIZATIONS

SEC. 151. (a) There is authorized to be appropriated for purposes of this Act $14,000,000,000 without fiscal year limitation to be allocated as follows: $4,000,000,000 in 1980, $4,000,000,000 in 1981, and $6,000,000,000 in 1982 as well as $25,000,000 for annual administrative costs. Such moneys shall be deposited within the Treasury in a separate account which shall be available to the Director for the purpose of carrying out the purposes of this title.

(b) On the basis of notification to the Secretary of the Treasury of financial assistance by the Office, the Secretary of the Treasury shall reserve within the synthetic fuel account an amount equal to the known and estimated liabilities of the Office. As amounts become available for this purpose, the Director shall repay to the general fund of the Treasury an amount equal to all lending which has been extended to the Office.

Mr. TSONGAS. I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Chair asks whether it is correct to assume that the Senator from Massachusetts wishes to so modify his amendment.

Mr. TSONGAS. Yes.

The PRESIDING OFFICER. The amendment is so modified.

Mr. DOMENICI. I wish to comment on the remarks of the Senator from Massachusetts as to the hearing and the wisdom and the knowledge gained in the Banking Committee and why we do not have a little of both in the bill.

I do not know whether we can end up with some of what the Banking Committee wanted or not. If it comes to using a new, independent office versus the Synthetic Fuels Corporation, both of which are new, there is no evidence here that we are going to save any money in one versus the other.

From my standpoint, I do not think there is a compromise. I think it is either what the Energy Committee said, from my standpoint, or we are not going to get any synthetic fuel. It is that important. We are not going to get a synthetic fuel industry base diversified and on board in the shortest period of time, with the least amount of Federal dollars invested. If that is the case, then we are going to run into each other on that issue: the size, the kind of plants, the diversification.

Maybe the Senator has something that would be different from our approach. But I opt—and I believe the Senate should opt—for a corporate entity with a charter versus a new, independent office, both of which are new.

Mr. TSONGAS. Mr. President, I yield to the Senator from Wisconsin; but, first, I point out that the testimony before the Banking Committee, by a broad spectrum of interests, suggested that the Banking Committee version did have merit.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from Massachusetts and the Senator from Colorado. This is a genuine compromise. It goes right down the middle.

For example, with respect to the production goal, it insists on the Energy Committee's goal of 1.5 million barrels a day production for 1995. That is the same goal as the Energy Committee originally provided. We did not have a goal in our Banking Committee bill. So it maintains the 1.5 million barrels a day goal for the same date.

Second, it provides, as I understand it—and the Senator from Massachusetts can correct me if I am wrong—for approximately five times the authorization that the Banking Committee did. It goes from $3 billion to $14 billion; and it is closer, therefore, so far as the amount is concerned, to the Energy Committee's $20 billion figure. It certainly is a reasonable compromise from that standpoint, and a figure that can easily be supported.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. TSONGAS. If the Senator is interested, later we can go into how we arrived at that figure, rather than the approach that was used elsewhere.

Mr. PROXMIRE. The reason why I stress that is that if there was one weakness in the Banking Committee bill—and, of course, I thought it was a good bill, or I would not have offered it—it was that the $3 billion authorization obviously was too little. There was a general consensus that it was too little. I believe that the correction made by the Senator from Massachusetts in his amendment is a change which should meet the objections of many Members of the Senate who voted against the Banking Committee bill, and I hope it will win support for what the Senator from Massachusetts and the Senator from Colorado are offering.

In the third place—and this is a very important distinction from the Energy Committee bill—in phase I, the Tsongas-Hart proposal provides no duplication; that is, no plants of duplicate technology shall be financed in phase I.

That is extremely important, because with limited resources available in our economy, with the likelihood of inflation in the industry if we go through with a crash program to finance everybody in sight. I think the elimination of duplication which the Senators provide is of greatest importance.

In addition, the Tsongas-Hart proposal provides for completion guarantees, which is also provided by the Energy Committee bill—that is, the guarantees will provide for the protection of the plant from regulatory risk. But it does not provide—and I think this should be very important to many Members of the Senate—for Government-owned, contractor-operated plants.

A number of Senators, including Senators who voted against the Banking Committee bill, have told me one part of the Banking Committee bill which they favored was the provision restricting Government-owned, contractor-operated plants.

So, in substance, I think the Senators have offered an excellent amendment, one that should win the support of a substantial majority of the Senate. As the Senator from Massachusetts brought out so well in the colloquy, it is a genuine compromise. It takes the strength of both the Banking Committee bill and the Energy Committee bill.

It is appropriate that the one Member of the Senate who is a member of both committees is the author, together with Senator Hart, of the compromise proposal.

Mr. HART. Mr. President, given the intention of the floor manager of the bill to move to table the amendment, I would like to make some final comments, as one of the cosponsors of the amendment.

The Senator from Louisiana and the Senator from New Mexico have stated over and over again their respect and admiration for the Secretary of Energy and his Department, as to what should be done here.

It seems to me that if they had that much respect for him, they would place the administration of this program in his hands.

We are talking about creating a board of people who are experts in business—economics and finance, some background in energy, management, and all the rest. I cannot think of anyone who qualifies under those categories any more than Charles Duncan. That is what we hired him for—to run the public aspects of the energy program in this country.

If we have gone to all that trouble to create an agency, to give it responsibility, consolidate dozens and dozens of bureaus and offices in the Government under one roof, find the best person in the country to run it, what are we doing? We ask him to create something outside that Department and find a lot of people to run it. I do not understand that.

If the Secretary of Energy has the respect that the floor managers suggest—and he does so far as this Senator is concerned—I think he should run this program.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HART. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Under the Tsongas-Hart amendment, we are not even sure that it would be the Secretary of Energy; because in section 110(a), which creates this separate office, it says:

The President shall establish the Office of Energy Security as an independent office in the appropriate Federal agency.

"Appropriate Federal agency" is not defined, so that could be the Department of Energy. It could be the Environmental Protection Agency. It could be the Department of the Interior, which now has control over coal matters. It could be the Defense Department. It could be any number of different departments.

I am willing to assume for the purpose of debate that it would be in the Department of Energy; but if it is so clear that Duncan is the man, I do not know why the Senators did not name the Department of Energy.

Mr. HART. I suspect that it was the very reason stated in support of the Energy Committee bill: The President has to have flexibility. What we are doing is giving the President some flexibility.

Mr. TSONGAS. I will explain why it was written that way.

There was conflicting sentiment as to whether the Department of Energy was more appropriate—as I think it would be and as Senator HART thinks it would be. The argument also is made that the Department of the Treasury, given its unique capability, should be the appropriate agency.

We decided that it should be left the way it was and give the President the right to choose which of the two he preferred.

It seems to me that that flexibility, rather than being an impediment to its consideration, would be a strong incentive to vote for it.

Mr. HART. We also have heard the floor managers talk about attitudes of business and what business people are saying, what will induce them to invest in an industry which is not even marginally profitable at the present time.

The Budget Committee, on which I serve, has heard testimony from the Committee on Economic Development, which is composed of a dozen or two dozen of the largest financial institutions in America, and they testified that they do not want an Energy Security Corporation.

We have heard statements by representatives of thousands, if not tens of thousands, of small business people in this country. They do not want an Energy Security Corporation.

So the argument about what is attractive or not attractive to the business community seems to be kind of waxing and waning here, depending on who one listens to.

I point out one other thing: We have heard a lot in this Senate and will continue to hear a lot about a balanced budget. A lot of people, including the Senator from Colorado, say we have to balance the Federal budget.

Let us look at that a minute. Are we going to balance the Federal budget by adding a 3-percent increase in 1980, a 5-percent increase in 1981, and a 5-percent increase in 1982 for defense spending? Are we going to balance the Federal budget by allocating $88 billion to a Synthetic Fuels Corporation? Are we going to balance the Federal budget by continuing to go outside the budget?

One of the ways we are going to balance the budget, apparently, is to have in effect what is called off-budget allocation of revenue to this autonomous body. We will be able to then go to the American people and tell them we are balancing the budget while at the same time putting tens of billions of tax dollars in an autonomous body.

In any case, I think the American people should look carefully at what we are doing here with regard to a balanced budget.

Mr. President, I think it is clear that this proposal by the Senator from Massachusetts and the Senator from Colorado has achieved part of its goal. I believe very strongly, if the Senator from Massachusetts and I had not offered this, we would not see this "dear colleague" at our desk today signed by the distinguished floor managers of the bill making some important changes in their legislation.

I just happen to believe if they had not been faced with the challenge, holding into question the structure and the means by which this entity is going to operate, the amount of money, the first and second phase, we would not see these.

So I am happy that there has been some recognition of substantial concern in the Senate about this whole proposal. So we are part way home.

There are four questions that are at issue here. The first is how to achieve the goals of a first phase of a domestic synthetic fuels industry, the most effectively and efficiently.

The Senator from Massachusetts and I believe the way to do that is through our amendment which allocates $14 billion instead of the Energy Committee's $20 billion. And we believe the record supports that level of commitment. So we have the same results for $6 billion less money.

The second issue is how to achieve accountability by the people who are going to be responsible for this tax money. I believe under the constitutional system that we have the best way to do that is to require the agencies of the administrative branch that have the responsibility for administering energy-related programs in this country to run this program to submit their budgets to the appropriate committees of Congress, have them authorized and appropriated on an annual basis and have week-by-week oversight of their activities.

It is clear as the Sun comes up in the morning that the Energy Security Corporation is clearly an attempt to bypass that whole structure, and I think it is only marginally constitutional.

The third question is how to maximize private investment in that domestic synthetic fuels industry. It is a question of the kind of economic system we are going to have.

Mr. President, we are at war of sorts, and it is clear every day that we pick up the newspapers the kind of war it is. It is economic war; it is political war. It is a very, very serious war, and most of it surrounds energy and economic issues. But we are not shooting at each other. We are not shooting at each other yet, and we all pray we will not. Until we do start shooting at each other, we do not

need to suspend the constitutional structure of government or the economic system we have. We can provide incentives for private capital to come into this business on a long-term basis. We can keep the Government out, and we can protect essentially a free market in this emerging industry.

We do not have to waive the economic system or the constitutional system to achieve this industry, and that is what is at issue here.

Finally, speaking once again regionally I think the issue is how to protect the areas of the country that are going to be most affected. It is just the reverse of what the Senator from New Mexico said. It is, in fact, an attempt to protect the quality of the life of the people in the regions who will be called upon to develop these energy supplies. It is exactly like the Clean Air Act amendments, as a matter of fact.

What we are being asked to do here is for at least two major regions of this country to sacrifice that quality of life in the effort to solve the overall energy problem. I do not think we are at that dire strait.

If there is a problem facing every American today, it is a sense of losing control of their lives, and I think those of us who represent one part of the country or the other have an absolute obligation under our oaths of office to see that the people we represent do not further have the sense of losing control of their lives. I can say with all candor and all seriousness to my colleagues that the people I represent feel very strongly that Washington cares less and less about what happens to them. They have a strong feeling that Congress is prepared to take extraordinary measures to create entities outside the system that was designed to protect their interests in order to solve a very serious problem.

I do not think we have to go that far. I do not think we have to sacrifice the ability of this elected official or any other to represent on a daily basis the needs and interests of the people that we are sent here to represent in order to solve that problem.

We can have synthetic fuels. We can develop oil shale and coal. We can do a lot of these things, but we do not have to step outside the structure of government that we have and we do not have to sacrifice the legitimate needs and concerns of a whole region of this country.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, we are very aware of the hopes and aspirations and concerns of the people of all States here concerned, particularly those in the State of Colorado, because in Colorado we have, of course, the principal deposits of oil shale. We have been trying to get those deposits proven on a commercial basis, as I have said before, since 1916, and the predecessors of the Department of Energy in this responsibility, the Bureau of Mines, the Department of Interior, and even the Department of Energy have been unable to do so.

Mr. President, we have not waived any laws at all designed for the protection of Colorado or other States. The Clean Air Act, the Clean Water Act, all the rest are still applicable, fully applicable, not waived at all in this bill. The full environmental impact statement is preserved.

There is indeed no difference among the Banking Committee bill, the Tsongas-Hart bill, and this bill, in terms of protection for the State of Colorado or protection for any other State. That is not involved.

As one follows the debate and as one heard the Senator from Colorado speak just a moment ago, one would get the impression that somehow their bill is more safety oriented and is more oriented toward clean air and clean water.

Mr. President, it provides most of the same mechanisms we provide for loan guarantees and price guarantees. That is not the difference.

The difference is, first of all, whether you have the amount of money necessary in their so-called compromise. They have $14 billion; we have $19 billion for synfuels, excluding biomass. And the reports, including the very report that the Senator from Colorado is the chairman of, the Budget Committee synfuels report, which suggests if you are going to have 8 to 10 to 12 plants, the $14 billion is not going to do it.

Second, there is no difference in the level of protection provided in their amendment and our amendment. Our amendment provides 100 percent full protection as provided under Federal law, such as the National Environmental Policy Act, the Clean Air Act, and other acts. Their amendment provides similar protection. There is no difference there.

The principal difference is in addition to this level of funding the fact that our Energy Committee bill creates a separate corporation that will be run by five businessmen who will have experience in making the kinds of decisions which they will be called upon to make.

That is the center point of the Energy Committee bill.

Think for a minute about what this corporation will have to do, when it is created. It will be called upon to negotiate with, let us say, Exxon because they happen to have one of the technologies that probably should be developed. It is called the Exxon donor solvent. It is a coal liquefaction process that as the title suggests involves a solvent. They have a particular kind of process. They are probably farther along in it than anyone else in the world. So this corporation will be called upon to sit across the table with Exxon and make a business deal. What is that business deal? It will involve the question of how much is necessary to get Exxon to go into the process.

In order to make that evaluation, you have to have experience in high finance. A first level bureaucrat in the Department of Energy, and there are plenty of top-notch ones, has never put together an industrial plant, has never made business decisions, and has never had to deal with Wall Street. He has never had to raise large sums of capital, $2 billion to $3 billion, and he has never had to assess an evolving technology to determine whether or not that technology is a high risk, a low risk, or something that needs a great deal of Federal involvement.

The kind of people whom we anticipate and envision on this independent board will be the kind of people who have made those kinds of decisions, who will be able to work out the best deal for the American people so that they will be able to give such financial incentives, whether in the form of loan guarantees, price guarantees, completion guarantees, joint ventures, or in those limited last resort kind of situations of a Government-owned, company-operated plant, which we frankly do not expect will ever be built because we think it can be done under the other financial methods provided for in our legislation. Nevertheless, they will be able to put together a package, Mr. President, of those different kinds of financial incentives and be able to work out the best deal for the American people. That just cannot be done, you do not have that kind of skill, in the Department of Energy.

So, Mr. President, we think it is quite clear that the Energy Committee bill is the only practical way to get away from what the Secretary of Energy calls business as usual. Business as usual is not meant to be a deprecatory phrase in relation to the Department of Energy because, after all, the Secretary of Energy runs that Department, but it means we have got to break out of that mold of using full-time career bureaucrats in the Department of Energy, and I am not using that term "bureaucrat" as a label of derision here, but they simply do not have that kind of experience, and it calls for a different level of experience.

Mr. President, I think the matter has been fully developed. I would like to ask if the Senator from Massachusetts has some more remarks he would like to make at this time.

Mr. TSONGAS. One minute would be all I would need. Is the Senator from Louisiana finished and has he completed his remarks?

Mr. JOHNSTON. Yes, I will yield the floor at this point, Mr. President.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, we have argued this now for 2½ hours. I think the point has been made. I would simply say to my colleagues that one could not have sat through the deliberations of both committees without gaining respect for the work product of both.

What we have before us now is an opportunity for each Member of the Senate to acknowledge the fact that both committees worked hard, that both had wisdom in their work product. What we are trying to do is to obviate the unfortunate situation that when we take either one side or the other we lose, perhaps, a better work product in that process.

I respect both of the committees because I serve on them, and I spend a great deal of time in their deliberations, and I hope this compromise will be viewed as that, and when, however, the vote comes

out, hopefully affirmatively, that the best of both committee bills will then become the language of the Senate, and which it will embrace in the final passage. I yield back the remainder of my time.

Mr. HART. Mr. President, briefly let me just respond to the Senator from Louisiana. When he says there are no substantive differences between this amendment and that of the proposal of the Energy Committee, I cite to him the following differences in our bill on page 13 we have the following provision:

> Any contract entered into by the Office—

Namely, the Office of Energy Security—

> for financial assistance must include consultation with appropriate State agencies in the formulation of the applicable plan acceptable to the Director of the Office of Energy Security.

That is not in the Energy Committee's bill.

Further, with regard to States rights of water, and so on, I urge him to look at the bottom of page 21, section 141 of our bill which says:

> Nothing in this title shall affect the existing jurisdiction or authority of the States and the United States over waters of any stream or over any ground water resource, including the authority to determine or allocate rights to the use of water of any stream or any ground water resource.

That langauge is not in the committee's bill. Those are very important measures.

Mr. JOHNSTON. May I say to the Senator that our bill does not in any way affect water rights and, indeed, the fact that the Senator says it does not affect water rights does not take away from the fact that the Energy Committee bill does not affect it either. We did not say it does not affect it because we did not provide for that. But we do have, and I am advised by the staff we do have, a provision on water rights that is virtually identical to that just described, on page 140 of the bill, section 178 which reads:

> Nothing in this Title shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource.

It is an identical provision I am advised by the staff.

Mr. HART. Third, the Senator from Louisiana talks about the bureaucrats who have no experience. The proposal, the substitute proposal, of course, creates a separate office to administer the incentive program which we provide for, and provides further that the people who work in that, including its Director, would be outside the civil service laws. This would enable the Secretary of Energy to go to the type of talent which the Senator from Louisiana feels is important to administer this program to get outside the governmental civil service, to find people who have business, financial, and energy backgrounds. So I think the sponsors of the substitute measure have taken into consideration one of the areas that the Senator from Louisiana feels is very important in the Energy Committee's approach.

We just keep it in the normal activities of the Government that this Senator feels are so important to achieve the protections of our States and regions that are not represented in the Energy Committee's bill.

Mr. JOHNSTON. Mr. President, I yield to the Senator from New Mexico.

Mr. DOMENICI. I thank my good friend. I will take just 2 minutes, if the Parliamentarian will advise me when I have used that time.

As the Senator from a Federal State or a State with a great deal of Federal land, much like that of my good friend from Colorado and my good friend from Utah, I am not the least bit concerned that this bill is forcing my State, forcing any State with Federal lands, to do anything that is not going to ultimately happen in this country, and I do not see any waiver of environmental laws.

I call to my colleagues' attention page 140 of our bill, section 178 on water rights. There you have absolute and unequivocal language protecting the permitting and appropriation system in terms of water within the individual States. It is almost identical language in terms of that particular concern, resource concern.

I also call to their attention page 83, section 123(e). Those States that express a willingness to be part of this program and want to expedite it, and get a preference, I think there is ample indication that they are going to work together.

Finally, let me say, if I understand the argument of the proponents of the amendment, and I have the greatest respect for both of them, I understand they will argue and are saying this: The same level of activity in the development of synthetic fuel can be obtained under their bill, they say, as under the Energy Committee's bill, the same level of activity.

The same level of activity. They would say, "We do not need the corporation, and we use less money."

Well, I do not agree on either of those, but let me agree, for the sake of this argument, that they will produce the same level of activity in the development of synthetic fuels. Then I would ask, if that is true, then how can ours by shoving something down the throats of the States, be environmentally degrading and denying rights to the States?

If we are going to get the same degree of activity under both bills, I assume it will create the same kinds of plants and the same synthetic conversion processes, so either we are going to get there or not get there, and if we are going to get there, then it seems to me the argument is not one that ours does more damage at all. They have to be the same. A 50,000-barrel conversion plant under one of these processes, built under their proposal or under the Energy Committee's, has to be the same kind of plant. If we are going to get to the same place with the same kind of activity, how could one argue that ours will cause more damage than theirs? I would guess the argument is we will not get there unless we do it in a way similar to that recommended by the Energy Committee.

Mr. JOHNSTON. Mr. President, I do not want to cut anybody off. We have debated this matter now for a couple of hours. So I move to table——

Mr. HART. Mr. President, will the Senator yield, so that I may respond to the Senator from New Mexico?

Mr. JOHNSTON. Oh, yes.

Mr. HART. If I may say so, in response to the Senator from New Mexico, the difference is whether the elected Representatives in Congress have the opportunity of overseeing those two separate governmental agencies. That is the fundamental difference.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Louisiana yield?

ORDER OF PROCEDURE

Mr. JOHNSTON. I yield briefly to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of this amendment, the distinguished Senator from Maine (Mr. MUSKIE) be recognized to proceed to the consideration of the conference report on the concurrent resolution on the budget. That is a privileged matter, and I would like for the Senate to dispose of that this afternoon if at all possible.

Mr. JOHNSTON. Mr. President, reserving the right to object, does the majority leader intend to return to this measure upon the completion of that?

Mr. TSONGAS. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Does the Senator from Massachusetts object?

Mr. TSONGAS. No, I just wondered, if this motion to lay on the table should fail, then I presume we would have to vote on accepting the original amendment; is that correct?

Mr. JOHNSTON. That is correct. I would not expect to have a record vote. Should the Tsongas-Hart amendment fail, as far as I am concerned, a voice vote would be fine.

Mr. President, reserving the right to object, I wonder if we could not have that matter as the last item of business—I imagine it would require about an hour—so that we could continue on with this bill until an hour before you are ready to "shut her down" for the evening. Can we do that?

Mr. ROBERT C. BYRD. Well, it is my understanding that an hour or two will be required on the budget resolution conference report.

Mr. JOHNSTON. What I am asking is, whatever time the Senator wishes to adjourn or recess for the evening, if we could back up about an hour or two from that time, as needed.

Mr. DOMENICI. That is about now, is it not?

Mr. ROBERT C. BYRD. That is why I was making the request at this time.

Mr. JOHNSTON. Oh.

Mr. DOMENICI. Reserving the right to object, then, would it be part of the agreement that as soon as we were finished with our budget resolution, we would return to this measure?

Mr. ROBERT C. BYRD. Yes, that would be automatic.

Mr. JOHNSTON. That would be tomorrow?

Mr. ROBERT C. BYRD. It would be today. We would return to it, whether today or tomorrow will be another matter, but the Senate would automatically return to the consideration of the pending business.

Mr. JOHNSTON. Mr. President, I will not object, of course, to the majority leader's request, but I wonder if it would be possible to get a unanimous-consent agreement whereby we are able to complete this bill by title, so that we will not have to return to synthetic fuels after consideration of the conference report, because we have so many titles here, I would hate to jump from this to gasohol, to targets and goals, and back to conservation. It is hard enough for those of limited mental ability to keep up with one title at a time, rather than having to jump all over this matter.

Mr. TSONGAS. Mr. President, I would say to the Senator from Louisiana that I believe he has thoroughly demonstrated his mental agility.

Mr. ROBERT C. BYRD. Mr. President, I understand we cannot get the request acceded to at this point, and I would suggest we not pursue it further at the moment.

Mr. DOMENICI. Mr. President, let me just state the concerns of a few of our people on this side of the aisle, and maybe we can be thinking of a way to resolve it.

We do not want to agree, because it seems like we could add significantly to the titles, the sum total of which would make the authorization far larger than the accumulation now. They are looking at the total authorization and saying they will approve the first one, but what about the second one, making it much bigger? And when you add it up, you have an authorization much bigger than the budget provides.

Mr. JOHNSTON. If it is a matter of only dollars, we could perhaps leave it open except for the amount of dollars.

Mr. DOMENICI. I am thinking we ought to submit that to them, and see if next time we try, maybe we could get them to agree, leaving it open only as to levels of funding.

Mr. ROBERT C. BYRD. With that situation, would that not be subject to a point of order under the Budget Act?

Mr. MUSKIE. No, it would not. That is what we had the conversation about. The Appropriations Committee would still control it, and we would have no problems. I assume the Appropriations Committee would respond to the authorizations committees consistent with the budget resolution.

Mr. ROBERT C. BYRD. I would suggest that we try to work out some resolution of this problem, and maybe it can be done.

I press my request that Senator MUSKIE be recognized after the disposition of the pending amendment by Mr. TSONGAS.

Mr. JOHNSTON. The Tsongas-Hart amendment is a perfecting amendment to the Domenici-Johnston amendment, which is the pending amendment. We are asking for a rollcall vote on the motion to lay on the table, when I make it, and if that motion to lay on the table should be agreed to, then we will vote, as far as I am concerned, by voice vote on the Domenici-Johnston amendment.

Mr. TSONGAS. Mr. President, will the Senator yield for an inquiry?

Mr. JOHNSTON. I yield.

Mr. TSONGAS. If the motion to lay on the table should fail, then the question would be on the perfecting amendment, and there would then be a vote on the Domenici-Johnston amendment as perfected, and should that succeed, which hopefully it would, we would have to strike the language which is now in the bill, so there would be three votes, which I asume we could do by voice, and the only recorded vote would be on the motion to lay on the table?

Mr. JOHNSTON. No; we would have a rollcall vote on my motion to lay on the table, which would be the first order of business.

Mr. TSONGAS. That is right.

Mr. JOHNSTON. Should that fail, then I suspect we would have rollcall votes thereafter on the Domenici-Johnston amendment as then perfected.

Mr. ROBERT C. BYRD. Mr. President, the conference report on the budget resolution is a privileged matter, and subject to being called up by nondebatable motion to proceed to take it up. So I, therefore, withdraw my request. It will be the intention of the leadership at some point, following this vote, to move to proceed to take up the conference report.

Mr. JOHNSTON. Mr. President, I move to lay on the table the Tsongas-Hart amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, on this vote, I have a pair with the distinguished Senator from New Hampshire (Mr. DURKIN). If he were present and voting, he would vote "yea"; I have already voted "nay." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators remaining who wish to vote?

The result was announced—yeas 55, nays 37, as follows:

[Rollcall Vote No. 391 Leg.]

YEAS—55

Bayh	Hatfield	Nelson
Bellmon	Hayakawa	Nunn
Bentsen	Heflin	Pell
Boren	Hollings	Randolph
Bradley	Huddleston	Riegle
Bumpers	Inouye	Roth
Burdick	Jackson	Sasser
Cannon	Javits	Schweiker
Chafee	Jepsen	Stennis
Chiles	Johnston	Stevens
Church	Levin	Stevenson
Danforth	Long	Stewart
DeConcini	Magnuson	Stone
Domenici	Matsunaga	Thurmond
Durenberger	McClure	Warner
Eagleton	Melcher	Young
Exon	Metzenbaum	Zorinsky
Ford	Morgan	
Goldwater	Moynihan	

NAYS—37

Armstrong	Hart	Pressler
Baucus	Hatch	Proxmire
Biden	Heinz	Pryor
Boschwitz	Helms	Sarbanes
Byrd, Harry F., Jr.	Humphrey	Schmitt
Cochran	Kassebaum	Simpson
Cohen	Laxalt	Stafford
Cranston	Leahy	Tower
Culver	Lugar	Tsongas
Dole	McGovern	Wallop
Garn	Muskie	Weicker
Glenn	Packwood	Williams
	Percy	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Robert C. Byrd, against.

NOT VOTING—7

Baker	Kennedy	Talmadge
Durkin	Mathias	
Gravel	Ribicoff	

So the motion to lay on the table UP amendment No. 735 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, the Senate will shortly proceed to the consideration of the conference report on the second concurrent resolution on the budget. But, before it does so, I ask unanimous consent that a vote occur on the adoption of the report no later than 6:30 p.m. today.

Mr. JOHNSTON. Reserving the right to object, I shall not object, I hope that the majority leader would let us get a couple of uncontested amendments adopted here before we move on to the budget.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. TSONGAS). The Senate is not in order.

Mr. ROBERT C. BYRD. Mr. President, if the Senators will allow me to make this request, I ask unanimous consent that the vote on the committee amendment that is in disagreement, the Budget Committee amendment is in disagreement——

Mr. MUSKIE. An amendment in the nature of a substitute.

The PRESIDING OFFICER. The

Chair informs the Senator it would be a motion to concur with an amendment.

Mr. ROBERT C. BYRD. Yes.

Mr. President, if I may have the attention of the Senate, may I say first that it is the intention to move to a privileged matter, that being the conference report on the second concurrent budget resolution.

I ask unanimous consent that the vote which will occur, and which will undoubtedly be a rollcall vote on the motion to concur in the House amendment with an amendment, occur no later than 6:30 p.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Mr. President, reserving the right to object, and I do not intend to object, but I would like to make an inquiry.

I have been talking with the managers as to when we can get to an amendment sponsored by myself, and several others, to S. 932, amendment No. 569, calling for the elimination of GOCO's.

The Senator from Illinois is willing to wait for that, but he would like to know when that would be the pending business.

We have been waiting all day, trying to get this amendment up. We would like to have this the first order of business when we deal with GOCO's.

There may be an infinite variety of ways to handle this. But is there some understanding we can get as to when our amendment will be considered?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Louisiana.

Mr. PERCY. Would this be the pending business tomorrow, the next amendment up on this bill?

Mr. JOHNSTON. Mr. President, if I may respond to the distinguished Senator.

Mr. DOMENICI. May we have order, Mr. President?

Mr. JOHNSTON. If I may respond to the distinguished Senator from Illinois, it is our purpose, our hope, that we could first adopt the pending amendment, which would be a voice vote, Domenici-Johnston.

Then I have informed the distinguished Senator from Texas that we would accept a noncontroversial amendment—I believe it is noncontroversial—of his.

While we do not control the order of amendments, I would be delighted to take up the amendment of the distinguished Senator from Illinois thereafter and make it the pending business tomorrow morning.

Mr. PERCY. It may be noncontroversial, but that amendment may impinge considerably. It deals with the same subject as the amendment of the Senator from Illinois.

Mr. JOHNSTON. If I may tell the Senator, all the amendment of the distinguished Senator from Texas does is tighten up and restrict the circumstances under which a GOCO could occur.

So it is headed in the same direction as the amendment of the Senator from Illinois, although it does not go as far. I would assume the Senator from Illinois would have no objection to that kind of amendment. I think it is appropriate to adopt it first so the Senate as a whole may know what the options are, because we intend to accept that, in any event.

Mr. DOMENICI. Mr. President, reserving the right to object, let me say that while I have indicated I support the amendment of my good friend from Texas, because it does clarify and make more difficult the time that GOCO's could arrive on the scene, if ever, I certainly did not, in agreeing to support that, intend to in any way infringe on the good Senator from Illinois' purposes or his amendment.

If he thinks that one harms his chances, I mean, I certainly did not concur with the idea of harming his rights and his amendment.

So, if he does not want to agree——

Mr. PERCY. Speaking on behalf of my cosponsors, I know we would all like to have the issue settled up or down. Do we, or do we not, have GOCO's? If we do have, we will certainly support the Bentsen amendment. I would not want to support the Bentsen amendment now, or just let it go and be accepted without discussion, unless a full discussion as to whether or not we want to establish the principle of GOCO's had first taken place.

That is the essential thing.

I would hope the distinguished Senator from Texas would feel that is an issue that should be debated considerably.

Mr. BENTSEN. Mr. President, the issue ought to be debated. I think it should.

As the manager of the bill has stated, what my amendment does, it moves in that direction. I have some concern over GOCO's. If we want to talk about strategy, I will make it obvious that mine will be offered one way or the other, and that will be in the consideration of Members voting.

I would like, frankly, to improve the situation because of my concern about GOCO's, that, in effect, what it says is that they cannot proceed in the construction of such a plant without advising industry through the Federal Register, citing the objectives, what they are trying to accomplish, and let private industry respond to it, decide whether or not they want to file an intent to go ahead and fulfill the objectives without the building of a GOCO.

That is, in essence, what this amendment proposes.

We can vote that one, or, as I understand it, the manager for the majority and the manager for the minority have stated they are willing to accept that. I would propose it and then we could have a vote on the Senator's, whatever the leadership wants to do.

I do not want to deny the Senator's vote at all.

Mr. PERCY. If the Senator will yield, one of the basic reasons why we have to bring this amendment up all day is simply because we think it ought to be a clear-cut case of do we have, or do we not have the full knowledge of the impact of GOCO's in the Senate.

The Senator from Illinois and all his cosponsors would support the Bentsen amendment if we have GOCO's. The question is first, I should think, to be resolved, do we, or do we not, have GOCO's. Let us have a chance to have that vote up or down and get it over with. Then if they are out, we do not need a Bentsen amendment. If they are in, we would obviously, all support the Bentsen amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. ROBERT C. BYRD. The question has been agreed to?

The PRESIDING OFFICER. Yes.

UP AMENDMENT NO. 733

Mr. MUSKIE. Mr. President, I am pleased to be able to support the amendments offered by Senators JOHNSTON and DOMENICI to the Energy Committee bill.

These modifications accommodate the major concerns I have expressed about the bill as reported from committee.

Specifically, I support the adoption of a distinct two phase approach. This will be accomplished by the committee's requirement that the comprehensive plan be submitted in 5 years, not 3, and that even then, the plan would be submitted only if the required economic, environmental and technical information has been obtained.

Also, I support the requirement that both Houses of Congress approve the comprehensive plan prior to its adoption. As was witnessed today on the floor of the Senate, substantive debate is fundamental to the development of sound energy policy.

Finally, I am supportive of the Energy Committee's clarification of the authorization level for synthetic fuels, I quite agree with the comments made by the distinguished Senator from New Mexico, with whom I have the privilege to work on the Budget Committee, that an obligational ceiling of $20 billion be established for phase 1. I also agree that the Congress has the right to approve not only the comprehensive plan, but the appropriate level of funding for phase 2, if there is to be one supported by Federal dollars.

Mr. President, while I was supportive of the Banking Committee's substitute, I am pleased to say that with the incorporation of these perfecting amendments, I will support the Senate Energy Committee. Their bill now contains the flexibility we must preserve in dealing with unproven technologies with unknown environmental impacts and high price tags.

To reiterate the comments I made earlier today, we can debate the issue of synthetic fuels no longer. Now is the time to act, the time to commit the resources required to lessen our dependency on imported oil.

Mr. President, I intend to support the amendment of Senators JOHNSTON and DOMENICI.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senators from New Mexico and Louisiana.

Mr. JOHNSTON. I move that matter at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 733), was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REQUEST FOR COMMITTEE ON FOREIGN RELATIONS TO MEET

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Foreign Relations Committee may be authorized to meet during the session of the Senate on tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reluctantly, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Foreign Relations Committee may be authorized to meet during the session of the Senate on Friday to proceed with the markup of the SALT treaty.

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I understand the exigencies which cause my friend to have to object. But may I say that continued objections to the Foreign Relations Committee meeting while the Senate is in session is causing the Senate to have to come in late every day.

If I could offer a word of advice to those on the Foreign Relations Committee who wish to defeat this treaty, it is this: If I were in their position, I would want to vote on this treaty as soon as possible, rather than to string out and delay this vote.

But I will not offer them any more gratuitous advice, except say this: Continued objection to the Foreign Relations Committee meeting while the Senate is in session is why the Senate has been coming in at 2 o'clock, 1 o'clock, 12 o'clock. We could have been coming in earlier every day and disposing of other business.

ORDER FOR RECESS UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 tomorrow morning.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR RECESS FROM TOMORROW UNTIL 11:30 A.M. ON FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in recess until 11:30 a.m. on Friday morning.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

REQUEST FOR RECESS FROM FRIDAY UNTIL 11 A.M. ON SATURDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday, it stand in recess until 11 o'clock on Saturday morning.

Mr. GARN. I object.

Mr. ROBERT C. BYRD. It will not do any good to object, because the motion is not debatable.

Mr. GARN. I know that. I want to show my objection to the Saturday session on a 3-day weekend. A 3-day weekend was announced by the majority leader more than a month ago, and obviously Senators have made plans for a 3-day weekend in their own States, with commitments that cannot be broken.

I recognize the rules. The majority leader can bring us in on Saturday. But I just want to express my opposition to the lack of consideration for Senators who have made plans more than a month in advance to be in their home States, who have made commitments to people who have audiences there, and so forth.

I am not objecting to staying late, if the majority leader wants to stay until midnight tonight to work, or tomorrow night. That is fine with me.

I happen to be a man or honor, and it is a little difficult to break commitments of that kind which have been made more than a month ago on the basis of next Monday being a holiday.

Mr. ROBERT C. BYRD. The Senator is a man of honor. I would never dispute that.

But I have to break some commitments for Saturday, also. I am a Senator, and I also am subject to reelection every 6 years; and I hope I will be around to run for reelection when my term expires.

However, a month ago, I had no idea that there was going to be this dilatory effort in the Foreign Relations Committee to slow up the action on the SALT treaty. I cannot foresee that, and I cannot keep Senators from objecting to meetings of the Foreign Relations Committee on any day the Senate is in session.

But the only way to deal with that situation is just to continue to come in late. Because we have had to come in late for several days, to accommodate those objections to the Foreign Relations Committee meeting, we cannot complete our business on Friday. We have had to come in late on several days enough to constitute an entire day or two of business in the Senate.

The Senator speaks about honor. I respect his honor. But I think the Senate has a responsibility. Senators are opposed to the treaty, and that is all right. I respect them for their views. If they can reject the resolution of ratification, that is up to the Senate.

I do not fall out with any Senator because he is opposed to the treaty. His judgment may be better than mine. But what I object to—and apparently there is not much I can do about it—are these frivolous, frivolous, objections to the Foreign Relations Committee being able to meet to mark up the treaty while the Senate is in session. The whole Senate has to pay for it by having to come in later every day and having to have Saturday sessions.

On Friday, I can move to come in the next day. I do not want to be in on Saturday. I happen to have an important meeting in West Virginia on Saturday—a football game and all that—and I am supposed to go. But I also have a duty to the Senate.

So, on Friday, I expect to move to come in at a certain hour on Saturday. That is a nondebatable motion. If Senators want to vote it down, that is all right. But there is no debate on that motion. So Senators may be prepared to come in on Saturday.

Mr. GARN. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. I hope the Senator will prevail upon his colleagues in the Foreign Relations Committee, on that side of the aisle, who have been entering frivolous objections—and they have a right to object. I do not say that they do not have a right to object. But I hope we will persuade them as to his honor and as to the necessity for breaking his commitments back in his home State, and let the Foreign Relations Committee meet and mark up that treaty, and let the Senate do its work. That is all I am asking.

I yield the floor.

The PRESIDING OFFICER. Objection is heard.

Mr. GARN. Mr. President, I understand the problems that the majority leader has. So far as I am concerned, he knows that I have been willing, although I am in opposition to SALT, to agree to a time limit on the floor. I have been saying that for months.

Mr. ROBERT C. BYRD. The Senator has been saying that, and I respect him for it.

Mr. GARN. So I am not trying to delay. We have not been working late lately, as we have every other year I have been here. So if this big emergency exists, I would rather stay here during the evenings, when I do not have commitments in my State, and avoid a Saturday session. We have not done that. We have left at 5, 6, or 7.

I am informed that the Foreign Relations Committee is going to finish their markup by Friday, in any event.

Mr. ROBERT C. BYRD. Does the Senator know that on some of the evenings when the Senate has gone out, it has been to accommodate his side of the aisle?

Mr. GARN. I certainly do. And the majority leader has accommodated Senators on that side of the aisle.

Mr. ROBERT C. BYRD. I hope the Senator will keep that in mind.

This Senator tries to accommodate all Senators on both sides of the aisle. I have accommodated the Republican side of the aisle many times when we could have stayed later.

Mr. GARN. There is no doubt about that.

It also has been my experience, in my relatively little time in the Senate, that

coming in early does not make much difference as to when the Senate finishes a bill. We come in at 10 or 9 and hear conversation, and we cannot find Senators to bring up their amendments. I do not think the pace would be much different.

The point is that I do not think the objections have slowed down SALT, and I do not think they have slowed the business of the Senate.

This is the first time in my 5 years in the Senate that I have got up and objected. I just do not happen to think, with all due respect to the distinguished majority leader, that the Senate has been delayed in the business we have been doing, because of the objections, or that it will slow down the finishing of SALT by this Friday. Everybody on that committee has told me that they are going to finish their markup by Friday.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1979

The Senate continued with the consideration of S. 932.

UP AMENDMENT NO. 736

(Purpose: To require the Energy Security Corporation to solicit proposals to carry out the intent of Corporation construction projects using financial assistance under section 131(a) prior to undertaking such projects directly itself)

Mr. BENTSEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 736.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, insert the following:

Section 122(a)(1)(D) is amended by inserting "and paragraph (4)" after "and (C),".

Section 122(a) is amended by adding at the end thereof the following new paragraph:

(4) Prior to undertaking Corporation construction projects pursuant to subtitle E, the Corporation shall publish in the Federal Register its intent to establish such a Corporation and the objectives of such project, and shall solicit proposals to meet such objectives through the use of financial assistance mechanisms established under subtitle D. If the Corporation does not receive an acceptable notice of intent to submit a proposal within thirty days after the publication of the objectives pursuant to the preceding sentence, the Corporation may undertake such projects pursuant to subtitle E.

Mr. BENSTEN. Mr. President, the amendment I have sent to the desk is an unprinted amendment to title I, designed to clarify the role of GOCO's, Government-owned, contractor-operated synfuel plants.

Very few of us, Mr. President, are entirely confortable with the concept embodied by GOCO's. The Energy Committee, to their credit, and especially Senators METZENBAUM and JOHNSTON devoted more personal deliberation and resources in addressing the GOCO provision than perhaps any other single provision in S. 932. And I believe they have positioned GOCO's in the most reasonable manner possible.

I am not going to defend or criticize the concept of GOCO's. I would be very surprised, however, if one is ever built. But the possibility that one or more could be built will insure, I believe, that our private sector expeditiously investigates all reasonable synfuel technologies.

My amendment is designed to more narrowly define circumstances when a GOCO could conceivably be initiated by the Energy Security Corporation. As drafted and amended, S. 932 now permits the Corporation to initiate a GOCO after sifting through a variety of proposals designed to cover the entire synfuel spectrum and engaging in direct negotiations with just one firm. This gives the Corporation too much latitude. It could, for example, decide to explore a synfuel technology using a GOCO simply because no proposal for that technology was received and one firm would not agree to develop a specific technology.

Instead, I propose that the Corporation make known its intention to establish a GOCO before proceeding to do so; and give private industry the opportunity to explore the specific technology in question first.

My amendment then requires that the Corporation take two steps before initiating a GOCO:

First, once it has identified possible GOCO opportunity, the Corporation must specify in the Federal Register the objectives of that GOCO. Then they have to wait 30 days for private industry or any other entity to notify the Corporation that they are willing to attain those objectives using financial incentives available under subtitle D. If an acceptable notification is received, the Corporation cannot proceed with the GOCO. It is my intention that such notification be promptly followed, certainly within 60 days, by a thorough and complete proposal for attaining those objectives.

That simply is what it does. It gives private industry 30 days advanced knowledge through publication in the Federal Register, letting them know which particular technology, which GOCO plant may be built, and lets them respond and see if they can attain the GOCO's objectives without the GOCO plant being built.

So private industry is given the opportunity to suggest ways it can attain these objectives—not with a GOCO—but with the other forms of assistance such as price or purchase agreements that the Corporation can make available under subtitle D.

This amendment should receive support from all of those who support GOCO's and those who believe, as I do, that the development of our synfuels resources should be left entirely in private hands. It will reinforce the intent of the GOCO provision which is to stimulate private sector exploration of all the likely synfuel options, to insure that the private sector knows it has to do a thorough job.

On the other hand, my amendment will provide some insurance to the private sector that the Energy Security Corporation will not rush pell-mell into establishing a GOCO, that they will have a clear opportunity to satisfy the objectives without the GOCO plant being built.

I know my friend from Illinois prefers that my amendment not be offered at this time. I understand it is because he wants the GOCO plant to be put in just as unfavorable light as one can possibly have it.

I really believe that is the wrong way to approach legislation. I think we should try to approach legislation by improving it to the best extent that we possibly can so we have the very best of options from which to finally make a decision. So that is the spirit in which this amendment is offered.

In summary, my amendment gives our private sector the right of first refusal to attain the objectives of any prospective GOCO before it is established. And I believe it will reduce the likelihood that we will ever see one.

I urge adoption of my amendment.

I have discussed it with the manager of the bill and with the minority manager of the bill, and I am hopeful they will find that they can accept it.

I certainly agree that my friend from Illinois should have a full right to see that his particular amendment is considered and whether the vote goes up or down. But let us make the option, one, where at least we have an improved GOCO in the process.

Mr. JOHNSTON. Mr. President, this is a good amendment and we will accept it.

Let me very briefly explain what is involved in so-called GOCO's, Government owned, company operated, and tell Senators why we want the option of GOCO's, why we are willing to accept the Bentsen amendment and why it is so important to this bill.

Let me say, at the outset, GOCO's are indeed opposed by the biggest corporations in the country, Exxon and others, and it is not that it is supported by mom and pop outfits because, frankly, synfuels is not a mom and pop business, but the problem is when we give to the corporation or indeed if we gave to the Department of Energy the mandate of going out and putting on line one of a kind commercial demonstrations in the 50,000 barrel a day range, there are very few people one can deal with.

In the case of Exxon donor solvent, which happens to be one of the more promising technologies in liquid coal, you have only one company to deal with. We do not want to put this corporation in such an inferior position with respect to Exxon when we are dealing that they have to take it or leave it according to whatever Exxon offers.

In other words, if Exxon comes in and says, "The only way we will go with this process is to have a loan guarantee of 90 percent and a price guarantee of $60 a barrel, and a completion guarantee and package," that is too much.

We want to have an alternative to that where we can say, "All right, Mr. Exxon, if you do not do it we will."

It is our fervent hope we never have to build the first GOCO under this legislation.

Indeed, the Bentsen amendment provides for the advertisement, and the delay, and the language we have in the bill provides, first of all, for no more than three GOCO's except following the one-House veto procedure. Second, it provides that you can go to GOCO's only after you exhaust the hierarchy of financial incentives that are given to the corporations which are, in order of priority, price guarantees, loan guarantees, loans, other financial arrangements, such as completion guarantees, joint ventures, and finally and last, GOCO's.

So under the bill you do not reach the corporation; the corporation does not reach the ability to enter a GOCO except as a last resort, after everything else has proved not to work.

What it does is it guarantees a square deal for the American people in that it gives this Corporation some power, some equality in the bargaining process. All we want to do is to have a credible threat of a GOCO so that we will keep the major corporations honest.

Again keep in mind, Mr. President, that with ventures of $1 billion, $2 billion, and $3 billion in scope, there are very few players and very few synfuel processes involved. There are perhaps seven or eight low Btu gas, perhaps four high Btu gas, and four or five major liquefaction of coal processes. And from among those you will have to choose maybe 10 or 12 of the top candidates.

So, we do not want a GOCO to occur. We want the possibility, and the Bentsen amendment, which we are glad to accept, further restricts those circumstances under which it can be adopted but makes it clear that there is still a credible possibility, although a last resort possibility, of having a GOCO.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. BENTSEN. I well understand his argument and the reason for the GOCO. There are not many companies that you can deal with that can handle a billion-dollar plant. It is a very limited group. You do not want to get a situation, either, where you get a sweetheart bill, where the Corporation can scan through the technology that is available, and they come up with a new idea and decide no one has offered that so they will go out and make a sweetheart deal. You would have a fast shuffle where they make a deal with one company and negotiate for them to build a GOCO.

My amendment puts the whole world on notice that the Corporation is thinking about a GOCO. They would have to cite the objectives, let the whole private sector know about it and really generate some competition where anyone can come in and say: "Look, we really do not need that GOCO. We have a way to handle it, and we can handle that kind of technology without a GOCO."

I appreciate very much the comments of the Senator from Louisiana.

Mr. DOMENICI. Mr. President, while I am willing on behalf of the minority to accept Senator BENTSEN's amendment, and it is a salutary amendment in that it establishes a rather firm procedure or condition precedent to GOCO's under the existing bill, I do not accept it with the idea that I am in favor of the GOCO provision in the bill. I certainly think that the good Senator from Illinois, and others who are supporting him, will bring a very significant issue to the floor when they talk about whether or not we should strike the provision, strip the bill of the authority to go GOCO.

I remind my friends in the Senate that in the committee the vote was 10 to 8 on my proposal, which would basically say that no GOCO's unless the Board found you could not get where we wanted to go without one, and then they would have to ask the President to concur and send that to the Congress for possible veto, which left it there in abeyance but, in a sense, made it very, very difficult, and authorized none per se.

This bill provides for three under extreme circumstances, and the Senator will make it even more extreme. I laud the Senator for it, and I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I wonder if the distinguished Senator from Maine will withhold to allow us to proceed to one other amendment.

Mr. MUSKIE. Has the Senator looked at the clock? We have a vote on my matter at 6:30, and I am supposed to present this conference report, which is not exactly unheard of.

Mr. DOMENICI. Senator BELLMON thought that the Senator from Maine would agree to it.

Mr. MUSKIE. You have had one that was uncontroversial and brief, and that has consumed 20 minutes. However, I yield to the Senator from Oklahoma.

UP AMENDMENT NO. 737

Mr. BELLMON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 737.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 73, immediately following the period on line 11, insert the following:

"*Provided, however,* That the Corporation shall not be authorized to employ more than three hundred persons in full-time professional positions at any point in time; and *provided, further,* That for purposes of the preceding limitation, persons employed for projects under subtitle E shall not be counted."

Mr. BELLMON. Mr. President, this is a very simple amendment that sets a 300-person limit in full-time professional positions for the Energy Security Corporation. That is all there is to it. I feel we are going to create a new bureaucracy, and we ought to put a limit on the number of people employed there. This limit is agreeable to the administration, and I hope it is agreeable to the managers of the bill.

Mr. JOHNSTON. Mr. President, the 300 limit came from the Department of Energy. That is what they said it would take to do the job. I am glad the Senator from Oklahoma is putting this limit on. We ought to start doing that on every new department we create around here. I congratulate him for proposing this amendment.

Mr. DOMENICI. We congratulate the Senator from Oklahoma and we are glad his amendment puts a limit on, and we hope the Senate will accept the excellent amendment offered by the Senator from Oklahoma.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. I note with considerable interest and gratification that the bill recognizes the importance of excluding recyclable wastepaper from the operation of the financial assistance provisions of subtitle D as applied to the commercial production of synthetic fuel derived from biomass. Section 131 (m) properly protests from destruction basic raw materials such as recoverable and recyclable wastepaper that are vital to the national economy and which have historically been recycled for nonenergy uses. I commend the distinguished chairman and members of the Energy Committee for assuring the continued availability of source separated wastepaper such as used newspapers for recovery and remanufacture into paper and paper products. This legislation therefore continues the materials conservation objectives of previous enactments such as the Resource Conservation and Recovery Act, encouraging the growth of markets for such materials. I believe section 131(m) would appropriately deny financial assistance to a synthetic fuel project which would utilize such materials as a feedstock whether or not such material has been extensively recycled in a given geographic area. I ask the distinguished floor manager of the bill if he agrees with my interpretation.

Mr. JOHNSTON. I appreciate the

comments by my distinguished colleague, the Senator from West Virginia (Mr. RANDOLPH). We agree with him on the importance of wastepaper recycling and the need to protect from destruction this vital raw material for such nonenergy uses as recycled newsprint and other paper products. There are substantial energy conservation benefits derived from the recycling process. Section 131(m) is based on the recognition that there is a net energy conservation advantage to recycling newsprint, over burning it for its energy value. Senator RANDOLPH's interpretation is correct. This provision deals with historically recycled wastepaper such as newsprint whether or not it has been greatly utilized in a given geographic area. I am pleased that he called this matter to the attention of our colleagues.

● Mr. JAVITS. Mr. President, I am pleased to be the cosponsor of amendment No. 564 to S. 932 proposed by Senator RIBICOFF to authorize the National Academy of Sciences to study the impact of the synthetic fuels programs on the accumulation of carbon dioxide in the atmosphere. I believe that we must thoroughly evaluate the potential impact of combustion of all fossil fuels on the environment at the same time we consider a commitment to a massive drive to produce synthetic fuels for coal and oil shale.

Last July, the distinguished chairman of the Governmental Affairs Committee organized a symposium on the carbon dioxide issue at which the members heard from a wide range of representatives of the scientific community. According to the testimony, the fact is that the burning of synthetic fossil fuels may substantially increase the amount of carbon dioxide in the air. And this buildup of carbon dioxide is likely to produce the "greenhouse effect" which warms the Earth's surface. This warming trend could have a major impact in the 21st century on the world's climates, ocean currents, growing seasons, and sea level.

Carbon dioxide is presently being released at a rate faster than can be absorbed by the oceans and biota. Scientists estimate that a doubling of the present concentration could occur in 50 years and possibly in as little as 25 years. The danger is that such a doubling could produce an average global warming of 2° to 3° C. and 3° to 4° C. at the poles. Although no consensus emerged from the scientists at our hearings, the greater warming at the poles could possibly start melting the West Antarctic ice sheet which would raise the sea level by as much as 20 feet. This dramatic rise in sea level would eventually flood most of the coastal areas of the United States, including New York City, Boston, and Washington, as well as the gulf coast and the mid-Atlantic coast. The greater warming throughout the world would also shift our climatic zones, thereby affecting our food supply, our water supply, and our energy demands.

Mr. President, clearly these possibilities suggest the adoption of this amendment to enable us better to understand the consequences of the increased carbon dioxide produced by synfuels plants and more importantly by all fossil fuel plants. Many basic questions remain unsolved as to the nature of the carbon dioxide problem and the appropriate response to its impact. These questions include the nature of climate changes, future demands for fossil fuel worldwide, the relationship between climate changes and given carbon dioxide concentrations and the impact of specific energy policies on the environment and climate.

The United States should join in examining this issue and seeking these answers, but the problem is, of course, a global one. New fossil fuel plants are likely to go up in the less developed world, where the need for liquid hydrocarbon fuel for transportation is also skyrocketing. Not only will the effects of carbon dioxide pollution be felt worldwide but also the sources of such emissions are an international issue no longer limited to the industrial world. Thus, one of the important aspects of this study is that the National Academy of Sciences is to conduct its preliminary assessment in concert with governmental and nongovernmental scientific bodies around the world and is to include in its long-range plans mechanisms for cooperation with the World Meteorological Association, the U.N. environment program and scientific programs in less developed nations in assessment of the world's carbon dioxide problem. I am therefore especially pleased to join in the amendment and I shall follow the progress of this important research with keen interest.●

● Mr. RIEGLE. Mr. President, I wish to express my reasons for supporting the synthetic fuels provisions of S. 932, the Energy Security Act, reported out of the Energy Committee as opposed to the counterpart provisions in the Banking Committee bill.

I believe that a genuine energy crisis exists in this country and that it is time that we allocate the necessary funds and assemble the resources to meet that crisis. Given the recent oil shocks in Iran and the uncertainties in the other oil producing countries of the world, it is time that we undertake a major effort to develop synthetic fuels and move our country toward energy self-sufficiency.

Let me analyze briefly some of the provisions in the two bills:

The Energy Committee bill establishes a definitive production goal of 1.5 million barrels per day by 1995. The Banking Committee bill sets no production goal, but rather limits production to no more than 50,000 barrels per day per commercial demonstration project and limits the number of demonstration projects. I believe in setting a production level and a level that is higher rather than lower under today's circumstances.

The Senate Energy Committee recommends a two-phase, $88 billion program. The first phase would authorize $20 billion to be obligated by a Synthetic Fuels Corporation to develop at least one synfuel project for each major feedstock including coal, shale, tar sands, heavy oil and biomass. The second phase would be initiated upon completion of a comprehensive plan by the Corporation within 3 years after the effective date of enactment. The Banking Committee bill provides for only $3 billion. People complain about the Energy Committee's $88 billion price tag over the next 10 years but fail to realize that putting this amount into perspective, $88 billion accounts for only one-fourth of 1 percent of the gross national product for the period from now to 1995. One-fourth of 1 percent to me is a slight amount considering the magnitude of the energy problem that we face and our strategic vulnerability due to dependence on unstable foreign sources of oil.

Finally, the Synthetic Fuels Corporation envisioned by the Energy Committee's Energy Security Act would be an independent, federally owned corporation. The five-member board of directors would be appointed for 5-year staggered terms, subject to Senate confirmation. This would provide the Senate with considerable oversight authority and such an independent corporation I believe would be much better able to attract and hire the best scientific, technical, and managerial talent in the country without regard to bureaucratic restrictions. The Banking Committee approach on the other hand would encourage synfuel production acting through existing Government agencies. I believe that existing Government agencies have failed us miserably in the past in the energy production area and that an independent approach with board members coming from the private sector is essential to a serious effort at achieving a national energy breakthrough.

These are the main reasons that I support the synthetic fuels provisions of the Energy Committee bill.

I believe this bill moves us forward more expeditiously toward energy self-sufficiency and more fully recognizes and reponds to the energy crisis that we face than the legislation proposed by the Banking Committee.●

SECOND CONGRESSIONAL BUDGET RESOLUTION—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, I submit a report of the committee of conference on Senate Concurrent Resolution 36 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in

the House proceedings of the RECORD of November 2, 1979.)

Mr. MUSKIE. Mr. President, I ask unanimous consent that the following members of the staff of the Budget Committee be allowed to remain on the floor during consideration of and votes on the conference report on Senate Concurrent Resolution 36: John McEvoy, Karen Williams, Sid Brown, Susan Lepper, George Merrill, Brenda Tremper, John Tillson, Porter Wheeler, Liz Tankersley, Rick Brandon, Jim Capra, Bob Sneed, Bob Boyd, Bob Fulton, Gail Shelp, and Carol Cox.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the use of small electronic calculators be permitted on the Senate floor during consideration of and votes on the conference report on Senate Concurrent Resolution 36.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, on September 19, the Senate passed the second budget resolution and sent it to conference. Last Thursday, that conference finished its work after an unprecedented 17 meetings over the course of 23 days.

The conference was prolonged for a number of reasons.

The House failed in its first attempt to pass a budget resolution and had to try a second time.

Once the conference began, the Senate took a hard line on defense and energy expenses and the House resisted it.

And the House demanded more spending for social programs than the Senate had provided and stuck hard by that position. The House made the Senate pay a dollar in social programs for every dollar in defense which divided us.

In the end each House seems to have achieved its own priorities in the conference substitute, even though the House, in dollar terms, went much further toward the defense and energy priorities of the Senate Resolution than the Senate gave up in other domestic programs to the House.

The House also resisted the Senate-passed reconciliation instructions to seven committees to save $3.6 billion. And that resistance, which has not yet been fully resolved, greatly prolonged the conference.

The delay in completing this conference was a serious concern to all conferees. Failure to agree upon a budget resolution began to clog the legislative machinery because committee spending allocations could not be made. Major legislation on energy, including the pending bill, and defense were almost debated before a budget conference agreement was reached.

The conferees took no solace from the fact that the entire spending process is well behind schedule this year. The fact that the appropriations process—which still has weeks to go—should be completed under the Budget Act timetable before the second budget resolution is considered gave us no comfort.

The fact that the other House pursued a schedule which precluded meeting the September 15 deadline for the budget resolution was another misfortune which we must hope is not repeated in future years. And I say that even though the House timetable allowed us additional time for consideration of the budget resolution in the Senate.

Three years out of the past 4 we have met the Budget Act timetable for completing our budget resolutions. We must try to make this year's delay a monument to a singular exception.

The Government should no more enter a fiscal year without a budget resolution firmly in place to guide its spending decisions than it should start that year without its spending and tax bills decided.

So while reasons abound for delay on all sides this year, none excuses the facts. We must do better next year.

And I must report that Senate action on this conference substitute may not be the last action we must take upon it. The resistance on the part of the House to the $3.6 billion in savings incorporated in the reconciliation instructions in this conference substitute was only partly overcome in the conference. When this resolution is put before the House in the coming days, its House managers intend to offer a motion to strike these savings instructions.

If that motion succeeds, the Senate will have to consider its next step.

The irony of the House position is that to a large exent the House version of this budget resolution—like the conference substitute itself—presumes these savings will be made even though few have been made in either House up until now. The House conferees contend that the fact that most of these savings—most of which have been debated for years—have never been made should not dampen our hopes they will be made this year, even without the Senate's reconciliation instructions.

The Senate believes that without these reconciliation instructions—clearly mandated by the Budget Act—other committees simply will not make these savings.

So the fate of these savings provisions will remain in doubt until the House acts.

And if Congress fails to meet these savings, other high priority programs—including defense and energy initiatives—will simply be crowded out. There will not be adequate room within the spending ceilings for both contemplated spending programs and the cost of savings not made.

And let no one be heard to say that a third resolution will then be enacted to allow more spending if the savings are not made. The budget process is not a rubber stamp for spending which would occur without it.

The budget Congress adopts this month must be durable enough to last until next October, in the absence of significant unforeseen events. And excess spending or failure to make savings will not justify a third resolution. All of the spending and tax bills—including supplemental appropriations—must fit within the spending ceiling and revenue floor of this budget resolution.

Let me underscore the meaning of my remarks—and wishful thinkers be on notice—failure to achieve these savings will not justify another budget resolution.

Only unfavorable circumstances—such as a significant deterioration in the economic outlook beyond that foreseen in the present forecast—could justify a revision of this budget resolution.

And we will exercise great caution about any revisions in this resolution even if the economic outlook appears to deteriorate. Monthly shifts in fiscal policy to accommodate the latest economic forecast would be chaotic and counterproductive.

FISCAL POLICY

The budget for fiscal year 1980 that has been agreed to by the conference committee embodies the same fiscal policy which the Senate endorsed a month and a half ago. This is a fiscal policy of restraint dictated by the continuing need to fight inflation, the Nation's most pressing concern.

Let me give you one measure of that restraint. If the unemployment rate in fiscal year 1980 were to remain at the 5.8 percent rate of fiscal 1979, the deficit in the budget adopted by the conference would be about $8 billion. That would be almost $20 billion below the actual deficit for last year.

The economic outlook is clearly marked by its usual degree of uncertainty. In the month since the Senate passed its budget resolution, there has been a marked tightening of monetary policy and there have been further increases in oil prices. But other incoming data provide no conclusive evidence of any need to relax fiscal restraint.

In fact, the vigor of the economy continues to defy the economic forecasts. Inflation continues to run above the forecast, at a 13 percent annual rate at the end of fiscal year 1979.

And inflation is spreading far beyond the original problem areas where the latest acceleration of prices originated. When you leave out food, energy, and mortgage interest costs, consumer price inflation has accelerated from 7.3 percent early this year to 9.1 percent in September.

Furthermore, output has recovered fully from the decline caused by gas lines last spring. Unemployment in October was 6.0 percent of the labor force—far below the 6.9 percent average forecast by CBO for that period—and total employment is still rising.

Retail sales are up, new orders are up, and there is very little sign of the recession that was expected to start 3 months ago.

Two other economic events since September command our attention.

In response to the high and unrelieved level of inflation, to signs of strength in the economy, and to dangerous signs of weakness in the international position of the dollar, the Federal Reserve undertook a significant tightening of monetary policy on October 6. Since then, interest rates have risen to historic levels with prime rates now in excess of 15 percent and threatening to rise further.

In addition, energy prices seem to be rising even more than was contemplated at midyear, causing more inflation and greater transfers of purchasing power from U.S. consumers to oil producers here and abroad.

In view of these events, forecasters are once again lowering their estimates for next year, predicting a deeper recession than the mild one forecast by CBO at midyear—the forecast on which we based this budget resolution.

No one can say that these pessimistic forecasters are wrong. But neither can we be sure they are right. As Will Rogers said:

> An economist is a man who can tell you what can happen under any given conditions, and his guess is liable to be just as good as anybody else's.

After all, these same forecasters told us a few months ago that money was already so tight that housing starts would begin to drop over the summer; that by this time the unemployment rate would be approaching 7 percent; and that consumers would have already started to save more, instead of saving less.

We cannot be sure that these forecasters know more now about the behavior of America's households and businesses then they did at midyear. We all face profound uncertainty about how long interest rates will stay at present levels, about how tight credit will become, and about what economic effects will follow from these recent credit and energy developments.

Meanwhile, inflation is not some hypothetical future problem; it is a problem today. The producer price index figures for October that have just been released offer little prospect for relief. While food prices were unchanged in October, other finished goods prices rose 1.4 percent, the highest rate since 1974.

The conference substitute for fiscal year 1980 can make a significant contribution to winding down this inflation. In spite of the projected slowdown in the economy, it holds the deficit under $30 billion. In 1977 when the unemployment rate was close to that assumed for fiscal year 1980, the budget deficit was $45 billion. We have come a long way since then in exercising restraint—as well we should. The inflation rate in 1977 was half today's rate.

Budgetary restraint cannot, by itself, bring inflation to a halt. Commensurate restraint will be required in all parts of the private sector.

There is no way in which everyone can escape the real costs of OPEC price increases. Those who attempt to do so through price increases or excessive wage gains simply pass the burden to the defenseless—those who do not own property that rises in value, who are not and cannot be in debt, whose bargaining position is weak, and whose jobs are insecure.

But restraint in both the public and the private sector can slow inflation down and contribute to our economic health.

Budget restraint will limit the Federal Government's contribution to demand pressures against the supply capabilities of the economy.

Budget restraint will reduce the pressure on the Federal Reserve and allow interest rates to decline more and sooner than would be the case if we let the deficit rise sharply.

The conference substitute contemplates real growth in outlays of 1.8 percent in 1980, 1.2 percent in 1981, and 0.9 percent in 1982.

There are two principal reasons for this real growth in Federal outlays. First, the increase in defense spending overwhelmingly adopted by the Senate has been largely preserved by the conferees. This increase was expressly designed to raise defense spending significantly above the rate of inflation. Second, the conference substitute provides additional amounts intended for low-income fuel assistance to alleviate undue hardship caused by skyrocketing energy prices, as proposed by the President and endorsed by votes in both Houses. And this outlay growth will be compensated by proceeds from the windfall profit tax bill.

The budget recommended by the conferees continues the objectives of balancing the budget in fiscal year 1981 and providing for substantial tax reduction in fiscal year 1982.

Under the current economic forecast, we can still balance the budget in fiscal year 1982, while giving the American people at least a $55 billion tax cut to restore the purchasing power lost through social security tax increases and the effect of inflation on income tax rates.

Mr. President, the budget recommended by the conferees adopts a reasonable and balanced fiscal posture. It avoids a premature, and possibly totally unnecessary, shift from fiscal restraint to fiscal stimulus. Yet it recognizes that the prospects for some increase in unemployment and only slow progress in lowering inflation must be met. At a time of unusual uncertainties—which will require continued close monitoring of the economy—the conferees stayed on a steady course, refusing to be buffeted by every changing breeze, every new statistic, or every alarming headline. I believe this is a prudent course.

Now let me explain some of the revenue and spending priorities in the conference substitute in greater detail.

REVENUES

The conference substitute anticipates that revenues in fiscal year 1980 will be $517.8 billion. This figure is $3.1 billion higher than the revenue figure in the resolution adopted by the Senate.

There are three basic reasons for this change.

First, the higher outlays contained in the conference substitute will generate somewhat greater economic activity and taxable incomes than were assumed in the budget resolution's original revenue estimates. Second, the current uptrend in oil prices implies higher revenues under current law. Finally, we are assuming $400 million more in revenue-raising legislation—principally through the windfall profits tax—than was assumed in the Senate resolution.

The conference substitute provides that the amount by which net revenues should be raised in fiscal year 1980 is $2.4 billion—a figure which may prove to be quite modest. The conference substitute does not attempt to prejudge the outcome of the debate on the windfall profits tax bill. But the House version of that bill, for example, would raise over $5 billion. I am sure that the conference between the Senate and the House tax-writing committees will come down somewhere close to our figure.

In fiscal year 1982, the Senate continues to assume a major tax cut of at least $55 billion to offset the effect of inflation and social security tax increases.

Turning to the spending side of the budget, I will describe the major conference changes in the functional totals in the budget and the relationship of the reconciliation provisions to those totals.

FUNCTION 050: NATIONAL DEFENSE

Mr. President, the conferees agreed to the full budget authority of $141.2 billion contained in the Senate resolution for the national defense function. This budget authority total is the level contained in the Hollings-Nunn amendment and represents 2.5 percent real growth in defense spending.

The outlay estimate of $129.9 billion in the conference substitute reduces the Senate-passed estimate by $700 million represents only an estimating difference compared to the Senate-passed level.

These outlay amounts will accommodate all known defense funding requirements anticipated throughout fiscal year 1980, including the appropriations committee levels for defense and military construction.

For fiscal year 1981 and 1982 the conference substitute assumes continued real growth in defense spending of 5 percent per year in budget authority.

FUNCTION 150: INTERNATIONAL AFFAIRS

In function 150, international affairs, the conferees agreed to the Senate level of $13.1 billion in budget authority for fiscal year 1980. The conference outlay ceiling is $8.4 billion, an increase of $100 million over the Senate level. These outlays are assumed to be compatible with a program to assist victims of the famine in Cambodia.

For fiscal year 1981 and 1982 the conference substitute generally assumes continuation of current foreign assistance programs, except that refugee assistance is assumed to decrease over the period.

FUNCTION 250: GENERAL SCIENCE, SPACE AND TECHNOLOGY

For general science, space and technology programs the conferees agreed to fiscal year 1980 budget authority of $5.85 billion and outlays of $5.7 billion. The budget authority figure is below the Senate-passed level by $50 million. These levels are consistent with completed action on the major appropriations for the function.

For fiscal year 1981 and 1982 the conference substitute would continue general science and civilian space activities at declining real levels.

FUNCTION 270: ENERGY

For the energy function, the conferees agreed to fiscal year 1980 budget authority of $39.5 billion and outlays of $7.25 billion. The budget authority figure is below the Senate-passed level by $1.5 billion and the outlay figure is above the Senate-passed level by $250 million.

The conference substitute woud accommodate funding for new energy ini-

tiatives, such as the omnibus energy bills jointly reported by the Senate Banking, Housing, and Urban Affairs and Energy and Natural Resources Committee.

For fiscal year 1981–82 the conference substitute is consistent with these new Senate energy supply and conservation initiatives. It also assumes that continuing delays will occur in the strategic petroleum reserve program.

FUNCTION 380: NATURAL RESOURCES AND ENVIRONMENT

For natural resources and environment programs, the conferees agreed to fiscal year 1980 budget authority of $12.6 billion and outlays of $11.9 billion. The budget authority level is $100 million lower than the Senate-passed level.

For fiscal years 1981 and 1982, the conference substitute continues the assumptions contained in the Senate-passed resolution, including allowance for establishment of a "superfund" in fiscal year 1981 for cleanup of oil and hazardous substances.

FUNCTION 350: AGRICULTURE

For agriculture, the conferees agreed to fiscal year 1980 ceilings of $5.0 billion in budget authority and $2.55 billion in outlays, $50 million in outlays below the Senate-passed level, reflecting completed action on the agriculture appropriation.

For fiscal years 1981 and 1982, the conference substitute assumes current policy funding for agriculture research and services and would continue other programs at current law levels. Acquisitions for a food security reserve could be accommodated in fiscal year 1981.

FUNCTION 370: COMMERCE AND HOUSING CREDIT

For commerce and housing credit programs the conferees agreed to fiscal year 1980 budget authority of $6.8 billion and outlays of $2.85 billion, $150 million in outlays below the Senate-passed resolution. Though tight, the agreement should accommodate all expected appropriations.

The substitute anticipates that the Postal Service will make steady progress toward financial self-sufficiency. It assumes no funding for two items requested by the President: The homeownership assistance program, and a standby line of credit for the National Credit Union Administration central liquidity facility.

For fiscal years 1981 and 1982, the conference substitute assumes restraint in the overall growth of programs in this function.

FUNCTION 400: TRANSPORTATION

For transportation programs the conferees agreed to fiscal year 1980 budget authority of $19.5 billion and outlays of $18.6 billion the same as the Senate-passed levels.

For fiscal years 1981 and 1982, the conference substitute levels are the same as the Senate-passed resolution, and assume modest growth in transportation programs.

FUNCTION 450: COMMUNITY AND REGIONAL GROWTH

For community and regional development programs the conferees agreed to fiscal year 1980 budget authority of $8.9 billion and outlays of $8.35 billion, $50 million below the Senate-passed outlay level.

Recognizing that these totals must accommodate a number of important priorities, the conferees again reiterate their strong support of legislation to reform the several Federal programs of disaster assistance to reduce their cost.

For fiscal years 1981 and 1982, the conference substitute provides for continued funding for programs in this function at roughly current law levels. However, the recommendations could accommodate increased EDA funding as well as anticipated funding requirements for flood insurance.

FUNCTION 500: EDUCATION, TRAINING, EMPLOYMENT AND SOCIAL SERVICES

For education, training, employment, and social services the conferees agreed to fiscal year 1980 budget authority of $30.9 billion and outlays of $31.0 billion. These levels represent an increase of $1.2 billion in budget authority and $500 million in outlays over Senate-passed levels for the programs in this function. They are below the House levels by $500 million in budget authority and $400 million in outlays.

For fiscal years 1981 and 1982, the conference substitute assumes the continuation of funding for most programs in this function at fiscal year 1980 levels. The only major exception is the CETA countercyclical public service employment program, which is assumed to phase out by the end of fiscal year 1981.

FUNCTION 550: HEALTH

For health programs the conferees agreed to fiscal year 1980 budget authority of $58.8 billion and outlays of $54.45 billion, an outlay increase of $250 million over the Senate-passed level.

The amounts provided for health funding assume enactment of substantial savings pursuant to the budget resolution's instructions to the Committee on Finance to cut $1.4 billion from programs within its jurisdiction. If these savings are not made, current law funding for other health programs and other programs in other areas of the budget will have to be reduced.

For fiscal years 1981 and 1982, the conference substitute assumes continued and growing reductions in the budget from the savings implemented in fiscal year 1980.

FUNCTION 600: INCOME SECURITY

For income security, the conferees agreed to fiscal year 1980 budget authority of $218.5 billion and outlays of $190.0 billion. These amounts increase the Senate-passed levels by $1.9 billion in budget authority and $1.3 billion in outlays.

These targets will permit increased funding for low-income energy assistance, subsidized housing, and cash assistance, subsidized housing, and cash assistance compared to Senate-passed levels.

The Senate conferees intend that these increases will be allocated to such priorities as low-income energy assistance at the levels requested by the President, amendments to food stamp legislation to avoid reduction in benefits, and increases compared to the limits of the Senate-passed resolution for federally assisted housing programs.

Funding for these priorities and others in this budget will have to be reduced below the levels at which they could otherwise be funded unless the savings required by the reconciliation instructions to the Committees on Finance, Governmental Affairs, and Agriculture are made from existing Federal programs.

For fiscal years 1981 and 1982, the conference substitute assumes a funding level consistent with the spending levels recommended for fiscal year 1980. The substitute does allow for the implementation of a welfare reform initiative in fiscal year 1982.

FUNCTION 700: VETERANS BENEFITS AND SERVICES

For veterans programs, the conferees agreed to fiscal year 1980 budget authority of $21.45 billion and outlays of $20.8 billion. These amounts are $250 million in budget authority and $200 million in outlays above the Senate-passed levels.

In agreeing to these higher spending levels, the managers on the part of the Senate stressed their intention that these increases be allocated to the highest priority veterans programs, especially health care. The conference substitute also contains a reconciliation instruction to the Veterans Committee to reduce lower priority spending such as flight training and correspondence school programs to help assure that priority veterans programs are adequately funded.

For fiscal year 1981 and fiscal year 1982, the conference substitute assumes levels recommended for fiscal year 1980.

FUNCTION 750: ADMINISTRATION OF JUSTICE

For administration of justice programs the conferees agreed to fiscal year 1980 budget authority of $4.2 billion and outlays of $4.4 billion, the same as the Senate-passed levels.

For fiscal years 1981 and 1982, the conference substitute assumes restraint in the funding levels of criminal justice assistance programs.

FUNCTION 800: GENERAL GOVERNMENT

For general Government programs the conferees agreed to fiscal year 1980 budget authority of $4.45 billion and outlays of $4.2 billion. The budget authority level is $50 million above the Senate-passed level, but will require continued restraint in the growth of general Government programs.

For fiscal years 1981 and 1982, the conference substitute is the same as passed by the Senate and continues to assume achievement of administrative efficiencies in legislative branch operations.

FUNCTION 850: GENERAL PURPOSE FISCAL ASSISTANCE

For general purpose fiscal assistance programs the conferees agreed to fiscal year 1980 budget authority of $9.05 billion and outlays of $9.05 billion. This represents a reduction of $250 million in both budget authority and outlays below the Senate-passed levels.

The conference substitute is adequate to accommodate funding of general revenue sharing at its current authorization level in fiscal year 1980. The substitute provides for countercyclical fiscal assistance programs requested by the President but assumes a later startup date for those programs.

For fiscal years 1981 and 1982, the conference substitute assumes a significant

reduction in the overall level of general purpose fiscal assistance.

FUNCTIONS 900, 920, AND 950: INTEREST, ALLOWANCES, AND UNDISTRIBUTED OFFSETTING RECEIPTS

For interest, in fiscal year 1980, the conference substitute provides budget authority and outlays of $58.1 billion, identical to the amounts in the Senate-passed resolution.

The conference substitute estimates interest of $60.9 billion for fiscal year 1981 and $62.3 billion for fiscal year 1982.

The conference substitute assumes minus $200 million in budget authority and outlays for allowances in fiscal year 1980. This amount assumes $800 million in budget authority and outlays for civilian agency pay raises and savings of $1 billion to be achieved from management savings in such areas as Government travel, procurement, filmmaking, and paperwork.

The conference substitute assumes similar levels of management savings for fiscal year 1981 and fiscal year 1982.

For undistributed offsetting receipts in fiscal year 1980, the House and Senate resolutions and the conference substitute all contain an identical amount of minus $19.7 billion in budget authority and outlays. Increases in the level of receipts are projected for fiscal year 1981 and fiscal year 1982.

FUTURE YEAR BUDGETS

Mr. President, this conference substitute continues the progress the Senate has made toward instituting multiyear budgeting in the Congress.

Last year, we included 5-year budget decisions in our committee reports.

In this year's first resolution we included 5 years of decisions in our report and 3 years of budget decisions in the Senate-passed resolution. In the conference on that first resolution, we convinced the House to include aggregate spending numbers for fiscal years 1981 and 1982 in the budget resolution itself.

Now in this resolution we have included not only aggregate spending totals for those future fiscal years, but also the Senate's functional spending numbers.

The House, which has not yet instituted multiyear budgeting, continues to insist on including its own outyear aggregate totals in the resolution as well. Those totals have no functional basis in the resolution and do not represent actual decisions about those years. Instead, they simply represent a projection of the current year spending proposed by the House.

This will be the first budget resolution ever adopted which contains aggregate and functional budget totals for more than 1 fiscal year. We hope the House will move to multiyear budgeting next year to continue this progress toward rational Federal budgetmaking.

RECONCILIATION

I have already described the principal details of the reconciliation instructions in discussing the functional category highlights of the conference substitute. Whether we can implement these reconciliation provisions of the Budget Act this year depends upon Senate resolve and the vote to be taken in the House when the budget resolution is taken up there.

The conference substitute retains the reconciliation instructions to seven committees contained in the Senate resolution. Under the resolution, six committees—including Armed Services, Agriculture, Governmental Affairs, Veterans, Environment and Public Works, and Finance and their counterpart committees in the House, would have to report legislation to save $1.8 billion by changing existing law.

In addition, the Appropriations Committee would be required to rescind any spending which would cause its spending ceiling in this resolution to be exceeded.

The Senate conferees insisted that reconciliation instructions be retained to reflect the 90-to-6 Senate vote in favor of reconciliation and the practical reality that these savings are not likely to be made otherwise.

The reconciliation process is not punitive in character. On the contrary, the reconciliation process is an essential tool provided by the Budget Act for assuring compliance with the spending restraints in the binding budget totals of the second budget resolution.

Without these legislative savings and appropriations restraint, budget costs will rise at least $3.5 billion over the amounts assumed in this resolution.

Senate insistence on the reconciliation provisions represents a conviction that these savings—most of which have been assumed but not realized in Presidential and congressional budgets of this and previous years—will not be made except through this reconciliation process.

Support of the reconciliation instructions in both Houses will be a clear signal to the American public that the Congress is serious about fiscal restraint and is using every legislative tool to control the Federal budget.

THE PARLIAMENTARY SITUATION

The parliamentary situation with respect to this resolution is the same as that of the past when conference reports have been submitted in technical disagreement because of numbers outside of those passed by either House. The parliamentary procedure will be exactly the same: Two votes will be required. The first to adopt the conference substitute in disagreement which is required because of these numbers issues. The second vote will be to adopt the conference substitute which will include all the matters agreed to by the conference as well as the reconciliation instructions to the six authorizing committees and the spending limit instruction to the Appropriations Committee.

Mr. President, let us hope that today's vote will be the last one the Senate need cast on this budget resolution. Let us hope that the House will take the difficult but necessary step of agreeing to this resolution and its reconciliation instructions.

I reserve the remainder of my time for whatever questions may be addressed to me in connection with the conference substitute.

Mr. President, I yield to my good friend and strong sustaining force in the Budget Committee, Senator BELLMON.

Mr. BELLMON. I thank my good friend from Maine.

Mr. President, I doubt that any Member of the Senate fully appreciates the tremendous contribution which Senator MUSKIE has made in making it possible for this conference report to be before the Senate tonight. He put in almost interminable time in the conference, and carried on most of the negotiations on a sort of one-to-one basis which made this agreement possible. It was the most difficult conference in which I have ever participated and without the leadership of the Senator from Maine, we never could have reached this point.

So I would like tonight, on the part of the minority, at least, to thank him for the great contribution he made.

Mr. President, I ask unanimous consent for the following minority staff members of the Senate Budget Committee to have floor privileges during the debate on the conference agreement for the second budget resolution for fiscal year 1980: Robert S. Boyd, Robert Fulton, Gail Shelp, Robert Helm, Carol Cox, Becky Davies, Susan Petrick, Janis Moore, and Tom Sullivan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, the resolution before the Senate is the result of a long and difficult conference. Each House entered the conference with sharply differing priorities. As compared with the House version of the resolution, the Senate-passed resolution contained significantly higher numbers for defense and energy spending and generally lower numbers for social programs. In addition, the House-passed resolution was considerably higher in both aggregate outlays and revenues. The House outlay level was $1.9 billion higher than the Senate, and the revenue level was $4.5 billion higher than the Senate version due largely to a higher House recommendation for revenue raising legislation.

The Senate resolution contained reconciliation and rescission provisions to enforce the spending ceilings. The House resolution contained no such provisions. The Senate resolution provided for a 3-year budget covering fiscal years 1980, 1981, and 1982, while the House resolution covered only fiscal year 1980.

I cannot emphasize too strongly the seriousness of these differences and the enormous difficulty that the conferees faced in resolving them. Again I call attention to the leadership and I might say the diplomacy which was displayed by Senator MUSKIE in this situation. I commend Senator MUSKIE for his leadership. I believe that the Senate, and indeed the country as a whole, is indebted to him for his perserverance during this extended and problem-filled conference.

The conference substitute provides the same budget authority for the Defense function as provided for in the Hollings amendment to the Senate resolution approved overwhelmingly by the Senate. I see the Senator from South Carolina is in the Chamber. The conference substitute also retains most of the Senate's higher figure for Defense outlays.

In the Energy function, the conferees agreed on budget authority of $39.5 billion, $1.5 billion lower than the Senate figure, but still high enough to accommo-

date the authorization and appropriations bills now pending.

I would point out, however, that the cost of achieving the Senate's goals in these areas was high. The conference substitute provides for an additional $2.25 billion in outlays for social programs above that provided by the Senate. Nearly half of this increase resulted from the conferees' acceptance of the full $1.6 billion for an expanded, low-income, home-heating-assistance program. The Senate conferees yielded these additional concessions to the House on human resources spending with great reluctance. These higher human resource spending numbers were forced on the Senate conferees as a tradeoff for House acceptance of higher Defense and Energy levels.

The aggregate outlay ceiling in the conference substitute, $547.6 billion, is $1.3 billion higher than the Senate-passed level. This ceiling, however, is $3.6 billion lower than the current policy level, $551.2 billion, which is the level of spending that would be required if all Federal programs were to be adjusted fully for inflation.

The aggregate revenue floor of the conference substitute is $517.8 billion. Although this revenue floor is $3.1 billion higher than proposed by the Senate, the increase is due almost entirely to projected increases in the general revenue base as a result of higher inflation and higher oil prices. The net policy change in the revenue base is $2.4 billion, which is slightly above the $2.0 billion in the Senate-passed resolution.

The critical issue of reconciliation was not totally resolved. The conference report includes the reconciliation instruction contained in the Senate-passed resolution. However, the chairman of the House Budget Committee has indicated his intent to move the strike reconciliation on the House floor.

The House conferees did not reject the principle of reconciliation. Rather, they maintained that adoption of a reconciliation instruction at this time would be inconsistent with their efforts to encourage authorizing committees to enact legislative savings voluntarily. The House conferees could give no assurance, however, that legislative savings needed to achieve the spending limits provided for in the conference substitute would be passed without reconciliation. In my view, few of these savings will materialize in fiscal year 1980 from the House's voluntary approach.

The most the House conferees would accept relative to reconciliation was to give the full House an opportunity to vote on reconciliation. Unfortunately, the effort by Chairman GIAIMO to strike reconciliation will present this issue to the House in a most negative way. Nevertheless, I expect the effort to strike to be be unsuccessful in the House.

The next move on reconciliation, however, is here in the Senate. By approving the Conference substitute, we will endorse Reconciliation. I urge that the Senate do this. It may put us back in Conference, but it's vital that the Senate stand by its position and press the House to go along.

Despite the increase in the aggregate spending level and the differences with the House on the use of the reconciliation instruction, I am encouraged by the willingness of both Houses to reject even higher spending increases or tax reductions at this time. I have noted with interest recent interviews with former Treasury Secretary Michael Blumenthal and former Commerce Secretary Juanita Kreps, both of whom admitted that the major policy mistake of the past 3 years was the fiscal year 1977 fiscal stimulus package. In their opinion, this effort to stimulate the economy at a time when, in retrospect, the economy was growing rapidly was the result of a preoccupation with unemployment and a clear failure to see the dangers of rising inflation.

There are those in Congress who would make that mistake again. In the present highly inflationary environment, Congress has to face the fact that additions to spending or significant tax reductions will put fiscal policy into conflict with monetary policy, will lead to higher interest rates, and will increase the risk of a deep recession.

Mr. President, in concluding my remarks, I would like to briefly comment on the implication of this year's budget and appropriation experience for the future of these processes. All of us should be concerned about the extent to which deadlines in the Budget Act for budget resolutions and appropriations bills have been breached this year. I am a member of both the Budget and the Appropriations Committee and I am personally aware and frankly embarrassed that we have been so tardy and have fallen so far behind in both our budget resolutions and the appropriations bills.

We are already 6 weeks into the new fiscal year and Congress has not yet approved a second budget resolution for fiscal year 1980. We are not almost 2 months behind the September 15 deadline for the second budget resolution.

Furthermore, although the Budget Act provides that all regular appropriations bills be passed 7 days after Labor Day, prior to the time Congress acts on the second budget resolution, as of September 15 this year only two conference reports on appropriations bills had been approved. Even now, in November, the Congress has yet to take final action on 6 of the 13 appropriations bills.

Mr. President, in all honesty and in all candor, much of this delay is due to the persistent efforts to legislate on appropriations bills. This is a problem that I believe the Senate is going to have to address directly.

I will have other comments on that at a later time.

Although the slippage of deadlines is very disturbing, I continue to believe that the budget process provides our only real means of achieving fiscal discipline. Through the budget process the Congress has succeeded in reducing growth in spending and the level of the deficit. Equally important, the budget process has provided a vehicle through which Congress establishes policy goals and ultimately can be held accountable for the achievement of these goals by the general public. However, it may be time to consider ways to improve the overall budget and appropriations processes, especially in the context of the enormous and growing legislative agenda which Congress faces each year.

Mr. President, I believe it is important to call attention to the fact that the adoption of this budget resolution keeps Congress on the path to a balanced budget in fiscal year 1981. Some may not accept that. They may frankly disbelieve it, but there is a chart on page 19 of our report that makes this path plain.

There is one big if in this proposition. We can have a balanced budget in fiscal year 1981 if we have no tax cut in 1980. If we have a tax cut in 1980 we will simply add to our deficits, increase inflationary pressures, and produce additional economic pressures, such as high interest rates.

Members of the Senate should look carefully at the plan the budget resolution has set that will give us a balanced budget in 1981. This path will make room for a very sizable tax reduction in 1982, as the chart shows. We can have a tax reduction in 1982 of about $55 billion without creating another deficit. These projections are based upon certain assumptions, such as some growth in our economy, which I think are not unrealistic. But I would like to point out that, if we do intend to have a balanced budget in 1981 which I feel is absolutely essential, and if we are going to stabilize the economy of this country, then there are certain tests we have to meet and certain temptations we simply must reject.

So, Mr. President, in conclusion, I again urge the adoption of the conference substitute. Although I would have preferred that the spending ceilings and deficit were somewhat lower, I am convinced this is the best result we could achieve in the present environment.

Again I would like to compliment and congratulate our chairman for his success in achieving agreement on what at times seemed to be impossible differences, and again to pay tribute to the leadership he has given this budget process since its inception 5 years ago.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I thank my friend for his statement. I just want to make this comment, that I want to reemphasize it is very easy to be patient and enduring with HENRY BELLMON at your side. At this point I yield to my good friend from South Carolina, Senator HOLLINGS.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me say, not just in the spirit of complimenting, that our distinguished colleague, the Senator from Maine, has kept this budget process going. If we really weighed the consequences of a total breakdown, they are very serious. Additionally, we are over a month behind now. It was the Senator from Oklahoma and the Senator from Maine, working in harness who brought us through.

I only rise to clarify the support I give now to the conference report of the second concurrent resolution with the 050 defense figures of $141.2 billion in budget authority and $129.9 billion in outlays.

The outlay figure is the one I refer to because it is the important one to which my remarks are addressed, with respect to the 3-percent commitment to NATO and the President's commitment.

Specifically, the $141.2 billion was agreed to by both the House and the Senate without too much difficulty in that we sized up on both sides the Armed Services' authorizing bills and the Appropriations Committee's actions as of that particular time. And they were right at $141.1 billion, so $141.2 billion was not very difficult to reach. But the House Members were hard-nosed on the matter of the outlays.

I had a tremendous disappointment with respect to our Chief Executive and his commitment to 3 percent. In May of 1977, the President of the United States, through his Defense Minister at NATO, resolved a commitment amongst all the allies for 3 percent real growth, constant dollars, in the Defense budget for the ensuing years. The outlay figure, since they do not use budget authority in the European Alliance, is the one that is over the total defense budget. It is not just the NATO part, not just for readiness. We have been in these arguments, but I shall speak very quickly because my time is limited.

We were trying to hold at the $130.6 billion which is right at the 3-percent commitment. We ended up with $129.9 or 2.5 percent.

In trying to listen and learn during the summer, I realized that the President had made that commitment. Last fall I was in Lisbon at the NATO meeting, and we heard news reports that the President was marking up the budget and that he was not going forward with the 3-percent commitment. It was embarrassing to some of us in Lisbon. We finally got word, through some of the representatives of the White House, that the President was still committed to 3 percent. We told our allies and had good debate and came back very happy.

But in January, the President did not submit that 3-percent figure. In fact, his outlay was $125.8 billion. I am trying to make a record so we can find it in one place, because there is very devious manipulative conduct on behalf of the administration with respect to this commitment.

In January of this year, when the President submitted his budget, it was only for $125.8 billion. To get to the 3 percent, he would have had to ask for $126.7 billion. Checking with the CBO, we realized that the President had not really lived up to submitting to Congress the 3-percent commitment. His figure only amounted to 1.8 percent. Somewhere on the public record, that statement should be made.

After the SALT hearings, in midsummer, when we were marking up the second concurrent resolution, I resolved in my mind that now, with everybody laying on the record the decline in our defenses, we ought to make an all-out effort for that 3-percent commitment. In the Budget Committee on August 2—that is August 2 of this year—I moved for the 3 percent. The President's Representatives, my good friends Dan Tate and Bob Thomson, were opposing it. I was not too surprised. I obviously was very put out about it, but they had opposed it on the House side; they were opposing me then.

So I went back to the office and wrote a letter to the President, dated August 3. I ask unanimous consent that the letter in its entirety be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., August 3, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I write as a member of the NATO delegation, as a member of the Budget Committee and as a member of the Defense Subcommittee of Appropriations, trying my dead level best to keep your commitment to the NATO alliance for 3% real growth in defense. My understanding is that the alliance has adhered well, the figures for 1980 showing an increase in growth of 4.8% for Canada, Italy with 3%, France with 6.1%, the United Kingdom with 3.2%.

A coalition attempted on the House side earlier this year to provide for the commitment and the White House Liaison team worked against the move. We have one more chance now in the Second Concurrent Resolution before the Congress in September. At that time, I will submit an amendment for a $2.6 billion increase. I am enclosing a copy of the material I used on yesterday when the amendment was defeated in the Budget Committee by a vote of 6–8. I am greatly disturbed by the morning headline that "SALT May Bring Pentagon Embarrassment of Riches." We are not enriching, we are playing catch-up ball. We are way behind in our defense effort. Representations by you for increases in the defense budget in the future will mean little if we cannot fulfill the minimal commitment to NATO now. I beg of you to instruct the White House Liaison team to help us in obtaining the votes for this amendment. I will be in touch with Frank Moore and will appreciate very much your help and his help.

With kindest regards, I am

Sincerely,

ERNEST F. HOLLINGS.

(Mr. ZORINSKY assumed the chair.)

Mr. HOLLINGS. Then I got together with the distinguished Senator from Georgia (Mr. NUNN), the Senator from Washington (Mr. JACKSON), the Senator from Texas (Mr. TOWER), and others. We sent a telegram to the President asking about the 3 percent. And we asked for a meeting with the President of the United States to discuss defense needs. Just prior to that, we had a statement from the President of the United States, released by the White House, dated September 12. He said:

At NATO Summits in May 1977 and 1978 we persuaded our allies to join with us in endorsing a goal three percent real annual growth in defense outlays and an ambitious Long Term Defense Program for the Alliance. Together these represented a turning point, not only for the United States, but the whole Alliance.

I will support ceilings for the National Defense Function for FY 1980 of $141.2 billion in Budget Authority and $130.6 billion in outlays.

So there was a clear, unambiguous commitment made by the President. He had made it before in May of 1978. He reiterated it in December of 1978. He failed in January, but he reiterated it again, now, in September.

Mr. President, I ask unanimous consent that his message in its entirety be printed at this point in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
September 12, 1979.

To the Congress of the United States:

I am sure you agree with me that we cannot effectively safeguard U.S. legitimate interests abroad nor pursue safely peace, justice and order at home unless our national security is protected by adequate defenses. The fundamental responsibility of the President—a responsibility shared with Congress—is to maintain defenses adequate to provide for the national security of the United States. In meeting that responsibility, this Administration moved promptly and vigorously to reverse the downward trend in U.S. defense efforts. This is demonstrated by an examination of the trends in real defense expenditures since the mid 1960s. At NATO Summits in May 1977 and 1978 we persuaded our allies to join with us in endorsing a goal three percent real annual growth in defense outlays and an ambitious Long Term Defense Program for the Alliance. Together these represented a turning point, not only for the United States, but the whole Alliance.

For our part, we moved promptly to act on this resolve. We authorized production of XM–1 tanks; we greatly increased the number of anti-tank guided missiles; we deployed F–15s and additional F–111s to Europe, along with equipment for additional ground forces. We reduced the backlog of ships in overhaul and settled contractual disputes that threatened to halt shipbuilding progress. In strategic systems, we accelerated development and began procurement of long range air-launched cruise missiles, began the deployment of Trident I missiles, and have begun the modernization of our ICBM force with the commitment to deploy the MX missile in a survivable basing mode for it.

These and other initiatives were the building blocks for a determined program to assure that the United States remains militarily strong. The FY 1980 budget submission of last January was designed to continue that program. In subsequent months, however, inflation has run at higher levels than those assumed in the cost calculations associated with that defense program. Accordingly, I plan to send promptly to the Congress a defense budget amendment to restore enough funds to continue in FY 1980 to carry out the Administration's defense program based on our current best estimate of the inflation that will be experienced during the fiscal year. Although the detailed calculations needed to prepare an amendment are still in progress, I expect that the amount of the amendment will be about $2.7 billion in Budget Authority above the Administration's January 1979 budget request.

Correcting for inflation is not enough in itself to assure that we continue an adequate defense program through FY 1980. We must also have the program and the funds authorized and appropriated, substantially as they were submitted. Therefore, in the course of Congressional consideration of the second budget resolution, I will support ceilings for the National Defense Function for FY 1980 of $141.2 billion in Budget Authority and $130.6 billion in outlays. I will also request that the Congress support the Administration's FY 1980 defense program and, in particular, that the Appropriation Committees actually appropriate the funds needed to carry it out.

Furthermore, in FY 1981 I plan a further real increase in defense spending. The Defense Department is working on the details of

that budget. It would, therefore, be premature to describe the features of that budget beyond noting that it will continue the broad thrust of our defense program, and that I intend to continue to support our mutual commitment with our NATO Allies.

While this defense program is adequate, it is clear that we could spend even more and thereby gain more military capability. But national security involves more than sheer military capability; there are other legitimate demands on our budget resources. These competing priorities will always be with us within the vast array of budget decisions both the Congress and the President are called upon to make. Defense outlays are actually lower in constant dollars than they were in 1963, and a much lower percentage of the gross national product (5% compared with 9%). There are those that think this has caused a decline in American military might and that the military balance has now tipped against us. I do not believe this to be so, but I am concerned about the trends. I believe that it is necessary for us to act now to reverse these trends.

The Secretary of Defense will be presenting to the Congress over the coming months the highlights of our defense program in terms of the goals we think we should achieve and the Five-Year Defense Program we plan to achieve them. In this context he will point out, among many other items, how MX and our other strategic programs will contribute to the maintenance of essential equivalence between the central strategic forces of the United States and Soviet Union, how we plan to modernize theater nuclear forces in cooperation with our NATO allies, how our general purpose forces programs contribute both to our military capability to support our NATO allies and rapidly to deploy forces to defend our vital interests elsewhere. That presentation can serve as the basis for future discussions (including open testimony) that will allow us to build the national consensus that is the fundamental prerequisite of a strong and secure America.

JIMMY CARTER.

THE WHITE HOUSE, *September 11, 1979.*

Mr. HOLLINGS. Then, Mr. President, we went over to the White House to see the President on September 13 at 7:30 in the morning. At that meeting, we had Senators NUNN, JACKSON, DOMENICI, TOWER, PACKWOOD, STENNIS, and myself. The President, the Vice President, and the Secretary of Defense were there.

Mr. NUNN. If the Senator from South Carolina will yield, I think the RECORD should reflect that the Senator from South Carolina got lost that morning in the White House and was a little late.

Mr. HOLLINGS. I was a little bit late, because they put me in an energy meeting for a while. I think they wanted to keep me out of there.

In any event, the Director of the Office of Management and Budget was there, as were Mr. Brzezinski, and Mr. Cutler. The President, one more time, made a clear, unambiguous commitment. There is no question, he is easy to get a commitment from. He made that commitment of 3 percent and thereupon wrote us a letter on September 14, reiterating it. I ask unanimous consent that this letter be printed in its entirety in the RECORD with respect to his 3-percent commitment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., September 14, 1979.

To Senator ERNEST HOLLINGS:

I appreciated the opportunity to meet with you Thursday to discuss your proposed Defense Amendment to the Second Fiscal 1980 Budget Resolution. I thought our exchange was frank and useful.

As my September 11 message to the Congress states, I strongly support the portion of your amendment which would set a figure for the National Defense Function for FY 1980 reflecting a full 3 percent above FY 1979, using latest inflation estimates. This would mean that the Administration's original Budget Authority request for FY 1980, plus a correction for inflation, would become the level for the National Defense Function in the Second Budget Resolution.

With respect to the 5 percent real growth out-year figures in your amendment, I cannot support those figures at this time. As we all agreed, the out-year figures in the budget resolution are not binding, and the precise size of any percentage increase in the National Defense Function is less significant than the actual procurement and force decisions that are embodied in the Defense Budget for FY 1981 and subsequent years. The Defense Department is now working on the details of the FY 1981 budget proposal. It will set forth the Secretary of Defense's recommendations to me as to what is needed for our strategic programs to maintain essential equivalence between the central strategic forces of the United States and Soviet Union, for modernizing theater nuclear forces in cooperation with our NATO allies, and for strengthening our general purpose forces by specific steps that contribute both to our military capability to support our NATO allies and defend our vital interests elsewhere. All these steps are necessary for our continuing effort to reverse the adverse trends in our overall military balance.

We share common ground in believing that a strong defense is our first priority. I can assure you that the FY 1981 and 1982 budget proposals will continue this Administration's effort to reverse the previous downward trend in real defense expenditures, and that they will achieve the basic objectives of our Five Year Defense Program. As the result of other economies and improved coordination of our defense programs with those of our allies, we should be able to carry out our Defense objectives without exceeding the 3 percent level of annual increase in 1981 or 1982. When the details are fully developed, however, our actual budget proposals could exceed the 3 percent real growth which we pledged along with our NATO allies. If in my judgment more than 3 percent is required, I can assure you that I will request it.

When the Congress acts in the coming weeks on the authorization and appropriation bills for the 1980 defense budget, I know I can count on your support in opposing Congressional reductions below the Administration's proposals. It will require our joint efforts to reverse the ten-year trend during which every Congress has cut the amounts requested by the President.

Sincerely,

JIMMY.

Mr. HOLLINGS. Mr. President, every time I get on this all-important subject, I find myself in a time jam. Let me try to move along. He said:

It will require our joint efforts to reverse the 10-year trend during which every Congress has cut the amounts requested by the President.

The truth of the matter is, Mr. President, that when President Carter submitted his 1978 budget in 1977, the first concurrent resolution increased it on the Senate side. His budget authority request was for 120.1 and outlays of 111.9. We passed the first concurrent resolution with an increase to 120.3 in budget authority—again, for the 1978 fiscal year, not the present. When he requested in budget authority 128.4 for the next year, the first concurrent resolution of the U.S. Senate was $129.8 billion. I think I should say that in deference to our distinguished chairman and the members of the Budget Committee, particularly the U.S. Senate itself, because we were not cutting, we were actually increasing.

On the House side, they cut it every time. And sure enough, they debated it on the House side on Wednesday of that week.

I ask unanimous consent to have printed in the RECORD the letter from Jim McIntyre, the Director of the OMB, to the Honorable ROBERT N. GIAIMO, chairman of the House Budget Committee. Therein, the President of the United States, through his Director of OMB, who was present at our 7:30 in the morning conference on the 3 percent, writes, "We support final passage of the committee's recommendations," which was $2.5 billion less and not a 3-percent commitment, but much less than that, less than 0.7 percent on the House side. And remember, the President had written his letter on the 14th.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

HON. ROBERT N. GIAIMO,
Chairman, Committee on the Budget,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your September 18 letter in which you requested the Administration's views on the Second Budget Resolution as reported by the House Budget Committee.

I agree that the budget totals provided by the Committee are generally consistent with the President's recent estimates and that they would accommodate, in aggregate, major Administration budget priorities. Consequently, we do support final passage of the Committee's recommendations.

As you noted, the Administration does not agree with all of the specific assumptions in the House resolution, and we intend to work in conference to move closer to our priorities.

Thank you for soliciting our views. Please call me if the Administration can provide further assistance on the Second Budget Resolution.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

Now, they hedged on that with the language:

We intend to work in conference to move closer to our priorities.

Let us make no mistake about it, Mr. President, with respect to what happened on the House side. I called one of my distinguished South Carolina colleagues and I said, "How did you happen to vote for that figure?" The vote taken on September 19 of this year on the House side was 221 to 191, and the 3 percent was defeated.

KEN HOLLAND, who represents the Fifth District of South Carolina said, "I was walking in, and Jim Free from the White House asked me to vote against it."

So we have the letter of the administration opposing the 3-percent figure, the formal commitment. We do not have to worry about the ambiguity; it is the actions I am trying to emphasize louder than the words. There was a team working against it.

Then we come to conference.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. I will conclude in just a few minutes.

Mr. President, when I finally got to the conference, I said, "We on the Senate side always have difficulty, but we understand the difficulty on the House side."

We understand the difficulty on the House side, they do not have strong support from some of our Republican Members. They would rather have, we know, the lower vote all the time, and have their cake and eat it, too.

I went to my House colleagues on the Republican side, House conferees. We met in the hall and said, "Surely, if we can get the 3-percent commitment, we can make a list for those who did not vote on this budget resolution." It was a very close vote. We can give you a list.

We had Herkie Harris from OMB. He could not do anything but run around being pleasant because the White House would not allow him to be effective in this instance.

They finally complained in the Hall, "Where are all these Pentagon people, these aides from the White House, where is the President?"

Well, they had Graham Claytor call me, and he said, I say to the Senator from Maine, that he had always understood Mr. MUSKIE never did want them to interfere with the budget process. So I doubted he would send anybody over. But, definitely, they were for the 3 percent.

We met in the conference, and the Senator from Oklahoma will remember well, I asked the conferees on the House side whether or not they had been contacted by the White House on behalf of the 3-percent commitment, because the letter of Jim McIntyre talked about the order of priorities.

I said, "Have you been contacted?" And they would break out laughing.

No one was contacted by the White House. They did not help at all.

We recently went to the NATO conference in Ottawa. In all sincerity, I know what White House pressure and interest is. Everybody was there for the SALT II treaty. They had ambassadors, minions, and everybody. We could hardly move around town; they were working all over the place.

So what I am trying to say to my distinguished colleagues here, and particularly the distinguished Senator from Georgia, who has worked so hard, is something about commitments. Senator NUNN, on last Friday, made a very interesting address to the U.S. Senate about SALT II. We will not get into that today. But he said that he would like a clear and unambiguous commitment.

I am saying that I can get that kind of commitment any time he wants it from the White House. But I can say in all honesty and candor, they will never follow through. These letters and statements—the record I am putting in today—prove that much.

This is the President who said he would cut $15 billion. This is the President who has cut $11 billion out, and the neutron bomb, the B-1, the aircraft carrier, closed down the Minuteman, canceled the MX, canceled the Navy contracts, and so on.

He is the same President who said in his January message that one submarine would be able to destroy all the medium-sized and large-sized cities of Russia. That is his approach to defense. And that is what their unambiguous commitments bring us.

I thank the distinguished Senator. I wanted to put this in the RECORD so everybody would know exactly what occurred.

Mr. MUSKIE. I thank my good friend from South Carolina for his usual lucid explanation of the events he has described.

My good friend from Virginia has indicated the desire to have 10 minutes of time to discuss this conference report. I am happy to yield to him.

Several Senators addressed the Chair.

Mr. BELLMON. I am just informed that the Senator from Colorado would like 5 minutes.

Mr. MUSKIE. That is fine with me.

Mr. HARRY F. BYRD, JR. Mr. President, I will yield 5 of my 10 minutes to the Senator from Colorado.

Mr. MUSKIE. I appreciate that.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I just want to comment on a few figures.

The budget authority for fiscal 1980 will be $638 billion. That compares with the budget authority for 1979 of $556 billion. That is an increase in budget authority of $82 billion in this one fiscal year.

Now let us get to outlays. This proposal calls for outlays—I am using round figures now—of $548 billion. That compares with outlays for 1979 of $494 billion. That means the spending for fiscal 1980, the year we are in now, will increase by $54 billion. That represents an increase in spending of 11 percent.

Yes, 11-percent increase in spending for the fiscal year 1980.

Let us take budget authority. The figure in this budget resolution calls for a 15 percent increase, a 15 percent increase in budget authority.

Through the years, in recent years, Mr. President, Federal spending has increased at a rate of between 9 percent and 14 percent year after year. This year the increase over last year will be 11 percent in spending.

I do not know how we are going to expect to get inflation under control with such huge increases in spending as are being presented to the Senate.

If we are going to get back on a sound basis in the financial affairs of the Federal Government, we must reduce the huge increases in spending

I do not contend we can reduce below what is being spent now. I do contend, however, the increases in spending must be moderated below what this budget resolution calls for and what has been done in the last few years.

Mr. President, take the question of the the national debt. The national debt has doubled in the past 8 years.

Yes, the national debt has doubled in the past 8 years.

The interest on the national debt in this present budget is some $65 billion, $66 billion, or $67 billion. That is the interest charges on the debt.

That is not much less than the total cost of Government was only a few years ago.

I think we are in a very serious financial position. The Government is getting in a more serious position every year. Things are not improving. The Government is going into the money markets during this year for 50 percent of its total spending. It is going into money markets for $260 billion—$60 billion in new money and $200 billion in rollover money.

Is there any wonder that interest rates are high? Is it not logical that interest rates will continue to be high, so long as the Federal Government goes into the money markets to borrow the money to operate its huge spending programs and to finance its huge deficits?

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the national debt in the 20th century.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

The national debt in the twentieth century[1]

[Totals at the end of fiscal years rounded to the nearest billion dollars]

1900	1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1
1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19
1928	18
1929	17
1930	16
1931	17
1932	19
1933	22
1934	27

[1] Gross Federal debt.

1935	29
1936	34
1937	36
1938	37
1939	48
1940	51
1941	56
1942	79
1943	143
1944	204
1945	260
1946	271
1947	257
1948	252
1949	253
1950	257
1951	255
1952	259
1953	266
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	383
1971	409
1972	437
1973	468
1974	486
1975	544
1976	632
1977	709
1978	780
1979*	839
1980*	899

* Estimated figures.

Source: Office of Management and Budget.

Mr. MUSKIE. Mr. President, I always appreciate the focus that the Senator from Virginia puts on the budget resolution. I think it is a very appropriate one.

The increase in outlays from 1979 to 1980 is roughly 10 percent. Inflation is running about 13 percent. So that, overall, I think there is a shrinkage below the rate of inflation.

Second, I ask unanimous consent to have printed in the RECORD a statement breaking down the figures which the Senator from Virginia has given us in terms of aggregates, so that we can see where the increases are. I think the table speaks for itself. I simply put it in the RECORD for the further enlightenment of Senators. I think perhaps the Senator from Virginia will find it useful.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Changes fiscal year 1979 to fiscal year 1980

[In billions of dollars]

	Budget authority	Outlays
Fiscal year 1979 estimate[1]	556.1	496.2
Defense programs	+14.0	+12.8
Energy supply initatives	+21.5	+0.6
TVA borrowing authorty	+15.0	--
Social security, railroad retirement and similar programs	+15.1	+16.2
Health care services, primarily medicare and medicaid	+6.1	+4.2
Net interest	+3.7	+3.7
Unemployment compensation	+0.6	+4.2
Public assistance	+3.8	+3.5
Federal employee retirement	+3.0	+2.0
International security programs, primarily foreign military sales	+2.6	+0.1
Housing assistance	+2.5	+0.9
Agriculture programs	−4.1	−3.3
Energy programs (except TVA borrowing authority and energy supply initiatives)	−4.4	−0.2
Training and employment programs	−1.7	+0.6
All other, net	+4.2	+6.1
Fiscal year 1980 conference agreement	636.0	547.6

[1] Most recent CBO estimate. Preliminary actual data recently released by OMB and Treasury indicates that total outlays in fiscal year 1979 were about $494 billion.

Mr. HARRY F. BYRD, JR. Mr. President, I yield the remainder of the time to the Senator from Colorado.

Mr. ARMSTRONG. I thank the Senator for yielding.

Mr. President, the other night, my wife and I were leaving the post office in McLean; and as we turned out on the road, we watched in horror as another driver, coming down the road, turned right into a clearly marked one-way street, going the wrong way.

It was a sensation something like that I feel here tonight, because the driver of this car was going against all the signs. The street was clearly painted with an arrow that said, "Don't Go This Way." There were three signs that said "Do Not Enter" and two others that say "Wrong Way." There were great posts with diagonals and fluorescent paint on them.

It could not have been more plain that he was going the wrong way. As we watched and gasped out a warning, he zipped out the wrong way, anyway. He avoided a catastrophe because there was not a car coming in the other direction, and no one was killed.

That is exactly the sensation that rises within me as we adopt this budget resolution.

The last thing I want to do at this point is oppose my dear friends and colleagues on the budget conference committee. I would like to join them in endorsing it and say, "Let us go with it"; because from the standpoint of the effort and time and sincerity and scholarship and legislative skill that have gone into it, it is a wonderful report. But it is a report that takes this country one more step down a disastrous direction. Maybe we will be lucky. Maybe we will not go one step too far and push ourselves over an economic precipice. My instinct is that we are very close to the edge, and we are not doing anything to improve the economic future of this country by adopting this resolution.

Let me make a couple of observations and spell out in specific terms my concern.

First, I compliment the distinguished chairman of the Budget Committee, Mr. MUSKIE, and my distinguished Republican leader on the Budget Committee, Mr. BELLMON, for the way they have handled this matter. The Senate gave them the responsibility of sitting down with the House and hammering out an agreement to reconcile the differences between the Senate and the House versions of this resolution.

They have done so with consummate skill, with extraordinary patience, and in a way which I think makes the very best of a very bad situation. I compliment them for it.

I particularly compliment the chairman and the ranking minority member for their skillful handling of the Senate position on military spending on national defense issues. I think that is important and very worthwhile. My concern is with the totals.

This budget, by its terms, will impose a deficit of at least $30 billion, a deficit which cannot fail to have enormous inflationary consequences at a time when inflation is already wracking every family and every business and every employee in this country. So I am concerned about that.

Second, I am concerned about the fact that this budget is at least 2 months late; and it shows what is the matter with our process.

I commend to my colleagues the possibility that maybe we need to take a long, hard look at the budget process, with a view toward strengthening it, possibly imposing more discipline, and finding a way to write that necessary discipline into the United States Constitution.

Third, I am concerned that, despite our best efforts, even the $30 billion which is mentioned as the deficit in this resolution is far less than we are going to end up with. This budget is wildly unrealistic, in my judgment, in its estimate of the outlays for fiscal year 1980. I could be wrong, but I would be willing to predict to anybody who is interested that when we add up the final figures on September 30, 1980, the outlays will be much, much higher than contemplated by this resolution and that revenues may well be less.

If the economy goes into the kind of tailspin that seems to be heading up, entitlement programs will inevitably push up welfare programs and unemployment programs. There will be a temptation for so-called pump priming.

I stand by my prediction that there will be a 1980 tax cut, given the economic and political situation which is bound to prevail next year.

So it is not hard to imagine add-ons of another $8 billion, $12 billion, $15 billion, perhaps even $20 billion, to the deficit which already is written into this budget.

I hope I am wrong. I hope it does not work out that way. But I am told that the White House is now privately stating that the deficit will be at least $10 billion more than the official figures.

For these reasons, I come to two conclusions.

We have here a budget which probably is unrealistic, which is terribly inflationary, at a time when inflation already is undermining the productive base of the country, which has cost us thousands and tens of thousands of jobs, which has priced the young people out of the housing market and threatens the economic security of our country. This is reflected by all the national indicators of the strength of the dollar, of the gold price, of the stock market, of all the economic as well as human indicators, at a time when we have $800 billion in debt. This is going to impose another $30 billion and perhaps even more in debt.

I want to vote against the conference report, which I intend to do. But starting tomorrow morning, after we have had a chance to look at this by the new perspective of how things look after we have adopted it, I am going to pick up where we left off and renew my call for effective, decisive action at the earliest possible date to amend the U.S. Constitution to require Congress to bring Federal spending under control.

Mr. MUSKIE. Mr. President, I appreciate the comments of the distinguished Senator from Colorado. I appreciate the good spirit and the patience with which he works and is involved in this process, the product of which, on the basis of principle, he disapproves.

However, I make this comment: I have struggled with this method of trying to bring about budget discipline, and it represents disappointments for me as well as for the distinguished Senator from Colorado.

I know that he is a strong advocate of another method, a constitutional amendment. It is my judgment that if, over the period we have had the budget process, we had had a constitutional amendment instead, the results, in budget terms, would not have been much different; because it is not budgets that spend money, it is people—people back home who look to the Federal Government and the State and local government for assistance in dealing with problems; people in their legislative bodies who seek to represent their interests.

Whenever there is a strong surge of public interest in more spending, as in the case of defense this year, or in the case of fuel assistance for those at the bottom of the economic ladder who need help, there is a surge of spending.

So there is no way of containing those surges except through discipline that is very difficult to get anyone to accept.

A constitutional amendment might work better.

I have no experience upon which to base a judgment. This one has had some disciplinary effect, more than I think many of us expected, but in any case, it is the only thing we have.

I urge the Senate to give it an overwhelming vote of endorsement today.

Mr. STEVENS. Mr. President, I want to express, on behalf of the minority, sincere appreciation to the chairman and ranking member of the Budget Committee for their fine work in bringing about a satisfactory resolution to the serious problems the committee dealt with in this conference report.

Senators MUSKIE and BELLMON, as well as all members of the committee, have done yeomen's jobs on this most complex issue of setting spending limitations. It is truly a thankless task, one sure to make a Member unpopular with not only his colleagues but his constituents as well. Yet this fact has not deterred these Members from achieving their goal of getting our national budget under control.

I realize that the conference was long and difficult. But thanks to the efforts of Senators MUSKIE and BELLMON, and the Budget Committee members most of us will be voting in support of this workable and satisfactory compromise.

Mr. DOMENICI. Mr. President, I rise to support the second concurrent budget resolution conference report that our Senate Budget Committee has negotiated with the House of Representatives.

As a Budget Committee conferee, I can assure the Senate that we held an unprecedented 17-day conference to decide the issues confronting the conferees. And, while we did not get all we wished, we did win substantial victories on behalf of our Senate colleagues.

I am especially glad that we have kept intact the entire budget authority of $141.2 billion for defense. For defense, the budget authority number is the critical number and the Senate was totally successful in keeping this function intact. In addition, we were able to salvage sufficiently large budget authority numbers for the energy function. This means that we will be able to fund synthetic fuels legislation, conservation, geothermal, and solar initiatives, as well as gasohol programs, within the budget resolution's numbers.

While I had hoped that the House would agree with our historic reconciliation motion, I am glad that this issue will be presented specifically to the House for its decision. I believe that a majority of the House believes that spending ought to be cut and that they will be inclined to support the Senate recommendation to truly impose discipline on spending this year.

I wish to congratulate Senators MUSKIE and BELLMON for their heroic efforts on behalf of the Senate, and the staff of the Senate Budget Committee for its diligence and hard work during this extremely difficult set of deliberations.

● Mr. CRANSTON. Mr. President, all my colleagues, and especially the distinguished chairman (Mr. MUSKIE) and ranking minority member (Mr. BELLMON) of the Budget Committee know that I have always been a staunch advocate for the budget process, including a reconciliation procedure when necessary. I would not vote against a conference report on a budget resolution without the most compelling justification. Moreover, I would always give great weight to the desirability of supporting the Senate conferees when there is disagreement in a budget conference.

Thus, I deeply regret that I am unable to vote for the conference substitute on the second concurrent resolution on the budget for fiscal year 1980—Senate Concurrent Resolution 36—because I am strongly opposed to that portion of the reconciliation instructions directing the Veterans' Affairs Committees to reduce spending on veterans' programs by $100 million in budget authority and outlays and because there is no agreement between the Houses on the reconciliation instructions.

Mr. President, I recognize that a reconciliation process is a necessary part of the budget process. I believe it should be used, when agreement between the Houses has been reached on the budget levels for a second or subsequent budget resolution and both Houses agree that, in order to bring spending for the fiscal year within the agreed-upon totals, it is necessary to instruct one or more committees to determine and recommend changes. Under such circumstances, reconciliation is a necessary and useful part of the budget process and may be essential to insure that the budget process works.

However, Mr. President, there is no agreement on reconciliation at this point. The conferees are in disagreement on the instructions; and, even if the Senate agrees to them, the chairman of the House Budget Committee has announced that he will, on the floor of the House, move that the Senate amendment be agreed to without the reconciliation instructions. It is clear to me that the House is not going to agree to the reconciliation instructions. In this context, the strong objections that I have to the proposed instructions to the Veterans' Affairs Committees clearly override any support for the conference substitute that my basic support for the budget process might otherwise engender. Rather, in the absence of House-Senate agreement on reconciliation, my position on those reconciliation instructions compels my vote against the conference substitute.

Mr. President, were it necessary to discipline the Veterans' Affairs Committee for some act of fiscal irresponsibility or to impose fiscal discipline upon it, there might be some justification for this attempt by the Senate conferees, even in the absence of agreement by the House conferees, to impose instructions on our committee. But, I am proud to say, the Veterans' Affairs Committee has acted responsibly and with restraint, consistent with our responsibility to insure adequate funding for veterans' programs.

Our committee has taken cost-conscious actions to eliminate unnecessary spending and waste and abuse in veterans' programs, and I have repeatedly and continually pointed out that there is no justification for additional reductions. Forcing the Veterans' Affairs Committees into proposing ill-conceived and unwarranted cuts in veterans' programs would betray the solemn commitment made to our Nation's veterans.

Mr. President, I emphasize that the instructions are based on unwarranted and unrealistic assumptions made by the Senate Budget Committee that are not shared by the House conferees. In this connection, on behalf of the Veterans'

Affairs Committee, the ranking minority member (Mr. SIMPSON) and I wrote to the chairman and ranking minority member of the Budget Committee on July 27 urging that the Budget Committee not adopt unrealistic cost-savings assumptions that it was then considering with respect to veterans' programs. Subsequently, on Septmbeer 25, I wrote to the chariman and each member of the Budget Committee to stress my disagreement with those assumptions and with the reconciliation instructions directed at the Veterans' Affairs Committees. The enclosure to that letter detailed the 11 cost-savings and cost-containment provisions that our committee had already acted on.

I ask unanimous consent that those letters be printed in the RECORD at the conclusion of my remarks.

Mr. President, I would like to point out that I very much appreciate the extent to which the Senate conferees agreed to move toward the House-passed figures for veterans' programs. As a result, the conference substitute includes $250 million more in budget authority and $200 million more in outlays in function 700, veterans' benefits and services, than the Senate-passed resolution. Although these function 700 figures are less than I urged in my September 25 letter, these figures alone would not cause me to vote against the conference substitute.

However, Mr. President, there is no justification for the imposition in this Congress of reconciliation instructions on the Veterans' Affairs Committees.

For these reasons, I oppose this conference substitute.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 27, 1979.

Hon. EDMUND S. MUSKIE,
Chairman,
Hon. HENRY BELLMON,
Ranking Minority Member, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR ED AND HENRY: We are writing, on behalf of the Committee on Veterans' Affairs, in response to your letter of July 23 pertaining to legislation under the First Concurrent Resolution on the Budget for Fiscal Year 1980 (FCR). In that letter you asked for information regarding the Veterans' Affairs Committee's plans with respect to legislation having cost implications in order to assist the Budget Committee in its deliberations on the Second Concurrent Resolution (SCR).

You specifically asked about the prospects for cost-savings legislation that your Committee has assumed would be enacted. First, with respect to S. 759, health-insurance reimbursement legislation, estimated by the Congressional Budget Office (CBO) at the time of your report to result in savings of $0.2 billion in budget authority and outlays in fiscal year 1980, Committee staff has conducted an extensive review of the complex issues involved, has met with VA, CBO, Congressional Research Service, and health insurance industry representatives, and has scheduled a further meeting for August 15 with representatives of the same organizations, staff of your Committee and other Congressional Committees, and White House staff. Hearings will be held on S. 759 on September 12. In light of the difficult constitutional and policy issues that this legislation presents, we are not now in a position to predict what action will be taken in our Committee.

There has been no movement on counterpart legislation in the House of Representatives, and the House Committee on Veterans' Affairs has clearly indicated that it will not take any action on it this year.

In any event, even if it is assumed that such legislation would be enacted (which seems most unlikely this year), we believe strongly that the estimated cost-savings should not be deducted, just as we have previously urged they should not be deducted in connection with the FCR, from amounts otherwise allocable to the Appropriations Committee for the first fiscal year following enactment of the legislation.

Our reasons for this are primarily based on the fact that collections of reimbursements under this measure would not be available to the VA until toward the end of fiscal year 1980; and any reduction of appropriations premised on the enactment of this legislation would, to the extent of such a reduction, force the VA to operate at a reduced program level for much of that year—perhaps for the entire fiscal year in the event that estimated collections later in the year do not materialize in the amounts forecast. In our Committee's view, this would be a most unsatisfactory result, and an alternative method of accounting for the estimated savings is clearly necessary.

We would also note that on July 6, 1979, we received an informal CBO estimate (copy enclosed) of cost-savings (collections) of only $107 million in fiscal year 1980, based on an optimistic assumption of an effective date of January 1, 1980; this is a reduction of $58 million from the previous CBO estimate dated April 19, 1979.

Second, with regard to legislation to eliminate or reduce certain veterans' burial benefits, the enactment of which your Committee assumed would result in cost savings of $0.1 billion in fiscal year 1980, no such legislation has been introduced either in the House or the Senate. In our view, it is totally unrealistic to expect the Congress to reduce these benefits; and we have no plans to consider such legislation. Thus, we urge that the estimated savings be restored in the SCR.

Third, with regard to legislation to reduce the period of eligibility for GI Bill—educational assistance—benefits, in connection with which your Committee assumed cost savings of $0.1 billion in budget authority and outlays, as in the case of burial benefits, no such legislation has been introduced in either House. In our view, there is no basis whatever for assuming enactment; and we have no plans to consider such legislation. Thus, we recommend that the estimated savings be restored in the SCR.

Fourth, with regard to legislation to eliminate GI Bill benefits for flight and correspondence training, as proposed in Administration-requested legislation, S. 870, and assumed to result in cost-savings of $57.8 million at the time your Committee reported the FCR, the Veterans' Affairs Committee, after very careful study and with the benefit of preliminary data from a General Accounting Office report on these two programs, will not recommend such legislation but rather has ordered reported legislation (S. 870) to tighten administration of the flight and correspondence programs and reduce payments for flight training by requiring greater cost sharing by the trainee. According to CBO, fiscal year 1980 estimate cost savings of $31 million in budget authority and outlays would result from the enactment of the provisions that our Committee has approved.

With respect to other legislation, there are several matters on which we would like to give you our views. First, our Committee plans to report legislation making improvements in the GI Bill, including a targeted extension of the period of GI Bill eligibility for educationally disadvantaged veterans and those who could benefit from on-job training to acquire needed job skills, all of which, when taken into account together with the above mentioned cost-savings, will result in net costs that are within our crosswalk under the FCR for Mission 2 of Function 700—$2.2 billion in budget authority and $2.3 billion in outlays. As soon as we have a CBO estimate of the costs of this bill, we will make certain that you also have copies.

We also recommend that Mission 1 of Function 700 be increased to provide for the 11.1-percent cost-of-living increase in service-connected disability compensation rates which our Committee has favorably reported in S. 689.

Also, as our Committee had previously urged in our March 15, 1979, report of views and estimates for the fiscal year 1980 budget, we strongly recommend that the SCR include provision for a "capped" 7-percent cost-of-living increase in GI Bill benefits, estimated to result in costs of $275 million in budget authority and outlays in fiscal year 1980. (Although your Committee had assumed enactment of such a cost-of-living increase in making its recommendation on the FCR, various cost-savings proposals for Function 700 entitlement programs that your Committee had assumed would be enacted, but will not be enacted—together with the fact that the cost-of-living increase in the compensation legislation has become more costly than had been expected—ultimately resulted in a crosswalk that realistically left no room for any cost-of-living increase.) If the SCR makes provision for this badly needed increase, our Committee will shortly thereafter recommend the enactment of this legislation.

With respect to Mission 3 of Function 700, we recommend that provision be made in the SCR for appropriations for VA accounts that are included in H.R. 4392 as reported by the Appropriations Committee plus $30.1 million, which would consist of an additional $25.1 million for the medical care account for the implementation of the Veterans' Health Care Amendments of 1979 (Public Law 96-22), which was enacted on June 13, 1979, and an additional $5 million for the grants to State extended-care facilities account to maintain the veterans' State home construction assistance program in fiscal year 1980 at the same $10 million level of appropriations provided in the current fiscal year. Senator Cranston will propose an amendment to H.R. 4392 for the $25.1 million increase; and Senator Randolph, for the $5 million increase.

Finally, we would like to clarify on behalf of the Veterans' Affairs Committee one aspect of our Committee's crosswalk report (S. Rept. No. 96-244) under the FCR. Our Committee, in subdividing among major programs the allocations to it of $14.1 billion in budget authority and outlays, allocated $11.7 billion in budget authority and $11.6 billion in outlays to "Income security" and $0.2 billion in budget authority and outlays to "Burial benefits". The Committee's intention regarding this subdivision is that the only programs included in the "Income security" category are the disability compensation and pension programs; and "Burial benefits" includes all other non-direct spending programs in Mission 1 of Function 700—for which $211 million in budget authority and outlays (in unrounded figures) were included.

With respect to the projections you requested for fiscal years 1981 through 1984, we are unable to provide you with firm estimates for those years because of the very uncertain prospects for S. 759, the health insurance reimbursement measure discussed above, and the complexities involved in forecasting legislative activities in future years. However, if you require further information in this regard to update the projection included in the attachment to our Committee's March 15 report to your Committee (pages 51-52), we would ask that you have a member of the Budget Committee staff contact Edward Scott, General Counsel of the Veterans' Affairs Committee, for whatever analysis or data that is needed and that our Committee staff can provide with respect to those years.

We hope that you find this response helpful in your Committee's deliberations on the SCR for fiscal year 1980.

Sincerely,

ALAN CRANSTON,
Chairman.
ALAN K. SIMPSON,
Ranking Minority Member.

Enclosure.

MEMORANDUM

July 6, 1979.

To Ed Scott.
From Steven Crane.

Attached is an informal estimate of S. 759 on a cash basis, reflecting a January 1, 1980 effective date, as you requested in your letter of June 4, 1979.

If you have any questions, please let me know.

[Informal Draft]

COST ESTIMATE

July 6, 1979.

1. Bill number: S. 759.
2. Bill title:

A bill to amend title 38, United States Code to provide for the right of the United States to recover the costs of hospital, nursing home or outpatient medical care furnished by the Veterans Administration (VA) to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts or rights with respect to such care, or have entitlement to private medical care under workers' compensation or automobile accident reparation statutes of any State, and for other purposes.

3. Bill status:

As introduced by the Senate Committee on Veterans Affairs, March 26, 1979.

4. Bill purpose:

To amend title 38, U.S.C., to give the United States the right to recover the cost of hospital, nursing home, and outpatient care provided by the VA to veterans with non-service connected disabilities to the extent that such veterans have health insurance or similar coverage for such care.

5. Cost estimate:

Estimated authorization/costs

[By fiscal years, in millions of dollars]

1980	−107
1981	−302
1982	−364
1983	−391
1984	−420
Total 5-year savings	−1584

The costs/savings of this bill fall within budget function 700.

6. Basis of estimate:

According to information published in the 1977 VA Annual Report and the Fiscal Year 1980 VA budget justification document, approximately 70 percent of VA hospital discharges are veterans under 65 years of age who have been treated for non-service-connected disabilities. A recent survey conducted by the VA indicates that about 16 percent of such veterans have some type of medical insurance coverage. This survey did not collect information concerning the depth of coverage of these policies, or whether the policies had remaining coverage. It may be true that some veterans with private insurance utilize VA care only after such coverage has been exceeded or has temporarily lapsed, or have policies that cover only a limited number of services. In the absence of additional information, CBO assumes that the average policy would cover 88 percent of inpatient charges and 60 percent of outpatient charges, based on a 1978 study by the Health Insurance Association of America of group medical insurance coverage. CBO further assumes that all veterans who reported private coverage in the VA study had valid policies that on the average would reimburse the above percentage of charges.

The proposed legislation would allow the U.S. to recover the costs of care from private health insurers according to the terms of agreement between the insured person and the insurer. In most cases, insurers are liable for only those costs which are deemed to be "reasonable or customary" for a particular episode of care. A number of studies have indicated that VA hospitals in general have lengths of stay that are approximately twice as long as stays for similarly aged persons treated in community hospitals for similar diagnoses. According to the VA, preliminary discussions with major private insurers have indicated that carriers would likely not reimburse at least some portion of these additional days of care in VA facilities if medical need could not be demonstrated. Although it is presently unclear what proportion of a VA hospital stay carriers would consider reasonable, CBO assumes that for most types of care private insurance would cover two-thirds the normal VA length of stay for reimbursement purposes.

Enactment of the proposed legislation would require the VA to establish a formal billing system to collect reimbursement from the insurance carriers. Although there has been some controversy as to how quickly the VA could implement such a system, the VA presently claims that a collection system could be made operational within three months. The proposed system would bill carriers on an inclusive per diem rate, which would be based on average cost information which is currently collected by the VA. In addition, a recent VA study indicates that patient recordkeeping would require only minor modification to accommodate such billing. According to the VA, preliminary discussions with several major carriers suggest that the proposed system would be acceptable to most insurers and could be implemented within several months.

Based on the VA claim CBO assumes that collection could begin 90 days after enactment of the proposed legislation. CBO further assumes that administrative costs would amount to about 2.5 percent of the amount collected, based on experience with the medicare program. Administrative costs are assumed to represent a higher percentage of collections in the first year as the program is phased in. Because the proposed legislation would apply only to insurance policies that are written, revised, or renewed after the law becomes effective, the first year's collections would be considerably less than succeeding years. The VA presently defines a policy revision or renewal to include changes in the premium rate. Based on information from the insurance industry, CBO assumes that all polices of the affected veterans population are normally rewritten or revised every year, and that these revisions are distributed evenly throughout the year. Therefore, only about half the amount of collections could be made the first year as could be made during succeeding years.

According to information provided by the Congressional Research Service and private insurance companies, the average lag in cash payments to hospitals following a patient's release is about 3-4 weeks. Hospitals require about seven working days to prepare the claim and present it for reimbursement; carriers require about the same period of time to process the claim and provide payment. CBO assumes that during the first year of the program, the cash lag for the VA would average about six weeks as the billing system is developed and perfected. In the following years, CBO assumes an average lag of four weeks.

Based on the above assumptions and analysis, CBO estimates the VA could collect a net of $1.07 million in FY 1980, assuming a January 1, 1980 effective date. Five year collections are estimated to total about $1.6 billion. The outyear estimates reflect CBO's assumptions of inflation in the general economy. Although the proposed legislation includes private reimbursement for nursing home care, CBO estimates savings for such care to be insignificant.

7. Estimate comparison:

A cost estimate prepared by the VA for this bill shows savings of $170 million in fiscal year 1980 and five-year savings of $1.1 billion. In formulating their estimate, the VA assumed that 74 percent of inpatient charges would be reimbursable by the average private insurance policy, and only 28 percent of outpatient charges. In addition, the VA apparently did not include psychiatric care as a reimbursable service. Finally, the VA assumed that 75 percent of full-year savings could be realized in fiscal year 1980, which reflects an implicit assumption that a higher proportion of insurance policies turn over during the first part of the fiscal year than the latter part. The five-year savings do not reflect the impact of inflation in the general economy.

8. Previous CBO estimate:

CBO prepared an estimate of S. 759 on April 19, 1979. The estimate assumed an October 1, 1979 effective date, a shorter cash lag, and lower assumptions about inflation of medical care costs in the outyears.

9. Estimate prepared by Steven Crane (225-7766).

10. Estimate approved by:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., September 25, 1979.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on the Budget, Washington, D.C.

Dear Ed: I am writing to clarify certain matters in connection with the September 17 debate on my amendment to the Second Concurrent Resolution on the Budget for Fiscal Year 1980 (SCR) and to urge your favorable consideration, during the Senate-House conference, of the $21.5 billion in budget authority ($100 million less than in the pending House resolution) that I had sought in the Senate and the $20.851 billion in outlays in the pending House resolution for Veterans' Benefits and Services (Function 700). Of course, with Function 700 levels set at these levels, no reconciliation instructions to the Veterans' Affairs Committees would be appropriate; and I urge that such instructions be deleted in conference.

I believe these recommendations are entirely in keeping with your own efforts to maintain fairness in the distribution of our increasingly scarce fiscal resources while also maintaining the budget discipline that our nation and its economy require. I have the greatest admiration for the steadfast and effective manner in which you have exercised your duties as Chairman of the Budget Committee. Your activities in this area are invaluable to the Senate and the nation as a whole.

Although I have no wish to rehash all of the many issues covered in the course of our September 17 debate, there are a few matters of particular significance that, I believe, clearly require clarification.

1. You stated that the "real issue is whether this committee, the Veterans' [Affairs] Committee, beyond all others, should be exempted from any and all responsibility to hold down the cost of Government" (CONGRESSIONAL RECORD, September 17, page S. 12760). The record of the Veterans' Affairs Committee efforts to hold down Federal spending, which I detailed during the debate, totally rebuts this suggestion. During this Congress, our Committee has favorably reported 11 different cost-savings and cost-containment provisions—with total fiscal year 1980 cost savings of $68.4 million and

5-year savings of $378 million. In addition, our Committee plans a floor amendment to S. 870, the proposed "GI Bill Amendments Act of 1979", that would, by improving VA debt collection efforts, save an additional $10 million in fiscal year 1980 and $70 million over the next 5 fiscal years. I have enclosed a chart showing the Committee's cost-savings and cost-containment recommendations and the current status of each.

We believe that this record clearly demonstrates that the Committee *has* acted with fiscal responsibility and discipline and has sought no such exemption. At the same time, it is also our duty to assure that the Congress acts responsibly with regard to veterans' programs.

2. You argued for maintaining in the SCR the same assumptions on which the First Concurrent Budget Resolution (FCR) had been based because there had been no floor amendment proposed "to change the numbers" in the FCR as reported last spring (CONGRESSIONAL RECORD, September 17, page 24810).

The FCR as reported by your Committee "assumed" an 8.3-percent cost-of-living increase in service-connected disability compensation benefits (S. Rept. No. 96–68, page 214). That assumption was based on the January CBO projection of inflation for the 12 months ending in September, 1979. At the time the FCR was passed by the Senate, our Committee had no reason to disagree with that assumption because, as stated in our March 15 Report of Budget Views and Estimates (pages 18–19), we were planning to base the compensation cost-of-living increase on the actual increase in the Consumer Price Index for the 12 months ending in July, 1979, which was also then projected to be 8.3 percent. Your Committee, in developing the SCR as reported, updated—with the exception of that 8.3-percent increase—the assumptions that it had previously made in reporting the FCR through the extensive use of reestimates and new projections to take into account changed economic conditions and caseload estimates. Despite the facts that in July—nearly a full month before your Committee completed its markup of the SCR—CBO had revised its projection of inflation for the 12 months ending in September 1979 to 10.9 percent and that our Committee in its July 27, 1979, letter reviewing its March 15 letter recommended that provision be made for an 11.1-percent increase, the Budget Committee chose to make an exception for service-connected compensation from its general policy of updating its FCR assumptions and thus did not incorporate that new projection or our recommendation in the SCR as reported (S. Rept. No. 95–311, page 92).

The Budget Committee's retention, for SCR purposes, of the outdated, inadequate assumption of an 8.3-percent increase was inconsistent with your general approach to the SCR and clear Congressional policy over many years. The Budget Committee thus appeared to consider as a discretionary matter, with respect to which cost savings could and should be made, the granting of a realistic cost-of-living increase in compensation benefits for service-connected disabled veterans and the survivors of those who have died from service-connected causes.

3. On the floor, having apparently dropped the Budget Committee's insistence on the outdated assumption of an 8.3-percent cost-of-living increase for service-connected compensation benefits, you stated that, in your substitute amendment, "we reduced the savings responsibility of the Veterans' Affairs Committee by $100 million in order to provide the full 11.1-percent cost-of-living increase for disabled veterans" (*Congressional Record*, September 17, page 24810). I do not believe that this statement is correct. As we compute the figures, an 11.1-percent increase in compensation rates would require $181 million more in budget authority and $166 million more in outlays than the 8.3-percent increase that the Budget Committee had assumed in reporting the SCR. Thus, I do not understand how an increase of only $100 million and in outlays *alone* could possibly fulfill the purpose that you outlined.

4. Also in this regard, in a September 15 Budget Committee press release, you stated that the $100-million increase in outlays in veterans' programs "symbolize[s] that . . . veterans programs need not be examined or reduced as a result of this reconciliation process. The savings will need to be achieved from other programs." That statement overlooks the fact that your substitute included reconciliation instructions to the Veterans' Affairs Committee to reduce entitlement spending by $100 million, did not (as discussed in item 3 above) include sufficient provision for the compensation cost-of-living increase as passed by the Senate, and was premised on a $0.2-billion reduction in the level of VA health-care appropriations provided in the conference report on H.R. 4394. I believe that the press release was thus very misleading on this point.

5. During the debate you indicated your belief that it was inappropriate for me to include provision for VA health care programs (Mission 3 of Function 700) in my amendment, that my purpose in doing so was to evoke the "political . . . or emotional clout of veterans' health care benefits," and that, if my amendment were adopted, the "Appropriations Committee then will be pressured to acknowledge the $200 million increase in health care for veterans in the appropriations instructions" (Congressional Record, September 17, page 24813). I do not understand the bases for any of those assertions. Since the Function 700 totals include veterans' health care programs (Mission 3) and those programs are within the legislative and oversight jurisdiction of our Committee, I believe that I have the clear responsibility to try to assure that appropriate funding for them is provided for in the Congressional Budget. Your SCR Committee report clearly assigned only $6.1 billion to Mission 3 whereas the pending conference report on H.R. 4394 provides $6.3 billion for this purpose. Thus, my amendment would not have resulted in any effort or pressure to increase VA health-care appropriations; it would have simply made provision in the SCR for the level of health-care appropriations on which the H.R. 4394 conferees have already agreed, which is less than the Senate approved in passing H.R. 4394. Thus, my amendment was an honest attempt to make the Function 700 totals realistic and in keeping with the necessary and likely level of appropriations for VA health care.

Thus, I believe that the SCR as passed by the Senate would require reductions in Function 700 beyond what many Senators had been led to believe that it should or would require. Moreover, based on the arguments that I presented during the SCR debate regarding the needs of veterans' programs, I continue to be convinced that the minimum budget requirements necessary to maintain those programs at levels consistent with the nation's and the Congress' commitment to those who served are $21.5 million in budget authority and $20.9 million in outlays for fiscal year 1980. Therefore, I strongly urge you to give consideration to seeking conference agreement at the budget authority level that I sought in the Senate ($21.5 billion) and the House Committee outlay level ($20.851) for Function 700.

With best wishes,

Cordially,

ALAN CRANSTON,
Chairman.

SENATE VETERANS' AFFAIRS COMMITTEE PROVISIONS REGARDING COST SAVINGS AND COST CONTAINMENT

CBO COST ESTIMATES—FISCAL YEARS 1980–84

[Budget authority and outlays, in millions of dollars]

	1980	1981	1982	1983	1984
I. COST SAVINGS 5-YEAR TOTAL: $448,000,000					
H.R. 3892 (S. 1039) passed by Senate June 18, 1979:					
(a) Limit on beneficiary travel reimbursement for veterans having no service-connected disabilities	−28.0	−28.7	−29.4	−30.2	−30.9
(b) Modification of outpatient dental treatment program for recently discharged veterans	−3.4	−3.5	−3.7	−3.9	−4.1
(c) Modification of eligibility for nonprescription health care products for veterans having no service-connected disabilities	−3.4	−3.7	−4.1	−4.4	−4.8
S. 870, as reported Sept. 7, 1979:					
(d) Modification of flight training	−27.7	−36.3	−31.0	−25.2	−19.5
(e) Modification of correspondence training	−3.3	−7.2	−7.9	−6.5	−5.0
(f) Repeal of PREP training for post-Vietnam era veterans	−.8	−1.8	−1.8	−1.3	−1.0
(g) Modification of the 50 percent employment rule applicable to vocational courses	−1.8	−4.1	−4.0	−3.1	−2.5
(h) Reduction of high school-GED courses	(1)	(1)	(1)	(1)	(1)
Expected committee amendment to S. 870:					
(i) Improvement of VA debt collection efforts (derived from S. 1518)	−10.0	−20.0	−17.0	−13.0	−10.0
Total	−78.4	−105.3	−98.9	−87.6	−77.8

II. COST CONTAINMENT	1980	1981	1982	1983	1984
Public Law 96–22:					
(a) Redirects VA dental-care services toward direct outpatient care for veterans with service-connected conditions, away from non-service-connected in-hospital care.					
Public Law 96–22:					
(b) Requires the VA to notify the House and Senate Veterans' Affairs Committees if and when expenditures for contract dental care in any fiscal year are expected to exceed the amount ($45,200,000) expended for such contract care in fiscal year 1978.					
H.R. 3892 (S. 1039) as passed by the Senate, June 18, 1979:					
(c) Requires VA to determine, on the basis of a VA examination, that contract dental care costing more than $500 in any 12-mo period is reasonably necessary, before authorizing such care.					

[1] Cost savings not calculated separately.

Mr. LEVIN. Mr. President, my decision to oppose the conference report of the second budget resolution is not an easy one. My original objections to the second budget resolution as passed by the Senate have not been assuaged. I am particularly concerned that reconciliation requires program reductions without assurances as to what programs or services will be impacted. I refer to my statement prior to the vote on the second budget resolution for the balance of my reasoning.

The PRESIDING OFFICER. The hour of 6:30 having arrived, without objection, the conference report in disagreement is agreed to. and the Senator from Maine is recognized to move to concur in the House amendment with an amendment.

UP AMENDMENT NO. 738

Mr. MUSKIE. Mr. President, I move that the Senator concur in the House amendment with an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Mr. MUSKIE (for himself and Mr. BELLMON) proposes an unprinted amendment No. 738, in the nature of a substitute.

The amendment is as follows:

Insert the following in lieu of the amendment of the House:

That the Congress hereby determines and declares, pursuant to Section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $517,800,000,000, and the amount by which the aggregate level of Federal revenues should be increased is $2,400,000,000;

(2) the appropriate level of total new budget authority is $638,000,000,000;

(3) the appropriate level of total budget outlays is $547,600,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $29,800,000,000; and

(5) the appropriate level of the public debt is $886,400,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $7,400,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979 the appropriate level of new budget authority and the estimated budget outlays for each functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $141,200,000,000;
(B) Outlays, $129,900,000,000.
(2) International Affairs (150):
(A) New budget authority, $13,100,000,000;
(B) Outlays, $8,400,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,850,000,000;
(B) Outlays, $5,700,000,000.
(4) Energy (270):
(A) New budget authority, $39,500,000,000;
(B) Outlays, $7,250,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $12,600,000,000;
(B) Outlays, $11,900,000,000.
(6) Agriculture (350)
(A) New budget authority, $5,000,000,000;
(B) Outlays, $2,550,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $6,800,000,000;
(B) Outlays, $2,850,000,000.
(8) Transportation (400):
(A) New budget authority, $19,500,000,000;
(B) Outlays, $18,600,000,000.
(9) Community and Regional Development (450):
(A) New budget authority, $8,900,000,000;
(B) Outlays, $8,350,000,000.
(10) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $30,900,000,000;
(B) Outlays, $31,000,000,000.
(11) Health (550):
(A) New budget authority, $58,800,000,000;
(B) Outlays, $54,450,000,000.
(12) Income Security (600):
(A) New budget authority, $218,500,000,000;
(B) Outlays, $190,000,000,000.
(13) Veterans Benefits and Services (700):
(A) New budget authority, $21,450,000,000;
(B) Outlays, $20,800,000,000.
(14) Administration of Justice (750):
(A) New budget authority, $4,200,000,000;
(B) Outlays, $4,400,000,000.
(15) General Government (800):
(A) New budget authority, $4,450,000,000;
(B) Outlays, $4,200,000,000.
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,050,000,000;
(B) Outlays, $9,050,000,000.
(17) Interest (900):
(A) New budget authority, $58,100,000,000;
(B) Outlays, $58,100,000,000.
(18) Allowances (920):
(A) New budget authority, —$200,000,000;
(B) Outlays, —$200,000,000.
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$19,700,000,000;
(B) Outlays, —$19,700,000,000.

RECONCILIATION

SEC. 3. That the Congress hereby determines and declares, pursuant to subsection 310 of the Congressional Budget Act of 1974, that in order to achieve a balanced budget in fiscal year 1981 and deficit reductions in fiscal year 1980, the following reconciliation instructions are appropriate:

(a) The allocation pursuant to section 302 (a) of the Budget Act to the Committee on Appropriations for all legislation within its jurisdiction shall not exceed $390,200,000,000 in budget authority and $343,100,000,000 in outlays as assumed in this budget resolution. If some rescission of appropriations proves necessary to prevent any regular or supplemental appropriation for fiscal year 1980 exceeding the ceilings provided in this section, the Committee on Appropriations shall report legislation to rescind the necessary amounts.

(b) Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committees on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(c) Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Governmental Affairs, and the House Committee on Post Office and Civil Service shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees which would require reductions in spending or appropriations and which are sufficient to accomplish the reduction required by this section.

(e) Pursuant to section 310 of the Congressional Budget Act of 1974, the Committees on Armed Services shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(f) Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Finance and the House Committee on Ways and Means shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $300,000,000 in budget authority and $1,400,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(g) Pursuant to section 310 of the Congressional Budget Act of 1974, the Committees on Veterans' Affairs shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(h) Pursuant to section 300 and 310 of the Congressional Budget Act of 1974 the authorizing committees specified herein shall report the recommendations required by this resolution within thirty days after Congress has adopted this resolution and congressional action on reconciliation legislation must be completed before the end of the first session of the 96th Congress.

BUDGET TOTALS FOR FISCAL YEARS 1981 AND 1982

SEC. 4(a). In order to achieve a balanced budget recommended by the Senate in fiscal years 1981 and 1982, the following budgetary levels are appropriate for fiscal years 1981 and 1982:

(1) the recommended level of Federal revenues is as follows:

Fiscal year 1981: $610,200,000,000;

Fiscal year 1982: $671,800,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:

Fiscal year 1981: +$10,200,000,000;

Fiscal year 1982: −$34,800,000,000;

(2) the appropriate level of total new budget authority is as follows:

Fiscal year 1981: $664,900,000,000;

Fiscal year 1982: $747,600,000,000;

(3) the appropriate level of total budget outlays is as follows:

Fiscal year 1981: $600,500,000,000;

Fiscal year 1982: $653,000,000,000;

(4) the amount of the surplus in the budget which is appropriate in light of economic conditions and all other relevant factors is as follows:

Fiscal year 1981: $9,700,000,000;

Fiscal year 1982: $18,800,000,000;

(5) the appropriate level of the public debt is as follows:

Fiscal year 1981: $911,200,000,000;

Fiscal year 1982: $939,100,000,000;

and the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:

Fiscal year 1981: $32,200,000,000;

Fiscal year 1982: $60,100,000,000.

(b) Based on allocations of the appropriate level of total new budget authority and of total budget outlays for fiscal years 1981 and 1982 as set forth above, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (050):

Fiscal year 1981:

(A) New budget authority, $159,800,000,000;

(B) Outlays, $146,400,000,000.

Fiscal year 1982:

(A) New budget authority, $180,500,000,000;

(B) Outlays, $163,300,000,000.

(2) International Affairs (150):

Fiscal year 1981:

(A) New budget authority, $14,100,000,000;

(B) Outlays, $8,700,000,000.

Fiscal year 1982:

(A) New budget authority, $14,900,000,000;

(B) Outlays, $8,800,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1981:

(A) New budget authority, $5,900,000,000;

(B) Outlays, $5,800,000,000.

Fiscal year 1982:

(A) New budget authority, $5,600,000,000;

(B) Outlays, $5,700,000,000.

(4) Energy (270):

Fiscal year 1981:

(A) New budget authority, $4,700,000,000;

(B) Outlays, $7,800,000,000.

Fiscal year 1982:

(A) New budget authority, $24,200,000,000;

(B) Outlays, $9,700,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1981:

(A) New budget authority, $13,400,000,000;

(B) Outlays, $12,700,000,000.

Fiscal year 1982:

(A) New budget authority, $14,100,000,000;

(B) Outlays, $13,500,000,000.

(6) Agriculture (350):

Fiscal year 1981:

(A) New budget authority, $4,800,000,000;

(B) Outlays, $3,200,000,000.

Fiscal year 1982:

(A) New budget authority, $3,900,000,000;

(B) Outlays, $3,600,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1981:

(A) New budget authority, $5,900,000,000;

(B) Outlays, $3,500,000,000.

Fiscal year 1982:

(A) New budget authority, $6,200,000,000;

(B) Outlays, $3,200,000,000.

(8) Transportation (400):

Fiscal year 1981:

(A) New budget authority, $21,600,000,000;

(B) Outlays, $19,700,000,000.

Fiscal year 1982:

(A) New budget authority, $20,400,000,000;

(B) Outlays, $20,700,000,000.

(9) Community and Regional Development (450):

Fiscal year 1981:

(A) New budget authority, $9,900,000,000;

(B) Outlays, $9,200,000,000.

Fiscal year 1982:

(A) New budget authority, $9,500,000,000;

(B) Outlays, $9,600,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1981:

(A) New budget authority, $31,100,000,000;

(B) Outlays, $30,500,000,000.

Fiscal year 1982:

(A) New budget authority, $31,100,000,000;

(B) Outlays, $30,800,000,000.

(11) Health (550):

Fiscal year 1981:

(A) New budget authority, $70,500,000,000;

(B) Outlays, $62,000,000,000.

Fiscal year 1982:

(A) New budget authority, $82,200,000,000;

(B) Outlays, $69,400,000,000.

(12) Income Security (600):

Fiscal year 1981:

(A) New budget authority, $244,300,000,000;

(B) Outlays, $212,400,000,000.

Fiscal year 1982:

(A) New budget authority, $275,600,000,000;

(B) Outlays, $235,800,000,000.

(13) Veterans Benefits and Services (700):

Fiscal year 1981:

(A) New budget authority, $22,100,000,000;

(B) Outlays, $21,700,000,000.

Fiscal year 1982:

(A) New budget authority, $23,200,000,000;

(B) Outlays, $23,200,000,000.

(14) Administration of Justice (750):

Fiscal year 1981:

(A) New budget authority, $4,400,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1982:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $4,500,000,000.

(15) General Government (800):

Fiscal year 1981:

(A) New budget authority, $4,700,000,000;

(B) Outlays, $4,400,000,000.

Fiscal year 1982:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $4,600,000,000.

(16) General Purpose Fiscal Assistance (850):

Fiscal year 1981:

(A) New budget authority, $8,200,000,000;

(B) Outlays, $8,600,000,000.

Fiscal year 1982:

(A) New budget authority, $8,200,000,000;

(B) Outlays, $8,200,000,000.

(17) Interest (900):

Fiscal year 1981:

(A) New budget authority, $60,900,000,000;

(B) Outlays, $60,900,000,000.

Fiscal year 1982:

(A) New budget authority, $62,300,000,000;

(B) Outlays, $62,300,000,000.

(18) Allowances (920):

Fiscal year 1981:

(A) New budget authority, $0;

(B) Outlays, $0.

Fiscal year 1982:

(A) New budget authority, $100,000,000;

(B) Outlays, $100,000,000.

(19) Undistributed Offsetting Receipts (950):

Fiscal year 1981:

(A) New budget authority, −$21,500,000,000;

(B) Outlays, −$21,500,000,000.

Fiscal year 1982:

(A) New budget authority, −$23,900,000,000;

(B) Outlays, −$23,900,000,000.

SEC. 5. The House projects the following budget aggregates for fiscal years 1981 and 1982, based on the policies assumed in sections (1) and (2) above:

(1) The level of Federal revenues is as follows:

Fiscal year 1981: $603,200,000,000;

Fiscal year 1982: $703,400,000,000.

(2) The level of total new budget authority is as follows:

Fiscal year, 1981: $688,137,000,000;

Fiscal year 1982: $730,318,000,000.

(3) The level of total budget outlays is as follows:

Fiscal year 1981: $602,699,000,000;

Fiscal year 1982: $655,869,000,000.

(4) The amount of surplus in the budget is as follows:

Fiscal year 1981: $501,000,000;

Fiscal year 1982: $47,531,000,000.

(5) The level of the public debt is as follows:

Fiscal year 1981: $921,900,000,000;

Fiscal year 1982: $920,400,000,000.

GENERAL PROVISIONS

SEC. 6(a). In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

Within a reasonable period of time after March 15, 1980, the Budget Committee of the House of Representatives shall submit to the House such recommendations as it considers appropriate based on such reports.

(b) The Congress reaffirms its commitment to find a way within the congressional budget process to relate accurately the outlays of off-budget Federal entities to the budget. The Congress recognizes that by law the outlays of off-budget Federal entities are not reflected in the budget totals, and that in fiscal year 1980, off-budget outlays (and, hence, the off-budget deficit) are estimated to be $16,000,000,000.

Mr. MUSKIE. I so move and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to concur in the House amendment with an amendment.

On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall vote today.

The PRESIDING OFFICER. The Senate is not in order. Senators will please refrain from private conversation.

The vote will continue.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Maryland (Mr. MATHIAS), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 65, nays 27, as follows:

[Rollcall Vote No. 392 Leg.]

YEAS—65

Baucus	Hayakawa	Nunn
Bellmon	Heinz	Packwood
Bentsen	Hollings	Pell
Biden	Huddleston	Percy
Boschwitz	Inouye	Randolph
Burdick	Jackson	Riegle
Byrd, Robert C.	Javits	Sarbanes
Cannon	Johnston	Sasser
Chafee	Kassebaum	Schmitt
Chiles	Leahy	Stafford
Church	Long	Stennis
Cohen	Lugar	Stevens
Culver	McClure	Stewart
Danforth	McGovern	Stone
Dole	Magnuson	Tower
Domenici	Matsunaga	Tsongas
Durenberger	Melcher	Wallop
Eagleton	Metzenbaum	Warner
Ford	Morgan	Weicker
Garn	Moynihan	Williams
Glenn	Muskie	Young
Goldwater	Nelson	

NAYS—27

Armstrong	Exon	Pressler
Boren	Hart	Proxmire
Bradley	Hatch	Pryor
Bumpers	Hatfield	Roth
Byrd, Harry F., Jr.	Heflin	Schweiker
	Helms	Simpson
Cochran	Humphrey	Thurmond
Cranston	Jepsen	Zorinsky
DeConcini	Laxalt	
Durkin	Levin	

NOT VOTING—8

Baker	Kennedy	Stevenson
Bayh	Mathias	Talmadge
Gravel	Ribicoff	

So the motion was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MUSKIE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MURDER IN CHICAGO

Mr. PERCY. Mr. President, this past week, the Chicago Tribune carried an extraordinary series of articles on "Murder in Chicago." The series featured personal insights into each of 22 victims murdered during a single typical week, and explored in depth such factors as domestic disputes and street gangs in developing a chilling profile of killing. There were 787 homicides in Chicago in 1978.

In 1978, 63 percent of the people murdered in Chicago were killed with firearms, 54 percent with handguns. It is hard to ignore the cause and effect relationship between these deaths and the availability of handguns.

Acting Chicago police superintendent Joe DiLeonardi summed up the situation:

If you're mad at me and you have no gun, you may punch me in the nose. The fact that the gun is available causes homicides. And most of our murders are between people who know one another and just have altercations. That's why I advocate handgun control. You may be, because of your upbringing, a tough guy. But if you have no firearm, you're not going to kill. In other words, disagreements may lead to physical confrontations versus firearm confrontations.

Because of the timeliness of this discussion, as well as the fine reporting and vivid writing of the Tribune series, I commend this excerpt to my colleagues, especially those from Southern or Western States that do not face a problem of this shocking magnitude.

I ask unanimous consent that the article "Murder in Chicago: Who Dies, How, and Why," appearing in the October 28 Chicago Tribune, be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MURDER IN CHICAGO: WHO DIES, HOW, AND WHY

(By Rogers Worthington)

We can start with Eugene Smith, because in many ways his death typifies murder in Chicago. A few weeks ago Smith, 34, got into an argument with another man over something so trivial it is hard to imagine it ended with the loss of a human life. Smith, who recently had moved to a new apartment, argued with one of the men at his old building over a towel of his the man had been using.

Smith was 6 feet 2 inches tall, weighed 190 pounds, and was considered a good athlete. He did not like this man using his towel. Nor did he especially want it back after the man had used it. So Smith demanded the man pay him $3. The man, who was about Smith's age but at 6 feet, 190 pounds, was not quite Smith's size, did not like being told to pay $3 for a towel.

The details of the dispute are hazy. We do not know whether the towel was stolen, or whether it was left behind by Smith and innocently appropriated by the other man. But whatever else the situation was, it was a standoff.

It was one man with another man's property. It was one man telling another to pay up, or face the consequences. It was one man leaning very hard on another man, a man who, it turned out, had an especially low threshold for being leaned on.

So later in the day, when Smith and two neighborhood friends were walking down the 1200 block of South Karlov Street, the man with the towel emerged from the back seat of a car in which he had been riding with three other men, one of whom had a bottle of vodka under the front seat. The man emerged, holding a blue steel .38 revolver in his hand. He moved in the direction of Smith and his two friends.

The man with the gun yelled out, "Hey, Goose!" which was the nickname of basketball-loving Eugene Smith, who friends say once played informal games with players on the Harlem Globetrotters and the Chicago Bulls. And then the man with the gun leveled its four-inch barrel and fired, hitting Eugene Smith twice, once in the abdomen, and once in his chest.

When police arrived they found him lying face down on the curb. Eugene Smith, who was well regarded in his Southwest Side neighborhood, who liked to advise neighborhood kids to stay in school, who loved to help coach neighborhood basketball and baseball teams, and who once studied chemistry at Malcolm X College, was dead at 34 over a $3 towel. Now police are looking for a man named Willie "Bo Bo" Johnson, the suspect in the killing. They may have to look far, because the word around South Karlov Street is that "Bo Bo" has left town.

Eugene Smith was the 610th person to be murdered in Chicago this year. During one week, Sept. 17 to 23, he was one of 22 people to die by someone else's hand. It was a busier week than usual—an average of a little more than three people a day killed, half a person higher than Chicago's yearly homicide average of 2½ cases a day.

Nationally, Eugene Smith was one of about 53 people murdered on that September day. One person was killed every 27 minutes.

Smith was murdered in his own neighborhood, which is contained in Area 4 on the city's police map. Area 4 is one of six regions into which the city has been divided by the Chicago Police Department for investigative purposes. It is bordered on the north by North Avenue, the west by Cicero Avenue, the south by the Stevenson Expressway, and on the east by the Chicago River.

It is the smallest of the six areas, both in size and population—23 square miles and a little over half a million people, 15 per cent of Chicago's population. But it has one of the most intense population densities of the six areas, and it is the city's high achiever in homicide.

Among Chicago policemen it is called "the murder factory." Last year it accounted for 205 of Chicago's 787 murders—26 per cent. Area 4 is rivaled only by Area 1, to the southeast, which accounted for 21.4 per cent of murders.

But there are several other reasons why Eugene Smith's death is typical of a great many Chicago murders. First, he knew his killer, as did 56 percent of the people murdered here last year. The long acknowledged fact persists that we most frequently kill those we know, those we live with and love, those we have dealings with, and those with whom we have an occasional drink or a nodding acquaintance. Murder remains primarily a crime of passion, the culmination of uncontrollable rage between familiar personalities. And it is primarily a crime committed among the poor and jobless. Seventeen of the 22 murder victims during the week of Sept. 17–23 were unemployed. Eugene Smith was one of them.

He was killed in September, which, after December and March, had the most murders last year. Thirty per cent of Chicago's murders happened in those three months in 1978. But in another year there could just as well have been three other peak months. Several researchers have fed a dozen years' worth of monthly murder data into their computers and come to the conclusion that homicide is not a seasonal crime.

"That is one of those myths that everyone just believes," said Carolyn Block, a senior analyst at the Illinois Law Enforcement Commission. "Unlike aggravated simple assault, which takes place mostly during the summer and may be seasonal, there is no seasonality for homicide."

Smith was killed outdoors—as are 45 percent of Chicagoans murdered each year. Of the murders that took place outside last year, 35 percent occurred either on the street (195), in an alley (31), vacant lot (26), park

(6), parking lot (14), CTA 'L' platform (3), or in a forest preserve (6).

Smith was killed by a firearm, as were 63 percent of those murdered here last year. More specifically, the weapon was a handgun, as was the case in 54 percent of all murders; a revolver, the case in 42 percent of murders; a 38-caliber, the case in 30 percent of murders. In contrast, slightly over 3 percent of murders in Chicago in 1978 were committed with shotguns.

Other people were killed in 1978 by other means: 165 by knives and other sharp instruments, and 121 by everything from baseball bats, bottles, pool cues, coat hangers, pillows, tire irons, bumper jacks, and candelabra, to dog leashes, twine, plastic bags, ice choppers, and even a crutch. Forty-seven were murdered by hands and feet.

Murder weapons—Chicago, 1978

Weapon:	Number of times used
Revolver	334
Knife	163
Automatic pistol	86
Hands or feet	47
Unknown gun	39
Shotgun	25
Rifle	13
Bludgeoned	10
Baseball bat	8
Electrical cord	7
Hammer	6
Gasoline	5
Derringer	4
Metal pipe	4
Belt	4
Concrete	4
Wooden board	3
Bottle	3
Scissors	2

Eugene Smith was killed by a man who police say has a criminal record. The percentage of murderers with police records has increased steadily over the years, from 44 percent in 1969 to a staggering 70 percent last year. An overwhelming number of victims also have criminal records, confirming the old saw that murder is primarily a crime among criminals. Forty-five percent of those killed in 1969 had criminal records, and 53 percent killed last year had records. Eugene Smith was not one of them.

There are other exceptions to the norm in Smith's case. He was killed on a Thursday night, not on a Friday, Saturday, or Sunday night—the peak nights for homicide, when about half of Chicago's murders occur. And Smith's shooting took place at 7:20 p.m., more than half an hour before the peak homicide hours of 8 p.m. to 4 a.m., when nearly half of murders take place. We are more likely to kill or be killed during our leisure hours and after the sun has set.

But there is another reason why Smith's death is typical: He was a black man, as were 54 per cent of all murder victims last year. (Blacks constituted roughly 38 per cent of Chicago's population in 1975, the latest year for which accurate statistics are available.) The percentage of blacks killed relative to their population has been decreasing in the last decade. But they are still a majority of Chicago's murder victims.

This high percentage of homicides among blacks merited a statistical note in a recent longevity study by the U.S. Public Health Service. A projection for the next 10 years showed that blacks, both men and women, and of all age groups, are substantially more likely to die of homicide than white men and women. In fact, for black men between the ages of 10 and 39, and black women between 10 and 34, homicide is the single largest cause of death.

And Smith's murderer was also a black man, as were 55 per cent of all Chicago murderers last year. But this is a figure that, like black victims, has diminished as a percentage of the total over the past decade. In 1969, 75 per cent of all murderers in the city were black. By 1974, Chicago's record year for murder (970), that figure had declined to 58 per cent.

Most of Chicago's murders are of blacks by blacks. Only 39 white, Latino, and other nonblack murder victims were killed by blacks last year. But 422 blacks were murdered and 513 blacks were arrested for murder.

Fewer people were murdered in 1978 while they or their murderer were under the influence of alcohol. The percentage of alcohol-related homicides dropped to about 21 per cent last year from 41 per cent in 1969.

Other trends are apparent when comparing Chicago's homicide statistics for the 10 years between 1969 and 1978. The percentage of man-woman homicides, for example—whether between marrieds or boyfriend-girlfriend—has declined from 12.3 per cent of the total number of homicides in 1969 to 8.6 per cent last year. The percentage of murders committed by women in the city, however, has remained small but stable, between 10 and 12 per cent for most of the decade.

While still one of the highest in the nation, the Chicago Police Department's clearance rate for homicides has declined in the past decade, as it has for most big-city police departments. (A case is considered "cleared" when the police arrest a suspect or when the suspect dies, or when a ruling of justifiable homicide is made.) In 1969 the clearance rate for murder committed that year was 83.2 per cent.

In 1978, it was 74.3 per cent. Criminal justice scholars say this decline reflects the greater quantity of "mystery" or "stranger" killings—murders in which the killer is unknown—compared to "smoking gun" murders, where the killer is usually arrested at the scene (nearly half by uniformed patrolmen).

Organized crime killings in the city—20 since 1970—are almost never cleared up. "I can't think of a single organized crime killing that has been cleared up in the last 10 years," said Intelligence Division commander Louis Sabella.

The percentage of killings among people who know each other has edged down slightly in the city, from 64 per cent in 1969, to 56 per cent last year. On the other hand, murder between strangers has moved up from about 35 per cent in 1969 to 44 per cent in 1978. A part of that is still accounted for by the rise in the late 1960s and early 1970s of homicides related to armed robbery. The percentage of homicides committed during robbery at gunpoint, however, has declined in Chicago by more than 30 per cent since 1975. Last year there were 84 homicides during robbery at gunpoint, compared to 131 in 1975.

When the final count of armed robbery homicides is made at the end of this year, the case of Menzir Elyouseff will be among them. Elyouseff was a young Lebanese immigrant who had been in this country only a few months. He had the good fortune, or so he thought, to land a job as a night assistant manager at Church's Fried Chicken. The restaurant's address, however, is 1755 W. Jackson Blvd. That street, along with South State, has in past years had one of the highest homicide rates in Chicago.

When two young men came in and ordered chicken a few weeks ago, Elyouseff did what he was trained to do; he asked for payment while the order was being prepared. The two men, both in their early 20s, obliged. But then one of them pulled out a gun and demanded the contents of the cash register.

Elyouseff was startled. He stepped back from the counter, his left hand raised before him with his palm facing out as though it could stop the bullet that was about to erupt from the gun barrel before him.

The man with the gun fired once, sending a large-caliber bullet through the palm of Elyouseff's hand and into his chest, where it severed his aorta. The holdup men fled without taking any money. Elyouseff was pronounced dead on arrival at Cook County Hospital. It was left to the Lebanese consul to notify Elyouseff's family in Beirut.

A curious postscript to the killing was an odd bit of information passed along by the Central Intelligence Agency to the FBI office in Chicago a few weeks ago. A threat had been received from the Popular Front for the Liberation of Palestine, declaring their intention to take the lives of American agents and officials in retaliation for the killing of Menzir Elyouseff.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business of not to exceed 30 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

POSITION OF SENATOR BUMPERS ON AMENDMENT NO. 730 TO H.R. 5359

Mr. BUMPERS. Mr. President, I was unavoidably absent from the Senate yesterday. During my absence a vote on a matter which I believe to be extremely important occurred, a vote on an amendment offered by the Senator from Wisconsin (Mr. PROXMIRE).

His amendment would have deleted the aircraft carrier, the so-called *Nimitz*-class nuclear-powered aircraft carrier, from the fiscal year 1980 appropriations for the Department of Defense. It was overwhelmingly defeated, I think 72 to 20.

I regret that I was not here and the reason I speak now, Mr. President, is to make it crystal clear that I would have joined the Senator from Wisconsin had I been here. I do not know how much more information the Senate and the Congress will have to have before they understand that this is one of the least cost-effective endeavors in the whole defense budget. It is not a question of whether we want an aircraft carrier or whether we do not. The question is, What is the most cost-effective defense system?

This aircraft carrier will cost over $2.5 billion in 1980 dollars before it is deployed. We now have 12 aircraft carriers, almost all of which will be available to us through the year 2000. Ever since I have been in the Senate, there has been this cry for just one more, one more.

Last year, the President, after the Congress had authorized a *Nimitz*-class

nuclear-powered carrier, felt so strongly about that unasked for action that he vetoed the whole defense authorization bill. He called about 10 of us over to the White House and gave what I thought were the most persuasive, compelling arguments I have ever heard against any weapons system.

Congress came back and redid fiscal year 1979 authorization and appropriations bills without the nuclear-powered aircraft carrier, in deference to those arguments and in deference to the President.

Yet, this year, that same President came back and asked for a conventional-powered carrier and Congress said. "Well, if he is going to reverse himself and do 180 degrees from last year, let us go ahead and make it nuclear-powered."

In all fairness, Mr. President, if we are going to build a $2 billion-plus behemoth like that *Nimitz*-class carrier we have just appropriated the money for—if we are going to build any large deck carrier it ought to be nuclear- and not conventional-powered because I do not know where we would get the diesel fuel to burn in it after the year 2000. But fuel is only part of the cost, Mr. President.

Ask the Congressional Research Service what it will cost to run that aircraft carrier by itself over its 30-year lifetime and they will tell you the lifetime cost of it and its aircraft in 1980 dollars is $26 billion.

I hear all the hue and cry about we are not going to vote for SALT II if we do not put more money into conventional weapons; we have to have a better defended NATO alliance; we are out of ammunition; we could not sustain more than a 30- to 60-day war because we are short of ammunition, short of equipment. Then we go ahead and appropriate over $2 billion for a dinosaur that is going to be the first sighted and the first sunk in case there is an outbreak of hostility.

I think we have made a tragic mistake, Mr. President. Apparently, the President has agreed to sign the bill. I think that is tragic for the country, too.

Mr. President, because I was out of the Capitol and was not here to assist my distinguished colleague from Wisconsin, I want the record to show my strong feelings about this. I may have more to say about it when we resume deliberations on the fiscal year 1980 Defense Department appropriations bill.

STIFF OPPOSITION TO MX PLAN EMERGES

Mr. DECONCINI. Mr. President, an article in yesterday's Washington Post raises some fundamental questions about our defense posture and its relationship to the SALT II treaty. The real issue is whether or not the MX missile will ultimately be deployed. A number of Senators are quoted as expressing the view that primarily because of the exotic and expensive basing mode preferred by the administration, the entire project is likely to flounder.

In an effort to sway votes in favor of the treaty, the administration has made a number of commitments regarding future defense spending. One key element in this process was a commitment to Congress that the administration will support the rapid development and deployment of the MX missile. If the SALT II debate has had any positive effect, it has been to demonstrate graphically potential American military weakness. And a number of Senators have correctly concluded that a new arms limitation treaty must be accompanied by a modernization of American strategic forces.

However, the apparent political vulnerability of the new MX system is disquieting. The administration apparently concluded that the MX must be based within the elaborate "racetrack" system to avoid conflict with the provisions of the SALT II treaty. At the time the administration adopted this plan, it was suggested in some quarters that the racetrack system would ultimately prove so expensive and complex that it would bring down the entire MX program.

If there is validity to the Post article, that is precisely what appears to be happening. Although I am not among those Senators who believe that the MX is sufficient to justify SALT II, I am a firm believer in the necessity of the MX missile system. Reliable experts predict that the American land-based missile force will become vulnerable to a Soviet first-strike within a half dozen years. If we intend to keep the triad defense concept, our land-based missile force must be revitalized.

In order to enable this administration and any future administration to utilize the more effective and less costly method of MX basing involving vertical silos, I am offering an understanding to be included in the SALT II resolution of ratification. The problem arises because the Treaty limits launchers rather than missiles. The vertical silo basing method involves the construction of approximately 2,000 silos to house 200 missiles. Like the old shell game, all but 200 of the silos would be decoys, but would force the Soviets to target each one in the event of a first-strike. The understanding I am offering would simply make it clear that decoy silos of the type contemplated in this basing mode would not count against the total limits on launchers. Unquestionably, this basing mode falls within the spirit of the Treaty, and the understanding, if adopted by the Senate, would remove the administration's fear of a technical violation if the Treaty is ultimately adopted.

I ask unanimous consent to have the understanding and the Washington Post article printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNDERSTANDING

Intended to be proposed by Mr. DECONCINI to the resolution of ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, done at Vienna on June 18, 1979, viz:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the understanding, which is to be made a part of the instrument of ratification, that nothing in the Treaty may be construed as requiring either Party to the Treaty to count, for the purposes of the limitations on the number of launchers permitted under the Treaty, as an intercontinental ballistic missile (ICBM) launcher any vertical shelter (silo) that is not equipped with an intercontinental ballistic missile (ICBM) launcher (as defined in the first paragraph of Article II of the Treaty)".

STIFF OPPOSITION TO MX PLAN EMERGES

(By Robert G. Kaiser)

The MX supermissile, a critical ingredient in the package of inducements the White House has assembled to promote SALT II, appears to face more serious opposition in the Senate than previously realized.

In an unpublicized vote recently, the Senate Appropriations Committee surprised its own members by voting just 13 to 8 against a motion to delete all funds for the MX. And it is relatively easy to find Senate members and staff assistants—even some who favor the MX—who predict the elaborate missile system will never be built.

The MX has had an ironic history. The Carter administration has backed it avidly to satisfy senators who feel the country cannot afford the strategic arms limitation treaty without a new missile system. But many officials inside the administration, including Adm. Stansfield Turner, the director of central intelligence, have opposed the MX plan.

Today pro-SALT senators who have misgivings about the MX are supporting it for the sake of the treaty. One example, apparently, was Birch Bayh (D-Ind.), who supported the MX in the Appropriations Committee despite some doubt about its efficacy.

The vote in the committee came on a motion by Mark Hatfield (R-Ore.) to delete all funds ($670 million) for the MX from next year's defense budget and redirect $20 million to study a submarine-based alternative plan. Hatfield was amazed to get eight votes for his proposal in the committee and just 13 opponents (a later poll of the full membership made the vote 18 to 9.)

One surprising Hatfield ally was Henry Bellmon (R-Okla.), who predicted that the MX will eventually cost $120 billion. (The Pentagon says it will cost $33 billion; the Congressional Budget Office predicts a figure nearer $60 billion.) "I am contrary to a multibillion contraption that probably will never be finished," Bellmon said.

Another surprise was the vote of Ted Stevens (R-Alaska), the minority whip and a SALT opponent. Stevens even criticized Bellmon for wanting to preserve and redirect $20 million of the MX money. "I would totally zero it," Stevens said, "and it would be the first time I voted like this on a defense position."

Hatfield will reintroduce his motion on the Senate floor this week or next. His aides predict it will fail this time, in part at least because many SALT supporters will vote against it for the sake of the treaty. But eventually Hatfield and other senators expect the MX to be killed in Congress.

Sen. Daniel Patrick Moynihan (D-N.Y.), a relatively hard-liner on defense issues, predicts flatly that the MX will never be built. "I think that this [MX] is the kind of technological exotica that large organizations can get caught up in, and it's only when everyone else sees it that they look up and say, 'That's crazy.'"

It may be typical of the irony beclouding MX that despite this view, Moynihan will vote for the missile program on the Senate floor. Moynihan wants to stick with Senate colleagues who are seeking a stronger American defense, he explained in an interview.

A combination of practical and political factors underlies the predictions that MX will not be built. The practical problems posed by this most complex of all existing weapons systems are staggering.

Simply building it will be a gargantuan project, comparable to the biggest public works undertakings in American history. As proposed by the Carter administration, there will be 200 MX missiles, each of them attached to its own immense transporter-launcher, a truck-like device.

Each missile will carry 10 independently targetable nuclear warheads, and each will be based on its own paved "racetrack" in the desert in Utah or Nevada.

The idea of the MX is to fool Soviet targeters so they can never know exactly where the MX missiles are hidden. This is intended to preserve the invulnerability of American landbased missiles in an era when the growing number of Soviet warheads will soon give the Soviets a theoretical opportunity to strike simultaneously at all of America's existing, fixed-silo ICBMs.

This concern over the potential and theoretical vulnerability of the land-based missiles has alarmed many senators, including the majority leader, Robert C. Byrd (D-W. Va.). Before endorsing SALT II, Byrd sought and received written assurance from President Carter that the MX would indeed be built.

But presidential assurances cannot overcome all the obstacles that lie in the path of the MX. For example, the proposed project will have to satisfy the conditions of 33 different federal laws, ranging from the endangered species act to various clean water and air statutes. Almost every one of these laws could provoke lawsuits from arms control advocates or environmental activists, and representatives of both groups have already begun planning such legal action.

Water for MX is a particularly contentious subject. Just yesterday the governor of Utah, Scott Matheson, warned that he would withdraw his tentative endorsement of putting MXs in Utah if the federal government sought to avoid state controls on the water supply. Matheson also requested $2 billion in federal aid to Utah and Nevada to cope with the social and economic repercussions of the MX project.

The MX will require congressional approval for the transfer of lands now administered by the federal Bureau of Land Management to the Air Force. Two of the most liberal committees on Capitol Hill—Senate Energy and House Interior—would have to give their assent.

To prevail on MX the Pentagon will have to persuade both Senate and House to go into this enormously expensive undertaking—involving not only 200 racetracks and 4,600 shelters, but an elaborate railroad, huge barriers and other gimmicks to convince the Soviets that there is only one rocket on every racetrack.

Persuading Congress to appropriate these tens of billions might be easier if MX was guaranteed to succeed. But even administration officials acknowledge that as now designed, the scheme can work only if the limits contained in SALT II stay in effect. If they lapse, the Soviets could relatively easily add new warheads beyond the number SALT II permits to neutralize the MX or force the United States to expand it greatly.

In the end, some MX critics predict, the size, cost and Rube Goldberg complexity of the MX plan will bring it down, perhaps leaving the United States with no new weapons system to compensate for recent Soviet advances.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 1:25 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 640. An act to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes;

S. 838. An act to authorize appropriations for fiscal years 1980, 1981, and 1982 to carry out cooperative programs with the States for the conservation of anadromous fish, and for other purposes;

S. 1281. An act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel *United States*, steamship vessel *Oceanic Independence*, steamship vessel *Santa Rosa*, and the steamship vessels *Mariposa* and *Monterey* into the trade;

H.R. 998. An act to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties; and

H.R. 2196. An act to establish a Congressional Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths.

The enrolled bills were subsequently signed by the Vice President.

At 4:13 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the joint resolution (S.J. Res. 117) to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 3319. An act for the relief of Jose Quintana Dominguez Sendelas; and

H.R. 5279. An act to provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany."

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 7, 1979, he presented to the President of the United States the following enrolled bills:

S. 640. An act to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes;

S. 838. An act to authorize appropriations for fiscal years 1980, 1981, and 1982 to carry out cooperative programs with the States for the conservation of anadromous fish, and for other purposes; and

S. 1291. An act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel *United States*, steamship vessel *Oceanic Independence*, steamship vessel *Santa Rosa*, and the steamship vessels *Mariposa* and *Monterey* into the trade.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2437. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Modernizing the Air Reserve Forces—More Emphasis on Logistics Support Needed"; to the Committee on Armed Services.

EC-2438. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Serving a Broader Economic Range of Families in Public Housing Could Reduce Operating Subsidies"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2439. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, notice of the proposed redirection of NASA's Galileo project; to the Committee on Commerce, Science, and Transportation.

EC-2440. A communication from the Director of Congressional Relations, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, a copy of the Commission's budget estimate submitted to the Office of Management and Budget; to the Committee on Commerce, Science, and Transportation.

EC-2441. A communication from the Secretary of Transportation transmitting, pursuant to law, the Department's report on contracts negotiated under 10 U.S.C. 2304(a)(11) during the period April 1 through September 30, 1979; to the Committee on Commerce, Science, and Transportation.

EC-2442. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, the required notice on leasing systems for the oil and gas lease sale No. BF, Joint Federal/State Beaufort Sea; to the Committee on Energy and Natural Resources.

EC-2443. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of the Act passed by the Council and signed by the Mayor entitled "Interest Rate Modification Act of 1979"; to the Committee on Governmental Affairs.

EC-2444. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report concerning surplus real property disposed of to public health and educational institutions; to the Committee on Governmental Affairs.

EC-2445. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the report on Health Professions Financial Distress Grant Program; to the Committee on Labor and Human Resources.

EC-2446. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on four new deferrals of budget authority and a revision to one previously transmitted increasing the amount deferred; to the Committee on Appropriations, the Committee on the Budget, the Commitee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, and the Committee on Labor and Human Resources, jointly, pursuant to the order of January 30, 1975.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment, unfavorably:

S. Res. 245. Resolution disapproving reorganization plan numbered 3, 1979 (Rept. No. 96-402).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Res. 89. Resolution authorizing the designation of Room S-120 in the United States Capitol as the "Hugh Scott Room".

S. Res. 274. A resolution to revise and modernize the Standing Rules of the Senate without substantive change in Senate procedure and to incorporate therein certain other rules of the Senate (Rept. No. 96-403).

S. Res. 256. Resolution authorizing reimbursement of the contingent fund of the Senate for legal expenses incurred by Senator Thurmond in defending a civil action brought against him (Rept. No. 96-404).

S. Res. 275. An original resolution authorizing the designation of Room S-114 in the United States Capitol as the "Harry Flood Byrd, Sr., Room".

S. Res. 276. An original resolution to pay a gratuity to Gertrude G. Dissmore and Chester H. Dissmore.

S. Con. Res. 45. Concurrent resolution authorizing the printing of a revised edition of the "Handbook for Small Business" as a Senate document (Rept. No. 96-405).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 265. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1724 (Rept. No. 96-406).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DECONCINI:

S. 1985. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 1986. A bill to amend the Immigration and Nationality Act to permit mentally retarded adults to become United States citizens; to the Committee on the Judiciary.

By Mr. CHURCH:

S. 1987. A bill for the relief of Maria Elba Leora Hernandez; to the Committee on the Judiciary.

By Mr. PRYOR (for himself and Mr. BUMPERS):

S. 1988. A bill to equalize competition between State and national banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI:

S. 1985. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

FLAGSTAFF LAND EXCHANGE

Mr. DECONCINI. Mr. President, I am pleased to introduce today legislation which is essential to the future health care demands of the residents of the growing community of Flagstaff, Ariz.

The purpose of this legislation is twofold: It will afford the Flagstaff Medical Regional Center the opportunity to acquire 18.5 acres of national forest land for expansion of its existing health care facility and will give the city of Flagstaff the right to acquire fee title to 132.5 acres of land known as Thorpe Park.

The Flagstaff Medical Regional Center is the largest hospital facility in the northern region of Arizona and not only serves the health care needs of the city, but the entire northern area of the State as well. The hospital has long expressed a desire to obtain suitable land for the expansion of the facility to accommodate future health care needs. The land to be acquired for this purpose is adjacent to the present quarters of the Coconino National Forest administrative offices, known as Knob Hill. However, a location for the Forest Service offices, which would be compatible to the surrounding environment and consistent with the diversity of land management activities is preferable and long overdue. This legislation will enable the Forest Service to seek larger, improved quarters to accommodate its increased activities on the Coconino National Forest.

The city of Flagstaff has, for over 50 years, utilized 132.5 acres of national forest land for one of the largest park facilities in the city, Thorpe Park. The city is currently operating the park under a special-use permit from the Forest Service and this land exchange legislation would allow the city to acquire title to the land over a 10-year period.

The degree of mutual respect and cooperation that has existed between the city of Flagstaff and the administrators of the Coconino National Forest has been outstanding. This legislation will provide benefits to both, and I believe, will contribute to the continued harmony between the city and the Federal agency for years to come.

I urge early consideration of this bill by the Energy and Natural Resources Committee and its speedy enactment by the Senate.

I ask unanimous consent that the text of the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") is authorized to convey by quitclaim deed, subject to the provisions of subsections (b) and (c) of this Act, all right, title, and interest of the United States in and to the following described tract of lands and improvements thereon:

Gila and Salt River Meridian

(Coconino County, Arizona)

T. 21 N., R. 7 E.,

Sec. 15. N½NE¼, NE¼NW¼, NE¼SE¼NW¼NW¼ and N½SE¼SE¼NW¼ NW¼;

Sec. 16. S½NE¼NE¼NW¼, NW¼NE¼NW¼, S½NE¼NW¼, NW¼NW¼, N½NE¼SW¼NW¼, SE¼NE¼SW¼NW¼, N½NW¼SW¼NW¼, E½SE¼SW¼NW¼, and SE¼NW¼.

The area described contains 256.25 acres more or less.

(b)(1) Any conveyances pursuant to subsection (a) of this Act shall be conditioned upon the Secretary entering into agreements or land exchanges, sufficient to assure the Secretary that any party with whom such agreements or land exchanges are to be made will construct on a site to be determined by the Secretary, administrative improvements equal in value to the lands and improvements authorized to be conveyed by subsection (a). The lands and improvements may be conveyed by a series of transactions or land exchanges.

(2) Each party to whom conveyances are to be made may, in the discretion of the Secretary, deposit cash in an amount not less than the fair market value, to be determined at the time of conveyance, of the lands and improvements conveyed. The cash so deposited is authorized to remain available until expended by the Secretary for the purposes of constructing administrative improvements as described in this Act. If the value of any land and improvements thereon authorized to be conveyed by subsection (a) exceeds the value of administrative improvements determined to be necessary by the Secretary to be constructed with respect to such land under this Act, the party to whom such conveyance is to be made shall make a cash payment to the United States in an amount equal to such difference in value, and such amount is authorized to remain available to the Secretary until expended for the purposes of acquiring other lands needed for National Forest purposes in the Coconino National Forest in Arizona.

(c)(1) Of the tract of land described in subsection (a), the Secretary shall offer to sell at the fair market value, as determined on the date of enactment of this Act, to the Flagstaff Medical Regional Center, Flagstaff, Arizona, not to exceed 18.25 acres immediately adjacent to said Flagstaff Medical Regional Center and to the City of Flagstaff, Arizona, not to exceed 132.5 acres, under special use permit in effect on the date of enactment of this Act to the City of Flagstaff. Such offers to sell to the Flagstaff Medical Regional Center and to the City of Flagstaff shall remain in effect for periods of not to exceed 3 years and 10 years, respectively. Subject to the limitations contained in this paragraph, the City of Flagstaff and the Flagstaff Medical

Regional Center may identify any specific tracts of land they want to purchase.

(2) Except for any land to be conveyed to the Flagstaff Medical Regional Center and the City of Flagstaff, the Secretary shall solicit public offers for the remaining lands and improvements authorized under subsection (a). All offers shall be publicly opened at the time and place stated in the solicitation in accordance with the administrative requirements of the Secretary. The Secretary shall consider price and land values before entering into agreements or land exchanges with any party whose offer conforming to the solicitation notice is determined by the Secretary to be most advantageous to the Government. Notwithstanding any other provision of this Act, the Secretary may reject any offer if the Secretary determines that such rejection is in the public interest.

By Mr. INOUYE:

S. 1986. A bill to amend the Immigration and Nationality Act to permit mentally retarded adults to become U.S. citizens; to the Committee on the Judiciary.

● Mr. INOUYE. Mr. President, today, I am introducing a bill to amend the Immigration and Naturalization Act to permit certain mentally retarded adults to become U.S. citizens.

The present statute causes great hardships on families which have immigrated to the United States of America having mentally retarded children as family members. In the space of time required for the heads of these immigrant households, that is, parents and guardians of the mentally retarded, to become citizens of the United States of America, many of the mentally retarded persons become adults chronologically. Having attained the age of 18, these mentally retarded are then required to demonstrate performances expected of a person with normal faculties in order to become U.S. citizens.

For example, the law requires that a person who seeks naturalization demonstrate knowledge of and attachment to the Constitution and Government of the United States of America. He must comprehend the effect of the oath of renunciation and allegiance and the nature of the obligation of citizenship.

Yet, we know that many mentally retarded adults are not capable of these demonstrations. The families have come to make their home in this country. They have worked hard and have yearned to become citizens. When they have attained the expected requirements, they anguish over the denial of citizenship for the mentally retarded member. The Immigration and Naturalization Service agents inform me that they too are anguished enforcing this law that separates the dependent retarded person from his loved ones.

Therefore, I am introducing this bill to amend the present law to allow the mentally retarded adult alien who is accompanied by his family to become a naturalized citizen in the same process that a child of tender years may become a United States of America citizen. Enactment of this legislation will demonstrate the continued compassion of America for those in need while preserving the integrity of the family.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 322 of the Immigration and Nationality Act (8 U.S.C. 1433) is amended by—

(1) inserting ", or if mentally retarded," after "eighteen years", and

(2) inserting ", or is mentally retarded" after "tender years".●

ADDITIONAL COSPONSORS

S. 1090, S. 1091, AND S. 1092

At the request of Mr. TALMADGE, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 1090, S. 1091, and S. 1092, bills to amend the Internal Revenue Code and the Employee Retirement Income Security Act relating to church plans.

S. 1121

At the request of Mr. HAYAKAWA, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 1121, a bill to amend the Saccharin Study and Labeling Act.

S. 1327

At the request of Mr. HART, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 1327, a bill to amend the Fair Labor Standards Act of 1938 to exempt full-time students serving as resident assistants and resident counselors in private nonprofit institutions of higher education from that act, and for other purposes.

S. 1328

At the request of Mr. HATFIELD, the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1328, a bill to amend the Federal Water Pollution Control Act to provide an additional allotment of funds to certain States, and for other purposes.

S. 1435

At the request of Mr. PACKWOOD, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1435, a bill to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities.

S. 1496

At the request of Mr. INOUYE, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 1496, a bill to amend the Interstate Commerce Act to provide for more effective regulation of carriers, and for other purposes.

S. 1549

At the request of Mr. BOREN, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1549, a bill to amend the Internal Revenue Code of 1954 to change the period for the payment of taxes under section 4161(a) of such code.

S. 1598

At the request of Mr. NELSON, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 1598, the State Social Security Deposit Act.

S. 1647

At the request of Mr. INOUYE, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1647, a bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order 9066, and for other purposes.

S. 1707

At the request of Mr. SASSER, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 1707, a bill to authorize funds for the William Levi Dawson Institute of Public Affairs.

S. 1823

At the request of Mr. HEINZ, the Senator from Michigan (Mr. LEVIN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1823, a bill to improve the quality of children's lives through the creation of a National Endowment for Children's Television.

S. 1858

At the request of Mr. BAYH, the Senator from North Dakota (Mr. YOUNG) and the Senator from Nevada (Mr. CANNON) were added as cosponsors of S. 1858, the National Guard Tort Claims Act of 1979.

S. 1884

At the request of Mr. HART, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 1884, a bill to provide that legislation appropriating funds for payment of salaries to Federal employees shall be enacted separately from other legislation.

S. 1922

At the request of Mr. DOMENICI, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 1922, a bill relating to appeals involving certain orders of the Secretary of the Interior and the Secretary of Agriculture canceling permits to graze livestock on public rangelands.

S. 1984

At the request of Mr. WALLOP, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1984, the Estate and Gift Tax Amendments of 1979.

AMENDMENT NO. 413

At the request of Mr. HATFIELD, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of amendment No. 413 intended to be proposed to the SALT II treaty, Ex. Y, 96–1.

AMENDMENT NO. 569

At the request of Mr. PERCY, the Senator from California (Mr. CRANSTON) and the Senator from Colorado (Mr. ARMSTRONG) were added as cosponsors of amendment No. 569 intended to be proposed to S. 932, a bill to extend the Defense Production Act of 1950, as amended.

SENATE JOINT RESOLUTION 39

At the request of Mr. RANDOLPH, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Joint Resolution 39, a joint resolution to establish the "National Employ the Older Worker Week."

SENATE RESOLUTION 274—SUBMISSION OF A RESOLUTION REVISED STANDING RULES OF THE SENATE

Mr. ROBERT C. BYRD (for himself and Mr. BAKER) submitted the following resolution:

S. RES. 274

Resolved, That the Standing Rules for Conducting Business in the United States Senate are amended to read as follows:

"STANDING RULES OF THE SENATE

"RULE I

"APPOINTMENT OF A SENATOR TO THE CHAIR

"1. In the absence of the Vice President, the Senate shall choose a President pro tempore, who shall hold the office and execute the duties thereof during the pleasure of the Senate and until another is elected or his term of office as a Senator expires.

"2. In the absence of the Vice President, and pending the election of a President pro tempore, the Acting President pro tempore or the Secretary of the Senate, or in his absence the Assistant Secretary, shall perform the duties of the Chair.

"3. The President pro tempore shall have the right to name in open Senate or, if absent, in writing, a Senator to perform the duties of the Chair, including the signing of duly enrolled bills and joint resolutions but such substitution shall not extend beyond an adjournment, except by unanimous consent; and the Senator so named shall have the right to name in open session, or, if absent, in writing, a Senator to perform the duties of the Chair, but not to extend beyond an adjournment, except by unanimous consent.

"RULE II

"PRESENTATION OF CREDENTIALS AND QUESTIONS OF PRIVILEGE

"1. The presentation of the credentials of Senators elect or of Senators designate and other questions of privilege shall always be in order, except during the reading and correction of the Journal, while a question of order or a motion to adjourn is pending, or while the Senate is voting or ascertaining the presence of a quorum; and all questions and motions arising or made upon the presentation of such credentials shall be proceeded with until disposed of.

"2. The Secretary shall keep a record of the certificates of appointment of Senators by entering in a well-bound book kept for that purpose the date of the election or appointment, the name of the person elected or appointed, the date of the certificate, the name of the governor and the secretary of state signing and counter-signing the same, and the State from which such Senator is elected or appointed.

"3. The Secretary of the Senate shall send copies of the following recommended forms to the governor and secretary of state of each State wherein an election is about to take place or an appointment is to be made so that they may use such forms if they see fit.

"THE RECOMMENDED FORM FOR CERTIFICATES OF ELECTION AND CERTIFICATE OF APPOINTMENTS ARE AS FOLLOWS:

"'CERTIFICATES OF ELECTION FOR SIX-YEAR TERM

"'To the President of the Senate of the United States:

"'This is to certify that on the — day of ——, 19—, A—— B—— was duly chosen by the qualified electors of the State of —— a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 19—.

"'Witness: His excellency our governor —— and our seal hereto affixed at —— this — day of ——, in the year of our Lord 19—.

"'By the governor:

"'C—— D——,
"'Governor.

"'E—— F——,
"'Secretary of State.'"

"'CERTIFICATE OF ELECTION FOR UNEXPIRED TERM

"'To the President of the Senate of the United States:

"'This is to certify that on the — day of ——, 19—, A—— B—— was duly chosen by the qualified electors of the State of —— a Senator for the unexpired term ending at noon on the 3d day of January, 19—, to fill the vacancy in the representation from said State in the Senate of the United States caused by the —— of C—— D——.

"'Witness: His excellency our governor ——, and our seal hereto affixed at —— this — day of ——, in the year of our Lord 19—.

"'By the governor:

"'E—— F——,
"'Governor.

"'G—— H——,
"'Secretary of State.'"

"'CERTIFICATE OF APPOINTMENT

"'To the President of the Senate of the United States:

"'This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of ——, I, A—— B—— the governor of said State, do hereby appoint C—— D—— a Senator from said State to represent said State in the Senate of the United States until the vacancy therein cause by the —— of E—— F——, is filled by election as provided by law.

"'Witness: His excellency our governor ——, and our seal hereto affixed at —— this day of ——, in the year of our Lord 19—.

"'By the governor:

"'G—— H——,
"'Governor.

"'I—— J——,
"'Secretary of State.'"

"RULE III

"OATHS

"The oaths or affirmations required by the Constitution and prescribed by law shall be taken and subscribed by each Senator, in open Senate, before entering upon his duties.

"OATH REQUIRED BY THE CONSTITUTION AND BY LAW TO BE TAKEN BY SENATORS

"I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God. (5 U.S.C. 3331.)

"RULE IV

"COMMENCEMENT OF DAILY SESSIONS

"1. (a) The Presiding Officer having taken the chair, following the prayer by the Chaplain, and a quorum being present, the Journal of the preceding day shall be read, and any mistake made in the entries corrected. Except as provided in subparagraph (b) the reading of the Journal shall not be suspended unless by unanimous consent; and when any motion shall be made to amend or correct the same, it shall be deemed a privileged question, and proceeded with until disposed of.

"(b) Whenever the Senate is proceeding under paragraph 2 of rule XXII, the reading of the Journal shall be dispensed with and shall be considered approved to date.

"2. During a session of the Senate when that body is in continuous session, the Presiding Officer shall temporarily suspend the business of the Senate at noon each day for the purpose of having the customary daily prayer by the Chaplain.

"RULE V

"JOURNAL

"1. The proceedings of the Senate shall be briefly and accurately stated on the Journal. Messages of the President in full; titles of bills and resolutions, and such part as shall be affected by proposed amendments; every vote, and a brief statement of the contents of each petition, memorial, or paper presented to the Senate, shall be entered.

"2. The legislative, the executive, the confidential legislative proceedings, and the proceedings when sitting as a Court of Impeachment, shall each be recorded in a separate book.

"RULE VI

"QUORUM—ABSENT SENATORS MAY BE SENT FOR

"1. A quorum shall consist of a majority of the Senators duly chosen and sworn.

"2. No Senator shall absent himself from the service of the Senate without leave.

"3. If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

"4. Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant at Arms to request, and, when necessary, to compel the attendance of the Absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, or to recess pursuant to a previous order entered by unanimous consent, shall be in order.

"RULE VII

"MORNING BUSINESS

"1. On each legislative day after the Journal is read, the Presiding Officer on demand of any Senator shall lay before the Senate messages from the President, reports and communications from the heads of Departments, and other communications addressed to the Senate, and such bills, joint resolutions, and other messages from the House of Representatives as may remain upon his table from any previous day's session undisposed of. The Presiding Officer on demand of any Senator shall then call for, in the following order:

"The presentation of petitions and memorials.

"Reports of committees.

"The introduction of bills and joint resolutions.

"The submission of other resolutions.

All of which shall be received and disposed of in such order, unless unanimous consent shall be otherwise given, with newly offered resolutions being called for before resolutions coming over from a previous legislative day are laid before the Senate.

"2. Until the morning business shall have been concluded, and so announced from the Chair, or until one hour after the Senate convenes at the beginning of a new legislative day, no motion to proceed to the consideration of any bill, resolution, report of a committee, or other subject upon the Calender shall be entertained by the Presiding Officer, unless by unanimous consent: *Provided, however,* That on Mondays which are the beginning of a legislative day the Calendar shall be called under rule VIII, and until two hours after the Senate convenes no motion shall be entertained to proceed to the

consideration of any bill, resolution, or other subject upon the Calendar except the motion to continue the consideration of a bill, resolution, or other subject against objection as provided in rule VIII, or until the call of the Calendar has been completed.

"3. The Presiding Officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate, any bill or other matter sent to the Senate by the President or the House of Representatives for appropriate action allowed under the rules and any question pending at that time shall be suspended for this purpose. Any motion so made shall be determined without debate.

"4. Petitions or memorials shall be referred, without debate, to the appropriate committee according to subject matter on the same basis as bills and resolutions, if signed by the petitioner or memorialist. A question of receiving or reference may be raised and determined without debate. But no petition or memorial or other paper signed by citizens or subjects of a foreign power shall be received, unless the same be transmitted to the Senate by the President.

"5. Only a brief statement of the contents of petitions and memorials shall be printed in the Congressional Record; and no other portion of any petition or memorial shall be printed in the Record unless specifically so ordered by vote of the Senate, as provided for in paragraph 1 of rule XXIX, in which case the order shall be deemed to apply to the body of the petition or memorial only; and names attached to the petition or memorial shall not be printed unless specially ordered, except that petitions and memorials from the legislatures or conventions, lawfully called, of the respective States, Territories, and insular possessions shall be printed in full in the Record whenever presented.

"6. Senators having petitions, memorials, bills, or resolutions to present after the morning hour may deliver them in the absence of objection to the Presiding Officer's desk, endorsing upon them their names, and with the approval of the Presiding Officer, they shall be entered on the Journal with the names of the Senators presenting them and in the absence of objection shall be considered as having been read twice and referred to the appropriate committees, and a transcript of such entries shall be furnished to the official reporter of debates for publication in the Congressional Record, under the direction of the Secretary of the Senate.

"RULE VIII

"ORDER OF BUSINESS

"1. At the conclusion of the morning business at the beginning of a new legislative day, unless upon motion the Senate shall at any time otherwise order, the Senate shall proceed to the consideration of the Calendar of Bills and Resolutions, and shall continue such consideration until 2 hours after the Senate convenes on such day; and bills and resolutions that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any question; and an objection may be interposed at any stage of the proceedings, but upon motion the Senate may continue such consideration; and this order shall commence immediately after the call for 'other resolutions', or after disposition of resolutions coming 'over under the rule', and shall take precedence of the unfinished business and other special orders. But if the Senate shall proceed on motion with the consideration of any matter notwithstanding an objection, the foregoing provisions touching debate shall not apply.

"2. All motions made during the first two hours of a new legislative day to proceed to the consideration of any matter shall be determined without debate, except motions to proceed to the consideration of any motion, resolution, or proposal to change any of the standing rules of the Senate shall be debatable. Motions made after the first two hours of a new legislative day to proceed to the consideration of bills and resolutions are debatable.

"RULE IX

"MESSAGES

"1. Messages from the President of the United States or from the House of Representatives may be received at any stage of proceedings, except while the Senate is voting or ascertaining the presence of a quorum, or while the Journal is being read, or while a question of order or a motion to adjourn is pending.

"2. Messages shall be sent to the House of Representatives by the Secretary, who shall previously certify the determination of the Senate upon all bills, joint resolutions, and other resolutions which may be communicated to the House, or in which its concurrence may be requested; and the Secretary shall also certify and deliver to the President of the United States all resolutions and other communications which may be directed to him by the Senate.

"RULE X

"SPECIAL ORDERS

"1. Any subject may, by a vote of two-thirds of the Senators present, be made a special order of business for consideration and when the time so fixed for its consideration arrives the Presiding Officer shall lay it before the Senate, unless there be unfinished business in which case it takes its place on the Calendar of Special Orders in the order of time at which it was made special, to be considered in that order when there is no unfinished business.

"2. All motions to change such order, or to proceed to the consideration of other business, shall be decided without debate.

"RULE XI

"OBJECTION TO READING A PAPER

"When the reading of a paper is called for, and objected to, it shall be determined by a vote of the Senate, without debate.

"RULE XII

"VOTING PROCEDURE

"1. When the yeas and nays are ordered, the names of Senators shall be called alphabetically; and each Senator shall, without debate, declare his assent or dissent to the question, unless excused by the Senate; and no Senator shall be permitted to vote after the decision shall have been announced by the Presiding Officer, but may for sufficient reasons, with unanimous consent, change or withdraw his vote. No motion to suspend this rule shall be in order, nor shall the Presiding Officer entertain any request to suspend it by unanimous consent.

"2. When a Senator declines to vote on call of his name, he shall be required to assign his reasons therefor, and having assigned them, the Presiding Officer shall submit the question to the Senate: 'Shall the Senator for the reasons assigned by him, be excused from voting?' which shall be decided without debate; and these proceedings shall be had after the rollcall and before the result is announced; and any further proceedings in reference thereto shall be after such announcement.

"3. A Member, notwithstanding any other provisions of this rule, may decline to vote, in committee or on the floor, on any matter when he believes that his voting on such a matter would be a conflict of interest.

"4. No request by a Senator for unanimous consent for the taking of a final vote on a specified date upon the passage of a bill or joint resolution shall be submitted to the Senate for agreement thereto until after a quorum call ordered for the purpose by the Presiding Officer, it shall be disclosed that a quorum of the Senate is present; and when a unanimous consent is thus given the same shall operate as the order of the Senate, but any unanimous consent may be revoked by another unanimous consent granted in the manner prescribed above upon one day's notice.

"RULE XIII

"RECONSIDERATION

"1. When a question has been decided by the Senate, any Senator voting with the prevailing side or who has not voted may, on the same day or on either of the next two days of actual session thereafter, move a reconsideration; and if the Senate shall refuse to reconsider such a motion entered, or if such a motion is withdrawn by leave of the Senate, or if upon reconsideration the Senate shall affirm its first decision, no further motion to reconsider shall be in order unless by unanimous consent. Every motion to reconsider shall be decided by a majority vote, and may be laid on the table without affecting the question in reference to which the same is made, which shall be a final disposition of the motion.

"2. When a bill, resolution, report, amendment, order, or message, upon which a vote has been taken, shall have gone out of the possession of the Senate and been communicated to the House of Representatives, the motion to reconsider shall be accompanied by a motion to request the House to return the same; which last motion shall be acted upon immediately, and without debate, and if determined in the negative shall be a final disposition of the motion to reconsider.

"RULE XIV

"BILLS, JOINT RESOLUTIONS, AND RESOLUTIONS

"1. Whenever a bill or joint resolution shall be offered, its introduction shall, if objected to, be postponed for one day.

"2. Every bill and joint resolution shall receive three readings previous to its passage which readings on demand of any Senator shall be on three different legislative days, and the Presiding Officer shall give notice at each reading whether it be the first, second, or third: *Provided*, That each reading may be by title only, unless the Senate in any case shall otherwise order.

"3. No bill or joint resolution shall be committed or amended until it shall have been twice read, after which it may be referred to a committee; bills and joint resolutions introduced on leave, and bills and joint resolutions from the House of Representatives, shall be read once, and may be read twice, if not objected to, on the same day for reference, but shall not be considered on that day nor debated, except for reference, unless by unanimous consent.

"4. Every bill and joint resolution reported from a committee, not having previously been read, shall be read once, and twice, if not objected to, on the same day, and placed on the Calendar in the order in which the same may be reported; and every bill and joint resolution introduced on leave, and every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee, shall, if objection be made to further proceeding thereon, be placed on the Calendar.

"5. All bills, amendments, and joint resolutions shall be examined under the supervision of the Secretary of the Senate before they go out of the possession of the Senate, and all bills and joint resolutions which shall have passed both Houses shall be examined under the supervision of the Secretary of the Senate, to see that the same are correctly enrolled, and, when signed by the Speaker of the House and the President of the Senate, the Secretary of the Senate shall

forthwith present the same, when they shall have originated in the Senate, to the President of the United States and report the fact and date of such presentation to the Senate.

"6. All other resolutions shall lie over one day for consideration, if not referred, unless by unanimous consent the Senate shall otherwise direct. When objection is heard to the immediate consideration of a resolution or motion when it is submitted, it shall be placed on the Calendar under the heading of 'Resolutions and Motions over, under the Rule,' to be laid before the Senate on the next legislative day when there is no further morning business but before the close of morning business and before the termination of the morning hour.

"RULE XV

"BILLS—COMMITMENT AND CONSIDERATION

"1. When a bill or joint resolution shall have been ordered to be read a third time, it shall not be in order to propose amendments, unless by unanimous consent, but it shall be in order at any time before the passage of any bill or resolution to move its commitment; and when the bill or resolution shall again be reported from the committee it shall be placed on the Calendar.

"2. Whenever a private bill, except a bill for a pension, is under consideration, it shall be in order to move the adoption of a resolution to refer the bill to the Chief Commissioner of the Court of Claims for a report in conformity with section 2509 of title 28, United States Code.

"3. No private bill or resolution (including so-called omnibus claims or pension bills), and no amendment to any bill or resolution, authorizing or directing (1) the payment of money for property damages, personal injuries, or death, for which a claim may be filed under chapter 171 of title 28, United States Code, or for a pension (other than to carry out a provision of law or treaty stipulation); (2) the construction of a bridge across a navigable stream; or (3) the correction of a military or naval record, shall be received or considered on objection of any Senator.

"RULE XVI

"APPROPRIATIONS AND AMENDMENTS TO GENERAL APPROPRIATIONS BILLS

"1. On objection by any Senator, no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act or resolution previously passed by the Senate during that session; or unless the same be moved by direction of the Committee on Appropriations or of a committee of the Senate having legislative jurisdiction of the subject matter, or proposed in pursuance of an estimate submitted in accordance with law.

"2. The Committee on Appropriations shall not report an appropriation bill containing amendments to such bill proposing new or general legislation or any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law if such restriction is to take effect or cease to be effective upon the happening of a contingency, and if an appropriation bill is reported to the Senate containing amendments to such bill proposing new or general legislation or any such restriction, a point of order may be made against the bill, and if the point is sustained, the bill shall be recommitted to the Committee on Appropriations.

"3. All amendments to general appropriation bills moved by direction of a committee having legislative jurisdiction of the subject matter proposing to increase an appropriation already contained in the bill, or to add new items of appropriation, shall, at least one day before they are considered, be referred to the Committee on Appropriations, and when actually proposed to the bill no amendment proposing to increase the amount stated in such amendment shall be received on objection by any Senator.

"4. On objection by any Senator, no amendment offered by any other Senator which proposes general legislation shall be received to any general appropriation bill, nor shall any amendment not germane or relevant to the subject matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; nor shall any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law be received if such restriction is to take effect or cease to be effective upon the happening of a contingency; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate; and any such amendment or restriction to a general appropriation bill may be laid on the table without prejudice to the bill.

"5. On objection by any Senator, no amendment, the object of which is to provide for a private claim, shall be received to any general appropriation bill, unless it be to carry out the provisions of an existing law or a treaty stipulation, which shall be cited on the face of the amendment.

"6. When a point of order is made against any restriction on the expenditure of funds appropriated in a general appropriation bill on the ground that the restriction violates this rule, the rule shall be construed strictly and, in case of doubt, in favor of the point of order.

"7. Every report on general appropriation bills filed by the Committee on Appropriations shall identify with particularity each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session.

"8. On objection by any Senator, no general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced.

"RULE XVII

"AMENDMENT MAY BE LAID ON THE TABLE WITHOUT PREJUDICE TO THE BILL

"When an amendment proposed to any pending measure is laid on the table, it shall not carry with it, or prejudice, such measure.

"RULE XVIII

"AMENDMENTS—DIVISION OF A QUESTION

"If the question in debate contains several propositions, any Senator may have the same divided, except a motion to strike out and insert, which shall not be divided; but the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition; nor shall it prevent a motion simply to strike out; nor shall the rejection of a motion to strike out prevent a motion to strike out and insert. But pending a motion to strike out and insert, the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question; and motions to amend the part to be stricken out shall have precedence.

"RULE XIX

"DEBATE

"1. (a) When a Senator desires to speak, he shall rise and address the Presiding Officer, and shall not proceed until he is recognized, and the Presiding Officer shall recognize the Senator who shall first address him. No Senator shall interrupt another Senator in debate without his consent, and to obtain such consent he shall first address the Presiding Officer, and no Senator shall speak more than twice upon any one question in debate on the same legislative day without leave of the Senate, which shall be determined without debate.

"(b) At the conclusion of the morning hour at the beginning of a new legislative day or after the unfinished business or any pending business has first been laid before the Senate an any calendar day, and until after the duration of three hours of actual session after such business is laid down except as determined to the contrary by unanimous consent or on motion without debate, all debate shall be germane and confined to the specific question then pending before the Senate.

"2. No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

"3. No Senator in debate shall refer offensively to any State of the Union.

"4. If any Senator, in speaking or otherwise, in the opinion of the Presiding Officer transgress the rules of the Senate the Presiding Officer shall, either on his own motion or at the request of any other Senator, call him to order; and when a Senator shall be called to order he shall take his seat, and may proceed without leave of the Senate, which, if granted, shall be upon motion that he be allowed to proceed in order, which motion shall be determined without debate. Any Senator directed by the Presiding Officer to take his seat, and any Senator requesting the Presiding Officer to require a Senator to take his seat, may appeal from the ruling of the Chair, which appeal shall be open to debate.

"5. If a Senator be called to order for words spoken in debate, upon the demand of the Senator or of any other Senator, the exceptionable words shall be taken down in writing, and read at the table for the information of the Senate.

"6. Whenever confusion arises in the Chamber or the galleries, or demonstrations of approval or disapproval are indulged in by the occupants of the galleries, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator.

"7. No Senator shall introduce to or bring to the attention of the Senate during its sessions any occupant in the galleries of the Senate. No motion to suspend this rule shall be in order, nor may the Presiding Officer entertain any request to suspend it by unanimous consent.

"8. Former Presidents of the United States shall be entitled to address the Senate upon appropriate notice to the Presiding Officer who shall thereupon make the necessary arrangements.

"RULE XX

"QUESTIONS OF ORDER

"1. A question of order may be raised at any stage of the proceedings, except when the Senate is voting or ascertaining the presence of a quorum, and, unless submitted to the Senate, shall be decided by the Presiding Officer without debate, subject to an appeal to the Senate. When an appeal is taken, any subsequent question of order which may arise before the decision of such appeal shall be decided by the Presiding Officer without debate; and every appeal therefrom shall be decided at once, and without debate; and any appeal may be laid on the table without prejudice to the pending proposition, and thereupon shall be held as affirming the decision of the Presiding Officer.

"To lay on the table.
"To postpone indefinitely.
"To postpone to a day certain.
"To commit.
"To amend.

Which several motions shall have precedence as they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table, shall be decided without debate.

"2. Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matters pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"'Is it the sense of the Senate that the debate shall be brought to a close?'

"2. The Presiding Officer may submit any question of order for the decision of the Senate.

"RULE XXI

"MOTIONS AND AMENDMENTS

"1. All motions and amendments shall be reduced to writing, if desired by the Presiding Officer or by any Senator, and shall be read before the same shall be debated.

"2. Any motion, amendment, or resolution may be withdrawn or modified by the mover at any time before a decision, amendment, or ordering of the yeas and nays, except a motion to reconsider, which shall not be withdrawn without leave.

"RULE XXII

"PRECEDENCE OF MOTIONS

"1. When a question is pending, no motion shall be received but—

"To adjourn.

"To adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain.

"To take a recess.

"To proceed to the consideration of executive business.

"And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the closure motion if an amendment in the first degree, and unless it had been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"After no more than one hundred hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at the time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The one hundred hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

"If, for any reason, a measure or matter is reprinted after cloture has been invoked amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

"No Senator shall call up more than two amendments until every other Senator shall have had the opportunity to do likewise.

"Notwithstanding other provisions of this rule, a Senator may yield all or part of his one hour to the majority or minority floor managers of the measure, motion, or matter or to the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

"Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least ten minutes, is, if he seeks recognition, guaranteed up to ten minutes, inclusive, to speak only.

"After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours.

"RULE XXIII

"PREAMBLES

"When a bill or resolution is accompanied by a preamble, the question shall first be put on the bill or resolution and then on the preamble, which may be withdrawn by a mover before an amendment of the same, or ordering of the yeas and nays; or it may be laid on the table without prejudice to the bill or resolution, and shall be a final disposition of such preamble.

RULE XXIV

"APPOINTMENT OF COMMITTEES

"1. In the appointment of the standing committees, or to fill vacancies thereon, the Senate, unless otherwise ordered, shall by resolution appoint the chairman of each such committee and the other members thereof. On demand of any Senator, a separate vote shall be had on the appointment of the chairman of any such committee and on the appointment of the other members thereof. Each such resolution shall be subject to amendment and to division of the question.

"2. On demand of one-fifth of the Senators present, a quorum being present, any vote taken pursuant to paragraph 1 shall be by ballot.

"3. Except as otherwise provided or unless otherwise ordered, all other committees, and the chairmen thereof, shall be appointed in the same manner as standing committees.

"4. When a chairman of a committee shall resign or cease to serve on a committee, action by the Senate to fill the vacancy in such committee, unless specially otherwise ordered, shall be only to fill up the number of members of the committee, and the election of a new chairman.

"RULE XXV

"STANDING COMMITTEES

"1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

"(a)(1) Committee on Agriculture, Nutrition, and Forestry, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Agricultural economics and research.
"2. Agricultural extension services and experiment stations.
"3. Agricultural production, marketing, and stabilization of prices.
"4. Agriculture and agricultural commodities.
"5. Animal industry and diseases.
"6. Crop insurance and soil conservation.
"7. Farm credit and farm security.
"8. Food from fresh waters.
"9. Food stamp programs.
"10. Forestry, and forest reserves and wilderness areas other than those created from the public domain.
"11. Human economics.
"12. Human nutrition.
"13. Inspection of livestock, meat, and agricultural products.
"14. Pests and pesticides.
"15. Plant industry, soils, and agricultural engineering.
"16. Rural development, rural electrification, and watersheds.
"17. School nutrition programs.

"(2) Such committees shall also study and review, on a comprehensive basis, matters relating to food, nutrition, and hunger, both in the United States and in foreign countries, and rural affairs, and report thereon from time to time.

"(b) Committee on Appropriations, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Appropriation of the revenue for the support of the Government, except as provided in subparagraph (e).
"2. Rescission of appropriations contained in appropriation Acts (referred to in section 105 of title 1, United States Code).
"3. The amount of new spending authority described in section 401(c)(2) (A) and (B) of the Congressional Budget Act of 1974 which is to be effective for a fiscal year.
"4. New spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act).

"(c)(1) Committee on Armed Services, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.
"2. Common defense.
"3. Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, generally.

"4. Maintenance and operation of the Panama Canal, including administration, sanitation, and government of the Canal Zone.
"5. Military research and development.
"6. National security aspects of nuclear energy.
"7. Naval petroleum reserves, except those in Alaska.
"8. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces, including overseas education of civilian and military dependents.
"9. Selective service system.
"10. Strategic and critical materials necessary for the common defense.

"(2) Such committee shall also study and review, on a comprehensive basis, matters relating to the common defense policy of the United States, and report thereon from time to time.

"(d)(1) Committee on Banking, Housing, and Urban Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Banks, banking, and financial institutions.
"2. Control of prices of commodities, rents, and services.
"3. Deposit insurance.
"4. Economic stabilization and defense production.
"5. Export and foreign trade promotion.
"6. Export controls.
"7. Federal monetary policy, including Federal Reserve System.
"8. Financial aid to commerce and industry.
"9. Issuance and redemption of notes.
"10. Money and credit, including currency and coinage.
"11. Nursing home construction.
"12. Public and private housing (including veterans' housing).
"13. Renegotiation of Government contracts.
"14. Urban development and urban mass transit.

"(2) Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial institutions; economic growth, urban affairs, and credit, and report thereon from time to time.

"(e)(1) Committee on the Budget, to which committee shall be referred all concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to that committee under titles III and IV of that Act, and messages, petitions, memorials, and other matters relating thereto.

"(2) Such committee shall have the duty—

"(A) to report the matters required to be reported by it under title III and IV of the Congressional Budget Act of 1974;

"(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis;

"(C) to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis; and

"(D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

"(f)(1) Committee on Commerce, Science, and Transportation, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Coast Guard.
"2. Coastal zone management.
"3. Communications.
"4. Highway safety.
"5. Inland waterways, except construction.
"6. Interstate commerce.
"7. Marine and ocean navigation safety, and transportation, including navigational aspects of deepwater ports.
"8. Marine fisheries.
"9. Merchant marine and navigation.
"10. Nonmilitary aeronautical and space sciences.
"11. Oceans, weather, and atmospheric activities.
"12. Panama Canal and interoceanic canals generally, except as provided in subparagraph (c).
"13. Regulation of consumer products and services, including testing related to toxic substances, other than pesticides, and except for credit, financial services, and housing.
"14. Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, and civil aviation.
"15. Science, engineering, and technology research and development and policy.
"16. Sports.
"17. Standards and measurement.
"18. Transportation.
"19. Transportation and commerce aspects of Outer Continental Shelf lands.

"(2) Such committee shall also study and review, on a comprehensive basis, all matters relating to science and technology, oceans policy, transportation, communications, and consumer affairs, and report thereon from time to time.

"(g)(1) Committee on Energy and Natural Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Coal production, distribution, and utilization.
"2. Energy policy.
"3. Energy regulation and conservation.
"4. Energy related aspects of deepwater ports.
"5. Energy research and development.
"6. Extraction of minerals from oceans and Outer Continental Shelf lands.
"7. Hydroelectric power, irrigation, and reclamation.
"8. Mining education and research.
"9. Mining, mineral lands, mining claims, and mineral conservation.
"10. National parks, recreation areas, wilderness areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest.
"11. Naval petroleum reserves in Alaska.
"12. Nonmilitary development of nuclear energy.
"13. Oil and gas production and distribution.
"14. Public lands and forests, including farming and grazing thereon, and mineral extraction therefrom.
"15. Solar energy systems.
"16. Territorial possessions of the United States, including trusteeships.

"(2) Such committee shall also study and review, on a comprehensive basis, matters relating to energy and resources development, and report thereon from time to time.

"(h)(1) Committee on Environment and Public Works, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Air pollution.
"2. Construction and maintenance of highways.
"3. Environmental aspects of Outer Continental Shelf lands.
"4. Environmental effects of toxic substances, other than pesticides.
"5. Environmental policy.
"6. Environmental research and development.
"7. Fisheries and wildlife.
"8. Flood control and improvements of rivers and harbors, including environmental aspects of deepwater ports.
"9. Noise pollution.
"10. Nonmilitary environmental regulation and control of nuclear energy.
"11. Ocean dumping.
"12. Public buildings and improved grounds of the United States generally, including Federal buildings in the District of Columbia.
"13. Public works, bridges, and dams.
"14. Regional economic development.
"15. Solid waste disposal and recycling.
"16. Water pollution.
"17. Water resources.

"(2) Such committee shall also study and review, on a comprehensive basis, matters relating to environmental protection and resource utilization and conservation, and report thereon from time to time.

"(i) Committee on Finance, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Bonded debt of the United States, except as provided in the Congressional Budget Act of 1974.
"2. Customs, collection districts, and ports of entry and delivery.
"3. Deposit of public moneys.
"4. General revenue sharing.
"5. Health programs under the Social Security Act and health programs financed by a specific tax or trust fund.
"6. National social security.
"7. Reciprocal trade agreements.
"8. Revenue measures generally, except as provided in the Congressional Budget Act of 1974.
"9. Revenue measures relating to the insular possessions.
"10. Tariffs and import quotas, and matters related thereto.
"11. Transportation of dutiable goods.

"(j)(1) Committee on Foreign Relations, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Acquisition of land and buildings for embassies and legations in foreign countries.
"2. Boundaries of the United States.
"3. Diplomatic service.
"4. Foreign economic, military, technical, and humanitarian assistance.
"5. Foreign loans.
"6. International activities of the American National Red Cross and the International Committee of the Red Cross.
"7. International aspects of nuclear energy, including nuclear transfer policy.
"8. International conferences and congresses.
"9. International law as it relates to foreign policy.
"10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, and Urban Affairs).
"11. Intervention abroad and declarations of war.
"12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
"13. National security and international aspects of trusteeships of the United States.
"14. Oceans and international environmental and scientific affairs as they relate to foreign policy.
"15. Protection of United States citizens abroad and expatriation.

"16. Relations of the United States with foreign nations generally.

"17. Treaties and executive agreements, except reciprocal trade agreements.

"18. United Nations and its affiliated organizations.

"19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

"(2) Such committee shall also study and review, on a comprehensive basis, matters relating to the national security policy, foreign policy, and international economic policy as it relates to foreign policy of the United States, and matters relating to food, hunger, and nutrition in foreign countries, and report thereon from time to time.

"(k)(1) Committee on Governmental Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Archives of the United States.

"2. Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

"3. Census and collection of statistics, including economic and social statistics.

"4. Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

"5. Federal Civil Service.

"6. Government information.

"7. Intergovernmental relations.

"8. Municipal affairs of the District of Columbia, except appropriations therefor.

"9. Organization and management of United States nuclear export policy.

"10. Organization and reorganization of the executive branch of the Government.

"11. Postal Service.

"12. Status of officers and employees of the United States, including their classification, compensation, and benefits.

"(2) Such committee shall have the duty of—

"(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

"(B) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

"(C) evaluating the effect of laws enacted to reorganize the legislative and executive branches of the Government; and

"(D) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

"(l) Committee on the Judiciary, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Apportionment of Representatives.

"2. Bankruptcy, mutiny, espionage, and counterfeiting.

"3. Civil liberties.

"4. Constitutional amendments.

"5. Federal courts and judges.

"6. Government information.

"7. Holidays and celebrations.

"8. Immigration and naturalization.

"9. Interstate compacts generally.

"10. Judicial proceedings, civil and criminal, generally.

"11. Local courts in the territories and possessions.

"12. Measures relating to claims against the United States.

"13. National penitentiaries.

"14. Patent Office.

"15. Patents, copyrights, and trademarks.

"16. Protection of trade and commerce against unlawful restraints and monopolies.

"17. Revision and codification of the statutes of the United States.

"18. State and territorial boundary lines.

"(m)(1) Committee on Labor and Human Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Measures relating to education, labor, health, and public welfare.

"2. Aging.

"3. Agricultural colleges.

"4. Arts and humanities.

"5. Biomedical research and development.

"6. Child labor.

"7. Convict labor and the entry of goods made by convicts into interstate commerce.

"8. Domestic activities of the American National Red Cross.

"9. Equal employment opportunity.

"10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.

"11. Handicapped individuals.

"12. Labor standards and labor statistics.

"13. Mediation and arbitration of labor disputes.

"14. Occupational safety and health, including the welfare of miners.

"15. Private pension plans.

"16. Public health.

"17. Railway labor and retirement.

"18. Regulation of foreign laborers.

"19. Student loans.

"20. Wages and hours of labor.

"(2) Such committee shall also study and review, on a comprehensive basis, matters relating to health, education and training, and public welfare, and report thereon from time to time.

"(n)(1) Committee on Rules and Administration, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Administration of the Senate Office Buildings and the Senate wing of the Capitol, including the assignment of office space.

"2. Congressional organization relative to rules and procedures, and Senate rules and regulations, including floor and gallery rules.

"3. Corrupt practices.

"4. Credentials and qualifications of Members of the Senate, contested elections, and acceptance of incompatible offices.

"5. Federal elections generally, including the election of the President, Vice President, and Members of the Congress.

"6. Government Printing Office, and the printing and correction of the Congressional Record, as well as those matters provided for under rule XXIX.

"7. Meetings of the Congress and attendance of Members.

"8. Payment of money out of the contingent fund of the Senate or creating a charge upon the same (except that any resolution relating to substantive matter within the jurisdiction of any other standing committee of the Senate shall be first referred to such committee).

"9. Presidential succession.

"10. Purchase of books and manuscripts and erection of monuments to the memory of individuals.

"11. Senate Library and statuary, art, and pictures in the Capitol and Senate Office Buildings.

"12. Services to the Senate, including the Senate restaurant.

"13. United States Capitol and congressional office buildings, the Library of Congress, the Smithsonian Institution (and the incorporation of similar institutions), and the Botanic Gardens.

"(2) Such committee shall also—

"(A) make a continuing study of the organization and operation of the Congress of the United States and shall recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, improving its relationships with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution of the United States; and

"(B) identify any court proceeding or action which, in the opinion of the Committee, is of vital interest to the Congress as a constitutionally established institution of the Federal Government and call such proceeding or action to the attention of the Senate.

"(o) Committee on Veterans' Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Compensation of veterans.

"2. Life insurance issued by the Government on account of service in the Armed Forces.

"3. National cemeteries.

"4. Pensions of all wars of the United States, general and special.

"5. Readjustment of servicemen to civil life.

"6. Soldiers' and sailors' civil relief.

"7. Veterans' hospitals, medical care and treatment of veterans.

"8. Veterans' measures generally.

"9. Vocational rehabilitation and education of veterans.

"2. Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee	Members
Agriculture, Nutrition, and Forestry	18
Appropriations	28
Armed Services	17
Banking, Housing, and Urban Affairs	15
Budget	20
Commerce, Science, and Transportation	17
Energy and Natural Resources	18
Environment and Public Works	14
Finance	20
Foreign Relations	15
Governmental Affairs	17
Judiciary	17
Labor and Human Resources	15.

"3. (a) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee	Members
Rules and Administration	10
Veterans' Affairs	10.

"(b) Each of the following committees and joint committees shall consist of the number of Senators (or Senate members, in the case of a joint committee) set forth in the following table on the line on which the name of that committee appears:

"Committee	Members
Aging	12
Intelligence	13
Small Business	17
Joint Economic Committee	10.

"(c) Each of the following committees and joint committees shall consist of the number of Senators (or Senate members, in the case of a joint committee) set forth in the following table on the line on which the name of that committee appears:

"Committee	Members
Ethics	6
Indian Affairs	5
Joint Committee on Taxation	5.

"4. (a) Except as otherwise provided by this paragraph—

"(1) each Senator shall serve on two and no more committees listed in paragraph 2; and

"(2) each Senator may serve on only one committee listed in paragraph 3 (a) or (b).

"(b)(1) Each Senator may serve on not more than three subcommittees of each committee (other than the Committee on Appropriations) listed in paragraph 2 of which he is a member.

"(2) Each Senator may serve on not more than two subcommittees of a committee listed in paragraph 3 (a) or (b) of which he is a member.

"(3) Notwithstanding subparagraphs (1) and (2), a Senator serving as chairman or ranking minority member of a standing, select, or special committee of the Senate or joint committee of the Congress may serve ex officio, without vote, as a member of any subcommittee of such committee or joint committee.

"(4) No committee of the Senate may establish any subunit of that committee other than a subcommittee, unless the Senate by resolution has given permission therefor. For purposes of this subparagraph, any subunit of a joint committee shall be treated as a subcommittee.

"(c) By agreement entered into by the majority leader and the minority leader, the membership of one or more standing committees may be increased temporarily from time to time by such number or numbers as may be required to accord to the majority party a majority of the membership of all standing committees. When any such temporary increase is necessary to accord to the majority party a majority of the membership of all standing committees, members of the majority party in such number as may be required for that purpose may serve as members of three standing committees listed in paragraph 2. No such temporary increase in the membership of any standing committee under this subparagraph shall be continued in effect after the need therefor has ended. No standing committee may be increased in membership under this subparagraph by more than two members in excess of the number prescribed for that committee by paragraph 2 or 3(a).

"(d) A Senator may serve as a member of any joint committee of the Congress the Senate members of which are required by law to be appointed from a standing committee of the Senate of which he is a member, and service as a member of any such joint committee shall not be taken into account for purposes of subparagraph (a)(2).

"(e)(1) No Senator shall serve at any time as chairman of more than one standing, select, or special committee of the Senate or joint committee of the Congress, except that a Senator may serve as chairman of any joint committee of the Congress having jurisdiction with respect to a subject matter which is directly related to the jurisdiction of a standing committee of which he is chairman.

"(2) No Senator shall serve at any time as chairman of more than one subcommittee of each standing, select, or special committee of the Senate or joint committee of the Congress of which he is a member.

"(3) A Senator who is serving as the chairman of a committee listed in paragraph 2 may serve at any time as the chairman of only one subcommittee of all committees listed in paragraph 2 of which he is a member and may serve at any time as the chairman of only one subcommittee of each committee listed in paragraph 3 (a) or (b) of which he is a member. A Senator who is serving as the chairman of a committee listed in paragraph 3 (a) or (b) may not serve as the chairman of any subcommittee of that committee, and may serve at any time as the chairman of only one subcommittee of each committee listed in paragraph 2 of which he is a member. Any other Senator may serve as the chairman of only one subcommittee of each committee listed in paragraph 2, 3(a), or 3(b) of which he is a member.

"(f) A Senator serving on the Committee on Rules and Administration may not serve on any joint committee of the Congress unless the Senate members thereof are required by law to be appointed from the Committee on Rules and Administration.

"(g) A Senator who on the day preceding the effective date of title I of the Committee System Reorganization Amendments of 1977 was serving as the chairman or ranking minority member of the Committee on the District of Columbia or the Committee on Post Office and Civil Service may serve on the Committee on Governmental Affairs in addition to serving on two other standing committees listed in paragraph 2. At the request of any such Senator, he shall be appointed to serve on such committee but, while serving on such committee and two other standing committees listed in paragraph 2, he may not serve on any committee listed in paragraph 3 (a) or (b). The preceding provisions of this subparagraph shall apply with respect to any Senator only so long as his service as a member of the Committee on Governmental Affairs is continuous after the date on which the appointment of the majority and minority members of the Committee on Governmental Affairs is initially completed.

"(h)(1) A Senator may serve on the Committee on the Budget in addition to serving on two other committees listed in paragraph 2, but any Senator so serving may not serve

"(2) Notwithstanding subparagraph (1), a or (b).

"(2) Notwithstanding subparagraph (1), a Senator who is serving on the Committee on the Budget and two other committees listed in paragraph 2 may also serve on the Select Committee on Small Business or the Special Committee on Aging or, in the case of a Senator who was a member of the Select Committee on Intelligence on the last day of the Ninety-fifth Congress, may continue to serve on such select committee so long as his service on such select committee is continuous and he is eligible to serve on such select committee under the provisions of section 2(b) of Senate Resolution 400, Ninety-fourth Congress, as amended.

"(3) A Senator who is eligible under subparagraph (1) to serve on three committees listed in paragraph 2 may serve on the Committee on the Budget in addition to serving on such committees, but any Senator so serving may not serve on any committee listed in paragraph 3 (a) or (b).

"(i)(1) A Senator who on the last day of the Ninety-fifth Congress was serving as a member of three committees listed in paragraph 2 (as this rule was in effect on such day) may, during the term he is serving on the first day of the Ninety-sixth Congress, continue to serve as a member of each of such committees so long as his service as a member of each such committee is continuous.

"(2) A Senator who on the last day of the Ninety-fifth Congress was serving as a member of the Committee on Energy and Natural Resources and the Committee on the Judiciary may, during the term which he is serving on the first day of the Ninety-sixth Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each of such committees is continuous, but in no event may he serve by reason of this subparagraph, as a member of more than three committees listed in paragraph 2.

"(3) A Senator who on the last day of the Ninety-fifth Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations or the Committee on Finance may, during the term which he is serving on the first day of the Ninety-sixth Congress, also serve as a member of the Committee on the Judiciary so long as his service as a member of each of such committees is continuous, but in no event may he serve, by reason of this subparagraph, as a member of more than three committees listed in paragraph 2.

"(4) A Senator who on the last day of the Ninety-fifth Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Banking, Housing, and Urban Affairs may, during the term which he is serving on the first day of the Ninety-sixth Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each of such committees is continuous, but in no event may he serve, by reason of this subparagraph, as a member of more than three committees listed in paragraph 2.

"RULE XXVI

"COMMITTEE PROCEDURE

"1. Each standing committee, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures (not in excess of $10,000 for each committee during any Congress) as it deems advisable. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding the amount prescribed by the Committee on Rules and Administration. The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

"2. Each committee[1] shall adopt rules (not inconsistent with the Rules of the Senate) governing the procedure of such committee. The rules of each committee shall be published in the Congressional Record not later than March 1 of each year, except that if any such committee is established on or after February 1 of a year, the rules of that committee during the year of establishment shall be published in the Congressional Record not later than sixty days after such establishment. An amendment to the rules of any such committee shall be published in the Congressional Record not later than thirty days after the adoption of such amendment. If the Congressional Record is not published on the last day of any period referred to above, such period shall be extended until the first day thereafter on which it is published.

"3. Each standing committee (except the Committee on Appropriations) shall fix regular weekly, biweekly, or monthly meeting days for the transaction of business before the committee and additional meetings may be called by the chairman as he may deem necessary. If at least three members of any such committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their writ-

[1] The term "each committee" when used in these rules includes standing, select, and special committees unless otherwise specified.

ten notice that a special meeting of the committee will be held, specifying the date and hour of that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour. If the chairman of any such committee is not present at any regular, additional, or special meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting.

"4. (a) Each committee (except the Committee on Appropriations and the Committee on the Budget) shall make public announcement of the date, place, and subject matter of any hearing to be conducted by the committee on any measure or matter at least one week before the commencement of that hearing unless the committee determines that there is good cause to begin such hearing at an earlier date.

"(b) Each committee (except the Committee on Appropriations) shall require each witness who is to appear before the committee in any hearing to file with the clerk of the committee, as least one day before the date of the appearance of that witness, a written statement of his proposed testimony unless the committee chairman and the ranking minority member determine that there is good cause for noncompliance. If so requested by any committee, the staff of the committee shall prepare for the use of the members of the committee before each day of hearing before the committee a digest of the statements which have been so filed by witnesses who are to appear before the committee on that day.

"(c) After the conclusion of each day of hearing, if so requested by any committee, the staff shall prepare for the use of the members of the committee a summary of the testimony given before the committee on that day. After approval by the chairman and the ranking minority member of the committee, each such summary may be printed as a part of the committee hearings if such hearings are ordered by the committee to be printed.

"(d) Whenever any hearing is conducted by a committee (except the Committee on Appropriations) upon any measure or matter, the minority on the committee shall be entitled, upon request made by a majority of the minority members to the chairman before the completion of such hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

"(5). (a) Notwithstanding any other provision of the rules, when the Senate is in session, no committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The majority leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

"(b) Each meeting of a committtee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

"(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

"(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

"(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

"(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

"(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

"(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

"(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

"(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point or order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

"(e) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.

"6. Morning meetings of committees and subcommittees thereof shall be scheduled for one or both of the periods prescribed in this paragraph. The first period shall end at eleven o'clock antemeridian. The second period shall begin at eleven o'clock antemeridian and end at two o'clock postmeridian.

"7. (a)(1) Except as provided in this paragraph, each committee, and each subcommittee thereof is authorized to fix the number of its members (but not less than one-third of its entire membership) who shall constitute a quorum thereof for the transaction of such business as may be considered by said committee, except that no measure or matter or recommendation shall be reported from any committee unless a majority of the committee were physically present.

"(2) Each such committee, or subcommittee, is authorized to fix a lesser number than one-third of its entire membership who shall constitute a quorum thereof for the purpose of taking sworn testimony.

"(3) The vote of any committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are present. No vote of any member of any committee to report a measure or matter may be cast by proxy if rules adopted by such committee forbid the casting of votes for that purpose by proxy; however, proxies may not be voted when the absent committee member has not been informed of the matter on which he is being recorded and has not affirmatively requested that he be so recorded. Action by any committee in reporting any measure or matter in accordance with the requirements of this subparagraph shall consitute the ratification by the committee of all action theretofore taken by the committee with respect to that measure or matter, including votes taken upon the measure or matter or any amendment thereto, and no point of order shall lie with respect to that measure or matter on the ground that such previous action with respect thereto by such committee was not taken in compliance with such requirements.

"(b) Each committee (except the Committee on Appropriations) shall keep a complete record of all committee action. Such record shall include a record of the votes on any question on which a record vote is demanded. The results of rollcall votes taken in any meeting of any committee upon any measure, or any amendment thereto, shall be announced in the committee report on that measure unless previously announced by the committee, and such announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee who was present at that meeting.

"(c) Whenever any committee by rollcall vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast by each member of the committee in favor of and in opposition to such measure or matter. Nothing contained in this subparagraph shall abrogate the power of any committee to adopt rules—

"(1) providing for proxy voting on all matters other than the reporting of a measure or matter, or

"(2) providing in accordance with subparagraph (a) for a lesser number as a quorum for any action other than the reporting of a measure or matter

"8. (a) In order to assist the Senate in—

"(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

"(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee (except the Committees on Appropriations and the Budget) shall review and study, on a continuing basis the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the legislative jurisdiction of that committee. Such committees may carry out the required analysis, appraisal, and evaluation themselves, or by contract, or may require a Government agency to do so and furnish a report thereon to the Senate. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with

benefits, or provision for evaluation after a defined period of time.

"(b) In each odd-numbered year, each such committee shall submit, not later than March 31, to the Senate, a report on the activities of that committee under this paragraph during the Congress ending at noon on January 3 of such year.

"9. Each committee which requires authorization for the expenditure of funds in excess of the amount specified in paragraph 1 of this rule shall offer one annual authorization resolution to procure such authorization. Each such annual authorization resolution shall include a specification of the amount of all such funds sought by such committee. The annual authorization resolution of any committee shall be offered not later than January 31 of that year, except that, whenever the designation of members of committees occurs during the first session of any Congress at a date later than January 20, such resolution may be offered at any time within thirty days after the date on which the members of such committees are designated. After the date on which an annual authorization resolution has been offered by any committee in any year, such committee in that year may procure authorization for additional expenditures only by offering a supplemental authorization resolution. Each such supplemental authorization resolution shall include a specification of the amount of all supplemental funds sought by that committee. Each such supplemental authorization resolution shall amend the annual authorization resolution of such committee for that year unless the committee offered no annual authorization resolution for that year, in which case the committee's supplemental authorization resolution shall not be an amendment to any other resolution and any subsequent supplemental authorization resolution of such committee for the same year shall amend the first such resolution offered by the committee for that year. Each such supplemental resolution reported by such committee shall be accompanied by a report to the Senate specifying with particularity the purpose for which such authorization is sought and the reason why such authorization could not have been sought at the time of, or within the period provided for, the submission by such committee of an annual authorization resolution for that year. This paragraph shall not apply to any resolution requesting funds in addition to the amount specified in paragraph 1 of this rule and which are to be expended only for the same purposes for which such amount may be expended. This subparagraph does not apply to the Committee on Appropriations.

"10. (a) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the Senate and all members of the committee and the Senate shall have access to such records. Each committee is authorized to have printed and bound such testimony and other data presented at hearings held by the committee.

"(b) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the Senate any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote. In any event, the report of any committee upon a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the Senate is not in session) after the day on which there has been filed with the clerk of the committee a written and signed request of a majority of the committee for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subparagraph does not apply to the Committee on Appropriations.

"(c) If at the time of approval of a measure or matter by any committee (except for the Committee on Appropriations), any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than three calendar days in which to file such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

"(1) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

"(2) shall bear upon its cover a recital that supplemental, minority, or additional views are included as part of the report.

"This subparagraph does not preclude—

"(A) the immediate filing and printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; or

"(B) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

"11. (a) Each committee (except the Committee on Appropriations) which has legislative jurisdiction shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, endeavor to insure that—

"(1) all continuing programs of the Federal Government and of the government of the District of Columbia, within the jurisdiction of such committee or joint committee, are designed; and

"(2) all continuing activities of Federal agencies, within the jurisdiction of such committee or joint committee, are carried on;

so that, to the extent consistent with the nature, requirements, and objectives of those programs and activities, appropriations therefor will be made annually.

"(b) Each committee (except the Committee on Appropriations) shall with respect to any continuing program within its jurisdiction for which appropriations are not made annually, review such program, from time to time, in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

"RULE XXVII

"REFERENCE TO COMMITTEES; MOTIONS TO DISCHARGE; REPORTS OF COMMITTEES; AND HEARINGS AVAILABLE

"1. Except as provided in paragraph 3, in any case in which a controversy arises as to the jurisdiction of any committee with respect to any proposed legislation, the question of jurisdiction shall be decided by the presiding officer, without debate, in favor of the committee which has jurisdiction over the subject matter which predominates in such proposed legislation; but such decision shall be subject to an appeal.

"2. A motion simply to refer shall not be open to amendment, except to add instructions.

"3. (a) Upon motion by both the majority leader or his designee and the minority leader or his designee, proposed legislation may be referred to two or more committees jointly or sequentially. Notice of such motion and the proposed legislation to which it relates shall be printed in the Congressional Record. The motion shall be privileged, but it shall not be in order until the Congressional Record in which the notice is printed has been available to Senators for at least twenty-four hours. No amendment to any such motion shall be in order except amendments to any instructions contained therein. Debate on any such motion, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than two hours, the time to be equally divided between, and controlled by, the majority leader and the minority leader or their designee.

"(b) Proposed legislation which is referred to two or more committees jointly may be reported only by such committees jointly and only one report may accompany any proposed legislation so jointly reported.

"(c) A motion to refer any proposed legislation to two or more committees sequentially shall specify the order of referral.

"(d) Any motion under this paragraph may specify the portion or portions of proposed legislation to be considered by the committees, or any of them, to which such proposed legislation is referred, and such committees or committee shall be limited, in the consideration of such proposed legislation, to the portion or portions so specified.

"(e) Any motion under this subparagraph may contain instructions with respect to the time allowed for consideration by the committees, or any of them, to which proposed legislation is referred and the discharge of such committees, or any of them, from further consideration of such proposed legislation.

"4. (a) All reports of committees and motions to discharge a committee from the consideration of a subject, and all subjects from which a committee shall be discharged, shall lie over one day for consideration, unless by unanimous consent the Senate shall otherwise direct.

"(b) Whenever any committee (except the Committee on Appropriations) has reported any measure, by action taken in conformity with the requirements of paragraph 7 of rule XXVI, no point of order shall lie with respect to that measure on the ground that hearings upon that measure by the committee were not conducted in accordance with the provisions of paragraph 4 of rule XXVI.

"5. Any measure or matter reported by any standing committee shall not be considered in the Senate unless the report of that committee upon that measure or matter has been available to Members for at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of that measure or matter. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the Senate prior to the consideration of such measure or matter in the Senate. This paragraph—

"(1) may be waived by joint agreement of the majority leader and the minority leader of the Senate; and

"(2) shall not apply to—

"(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress, and

"(B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

"6. (a) The report accompanying each bill or joint resolution of a public character reported by any committee (except the Committee on Appropriations and the Committee on the Budget) shall contain—

"(1) an estimate, made by such committee, of the costs which would be incurred in carying out such bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following such

fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years), except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period; and

"(2) a comparison of the estimate of costs described in subparagraph (1) made by such committee with any estimate of costs made by any Federal agency; or

"(3) in lieu of such estimate or comparison, or both, a statement of the reasons why compliance by the committee with the requirements of subparagraph (1) or (2), or both, is impracticable.

"(b) Each such report (except those by the Committee on Appropriations) shall also contain—

"(1) an evaluation, made by such committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution. The evaluation shall include (A) an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (B) a determination of the economic impact of such regulation on the individuals, consumers, and businesses affected, (C) a determination of the impact on the personal privacy of the individuals affected, and (D) a determination of the amount of additional paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which determination may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution; or

"(2) in lieu of such evaluation, a statement of the reasons why compliance by the committee with the requirements of clause (1) is impracticable.

"(c) It shall not be in order for the Senate to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of subparagraphs (a) and (b) on the objection of any Senator.

"7. Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall make a report thereon and shall include in such report or in an accompanying document (to be prepared by the staff of such committee) (a) the text of the statute or part thereof which is proposed to be repealed; and (b) a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions which would be made by the bill or joint resolution if enacted in the form recommended by the committee. This paragraph shall not apply to any such report in which it is stated that, in the opinion of the committee, it is necessary to dispense with the requirements of this subsection to expedite the business of the Senate.

"RULE XXVIII

"CONFERENCE COMMITTEES; REPORTS; OPEN MEETINGS

"1. The presentation of reports of committees of conference shall always be in order, except when the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is voting or ascertaining the presence of a quorum; and when received the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate.

"2. Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

"3. (a) In any case in which a disagreement to an amendment in the nature of a substitute has been referred to conferees, it shall be in order for the conferees to report a substitute on the same subject matter; but they may not include in the report matter not committed to them by either House. They may, however, include in their report in any such case matter which is a germane modification of subjects in disagreement.

"(b) In any case in which the conferees violate subparagraph (a), the conference report shall be subject to a point of order.

"4. Each report made by a committee of conference to the Senate shall be printed as a report of the Senate. As so printed, such report shall be accompanied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. Such statement shall be sufficiently detailed and explicit to inform the Senate as to the effect which the amendments or propositions contained in such report will have upon the measure which those amendments or propositions relate.

"5. If time for debate in the consideration of any report of a committee of conference upon the floor of the Senate is limited, the time allotted for debate shall be equally divided between the majority party and the minority party.

"6. Each conference committee between the Senate and the House of Representatives shall be open to the public except when managers of either the Senate or the House of Representatives in open session determine by a rollcall vote of a majority of those managers present, that all or part of the remainder of the meeting on the day of the vote shall be closed to the public.

"RULE XXIX

"PRINTING OF PAPERS, ETC.

"1. Every motion or resolution to print documents, reports, and other matter transmitted by the executive departments, or to print memorials, petitions, accompanying documents, or any other paper, except bills of the Senate or House of Representatives, resolutions submitted by a Senator, communications from the legislatures or conventions, lawfully called, of the respective States, shall, unless the Senate otherwise order, be referred to the Committee on Rules and Administration. When a motion is made to commit with instructions, it shall be in order to add thereto a motion to print.

"2. Motions or resolutions to print additional numbers shall also be referred to the Committee on Rules and Administration; and when the committee shall report favorably, the report shall be accompanied by an estimate of the probable cost thereof; and when the cost of printing such additional numbers shall exceed the sum established by law, the concurrence of the House of Representatives shall be necessary for an order to print the same.

"3. Every bill and joint resolution introduced or reported from a committee, and all bills and joint resolutions received from the House of Representatives, and all reports of committees, shall be printed, unless, for the dispatch of the business of the Senate, such printing may be dispensed with.

"RULE XXX

"WITHDRAWAL OF PAPERS

"1. No memorial or other paper presented to the Senate, except original treaties finally acted upon, shall be withdrawn from its files except by order of the Senate.

"2. The Secretary of the Senate shall obtain at the close of each Congress all the noncurrent records of the Senate and of each Senate committee and transfer them to the General Services Administration for preservation, subject to the orders of the Senate.

"RULE XXXI

"COMMITTEE STAFF

"1. (a) Each standing committee (other than the Committee on Appropriations) is authorized to appoint, by majority vote of the committee, not more than six professional staff members in addition to the clerical staffs. Such professional staff members shall be assigned to the chairman and the ranking minority member of such committee as the committee may deem advisable, except that whenever a majority of the minority members of such committee so request, two of such professional staff members may be selected for appointment by majority vote of the minority members and the committee shall appoint any staff members so selected. A staff member or members appointed pursuant to a request by the minority members of the committee shall be assigned to such committee business as such minority members deem advisable. Services of professional staff members appointed by a majority vote of the committee may be terminated by a majority vote of the committee and services of professional staff members appointed pursuant to a request by the minority members of the committee shall be terminated by the committee when a majority of such minority members so request. Professional staff members authorized by this subparagraph shall be appointed on a permanent basis, without regard to political affiliation, and solely on the basis of fitness to perform the duties of their respective positions. Such professional staff members shall not engage in any work other than committee business and no other duties may be assigned to them.

"(b) Subject to appropriations which it shall be in order to include in appropriation bills, the Committee on Appropriations is authorized to appoint such staff, in addition to the clerk thereof and assistants for the minority, as the committee, by a majority vote, shall determine to be necessary, such personnel, other than the minority assistants, to possess such qualifications as the committee may prescribe.

"(c) The clerical staff of each standing committee (other than the Committee on Appropriations), which shall be appointed by a majority vote of the committee, shall consist of not more than six clerks to be attached to the office of the chairman, to the ranking minority member and to the professional staff, as the committee may deem advisable, except that whenever a majority of the minority members of such committee so requests, one of the members of the clerical staff may be selected for appointment by majority vote of such minority members and the committee shall appoint any staff member so selected. The clerical staff shall handle committee correspondence and stenographic work, both for the committee staff and for the chairman and ranking minority member on matters related to committee work, except that if a member of the clerical staff is appointed pursuant to a request by the minority members of the committee, such clerical staff member shall handle committee correspondence and stenographic work for the minority members of the committee and for any members of the committee staff appointed under subparagraph (a) pursuant to request by such minority members, on matters related to committee work. Services of clerical staff members appointed by majority vote of the committee may be terminated by majority vote of the committee and services of clerical staff members appointed pursuant to a request by the minority members of the committee shall be terminated by the committee when a majority of such minority members so request.

"(d) In any case in which a request for the appointment of a minority staff member under subparagraph (a) or subparagraph (c) is made at any time when no vacancy exists to which the appointment requested may be made—

"(1) the person appointed pursuant to such a request under subparagraph (a) may serve in addition to any other professional staff members authorized by such subsection and may be paid from the contingent fund of the Senate until such time as such a vacancy occurs, at which time such person shall be considered to have been appointed to such vacancy; and

"(2) the person appointed pursuant to such a request under subparagraph (c) may serve in addition to any other clerical staff members authorized by such subparagraph and may be paid, until otherwise provided, from the contingent fund of the Senate.

"2. (a) Staff members appointed pursuant to a request by minority members of a committee under subparagraph (a) or subparagraph (c) of paragraph 1, and staff members appointed to assist minority members of subcommittees pursuant to authority of a resolution described in paragraph 9 of rule XXVI or other Senate resolution, shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

"(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to authority of a resoltuion described in paragraph 9 of rule XXVI.

"(c) The staffs of committees (including personnel appointed pursuant to authority of paragraph 1 and personnel appointed pursuant to authority of a resolution described in paragraph 9 of rule XXVI or other Senate resolution) should reflect the relative number of majority and minority members of committees. A majority of the minority members of any committee may, by resolution, request that at least one-third of all funds of the committee for personnel (other than those funds determined by the chairman and ranking minority member to be allocated for the administrative and clerical functions of the committee as a whole) be allocated to the minority members of such committee for compensation of minority staff as the minority members may decide. The committee shall thereafter adjust its budget to comply with such resolutions. Such adjustment shall be equitably made over a four-year period, commencing July 1, 1977, with not less than one-half being made in two years. Upon request by a majority of the minority members of any committee by resolution, proportionate space, equipment, and facilities shall be provided for such minority staff.

"(d) No committee shall appoint to its staff any experts or other personnel detailed or assigned from any department or agency of the Government, except with the written permission of the Committee on Rules and Administration.

"RULE XXXII

"BUSINESS CONTINUED FROM SESSION TO SESSION

"1. At the second or any subsequent session of a Congress the legislative business of the Senate which remained undetermined at the close of the next preceding session of that Congress shall be resumed and proceeded with in the same manner as if no adjournment of the Senate had taken place.

"2. The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

"RULE XXXIII

"PRIVILEGE OF THE FLOOR

"Other than the Vice President and Senators, no person shall be admitted to the floor of the Senate while in session, except as follows:

"The President of the United States and his private secretary.

"The President elect and Vice President elect of the United States.

"Ex-Presidents and ex-Vice Presidents of the United States.

"Judges of the Supreme Court.

"Ex-Senators and Senators elect.

"The officers and employees of the Senate in the discharge of their official duties.

"Ex-Secretaries and ex-Sergeants at Arms of the Senate.

"Members of the House of Representatives and Members elect.

"Ex-Speakers of the House of Representatives.

"The Sergeant at Arms of the House and his chief deputy and the Clerk of the House and his deputy.

"Heads of the Executive Departments.

"Ambassadors and Ministers of the United States.

"Governors of States and Territories.

"Members of the Joint Chiefs of Staff.

"The General Commanding the Army.

"The Senior Admiral of the Navy on the active list.

"Members of National Legislatures of foreign countries.

"Judges of the Court of Claims.

"The Mayor of the District of Columbia.

"The Librarian of Congress and the Assistant Librarian in charge of the Law Library.

"The Architect of the Capitol.

"The Chaplain of the House of Representatives.

"The Secretary of the Smithsonian Institution.

"The Parliamentarian Emeritus of the Senate.

"Members of the staffs of committees of the Senate and joint committees of the Congress when in the discharge of their official duties and employees in the office of a Senator when in the discharge of their official duties (but in each case subject to such rules or regulations as may be prescribed by the Committee on Rules and Administration). Senate committee staff members and employees in the office of a Senator must be on the payroll of the Senate and members of joint committee staffs must be on the payroll of the Senate or the House of Representatives.

"RULE XXXIV

"SENATE CHAMBER—SENATE WING OF THE CAPITOL

"1. The Senate Chamber shall not be granted for any other purpose than for the use of the Senate; no smoking shall be permitted at any time on the floor of the Senate, or lighted cigars, cigarettes, or pipes be brought into the Chamber.

"2. It shall be the duty of the Committee on Rules and Administration to make all rules and regulations respecting such parts of the Capitol, its passages and galleries, including the restaurant and the Senate Office Building, as are or may be set apart for the use of the Senate and its officers, to be enforced under the direction of the Presiding Officer. The committee shall make such regulations respecting the reporters' galleries of the Senate, together with the adjoining rooms and facilities, as will confine their occupancy and use to bona fide reporters of newspapers and periodicals, and of news or press associations for daily news dissemination through radio, television, wires, and cables, and similar media of transmission. These regulations shall so provide for the use of such space and facilities as fairly to distribute their use to all such media of news dissemination.

"RULE XXXV

"SESSION WITH CLOSED DOORS

"1. On a motion made and seconded to close the doors of the Senate, on the discussion of any business which may, in the opinion of a Senator, require secrecy, the Presiding Officer shall direct the galleries to be cleared; and during the discussion of such motion the doors shall remain closed.

"2. When the Senate meets in closed session, any applicable provisions of rules XXXVI and XXXVII, including the confidentiality of information, shall apply to any information and to the conduct of any debate transacted.

"RULE XXXVI

"EXECUTIVE SESSIONS

"1 When the President of the United States shall meet the Senate in the Senate Chamber for the consideration of Executive business, he shall have a seat on the right of the Presiding Officer. When the Senate shall be convened by the President of the United States to any other place, the Presiding Officer of the Senate and the Senators shall attend at the place appointed, with the necessary officers of the Senate.

"2. When acting upon confidential or Executive business, unless the same shall be considered in open Executive session, the Senate Chamber shall be cleared of all persons except the Secretary, the Assistant Secretary, the Principal Legislative Clerk, the Parliamentarian, the Executive Clerk, the Minute and Journal Clerk, the Sergeant at Arms, the Secretaries to the Majority and the Minority, and such other officers as the Presiding Officer shall think necessary; and all such officers shall be sworn to secrecy.

"3. All confidential communications made by the President of the United States to the Senate shall be by the Senators and the officers of the Senate kept secret; and all treaties which may be laid before the Senate, and all remarks, votes, and proceedings thereon shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy.

"4. Whenever the injunction of secrecy shall be removed from any part of the proceedings of the Senate in closed Executive or legislative session, the order of the Senate removing the same shall be entered in the Legislative Journal as well as in the Executive Journal, and shall be published in the Congressional Record under the direction of the Secretary of the Senate.

"5. Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and to punishment for contempt.

"6. Whenever, by the request of the Senate or any committee thereof, any documents or papers shall be communicated to the Senate by the President or the head of any department relating to any matter pending in the Senate, the proceedings in regard to which are secret or confidential under the rules, said documents and papers shall be considered as confidential, and shall not be disclosed without leave of the Senate.

"RULE XXXVII

"EXECUTIVE SESSION—PROCEEDINGS OF TREATIES

"1. (a) When a treaty shall be laid before the Senate for ratification, it shall be read a first time; and no motion in respect to it shall be in order, except to refer it to a committee, to print it in confidence for the use of the Senate, or to remove the injunction of secrecy.

"(b) When a treaty is reported from a

committee with or without amendment, it shall, unless the Senate unanimously otherwise direct, lie over one day for consideration; after which it may be read a second time on demand and considered as in Committee of the Whole, when it shall be proceeded with by articles, and the amendments reported by the committee shall be first acted upon, after which other amendments may be proposed; and when through with, the proceedings had as in Committee of the Whole shall be reported to the Senate, when the question shall be, if the treaty be amended, "Will the Senate concur in the amendments made in Committee of the Whole?" And the amendments may be taken separately, or in gross, if no Senator shall object; after which new amendments may be proposed. At any stage of such proceedings the Senate may remove the injunction of secrecy from the treaty.

"(c) The decisions thus made shall be reduced to the form of a resolution of ratification, with or without amendments, as the case may be, which shall be proposed on a subsequent day, unless, by unanimous consent, the Senate determine otherwise, at which stage no amendment to the treaty shall be received unless by unanimous consent; but the resolution of ratification when pending shall be open to amendment in the form of reservations, declarations, statements, or understandings.

"(d) On the final question to advise and consent to the ratification in the form agreed to, the concurrence of two-thirds of the Senators present shall be necessary to determine it in the affirmative; but all other motions and questions upon a treaty shall be decided by a majority vote, except a motion to postpone indefinitely, which shall be decided by a vote of two-thirds.

"2. Treaties transmitted by the President to the Senate for ratification shall be resumed at the second or any subsequent session of the same Congress at the stage in which they were left at the final adjournment of the session at which they were transmitted; but all proceedings on treaties shall terminate with the Congress, and they shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon.

"RULE XXXVIII

"EXECUTIVE SESSION—PROCEEDINGS ON NOMINATIONS

"1. When nominations shall be made by the President of the United States to the Senate, they shall, unless otherwise ordered, be referred to appropriate committees; and the final question on every nomination shall be, "Will the Senate advise and consent to this nomination?" which question shall not be put on the same day on which the nomination is received, nor on the day on which it may be reported by a committee, unless by unanimous consent.

"2. All business in the Senate shall be transacted in open session, unless the Senate as provided in rule XXXV by a majority vote shall determine that a particular nomination, treaty, or other matter shall be considered in closed executive session, in which case all subsequent proceedings with respect to said nomination, treaty, or other matter shall be kept secret: *Provided*, That the injunction of secrecy as to the whole or any part of proceedings in closed executive session may be removed on motion adopted by a majority vote of the Senate in closed executive session: *Provided further*, That any Senator may make public his vote in closed executive session.

"3. When a nomination is confirmed or rejected, any Senator voting in the majority may move for a reconsideration on the same day on which the vote was taken, or on either of the next two days of actual executive session of the Senate; but if a notification of the confirmation or rejection of a nomination shall have been sent to the President before the expiration of the time within which a motion to reconsider may be made, the motion to reconsider shall be accompanied by a motion to request the President to return such notification to the Senate. Any motion to reconsider the vote on a nomination may be laid on the table without prejudice to the nomination, and shall be a final disposition of such motion.

"4. Nominations confirmed or rejected by the Senate shall not be returned by the Secretary to the President until the expiration of the time limited for making a motion to reconsider the same, or while a motion to reconsider is pending unless otherwise ordered by the Senate.

"5. When the Senate shall adjourn or take a recess for more than thirty days, all motions to reconsider a vote upon a nomination which has been confirmed or rejected by the Senate, which shall be pending at the time of taking such adjournment or recess, shall fail; and the Secretary shall return all such nominations to the President as confirmed or rejected by the Senate, as the case may be.

"6. Nominations neither confirmed nor rejected during the session at which they are made shall not be acted upon at any succeeding session without being again made to the Senate by the President; and if the Senate shall adjourn or take a recess for more than thirty days, all nominations pending and not finally acted upon at the time of taking such adjournment or recess shall be returned by the Secretary to the President, and shall not again be considered unless they shall again be made to the Senate by the President.

"7. (a) The Official Reporters shall be furnished with a list of nominations to office after the proceedings of the day on which they are received, and a like list of all confirmations and rejections.

"(b) All nominations to office shall be prepared for the printer by the Official Reporter, and printed in the Congressional Record, after the proceedings of the day in which they are received, also nominations recalled, and confirmed.

"(c) The Secretary shall furnish to the press, and to the public upon request, the names of nominees confirmed or rejected on the day on which a final vote shall be had, except when otherwise ordered by the Senate.

"RULE XXXIX

"THE PRESIDENT FURNISHED WITH COPIES OF RECORDS OF EXECUTIVE SESSIONS

"The President of the United States shall, from time to time, be furnished with an authenticated transcript of the public executive records of the Senate, but no further extract from the Executive Journal shall be furnished by the Secretary, except by special order of the Senate; and no paper, except original treaties transmitted to the Senate by the President of the United States, and finally acted upon by the Senate, shall be delivered from the office of the Secretary without an order of the Senate for that purpose.

"RULE XL

"SUSPENSION AND AMENDMENT OF THE RULES

"No motion to suspend, modify, or amend any rule, or any part thereof; shall be in order, except on one day's notice in writing, specifying precisely the rule or part proposed to be suspended, modified, or amended, and the purpose thereof. Any rule may be suspended without notice by the unanimous consent of the Senate, except as otherwise provided by the rules.

"RULE XLI

"COMMITTEE AMENDMENTS NOT WITHIN ITS JURISDICTION

"It shall not be in order to consider any proposed committee amendment (other than a technical, clerical, or conforming amendment) which contains any significant matter not within the jurisdiction of the committee proposing such amendment.

"RULE XLII

"PUBLIC FINANCIAL DISCLOSURE

"For purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the Senate as it pertains to Members, officers, and employees of the Senate.

"RULE XLIII

"GIFTS

"1. (a) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts having an aggregate value exceeding $100 during a calendar year directly or indirectly from any person, organization, or corporation having a direct interest in legislation before the Congress or from any foreign national unless, in an unusual case, a waiver is granted by the Select Committee on Ethics. In determining whether an individual has accepted any gift or gifts having an aggregate value exceeding $100 during a calendar year from any person, organization, or corporation, there may be deducted the aggregate value of gifts (other than gifts described in subparagraph (c)) given by such individual to such person, organization, or corporation during that calendar year.

"(b) For purposes of subparagraph (a), only the following shall be deemed to have a direct interest in legislation before the Congress:

"(1) a person, organization, or corporation registered under the Federal Regulation of Lobbying Act of 1946, or any successor statute, a person who is an officer or director of such a registered lobbyist, or a person who has been employed or retained by such a registered lobbyist for the purpose of influencing legislation before the Congress; or

"(2) a corporation, labor organization, or other organization which maintains a separate segregated fund for political purposes (within the meaning of section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), a person who is an officer or director of such corporation, labor organization, or other organization, or a person who has been employed or retained by such corporation, labor organization, or other organization for the purpose of influencing legislation before the Congress.

"(c) The prohibitions of subparagraph (a) do not apply to gifts—

"(1) from relatives;

"(2) with a value of less than $35;

"(3) of personal hospitality of an individual; or

"(4) from an individual who is a foreign national if that individual is not acting, directly or indirectly, on behalf of a foreign corporation, partnership or business enterprise, a foreign trade, cultural, educational or other association, a foreign political party or a foreign government.

"2. For purposes of this rule—

"(a) the term 'gift' means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance, or other transfer at death, (4) a bona fide award presented in recognition of public service and available to the general public, (5) a reception at which the Member,

officer, or employee is to be honored, provided such individual receives no other gifts that exceed the restrictions in this rule, other than a suitable memento, (6) meals, beverages, or entertainment consumed or enjoyed, provided the meals, beverages, or entertainment are not consumed or enjoyed in connection with a gift of overnight lodging, or (7) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service provided by such spouse or dependent; and

"(b) the term 'relative' has the same meaning given to such term in section 107(2) of title I of the Ethics in Government Act of 1978 (Public Law 95–521).

"3. If a Member, officer, or employee, after exercising reasonable diligence to obtain the information necessary to comply with this rule, unknowingly accepts a gift described in paragraph 1, such Member, officer, or employee shall, upon learning of the nature of the gift and its source, return the gift or, if it is not possible to return the gift, reimburse the donor for the value of the gift.

"4. (a) Notwithstanding the provisions of this rule, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officers, or employees of the Senate is in the interests of the Senate and the United States.

"(b) Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of his acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises (within the meaning of paragraph 11 of rule XLV) to participate in any such program. Prior to the beginning of any such program, the chairman of the Select Committee shall place in the Congressional Record a list of all individuals participating; the supervisors of such individuals, where applicable; and the nature and itinerary of such program.

"(c) No Member, officer, or employee may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

"RULE XLIV[1]

"OUTSIDE EARNED INCOME

"1. During the period of service in a calendar year of a Senator, or of an officer or employee of the Senate compensated at a rate exceeding $35,000 a year and employed for more than ninety days in a calendar year, the aggregate amount of the outside earned income of such individual for such period shall not exceed 15 per centum of—

"(1) the aggregate amount of the salary of such an officer or employee disbursed by the Secretary of the Senate during such period; and

"(2) in the case of a Senator, the aggregate amount of base salary paid to Senators and disbursed by the Secretary of the Senate for that period.

"2. (a) A Senator shall not receive honoraria in excess of $1,000 for each appearance, speech, or article.

"(b) An officer or employee of the Senate covered by paragraph 1 shall not receive honoraria in excess of—

"(1) $300 for each appearance, speech, or article, and

"(2) $1,500 in the aggregate in any one calendar year.

"(c) Notwithstanding the limitations under paragraph 1 or 2(b)(2), any Senator, officer, or employee may accept honoraria in excess of the amount allowed in paragraph 1 or 2(b)(2) but not in excess of $25,000, if he donates such honoraria to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954 and if no tax benefits accrue to such Senator, officer, or employee for such donation.

"3. (a) For purposes of this rule, the term 'outside earned income' shall, subject to the provisions of subparagraph (b), mean any income earned by an individual (other than the salary received as a Senator or officer or employee of the Senate) which is compensation received as a result of personal services actually rendered.

"(b) For purposes of subparagraph (a), the term 'outside earned income' does not include—

"(1) advances on books from an established trade publisher under usual contract terms;

"(2) royalties from books;

"(3) proceeds from the sale of creative or artistic works;

"(4) any 'buyout' arrangement from professional partnerships or businesses which is reasonably related to the fair market value of the partnership or business interest in the enterprise at the time of the sale of such interest, payable within a reasonable period of time, and not related to future services or profitability of the enterprise;

"(5) income from family enterprises, if the services provided by the Senator, officer or employee are managerial or supervisory in nature, necessary to protect the interests in the family enterprise and do not consume significant amounts of time while the Senate is in session; and

"(6) distributive share of partnership income if the distributive share received represents not more than a pro rata return on the capital invested in the partnership and the services provided by the Senator, officer, or employee are managerial or supervisory in nature, necessary to protect the interests in the partnership, and do not consume significant amounts of time while the Senate is in session.

"RULE XLV

"CONFLICT OF INTEREST

"1. A Member, officer, or employee of the Senate shall not receive any compensation, nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of accural of which would occur by virtue of influence improperly exerted from his position as a Member, officer, or employee.

"2. No Member, officer, or employee shall engage in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties.

"3. No officer or employee shall engage in any outside business or professional activity or employment for compensation unless he has reported in writing when such activity or employment commences and on May 15 of each year thereafter so long as such activity or employment continues, the nature of such activity or employment to his supervisor. The supervisor shall then, in the discharge of his duties, take such action as he considers necessary for the avoidance of conflict of interest or interference with duties to the Senate.

"4. No Member, officer, or employee shall knowingly use his official position to introduce or aid the progress or passage of legislation, a principal purpose of which is to further only his pecuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.

"5. No Member, officer, or employee of the Senate compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall (a) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (b) permit that individual's name to be used by such a firm, partnership, association or corporation; or (c) practice a profession for compensation to any extent during regular office hours of the Senate office in which employed. For the purposes of this paragraph, 'professional services' shall include but not be limited to those which involve a fiduciary relationship.

"6. No Member, officer, or employee of the Senate compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall serve as an officer or member of the board of any publicly held or publicly regulated corporation, financial institution, or business entity. The preceding sentence shall not apply to service of a Member, officer, or employee as—

"(a) an officer or member of the board of an organization which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, if such service is performed without compensation;

"(b) an officer or member of the board of an institution or organization which is principally available to Members, officers, or employees of the Senate, or their families, if such service is performed without compensation; or

"(c) a member of the board of a corporation, institution, or other business entity, if (1) the Member, officer, or employee had served continuously as a member of the board thereof for at least two years prior to his election or appointment as a Member, officer, or employee of the Senate, (2) the amount of time required to perform such service is minimal, and (3) the Member, officer, or employee is not a member of, or a member of the staff of any Senate committee which has legislative jurisdiction over any agency of the Government charged with regulating the activities of the corporation, institution, or other business entity.

"7. An employee on the staff of a committee who is compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall divest himself of any substantial the actions of the committee for which he holdings which may be directly affected by works, unless the Select Committee, after consultation with the employee's supervisor, grants permission in writing to retain such holdings or the employee makes other arrangements acceptable to the Select Committee and the employee's supervisor to avoid participation in committee actions where there is a conflict of interest, or the appearance thereof.

"8. If a Member, upon leaving office, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, he shall not lobby Members, officers, or employees of the Senate for a period of one year after leaving office.

"9. If an employee on the staff of a Member, upon leaving that position, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or re-

[1] Effective Jan. 1, 1983. (Effective date changed from Jan. 1, 1979, to Jan. 1, 1983, by S. Res. 93, 96–1, Mar. 8, 1979.)

tained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the Member for whom he worked or that Member's staff for a period of one year after leaving that position. If an employee on the staff of a committee, upon leaving his position, becomes such a registered lobbyist or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the members of the committee for which he worked, or the staff of that committee, for a period of one year after leaving his position.

"10. For purposes of this rule—

"(a) 'employee of the Senate' includes an employee or individual described in paragraphs 2, 3, and 4(c) of rule XLIX;

"(b) an individual who is an employee on the staff of a subcommittee of a committee shall be treated as an employee on the staff of such committee; and

"(c) the term 'lobbying' means any oral or written communication to influence the content or disposition of any issue before Congress, including any pending or future bill, resolution, treaty, nomination, hearing, report, or investigation; but does not include—

"(1) a communication (i) made in the form of testimony given before a committee or office of the Congress, or (ii) submitted for inclusion in the public record, public docket, or public file of a hearing; or

"(2) a communication by an individual, acting solely on his own behalf, for redress of personal grievances, or to express his personal opinion.

"11. For purposes of this rule—

"(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

"(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

"(c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

"(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;

"(e) the Secretary of the Senate is the supervisor of the employees of his office;

"(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

"(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, or other assistants assigned to their respective offices;

"(h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and

"(i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office.

"RULE XLVI

"PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS

"1. No Member may maintain or have maintained for his use an unofficial office account. The term 'unofficial office account' means an account or repository into which funds are received for the purpose, at least in part, of defraying otherwise unreimbursed expenses allowable in connection with the operation of a Member's office. An unofficial office account does not include, and expenses incurred by a Member in connection with his official duties shall be defrayed only from—

"(a) personal funds of the Member;

"(b) official funds specifically appropriated for that purpose;

"(c) funds derived from a political committee (as defined in section 301(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)); and

"(d) funds received as reasonable reimbursements for expenses incurred by a Member in connection with personal services provided by the Member to the organization making the reimbursement.

"2. No contribution (as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) shall be converted to the personal use of any Member or any former Member. For the purposes of this rule 'personal use' does not include reimbursement of expenses incurred by a Member in connection with his official duties.

"RULE XLVII

"FOREIGN TRAVEL

"1. Unless authorized by the Senate (or by the President of the United States after an adjournment sine die), no funds from the United States Government (including foreign currencies made available under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) shall be received for the purpose of travel outside the United States by any Member of the Senate whose term will expire at the end of a Congress after—

"(a) the date of the general election in which his successor is elected; or

"(b) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the second regular session of that Congress.

"2. No Member, officer, or employee engaged in foreign travel may claim payment or accept funds from the United States Government (including foreign currencies made available under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) for any expense for which the individual has received reimbursement from any other source; nor may such Member, officer, or employee receive reimbursement for the same expense more than once from the United States Government. No Member, officer, or employee shall use any funds furnished to him to defray ordinary and necessary expenses of foreign travel for any purpose other than the purpose or purposes for which such funds were furnished.

"3. A per diem allowance provided a Member, officer, or employee in connection with foreign travel shall be used solely for lodging, food, and related expenses and it is the responsibility of the Member, officer, or employee receiving such an allowance to return to the United States Government that portion of the allowance received which is not actually used for necessary lodging, food, and related expenses.

"RULE XLVIII

"FRANKING PRIVILEGE AND RADIO AND TELEVISION STUDIOS

"1. A Senator or an individual who is a candidate for nomination for election, or election, to the Senate may not use the frank for any mass mailing (as defined in section 3210(a)(5)(D) of title 39, United States Code) if such mass mailing is mailed at or delivered to any postal facility less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which the Senator is a candidate for public office or the individual is a candidate for Senator.

"2. A Senator shall use only official funds of the Senate, including his official Senate allowances, to purchase paper, to print, or to prepare any mass mailing material which is to be sent out under the frank.

"3. (a) When a Senator disseminates information under the frank by a mass mailing (as defined in section 3210(a)(5)(D) of title 39, United States Code), the Senator shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary a copy of the matter mailed and providing, on a form supplied by the Secretary, a description of the group or groups of persons to whom the mass mailing was mailed.

"(b) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered, and a description of the group or groups of persons to whom the mass mailing was mailed.

"4. Nothing in this rule shall apply to any mailing under the frank which is (a) in direct response to inquiries or requests from persons to whom the matter is mailed; (b) addressed to colleagues in Congress or to government officials (whether Federal, State, or local); or (c) consists entirely of news releases to the communications media.

"5. The Senate computer facilities shall not be used (a) to store, maintain, or otherwise process any lists or categories of lists of names and addresses identifying the individuals included in such lists as campaign workers or contributors, as members of a political party, or by any other partisan political designation, (b) to produce computer printouts except as authorized by user guides approved by the Committee on Rules and Administration, or (c) to produce mailing labels for mass mailings, or computer tapes and discs, for use other than in service facilities maintained and operated by the Senate or under contract to the Senate. The Committee on Rules and Administration shall prescribe such regulations not inconsistent with the purposes of this paragraph as it determines necessary to carry out such purposes.

"6. (a) The radio and television studios provided by the Senate or by the House of Representatives may not be used by a Senator or an individual who is a candidate for nomination for election, or election to the Senate less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which that Senator is a candidate for public office or that individual is a candidate for Senator.

"(b) This paragraph shall not apply if the facilities are to be used at the request of, and at the expense of, a licensed broadcast organization of an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

"RULE XLIX

"POLITICAL FUND ACTIVITY; DEFINITIONS

"1. No officer or employee of the Senate may receive, solicit, be a custodian of, or distribute any funds in connection with any campaign for the nomination for election, or the election, of any individual to be a Member of the Senate or to any other Federal office. This prohibition does not apply to two assistants to a Senator at least one of whom is in Washington, District of Columbia, who have been designated by that Senator to perform any of the functions described in the first sentence of this paragraph and who are compensated at an annual rate in excess of $10,000 if such designation has been made in writing and filed with the Secretary of the Senate and if each such assistant files a financial statement in the form provided under rule XLII for each year during which he is designated under this rule. The Secretary of the Senate shall

make the designation available for public inspection.

"2. For purposes of the Senate Code of Official Conduct—

"(a) an employee of the Senate includes any employee whose salary is disbursed by the Secretary of the Senate; and

"(b) the compensation of an officer or employee of the Senate who is a reemployed annuitant shall include amounts received by such officer or employee as an annuity, and such amounts shall be treated as disbursed by the Secretary of the Senate.

"3. Before approving the utilization by any committee of the Senate of the services of an officer or employee of the Government in accordance with paragraph 2(d) of rule XXXI or with an authorization provided by Senate resolution, the Committee on Rules and Administration shall require such officer or employee to agree in writing to comply with the Senate Code of Official Conduct in the same manner and to the same extent as an employee of the Senate. Any such officer or employee shall, for purposes of such Code, be treated as an employee of the Senate receiving compensation disbursed by the Secretary of the Senate in an amount equal to the amount of compensation he is receiving as an officer or employee of the Government.

"4. No Member, officer, or employee of the Senate shall utilize the full-time services of an individual for more than ninety days in a calendar year in the conduct of official duties of any committee or office of the Senate (including a Member's office) unless such individual—

"(a) is an officer or employee of the Senate,

"(b) is an officer or employee of the Government (other than the Senate), or

"(c) agrees in writing to comply with the Senate Code of Official Conduct in the same manner and to the same extent as an employee of the Senate.

Any individual to whom subparagraph (c) applies shall, for purposes of such Code, be treated as an employee of the Senate receiving compensation disbursed by the Secretary of the Senate in an amount equal to the amount of compensation which such individual is receiving from any source for performing such services.

"5. In exceptional circumstances for good cause shown, the Select Committee on Ethics may waive the applicability of any provision of the Senate Code of Official Conduct to an employee hired on a per diem basis.

"6. (a) The supervisor of an individual who performs services for any Member, committee, or office of the Senate for a period in excess of four weeks and who receives compensation therefor from any source other than the United States Government shall report to the Select Committee on Ethics with respect to the utilization of the services of such individual.

"(b) A report under subparagraph (a) shall be made with respect to an individual—

"(1) when such individual begins performing services described in such subparagraph;

"(2) at the close of each calendar quarter while such individual is performing such services; and

"(3) when such individual ceases to perform such services.

Each such report shall include the identity of the source of the compensation received by such individual and the amount or rate of compensation paid by such source.

"(c) No report shall be required under subparagraph (a) with respect to an individual who normally performs services for a Member, committee, or office for less than eight hours a week.

"(d) For purposes of this paragraph, the supervisor of an individual shall be determined under paragraph 11 of rule XLV.

"RULE L

"EMPLOYMENT PRACTICES

"No Member, officer, or employee of the Senate shall, with respect to employment by the State or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap."

Sec. 2. (a) Sections 131, 133, 133A, 133B, 134, 135, 136, and 139 of the Legislative Reorganization Act of 1946 insofar as they relate to the Senate, are repealed. Until otherwise provided by law or resolution of the Senate, the provisions of subsections (a) through (h) of section 202 of such Act shall not apply to committees of the Senate.

(b) Sections 243, 252(a), 253(a), and 253(b) of the Legislative Reorganization Act of 1970 are repealed.

(c) Section 703(e) of Senate Resolution 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, is repealed.

SENATE RESOLUTION 275—ORIGINAL RESOLUTION REPORTED DESIGNATING THE "HARRY FLOOD BYRD, SR., ROOM"

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution:

S. RES 275

Resolved, That room S-114 (dining room for Democratic Senators) in the U.S. Capitol is designated as the "Harry Flood Byrd, Sr., Room".

SENATE RESOLUTION 276—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 276

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Gertrude G. Dismore, mother of Karol A. Reed and to Chester H. Dismore, father of Karol A. Reed, an employee of the Senate at the time of her death, a sum to each equal to one month's compensation at the rate she was receiving by law at the time of her death said sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED FOR PRINTING

DEFENSE PRODUCTION ACT EXTENSION—S. 932

AMENDMENT NO. 575

(Ordered to be printed and to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to S. 932, a bill to extend the Defense Production Act of 1950, as amended.

AMENDMENT NO. 576

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself, Mr. CRANSTON, Mr. ARMSTRONG, and Mr. PROXMIRE) submitted an amendment intended to be proposed by them, jointly, to S. 932, a bill to extend the Defense Production Act of 1950, as amended.

Mr. PERCY. Mr. President, I will call up an amendment tomorrow to eliminate GOCO's from S. 932. Senators CRANSTON, ARMSTRONG, and PROXMIRE are cosponsors, Senator CRANSTON being the principal Democratic cosponsor.

Mr. President, I would like to further clarify the intent of my amendment to eliminate GOCO's from S. 932. If it is our intent to create a private sector synthetic fuels capacity sensitive to market forces, then GOCO's must not be allowed. My amendment, originally introduced with its complementary, technical sections, achieved this end.

Because those clarifying, technical sections raised questions among some of my colleagues, I have introduced a greatly simplified version accomplishing the same end. This new amendment deletes those sections of title I, subtitle E which would permit GOCO's and government-owned, government-operated facilities.

The importance of this action can not be stated too strongly. While I recognize that many feel the GOCO provision is necessary to assure the Government a bargaining position in building synthetic fuel plants, this view overlooks a major principle of S. 932: That concept is the vital need for synthetic fuel plants to be built and run in a way that fully reflects the marketplace.

Access to GOCO authority will permit the Government to enter into the construction of plants which the private sector has determined have no economically justifiable reason for existing. Private sector acumen in choosing technologies to develop which will be effective members of the economy is the central reason for S. 932. When the private sector determines that a technology does not merit development, that technology simply should not be implemented. What is the point of asking for business judgment on the one hand, and then denying it on the other?

Further reinforcing this stance is a report to the Senate Budget Committee produced by ICF, Inc. That report states:

GOCO's contradict every one of the guidelines (for effective commercialization of synthetic fuels technologies) just cited from the MIT work. The demonstration would be removed from the normal workings of the private sector; project managers (most likely working on a cost plus fixed fee basis) would not be subject to serious market or cost reduction pressures, and full federal financing would provide no information about the likely financing cost for a commercial project.

In addition, private industry is able to abandon a development project if it turns out that the technology is not as promising as it first appeared. By choosing a particular synthetic fuels plant, located in a particular congressional district, and then creating a Government bureaucracy to own and manage the program, Congress will have inevitably created a new "pork barrel" project. That facility will be difficult to terminate, even as it produces absolutely no useful information on the market worthiness of its product.

Mr. President, I urge my colleagues to

support this amendment. It preserves the essential role of the market in determining the use of cost-effective, well-managed synthetic fuels technologies.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Beginning on page 106, line 1 through page 111, line 19, strike subtitle E, "Corporation Construction Projects", and making conforming amendments striking references thereto throughout the bill.

AMENDMENT NO. 577

(Ordered to be printed and to lie on the table.)

Mr. GARN (for himself and Mr. CRANSTON) submitted an amendment intended to be proposed by them, jointly, to S. 932, a bill to extend the Defense Production Act of 1950, as amended.

AMENDMENT NOS. 578 AND 579

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by them, jointly, to S. 932, supra.

SUNSET ACT—S. 2

AMENDMENT NO. 580

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. PERCY. Mr. President, I am today submitting an amendment to title VI of S. 2 which will streamline the present bill while giving us a workable policy instrument to weed out programs that are not working as planned.

Last fall I offered an amendment to add a new title VI to the Sunset Act on Government accountability, which was unanimously accepted by the Senate. The thrust of the new title—requiring the President to submit a report ranking Federal programs against each other—is a valuable and essential aid to the sunset process.

During the Governmental Affairs Committee hearings on the Sunset Act this summer, Bowman Cutter, OMB's executive associate director, stated that the concept of the accountability report was very useful and that it would help OMB improve the management aspect of its responsibilities. Mr. Cutter said at our July hearing:

I see Title VI as an important organizing principle for OMB. We receive constant comments that OMB does not pay sufficient attention to evaluation efforts, or apply evaluation results to decisionmaking.

In the budget review process, we attempt to use the evaluations that have been made, but the proces moves too fast for us to organize, plan, review and assess program evaluations in the depth that Title VI would allow. With Title VI, we have a good opportunity to organize an evaluation effort at OMB that will be more effective and provide us with better results.

OMB felt, however, that the report would be better if it were submitted in conjunction with the programs up for sunset review in that Congress rather than trying to rank all Government programs in each report.

I am very pleased that OMB has taken a constructive attitude on sunset and has worked with me and my staff to perfect this title of the bill. We have reached agreement on a workable amendment and it is that language that I am introducing today.

The amendment I am submitting would require the President to submit an accountability report by May 1 of the first session of each Congress. In the report, the President would rank all programs in a budget subfunctional category that are scheduled for sunset review in that Congress.

We have not tied the President's hands in designing the accountability report, but have given him wide leeway in choosing how to structure it. The amendment stipulates only that the President base his rankings on: First, how well programs are meeting the objectives set out in the law; second, whether the programs' objectives conflict with or duplicate each other; and third, how well programs are managed. The President is required to explain these rankings briefly and add a list of programs that he would recommend for special scrutiny by Congress.

Mr. President, this is a highly workable process that will help both the administration and Congress better manage the Federal Government. It will mean that Government programs will come under the same type of examination that private enterprise makes of its own programs. I am delighted to have the administration's support of this amendment, which I will offer to S. 2 when the Governmental Affairs Committee marks it up later this year.

Mr. President, I ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 580

"On page 47, beginning with line 4, strike out all through line 9 on page 50 and insert the following:

"TITLE VI—GOVERNMENT ACCOUNTABILITY

"SEC. 601 (a). The Congress finds that—

"(1) public confidence in the ability of the Congress and the executive branch to manage the Federal Government has declined;

"(2) the Federal Government should be increasingly more accountable as it acts to serve the public interest;

"(3) the executive branch, the Congress and the public do not possess adequate information on the relative effectiveness of Federal programs;

"(4) the taxpaying public is properly demanding more accountability for the expenditure of tax revenues and demanding that public expenditures not grow any larger with respect to the economy as a whole.

"(b) The purposes of this Title are to—

"(1) identify those programs which are ineffective and determine the cause of their ineffectiveness;

"(2) encourage the development of improved methods for evaluating Federal programs;

"(3) provide for more professional and efficient management of the Federal Government.

"SEC. 602 (a). Not later than May 1 of the first session of the Ninety-seventh Congress and every two years thereafter, the President shall submit to Congress an Accountability Report assessing program effectiveness and providing information to assist Congress in the review and reauthorization of these programs.

"(b) Each Accountability Report shall include information on programs that are scheduled for reauthorization by September 30th of the year following the year in which an Accountability Report is transmitted to Congress, in accordance with the sunset reauthorization cycle in this Act.

"(c) Each Accountability Report shall contain such information and in such form and detail as the President may determine, provided that each program included in an Accountability Report shall be ranked as to its effectiveness relative to all other programs within that program's budget subfunctional category.

"(d) The program rankings shall be based on an assessment of—

"(1) the degree to which the program is achieving its statutory objectives;

"(2) the extent to which a program's objectives are in conflict with or duplicative of other program objectives; and

"(3) the overall quality of the management of the program by the responsible executive department or independent establishment.

"(e) The President shall accompany his rankings with:

"(1) a brief evaluation and explanation of the rankings, and

"(2) a list of those programs or areas that the President recommends for termination or administrative or congressional improvement.

"SEC. 603. For the purpose of this Title:

"(a) the term 'program' means an activity or set of activities identified as appropriate for evaluation of effectiveness in pursuing a governmental goal but shall not include foreign intelligence activities.

"(b) the term 'executive department' shall have the meaning given it in section 101 of title 5, United States Code.

"(c) The term 'independent establishment' shall have the meaning given it in section 104 of title 5, United States Code except that it includes the United States Postal Service and the Postal Rate Commission but does not include the General Accounting Office or the Independent Regulatory Agencies.

"(d) the term 'sunset reauthorization cycle' shall have the same meaning as used in Title I of this Act.".

NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, I would like to announce, for the information of Senators and the public, that the Committee on Veterans' Affairs will hold a second hearing, following up on the joint hearing that the House and Senate Committees on Veterans' Affairs held on October 25, to investigate admitting practices and treatment of veterans in Veterans' Administration hospitals and clinics in Orlando, Fla., on November 10. The hearing, to be chaired at my request by my colleague on the Veterans' Affairs Committee (Mr. STONE), will begin at 11 a.m., in room 327 of the County Court House, 65 East Central Avenue, Orlando.

Persons desiring further information may contact Edward Scott, General Counsel of the committee, at (202) 224-9126.●

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommitee on Parks, Recreation, and Renewable Resources, Committee on Energy and Natural Resources.

The hearing is scheduled for Thursday, November 15, beginning at 10 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony will be heard on S. 1567, a bill to establish the Yaquina Head Outstanding Natural Area in Oregon.

For further information regarding the hearing, you may wish to contact Mr. Robert Kutler of the subcommittee staff at 224-7144.

Those wishing to submit a written statement for the record should write to the Subcommittee on Parks, Recreation, and Renewable Resources, 3106 Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

● Mr. PELL. Mr. President, I wish to announce that the subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources will hold an oversight hearing on the administration of title III of the Higher Education Act, relating to developing institutions. The hearing will begin at 10 a.m. on Friday, November 9, in room 4230 Dirksen Senate Office Building.

Questions about the hearing should be directed to Jean S. Frohlicher or Richard T. Jerue of the subcommittee staff at 224-7666.●

RURAL DEVELOPMENT SUBCOMMITTEE

● Mr. LEAHY. Mr. President, as I and many in this Chamber have said for quite a while now, rural needs are long but the money is short. Recognizing this fact it is imperative that Congress continually work to make certain that those Federal programs serving rural America work the best they possibly can.

In line with this the Rural Development Subcommittee which I chair will continue to hold oversight hearings on Federal programs that are designed to serve rural America. The subcommittee has held several such hearings earlier this year on the management of the Farmers Home Administration, on health, on transportation, on the standby gasoline rationing plan, and on other issues.

Mr. President, one of the most pressing needs in rural America is housing. In 1949 Congress set the goal of decent, safe, and sanitary housing for every American. We have fallen short of this goal nationally, and shamefully short in rural America where 50 percent of the substandard housing in this country is found.

There are existing Federal programs designed to meet many of these housing needs but they are not sufficiently funded to attain the high goal set in 1949. Inflation is eating at the very fabric of this society and we can no longer afford to throw money at such national problems. We must now concentrate heavily on the efficient operation of all rural programs. The Federal dollar must be stretched and waste eliminated. The best tool in hand to accomplish such efficiency is congressional oversight hearings. Such hearings are neither glamorous nor do they make the headlines, but they are effective and necessary.

Mr. President, on November 29 and 30 the Rural Development Subcommittee will hold oversight hearings on rural housing. Both hearing days will commence at 8 a.m. and conclude at noon. The November 29 hearing segment will focus on rural housing through the Farmers Home Administration's section 515 program and the Department of Housing and Urban Development's section 8 program. On November 30 the subcommittee will turn its sights to several home weatherization programs serving rural areas.

Testimony will be taken from both public and administration witnesses. Anyone seeking information on the hearings should contact Ken Pierce of my staff at 224-4242.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT GENERALLY

Mr. JOHNSTON. Mr. President, both of these requests have been cleared on both sides.

Mr. President, I ask unanimous consent that the Taxation and Debt Management Generally Subcommittee of the Committee on Finance be authorized to meet during the session of the Senate today beginning at 2:30 p.m. to hold a hearing on Technical Corrections Act of 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the sessions of the Senate today and Thursday, November 8, 1979, beginning at 2 p.m. to hold hearings on pending judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SIKKIM ASSERTS ITSELF

● Mr. PELL. Mr. President, as many of my colleagues are aware, the small Himalayan kingdom of Sikkim was gobbled up by India in 1975 against the will of the Sikkimese people. This annexation, which the Indian Government continues to refer to euphemistically as a merger, was preceded by a Sikkim Assembly election which was held under very questionable circumstances and which resulted in the pro-Indian Janata party winning every seat.

This past October 12, the first Sikkimese elections since 1974 were held, and the Janata party that collaborated in Sikkim's loss of independence did not win a single seat. Instead, the Sikkim Parashad party, whose members in 1974 opposed Sikkim's absorption by India, won a clear majority. As one of the new controlling party's members said after the October 12 election: "Our honor has been affirmed. The election has shown that the event of 4 years ago was an annexation and not a merger."

Although the winning party in the Sikkim election will not attempt to undo the annexation, there will be an effort to preserve Sikkim's ethnic identity in the face of an invasion of Indian settlers. I very much hope, in this connection, that the Indian Government will see the wisdom of granting special status to Sikkim.

Although I continue to feel deep regret and indignation over the annexation of Sikkim, I take heart that with a new government the brave people of Sikkim will reassert their unique personality and will survive as a proud and distinct culture. It may also be that the fate of Sikkim will serve to brace her small neighbors, Bhutan and Nepal, to be extra vigilant regarding the preservation of their own independence.

Mr. President, the London Observer of October 7 and the New York Times of October 22 published very perceptive articles on the situation in Sikkim and neighboring areas, and I ask that they be printed in full in the RECORD.

The articles follow:

[From the London Observer, Oct. 7, 1979]

BHUTAN ANGERS INDIA

The Kingdom of Bhutan is determined to stay independent of India in fact as well as in name—and already the effects can be seen on Indian politicians.

Unabashedly peddling the might-is-right theory, Mrs. Indira Gandhi whipped up chauvinistic fervour last week by rhetorically asking a cheering audience in Madras: 'Can you believe that a great country like India has to take it lying down from a tiny country like Bhutan?'

The 'it' refers to unmistakable signs that King Jigme of Bhutan, who was crowned in 1974 amid anxious fears that both his throne and life were in peril, is wary of going the way of Sikkim, the adjoining Himalayan kingdom annexed by Mrs. Gandhi's Government in 1975. Sikkim's first election since then is to be held on Friday and in Calcutta, former Indian External Affairs Minister Atal Behari Vajpayee has complained of 'foreign interference' there.

Even allowing for political hyberbole during the run-up to an election, the statements reveal New Delhi's neurotic obsession with the imperial mandate of an expansionist British Raj along the mountain border with China. Many Bhutanese—and Nepalese too—fear that unless they stand firmly on their rights, their two countries will be gobbled up like Sikkim. 'Having had Sikkum for breakfast, India hopes to lunch on Bhutan and dine on Nepal,' was how a Katmandu diplomat put it.

The prize at stake in this modern variant of Kipling's Great Game explains the recent *faux pas* when the King of Sikkim, Chogyal Palden Thondup Namgyal, was taken off a British Airways plane to London at Calcutta's Dum Dum airport.

SECRET LIST

The Chogyal was told that his name figured on a secret list of those unable to leave the country without Government clearance. He has been in disgrace since 1975, when his opposition to Mrs. Gandhi's annexation provoked a full-scale Indian military attack on the royal palace in Gangtok.

He was allowed to leave the next day and, predictably, Prime Minister Charan Singh's Government blamed over-zealous officials

for going by a blacklist compiled during Mrs. Gandhi's emergency rule.

The irony is that, with things hotting up for India all along the Himalayan border with Tibet, New Delhi was far more discomforted by the blunder than the Chogyal. The last thing Indian leaders want is the Chogyal to be in Gangtok for Friday's election.

Voters are expected to repudiate the group of politicians led by the former Chief Minister, Lendhup Dorji Kazi, and his British wife, who acted as India's agent in the annexation.

New Delhi's problem is in continuing the British legacy of treating the sub-continent as India's sphere of influence.

Though differences between Katmandu and New Delhi were reportedly patched up during King Birendra's recent talks with Charan Singh, it is significant that the monarch should have lectured India recently on 'the principles of mutual respect for sovereign equality.'

Indians are even more worried about the fate of inherited imperial privileges in Bhutan, which, constitutionally, occupies a position somewhere between Sikkum and Nepal. Though technically sovereign and in the United Nations, Bhutan is bound by a 1949 treaty to seek New Delhi's 'advice' in conducting its foreign affairs.

The Bhutanese interpret the treaty to mean that they can, if they wish, ask for Indian advice, but that such advice, when given, will not be mandatory.

[From the New York Times, Oct. 22, 1979]

SIKKIMESE FEAR LOSS OF ETHIC IDENTITY AS INDIANS MOVE IN

(By Michael T. Kaufman)

GANGTOK, INDIA, October 17.—On one level the recent elections in the lush Himalayan state of Sikkim were like the buoyantly retributive last act of a Rudolf Friml operetta.

Country people in Tibetan skirts and Nepalese pantaloons paraded in delight as it became apparent that those who opposed Sikkim's merger into India four years ago had been overwhelmingly voted in, while those who favored and engineered it were voted out.

The Crown Prince paused in his archery practice to applaud the defeat of the local noble who collaborated with Indian authorities to strip the royal family of its temporal powers. The Prince's father, the former ruler, kept gracefully out of the way by visiting his American wife and their two children in New York.

But the elections, the first here since Sikkim became India's newest, smallest and least populous state, reflect something beyond melodrama: eastern India's deep suspicion of central government.

DEFIANCE AND GUERRILLA ACTION

This unease has led to open defiance and guerrilla activities in the state of Nagaland and the Mizoram territory. Elsewhere, as in Sikkim, it is revealed in the anxieties of people who fear that their cultures, ethnic identities and hierarchies will be overwhelmed by the advance of what they call "the plainsmen."

"Our honor has been affirmed," said Lal Bahadur Basnet, a successful candidate of the Sikkim Janata Parishad Party, which won 17 of 30 seats in the legislature. Mr. Basnet was not a defender of the monarchy, having once been imprisoned by the former ruler, but he was enraged by the union of Sikkim and India, which he and his party insist was achieved by guile and force.

"The election has shown that the event four years ago was an annexation and not a merger," said Mr. Basnet, the author of a book titled "The Rape of Sikkim." The manuscript was seized in Calcutta before it could be published; his suit for its recovery is before the courts.

Mr. Basnet said the elections were a repudiation of the disputed 1975 referendum on the merger, in which 59,637 people expressed approval while only 1,496 were recorded in opposition.

NO ILLUSION ABOUT REVERSAL

But Mr. Basnet does not believe the merger can be reversed. He recognizes that his mountainous state, which borders on China, is strategically important to India, a fact underscored by the presence of the Indian Army.

Foreigners cannot enter Sikkim without a permit. Even with a permit, they may travel only 20 miles north of Gangtok. Farther north, Indian units camped as high as 16,000 feet above sea level face Chinese forces.

This wary preparedness has been in effect since the Chinese-Indian war of 1962. If full sovereignty is beyond the reach of the Sikkimese, Mr. Basnet and his fellow party members feel that much can be gained in terms of regional autonomy and protection of the status of the local population.

Mr. Basnet and many other Sikkimese, mostly young people, say such protections are needed to ward off what they see as an inundation of Indians from the plains, who bring their own culture. "We will not be able to compete against them," a recent university graduate said.

RECENT ARRIVALS FROM SOUTH

Almost all the storekeepers in Gangtok are from the plains. At the only modern hotel the desk clerk, the cook and the waiter were all recent arrivals from the south. Particularly irritating to many Sikkimese is the presence of large numbers of Indian civil servants sent to administer development programs. The belief is widespread that some are deeply involved in corruption.

It is also widely accepted that many of the jobs held by outsiders could easily be performed by local people. As part of its campaign, the victorious party pledged to encourage New Delhi to replace as many Indian civil servants as possible with qualified Sikkimese.

The party leaders have also discussed the possibility of obtaining the sort of constitutional protection that applies to the state of Kashmir, where outsiders may not own land .

The principle that certain peoples in India require special protection and guarantees is sanctioned in other legislation as well. In Sikkim, the Lepcha and Bhutia groups, the Tibetan-type peoples who lived and ruled here for centuries, have been designated "scheduled tribes," qualifying them for special government jobs and university admissions.

SIKKIMESE FLIGHT ATTENDANTS

One result of the law can be seen in the relatively high number of Sikkimese women who work as flight attendants on the Indian domestic airline. However, the Lepcha and Bhutia, who are closely linked, form only 30 percent of Sikkim's population of 300,000.

Most of the rest are Nepalese whose families migrated here in the last century or so. The two groups have had their differences, but now, according to members of both communities, they are united by the threat of the plainsmen.

Ramchandra Poudyal is the 31-year-old leader of the largely Nepalese-backed party that came in second in the elections by winning 11 seats. Mr. Poudyal was a student leader of the agitation against the monarchy that eventually led to the merger. At that time he saw politics here as the struggle of the largely Hindu Nepalese majority against domination by the Lepchas and Bhutias.

Now he feels the Nepalese have been betrayed.

Already, he says, half the registered voters in this city of 30,000 are from the plains, people Mr. Poudyal's followers contemptously refer to as "dhoti wallahs" after the billowing sheets that men in the flatlands wrap around their legs.

For Mr. Poudyal, the threat was crystalized in what he termed a "black bill" that was pending in New Delhi when India's Parliament was dissolved. This would have reserved at least 12 of the seats in Sikkim's legislature for the Lepcha-Bhutia peoples. Mr. Poudyal said this would force the Nepalese to join forces with the plainsmen, again assuming a subordinate role.

"The plainsmen say to us," one of Mr. Poudyal's supporters said, "that we are free to live and do business anywhere in India and they should be free to live and do business here. But there are 300,000 of us and more than 500 million of them. What chance do any of us have down there, and if enough of them come here with their advantages, resources and connections, what chance would we have up here?"

Similar confrontations are taking place in parts of eastern India that foreign journalists are barred from visiting.●

THE ABORTION ISSUE IN PERSPECTIVE

● Mr. McGOVERN. Mr. President, one of my deep regrets about the current political scene is the way in which the abortion issue is being distorted. All across this country, elected representatives with distinguished records of public service are being told that if they do not agree with a particular group's view on abortion, they will be targeted for defeat in the next election. This kind of single-issue dogmatism makes impossible a civil, humane political discourse.

The Washington Post of November 3, carries a story quoting the Rev. Theodore M. Hesburgh, president of the University of Notre Dame, and Mr. Daniel Callahan, former editor of Commonweal, in which they deplore the way in which the abortion issue has been distorted. I applaud the wisdom of these two respected men.

I ask that the article referred to be printed in the RECORD.

The article follows:

[From the Washington Post, Nov. 3, 1979]

TWO PROMINENT CATHOLICS CALL FOR COOLING CONTROVERSY OVER ISSUE OF ABORTIONS

Two prominent Catholics have called for a cooling off of the abortion issue.

Daniel Callahan, a prominent ethicist and former editor of the Catholic magazine, "Commonweal," has urged the government to end "arbitrary discrimination" by restoring Medicaid payments to the poor for abortions that have been cut off by Congress.

He said poor women have just as much a legal right to abortions as do those who can afford to pay.

Callahan also called for less war between abortion rights advocates and those in the Right-to-Life movement.

Meanwhile, the Rev. Theodore M. Hesburgh, president of the University of Notre Dame, said that the abortion issue is "greatly distorting the electoral process in America."

Hesburgh, in a written message to a national conference on abortion at the university, deplored that political candidates who "agree 95 percent with Catholic principles on social justice on most issues of public policy have been defeated by their opposition on this issue and have been replaced by candidates who, agreeing superficially on this issue, disagree with us on almost every other issue bearing on justice and equality."

Hesburgh said the conference would "attempt to clarify the issue, to establish the facts, and, hopefully, to elevate the discussion from inflammatory rhetoric on both opposing sides to some sober and reasonable conclusions."

Callahan, now director of the Hastings Center Institute of Society, Ethics and the Life Sciences in Hasting-on-Hudson, N.Y., said an acceptable public policy on abortion should neither encourage nor discourage abortions, and protect the rights of both those who do and do not want to perform them.

The right emphasis, he said, is to "reduce the need for abortion . . . through better welfare programs for mothers in general, better sex education and contraceptive services and better across-the-board programs for teen-agers at risk of pregnancy."

Callahan's comments were published in the cover story of "Family Planning Persoectives," a journal published by the Planned Parenthood Federation of America.

Callahan also cautioned abortion rights advocates against injecting the religious issue into their arguments.

To heap abuse on Catholic bishops for their opposition to abortion is to risk alienating large numbers of Catholics, he said.●

S. 1496—THE MOTOR CARRIER REGULATORY IMPROVEMENT ACT OF 1979

● Mr. PRESSLER. Mr. President, I am pleased to join my colleagues, Senators INOUYE, RANDOLPH, and GRAVEL, in cosponsoring S. 1496, the Motor Carrier Regulatory Improvement Act of 1979.

Efforts by the administration and in the Congress, along with recent actions by the Interstate Commerce Commission, have focused much attention on the move toward deregulation of our major transportation industries.

While I am anxious to reduce unnecessary burdens placed on private enterprise by Government regulation, I believe that it is vital that we seriously scrutinize any proposal to remove current regulations governing essential transportation services. Without close examination of the possible results of sweeping deregulation of the motor carrier industry, any action we take could well serve to severely reduce service to small communities and rural areas.

Proponents of deregulation in the railroad, truck, and bus industries have stated that "what deregulation did for the airlines, it can do for the other industries." This, Mr. President, is precisely what concerns me.

Under proposals for sweeping deregulation, what will happen to small, remote communities presently protected by common carrier obligations? We are still assessing the impact of airline deregulation and it does not seem apparent that deregulation has improved services in small towns and rural areas.

This past July, I joined my colleague, Senator EXON, in holding a Commerce Committee hearing on transportation deregulation in South Dakota. The message from South Dakotans was one of great caution on the issue of truck deregulation.

As in many other rural States, shippers in South Dakota are often dependent on one mode of transportation for movement of grain and other products. These captive shippers may have no alternative to keep freight rates competitive or in the event that service is discontinued.

With the passage of S. 1905, the Milwaukee Railroad Restructuring Act, I know that my colleagues are well aware of the deteriorated condition of rail service in Western and Midwestern States. Should the State of South Dakota lose all of the rail lines now subject to abandonment, trucking concerns become even more important, for freight shipment will be almost totally dependent on this mode of transportation.

By allowing trucking firms total flexibility to enter markets where they can make higher markets, we will precipitate a rush to major, more lucrative markets, leaving rural areas abandoned.

Deregulation proposals hold out the promise of increased competition by ending antitrust exemption for setting rates. While I strongly support measures to promote competition, I am especially concerned about the effect this price-cutting stimulus will have on the small, independent competitor.

The small operator has served our rural areas and agricultural shippers well. The small, independent operator will be at a severe disadvantage in competing with stronger trucking companies that can afford to drastically cut rates. As small trucking companies and independent operators who provide trucking service to remote areas are forced out of business, captive shippers will suffer, for larger companies are not at all geared to the needs of small communities.

It is true that many inefficiencies contained in the present motor carrier regulatory structure must be addressed and corrected. The Commerce Committee, on which I serve, has begun to consider this issue in hearings and will continue to work toward a solution over the next several months. During that time, I will work to insure that S. 1496 and the concerns it seeks to protect receive adequate consideration.

The Motor Carrier Regulatory Improvement Act refines and improves the current system of economic regulation of the trucking industry. Its objective is to make the industry more responsive to public need without disrupting essential transportation services.

The trucking industry has well served our Nation's economic needs. We must insure that action taken by the Congress preserves its effectiveness and I am pleased to join in cosponsoring S. 1496 on this behalf.●

SENATOR NELSON TESTIFIES ON 80 PERCENT DAIRY PRICE SUPPORTS

● Mr. MCGOVERN. Mr. President, our distinguished colleague and my good friend from Wisconsin, GAYLORD NELSON, has long been one of the most knowledgeable and forceful advocates in Congress on behalf of equity for the dairy farmer.

Senator NELSON led the efforts in 1977 to convince President Carter to support the measure which raised dairy price supports above 80 percent of parity—a program which guaranteed market stability both for dairy farmers and consumers all over the country.

Senator NELSON continues to lead the efforts to maintain this level of support. He recently testified on the subject at a hearing before the Senate Agriculture Subcommittee on Agricultural Production, Marketing and Stabilization of Prices. Senator NELSON provided evidence that the 80-percent minimum support level and semiannual adjustments for inflation have been highly successful.

Moreover, Senator NELSON's testimony emphasized the need to maintain the 80-percent parity level as provided in S. 80, legislation he introduced earlier this year. His testimony demonstrated the need for a minimum 80-percent price support level.

The quality of his presentation to our subcommittee is readily apparent in the following excerpt from his testimony:

The fact of the matter is that the Government is not subsidizing the farmer. The dairy farmer is subsidizing the consumer. When one produces a good product for a low return for one's labor and frequently little or no return for investment or management, it is the producer who is paying the subsidy, not the consumer.

The free market price of milk is above the minimum price support level the Government now supports. That has been the case for some time now. And that means that the 80-percent dairy price support level costs the Federal Treasury very little compared to the beneficial impact of the support level—a vital and aggressive dairy industry composed of thousands of small family farmers.

I commend this insightful testimony to my colleagues and I ask that it be printed in the RECORD.

The testimony follows:

TESTIMONY OF SENATOR GAYLORD NELSON

Mr. Chairman, I appreciate the opportunity to discuss legislation—S. 80—I introduced with you and Senators Proxmire, McGovern, Riegle, and Moynihan on the first day of the 96th Congress to extend the 80 percent minimum price support level for dairy products for two more years and continue the semiannual adjustments for inflation through September 30, 1981.

As you know, the Food and Agriculture Act of 1977 raised the minimum dairy price support level from 75 percent to 80 percent for a two-year period which ended on September 30, 1979. All other sections of that Act were authorized for four years, but the dairy price support provisions were only authorized for two years.

During consideration of the 1977 Act, many of us who are familiar with the nature of family dairy farms urged that the 80 percent minimum be set for the full, four year duration of the Act. However, Congress determined that the 80 percent minimum should be tried for two years and evaluated on that experience.

The time has now come to decide whether to extend the 80 percent minimum for the last two years of the Act. In my judgment, there is no question that it should be extended. This judgment is based on overwhelming evidence that the 80 percent price

support floor has worked well for both the dairy farmer and the consumer.

The dairy price support program in effect during the past two years has created an economic climate to permit most dairy farmers to stay in business. And as a result of this, an adequate and stable supply of milk has been available at reasonable prices for consumers.

By any measure, dairy products remain a bargain for the American consumer. Several facts substantiate this assertion:

Between 1967 and 1978 the Consumer Price Index indicates that dairy products increased by 86 percent, while all food prices increased 111 percent during this period of time.

A dairy farmer receives about 95 cents for each gallon of milk he produces. By contrast, a gallon jug of spring water costs anywhere from 69 cents to a dollar at the grocery store.

It took the average worker engaged in manufacturing 16 minutes of work to earn enough to buy a half gallon of milk in 1950. Today it takes less than 9 minutes.

Mr. Chairman, the 80 percent minimum dairy price support program makes good economic sense. In recognition of this fact, two weeks ago Secretary of Agriculture Bob Bergland established the dairy price support level at 80 percent of parity for the 1979–1980 marketing year. While the support level could have been reduced to 75 percent on October 1, 1979, the Secretary of Agriculture determined that 80 percent of parity was a more appropriate level.

In setting the support level at 80 percent, Secretary of Agriculture Bergland assured the nation's dairy farmers that they would receive no less than 80 percent of the price that farmers got for their milk during a baseline period some 75 years ago, when, it has been agreed, farmers received a reasonable income for their milk.

If the normal market price for milk falls below 80 percent of parity, the federal government will step in and begin to buy milk products like butter, cheese, and nonfat dry milk, at a price that pays farmers 80 percent of parity for their products.

That, in essence, is how the federal milk price support system works.

The Secretary's action maintaining an 80 percent support price level means that the government has placed a floor of $11.22 per hundred weight on the price a farmer receives for milk. At this time, the Minnesota-Wisconsin manufacturing milk price in September was $11.22. Therefore, at the present time the retention of the 80 percent figure will cost the federal treasury almost nothing.

The question of what the appropriate level of dairy price supports ought to be was studied earlier this year by the Congressional Budget Office (CBO). On April 11, 1979, Dr. Alice Rivlin, director of the CBO testified before the Dairy and Poultry Subcommittee of the House Agriculture Committee. In her statement, Dr. Rivlin testified as to the CBO's analysis of the effects of milk price supports over the next 5 years at four alternative support levels-75, 80, 85, and 90 percent of parity.

The major conclusion of this analysis is that adequate supplies of milk will be attained with the support price at the current 80 percent of parity. The CBO found that there are somewhat greater risks of price instability and interruptions in supply which result from 75 percent of parity. Dr. Rivlin had the following comment on maintaining 80 percent of parity:

"If the minimum support price is continued at 80 percent of parity for the next five years, annual receipts from the sale of milk would average about $18.0 billion and annual retail spending for dairy products would average $37.3 billion. In real terms, the incomes of dairy farmers and the retail prices of dairy products would continue at current levels.

Annual CCC (Commodity Credit Corporation) purchases would average 3.6 billion pounds or about 3 percent of milk production, a level historically associated with relatively high price stability. Annual Federal budget outlays would average approximately $600 million. In short, 80 percent of parity would provide price stability and, as compared with the recent situation, *would not cause any major changes in dairy farmers' incomes, consumer prices, or Federal budget outlays.*" (emphasis added)

Mr. Chairman, the dairy price support program has been an integral part of the U.S. food policy for 30 years—since 1949. The 80 percent dairy price support minimum is absolutely essential to provide American consumers an adequate supply of milk and dairy products at a fair price and to guarantee the Nation's dairy farmers an income that will keep farmers and their families in business. This basic premise is supported by the analysis provided by Dr. Rivlin's agency.

Those who would oppose maintaining an 80 percent parity level this year and in future years demonstrate that they just do not understand the nature of family dairy farms. Those family dairy farmers who have survived—and many have not—have done so because the present price support program works, but also because of their dedication to their profession and to the willingness of the entire farm family to take an active role in the operation of the dairy farms.

The family works together in good times and bad, on holidays and on every day of the week to milk the herd twice a day. The family sacrifices the ordinary return it should receive for its manual labor, not to mention the return it could otherwise expect in the marketplace for the money it has invested in its venture. Other than our Nation's farmers, I know of no other economic groups in America frequently works for less than the minimum wage.

Mr. Chairman, an examination of the situation Wisconsin confronting Wisconsin dairy farmers is instructive in the consideration of the pending legislation.

About 45,300 dairy farmers reside in Wisconsin, making it the largest producer of milk in the United States—"America's Dairyland," as our license plates proclaim. Collectively these farms produce over one seventh of the nation's total milk supply, more than farms of any other state. The availability of so much milk in Wisconsin makes it a leader in another field—the production of cheese. About 40 percent of the nation's total supply originates in Wisconsin.

Most dairy farm families in Wisconsin milk between 30 and 49 cows. The average herd on Wisconsin farms now numbers 36 cows.

On the average workday, the Wisconsin dairy farmer works 10 to 12 hours, and his wife works 4 to 5 hours in farm-related activities. During the haying and seeding seasons they work an additional four to six hours.

Sunday is not a day of rest on any dairy farm. It still means several hours of work for the family. Day in, day out, year in, year out, the cows must be milked and fed and milking equipment cleaned. Chores never stop. If the dairy farmer hopes to take any days off during the year, he must arrange to have his cows milked by relatives, friends, or children staying home.

People who do not know what the life of a dairy farm family is like often times imagine it as idyllic.

In reality, the farmer spends his life living with uncertainty. He cannot control the production of his cows. He cannot throw a switch and turn them off like a machine when the market becomes glutted and prices plummet. He cannot predict or control the effects of weather.

In view of the uncertainties associated with dairy farming, the need for constant attention to duty, and the potential for disaster, what financial return can the dairy farmer and his family expect for their labors?

According to an accounting of the most efficient, average-size (30 to 49 cows) dairy farms in Wisconsin, total disposable income for the entire farm family's labors in 1978 was $13,532. This figure, let me emphasize, does not represent the average income of dairy farm families in Wisconsin during 1978. Rather it reflects the average disposable income of Wisconsin's most successful dairy farmers.

To get a better picture of the "average" dairy farmer in Wisconsin, Truman Graf—a noted agricultural economist at the University of Wisconsin in Madison—thoroughly studied the statistics collected by Wisconsin's most efficient dairy farmers and concluded that most farm families in the state of Wisconsin earned around $10,000 for all of their work in 1978. Some earned less!

Translated into other terms, the compensation received by Wisconsin dairy farmers and their families for their work on an hourly basis was less than the minimum wage, ranging between $1.70 an hour to $2.60 an hour computed on a 100-hour per week, 52 week per year basis.

Total farm family income from dairying, therefore, was extremely low in my judgment. After all, dairy farmers have an investment in land, buildings, livestock, and equipment that averages close to $200,000 and often exceeds $300,000.

Mr. Chairman, as you well know, there are few people in America who would work 365 days a year, Sundays and holidays, for $1.70 to $2.60 an hour.

That is why it is incredible to find many consumers, consumer groups and the news media opposing a dairy price support level of 80 percent of parity. This parity level permits the dairy farmers of this country to stay in business by being assured of a minimum income for all their labors and investment. An income, as I pointed out, that does not even equal the minimum wage. Nothing can be gained at all by further squeezing the dairy farmers.

Not infrequently those of us who support at least an 80 percent parity level are asked why the American public should continue to subsidize the dairy farmer. My response puzzles them. I point out that they are asking the wrong question. The right question is: How much longer can the dairy farmer be expected to continue to subsidize the consumer? When one efficiently produces a good product for a low return for one's labor and frequently little or no return for investment or management, it is the producer who is paying the subsidy, not the consumer.

So the question ought to be: Why should the dairy farmer be required to continue subsidizing the consumer?

The answer thousands of dairy farmers have given to this question is clear. They have had to quit dairy farming. In Wisconsin and in every other dairy farming area in this country, far more farmers have quit than have stayed in business during the past twenty-five years.

And so it is quite clear why Congress and the Administration have determined that 80 percent of parity is the appropriate level of support for dairy products. It helps prevent more farmers from going out of business and therefore assures a constant supply of a vital food at a fair price.

If the dairy farmer has to work every day of the year including Christmas, Thanksgiving and other holidays, why does he continue? He does it because that's what he does best; he loves the land as all farmers do; he cherishes his independence; he likes to see things grow; he knows his work is useful and necessary.

In conclusion, Mr. Chairman, let me say that the current 80 percent support price level for dairy products is an appropriate

minimum level of support. It has stabilized and moderately improved farm family incomes during the past two years. It has helped prevent dairy farmers from turning to other agricultural pursuits or from selling out and moving to urban areas where 40-hour-a-week jobs, cost-of-living raises and pensions are the norm, not the exception.

Maintaining a vital and aggressive dairy industry composed of thousands of small family farmers certainly is in the national interest. Any other policy that puts small dairy farmers out of business and moves in the direction of conglomerate corporate agriculture ultimately will not serve the interests of the consumer or the country. That is what is at stake here.

Thank you.

TRIBUTE TO LEWIS MUMFORD

● Mr. PELL. Mr. President, Lewis Mumford is truly one of the 20th century's most eminent urban planners and environmentalists. At the age of 84, he is still the paragon of creative thinking about America's urban resources and environmental problems.

Mr. Mumford's contributions will be specially honored tonight at the Harvard Law School, where he will receive the first award of the Lincoln Institute of Land Policy. I would like to join in the many tributes which will be given to Lewis Mumford tonight, for he is a man who has had a lasting influence on my own thinking on environmental issues. Mr. Mumford has been a prodigious writer, and the impact of books like the City in History, for which he received the National Book Award in 1961, can be seen in contemporary State and Federal legislation land-use planning.

In his wide range of accomplishments, Mr. Mumford has been one of the few great "Renaissance men" of the 20th century, and I add my warmest personal congratulations to the well-deserved tributes he will receive tonight.●

U.S. VIEWS ON GOLD

● Mr. GOLDWATER. Mr. President, Mr. Paul Volcker, in my opinion, has earned the high niche in which he is held. He has always been a believer in our market system and he has been a strong advocate of the proper relationship of government and business. Not that it means in any particular way, but I was looking through an old copy of the Commercial and Financial Chronicle of September 21, 1972, and found some very interesting views expressed by Mr. Volcker on the subject of the U.S. gold policy. This article is interesting because it shows how mistaken anybody can be on almost any subject. This is not a reflection at all on Mr. Volcker, it merely shows what time can do to reasoning. I ask that the article be printed in the RECORD.

The article follows:

[From the Commercial and Financial Chronicle, Sept. 21, 1972]

U.S. VIEWS ON GOLD

(By Paul A. Volcker)

Administration's spokesman spells out, for the benefit of next week's annual IMF meeting, why a gold price hike will not solve world's monetary problems, and why gold should be phased out of monetary system.

In Joint Economic Committee hearings the Subcommittee on International Exchange and Payments is reviewing two issues of importance to U.S. international financial policy. First, the role of gold in the international monetary system, and second, recent actions by the U.S. to intervene in the foreign exchange markets. I would like to briefly comment on both these subjects.

With respect to gold, the United States has repeatedly expressed the view that the role of that metal in the international monetary system should and must continue to diminish. Such an evolution is, of course, fully consistent with the trend of monetary history over a period of many years.

Governments around the world long ago reached the inevitable judgment that domestic monetary systems and policies could not safely be hostage to vagaries in gold demand and supply—the cost in terms of economic stability was simply too high. Internationally, gold 25 years ago accounted for about 70 percent of the total national monetary reserves. By 1972, the ratio had declined to some 27 percent.

COMMODITY USES COMPETE

There are irresistible geological, industrial, and economic facts behind these trends. The physical supply of gold is both limited and, in the Western World, virtually entirely under the control of one producing nation. The supply reaching the market is not only subject to the policies and circumstances of that country, but is also increasingly preempted by industrial, artistic, and dental uses.

Gold is both an attractive and useful metal, but the residual supply is in no way related to the liquidity needs of the world community. Commodity uses inevitably compete increasingly with monetary uses as population and wealth rise.

Given these facts, I suppose there are some who would argue that additional liquidity in a gold-based system can be provided by increasing from time to time the price at which gold is traded among monetary authorities. But surely such an approach would make a mockery of any presumed "discipline" from a gold centered monetary system—the virtue sometimes still attributed to the use of gold. A system relying on gold price increases to regulate liquidity would be both continuously destabilizing to the monetary benefits and whom it hurts.

GOLD'S INADEQUACY

The inadequacy of gold as the basis for an international monetary system seems to me amply reflected in recent history. Throughout the "Bretton Woods era," countries quite naturally sought supplements and substitutes, and this process was necessary to meet the needs of an expanding and integrated world economy. The two-tier gold system has been one means of coming to grips with destabilizing speculation in gold markets. The adoption of the SDR gave explicit international acknowledgement to the fact that new means needed to be found to provide an orderly and satisfactory means of assuring appropriate growth in world reserves.

None of this is new or startling. It has been common ground among the vast majority of economists for years—there are few issues upon which the profession is so united.

FUTURE ROLE

But within the general concept of diminishing dependence on gold in the monetary system, there are of course a number of questions concerning the role of gold that must be resolved in the course of negotiations on international monetary reform. As the IMF Executive Directors recently reported, a consensus among nations on what remaining role gold should still play in a reformed system does not presently exist.

I do not think it will be easy to resolve differences on what to do about the precise role of gold. More than one approach may be available within the general context of avoiding dependence on gold for monetary purposes, but I would emphasize our belief that the historical trend toward substitutes and supplements will and should continue.

Among the detailed questions concerning gold's role in the system are the use of gold as "numeraire" for currency values, the existing requirement for using gold in certain transactions with the IMF, the relationship of gold to the SDR and other reserve assets, and the proper functioning of the two-tier system. These questions are obviously related to other aspects of the system and other issues of monetary reform; they cannot therefore be entirely resolved without consideration of other questions concerning SDR's, the nature of the exchange rate regime, the nature and use of alternative reserve assets, and the like.

NO GOLD FOR CITIZENS

I would suggest that during this interim period, when broad issues of the role of gold and structure of the monetary system are under negotiation, it would not be the appropriate time to end our long-standing restrictions on gold purchases by private U.S. citizens, thereby possibly injecting further speculative elements into an already volatile and artificial gold market.

Certainly, it seems to me ironic that speculation in private markets whipped up by lingering hopes of an increase in the official price is itself cited by some as a reason to increase the official price. Such an approach would appear to abdicate all prospects for orderly control of international reserves. The time for sympathetic consideration to the elimination of our own restrictions is when the shape of the new monetary structure emerges, and the monetary system is fully insulated from instability in private gold markets.

NO SUBSTITUTE FOR REFORM

As I have suggested, it is our wish to deal with the official role of gold in the context of an agreed cooperative global arrangement. I hope and anticipate that other countries approach the negotiations in the same spirit.

Changes in the present two-tier system will naturally be considered in that framework. I would not preclude any action in that respect prior to full-fledged reform, but I do think it is desirable to keep the overall objective in mind and to approach the question in a cooperative framework.

Finally, with respect to the gold issue, I would observe that a few voices are occasionally heard that an increase in the gold price can somehow substitute for needed far-reaching monetary reform—that somehow the difficult economic and political issues of exchange rate adjustment, problems of achieving and maintaining balance of payments equilibrium, and the management of reserves can somehow be washed away or escaped by manufacturing a sea of new liquidity through an arbitrary adjustment in the official gold price.

Surely, this is an illusion. It is a particularly dangerous illusion, for it would instead divert us from the urgent need to face up to and attack these real and fundamental problems with vigor and imagination, so that the evident problems of the past do not become a recurrent and damaging feature of the international economic landscape.

U.S. EXCHANGE INTERVENTION

The second subject of these hearings is the recent U.S. intervention in the exchange markets, in accordance with a decision in July. This action is closely coordinated between the Treasury and the Federal Reserve, under agreed guidelines, regardless of which agency at a particular time may actually engage in the operation. Chairman Burns, who I understand will appear at a later session,

will undoubtedly also wish to comment on this subject.

This decision to intervene more actively in the exchange markets, at such time and in such amounts—large or small—as we deem desirable, was taken for the primary purpose of helping to deal with speculative forces. Naturally we do not like to see turbulence and strains in the money markets. It creates problems for businessmen, our trading partners, and for us.

REASONS BEHIND MOVE

As you will recall, following a period of calm the exchange rate realignment so arduously worked out in the Smithsonian Agreement came under severe but unwarranted testing in early July in the wake of the British decision to float the pound. Speculative pressures growing out of this decision turned against the dollar. Foreign central banks intervened heavily in the exchange market to maintain their market rates, reaffirming their support of the Smithsonian Agreement.

It was our view that the speculation arising from the unique situation of the pound should not affect the basic exchange rate structure. To help make this point crystal clear, and to signal an intent to help deal with speculative pressures in the future, intervention was undertaken by the Federal Reserve on July 19, using initially certain currency balances held by the Treasury. This decision was not inconsistent with, and indicates no change in, our basic policy approach to monetary reform and our efforts to achieve sustainable equilibrium in our balance of payments.

We have not embarked on any effort to artificially prop up the dollar counter to any basic balance-of-payments trends in the longer run. In the end, the strength of the dollar will rest on other policies to improve our balance of payments—policies we are pursuing with great vigor.

While the intervention action to date has been quite limited in terms of numbers of currencies, amounts and periods of intervention, we must of course be prepared to acquire needed foreign exchange to finance such operations. The existing swap facilities or mutual credit facilities, long maintained by the Federal Reserve, provide a convenient vehicle for obtaining currencies as needed.

U.S. INITIATIVE

In contrast to usual practices before August 15, the present operation is one in which, while full consultation and cooperation is maintained with the foreign country concerned, the basic initiative will lie with the United States. Foreign exchange will be drawn not in a passive manner after intervention by other countries, but for use in the exchange markets by the U.S. in such amounts and at such times as we believe the market impact will be favorable and help to curb unwarranted speculative forces.

Thus, the United States maintains full control over the usage of the lines. Drawings would not be made or enlarged to deal with what would be fundamental misalignments in our payments position. In normal and foreseeable circumstances, repayment could be anticipated from a reversal of market flows.●

FLEXIBILITY IN THE FUEL ECONOMY PROGRAM

● Mr. BAYH. Mr. President, I am pleased to join with my colleagues from Michigan, Senators RIEGLE and LEVIN, in sponsoring legislation to implement an important recommendation made by the Department of Transportation in its Third Annual Report to the Congress on the automotive fuel economy program. This legislation, S. 1583, will extend to 3 years the present 1-year carry-forward, carry-back credit available to manufacturers whose automobiles exceed the fleetwide average fuel economy standard set for a specified year. It further provides that failure to meet a standard in a year in which a manufacturer has a credit to apply against the standard would not be considered unlawful conduct. In the House, my colleague from Indiana, Representative PHIL SHARP has introduced a similar proposal, which has received broad bipartisan support.

In approving the landmark Energy Policy and Conservation Act in 1975, the Congress set up the automotive fuel economy regulatory program, which sets energy conservation standards for passenger automobiles and light trucks. Fuel economy standards are to be set at the maximum feasible levels determined by reference to several criteria, including technological feasibility, economy practicability, the effect of other Federal standards on fuel savings and the need of the Nation as a whole to conserve energy. The standards pertaining to the average fuel economy performance of a manufacturer's model year production of vehicles are set up by category, and passenger cars and light trucks are treated separately.

Although still relatively new, the fuel economy program has made a significant contribution to our national effort to reduce fuel consumption. The DOT report projects fuel economy savings attributable to the program through model year 1990 for passenger automobiles of some 145 billion gallons, with lightweight trucks expected to save an additional 75 billion gallons of fuel. This will mean about a 15-percent reduction in fuel consumption below what we could have expected if the model year 1977 fuel economy levels had remained unchanged.

The act established penalties for failure to meet the fuel economy standard which could be offset by any credit earned for exceeding the standard in the year immediately preceding or following a given year. The National Highway Traffic Safety Administration has recommended that these credits be made available for a 3-year period, to enable manufacturers to benefit from their early conservation efforts and to promote more balanced future planning. I believe that by adopting this revision, we can assure that the intent of Congress in establishing the fuel economy program will be met, while providing that the standards set within the program do not prove to be counter-productive.

The additional flexibility of the 3-year credit provision will see to it that manufacturers engaged in phasing in different automotive technologies designed to improve fuel economy will not be penalized. This may be especially important in the case of limited line manufacturers. Optimally, these credits will enable manufacturers to develop the best possible technology, and not lock them into using technologies which would be less effective in the long run, but which are the only means currently available to meet Federal standards.

I think it is important to emphasize, Mr. President, that this provision does not open any possibility for the evasion of the fuel economy standards. Most manufacturers are projecting that they will be able to comply with the standards now set, and the strong competitive pressures within the industry will not allow for much, if any, deviation from the standards. In fact, the 3-year provision could even act as an incentive to manufacturers to exceed, wherever feasible, the standards now set, in order to build up a credit to act as a safeguard against any future shortfall.

By providing that failure to meet a standard will not be deemed illegal conduct, we are addressing a concern on the part of many manufacturers about going forward with new planning which could ultimately result in a violation of the law. As the law currently stands, the failure to meet fuel economy standards is a violation of the law, regardless of whether a credit is applied. We can substantially reduce the extent to which this factor may serve to inhibit technological innovation by removing the designation of such failure to meet the standard as unlawful conduct.

Of special significance, Mr. President, is the positive impact that this change can have on limited line manufacturers. I am very familiar with the problems that one such manufacturer in my State, International Harvester, has faced with the fuel economy program generally. In 1978, NHTSA proposed fuel economy standards which could have forced the discontinuation of the IH Scout, and threatened the jobs of thousands of Hoosiers employed by International Harvester in the production of the Scout. By working with the administration, we got those initial standards modified and we were ultimately successful in providing for a separate class of standards for lightweight trucks.

As a limited line manufacturer, International Harvester has unique problems with corporate fuel economy standards. Scout is its only line of vehicles subject to the standards, and, as a result, IH cannot average its fuel economy ratings with those of more fuel efficient vehicles to meet the standards as other manufacturers can. I understand that most of the modifications which can be made to increase the Scout's fuel efficiency short of major design changes, which will take time, have been completed. Thus, to achieve greater fuel economy in the Scout's case will require large-scale design or component changes which are already in the works at International Harvester, including the production of a new body of lightweight composite fiberplastic material and the utilization of lighter, more fuel efficient engines. Such major changes involve long leadtimes. The additional planning flexibility provided by the 3-year credit can be especially important in giving IH the time it needs to make these changes.

In conclusion, Mr. President, by extending the duration of the credit, we are giving manufacturers a clear signal to go

ahead and make those technical improvements necessary to produce fuel savings. Failures to meet the standards not subsequently offset by a credit would, of course, be subject to penalties and accumulated interest. This modification of the law will, in my view, enable us to produce better, more fuel efficient cars, and assure that American consumers will have available a broader mix of American-made vehicles to meet their needs. I hope that both the Senate and the House will have the opportunity to act favorably on this legislation in the near future.●

FIFTIETH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER TO BE THE 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, as one of the series of essays commemorating the 50th anniversary of the inauguration of Herbert Hoover as our 31st President, I am pleased to offer an essay by Dr. Gary H. Koerselman, professor of the Twentieth Century American Studies at Morningside College in Sioux City, Iowa. The essay is entitled, "The Significance of Herbert Hoover."

Professor Koerselman finds Hoover to have been significant to American life and politics in many ways—"his moral leadership, his defense of America's basic ideas and institutions, his humanitarianism." However, it was Hoover's "commitment to the fashioning of a modern American political economy which preserved the liberties of nineteenth-century liberalism while promoting the equalities of twentieth-century progressivism," which remains his true legacy 50 years after his inauguration.

Hoover advocated that government play a role in planning, expanding, stabilizing and equalizing the Nation's economy, and in resolving conflicts in it. Beyond that, he would have government intervene only when private individuals and institutions proved unsuccessful in solving problems. Hoover wrote:

> It is not consonant with the spirit of institutions of the American people that a demand be made upon the public treasury for the solution of every difficulty.

The philosophical underpinning for his approach was set forth in the book, "American Individualism," published in 1922 while he served as Secretary of Commerce. Professor Koerselman notes that Hoover's philosophy was reflected in his opposition to a proposal for the Government to underwrite farm exports, his concern over the packers and stockyards act, and many other proposals. In a phrase, Hoover feared that "you cannot extend the mastery of the government over the daily working life of a people without, at the same time, making it master of the people's souls and thoughts."

Mr. President, I believe Americans will find Herbert Hoover's political philosophy very relevant to the current rethinking underway about the past few decades of big government. Professor Koerselman's essay is a very concise and interesting treatment of Hoover's philosophy, and I am pleased to share it with my colleagues and other readers of the RECORD. I request that the essay, "The Significance of Herbert Hoover," and a brief biographical sketch of the author, be printed in the RECORD.

The material follows:

BIOGRAPHIC SKETCH OF GARY H. KOERSELMAN

Born: July 16, 1942.

Education: B.A., Northwestern College Orange City, Iowa; M.A., University of South Dakota; Ph.D., Northern Illinois University, De Kalb, Illinois.

Professional experience: Professor of History, Morningside College, Sioux City, Iowa; Chairman of the Board, Iowa Public Broadcasting Network.

Membership: Organization of American Historians.

Publications: Has published on Hoover in the "Agricultural History."

THE SIGNIFICANCE OF HERBERT HOOVER

It has been fifty years since an exuberant Herbert Hoover entered the Presidency promising America a new era of peace and prosperity. But before he could assert his leadership, the Great Depression laid to waste his high hopes and expectations; the depression permanently marred his public record which had been otherwise marked by integrity and accomplishment. The image of Hoover will never be disassociated from the depression. Nor should it. In a political sense he deserved blame for the economic collapse just as much as he deserved credit for the unprecedented prosperity during the 1928 election. In an historical sense, however, the measure of the man embraces so much more than his frustrating four years in the White House.

Hoover was one of those inordinate historical figures whose wisdom serves as a model for every age. His moral leadership, his defense of America's basic ideas and institutions, his humanitarianism—all of these virtues provide timeless examples for examination and application. In our own age of transition, perhaps, his intellectual and practical commitment to the fashioning of a modern American political economy which preserved the liberties of nineteenth-century liberalism while promoting the equalities of twentieth-century progessivism deserve special attention.

Many prominent historians portray the Hoover Presidency as an historical watershed, bearing concomitantly characteristics of the old *Laissez faire* order and the beginnings of the New Deal. This portrayal captures well the dilemmas Hoover faced in practice. Many of his policies portended the New Deal, but seldom did they cross far beyond the line toward state welfarism. In many ways Hoover combined the contrary notions of Theodore Roosevelt's New Nationalism and Woodrow Wilson's New Freedom, the two isms which provided the grist for the political mill of 1912 when young Hoover proudly wore the Bull Moose mantle. Later, Hoover became a loyal advisor to President Wilson. Hoover's political experience between 1912–1928 fashioned his beliefs about America's political economy.

This experience taught him that government should play an important role in matters of planning, ameliorating conflicts in the market place and expanding, stabilizing and equalizing the economic pie. But beyond that, he advocated a "government of last resort", that is, the involvement of government only when private individuals and institutions could clearly not resolve the problem at hand. "It is not consonant with the spirit of institutions of the American people that a demand be made upon the public treasury for the solution of every difficulty", wrote Hoover.

Over the years Hoover developed an intellectual defense of this approach. It was based on the idea that America's success had grown from a unique individualism associated with the frontier experience. "The social force in which I am interested is . . . the sole source of progress; it is American individualism," asserted Hoover. "Progress in the nation is the sum of progress in individuals. Acts and deeds leading to progress are born out of the womb of the individual mind, not of the mind of the crowd."

Hoover feared that an ever increasing governmental involvement in private affairs would stifle this fierce individualism and strap the country with a brand of mercantile bureaucratic tyranny worse than that which the nation's founders had struggled against in 1776. "You cannot extend the mastery of the government over the daily working life of a people without at the same time making it master of the people's souls and thoughts," complained Hoover, "It is not the function of government to relieve individuals of their responsibilities to the public."

Hoover's recalcitrance with regard to state welfarism was most prevalent during the Twenties when he served as Secretary of Commerce in the Harding and Coolidge Administrations. When Nebraska Senator George Norris, shouting emergency, proposed in 1921 a plan for the government to underwrite surplus farm exports, Hoover objected, arguing that using taxpayers' dollars for such a purpose would (1) encourage all industries to demand governmental aims until one day what was essentially a private economy would be transformed into a politicized logrolling operation in Washington; (2) cause bankers, who themselves should take the risk, to turn to Washington whenever a tenuous situation arose; (3) lead to domestic political squabbles among various nationals regarding loan policies and other economic judgments made in Washington; (4) engender trade retaliations from Europe which was more interested in stimulating its own farm industries than benefitting from American dumping; and (5) stimulate more domestic over-production which would only exasperate the past World War I imbalances in the market place. All of this stymmied individualism.

Mostly, Hoover was concerned that the Norris plan would allow certain well-placed economic elites to take advantage of federal authority to improve their position in the market place to the unfair disadvantage of those not so well organized millions of Americans who did not enjoy ready access to ruling circles. This was especially troubling to Hoover in his reluctant support of the Packers and Stockyards Act of 1921.

The Administration support of the bill came as a part of a political compromise which got the Senate to drop the Norris bill. Hoover feared that federal regulation of the packers and stockyards would rebound in favor of the largest monopolized interests in the industry. "It is just as important that business keep out of government as that government keep out of business," demanded Hoover. The monopolies, who could readily pay for influence in Washington, would dominate administration policy. The smaller, more efficient, independents would be discouraged. Monopolies would be left in a position to manipulate prices paid to producers and paid by consumers.

Regulative authority over the meat packers which had so vigilantly been exercised by the Federal Trade Commission was to be transferred to the new Packers and Stockyards Administration where sympathetic agriculturally oriented control rather than control in the name of all of the people would become most likely. This set a precedent, incidentally, for every industry to have its own regulatory authority rather than the super agency Woodrow Wilson had

envisioned for the FTC which would act more in the general interest.

Hoover opposed this kind of policy because it pointed to a regimented society in which individuals, and especially those bearing vital new talent and better ways, would find it impossible to advance—that is, "the chance to rise to any position to which their character and ability may entitle them." High taxes, bureaucratic red tape, and special privilege based on political connection would block the natural flow of rewards which should rightfully belong to individuals who excelled in the practice of exercising prudently their creative impulses.

Hoover believed that the promise of American life hinged primarily on the proposition that "there shall be an opportunity, not security through mandate"—that was what should continue to be the basic philosophy of America's economic and social life. Enduring stability was posited on the recognition that individuals, as builders and doers, must not only pay the price for their own folly or bad judgment, but be secure in the rewards of risks well placed. Only then would America remain an independent, self-sufficient nation where true competitive economic democracy reigned in the market place.

Hoover's philosophy of big government remained consistent in his strong opposition to McNary-Haugenism during the 1920's. He attempted, without success, to fashion a national agricultural cooperative marketing system that would provide producer farmers with primary input and control. He criticized the Grain Inspection Act because it had built-in inequities exactly like those which surfaced in the grain scandals of the Seventies. During the Thirties and Forties Hoover's voice was muted by the horrible memories of depression. During the Fifties and early Sixties his place in history was usually reserved only for Americans who strived to build their New Deal-Great Society system. But, then, Vietnam Dramatized the serious contradictions inherent in New Deal settlement. Ralph Nader and many others discovered that things were not so democratic after all. Ironically, many of the so-called wrongs discovered by Nader's Raiders were once predicted by Herbert Hoover two generations earlier.

This is not to say that Hoover had a better way, nor even to say that had he remained in the presidency, the American political economy would have turned out much differently than it did. However, one of Hoover's great legacies to our generation is his diligent critique of the welfare state concept. As the nation struggles through the Post-New Deal, Post-Industrial era of stagflation and decreasing productivity, trying to fashion a new set of operating political economic principles, it might well dwell upon the application of some good old-fashioned Herbert Hoover wisdom which, in many ways, perhaps strike at the core of current problems. "We get the fundamental confusion that government, since it can correct much abuse can also create righteousness," proffered Hoover. Such reflections as this could at least help lead to a new political economic understanding that might serve as a basis in the Eighties and help restore confidence and faith in the future.●

AMERICAN RED CROSS GREATER WOONSOCKET CHAPTER, WOONSOCKET, R.I.

● Mr. CHURCH. Mr. President, my close and valued friend, Senator CLAIBORNE PELL, the ranking majority member of the Foreign Relations Committee, recently addressed a meeting of the Greater Woonsocket Chapter of the American Red Cross in Woonsocket, R.I. In his remarks, Senator PELL outlined the history and work of the Red Cross and his long association with various Red Cross activities.

Because I share Senator PELL's high regard for the Red Cross, I ask that the full text of Senator PELL's October 27 address be printed in the RECORD.

The remarks follow:

REMARKS BY SENATOR CLAIBORNE PELL

I am very happy to be here tonight, because I greatly respect and admire the work of the Red Cross and the dedication of its professionals and volunteers. I also have a personal attachment to the ideals of the Red Cross movement, because of my own experience as a delegate of the Portuguese Red Cross prior to our country's entry into World War II. At that time, my father was the U.S. Minister to Portugal; and I engaged in a number of Red Cross activities, including visits to prisoners of war.

Tonight, I thought I would talk to you about the international dimension of the Red Cross. For many people, the international structure and division of labor in Red Cross activities world-wide is vague or downright confusing. I will try to clarify matters and to describe some of the activities of the Red Cross around the world.

Just as Julius Caesar said that all of Gaul is divided into three parts, so also is the Red Cross. Those three parts are the national Red Cross societies, such as the American Red Cross; the League of Red Cross Societies of which the American Red Cross is a member; and the International Committee of the Red Cross. Together, they constitute what has come to be known as the International Red Cross. But what are these three parts of the Red Cross, how did they come about, and how do they relate to each other?

The Red Cross was born in June 1859 on the battlefield of Solferino in northern Italy during the War of the Italian Succession. A Swiss businessman from Geneva, Henry Dunant, happened to witness this battle and was appalled at the sight of so many wounded, whose suffering the over-burdened army medical services were unable to alleviate. Profoundly moved by this experience, Dunant vowed to do something and wrote a small book called "A Memory of Solferino" that stirred the conscience of the world.

In that book, Dunant proposed the creation of national relief societies to supplement the inadequate medical services of Europe's armies, and the negotiation of an international agreement to assure the protection of the sick and wounded in wartime. Dunant's home town of Geneva was the first to respond to his call. An organization called the Geneva Public Welfare Society was so moved by Dunant's account of the 1859 war that it created a commission in 1863, entitled the International Committee for Relief of the Wounded, to promote Dunant's ideas.

The Geneva Committee quickly convened an international meeting that called for the establishment of national relief societies and the negotiation of an international agreement neutralizing, during war, medical personnel and volunteer first aid workers. This meeting resulted in the creation of relief committees in nine European countries, and a year later, in 1864, it led the Swiss and French governments to hold an international diplomatic conference that drew up the First Geneva Convention along the lines proposed by the Geneva Committee.

From this beginning in 1863 and 1864, the number of relief societies, which quickly became known as Red Cross societies because of the armband prescribed under the first Geneva Convention, grew steadily until, today, there are 126 officially recognized national societies employing either the originally prescribed Red Cross symbol or the subsequently approved Red Crescent symbol for most Muslim countries and the Red Lion and Sun symbol for Iran. Regrettably, however, the Red Star of David Society in Israel has been denied international recognition of its symbol. In an effort to correct this gross oversight, Operation Recognition of whose National Committee I am a member, was formed in 1976.

As the number of Red Cross and related societies grew, the original International Committee for Relief of the Wounded, later renamed as the International Committee of the Red Cross (ICRC), retained its unique status as the sparkplug for the formation of national Red Cross societies and as the guardian and enforcer of the first and subsequent Geneva Conventions. The uniqueness of the ICRC is underscored by the fact that although the ICRC is a strictly Swiss organization, Switzerland has a separate national Red Cross society. Inevitably, however, the unique status of the ICRC was challenged.

During World War I, the American Red Cross, which as I am sure you all know was founded in 1881 by Clara Barton, found itself performing a wide variety of activities in Europe that were not covered by the Geneva Conventions, in particular the promotion of public health. After the war, Henry Davidson, the President of the American Red Cross felt that there was a need to convert the Swiss ICRC into a truly international body and to develop a program of peacetime activities, particularly in the public health area.

The ICRC agreed to call on international conference to discuss post-war activities, but not until after a peace treaty was signed. Since such a formal end to World War I was nowhere in sight in 1919, Davison called a medical conference of five interested national Red Cross societies. At that conference, impatience with the ICRC's attitude toward a program of peacetime activities led to the creation of the League of Red Cross Societies. The ICRC was understandably cool to the formation of the League, as it feared that the league would usurp some of the ICRC's powers and believed that the program proposed by the League exceeded the proper scope of Red Cross activities.

When it became clear that a fusion of the ICRC and the League was impossible, a commendable effort was made to accept the reality of the existence of two separate organizations with different objectives but to keep them within a single Red Cross movement. Thus was born in 1928 the current structure of the Internatinal Red Cross, or IRC.

As agreed in 1928, the IRC consists of the individual national societies chartered by the ICRC, the ICRC itself, and the League of Red Cross Societies. The supreme authority of the IRC is the International Conference of the Red Cross which is held every four years with representation from the three categories of member organizations plus representatives of governments that are parties to the Geneva Conventions. The preparation of these conferences and the coordination of the work of the various Red Cross bodies is performed by the Standing Commission of the IRC consisting of two representatives each from the ICRC and the League and five members selected on a personal basis from national societies.

Now, what are the activities of the IRC and its components? First of all, the principal activity of the quadrennial International Conference of the Red Cross is to decide whether new international conventions or amendments to the existing Geneva Conventions are desirable. In this connection, the original Geneva Convention has been revised several times, and the Red Cross movement currently is based on the four Geneva Conventions of 1949. I will have more to say about these Conventions when I discuss the activities of the ICRC.

The international involvement of national Red Cross organizations such as the American Red Cross comes about through participation in the quadrennial International Conferences and through participation in the relief activities sponsored by the League of Red Cross Societies. Most of the League's work is concerned with mustering world help in times of natural disaster, including epidemics. When an earthquake strikes Italy or a flood ravages Pakistan, it is usual for the national societies in the stricken countries to appeal to the League for help for the injured or homeless victims. The League sends relief supplies from its stategically located emergency warehouses in various parts of the world and calls on national societies to send help.

The League has also assumed, for the most part, the ICRC's earlier function of encouraging the formation of national Red Cross societies, although the ICRC still has the final say in approving a national society as a member of the International Red Cross. In addition, the League helps existing societies with training programs in first aid, nursing, blood banks and the operation of early-warning systems designed to head off the worst effects of natural disasters.

Finally, the League has kept alive the spirit of innovation that animated the creation of the League in the first place by promoting an expansion of the types of activities carried on by national societies. The League has initiated ever-growing contacts with other international organizations such as the UN Development Program, the World Health Organization, UNICEF, UNESCO, the World Food Program, and even the UN Environment Program in an effort to associate national Red Cross societies with the efforts of these agencies.

I have left to the last the work of the Red Cross organization that is both the best known and the least understood—that is the ICRC. It is the best known in the sense that when people refer to the International Red Cross they most often mean the ICRC. It is least understood, however, in the sense that few know about the way in which the ICRC works and its unique place in world affairs.

The fundamental difference between the ICRC and the League of Red Cross Societies is that the League is primarily concerned with the domestic activities of national societies and, in the international field, with the coordination of their operations in connection with natural disasters, such as floods and epidemics. The ICRC, by contrast, is concerned with man-made disasters—with wars and the associated need for the protection of and aid to the sick and wounded, prisoners of war, and innocent civilians.

Despite its name, the ICRC is not, in a sense, international at all. It is a private institution composed exclusively of Swiss citizens. But its mandate, its work, and its financing are international. The ICRC, then, is best described as a uninational body with an international role. But shouldn't the ICRC be truly internationalized, as Henry Davison proposed in 1919? I believe not, for one of the great strengths of the ICRC is that it is an organization of citizens of a neutral country. Any other truly neutral country could probably do the job equally well, but no matter what nationality is involved it is imperative, if the ICRC is to be trusted, that it be composed of the citizens of one country which follows a policy of scrupulous neutrality.

As I mentioned earlier, the ICRC is the custodian of the Geneva Conventions and therein lies its uniqueness. There are four of these conventions, which date back to 1949. The first two are concerned with aid to, and the protection of, military personnel. The third deals with the treatment of prisoners of war, and the fourth with the protection of civilians in time of war. These conventions largely dictate the role of the ICRC.

Thus, the ICRC is responsible under the Geneva Conventions for ensuring that the military and civilian victims of all wars receive protection and assistance. In addition, the ICRC plays the lead role in working for the continued improvement of humanitarian international law and for the better understanding and extension of the Geneva Conventions. In this connection, the ICRC convened a diplomatic conference, that lasted from 1974–77, that produced two protocols extending the nature and degree of protection for victims of non-international conflicts, such as civil wars.

During World War II, the ICRC visited thousands of POW's, and its Tracing Agency helped to reunite many families. More recently, in Cyprus, the ICRC has protected Greek Cypriots in the Turkish area of occupation; in Latin America the ICRC has visited no less than 5,000 political detainees; in Lebanon the ICRC has been the only organization capable of neutral mediation between the opposing factions; and in Africa the ICRC has intervened in behalf of the many refugees uprooted by international and civil wars. Currently, in Southeast Asia, the ICRC, in cooperation with the League of Red Cross Societies and U.N. agencies, is organizing a major program of famine and medical relief for refugees from Cambodia and Vietnam.

As Chairman of the Senate Subcommittee overseeing the effectiveness of the U.S. Government's contribution to the ICRC, I have seen how often we turn to the ICRC in situations where no other government or organization is able to be of help.

In closing, I would like to say that all of you ought to be proud to be a part of the International Red Cross movement. This movement is a family affair, and just as with a human family, the International Red Cross is made up of separate individuals, each with its own personality and role. Together, the members of the Red Cross family are doing wonders in cutting across national, racial, and religious lines to raise the humanitarian conscience of the world; and I wish it continued success.

Thank you.●

DEMOCRATIC DEVELOPMENT IN SOUTH KOREA

Mr. CRANSTON. Mr. President, recent events in South Korea are of serious concern to those of us who support the expansion of democratic freedoms in that country. While the South Korean people have remained calm after the assination of President Park Chung Hee, much will have to be done in the months ahead if the prospects for South Korean security, independence and democracy are to improve.

Even before the death of President Park, South Korea faced an uncertain future. On the eve of the Park assassination, South Korea was a nation beset by public demonstrations against the government. Martial law has been imposed. The opposition leader had been expelled from the national assembly. And the national government had been reduced essentially to one-man rule.

In the wake of Park's death, many questions remain unanswered. But one certainty which the new South Korean authorities can ignore only at their great peril is the fact that the key to South Korea's future lies in the expansion of democratic freedoms to all her citizens. The current situation must not be used to increase political repression. Continued political repression cannot be justified in the name of "national security" because the political opposition in South Korea is loyal, responsible, nonviolent and fervently anti-Communist.

The greatest threat to South Korea's future security lies not in the danger of attack from the North, but rather from the continued exclusion of the people of South Korea from the process of democratic government. For only with the national unity and international support which democratic practices will guarantee can South Korea maintain an ability to repel any type of aggression from the North.

South Korean authorities must be on notice that continued economic and military support from the United States and other key allies can only be extended to a democratic South Korea.

Mr. President, I recently had the privilege of spending a day with the leaders of the Korean community in Los Angeles. This community has grown at a remarkable rate, from less than 3,000, 10 years ago to nearly 150,000 today. My visit with my Korean constituents underlined for me the great industry, the great loyalty and the intense love for democracy which characterizes these people.

The United States has a firm commitment to support South Korea's democratic development. This commitment has been upheld through war and peace as Americans have given their lives defending Korean soil and their dollars to help South Korea engineer a truly miraculous economic development.

Our commitment to South Korea, however, is toward building an economically and militarily self-sufficient democracy. Continued American aid must be clearly conditioned on respect for fundamental human rights and the recognition of democratic freedoms. Genuine democracy must come to South Korea if American support is to be maintained.

NIFTY NUGGET MOBILIZATION EXERCISE

● Mr. NUNN. Mr. President, as you know, I have been striving to bring to the attention of the Senate and the American people the fact that military manpower problems upon mobilization are so severe that they would prohibit our military services from meeting the stated requirements of our national security.

The conclusion is supported by classified testimony by the Department of Defense and the recent Nifty Nugget mobilization exercise. Both have been the subject of congressional hearings as well as a closed session in the Senate. Manpower problems, however, are not the only serious shortcomings that exist with our mobilization capability.

The overall issues relating to America's preparedness in this vital area have been well documented in a recent series of articles in the Washington Star. Mr. John Fialka, the author, deserves praise for undertaking this comprehensive assignment and presenting a complex matter in an understandable fashion. His efforts will contribute to the awareness and un-

derstanding of the problems which are necessary to begin to solve them.

Mr. President, I ask that this excellent series be printed in the RECORD, and I congratulate the Star and Mr. Fialka for their undertaking.

The material follows:

ILL-EQUIPPED, UNDERMANNED U.S. ARMY IS DESTROYED IN "NIFTY NUGGET" EXERCISE

(By John Fialka)

A year ago this week, about 600,000 of the best-trained men in the U.S. Army began to die on the plains of Central Europe.

Measured against historical standards, it was an unnatural death for an army. In one sense it had defeated itself. It had been equipped with some of the most lethal, advanced, high-technology weaponry known to man, but it didn't have enough shells, missiles, fuel, food or spare parts.

After watching the Army die last fall during the massive, secret, simulated mobilization exercise called Nifty Nugget, one high-level Pentagon bureaucrat said, "The Army was simply attritted to death. Some details:

Many of the 130,000 theoretical casualties of the simulated battles wound up flying back across the Atlantic, untreated, in hastily-commandeered U.S. passenger jets, and some of them died as a result of a lack of U.S. doctors and medical evacuation planes.

Most combat elements of two of the nation's 16 regular Army divisions simply ceased to exist before the battle. They and a large number of Army Reserve units had been "cannibalized,"—split apart and jammed into other units—to fill gaping holes in the Army's trained manpower structure.

An enormous computer foulup compounded a logistical snarl that quickly overcame the nation's airlift capacity and stalled sealift operations. Ships carrying ammunition, food and fuel were still en route to the battle when the Army's airborne supply pipeline began to run dry.

The last troops to join the battle came from the United States without uniforms. There simply weren't any more.

Nifty Nugget was carried out by officials of the Pentagon and 26 other federal agencies and departments to simulate what would happen if the United States suddenly had to fulfill its long-standing commitment to defend its NATO allies in Europe.

Although it was billed as a "no-fault" exercise, the question of what went wrong and why is a subject of increasing interest in Congress. Sen. Sam Nunn, D-Ga., for example, held a secret session on the subject last month for the Senate.

Nunn said later that Nifty Nugget raises serious questions about "whether or not this country is really prepared for the kind of emergency for which it must be prepared."

Rep. Robin Beard, R-Tenn., a member of the House Armed Services Committee, called the results of the exercise "devastating."

The Department of Defense is studying about 100 major changes in defense policy, manpower and spending programs, changes stemming from the hard lessons learned during Nifty Nugget and its civilian counterpart, code named "Rex '78."

While Harold Brown, the secretary of defense, and his top aides resist proposals to resume the peacetime draft, they are considering other proposals, including plans to extend the all volunteer Army commitment from six to eight years. They are also planning to develop an emergency system to draft retired Army veterans and doctors to fill some of the holes exposed by Nifty Nugget.

Among the veterans would be draftees who fought in Vietnam.

WAR EQUIPMENT MISSING

The Pentagon, which currently spends $135 billion a year, also is quietly reprogramming billions over the next three years to fill what one official termed a "highly embarrassing" lack of many of the more common items needed to fight a war—uniforms, ammunition, spare aircraft parts and tents.

Nifty Nugget was mounted on Oct. 10, 1978, by the Joint Chiefs of Staff. It was the first government-wide war mobilization exercise since World War II. It was carried out by about 1,000 officers and civilians. The exercise continued until Nov. 8, 1978. Many of those who worked on Nifty Nugget were senior level officials. They worked in small "cells" in the various military and civilian command posts where the decisions of mobilization would be made if the president declared a national emergency.

Although much of the activity was simulated by computers, it was no small undertaking. The military and logistical demands of a sudden, major war in Europe would require thousands of immediate decisions and orders to coordinate the activities of millions of Americans. The orders would have to redirect the workings of much of the U.S. economy in days.

One of the Pentagon planners who prepared the scenario for Nifty Nugget said, "A wartime mobilization is the most complicated political act that you could think of."

Although Pentagon officials have been ruminating over the results of Nifty Nugget since the game officially ended, the unclassified version of the game has not been released. The following account is drawn from the documents obtained by The Washington Star and interviews with more than two dozen officials involved in the planning and execution of the game.

The scenario for Nifty Nugget began with the assumption that the next major war will start with little advance warning.

The sudden war scenario was part of a still-secret partial mobilization exercise carried out by the Army in 1976, called Mobex 76. Mobex 76 led the Army's top generals to request a larger exercise, involving the whole government, so they could test all of the machinery that would be needed to mobilize for war.

A LOGISTICAL SIMULATION

Nifty Nugget was never intended to simulate actual fighting, according to those who planned it. Rather it was intended to see if the U.S. could mount and logistically sustain a large military force in Europe long enough to be "credible" against a sudden, heavily armored attack by conventional units which could be mounted by the Warsaw Pact.

The Army regularly uses a computer game, called the "Omnibus Game," to simulate what it would take to blunt such an attack. The demands of Omnibus were made part of the script of Nifty Nugget, which was known only to a small group of controllers, mainly colonels.

Working in the Pentagon's "war room," the National Military Command Center, a battery of 19 top policymakers, led by Stanley R. Resor, then undersecretary of defense, and Richard Danzig, the current principal deputy assistant secretary of defense for manpower, spent an afternoon before the game considering the scenario being fed to them. They wondered what the president could do to prepare himself, short of sending out the "dangerous signal" of declaring a national emergency, the act required by law before he can call up more than 50,000 men.

The Nifty Nugget players discovered, for example, that the president has powers to call up Air Force and Army retirees in advance of a crisis but would have to declare a national emergency before he could get any Navy veterans. The president lost the legal authority to draft physicians in 1973.

The Army's Materiel Development and Readiness Command (DARCOM) could not begin shipping out its stores of ammunition on an emergency basis.

"We couldn't even let a contract or do things like authorize overtime without money," explained Lt. Gen. Eugene D'Ambrosio, who recently retired as deputy chief of DARCOM. "We asked the question, 'Has Congress ever given the authority to do this?' The answer was 'No.'"

On Oct. 13, when Resor and the other top Nifty Nugget players found themselves forced by the unfolding scenario to simulate a request to the president to proclaim a national emergency, D'Ambrosio finally got his authority. By then it was already too late.

Defense Department spokesmen say Nifty Nugget was simply a mobilization exercise. Because it never played out the actual war, there was no winner and no loser. From D'Ambrosio's point of view, however, there was one stark truth in the game that indicates the U.S. lost; within the first 30 days, the Army ran out of artillery shells, tank rounds and several other crucial types of ammunition.

D'Ambrosio said the Pentagon budgets for enough ammunition to support the first 30 days of the high-firepower conventional war envisioned by the Omnibus Game.

60 DAYS TO GET STARTED

He said it would take at least 60 days to begin pumping out additional ammunition from the $19-billion government-owned complex of munitions plants. "My concern is, OK, if we now have sufficient ammo to take us through a 30-day war, what's going to happen on the 31st day?"

D'Ambrosio never had to worry about the 31st day because the Army ran out of ammunition long before that. The U.S. War Reserve Stocks in Europe—the source of replacement ammunition for the U.S. as well as some of its NATO allies—had nowhere near enough ammunition.

Army sources said one reason for this is that the stocks were drawn down severely to support the intense conflict between the Israelis and the Egyptians in 1973 and have never been fully replaced.

They said another reason is that the Germans have been reluctant to give the U.S. enough land to store the amount of ammunition needed in Germany.

Only a small percentage of the ammunition could be flown to Europe. So on Oct. 13, DARCOM began making arrangements to simulate the shipment of 350,000 tons of ammunition to the battlefront by sea. Thirty days later—long after the ammunition was needed at the front—"none of it had arrived," D'Ambrosio said. He said confusion and delays in loading and shipping the ammunition made it probable that the ammunition arrived sometime after the war had ended.

"DON'T BUY VICTORY BONDS"

Another Army planner put it more starkly to a congressional delegation. Asked who won the Nifty Nugget war, he said, "Don't buy any Victory Bonds."

The ammunition problem was not the largest problem. Two others eventually took predominance. One of them was finding people who knew how to mobilize—an increasingly scarce commodity in Washington. The other was finding enough people with previous military training who could be mobilized—an increasingly scarce commodity in the country since the onset of the all volunteer Force.

The official overseer of Nifty Nugget was Gen. Walter T. "Dutch" Kerwin, who recently retired as vice chief of staff of the Army.

Kerwin and a team of other retired generals and admirals had been empowered by the chairman of the Joint Chiefs of Staff to visit all the command centers used in Nifty Nugget and to report deficiencies. Kerwin, who served on Gen. George Marshall's staff during the closing days of World War II, said he had trouble finding many people who had thought much about mobilization.

"We went to one major Army command

and said, 'Where is your mobilization person,'" Kerwin said. He was told the command had once had a mobilization expert, but the man had retired seven months before Nifty Nugget, and the vacancy had not been filled.

Kerwin complained of "great gaps" in understanding among various players, particularly between the military and civilians. He said some of the gaps were so wide, "that you would wonder whether they were playing the same exercise."

The essential problems of mobilization posed by Nifty Nugget were how to get regular Army and reserve units alerted, how to transport them to 50 "mobilization stations," where they would be given their final equipment and training, and then how to get the combined units to ports of embarkation, from which they would be flown to Europe.

NEEDED AT LEAST 200,000 MEN

The players found that to fight the war envisioned by the planners, they needed somewhere between 200,000 and 500,000 more trained men than they could find; that many of the mobilization stations quickly descended into chaos, partly a result of computer-system failures; and that while the nation had the airlift capacity to get the soldiers to Europe, a lot of their heavy equipment (i.e. tanks and artillery) would never make it in time.

The players found that nothing worked according to the existing plans for mobilization. The standing mobilization plans call for active Army units to mobilize first.

Three divisions are supposed to fly immediately to prepositioned equipment held for them in special warehouses in Germany. This movement took twice as long as it was supposed to because there was a serious deficiency in prepositioned equipment to support the three mobilizing divisions.

The theory of mobilization is that when active units are sent, the Selected Army Reserve takes over their boxes, forming into new units that would be sent to Europe later. Any casualties sustained in battle would be filled by a second Reserve component called the Independent Ready Reserve (IRR), a body of soldiers who are still serving out their reserve commitments, although they do not train with any unit.

The reality of Nifty Nugget, the numbers on the computer terminals and on the slides that flashed in front of the top players seated around the long table in the Pentagon's war room, proved none of this would really work.

First, the five Army divisions in Europe were not up to wartime strength. As a result, 20,000 men had to be scrounged from somewhere else to augment them. Then, more manpower had to be found to fill up the U.S. divisions and the early-deploying Reserve units.

400,000 SENT TO EUROPE

In all, about 400,000 men were sent to Europe. The IRR's 200,000 men were quickly used for this. Two other Army divisions, programmed for Europe in the second month of a war, had simply vanished. They had been cannibalized in a frantic effort to replace the 130,000 theoretical casualties.

Department of Defense officials have since argued that the manpower shortfall was approximately 200,000, asserting that the system could not have absorbed any more than that because there was no more equipment.

The planners, scrambling to use the bodies that were there, discovered that among the 120,000 enlisted men in the IRR, only about 20,000 had the skills that were needed most—the ability to operate tanks or to perform in infantry units. There may be as many as 150,000 retired Army veterans in the U.S. still young enough to mobilize, but the Army discovered there was no system to locate them.

The players of Nifty Nugget attempted to fill the manpower gap and cope with equipment shortages. For example, units equipped with rubber suits to protect them against chemical warfare were sent without their rubber gloves.

"That was a minor problem," explained one planner. He said the players found there were not even enough fatigues to equip the IRR. "Hell, the last people to go over came right off the street. We put them on the plane wearing their Adidas (sneakers) and cut-offs. It was not the best looking Army we've ever fielded."

As severe as it was, the manpower shortfall was not the worst manpower problem the Pentagon had. Still worse was the doctor problem. The Army and the Army Reserve are short about 3,500 doctors.

That means about half of the doctors needed to treat casualties in Europe would not be there. Nor would there be enough hospital space in Europe. To offset this, the Pentagon developed plans to fly the more serious battle casualties—the wounded who would take more than six days to recover—back to the U.S. for treatment in various civilian hospitals.

Postponement of their treatment resulted in between 10,000 and 30,000 more casualties because men who might have quickly returned to the front wound up in U.S. hospitals, many of them in relatively remote areas.

For the seriously wounded, the trip across the Atlantic would have been a harrowing one, stretched across the triple seats of passenger jets. The increased casualty rate meant the Air Force ran out of aeromedical evacuation units after five days of fighting. After that, there were only chartered civilian passenger jets to receive the casualties.

Gen. Kerwin, one of the Army's last links between the current era of computerized simulation and the days of Gen. George Marshall, described Nifty Nugget as: "The most satisfying thing I've been in in 39 years of military service. At last we've done something that is going to get results."

Tomorrow: The Aluminum Bridge

NIFTY NUGGET: EUROPEAN WAR FOR COMPUTER

Nifty Nugget was a vast electronic game carried out by more than 1,000 people. The players included senior defense officials, representatives of top military commands and officials of 27 civilian agencies that have a role in the Pentagon's plans to mobilize for war.

The scenario, as prepared by the staff of the Joint Chiefs of Staff, presumed several months of heightened international political tension before the game began on Oct. 10, 1978.

Three days later, the defense official playing the role as secretary of defense advised the president to declare a national emergency.

Movements of troops and supplies to Europe were simulated by computer or worked out on paper. On Oct. 20, NATO forces in Central Europe were presumed to have come under major attack by units of the Warsaw Pact nations using conventional weapons.

Casualties and rates of consumption for ammunition and military equipment projected for such a war were simulated, and the players were required to attempt to offset these factors.

The game required several hours of decision-making each day in the Pentagon's "war room" and in a network of other command posts throughout the country. It ended for most players on Oct. 30. The Army continued playing until Nov. 8.

Reports describing the lessons learned in the exercise are still classified.

PENTAGON LOGISTICS BRIDGE FAILS

One of the casualties of "Nifty Nugget," a massive, secret, computerized mobilization exercise for a conventional war in Europe, was the Pentagon's dogma that it is capable of fighting one and a half wars.

For at least a decade the Department of Defense has defended its budget requests by stating that it must maintain enough resources to defend NATO allies against an attack by Warsaw Pact powers and still have enough left over to defend against another attack elsewhere.

The way this would be done is called the "swing concept." The United States would swing a number of warships from the Pacific into the Atlantic to protect the massive sea and airlift needed for the war in Europe. Remaining warships, then, would be ready to help carry out the "one-half war" that might erupt in another sensitive place, for example in the Middle East.

Late last fall, while part of the staff of Secretary of Defense Harold Brown was busy putting the traditional boiler plate "one and one half war" language into Brown's annual military posture statement, another part of Brown's staff was writing a secret report for the House Armed Services Committee.

This report said that during the Nifty Nugget exercise the commander in chief of the Pacific Fleet responded to the simulated emergency by asking the Pentagon for all of the forces assigned to him in the war plan to blunt Soviet ventures in the Pacific and Indian Oceans.

The result, the report says, was an impossible situation. "Many of those forces and strategic lift assets to execute this plan were also required in the reinforcement plan for Europe."

Underlying many of the results of Nifty Nugget, though, is an even more pessimistic conclusion: The United States may not have enough airlift and sealift capability to remain credible in one major war, let alone an additional half-war.

The different players in Nifty Nugget—which was the first simulated, goverment-wide war mobilization exercise carried out in this country since World War II—saw the problem from different sides.

While the commander in the Pacific was having most of his assets "swung" away from him, Lt. Gen. Eugene D'Ambrosio, deputy chief of the Army's Material Development and Readiness Command (DARCOM), was frantically trying to prepare for the first wave of the attack in Central Europe.

The timetable for Nifty Nugget, which involved officials from the Defense Department and 27 other federal agencies, called for the outbreak of a conventional war on Oct. 20, 1978, one week after a simulated order by the President calling for a national mobilization.

As soon as the mobilization order gave him the resources to simulate the sending of ammunition over to Europe, D'Ambrosio was off and running. The first assault, he had reasoned, would come by air.

D'Ambrosio, who recently retired, had called U.S. Army headquarters in Europe and discovered that there was an urgent need for surface-to-air missiles (SAMs). Only 52 percent of the Army's front-line SAMs were ready to fire.

D'Ambrosio had made plans to strip several later-deploying Army units of their SAMs and to fly them over before the attack.

"Then we called the Air Force," D'Ambrosio recently explained to a group of retired Army officers, "and said, look, we've got to get this over there. They said 'Can't do it. We've got everything planned for the first 30 days.'"

THE "ALUMINUM BRIDGE"

D'Ambrosio had collided with what military planners refer to as the "Aluminum Bridge."

In a war that begins with little advance warning or planning—which is the basic assumption for current Pentagon war plans—early logistical support will depend entirely on a massive airlift over the Atlantic, one that would be several times larger than any previously attempted.

It is called the aluminum bridge because it will use many hundreds of jet transport planes. The cream of the U.S. commercial air fleet will be sent winging to Europe along with most of the Air Force's giant C-141's and the behemoth C-5A's.

The Air Force has the logistics of all this worked out and stored in a computer bank. From the instant the mobilization begins, the computer will spit out a stream of orders, assuring time-phased deliveries of supplies to the front. The phasing is designed to make sure that essential supplies and fighting units get there first and that none of the precious airlift is left waiting on the ground for things or people that are not ready. If the aluminum bridge is to succeed, the phasing has to be tight, very tight.

In Nifty Nugget, though, it proved to be too tight. Gen. D'Ambrosio didn't have the clout to get his load of SAMs into the phasing—an event which probably caused chaos at the front.

Then the senior level Defense Department officials commanding the exercise from the "war room" of the Pentagon, a group which did have the necessary clout, decided to change the deployment of an entire Marine division—an event which caused massive chaos in the rear.

The aluminum bridge, the entire computer program for the airlift for the rest of the war thereupon collapsed. That meant that the whole timetable had to be reworked by hand. That meant that some simulated fighting units, waiting to deploy at 50 U.S. mobilization bases—many of which were short of tents, food, ammunition and other essentials—had to wait as long as five extra days for the airplanes that would take them to battle.

The upshot of this problem is a new, high-level Defense agency, the Joint Deployment Agency, which is quietly taking shape at MacDill Air Force Base in Tampa, Fla. Its job is to reexamine the existing war plans and to split them into manageable "packages" so that last-minute changes do not result in the logistical collapses that plagued Nifty Nugget.

CRUCIAL SHORTAGES DISCOVERED

Judging from documents made available to The Washington Star, and from interviews with more than two dozen players in the exercise, part of the problem is that some of the machinery and items needed to handle a national mobilization has simply been postponed for either political or budgetary reasons. Some examples:

Shortages in ammunition stocks and stocks of pre-positioned equipment that are supposed to be in Europe to support U.S. and other NATO forces meant that the airlift of additional fighting units from the states had to be interrupted while more ammunition and equipment was flown to sustain forces already fighting.

There was a plentiful supply of 120 millimeter tank ammunition for the new XM-1 tank—scheduled to be deployed sometime after 1981—but not enough of the smaller rounds needed for the M-60 tanks now in service.

Part of the U.S. fleet of giant C5A's—the only aircraft capable of carrying tanks, artillery, bulky radar equipment, large helicopters and other badly needed items—would soon have had to be grounded if Nifty Nugget were a real emergency. The Air Force did not keep enough spare parts for them in Europe.

While its plans are handled by computers, some of the Air Force's planes would have had to be loaded by hand because the Air Force ran out of pallets and fork lifts during the first two weeks of the crisis postulated by Nifty Nugget.

In all, according to the Air Force, at least 30 percent of the air cargoes needed in Europe in Nifty Nugget never got off the ground because the many delays compounded what had been a known shortage of strategic airlift. "There was a tremendous difference between what we thought we could do and what we did do," explained one Air Force planner.

The exercise showed that almost all of the fighting manpower destined for Europe—around 400,000 soldiers, Marines and their supporting personnel—could have made it over the aluminum bridge, assuming that airfields on the other end could have been protected. Many of them, however, would have been without the equipment they needed to fight a war.

During a national emergency the president can commandeer up to 462 of the nation's long-range commercial airliners, those which have been committed to the Civilian Reserve Air Fleet (CRAF).

NOT ENOUGH MODIFIED JETS

CRAF is maintained by a little-known subsidy arrangement between the airlines and the Pentagon. For each airliner dedicated to CRAF, the airline gets a piece of the Department of Defense's sizeable annual requirement for commercial airline seats.

This arrangement has created plenty of capacity to carry people during a national crisis, but getting enough space for airlifted cargo is another problem. Only 113 of these ships can be converted to carrying cargo, and so far the airlines have resisted further Air Force subsidies to modify wide-bodied jets so that they will accept cargo on pallets or casualties on stretchers.

Aircraft such as the Boeing 747 and the McDonnell Douglas DC-10 would make excellent military cargo carriers if their doors were made wider and if their floors were reinforced, but that is another problem which is being postponed until the future.

After five years of fruitless haggling with Congress and the airlines over the terms of a subsidy arrangement that would result in modifying existing jets, the Air Force is now trying to get an agreement that will modify future wide-bodied jets as they come off the assembly lines.

If there are problems in constructing the aluminum bridge of airlift to support a conventional NATO war scenario, however, they are child's play compared to the problems of getting enough ships mobilized to feed the major logistical demands of the war.

Because of the inherent cargo-carrying limits of aircraft, 95 percent of the tonnage destined for the war would have to go by ship. That translates, roughly, into 3,000 cargo ships a month.

To have had any impact on the fighting postulated in Nifty Nugget, the first cargoes would have had to be loaded within 10 days after mobilization and arrive in European ports 20 days later. Nifty Nugget lasted only 25 days after a simulated mobilization call, however. Those who looked at the shipping problems are not optimistic that, given the exercise's myriad startup problems, the ships arrived in time to be of much help to NATO forces facing the high firepower of the Warsaw Pact countries.

The shipping problem begins with seemingly little things, like the fact that computers of many governmental agencies can't talk to each other. This is because they have been bought from different companies, or are from different generations of technology and are programmed with different computer languages.

This can be troublesome when these agencies have to coordinate with one another during a mobilization. It can be disastrous if one of these agencies is the Army's Military Traffic Management Command (MTMC)—charged with getting the cargo to seaports—and the Navy's Military Sealift Command (MSC)—charged with rounding up the ships to put it in.

The exercise revealed that heavy military cargo, especially the tanks and other bulky items needed to fight the war, were delayed in reaching the ports because of the decrepit state of many of the U.S. rail lines. That meant that they moved at an average speed of about 20 miles an hour.

The cargo that did make it to port in a reasonable time would have relied heavily on something the Navy calls EUSC (Effective United States Controlled Fleet). In shorthand, it means the Navy's authority to commandeer ships of Liberian, Panamanian or Honduran registry that are owned by U.S. business interests.

During a recent conference on NATO problems in Brussels, Admiral Isaac C. Kidd Jr., who has just retired as commander of the Navy's Atlantic Fleet, noted that the Navy's legal authority to control EUSC has never been tested.

Assuming the legal problems were surmounted, Nifty Nugget players found that the modern ships most likely to be found in U.S. seaports—containerships—do not lend themselves well to carrying bulky military cargo. Furthermore they can't unload themselves if they land at a seaport that has been damaged.

Beyond all of these problems lay the voyage across the North Atlantic, where hastily-loaded convoys of merchant ships would encounter the strongest element of the Soviet Navy, its submarine fleet.

During World War II Germany fielded 57 U-Boats. The U.S. Navy estimates that in a Nifty Nugget scenario the Soviet Union could deploy some 175 subs into the North Atlantic.

In his NATO speech, Admiral Kidd estimated that in the opening days of a mobilization "well over a third and probably more of the merchant ships at sea would be destroyed or prevented from delivering their cargoes on the day the shooting started." Shipping losses, he said, would tend to taper off as the war continued and the subs were hunted down.

Given the chaotic nature of the U.S. supply system, however, the question posed by Nifty Nugget is whether a conventional war in Europe could continue for very long after the U.S. pipeline of ammunition, equipment and supplies first begins to falter.

After that, as one planner put it, you are in a different war game altogether. "You either surrender or you throw a nuke. Neither one of them is what you'd call a nice option."

ALL KINDS OF FOUL-UPS HAMPER ARMY MOBILIZATION

(By John J. Fialka)

Seen from one of the 50 mobilization bases that would have to spring into being should the nation carry out its plans to mobilize for a major war, Nifty Nugget was a disaster.

"This was one war we would have lost," concluded one officer of the 3397th U.S. Army Garrison, of Chattanooga, Tenn., a veteran whose recollection goes back to the mobilization for Korea.

"None of the Army mobilization stations tested during the exercise could support the mobilization activities of reserve component units," states one Pentagon report. The report notes that after the regular Army units were theoretically sent to battle, the bases left behind functioned in "very limited" fashion because most of the people who knew how to run the bases had gone to war.

That was not the problem for the members of the 3397th U.S. Army Garrison. They were not sent to a regular military base. Their problem was how to breathe life into Camp Shelby, Miss., a swampy, mosquito-ridden camp 45 miles north of Biloxi, which had not been used by active units since World War II.

Because 14 such bases would have to be

used during a real mobilization, the Army sent reserve units to three of them last fall to gear up for the pretended, all-out war in Europe.

Judging from the 3397th's still-classified "after action report," the mobilization at Camp Shelby was an operation that began on the wrong foot and went rapidly downhill.

The job of the 3397th was to prepare the base to receive five Army reserve brigades, tank units and mechanized infantry that in a real war would be coming from various parts of Tennessee to Camp Shelby to receive their ammunition and final training before being sent overseas.

The initial problem was an obvious one. The aging, but well-preserved wooden "temporary" buildings at the base would barely hold one 3,778-man brigade. Receiving five brigades would have turned the fields around the barracks into a sea of Army tents.

Tents. That meant using SAILS ("Standard Army Intermediate Level System"), a kind of computerized voucher system to locate and immediately reorder short supply items. Tents were just one of the 4,351 items the 3397th punched into SAILS.

Later the technicians learned that all of these requests had simply been canceled by the computer, which had not been programmed properly. "As it turned out they didn't have any tents anyway," explained an officer.

The 3397th didn't really need as many tents as they ordered because the reserve brigades theoretically coming to camp had over 4,000 vacancies. What was needed were tank crews and infantrymen to fill the tents so the base command turned to another computerized system, one called SIDPERS ("Standard Installation/Division Personnel System").

Actually there were three SIDPERS systems, one for the regular Army, one for the Army Reserve and one for the National Guard. Although they were different systems using different computer language, the Army had wired them all together for Nifty Nugget.

The problem was that they weren't wired together properly. The requests for the extra manpower went the way of the request for tents. The computer operators assumed that they, too, had been canceled, but that was wrong. A week later, after the 3397th began frantically going through the paperwork necessary to turn the men from five vacancy-riddled brigades into two functionable ones, their computer request miraculously reappeared on their computer terminal screens. SIDPERS had found enough replacements to fill out one of the brigades. It was later discovered, though, that 40 percent of this information was wrong.

Cannibalizing units was not a happy development at the base. "That isn't good at all," explained one officer. "It's better if these homefolks go as a unit. That's the way they've been trained."

It is difficult to see how the men would have been given their final training at Camp Shelby if the real units had showed up instead of just appearing as blips on the base computer.

There was no ammunition for the tanks and no place to store the diesel fuel they would need, but that was probably just as well because there were not even enough C rations available to fuel the drivers.

In fact, the officers of the 3397th could not imagine how the trains could get 300 flatcars carrying the units' big M60 tanks and hulking armored personnel carriers to Camp Shelby. There was only one decrepit rail line leading into the base. "That would have been the damndest train wreck you ever saw," was the way one officer put it.

The men of the 3397th had trouble telling the Army about their problems. Communications during a mobilization are supposed to be secret and for this purpose the Army had hauled in AUTODIN, a 12x12 foot computerized teletype system designed to send and receive messages in code.

While AUTODIN was being installed a technician noted that the teletype part of the machine didn't seem to work, but was told that the machine would be all right after "an initial adjustment and burn-in period." AUTODIN, though, never recovered from that initial adjustment. It was the first casualty of the simulated war.

CIVILIANS FLUNK, TOO, IN "NUGGET" EXERCISE

(By John Fialka)

In the middle of a secret Pentagon war game carried out last year to test the nation's ability to mobilize for a sudden war in Europe, senior defense officials received a graphic illustration of just how thin that capability really is.

Flashing before them on audiovisual display panels mounted on the wall of the "National Military Command Center" were scenes of simulated chaos at key U.S. military installations up and down the East Coast.

These were the bases that were supposed to be embarkation points for 400,000 U.S. soldiers and Marines heading for the war. Instead they were being mobbed by hordes of homeless Army dependents and confused U.S. tourists. Those civilians had been rounded up in Europe by the State Department, flown back by the Air Force and then literally dumped right in the middle of the military loading operations.

Somebody had dropped the ball. There was no transportation system set up to get the civilians off the bases and none of the 27 civilian agencies participating in the mobilization exercise—known by the code name "Nifty Nugget"—were sure just what the plan was.

The upshot was that departing Army units had to be diverted to the job of getting the crowds off the bases and headed toward home. Although Nifty Nugget was to a considerable extent a mosaic of major and minor foulups, this was the only one singled out in a later classified report to the House Armed Services Committee as being large enough "to jeopardize military plans."

Why was there no way to deal with the simulated return of part of the 900,000 Americans that are in Europe at any given time? Barry Van Lare, associate commissioner of Social Security, whose office was later found to have "responsibility for carrying out the "Reception and Onward Movement of Noncombatant Evacuees" plan, gives the following explanation:

There was a woman, he said, who was in charge of the $300,000-a-year program at Social Security, but she retired several weeks before the exercise. No one else knew much about her plan, which would have drawn on the sizable welfare bureaucracy in Social Security for aid in relocating the evacuees.

Since Nifty Nugget, Van Lare is quick to add, Social Security has been in the process of developing "much better coordination" with the Defense Department.

While the U.S. military did not perform adequately during Nifty Nugget—the first full-scale war mobilization exercise since World War II—those who have studied the efforts of civilian agencies involved say civilian performance was much easier to characterize.

"It is clear that the civilian side flunked," John Macy, director of the new Federal Emergency Management Agency, recently explained at a meeting of the Association of the U.S. Army.

During a real war mobilization, the civilian part of the operation would be run out of a special six-room command post in the General Services Administration building in Northwest Washington. The task of the people in those rooms and those working with them in government agencies would be to quickly mobilize the economy of the richest, most complex, nation on earth to handle a war.

(For Nifty Nugget purposes, the command post was operated by representatives of civilian agencies, who were in contact with "cells" of other crisis managers in their agencies as well as with the war room and various other branches of the Pentagon.)

William Baird, an assistant director of FEMA, who had charge of organizing the civilian side of Nifty Nugget—code-named "Rex 78"—under the auspices of the now-defunct Federal Preparedness Agency, says he had great difficulty getting senior level Carter administration officials to play in the exercise. Nifty Nugget went on for several hours each day last October and early November. Much of it was simulated on computers.

"We had the ordinary career people participating, but the policy people didn't get involved and they're the key ones, really. It was a little bit different on the military side," said Baird.

Added to this problem was the fact that, as the Defense Department later described to the House Armed Services Committee, the war mobilization plans on the civilian side are simply "an aggregate" of presidential memos "last updated six years ago."

The impact of these two problems—like the impact of hundreds of thousands of tourists suddenly descending on military bases—produced some memorable moments during Nifty Nugget, according to documents obtained by The Washington Star and interviews with many of the game's players. Some examples:

Nifty Nugget began by calling up civilians in Army Reserve units, causing key civilian agencies to suddenly lose air controllers, security officers, logistics experts and other skills central to the problem of handling mobilization on the civilian side. The plan to control the impact of a reserve callup on non-military agencies had not been published properly.

Players from the Defense, Commerce and Labor Departments struggled to locate workers with wartime skills, but found that there was no definite system spelling out which skills might be needed.

Because of a shortage of military doctors in Europe, the more serious military casualties were being flown back to the United States for treatment in U.S. hospitals. However, the Departments of Defense and Health, Education and Welfare had not established an adequate administrative process to handle the large, incoming stream of the wounded and the dying.

Once part of the nation's civilian aircraft had been borrowed by the military for the airlift to Europe, the Department of Transportation and the Civil Aeronautics Board discovered there was no developed plan ready to allocate seats on what remained of the U.S. commercial air fleet. This was important because space was immediately needed to fly casualties from East Coast military bases to hospitals all over the nation, to deliver reservists to mobilization centers and to carry war-related civilian traffic.

Department of Energy planners were unable to shift power supplies on the nation's electrical grid following simulated terrorist attacks on power plants during the mobilization. Current law requires a declaration of war before such emergency measure can be taken.

The Selective Service System, pretending that it had already registered people for the draft, found it did not have the computer capability to process the number of inductees required by the Pentagon.

Another problem plaguing the civilian side of Nifty Nugget was that while the outbreak

of a conventional war in Europe is considered a most likely war scenario by U.S. military planners, it was not considered credible by some people working in key agencies on the civilian side.

NOT LIKE WORLD WAR II

For example, Bardyl Tirana, then director of the Defense Civil Preparedness Agency, went through the motions of the game but wondered how a population that included millions who had never been told anything about mobilization would react in a sudden military crisis with a nuclear power like the Soviet Union. It would not, Tirana, believed, be at all like gearing up for World War II.

How would workers needed for key industries react to mobilization orders, Tirana wondered, knowing that they and their families were in cities targeted for nuclear destruction? "It's just very hard to talk about mobilizing for a convention conflict outside of the context of the ever-present bomb," Tirana explained to a reporter.

Underlying all the problems of Nifty Nugget, the lack of coherent advance planning by military and civilian officials was an even more fundamental problem: A large amount of the nation's industrial structure that was waiting to be mobilized in World War II is simply not there today.

Some of these problems are obvious. Much of the nation's steel-making capacity and large parts of its electronics industry have simply been exported during the intervening 40 years. While mobilizing cargo for World War II meant running trains, much of the railroad capability has been taken over by trucks. The nation's trucking system is decentralized, making it much more difficult to manage from a central point in time of war.

But there were also some problems that are not obvious. During World War II the latent power of the U.S. industrial base was such that Field Marshal Erwin Rommel, the famed German tank commander, is said to have concluded privately that Germany could not defeat the United States after Rommel saw Sherman tanks maneuvering before him on the battlefield at El Alamein.

The Sherman tank had been designed, produced in quantity and delivered to the front in 11 months. Research carried out as part of Nifty Nugget indicates that that feat is not about to happen again.

Although the current lead time to produce a tank is classified, Army spokesmen noted several problems. Partly because of the impact of environmental laws, there are currently only two foundries in the United States capable of forging tank hulls. The production of the latest U.S. tank, the XM-1, has taken eight years and is still stymied by problem's with the tank's finicky gas turbine engine, which is allergic to dust.

"SURGE CAPABITIY" CRITICAL

"In terms of tanks," explained one Nifty Nugget player, "you fight with what you've got for the first two years."

The ability of a nation to crank up its industry for war production is known as "surge capability." Surge capability has long been considered crucial by NATO military theorists because, while Warsaw Pack forces led by the Soviet Union may have more weapons in the field, the industrial capability of the West is three times larger.

While industrial surge capability is critical in tanks, it is even more critical in ammunition, and there again the war game players found things have changed radically since World War II, even since the war in Vietnam.

A steering committee recently studied the ammunition problem for the Pentagon. It found that such U.S. industrial giants as duPont can no longer play a "significant role" in making military explosives because U.S. private industry has switched over to making explosives from ammonium nitrate—the common ingredient of fertilizer—for blasting and other civilian needs.

While ammonium nitrate explosives are much safer to ship and are much less likely to result in secondary explosions when a tank or a ship has been hit, the huge Pentagon munitions bureaucracy is still making ammunition in government-owned plants out of HMX and RDX, the same two chemical agents used in World War II.

As one government scientists who has been studying the problem put it, the Pentagon bureaucracy is most able to resist change when it comes to low-tech warfare items.

"Hell, I could go in and get another $100 million for particle beam research without even breathing hard, but try and get anything for mundane things like conventional bombs and bullets," the scientist said.

In sum, the message of Nifty Nugget is that much of the mobilization capability the nation's vaunted industrial-military complex would need to support a large-scale conventional war has simply been lost, cast aside, forgotten or ignored.

The Defense Department's classified report to the House Armed Services Committee perhaps put it best:

"Warfighting may arguably be the province of the military. Resource availability planning may be dominated by civilians. Mobilization activities come right at the seam. This points to the need for deep and probably unprecedented military-civilian cooperation."

DECREPIT DRAFT MACHINERY CONKED OUT IN MOBILIZATION TEST

(By John J. Fialka)

Imagine that a derelict was suddenly found, spruced up, given a set of phony credentials, and sent off on a crucial wartime mission and you have some idea of the role that one key civilian agency, the Selective Service System, played during the war mobilization exercise Nifty Nugget.

In reality, the capacity to draft men quickly for a sudden major war does not exist, because the power of the Selective Service System to conduct peacetime registration lapsed in 1975 when President Gerald R. Ford asked the Department of Defense and Congress to look into some alternative procedures.

Since then, as no alternative procedures have emerged, the Selective Service System has been on what the Pentagon calls "deep standby." Viewed from the standpoint of a mobilization, it means that the agency was gone but not forgotten.

The problem posed by Nifty Nugget was how do you simulate the operation of military induction and training centers without having some system to send them draftees? The solution was to pretend that Selective Service had the names of some 100,000 draftees ready to go.

As Robert Shuck, acting director of the Selective Service System, explained it, this was done by placing three X's in front of the names of Vietnam era draftees, names that were still in the agency's computers, and then altering their birth dates to make it appear that they were either 20 or 21. Those are the two prime age groups from which a modern draftee Army would be drawn.

Going into "deep standby" had meant that the Selective Service System had shrunk from an agency with 9,000 full-time employees and 626 area offices to 98 full-time people and six regional offices.

The original terms of deep standby meant that the Selective Service System would crank up 30 days after the president had declared a state of national emergency and hold a draft registration 30 days after that.

In the fall of 1977, however, as the Pentagon began to prepare for Nifty Nugget, the Carter administration concluded that to wait that long for draftees might be too risky. So the Selective Service System's mandate was ordered changed. Now the system has to get ready in 72 hours and hold a registration within 10 days.

The problem Shuck faced was that even with a pretended registration and the phonied names in his computer, he couldn't process them fast enough to deliver the Pentagon's current wartime requirements: 100,000 inductees within 60 days and 650,000 inductees within 180 days.

"If we had data coming in like we were simulating we did not have the throughput capability for kicking out inductions within the shortened time frame," explained Shuck. "Our computers use one language and the ones we wanted to borrow used another."

Nevertheless, the Selective Service system stumbled on, carrying out its role in the simulated mobilization. The business end of the current system, 715 military reserve and National Guard officers, were called up and asked to set up temporary offices in armories and federal buildings in each of the 50 states. There they spent the weekend of October 21, 1978—the day after the simulated major war broke out in Europe—processing the files of mythical draftees.

This process went along much more efficiently than it would have in a real war because, as Shuck pointed out, Selective Service has no system for handling conscientious objectors or for giving out occupational deferments to those whose skills might be needed in the civilian sector.

Some military theorists have claimed that the absence of a peacetime draft is the major flaw in the current U.S. military posture. For example, Gen. Sir John Hackett, a retired British general, had this to say in his recent, authoritative best seller "The Third World War," which postulates a major war in 1985 that NATO fights and wins:

"There is no need to dwell here on the political and social stresses generated in the United States in the years 1979–81 over the reintroduction of the draft, nor to recapitulate the stormy history of the passage of the appropriate legislation . . . Without it no book like this, placing on record as it does the manner of the free West's survival, could ever have been written."

U.S. military theorists, those who have pondered the dismal record of Nifty Nugget, spearheaded the first legislative attempt to do this last spring. Gen. Bernard W. Rogers, then Army chief of staff and now NATO commander in Europe, tried to convince Congress to begin a limited peacetime draft, one aimed at fleshing out the vacancy-riddled Army Reserve structure.

In September, after a truly "stormy" session evoking the bitter, anti-war rhetoric of the Vietnam era, Congress rejected a lesser step—a proposal for peacetime registration—by a thumping 252 to 163 margin.

Because of continuing manpower shortfalls, the problem is likely to come up again next year, and the year after that. In the meantime the Selective Service System, such as it is, is carrying on. It has a new mission that it calls "rapid response readiness." That means finding somewhere to register people once a national emergency is declared. The current plan, which Shuck admits is simply a copy of the plan used in World Wars I and II, is to use state and local election machinery. The Pentagon is looking at an alternate plan to conduct a one-day registration at U.S. post offices.

Unlike the old days, the processing of the registration forms would be electronic, unless the nation is under attack, in which case the computer tapes with the names of potential soldiers would be flown to central processing points.

"We're doing this in a shortened time frame," explains Shuck. "We just can't wait for the mails to get there." ●

THE TRAGEDY IN CAMBODIA

● Mr. CRANSTON. Mr. President, as we proceed with our work in the Senate today, one of the great tragedies of our time is unfolding in Cambodia. The Cambodian people are suffering senselessly and appallingly. The death toll from hunger and disease is running into the millions.

Many of my colleagues in the Senate have spoken out on this tragedy with eloquence and emotion. I wish to commend them for their efforts and for their concern.

President Carter, too, has spoken with eloquence on the Cambodian situation, committing the administration to concrete action to attempt to alleviate the suffering and outlining the challenge which faces all citizens of America and the world, with the following words:

Thirty-seven years ago, a holocaust began that was to take the lives of more than six million human beings. The world stood by silently, in a moral lapse whose enormity still numbs the human mind.

We now face, once again, the threat of avoidable death and suffering for literally millions of people, and this time we must act swiftly to save the men, women and children who are our brothers and sisters in God's family.

I want to emphasize my strong support for the steps undertaken by this body and by the Carter administration which are designed to provide humanitarian aid to the people of Cambodia. We must continue to urge other nations to join our relief effort and to press relentlessly upon Phnom Penh authorities to accept our good faith efforts to alleviate human anguish, keeping in mind that hunger knows no politics.

I am appalled that the ruling authorities in Cambodia evidently have so little regard for their own people that they will consider blocking humanitarian efforts to prevent mass starvation. There can be no more graphic demonstration of the callousness of totalitarianism.

I wish to commend the work of private agencies and individual citizens of this country who are working so hard to help the people of Cambodia to survive.

I will continue to give my vigorous support to efforts in the Congress and by the administration to end the truly senseless destruction of human life in Cambodia. I strongly urge that we pursue every possible avenue—including direct consultations with the big power supporters of the opposing factions in Cambodia—which might alleviate the suffering currently endured by the Cambodians.

Mr. President, I ask that the President's proclamation on aid to the Cambodian people be printed in the RECORD along with the full text of Secretary of State Vance's recent U.N. address on this topic.

The material follows:

AID FOR KAMPUCHEANS

(By the President of the United States of America)

A PROCLAMATION

Thirty-seven years ago, a holocaust began that was to take the lives of more than six million human beings. The world stood by silently, in a moral lapse whose enormity still numbs the human mind.

We now face, once again, the threat of avoidable death and suffering for literally millions of people, and this time we must act swiftly to save the men, women, and children who are our brothers and sisters in God's family.

The International Committee of the Red Cross and the United Nations' Children's Fund recently appealed jointly for $111 million in aid to help the millions of Kampucheans, formerly known as Cambodians, who are facing death from starvation during the next six months. We must respond to this appeal, and we must also respond to the related needs for food, medicine, and shelter for Kampuchean refugees who are fleeing to Thailand.

A major program has been launched by the American government to support this relief effort, but it is too important to be left to the government alone. I am certain that the American people, as individuals and families, through churches, schools, voluntary organizations, and businesses, will want to be a part of this emergency humanitarian response to a desperate and terrible need.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby call upon all Americans to give generously to the voluntary relief agency of their choice to alleviate this terrible suffering, asking specifically that the donation be earmarked for Kampuchean relief. Further, I hereby designate each Saturday and Sunday in November until Thanksgiving as days for Americans in their synagogues, churches, and other places of worship to donate to this cause, and I call upon leaders of the religious community to take whatever measures are needed to publicize and facilitate these donations.

In witness whereof, I have hereunto set my hand this second day of November, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.

KAMPUCHEA STATEMENT

(Statement by Honorable Cyrus R. Vance)

Mr. Secretary General, let me thank you for your initiative in calling this conference, and your leadership in addressing this crisis.

I will be brief.

For we are here, today, to act.

We are here to make, through our individual contributions, an international commitment to deal with a human tragedy of almost unfathomable proportions.

We need no other call to action than the grim facts in Kampuchea.

A nation of seven million has been ravaged by famine and disease, brutality and war. Some two million have perished.

Death has struck hardest at the children. An entire generation of Kampucheans may have been lost.

The meager food available has become a booty of war.

Malaria is rampant. Anthrax has appeared. Minimal health care is virtually non-existent.

Even these are only fragments of the tragedy.

Statistics are only a shadow of the reality.

The reality of Kampuchea . . . of a people on the verge of extinction . . . is most powerfully conveyed by the images of suffering carried in our daily newspapers. The silent grief of a young Khmer mother cradling her dead baby in her arms, a victim of starvation . . . or the vacant gaze of an infant beyond help and hope in a makeshift orphanage in Phnom Penh.

We are here as diplomats . . . as representatives of our governments . . . to address this reality.

But first of all, we are here as human beings. Our presence reflects the concern of millions of human beings in all our nations who care about this suffering.

Some issues transcend politics. This is one of them.

Clearly, there are differences among governments on the political situation in Kampuchea.

But all of us must put those differences aside . . . as we ask all the authorities involved in Kampuchea to turn away from calculations of political and military advantage . . . and turn to the overwhelming human issue before us.

In this connection, I want to single out the Government of Thailand for its courageous and correct decision to allow into its country large numbers of people fleeing famine and disease. The burden this places on the Thai Government is immense, and we in the international community owe Thailand not only our admiration but also our full support.

So let us get to the business at hand.

Mr. Secretary General, I am here today on behalf of the President of the United States to place substantial material resources behind a major humanitarian effort.

President Carter has committed the United States to a contribution during the next six months of $30 million for international relief efforts in Kampuchea and $9 million for Khmer who have recently fled to Thailand.

Our Congress is approving $30 million of additional funds for the next phase of relief efforts. This is in addition to our already substantial contributions to the refugee program in the same area.

And we will give our full support, in any way that will be helpful, to the efforts of the United Nations . . . UNICEF and the ICRC . . . and private voluntary groups . . . as they continue the enormous task they have now begun.

We must pursue every avenue . . . and use every means . . . to bring relief supplies to people desperately in need. Whether through Thailand, through Vietnam or by sea . . . whether by truck, as we have recently urged . . . by airlift . . . or by river transport . . . food and medicine, in sufficient measure, must be delivered. The international relief agencies must be allowed to do their jobs . . . to see that help gets to the people so desperately in need.

This is a compelling moment. Our common humanity calls us to action. ●

BATES COLLEGE STUDENTS IN CHINA

● Mr. MUSKIE. Mr. President, Prof. George C. Fetter, chairman of the department of sociology at Bates College in Lewiston, Maine, saw a lifetime dream come true last April when he and his wife, Joyce, led 22 Bates students on a tour of the People's Republic of China.

The trip was the product of 4 years' negotiations with the Chinese, undertaken well before the recent move toward normalization. Thus it is a tribute to Professor Fetter's persistence and skill, as well as his commitment to educating American students about a culture so distant but so important in today's world. As a trustee of the college, and an alumnus, I am doubly proud of his achievement.

Mr. President, George Fetter recently described the trip in an article in the August 1979 issue of the Bates College Bulletin. To share it with my colleagues,

I ask that the article, "Welcome to American Friends," be printed in the RECORD.

The article follows:

WELCOME TO AMERICAN FRIENDS

(By George C. Fetter)

Four years of negotiations and a lifetime of yearning came to fruition when Japan Air Lines flight 005 gently lifted into the air against an easterly wind at 11:45 A.M., Wednesday, April 23, heading for Beijing (Peking) China, via Anchorage and Tokyo. On that plane were 22 excited Bates students, and Joyce and I—elated but a little apprehensive. The trip to the People's Republic of China, with visits for comparative purposes to Hong Kong and Japan, represented the culmination of a short term unit whose academic requirements included considerable background reading and a major paper on a facet of Chinese society of particular interest to the individual student.

Upon arrival in Japan 17 hours later we learned that a crippling bus strike had paralyzed the Tokyo area and decimated the work force at Narita Airport. The only other hitch of the entire journey occurred when we heard the ominous announcement that China Airlines 2:20 flight into Beijing would be delayed due to mechanical difficulties. Correctly sensing cancellation, as airport sitters do, we somehow got ourselves on a late Iran National Airlines flight into Beijing. Our excitement was more than commensurate with expectation when the lights of the great city, diffused by a heavy mist, began to appear far below us. We settled in Beijing's once-elegant Friendship Hotel, which consists of seven separate Oriental style buildings with two- and three-room suites, high ceilings, and which offers hot tea in each room around the clock.

There were chopsticks at our breakfast tables, and after some initial self-conscious fumbling we learned to handle them with increasing ease, if not grace, throughout our stay in the People's Republic. We had two very bright, talented, and personable young interpreters with us for the entire trip, as well as several others at each place we visited. One of our permanent interpreters, Mr. Tsao, seemed able to do almost anything, and his sense of humor was priceless. His full name in Chinese means "Victory" and you can guess how long it took for us to pin that label on him. Mr. Liu was more reserved, but also a delight as we came to know him. Six hours after our arrival in China we emerged from our bus at Tien An Men Square and the gate to the Forbidden City. Given the perverse nature of human beings to become intrigued with things forbidden, we had all been curious about that whispered marvel since childhood. This feeling undoubtedly symbolized the intensity of our curiosity about the entire country since the closing of its doors in 1949, aided and abetted by American political conservations.

It seemed as though all of Beijing's several million bicycles, with their owners astride them, were at that moment swarming past. We left their gally ringing bells behind and passed through the gate to the Forbidden City, into another world, another century, another time. One could now understand the frustration of travelers who for hundreds of years have been unable to put into words this fabled and haunting place. Our busy cameras would have to do the talking. It is safe to say that from here on we viewed China (and each other) through two different but simultaneous perspectives: one naked eye and one single lens reflex. Whatever one's final impressions of this city within a city, the presence of such profusion of gold and jade accoutrements to Imperial China helps one to understand revolutions against the privileged.

We had originally asked the Chinese government to allow us to see as much of the educational process as time permitted. Gracious acquiescence to this request began with a delightful afternoon at the University of Beijing. After a lengthy question-and-answer period with the chairman of the Department of Social Science, and a staff member from the Chancellor's office, we were turned loose with a group of English majors to walk about the very beautiful campus and engage in informal give-and-take. Some very pointed and direct questions were asked during the earlier more formal session, such as: is not freedom of thought clearly sacrificed when all institutions of learning are controlled by the State? At the University of Beijing we began to encounter the party-line responses one tends to find in the Soviet Union, as well as the recurring theme of blaming the notorious Gang of Four for everything from industrial shortcomings, to the removal of psychology from university curricula, to stoppage in the plumbing—with what justification it is difficult to assess.

The University has 3.2 million volumes in its library and many of them are in Russian or English, although a large portion are quite dated. We learned here and at subsequent visits that Chinese universities have a far better faculty-student ratio than we do—three or four students to one teaching instructor. By Communist admission, even pride, educational goals are directed toward the achievement of state-formulated socialist objectives, and we found heavy emphasis on science, engineering, language, and fairly strong but pragmatic programs in the social sciences.

A night at the Beijing Opera (where the audience had to await the tardy arrival of Henry Kissinger) topped off a wildly busy day. China was already coming out of our ears and we hadn't been in the country 24 hours!

The last evening in Beijing Mr. Chang Yiao-ming, vice director of the American section of China's International Travel Department, sponsored a 10-course duck dinner. He chuckled with benign amusement upon being informed that we had arrived in blue jeans and sneakers. There was no time to stop at the hotel and change, after a day of climbing all over the Great Wall and exploring one of the Ming Tombs. The duck, delicately seasoned and sliced to chopstick manageability, would reduce French cuisine to second billing. Course after delicious course was punctuated with increasingly convivial toasts of wine, Pijou beer, and the deadly mao tais (not to be confused in any way, shape, or manner with the popular and milder Hawaiian mai-tais) to anyone and everyone, real or imaginary, who could be perceived as having any sway over Chinese-American friendship. (Surely, it occurred to us, those people out there on their bicycles don't eat like this.)

The ancient city of Xian, which we had also made a special request to see because of its far inland location and renowned archeological discoveries, was both the cornerstone and highlight of our visit to the People's Republic. It is also of considerable historical importance, at one time constituting the world's largest city and crossroads between East and West. At Hua Qing Hotsprings, 35 miles from the city, the Kuomintang's Chiang Kai-shek was arrested by Manchurian Chinese Nationalists and forced to make common cause with the Communists against the invaders from Japan. Xian is one of the world's few cities continuously inhabited since Neolithic times, over 6,000 years B.C. Beautifully preserved Stone Age dwellings, artifacts, and skeletons are preserved in situ at the Ban Po Museum near the city's outskirts.

One of the stunning sights of the trip was the excavation in the Ch'in Tomb area, begun in 1974 and called by the National Geographic magazine, "China's Incredible Find." Here archeologists are unearthing what is thought to be the remains of a 2,200-year-old terra cota army of 8,400 life-sized foot soldiers, cavalry, horses, and chariots in formation and full battle array. We had not realized what a privilege it was to see this until reading upon return Georgia Hesse's piece in the May 22 San Francisco Examiner-Chronicle: ". . . today a few fortunate visitors are conducted around the digs . . . that someday may surpass Egypt in interest." Qin Shi Huang Di, the unifier and first Emperor of China who built the Great Wall, and this vast pottery army to guard his burial grounds, is reported to have used over three quarters of a million men on each project. Wonders beyond imagination are thought to lie under a huge burial hill in the area, and it was like pulling teeth to get archeology students Steve Mandell, '79, and Steve White, '79, out of there and back to attend an evening musical in Xian.

Perhaps Xian's greatest appeal lay in its "human accessibility." We encountered thousands of Chinese who had seldom seen a Western face, and to pause for a moment on the sidewalk was to draw immediately a curious and friendly crowd. We caused some fine traffic jams, mostly bicycles, don't forget. This sense of contact was enhanced by a most informative afternoon at Shaanxi Teacher's University, with over 100 English majors and their instructors who took us to their classes, asked and answered countless and excellent questions on subjects from extended families to politics. It was hard to leave Xian, very hard.

Nanjing (Nanking) with its ancient earth wall, riverfront, trees, grass, parks, and lakes present a different and greener face. In terms of the educational purpose of our trip the highlight here was a half day spent in a large chemical factory commune with its own residences, schools, and hospitals. After classes, little children would tug at our hands and sleeves to try to prevent us from leaving. We noted again here that in Chinese schools physical activity in the form of games, dances, and in-place calisthenics was regularly interspersed with the "three Rs." The factory leaders responded with thoughtfulness and equanimity to very pointed questions relative to pollution, high noise levels with no ear protection, eye protection, accident rates on the slippery floors, and many more. These men and women are very much aware that, though they have made much progress, they have a long way to go and they are determined, through intensive education and hard work, to get there.

Acupuncture, which had seemed like an esoteric and obscure medical practice, had become a commonplace sight by this time and we were readily permitted close-up photographs of it in operation. At a clinic in Nanjing, Jack Barnett, '79, who had a head cold, was permitted to try it. As an aside, we had no serious illness, the nemesis of tour leaders, throughout our stay in the Orient. We also had the opportunity to visit the collection of Chi'an Song Yi'an's beautiful and delicate watercolors. As an indulgence on a busy day it was also pleasant to visit Five Islands Park and see our first giant pandas.

The double decker rail, automobile, and pedestrian bridge over the mighty Yangtse River at Nanjing cannot match Dr. Sun-Yat-sen's mausoleum for sheer achitectural beauty. It is, however, every inch an engineering marvel, over 22,000 feet long and requiring over an hour to walk across. Russian, Swedish, Japanese, and American engineers agreed that it could not be built, and the Chinese are understandably proud of it.

The five-hour train ride from Nanjing to Shanghai—China's largest city—takes the traveler through two hundred miles of rural, rice-growing countryside. Here the phrase "labor-intensive" agriculture takes on real

meaning as one watches numerous large clusters of peasants wearing wide-brimmed hats working the paddies. We were to see more of Chinese farming while spending the better part of each of two days on communes in the Shanghai and Kwangchou areas. The first of these, the Shen-Tong People's Commune, was collectivized in 1958 and is one of what the Chinese classify as a suburban commune. "Suburban" is an unfortunate translation because to the American mind it conjures up images of the bland- middle-class life of country clubs, poolside daiquiris, backyard cookouts, and streets with names like Partridge Run Road. Actually, the Chinese use of the term is literal and accurate for it simply means near, or even in conjunction with the urban. While these communes may have a rural agriculture base, they also have brigades which specialize, for example, in machine repair, textiles, aquaculture, and many other things. We enjoyed the best meal in the Orient on the Shen-Tong Commune. Each of the many dishes of chicken, pork, fruit, and vegetables was fresh that day, according to the soft-spoken commune director.

Shanghai, with its taller and more massive buildings, cacophonic waterfront, and subtle differences in attire and attitude comes closest to what Westerners generally think of as a metropolis. It is not possible to describe it in this article. But a "must" is a visit to one of the city's 11 Children's Palaces, many of which are former homes of wealthy British and Chinese merchants who made their fortunes in the classic Marxian sense from the sweat of Chinese labor. In the children's palaces thousands upon thousands of youngsters can learn dance, ballet, woodwork, painting, needlepoint, singing, and the playing of musical instruments. It eases the mind and warms the heart to hear the piping voices of these children who are finally being given a chance. Yet the other and darker side of the picture obtrudes itself upon the visitor who wanders into a bookstore to see the political indoctrination in the cleverly written and illustrated children's books. At every turn and at every passing minute this duality continuously assails the intellect and expands the horizons of thought for any individual willing to bring to the experience of China an open mind.

We were far more free in China than we had thought we'd be. There was no problem of shifting the next day's activities if enough of us agreed, and there was no objection whatever if any of us wished to pass up a planned activity to walk or take public transportation wherever we wanted. It was also a relief to be in a country where theft is uncommon and most hotels don't even have keys to their doors. One could stroll the narrow waterfront alleys of a city like Shanghai, with its historical reputation for knavery, without the slightest fear or apprehension even late at night. It was startling in a wry sort of way that only when we entered the so-called "free world" in Hong Kong from the "non-free" world of Communism were we specifically admonished to look out for pickpockets, purse-snatchers, and dishonest money-changers. Skeptics will say that any country can prevent crime with police-state tactics and a cop on every corner. But there are not cops on every street corner or every hotel floor in China, and it is only fair to say, and we think expert Sinologists would agree, that there is something in contemporary Chinese culture and concepts of interpersonal obligation which is responsible for a basic honesty. We were instructed in literature received before leaving home not to take pictures from airplanes or at border crossings—and I am sure we could have got no closer to nuclear test sites than Chinese travelers could get to ours.

A most interesting afternoon was spent in what the Chinese term a "middle school," spanning grades 9 through 12. We attended classes in chemistry, physics, biology, mathematics, and English and thoroughly enjoyed theatrical productions put on by the students in an underground auditorium which they themselves had constructed. School principal, Mr. Chao, anticipating that a little recreation would be in order, had arranged for ping pong games and a basketball game between the Bates worthies and a team of Chinese students, wiry gym instructors and, for all we knew, a few ringers from downtown. Final score: Bates College Bobcats 18, Shanghai All Stars 12. We suspect traditional Chinese hospitality played a part in the final outcome, because the Bates heroes were either not in the best of shape or had neglected to read the small print warning on their mao-tai bottles.

The attentiveness of Chinese students would be the envy of American teachers. College entrance is a hope of every student and parent, but entrance exams are difficult and highly competitive, with the result that a small percentage goes on to college. No bright student is prevented from going to college or university because of financial need. This is not to say that in a country of almost a billion people that the son or daughter of a high level official never slips through. After all, the same sort of thing is even reputed to happen at Harvard.

We inquired prior to departure about the possibility of actually getting inside a Chinese classroom. Not only did we visit and attend many classes at all levels but we were actually privileged to participate in the educational process of the People's Republic. Miss Ching, English teacher, shanghaied John Beaman, '79, to front and center to read several passages in authentic "American English." The middle-schoolers thought this was great stuff, but must have been slightly puzzled in that many Chinese teachers are taught their English with British accents. I wonder what they'll think when their next American visitor is from Texas or South Carolina.

The Tali People's Commune, about an hour's ride through the countryside from Kwangchou, was also established in the 1950s and revealed considerable diversification. Located far to the south in sub-tropical China, Tali is able to grow crops such as peanuts, watermelon, and oranges. We saw at Tali a huge above-ground squaduct used for irrigation of terraced orange groves. We also saw livestock on these communes such as pigs, chickens, ducks, geese, cows, and even mink. At Tali, too, we were welcomed into the modest homes of the workers, who were appreciative of the chance to move into decent housing from squalid hovels—but who were also quite candid in stating that they had "put in" for better housing and hoped to make a move. While not presuming to make ranging statements concerning theoretical socialism, all workers agreed that their lives had been sharply upgraded under the Communists in terms of such tangible items as income, diet, medical care, and level of schooling. Even the most skeptical China-watchers agree that China's literacy rate, perhaps 10 per cent before World War II now stands at 70 per cent, even given a rigorous definition of the term.

The Kwangchou Trade Fair is a famous event in the world of international commerce and we spent a leisurely morning observing it. Ironically, its very atypicality can give as much insight into the state of Chinese technology as an average factory, because here one can view what China herself displays as her best. It is neither fair nor possible for one individual to make sweeping judgments about an event as diverse as a trade fair. I can personally only make an assessment that at least in marine engineering both their high octane gasoline and diesel engines are roughly comparable to those we had in the Navy in World War II. If one judges according to actual horsepower delivered to propellor shafts relative to engine weight and fuel costs the Chinese have a long way to go. Indeed they readily concede this and are genuinely eager for our assistance.

It is traditional for groups traveling in China to honor their hosts by giving a return banquet, and we gave a dandy. Bates College responded to our request for funds to help with the occasion, and to make sure the Chinese would not forget us we each contributed ten yuans of our own. Kwangchou's elegant Chinese Bei Yan Restaurant actually put on an 11-course dinner, and, to appreciate this, Henry Kissinger gets only 10! Mr. Liu, Victory, local interpreter Miss Kuo, and the Luxingshe Director for the Kwangchou area were among the guests. But there was an undertone of sadness amidst the gaiety and laughter on our last night in the People's Republic. Not to sound maudlin, but there was hardly a dry Chinese or American eye as we said good-bye to Victory, Mr. Liu, and Miss Kuo and boarded the train, now on our own, for the border and Hong Kong.

It is now possible to make this trip both by boat and by train without changing trains at Shumshun, but we had the somewhat romantic desire to cross the famous border bridge on foot as so many thousands had done, legally and illegally, before us. And there was no sense of relief or joy at leaving the still visible, mist-shrouded mountains of China and our many new acquaintances behind us. Indeed, back here in the States several friends have asked us whether it is not a relief to be out of Communist China and back home in the good old USA, almost as if the deep and natural joy of returning to one's beloved hearth and homeland is somehow a final corroboration of the evils of communism. Unfortunately it is not that simple and we are finding this experience difficult to talk about, let alone write about. It will take a long time to sort it out, but of this we are sure: s27 was Bates College short term at its best and a perfect blend of background academic study and first-hand observation. It was a wrenching intellectual and emotional experience and whatever the ultimate conclusions of each of us individually, none of us will ever be the same again.

All of you, GO! And the more skeptical you are of the PRC the sooner you should get there: before normalization between the United States and China runs its inevitable course and there is a Kentucky Fried Chicken on the Great Wall, a Coca-Cola billboard at the Ming Tombs, a McDonald's in the Forbidden City, and before the muggers and pickpockets are once again free to roam the storied waterfront of Shanghai.

Mao-tai Toast

(This is what I would term a "raw poem," appearing exactly as I wrote it late one night in my Peking hotel room. I remain, at this writing, too awed by the head-wrenching experience of China to revise this poem, and so can only hope the forgiveness of the reader will overlook the occasional poetic roughness. J.B.)

It's easy to get carried away
with the enthusiastic energy
of being in China, of
sitting down to eat with Chinese hosts as friends;
And it's easy to get very enthusiastic
with mao-tai burning in your belly
and toasts ringing thru the room,
good-naturedly competing to be drunk.
It's just easy to be caught up by all that.
And when you get caught up by all that,
when it turns into a game,
or a contest,
in turns into something not real,
without heart, without soul.
So I just want to take a minute
to get past the protocol and the diplomacy
and get to what matters.

The heart, and the soul.
When we toast
the continued growth of friendship
between our two great peoples,
let us remember what that means.
For me, it comes to this:
I now have friends in China.
There are people in this country
that I care about,
who are important to me.
I now know the Chinese people to be
a warm, friendly, honorable people.
I now have a personal interest in
the continued good will of our nations.
For this reason, that I care deeply for
and respect the Chinese people,
not that our governments may have
parallel interests,
or for any other reason,
I will remember my friends here
and not let my government deny me
they who are important to me.
For all of our sakes,
for the sake of all of our beautiful children
who are our only real hope,
let us remember the friendship
we have found here;
let us remember that in time of peace
things go well.
Cooperation and good will get the work done,
and the children can grow up happy,
rather than fearful and hungry and cold.
So let us drink, my new friends,
let us drink to friendship and peace,
let us drink to the happy laughter
of children.
Peace will come.
Let it begin
with We.

JACK BARNETT, 79.●

STATEMENT OF SENATOR KENNEDY ON SYNTHETIC FUEL VOTES

● Mr. CRANSTON. Mr. President, I ask to have printed in the RECORD the following statement by the distinguished Senator from Massachusetts (Mr. KENNEDY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR KENNEDY

Although I could not be present to vote today on the Proxmire Amendment to substitute the Banking Committee synthetic fuel program for the Energy Committee program, I would have supported the Banking version if I had been present for the following reasons:

First, the cost of the Energy Committee bill is too high. I support an aggressive synthetic fuel program, but both the industry and independent experts agree that the funding levels in the Energy Committee bill are not warranted.

Second, I believe that a successful synthetic fuel program must have two separate phases—A first phase in which the technical and economic issues are resolved through the construction of a number of plants, and a separate second phase which begins when and if the first phase is successful. The Energy Committee bill is really a one phase bill in which the second phase decisions will be made before the first phase is completed and evaluated.

Third, I am opposed to the establishment of a separate corporation to promote one set of energy technologies. There is a great danger that such a corporation with extraordinary powers would produce an unbalanced energy policy in which non-coal and shale options are ignored and near-term coal options underemphasized.

I would have voted against tabling the Hart-Tsongas Compromise because the provisions of the compromise are superior to the Energy Committee bill.

I would have supported the Johnston-Domenici Amendment which requires explicit Congressional approval of the second phase of funding.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the two notifications I have just received.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 1, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-12, concerning the Department of the Army's proposed Letter of Offer to Greece for defense articles and services estimated to cost $112.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961 that this action is consistent with Section 620C(b) of that statute.

Sincerely,

ERNEST GRAVES,
Director.

Attachments.

[Transmittal No. 80-12]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Greece.
(ii) Total estimated value:

[In millions]

Major defense equipment*	$ 94.6
Other	18.1
Total	112.7

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Thirty seven (37) M48 Improved Chaparral air defense systems (launcher-carriers), six hundred (600) MIM-72C Improved Chaparral missiles, and supporting equipment.
(iv) Military Department: Army (WET).
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: November 1, 1979.

UNDER SECRETARY OF STATE
FOR SECURITY ASSISTANCE,
SCIENCE AND TECHNOLOGY,
Washington.

Pursuant to Section 620C(d) of the Foreign Assistance Act of 1961, as amended, and the authority vested in me by section 6(b)(1) of the Department of State Delegation of Authority No. 104, as amended, I hereby certify that the provision of M48 Improved Chaparral air defense systems, MIM-72C Improved Chaparral missiles, and related supporting equipment to the Government of Greece is consistent with the principles contained in Section 620C(b) of the Foreign Assistance Act of 1961, as amended.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

LUCY WILSON BENSON.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., November 1, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-15, concerning the Department of the Navy's proposed Letter of Offer to Greece for defense articles and services estimated to cost $24.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961 that this action is consistent with Section 620C(b) of that statute.

Sincerely,

ERNEST GRAVES,
Director.

Attachments.

[Transmittal No. 80-15]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER

Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Greece.
(ii) Total estimated value:

[In millions]

Major defense equipment*	$22.3
Other	2.5
Total	24.8

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Thirty-two (32) HARPOON missiles with associated spares, training and support.
(iv) Military Department: Navy (AHR).
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: November 1, 1979.

UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington.

Pursuant to Section 620C(d) of the Foreign Assistance Act of 1961, as amended, and the authority vested in me by section 6(b)(1) of the Department of State Delegation of Authority No. 104, as amended, I hereby certify that the provision of RGM-84A Harpoon missiles and associated spares, training, and support to the Government of Greece is consistent with the principles contained in Section 620C(d) of the Foreign Assistance Act of 1961, as amended.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

LUCY WILSON BENSON.●

ANNOUNCEMENT OF POSITION ON VOTE ON AMENDMENT NO. 732

● Mr. BOREN. Mr. President, during yesterday's vote on the Helms amendment to H.R. 5359, the Department of Defense appropriations bill, I was listed as necessarily absent.

Had it been possible for me to have been present during that vote, I would have voted in favor of the Helms amendment to not allow any funds in the bill to be used for abortions except in cases where the life of the mother would be endangered if the fetus were carried to term.●

MEDICAL MASTERY AND POLITICAL BLUNDERING

Mr. PROXMIRE. Mr. President, on October 26 of this year, the Director General of the World Health Organization announced a major triumph in the battle against epidemic diseases—there has not been an outbreak of smallpox since October 26, 1977. By the standards of the WHO, this 2-year absence of smallpox epidemics signals its global eradication. Smallpox is gone—kaput—over. What a great achievement that is.

A disease which at one time could spread unchecked, killing hundreds—even thousands—at a time, has been systematically curbed, isolated and eliminated by the mastery of modern medicine. It is an important milestone—marvelous progress.

Yet when it comes to passage of human rights treaties—treaties such as the Genocide Convention, which offer the first, rudimentary step for protecting tens of thousands of human lives—our efforts are characterized by systematic and unmitigated political blundering.

At this very moment, there rages an epidemic close to genocidal proportions. At this very moment, one of the most fundamental human rights is being grossly violated. At this very moment, thousands of human beings are dying in Cambodia.

Though not caused by disease, the horrible scourge of death now haunting Southeast Asia is as destructive to humanity as many epidemics which we have struggled so long to prevent.

How can our efforts be so inconsistent? How can we work so arduously to keep human beings alive through medicine, and then allow such death to occur through politics?

Is the right to live only a concern of science?

No. It is the concern of every person—each and every Member of the Senate. The most fundamental right—the right to live—must be protected on the international political level. It is time we ratify the Genocide Convention.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I had hoped that the Foreign Relations Committee would be able to meet until 1:30 tomorrow, but I am going to change the convening hour of the Senate to 10 o'clock, if the Senate agrees, which will allow the Foreign Relations Committee to meet until 12, but this will allow the Senate to get an earlier start on the energy bill. I hope that the Senate can stay in session tomorrow evening until we finish with the energy bill, so that we can act on the DOD bill on Friday, which would mean the Senate would not have to come in on Saturday.

Mr. STEVENS. Mr. President, I thank the majority leader for that statement. I assure him we are doing everything we possibly can to complete action on the energy bill tomorrow, and hopefully on the DOD bill on Friday. We will work with him in that regard.

Does the majority leader indicate his intention to stay in session tomorrow until we finish with the energy bill?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I think that would be good advice to give to all Members.

Mr. ROBERT C. BYRD. If we do that, we will finish with the DOD bill on Friday, hopefully, and the Senate will not have to come in on Saturday. In doing that, we are sacrificing an opportunity for the Foreign Relations Committee to have an extra hour and a half to meet tomorrow, and the same thing on Friday, but at the same time at least the Senate will be getting its work done.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

I ask unanimous consent, therefore, that the Senate convene tomorrow at 10 o'clock rather than 11 as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER REDUCING THE TIME OF THE TWO LEADERS UNDER THE STANDING ORDER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow the time of the two leaders be reduced to 3 minutes each.

Mr. STEVENS. There is no objection.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS SCHMITT, JAVITS, AND BUMPERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders are recognized under the standing order, Messrs. SCHMITT, JAVITS, and BUMPERS be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 411 and 422 through 425.

The PRESIDING OFFICER. Without objection, it is so ordered.

LYNN RUFUS PEREIRA

The Senate proceeded to consider the bill (S. 1374) for the relief of Lynn Rufus Pereira, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 1, strike "Kruse" and insert "Crews", so as to make the bill read:

S. 1374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lynn Rufus Pereira shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed on his behalf by Mr. and Mrs. James Kenneth *Crews*, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Lynn Rufus Pereira shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEASE FOR THE MOSES ALLOTMENT NO. 10, CHELAN COUNTY, WASH.

The bill (S. 1682) to amend the Act of August 9, 1955 (69 Stat. 539) (25 U.S.C. 415), as amended, to authorize a 99-year lease for the Moses Allotment Numbered 10, Chelan County, Wash., was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is amended by striking out "and the Navajo Reservation" and inserting in lieu thereof the following: "the Navajo Reservation, and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION OF AN ERRONEOUS LAND DESCRIPTION

The joint resolution (H.J. Res. 199) to amend the act of October 21, 1978 (92 Stat. 1675; Public Law 95-498), was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COW CREEK BAND OF THE UMPQUA TRIBE OF INDIANS

The Senate proceeded to consider the bill (S. 668) to permit the Cow Creek

Band of the Umpqua Tribe of Indians to file with the U.S. Court of Claims any claim such band could have filed with the Indian Claims Commission under the act of August 13, 1946 (60 Stat. 1049), which had been reported from the Select Committee on Indian Affairs with amendments as follow:

On page 2, line 13, after "1946," insert "as amended by the Act of October 27, 1974";

On page 2, line 17, after "all" insert "payments made by the United States on any claim for which an action is brought pursuant to this Act, and for all other";

On page 2, line 22, after "1946" insert a comma and "as amended by the Act of October 27, 1974";

On page 2, line 24, after Commission, beginning with the comma, strike through and including page 3, the word "action" in line 7;

On page 3, beginning with line 8, insert the following:

SEC. 3. The Court of Claims may award to any prevailing party, other than the United States, in any action under this Act costs of suit and reasonable attorneys' fees. The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the court or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the court at such amount as the court, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case, plus all reasonable expenses incurred in the prosecution of the claim, but the amount so fixed by the court, exclusive of reimbursements for actual expenses, shall not exceed 10 per centum of the amount recovered in such case.

So as to make the bill read:

S. 668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations of sections 2401 and 2501 of title 28, United States Code, and of section 12 of the Act entitled "An Act to create an Indian Claims Commission to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (25 U.S.C. 70a), hereinafter in this Act referred to as the "Act of August 13, 1946", the United States Court of Claims shall have jurisdiction to consider any claim filed by the Cow Creek Band of the Umpqua Tribe of Indians within five years after the date of the enactment of this Act respecting any matter for which a claim could have been filed by such band with the Indian Claims Commission under section 2 of the Act of August 13, 1946, as amended by the Act of October 27, 1974 (25 U.S.C. 70a).

SEC. 2. In determining the amount to be awarded in any action under this Act, the Court of Claims shall make appropriate deductions for all payments made by the United States on any claim for which an action is brought pursuant to this Act, and for all other offsets, counterclaims, and demands that would be permitted to be made by the Indian Claims Commission under the third paragraph of section 2 of the Act of August 13, 1946, as amended by the Act of October 27, 1974 (25 U.S.C. 70a), if the claim were to be determined by such Commission.

SEC. 3. The Court of Claims may award to any prevailing party, other than the United States, in any action under this Act costs of suit and reasonable attorneys' fees. The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the court or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the court at such amount as the court, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case, plus all reasonable expenses incurred in the prosecution of the claim, but the amount so fixed by the court, exclusive of reimbursements for actual expenses, shall not exceed 10 per centum of the amount recovered in such case.

SEC. 4. (a) For purposes of this Act, the term "Cow Creek Band of the Umpqua Tribe of Indians" means the group of persons descended from persons considered members of such band for purposes of the treaty entered into between such band and the United States on September 19, 1853 (10 Stat. 1027), as ratified by the Senate on April 12, 1854, except that such group shall not include any person, or the descendent of any person, who shared in the distribution of funds under the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Klamath Tribe of Indians located in the State of Oregon and the individual members thereof, and for other purposes", approved August 13, 1954 (25 U.S.C. 564 et seq.), or under the Act entitled "An Act to provide for the termination of Federal supervision over the property of certain tribes and bands of Indians located in western Oregon and the individual members thereof, and for other purposes", approved August 13, 1954 (25 U.S.C. 691 et seq.).

(b) In any proceeding under this Act, the Council of the Cow Creek Band of the Umpqua Tribe of Indians, a nonprofit corporation incorporated in the State of Oregon, shall be considered to be the governing body of such band.

SEC. 5. The provisions of the Act of November 4, 1963 (77 Stat. 301), shall be applicable with respect to any claim filed by the Cow Creek Band of the Umpqua Tribe of Indians with the Court of Claims pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIVE HAWAIIAN EDUCATION ACT

The Senate proceeded to consider the bill (S. 916) to amend the Act of September 30, 1950 (Public Law 874, 81st Congress) to provide education programs for Native Hawaiians, and for other purposes, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 3, line 10, strike "1980" and insert "1981";

On page 3, line 18, strike "1979" and insert "1980";

On page 3, line 18, strike "1983" and insert "1984";

On page 3, line 19, after "determine the" insert "sum of (1) the";

On page 3, line 22, after "year" insert a comma and the following: and (2) the number of Native Hawaiian children (other than children enrolled in private schools) who were eligible for enrollment in the schools of a local educational agency for such fiscal year but who did not enroll.

On page 6, beginning with line 3, insert the following:

"(c) Any local educational agency receiving a grant under this title is authorized to enter into a contract or other agreement with a qualified Native Hawaiian organization for the purpose of enabling such organization to administer such grant for the purposes set forth in subsection (a) of this section.

On page 14, line 6, after "agencies," insert "local universities,";

On page 14, beginning with line 20, insert the following:

"(4) innovative initiatives utilizing the nursing assessment process of clinical nurse specialists and/or their related training programs, to actively further the child's interest in learning by building upon the relationship between the child and his/her significant others.

On page 15, line 1, strike "(4)" and insert "(5)";

On page 15, line 14, after "(A)" insert "early childhood education programs,";

On page 16, line 21, after "counselors," insert "nurses,";

On page 18, line 24, strike "$4,000,000" and insert "$10,000,000";

On page 19, line 1, strike "1980" and insert "1981";

On page 19, line 1, strike "$5,000,000" and insert "$12,000,000";

On page 19, line 22, strike "1980" and insert "1981";

On page 20, line 2, strike "1980" and insert "1981";

On page 20, line 10, after "education," insert "psychology, nursing,";

On page 21, line 10, strike "1980" and insert "1981";

On page 21, line 20, after "agencies," insert "local universities,";

On page 24, line 4, after "grants" insert "and contracts";

On page 24, line 6, strike "1981" and insert "1982";

On page 25, line 20, strike "program" and insert "programs";

On page 26, line 21, after "contract" insert "to the extent provided in appropriation Acts";

On page 27, beginning with line 16, insert the following:

SAVINGS PROVISION

SEC. 12. Nothing in this Act shall be construed as modifying or otherwise affecting, directly or indirectly, any provision of the Hawaiian Homes Commission Act, 1920.

So as to make the bill read:

S. 916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Native Hawaiian Education Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) The Congress finds that—

(1) striking similarities exist between Native Hawaiians and other Native American peoples with regard to their historic and political relationship with the United States and their present day circumstances;

(2) like other Native Americans, Native Hawaiians rank among the lowest in level of education attainment and per capita income; and

(3) existing Federal assistance in the field of education fails to address the basic and special needs of Native Hawaiians.

DECLARATION OF POLICY

SEC. 3. (a) The Congress hereby recognizes the need to develop a uniform Federal policy with respect to the eligibility of Native

Hawaiians for special Federal assistance commensurate with their status as Native Americans.

(b) The Congress declares its commitment to providing the quantity and quality of educational services and opportunities which Native Hawaiians need and desire.

REVISIONS OF IMPACTED AREAS PROGRAM AS IT RELATES TO NATIVE HAWAIIAN CHILDREN

SEC. 4. The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by redesignating title IV as title V, by redesignating sections 401 through 403 and references thereto as sections 501 through 503, respectively, and by adding after title III the following new title:

"TITLE IV—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF NATIVE HAWAIIAN CHILDREN

"SHORT TITLE

"SEC. 401. This title may be cited as the 'Native Hawaiian Elementary and Secondary School Assistance Act'.

"PROGRAM AUTHORIZED

"SEC. 402. Beginning with the fiscal year, 1981, the Commissioner shall carry out a program of making grants to local educational agencies in accordance with the provisions of this title.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 403. (a) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year during the period beginning October 1, 1980, and ending September 30, 1984, the Commissioner shall determine the sum of (1) the number of Native Hawaiian children who were enrolled in the schools of a local educational agency, and for whom that agency provided free public education, during that fiscal year, and (2) the number of Native Hawaiian children (other than children enrolled in private schools) who were eligible for enrollment in the schools of a local educational agency for such fiscal year but who did not enroll.

"(b)(1) The amount of the grant to which a local educational agency is entitled under this title for any fiscal year shall be an amount equal to (A) the average per pupil expenditure for that agency (as determined under subparagraph (2)) multiplied by (B) the sum of the number of children determined under subsection (a).

"(2) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all the local educational agencies in the State in which that agency is located, plus any direct current expenditures by that State for the operation of those agencies (without regard to the sources of funds from which either of those expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom those agencies provided free public education during that preceding fiscal year.

"(c) In addition to the sums appropriated for grants to local educational agencies under this title, there is authorized to be appropriated for any fiscal year an amount not to exceed 10 per centum of the amount appropriated for payments computed under subsection (b) for that fiscal year. From the amount appropriated for the purpose of this section, the Commissioner is authorized to provide financial assistance to schools which are not local educational agencies or have not been local educational agencies for more than three years.

"USES OF FEDERAL FUNDS

"SEC. 404. (a) Grants under this title may be used, in accordance with applications approved under section 405, for—

"(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational and culturally related academic needs, or both, of Native Hawaiian children, including pilot projects designed to test the effectiveness of plans so developed; and

"(2) the establishment, maintenance, and operation of programs including minor remodeling of classrooms or other space used for the programs and acquisitions of necessary equipment, specially designed to meet the special educational and culturally related academic needs, or both, of Native Hawaiian children.

"(b) A program or project assisted under this part may include the participation of non-Native Hawaiian children where that participation does not frustrate or inhibit the achievement of the purpose of the program as set out in subsection (a).

"(c) Any local educational agency receiving a grant under this title is authorized to enter into a contract or other agreement with a qualified Native Hawaiian organization for the purpose of enabling such organization to administer such grant for the purposes set forth in subsection (a) of this section.

"APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

"SEC. 405. (a) A grant under this title, except as provided in section 403(c), may be made only to a local educational agency or agencies, and only upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

"(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out the purposes of section 404, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

"(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

"(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Native Hawaiian students;

"(5) set forth policies and procedures which will ensure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds from local, State, and other Federal sources that would, in the absence of Federal funds under this title, be made available by the applicant for the education of Native Hawaiian children and in no case supplant such funds;

"(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(7) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Native Hawaiian students in the area served, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

"(1) meets the requirements set forth in subsection (a);

"(2) provides that the program or project for which application is made—

"(A) will utilize the best available talents and resources (including persons from the Hawaiian Native community) and will substantially increase the educational opportunities of Native Hawaiian children in the area to be served by the applicant; and

"(B) has been developed—

"(i) in open consultation with parents of Native Hawaiian children enrolled in the applicant's schools, teachers of those children, and, where applicable, Native Hawaiian secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

"(ii) with the participation and approval of a committee composed of, and selected by, parents of Native Hawaiian children enrolled in the applicant's schools, teachers of those children, and, where applicable, Native Hawaiian secondary school students with such parents constituting a majority of the committee. In the State of Hawaii there shall be seven such committees created in accordance with the boundaries of existing school board districts as set out in title 18, section 296-7 of Hawaii Revised Statutes (1968) except that no committee shall be created to serve any at-large district. The participation and approval of each such committee representing an area to be served by the applicant shall be required.

"(C) sets forth such policies and procedures including policies and procedures relating to the hiring of personnel as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the Native Hawaiian children and representatives of the area to be served, including the committee established for the purpose of clause (2)(B)(ii).

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

"PAYMENTS

"SEC. 406. (a) The Commissioner shall, subject to the provisions of section 407, from time to time pay to each local educational agency which has had an application approved under section 405, an amount equal to the amount expended by such agency in carrying out activities under its application.

"(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of that local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

"(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than

such combined fiscal effort for that purpose for the second preceding fiscal year.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 407. (a) If the sums appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this title for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this title for that fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year, during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner may allot, in such manner as he determines will best assist in advancing the purposes of this title, any amount awarded to a local educational agency in excess of the amount to which it is entitled under section 403 and subsection (a) of this section, or any amount which the Commissioner determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.".

SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR NATIVE HAWAIIAN CHILDREN UNDER THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 5. (a) Title X of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section.

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR NATIVE HAWAIIAN CHILDREN

"SEC. 1007. (a) The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for Native Hawaiian children—

"(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Native Hawaiian children;

"(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provision of educational services not available to Native Hawaiian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Native Hawaiian children are educated;

"(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Native Hawaiian children as educational personnel; and

"(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Native Hawaiian children.

"(b) The Commissioner is authorized to make grants to State and local educational agencies, local universities, and Native Hawaiian organizations to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Native Hawaiian children, including—

"(1) innovative programs related to the educational needs of educationally deprived children;

"(2) bilingual and bicultural education programs and projects;

"(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Native Hawaiian children; and

"(4) innovative initiative utilizing the nursing assessment process of clinical nurse specialists and/or their related training programs, to actively further the child's interest in learning by building upon the relationship between the child and his/her significant others.

"(5) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

"(c) The Commissioner is also authorized to make grants to State and local educational agencies and to Native Hawaiian institutions and community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Native Hawaiian children. Grants may be used—

"(1) to provide educational services not available to such children in sufficient quantity or quality, including—

"(A) early childhood education programs, remedial and compensatory instruction, school health, physical education, psychological, nursing and other services designed to assist and encourage Native Hawaiian children to enter, remain in, or reenter elementary or secondary school;

"(B) comprehensive academic and vocational instruction;

"(C) instructional materials (such as library books, text books, and other printed, published, or audiovisual materials) and equipment;

"(D) comprehensive guidance, counseling, and testing services;

"(E) special education programs for handicapped and gifted and talented Native Hawaiian children;

"(F) early childhood programs;

"(G) bilingual and bicultural education programs; and

"(H) other services which meet the purposes of this subsection; and

"(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Native Hawaiian children.

"(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies in combination with institutions of higher education, for carrying out programs and projects—

"(1) to prepare persons to serve Native Hawaiian children as teachers, teachers aides, counselors, nurses, social workers and ancillary educational personnel; and

"(2) to improve the qualifications of such persons who are serving Native Hawaiian children in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

"(e) The Commissioner is also authorized to make grants to and contract with, public agencies, and institutions and Native Hawaiian organizations for—

"(1) the dissemination of information concerning education programs, services, and resources available to Native Hawaiian children, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Native Hawaiian children may participate in achieving the purposes of such programs with respect to such children.

"(f) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) in the case of an application for the purposes of subsection (c), subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

"(3) in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

"(4) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the chidiren to be served in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project.

"(g) For the purpose of making grants under this section there are hereby authorized to be appropriated $10,000,000 for the fiscal year 1981, and $12,000,000 for each of the two succeeding fiscal years.".

SPECIAL EDUCATION TRAINING PROGRAMS FOR TEACHERS OF NATIVE HAWAIIAN CHILDREN

SEC. 6. (a) The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education, and Native Hawaiian organizations, for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Native Hawaiian childern and to provide inservice training for persons teaching in such programs. In carrying out his responsibilities under this section, the Commissioner is authorized to award fellowships and traineeships to individuals and to make grants to, and to enter into contracts with, institutions of higher education and Native Hawaiian organizations, for cost of education allowances.

(b) In the case of traineeships and fellowships, the Commissioner is authorized to grant stipends to, and allowances for, dependents of persons receiving traineeships and fellowships.

(c) There is authorized to be appropriated $500,000 for the fiscal year 1981, and for each of the three succeeding fiscal years to carry out the provisions of this section.

FELLOWSHIPS FOR NATIVE HAWAIIAN STUDENTS

SEC. 7. (a) During the fiscal year 1981, and each of the three succeeding fiscal years, the Commissioner is authorized to award not to exceed one hundred fellowships to be used for study in undergraduate, graduate, and professional programs at institutions of higher education. Such fellowships shall be awarded to Native Hawaiian students in order to enable them to pursue a course of study of not more than four academic years leading toward a professional or graduate degree in medicine, law, education, psychology, nursing, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Commissioner is authorized to award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the fellowship it replaces was awarded, as the Commissioner may determine.

(b) The Commissioner shall pay to persons awarded fellowships under this subsection such stipends (including such allowances for subsistence of such persons and then dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) The Commissioner shall pay to the institution of higher education at which the holder of a fellowship under this subsection is pursing a course of study, in lieu of tuition charged such holder, such amounts as the Commissioner may determine to cover the cost of education for the holder of such a fellowship.

(d) There is authorized to be appropriated $500,000 for the fiscal year 1981, and for each of the three succeeding fiscal years to carry out the provisions of this section.

SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR NATIVE HAWAIIANS

SEC. 8. The Adult Education Act is amended by inserting after section 316 the following new section:

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT NATIVE HAWAIIANS

"SEC. 316A. (a) The Commissioner shall carry out a program of making grants to State and local educational agencies, local universities, and to Native Hawaiian institutions and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Native Hawaiians—

"(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Native Hawaiians;

"(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Native Hawaiian adults and (B) the provision of opportunities to all Native Hawaiian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

"(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Native Hawaiians;

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of educational programs which may offer opportunities to Native Hawaiian adults.

"(b) The Commissioner is also authorized to make grants to, and contracts with, public agencies, and institutions, and Native Hawaiian organizations for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Native Hawaiian adults, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Native Hawaiian adults may participate in achieving the purposes of such programs with respect to such adults.

"(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project.

"(d) For the purpose of making grants and contracts under this section there are hereby authorized to be appropriated $2,000,000 for the fiscal year 1982, and $2,000,000 for each of the two succeeding fiscal years.".

SEC. 9. Section 441 of the Indian Education Act is amended by redesignating subsection (b) of such section, and all references thereto, as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) The Office of Indian Education shall have further responsibility for administering the provisions of title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), section 1007 of title VIII of the Elementary and Secondary Education Act of 1965, and section 316A of title III of the Adult Education Act.".

ADVISORY COUNCIL ON NATIVE HAWAIIAN EDUCATION

SEC. 10. (a) There is hereby established the Advisory Council on Native Hawaiian Education (referred to in this title as the Council), which shall consist of seven members who are Native Hawaiians appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Native Hawaiian organizations.

(b) The Council shall—

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations, administrative practices, and policies) of any program in which Native Hawaiian children or adults participate from which they can benefit, including title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, and section 1007, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) review applications for assistance under title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 1007 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 316A of the Adult Education Act, as added by this Act, and make recommendations to the Commissioner regarding their approval;

(3) evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Native Hawaiian children or adults can participate or from which they can benefit and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Native Hawaiian organizations to assist them in improving the education of Native Hawaiian children;

(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 403(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress); and

(6) submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Native Hawaiian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such programs.

(c) With repsect to functions of the Council stated in clauses (2), (3), and (4) of subsection (b), the Council is authorized to contract to the extent provided in appropriation Acts with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) From the sums appropriated pursuant to section 400(c) of the General Education Provision Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Commissioner shall make available such sums as may be necessary to enable the Council to carry out its functions under this section.

DEFINITIONS

SEC. 11. For the purposes of this Act—

(a) the term "Native Hawaiian" means any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778;

(b) the term "Native Hawaiian organization" includes Native Hawaiian nonprofit institutions and agencies as well as Native Hawaiian community organizations; and

(c) the term "parent" includes a legal guardian or other person standing in loco parentis.

SAVINGS PROVISION

SEC. 12. Nothing in this Act shall be construed as modifying or otherwise affecting, directly or indirectly, any provision of the Hawaiian Homes Commission Act, 1920.

The amendments were agreed to.

● Mr. INOUYE. Mr. President, I wish to take this opportunity to thank my distinguished colleagues on the Senate Select Committee on Indian Affairs and, in particular Chairman MELCHER, for their responsible and compassionate response to the needs of the Native Hawaiian people. The legislation presently before the Senate will greatly assist this important and long neglected Native American group to effectively deal with the severe crisis in social, economic and cultural survival with which they are presently confronted. Throughout its long investigation of these matters, the Select Committee, ably led by Senator MELCHER, has judiciously exercised its obligation to address the pressing problems faced by our Nation's native people with fairness and humanity. I am most appreciative of this demonstrated concern for the welfare of the Hawaiian people and its efforts on their behalf.

As favorably reported by the committee, S. 916, the Native Hawaiian Education Act, provides for the establishment and operation of education programs designed to meet the special learning requirements of Native Hawaiian children, adolescents, and adults and is similar to another measure which passed the Senate last year. Unfortunately, little time remained in the 95th Congress to permit House consideration of that bill. Like the

Indian Education Act, approved by the Congress and the President in 1972, S. 916 recognizes that the unique historical, cultural and social experiences of Native Americans has produced equally unique educational needs which are not adequately addressed by traditional methods of education and provides a means by which the schools and learning centers of the country can be made more responsive to their academic and cultural needs.

As with other Native Americans, the history of the Hawaiian people is one of unjust abrogation of Hawaiian national sovereignty, the progressive dispossession of Hawaiians from their land, a dramatic reduction in their numbers through disease, and a progressive dilution of their culture. The effects of these events continue to be felt today. Currently, Native Hawaiians comprise approximately 18 percent of Hawaii's State population yet they are on the wrong end of almost every socioeconomic indicator. Hawaiians and part-Hawaiians have the highest incidence of poverty and the highest unemployment rate of any ethnic group in my State. Their level of education, skill, and training is among the lowest. Their level of effective participation in the system is almost nil.

Of the approximately, 150,000 Native Hawaiian residents of Hawaii, almost half are age 20 and below. Most of these young people attend the public schools. Yet when compared to their local peers, Native Hawaiian students demonstrate severely high dropout rates as well as high rates of suspension, expulsion, court referrals, absenteeism, and truancy. Those who do stay in school perform far below State and national academic achievement norms. Only 6 percent of the University of Hawaii student body is of Hawaiian descent. Moreover, Hawaiians are more often incarcerated in State and Federal correctional facilities than other ethnic groups and demonstrate the highest or next to the highest incidence of chronic health conditions.

Though we can but speculate as to all the reasons for this sad circumstance, it seems apparent that past deprivations, many of which continue today, have produced an extremely negative self-image among Native Hawaiians as well as an inability to reconcile and deal with native culture and values vis-a-vis the complexities and demands of the modern world.

It is clear, however, that commonly accepted modes of preparing an individual to become an independent, contributing adult member of society have not proved relevant to Hawaii's native children. I greatly fear that the cycle of depression and alienation that probably began with the initial usurpation of the rights and dignity of the Hawaiian race, will persist unless effective steps are taken immediately.

I have always firmly held that education is the key to survival and success in today's competitive world and that an individual's capacity to significantly improve his life is directly related to his level of knowledge and his ability and willingness to learn. Well constructed, responsibly implemented programs focusing on the special learning needs of Hawaiian children and youth can have an enormous impact on present and future generations of Hawaiians. Accordingly, I believe that the provisions of S. 916 contain the potential of producing lasting solutions to the many difficulties now encountered by our native Hawaiian citizens.

This is not the first time that Congress has been called on to legislate on behalf of the Hawaiians. In fact the special relationship existing between the United States and the native Hawaiian people is one of long standing, beginning in the 1800's with the execution of treatise of friendship and commerce. In the past, the U.S. Congress has many times expressed its commitment to and concern for the welfare of Hawaiians through the passage of the Hawaiian Homes Commission Act of 1920, a law aimed at the economic and social rehabilitation of the Hawaiian race, and more recently through the inclusion of native Hawaiians in certain native American provisions of the Community Services Act of 1974 and the Comprehensive Employment and Training Act. It is my greatest hope that today the U.S. Senate will once again demonstrate this commitment and concern by approving this vitally important legislation.

Mr. President, I wish to again thank my colleagues on the select committee and Members of the Senate for their sympathetic consideration of this matter.●

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CHILD ABUSE PREVENTION MONTH

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 428, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 428) designating December 1979 as "National Child Abuse Prevention Month."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. STEVENS. Mr. President, are there any amendments to that measure?

The PRESIDING OFFICER. No.

The joint resolution (H.J. Res. 428) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENDANGERED SPECIES AUTHORIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask, on behalf of Mr. RANDOLPH, that the Chair lay before the Senate a message from the House of Representatives on S. 1143.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1143) entitled "An Act to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That the first sentence of section 7(q) of the Endangered Species Act of 1973 (16 U.S C. 1536(q)) is amended to read as follows: "There are authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g), and (h) of this section not to exceed $600,000 for each of fiscal years 1979, 1980, 1981, and 1982.".

SEC. 2. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $23,000,000 for fiscal year 1979, and not to exceed $25,000,000 for each of fiscal years 1980, 1981, and 1982, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $2,500,000 for fiscal year 1979, and not to exceed $3,000,000 for each of fiscal years 1980, 1981, and 1982, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

SEC. 3. Section 3(11) of the Endangered Species Act of 1973 (16 U.S.C 1532(11)) is amended by striking out "(A)" and all that follows thereafter and inserting in lieu thereof "violate section 7(a)(2).".

SEC. 4. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by amending subsection (b)(1) by striking out "him" and inserting in lieu thereof the following: "him after conducting a review of the status of the species";

(2) by amending subsection (f)(2)(B)(i) to read as follows:

"(i) not less than 60 days before the effective date of the regulation, shall publish—

"(I) the general notice and the complete text of the proposed regulation in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, general notice of the regulation (including a summary of the text, and a map of the proposed critical habitat) in a newspaper of general circulation within or adjacent to such habitat;";

(3) by amending subsection (f)(2)(B)(iv)(II) by striking out "if requested," and inserting in lieu thereof "if requested within 15 days after the date on which the public meeting is conducted,".

(4) by amending subsection (f)(2)(C)(ii) by inserting at the end thereof the following new sentence: "If at any time after issuing an emergency regulation the SECRETARY determines, on the basis of the best scientific and commercial data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it."; and

(5) by adding at the end thereof the following new subsection:

"(h) AGENCY PROCEDURES.—The Secretary shall by regulation establish agency procedures to ensure that the purposes of this section are achieved efficiently and effectively. Such procedures shall include, but are not limited to—

"(1) procedures for recording the receipt and the disposition of petitions submitted under subsection (c)(2) of this section;

"(2) criteria for making the findings required under such subsection with respect to petitions;

"(3) a ranking system to ensure that species facing a high degree of threat receive priority review for listing; and

"(4) a system for developing and implementing, on a priority basis, recovery plans under subsection (g) of this section.".

SEC. 5. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is further amended—

(1) by amending subsection (a)—

(A) by striking out "(a) CONSULTATION.—" and inserting in lieu thereof "(a) FEDERAL AGENCY ACTIONS AND CONSULTATIONS.—(1)";

(B) by striking out the third sentence thereof; and

(C) by adding at the end thereof the following:

"(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

"(3) Each Federal agency shall confer with the Secretary on any agency action which may jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d).";

(2) by amending each of subsections (b), (c), (d), (e)(2), (f), (g)(1) and (5), (h)(1), and (m) by striking out "subsection (a)" wherever it appears therein and inserting in lieu thereof "subsection (a)(2)";

(3) by further amending subsection (c)—

(A) by inserting "(1)" immediately after "BIOLOGICAL ASSESSMENT.—", and

(B) by adding at the end thereof the following new paragraph:

"(2) Any person who may wish to apply for an exemption under subsection (g) of this section for that action may conduct a biological assessment to identify any endangered species or threatened species which is likely to be affected by such action. Any such biological assessment must, however, be conducted in cooperation with the Secretary and under the supervision of the appropriate Federal agency.";

(4) by further amending subsection (g)(1) by striking out "may jeopardize" and all that follows thereafter in the first sentence thereof and inserting in lieu thereof "would violate subsection (a)(2).";

(5) by amending subsection (g)(2)(A) by striking out "process." and inserting in lieu thereof "process; or, in the case of any agency action involving a permit or license applicant, not later than 90 days after the date on which the Federal agency concerned takes final agency action, for purposes of chapter 7 of title 5, United States Code, with respect to the issuance of the permit or license.";

(6) by amending subsection (g)(3) by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

"(B) If more than one application for exemption is filed for the same agency action, the same review board shall be convened for each application and shall consider each such application in the manner set forth in paragraph (5).";

(7) by amending subsection (g)(5)—

(A) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively,

(B) by striking out "such exemption applicant" in clause (B) (as so redesignated) and inserting in lieu thereof "the Federal agency or exemption applicant, as the case may be", and

(C) by redesignating subclauses (A), (B), and (C) as subclauses (i), (ii), and (iii), respectively; and

(8) by amending subsection (h)—

(A) by amending paragraph (2)(A) to read as follows:

"(2)(A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute, but only if a biological assessment has been conducted under subsection (c) with respect to such agency action, a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action, regardless whether the species was identified in the biolgical assessment."; and

(B) by amending paragraph (2)(B) to read as follows:

"(2)(B) An exemption shall be permanent under subparagraph (A) unless—

"(i) the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of a species that was not the subject of consultation or was not identified in any biological assessment conducted under subsection (c), and

"(ii) the Committee determines within 60 days that the exemption should not be permanent.".

SEC. 6. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended—

(1) by striking out subsection (e) of section 8;

(2) by adding immediately after section 8 the following new section:

"CONVENTION IMPLEMENTATION

"SEC. 8A. (a) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—The Secretary is authorized and directed to do all things necessary and appropriate to carry out the functions of the Scientific Authority under the Convention.

"(d) ENDANGERED SPECIES SCIENTIFIC AUTHORITY COMMISSION.—(1) There is hereby established within the United States Fish and Wildlife Service the Endangered Species Scientific Authority Commission (hereinafter in this section referred to as the 'Commission').

"(2) The Commission shall be composed of scientifically qualified agency representatives. Each of the following shall designate one such representative from his agency:

"(A) The Secretary of the Interior, whose representative shall be the Chairman.

"(B) The Secretary of Agriculture.

"(C) The Secretary of Commerce.

"(D) The Secretary of Health, Education, and Welfare.

"(E) The Director of the National Science Foundation.

"(F) The Chairman of the Council on Environmental Quality.

"(G) The Secretary of the Smithsonian Institution is invited to designate a representative.

"(3) The Commission shall make recommendations to the Director of the United States Fish and Wildlife Service on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention.

"(4) In the discharge of its responsibilities, the Commission shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the governmental and nongovernmental scientific communities. State agencies responsible for the conservation of wild fauna or flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community and others as appropriate.

"(5) The Secretary shall designate an Executive Secretary for the Commission, and shall provide the necessary staff and administrative support for the Commission.

"(e) WILDLIFE PRESERVATION IN WESTERN HEMISPHERE.—The President shall designate those agencies of the Federal Government that shall act on behalf of, and represent, the United States in all regards as required by the Convention on Nature Protection and Wilderness Preservation in the Western Hemisphere."; and

(3) by amending the table of contents by inserting immediately after the section title for section 8 the following:

"Sec. 8A. Convention implementation.".

SEC. 7. Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended—

(1) in paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in subparagraph (C); and

(2) by adding at the end thereof the following new paragraphs:

"(8)(A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.

"(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the original certificate shall remain in effect during the period of the renewal.

"(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph.".

SEC. 8. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended as follows:

(1) Section 2(a)(5) is amended by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants;".

(2) Section 4(f)(2)(C)(ii) is amended—

(A) by striking out "fish or wildlife," and inserting in lieu thereof "fish or wildlife or plants, "; and

(B) by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants,".

(3) Section 8(b) is amended—

(A) by inserting "and plants" immediately after "fish or wildlife" in paragraph (1); and

(B) by inserting "or plants" immediately after "fish or wildlife" each place it appears in paragraph (3).

(4) Section 15 (as amended by section 2 of this Act) is amended by striking out "Act." at the end of paragraph (2) and inserting in lieu thereof "Act; and"; and by adding immediately after such paragraph the following new paragraph:

"(3) not to exceed $1,500,000 for fiscal year 1980, not to exceed $1,750,000 for fiscal year 1981, and not to exceed $1,850,000 for fiscal year 1982, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of terrestrial plants."

Amend the title so as to read: "An Act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. CULVER, Mr. MUSKIE, Mr. HART, Mr. CHAFEE, and Mr. STAFFORD conferees on the part of the Senate.

TEMPORARY FHA MORTGAGE EXTENSION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 117.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 117) entitled "Joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes", do pass with the following amendments:

(1) Page 1, line 7, strike out " "November 15", and insert: " "December 1,".

(2) Page 1, line 9, strike out " "November 14", and insert: " "November 30,".

(3) Page 1, line 12, strike out " "November 14", and insert: " "November 30,".

(4) Page 1, line 14, strike out " "November 14", and insert: " "November 30,".

(5) Page 1, line 16, strike out " "November 14", and insert: " "November 30,".

(6) Page 1, line 19, strike out " "November 14", and insert: " "November 30,".

(7) Page 1, line 21, strike out " "November 15", and insert: " "December 1,".

(8) Page 2, line 3, strike out "November 14", and insert: "November 30,".

(9) Page 2, line 6, strike out "November 14", and insert: "November 30,".

(10) Page 2, line 9, strike out "November 14", and insert: "November 30,".

(11) Page 2, line 12, strike out "November 14", and insert: "November 30,".

(12) Page 2, line 15, strike out "November 14", and insert: "November 30,".

(13) Page 2, line 23, strike out "November 15", and insert: "December 1,".

(14) Page 2, line 28, strike out "November 15", and insert: "December 1,".

(15) Page 3, line 5, strike out "November 14", and insert: "November 30,".

(16) Page 3, line 7, strike out "November 15", and insert: "December 1,".

(17) Page 3, line 12, strike out "November 14", and insert: "November 30,".

(18) Page 3, line 15, strike out "November 14", and insert: "November 30,".

(19) Page 3, line 17, strike out "November 14", and insert: "November 30,".

(20) Page 3, line 22, strike out "November 15", and insert: "December 1,".

(21) Page 3, line 25, strike out "November 14", and insert: "November 30,".

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. WILLIAMS and Mr. PROXMIRE, that the Senate agree to the House amendments.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, the motion is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders already entered for the recognition of Senators on tomorrow, Mr. HARRY F. BYRD, JR., be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senate would automatically then resume consideration of the energy legislation, would it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further morning business?

NOTICE TO THE SENATE WITH RESPECT TO GOLDWATER AGAINST CARTER

Mr. ROBERT C. BYRD. Mr. President, section 706(b) of Public Law 95-521, the Ethics in Government Act of 1978, requires the Senate Legal Counsel to notify the joint leadership group when, in his opinion, it is in the interest of the Senate to appear as amicus curiae in a legal action in which the powers and responsibilities of the Congress are at issue. The joint leadership group, established by section 702, consists of the President pro tempore, the majority and minority leaders, the chairmen and ranking minority members of the Judiciary and Rules Committees. The statute requires that the notification describe the legal action and the reasons why the Legal Counsel believes that appearance by the Senate would be in its interest.

Section 706(b) further provides that "the joint leadership group shall cause said notification to be published in the CONGRESSIONAL RECORD for the Senate."

The report of the Committee on Governmental Affairs underscores that it is the "responsibility" of the Legal Counsel to notify the joint leadership group, in these circumstances, and that it is the responsibility of the joint leadership group to have the notification published (S. Rept. 95-170, 95th Cong., 1st sess. 99 (1977)).

The Senate Legal Counsel has provided such notice to the joint leadership group with respect to the case of Goldwater against Carter, a case which raises fundamental questions concerning the termination of treaties. I ask unanimous consent that this notification be printed in the RECORD at the conclusion of my remarks, as required by section 706(b).

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROBERT C. BYRD. The Senate Legal Counsel has also prepared a brief on the issues raised by the case; I am informed that copies of the brief will be delivered to each Senator's office.

The brief prepared by the Senate Legal Counsel takes no position on whether the court of appeals should affirm or reverse. It does request that the court not accept the President's argument that he has the exclusive power to terminate treaties. The brief requests that the court not prejudge the power of the Senate to condition its consent to particular treaties with a requirement that it approve their termination.

The Legal Counsel may not appear in court unless authorized by a resolution of the Senate. The resolution would be governed by the procedure established by section 711 of the act.

It is important to note that no inference should be drawn if the Senate decides not to appear as amicus. There may be any number of reasons, including the press of other business, why the Senate does not act on a recommendation by the Legal Counsel. The purpose of the statute is to enable the Senate to receive the views of the Legal Counsel; the statute leaves to the Senate the decision whether to act on this recommendation.

The case is set for argument on November 13, 1979.

EXHIBIT 1

NOTIFICATION PURSUANT TO SECTION 706(b) OF PUBLIC LAW 95-521 IN THE CASE OF GOLDWATER V. CARTER

This notification is submitted pursuant to Section 706(b) of the Ethics in Government Act of 1978, Pub. L. 95-521. That section directs the Senate Legal Counsel to notify the Joint Leadership Group when, in his opinion, it is in the interest of the Senate to appear as amicus curiae in a legal action in which the powers and responsibilities of the Congress are at issue. The statute provides that the Joint Leadership Group shall cause the notification to be published in the CONGRESSIONAL RECORD.

The Senate may then direct the Counsel, pursuant to Sections 703(c) and 706(a) of the Act, to appear as amicus curiae in the name of the Senate. Section 711 of the Act establishes procedures for the consideration of a resolution to direct the Counsel to appear on behalf of the Senate. A motion to proceed to the consideration of the resolution is privileged and not debatable.

This case raises fundamental questions about the making and termination of treaties and satisfies the requirement that the powers and responsibilities of the Congress under the Constitution be at issue. In my opinion it is in the interest of the Senate to appear as amicus curiae.

The plaintiffs argue that the Senate, by a two-thirds vote, or the Congress, by a termination of a treaty. The President takes the position that he has exclusive power under the Constitution to terminate treaties. He also claims that individual members lack standing and that the case presents an unreviewable political question.

The problem which confronts the Senate is, if the plaintiffs do not prevail, that the only alternative now presented to the Court is the position of the President. There is a risk, therefore, that the Court may determine that treaty termination is an exclusive prerogative of the President or that the President's assumption of that prerogative is an unreviewable political question.

The Senate has the responsibility to determinate its own role in the termination of treaties. It may do this by conditioning its consent to the ratification of particular treaties with a requirement that the Senate participate in their termination. In doing so the Senate may also prescribe the manner in which it wishes to participate: *e.g.*, by consultation, majority vote, or a two-thirds vote. It is therefore in the interest of the Senate to persuade the Court that it should not issue a sweeping decision in favor of the President, even if it decides that the judgment of the district court should be reversed. A narrow decision would give the Senate latitude to determine and assert a role in the termination of future treaties.

It is possible that the Court on its own, unaided by a brief from the Senate, might decide this case on narrow grounds. There is a risk, however, in this case as in any other, that the Court will decide the case on the terms presented by the adversaries. The case is proceeding on an expedited basis and the limitations of time may increase the Court's dependence on the presentation of the parties. My advice is that the Senate should express its views if it wishes the Court to consider them.

It has been suggested that the Senate may remain silent in this case because a broad ruling in favor of the Executive could be distinguished and limited in the future. The problem with this approach is that it would burden the Senate with the task of overcoming an adverse precedent. The Senate will be in a stronger position to assert a role in the future if the Court of Appeals expressly reserves the question whether the Senate may condition its consent to ratification on a requirement that it participate in the termination of treaties. The second problem is that an adverse precedent may encourage the Executive to resist efforts to develop, on a cooperative basis, a shared role in the termination of treaties. The possibility of developing a cooperative role will be enhanced if the Court limits its decision as narrowly as possible.

Finally, it has been suggested that the Senate may wait until this case reaches the Supreme Court. There is no guarantee that the Supreme Court will exercise its discretionary jurisdiction on certiorari to consider this case on the merits. The stronger possibility is that the Court of Appeals will render the final decision in this case. This is what occurred in the Panama Canal litigation.

Section 713(a) of the Ethics Act provides that the Senate may appear as amicus as of right and that the appearance may be denied only on an express finding that the appearance is untimely and would significantly delay the pending action. The Court has scheduled oral argument for November 13, 1979. The Senate should therefore resolve, as expeditiously as possible, whether it wishes to participate in these proceedings.

The proposed amicus brief has been written to be compatible with the position of the plaintiffs. It states, at the very beginning, that no inference should be drawn from the fact the Senate has not taken a position on the merits. This responds to the assertion in the President's brief that the individual member plaintiffs lack standing because the Senate has not appeared as an institution in their support. On the merits, the Court of Appeals need consider the Senate brief only if it concludes that it must reverse the judgment of the district court. The amicus brief would then provide the Court with an alternative to the President's claim that he has exclusive power to terminate treaties.

A copy of the brief will be distributed to each member.

Mr. STEVENS. Mr. President, on behalf of the Senator from Oregon (Mr. HATFIELD), the ranking Republican member of the Rules Committee, I would like to make a statement. The statement is as follows:

STATEMENT BY SENATOR HATFIELD

Mr. President, I wish to emphasize several procedural points in connection with the publication in the Record of the Legal Counsel's notification with respect to the case of GOLDWATER against Carter.

First, as provided in Section 706(a) of the 1978 Ethics in Government Act, the Senate must approve, by resolution, any appearance by the Legal Counsel in the name of the Senate in any legal action, including the case of GOLDWATER against Carter. The mere publication in the RECORD of the Legal Counsel's notification and opinion does not constitute approval by the Joint Leadership Group or the Senate of that opinion, nor does it prejudge in any way any steps the Senate may wish to take.

Second, the Senate may, should it choose to do so, direct the Legal Counsel to file an amicus brief in the case of GOLDWATER against Carter different from the one recommended by the Legal Counsel. For example, the Senate could direct the Legal Counsel to file a brief supporting Senator GOLDWATER's position.

Finally, it should be emphasized that no inference should be drawn from the fact that the Senate has not appeared to date in the case of GOLDWATER against Carter, or if the Senate takes no action to appear in that case with a position different from that suggested by the Legal Counsel.

The PRESIDING OFFICER. Is there further morning business?

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 2 minutes to consider nominations on the Executive Calendar beginning with Federal Council on Aging.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominees be considered and confirmed en bloc.

Mr. STEVENS. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. STEVENS. Mr. President, that is down to and including Calendar Order No. 464?

Mr. ROBERT C. BYRD. That is correct.

NOMINATION OF DR. JEAN JONES PERDUE

● Mr. CHILES. Mr. President, within every field of human endeavor there are leaders. There are people who move to the forefront and have the courage and insight to try something new, innovative, and unproven. Traditionally, we have been a country that values courage and dedication to a cause. I particularly value these qualities when they are devoted to helping others. I, therefore, take pride today in supporting the confirmation of Dr. Jean Jones Perdue, of Florida, as a member of the Federal Council on Aging.

Dr. Perdue is a physician specializing in internal medicine and cardiology. A native of Virginia, she graduated from the University of Virginia Medical School in 1929. But this was only the beginning of a distinguished medical education that included studies at Harvard and Duke, and that has continued through this year.

It is fitting that Dr. Perdue has been appointed to the Federal Council on Aging. She has long had an interest in older people and was the catalyst behind the Dade County home care unit at Jackson Memorial Hospital in Miami. Dr. Perdue is an innovative thinker and an inspiration to people of all generations who are dedicated to improving the quality of life for the Nation's elderly. She is also an inspiration to men and women who want to make the most of themselves. The list of awards and recognitions bestowed upon her are a tribute to her talent. We are, indeed, fortunate that she chose to devote this talent to helping others. She will serve the country well as a member of the Federal Council on Aging.●

The nominations considered and confirmed en bloc are as follows:

FEDERAL COUNCIL ON AGING

Cyril Hilary Carpenter, of Minnesota, to be a member of the Federal Council on Aging for a term expiring June 5, 1981.

John B. Martin, of Maryland, to be a member of the Federal Council on Aging for a term expiring June 5, 1981.

Mary Crowley Mulvey, of Rhode Island, to be a member of the Federal Council on Aging for a term expiring June 5, 1981.

Jean Jones Perdue, of Florida, to be a member of the Federal Council on Aging for a term expiring June 5, 1981.

Aaron E. Henry, of Mississippi, to be a member of the Federal Council on Aging for a term expiring June 5, 1982.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Joan Zeldes Bernstein, of Maryland, to be General Counsel of the Department of Health, Education, and Welfare.

DEPARTMENT OF THE TREASURY

N. Jerold Cohen, of Georgia, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10 o'clock tomorrow morning. There are four orders for the recognition of Senators, following which the Senate will return to the consideration of the energy bill. The Senate will be in late tomorrow evening in an effort to complete action on the energy bill, and then, if that is done, the Senate will return to the DOD appropriations bill on Friday. With a time agreement on that bill, the Senate should be able to complete action on that bill.

If these two matters can be disposed of, I do not presently see any problem with going out until Tuesday at the close of business Friday. But we might have to be in late both tomorrow and Friday to accomplish this. I hope it can be done.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to, and the Senate, at 7:08 p.m., recessed until Thursday, November 8, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, November 7, 1979:

FEDERAL EMERGENCY MANAGEMENT AGENCY

Richard J. Green, of New Jersey, to be an Associate Director of the Federal Emergency Management Agency. (New position)

DEPARTMENT OF ENERGY

George Fumich, Jr., of Virginia, to be an Assistant Secretary of Energy (Fossil Energy), vice Robert D. Thorne, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate, November 7, 1979:

FEDERAL COUNCIL ON AGING

The following-named persons to be members of the Federal Council on Aging for the terms indicated:

For terms expiring June 5, 1981:

Cyril Hilary Carpenter, of Minnesota.

John B. Martin, of Maryland.

Mary Crowley Mulvey, of Rhode Island.

Jean Jones Perdue, of Florida.

For a term expiring June 5, 1982:

Aaron E. Henry, of Mississippi.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Joan Zeldes Bernstein, of Maryland, to be General Counsel of the Department of Health, Education, and Welfare.

DEPARTMENT OF THE TREASURY

N. Jerold Cohen, of Georgia, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service).

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, November 7, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

But be doers of the word, and not hearers only, deceiving yourselves.—James 1: 22.

Gracious Lord in heaven, we thank You for the inspiration Your word gives—for the promise of forgiveness and a renewed life, and for Your love to us which is new each morning. Just as we offer praise for the gifts You have given, may we go forward to express our faith in deeds and good works. You have told us, O Lord, that as we minister to the needy among us, we have done it for You. May Your spirit encourage us to hear Your word and may the power of that spirit inspire us to do those acts of justice and mercy and peace. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3319. An act for the relief of Jose Quintana Dominguez Sendejas; and

H.R. 3279. An act to provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 640. An act to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4986. An act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 405. An act for the relief of Hun Sik Sanderson; and

S. 919. An act for the relief of Jennifer Ferrer.

RESIGNATION AS MEMBER OF COMMITTEE ON THE JUDICIARY

The SPEAKER laid before the House the following resignation as a member of the Committee on the Judiciary:

WASHINGTON, D.C.
November 7, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
The Capitol,
Washington, D.C.

DEAR MR. SPEAKER: I hereby resign from the Judiciary Committee.

Very truly yours,

ROBERT T. MATSUI,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. FOLEY. Mr. Speaker, as chairman of the Democratic Caucus, and by authority and direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 476), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 476

Resolved, That the following-named Member, be and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Interstate and Foreign Commerce: ROBERT T. MATSUI of California.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AMERICAN HOSTAGES IN IRAN

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. ZABLOCKI. Mr. Speaker, we are currently facing a virtually unprecedented crisis in our Embassy in Iran. I am confident that you, Mr. Speaker, and all my colleagues are deeply concerned over the safety and welfare of the 45 American citizens who are being held hostage.

Given the difficult and sensitive circumstances surrounding this situation, surely our basic and overriding concern must be for the safety and prompt release of those Americans. In an effort to gain that end, I, together with the members of the Foreign Affairs Committee, and I especially want to commend the efforts of our ranking minority member, the gentleman from Michigan (Mr. BROOMFIELD), and our colleague from Florida (Mr. FASCELL), have prepared a letter to the Ayatollah Khomeini urging the release of those hostages.

The Speaker and the leadership on both sides of the aisle have endorsed this effort. Mr. Speaker, while we recognize that each word in this letter may not entirely satisfy every Member, we believe that its basic thrust will achieve its objective. I, therefore, sincerely urge each and every Member to consider only the lives and safety of the Americans involved in their decision to sign the letter.

As our Chaplain said in today's opening prayer, we should have the inspiration to do those acts of mercy which Almighty God expects of us. This letter is an act of mercy on our part.

I invite all my colleagues to consider signing this letter immediately. Copies of the letter and signature sheets are located in the Speaker's lobby.

Mr. Speaker, this letter is short, and I would like to read the letter to the Ayatollah Khomeini:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 7, 1979.

AYATOLLAH RUHOLLAH KHOMEINI,
Qom, Iran.

DEAR AYATOLLAH KHOMEINI: We Members of the United States Congress urge your immediate efforts in arranging for the prompt release and safety of American citizens.

In the interests of protecting lives, we respectfully request your urgent and direct intervention on humanitarian grounds. The Islamic Republic which you have inspired is based on centuries of religious teaching and tradition. To love God and to do His will through righteousness and piety is a universally accepted religious tenet. We find this great truth in the words of the Koran, as well as in the Old and New Testaments.

We assure you that our dedicated concern is to secure the release of American citizens, thus establishing a climate in which U.S.-Iranian relations can be mutually beneficial and not to interfere in the internal affairs in Iran or undermine its Islamic tradition.

In the spirit of justice, we seek your assistance and ask that you ensure the safety and immediate release of all Americans held by citizens of Iran who look to you for spiritual and moral leadership.

Sincerely yours.

Mr. Speaker, I urge my colleagues to sign this letter.

BILL INTRODUCED AUTHORIZING DEPORTATION OF IRANIAN STUDENTS

(Mr. HIGHTOWER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Speaker, our options for action to resolve the deplorable situation in Iran are severely limited by very practical realities. The use of force in an effort to try to rescue the American hostages in our Embassy in Tehran would certainly exacerbate the likelihood of their being murdered by their captors and would endanger the lives of the some 700 Americans still in Iran. But there are actions that we can take at home to register our disgust with the Ayatollah Khomeini's total disregard of international law and violation of all principles of human decency.

Today I am introducing a bill that would authorize the deportation of Iranian students, as well as students from all other nations, who have abused this Nation's hospitality by participating in actions intended to further the tyranny in their home countries. We take immense pride in our system of education and have welcomed from other lands countless thousands of students who have a sincere desire to benefit from the best education available in the world. We will continue to welcome those who comport themselves to the discipline necessary to accomplish that objective.

Students who chain themselves to the Statue of Liberty breach the curriculum of a formal education. Students who shout epithets repugnant to the canons of civilization as part of a mob in front of this Nation's preeminent Cancer Research Institute breach the curriculum of a formal education. Students who denigrate their host country while marching down the streets of Washington breach the curriculum of a formal education. They have violated our hospitality and worn out their welcome.

Hiding behind the cloak of our constitutional democracy, certain foreign students have participated in actions that would be brutally squelched in their countries of origin.

The time is now for the United States to stop turning its other cheek. Even the most gracious host must slam the door on disruptive intruders. We must pull the welcome mat for those who violate the sanctity of the terms under which they were originally admitted.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. HIGHTOWER. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I think the gentleman is making an excellent point. There is no reason why we should not send all these Iranian students—they are not students, they are just disrupting our country—back. They ought to go back right away.

Mr. HIGHTOWER. I thank the gentleman.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. HIGHTOWER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I would certainly add my voice to what the gentleman just said. Yesterday, in Columbus, Ohio, as many as 50 Iranian students were picketing and putting up banners saying, "Support the Iranian students."

Let them go back to Iran and support the Iranian students.

U.S. POLICY OF PROTECTION FOR U.S. EMBASSIES SHOULD BE REVIEWED

(Mr. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LLOYD. Mr. Speaker, in the past few days I, my colleagues, and the rest of the Nation, have been watching the situation develop in Iran. For my own part, I view the incident as deplorable and a travesty of international law. It is time for the President to review our Nation's policy of protection for U.S. Embassies. If marines are just there for show, or chauffeuring embassy personnel around, then it is a ridiculous use of manpower, and I am sure the Commandant can use his troops more effectively elsewhere.

Clearly, it is time for the President to state that U.S. Embassies are on U.S. soil. If someone attempts to enter without authorization, fair warning should be given and force used to protect U.S. property and citizens using whatever means are necessary. The President must make this policy clear, orders should be rewritten to reflect that policy, and then we as a nation should stand firmly behind those orders.

At this point, since we have failed to act promptly and decisively, all reasonable diplomatic means must be used quickly to insure the protection and effect the release of U.S. citizens held hostage by the Iranians. That may include help from our Middle East neighbors. Finally, as I stated in my letter to the President yesterday, if diplomatic means are not successful, we must consider the use of military force.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. LLOYD. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I would just like to advise the gentleman that I have already directed our committee staff of the investigative subcommittee of the House Armed Services Committee to hold hearings on that particular point. We ought to know why our marines cannot defend our embassies.

Mr. LLOYD. I thank the gentleman.

□ 1210

IT IS TIME THIS CONGRESS AND THIS ADMINISTRATION DID SOMETHING TO PROTECT THE AMERICAN PEOPLE

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, 50 years ago when the stock market crashed and was followed by the great panic and the Great Depression, the then incumbent in the White House continued to say month after month, year after year, that prosperity was just around the corner. The current incumbent in the White House and his people have been saying for months and months, and really for years now, "Don't worry about inflation;

it will take care of itself." The head of the Council on Wage and Price Stability, Mr. Kahn, said yesterday that commonsense has now replaced optimism. Inflation is not going to cure itself. Next year is going to be worse than it is this year.

It is time that this Congress and this administration did something to protect the lives and well-being of the American people. We should not, like Nero, sit around and fiddle while the people of this country are burning with inflation.

SIXTY AMERICAN LIVES AND FUTURE DIPLOMATIC RELATIONS WITH IRAN ARE THREATENED

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, once again the Ayatollah Khomeini-incited revolutionaries in Iran pose a serious threat to not only our future diplomatic relations, but to the lives of several Americans as well. This time the Ayatollah Khomeini-sponsored overthrow threatens the safety and lives of those Americans who have been taken hostage in Iran. With the acceptance of Mehdi Bazargan's resignation, the moderate influences depart as well, leaving with it possibly the only hope for a rational and expedient resolve of the present impasse. To make matters worse, the dominant clerical rule in Iran seems perfectly willing to impose additional pressures on the United States by threatening to impose an oil embargo.

Now that the United States is sufficiently embarrassed and in dire need of remedy, we are bluntly informed that there is virtually no recourse. Today we find at least 60 Americans hostage to an unappeasable and highly volatile revolutionary mob.

Disappointment and frustration abound among Americans today. I am concerned as to the faltering position and weakened image of the United States in the world today. Specifically, I am deeply troubled over the repeated timidity of the United States in a crisis. The American people will not stand for these threats by Iranian revolutionaries nor will they accept any further compromising of our strength on behalf of any revolutionary leaders. The people of America want an end to the constant humiliation which they are forced to stomach routinely. It is time we refuse to succumb to these pressures and ultimatums which are issued to our State Department. I am sincerely hopeful that the crisis in Iran today is the spark which will arouse Americans, and that we will demand a change in the dovish, inactive, placid, and potentially disastrous foreign policy which we are following today.

THE ELECTION OF JOHN Y. BROWN, JR., AS GOVERNOR OF KENTUCKY

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERKINS. Mr. Speaker, Kentuckians went to the polls yesterday and chose a new Democratic Governor to lead their Commonwealth into the decade of the 1980's.

In his first try for public office, John Y. Brown, Jr., rolled up impressive majorities in most sections of the State, including some that normally vote Republican.

His election is, in a sense, a break with the old style of politics of the past. He gave Kentucky voters a new face, an attractive personality, a solid understanding of modern campaign techniques, and an air of confidence that he can and will use his demonstrated business ability to solve the problems of the State.

As the Washington Post reported this morning, Governor Brown will go into office with fewer commitments than any Governor in recent memory.

Kentucky voters elected him on trust, and in accepting it, the new Governor-elect placed himself under a heavy obligation to the people to provide them with honest, forthright, and dedicated leadership.

It has been my privilege to be on the campaign trail with Governor Brown many times this fall, and I believe he will enter upon his new duties 5 weeks from today with a solid devotion to the people's trust.

I congratulate him upon his victory, and as dean of the Kentucky delegation in this House I know I speak for all of us when I say we will work with him in every possible way to further Kentucky's and the Nation's interest.

It is interesting to note in passing that his distinguished father, John Y. Brown, Sr., served in this House from 1933 to 1935, and took an active role in the campaign of his son and namesake.

We wish them both the best.

A TRAGEDY IN GREENSBORO, N.C.

(Mr. PREYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PREYER. Mr. Speaker, a horrible and tragic event occurred last Saturday in my hometown of Greensboro, N.C. Five people were killed and nine injured in a sudden confrontation between two extremist groups.

The eruption did not fit any predictable pattern of violence in the South. Its motive was not primarily racial but class and ideological conflict. The marchers who were attacked were members of the Communist Workers Party while the attackers—all from outside the city of Greensboro—were led by members of a Nazi organization who also had ties to the Ku Klux Klan.

The violence was entirely out of character for the Greensboro community. Our city has a long and proud history of nonviolent demonstrations during the civil rights era. The first lunch counter sit-in occurred in Greensboro which was a historic and peaceful step to integration of all public facilities in this country. Our city government and our police department have long been considered among the finest in the Nation.

There are two steps to be taken immediately: The attackers must be brought to justice; and a thorough official investigation, including the police handling of the event, must be undertaken.

This is being done.

Fourteen men have been arrested and charged with first degree murder and other crimes. Their arraignment took place 2 days ago, November 5.

An intense investigation is proceeding with the assistance of 25 FBI agents sent in by the Civil Rights Division of the Justice Department.

The funeral of the victims will be held this Sunday in Greensboro. Let me caution again that this is a confrontation between violent extremist groups of the left and right. It would be a serious mistake to view this funeral and any attendant demonstration as a civil libertarian or civil rights cause.

Our community and, specifically our black community, is united behind our city government on this question.

On behalf of my community, I want to express our sincere sympathy to the families of those who were killed and wounded in this senseless violence, and our determination to bring to justice those who are guilty. We are equally determined that such an event shall not occur in the future.

MINNEAPOLIS AND PHILADELPHIA ELECT FORMER OUTSTANDING CONGRESSMEN AS MAYORS

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I take this time only to extend warm congratulations—and I am sure that I am joined in doing so by at least Members on our side of the aisle—to two former colleagues of ours in the House of Representatives who have just been elected mayors of their cities. I refer to our distinguished former colleague, the gentleman from Minnesota, Mr. Donald Fraser, who was elected mayor of Minneapolis, and to our distinguished former colleague, the gentleman from Pennsylvania, Mr. William Green, who was elected mayor of his home city of Philadelphia. These are outstanding men who served with great distinction in this body and I am sure will do a splendid job in their new responsibilities.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding. I congratulate the gentleman from Indiana on his statement. I think all of those who have served with either or both of our colleagues, Mr. Green and Mr. Fraser, will congratulate their respective communities on a wise choice. We are delighted.

Mr. BRADEMAS. I thank the gentleman.

● Mr. OBERSTAR. The voters of Duluth, Minn., in my district yesterday gave a decisive mandate to a bright, able young leader, John Fedo. At 29, John Fedo, a city councilor since 1975, becomes the mayor of the largest city in Minnesota outside of the Twin Cities, Minneapolis, and St. Paul. He will be one of the Nation's youngest mayors.

John Fedo has shown that a candidate's vision and knowledge of the issues is far more important than age.

He brings to the mayor's office creativity, energy and a commitment to continuing the renaissance of the city of Duluth.

He waged a hard-fought campaign. He relied upon a grassroots organization and personal contact with the voters. He brought his message to the people and they have responded.

Duluth, the State of Minnesota and the Nation are going to hear great things from this leader, and I look forward to working with him.

The voters of Minneapolis have elected a great mayor in the tradition of Hubert Humphrey. Don Fraser, our former colleague, has won in a landslide, a tribute to his knowledge of urban issues and of the esteem in which his former constituents hold him.

The Members of this House have enormous respect for Don's fight for human rights and for his efforts to institute reform in the rules of this body.

He was an effective spokesman in the House for urban issues. He brings to the mayor's office his knowledge and concern for the needs of Minneapolis.

The voters of Minneapolis have made a good choice.●

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter I have just discussed.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 117) to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker—and I probably will not because I understand this authority expired on November 1, and I am in favor of its continuation—can the gentleman explain what happened? I know we had colloquy on this issue before.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from Ohio.

Mr. ASHLEY. I thank the gentleman for yielding. Let me say to the gentleman and my colleagues that Senate Joint Resolution 117 would extend through November 15, 1979, the authority of the Secretary of the Department of Housing and Urban Development to insure mortgages or loans under certain HUD-FHA mortgage or loan insurance programs contained in the National Housing Act, would extend the authority of the Secretary to set the interest rates for FHA-insured loans, to enter into obligations to make section 312 rehabilitation loans and would extend the authority of the Government National Mortgage Association to enter into new commitments to purchase mortgages.

The Senate joint resolution would also extend certain authorities of title V of the Housing Act of 1949 through November 15, 1979, with respect to the Farmers Home Administration's rural housing programs.

I am going to offer an amendment which provides for the extension to go through December 1, rather than November 15.

We expect to conclude our consideration of H.R. 3875, the Housing and Community Development Amendments of 1979, on Thursday, November 8, and hopefully will have the conference report ready for House consideration by the end of next week. My amendment to this extender resolution is necessary so that there will not be another lapse in the HUD and FmHA authorities prior to the enactment of this year's housing authorization bill.

Mr. Speaker, I am somewhat reluctant to come before the House again to request this additional extender resolution but the conference on this year's housing bill has been protracted and most difficult. On September 26 of this year, I stated to the House that it was my expectation that the conferees on the housing bill would conclude their work prior to the expiration of the authorities contained in Senate Joint Resolution 105, but we were not able to meet this deadline, and I apologize to my colleagues for this overly optimistic expression made on that date. I have been assured, though, by the chairman of the Senate conferees that we will, indeed, conclude our conference this week and have our conference report before the full House shortly.

Mr. Speaker, at the present time all of these HUD and FmHA authorities have lapsed. No mortgages or loans can be insured by FHA nor can any of the rural housing programs administered by the Farmers Home Administration be endorsed at this time. It is vitally necessary that we pass this joint resolution so that these programs may continue until the housing bill can be enacted into law.

Mr. Speaker, Senate Joint Resolution 117 with my amendment is supported by my distinguished colleague from Ohio, Mr. STANTON, who is the ranking minority member of the Housing Subcommittee and the full Banking Committee, and I urge the prompt adoption of this joint resolution.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, and I will yield to my colleague from Ohio (Mr. STANTON), would it be wise to extend this authority to the end of the year on the basis of previous action that we just did not get from the other body?

Mr. ASHLEY. Mr. Speaker, I think not. I will say to the gentleman the House conferees, the gentleman from Ohio (Mr. STANTON) and myself, have made the position of the House very clear to the Senate. We have come through protracted negotiations. We are not going to go very much further. This is understood. Matters that cause difficulty can be, should be, must be resolved.

I understand the purpose of the gentleman's question: "You did not make it last time," you are saying to me.

Mr. ROUSSELOT. Mr. Speaker, I know it was not because the gentleman did not try or that the other members of the conference did not try. My suggestion is perhaps we should provide some additional flexibility even again but I will yield to the gentleman's judgment.

Mr. ASHLEY. Mr. Speaker, I appreciate the gentleman's doing that. My amendment would extend it for a 30-day period rather than the 15 days which appears in the Senate joint resolution. I think that would provide us the cushion, if any that would be needed.

Mr. ROUSSELOT. Reserving the right to object, I yield to my colleague from Ohio, the ranking member of the subcommittee, the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Speaker, I appreciate the gentleman's yielding under his reservation. I simply say I concur with the chairman of our subcommittee. It is essential, it is an absolute necessity and I compliment the gentleman from California for his contributions.

Mr. ROUSSELOT. Mr. Speaker, I appreciate both of my colleagues trying to stand tough for the House position. I hope now that the other body will realize that we are serious and that permanent legislation is needed.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Ohio (Mr. ASHLEY)?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 117

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "November 1, 1979" in the first sentence and inserting in lieu thereof "November 15, 1979".

(b) Section 217 of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(c) Section 221(f) of such Act is amended by striking out "October 31, 1979" in the fifth sentence and inserting in lieu thereof "November 14, 1979".

(d) Section 235(m) of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(e) Section 236(n) of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(f) Section 244(d) of such Act is amended—

(1) by striking out "October 31, 1979" in the first sentence and inserting in lieu thereof "November 14, 1979"; and

(2) by striking out "November 1, 1979" in the second sentence and inserting in lieu thereof "November 15, 1979".

(g) Section 245 of such Act is amended by striking out "October 31, 1979" where it appears and inserting in lieu thereof "November 14, 1979".

(h) Section 809(f) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

(i) Section 810(k) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

(j) Section 1002(a) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

(k) Section 1101(a) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709-1), is amended by striking out "November 1, 1979" and inserting in lieu thereof "November 15, 1979".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 3. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "November 1, 1979" and inserting in lieu thereof "November 15, 1979".

REHABILITATION LOANS

SEC. 4. Section 312(h) of the Housing Act of 1964 is amended—

(1) by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979"; and

(2) by striking out "November 1, 1979" and inserting in lieu thereof "November 15, 1979".

EXTENSION OF RURAL HOUSING AUTHORITIES

SEC. 5. (a) Section 513 of the Housing Act of 1949 is amended by striking out "October 31, 1979" where it appears in clauses (b), (c) and (d) and inserting in lieu thereof "November 14, 1979".

(b) Section 515 of such Act is amended by striking out "October 31, 1979" where it appears in paragraph (b)(5) and inserting in lieu thereof "November 14, 1979".

(c) Section 517(a)(1) of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(d) Section 523(f) of such Act is amended—

(1) by striking out "November 1, 1979" where it appears in paragraph (f) and inserting in lieu thereof "November 15, 1979"; and

(2) by striking out "October 31, 1979" where it appears in such paragraph (f) and inserting in lieu thereof "November 14, 1979"

AMENDMENTS OFFERED BY MR. ASHLEY

Mr. ASHLEY. Mr. Speaker, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. ASHLEY: Page 1, line 7, strike out "November 15" and insert in lieu thereof "December 1".

Page 2, line 3, strike out "14" and insert in lieu thereof "30".

Page 2, line 6, strike out "14" and insert in lieu thereof "30".

Page 2, line 9, strike out "14" and insert in lieu thereof "30".

Page 2, line 12, strike out "14" and insert in lieu thereof "30".

Page 2, line 15, strike out "14" and insert in lieu thereof "30".

Page 2, lines 18 and 19, strike out "November 15" and insert in lieu thereof "December 1".

Page 2, line 22, strike out "14" and insert in lieu thereof "30".

Page 2, line 25, strike out "14" and insert in lieu thereof "30".

Page 3, line 3, strike out "14" and insert in lieu thereof "30".

Page 3, line 6, strike out "14" and insert in lieu thereof "30".

Page 3, line 9, strike out "14" and insert in lieu thereof "30".

Page 3, line 18, strike out "November 15" and insert in lieu thereof "December 1".

Page 3, line 23, strike out "November 15" and insert in lieu thereof "December 1".

Page 4, line 5, strike out "14" and insert in lieu thereof "30".

Page 4, line 7, strike out "November 15" and insert in lieu thereof "December 1".

Page 4, line 12, strike out "14" and insert in lieu thereof "30".

Page 4, line 15, strike out "14" and insert in lieu thereof "30".

Page 4, line 18, strike out "14" and insert in lieu thereof "30".

Page 4, line 22, strike out "November 15" and insert in lieu thereof "December 1".

Page 4, line 25, strike out "14" and insert in lieu thereof "30".

Mr. ASHLEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. The question is on the amendments offered by the gentleman from Ohio (Mr. ASHLEY).

The amendments were agreed to.

The Senate joint resolution, as amended, was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LOAN GUARANTEES TO CHRYSLER CORP.

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADDABBO. Mr. Speaker, I rise to express my support for legislation introduced Monday, November 5, by the gentleman from Michigan (Mr. BLANCHARD) for him, the majority leader (Mr. WRIGHT), and the chairman and ranking Republican of the Economic Stabilization Subcommittee, Mr. MOORHEAD of Pennsylvania and Mr. MCKINNEY, to provide loan guarantees to the Chrysler Corp. This is the legislation recommended last week by the administration, and prompt enactment of the loan guarantees is essential if we are to prevent major unemployment and severe distress in communities throughout the country and disruption in a corporation deeply involved in our defense production.

When the House acted to provide loan guarantees to New York City it did so to prevent real and serious human suffering, and it did so with the support of Members from all parts of the country. The situation confronting us on the Chrysler legislation is the same. If the corporation does not receive these loan guarantees, hundreds of thousands of workers will lose their jobs and scores of communities will see their tax bases destroyed at the very time the demand for human services rises.

Those of us from New York City are obviously sensitive to the problem faced by those communities that would be adversely affected by a Chrysler failure, and we are justly concerned about the well-being of the hundreds of thousands of workers whose jobs are dependent, directly or indirectly, on Chrysler. But I submit, Mr. Speaker, that it does not matter where a Member comes from for that individual to understand the importance of the Chrysler loan guarantees not only to those most immediately affected, but to the entire country.

I urge prompt and favorable action on the legislation.

CONGRESS MUST SAY NO TO MILEAGE STANDARD WAIVER

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, American Motors is asking us to waive provisions of the fuel efficiency standards the Congress set in 1975. That request is absolutely outrageous and we must tell them unequivocally "No." Those fuel efficiency standards were important in 1975. They are vital today. We cannot afford to be flexible in this case. The national interest demands that we not give in to corporate pressure.

Right now, AMC's fleet averages 19.5 miles per gallon. The 1982 standard requires them to average 24 miles per gallon. Instead, AMC is aiming for a fleet average of 22.5. We are talking about much more than one and a half miles per gallon. We are talking about thousands of barrels of crude oil imports every day and about added consumer costs to keep gas guzzlers going. Very simply, we cannot afford it either as individuals or as a Nation.

The AMC request is completely irresponsible. In making such a suggestion, AMC's corporate heads seem to have totally ignored our energy problem. And their request is even more ludicrous since AMC has merged with a foreign automaker which is producing fuel efficient cars overseas right now. The American public deserves to have equally efficient cars made here at home. Waiving standards which probably should be strengthened instead will certainly not help hasten the day when we will have those fuel efficient cars available here.

AMC might be right that some Federal regulations need to be relaxed to help the industry stay on its feet. But they are dead wrong to suggest that the place to give in is fuel efficiency.

A NEW WAVE OF REPRESSION IS MOUNTING IN THE U.S.S.R.

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, on October 30, 1979, Soviet dissidents marked the sixth anniversary of Soviet Prisoner of Conscience Day. In camps across the U.S.S.R., 200 political prisoners, including Moscow Helsinki Group members Yuri Orlov and Anatoly Shcharansky,

went on a symbolic 1-day hunger strike. Meanwhile, in Moscow, human rights activists gathered at the home of Academician Sakharov and held a press conference to commemorate the occasion. Tatiana Velikanova, the 45-year-old mathematician who presided at the conference, warned that a new wave of repression against human rights activists was in the making.

Two days later, the warning became fact: three leading Soviet dissidents—Tatiana Velikanova herself, Russian Orthodox priest Gleb Yakunin, and Lithuanian activist Atanas Terleckas—were arrested. Velikanova—whose brother and sister live in the United States—is being charged under article 70 of the Russian Criminal Code with "anti-Soviet agitation and propaganda" for her active membership in Sakharov's Initiative Group on Human Rights and for work she has done in connection with the unofficial journal Chronicle of Current Events.

Fifty-year-old economist Atanas Terleckas was arrested in Vilnius, the Lithuanian capital, on unknown charges. Terleckas has been closely associated with the Lithuanian Helsinki Group and in fact was picked up, then later released, on August 24, 1977, the same day that Viktoras Petkus, a member of the Lithuanian Group, was arrested. Both Terleckas and Petkus—who now shares a cell with Anatoly Shcharansky—have actively sought greater freedom for Lithuania and the Catholic Church.

The arrest in Moscow of Father Gleb Yakunin, a founding member of the Christian Committee for the Defense of Believers' Rights, coupled with house searches against a number of believers, are evidence that a major sweep against leading Russian Orthodox activists is underway. Two other members of the Christian Committee, Viktor Kapitanchuk and Vadim Sheglov, were subjected to extensive house searches on November 1, and the homes of Russian Orthodox activists Lydia Donovskaya, Larissa Poluektova, and Lyudmilla Ivanova were searched as well. The Christian Committee was founded in 1977 in association with the Soviet Helsinki movement.

Other recent repressive actions against Soviet dissidents include the arrest on October 23d of former political prisoner Mykola Gorbal' in Kiev. Gorbal', a musicologist, has worked closely with the Ukrainian Helsinki Monitoring Group. In addition, lengthy house searches were carried out in the homes of longtime human rights activist Nina Lisovskaya and Viktor Sokirko, an editor of the unofficial journal Searches.

Despite this newest crackdown on activists in the Soviet Union—reminiscent of an earlier campaign against the Helsinki Monitors in 1977—the struggle for human rights continues to gain support in the Soviet Union. This was eloquently evidenced at the prophetic October 30 press conference, when it was announced that Ivan Kovalev, son of imprisoned biologist Sergei Kovalev, has recently joined the Moscow Helsinki Group. It is clear that the valiant human rights activists in the U.S.S.R. are determined to speak out regardless of this latest siege by the Soviet authorities. Let the Soviet Government be assured that my fellows on the Commission on Security and Cooperation in Europe, in concert with my other concerned colleagues in the U.S. Congress, will also raise their voices in protest against these deplorable arrests and other repressive actions being perpetrated by the Soviet Government. I call for the immediate release of Velikanova, Yakunin, Terleckas, Gorbal', and the hundreds of other Soviet citizens who have been imprisoned for knowing and acting upon their rights.

□ 1230

OUR HOSTAGES IN IRAN

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, over the last several days we have witnessed in Iran the confinement and imprisonment of American hostages and Iranian employees. The reaction that it has produced in this country has been varied, but the general consensus is that America should flex its muscles.

I would prefer to think in another direction. We should be primarily concerned with the welfare of those hostages. My own thinking is that if my son were among them, I would want cool, calm, deliberative thinking in attempting to find a resolution. For that I am grateful that we have that kind of a President in the White House.

UNITED NATIONS CONFERENCE ON CAMBODIAN RELIEF

(Mrs. SNOWE asked and was given permission to address the House for 1 minute and to revise and extend her remarks)

Mrs. SNOWE. Mr. Speaker, I would like to call the attention of my colleagues to the United Nations Conference on Cambodian Relief convened earlier this week by Secretary General Kurt Waldheim and attended by Secretary of State Cyrus Vance. This important conference has set as its goal the raising of $310 million in assistance for the Cambodian people, literally hundreds of thousands of whom face almost certain death from malnutrition and disease unless given food supplies and medical attention.

In his speech at the conference, Secretary Vance reaffirmed our Government's commitment to a contribution over the next 6 months of an additional $39 million in aid to the Cambodian people, including $9 million in aid to the Cambodians who have fled to Thailand. This is of course in excess of the $30 million in additional funds which Congress is in the process of approving for the next phase of relief efforts. In closing, the Secretary of State set the proper tone for the United Nation's assistance efforts when he said:

We are not here to attach blame. We are here to alleviate human suffering.

Secretary Vance's speech expressed the humane sentiments of the American people for the Cambodian people in their suffering and distress. However, as my colleagues in the Congresswoman's Caucus have noted, America's efforts, and those of the United Nations, have been hampered by misunderstandings and a lack of cooperation from Cambodian officials.

Many important and useful approaches for the distribution of aid have been made unfeasible or rejected by the Cambodian Government—approaches such as a land bridge that would convey trucks carrying much needed food and medicine to the starving and sick. While nations throughout the world have agreed to make every effort to appropriate the funds and mobilize the necessary resources to help the Cambodian people, the greater task of distributing this aid remains before us. Food and medicine will mean nothing floating in ships at sea or piled up on the docks of Kampong Son far from those who need it. All our pledges, offerings, and pleas will mean nothing without the cooperation necessary to distribute the relief. And, certainly, in spite of the many logistical and political problems we face, relief must quickly be distributed without regard for any considerations other than humanitarian considerations.

We cannot sit idly by and watch the approaching extinction of a people. It is for that reason that a group of congresswoman are leaving for Cambodia tomorrow. We have called upon other women from throughout the world to join us in a plea to the Cambodian Government to save their people and to extend their fullest cooperation in implementing all relief efforts. We propose to carry this plea directly to the government in Phnom Penh. Whether our mission is successful or not, we can do no less.

AMBASSADOR BRUCE LAINGEN IN IRAN DESERVES PRAYERS AND SUPPORT OF EVERY AMERICAN

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, every American should be concerned about the situation in Tehran where the lives of several score Americans, serving their Nation in a foreign diplomatic post, are apparently in danger as a result of mob violence evidently condoned by the head of state.

My own concern is the more poignant because a close personal friend, Ambassador Bruce Laingen, is serving that post as chargé d'affairs. He and his driver are currently being held under what amounts to house arrest in the Iranian Foreign Office in Tehran and it is through him by telephone that negotiations between the U.S. Government and whatever government exists in Iran are currently being conducted. The rest of the embassy staff is being held by the mob in the basement of the American Embassy. Included are approximately 10 women, most of them professional foreign service personnel, but a few of them wives of male foreign service officers.

Ambassador Laingen and his staff deserve the prayers and support of every American at this tense hour. We knew

when he accepted this difficult post several months ago that it was fraught with the dangers of explosive irrationality, and yet he took the assignment willingly, after consultation with his wife, Penny, family and friends, because it was an opportunity to serve his country and the cause of peace and understanding. This is not his first anxious responsibility. He had previously been posted in Pakistan, Afghanistan, the Southern European desk at State during the Portuguese and Spanish transitions and problems in Cyprus and Italy. And most recently, he had been Ambassador to Malta.

Knowing him for the patriot that he is, I feel confident that Ambassador Laingen, and quite likely the other brave Americans serving our Nation in Iran, would not want us to bargain their safety for our Nation's honor or the future integrity and safety of every other U.S. diplomatic post elsewhere in the world.

I have suggested to the White House that the United States immediately incarcerate the representatives of the Iranian Government serving at their nation's embassy here in Washington and anywhere else in the United States and that these Iranians not be released until all Americans in Iran are returned safely to the United States or to their duties in Iran. Those Iranian nationals who demonstrated at the Statute of Liberty should immediately be deported. And should any harm befall any Americans in Iran, every Iranian student now being educated in the United States should be incarcerated here for deportation at the earliest moment.

There is no reason why the United States should continue to maintain relationships with a nation which cannot deal rationally with other governments.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would like to concur in the gentleman's statement. This is the kind of action we need in this country today if we are ever going to get back the dignity, respect, and credibility that belongs to the United States of America. I commend the gentleman.

AMERICANS OUTRAGED AT IRANIAN BLACKMAIL

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, the people of this Nation are outraged at the spectacle of Americans being held hostage in Iran in an effort to blackmail the United States.

We should make it absolutely clear that if any of the hostages are harmed, every Iranian citizen residing in the United States will be immediately deported. Further, every Iranian student who is in violation of his visa or who participates in any anti-American activity should be thrown out of the United States immediately.

The Shah should be granted asylum in the United States. We cannot allow a group of fanatics to kidnap and blackmail Americans into turning over their allies to an execution squad. If the United States fails to act decisively, we will continue to face the threat of blackmail from terrorist organizations. We must make it clear to the world that the United States will not be intimidated.

IRANIAN STUDENTS DEFACE STATUE OF LIBERTY

(Mr. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, as the ranking minority member of the Interior and Insular Affairs Committee, I have supported a strong National Park System which is "dedicated to conserving the scenic, scientific, and historic heritage of the United States for the benefit and enjoyment of its people."

This past Sunday, I was appalled to learn of a demonstration at the Statue of Liberty National Monument during which for protective reasons American citizens were removed from the immediate area. The demonstrators chained themselves to railings and unfurled a 140-foot-long banner with the printed words: "Shah must be tried and punished." Two of the demonstrators are aliens with student visas and one demonstrator has applied to become a full-time student. The demonstrators were arrested and charged with disorderly conduct, defacement of Federal property, and refusing to heed an order of a Federal superintendent.

I find it inconceivable that guests to our country would deface the Statue of Liberty. This monument is the most symbolic structure in the United States. It is a symbol of international friendship and as the poet Emma Lazarus wrote in 1882 "From her beaconhand glows worldwide welcome * * *."

Today we are seeing a trend of demonstrations by some foreign students in this country who are protected by our Constitution but who do not respect the health, safety, and welfare of American citizens who have welcomed them to our shores.

As to the Statue of Liberty incident, I wholeheartedly concur with an editorial appearing in the Tuesday edition of the Atlanta Constitution which in part states:

> Demonstrating Iranian students in this country should not be allowed to fill our streets, deface our National monuments and call for the death of our President. The students who wish to be activists should be encouraged to return to their homeland where they should have an opportunity to participate in the political processes there. They are abusing the freedoms and hospitality this government has extended to them.

Mr. Speaker, I believe the time has come for Congress to stringently review the regulations of the Immigration and Naturalization Service pertaining to foreign student visas. A foreign student who is arrested and convicted of a crime whereby his or her education is disrupted should not be allowed to remain in this country. By such action the student has exhibited disrespect for the freedom and liberty symbolized by our Statue of Liberty.

SENATE INACTION ON EMERGENCY FUEL ASSISTANCE ACT

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, on Thursday, October 25 of this year, the membership of this body assumed the responsibility of passing a critical piece of legislation—the Emergency Fuel Assistance Act of 1979. The Labor-HEW Appropriations Subcommittee, chaired by the able gentleman from Kentucky, had the foresight to conduct hearings a week before on this important issue and to subsequently mark up this emergency measure. Here we sit in the House after extensive debate and passage of the bill, waiting for the Members of the Senate to take up the bill. According to the majority leader, they have not even held hearings on this legislation which may mean the difference between survival and freezing for many citizens of our great Nation.

Mr. Speaker, it is inconceivable to this Member that the Senate has not begun deliberations on this measure. I urge them to expedite the process so that we may distribute the necessary funds in the near future.

ALMONDS AND EEC ENLARGEMENT

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. THOMAS. Mr. Speaker, the U.S. almond industry is located entirely in my State of California. It is the fastest growing tree crop and an industry which exports approximately 65 percent of its total production.

This country's primary competitor with regard to world almond production is Spain, and production in Spain is on the increase.

The European Economic Community is the largest single market for this country's almonds. Spain is due to begin negotiations early in 1980 leading toward membership in the EEC. Any development which will enhance Spain's entry position into the world's largest almond consuming market will have unfortunate repercussions on the U.S. almond industry in California. Our almond growers will face the likelihood of a reduction in the total volume of sales to the EEC because Spanish producers will have an incentive to increase production even more.

It is my understanding that the EEC is prepared to negotiate on the subject of their almond duty with the United States now rather than to wait until after Spanish entry.

The United States should proceed at once to achieve the needed duty reduction on almonds from the EEC. This should be of the highest priority for our U.S. negotiators.

□ 1240
DECISION TIME

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. YOUNG of Florida. Mr. Speaker, America is being driven to its knees with an ever-increasing consistency by third-rate terrorists whose bravery comes from a belief that they will be safe from American reprisal.

In recent months we have watched with frustration while our Ambassador to Afghanistan was murdered. We see the American flag being burned. We get mad when we see American marines blindfolded by Iranians and exploited before the world press. We have seen in the past, and again today we see Americans, official representatives of our Government, being held hostage to the demands of anti-American terrorists.

Mr. Speaker, it is decision time. It is time to give the Khomeinis of the world the message that the United States is through backing away and apologizing. It is time to let the world know that our present policy of appeasement is firmly terminated. It is time, Mr. Speaker, for this Congress and this President to raise America up from its knees and through our words and deeds let the world know that we will never again go back to our knees except in the worship of Almighty God.

Those Iranians here in our country demonstrating in support of Khomeini's anti-American actions must be deported immediately. The Iranian Ambassador to the United States should be sent home with a firm official message to Khomeini that he—Khomeini—will be held personally accountable for any injury to any of the Americans held as hostages by his forces.

Mr. Speaker, if we do not draw the line and soon, the anti-American terrorism of the 1970's will look like a child's game when compared to the world of the 1980's. What the United States does in this Iranian action could determine what kind of a world we will have in the 1980's.

Will the world of the 1980's be one of killing—terrorism—and communism? Will it be a world of kidnaping and violence? Will it be a world hostage to tyranny, without regard for human rights and human life, or will it be a world of respect for life, freedom, and our fellow human beings?

Mr. Speaker, if the Government of the United States does not exert itself as our citizens are now demanding, we all know what that unfortunate answer will be.

THE SITUATION IN IRAN

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, all of us in this House are following with great concern the events in Iran. It certainly does not appear that there are any easy solutions to this terrible situation. The use of force has been suggested by some, and, while it should not be ruled out, the potential risks of such actions are immense.

We are weak in the Middle East because this country has not taken the steps in the past to strengthen our role in this critical area. We have not strengthened our Navy in the region. We have not moved troops closer to potential trouble spots. We have denuded our intelligence capabilities at the very time those capabilities were most needed. In short, we have asked for just this sort of challenge.

One thing which can and should be done here in America is for the Immigration and Naturalization Service to put on the first boat back home any Iranian student who participates in the violent demonstrations we have recently seen. These hoodlums were not admitted to U.S. institutions of higher learning just so they can throw rocks at our police. If they want to demonstrate, let them go back to Iran and join the mob. But such actions are not wanted in the United States, and I say kick them out now.

IRANIAN CRISIS DEMANDS ACTION: COULD RAMSEY CLARK OR JANE FONDA HELP?

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, phones are ringing and they will continue to ring on calls from irate citizens across the country growing out of the apparent weak-kneed nonpolicy of this administration in dealing with the crisis in Iran. We as responsible legislators must take a moderate but studied approach.

Looking at these so-called students, although "students" includes anybody who is of school age, these so-called students, whether they are students or not, have appeared in front of the Federal building in Columbus. There were 70 to 80 of them marching with signs reading, "Death to the U.S. Imperialists," "Death to the Shah," and all that kind of baloney. It seems to me that the Justice Department should begin seriously to consider invoking the laws having to do with deportation of undesirable aliens and revocation of visas.

The fact that this administration, at least on TV this morning, suggests that we might send Ramsey Clark over there as the U.S. emissary to try to solve this problem should not give us a great deal of comfort. Ramsey Clark does not really have a track record of being a standup, tough, twofisted, good negotiator.

My God, Mr. Speaker, we might just as well send Jane Fonda.

RETHINKING OUR POSITION ON WORLD EMBASSIES

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, giving advice to the President right now on the Iranian nightmare-come-true is a very difficult and dangerous thing to do, because our President has upon his shoulders the awful burden of making sure that a massive tragedy in Iran is avoided.

We all remember vividly Jim McKay's tragic Olympic broadcast to the world from Munich in the summer of 1972 when every one of the Israeli athlete-hostages were killed. You will recall that McKay said that his grandfather had told him as a boy that almost always our worst fears or our fondest hopes never come to pass, but that in Munich our worst fears had been realized, and every young Israeli athlete and coach was murdered by terrorists.

God willing, the opposite will happen soon in Iran, and our fondest hopes will come true for all our hostages. When that happy event does happen, I hope that this House and the other body will begin immediately to do some deep thinking before the fact about exactly how we should treat the small areas that our embassies occupy.

Are those bits of land to be looked upon as if they were sovereign American soil? Why do we arm our U.S. marines and send them overseas to protect our embassy people and properties if they can be disarmed so easily?

Many months ago, in debate in the other body, some Members were stating—and I am not criticizing the then Ambassador to Iran, Mr. Sullivan—were stating that we should always give our arms to any enemy attacking our embassies. Is that a sane policy or an invitation to an unending series of assaults worldwide on our Foreign Service?

Mr. Speaker, if we do not do something to spell out loudly and clearly U.S. policy on this, we will set a precedent in Iran that we will see repeated in embassy after embassy around the world. Let us rethink our whole position on how to defend our embassies and under exactly what circumstances.

DEPOSITORY INSTITUTIONS DEREGULATION ACT OF 1979

Mr. REUSS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The SPEAKER. The Clerk will report the title of the bill and the proposed amendments.

The Clerk read the title of the bill.

Mr. REUSS. Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendments to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, why do we not just let the Clerk read the whole thing so we will know what is before us? These are two major bills, and I think we ought to understand what they are.

Mr. REUSS. Mr. Speaker, if the gentleman will yield, they are tremendously

long, and perhaps I could explain them to the gentleman.

Mr. ROUSSELOT. Mr. Speaker, I am familiar with them, and I would want to have a little colloquy with the gentleman. But first let us have the Clerk read what it is.

Mr. REUSS. Surely.

Mr. ROUSSELOT. Mr. Speaker, I object.

□ 1250

The SPEAKER. Objection is heard.

The Clerk will report the Senate amendment and the House amendments to the Senate amendment.

The Clerk read the Senate amendment and the House amendments to the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

That this Act may be cited as the "Depository Institutions Deregulation Act of 1979".

TITLE I—PAYMENT OF INTEREST ON DEPOSIT ACCOUNTS

SEC. 101. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a(i) is amended by striking out the matter in the first sentence before the first proviso and inserting in lieu thereof the following: "No member bank shall, directly or indirectly, by any device whatsoever, pay any interest on any deposit which is payable on demand, and a demand deposit shall not include a negotiable order of withdrawal account:".

(b) The first sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b(j)) is amended to read as follows: "The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest which may be paid by member banks on time and savings deposits.".

(c) The first section of the Federal Reserve Act (12 U.S.C. 221) is amended by adding at the end thereof the following new paragraphs:

"The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(6) any insured institution as defined in section 408 of the National Housing Act.

"The term 'negotiable order of withdrawal account' means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.

"The term 'share draft account' means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.".

SEC. 102. (a) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end thereof the following new subsections:

"(r) The term 'depository institution' means—

"(1) any insured bank as defined in this section;

"(2) any mutual savings bank as defined in this section;

"(3) any savings bank as defined in this section;

"(4) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(5) any insured institution as defined in section 408 of the National Housing Act.

"(s) The term 'negotiable order of withdrawal account' means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such deposit or account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.".

(b) The first sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows: "The Board of Directors shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks (including insured mutual savings banks) and for such purpose it may define the term 'demand deposit', except that the term as so defined shall not include negotiable order of withdrawal accounts; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, or by regulation of the Board of Governors of the Federal Reserve System.".

(c) The second sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows: "The Board of Directors may from time to time, after consulting with the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest or dividends that may be paid by insured nonmember banks (including insured mutual savings banks) on time and savings deposits.".

SEC. 103. Section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by striking out the first sentence and inserting in lieu thereof the following: "The Board may from time to time, after consulting with the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, prescribe rules governing the payment and advertisement of interest or dividends on deposits, shares, or withdrawable accounts, including limitations on the rates of interest or dividends on deposits or shares that may be paid by members, other than those the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act, by institutions which are insured institutions as defined in section 408 of the National Housing Act, and by nonmember building and loan, savings and loan, and homestead associations, and cooperative banks.".

SEC. 104. (a) Section 2 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462) is amended by adding at the end thereof the following new subsections:

"(e) The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any member as defined in this section; and

"(5) any insured institution as defined in section 408 of the National Housing Act.

"(f) The term 'negotiable order of withdrawal account' means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such deposit or account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.".

(b) Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "The preceding sentence does not apply to negotiable order of withdrawal accounts, except that a Federal savings and loan association which is located in California may permit withdrawals by negotiable or tranferable instruments for the purpose of making transfers to third parties only during periods when State-chartered savings and loan associations located in California are authorized to permit such withdrawals. An association may grant overdrafts on negotiable order of withdrawal accounts. This shall not be effective unless thrift institutions are granted NOW account authority and the provision on the phaseout of regulation Q becomes law.".

(c) Section 5(a) of such Act is amended by adding at the end thereof the following: "A Federal mutual savings bank may grant overdrafts on negotiable order of withdrawal accounts. This shall not be effective unless thrift institutions are granted NOW account authority and the provision on the phaseout of regulation Q becomes law.".

SEC. 105. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by inserting before the semicolon at the end of paragraph (5) the following: ", and such term also includes a share draft account";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(10) the term 'share draft account' means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.".

(b) Section 107(6) of such Act is amended by inserting before the semicolon at the end thereof the following: ", and to issue, deal in, and accept as orders of withdrawal against shares, share drafts and grant overdrafts thereon. This shall not be effective unless thrift institutions are granted NOW account authority and the provision on the phaseout of regulation Q becomes law".

(c) Section 117 of such Act is amended by adding at the end thereof the following: "The maximum rate of dividends payable on share draft accounts shall be determined by the Board after consultation with the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board.".

SEC. 106. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.".

(c) Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "This section does not prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board.".

SEC. 107. (a) The limitations on the maximum rates of interest or dividends for each category of deposits (including time and savings deposits), shares, or withdrawable accounts which were established pursuant to the provisions of law which are referred to in section 7 of the Act of September 21, 1966, shall remain in effect in accordance with the provisions of the amendments made by this title.

(b)(1) Except as provided in paragraph (2) the limitations on the maximum rates of interest or dividends referred to in subsection (a) and the limitations on the maximum rates of interest or dividends on negotiable order of withdrawal accounts established pursuant to this Act shall be increased by at least one-half of a percentage point on January 1, 1982, and on each succeeding January 1 through January 1, 1989, subject to section 102 of Public Law 94-200.

(2) If the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, it may postpone or reduce an increase required by this subsection. When the Board makes such determination and postpones or reduces an increase, it shall report to the Congress the reasons for such action.

(c) During the period beginning on January 1, 1982, and ending on July 1, 1989, no new category of deposits or accounts may be approved by the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration Board if the maximum rate of interest or dividends payable thereon is not at least equal to the maximum rate applicable to deposits or accounts of comparable maturities then in effect.

(d) Whenever the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, determines that it is economically feasible or desirable to accelerate the increases in the maximum rates of interest and dividends as provided in subsection (b)(1), the Board of Governors shall report such determination to the Congress.

(e) Upon unanimous agreement, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce the minimum denomination of all certificates of deposit to not more than $1,000 as soon as feasible except that if the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation or the Federal Home Loan Bank Board, determine that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, the reduction required by this subsection shall be postponed. When such determination is made and postponed, it shall be reported to the Congress including the reasons therefor.

(f) As used in this section, section 108, section 109, and section 305 the term—

(1) "depository institution" means—

(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(D) any member as defined in this section;

(E) any insured institution as defined in section 408 of the National Housing Act; and

(F) any insured credit union as defined in section 101(7) of the Federal Credit Union Act; (2) "negotiable order of withdrawal account" means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit; and

(3) "share draft account" means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.

SEC. 108. On or after January 1, 1990, the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, may prescribe limitations on the maximum rates or dividends on deposits or accounts which may be paid by depository institutions only upon a finding that an extreme economic emergency exists and such action is necessary to maintain the economic viability of depository institutions. Any such finding shall be described in detail in a prompt report to the Congress. In no case shall any limitation prescribed under this section remain in effect for more than one year.

SEC. 109. The Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board shall report to the Congress annually after the date of enactment of this Act on the economic viability of depository institutions. Each report shall contain such recommendations for legislation or other actions necessary to maintain the economic viability of depository institutions, and specifically shall contain recommendations as to whether the removal of any differential between the rate paid on deposits by banks and thrifts will negatively affect the housing finance market and the viability of the thrift industry. Each report shall also contain recommendations for encouraging savings and for equitable treatment of small savers, recommendations to ensure a steady and adequate flow of funds to thrift institutions and the housing market, and findings concerning disintermediation of savings deposits from insured banks and insured thrift institutions to uninsured money market innovators paying market rates to savers.

SEC. 110. (a) Effective January 1, 1990, section 19(j) of the Federal Reserve Act, section 18(g) (except the first sentence) of the Federal Deposit Insurance Act, and section 5B(a) of the Federal Home Loan Bank Act are repealed.

(b) Effective January 1, 1990, section 102 of Public Law 94-200 is repealed.

(c) Section 2 of Public Law 93-100 is repealed.

(d) Section 7 of Public Law 89-597 is repealed.

TITLE II—MISCELLANEOUS

SEC. 201. Section 5(c)(4) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(E) CONSUMER LOANS AND CERTAIN SECURITIES.—Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts, an association may make unsecured loans for personal, family, or household purposes, and may invest in, sell, or hold commercial paper, corporate debt securities, and bankers acceptances, as defined

and approved by the Board, but the aggregate amount of such loans and investments at any time may not exceed 20 per centum of the assets of the association.

"(F) INVESTMENT COMPANIES.—An association may invest in, redeem, or hold shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 19[illegible] and the portfolio of which is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to any such investments as an association by law or regulation now or hereafter may, without limitation as to percentage of assets, invest in, sell, redeem, hold or otherwise deal with. The Board shall prescribe rules and regulations to implement the provisions of this subparagraph (F).".

SEC. 202. Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by inserting the following new paragraph after paragraph (5) and renumbering subsequent paragraphs accordingly:

"(6) REAL ESTATE LOANS MADE BY NATIONAL BANKS.—Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts, notwithstanding any of the foregoing provisions of this section, an association shall be permitted, to such extent and subject to such rules and regulations as the Board may prescribe from time to time, to invest in, sell, or otherwise deal in loans or investments secured by liens on residential real estate to the same extent and in the same manner and amounts without limitation as national banks pursuant to the provisions of section 24 of the Federal Reserve Act.".

SEC. 203. Section 5(b) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(4) Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts, an association may, if permitted by the Board and subject to such regulations as the Board may prescribe, act as a trustee, executor, administrator, guardian, or in any other fiduciary capacity.

"(5) Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts without regard to any other provision of this section, an association is authorized, subject to such regulations as the Board may prescribe, to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations. This section will not be effective unless the thrift institutions are given consumer loan authority.".

SEC. 204. (a) Section 5 of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(n) TRUST POWERS.—

"(1) AUTHORITY OF BOARD.—The Board is authorized and empowered to grant by special permit to an association applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with associations are permitted to act under the laws of the State in which the association is located.

"(2) GRANT AND EXERCISE OF POWERS DEEMED NOT IN CONTRAVENTION OF STATE OR LOCAL LAW.—Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with associations, the granting to and the exercise of such powers by associations shall not be deemed to be in contravention of State or local law within the meaning of this section.

"(3) SEGREGATION OF FIDUCIARY AND GENERAL ASSETS; SEPARATE BOOKS AND RECORDS; ACCESS OF STATE BANKING AUTHORITIES TO REPORTS OF EXAMINATIONS, BOOKS, RECORDS, AND ASSETS.—Associations exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. The State banking authorities may have access to reports of examination made by the Board insofar as such reports relate to the trust department of such association but nothing in this section shall be construed as authorizing the State banking authorities to examine the books, records, and assets of such associations.

"(4) PROHIBITED OPERATIONS: SEPARATE INVESTMENT ACCOUNTS; COLLATERAL FOR CERTAIN FUNDS USED IN CONDUCT OF BUSINESS.—No association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Board.

"(5) LIEN AND CLAIM UPON BANK FAILURE.—In the event of the failure of such association the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

"(6) DEPOSITS OF SECURITIES FOR PROTECTION OF PRIVATE OR COURT TRUSTS; EXECUTION OF AND EXEMPTION FROM BOND.—Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, associations so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Associations shall have power to execute such bond when so required by the laws of the State.

"(7) OFFICIALS' OATH OR AFFIDAVIT.—In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

"(8) LOANS OF TRUST FUNDS TO OFFICERS AND EMPLOYEES PROHIBITED; PENALTIES.—It shall be unlawful for any association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than $5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court.

"(9) CONSIDERATIONS DETERMINATIVE OF GRANT OR DENIAL OF APPLICATIONS; MINIMUM CAPITAL AND SURPLUS FOR ISSUANCE OF PERMIT.—In passing upon applications for permission to exercise the powers enumerated in this section, the Board may take into consideration the amount of capital and surplus of the applying association, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to it proper, and may grant or refuse the application accordingly: *Provided*, That no permit shall be issued to any association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

"(10) SURRENDER OF AUTHORIZATION; BOARD RESOLUTION; BOARD CERTIFICATION; ACTIVITIES AFFECTED; REGULATIONS.—Any association desiring to surrender its right to exercise the powers granted under this section, in order to relieve itself of the necessity of complying with the requirements of this section, or to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, or for any other purpose, may file with the Board a certified copy of a resolution of its board of directors signifying such desire. Upon receipt of such resolution, the Board, after satisfying itself that such association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, under court, private or other appointments previously accepted under authority of this section, may in its discretion, issue to such association a certificate certifying that such association is no longer authorized to exercise the powers granted by this section. Upon the issuance of such a certificate by the Board, such association (A) shall no longer be subject to the provisions of this section or the regulations of the Board made pursuant thereto, (B) shall be entitled to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, and (C) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section. The Board is authorized and empowered to promulgate such regulations as it may deem necessary to enforce compliance with the provisions of this subsection and the proper exercise of the trust powers granted by this section.".

(b) Subsection (a) takes effect upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts.

SEC. 205. (a)(1) Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposit and accounts, the provisions of the constitution or law of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is—

(A) secured by a first lien on residential real property or by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage or advance is used to finance the acquisition of such stock;

(B) made after the date of enactment of this Act; and

(C) described in section 527(b) of the National Housing Act, except that the limitation described in section 527(b)(1) that the property must be designed principally for the occupancy of from one to four families shall not apply, the requirement contained in section 527(b)(1) that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation, and for the purpose of this section, the term "lender" in section 527(b)(2)(A) of the National Housing Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act.

(2) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution.

(b) The provisions of subsection (a)(1) shall apply to loans, mortgages, and advances made in any State unless and until the State adopts a provision of law (within two years after the date of the enactment of this Act) limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance, except that at any time after the date of enactment of this Act any State may adopt a provision of law placing limitations on discount points or such other charges on any such loan, mortgage, or advance.

SEC. 206. The Federal Credit Union Act is amended—

(1) in section 107(5)(A)(i)—

(A) by inserting ", including a cooperative," immediately following the word "dwelling"; and

(B) by inserting immediately after the word "Board" the following: ", except that a loan on an individual cooperative unit shall be adequately secured as defined by the Board";

(2) in section 304(b)(2) by striking out "those" and inserting in lieu thereof "participating";

(3) by striking out section 305(b)(3) and inserting in lieu thereof the following:

"(3) shall share in dividend distributions at rates determined by the Board. However, rates on the required capital stock shall be without preference; and";

(4) in section 307(15) by striking out the words ", to the extent or in such amounts as are provided in advance in appropriation Acts"; and

(5) in title III by striking out the word "Administrator" each place it appears and inserting in lieu thereof "Board".

(6) in section 107(5)(A)(vi) of the Federal Credit Union Act (12 U.S.C. 1757), is amended to read as follows: "(vi) the rate of interest (except as may be authorized by the Board for Agent members of the Central Liquidity Facility in carrying out the provisions of title III) not exceed 1 per centum per month on the unpaid balance inclusive of all service charges".

SEC. 207. Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(4) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for improvements to properties as to which the corporation may purchase a mortgage. To be eligible for purchase, any such loan (other than one described in paragraph (3)) not insured under title I of the National Housing Act shall be secured by a lien against the property to be improved. The maximum principal obligation of loans purchased pursuant to this paragraph shall not exceed the dollar limits prescribed by the Federal Home Loan Bank Board with respect to similar types of loans made by Federal savings and loan associations.".

SEC. 208. (a)(1) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "50,000":

(A) The first sentence of section 3(m) (12 U.S.C. 1813(m)).

(B) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(C) The last sentence of section 11(a) (12 U.S.C. 1821(a)).

(D) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(2) The amendments made by this section are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

(b)(1) The following provisions of title IV of the National Housing Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) Section 401(b) (12 U.S.C. 1724(b)).

(B) Section 405(a) (12 U.S.C. 1728(a)).

(2) The amendments made by this section are not applicable to any claim arising out of a default as defined in section 401(d) of the National Housing Act where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the effective date of this section.

(c)(1) The second sentence of section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by striking out "$40,000" and inserting in lieu thereof "$50,000".

(2) The amendment made by this section is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(d) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

SEC. 209. Section 5(i) of the Home Owners' Loan Act of 1933 is amended in the first paragraph by inserting after the words "Federal Savings and Loan Association" the following: "and any State stock savings and loan type institution may transfer its charter to a Federal stock charter provided it has never existed in mutual form".

SEC. 210. Section 5A(b) of the Federal Home Loan Bank Act, as amended, is amended to read as follows:

"(b) Any institution which is a member or which is an insured institution as defined in section 401(a) of the National Housing Act shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Board, is appropriate: (1) cash, (2) to such extent as the Board may approve for the purposes of this section, time and savings deposits in Federal Home Loan Banks and commercial banks, (3) to such extent as the Board may so approve, such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Board may approve, and (4) to such extent as the Board may so approve, shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in the preceding clauses (1) through (3) of this subsection. The requirement prescribed by the Board pursuant to this subsection (hereinafter in this section referred to as the "liquidity requirement") may not be less than 4 per centum or more than 10 per centum of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less, or in the case of institutions which are insurance companies, such other base or bases as the Board may determine to be comparable. The Board shall prescribe rules and regulations to implement the provisions of this subsection.".

SEC. 211. The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency and the National Credit Union Administration Board. The task force shall conduct a study to determine the difficulties faced by depository institutions which have sizable portfolios of low-yield mortgages. In carrying out such study, the task force shall solicit the views of, and invite participation by, consumer and public interest groups, business, labor, and State regulators of depository institutions. Not later than three months after the date of enactment of this Act, the task force shall transmit to the President and the Congress its findings and recommendations for such action as it deems appropriate.

SEC. 212. (a) Section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464 (b)) is amended by adding at the end thereof the following:

"(4) In accordance with rules and regulations issued by the Board, mutual capital certificates may be issued and sold directly to subscribers or through underwriters, and such certificates shall constitute part of the general reserve and net worth of the issuing association. The Board, in its rules and regulations relating to the issuance and sale of mutual capital certificates, shall provide that such certificates—

"(A) shall be subordinate to all savings accounts, savings certificates, and debt obligations;

"(B) shall constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

"(C) shall be entitled to the payment of interest prior to the allocation of income to reserve and net worth accounts; and

"(D) may have a fixed or variable rate of interest.

The Board shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts.".

(b) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)), is amended by adding at the end thereof the following: "Mutual capital certificates, subordinate to the rights of holders of savings accounts, savings certificates, and the Corporation, shall be deemed to be reserves for the purposes of this subsection in accordance with rules and regulations prescribed by the Corporation. The Corporation shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves and other net worth accounts. In the event an insured institution fails to maintain the reserves required by this title, no payment of interest on such certificates shall be made except with the approval of the Corporation.".

SEC. 213. (a)(1) Section 5(a) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following: "A Federal mutual savings bank may make loans and investments without regard to any other limitation under Federal or State law, except that—

"(A) no more than 20 per centum of the assets of such a bank may be so loaned or invested; and

"(B) 65 per centum of such loans and investments must be made within the State where the bank is located or within 50 miles of such State.".

(2) Notwithstanding the amendment made by subsection (a), the Federal Home Loan Bank Board shall limit the percentage of assets which a Federal mutual savings bank may loan or invest pursuant to the provisions of such amendment to 5 per centum during the first two years following the date of enactment of this Act, to 10 per centum for the next succeeding two years, to 15 per centum for the next succeeding two years, and to 20 per centum upon the expiration of eight years after such date of enactment, except that the Board may lengthen or shorten any such two-year period where necessary or appropriate in the event of a

more rapid phase-out of interest rate controls or to avoid economic dislocation.

(b)(1) Section 5(a) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following: "A Federal mutual savings bank may accept demand deposits from any source.".

(2) Notwithstanding the amendment made by subsection (a) of this section, the Federal Home Loan Bank Board shall (A) provide by regulation for a smooth and orderly transition with respect to the implementation of demand account authority; (B) provide for a phase-in of such demand accounts if, in the judgment of the Federal Home Loan Bank Board, after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, such a phase-in is necessary in order to assure the stability and soundness of all depository institutions, provided that by January 1, 1990, or at such earlier time when in the judgment of the Federal Home Loan Bank Board Federal interest rate limitations have ben effectively eliminated, such phase-in must be completed; and (C) delay the implementation of such demand account authority, but not later than January 1, 1990 or such earlier time when in the judgment of the Federal Home Loan Bank Board Federal interest rate limitations have been effectively eliminated, if the Federal Home Loan Bank Board, after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, determines that the granting of such authority would result in a serious impairment of the financial soundness and stability of depository institutions in general. In such event, the Board shall report to the Congress on the reasons for such delay within 30 days of its determination.

(c) This section takes effect upon the enactment of section 107 of this Act.

SEC. 214. The third sentence of section 403 (b) of the National Housing Act (12 U.S.C. 1726(b)), as amended, is amended by striking "5 per centum" and substituting therefor "an amount no greater than 6 nor less than 3 per centum as determined by the Federal Home Loan Bank Board".

TITLE III—COMPTROLLER OF THE CURRENCY HOUSEKEEPING AMENDMENTS

PART A—NATIONAL BANKING LAWS

SEC. 301. (a) Section 5137 of the Revised Statutes (12 U.S.C. 29) is amended—

(1) by inserting before the period at the end of the last paragraph thereof the following: "except as otherwise provided in this section"; and

(2) by adding at the end thereof the following new paragraph:

"For real estate in the possession of a national banking association upon application by the association, the Comptroller of the Currency may approve the possession of any such real estate by such association for a period longer than five years, but not to exceed an additional five years, if (1) the association has made a good faith attempt to dispose of the real estate within the five-year period, or (2) disposal within the five-year period would be detrimental to the association. Upon clearly extenuating circumstances, subject to such conditions and limitations as the Comptroller of the Currency may prescribe, such association may expend such funds for the development and improvement of such real estate as are reasonably calculated to enable such association to recover its total investment.".

(b) Section 4 of the Bank Holding Company Act of 1956 is amended by adding at the end of paragraph (a) the following: "Notwithstanding any other provision of this Act, the period ending December 31, 1980, referred to in paragraph (2) above, may be extended by the Board of Governors to December 31, 1982, but only for the divestiture by a bank holding company of real estate or interests in real estate lawfully acquired for investment or development. In making its decision whether to grant such extension, the Board shall consider whether the company has made a good faith effort to divest such interests and whether such extension is necessary to avert substantial loss to the company.".

SEC. 302. The first sentence of subsection (a) of section 302 of the Act entitled "An Act to provide relief in the existing national emergency in banking, and for other purposes", approved March 9, 1933 (12 U.S.C. 51b), is amended by striking out "at a rate not exceeding 6 per centum per annum".

SEC. 303. The third sentence of section 345 of the Banking Act of 1935 (12 U.S.C. 51b-1) is amended by striking out "at a rate not exceeding six per centum per annum".

SEC. 304. Section 1 of the Act of September 28, 1962 (76 Stat. 668; 12 U.S.C. 92a), is amended by adding at the end thereof the following new subsection:

"(k) In addition to the authority conferred by other law, if, in the opinion of the Comptroller of the Currency, a national banking association is unlawfully or unsoundly exercising, or has unlawfully or unsoundely exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this section or otherwise fails or has failed to comply with the requirements of this section, the Comptroller may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this section. The notice shall contain a statement of the facts constituting the alleged unlawful or cising, or has unlawfully or unsoundly exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association. Such hearing shall be conducted in accordance with the provisions of subsection (h) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), and subject to judicial review as therein provided, and shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or later date is set by the Comptroller at the request of any association so served. Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Comptroller shall find that any allegation specified in the notice of charges has been established, the Comptroller may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this section, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination. A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Comptroller or a reviewing court.".

SEC. 305. Section 4 of the Act of March 9, 1933 (48 Stat. 2; 12 U.S.C. 95), is amended—

(1) by inserting "(a)" after "SEC. 4."; and

(2) by adding at the end thereof the following:

"(b) In the vent of natural calamity, riot, insurrection, war, or other emergency conditions occurring in any State whether caused by acts of nature or of man, the Comptroller of the Currency may designate proclamation any day a legal holiday for the national banking associations located in that State. In the event that the emergency conditions affect only a part of a State, the Comptroller of the Currency may designate the part so affected and may proclaim a legal holiday for the national banking associations located in that affected part. In the event that a State or a State official authorized by law designates any day as a legal holiday for either emergency or ceremonial reasons for all banks chartered by that State to do business within that State, that same day shall be a legal holiday for all national banking associations chartered to do business within that State unless the Comptroller of the Currency shall by written order permit all national banking associations located in that State to remain open. For the purposes of this subsection the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory, dependency, or insular possession of the United States.".

SEC. 306. The second sentence of subsection (b) of section 2 of the Act of August 17, 1950 (64 Stat. 456; 12 U.S.C. 214a), is amended by striking out the word "unanimous" and inserting in lieu thereof the word "majority".

SEC. 307. Chapter 9 of title VII of the Revised Statutes (12 U.S.C. 1 et seq.) is amended by inserting immediately following section 327 a new section 327A to read as follows:

"SEC. 327A. The Comptroller of the Currency may delegate any powers vested in the office by law.".

SEC. 308. Chapter 4 of title LXII of the Revised Statutes (12 U.S.C. 21 et seq.) is amended by inserting immediately following section 5239 a new section 5239A to read as follows:

"SEC. 5239A. Except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to another regulatory agency, the Comptroller of the Currency is authorized to prescribe rules and regulations to carry out the responsibilities of the office under the Financial Institutions Supervisory Act of 1966.".

SEC. 309. (a) Section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by striking out the first two sentences and inserting in lieu thereof the following: "The Comptroller of the Currency with the approval of the Secretary of the Treasury, shall appoint examiners who shall examine every national bank as often as the Comptroller shall deem necessary.".

(b) Section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency, upon the request of the Board of Governors of the Federal Reserve System, is authorized to assign examiners appointed under this section to examine foreign operations of State member banks.".

SEC. 310. Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the second sentence and inserting in lieu thereof the following: "Every director must own in his or her own right either (1) shares of the capital stock of the association of which he or she is a director the aggregate par value of which is not less than $1,000, or (2) an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841). If the capital of the bank does not exceed $25,000, every director must own in his or her own right either (1) shares of such capital stock the aggregate par value of which is not less than $500, or (2) an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).".

SEC. 311. Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by inserting before the period at the end thereof the following: ": *Provided further*, That, notwithstanding any other provision of this paragraph, the association may, purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent State law requires directors qualifying shares) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than 5 per centum of any class of voting securities of such bank".

SEC. 312. (a) Section 5169 of the Revised Statutes is amended by adding at the end thereof the following: "Notwithstanding the provisions of the preceding sentence, a national banking association the operations of which are limited as provided in the preceding sentence shall be deemed an additional bank within the contemplation of section 3 of the Bank Hold Company Act of 1956.".

(b) Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d) is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2)(A) Except as provided in subparagraph (B), the restrictions contained in paragraph (1) regarding the acquisition of shares or assets of, or interests in, an additional bank shall apply to the acquisition of shares or assets of, or interests in, a trust company.

"(B) Subparagraph (A) shall not apply with respect to the acquisition of shares or assets of, or interests in, a trust company if such acquisition was approved by the Board on or before November 1, 1979, and if such trust company opened for business on or before November 1, 1979.

"(C) For the purpose of this paragraph, the term 'trust company' means any company whose powers are limited to the powers specified in subsection (a) of the first section of the Act entitled 'An Act to place authority over the trust powers of national banks in the Comptroller of the Currency', approved September 28, 1962, (12 U.S.C. 92a), for a national bank located in the same State in which such trust company is located.".

SEC. 313. Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, the Board shall not follow any practice or policy in the consideration of any application for the formation of a one-bank holding company if following such practice or policy would result in the rejection of such application solely because the transaction to form such one-bank holding company involves a bank stock loan which is for a period of not more than twenty-five years. The previous sentence shall not be construed to prohibit the Board from rejecting any application solely because the financial arrangements are considered unsatisfactory.".

PART B—TERMINATION OF NATIONAL BANK CLOSED RECEIVERSHIP FUND

PURPOSE

SEC. 321. The purpose of this part is to terminate the closed receivership fund by—

(1) providing final notice of availability of liquidating dividends to creditors of national banks closed on or before January 22, 1934;

(2) barring rights of creditors to collect liquidating dividends from the Comptroller after a reasonable period of time following such final notice; and

(3) refunding to the Comptroller the principal amount of such fund and any income earned thereon.

DEFINITIONS

SEC. 322. As used in this part—

(1) the term "closed receivership fund" means the aggregation of undisbursed liquidating dividends from national banks closed on or before January 22, 1934, held by the Comptroller in his capacity as successor to receivers of those banks;

(2) the term "Comptroller" means the Comptroller of the Currency;

(3) the term "claimant" means a depositor or other creditor who asserts a claim against a closed national bank for a liquidating dividend; and

(4) the term "liquidating dividend" means an amount of money in the closed receivership fund determined by a receiver of a closed national bank or by the Comptroller to be owed by that bank to a depositor or other creditor.

TERMINATION OF CLOSED RECEIVERSHIP FUND

SEC. 323. (a) The Comptroller shall publish notice once a week for four weeks in the Federal Register that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the closed receivership fund shall be barred after twelve months following the last date of publication of such notice.

(b) The Comptroller shall pay the principal amount of a liquidating dividend, exclusive of any income earned thereon, to a claimant presenting a valid claim, if the claimant applies to collect within twelve months following the last date notice is published.

(c) If a creditor shall fail to apply to collect a liquidating dividend within twelve months after the last date notice is published, all rights of the claimant against the closed receivership fund with respect to the liquidating dividend shall be barred.

(d) The principal amount of any liquidating dividends (1) for which claims have not been asserted within twelve months following the last date notice is published or (2) for which the Comptroller has determined a valid claim has not been submitted shall, together with any income earned on liquidating dividends and other moneys, if any, remaining in the closed receivership fund, be covered into the general funds of the Comptroller of the Currency.

TITLE IV—TRUTH IN LENDING SIMPLIFICATION

SHORT TITLE

SEC. 401. This title may be cited as the "Truth in Lending Simplification and Reform Act".

DEFINITIONS

SEC. 402. (a) Section 103(f) of the Truth in Lending Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required; and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the foregoing, a person who regularly arranges for the extension of consumer credit, which is payable in more than four installments or for which the payment of a finance charge is or may be required, from persons who are not creditors is a creditor, and in the case of an open end credit plan involving a credit card the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors."; and

(2) by redesignating the references to sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(9), and 127(b)(11) in the next succeeding sentence as references to sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(8), and 127(b)(10), respectively.

(b) The first sentence of section 103(g) of the Truth in Lending Act is amended to read as follows: "The term 'credit sale' refers to any sale in which the seller is a creditor.".

EXEMPTED TRANSACTIONS

SEC. 403. (a) Section 103(h) of the Truth in Lending Act is amended by striking out "household, or agricultural" and inserting in lieu thereof "or household".

(b) Section 103 of the Truth in Lending Act is amended by redesignating subsection (s) as subsection (x), and by inserting a new subsection (s) as follows:

"(s) The term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural product by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming, and the term 'agricultural products' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.".

(c) Section 104 of the Truth in Lending Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.";

(2) by amending paragraph (3) to read as follows:

"(3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer, in which the total amount financed exceeds $25,000."; and

(3) by striking out paragraph (5).

OPEN END CREDIT PLAN

SEC. 404. Section 103(i) of the Truth in Lending Act is amended to read as follows:

"(i) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.".

MODEL FORMS

SEC. 405. Section 105 of the Truth in Lending Act is amended by inserting "(a)" before "The", and by adding at the end thereof the following:

"(b) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by creditors or lessors of data processing or similar automated equipment. Nothing in this title may be construed to

require a creditor or lessor to use any such model form or clause prescribed by the Board under this section. A creditor or lessor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor or lessor (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor or lessor does not affect the substance, clarity, or meaningful sequence of the disclosure.

"(c) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

"(d) Any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure different from that previously required by this chapter, chapter 4, or chapter 5, or regulation of the Board promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Board may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors or lessors to adjust their forms to accommodate new requirements or shorten the length of time for creditors or lessors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the foregoing, any creditor or lessor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.".

COMPONENTS OF FINANCE CHARGE

SEC. 406. (a) Section 106(a) of the truth in Lending Act is amended by striking out ", including any of the following types of charges which are applicable" and inserting in lieu thereof the following: ". The finance charge does not include charges of a type payable in a comparable cash transaction. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable".

(b) Section 106(d) of the Truth in Lending Act is amended by striking out paragraphs (3) and (4).

ACCURACY OF ANNUAL PERCENTAGE RATE

SEC. 407. (a) Subsection (c) of section 107 of the Truth in Lending Act is amended to read as follows:

"(c) The disclosure of an annual percentage rate is accurate for the purpose of this title if the rate disclosed is within a tolerance not greater than one-eighth of 1 per centum more or less than the actual rate or rounded to the nearest one-fourth of 1 per centum. The Board may allow a greater tolerance to simplify compliance where irregular payments are involved.".

(b) Subsection (e) of section 107 of the Truth in Lending Act is amended by striking out "(c) or".

(c) Subsection (f) of section 107 of the Truth in Lending Act is repealed.

RESTITUTION

SEC. 408. (a) Section 108 of the Truth in Lending Act is amended by adding at the end thereof the following:

"(e)(1) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c), in cases where an annual percentage rate or finance charge was inaccurately disclosed, shall notify the creditor of such disclosure error and is authorized in accordance with the provisions of this subsection to require the creditor to make an adjustment to the account of the person to whom credit was extended, to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower. For the purposes of this subsection, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in determining whether a disclosure error has occurred and in calculating any adjustment, (A) each agency shall apply (i) with respect to the annual percentage rate, a tolerance of one-quarter of 1 per centum more or less than the actual rate, determined without regard to subsection 107(c) of this title, and (ii) with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance provided under this subsection for the annual percentage rate; except that (B) with respect to transactions consummated after two years following the effective date of this section, each agency shall apply (i) for transactions that have a scheduled amortization of ten years or less, with respect to the annual percentage rate, a tolerance not to exceed one-quarter of 1 per centum more or less than the actual rate, determined without regard to subsection 107(c) of this title, but in no event a tolerance of less than the tolerances allowed under subsection 107(c), (ii) for transactions that have a scheduled amortization of more than ten years, with respect to the annual percentage rate, only such tolerances as are allowed under subsection 107(c) of this title, and (iii) for all transactions, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerances provided under this subsection for the annual percentage rate.

"(2) Each agency shall require such an adjustment when it determines that such disclosure error resulted from (A) a clear and consistent pattern or practice of violations, (B) gross negligence, or (C) a willful violation which was intended to mislead the person to whom the credit was extended. Notwithstanding the preceding sentence, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, an agency need not require such an adjustment if it determines that such disclosure error:

"(A) resulted from an error involving the disclosure of a fee or charge that would otherwise be excludable in computing the finance charge, including but not limited to violations involving the disclosures described in subsections 106 (b), (c), and (d) of this title, in which event the agency may require such remedial action as it determines to be equitable, except that for transactions consummated after two years after the effective date of this section, such an adjustment shall be ordered for violations of subsection 106(b);

"(B) involved a disclosed amount which was 10 per centum or less of the amount that should have been disclosed and (i) in cases where the error involved a disclosed finance charge, the annual percentage rate was disclosed correctly, and (ii) in cases where the error involved a disclosed annual percentage rate, the finance charge was disclosed correctly; in which event the agency may require such adjustment as it determines to be equitable;

"(C) involved a total failure to disclose either the annual percentage rate or the finance charge, in which event the agency may require such adjustment as it determines to be equitable; or

"(D) resulted from any other unique circumstance involving clearly technical and nonsubstantive disclosure violations that do not adversely affect information provided to the consumer and that have not misled or otherwise deceived the consumer.

In the case of other such disclosure errors, each agency may require such an adjustment.

"(3) Notwithstanding the above paragraph (2), no adjustment shall be ordered (A) if it would have a significantly adverse impact upon the safety or soundness of the creditor, but in any such case, the agency may require a partial adjustment in an amount which does not have such an impact, (B) if the amount of the adjustment would be less than $1, except that if more than one year has elapsed since the date of the violation, the agency may require that such amount be paid into the Treasury of the United States, or (C) except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in the case of an open-end credit plan, more than two years after the violation, or in the case of any other extension of credit, as follows:

"(i) with respect to creditors that are subject to examination by the agencies referred to in subsections 108(a) (1) through (3) of this title, except in connection with violations arising from practices identified in the current examination and only in connection with transactions that are consummated after the date of the immediately preceding examination, provided that where practices giving rise to violations identified in earlier examinations have not been corrected, adjustments or those violations shall be required in connection with transactions consummated after the date of the examination in which such practices were first identified;

"(ii) with respect to creditors that are not subject to examination by such agencies, except in connection with transactions that are consummated after May 10, 1978; and

"(iii) in no event after the later of (a) the expiration of the life of the credit extension, or (b) two years after the agreement to extend credit was consummated.

"(4)(A) Notwithstanding any other provision of this section, an adjustment under this subsection may be required by an agency referred to in subsection (a) or (c) only by an order issued in accordance with cease and desist procedures provided by the provision of law referred to in such subsections.

"(B) In the case of an agency which is not authorized to conduct cease and desist proceedings, such an order may be issued after an agency hearing on the record conducted at least thirty but not more than sixty days after notice of the alleged violation is served on the creditor. Such a hearing shall be deemed to be a hearing which is subject to the provisions of section 8(h) of the Federal Deposit Insurance Act and shall be subject to judicial review as provided therein.

"(5) Except as otherwise specifically provided in this subsection and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments for errors in any requirements under this title, except with regard to the requirements of section 165.

"(6) A creditor shall not be subject to an order to make an adjustment, if within sixty days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and adjusts the account so as to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.".

(b) This section shall take effect upon enactment.

EFFECT ON OTHER LAWS

SEC. 409. Section 111(a) of the Truth in Lending Act is amended to read as follows:

"(a)(1) Chapters 1, 2, and 3 do not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether such inconsistencies exist. If the Board determines that a State-required disclosure is inconsistent, creditors located in that State may not make disclosures using the inconsistent term or form, and shall incur no liability under the law of that State for a good faith failure to use such term or form, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(2) The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether any disclosure required under the law of any State is substantially the same in meaning as a disclosure required under this title. If the Board determines that a State-required disclosure is substantially the same in meaning as a disclosure required by this title, then creditors located in that State may make such disclosure in compliance with such State law in lieu of the disclosure required by this title, except that the annual percentage rate and finance charge must always be disclosed as required by section 122.".

ANNUAL REPORTS

SEC. 410. (a) Section 114 of the Truth in Lending Act is amended by striking out "Not later than January 3 of each year after 1969" and inserting in lieu thereof "Each year".

(b) Section 18(f)(5) of the Federal Trade Commission Act (15 U.S.C. 58a(f)(5)) is amended by striking out "not later than March 15".

(c) Section 707 of the Equal Credit Opportunity Act is amended by striking out "Not later than February 1 of each year after 1976" and inserting in lieu thereof "Each year".

GENERAL DISCLOSURE REQUIREMENTS

SEC. 411. Sections 121 and 122 of the Truth in Lending Act are amended to read as follows:

"§ 121. General requirement of disclosure

"(a) Subject to subsection (b), a creditor or lessor shall disclose to the person who is obligated on a consumer lease or a consumer credit transaction the information required under this title. In a transaction involving more than one obligor, a creditor or lessor, except in a transaction under section 125, need not disclose to more than one of them if the one given disclosure is a primary obligor.

"(b) If a transaction involves one creditor as defined in section 103(f), or one lessor as defined in section 181(3), that creditor or lessor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures. The Board shall by regulation specify which creditor or lessor must make the disclosures.

"(c) The Board may provide by regulation that any portion of the information required to be disclosed by this title may be given in the form of estimates where the provider of such information is not in a position to know exact information.

"(d) The Board shall determine whether tolerances for numerical disclosures other than the annual percentage rate are necessary to facilitate compliance with this title, and if it determines that such tolerances are necessary to facilitate compliance, it shall by regulation permit disclosures within such tolerances.

"§ 122. Form of disclosure; additional information

"(a) Information required by this title shall be disclosed clearly and conspicuously, in accordance with regulations of the Board. The terms 'annual percentage rate' and 'finance charge' shall be disclosed more conspicuously than other terms, data, or information provided in connection with a transaction, except information relating to the identity of the creditor. Regulations of the Board need not require that disclosures pursuant to this title be made in the order set forth in this title and, except as otherwise provided, may permit the use of terminology different from that employed in this title if it conveys substantially the same meaning.

"(b) Any creditor or lessor may supply additional information or explanation with any disclosures required under chapters 4 and 5 and, except as provided in section 128 (b)(1), under this chapter.".

RESCISSION

SEC. 412. (a)(1) Subsection (a) of section 125 of the Truth in Lending Act is amended to read as follows:

"(a) Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.".

(2) Section 103 of such Act, as amended by section 403(b), is amended by adding at the end thereof the following:

"(v) The term 'material disclosures' means the disclosure, as required by this title, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amount of payments, and the due dates or periods of payments scheduled to repay the indebtedness.".

(3) Subsection (b) of section 125 of the Truth in Lending Act is amended by striking out "ten" in the second and final sentences thereof, and inserting in lieu thereof "20".

(4) Subsection (b) of section 125 of the Truth in Lending Act is amended by adding at the end thereof the following new sentence: "The procedures prescribed by this subsection shall apply except when otherwise ordered by a court.".

(5) Subsection (c) of section 125 of the Truth in Lending Act is amended by inserting "information, forms, and" after "whom".

(6) Section 125 of the Truth in Lending Act is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e) This section does not apply to (1) a residential mortgage transaction as defined in section 103(u); (2) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property; (3) a transaction in which an agency of a State is the creditor; or (4) advances under a preexisting open end credit plan if a security interest has already been retained or acquired and such advances are in accordance with a previously established credit limit for that plan.

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the information and forms required under this section or any other disclosures required under this chapter have not been delivered to the obligor, except that if (1) any agency empowered to enforce the provisions of this title institutes a proceeding to enforce the provisions of this section within three years after the date of consummation of the transaction, (2) such agency finds a violation of section 125, and (3) the obligor's right to rescind is based in whole or in part on any matter involved in such proceeding, then the obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the earlier sale of the property, or upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

"(g) In any action in which it is determined that a creditor has violated this section, in addition to rescission the court may award relief under section 130 for violations of this title not relating to the right to rescind.".

(b) Section 103 of the Truth in Lending Act is amended—

(1) by redesignating subsection (t) as subsection (w); and

(2) by inserting after subsection (s) the following:

"(t) The term 'dwelling' means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

"(u) The term 'residential mortgage transaction' is one in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of that dwelling.".

OPEN END DISCLOSURES

SEC. 413. (a) Section 127(a) of the Truth in Lending Act is amended—

(1) by adding at the end of paragraph (1) thereof the following new sentence: "If no such time period is provided, the creditor shall disclose that fact.";

(2) by striking out paragraph (5), and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(3) by amending redesignated paragraphs (5) and (6) to read as follows:

"(5) Identification of other charges which may be imposed as part of the plan, and their method of computation, in accordance with regulations of the Board.

"(6) In cases where the credit is or will be secured, a statement that a security interest has been or will be taken in (A) the property purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.".

(b) Section 127(b)(2) of such Act is amended to read as follows:

"(2) The amount and date of each extension of credit during the period, and a brief

identification, on or accompanying the statement of each extension of credit in a form prescribed by the Board sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161. In lieu of complying with the foregoing requirements, in the case of any transaction in which the creditor and seller are the same person, as defined by the Board, and that person's open end plan has fewer than 15,000 accounts, the creditor may elect to provide only the amount and date of each extension of credit during the period and the seller's name and location where the transaction took place if (A) a brief identification of the transaction has been previously furnished, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161.".

(c) Section 127(b) of the Truth in Lending Act is amended by striking out paragraph (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(d) Redesignated paragraph (7) of section 127(a) of the Truth in Lending Act is amended by striking out "each of two billing cycles per year, at semiannual intervals" and inserting in lieu thereof "one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months".

(e) Subsection (c) of section 127 of the Truth in Lending Act is repealed.

(f) Section 143 of the Truth in Lending Act is amended by striking out "or the appropriate rate determined under section 127 (a)(5)".

(g) Section 161(a) of the Truth in Lending Act is amended by redesignating the references to sections 127(b)(11) and 127(a)(8) as references to sections 127(b)(10) and 127(a)(7), respectively.

OTHER THAN OPEN END DISCLOSURES

SEC. 414. (a) Subsection (a) of section 128 of the Truth in Lending Act is amended to read as follows:

"(a) For each consumer credit transaction other than under an open end consumer credit plan, the creditor shall disclose each of the following items, to the extent applicable:

"(1) The identity of the creditor required to make disclosure.

"(2) The 'amount financed', using that term, which shall be the amount of credit of which the consumer has actual use. This amount shall be computed as follows, but the computations need not be disclosed and shall not be disclosed with the disclosures conspicuously segregated in accordance with subsection (b)(1):

"(A) take the principal amount of the loan or the cash price less downpayment and trade-in;

"(B) add any charges which are not part of the finance charge or of the principal amount of the loan and which are financed by the consumer, including the cost of any items excluded from the finance charge pursuant to section 106; and

"(C) subtract any charges which are part of the finance charge but which will be paid by the consumer before or at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit.

"(3) The 'finance charge', not itemized, using that term.

"(4) The finance charge expressed as an 'annual percentage rate', using that term. This shall not be required if the amount financed does not exceed $75 and the finance charge does not exceed $5, or if the amount financed exceeds $75 and the finance charge does not exceed $7.50.

"(5) The sum of the amount financed and the finance charge, which shall be termed the 'total of payments'.

"(6) The number, amount, and due dates or period of payments scheduled to repay the total of payments.

"(7) In a sale of property or services in which the seller is the creditor required to disclose pursuant to section 121(b), the 'total sale price', using that term, which shall be the total of the cash price of the property or services, additional charges, and the finance charge.

"(8) Descriptive explanations of the terms 'amount financed', 'finance charge', 'annual percentage rate', 'total of payments', and 'total sale price' as specified by the Board. The descriptive explanation of 'total sale price' shall include reference to the amount of the downpayment.

"(9) Where the credit is secured, a statement that a security interest has been taken in (A) the property which is purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.

"(10) Any dollar charge or percentage amount which may be imposed by a creditor solely on account of a late payment, other than a deferral or extension charge.

"(11) A statement indicating whether or not the consumer is entitled to a rebate of any finance charge upon refinancing or prepayment in full pursuant to acceleration or otherwise, if the obligation involves a precomputed finance charge; a statement indicating if a penalty will be imposed in those same circumstances, if the obligation involves a finance charge computed from time to time by application of a rate to the unpaid principal balance.

"(12) A statement that the consumer should refer to the appropriate contract document for any information it provides about nonpayment, default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties.

"(13) In any residential mortgage transaction, a statement whether a subsequent purchaser or assignee of the consumer may assume the debt obligation on its original terms and conditions.".

(b) Section 128(b) of such Act is amended to read as follows:

"(b)(1) Except as otherwise provided in this chapter, the disclosures required under subsection (a) shall be made before the credit is extended. Except for the disclosures required by subsection (a)(1) of this section, all disclosures required under subsection (a) and any disclosure provided for in subsection (b), (c), or (d) of section 106 shall be conspicuously segregated from all other terms, data, or information provided in connection with a transaction, including any computations or itemization.

"(2) In the case of a residential mortgage transaction, as defined in section 103(u), which is also subject to the Real Estate Settlement Procedures Act, good faith estimates of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before the credit is extended, or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. If the disclosure statement furnished within three days of the written application contains an annual percentage rate which is subsequently rendered inaccurate within the meaning of section 107(c), the creditor shall furnish another statement at the time of settlement or consummation.".

(c) Section 128(c) of the Truth in Lending Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "deferred payment price" and inserting in lieu thereof "total sale price"; and

(3) by adding at the end thereof the following new paragraph:

"(2) If a creditor receives a request for a loan by mail or telephone without personal solicitation and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due.".

(d)(1) Section 129 of the Truth in Lending Act is repealed

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 129 and inserting in lieu thereof:

"129 [Repealed].".

(e)(1) Section 126 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 126 and inserting in lieu thereof:

"126. [Repealed].".

(f)(1) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 128 and inserting in lieu thereof:

"128. Consumer credit not under open end credit plans.".

(2) The caption of section 128 of such Act is amended by striking out "Sales" and inserting in lieu thereof "Consumer credit".

CIVIL LIABILITY

SEC. 415. (a) Section 130 of the Truth in Lending Act is amended—

(1) by striking out "in such action" in subsection (a)(2)(B) and inserting in lieu thereof "under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same creditor";

(2) in subsection (a)(3), by inserting "or in any action in which a person is determined to have a right of rescission under section 125" after "liability";

(3) by amending subsections (b), (c), and (d) to read as follows:

"(b) A creditor or assignee has no liability under this section or section 108 or section 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if within sixty days after discovering an error, whether pursuant to a final written examination report or notice issued under section 108(e)(1) or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section or the receipt of written notice of the error from the obligor, the creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(c) A creditor or assignee may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors, but an error of legal judgment with respect to a person's

obligations under this title is not a bona fide error.

"(d) When there are multiple obligors in a consumer credit transaction or consumer lease, there shall be no more than one recovery of damages under subsection (a)(2) for a violation of this title.";

(4) by adding at the end of subsection (e) the following new sentence: "This subsection does not bar a person from asserting a violation of this title in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.";

(5) by inserting ", section 108(b), section 108(c), section 108(e)," after "this section" in subsection (f);

(6) by adding the following new sentence at the end of subsection (g): "This subsection does not bar any remedy permitted by section 125."; and

(7) by amending subsection (h) to read as follows:

"(h) A person may not take any action to offset any amount for which a creditor or assignee is potentially liable to such person under subsection (a)(2) against any amount owing by such person, unless the amount of the creditor's or assignee's liability under this title has been determined by judgment of a court of competent jurisdiction in an action of which such person was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action to collect amounts owed by the consumer brought by a person liable under this title.".

(b) Section 130(a) of the Truth in Lending Act is amended—

(1) by inserting ", including any requirement under section 125," immediately after "this chapter"; and

(2) by adding at the end thereof the following: "In connection with the disclosures referred to in section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of section 127(a) or of paragraph (4), (5), (6), (7), (8), (9), or (10) of section 127(b) or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in section 127(a) or any of those paragraphs of section 127(b). In connection with the disclosures referred to in section 128, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of paragraph (2), (3), (4), (5), (6), or (9) of section 128(a), or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in any of those paragraphs of section 128(a). With respect to any failure to make disclosures required under this chapter or chapter 4 or 5 of this title, liability shall be imposed only upon the creditor required to make disclosure, except as provided in section 131.".

LIABILITY OF ASSIGNEES

SEC. 416. (a) Section 131 of the Truth in Lending Act is amended to read as follows:

"§ 131. Liability of assignees

"(a) Except as otherwise specifically provided in this title, any civil action for a violation of this title or proceeding under section 108 which may be brought against a creditor may be maintained against any assignee of that creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, violations apparent on the face of the disclosure statement include, but are not limited to (1) disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) disclosures not made in the terminology required by this title.

"(b) Except as provided in section 125 (c), in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgment of receipt by a person to whom a statement is required to be given pursuant to this title shall be conclusive proof of the delivery thereof and, except as provided in subsection (a), of compliance with this chapter. This section does not affect the rights of the obligor in any action against the original creditor.

"(c) Any consumer who has the right to rescind a transaction under section 125 may rescind the transaction as against any assignee of the obligation.".

(b) Section 115 of the Truth in Lending Act is repealed.

(c)(1) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 115 and inserting in lieu thereof:

"115. [Repealed].".

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 131 and inserting in lieu thereof:

"131. Liability of assignees.".

LIABILITY OF CREDIT CARDHOLDER

SEC. 417. Section 133(a) of the Truth in Lending Act is amended to read as follows:

"(a) A cardholder shall be liable for the unauthorized use of a credit card only if the card is an accepted credit card, the liability is not in excess of $50, the card issuer gives adequate notice to the cardholder of the potential liability, the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided on the face or reverse side of the statement required by section 127(b) or on a separate notice accompanying such statement, the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or otherwise, and the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it. For the purpose of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.".

DISSEMINATION OF ANNUAL PERCENTAGE RATES

SEC. 418. (a) Chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following new section:

"§ 136. Dissemination of annual percentage rates

"(a) The Board shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Board, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Board is authorized to require creditors in such areas to furnish information necessary for the Board to collect, publish, and disseminate such information.

"(b) The Board is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsection (a) and to furnish financial assistance in support thereof.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"136. Dissemination of annual percentage rates.".

CREDIT ADVERTISING

SEC. 419. (a) Section 143 of the Truth in Lending Act is amended to read as follows:

"§ 143. Advertising of open end credit plans

"No advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

"(1) Any minimum of fixed amount which could be imposed.

"(2) Where periodic rates may be used to compute the finance charge the periodic rates expressed as annual percentage rates.

"(3) Any other term that the Board may by regulation require to be disclosed.".

(b) Section 144 of the Truth in Lending Act is amended by striking out paragraphs (1) through (4) of subsection (d) thereof, and inserting in lieu thereof the following:

"(1) The downpayment, if any.

"(2) The terms of repayment.

"(3) The rate of the finance charge expressed as an annual percentage rate.".

CORRECTION OF BILLING ERRORS

SEC. 420. (a) Section 161(b) of the Truth in Lending Act is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

"(6) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.".

(b) Section 161(c) of such Act is amended by inserting after "account" the first time it is used a comma and the following: "which may include finance charges on amounts in dispute.".

CREDIT BALANCES

SEC. 421. (a) Section 165 of the Truth in Lending Act is amended to read as follows:

"§ 165. Treatment of credit balances

"Whenever a credit balance in excess of $1 is created in connection with a consumer credit transaction through (1) transmittal of funds to a creditor in excess of the total balance due on an account; (2) rebates of unearned finance charges or insurance premiums; or (3) amounts otherwise owed to or held for the benefit of an obligor, the creditor shall:

"(A) credit the amount of the credit balance to the consumer's account;

"(B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and

"(C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, but no further action is required in any case where the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.".

(b) The table of sections of chapter 4 of the Truth in Lending Act is amended by striking out item 165 and inserting in lieu thereof:

"165. Treatment of credit balances.".

GOVERNMENT EXEMPTION

SEC. 422. (a) Section 113 of the Truth in Lending Act is amended to read as follows:

"§ 113. Effect on governmental agencies

"(a) Any department or agency of the United States which administers a credit program in which it extends, insures, or guarantees consumer credit and in which it provides instruments to a creditor which contain any disclosures required by this title shall, prior to the issuance or continued use of such instruments, consult with the Board to assure that such instruments comply with this title.

"(b) No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision.

"(c) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under this title where the violation results from the use of an instrument required by any such department or agency.

"(d) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under the laws of any State (other than laws determined under section 111 to be inconsistent with this title) for any technical or procedural failure, such as a failure to use a specific form, to make information available at a specific place on an instrument, or to use a specific typeface, as required by State law, which is caused by the use of an instrument required to be used by such department or agency.".

(b) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 113 and inserting in lieu thereof:

"113. Effect on governmental agencies.".

ORAL DISCLOSURES

SEC. 423. (a) Section 146 of the Truth in Lending Act is amended to read as follows:

"§ 146. Use of annual percentage rate in oral disclosures

"In responding orally to any inquiry about the cost of credit, a creditor, regardless of the method used to compute finance charges, shall state rates only in terms of the annual percentage rate, except that in the case of an open end credit plan, the periodic rate also may be stated and, in the case of an other than open end credit plan where a major component of the finance charge consists of interest computed at a simple annual rate, the simple annual rate also may be stated. The Board may, by regulation, modify the requirements of this section or provide an exception from this section for a transaction or class of transactions for which the creditor cannot determine in advance the applicable annual percentage rate.".

(b) The table of sections of chapter 3 of the Truth in Lending Act is amended by striking out item 146 and inserting in lieu thereof:

"146. Use of annual percentage rate in oral disclosures."

CONSUMER LEASING

SEC. 424. Section 185(b) of the Consumer Leasing provisions of the Truth in Lending Act is amended by deleting the reference in the second sentence of that subsection to section 115.

EFFECTIVE DATE

SEC. 425. Except as provided in section 408, the amendments made by this title shall take effect upon the expiration of two years after the date of enactment of this Act. All regulations, forms, and clauses required to be prescribed under the amendments made by this title shall be promulgated at least one year prior to such effective date. Notwithstanding the foregoing, any creditor may comply with the amendments made by this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.

TITLE V—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

SEC. 501. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located.".

SEC. 502. The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by inserting after section 23 the following new section:

"SEC. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 503. Title IV of the National Housing Act (12 U.S.C. 1724–1730f) is amended by inserting after section 411 the following new section:

"SEC. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

SEC. 504. Subsection (h) of section 308 of the Small Business Investment Act of 1958 is amended to read as follows:

"(h)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds to small business investment companies to small business concerns.

"(2) In the case of a business loan the principal amount of which is $25,000 or more, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraphs (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law (determined without regard to the preemption of such State law).

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 5 percentage points plus the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which the principal office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law for such loans or there is a maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(3) a State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of—

"(A) July 1, 1981;

"(B) the date, after the date of the enactment of this paragraph, on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such State; or

"(C) the date on which such State certifies that the voters of such State, after the date of the enactment of this paragraph, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in this subsection.

"(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the most recent payment of interest.".

SEC. 505. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates, if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 506. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 507. The amendments made by this title and the provisions of this title shall apply only with respect to loans made in any State during the period beginning on the date of enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title and the provisions of this title to apply with respect to loans made in such State; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendments made by this title and the provisions of the title.

TITLE VI—APPLICABILITY OF STATE USURY CEILINGS TO CERTAIN OBLIGATIONS ISSUED BY BANKS AND AFFILIATES

SEC. 601. Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by inserting after subsection (j) the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.".

SEC. 602. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.".

SEC. 603. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by inserting after subsection (d) the following new subsection:

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.".

SEC. 604. The amendments made by this title shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title to apply with respect to such deposits and obligations; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations.

TITLE VII—REPEALS

SEC. 701. Titles II and III of the Act entitled "An Act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes", approved October 29, 1974 (Public Law 93–501; 88 Stat. 1557), are hereby repealed, except that—

(1) the amendments made by title II of such Act and the provisions of such title shall apply to any loan made in any State during the period specified in section 206 of such Act; and

(2) the amendments made by title III of such Act shall apply to any deposit made or obligation issued in any State during the period specified in section 304 of such Act.

SEC. 702. Notwithstanding any provision of this Act to the contrary, the preemption of State usury laws provided by titles V and VI of this Act shall expire on July 1, 1980, except in those States having a constitutional provision establishing maximum interest rates in which case the preemption shall expire on July 1, 1981.

TITLE VIII—REGULATORY SIMPLIFICATION

SHORT TITLE

SEC. 801. This title may be cited as the "Financial Regulation Simplification Act of 1979".

FINDINGS

SEC. 802. The Congress finds that many regulations issued by the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, and the National Credit Union Administration Board (hereinafter referred to as the "Federal financial regulatory agencies") often impose costly, duplicative, and unnecessary burdens on both financial institutions and consumers. Regulations should be simple and clearly written. Regulations should achieve legislative goals effectively and efficiently. Regulations should not impose unnecessary costs and paperwork burdens on the economy, on financial institutions, or on consumers.

POLICY

SEC. 803. Regulations issued by the Federal financial regulatory agencies shall insure that—

(1) the need for and purpose of the regulation are established clearly;

(2) meaningful alternatives to the promulgation of regulations are considered before any regulation is issued;

(3) compliance costs, paperwork, and other burdens on the financial institutions, consumers, and public are minimized;

(4) conflicts, duplication, and inconsistencies between the regulations issued by the Federal financial regulatory agencies are to be avoided to the extent possible taking into account differences in statutory responsibilities, the classes of financial institutions' regulation and methods of implementation of statutory or policy objectives;

(5) timely participation and comment by other Federal agencies, appropriate State and local agencies, financial institutions, and consumers are available; and

(6) regulations issued shall be as simple and clearly written as possible and understandable by those who are subject to the rules.

REVIEW OF EXISTING REGULATIONS

SEC. 804. The Federal financial regulatory agencies shall establish a program which assures periodic review of existing regulations to determine whether those regulations achieve the policy goals in section 803. Those regulations which are not in keeping with the policy goals shall be revised accordingly.

REPORTING

SEC. 805. Not later than six months after the effective date of this title and in subsequent annual reports, each Federal financial regulatory agency shall submit a report

of its progress in implementing this title to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

TERMINATION DATE

SEC. 806. Unless extended, this title expires five years after its effective date.

TITLE IX—ALASKA USA FEDERAL CREDIT UNION

SEC. 901. Any person who is a member of the Alaska USA Federal Credit Union prior to any termination date which is contained in section 5 of the charter of such credit union and which would otherwise apply to such person may continue to be a member of such credit union on and after such date. For purposes of this section, the term, "member of the Alaska USA Federal Credit Union," means any person who has an account at such credit union.

TITLE X—FOREIGN CONTROL OF UNITED STATES FINANCIAL INSTITUTIONS

SEC. 1001. The Congress finds that the takeover in whole or in part of United States financial institutions by foreign interests may constitute a threat to the health of the economy of the United States.

SEC. 1002. As used in this title—

(1) "United States financial institution" means any bank, mutual savings bank, or savings and loan association organized under the laws of any State or of the United States;

(2) "foreign person" means any foreign organization or any individual resident in a foreign country or any organization or individual owned or controlled by such an organization or individual;

(3) "United States person" means any organization existing under the laws of the United States or of any State or any United States citizen; and

(4) "takeover" means any acquisition of the stock or assets of any financial institution if, after such acquisition, the amount of stock or assets held in 5 per centum or more of the institution's stock or assets.

SEC. 1003. (a) The Board of Governors of the Federal Reserve System, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall prepare a report which shall—

(1) analyze in detail the impact on the United States economy and United States banking system of the takeover of United States financial institutions by foreign persons;

(2) specify what changes to existing statutes and regulations should be made and what new legislation should be enacted in the event that the Congress determines that it is appropriate to—

(A) prevent hostile takeovers of United States financial institutions by foreign persons;

(B) prevent takeovers of United States financial institutions by foreign persons where such takeovers will have an anticompetitive effect;

(C) prevent more than 10 per centum, measured by total aggregate deposits and loans, of all United States financial institutions from being owned or controlled, either directly or indirectly, by foreign persons;

(D) prevent the takeover of any United States financial institution by any foreign person where such person is organized under the laws of or the resident of, or owned by or controlled by any foreign person organized under the laws of or the resident of, a foreign country which does not grant the same takeover privilege to United States persons; and

(E) permit Federal bank and savings institutions regulatory authorities to have such supervisory and investigatory powers over foreign persons which own or control a United States financial institution (i) as are equivalent to the powers that agencies have over United States persons which own or control United States financial institutions, and (ii) as are necessary to ensure safe and sound practices by United States financial institutions owned or controlled by a foreign person.

(b) The report required by this section shall be submitted to the Congress not later than six months after the date of enactment of this resolution.

SEC. 1004. In order to permit the Congress to receive, consider, and act upon the report required by section 1003, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board may not approve any application relating to the takeover of any United States financial institution by a foreign person unless (1) such takeover is necessary to prevent the bankruptcy or insolvency of the United States financial institution, or (2) the application has been filed on or before June 1, 1979.

House amendments to Senate amendment: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Consumer Checking Account Equity and Monetary Control Act of 1979".

TITLE I—CONSUMER CHECKING ACCOUNT EQUITY ACT OF 1979

SEC. 101. This title may be cited as the "Consumer Checking Account Equity Act of 1979".

SEC. 102. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.".

SEC. 103. Section 2(a) of the Act entitled "An Act to extend certain laws relating to the payment of interest on time and savings deposits, to prohibit depository institutions from permitting negotiable orders of withdrawal to be made with respect to any deposit or account on which any interest or dividend is paid, to authorize Federal savings and loan associations and national banks to own stock in and invest in loans to certain State housing corporations, and for other purposes", approved August 16, 1973 (12 U.S.C. 1832(a)), is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), a depository institution may permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

SEC. 104. (a) Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "This section does not prohibit the establishment of remote service units by associations in accordance with regulations prescribed by the Board.".

(b) Section 5(c)(1)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)(A) is amended by striking out the period at the end thereof and inserting in lieu thereof "and loans specifically related to negotiable order-of-withdrawal accounts."

SEC. 105. (a) Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended by striking out "or share certificate' each place it appears therein and inserting in lieu thereof ", share certificate, or share draft account".

(b) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by striking out "credit unions serving" and all that follows through the end thereof and inserting in lieu thereof "credit unions serving predominantly low-income members (as defined by the Board) payments on—

"(A) shares which may be issued at varying dividend rates;

"(B) share certificates which may be issued at varying dividend rates and maturities; and

"(C) share draft accounts authorized under section 205(f);

subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Board.".

(c) Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended—

(1) in the first sentence—

(A) by striking out "and" the second place it appears therein and inserting in lieu thereof a comma; and

(B) by inserting ", and at different rates on different types of share draft accounts" before the period at the end thereof; and

(2) in the second sentence, by striking out "and share certificates" and inserting in lieu thereof ", share certificates, and share draft accounts".

(d) Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following new subsection:

"(f)(1) Every insured credit union is authorized to maintain share draft accounts in accordance with rules and regulations prescribed by the Board. Except as provided in paragraph (2), an insured credit union may pay dividends on share draft accounts and may permit the owner of such share draft account to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to accounts which consist solely of share draft accounts in which the entire beneficial interest is held by one or more individuals or members or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

SEC. 106. The amendments made by this title shall take effect on December 31, 1979, except that the amendments made by section

103 of this title shall take effect on September 30, 1980.

TITLE II—MONETARY CONTROL ACT OF 1979

SEC. 201. This title may be cited as the "Monetary Control Act of 1979".

REPORTING REQUIREMENTS

SEC. 202. Section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)) is amended (1) by inserting "(1)" immediately after "(a)", and (2) by adding at the end thereof the following new paragraph:

"(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions for all liabilities specified in sections 19(b)(1)(A) and 19(b)(1)(B) of this Act, and (B) to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State nonmember banks, (ii) National Credit Union Administration in the case of insured credit unions, (iii) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation or which is a member as defined in section 2 of the Federal Home Loan Bank Act, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings and loan association, or credit union. The Board shall endeavor to avoid unnecessary burdens on reporting institutions and the duplication of other reporting requirements, and any data from such reporting requirements shall be made readily available to the Board. The Board may classify depository institutions for the purposes of this paragraph, and may impose different requirements on each such class.".

RESERVE REQUIREMENTS

SEC. 203. (a) Section 19(a) of the Federal Reserve Act (12 U.S.C. 461) is amended (1) by changing "member bank" to read "depository institution" each place it appears therein, and (2) by adding at the end thereof the following: "The Board shall exercise its authority to define the term 'deposit' when applicable to reserve requirements of nonmember depository institutions after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.".

(b) Section 19(b) of the Federal Reserve Act is amended to read as follows:

"(b) RESERVE REQUIREMENTS.—

"(1) DEFINITIONS AND RULES.—The following definitions and rules are applicable for the purposes of this subsection:

"(A) The term 'category A deposits' means, with respect to any depository institution, the total amount of demand deposits, savings deposits subject to automatic transfers, and deposits subject to negotiable or other payment orders of withdrawal (except deposits subject to six or less withdrawals or transfers per month telephonically communicated to the institution by the depositor or the depositor's representative), or to any similar instrument used to make payments or transfers, in that institution.

"(B) The term 'category B deposits' means, with respect to any depository institution, the total amount of time deposits with initial maturities of less than 180 days, exclusive of the total amount of short-term personal time deposits, in that institution. For the purposes of this subparagraph, the term 'short-term time deposit' means a nonnegotiable, nontransferable time deposit with an initial maturity of less than 180 days which is held by a depositor who is a natural person, and in which the entire beneficial interest is held by such depositor.

"(C) A reference to net deposits of any given category in any given institution refers to the amount by which the institution's total deposits of that category exceed its exemption for that category.

"(D) Except as provided in paragraphs (7) and (8), no reserve ratio outside the limits specified for any given category may be imposed with respect to any deposits in that category.

"(E) The term 'bank' means any institution which is neither a nonmember savings bank nor a nonmember mutual savings bank as defined in sections 3(f) and 3(g) of the Federal Deposit Insurance Act, and is either an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act or a bank which is eligible under section 5 of that Act to make application to become an insured bank.

"(F) The term 'savings institution' means—

"(i) a nonmember savings bank or a nonmember mutual savings bank which either is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act or is eligible under section 5 of that Act to make application to become an insured bank;

"(ii) an institution which either is an insured institution as defined in section 401(a) of the National Housing Act or is eligible under section 403 of that Act to make application to become an insured institution; or

"(iii) a credit union whose member accounts are insured pursuant to section 201(a) of the Federal Credit Union Act, or which is eligible to make application for such insurance pursuant to section 201(b) of that Act.

"(G) The term 'depository institution' means a bank as defined in subparagraph (E) or a savings institution as defined in subparagraph (F).

"(H) The requirements imposed by paragraphs (5) and (6) of this subsection do not apply to deposits payable only outside the States of the United States and the District of Columbia, but nothing in this subsection limits the authority of the Board to impose conditions and requirements on member banks under section 25 of this Act (12 U.S.C. 601–604(a)), or the authority of the Board under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

"(I) This subsection confers authority on the Board to impose or change reserve requirements for the sole purpose of enabling the Board to implement monetary policy.

"(J) Any reference in this Act to member banks with respect to any requirement or authority relating to reserves required by this subsection shall be deemed to refer to all depository institutions which are actually required to maintain reserves under this subsection.

"(K) This section shall not apply with respect to any financial institution which—

"(i) is organized solely to do business with other financial institutions;

"(ii) is owned primarily by the financial institutions with which it does business; and

"(iii) does not do business with the general public.

"(2) CATEGORY A EXEMPTION.—Except as provided in paragraph (15), the category A exemption for any depository institution during any calendar year shall be determined by the Board to the nearest $100,000 as follows:

"(A) The category A exemption for 1979 shall be the sum of $35,000,000 plus the product of $35,000,000 times 0.8 times the quotient of the difference between the total of all category A deposits in all depository institutions on June 30, 1978, and the total of all category A deposits in all depository institutions on December 31, 1977, divided by the total of all category B deposits in all depository institutions on December 31, 1977.

"(B) For any given year after 1979, the category A exemption shall be the sum of the category A exemption for the first year preceding the given year plus the product of the category A exemption for the first year preceding the given year times 0.8 times the quotient of the difference between the sum of all category A deposits in all depository institutions on June 30 of the first year preceding the given year and the sum of all category A deposits in all depository institutions on June 30 of the second year preceding the given year, divided by the total of all category A deposits in all depository institutions on June 30 of the second year preceding the given year.

"(3) CATEGORY B EXEMPTION.—Except as provided in paragraph (15), the category B exemption for any depository institution during any calendar year shall be determined by the Board to the nearest $100,000 as follows:

"(A) The category B exemption for 1979 shall be the sum of $10,000,000 plus the product of $10,000,000 times 0.8 times the quotient of the difference between all category B deposits in all depository institutions on June 30, 1978, and the sum of all category B deposits in all depository institutions on December 31, 1977, divided by the total of all category B deposits in all depository institutions on December 31, 1977.

"(B) For any given year after 1979, the category B exemption shall be the sum of the category B exemption for the first year preceding the given year plus the product of the category B exemption for the first year preceding the given year times 0.8 times the quotient of the difference between the sum of all category B deposits in all depository institutions on June 30 of the first year preceding the given year and the sum of all category B deposits in all depository institutions on June 30 of the second year preceding the given year, divided by the total of all category B deposits in all depository institutions on June 30 of the second year preceding the given year.

"(4) INSTITUTIONAL EXEMPTIONS.—

"(A) ADMINISTRATIVE EXEMPTION.—Except as provided in paragraph (15), the administrative agency designated in subparagraph (B) shall, on or before the effective date of this paragraph and before the first day of each calendar year thereafter, exempt from the requirements otherwise imposed by paragraphs (5) and (6) any depository institution which such agency determines would, even if not exempted pursuant to this paragraph, probably not have net category A deposits or net category B deposits greater than zero between the last date on which such exemption is authorized to be made and the commencement of the succeeding calendar year. During any period for which it has been so exempted, no depository institution shall be required to maintain any reserves under paragraph (5) or (6).

"(B) AGENCY AUTHORITY.—Exemptions pursuant to subparagraph (A) shall be made by the Federal Deposit Insurance Corporation in the case of insured nonmember banks, by the Federal Savings and Loan Insurance Corporation in the case of any institution insured by that corporation, by the National Credit Union Administration in the case of any credit union whose member accounts are insured pursuant to section 210(a) of the Federal Credit Union Act, and by the Board in the case of all other depository institutions.

"(5) CATEGORY A RESERVE REQUIREMENTS.—Except as provided in paragraphs (12)(B) and (13), every depository institution not exempted pursuant to paragraph (4) shall maintain reserves against each class of its net category A deposits as the Board may direct—

"(A) in the ratio of 11 per centum, or

"(B) in such ratio not greater than 12 per centum and not less than 4 per centum as the Board may prescribe, or

"(C) in such ratio as the Board may prescribe pursuant to paragraph (8).

"(6) CATEGORY B RESERVE REQUIREMENTS.—Except as provided in paragraph (12)(B),

every depository institution not exempted pursuant to paragraph (4) shall maintain reserves against each class of its net category B deposits as the Board may direct—

"(A) in the ratio of 0 per centum, or

"(B) in such ratio not greatr than 8 per centum and not less than 0 per centum as the Board may prescribe, or

"(C) in such ratio as the Board may prescribe pursuant to paragraph (8).

"(7) RESERVES RELATED TO FOREIGN OBLIGATIONS OR ASSETS.—Except as provided in paragraph (19), foreign branches, subsidiaries, and international banking facilities of nonmember depository institutions shall maintain reserves to the same extent required by the Board of foreign branches, subsidiaries, and international banking facilities of member banks. In addition to any reserves otherwise required to be maintained pursuant to this subsection, any depository institution shall maintain reserves in such ratios as the Board may prescribe against—

"(A) net balances owed by domestic offices of such depository institution in the United States to its directly related foreign offices and to nonrelated foreign dopository institutions,

"(B) loans to United States residents made by overseas offices of such depository institution if such depository institution has one or more offices in the United States, and

"(C) assets (including participations) held by foreign offices of a depository institution in the United States which were acquired from its domestic offices (other than assets representing credit extended to persons not residents of the United States).

"(8) AUTHORITY IN EXTRAORDINARY CIRCUMSTANCES.—Except as provided in paragraph (20), upon a finding by at least five members of the Board, after consultation with appropriate committees of Congress, that extraordinary circumstance require such action, the Board may impose, with respect to any liabilities of depository institutions, reserve requirements outside the limits as to ratios and as to types of liabilities otherwise prescribed by this subsection for a period not exceeding thirty days but which may be extended for further periods not exceeding thirty days each by such affirmative action by the Board in each instance. The authority contained in this paragraph may not be exercised to reduce the amount of the exemptions provided by paragraphs (2) and (3). The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise.

"(9) MEMBERSHIP PRIVILEGES.—During any period in which the required reserves of any depository institution under this subsection are greater than zero, and such institution is maintaining such reserves in accordance with subsection (c), it shall be entitled to all the privileges of membership in the Federal Reserve System except that, if it is not otherwise a member, it may not hold stock in, or vote for any director of, a Federal Reserve bank.

"(10) DISCOUNT PRIVILEGES.—Except as provided in paragraphs (16) and (18), any depository institution in which category A or category B deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the administration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities on terms and conditions consistent with their long-term asset portfolio and sensitivity to national money markets.

"(11) TRANSITIONAL ADJUSTMENTS.—

"(A) Any depository institution (other than a depository institution to which subparagraph (D) applies) which was engaged in business on August 1, 1978, but was not a member of the Federal Reserve System on that date, shall maintain reserves against its deposits during the first twelve-month period following the effective date of this paragraph in amounts equal to one-tenth of those otherwise required by paragraphs (5) and (6) of this subsection, during the second such twelve-month period in amounts equal to two-tenths of those otherwise required, and so on in each succeeding twelve-month period until the full requirements of paragraphs (5) and (6) have been reached.

"(B) Except as provided in paragraphs (16) and (18), with respect to any bank that was a member of the Federal Reserve System on August 1, 1978, the amount of required reserves imposed pursuant to paragraphs (5) and (6) on the effective date of such paragraphs that exceeds the amount of required reserves maintained by the member institution during the reserve computation period immediately preceding the effective date of such paragraphs may, at the discretion of the Board and in accordance with such rules and regulations as it may adopt, be reduced by 75 per centum during the first year that begins after such effective date, 50 per centum during the second year, and 25 per centum during the third year.

"(C) Except as provided in paragraphs (16) and (18), in order to provide for an orderly transition period, the Board shall implement the reduction in reserve requirements resulting from the amendment of this subsection by the Monetary Control Act of 1979 with respect to member banks over a period not greater than 48 months after the effective date of such paragraph. During such transition period, any depository institution which was not a member of the Federal Reserve System on August 1, 1978, which became a member of the Federal Reserve System after such date, and which would not otherwise be required to maintain reserves under this section, shall maintain reserves equal to the reserves imposed on member banks under the previous sentence.

"(D) Except as provided in paragraphs (16) and (18), this subparagraph applies to any depository institution which was engaged in business on August 1, 1978, as a depository institution organized under the laws of a State and was not a member of the Federal Reserve System on that date, and whose principal office was outside the continental limits of the United States on that date and has remained outside the continental limits of the United States ever since. Such a depository institution shall not be required to maintain reserves against its deposits pursuant to this section until the first day of the sixth calendar year which begins after the enactment of this subparagraph. Such a depository institution shall maintain reserves against its deposits during the sixth calendar year which begins after enactment of this paragraph in amounts equal to one-tenth of those otherwise required by paragraphs (5) and (6) of this subsection, during the seventh such year in amounts equal to two-tenths of those otherwise required, and so on in each succeeding calendar year until the full requirements of paragraphs (5) and (6) have been reached.

"(12) BOARD DETERMINATION.

"(A) With respect to each calendar quarter beginning during the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending on the date on which the Board makes the determination specified in subparagraph (B), the Board shall determine the ratio, expressed as a percentage, which the amount of total deposits held by all member banks bears to the amount of total deposits held by all banks. Such quarterly determination shall be based upon information received by the Board under section 11(a)(2). Not less than once during each calendar quarter involved, the Board shall publish in the Federal Register and notify the Congress and each member bank of the most recent determination made by the Board under this subparagraph.

"(B) The reserve requirements established under paragraphs (5) and (6) shall apply only with respect to member banks unless the Board makes a determination under subparagraph (A) that the ratio, expressed as a percentage, described in such subparagraph is less than 67.5 per centum. If the Board makes such determination, the reserve requirements of paragraphs (5) and (6) shall apply to all depository institutions 180 days after such determination is made. During such 180-day period, notice of such determination shall be published in the Federal Register and transmitted to the Congress by the Board. Such determination shall also be transmitted during such 180-day period—

"(i) to all member banks by the Board;

"(ii) to all insured State nonmember banks by the Board of Directors of the Federal Deposit Insurance Corporation;

"(iii) to all insured credit unions by the Board of the National Credit Union Administration;

"(iv) to all Federal savings and loan associations by the Federal Home Loan Bank Board;

"(v) to all savings and loan associations insured under section 403 of the National Housing Act, other than Federal savings and loan associations, by the Federal Savings and Loan Insurance Corporation; and

"(vi) to all other types of banks, savings and loan associations, and credit unions by such State officer or agency as the Board may designate.

"(13) TRANSITIONAL CATEGORY A RESERVE REQUIREMENT.—During the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board, every member bank shall maintain reserves against each class of its category A deposits as the Board may direct—

"(A)(i) with respect to category A deposits determined under paragraph (14), in the ratio of 3 per centum, and

"(ii) with respect to category A deposits which exceed the amount determined under paragraph (14), in the ratio of 11 per centum, or

"(B) in such ratio not greater than 12 per centum and not less than 4 per centum as the Board may prescribe, or

"(C) in such ratio as the Board may prescribe pursuant to paragraph (8).

"(14) DEPOSITS SUBJECT TO TRANSITIONAL CATEGORY A RESERVE REQUIREMENTS.—During the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board, the portion of the category A deposits subject to paragraph (13)(A)(i) for any member bank during any calendar year shall be determined by the Board as follows:

"(A) The portion of the category A deposits subject to paragraph (13)(A)(i) for 1979 shall be the sum of $35,000,000 plus the product of $35,000,000 times 1.0 times the quotient of the difference between the total of all category A deposits in all depository institutions on June 30, 1978, and the total of all category A deposits in all depository institutions on December 31, 1977, divided

by the total of all category A deposits in all depository institutions on December 31, 1977.

"(B) For any given year after 1979, the portion of the category A deposits subject to paragraph (13)(A)(i) shall be the sum of the portion of the category A deposits subject to paragraph (13)(A)(i) for the first year preceding the given year plus the product of the portion of the category A deposits subject to paragraph (13)(A)(i) for the first year preceding the given year times 1.0 times the quotient of the difference between the sum of all category A deposits in all depository institutions on June 30 of the first year preceding the given year and the sum of all category A deposits in all depository institutions on June 30 of the second year preceding the given year, divided by the total of all category A deposits in all depository institutions on June 30 of the second year preceding the given year.

"(15) TRANSITIONAL LIMITATION ON EXEMPTIONS.—The provisions of paragraphs (2), (3), (4)(A), and (4)(B) shall not apply with respect to any depository institution during the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board.

"(16) TRANSITIONAL REDUCTION OF EXCESS RESERVES.—

"(A) Notwithstanding any other provision of this section except subparagraph (B), during the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board, the amount of required reserves maintained by a member bank during the reserve computation period immediately preceding the effective date of paragraphs (6) and (13) which exceeds the amount of required reserves imposed pursuant to such paragraphs shall be reduced by the Board by 50 per centum during the first year that begins after such effective date, 75 per centum during the second year after such effective date, and 100 per centum during the third year after such effective date.

"(B) No reduction authorized under subparagraph (A) with respect to excess amounts of required reserves shall be made after the 180th day following the date on which the determination specified in paragraph (12)(B) is made by the Board.

"(17) REFUND OF RESERVES.—

"(A) Notwithstanding any other provision of this Act except subparagraph (B), any bank which ceases to be a member of the Federal Reserve System after the date of the enactment of the Monetary Control Act of 1979 shall receive all required reserves maintained by such bank during the reserve computation period immediately preceding the date on which such bank ceases to be a member of the Federal Reserve System in three equal annual payments.

"(B) No annual payment authorized under subparagraph (A) shall be made after the 180th day following the date on which the determination specified in paragraph (12)(B) is made by the Board.

"(18) LIMITATION ON TRANSITIONAL ADJUSTMENTS.—The provisions of paragraph (11) shall not apply with respect to any bank which was a member of the Federal Reserve System on May 24, 1979, which ceases to be a member of the Federal Reserve System after such date, and which subsequently is required to maintain reserves under paragraph (5) or (6).

"(19) TRANSITIONAL EXEMPTION OF RESERVES RELATED TO FOREIGN OBLIGATIONS OR ASSETS.—During the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board, the provisions of paragraph (7) shall not apply with respect to any depository institution or any foreign branch, subsidiary, or international banking facility of any nonmember depository institution, except for those nonmember depository institutions which are branches or subsidiaries of foreign banks.

"(20) TRANSITIONAL AUTHORITY IN EXTRAORDINARY CIRCUMSTANCES.—During the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board, the provisions of paragraph (8) shall apply only with respect to member banks.

"(21) APPLICATIONS FOR WITHDRAWAL FROM THE FEDERAL RESERVE SYSTEM.—Notwithstanding any other provision of this Act, the Board shall not approve any application by any member bank to withdraw from membership in the Federal Reserve System if such application is filed with the Board during the period beginning on May 24, 1979, and ending on the date of the enactment of the Monetary Control Act of 1979. This paragraph does not prohibit the Board from approving any such application which is filed with the Board by any member bank after the date of the enactment of such Act.".

(c) Section 19(c) of the Federal Reserve Act (12 U.S.C. 461(c)) is amended to read as follows:

"(c) Reserves held by any depository institution to meet the requirements imposed pursuant to subsection (b) of this section shall be in the form of—

"(1) balances maintained for such purposes by such institution in the Federal Reserve bank of which it is a member or at which it maintains an account, and vault cash. The Board may, by regulation or order, limit the proportion of required reserves which may be maintained in the form of vault cash, but such proportion shall be identical for all institutions; and

"(2) balances maintained by a nonmember institution in a member or nonmember institution that maintains reserve balances at a Federal Reserve bank or balances in a Federal home loan bank, but only if such depository institution or Federal home loan bank maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a depository institution from another depository institution that are used to satisfy the reserve requirements imposed on such depository institution by this section shall not be subject to the reserve requirements of this section imposed on such depository institution and shall not be subject to assessment imposed on such depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) or section 404 of the National Housing Act (12 U.S.C. 1727).".

AUTHORITY OF STATE BANK SUPERVISORS

SEC. 204. Nothing in this Act or in the amendments made by this Act shall be construed in derogation of the authority of any officer or agency of such State over any institution organized or existing under the laws of such State.

ABOLITION OF PENALTY RATE

SEC. 205. Section 10(b) of the Federal Reserve Act (12 U.S.C. 347b) is amended by striking all after the first sentence thereof.

PRICING OF SERVICES

SEC. 206. The Federal Reserve Act is amended by inserting after section 11 the following new section:

"PRICING OF SERVICES

"SEC. 11A. (a) Not later than the first day of the sixth calendar month after the date of enactment of the Monetary Control Act of 1979, the Board shall have prepared and shall publish for public comment a set of pricing principles in accordance with this section and a proposed schedule of fees for Federal Reserve bank services to depository institutions.

"(b) The services which shall be covered by the schedule of fees under subsection (a) are—

"(1) currency and coin services;

"(2) check clearing and collection services;

"(3) wire transfer services;

"(4) automated clearinghouse services;

"(5) settlement services;

"(6) securities safekeeping services;

"(7) any new payment services which the Federal Reserve System provides, including but not limited to payment services to effectuate the electronic transfer of funds; and

"(8) any other services which the Board so decides to offer.

"(c) The schedule of fees prescribed pursuant to this section shall be based on the following principles:

"(1) All Federal Reserve bank services covered by the fee schedule shall be priced explicitly and competitively.

"(2) All Federal Reserve bank services covered by the fee schedule shall be available to nonmember depository institutions and such services shall be priced at the same fee schedule applicable to member banks, except that nonmembers shall be subject to any other terms, including a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member banks.

"(3) Over the long run prices shall be established on the basis of all direct and indirect costs actually incurred in providing the services priced, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs that take into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except where the Board determines that the public interest requires a departure from this principle, after giving due regard to competitive factors and the provision of an adequate level of services nationwide.

EFFECTIVE DATES

SEC. 207. The amendments made by this title shall take effect on the date of enactment of this title.

Mr. STANTON. Mr. Speaker, with the understanding that the chairman, the gentleman from Wisconsin (Mr. REUSS), is going to explain this legislation, I would ask unanimous consent that the Senate amendment and the House amendments to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, my understanding is that this is a permission to go to conference on two bills, both of which have passed the House, H.R. 4986, on a Suspension Calendar, and H.R. 7.

Mr. Speaker, I will first ask my colleague, the gentleman from Wisconsin, to explain why it is necessary to merge these two pieces of legislation, when the Senate, as I understand it, has not passed anything similar to H.R. 7. They are working on it. So how does the gentleman expect to go to conference on some-

thing on which they have not taken action?

And, secondly, how can we go to conference on H.R. 4986, which basically addresses the issue of what the courts have done relating to certain kinds of transactions? The Senate has worked on something like that but they have added substantially different things. The gentleman from Rhode Island (Mr. ST GERMAIN) promised the House very faithfully he would make sure that we would not go to conference and allow a Christmas tree bill to emerge.

Could the gentleman comment on why it is so necessary to merge these two pieces of legislation and go to conference on a portion on which the Senate has not even acted?

Mr. REUSS. Mr. Speaker, if the gentleman will yield, I will be very glad to answer the gentleman, and his question is entirely in order.

The twin measures here joined are, as the gentleman has correctly observed, measures that have passed this body by tremendous majorities. One of the two measures is the Monetary Control Act of 1979, which last July 20 passed this House, pursuant to a rule, 340 to 20, a truly bipartisan piece of legislation.

The other half of the legislation which I am discussing is H.R. 4986, the Consumer Checking Account Equity Act, which passed under suspension on September 11 by another enormous vote of 367 to 39.

Why, the gentleman from California rightly asks, is it necessary for the House to act again on that which it has splendidly and overwhelmingly endorsed?

The reason is simply this: Both measures are, in the opinion of the Committee on Banking, Finance and Urban Affairs, on a bipartisan basis, vitally necessary; one, to enable the Federal Reserve to do its part in fighting inflation, the other to prevent serious disruption of our Nation's banks, savings and loans, mutual savings banks and credit unions, who, for some years, have permitted the kind of account which embodies some elements of a savings account and some elements of a checking account.

By a court decision, unless we act in this session of the Congress, which is now approaching its close, those permissions long since used by our Nation's financial system will be illegal.

I will not comment on the Christmas-tree nature of what the other body has done with our legislation, but in order to focus the attention of the other body in conference on what is really necessary in order to preserve our financial system, the gentleman from Ohio (Mr. STANTON) and I have asked that this matter be brought up today so that we can then promptly go to conference. I think the results of that conference will be very congenial to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, as the gentleman knows, I supported H.R. 4986. The agreement that we had with the gentleman from Rhode Island, the chairman of the subcommittee, to have the legislation brought up under suspension procedure, was to show that the House was prepared to move swiftly to counteract or to comply with the court decision, to act on those provisions that relate to the transaction accounts one way or the other, and so forth. I have no objection to insisting to that except the gentleman from Rhode Island, in his discussion with me and with other Members on this side, agreed that if the legislation were passed by the suspension procedure to get it over to the other body, he would fight to make sure that that legislation was not Christmas-treed, or other things would not be added to it far beyond the scope of the legislation.

My real question is: Why do we have to attach it or merge it with H.R. 7? As the gentleman well knows, his good colleague from his own State has made it very difficult to move that legislation and there is no real assurance that the bill will ever get to final legislative form in the other body. Therefore, is not the gentleman merely complicating the ability of both this House and the other body to act on H.R. 4986, which is absolutely needed by the end of the year?

Mr. REUSS. If the gentleman will yield, I think not, in answer to the gentleman's very perceptive question. I think we are simplifying matters. Unfortunately, the other body has shown no ability whatever either to address itself to the vital anti-inflationary need for monetary control——

Mr. ROUSSELOT. The gentleman is talking about H.R. 7?

Mr. REUSS. I am talking about H.R. 7. Or to enact without infinite Christmas treeing the so-called Consumer Checking Account Equity Act, which the gentleman very commendably sped on its way to passage here.

So we think that these are two important bills. Chairman Volcker of the Federal Reserve has told me that unless Congress speedily acts on the monetary control bill in a favorable way, the Federal Reserve's ability to fight inflation will be very seriously compromised. So they are both important. They are joined because of the unfortunate inability of the other body so far to get its act together.

Mr. ROUSSELOT. Mr. Speaker further reserving the right to object, my concern is that I do not see how merging H.R. 7 and H.R. 4986 enhances this process, since the other body has chosen not to act on a similar bill to H.R. 7. How, by merging these today, do we guarantee that H.R. 4986 will get adequate and speedy action by merging these and going to conference?

Mr. REUSS. It is my belief that merging them will get speedy action on both of them. What we do today is a kind of machete to cut off these extraneous Christmas tree limbs that the Senate has unfortunately put on the Consumer Equity Act. And I believe that both bills are tremendously important. I know the gentleman from Ohio, the distinguished ranking minority member, Mr. STANTON, agrees.

Mr. ROUSSELOT. I am going to yield to the gentleman from Ohio in a minute.

Mr. REUSS. Perhaps having had my say, the gentleman will listen to what my respected colleague, the gentleman from Ohio, has to say.

Mr. ROUSSELOT. Mr. Speaker, what guarantees can the gentleman from Wisconsin give to us that this will not come back with substantial add-ons, because we go to conference with two bills—and that is what we will be doing—one of which has not even moved in the Senate, the other of which has been heavily added to by the other body? What guarantees do we have that we are not going to be confronted at the last minute before we adjourn here in the House, just before Christmas, with all kinds of provisions added to two bills instead of one?

Mr. REUSS. The gentleman's question is a fair question, and I give him the following answer: I will do my best—and I think the gentleman will find that those who await appointment as House conferees will do their best—to see that that which comes back to this body for final approval is not only consistent with what the House has on the two occasions I have mentioned overwhelmingly passed, but that extraneous matter will be held to a minimum and will be benign and praiseworthy, or I will not insult this House by bringing it back.

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Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I appreciate the gentleman's comment.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I appreciate once again my friend yielding for the second time in the same day here within the last hour.

Let me tell this body I cannot give 100-percent assurance, as this body understands. I am on the minority side.

I think this body should take into account the fact of not only what our colleague has said, but when this body sees the conferees, which include the gentleman from Rhode Island (Mr. ST GERMAIN), who gave his word we would not accept that Christmas tree from the other side, who has asked us to accept in H.R. 4986; and if we would stick with the gentleman, we would not have a Christmas tree.

We have the gentleman from Illinois (Mr. ANNUNZIO), who is against the Christmas tree idea. I think that by merging the two of them, we come out even stronger, as the chairman has said, if we went with the NOW account, and we are going to do our very best.

Let me say further that the gentleman from California (Mr. ROUSSELOT) is absolutely right that essential in both legislation, there is one thing paramount. That is the third-party transaction, counsel to credit unions, and things we are up against the wall on because of court decisions; and that is the absolute must legislation. The other is extremely desirable. I would hope very definitely the conferees could come back from the conference with a package that would be agreeable to the full House. If not, we are going to be in trouble. We all know that, and we are going to do our best.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I appreciate my colleague's comments. My concern is that as we get close to the end of the year that maybe H.R. 7 or its companion bill in the other body will not move.

Will the two gentlemen guarantee that we will be back here to get some kind of movement on H.R. 4986 so that transaction accounts, credit unions, and others are not held up against the wall because H.R. 7 or a companion-like piece of legislation has not moved in the other body, and they therefore refuse to go to conference.

Mr. STANTON. Mr. Speaker, if the gentleman will yield further, I would assure the gentleman that it is absolutely once again the one thing that is a necessity, which the gentleman mentioned as far as the court orders are concerned.

I give the gentleman my personal assurance on that, if it got to the point where H.R. 7 was totally out of the question, we are going to prohibit that from happening.

Mr. ROUSSELOT. I appreciate my colleague's comments.

Mr. REUSS. Mr. Speaker, I have no trouble making the same assurance. I would call the gentleman's attention to the fact that the other body has encrusted the consumer credit bill and really Christmas-treed it.

Mr. ROUSSELOT. I am well aware of that.

Mr. REUSS. Mr. Speaker, I do not know whether we will be able to proceed, but certainly it is not my intention to hold either bill hostage for the other. They are both vital pieces of legislation. I want both of them. If I have to settle for half a loaf, I will, reluctantly, settle for half a loaf.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I appreciate the gentleman's comments. We can also have the assurances of the chairman of the committee that if for some reason the other body has not been willing to go to conference on these two items and/or the Christmas tree version of H.R. 4986 is so loaded and there is difficulty in the conference, that the gentlemen will come back to get final passage of something like H.R. 4986 in a more pure form.

Mr. REUSS. Mr. Speaker, if that is what happens, yes. I would not want the Nation's financial system to receive the terrible setback that they are due to receive on January 1, 1980. if Congress proves itself incapable of dealing with the Nation's problems. This House has a good record.

Mr. ROUSSELOT. Mr. Speaker, I do not think the House has been the place where the problem is. We all know where it is.

Mr. REUSS. The gentleman is very understanding of the difficulties that the gentleman from Ohio (Mr. STANTON) and I are up against.

As a distinguished alumnus of the Committee on Banking, Finance and Urban Affairs, the gentleman from California (Mr. ROUSSELOT) has seen some of this himself in his day.

Mr. ROUSSELOT. Like all the time. What bothers me the most is that we somehow will be put in the position at the last minute of voting for something that comes out of this proposed conference far beyond the scope of these two bills that passed the House. I am concerned about this.

Mr. REUSS. Mr. Speaker, we will do our best on this matter.

Mr. ROUSSELOT. Mr. Speaker, I hope the conferees from the House will do the same. I just felt we should have this understanding so that we are not put in the position of a last-minute fire sale, as it were; that we have to take it the way it is because we are up against a deadline. I just want to be sure that that does not occur.

Mr. Speaker, I appreciate the gentleman's comments.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Wisconsin (Mr. REUSS)?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4986

Mr. REUSS. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate amendment to H.R. 4986, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and appoints the following conferees: Messrs. REUSS, ST GERMAIN, ANNUNZIO, BARNARD, STANTON, and WYLIE.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
November 6, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received 11:20 a.m. on November 6, 1979, and said to contain a message from the President wherein he transmits the 1976, 1977 and 1978 annual reports of the Department of Health, Education, and Welfare on Occupational Safety and Health.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

ANNUAL REPORTS OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON OCCUPATIONAL SAFETY AND HEALTH FOR 1976, 1977, AND 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

In accordance with Section 26 of the Occupational Safety and Health Act of 1970 (Public Law 91-596), I herewith transmit the Annual Reports of the Department of Health, Education, and Welfare on Occupational Safety and Health for 1976, 1977 and 1978.

JIMMY CARTER.

THE WHITE HOUSE, *November 6, 1979.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
November 6, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received at 11:20 a.m. on November 6, 1979, and said to contain a message from the President wherein he transmits the 1978 annual report of the Director of the National Cancer Program.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

ANNUAL REPORT FOR 1978 OF DIRECTOR OF NATIONAL CANCER PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

In accordance with Section 410A(b), Part A, Title IV of the Public Health Service Act, I am transmitting to Congress the Annual Report for 1978 of the Director of the National Cancer Program.

This report has been prepared by the Director of the National Cancer Program and submitted to me as required by law. The Report describes the Program's activities in 1977 and the first nine months of 1978.

JIMMY CARTER.

THE WHITE HOUSE, *November 6, 1979.*

RESIGNATION FROM HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communication, which was read:

WASHINGTON, D.C.,
November 7, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Because my state of health no longer permits me to discharge fully my responsibilities as a Member of the U.S. House of Representatives, representing

the Eleventh Congressional District of Pennsylvania, I hereby resign my Office effective January 31, 1980.

Sincerely yours,

DANIEL J. FLOOD,
Member of Congress.

WASHINGTON, D.C.,
November 7, 1979.

Hon. RICHARD THORNBURGH,
Governor of Pennsylvania,
Harrisburg, Pa.

DEAR GOVERNOR: Because my state of health no longer permits me to discharge fully my responsibilities as a Member of the U.S. House of Representatives, representing the Eleventh Congressional District of Pennsylvania, I hereby resign my Office effective January 31, 1980.

Sincerely yours,

DANIEL J. FLOOD,
Member of Congress.

REPAYMENT OF LOANS TO STATE UNEMPLOYMENT FUNDS

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 363 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 363

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4007) to amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States which have outstanding loans will not apply if the State makes certain repayments, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except amendments recommended by the Committee on Ways and Means which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1310

The SPEAKER. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN). Pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 363 is the rule providing for the consideration of the bill, H.R. 4007, which amends the Internal Revenue Code of 1954 in several areas having to do with unemployment compensation.

The rule provides for 1 hour of general debate and, as is customary with Ways and Means Committee bills that amend the Internal Revenue Code, this is a modified closed rule. It provides that only committee amendments may be considered, with no minority views included in committee report.

Presently, Mr. Speaker, States that have had to borrow money from the Federal Government in order to pay their unemployment insurance benefits have had 2 years to repay those loans.

If a State's loan is not repaid within the 2-year time period, the Federal unemployment insurance tax on employers in that State is raised until the State's loan has been repaid.

Because of the hardship that creates for many States, Congress in the past has deferred the tax increase in States with outstanding loans. Those deferrals will expire at the end of the 1979 taxable year.

It does not seem reasonable to extend those deferrals indefinitely. Yet, it is still very difficult for some States with outstanding loans to repay the Federal Government, and increasing taxes on employers in those States would be very disruptive to their economies.

As a result, the Ways and Means Committee proposes in this bill a new repayment procedure. It will assure that the Federal Government recovers the money that has been loaned to the States, but will do it in a manner that is much less disruptive to the State economies.

Mr. Speaker, I urge the adoption of this resolution, House Resolution 363, in order that we may consider this bill.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the able gentleman from California (Mr. BEILENSON) has explained the provisions of the rule, and to some extent, the details of the bill which will be discussed on the floor of the House.

This is necessary legislation, and clarifies and makes permanent a method by which States can act, and act responsibly.

Mr. Speaker, I have no requests for time, but I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 362, nays 24, not voting 47, as follows:

[Roll No. 630]

YEAS—362

Abdnor	Edwards, Ala.	Livingston
Akaka	Edwards, Calif.	Lloyd
Albosta	Emery	Loeffler
Alexander	Erdahl	Long, La.
Anderson, Calif.	Erlenborn	Long, Md.
Anderson, Ill.	Ertel	Lowry
Andrews, N.C.	Evans, Del.	Lujan
Andrews, N. Dak.	Evans, Ga.	Luken
Annunzio	Evans, Ind.	Lundine
Anthony	Fary	McClory
Applegate	Fascell	McCormack
Archer	Fazio	McDade
Ashley	Ferraro	McEwen
Aspin	Findley	McHugh
Atkinson	Fish	McKay
AuCoin	Fisher	McKinney
Badham	Fithian	Madigan
Bafalis	Flippo	Maguire
Bailey	Florio	Markey
Baldus	Foley	Marks
Barnard	Ford, Mich.	Marriott
Barnes	Ford, Tenn.	Martin
Beard, Tenn.	Forsythe	Mathis
Bedell	Fountain	Matsui
Beilenson	Fowler	Mattox
Benjamin	Frenzel	Mica
Bennett	Frost	Mikulski
Bereuter	Fuqua	Miller, Calif.
Bevill	Gaydos	Miller, Ohio
Biaggi	Gephardt	Minsta
Bingham	Gibbons	Minish
Blanchard	Gilman	Mitchell, Md.
Boggs	Ginn	Mitchell, N.Y.
Bolling	Glickman	Moffett
Boner	Goldwater	Mollohan
Bonior	Gonzalez	Montgomery
Bonker	Gore	Moorhead, Calif.
Bouquard	Gradison	Moorhead, Pa.
Bowen	Gramm	Mottl
Brademas	Gray	Murphy, N.Y.
Breaux	Green	Murphy, Pa.
Brinkley	Grisham	Murtha
Brodhead	Guarini	Myers, Ind.
Brooks	Gudger	Myers, Pa.
Broomfield	Guyer	Natcher
Brown, Calif.	Hagedorn	Neal
Brown, Ohio	Hall, Ohio	Nedzi
Broyhill	Hall, Tex.	Nelson
Buchanan	Hamilton	Nichols
Burgener	Hammer-schmidt	Nolan
Burlison	Hance	Nowak
Burton, John	Hanley	Oakar
Burton, Phillip	Harkin	Oberstar
Butler	Harris	Obey
Byron	Harsha	Ottinger
Campbell	Heckler	Panetta
Carney	Hefner	Pashayan
Carter	Hightower	Patten
Cavanaugh	Hillis	Patterson
Chappell	Hinson	Pease
Cheney	Hollenbeck	Pepper
Chisholm	Holtzman	Perkins
Clausen	Hopkins	Petri
Clinger	Horton	Peyser
Coelho	Howard	Pickle
Coleman	Hubbard	Preyer
Collins, Ill.	Huckaby	Price
Conable	Hughes	Pritchard
Conte	Hutto	Pursell
Corcoran	Hyde	Quayle
Corman	Ichord	Quillen
Cotter	Ireland	Rahall
Coughlin	Jenkins	Railsback
Courter	Jenrette	Ranzel
D'Amours	Johnson, Calif.	Ratchford
Daniel, Dan	Johnson, Colo.	Regula
Daniel, R. W.	Jones, Okla.	Reuss
Danielson	Jones, Tenn.	Rhodes
Dannemeyer	Kastenmeier	Rinaldo
Daschle	Kazen	Ritter
Davis, Mich.	Kemp	Roberts
Deckard	Kildee	Robinson
Dellums	Kogovsek	Rodino
Derrick	Kostmayer	Roe
Derwinski	Kramer	Rose
Dickinson	LaFalce	Rosenthal
Dicks	Lagomarsino	Rostenkowski
Dingell	Latta	Roth
Dixon	Leach, Iowa	Roybal
Dornan	Leach, La.	Royer
Dougherty	Leath, Tex.	Rudd
Downey	Lederer	Runnels
Duncan, Oreg.	Lee	Russo
Duncan, Tenn.	Lehman	Sabo
Eckhardt	Lent	Santini
Edgar	Levitas	Satterfield
		Sawyer

Scheuer	Stanton	Wampler
Schroeder	Stark	Watkins
Schulze	Steed	Waxman
Sebelius	Stenholm	Weaver
Seiberling	Stewart	White
Sensenbrenner	Stockman	Whitehurst
Sharp	Stratton	Whitley
Shelby	Stump	Whittaker
Shumway	Swift	Williams, Mont.
Shuster	Synar	Williams, Ohio
Simon	Tauke	Wilson, Bob
Skelton	Taylor	Wilson, Tex.
Slack	Thomas	Winn
Smith, Iowa	Thompson	Wirth
Smith, Nebr.	Traxler	Wolpe
Snyder	Trible	Wright
Solarz	Udall	Wyatt
Solomon	Ullman	Wydler
Spellman	Van Deerlin	Yates
Spence	Vanik	Yatron
St Germain	Vento	Young, Fla.
Stack	Volkmer	Young, Mo.
Staggers	Walgren	Zablocki
Stangeland	Walker	Zeferetti

NAYS—24

Ashbrook	English	Kindness
Bauman	Fenwick	Lewis
Bethune	Goodling	Lott
Cleveland	Grassley	Lungren
Collins, Tex.	Jacobs	McDonald
Crane, Daniel	Jeffords	Moore
Devine	Jeffries	Paul
Edwards, Okla.	Kelly	Rousselot

NOT VOTING—47

Addabbo	Garcia	O'Brien
Ambro	Giaimo	Richmond
Beard, R.I.	Hansen	Shannon
Boland	Hawkins	Snowe
Carr	Heftel	Stokes
Clay	Holland	Studds
Conyers	Holt	Symms
Crane, Philip	Jones, N.C.	Treen
Davis, S.C.	Leland	Vander Jagt
de la Garza	McCloskey	Weiss
Diggs	Marlenee	Whitten
Dodd	Mavroules	Wilson, C. H
Donnelly	Mazzoli	Wolff
Drinan	Michel	Wylie
Early	Moakley	Young, Alaska
Flood	Murphy, Ill.	

□ 1320

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Philip M. Crane.
Mr. Boland with Mrs. Holt.
Mr. Dodd with Mr. O'Brien.
Mr. Hawkins with Mr. Hansen.
Mr. Garcia with Mrs. Snowe.
Mr. Giaimo with Mr. Treen.
Mr. Richmond with Mr. Wylie.
Mr. Stokes with Mr. Marlenee.
Mr. Charles H. Wilson of California with Mr. McCloskey.
Mr. Wolff with Mr. Vander Jagt.
Mr. Jones of North Carolina with Mr. Symms.
Mr. Early with Mr. Young of Alaska.
Mr. Heftel with Mr. Clay.
Mr. Whitten with Mr. Conyers.
Mr. Murphy of New York with Mr. Diggs.
Mr. Moakley with Mr. Michel.
Mr. Ambro with Mr. Beard of Rhode Island.
Mr. de la Garza with Mr. Donnelly.
Mr. Davis of South Carolina with Mr. Drinan.
Mr. Carr with Mr. Holland.
Mr. Mavroules with Mr. Leland.
Mr. Mazzoli with Mr. Weiss.
Mr. Studds with Mr. Shannon.

Mr. STEWART and Mr. BROWN of Ohio changed their votes from "nay" to "yea."

Mr. ROUSSELOT changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1330

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4007) to amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States which have outstanding loans will not apply if the State makes certain repayments.

The SPEAKER pro tempore (Mr. MINISH). The question is on the motion offered by the gentleman from California (Mr. CORMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4007, with Mr. GLICKMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. CORMAN) will be recognized for 30 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Chairman, H.R. 4007 will address a pressing problem in Michigan and many other States which had to borrow from the Federal Government during the last recession to pay unemployment compensation. This bill provides States with the flexibility they need to repay their loans without forgiving them of the responsibility.

I would like to explain briefly how the need for this legislation arose.

Under existing law, a State which exhausts its unemployment compensation trust fund may receive Federal loans to pay regular State unemployment compensation benefits. After 2 years, if the State has not repaid all outstanding Federal loans, the Federal unemployment insurance tax on employers in the State is increased by 0.3 percent per year until the State has no outstanding loan balance. This is referred to as the unemployment compensation "penalty tax."

Under the law, States have been able to qualify for a "deferral" from penalty tax if they took steps to return their systems to solvency. However, in 1980, this period of deferral will run out and many States will be faced with the penalty tax. Given the gloomy economic prospects we now face for next year, this would likely mean a sharp tax increase on employment in the midst of a recession—a recipe for economic disaster.

The unfairness of imposing this tax is readily revealed by examining the situation in my own State of Michigan. Here the State government has made a valiant effort to return the system to solvency after the last recession. The legislature raised the State tax which finances unemployment benefits so that it is now the highest in the Nation—4.2 percent. Our maximum tax is 9 percent. Yet even with this extraordinary tax increase, the State has not been able to both return the system to solvency and repay the debt of the last recession.

Here is where the need for H.R. 4007 arises. This bill provides a unique alternative to States which would avoid the penalty tax and at the same time assure full repayment through another, less burdensome mechanism.

The bill would permit the State to make a repayment to the Federal Government out of the State's unemployment trust fund. This payment would have to equal the amount that would otherwise have been collected through an increase in the employer's tax rate.

There are two major advantages to the option provided in H.R. 4007: It would allow States to preserve their economic climate by avoiding a tax increase, and it would allow the debt to be repaid through experience-rated taxes rather than a flat-rate tax. That is, the 0.3 percent penalty tax is a flat-rate tax which falls equally on all employers in the State, regardless of whether the employers have a stable or unstable employment pattern. My bill would permit repayment from the State trust fund, which is made up of experience-rated tax revenues.

Finally, the bill includes two safeguards to prevent this option from being abused:

First. There must be sufficient funds in the State trust fund to pay all compensation during a 6-month period without receiving any Federal loans.

Second. The State must repay any additional Federal loans made during the year.

Mr. Chairman, this is a fair and badly needed bill which will provide the Federal Government with full repayment of State debts, and at the same time provide States with the flexibility they need to meet their obligations under the law. I urge that it be approved.

□ 1340

Mr. ROUSSELOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4007, reported by the Ways and Means Committee with the support of the minority members. The legislation mandates the repayment provisions relating to State borrowing from the Federal Government for the purpose of financing unemployment insurance benefits. The matter is of particular concern currently to certain indebt States and to employers in those States who would face additional Federal unemployment taxation unless the measure is enacted.

Under current law, States with outstanding loans as of November 9, 1980, and in succeeding years, will have their Federal unemployment tax increased by 0.3 percent each year until the loan is repaid. H.R. 4007 would permit States to avoid this FUTA increase by repaying the same amount that the increased Federal tax would have produced, together with the full amount of any additional loans received during the year, using State unemployment trust fund moneys. A State could use this option only if it has re-

serves in its trust fund sufficient to cover 6 months projected benefits.

This procedure would allow qualifying States to use trust fund revenues, which are derived through experience-rated taxes, for repaying the loans which they obtained during the recession of the mid-1970's. It would avoid imposition of additional, flat-rated taxes upon all employers in the States. The objective is to permit States to repay their loans with minimum disruption of their respective economic climates. Of the 18 States having outstanding loans in April 1979, the Department of Labor estimates that 12 would be able to utilize this approach, while the others would face the tax increase. In any case, the same dollar amount of repayment to the Federal Government would be made. Thus, there is no forgiveness permitted here, nor any further delay granted with respect to the inception of the repayment requirement.

I urge my colleagues in the House of Representatives to support this legislation.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield to the ranking member of the Committee on Ways and Means, the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I thank the gentleman for the statement he is making. I would like to associate myself with the gentleman's remarks.

It seems to me entirely appropriate that we not extend the time for State repayment of Federal loans any further. We should, in fact, encourage the State funds to return to self-sufficiency as quickly as possible. It is desirable, rather than putting on a flat-rate penalty tax, to permit the States to repay their debts to the Federal fund through experience rating, if they so wish to do so. As I understand this measure, it gives them that option and as such it is an entirely desirable grant of flexibility, rather than imposing on all employers in the State the same degree of burden because of the past economic problems in that State. Experience rating is a desirable variation of the manner of raising unemployment insurance taxes, so I think the gentleman's support of this measure is appropriate.

I think the bill is a desirable bill. It is very preferable to any further moratorium on repayment. We must prepare as we face the future to have unemployment insurance funds refurbished to the extent that they can meet a possible economic crisis in the future and to do so in a flexible way.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the comments of my colleague, the gentleman from New York.

I also think the gentleman has pointed out that it would be very inappropriate to force additional taxes on employers at this time and that is what will happen if we do not pass this legislation.

Mr. Chairman, let me review briefly with my colleagues the States that are affected by this particular legislation where the option would be allowable:

TABLE 1.—ADVANCES TO STATES FROM THE FEDERAL UNEMPLOYMENT ACCOUNT

[In millions of dollars per calendar year]

States	1972	1973	1974	1975	1976	1977	1978	Through Apr. 30, 1979	Repayments	Total outstanding
Connecticut	31.8	21.7	8.5	203.0	137.0	75.0	37.0		103.5	410.5
Washington		40.7	3.4	50.0	55.3				149.4	0
Vermont			5.3	23.0	9.2	10.3			1.4	46.4
New Jersey				352.2	145.0	141.7	96.0		40.0	594.9
Rhode Island				45.8	20.0	9.0	31.0	5.0	7.8	103.0
Massachusetts				140.0	125.0					265.0
Michigan				326.0	245.0	53.0				624.0
Puerto Rico				35.0	22.0	18.2	13.5			88.7
Minnesota				47.0	76.0	49.0			20.0	152.0
Maine				2.4	12.5	8.0	13.5			36.4
Pennsylvania				173.8	379.2	373.3	261.0	35.0		1,222.3
Delaware				6.5	14.0	16.1	10.4			47.0
District of Columbia				7.0	26.6	25.4	8.4	6.1	2.9	70.6
Alabama				10.0	20.0	26.7			29.7	27.0
Illinois				58.8	446.5	243.3	187.9			946.5
Arkansas					20.0	10.0			10.5	19.5
Hawaii					22.5				22.5	0
Nevada					7.6				7.6	0
Virgin Islands				2.5	5.6	2.8				10.9
Oregon					18.5				18.5	0
Maryland					36.1	26.5			62.6	0
Ohio						1.9			1.9	0
Florida					10.0	32.0			42.0	0
Montana					1.4	7.9	1.2			0.5
New York						155.8	180.0			335.8
Total	31.8	62.4	17.2	1,493.0	1,855	1,285.9	839.9	46.1	520.3	5,111.0

Source: Department of Labor.

Mr. Chairman, my belief is that this legislation is needed, as my colleague, the gentleman from New York has indicated. It is important that we preserve much of what is established in the integrity of the fund itself. I think this bill does that and still allows a repayment option to the 18 States just mentioned.

Mr. CORMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Chairman, I rise to commend my colleague, the gentleman from Michigan (Mr. BRODHEAD) for the introduction of this piece of legislation and his handling of it in the committee, and to the committee chairman, the gentleman from California (Mr. CORMAN) and to the ranking Republicans on the committee for their efforts in this regard.

I think it is most important that States have this option. It is an option that makes sense. It is an option that is just. This bill needs the unanimous support of the House.

My only note of caution is that my colleague, the gentleman from Michigan (Mr. BRODHEAD) and I share some concern, that other legislation which will set unemployment compensation on a better course in the future, so we do not have to come in with these makeup provisions, these extensions and option provisions in the future, and that the legislation that both the gentleman from Michigan (Mr. BRODHEAD) and I have introduced will get consideration by the Committee on Ways and Means. I hope we will not be passing this legislation as necessary as it is, feeling that we have discharged our responsibility to see to it that unemployment compensation be set on a more financially responsible course.

Mr. ROUSSELOT. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL), a very active and constructive member of the Committee on Ways and Means.

Mr. FRENZEL. Mr. Chairman, I rise in reluctant support of this particular bill. It is well intentioned and will have a number of good results. It does provide that States will be able to use their own experience planning systems in repaying their loans.

Also, I think a good thing about this bill is that it gives us an alternative to deferring payments which those States may have to make to the trust fund for loans that they have previously incurred.

The problem as I see it, Mr. Chairman, is that in a sense this bill might be a sort of a signal to the states that we really did not mean it when we legislated the penalties that exist under the current law, and which are being waived under this bill.

Now, I do agree in this instance to the waiver of those penalties which are, of course, the imposition of flat rate taxes in the States until their loans are paid off. But I would not like to have the passage of this bill give any State or any jurisdiction the idea that this Congress is going to be soft about loan repayments.

□ 1350

Yes, we have scheduled a little easier way for the States to make those appraisals, but I hope that the passage of this bill does not signify to anyone that we do not expect those payments to be made in a timely manner.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair will state that the gentleman from California (Mr. CORMAN) has 24 minutes remaining, and the gentleman from California (Mr. ROUSSELOT) has 21 minutes remaining.

The Chair recognizes the gentleman from California (Mr. CORMAN)

Mr. CORMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to congratulate the chairman of the committee and my colleague, the gentleman from Michigan.

Mr. Chairman. I rise in support of this bill. There is just no question that this corrects problems in the law that need correction.

Mr. ROUSSELOT. Mr. Chairman, I have no further requests for time.

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

The Chairman, H.R. 4007 would permit States with outstanding Federal unemployment insurance loans to avoid the automatic increases in the Federal UI tax, specified under current law, by either repaying the full outstanding amount of the loan, as under current law, or repaying out of State UI funds the amount that would have been collected during the year if the increase in the Federal tax had taken place.

Under current law, a State that has depleted its unemployment insurance trust fund may receive interest-free Federal loans as necessary to pay regular State UI benefits. A State has 2 years to repay such loans. If, after 2 years, a State has not repaid the entire amount of the loan, the Federal UI tax on employers in the State is automatically increased by at least 0.3 percent per year until sufficient revenues have been raised by this additional tax to repay the State's outstanding loan balance.

During the period from 1972 through April 30, 1979, 25 States had to borrow from the Federal Government in order to pay State UI benefits. As of April 30, 1979, 18 States had outstanding Federal loans totaling $5.1 billion.

The current Federal UI tax is 0.7 percent on the first $6,000 of wages. It is paid by all covered, private employers in a State and it is not "experience rated"; whereas. State UI taxes are generally adjusted according to each employer's employment experience. It is this tax that, 2 years after receipt of a Federal UI loan, is increased by at least 0.3 percent per year until all Federal loans have been repaid.

The bill would provide on a permanent basis a repayment procedure, other than full repayment, that would allow a State that had an outstanding loan balance on the last day for full repayment to avoid the automatic increase in the Federal UI tax on employers within the State. H.R. 4007 would permit the State to make a payment to the Federal unemployment account, out of the State's UI trust fund, equal to the full amount that otherwise would have been collected through the automatic increase in the employers' Federal UI tax for the tax year in question. In the first year the State was subject to the additional Federal tax, the amount repaid out of State UI funds would have to be equal to the amount that would have been raised by an increase in the Federal UI tax rate of 0.3 percent (an increase from 0.7 to 1.0 percent under current law). If the State continued to have an outstanding loan balance on November 10 of the following year, the amount repaid out of State funds would have to equal the amount that would have been raised by a 0.6 percent increase in the Federal UI tax rate. In other words, the amount of the State repayment for a particular year would be determined according to the automatically escalating Federal tax rate schedule specified in present law.

Before a State could elect the repayment from State trust funds option allowed under H.R. 4007, in lieu of the Federal tax increase, two conditions would have to be satisfied. First, in addition to the amount that would have been raised by the increased Federal UI tax, the State must repay the full amount of any additional Federal loans made during the 12-month period ending on November 9 of the tax year in question; and, second, there must be sufficient funds in the State trust fund to pay all State UI benefits, without receiving any Federal loans, during the 6-month period beginning on November 1 of the tax year in question.

The permanent State repayment procedure provided under this bill would become effective as of January 1, 1980. A similar procedure, allowed under the temporary loan repayment deferral provisions expires December 31, 1979.

The following is an example of how the repayment procedure provided under H.R. 4007 would work. If on November 10, 1980, Michigan has not completely repaid the loans it received from 1975 through 1977, present law would require that the Federal UI tax rate on employers in the State be increased by 0.3 percent. This increased tax rate would apply to 1980 payrolls, the 1980 tax years, and would be payable in January of 1981. It is estimated that, on the current tax base of $6,000, Michigan taxable payrolls subject to the Federal UI tax in 1980 would amount to $17.7 billion. An increase of 0.3 percent in the Federal tax rate would require Michigan employers to pay additional Federal UI taxes of $53 million. H.R. 4007 would permit Michigan to repay this $53 million to the Federal Government from State UI tax funds by November 10, 1980, thus avoiding the increase in Federal tax for 1980, payable in 1981.

In order to avoid the increase in the Federal tax rate, in addition to the $53 million, Michigan would have to repay by November 10, 1980 the full amount of any loans it received between November 9, 1979 and November 9, 1980. Also, the Department of Labor would have to determine that the State would be able to make these repayments and still have sufficient State UI funds to pay all State UI benefits expected to be claimed during the period November 1, 1980, to May 1, 1981, without having to borrow from the Federal Government.

If on November 10, 1981, Michigan continued to have an outstanding loan balance, it could follow the repayment procedure described above. The amount of the State repayment, however, would have to equal the amount that would be raised by a 0.6 percent increase in the Federal tax rate. In subsequent years, the repayment amount would be tied to the escalating Federal tax rate specified in the loan repayment provisions in current law.

The permanent repayment procedure provided for in this bill would permit States to repay their Federal UI loans in a manner that is least disruptive to the State's economic climate. The primary justification for H.R. 4007 is that it would allow States that cannot afford full repayment of outstanding Federal UI loans the option of making a partial payment, and thereby avoiding the increase in the Federal UI tax on employers. In order to avoid abuse, a State could elect this procedure only if it met the conditions stated above. Under these conditions, only those States with sufficient State funds to make the required repayments, and still have enough remaining funds to pay 6 months of benefits without additional Federal loans, could qualify for the procedure.

It is important that States have the option of using the repayment procedure provided under this bill in order to insure that loans are repayed on a timely basis and that the repayment can be made in a way that creates the least amount of economic disruption.

Funds used to repay Federal UI loans would be collected through experience rated taxes, not flat-rated taxes. Under the current repayment provisions, the automatic increase in the Federal tax is assessed on all employers in the State, regardless of whether the employer has a stable or unstable employment pattern. These tax increases are flat increases; they are not experience rated. Under the repayment provisions of the bill, permitting a State to transfer funds from its trust fund in lieu of increased Federal taxes, the payment from the State's trust fund would be primarily from experience rated tax funds and not a flat tax increase.

H.R. 4007 is preferable to another extension of the deferral period for repayment of outstanding Federal loans. UI trust funds, State and Federal, should

be restored to a self-supporting financial status as soon as possible, and States with outstanding Federal loans should be required to repay these loans in their entirety. This must be done if we are to preserve the present State/Federal financial structure of the system.

Repayment by States that currently have outstanding loans should begin immediately, and should be completed as quickly as the economic situation of the State will allow. The provisions of H.R. 4007 will establish a procedure consistent with these objectives.

I urge my colleagues to vote in support on H.R. 4007.

● Mr. LEDERER. Mr. Chairman, I rise in support of this legislation. Although I would prefer an additional extension of time for the repayment of these Federal loans, I do understand the arguments of the opponents to such another extension. H.R. 4007 would provide an alternative to those States which are unable to meet their loan obligations.

This legislation permits States with outstanding Federal unemployment insurance loans to avoid the automatic reduction in the Federal tax credit for employers by either repaying the full amount of the loan, or by repaying out of the State unemployment insurance funds the amount which would be collected if the reduction in the credit were to take place, plus the amount of any Federal loan received during the year.

However, I must point out for my colleagues that there are some States, and my own State of Pennsylvania is one of them, that will not be able to avail themselves of this alternative. These States still have substantial loans outstanding from the Federal Government. They have higher unemployment rates than the rest of the country. In October of 1979, Pennsylvania's unemployment rate was 7.9 percent compared to the national average of 6 percent. The increases in the unemployment insurance taxes on these States will create a bigger burden and I am not optimistic as to the result.

I would ask my colleagues for some understanding for the situation in these States. Granted some States raised their taxes several years ago rather than borrow from the Federal Government. But the fact remains that some States did borrow and are still not in a position to repay their loans. To ignore these realities will only hurt the employers and, ultimately, the workers in these States. I ask my colleagues for their understanding and cooperation in devising a program for the gradual repayment of these loans by those States with substantial outstanding loan obligations.●

● Mr. ATKINSON. Mr. Chairman, I realize that the Ways and Means Committee, and especially the Unemployment Compensation Subcommittee under the direction of Chairman CORMAN, have put a great deal of effort into the legislation now before us, which would permit States with outstanding Federal unemployment insurance loans to avoid automatic increases in Federal unemployment compensation tax under certain circumstances. I intend to support the legislation as the best approach available to us, but I will support H.R. 4007 with some hesitancy and regret. I would like to take just a moment of the Members' time to explain my concerns.

H.R. 4007 will provide some relief for 12 of the 18 States or other jurisdictions that now owe the Federal Government more than $5.1 billion in unemployment insurance loans. However, it is my understanding that under present circumstances six jurisdictions would not be able to avail themselves of the relief provided in this legislation. These include Rhode Island with an outstanding loan of $103.8 million; Puerto Rico, owing $88.7 million; Delaware, owing $47 million; the District of Columbia, owing $70 million; the Virgin Islands, which owe $10.9 million; and my own State of Pennsylvania. Pennsylvania's situation causes me particular concern since my home State owes the Federal Unemployment Compensation Fund the huge sum of $1.2 billion, the highest of any State in the Union.

To speak of offering relief to States with outstanding loans strikes me as unusual when the State which faces the most serious difficulties will apparently receive no immediate help under the legislation.

I know the committee is aware of these problems and I know the committee was trying to bring a balanced bill to the floor, but I hope the committee will work closely with Pennsylvania officials in the future to continue seeking solutions to the severe problems facing the State.

While I do not favor a complete forgiveness of the funds owed by Pennsylvania and other States to the Federal Treasury, I believe there are a number of creative and equitable ways in which to relieve unjust burdens that have been placed on State unemployment compensation funds. For example, I have discussed with subcommittee Chairman CORMAN the feasibility of forgiving that portion of State unemployment compensation debts attributable to layoffs caused by imports of foreign products. As long as the Federal Government continues to avoid strict enforcement of our trade laws, manufacturing States like Pennsylvania will continue to be at the mercy of subsidized foreign imports and the State will continue to have high unemployment because of those imports. I intend to explore such legislative approaches to this problem in the future and hope the committee will be receptive to examining such suggestions.●

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read.

The bill reads as follows:

H.R. 4007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3302 of the Internal Revenue Code of 1954 (relating to credits against unemployment tax) is amended by adding at the end thereof the following new subsection:

"(f) CREDIT REDUCTION NOT TO APPLY WHEN STATES MAKES CERTAIN REPAYMENTS.—

"(1) IN GENERAL.—In the case of any State which meets requirements of paragraph (2) with respect to any taxable year, subsection (c)(2) shall not apply to such taxable year; except that such taxable year (and January 1 of such taxable year) shall be taken into account for purposes of applying subsection (c)(2) to succeeding taxable years.

"(2) REQUIREMENTS.—The requirements of this paragraph are met by any State with respect to any taxable year if the Secretary of Labor determines that—

"(A) the repayments during the 1-year period ending on November 9 of such taxable year made by such State of advances under title XII of the Social Security Act are not less than the sum of—

"(i) the potential additional taxes for such taxable year, and

"(ii) any advances made to such State during such 1-year period under such title XII, and

"(B) there will be sufficient amounts in the State unemployment fund to pay all compensation during the 6-month period beginning on November 1 of such taxable year without receiving any advance under title XII of the Social Security Act.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) POTENTIAL ADDITIONAL TAXES.—The term 'potential additional taxes' means, with respect to any State for any taxable year, the aggregate amount of the additional tax which would be payable under this chapter for such taxable year by all taxpayers subject to the unemployment compensation law of such State for such taxable year if paragraph (2) of subsection (c) had applied to such taxable year and any preceding taxable year without regard to this subsection.

"(B) TREATMENT OF CERTAIN REDUCTIONS.—Any reduction in the State's balance under section 901(d)(1) of the Social Security Act shall not be treated as a repayment made by such State.

"(4) REPORTS.—The Secretary of Labor may, by regulations, require a State to furnish such information at such time and in such manner as may be necessary for purposes of paragraph (2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1979.

The CHAIRMAN. Pursuant to the rule, no amendments are in order except amendments recommended by the Committee on Ways and Means which shall not be subject to amendment.

Are there any Committee on Ways and Means amendments?

Mr. CORMAN. Mr. Chairman, there are no committee amendments.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NEDZI) having assumed the chair, Mr. GLICKMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4007) to amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States which have outstanding loans will not apply if the State makes certain repayments, pursuant to House Resolution 363, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 402, nays 1, not voting 30, as follows:

[Roll No. 631]

YEAS—402

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Jacobs

NOT VOTING—30

Ambro
Conyers
Crane, Philip
de la Garza
Dodd
Flood
Ford, Tenn.
Garcia
Giaimo
Hansen
Hawkins
Heftel
Holt
Jeffords
Jones, N.C.
Leland
Marlenee
Mavroules
Michel
Murphy, Ill.
Nichols
O'Brien
Ottinger
Stokes
Symms
Treen
Weiss
Whitten
Wylie
Young, Alaska

□ 1410

The Clerk announced the following pairs:

Mr. Hawkins with Mr. O'Brien.
Mr. Ambro with Mrs. Holt.
Mr. Giaimo with Mr. Philip M. Crane.
Mr. Murphy of Illinois with Mr. Flood.
Mr. Nichols with Mr. Hansen.
Mr. Jones of North Carolina with Mr. Marlenee.
Mr. Mavroules with Mr. Michel.
Mr. Dodd with Mr. Wylie.
Mr. Conyers with Mr. Young of Alaska.
Mr. Whitten with Mr. Symms.
Mr. Stokes with Mr. Treen.
Mr. Ottinger with Mr. Heftel.
Mr. Ford of Tennessee with Mr. Weiss.
Mr. de la Garza with Mr. Leland.
Mr. Garcia with Mr. Jeffords.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4007, just passed.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from California?

There was no objection.

WELFARE REFORM AMENDMENTS OF 1979

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4904) to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4904, with Mr. AUCOIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 1 hour, and the gentleman from New York (Mr. CONABLE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, welfare reform is a very difficult and complicated task. The subcommittee, chaired by the gentleman from California (Mr. CORMAN), has worked hard to produce a very responsible piece of legislation.

Fully understood, there is no reason why an overwhelming majority of Members of this body and this committee should not support the bill.

It expands benefits in certain areas, but they are the needed areas to get people off of welfare, and it tightens benefits and administration in other areas.

Briefly, the major provisions of the bill are: First, a requirement to report income more frequently and base benefits on actual rather than projected income; second, a standardization with the food stamp program of certain eligibility requirements, this makes for administrative simplicity; third, a limitation and standardization of earned income disregards; fourth, a national minimum benefit standard; fifth, an extension of coverage to all two-parent families; sixth, an expansion of the earned income tax credit; and seventh, the cashing out of food stamps for SSI recipients.

Mr. Chairman, these provisions will lead to tighter administration and lower error rates.

The payments now will be based upon actual income, not future income.

We end the guessing game as to how much income a family will actually earn during the next month.

Income must be reported on a monthly basis. Too many times we assume that welfare families have a stable income. Nothing could be further from the truth.

In the past we only required that they report income once every 12 months or once every 6 months. Many overpayments resulted. By mandating monthly reporting for AFDC recipients, we will reduce error and reduce welfare payments as a result.

Second, we have tighter eligibility standards. No longer will it be possible for a $15,000-a-year earner with children to receive cash benefits from the AFDC program. Third, a reduction in administrative expense because of greater coordination of eligibility requirements with the food stamp program and the ability for many SSI recipients to receive a small food stamp cash benefit without unnecessary and duplicative benefit-level determinations that we have seen in the past.

Fourth, a more uniform benefit level among the States by requiring all States to set a benefit level at least equal to 65 percent of poverty.

Fifth, increased work incentives and work requirements. There is an economic incentive to always take a job under this bill, and that is not true under current law.

Mr. Chairman, welfare programs have always had work requirements, but it has always been very easy to beat the system. If a person now refuses a job, he will be penalized, but if he immediately agrees to work, full benefits will be restored. This bill makes that penalty for refusing work stick.

The bill strengthens the child support enforcement program by making Federal funds available to collect money on behalf of non-AFDC recipients. Also in addition to that, the bill provides for the collection of support of AFDC adults. This will reduce welfare rolls and welfare payments.

Mr. Chairman, this is a bill that everyone can vote for. Do not be misled by the block grant advocates. They have not demonstrated their case. They were given every opportunity to modify the minimum Federal standards we impose. We need minimum Federal standards. Over 65 percent of the cost of these programs are borne by Federal taxpayers.

We cannot give Federal taxpayer money to the State without some minimum standard. This is not a grand negative income proposal—just exactly the opposite. This is the alternative to a negative income tax or guaranteed income program. It is an incremental approach to solving the problems that afflict our welfare system. This bill strengthens work incentives, toughens up penalties for refusing to work, and solves many of the inequities in our current system. I hope that the Members vote for this modest but very greatly needed program.

I reserve the balance of my time.

Mr. CONABLE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this is a lengthy and complicated bill, which makes dozens of changes in the welfare system. I have problems with what it does and what it does not do.

First, let me talk about what it does not do.

It does not offer States any real incentive or reward to manage their welfare programs more effectively or to target their programs on families in the greatest need. It does not allow States to require welfare recipients, even those in two-parent families, to accept work as a condition of getting welfare. Yes, I know we have been told the bill has a work requirement.

What it has is a requirement that applicants be referred to the WIN program, the work incentive program. This is the program that is supposed to train them, if necessary, and then place them in jobs. Maybe that is what happens on paper, but from what we hear from the States, it surely is not generally what happens in reality. Only a very few get placed, usually those who are work ready and experienced. Mothers with younger children are not required to work, even if daycare is available. When these mothers volunteer, the WIN program cannot handle them. This bill will not permit the State welfare agencies to do what a number of them would like, to set up right within their own agencies, job-readiness training, job referral, supplemented work, and other similar programs to respond to the fact work can be and ought to be provided for a great many potential welfare recipients.

□ 1420

Another thing the committee bill does not permit is a serious pilot test in which even a few States could try their hands at improving their existing welfare programs through benefit variations, eligibility requirements, and administrative changes of their own design. The Federal Government's rules and regulations have not resulted in a program that we can be proud of, and the additional requirements being added in H.R. 4904 are unlikely to do so either. It just might be that the States themselves would be more enterprising in insuring that welfare grants function as a temporary respite for families in distress rather than as a permanent mode of living for some people, and in coordinating public and private services and employment opportunities to help families regain economic independence.

Let me turn now to what the bill does do. It establishes for the first time ever a national minimum benefit. True, this particular bill sets that national minimum benefit low enough, some 65 percent of the national poverty level, so that only 13 States will have to raise their current benefit level in order to comply. I hope no one here thinks that the 65-percent figure will remain forever at that level. Just a few weeks ago I heard Arthur Burns remind us that a few prescient individuals opposed creating a Federal income tax of 1 percent many years ago because they were sure that someday it would become confiscatory. They turned out to be right. I am afraid that I will be right when I say that the national minimum of 65 percent is just the beginning.

This bill mandates States to extend benefits to families with two parents, just the same as they now do for one-parent families. A little over half the States already have this program, and now the others will be forced to join in. In addition, the AFDC–U, unemployed parents program as it is called, is considerably liberalized in this bill. Families will be eligible for welfare, without any waiting period, when the earnings of the principal earner fall below $500 a month. Only if the principal earner refuses work is the other spouse required to register with WIN so that the family can remain on welfare. Last week the Labor Department reported that three out of every five married couples in the United States have both husband and wife working. Yet under the committee's bill we cannot require this of welfare couples.

I understand the philosophy in back of requiring the unemployed parent program. There is some feeling abroad in the land that by giving AFDC only to single parent families we encourage the splitting up of couples that otherwise might remain together. There have been some pilot tests of this theory, and the conclusions are far from clear, that having an unemployed parent program, in fact, helps hold the family together.

Another objectionable feature of this bill is the overly generous nationwide standard it sets on assets and income for the purpose of determining eligibility and benefits. Here are the kinds of assets you will be permitted to have and still qualify for welfare: A house and lot, regardless of its value or your equity in it; a car—only the market value of the car over $4,500 will count toward your limit—note I say market value; all your clothes, personal effects, household items, regardless of their value; in addition to certain other items, cash or other assets up to between $50 and $1,750, depending on the level used in your State.

This is a pretty hard list to defend. It is virtually an invitation to welfare dependency in many areas of the country. It may well make it impossible for States to deny welfare benefits to strikers, among others.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CONABLE. Mr. Chairman, I yield myself 5 additional minutes.

The cost is the last item in the bill I will single out. In fiscal year 1982, the first fully effective year of the bill, the cost of AFDC will increase by $1.8 billion. Fully half of this amount—$900 million—will be for "fiscal relief" to the States, not for increased benefits to welfare recipients.

That is an interesting point, Mr. Chairman. Of this sum, there are a number of components. One is additional emergency relief which provides, in fact, fiscal relief to the States. Also an increase of the Federal matching from 50 to 55 percent. Other items are included in this fiscal relief, but the problem with fiscal relief is we have no assurance that the additional money it is costing the Federal Government, in fact, will benefit the recipients, the poor people for whom the program is designed in the first place.

It may take some pressure off State budgets, but is that the purpose of this measure? I am not sure that it is.

The "low" cost of the entire bill—just under $3 billion—is cited as evidence that this bill is just an incremental improvement, not a major reform. I will say in that respect this is a more honest bill than the one proposed by the administration last year when there was a wide variance in the estimated cost of the bill. Everything I have seen confirms that the administration estimate of the cost of this measure by itself is somewhere around $3 billion. Welfare is one of the few areas where a $3 billion price tag could be considered modest. But what is most important than the cost per se is what the funds will be used for: increased Federal sharing of State welfare costs, mandated nationwide eligibility and benefit levels, and increased welfare rolls, mostly through the increase in the unemployed parent program which has been optional up until now and now will be mandated.

The bill leads the welfare program, in my opinion, in the wrong direction. It moves us several steps closer to the uniform, national income redistribution program sought by many who have been active in the welfare area for a decade or longer.

As an alternative, Republicans on the committee have been supporting the block grant substitute for Title I of the committee bill. This substitute would keep the focus of the welfare program on the States. It would reward them for a tight, well-run program. It would require that the block grants be spent subject to the existing rules and regulations that govern the program today—with only one exception. Under the block grant States would be permitted to impose work requirements as a condition of welfare eligibility. It would provide a billion dollars in fiscal relief. It would make $400 million available to low-benefit States to be used by them solely for the purpose of bringing their benefit levels up to 65 percent of poverty rather than mandating that. It fully indexes the block grant to keep up with inflation, population changes, and periods of exceptionally high unemployment. After 1986 the block grant is indexed at a rate of 2 percent less than inflation. Any savings realized by the State could be used for other social welfare purposes such as social services. Finally, the amendment allows up to 10 States, if they wish, to try using the funds to tailor their welfare programs more effectively to the needs of citizens in their States through 5-year demonstration projects.

I urge my colleagues to look carefully at the full impact of what the committee bill would mean for the future of welfare in the United States. Then look carefully at the substitute to title I. I urge you to join me in voting for at least a test of block grants.

Some variation of this is likely to be offered as the Republican motion to recommit. Since we are accepting this bill, we have already accepted the rule for the bill which does not permit amendments generally.

Mr. CORMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. HALL).

Mr. HALL of Ohio. Mr. Chairman, we have long sought remedies for the abuses, complexities, and inconsistencies that plague our welfare system. The effort to restructure this system has become a compelling national priority.

We have noted the contradictions of some welfare families eating on $1 per day while others reap excessive benefits. Although many initiatives to rectify the problems of our public assistance programs have been launched over the last decade, none has ever been implemented. Today, at last, we have a chance to break the impasse over welfare reform.

Mr. Chairman, I rise in support of H.R. 4904, the social welfare reform bill. I do so in the knowledge that this is a vehicle for true reform—that this is our opportunity to address the key problems at hand.

Our welfare system is inundated with overlapping guidelines at each level of Government. The incongruity existing in rules and regulations has resulted in the emergence of a program that is both frustrating and costly to operate. This reform measure will streamline the administrative processes by: First, standardizing and simplifying eligibility and benefit computations; second, providing aid to States for modernizing administrative procedures; and third, improving the certification and reporting requirements. As a result, the error rates—which constitute a large portion in the cost of operating the programs—will be reduced.

Additionally, the bill is responsive to individuals who demonstrate a legitimate need for income assistance. Because each State is responsible for implementing welfare benefit levels, there exists, from State to State, a wide variation in the amount of assistance provided program participants. H.R. 4904 would enlist a national minimum benefit level for those individuals receiving aid, and simultaneously stimulate the growth of job training and employment opportunities.

The bill is the product of comprehensive study. It is a thoughtfully designed, well-balanced, and affordable approach to improving our public assistance programs.

We are all agreed that our welfare system is in need of reform—this is a reality; we cannot dream it away. We are however, given this opportunity to revitalize the program and I urge your support in this effort.

□ 1430

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I rise in opposition to the legislation.

Mr. Chairman, during the debate on the rule, in which I had 1½ minutes assigned to me to debate against the rule, I tried to express some of the problems that we have, particularly in the State I come from, which is New York State. I mentioned at that time that I had spent many years in the State legislature as one of the veteran members of the welfare committee and a veteran member of the ways and means committee which funded our welfare programs. I talked about the fact that our State taxpayers are saddled with an unconscionable welfare burden in our State. I said that we just did not have the money to help those people who truly needed help. I talked about many of the reasons.

Mr. Chairman, there are many Members in this House who are like myself, on both sides of the aisle, both Republicans and Democrats, who have had immediate past experience in dealing with the problems of welfare in our various States. Yet, the rule that was reported to this House allows no meaningful debate on the issues so that we can bring our expertise that we have to this floor.

I mentioned that one of the last bills I passed in the New York State Legislature allowed us to deal with a problem which causes more fraud, abuse and illegal welfare payments than any other. It is prevalent throughout this Nation. That is the fact that we have fathers in this country who have deserted their families, and it becomes a tremendous burden on all the people of this country. We passed legislation which allowed us to track these deserting fathers within the State of New York so that we could identify them through the New York State income tax filings.

Because we were only able to locate about 10 percent of those people, we have nearly a billion dollars in waste through fraud, cheating, abuses—either intentionally or unintentionally—in our State. The rest of these fathers, the other 90 percent, have gone to other States like California, Ohio, Illinois. We have no way of tracking them. If we could have had meaningful debate on this floor and had the benefit of offering amendments, it would be very simple to track these fathers who have deserted their families through either social security numbers or Federal income tax filings, and we could solve many of the problems. If we could recover the $7 billion nationally that is lost through these abuses, we could truly help those people who need help.

Other than being in favor of the block grant system because the States do know best how to deal with their own particular problems in the country, I think that whether we are for the block grant system, as I am, or whether we are for the bill or against it, I really think that we ought to defeat this bill today so that it can be brought back under an open rule, so that we can get the expertise from all these people on that side of the aisle as well as on this; so that we could have some real welfare reform in this country that is going to allow us to help the people who have need of it. Other than the reasons previously mentioned, let me point out three very valid reasons to vote against this legislation:

First. It increases spending by $3.2

billion annually with no revenues to cover this deficit spending, thereby fueling the unconscionable inflation now gripping this country.

Second. It allows the head of HEW to prohibit existing or future welfare programs implemented by the States.

Third. It establishes a guaranteed minimum income regardless of need, which will further diminish productivity and discourage the "work ethic" so badly needed in this country today.

I urge defeat of the bill.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, I respectfully submit to the gentleman that the information concerning income taxes has been available to the States for several years. We expanded the bill to allow access to wage information from the Social Security Administration. The gentleman's point is well made. I hope his estimate of what we will recapture is closer than the CBO estimate. They said $170 million, and the gentleman said $7 billion. I am sure we could use the $7 billion if we could find it.

Mr. SOLOMON. I would be glad to help the gentleman find it if he would allow my amendments to be attached to the bill.

Mr. CORMAN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, there is no question that probably the biggest problem in New York and on Long Island in particular is the overbearing rate of property taxation. A large portion of that property tax goes to support a welfare system. In my county of Suffolk, fully half of the county's bill is to support medicaid and AFDC.

While this bill does not address one of the critical questions I wanted to see addressed, that being the formula for AFDC, it does address other very important issues of establishing a national minimum standard for welfare; providing for aid for two-parent families, and also to provide block grants for emergency assistance. In a State like New York, where we have been generous with welfare benefits, it is important that the rest of the country recognize that this is a national problem. No longer can States pass residency requirements. The Supreme Court has spoken clearly on that.

This bill is a compromise between many competing interests, those who would like to see more workfare and those who would like to see greater payments to the States. I want to congratulate the chairman for charting our actions to have a very reasonable crossing over some real rough waters. The subcommittee deserves the support of the full Congress. This is a modest proposal that corrects inequities and provides moneys to States and localities that really do deserve it if we are to have a national system with national standards. I want to commend the gentleman, and I hope that the rest of the House of Representatives will support this bill overwhelmingly. It is the first, very big step towards meaningful welfare reform, which will in turn, for the citizens of New York at least, will remain lower property taxes over time.

Mr. Chairman, I rise in support of H.R. 4904, the Social Welfare Reform Amendments of 1979. I had the opportunity to play an active role in the formulation of this legislation as it proceeded through the Committee on Ways and Means, of which I am a member. I believe that this legislation is a step in the right direction both in terms of equity for recipients and providing fiscal relief for State and local governments. Although I feel that we have not addressed some very critical issues that the Congress must confront, this legislation should be supported for the progress it has made in reforming the welfare system while maintaining fiscal responsibility to the taxpayers of this country.

I would like to briefly mention some of the major provisions of this legislation which I believe help alleviate many of the inequities in our current welfare system. First, the bill establishes a national minimum benefit level of 65 percent of the poverty standard by October 1, 1981. Although my own State of New York has been one of the leaders in supplying adequate financial benefits to help its poor, there are still 13 States in the Nation that fall below this poverty standard in financial assistance. This provision would begin to reduce the differences between States in their cash assistance payments while also helping many of the poorest families in our country.

H.R. 4904 also makes aid available nationally to two-parent families. Once again, New York already has a program, but this provision would expand coverage to include 24 States which do not have this program. However, even in New York, this mandated coverage will expand the State's own AFDC–U program. In addition, Federal participation in the program would be increased to 65 percent with States paying only 35 percent.

This fiscal relief for New York when combined with increasing the Federal matching rate from 50 to 55 percent for the AFDC single parent program would mean $50 million extra dollars for the State based on 1982 AFDC expenditures.

In addition, the legislation also provides a block grant to States for emergency assistance programs. Although New York currently receives Federal support for their program to meet the emergency needs of poor families, this provision will increase that Federal support by $14 million.

While these provisions do provide increased Federal support, the legislation still does not fully address Federal financial participation for State's general assistance caseloads, which are one of the primary factors in the escalating rise in property taxes.

An important step in Federal funding for needy persons now solely the responsibility of State and local governments was taken in the bill. However, Federal requirements that kept young families, with no job experience, from receiving Federal aid were overturned. Currently New York and its counties pay for assistance to these families.

The bill does, however, mandate that States pass through a localities portion of the fiscal relief equal to the percentage that local government pays for AFDC expenditures. This section of H.R. 4904 will especially help the taxpayers in my own district of Sulfolk County, whose local taxes to pay a portion of AFDC benefits to its poorer residents.

Finally, the welfare reform amendments does not touch upon one very crucial area, that is, the inequities in the current AFDC formula. During the consideration of this measure in the Subcommittee on Public Assistance, I supported the Javits-Rangel proposal because I believe it is a fairer formula than the one currently in existence. This current formula was adopted in 1958 and while economic conditions have changed this formula has remained the same. However, using per capita income is no longer a true test of an individual's real income, because per capita income inherently neglects cost of living differences in various regions of the country. This factor is compounded when we consider the tax base and transfer payments. In effect, States are penalized for trying to provide their poor with decent financial assistance, while the taxpayer has a bigger bite taken from his paycheck, simply because he earns more to close the cost of living gap in his area. However, I am pleased that the Chairman of the Subcommittee on Public Assistance, my friend, JAMES CORMAN of California, has agreed to hold hearings to explore these inequities.

H.R. 4904, nevertheless does make substantial progress in making our welfare system a real "system" with uniform standards. In addition, it gives fiscal relief to States at a time when their welfare costs are escalating due to inflation, unemployment, energy, et cetera. It is a beginning and one I urge my colleagues to support.

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I sincerely wish that I could be here doing something else other than speaking against a welfare reform bill, because I think it is well known across the Nation that the American people do want some kind of welfare reform to take place but not the big spending approach taken in the bill before us today. They have some specific ideas as to what they think should be done to bring about true welfare reform in this country. Really, what I wish is that we had an alternative, because there are some competing views in this country about what constitutes real welfare reform.

We have the incremental approach as proposed in the committee bill. We also have the approach to welfare reform which takes a radical new step in trying to bring us back toward tighter eligibility and toward work requirements, the

kind of thing I think most of the American people say they want in the area of welfare reform.

□ 1440

I am speaking against the bill here today because this bill does not propose tough eligibility criteria and tough work requirements. This bill is an incremental bill. I agree that is precisely what we have. But when you have an incremental bill, you are incrementally moving toward something, and that is precisely the problem. We are incrementally moving toward a more federalized system in welfare, and I think that is precisely the opposite direction from which we should be going. That is the reason why the proponents really do not want to talk about this bill as being a guaranteed national income bill, which in fact it is. It is guaranteed; it will be national; and it will provide a standard national income that is, in fact, a guaranteed national income. That is what we are getting with this bill, and that is the direction in which we are going to move if this bill is permitted to become law with its ever increased steps toward federalization.

Why do I say it is a guaranteed national income? Take a look at what we are setting as a standard—65 percent of the poverty level as a national standard. That is really, I think, a base of income which has to be paid across this country to welfare recipients. That is a national income. It is guaranteed to anybody who gets into the system and begins to collect the welfare benefits. It is a problem because what we have shown in experiments that we have paid literally millions of dollars to conduct in this country, primarily the Seattle-Denver experiment, is that we get people who work less, and we have even the breakdown of families when we have a guaranteed national income in effect. So really the proponents do not want to call it by its real name, but the end product of this legislation is a guaranteed national income.

I think something different should have been done. The House should have had an alternative to move in a different direction. We do not have that alternative, even though it was offered in the committee. The Rousselot-Conable-Jones bill was offered in the committee. We are not allowed to consider it on the House floor, which really would have been an opportunity to deal with some of these issues of which I speak. Why is it important to deal with these issues? Why are the American people really disgusted with what they see happening in welfare now?

I think we got a pretty good indication of the issues and the disgust not too many weeks ago when the welfare reform task force that the Republican Research Committee has put together—which I am privileged to chair—held hearings. Those hearings were to take a look at one narrow area of welfare abuse, but it is a very serious area when you consider what we are talking about. We looked at one violent subculture, a group of outlaw motorcycle gangs across this country. We had testimony that thousands of motorcycle gang members are ripping off our present welfare system.

What we are doing with this bill is incrementally moving in the direction of supporting that system, the very system the gangs are systematically ripping off. How do we know? Law enforcement officials who testified that day said in nearly every case where they pick up one of the outlaws for criminal activities, they find not one welfare card in their possession but sometimes two or three welfare cards.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding. I appreciate the point the gentleman is making as to the testimony that was taken relating to the criminal element in the motorcycle gangs, and how those who are now testifying to try to show the substantial criminal element that exists in some of those motorcycle gangs all admitted very openly that it was terribly easy to get on welfare.

Mr. WALKER. That was the testimony we heard.

Mr. ROUSSELOT. It was simple, and they did not need the money; it was supplemental income. It was terribly easy to get into the program except in a few States where they had tough work requirements and other things that made it more difficult to get a card or to get into the system. Is that not correct?

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONABLE. Mr. Chairman, I yield 2 additional minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding.

The gentleman from California (Mr. ROUSSELOT) makes a very good point. That is precisely what the testimony was. We heard, for instance, from a young lady who had ridden with a motorcycle gang as one of the "old ladies" of the gang for several years. She said in some of the States she had not been able to get welfare because the State requirements were so tough. But then we also heard from a former gang member, a former gang leader of one of the largest motorcycle gangs, if not the largest in the country, the Pagans, who said it was extremely easy, that throughout the Northeast the gang members were constantly on welfare and not in just one State but in several States. His testimony was that one of the things that was the easiest for the gang to do to get some "legitimate" income was simply to go to the welfare office and get themselves eligible and begin collecting benefits from the taxpayers.

Mr. ROUSSELOT. If the gentleman will yield further, one reason we wanted to make the new requirements tougher, but the House would be denied the opportunity to debate that because of this closed rule, is that this legislation we are fearful will make it easier and certainly put more of the control at HEW, or whatever they call the new agency—Health and Welfare or Health and Human Resources. Then it will really make it easier in many cases to do exactly what these gangs were doing.

Mr. WALKER. I thank the gentleman for that observation. That is the point I am trying to make. When you guarantee national income, when you basically give an entitlement, you are entitling money to precisely this kind of criminal element. They are now eligible for the money because the present system has not worked and this bill means they would get more. I think that would be the wrong kind of incremental step to take in welfare, and we drastically need to revise the direction in which we are going so that the States can begin to take actions against the kind of criminal elements that we now know are engaging in massive welfare fraud across the country.

Mr. ROUSSELOT. So actually the House by a closed vote decided to slam the door shut on any possibility of amendments and we will not be able to improve the legislation to protect against that kind of abuse.

Mr. WALKER. Yes. The gentleman is quite correct.

Mr. CORMAN. Mr. Chairman, I yield 10 minutes to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Chairman, of all the programs operated by Federal, State, or local governments on behalf of their citizens, none are more widely misunderstood than those having to do with public assistance.

Before proceeding with a discussion of H.R. 4904 and why I support it, I want to just briefly touch on some basic facts about our welfare system.

There are approximately 14,700,000 Americans receiving aid to families with dependent children or supplemental security income. Of this total, fully one-half are children under the age of 18. Two million are elderly poor persons. Two and one-quarter million are blind or disabled. This leaves 3.5 million recipients who are adults in families with needy children. In over 80 percent of the families receiving AFDC the father is absent. Around 15 percent of the mothers are working full or part time and another 10 percent are actively seeking work or are in job training.

As of September 1978, the average AFDC monthly payment per family was $252.38 per family or $83.58 per recipient. In my own State of Georgia these figures were $106.61 per family or $38.96 per recipient.

These two basic sets of figures, concerning the characteristics of welfare recipients and benefit levels, illustrate two major misconceptions about H.R. 4904.

First of all, this legislation will not change the basic composition of the public assistance population. The bill will not guarantee an income to all, but only to needy children and their families, the elderly poor, the blind, and the disabled.

Second, the benefit floor set by H.R. 4904 is a very modest one. Only 13 States are currently providing benefits below this level. In my State, which is one of those 13, passage of H.R. 4904 would provide an average monthly AFDC benefit per family of $248 per month on January 1, 1981—or $4 less than the current national average. In October 1981 this would increase to $295 per month, or $3,540 on an annual basis. My friends with the cost of basic necessities like food, energy, and shelter—which comprise such a high proportion of the budgets of the poor—escalating so rapidly, I do not think that anyone can reasonably contend that this is excessive.

The bill now before us, the Social Welfare Reform Amendments of 1979, is not a comprehensive rewrite of our welfare laws. It is not a final decisive battle in the war on poverty. It is an exercise in political reality, in the art of the possible. It is a carefully crafted package consisting of some increase in benefits, a tightening of program administration, and fiscal relief for State and local governments.

On the benefit side, H.R. 4904 expands the earned income tax credit available to low-income wage earners who have dependent children. It would increase the allowable credit from 10 to 11 percent of the first $5,000 in earnings. Thus the maximum credit would be $550, and it would be phased until being eliminated entirely for families with incomes over $11,000.

The current optional program of providing assistance to needy families in which the principal wage earner is unemployed, and for whom no job is available, would be extended nationwide.

A national minimum benefit standard of AFDC plus food stamps for eligible recipients would be set at 60 percent of poverty on January 1, 1981, rising to 65 percent of poverty on October 1, 1981.

Administratively, H.R. 4904 tightens and streamlines the eligibility process for AFDC, insures that welfare payments are based on actual rather than projected circumstances, coordinates administration of the food stamp and AFDC programs, and takes into account all of the income available to a family applying for welfare in determining eligibility and benefits.

Specifically, the bill provides for: a standardization of work-related expense deductions for recipients; a consolidation of definitions and standards between AFDC and the food stamp program; a requirement of retrospective budgeting and monthly reporting; an increase in Federal support for administrative improvements and innovations; and an authorization for States to prorate certain expenses in the case of AFDC children living with a nonlegally responsible adult.

Taken together these changes should substantially improve the efficiency of welfare administration and reduce error rates. The result will be a program better suited to meet the needs of those legitimately entitled to aid, while at the same time providing a less wasteful and more effective use of taxpayer money.

The third major portion of the package concerns fiscal relief for State and local governments.

H.R. 4904 provides increased Federal support for State and local welfare costs by insuring that no State will pay more than 95 percent of its current AFDC costs through fiscal year 1986. After that, there is an additional 3-year phaseout of this "hold harmless" provision. In addition the Federal matching rate for AFDC is increased by reducing the State share by 10 percent beginning on January 1, 1981. Finally, $150 million is to be allocated to the States in fiscal year 1981, based on AFDC caseloads, in order to assist States in implementing the changes proposed in H.R. 4904.

I would like to take a moment to specifically address my southern colleagues. Of all those who would benefit from enactment of H.R. 4904, no group would stand to gain more than the working poor who live in our States, and especially those who reside in rural areas.

There are 10½ million poor people living in rural America and this represents over 40 percent of the Nation's entire poverty population. Furthermore, a majority of the rural poor live in 13 States—all but two of which—Arizona and New Mexico—are in the South.

But despite the fact that the incidence of poverty is disproportionately higher in Southern and rural areas, fewer of the poor in those areas receive aid from public assistance programs and those who do receive some aid generally are given lower benefits. I think it fair to say that the current welfare system is highly discriminatory against the southern working poor.

H.R. 4904 contains a number of provisions which will benefit these people, who are generally the poorest of the poor.

A low benefit disregard is provided for those in low-benefit States who have little or no income. It grants a special incentive for work effort in States where benefits are lowest. Since the rural poor are concentrated in our States and since they are more likely to be underemployed rather than unemployed—57.5 percent of low-income family heads in nonmetropolitan areas are in the work force compared to 45.3 percent in metropolitan areas—this measure will obviously assist the southern and rural working poor.

The expansion of the earned income tax credit, the establishment of a national minimum benefit standard, and the extension of the AFDC-unemployed parent, will all similarly benefit the southern poor.

I would next like to comment on one of the major concerns raised about the social welfare reform amendments: The question of work incentives. Even though the subject of jobs and work incentives is more directly a part of the companion measure to H.R. 4904, the Work and Training Opportunities Act, which is now being considered by the Education and Labor Committee, the bill before us today is very clearly prowork.

By providing for a more gradual phase out of eligibility and benefits as earnings increase, H.R. 4904 insures that a person will always be better off by earning an extra dollar. Second, the work incentive (WIN) program is strengthened by providing for direct Federal reimbursement for work expenses incurred in the program. Third, the expansion of the earned income tax credit will obviously provide an additional work incentive.

H.R. 4904 also restates the work requirements in current law. Under the committee bill, a recipient would have to register for employment and training under the WIN program unless he or she is: Under age 16 or attending school full time; ill, incapacitated, or of advanced age; located too far from a WIN program to effectively participate; required to remain in the home because of illness or incapacity of another household member; a parent or other relative of a child under the age of 6 who is caring for the child; and two other very limited exemptions.

Under H.R. 4904's AFDC–UP program, the entire family would become ineligible for benefits if the principal wage earner refused employment, unless the other parent agreed to comply with the work requirements.

H.R. 4904 is a good bill. It deserves your support. I urge you to vote against the motion to recommit and in favor of final passage of the committee bill.

□ 1450

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I rise in opposition to H.R. 4904.

I wish to add a few words of skepticism and caution to this debate.

It seems to be extremely difficult to work out welfare reform legislation that is politically marketable. A well-known cartoon comes to mind. There are caricatures of each President since Harry Truman, saying one by one, "The time has come for significant welfare reform."

While the members of both the Ways and Means, and the Agriculture Committees should be commended for their prodigious efforts, it strikes me that in attempting to make this an attractive bill, we have gone too far in offering fiscal relief to the States.

I think all of us have heard from the National Governors' Association, as well as our State and local welfare administrators, about the positive aspects of this bill. The provisions for fiscal relief under H.R. 4904 are ample. Taken one by one, each of these provisions may have its own pertinent justification. In total, I believe we have gone overboard.

One new section, added to welfare law under H.R. 4904, is entitled "Limitation of fiscal liability of States: Hold harmless." This section states that beginning in 1981, and continuing through 1986, a State would be held harmless for the amount by which AFDC expenditures—plus the increases in medicaid and administrative costs caused by AFDC caseload growth—exceed 95 percent of the 1979 level of State expenditures for AFDC.

Another section establishes a Federal block grant program, to assist States in meeting emergency needs of families with children. These are funds to help out in floods, fires, accidents, disasters, "uncontrollable, unpredictable or nonroutine events."

The allocation for these block grants is set at $200 million to be shared among the States, and would be adjusted annually for changes in the Consumer Price Index.

This bill also provides that, beginning in 1981, the States' share of AFDC and AFDC–UP costs would be reduced by 10 percent. In October 1981, the States' share of AFDC–UP would be reduced by an additional 20 percent. For example, as of October 1, 1981, New York State's share of AFDC would be reduced from 50 to 45 percent and from 50 to 35 percent for AFDC–UP.

Now the sum of these fiscal relief provisions represents some very shaky public policy, all in an attempt to win support from the States.

In the limit to States' fiscal liability, the hold harmless provision—we are not even talking about holding the States to their 1979 levels of expenditures, but rather to 95 percent of this past year's outlays.

The emergency assistance funding through block grants offers additional fiscal relief to the States.

Finally, the increasing share of AFDC expenditures that the Federal Government would be obligated to assume under H.R. 4904, skews the balance of the previous Federal-State partnership in our welfare system.

We are providing the States with more than a cushion for "uncontrollable, unpredictable or nonroutine events." We are, in effect, ignoring the hue and cry across the Nation for decreasing the role and size of the Federal Government.

I urge my colleagues to vote against this bill.

□ 1500

Mr. CORMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 4904, the Social Welfare Reform Amendments of 1979.

Although this legislation is not the comprehensive improvement of the public assistance system that has eluded Congress for at least a decade, it is a promising start toward that essential goal. And while H.R. 4904 is not without some serious flaws, I believe that on balance it is truly a reform measure—one that merits the support of my colleagues.

The legislation includes important assistance for both the poorest welfare recipients and for States and localities staggering under the financial burden which our present funding formulas place on them.

Perhaps the most progressive feature in the bill is its establishment of a national minimum public assistance payment of some $4,700, including food stamps, for a family of four. I wish to emphasize that this is not an adequate income level for any family in the United States since it guarantees only that grants will equal 65 percent of the official poverty line. Future welfare reform measures should set income floors which lift recipients above the poverty line, but for now the $4,700 figure does represent a larger income for public assistance families living in 13 States. This does qualify as an improvement over the current system and it does create the basis for a more adequate income standard for all recipients.

I also strongly endorse the provision in the legislation which will provide fiscal relief to States and localities. Again, the 10 percent increase in the Federal share of payments for the aid to families with dependent children (AFDC) program is not sufficient to meet the pressing and long-unaddressed needs of States like New York. When fully implemented in 1982, H.R. 4904 will provide welfare payment savings to New York of $130 million. True, this is only a modest improvement given the $1 billion cost New York bears. But it does lay the foundation for a more equitable sharing of the financial responsibility for what is essentially a national, not a State or a local matter.

These amendments help poor people in another way by mandating that every State provide assistance to eligible persons under the AFDC–UP (unemployed parent) program. Currently, only 26 States and the District of Columbia give aid to two-parent families in which the principal wage-earner is without work. Such a situation has long been an incentive to family disintegration, and I welcome the legislation's attempt to encourage family stability and to recognize that so-called intact families may also require public assistance at times.

Other commendable features in the bill include an allocation of some $200 million for creation of an emergency assistance program in all States and an expansion of the earned income tax credit which will help poor people retain their jobs rather than turning to public assistance. The legislation likewise contains a few beneficial modifications in the supplemental security income (SSI) program for older, disabled, and blind persons.

I will also, Mr. Chairman, support the amendment to H.R. 4904 being offered by the gentleman from Vermont (Mr. JEFFORDS). This provision would give States the option of paying cash in lieu of food stamps to persons 65 and older eligible for the stamps and not participating in SSI.

As I noted at the outset of these remarks, this legislation is not a flawless measure—even in the context of a limited reform. It would make some adjustments in eligibility determinations for AFDC which will hurt poor people and probably prevent some needy individuals from receiving a fair share of assistance.

The most objectionable feature in this regard is the move to change the computation period for assessing eligibility from a measurement of future needs to an accounting of previous months' income. This alteration will allegedly save money, but only at the price of penalizing people with seasonal employment. An individual or family will no longer, under this provision, have welfare eligibility measured in accordance with what will not be earned in the future but rather in relation to what was earned in the past. This is an unfair and unnecessary requirement. On the whole, however, I do support H.R. 4904. I sincerely hope that passage of this legislation will not lull the Congress into complacency concerning the major and unresolved problems and injustices in our welfare system. Instead, I urge my colleagues to regard the Social Welfare Reform Amendments of 1979 as a basically sound beginning in the continuing effort to provide decent benefits to all poor Americans.

Mr. JONES of Oklahoma. Mr. Chairman, I am going to vote against this so-called welfare reform bill. However, I am not going to take much time of the House or the committee during this debate. When we were unable last week to open up the rule to allow at least two or three amendments to be offered, I recognized the political realities that the votes were pretty well greased to pass this bill.

However, I still believe that passage of this bill in its present form without allowing for amendments is a mistake which we will regret, especially in the next few years when we are called upon to try to balance the Federal budget.

Make no mistake about what we are doing in this bill. We are marching down an irreversible road to completely federalizing America's welfare program. Personally, I believe that is a mistake. Through that well-used enticement of more Federal funds, we are taking away the responsibility of the States. We are also taking away the potential imagination and innovative solutions which the States might bring to straightening out what some call the welfare mess. By passing this legislation, we are saying that we have more confidence in developing a growing HEW bureaucracy than we have in State and local officials.

The policy established in this legislation runs counter to another new policy of the Carter administration with regard to civil service pay reform. The administration is telling us that civil servants should be paid on the basis of regional economic differences; yet this legislation establishes a national standard for welfare benefits and it says that the Federal Government will pay for all of this new cost. In other words, we are establishing a new Federal entitlement program, another uncontrollable item in the already largely uncontrollable Federal budget. If we continue piling on more and more entitlement programs on to the Federal budget, it will be virtually impossible for us to respond to the overwhelming majority of Americans who are demanding tight fiscal policies.

My other principal concern with this legislation is that there is no strong work incentive or requirement included in this bill. All that is required is that able-bodied welfare recipients must sign up for a job, but there is absolutely no requirement that those who are mentally or physically able to work must do so in order to receive welfare benefits.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I would be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I know that my colleague is familiar with this provision.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. JONES) has expired.

Mr. CONABLE. Mr. Chairman, I yield 2 additional minutes of my time to the gentleman from Oklahoma.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. JONES of Oklahoma. I would be happy to yield.

Mr. ROUSSELOT. Mr. Chairman, I thank my colleague for yielding.

Could the gentleman explain why the provisions in this bill do damage to work requirements, because as the gentleman knows, the advocates have been saying, "Don't worry, it's all taken care of. There are strong work provisions in here."

I think that is important for the Members of the House to know. As the gentleman knows, we tried in committee to strengthen it. We lost by but a few votes and the House has been denied the right to vote on that issue, which is terribly important.

Would the gentleman explain that?

Mr. JONES of Oklahoma. Well, as I said, all that this bill requires is that able bodied persons sign up. It does not require that a job be taken in order to receive the benefits. We had in my home State a strong work requirement program that provided a great deal of dignity to those who were wanting to learn a trade and the ability to earn their own way and then to take that job. It was working well and basically our State was told by HEW that they could not continue with this.

During the committee markup of the legislation when this question of work requirement came up, a smokescreen was thrown up that there was a strong work requirement and yet when we posed this question to the HEW people who were at the committee, basically it came down to the fact that you may not have a meaningful work requirement. I think that is a major deficiency in this bill.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman explaining that, because people have been led to believe in this House that there is, in fact, a strong work requirement in the bill and there is not.

Mr. JONES of Oklahoma. Well, I regret very much that we did not have a rule that allows some amendments to be offered so that we could experiment in some States with block grant programs to try different kinds of solutions to the welfare problem. That is not the option before us today. The only chance we have of experimenting is to vote down this particular bill and to go with the Rousselot substitute on a motion to recommit. That will at least allow us to have eight States experimenting with alternative solutions to welfare.

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I rise in opposition to this legislation and also to the manner in which it is being considered.

I do not think anyone can tell us that this legislation is exactly the byproduct of any sort of consensus, as we have just noted in the remarks from the distinguished member of the majority party, the gentleman from Oklahoma. It came out of the Committee on Ways and Means by a vote of 21 to 14 and only last week this House voted only by a margin of 202 to 181 to even debate the legislation. I think that this places a premium on our rejection of the legislation, particularly because of the manner and the gag rule under which we operate here today. Only one amendment, and a relatively minor one is made in order. All other amendments that came before the Committee on Rules were rejected and only in the motion to recommit which allows a brief time for debate is the minority substitute to be made in order.

It strikes me as rather strange, frankly, that we should be sitting on this rather crisp autumnal afternoon debating one of the major political issues that we have faced in this Nation in recent years and fewer than 20 members are here to debate it. In fact, we have more members of the staff of the Committee on Ways and Means present than we do of the committee itself.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. No, I do not yield at this time.

It seems to me that I have repeatedly had the question put to me as I travel in my district; Why cannot those who obviously need help, why cannot they get it from our system of welfare?

But many more times the question is, "Why was I in the line last week at the supermarket and saw people with food stamps buying things that I cannot afford and driving off in automobiles that I couldn't ever possibly finance with my paycheck; my wife and I both work and the kids sometimes work?" How do you respond?

Now, we do have people in this country who badly need assistance and the system often cannot provide it. But we also realize that the great mass of taxpayers who pay for welfare are carrying a great burden. All else will be academic if the taxpayers cannot afford to carry the burden of taxation, and already they cannot do so. That is why people complain so much about the welfare system, not that Americans are mean and stingy and do not wish to help those truly in need, but because they know that there has been fraud, abuse and waste to the tune of many billions of dollars, as admitted by the Secretary of HEW.

We have heard for lo these many years repeated calls from the leaders of both parties for welfare reform. So what are we given today? No, it is not reform. It is not reform in any sense. It is, in fact, precisely what the welfare lobby wants and I dare say that most of the people who need welfare do not even know that they have a National lobby, a built-in network in this Nation that demands ever increasing amounts of spending for welfare.

Why do they want this bill? Because for one thing for the first time it sets a national minimum for AFDC payments of 65 percent, for instance, and they admit that this is just a foot in the door. In future years they will come in and demand up to a 100 percent or more for a National minimum, for all we know. This bill also extremely liberalizes assets limits and does not count some of the holdings that people may own and therefore the bill makes greater numbers eligible. The bill federalizes welfare and takes out of the State's hands the ability to control much of the welfare system, States that are subjected to pressures from property taxpayers and others. It is the beginning of a guaranteed annual income.

This bill will take the pressure for holding down welfare off the State politicians and allow a concentrated national pressure to be applied to Congress. I have a telegram here from the Honorable Harry Hughes, Governor of Maryland, saying that while he does not like everything in the bill, it will mean for Maryland $5 million more for State and local costs of the AFDC program, $9 million for the earned income tax credit program to Maryland, cashing out of food stamps will mean $5 million to Maryland.

□ 1510

The Governor does us somewhat of a disservice, and so do the proponents of the bill, pretending that Federal tax dollars come from some other place than the taxpayers of Maryland and the other 49 States. All we do is shift the money to Washington and take off more for the Federal overhead and then send back a shrunken dollar. We are obviously not getting anything out of this bill for Maryland, and obviously none of the other States are getting anything out of its except increased taxes at the Federal level and more inflation which also hurts the poor the most.

This bill is going to cost taxpayers billions of dollars more, and those who are truly concerned with welfare reform contend that it does not provide us with a true work requirement which I think we should address by amendment. But no amendments are in order.

These are some of the valid complaints, and these are some of the arguments that were used with some success to buy off the States. Now we hear that this bill might even make it impossible for States to impose workfare because of the definition of the HEW Secretary as to what that may be.

Mr. Chairman, this legislation is what the liberals of this country want, but I know it is not what the taxpayers of this country want. I hope this bill will be rejected. Those who vote for it endorse not welfare reform, but billions more in cost and millions more people on the welfare rolls.

Mr. CORMAN. Mr. Chairman, I yield 6 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, I rise in strong support of H.R. 4904, the Welfare Reform Amendments of 1979, and I join with some of the previous speakers in suggesting that it is really not the kind of reform we ought to have.

I also want to defend the actions of our distinguished chairman of the subcommittee and the chairman of the full committee in bringing this bill to the floor under a closed rule. I think my record stands with any as one who has campaigned for open rules and full debate on issues, but there comes a time when opening this bill to amendment only gives an opportunity to those who would starve children and deny food to those who are unable to achieve it for themselves the chance to dance on the table of the hungry and the impoverished and

demagog on what to me is the kind of a stand that can only be taken by people whom I would characterize as having the hearts of government pinchers and the hearts of piranha fish.

When we are dealing with 65 percent of the minimum poverty level as a Federal standard, it hardly seems to me that we can be proud of what we are doing here, and, of course, it is not right for us to open the bill for amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STARK. I will yield shortly, but not now.

Mr. Chairman, it is not right to open the bill to amendment, particularly to those who would only lower any benefits paid to the 25 million people in this country who cannot work or who cannot afford a decent standard of living. That to me would be a travesty.

There is a time when we must either vote for this bill, as modest as it is, or vote against it and show our true colors and say we are willing to let senior citizens die because they do not have enough food and we are willing to let children starve because we will not let their parents collect some assistance while they take minimum wage jobs which may be somewhat better than welfare.

I think it is a question of whether this country can afford this type of assistance when it is rich enough to talk about aiding Lockheed and bailing out Chrysler and having airlines that make mistakes that endanger the lives of thousands of people. We talk about cutting back on the FTC when it is trying to protect you and me, and then Members come on the floor of this House and talk about the paltry few dollars that we are giving to aid the States. I think most of the States would welcome this aid and welcome the opportunity to cut back on their real estate taxes, which are already too high, again for many of these same senior citizens.

Mr. Chairman, it is the purest form of hollow demagoguery to talk about "improving" a welfare bill which can only be improved if we would double and triple the benefits that we are offering to these people to bring this small group of American citizens up to somewhat near what is blithely referred to as a minimal standard of living.

And it is discouraging that Members of this body who enjoy the munificence of a large Federal salary—and many of them do very little work themselves, I might add—would criticize our Government for attempting to help the States, and particularly those States where the minimum benefits are so low as to really make slavery look attractive again in terms of the benefits that are supposedly so grandly paid out by these States.

As for innovation, how do we innovate welfare reform when we are allowing people to starve? Is there an innovative way to let people starve, people who live in substandard housing, or to let children go without clothes or education? I do not believe we can innovate that.

If we had some people who were living at the poverty level and receiving additional welfare, we might innovate with programs on how to train them to get better jobs and get their children a better education and to teach them how to enjoy a better standard of living. But I see no innovation in taking away the benefits that are so badly needed by this group of people and cutting those expenses even further.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STARK. I am glad to yield to my colleague, the gentleman from California (Mr. ROUSSELOT), a distinguished member of the committee.

Mr. ROUSSELOT. Mr. Chairman, I am sure the gentleman was being facetious when he said something about returning to slavery, but I will let that go.

Mr. STARK. No. I merely said it might be preferable to return to slavery; I said that in some of those States where the benefits are so low it might be a more palatable alternative to some of the welfare assistance we have to return to the slavery system we had a long time ago.

Mr. ROUSSELOT. Mr. Chairman, as the gentleman well knows, the committee has tried to improve the benefits going to truly needy and eliminate those obvious areas of misexpenditure or misexpense or overexpenditure that have occurred in many instances, according to many secretaries.

My concern was that we passed over rather quickly that 65 percent of the poverty level, which by 1981 will certainly be in excess of $8,000. I do not consider that as just a minor contribution. I think it would be wise to just skip over that, especially when the gentleman said that he would double or triple the benefits.

The CHAIRMAN. The time of the gentleman from California (Mr. STARK) has expired.

Mr. FOWLER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Chairman, it is interesting that what we may be asked to vote on as an alternative to this bill is something that is referred to as a block grant. What we would be saying then is that the Federal Government is too busy to be involved with the problems that poor folks have and we would be allowing the Governor to establish exactly what is in the best interests of the poor of a particular State.

Unless some legislative work is done on that so-called block grant, it means that there would be absolutely no standards and no protection for those people for whom we have worked so hard to insure that they would receive some minimum protection.

It is also interesting that people have such innovative and creative ideas as to how we could improve a bill, and yet these ideas are never brought forth until a complex bill comes to the floor. Then many of the Members want the opportunity to have an open rule so they can "improve" the bill.

I am suggesting that none of these creative ideas have been very popular to improve services for the poor are popular with this Congress. I do not know now why we are so concerned with a rule which provides an alternative which allows Governors to do what they think best for their State. We must assume some responsibility in the Congress to say that no matter what region people come from, we have the same type of commitment to American citizens in this country as we find it so easy to demonstrate in behalf of our foreign friends abroad.

There are some problems that from time to time we deal with in terms of dollars and cents. We are not asking for welfare recipients to compete in the supermarket with Congressmen who cannot buy food for their children and families, because I would think that some of the Members who would have that problem should deal with it through a pay raise rather than denying a couple of food stamps or a few dollars to those people who clearly are under the poverty level.

□ 1520

What we are saying is that where it has been proven as a legislative fact that some States, because they are not industrialized, some States, because they do not have the courage to tax, some States, because they would like to use their tax moneys for other purposes other than the poor, the U.S. Congress and the Federal Government will meet them halfway and share in the expense and say that there should be a minimum national benefit standard.

We have no objections to do these types of things for veterans. I think the biggest welfare program that Congress has ever passed with the exception of the one in which we provided oil for homeowners, or at least money to pay for it, was the GI bill. Somehow we manage every year to give more and more to the veteran and try to deny more and more to our aged and to our poor.

I think if a little more thought would go into the minimum amounts of moneys that we are talking about that someone would have to soon reach the conclusion that, one way or the other, as we would be giving financial aid to dependent children, that if we run away from that national responsibility today, we will be forced to deal with the problems that these children will be presenting this Nation in the future.

It seems to me that it makes a heck of a lot more sense to provide these minimum benefit standards now and try not to make certain that even more money will not be going into the criminal justice system.

I would suggest that there are many imperfections in the bill we are presenting to this House, but we did have the input of so many Members, so many groups, so many witnesses, in order to try and perfect a bill; and this was the best that we could do. I do not believe that we should open up the rule and just say, "Throw guidelines and standards to the winds," and say, "Let the States do it because they know best."

It is a national problem. We do have people going from State to State, sometimes, shopping for the best deal. I think what we can do is to say we are there to protect the families, we have a sensitive concern for the poor, that we are requiring work, we are encouraging work.

Mr. Chairman, I ask for the support of the Members for this bill. I agree it

should not be called "reform," but it is certainly the best thing that this House has seen in a decade.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding, whom I know is extremely interested in this legislation. I am interested in his comment about the rule because that, of course, is already a fait accompli, and you have your closed rule and there can be no amendments except the Jeffords amendment, as the Members all know.

The CHAIRMAN. The time of the gentleman from New York (Mr. RANGEL) has expired.

Mr. CORMAN. Mr. Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. ROUSSELOT. If the gentleman will yield further, I will ask the gentleman if he would be as diligent in his effort to have a closed rule for an authorization for the Defense Department, where we have vast, complicated weapons systems? Would the gentleman deny the right of the House to debate those?

Mr. RANGEL. I do not think so.

Mr. ROUSSELOT. How then is this different? This is a spending bill, every bit as much the same as a defense bill. Why does the gentleman deny us the chance?

Mr. RANGEL. Because I thought the defense bill dealt with destruction and guns and killing people, and that the aid to the dependent children bill dealt with nutrition and the right to protect life. That is the reason I would handle it differently. I thank the gentleman for his question.

Mr. ROUSSELOT. And to try to get money to the needy people. And why would the gentleman deny trying to root out fraud and some of those other things, or a work requirement?

Mr. RANGEL. I think that the gentleman has made major contributions in rooting out fraud within this bill, and I have been proud to work with him on this issue. But I would hope that the gentleman would want to correct his statement in trying to compare the rule as relates to the welfare bill with that of the Defense Department bill.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, there are probably no Government programs in the United States which deserve more regular or scrutinizing examination than the programs which encompass "welfare."

I find in talking with Arizonans that no domestic issue concerns our citizens more than the present expenditure of their tax dollars for various welfare programs.

As a member of the Appropriations and Budget Committees in this session of Congress, nothing has been more frustrating than to observe the almost helpless attitude with which Congress confronts the so-called uncontrollable expenses in the budget, many of which are the welfare programs expanded within this legislation.

These expenditures are indeed controllable if Congress will exercise the essential policy controls necessary to insure that programs are actually assisting the truly needy.

I regret to say that this bill, as reported from the House Ways and Means Committee, does very little to change the direction of the existing programs. Rather, the liberalized eligibility standards and minimum benefit level will inevitably serve to further increase the costs of these programs to all taxpaying Americans. Indeed, there is nothing in the bill which would forecast any direction other than costs which would climb skyward.

I believe that Congress should face the fact the traditional formula perpetuated by this bill is a prescription for ever increasing Federal welfare costs.

Under the existing philosophy—with its emphasis on Federal decision-making—the welfare rolls have swelled enormously from 8.4 million people receiving $4 billion in 1966 to 52.4 million people receiving $43.4 billion in aid.

I believe the time has come for a bold and innovative approach.

The alternative to this bill would be to reverse the trend toward Federal centralization and uniformity and encourage instead maximum flexibility and innovation at the State level. Federal grants for social welfare should be made to the States and the States could then develop their own welfare programs.

One of the great strengths of our federal system of Government, as envisioned by our Founding Fathers, is the freedom which it allows among the individual States to adopt policies which best address the specific needs and priorities of their own people. Nowhere is this more true than in welfare.

I believe we would find that individual States would duplicate those programs which prove most effective elsewhere. Diversity among the States should be viewed as a strength, not a weakness.

Granted, such an alternative is an unchartered course. However, the record of error, mismanagement, and costly expense of the existing path is well known.

The present cumbersome welfare system cries for fundamental reform—real reform which is not achieved by the reported legislation.

Congress should encourage State solutions to address the unique situations of each State rather than imposing a national standard which, while uniform, would be more costly.

I urge the defeat of H.R. 4904.

Mr. CORMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I rise in support of H.R. 4904, the Social Welfare Reform Amendments of 1979. I voted for this bill in the Ways and Means Committee and I hope that my colleagues in the House will also support this bill.

Welfare reform has different objectives for different people. Some people believe welfare reform should reduce or alleviate poverty as the sole objective. Others think that it should reduce welfare rolls by providing incentives for recipients to work. Other objectives include the improvement of welfare administration through the reduction of redtape, errors, and abuse; increased equity among the States in benefit and eligibility standards; inclusion of categories of people previously excluded; and fiscal relief to States.

The social welfare reform amendments would enable progress to be made toward these objectives. The additional cost will be modest which is highly desirable at a time of economic and budgetary difficulty. Especially important are the provisions in the bill which offer incentives for welfare recipients who can do so to take jobs.

I want now to make some comments on the main features of the bill.

AFDC

In the aid to families with dependent children (AFDC) program, the bill establishes a minimum benefit, consisting of cash assistance plus food stamps, at 65 percent of the poverty level. This will raise benefits from present levels in 13 States. Although the bill sets a floor for benefits, the actual level will be set by each State as it is now. The bill also mandates a program of benefits for two-parent families in which the principal wage earner is unemployed. Currently half the States offer this unemployed parent program. As under the current system, recipients whose youngest child is over 6 will be required to register for work or training. In the new unemployed parent program, after a 2-month job search period, benefits will be paid only when no job has been offered to the principal wage earner. The family will lose all benefits if the principal earner refuses employment, unless the other parent accepts the work requirement.

In addition to the work requirement, other provisions will encourage recipients as well as low-income workers to accept new jobs or continue their old jobs. A change in the way earnings are treated in the benefit calculation will allow recipients to keep more of their own earnings in addition to their benefits, thus making work more advantageous than under the present system. Low-income workers are eligible for an earned income credit (EITC) on their Federal income tax. The bill revises the EITC to increase the maximum credit to $550 on incomes between $5,000 and $7,000, phasing out as income rises above that level. The EITC assists the working poor by reducing the tax burden for families with children.

The definitions of income and resources, used for determining eligibility for AFDC, will be changed to parallel the definitions used in the food stamp program. This is an important step in simplifying the administration of welfare. Recipients will be required to report on their income each month, thus permitting monthly adjustment of benefits. This will help prevent cases in which recipients are overpaid or kept on the rolls too long, as well as cases in which recipients are not receiving all the help to which they are entitled. Also a national goal will be set for reducing errors in the program to 4 percent. The States will continue to administer the program.

The Federal Government will pay a

relatively larger share of the costs of the program under this bill. The State share will be reduced by 10 percent starting in 1981. Thus a State which now pays 50 percent of its AFDC costs will have to pay only 45 percent. In the unemployed parent program the reduction will be 20 percent. Each State will save at least 5 percent of its fiscal year 1979 AFDC expenditures.

SSI

The supplemental security income (SSI) program for low-income disabled, blind, or elderly people, is also affected by this bill. For most recipients the most significant change is the replacement of food stamps by cash. These people would receive their entire benefit in cash. Most of the other SSI provisions make relatively small changes in this program which already has national minimum benefit and eligibility standards.

One change will help to eliminate a loophole in eligibility. The bill requires that the income and resources of a person who sponsors an immigrant for entry into this country shall be attributed to the immigrant for the purpose of determining his eligibility and benefits. Newcomers who enter this country through normal immigration channels should not immediately become welfare recipients if they have been sponsored by citizens with adequate resources.

JOBS PROGRAM

A related and necessary part of the administration's welfare reform proposal is the Work and Training Opportunities Act of 1979. This bill would provide for programs to assist AFDC recipients in seeking jobs and to establish work and training programs for them. Hearings have started on this legislation in the Education and Labor Committee. Although the two bills are being treated as separate measures, the jobs bill is crucial to the success of the entire welfare reform effort. Fair, well-administered benefits should be provided for people who have no alternative to public assistance, but every effort must be made to make sure that job alternatives are available for those who can work. They should be helped to find jobs in the private sector, or in publicly supported jobs if necessary. I hope that action on the jobs portion of welfare reform will move forward as soon as possible.

SUMMARY

H.R. 4904 is not a sweeping restructuring of the Nation's welfare system but it is important. It represents improvement in some of the features of the current system and progress toward some of the goals of welfare reformers. Welfare recipients in the lowest benefit States will receive increased benefits, set at a modest level and still below the poverty line. The bill makes it more advantageous for recipients to work by permitting them to keep more of their benefits as they increase their earnings, and also increases the EITC for low-income families. Besides setting a national floor for benefits, the bill standardizes eligibility criteria and matches them to those in the food stamp program. It requires more frequent review of the status of recipients so that benefits can be adjusted up or down speedily. Families in which both parents are present but unemployed will be included in the program in all States for the first time.

Finally States will be relieved of some of the financial burden of assisting the Nation's poor families. All this is being accomplished at a modest additional cost to the Federal Government of some $3 billion above present expenditures for AFDC in 1982 when the program is in full effect. I think this is a reasonable approach; it merits support.

□ 1530

Mr. CONABLE. Mr. Chairman, I yield 10 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to the Welfare Reform Amendments of 1979, H.R. 4904. Major reform initiatives have been launched by both parties over the last decade, but welfare has proved difficult to reform or even control. President Carter's most recent proposal, now embodied in H.R. 4904 as amended by the Ways and Means Committee, calls for less extensive restructuring than prior proposals and is also a bit less expensive. However, it is not innovative, it is not creative, it does not save tax dollars, and it will not work. It is simply a scaled-down version of previous plans which have been rejected.

The committee bill, H.R. 4904, would establish a guaranteed annual income for all American families, intact or not, further federalize welfare programs, and lead to a widespread redistribution of income. Major provisions of H.R. 4904 include:

First. Establishment of a national minimum benefit for AFDC families of 60 percent of the poverty level in 1980, rising to 65 percent in 1981. This figure will keep rising since the poverty level is indexed to follow the increases in the consumer price index. Pressure will also be exerted on Congress to raise the level each year. This figure will apply to four-person, intact families.

Second. Mandating the AFDC–UP (unemployed parent) program for all the States. Currently, 26 have this program which provides benefits to families with two parents in the home, if the "major" earner is unemployed. The committee bill requires States to provide AFDC–UP benefits to intact, two-parent families; it is important to note that the definition of "unemployment" is changed in H.R. 4904 from the number of hours worked each month to a dollar figure—$500 maximum for any month in the 12-month period beginning October 1, 1979. This $500 figure will be indexed thereafter at the secretary's discretion for inflation and minimum wage increases.

Third. Standardizes the earnings disregards for the determination of welfare eligibility. This is yet another area in which the States will lose discretion and the power of the Federal bureaucracy will be increased.

Fourth. Establishment of a $200 million block grant (fiscal relief) for States to assist in meeting emergency needs of families with children—this grant is also indexed for inflation increases and will reduce even further the State contribution to welfare programs. Every reduction in State contribution further eliminates the incentives for States to clean up their programs and eliminate fraud and abuse. Why save Federal dollars?

Fifth. Movement toward standardization of the AFDC assets limits and treatment of income to provide a resource limit between $750 and $1,750. The Health and Human Resources Agency HEW Secretary would be granted the discretionary power to specify items to be included and excluded with the objective of paralleling as much as possible the assets definitions and procedures in the current food stamp program. It should be noted that the food stamp program, as a result of these assets liberalizations, has grown like Topsy.

Sixth. Provision for increased Federal financial participation. Beginning in January of 1981, a State's share of AFDC and AFDC–UP costs would be reduced by 10 percent. Beginning January 1, 1981, and continuing through fiscal year 1986, a State would be held harmless for the amount by which AFDC expenditures, plus increases in medicaid and administrative costs which exceed 95 percent of the fiscal year 1979 level of State expenditures for AFDC. These hold harmless payments phase out in 1990. In fiscal year 1981, $150 million would be allocated to the States on the basis of AFDC caseloads to assist States in implementing the changes contained in H.R. 4904.

The bill also makes changes in the supplemental security income program, slightly expands the earned income tax credit, and makes modifications in the child support enforcement program. Although the cost of the committee bill is less than the earlier Carter proposal, there is ample proof that current cost estimates may be, in the words of the Congressional Budget Office, "biased downward." The changes in eligibility requirements, assets tests, the establishment of a national minimum benefit level, the mandating of the AFCD–UP program on all the States—these provisions will lead to an increase of the number of Americans on the welfare rolls and it will lead, in many cases, to increases in benefits for people already participating in the AFDC program.

There is clearly need for reform of our Nation's welfare system. However, the committee bill, with its provision for increased Federal matching of State costs, provides little or no incentive for streamlining the AFDC program, for reducing fraud and abuse, and eliminating those not truly in need from the program. Standardizing assets tests and allowing tests to be set by the Secretary will increase pressure to liberalize the program, swelling the rolls and adding to the costs. Every step away from State control and discretion reduces the incentive for the State to run a tight, efficient program.

Welfare costs have quadrupled in the last 10 years and we cannot truly calculate the burden that future welfare costs will impose on taxpayers. Federalization of welfare programs will not solve the problem facing the current system but will only add to the already enormous cost of public assistance and increase the number of people dependent on wel-

fare. As is the case in most Federal transfer payment programs, we are mortgaging the future to pay for the excesses of the present.

If you seek real reform in welfare—if, instead of more of the same, you seek a departure from the approaches in this field that have brought us to this point—you should find promise in the block grant concept which is embodied in H.R. 4460, the Rousselot-Conable-Jones substitute. Unfortunately, you will not today have an opportunity to choose between warmed over "FAP" and real reform through a block grant approach. However, should H.R. 4904 be defeated today, perhaps there will be a time in the future when the substitute can be brought to the floor.

H.R. 4904 signifies larger Federal involvement in welfare through additional Federal requirements and regulations and funding. For the first time, the Federal Government would set a national minimum benefit level for families. This is not to question that families should have adequate incomes, but I do seriously question the soundness of a decision which would bring further Federal bureaucratic control to welfare policymaking. In H.R. 4904, we would require States to have the AFDC-UP program. We would require that they follow certain procedures and to implement federally defined assets and eligibility tests.

The alternative that Mr. CONABLE, Mr. JONES, and I offer—along with 16 of our colleagues in the House and several Senators—most notably the chairman of the Finance Committee and the ranking minority member—is founded on the concept of decentralization. It enhances the capacity of the States to devise and shape their own welfare programs—to pursue program changes that they know to be appropriate for their economic and social conditions. At the same time, it offers some fiscal relief to States and provides a means for encouraging States that have low AFDC benefit levels to impose them. In short, this alternative is founded on the belief that governments closer to the problem—closer to the people directly concerned about adequate and efficient welfare programs—should have more direct control over them.

Let me outline the terms of the block grant proposal:

First. The current, open-ended Federal matching of State costs for AFDC would be replaced with a Federal block grant system, beginning in fiscal 1981;

The block grant would be based upon the amount that a State would receive in fiscal 1979, with certain adjustments;

All States would receive portions of a total of $1 billion in fiscal relief, the allocations to be based upon population;

Each of the 15 States with the lowest combined benefit levels (AFDC benefits and food stamp benefits) would be able to receive a portion of additional funds, totaling $400 million;

The block grant would be adjusted to account for inflation; and would also be adjusted to account for population changes among the States and for temporary surges in unemployment;

States would be required to use the block grants only for payments of aid to families with dependent children, and for other social welfare purposes;

States would be permitted to require work as a condition of AFDC eligibility;

Beginning in 1986, the Federal block grants, although still adjusted for inflation, unemployment concentrations, and so forth, as I have described, would be reduced by 2-percent per year, so as to permit the Federal Government and taxpayers to share in the savings that would be achieved through this type of program. In other words, this bill points ultimately toward lessened Federal costs rather than to constantly heightened Federal costs.

Second. The proposal authorizes a 10-State demonstration grant program under which, for a 5-year period, up to 10 States could develop and test their own family welfare systems as alternatives to AFDC. Such States would use their block grant allocations to pursue pilot programs, freed of the Federal limitations and requirements now imposed on States in the AFDC program. Implicit in the demonstration authority is the recognition that not all of the valuable insights which might be brought to bear in family welfare matters are found in Washington.

Thus, this block grant approach offers you a way of truly reshaping family welfare programs. It is innovative in spirit, realistic in terms of cost, and reflective of the financial burdens felt by some States and localities with respect to the AFDC program.

I urge you to carefully consider this opportunity to break free of the past in AFDC, and to point us on a new path—one which I believe will prove to be both responsive to genuine family needs and acceptable to the public.

Vote against H.R. 4904 and support a motion to recommit.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to commend the gentleman in the well for his statement and for his substitute, which, unfortunately, he will not be allowed to offer to this legislation.

It seems to me that when we are talking about something as basic and as necessary and as supported as the subject of welfare reform that we ought to be able to work our will on the entire subject and not just on one closed option that is now available to us under the rule. We were not able to change.

I know that the people in my district are very concerned about welfare reform, but I do not think very many of them have in mind welfare reforms being what the committee has proposed to us.

I hope that the gentleman's motion to recommit will be accepted.

Mr. ROUSSELOT. I appreciate my colleague's comments. I know, as a former member of the California State Legislature, he is aware of the reforms that are needed. I am sorry, too, that we have only this one option.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank my colleague for yielding.

The problem I see with this particular piece of legislation is the fact we are once again treating cosmetically with this cosmetic remedy a very serious problem in our country.

Calling this welfare reform, as the other gentleman from California said, if there is any area in the country that needs reform, it is welfare.

We are not getting down to really solve the basic problem in the welfare chaos we have in the country. We are not helping people. We are not helping ourselves. We are certainly not helping the country get ourselves out of this dilemma.

I think it is wrong to continually come forth on this floor almost every day with a title on a bill saying, "This is solving the problem." We give them fancy titles

□ 1540

But when we start scrutinizing what the bill will do, what the law change is going to make in effect, just like this one, it is not reform really. If we really want to get down to business, what we should be doing is we ought to be helping welfare recipients get off the rolls of welfare, taking people from the rolls of welfare and putting them back as taxpayers instead of tax recipients. This bill does not do this.

We should be helping the working poor elevate themselves off the welfare rolls. This bill does not do that. It is a shame to continually bring legislation like this on this floor which, again, is a cosmetic treatment for a serious problem.

Mr. ROUSSELOT. The gentleman makes an excellent point. His point is well taken.

The legislation before us, which we cannot amend or try to improve, adds to the rolls, adds to the costs, and just throws more dollars at the so-called problem, as the gentleman says, without really providing a way to encourage people to go back to work.

There is another part of this proposed legislation that is before the Committee on Education and Labor, the jobs portion, and there is no guarantee that that will move.

I think the gentleman has made an excellent point. This is just pouring more dollars, federalizing a program which has not necessarily been successful in the past in many ways.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. CONABLE. Mr. Chairman, I yield 4 additional minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I appreciate my colleague yielding and will yield now to my colleague from Illinois.

Mr. FINDLEY. Mr. Chairman, Monday of this week I had the great pleasure of being in the State of California visiting San Diego for an inspection of the workfare under food stamps. It is, I believe, one of the five communities in the entire Nation that is beginning to experiment with this new workfare concept. I think it is the first example of workfare sponsored by the Federal Government, at least since New Deal days. So what we are doing is truly historic, in my opinion.

I found positive attitudes all the way through the system. There were representatives of the State agencies, of the county agencies, and I interviewed the supervisors, I interviewed every person engaged in the workfare that day. Every one of them was enthusiastic about the program. They thought it made sense. They were glad they were taking part in it. They wanted the project to succeed.

As I understand it, the gentleman's recommittal motion, or the one he will support, does contain language which would permit workfare in the welfare legislation being authorized. Is that correct?

Mr. ROUSSELOT. I believe so.

Mr. FINDLEY. If the gentleman will yield further, it would be the option of the local community if it saw fit to require the performance of certain duties in exchange for the benefits to be received under the welfare program?

Mr. ROUSSELOT. That is my understanding.

Mr. FINDLEY. I think that argues very powerfully for the acceptance of the recommittal amendment. I am not sure what else is in the recommittal amendment, but I think that is one glistening and very attractive feature. I hope it will be accepted and will become a part of this legislation.

Mr. ROUSSELOT. I appreciate the gentleman's comments. I will say I know my colleague also had an amendment that he wished to offer to this legislation to apply to the general AFDC program what has been tried now in food stamps, and the gentleman is unable to offer that because of this rather strict rule. I am sorry that that cannot happen.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my friend from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I appreciate my colleague yielding once again. Following up what the gentleman from Illinois is reporting on his findings from the pilot program, which I understand is in several locations in the country, I hope the gentleman will make a report to the Congress and to the country of the success and how that program is working. I am interested in the recommittal motion the gentleman from California is going to offer. Does the gentleman's recommittal have a provision that separates the people that could work, what I call the working poor, away from the indigents? I do not think we are ever going to solve this welfare mess until we finally decide we are going to separate the working poor, the folks who are just underemployed, separate them away from the indigent. Those are the folks, the ones I call indigent, that either because of their age, or because of a physical or mental handicap, are always going to be dependent upon a welfare program.

Until we separate the two away, we are never going to solve the problem. I hope the gentleman's amendment or his substitute which he offers as a motion to recommit will address that problem.

Mr. ROUSSELOT. Under the motion to recommit we will still leave with the States the ability to establish work requirements, which this bill basically eliminates, even though it is argued differently.

Second, as the gentleman knows, we have tried to take care of the handicapped, the blind, to make them SSI recipients. There are a substantial number of people that are separated out and they get benefits under that program.

The AFDC is a different type of program, and in many cases the people who are blind, handicapped, and so forth, and are unable to work already receive a benefit, minimal though it may be. So I am really not sure that the AFDC program is an appropriate place to put that.

But in our motion to recommit we are going to hope to leave with the States the ability to establish work requirements, and part of the program the gentleman is addressing is considered under that issue.

Mr. MYERS of Indiana. I thank the gentleman for his comments.

Mr. CORMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Chairman, I rise first of all to commend the Ways and Means Committee and the distinguished chairman of the subcommittee, the gentleman from California (Mr. CORMAN) for their work on this bill. I think it is a productive step on the road to welfare reform, and I am pleased that it has come before us today.

Mr. Chairman, I rise also to commend the committee for one specific provision of the bill which applies to the eligibility of aliens for SSI benefits. When I first came to Congress 2½ years ago I heard a great outcry from my own constituents complaining about stories that they had read of aliens arriving on our shores and going on SSI or Federal welfare 30 days later.

Nothing has produced as much mail and as much concern among my constituents as those stories that appeared in the newspapers. I introduced a bill in the last session to try to deal with that problem and cut down on that eligibility. I am pleased to say that we have had over 50 sponsors for that bill.

The committee has produced a bill before us today which does not follow precisely the formula that I had in mind, but the committee's version does address the problem effectively. I think it will cut down substantially on the number of aliens who are eligible instantly for SSI. It does so in determining the eligibility of a person for SSI by ascribing the assets of the sponsor of that person to the alien himself for eligibility purposes.

I do think this is a good provision. I do think it will be effective and I do commend the subcommittee for its work in this regard.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, members of the committee, a bill that comes to the floor entitled "Welfare Reform" ought to automatically get the support of everybody, if one does not look beyond the title of the legislation. I would like to vote for a welfare reform bill. Everybody at the grassroots in America would like to have true welfare reform.

The truth of the matter is that this is not a welfare reform bill. There is a minimum of three ingredients that ought to be involved in any legislation that carries the title of "Welfare Reform." It ought to cost less, particularly considering the General Accounting Office's report of fraud and mismanagement in some welfare programs over the last few years.

□ 1550

There ought to be less federalization of eligibility and work requirements considering the fact that this Nation is so geographically vast and our population is so heterogenous that we cannot pour this country into one mold and make all policy here in Washington, D.C. Third, the legislation ought to be more simple in its administration.

This bill is not a reform measure because it falls short in all three of these areas. This bill will cost billions of dollars more. This bill will centralize more policymaking in Washington, and obviously—and I speak as a member of the Agriculture Committee—this bill could not be considered more simple in its administration when we consider linking the income and asset guidelines to the food stamp program.

I cannot vote for a bill that will load the welfare costs on the American taxpayers, and especially not when it comes under the guise of the term, "welfare reform."

Mr. CORMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I would like to join with others of my colleagues who plan to vote for this bill and against the motion to recommit this bill. As you know, there has been considerable discussion of our national welfare system over more than a decade. This bill, H.R. 4904, is a direct result of that long process of debate, discussion, and compromise.

During all that time, several common elements have emerged, and one among them has had broad general agreement: that we should make welfare more generally consistent across the States. That is not to say that we mean to federalize the system or make it absolutely uniform. We will not, and nothing in the bill would suggest that. But there has been a growing sense, reflected in this bill, that equally poor people should be treated in more nearly the same manner no matter where they happen to live. A poor family in my own State of Missouri has needs and expenses very like those of poor families living in Illinois or Arkansas—yet we treat them very differently. H.R. 4904 at least assures a minimal level of support in all States while retaining flexibility for the State to set their own benefit levels beyond the minimum.

That is one of the reasons that I oppose the concept of turning the Federal funds available for welfare over to the States in the form of block grants. It is almost as though we are willing to ignore all that we have learned over the years about the need to make the program more nationally consistent, and will instead turn sharply in the direction of encouraging greater disparity, greater

divergence, still more dramatic differences in our treatment of poor families from State to State.

We have some experience to hark back to in this regard. In the early years of Federal support to States for welfare there was little or no Federal supervision. For nearly 30 years there was, in effect, so little Federal supervision as to have had virtually a block grant. The idea that we would learn something new by returning to a block grant approach to welfare at this point flies in the face of that long history in the welfare programs. We do know what States would do, and we know that very history is what led to the growing consensus that the programs should have some common national elements.

We have also seen among the Congress itself a growing concern that the dollars we are willing to commit for welfare purposes be spent in a particular way, and that the States account for those Federal welfare dollars. That is only reasonable. We in the Congress have a responsibility to our voters to know how the money we vote to spend out of Federal revenues is in fact being spent by the States. A block grant approach ignores that responsibility as well. With block grants we will not be able to go back to the voters in our States and account for what is being spent. We will be left in the awkward position of having to say: We know you are concerned about welfare costs and want some assurances that the money is being spent in the way the Congress intends, but we voted to simply turn the money over to the States and so cannot tell you much about its use.

And when, in addition, we structure the block grant in a way that invites States to save welfare dollars by reducing assistance to needy families, then we have asked to be put right back in a situation where some eligible people are getting very low levels of support, while equally poor people right across the State line get considerably more. That is essentially what we are being asked to consider, and I for one object. I believe it flies in the face of commonsense and sound national policy.

Further, voting for a block grant for welfare is a way of abdicating responsibility for poor people at the national level. We live in an increasingly mobile society, one in which people are citizens of many States over a lifetime. Welfare is, and should continue to be, a national responsibility and national concern. The terms on which we have provided Federal support for State welfare programs over the years suggests that at least until now, the Congress has agreed. I believe it would be a serious mistake to give up on that notion at this time.

Finally, I rise as a member of the Budget Committee to provide a budgetary perspective on the Social Welfare Amendments of 1979. The bill, as reported, is consistent with the funding assumptions in the second budget resolution for fiscal year 1980 which the House approved on September 27, 1979, and with the conference agreement which this House will consider later this week.

The net budgetary impact of the bill in fiscal year 1980 will be to reduce spending by $186 million in budget authority and outlays. This includes legislative savings of $232 million, which in part are offset by $36 million in initiatives.

Even though these legislative savings represent an important step toward restraining spending this year, the budgetary significance of the Social Welfare Amendments of 1979 lies more in the spending impact of this bill in succeeding years. As the fiscal relief and minimum benefit provisions in the bill are phased in during fiscal year 1981, the cost of the bill will increase to $912 million. Then, in fiscal year 1982, the cost of the program will increase to $3 billion as the program is implemented.

This bill represents a major breakthrough in our attempts over the past decade to bring some order to our increasingly chaotic welfare system. The quest for welfare reform began in August 1969, the month that men first landed on the Moon. It is ironic that we were able to go to the Moon in 8 years from when President John Kennedy first proposed it in 1961, but various proposals from welfare reform have now been proposed by three administrations and debated by six Congresses for more than 10 years.

From a budgetary perspective, these changes have two advantages: First, the bill is less costly than many previous proposals. For example, the administration's 1977 proposal would have cost $20 billion when fully implemented. Second, the cost of not reforming welfare may be higher than the cost of this bill. This bill provides an income floor for families with children and brings some order to the current welfare system. With this reform, there will be less need to continue the piecemeal liberalization of individual programs which have characterized welfare policy over the last 20 years and have led to the current costly, wasteful, and inefficient welfare system.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I think most of the Members of this body are in favor of welfare reform, but I am sure that there are very many of us who think that this bill is not adequate reform.

I myself voted for the family assistance program in the early years of this decade as my commitment to some kind of substantial welfare reform. It represented a consolidation of benefits and an opportunity not only to provide for disadvantaged people, but also to provide a little relief to the taxpayer over the longer term.

However, in the bill that is now before us, H.R. 4904, we are being asked to give up an awful lot of the taxpayers' money, with very little honest-to-goodness reform of the welfare system.

There is a little consolidation, and as a matter of fact much of the extra cost is simply transferring costs of State governments to the Federal Government. Now, that is pretty good but only if the Federal Government is in surplus, and if you happen to come from a State which has been openhanded in its benefits. Some States will be unjustly rewarded by this bill, but I do not think rewards for openhanded States ought to be a part of our philosophy of dealing with our own taxpayers.

Mr. Chairman, I submit that this bill should be defeated because it does not give us nearly enough reform for the dollars it costs.

Mr. CONABLE. Mr. Chairman, I have one additional request for time. I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I would like to take this time merely to ask the chairman of the subcommittee a question, if I may.

In reading a critique of the bill I found this line: "Repealed is the provision requiring that AFDC be reduced by the amount of any unemployment compensation."

My first question, then, is: Is this critique correct?

My second question is: Then, does that mean you would receive unemployment compensation and your total welfare allocation?

Mr. CORMAN. The point is that we provide that unemployment compensation will be considered as income.

Mr. GOODLING. That is the way it is now.

Mr. CORMAN. Not AFDC benefits.

Mr. GOODLING. But is the gentleman repealing that provision? According to this critique of the bill he is repealing the provision which now counts that as earned income.

Mr. CORMAN. As I understand it, under existing law there is a separate provision for handling unemployment compensation. There was a lawsuit about whether people could draw welfare when they were entitled to unemployment compensation if the welfare were larger, and we changed the law to provide that if they were entitled to both, they could draw public assistance as a supplement to their unemployment compensation. We merely go into all of the items of income, wages, interest income, unemployment compensation, all within the same section of the bill. So, unemployment compensation would be considered as income in computing a benefit reduction for someone who has income, but not enough to make them ineligible for public assistance.

Mr. GOODLING. If that is correct, then the critique is incorrect because it specifically says, "Repealed is the provision requiring that AFDC be reduced by the amount of any unemployment compensation."

If that is true, I would read it as that they would be eligible for both, the maximum in both. Hopefully, I can have that answer before we finish debate on the issue.

Mr. CORMAN. We are trying to find it in the bill. I am reasonably positive that unemployment compensation is considered the same as wages or other kinds of income in computing benefit reduction. The main thing is, we do not want people to pass up unemployment compensation that they are entitled to.

Mr. GOODLING. The repeal idea, it seems to me, would be to give them the best of both.

□ 1600

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONABLE. Mr. Chairman, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentleman.

What I would like to know is, am I interpreting that correctly or incorrectly. It is very important.

Mr. CORMAN. Yes. Before the debate time ends, I will make an effort to give the gentleman the citation.

Mr. GOODLING. The way it states in what I am reading, it would indicate to me that the gentleman is repealing the provision which now counts it as part of one's income, and saying that it would not count, as a matter of fact, as part of one's total income, but you would have the best of both.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. I think it is on page 116 in the committee report, section 103, which describes the problem to which the gentleman refers. But the gentleman has got to understand there are an awful lot of change in this law, and we are not sure of what a lot of them are going to do, including how many new recipients there are going to be. So the gentleman raises a good point.

Mr. GOODLING. Will the gentleman cite where he found that again?

Mr. ROUSSELOT. Yes. Page 116 of the committee report. It is in section 103, I believe.

Mr. GOODLING. I think it is something we certainly should clear up.

Mr. ROUSSELOT. I think it is important that the gentleman brought it up. The gentleman has got to understand there are a lot of loopholes in this thing that we are still trying to figure out.

Mr. GOODLING. Does the Chairman, the gentleman from California (Mr. CORMAN), have a response?

Mr. CORMAN. Yes. If the gentleman will look at the bill, page 9, line 23, it reads:

> For purposes of this part and any State plan approved under section 402(a), the term "income" . . . shall include all income from whatever source, but shall exclude only—

And then we itemize exclusions.

Mr. GOODLING. But is unemployment compensation included?

Mr. CORMAN. It is not one of those excluded. It is included, and the report at page 25 indicates that—

> UC will be treated as other nonemployment income for AFDC purposes, assuring that UC is treated like other income when computing the low-benefit disregard.

Mr. GOODLING. The gentleman is then saying that the critique I am reading is incorrect.

Mr. CORMAN. Yes, sir.

Mr. GOODLING. I thank the gentleman.

Mr. CONABLE. Mr. Chairman, I reserve the remainder of my time.

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4904, the Social Welfare Reform Amendments of 1979, makes some important changes in our welfare system. These changes address the key problems in our public assistance programs; targeting assistance to the truly needy, strengthening work incentives, improving the adequacy of benefits and coverage, streamlining and coordinating administration, and reducing error and fraud.

The bill will tighten current programs and more effectively target funds to the neediest families by requiring that benefits be based on actual rather than projected income, establishing limits on certain income disregards, requiring income to be reported on a monthly basis, improving the child support enforcement program, and taking into account the income of all individuals living in a household. The standardization and coordination of certain AFDC and food stamp administrative procedures will streamline administration and reduce error and fraud. CBO estimates that these and other measures will reduce welfare costs by $186 million in fiscal 1980.

At the same time, the bill will provide more equal and adequate treatment of needy families with children by establishing a national minimum AFDC/food stamp benefit standard of 65 percent of the poverty level, requiring all States to provide coverage of two-parent families with children, and increasing the earned income tax credit for the working poor. Cashing out food stamps for aged, blind and disabled SSI recipients will both simplify administration and improve benefits. These measures, plus provisions which increase the Federal share of public assistance expenditures, will cost $900 million in fiscal 1981 and $2,965 million in fiscal 1982.

First, the bill will provide for a national minimum benefit, AFDC plus food stamps, equal to 60 percent of the poverty level as of January 1, 1981, increasing to 65 percent of poverty October 1, 1981—65 percent of poverty equals approximately $4,654 in 1979 dollars.

AFDC law now permits States to establish their own benefit levels, without any provision for a Federal minimum benefit level. At the present time, benefit levels vary greatly among the States, from a high of $563 a month for a family of four in Suffolk County, N.Y., to a low of $120 a month for a family of four in Mississippi. Although this extreme variation is alleviated somewhat by the food stamp program, there are still 13 States in which the combined value of AFDC and food stamps is less than 65 percent of the poverty level. In no State does the combined value of food stamps and the basic cash payment bring a family with no income out of poverty.

The bill would begin to reduce the differences and to help the very poorest families in the Nation by establishing a national minimum benefit. States would be permitted to vary their payment levels in up to six geographic areas of the State, but not below the national minimum benefit level.

Second, the current, optional unemployed fathers program would be changed to unemployed parents, effective upon enactment, and mandated in all States, effective October 1, 1981.

A two-parent family would be eligible for AFDC–UP if the "principal earner," whichever parent earned more in the 6 months preceding application was unemployed. The Secretary of HEW would be required to specify by regulations the minimum level of monthly earnings for full-time employment—thereby defining "unemployment." For the 9-month period beginning October 1, 1979, such level would be $500 a month, adjusted thereafter for changes in the Consumer Price Index and the Federal minimum wage.

After the first 2 months, a two-parent, AFDC–UP, family would be eligible to receive benefits for any month only if the Secretary of Labor certified neither parent is employed or that employment for that month was not offered to the principal earner, or if the Secretary of Labor failed to submit such certification. The entire family would be ineligible for benefits if the principal earner refused employment, unless the other parent agreed to comply with the work requirements. In such case, the family's benefit would be reduced by the amount initially provided for the principal earner. The "prior work" and "waiting period" requirements in current law would be repealed.

A State that did not have an AFDC–UP program on July 23, 1979, would not be required to provide medicaid coverage to families newly eligible as a result of the mandated AFDC–UP program.

Third, the AFDC income and assets tests would be standardized and coordinated with the food stamp program to streamline administration of welfare. The bill contains an explicit statement of what constitutes income under the AFDC program, largely paralleling the provisions of section 5 of the Food Stamp Act of 1977.

The adoption of income definitions for AFDC which parallel the food stamp program will streamline the program by increasing efficiency in case management and reducing errors. The present process will be simplified—questions will be eliminated and the process will become less burdensome to both clients and caseworkers. Because caseworkers will no longer be required to know and utilize differing sets of policies and procedures, the potential for misapplication, omission, and other costly errors will be significantly reduced.

Similarly, States would be required, effective October 1, 1981, to set a resource limit between $750 and $1,750 per family except that States with limits above $1,750 as of September 1981 would not be required to lower their limits.

The Secretary of HEW would specify items to be included and excluded as countable resources with the objective of paralleling, to the extent practicable, resource definitions and procedures in the current food stamp program.

Beginning October 1, 1981, eligibility for AFDC would be delayed in the case of an individual who disposed of resources that would have disqualified him or her for AFDC if the compensation for the resource was at least $3,000 less than

the fair market value of the resource, unless the applicant can demonstrate that the resource was not disposed of for the purpose of qualifying for AFDC benefits.

Another provision of the bill which will streamline the program and reduce error and fraud is the monthly reporting and retrospective accounting provision. Under that provision, States would be required, effective October 1, 1981, to use a 1-month retrospective accounting period. This means that, except at initial application, a family's eligibility and benefit amount would be determined and paid on the basis of the preceding month's circumstances. With respect to initial application, the Secretary would prescribe a method of determining eligibility and benefits that takes into account prior and current months' circumstances and provides for an uninterrupted transition to the retrospective accounting system within the first 2 months in which payments are received.

Effective October 1, 1981, States would be required to make a complete redetermination of eligibility at least once a year, and the Secretary would issue regulations requiring more frequent contact. It is anticipated that the Secretary will require most families to file monthly written reports. If a family fails to report, it will be notified, given another chance to file, and then aid will be terminated until the report is filed.

Effective October 1, 1979, the "earnings disregards" would not be applied to any earned income that is reported late.

To tighten the program and target benefits on the neediest families, the bill makes certain changes in the disregards from earnings which may be applied when determining both eligibility for and amount of benefits under the AFDC program.

Under current law, under both AFDC, one-parent families, and AFDC-unemployed fathers, two-parent families, there is disregarded from earned income, when making an initial determination of eligibility, any expenses, including child care costs, reasonably attributable to the earning of income; that is, work expenses. When determining the amount of benefits to which an eligible family is entitled, there is disregarded from earned income an initial $30 in monthly earnings; plus one-third of remaining earnings, plus work expenses.

Beginning in fiscal year 1980, the bill would make the following changes in the earnings disregards applicable to AFDC and AFDC–UP families:

At eligibility determination, there would be disregarded 20 percent of gross monthly earnings; plus child care costs up to $160 per month per child. In determining benefits, there would be disregarded the first $70 of monthly earnings; plus 20 percent of gross monthly earnings; plus one-third of remaining earnings; plus child care costs up to $160 per month per child.

Beginning in fiscal year 1982, with the mandating of an AFDC–unemployed parents program in all States, the following disregards would become applicable to AFDC–UP families:

At eligibility determination, 20 percent of gross monthly earnings.

For the benefit calculation, the first $70 of monthly earnings; plus 20 percent of gross monthly earnings.

Beginning in fiscal year 1982, in States whose benefits (AFDC plus food stamps) for a family of three are less than 75 percent of the poverty level, in addition to the disregards already mentioned, the first $70 of monthly earnings would be disregarded at eligibility determination for both one- and two-parent families.

Where a recipient failed without good cause to make a timely report of earned income to the State agency, the earnings disregards would not be applied to the income which was reported late. A family would not be denied application of the earnings disregards in the case of late filing.

The bill would also permit a State to prorate the shelter and utilities portion of the AFDC grant where there is no relative in the household legally responsible for the child's support or where the household includes a relative who is legally responsible for the child's support but that relative is not eligible for AFDC because he or she is being supported by another person (such as a natural parent being supported by the child's stepparent) or another program. The State would be permitted to prorate shelter and utilities only if the total income of the child and the closely related family members with whom the child lives equals or exceeds the State's standard of need for a family of the same size, or if the income of the child and the family members cannot be determined due to their failure to cooperate without good cause.

To increase incentives for the working poor and to assure that it will always be more beneficial to work than not to work, the bill would increase the amount of the earned income tax credit from 10 to 11 percent of up to $5,000 of earned income. The maximum credit would be $550. The credit would be phased out at a 13.75 percent rate between $7,000 and $11,000 of adjusted gross income—or if greater, earned income.

To streamline the SSI program, and provide improved benefits to the aged, blind and disabled, food stamps will be cashed out for certain SSI recipients. Effective October 1, 1981, a cash payment in lieu of food stamps would be provided in all States for SSI recipients who live alone, who live with an SSI eligible spouse, or who live with others all of whom are SSI beneficiaries. This payment would be included in or with the person's SSI check.

In each State there would be one "cash in lieu of food stamp" payment amount for all SSI recipients living alone and another amount for all SSI couples. The amounts of the two payments in each State would be determined by the Secretary of HEW, and adjusted annually, on the basis of the current value of food stamp coupons and the current level of SSI payments, including State supplemental payments, in each State.

For any month, the amount of the cash payment for an individual or couple who was receiving both SSI and food stamps in September 1981 would have to be equal to or greater than the value of the food stamps which the person or couple received for September 1981.

Other important provisions of the bill include:

A $200 million Federal block grant program to assist States in meeting emergency needs of families with children would be established. These funds would be available to assist AFDC families, and other families with children as determined by the State. Such assistance could not be provided to families with net income higher than twice the poverty level or more than $1,750 of assets. Eligible families could be provided cash assistance, vendor payments or other assistance to meet emergency needs arising from accident, disaster or other uncontrollable, unpredictable or nonroutine event. Half the available funds would be distributed among the States on the basis of AFDC caseload and the other half on the basis of State spending for AFDC. This provision would become effective October 1, 1981.

Beginning January 1, 1981 and continuing through fiscal year 1986, a State would be held harmless for the amount by which AFDC expenditures at 1979 benefit level or mandated national minimum benefit level, whichever is higher, adjusted by the CPI to the year being calculated, plus increases in medicaid and administrative costs due to AFDC caseload growth, exceed 95 percent of the 1979 level of State expenditures for AFDC, adjusted to the year being calculated by the percentage increase in AFDC expenditures. For three subsequent years, fiscal 1987–89, the hold harmless payment would decline by one-third each year until phased out in 1990.

Beginning January 1, 1981, all States would have their share of AFDC and AFDC–UP costs reduced by 10 percent. Beginning October 1, 1981, a State's share of AFDC–UP would be reduced by an additional 20 percent. Thus, for example, beginning October 1, 1981, the share paid by the State of Connecticut for AFDC would be reduced from 50 percent to 45 percent, and 50 to 35 percent for AFDC–UP. West Virginia's share of AFDC would be reduced from 30 percent to 27 percent, and for AFDC–UP from 30 percent to 21 percent.

Where a State shares the cost of AFDC with its political subdivisions, the State would be required to pass through to the local governments the portion of the fiscal relief provided under this bill that is proportional to the localities' share of AFDC expenditures.

For the purpose of assisting States in implementing the administrative, eligibility and benefit changes required by this bill, $150 million would be allocated among the States in fiscal year 1981 on the basis of AFDC caseloads. Where local governments administer and share costs of AFDC, the State would be required to pass through to those local governments an amount equal to the local jurisdictions' fiscal 1981 AFDC expenditures.

Because of the continuing responsibility on the part of Congress to see that the regulations of administrative agencies properly interpret and implement the policies set out in the law, the bill provides that no proposed regulation of the Secretary of Health, Education, and

Welfare implementing title I of the bill shall be published in final form unless the Secretary has transmitted the proposed regulation to the House Ways and Means Committee and the Senate Finance Committee for a period of 60 days for review. The regulation must be transmitted to the Congress at or before its publication in the Federal Register and shall not be published in final form if the Congress within the 60-day period adopts a concurrent resolution disapproving such regulation in whole or in part. Subject to these conditions, the regulation may be published in final form if it does not contain changes of sufficient substance to require republication under the Administrative Procedures Act.

If the concurrent resolution disapproves of the proposed regulation only in part and specifies the portion or portions disapproved, the remaining portions may be published in final form. Similarly, where a substantive change requires the republication of a portion of the regulation, the remaining portions may go into effect.

This section would require HEW to send its proposed regulations to the Congress for review prior to the final adoption of those regulations. The review would be concurrent with the publication of the proposed regulations in the Federal Register in order to permit HEW to make timely revisions in the regulations based upon congressional and other public comment. If both Houses of Congress have not, within 60 days of transmittal, disapproved the regulation, that regulation may be published in final form and may become effective. In order to provide adequate congressional oversight without placing an undue burden on the regulatory process, any portion of a regulation which is not disapproved by Congress may be finalized by the Department.

It is anticipated that HEW will use the procedure stated in the Administrative Procedures Act and publish a Notice of Proposed Rulemaking (NPRM) with an adequate public comment period before publishing the final regulation. The bill requires HEW to send to the Congress for review a copy of the NPRM no later than its publication in the Federal Register. In some few situations, it may be necessary to publish a regulation to be effective immediately without following the normal rulemaking procedures. This provision would permit HEW to follow the procedures for doing this in the limited circumstances allowed under section 53 of title 5 of the United States Code. Further, the bill is intended to apply to regulations necessary for the initial implementation of this legislation and is not intended to apply to later amendments of the statute, or to subsequent changes in the regulations after the initial implementation.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I will be glad to yield to the gentleman because I know he is an expert in this field.

Mr. PHILLIP BURTON. I thank the gentleman for yielding. I would like to commend the gentleman in the well for his extra-ordinary leadership in this effort. I am reminded, as I stated in earlier debate, that this proposal, although very helpful, would be particularly helpful to the great number of elderly and crippled SSI recipients in this land who cannot sort out how to qualify for food stamps even though they are eligible in all respects. The gentleman has shown enormous patience and enormous skill. I would urge our colleagues on the other side of the aisle to be, if you will, as objective with this proposal as many of us on this side of the aisle were when we supported the Nixon welfare proposal in 1970 and 1971. I would note that this proposal is less generous, less liberal, and less sweeping than the Nixon welfare plan that carried this House some several years ago.

Mr. CORMAN. I thank the gentleman for his contribution and for the help he has given the subcommittee over the many months that we grappled with this program.

Let us look at who is on welfare. About 15 million out of 220 million people receive AFDC or SSI benefits in this country. Eleven million of these receive AFDC. Seven point five million of these are children.

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One hundred and thirty thousand of the AFDC families have two-parents living at home. That population will increase if this legislation is passed because we will extend the program for unemployed parents across the Nation.

Of the SSI population, 2 million are aged, 2 million are disabled and about 70,000 are blind.

I keep hearing, "I would like to vote for a bill that takes care of the truly needy." Those are the truly needy. I would tell my colleagues that, if they want to support a bill that helps the truly needy, this is the bill.

It is fair to ask about costs. Under the current law the Federal Government spends about $16.5 billion for AFDC, SSI, and food stamps received by AFDC and SSI recipients. Federal and State expenditures are approximately $25 billion. Under this bill we will increase Federal expenditures to $18.9 billion.

This equals approximately 1 percent of the gross national product and 3⅓ percent of the Federal budget.

Let me comment on "workfare," because there has been considerable discussion about it. This bill does not alter the current work requirements. Under current law, if you do not have the capacity to work because you are aged, blind, or disabled, you are not required to work. If you are a single parent with a child under 6 years old, you do not have to work. If you are a child under 16 years or if you care for an invalid who must have your full-time care, you do not have to work. However, everyone else has to work. If an AFDC applicant turns down a job he or she cannot receive public assistance. So, there is a work requirement in current law. To say it is not being enforced is like saying it must be all right to rob banks because some people who rob banks do not get caught.

Of course, in any program there are people who are dishonest.

Anybody who is on welfare is obligated to work. Anybody who is willing to pay the minimum wage can hire them, but they cannot hire them without providing wages. If we ever permit "workfare," we will find local governments across this Nation shifting jobs from payroll to welfare.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I will be glad to yield to the gentleman.

Mr. ROUSSELOT. I appreciate the gentleman's yielding. Is it true that the requirement basically in this bill is similar to the WIN requirement now? They are required to refer jobs, as this does. How many people are put back to work?

Mr. CORMAN. Last year it put a half million people to work or in training; 286,404 in private jobs and the balance in public jobs or training.

Mr. ROUSSELOT. How many did not go to work?

Mr. CORMAN. Of the 1 million referred to the WIN in 1978, approximately one-half were put in jobs or training programs as I just understand.

Mr. ROUSSELOT. So the referral program, as it is basically in this bill, takes away the ability of the State to additionally set work requirements unless they are approved by the Secretary? That means it will basically be a referral program, which is our basic complaint. The statement the gentleman has just made points up that a lot of people have gone to work but 130,000 did not. In an AFDC program where you have a lot of people who are not working anyway or there are children involved—we are certainly not talking about them—it is hard for me to believe how this is a stringent work requirement and why one would want to take away from the State their right to handle it.

Mr. CORMAN. If the gentleman will let me retrieve this time to answer. This bill does not take away from any State any right they have now to put people to work.

Mr. Chairman, I would like to insert at this point in the RECORD a summary of the important improvements made by the bill in the supplemental security income program and the child support enforcement program, as well as the provisions of the bill which affect the disclosure of information. The summary follows:

SUPPLEMENTARY SECURITY INCOME (SSI)

Eligibility of Couples Living Apart—Allows couples in which both the husband and wife are SSI recipients to qualify for SSI benefits as single individuals after living apart for one month, rather than six months as in existing law.

Eligibility of Individuals in Certain Medical Institutions—Provides that the reduction in the monthly SSI benefit standard to $25 would not occur until a SSI recipient had been in a medicaid institution for over three full calendar months. Also provides for an annual cost-of-living adjustment in the $25 per month payment standard.

Earned Income in Sheltered Workshop—Provides that remuneration received by a SSI recipient in a sheltered workshop would be counted as "earned income," rather than "unearned income" as under current law; thus allowing the application of the "earnings disregards" ($65 plus ½) rather than just the $20 disregard.

Exclusion from Resources of Funds Set Aside for Burial Expenses—Excludes from countable resources an amount up to $1,500

that is set aside to meet the burial expenses of an eligible individual as an alternative to excluding a $1,500 face value life insurance policy for such expenses.

Exclusion of Certain Real and Personal Property from Income—Excludes from income, unearned income in the form of real or personal property (1) which would otherwise be excluded from resources (e.g., a house which the individual inherits and thereupon moves into), or (2) which is not readily convertible to cash and is not in the form of food or clothing.

Underpayments to Ineligible Spouse of Deceased SSI Recipients—Provides that SSI underpayments with respect to a deceased SSI recipient would be made to a surviving spouse who was living with the recipient at the time of death, regardless of whether the spouse is eligible for SSI.

Increased Payments for Presumptively Eligible Individuals—Provides that emergency advance payments could be made to presumptively eligible SSI applicants for three consecutive months at the full monthly rate instead of being limited to $100.

Continuation of Benefits for Certain Individuals Hospitalized Outside the U.S.—Authorizes the continuation of SSI benefits to an individual hospitalized outside the U.S. on the same basis as currently provided for in the medicare program.

Modification in Certain Grandfathering Protections—Increases the grandfathering protection related to income disregards for the blind, and resources limitations for SSI recipients who received benefits under the pre-SSI State administered programs for the aged, blind and disabled.

Termination of Mandatory Minimum State Supplementation in Certain Cases—Eliminates the mandatory minimum State supplementation protection for those individuals who, after September 1979 (1) are no longer residents of the State to which such rules apply, (2) have income greater than the mandatory minimum income guarantee which has been determined for such an individual, (3) are in certain public institutions and ineligible for SSI, or (4) are ineligible because of excess resources.

Limitation on Eligibility for SSI of Persons Who Dispose of Assets—Eligibility for SSI would be delayed when an applicant for or recipient of SSI disposes of resources for less than current market value if retaining such resources would have made him or her ineligible for benefits. This would apply if the compensation for the resources was at least $3,000 less than the fair market value of the resources. The individual would be ineligible for benefits for six months if the uncompensated value of such assets exceeded $3,000 but not $6,000, twelve months if such value exceeded $6,000, but not $15,000, or twenty-four months if such value exceeded $15,000. The delay would begin the month following the disposal of assets. The eligibility restriction would cease the month after the resources were returned or the individual received a payment equal to the difference between the current market value and $3,000. Such a delay in eligibility for benefits would not apply when the applicant demonstrates that such assets were not disposed of for the purpose of qualifying for benefits.

Rounding of Cost-of-Living Adjustments—Provides for rounding the annual SSI benefit amounts to the nearest $12, or, in monthly terms, to the nearest dollar.

Attribution of Sponsor's Income and Resources to Aliens—Requires that, for the purposes of determining eligibility for SSI and amount of SSI benefits paid to a legal alien, the income and resources of any person who sponsored the alien's entry into the United States be deemed to the alien, except to the extent determined by the Secretary to be inequitable under the circumstances. Such deeming would be for the duration of the assurances of support contained in any executed affidavit or similar agreement of support, but for no longer than three years after entry. This provision would not apply in the case of an alien who became eligible for SSI because of blindness or disability if the blindness or disability commenced after his admission to the United States or in cases where it is determined that good cause for a waiver of this provision exists.

Extension of Services Program for Disabled Children—Provides for a three year extension, until September 30, 1982, of the program providing services for disabled and blind children receiving SSI.

Negotiability of SSI Checks—Provides that the negotiability of SSI checks will be limited to 180 days from date of issuance and that the amount from such unnegotiated checks which represents a State supplementation payment would be returned to the State.

Modification in Determination of Application of One-third Reduction Provisions.—Under present law, if a SSI applicant or recipient is "living in the household of another and receiving support and maintenance in-kind," the value of such in-kind assistance is presumed to equal one-third of the regular Federal SSI benefit standard and the SSI benefit standard for such an individual is reduced accordingly. "Living in the household of another and receiving support and maintenance in-kind" is defined by regulations to include a SSI applicant or recipient who has not been paying his pro rata share of the household's expenses. In determining whether an applicant for SSI would be able to contribute such a pro rata share, SSA does not take into account that receipt of some amount of SSI might enable the individual to contribute his pro rata share.

The bill provides that, in determining whether a SSI applicant or recipient should have the one-third reduction applied against him, it would be assumed that such individual has had available to him and has contributed toward the household's expenses no less than an amount equal to two-thirds of the full Federal SSI benefit standard plus State supplementation. If such an assumed contribution to the household equals or exceeds the individuals pro rata share of the household's expenses, the SSI applicant or recipient would be deemed to be living in his own household and thus not subject to the one-third reduction provision of current law. Effective September 1, 1980.

Fees for Attorneys Representing SSI Claimants—Provides that, when a SSI claimant obtains a favorable judicial decision regarding benefits under SSI, the court may establish a limit on the amount of fee which may be charged by the attorney. The fee may not exceed 25 percent of the past due SSI benefits.

Monthly Computation Period for Determination of SSI Benefits—Provides that SSI eligibility and benefits be determined on a prospective monthly basis rather than a quarterly basis.

Elimination of Requirements for Representative Payment of SSI to Drug Addicts and Alcoholics—Deletes the requirement that a drug addict or alcoholic must have payment made on his behalf to a representative payee. Determination of need for a representative payee would be made on the same basis as now applied to other SSI recipients.

Replacement of Benefit Checks—Authorize the Social Security Administration to directly issue checks or cash for the replacement of lost or stolen SSI checks.

Modification in Mandatory Pass Through SSI Cost-of-Living Increases—Provides that vendor payments made by a State on behalf of SSI recipients residing in a domiciliary or personal care facility would be counted in determining whether the State satisfies the requirement to pass through cost-of-living increases in the Federal SSI benefit standard.

CHILD SUPPORT ENFORCEMENT

Child Support Enforcement Services for Non-AFDC Families—Effective October 1, 1979, 75 percent Federal matching funds would be available on a permanent basis for services provided to non-AFDC recipients. States would be required to charge non-AFDC recipients a fee equal to 10 percent of collections to cover administrative costs.

Collection of Support for Certain Adults Receiving AFDC—Requires collection of support, in those cases in which that support obligation has already been established, for *adult* AFDC recipients, as well as child support.

Amendments Regarding Incentive Payments—Eliminates interstate incentive payments and makes all States, political subdivisions and tribal governing bodies eligible for incentive payments equal to 15 percent of the amount collected. Incentive payments would come from the full amount of collections, rather than just the Federal share of such collections.

Three Months' Extension of AFDC Eligibility—Allows States to continue AFDC payments for a period of three (3) months following the time child support collections would otherwise make the family ineligible.

AMENDMENTS APPLICABLE TO TWO OR MORE PROGRAMS UNDER THE SOCIAL SECURITY ACT

Disclosure of Tax Return Information—Permits the Social Security Administration to disclose to HEW, State welfare agencies, and child support enforcement agencies certain tax return information, which it has obtained from Treasury, for the purpose of determining an individual's eligibility for or amount of benefits. Section 6103 of the Internal Revenue Code is cited for rules governing disclosure of tax return information.

Adjustment of Retroactive Benefits under Title II on Account of Advances of SSI Benefits—Allows the Secretary to offset, against retroactive benefits paid under Title II (OASDI), amounts of SSI benefits paid for the same period for which a retroactive Title II payment is eventually made. The retroactive payment would be reduced by the amount of the SSI benefits which would not have been paid had there been timely payment made under Title II.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CORMAN. Mr. Chairman, I urge we vote down the motion to recommit. I cannot speak to it specifically because I do not know what it is but we will know about it in 5 minutes. I urge Members to support the bill.

Mr. CONABLE. Mr. Chairman, I yield myself 1 minute.

A motion to recommit will be offered which will be described during the period allocated for us which will, in a general way, eliminate any prohibition of the States prescribing work rules and which will provide for an eight-State pilot project for block grants.

Aside from that, a further description will await the time for the motion to recommit.

I think, Mr. Chairman, this bill has been adequately described. Many Members will find it not a modest bill and certainly not reform in the classic sense of the word.

● Mr. KEMP. Mr. Chairman, I think that it would help illuminate our debate over welfare reform if we stopped to consider briefly just how the American people feel about this issue.

The answer on the surface seems to be that they want two contradictory things. On the one hand opinion polls show consistently that a very large percentage of Americans support, indeed support strongly, the existence of Government welfare programs. Yet the polls also show, again consistently, that Americans want to cut Government spending on welfare quite drastically.

Of course there is no real contradiction here. While the American people insist that we provide a secure safety net to catch those who cannot care for themselves, they do not want to see it filled with those who can. This does not mean that Americans are not generous. Quite the contrary; they just have the commonsense to understand that you do not "help" people by making them more dependent. As black economist Walter E. Williams has commented, "disadvantaged minorities do not need government programs that generate paternalism and dependency." That can lead only to despair.

It is our responsibility, then, to try to construct a welfare system that helps the needy without ensnaring them in a vicious poverty trap. Let me admit right away that this is not easy. Any means-tested welfare system, however generously constructed, contains an inherent disincentive for work. Once someone on welfare begins to earn money, his or her welfare benefits will begin to be reduced. Of course if they were not reduced everyone would go on welfare, and the country would soon be bankrupt. All the same, this reduction in benefits has the same effect as a tax: It reduces net pay. Between the loss of benefits and the onset of payroll and income taxes, most persons going off welfare face a marginal tax rate of between 60 and 80 percent. Under some circumstances they face a totally confiscatory marginal tax of over 100 percent. We do not impose those kind of marginal taxes on the very wealthiest Americans.

Thus, as a result of our massive, and admirable, effort to end poverty in this Nation we have virtually destroyed financial incentives for work. We are subsidizing welfare, and getting more of it. We are taxing work, and getting less of it.

This problem cannot be solved from within the welfare system. Consider the choices. To make work more attractive than welfare and unemployment, you can either cut benefits to the needy—which I do not propose—or you can lower the cost of working, which will saddle the taxpayer with an immense burden. The ultimate solution to welfare dependency does not exist.

Much indeed can be done about this problem from outside the welfare system, and I will return to that later. But for now I would like to consider just what we must look for in any proposal to reform welfare, keeping in mind the American people's desire to help the needy without encouraging dependence on the part of those who should be able to help themselves. I suggest that there are four main tests that any such proposal must meet:

First. It must provide sufficient help to those truly in need—but only to those truly in need. We cannot accept the principle that each and every American, regardless of his or her ability and willingness to work, deserves a guaranteed income from the Government.

Second. It must set a clear work requirement, and enforce it. No affordable welfare program can contain enough incentives to guarantee that recipients will actively seek work. Persons who are capable of self-support must be required to provide it: Such has always been, and still is, the consensus of the American people.

Third. It should encourage varied, and innovative, approaches to welfare. Poverty wears many different faces in this country, and should be attacked in different ways. States and localities must be encouraged to develop welfare programs that fit the needs of their areas. This, too, is desired by the American people: In a December 1978 Gallup poll 68 percent stated that they wanted local governments to have more autonomy in determining welfare programs.

Fourth. It should improve efficiency and combat fraud. HEW admits to losing around $7 billion a year to waste and fraud. States and localities, which are closest to the problem, are best able to identify and root out this fraud and inefficiency at its source. In 1971, for instance, California began a drive to reduce fraud by enforcing eligibility rules. More than three quarters of a million persons were removed from the welfare rolls while aid to the truly needy was increased by over 40 percent.

How well, then, does the Welfare Reform bill before us, H.R. 4904, stand up to these tests? Not well at all. By setting a national benefit standard and basing eligibility on income rather than hours worked, it takes a long and dangerous stride toward a national, universal guaranteed income. Because benefits are not contingent on working a designated number of hours, participating in jobs training, or taking any job offered that a person is physically capable of performing, this bill fails to provide a strong work requirement. Moreover, it does not permit States to require that recipients work for their benefits.

By excluding many assets from eligibility determination the bill will increase the size of the welfare rolls, and make it more likely that well-off persons, and striking workers, can get welfare benefits. By eliminating the required 30 days of unemployment prior to eligibility for benefits, the bill will reduce the incentives for newly unemployed workers to seek work at a time when most are still receiving a paycheck—and when their ties to the labor market are still strong.

Finally, the bill confuses simplification with federalization. States will lose discretion over benefit levels, work requirements, income and assets tests for eligibility, and the treatment of two-parent families with dependent children. Opportunities for flexible, original approaches will be lost, and decisions will be made by officials furthest removed from the problems they are trying to solve.

Now, some proponents of the bill argue that only by ending State discretion and establishing a national minimum benefit program can we eliminate the problem of recipients migrating from low-benefit States to high-benefit States. But recent research findings have pulled the rug out from underneath this argument. Instead, a Census Bureau study has shown that not only are the poor not leaving low-benefit States—they are moving back into them at record rates. Why? Because that is where the jobs are.

What this bill would in fact do is raise the cost of welfare to all taxpaying Americans. And that includes the already overburdened taxpayers of the Northeast and particularly New York.

I recognize, of course, that the Northeastern States need fiscal relief to meet their welfare costs. But there are better ways of providing this relief than abandoning State discretion over welfare programs. The Republicans are offering, and I am cosponsoring, a bill that we believe is a far better welfare reform proposal. H.R. 4460, "The Family Welfare Improvement Act," would give fixed block grants to States, thus providing both the much-needed fiscal relief and incentives for States to reduce welfare costs. It would allow States to retain discretion over eligibility and work requirements and benefit levels. And it would cost only $1.4 billion—approximately 20 percent of the cost of H.R. 4904. I urge the House to consider this alternative approach.

But we must go far beyond even this constructive proposal if we are to attack the welfare problem at its roots. For in the end the only real way to insure that people escape the welfare trap is to offer them something better. We must expand attractive opportunities in the private sector. It is human nature to want more, and when individuals on welfare see a real opportunity ladder that could take them to much higher income levels, they will make the decision to try, even though at first they will not be much better off financially. They will invest in their own futures the way we all do when we see a chance of future reward.

The way to expand these opportunities, and to get this country moving again on the path of economic growth, is to restore incentives for work, investment, employment, savings, productivity, initiative, and ability. We must reduce income tax rates across the board. We must lower taxes on capital gains. We must roll back social security tax increases. And we must target special incentives to encourage private enterprise in the poorest areas of our Nation. Only this way will we increase the size of the economic pie, and only by increasing the size of this pie can we give the needy a bigger slice without allowing this country to fall into the politics of confrontation and despair.●

● Mr. SYNAR. Mr. Chairman, after listening to today's debate on H.R. 4904, I became convinced that this legislation fails to achieve its stated purpose—welfare reform. Rather than providing Americans with a reasonable and effective reform of a costly and fragmented welfare system, this bill fragments the system further and locks us more tightly into programs which are not meeting the needs for which they are designed.

The purpose of America's welfare system is to assist citizens who are truly in need of temporary support. An effective welfare system must have strong work provisions to insure that recipients who

are able to work do work and that the relief provided is used only as a last resort.

H.R. 4904 fails to reform where reform is needed most. The present fragmented structure is expanded, the problems of fraud and abuse are not addressed thoroughly, the needed work requirements are conspicuously absent, and there remain cracks in the system through which truly needy citizens might fall.

Mr. Chairman, Congress must face the fact that comprehensive welfare reform is needed now. The legislation approved by the House of Representatives today falls dramatically short of this important goal, and I strongly believe Congress must not become content with this inadequate reform. Rather, Congress must continue working toward a comprehensive, effective welfare reform which will resolve the problems plaguing the system today.●

● Mr. BIAGGI. Mr. Chairman, I rise in full support of H.R. 4904, the Social Welfare Reform Act of 1979. This represents one of the major domestic pieces of legislation that we have considered this session and also represents the centerpiece of President Carter's long-standing commitment to reforming and improving our waste-laden and inadequate welfare programs.

We consider this legislation against the background of continuing inflation which has wrecked a special havoc with the economic lives of persons living on fixed incomes and public assistance. This holds true in those States where maximum levels of public assistance benefits are provided. The situation is even more acute in those States which have failed to provide relative increases in benefit levels to the point that public assistance recipients were forced to assume a dire standard of living.

Perhaps the cornerstone of this legislation is the requirement of a national minimum AFDC—food stamp benefit level for needy families with children. This benefit has been set at approximately $4,654 in 1979 dollars. This translates to 60 percent of the national poverty level increasing to 65 percent in October of 1981. The 60 percent figure takes effect in January of 1981. The support of both the House and Senate to this provision would represent a major breakthrough on an issue which has received major attention from each of the previous three administrations. Just to illustrate—it was just over 10 years ago when President Nixon proposed his first guaranteed income plan known as FAP (families assistance program). The House did in fact pass FAP in both 1970 and 1971 but final action was blocked by the Senate.

We have another opportunity today and I hope that in the ensuing 10 years, we see the inherent wisdom of our earlier position and will reaffirm our support for the minimum benefit concept. A related side issue just to fully measure the impact of inflation in this decade—the FAP plan proposed a minimum income of $1,600 for a family of four. Today the figure translates to $4,654—almost a threefold increase.

This bill has other important features. Practically since the creation of the AFDC program in the Great Society it as been attacked for its failure to provide recipients with any requirements for work. Consequently it was felt that welfare was being abused by those who refused to work. H.R. 4904 contains an important first step in the long overdue need for a "workfare" requirement. Under the bill, the following changes are provided:

First, the present so-called "unemployed fathers" program will be changed to an unemployed parents program effective in all States on October 1, 1981.

Second, after the first 2 months of eligibility—established by the fact that the principal earner is unemployed—the entire family would become ineligible for benefits if the principal earner refuses work unless the other parent complies with the work requirements.

Another key and vitally needed feature of this legislation is a $200 million Federal block grant program to assist States in meeting emergency needs of AFDC families. Obviously, we must recognize this as perhaps a greatly reduced figure over our expectations—but it does in fact represent a commitment which will be welcomed by those States increasingly burdened by high welfare costs. As one deeply involved in the efforts to provide loan guarantees to New York City in 1975 and 1978—I suggest that had a meaningful program such as proposed in H.R. 4904 been available—New York would have averted one of the major reasons for its financial strangulation—high welfare costs. New York City was in fact penalized because it provided a higher benefit level for public assistance than other areas. Consequently—there was much migration into New York City and the ensuing problem began.

Finally, in the AFDC portion of the bill, let me indicate my unequivocal support for the administrative reforms built into this legislation. In essence, what is proposed is to calculate eligibility and benefits on the tangible financial circumstances of a family measured by the previous month. Abandoned is the reliance on "anticipated need." Translated into practical terms—these reforms could result in billions of dollars of savings by a reduction in the error and overpayment rate from the present 8.1 percent to 5.5 percent by 1982. This provision should silence even the most persistent critics of the AFDC program.

As an original member of the House Select Committee on Aging, I am pleased to see the provisions in this legislation aimed at the SSI recipients of this Nation—many of whom are elderly. First, H.R. 4904 provides that cash payments in lieu of food stamps would be provided for all SSI recipients who live alone with an SSI eligible spouse or with other SSI beneficiaries. Further, in what should result in improved administration—benefits and eligibility would be computed on a prospective monthly basis rather than a quarterly basis as under current law. Another good and needed provision in this legislation would allow SSI recepients to exclude from countable resources amounts up to $1,500 set aside for burial expenses. This represents a long-overdue reform which should be extended into the social security system which still relies on an antiquated $255 benefit level to defray the costs of funerals.

Let me cite another key feature of this bill. I am sure I am not alone with respect to having heard repeated cries from SSI recipients who either through robbery or administrative failure did not receive their monthly SSI check.

For many of these—who I remind my colleagues are among our poorest citizens—this is a matter of life and death. Our existing abilities to provide SSI are inadequate at best. For some—the passage of hours is critical—many times it is days before a check arrives and only for $100. This legislation would provide for faster emergency payments at the full monthly level rather than the present $100 rate.

There are other important features of this bill but suffice to say—the bill merits our support today. It is important social and humanitarian legislation. Yet, I point out we are balancing with this legislation. We are tightening up a program which had grown obese and wasteful while failing to aid those most in need. H.R. 4904 is responsible legislation. The President deserves praise for his efforts and I urge passage today.●

● Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the Ways and Means Committee bill and in favor of the motion to recommit H.R. 4904, the so-called welfare "reform" act. If this is the majority party idea of reform, then I can understand why they are trying to dump their President for a new leader. What this bill should be called, if we had an equivalent to the truth-in-advertising law in the House rules, is the Welfare Expansion and Federalization Act. Because that, ladies and gentlemen, is what this bill does.

But as if that is not bad enough, the majority is trying to ram this so-called reform down our throats and the throats of the American people without even a full debate. There has not been a comprehensive reform of the Federal welfare laws for years, yet the leadership refuses to allow alternative plans to be offered, presenting it on a straight take-it-or-leave-it basis. Well I say leave it.

This bill, H.R. 4904, will increase Federal welfare spending by at least $2.8 billion. Maybe the idea is to provide for all the taxpayers who will be forced to go on welfare as a result of our deficit spending. Later this week we will be taking up the second concurent budget resolution, only 2 months late. There will be cries of alarm at the size of the budget and the size of the deficit. Yet here we have before us another program aimed at busting that budget. Those who will shed crocodile tears later this week for the taxpayer should stand up and be counted today.

We are not opposed to meaningful reform. God knows, there is certainly enough wrong with our welfare program the way it is. Even HEW admits to the vast amounts of waste, errors and fraud. But the cure proposed in H.R. 4904 is to "improve" the system by federalizing it. By expanding the eligibility criteria. By prohibiting States from requiring welfare recipients to work under certain

conditions. By establishing, in effect, a national guaranteed income.

Our alternative, H.R. 4460, the Rousselot-Conable bill, which the Rules Committee has forbidden to be considered on this floor, approaches the issue on a completely different basis. H.R. 4460 proposes to decentralize the system, to put the controls back at the State and local level where it can be controlled, to allow individual States to create and tailor their own programs to target benefits and services to the truly needy. To give them incentive to reduce error and waste and fraud and accordingly reduce the cost to taxpayers. To encourage the States with the lowest basic benefits to increase benefit levels.

In short, Mr. Chairman, our bill would truly solve some of the problems in the current welfare system, not add to it. But our proposals will not even see the light of day, unless we vote today to recommit this bill, H.R. 4904, to committee. Let us at least be heard on this issue. If you are not willing to do that, then do not send newsletters back home next week saying how you voted against the bloated budget resolution. Do something about it now.●

● Mr. MICHEL. Mr. Chairman, the chairman of the Ways and Means Committee stated on the floor last Thursday that this bill would reduce welfare payment error rates.

That is not true.

The bill in fact goes in just the opposite direction and would increase error rates. Let me tell you how.

As you know, last year we adopted an amendment reducing waste, fraud, and abuse in HEW by a billion dollars. This year, we adopted a similar amendment requiring $500 million in reductions.

As part of this effort to reduce waste, we approved language in both the 1979 supplemental appropriations conference report and the 1980 Labor-HEW appropriations bill requiring the States to reduce their AFDC error rates to 4 percent by September 30, 1982. HEW has already published proposed regulations to implement that requirement.

This bill before us today would negate that reduced error rate requirement. It would cancel out those tougher HEW regulations, and would instead mandate a return to the soft standards HEW issued earlier in the year.

Those earlier regulations were so weak as to be almost meaningless. For instance, there is no specific nationwide error-rate goal for the States to meet, but instead a floating target called a weighted average mean. At the time the regulations were published in March, that mean was a very high 8.7 percent. Only 14 States had higher error rates than the final standard, and thus would be subject to penalties.

Since then, that floating target has dropped somewhat, but the important thing to remember is that it is a floating target. If error rates go back up again, as many people feel they will, the target moves up right along with the rates.

When nearly three quarters of the States are in compliance with a standard in a program that is still losing over 500 million Federal dollars a year, you know it is not a standard designed to make much of a reduction in waste, fraud, and abuse.

That is why we established a specific target of 4 percent for each State to meet. We must keep their feet to the fire and we must insure that the large amounts of waste in this program are reduced. We simply can not go on allowing $500 million in Federal funds to go down the drain every year in this program.

There is concern on the part of some States that the method of calculating error rates discriminates against those States which have the best quality control programs. That problem was recognized, and specific language is included in the supplemental appropriations conference report requiring a system for determining error rates that insures equal treatment for all States. HEW is currently moving to institute such a system.

The language also allows the Secretary of HEW to waive the 4-percent standard in cases where the State has made every effort to comply, but because of extraordinary circumstances has been unable to do so.

So these tougher standards do contain some flexibility.

This Congress has voted to reduce waste, fraud, and abuse, and has voted to establish tighter error-rate standards in an effort to accomplish that objective.

Now is not the time to back away from these standards, as this bill would do. We must keep the pressure on, because we simply cannot continue to allow the massive waste which has been taking place. If we had an open rule, we could amend the bill to correct this major shortcoming.

Since we cannot offer amendments, however, the bill ought to be rejected on these grounds alone, because as it stands, it again opens the door to the major amounts of waste, fraud, and abuse we have been trying to eliminate.●

● Mr. DANIEL B. CRANE. Mr. Chairman, with H.R. 4904 being discussed by this body I want to bring to the attention of my colleagues the following article by Mr. William Raspberry. This article, published in the Danville Commercial News on November 22, 1978, points out that in spite of the fact that there are a number of good reasons for the concept of guaranteed income, it simply does not work. Mr. Raspberry gives some excellent reasons why it fails. I came across this article shortly after I was elected to Congress and feel that now is an excellent time to reread it. I would like to submit Mr. Raspberry's article for the RECORD at this time so my colleagues may also have an opportunity to review it:

GUARANTEED INCOME JUST DOESN'T WORK

(By William Raspberry)

There are a number of good things about the concept of guaranteed minimum income. It is, to begin with, considerably simpler (and presumably less costly) to administer a guaranteed income program than to run the present welfare system.

It also provides a theoretical mechanism for raising the working poor both out of poverty and off the relief rolls.

And, finally, it has the support of conservatives as well as liberals, rendering it a realistic legislative possibility.

There is also one bad thing about the concept: It doesn't work.

That, at least, is one conclusion to draw from a long-term comprehensive experiment conducted by the Department of Health, Education and Welfare.

The experiment, involving 4,800 low-income families in Seattle and Denver, found that when people were given guaranteed incomes, they simply worked less.

Male heads of household who received the guarantee worked 15 percent fewer hours than the control group; female heads of households worked 11 percent less; wives reduced their working hours by 22 percent. The number of hours worked by teen-agers fell even more sharply.

The reductions in the hours worked were greater for blacks than for whites, and greater still for Hispanics. And in addition, marriages fell apart at a 60 percent higher rate than for families on traditional welfare programs.

The experiment, it would appear, failed. Robert G. Spiegelman, who conducted it, admits he doesn't know why.

I don't either, but I suspect the answer lies along three lines.

The first line assumes that poor people, like the rest of us, rarely are willing to work harder than is absolutely necessary, particularly at unpleasant or otherwise unsatisfying jobs.

A full-time government clerk might moonlight as a taxi driver in order to meet his necessary expenses. But if he got a promotion on his regular job, he might decide to back fewer hours and maybe even give up his taxicab altogether.

He would lose money in the process—the money he would have earned had he continued hacking—but we would not consider his government promotion a negative, a disincentive to work.

If we think of the guaranteed income as the regular "job," then we shouldn't be surprised when those who receive the guarantee work shorter hours on their supplemental jobs. The higher the guarantee, the less the need to supplement it.

A second line of reasoning suggests confusion over what the experimenters would define as success.

In that regard, the experiment could be deemed a flat failure only if the objective was to maximize the number of hours worked. But if that was what was sought, it could have been accomplished by the simple expedient of denying income suoplements of any sort. Given the choice of raking leaves for 100 hours a week or starving, who wouldn't rake leaves? On the other hand, who would continue 100 hours of leaf-raking if he could meet his needs with only 50 hours output?

The third line assumes that people work not only to feed, clothe and house themselves, but also to "get ahead."

Some of us can, on the basis of our experience, assume a direct link between hard work and getting ahead. Others cannot.

The findings suggest that blacks see hard work as less rewarding for them than for whites, and that Hispanics see their exertions as less rewarding still.

The findings are, nonetheless, disturbing, particularly for those of us who believe in the importance of giving people the chance to work their way up.

The question now is how to convince people that the opportunity in fact exists. Guaranteed income, apparently, is not enough to do it.●

● Mr. MOAKLEY. Mr. Chairman, I rise in support of H.R. 4904, The Social Welfare Reform Amendments of 1979. The work of the Ways and Means Committee is to be commended for it addresses the basic problems of the existing cash as-

sistance programs at a cost the American people can afford.

This legislation is a positive step in creating a more simplified, equitable welfare system while also providing fiscal relief to those States, such as Massachusetts, which are paying a large share of total welfare costs.

Examples of improvements include streamlining and simplifying the current administrative system as a means to reduce the chance of fraud and error. Implementing this provision will result in a savings of $180 million.

Additionally, this legislation would increase the Federal matching rate of each State's aid for dependent children and unemployed parent programs. For the Commonwealth of Massachusetts, this measure would provide $22.7 million of fiscal relief in 1981. In fiscal year 1982, the matching rate for the unemployed parents program would be increased by 30 percent; meaning Massachusetts would receive a total of $53 million in fiscal year 1982.

I believe this legislation strengthens the Federal-State partnership in responding to the needs of the Nation's poor and it brings us closer to providing an assistance program that is equitable for all.●

● Mr. PICKLE. Mr. Chairman, no one is satisfied with the present welfare system. Obviously there needs to be an improvement in the system that will provide sufficient help for those truly in need who cannot help themselves, and yet provide sufficient incentive to become self-supporting. The committee has worked hard to produce a bill that will provide key changes in the aid for dependent children program. Included in these provisions, is one that I have long advocated—a prohibition of divesting yourself of assets within 24 months of applying for benefits. Unfortunately, many of our Federal programs have been abused and people have given away their assets in order to make themselves eligible for Federal support. This is an abuse of programs that are designed to help those who have no other means of support, and the result is to make smaller the amount we have for the truly needy.

The basic question that I must answer in the negative, is whether we should establish Federal benefit standards that will apply to all States. Here again we have the Federal Government telling the States what to do, and this is an area that should be administered by the States.

I must say that many of the States have not kept payments at a satisfactory level. This is true of my own State of Texas where the annual benefit for AFDC is only $1,680 with the Federal share at 69 percent of that amount for a family of four with no other income. Even where a State constitutional provision prevents raising the amount, the citizens of the State should take action to change these provisions to provide an adequate amount. When the States do not take action, they invite Federal interference. Each State is different. The cost of living in New York, for example, differs vastly from the cost of living in Texas. Therefore 60 or 65 percent of the poverty level will provide a different standard in different States. At the same time, it does not seem proper to me for the Federal Government to determine the amount appropriate for each State to pay.

While this bill has a provision that essentially "holds harmless" a State for 8 years, it is obvious that this amount cannot then be reduced. The Federal Government will be forced to continue to supplement these payments or the State will be faced with a substantially higher amount determined by the Federal Government. I have opposed Federal standards for unemployment insurance, and I must oppose Federal standards for welfare.

I also voted against the block grant approach recommended by Mr. ROUSSELOT on the ground that this is, in effect, more revenue sharing to States where States have not met their responsibilities. We are now seeing a turning around as far as which governments have the money. State governments in many cases are much more able to meet their obligations than is the Federal Government. In Texas, where we have had a pay-as-you-go-plan we have no deficit, and certainly the Federal Government could take a lesson from this. Now it seems incongruous to continue to insist on the Federal Government in effect throwing money at the States to let them administer.

Of course, I cannot ignore that the new cost of H.R. 4904 is $2.8 billion additional Federal dollars. This is only part of the picture since another part of the bill is still in another committee and the combined cost of both bills is estimated at $5.5 billion. The Rousselot block grant approach would cost $1 billion $400 million additional Federal dollars. At a time when we must hold down Federal deficit, I cannot see pledging this amount of money on an approach I feel represents bad policy.●

● Mr. GOLDWATER. Mr. Chairman, I rise in opposition to H.R. 4904, the Social Welfare Reform Amendments of 1979.

Our harassed taxpayers are becoming more and more concerned over the rising costs of welfare, and I am sure these same taxpayers were delighted when the administration declared a need for welfare reform. Who after all, can oppose reform? Reform, especially in the area of welfare means less dependency on Government handouts, an elimination of fraud, and with the encouragement of work, a decrease in expenditures.

Throughout his Presidential campaign, Mr. Carter pledged reform of the welfare system run by the Federal Government. He also stated that he would not give aid to anyone who could work but refused to when given the chance.

Well. President Carter has not fulfilled his campaign pledge in this bill before us today. H.R. 4904 provides a qualifying family of four with an estimated annual income of up to $5,500 in 1981, regardless of the cost of living in the local area.

This bill also calls for a nationwide, uniform income and assets test, then grandly provides that a home, lot, clothing, furnishings, and two automobiles are not counted in determining eligibility.

Now, I ask you, how can President Carter support this provision of the bill, when he also supports reform of the Federal pay system that tailors pay rates to local living costs? Let me read you a passage from his June 6 message to Congress:

> At present, general schedule employees of a given grade are paid the same rate regardless of where they work in the United States. As a result, Federal pay rates are significantly higher in some areas than local prevailing rates. My proposal, would minimize this problem by requiring that the compensation of most white collar employees be comparable with compensation in the local area.

So, we wind up penalizing workers who work, but rewarding welfare recipients with a uniform income which will be applied nationwide, regardless of where they live.

Furthermore, there is no real provision in this legislation that requires welfare recipients to work, despite the claim of a work requirement.

The elimination of the 30-day waiting period in order to qualify for welfare benefits eliminates the necessity to seek new employment. I am also concerned that strikers would be eligible for benefits under this provision of the bill.

Mr. Chairman, this is not true welfare reform. There is no incentive in this legislation for recipients to get off the welfare rolls, it does nothing to reduce caseloads, or reduce incidences of abuse, fraud and error, nor will it reduce costs. I therefore urge its resounding defeat.●

● Mr. PEPPER. Mr. Chairman, in many respects the legislation before us today, the Social Welfare Reform Amendments of 1979, is among the most important proposals that Congress will consider. The poorest people in the country are by definition those most in need, and yet it always appears that the most destitute are given the lowest priority by Congress. Welfare reform has been proposed, in one form or another, in almost every Congress during my term as a Member of this body. Equally as often, painstakingly crafted legislation, the result of years of research, molding, and compromise, has been left to fall by the wayside at the last minute. The House of Representatives has the opportunity today to help effectively, compassionately, and efficiently meet the needs of the less fortunate people of this Nation.

As chairman of the Select Committee on Aging, I will address my remarks to title II of this bill, amending the supplemental security income program for the aged, blind, and disabled. I need not remind my colleagues that these persons are in the most unimaginably desperate circumstances of any group of people in America. Most of these 4.2 million SSI recipients will engage in a bitter struggle against the soaring prices of energy, food, housing, and medical care, with less than $3,000 annually at their disposal.

More often than not, the aged, blind, and disabled engage in the struggle with less than the meager assistance to which they are entitled by law. Perhaps the most glaring example of the failure to assist older Americans is the food stamp program. Enacted in an effort to protect the poor against skyrocketing food costs, the food stamp program has been a dismal flop with respect to the aged. Only 45 percent of the eligible elderly population participate in the food stamp program—an appalling figure in view of the fact that this concerns the poorest people in America.

My files are replete with correspondence from elderly persons all over the Nation who have worked hard all their lives only to see their savings ravaged by runaway inflation and whose plight worsens daily. They do not want charity, and are too proud to accept it. Hundreds of thousands more are baffled by the confusing and demeaning application process. In any case, Mr. Chairman, nearly 1 million elderly persons refuse or cannot obtain urgent assistance to which they are legally entitled.

H.R. 4904 takes a giant step toward remedying the circumstance created by Congress in which aid to our elderly is so poorly administered that most would rather starve than accept it. The most dramatic provision in the bill would "cash-out" the food stamp benefit for all SSI recipients who live alone or households composed solely of persons eligible for SSI. Over three-quarters of 1 million SSI recipients who are currently eligible for food stamps but do not receive them will have their benefits added to their SSI checks. The Social Security Administration, which administers the SSI program, has earned the trust of millions of Americans through the fair, efficient, and equitable manner in which SSI has been administered.

Many statutory flaws within the SSI program remain from its enactment in 1972, however. I commend the distinguished gentleman from California (Mr. CORMAN) and the distinguished gentleman from Oregon (Mr. ULLMAN) for the forthright and compassionate manner in which they have addressed certain provisions within SSI that have brought undue hardship to many aged, blind, and disabled persons. Under H.R. 4904, the automatic deduction in the SSI benefit standard to $25 will be delayed until an SSI recipient has been in a medicaid institution for at least 3 months, for example. Moreover, the $25 standard, frozen since 1972, will be tied to the cost of living for the first time.

There are other long-awaited improvements regarding income and assets considered in eligibility determinations, which are too numerous to mention. It is apparent, however, that the Committee on Ways and Means has done its homework with respect to the needs of the elderly, poor, and disabled.

Mr. Chairman, these improvements in SSI are modest in terms of fiscal outlays. The CBO estimates that title II of this legislation will cost no more than $41 million in fiscal year 1980. Funding for the improvements will peak in cost in 1982, but will decrease as certain restrictions on asset disposal begin to take effect. There is no claim, therefore, that H.R. 4904 will solve all the hardships suffered by SSI recipients.

The social welfare reform amendments before us today are, however, a giant first step. Within the confines of ever-tightening fiscal constraints, the distinguished members of the Committee on Ways and Means have reported out humane, sensitive, and responsive legislation of which we all can be proud. I implore my colleagues to open their hearts and to adopt this bill.●

● Mr. WIRTH. Mr. Chairman, I rise in support of H.R. 4904, the Social Welfare Reform Amendments of 1979. Given that the fiscal climate makes the costs of a basic restructuring of the welfare system prohibitive, this bill is a very sound and cost-conscious means of approaching the issue in an incremental fashion. The goals of eliminating poverty, providing adequate work incentives for welfare recipients, and minimizing costs to the taxpayer are not always easy to mesh. This bill represents a successful effort at addressing all three of these legitimate concerns.

Few would argue that the present welfare system is not in pressing need of reform. It is composed of multiple programs which vary from State to State and often produce inadequate benefits, inequitable coverage, and inefficient administration. Despite efforts made over the last 20 years, nearly 25 million Americans still live in poverty. This is clearly the strongest argument for reform.

But in addition, the present system is complex and difficult to administer. Programs that make up the system are often uncoordinated, fragmented, and inconsistent. The duplication produced is frustrating to recipients and costly to taxpayers, and the complexity of the rules increases the opportunities to error, fraud, and waste. Administrative expenses now consume between 10 to 20 percent of program costs.

H.R. 4904 addresses these concerns. The bill would improve the fairness and adequacy of welfare cash assistance by establishing a national minimum benefit equal to 65 percent of the poverty level, and mandating an AFDC-unemployed parents program in all States. The bill would improve administration and reduce the opportunity for error, fraud, and waste by streamlining reporting systems, coordinating definitions, and treatment of incomes and resources under the program and by encouraging the use of innovative administrative improvements.

Finally, the bill increases work incentives by improving the work requirement provisions of the employment and training programs and expanding the earned income tax credit.

The bill takes a responsible step in addressing the complex and myriad deficiencies in the present welfare system. Its cost is commensurate with improvements that will be made in terms of equity and efficiency. It is a sensible approach to answering a pressing need without discouraging the initiative and compassion that have made this Nation vigorous and strong. I urge your support of H.R. 4904.●

● Mr. GRASSLEY. Mr. Chairman, I rise in opposition to passage by the House of Representatives of H.R. 4904 (Social Welfare Reform Amendments of 1979). My 5 years in the Congress have taught me that any bill sent to the House floor as "reform" leads to increased costs and more—rather than less—Government. H.R. 4904 will increase the Federal share of welfare costs by $3 billion, a sum which the proponents of the measure have blithely dismissed as "a modest sum of money." I disagree. But there are other reasons why the bill ought to be defeated.

Passage of the bill will be demonstrable proof that a majority of the Members of the House accept the philosophical underpinnings of our Nation's welfare system as this system is currently structured. H.R. 4904, rather than providing incentives for Americans to engage in productive labor, will instead penalize those citizens who try to provide for the needs of themselves and their families. The workers are the ones who will shoulder the higher taxes required to finance these so-called reforms. These are the people—the productive segment of society—that will have to go without a portion of that which they have earned in order to satisfy the bleatings of the welfare lobby. The working men and women of the United States will have to dig deeper into their pockets to pay for the increased costs.

We ought to examine who will benefit from the passage of this legislation. The answer should be evident: The welfare lobby. The welfare lobby is composed of vocal recipients of public assistance, more often than not self-appointed spokespersons for the downtrodden, and individuals who have a financial interest in expanded welfare programs. This welfare lobby is more powerful than what we might term the "taxpayers' lobby"; otherwise, we would not be here today debating a welfare reform bill that in the name of reform will add $3 billion to the Federal Government's welfare costs. If there were no welfare lobby, we would not even be considering a bill which prohibits States from imposing work requirements on those who will receive public assistance.

Make no mistake about it, the welfare lobby is powerful. And there are Members of the House who will cater to it. Recipients of public assistance are apt to vote for those candidates who will promise them more.

H.R. 4904 is not welfare reform so much as it is one more step down the road to widespread income redistribution—one more attempt to reward those who do not provide for themselves—one more attempt to penalize those who do work to take care of themselves and their families. The plan before us would bring about this income redistribution through several elements: First, universal eligibility with an income test only; second, benefit levels set by a central decisionmaking authority; third, providing benefits in cash; fourth, federalizing the welfare system; and fifth, no meaningful work requirement.

The implications of each of these elements of income redistribution are serious; the political dynamics alone are overwhelming. For example, once we set a minimum guaranteed income, political pressure to increase the minimum benefit will be concentrated right here in Washington—rather than in the 50 State legislatures which now determine benefit levels. Does anyone seriously believe that the national minimum income will long remain at 65 percent of what is commonly referred to as "poverty level." We can all imagine a situation, described

by the chairman of the Senate Finance Committee, Mr. LONG, where political candidates will outpromise each other in order to win the next election.

This country was founded on an ethic which called for hard work and providing for one's self and family. This work ethic is what made our country great and gave us the highest standard of living in the world. We have, over the past half century, at first somewhat apologetically but now without the slightest trace of regret, turned our backs on this ethic. Successive Congresses have invited the American people to look toward the Federal Government whenever there is a problem or a perceived need that is not immediately met. This is wrong. We must begin to undo some of the damage inflicted on the American spirit. One way to begin the job would be to defeat H.R. 4904, as currently written, and pass welfare reform legislation consistent with our system of limited government.●

● Mr. EDGAR. Mr. Chairman, I do not wish to debate at this time the philosophical issue of whether every American deserves a decent living standard. I want to talk about the practical effects of H.R. 4904. In this era of justifiable public outrage at expensive, indecipherable and often inequitable Government programs, welfare reform represents an excellent opportunity to simplify a huge Federal bureaucracy and save millions of dollars by reducing waste and fraud.

The question is not whether we are going to spend billions of dollars on welfare. We already spend over $70 billion annually on eight separate public assistance programs. The question is whether or not we are going to enact legislation to make sure this money is spent in the most equitable and efficient manner possible.

The complaints heard most often about the current welfare system are that it wastes taxpayers' money, nobody can understand the maze of regulations and eligibility requirements, fraud is rampant, and the system is encouraging a generation of nonworkers. H.R. 4904 addresses these problems with specific reform measures. Administrative procedures would be streamlined and standardized to reduce operating costs and eliminate opportunities for fraud. Federal assistance in the form of earned income tax credit would be increased for those who need and deserve it most—the working poor who are moving out of the economic cellar through individual effort and ingenuity.

H.R. 4904 includes other provisions which should be applauded by those who deplore the current welfare system. By establishing a minimum benefit level, the bill would discourage welfare recipients from relocating in areas where assistance payments are highest. By extending benefits to two-parent families where no job is available for the primary earner, the bill would remove the present incentives to break up families in order to qualify for income assistance.

I do not see how my colleagues can reasonably assert that these reform measures represent another blank check for Americans who do not want to work. In fact, H.R. 4904 is part of a concerted effort to redirect the welfare system toward employment wherever possible, provision of equitable benefits for those who cannot work or find work, and simplification of assistance programs so that waste and fraud are minimized.●

● Mr. BINGHAM. Mr. Chairman, I rise in support of H.R. 4904, the Social Welfare Reform Amendments of 1979. This is a modest restructuring of the cash assistance welfare system that falls far short of the top-to-bottom overhaul and benefit improvement I am convinced this Nation can afford, but it is a step in the right direction. Furthermore, this bill makes a number of improvements which will reduce administrative costs and complexities, lower the error rate in determining eligibility and benefits, and lessen the welfare burden on State and local governments.

This bill establishes a national minimum benefit, including both aid to families with dependent children payments and food stamps, of 65 percent of the poverty level by October 1, 1981, raising benefits to some 800,000 families in 13 States. Variations in payment levels are allowed in up to six geographic areas of each State, so the 58 different schedules in New York will have to be drastically simplified. The benefit standard in this bill will not affect my constituents, since New York now provides benefits equal to 91 percent of the poverty level, but I support this effort to reduce differences between States as a move toward greater equity which may also reduce the incentive for welfare recipients to move from low-benefit to high-benefit States. Similarly, the bill requires the 24 States which do not have an AFDC program for families with both parents together but unemployed to establish such a program. This mandatory, national AFDC unemployed parent program is another improvement which will equalize benefits across the Nation. It includes changes in work requirements and earnings limits which will enable New York State to shift a large portion of its home relief caseload to this AFDC program, saving the State $13.5 million.

The most important change in this bill for New York is an increase in the Federal share of the costs of the AFDC and AFDC–UP programs from 50 percent to 55 percent in January 1981. I am disappointed that the Federal share is not increased by at least 20 percent, as recommended by the Community Service Society of New York. However, in October 1981, the 55-percent Federal share of AFDC–UP would increase to a new level of 65 percent. Together, these increases will save New York State and its local governments $56 million in 1981 and $74.4 million in 1982. This fiscal relief is backed up by a hold-harmless provision that insures States will not be held responsible for increased costs above 95 percent of their fiscal 1979 outlays for welfare, which means that burgeoning welfare costs to the city and State will be a thing of the past.

This bill also provides for standardization of deductions, coordination of income and assets criteria with the food stamp program, and use of a retrospective accounting system (based on actual earnings in the prior month instead of expected earnings in the future) which will simplify the administration of welfare and lead to lower error rates and reduced overall costs. New York State will receive $18 million to implement these changes which will have mixed effects in New York—some welfare recipients will have reduced benefits but other working poor families who previously were ineligible will qualify for aid. A $200 million block grant program for meeting emergency family needs resulting from accidents or disasters is also authorized in this bill, and it will bring New York another $21 million a year by 1982.

There are also some significant changes in this bill to the supplemental security income program which provides support to 383,000 aged, blind and disabled people in New York State. The most important change authorizes at State option cash payments in lieu of food stamps to begin in October 1981, so that more aged and disabled people will receive these additional benefits. Nearly half the 3.3 million SSI recipients eligible for food stamps do not receive them, presumably because they are unaware of their availability or because of the difficulty of applying for them or the stigma of using the stamps. This provision should increase participation and benefits significantly.

The current requirement that SSI benefits be reduced to $25 per month (the personal needs allowance) whenever a recipient enters a hospital or other medical institution in which a major part of a bill is paid by the medicaid program is also changed. H.R. 4904 would allow full SSI payments to continue to such recipients for up to 3 months to cover routine household expenses that do not stop when they are temporarily in a hospital or other medical facility. This legislation also provides for a long overdue cost-of-living increase in the $25 personal needs allowance beginning September 1, 1980, which would be automatically adjusted annually thereafter. This would represent the first increase in the personal needs allowance since the enactment of the program in 1972. Even with the cost-of-living adjustment, the allowance will still be very inadequate given the high price of personal items especially for those in nursing homes. I hope the New York State Legislature will see fit to add to the Federal increase in the personal needs allowance so that SSI recipients in medicaid facilities can afford to buy basic personal necessities denied them for so long.

Mr. Chairman, this bill cannot be considered a solution to the problems of the current welfare system. That system is still disorganized, unnecessarily complex, difficult to administer, and inequitable. It provides too little assistance to those in need and the Federal Government provides proportionately more help to those States which do the least to support their poor. New York, which provides some of the most nearly adequate support in the country to its poor, nonetheless forces millions of children and adults to subsist on grossly inadequate incomes which have steadily fallen behind increases in the cost of living. In the last 10 years the cost of living has more than doubled, but welfare grants in New York have gone up less than 12 percent with no increase at all since 1974. Concern about holding down Government spending and the negative effect on work incentives from increased levels of welfare support have stymied attempts to improve benefits.

Some leaders in my State have urged defeat of this bill because its improvements in the current system are marginal and the fiscal relief it offers to New York is inadequate. I do not believe that defeating this modest proposal would improve the chances of winning more significant changes. The Congress refused to approve President Nixon's family assistance plan in 1970, partly because liberals thought it inadequate, and it has taken all these years to bring even this incremental reform bill to the floor of the House. I urge my colleagues to approve it and move on to more fundamental reform in the near future.●

● Mr. OTTINGER. Mr. Chairman, I rise in strong support of H.R. 4904, the Social Welfare Reform Amendments of 1979. While this legislation does not provide the comprehensive reform of the welfare system that many of us had hoped for, it does improve the present program. H.R. 4904 will tighten up the current programs and more effectively target assistance to the neediest families. It is certainly a step in the direction of true reform.

I strongly support the national minimum benefit level standard. While this provision does not directly affect New York, which currently pays benefits above the 65 percent of the poverty level mandated in H.R. 4904, it does establish the principle of program adequacy nationwide and will reduce the incentive for recipients to move from low-benefit States to high-benefit States. New York stands to gain substantially from this in the long run.

Similiarly, I support making the AFDC unemployed father or two-parent family assistance program available to the working poor in all 50 States. This provides the financial incentive for families to stay intact and will allow some States—including New York—to shift recipients to federally subsidized assistance.

Another key provision is the expansion of the earned income tax credit which offers tax incentives to encourage those earning poverty line and lower living standard wages to continue working and to avoid public assistance.

A provision of particular concern to me is the $200 million Federal block grant program to assist States in meeting emergency needs of AFDC families and other families with children. Eligible families will be provided cash or other assistance to meet emergency needs resulting from accidents, disasters or other uncontrollable events. I support this program, but believe it should be expanded to include SSI recipients as well. Presently, the SSI program does not make any provision for situations in which a catastrophe befalls an SSI recipient.

I had hoped to offer an amendment to this bill to establish an emergency needs program for SSI recipients, but because of the modified closed rule, I am unable to offer such an amendment. However, the Senate Finance Committee has adopted a similar provision in the past—as part of H.R. 7200—and I want to take this opportunity to urge the Senate to look into this matter during Senate hearings on the welfare reform amendments.

This bill include numerous provisions designed to simplify the administration of the programs and to reduce the fraud and error rates. The bill requires that benefits be based on actual rather than projected income, it limits certain income disregards, requires income to be reported on a monthly basis, improves the child support enforcement program, and takes into account the income of all individuals living in a household. Cashing out food stamps for aged, blind, and disabled recipients will both simplify administration and reduce error and fraud.

Finally, this bill provides desperately needed fiscal relief to the State and local governments. According to estimates made by the Department of Health, Education, and Welfare, H.R. 4904 would reduce New York State's welfare costs by $129.8 million in fiscal year 1982 when this proposed legislation is implemented.

In conclusion, Mr. Chairman, I will continue to push for additional reform measures—regional variations in benefit levels which take into consideration differences in the cost of living around the country, a more effective work requirement for recipients who are able to work and provision of adequate jobs and training for them, as well as day care for mothers who would like to work, a supplemental housing allowance for SSI recipients and an emergency needs program for SSI recipients. These are issues of vital importance and desperately needed. But this bill, H.R. 4904, accomplishes a great deal.

H.R. 4904 has earned the support of many groups around the country: The National Governor's Conference, the National Association of Counties, League of Women Voters, National Urban League, National Council of Churches, senior citizen organizations and labor groups. It is also supported by the New York Governor, the New York State Assembly, and the Westchester County executive. I urge my colleagues in the House to adopt this important measure.●

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The CHAIRMAN. All time has expired.

Pursuant to the rule, the bill is considered as having been read for amendment. No amendments are in order except: First, amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment, the amendments recommended by the Committee on Ways and Means now printed in the bill which shall be considered en bloc and considered as read; and second, an amendment printed in the CONGRESSIONAL RECORD of October 23, 1979 by, and if offered by, Representative JEFFORDS of Vermont, and said amendment shall not be subject to amendment.

The bill reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, together with the following table of contents, may be cited as the "Social Welfare Reform Amendments of 1979".

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; ASSISTANCE TO MEET EMERGENCY NEEDS; EARNED INCOME CREDIT

PART A—INCOME AND RESOURCES

Sec. 101. Definition of income and amount of disregards from earned income.
Sec. 102. Benefits for children living with relatives who are not legally responsible for their support.
Sec. 103. Treatment of certain income.
Sec. 104. Modifications in treatment of income effective fiscal year 1982.
Sec. 105. Definition of resources and allowable limits.

PART B—ELIGIBILITY AND BENEFIT STRUCTURE

Sec. 106. Eligibility for aid to families with dependent children by reason of unemployment of a parent.
Sec. 107. Definition of dependent child; mandatory coverage of certain individuals.
Sec. 108. Benefit standards.
Sec. 109. Income poverty guidelines; adjustment for changes in the Consumer Price Index.
Sec. 110. Rights and responsibilities of applicants and recipients.
Sec. 111. Period for determination of aid; times at which payment must be made.
Sec. 112. Employment required and services related to employment.
Sec. 113. Assistance to meet emergency needs.

PART C—FEDERAL FINANCIAL PARTICIPATION; ADMINISTRATIVE IMPROVEMENTS; RELATED AMENDMENTS

Sec. 115. Increased Federal financial participation.
Sec. 116. Limitation on fiscal liability of States.
Sec. 117. Administrative improvements.
Sec. 118. Programs for mechanized processing and management information systems.
Sec. 119. Assistance for the development of administrative improvements in State programs.
Sec. 120. Corrective action regarding overpayments and underpayments.
Sec. 121. Aid to families with dependent children recipient review.
Sec. 122. Monitoring and assessing performance in the aid to families with dependent children program.
Sec. 123. Technical amendments to incentive adjustments for aid to families with dependent children quality control.
Sec. 124. Amendments to medicaid program.

Sec. 124A. Prohibition against payment of aid in amounts below specified minimum level.

PART D—IMPLEMENTATION

Sec. 125. State implementation of amendments.
Sec. 126. Applicability of amendments to the territories.

PART E—AMENDMENTS TO THE INTERNAL REVENUE CODE AFFECTING THE EARNED INCOME CREDIT

Sec. 127. Governmental payments to be disregarded for purposes of support and maintenance of household tests.
Sec. 128. Amendments to the earned income tax credit.

PART F—OPTIONAL FOOD STAMP CASH-OUT FOR AFDC RECIPIENTS

Sec. 129. Payments in lieu of food stamps for AFDC recipients under Federal-State agreements.

TITLE II—SUPPLEMENTAL SECURITY INCOME

PART A—FOOD STAMP CASH-OUT

Sec. 201. Food stamp cash-out for certain supplemental security income recipients.

PART B—IMPROVEMENTS IN STANDARDS FOR DETERMINING ELIGIBILITY AND AMOUNT OF SUPPLEMENTAL SECURITY INCOME

Sec. 202. Eligibility of couples living apart.
Sec. 203. Eligibility of individuals in certain medical institutions (including cost-of-living adjustments).
Sec. 204. Earned income in sheltered workshops.
Sec. 205. Exclusion from resources of burial plots.
Sec. 206. Exclusion from resources of funds set aside for burial expenses.
Sec. 207. Exclusion of certain real and personal property from income.
Sec. 208. Underpayments to ineligible spouse of deceased supplemental security income recipient.
Sec. 209. Increased payment for presumptively eligible individuals.
Sec. 210. In-kind remuneration.
Sec. 211. Continuation of benefits for certain individuals hospitalized outside the United States.
Sec. 212. Extension of special income and resource provisions.
Sec. 213. Deletion of term "child".
Sec. 214. Termination of mandatory minimum State supplementation in certain cases.
Sec. 215. Limitation on eligibility for supplemental security income of persons who dispose of resources.
Sec. 216. Rounding of amount of cost-of-living adjustments.
Sec. 217. Attribution of sponsor's income and resources to aliens.
Sec. 218. Extension of service program for disabled children.
Sec. 219. Individuals receiving support and maintenance in another person's household.

PART C—IMPROVED ADMINISTRATION OF THE SUPPLEMENTAL SECURITY INCOME PROGRAM

Sec. 231. Judicial establishment of fees for representing supplemental security income claimants.
Sec. 232. Monthly computation period for determination of supplemental security income benefits.
Sec. 233. Elimination of requirement for representative payment of supplemental security income to drug addicts and alcoholics.
Sec. 234. Replacement of benefit checks.
Sec. 235. Mandatory pass-along of supplemental security income benefit increases.
Sec. 236. Negotiability of supplemental security income benefit checks.
Sec. 237. Deletion of obsolete reference.
Sec. 238. Correction of incorrect reference in Public Law 92-603.

TITLE III—AMENDMENTS APPLICABLE TO TWO OR MORE PROGRAMS UNDER THE SOCIAL SECURITY ACT

Sec. 301. Conditions governing availability of certain Federal records.
Sec. 302. Disclosure of tax return information.

TITLE IV—CHILD SUPPORT ENFORCEMENT

Sec. 401. Collection of support for certain adults receiving aid to families with dependent children.
Sec. 402. Child support collections for non-AFDC families.
Sec. 403. Amendments regarding incentive payments.
Sec. 404. Incentive payments to tribal governing bodies.
Sec. 405. Three months' extension of aid to families with dependent children eligibility.
Sec. 406. Method of determining reimbursement of the Federal Government.
Sec. 407. Method of payment for child support collection services.

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; ASSISTANCE TO MEET EMERGENCY NEEDS; EARNED INCOME CREDIT

PART A—INCOME AND RESOURCES

DEFINITION OF INCOME AND AMOUNT OF DISREGARDS FROM EARNED INCOME

SEC. 101. (a)(1) Section 402(a)(7) of the Social Security Act is amended by inserting "(as defined in or determined under section 412)" after "income and resources" and by striking out ", as well as any expenses reasonably attributable to the earning of any such income".

(2) Section 402(a)(8) of such Act is amended to read as follows:

"(8) provide that, with respect to any month, in making the determination under paragraph (7) with respect to income (as defined in or determined under section 412(a)), the State agency—

"(A) shall disregard from the earned income of any child or relative receiving aid to families with dependent children, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $70 of the total of such earned income for such month;

"(B) shall disregard from the earned income of any child, relative, or other individual specified in subparagraph (A) an amount equal to (i) 20 per centum of the total (determined prior to the application of subparagraph (A)) of any amounts received by such child, relative, and other individual in such month as wages or salary or as net earnings from self-employment, plus (ii) any costs incurred by them in producing self-employment income in such month;

"(C) shall disregard from the earned income of any child, relative or other individual specified in subparagraph (A) an amount equal to one-third of the total amount of such earned income not already disregarded under subparagraph (A) or (B);

"(D) shall disregard from the earned income of any child, relative, or other individual specified in subparagraph (A) an amount equal to the cost of care in such month for a dependent child, or an incapacitated individual living in the same home as the dependent child, receiving aid to families with dependent children and requiring such care for such month, to the extent that such amount for such month (for each such child or individual) does not exceed $160; and

"(E) shall disregard so much of the total of the income (not already disregarded under subparagraphs (A), (B), (C), and (D)) of each child, relative and other individual specified in subparagraph (A) as does not exceed—

"(i) 65 per centum of the income poverty guidelines (as defined in section 414) for a family with the same number of members, reduced by

"(ii) the value of the monthly allotment of food stamp coupons (as described in section 414) that would be provided to a family of that size with no income other than income under this part (and reducing such income only by the applicable standard deduction specified in section 5(e) of the Food Stamp Act of 1977) in an amount which, together with such food stamp allotment, equals the amount specified in clause (i), and further reduced by

"(iii) the amount of aid that would be payable under such plan for such month to a family of that size with no other income;

except that (with respect to any month) the State agency—

"(F) shall not disregard, under subparagraph (A), (B), (C), (D), or (E), any earned income of any one of the persons specified in subparagraph (A) if such person—

"(i) terminated his employment or reduced his earned income without good cause within such period (of not less than thirty days) preceding such month as may be prescribed by the Secretary;

"(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

"(iii) failed without good cause to make a timely report (as prescribed by the State plan pursuant to paragraph (22)(B)) to the State agency of earned income received in such month; and

"(G) shall not disregard, under subparagraph (A) or (C), any earned income of any of the persons specified in subparagraph (A) if with respect to such month the income of the persons so specified (within the meaning of paragraph (7)) was in excess of their need as determined by the State agency pursuant to paragraph (7) (without regard to subparagraphs (A), (B), (C), (D), and (E) of this paragraph), unless, for any one of the four months preceding such month, the needs of such person were met by the furnishing of aid under the plan;".

(b) Part A of title IV of such Act is further amended by adding at the end thereof the following new section:

"INCOME

"SEC. 412. (a) For purposes of this part and any State plan approved under section 402(a), the term 'income' (in the case of any individual with respect to any month) shall include all income from whatever source, but shall exclude only—

"(1) any gain or benefit which is not in the form of money payable directly to such child, relative, or other individual, other than a gain or benefit, under circumstances and to the extent specified by the Secretary, available for shelter, utilities, and similar needs;

"(2) any income which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $10 in a month;

"(3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' education benefits, and the like to the extent that they are used for

tuition, mandatory school fees, books, and transportation;

"(4) all loans other than educational loans on which repayment is deferred;

"(5) reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to such child, relative, or other individual;

"(6) moneys received and used for the care and maintenance of a third-party beneficiary who is not such a child, relative, or other individual;

"(7) income earned by a dependent child or any other child who is a member of the family, who is a student, and who has not attained his twenty-first birthday;

"(8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, and retroactive lump-sum insurance settlements (but such payments shall be counted as resources, unless specifically excluded by this part or other Federal laws);

"(9) emergency assistance to needy families with children;

"(10) assistance, furnished to or on behalf of such individual, which is based on need and is furnished by a political subdivision of a State for the purpose of augmenting aid to families with dependent children; and

"(11) any income that any other Federal law specifically excludes from consideration as income for the purposes of determining eligibility for (A) the food stamp program, but only to the extent found necessary by the Secretary to assure the equitable and efficient administration of the program established under this part, or (B) aid to families with dependent children.

"(b) The Secretary shall issue regulations, after consultation with the Secretary of Agriculture, to effectuate the provisions of this section and in doing so shall, insofar as practicable, coordinate the interpretation and administration of this section with subsection (d) of section 5 of the Food Stamp Act of 1977.".

(c)(1) The amendments made by subsection (a) shall become effective October 1, 1979 (except that subparagraph (E) of section 402(a)(8) of the Social Security Act, as added by such amendments, shall not become effective until October 1, 1980); and the amendment made by subsection (b) shall be effective beginning with the sixth month following the month in which this Act is enacted.

(2) Effective with the date of enactment of this Act and prior to the effective date of the amendments made by this section, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the applicable requirements imposed under part A of title IV of the Social Security Act, and the amount payable to any State shall not be decreased, solely because such plan fails to comply with the requirements of section 402(a) (7) or (8) of such Act, as in effect prior to the effective date of the amendments made by this section, if the plan complies with the requirements of section 402 (a) (7) and (8) of such Act as amended by this section.

(3) Effective January 1, 1980, section 412 (a) of the Social Security Act (as added by subsection (b) of this section) is amended by adding at the end thereof (after and below paragraph (11)) the following sentences: "For purposes of this part, an individual's 'income' shall also include, to the extent and under the circumstances prescribed by the Secretary, an amount (which shall be treated as earned income for purposes of this Act) equal to the earned income advance amount (under section 3507(a) of the Internal Revenue Code of 1954) that is (or, upon the filing of an earned income eligibility certificate, would be) payable to such individual. Any credit or refund of Federal income taxes under the Internal Revenue Code of 1954 shall not be treated as income under a State plan approved under this part, and such amount shall not be considered a resource of an individual (or the family of which he is a member) during the six-month period beginning with the month in which it is received.".

BENEFITS FOR CHILDREN LIVING WITH RELATIVES WHO ARE NOT LEGALLY RESPONSIBLE FOR THEIR SUPPORT

SEC. 102. (a) Part A of title IV of the Social Security Act (as amended by section 101(b) of this Act) is further amended by adding at the end thereof the following new section:

"DETERMINATION OF BENEFITS IN CERTAIN CASES WHERE CHILD LIVES WITH RELATIVE NOT LEGALLY RESPONSIBLE FOR HIS SUPPORT

"SEC. 413. (a) Notwithstanding any other provision of this part, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed under this part solely because, under such plan, in any case (or in such cases as the State may determine) where one or more children live in any household—

"(1)(A) in which the total income of such child or children and the closely related family members (as defined in subsection (b)) living in the same household equals or exceeds the standard of need under such plan for a family equal in number to the total number of such children and closely related family members in the same household, or (B) where the income of children and family members cannot be determined due to failure to cooperate without good cause, and

"(2) which (A) does not include a relative (specified in section 406(a)(1) who is legally responsible for the support of the child or children, or (B) includes one or more such relatives but none of such relatives is eligible for aid under the State plan because such relative is being supported by another person or under another program,

the amount of the aid furnished with respect to such child or children for shelter, utilities, and similar expenses, bears the same ratio to the total amount which would be furnished for such expenses, if all the closely related family members with whom such child or children are living were eligible for such aid, as the number of such children bears to the total number of such children and family members.

"(b) For purposes of subsection (a), the term 'closely related family members' with respect to any child means those relatives of his who are specified in section 406(a)(1) and any other individual for whose support such a relative is legally responsible, but does not include any such relative or other individual (1) with respect to whom benefits are provided under another public program eligibility for which is based on need, or (2) whose presence in the home would not increase the total amount which would be allowed for shelter, utilities, and similar expenses if he was eligible for aid.

"(c) The amount of aid to families with dependent children for shelter, utilities, and similar expenses shall be identified, for purposes of this section, in the following manner.

"(1) If the State plan approved under this part provides for paying 100 percent of the standard of need specified in the plan, and designates a portion of that standard, for families of specified sizes, to meet shelter, utilities, and similar expenses, then an amount equal to that portion shall be considered the total amount for such expenses for a family of the specified size.

"(2) If such plan provides for meeting less than 100 percent of such standard, and designates a portion of that standard, for families of specified sizes, to meet such expenses, then an amount equal to that portion, multiplied by the proportion of the standard of need which such State pays as aid to families with dependent children, shall be considered the total amount for such expenses for a family of the specified size.

"(3) If such plan does not designate any portion of the standard of need for meeting such expenses, then such portion shall be determined in accordance with criteria prescribed by the Secretary, but in no event shall such portion exceed 30 percent (or such greater percent as the State may show is attributable to such expenses) of the standard of need for a family of a specified size, multiplied by the proportion of such standard which the State pays as aid to families with dependent children.

"(d) For purposes of subsection (a), the total income of the child or children and the closely related family members (as defined in subsection (b)) shall be determined as it would be if all such individuals were applicants for aid under the State plan and shall not include any income which any such individual is obligated to apply to the support of any other individual not living in the household.".

(b) The amendment made by subsection (a) shall become effective October 1, 1979.

TREATMENT OF CERTAIN INCOME

SEC. 103. (a) Section 407(b)(2)(D) of the Social Security Act (pertaining to treatment of amounts of unemployment compensation received) is repealed.

(b)(1) Section 402(a)(19)(D) of such Act (pertaining to disregard of WIN training incentives and payment of certain work expenses) is repealed.

(2) The first sentence of section 434(a) of such Act is amended by striking out "an incentive payment" and inserting in lieu thereof the following: "reasonable work expenses incurred by such participant (including costs authorized by subsection (b) of this section) and and incentive payment".

(3) Section 434 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) No amount paid under subsection (a) shall be included as income under any Federal or federally assisted program.".

(c) The amendments made by this section shall become effective with the sixth month following the month in which this Act is enacted.

MODIFICATIONS IN TREATMENT OF INCOME EFFECTIVE FISCAL YEAR 1982

SEC. 104. (a) Section 412(a) of the Social Security Act (as added by section 101(b) of this Act) is amended by striking out paragraph (2) and redesigning paragraphs (3) through (11) as paragraphs (2) through (10), respectively.

(b) Section 402(a)(8)(C) of such Act (as added by section 101(a)(2) of this Act) is amended by striking out "child, relative, or other individual specified in subparagraph (A)" and inserting in lieu thereof "child or relative receiving aid to families with dependent children otherwise than on the basis of the unemployment of a parent in accordance with section 407, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination.".

(c) Section 402(a)(8)(D) of such Act (as so added) is amended by inserting "otherwise than of the basis of the unemployment of a parent in accordance with section 407" immediately after "receiving aid to families with dependent children".

(d) Section 402(a)(8)(E)(i) of such Act (as so added) is amended by striking out

"65 per centum" and inserting in lieu thereof "75 per centum".

(e) Section 402(a)(8)(G) of such Act (as so added) is amended by striking out all that precedes "the income of the persons so specified" and inserting in lieu thereof the following:

"(G) shall not disregard—

"(i) under subparagraph (C), in the case of a family in a State where aid to families with dependent children for a family of three is less than 75 per centum of the income poverty guidelines (as defined in section 414) for such a family with no other income (reduced as described in subparagraph (E) (ii) and (iii)), or

"(ii) under subparagraph (A) or (C), in the case of a family in a State where aid to families with dependent children for a family of three is 75 per centum or more of the income poverty guidelines (as so defined) for such family (so reduced),

any earned income of any of the persons specified in subparagraph (A) if with respect to such month".

(f) The amendments made by this section shall become effective October 1, 1981.

DEFINITION OF RESOURCES AND ALLOWABLE LIMITS

SEC. 105. (a) Section 412 of the Social Security Act (as added by section 101(b) of this Act) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) The Secretary shall prescribe the types and allowable amounts of resources (liquid and nonliquid) which a family otherwise eligible for aid to families with dependent children may own (considered on the basis of the family's equity interest in the resources involved except to the extent otherwise specified in this subsection), and shall, in so doing, assure that no State plan approved under this part prescribes such an amount that is less than $750 in the case of any family, or greater than $1,750 (unless and to the extent that such plan, as in effect for September 1981, specified a greater amount therefor). The Secretary, in prescribing inclusions in and exclusions from resources, shall include any licensed vehicle (other than one used to produce earned income) but only such portion of the fair market value of any such vehicle as exceeds $4,500. In addition to items that the Secretary may exclude under the preceding provisions of this subsection, he shall in any event, exclude from financial resources—

"(1) the home, including a vehicle used as the family's primary place of residence, and including so much of the land that appertains thereto as the Secretary determines to be reasonable;

"(2) the value of any plot of land held for the purpose of providing a burial place for a member of the family;

"(3) household goods and personal effects;

"(4) the cash surrender value (to the extent it does not exceed limits prescribed by the Secretary) of any insurance policy owned by a family member;

"(5) real or personal property which produces income in an amount that represents a reasonable rate of return on its fair market value (determined in accordance with criteria prescribed by the Secretary);

"(6) property which is determined by the Secretary to be essential to the employment or self-employment of a family member;

"(7) any amounts received from a public agency for the restoration of a home or business damaged in a disaster;

"(8) resources the cash value of which cannot be readily realized by any member of the family; and

"(9) any resources that any other Federal law specifically excludes from consideration as resources for purposes of determining eligibility for (A) the food stamp program, but only to the extent found necessary by the Secretary to assure the equitable and efficient administration of the program established under this part, or (B) aid to families with dependent children.".

(b)(1) Section 412(c) of such Act (as redesignated by subsection (a) of this section) is amended by striking out "subsection (d)" and inserting in lieu thereof "subsections (d) and (g)".

(2) The heading of such section 412 is amended to read "INCOME AND RESOURCES".

(c) Section 402(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (28);

(2) by striking out the period at the end of paragraph (29) and inserting in lieu thereof a semicolon; and

(3) by adding after paragraph (29) the following new paragraphs:

"(30) provide that no lien may be imposed against the property of any individual on account of aid paid or to be paid under the plan (except pursuant to the judgment of a court on account of aid incorrectly paid); and

"(31) provide that—

"(A) the needs of an individual shall not be taken into account in making the determination under paragraph (7) (for the applicable period prescribed by subparagraph (B)) if, within any twenty-four-month period that begins with or after the twenty-fourth month preceding the month in which an application (including the needs of such individual) for aid under this part is filed, he (i) disposed of resources which if retained would have caused him to be ineligible for such aid, for the purpose of establishing eligibility for such aid (and any disposition of resources within such period shall be presumed to have been for such purpose unless such individual furnishes convincing evidence to establish that the transaction was for some other purpose), and (ii) received compensation therefor in an amount such that the difference between the fair market value of the individual's equity interest in such resources and the compensation therefor exceeded $3,000, and

"(B) the period for which the needs of an individual to whom subparagraph (A) applies are not to be taken into account in making the determination under paragraph (7) shall be six months if the uncompensated value of the individual's equity interest in the assets involved exceeded $3,000 but not $6,000, twelve months if such value exceeded $6,000 but not $15,000, or twenty-four months if such value exceeded $15,000, beginning with the month following the month in which the disposition occurred, but such needs may be included immediately upon the return to such individual of the resources he had previously disposed of or the receipt by him or payment equal to the amount described in subparagraph (A)(ii);

except that the State agency, in accordance with regulations prescribed by the Secretary, may waive the requirement of, or reduce the period of ineligibility imposed by, this paragraph in cases where such agency determines that such a waiver or reduction is justified.".

(d) The amendments made by this section shall become effective October 1, 1981.

PART B—ELIGIBILITY AND BENEFIT STRUCTURE

ELIGIBILITY FOR AID TO FAMILIES WITH DEPENDENT CHILDREN BY REASON OF UNEMPLOYMENT OF A PARENT

SEC. 106. (a) Section 407 of the Social Security Act is amended as follows:

(1) the heading is amended to read "DEPENDENT CHILDREN OF UNEMPLOYED PARENTS";

(2) subsection (a) is amended by striking out "his father" and inserting in lieu thereof "the parent who is the principal earner";

(3) subsection (b)(1) is amended (A) by striking out "such child's father" in subparagraph (A) and inserting in lieu thereof "whichever of such child's parents is the principal earner", and (B) by striking out "father" in subparagraph (B) and inserting in lieu thereof "parent";

(4) subsection (b)(2) is amended (A) by striking out "fathers" in subparagraph (A) and inserting in lieu thereof "unemployed parents", and by striking out "father" in subparagraphs (C)(i) and (C)(ii) and in subparagraph (D) and in inserting in lieu thereof "parent described in paragraph (1)(A)";

(5) subsection (c) is amended by striking out "father" both times it appears and inserting in lieu thereof "parent"; and

(6) subsection (e) is amended by striking out "fathers" and inserting in lieu thereof "parents".

(b) Section 407(a) of such Act is amended by striking out "as determined in accordance with standards prescribed by the Secretary" and inserting in lieu thereof "as determined in accordance with regulations of the Secretary specifying a uniform minimum level of monthly earnings that may be expected to be paid for full time employment".

(c) Section 407(b)(1) of such Act is amended (1) by adding "and" after the comma at the end of subparagraph (A), (2) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof "; and", and (3) by striking out subparagraph (C) (requiring prior recent employment or receipt of unemployment compensation).

(d) Section 407(d) of such Act is amended to read as follows:

"(d) For purposes of this section, the term 'parent who is the principal earner', in the case of any child, means whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the six-month period the last month of which immediately precedes the month in which an application is filed for aid under this part on the basis of the unemployment of a parent (unless the other parent is designated as 'the parent who is the principal earner' in accordance with rules prescribed by the Secretary to avoid hardship or consider unusual family circumstances), if and for each consecutive month for which the family receives such aid on that basis.".

(e) Section 402(a)(19)(A) of such Act is amended—

(1) by striking out "mother" in clause (v) and inserting in lieu thereof "parent";

(2) by striking out "mother or other female caretaker of a child," in clause (vi) and inserting in lieu thereof "the parent or other caretaker of a child who is deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent,", and by striking out "the father or another adult male relative" in such clause and inserting in lieu thereof "another adult relative".

3(A) by striking out "or" at the end of clause (v),

(B) by striking out the semicolon at the end of clause (vi) and inserting in lieu thereof "; or", and

(C) by inserting after clause (vi) the following new clause:

"(vii) the parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner, as defined in section 407(d)) is not excluded by this paragraph;"; and

(4) by striking out (in the matter following the numbered clauses)—

(A) "her option" and inserting in lieu thereof "his or her option",

(B) "if she so desires" and inserting in lieu thereof "if he or she so desires",

(C) "to her" and inserting in lieu thereof "to him or her", and

(D) "she should decide" and inserting in lieu thereof "he or she should decide".

(f)(1) Section 407(b)(1) of such Act (as amended by the preceding provisions of this section) is further amended by striking out "when—" and all that follows and inserting in lieu thereof the following: "when whichever of such child's parents is the principal earner has not without good cause, within such period (of not less than thirty days) as may be prescribed by the Secretary, refused a bona fide offer of employment or training for employment; and".

(2) Section 407(c)(A) of such Act is amended (A) by striking out ", (1) for any part of the thirty-day period referred to in subparagraph (A) of subsection (b)(1), or (ii)", and (B) by striking out "subparagraph (B) of such subsection" and inserting in lieu thereof "subsection (b)(1)".

(g) Section 407(b)(2)(C) of such Act is amended—

(1) by striking out "; and" at the end of clause (ii) and inserting in lieu thereof a comma; and

(2) by adding at the end thereof (after and below clause (ii)) the following:

"except that even though the parent who is the principal earner is not registered as described in clause (i), such clause shall not operate to deny aid to families with dependent children to any child or relative if the other parent is so registered, but in any such case the needs of the parent who is the principal earner shall not be taken into account in determining the amount of such aid; and".

(h) The amendments made by subsections (a), (b), and (c) (other than paragraph (3) thereof), (d), and (e) shall become effective upon enactment or on October 1, 1979, whichever is later; and the amendments made by subsections (c)(3), (f), and (g) shall become effective October 1, 1981.

DEFINITION OF DEPENDENT CHILD; MANDATORY COVERAGE OF CERTAIN INDIVIDUALS

SEC. 107. (a)(1) Section 406(a)(2) of the Social Security Act is amended by striking out "a student" and all that follows and inserting in lieu thereof the following: "a student (i) regularly attending an elementary or secondary school or (ii) attending on a full-time basis a school, college, or university or a course of vocational or technical training designed to fit him for gainful employment;"

(2) Section 406 of such Act is further amended by striking out "dependent children" in the portion of subsection (b) that precedes clause (1) and inserting in lieu thereof "dependent children, or a pregnant woman who, upon the birth of the child, would become eligible for aid to families with dependent children".

(b) Section 402(a) of such Act is amended by inserting immediately before paragraph (15) the following new paragraph:

"(14) provide for furnishing aid under the plan to (A) dependent children described in section 406(a) (or, at the option of the State, such children other than those specified in section 406(a)(2)(B)(ii)), (B) pregnant women referred to in the first sentence of section 406(b), (C) dependent children deprived of parental support or care by reason of the unemployment of a parent in accordance with section 407, and (D) the caretaker relative of a dependent child with whom such child is living, and, if the child is deprived by reason of the incapacity or unemployment of a parent, both the father and the mother;".

(c) The amendments made by this section shall become effective October 1, 1981.

BENEFIT STANDARDS

SEC. 108. (a)(1) Effective with respect to months after December 1980, section 402(a) of the Social Security Act is amended by inserting immediately after paragraph (16) the following new paragraph:

"(17) provide—

"(A) that the State agency shall make monthly payments to each family with dependent children in an amount determined by subtracting, after the application of paragraphs (7) and (8), the monthly income of the family (other than amounts provided under this part) from its monthly cash needs standard (as established by the State under subparagraph (B) of this paragraph) or, at the option of the State, from its payment standard (as so established);

"(B) that, with respect to each month in which payments are determined under this paragraph, the State shall establish for any family with dependent children—

"(i) a monthly cash needs standard, and

"(ii) a monthly payment standard specifying the amount of aid to families with dependent children that the family would receive for such months under the plan (regardless of whether it did) if it had no other income,

such that, in the case of any such family with no income other than income under this part (and reducing such income only by the applicable standard deduction specified in section 5(e) of the Food Stamp Act of 1977), each of such standards (whether or not they are the same), when added to the value of the monthly allotment of food stamp coupons under the Food Stamp Act of 1977, will equal an amount that is not less than 60 per centum of the income poverty guidelines (as defined in section 414) for a family with the same number of members as such family, except that the value of the monthly allotment of food stamp coupons (as described in section 414) in the case of any family shall be considered to be the value of the allotment which such family would receive if it were considered a household with no income (except under this part) for purpose of the Food Stamp Act of 1977 (whether it is actually living alone or with one or more other persons or families)".

(2) Effective with respect to months after September 1981, section 402(a)(17)(B) of such Act (as added by paragraph (1) of this subsection) is amended by striking out "60 per centum" and inserting in lieu thereof "65 per centum".

(b) Effective October 1, 1981, section 402(a)(1) of such Act is amended to read as follows:

"(1) provide that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; except that the State, in accordance with the Secretary's regulations, may vary its monthly cash needs standard or its monthly payment standard or both (but not below the minimum established under paragraph (17)) with respect to families with dependent children so as to take into account differences in the cost of living in different geographical regions of the State, but—

"(A) the State may take into account no more than six levels of such cost with respect to such families, and

"(B) the monthly cash needs standard and the monthly payment standard must each be the same for all families with dependent children which are of the same size and are living within the same geographical region of the State;".

(c)(1) Notwithstanding section 402(a)(1) of the Social Security Act, as amended by subsection (b) of this section, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed under part A of title IV of such Act if such plan—

(A) provides that, with respect to a family that received aid for September 1981 under such plan, the payment standard as defined in paragraph (2) which was applicable to the determination of the amount of aid payable to such family may continue to apply and be treated as the monthly payment standard established pursuant to the amendments made by this section (but only if and for so long as it is greater than the applicable monthly cash needs standard established pursuant to such amendments) for that period of consecutive months during which such family is continuously eligible for such aid, and the expenditures resulting from the application of such standard shall be considered expenditures for aid to families with dependent children under such plan; or

(B)(i) takes into account, for no more than forty-eight months following the effective date of this section, a greater number of levels of cost of living in different geographical regions of the State than would be permitted under the amendment made by subsection (b), but only if the State, by an amendment approved by the Secretary of Health, Education, and Welfare to its plan approved under part A of title IV of such Act, demonstrates that it is making substantial progress in reducing the number of such levels so that, by the expiration of such forty-eight months, it will comply with the amendment made by subsection (b); or

(ii) takes into account a greater number of levels of cost of living in different geographical regions of the State than would be permitted under the amendment made by subsection (b), but only to the extent that such greater number is approved by the Secretary of Health, Education, and Welfare upon a finding that good cause exists for the continued use under the plan of such State of such greater number of levels.

(2) For purposes of paragraph (1)(A), the term "payment standard" with respect to a family that received aid to families with dependent children for September 1981 means the amount of such aid that such family would have received (regardless of whether it did) for such month if it had no other income.

(d) The Secretary of Health, Education, and Welfare shall conduct a study of (1) the desirability and feasibility of raising the minimum benefit amount under the aid to families with dependent children program, and (2) the desirability and feasibility of alternatives to the existing matching formulas under that program (including an alternative formula which would adequately reflect the tax capacity of the various States). The Secretary shall submit a report to the Congress not later than one year after the date of the enactment of this Act containing his findings and any recommendations for legislation for implementing such findings.

INCOME POVERTY GUIDELINES; ADJUSTMENT FOR CHANGES IN THE CONSUMER PRICE INDEX

SEC. 109. (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"INCOME POVERTY GUIDELINES; ADJUSTMENT FOR CHANGES IN THE CONSUMER PRICE INDEX

"SEC. 414. (a) As used in this part, the term 'income poverty guidelines' with respect to any State means the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget (and adjusted

annually pursuant to section 625 of the Economic Opportunity Act of 1964) as applicable to such State, and, for purposes of section 402(a), the income poverty guidelines applicable to any period shall be determined (and adjusted) as follows:

"(1) for the nine months beginning with October 1979, the income poverty guidelines prescribed for 1979 will be applied, after being (A) increased by an amount equal to the product of those guidelines and the ratio of (i) the Consumer Price Index for all urban consumers for December 1978, to (ii) such index for December 1977, and (B) thereafter rounded, when not a multiple of $10, to the nearest multiple of $10, or, if a multiple of $5, increased to the next higher multiple of $10;

"(2) for the twelve months beginning with July 1980, the income poverty guidelines prescribed for 1980 will be applied, after being (A) increased by an amount equal to the product of those guidelines and the ratio of (i) the Consumer Price Index for all urban consumers for December 1979, to (ii) such index for December 1978, and (B) thereafter rounded as described in paragraph (1)(B); and

"(3) for the twelve months beginning with July 1981, the income poverty guidelines prescribed for 1981 will be applied, after being (A) increased by an amount equal to the product of those guidelines and the ratio of (i) the Consumer Price Index for all urban consumers for December 1980, to (ii) such index for December 1979, and (B) thereafter rounded as described in paragraph (1)(B).

"(b) For purposes of section 402(a)(8)(E) and, in the case of paragraph (3), section 402(a)(17), the monthly allotment of food stamp coupons under the Food Stamp Act of 1977 will be determined—

"(1) for the nine months beginning with October 1979, by reference to the allotments that would have been provided at differing income levels during the period of January through June 1979,

"(2) for the twelve months beginning with July 1980, by reference to such allotments during the period January through June 1980, and

"(3) for the twelve months beginning with July 1981, by reference to such allotments during the period January through June 1981.

"(c) For each twelve-month period beginning with July of any year after 1981, the income poverty guidelines and the monthly allotment of food stamp coupons shall be determined (and adjusted) in the same manner as described in subsections (a) and (b).".

(b) The amendment made by subsection (a) shall become effective upon enactment.

RIGHTS AND RESPONSIBILITIES OF APPLICANTS AND RECIPIENTS

SEC. 110. (a) Section 402(a)(4) of the Social Security Act is amended to read as follows:

"(4) include provisions assuring the rights of all applicants and recipients of aid under the plan, and setting forth the responsibilities of such applicants and recipients, as required by section 415;".

(b) Part A of title IV of such Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new section:

"RIGHTS AND RESPONSIBILITIES OF APPLICANTS AND RECIPIENTS

"SEC. 415. (a) The Secretary shall prescribe regulations to assure, and each State plan approved under this part shall include provisions consistent with such regulations to assure within the State, that—

"(1) every individual in a State with a plan approved under this part who either makes in person (at any location designated to receive applications for aid under such plan) or sends in written form (received at such location) what may reasonably be interpreted as a request for aid under such plan shall be deemed to have filed an application for such aid on the same day such request is made or received;

"(2) the application form shall (A) be approved by the Secretary, (B) require only such information as the Secretary determines to be necessary to the administration of this part and the State plan (and other programs administered by the State agency where common application forms are used), (C) be available in any language which is the principal language of 10 per centum or more of the members of the eligible and potentially eligible families in the State agency's service area, (D) contain a description in understandable terms and in prominent and boldface lettering of the applicable civil and criminal sanctions for failure of applicants and recipients to comply with the provisions of this part and the applicable provisions of the State plan, (E) specify or furnish as attachments a clear description of the rights of applicants and recipients under this part and such plan, (F) be made available for public distribution, accompanied by instructions for the filling out of the application and detailed information about the eligibility requirements, scope, and benefits of such plan and the program under this part, and (G) include where required the provisions necessary for each adult member of the family to make the assignment and enter into the agreement required by section 402(a)(26); and verification of the information essential to determining eligibility shall be made using standard methods of verifying information which are the least intrusive possible, and only after advising the applicant of all types of contacts that might be made so that the applicant might determine whether the necessary information can be provided to make such contacts unnecessary or whether the applicant would prefer to withdraw the application;

"(3) each applicant may be represented or assisted in any part of the application or hearing process by any adult claiming to be a member of the family, or by any adult other than a member of the family (including a lawyer) so long as that adult has been clearly designated as the representative of the family for that purpose by an adult member of the family for that purpose by an adult member of the family or a nonmember adult for a family that contains no adult member able to file;

"(4) each applicant may receive and return application forms by mail or delivery;

"(5) appropriate means and procedures are established for determinations of eligibility in those cases in which no adult member of the family is able to appear in person because of age or physical or mental handicap, or because of the location or hours of operation of the office designated to receive applications for aid under the plan in the political subdivision in which such family resides;

"(6) a determination on the application will be made promptly and, in any event, notice of the determination (and first payment of aid, if the family is found to be eligible) will be sent to the applicant within a period of no more than thirty days following the date of the application; but such thirty-day period shall not be used as a waiting period before making payment under the plan or as a basis for denying payment;

"(7)(A) if a determination cannot be made within thirty days (for reasons other than the failure or refusal of the applicant or other family member to cooperate or to take other reasonable actions necessary to such determination), payment shall be made within five days (after the thirtieth day) even in the absence of all the information essential to the determination of eligibility and the amount of payment so long as that absence is not directly attributable to action or inaction on the part of the family and there is no documented reason to believe that the family is ineligible or should not receive the highest amount to which it would be entitled by virtue of its composition, size, and income.

"(B) such aid (on the basis of presumptive eligibility as described in subparagraph (A)) will be paid for two months in the case of a child deprived by reason of the unemployment of a parent (as defined in section 407(a)) or for three months in the case of any other dependent child, or until a determination is made under paragraph (6) if earlier, and at the end of this period the State agency must make a final decision with respect to which a hearing may be requested pursuant to paragraph (10), and

"(C) if the individual or family is determined to be ineligible (or eligible for a lesser amount) after the payment of aid on the basis of presumptive eligibility, the payments made shall not (in the absence of any fraudulent act or statement) be considered to be incorrect payments and no recovery will be made;

"(8) the notice under paragraph (6) shall state the action taken on the application and the reasons for and specific legal basis (including citation of applicable law and regulation) for such action, and shall explain the family's right to and the manner in which it can request a hearing pursuant to paragraph (10) if it is dissatisfied with the action;

"(9) in case determination is made to terminate, suspend, adjust (for overpayment), withhold, or reduce payment to a recipient family, such family shall be mailed a written notice that such action is to occur at least 10 days before the date such action is to become effective (except that if such action is taken by reason of a report provided by the recipient or another member of the recipient's family or by reason of his failure to file timely a requested report, the notice and explanation of the action shall be sent so as to arrive not later than the date regularly designated for delivery of the payment affected by such action), which notice shall include a statement of the action to be taken, the reasons for and specific legal basis (including citation of applicable law and regulation) for such action, the family's right to and the manner in which it can request a hearing pursuant to paragraph (10)), and the circumstances under which payment will be continued if a hearing is requested;

"(10) a hearing pursuant to paragraph (12) shall be granted to any family that requests a hearing by way of a clear expression in writing, or orally (confirmed in writing), by a member of that family or its representative pursuant to paragraph (3) to the effect that the family wants the opportunity to contest the determination, if that expression occurs within 90 days after notice of the determination is mailed to the family or after failure to mail such determination within the time required by paragraph (6), or after a determination affecting the manner of payment under this title, unless that request for hearing is withdrawn in writing by the family or its representative or the hearing is abandoned because, without good cause, the family fails to appear by a member or its representative at the time scheduled for such hearing, or the sole issue for hearing is one of State or Federal law (or change therein) requiring automatic action for classes of recipient families and not one of incorrect payment computation;

"(11) if the family requests a hearing based on the notice referred to in paragraph (9) no later than ten days after the date on which the adverse action is taken, payment shall be either continued in full (where the request is made on or before that date) or reinstated in full in as short a time as is possible but in any event within five days, and the action shall be revoked, both

until the hearing decision is issued and subject to recovery or adjustment of any overpayment if such action is sustained thereafter in the hearing process, unless, prior to the hearing, there is a determination that the sole issue for hearing is one of State or Federal law (or change therein) and not one of incorrect payment computation;

"(12) the hearing shall—

"(A) be conducted by the State at a reasonable time, date, and place with adequate preliminary written notice to the requesting family, and the State may, with the consent of the individuals affected, consolidate individual requests for hearing into a single group hearing if the sole issue for hearing involved in those requests is one of State or Federal law (or change therein);

"(B) involve opportunity for the requesting family or its representative, including legal counsel, to (i) examine and copy, without charge, at a reasonable time before the date of the hearing as well as during the hearing, all documents, records, and other material (including material in the family's case file) to be relied upon at the hearing in support of the action, and an opportunity to examine and copy at a reasonable time prior to the hearing all documents relating to the family which are not protected from disclosure under section 552a of title 5, United States Code, (ii) present its views, evidence (including witnesses), and arguments on all pertinent facts and circumstances in the matter, without undue interference, to the State or to an individual designated by the State as a hearing officer meeting standards established by the Secretary, (iii) compel the attendance at such hearing of any witness employed by the State upon a showing that such witness may possess factual information relevant to the issues involved, (iv) confront and cross-examine adverse witnesses upon whose evidence the action taken is based in whole or in part, (v) question or refute any testimony or evidence, (vi) prevent attendance at the hearing or any portion of the hearing by any person not essential to the conduct of the hearing, and (vii) if the individual's medical condition is at issue, obtain prior to the hearing a medical assessment at agency expense from a source satisfactory to the agency and the requesting family;

"(C) result in issuance and mailing to the family of a revised determination reaffirming or modifying the initial action, which revised determination shall be based exclusively on evidence and other material introduced at the hearing (which shall constitute the hearing record and shall be available to the family or its representative at a reasonable time in an accessible place), shall be accompanied by an explanation of the reasons for that revised determination, including a summary of the facts and identification of the supporting evidence, law, and regulation, and the manner, if any, by which the family can appeal such determination through State processes, and shall be accessible to the public with all identifying information deleted; and

"(D) lead to prompt, definitive, and final administrative action to implement the revised determination by making or not making payment within 90 days from the date of the request for a hearing pursuant to paragraph (9), unless such action is delayed to allow additional time to the family at its request;

"(13) replacement of lost or stolen payment checks will occur as swiftly as possible when requested at least 3 days and not more than 30 days after regular due date of the check involved, but in no event in more than 5 days from the date of the request for such replacement;

"(14) no information collected pursuant to this part with respect to any member of any applicant or recipient family or any such family identified by name or address will be maintained in records in any form beyond a reasonable period of time after such member ceases to be a member of such a family or after such family ceases to be a recipient family under the plan; and

"(15) in every respect not otherwise specified by the provisions of this section, there will be full compliance with the provisions of the Privacy Act of 1974 and section 552a of title 5, United States Code (with the State being deemed for this purpose to be a Federal agency within the purview of that Act with respect to information concerning applicants for and recipients of aid under its approved State plan), and with the provisions of section 6103 of the Internal Revenue Code of 1954.

"(b) The Secretary shall, in carrying out subsection (a), consult with the Secretary of Agriculture for the purpose of assuring that this section is administered, to the maximum extent practicable, in the same manner as are similar provisions of the Food Stamp Act of 1977 which deal with the rights and responsibilities of applicants and recipients under that Act.

"(c) For purposes of this section, an application is effective as provided in section 402(a)(21)(A)(i), and is an application for aid for each month beginning with the month before the month in which it is filed and ending with (1) the month in which the State agency denies the application, (2) the sixth consecutive month in which no aid is payable to the family if the family had previously been determined to be eligible, or (3) the month in which the application is withdrawn (in accordance with such rules as the State agency may prescribe), whichever occurs first. Thereafter payments under the plan may be made only upon the filing of a new application, except that information and evidence received in connection with the filing of a prior application shall be considered in determining eligibility based on any new application.".

(c) Section 402(a)(10) of such Act is repealed.

(d) The amendments made by this section shall become effective October 1, 1981.

PERIOD FOR DETERMINATION OF AID; TIMES AT WHICH PAYMENT MUST BE MADE

SEC. 111. (a)(1) Section 402(a) of the Social Security Act is amended by inserting immediately after paragraph (20) the following new paragraph:

"(21) provide that—

"(A)(i) an application for aid under the plan will be effective beginning no later than the month preceding the month in which it is filed, except that, if the application is filed after the first day of a month, the State agency may reduce the payment (that would otherwise be payable) for the preceding month by an amount equal to that payment multiplied by the ratio of (I) the number of days elapsed in the month of application prior to the filing of such application, to (II) thirty, and

"(ii) the needs of an individual will be taken into account for each month for which the application is effective in making the determination under paragraph (7) if, on the last day of such month, he met the requirements under the plan for having his needs so treated;

"(B)(i) the State agency will determine a family's eligibility for aid and the amount of such aid for each month, and, with respect to any month, the determination shall be made after the close of such month at such time or times as the Secretary may by regulation prescribe, except that

"(ii) for purposes of determining eligibility for or amount of aid to be paid for the month in which the application is filed, or the month (or any part thereof) preceding the month of application, income received before the day of application, and family composition and the amount of its resources to the extent there have been changes occurring between the first day of the month preceding the month of application and the last day of the month of application, will be treated in accordance with such rules as the Secretary may prescribe consistent with subsection (d);

"(C) payment of no less than half the monthly amount for which a family is found eligible will (upon the family's request) be paid at the time the initial determination of eligibility is made if the regularly designated day for delivery of benefit checks in that month is more than seven days thereafter;

"(D) the day regularly designated for delivery of checks (of at least one-half the monthly amount payable) shall occur within the month (and by such date as the Secretary may require) following the month for which payment is made;

"(E) in the case of a dependent child described in section 407(a), such child (and his relative and any other individual, living in the same home as such child and relative, whose needs are taken into account in making the determination under paragraph (7)) shall be eligible for any month after the first two months only if the Secretary of Labor certifies (with respect to such month) that neither parent of such dependent child is employed or in training in accordance with part C or that an employment or training opportunity has not been (or will not be, with respect to such month) made available to the parent who is the principal earner, or the Secretary fails to transmit any such certification;".

(2) Section 402 of such act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall by regulation prescribe rules for determining eligibility for and amount of aid to families with dependent children for the month in which the application is filed and the preceding month. Such rules shall—

"(1) provide for a transition to the rules for determining eligibility and benefit amount for subsequent months in accordance with subsection (a)(21)(B)(i), and

"(2) assure that such determination will take into account any changes in income, resources, or family composition that may have occurred since the beginning of the month preceding the month of application, to the end that payments for the month of application and the preceding month will respond to the family's need for aid in such months.".

(b) Section 402(a) of such act (as amended by subsection (a)(1) of this section) is further amended by inserting after paragraph (21) the following new paragraph:

"(22) provide (A) that, with respect to each recipient of aid, all facts affecting eligibility will be reviewed by the State agency at intervals of no more than twelve months, and (B) such rules requiring prompt reporting, by applicants for and recipients of aid, of information pertaining to family composition, income, resources, and any other matters affecting eligibility for or amount of aid as the Secretary may prescribe;".

(c) The amendments made by this section shall become effective October 1, 1981, or, with the approval of the Secretary, at such earlier date (not before October 1, 1979) as the State may select; except that a State plan approved under part A of title IV of the Social Security Act shall not, during the twelve-month period beginning with October 1981 (or such earlier month (not before October 1979) as the State selects), be regarded as failing to comply with the requirements contained in section 402(a)(21) or (22), and the amount payable to any State shall not be decreased, solely because the plan fails to comply with such requirements if the Secretary determines that the State is taking all

necessary steps, during the redetermination process, to adjust the time at which determinations of eligibility and payment amount are made and that the State will have completed such adjustments with respect to all recipients of aid under such plan by the close of such twelve-month period.

(d) Each State agency administering (or supervising the administration of) a State plan approved under part A of title IV of the Social Security Act shall make a transitional payment in the first month for which are effective the amendments made by this section requiring that determinations of aid under the plan for a month be made after the close of that month. The transitional payment shall be made with respect to each child (and relative and other individual living in the same home) eligible for aid for the month preceding the month in which such transitional payment is made and shall be in an amount equal to the benefits paid for such preceding month. If the day regularly designated for delivery of benefit checks under the State plan in months after the month in which the transitional payment is to be made is later than the tenth day of the month, the transitional payment shall be increased by an amount equal to such payment multiplied by the fractional part of the month that elapses up to and including such delivery day. The Secretary of Health, Education, and Welfare shall prescribe rules concerning the amount and timing of transitional payments in States that, for months prior to the effective date of this section, make payments of aid to families with dependent children on more than a single regular delivery date in order to achieve a result in such States comparable to that described in the preceding sentence. A transitional payment made under this section shall be deemed to be a payment of aid to families with dependent children, and the amount of the increase, if any, by reason of the regular delivery date occurring after the tenth day of the month, shall not be counted as income under any Federal or State program.

EMPLOYMENT REQUIRED AND SERVICES RELATED TO EMPLOYMENT

SEC. 112. (a) Section 402(a)(19) of the Social Security Act is amended—

(1) by striking out "manpower services" in subparagraph (A) and inserting in lieu thereof "employment and training services";

(2) by striking out the semicolon at the end of subparagraph (A) and inserting in lieu thereof the following: ", and that, for purposes of this paragraph, good cause for refusing to participate in a work incentive program or to accept employment shall be considered to exist, in addition, to any other cases specified by the Secretary of Labor, in any case in which an individual's participation in such program or acceptance of such employment would result in a reduction in his income (as defined in section 412, but including, pursuant to regulations of the Secretary of Labor, governmental benefits payable in a form other than cash";

(3) by striking out "the Secretary of Labor" in subparagraph (B) and inserting in lieu thereof "a work incentive program";

(4) by striking out "to the Secretary of Labor" in subparagraph (F);

(5) (A) by striking out "and for so long as" in subparagraph (F), and

(B) by striking out "aid for any dependent child in the family" in clause (i) of such subparagraph and inserting in lieu thereof "aid paid for any dependent child in the family may be paid", and by striking out "will be made" in such clause;

(6) by striking out the portion of subparagraph (F) that follows clauses (i) through (iv) and inserting in lieu thereof the following:

"except that the State agency shall not take the action described in clause (i), (ii), (iii), or (iv), as may be appropriate, until after a period of thirty days following its receipt of a notice of such refusal, and such action shall thereafter continue in effect for forty-five days, or until the agency receives a notice rescinding the prior notice of refusal, whichever is later;"; and

(7) by striking out subparagraph (G) and inserting in lieu thereof the following:

"(G) that the State will have in effect a work incentive program under part C, as part of which an administrative unit (which shall be designated by the Governor and the employees of which, to the maximum extent feasible, perform services only in connection with such program) (i) will provide (directly or through arrangements with others) to individuals who have been registered pursuant to subparagraph (A) such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept a job or participate in employment and training services in accordance with part C, (ii) will, when arrangements have been made to provide necessary supportive services, including child care, certify to the work incentive program those individuals who are ready to participate in employment and training in accordance with part C, (iii) will participate in the development of the employability plan under section 433(b)(3) for each individual registered pursuant to subparagraph (A), and (iv) will assure, for purposes of clause (i), that when more than one kind of child care is available to enable the parent to participate in employment and training, the parent may choose the type of, but may not refuse to accept, available child care services;".

(b) Section 403(c) of such Act is amended by striking out "to the local employment office of the State".

(c) Section 407(b)(2)(C)(i) of such Act is amended by striking out "and for so long as".

(d) The amendments made by this section (other than by subsection (a) (5) and (6) and subsection (c)) shall become effective October 1, 1981; and the amendments made by subsection (a) (5) and (6) and subsection (c) shall become effective October 1, 1979.

ASSISTANCE TO MEET EMERGENCY NEEDS

SEC. 113. (a) Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new section:

"ASSISTANCE TO MEET EMERGENCY NEEDS

"SEC. 416. (a) As used in this part—

"(1) The term 'emergency needs' means any extraordinary expense or need of a family caused by or arising from an accident, natural disaster, or other event of unpredictable, uncontrollable, or nonroutine character that cannot be satisfied by the other income or available resources of the family.

"(2) The term 'eligible family' means—

"(A) any family with children which (in the month in which the emergency needs exist) receives aid to families with dependent children, and

"(B) at the option of the State, any other family with children which (in such month) has gross income not exceeding twice the income poverty guidelines (as defined in section 414) for a family of the same size, and the value of whose resources (other than those which would be excluded if the family were receiving aid to families with dependent children) does not exceed such limit as the State may prescribe consistent with paragraph (4).

A family the value of whose resources (described in subparagraph (B)) exceeds the limit prescribed by the State may be considered an eligible family for assistance to meet emergency needs in the amount for which it would otherwise be eligible, reduced by the value of its resources in excess of such limit.

"(3) The term 'assistance to meet emergency needs' means assistance, in the form of money payments, vendor payments, or assistance in kind or in such other form as the State agency finds appropriate, to any member of an eligible family (as defined in paragraph (2)).

"(4) For purposes of paragraph (2), the State may set a limit on the value of family's resources that does not exceed (A) $1,750, or (B) such greater amount as is specified, in accordance with section 412(b), in the State plan approved under this part.

"(b) There is authorized to be appropriated $200,000,000 for fiscal year 1982, and such sums as may be necessary for each fiscal year thereafter, for payments under section 403(a)(5) to States for assistance to meet emergency needs.".

(b) Section 402(a) of such Act is amended by inserting immediately after paragraph (12) the following new paragraph:

"(13) provide that assistanace to meet emergency needs will be furnished in accordance with criteria prescribed by the State that specify (A) those eligible families to whom and the circumstances under which such assistance will be furnished, and (B) the limits on the duration and amount of such assistance;".

(c) Section 403(a) of such Act is amended by striking our paragraph (5), and by inserting in lieu thereof the following:

"In the case of any State providing assistance to meet emergency needs—

"(5)(A) the Secretary shall pay to such State for each fiscal year an amount equal to the sum of—

"(i) one-half the amount appropriated for payments under this paragraph for such fiscal year multiplied by the ratio of (I) the number of recipients of aid to families with dependent children under the plan of such State, to (II) the number of such recipients in all the States to which this paragraph applies, and

"(ii) one-half the amount appropriated for such purpose multiplied by the ratio of (I) the non-Federal share of expenditures for aid to families with dependent children under the States' plan approved under this part, to (II) the non-Federal share of expenditures for such aid under the plans of all the States to which this sentence applies;

and for purposes of determining the number of recipients in any State (or in all the States), or the amount of the non-Federal share of expenditures under the plan approved under this part in any State (or for all the States), the numbers for the most recent preceding year for which the Secretary determines that satisfactory data are available shall be used;

"(B) if the amount paid in any fiscal year to a State under subparagraph (A) is not expended in such year for assistance to meet emergency needs, the State may retain one-third of the amount not expended, for use for such purpose in the subsequent fiscal year;

"(C) any amounts paid under subparagraphs (A) in any fiscal year, and neither expended in that year nor retained by the State under subparagraph(B), shall, to the extent such amounts do not exceed 5 per centum of the total amount appropriated for carrying out this section in such year, remain available for payment by the Secretary to any State or States that, in accordance with such criteria as he finds relevant, will have need of additional amounts for assistance to meet emergency needs in subsequent fiscal years; and

"(D) if the amount that a State receives in any fiscal year under the preceding provisions of this paragraph is less than the amount it received for the fiscal year 1979 under this paragraph (as in effect for that

year), the Secretary shall pay to such State an additional amount (from amounts available to him under subparagraph (C), and, if necessary, from amounts appropriated pursuant to section 401) so that the total paid under this paragraph equals the amount paid in the fiscal year 1979.".

(d) Section 412(a)(8) of such Act (as added by section 101(b) of this Act and redesignated by section 104(a)) is amended to read as follows:

"(8) assistance to meet emergency needs furnished under section 402(a)(13); and".

(e) Section 406(e) of such Act is repealed.

(f) The amendments made by this section shall become effective October 1, 1981.

PART C—FEDERAL FINANCIAL PARTICIPATION; ADMINISTRATIVE IMPROVEMENTS; RELATED AMENDMENTS

INCREASED FEDERAL FINANCIAL PARTICIPATION

SEC. 115. (a) Effective with respect to calendar quarters beginning on or after January 1, 1981, section 403(a) of the Social Security Act is amended by inserting after paragraph (3) the following new paragraph:

"(4) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, and amount equal to 10 per centum of the difference between—

"(A) the total amounts expended during such quarter as aid to families with dependent children under the State plan, and

"(B) the total of the amounts determined under paragraph (1) or section 1118 with respect to those expenditures for such quarter.".

(b) Effective with respect to calendar quarters beginning on or after October 1, 1981, section 403(a)(4) of such Act (as added by subsection (a) of this section) is amended by striking out "10 per centum" and inserting in lieu thereof the following: "10 per centum, in cases involving a dependent child as defined in section 406(a) (or a woman described in section 406(b)), and 30 per centum in cases involving a dependent child as defined in section 407,".

LIMITATION OF FISCAL LIABILITY OF STATES

SEC. 116. (a) Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new section:

"LIMITATION ON FISCAL LIABILITY OF STATES

"SEC. 417. (a)(1) If, in fiscal year 1982 or in any of the following four fiscal years (or in fiscal year 1981 to the extent provided in subsection (f)), a State's allowable expenditures for aid to families with dependent children (as defined in subsection (b)(1)) exceed 95 per centum of its fiscal liability base (as defined in subsection (b)(2)), the Secretary shall pay to such State for such fiscal year, in addition to the amounts determined under section 403 (or section 1118) for quarters in such fiscal year, an amount equal to such excess.

"(2) The Secretary shall pay to each State which receives a payment under paragraph (1) for fiscal year 1986, in addition to the amounts determined under section 403 (or section 1118), an amount equal to the following percentages, with respect to the specified fiscal year, of the amount of such payment for fiscal year 1986:

"(A) for fiscal year 1987, 100 per centum:

"(B) for fiscal year 1988, 67 per centum; and

"(C) for fiscal year 1989, 33 per centum.

"(3) As a condition of any State receiving a payment under paragraph (1) or (2) of this subsection the State must agree that it will pay to any political subdivision thereof which participates in the State's allowable expenditures for aid to families with dependent children a portion of such payment that bears the same ratio thereto as such political subdivision's expenditures bear to the total of such State expenditures.

"(b) For purposes of this section—

"(1) the term 'allowable expenditures for aid to families with dependent children' with respect to any State for fiscal year 1982, or any of the following four fiscal years, means the non-Federal share of expenditures for aid to families with dependent children (as defined in paragraph (4)) multiplied by the ratio (but only if it is less than 1) of—

"(A)(i) the average monthly payment to an individual with no other income (determined in accordance with regulations of the Secretary) for months in fiscal year 1979, adjusted for use in fiscal year 1982 or in such following fiscal year (as defined in paragraph (3)) as the case may be, or

"(ii) if greater, the minimum monthly cash needs standard which may be established consistent with section 402(a)(17)(B), to

"(B) such average monthly payment (as so determined) for months in fiscal year 1982, or in such following fiscal year, as the case may be;

"(2) the term 'fiscal liability base' with respect to any State in a fiscal year means—

"(A) the total expenditures under the plan of that State approved under this part as aid to families with dependent children for the four consecutive quarters beginning with the quarter beginning October 1, 1978, reduced by

"(B) the total of the amounts determined under section 403(a)(1) or section 1118 with respect to those expenditures for such quarters (or, if different, the total of the amounts that would have been determined with respect to such expenditures using the percentages required by such sections for the corresponding quarters in such fiscal year), adjusted as provided in subsection (e);

"(3) an amount is 'adjusted for use in' a particular year when multiplied by the ratio of (A) the Consumer Price Index for all urban consumers for the month of September occurring in the fiscal year for which the amount is to be used or applied by the Secretary, to (B) that Index for September 1979; and

"(4) the term 'non-Federal share of expenditures for aid to families with dependent children' means the total expenditures under the plan approved under this part for quarters in a fiscal year which are included for purposes of determining the amount payable by the Secretary under section 403(a)(1) or 1118 to such State for quarters in such year, reduced by the amount so determined.

"(c)(1) A State may, for purposes of subsection (a), increase its allowable expenditures for aid to families with dependent children for fiscal year 1982, or any of the following four fiscal years, by an amount equal to—

"(A) the average amount of State expenditures for medical assistance furnished for months in fiscal year 1979 to a family eligible therefor by reason of its receipt of aid to families with dependent children (such amount to be determined in accordance with regulations of the Secretary), adjusted for use in such fiscal year (as defined in subsection (b)(3)), multiplied by

"(B) the excess of—

"(i) the average monthly number of families eligible for medical assistance in such fiscal year under the plan of such State approved under title XIX by reason of their receipt of aid to families with dependent children, over

"(ii) the average monthly number of such families in fiscal year 1979.

"(2) As used in paragraph (1), the term 'State expenditures for medical assistance' with respect to a specified family means the total amount of expenditures for medical assistance furnished to that family under the State plan approved under title XIX, reduced by the amount determined by the Secretary under section 1903(a) with respect to those expenditures.

"(d)(1) A State may, for purposes of subsection (a), increase its allowable expenditures for aid to families with dependent children for fiscal year 1982, or any of the following four fiscal years, by an amount equal to—

"(A) the ratio of (i) total State expenditures for administration of the State plan approved under this part for quarters in fiscal year 1979, adjusted for use in such fiscal year (as defined in subsection (b)(3)), to (ii) the sum of the number of cases for each month in fiscal year 1979 receiving aid under the plan, multiplied by

"(B) the increase (if any) in the sum of the number of cases for each month in such fiscal year over such sum for months in fiscal year 1979.

"(2) As used in paragraph (1), the term 'total State expenditures for administration of the State plan approved under this part' means the total of such expenditures for such year reduced by the amount determined by the Secretary under section 403(a)(3) with respect to such expenditures.

"(e)(1) For fiscal year 1982, a State's fiscal liability base shall be adjusted by multiplying it by the ratio of—

"(A) the total expenditures for aid to families with dependent children in all the States in fiscal year 1981, to

"(B) such total expenditures in fiscal year 1978.

"(2) For fiscal year 1983, and each fiscal year thereafter, a State's fiscal liability base, adjusted as provided in paragraph (1), shall be further modified by—

"(A) multiplying it by the change in (i) the Consumer Price Index for all urban consumers for September 1983 (or such later fiscal year), from (ii) that index for September 1982, and then

"(B) multiplying the resulting product by the 'AFDC–CPI ratio', as defined in paragraph (3).

"(3) The 'AFDC–CPI ratio' is the ratio of—

"(A)(i) the total expenditures for aid to families with dependent children in all the States in fiscal year 1981, divided by

"(ii) such total expenditures in fiscal year 1978, to

"(B)(i) the Consumer Price Index for all urban consumers for September 1981, divided by

"(ii) that index for September 1978.

"(f) Notwithstanding any of the preceding provisions, this section shall apply with respect to the period beginning January 1, 1981, and ending September 30, 1981, as though such period were specified in such provisions and were a full fiscal year; except that the Secretary shall by regulation make such modifications and adjustments in the application of this section to such period as may be necessary to reflect the extent by which such period is less than a full fiscal year.".

(b) The amendment made by subsection (a) shall become effective January 1, 1981.

ADMINISTRATIVE IMPROVEMENTS

SEC. 117. (a) Section 402(a)(5) of the Social Security Act is amended by striking out "proper and efficient operation of the plan" and inserting in lieu thereof the following:

"proper and efficient operation of the plan, including, to the extent and in accordance with regulations prescribed by the Secretary, the establishment of policies pertaining to—

"(A) prospective budget submissions by the State,

"(B) principles or criteria for the establishment of allowable administrative costs and applicable cost allocation rules,

"(C) fiscal control procedures which the State will be required to establish, and

"(D) standards to be applied and procedures to be followed in evaluating the State's administrative performance, including quality control procedures, fiscal reports, and access of appropriate Federal officials to State records relating to the administration of the program established under this part;".

(b) The amendment made by subsection (a) shall become effective October 1, 1979.

PROGRAMS FOR MECHANIZED PROCESSING AND MANAGEMENT INFORMATION SYSTEMS

SEC. 118. (a) Section 403(a)(3) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (D); and

(3) by inserting after subparagraph (A) the following new subparagraphs:

"(B) 90 per centum of so much of the sums expended during such quarter as are attributable to the planning, design, development, or installation of statewide mechanized claims processing and information retrieval systems which the Secretary determines (i) will assist in meeting the requirements of section 402(a)(21), or (ii) meet the conditions of section 402(a)(32) and are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under part D of this title or under title XIX, State programs with respect to which there is Federal financial participation under title XX, and administration of the food stamp program under the Food Stamp Act of 1977,

"(C) 75 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins October 1, 1979) as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) which are of the type described in subparagraph (B) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a)(32), and".

(b)(1) Section 402(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (30);

(B) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (31) the following new paragraph:

"(32) at the option of the State, provide, effective October 1, 1979 (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (e), of an automated statewide management information system designed effectively and efficiently to assist management in the administration of the State plan for aid to families with dependent children approved under this part and, at the option of the State and in accordance with regulations of the Secretary pursuant to subsection (e), in the administration of any other program or programs of such State authorized under this Act, so as (with respect to the State plan approved under this part) (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including but not limited to (I) identifiable correlation factors (such as social security number, name, date of birth, and sex of an applicant or recipient of such aid and the relative with whom any child (who is such applicant or recipient) is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, and (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support and food stamp programs and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.".

(2) Section 402 of such Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall not approve the initial and annually updated advanced automatic data processing planning document, referred to in subsection (a)(32), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies which include consideration of the program mission, functions, organization, services, constraints, and current support of, in, or relating to such system,

"(B) contains a description of the proposed statewide management system referred to in subsection (a), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such statewide management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

"(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and procedures to handle possible failure of a system,

"(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits, and

"(H) assures that the State's system will, in accordance with regulations of the Secretary, be compatible with those of the Social Security Administration to facilitate the exchange of data between the State and Federal systems.

"(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(32) of this section.

"(B) The Secretary shall prescribe rules applicable to statewide management information systems that are used by a State in the administration of its programs authorized under this Act, other than the State's plan approved under this part, to provide for the allocation to each of such other programs of its pro rata share of the cost of (i) the planning, design, development, and installation of such systems, and (ii) the operation of such systems; and none of the amounts so allocated by such regulations shall be included as expenditures for purposes of determining the amount to be paid to such State under section 403.

"(C) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(B) that there is a failure substantially to comply with criteria, requirements, and other undertakings prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(c) Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"SEC. 418. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, and install, and provide for the security of, the management information systems referred to in section 403(a)(3)(B)."

(d) The amendment made by subsection (c) shall become effective October 1, 1979; and the remaining amendments made by this section shall become effective October 1, 1980.

ASSISTANCE FOR THE DEVELOPMENT OF ADMINISTRATIVE IMPROVEMETNS IN STATE PROGRAMS

SEC. 119. (a) Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new section:

"ASSISTANCE FOR THE DEVELOPMENT OF ADMINISTRATIVE IMPROVEMENTS IN STATE PROGRAMS UNDER THIS PART

"SEC. 419. (a) The Secretary is authorized to make funds available to any State agency responsible for administering or supervising the administration of a State plan approved under this part, to assist such agency in meeting the cost of developing and implementing systems, techniques, or other innovative approaches designed to improve the quality of administration of such plan.

"(b) Payments under this section shall only be made upon the approval by the Secretary of proposals submitted by a State agency described in subsection (a) that are designed to assist in meeting the requirements of section 402(a)(21) or demonstrate a substantial likelihood of achieving comprehensive improvements in the administration of the State's plan approved under this part. Such improvements should relate to one or more of the following administrative objectives:

"(1) improved planning for the manpower needs and supplies of the agency,

"(2) improved accuracy and efficiency of assistance case processing and review,

"(3) increased availability of services to the public, including improvements in accessibility and reduced processing times, and

"(4) other techniques that hold promise for improved administrative effectiveness and efficiency, including particularly those imorovements with the potential for adaptation and use by the agencies of other States administering plans approved under this part, and solving administrative problems and strengthening program implementation.

"(c) Payments to States under this section will be available for meeting up to 75 per centum of approved administrative projects, except that no portion of any such payment shall be available for expenses directly related to computer or other mechanized case processing or management information systems or the costs associated with routine administration including expansion of existing administrative capability.

"(d) Of the sums authorized to be appropriated by section 401 for any fiscal year, not more than $50,000,000 shall be available for payments with respect to proposals approved under this section.".

(b) The amendment made by subsection (a) shall become effective October 1, 1980.

CORRECTIVE ACTION REGARDING OVERPAYMENTS AND UNDERPAYMENTS

SEC. 120. (a) Section 402(a) of the Social Security Act (as amended by the preceding provisions of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (31);

(2) by striking out the period at the end of paragraph (32) and inserting in lieu thereof "; and "; and

(3) by adding after paragraph (32) the following new paragraph:

"(33) provide such rules with respect to both the recovery of aid incorrectly paid under the State plan approved under this part and the payment of such aid incorrectly denied or underpaid as the Secretary may by regulation prescribe.".

(b) The amendments made by subsection (a) shall become effective October 1, 1980.

AID TO FAMILIES WITH DEPENDENT CHILDREN RECIPIENT REVIEW

SEC. 121. (a) Section 402(a) of the Social Security Act (as amended by the preceding provisions of this Act) is futher amended—

(1) by striking out "and" at the end of paragraph (32);

(2) by striking out the period at the end of paragraph (33) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (33) the following new paragraph:

"(34) provide that, at such times and in accordance with such procedures as the Secretary may specify, the State agency will cooperate with the Secretary and with other State agencies administering plans approved under this part in reviewing case records and providing information (in accordance with safeguards prescribed by the Secretary) to verify the identity of applicants for or recipients of assistance and to determine whether an individual is receiving (and, if so, the amount of) (A) aid to families with dependent children under the plan of more than one State, and (B) benefits or other similar payments under any Federal or federally assisted program.".

(b) The amendments made by subsection (a) shall become effective October 1, 1980.

MONITORING AND ASSESSING PERFORMANCE IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

SEC. 122. (a) Title XI of the Social Security Act is amended by inserting after section 1116 the following new section:

"MONITORING AND ASSESSING PERFORMANCE IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

"SEC. 1117. (a) The Secretary shall develop and implement measures for monitoring and assessing performance, on an annual or more frequent basis, of the effectiveness of the requirements under part A of title IV for the approval of State plans, and of those plans as implemented in the States, in achieving the stated objectives of that part.

"(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (a) in any fiscal year.".

(b) The amendment made by subsection (a) shall become effective October 1, 1980.

TECHNICAL AMENDMENTS TO INCENTIVE ADJUSTMENTS FOR AID TO FAMILIES WITH DEPENDENT CHILDREN QUALITY CONTROL

SEC. 123. (a) Section 403(j) of the Social Security Act is amended—

(1) by striking out "less than 4 per centum" in paragraph (2) and inserting in lieu thereof "less than 4 per centum, and the State's case error rate of negative actions is less than 3 per centum";

(2) by striking out "if the erroneous excess payments of aid had been at a rate of 4 per centum" and inserting in lieu thereof "if the rate of erroneous payments had been 4 per centum";

(3) by striking out "such rate" each place it appears in subparagraphs (A) through (E) of paragraph (2) and inserting in lieu thereof "such erroneous payment error rate"; and

(4) by striking out the second sentence and inserting in lieu thereof the following:

"For purposes of this subsection—

"(i) the term 'dollar error rate of aid' means the total of the dollar error rate of aid for—

"(I) payments to ineligible families receiving assistance,

"(II) overpayments to eligible families receiving assistance, and

"(III) underpayments to eligible families receiving assistance;

"(ii) the term 'case error rate of negative actions' means the total of the case error rate of aid for—

"(I) applications denied or otherwise disposed of where the reason given for the action is incorrect, and

"(II) assistance cases terminated where the reason given for the action was incorrect or payment was terminated prior to the expiration of the applicable advance notice period; and

"(iii) the term 'erroneous payments' means the total of—

"(I) payments to ineligible families receiving assistance, and

"(II) overpayments to eligible families receiving assistance.".

(b) The amendments made by subsection (a) shall be effective January 1, 1978.

AMENDMENTS TO MEDICAID PROGRAM

SEC. 124. (a)(1) Section 1902(a)(10) of the Social Security Act is amended by striking out "(10) provide—" and inserting in lieu thereof "(10) except as may otherwise be provided in subsection (h), provide—".

(2) Section 1902 of such Act is further amended by adding at the end thereof the following new subsection:

"(h)(1) If a State's plan approved under part A of title IV as in effect on July 23, 1979, did not include provision for paying aid with respect to children deprived of parental support or care by reason of the unemployment of a parent, then (unless such plan as in effect on September 30, 1981, did include such provision) the plan of such State approved under this title may specify that medical assistance will not be provided to such children or to relatives or other individuals receiving aid under such plan with respect to such children.

"(2) If a State's plan approved under this title, as in effect on July 23, 1979, did not provide medical assistance for individuals described in subsection (a)(10)(C), then (unless such plan as in effect on September 30, 1981, did include such provision) the State plan may provide medical assistance to all such individuals other than those who would, except for income and resources, be eligible for aid under its plan approved under part A of title IV by reason of a dependent child described in section 407.".

(b) The amendments made by subsection (a) shall become effective October 1, 1981.

PROHIBITION AGAINST PAYMENT OF AID IN AMOUNTS BELOW SPECIFIED MINIMUM LEVEL

SEC. 124A. (a) Section 402(a) of the Social Security Act (as amended by the preceding provisions of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (33);

(2) by striking out the period at the end of paragraph (34) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (34) the following new paragraph:

"(35) provide that no payment of aid shall be made under the plan with respect to any dependent child for any month if the amount of such payment, as determined in accordance with the applicable provisions of the plan and of this part, would be less than $10 (but any individual with respect to whom a payment of aid under the plan is denied solely by reason of this paragraph shall nevertheless be treated as receiving such aid for purposes of any provision of this Act other than this part).".

(b) The amendments made by subsection (a) shall become effective October 1, 1981.

PART D—IMPLEMENTATION

STATE IMPLEMENTATION OF AMENDMENTS

SEC. 125. (a) Upon the request of any State, the Secretary of Health, Education, and Welfare is authorized to permit the State to implement any of the amendments made by this Act affecting continuing eligibility of or the amount of payments to recipients of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act within the six-month period following the effective date of such amendment (or within the twelve-month period described in section 111(c) in the case of the amendments made by section 111(a)) if he finds that—

(1) the amendment will be implemented gradually throughout the course of a six-month cycle (or a twelve-month cycle in the case of the amendments made by section 111(a)) for redeterminations with respect to cases receiving aid to families with dependent children in such State, and

(2) such gradual implementation is consistent with the proper and efficient operation of the plan.

(b)(1) There is authorized to be appropriated for fiscal year 1981 the sum of $150,000,000, to be allocated by the Secretary of Health, Education, and Welfare among the States in order to assist them in initially implementing the amendments made by this title. Under such allocation, each State having in effect a plan approved under part A of title IV of the Social Security Act shall be entitled to receive from the total amount so appropriated (subject to paragraph (2)) a sum which bears the same ratio to such total amount as the number of families receiving aid to families with dependent children under the State's approved plan bears (as of the first day of such fiscal year) to the total number of families receiving such aid under the approved plans of all the States.

(2) As a condition of any State receiving an allocation under paragraph (1), such State must agree to pay to any political subdivision thereof which participates in the cost of the State's approved plan during fiscal year 1981 so much of such allocation as does not exceed 100 per centum of such subdivision's financial contribution to the plan during that fiscal year.

APPLICABILITY OF AMENDMENTS TO THE TERRITORIES

SEC. 126. The amendments made by sections 104, 107(b), 108, 109, 113, 115, 116, 119, and 124 of this Act, and section 402(a)(8)(E) of the Social Security Act as amended by section 101(a)(2) of this Act shall be effec-

tive only in the case of the fifty States and the District of Columbia.

PART E—AMENDMENTS TO THE INTERNAL REVENUE CODE AFFECTING THE EARNED INCOME CREDIT

GOVERNMENTAL PAYMENTS TO BE DISREGARDED FOR PURPOSES OF SUPPORT AND MAINTENANCE OF HOUSEHOLD TESTS

SEC. 127. (a) GENERAL RULE.— Section 2 of the Internal Revenue Code of 1954 (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by adding a new subsection (e) to read as follows:

"(e) GOVERNMENTAL PAYMENTS DISREGARDED IN DETERMINING SUPPORT AND MAINTENANCE OF HOUSEHOLD.—For purposes of this title, whenever it is necessary—

"(1) to determine the extent to which the support of an individual is provided by that individual, by a taxpayer who has the same principal place of abode as the individual (including determinations under sections 152 and 1303(c)), or by the parents of the individual for purposes of section 152(e)(1)(A), or

"(2) to determine whether a taxpayer is considered as maintaining a household (including determinations under subsections (a) and (b) of this section and under sections 44A and 143 (b)),

any benefit provided under any Federal, State or local governmental assistance program used for the support of the individual or for maintenance of the household shall not be taken into account.".

(b) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1979.

AMENDMENTS TO THE EARNED INCOME TAX CREDIT

SEC. 128. (a) MODIFICATION OF CREDIT.— Subsection (a) of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) is amended by striking out "10 percent" and inserting in lieu thereof "11 percent".

(b) REVISION OF THE LIMITATION.—Subsection (b) of such section 43 is amended—

(1) by striking out "$500" in paragraph (1) and inserting in lieu thereof "$550";

(2) by striking out "12.5 percent" in paragraph (2) and inserting in lieu thereof "13.75 percent"; and

(3) by striknig out "$6,000" in paragraph (2) and inserting in lieu thereof "$7,000".

(c) SPECIAL RULE AFFECTING DEFINITION OF EARNED INCOME.—Subsection (c)(2)(B) of such section 43 is amended—

(1) by striking out "and" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu threreof ", and", and

(3) by adding after clause (iii) the following new clause:

"(iv) the earned income of an individual shall not include any remuneration for services performed in a public service job if such remuneration is paid in whole or in part out funds provided under part D or E of title II of the Comprehensive Employment and Training Act of 1973.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

PART F—OPTIONAL FOOD STAMP CASH OUT FOR AFDC RECIPIENTS

PAYMENTS IN LIEU OF FOOD STAMPS FOR AFDC RECIPIENTS UNDER FEDERAL-STATE AGREEMENTS

SEC. 129. (a) Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new section:

"PAYMENTS IN LIEU OF FOOD STAMPS TO RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN

"SEC. 420. (a) The Secretary and a State agency administering a plan approved under this part may enter into an agreement, consistent with the provisions of this section, under which the State agency will provide, with respect to all individuals in the State receiving aid under such plan, or with respect to such class or classes of such individuals as the Secretary may specify, an additional cash payment in lieu of food stamps for each month for which such aid is payable.

"(b)(1) The amount of the additional cash payment in lieu of food stamps that may be made in a State in any fiscal year shall be specified in the agreement between the Secretary and the State. The amount of such additional payments shall equal the amount estimated by the Secretary as the Federal expenditures in fiscal year 1982 for food stamps to individuals to whom the agreement under subsection (a) applies in such State (including the Federal share of related administrative costs) divided by the sum of the average number of such individuals in each month in such fiscal year, as modified by rules of the Secretary issued pursuant to paragraph (2). In estimating the Federal expenditures for food stamps for fiscal year 1983, the Secretary shall assume that participation in the food stamp program increased by one-third of the difference between (i) participation by all individuals to whom the agreement under subsection (a) applies for fiscal year 1982 in the State, and (ii) the participation rate by such individuals in such State applied by the Secretary in estimating Federal expenditures for fiscal year 1982; for fiscal year 1984 he shall assume that participation increased by two-thirds of such difference; and for fiscal year 1985 and each fiscal year thereafter he shall assume that all such individuals in the State participate in the food stamp program.

"(2) The Secretary shall prescribe rules concerning the determination of payment amounts for families of different sizes, and the manner of making additional cash payments in lieu of food stamps, and all other necessary rules for implementing the agreements under this section.

"(c) Additional cash payments in lieu of food stamps made pursuant to an agreement under this section shall be treated in the same manner as food stamps for purposes of any other Federal or State law and their receipt shall not be considered as income under any other program.

"(d)(1) If aid to families with dependent children is paid for any month with respect to all the members of a household receiving an additional cash payment in lieu of food stamps for such month, under an agreement under this section, such household shall not be a household eligible for food stamps under the Food Stamp Act of 1977 for such month.

"(2) If aid to families with dependent children is paid for any month to one or more, but not all, of the members of a household receiving an additional cash payment in lieu of food stamps for such month, under an agreement under this section then the value of the coupon allotment provided to such household for such month, as determined under the Food Stamp Act of 1977, shall be adjusted so as to (i) reflect appropriately the additional cash payment in lieu of food stamps available for such month, and (ii) assure that coupon allotments with respect to the household members not receiving aid to families with dependent children are not excessive compared to other households with the same total number of members, none of whom receive aid to families with dependent children.

"(e) The Secretary of Agriculture shall transfer to the Secretary of Health, Education, and Welfare from time to time (to the extent provided in appropriation Acts), sufficient amounts, out of the moneys appropriated to carry out the Food Stamp Act of 1977, to enable him to carry out this section. The Secretary of Health, Education, and Welfare shall make payments from such transferred amounts to any State with which he has an agreement under this section, at such times and in such installments (in advance or as reimbursement) as may be consistent with his regulations and specified in the agreement.".

(b) The amendment made by subsection (a) shall become effective October 1, 1981.

TITLE II—SUPPLEMENTAL SECURITY INCOME

PART A—FOOD STAMP CASH-OUT

FOOD STAMP CASH-OUT FOR CERTAIN SUPPLEMENTAL SECURITY INCOME RECIPIENTS

SEC. 201. (a) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"CASH PAYMENTS IN LIEU OF FOOD STAMPS TO CERTAIN RECIPIENTS OF SUPPLEMENTAL SECURITY INCOME BENEFITS

"SEC. 1619. (a) In addition to the supplemental security income benefits (including, for purposes of this section, a supplementary payment under an agreement pursuant to section 1616(a) payable under this title with respect to an individual, the Secretary shall make an additional cash payment in lieu of food stamps for each month for which such benefits are payable, in the amount and manner described in subsection (b), to each such individual who, throughout such month—

"(1) lives alone, or

"(2) lives with one or more others each of whom is also an eligible individual.

The additional payment to an individual in lieu of food stamps shall be appropriately included in or with the check issued to him by the Secreary in payment of his supplementary security income benefit or supplementary payment under section 1616(a) and, in determining the amount of any supplementary payment (regardless of whether paid by the Secretary or the State or a political subdivision thereof) under such section for a month, the additional payment in lieu of food stamps shall be excluded from income.

"(b)(1) The Secretary will establish a single amount for making the additional payment in lieu of food stamps for each month in a fiscal year to an individual who does not have a spouse living in the same household, and a single amount for making such payment to an eligible individual with an eligible spouse in the same household. In the case of any State, the amount will be, for an individual or for an individual and spouse, equal to the cash value of the coupon allotment that would be provided to an aged individual, or aged individual and aged spouse, as the case may be, living in his (or their) own home and having no income other than the supplemental security income benefits (in the amount payable for July of the preceding fiscal year) and any State supplementary payments to such an individual (or individual and spouse) payable in such State, and reducing such income only by (A) the applicable standard deduction specified in section 5(e) of the Food Stamp Act of 1977, and (B) one-half the maximum excess shelter expenses deduction provided under section 5(e)(2) of such Act.

"(2) For purposes of paragraph (1)—

"(A) no State supplementary payment shall be considered to be payable for any month in any State in which such payments for January of the preceding fiscal year are made to fewer than one-half the recipients of benefits under this title.

"(B) if supplementary payments to aged individuals in the State with the same income are made in differing amounts based upon the geographic area of the State in which he resides, then the lowest such amount shall be applied, and

"(C) the value of the coupon allotment will be determined for each fiscal year based on the amounts specified in section 1611(b) (and the amount of State supplementary payments) in effect for July of the preceding fiscal year.

"(c) Additional cash payments in lieu of food stamps under this section shall be treated in the same manner as food stamps for purposes of any other Federal or State law and their receipt shall not be considered as income under any other program.".

(b)(1) The amendment made by subsection (a) shall become effective October 1, 1981.

(2) In the case of any individual (or individual and spouse) who is eligible for the additional payment in lieu of food stamps referred to in section 1619(a) of the Social Security Act (as added by this section), and who for September 1981, as a one- (or two-) person household, received both a supplemental security income benefit (or a supplementary payment pursuant to an agreement under section 1616(a) of such Act) and a coupon allotment the value of which was greater than the amount of the additional payment in lieu of food stamps that would be payable to him for any month after September 1981, such individual (or individual and spouse) shall receive an additional payment equal to the greater value of such allotment for each consecutive month for which the applicable amount determined under section 1619(b) of such Act is less than the value of the coupon allotment for September 1981, and ending with the month during which such individual—

(A) ceases to reside in the same State as he did on September 30, 1981, or

(B) ceases to be eligible for the additional payment provided under section 1619(a) of such Act.

(3) No person who receives an additional payment in lieu of food stamps under section 1619 of the Social Security Act shall be considered a household, or a member of a household, under the Food Stamp Act of 1977.

(4) In the case of any State that provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act, and (B) the level of which has been found by the Secretary of Health, Education, and Welfare, for the month of September 1981, to have been specifically increased so as to include the bonus value of food stamps, the amount of the additional payment in lieu of food stamps to any individual described in section 1619(a) of the Social Security Act shall equal—

(i) the amount that would be payable by application of the provisions of section 1619 of the Social Security Act, reduced by

(ii) the amount of the increase referred to in clause (B) of this paragraph.

PART B—IMPROVEMENTS IN STANDARDS FOR DETERMINING ELIGIBILITY AND AMOUNT OF SUPPLEMENTAL SECURITY INCOME

ELIGIBILITY OF COUPLES LIVING APART

SEC. 202. (a) 1614(b) of the Social Security Act is amended by striking out "for more than six months." in the first sentence and inserting in lieu thereof "for more than one month and, for purposes of determining the amount of benefits payable for a month during which they are living apart, the living arrangement of such individual and spouse in the month preceding such month shall be considered to be the living arrangement of both such individual and spouse. A husband and wife who are living in the same hospital, extended care facility, nursing home, or intermediate care facility shall be considered to be living apart".

(b) The amendment made by subsection (a) shall become effective September 1, 1980.

ELIGIBILITY OF INDIVIDUALS IN CERTAIN MEDICAL INSTITUTIONS (INCLUDING COST-OF-LIVING ADJUSTMENTS)

SEC. 203. (a) Section 1611(e)(1)(A) of the Social Security Act is amended by striking out "subparagraphs (B) and (C)" and inserting in lieu thereof "subparagraphs (B), (C), and (D)".

(b) Section 1611 (e)(1) of such Act is further amended by redesignating subparagraph (C) as subparagraph (D), and by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(B) Except as set forth in subparagraph (C), in any case where an eligible individual or eligible spouse is in a hospital, extended care facility, nursing home, or intermediate care facility, such individual's benefit for the period ending with the third consecutive month throughout which he is in such hospital, home, or facility shall be determined as though he were continuing to reside outside the institution under the same conditions as before he entered the institution.

"(C) In any case where an eligible individual or eligible spouse is throughout any month in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, and such month is either—

"(i) the first month in any period of eligibility under this title based on an application filed in or before such month, or a month in a continuous period of months beginning with such first month, throughout which such individual or spouse is in a hospital, extended care facility, nursing home, or intermediate care facility (whether or not receiving payments with respect to such individual or spouse for each month in such period); or

"(ii) the fourth consecutive month throughout which, or a month in a continuous period beginning with such fourth consecutive month throughout which, such individual or spouse is in a hospital, extended care facility, nursing home, or intermediate care facility (whether or not receiving payments with respect to such individual or spouse for each month in such period),

the benefit for such individual for such month shall be payable—

"(iii) in the case of an individual who does not have an eligible spouse, at a rate not in excess of $300 per year (reduced by the amount of any income of such individual which is not excluded pursuant to section 1612(b));

"(iv) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month, at a rate not in excess of the sum of—

"(I) the rate of $300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

"(II) the applicable rate specified in subsection (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and

"(v) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month, at a rate not in excess of $600 per year (reduced by the amount of any income of either spouse which is not excluded pursuant to section 1612(b));

except that for purposes of any provision of law other than this subparagraph, any benefit determined under clause (iv) shall be deemed to be payable at a rate equal to the sum of the rate of $300 per year and the applicable rate specified in subsection (b)(1), reduced by any income of either spouse which is not excluded pursuant to section 1612(b).".

(c) Section 1617 of such Act is amended by inserting ", and (e)(1)(B)" after "(b)(2)".

(d) The amendments made by this section shall become effective September 1, 1980.

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 204. (a) Section 1612(a)(1) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) amounts (not otherwise wages under subparagraph (A)) paid for services performed in a sheltered workshop or work activities center (as those terms are defined by the Secretary); and";

(b) The amendments made by subsection (a) shall become effective September 1, 1980.

EXCLUSION FROM RESOURCES OF BURIAL PLOTS

SEC. 205. (a) Section 1613(a)(2) of the Social Security Act is amended by inserting "(A)" after "(2)", and by adding at the end thereof the following new subparagraph:

"(B) the value of any plot of land (subject to such limits as to size or value as the Secretary may by regulation prescribe) held for the purpose of providing a burial place for the individual or his spouse;".

(b) The amendments made by subsection (a) shall be effective beginning with the second month beginning after the month in which this Act is enacted, or beginning with October 1979 if later.

EXCLUSION FROM RESOURCES OF FUNDS SET ASIDE FOR BURIAL EXPENSES

SEC. 206. (a) Section 1613 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Funds Set Aside for Burial Expenses

"(c)(1) In determining the resources of an eligible individual and his spouse who is living with him in the same household, there shall be excluded an amount, not in excess of $1,500 with respect to each of them, that is separately identifiable and has been set aside (as those terms are defined in accordance with regulations of the Secretary) to meet the burial and related expenses of such individual or spouse if the inclusion of any portion of such amount or amounts would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a).

"(2) The amount of $1,500, referred to in paragraph (1), with respect to an individual shall be reduced by an amount equal to (A) the total face value of all insurance policies on his life, owned by him or his spouse living with him in the same household, the cash surrender value of which has been excluded in determining the resources of such individual, or of such individual and spouse, and (B) the total of any amounts in an irrevocable trust (or other irrevocable arrangement) available to meet the burial and related expenses of such individual.

"(3) If the Secretary finds that—

"(A) any part of the amount excluded under paragraph (1) was used for purposes other than those for which it was set aside, or

"(B) the eligible individual (or his spouse) obtained the cash surrender value of a life insurance policy on his (or her) life, if that value had been excluded in determining the resources of such individual (and spouse),

he shall reduce any future benefits payable to such individual or spouse by an amount

equal to such part or such cash surrender value.".

(b) The second sentence of section 1613(a) of such Act is amended by striking out "except that" and inserting in lieu thereof "except that at the option of the individual (or eligible spouse),".

(c) The amendments made by this section shall become effective with the month after the month in which this Act is enacted or, if later, with the month of October 1979.

EXCLUSION OF CERTAIN REAL AND PERSONAL PROPERTY FROM INCOME

SEC. 207. (a) Section 1612(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(13) unearned income received in the form of real or personal property (A) to the extent it meets the criteria for exclusion from the resources of such individual or spouse under section 1613(a), or (B) which is not readily convertible into cash and which cannot be used by the individual (or such spouse) for food or clothing.".

(b) The amendments made by subsection (a) shall be effective beginning with the second month beginning after the date this Act is enacted or, if later, with the month of October 1979.

UNDERPAYMENTS TO INELIGIBLE SPOUSE OF DECEASED SUPPLEMENTAL SECURITY INCOME RECIPIENT

SEC. 208. (a) Section 1631(b) of the Social Security Act is amended by striking out "by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either)", and inserting in lieu thereof the following: "by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, to the eligible spouse or, if no eligible spouse survives, to any surviving husband or wife (as determined under section 1614(d)) with whom the individual was living at the time of his death or immediately prior to institutionalization by reason of his last illness".

(b) The amendment made by subsection (a) shall become effective September 1, 1980, and shall apply only with respect to individuals whose death occurs on or after the date of enactment of this Act.

INCREASED PAYMENT FOR PRESUMPTIVELY ELIGIBLE INDIVIDUALS

SEC. 209. (a) Section 1631(a)(4)(A) of the Social Security Act is amended by striking out "a cash advance against such benefits in an amount not exceeding $100" and inserting in lieu thereof "cash advances of such monthly benefits for which he is presumptively eligible, including any federally administered State supplementary payments, for each of the first three months of such presumptive eligibility".

(b) The amendment made by subsection (a) shall become effective September 1, 1980.

IN-KIND REMUNERATION

SEC. 210. (a) Section 1612(a)(1)(A) of the Social Security Act is amended by inserting immediately before the semicolon the following: ", except that in determining wages for purposes of this title the exclusions from wages provided by sections 209(g)(1) and 209(h)(1) shall not apply".

(b) The amendment made by subsection (a) shall be effective beginning with the second quarter beginning after the date this Act is enacted.

CONTINUATION OF BENEFITS FOR CERTAIN INDIVIDUALS HOSPITALIZED OUTSIDE THE UNITED STATES

SEC. 211. (a) The second sentence of section 1611(f) of the Social Security Act is amended by striking out the comma after "preceding sentence" and inserting in lieu thereof "(1)", and by inserting before the period at the end of the sentence the following: ", and (2) an individual shall be treated as being inside the United States during any period of absence from the United States which is demonstrated to the satisfaction of the Secretary to be necessary in order to obtain inpatient hospital services, as defined in title XVIII for purposes of section 1814(f), if (A) the requirements of subparagraphs (A) and (B) of section 1814(f)(1) are met, or (B) the inpatient hospital services are emergency services and the requirements of subparagraphs (A) and (B) of section 1814(f)(2) are met".

(b) The amendments made by subsection (a) shall be effective beginning with the second month beginning after the date this Act is enacted, or with the month of October 1979 if later.

EXTENSION OF SPECIAL INCOME AND RESOURCE PROVISIONS

SEC. 212. (a) Section 1611(g)(3) of the Social Security Act is amended by inserting "(or supplementary payments made pursuant to an agreement under section 1616(a) or under section 212(b) of Public Law 93-66)" immediately after "supplemental security income benefits".

(b) Section 1611(h)(4) of such Act is amended by inserting "(or supplementary payments made pursuant to an agreement under section 1616(a) or under section 212(b) of Public Law 93-66)" immediately after "supplemental security income benefits".

(c) The amendments made by this section shall be effective January 1, 1974.

DELETION OF TERM "CHILD"

SEC. 213. (a) Section 1614(c) of the Social Security Act is repealed.

(b)(1) Section 1612(b) of such Act is amended—

(A) by striking out "a child who" in paragraph (1) and inserting in lieu thereof "under age 22 and";

(B) by striking out "a child" in paragraph (9) and inserting in lieu thereof "under age 18"; and

(C)(i) by striking out "a child who is not an eligible individual" in paragraph (10) and inserting in lieu thereof "an individual who is not an eligible individual or eligible spouse", and

(ii) by striking out "child-placement or child-care".

(2) Section 1614(a)(3)(A) of such Act is amended by striking out "a child" and inserting in lieu thereof "an individual".

(3) Section 1614(f)(2) of such Act is amended by striking out "a child under age 21" and inserting in lieu thereof "under age 18".

(4) Section 1615(e)(2)(B) of such Act (as redesignated by section 218 of this Act) is amended by—

(A) striking out "this section to any child" and inserting in lieu thereof "subsection (b)" and

(B) striking out "child involved" and inserting in lieu thereof "individual involved".

(c) The amendments made by this section shall be effective beginning with the second quarter beginning after this Act is enacted.

TERMINATION OF MANDATORY MINIMUM STATE SUPPLEMENTATION IN CERTAIN CASES

SEC. 214. Effective October 1, 1979, section 212(a)(2) of Public Law 93-66 is amended—

(1) by striking out "or" at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma; and

(3) by striking out the matter that follows subparagraph (D) and inserting in lieu thereof the following:

"(E) the first month after September 1979 for which such individual is not a resident of the State to which the provision of subparagraph (B) applies,

"(F) the first month after September 1979 for which the sum of such individual's title XVI benefit plus other income (as determined under paragraph (3)(C)) and any periodic State supplement is equal to or exceeds the amount of such individual's December 1973 income (as determined under paragraph (3)(B)) as reduced by the amount, if any, by which the amount of the supplementary payment payable under the agreement entered into under this subsection to such individual has been reduced under the provisions of paragraph (3)(D),

"(G) the first month after September 1979 for which such individual is ineligible to receive supplemental security income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611(e)(1)(A) (except in the case of an individual who is in a public institution which is a hospital, extended care facility, nursing home, or intermediate care facility), 1611(e)(2) or (3), 1611(f), or 1615(c) of such Act, or

"(H) the first month after September 1979 for which such individual is ineligible to receive supplemental security income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611(a)(1)(B) or (2)(B) of such Act;

except that no individual shall be eligible to receive such supplementary payment for any month if, for such month, such individual is ineligible to receive supplemental security income benefits under title XVI of the Social Security Act by reasons of the provisions of section 1611(e)(1)(A) of such Act as they apply in the case of an individual who is in a public institution which is a hospital, extended care facility, nursing home, or intermediate care facility.".

LIMITATION ON ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME OF PERSON, WHO DISPOSE OF RESOURCES

SEC. 215. (a) Section 1611(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Except as provided in subparagraphs (B) and (C), no person shall be an eligible individual or eligible spouse for purposes of this title if, within any twenty-four-month period that begins with or after the twenty-fourth month preceding the month in which he files an application for benefits under this title, he (i) disposed of resources which, if retained, would have caused him to be ineligible for such benefits, for the purpose of establishing eligibility for such benefits (and any disposition of resources within such period shall be presumed to have been for such purpose unless such individual or spouse furnishes convincing evidence that the transaction was for some other purpose), and (ii) received compensation therefor in an amount such that the difference between the fair market value of the individual's or spouse's equity interest in such resources and the compensation therefor exceeded $3,000.

"(B) The period for which a person is ineligible for benefits under this title by reason of the application of subparagraph (A) shall be six months if the uncompensated value of the equity interest in the assets involved exceeded $3,000 but not $6,000, twelve months if such value exceeded $6,000 but not $15,000, or twenty-four months if such value exceeded $15,000,

beginning with the month following the month in which such disposition occurred, except that subparagraph (A) shall cease to be applicable after the month in which the resources he had previously disposed of are returned to him, or he receives payment equal to the amount described in subparagraph (A)(ii).

"(C) The Secretary, in accordance with regulations prescribed by him, may waive the requirement of subparagraph (A), or reduce the period of ineligibility imposed by subparagraph (B), in cases where he determines that such a waiver or reduction is justified.".

(b) The amendment made by subsection (a) shall become effective with the first month beginning after the Secretary issues rules necessary to its implementation (but in no event before October 1979 or later than the seventh month following the month in which this Act is enacted); and such amendment shall not apply to dispositions of resources that occurred prior to such month.

ROUNDING OF AMOUNT OF COST-OF-LIVING ADJUSTMENTS

SEC. 216. (a) Section 1617 of the Social Security Act is amended by striking out "and rounded, when not a multiple of $1.20, to the next higher multiple of $1.20" and inserting in lieu thereof "and, when not a multiple of $12.00, either rounded to the nearest multiple of $12.00 or, if a multiple of $6.00, increased to the next higher multiple of $12.00".

(b) The amendment made by subsection (a) shall become effective October 1, 1979, and shall apply with respect to increases in benefit amounts occurring as a result of determinations made under section 215(i) of the Social Security Act for months after August 1979.

ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIENS

SEC. 217. (a) Section 1614 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Income and Resources of Alien's Sponsor

"(g) For purposes of determining eligibility for and the amount of benefits for any individual who is an alien and whose permanent residence in the United States begins after the date of the enactment of this subsection, the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual shall be deemed to be the income and resources of such individual, except to the extent determined by the Secretary to be inequitable under the circumstances, for the duration of the assurances of support contained in such affidavit or agreement but for no longer than a period of three years after the individual's entry into the United States; except that (1) the preceding provisions of this subsection shall not apply with respect to any individual who is an 'aged, blind, or disabled individual' for purposes of this title by reason of blindness (as determined under subsection (a)(2)) or disability (as determined under subsection (a)(3)), from and after onset of the impairment involved, if such blindness or disability commenced after the date of such individual's admission to the United States, and (2) the Secretary may waive the requirements of this subsection in any case where he determines that good cause for such a waiver exists.".

(b) The amendment made by subsection (a) shall become effective October 1, 1979.

EXTENSION OF SERVICE PROGRAM FOR DISABLED CHILDREN

SEC. 218. Section 1615 of the Social Security Act is amended by redesignating the second subsection (c) as subsection (e), and by striking out "October 1, 1979" in paragraph (1) of such subsection and inserting in lieu thereof "October 1, 1982".

INDIVIDUALS RECEIVING SUPPORT AND MAINTENANCE IN ANOTHER PERSON'S HOUSEHOLD

SEC. 219. (a) Section 1612(a) of the Social Security Act is amended by adding at the end thereof (after and below paragraph (2)(F)) the following new sentence:

"For purposes of paragraph (2)(A)(i), an individual (and his eligible spouse, if any) shall not be considered to be 'living in another person's household and receiving support and maintenance in kind from such person' if such individual (and spouse) live in a household with one or more other persons and such individual's (or such individual's and spouse's) pro rata share of the expenses of maintaining such household do not exceed the benefit (including any supplementary payments) payable to an individual (or an individual and eligible spouse, as may be appropriate) with no other income who is living in another person's household and receiving support and maintenance from such person.".

(b) The amendment made by subsection (a) shall become effective September 1, 1980.

PART C—IMPROVED ADMINISTRATION OF THE SUPPLEMENTAL SECURITY INCOME PROGRAM

JUDICIAL ESTABLISHMENT OF FEES FOR REPRESENTING SUPPLEMENTAL SECURITY INCOME CLAIMANTS

SEC. 231. (a) Section 1631(d)(2) of the Social Security Act is amended by inserting "(A)" after "(2)", and by adding at the end thereof the following new subparagraph:

"(B)(i) Whenever a court renders a judgment favorable to a claimant under this title who was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment. In the case of any such judgment, no other fee may be payable for such representation except as provided in this subparagraph.

"(ii) Any attorney who charges, demands, receives, or collects for services rendered in connection with proceedings before a court to which subparagraph (i) is applicable any amount in excess of that allowed by the court thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500, or imprisonment for not more than one year, or both.".

(b) The amendment made by subsection (a) shall become effective upon enactment.

MONTHLY COMPUTATION PERIOD FOR DETERMINATION OF SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 232. (a)(1) The first sentence of section 1611(c)(1) of the Social Security Act is amended to read as follows: "An individual's eligibility for benefits under this title and the amount of such benefits shall be determined for each month.".

(2) The second sentence of section 1611(c)(1) of such Act is amended by striking out "quarter" and inserting in lieu thereof "month".

(b)(1) Section 1612(b)(3)(A) of such Act is amended—

(A) by striking out "quarter" and "calendar quarter" wherever they appear and inserting in lieu thereof "month"; and

(B) by striking out "$60" and inserting in lieu thereof "$20".

(2) Section 1612(b)(3)(B) of such Act is amended—

(A) by striking out "quarter" and "calendar quarter" wherever they appear and inserting in lieu thereof "month"; and

(B) by striking out "$30" and inserting in lieu thereof "$10".

(c) The amendments made by this section shall be effective on such date as the Secretary of Health, Education, and Welfare determines to be administratively feasible, but not before October 1, 1979, or later than the beginning of the fifth calendar quarter after the calendar quarter in which this Act is enacted.

ELIMINATION OF REQUIREMENT FOR REPRESENTATIVE PAYMENT OF SUPPLEMENTAL SECURITY INCOME TO DRUG ADDICTS AND ALCOHOLICS

SEC. 233. Section 1631(a)(2) of the Social Security Act is amended by striking out the second sentence.

REPLACEMENT OF BENEFIT CHECKS

SEC. 234. (a) Section 1631(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6) The Secretary shall by regulation establish procedures for the prompt replacement of benefit checks which have been lost, stolen, or destroyed or have not been delivered within two mail delivery days following the day regularly designated for their delivery. Such regulations shall limit the availability of the replacement procedures to checks issued in the month in which the request for replacement is made. Such procedures may provide for the issuance of checks or payment in cash by the Secretary from funds available to him for this purpose and shall prescribe such safeguards, such as limitations on the number of times payment may be made to an individual using such replacement procedures, as he finds necessary to prevent abuse of such procedures. The regulations shall specify procedures for the coordination and reconciliation of payments made pursuant to this paragraph with payment for the same month from the Department of the Treasury.".

(b) The amendment made by subsection (a) shall be effective with respect to benefit checks for the earliest month for which the Secretary of Health, Education, and Welfare determines it to be administratively feasible, but in no event before October 1, 1979, or later than the tenth month beginning after the month in which this Act is enacted.

MANDATORY PASS-ALONG OF SUPPLEMENTAL SECURITY INCOME BENEFIT INCREASES

SEC. 235. (a) Section 1618 of the Social Security Act is amended—

(1)(A) by striking out "(including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66)" in the portion of subsection (a) that precedes paragraph (1),

(B)(i) by striking out "June 30, 1977" in such portion and inserting in lieu thereof "July 1, 1979", and (ii) by striking out "June 30, 1977" in paragraph (1) of such subsection and inserting in lieu thereof "June 30, 1979",

(C) by striking out "have in effect an agreement with the Secretary whereby the State will"; and

(2) by striking out "preceding twelve-month period" in subsection (b) and inserting in lieu thereof "twelve-month period beginning with July 1976".

(b) Section 1618(b) of such Act is further amended by inserting "(1)" immediately after "(b)", and by adding at the end thereof the following new paragraph:

"(2) If a State discontinues making supplementary payments to individuals residing in domiciliary or personal care facilities and, in their place, makes vendor payments to such facilities (or their agents) on behalf of such individuals, the Secretary shall not find that the State has failed to meet the conditions of subsection (a)(3) and (4) (regardless of the level of such vendor payments) and the total of the supplementary payments replaced by such vendor payments within a twelve-month period shall be subtracted from such State's total expenditures for sup-

plementary payments in the twelve-month period beginning July 1976 for purposes of paragraph (1).

(c) Section 1618 of such Act is further amended by adding at the end thereof the following new subsections:

"(c) The Secretary shall not find that, with respect to any applicable twelve-month period, a State has failed to meet the conditions of subsection (a)(3) or (4) (as modified by subsection (b)) if he finds that the State has made reasonable efforts throughout such period to meet the conditions of such subsection including, where necessary, to make adjustments under subsection (b)(2), within such time after the close of the period and in accordance with such criteria as the Secretary may by regulation prescribe. The Secretary shall also specify in regulations the standards he will employ, including the requirements for a detailed showing by the State, to determine that a State is making reasonable efforts to meet the conditions of subsection (a).

"(d) If the Secretary determines that a State has not, throughout any period, made reasonable efforts to meet the conditions of subsection (a), he shall withhold all amounts that would otherwise be payable to the State under section 1903 for quarters beginning after the month in which such determination of the Secretary becomes final until all amounts previously paid under such section for the period with respect to which such determination was made have been recovered.".

NEGOTIABILITY OF SUPPLEMENTAL SECURITY INCOME BENEFIT CHECKS

SEC. 236. (a) Section 1631 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Negotiability of Checks; Notice to States

"(h)(1) No benefit check issued under this title shall be honored for payment after one hundred and eighty days have elapsed following the day on which it was issued.

"(2) The Secretary of the Treasury shall, on a monthly basis, notify the Secretary of all such benefit checks which have not been presented for payment within one hundred and eighty days after the day on which they were issued.

"(3) The Secretary shall determine the amount of such checks representing the total of all State supplementary payments made pursuant to agreements under section 1616 (a) of this Act and under section 212(b) of Public Law 93-66 included in all unnegotiated checks payable to individuals entitled to benefits under this title and shall pay each State an amount equal to that State's share of all such benefit checks which have not been presented for payment within one hundred and eighty days after the day on which they were issued. Amounts not paid to the States shall be returned to the appropriation from which they were originally paid.

"(4) The Secretary, upon notice from the Secretary of the Treasury under paragraph (2), shall notify any State having an agreement described in paragraph (3) of all such benefit checks issued under that State's agreement which were not presented for payment within one hundred and eighty days after the day on which they were issued.

"(5) The Secretary shall, to the maximum extent feasible, investigate the whereabouts and eligibility of the individuals whose benefit checks were not presented for payment within one hundred and eighty days after the day on which they were issued.".

(b) The amendment made by subsection (a) shall become effective October 1, 1979.

DELETION OF OBSOLETE REFERENCE

SEC. 237. Section 1631(d)(1) of the Social Security Act is amended by striking out "(e), and (f)" and inserting in lieu thereof "and (e)".

CORRECTION OF INCORRECT REFERENCE IN PUBLIC LAW 92-603

SEC. 238. Effective January 2, 1976, section 305(b) of the Social Security Amendments of 1972 (Public Law 92-603) is amended by striking out "section 201(g)(1)(A)" wherever it appears (three places) and inserting in lieu thereof section 201(g)(1)(B)".

TITLE III—AMENDMENTS APPLICABLE TO TWO OR MORE PROGRAMS UNDER THE SOCIAL SECURITY ACT

CONDITIONS GOVERNING AVAILABILITY OF CERTAIN FEDERAL RECORDS

SEC. 301. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"CONDITIONS GOVERNING AVAILABILITY OF CERTAIN FEDERAL RECORDS

"SEC. 1132. (a) For provisions relating to the disclosure to State agencies of return information, as defined in section 6103(b) of the Internal Revenue Code of 1954, and the safeguard requirements imposed, see section 6103 of such Code.

"(b) For parallel provisions with respect to information in records of State unemployment compensation agencies, see subsection (a)(10) of section 303.".

(b) Section 1106(a) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof "or section 6103 of the Internal Revenue Code of 1954.".

(c) Section 411 of such Act is repealed.

(d) Section 402(a)(29) of such Act (as amended by section 105(c)(2) of this Act) is amended to read as follows:

"(29) effective October 1, 1979, provide that return information available from the Social Security Administration under the provisions of section 6103 of the Internal Revenue Code of 1954, and information described in section 303(a)(10) of this Act and available from agencies administering State unemployment compensation laws, shall be requested and utilized to the extent permitted under the provisions of such sections;".

(e) Section 303(a) of such Act is amended—

(1) by striking out "and" at the end of clause (8),

(2) by striking out the period at the end of clause (9) and inserting in lieu thereof "; and", and

(3) by inserting after clause (9) the following new clause:

"(10) In addition to any disclosure authorized or required pursuant to subsection (a)(1), the disclosure on a reimbursable basis, from any data contained in the State agency's files, of information requested with respect to any individual as to (i) whether such individual is receiving, has received, or has made application for unemployment compensation, the amount of and periods for which such compensation was paid or is payable, and the individual's address, and, if specifically requested (ii) whether such individual has refused an offer of employment, and, if so, a description of the employment offered and the terms, conditions, and rate of pay therefor, to—

"(A) the agency of any State that specifically requests such information with respect to such individual for purposes of determining eligibility for or the amount of aid or medical assistance to be provided under a State plan approved by the Secretary of Health, Education, and Welfare under title I, IV (part A), X, XIV, XVI, or XIX of this Act, or approved by the Secretary of Labor under part C of title IV of this Act, or

"(B) any authorized person described in section 453(c)(1) who specifically requests such information with respect to such individual for the purposes of carrying out the State plan approved under part D of title IV of this Act with respect to the enforcement of support obligations and the collection of support payments,

subject to such information being used solely for the purposes for which it was disclosed.".

(f)(1) Subsection (a) of section 508 of Public Law 94-566 is repealed.

(2) So much of subsection (b) of such section 508 as precedes the semicolon is amended to read as follows:

"(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—Expenses incurred to reimburse agencies administering State unemployment compensation laws for furnishing information requested pursuant to section 303(a)(10) of such Act by a State or local agency administering a State plan approved under title I, IV (part A), X, XIV, XVI, or XIX of such Act shall, for purposes of section 4, 403, 1003, 1403, 1603, or 1903 of such Act, be considered to constitute expenses incurred in the administration of the State plan".

(g)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective upon enactment of this Act. Any references in regulations in effect on that date to section 411 of the Social Security Act shall be considered to be references to section 6103 of the Internal Revenue Code of 1954.

(2) The amendment made by subsection (e) of this section shall become effective upon enactment, and shall become a requirement for State unemployment compensation laws effective not later than July 1, 1981.

DISCLOSURE OF TAX RETURN INFORMATION

SEC. 302. (a)(1) Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1954 is amended to read as follows:

"(6) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

"(i) available return information from the master files of the Internal Revenue Service relating to the address, filing status, amounts and nature of income, and number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

"(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payers of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

"(B) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—Officers and employees of the Social Security Administration may, upon request, disclose return information from returns with respect to net earnings from self-employment and wages (as defined in section 1402, 3121(a), or 3401(a)) which has been disclosed to them as provided by paragraph (1)(A) of this subsection or as authorized by section 232 of the Social Security Act to officers and employees of the Department of Health, Education, and Welfare or, upon written request, to the appropriate State child support enforcement agency for purposes of establishing and collecting child support obligations pursuant to the provisions of part D of title IV of the Social Security Act.

"(C) RESTRICTION ON DISCLOSURE.—Return information shall be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.".

(2) Section 6103(l) of such Code is further amended by adding after paragraph (6) the following new paragraph:

"(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND TO CERTAIN STATE AGENCIES.—Officers and employees of the Social Security Administration may, upon request, disclose return information from returns with respect to—

"(A) net earnings from self-employment and wages (as defined in section 1402, 3121(a), or 3401(a)), and

"(B) payments of retirement income,

which has been disclosed to them as provided by paragraph (1)(A) of this subsection or as authorized by section 232 of the Social Security Act to officers and employees of the Department of Health, Education, and Welfare or, upon written request, to officers and employees of an appropriate State agency for purposes of, but only to the extent that the Secretary of Health, Education, and Welfare determines by regulations to be necessary in, determining an individual's eligibility for benefits, or the amount of such benefits, under the program under title XVI of the Social Security Act or under a State plan approved by the Secretary of Health, Education, and Welfare under title I, IV (part A), X, XIV, XVI, or XIX of the Social Security Act.".

(3) Paragraph (3)(A) of section 6103(p) of such Code is amended by striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), (6) (B) or (C), or (7)".

(4) Paragraph (4) of section 6103(p) of such Code is amended by striking out "agency, body, or commission described in subsection (d) or (l) (3) or (6)" and inserting in lieu thereof "agency, body, or commission described in subsection (d) or (l) (3), (6), or (7)".

(5) Paragraph (F)(i) of paragraph (4) of section 6103(p) of such Code is amended by striking out "an agency, body, or commission described in subsection (d) or (l)(6)" and inserting in lieu thereof "an agency, body, or commission described in subsection (d) or (l) (6) or (7)".

(6) The first sentence of paragraph (2) of section 7213(a) of such Code is amended by striking out "subsection (d), (l)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l) (6) or (7), or (m)(4)(B)".

(7) Paragraph (16) of section 3304(a) of such Code is repealed, and paragraph (17) thereof is redesignated as paragraph (16).

(b) The amendments made by subsection (a) shall become effective October 1, 1979.

TITLE IV—CHILD SUPPORT ENFORCEMENT

COLLECTION OF SUPPORT FOR CERTAIN ADULTS RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 401. (a) Section 451 of the Social Security Act is amended by striking out "children" and inserting in lieu thereof "children and the spouse (or former spouse) with whom such a child is living".

(b)(1) Section 452(a) of such Act is amended—

(A) by inserting "and support for the spouse (or former spouse) receiving aid to families with dependent children on behalf of an absent parent's child" immediately following "child support" in paragraph (1);

(B) by inserting "and spousal" immediately following "child" in paragraph (7); and

(C) by inserting "(with separate identification of the number in which collection of spousal support was involved)" immediately following "children support cases" in paragraph (10)(C).

(2) Section 452(b) of such Act is amended by striking out "child support" in the first sentence and inserting in lieu thereof "child or spousal support".

(c) Section 453(c)(1) of such Act is amended by striking out "child support" and inserting in lieu thereof "child support or support for a spouse receiving aid to families with dependent children".

(d) Section 454 of such Act is amended—

(1) by striking out "child support" in the matter preceding paragraph (1) and inserting in lieu thereof "child and spousal support";

(2) by striking out the comma immediately following the first parenthetical phrase in paragraph (4)(B) and inserting in lieu thereof "or from such parent for his spouse receiving aid to families with dependent children with whom such child is living (if a support obligation has been established with respect to such spouse),";

(3) by striking out "children support payments" in paragraph (5) and inserting in lieu thereof "support payments", and striking out "collected for a child" in such paragraph and inserting in lieu thereof "collected for an individual";

(4) by striking out "of a child or children" in paragraph (9)(C) and inserting in lieu thereof "of either the child or children or the spouse"; and

(5) by striking out "child" in paragraph (11).

(f) Section 457 of such Act is amended—

(1) by striking out "child" in the matter preceding paragraph (1) of subsection (a);

(2) by striking out "child" in the portion of subsection (b) that precedes paragraph (1); and

(3) by striking out "child" wherever it appears (four places) in subsection (c).

(g) The amendments made by this section shall become effective October 1, 1979.

CHILD SUPPORT COLLECTIONS FOR NON-AFDC FAMILIES

SEC. 402. (a) Section 455(a) of the Social Security Act is amended by striking out the semicolon at the end of paragraph (2) and all that follows, and inserting in lieu thereof a period.

(b) Section 454(6) of such Act is amended by striking out "(B)" and all that follows and inserting in lieu thereof the following: "and (B) a fee for furnishing such services to any such individual shall be imposed, in an amount equal to 10 per centum of the support collected, and deducted from the amount collected before remitting the remainder to such individual, except that such fee shall not be imposed in any case where the collection of such fee would have the effect of making the individual eligible for assistance under the State plan approved under part A;".

(c) The amendments made by this section shall apply only with respect to amounts paid for services furnished on or after October 1, 1979.

AMENDMENTS REGARDING INCENTIVE PAYMENTS

SEC. 403. (a) Section 458 of the Social Security Act, is amended to read as follows:

"INCENTIVE PAYMENTS

"SEC. 458. (a) When a State or a political subdivision thereof (acting on behalf of that State) makes the enforcement and collection of the support rights assigned under section 402(a)(26), there shall be paid to the State or political subdivision an incentive payment in an amount determined in accordance with subsection (c), but only if it is determined that the enforcement and collection activities are carried out pursuant to the plan of such State approved under this part.

"(b) Where more than one jurisdiction is involved in the enforcement or collection referred to in subsection (a), the amount of the incentive payment determined under subsection (c) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

"(c) The amount of the incentive payment referred to in subsection (a) shall equal 15 per centum of any amount collected as determined prior to the application to such amount of the rules for distribution provided in section 457 to reduce or repay assistance payments.".

(b) The amendment made by subsection (a) shall become effective October 1, 1979.

INCENTIVE PAYMENTS TO TRIBAL GOVERNING BODIES

SEC. 404. Effective October 1, 1979, section 458 of the Social Security Act (as amended by section 403 of this Act) is amended by adding at the end thereof the following new subsection:

"(d) For purposes of making incentive payments under this section, the tribal governing body of any federally recognized Indian tribe shall be treated in the same manner as a political subdivision of a State.".

THREE MONTHS' EXTENSION OF AID TO FAMILIES WITH DEPENDENT CHILDREN ELIGIBILITY

SEC. 405. (a) Section 402(b)(8) of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof (after and below subparagraph (G)) the following:

"and in addition to any amounts disregarded under the preceding provisions of this subparagraph the State agency—

"(H) may disregard, for not more than three consecutive months, distributions to recipients of aid under the plan paid by the State under section 457(b) by reason of a support payment assigned pursuant to paragraph (26)(A);".

(b) Paragraph (5) of section 454 of such Act is amended to read as follows:

"(5) provide that in any case where support payments are collected in a month for an individual with respect to whom an assignment under section 402(a)(26) is effective, and where—

"(A) the amount of such payments on the current month's support obligation is not sufficient to make such family ineligible for aid under the State plan approved under part A, or

"(B) the amount of such payments on the current month's support obligation is sufficient to make such family ineligible for such aid but the month is one with respect to which the plan approved under part A provides for disregarding the excess of the amount collected on the current month's support obligation over the amount of such aid paid for that month,

such payments shall be made to the State for distribution pursuant to section 457 and shall not be paid directly to the family;".

(c) Subsections (b) and (c) of section 457 of such Act (as amended by section 401(f) of this Act) are amended to read as follows:

"(b) The amounts collected as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) such amounts as represent payment on the current month's obligation and either—

"(A) are not sufficient to make such family ineligible for aid under the State plan approved under part A, or

"(B) are sufficient to make such family ineligible for such aid for a month, but the month is one with respect to which the plan approved under part A provides for disregarding the excess of the amount collected on the current month's support obligation over the amount of such aid paid for that month,

shall be retained by the State to reimburse

it for such aid paid to the family for the current month (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(2) such amounts as are in excess of the amounts retained by the State under paragraph (1) and are not in excess of the current month's obligation shall be paid to the family; and

"(3) such amounts as are in excess of the amounts required to be distributed under paragraphs (1) and (2) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past aid paid to the family for which the State has not been reimbursed, or (B) if no aid has been paid by the State which has not been reimbursed, such amounts shall be paid to the family.

"(c) Whenever a family for whom support payments have been collected and distributed under the plan ceases to receive aid under part A, the State may—

"(1) continue to collect support payments for a period not to exceed three months from the month following the month in which such family ceased to receive aid under part A, and pay to the family all amounts so collected which represent payments of the current month's obligation; and

"(2) at the end of such three-month period, if the State is authorized to do so by the individual on whose behalf the collection will be made, continue to collect support payments from the absent parent and pay to the family the net amount of any payments so collected which represent payment on the current month's obligation after deducting any costs incurred in making the collection from the amount of any recovery made,

and so much of any amounts of support so collected as are in excess of the payments required to be made under paragraph (1) or (2) shall be distributed in the manner provided by subsection (b)(3)(A) and (B) with respect to excess amounts described in subsection (b).

"(d) As used in this section—

"(1) the term 'current month' (with respect to the manner of distributing collections of support) means the month in which the amount to be distributed has been collected, and

"(2) the term 'payments on the current month's obligation' means child support payments in full or partial satisfaction of a legal obligation to make payment for the current month, such obligation having been established in accordance with section 458.".

(d) The amendments made by this section shall become effective October 1, 1979.

METHOD OF DETERMINING REIMBURSEMENT OF THE FEDERAL GOVERNMENT

SEC. 406. (a) Section 457(b) of the Social Security Act (as amended by sections 401(f) and 405(c) of this Act) is further amended by adding at the end thereof (after and below paragraph (3)) the following new sentence: "For purposes of this subsection, 'appropriate reimbursement of the Federal Government to the extent of its participation in the financing' shall be determined by application of the rate of Federal financial participation in the State's expenditures for aid to families with dependent children in effect for the quarter in which the support amount is distributed.".

(b) The amendment made by subsection (a) shall become effective October 1, 1979.

METHOD OF PAYMENT FOR CHILD SUPPORT COLLECTION SERVICES

SEC. 407. (a) Section 455(b)(2) of the Social Security Act is amended by striking out "The Secretary" and inserting in lieu thereof "Subject to subsection (e), the Secretary".

(b) Section 455 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of law, no amount shall be paid to any State under this section for any quarter commencing after September 30, 1979, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a) there shall have been submitted by the State to the Secretary, with respect to each quarter in such period, other than the last two quarters in such period, a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child and spousal support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).".

(c)(1) Section 403(b)(2) of such Act is amended—

(A) by striking out "and" at the end of clause (A), and

(B) by inserting immediately before the semicolon at the end of clause (B) the following: ", and (C) reduced by such amount as is necessary to provide the 'appropriate reimbursement of the Federal Government' that the State is required to make under section 457 out of that portion of support collections retained by it pursuant to such section".

(2) The amendments made by paragraph (1) shall be effective in the case of calendar quarters commencing after September 30, 1979.

COMMITTEE AMENDMENTS

The committee amendments are as follows:

Page 2 (in the table of contents), after the item relating to section 124A, insert the following new item:

"Sec. 124B. Approval of certain demonstration projects.";

and after the item relating to section 126 insert the following new item:

"Sec. 126A. Implementation of amendments under Federal regulations.".

Page 3 (in the table of contents), strike out the matter relating to part F and insert in lieu thereof the following:

"PART F—EXPERIMENTAL PROJECTS INVOLVING FOOD STAMP CASH-OUT FOR AFDC RECIPIENTS

"Sec. 129. Payments in lieu of food stamp benefits for AFDC recipients.

"PART G—NATIONAL GOAL FOR ERROR RATE REDUCTION

"Sec. 130. Declaration of national goal.

"Sec. 131. Study and report.

"Sec. 132. Regulations.".

Page 4 (in the table of contents), after the item relating to section 302, insert the following new item:

"Sec. 303. Adjustment of retroactive benefits under title II on account of advances of supplemental security income benefits.".

Page 6, strike out "to the extent that" in line 10 and all that follows down through the end of line 12, and insert in lieu thereof the following:

to the extent that such amount (for each such child or individual) does not exceed $160 in the case of any month in the 9-month period beginning October 1, 1979, or $160 adjusted to the extent determined by the Secretary to be appropriate by reason of changes in the cost of such care in the case of any month thereafter; and

Page 8, line 20, strike out "(A), (B), (C), (D), and (E)" and insert in lieu thereof "(A) and (C)".

Page 11, strike out line 18 and all that follows down through line 4 on page 12.

Page 12, line 5, strike out "(3)" and insert in lieu thereof "(2)".

Page 19, strike out "shall include" in line 22 and all that follows down through the period in line 25 and insert in lieu thereof the following: "shall exclude no more than one licensed vehicle in the case of any family (except for a vehicle used to produce earned income or otherwise excludable under the next sentence), and shall exclude only so much of the fair market value of such licensed vehicle as does not exceed $4,500.".

Page 25, line 3, after "(b)" insert "(1)".

Page 25, strike out "in accordance with regulations" in line 6 and all that follows down through the end of line 8, and insert in lieu thereof "in accordance with the second sentence of this subsection".

Page 25, after line 8, insert the following new paragraph:

(2) Section 407(a) of such Act is further amended by adding at the end thereof the following new sentence: "For purposes of determining unemployment under the preceding sentence, the Secretary under regulations shall determine the uniform minimum level of monthly earnings that may be expected to be paid for full-time employment, which level shall be $500 in the case of any month in the 9-month period beginning October 1, 1979, and shall be $500 adjusted by the Secretary in accordance with such regulations, taking into account any changes in the Consumer Price Index and in the Federal minimum wage, in the case of any month thereafter.".

Page 27, line 22, strike out "thirty-day" and insert in lieu thereof "30-day".

Page 31, line 16, after "family" insert ", or that is not less than the amount determined under clause (II) (in the matter which follows) in the case of a family to which such clause applies".

Page 31, line 17, after "that" insert "(I)".

Page 31, line 22, strike out "purpose" and insert in lieu thereof "purposes".

Page 31, line 25, before the semicolon insert the following: ", and (II) in the case of a family which includes one or more dependent children but in which there is no adult whose needs are taken into account in determining the amount of aid payable (unless the application of this clause would result in a larger amount of aid for such family than the amount of aid which would be paid to a family of the same size and income which includes one or more such adults), the monthly cash needs and payment standards established by the State shall be such that each such standard (without taking into account the value of any monthly allotment of food stamp coupons) will equal an amount that is not less than 60 per centum of the difference between the income poverty guidelines (as defined in section 414) for a family with three members and the income poverty guidelines (as so defined) for a family with a number of members equal to three plus the number of such dependent children (and in any such case section 413 shall not apply as to reduce either such standard below the amount required by this clause)".

Page 32, line 4, before "and" insert "each place it appears".

Page 32, line 20, add quotation marks immediately before "(B)".

Page 34, line 23, strike out "The" and insert in lieu thereof "Effective October 1, 1980 the".

Page 35, lines 6 and 7, strike out "not later than one year after the date of the enactment of this Act" and insert in lieu thereof "not later than October 1, 1981".

Page 38, line 14, add quotation marks immediately before "SEC.", and strike out the quotation marks before "415".

Page 56, line 3, immediately after "cash" insert ", and disregarding the amount specified in subparagraph (B) and (D) of subsection (a)(8) to the extent that those subparagraphs apply to such individual".

Page 60, strike out lines 12 through 16 and insert in lieu thereof the following:

for purposes of this part, there shall be

"(b) Of the total amount appropriated available to States for payments under section 403(a)(5) for assistance to meet emergency needs—

"(1) for fiscal year 1982, the sum of $200,000,000, and

"(2) for each fiscal year thereafter, a sum equal to $200,000,000 multiplied by the ratio of (A) the Consumer Price Index for all urban consumers for the month of September immediately preceding such fiscal year, to (B) that Index for September 1981.".

Page 61, line 8, strike out "appropriated" and insert in lieu thereof "available".

Page 61, line 15, strike out "appropriated" and insert in lieu thereof "available".

Page 61, line 21, strike out "sentence" and insert in lieu thereof "paragraph".

Page 65, line 13, after "subsection" insert "or under section 403(a)(4)".

Page 66, strike out "(or," in line 25 and all that follows down through page 67, line 5, and insert in lieu thereof a comma.

Page 70, line 10, strike out "is the ratio" and insert in lieu thereof "is the lesser of 1 or the ratio".

Page 73, line 19, after "Act" insert "(as amended by section 105(c) of this act)".

Page 86, strike out the parenthetical phrase in lines 2 and 3 and the parenthetical phrase in lines 9 through 11.

Page 87, after line 16, insert the following new section:

APPROVAL OF CERTAIN DEMONSTRATION PROJECTS

SEC. 124B. Section 1115(a) of the Social Security Act is amended by inserting at the end thereof the following new sentence: "In the case of any application made by a State to participate in a project under this subsection, the Secretary shall make a final decision to approve or deny such application no later than 4 months after the date on which it is submitted to him.".

Page 89, line 12, strike out "section 101(a)(2)" and insert in lieu thereof "sections 101(a)(2) and 104(d)".

Page 89, after line 14, insert the following new section:

IMPLEMENTATIONS OF AMENDMENTS UNDER FEDERAL REGULATIONS

SEC. 126A. No proposed regulation of the Secretary of Health, Education, and Welfare for the implementation or administration of any of the amendments made by this title shall become effective, or be published in final form in the Federal Register, unless—

(1) the Secretary has transmitted the text of such proposed regulation to the Congress, at or before the time he publishes such regulation in its proposed form or gives notice or service thereof under section 553 of title 5, United States Code, for referral to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(2) a period of 60 calendar days (not counting any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) has elapsed after the transmittal of such proposed regulation to the Congress under paragraph (1), and the Congress has not (within such period) adopted a concurrent resolution stating in substance that it disapproves of such regulation in whole or in part; and

(3) the regulation in its final form does not contain any changes, from the regulation as transmitted to the Congress under paragraph (1), which are of sufficient substance or magnitude to require (under the administrative procedure provisions of title 5, United States Code) its republication as a proposed regulation and a further opportunity for interested persons to participate through submission of data, views, and arguments;

except that if (within the 60-day period described in paragraph (2)) the Congress adopts a concurrent resolution disapproving of the proposed regulation only in part and specifying the portion or portions disapproved of, or if there are changes of the substance or magnitude described in paragraph (3) but they affect or involve only a specifically identifiable portion or portions of the regulation, this section shall not prevent the remaining portions of such regulation from being published in the Federal Register in final form, and becoming effective, in accordance with the administrative procedure provisions of title 5, United States Code.

Page 90, strike out line 24 and all that follows down through page 91, line 24, and insert in lieu thereof the following:

(b) REVISION OF LIMITATION.—Subsection (b) of section 43 of such Code (relating to limitation) is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) $550, over

"(2) 13.75 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $7,000."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 43(f) of such Code (relating to amount of credit to be determined under tables) is amended—

(A) by striking out "$10,000" each place it appears and inserting in lieu thereof "$11,000", and

(B) by striking out "$6,000" and inserting in lieu thereof "$7,000".

(2) Paragraph (2) of section 3507(c) of such Code (relating to advance amount tables) is amended—

(A) by striking out "10 percent" each place it appears and inserting in lieu thereof "11 percent",

(B) by striking out "$6,000 and $10,000" and inserting in lieu thereof "$7,000 and $11,000", and

(C) by striking out "$3,000 and $5,000" and inserting in lieu thereof "$3,500 and $5,500".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) AMENDMENTS OF SECTION 3507.—The amendments made by section (c)(2) shall apply to remuneration paid after December 31, 1981.

Strike out part F of title I (beginning on page 92, line 1, and ending on page 95, line 10), and insert in lieu thereof the following:

PART F—EXPERIMENTAL PROJECTS INVOLVING FOOD STAMP CASH-OUT FOR AFDC RECIPIENTS

PAYMENTS IN LIEU OF FOOD STAMP BENEFITS FOR AFDC RECIPIENTS

SEC. 129. Section 17(b)(1) of the Food Stamp Act of 1977 is amended—

(1) by striking out "either";

(2) by inserting "any of whose members is" after "over or";

(3) by inserting "or to aid to families with dependent children under part A of title IV of the Social Security Act" after "Social Security Act"; and

(4) by inserting ", other than any project involving the payment of the value of allotments in the form of cash to eligible households," after "no project".

Page 95, after line 10, insert the following new part:

PART G—NATIONAL GOAL FOR ERROR RATE REDUCTION

DECLARATION OF NATIONAL GOAL

SEC. 130. It shall be the goal of the program of aid to families with dependent children to operate with a national payment error rate not in excess of 4 per centum; and the Secretary of Health, Education, and Welfare, in the Federal administration of the program of aid to families with dependent children, shall treat the achievement of a 4-percent payment error rate in all States, through annual reductions in State error rates as provided for in the regulations promulgated on March 7, 1979 (F.R. Doc. 79-6786), or otherwise, as a paramount objective of such program.

STUDY AND REPORT

SEC. 131. The Secretary of Health, Education, and Welfare shall conduct a complete study of State error rates under the program of aid to families with dependent children, and shall submit to the Congress no later than December 31, 1980, a report of the findings made as a result of such study along with recommendations for reducing State error rates under such program and achieving equitable national standards therefor, including recommendations for improving the measurement and reduction of errors, and for developing a method of more accurately and equitably measuring program performance which takes into account State-by-State variations in program size, benefit levels, program complexity, and other relevant factors. The report shall include or be accompanied by a draft of any proposed changes in the regulations promulgated on March 7, 1979 (F.R. Doc. 79-6786), which may be necessary or appropriate to carry out such recommendations.

REGULATIONS

SEC. 132. Until the study under section 131 is completed and 30 calendar days (not counting any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) have elapsed after the submission to the Congress of proposed changes in the current regulations as provided for in the last sentence of such section, the regulations with respect to State error rates which were promulgated on March 7, 1979 (F.R. Doc. 79-6786), as in effect on the date of the enactment of this Act, shall remain in effect.

Page 95, line 24, after "1616(a)" insert "or an administration agreement under section 212(b) of Public Law 93-66".

Page 96, lines 10 and 11, strike out "supplementary" and insert in lieu thereof "supplemental".

Page 96, line 12, after "1616(a)" insert "or section 212(b) of Public Law 93-66".

Page 100, line 15, after "apart." insert the following new sentence: "Notwithstanding the two preceding sentences, a husband and wife shall be considered to be living together (and to be an eligible individual and eligible spouse) during any period of not more than three consecutive months throughout which one or both of them is in a hospital, extended care facility, nursing home, or intermediate care facility if throughout such period they would be an eligible individual and eligible spouse (as defined in the first sentence of this subsection) if they were living together and if, in the month immediately preceding such period, they were living together as an eligible individual and eligible spouse (as so defined).".

Page 100, line 22, strike out "subparagraphs" and insert in lieu thereof "subparagraph".

Page 101, line 5, strike out "Except as set forth in subparagraph (C), in" and insert in lieu thereof "In".

Page 101, lines 14 and 115, strike out "or eligible spouse".

Page 101, strike out line 19 and all that follows down through line 18 on page 103 and insert in lieu thereof the following:

the fourth consecutive month throughout which, or a month in a continuous period beginning with such fourth consecutive month throughout which, such individual is in a hospital, extended care facility, nursing home, or intermediate care facility (whether

or not receiving payments with respect to such individual for each month in such period), the benefit for such individual shall be payable at a rate not in excess of $300 per year (reduced by the amount of any income of such individual which is not excluded pursuant to section 1612 (b)).".

Page 103, line 20, strike out "(e)(1)(B)" and insert in lieu thereof "(e)(1)(C)".

Page 108, strike out lines 7 through 10 and insert in lieu thereof the following:

(b) The amendment made by subsection (a) shall be effective beginning with the month in which this Act is enacted, and shall apply only with respect to individuals whose death occurs in or after such month.

Page 110, line 14, immediately before the period insert "; but no additional or increased payments shall be made by reason of such amendments for any period prior to October 1, 1979".

Page 112, strike out lines 9 through 19 and insert in lieu thereof the following:

"(F) the first month after September 1979 for which the sum of—

"(i) such individual's title XVI benefit plus other income (as determined under paragraph (3)(C)), and

"(ii) any optional State supplementary payment for which he is eligible,

exceeds the sum of—

"(iii) such individual's title XVI benefit plus other income (as so determined) for September 1979, and

"(iv) the State supplementary payment for which such individual was eligible pursuant to the agreement under this subsection as in effect for September 1979,

Page 114, line 11, strike out "fair market value" and insert in lieu thereof "current market value".

Page 121, line 1, strike out "replacement procedures" and insert in lieu thereof "procedures for the replacement of checks under this paragraph".

Page 121, line 2, strike out "in the month" and insert in lieu thereof "for the month".

Page 123, line 2, after "paragraph (1)." insert the following new sentence: "For purposes only of title XIX of this Act and section 212 (a) of Public Law 93-66, a vendor payment under this paragraph with respect to an individual shall be considered a State supplementary payment to such individual.".

Page 129, strike out line 22 and all that follows down through page 134, line 2, and insert in lieu thereof the following:

DISCLOSURE OF TAX RETURN INFORMATION

SEC. 302. (a) Subsection (1) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND TO CERTAIN STATE AGENCIES.—

"(A) IN GENERAL.—The Commissioner of Social Security may disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection—

"(i) upon request, to officers and employees of the Department of Health, Education, and Welfare, and

"(ii) upon written request, to officers and employees of a State administering agency or a State or local child support enforcement agency.

(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in—

"(i) determining an individual's eligibility for benefits, or the amounts of benefits, under a program or plan referred to in subparagraph (C), or

"(ii) establishing and collecting child support obligations from, and locating, individuals owing such obligations.

"(C) PROGRAMS AND PLANS IN THE ADMINISTRATION OF WHICH RETURN INFORMATION FURNISHED UNDER THIS PARAGRAPH MAY BE USED.—The programs and plans referred to in this subparagraph are—

"(i) any program under title XVI of the Social Security Act, and

"(ii) any State plan approved by the Secretary of Health, Education, and Welfare under title I, IV (part A), X, XIV, XVI, or XIX of the Social Security Act.

"(D) STATE ADMINISTERING AGENCY.—For purposes of this paragraph, the term 'State administering agency' means the State agency administering a program or plan referred to in subparagraph (C)."

(b)(1) Subparagraph (A) of section 6103 (p)(3) of such Code is amended by striking out "(1)(1) or (4)(B) or (5)" and inserting in lieu thereof "(1)(1), (4)(B), (5), or (7)".

(2) Paragraph (4) of section 6103(p) of such Code is amended by striking out "agency, body, or commission described in subsection (d) or (1)(3) or (6)" and inserting in lieu thereof "agency, body, or commission described in subsection (d) or (1)(3), (6), or (7)".

(3) Clause (1) of section 6103(p)(4)(F) of such Code is amended by striking out "an agency, body, or commission described in subsection (d) or (1)(6)" and inserting in lieu thereof "an agency, body, or commission described in subsection (d) or (1)(6) or (7)".

(4) The first sentence of paragraph (2) of section 7213(a) of such Code is amended by striking out "subsection (d), (l)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l)(6) or (7), or (m)(4)(B)".

(5) Subsection (a) of section 3304 of such Code is amended by striking out paragraph (16) and by redesignating paragraph (17) as paragraph (16).

(c) The amendments made by this section shall take effect on October 1, 1979.

Page 1344, after line 2, insert the following new section:

ADJUSTMENT OF RETROACTIVE BENEFITS UNDER TITLE II ON ACCOUNT OF ADVANCES OF SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 303. (a) Part A of title XI of the Social Security Act (as amended by section 301(a) of this Act) is further amended by adding at the end thereof the following new section:

"ADJUSTMENT OF RETROACTIVE BENEFITS UNDER TITLE II ON ACCOUNT OF ADVANCES OF SUPPLEMENTAL SECURITY INCOME BENEFITS

"SEC. 1133. Notwithstanding any other provision of this Act, in any case where an individual—

"(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

"(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616(a) or an administration agreement under section 212 of Public Law 93-66) for one or more months during the period beginning with the first month for which a benefit described in paragraph 1 is paid and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

"the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments described in paragraph (2)) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

"(e) For payments which are adjusted by reason of benefits under the supplemental security income program established by the title XVI, see section 1133.".

(c) Section 1631(b) of such Act is amended by—

(1) inserting "(1)" immediately after "(b)" and

(2) adding at the end thereof the following new paragraph:

"(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1133.".

(d) The amendments made by this section shall be effective with respect to supplemental security income benefits (including State supplementary payments) paid for months after such date as the Secretary of Health, Education, and Welfare determines to be administratively feasible, but not later than the twelfth month following the month in which this Act is enacted.

Page 137, strike out "15 per centum" in line 19 and all that follows down through the end of line 22 and insert in lieu thereof the following:

15 per centum of any amount available for distribution under section 457 to reduce or repay assistance payments. Such incentive payment shall be made from the total amount so available prior to making any distribution from such amount under that section.".

The CHAIRMAN. If there is no debate to be had on the committee amendments, the question is on the committee amendments, en bloc.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD pursuant to the rule?

Mr. JEFFORDS. Yes, it is, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The clerk read as follows:

Amendment offered by Mr. JEFFORDS: On page 109, after line 2, insert the following new subsection (c):

"(c) Notwithstanding any other provision of law, the Secretary of Agriculture, at the request of the governor, in accordance with arrangements entered into with the Secretary of Health, Education and Welfare, shall pay each household—

"(1) of which every member is either over sixty-five or is eligible for grants to the blind or disabled in Guam, Puerto Rico, and the Virgin Islands;

"(2) which is eligible to participate in the food stamp program; and

"(3) which is not entitled to a payment under section 1619 of the Social Security Act;

an amount equal to the value of a coupon allotment to which the household is entitled under the Food Stamp Act of 1977. For the purposes of section 8(b) of the Food Stamp Act of 1977 pertaining to benefits provided being excluded as income or resources under other laws, an amount paid under this subsection shall be treated as the value of the coupon allotment. In the administration of such Act, a household which receives payments under this subsection for any month shall not be issued a coupon allotment for such month. Payments under this subsection shall be made at such time or times as the Secretary of Agriculture determines by rule and shall be designated (on any voucher or other record of payment) as 'Nutritional Supplement.'"

Mr. JEFFORDS. Mr. Chairman, this amendment affects a group of people that I will describe, that is the poor and lonely elderly. I think that is the best way to describe them.

Before I go on, I would like to commend the gentleman from Mississippi (Mr. LOTT) for arguing to make this amendment in order, because without his help on the Committee on Rules we would not have the opportunity before us to help this group. I know the gentleman's compassion for senior citizens, especially in this group, is well known, but I want to personally commend the gentleman.

This proposal is nothing new to this House. The House approved an amendment almost identical to this one in 1977 by a voice vote; however, it was deleted in conference committee and was replaced by a pilot program. For that reason, when we go back into the full House, in order to help the conference committee in their deliberations with the other body, I will ask for a separate vote. That way we can let everyone go on record in support of the poor and lonely elderly.

I commend the committee for adopting the provisions in the bill that allow elderly people and the blind and the disabled who are receiving SSI benefits to get cash in lieu of food stamps. That means they can adjust their own budgets according to their needs, rather than having to utilize or to obtain food stamps. I will briefly explain why this is a good reason later on; however the important point is that it misses a group of elderly. It misses a group of people between the eligibility level for SSI and the eligibility level for food stamps. In other words, we are still talking about impoverished elderly, but we are talking about elderly who for some reason are not on SSI.

What this amendment would do is allow them also to get cash instead of food stamps.

Let me go into why this is a good idea. First of all, I want to reemphasize that this does not increase the number of people who are eligible for food stamps, but merely says that people who are 65 or older and living alone, with no young people living in their household, can get cash instead of food stamps.

Why? First of all, the current rationale for food stamps, if there is a reason for food stamps, is primarily to make sure at least that young people in a household are provided with food. In other words, it guarantees that families will spend this aid only for food. This argument does not hold for the elderly.

What the elderly need now is more flexibility in their budget, rather than to have to utilize food stamps.

The biggest problem the elderly have now is stretching their budget to meet rampant inflation and the doubling of their fuel oil costs.

Second, the biggest problem our elderly have with participating in the food stamp program is the stigma of using food stamps in the grocery store lines. Elderly people have told me that time and time again; that was also the thrust of numerous pieces of testimony offered on behalf of food stamp reform in 1976 and 1977.

This group in particular has the lowest participation rate of any group in our food stamp program, and yet they are probably the group that needs more help than anyone else. In fact, a study based on Bureau of Census figures at the time of the 1976 food stamp reform debate showed that less than a quarter of the eligible elderly people actually participated in the program.

The unwillingness of this group to participate is due partly to the inconvenience in obtaining the stamps, but the biggest problem is stigma. Older people do not want to have their neighbors know that they are accepting help from a welfare-like program.

Another factor behind this proposal is that right now, as I mentioned earlier, there is pilot project authority in the food stamp law. I would point out that USDA is just now beginning to put this authority into effect. My amendment would allow States that operate these pilot projects either in districts or in the whole State, to continue cash-out after their project authority expires. There is a State option involved here. If the Governor says, "I think this is a good idea," then he can implement within that State a cash-out program for the lonely, and poor elderly.

Again, it is a State option. It is not a mandate. It will help those States that are now going forward with pilot programs. It will mean that once they get senior citizens in this group on cash instead of food stamps, they will not have to take them off cash and put them back on food stamps.

Finally, I would like to say, I do not think there is any group in America that needs our help more than this group at this particular time. With the inflation rate the way it is and with the inflation rate for the necessities of life even exceeding the average inflation rate, and furthermore with the increases in fuel costs, especially in my part of the country more than doubling, this group more than any other group needs more flexibility in their budget.

This amendment will help somewhere between half a million and a million Americans have a better chance to survive in the cold winter ahead.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I would be happy to yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, as the ranking minority member of the Aging Committee, I want to congratulate the gentleman from Vermont (Mr. JEFFORDS) for offering this amendment. I will support it gladly. To be entirely fair, since we are allowing some senior citizens—those on SSI—to participate in cash-out, I agree that all senior citizens should have this alternative. The needs of senior citizens are so great and their ability to respond somewhat limited that this measure allows greater flexibility for a class of citizens who deserve this special treatment.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I would be happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I want to commend the gentleman also.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. JEFFORDS) has expired.

(By unanimous consent, Mr. JEFFORDS was allowed to proceed for 1 additional minute.)

Mr. SOLOMON. Mr. Chairman, if the gentleman will yield further, I just wanted a clarification on the criteria the gentleman listed, one, two, and three. In other words, in order for them to be able to cash out, as is the intent of the gentleman, in other words they have to meet all three of these criteria; not one of the three, but two of the three?

Mr. JEFFORDS. That is correct. They have to meet all three, and I will run down through them briefly.

These criteria make sure that the affected individuals are over 65, and that every member of their household is over 65, that they are eligible to participate in the food stamp program, and for some reason or other they would not be eligible to receive a similar payment under the SSI provisions.

Mr. SOLOMON. So the gentleman's intent is that they have to meet all three of those listed criteria.

Mr. JEFFORDS. That is correct.

Mr. SOLOMON. Mr. Chairman, it is an excellent amendment and I commend the gentleman.

Mr. SANTINI. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as a member of the Select Committee on Aging, I want to commend the gentleman from Vermont for his effort to try and rectify a serious problem.

Recent studies indicate that less than 18 percent of our citizens over 65 who are eligible for food stamps actually participate in the program. The reasons for this poor percentage of participation are two: inconvenience and stigma. Many of our elderly, who encounter problems with transportation, find it difficult to go through the process of obtaining food stamps. The biggest factor, however, is

the stigma of using food stamps. Many of our senior citizens, proud of what they have contributed during their working years, are embarrassed to publicly acknowledge that they are receiving assistance by using food stamps in the grocery store.

Representative JEFFORD's amendment, by allowing States to give cash in lieu of food stamps to senior citizens residing with others over age 65, will encourage many of our most vulnerable citizens to participate in the food stamp program—one of our most important assistance programs.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I really appreciate the gentleman's statement.

I would like to bring up another point, especially since the Committee on Ways and Means is here. In 1977, a provision in the food stamp reform bill authorized—in fact, sort of asked—that the people in the social security offices and the welfare offices get together in order to allow elderly people not to have to go to the welfare office, but rather to go to the social security office, to apply for food stamps. This group of people, the elderly, ought to be given an easier path to participate in the food stamp program. The social security office is where they are used to going. That is where they get SSI; why not food stamps?

□ 1630

Although that provision has been in the law, it is my understanding that the social security people have objected to it and have refused to implement that provision. Along with this amendment, if the administration would just put the pressure on HEW to see that that aspect of the law to use the social security office is implemented, it would also do a great deal to allow this group of senior citizens to participate in the food stamp program. I would just like to bring this to the attention of the members of the Committee on Ways and Means that have jurisdiction over SSI and social security in hopes they will exert pressure as that would do a great deal to help this group.

Mr. Chairman, I thank the gentleman for yielding.

Mr. SANTINI. Mr. Chairman, I think the sponsor of the amendment should be commended both for offering his amendment and for his supplemental remarks.

Mr. Chairman, I yield back the balance of my time.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

There was no objection.

Mr. BAUMAN. Mr. Chairman, I just want to take this time to congratulate the gentleman from Vermont for being more equal than the 434 other Members of the House.

I say that because under the rule he is the only Member of the House of either party, save for committee amendments, who has the right to offer an amendment to this bill.

We have been told that this is a major welfare bill. I think it speaks volumes about the gentleman's legislative ability and his acumen that he would be able to come up with an amendment that makes him better than any other Member of the House in regard to this legislation.

I realize that this right was bestowed upon the gentleman by the Committee on Rules, but much of the impetus came from the description of the worth of his amendment and the group involved that would benefit if the amendment would pass. Nevertheless, the gentleman today stands second only to the Speaker of the House in his power and ability, thanks to the very great defeat handed the rest of us by the Committee on Rules with its penchant for closing off the rights of the other Members.

Mr. Chairman, I congratulate the gentleman from Vermont on receiving this singular honor, and I will yield to him if he wishes me to yield.

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman for yielding, and I appreciate his remarks.

All I can say, in all candor and honesty, is that I wish I were not in that elite group of two because I believe, as the gentleman does, that this legislation ought to have been open to at least some amendments.

I voted against the rule on this bill, notwithstanding the fact that the gentleman from Mississippi (Mr. LOTT) gave me the opportunity to stand in this position. I agree with the gentleman from Maryland (Mr. BAUMAN) that such a major piece of legislation ought to have the ability to be amended or ought to be considered in a way that would allow other Members to be able to improve upon it. I do not think there is any bill that comes out of any committee that is without the need of some repair or at least we ought to have a chance to think about it.

Mr. BAUMAN. Mr. Chairman, I believe the gentleman's last statement may well apply to the Committee on Ways and Means, I might say, based on the fact that they reported this bill.

Mr. JEFFORDS. Mr. Chairman, I will not say that at this particular time I want to comment on that, but I appreciate the gentleman's remarks.

Mr. BAUMAN. Mr. Chairman, I might add that it gives me some small comfort in this instance that the only amendment permitted by the powers that be that control this Congress comes from the minority party and not from majority party Members. That speaks volumes about where the singular amending talent of this body lies.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment was agreed to.

The CHAIRMAN. Are there other committee amendments?

Mr. CORMAN. Mr. Chairman, there are no other committee amendments.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOLAND) having assumed the chair, Mr. AUCOIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4904) to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes, pursuant to House Resolution 465, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. JEFFORDS. Mr. Speaker, I demand a separate vote on the so-called Jeffords amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 109, after line 2, insert the following new subsection (c):

"(c) Notwithstanding any other provision of law, the Secretary of Agriculture, at the request of the governor, in accordance with arrangements entered into with the Secretary of Health, Education and Welfare, shall pay each household—

"(1) of which every member is either over sixty-five or is eligible for grants to the blind or disabled in Guam, Puerto Rico, and the Virgin Islands;

"(2) which is eligible to participate in the food stamp program; and

"(3) which is not entitled to a payment under section 1619 of the Social Security Act;

an amount equal to the value of a coupon allotment to which the household is entitled under the Food Stamp Act of 1977. For the purposes of section 8(b) of the Food Stamp Act of 1977 pertaining to benefits provided being excluded as income or resources under other laws, an amount paid under this subsection shall be treated as the value of the coupon allotment. In the administration of such Act, a household which receives payments under this subsection for any month shall not be issued a coupon allotment for such month. Payments under this subsection shall be made at such time or times as the Secretary of Agriculture determines by rule and shall be designated (on any voucher or other record of payment) as 'Nutritional Supplement'."

Mr. JEFFORDS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Vermont?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JEFFORDS. Mr. Speaker, I object

to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 406, nays 2, not voting 25, as follows:

[Roll No. 632]

YEAS—406

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonker
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisho'm
Clausen
Clay
Cleve'and
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Hamilton
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rails back
Ranel
Ratchford
Rangel
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stanceland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Fla.
Young, Mo
Zablocki
Zeferetti

NAYS—2

McDonald
Paul

NOT VOTING—25

Bolling
Bonker
Conyers
Crane, Philip
de la Garza
Flood
Frenzel
Giaimo
Hansen
Hawkins
Heftel
Holt
Jones, N.C.
Leath, Tex.
Leland
Michel
Murphy, Ill.
O'Brien
Stark
Swift
Symms
Treen
Whitten
Wylie
Young, Alaska

□ 1650

The Clerk announced the following pairs:

Mr. Murphy of Illinois with Mrs. Holt.
Mr. Leland with Mr. Hansen.
Mr. Hawkins with Philip M. Crane.
Mr. Giaimo with Mr. Frenzel.
Mr. Conyers with Mr. Symms.
Mr. Swift with Mr. Wylie.
Mr. Jones of North Carolina with Mr. Young of Alaska.
Mr. Heftel with Mr. O'Brien.
Mr. Whitten with Mr. Stark.
Mr. de la Garza with Mr. Bonker.

Mr. ASHLEY and Mr. COTTER changed their votes from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ARCHER. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARCHER moves to recommit the bill H.R. 4904 to the Committee on Ways and Means with instructions to report back the same to the House forthwith with the following amendments: On page 66, after line 18, insert the following new section (and conform the table of contents):

IMPOSITION OF WORK REQUIREMENTS BY STATES AS CONDITION OF AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 114. Section 402 of the Social Security Act (as amended by sections 111(a)(2) and 118(b)(2) of this Act) is further amended by adding at the end thereof the following new subsection:

"(f) Nothing in this part or part C, or in any State plan approved under this section, or in any regulation prescribed to implement this part or part C or any such State plan, shall be construed to prevent a State from imposing (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with subsection (a)(19) or part C) a requirement that an individual or relative, or any other person (living in the same home) whose needs are taken into account in making the determination under subsection (a)(7), perform employment (as defined by the State) as a condition or additional condition of eligibility for aid to families with dependent children, provided that a single parent or other relative of a child under the age of six who is caring for the child shall not be required to perform employment unless appropriate care is available for such child while the parent or relative is performing such employment.".

Page 104, after line 11, insert the following new part (and conform the table of contents):

PART G—BLOCK GRANT DEMONSTRATION PROGRAM

ESTABLISHMENT OF PROGRAM

SEC. 133. (a) Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new section:

"BLOCK GRANT DEMONSTRATION PROGRAM

"SEC. 419A. (a)(1) In order to provide an effective test of the ability of the various States and counties to create their own welfare programs as an alternative to the program of aid to families with dependent children, there is hereby established a five-year block grant demonstration program under which at least eight participating States and at least three participating counties—

"(A) may receive payments under this section for any quarter beginning on or after October 1, 1981, and ending prior to October 1, 1986, and

"(B) may (except as otherwise provided in this section) use such payments, to benefit and promote the social welfare of children and families with children, without regard to the requirements and limitations applicable under the program of aid to families with dependent children.

The States and counties participating in the program under this section shall be selected in the manner provided in paragraphs (2) and (3). Any State which participates in such program for any quarter shall not receive any payment for such quarter under section 403: and any State that includes a county which participates in such program for any quarter shall have its payment for such quarter under section 403 appropriately reduced so as to exclude the portion thereof otherwise attributable to such county.

"(2)(A) The Governor of any State which

desires to participate in the block grant demonstration program under this section, or which includes a county that desires to participate in such program, may submit a request for such participation to the National Oversight and Evaluation Panel established under subsection (f), at any time during the fiscal year 1980 and in such manner and form as the Panel may prescribe. At the close of such fiscal year the Panel shall transmit to the Secretary, from among all of the States and counties submitting such requests, its nominations (for participation in the program) of specific groups of States and counties which meet the criteria described in the next sentence and which could (if selected) participate in the program in a manner contributing significantly to the achievement of the objectives of this section. In making such nominations the Panel shall to the maximum extent possible (i) assure that all of the various regions of the United States, and areas with differing economic and industrial bases, are appropriately represented and that the participating States and counties reflect as wide a diversity as is possible in their population density, their benefit levels, their per capita income, and the percentage of their population below the poverty level, and (ii) take into account the extent to which the States and counties requesting participation have developed realistic and comprehensive proposals which indicate their ability to manage and administer successfully a test of the type described in this section.

"(B) In order to assist interested States and counties in developing their plans and proposals for participation in the block grant demonstration program, the Secretary is authorized upon application to make planing grants to States and counties which demonstrate a firm intention to seek selection as participants in the program, a need for assistance in the development of such plans and proposals, and a significant potential for successful participation. Such grants shall be made as soon as possible after funds have been made available therefor, and shall be made and allocated among the applicant States and counties on such terms and conditions (consistent with the preceding sentence) as the Secretary may prescribe. No such grant shall exceed $1,000,000; and the aggregate of the grants made under this subparagraph shall not exceed $15,000,000.

"(3) As soon as possible after the nominations are transmitted under paragraph (2)(A) (and in any event no later than 18 months after the date of the enactment of this section), the Secretary shall make the final selection from among such nominations, of the eight or more States and the three or more counties which are to participate in the block grant demonstration program; and any State or county selected to participate in the program shall commence such participation no later than the first day of the third calendar quarter beginning after such final selection (or on October 1, 1982, if that date is subsequent to the first day of such third calendar quarter).

"(4) A State or county may terminate its participation in the block grant demonstration program beginning with any quarter which—

"(A) begins at least three years after the beginning of the quarter for which that State or county first participated in the program, and

"(B) begins at least six months after the date on which the Governor of the State notifies the Secretary of that State's or county's election to terminate participation in the program.

"(b)(1) Each State or county participating in the block grant demonstration program for any quarter shall receive, for such quarter, a payment in an amount equal to 25 percent of its adjusted base period amount for the fiscal year in which such quarter falls. No payment may be made under this section for any quarter beginning after September 30, 1986.

"(2)(A) The base period amount for any State shall be equal to the total amount which the Secretary determines would have been payable to such State for the fiscal year beginning October 1, 1978 (hereinafter in this section referred to as the 'base period'), under paragraphs (1), (3), and (5) of section 403(a), taking into account the provisions of section 1118 of this Act and section 9 of the Act of April 19, 1950 (64 Stat. 47), but computing such total amount without regard to subsections (c) through (j) of section 403, and increasing such total amount by the amount of expenses incurred for social and supportive services provided in accordance with section 402(a)(19)(G).

"(B) The base period amount for a county located in any State shall be equal to the portion of such State's base period amount, as determined under subparagraph (A), which is attributable (under regulations prescribed by the Secretary) to expenditures made in that county during the base period under the State's plan approved under section 402.

"(3)(A) The adjusted base period amount for any State or county—

"(i) for the fiscal year beginning October 1, 1979, shall be equal to its base period amount, and

"(ii) for the fiscal year beginning October 1, 1980, and each fiscal year thereafter, shall be equal to its adjusted base period amount for the preceding fiscal year as adjusted for such State or county in accordance with subparagraph (B); except that the adjusted base period amount for any State for the fiscal year beginning October 1, 1981, shall not be less than the base period amount which would have been determined for such State under paragraph (2)(A) if the amendments made by sections 115 and 116 of the Social Welfare Reforms of 1979 had been in effect throughout the fiscal year beginning October 1, 1978.

"(B) The adjusted base period amount of any State or county as determined under subparagraph (A) shall be increased for each fiscal year, starting with the fiscal year beginning October 1, 1980, by an amount equal to the product of—

"(i) the adjusted base period amount as determined (for such State or county) for the preceding fiscal year, and

(ii) a percentage equal to the percentage increase (if any) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living increases under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such Index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 percent).

For purposes of this subparagraph the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

"(c)(1) Each State or county participating in the block grant demonstration program shall use the payments made to it under this section to conduct such activities and provide such assistance as in its judgment will most effectively benefit and promote the social welfare of children and families with children in that State or county, without regard to the requirements and limitations which would otherwise apply in the program of aid to families with dependent children under this part; and for this purpose, except as provided in paragraphs (2) and (3), the State or county may waive any or all of such requirements and limitations (other than those relating to fair hearing procedures under section 402(a)(4) and section 415) including the requirements and limitations relating to the work incentive program under part C and the child support program under part D of this title.

"(2) Notwithstanding paragraph (1)—

"(A) the average amount or value of the assistance provided by any State or county to families of a given size and composition and with a given income for any quarter under the block grant demonstration program, and the type or types of assistance available in any State or county to families of a given size and compensation and with a given income under such program, shall be the same throughout the State or county (except that, in the case of a State, the amount or value of such assistance may be varied on a regional basis, with the approval of the Secretary, to reflect differences in living or housing costs); and any State shall have a phase-in period not exceeding six months from the date of its initial participation in the program under this section in which to come into compliance with the requirement of this subparagraph.

"(B) the amount or value of the assistance provided by any State or county to a family for any quarter under the block grant demonstration program, when added to such family's earnings for that quarter, may not be less (as determined by the Secretary), on account of the State's or county's treatment of work expenses or its requirements for disregarding earnings or for any other reason, than the amount of the aid to families with dependent children which would have been paid to such family for that quarter under the State plan approved under this part, in addition to those earnings, if such State or county had continued to be subject to the provisions of such State plan (without regard to this section) as it was in effect immediately prior to the enactment of the Social Welfare Reform Amendments of 1979.

"(C) the total amount or value of the assistance provided by any State or county for any quarter under the block grant demonstration program may not be less (as determined by the Secretary) than the total amount of the aid to families with dependent children which was paid under the State plan approved under this part in that State or county for the corresponding quarter in the base period; and

"(D) the total amount of the expenditures made from State and local funds for assistance provided in any State or county for quarters in any fiscal year under the block grant demonstration program may not be less (as determined by the Secretary) than the total amount of the expenditures made from State or local funds for aid to families with dependent children under the State plan approved under this part of the corresponding quarters in the base period (or, if it would result in a higher total amount, for the corresponding quarters in the fiscal year immediately preceding the fiscal year in which the State's or county's participation in the program begins).

"(3) A State or county may require single parents of children less than 6 years of age to perform work or undergo training, as a condition of their eligibility for assistance under the block grant demonstration program, only if appropriate care is available for such children while the parents are performing such work or undergoing such training.

"(4) Any State or county participating in the block grant demonstration program may utilize up to 25 percent of the funds made available to it under this section in the first four quarters of its participation in such program, up to 35 percent of such funds in the second four quarters of such participation, and up to 45 percent of such funds in any subsequent period of four consecutive quarters for the purpose of providing employment for individuals who are eligible for assistance under the program rather than for the purpose of providing assistance in

the form of cash payments or otherwise; but no individual shall be required, as a condition of assistance under the program, to perform employment (under the preceding provisions of this paragraph or otherwise) for remuneration which is less than the Federal minimum hourly rate under the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(d) As a condition of its participation in the block grant demonstration program, each State and county shall agree to monitor, measure, and report from time to time to the Secretary (for purposes of Federal quality control determinations under section 403 (j) of this Act as well as to assist in the administration of this section) the error rates being experienced under such program as contrasted with the error rates most recently experienced (prior to such participation) under the State plan approved under section 403.

"(e)(1) In order to assure that the block grant demonstration program under this section achieves its objectives and contributes significantly to the improvement of Federal assistance to needy families with children, there is hereby established a national panel to be known as the National Oversight and Evaluation Panel.

"(2) The Panel shall be composed of 11 members, as follows:

"(A) two members selected by the Speaker of the House of Representatives;

"(B) two members selected by the President pro tempore of the Senate;

"(C) three members selected by the President;

"(D) two members selected by the Minority Leader of the House of Representatives; and

"(E) two members selected by the Minority Leader of the Senate.

Members of the Panel shall be chosen (as soon as possible after the date of the enactment of this section but in any event within 6 months after such date) from among persons who are particularly qualified to participate in the establishment of the block grant demonstration program, and to oversee the conduct and administration of such program, by reason of their experience, accomplishments, and expertise in various fields both related and unrelated to welfare assistance.

"(3) In addition to its function of nominating the States and counties to participate in the block grant demonstration program as provided in subsection (a)(2), the Panel shall conduct a continuing comprehensive evaluation of the activities of such States and counties under this section, including assessments of the administrative effects of the program, of the cost implications of the program, and of the impacts of the program upon recipients of assistance, and shall perform such other oversight and evaluation functions (including comparisons of the administration and accomplishments of the program with the administration and accomplishments of the program of aid to families with dependent children in selected States and counties not participating under this section) as may help to carry out the purpose of this section and to achieve the objectives of the block grant demonstration program.

"(4) The Secretary shall provide the Panel with such staff assistance and facilities as it may need in order to carry out its functions under this section.

"(d)(1) Except as otherwise specifically provided, the block grant demonstration program under this section shall be treated for all purposes, with respect to any participating State (or with respect to a participating county in any State), as constituting a program of aid to families with dependent children under such State's plan approved under section 402.

"(2) For purposes of the medical assistance program carried on by any participating State under its plan approved under title XIX of this Act (including determinations of a State's authority under section 1902(h) to deny medical assistance coverage with respect to children deprived of parental support or care by reason of the unemployment of a parent), any individual receiving assistance under the block grant demonstration program under this section shall be deemed to be receiving aid to families with dependent children under the plan of such State approved under this part.".

(b) Section 403 of such Act is amended by adding at the end thereof the following new subsection:

"(k) The provisions of this section shall not apply to any State or county with respect to any quarter for which such State or county is receiving a payment under section 419A of this Act.".

REVIEW AND REPORT BY COMPTROLLER GENERAL

SEC. 134. (a) The Comptroller General of the United States shall conduct a continuing study and evaluation of the block grant demonstration program under section 419A of the Social Security Act, of the Federal regulations and procedures prescribed or established to implement such program and of the activities and accomplishments of the participating States and counties thereunder (including field studies at the operational level).

(b) Within six months after the approval and selection of any State or county for participation in the block grant demonstration program, the Comptroller General shall submit to the Congress an analysis of such State's or county's plans for participation in the program.

(c) The Comptroller General shall submit to the Congress an interim report with respect to the study and evaluation under subsection (a) no less often than once each year during the period when the block grant demonstration program is in operation, and shall submit to the Congress a final report within one year after completion of the program.

(d) No payment may be made under section 419B of the Social Security Act to any State or county which fails to cooperate with the reasonable requests of the Comptroller General in carrying out his duties under this section, for so long as such failure to cooperate continues.

Mr. ARCHER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. CORMAN. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Speaker, this motion, which has been printed in the RECORD already prior to its introduction, does two things. It permits the States to have work requirements under the AFDC program for the relative or parent of children under 6 years of age, so long as those children are able to have day care available.

The second thing that it does is provide a demonstration pilot plant block grant provision in eight States and three counties.

This will give us an opportunity to let States and counties at least on a limited basis use their creativity to develop alternative programs so that we can use them as a standard of comparison to the programs that are involved in this bill.

We have heard in the debate the objections to the bill. If this motion to recommit does not pass, those objections will all be locked into the program on a national basis. But if we have an opportunity to have an alternative in several block grant applications in several States and several counties then in the years ahead we will have the option of comparing alternatives to see which is in actuality the best way to help those who truly need help and prevent help from going to those who do not. We will be able to unleash the creativity and ingenuity of separate States and counties.

The SPEAKER pro tempore. The Chair would state that the gentleman from California (Mr. CORMAN) reserved an objection to the unanimous-consent request that the motion to recommit be considered as read and printed in the RECORD.

Is there objection to the unanimous-consent request of the gentleman from Texas (Mr. ARCHER)?

Mr. CORMAN. I reserve the right to object, Mr. Speaker, because I am uncertain about the motion.

The SPEAKER pro tempore. The gentleman from California is recognized.

Mr. CORMAN. Mr. Speaker, under my reservation, I would respectfully suggest to the gentleman that there was more in the record than there is in the motion to recommit, and I am uncertain as to what parts in that record are included in the motion to recommit.

I do not want to take this body's time for lengthy reading, but could the gentleman delineate the contents of his motion with more specificity or give us a copy of the recommittal? That would be even better.

Mr. ARCHER. The gentleman should have a copy available. Actually what is embodied in the motion to recommit is the so-called Gradison work requirement and the so-called Jones block grant test program.

Those are the two elements that are included in the motion to recommit which has been printed in the RECORD.

Mr. CORMAN. Further reserving the right to object, there are some changes here.

Mr. ARCHER. The only other changes, that there are eight States instead of three, and some technical, perfecting changes.

Mr. CORMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the unanimous-consent request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Texas (Mr. ARCHER) for 5 minutes.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I wanted to ask the gentleman, during the debate on this legislation, the contention was made by the gentleman from Oklahoma (Mr. JONES), that in the bill before us, the Secretary of HEW had in effect the power to curtail the rights of the States to impose work programs and, therefore, by definition using this power he might

prevent such programs or a work requirement for welfare recipients.

Does this motion to recommit, therefore, cure that problem?

□ 1700

Mr. ARCHER. This motion to recommit does cure that problem and does permit the States to specify work requirements. That would be in all 50 States, not just in the States that had the test block grant program. The only limitation on that would be that there would have to be child care available where there were children under 6 years of age.

Mr. BAUMAN. So those who have campaigned repeatedly for welfare reform and pledged their support in favor of some sort of work program for those able-bodied people receiving welfare in return for those benefits would have to honor that commitment by voting in favor of this motion, because to do otherwise would be inconsistent, would it not?

Mr. ARCHER. I would certainly hope so. The gentleman has made an excellent point.

This would, for most purposes, Mr. Speaker, eliminate most of the Federal regulations which are a straitjacket on the States in the bill that is before us, and permit the States the flexibility under a block grant program in the test States that were picked to exercise a degree of flexibility to meet their particular needs and to then have a program that we could compare to the national program that is provided for in this bill. This is not a substitute for the bill before the House, it is an addition.

The addition is twofold: First, to permit the States to have work requirements; and second, to also provide in those limited number of States a demonstration test program on a block grant basis.

I urge its adoption. I highly recommend it to the Members of this House.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I am happy to yield.

Mr. RHODES. Mr. Speaker, under the block grant plan which the gentleman has outlined, does that mean eight States which would be picked, I assume by the Secretary of Health, Education, and Welfare, would be enabled to take block grant money which they get from the Federal Government and actually, by innovation, bring about some new ways of adequately caring for welfare recipients?

Mr. ARCHER. Yes. The minority leader is exactly correct.

Mr. RHODES. If that is true, and they are able to save money then, of course, would that savings not redound to the benefit of the States?

Mr. ARCHER. Then we could certainly use their example and their program, perhaps, to rebuild the entire national program, which would save all of the taxpayers of this country money, and would give us an opportunity to give more to those who actually do need help.

Mr. RHODES. I thank the gentleman for offering this motion. I hope it will be adopted.

Mr. ARCHER. Mr. Speaker, I urge the adoption of the motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. CORMAN) will be recognized for 5 minutes in opposition to the motion to recommit.

Mr. CORMAN. Mr. Speaker, it is a little difficult to analyze a motion to recommit in the short time we have. But as best I understand it, in eight States, for a period of 5 years, it would remove most of the Federal protections that we have written into the AFDC law. There is absolutely no justification for this.

Mr. ARCHER. Mr. Speaker, will the gentleman yield for just a moment?

Mr. CORMAN. I just have 5 minutes, and if I have time at the end I will yield.

Mr. ARCHER. Mr. Speaker, how much time do I have remaining in my 5 minutes, if I may ask?

The SPEAKER pro tempore. The gentleman from Texas has used all of his time, the 5 minutes.

Mr. CORMAN. Mr. Speaker, let us look at the "workfare" provision in the motion. Basically, this would amount to States and local governments using Federal public assistance money to pay salaries. Now we want people to work. We do not want them on welfare. But we do not want to use welfare money to pay wages. We want local governments and State governments to put these people to work with their own money.

Furthermore, the demonstration authority in the recommittal specifically says that a participating State could use up to 45 percent of their Federal welfare money for jobs. This would mean that we would devote a substantial portion of Federal welfare funds to pay wages for State and local jobs. States ought to be paying these wages out of State and local funds.

What about the work requirement? As I read the bill, it does say that, if the mother has a child under 6, day care would have to be available, with no specification as to the kind, quality or adequacy of this care. But, the motion does not include the other exclusions in current law, such as a child under 16.

Under the recommittal, even a person who is elderly or incapacitated can be required to work. A mother in a family where the father is registered and willing to work may also be required to work.

All of these and many other sound and equitable provisions we have written into the AFDC law over the years to protect the poor would be repealed in up to eight States for a period of 5 years. I urge my colleagues to vote against the motion to recommit.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. CORMAN I yield to the gentleman from Wisconsin.

SIGNING OF LETTER TO AYATOLLAH KHOMEINI

(By unanimous consent Mr. ZABLOCKI was allowed to proceed out of order.)

Mr. ZABLOCKI. Mr. Speaker, this morning I had advised our colleagues that a letter has been prepared, an open letter to the Ayatollah Khomeini. Many of our colleagues, Mr. Speaker, have asked where that letter is for them to sign. It is in the lobby. We hope to send it tonight. Anybody interested, please sign.

I thank the gentleman from California for yielding.

Mr. BRODHEAD. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Michigan.

Mr. BRODHEAD. Mr. Speaker, I thank the gentleman for yielding. I urge opposition to the motion to recommit. It seems to me this is Federal dollars that we ought to have some basic Federal minimum standards for, and with the absence of any standards at all in the States I think really goes in the wrong direction and would be a waste of Federal money. The fact that 45 percent of this money could be used for salaries I think would present an opportunity for tremendous abuse of Federal money and tremendous waste of Federal money.

I urge opposition to the motion to recommit.

Mr. ARCHER. Mr. Speaker, will the gentleman yield? Just to explain what is in the motion to recommit, which is not exactly as it was presented, the States will be required to keep up the maintenance of what they are actually currently putting into the program.

Mr. CORMAN. That is right. There is a maintenance of effort requirement.

Mr. ARCHER. The benefits may not be reduced. That is a provision that is in the motion to recommit.

Mr. CORMAN. I do not yield further.

Mr. ARCHER. I do not want the House to be misled.

Mr. CORMAN. But there is no requirement that current Federal protections be continued; there is no requirement that there be an unemployed parent program or that benefits be at least some minimum amount.

Mr. Speaker, there is one other protection for little children in the committee's bill that could potentially be repealed in those eight States. That is the unemployed parent or an unemployed father program. In about half of the States we allow all families with children who are very poor to receive public assistance to keep them from going hungry. In the other half we say we will give you public assistance only if one of your parents abandons you. Now, that is no way for us to legislate. That is not an option that we ought to give to the States.

We want to keep families together. We do not want to separate them as a condition for getting food for hungry children. I urge my colleagues to vote against the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ARCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 200, nays 205, not voting 28, as follows:

[Roll No. 633]

YEAS—200

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Forsythe
Fountain
Frenzel
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammer-schmidt
Hance
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Hubbard
Huckaby
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Lott
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Motti
Myers, Ind.
Neal
Nelson
Nichols
Pashayan
Paul
Petri
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stenholm
Stockman
Stump
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wyatt
Wydler
Young, Fla.

NAYS—205

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bellenson
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
Dellums
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Puqua
Garcia
Gaydos
Gephardt
Glaimo
Glickman
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hefner
Hightower
Holland
Holtzman
Howard
Hughes
Hutto
Ireland
Jacobs
Jenrette
Johnson, Calif.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Levitas
Lloyd
Lowry
Luken
Lundine
McCormack
McHugh
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Roos
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Shannon
Simon
Slack
Solarz
St Germain
Stack
Staggers
Stewart
Stokes
Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—28

Bevill
Conyers
Crane, Philip
de la Garza
Flood
Hansen
Hawkins
Heftel
Holt
Jones, N.C.
Leath, Tex.
Leland
Long, Md.
Lujan
Michel
Murphy, Ill.
O'Brien
Rousselot
Runnels
Santini
Selberling
Spellman
Stark
Symms
Treen
Whitten
Wylie
Young, Alaska

□ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Michel for, with Mr. Bevill against.
Mr. O'Brien for, with Mr. Stark against.
Mrs. Holt for, with Mr. Conyers against.
Mr. Jones of North Carolina for, with Mr. Leland against.
Mr. Young of Alaska for, with Mr. Hawkins against.

Until further notice:

Mr. de la Garza with Mr. Philip M. Crane.
Mr. Long of Maryland with Mr. Hansen.
Mr. Selberling with Mr. Lujan.
Mrs. Spellman with Mr. Symms.
Mr. Whitten with Mr. Rousselot.
Mr. Murphy of Illinois with Mr. Runnels.
Mr. Santini with Mr. Wylie.
Mr. Heftel with Mr. Leath of Texas.

Mr. McKINNEY changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 184, not voting 27, as follows:

[Roll No. 634]

AYES—222

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Bellenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conable
Conte
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Dicks
Diggs
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Gaydos
Gephardt
Glaimo
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Heckler
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Lent
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McEwen
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stewart
Stokes
Stratton
Studds
Swift
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—184

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derrick
Derwinski
Devine
Dickinson
Dingell
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English

Erdahl	Kelly	Rhodes
Erlenborn	Kemp	Ritter
Evans, Del.	Kindness	Roberts
Evans, Ind.	Kramer	Robinson
Findley	Lagomarsino	Rose
Fithian	Latta	Roth
Flippo	Leach, Iowa	Royer
Forsythe	Lee	Rudd
Fountain	Levitas	Santini
Frenzel	Lewis	Satterfield
Fuqua	Livingston	Sawyer
Gingrich	Loeffler	Schulze
Ginn	Lott	Sebelius
Goldwater	Lungren	Sensenbrenner
Goodling	McClory	Shelby
Gradison	McCloskey	Shumway
Gramm	McDonald	Shuster
Grassley	McKay	Skelton
Gretham	Madigan	Slack
Gudger	Marlenee	Smith, Nebr.
Guyer	Marriott	Snyder
Hagedorn	Martin	Solomon
Hall, Tex.	Mathis	Spence
Hammer-schmidt	Mattox	Stangeland
	Miller, Ohio	Stanton
Hance	Montgomery	Steed
Harsha	Moore	Stenholm
Hefner	Moorhead, Calif.	Stockman
Hightower		Stump
Hillis	Motti	Synar
Hinson	Murtha	Taylor
Hopkins	Myers, Ind.	Thomas
Hubbard	Neal	Trible
Huckaby	Nelson	Walker
Hutto	Nichols	Wampler
Hyde	Pashayan	Watkins
Ichord	Paul	Whitehurst
Ire'and	Petri	Whitley
Jacobs	Pickle	Whittaker
Jeffries	Preyer	Wilson, Tex.
Jenkins	Pritchard	Winn
Johnson, Colo.	Quayle	Young, Fla.
Jones, Okla.	Quillen	
Jones, Tenn.	Regula	

NOT VOTING—27

Bevill	Jones, N.C.	Rousselot
Conyers	Leach, La.	Runnels
Crane, Philip	Leath, Tex.	Stark
de la Garza	Leland	Symms
Flood	Lujan	Treen
Hansen	Michel	Whitten
Hawkins	Mitchell, Md.	Wilson, Bob
Heftel	Murphy, Ill.	Wylie
Holt	O'Brien	Young, Alaska

□ 1740

The Clerk announced the following pairs:

On this vote:

Mr. Bevill for, with Mr. Jones of North Carolina against.

Mr. Conyers for, with Mr. Philip M. Crane against.

Mr. Leland for, with Mr. Hansen against.

Mr. Hawkins for, with Mrs. Holt against.

Mr. Mitchell of Maryland for, with Mr. Lujan against.

Mr. Stark for, with Mr. Michel against.

Until further notice:

Mr. Whitten with Mr. Rousselot.

Mr. Runnels with Mr. Wylie.

Mr. Leath of Texas with Mr. Symms.

Mr. Murphy of Illinois with Mr. Bob Wilson.

Mr. de la Garza with Mr. O'Brien.

Mr. Heftel with Mr. Young of Alaska.

Mr. McKAY changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. ANNUNZIO). Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON THURSDAY, NOVEMBER 8, 1979, DURING 5-MINUTE RULE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries be permitted to sit on Thursday, November 8, 1979, during the 5-minute rule, for the purpose of holding a subcommittee markup of H.R. 5164, a bill relating to the inspection and manning of small commercial vessels.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4930, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING FOR THE PRINTING AS HOUSE DOCUMENT OF PUBLICATION ENTITLED "THE CELLER-KEFAUVER ACT: THE FIRST 27 YEARS"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 196) to provide for the printing as a House document of the publication entitled "The Celler-Kefauver Act: The First 27 Years," and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 196

Resolved, That there be printed as a House document the publication for the Committee on the Judiciary entitled, "The Celler-Kefauver Act: The First 27 Years", and at that time, in addition to the usual number of copies, there shall be printed fifteen hundred additional copies for the use of the Committee on the Judiciary.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF PROCEEDINGS INCIDENT TO THE PRESENTATION OF A PORTRAIT OF HON. ROBERT N. GIAIMO

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 235) to provide for the printing of the proceedings incident to the presentation of a portrait of the Honorable ROBERT N. GIAIMO, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 235

Resolved, That the transcript of the proceedings in the Committee on the Budget of April 30, 1979, incident to the presentation of a portrait of the Honorable Robert N. Giaimo to the Committee on the Budget be printed as a House document with illustrations and suitable bindings.

SEC. 2. In addition to the usual number, there shall be printed one thousand copies of such document with two hundred of that one thousand being casebound for the use of the Committee on the Budget.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, may I ask a question, Would it not be more appropriate to wait to see the outcome of the budget resolution tomorrow before we consider authorizing the printing of the portrait of the gentleman from Connecticut?

Mr. BRADEMAS. Mr. Speaker, I may say to the gentleman, that point, of course, can be made with respect to any matter brought before the House; but the gentleman has made a constructive contribution.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING AS HOUSE DOCUMENT OF STAFF REPORT TO COMMITTEE ON FOREIGN AFFAIRS ENTITLED "THE ASSASSINATION OF REPRESENTATIVE LEO J. RYAN AND THE JONESTOWN, GUYANA, TRAGEDY"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 349) providing for the printing as a House document of the staff report to the Committee on Foreign Affairs entitled "The Assassination of Representative Leo J. Ryan and the Jonestown, Guyana, Tragedy," and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 349

Resolved, That there shall be printed as a House document the volume entitled "The Assassination of Representative Leo J. Ryan and the Jonestown, Guyana Tragedy", a report submitted by a staff investigative group to the Committee on Foreign Affairs. In addition to the usual number, there shall be printed for the use of the Committee on Foreign Affairs such number of copies of the report as does not exceed a cost of $1,200.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPROVING PRINTING OF ADDITIONAL COPIES OF REPORT ACCOMPANYING THE DEFENSE PRODUCTION ACT AMENDMENT AND EXTENSION

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 396) approving the printing of additional copies of the report accompanying the Defense Production Act Amendment and Extension, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 396

Resolved, That there be printed for use by the House Committee on Banking, Finance and Urban Affairs one thousand additional copies, at a cost not to exceed $1,200, of the House report entitled, "Defense Production Act Amendment and Extension" (H. Rept. 96-165).

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF REPORT OF OFFICIAL VISIT BY THE SPEAKER'S DELEGATION TO THE UNION OF SOVIET SOCIALIST REPUBLICS

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 397) providing for the printing of the report of the official visit by the Speaker's delegation to the Union of Soviet Socialist Republics, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 397

Resolved, That there shall be printed as a House document the report of the official visit by the Speaker's United States House of Representatives delegation to the Union of Soviet Socialist Republics from April 13 through April 22, 1979, and that there shall be printed two thousand five hundred additional copies for the use of the Speaker.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPROVING PRINTING OF ADDITIONAL COPIES OF PUBLICATION ENTITLED "A GUIDELINES HANDBOOK ON FEDERAL LOAN GUARANTEE PROGRAMS"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on Rules, I call up a privileged resolution (H. Res. 402) approving the printing of additional copies of the publication entitled "A Guidelines Handbook on Federal Loan Guarantee Programs," and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 402

Resolved, That there be printed for use by the House Committee on Banking, Finance and Urban Affairs one thousand additional copies, at a cost not to exceed $1,200, of the publication entitled, "A Guidelines Handbook on Federal Loan Guarantee Programs".

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "SEVENTH EDITION OF THE IMMIGRATION AND NATIONALITY ACT WITH AMENDMENTS AND NOTES ON RELATED LAWS"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 184) providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws," and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 184

Resolved by the House of Representatives (the Senate concurring), That at such time as the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws", is printed, there shall be printed an additional twelve thousand copies, of which nine thousand copies shall be for the use of the House Committee on the Judiciary and three thousand copies for the use of the Senate Committee on the Judiciary.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolutions just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

□ 1740

REQUEST FOR PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT ON TOMORROW DURING 5-MINUTE RULE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have permission to sit on tomorrow, Thursday, November 8, 1979, while the House is in session under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. GRASSLEY. Mr. Speaker, I object.

The SPEAKER. Objection is heard. The Chair will state that it requires 10 Members to object. Will all Members who are objecting please stand?

(Messrs. SENSENBRENNER, BAUMAN, DUNCAN of Tennessee, ASHBROOK, GINGRICH, TAUKE, BUCHANAN, WALKER, SOLOMON, McCLORY, and LAGOMARSINO also objected.)

The SPEAKER pro tempore. A sufficient number has objected.

Objection is heard.

EDUCATION AMENDMENTS OF 1980

Mr. FORD of Michigan. Mr. Chairman, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5192, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, November 2, 1979, title V was open for amendment at any point.

The Chair recognizes the gentleman from New York (Mr. WOLFF).

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment, and I ask unanimous consent that the amendment be considered at this time despite the fact that it is an amendment to title IV of the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 77, line 8, strike out "and"; on line 13 insert "and" after the comma; and after line 13 insert the following:

"(v) to carry out coordinated programs with the readjustment counseling program authorized under section 620 of title 38, United States Code, and with the veterans employment and training initiatives authorized under the Comprehensive Employment and Training Act and under chapters 41 and 42 of title 38, United States Code, as may be necessary to serve the unique readjustment, rehabilitation, personal counseling, and employment needs of veterans."

Page 77, line 19, strike out "(iv)" and insert in lieu thereof "(v)".

Page 79, line 12, strike out "(ii), (iii), and (iv)" and insert in lieu thereof "(ii), (iii), (iv), and (v)".

Mr. FORD of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. WOLFF. Mr. Chairman, I am bringing this amendment up at this time for two reasons. During the consideration of amendments to title IV in the Committee of the Whole, I was on an official leave of absence representing the United States. Second, the amendment is noncontroversial. It will significantly improve the veterans' cost of instruction program by providing for coordination of its efforts with those of the newly established readjustment counseling program and with the veterans employment, training and supportive services authorized under the Comprehensive Employment and Training Act. The amendment provides for no additional expenditures and has been cleared with the majority and minority floor leaders on the bill.

Mr. Chairman, I rise to offer an amendment to section 420 of H.R. 5192, the Education Amendments of 1980. My amendment is fairly straightforward in that it requires educational institutions participating in the veterans' cost of instruction program (VCIP) to coordinate their efforts with the newly established readjustment counseling program (section 620A of title 38, United States Code), and with the veterans' employment, training, and supportive services authorized under the Comprehensive Employment and Training Act (CETA).

The VCIP program is an HEW funded educational outreach and counseling program for veterans on nearly 1,000 college campuses. This amendment would insure that veterans attending these educational institutions would have access to psychological readjustment and employment assistance services. These services are often necessary to enable the veteran to fully utilize his educational opportunities as well as furthering his effective readjustment or rehabilitation.

Under the auspices of its new readjustment counseling program the Veterans' Administration plans to establish 100 readjustment counseling centers. The VA is making a concerted effort to interface the readjustment counseling program with existing veterans' service delivery systems. The VCIP program is one of the largest networks of veterans' service delivery systems in the country.

As the author of the "Veterans Appropriate Steps: Provisions of CETA" and as the sponsor of the psychological readjustment legislation I believe that coordination of these new programs with the physical facilities and the educational assistance offered by the VCIP program will greatly enhance their effectiveness at no additional cost. I note that in cities such as Denver, Colo., the coordination of these services has effectively aided the participating veterans' return to civilian life. The educational institution in Denver—Community College of Red Rock—has also benefited from this close cooperation in that the pressing needs of its veterans have been more fully met. Unfortunately, these instances of effective coordination are rare indeed.

This amendment would require that educational institutions participating in the VCIP program coordinate their efforts with the veterans' psychological readjustment and employment assistance programs. In this manner we would improve the efficiency of the support programs which help our veterans, at no additional cost to the American taxpayer.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, both the minority and the majority have had a chance to examine this amendment, and we are pleased to accept the amendment.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, we on this side are pleased to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title V?

AMENDMENT OFFERED BY MRS. CHISHOLM

Mrs. CHISHOLM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. CHISHOLM: On page 145 after line 12 add the following:

"(e) Section 513(a) of the Act is amended by adding

(10) make grants to schools, colleges and departments of education and local education agencies with high concentrations of low income students for the purpose of:

(A) developing, improving or expanding curriculum offerings or instructional materials for the purpose of improving instruction in the areas of:

(1) biological sciences, natural sciences and earth sciences,

(2) physical sciences and

(3) mathematics.

(B) providing training opportunities for teachers to increase their effectiveness in developing instructional materials and teaching science and mathematics related subject matter."

Mrs. CHISHOLM. Mr. Chairman, while there is a general decline in student enrollments at all levels of education and a surplus of teachers at the preschool and K–12 levels in many fields, notable exceptions are found in the areas of mathematics, science, and vocational and technical education. Declining enrollments and subsequent teacher surpluses in some areas notwithstanding, close attention must be paid to issues of quality and competence in any consideration of teacher preparation and professional development for those who are already in classrooms, many as permanently tenured teachers.

Closer scrutiny and accumulated research data provide a different and perhaps more accurate view of teachers in many of the Nation's schools. While burgeoning enrollments and generous Federal dollars for teacher training in the post-Sputnik era provided considerable support for educational professional development through NDEA, EPDA, and other programs in the 1960's, there are additional factors to be considered which have and continue to characterize America's teachers:

First. A variety of statistics and research indicate that the "brightest" often do not enter teaching and frequently, the "brightest" of those who do spend several years in a classroom and then leave for other jobs which may be more prestigious, more financially rewarding, provide respite from the constraints of the classroom, or some combination of the above.

Second. Schools of education clients have often included students who were rejects or dropouts from more rigorous and demanding academic disciplines than education and who were taught by professors who themselves received an advanced degree in an "applied field" as opposed to a "purer" academic discipline, particularly in substantive areas such as mathematics or science.

Third. As the school populations have decreased, schools of education find fewer students applying and according to some, these institutions have lowered their standards, admitting less academically gifted students.

Fourth. Many individuals who may have traditionally and historically become and remained teachers; that is, women and minorities of both sexes have, in the past decade, chosen to exercise currently available wider options in making a career choice. The classroom, the hospital nursing station, the library, and the post office are no longer the predominant avenues of employment for college educated minorities and women.

Fifth. A final consideration is the "crisis of confidence in the schools." Increasingly, the annual Gallup poll on education indicates that parents believe the quality and performance of teachers needs to be improved and higher standards must be established and maintained among teachers. There is a clear need for additional training opportunities for these opportunities would enable teachers to better respond to the educational needs of students who live in low-income areas, or are members of the multiethnic or multicultural communities.

Mr. FORD of Michigan. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentlewoman's amendment is consistent with the amendment that she offered in the past Congress which is now a part of the law in the Elementary and Secondary Education Act amendments.

This amendment adds one additional category to the existing categories in the Teacher Corps. It does not authorize any new expenditures of funds, and we are pleased to accept the amendment. We think it helps to carry out the commitment we made in this area in the last Congress.

Mr. BUCHANAN. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, the gentlewoman from New York (Mrs. CHISHOLM) continues to make a very strong and very constructive contribution to the work of the Committee on Education and Labor, even though she has moved to the Committee on Rules. It was my pleasure to have worked with her on the basic amendments which she now amends.

I believe this is a clear improvement, and, once again, I think the gentlewoman from New York has made a fine contribution to this legislation, as she has in other portions of this bill on the floor.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. CHISHOLM).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title V?

If not, the Clerk will designate title VI.

Title VI reads as follows:

TITLE VI—ESTABLISHMENT OF A NEW TITLE VI OF THE HIGHER EDUCATION ACT OF 1965

INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

SEC. 601. (a) The Higher Education Act of 1965 is amended by striking out title VI and inserting instead a new title VI as follows:

"TITLE VI—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"FINDINGS AND PURPOSES

"SEC. 601. (a) The Congress finds that—

"(1) a knowledge of other countries is important in promoting mutual understanding and cooperation among nations;

"(2) strong American educational resources are a necessary base for strengthening our relations with other countries;

"(3) present and future generations of Americans should be given the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and

"(4) the economy of the United States and the long range security of the Nation are dependent upon acquiring such knowledge.

"(b) It is the purpose of this title to assist in the development of resources for international study, international research, and foreign language study and to coordinate programs of the Federal Government in such areas in order to promote the development of resources and trained personnel in academic and professional fields relating thereto.

"LANGUAGE AND AREA CENTERS AND INTERNATIONAL STUDIES

"SEC. 602. (a) The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education for the purposes of establishing, equipping, and operating graduate and undergraduate centers and programs for the teaching of any modern foreign language, for instruction in other fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study. Any such grant or contract may cover all or part of the cost of the establishment or operation of a center or program, including the cost of faculty, staff, and student travel in foreign areas, regions, or countries, and the costs of travel of foreign scholars to teach or conduct research, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

"(b) The Secretary is also authorized to pay stipends to individuals undergoing advanced training in any center or under any program receiving Federal financial assistance under this title, including allowances for dependents and for travel for research and study in the United States and abroad.

"(c) No funds may be expended under this title for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

"CENTERS FOR ADVANCED INTERNATIONAL STUDIES

"SEC. 603. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating graduate centers which will be national and international resources for research and training in international studies and the international aspects of professional and other fields of study. Activities carried on in such centers may be concentrated either on specific geographical areas of the world or on particular fields or issues in world affairs which concern one or more countries, or on both. The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, when such grants will make an especially significant contribution to attaining the objectives of this section.

"(b) Grants under this section may be used to cover part or all of the cost of establishing, strengthening, equipping, and operating research and training centers, including the cost of teaching and research materials and resources, the cost of programs for bringing visiting scholars and faculty to the center, and the cost of training, improvement, and travel of the staff for the purposes of carrying out the objectives of this section. Such grants may also include funds for stipends (in such amounts as may be determined in accordance with regulations of the Secretary) to individuals undergoing training in such centers, including allowances for dependents and for travel for research and study in the United States and abroad. Grants under this section shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

"GRANTS TO STRENGTHEN UNDERGRADUATE PROGRAMS IN INTERNATIONAL STUDIES AND FOREIGN LANGUAGES

"SEC. 604. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to assist them in planning, developing, and carrying out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages. Grants made under this section may be for projects and activities which are an integral part of such a comprehensive program, such as—

"(1) planning for the development and expansion of undergraduate programs in international studies;

"(2) teaching, research, curriculum development, and other related activities;

"(3) training of faculty members in foreign countries;

"(4) expansion of foreign language courses;

"(5) programs under which foreign teachers and scholars may visit institutions as visiting faculty.

"(b) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, when such grants will make an especially significant contribution to attaining the objective of this section.

"GRANT PROGRAM TO PROMOTE CULTURAL UNDERSTANDING

"SEC. 605. (a) The Congress finds that—

"(1) the well-being of the United States and its citizens is affected by policies adopted and actions taken by, or with respect to, other nations and areas; and

"(2) the United States must afford its citizens adequate access to the information which will enable them to make informed judgments with respect to the international policies and actions of the United States.

It is, therefore, the purpose of this section to support educational programs which will increase the availability of such information to students in the United States.

"(b) The Secretary is authorized, by grant or contract, to stimulate educational programs to increase the understanding of students and the public in the United States about the cultures and actions of other nations in order to better evaluate the international and domestic impact of major national policies.

"(c) Grants or contracts under this section—

"(1) may be made to any public or private agency or organization, including institutions of higher education, State and local educational agencies, professional associations, education consortia, and organizations of teachers;

"(2) may include assistance for inservice training of teachers and other education personnel, the compilation of existing information and resources about other nations in forms useful to various types of educational programs, and the dissemination of information and resources to educators and educational officials upon their request, but shall not be used for the acquisition of equipment or remodeling of facilities;

"(3) may be made for projects and programs at all levels of education, and may include projects and programs carried on as part of community, adult, and continuing education programs; and

"(4) may be used by local educational agencies to introduce instruction in foreign languages not offered by their schools in the three academic years preceding the year in which the grant is made.

"GEOGRAPHICAL DISTRIBUTION

"SEC. 606. The Secretary shall award grants under sections 602 through 605 of this title for projects that will best carry out the purposes of such sections. To the extent practicable and consistent with the preceding sentence, the Secretary shall award grants under such sections in such manner as will achieve a broad, equitable distribution of funds under such sections throughout the Nation.

"RESEARCH AND STUDIES

"SEC. 607. Directly or through grants or contracts, the Secretary may—

"(1) make studies and conduct surveys to determine the need for increased or improved instruction in modern foreign languages and in other fields needed to provide a full understanding of the places in which such languages are commonly used;

"(2) conduct research on more effective methods of providing instruction in such foreign languages and other fields; and

"(3) develop specialized materials for use in providing such instruction or for use in training individuals to provide such instruction.

"ADVISORY BOARD

"SEC. 608. (a) Not less than four times each year, the Secretary shall convene meetings of an advisory board on the conduct of programs under sections 602, 603, 604, 605, and 607 of this title. Such board shall consist of the following members:

"(1) One representative selected by the Secretary of Defense.

"(2) One representative selected by the Secretary of State.

"(3) One representative selected by the Secretary of Commerce.

"(4) One representative selected by the Director of Central Intelligence.

"(5) One representative selected by the Director of the International Communications Agency.

"(6) Ten representatives appointed by the Secretary as follows:

"(A) Four from among representatives of the postsecondary educational community.

"(B) Two from among representatives of the elementary and secondary educational community.

"(C) Four from among members of the public.

"(b) The advisory board established under subsection (a) shall review the grants made, or contracts entered into, under sections 602, 603, 604, 605, and 607 of this title and shall advise the Secretary on (1) any weaknesses or contracts entered into, under sections 602, United States. (2) any areas which are duplicative of programs operated under other provisions of law or by other departments or agencies, and (3) changes which should be made in the operation under such sections to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations.

"(c) The Secretary shall prepare and publish an index and analysis of the books and research materials produced with assistance under this title.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 609. There are authorized to be appropriated for the purpose of carrying out this title $100,000,000 for fiscal year 1981, $105,000,000 for fiscal year 1982, $110,000,000 for fiscal year 1983, $115,000,000 for fiscal year 1984, and $120,000,000 for fiscal year 1985, except that no funds shall be made available in any fiscal year for carrying out programs under section 605 unless at least $16,000,000 is made available for carrying out programs under sections 602, 603, 604, and 607.".

(b) Title VI of the National Defense Education Act of 1958 is repealed.

(c) Title I of the International Education Act of 1966 is repealed.

The CHAIRMAN. Are there any amendments to title VI?

If not, the Clerk will designate title VII.

Title VII reads as follows:

TITLE VII—AMENDMENT TO TITLE VII OF THE HIGHER EDUCATION ACT OF 1965

AMENDMENT

SEC. 701. Title VII of the Act is amended to read as follows:

"TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"GENERAL PURPOSES

"SEC. 701. The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition of special equipment if the primary purpose of such assistance is—

"(1) to enable such institutions to economize on the use of energy resources;

"(2) to enable such institutions to bring their academic facilities into conformity with the requirements of—

"(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968,

"(B) section 504 of the Rehabilitation Act of 1973, or

"(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed;

"(3) to enable such institutions to construct, reconstruct, or renovate the Nation's research facilities, including libraries, and to acquire special research equipment; or

"(4) to enable institutions with unusual increases in enrollment (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities.

"APPROPRIATIONS AUTHORIZED

"SEC. 702. There is authorized $300,000,000 for each fiscal year ending prior to October 1, 1985, for part A; $80,000,000 for such fiscal year for part B; and $200,000,000 for such fiscal year for part C, and such sums as may be necessary for each such fiscal year for section 734.

"PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

"STATE PLAN

"SEC. 711. (a) Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State agency designated in such agreement, a State plan which shall—

"(1) provide that the grant shall be administered by the State agency designated pursuant to section 1203;

"(2) set forth objective standards and methods which are consistent with basic criteria established under section 712, for—

"(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

"(B) certifying the Federal share of the cost of each project;

"(3) provide for every applicant an opportunity for a hearing before the State agency regarding the priority assigned to such project, or any other decision by the State agency adversely affecting such applicant; and

"(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

"(b) The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State agency reasonable notice and opportunity for a hearing.

"(c) Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determination is made that there is no longer a failure to comply.

"BASIC CRITERIA

"SEC. 712. (a) The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure—

"(1) flexibility for States to accommodate the varied needs of institutions in the States;

"(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

"(3) that the Federal share shall not exceed 50 percent of the costs of a project.

"(b) Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

"ALLOTMENT OF FUNDS

"SEC. 713. (a) From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 per centum shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder of such sums shall be allotted States under subsection (c) for all other institutions of higher education.

"(b)(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

"(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

"(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

"(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

"(i) 0.50, and

"(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam),

"(B) Notwithstanding subparagraph (A)—

"(i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔;

"(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66⅔; and

"(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary

finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

"(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years.

"(c) For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

"(1) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

"(2) the Secretary shall allot to each State an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in grades nine through twelve of schools in such State bears to the total number of students so enrolled in all the States.

"(d) The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

"(e) Any portion of a State's allotment under subsections (b) and (c) for any fiscal year for which applications from qualified institutions have not been received by the State agency prior to January 1 of such fiscal year shall, by request, be available for payment of the Federal share of cost of other approved projects.

"(f) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year, shall be reallotted by the Secretary among the States which are able to use these funds without delay during the next fiscal year.

"(g) Funds available under this part may be used for reconstruction or renovation of combined graduate and undergraduate facilities.

"PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

"GRANTS

"SEC. 721. (a)(1) Funds available for this part shall be used by the Secretary to make grants to institutions of higher education whose applications for assistance are consistent with the objectives of this title.

"(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 per centum of sums appropriated for this part.

"(b) In making grants under this section, the Secretary shall seek the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and are competent to evaluate such applications.

"(c) The amount of the grant shall not exceed 50 per centum of the cost of the project.

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS

"SEC. 731. (a) From the sums available for this part, the Secretary shall make and insure loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that—

"(1) not less than 20 per centum of the cost of the project will be financed from non-Federal sources;

"(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable under this part;

"(3) the project will be undertaken in an economical manner; and

"(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under title IV of the Housing Act of 1950.

"(b) Loans shall be repaid within fifty years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not less than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 3 per centum per annum, whichever is less.

"GENERAL PROVISIONS FOR LOAN PROGRAM

"SEC. 732. (a) Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

"(b) In the performance of, and with respect to, the functions vested in him by this part, the Secretary may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

"(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which he has made a loan pursuant to this part; in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property; except that (A) such action shall not preclude any other action by him to recover any deficiency in the amounts loaned and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(4) sell, exchange, or lease real or personal property and securities or obligations;

"(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which he is a party, including (A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files, and the Secretary approves, a plan to make repayment, and (B) for any party for which a loan has been authorized prior to January 1, 1976, the option to pay into the fund pursuant to section 733, 75 per centum of the party's total obligation if the party desiring to exercise such option makes payment from non-Federal sources prior to October 1, 1985; and

"(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

"REVOLVING LOAN AND INSURANCE FUND

"SEC. 733. (a) There is created within the Treasury a revolving loan fund for the purpose of making and insuring loans under this part (hereafter called the 'fund') which shall be available to the Secretary without fiscal year limitation. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriations Acts.

"(b)(1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

"(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury.

"ANNUAL INTEREST GRANTS

"SEC. 734. (a) To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding forty years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 732(b).

"(b) The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

"(c) The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 per centum of sums appropriated for this section.

"(d) No annual interest grant shall be made unless (1) assurance is provided that not less than 10 per centum of the costs of the project will be financed from non-Fed-

eral sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

"ACADEMIC FACILITIES LOAN INSURANCE

"SEC. 735. (a)(1) In order to assist institutions of higher education and higher education building agencies to procure loans for programs consistent with the purposes of this title, the Secretary may insure the payment of interest and principal on such loans if such institutions and agencies meet criteria prescribed under section 734 for the making of annual interest grants.

"(2) No loan insurance may apply to any loan principal which exceeds 90 per centum of the development cost of the academic facility.

"(b)(1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Secretary waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(2) Any insurance issued under subsection (a) shall be incontestable in the hands of the institution or agency on whose behalf insurance is issued, and as to any lenders which make or contract to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the lender who makes or contracts to make such loan.

"(c) In surance may be issued by the Secretary under subsection (a) only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed a per centum per annum on the principal obligation outstanding interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may charge a premium for such insurance in an amount determined by him to be necessary to cover administrative expenses and probable losses under subsection (a) and (b). Such insurance shall be subject to such further terms and conditions as the Secretary determines to be necessary.

"PART D—GENERAL

"RECOVERY OF PAYMENTS

"SEC. 741. (a) The Congress declares that, if a facility constructed with the aid of a grant under part A or B of this title is used as an academic facility for twenty years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

"(b) If, within twenty years after completion of construction of an academic facility which has been constructed, in part with a grant under part A or B of this title—

"(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility', unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

"DEFINITIONS

"SEC. 742. The following definitions apply to terms used in this title:

"(1)(A) Except as provided in subparagraph (B) of this paragraph, the term 'academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'academic facilities' shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term 'academic facilities' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection.

"(2)(A) The term 'construction' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (ii) a combination of either of the foregoing. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction; and the terms 'equipment', 'initial equipment', and 'built-in equipment', shall be more particularly defined by the Secretary by regulation.

"(B) The term 'reconstruction or renovation' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms 'equipment', and 'built-in equipment' shall be more particularly defined by the Secretary by regulation; and the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

"(3)(A) The term 'development cost', with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

"(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

"(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with repect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

"(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

"(4) The term 'Federal share' means, except as provided in section 706(b)(2), in the case of any project a percentage (as determined under the applicable State plan) in

excess of 50 per centum of its development cost.

"(5) The term 'higher education building agency' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or m y lawfully inure to the benefit of any prive shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

"(6) The term 'public community college and public technical institute' means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

"(7) The term 'public educational institution' does not include a school or institution of any agency of the United States.

"(8) The term 'State' includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

The CHAIRMAN. Are there any amendments to title VII?

If not, the Clerk will designate title VIII.

Title VIII reads as follows:

TITLE VIII—COOPERATIVE EDUCATION

EXTENSION OF PROGRAM

SEC. 801. (a) Section 801(a) of the Act is amended—

(1) by striking out "fiscal year 1979" in paragraph (4) and inserting in lieu thereof "fiscal years 1979 and 1980";

(2) by striking out "for each of the fiscal years 1980, 1981, and 1982, $25,000,000" in paragraph (5) and inserting in lieu thereof "for each of the fiscal years 1981, 1982, 1983, 1984, and 1985, $30,000,000"; and

(3) by striking out "alternating periods" and inserting in lieu thereof "alternating or parallel periods".

(b) Section 801(b) of the Act is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out "fiscal years 1978, 1979, 1980, 1981, and 1982," in paragraph (4) and inserting in lieu thereof "fiscal years 1978, 1979, and 1980; and";

(3) by inserting immediately after paragraph (4) the following new paragraph:

"(5) $5,000,000 for each of the fiscal years 1981, 1982, 1983, 1984, and 1985,".

(c) Section 802(a) of the Act is amended—

(1) by striking out "175,000" and inserting in lieu thereof "$250,000"; and

(2) by striking out "$125,000" and inserting in lieu thereof "$200,000".

(d) Section 802(c) of the Act is amended by striking out everything after paragraph (5) and inserting in lieu thereof the following:

"The Commissioner may waive the provisions of paragraphs (1) through (5).".

The CHAIRMAN. Are there any amendments to title VIII?

If not, the Clerk will designate title IX.

Title IX reads as follows:

TITLE IX—GRADUATE PROGRAMS

GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

SEC. 901. (a) Section 901 of the Act is amended—

(1) in subsection (a)(1), by striking out "to strengthen, improve and where necessary expand" and inserting in lieu thereof "to maintain, strengthen, and improve"; and

(2) in subsection (c), by striking out "1980" and inserting in lieu thereof "1985"

(b) Section 903(b)(2) of the Act is amended by striking out "expansion" and inserting in lieu thereof "maintenance and improvement of quality".

(c) Section 904 of the Act is amended to read as follows:

"DATA COLLECTION, RESEARCH, AND STUDIES

"SEC. 904. (a) The Secretary shall, on an annual basis, directly or by contract, in consultation with appropriate higher education associations and representatives from institutions of higher education, gather and maintain data necessary for the periodic assessment of the state of graduate education throughout the United States. The Secretary is authorized, directly or by contract, to conduct studies and research activities in connection with the need for, and improvement of, graduate programs in various fields of study in institutions of higher education throughout the United States. Findings shall be incorporated in each annual report of the Secretary required by section 971, with such recommendations as the Secretary deems necessary.

"(b)(1) Within two years after the enactment of this subsection, the Secretary shall prepare and submit to the Congress and to the National Commission on Student Financial Assistance a special report which—

"(A) analyzes trends and shortcomings in the sources of support available to students for the financing of graduate education, and compares the nature and level of support available in the various academic disciplines, including sources of support from student assistance and research programs sponsored by—

"(i) the Federal Government,

"(ii) State and local governments,

"(iii) foundations, corporations, and other private entities, and

"(iv) institutions of higher education, and in addition, considers the resources of the students and the students' families;

"(B) examines the extent to which students may be dissuaded from pursuing graduate education on financial grounds, to the consequent detriment of—

"(i) the major fields of knowledge which need to attract the most able and talented students of each generation if they are to remain strong and vigorous; and

"(ii) the Nation as a whole, if some of its most promising students are precluded because of financial circumstances from developing their capacities and abilities to the fullest possible extent;

"(C) investigates existing and projected levels of graduate student indebtedness, and considers the implications (for the students involved and for the health of graduate education generally) or existing and projected expectations for borrowing to meet the costs of graduate education; and

"(D) assesses the desirability of modifying existing Federal fellowship and student assistance programs or establishing a new Federal graduate student assistance program in which the selection of students and the amounts of their awards are based on merit or financial need or both, particularly with regard to the special needs of students in the humanities and social sciences or other disciplines.

"(2) In preparing the report described in subsection (a), the Secretary shall consult closely with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of higher education institutions and associations, learned societies, and professional organizations.".

FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

SEC. 902. (a) Section 922(a) of the Act is amended by striking out "1980" and inserting in lieu thereof "1985".

(b) Section 923(a) of the Act is amended by striking out "have been admitted or who are enrolled in graduate or professional programs approved by the Commissioner and who are pursuing, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree. The Commissioner shall approve a graduate program of an institution of higher education only upon his finding that the application contains a satisfactory assurance that the institution will" and inserting in lieu thereof "are pursuing a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree and who are enrolled in graduate or professional programs which".

PUBLIC SERVICE FELLOWSHIPS

SEC. 903. (a) Section 941(a) of the Act is amended by striking out "1980" and inserting in lieu thereof "1985".

(b)(1) Section 942 of the Act is amended by striking out "approved" and inserting in lieu thereof "eligible".

(2) Section 942 of the Act is further amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and", and by adding after such paragraph the following new paragraph:

"(5) attract persons of ability from disadvantaged backgrounds, as determined by the Commissioner.".

(c) Section 943 of the Act is amended—

(1) by striking out "shall approve a graduate or professional program of an institution of higher education" and inserting in lieu thereof "shall designate a graduate or professional program of an institution of higher education to be eligible"; and

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) that such program is in effect, or can readily be put into effect;

"(3) that the application describes the high quality or the reasonable expectation of high quality of the program;".

FELLOWSHIPS FOR OTHER PURPOSES

SEC. 904. (a) Section 961(b)(1) of the Act is amended by striking out "1980" and inserting in lieu thereof "1985" and by striking out the second sentence thereof.

(b) The second sentence of section 961(c) of the Act is amended by striking out "approved" and inserting in lieu thereof "designated".

(c) Section 965 of the Act is amended by adding at the end thereof the following new sentence: "In addition, there are authorized to be appropriated, for carrying out section 966, $5,000,000 for each of the fiscal years 1981 and 1982, and $10,000,000 for each of the fiscal years 1983, 1984, and 1985."

(d) Section 966(a) of the Act is amended by striking out "1980" and inserting in lieu thereof "1985".

(e) Section 966(b)(4) of the Act is

amended by striking out "for not more than three months".

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 189, line 8, strike out "and"; on line 16, strike out the period and insert in lieu thereof "; and"; and after such line insert the following:

"(E) examines and assesses the financial and educational needs of individuals from disadvantaged backgrounds in order to enhance their participation in graduate and professional education and their potential for employment in occupational areas where these individuals are underrepresented."

Mr. BUCHANAN. Mr. Chairman, this amendment is, I think, self-explanatory.

Mr. Chairman, with this amendment, Congress will underscore the need to examine and encourage the participation of a larger number of individuals from disadvantaged backgrounds traditionally underrepresented in certain fields of graduate and professional education. Under title IX, we have mandated that a special 2-year study be conducted of graduate student financing to provide the basis for an assessment of the appropriate Federal role in the financing of graduate students and support of graduate programs and institutions. This amendment would provide for the inclusion of an assessment of the financial and educational needs of individuals from disadvantaged backgrounds in that study, with the goal of enhancing their participation in graduate and professional education and their potential for employment in occupational areas where they are underrepresented.

Recent statistics reveal significant underrepresentation of persons from disadvantaged backgrounds in the professions of mathematics, engineering, physical sciences, natural resources and life sciences. For example, of the doctorate degrees—terminal degrees—awarded in 1973–74 within various fields of study, in the area of physical sciences and mathematics, 1.4 percent were awarded to blacks, in engineering 1 percent were awarded to blacks, in the professional fields such as law, architecture, medicine and pharmacy, 3 percent were awarded to blacks, and in the area of arts and humanities, 1.9 percent were awarded to blacks. Although these are 1973–74 figures, the percentages have held fairly constant, with a variance of less than 0.1 percent in either direction.

As might be expected from the aforementioned statistics, enrollment figures reveal striking disparities. For example, black first year enrollment in medical school dropped 1.9 percent from 1977 to 1978, while total first year enrollment was up 2.4 percent, and white first year enrollment was up 2.5 percent. Total enrollment in law schools was positive from 1975 to 1976, up 2.5 percent, with black enrollment up 4.1 percent, and other minorities up 7.5 percent. However, total enrollment between 1976–77 was down 0.8 percent with black enrollment dropping 8.6 percent, and other minorities down 2.7 percent.

Mr. Chairman, these figures exemplify the importance of an examination into the extent to which the financial and educational needs of disadvantaged persons are not being met, and the impact of these factors on their access to graduate and professional education.

I am hopeful that the House will adopt this amendment, and that the study will provide a base leading to the enhancement of participation of disadvantaged individuals in graduate and professional education.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. BUCHANAN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman from Alabama (Mr. BUCHANAN) makes an additional contribution to the purposes of this section of the act. This amendment is simply consistent with the broad approach we want the Commission to take.

As has been the case so many times in the creation of this legislation, the gentleman from Alabama once more finds a way to make an additional contribution, and we believe his amendment improves the bill and we are pleased to accept it.

Mr. BUCHANAN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IX?

If not, the Clerk will designate title X.

Title X reads as follows:

TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

ESTABLISHMENT OF A NEW TITLE X OF THE ACT

SEC. 1001. (a) Title X of the Act is amended by striking out everything preceding part C and inserting in lieu thereof the following:

"TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

PART A—ESTABLISHMENT AND OPERATION OF FUND

"AUTHORIZATION OF PROGRAM

"SEC. 1001. Subject to the provisions of section 1002, the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"CONSULTATION WITH STATE COMMISSIONS

"SEC. 1002. No grant shall be made or contract entered into under section 1001 for a project or program with any institution of postsecondary education unless it has been submitted to each appropriate State agency designated under section 1203, and an opportunity has been afforded such agency to submit its comments and recommendations to the Secretary.

"NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

"SEC. 1003. (a) There is established a National Board of the Fund for the Improvement of Postsecondary Education. The Board shall consist of fifteen members appointed by the Secretary for overlapping three-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for six consecutive years shall thereafter be ineligible for appointment to the Board during a two-year period following the expiration of such sixth year.

"(b) The Secretary shall designate one of the members as Chairman. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

"(c) The Board shall—

"(1) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

"(2) advise the Secretary and the Director of the Fund on development of programs to be carried out by the Fund and on selection of projects under consideration for support by the Fund in its competitions;

"(3) advise the Secretary and the Director of the Fund on operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

"(4) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

"(d) The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"TECHNICAL EMPLOYEES

"SEC. 1004. The Secretary may appoint for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this title who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1005. There are authorized to be appropriated to carry out this title $75,000,000 for fiscal year 1981 and each of the succeeding fiscal years ending prior to October 1, 1985.".

(b)(1) Part C of title X of the Act is redesignated as part B, and sections 1071 and 1072 thereof are redesignated as sections 1021 and 1022, respectively.

(2) Section 1021(a) of the Act (as so redesignated) is amended by striking out "this title,".

(c) Section 404 of the General Education Provisions Act is repealed.

The CHAIRMAN. Are there any amendments to title X?

If not, the Clerk will designate title XI.

Title XI reads as follows:

TITLE XI—ESTABLISHMENT OF A NEW TITLE XI OF THE HIGHER EDUCATION ACT OF 1965

AMENDMENT

SEC. 1101. (a) Title XI of the Act is amended to read as follows:

"TITLE XI—URBAN GRANT UNIVERSITY PROGRAM

"FINDINGS AND PURPOSE

"SEC. 1101. (a) The Congress finds and declares—

"(1) that there exists within the Nation's urban universities an underutilized reservoir of skills, talents, and knowledge applicable toward the amelioration of the multitude of problems that face the Nation's urban centers;

"(2) that these skills, talents, and knowledge must be applied in a systematic and sustained manner to impact successfully upon these problems;

"(3) that the application of these skills, talents, and knowledge is impeded due to the limited funds available to sustain their commitment; and

"(4) that it is the public policy of the United States to encourage and facilitate the application of these skills, talents, and knowledge toward serving the needs of the Nation's urban centers.

"(b) The Secretary shall carry out programs in accordance with the provisions of this title, for the purpose of aiding urban universities to help find answers to urban problems, and aiding such universities to make their resources more readily and effectively available to the urban communities in which they are located.

"APPROPRIATIONS AUTHORIZED

"SEC. 1102. (a) For the purpose of carrying out the provisions of this title there is authorized to be appropriated $50,000,000 for fiscal year 1981, $70,000,000 for fiscal year 1982, $80,000,000 for fiscal year 1983, $90,000,000 for fiscal year 1984, and $100,000,000 for fiscal year 1985.

"(b) Funds appropriated under this section shall remain available to the Secretary for the duration of the period for which funds are authorized to be appropriated under subsection (a), in order to permit multiple-year funding of projects under this title.

"PROJECT ASSISTANCE

"SEC. 1103. (a) The Secretary may make grants to urban universities to assist them in carrying out urban-oriented projects consistent with the purposes of this title.

"(b) An application submitted under this section must show that the chief executive of the local agency or agencies of general government within whose jurisdiction fall the needs to be addressed by the project or projects described has been afforded a reasonable opportunity to review and comment upon the proposed project or projects. In making grants, the Secretary shall consider the degree to which there is evidence in the application of (1) the participation of such local agency or agencies of general government in the development of the project or projects for which assistance is requested under this section; (2) local government and community participation in the implementation of the proposed project or projects; and (3) a commitment by such local agency or agencies of general government to pay a portion of the non-Federal share of the cost of such project or projects required by subsection (d) of this section. Such non-Federal share may be in the form of services, supplies, or equipment.

"(c) The Secretary may request the advice of any Federal agency he considers appropriate before approving an application for project assistance under this section.

"(d) No grant under this section shall exceed 90 per centum of the cost of the project for which assistance is granted.

"(e) An institution which receives a grant under this section shall be designated by the Secretary as an 'urban grant university'. The Secretary shall annually publish a list of the institutions of higher education which have been so designated.

"LIMITATION

"SEC. 1104. (a) The total amount of payments in any fiscal year under section 1103 to institutions within any one State shall not exceed 15 per centum of the total amount paid.

"(b) In allocating assistance under section 1103 of this title, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"DEFINITIONS

"SEC. 1105. As used in this title—

"(1) 'urban area' means a standard metropolitan statistical area having a population of not less than five hundred thousand persons; or, in any State which has no standard metropolitan statistical area within its borders which has such a population, the Secretary shall designate one urban area for the purposes of this part;

"(2) 'urban university' means an institution of higher education which (A) is located in an urban area, (B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous urban areas, (C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas, (D) has the present capacity to provide resources responsible to the needs and priorities of such urban area and contiguous areas, (E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and (F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people;

"(3) for the purposes of paragraphs (2) and (4) of this section, 'institution of higher education' includes any combination of such institutions, any one of which meets all the qualifications of paragraph (2);

"(4) 'resources' are programs of institutions of higher education including specialized training, research services, and technical assistance responsible to the needs and priorities of the urban area and contiguous areas.".

(b) Title IX of the Act is amended by adding at the end thereof the following new part:

"PART G—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

"PROGRAM AUTHORIZATION

"SEC. 991. (a) The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the costs of establishing or expanding programs in such schools to provide clinical experience to students which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provisions or representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

"(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

"(2) office or house counsel problems; or

"(3) factual investigation, empirical research or policy or legal analysis.

"(b) Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) No law school may receive more than $75,000 in any fiscal year pursuant to this part.

"(d) For the purpose of this part the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of State schools.

"APPLICATIONS

"SEC. 992. (a) A grant or contract authorized by this part may be made by the Secretary upon application which—

"(1) is made at such time or times and contains such information as he may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 993. There are authorized to be appropriated $10,000,000 for each of the succeeding fiscal years ending prior to October 1, 1985 to carry out the purposes of this part.".

The CHAIRMAN. Are there any amendments to title XI?

If not, the Clerk will designate title XII.

Title XII reads as follows:

TITLE XII—GENERAL PROVISIONS

AMENDMENTS

SEC. 1201. Title XII of the Act is amended by striking out sections 1202, 1203, 1205, 1206, and 1208, by redesignating section 1207 as section 1202, and by adding after such section the following new section:

"FEDERAL-STATE RELATIONSHIP

"SEC. 1203. (a) Any State which desires to receive assistance under applicable programs

shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and each individual State for the purposes set forth in such applicable programs as described in subsection (f).

"(b) Such agreement shall be submitted to the Secretary and include—

"(1) a designation of the State agency responsible under State law for comprehensive statewide planning or financing for postsecondary education;

"(2) designation and description of the activities of:

"(A) the State agency responsible for carrying out education information programs pursuant to section 104;

"(B) the State agency responsible for carrying out continuing education programs pursuant to section 105;

"(C) the State agency responsible for collection of information required pursuant to section 202;

"(D) the State agency responsible for administration of the student assistance program authorized by subpart 3 of title IV, part A;

"(E) the State agency responsible for undergraduate facilities planning pursuant to section 711.

"(3) a description of the activities of the State agency or agencies, or State or statewide boards, commissions, or councils in the State responsible for—

"(A) programs which provide educational and occupational information services to youth and adults;

"(B) programs which provide continuing education services to persons of all ages;

"(C) administration of student assistance programs;

"(D) licensing, accrediting, approving, or chartering institutions of higher education; and

"(E) statewide coordination or governance of postsecondary education sectors;

"(4) a description of the relationship between the planning activities of the State agencies designated and described in paragraphs (1), (2), and (3);

"(5) an assurance by the State, including a description of the means to be used by the State to fulfill the assurance, that—

"(A) representatives of institutions of higher education in the State (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary educational services, and the general public are involved in the comprehensive statewide planning process and, pursuant to paragraph (1), such process considers—

"(i) the postsecondary education needs of unserved and underserved persons within the State, including those beyond the traditional college age; and

"(ii) the resources of those institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State;

"(B) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of this title as set forth in applicable programs as defined in subsection (f);

"(C) the State will provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under any title under this Act; and

"(D) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds.

"(c) The information and assurances provided by a State in accordance with subsection (b), and regulations issued by the Secretary, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program as defined in subsection (f).

"(d)(1) A State's agreement shall remain in effect subject to modification as changes in information or circumstances require.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given the State, finds that there is a failure to comply substantially with the requirements for an agreement established in this section, the Secretary shall notify the State that it is no longer eligible to participate in any applicable program as defined in subsection (f) until he is satisfied that there is no longer any such failure to comply.

"(3)(A) Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in an applicable program as defined in subsection (f), a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

"(B) Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs which is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.

"(e) For the purpose of this section, definition of the State office or body authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(f) For the purposes of this section an 'applicable program' is defined as—

"(1) title I;

"(2) subpart 3 of part A of title IV; and

"(3) part A of title VII.".

□ 1800

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: Page 210, after line 15, insert the following new section:

TERRITORIAL STUDENT ASSISTANCE

SEC. 1202. Title XII of the Act is further amended by adding at the end thereof the following new section:

"TERRITORIAL STUDENT ASSISTANCE

"SEC. 1205. Pending legislative implementation of the recommendations submitted by the Secretary under section 1204(b), there are authorized to be appropriated $2,000,000 for each fiscal year to support the cost of providing postsecondary education programs on Guam for non-resident students from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Such sums shall be allocated by the Secretary among the educational institutions on Guam providing such programs on the basis of the number of students enrolled from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Sums authorized under this section shall remain available until appropriated and sums appropriated under this section shall remain available until expended.".

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PHILLIP BURTON. Mr. Chairman, the amendment which I am offering (on behalf of Mr. WON PAT of Guam and our ranking member, Mr. CLAUSEN, and myself) will provide $2 million annually to those postsecondary institutions of Guam—the University of Guam and Guam Community College—which enroll nonresident students from the Trust Territory of the Pacific Islands, the Northern Marianas and American Samoa.

Since 1952 the University of Guam, as the only senior postsecondary education institution in the Pacific territories region, has enrolled hundreds of students annually from their neighboring islands. The territory of Guam has chosen to maintain extremely low tuition rates at the university in order to accommodate these students. Last year alone there were approximately 500 students from the trust territory and the Northern Marianas attending college on Guam at an average tuition of less than $250. The Federal Comptroller on Guam has determined that the cost per student at the University of Guam is over $4,000. The difference between that figure and the tuition revenues of the off-island students represents a subsidy of approximately $2 million annually which is being absorbed by the territory of Guam to make these low-cost postsecondary education opportunities available to their neighbors.

What I am proposing today is an interim solution to this inequity. The House has already approved section 1204 of title XII which calls for the Secretary of Education to have undertaken an extensive analysis of postsecondary education conditions within the territories and to report back to Congress within 18 months with his findings and recommendations for the most appropriate form of Federal postsecondary education assistance to the territories.

During that interim period, however, something must be done to assist the University of Guam and Guam Community College. The education of students within the Trust Territory is a responsibility vested in the United States by the terms of the United Nations Trusteeship Agreement by which we administer these islands. Such education is the responsibility of all Americans and currently the citizens of Guam are carrying an inordinate share of that responsibility. This measure will temporarily correct that situation pending the completion of the Secretary's study and the implementation by Congress of a more equitable and comprehensive solution to a problem which we have ignored for too long already.

Mr. Chairman, I also want to commend my colleagues who serve on the Postsecondary Education Subcommittee, for the tremendous job they have done in producing a most effective legislative measure, which will, in my opinion, go a long way to serve the needs of our colleges and universities throughout the country.

Mr. Chairman, I want to comment on title XIII of the proposed legislation now before us. Section 1303 is really a technical provision which will provide the Community College of American Samoa an opportunity to participate in certain land grant college educational programs which are presently provided for the colleges of Guam and the Virgin Islands. Under provisions of title V of the Education Amendments Act of 1972, Guam and the Virgin Islands were granted land-grant status for their colleges, and we are now simply changing this law to include the Community College of American Samoa.

Mr. Chairman, this proposed measure will give added dimensions to some of the most critical needs in improving Samoa's educational system, and this is certainly a tribute to our country's commitments to provide as much assistance to promote the educational needs of the people of American Samoa.

I might also note that I am especially pleased in that this measure has the firm support of my colleagues on both sides of the aisle, and I want to thank Mr. FORD, the chairman of the Postsecondary Subcommittee, and the distinguished gentleman from Alabama (Mr. BUCHANAN), the ranking minority member of the subcommittee. I am appreciative also of the fine assistance received from Mr. Wolanin, the subcommittee staff director, and his staff assistants Ms. Vissler and Mr. Cope.

Mr. Chairman, I also want to commend Mr. Peter T. Coleman, the first elected Governor of American Samoa, for bringing this important matter to my attention. I also want to thank Mr. Eni Hunkin, assistant counsel to the House Interior and Insular Affairs Committee, for the fine work that he has done in getting this piece of legislation together. I might also note that Mr. Hunkin is a native of American Samoa, and is probably the only native Samoan who currently works in the Congress, and has done so for about 5 years now. Mr. Chairman, in the years that I have been associated with this young man, I can only say he has served our Interior Committee in a most professional manner, and for that matter, he is certainly a credit to the Samoan people, and we are very fortunate to have him on the committee.

Mr. Chairman, I am including two letters from the distinguished chair of the Postsecondary Subcommittee and the ranking minority member of the subcommittee, which clarifies our intent with reference to first, section 1204, and next, the entire bill as it relates to the Trust Territory of the Pacific Islands. These letters are self-explanatory, and the intent expressed therein is fully concurred in by me, as Chair, and the minority leadership of the Subcommittee on National Parks and Insular Affairs.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 6, 1979.

Hon. PHILLIP BURTON,
Chairman, Subcommittee on National Parks and Insular Affairs, Longworth Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As a Member of the Committee on Education and Labor, and as Chairman of the Interior Subcommittee on National Parks and Insular Affairs, you have always maintained a genuine interest in educational programs for the people of the insular areas of the United States. For this reason, we want to assure you that the provisions of the Higher Education Act Amendments of 1979 (H.R. 5192) relating particularly to the Trust Territory of the Pacific Islands are intended to remain in full force and effect unless and until revised or repealed by affirmative action of the Congress—regardless of any future changes in the political status of the Trust Territory or any of its component districts. Needless to say, the Congress—and only the Congress—is empowered under the Constitution to enact or repeal laws; consequently, the only accurate and reasonable construction of the provisions of the Higher Education Act Amendments of 1979 would be that they remain applicable unless the Congress determines otherwise.

Sincerely,

JOHN BUCHANAN,
WILLIAM FORD,
Members of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 6, 1979.

Hon. PHILLIP BURTON,
Chairman, Subcommittee on National Parks and Insular Affairs, Longworth Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: We appreciate your interest in section 1204, "Treatment of Territories", of the Higher Education Act Amendments of 1979 (H.R. 5192) regarding the authority of the administrative agency to modify educational programs made available by the Congress to the various territories of the United States. We want to emphatically assure you that such authority is intended only to permit such programs to be tailored and adapted to the needs of the citizens of these areas. To read or interpret the section as authority to abolish, terminate or eliminate such programs would be totally erroneous, unacceptable and contrary to the intent of the Congress. Since these programs were expressly authorized by an Act of Congress, it is beyond the authority of any administrative agency to discontinue them—that is a determination which only a future Congress can make.

Sincerely,

JOHN BUCHANAN,
WILLIAM FORD,
Members of Congress.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, we have examined the gentleman's amendment, and the gentleman has discussed it with us. We have no trouble with it. We will be pleased to support it.

Mr. PHILLIP BURTON. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 210, after line 15 insert the following new section:

RESTRICTION ON QUOTAS

SEC. 1202. Title XII of the Act is further amended by adding at the end thereof the following new section:

"RESTRICTION ON QUOTAS

"SEC. 1204. The Secretary is authorized to utilize affirmative action programs to promote equal opportunity within higher education, and issue rules, regulations, standards, guidelines, recommendations, and orders for purposes of compliance with such programs provided that such programs do not utilize any ratio, quota or other numerical requirement related to race, creed, color, national origin, or sex to require any individual or entity to take any action with respect to (1) the admission policies or practices of such individual or entity, or (2) the hiring or promotion policies or practices of such individual or entity.".

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is an amendment aimed as specifically an antiquota amendment to this particular piece of legislation. It is an amendment that I feel is necessary. It is an amendment similar to the ones I have offered on previous occasions on the House floor, but one which I think goes to the heart of some of the problems that are taking place right now in higher education, namely, that higher educational institutions, both in terms of their employment and in terms of their student body enrollment, are being asked to submit to mandated quota systems perpetrated by the Federal Government.

I think quota systems are wrong, but that does not mean that I think that affirmative action programs are wrong. I think that the interesting thing about this amendment, compared to some others that I have had the opportunity to offer on the floor, is that this amendment specifically says that the Secretary is authorized to utilize affirmative action programs to promote equal opportunity. It goes on to say that you cannot use quota systems in order to mandate an affirmative action program, but it makes it very plain within the amendment that the affirmative action programs may be utilized. I think that is an important distinction, because I have argued time after time on the floor that I think you can have effective affirmative action—it is being done throughout the country—without utilizing quota systems which exclude people rather than the affirmative action concept, which is to include people.

I think probably the noted black economist Thomas Soul best put it in an article that was in the Washington Post last year. I would like to read a quote from that article if I could, because this is the point that I am trying to make.

As long as admission to colleges and universities is not unlimited, someone's oppor-

tunity to attend has to be sacrificed as the price of preferential admission for others. No amount of verbal sleight-of-hand can get around this fact. None of those sacrificed is old enough to have had anything to do with historic injustices that are supposedly being compensated. Moreover, it is not the offspring of the privileged who are likely to pay the price. It is not a Rockefeller or a Kennedy who will be dropped to make room for quotas; it is a De Funis or a Bakke. Even aside from personal influence on admissions decisions, the rich can give their children the kind of private schooling that will virtually assure them test scores far above the cut-off level at which sacrifices are made.

Just as the students who are sacrificed are likely to come from the bottom of the white distribution, so the minority students chosen are likely to be from the top of the minority distribution. In short, it is a forced transfer of benefits from those least able to afford it to those least in need of it.

That is the point with quotas, and that is the point which needs to be emphasized on this piece of legislation with this amendment. This is specifically an antiquota amendment. It is not an anti-affirmative action amendment.

It is also in line with a speech made not too long ago by Bayard Rustin at the University of Delaware, in which he said he is unalterably opposed to the concept of quotas for minorities. He said that he wants blacks to feel that they can do things on their own merits "not because of what somebody may have done to somebody's grandfather. You cannot pass on to other generations anything but the responsibility for their own."

That is the spirit in which this amendment is offered, and this amendment seeks to make certain that higher education in this country is not further submitted to quota-based systems.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman's amendment would not do, if it became law, what the gentleman describes to us. What surprises me a little bit is that he purports to be a person opposed to having the Secretary of HEW meddle in the internal affairs of colleges and universities by imposing or encouraging quotas or affirmative action.

I have here a letter signed on behalf of the major educational lobby groups in this town, which says:

AMERICAN COUNCIL ON EDUCATION,
Washington, D.C., November 7, 1979.

Hon. WILLIAM D. FORD,
Chairman, Subcommittee on Postsecondary Education, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that an amendment may be offered to H.R. 5192 the intent of which is to restrict the Secretary of Health, Education and Welfare from using admissions or hiring quotas in promoting equal opportunity within higher education. On behalf of the nation's colleges and universities, we oppose this amendment because, in our view, it would grant broad new authority for the Secretary to require all institutions to implement affirmative action plans regardless of whether they have been shown to have discriminated. This would impose major new regulatory and paperwork burdens on the higher education community.

As the attached memorandum indicates, the amendment goes far beyond current civil rights statutes and court rulings by expressly authorizing the Secretary to "utilize affirmative action programs" with specific reference to hiring and promotion as well as admissions policies for all institutions. No statute currently under the Secretary's jurisdiction authorizes the Secretary to issue general rules requiring colleges to develop and comply with such general affirmative action programs. Similarly, no court order of which we are aware grants such authority to the Secretary.

While we do not want to be in the position of seeming to oppose equal opportunity in higher education, or extending civil rights statutory protections, we do not believe this is the proper procedure or vehicle for such purposes.

Therefore we urge that the amendment be defeated, on behalf of American Association of Community and Junior Colleges, American Association of State Colleges and Universities, American Council on Education, Association of American Universities, National Association of Independent Colleges and Universities, and National Association of State Universities and Land-Grant Colleges.

Sincerely,

CHARLES B. SAUNDERS, JR.,
Vice President for Governmental Relations.

Attachment.

IMPACT OF THE WALKER AMENDMENT

SUMMARY STATEMENT

If passed the Walker Amendment would grant new authority for the Secretary of Health, Education and Welfare to issue rules requiring institutions of higher education to take affirmative action with respect to students and employees. Although it is arguable under existing law that the Secretary may require a college or university to take affirmative action as a remedy where there has been a finding of discrimination, no statute currently under the Secretary's jurisdiction authorizes the Secretary to issue general rules requiring colleges and universities that have not been shown to have discriminated to develop and comply with general affirmative action programs. The Walker Amendment would appear to do just that.

DISCUSSION

The Secretary of Health, Education and Welfare is charged with enforcement of Title VI of the 1964 Civil Rights Act, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and Sections 799A and 845 of the Public Health Service Act. With some exceptions and slight variations, each of these civil rights provisions prohibits discrimination against students enrolled at institutions of higher education receiving federal financial assistance. Unlike Section 503 of the Rehabilitation Act and Executive Order 11246, both under the purview of the Secretary of Labor, none of these statutes requires colleges and universities to take affirmative action with respect to students or employees.

The Supreme Court in *Southeastern Community College v. Davis* has affirmed this view expressly holding Section 504 does not authorize the Secretary of HEW to require colleges and universities to take affirmative action with respect to qualified handicapped students. By the clear language of the statutes themselves and by analogy to the Court holding in *Davis*, the Secretary also is not authorized under existing law to require affirmative action under Titles VI and IX and Sections 799A and 845 of the Public Health Service Act. In addition to the Supreme Court holding in *Davis*, a long line of cases interpreting Title IX and Section 504 have held that neither statute was intended to cover employment practices at institutions of higher education except insofar as discrimination in employment has the effect of discriminating against students.

By expressly authorizing the Secretary "to utilize affirmative action programs to promote equal opportunity in higher education" and by referring to the hiring and promotion policies of such institutions, the Walker Amendment grants new statutory authority to the Secretary effectively reversing *Davis* and other related civil rights decisions.

I would also point out that present law, which contains language—permanent law, I must say, not a temporary authorizing statute such as this—and I quote from the law, section 440(c) of the General Education Provisions Act: "It shall be unlawful for the Secretary to defer or limit any Federal financial assistance on the basis of any failure to comply with the imposition of quotas or any other numerical requirement which have the effect of imposing quotas on the student admission practices of an institution of higher education or community college receiving Federal financing assistance."

Now, strangely, the gentleman in the name of opposing quotas would authorize the Secretary, who is presently absolutely prohibited from becoming involved in this field, to impose affirmative action requirements. It goes in exactly the opposite direction of those who generally support the gentleman's amendment.

If you want the other side of it, the gentleman's amendment attempts to drive a tack with a sledgehammer. If in fact it were not redundant and unnecessary, the gentleman goes further and gets us involved in countermanding the already stated public policy of this country with respect to affirmative action in hiring janitors to work on a college campus, in hiring females to work as professors in the field of science, where they have been very rare in the past. Anyone who says that this is going to affect the Bakke case just does not understand it. I think the amendment should be defeated.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, could the gentleman tell me if the language he quoted previously as a part of the permanent law is in fact the Eshleman amendment that was adopted, I think, in 1976?

Mr. FORD of Michigan. I believe that that is how it came into the law; it is the Eshleman amendment.

Mr. WALKER. I thank the gentleman for that, because I also worked on that amendment. At that time I was administrative assistant to Congressman Eshleman. I have followed it up since, and I find that the particular part of the permanent law to which the gentleman refers has never had any regulations written and there have never been any kind of attempts to implement that law.

Mr. FORD of Michigan. Mr. Chairman, if I may reclaim my time, the reason we wrote the Eshleman amendment the way it is written—and I supported it, as did the gentleman from Ohio (Mr. ASHBROOK) and, I suspect, the other members of the committee here in the 1976 conference—is that we say to the Secretary, "Stay out of this business."

Now, we do not want the Secretary to write any regulations, and there is nothing for the Secretary to implement. If the gentleman's amendment is adopted, the Secretary will then start trying to decide how many angels can dance on the head of a pin and write regulations to implement the language in the gentleman's amendment, and we will have the Secretary in the business that the Secretary might have been in without the Eshleman amendment.

Mr. WALKER. If the gentleman will yield further, I thank the gentleman for that explanation, but the point I am trying to make is, the fact is that the Secretary has virtually ignored the Eshleman amendment, and on several occasions has imposed quota systems, for instance, at the University of North Carolina.

Mr. FORD of Michigan. Mr. Chairman, I must reclaim my time to tell the gentleman that he has been making that statement informally around the floor, and I challenge him to give me the name of a single institution in this country that has had a quota imposed upon it, directly or indirectly, by the Secretary of HEW with respect to the admission of students.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I have been listening to the debate here, and the gentleman from Michigan (Mr. FORD) is absolutely correct. My good friend, the gentleman from Pennsylvania, I think, has it turned around.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(On request of Mr. ASHBROOK and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

□ 1810

Mr. ASHBROOK. The amendment which is now part of the permanent law does not require the Secretary of HEW to do anything. The gentleman makes the point correctly that it prohibits him from doing certain things. Why we want to turn it around, as the Walker amendment would do, and urge the Secretary of HEW to do something the Congress has said we do not want him in, that is where I do not understand the gentleman's amendment.

My friend from Michigan (Mr. FORD) is absolutely correct. To say no regulations have been implemented under that amendment is almost not to read the provision of the General Education Provision Act.

Mr. FORD of Michigan. Will the gentleman give me the name of the institution where the Secretary has caused a quota on admission of students to be applied, and I will see to it that that is corrected tomorrow?

Mr. WALKER. Will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I know, for instance, and have seen documents where what used to be the Pennsylvania State College system, the State teacher college system was asked to submit specific quotas of students they were going to have at particular schools.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. WALKER. If the gentleman will yield further, that particular system was required to mandate a quota system. I would say to the gentleman that in fact it has been done. That is my concern about what has happened with regard to the permanent law, and what I am seeking to correct here without getting at the problem of affirmative action is just trying to get at the specific problem of quotas.

Mr. FORD of Michigan. The case to which the gentleman refers is a case brought by the Department of Justice pursuant to title VI of the Civil Rights Act, not by HEW, and the gentleman's amendment would have absolutely no impact on this situation.

Mr. CONTE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1820

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title XII? If not, the Clerk will designate title XIII.

Title XIII reads as follows:

TITLE XIII—MISCELLANEOUS PROVISIONS

CONTRACT AUTHORITY

SEC. 1301. The authorization to enter into contracts or other obligations under the act, as amended by this act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation acts.

EFFECTIVE DATE

SEC. 1302. The amendments made by this act shall be effective on October 1, 1980.

AMERICAN SAMOA LAND GRANT COLLEGE

SEC. 1303. (a) Section 506 of the Education Amendments of 1972 is amended—

(1) by inserting ", the Community College of American Samoa," immediately after "The College of the Virgin Islands" in subsection (a);

(2) by striking out "Virgin Islands and Guam" each place it appears in subsection (b) and inserting in lieu thereof "Virgin Islands, Guam, and American Samoa";

(3) by striking out "Guam." in such subsection and inserting in lieu thereof "Guam and an equal amount to American Samoa.".

(b) Section 5 of the act of August 30, 1890 (7 U.S.C. 327), commonly referred to as the Second Morrill Act, is amended by inserting ", American Samoa," immediately after "the Virgin Islands".

(c) Any provision of any Act of Congress relating to the operation of or provision of assistance to a land grant college in the Virgin Islands or Guam shall apply to the land grant college in American Samoa in the same manner and to the same extent.

(d) Nothing in this section shall be construed to interfere with or affect any of the provisions of the April 17, 1900 Treaty of Cession of Tutuila and Aunu'u Islands or the July 16, 1904 Treaty of Cession of the Manua Islands as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

● Mr. EDWARDS of California. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Pennsylvania, which has misleadingly been entitled a "Restriction on Quotas." This amendment has, in various guises, been presented often enough so that its true purpose and intended effect are clear. I urge a no vote on this provision because it is overly broad, it will generate excessive litigation, and it will place an agency of the Federal Government in the untenable position of supporting discrimination.

If, as the author has suggested previously, this amendment is directed at the prohibition of quotas, then the language should be limited to quota only. Even if that were the intent, such a prohibition is unnecessary since the Department does not impose quotas or their equivalent in carrying out its civil rights enforcement responsibilities. It does utilize goals and timetables—these are not only permissible but necessary elements to effective civil rights enforcement. The sweeping language of this amendment, baring ratios, quotas, and other numerical requirements, would effectively prohibit the use of these mechanisms.

The Department has and will continue to play a pivotal role in the enforcement of civil rights provisions such as title VI, title IX, and various Executive orders. Enactment of the Walker amendment would hamper effective enforcement of these provisions and generate excessive litigation to resolve the uncertainties engendered by the language of this amendment and its legislative history.

Finally, this language, if retained without further clarification, would place the Federal Government, through one of its agencies, in the conflicting and unsupportable position of siding discrimination on the basis of race, creed, color, national origin, or sex by preventing it from utilizing those tools necessary to carry out its responsibilities, as set forth in the various and controlling civil rights provisions—this result is clearly unconstitutional.●

● Mr. PURSELL. Mr. Chairman, as a

member of the Appropriations Labor/HEW Subcommittee, which will deal with the appropriations authorized by the bill before us today, I have been following with a great deal of interest the progress of this legislation.

I want to take this opportunity to commend the work of Chairman FORD, my colleague in the Michigan delegation, and the gentleman from Alabama (Mr. BUCHANAN), the ranking Republican on the Postsecondary Education Subcommittee, as well as the other committee members and their very fine staff. They held extensive hearings, conducted a thorough review of the many important programs designed to insure an equal opportunity for all to pursue education beyond the secondary level, and now they have presented us today with a bill that makes needed changes in Federal higher education programs with a minimum of controversy.

As one who has more college and university students in his district than any other Member of Congress, I greatly appreciate the work that has been done in connection with this legislation and rise in strong support of it.●

● Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 5192, the Higher Education Amendments of 1980. This legislation is designed to extend our Nation's major educational programs through 1985, and to maintain, with modifications, some of the most important educational programs which are in effect today.

This bill seeks to increase the amounts of awards which have precluded some students from receiving aid in the past. The BEOG program—basic education opportunity grant—has been increased by 10 percent for the next year, and the maximum award has been increased from $1,800 to $2,160 for this next year and will be increased to $2,700 in 1984. The guaranteed student loan program has been increased to an amount of $3,000 for independent students per year; aggregate amounts have been increased to $12,500 for undergraduates and $25,000 for graduate students. It is heartening to see that these loans and basic educational grants are keeping up with the rising costs of tuition and that students will benefit even more from financial assistance which the Government offers.

One of the most beneficial changes which are offered by this legislation is the single form change whereby a student is required to fill out only a standard form which makes it easier to determine needs for that particular student. In the past, the application process has been time consuming and confusing, and the clarification mandated by this legislation will expedite the processing of these applications.

Mr. Chairman, I urge my colleagues to join in supporting this legislation and hope that we can move this legislation along so that millions of students seeking higher education can take advantage of the programs we have offered them.

It is so necessary today for Americans to be well educated and well equipped to deal with the problems of modern life. I believe that this type of assistance is the best way to alleviate the problems of undereducation and of a lack of opportunity.

Accordingly, I urge my colleagues to support this worthy legislation.●

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose: and the Speaker having resumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, pursuant to House Resolution 466, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FORD of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 385, nays 15, not voting 33, as follows:

[Roll No. 635]

YEAS—385

Abdnor	Bolling	Conyers
Addabbo	Boner	Corcoran
Akaka	Bonior	Corman
Albosta	Bouquard	Cotter
Alexander	Bowen	Coughlin
Ambro	Brademas	Courter
Anderson, Calif.	Breaux	D'Amours
	Brinkley	Daniel, Dan
Anderson, Ill.	Brodhead	Daniel, R. W.
Andrews, N.C.	Brooks	Danielson
Andrews, N. Dak.	Broomfield	Daschle
	Brown, Calif.	Davis, Mich.
Annunzio	Brown, Ohio	Davis, S.C.
Anthony	Broyhill	Deckard
Applegate	Buchanan	DeLlums
Ashley	Burgener	Derrick
Aspin	Burlison	Derwinski
Atkinson	Burton, John	Devine
AuCoin	Burton, Phillip	Dickinson
Badham	Butler	Dicks
Bafalis	Byron	Diggs
Bailey	Campbell	Dingell
Baldus	Carney	Dixon
Barnard	Carr	Dodd
Barnes	Carter	Donnelly
Beard, R.I.	Cavanaugh	Dornan
Bedell	Cheney	Dougherty
Bellenson	Chisholm	Downey
Benjamin	Clausen	Drinan
Bereuter	Clay	Duncan, Oreg.
Bethune	Cleveland	Duncan, Tenn.
Biaggi	Clinger	Early
Bingham	Coelho	Eckhardt
Blanchard	Coleman	Edgar
Boggs	Collins, Ill.	Edwards, Ala.
Boland	Conte	Edwards, Calif.
Edwards, Okla.	Lagomarsino	Rhodes
Emery	Latta	Richmond
English	Leach, Iowa	Rinaldo
Erdahl	Leach, La.	Ritter
Erlenborn	Lederer	Roberts
Ertel	Lee	Robinson
Evans, Del.	Lehman	Rodino
Evans, Ga.	Lent	Roe
Evans, Ind.	Levitas	Rose
Fary	Lewis	Rostenkowski
Fascell	Livingston	Roth
Fazio	Lloyd	Roybal
Ferraro	Loeffler	Royer
Findley	Long, La.	Rudd
Fish	Long, Md.	Russo
Fisher	Lott	Sabo
Fithian	Lowry	Santini
Flippo	Lujan	Satterfield
Florio	Luken	Sawyer
Foley	Lundine	Scheuer
Ford, Mich.	Lungren	Schroeder
Ford, Tenn.	McClory	Schulze
Forsythe	McCloskey	Sebelius
Fountain	McCormack	Seiberling
Fowler	McDade	Sensenbrenner
Frenzel	McEwen	Shannon
Frost	McHugh	Sharp
Fuqua	McKay	Shelby
Garcia	Madigan	Shumway
Gaydos	Maguire	Shuster
Gephardt	Markey	Simon
Giaimo	Marks	Skelton
Gilman	Marlenee	Smith, Iowa
Gingrich	Marriott	Smith, Nebr.
Ginn	Martin	Snowe
Glickman	Mathis	Snyder
Goldwater	Matsui	Solarz
Gonzalez	Mattox	Solomon
Goodling	Mavroules	Spellman
Gore	Mazzoli	Spence
Gradison	Mica	St Germain
Gramm	Mikulski	Stack
Grassley	Miller, Calif.	Staggers
Gray	Miller, Ohio	Stangeland
Green	Mineta	Stanton
Grisham	Minish	Steed
Guarini	Mitchell, Md.	Stewart
Gudger	Mitchell, N.Y.	Stockman
Guyer	Moakley	Stokes
Hagedorn	Moffett	Stratton
Hall, Ohio	Mollohan	Studds
Hall, Tex.	Montgomery	Swift
Hamilton	Moore	Synar
Hammer-schmidt	Moorhead, Calif.	Tauke
		Taylor
Hance	Moorhead, Pa.	Thomas
Hanley	Mottl	Thompson
Harkin	Murphy, N.Y.	Traxler
Harris	Murphy, Pa.	Trible
Harsha	Murtha	Udall
Heckler	Myers, Ind.	Ullman
Hefner	Myers, Pa.	Van Deerlin
Hightower	Natcher	Vander Jagt
Hillis	Neal	Vanik
Hinson	Nedzi	Vento
Holland	Nichols	Volkmer
Hollenbeck	Nolan	Walgren
Holtzman	Nowak	Walker
Hopkins	Oakar	Wampler
Horton	Oberstar	Watkins
Howard	Obey	Weaver
Hubbard	Ottinger	Weiss
Huckaby	Panetta	White
Hughes	Pashayan	Whitehurst
Hutto	Patten	Whitley
Hyde	Patterson	Whittaker
Ichord	Pease	Williams, Mont.
Ireland	Pepper	Williams, Ohio
Jacobs	Perkins	Wilson, Bob
Jeffords	Petri	Wilson, C. H.
Jeffries	Peyser	Winn
Jenkins	Pickle	Wirth
Jenrette	Preyer	Wolff
Johnson, Calif.	Price	Wolpe
Johnson, Colo.	Pritchard	Wyatt
Jones, Okla.	Pursell	Wydler
Jones, Tenn.	Quayle	Wylie
Kastenmeier	Quillen	Yates
Kazen	Rahall	Yatron
Kemp	Railsback	Young, Fla.
Kildee	Rangel	Young, Mo.
Kogovsek	Ratchford	Zablocki
Kostmayer	Regula	Zeferetti
LaFalce	Reuss	

NAYS—15

Archer	Crane, Daniel	Kramer
Bauman	Dannemeyer	McDonald
Bennett	Fenwick	Nelson
Chappell	Kelly	Paul
Collins, Tex.	Kindness	Stump

NOT VOTING—33

Ashbrook	Heftel	Runnels
Beard, Tenn.	Holt	Slack
Bevill	Jones, N.C.	Stark
Bonker	Leath, Tex.	Stenholm
Conable	Leland	Symms
Crane, Philip	McKinney	Treen
de la Garza	Michel	Waxman
Flood	Murphy, Ill.	Whitten
Gibbons	O'Brien	Wilson, Tex.
Hansen	Rosenthal	Wright
Hawkins	Rousselot	Young, Alaska

□ 1840

The Clerk announced the following pairs:

Mr. Bevill with Mrs. Holt.
Mr. Wright with Mr. McKinney.
Mr. Stenholm with Mr. O'Brien.
Mr. Runnels with Mr. Young of Alaska.
Mr. Charles Wilson of Texas with Mr. Rousselot.
Mr. Rosenthal with Mr. Symms.
Mr. Stack with Mr. Hansen.
Mr. Whitten with Mr. Philip M. Crane.
Mr. Murphy of Illinois with Mr. Conable.
Mr. Jones of North Carolina with Mr. Beard of Tennessee.
Mr. Leland with Mr. Ashbrook.
Mr. Hawkins with Mr. Gibbons.
Mr. de la Garza with Mr. Bonker.
Mr. Heftel with Mr. Leath of Texas.
Mr. Stark with Mr. Waxman.

Mr. PASHAYAN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO CORRECT SECTION NUMBERS AND REFERENCES, PUNCTUATION, AND SPELLING IN ENGROSSMENT OF H.R. 5192

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Clerk be authorized in the engrossment of the bill H.R. 5192 to correct section numbers and references, punctuation, and spelling.

The SPEAKER pro tempore (Mr. FARY). Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill, H.R. 5192, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. FOLEY. Mr. Speaker, because there was some misunderstanding regarding the request I made previously for permission for the Committee on Agriculture to sit tomorrow, I would at this time renew the request and, therefore, ask unanimous consent that the Committee on Agriculture may have permission to sit tomorrow, November 8, 1979, while the House of Representatives is in session under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

□ 1850

Mr. BAUMAN. Reserving the right to object, as I understand it the objection of the gentleman from Iowa and any others have been allayed in the interim period.

Mr. FOLEY. I think the gentleman from Iowa was under the impression there would be a subcommittee meeting simultaneously with the full committee meeting and he felt it impossible naturally to be at two places at the same time. I assured the gentleman the full committee would take precedence over the subcommittee meeting and there would not be a conflicting schedule.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, I would like to commend the chairman for the courtesy he has shown me. This is my bill that the committee will be marking up. I just want to say no one has ever given me the courtesy that the gentleman from Washington has in trying to bring forward a bill for the minority to allow people to have an opportunity to express themselves. I sincerely appreciate the tremendous opportunity the gentleman has given me.

Mr. FOLEY. I thank the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington (Mr. FOLEY)?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C., October 31, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of section 12 of the Water Resources Development Act of 1974 (88 Stat. 12), the Committee on Public Works and Transportation today adopted a resolution stating that the projects listed in the resolution shall continue to be authorized projects. A copy of the resolution is enclosed.

Sincerely,

HAROLD T. (BIZE) JOHNSON,
Chairman.

RESOLUTION

Resolved by the Committee on Public Works and Transportation of the House of Representatives, United States, That in accordance with the provisions of section 12 of the Water Resources Development Act of 1974 (88 Stat. 12) the following projects shall continue to be authorized projects:

Breton Bay, Maryland.
Newtown Creek, New York.
Vanceburg, Kentucky.

ACID PRECIPITATION

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. OBERSTAR. Mr. Speaker, the border regions of the United States and Canada are being subjected to a pervasive and environmentally destructive force in the form of acid precipitation. Sulfuric acid rain and snow destroy plant life, retard and eventually kill trees and cause lakes to become acid, killing fish and aquatic plant life.

Unless the United States and Canada take prompt and decisive action to halt the growing problem of long-range transportation of atmospheric pollutants, we are headed toward the irreversible destruction of life on the North American Continent, turning us into a modern Easter Island, a barren land devoid of life as we know it.

Mr. Speaker, it was my privilege this past weekend to participate in the first International Conference in Toronto, Ontario, on the problem of acid precipitation sponsored by United States and Canadian environmental groups. The Conference included a distinguished gathering of representatives of the two Federal Governments, the provincial governments of Ontario and Quebec, U.S. State governments, scientists, and citizen activists—700 persons in all. I would like to submit for my colleagues' consideration the resolution adopted at that conference which deals in a very thoughtful way with this matter of acid precipitation.

NOVEMBER 3, 1979.

ASAP REVISED RESOLUTIONS

Whereas acid precipitation has caused marked and dramatic damage to ecosystems and regional economies, rendered hundreds of lakes lifeless, decimated sport fisheries, impaired visibility, and threatened agriculture, tourism and forest industries and the public health and welfare of citizens throughout North America; and

Whereas existing atmospheric loads of sulphur and nitrogen oxides are directly contributing to dry deposition and rain and snow fall at least 50 times more acidic than normal, with isolated episodes reaching thousand fold increases in acidity; and

Whereas acid precipitation and its damages will continue to escalate as Canadian and U.S. industries shift toward a greater reliance on coal; and

Whereas existing air quality standards and legal requirements are clearly inadequate to control acid precipitation, having allowed the sharp increase in long-range pollution over the last two decades; moreover, federal, state, and provincial governments, especially in the Ohio River Valley and Ontario have failed to take adequate control actions; and

Whereas both the U.S. and Canadian governments have recognized the need for a cooperative approach to this international problem; but have not yet agreed on specific terms to further regulate sulphur and nitrogen oxide emissions.

Therefore, the citizens participating in this ASAP Conference resolve:

That each country must immediately adopt and implement a control policy for both new and existing sources to reduce the overall atmospheric loads of sulphur and nitrogen oxides to less than 50% of present levels within ten years, with regular incremental reductions during that decade.

That national energy policies are critical to curtailing acid precipitation, with special emphasis placed on:

(a) energy conservation and renewable energy resource development as the highest priority;

(b) the use of national and unconventional gas as a preferred substitute for oil in the transition period;

(c) the direct use of coal encouraged only in utility and industrial boilers with best available control technology;

(d) the conversion of existing facilities from oil to coal only where the resultant emission rates will not increase.

That the international treaty now under negotiation by Canada and the U.S. must establish the goal of reducing transboundary and regional air pollution levels through the adoption and enforcement of stringent emission control strategies.

That the participants are committed to seeing that this treaty is enforced, and that a commission of citizens from both countries should be established to monitor and report publicly on each country's record of compliance.

That research not be a substitute for immediate control action but that investments by both countries be increased particularly with regard to the economic and other effects of acid precipitation and associated pollutants on materials, drinking water quality, crops, forests, rangelands, and aquatic ecosystems.

That both governments educate the general public, and especially the threatened agricultural, tourist, and forestry industries, about the dangers of acid precipitation and encourage public participation in government decision-making.

That new emission standards must emphasize presently available control techniques, such as coal pre-washing, use of low sulphur fuels, flue gas desulphurization and denitrification; and furthermore, that techniques to disperse emission in space or time, such as increased stack height and intermittent control systems should be prohibited.

That each country adopt special siting and control policies and standards to preserve and protect existing pristine air quality parks and wildernesses.

That workers can and must be protected from choosing between their jobs and a healthy environment.

That federal, provincial, and state governments participate in all available legal actions which will reduce sulphur and nitrogen oxide emissions and acid rain.

DUPLICATE CHECKS

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, yesterday's Washington Post carried a story detailing yet another example of why the American people are up in arms about the haphazard manner in which millions of their tax dollars are spent.

The Post reported that the Treasury Department routinely issues second checks to intended recipients who claim that they never received their original Government checks.

Yet Treasury makes no effort to stop payment on the first checks, many of which are subsequently cashed either by recipients or forgers. Additionally, Treasury officials have virtually ceased even attemping to trace the original check despite the fact that these double payments are costing our taxpayers millons of dollars annually—$73 million in the last 2 years.

Such fraud will inevitably increase as unscrupulous recipients of Government checks and forgers learn how easy it is to defraud the Government with little fear of repayment or reprimand.

It is therefore imperative that Treasury officials crack down immediately on these abuses and institute strong anti-fraud procedures.

I ask that the article "Duplicate Checks Cost U.S. Million" be printed at this point in the RECORD.

[From the Washington Post, Nov. 6, 1979]

DUPLICATE CHECKS COST U.S. MILLIONS

(By Ronald Kessler)

The Treasury Department makes double payments on more than 100,000 government checks a year and has made no attempt to recover about $73 million in such payments made over the last three years, internal Treasury and Secret Service reports show.

The double payments are made when Treasury is told by intended recipients that their checks never arrived or were lost. If the check has not already been cashed, Treasury issues a replacement check, but does not stop payment on the original check.

The original check is often cashed fraudulently, either by the intended recipient or by a forger. The Secret Service report, dated last July, and the Treasury report, prepared in September, show that Treasury has failed to take steps to recover most of the money lost in this way.

The backlog of such cases now stands at $86 million, nearly all of it representing double payments made in the last three years, Treasury officials acknowledge. About $13 million of this total was wrongly paid out as far back as 1970.

Treasury officials say they do not stop payment on missing checks because they cannot legally do so.

"We are not happy that we built up this backlog, because it increases the chance that we will never recover the money," Dario A. Pagliai, commissioner of Treasury's bureau of government financial operations, which issues government checks, said yesterday.

Pagliai said double payments are made on about a quarter of the reports of lost checks. He estimated that about a third of those double payments occur because of forgeries.

"The reason for the backlog is because of pressure to get replacement checks out promptly," he said, noting that many of the checks go to destitute individuals. Treasury issues checks on behalf of the Social Security Administration to recipients of welfare and old-age benefits. It also issues payroll, Internal Revenue Service refund and contractor payment checks.

"We've added 100 temporary people (to the unit that handles the double payment cases)," Pagliai said. He said this brings the total work force assigned to cleaning up the backlog to 135.

"We have established a target of December 1980 to clean it up," he said.

Treasury now refers 6,800 cases of suspected forgeries to the Secret Service for investigation each month, compared with 2,027 cases last April, he said.

Gerald Murphy, Treasury's deputy fiscal assistant secretary, said Treasury cannot stop payment on checks, the way companies or private individuals stop checks by notifying their banks.

He said Treasury checks are like cashier's checks, meaning the issuer cannot stop payment.

In its report, the Secret Service, which is charged with recovering overpayments that occur because of forgeries, attributed the backlog to the alleged failure of Treasury management to focus on the problem, a lack of staff and adequate training, and an absence of "sound" procedures for dealing with double payments.

Treasury issues 600 million of the nearly 700 million government checks written each year. The average check which is paid twice is estimated by the Secret Service to be $200.

However, an internal Treasury report last August referred to a double payment of $200,000 made to a United Nations organization through the U.S. embassy in Rome. In this case, the money was recovered.

When a double payment is made, the Secret Service may collect the funds from the bank that erroneously cashed a check if it was forged or agencies may withhold future payments from intended recipients of the checks.

Even when Treasury refers a double payment case to a government agency, it may not stop future payments, Pagliai said.

When a recipient has been paid twice, "The agency should say, 'you don't get a check until the next month.' The problem is, they're often destitute," Pagliai said.

He said it is Treasury policy to immediately issue a substitute check when the first check is reported missing. On welfare checks, he said, no attempt is made to find out if the first check has already been cashed in order to speed issuance of a new check.

"We issue welfare check substitutions in 24 hours," he said.

He estimated a third of the double payments are made because of forgeries, while the rest occur because the intended recipients received a substitute check and cashed the original.

The double payments will be explored at a hearing Thursday by the House Government Operations' Intergovernmental relations subcommittee, headed by Rep. L. H. Fountain (D-N.C.).

The backlog in double payment cases came to light when the Secret Service noticed a dramatic decline in the number of cases referred to it for investigation. The Secret Service assigned a team of agents to investigate last April. According to the Secret Service report, the agents were inundated with complaints from Treasury employes assigned to handle the cases.

The employes alleged that other Treasury officials had deliberately hidden items in the backlog. The agents found a number of cases that should have been disposed of dating back to 1970. They also heard complaints that the Treasury operation was mismanaged, did not stand up to banks that refused to cooperate in efforts to track down fraud, and did not have accurate statistics on its operations.

MORAL COLOSSUS

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LUNGREN. Mr. Speaker, the starving people of Cambodia—who are staring at us from the pages of every magazine, every newspaper, and every news program—have been refused much in the way of access to U.S. food aid by the Government of Vietnam.

Backing the Vietnamese up in their refusals to let food into Indochina is the Soviet Union—from those borders

Vietnamese officials have steadfastly claimed that "No one is starving in Cambodia."

I find it ironic—to say the least—that the same Soviet Union which is preventing U.S. food from going to Cambodia is pressuring the United States to export 25 million tons of grain to themselves.

As Father Theodore Hesburgh has pointed out—there is a great moral disharmony here. How can we ship grain to the Soviets to improve their diets, when their foreign policy is one of the direct causes of the starvation and possible extinction of an entire race of people in Southeast Asia?

These are the same Soviets, of course, whose good faith we are asked to trust in the current bargaining over the SALT II agreements.

This moral disharmony has characterized the whole debate over the Vietnam war, and the genocide that followed our exit from that part of the world.

For too long in the press, and even in the Halls of this Congress, the United States has been suggested as the one responsible for the continuing problems in Southeast Asia. Yet the Pol Pot regime, the Vietnamese, and the Soviets—the true perpetrators and allies of this terrible policy—must be singled out for moral responsibility.

I would like to enter into the RECORD an article by R. Emmett Tyrrel, Jr., on this subject which appeared recently in the Washington Post.

It eloquently damns the moral blindness and lack of accountability which has let the real perpetrators of this genocide "off the hook."

[From the Washington Post, Nov. 5, 1979]

MORAL COLOSSUS

(By R. Emmett Tyrrell, Jr.)

We live in an age of political giants, which is fortunate. Rarely in world history has there been more exigent need for their services. Momentous issues are being decided in this world of ours, and it is in America that these issues are being articulated most eloquently and audaciously. Here the future of mankind is being formulated and fought for. The world looks on in awe.

Will men and women finally shake their shackles and realize their full personhood? Will American youth overcome the capitalist miasma and successfully seek out its sexuality? Can the junk-foods Camorra be thwarted? Will the subversive cigarette be banished? And what of the returnable bottle crusade? How about nude bathing, civil rights for animals and the solar campaign? Has it a chance? The struggle gains momentum and, as it is waged throughout the Great Republic, millions of the earth's inhabitants light little candles of idealism in their hearts and look on. America remains the moral showcase of mankind, and an incomparable generation of political messiahs performs within.

The Hon. Dick Clark is such a moral colossus. He became a senator in 1972, after walking the length and breadth of Iowa (700 miles all told), listening to the wails of the downtrodden and going through dozens of pairs of socks. There in the great chamber he distinguished himself, according to the Washington commentator, Tom Bethell, as a senator who took "the view that if there was anywhere in the world a Marxist dictator who felt like hollering abuse at the United States, then it was no doubt our fault and we should just curl up and apologize." Unfortunately, Clark lost his bid for for reelection in 1978, possibly because of a papal plot perpetuated on account of his abortion stand.

President Carter had heard of the Hon. Clark's violent humanitarianism, and he made him the administration's coordinator for refugee affairs with the rank of ambassador. On slow days, Ambassador Clark might be expected to issue a poem praising the president's marvels to the folks back in Iowa, but otherwise he was to coordinate Congress, the Justice Department and the State Department in the treatment of fleeing refugees.

What those refugees were fleeing from is a question that Ambassador Clark must have found perplexing. They were not fleeing from Chile or Argentina, and so for a time he could clear his mind of those dark visions of juntas and multinational corporations that have inspired so many of his sonorous oratories, nor were they streaming out of South Africa or Zimbabwe Rhodesia. These were Cambodians, Vietnamese and overseas Chinese. Why would they leave?

Could they be dragging their pitiful belongings across unfriendly roads and perilous seas to escape the fear of unexploded American bombs and the unhealthy conditions caused by American defolients? God knows that in our imperialist madness we recently did much to destroy the quality of life in their homelands. Could they be coming out of Vietnam and Cambodia to protest our soilages? If so, they carried no anti-American placards, and these denunciations were very pianissimo. Perhaps they were leaving in fear of impending right-wing coups or harassment from marauding bands of counterrevolutionaries armed with the residue of American military might. Yet these refugees were suffering from beatings, hunger, terror and ghastly diseases—curious conditions for the citizenry of a progressive regime. Possibly the CIA was again attempting to discredit Hanoi's forces of peace and freedom.

Nonetheless, Ambassador Clark put himself to the task of finding homes, food and medical care for these refugees. Still, their numbers continued to grow, and their conditions worsened. The thing was unusual. No pronunciamento intoned by an American pol seemed to do any good. Erratic waves of pathetic Southeast Asians kept popping up. They appeared in leaky ships in the South China Sea, and those who did not drown—about half—muttered feebly about having been beaten, robbed and raped. Furthermore, these atrocities were not committed by our Americal division, but by Third World cousins. Then along the Thai border the most pathetic refugees of all began appearing—mere skeletons, bearing tales of heretofore unimaginable cruelty. Some held dying babes in their arms. Some had shed loved ones in pitiful expiring heats along their terrible route. Broken and dying, they collapsed in hastily laid out camps just like that. They died by the thousands. None of the Third World rhetoricians at the United Nations did anything. Even Ambassador Andrew Young was relatively noiseless, and Jesse Jackson went off to condole Dr. Yasser Arafat.

Our American political giants relish moments of crisis, but this was too much. The numbers of refugees kept mounting. Their conditions kept growing more critical. Doctors in the refugee camps began talking in tones of panic, and no one could do anything. Finally some of the pols began talking about dropping thousands of tons of food into Cambodia as though there were hundreds of shopping centers and tidy towns over there where people would gather to collect their airborne victuals. But even this scheme was denied the pols. The sovereign governments of Vietnam and Cambodia would not allow such tampering with their internal affairs. And why should they? Has not the United States brought enough misery to these lands? Those who govern in Phnom Penh and Hanoi are reasonable men. They are progressives. They eliminate human misery; they do not cause it.

Thus it must have come as a relief to Ambassador Clark when at the end of October—just as some spoke of another huge Vietnamese invasion of Cambodia—a Mr. Pen Sovan issued his statement. Sovan is the distinguished defense minister of Cambodia's Vietnamese-sponsored government, and from Moscow he declared that "I can say with a full sense of responsibility that no one is starving in our country." Well thank God for that!

And so on Oct. 30 Ambassador Clark quit his post. He would take the struggle for a better world to other parts, to Iowa. There Camelot II was in trouble. People needed him. He had heard the call from Hyannisport. And so off to the Midwest ex-ambassador Clark did go, and in Washington the office of our coordinator for refugee affairs was left empty.

IRANIAN OUTRAGE

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COUGHLIN. Mr. Speaker, I rise today to denounce the well-publicized actions of the mobs in Iran and Iranian sympathizers here in the hostage-seizing outrage in which one of my constituents may be a captive.

The Shah, a man suffering from and perhaps dying of cancer, has been admitted to the United States in a humanitarian gesture. He no longer governs Iran, and the actions of mobs here and in Tehran display little more than a lust for blood.

I congratulate the administration on its flat and uncompromising denial to surrender the Shah in the face of this hysterical and unlawful demand to accede to the pressures of Iranian mobs.

It should not be lost on the Government of Iran that international affairs are not conducted this way.

It should not be lost on the Government of Iran that U.S. officials recognize that a nation is responsible for maintaining control over its people and its students.

It should not be lost on Iranian students and sympathizers that there are more Iranian nationals in the United States than there are Americans in Iran.

The latest figures available to me indicate some 50,000 Iranian students are here—the largest group from any foreign country—and an additional 36,000 Iranians are here on other visas. Both groups are here as our guests. Many are living off the largesse and benefits of our Nation and its economy.

More important, they are enjoying—and many are abusing—the constitutional guarantees of the U.S. Government. These protections were accorded them even when the Shah was governing Iran. These protections are not accorded American citizens or news media representatives in Iran.

In recent months, and with increased frequency, oil is being talked about as a weapon, the threat of withdrawal of which can be a sword placed against our throat to force us to compromise any

principle and now to abandon any person. Let us make it clear that oil is not the ultimate weapon some may think it to be.

And, finally, it should not be lost on the Government of the United States that the American people expect and demand that it faithfully execute the law of the land and exert every means at its disposal to insure the safety of the hostages and to demonstrate unequivocally that pusilanimity in the face of pressure can never be the policy of an American President or administration.

AND NOW THE IMPERIAL FIRST LADY

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, it is becoming increasingly obvious that the open Presidency and the cost cuts promised by Mr. Carter when he was running for the White House in 1976 were pure bunk. Since coming to office in 1977 he has expanded his own staff far beyond the bounds of either Mr. Nixon or Mr. Ford. The White House has once again become a fortress to keep the American public in the dark about Presidential actions, save for well orchestrated media extravaganzas. This week I have learned that the Carter imperial Presidency has now evolved to its logical extreme. We now not only have a man who would be king in Jimmy, but a First Lady who wants to be queen in Rosalynn Carter.

Over the weekend the Washington Post reported that the First Lady has expanded her royal household to a mammoth 21-person staff with a $650,000 annual budget. This is almost as large as Vice President MONDALE's staff of 26. It is larger than the staffs of the White House Counsel's Office and the White House Public Liaison Office. The salaries are also of imperial proportions. Kit Dobelle, Mrs. Carter's chief of staff, makes $56,000, as much as National Security Adviser Zbigniew Brzezinski. Her press aide, Mary Hoyt, makes $47,500 and her personal assistant, Madeline MacBean, makes $45,175.

I must ask what the First Lady does that warrants two staff directors, three personal assistants, four press secretaries, two project directors, a researcher, a scheduler, and a corps of advance personnel? I also wonder how Mrs. Ford, considered by many to be one of the most activist First Ladies in recent history, was able to get by with only 12 staffers when Mrs. Carter needs 21. According to Faith Collins, Mrs. Carter's deputy press secretary, such questions are not in the public domain. In fact, any information requests about the First Lady's staff are turned down as they are exempted from the Freedom of Information Act. Ms. Collins takes the issue further, however, by stating, "This is not something we feel should be given out. It's just something personal."

I think the American taxpayers would differ with Ms. Collins' view. It is very much the public's business to see how $650,000 of their money is being spent. Especially when they see Mrs. Carter on the campaign stump for her husband every day of the week.

We are watching a new form of public financing of Presidential elections. Every administration has stretched the perks of incumbency into the campaign realm. But all previous Presidents and First Ladies were amateurs compared to the way the Carters have exploited the taxpayers. For all their talk of being down home folks with no pretentions they have brought a new era of free spending and living off the largesse of the American people to the Oval Office. The voters have every right to demand that this use of their money be stopped and that the Carters start living up to their rhetoric or get out of the White House. We should start drawing the line now on tax-subsidized campaigning and royal trappings or we might have to foot an even larger bill if the jet-setting and spendthrift dynasty from Hyannis Port moves into town.

GENERAL LEAVE

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks on the subject of the special order today of the gentleman from New Jersey (Mr. RODINO).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

TRIBUTE TO THE LATE MRS. MAMIE DOUD EISENHOWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GOODLING) is recognized for 60 minutes.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the subject of my special order today, the late Mamie Doud Eisenhower.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Speaker, on Monday of this week I joined with many others at the Fort Myer Chapel to say farewell to a great lady, Mamie Doud Eisenhower. Present among many distinguished guests were Mrs. Carter, our present First Lady, Mrs. Nixon, a former First Lady, and Lynda Robb, the daughter of yet another living First Lady. I found myself asking, and answering, questions about what made Mamie so special. How was she the same, and how was she different from other First Ladies? The answer that kept coming back to me included words such as "gracious," "kind," "unselfish." But I think as the service continued, Dr. Elston, the Senate Chaplain, probably answered my questions best of all when he said:

> Long before she was officially America's First Lady, she was first, last, and always a lady—warm, vibrant, high-spirited, radiant, sensitive, courteous, full of good humor, and quick in repartee.

Mamie Eisenhower provided the tone for the White House, and gave credence to the belief that behind every successful man there stands a woman.

Although I met Mamie and Ike on numerous occasions when my father was a Congressman, I really got to know Mamie quite well during the last 3 years. On two occasions she very graciously offered me the use of the grounds around the house at Gettysburg for a statewide picnic. People came to those picnics from many miles around and from all walks of life. I think they came primarily to have a few moments with Mamie. She did not fail them. She came to both picnics and spent a considerable amount of time talking with her fellow Americans.

I will never forget the last picnic. We sang "America, The Beautiful." Tears came to Mamie's eyes, and when we finished she spoke to all those gathered. She reminded us that America is so beautiful. She indicated that her life was that of a general's wife, and a President's wife. She traveled all over the world, and her trips in other countries always reminded her just how beautiful America is, and she hoped that we would never take America for granted.

So many Americans recognized that Mamie was somebody special. She was chosen as the Woman of the Year in 1953, as the Heart of the Year by the American Heart Association in 1960, and again as the Woman of the Year in 1972. For three decades the Gallup Poll has been asking the American public for a list of the most admired women. They are asked to make their choice without the aid of a list of names. For most of the years between 1953 and 1978, Mamie Eisenhower was named among the top 10, even though in the later years she had withdrawn from public life.

She was extremely pleased to be remembered as a helpmate; always supportive, but never seeking recognition for herself. For 53 years she stood beside Second Lieutenant Ike, General Ike, and President Ike. Her family was her life, but in spite of this one of Mamie's most remarkable qualities was her courage. This was pointed out to me by her long-time secretary, Ethel Wetzel of Adams County, Pa. In conversation recently, Ethel said that even though Mamie devoted her entire life to Ike, she had the courage and determination to carry on after his death.

So many other people who have wrapped their lives around one person have been totally lost when that person was called away. Mamie loved people, particularly young people. She always wanted to meet with Girl Scouts and Boy Scouts who wanted to see her. In my conversations with her, she always spoke of her family—her love for and interest in them, particularly her grandchildren, including David and his wife Julie.

When the Eisenhowers finally had an opportunity to purchase their first home, we in the 19th District were honored to have them choose the Gettysburg area. We were pleased that Ike had a few years to enjoy his beautiful Adams County

farm, and that Mamie was able to share her life with those of us in the 19th District for 10 years after his death.

Whenever her health would permit, Mamie was always willing to participate in worthwhile events in my district. Again, she always appeared with that twinkle in her eye and warmth in her smile and her voice. Yes, Mamie Doud Eisenhower was a very special First Lady. All Americans and particularly those of us in the 19th District and in the Gettysburg area are pleased that we could share some moments of her wonderful life. We are all better because we had that opportunity.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I thank my good friend, the gentleman from Pennsylvania, for yielding.

Mr. Speaker, I join my colleagues in the House in paying special tribute to a truly grand lady, Mamie Doud Eisenhower. Having known her for 27 years, my wife and I are deeply grieved by her passing. When Betty and I talk about "the President and his wife" we still mean Ike and Mamie. I feel a special kinship with her because I entered Congress about the same time she entered the White House. As First Lady, she was always warm and gracious, and an outstanding helpmate to Ike.

Mamie was a shining symbol of the adaptability of American service wives. She followed the career of Dwight Eisenhower as he advanced through the ranks, and served in posts throughout the world. She made 38 household moves during this time, certainly a test of resolve and character. As First Lady she shunned the limelight, but was a most efficient overseer of the complicated social scene at the White House.

She never lost her love for the simple life, and I am pleased that she had so many good years at the farm in Gettysburg that she and Ike loved so much.

Mamie Eisenhower will always be cherished by many Americans who appreciated the charm and grace she displayed during her 8 years at the White House.

Her life, no less than Ike's, was dedicated to the service of this Nation. We all are saddened by her passing, and grateful for the years she spent among us.

Mr. GOODLING. Mr. Speaker, I now yield to my colleague and neighbor, the gentlewoman from Maryland (Mrs. BYRON).

Mrs. BYRON. Mr. Speaker, I rise today in respect, and a very personal respect, because as most of us know, Mamie and Ike transcended political lines. One cannot be so sure that at one point in life they might not have come over to the other side of the aisle.

Mr. Speaker, I would like to say, as a small child, an 8 year old, I had a very personal experience with Mamie because most of us have known the Eisenhowers for years and this country has known them for years and it was never General and Mrs. Eisenhower, it was always Mamie and Ike. Yet, in 1941 when the general was stationed in England my father was then vice president of CBS in Washington and was asked by the general to be his naval aide. At that time, as is so often the case in the military, the first thought is of the wives and the children. As it turned out, I moved into the Wardman Park with my mother and Mamie in an apartment which we shared for 3 years. I feel I had a very personal knowledge. Yet, I was privileged to visit them when they moved from the Wardman Park later on to Quarters 1 at Ft. Meyer and when they lived outside of Paris at Marne La Coquette, when they moved to Morningside Heights at Columbia University, and the White House where they spent 8 years in Washington and further when they first moved to their home in Gettysburg.

□ 1900

I feel that it is only fitting that I as a Member of this body and a very close personal friend today stand and rise with my respects to a woman who has shown this country by her warmth and her charm what meaning it is to be the first lady.

I might say that it always amazed my husband, Goodloe, when he would go to his mother-in-law's during the period when Mamie was first lady and the front door would be open to his knock or when he would ring the bell and in that charming and friendly way with a big smile she would say, "Hi, Goodloe, come on it."

This to me typifies Mamie. It did not make any difference whether she was First Lady, the doorbell rang and she was the one that was closest to the door.

I think we can always take a page from her book, that there was no one too large or too small to take time, to smile or say a few kind words.

So I rise in her memory and I extend my condolences to her family.

Mr. GOODLING. Mr. Speaker, I thank the gentlewoman for that very personal remembrance.

Mr. Speaker, I now yield to the gentleman from Pennsylvania (Mr. WALKER), another good neighbor.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding and I thank the gentleman for giving me the opportunity to join with him in paying tribute to Mamie Eisenhower.

Mr. Speaker, in her last public interview, Mamie Eisenhower said she would like to be remembered "just as a good friend." And a good friend she was to her husband, to their son, their grandchildren, great-grandchildren and to the people of this Nation. To her family she gave her love and her support. To the Nation she devoted her time and energy. As First Lady and as an individual Mamie represented the things that are the foundation of our American ideals—her home, her family and her neighbors, which knew no geographic boundaries. To Mamie, everyone was a neighbor and a friend. Her warm smile and open heart will long be remembered and deeply missed.

Mr. GOODLING. Mr. Speaker, I am very pleased for those who have spoken on the floor this afternoon, as well as the many people who have written some remembrances of Mamie.

Mr. Speaker, I am now very pleased to yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and for arranging this special order as a tribute to a wonderful lady and a good friend.

Mr. Speaker, a gracious lady has passed from our midst during the night. Mamie Eisenhower, America's First Lady during the two terms her late husband served in the White House is now gone, but will not soon be forgotten.

She was kind, gentle, and imaginative * * * a perfect complement to her husband Dwight D. Eisenhower, one of our Nation's great heroes.

Mamie Eisenhower would have made her mark on America even if in 1916 she did not marry a young 2d lieutenant who had gained quite a reputation as a football player on the gridiron at West Point. Mrs. Eisenhower made friends everywhere she went. And as the bride of a young Army officer, his assignments took them throughout the United States and Asia.

The public's first exposure to Mrs. Eisenhower came during the Presidential campaign in 1952. Mamie's sincerity, wholesomeness, and kind manner were qualities that certainly aided her husband's bid to become the Chief Executive. She gained a reputation for delighting audiences throughout America.

This past August I had the pleasure to view a television special on Mamie in which she showed her great sense of humor and her deep love for her departed husband.

"I love to laugh," she said in that interview. "I'm 19 in mind, but unfortunately I'm 83 in my body."

She was also asked how she remembered Ike. She responded by saying she recalled and greatly missed his "honesty, his integrity, and his admiration for mankind."

When asked how she hoped she will be remembered, our First Lady responded: "I hope Americans will think of me as a good friend."

I vividly recall the first time I had the honor to meet Mrs. Eisenhower, at a West Point dedication several years ago when she so warmly talked about her grandson David with my son David. Then, a few years later, we met again at my son Jonathan's graduation from Eisenhower College in Seneca Falls, N.Y., an institution she helped to nurture. Mamie Eisenhower has made a mark on American history that few First Ladies will duplicate.

We have lost a "Good Friend."

Ms. FERRARO. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I would be delighted to yield to the gentlewoman from New York.

Ms. FERRARO. Mr. Speaker, I would like to commend the gentleman for taking this special order.

I must say, I did not know Mrs. Eisenhower, but truly share the loss that this

entire Nation must feel on her death. I consider her a very Republican lady whom this Democrat truly admired very, very much.

Mr. Speaker, I am happy to have this opportunity to join my colleagues in noting the loss of a great lady, and expressing my personal sorrow at the passing of Mrs. Dwight D. Eisenhower—Mamie. It is a loss that the entire country feels, a loss which could not go unnoticed.

We have all heard of Mrs. Eisenhower's skills as a hostess at the White House, her enthusiastic reception for guests of all kinds. During the Eisenhower administration she was a loving companion to the President, showing a loyalty to her husband, and her country.

Although Mrs. Eisenhower's life was not an easy one, she never allowed the difficult times to break her spirit. This is a quality which one must respect, a quality which caused people to warm to Mrs. Eisenhower immediately.

I am sorry I never got to meet Mamie Eisenhower. She represents a spirit of kindness mingled with determination which is rare today. She is a Republican lady whom this Democrat truly admired.

I would like to add my deepest sympathy to the members of the Eisenhower family. I am sure this is a very difficult time for them, but I am sure it is a comfort to know of the love and respect the people of this country felt for Mrs. Eisenhower.

Mr. GOODLING. Mr. Speaker, I thank the gentlewoman for those warm remarks.

● Mr. McDADE. Mr. Speaker, the Congress has set aside time today to honor a special woman, Mamie Eisenhower, who passed away November 1.

Mrs. Eisenhower was the epitom of womanhood, with her gracious and feminine manner, while embodying the best qualities of humanity—strength, courage, dignity and a compassion for her fellow man.

As First Lady, her warm and friendly ways gained her, and our country, the respect of the world. She brought to the White House solid American values learned during her childhood in the Midwest. She truly portrayed the good qualities that we all strive to achieve.

During her years with the President, despite numerous moves in the course of his career, she remained a loving, devoted, and steadfast companion. She was a source of strength to her husband and her family.

Mamie, as we all came to know her, will be sorely missed by all of us. Despite her quiet ways, she made a lasting impression on the world. Her passing is a loss to all Americans.●

● Mr. LEE. Mr. Speaker, I take great pleasure in joining with my colleagues today with remarks about the late Mamie Eisenhower, a First Lady whose memory will be with us for many years.

While we were saddened last week to learn of Mrs. Eisenhower's death, she has left us with a legacy which overshadows the actual length of time which we had to enjoy her company. In my congressional district in upstate New York, Mrs. Eisenhower became a friend and neighbor, a working resource for countless historians and collegians at the institution of learning named after Mrs. Eisenhower's husband, the President.

From its planning stages, through dedication, and well into these first years of life for Eisenhower College in Seneca Falls, the former First Lady was always willing to take part and help. She became a familiar sight, though plagued by advancing age and illnesses.

Mr. Speaker, it is ironic that a woman so totally dedicated to her husband, his work and his image should herself grow to represent something so individual. She was a sprightly, straightforward woman cast in a mold which seems not to have been used again after her. She did not try to carve a niche for herself nor upstage the Presidency, yet always managed to gain high recognition with grace, charm and confidence.

I believe that many of us from the Finger Lakes region of New York State will feel this passing more keenly than those who did not have the opportunity to meet and know this great American woman.

I feel that we have lost a gracious neighbor and friend; America has lost an important individual. On behalf of my family and each of my constituents, I offer sympathy to Mrs. Eisenhower's family and I offer the celebration of thanks for our having had the chance to know her.●

● Mr. JOHNSON of California. Mr. Speaker, we pause today to pay our respects to the memory of Mamie Eisenhower, our former First Lady who is already well-established in the history books.

In 1959, when I came to Washington to begin service in the House of Representatives, President and Mrs. Eisenhower were in the White House, of course. It was another time in history, as we are so well aware.

Mrs. Eisenhower will always be remembered by my wife and me—and, I believe, by the Nation—with respect and affection. She accepted the responsibilities that came during the course of President Eisenhower's long and distinguished career, and she handled them gracefully and well. One reflects that President and Mrs. Eisenhower were able to retain a quiet, private center in their lives, and one realizes that Mamie had a great deal to do with that.

I am pleased to join with my colleagues today in honoring the memory of Mamie Eisenhower.●

● Mr. OBERSTAR. Mr. Speaker, she wanted to be remembered as "a good friend" to the Nation. It was a modest request, characteristic of the gracious lady who served beside her husband during the 8 years of the Eisenhower Presidency.

Mrs. Eisenhower did not seek the public spotlight, but accepted it with dignity. We should not underestimate the contributions to the Nation of this grand woman.

A woman of character and of decency, she provided an example of adherence to principle. In an age where the past is questioned and disregarded, and the vision of the future unclear, she remained a beacon of constancy and of fortitude.

She will be missed.●

● Mr. DERWINSKI. Mr. Speaker, I am glad to have this opportunity to join with my colleagues today in paying tribute to a very great woman, a woman whose name will remain in our hearts and memories as a true friend and a gracious First Lady. Mamie Doud Eisenhower's life of goodness, kindness, and compassion will be a continuing inspiration.

Her warmth and integrity were qualities valued by all Americans and by people all over the world. She was not only a loyal companion of an outstanding military leader and a great President, she was a great human being in her own right.

As our First Lady, Mamie Eisenhower worked tirelessly, quietly, and diligently to best represent our country here and abroad. President Eisenhower regarded his wife not only as his helpmate, but as his teammate. Ever present was her air of basic kindness, sympathy, and wisdom which won for Mamie Eisenhower the love and admiration of all who came to know her.

Mrs. Eisenhower, of course, was first and foremost, a wife and a mother. That she was also the wife of a public official and for 8 years, the First Lady of the Land, might well have occupied her to the exclusion of any other activities. She was always involved in noble undertakings. She was joyous when she and her husband retired to "Mamie's Dream House," the Gettysburg farm, after Ike completed his second term of office. It was there that she lived until the gradual onset of ill health forced her to hospital care.

Mamie Eisenhower proved the power and resilience of a calm, unruffled spirit, and the value of that simple human quality—kindness. She will always be remembered as a wise, selfless, and gallant lady.

Mrs. Derwinski joins with me in extending our heartfelt sympathies to her son, John, her four grandchildren, and four great-grandchildren and to her sister, Mrs. George G. Moore. Her memory will never pass from our recollections.●

● Mr. McCLORY. Mr. Speaker, America lost a noble former First Lady this week in the passing of Mamie Doud Eisenhower. I know that I speak for all of my colleagues in extending our sympathies to the Eisenhower family. All of us mourn Mrs. Eisenhower's death.

I enjoyed the privilege of meeting Mrs. Eisenhower and her husband, the late President. Indeed, it has been my good fortune to meet many members of the illustrious Eisenhower family, including Mamie's son, our former Ambassador to Belgium, John S. D. Eisenhower, during the time he served as America's emissary to that country. Further, during World War II, while John and Barbara were stationed at Fort Sheridan, Ill., my niece had occasion to be their babysitter. During this time, she looked after Mamie's grandson, David Eisenhower, who is now married to a special lady from another famous American family—Julie Nixon Eisenhower.

Anyone who knew Mamie Eisenhower

quickly observed her exceptional qualities and her unflagging devotion to her husband. Few realized the extent of her contribution to the Eisenhower family's public service to America.

Mamie Eisenhower was a strong but gentle person—a member of an exemplary family—a family in which all Americans can justifiably take pride.

It is a privilege to pay tribute to one of the great women of our Nation—Mamie Doud Eisenhower—and to extend respect and sympathy to her son, John, and to all members of her family.●

● Mr. PEPPER. Mr. Speaker, I would like to join with several of my colleagues in paying tribute to Mamie Doud Eisenhower. It was with deepest regret and great sadness that I learned last week of her passing away at Walter Reed Army Medical Center here in Washington. I offer my condolences to the family of this remarkable woman whose quiet, unshakable dignity inspired the love and affection of America.

Mamie Eisenhower embodied those staunch qualities of strength and loyalty which enabled her to aid her husband in serving his country with great devotion, first in war and then in peace. When in the Senate, I remember following the heroic efforts of General Eisenhower as Supreme Allied Commander of the European theater during World War II, when he led our forces to victory. Even when separated by an ocean, Mamie gave the general the support and determination he needed to see America victorious. Later, as First Lady, Mamie Eisenhower stood by the President always, particularly sustaining him throughout illnesses he suffered at this time. As I have learned from personal experience with Mildred, my wife of over 40 years, the support Mamie Eisenhower gave to her husband was of tremendous value and a genuine, longstanding contribution to public service.

Mamie Eisenhower also ran her White House staff with the same military precision her husband was noted for. Her White House was always known as an efficient, yet warm, household.

Perhaps the greatest tribute to Mrs. Eisenhower is that she was absolutely comfortable with herself and with what she did. One needed only to meet her once to become aware of the confidence she had in herself and in her husband. Her love and devotion to her family served as an example to all and it is for this, Mr. Speaker, that the loss of Mamie Doud Eisenhower shall be most felt.●

● Mr. QUILLEN. Mr. Speaker, the passing of our former First Lady, Mrs. Mamie Doud Eisenhower is a great loss to this country, and I would like to join my colleagues in paying tribute to her memory.

Mrs. Eisenhower contributed a great deal to this country as our First Lady and was a great helpmate to President Eisenhower, who preceded her in death. She was a loving wife and mother, a gracious hostess, and a dedicated and active First Lady. Mrs. Eisenhower exemplified many of the qualities on which this country prides itself—she was a wonderful person who will be long remembered and greatly missed.

As an Army wife, Mrs. Eisenhower's life was often difficult and lonely, but she met adversity with strength and courage and was always supportive of her husband and family.

My wife joins me in extending our deepest sympathy to her family on their great loss.●

● Mr. SEBELIUS. Mr. Speaker, I wish to join my colleagues in paying tribute to a truly great First Lady, Mamie Eisenhower. Although Mamie was not a Kansan, she holds a special place in the hearts of Kansans by being the wife and helpmate of our favorite son, President Dwight David Eisenhower. But today, I wish to honor her, not for being the wife of a President, but for being the very special person she was.

The words that flash through my mind when I think of Mamie Eisenhower are dignity, courage, and loyalty. Those are the qualities that Mamie personified.

One of my strongest memories of Mamie Eisenhower was that of the General's Lady during World War II. Mamie was the symbol of the soldier's wife, enduring the trials of separation, shortages, and rearing her family alone during those difficult times. She was a personal inspiration to the families of millions of servicemen.

Later, being the wife of a President, Mamie became even more of a public figure and although she was a very private person, it was a role she mastered with a charm and grace that few can equal. When she made the White House her home, everything she did reflected her personality and we felt as though we had an old friend in residence. We felt the warmth she radiated and we all thought we knew her, not just as the First Lady, but as Mamie, a woman proud of her husband, her family and her country.

I suspect most of us would have the same feelings about her if she had never lived in the White House. But because she was the wife of our President she shared many more of her years with us and for that we are grateful. Ike and Mamie have honored Kansas as choosing it as their final resting place and as they have honored us, we will honor their memories.

I know that I speak for all Americans and especially those from Kansas when I extend our sympathies to Mamie's family and friends and I would like to leave one last thought with them—Mamie did not just become First Lady when Ike was elected to the Presidency, for many Americans Mamie had been a real First Lady for a very long time.●

● Mr. McEWEN. Mr. Speaker, we join today in paying tribute to a great American, Mamie Doud Eisenhower. While we are privileged to praise her here in the Nation's Capital, the sense of loss and remorse, felt by millions of Americans who have come to love Mamie, is a far greater tribute than we can hope to express.●

● Mr. DUNCAN of Oregon. Mr. Speaker, I take this opportunity to join with my colleagues in paying a special tribute to our former First Lady, Mamie Eisenhower. We shall feel the loss of this great lady, whose dedication to her husband and country was only superseded by the grace and warmth which has touched so many.

Her graciousness as the country's First Lady was always evident and she was consequently respected by citizens not only of our great Nation, but of all nations of the world. She will always be remembered as a loving wife and mother, a superb hostess, and an able helpmate to her husband.●

● Mr. ABDNOR. Mr. Speaker, in a recent television interview, Mamie Eisenhower was asked how she would like to be remembered.

After a pause, she replied: "Just a friend."

Even those of us who were not privileged to know her well felt she was a friend. Her obvious warmth, her dignity, her dedication, her grace bespoke friendship and loyalty—qualities that we tend to neglect in our hectic lives.

Those of us from the heartland of America—the Plains States—have a special affection and regard for the Eisenhowers. They were from our midst and they came to represent what was good about our country all over the world.

In yesterday's Washington Post, Nick Thimmesch commented that the Eisenhowers were "like people you know."

Indeed they were. And, Mr. Speaker, I would like to share the rest of Mr. Thimmesch's warm remembrance of Mamie Eisenhower with my colleagues.

I Remember Mamie

(By Nick Thimmesch)

Mamie Eisenhower was worth listening to. The trouble was that, when Ike was alive, she was careful not to talk publicly too often and, after he died, few of us tried to find out what she had to say. Her health was often frail, but she had strong will and had thought life through.

I spent a day with her in the Bicentennial summer when she made a rare public appearance by riding on the Freedom Train from Gettysburg to York, Pa. I had never met her, and my recollections were that she was Ike's smiling, attractive partner, bland of remark, the proper Republican woman. I was to learn something.

The Freedom Train crawled across the countryside, so Mamie had time to see the clusters of people in fields and in small towns. They waved and their mouths formed the word "Mamie," causing her to beam.

"It makes your heart warm," she said. "I am fortunate, because most widows are forgotten."

Ike was her life, and everybody asked about their years together. "When people remark how close I was to him, well, of course we were close," she said. "But you never really know a person; you only understand them. Nobody knows anybody else's inner thoughts."

She saw Ike as the head of the house, as the man who deserved to come home to her and dinner and a pleasant evening with no heavy discussion of the military or the presidency or politics. She had a keen sense of divided responsibilities; his was work and hers was home and hearth.

When he asked, "What should I do about this situation?" she usually turned the question away. And if he ventured toward her territory, he was in trouble. When Ike sent a memo to a White House staffer about manus, Mamie countermanded the order.

She believed in the old values. For instance, children should be given leeway to find themselves, but not before age 30.

"There is too much leniency with children today," she said firmly, "and too much freedom in their dress, especially in church." She was glad that her son John phoned her every week, but she wasn't sure that most mothers got such calls. And she wondered about the feminists. "I don't know about this Ms. business," Mamie told me. "God made you to have children. I feel sorry for people who don't."

She didn't like the way the country was going, either. "We emphasize money too much," she said. "There is no aristocracy in America, only people who are money crazy. We've lost the art of doing a good job. There's no competition these days. Clerks don't want to wait on you.

"I was taught to pay for everything," she said. Nowadays people think about what they can get out of paying for. I was taught to save money and then spend it. I'm still wearing the same clothes I had when we were in the White House. I took care of them."

Though she defended the old-fashioned way, Mamie said she wouldn't give advice to the new generation. "What worked for Ike and me might not work today," she said.

Mamie never claimed she was Ike's quiet strength, but his friends knew she was. Her speech was Midwest-accented, and she seemed to epitomize sweet domesticity. But Mamie came from a sophisticated, wealthy family and knew the way of the world. Farmer boy Eisenhower did not.

"It would have been *Colonel* Dwight David Eisenhower if it weren't for Mamie," Kevin McCann, Eisenhower's speechwriter, once told me. "In their early years, Mamie was a broadening influence."

In her declining years, she was increasingly alone. Sgt. John and Dolores Moaney, the black couple who worked for Ike and Mamie for many years, retired. She tried to cook her own meals and wound up mostly with TV dinners. She saw fewer visitors. Friends persuaded her to take an apartment in Washington, but she only spent a few weeks in it each winter. Out of respect for Ike, she felt a duty to stay at the farm.

"I miss him terribly," she said. "I come down to the porch and remember how he would paint and I would sit and play solitaire. We didn't say a word, but we were together. It was companionship. I had to steel myself to being lonely many times when he was gone—he was away three years once [World War II]. But it was so hard to steel myself when he was really gone."

Nowadays, wives of public men like Mamie seem out of fashion. But in their time there was no more popular couple than the Eisenhowers. Tom Stephens, Eisenhower's White House appointments secretary, once told me why. "Ike and Mamie," he said. "They're like people you know." ●

● Mr. BOLAND. Mr. Speaker, with the death of Mamie Eisenhower, the people of America lost one of their most beloved first ladies.

For over 50 years, in time of war and in time of peace, Mrs. Eisenhower shared her husband's commitment to service to the Nation. As a soldier's wife, and later as the wife of a President, Mamie Eisenhower was called upon to make innumerable personal sacrifices to the demands of that service. While never seeking the limelight, Mrs. Eisenhower discharged her public duties with uncommon graciousness. She viewed her family as her first and greatest responsibility and made it her life's work. President Eisenhower was the first to acknowledge the contribution that Mamie had made to his life and to his career. She was a symbol to millions of Americans of a quieter, more settled era. It is an era that many people long for in our current troubled, turbulent times.

Mr. Speaker, columnist Garry Wills recently described Mamie Eisenhower as "one reason Eisenhower himself remained quintessentially American." That is a fitting tribute and one which Mrs. Eisenhower would certainly have appreciated.

I would like to insert, at this point in the RECORD, Mr. Wills' column, "A Fond Goodbye to Mamie—Ike."

A FOND GOODBYE TO MAMIE—IKE

(By Garry Wills)

WASHINGTON.—It is not mere nostalgia that makes Mamie Eisenhower's death seem like the end of an older, in some ways simpler, in some ways nobler America.

She was an Army wife, moving around for years, raising children from one base assignment to another—Fort Oglethorpe, Camp Meade, (where they lost one boy to scarlet fever), Panama (with their infant son John), the Philippines, Fort Sam Houston; the mere names a kind of patriotic litany of large continual disruption and small nuisances.

Eisenhower, an old-fashioned patriot, made the only apology he could for the hardships of that life, telling Mamie:

"COUNTRY COMES FIRST"

"My country comes first and always will; you come second."—It might have been a selfish creed if she did not share it.

She was serving her country, too, as much at obscure Army posts as later in the White House. She took her smalltown America with her to hostile exotic places, like Manila and the District of Columbia. She was one reason Eisenhower himself remained quintessentially American, not flashy but deracinated in the MacArthur manner.

OLD-FASHIONED PATRIOTISM

Eisenhower's hominess was used against him, as if it were a sign of shallowness, not depth. But the old-fashioned patriotism, the basic decency, went hand in hand with shrewd judgment of men and management of affairs.

Honesty is not often the best policy—but it is, if real honesty is paradoxically combined with a Machiavellian view on honesty's uses.

Eisenhower was sure of himself in ways that involved no defensive boasting (like that of Harry Truman making up non-existent confrontations with both MacArthur and Eisenhower).

IKE'S PRESS CONFERENCES

Ike was the first president to submit to unedited press conferences live on television. Some made fun of the extempore grammar that resulted, but he spoke convincingly to the people.

When John F. Kennedy became the second president to speak without editing, readers of the transcripts found that most oral discourse has a shorthand, telegraphic grammar.

MEDICAL RECORDS

When Ike had his heart attack, the medical records were entirely open to the public—to the point where he was mocked, again, for trying to interest the nation in his personal hygiene.

But Woodrow Wilson and Franklin Roosevelt had covered up their deep medical problems by expensive manipulation of the press. Eisenhower knew that a general's health and sobriety cannot be left in doubt, to his officers or his men, when battle might impend.

AN OPEN PRESIDENCY

In a clear age of rapid communication, he accepted the discipline of exposure. He ran the most open presidency of modern times.

Even if later presidents wanted to abandon his press conference policy, or health reports, they could only hedge on the matter, not renounce Eisenhower's aims (as Lyndon Johnson hedged with his health problems—flashing a scar to hide a more troubling diagnosis).

Even the recently revealed tapes made in the Eisenhower Oval Office will not show us an ignoble secret side—as Nixon's tapes do.

GOOD IMAGE ON TAPES

If anything, Eisenhower comes off better in the tapes than in public—maneuvering to avoid any meeting or sign of reconciliation with Joseph McCarthy, warning Nixon not to play demagogue on the Communist issue, trying to groom young talent in the Republican Party (his list of promising candidates significantly excluded Nixon).

There was more to Eisenhower than met most people's eyes—and that more was intimately connected with his long and happy life as Mamie's husband.

It was a good marriage. They raised a good son. Ike was a good president. Mamie was a good woman.

They stand for a time when the word "good," too, meant more than it seems to mean now. It is a smaller, a shrunken "good" that we have to use in telling them, "Goodbye."●

● Mr. ZABLOCKI. Mr. Speaker, Mamie Eisenhower had a great inner strength and serenity which supported her through the difficulties of life. She had graciousness and charm which endeared her to millions of Americans. She had a love of husband and of family which never wavered despite her rise in the public eye to the pinnacle of being First Lady of the land.

The fact that Mamie avoided the limelight and was content that all prominence be focused on her husband makes it difficult to cite in detail the activities which she undertook as the wife of a national leader. But it was plain to all who knew her that her strength and love were vital to the success story of Gen. Dwight D. Eisenhower. She, along with Ike, deserve credit for every accolade and honor bestowed upon him in his career following their marriage during World War I when he was a first lieutenant.

Mamie doubtless would appreciate at this time a tribute also to all wives of servicemen who are so staunch and devoted in helping their husbands and families. I am pleased to join in this tribute.●

● Mr. ANDERSON of Illinois. Mr. Speaker, I arrived in Congress during the dawning of the "Age of Camelot." The media and the public celebrated the verve of the new administration, and the new First Lady, Mrs. Kennedy, symbolized the style and vogue of those years. To some observers, the former First Lady, Mamie Eisenhower, may have been less glamorous by comparison, but she, too, shone in a special light. Mrs. Eisenhower was loved by Americans because she embodied many of the traits we find most admirable.

Mamie. The name was a household word of the best kind. Her dignity and quiet grace warmed our hearts, and her character and resolve bolstered her husband through the stiffest challenges he faced as a general and as a President and we faced as a nation. Today, whenever more attention focuses on the activities of our First Ladies, I think of the sacrifices Mamie made to her Nation in

times of war and peace without seeking title, without seeking fame, without seeking recognition.

Mamie reportedly once said that she wanted to be remembered "only as a friend." Indeed, she was: the Nation's First Friend. And, even though she slipped away quietly the other day, she will never vanish from our hearts or from our memories.●

● Mr. STANGELAND. Mr. Speaker, the death of Mamie Eisenhower truly saddens the hearts of all Americans. This great lady blessed this great Nation throughout her life by displaying a perfect and well respected example of kindness and human decency. Her personality brought warmth and comfort into the lives of millions of people and, like her husband, she will be missed, but memories of this First Lady will last forever.●

● Mr. CONTE. Mr. Speaker, it is with a sad heart but a great sense of honor that I submit my remarks on the passing of former First Lady Mamie Doud Eisenhower. The sadness stems from the sense of loss felt at the death of such a strong but gracious lady, and the honor from the gratitude felt in having been able to share a small part of her warmth and love evident in her public life.

Through wartime and peacetime, Mamie Eisenhower's smile and pleasant manner were her trademarks and true signs of her inner strength; a strength that went beyond the walls of the White House to constitute a public image of unflinching concern and composure in the face of the heavy demands placed on her by her husband, her party, and her country.

Mrs. Eisenhower once stated in an interview that if there were any one way in which she preferred to be remembered, it would be as "just a good friend." This is how we should remember this great lady—as a good friend who always placed others ahead of herself.●

● Mr. CARTER. Mr. Speaker, I am pleased that we are being given this opportunity to pay our respects to a great American, Mamie Eisenhower.

Mamie Eisenhower was our First Lady for 8 years, but first and always she was a lady.

Her life, as a mother and homemaker and as the wife of a great military leader and President, truly was exemplary.

Her example as First Lady won her the admiration, respect and love of millions of Americans which has not dimmed with the passing of the years. She was as dear to this country when she passed away as when she was in the White House, and that demonstrates the affection and esteem in which Mamie Eisenhower was held.

Kathleen and I extend our condolences to her son and family; their loss is our country's as well.●

● Mr. YOUNG of Florida. Mr. Speaker, on the night of October 31, our Nation lost a wonderful person. Mamie Geneva Doud Eisenhower, the widow of Dwight D. Eisenhower, the 34th President of the United States.

Mrs. Eisenhower's contributions toward General Eisenhower's distinguished military career won her two foreign decorations, the Order of Malta and the Southern Cross from Brazil.

Although Mrs. Eisenhower considered herself "nonpolitical," she was introduced to the public in 1952, when she accompanied her husband in his 50,000-mile campaign tour in the Eisenhower train appearing with him in large political rallies. According to many commentors, her presence at these rallies was a large factor in her husband's successful election.

Mrs. Eisenhower was known for her friendly and informal attitude toward others. She proved to be the perfect hostess with her charm and warm smile always managing to make each guest to the White House feel welcome.

Pinellas County, Fla., was honored on a number of occasions with visits by Mrs. Eisenhower and on the behalf of the people of Pinellas, I want to express our sorrow at the loss of such a warm, gracious individual and First Lady.●

● Mr. FISH. Mr. Speaker, this week the country mourns the passing of one of America's finest women, Mamie Eisenhower. She was a warm and dignified First Lady whose charm, vitality, and humor graced the White House and endeared her forever to the American people.

Mrs. Eisenhower was one of those rare individuals who preferred to stand at the side of her husband rather than make a mark on her own of which she would have been more than capable. She was fond of saying, "Ike fights the wars; I turn the lamb chops." Her role as wife and mother, hostess and helpmate to one of our great national heroes warranted for Mamie Eisenhower the admiration and respect of others, nearly unprecedented by her predecessors.

Mrs. Eisenhower will not be forgotten. Her life of goodness, kindness, and compassion will live on as a continuing inspiration to us all. I, therefore, join my colleagues today in expressing my deepest sympathies to her family and loved ones.●

● Mr. LENT. Mr. Speaker, I thank my colleague from Pennsylvania (Mr. GOODLING) for making possible this tribute to a remarkable woman. It is a privilege to join in expressing appreciation for the outstanding contributions of Mamie Doud Eisenhower to our Nation.

Seldom has the White House been occupied by a First Lady with the cheerful good humor, warmth and vivaciousness of Mamie Eisenhower. As First Lady her popularity with Americans was as widespread as that of her husband. Despite that popularity, however, Mrs. Eisenhower never sought a role in politics or Government, except that of "Ike's wife."

Her cheerful smile and unassuming friendliness invited everyone to call her "Mamie," and almost everyone did. She welcomed this informal approach. "That is the American way," she explained to those who voiced concern over a possible breach of stuffy protocol.

It was particularly indicative of her character that one of Mrs. Eisenhower's first acts after she and the general moved into the White House was to hang up a motto, with a prayer beneath it. The motto said, "This Is Our Home." She noted then that she had hung up that motto 28 times in the 53 years of marriage that brought her and her husband from a two-room army lieutenant's apartment to the Executive Mansion. With Mamie Eisenhower husband and family always received first priority.

Mamie Eisenhower's exemplary life gave our Nation—indeed the world—a heartwarming example of dedication, devotion and sacrifice. In return our Nation and the world gave her their love.

We have lost a great lady.●

● Mr. BROYHILL. Mr. Speaker, Mrs. Mamie Doud Eisenhower was a woman of great stature. She is a shining example of dedication, perseverance and dignity before the eyes of the American people.

Her devotion to her husband, family, and country were a constant part of her life. She displayed her affection for her husband and his life all through the years in public service and even after his death.

I commend Mrs. Eisenhower, as a devoted public figure and also as a mother and wife to one of the great leaders of our time.

I join with my colleagues in expressing deepest sympathy to the family and friends of Mrs. Eisenhower—a great lady.●

● Mr. ROE. Mr. Speaker, I take great pride in joining my colleagues today in both honoring and remembering a great American—Mamie Doud Eisenhower.

During her years in the White House, she served as a gracious First Lady to both the Nation and her beloved Ike. Everyone who visited the White House during the Eisenhower years came away with the feeling that they had been in a warm, love-filled home. And that was due to the fact that she never let her position in life interfere with her genuine good nature.

Mamie was an activist First Lady, always displaying a vibrance and vitality that was the envy of much younger women. Even after leaving the White House and following President Eisenhower's death, she continued to lead a very active life, taking part in both political and social service activities. Her life should serve as an inspiration to our Nation's senior citizens.

The death of Mrs. Eisenhower leaves a great vacuum. In our memories, both she and her husband represented America in the 1950's. Her death clearly marks the end of an era in American history. But we can all rest assured that Mamie's spirit will live on with us forever.●

● Mr. CORMAN. Mr. Speaker, I rise to join my colleagues in paying tribute to Mamie Eisenhower. My words, I hope, will reflect the virtue of her life.

Hers was a life of simple dignity. Her marriage to a young Army officer began a shared career marked by increasing success that culminated in the White House. She was not shaken from her moral certitude by the events of her life or by her fame. She adhered to the values that formed her and that have served America in good stead since its founding. Simplicity, humility, hard

work, quiet preseverance and faith are attributes that will continue to serve America and Americans in the future as they have in the past. Mr. Eisenhower was a model of these worthy standards, and she will be remembered for them.

Mr. Speaker, it is with respect that I join in paying homage to Mrs. Eisenhower and hope that what she exemplified remains with us.●

● Mr. COUGHLIN. Mr. Speaker, the death of former First Lady Mamie Eisenhower last Thursday has saddened all who admired this gentle and gracious woman. Her life, as she was the first to say, was "Ike" and her family. She devoted herself to them and to Ike's career, never hesitating to make the sacrifices which army life demanded of her, sacrifices which would take on new dimensions as the wife of a beloved national hero and as the wife of the President of the United States.

Throughout her extraordinary life, Mamie Eisenhower remained unchanged, always warm, vivacious, and totally without pretense. Simply by being herself, she set a standard for selfless devotion to husband, family, and country for a whole generation of Americans. It is hardly surprising that she became one of the most admired women of her time.

The people of Pennsylvania developed a special affection for Mamie Eisenhower just as she came to feel a special fondness for the hills of Gettysburg and her neighbors there. Together with the Nation she served so quietly and so well, we mourn her passing.●

● Mr. HUGHES. Mr. Speaker, the country mourns the loss of a lovely First Lady, Mamie Doud Eisenhower.

Mrs. Eisenhower was in many respects, old fashioned. Her career was spent as a loving and helpful wife. She neither sought nor liked the attention that was foisted upon her as First Lady. She was happy to bask in the reflected glory of her husband.

As an Army wife, she moved countless times, setting up housekeeping both in the United States and abroad. Each time she moved she did so without complaint, and formed a homey atmosphere for her husband and son.

Mamie Eisenhower epitomized the ideals of another generation. She was a loyal and devoted companion to her husband and a good mother to her son. Her grandchildren will treasure the fond memories that they have of her, too.

Mrs. Eisenhower was a warm and gracious woman. The qualities that made her so special serve as a reminder to us of simpler, more gentle times. Her memory will evoke pleasant thoughts from all of us who remember her so well as First Lady.●

● Mr. RAILSBACK. Mr. Speaker, when asked in an interview only weeks before her death how she would like to be remembered, she replied simply, "Just as a good friend." This unassuming epitaph epitomizes the life of a lady so loved by the American public that she was affectionately known as Mamie by millions of people from all walks of life.

Though some today might find Mrs. Eisenhower's loyalty to her husband and family, her willingness to sacrifice comfort and convenience for public service, and her unpretentious nature as "old fashioned," it was these very traits which endeared her to close friends and distant admirers alike. In describing her marriage to our 35th President, in 1970 she wrote:

> We had our disappointments and our troubles, some of them devastating, yet between us there was a deep understanding, a feeling of contentment in each other's company.

Perhaps it was this "understanding" and "contentment" which stood her and her husband in good stead during a lifetime of public service, service that required them to pack up and move all over the world on more than 25 occasions.

Regardless of where these moves took them, however, one thing was certain: Mamie took with her a quiet charm and dignity which warmed the hearts of many and served our Nation well. She will be long remembered and loved by the American people.●

● Mr. BROOMFIELD. Mr. Speaker, late last week, Mrs. Mamie Doud Eisenhower passed from our midst, but she left us richer and our lives brighter for having known her.

Her memory evokes a warmness in all our hearts for she brought a dignity, a quiet demeanor, and a disarming personality to her role as the wife of a great military leader, as the First Lady of the Nation, and as an admired and loved grandmother living on a farm in Pennsylvania.

We mourn the death of Mamie Eisenhower, but we also take solace in that we were able to share in a great part of her life. For this, four decades of Americans will always be grateful.

Mr. Speaker, I join my colleagues in extending our heartfelt sympathies to her family.●

● Mr. DICKINSON. Mr. Speaker, I rise to pay tribute to a great woman, Mamie Eisenhower. Throughout her life, through her actions and gestures, Mrs. Eisenhower displayed a quiet air of confidence in America—which inspired not only this country, but the world.

One of the most challenging and successful periods in 203 years of American nationhood occurred during the two decade period 1940–60. During that time, no name was more a part of our history or related with great American achievement than the name Eisenhower.

No American was more responsible for the winning of World War II. maintaining American and free world security during the postwar years, or building an economically independent and strong America during the 1950's than was the general of the Army and President of the United States of America Dwight David Eisenhower. He literally dominated a solid 20-year period when American power and influence in the world were their greatest.

"Ike," as she lovingly called him, was nurtured and supported throughout this period by his beloved wife and life's companion, Mamie. During the war years, she was a patient model for so many other wives and sweethearts whose loved ones were away at war. During the building of the peace in the postwar years and while Ike was President, she was his constant stay and companion. As First Lady, Mamie brought both dignity and grace to the White House. She displayed a gentle spirit that was inspirational to others. She was a success, not only as a wife, but also as a mother, advisor, and confidant.

The President constantly alluded to the fact that Mamie was such a large part of his service to our Nation. Although the concept is considered trite in some circles today, they were a husband and wife team, dedicated to God, family, and Nation, and they served our Nation splendidly. America was lucky to have the privilege of watching President Eisenhower guide this country with his wife as a strong, but silent partner. Mamie was a contributor to our victories and success during this period, and we, the American people, owe her a great debt of thanks and appreciation. All of us will remember the lady we know as "Mamie" for a long, long time.●

● Mr. DONNELLY. Mr. Speaker, I speak not for myself, but for the good people of the 11th District of Massachusetts, when I express my deep sorrow at the loss of one of America's great First Ladies, Mamie Eisenhower.

Mamie Eisenhower was a gentle woman with a great inner strength. Her quiet manner and natural ability to put people at ease made her loved by all.

The people of our Nation will fondly remember Mamie Eisenhower with admiration and affection. We will miss her dearly.●

● Mr. CLINGER. Mr. Speaker, I rise this afternoon in commemoration of a unique and extraordinary American—the late Mamie Eisenhower.

To my delight, many years ago Dwight and Mamie Eisenhower adopted the Commonwealth of Pennsylvania as their home. I had the privilege of attending a picnic at the Eisenhowers' lovely farm in Gettysburg several years ago and was touched by Mamie's warmth and graciousness. In her unassuming, dutiful way, she was a joy to be around.

Mamie Eisenhower endured some of the most violent and tumultuous years in the history of this Republic. Her strength and perseverance during the Second World War must have been an enormous source of inspiration for her husband, the Supreme Commander of Allied Forces in Europe. Mrs. Eisenhower was also a dignified First Lady, and served her country remarkably well in that capacity.

Mr. Speaker, Mamie Eisenhower's life was not an easy one. The pressures and anxieties of World War II and the Presidency must have taken toll on her psyche; yet, she remained steadfast and stoical throughout.

Mr. Speaker, I deeply mourn the loss of the "First Citizen" of the Commonwealth of Pennsylvania—Mamie Eisenhower.●

● Mr. KEMP. Mr. Speaker, last week

our country was saddened by the loss of one of its most legendary women, Mrs. Dwight Eisenhower.

"Mamie." That name, and that name alone, is all that is needed to conjure up visions of one of the most gracious, warm, and friendly First Ladies that this country has ever known.

Through 53 years of marriage and 28 places of residency, as the wife of a young West Point cadet, who in turn was to become Supreme Commander of the Allied Forces in Europe during World War II, president of Columbia University, Chairman of the Joint Chiefs of Staff, and the President of the United States of America, Mamie Eisenhower remained above all loyal to the family and husband she dearly loved.

Mamie was not only the "First Lady" in the life of General Eisenhower and their family, but she was also the First Lady of the American people. From her emergence into the public spotlight during "Ike's" whistlestop tour during the 1952 Presidential Campaign, Mamie immediately captivated the public's attention and inevitably captured the hearts of the people as well. It was a love affair that was to last for the rest of her 82 years. As the resident First Lady of the White House she will long be remembered as a charming hostess who served her guests with a folksy manner and a smile.

Mr. Speaker, I request that my colleagues join with me in extending their deepest sympathy to the Eisenhower family and also to Mamie's sister, Mrs. George Gordon Moore; her son and daughter-in-law, John and Barbara Jean Eisenhower; and her grandchildren David Eisenhower, Barbara Ann Uribe, and Susan Bradshaw, and their families, at this time of loss, not only for them but for the entire country.●

● Mr. MILLER of Ohio. Mr. Speaker, it is with great sadness that we acknowledge the loss of one of our country's finest and most beloved first families.

This past week a gentle, warm, and loving person passed from us. Unpretentious, unassuming, Mamie Doud Eisenhower was to all who knew her a kind and selfless lady.

Mrs. Eisenhower, "Mamie." as she was affectionately known, embodied all that is right with America. A compassionate giving person she exuded warmth and understanding in every act she undertook.

Let us hope the example she set during her rich and active 82 years will be an enduring one.●

● Mr. FORSYTHE. Mr. Speaker, on the morning of November 1, Mamie Doud Eisenhower, former First Lady, passed away in her sleep at the age of 82.

Mamie Eisenhower is most remembered for her loyalty and devotion to her husband, the late former President Dwight D. Eisenhower. Although she never sought the attention bestowed upon the First Lady, Mrs. Eisenhower was nevertheless one of the most identifiable and admired public figures to a generation of Americans.

Her gracious dignity and pleasant demeanor captivated all who knew her. And certainly her unfailing support was invaluable to the successful military and political career of her husband. After the death of President Eisenhower in 1969, Mamie continued to exhibit her devotion to her husband by generously contributing her services to raising funds for the Eisenhower Medical Center, Eisenhower College, and the many other Eisenhower memorials.

Mamie Doud Eisenhower was much more than simply the quiet inspiration behind a great man. Her staunch commitment to principle and tradition made her one of the most popular First Ladies ever to grace our Nation. It is only proper that we recognize not only what America has lost by the death of Mamie Eisenhower, but also how much we prospered by her life.●

● Mr. JEFFRIES. Mr. Speaker, our Nation owes much to the men and women whose lives have been examples for whole generations to follow. Mamie Eisenhower is one of those.

The loss her death represents should make us wonder whether a person of her formidable strength and character, a person of perishable flesh and blood but enduring spirit, is still possible in an America so deeply changed by the wars and social upheavals of the 20th century.

Mamie Eisenhower was born before the First World War, and died after Vietnam. Through those later decades, she became to many of us a symbol of the quiet perseverance and warm goodheartedness Americans have historically displayed to the world.

That is the spirit which endures her death. It is the spirit which America still has, though we have lost the person in which it was embodied.

Mamie Eisenhower's loss is mourned by a grateful nation.●

● Mr. LUNGREN. Mr. Speaker, all Americans must be saddened by the death of Mamie Eisenhower—First Lady for the 8 years Gen. Dwight D. Eisenhower was President.

Mrs. Eisenhower was an anomaly in our age—publicity shy, uninterested in making public statements or using her position for power. She held only one press conference during her years at the White House.

I always thought it was fitting that in her final years she wanted to live at the home for military widows here in Washington, D.C.—just like any other army wife.

I would like to salute her memory today and pay final tribute to this spirited woman who never was an imitation—just the real thing.

Those who knew Mamie well said she was vivacious, enthusiastic, and had a tremendous capacity to enjoy life. She was also very American, very approachable and down to earth. When asked once if she was offended that people always came up to her and called her "Mamie," she said, "No, not at all—that's the American way." Till the end of her life she wore a little rhinestone flagpin every day because Ike told her Americans needed a reminder that they should be proud of their flag.

Mamie never sought any publicity or recognition for herself—she was totally dedicated to her husband and his career. She was Mrs. Dwight D. Eisenhower and proud of it. The last year of Ike's life was spent in a hospital room, and Mamie spent it there with him. She moved into the room adjoining his.

In the last years of her own life she would never use her name for anything except those events that were a memorial to Ike.

She told friends she often thought of him at Gettysburg, and missed him. She once opened a purse she had not used in a long time and found a love note Ike had passed to her at a party.

Mamie was an American original—gracious, vivacious, and unchanged by life in Washington, D.C.

I think this is how she would like us to remember her: As someone who loved life, loved her husband, and loved her country.●

● Mr. GOLDWATER. Mr. Speaker, it can be said simply: Mamie Eisenhower was an extraordinary woman who lent unsurpassed grace and dignity to the White House. I am honored to have the opportunity to speak on behalf of such a great lady.

Throughout her life, she was a charming and gracious person who carried herself with a style and midwestern country manner which won the respect and affection of her family and friends. When events made her a national figure, she stayed the same and proceeded to win the hearts of Americans everywhere.

As General of the Army and as President, Dwight Eisenhower considered Mamie the mainstay of his life. He stated on one occasion, "If I had not listened to Mamie two or three times, I might not have had the opportunities to serve the country that I have had." She served her husband during the many years they spent establishing households around the world, and later during World War II and the creation of NATO, she represented all that was best in this country. She then accompanied Ike on his 50,000-mile Presidential campaign tour, and became a great asset to both him and the campaign. In short, as Ike rose to the occasion, so did Mamie as she continually matched her husband's self-sacrifice and dedication to duty and country.

Mamie had class. People liked her. She took the ordinary virtues of kindness and consideration, and combined them to achieve an extraordinary degree of grace, dignity, and simplicity in performing her official duties. We are going to miss her.●

● Mr. PASHAYAN. Mr. Speaker, Mrs. Eisenhower's death on November 1, 1979, is the Nation's loss. Mamie Doud Eisenhower has been one of our Nation's most admired women for many, many years.

During her years as First Lady, Mamie enjoyed a popularity with the American public that rivaled the esteem accorded her husband. Her genuine warmth and vivaciousness gave us an unparalleled degree of familiarity, which allowed all to call her by her first name.

Her unassuming midwestern folksiness and her warm personality permitted her

to meet with grace and simplicity the pressing demands of her very public life.

Mamie, the general's partner, the wife of the Supreme Allied Commander in Europe during World War II, and America's First Lady from 1953 to 1961, was very content to be regarded as a helpmate. In fact, she was fond of saying, "Ike fights the wars; I turn the lamb chops."

Mamie Doud Eisenhower will always have a special place in the hearts of Americans and will be remembered as a lady, charming, devoted to her family and her country, and most of all, a friend.●

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

THE UNITED STATES IS NOT A COUNTRY TO SURRENDER ITSELF TO REVOLUTIONARY HYSTERIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut, Mr. McKINNEY is recognized for 5 minutes.

● Mr. McKINNEY. Mr. Speaker, the takeover of the American embassy in Tehran and the forcible imprisonment of over 60 U.S. citizens is a threat to this Nation's security and an affront to world stability which cannot be tolerated. The student mobs have vocally upheld their own rightenousness and legitimacy while condemning and stereotyping the United States as an imperialist danger. Yet the real danger is to be found in these recent actions, and the record is now clear that these militants and their misguided ideology have fostered a revolution in the name of human dignity, worth, and progress which casually forsakes human life and liberty.

Since the overthrow of the Shah, U.S. intentions toward Iran have been anything but provocative. Despite the oil embargo imposed on us earlier this year, we have endeavored to establish friendly diplomatic relations with Iran, and notwithstanding our own shortage of petroleum, we responded to Iran's request in August for 1.5 million barrels of residual fuel. Unfortunately, the Ayatollah has proven to be uncompromising and bellicose, his regime unstable. His own leadership is facing a growing crisis of legitimacy among the people of Iran, and his sanctioning of the takeover is an obvious attempt to deflect attention from his own internal problems by creating a defense against an outside "threat." He has declared the United States to be "the great Satan" and "enemy No. 1 of humanity and the Iranian people," yet, a revolutionary who overthrew a government in the name of human rights has himself condoned some of the world's worst violations of those rights. This latest action, taken with his approval as the titular head of the nation of Iran, borders on a declaration of war. U.S. property has been seized and plundered, the lives of our citizens have been threatened, our national sovereignty and freedom have been violated.

I have never been a hawk on foreign policy matters, but these circumstances dictate the question: How much more do we take? Is our position in the world so weak, do we view ourselves so poorly, that we must stand by while a band of ideological zealots blackmail us in the most blatant fashion?

In too many international situations requiring definitive action the present administration has been most notable in its lack of a proper and timely response, and this certainly seems to be no exception. Were I in Mr. Carter's position as President of the United States, I would immediately advise the Iranian Government that it has 48 hours to deliver all U.S. Embassy and consular personnel, unharmed, to the Tehran Airport for transport to the United States. If that is not accomplished the United States should then take the following actions:

First, cut off all U.S. imports of Iranian oil and strongly urge other nations of the free world to act in a similar fashion;

Second, halt all U.S. economic aid to Iran, including food;

Third, order U.S. military personnel to seize the Iranian Embassy in Washington, D.C., and that country's consular offices in Houston, San Francisco, Chicago, New York, and Washington; and

Fourth, seize all other property owned by Iran in the United States.

Anything less than the immediate release of all hostages cannot and will not be tolerated, by this Congress or by the American people. Iran has violated the most basic standards of international law and diplomacy—that is damage which can be repaired. But the lives of those 60 innocent Americans now being held hostage are not negotiable—and it is time now to let the Ayatollah Khomeini know that the United States is not a country to surrender itself to revolutionary hysteria and fanaticism from a mob in Tehran.●

LEGISLATION TO IMPROVE ADMINISTRATIVE PROCESS BY MAKING FEDERAL AGENCIES MORE RESPONSIVE TO WILL OF PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 5 minutes.

● Mr. GRASSLEY. Mr. Speaker, on October 9, I introduced H.R. 5508, a bill to improve the administrative process by making Federal agencies more responsive to the will of the people as expressed by the Congress. This measure is similar to S. 111 and identical to the text of an amendment submitted by Senator BUMPERS, of Arkansas, to S. 1477, the Federal Courts Improvements Act of 1979.

This legislation has two purposes: It would direct the courts to decide for themselves all issues of law and it would eliminate the present presumption that automatically assumes a regulation is within the intent of Congress. Currently, just about every rule or regulation adopted by a Federal agency will be upheld if it is challenged in court. Under my bill, there would be no such presumption, and the burden of establishing validity would lie with the agency. Only if a court were persuaded by evidence that a rule or regulation was within the power mandated by the Congress, would the rule or regulations be upheld. The judiciary would be returned to its traditional role of interpreting those laws passed by the legislative branch.

At the same time, Congress would once again be confirmed as the only source of legislative power in our society. In my opinion, we have been very inept in dealing with the pressing problems of overregulation and the involvement of the Federal bureaucracy in private matters. Neither the appropriations process nor congressional oversight has allowed this body to regain its position as the sole lawmaking branch within our separation of powers.

However, my bill would deal with this problem in two ways. First, regulation writers will know that the burden of proof now lies with them, and therefore, they will be much more careful and circumspect in writing rules and regulations to see that they are within the intent of Congress. Second, the private citizen who feels that regulations are excessive, will be more likely to challenge them, knowing that the burden of proof is with the Federal agency. My measure would give private citizens and industry a "leg up" in contesting regulations in the Federal court system.

In conclusion, Mr. Speaker, I would just add that I realize Congress must delegate certain functions which are necessary to implement its intent. However, every Member of this body has heard regulatory "horror stories" from his constituents, but we have offered little, if any, help. Setting stricter standards of judicial review of Federal rules and regulations seems to be a basic and simple step toward demonstrating to the American people that we are serious about cutting down on the size of Government and the amount of regulation and redtape in their lives.

We have not exercised our oversight responsibilities; we have not assisted the individual citizen or the small business, who are being burdened with this regulation, to be on an even level with the unelected bureaucrats who are doing the regulating; we have not helped the regulated, we have helped the regulators. With all of the talk that goes on around here about regulatory reform and legislative veto, I think it is about time for us to give the average American a break by requiring the judicial branch of our Government to do exactly what their duty is—review and interpret the law.●

WELFARE REFORM TROJAN HORSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio, (Mr. ASHBROOK) is recognized for 20 minutes.

● Mr. ASHBROOK. Mr. Speaker, today the House created another monumental disaster. This so-called reform bill has all the makings of creating further budgetary chaos in the welfare system of this Nation. The provisions in the bill are poorly thought out and represent an

amalgam of bad ideas whose time has, at best, come and gone. To have such a bad bill come to the floor under a closed rule is tragedy. Extensive revision of the provisions of this bill would be needed to even begin to make some sense out of it. It is a Trojan horse, the further implementation of the liberal goal of a guaranteed annual income.

It is becoming a national embarrassment to watch this Chamber destroy the last vestages of democracy in the Congress. Time after time since the 96th Congress was called into session the ability of Members to debate bills and offer amendments has been shackled by a leadership bent on railroading pet proposals. This is not government of the people, this is tyranny of the select few.

Since the August recess only a handfull of substantive bills have come into this Chamber with open rules. In almost every major issue, limitations and constraints have been locked on to assure the will of the Chair prevails over the majority will of the Congress. This runs counter to every established principle on which this Nation rests. What is the future of Congress if dictatorial powers continue to trample freedom of debate? I do not speak just for the minority side of the aisle. I have heard many in the majority express similar concerns over the recent trends from the leadership. The ideals of fairness and open debate transcend partisan consideration. It is time to call a halt to the imperial attitude that has invaded this democratic body.

The bill we have before us today calls for major new initiatives in the area of welfare assistance. This bill breaks new and controversial ground relating to the expansion of eligibility to the poor. Before we embark on a journey further along the road to the welfare state we should be able to address all portions of this new proposal in detail. The rule that was adopted last week prevents such a necessary review. By allowing only one amendment and one motion of recommittal the leadership has successfully destroyed any ability of this Chamber to exercise its duty to legislate. This rule is a sham.

I have a number of problems with this bill that only an open rule would have been able to correct. Part A under title I revises the treatment of certain income and financial resources as part of the AFDC payments. How much will these revisions cost? Are the definitions tight enough or are there some dangerous loopholes? Only an open rule would have allowed complete analysis.

In section 107 the AFDC payments are expanded to include pregnant women "who, upon the birth of the child, would become eligible for aid to families with dependent children." At what month in the pregnancy will benefits be made available? Is the Government now going to try to outbid abortion benefits by saying the fetus is a live and dependent child? What is the price tag going to be on this new area? This breaks new ground and should be carefully defined and the price tag clearly known. If we are going to state that pregnancy means a fetus is eligible for AFDC then we need to stop abortion funding because we have just written into law that pregnancy means life. While I have no problem with this prospect I wonder if my pro-abortion colleagues have pondered this impact?

In section 108, we have the establishment of a minimum AFDC benefit. Are we going to allow the welfare state to open the door for a national income floor without consideration of local variation or, more importantly, strict work requirements? It is a dangerous precedent to let such a major new area of handouts slip by, untouched by congressional scrutiny. When we heard about an oversight Congress back in January I do not think any of us thought it would mean overlooking possible budgetary time bombs. Only an open rule would have allowed the disfusing of this fiscally explosive proposal. This Democratic Congress has become an overlook Congress rather than an oversight Congress.

Without even waiting for this minimum benefit to be put into effect the bill mandates, at the end of section 108, that the Secretary conduct a study regarding raising the benefits. There is no discussion about removal of minimum benefits or about reductions, only increases. This expansionist mentality bodes ill for the American taxpayer who will have to shoulder the commitments laid down in this bill. Unless this entire concept is reviewed we could have one more program that will aid in driving hard working taxpayers into the poor house.

Returning to section 106 we have a new mandate for dependent children of unemployed parents programs to be set up in each State. Where is the need and the money for this new effort? What is the price tag? Once again a closed rule stops these questions from being addressed.

Let us move into the bill a little further. In section 112 there is a revision to the laws relating to recipients of aid who refuse work offers. Should we not consider the impact of this section on future expansions in the numbers of people eligible for AFDC? What about the impact of considering it a justification of unemployment that they would lose money if they took a job? Is not this the ultimate absurdity of the welfare state? I think we could address this perversion of the work ethic if we had an open rule.

One of the most common problems in much of the legislation coming out of the Congress is the vagueness of definitions. The less time Congress spends on tightening up what it really means in law the more abuse can occur in the administration of the law and the more time Congress and the courts must take later on to correct their errors. In section 113 the term "emergency needs" could be better defined. As it is currently drafted a bureaucrat with grand ideas about family life could have a field day with the regulations. Another concern is the very definition of the family. There are strong indications that the upcoming White House Conference on the Family will try to expand this term to the point of having it cover homosexual marriages and communes. Maybe this bill should have safeguards against governmental tampering with the concept of family life as it relates to defining eligibility for AFDC. Only an open rule would provide this opportunity.

The food stamp program has been one of the greatest wastes of tax dollars to ever be foisted on the beleaguered taxpayer. Yet this bill would expand the program to the point of allowing cash payments in lieu of the stamps. When did we ever mandate the food stamp program to open the door to cash payments? I think that we need to carefully review this proposal separately from the overall bill. Only an open rule would let this be done.

In section 129 the new boondoggle of cash for food stamps would be expanded into the AFDC program on a pilot basis. Yet, in looking at the bill and the old section 129, that is crossed out, there was a possibility of just mandating a wholesale implementation of this cash program into AFDC. It seems to me that somebody has already made up their mind that using food stamps as a new way to get money to dubious aid recipients is a fine idea.

I also wonder just how "pilot" this program will be in light of the cashout plans outlined in title II of the bill. Once again I think that we must look at the entire food stamp issue in the bill under both section 129 and section 201. This should really be a separate bill as it is such a major new proposal. Only an open rule would allow at least separate consideration of the matter.

In part C of the bill there is a very good idea concerning recovery of legal fees. This reform is under section 231 of the bill. It is unfair to burden such positive actions with the garbage that makes up the majority of this legislation. This bill should really be three bills: An SSI reform bill, a food stamp expansion bill, and an AFDC eligibility reform bill. To lump apples and oranges together is bad enough, to saddle this shoddy omnibus effort with a closed rule is a crime against commonsense and free expression.

The welfare system in this Nation is the most complicated network of programs and policies encompassed in the Federal Government. Overall reform is needed, but it must be done in an open and unhurried manner. Any decision that is made can affect the welfare of millions of recipients and the tax bills of millions more wage earners. Slipshod bills that are rammed through so the leadership can post another victory on the board before adjournment serves no purpose whatsoever. It can only aggravate the present problems in the welfare apparatus and hurt the Nation as a whole. I urge my colleagues to vote down this bill.●

THE HONORABLE RAY ROBERTS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, on Monday, October 29, the Honorable RAY ROBERTS, chairman of the Committee on

Veterans' Affairs, informed his constituency that he planned to retire at the close of the 96th Congress. Our Nation will be losing a powerful and dedicated leader.

Mr. Speaker, without question, RAY ROBERTS is the recognized veterans leader in our Nation today. This has come about through hard work and his willingness to fight the establishment in order to attain the status in life our veterans deserve. He has gained the respect of the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars of the United States, the Paralyzed Veterans of America, the Veterans of World War I of the U.S.A., Inc., the AmVETS, and other veterans' organizations.

Our Nation's veterans could have no better leader than the gentleman from Texas, and we are pleased that he will continue to chair the Committee on Veterans' Affairs during the 2d session of the 96th Congress.

The years Mr. ROBERTS has served as chairman of our committee have been tough years. Since he became chairman in January 1975, many issues adversely affecting our Nation's veterans have surfaced. In addition, never have we faced more severe budget problems than we have in the past 2 or 3 years.

When action was essential, RAY ROBERTS responded swiftly and effectively. When the administration recommended the upgrading of bad discharges for many veterans that would have granted automatic entitlement to a select group of veterans at the expense of those who served honorably, RAY ROBERTS intervened. Under his leadership and direction, a reasonable compromise was worked out in the Congress which was agreed to by the President. When Joseph Califano, the former Secretary of the Department of Health, Education, and Welfare, attempted to obtain jurisdiction over the veterans' compensation and pension programs, Mr. ROBERTS let it be known that the Committee on Veterans' Affairs did not condone such action. When the administration gave consideration to including the GI education program under the newly created Department of Education, the gentleman from Texas gave early warning that he would not allow it to happen. When the administration wanted to take away veterans' preference, RAY ROBERTS stood shoulder to shoulder with the Honorable JIM HANLEY of New York in defeating the measure on the floor.

Finally, Mr. Speaker, when the administration wanted to close more than 5,000 operating beds in VA hospitals throughout the country and reduce medical care personnel by more than 6,000 positions, Mr. ROBERTS quickly called for hearings. Such hearings have resulted in a restoration of more than 3,800 positions throughout the VA health care system. These are but a few examples of the very able leadership provided by Mr. ROBERTS in behalf of our Nation's veterans.

Mr. Speaker, next year is going to be a tough year, and I am delighted my friend from Texas will be with us to help guide us through this difficult period of time. More and more pressure will be brought to bear to reduce veterans' benefits and services in the name of economy. I think we can anticipate the reaction of the gentleman from Texas. Mr. ROBERTS will insist that Congress continue to stand by its commitment to those who answered our Nation's call during time of war and national conflict. I pledge my full support to the gentleman from Texas. He has been fair to me and to other members of the committee. Under his leadership, we have helped bring about a number of programs designed to enhance the lives of both service-connected and nonservice-connected veterans. He has allowed the chairman of the subcommittees almost complete freedom to handle their affairs and for this we are most grateful. He has supported us in our efforts, and I deeply appreciate his understanding and support in the 5 years I have been privileged to serve under his chairmanship.●

CASE AGAINST SALT II NONEXISTENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

● Mr. CARR. Mr. Speaker, we face only one choice in strategic arms control today: We can have SALT II, or we can have no control for many years, followed at some point by an agreement inferior to that presently before us.

The case for ratification is clear. Soviet forces will be substantially constrained, but U.S. forces will be able to do everything we need to do. Under SALT II, we will be able to have a survivable multiple-point ICBM; without SALT II, we will not. And so forth.

SALT opponents argue that SALT II is not the perfect treaty. I agree, but so what? None of the weapons we build are perfect weapons either, but that does not stop us from building them; the choice is no weapons at all.

It is the same thing with SALT II. What is to be gained by rejection? How will we be better off without it? How will we be better off if the Soviets have one-third more deployable strategic weapons, one half more deployable MIRV ICBM's, and twice as many warheads per ICBM?

We are still waiting for the SALT opponents to tell us.●

TRIBUTE TO THE LATE REPRESENTATIVE CHARLES L. BOYLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, 20 years ago last Sunday, November 4, Congressman Charles L. Boyle of Illinois was killed in an automobile crash after serving less than 5 years in this House. The melancholy anniversary reminds us of the brilliant promise that was lost in that tragic accident. Although I came to know Charlie Boyle well, to work with him on legislative business and to spend social time with him as well, oddly enough my most vivid, enduring memory of him goes back to early in his all too brief service in this House and in our friendship. It is his maiden speech, one of the finest first efforts I have ever heard in this Chamber. His remarks then are still of value today and I should like to read one excerpt for the edification of Members who were not here when Charlie was and as a reminder to those who were that we lost much when we lost him. He said in part:

> Mr. Speaker, I am happy to be a Member of this House, and I am very happy to be a member of that group who once again asks you and pleads with you to try to do everything possible in both an economic and in a political sense in the interest of peace. We admit we are doing almost everything we can, in a military sense. In our dealings with all nations, it will mean that we must have the modesty to admit that our own national interest is all that we are really capable of knowing and understanding, and the courage to recognize that if our purposes and undertakings here at home are decent ones, unsullied by arrogance or hostility toward other people or delusions of superiority, then the pursuit of our national interest can never fail to be conducive to a better world. Then, by our own conduct, we will be telling the sad and the lonely of the world of the love that is theirs to be, and by the cross of Christ and His passion and the might that is born in brotherhood and unity we will be showing the world that we are doing more than merely paying lipservice to an empty deal—that we are, in fact, trying to live in the community of nations under God.

What he said on March 16, 1955, as the cold war was increasing almost daily in intensity, is just as full of commonsense and wisdom now, when the two sides seem to be stumbling toward some sort of uneasy peace.

After 20 years, those of us in this House who knew him still remember his dedication to the principles so fervently saluted in that maiden speech. We still mourn the loss his death brought to his lovely wife and their eight children, to the Chicago district he represented and, by no means least, to the House of Representatives.●

SANTA BARBARA COUNTY MANDATES SOLAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 10 minutes.

Mr. WEAVER. Mr. Speaker, there appeared recently in the Energy Daily a most important article. "Santa Barbara County Mandates Solar" by Burt Solomon explains that two large counties in California have so seen the necessity and sensibility of solar energy that they have made solar installations mandatory in new electrically heated homes. This article should dispel any remaining myths that solar energy is not cost-effective or a valuable solution to our energy woes. I commend it to my colleagues:

SANTA BARBARA COUNTY MANDATES SOLAR

(By Burt Solomon)

Santa Barbara County, Calif., has become the second governmental jurisdiction in the nation to adopt a mandatory approach to solar energy.

Under an ordinance approved by the county's board of supervisors on Monday, all new residential buildings which aren't served by natural gas pipelines (that is, all electrically heated homes) must be built with solar hot-water heaters. The ordinance, which is set to take effect in 30 days, will affect only areas within the board's jurisdiction—the county's unincorporated areas, which include about half of the county's population.

According to Edward Maschke, executive director of Sunrae, a California solar lobbying group, the ordinance will affect 17 percent of new homes built in the county's unincorporated areas—an estimated 425 new units a year. Maschke said that the supervisors passed the measure with the approval of the local building contractors' association, which considers solar water-heating to be cost-effective for electrically heated homes.

The ordinance was Santa Barbara County's second foray into mandating the use of solar equipment. A month ago, the county's board of supervisors required that at least half the energy used to heat new swimming pools come from active solar heating equipment. (Last week the California state Assembly put off until next January a decision on establishing a similar requirement statewide.)

In the ordinance passed last week, Santa Barbara County followed the lead of San Diego County, four counties to the south. The San Diego County board of supervisors passed a law last December requiring solar water-heaters in new electrically heated homes starting this October 1 and in new gas-heated homes beginning October 1980. Santa Barbara County stopped short of mandating solar for gas-heated homes, but will move on to that question soon. Maschke expects the board of supervisors to extend the solar requirement to multi-family gas-heated buildings by the end of the year and to gas-heated single homes sometime later.

Meanwhile, San Diego County is in the last stages of preparing for the October 1 start of its solar ordinance. The only remaining duty before the board of supervisors is approval of regulations governing the proper size of solar equipment. The board already has endorsed a "solar access" provision that will exempt from the ordinance any new home that does not have 100 square feet of access to sunlight at a level 10 feet above the ground. This was a compromise between the board's staff, which preferred a solar access provision based on the concept of easements, and the county contractors' association, which chose not to file a court challenge of the ordinance following months of consideration. According to Eric Pulliam, head of the county's energy office, "not very many" homes are likely to be exempted as a result.

On the question of solar performance standards, the San Diego County supervisors decided to use regulations adopted by the California Energy Commission, which has set health-and safety-related criteria for the types of materials that can be used in solar equipment, the size of pipes, etc. "We would rather use existing codes as much as possible because the builders are familiar with them," Pulliam said on Tuesday.

Even before the advent of the new requirement, housing developments are being built in San Diego County that use solar both for water heating and space heating, Pulliam said. "Builders now have had good experience with putting solar in. They are not frightened of it any more."

Pulliam expects the San Diego County ordinance to affect 1,000 to 5,000 new homes a year for the first two or three years, rising to 8,000 to 10,000 homes annually once the ordinance's full impact is felt.

According to Sunrae's Maschke, 28 local governments in California have mandatory solar ordinances under consideration, including both the city and county of Los Angeles. In addition, San Diego County has received visits from officials of two Florida counties that are interested in trying out similar ordinances there.

NEW DOLLAR COIN WILL COST TAXPAYERS MILLIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the Treasury and Federal Reserve have been promoting the new dollar coin as a great moneysaver to the U.S. taxpayer. My research shows that the coin will not save the American taxpayer anything, but will actually cost taxpayers and consumers millions of dollars.

During hearings held last month by the Consumer Affairs Subcommittee, the Federal Reserve claimed that replacement of the $1 bill with the new dollar coin would save the U.S. Government $50 million per year. I ordered the subcommittee staff to investigate this claim, and it turns out that there are substantial errors in the Fed's analysis.

For example, the analysis submitted to the subcommittee claimed dollar bills cost 2 cents to print. Bills actually cost 1.9 cents each. Also, the life of a dollar bill was estimated at 18 months. The same day this figure was quoted to my subcommittee, the Treasury released a study showing the life of a dollar bill to be 22 months. These differences reduce the average annual cost of maintaining a dollar bill in circulation from the 1.3 cents figure used by the Federal Reserve to 1 cent. While this may not seem like much, it must be remembered that there are 3.1 billion $1 notes in circulation. The result of this difference reduces the annual cost of the dollar bill by as much as $9.3 million.

In addition, the Fed projected Government savings based on displacing the large Eisenhower dollar with the new coin. Savings were based on an estimated demand of 80 million coins per year. In fact, the Mint had only averaged 52 million coins for the last 2 years and future demand was projected at 60 million per year. The result is that the Fed figure overestimated demand, and consequently savings, by 25 percent.

These errors not only reduce the alleged savings but lead me to suspect the validity of the other calculations of the analysis.

Even if the Federal Reserve manages to save a few dollars, the Government will make American businesses pay millions to accommodate the new coin. Every consumer will pay these costs every time he or she pays for something. The American taxpayer will also share in these costs when the businesses take tax deductions for their increased expenses in handling the new coin.

In their zeal to reduce their own costs the Treasury and Federal Reserve would raise the cost of doing business for everyone who handles cash. These costs to business have been known to these agencies for years but they have chosen to ignore them. For example, the 1976 Research Triangle Institute Study, which the Government so heavily relied upon in pushing for the new dollar coin, estimated the cost of new coin processing equipment to retailers at $125 million and to commercial banks at $53 million. Adjusted for inflation, those figures now amount to $231 million.

A representative of small, independently owned grocery stores estimated that use of the new coin and abolition of the dollar bill would require the replacement of 1.2 million cash drawers at $35 per drawer. This amounts to another $42 million.

Vending machines and dollar bill changers also must be converted to accept the new coins. There are at least 940,000 machines and 125,000 changers that the vending industry plans on converting. Estimates of the costs vary, but range as high as $400 per machine. Total costs would easily reach $150 to $200 million. There have also been many reports of vending machines being jammed by people mistakenly using the dollar in them. In addition to lost sales, these machines require $20 to $25 service calls. All these costs will be passed on to the consumer in higher prices.

I find it ironic that at the same time the Treasury was telling us what a terrific money saver this coin was going to be, it was requesting an additional $2.4 million in supplemental funds because of the new coin. At the hearings held by the Consumer Affairs Subcommittee late last month, I asked Mint Director Hackel whether we would see the savings claimed for the new coin reflected by a reduction in the Mint's budget request. The proof that this coin is not going to be such a saving to the taxpayer is evidenced by her answer of "No."

The Government apparently planned to force the coin and its costs on taxpayers and consumers by withdrawing the dollar bill from circulation. To prevent this, the ranking minority member of the Consumer Affairs Subcommittee, Mr. EVANS of Delaware, together with myself and 58 other Members of this House have sponsored H.R. 5444, the Dollar Bill Preservation Act. The bill will prohibit the Treasury and Federal Reserve from withdrawing the dollar bill without express congressional approval. This will insure that there is adequate consideration of the costs and benefits to consumers, businesses, and taxpayers of this scheme to "save" the Government money.●

BACK OFF ON DEREGULATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, I would like to share with my colleagues the following editorial which appeared in the October 16 edition of the Oregon Journal. As we move to consider the deregulation of the trucking industry, it is important

to keep in mind the concerns expressed in this thoughtful editorial.

BACK OFF ON DEREGULATION

The legislation proposed to Congress to deregulate the trucking industry is losing glamor as one community after another gets a good look at what deregulation of the airlines is doing.

As the dust settles from the fare wars which followed airline deregulation, we realize that here in Portland we have lost services connecting the smaller cities with each other and with us and we have lost services connecting us with larger American cities and overseas as well.

This is not to say that there have not been alternative services springing up to replace what has been taken away. Feeder airlines have stepped in to fill the need with little lapse of time. However, the same economic laws will have impact on them as they are already beginning to have on major, long-established carriers.

Deregulation of the airlines was supposed to produce a bonanza for travelers—and so it did for a while. But just a few days ago, one of the largest airlines announced that the price of traveling is going to rise by 50 percent in the next two years and that most of the "cheap" air fares will be eliminated.

It stands to reason that expensive energy has to be used profitably. The greatest profit lies in the routes connecting the cities which can provide full payloads for every flight. As the price of energy increases, the cities which do not produce will have to be down-graded in their services.

There are many layers in the trucking industry—far more than in the air carriers of persons and freight. One might call the top of the line the nationwide company which insists on superior maintenance, whose computers are programmed to arrange the most profitable loads back and forth, and whose personnel must meet a high standard of safety.

The bottom of the line could be described as a person with an aging truck whose maintenance is only enough to keep it running, who takes chances with safety in order to deliver a load—which is necessary because a payment on the truck is due.

In between these two extremes lie the regional companies, purely in-city truck firms, individuals who are as careful of their trucks as they are of their children, and a myriad of other trucking entities, as diverse as the goods they haul.

"The movement toward truck deregulation was begun in response to the bureaucratic encrustation of the regulatory apparatus," to quote a Portland executive who has frequently testified in Washington, D.C. on the subject.

Would the consumer benefit from deregulation? Regulation came into being as the result of anguished requests from the shipping public, reacting to the chaotic and unfair rates and routes that had developed without it.

Since the present legislation has come under consideration in Congress, fuel prices have had tremendous impact on the industry. In the past few days, interest rates have changed the picture and skewed the predictions and projections.

One of the changes that is sought in the industry would make it easier to arrange back-haul loads, thus making better use of energy. A re-structuring of the Interstate Commerce Commission may come about, and differences among the regulations of the states which cause confusion and waste in moving interstate shipments may be eased.

The trucking industry, even as it is now, is sufficiently competitive to protect the consumer from gouging freight rates. Only the top shippers in the most productive markets could better their bargains—and freight rates in any event will be heavily influenced by the cost of energy and high interest rates.●

THE HANDGUN CRIME CONTROL ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I am introducing today, with 16 cosponsors, H.R. 5823, a bill designed to stop the proliferation of handguns which are used by criminals to commit violent crimes. The bill's objective is to substantially improve handgun control without expensive Federal enforcement and regulatory machinery.

I believe that most Americans would agree that the Congress must take action to control the availability of easily concealable handguns. Rising crime statistics reflect a high percentage of crimes committed with handguns. This means that each year more and more American citizens are maimed and killed because of the easy access to weapons which have no other apparent purpose other than to threaten human life.

Clearly there is a need for a rational and effective method to control the distribution and sale of handguns. I believe that this bill presents such an approach.

The bill puts a ban on all so-called Saturday night specials and other easily concealable handguns. It requires every handgun importer, manufacturer, and dealer to serve as information points for recording the transfer and sale of handguns. The bill recognizes that keeping handguns out of the hands of criminals should be as much a matter of State enforcement as Federal enforcement. While the bill mandates a 21-day waiting period for dealers to verify the identity of a person wishing to purchase a handgun, this provision can be waived if the buyer possesses a "license to carry" or a "license to purchase," issued by the State. These State laws are encouraged in the bill.

I want to stress that this bill will not interfere with Americans' right to bear arms. Instead it seeks to protect the fundamental right of every American to live in a peaceful society without the threat of personal harm.

I urge my colleagues to join me in working to enact this legislation, to stop the spread of violence in our country.

Mr. Speaker, I include a section-by-section analysis of the bill in the RECORD at this point:

CO-SPONSORS TO THE HANDGUN CRIME CONTROL ACT OF 1979

Congressmen John Fary, Paul McCloskey, Pete Stark, Anthony Beilenson, Ted Weiss, Frank Thompson, Bill Green, Henry Waxman, Don Edwards, Richard Bolling, Robert Garcia, Mickey Leland, Robert Drinan, Toby Moffett, John Seiberling, Shirley Chisholm, William Gray.

SUMMARY OF THE VARIOUS SECTIONS OF THE HANDGUN CRIME CONTROL ACT OF 1979

SECTION 1

This is the title of the bill and emphasizes that the legislation is designed to combat handgun crime by: banning the importation, manufacture, sale and transfer of "Saturday Night Specials"; improving the effectiveness of the 1968 Gun Control Act; promoting better enforcement of gun laws; and aiding the victims of handgun crime.

SECTION 2. CONGRESSIONAL FINDINGS

1. "Easily concealable handguns" have no sporting purpose and are used in a large percentage of criminal offenses.

2. The existing ban on the importation of "easily concealable handguns" has been effectively undermined by the importation of their parts, and their domestic assembly.

3. The public, including the majority of handgun owners, favors effective handgun control.

4. That legitimate handgun ownership should not be impeded by these controls.

5. To more effectively enforce gun laws, the authority for handgun regulations should be transferred from the Treasury Department to the Justice Department.

6. There is a need for stronger controls on the handgun industry to combat illegal traffic in handguns.

7. Receipt of firearms by persons barred from possession burdens interstate commerce. This finding is a response to the Supreme Court ruling in U.S. v. Bass, 404 U.S. 336, 1971, which restricted the government's ability to prosecute felons in possession of handguns.

8. Federal licensing provisions for firearms' manufacturers, importers and dealers do not preempt state and local laws.

9. Fees for federal commercial licensees should be determined according to the cost of administration and enforcement of the law.

10. That innocent victims of handgun crime should be compensated.

SECTION 101: AMENDS SECTION 921—DEFINITION SECTIONS

Adds and changes definitions to fit with the new regulatory scheme. Terms defined are: "dealer," "licensed dealer," "ammunition retailer," "gunsmith," "firearms dealer," "handguns," "handgun model," "pistol," "revolver," "pawnbroker," and "Department." "Handgun" is defined to include its parts. "Department" is defined as the Department of Justice, as authority is shifted from the Secretary of the Treasury to the Attorney General.

SECTION 102: UNLAWFUL ACTS

Under current Federal law (18 U.S.C. Section 922):

A. 1. Only a federally licensed individual can engage in the business of importing, manufacturing or selling firearms and ammunition.

2. The commercial licensee cannot ship firearms or ammunition to a non-licensee except:

The commercial licensee can return a firearm or a replacement firearm to a non-licensee.

A non-licensee can mail a firearm to a commercial licensee for repair or customizing.

A commercial licensee can ship to military or law enforcement personnel who are allowed to receive firearms through the mails.

3. The law applies to the United States and its territories, including the District of Columbia and the Commonwealth of Puerto Rico.

4. A non-licensee cannot transport into or receive in the state where he resides, a firearm obtained in another state.

5. A non-licensee cannot transfer a firearm to an individual from another state except to:

Carry out a bequest.

Temporarily loan the individual a firearm for a sporting purpose.

6. No one can make a misrepresentation or present false identification in connection with obtaining a firearm from a licensee.

B. A commercial licensee cannot transfer:

1. A rifle, a shotgun or their ammunition to an individual younger than 18 years old; or a handgun (i.e., a revolver or pistol) and its ammunition to an individual younger than 21 years of age.

2. A firearm to an individual in the state, where purchase would be illegal under the state law, at the place of sale or delivery.

3. A firearm to an individual who does not reside in the state of the commercial licensee except:

This does not apply to the sale of a rifle or a shotgun to an individual from a contiguous state, if that sale would not violate the law of both states.

Does not apply to the temporary loan or rental of a firearm to an individual for a lawful sporting purpose.

Does not apply to replacing a stolen, lost or inoperative rifle and shotgun which is being used for hunting, or in a match or contest.

4. A destructive device, machinegun, short-barrelled shotgun or rifle, to anyone except those specifically authorized.

5. A firearm or ammunition to any person unless the commercial licensee notes in his records the name, age and place of residence of that person.

C. A commercial licensee may transfer a firearm to an individual who does not appear in person if that individual provides a sworn statement; notice is made to law enforcement authorities; there is a seven-day delay before delivery of the firearm; and appropriate records are maintained by the licensee.

D. A commercial licensee cannot transfer a firearm to any person that he has reason to believe is a: felon (under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year); is a fugitive from justice; an unlawful drug user or addict; a mental defective.

E–F. Sets requirements for mailing firearms.

G–H. Those prohibited from purchasing a firearm may not transport a firearm in interstate commerce.

I. It is illegal to transport stolen firearms.

J. It is illegal to receive stolen firearms.

K. It is illegal to transport or receive firearms with the serial number removed or altered.

L. It is illegal for an individual to import firearms unless duly licensed.

M. It is illegal for a licensee to keep false records.

This legislation amends Section 922 to focus on unlawful acts involving handguns, particularly "easily concealable handguns."

1. It restricts certain activities with "easily concealable handguns" such as repairing, renting or mailing such handguns.

2. No handguns may be loaned or rented to another person for temporary use for lawful sporting purposes, unless it is done in the presence of the owner, or on the premises of the owner.

3. A commercial licensee may not sell or deliver a handgun to any person if that sale or delivery is in violation of the law, in the place of residence of the purchaser.

4. A commercial licensee may not sell a handgun to any person who does not appear in person at the commercial licensee's place of business.

5. Bans the manufacture, sale or transfer of "easily concealable handguns," except those classified as curios or relics by the Secretary of the Treasury under the 1968 Gun Control Act.

A non-licensee may only transfer a handgun if that individual knows or has reasonable cause to believe that the handgun is not an "easily concealable handgun."

An individual may mail an "easily concealable handgun" to a commercial licensee for modification to meet the legal standards for handguns, if that individual notifies the local law enforcement agency of his intentions prior to mailing the handgun.

6. Prohibits the modification of a handgun if, as a result of such modification, the handgun falls under the "easily concealable handgun" definition.

7. Prohibit felons, fugitives from justice, drug users, mental defectives, illegal aliens, those who have been dishonorably discharged from the Armed Forces, and those who have renounced their citizenship, from possessing, transporting or receiving firearms in interstate commerce.

8. Prohibits an employee from possessing, transporting or receiving any firearm in the course of his employment if the employer is prohibited by law from such activity.

9. Unlawful to ship or transport a firearm if such shipment violates the law of the state to which or through which the gun is shipped, or an ordinance applicable at the place of sale, delivery or other disposition.

10. A commercial licensee may not sell to one person, and one person may not purchase more than three handguns in one year without the special approval of the Attorney General.

11. It is unlawful for any person to fail to report the theft, loss or disappearance of a handgun to the chief law enforcement officer of the place where the handgun was kept, within 24 hours after discovering the loss, theft or disappearance. It is also to be reported to the Attorney General within 5 days. Each report is to contain the serial number, model, caliber, manufacturer of the handgun, date and the place of theft, loss or disappearance, and a complete statement of facts and circumstances surrounding the theft, loss or disappearance.

SECTION 103: TRANSFER OF HANDGUNS

This section sets out special provisions for the transfer of handguns, except in the situations where both parties are commercial licensees, i.e., licensed importers, manufacturers or dealers. The system for transfers provides alternative procedures which require a check on the eligibility of the purchaser to receive the handgun.

1. Any purchaser with a valid state license-to-carry a handgun, which is issued under a state licensing system that meets certain minimum Federal criteria, may purchase a handgun in any state by: the purchaser appears in person at the licensed dealer's premises and (1) shows the dealer the license; (2) the dealer verifies its validity; (3) the purchaser provides sufficient identification to the dealer for him to reasonably believe the individual described on the license is the purchaser; and (4) the dealer maintains specified records of the transaction.

In the event of a transfer occurring between two non-commercial licensees, the would-be-purchaser must provide the seller with a certificate that establishes the current validity of the state license-to-carry. This certificate must be obtained from the local law enforcement agency or a licensed dealer in handguns in a form prescribed by the Attorney General. Upon completion of the transfer, the seller must forward a prescribed form to a licensed dealer for recordkeeping.

2. A purchaser with a valid state license-to-purchase, which is issued under a state licensing program approved by the Attorney General, may purchase or receive a handgun in that state if:

The purchaser appears in person at the licensed dealer's premises and (1) shows the dealer the license; (2) the dealer verifies its validity; (3) the purchaser provides sufficient identification to the dealer for him to reasonably believe the individual described on the license is the purchaser; and (4) the dealer maintains specified records of the transaction.

In the event of a transfer between two non-licensees the purchaser must provide the seller with a certificate which establishes the validity of the license-to-purchase from a local law enforcement agency, or a licensed dealer in handguns on a form prescribed by the Attorney General. Upon completion of the transfer, the seller reports the transaction to a licensed dealer in a form prescribed by the Attorney General.

Under procedure (1), the Attorney General must approve state license-to-carry laws. The standards for approval require the following minimum provisions:

(1) Prior to issuing the license-to-carry, the state must perform an identity and record check and determine that the individual is not barred from possessing a handgun under Federal or state law.

(2) The license-to-carry provides a means of establishing the identification of the licensee (e.g. photograph).

(3) The state shall issue at least monthly to the Department of Justice and to all licensed dealers within the state, a list of cancelled license numbers.

(4) The license-to-carry may only be issued if a person would not be prohibited from purchasing or carrying a handgun under the law at his place of residence.

(5) The state license-to-carry is non-alterable.

(6) The states maintain a record of the names of individuals who have been issued a license-to-carry.

(7) The license-to-carry is only issued to individuals with a legitimate need to carry a handgun outside their residence or place of business.

(8) The state maintains a record of licensees and periodically reviews people's eligibility for licenses-to-carry.

(9) The state provides for a mandatory penalty of six months imprisonment for those found guilty of carrying a handgun outside of their residence/business without a license-to-carry.

As to procedure (2), the Attorney General will use the following standards in approving a state's license-to-purchase program:

(1) The license-to-purchase is only issued after verifying the identity of the individual and determining that he is not barred by local, state or Federal law from possessing a handgun.

(2) The license-to-purchase provides a photograph or other evidence to verify identity of holder.

(3) Each license-to-purchase allows the individual to carry the handgun in a non-functional basis outside his home or place of business not more than 24 hours from the date of receipt.

The license expires within two years and must be renewed by redetermining the holder's eligibility. Each month the state provides the Attorney General and the dealers in that state with a list of cancelled licenses.

(4) The license-to-purchase is issued to an individual if he is not barred from purchase under the local law of his place of residence.

(5) The state license-to-purchase is non-alterable.

(6) The state maintains a record of the names of individuals who have been issued a license-to-purchase.

Under both procedures, states submit a list to the Attorney General of cancelled licenses which are sent to dealers for reference, to determine validity of licenses.

3. Unless the purchaser has a valid state license-to-carry or a valid state license-to-purchase, he must undergo a record and identity check. He must appear in person at the business premises of a licensed dealer:

He must submit a sworn statement stating his name and residence; that his purchase will not be in violation of Federal, state, or local law applicable to his place of residence; that he does not intend to resell it to an individual barred from ownership. The statement must also set forth the title, name and address of the chief law enforce-

ment officer of the purchaser's place of residence.

The purchaser must attach a true copy of any permit required to purchase, own, and carry a handgun in his place of residence.

The purchaser must provide sufficient identification to verify his identity.

The dealer, prior to delivery, must forward to the chief law enforcement officer of the purchaser's residence and to the FBI a copy of the sworn statement.

The dealer must wait 21 days for the verification reports from the law enforcement agency and the FBI. The FBI is required to respond in 15 days. These reports are to be maintained by the dealer.

If, after 21 days, the FBI report has been received, and the dealer has received no indication that the purchase is prohibited, the dealer may transfer the handgun even if the local police fail to respond in 21 days.

In the event of a transfer between two non-licensees, the seller may not transfer the handgun unless he has received from the purchaser or licensed dealer a written certification that the dealer has followed the verification procedure set forth above. Upon completion of the transfer, the seller shall notify the dealer that the transfer has taken place.

The provisions of this section shall not apply to loans or rentals of handguns at legitimate shooting ranges. A licensed dealer who arranges for the transfer of handguns between non-licensees shall be entitled to a fee of not more than $10.

SECTION 104: LICENSING

1. This section deals with various commercial licenses and raises fees to support administration and enforcement efforts. The section also provides for several types of licenses for several types of dealers, e.g., gunsmiths (dealers only involved in the repair of handguns), or ammunition dealers, for whom a lower license fee is required.

a. The fee for dealers in handguns is raised from $10 to $500. The fee for manufacturers of handguns is raised from $50 to $5,000; and the fee for importers of handguns is raised from $50 to $5,000.

b. Conditions for commercial licenses:

(1) Present law requires that the applicant be over 21; not prohibited from possessing a handgun under the law; not have willfully violated any of the provisions of the chapter; not provided false information on his application; and have appropriate business premises.

(2) The legislation sets forth the following additional requirements:

A. Commercial licensees must be doing business in compliance with state and local laws.

B. Commercial licensees must take appropriate security precautions to prevent thefts.

C. Commercial licensee must certify that he will not employ individuals in his licensed business who are prohibited from possessing, transporting, shipping or receiving firearms under the law.

D. Procedures for denial, suspension and revocation of licenses, and allows fines in addition to extreme penalty of license revocation.

E. Provides for a system of private, decentralized record maintenance through the commercial network:

Licensed importers, manufacturers, dealers and collectors must keep records of the importation, production, shipment, receipt, sale, or other disposition of all firearms and ammunition as prescribed by the Attorney General.

Licensed importers and manufacturers must keep records by serial number, of each handgun he imports, receives or manufactures for a period of ten years from the date of disposition. These records shall include: the disposition of the handgun, whether it was sold, transferred, destroyed, lost or stolen; the date of the disposition; and for subsequent sales and transfers reported by licensed dealers, the name and address of the transferor, and the name, address or license number of the transferee.

Licensed dealers must keep by serial number a record of each handgun received or transferred by or through them. The record shall include: whether the disposition was through sale, transfer, trade-in, destruction, loss, theft, or other means; the date of such disposition; and for each sale or transfer of that handgun, the model, the name and address of the transferor, and the name and address or license number of the transferee. Each dealer shall monthly transfer such records to the importer or manufacturer whose serial number appears on the handgun.

Each licensed importer and licensed manufacturer shall conduct periodic audits of the records received from licensed dealers to ensure their accuracy.

In the event the licensee sells or transfers his business, the appropriate records are to be transferred to the new owner. If the licensee ceases business, the records are sent to the Department of Justice.

All licensees shall make their records available for inspection by the Attorney General. They shall submit quarterly reports kept according to handgun size and model, but not including the name or address of any noncommercial licensee, to the Attorney General, summarizing the disposition of all handguns transferred by or through that licensee.

SECTION 105: EASILY CONCEALABLE HANDGUNS ILLEGAL

The Attorney General shall approve for manufacture, assembly, importation, sale or transfer any handgun model which satisfies the criteria established by the Handgun Concealability Criteria Commission.

As recommended by the Commission, the Attorney General shall determine handgun models particularly appropriate for law enforcement authorities. By regulation, he can approve certain quantities for manufacture, available only to these authorities.

The Handgun Criteria Commission will be appointed by the Attorney General to evaluate handguns according to frame size and other factors, to determine such handgun models that are easily concealable, are handguns with potential for criminal use and are handguns particularly suitable for sporting purposes, for criminal use, or are particularly suitable for sporting purposes.

The Commission will have 15 members who are representative of the handgun industry, the law enforcement community, the Armed Forces, citizen groups and the general public. Within one year, the Commission will submit to the Attorney General a report setting forth the proposed criteria. The Attorney General within 30 days of receiving the report shall publish the proposed criteria in the Federal Register for comment. Every two years thereafter the Commission shall evaluate the effectiveness of the criteria and shall revise them if necessary.

The criteria established by the Commission shall be transmitted to the Congress. They will become effective at the end of 60 calendar days from the day they are sent to the Congress, unless either House passes a resolution stating in substance that the House does not favor the criteria submitted.

Prior to the time that the criteria established by the Attorney General becomes effective, he shall approve within 120 days the manufacture, assembly, importation, sale or transfer, of any handgun model that:

For a pistol: Has a positive manually operated safety device; a combined length and height of not less than ten inches. The height being at least four inches and the length six inches. Must attain a total of at least 75 points under the criteria of overall length, frame construction, weight, caliber, safety features and miscellaneous equipment.

For a revolver: Must have an overall frame length of four and one-half inches; a barrel length of at least four inches; has a safety device; attains a total of 45 points under the criteria of barrel length, frame construction, weight, caliber, and miscellaneous equipment.

This measure sets forth procedures for testing and evaluating handguns to determine whether they satisfy the aforementioned standards; and provides for an opportunity for retesting or review of any adverse findings. The Attorney General is also obligated to publish a list of approved handguns in the Federal Register.

SECTION 106: PENALTIES

Present law provides criminal penalties for violation of the gun control laws, and transporting a firearm with intent to commit a felony. Using or carrying a firearm during the commission of a felony is punishable as a separate offense, and for the second offense, a mandatory imprisonment is required.

Under this legislation:

(1) A person who possesses, ships, transports or receives firearms or ammunition, while employed by an employer who he has reason to know is prohibited from possessing, shipping, transporting or receiving firearms or ammunition, faces up to a $1,000 fine and imprisonment of not more than one year or both.

(2) If an individual fails to report a theft or loss of a handgun: on the first offense he will face a fine of not more than $500; for the second and subsequent offenses he shall be fined not more than $1,000, or imprisoned not more than six months or both.

(3) If the individual fails to report a theft of loss of a handgun, and it is subsequently used in a felony, the individual faces a fine up to $5,000 or being imprisoned not more than one year or both.

(4) An illegal transfer between non-licensees makes each liable to a civil penalty of $100. If the transferee subsequently uses the handgun in the commission of a felony the transferor shall be fined not more than $1,000, or imprisoned not more than six months.

(5) If someone uses or carries a firearm in the commission of a felony, he will receive a mandatory sentence of 1–10 years for the first offense; and 2–25 years for the second offense.

(6) Any person will be civilly liable to a handgun victim if he negligently sells a handgun to a person in violation of the provision of the act, and that person then uses the handgun in a crime against that victim.

SECTION 9: RELIEF FROM DISABILITIES

This section contains some technical amendments and a provision permitting those who have been found to be mentally ill to purchase handguns once their health has been restored.

SECTION 10: RULES AND REGULATIONS

This section deals with the Attorney General's authority to prescribe rules and regulations. It contains technical amendments and adds a specific power for agents to administer such oaths as are necessary in the enforcement of firearms laws.

SECTION 11: COMPENSATION FOR VICTIMS OF HANDGUN CRIME

This section outlines a system to provide Federal grants to support federally approved state programs for compensation for personal injury and death of victims of handgun crime. Funding is derived from regular appropriations. An Advisory Committee on Victims of Handgun Crime is appointed by the President to advise the Attorney General on policies relating to the compensation of victims of handgun crimes.

SECTION 12: TRANSFER OF FUNCTIONS

All functions relating to the gun control act now performed by the Secretary of the Treasury are transferred to the Attorney General.

There is established in the Department of Justice the Firearms Safety and Abuse Control Administration. It will be headed by an administrator appointed by the President and confirmed by the Senate. The Attorney General will report annually to the Congress on the activities of this agency, the impact of the firearms laws and recommendations for new legislation.

SECTION 13

This section slightly alters the current explosives provisions in order to update the language concerning drug users to conform with the Controlled Substances Act.

SECTION 14

This section revises the provisions dealing with explosives' license holders. It extends to 90 days the time the Attorney General has to approve or disapprove a license application and it permits the Justice Department to impose civil fines or suspensions on licensed dealers for violations of explosives regulations.

SECTION 15

Technical amendments to the postal regulations.

SECTION 16

This repeals part of the existing gun control laws which are made redundant by the provisions to this bill.

SECTION 17

This section contains the effective dates of the legislation.●

● Mr. WEISS. Mr. Speaker, I am joining Chairman RODINO today in introducing the Handgun Crime Control Act of 1979.

Recent FBI statistics indicate that the rate of criminal violence in our Nation has increased by 13 percent for the first half of 1979. Tragically and needlessly, almost 4,000 Americans have died this year as a result of handgun shootings alone.

These appalling figures once again underscore the need for effective and immediate reform of national gun control laws. I believe that the legislation being offered today would move us far in that direction.

The Handgun Crime Control Act would ban all commerce in so-called Saturday night specials. It would also require the handgun industry to take greater responsibility and behave more accountably in the sale of its potentially deadly products. The bill would impose stiffer penalties, would establish mandatory sentencing and would assess civil liability in cases of handgun crime.

Incidents of handgun violence would be further reduced under the legislation through more effective enforcement of existing law and through a needed strengthening of the Federal regulatory process. Finally, the measure tightens distribution of handguns by requiring that owners be more responsible for the possession, use, and ultimate disposition of these weapons. Victims of handgun shootings would also be compensated under the bill.

As the author of New York City's strict gun control law, I have long advocated national legislation to promote domestic disarmament. I know from direct experience in New York that local and State statutes are insufficient to curb a problem that does not recognize jurisdictional borders. Illegal interstate traffic in weapons can be stopped only through tougher Federal enforcement and stronger legislative initiatives.

During the past decade, the body count in our country has steadily increased as bill after bill to control handguns has been proposed, debated, and ultimately defeated by a powerful and unrepresentative special interest lobby. With one American dying every hour of every day as a result of handgun violence, there can no longer be any plausible excuse for delay in this area.

I urge my colleagues to lend their full support to this effort to prevent the slaughter of thousands of Americans.●

DORMAN L. COMMONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 5 minutes.

● Mr. CORMAN. Mr. Speaker, on November 18, the Anti-Defamation League of the B'nai B'rith will present its prestigious Torch of Liberty Award to Dorman L. Commons. The Torch of Liberty Award is this organization's highest honor and is given in recognition of outstanding community service.

Mr. Commons has been very active in community affairs, with a special concern for public schools. He is currently chairman of the California Friends of Public Education and served with distinction on the California State Board of Education for 8 years.

He has been very active in the field of civil rights and has served as president of the Constitutional Rights Foundation.

Mr. Commons has had a longtime interest in the promotion of exports. He served as a member of the National Advisory Council on Exports during the Johnson administration and is currently a member of the President's Export Council.

The Anti-Defamation League was created in 1913 and is dedicated to translating democratic ideals into a way of life. Periodically, the ADL honors an individual who, through his unique and dedicated public service, has helped to further these goals. Dorman L. Commons is such a man.●

JOHN J. SCHAEFER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 5 minutes.

● Mr. ADDABBO. Mr. Speaker, I call to the attention of my colleagues the achievements of my constitutional and longtime personal friend, John J. Schaefer, past commander of Colyer Post 28 American Legion, in South Ozone Park, N.Y.

Born in 1891 in Frankfurt, Germany, and a resident of Queens for over half a century, John Schaefer has devoted much of his life to the American Legion. A veteran of World War I where he served as a private first class in the Medical Corps in Georgia and Virginia, John will soon celebrate his 44th year of continuous and meritorious service to this fine organization.

The last few months have been busy ones for this 88-year activist as he has been showered with a plethora of awards and appointments. On June 6, at the annual election of officers of the Wilbur E. Colyer Post 28 he was reelected chaplain for his 30th year. On that very evening, organized—and was subsequently elected as—the "First President of the Colyer Post Past Commanders Club" for 1979–80. Later in June, at the 61st annual convention of the Queens County American Legion he was reelected for his 11th year as historian. In July at the 61st annual convention of the American Legion of New York held at Rochester, N.Y., John was reappointed for his 10th year as historian and 7th year as ritual chairman of the 10th district American Legion of New York.

Just recently at the Colyer Post executive committee and life membership meeting, John, along with six other past commanders, were chosen to receive the highly coveted life membership cards and plaques.

It should be duly noted that among John's many other accomplishments he had served for the past 20 years as county ritual chairman and is a member of the highly prestigious Honor Society of Queens, serving at one time or another as chaplain, historian, chairman of publicity, and secretary.

Though at an age when many people would be content to sit back and watch the world pass by, John J. Schaefer has refused to do so. He has remained a man of great energy and vigor, a man who loves this Nation and what it stands for. Very often we hear that patriotism is a thing of the past. John Schaefer and the American Legion are living proof that patriotism is alive and well and will continue to flourish in our great country. I wish John and his charming wife Johannah many more years of happiness and service to the community.●

RAY ROBERTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. HEFNER) is recognized for 5 minutes.

● Mr. HEFNER. Mr. Speaker, On October 29, RAY ROBERTS announced that he will not seek reelection to the 97th Congress as a Representative of the Fourth Congressional District of Texas.

This decision by the distinguished gentleman from Texas comes as a personal shock to me. I say this because I am one of the few Members who has the unique opportunity to serve with RAY on two committees. As we all know, RAY is the chairman of the Committee on Veterans' Affairs and chairman of the Subcommittee on Water Resources of the Public Works Committee, of which he is the ranking majority member. It is my honor to be chairman of the Subcommittee on Education, Training, and Employ-

ment on the Veterans' Affairs Committee and to serve as a member of the Public Works Committee. Since my election to Congress, I have worked almost continuously with RAY ROBERTS on issues of intense interest to millions of Americans which have, or will have a profound and lasting effect on the affairs of the Nation. In this regard, I have come to know him as a dedicated public servant who has earned my respect and admiration.

During RAY ROBERTS' career, he has been intimately associated with a large number of great Americans. Two great Texans were the late President Lyndon B. Johnson with whom he implemented programs before World War II for the late President Franklin D. Roosevelt, and the late Speaker, Sam Rayburn, for whom he served as staff assistant before he was elected to take the seat of Speaker Rayburn when he died in 1962.

RAY ROBERTS is a great and good friend of countless numbers of veterans and their families. He is held in the highest regard from past Presidents of the United States such as President Gerald Ford, with whom he served many years in Congress to the least known veteran or his dependent. Regardless of the station in life these Americans may occupy, RAY ROBERTS is held in the highest esteem by all.

RAY ROBERTS is a veteran of two wars. He served in the United States Navy with distinction in both World War II and the Korean conflict. Following the Korean conflict, RAY continued as an active member in the Naval Reserve until he retired with the rank of captain. This experience has undoubtedly provided RAY with a keen insight into the needs, goals and desires of veterans which has helped him earn the justifiable reputation as the spokesman for veterans in the Congress and throughout the land.

The retirement of RAY ROBERTS at the end of this Congress will leave a void which will be hard to replace. I know that I personally will no longer have his wisdom and counsel to guide me. RAY ROBERTS has an outstanding legislative record of achievement during his distinguished career which is too numerous to include in these remarks.

In addition, down through the years, RAY has received many accolades and honors which are too lengthy to enumerate and describe. A most recent and typical one was bestowed by the American Legion, an organization representing 2,700,000 veterans, which occurred in February 1979. Called the Distinguished Public Service Award, the award sums up RAY's public service in these words:

> In recognition of his selfless devotion to the Nation, the preservation of its resources, and his compassionate leadership on behalf of its war veterans.

I will miss RAY ROBERTS' advice and counsel, but I consider myself most fortunate to have profited from his leadership and counsel during my service in the Congress.●

OPENING OF MAIL BY U.S. CUSTOMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, today I am reintroducing a bill, first introduced last fall, which would require customs agents to obtain a search warrant before they can open incoming, sealed international mail that weighs 1 ounce or less.

This legislation will implement the recommendation of the Committee on Government Operations contained in House Report No. 95–1681. The recommendation, endorsed unanimously by the committee, was the product of more than a year's inquiry and evaluation by the Government Information and Individual Rights Subcommittee, which I chair.

The subcommittee investigation and the committee report and recommendation have already achieved considerable success in improving the operations of the Customs Service regarding the opening of mail. As a result of the subcommittee's work, the Customs Service developed a new, detailed policy statement and a set of working procedures which seek to regulate the opening of incoming international mail. The new policies and procedures, coupled with an intensive training and education program for employees who inspect the mail, have resulted in a significant reduction of the opening of "innocent" mail; that is, mail which contains no contraband.

One indication of this improvement has been the continuing decline in the number of complaints received by the Customs Service regarding its mail-opening activities. Customs officials maintain that the improvement is the result of a new sensitivity on the part of employees and officers of the Service to the privacy and other individual rights of citizens.

However effective the current policies and improvements of the Customs Service, though, the fundamental first amendment and privacy interests which are at stake need more certain protection. Where fundamental civil liberties are in question, the good will and sincere intentions of executive officers are not enough. Men change; new administrations and individuals replace the old; and the sensitivity of which the Customs Service is now so justly proud will fade. It is for those reasons that we have a government of laws and that the Committee on Government Operations recommended the limitations on the Customs Service's ability to open mail which this bill seeks to establish.

The bill implements the committee conclusion that a warrant requirement for lightweight mail would better protect first amendment interests without imposing an onerous administrative burden on the Customs Service. Letters weighing 1 ounce or less would be presumed to contain only correspondence. They could be opened only if the customs officer obtained a search warrant based upon a showing of probable cause to believe the letter contains something other than correspondence. The committee reasoned that heavier mail articles can more easily conceal contraband or dutiable merchandise, hence should continue to be subject to opening without a warrant.

In addition to requiring the warrant for lightweight mail, the bill would also elevate from regulation to statute the prohibition on reading any correspondence in sealed mail of any weight without a search warrant.

I urge the earliest consideration of this bill and invite the dialog which will assure its successful passage into law.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, earlier today I missed the vote, rollcall No. 631, on passage of H.R. 4007, repayment of loans to certain unemployment programs, having delayed too long in a conference to make the vote. Had I been present I would have voted "aye."●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, due to a commitment to be in Boston earlier today, I was absent from the House of Representatives for a brief period during consideration of House Resolution 363. This resolution provided for the consideration of H.R. 4007, a bill respecting the repayment of loans made to State unemployment funds. Had I been present for rollcall No. 630, on approval of the resolution, I would have voted "aye."●

SUPPORT REORGANIZATION OF GOVERNMENT TRADE FUNCTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AUCOIN) is recognized for 5 minutes.

● Mr. AUCOIN. Mr. Speaker, tomorrow the House will consider the President's plan to reorganize the trade functions of the Federal Government. I urge my colleagues to support the President's proposal by defeating the resolution of disapproval.

As we consider this plan, we must ask not only if the reorganization of Government trade functions is needed, but more important, if this particular plan will make a positive contribution to improving our international trade posture.

Mr. Speaker, there can be no doubt about the need to reorder the Government's trade functions and improve its assistance to exporters. Consider the facts:

In 1978, our trade deficit was nearly $30 billion, the highest in U.S. history. The 1979 deficit has made only a modest improvement and is running at the rate of nearly $25 billion.

Moreover, we are now in the 41st straight month of trade deficits. For the month of July alone, the deficit totaled over $2.4 billion.

In 1978 the ailing dollar weakened

against every major foreign currency except the Canadian dollar. Our continuing enormous trade deficits are putting tremendous downward pressure on the dollar.

Our international trade position, once as the world's largest exporter, has now deteriorated severely. Each year our competitive ability erodes. In 1960 the United States held around 20 percent of international trade. By 1978 our share had declined to around 14 percent. If we could increase our share of world trade by only 1 percent our trade score would nearly be balanced.

The impact of realities is far-reaching. Today, one in nine manufacturing jobs is directly or indirectly dependent on exports. And it is estimated that for every billion dollars of exports, 40 to 50 thousand jobs are created. So making up our current deficit with increased exports would potentially add an additional 1.2 to 1.5 million new jobs to the economy.

For my own State of Oregon, fully one in nine jobs depends on exports and $1 in $5 of farm exports comes from farm sales. The Port of Portland—10th largest in the United States—is clearly a vital force in the State's economy.

We should also note the very important role that export trade plays as one of the great growth sectors of our economy. Between 1960 and 1970, U.S. exports in current dollars increased annually at 8.5 percent. But between 1970 and 1975—just half the time—they grew at a rate of 18.7 percent. When we realize that only 30,000 firms, or less than 10 percent of all manufacturing concerns in the country are responsible for this growth, the potential for American trade assumes dramatic proportions.

There can be no mistake, Mr. Speaker, that international trade is a key to our economic well-being. And it is time that the Federal Government began to lend its constructive efforts toward correcting the imbalance in our international trade. The steps outlined in the President's plan will help to do this.

Now we must ask, are these steps enough? Will they indeed help us to harness the vast potential of American business and industry for the export markets? No reasonable person is going to say unequivocally that the proposed changes will be 100 percent successful. But they are an important first step toward the goal we seek.

The consolidation of authority over policy concerning import remedies, East-West trade, international commodities, and export expansion in the hands of the U.S. Trade Representative will make a significant contribution to the development of a cohesive, national trade policy—so important to our economic future. Vesting the Department of Commerce with the responsibility for policy implementation (antidumping and countervailing duty administration, commercial representation abroad, and implementation of the Multilateral Trade Negotiation Agreements) will allow us to put some muscle behind that policy.

The office of the Special Trade Representative and the Under Secretary of Commerce for Trade will have to work very closely together in order to insure that their efforts are mutually supportive. I trust that this will be the case.

Many had hoped for a broader reorganization and even the creation of a single agency to develop and implement our trade policy. While the present proposal falls short of this, in my view it represents substantial progress and is worthy of support. It is, after all, a beginning. It moves toward a needed centralization of authority and demonstrates an awareness of our requirements for greater trade promotion.

We will want to keep a vigilant eye on how this plan operates and we will want to continue our efforts to reform existing law to enhance further trade opportunities for American business and industry.

Mr. Speaker, we are not going to right our trade imbalance overnight and we certainly will not do it by simple reorganization. But this is an important first step. It is needed now and, coupled with other trade reforms, it will help us to achieve our goal.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DE LA GARZA (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. BEVILL (at the request of Mr. DAN DANIEL), on account of official business after 4:30 p.m. today and all day November 8, 1979.

Mrs. SNOWE (at the request of Mr. RHODES), for November 8 and the balance of the week, on account of official business.

Mr. YOUNG of Alaska (at the request of Mr. RHODES), for today, on account of illness.

Mrs. HECKLER (at the request of Mr. RHODES), for November 8, and the balance of the week, on account of official business.

Mrs. FENWICK (at the request of Mr. RHODES), for November 8, and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SOLOMON) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 10 minutes, today.
Mr. MARTIN, for 30 minutes, today.
Mr MCKINNEY, for 5 minutes, today.
Mr. GRASSLEY, for 5 minutes, today.
Mr. ASHBROOK, for 20 minutes, today.

(The following Members (at the request of Mrs. BYRON) to revise and extend their remarks and include extraneous material:)

Mr. MONTGOMERY, for 5 minutes, today.
Mr. CARR, for 5 minutes, today.
Mr. MCKINNEY, for 5 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. ASHBROOK, for 20 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ULLMAN, for 5 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. CORMAN, for 5 minutes, today.
Ms. FERRARO, for 5 minutes, today.
Mr. ADDABBO, for 5 minutes, today.
Mr. HEFNER, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.
Mr. OTTINGER, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. AUCOIN, for 5 minutes, today.
Mr. LONG of Louisiana, for 15 minutes, on November 9.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PEPPER, to extend his remarks in the body of the RECORD just before the vote on H.R. 4904.

(The following Members (at the request of Mr. SOLOMON), and to include extraneous material:)

Mr. ROYER.
Mr. LEWIS.
Mr. BROOMFIELD.
Mr. DERWINSKI in three instances.
Mr. BAFALIS.
Mr. KEMP.
Mr. WHITEHURST in two instances.
Mr. COLLINS of Texas in three instances.
Mr. LEE.
Mr. ASHBROOK in three instances.
Mr. BERKUTER.
Mr. GINGRICH.
Mr. SHUMWAY.
Mr. SPENCE.
Mr. PHILIP M. CRANE in two instances.
Mr. EVANS of Delaware.
Mr. MCDADE.
Mr. DANIEL B. CRANE.
Mr. ROUSSELOT in two instances.
Mr. BETHUNE in two instances.
Mr. GOLDWATER.
Mr. RUDD.
Mr. WALKER.
Mr. GRASSLEY.
Mr. MICHEL in two instances.
Mr. ROTH.
Mr. BOB WILSON in two instances.
Mr. RITTER.

(The following Members (at the request of Mrs. BYRON) and to include extraneous matter:)

Mrs. SPELLMAN.
Mr. BOLLING.
Mr. SKELTON.
Mr. LONG of Maryland in two instances.
Mr. ADDABBO.
Mr. FROST.
Mr. RODINO in two instances.
Mr. HAMILTON in two instances.
Mr. DINGELL in two instances.
Mr. FLORIO.
Mr. MAZZOLI.
Mr. PEPPER in two instances.
Mr. SOLARZ in three instances.
Mr. DRINAN in three instances.
Mr. STARK in five instances.
Mr. MONTGOMERY.
Mr. BAILEY in three instances.
Mr. SCHEUER in five instances.
Mr. DE LA GARZA in 10 instances.
Mr. CHARLES WILSON of Texas.
Mr. RAHALL.
Mr. MOTTL.
Mr. RATCHFORD.
Mr. UDALL.
Mr. HARRIS.

Mr. MATSUI.
Mr. MCDONALD.
Mr. BEDELL.
Mr. DANIELSON in two instances.
Mr. SYNAR.
Mr. PATTERSON in two instances.
Mr. EDWARDS of California.
Mr. DIXON.
Mr. ZABLOCKI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 405. An act for the relief of Hun Sik Sanderson; to the Committee on the Judiciary;

S. 919. An act for the relief of Jennifer Ferrer; to the Committee on the Judiciary;

S. 1655. An act to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building"; to the Committee on Public Works and Transportation;

S. 1535. An act to name a certain Federal building in Rochester, N.Y., the Kenneth B. Keating Building; to the Committee on Public Works and Transportation;

S. 1655. An act to designate the building known as the Department of Labor Building in Washington, District of Columbia, as the "Frances Perkins Department of Labor Building"; to the Committee on Public Works and Transportation; and

S. 1686. An act to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building"; to the Committee on Public Works and Transportation.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 640. An act to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes;

S. 838. An act to authorize appropriations for fiscal years 1980, 1981, and 1982 to carry out cooperative programs with the States for the conservation of anadromous fish, and for other purposes; and

S. 1281. An act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel United States, steamship vessel Oceanic Independence, steamship vessel Santa Rosa, and the steamship vessels Mariposa and Monterey into the trade.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that the committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 998. An act to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties;

H.R. 2196. An act to establish a Congressional Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths;

H.R. 3319. An act for the relief of Jose Quintana Dominguez Sendelas; and

H.R. 5279. An act to provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany."

A BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on November 5, 1979, present to the President, for his approval, a bill of the House of the following title:

H.R. 2515. To authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions of statutes, and for other purposes.

ADJOURNMENT

Ms. FERRARO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 11 minutes p.m.), the House adjourned until tomorrow, Thursday, November 8, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2757. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to regulate the production, sale, and shipment of animal biological products, and to repeal the act of March 4, 1913; to the Committee on Agriculture.

2758. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1980 (H. Doc. No. 96-218); to the Committee on Appropriations and ordered to be printed.

2759. A letter from the Comptroller General of the United States, transmitting his review of the deferrals and revised deferral of budget authority contained in the message from the President dated September 27, 1979 (H. Doc. No. 96-195), pursuant to section 1014(b) and (c) of Public Law 93-344 (H. Doc. No. 96-219); to the Committee on Appropriations and ordered to be printed.

2760. A letter from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting a report on Selected Reserve recruiting and retention incentives as of August 31, 1979, pursuant to 10 U.S.C. 2134 and section 306b and 306c of title 37, United States Code; to the Committee on Armed Services.

2761. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 3-113, to amend the District of Columbia Consumer Transmission of Money Act of 1978, and to provide administrative flexibility, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2762. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 3-114, to require the installation of smoke detectors in all nursing homes and residential-custodial care facilities by January 1, 1980; to require the installation of smoke detectors before a certificate of occupancy may be issued; to authorize the Mayor or his designee to enforce the Building Code, Fire Prevention Code, Health Regulations, Housing Regulations and Smoke Detectors Act of 1978; to revise the egress and fire door requirements for community residence facilities and for other purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2763. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 3-119, to raise the interest rate ceiling in the District of Columbia on residential mortgage loans and certain consumer loans, and for other purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2764. A letter from the Administrator, Law Enforcement Assistance Administration, Department of Justice, transmitting the third analysis and evaluation of Federal juvenile delinquency programs, covering fiscal year 1978, pursuant to section 204(b)(5) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended; to the Committee on Education and Labor.

2765. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain defense articles sold commercially to the Federal Republic of Germany (Transmittal No. MC-1-80), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2766. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Patricia M. Byrne, and by members of her family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

2767. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Angier B. Duke, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

2768. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Richard C. Matheron, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

2769. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Richard W. Petree, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

2770. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

2771. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the Bureau of Engraving and Printing to use recording clocks to record time and attendance of employees; to the Committee on Government Operations.

2772. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the Department's disposal of foreign excess property during fiscal year 1979, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

2773. A letter from the Assistant Secretary for Administration, Department of Housing and Urban Development, transmitting notice of two proposed new records systems for the Department, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2774. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the Government Printing Office for fiscal year 1978 (LCD-80-4, Nov. 2, 1979), pursuant to 44 U.S.C. 309(c); to the Committee on Government Operations.

2775. A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims, and for other purposes; to the Committee on Interior and Insular Affairs.

2776. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of the bidding systems to be used and the tracts to be offered in OCS Lease Sale No. 58A, pursuant to section 8(a)(8) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

2777. A letter from the Secretary of Health, Education, and Welfare, transmitting notice of a delay in the submission in the annual reports for fiscal years 1978 and 1979 on the administration of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, and part C of the Community Mental Health Centers Act, required by section 102(1) of Public Law 91-616; to the Committee on Interstate and Foreign Commerce.

2778. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the health professions financial distress grant program, pursuant to section 788 (b) of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

2779. A letter from the Director, Office of Congressional and Public Affairs, Federal Energy Regulatory Commission, transmitting proposed regulations establishing requirements and procedures for a determination of qualifying status for small power production and cogeneration facilities under section 210 of the Public Utility Regulatory Policies Act of 1978; to the Committee on Interstate and Foreign Commerce.

2780. A letter from the Chairman and Chief Executive Officer, Consolidated Rail Corporation, transmitting a draft of an employee stockownership plan and a report on the progress in establishing and administering the plan, pursuant to section 216(f)(5) of Public Law 93-236, as amended; to the Committee on Interstate and Foreign Commerce.

2781. A letter from the Associate Director, Legislative Liaison, Department of the Air Force, transmitting a draft of proposed legislation to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service; to the Committee on the Judiciary.

2782. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

2783. A letter from the national adjutant, Veterans of World War I of the U.S.A., Inc., transmitting the proceedings of the organization's national convention and its financial statements for the 9 months ended June 30, 1979, pursuant to section 16 of Public Law 85-530, and section 3 of Public Law 88-504 (H. Doc. No. 96-220); to the Committee on the Judiciary and ordered to be printed.

2784. A letter from the Secretary of Transportation, transmitting a report on the feasibility and desirability or designating routes in Alaska and Puerto Rico as part of the National System of Interstate and Defense Highways, pursuant to section 156 of the Surface Transportation Assistance Act of 1978; to the Committee on Public Works and Transportation.

2785. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of a proposed redirection of NASA's Galileo project, pursuant to section 4(3) of Public Law 96-48; to the Committee on Science and Technology.

2786. A letter from the director, National Legislative Commission, American Legion, transmitting the proceedings of their 61st annual national convention, a report of activities for the year preceding the convention, and a financial statement and independent audit of the organization, pursuant to section 9 of the act of September 19, 1919, and section 3 of Public Law 88-504 (H. Doc. No. 96-221); to the Committee on Veterans' Affairs and ordered to be printed.

2787. A letter from the Assistant Secretary of State for Congressional Relations, transmitting copies of Presidential Determinations No. 80-2, finding that the waiver of the application of subsections (a) and (b) of section 402 of the Trade Act of 1974 with respect to the People's Republic of China will substantially promote the objectives of the act, pursuant to section 402(c)(2)(A) of the act, and No. 80-2 finding that the Agreement on Trade Relations between the United States of America and the People's Republic of China will promote the purposes of the act and is in the national interest; to the Committee on Ways and Means.

2788. A letter from the Director of Congressional Relations, U.S. Consumer Product Safety Commission, transmitting budget estimates submitted to OMB in response to its request to members of the Interagency Regulatory Liaison Group (IRLG) for a management analysis and operating plan through fiscal year 1981 concerning IRLG activities, pursuant to section 27(k)(1) of the Consumer Product Safety Act of 1972, as amended; jointly, to the Committees on Appropriations and Interstate and Foreign Commerce.

2789. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize the establishment of a Senior Cryptologic Executive Service and merit pay and awards system within the National Security Agency and to make necessary amendments to title 5, United States Code; jointly, to the Committee on Armed Services, the Permanent Select Committee on Intelligence, and Post Office and Civil Service.

2790. A letter from the Comptroller General of the United States, transmitting a report on the Navy's capacity for depot electronic/electrical maintenance (LCD-80-3, Nov. 2, 1979); jointly, to the Committees on Government Operations and Armed Services.

2791. A letter from the Comptroller General of the United States, transmitting a report on the Air Force's plans to modernize its Air Reserve Forces (LCD-80-11, Nov. 6, 1979); jointly, to the Committees on Government Operations and Armed Services.

2792. A letter from the Chairman, Federal Communications Commission, transmitting an interim report on the Commission's study of public maritime coast station services, pursuant to section 506(b) of the Communications Satellite Act of 1962, as amended (92 Stat. 2395); jointly, to the Committees on Interstate and Foreign Commerce and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 4310. A bill to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreation boating safety and facilities improvement program, and for other purposes; with amendment (Rept. No. 96-591, pt. 1). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4310. A bill to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes; with amendment (Rept. No. 96-591, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 126. A bill to permit the National Park Service to accept privately donated funds and to expend such funds on property on the National Register of Historic Places; with amendment (Rept. No. 96-592). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5182. A bill to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date 10 years after the effective date of such act to the date 20 years after such effective date. (Rept. No. 96-593). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Tennessee:

H.R. 5806. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income all dividends received by individuals from domestic corporations and to exclude from gross income interest on certain savings; to the Committee on Ways and Means.

By Mr. BEDELL:

H.R. 5807. A bill to deauthorize the construction of the irrigation project for the Oahe unit, James division, Missouri River Basin project in South Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BIAGGI:

H.R. 5808. A bill to revise and improve the laws relating to the shipment, discharge, and protection of seamen, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DERRICK:

H.R. 5809. A bill to amend the Atomic Energy Act of 1954 to authorize States to enter into agreements or compacts with other States for the establishment of regional disposal sites for low-level radioactive waste, to establish certain rules respecting the ownership of low-level radioactive waste, and for other purposes; jointly to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. EVANS of Delaware:

H.R. 5810. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit to fuel providers for reductions in the cost of home heating fuel for the low-income elderly and disabled, and for other

purposes; to the Committee on Ways and Means.

By Mr. FAUNTROY (for himself, Mr. BARNES, Mr. DELLUMS, and Mr. MCKINNEY):

H.R. 5811. A bill to allow the Interest Rate Modification Act of 1979 passed by the Council of the District of Columbia to take effect immediately; to the Committee on the District of Columbia.

By Mr. HAMMERSCHMIDT:

H.R. 5812. A bill to amend the Department of Education Organization Act to transfer authority with respect to rural education to the Assistant Secretary for Elementary and Secondary Education, and for other purposes; to the Committee on Education and Labor.

By Mr. HIGHTOWER:

H.R. 5813. A bill to amend the Immigration and Nationality Act to provide for the deportation of nonimmigrant alien students who knowingly participated in a violent political demonstration or otherwise participated in activities inconsistent with the terms of their admittance to the United States; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 5814. A bill to require that $50 bills bear a portrait of Georgia Neese Clark Gray, the first woman to serve as Treasurer of the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KEMP:

H.R. 5815. A bill to amend the Internal Revenue Code of 1954 to allow certain married individuals who file separate returns to be taxed as unmarried individuals; to the Committee on Ways and Means.

By Mr. KINDNESS (for himself and Mr. SYMMS):

H.R. 5816. A bill to replace the program established under the Food Stamp Act of 1977 with a 5-year federally funded program established by the States; to the Committee on Agriculture.

Mr. LAGOMARSINO:

H.R. 5817. A bill to designate certain lands in the Los Padres National Forest, Calif., as the "Dick Smith Wilderness"; to the Committee on Interior and Insular Affairs.

By Mr. LUKEN:

H.R. 5818. A bill to amend title II of Public Law 94-305 to expand the duties of the Office of Advocacy of the Small Business Administration, to amend the Small Business Investment Act of 1958, to promote the viability of small businesses in the sale and distribution of soft drinks, to clarify the status of territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products, and to protect the environment from adverse effects which would result from the elimination of returnable, refillable bottles, and for other purposes; jointly, to the Committees on the Judiciary, Interstate and Foreign Commerce, and Small Business.

By Mr. MCCORMACK:

H.R. 5819. A bill to provide for research, development, and demonstration of the safe and permanent disposal of low level radioactive wastes from hospitals, medical schools, research facilities, nuclear powerplants, and other sources; jointly, to the Committees on Science and Technology, Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. PREYER (for himself, Mr. BROOKS, Mr. DRINAN, Mr. WEISS, Mr. HORTON, Mr. MCCLOSKEY, and Mr. KINDNESS):

H.R. 5820. A bill to protect the privacy of correspondence in the mails; to the Committee on Post Office and Civil Service.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 5821. A bill to amend title 10, United States Code, to allow the military departments to accept voluntary, uncompensated services from persons desiring to provide such services for military department museums; to the Committee on Armed Services.

H.R. 5822. A bill to amend title 10, United States Code, to repeal the requirement that before a member of the Standby Reserve may be involuntarily ordered to active duty in time of war or national emergency the Director of Selective Service must determine that the member is available for active duty; to the Committee on Armed Services.

By Mr. RODINO (for himself, Mr. EDWARDS of California, Mr. SEIBERLING, Mr. DRINAN, Mr. BEILENSON, Mr. BOLLING, Mrs. CHISHOLM, Mr. FARY, Mr. GARCIA, Mr. GRAY, Mr. GREEN, Mr. LELAND, Mr. MCCLOSKEY, Mr. MOFFETT, Mr. STARK, Mr. THOMPSON, Mr. WAXMAN, and Mr. WEISS):

H.R. 5823. A bill entitled: "The Handgun Crime Control Act of 1979"; to the Committee on the Judiciary.

By Mr. ROSE:

H.R. 5824. A bill to amend the Communications Act of 1934 to prohibit the transmission of televised coverage of the floor proceedings of the House of Representatives for the purpose of influencing the outcome of any election for public office; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 5825. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. STAGGERS:

H.R. 5826. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. VANIK (by request):

H.R. 5827. A bill to amend the act of June 18, 1934, regarding the submission by the Foreign-Trade Zones Board of annual reports to Congress; to the Committee on Ways and Means.

By Mr. PATTERSON:

H.R. 5828. A bill to amend the Internal Revenue Code of 1954 to allow individuals who are participants in employer pension plans a deduction for their contributions to individual retirement plans; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.J. Res. 438. Joint resolution proposing an amendment to the Constitution of the United States requiring a review by the Congress of each rule and regulation issued to carry out any law and allowing the Congress to approve, modify, or disapprove such rule or regulation; to the Committee on the Judiciary.

By Mr. STAGGERS:

H.J. Res. 439. Joint resolution authorizing the President to proclaim the month of November 1979 as "National REACT Month"; to the Committee on Post Office and Civil Service.

By Mr. LENT:

H. Con. Res. 206. Concurrent resolution expressing the sense of the Congress that the President should take certain actions with respect to Iran; to the Committee on Foreign Affairs.

By Mr. ROUSSELOT:

H. Con. Res. 207. Concurrent resolution requesting the President to publicly condemn the Government of the Socialist Republic of Vietnam, and to request the United Nations to consider the imposition of sanctions against the Government of the Socialist Republic of Vietnam, for violating the fundamental human rights of the people of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. DOUGHERTY (for himself, Mr. HYDE, Mr. CLINGER, Mr. SPENCE, Mr. GINGRICH, Mr. CAMPBELL, Mr. SOLOMON, Mr. ROYER, Mr. DAVIS of Michigan, Mr. LUNGREN, Mr. TAUKE, Mr. RITTER, Mr. QUAYLE, Mr. BADHAM, Mr. MONTGOMERY, Mr. EDWARDS of Alabama, and Mr. LEE):

H. Res. 477. Resolution expressing the sense of the House of Representatives that the Attorney General should immediately revoke all student visas held by citizens of Iran who have engaged in activities prejudicial to the public interest of the United States; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of the rule XXII, memorials were presented and referred as follows:

318. By the SPEAKER: Memorial of the Legislature of the State of Wisconsin, relative to self-government for the District of Columbia, and ratifying the proposed amendment to the Constitution of the United States to provide for the representation in Congress of the District of Columbia; to the Committee on the Judiciary.

319. Also, memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to developing an over-the-ocean departure procedure for runway 22 right from Logan International Airport; to the Committee on Public Works and Transportation.

320. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to Vietnam veterans; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HAMILTON:

H.R. 5829. A bill for the relief of Foundry United Methodist Church; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 5830. A bill for the relief of Ken Schultz Buick/GMC, Inc.; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 5831. A bill for the relief of Norman Sirota; to the Committee on the Judiciary.

By Mr. SYMMS:

H.R. 5832. A bill for the relief of Maria Elba Leora Hernandez; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2074: Mr. CARR, Mr. CORMAN, Mr. DUNCAN of Oregon, Mr. PANETTA, and Mr. NOLAN.

H.R. 2977: Mr. AKAKA, Mr. BERKLEY, Mr. COTTER, Mr. DASCHLE, Mr. DOUGHERTY, Mr. GARCIA, Mr. JEFFORDS, Mr. MOFFETT, Mr. NEAL, and Mr. MCKINNEY.

H.R. 3106: Mr. ANTHONY.

H.R. 3284: Mr. YOUNG of Florida.

H.R. 3967: Mr. TREEN.

H.R. 4345: Mr. DERWINSKI, Mr. WALKER, Mr. NOWAK, Mr. ANDREWS of North Dakota, Mr. ST GERMAIN, Mr. CLEVELAND, Mr. ABDNOR, Mr. KILDEE, Mr. AMBRO, Mr. PREYER, Mr. LAGOMARSINO, Mr. MCDADE, Mr. STACK, Mr. RINALDO, Mr ALBOSTA, Mr. GRAY, Mr. FAZIO, Mr. COUGHLIN, Mr. OBERSTAR, Mr. RITTER, Mr. REGULA, Mr. CLAUSEN, Mr. CARNEY, Mr. MARKS, Mr. QUILLEN, and Mr. HAGEDORN.

H.R. 4753: Mr. GOODLING.

H.R. 4805: Mr. MITCHELL of New York, Mrs. FENWICK, Mr. GILMAN, Mr. YATRON, and Mr. STACK.

H.R. 4892: Mr. PATTERSON.

H.R. 5038: Mr. HUBBARD.

H.R. 5128: Mr. WHITEHURST, Mr. BUTLER, Mr. JOHNSON of Colorado, Mr. LUJAN, Mr. CORCORAN, Mr. DERWINSKI, and Mr. BURGENER.

H.R. 5282: Mr. NOLAN and Mr. TAUKE.

H.R. 5396: Mr. ALBOSTA, Mr. BEDELL, and Mr. GINGRICH.

H.R. 5399: Mr. ATKINSON and Mr. PURSELL.

H.R. 5420: Mr. HOPKINS, Mr. JEFFRIES, Mr. GINGRICH, and Mr. KRAMER.

H.R. 5428: Mr. ALBOSTA, Mr. HEFTEL, Mr. RICHMOND, and Mr. BONIOR of Michigan.

H.R. 5499: Mr. BALDUS and Mr. SANTINI.

H.R. 5539: Mr. BEDELL, Mr. NOLAN, Mr. GRAY, and Mr. WAMPLER.

H.R. 5600: Mr. BEDELL, Mr. HAMMERSCHMIDT, Mr. MITCHELL of New York, Mr. NOLAN, Mr. STANGELAND, and Mr. SEBELIUS.

H.R. 5609: Mr. MAGUIRE, Mr. WALGREN, Ms. MIKULSKI, Mr. LELAND, Mr. SCHEUER, Mr. OTTINGER, Mr. WIRTH, Mr. FLORIO, and Mr. MOFFETT.

H.R. 5610: Mr. BROOMFIELD, Mr. ROBERT W. DANIEL, JR., Mr. DAVIS of Michigan, Mr. DICKINSON, Mr. GUYER, Mr. HALL of Texas, Mr. HEFTEL, Mrs. HOLT, Mr. MARRIOTT, and Mr. ROYER.

H.R. 5766: Mr. EDGAR, Mr. WILLIAMS of Montana, Mr. BEDELL, and Mr. NICHOLS.

H.J. Res. 379: Mr. MURPHY of Pennsylvania, Mr. WON PAT, Mr. PEPPER, Mr. SCHEUER, Mr. WINN, Mr. YOUNG of Missouri, Mr. ROE, Mr. MURPHY of New York, Mr. THOMPSON, Mr. HORTON, Mr. FAZIO, Mr. GUARINI, Ms. OAKAR, Mr. KOSTMAYER, Mr. STOKES, Mr. MURPHY of Illinois, Ms. MIKULSKI, Mr. BONIOR of Michigan, Mr. GOLDWATER, Mr. RAHALL, Ms. HOLTZMAN, Mr. SIMON, Mr. GREEN, Mr. PASHAYAN, Mr. BEVILL, Mr. EDGAR, Mr. OBERSTAR, Mr. CLAY, Mr. YATRON, Mr. WHITEHURST, Mr. CLINGER, Mr. LELAND, Mrs. CHISHOLM, Mr. HAWKINS, Mr. CONYERS, Mr. ADDABBO, Mr. PATTEN, and Mr. FLOOD.

H. Con. Res. 203: Mr. BAUMAN, Mr. ASHBROOK, Mr. ROTH, Mr. MCKINNEY, Mr. BARNARD, Mr. SYMMS, Mr. HINSON, Mr. GUYER, Mr. WYATT, Mr. RUNNELS, Mr. HALL of Texas, Mr. ABDNOR, Mr. O'BRIEN, Mr. DERWINSKI, Mr. SOLOMON, Mr. BADHAM, Mr. BUCHANAN, Mr. BETHUNE, Mr. QUAYLE, Mr. SHUMWAY, Mr. COLLINS of Texas, Mr. EDDAHL, Mr. LUJAN, Mr. LEWIS, Mr. HAMMERSCHMIDT, Mr. MARRIOTT, Mr. JOHNSON of Colorado, Mr. DUNCAN of Tennessee, Mr. RITTER, Mr. ERLENBORN, Mr. GILMAN, Mr. LAGOMARSINO, Mr. STUMP, Mr. WAMPLER, Mr. MYERS of Indiana, Mr. DEVINE, Mr. WHITE, Mr. HALL of Ohio, Mr. MURTHA, Mr. BAILEY, Mr. ATKINSON, Mr. MURPHY of Pennsylvania, Mr. CAVANAUGH, Mr. MATSUI, Mr. COELHO, and Mr. COTTER.

H. Res. 445: Mr. ANTHONY.

H. Res. 446: Mr. EDGAR, Mr. HEFTEL, Mr. FAZIO, Mr. SIMON, and Mr. PRICE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

216. By the SPEAKER: Petition of the National Tobacco Tax Association, Columbus, Ohio, relative to cigarette tax enforcement; to the Committee on the Judiciary.

217. Also, petition of the National Association of Civilian Conservation Corps Alumni, Carmichael, Calif., relative to reestablishing a permanent Civilian Conservation Corps and setting aside a day in the calendar year to be known as "National CCC Day"; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2626

By Mr. JACOBS:

(To the amendment in the nature of a substitute reported by the Committee on Ways and Means.)

—Page 36, amend the items in the table of contents related to title II to read as follows:

TITLE II—STATE MANDATORY HOSPITAL COST CONTAINMENT PROGRAMS AND ENFORCEMENT

PART A—APPROVAL OF STATE MANDATORY PROGRAMS AND EXEMPTIONS FROM RESTRICTIONS

Sec. 201. Approval of State mandatory programs.

Sec. 202. Funding of State mandatory programs.

Sec. 203. Exemption of hospitals engaged in certain experiments or demonstrations.

PART B—ENFORCEMENT

Sec. 211. Conformance by certain Federal and State programs.

Page 36, strike out the item in the table of contents relating to section 313 and redesignate succeeding provisions in part B of title III accordingly.

Page 57, amend lines 4 through 8 to read as follows:

(d)(1) Subject to paragraph (2), the Secretary may not enter into an agreement under section 1866 of the Social Security Act with any hospital for any period beginning after the end of the voluntary period of the hospital (as determined under subsection (c)).

Page 57, strike out line 12 and all that follows through page 71, line 17 and insert in lieu thereof the following:

TITLE II—STATE MANDATORY HOSPITAL COST CONTAINMENT PROGRAMS AND ENFORCEMENT

PART A—APPROVAL OF STATE MANDATORY PROGRAMS AND EXEMPTIONS FROM RESTRICTIONS

Page 71, line 19, strike out "211" and insert in lieu thereof "201".

Page 72, line 20, strike out "322(4)" and insert in lieu thereof "322(3)".

Page 73, amend lines 19 through 23 to read as follows:

(c)(1) There shall be exempted from any restriction under section 115(d)(1) any agreement, under section 1866 of the Social Security Act of a hospital in a State, which begins in a year in which a State mandatory hospital cost containment program for the State has been approved under this section.

Page 74, line 4, strike out "212" and insert in lieu thereof "202".

Page 75, amend lines 3 through 5 to read as follows:

SEC. 203. The Secretary may exempt hospitals from the application of the restriction of section 115(d)(1) if he determines that—

Page 75, strike out line 13 and all that follows through page 81, line 14 and insert in lieu thereof the following:

PART B—ENFORCEMENT

Page 81, line 17, strike out "222" and insert in lieu thereof "211".

Page 81, strike out the dash at the end of line 21 and all that follows through page 82, line 5 and insert in lieu thereof the following: "which is exempted from a restriction under section 115(d)(1) because the hospital is located in a State with a mandatory hospital cost containment program approved under part A, to the extent that the reimbursement exceeds the limit prescribed under such program".

Page 82, strike out the dash on line 11 and all that follows through line 19 and insert in lieu thereof the following: "which is exempted from a restriction under section 115(d)(1) because the hospital is located in a State with a mandatory hospital cost containment program approved under part A, to the extent that the reimbursement exceeds the limit prescribed under such program".

Page 88, line 15, strike out "311(6)(E)" and insert in lieu thereof "321(3)(E)".

Page 89, line 6, strike out "part A of title II" and insert in lieu thereof "section 115(d)(1)".

Page 89, line 17, strike out ", modify,".

Page 90, strike out line 10 and all that follows through page 91, line 18.

Page 91, line 20, strike out "314" and insert in lieu thereof "313".

Page 95, line 4, strike out "315" and insert in lieu thereof "314".

Page 96, line 10, strike out "316" and insert in lieu thereof "315".

Page 98, line 1, strike out "and shall not" and all that follows through "title II" on line 3.

Page 99, amend lines 3 through 5 to read as follows:

(3) restrictions under section 155(d)(1) on entering into agreements under section 1866 of the Social Security Act shall not apply to agreements entered into for periods beginning after 1983; and

Page 99, lines 7, 10, and 13, strike out "316(b)", "314", and "314(c)(1)", respectively, and insert in lieu thereof "315(b)", "313", and "313(c)(1)", respectively.

Page 101, strike out line 11 and all that follows through page 102, line 2, and redesignate succeeding paragraphs accordingly.

Page 103, line 5, strike out "211" and insert in lieu thereof "201".

Page 104, strike out line 13 and all that follows through page 105, line 7, and redesignate succeeding paragraphs accordingly.

By Mr. JACOBS:

(To the amendment in the nature of a substitute reported by the Committee on Interstate and Foreign Commerce.)

—Pages 112 and 113, amend the items in the table of contents related to title II to read as follows:

TITLE II—STATE MANDATORY HOSPITAL COST CONTAINMENT PROGRAMS AND ENFORCEMENT

PART A—APPROVAL OF STATE MANDATORY PROGRAMS AND EXEMPTIONS FROM RESTRICTIONS

Sec. 201. Approval of State mandatory programs.

Sec. 202. Funding of State mandatory programs.

Sec. 203. Exemption of hospitals engaged in certain experiments or demonstrations.

PART B—ENFORCEMENT

SEC. 211. Conformance by certain Federal and State programs.

Page 113, strike out the item in the table of contents relating to section 313 and redesignate succeeding provisions in part B of title III accordingly.

Page 139, amend lines 6 through 11 to read as follows:

(d)(1) Subject to paragraph (2), the Secretary may not enter into an agreement under section 1866 of the Social Security Act with any hospital for any period beginning after the end of the voluntary period of the hospital (as determined under subsection (c)).

Page 139, strike out line 15 and all that follows through page 154, line 3 and insert in lieu thereof the following:

TITLE II—STATE MANDATORY HOSPITAL COST CONTAINMENT PROGRAMS AND ENFORCEMENT

PART A—APPROVAL OF STATE MANDATORY PROGRAMS AND EXEMPTIONS FROM RESTRICTIONS

Page 154, line 5, strike out "211" and insert in lieu thereof "201".

Page 155, line 12, strike out "322(3)" and insert in lieu thereof "322(2)".

Page 156, amend lines 11 through 16 to read as follows:

(c)(1) There shall be exempted from any restriction under section 115(d)(1) any agreement, under section 1866 of the Social Security Act of a hospital in a State, which begins in a year in which a State mandatory hospital cost containment program for the State has been approved under this section.

Page 157, line 15, strike out "212" and insert in lieu thereof "202".

Page 158, amend lines 14 through 17 to read as follows:

SEC. 203. The Secretary may exempt hospitals from the application of the restriction of section 115(d)(1) if he determines that—

Page 159, strike out line 3 and all that follows through page 166, line 11 and insert in lieu thereof the following:

PART B—ENFORCEMENT

Page 166, line 14, strike out "222" and insert in lieu thereof "211".

Page 166, strike out the dash at the end of line 19 and all that follows through page 167, line 5 and insert in lieu thereof the following: "which is exempted from a restriction under section 115(d)(1) because the hospital is located in a State with a mandatory hospital cost containment program approved under part A, to the extent that the reimbursement exceeds the limit prescribed under such program".

Page 167, strike out the dash on line 12 and all that follows through line 23 and insert in lieu thereof the following: "which is exempted from a restriction under section 115(d)(1) because the hospital is located in a State with a mandatory hospital cost containment program approved under part A, to the extent that the reimbursement exceeds the limit prescribed under such program".

Page 171, line 21, strike out "part A of title II" and insert in lieu thereof "section 115(d)(1)".

Page 172, line 8, strike out ", modify,".

Page 173, strike out line 3 and all that follows through page 174, line 20.

Page 174, line 22, strike out "314" and insert in lieu thereof "313".

Page 178, line 15, strike out "315" and insert in lieu thereof "314".

Page 181, line 15, strike out "and shall not" and all that follows through "title II" on line 18.

Page 182, amend lines 20 through 23 to read as follows:

(3) restrictions under section 155(d)(1) on entering into agreements under section 1866 of the Social Security Act shall not apply to agreements entered into for periods beginning after 1984; and

Page 182, line 25, strike out "315(b)" and insert in lieu thereof "314(b)".

Page 183, lines 4 and 8, strike out "314" and "314(c)(1)", respectively, and insert in lieu thereof "313" and "313(c)(1)", respectively.

Page 185, strike out line 7 and all that follows through page 186, line 2, and redesignate succeeding paragraphs accordingly.

Page 103, line 5, strike out "211" and insert in lieu thereof "201".

Page 188, strike out line 23 and all that follows through page 189, line 22, and redesignate succeeding paragraphs accordingly.

EXTENSIONS OF REMARKS

CORA GRAHAM—50 YEARS WITH LEGAL AID FOUNDATION

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. DANIELSON. Mr. Speaker, tomorrow, November 8, 1979, Cora Graham, a most important lady, is being honored with a surprise luncheon to commemorate the 50th anniversary of her employment with the Los Angeles Legal Aid Foundation.

Cora Graham is a symbol of the efforts that the lawyers of southern California and the Los Angeles community have made throughout the last half century to provide legal counsel for those people who could not afford it.

Cora came to Los Angeles from the great State of Montana and began working at the Legal Aid Foundation of Los Angeles as a legal secretary on November 4, 1929, just a short time after the office first opened. She has been the mainstay of that office since that time, becoming office manager in 1957. In the 1950's, she was instrumental in the establishment of the Lawyers' Wives of Los Angeles, a charitable organization, whose principal purpose was to sponsor fund-raising activities for the support of the Legal Aid Foundation.

Over the years the foundation, and Cora, have encouraged countless lawyers to give of their time and knowledge, on a strictly and purely pro bono basis, to provide legal services to those who have needed them, without cost whatsoever. The thousands of lawyers who have been involved in providing legal services to the poor through the Legal Aid Foundation in Los Angeles have come to know and respect Cora Graham.

I am happy to note that in spite of Cora's 50 years with the Legal Aid Foundation, the surprise luncheon today marks only that anniversary. Cora is not retiring, she will continue her valuable contribution to our society. Mr. Speaker, I know that you and my colleagues join me in wishing this dedicated woman, Cora Graham, the best on this occasion and in the years to come.●

THE ELDERLY AND DISABLED HOME HEATING RELIEF ACT OF 1979

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. EVANS of Delaware. Mr. Speaker, today I am introducing legislation which is of major importance to millions of American households. "The Elderly and Disabled Home Heating Relief Act of 1979" will provide assistance to low-income elderly and disabled households to meet the skyrocketing costs of energy used for home heating.

While few Americans are having an easy time adjusting to the tremendous increases in their heating bills, several groups in our society are bearing a disproportionate load of the burden. The soaring prices of home heating oil and other fuels will leave millions of low-income disabled and senior citizens without enough money to heat their homes through the cold winter months ahead. Since OPEC began raising its oil prices 5 years ago, these two groups have been paying increasingly higher prices to meet their basic household needs.

The elderly and disabled, who live from month to month on fixed incomes, are particularly hard hit because their limited budgets already go for only the fundamental necessities of life. They simply do not have the option of cutting back on nonessential items. As the winter heating season begins, prices for certain home heating fuels have already risen as much as 100 percent. Electric costs will also rise in response to the increase in the cost of oil used for generating purposes. Many low-income households will now be paying upwards of 50 percent more of their meager family budgets to heat their homes during the winter season.

The dramatic increases in the price of household energy have thrust millions of elderly and disabled citizens into a frightening dilemma. Since heat is a necessity of life in many parts of the country, rising energy costs will present many of these people with the unacceptable choice of either eating or staying warm. In the 20th century, no one in the United States should have to face this intolerable choice. Because the disturbing economics of energy may easily cause death among the low-income elderly and disabled, the Congress has a clear responsibility to provide financial assistance to those groups in society who are in the greatest danger of freezing, starving or both.

While I am extremely pleased that the Congress has moved so swiftly to increase the amount of funds available for the energy crisis assistance programs, I believe that we should look to the future and begin studying alternative approaches to providing help to the most needy households. The bill I am introducing today would provide such assistance by granting a refundable tax credit to utilities and the suppliers of other forms of heating fuels that reduce their bills to low-income elderly and disabled persons.

Those eligible for assistance would be persons who are age 60 or above or disabled and whose household income does not exceed 125 percent of the Federal poverty level. This would include single individuals whose income is up to $4,250 per year and couples whose income is up to $5,625 per year. It is estimated that some 5.5 million individuals and some 1.7 million households would be eligible for assistance under this innovative program. In the event an eligible individual is living as a dependent with their relatives, the income of the head of the household would be applied against this near-poverty threshold.

Eligible persons would have their fuel bills reduced by 25 percent below the regular price during the winter heating season. The utilities or other participating firms could claim a credit that would compensate for the revenues lost as a result of providing the price reductions to such persons. The credit would be refundable so that companies whose tax liability is less than the cost to them of participating in the program would receive a cash refund. This refund could be paid quarterly to lessen the cash flow problems which might hinder some of the smaller companies.

The advantages of this innovative approach to dealing with the annual heating problems of the elderly and disabled are its administrative simplicity, its relatively modest cost, and the fact that it can efficiently and directly provide benefits to all persons who meet the eligibility requirements. The eligibility provisions would be based for the most part on existing programs which verify income, age or disability, namely food stamps, SSI and social security. To the maximum extent possible, administrative procedures would be designed that relied on current records and information to identify eligible individuals and provide them with identification that establishes their eligibility for fuel cost reductions. Thus, a separate income verification procedure would not be necessary for most of those eligible for the programs. Those eligible individuals who are not already known to the various Government agencies would be identified and certified through aggressive outreach programs conducted by these same Federal, State, and local agencies.

The administrative impact on the utilities and other energy suppliers would be minimal since their responsibility would be limited to recording the identities and reducing the bills of the households determined to be eligible and supplied by the designated Government agencies.

Mr. Speaker, the elderly and disabled face a very serious crisis this winter and for the foreseeable future, so long as energy costs remain critically high. The legislation I am introducing today addresses itself in a comprehensive and efficient manner to this crisis. The distribution of benefits is strictly based on established income criteria, and the actual weather patterns and energy usage in a given State. I believe this legislation goes a long way toward reducing the administrative complexities and eliminating the disincentives against participation by eligible individuals which clearly exist in the present energy assistance programs. Perhaps most importantly this proposal will get the greatest amount of the available assistance into the hands of those in our society who need it the most: the low-income elderly and disabled.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

GREATER MIAMI COMMUNITY TO HONOR PETER KOUCHALAKOS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. FASCELL. Mr. Speaker, on November 24, greater Miami community leaders and friends will pay tribute to Mr. Peter Kouchalakos, with the benefits of the dinner to go to the AHEPA Home and Scholarship Fund in Miami.

Mr. Kouchalakos, known affectionately as "Mr. K," has recently retired after serving 32 years in the greater Miami public school system. Mr. K was that unique member of the teaching profession who established a special rapport with his students. Long after they graduated, those who were privileged to have come under his tutelage remember and respect what they learned from him about growing up, self-discipline and service in behalf of others.

Not only was Mr. K a full-time and dedicated teacher and school administrator, but he was also—and remains—one of the most active and energetic members of the Greek-American civic organization, AHEPA. At the local, State and national levels, Mr. K has been one of the leaders of this fine organization and he has given unstintingly of his time and money to further the many charitable causes which it supports.

Mr. K has also been an active participant in other community matters. Through his leadership and enthusiasm he has rallied the effort and support of his friends to help many activities.

Mr. K and his family have been close friends and associates of the Fascells for many, many years. He has served as chairman and is a member of my citizens rating board, which chooses my nominees to the U.S. service academies. He is also in charge of coordinating with high schools, counselors and parents my selection of pages who will work with the Congress.

He is a fine father, a devoted husband and a great friend. An outstanding teacher and administrator, he has a special place in his life for young people and they for him.

He is proud of his Greek heritage and Greeks are proud of Peter Kouchalakos. That is why it is particularly appropriate that the dinner on the 24th is a tribute to him and the funds will go to the AHEPA Home and Scholarship Fund in Miami. Because of his work in AHEPA, Mr. K has friends all over the United States. I join with these many friends from around the country and the thousands in Miami to say thanks to Peter Kouchalakos for all he has done and to say that the human qualities he possesses are an inspiration to all of us.●

DR. STANLEY J. BRODY SPEAKS ON MENTAL HEALTH AND THE ELDERLY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. PEPPER. Mr. Speaker, on April 23 and 24 of this year, the Select Committee on Aging held the first National Conference on Mental Health and the Elderly. I would like to recognize the efforts of Dr. Stanley J. Brody, leader of the conference task force on Service Integration and Coordination, who, I believe, did not receive recognition in the task force reports in the recently released transcript of the conference proceedings.

Dr. Brody is a noted and highly respected personality in his field in the Department of Physical Medicine and Rehabilitation at the University of Pennsylvania. The depth of his knowledge and his strong commitment to improving the lives of older people is reflected in the quality of the recommendations which emerged from his task force. Dr. Brody unselfishly contributed 2 days of his valuable time to guiding the task force in shaping the recommendations which follow, and I want to express my sincere gratitude to him.

The task force addressed issues of financing first, in order to make available a sufficient number of alternatives and a spectrum of services to meet the continuum of mental health needs of the elderly. We arrived at a list of seven recommendations, because of a tie in the vote.

The first recommendation calls for adequate funding being provided for acute and chronic mental illness, equal to that provided for acute and chronic physical illness, with increased support for community assessment and outpatient treatment. This is to decrease unnecessary and inappropriate institutionalization.

With regard to this recommendation, it is implied that mental health care should be financed at least equal to physical health care, but does not intend to exclude financing for selected activities unique to mental health needs.

The legislation that would be affected includes titles XVI, XVIII, XIX and XX of the Social Security Act.

The second recommendation is for joint planning and management of mental health, social, and income maintenance services at the State and local levels, including such agencies as the AAA's, community mental health centers, VA's, and HSA's. Again, by "management," it is meant an adherence to a joint planning mechanism among agencies, leading to an arrangement of services, without necessarily requiring, at this point, integration.

The legislation involved would be the

Community Mental Health Centers Act and the Comprehensive Health Planning Act of 1964, Public Law 93-641.

The third recommendation is to create incentives for the encouragement of informal support systems and for the linkage with the formal support systems utilizing established networks.

The informal supports are defined as family, friends, and neighbors; while the formal supports are defined as structured organized services provided by institutions or agencies. Title III of the Older Americans Act and the Internal Revenue Service legislation would be affected to implement this.

The fourth recommendation is that there be fixed leadership responsibility for convening for policymaking at the Federal level.

The fifth recommendation is that individual comprehensive needs and resource assessments be provided with adequate funding. "Assessment" is here defined as evaluation of health, social, and psychological performance, as well as the functional capacity for performance. Title XVIII and XIX of the Social Security Act are the primary pieces of legislation affected.

Recommendation six, uniform eligibility at the Federal level; the task force advises that there be a comprehensive review of all eligibility requirements for access to services supported by Federal funds. Without any specific reference to legislation, the task force wanted to advise Congress to maintain this kind of vigilance in working through future legislation.

The seventh recommendation is that there be shared case management and monitoring on behalf of elderly individuals. "Shared management" was defined as the participation of consumer and provider in the prescription and implementation of the care plans. "Monitoring" was defined as the maintenance of responsibility for addressing the identified problems until the care plan is appropriately implemented.

Title III of the Older Americans Act, the Community Mental Health Centers Act of 1965, as amended, titles XVIII and XIX of the Social Security Act, and the 1978 amendments of the Rehabilitation Act are the legislation affected.●

TRIBUTE TO HON. JUANITA M. KREPS

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. DUNCAN of Oregon. Mr. Speaker, I would like to join my colleagues in wishing Mrs. Juanita M. Kreps farewell—for I hope that she does "fare well" on her return to North Carolina. It has been an honor for me to work with such a distinguished Cabinet member as Mrs. Kreps, and we all recognize the loss to the U.S. Department of Commerce. I should like to thank her for doing such an excellent job—and to wish her all the very best upon her return to Duke University. ●

DO YOU WANT LESS GOVERNMENT CONTROL? IF SO, THE SOLUTION IS INDIVIDUAL RESPONSIBILITY

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, on October 17, 1979, the Wall Street Journal published an excellent article about the need for unlimited personal responsibility as a replacement for ever-increasing Government social programs. As a strong believer in limited Government, I am often asked, "who will help the poor people if the Government doesn't continue to subsidize them?" The proper Judaic-Christian response is, of course, that there should be unlimited individual, family, church, and community responsibility.

If people do not step up and assume responsibility for the plight of distressed neighbors, then the people will come to rely exclusively on the Government for whatever moneys, goods and services it cares to give them. This is an extremely dangerous step for, as former President Gerald Ford so often pointed out, the Government that is capable of giving you everything is also the one that can take away everything.

In order to insure that we do not some day have an all pervasive Government in the United States, we must, as individual citizens, assume some social responsibilities. There is an old saying that if you give a man a fish, he can eat for a day, but if you teach a man to fish, he can eat for a lifetime.

We must teach others to fish, for if we do not, then the Government will soon take on the responsibility of supplying us with our daily needs. Thus, the Government will unburden us of our responsibilities, but it will also alleviate us of our freedom.

The choice today is between freedom and responsibility, or complete governmental responsibility and no individual freedom. Mr. Randy Rader, the legislative director for my colleague and brother, Congressman PHILIP M. CRANE, clearly explains the full implications of this choice in his article, "The Burdens of Cutting Back on Government." I commend Mr. Rader's comments to the attention of my colleagues at this point.

The article follows:

[From the Wall Street Journal, Oct. 17, 1979]

THE BURDENS OF CUTTING BACK ON GOVERNMENT

(By Randall R. Rader)

On a recent night I suffered one of those introspective moments when I was compelled to reevaluate if a philosophy of limited government is worth the worry.

I had just returned from an exhausting choir practice. My conscience felt a pang when my eyes fell on the unanswered letter from my parents. Lisa, my adopted black daughter, was loudly vocalizing her displeasure with the circumstances of the moment. Larke, the world's cutest four-year-old blonde, would not wait another minute for her nightly bedtime story. The open Sunday School manual on the kitchen table was a grim reminder that my lesson was not yet prepared. Tomorrow my softball team entered the all-day playoffs in the morning and the evening featured another choir rehearsal.

These various demands converged on me in an instant. Just the thought of straining to reach another high A, composing letters to my parents, changing diapers, putting a new twist into the "Three Bears," searching for elusive Bible passages, or chasing fly balls in centerfield sent me stumbling for my easy chair.

Each of these demands is an integral part of my effort to live according to principles of limited government. If an individual really shares Jefferson's view ("That government is best that governs least"), he must make provision in his own life to take responsibility for essential services that government should not be allowed to monopolize.

For example, no civilized society will deny that art is necessary to inspire and uplift the human mind and spirit. Therefore, if we citizens do not devote ourselves to creativity, the government will tax everyone (force us) to set up an agency to subsidize artists.

But forced government programs cannot satisfy the real need for ennobling art. Creativity cannot be forced; artists need absolute freedom to develop sensitivity (often through personal sacrifice) to the symbols and truths they elucidate. Hence, I sing tenor several nights a week on top of a cramped schedule.

No charitable society will allow the aged to suffer deprivations when they can no longer care for themselves. Therefore, if we do not care for our own parents or the elderly in our greater family units, the government will tax everyone (force us) to set up massive nursing home programs. But forced government programs cannot meet the real needs of the aged. Love cannot be forced; the elderly need the love and respect of their posterity as much as they need food and shelter. Hence, I must strengthen my ties to my own parents.

No enlightened society overlooks that counselling is necessary to train youth to accept responsibility. Therefore, if we do not see that our own children are schooled in the principles we have experienced as the basis for worthwhile living, the government will tax everyone (force us) to subsidize mandatory counselling sessions for teenage youth. But forced government programs cannot meet the real needs of youth. Will to learn and desire to develop a well-rounded attitude toward life cannot be forced; young people need the guidance of loving parents (long before they are teenagers). Hence, Larke gets a nightly dose of love from her father.

No self-respecting society will deny that all men are of equal worth and deserve equal respect. Therefore, if we do not openly welcome all qualified citizens regardless of race into our civic associations, schools, and clubs, the government will tax everyone (force us) to bus students and institute civil rights lawsuits. But government cannot eliminate racial discrimination because by taking sides in any racial conflict it is giving the force of law to, and thereby perpetuating, distinctions based on race.

No merciful society will leave abandoned children without some means of support. Therefore, if we do not open our homes to parentless children, the government will tax everyone (force us) to create a national system of foster homes. But forced government programs cannot meet the real needs of parentless children. Parenting cannot be forced; these children need more than a bed and three meals a day. Hence, Lisa gets an affectionate kiss with every diaper change.

No ethical society will refuse to accept

that some moral standards are essential to its survival. Therefore, if churches and families do not teach honesty, the government must tax everyone (force us) to set up expensive crime prevention programs. But government programs cannot meet real needs of youth and mature alike for moral guidelines. Lasting respect for the property and persons of others cannot be forced; youth and mature alike need motivating clergy and friends to care enough about them to present them with constructive alternatives to destructive behavior. Hence, my duty as a Sunday School teacher cannot be taken lightly.

No humane nation wants to leave others to endure poor health, the specter of a life with pain. Therefore, if we do not eat correctly, exercise regularly, avoid harmful agents (cigarets, narcotics and the like) to remain healthy, the government will tax everyone (force us) to create an unwieldy national health program. Hence, softball season will be followed by basketball for me.

I am not suggesting that government has no role in meeting individual and social needs. Instead it should have a very limited role. It should be a last line of defense.

If we profess a philosophy of limited government, we profess in the same breath a faith in unlimited personal responsibility. When I arrived home last night, that thought made me tired. Yet everything worth having in life must be earned: health, respect, creativity, friendship, and so forth. Government cannot meet the need because, in most instances, the need is for personal effort or activity or growth. If we do not believe in pervasive government, we must believe in pervasive individual, family, church and community responsibility.●

DISTRICT OF COLUMBIA MORTGAGE CRISIS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. FISHER. Mr. Speaker, I would like to express my support for legislation that is being proposed by members of the House Committee on the District of Columbia to alleviate the crisis in the mortgage lending business in the District of Columbia.

There have been questions raised about the validity of emergency legislation passed by the District of Columbia Council to raise the maximum allowable yield on mortgage loans. Although the city council has now approved permanent legislation on this subject, it cannot go into effect until sometime next year because it must undergo a waiting period while Congress takes 30 legislative days to review it. In the meantime no mortgage loans can be made in the District of Columbia. This is a serious blow to the financial and real estate communities in the Washington area and to all allied businesses as well as to all those seeking such loans.

Similar bills aimed at waiving the 30-day waiting period have been drafted by our colleagues on the District of Columbia Committee. I understand that the committee will meet tomorrow—Thursday—morning to consider this legislation. The specific approach to this problem will have to be decided by the committee. But I want to commend the members for their speedy attention to this serious problem and to offer them my support when a measure has been reported. I hope that the House will be able to take up and act favorably on this mortgage rate legislation for the District of Columbia as quickly as possible.●

MAKE IT IN NEW YORK

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. ADDABBO. Mr. Speaker, New York magazine's November 12 issue contains an article, "Make It In New York" which concerns itself with the recent boom of industries and corporations who have established headquarters in New York City. I suggest that all Members of Congress read this article due to its comprehensive study of New York as a world headquarters for finance and business activity.

The article deals with ways of strengthening the city's overall economic base, making it more attractive to other fields of business; such as manufacturers. The article's ideas, suggesting a drive to place more manufacturers and light industry in the city are well substantiated and would be of interest and concern to the reader.

Because of the willingness of the Congress to help give New York a chance to help itself, this good news is a vindication of those policies. The people of my city who have worked hard and long to bring about this good news are and will continue to be grateful to the Congress for its support.

I include this article in the RECORD:

MAKE IT IN NEW YORK

(By Rinker Buck)

Three years ago, it would have sounded like pure fantasy. Just imagine: What if someone had suggested in the months following Gerald Ford's "Drop Dead" speech, while the city's fiscal collapse was front-page news across the country, that "What New York offers your business, the rest of America can't." Executives in corporate boardrooms from Park Avenue to Nob Hill would have laughted—loudly.

In the preceding six years, New York had lost over 600,000 jobs. Capital was fleeing the city for quieter, more secure havens in the suburbs and the Sunbelt. New York taxes were the highest; the job-and-business-expansion incentives offered businesses, the lowest. Only a fool, then, would have ventured to say, "Tests prove business gets better results with [the] new, improved New York." The proposition that New York City would someday soon enjoy a business revival was something that no self-respecting business leader or economist would seriously discuss.

Well, no one's laughing anymore. Those teasers quoted above—and others—have actually appeared in ads for New York in national news and business publications over the past year. They are all part of an increasingly aggressive, targeted economic-development effort which has placed the city in open competition with neighboring states, the Sunbelt, and even foreign countries which, for years, had written New York off. For the first time in more than a decade there is some cause for hope. Led by a boom in tourism and a strong surge in Manhattan corporate business activity, New York, as another ad says, "is making up for letting business down."

Indeed, things have come along so well in Manhattan proper—hotels going up, foreign firms moving in, business costs running lower than in the rest of the country—that experts feel it might be best to leave well enough alone there. Officials see a continued strengthening of New York as the world's corporate center and feel the city can now move on to the resolution of other developmental difficulties. "Manhattan is booming right now," says Lawrence Lachman, the former chairman of Bloomingdale's who now heads up the recently formed Business Marketing Corporation (BMC), a quasi-public city corporation revitalized by the Koch administration to attract new businesses to the city. "It would be absolutely foolish of us right now to concentrate heavily on attracting new business in Manhattan when the need is so great elsewhere in the city. There has been a loss of over 400,000 manufacturing jobs in the boroughs over the last ten years: Despite that, New York is still the single largest manufacturing center in the country. But to keep those jobs, we've got an enormous amount of work to do; that's where the challenge is."

This view, shared by a growing number of economists, business leaders, and state and city officials, is beginning to emerge as the strategy for economic development for the 1980s. As Deputy Mayor for Economic Development Peter Solomon says, "Government ought to be devoting its time and money to exactly those areas where public funds and assistance will make the greatest difference. That isn't in Manhattan right now. The guts of our strategy right now is focused on the boroughs, with small businesses, and with the retention of existing light industry and the attraction of new ones." And as Mayor Koch explained in an interview, "Our policy is north of 96th Street in Manhattan and out in the boroughs. Right now, midtown and downtown are taking care of themselves."

This is an approach, Solomon and others believe, that will complement the three principal areas of growth that show real promise for New York during the next ten years. First, there's the increase in secondary-service jobs (everything from legal services to advertising) tied into New York's corporate-headquarters complex. The second burgeoning area involves foreign corporate concerns now moving to the United States in record numbers. Current studies show that both these areas are already taking off without much government help. But the third area of growth for the new decade—the attraction of both domestic and foreign light industries—will not happen without direct government prodding and assistance. And the success of this enterprise is critical if the ultimate economic health of the city is to stabilize and be maintained.

"Manufacturing is your basic wealth producer," says Peter C. Goldmark, Jr., who has been pushing the idea of attracting new industry to the city ever since he was appointed executive director of the Port Authority of New York and New Jersey two and a half years ago. "The multiplier effects of locating a single factory job are in almost every instance higher than for any other kind of occupation. Also, when a manufacturer makes an investment somewhere, you know you've got him for a while. This corporate-service stuff flies around like kites. It can go anywhere. Look at Citibank and Chase. They have their credit-card service centers out in the suburbs—all it takes is a computer and a few people that can be moved anywhere. To reverse disinvestment in the city, we have to have manufacturing."

No one is arguing yet, of course, that all the obstacles in the way of New York's becoming truly competitive again have been

removed. New York's reputation as a city that offered new or expanding businesses virtually no assistance is not an image that can be erased overnight. Despite sweeping reorganization within the city's Office of Economic Development and the State Commerce Department, responsibility for economic development is still spread across a confusing array of almost a dozen state, city, and quasi-public agencies. The city has fallen behind in its capital-construction plans, causing delay for companies depending on essential repairs to roads, sewers, and bridges. Also, little is being done to address serious deterioration of the metropolitan area's most important rail-freight facilities.

There have been, however, some reverses in local policy which promise to go a long way toward improving the city's business climate. Personal and general business taxes have been reduced by $1.5 billion. At the same time, the city has finally gotten around to creating economic-development agencies of the kind other regions have had for years: The Public Development Corporation, which operates the city's two industrial parks, at College Point in Queens and on Staten Island, is empowered to negotiate directly with new or expanding businesses seeking locations in the city; the Industrial Development Agency can offer new or expanding businesses funds raised from tax-exempt revenue bonds; and a recently formed Economic Capital Corporation will coordinate private and public financing for businesses and industries in need of multiple sources of funding to complete their expansion plans.

Perhaps most important, the Industrial and Commercial Incentive Board accepts applications for tax abatements and exemptions from companies that might not choose to locate or stay here without the competitive tax benefits offered elsewhere. The tax benefits here for commercial construction can now be as high as a 50 percent exemption from the assessed value of a new building. New industrial construction is entitled to a 95 percent exemption of the increased assessed value. Also, the city now offers tax credits applied against its General Corporation Tax to offset rising real estate taxes. This credit, which can last for up to ten years, is offered to companies with over 100 employees that move into the city from out of state. All told, it is a truly competitive package.

But, even taking into account all these favorable factors, does New York stand a fair chance of attracting its share of crucial industrial jobs? Especially those jobs expected to be created in the near future by expanding overseas firms?

"What we're trying to stress to foreign investors," says the Commerce Department's Dave Murray, deputy commissioner for advertising and marketing, "is that New York is ideally suited for high-technology light-manufacturing locations out in the boroughs. What do we mean by that? Companies manufacturing small components, precision tools, transistors, pharmaceuticals, tools, and the like—industries requiring skilled crafts that typically offer high rates of pay to their employees and represent real growth potential once they arrive. It's often forgotten that 98 percent of the firms in the city and state, employing over 50 percent of the work force, are small businesses—companies with fewer than 100 employees. That's the battle right now—keeping those we have and attracting new ones."

William Woodward, executive director of the BMC, is currently heading up an effort there to identify seven or eight target industries that have the highest growth potential in New York, to be followed by a campaign to attract just those kinds of companies. "The 'I Love New York' campaign went a long way toward improving New York's image as a headquarters town, but it didn't even begin to deal with New York's image as a manufacturing center. We still have a negative image there.

"The classic deal we hope to put together," Woodward adds, "would be a company that sells a product in some abundance in the metropolitan area already. They may ship parts here from abroad and do their assembly or, alternatively, do light fabrication and construction right here in the city and then assemble to a finished product. Surgical instruments, auto parts, electrical components are all likely candidates. We're looking for energy-efficient, clean operations—ones that will grow without placing inordinate demands on city services."

Figures supplied by the perennially optimistic Herbert Bienstock, regional commissioner for labor statistics with the U.S. Department of Labor, provide other convincing arguments for the necessity of attracting industrial jobs to the boroughs. "Sure, Manhattan is important," says Bienstock. "Two thirds of the city's jobs are here. And certainly Manhattan's current boom will help pull up the other boroughs. But what people often forget is that a job created in Manhattan doesn't always go to a city resident—at least 25 percent go to outsiders. Almost every job created in the boroughs, on the other hand, will go to the people who live there. And who are they? They're people who, because of their current economic situation, will probably be forced to fall back on the welfare rolls if they're not employed. Or they're minority youngsters who would desperately like to work but won't—not until this city offers them a real, genuine incentive in the form of a job that pays more than what they can make in any number of quasi-legal or illegal occupations in the 'underground economy'—drug dealing, numbers running, or gambling.

"The city desperately needs to change the mix of its industrial economy for another reason," Bienstock adds. "Historically, New York has had a high concentration of labor-intensive industries, where productivity gains are modest, or impossible. Look at the garment trade. Those guys pushing those garment racks down Seventh Avenue are doing the same thing they were 30 years ago—there's simply no way, in that business, to make rapid or innovative productivity gains. And what does this mean? It means that for manufacturers their labor component is their single highest cost; to stay here, they have to keep that cost as low as possible. If, instead, we concentrated on capital-intensive, highly skilled industries where productivity gains are practically guaranteed, wages will correspondingly rise. Those are the kinds of jobs that give people a future and return a net gain to the city in terms of its gross output."

Stratagems and rationales aside, the question must be asked: Has New York actually started moving to realize its manufacturing goals?

Over the past year, the Public Development Corporation (PDC) has either begun or completed planning for 40 projects, most of these in outer boroughs and almost all of them involving skilled or semi-skilled industry, wholesaling, or construction. The locations are about equally divided between those concentrated in the city's large industrial parks and so-called "vest-pocket" industrial sites developed from city-owned property. The PDC's track record to date suggests that attracting a new industrial base to these areas may not be as difficult as it sounds.

"Look at the list of deals we've completed or will complete soon," says PDC president Philip E. Aarons, "and what do you find? H-and-D transmissions in College Point, a rebuild shop; Motorola in College Point—they'll be repairing mobile-phone units; IBM is in Bedford-Stuyvesant; all kinds of electric-motor repair work is moving into Brooklyn. The skills required to do the job, the level of pay, and the services those companies require make them manufacturing concerns, really. When you also look at some of the other companies locating or expanding—sheet-metal works, plastics, furniture—it's really not a very long step to attracting more sophisticated, technical industries."

In addition to these efforts, Goldmark and the Port Authority have ideas of their own. Goldmark is moving ahead on plans to take over large parcels of land in areas like Oak Point in the Bronx, Spring Creek in Brooklyn, or Charleston in Staten Island and develop them as industrial parks. "The idea is to give these facilities good security, energy, and ensure transportation links and then let us administer them and bring in the business."

And Goldmark isn't ruling anything out. "New York has got to get down to the nitty-gritty details of exploiting its economic leverage as a major market. Take buses, for example. Buses, you ask? Well, look at the situation. Financing arrangements recently reached by us, the MTA, and the state virtually guarantee that over the next five to seven years the metropolitan area will be buying over 1,000 new vehicles to upgrade our transportation fleet. We're in the process of approaching the two major domestic producers and several foreign bus companies. We're telling them that if they want the contract to sell those buses they're going to have to build them here. Maybe it will end up that we'll only be able to negotiate a contract to assemble them here, but that's still a huge net gain for New York. People can laugh all they want at this idea, but just wait and see. It's going to happen. It's called clout—using our clout to benefit the region."

What emerges from all this—and what amounts to both a philosophical and practical strategy for guiding New York's economic recovery—is what George Weissman, the chief executive officer of Philip Morris, likes to call the "regional country."

"Look at what New York represents to the rest of the world," he says. "Here in the metropolitan region you have, really, a country of 18 million people. They participate in a world capital for financing, communications, and corporations. Within that community you have a natural market for all kinds of light industry to serve its needs. But you can't just relax and hope that will happen—you have to make it happen."●

DELEGATING REVIEW RESPONSIBILITY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. SOLARZ. Mr. Speaker, I recently introduced H.R. 5756, which provides for the delegation of duties by professional standards review organizations to qualified health care facilities.

The idea for this legislation originated with Sol Kalish, associate executive director of the Kings County health care review organization. This Kings County PSRO has earned a reputation as one of the most cost effective PSRO's in the Nation, which has effectively reduced average length of stays in local hospitals, as well as the number of patient days of care.

After considerable research, I came to support this organization's premise that by delegating some of their review responsibilities to certain highly qualified health care facilities, PSRO's would be able to more effectively discharge their responsibilities.

In addition, it is the feeling of many authorities that nondelegated review costs are considerably higher. These higher costs inevitably show up in the patient's hospital bill and in the cost of Federal health programs—whether for Federal employees' health insurance or medicare-medicaid recipients. Furthermore, I believe that this bill will make some contribution to the containment of health care costs.

I invite my colleagues in Congress to join me in supporting H.R. 5756.●

A CONGRESSIONAL SALUTE TO MICHAEL BERRY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. DINGELL. Mr. Speaker, friends and members of the Islamic Center of Detroit will join together on November 16, 1979, at a testimonial dinner honoring a proud son and highly respected spokesman for the Arabic community, Michael Berry. In this Congress, many who know Mike, I am sure, will want to extend greetings on this special occasion.

Mike Berry is recognized throughout the Detroit metropolitan area as a friend, distinguished citizen, and outstanding community and business leader. His active involvement in community affairs and public service is reflective of a deep personal commitment to help others and enhance cultural pride and integrity in our community. No one has given as much of his personal time so willingly and so unselfishly to programs and activities directed toward improving the quality of life and fostering understanding and friendship among all mankind.

In his capacity as honorary president of the Southeast Dearborn Civic Association, Mike Berry has been a special friend and counselor to the great numbers of Arabic immigrants resettling in the United States. With great warmth and compassion he has helped thousands of families find hope for a new life in a new land. Enlisting the aid of leading citizens in the civic and business sectors, he has been instrumental in placing these families into the mainstream of our American economy.

I was recently honored to nominate Mike Berry as a delegate to the White House Conference on Small Business. Mike will represent our 16th Congressional District at this national conference seeking avenues to improve the growth and prosperity of small business in our Nation. Mike's associations and long experience with business will bring a vitally needed perspective and input into this conference called by the White House.

It is with pride and pleasure that I join in this salute and fitting tribute to a very special man, Mike Berry.●

DRAW THE LINE WITH MOSCOW ON CAMBODIA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BROOMFIELD. Mr. Speaker, when the House of Representatives recently considered the Zablocki amendment providing for humanitarian assistance to the famished Cambodian people, I had the opportunity to speak out against the ruthless and barbaric actions of the current regime in Cambodia. Backed by Communist Vietnam and the Soviet Union, the so-called Cambodian Government has not only done nothing to help the suffering Cambodian people, but also has denounced the humanitarian efforts of the United States and other Western nations.

Several days ago, I was informed by my distinguished colleague, BILL YOUNG of Florida, that the World Bank will not provide any American assistance to Vietnam in the new fiscal year largely due to congressional efforts to focus attention on the uncivilized acts of the Vietnamese-backed government in Cambodia. At the same time, many distinguished Americans, including the Rev. Theodore Hesburgh and journalist James Reston, have been critical of the Soviet Union's refusal to stop the Cambodian carnage and prevent this second holocaust. In this regard, I call my colleagues' attention to an editorial by James Reston which appeared in the November 4th edition of the Washington Star.

The editorial follows:

[From the Washington Star, Nov 11, 1979]

DRAW THE LINE WITH MOSCOW ON CAMBODIA

(By James Reston)

Two points need to be made about the inexpressible tragedy of the Cambodian people. First, that the present threat to the very existence of that nation is being caused by a conflict between two Communist regimes. And second, that the Soviet Union has not only refused to use its influence to stop the carnage, but won't even cooperate with the civilized nations to save the Cambodian children.

The United States, during the Vietnam War, acquired its own burden of guilt in Cambodia, but at least it has had the decency to try to make amends and respect the sanctity of human life.

The Soviet Union, which has been proclaiming its compassion for the suffering people of the world for over 60 years, and which castigated the Nazis for trying to exterminate the Jews, is not only doing nothing to help, but is denouncing the efforts of the United States and other Western nations as a kind of geopolitical capitalist trick.

On the level of world politics, it might be possible to understand even a savage Moscow policy of establishing its power on the southern flank of its communist rival, China. But Moscow's ally in Hanoi has already won that war. It now has over 200,000 Vietnamese troops in Cambodia and the rag-tag remnant of the former Communist government there is not likely to succeed against the organized Vietnamese forces that, with the help of Moscow, even prevailed over the modern weapons of the United States.

In short, Moscow and its allies in Vietnam now dominate the strategic positions in the Southeast Asia peninsula. Washington is no longer challenging that. All Washington is asking the Moscow officials is that they save the children.

It's surprising that President Carter has been so slow in taking the lead in this matter. He has run into stern opposition on the SALT treaty, and has been trying to deal with this in such a way as to show that he can stand up to the Soviets as well as any other presidential candidate. But Cambodia was probably a better issue. If ever there was a test of Carter's Christian principles, and his willingness to stand for an accommodation with the Soviet Union for a decent political order in the world, the tragedy of Cambodia was it.

Last month, Carter gave the Soviet Union permission to buy a record 25 million metric tons of U.S. corn and wheat during the fiscal year 1979–80. It has, of course, always been a Washington principle never to use food as an instrument of political power when people anywhere in the world were in need. And yet, why should we relieve the Soviet Union of its grain shortages if Moscow will not even help get food to Cambodia?

Belatedly, Carter has come forward with proposals and now has the support of Congress for about $100 million in aid for Cambodia, but Congress is still fiddling. And there is the problem of getting the food into Thailand and, more importantly, into Cambodia. The president and the Congress can provide money and food, but they need permission to get planes and trucks to the starving people. This is a problem that Moscow has the power to resolve. Many have been imploring Carter to take the issue directly to the Soviet government.

A bipartisan group of 68 members of the House appealed to Carter last week to try to set up a joint airlift with the Soviet Union.

The Rev. Theodore M. Hesburgh, president of Notre Dame, made the point more dramatically in an interview with the New York Times. "Why not go to the Russians and say, 'The American people may take a dim view of you buying 25 million tons of grain from us if you refuse to collaborate with us in making 150,000 tons available right now to people who are starving.'

"I'm perfectly willing," Hesburgh said, "to ride in the lead truck and get shot at in the process, rather than sit back and have it on my conscience that I did nothing to stop a second Holocaust."

The Carter administration is sensitive to this rebuke, but it is still not drawing the line in the matter of supplying Moscow with American grain while Moscow refuses to help in Cambodia. The State Department is saying that it has discussed the question with Moscow officials but adds, "We have no guarantee where the relief supplies would end up in that kind of operation."

So the tragedy is left there, in an argument between the president and the Congress—each sensitive to the problem, but neither doing enough to deal with the misery of the Cambodian people.●

MONESSEN RESIDENT HONORED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BAILEY. Mr. Speaker, on the 17th of this month, John G. Luncas, a Monessen resident dedicated to the continued commitment of a better education for the children of Monessen, will be hon-

ored by the community. This special recognition is well deserved by this outstanding citizen as he has actively participated in civic activities for many, many years, including 24 years as a member of the Monessen School Board.

Having been educated in the Monessen public schools, a 1931 graduate, John has continued to exert unwavering dedication toward the continued growth and success of the school system by serving on the school board and, at various times, acting as its president, vice president, and secretary.

But avid interest in Monessen's educational opportunities has not been John's only interest, for 30 years he has been actively involved in local government as a Democratic committeeman and has been a member of various boards connected with the Westmoreland County Juvenile Court, Monessen Recreation Board, Monessen Public Library, and the civic center. In addition, he has devoted 15 years of remarkable service to the Monessen Slovak Home as a trustee and is a charter member of the organization.

John and his wife Angie have two children and are members of the Holy Name Church where John is a member of the board of trustees. Prior to John's 21 years of service at United States Steel's Irvin Works in Clairton, he served in the 9th Armored Division of the U.S. Army during World War II and received a Presidential citation for his brave conduct during the Battle of Bastogne.

It gives me great pleasure to bring these admirable activities of this fine man to your attention and the attention of our colleagues. He has been a great leader in the city of Monessen and I am very pleased that his accomplishments are being recognized by his many friends.●

ALMONDS AND EEC ENLARGEMENT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. MATSUI. Mr. Speaker, the California Almond Growers Exchange is an agricultural cooperative with plant and offices in Sacramento, Calif., which is in my district. Exports are critical to the almond industry in California. Thus, the industry has worked hard to develop and maintain export markets.

The largest market for California almonds is the European Economic Community (EEC). The value of almond exports to the EEC for fiscal 1980 will amount to one-quarter billion dollars and will surpass exports of cotton, rice, and wheat/wheat flour to the EEC for fiscal year 1978. While we are comparing figures for 2 different years, the constantly expanding value of almond exports cannot be overstated.

Within the EEC, West Germany is the largest importer of U.S. almonds. Walter Rode, Deputy State Secretary of Agriculture for West Germany, attended the annual district meetings of the California Almond Growers Exchange. He emphasized a matter of great concern to me; namely, the potential loss of the EEC market for U.S. almonds upon the entry of Spain into the common market. The United States and Spain are the largest suppliers of almonds to the EEC.

In order to prevent the loss of the one-quarter billion dollar market, the United States must negotiate with the EEC to eliminate its current 7-percent duty on almonds prior to Spanish entry. Otherwise, Spanish almond producers will be handed a growing European market with no restrictions and will use this advantage to become even more price competitive. This could have grave consequences for the U.S. almond industry and would adversely affect the U.S. balance of payments.

It is my understanding that EEC vice president Gundelach has suggested to our U.S. negotiators that the negotiations on the EEC's almond duty should begin. The almond industry has received assurances from our negotiators that they would begin the negotiations this fall. Discussions between the EEC and Spain are imminent. Thus, it is critical that a zero duty from the EEC for almonds be achieved now.●

KNIGHTS OF EQUITY SUPPORT THE ACTIVITIES OF THE AD HOC CONGRESSIONAL COMMITTEE FOR IRISH AFFAIRS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues here in Congress a petition which I received from the members of the Knights of Equity, Court No. 15 in Altoona, Pa. This petition was sent to President Carter, as well as to other Members of Congress.

I would like to point out that this petition contains almost 175 names, collected at an Irish festival. There was no public announcement made about this petition to gather these signatures. Rather, the press release from the Ad Hoc Congressional Committee for Irish Affairs, of which I am chairman, were posted on bulletin boards. The response to these releases was instantaneous and the resulting signatures were placed on the petition by people who truly wanted to get involved on their own.

As chairman of this committee, I am always pleased to learn of activities of concerned Americans around this country in support of our objectives. The ad hoc committee which now boasts 130 Members of Congress, has as its foremost priority the reestablishment of human rights to all people of Northern Ireland. More importantly, this goal can only be enhanced by the work of such concerned people such as the Knights of Equity Council No. 15. I salute their efforts in helping to raise the consciousness in this country with regard to the Irish question.

I would also like to note that the ad hoc committee is also involved in several other activities. Most recently, it was learned that the State Department has decided to continue the ban on arms sales to Great Britain for use by Northern Ireland police authorities. This suspension was largely due to the work of the ad hoc committee in bringing the issue to the forefront.

Additionally, we are seeking additional cosponsors for House Concurrent Resolution 122, which I introduced calling upon the British Government to embark upon a new initiative for Northern Ireland which promotes human rights and self-determination. This measure currently has 78 cosponsors and we welcome the support of all other Members of Congress.

The ad hoc committee will also be investigating allegations of job discrimination by American firms in Northern Ireland against Irish Catholics. Human rights not only include political and civilian rights, but economic rights as well.

The text of this petition follows:

KNIGHTS OF EQUITY

DEAR MR. PRESIDENT: We the undersigned, do hereby call upon you to support the efforts and objectives of the Ad Hoc Congressional Committee for Irish Affairs and to:

1. Speak-out against human rights violations in Northern Ireland; and to
2. Call for a British declaration of intent to withdraw from Northern Island.●

PRESIDENT CARTER'S TRIBUTE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. RODINO. Mr. Speaker, last month, I informed my colleagues of the passing of Alexandra Tolstoy, at the age of 95. The last of the 13 children of the world-renowned author and philosopher, Ms. Tolstoy died in Valley Cottage, N.Y., at the site of the Tolstoy Foundation which she founded to assist refugees from all corners of the world.

I believe it is only fitting that I also bring to my colleagues' attention the message of condolence extended by President Carter to the foundation, paying tribute to this great humanitarian woman:

THE WHITE HOUSE,
Washington, D.C., October 5, 1979.

Mr. TEYMURAZ K. BAGRATION,
Executive Director,
Tolstoy Foundation, Inc.,
New York, N.Y.

TO TEYMURAZ BAGRATION: Rosalynn, and I were saddened to learn of the death of Alexandra Tolstoy. With her passing we have lost one of the last human ties with a great age of Russian culture.

All of us can take solace from the legacy she has left behind. I am mindful not only of her efforts in preserving her father's literary heritage, but also of the enduring monument to her humanitarian work, embodied in the Tolstoy Foundation which she founded some forty years ago.

Alexandra Tolstoy will always be remembered by the thousands who benefited from her assistance when they entered a new life in this country as free men and women.

Sincerely,

JIMMY CARTER.●

DON FRASER, MAYOR-ELECT OF MINNEAPOLIS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. STARK. Mr. Speaker, there was great news on the front page of the Washington Post this morning: "Fraser Is Elected in Minneapolis." Our former colleague, Don Fraser was elected yesterday by a wide margin to serve as mayor of Minneapolis.

For those of us who know Don well and served with him in this House, his election confirms our view that he is the sort of person who ought to be serving as an elected public official. A recent editorial in the Minneapolis Star succinctly explains why:

There can be no doubt about Fraser's intellect, his willingness to work hard or his concern for his city and its people.

The editorial was headlined, "Fraser Can Be the Best Mayor Since Humphrey." I have no quarrel with that prediction, but I think I would go one step further and say, Don Fraser will be the best mayor Minneapolis has ever had and I know that his fine city will grow and prosper with his leadership. As the Star points out, Don has a wonderful thing going for him—Minneapolis has a love affair with Fraser.

Mr. Speaker, I would like to place in the RECORD at this point the Minneapolis Star editorial I have referred to in my remarks. It appeared on Wednesday. October 24, 1979.

The editorial follows:

FRASER CAN BE THE BEST MAYOR SINCE HUMPHREY

(By Charles Whiting)

Don Fraser may be just the mayor Minneapolis has been looking for ever since Hubert Humphrey left the office in 1948 to become a United States senator. Never in the 30 years since then has the city had a mayor or a mayoral candidate as well-positioned to exercise political leadership as Fraser. The chance to elect him on Nov. 6 is an opportunity Minneapolis voters dare not pass up.

Much of Fraser's leadership promise lies in the national status and reputation he would bring to the mayor's office. That makes him a valuable political property, too valuable for other city DFLers to ignore or defy. If he makes a strong showing at the Nov. 6 polls before a watching nation his often divided party would have little choice but to unite behind him.

But if Fraser carries that kind of clout as mayor, would he know how to use it and would he use it wisely? His excellent congressional record argues strongly in his favor. Gov. Al Quie's early experience has shown, though, that there's a difference between exercising leadership on certain issues in Congress and exercising overall executive leadership at the state or local level. Like Quie, Fraser will have to learn that difference and adjust to it.

He should be able to. There can be no doubt about Fraser's intellect, his willingness to work hard or his concern for his city and its people. If he chooses his advisers well, works with the City Council and keeps in balanced touch with varying community interests, Fraser will be a good and effective mayor of Minneapolis, one who would continue the progress the city has been making and one who would take the lead in correcting the problems that remain.

Fraser would be better at that, certainly, than any of his opponents, including either Independent Charles Stenvig or Independent-Republican Mike Barros. Actually, Barros isn't a bad candidate and Republicans who can't bring themselves to vote for Fraser could cast their ballots for Barros in good conscience. He is bright, has a mayoral manner about him, has taken the trouble to develop a program to govern by and has a useful background in the field of housing. He is campaigning hard for the job. But he remains relatively unknown and therefore has no particular following, even in his own party. Also, his lack of broad, practical political experience shows through. Barros may someday be ready to be mayor, but isn't ready now.

As for Stenvig, Minneapolis already has given him three terms as mayor without noticeable benefit. During his last term he was practically invisible and certainly ineffectual. It would be a mistake to put him back into the mayor's office. To do so would only mean that the rest of city government would again have to figure out a way to work around him. Besides, if Minneapolis citizens really want to get the police out of politics, and vice versa, what worse way to go about it than to elect a policeman as mayor?

So The Star endorses Fraser for mayor, not only because he is the best candidate available this year but because he may be the best one to seek the mayor's office in many years. As an IR alderman recently said, perhaps in envy but also in admiration, "This city has a love affair going with Don Fraser." Nov. 6 is the time to show it.●

A PILOT SPEAKS ON AGE DISCRIMINATION AND MANDATORY RETIREMENT

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. PEPPER. Mr. Speaker, as you know, the Experienced Pilots Act of 1979, H.R. 3948, is scheduled to be considered on the floor of the House within the next week. As chairman of the Select Committee on Aging, I am well aware of the discrimination older pilots have been subject to due to the arbitrary age 60 rule. Ageism is an issue which our committee has been fighting against for years and have succeeded in combating in several areas. With the enactment of the Age Discrimination in Employment Act of 1978, virtually all Americans were allowed to work past their 65th birthday. We would now like to extend this privilege to include airline pilots.

To further our case for the need for this important piece of legislation, I am submitting for the record a study done by Capt. Herbert C. Farnsworth, Delta Air Lines, entitled "Age Discrimination Towards Airline Pilots: The Mandatory Age 60 Retirement Rule." I thought the information contained in this eloquent presentation against the age 60 pilot rule might be useful to my colleagues as they consider this important legislation.

The study follows:

AGE DISCRIMINATION TOWARDS AIRLINE PILOTS: THE MANDATORY AGE 60 RETIREMENT RULE

(By Capt. Herbert G. Farnsworth)

There has never been an accident in the history of the scheduled airlines attributable to pilot incapacitation! This is true of the thirty-odd years prior to the March 1960 inception of mandatory pilot age 60 retirement, as well as the nearly twenty years since.

Why, then, the Federal Aviation Regulation curtailing careers at 60? The truth is, this rule (F.A.R. 121.383c) has never had real justification. Its true origin lies in the fact that in the middle 1950's there were negotiated on many airlines pilot retirement plans permitting retirement at age 60 with no actuarial benefit reduction, but their basic Employment Agreements did not mandate retirement at 60. In the face of these provisions, a major carrier forced four pilots to retire at 60. These four pilots were reinstated as a result of court action. The age 60 rule-making followed shortly after the court action. It would be the height of naivete to think that the fact that the president of the airline involved and the Administrator of the FAA (Federal Aviation Administration) were brothers-in-law had nothing to do with the promulgation of this rule, and that the mandatory age just happened to agree with the full-benefit age in the new retirement plans. At the ATA (Air Transport Association) meeting held to forward to the FAA the Airlines' position on the proposed Age 60 rule, it developed that airline "A" had wanted those four pilots to retire because two of them were weak on flight proficiency checks. I was at that meeting, and got that information from one of "A's" delegation, who further stated that they didn't want to follow prescribed procedures of failing the two weak pilots because "we didn't want to make the pilot group mad at us" (!) (Incidentally, the FAA Administrator in question later became a vice-president, then a member of the board of directors of airline "A").

In 1978, Congress passed the Age Discrimination in Employment Act (ADEA), which served to raise normal retirement ages to 65 and 70 for certain groups (from 60 to 65 or lower), and which precluded mandatory retirement in certain instances. Pilots were not covered by this legislation on the premise that they have a BFOQ (Bona fide occupational qualification).

The plight of pilots being discriminated against solely because of age came before the House Select Committee on Aging in March of this year, with very favorable results, such that the matter was forwarded to the Aviation Subcommittee of the House Public Works and Transportation Committee. Several bills were presented, providing for increasing the retirement age of pilots to 65 or 70 (or with no age restriction), and also in most cases providing for a study of the aging situation with regard to pilots. More frequent physical exams for over-60 pilots also were a feature of some bills.

These bills were the basis for the House Aviation Subcommittee holding hearings on the age 60 issue on July 18 and 19. Among those testifying were (in this order) the FAA (via the Deputy Administrator and the Federal Air Surgeon); a group of doctors and gerontologists testifying against the age 60 Rule (one, Dr. Mohler, formerly was with the FAA and opposed lifting the age 60 restriction until recent medical testing capabilities persuaded him to oppose the restriction); a group of pilots from the Pilots Rights Association (PRA) who really deserve

the credit for getting this legislation moving; the Air Transport Association; and the Air Line Pilots Association.

The case for age 60 mandatory retirement came out a poor second. The FAA's case was very weak. The medical/gerontological group was very impressive. PRA's case was well presented and included testimony by astronaut "Deke" Slayton. Among others appearing on behalf of eliminating the rule were several flight attendants, the Vice President-Operations of Republic Airlines, and the President of Trans International Air Lines. ATA's case started out impressively, but broke down almost completely in the question and answer session following their testimony. ALPA's case against the rule was very effectively presented by their president, J. J. O'Donnell, and held up under questioning. This was consistent with ALPA policy going back as far as 1936, beginning with a Board of Directors policy opposing age limits on a flying career. This was reiterated in 1956 and expanded, in anticipation of possible activity towards mandated retirement by some of the carriers.

The compromise bill now under consideration emerged during mark-up as a result of a bill which surfaced after the hearings (dated the day before the hearings), proposing the same age 60 restriction and also bringing under the rule three groups not now covered: flight engineers, air taxi pilots, and commuter pilots. This appeared to be a ploy to bring the wrath of the Flight Engineers International Association and the taxi and commuter pilots down on the whole effort, thereby killing it with apparent "fairness." The presence of this bill resulted in several compromises. After the two-day mark-up was completed, the bill (HR3948) which emerged for presentation to the "parent" committee provided for (1) an interim raising of the maximum age to 61½ years; (2) a 12-month study of aging by the National Institutes of Health, including an examination of pilot medical criteria, which study is to be returned to Congress for action regarding setting an age limit or eliminating same; (3) medical examinations every three months for pilots over 60; (4) the bill applies to all cockpit crew members, Air Taxi Pilots, and Commuter Pilots, with a 90-day delay for those adversely affected. This is essentially the same bill passed by the Public Works and Transportation Committee, with a $600,000 appropriation attached to fund the NIH study.

One might ask why the long delay between the inception of this rule and the current efforts at legislative correction, particularly when all along the real "control" of a pilot's fitness to fly has been in the recurrent medical examinations and the proficiency flight checks. These factors were and are the reason, along with the previously mentioned safety record, that the existence of any mandatory retirement age is unnecessary and uncalled for. No airline pilot is really assured of his job for any longer than the period between medical examinations and between proficiency checks, both of which are taken at 6-month intervals. The answer to the long delay is that efforts *were* made to persuade the FAA to eliminate the rule, but that the agency engaged in various subterfuges and non-existent "studies" to divert these efforts. Former Administrator Najeeb Halaby admits to just such a maneuver in his recently published memoirs.

Recourse was had to the courts, which in effect ruled that the FAA was within its prerogatives in this type of rulemaking. The Supreme Court denied a hearing. Thus, the merits of the rule itself were not tested in court.

As HR 3948 approaches the House floor, one situation is worthy of comment.

The president of ALPA, J. J. O'Donnell has seen fit to fly in the face of all ALPA policy and take issue with HR 3948 because it allegedly does not meet the guidelines set forth to him by ALPA's Executive Board. His inflexibility in holding to these "guidelines" to the detriment of the interests of ALPA policy and its more senior members is not warranted by the actual Executive Board instructions as borne out in the minutes of its meeting on this topic. Further, he is attempting to arouse all the membership against HR 3948 on the basis that it would cause serious administrative problems. His statements are downright false, or grossly exaggerated and appeal to the selfish motives of the younger pilots seeking advancement by denying employment rights to the older pilots, a situation which he himself pointed to unfavorably in his testimony before the Aviation Subcommittee. (One misleading statement from his latest "fact" sheet: "No money has been appropriated to fund the NIH study. Thus there is a good possibility that the study will not be completed until after the bill's 18-month period of effectiveness has expired." Well, of course no money has been appropriated: the bill is not yet law. But it does carry with it an appropriation of $600,000, and Captain O'Donnnell knows that.)

Most surprising is to see Captain O'Donnell join with the instigators and proponents of this discrimination, the ATA and FAA, in reversing his subcommittee-hearing position. He seems not to understand that, although not perfect by any proponent's standards, HR 3948 provides the occasion for a study which all statistics and common sense indicate will eliminate the present discriminatory situation if the study is truly objective and unbiased. There is no real reason to fear a study of our medical criteria. Even the ATA's own medical witness testified that he sees nothing to be gained by changing the current pilot medical examinations. I don't think a study is necessary, but I don't fear it, and it obviously is politically expedient, which is something President O'Donnell certainly should understand. While O'Donnell is asking his members to express their fear of the "uncertainties" HR 3948 might create for them. It appears that *he* is the *real* source of these uncertainties. One can understand the ATA and FAA opposing this legislation, since they were responsible for the initial injustice. But Captain O'Donnell's reaction to the practicalities of the legislative process is indeed surprising, especially in view of the fact that, insofar as long-standing ALPA policy against any age limit is concerned, there is nothing to be lost from the current situation, and what in justice, should be gained will much more closely approximate that policy.

I should like to state that I have been an airline pilot for almost 34 years of which 15½ years were spent in check airman and administrative status. In that status I spent considerable time at meetings with various committees of the ATA and with the FAA, as well as working with certain industry-wide groups. I also have been a very active member of ALPA, having been involved in several contract negotiations (including our original retirement plan bargaining), and have served as a council chairman on various ALPA committees local and national. My experience with and knowledge of the origin of the age 60 rule is first hand, and is unique in relation to other aspects of work with the ATA and the FAA, which, perhaps, is why it is so memorable. I believe it is incumbent on us to erase this discrimination which is not justifiable on the basis of safety (older pilots are statistically safer), or economics (savings will accrue in retirement plan funding, and training costs will diminish), or convenience (those pilots who so desire may still retire at 60 with no benefit reduction. But the fundamental right of a person to work at his or her profession, so long as he or she is qualified, should be restored to all, and not withheld by bureaucratic action. Any contrary situation seems to me to preclude the right of "pursuit of happiness" and is hardly within the concept of due process, envisioned in the 14th amendment regarding being deprived of property.

Since March 15, 1960, airlines pilots have been presumed "guilty" until proven "innocent." Guilty, that is, of suddenly becoming a risk at age 60. Then they have been denied the means of proving themselves "innocent." These means (medical examinations and proficiency flight checks) have been considered effective right up to age 60. Perhaps the strangest aspect of this "risk" situation is that the FAA considers (and properly so) that they can evaluate and certificate for return to flying pilots who have had heart attacks, coronary by-pass surgery, diabetes, lost an eye, and who have been alcoholics. Yet they claim that all this ability to evaluate is sudddenly non-existent in the case of the 60-year-old pilot who very well might be physiologically ten or fifteen years younger.

It seems evident, then, that mandatory age 60 retirement for airline pilots is unwarranted I trust that those who read this will see fit to work towards alleviating this age discrimination through supporting HR 3948.●

THE VALUE ADDED TAX WOULD NOT IMPROVE TAX SYSTEM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. DRINAN. Mr. Speaker, I wish to bring to the attention of this House an article by the gentleman from Michigan (Mr. BRODHEAD) that was published by the Washington Star on October 25. Our co'league has effectively articulated many of our concerns about the value added tax (VAT). He points out that such a tax would be regressive and probably inflationary, and would raise revenue in such a way as to prevent taxpayers from knowing how much they pay.

I also direct my colleagues' attention to an editorial that appears in the November 3 issue of the New Republic opposing a VAT. The VAT was last denounced by the New Republic in January 1972, when it was being proposed as a source of public school funding to replace the property tax.

Now VAT, the tax proposal that apparently and unfortunately will not die, is being touted as a supplement to payroll taxes and income taxes. While I deplore the regressivity of the payroll tax and the complexity of the income tax, I suggest that the VAT would be an improvement in neither of these respects. Instead of a value added tax, I suggest that a more simple and progressive income tax—one without unnecessary deductions, credits, exclusions, and exemptions—would be an appropriate way to help finance the social security system.

The article and editorial follow:

[From the Washington Star, Oct. 25, 1979]

THE UNFAIRNESS OF A VALUE ADDED TAX

(By Rep. WILLIAM M. BRODHEAD)

There is much discussion lately of the value added tax (VAT). The rationale for VAT is to encourage people to spend less and save more. This position is not without logic. If every purchase is hit by a 10 percent sales tax, some people may just decide to kick the buying habit, unless it involves the family dinner.

Hardest hit by VAT are those who are having difficulty paying steadily increasing prices for food, clothing, housing and medical care. More affluent citizens would have the option of sheltering a portion of their income from VAT, because money saved or invested would not be taxed.

Supporters justify VAT by pointing out that it applies equally to all types of businesses. Such supporters are easy to please; but with a sales tax, it isn't business but the consumer who pays. Since consumers bear the burden, it is among consumers that we find significant differences in effects.

The regressivity of VAT is its most disturbing feature. The federal income tax, based on ability to pay, is our most progressive tax. VAT, however, is set as a percentage of the value of a purchase. The consumer with a small income pays the same percentage tax as one with a large income, but he pays a higher percentage of his total income.

This new proposal would substitute revenues raised through VAT for a portion of federal income tax and Social Security payroll tax revenues. The effect of this substitution would be to tax consumers to provide a substantial tax break to profitable corporations and individuals in high tax brackets who spend a smaller portion of their income on necessities.

Some VAT supporters are troubled by its inequity. They would change it so there is a lower tax on necessities and a higher tax on luxuries. However, such variations complicate VAT and inflate its cost enormously. Government could decide what are necessities and what are luxuries; and the tax base available for VAT would be seriously narrowed.

I am deeply troubled with a system of taxation which hides the tax from those who foot the bill. VAT wouldn't show up as a charge on the sales slip; at each stage of production, the manufacturer would pay a tax based on the value he adds. Each producer is reimbursed by the government for the tax built into the price he pays his suppliers. In the end, the consumer pays the entire VAT.

VAT would be highly inflationary, because it would force prices up to 10 per cent the moment it takes effect. There would also certainly be demands by workers for substantial wage increases to meet the surge in prices. This is no way to fight inflation.

VAT is supposed to be the solution to the many problems of our income tax system and of financing our Social Security system. Actually, what is needed is the wisdom and courage to undo some of the damage Congress has done to both systems.

The income tax is basically sensible and productive, but it has been loaded with special exemptions, deductions, credits and exclusions. We need to eliminate most of these preferences and substantially lower the tax rates.

Social Security financing can also be accomplished without resorting to the oppressive VAT. We must finance disability insurance and Medicare with general revenues. In this way, we can lower the payroll tax rate and return Social Security to what it was intended to be: a basic retirement system.

[From the New Republic, Nov. 3, 1979]

NOT VAT AGAIN

The announcement last week by House Ways and Means Committee chairman Al Ullman that he would propose a national value-added tax brings to mind Daniel Webster's lament: "Now is the time when men work quietly in the fields and women weep silently in the kitchen. The legislature is in session, and no man's property is safe." The VAT would be essentially a national sales tax, but instead of being imposed simply at the retail level, it would apply at each stage of the production and sales process. It already is widely used in Europe, and Ullman thinks it's high time the U.S. followed suit. He proposes that the VAT be used to reduce personal and corporate income taxes and Social Security payroll taxes. This last may make Ullman's plan especially attractive to Congress, because Social Security taxes are scheduled to increase next year—a measure which is needed to prevent the system from going bankrupt but which is also certain to provoke the wrath of the taxpaying public.

The VAT idea has been kicking around for several years—it was first suggested by President Nixon to replace the property tax as a source of money for public schools, but never went anywhere. Both Ullman and his counterpart in the Senate, Russell Long of Louisiana, endorsed a value-added tax last December, but at the time no one paid much attention. VAT's attractiveness remains a mystery. Doubtless one source of its appeal is simply that it would tap a heretofore unexploited source of money. This alone may make it irresistible to Congress, which can no more ignore a new pool of funds than a rake can rebuff a willing wench. It also would raise lots of money: Ullman's VAT, applied at a rate of 10 percent on everything but necessities like food, clothing, and medical care, which are generously taxed at only five percent, would raise $130 billion. Perhaps most important to Ullman and Long is that the VAT would be considerably less visible than the taxes it would partly replace. In some countries it is simply included in the purchase price of a product, which means the consumer doesn't know how much tax he or she is paying. In others the amount of the tax is spelled out, but it still would be considerably less painful than taxes that take a big bite once every two weeks or once every year. Not many taxpayers are going to sit down and add up their VAT payments at the end of each week. Long himself has candidly praised the VAT precisely because it is "the least painful way of collecting money." It may be in the interest of politicians to keep citizens from knowing how much they are paying in taxes, but it is not in the interest of citizens.

The value-added tax has some crucial drawbacks. One is that it is very complicated. It has an undeserved reputation for simplicity only because in Europe it took the place of a system of business turnover taxes that was even more complicated. It is hard to see the advantage of applying the tax at each of a dozen or more stages of production instead of simply adding it on as a retail sales tax at the last stage. The final effect, and the total revenue raised, would be exactly the same.

A bigger flaw is the VAT's regressive impact. Like any sales tax, it takes a greater share of a poor person's income than of a rich person's, since the poor spend more of their money on consumer goods. Ullman's proposal would mitigate this problem somewhat, but not entirely. It would still raise the cost of necessities. One argument offered by Senator Long is that the VAT would be no more regressive than the Social Security tax, which is true. The Social Security tax is extremely regressive, however, and the VAT would not be much better. But it would be considerably worse than raising the same amount of money through the progressive income tax.

One argument to be made for the VAT, though, does deserve to be taken seriously. Since it functions as a tax on consumption, the VAT would encourage more private savings, which is a worthy goal. The rate of saving in the US is the lowest of all the Western industrial nations. This is due in part to our heavy reliance on the income tax, which gives the taxpayer no incentive to save instead of consume. A good case can be made for a progressive consumption tax, which need not be as complex as the VAT. It could simply be imposed once a year, like the income tax, on total income minus total savings. A tax of this kind would stimulate savings and discourage consumption, thus providing badly-needed funds for capital formation.

But of all the different ways of taxing consumption, the VAT is probably the worst. And it makes no sense to try to encourage saving with the left hand while the right hand is limiting the amount of interest that can be paid on savings deposits. Anyway, the biggest reason Americans don't save is that inflation constantly erodes the value of their money. As long as we have an inflation rate in double digits, no tinkering with the tax laws will make much difference in the savings rate. But the sort of tinkering suggested by Ullman would make some other problems worse.●

GEN. WILLIAM M. HOGE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. SKELTON. Mr. Speaker, this past Friday, funeral services were held at Arlington National Cemetery for a former neighbor and good friend, Gen. William Morris Hoge. General Hoge was an outstanding American and had one of the most distinguished military careers in our Nation's history.

He was an alumnus of Wentworth Military Academy, and was a graduate of the U.S. Military Academy at West Point. In addition to receiving the Silver Star award for bravery during World War I, he also was awarded the Distinguished Service Cross for "personally and voluntarily reconnoitering the site of a pontoon bridge over the Meuse in broad daylight, and for commanding the movement of a train of heavy wagons under enemy observation."

Bridges became a resounding theme in General Hoge's military career, for in May of 1945, he earned the Distinguished Service Medal for his ingenious and daring leadership during the siege of Remagen Bridge. In fact, it was his tactical maneuvers at this bridgehead that enabled the American First Army to make the initial allied crossing of the Rhine in force.

General Hoge also contributed materially to the war effort through his supervision of the Canadian-Alaskan military highway construction project and the northern sector construction task force. He was awarded the Oak Leaf Cluster to the Distinguished Service Medal for his efforts in this area.

In 1945, he earned the Legion of Merit for his service with the 9th Armored Division for moving his combat unit to the vicinity of St. Vith and preparing its disposition while containing the enemy for 36 hours during a critical period. His citation read:

The superior judgment and tactical leadership displayed by him throughout these operations, and the discipline and combat efficiency of his command, reflect the highest credit upon himself and the armed forces.

He was awarded the Oak Leaf Cluster to the Silver Star for his gallantry in action in connection with military operations against the enemy in the vicinity of Bodeheim, Germany, on March 4, 1945. He observed that an attack by a task force was not progressing satisfactorily because of heavy mortar, artillery, and small arms fire, so he joined the front line units. Showing no regard for his own safety, he exhibited fearless leadership while he reorganized the attack and personally led the task force to its objective.

He also received the Bronze Star Medal, the Army Commendation Ribbon, the Purple Heart, the British Distinguished Service Order, the French Legion of Honor, the French Croix de Guerre, and the Russian Order of the Fatherland First Class for Service in World War II. He was with the IX Corps in Korea in 1951. In March 1953, General Hoge was appointed commanding general of the 7th Army in Germany, and he subsequently was named commander-in-chief of the U.S. Army, Europe, in September 1953 before retiring in 1955.

After his retirement, General and Mrs. Hoge returned to their hometown of Lexington, Mo. Having lived next door to him, I was fortunate enough to know him not only as a member of the military, but as a warm and congenial neighbor, always willing to share a pleasant word with his friends.

Mr. Speaker, it is with great sadness that I inform my colleagues of this tragic loss, however, I feel confident that General Hoge's many contributions to the defense of this Nation will long be remembered.●

PERSONAL EXPLANATION

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BEREUTER. Mr. Speaker, last Thursday I was involved in a meeting being held in my office. Unfortunately, I did not hear the notice of a rollcall vote on a motion to order the previous question on the rule to consider the welfare reform amendments. Because I missed that vote, I wish to state for the record how I would have voted had I been present. My vote would have been "nay."●

TRIBUTE TO JOHN KWOKA AND MARTHA KOZLOSKI

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. FLORIO. Mr. Speaker, I am privileged to share with you, and my colleagues, the south Jersey area's pride in two of its most foremost citizens, John A. Kwoka and Martha (Wanda Bernadette Mroczkowski) Kozloski.

This Saturday, November 10, these two outstanding individuals will share in the Man and Woman of the Year testimonial, offered by the Polish American Congress. The congress' recognition of the two south Jersey residents will highlight their lifelong association with efforts to improve their community and their Nation.

Mr. Speaker, frequently those in government fail to recognize the enormous wealth of services private citizens contribute on their own toward the betterment of their communities. The following articles summarize the dedication and hard work John Kwoka and Martha Kozloski have devoted to a number of worthwhile organizations. I join the Polish American Congress in saluting the achievements of John Kwoka and Martha Kozloski, and express my admiration for their assuredly deserved recognition.

The articles follow:

JOHN KWOKA

A volunteer community worker for nearly 30 years, John Kwoka will share in the Man and Woman of the Year testimonial offered by the Polish American Congress at a dinner and dance Saturday, November 10, at the Polish American Citizen's Club, South Camden.

John A. Kwoka was born and raised in Camden. He attended St. Joseph's Grammar School before graduating from LaSalle High School in Philadelphia. He later earned certificates from Rutgers, the State University, for Collective Bargaining and Modern Supervision.

In 1950, during the Korean conflict, Kwoka enlisted in the United States Air Force. After basic training and special technical training, he was assigned to the Communications Squadron, 85th Air Depot Wing, Erding, Germany, where he served for 30 months.

He was reassigned to NATO Headquarters, Allied Forces Northern Europe, Oslo, Norway, where he assumed duties of a Non-Commissioned Officer in charge of the communications center. He was honorably discharged in 1954 with the rank of Sergeant, and was awarded the national Defense Service Medal, Good Conduct Medal and Occupation Medal in Germany, with device for Humane Action.

A Contracting and Procurement Assistant with the Delaware Valley District, Eastern Region, Kwoka is a 20-year employee of the United States Postal Service. He started his government career as a mailhandler with the Postal Transport Service and progressed through the ranks to the position he now holds.

Through the years he was the recipient of many awards from the Postal Service, notably most recent is the United States Postal Service Bicentennial Award presented at the Postmaster General's Office in the headquarters in Washington, D.C.

As a vice president of the Polish American Congress, South Jersey Division, Kwoka is a National Director of the Polish American Congress, Chicago, Illinois. He was Pulaski Day Chairman for four years and Co-Chairman for several more years, besides a Grand Marshall for the most recent parade.

John Kwoka has a 26 year membership tie with the Kaskowski-Wojtkowiak Post 74 American Legion. He was recently presented with a life membership for many years of devoted service to the organization. He has served in all elective and appointed offices and is presently the Post Commander. He is a past historian of the Camden County Committee of the American Legion and by appointment of the County Commander he is a member of the Budget and Finance Committee.

Kwoka also is a member of Veterans of Foreign Wars Post 980 La Societe Des 40 Hommes Et 8 Chevaux, Voiture 40; and Associate Member of Polish Army Veterans Post 121, Polish American Citizens Club, National Association of Postal Supervisors, American Postal Workers Union AFL–CIO, the Associated Polish Home of Philadelphia, National Rifle Assocation. He is past president of the United Federation of Postal Clerks of Local 526 AFL–CIO and a past delegate to the South Jersey Labor Council AFL–CIO.

The 1979 Honoree is the youngest of seven children born to Joseph and Sophia Kwoka. Other members of his family are sisters Mary and Irene and brothers Walter, Frank, Stanley and Edmund.

MARTHA (WANDA BERNADETTE MROCZKOWSKI) KOZLOSKI

Family: Born and raised in Camden.

Daughter of Mrs. Helen (Karlowicz) Mroczkowski.

Wife of Edward Thomas Kozloski, Formerly of Taylor, Pennsylvania.

Mother Of: Margaret Ann (Peggy) Kozloski Haldeman—Resides in Atco, N.J. with husband Walter. Peg is a graduate of St. Joseph's High School and Peirce Junior College. Presently employed as a secretary at the Archway School in Atco.

Peg has two sons, Montrell, Bradley and Edward (Eddie), Jr., who resides in Mobile, Alabama.

Eddie is a graduate of St. Joseph's High School and the Virginia Polytechnic Institute and University, Blacksburg, Virginia. Eddie is presently employed as a regional sales manager by the Houston Engineering Research Company.

Eddie has two sons—Jesse and Christian.

EDUCATION

Attended St. Joseph's Grammar School and Camden High School.

A Registered Nurse—Graduate of the Pennsylvania Hospital School of Nursing.

Graduate of Camden Commercial College.

EMPLOYMENT

As a Registered Nurse, worked in the operating room at the Pennsylvania Hospital for several years after graduation from that institution.

Served in the Navy Nurse Corps during World War II as an Ensign.

More than half of her lifetime has been spent at West Jersey Hospital: First alternating between General Duty and Private Duty Nursing and, since 1951, within the Department of Medical Records as a Medical Secretary. In 1957, took the qualifying national examination and received the title of Registered Medical Record Administrator (RRA).

In 1974, became Associate Director of the Department for the West Jersey Hospital System.

ORGANIZATIONS

Life member of the Pennsylvania Hospital Nurses Alumni Association.

Member of the American Medical Records Association.

Member of the New Jersey Medical Record Association, Inc. Served as Corresponding Secretary, Member of the By-Laws Committee and nominating committee in the past. Chairman of the Nominating Committee for the current year.

Member of the New Jersey Hospital Association.

Served as a member of the faculty of the Morrestown Adult School.

Presently coadjutant faculty member of the Rutgers University Extension Division.

Past President of the St. Joseph's Grammar School PTA.

Past Historian of Camden Regent (PTA).

Served two terms as Corresponding Secretary—St. Joseph's Parish Council, then a Member-At-Large for one term, and presently again serving as Corresponding Secretary.

Member of the Altar and Rosary Society.

Active in both the Girl Scout and Boy Scout movement in the Parish, Recipient of the St. Anne Medal awarded in Girl Scouting.

Presently a Parish Council Representative in the Polish American Congress.

Member of the Polish Auxiliary to the West Jersey Hospital, has served as either General Chairman or Publicity Chairman of many affairs. 1978 Honary Polka Ball Chairman.

Member of the Union of Polish Women of America, Group 5.

Member of the Polish National Alliance.

Member of the Camden County Eagle Scout Mothers since 1965. Presently serving second term as President.●

PEST MANAGEMENT STRATEGIES IN CROP PRODUCTION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. UDALL. Mr. Speaker, I am pleased to commend to my colleagues the latest study undertaken by the Office of Technology Assessment. The implications of agricultural pests slowly becoming immune to pesticides are very serious. New approaches to pest control are necessary.

A sharp step-up in the current slow shift to integrated pest management (IPM) for major U.S. agricultural crops can cut pesticide use by as much as 75 percent in some cases, reduce preharvest pest-caused losses by 50 percent, and save a significant amount of the one-third of the world's potential food harvest that is lost to all pests. (The pests include noxious and damaging organisms such as insects, mites, nematodes, plant pathogens, weeds, and vertebrates. Pesticides include insecticides, miticides, nematocides, herbicides, and fungicides.)

IPM involves the coordinated use of a variety of control tactics to prevent economic losses from pest damage while minimizing hazards to humans, animals, plants, and the environment. IPM is the most promising approach to U.S. crop protection over the next 15 years. The international implementation of IPM requires systems that are adopted to local agricultural conditions, social customs, political structures, and economic systems.

U.S. crops have become increasingly vulnerable to pest damage. The present limited number of pest control tactics within the categories of chemical, cultural, plant resistance, and biological are neither completely effective nor universally applicable. The intensive use of only one or two of these tactics can create hazards to human and environmental health and increase pest resistance to controls. Therefore, American agriculture is gradually shifting to IPM strategies, which apply the most broadly effective combination of available methods to particular pest problems. However, technological and administrative obstacles block rapid development and use.

Among the obstacles to rapid adoption of IPM strategies are:

Inadequate knowledge in basic biology, interactions of crop pests, and the economics of pest management.

The lack of an adequate system for disseminating the information needed to make sound pest management decisions.

A shortage of trained personel to conduct research, develop IPM programs, and deliver the needed information.

The lack of coordination and cooperation among Federal and State agencies.

The lack of a clear and comon commitment to and agenda for future IPM activities by agencies involved in the funding of research and extension activities, the regulation of pesticide use, and the marketing of farm products.

The basic option before Congress is whether or not to commit the additional resources needed to speed up the current evolutionary movement toward adopting IPM crop protection systems. Congress can: 1) support the status quo for U.S. pest control which, although including IPM, continues to rely heavily on chemicals, or 2) develop a strategy for accelerating the shift to IPM. With a modest increase in resources. IPM could replace most unilateral pest control programs over the next 20 to 30 years. With a major effort to remove the obstacles to IPM, the shift could be made within 15 years.

Any Member who would like a copy of this report need only contact the OTA, and one will be delivered that day.●

CAMBODIA: THE SUFFERING IS NO QUIRK BUT PART OF A GLOBAL PATTERN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. STARK. Mr. Speaker, at a time when our only consideration in regard to Cambodia should be the speed with which supplies reach the Cambodian people, criticism of U.S. relief efforts may be a harmful distraction and an act of irresponsible demagoguery. Yet, although I hesitate at this crucial time to offer criticism, there lies within our Government a severe fault in its ability to analyze and respond to crises of starvation around the globe. With public awareness of the plight of the Cambodian people at its peak, it is my hope that constructive criticism may fall on fertile ears.

It is inconceivable that a condition which has wrought mass death and suffering and which threatens the existence of a once peaceful nation has not been met with the creation, in this country, of a special agency entrusted with planning and directing U.S. relief efforts.

Our response has been a series of disjointed, decentralized, and disorganized actions unattributable to any one individual or any one agency. These efforts have not been wasted. But, as Colman McCarthy writes in an article which appeared in the Los Angeles Times and Washington Post, "The job doesn't get done if everyone is asked to do it."

Yet even if a new agency had been formed, we must ask why the need came about. And, how did it come to be that the Cambodian people fell victim, like so many others in recent years, to mass hunger? We must ask if U.S. policies are in a way an indirect cause of hunger in Cambodia and elsewhere. These questions must be asked not only by the United States but by other nations as well. As McCarthy writes:

For the west to agonize over the picture of starving Cambodians, but not to act to reverse the economic and political causes of world hunger, is to assume that next year, or the year after, another country will host mass death.

Certainly the United States cannot be blamed for the actions of the Vietnamese in Cambodia and the effect that the war has had to forestall the planting of crops. It is not, however, a secret that the United States and other Western countries have pursued policies which have created a global imbalance—an imbalance which has contributed to hunger in many areas.

Policies such as these must be reassessed if we wish not to be revisited "next year, or the year after," by mass death.

I ask at this time that Mr. McCarthy's article, "Cambodia: The Suffering Is No Quirk, But Part of a Global Pattern," be inserted in the RECORD. I saw it first in the Los Angeles Times of November 2.

The article follows:

CAMBODIA: THE SUFFERING IS NO QUIRK, BUT PART OF A GLOBAL PATTERN; OUTMODED POLITICAL AND MILITARY SCHEMES VICTIMIZE MILLIONS

(By Colman McCarthy)

How many will have starved to death in Cambodia? Even to raise the question is to create the illusion that the issues of starvation and malnutrition are fresh in themselves. It is to cast Cambodia as "a crisis," as though the country was just wheeled into the world's emergency room and the fever chart began ascending in a straight line.

We know better. In the 1970s alone, the West looked on while starvation created death camps in Biafra, Bangladesh and the Sahel. The vastness of the misery meant that even the accounting systems to record the deaths broke down. In America, where overeating is so rampant that millions of

citizens spend more money in weight-loss programs in a month than most people in the Third World earn in a year, it is enough merely to remember dimly the standard (and conservative) figure: 500 million of the earth's poor are starving or severely malnourished.

In looking at Cambodia, then, it is crucial to get it straight at the beginning: The current suffering there is part of a long-recognized global pattern, not a quirky disaster.

If anything, Cambodia might have been the one country that was secure from famine. In 1974, six countries—Guinea, Sudan, Sri Lanka, Pakistan, Bangladesh and Cambodia—received one-third of the $748 million budget of an American food-commodity program. Cambodia received a major share—$194 million—of that third.

The country, though, as the National Council of Churches has pointed out, was "one of our major military and political clients" in Southeast Asia. The humanitarian impulse to aid the hungry was less on the minds of American policy-makers than was feeding the emaciated political and military schemes that saw Cambodia as crucial to America's "national interest."

In a few months, perhaps sooner, world attention to starvation in Cambodia will have vanished. In time, another famine—perhaps in Haiti, Indonesia or Madhya Pradesh—will again push the death rate so high that the consciences of the wealthy must pay heed.

To say this is not to heap guilt on the rich nations, which is the one-shot tactic that every speechmaker from the Pope to Fidel Castro has been offering of late. Countless Americans who send checks to Oxfam or support worthy groups like Bread for the World or the Overseas Development Council don't feel guilty, as they shouldn't.

Instead, they feel frustrated and angry. In Washington, no one public figure in the Carter Administration has been given, or has sought, high-level responsibility for dealing with world starvation. Instead of a person, we have a process: It is kept in motion by representatives from Food for Peace, the State Department, Treasury Department, Agriculture Department, Office of Management and Budget, and congressional groups. These are intelligent and often compassionate officials, but unwittingly they are forced to play one of the government's oldest games: The job doesn't get done if everyone is asked to do it.

With no single public official held accountable, and with no comprehensive nutrition policy for itself or the world, the Carter Administration could reach out to the starving Cambodians with nothing better than a last-minute pledge of $70 million. This was belated conscience money.

In 1975, not long after the world food conference in Rome was supposed to put an end to the Biafras, Sahels and what afflicts Cambodian families today, Kenneth Schlossberg of the McGovern hunger committee in the Senate stated the obvious: "Food and nutrition policy are the waifs of national policy matters. Decisions that affect the very existence of millions and compromise the most pressing problem confronting America in the next several decades are left to a policy making process more reflective of the last century than this one."

Even if our government came alive, the victimization of millions would continue. Other rich nations—including the oil countries—are doing little. Developing countries themselves are often run by men who put military development first and agricultural development last. Half the world lives on rice, yet rice requires three times as much water—in water-scarce countries—as does wheat. And hovering above it all is the specter of overpopulation.

For the West to agonize over the picture of starving Cambodians, but not to act to reverse the economic and political causes of world hunger, is to assure that next year, or the year after, another country will host mass death.●

THE QUIET REVOLUTION CONTINUES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, November 7, 1979, into the CONGRESSIONAL RECORD:

THE QUIET REVOLUTION CONTINUES

There are far-reaching changes taking place in the lives of women today. A "quiet revolution" is well underway in American society.

These facts were made very clear to me at the Women's Forum I sponsored two weeks ago in Southern Indiana. The crowd was large, the guest speakers were greeted with enthusiasm, and the prepared remarks brought forth many more questions than the allotted time permitted for response. Does social security cover a woman who becomes a widow after 15 years of marriage? Is a woman likely to find assistance in starting a small business? Whom should a working mother talk to if she needs help with child care? What is being done to protect women from the serious crimes of rape and domestic violence? These questions and others like them have often been put to me in town meetings and post office visits, but at the Women's Forum they all seemed to come up at once. The participants, however, were asked to concentrate on two areas of concern: women at work (in the home or on the job) and the problems of older women.

One of the most spectacular changes in American society in the past quarter century has been the dramatic rise in the number of women who work for pay outside the home. Women have more than doubled their presence in the nation's labor force in 25 years, and it will not be long before half of all wage earners are women. Even now, more than 50% of all women over age 16 are working outside the home. The figure may be 67% for all married women by 1990, a level much higher than anticipated. The problems faced by these women are formidable. Women earn roughly 60% of what men earn on the average, an "earnings gap" that has persisted unchanged for 20 years, and they labor under the handicap of historic exclusion from apprenticeships and professional studies that lead to better-paying jobs. Women suffer higher unemployment than men do, and they still hit career roadblocks in many "all-male" occupations and professions.

Equitable treatment for wage-earning women is important, but women who work in the home deserve equal attention for the vital role they play. Theirs is the responsibility for the family unit, the basic building block of our society. Homemakers, too, face formidable problems, such as laws that limit property rights, little or no income security in the event of divorce or widowhood, and inadequate provisions in the programs of federal, state, and local governments. The quiet revolution will be incomplete if these problems go unsolved.

A simple demographic fact made the problems of older women an appropriate topic of discussion at the Women's Forum: on the average, female Americans can expect to live 76 years, eight years longer than their male counterparts, so the elderly population of America is and will continue to be predominantly female. The problems of older women, however, are "silent" ones that tend to be pushed aside or ignored altogether. A few of the most serious are loneliness (married women usually live the last 11 years of life as widows), poverty (older women have the lowest incomes of any sex and age grouping in the population), crime (older women are six times as likely as the rest of the population to become victims of crime), and needless institutionalization (three-quarters of the institutionalized elderly are women, yet up to 40 percent of all elderly are kept in institutions for reasons as simple as their inability to feed themselves). I was extremely pleased by the interest shown in the problems of older women. Such interest is the first step on the road to workable solutions.

Congress has considered legislation to deal with some of these and other issues of concern to women. Constitutional actions include an amendment granting women the right to vote, ratified in 1920, and the proposed Equal Rights Amendment (ERA), first introduced in Congress in 1923 and finally approved by Congress in 1972. Only 35 of the 38 states needed for ratification approved the ERA within the original seven-year time limit, but the 95th Congress passed a bill extending the limit to June of 1982. Recent laws of benefit to women have ranged over many issues. Discrimination based on sex was prohibited in the payment of wages and in employment in 1964, and in federally assisted education programs in 1972. Other laws forbid discrimination against pregnant women in employment, and provide for flexitime and part-time employment in the federal civil service. New laws also fund programs for displaced homemakers, family planning services, and rape prevention and control.

Much legislative action of importance to women has yet to be taken. Pending in Congress are bills to include displaced homemakers among those for whom employers may claim the jobs tax credit, provide shelters and other assistance for battered wives, reduce the "tax on marriage" paid by families with two wage earners, eliminate sex-based discrimination in the insurance industry, and allow homemakers to establish individual retirement accounts such as those available to the self-employed.

Congress will not be able to address all the issues that concern women. Changes in attitudes, most particularly, cannot be legislated. I think women are saying that they want to be recognized as the full and equal partners of men, whether in the home, on the job, or in the world at large. To my way of thinking, that is not too much to ask. After all, equality under the law is a fundamental American idea if ever there was one.●

TRIBUTE TO BEVERLY BYRON

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. LONG of Maryland. Mr. Speaker, I pay special tribute to my friend and colleague, BEVERLY BYRON, who continues the tradition of able representation for the sixth congressional district.

During her first year in the House, she has compiled an impressive list of legislative accomplishments, including encouragement of alternative energy sources, improved Federal services for senior citizens, and legislation to make the Federal Government more effective, and to balance the budget.

BEVERLY BYRON works hard for her constituents. Her determination won for Emmittsburg the National Fire Academy. Although the entire congressional delegation was proud to support her in this fight, it was BEVERLY BYRON who really won it for her district.

These impressive accomplishments entitle her to be described as truly a peoples Congresswoman.●

CIVIC LEADER RECOGNIZED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BAILEY. Mr. Speaker, in my district, the 21st of Pennsylvania, we have 69 communities, each with a great many civic-minded persons that are constantly giving of their time and efforts to better the communities and help them grow and prosper. Orison Faulk, of Greensburg, is one of those very special persons.

At the age of 15 years he took his first step into civic affairs when he took an active role in the campaign of a candidate for township supervisor. But as I said, that was just a start. His interest in local government was followed by a public office of his own, tax collector of Salem Township, which he performed admirably for 32 years. But during this time, his scope was not limited to his tax collecting duties. Being such a giving person, he always found time to organize and participate in a host of political and civic activities. His ability to visualize a project and see to its success is truly remarkable. As a chairman for the March of Dimes, he worked avidly to recruit volunteers and secure donations for this most worthy charity. As a Democratic committeeman, he strived to insure the quality and responsiveness of local government. He also has devoted a great deal of his time to aiding the Sportsmen's Club in many of its endeavors, to the committee for the United Mine Workers as a committee member, and to the Delmont United Presbyterian Church as a member of the board of session, a trustee, and a 25-year choir member.

His music background is quite extensive. For 25 years he has been a member of various musical groups and for some of that time he organized and directed his own orchestra. Today, it is not unusual to find Orison playing his harmonica, banjo, guitar, or singing for senior citizens groups in the surrounding communities. Knowing Orison as I do, it is not surprising that he immediately turns over any money donated for his entertaining to the United Cerebral Palsy in Apollo.

All of his efforts, his ambitions, and his giving to others is a fine example of his compassion and respect for his fellow man and his dedication to our democratic system.

I commend and thank him for his many years of service to the public, his friends, and acquaintances. I sincerely hope that his spirit of giving and good will will continue to touch the lives of so many persons.●

TRIBUTE TO HON. JUANITA M. KREPS

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mrs. SPELLMAN. Mr. Speaker, it has been said that knowledge gives weight and accomplishments give luster. It is indeed a pleasure for me to join so many of my colleagues in recent days in recognizing one who is abundantly blessed in both these categories.

Juanita M. Kreps, the first woman and first economist to serve as Secretary of Commerce, has won praise from many quarters for her intelligent, sensitive achievement in directing one of our key Federal departments. Before joining the Carter administration, this longtime resident of Durham, N.C., served with equal distinction in academia for three decades.

I can speak from personal experience when I say that Secretary Kreps brought to the Commerce Department a deep commitment and profound concern, not just for the furtherance of foreign trade and free enterprise, but for people as well. Her unique perspective as the first woman Secretary provided numerous unexpected benefits. I am particularly pleased to note, for example, that Secretary Kreps was one of only two Cabinet Secretaries to date who have issued official policy statements on the sensitive subject of sexual harassment in the Federal bureaucracy. Such a concerned, caring attitude exemplified Secretary Krep's tenure at Commerce and has made her stewardship of that Department a high point of the Carter administration.

Of course, Secretary Kreps' most widely recognized achievement in Government was the major trade agreement framed during her May visit to the People's Republic of China. The agreement has been praised almost universally as one that will give an advantage to American businesses, whether they be buyers of Chinese goods or sellers of American ones. It is expected to result in a tripling of American exports to the People's Republic of China during the next 5 years.

Secretary Kreps also negotiated six other major foreign trade agreements during her years at Commerce and met world leaders in such capitals as Moscow, Peking, and New Delhi. She administered, in a tight manner, a far-flung department, whose responsibilities range from assisting the Nation's businesses to mapping the world's oceans. Her professionalism and competence in management were truly unmatched.

Mr. Speaker, I personally do not know all that the future holds for Secretary Kreps now that she has left Government service. But I do know she is not one to sit by idly, resting on laurels and relying on past achievements. I was not surprised to learn that Duke University, which she left to join the Commerce Department in January 1977, was anxious to have her back as academic vice president. I suspect many institutions of higher learning would be more than pleased to obtain the services of so capable, talented and caring an individual.

Whatever her future undertakings, I want to join all my colleagues here today in wishing Juanita Kreps well in the months and years ahead. I also want to join them in officially recognizing her many fine achievements at the Department of Commerce. And most of all, Mr. Speaker, I want to offer my deepest thanks and heartfelt appreciation to Juanita M. Kreps for more than 2½ years of exemplary service to the Carter administration, the Federal Government, and the country as a whole. She truly has been blessed with both knowledge and many outstanding accomplishments. Her luster shines through to all who have had the pleasure of knowing her.●

VETERANS' DAY

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BOLLING. Mr. Speaker, I am pleased to bring to the attention of the Members of the House of Representatives the remarks of an old friend, Gus Tyler, who is currently the chairman of the American Veterans Committee. I found his 1979 Veterans' Day message particularly impressive, reminding us all of the AVC slogan that we are "citizens first."

VETERANS' DAY MESSAGE—1979

Veterans' Day—November 11— is dedicated to the men and women who served in our armed forces and then returned to civilian life. Whether we served in time of war or peace, we shared a common experience, a moment when service to the nation was our overriding commitment.

It is fitting that in our present troublous moment, we—the veterans of our land—recall our dedication to our great common concern, our nation, our oneness as citizens of the United States of America.

We are presently plagued by a divisiveness as dangerous to our nation as any foreign foe. We are torn by economic inequities as riches pile up for a few while the many must do with less. We are ripped by crime as frustrated teen-agers confront a fruitless future. We are fragmented by racial and ethnic hostilities as groups claw for advantage or survival in a stagflated society. We have even cast out our Vietnam vets, shaming the warriors for an unpopular war.

As our sense of community disintegrates, even the traditional pillars of strength—state, church, school, and family weaken and crumble. Man, the social animal, turns antisocial, driven by fear and fury into escapism and narcissism, alienation and apathy.

At such a perilous pass, when we appear to be everything else before we are citizens of this land, it is appropriate to recall the slogan of the American Veterans' Committee that we are "citizens first." It is timely to

recall the unifying spirit of wartime to conduct peacetime wars against the inner foes of poverty, prejudice, ignorance, illness and injustice.

Veterans' Day, originally Armistice Day, came out of World War I, a crusade to "make the world safe for democracy." A generation after that 1918 armistice, we were engaged in a Second World War against forces threatening to extinguish the light of liberty forever. We were victorious in that war and yet dictatorship prevails in most lands and the forces of tyranny once more make the world unsafe for democracy. Our victories in war have been repeatedly turned to dross by our failures in peace.

Out of the tribulations of our times, we veterans must learn that our dedication to our nation and its ideals must be as unremitting in peace as in war. To us falls the special call to keep America "one nation, indivisible, with liberty and justice for all." Yes, for "all."●

MOVING ON AN EAST-WEST PIPELINE

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. RATCHFORD. Mr. Speaker, following passage of H.R. 4985, the Priority Energy Project Act, last week it seems imperative that we pause again to consider the pressing need for a pipeline to carry Alaskan crude oil from the west coast to the energy-deficient Eastern, mid-Atlantic, and Northern States.

At present, Alaskan crude oil can only reach the east coast by being transported down the west coast and through the Panama Canal. This approach is both costly and time consuming, and has led to an overabundance of crude oil on the west coast which far exceeds the region's refinery capacity.

An east-west pipeline from California to Texas, or along the northern border of the United States, would efficiently and cost-effectively transport a large supply of crude oil to our refineries and to the American public. Such pipelines have been proposed for many years, but have been stymied by potential lawsuits and an incredible maze of Federal, State, and local laws.

For this reason, I welcome the support shown in the House last week for an amendment to the Priority Energy Project Act which would permit the Energy Mobilization Board to consider pipeline projects for fast track status. As amended, H.R. 4985 would enable the President to designate a pipeline project as a priority energy project, and thereby expedite final construction under the powers and protections embodied in the Energy Mobilization Board legislation.

Today, the Congress often feels that its hands are tied on such energy issues as oil shortages, rising prices, or nuclear energy. However, Congress does have the power to expedite some essential energy projects, and I applaud the House for its recognition of the importance of an east-west pipeline in this regard. With the passage of the Priority Energy Project Act, I deeply hope that a pipeline to transport crude oil across the country more cheaply and expeditiously will soon become a reality.●

WORLD VISION INTERNATIONAL AIDS CAMBODIANS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. ROUSSELOT. Mr. Speaker, the situation in Cambodia is growing ever more serious. Since 1975, when the Communists conquered Cambodia, the population has been cut in half, from approximately 8 million to about 4 million. Many have starved and several million innocent people were killed by the new Government for reasons such as former Government or military employment, having a college education, or even knowing a foreign language. The economy was destroyed as people were driven from the cities, stripped of all property, and as knowledge was erased. Like the Nazis, the Communists inflicted a modern holocaust on their people.

Today, another 2 million people face imminent death by starvation. The United States and other Western nations, having been driven from Cambodia, have ironically and magnanimously been willing to provide humanitarian relief. But, until recently, the warring Communist factions refused such aid, preferring to let their people starve.

The United States has now pledged $69 million in aid for the people of Cambodia. Other Western nations have pledged an additional $34 million in aid. To my knowledge, however, not one Communist ally of the Marxist regimes in Cambodia, Laos, and Vietnam has pledged one penny to alleviate the suffering occurring under those regimes.

The free, democratic governments of the West deserve great credit for their humanitarian efforts. But, we should remember that not all aid is being supplied by governments. An outstanding effort is being made by many private groups.

Oxfam-America, for example, has taken the lead in tackling the starvation problem. The Catholic Relief Services have made enormous efforts to help resettle refugees, and a host of other groups are also tirelessly involved. One such organization, World Vision International, is headquartered in my congressional district. I want to commend World Vision and bring its efforts to the attention of my colleagues.

World Vision International is a Christian humanitarian organization which operates in 75 countries, providing relief to the world's disadvantaged, particularly children. A recent "update" from the Indochinese Refugee Action Center reports that World Vision delivered 10 tons of food and medicine on October 20 and 23 to Cambodia. On October 29, a two-man team left for Phnom Penh to prepare for a major effort in which World Vision plans to spend at least $1 million in immediate aid. The October 29 flight to Cambodia included 5 tons of supplies especially earmarked for orphans, including mosquito nets, clothing, food, and educational materials.

It has come to my attention that World Vision has now established a field office in Phnom Penh and, as part of its immediate relief package, 1,000 tons of rice will be shipped up the Mekong River.

In addition to its food program, World Vision International has also been active in providing medical relief to refugees in the Thailand border camps. It has recently unveiled an ambitious plan to provide $5 million in aid to Indochina over the next 2 years.

Mr. Speaker, it is my belief that private efforts to help end the crisis in Indochina deserve our support. Like the other private groups, World Vision International depends on voluntary contributions to make its programs a success. For those who would like to join in helping this worthy group, the address is World Vision International, 919 Huntington Drive, Monrovia, Calif. 91016.●

THE NEED FOR INCREASED DOMESTIC COKE PRODUCTION

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. RAHALL. Mr. Speaker, yesterday the Industrial Economics Research Institute at Fordham University released their report, an "Analysis of the U.S. Metallurgical Coke Industry."

The report states, "Under current conditions, it seems certain that the Nation's metallurgical coke industry cannot provide a viable source of adequate supply, raising the prospect of increased dependence on imported coke and eventual curtailments of iron and steel production." It further goes on to say that the importation of 5.7 million tons of coke in 1978 resulted in more than 3,400 job losses at the coke ovens and approximately 6,000 jobs in the Nation's coal mines. The need to import substantial quantities of coke on a regular basis is an anomalous situation, since the United States has the largest and best coking coal reserves known in the industrial world.

It has been estimated that the recoverable reserves in the United States total over 40.5 billion tons. In my home State of West Virginia and in the Fourth Congressional District which I represent there have been found to exist by far the largest quantities of premium-grade coking coal, yet, presently there are over 6,000 miners laid off due to lack of demand and excess capacity.

Mr. Speaker our growing dependence on foreign imports of coke is alarming. Dependence on foreign suppliers for coke, particularly in a period when the world steel industry is operating at a high rate of capacity, can have a limiting effect on U.S. steel production. If demand continues to increase at it's present rate the steel industry will have finishing facilities that are idle while the country is in need of steel.

Mr. Speaker, an increase in coke-oven capacity is essential if we are to make the country self-sufficient by reducing imports which, in turn, will improve the balance of payments and increase job opportunities. Without this increase West Germany, the Netherlands, and Japan will become the OPEC of the coke industry, OCEC (Organization of Coke Exporting Countries.) I call upon the proper Government agencies to explore techniques to increase our domestic coke producing capacity and restore American jobs and security to its people.●

RESOLUTION BY CITY OF NORFOLK

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. WHITEHURST. Mr. Speaker, I am pleased to submit for inclusion in the RECORD today a resolution by the city of Norfolk commemorating the 25th anniversary of the Traffic Division of the Norfolk General District Court.

This court is presided over by a remarkable jurist, Hon. Vernon D. Hitchings, Jr. Judge Hitchings sets a new record every day, since he has already heard over 1 million traffic cases. His courtroom, which is unfailingly lively, is unique primarily because of Judge Hitchings' personality and character. No ordinary jurist could dispose so competently of so many cases, and in a day when our judicial system is often characterized by interminable delays, swift justice is the rule in Norfolk's Traffic Court.

Mr. Speaker, I am pleased to join the mayor and members of the City Council of Norfolk in paying tribute to Judge Hitchings and the members of the Traffic Division of the Norfolk General District Court on a quarter century of service.

CITY OF NORFOLK, VIRGINIA—RESOLUTION

Whereas, 1979 marks the Twenty-Fifth Anniversary of the Traffic Division of the Norfolk General District Court; and

Whereas, in this Twenty-Fifth Anniversary Year, the Judge of the Traffic Division, the Honorable Vernon D. Hitchings, Jr., has been selected by the Guiness Book of Records to be included in their latest edition, with the statement that from January, 1954 until January 19, 1977, Judge Hitchings had disposed of his millionth traffic case, of which some 965,000 of his verdicts were unappealed or upheld on appeal; and

Whereas, the Traffic Division of the Norfolk General District Court works in cooperation with the City of Norfolk's Traffic Engineer and Police Department to promote traffic safety and is the leading traffic court in the Commonwealth of Virginia, therefore, be it

Resolved, That the City of Norfolk urges the people of this City to recognize the contributions made to our community by the Traffic Division of the Norfolk General District Court and pay tribute to the members of this Division for their efforts in promoting traffic safety and upon the celebration of their Twenty-Fifth Anniversary.

Adopted by the City of Norfolk and bearing the signature of the Mayor this 31st day of July, 1979.

VINCENT J. THOMAS, *Mayor*.●

A TRIBUTE TO ROBERT CODY BROWN

HON. L. A. (SKIP) BAFALIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BAFALIS. Mr. Speaker, normally, I choose not to use the CONGRESSIONAL RECORD for tributes to constituents and friends in Florida's 10th Congressional District. With more than 750,000 residents, it is too difficult to pick and choose among the hundreds of events and awards that happen daily.

However, the passing of Robert Cody Brown—long-time resident of Fort Myers—is an exception to this rule. Bob Brown was an exception all his life: His outstanding journalistic career under Randolph Hearst; his outstanding business career as representative of a myriad of international firms in this country; his outstanding career of political involvement, constantly striving to make this country live up to its goals as set forth in the Constitution.

Richard Dennis, former business editor of the Fort Myers News Press, was one of those who shared a special friendship with Robert Cody Brown. Mr. Dennis has written a heart-warming tribute to Mr. Brown—one which I commend to my colleagues.

In particular, please note the comments concerning the CONGRESSIONAL RECORD. I sincerely wish each of us had as fine a working knowledge of this publication as did Robert Cody Brown.

RECORD IN THE "ROOMS" STIRS MEMORIES FOR FRIEND

(By Richard P. Dennis)

I spent a lot of time in that wonderful house on Masanabo Lane. The house on the cul-de-sac where the rear wheels of my car always ran a bit over the cement blocks in the narrow driveway.

That house quivered with the vitality of its slight-of-form occupant. His mind, sensitivity, intense opinions and superb intelligence permeated every nook and cranny.

Robert Cody Brown, of Masanabo Lane in Iona-McGregor, is dead. He grew older than time had patience for, and time has its way of dealing with that.

I wonder where his replacement might be . . . or if there can ever really be one.

Behind his swirling brows, hanging amiss over the penetrating eyes, must have been a brain whose "rooms" resembled the sprawling central room and areas of his home.

The main room is big, with a stone fireplace and with tables, shelves, chairs and footstools heaped with books and literature and the research that Robert Cody Brown just had to do. Those items spill over into the sun-room, dining room and to the kitchen countertops.

That research, for example, includes hundreds of copies of the Congressional Record—that gray, stapled account of what the United States Congress does every week.

A lot of people subscribe to the "record". Robert Cody Brown did a hell of a lot more than subscribe.

His copies of Capitol Hill tome are paper clipped at important passages, underlined for highlights, indexed in the margins and the real important sheets are torn out, catalogued and filed.

I'm certain all of that material is still resting on those shelves and bookcases and chairs, waiting for someone to cull from them the vital information they contain and plug that all together with the "rooms" in the mind to give it meaning.

Robert Cody Brown of Masanabo Lane. The names of both the man and the address have their own powerful mystique. We talked a lot about the power of the press and one of the stories I liked best was about the annual income tax audit of a certain New York City daily for which Robert Cody Brown worked.

"Every year," he told me, "the internal revenue boys would call me down to their office and go through this audit thing about my newspaper."

"One year I was met by a lady agent who got up from her desk and shut the door to her office. She quietly said, 'Mr. Brown, my dear mother is suffering from a rare and unusual illness and I need to get her into Johns Hopkins Hospital in Baltimore. But, I'm told the doctor I need is booked for more than a year and she'll be dead by that time . . .'

I picked up the phone and called the publisher of the Baltimore Sun, a sister Hearst newspaper, and the lady was admitted that very week," he said.

He told me his newspaper was never audited again. Then there were stories about Chicago and World War I and presidential politics and the Mafia and local things like the political party's and Lee Memorial Hospital and a certain Florida Governor. I listened and learned and respected and loved.

I stopped on Masanabo a lot of times. Sometimes at his request and at others just when I had the time to pull back into that narrow and shady land across from the north entrance to Tanglewood.

If I am saddened about anything more than the fact that time had to deal with Robert Cody Brown it is simply that there weren't more times when I had the "time" to pay a call.

Journalism buffs shy away from using a person's full name in a story after the first use. But there's no other way to identify Robert Cody Brown.

They also get nervous about repetition and rhetoric and they'll notice a play on a certain word in this column. Maybe you will too.

At least take the time to try and seek it out.●

CONGRESSMAN FROST DENOUNCES PROPOSED KU KLUX KLAN MARCH IN THE CITY OF DALLAS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. FROST. Mr. Speaker, the scheduled march of the Ku Klux Klan in downtown Dallas on Saturday is offensive to me personally and to the vast majority of my constituents.

The Klan's history of hatred and violence are not only un-American but also contrary to the climate of racial understanding that has been developing in Dallas in recent years.

Under our constitutional system of government, all groups, even those on the outer fringe of society like the Ku Klux Klan, are granted freedom of speech. However, that does not mean that the Klan has the right to intimidate others or to deny anyone the rights it enjoys.

I am confident that the people of Dallas will conduct themselves with restraint Saturday, and that when the day is over, the Klan will have succeeded only in embarrassing itself and not our great city.●

SHIPMENT, DISCHARGE, AND PROTECTION OF SEAMEN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BIAGGI. Mr. Speaker, I am introducing a bill today to revise and improve the laws relating to the shipment, discharge, and protection of seamen. This is a continuing effort on my part, as chairman of the Subcommittee on Coast Guard and Navigation, to attempt to reform and improve the antiquated laws relating to maritime safety and the welfare of seamen.

As a result of extensive oversight hearings during the last Congress that evaluated the implementation and effectiveness of the navigation and maritime safety laws, the problem of antiquated laws and the need for their revision was highlighted.

During this Congress, the House has already passed and sent to the Senate three bills consistent with the needs I perceive for statutory reform which in turn will also provide a measure of regulatory reform. One bill clarifies the authority to establish lines of demarcation for the purpose of determining applicability of navigational rules and certain safety statutes (H.R. 1198). Another bill revises and improves the laws relating to the documentation of vessels (H.R. 1196). The third bill revises the laws and simplifies procedures concerned with the tonnage measurement of vessels (H.R. 1197).

The bill I am introducing today continues the drive to modernize antiquated statutes, to simplify bureaucratic procedures, and to provide for regulatory reform. A system for the shipment, discharge, and protection of seamen originated during the early days of sailing vessels when living and working conditions in the merchant service were intolerable. This was particularly true on those vessels that made extended foreign voyages. With the advent of steam-powered vessels, the conditions improved somewhat but still the American seaman carried the burden of involuntary servitude until late in the 19th century.

Various laws were enacted which attempted to protect the seaman from various injustices. However, it was not until the late 1890's when the Honorable Andrew Furuseth promoted legislation that provided the seaman with a number of protective measures and relief from unscrupulous shipmasters that kept seamen locked within a system of bondage that made it almost next to impossible to escape from.

Once again, in 1915, Congress saw a need to pass legislation that tied safety at sea and the emancipation of seamen together in the Seamen's Act of 1915, sponsored by the Abe Lincoln of the American seaman, Senator Robert LaFollette.

Since then, the seaman has enjoyed increasing prosperity and better living conditions. However, it was not until after 1933 that the maritime labor unions were able to successfully organize and bargain collectively through representatives of their own choosing and free from interference, coercion, or intimidation. World War II ended years of waterfront labor unrest and chaos and, after the war, there was an era of improved working standards and better living conditions. In fact, the beneficence of collective bargaining under established unionism has dampened the need for further legislation on behalf of the seaman. Today's maritime unions provide health, welfare, training, and pension programs unimagined by the seaman of the 1800's or early 1900's.

This legislation recognizes the improvements that have been made on behalf of the seaman and the need to remove some antiquated requirements. However, memories of "bucko" mates, hard living conditions, and shoreside exploitation die hard; and there will be no attempt to diminish or reduce the hard-earned rights and privileges that seamen enjoy. The bill will remove the requirement for a Coast Guard shipping commissioner to be present when a crew signs on or signs off shipping articles for a voyage to a foreign port or place. However, the obligations of the master and the relationships between him and the crew will remain the same as they are for vessels engaged in coastwise voyages.

The signing of shipping articles of agreement, the use of allotments, the exemptions from attachments and liens, the requirements for accounting as to wages, the maintenance of service records, the issuance of certificates of discharge, and the provisions for the effects of deceased seamen will all be retained. In addition, the criminal penalty provisions have been increased, and a new provision for the use of civil penalties has been established.

I believe this bill will receive the support of all affected parties and will continue the efforts of our predecessors, Andy Furuseth and Bob LaFollette. I, therefore, am introducing this amendatory legislation for consideration by the Congress.●

MEMBERS SUPPORT REINSTATING OIL LEASES IN THE SANTA BARBARA CHANNEL

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. PATTERSON. Mr. Speaker, last week I introduced a bill to reinstate certain oil and gas leases in the Santa Barbara Channel. This legislation will allow the Pauley group, a consortium of nine independent oil companies, to resume their drilling activities on these oil-rich Outer Continental Shelf lands. In doing so, domestic production of oil and gas will be increased and we will be one step further down the road toward reaching our national goal of energy self-sufficiency.

Mr. Speaker, at the time I introduced H.R. 5769 many of my colleagues expressed an interest in cosponsoring this legislation. However, because this is a private bill, cosponsors were not permitted. I would, however, like to acknowledge and thank the Members who have expressed their support for this legislation. Those Members are: Mr. JOHNSON of California, Mr. COELHO, Mr. FAZIO, Mr. ANDERSON of California, and Mr. WYATT. Their interest in, and support of, H.R. 5769 is very much appreciated.●

HOSPITAL COST CONTAINMENT IS NECESSARY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. STARK. Mr. Speaker, over the past 2 years we have engaged in lengthy deliberations over the most appropriate method of controlling the astronomical rise in hospital costs. We are all agreed that hospital cost inflation is a most serious problem. That view is shared by an overwhelming majority of the American public.

It now appears that we will soon have an opportunity to take decisive action on this issue. In the next few days, we will be asked to take up H.R. 2626, the Hospital Cost Containment Act of 1979. I urge my colleagues to join me in support of this important legislation.

I would like to share with my colleagues an editorial that appeared in the San Francisco Examiner on September 15, 1979.

BATTLE OVER HOSPITAL COSTS

Congress has an opportunity in this session to put some teeth in its inflation-fighting rhetoric—by enacting a hospital cost control bill that also maintains the integrity of voluntary industry action and states' rights.

Legislation to accomplish the goal is moving through committees in Congress, despite enormous opposition from the health care industry. The Carter administration and the Democratic leadership in the House have committed themselves to pushing some form of the legislation to enactment.

Hospital costs have been rising at a rate considerably higher than inflation for other goods and services in the United States. Prior to the threat of legislation in Congress, hospital costs were inflating at a rate of 17 percent and more. A voluntary effort by the hospital industry, to counter legislation, has brought hospital inflation down to about 13 percent, close to the rate of inflation for other things.

There are many reasons for hospital costs going up, not all of which would be addressed by the legislation requiring hospitals to hold down costs.

But the fact is, nearly one-third of all hospitals in the country already have been able to slow down inflation, and, under the threat of legislation, the rest of them have shown that costs can be reduced. Without legislation, it is unlikely that the voluntary cost-cutting effort would continue.

California has about 600 hospitals. Three-hundred ninety of them, accounting for nearly 80 percent of the state's total hospital expenditures, reported to the California Hospital Association that they have reduced inflation, on the aggregate, from 16.2 percent in 1977 to 13.2 percent in 1978. The state hospital budget review commission estimates the inflation rate to be about 15 percent, however, which is higher than the national average.

The legislation under consideration by Congress would not impose price controls. It would allow hospitals to account for increased costs, and to compare costs between similar facilities, in determining what is an equitable rate of inflation for comparable services.

The bill would not jeopardize the quality of care, but would stimulate the industry to better management and efficiency. In addition, states would be allowed to impose their own budget control systems and more than half the nation's hospitals would be exempt from having to meet cost control requirements because they already have low inflation rates or special needs.

The legislation will undergo more changes, no doubt, en route through the system. But Congress would be remiss, once again, if it failed to act responsibly on this issue, which has been fought out and debated in great detail for the past several years without any solid legislative results.●

LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT ACT

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. DERRICK. Mr. Speaker, I am today introducing a bill that will result in regional storage of low-level radioactive waste. As you know, in recent weeks, two of the three operating disposal sites have closed and the third, located in South Carolina, has reduced the volume it will accept by half. This Nation faces a serious problem as a result of these actions. It is important to note that 25 percent of all low-level radioactive waste is institutional waste—waste from research programs and nuclear medicine. Twenty-four percent of the waste is industrial waste and 8 percent is Government and military program waste. Forty-three percent is created by commercial power reactors.

Without adequate storage for this waste, nuclear medicine programs will have to grind to a halt and research programs currently being carried on in universities and research centers across this country will have to cease.

The issue is not an ideological question of pronuclear versus antinuclear. Even if we turned out all the lights generated by nuclear energy, if we closed down every nuclear reactor, we would still have to confront this problem.

The Federal Government has not accepted the responsibility of dealing with the issue of nuclear waste—whether it be high or low level. If we were to have the Federal Government study the matter, select sites, go through the possible condemnation of property process, site acquisition, and so forth, we will see the nuclear medicine industry brought to its feet. The Department of Energy has estimated that it would take approximately 8 years for the Federal Government to establish regional sites for low-level radioactive waste. Eight years is too long.

The alternative to having the Federal Government create and administer a regional network is to have the States be responsible for their own waste. Each of the 50 States generate low-level radioactive waste; each State should be responsible for their own waste. They should be allowed and authorized to enter into agreements with other States on a regional basis for the disposal of the waste.

The basic provisions of the proposed legislation I am introducing today include:

Provide the authorization to the States to form interstate compacts whereby they can reach agreements for establishing a disposal site under a strict arrangement with other States within a given region.

Provide that the legal title to the waste would be in the generating company—which would be licensed by the NRC—until such time as it is picked up by a transportation company—who would also be licensed by the NRC. At that time, the title would pass to the State where the waste was generated. Legal title and responsibility would remain in that State until the waste was ultimately accepted. At the time of disposal, legal title would pass to the disposal site State.

The generating State would be responsible if the shipment, upon inspection by the disposal State, was determined to be improperly packaged or labeled.

Provides a definition for low-level radioactive waste.

This measure would result in the creation of approximately six or seven regional sites. It would insure that no single State would become the dumping ground for the rest of the Nation and would result in the transportation of this waste within the shortest possible distance. I would urge my colleagues to join me in cosponsoring this measure and would further urge quick enactment of this bill.●

SUTERSVILLE RESIDENT CONDUCTS REGISTRATION DRIVE

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BAILEY. Mr. Speaker, voter registration is one of the most elementary but essential steps in our democratic process. Although every person eligible to vote should be registered, we find that many are not. For one reason or another, some potential voters simply do not capitalize on this precious right to choose the candidate of their choice.

However, it is reassuring to know that there are men in our country like Mr. Tony Bernadowski, a lifelong citizen of the Borough of Sutersville, who are willing to devote their time and bipartisan efforts in the interest of registering voters. Mr. Bernadowski increased the borough's total voter registration by 10 percent this fall in a singlehanded registration drive. Indeed, his outstanding efforts are worthy of our deep esteem and admiration.

I am sure, and I hope that our colleagues in this body will agree, that if this country had more citizens with Mr. Bernadowski's dedication to bettering our democratic system, democracy here and abroad would be safe forever.

It is with sincere and heartfelt pride that I draw your attention to this man and his accomplishment. Sutersville and the 21st District are very fortunate to have such a dedicated and giving person as a resident. I hope that his outstanding civic-minded spirit also will be recognized by his many friends in the community.●

THE PEOPLE SEND A MESSAGE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. ASHBROOK. Mr. Speaker, I am cheered by the news that California voters have once again sent a message to Washington. By passing proposition 1 and proposition 4 California has built upon the tax revolt of 1978 to show that voter rejection of liberalism and big government is not a temporary phenomenon.

Proposition 1 was a ban on forced busing. The voters showed that they would rather have neighborhood schools and control over their children's education than let some liberal Federal judge or some faceless bureaucrat dictate policy. The ongoing usurpation of freedom by the Federal Government is proving to be increasingly out of step with the popular will of this Nation. The voters think more about the preservation of the American family than allowing the half-baked ideas of some sociologist to nationalize the homelife of this country. This is a victory of the ideals that built this Nation and those who make policy in Washington should heed this mandate.

Proposition 4 was another step in the tax revolt. By placing a lid on taxation the voters drew the line on the confiscation of their hard-earned incomes. Big government has become big brother. The theft of people's wages to finance crackpot ideas and wasteful programs pushed by special interests and ideologues has got to stop. California drew the line yesterday. I hope this Nation continues this trend in the 1980 elections. I will warn my colleagues now that the American public is waking up to the obscene rip-offs the Federal Government is trying to get away with. People are realizing that every day this Congress is in session and every day the Federal Register is published their freedoms are curtailed further. The day is coming when the beleaguered people of this Nation will cry "no more" and will rise up at the polls to put an end to the destruction of this Nation's wealth and freedom by the insatiable desire of the Federal Government to own or control everything in this country. All the constituent work and all of the franked mailing will not insulate incumbents from the voters'

wrath once they understand that it is the Congress that promotes, authorizes, funds, and mandates the ongoing power grab by the bureaucrats in Washington. That day is not far off. As long as the leadership of this Government persists in closing out debate, in promoting bigger spending efforts, in apologizing for the headlong efforts of Mr. Carter and company to regulate America to death, the people will have adequate ammunition to throw the rascals out. The sham of Congress being truly concerned about America and its citizenry as it goes on its merry way raising taxes, expanding Government, and sitting back as the petty bureaucrats and regulators build toward 1984 is beginning to be seen for what it really is. California is an omen of things to come. The propositions are only a warning. Freedom will once again ring in this Nation once the voters speak in 1980.●

CONFISCATION OF AMERICAN POSSESSIONS IN NICARAGUA

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. CHARLES WILSON of Texas. Mr. Speaker, as my colleagues surely know, I was highly critical of the way President Carter's State Department dealt with the Sandinista revolution in Nicaragua. For 43 years, Nicaragua was the most dependable, pro-U.S. Government in this hemisphere. Suddenly, the State Department decided it was time to make Nicaragua an example of our human rights policy, and we not only withdrew our support from President Anastasio Somoza, we established a dialog with dissidents and encouraged guerrillas to take to the streets.

Somoza is gone, of course, and we can only hope the new Government will not fulfill our worst expectations and turn Nicaragua toward communism. I respectfully submit for my colleagues' attention the following letter from Mr. W. E. Lanford II, an American businessman who owned and operated a fishing camp in Karawala, Nicaragua. Mr. Lanford estimates that Sandinista soldiers confiscated about $300,000 worth of property and equipment from him after the revolution.

LETTER FROM W. E. LANFORD II RE NICARAGUA

It is my observation that even though the government of Nicaragua appears to be moving in a moderate direction, it is permeated with radicals, and the army is firmly controlled by the most radical elements. It is my opinion that those radical elements will prevail, and that communism will be the eventual outcome of the revolution.

My own experience in Nicaragua is amplified by those of other American businessmen there. Mr. David Stein, operator and part owner of the Hotel Las Mercedes, was jailed for eighteen days without cause, simply because he had been a business associate of Somoza's. When he was released, he was taken from his cell at night, taken by jeep to the U.S. Embassy, and dumped out at the gate.

Many of the Americans I knew in Managua have lost property and equipment. Some of them are trying to recover their losses, and some have simply abandoned what was left and returned to the States. Most of the losses were incurred after the revolution had ended. The Sandinista army has had a free hand in confiscating everything they think might be useful to them.

The Sandinista soldiers who confronted me in Karawala admitted that they had not come to Karawala until after the revolution, which eliminates the possibility that my losses were the result of an act of war. They also admitted that they were the ones who took my possessions, and that they were using the boats and equipment.

When I reported my losses at the U.S. Embassy in Managua, I was not even afforded the courtesy of an interview in an office. Mr. Carl Matthews met me in the lobby, took a few notes, said he was sorry, and dismissed me. I was not even offered a chair in the lobby.

I sincerely hope that our government is not being as casual in its dealings with the Nicaraguan government as our embassy was with me.

Nicaragua owes me just compensation for my losses. Even if it was not an official act of the Nicaraguan government, it was certainly an act of an official arm of that government, making that government liable.

As yet, I have found no recourse for compensation. Mr. Christopher Norrad, of the State Department in Washington has said that he will communicate with our embassy in Managua to inquire as to how I might go about claiming compensation. He said the Nicaraguan government would probably disclaim responsibility in the first place, but even if they did admit their liability, they have no foreign exchange with which to make compensation.

The loss was total and absolute. Even if an attempt was made to recover my equipment, there is no possibility that enough of it could be found for me to return to business there. Nor would it be possible to convince you, or anyone else, that it is safe to go to Nicaragua. I do not believe so myself, and therefore could not promote fishing there in an honest way. With armed soldiers watching every move, the atmosphere is less than relaxing.

Without help from our government, the Sandinistas will pay no attention to my claim. I have already informed the Director of Tourism, Mr. Alejandro Cardenal Caldera, in writing, that Karawala Tarpon Camp was confiscated, and that his government is liable. I am now preparing the details of the loss, and will send them to various offices of the Nicaraguan government in a scattergun attempt to reach someone with the authority to deal with my claim. I have no other way of approaching the problem.

You asked that I make suggestions as to how our government could help me. First, I think I should make an attempt on my own. That attempt will undoubtedly fail, but if I am going to ask for help, I should at least make the first effort. Having made that effort, I can only ask our government to intervene on my behalf. They would know best how to go about that. I have no idea how much importance will be placed on my cause, nor how much leverage might be used to assist me. I do know that Nicaragua will be receiving foreign exchange in the form of loans and aid from the United States. (At least I assume so.) Whether the amount of my claim could be withheld from a loan and paid directly to me is a question I don't presume to be able to answer. I wouldn't think it would be feasible. I only hope that some solution can be found.

Our government should certainly be made aware of the recent trend of confiscation, especially of the possessions of Americans, in Nicaragua, and through your efforts, I am sure they will be. Political and economic disaster brews in Nicaragua.●

AN OFFICE OF FAMILIES: UNWISE AND UNNECESSARY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. MAZZOLI. Mr. Speaker, I recently noted with regret that President Carter has proposed to establish an Office of Families within the Department of Health, Education, and Welfare.

I have written to President Carter and Secretary Harris asking that the creating of the Office be reconsidered.

I wish to call these letters, and the questions they raise, to my colleagues' attention.

The letters follow:

WASHINGTON, D.C.,
November 5, 1979.

THE PRESIDENT OF THE UNITED STATES,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to express my concern over your proposal to establish an Office of Families within the Department of Health, Education, and Welfare.

To my way of thinking the family, along with other institutions such as our Churches, have a unique role to play in our American system of government. The Constitution—and the Amendments to it—remove the federal government from those aspects of our lives which are, at once, most important and most private.

In the connection, our Founders knew—and their writings reflect this—that this nation's society could function only if morality and values were nurtured and preserved from generation to generation. Our Founders' assumption was that the families, churches, and the school would fill the role of maintaining, teaching and enforcing moral judgments for society.

The Founders explicitly kept government out of any active role in sustaining families and, thus, kept government neutral on the moral, personal and religious issues that matter most to people.

This system has worked well for two hundred years. I would not like to see it changed in any way.

I agree that the family is under assault from every side today. Economic and social conditions pose problems that every parent, myself included, cannot ignore.

However, these problems are not answerable to government solutions. In fact, government intervention—however well-intended—would constitute an unwise action.

I have supported, and will continue to support efforts to improve and strengthen the American family such as—nutrition and education programs; removal of the so-called marriage penalty from our tax system; changes in welfare rules that encourage families to break up; counselling programs; programs to support battered and neglected spouses and children; programs to protect the unborn.

Ironically, many of these governmental efforts to help families are necessitated by problems created in the first instance, by this self-same government.

Establishing an "Office of Families" would, in my judgment simply create further problems for the American family creating an agency with capacity for intruding and meddling in the private and personal lives of every American.

For these reasons, I urge you to reconsider your decision to create this Office.

Sincerely,

ROMANO L. MAZZOLI,
Member of Congress.

WASHINGTON, D.C., *November 5, 1979.*

Hon. PATRICIA HARRIS,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MADAM SECRETARY: Enclosed is a copy of a letter sent to President Carter encouraging him to reconsider his decision creating an Office of Families in your Department.

I ask you to read and consider the arguments set forth in this letter.

Also, I would appreciate your answering some basic questions about this proposed Office:

1. Under what statutory authority is the Office to be created? Under what statutory authority would it operate?

2. How large is the Office proposed to be? What would be the size of its budget?

3. Specifically, what programs would the Office manage? What responsibilities would it have?

4. Would these functions duplicate those of other agencies' offices or divisions in federal government? Will existing government be transferred to the Office?

5. Would the Office operated with funds transferred or reprogrammed from other appropriations accounts or line items? If so, which accounts or line items would be affected and by what amounts?

I look forward to your prompt response.

Sincerely,

ROMANO L. MAZZOLI,
Member of Congress.●

STAND UP TO IRAN

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. MOTTL. Mr. Speaker, the recent events in Iran where American citizens are being held hostage with the blessing of a regime which borders on lunacy, demands prompt and forceful action from the administration.

I have written to President Carter urging him to use force, if necessary, to effect the safe release of the hostages.

If the hostages are not released unharmed, I have urged him to take steps to deport the thousands of Iranians who are enjoying our Nation's hospitality.

We should also cut off all exports of food and technology to Iran and break off all relations.

I think the American people would gladly learn to live without Iranian oil if they can be shown that our Government will not be pushed around anymore.

Here is a copy of the letter I sent to the President on Monday. I urge my colleagues in the House to also ask the President to display strong and forceful action in this outrage.

WASHINGTON, D.C., *November 5, 1979.*

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The recent events in Iran, where American citizens are being held hostage, demand a prompt and forceful response on the part of the Administration.

I respectfully suggest that you give the Iranian government 48 hours to release these hostages or take military action to effect their release.

I also urge that if these hostages are not released unharmed, that the United States government break off all relations with the present Iranian regime. The thousands of Iranian students now enjoying the educational advantages of this nation should then be deported. And Iran, now receiving 90 percent of its wheat imports from the United States, should be denied any food, technology or other assistance from this nation.

While such a course of action would deprive us of Iranian oil, I believe the nation would rather tighten its belt—even if it means gasoline rationing—than endure silently yet another international slap in the face. It is possible that Saudi Arabia would at least partially make up for these lost oil imports.

Some may argue that military action would jeopardize the safety of the hostages. But I fear that taking no action will jeopardize their safety even more and will do irreparable harm to the international stature and credibility of the United States.

I believe that Congress, and the American people, will strongly back your decisive response to this latest episode of officially-sanctioned mob rule in Iran.

Sincerely,

RONALD M. MOTTL,
Member of Congress.●

HERE'S A CHANCE TO VOTE FOR REAL SPENDING CUTS—RIGHT NOW

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. GINGRICH. Mr. Speaker, the conference report on the budget resolution offers House Members a chance to vote for $1.8 billion in real spending cuts—right now.

Or the House of Representatives can decide to turn the final budget resolution into a piece of paper which is meaningless the moment it is printed.

"Reconciliation" is the heart of the budget process. The Senate has voted to uphold the integrity of that process. The House should also. Without reconciliation, the budget could be done on adding machine tape at the end of the year.

Certainly Republicans disagree with the figures contained in the conference report—there is no room for a tax cut to fight the recession or significant spending cuts to fight inflation. But we do have a chance to still make real spending cuts by taking the Senate approach.

And we have the opportunity on the reconciliation issue to challenge conservative and moderate Democrats to match their votes with their rhetoric.

If those Democrats who oppose higher spending can join with us to preserve reconciliation and the budget process, then Republicans can help them beat the pro-inflation forces within their own Democratic party on the final vote.

We must extend this challenge to every Democrat—and make it clear that if you support the Budget Committee chairman's motion to drop "reconciliation" you are voting for more inflation and less take-home pay for American families.

The House must vote to keep reconciliation if we hope to keep the budget real.●

SPEAKING OF OPERATIONS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. WHITEHURST. Mr. Speaker, I have never before taken the occasion to place in the CONGRESSIONAL RECORD a personal story of triumph over physical impairment. But because I know the author of the article I am submitting, and further, I am aware of his contributions to our community, I am taking the liberty of sharing his story.

Frank Batten is chairman of Landmark Communications, Inc., which publishes the Virginian-Pilot and the Ledger-Star in the Norfolk, Va., metropolitan area. He has not only been an eminently successful businessman but has given unselfishly of his substance and himself to his community and State. Not long ago, he was honored as Norfolk's "First Citizen," perhaps the most coveted honor in the city.

Mr. Batten has battled cancer of the larynx for 2 years, and some weeks ago he had no choice but to submit to a laryngectomy in order to save his life. I am happy to say that he has completely recovered from his surgery and is now adjusting as one must do following such an operation.

To anyone unfortunate enough to have suffered the same experience, Frank Batten's article, which appeared in the November 2, 1979, Virginian-Pilot, will be an inspiration. Anyone who might have to face such an operation can draw hope and strength from it, and the vast majority of us, who take our voices for granted, will be moved by his courage, self-confidence, and unfailing sense of humor.

SPEAKING OF OPERATIONS

(By Frank Batten)

A month ago, I went through an operation I had been dreading for two years. I had my larynx—my voice box—removed, because there was a cancerous tumor in it. The surgery is called a laryngectomy.

Besides taking out the voice box, vocal cords and all, the surgeon also must reroute your breathing mechanism. He makes a hole in your neck and connects it to your windpipe. From then on you no longer breathe through your nose and mouth, but only through your neck. With no vocal cords, you are left with no voice, not even knowing how to make a sound.

The idea alone scared me stiff. And it was compounded by two years of suspense, as I underwent radiation treatments and less radical surgery in hopes of avoiding a laryngectomy. When my friends heard about the decision to operate, some looked at me sadly as if I would never talk to them again.

A month after surgery, I can say that it's not bad. In fact, there are some advantages to neck breathing and silence, too, if its temporary.

When I woke up from the operation, I felt instantly a sensation of panic as I tried to breathe through my mouth and nose, and no breath came. For some reason, I remembered the breathing exercises taught 36 years

ago by my high school track coach. He drummed it into us that proper breathing is done by the lungs and diaphragm, not by the mouth and nose. All I can remember of the first 24 hours was concentrating on filling my lungs, like balloons, with as much air as I could get in and then deflating them completely. Then, I relaxed. The thought that air came in through my neck became irrelevant. Neck breathing had become almost second nature.

When, at last, I was liberated from a spaghetti-like mass of tubes, the doctor and nurses started teaching me how to take care of the hole in my neck (called a stoma). For several months, I will wear a metal tube in the stoma to keep the hole from closing. Taking the tube out for cleaning was a little scary at first (what if the breathing hole should close?), but my hesitation was needless. You soon learn that the stoma is there to stay and not much different from other parts of the body you take special care, like your mouth.

There were other mood brighteners. Somewhere I had heard that I would lose all of my senses of smell and taste after the surgery—no small consideration for a lover of ice cream and banana pudding. Happily, the information turned out to be only half right and I got the better half. My ability to taste has come back quickly. I did lose my sense of smell, a small loss in a polluted world.

The enforced silence has been the most difficult adjustment. For almost a month, my only communication with people was by writing on a magic slate, the kind children draw pictures on and then lift the top sheet to erase the markings. Actually, this was a useful excuse in the hospital when I did not feel like conversation anyway. When I got home and my strength returned, the frustrations of not being able to talk and the change this has made in my life fell upon me hard.

Try staying at home all day for three weeks with two teen-age daughters and your wife, who would prefer to have you at the office, and have to rely on a magic slate to talk to them. Consider that much of your work and contacts with other people are based on voice communication.

What has sustained me in an abiding conviction that I will learn to talk again. This has allowed me hope for the future and permitted a sense of humor in the meantime.

Conversing with people by writing notes to them brings out strange reactions. Some instinctively start writing notes back to you. Others raise their voices and shout at you. Eventually I made up a little sign that I would flash at them—"I AM NOT DEAF."

A number of friends who are doctors dropped in to visit me in the hospital. I would lie in bed thinking of outrageous things to write in response to their questions, which tended to be similar.

Like . . . "How are you doing?"

"Having a ball."

"Are you having trouble getting used to not talking?"

"There's nothing wrong with my voice. You need a hearing aid." Most responded in kind.

On the second day home from the hospital I took a walk along the golf course in my neighborhood and passed a dozen or more golfers. I waved and silently mouthed words to them, and all responded naturally. Some made extended comments about the weather or their golf games. Nobody noticed that I had not uttered a sound. It reminded me that most people talk better than they listen, and it dawned on me that I was acquiring some good habits with this enforced silence. I had not even said anything dumb to my wife . . . if I can somehow remember.

A day or two later the doctor called my wife, and I was listening in on the other phone as he gave her some instructions for me. I burped out, "Okay with me." Both nearly dropped their phones. My wife cried, "He can talk." She didn't realize that I had just finished a big meal, and a liquid diet swallowed without a larynx puts a lot of air into your stomach. I had done what any self-respecting kid learned to do when I grew up—say a few words with a big belch.

Unfortunately, that belch was involuntary; I can't belch from my stomach every time I want to talk. I must learn to initiate speech at will, and that's what I started training to do last week.

With no vocal cords left, I must learn to speak by making vibrations in my esophagus (the tube that connects the mouth and stomach). Since I can no longer inhale and exhale through my mouth, I must learn to trap air in my esophagus by swallowing it or pumping air in with my tongue. Then I must quickly burp it back up as words. This is called esophageal speech.

It is difficult to learn, because people were not built to talk that way. My teacher is Norry Pond, who had his larynx removed 14 years ago; and spent six months struggling to learn to speak before he could produce a word. Today, he inspires other laryngectomees to speak and has taught more than 400 of them.

My first lesson was frustrating for me but apparently a typical first attempt. I could hardly make a sound. Over the weekend, with incessant practice of Mr. Pond's drills, I have learned to speak some words. They are coarse and slow to come, but they are a start. In a few months, I expect to be talking again.

A majority of laryngectomees learn to talk, at least enough to communicate. Some speak quite well, and like Norry Pond, can speak in front of large audiences. All have deep, guttural voices and speak at a slower pace than people with vocal cords.

Last week, I got a speaking aid called an electro larynx. I hold it against my neck to produce an artificial voice; it projects sound into my mouth while I form words with my lips. What comes out is somewhat understandable speech. But because the sound is a monotone, the "voice" sounds like a computer talking or like that little robot, Ar-too De-too, in Star Wars. It is easy to understand on the telephone, but harder in conversation. I'm using the electro larynx as a temporary tool until I can learn esophageal speech. It provides a relief to be able to speak at all, but it is no substitute for a human voice.

When I went back to work last week, I popped in on several people and said "hello" with my electro larynx. In a few minutes, there was a flurry of conversation in the hall. I looked out of my office in time to hear someone say, "Don't worry . . . the computers haven't run amok. It's just Batten."

Later, I was telling an associate about the reactions of shock and silence I get when I answer the phone with my mechanical voice. He said, "Yeah, they're probably saying, 'Now that rich S.O.B. has bought a robot to answer the phone for him.'"

Mr. Batten is chairman of Landmark Communications, Inc.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following votes on Friday, October 8. If I had been present I would have voted as follows:

Rollcall No. 550, "yes."
Rollcall No. 564, "no."
Rollcall No. 567, "yes."●

COSTS OF RELOCATING ISRAELI AIRBASES IN THE NEGEV DESERT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues some correspondence I had recently with the Department of State regarding the cost of relocating Israeli airbases in the Negev Desert.

Concern had been expressed by members that the State Department had underestimated the actual costs of this redeployment and that it might cost $1.5 billion. It was never the intention of the U.S. Government that the $800 million in grants provided to Israel as part of the Special International Security Assistance Act of 1979 would cover all costs involved in the redeployment, but it is reassuring that current estimates indicate the redeployment will cost $1.04 billion and the $800 million in grants will cover most of the construction costs.

The correspondence with the State Department follows:

OCTOBER 11, 1979.

Hon. CYRUS R. VANCE,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I noted in the Congressional Record of September 17, 1979 a statement by my colleague, Congressman Kemp of New York, stating that the costs of relocating two airbases in Israel, as a result of the Egyptian-Israeli Treaty, were seriously underestimated by the Department of State and that the actual cost will be close to $1.5 billion.

I would like the Department to clarify this matter and comment on the assertions made. It was my recollection from testimony before the committee that it was never intended that the $800 million in grants provided would cover all costs of airbase redeployments but that it would cover most costs.

I would appreciate your consideration of this matter and your current estimates, if revised, of the costs of this redeployment.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

DEPARTMENT OF STATE,
Washington, D.C., October 30, 1979.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your letter of October 11, 1979, asking for the Department's current estimates of the costs of constructing two airbases in the Negev to replace those Israel will be giving up in the Sinai.

Your recollection that the $800 million grant, which represents the U.S. portion of the costs of the airbase construction project, was not intended to cover the entire cost of the airbases is correct. Remaining costs are to be met by the Government of Israel. Our current estimate of the costs of relocating the airbases is $1.04 billion, and it remains our view that the $800 million will cover most of the construction costs.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.●

WHAT MAKES A PHYSICIAN RUN?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, a friend of mine, Dr. Eric G. Anderson of Derry, N.H., recently wrote one of his excellent articles for Physician/East magazine. The subject of the article is our colleague Dr. RON PAUL of Texas. Dr. PAUL is exactly the kind of citizen/politician this House needs, and Dr. Anderson clearly brings this out. I would like to insert the article in the RECORD and call it to all my colleagues' attention.

Dr. Anderson particularly compliments Dr. PAUL for his cosponsorship of the bill to designate "Tax Liberation Day." Tax Liberation Day, the day when Americans finally earn enough to pay all their taxes and begin working for themselves, would have fallen on June 6 this year. As the sponsor of that bill, I share Dr. PAUL's concern that the American people know just how much they are paying in taxes. Dr. PAUL deserves every bit of credit he gets for spreading this and other important messages to the public.

The article follows:

WHAT MAKES A PHYSICIAN RUN?

(By Eric G. Anderson, M.D.)

Ron Paul would rather be running down the sterile corridors of the Lake Jackson Community Hospital to deliver Texas babies than charging down the marble halls of the Longworth office building to tackle the nation's problems. But he has made a commitment to himself and the people he represents. Despite the hardships of distance, travel, and time; Congressman Paul is compelled to serve his master—freedom.

Dr. Paul ran to represent the 22nd District of Texas in the United States House of Representatives in a special election in 1976. He ran again successfully in 1978. Now, along with Rep. Tim Lee Carter (R. Ky.) and Rep. Larry McDonald (D. Ga.) he carries the double honor (or burden) of being both physician and Congressman. Even during the Physician East interview, Congressman Paul disappeared twice to run up the Capitol steps and vote on crucial matters.

"Being here is a pain in the neck," Paul says with characteristic candor, but if citizens stay out of politics, what Washington does to them is a pain in the neck too.

This is no member of a Washington medical corps speaking, nor is he seeking favors for the American medical establishment. Paul is an active, aggressive citizen challenging the Capitol with almost grim determination to return government to the people.

"I enjoy a hard battle," he says, swiveling round in his chair and driving his point home with piercing eyes.

Doctors sell service and confidence, but physician/politicians have to adjust to a different style. "As a doctor," Paul says, "you sit in fairly high esteem, and people seek you out for your services. As a politician, you're rather looked down on by people in general, and they tend not to seek you actively to solve problems. Rather, you have to approach them aggressively and not be uncomfortable saying, I want your vote and I need your money!"

It's probably easier to be a good doctor than a good statesman, but Ron Paul is determined to be both.

Good doctors are sympathetic to the needs of the patient they are dealing with and Dr. Paul's awareness of what people want from their government was sharpened by his campaign for Congress. He personally knocked on 10,000 doors during that campaign, and found a negative or hostile reaction in only 1% of those he encountered.

But another discovery was a surprise and a disappointment to Dr. Paul: the mere 5% of physicians who expressed interest in political involvement.

TIME FOR A CHANGE

Dr. Paul ran because he believed that the time was ripe for new blood in Congress which should be provided by unseasoned politicians, "amateurs" with the intellect and vigor of the average doctor. He thought there were too many lawyers and professional politicians in Washington and that the people's needs were being shuffled around like bureaucratic papers. He believed that physicians and others with nonpolitical images could succeed in an election campaign, especially with colleague support. However, he found that doctors were no more willing to get involved in the issues than the average citizen.

And there are plenty of issues. But this dynamic physician was also compelled to run for office because of the "lack of sensitivity and appreciation from his own representatives." Congress, Paul says, has many narcissistic professional politicians so pampered by the benefits of their office that they become more involved in themselves than their electorate, more interested in what's in it for them than what they should do for others.

TOO MUCH OF A GOOD THING

"You can stay too long in Washington," Paul points out. The worst disease to befall a Congressman is to become complacent, to enjoy the lifestyle and its benefits, to revel in the trips and junkets and forget the average person, the one who sent you there in the first place. The physician/Congressman compares complacency to an addiction that feeds on inflation, increasing paperwork, self-perpetuating systems and, worst of all, is dependent on ever increasing doses of taxpayers' money for the white elephant policies of Congress.

"I came up here to rock the boat a bit," Paul stresses, pushing his boyish mop of hair back from his brow. "People are sick of Federal programs which they feel are corrupt. That's why they hold Congress as a group, in such poor esteem."

The Congressman believes that one solution to the problem is to limit a politician's term to about eight years, enough time for a representative to become effective, but not so long that he loses touch with the electorate.

Asked how a man surrounded by marble halls and obsequious deference from others can relate to the common man and his problems, Paul replied, "He can't. That's why limiting his term is sensible, because the problems the nation faces are immense and if the 'amateurs' are not prepared to run for office to solve these problems, then the citizens' alternative would be to go and hide someplace."

Paul surely isn't hiding. His outspoken "new broom" policies have appeared in print many times. He has called for "the miracle of the market, instead of the dead hand of government, to direct our economy." He has described Washington's economic policies as similar to Idi Amin's and caused by a similar problem: currency backed only by politicians' promises. He recently refused to go on a junket to Jamaica, with true Texas irony, "much as I appreciate the high public purpose served by Congressmen getting tans at taxpayers expense." And, with chilling precognition, he cried out in April of this year that "If we leave energy decisions in the hands of government, we will end up shivering in cold dark homes . . . with empty gas tanks in our cars and silent businesses and industries."

Paul has spoken out strongly against those members of Congress who take care of themselves and not their duties. He has criticized their fringe benefits: subsidized meals, lush pensions, free parking, free emergency medical care, exemption from Social Security taxes and so on. He has sponsored bills to end junketing abuses and even attacked the big Congressional salaries by introducing legislation to freeze them and "provide for regular reductions in politicians' pay checks as the cost of living goes up." He feels this bill would punish those responsible for inflation and soon force Congress to stop expanding the money supply.

TAX LIBERATION DAY

But his most sardonic thrust surely must have been on June 6th, 1979, when he cosponsored a bill to establish a new legal holiday: Tax Liberation Day. He calculated that the average wage-earner paid 44% of his earnings in taxes in 1979, meaning that the taxpayer worked for the government from January 1st to June 5th. Paul suggested that each year the General Accounting Office compute the new holiday—Tax Liberation Day when people would have the day off—the day their taxes were worked off. He has all the figures, and it's difficult not to be startled. "Fifty years ago Tax Liberation Day would have been February 9th; in 1950 it would have been April 15th. If Congress keeps up their spending and taxing, Tax Liberation Day will soon be July 4th. Eventually, it might be Thanksgiving Day."

Paul looks up from his desk and shakes his head, "The Founding Fathers declared that taxation without representation is tyranny. Government is showing us that taxation with representation can be tyranny as well."

Does he feel like a lone voice in the wilderness? No, he considers that others support him because he has credibility. Nothing he fights for is done out of self interest, nor is he trying to get special handling or increased subsidies for his district. If that were so, he would cease to be effective. Neither is he a mouthpiece for organized medicine. In Washington he is careful to avoid involvement in any of the nation's medical matters. He does not want a charge against him that he works for his own or other special interest groups.

And that is one of the problems with doctor, he says.

They sit around as a complacent group, apparently disinterested in the nation's problems until something touches them, then they act out of self interest. And while this is an understandable reaction, it is not the way to save America. Physicians have been criticized by the media for intellectual indifference and economic ignorance. And doctors should not be comfortable living with those charges.

His advice for colleagues? He rubs his chin for a moment then answers:

First—Get involved in preserving the freedom of this great country.

Second—Find your vehicle. Use any comfortable method to fight government policies which you feel are stupid, corrupt, incompetent or unconscionable. Talk to people.

"I'd never bring up the subject of politics

in my own office, but if the patient did, I'd jump on the chance." Paul adds. If you are at ease talking to patients do so. If you are not at ease dealing directly, choose other methods. There is a physician in Iowa who fights bad government vigorously with newsletters legal actions, and publicity.

Third—Actively support individuals you feel are right for your nation. Be circumspect about donations from your medical groups or organizations: the reason for the donation might defy common sense.

What makes Ron Paul run? Why would he sacrifice income, endure tedious travel to and from Texas and give up so much of his free time perhaps for a forlorn hope that Congress might improve?

The theme of "Born Free" symbolizes his spirit. He has had a burning compulsion all of his life to be free. He considers that some people are so careless in violating their neighbor's freedom that they may set the stage for the loss of their own.

How would he like to be remembered? What would he like history to say about him? He stands up, looking out at the granite and marble walls beyond his office on Independence Avenue and answers thoughtfully: "I'd like them to say that I understood what freedom was all about and that I was willing to work to preserve it."●

RAIL TRANSPORTATION OF HAZARDOUS MATERIALS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. FLORIO. Mr. Speaker, rail transportation of hazardous materials is a matter of significant public interest and, at times, of serious concern. A recent study shows that 35 percent of all freight trains contain hazardous materials. While the number of accidents involving trains carrying hazardous materials is very small, it is critically important that derailments or other incidents which may result in the release of hazardous materials be safely, promptly, and effectively handled.

To better prepare for eventualities involving the transportation of hazardous materials by rail, senior executives representing the chemical and rail industries, including the Chemical Manufacturers Association, the Association of American Railroads, the Compressed Gas Association, the National Liquefied Petroleum Gas Association, the Fertilizer Institute, the Chlorine Institute, and rail car manufacturers, formed the interindustry task force on rail transportation of hazardous materials. This action was taken nearly 1½ years ago. Its sole effort is to accelerate present rail safety programs and initiate new steps designed to reduce the number and severity of rail transportation accidents involving hazardous materials.

The conclusions of the task force and a full report of its programs were formally released on June 14, and are being circulated widely in the public and private sector.

The National Governors' Association, at its meeting in Louisville in mid-July, considered and unanimously approved a resolution commending the efforts of industry and various other Federal and State agencies as well as public interest groups in dealing with hazardous materials accidents. The NGA urged the President to designate the Director of the new Federal Emergency Management Agency to coordinate Federal activities in this area.

Mr. Speaker, the interindustry task force is not seeking any Federal moneys in the program which they have developed and are now moving to implement. The Federal Government should support the task force in an effort to address varied aspects of critical training, commodity identification, and communications problems related to the management of hazardous materials accidents.

Mr. Speaker, I commend the interindustry task force and its cochairmen, W. H. Dempsey and W. G. Simeral, for their efforts to help prevent hazardous rail accidents and to do everything possible to minimize their consequence to lives and property. I insert the text of the resolution approved by the National Governors' Association to be printed at this point in my remarks.

HAZARDOUS MATERIALS EMERGENCY RESPONSE MANAGEMENT

Hazardous materials accidents are dramatically increasing in frequency throughout the United States. Two, three, or more sizable emergencies such as trucking and railroad accidents or storage explosions occur daily. Although serious emergencies affecting extensive life and property are rare to date, their potential is great.

Proper response measures quickly applied may help contain a serious incident and minimize risks to life, property, and the environment. Conversely, improper measures can turn a controllable incident into a catastrophic tragedy.

Current immediate action taken by the local response unit (often a fire department or the highway patrol) is vital. The first arriving unit must be able to identify the hazardous cargo and act knowledgeably and quickly, because there is usually no time to wait for technical experts to arrive. Training, then, of local response units and coordination to provide them adequate technical information and resources is paramount.

The National Governors' Association commends the many current efforts of various federal agencies, associations, industry, inter-agency and interindustry task forces, universities, and public interest groups, all of which address varied aspects of critical training, commodity identification and communications problems related to hazardous materials accident management. The very multiplicity of hazardous materials and types of emergencies and organizations involved, however, presents a serious management problem, and the National Governors' Association notes that efforts are often uncoordinated and fragmented.

The National Governors' Association urges the president to designate the Director of the new Federal Emergency Management Agency to coordinate the efforts of all Federal agencies with programs addressing hazardous materials emergency response training, commodity identification and communications to eliminate program caps and overlaps, and to effect cost savings among participants to the extent possible. Such coordination could also facilitate a productive national reporting system to disseminate the results of actual field experience in handling incidents and to evaluate community, state, and national emergency management, and to capitalize on varied available expertise. This vital coordination role is in keeping with FEMA's mandate.

The NGA further urges public interest groups and industry, and Congress in enacting new legislation, to coordinate their efforts through the Federal Emergency Management Agency.●

SHAMEFUL DAY FOR IRAN AND UNITED STATES

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. SPENCE. Mr. Speaker, we are struck with a sense of deepest concern when we see pictures of American citizens, military and civilian, being led blindfolded from our own Embassy in Tehran. The events in Iran during the last 3 days underline the true character of the Ayatollah's regime and the animalistic mob actions which he incites. The Iranian students and revolutionary guards who are holding some 60 Americans hostage at the U.S. Embassy in Tehran are demanding the release of the deposed Shah, who is critically and perhaps even terminally ill in a New York hospital. Even the Prime Minister has resigned because of these lawless acts.

This is a shameful day for Iran. Of more concern to me, however, is that this is an even more shameful day for the United States of America. In recent weeks I have voiced on a number of occasions increasing alarm over our deteriorating image before the eyes of the world. Everyone kicks us around, confident that we will do nothing in return. We have, in large measure, invited the contempt that other nations feel unrestrained in demonstrating toward us. Even the leader of another nation now feels free to encourage openly hostile, barbaric acts toward our people and our property. It is interesting that no action was taken against the Mexican people while the Shah was residing in Mexico—when he supposedly enjoyed good health, no less.

I recognize the delicate nature of the present circumstances and in no sense suggest precipitate action. Nevertheless we must keep all options open to assure the release of our people. We must be prepared to back up our position with military action if necessary.

A number of other actions suggest themselves—such as closing the Iranian Embassy in Washington, closing our Embassy in Iran, putting sanctions on Iran like we do on other nations, and sending Iranian students home who lack the proper credentials. All of these have much to recommend them and should be considered. However, for us the most urgent step is to convince the world that we are determined from this moment forward to respond appropriately to the provocations of any nation or mob. Failing in this, there will be more Tehrans.

It is time to show the world that the United States cannot be blackmailed.●

CHRYSLER AID QUEST: THEATER OF ABSURD

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. SHUMWAY. Mr. Speaker, as a member of the Banking Economic Stabilization Subcommittee, which has just concluded its hearings on the Chrysler Corp.'s request for a Federal loan guarantee, I have been troubled by the haste with which this matter is being considered. It is becoming increasingly apparent that the minds of many of our colleagues are already made up: It is no longer a question of whether Federal assistance should be provided at all, but rather of how much and with what conditions.

I do not share this view. My mind is not made up. In fact, I have some very real concerns about Chrysler's request.

There can be no doubt that Chrysler is in serious trouble, and that corporate failure is a real possibility. If Chrysler is to survive, it must undertake a painful reassessment of its place in the American auto industry. It must also achieve commitments of assistance and support from those most seriously affected by its problems—in particular, its employees. In this regard, I am certainly not convinced that the wage agreement recently concluded between Chrysler and the UAW is consistent with the spirit of sacrifice and hard work which all involved must share if Chrysler is to survive.

Mr. Speaker, I am afraid that we in Congress are in danger of letting political considerations outweigh common economic sense. This approach may be the path of least resistance in the short run but, in the long run, may well result in policies which are later regretted.

I would like to commend to my colleagues an article by Robert Samuelson which bears lucidly on this subject.

The article follows:

[From the Washington Post, Nov. 6, 1979]

CHRYSLER AID QUEST: THEATER OF ABSURD?

(By Robert J. Samuelson)

When your company is on the brink of bankruptcy, do you give your workers a one-third wage increase over three years? You do if you're the Chrysler Corp. and your workers belong to the United Auto Workers.

Scarcely before it has begun, Chrysler's quest for federal financial assistance has become theater of the absurd. What Congress is being asked to approve is a program that raises car prices, perpetuates inflation and makes it more expensive for Americans to buy fuel-efficient cars.

No one really disagrees that a Chrysler bankruptcy would be a social and economic calamity. Somewhere between 150,000 and 500,000 workers would probably lose their jobs immediately, and only the most reckless forecaster can say how easily they could be re-employed. Nor does anyone really disagree that a federal bailout of Chrysler would constitute a bad precedent, encouraging all sorts of other industries—each in its own way—to seek government relief.

But the Carter Administration, by evading the basic issues raised by Chrysler's request, has not forced the company and its union to do all in their power to minimize the need for federal assistance. At the same time, this ineptness or cowardice has made it more likely that any Chrysler package will be excessively costly and face uncertain prospects of success.

The basic issues are plain enough. To preserve our mobility and limit our dependence on foreign oil, we clearly need to convert our 117-million-auto fleet to more-fuel-efficient vehicles. In the fall of 1980, Chrysler plans to introduce a new line of compact cars with significant mileage gains (seven miles per gallon) over current models. Chrysler could then produce about 800,000 cars annually with 4-cylinder engines. We need those cars; a bankruptcy would jeopardize their production.

A second basic issue involves the relationship among wages, jobs and inflation. The reason why recessions no longer reduce inflation much is that they don't reduce wage pressures much. People expect the slowdown to be shortlived. Even if the permanent level of unemployment rises slightly, most workers aren't affected. We need to re-establish the connection in people's minds between wage demands and jobs.

Chrysler joins the two issues. The severity of its cash squeeze partially reflects the slump in car sales, but if Chrysler needs to sell more cars, America needs to buy them. Even today's models almost invariably get significantly better fuel mileage than the vehicles they replace, and replacement represents two-thirds or more of car demand.

But you do not sell cars by raising their prices, which is precisely what Chrysler, Ford and General Motors are doing. Nor can you keep prices down by increasing labor costs 10 percent or more annually.

Chrysler is simply the prototype of a more general problem for the automobile industry. As the companies attempt to recoup massive retooling investments needed for fuel-efficient cars, their prices threaten to rise even further. At the same time, the conditions underlying the 1976-78 car-buying boom probably won't recur: easy credit (automakers liberalized their credit terms after the 1974-75 recession) and sharply rising "real" personal income.

Together, these factors impel people to hold on to their cars. Stagnant sales then inhibit the companies from generating more investment funds for further retooling. Small wonder that General Motors Chairman Thomas A. Murphy or that Ford is making noises about quotas against Japanese imports. Both want more market share to neutralize these pressures.

Holding down labor expenses (about one-third of total production costs) is the only way to slow this vicious circle. In Chrysler's case, someone—either the president or the secretary of the Treasury, because we pay them to say the unpleasant things that need to be said—had to state: no wage restraint no federal help. In clear, loud language. They didn't. With President Carter desperate to keep union support, does anyone wonder why?

When Douglas A. Fraser, president of the UAW, tells Congress that his union has made "significant concessions" to help Chrysler, he is talking in absurdities. GM Chairman Murphy utters similar absurdities when he insists—as he recently did on "Meet the Press"—that the recent labor settlement isn't inflationary.

At the end of the last contract, the average auto worker earned about $9 an hour, or about $18,700 annually for a 40-hour week (no overtime). Under the new contract—assuming an average 8 percent inflation rate needed to calculate the cost-of-living adjustments—the wage rate will climb to $11.81 in 1982, or $24,600 annually. Non-taxable fringe benefits will also rise by about one-third, and so total labor costs per worker could rise from about $30,000 to $40,000.

The UAW's "significant concessions" to Chrysler are mostly trivial. At the end of the third year, Chrysler's labor costs will not differ from those of Ford or General Motors. Cost-of-living adjustments will be paid right on schedule; the additional annual 3 percent wage increases will be paid somewhat later than at the other firms, but the lag is no more than a half year.

It is not clear that Chrysler needs federal help or, if so, how much. Even the UAW's slight concessions, according to the union and company, will save Chrysler about $300 million over three years. A contract more befitting a firm teetering on bankruptcy—say, a wage freeze—probably would have saved $750 million to $1 billion. But the higher wage bill also means that Chrysler must borrow more (paying more interest) and charge higher prices (selling fewer cars), which further compound the cash squeeze.

None of this should be anyone's idea of an economically efficient or socially just policy. Even if Congress rescues Chrysler, it may do so under conditions that keep automobile sales listless, and that listlessness will spread to related industries, such as steel. The UAW may have bought some of its members wage increases, but it will have bought a lot of other workers unemployment.

Helping Chrysler and its union ought to be justified by broader public purposes than simply rescuing the big and powerful. And assistance ought to be extended on terms sufficiently harsh that others will not be tempted to seek similar relief. That does not seem to be in prospect. This is an episode of many small-minded men—union officials, corporate executives, the president and his Treasury secretary—each trying to protect himself. Who can cover himself with the most mediocrity? So far, it's a close race.●

HAPPY ANNIVERSARY

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. LEE. Mr. Speaker, anniversaries are wonderful events in the lives of institutions as well as in the lives of people, and when two important milestones are observed at once, it is a noteworthy and significant occasion I am proud to call to your attention.

This week marks the 150th anniversary of community newspapering in the village of Skaneateles, N.Y., and the 100th anniversary of the founding of the Marcellus, N.Y., weekly newspaper.

Two great institutions in two neighboring communities are now one, and the staff of the combined Skaneateles Press and Marcellus Observer will celebrate the two anniversaries with a special edition November 14.

Throughout the history of our Nation, weekly newspapers have been the anchor of our free press, providing information, sharing opinion, stimulating thought, and fulfilling the public trust inherent in a democracy where freedom of speech is a treasured jewel.

In the village of Skaneateles, the 150-year unbroken chain of weekly publishing began with the first issue of the Telegraph, July 28, 1829. Two years later, it merged into the newly-started Columbian, which in 1847 merged into the Democrat, a competitor since 1839. In 1874, the Skaneateles Free Press appeared, providing lively competition un-

til 1926 when the Democrat and Free Press were merged into today's Skaneateles Press.

The chronology in nearby Marcellus involves but a single newspaper, the Observer, which circulated for the first time on April 6, 1879, and which was combined with the Skaneateles Press in 1972.

As the Skaneateles Press and Marcellus Observer celebrate the twin anniversaries of public service, I am pleased to extend my best wishes to publishers George C. Wortley III and T. Elmer Bogardus; executive editor Barbara S. Rivette; editor Kathy J. Corhalis; contributing editor Wesley C. Clark, and the people who work with them to perpetuate the heritage of a century and a half with dedication, skill, and excellence.●

FEDERALIZED WELFARE

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BETHUNE. Mr. Speaker, the welfare proposal under consideration was succinctly analyzed in a recent editorial in the Arkansas Democrat. I would like to share that excellent review with my colleagues:

FEDERALIZED WELFARE

Since the House leadership foiled earlier Republican efforts to derail it, Jimmy Carter's version of "welfare reform" may well become one of his reelection-campaign boasts: Folks, meet the man who finally brought a "guaranteed income" to the poor. The conservative answer will be, meet the man who Federalized welfare.

The money involved in Mr. Carter's "reform" isn't anything like what Richard Nixon had in mind when he offered, in his first term, what he called his Family Assistance Plan (FAP). Mr. Carter would spend only $3 billion more for welfare across three years; whereas, the hapless FAP (also called "workfare") would have spent several times more than that amount yearly, also taking in the working poor. More important, though, the principle of Mr. Carter's "reform" differs entirely from that of FAP, which would have made the states a partner and required the ablebodied to work for their welfare. Mr. Carter's plan simply offers the poor a raise.

"Reform" means a cleaning up, a rational reordering. Mr. Carter merely proposes to nationalize basic public charity by equalizing welfare payments ($4,700 a year for a family of four) in all the states. That's about two-thirds of the federal "poverty level" income, and since the sum is indexed to inflation, the dollar amount would rise steadily.

The change would not only standardize the wide variance in welfare payments among the 50 states and halt the welfare shopping that has become a national pastime of the peripatetic poor—it would also wipe out state restraints against waste and fraud. Those who think the states would put an unnameable price on parting with their right to set and police welfare payments and to care for their own poor—a principle reaching back to the Elizabethan Poor Laws—need only look at the pitiful $730 million the bill offers them in exchange for letting Washington do the job.

But social spending has been so long nationalized in principle that if it weren't for the House Republicans the addition of welfare (already federally subsidized) to a long list of centralized social programs might well pass without comment. As it is, quite a number of House Republicans are decrying the takeover (and the new federal rules that go with it) and prophesying that the tests of need that states now apply will become meaningless—and fraud more rampant—under flat federal grants to the individual poor. They argue that any increases in welfare spending should go direct to the states as grants to be administered with the usual safeguards. They see the Carter bill creating a national welfare constituency limited by only such rules as the federal bureaucracy care to apply.

Even in a sea of made-in-Washington social programs, it makes sense to hold out against nationalization. Every abandonment of local control to the central government weakens the states as federal entities and enfeebles the principle of local rule. House Republicans and conservative Democrats are pushing that argument in floor debate, but pre-election-year welfare politics will probably prevail.●

CONCERN FOR PEOPLE LIVING UNDER COMMUNIST REGIMES

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. WALKER. Mr. Speaker, I have been contacted by a group of my constituents, the Congress of Russian-Americans, Inc., who are very concerned, as we are, about the destiny of all people living under Communist regimes. The chairman of the Human Rights Committee of the Congress of Russian-Americans, Inc., has developed a statement which explains their concerns which I am pleased to include in the RECORD at this point:

On November 7th the leaders of the Soviet Union will celebrate the 62d anniversary of the "Great October Socialist Revolution". On this tragic anniversary of the Bolshevik takeover in Russia, the Congress of Russian Americans reiterates its continued concern for the destiny of all people living under Communist rule. Sixty two years ago a tragedy occurred which scarred not only the Russian nation, but also the entire free world. Lenin and his minority party overthrew the democratic Provisional Government of Russia and two months later dissolved the freely elected Constituent Assembly, in which the Bolsheviks had polled only 25% of the vote.

Despite the bitter struggle during the Civil War, which lasted more than three years and was followed by numerous peasant and worker uprisings against Communist domination, Lenin and his successors nevertheless were able to keep their iron hold over the peoples that make up the Soviet Union. Since World War II, the Communist leaders have added to their empire most of Eastern Europe. This tyranny has caused millions of deaths, untold suffering in prisons and concentration camps of the Gulag Archipelago, and life at a subsistence level for most of the population.

The Soviet build-up of armaments and foreign policy, aimed at spreading the Communist system wherever possible, has caused the threat of world war to hang over the United States and the free world for several decades. Their meddling in the affairs of the developing nations in support of whatever side they favor in so-called "liberation struggles" continues to cause most of the serious problems of foreign policy faced by the United States and its allies.

For sixty two years, Russian immigrants have repeatedly warned the world of the dangers of Communism. Too often they have been not only misunderstood, but even mistaken for Communists. Ironically, the word Russian has become synonymous with the words Soviet and Communist. Being the first victim of Communism, the Russian nation is not even included on the list of captive nations.

The plight of Soviet dissidents bears witness to the fact that the inhuman nature of Communism has not changed since November of 1917.

To reaffirm our nation's commitment to the basic ideals of human rights the Congress of the United States should impose export-tariffs on strategic goods being sold to the U.S.S.R. Such export-tariff legislation would force the Soviet Union to comply with the Helsinki Accords, mollify the suppression of human rights of Soviet citizens, and ultimately decrease the offensive-military capability of the U.S.S.R.●

APPOINTMENT TO CONGRESSIONAL TOURISM CAUCUS

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. ROTH. Mr. Speaker, I was very pleased recently to be named to the steering committee of the newly-formed Congressional Tourism Caucus. Tourism is not only one of the top three industries in Wisconsin but is also the third largest industry in the Nation. At a time when our country is suffering widespread and severe economic problems, it is important that Congress take any action it can to assist American industry. Moreover, tourism is particularly susceptible to economic decline during these times because it is not an essential item for most Americans when compared with housing, heat, and food. The tourism industry is also likely to suffer unduly because of rising energy prices.

It is worth noting that tourism is responsible for about 7 percent of the Nation's gross national product and as recently as 1976 generated about $8 billion in Federal taxes. Tourism is defined by the caucus as all trips to places 100 miles or more from the traveler's origin. In 1977, households in America took more than 313 million trips of this length.

In these times of high unemployment, tourism during 1976 was directly responsible for almost 4½ million jobs for Americans and indirectly responsible for an additional 2 million jobs. This amounts to 5 percent of the country's total employment and a payroll of almost $27 billion.

It is also worth noting that in 1976, Americans spent $108 billion on tourism and foreign visitors to the United States spent another $6.3 billion. More than $100 billion of this money went into the pockets of American business. Overall, Americans spend more on travel than they do on clothing, accessories and jewelry, or on medicines, drugs, and the

professional services of doctors, dentists, and hospitals.

Despite all these expenditures, tourism accounted for only about 10 percent of domestic petroleum consumption and about 5 percent of our total energy consumption.

The Congressional Tourism Caucus was formed with these figures in mind. The caucus will be able to promote the industry and expand its economic viability by providing a forum for Members of Congress to exchange ideas. The caucus can then pass along appropriate information to the executive branch and develop legislation when it is necessary.

I am particularly happy to participate in the caucus since tourism is such a large industry in my home State of Wisconsin. In Wisconsin, tourism generates $5 billion in sales through 32,000 businesses each year.

I hope the tourism caucus will concentrate on developing a national tourism policy, examining energy problems related to the industry, and informing the President and the executive branch about its activities and findings.●

FEDERAL COMMITMENT TO INTELLIGENT AIRCRAFT NOISE REDUCTION

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. SCHEUER. Mr. Speaker, officials from 14 of the Nation's major metropolitan airports visited Washington today to urge the Congress to support the Federal commitment to intelligent aircraft noise reduction.

In 1976, after 7 years of extensive study and debate, the Federal Aviation Administration issued a landmark ruling which required that older generation aircraft be retrofitted or replaced so that there would be a noise certified fleet by 1985.

This ruling represented a compromise which was overly generous to the airlines as noise-impacted communities were told to wait 9 long years for relief. Any further delay in implementing these noise standards would be an unconscionable breach of faith.

While excessive aircraft noise clearly diminishes the quality of life for 6 to 10 million Americans, it also seriously endangers their health. Excessive aircraft noise has been linked to damaged hearing, cardiovascular disease, diabetes, fetal damage, increased heart rate, and high blood pressure.

Excessive aircraft noise has a devastating impact on property values, often affecting communities which were in existence long before the airports were constructed.

Further delay in implementing the FAA noise standards would be an affront to noise-impacted communities and to those carriers who, in good faith and enlightened corporated decisionmaking, have undertaken the costs of complying with the FAA rules.

I urge my colleague to honor the Federal commitment to reduce excessive aircraft noise.●

ARIZONA BANKERS OFFER WISE ADVICE

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. RUDD. Mr. Speaker, the Arizona Bankers Association met last weekend in Tucson and considered a number of important resolutions, several of which I would like to bring to the special attention of my colleagues as we will be considering these issues again soon.

The bankers are especially concerned with the disasterous consequences of continued inflation and urge Congress to address this serious problem forthrightly.

I would also like to include for the RECORD the bankers' resolutions concerning energy and the need for reduced Federal regulation of financial institutions, additional issues which we will be considering again in the near future.

I have found over the past few years that the bankers in my State are exceptionally well versed on the economic problems of the Nation and responsible solutions to them, and I think we would be wise to heed their excellent advice in these matters.

I ask that the following three resolutions of the Arizona Bankers Association be printed at this point in the RECORD:

RESOLUTION

I. INFLATION AND COST OF LIVING

Resolved, That the Arizona Bankers Association recognizes that inflation and its impact on the cost of living is the number one concern of the American people today. We concur in this evaluation.

The government of the world's most industrialized nation has a responsibility to its citizens as well as to our trading partners and allies to enhance the value of our currency.

The erosion of the purchasing power of the dollar, unrealistic prices for goods and services, and a decreasing standard of living, especially for those on fixed incomes, are all unwelcome effects of a disease that erodes the fabric of modern societies, be it further

Resolved, That the Arizona Bankers Association recognizes that the deep rooted causes of inflation will require short-range sacrifices to achieve a longer-term goal. We urge those in positions of leadership responsibility, especially in government, to return to the basic principles of sound finance which produced the strongest nation on earth. Further, we must work to increase productivity and become less dependent on foreign supplies of natural resources.

We pledge our efforts and creativity to assist toward solving this critical problem.

II. ENERGY

Resolved, That the Arizona Bankers Association will encourage conservation of energy within their corporate operations, to their employees and to their customers, be it further

Resolved, That the Arizona Bankers Association urges the Arizona Congressional Delegation to place the highest priority on legislating national energy law which stimulates and encourages energy development, production and distribution through the private sector without the inhibiting and costly burdens of over regulation by government. The Arizona Bankers Association supports federal legislation which would remove controls on domestic oil prices and gasoline immediately.

III. FREEDOM OF COMPETITION

Resolved, That the Arizona Bankers Association urges the Arizona Congressional Delegation to support and to encourage other members of Congress and federal regulators to permit freedom of competition among all financial institutions. Current inequities include differing tax structures, inconsistent reserve requirements and an interest rate structure that grants an unfair competitive advantage to some financial institutions.

A more equitable structure would lead to increased public benefit through the introduction of more competitive factors in the market place. Consumer benefits would be in the form of lower costs and higher returns to users of financial services.

The complex inter-related nature of current regulations requires a comprehensive plan to be placed into effect over a reasonable period of time.●

CLEMENCY FOR IDA NUDEL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. KEMP. Mr. Speaker, the letters I receive in behalf of Ida Nudel from her sister and friends are written in tones of increasing concern over the state of her health as a prisoner in Siberia, unjustly incarcerated for her efforts to emigrate to Israel. Prison offials refuse to acknowledge her need for medical assistance, and the Soviet Government continues its efforts to denigrate her character to justify a 4-year prison sentence doled out in place of an exit visa.

Under the leadership of our colleague from Connecticut, CHRISTOPHER DODD, several Members of Congress recently wrote to Secretary Brezhnev, requesting clemency for Ida Nudel in the form of an exit visa so that she can join her sister in Israel. Because the Soviet Government has been known to respond to public pressure in the past, I urge those of you who did not cosign this letter to write to Mr. Brezhnev in behalf of Ida Nudel, expressing your concern over the state of her health and urging him to grant her clemency. Your support in this effort will be gratefully appreciated by Ida's sister and her many friends all over the world, and just may make the difference and tip the scales toward a favorable decision.

Mr. Speaker, we cannot turn our backs out of frustration; our continuing efforts in behalf of Ida Nudel and other so-called prisoners of Zion are extremely important to underscore our commitment to human rights. Any actions you deem appropriate to help Ida and her fellow imprisoned visa applicants would constitute an important contribution to the eradication of human rights abuse.●

HOW TO ACHIEVE AN AMERICAN MIRACLE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BOB WILSON. Mr. Speaker, even though the gas lines have disappeared, our energy problem is still with us and will be for some time to come. The solution is simple—produce more energy. It is there and can be got at. But the getting is the sticky point, and there are enough difficulties in that process alone without injecting even more in the form of price controls.

As Chairman of the Price Commission from 1971 to 1973, C. Jackson Grayson saw from a frontline perspective just what effect price controls are having on shortages and inflation, and he did not like what he saw.

Mr. Grayson's recommendations may seem drastic to some, but our energy situation is becoming increasingly grave and demands drastic measures such as he advocates. I commend his thoughtful essay to all my colleagues for their reflection.

The essay follows:

[From Business Week]

HOW TO ACHIEVE AN AMERICAN MIRACLE

(By C. Jackson Grayson, Jr.)

The most frightening aspect of the current gasoline crunch is not the long lines. Nor the price. Nor OPEC. It is not even the shootouts at the service stations.

It's the almost total absence of serious consideration and open support by businessmen, politicians, and economists for a return to the market system to ration demand and increase supplies.

The answer to our problems has to be complete decontrol—decontrol not only of oil, but also of gasoline—and elimination of the price and wage "guidelines" program along with it: a complete dismantling of the increasingly complicated, inefficient, inequitable, and unworkable machinery of energy and wage-price controls.

I recommend this not from blind ideological faith in the market system, but from (1) a reading of the history of the failures of wage-price and allocation controls for over 40 centuries, (2) an observation of the current failures of energy and wage-price guidelines, and (3) my own personal experience in directing controls, during Phase II of President Nixon's wage-price program.

The gasoline situation is a good example. The President blames Congress and scolds the public. The Congress blames the President and lectures the oil companies. Endless and fruitless disputes, investigations, and hearings drain the nation's energies to find out who's to blame: "Is there a shortage? Where is the gasoline?"

At the gas pumps there are hired guards, shootings, thefts, and scams. Hundreds of thousands of hours are spent nonproductively in long lines when the nation's productivity growth is already alarmingly low. New allocation schemes are cooked up almost daily: odd-even days, numbered windshield stickers, minimum purchase amounts, state conservation quotas, coupons. Such controls organize and prolong shortages. And in the process the poor, those with low incomes, and the weak are hurt the most.

BACK TO A MARKET ECONOMY

A good account of the history of controls is chronicled in a recent book by Robert L. Schuettinger and Eamonn F. Butler, *Forty Centuries of Wage and Price Controls* (The Heritage Foundation, Washington, D.C., 1979). It is tragicomic that 40 centuries of price and wage controls and governmentally directed allocation systems for such commodities as flour, corn, wheat, and housing show a record of repeated failures.

Not only do the guidelines violate the basic economic laws of supply and demand, they also violate the basic political laws of consensus, power, and equity. The program has no power base, no real support by business or organized labor, and it is rife with inequities. The program is not fading fast—it is dead. No scraping, painting over, or review is going to change it from being bad law, bad economics, and bad politics.

"We have to continue," says Barry Bosworth, director of the Council on Wage & Price Stability. "There is no alternative."

Yes there is. I offer these recommendations:

Remove all price and allocation controls over gasoline and other fuels.

Remove all wage and price controls.

Abolish the Council on Wage & Price Stability.

Return to a market economy.

A "political impossibility," the conventional wisdom runs. It can't be done. Congress, the President, and the public would never stand for it. Believing this, many businessmen and legislators fail to fight for a return to the market system. Instead, they remain silent or concentrate on compromises and accept what Representative Al Ullman calls "the political equation." That's a mistake, both economically and politically.

Economically, controls are a disaster. As chairman of the Price Commission during Phase II (1971–73), I saw this firsthand. After an initial appearance of gains, the inevitable erosion and inefficiencies began. No matter how good our intentions, how hard we worked, what models we employed, or how ingeniously we designed the regulations, the controls could never handle as efficiently or as effectively the millions of decisions made daily in the marketplace to adjust to the changing conditions of supply and demand. The controls did not reduce shortages or inflation. They increased both.

POLITICAL COURAGE

Bad economics is also bad politics. A very recent example is Britain. Margaret Thatcher rode to power on pledges to reduce much of the governmental economic management, to decontrol prices and wages, and to revive the market system.

The classic example, of course, is West Germany. In July, 1948, virtually all economic controls were removed, including price and wage controls. The Allied powers, then in control, were fearful that it would lead to greater inflation, unemployment, political instability, and more problems for the poor. The bold move was controversial even among those closest to its architect, the economist (later Chancellor) Ludwig Erhard.

The fears proved unfounded. There was higher employment, higher real wages, rising productivity, a disappearance of black markets, an abundance of goods in the shops, and—after an initial spurt in prices—a great reduction in inflation. Apathy and despair turned to hope and energy.

In truth, the "economic miracles" that have followed decontrol were not miracles. They were no more than an end to the economic paralysis and disorder caused by the control mechanisms and a return to the market economy.

President Carter speaks of the need for "political courage" in facing these problems. It's time for an act of political courage that makes both political and economic sense: decontrol.●

VETERANS DAY, 1979

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. RITTER. Mr. Speaker, many words are going to be spoken in commemoration of Veterans Day. The meaning of the day will be put into eloquent and moving words, in all parts of the Nation, by many different people. Some Americans will have heard such words so often before that they will fail to really listen. But even if some people may fail to appreciate the meaning of Veterans Day, the Nation as a whole will not and must not.

Today, there are few Americans who personally remember the surge of patriotism that marked American sacrifices to save Europe in the dark days of World War I. And many Americans are too young to remember the way in which our Nation drew together as one and met the gigantic challenge of defending civilization during World War II. The memories of many younger Americans are filled with images of Korea and Vietnam, where war became somehow different and the way in which we as a nation viewed our veterans changed.

The victims of these new attitudes are in large part our American veterans. These are men and women who sacrificed as bravely and unselfishly as any Americans ever have, yet who, tragically, have sometimes gained neither the understanding, nor the respect nor the fair treatment that their sacrifices have earned.

It is this debt to recent veterans, yet unpaid, which challenges us as Americans today.

At the same time, our continuing debt and obligations to veterans of other eras remain as compelling as ever.

The world we live in today, 6 weeks before the start of the 1980's, is as dangerous at it has been at any time in our history—in many ways, it is a more dangerous world than America faced in 1776, or in 1918, or 1941. We face two powerful adversaries, one of which the Soviet Union, is increasing its offensive military capabilities at a terrifying rate while its worldwide adventurism—even in our own hemisphere—is being continually stepped up. We face an increasing dependence on a thin lifeline of oil tankers stretching from the other side of the world at the very time when the Soviets are acting to threaten that lifeline and those oil sources. We face a world filled with very real dangers, both short and long term.

In such a world, honoring those who have served this Nation in previous times of danger becomes much more than an exercise in ceremony. By honoring our veterans we show that America is still a nation that meets her commitments after all—be they commitments to our own citizens, or commitments worldwide.

By honoring our veterans we show that our ties with our history are still strong and that our history still serves as an inspiration and guide. By honoring our veterans we tell future generations of Americans that their country intends to stand by them when they set aside their own lives to put on their country's uniform.

But above all, honoring our veterans ultimately comes down to one word: Respect. If the United States ever reaches the point at which, as a nation, we are unwilling or unable to give sincere respect to those who have given of themselves in service to their country, then we will have lost the right to call ourselves, as we do, the land of the free and the home of the brave.

Mr. Speaker, every citizen of the Lehigh Valley of Pennsylvania joins me in offering our deepest gratitude and, above all, our respect to all Americans, including the more than 75,000 from the Lehigh Valley, who are veterans of military service to their country. They have truly earned more than our respect and gratitude—they have earned the faithful fulfillment of our promises to them.●

CAMBODIANS CRYING FOR LIFE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. SOLARZ. Mr. Speaker, I would like to commend to the attention of my colleagues an excellent report on the current crisis in Cambodia and the humanitarian response of the international community. This report was prepared by the Indochina Refugee Action Center, which is acting as a clearinghouse on this issue. Mr. Speaker, I insert this document in the RECORD.

REPORT BY INDOCHINA REFUGEE ACTION CENTER

OVERVIEW

War, tyranny, genocide, invasion, famine and epidemic disease—these are tragedies that have often and sadly struck human communities during the long history of the world. It is often hard to imagine the impact of any one of these upon a nation and its people, yet the people of Cambodia have been stricken by each and all of these human disasters in just the last five years.

The result of all these human plagues and tragedies is a decimated and dying people. Famine and epidemic disease have begun their own grim march through Cambodia. A once gentle, neutral and agriculturally lush nation is now threatened with extinction unless there is immediate and decisive world action.

While precise figures are still not possible, it is estimated that of the 8 million Cambodians in 1970, only 4.7 million survived the decade of war and the Pol Pot holocaust. Of those remaining, as many as 2 to 3 million are facing starvation. There are reports that as many as 200,000 people are dying monthly, with hundreds of thousands more racked by malnutrition and disease. Of those Cambodians escaping to refugee compounds in Thailand, 90 percent have malaria, with bleeding dystentary and other diseases rampant. Estimates are that as little as 5 percent of the present food crop is planted and harvestable, with many of the seeds for the next crop eaten by desperate Cambodians. With the infrastructure of transport and communication destroyed, aid officials are finding it incredibly difficult to distribute relief adequately on a scale necessary to reach the needy millions. Many Cambodians are so weak, from sickness or hunger, they are literally unable to load and unload the relief shipments.

ESTIMATE OF NEED

A number of international relief organizations have worked to develop a comprehensive estimate of the needed world relief effort to rescue and rehabilitate the people of Cambodia. The basic needs are food and commodities, health care, unloading and transport equipment for distribution of relief, seed, and equipment to rebuild schools. UNICEF and the International Committee of the Red Cross (ICRC) have undertaken a joint relief effort; they released the following figures on October 19, 1979, in a worldwide appeal for immediate aid:

ICRC/UNICEF forecast plan for 6 months

[In U.S. dollars]

Health	$15,976,000
Education	2,800,000
Logistics	10,837,000
Miscellaneous	3,900,000
Food	58,200,000
Operating costs	3,600,000
Contingency reserve	5,000,000
World food program (food transport)	11,000,000
Total	111,313,000

OXFAM-Britain, working jointly with OXFAM-America and a consortium of other relief organizations, has also conducted an estimate of food and relief aid, with a particular emphasis on agricultural supplies and assistance:

OXFAM assessment of needs

[In U.S. dollars]

General feeding	$24,933,000
Supplementary feeding (hospitals, orphanages)	634,000
General relief (supplies, trucks, unloading equip.)	2,747,000
Seeds—staple	10,565,000
Seeds—vegetable	220,000
Agricultural equipment	1,215,000
Miscellaneous	507,000
Cost of transport	7,395,000
Overhead/contingency	6,867,000
Total	55,083,000

It should be emphasized that the above figures are estimates for immediate relief only, for a period of approximately the next six months. There is a growing awareness that additional world aid will be required to adequately restore and rehabilitate the people of Cambodia.

The above food estimates are based on complex formulations. To assist in understanding these food needs, Jean Mayer, President of Tufts University and a noted expert on both nutrition and famine relief, advanced the following statistics in an October 22, 1979, press conference (held under the auspices of the Federation of American Scientists), at which he called for an immediate and massive U.S. aid effort: 2,000 calories per day are needed to stabilize a malnourished person. A kilogram per day will feed approximately two people; a ton a day will feed 2,000 people. Assuming that two million of the remaining Cambodians are facing starvation, a minimum of 1,000 tons a day of food is required—165,000 tons in the next six months just to stabilize the starving population. Dr. Mayer also pointed out that a diet adequate to rehabilitate and strengthen these Cambodians will eventually require food support of as much as 2,000–2,500 tons a day.

The sheer magnitude of this food tonnage is why planes alone cannot provide a sufficient flow of food aid, since a plane can only carry 20–40 tons at a time. Ships and barges are needed in order to develop a sufficient delivery capacity. Furthermore, since the internal transportation structure is nearly destroyed, trucks and other vehicles (as well as spare parts) must be imported in order to sustain the delivery of relief within Cambodia.

U.S. GOVERNMENT AND LEGISLATIVE STATUS

In response to the world appeals by UNICEF/ICRC, Oxfam and other groups, the United States government has acted to provide large scale disaster aid. In announcing a package of U.S. assistance on Wednesday, October 24, 1979, President Carter stated: "Thirty-seven years ago, a holocaust began which was to take the lives of more than 6 million human beings. The world stood by silently, in a moral lapse whose enormity still numbs the human mind. We now face, once again, the threat of avoidable death and avoidable suffering for literally millions of people, and this time we must act swiftly to save the men, women and children who are our brothers and sisters in God's family."

President Carter proposed a total aid package of $69 million, including the 7 million already pledged on October 15, 1979. Of the $69 million, $5 million in existing refugee aid funds were provided to UNICEF/ICRC for Cambodian relief. $25 million in commodities will be made available, subject only to assurances that they reach their destination of those human beings in need. (Congress must enact a supplemental appropriation for $20 million of these commodities.) $9 million of additional U.S. refugee assistance funds will be provided to meet approximately one-third of the total cost of Thailand's program to aid the tens of thousands of Cambodian refugees entering Thailand.

Carter asked that the final $30 million be authorized through the Zablocki-Wolff Bill in the House of Representatives for the next phase of relief in Cambodia. This bill, which was actively supported by Congressman Solarz and many others in the House, was passed by the House on October 25, 1979, by a vote of 362–10. (This bill is in the form of an amendment to the supplemental Department of State appropriation for refugee assistance.)

The Senate had already passed a Kennedy-proposed "sense of Congress" amendment on October 11, 1979 in support of Cambodian relief aid. On October 16th the Senate Foreign Relations Committee unanimously passed a McGovern-proposed amendment to the State Department supplemental refugee appropriation, for $30 million in assistance to Cambodia. Since this bill is quite similar to the bill passed by the House, swift passage by the Senate of the final bill is expected.

WORLD PLEDGES

While reports of world pledges to the international effort are still coming in, a total of $34.9 million had been pledged by the end of October.

CAMBODIAN REFUGEE STATUS

If the current plight of famine, disease and destruction in Cambodia can be likened to the Holocaust in the enormity of human suffering delivered on a nation of people, we must also realize a second major factor in the Cambodian tragedy. The combination of tragic events in the past decade has caused an enormous flow of Cambodians out of the country, joining the ranks of the worldwide population of refugees. This enforced dispersal of Cambodians—including many of the most talented and able leaders, fleeing from the Pol Pot tyranny—has resulted in a Cambodian diaspora which has dispersed the culture, civilization and people of this nation.

While precise population figures on the Cambodian refugees are not easily obtainable, we have been able to piece together some estimates. Since 1975 (but not includ-

ing the recent exodus into Thailand in the past several weeks), approximately 260,000 Cambodians have fled their country. About 150,000 went to Vietnam, where many of them have been assisted in refugee camps by the U.N. High Commissioner for Refugees. There are also unconfirmed reports that as many as 120,000 of these refugees may have crossed back over the Vietnamese-Cambodian border, or have been brought back by the Vietnamese government.

Of the remaining 110,000 refugees, about 20,000 have been resettled in France and 14,000 in the United States. Another 10,000 have been in UNHCR-affiliated refugee camps in Thailand, some for as long as four years. A more recent group of about 60,000 Cambodian refugees entered Thailand during the past year—45,000 of whom were forced back into Cambodia by the government of Thailand this past June. (Thailand has since reversed this policy, and is not now turning away Cambodians fleeing the war and famine in their country.) The remaining 15,000 refugees who crossed the border earlier this year are now in a variety of camps and compounds in Thailand with uncertain refugee status.

The ranks of Cambodian refugees, however, are now rapidly swelling as Cambodians in alarming numbers are attempting to escape the ravages of war, famine and disease by fleeing into Thailand. It is estimated that during the last several weeks alone, 210,000 Cambodians have entered Thailand. No one is certain how many more are ready to flee, but observers feel that hundreds of thousands more Cambodians may attempt to make their way across the Thai border as conditions in Cambodia worsen.

RELIEF SUPPLY STATUS

The two most sizeable efforts to channel food and relief supplies into Cambodia are 1) the joint effort mounted by UNICEF and the International Committee of the Red Cross, and 2) the effort organized by Oxfam, in conjunction with a consortium of other relief organizations. In addition, there are a number of other significant efforts, such as those being carried out by the Catholic Relief Services, Church World Service, the American Friends Service Committee, the International Rescue Committee, and World Vision International, among others.

We have obtained the following data on the status of delivery and supply efforts by the primary organizations involved in providing disaster relief to the Cambodian people:

UNICEF and the International Committee of the Red Cross (ICRC)

The joint operation by UNICEF/ICRC reports that 300 tons of food and relief supplies are being sent from Bangkok to Phnom Penh by 7 chartered Hercules jets. (Hercules jets are being used because they are self-loading and unloading and therefore do not require extensive logistical ground support). Of these 300 tons, 180 tons are food; the remainder of the shipment includes 4 land rovers, 4 trucks, 1 fork lift truck and 13.6 tons of diesel fuel. Another 52 tons of supplies, including 6 land rovers, are being sent by 2 chartered flights from Europe. In addition, 220 tons of relief supplies are being sent on an Oxfam barge (see section on Oxfam below) and an additional 1,000 tons of rice by sea from Bangkok.

Leaving by the end of the month are: 5,000 tons of rice, and 3 trucks, by sea; and 22.4 tons of food, and 5 trucks, by Hercules flights. All of the above are scheduled to arrive by the end of October. UNICEF/ICRC expects to continue to provide 20,000 tons of food and relief supplies per month by ship via the harbor at Kompong Som, and 6,000 tons a month to Phnom Penh.

To aid the Cambodians who have crossed over into Thailand, UNICEF/ICRC is sending 786 tons of rice, fish and oil, 1 ton of medicine, 5 tons of soap, 10 tons of tarpaulin, 4 tons of special children's food, mosquito nets and blankets.

ICRC reports that there is a major problem of maintaining communication between Cambodia and points outside. They have radio equipment and a radio operator in Phnom Penh, but are still awaiting clearance to use them. ICRC has a radio link from Bangkok, Thailand to Geneva, therefore, for the time being, information has to be flown from Phnom Penh to Bangkok.

UNICEF/ICRC also report that they have ten staff people in Cambodia to receive relief supplies and to monitor and oversee their transfer to all trucks and railcars.

Oxfam

Oxfam reports that its first barge of 1,500 tons of relief aid (primarily food) has arrived at the Cambodian port of Kompong Som, where it was met by 3 ministers of the Heng Samrin government. Oxfam officials report that unloading was carried out "with a high degree of cooperation and without a hitch," although they point out that the 120 dock workers were mostly 16–18 year old boys and girls who were undernourished and struggled with the 100 pound bags. The supplies were met by 80 trucks—"all the lorries the country had" and driven to holding facilities in Phnom Penh. The supplies are now being distributed to regional centers using the "infrastructure established by the previous regime."

Oxfam states that their monitors are permitted to accompany the supplies to each destination. They have 5 staff members in Phnom Penh for that reason, and 3 more in Kampong Som and other parts of Cambodia.

A second barge of 2,000 tons (primarily food) scheduled to leave on Oct. 27, will be routed up the Mekong River, with the permission of the Vietnamese government, so that it can arrive in Phnom Penh. Oxfam reports that this is a real breakthrough in cooperation with the Vietnamese, and marks the first time a U.S. ship has travelled up the Mekong since the end of the Vietnam War. This second barge will not only contain food, but also a fork lift truck and a large quantity of seeds.

With its third shipment, scheduled to leave by barge the week of Oct. 29th, Oxfam will shift its major emphasis to agricultural reconstruction, relying on UNICEF/ICRC for major food relief. This third shipment will include 2,000 tons of seed, tools, fish nets, irrigation equipment, etc.

On Oct. 25th, a 30–40 ton flight from Ireland, arranged by Oxfam and backed by the Irish government, was scheduled to carry 4 land rovers, milk, sugar, and edible oil. At the same time, an Australian flight is carrying 30 tons of medical and other emergency supplies. In addition, about Oct. 26th, an airlift from Turkey is scheduled to carry 8 seven-ton British Leyland diesel trucks on a 747 flight to Phnom Penh.

Catholic Relief Services

Since late June, more than 20 convoys of trucks loaded with food, clothing, and medical supplies have traveled to various points along the Thai border, delivering their cargoes to Cambodians who come across the border, pick up this aid, and carry it back to Cambodia. Presently the Catholic Relief Services are attempting to raise at least $1,000,000—through appeals to church, private, and government sources—to continue these operations.

Church World Service

CWS has 5 representatives in Phnom Penh who have met with senior officials of the Heng Samrin government. These representatives are due back on Nov. 4th. There is no word as yet as to the results of the meetings. CWS has sent $25,000 worth of mosquito netting into Cambodia. On Oct. 26 or 27th, an airlift was scheduled to arrive in Phnom Penh carrying 40 tons of supplies—10 tons of medical supplies and 30 tons of fish. CWS has made a request to the U.S. Treasury Department for a license to send in $1 million worth of medical supplies.

American Friends Service Committee

AFSC sent a delegation to Phnom Penh early in September to negotiate a contribution of medical supplies. They are presently pursuing U.S. aid funds to purchase these supplies. In addition, AFSC has provided $100,000 to Oxfam for the purchase of 400 tons of rice. AFSC is committed to raising at least $200,000 for their Cambodian relief effort.

World Vision International

World Vision reports that they delivered 10 tons of food and medicine on Oct. 20th and 23rd, at a cost of $25,000. A two man team leaves on Oct. 29th to prepare for a major effort in which World Vision plans to spend at least $1 million. The Oct. 29th flight to Cambodia will include 5 tons of supplies especially earmarked for orphans, including mosquito nets, clothing, food and educational materials.

International Rescue Committee

The International Rescue Committee has 6 nurses and 4 doctors presently in Thailand; 2 additional doctors and 4 additional nurses are committed. They are also involved in setting up a major facility which will be equipped for large numbers of temporarily displaced Cambodians. In addition, IRC is in the process of buying a van in Thailand to be used as a mobile medical unit.

On November 4th, members of the IRC's Citizens' Committee on Indochina Refugees, which is made up of prominent American civic and religious leaders, will visit Thailand to observe the consequences of the Cambodian tragedy first hand.

Refugees International reports that it has sent 280 tons of food on the second Oxfam barge into Cambodia.

The Mennonite Central Committee contributed funds to the efforts of the Church World Service and the Christian Conference of Asia.

CONTRIBUTION ADDRESSES

The following list of organizations who can accept contributions for the Cambodian relief effort was supplied by the U.S. Committee for UNICEF:

U.S. Committee for UNICEF, 331 E. 38th Street, N.Y., N.Y. 10016.

National Headquarters, American Red Cross, 2025 E Street NW., Washington, D.C. 20005. (The Am. Red Cross asks that donations not be sent to local chapters).

U.N. High Commissioner for Refugees, Region 9, Room C-301, U.N. Plaza, N.Y., N.Y. 10017.

Catholic Relief Services, 1011 First Avenue, N.Y., N.Y. 10022.

Church World Service, 475 Riverside Drive, N.Y., N.Y. 10027.

International Rescue Committee, 386 Park Avenue South, N.Y., N.Y. 10016.

Oxfam America, 302 Columbus Avenue, Boston, Mass. 02116.

American Friends Service Committee, 1501 Cherry Street, Philadelphia, Pa. 19102.

C.A.R.E., 660 First Avenue, N.Y., N.Y. 10016.

Lutheran World Relief, 360 Park Avenue South, N.Y., N.Y. 10010.●

IN SUPPORT OF IDA NUDEL

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. SEIBERLING. Mr. Speaker, the House will soon consider House Concurrent Resolution 202, expressing the sense of Congress that the Soviet Union should permit Ida Nudel to emigrate to Israel. Ida Nudel has been sentenced to 4 years of internal exile in Siberia for providing aid to dissidents inside the Soviet Union. As a cosponsor of House Concurrent Resolution 202, I think House action on the bill is important because it reminds the Soviets that they are not complying with either the spirit or the letter of the Helsinki accords. It may, perhaps, be pointless to pick out one individual from the hundreds who deserve global attention, but congressional action on House Congressional Resolution 202 puts the Soviets on notice that they have a long way to go to live up to their obligation to observe basic human rights, including the freedom to emigrate. Permitting Ida Nudel to emigrate would be an important step by the Soviets in the direction of recognizing their responsibilities under the terms of the Helsinki accords.●

VERIFICATION: SCIENCE OR GUESSWORK?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. MICHEL. Mr. Speaker, the recent debate concerning an enormous explosion which occurred near South Africa should be of concern to all Americans.

Initially it was said that the explosion was caused by a nuclear detonation. The South African Government denied this. Now there are different theories to account for the explosion, chief among which is that it was caused by a superbolt with 100 times more energy than an ordinary lightning bolt.

Those of us who are not scientists are content to leave the inquiry to specialists. But in an important sense this debate over the origin of the explosion concerns us all. If the most sophisticated technology in human history cannot conclusively prove that an explosion of such magnitude was caused by a clear weapon, how can we expect such technology to do the sophisticated and intricate monitoring of the SALT II treaty? We are told by the President that we have the technological means to verify Soviet compliance. But as we have seen in recent months, we cannot even tell if Soviet troops have increased their numbers 90 miles from Miami and, now, we learn that our space satellites cannot verify with any degree of accuracy the origin of a super explosion.

At this point I wish to insert in the record, "South Africa 'Blast' May Have Been Bolt," by Walter Sullivan, from the New York Times, November 1, 1979; "The 'Flash' Seen Round the World," by John K. Cooley, from the Christian Science Monitor, October 331, 1979; "Experts Explore Cause of Flash Near South Africa," by Thomas O'Toole, from the Washington Post, November 2, 1979.

EXPERTS EXPLORE CAUSE OF FLASH NEAR S. AFRICA

(By Thomas O'Toole)

The White House has gathered seven outside experts on atmospheric science to discuss whether natural events might have caused the atom bomb-like flash in the skies south of South Africa in September.

White House science adviser Frank Press, who convened the first of two days of meetings in his office yesterday in the Old Executive Office Building, declined to identify any of the experts, saying that they might be at work for months and that identifying them might compromise their work.

A U.S. Vela surveillance satellite spotted a double pulse of light characteristic of a nuclear explosion in the vicinity of South Africa in late September, but U.S. intelligence could find no corroborating evidence of an atomic explosion.

Sensors on the satellite that would have detected a release of neutrons, gamma rays and X-rays apparently had been turned off to save power on the satellite and prolong its life. The Vela was aging, having been put into orbit in 1970 to watch for violations of the global treaty banning atmospheric tests.

A few days after the initial reports of the Sept. 22 phenomenon, which was described as a probable nuclear test, the Air Force Technical Applications Center and the CIA reported finding acoustic evidence from listening posts in widely separated parts of the world that seems to confirm an explosion. After further study, however, they withdrew this conclusion, according to official sources, and reported that the earlier evidence might simply have been commonplace random background noise.

No seismic evidence was recorded anywhere in the world of a nuclear explosion. More importantly, search aircraft flying over the Indian and South Atlantic oceans have found no evidence of radioactive debris in the atmosphere that would have been left by a nuclear explosion.

The seven experts were brought to Washington to discuss alternate explanations for Vela's observation, such as a "superbolt" of lightning, a meteor entering the atmosphere or a freak combination of the two.

A White House source said the experts so far have not ruled out any of those explanations but cast some doubt on them.

Vela has seen many suprbolts in its nine years in orbit, always as a single flash of light and not the double flash it saw in September. On no fewer than 41 previous occasions did Vela see the double flash, and it always was a French or Chinese nuclear test in the atmosphere.

Regarding the theory of a meteor burning up, there were no reports anywhere that a meteor large enough to generate that much light had entered the atmosphere, the same source said.

The source said the panel also discussed whether the doubleflash was sunlight glinting off another satellite or a spark or electronic malfunction inside the Vela. The source said neither of these possibilities has been ruled out.

"There is a remote chance," the source said, "that the satellite could have malfunctioned once in a way that we did not see again. We're looking at that possibility."

Last week, the State Department announced that the satellite had seen what appeared to be a nuclear explosion and suggested South Africa as the source. South Africa has vehemently denied that it triggered an atomic explosion.

SOUTH AFRICA "BLAST" MAY HAVE BEEN BOLT

SOME SCIENTISTS NOW BELIEVE THAT THE 'NUCLEAR' DETONATION WAS SUPER FLASH OF LIGHTNING

(By Walter Sullivan)

A "superbolt," which is a lightning flash so powerful that it can release as much energy as a small nuclear weapon, may account for what was originally thought to be a nuclear detonation near South Africa last month, some scientists now believe.

Several dozen superbolts have been identified in recent years by bomb-monitoring Vela satellites, one of which made the Sept. 22 observation. Such lightning flashes, with 100 times more energy than a normal bolt, occur chiefly over water, which is why their existence had not previously been recognized.

The flashes seem to occur where cold polar air moves in over warm, moist oceanic air under circumstances in which small storms do not relieve the buildup of electric charge. The result is, in effect, many lightning flashes combined into one.

SPECIALISTS TO MEET

Today and tomorrow, specialists in a variety of fields will meet in Washington under White House auspices to review possible explanations of last month's event. The possibilities include such natural causes as superbolts and fireballs plunging from space, a malfunction of the satellite and an unusual nuclear explosion.

Superbolts are seen by some as the most plausible explanation because, as with the Sept. 22, event they produce a very brief flash much like that of a nuclear detonation. However, the recording was of a double pulse, which is characteristic of nuclear explosions, rather than the single flash recorded from superbolts.

Capt. Bobby N. Turman of the Air Force, who has specialized in the phenomenon, said this week in a telephone interview that none of the bolts that he had studied had shown a double flash. The satellites have observed dozens of superbolts, particularly off Japan.

LOS ALAMOS' VIEWPOINT

Specialists at the Los Alamos Scientific Laboratory in New Mexico, which developed the satellites that watch for secret weapons tests in the atmosphere or space, are said to be convinced that last month's flashes were typical of those from a nuclear test and resembled nothing else.

But it is proposed by such proponents of the superbolt hypothesis as Dr. Gordon J. F. MacDonald of the Mitre Corporation, which advises the Government on defense matters, that superbolts, like ordinary lightning, may in fact be preceded by a leader stroke. It is suggested that the leader stroke may be so faint that one was not previously detected.

Another posibility is that while superbolts normally occur singly, this might have been a double event.

The two flashes last month were observed within a fraction of a second, the second flash being far brighter than the first. This is the sequence recorded by the Vela satellites in dozens of bomb tests by the French and Chinese. The initial flash is from the triggering device, followed by the main detonation.

OTHER SIGNS LACKING

Yet the occurrence of a nuclear explosion is questioned because none of its other telltale signs, such as shock waves in the atmosphere or within the earth, have been recorded. Scouting planes have reportedly been unable to find any of the radioactive debris normally left by such an explosion.

While superbolts on land are rare, one apparently occurred along the South Shore of Long Island on Oct. 10. The noise, like that of a great explosion, created consternation in many communities. Police stations were flooded with calls, but no evidence of damage on land was reported.

A destructive superbolt struck Bell Island, off Newfoundland, on April 2 of last year, and scientists from Los Alamos were sent to investigate. Accordingly to Dr. Thomas Gold of Cornell University, who also went there, the bolt left a one-mile swath of damage. Trees were split; television antennas were twisted beyond recognition; transformers were shattered and circuit breakers hung from power-line poles, and there were craters in the new-fallen snow.

SOME LINES VAPORIZED

Also, some power lines were vaporized, and the air in a chicken coop was so heated that the structure exploded. Dr. Gold is among those who lean toward the superbolt explanation of last month's event.

According to Dr. MacDonald, weather conditions near South Africa were "not very different" from those associated with the Bell Island superbolt.

The most obvious explanation for the twin flashes would be a secret nuclear weapons test, perhaps timed and positioned to minimise detection by American satellites. South Africa's vehement denial of a nuclear test has led to suggestions that a missile was inadvertently launched and detonated by a Soviet submarine. However, such an explosion should have produced signs other than the flashes, and none have been detected.

In 1958, a secret oceanic test was carried out by the United States in the South Atlantic. Rockets from a seaplane tender lifted three small nuclear devices to be detonated 300 miles aloft. The purpose was to see if this would envelope the earth in artificial shells of radiation that could screen a missile attack. Not only were such shells produced, but worldwide magnetic effects were recorded. None followed the Sept. 22 event.

THE "FLASH" SEEN ROUND THE WORLD

(By John K. Cooley)

WASHINGTON.—The mystery of the brilliant flash which a United States Vela satellite "saw" in the Southern Hemisphere Sept. 22 poses some serious questions—not only about the origin of the phenomenon, but also about U.S. detection capabilities.

South Africa has denied that it carried out a nuclear test. No evidence has been published that would link the three-phased flash (typical of nuclear tests) to a test by any government or group.

Since no U.S. government agency or other source has so far admitted to detecting radioactive fallout, some scientists believe that if a nuclear device was tested it might have been a fusion explosion—set off not by a fission (uranium or plutonium) trigger, but possibly by a high-powered laser.

Why, the scientists and others are asking, did the U.S. State and Defense departments wait until ABC News correspondent John Scali reported the Vela sighting to make it public?

"We were simply reluctant," said one government official, "to publicize a matter which was vague, unproven, and unresolved."

Does lack of other evidence so far show that the United States—despite its costly worldwide surveillance systems for the oceans, the atmosphere, and space—cannot be absolutely certain about what takes place in the remote southern seas and skies north of Antarctica?

Massachusetts Institute of Technology Prof. Bernard W. Field says that if there was a fission blast, U.S. aircraft and other technical means should have picked up evidence by now to back up the picture from the 170,000-mile-high Vela satellite.

"Such a test," says Dr. Feld, director of MIT's division of nuclear and high energy physics, "would have to leave radioactive traces in the atmosphere. But we haven't heard yet that any were found," despite what U.S. defense officials described as careful searches by specially equipped aircraft.

U.S. Defense Department spokesman Tom Ross said Oct. 30 that no radioactive traces had been found by U.S. surveillance in the Southern Hemisphere, contrary to reports from the Soviet news agency, Tass. Earlier, Tass issued a denial that the flash was caused by explosions aboard a Soviet nuclear submarine.

MIT physicist Costa Tsipis said, "A fusion explosion without a plutonium trigger would probably have to be set off by a huge laser. No one has ever done it, as far as we know. The French have been doing research on laser triggers, and the Chinese have carried out fusion explosion tests most recently."

France normally tests its nuclear devices in the Kerguelen Islands north of Antarctica but eastward of the "flash" area. French tests usually are publicly reported.

South Africa, a major uranium producer, has two known nuclear reactors and since 1975 has operated a pilot plant for enrichment of uranium, with help from West Germany and France.

On Nov. 4, 1977, the U.N. Security Council unanimously voted to embargo arms shipments to South Africa. A year later, the U.S. canceled contracts for delivery of enriched uranium to South Africa. However, U.S. officials say, France did not cancel its nuclear fuel contracts.●

TESTIMONY BEFORE HOUSE JUDICIARY COMMITTEE IN BEHALF OF THE "TAXPAYERS' PROTECTION AMENDMENT"

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. ROUSSELOT. Mr. Speaker, the Senate Subcommittee on the Constitution will soon report out a bill proposing a constitutional amendment that will mandate a balanced Federal budget. This step will be of great significance because it will open up another round of debate and news media focus on the lax fiscal ground rules that govern congressional tax and spending policies.

This focus is exactly what we need right now because to even the most casual observer of the congressional tax and spending process, it should be apparent that there is no real restraint holding back excessive spending and taxation. A case in point is the situation we are in now. Here it is November, and we still have not agreed to a binding limit on expenditures for this fiscal year 1980, a fiscal year which started last October 1. The second concurrent resolution, which sets the limit, should have been approved by mid-September. Our tardiness is not surprising to me since last year, the second concurrent resolution had to be revised. The Federal expenditure ceiling was raised by $7 billion last May. The deadline of the previous year meant nothing. As Federal expenditures rose, the Congress simply revised its second concurrent resolution. This time around we can't even get a second concurrent resolution passed. Why? Because there is no binding constraint forcing Congress to act either to meet a deadline, or to live within its means.

Last year the Congress allowed $7 billion more in red ink to spill over the spending limit, and it made no serious attempt to clean up the mess. The same thing is going on this year because there is no effective restraint holding the congressional ink bottle in place. But make no mistake about it, the spending stream cannot go on forever. When the last drop of red ink is spilled, the country will find itself a total shambles.

It is my belief that there is only one way to restrain excessive spending made possible by overtaxation and debt borrowing, and that is by mandate of a constutional amendment that requires a balanced Federal budget and restrains spending. Some of us stalwart fiscal conservatives have been saying this for a long time. Now with deficits mounting and spending skyrocketing, we have an opportunity to send a message to the Senate subcommittee as it prepares to report out a constitutional amendment to the full Senate Judiciary Committee. It is up to those of us who are true fiscal conservatives to make clear to those who profess fiscal conservatism, but whose actions indicate they are spendthrifts, exactly what we mean by the concept of a balanced Federal budget.

We must make it clear that a balanced Federal budget should not be achieved through higher rates of taxation. It should be achieved through less spending and lower rates of taxation.

There are three ways to balance a budget, one way is by raising taxes, the second way is by reducing spending, and the third way is by expanding the tax base through lower tax rates while holding the line on spending. I prefer the second and third methods, particularly the third, and I believe so do the vast majority of Americans. In fact, in a recent Roper poll 73 percent of those questioned said that they would favor a constitutional amendment that would make it harder to raise tax rates by raising the voting majority needed before Congress could pass a tax rate increase. The American people do not want the budget balanced through higher taxes.

Senator ARMSTRONG and I have introduced a constitutional amendment which now has 17 House cosponsors. The amendment would make it harder for Congress to raise tax rates while mandating a balanced Federal budget for each fiscal year. This bill, House Joint Resolution 408, and Senate Joint Resolution 93, also known as "The Taxpayers' Protection Amendment," is the only bill being considered by the Senate subcommittee that actually protects the Nation's taxpayers against a balanced budget achieved through inflation-induced tax increases, by bracket creep, or by imposition of new consumer and produced taxes.

The "Taxpayers' Protection Amendment" not only requires the Congress to reduce all tax rates to offset the effects of inflation. It also raises the majority needed to pass a tax rate increase while mandating a balanced Federal budget. Tax rate increases and spending deficits will require a three-fifths majority of both Houses of Congress. In contrast, tax rate reductions will only require a simple majority, and any temporary deficits which may result as a byproduct of the rate reductions will not be in violation of the balanced budget rule. This bill makes it harder to raise tax rates, easier to lower them, and it has a built-in spending limitation without relying on any complex spending formulas. Spending will not exceed tax collections, and tax collections will be determined solely by the rate of real growth in the economy. Not inflation. If the Congress wants to spend more it will have to raise taxes.

Mr. Speaker, I would like to share with our colleagues the in-depth economic rationale behind the "Taxpayers' Protection Amendment," House Joint Resolution 406—formerly House Joint Resolution 278—which was contained in my testimony before the House Judiciary Committee, Subcommittee on Monopolies and Commercial Law, last June. I insert it in the RECORD with the hope that our colleagues will consider this new and innovative approach to our Federal tax and spending policies to be worthy of their cosponsorship and active support. It is an approach based on the principles of "supply side" economic theory, a theory which tells us that lower tax rates and less Federal spending will lead to greater economic growth.

STATEMENT OF HON. JOHN H. ROUSSELOT, MEMBER OF CONGRESS, BEFORE THE SUBCOMMITTEE ON MONOPOLIES AND COMMERCIAL LAW, COMMITTEE ON THE JUDICIARY, ON PROPOSED CONSTITUTIONAL AMENDMENTS TO REQUIRE A BALANCED FEDERAL BUDGET, TUESDAY, JUNE 12, 1979

Mr. Chairman and Members of the Subcommittee, thank you for allowing me this opportunity to testify on behalf of a "supply-sider's" approach to the balanced budget, H.J. Res. 278, the Rousselot-Armstrong Taxpayer's Protection Amendment.

This bill, a Constitutional Amendment, has been introduced by Senator Bill Armstrong and myself because we both deeply believe in the need to stimulate economic growth by focusing fiscal policy on the supply side, as opposed to the demand side of the economy.

I think we can all agree that demand has a way of taking care of itself. Yet, for forty years Keynesian economists have been telling us that the way to achieve sustained economic growth is by fine tuning demand the economy through Federal spending programs. Now, as we suffer from high inflation and low productivity, we must get out of the no-growth rut that our economy has fallen into by shoring up the factors responsible for the productive supply of goods and services in our society.

Our Nation is in need of a fiscal program that 1) restrains excessive Federal spending, 2) encourages tax rate reductions, and 3) establishes flexible ground rules for a balanced budget.

To achieve these three objectives, H.J. Res. 278 seeks to eliminate the free-spending binge that Congress has enjoyed because of inflation and the progressive tax code. In addition, H.J. Res. 278 seeks to dampen the rate of growth of Federal spending by raising the voting majority needed in the House and in the Senate to both deficit-spend and to raise taxes.

Specifically, if enacted and subsequently ratified by three-fourths of the states, H.J. Res. 278 would require the Congress to reduce tax rates (duties, excises, and imposts) to offset the effects of inflation. H.J. Res. 278 further stipulates that the Congress may spend more than it collects, but only upon favorable action by a three-fifths majority of both Houses—except during a wartime emergency when this rule does not apply. Tax rate increases will also require a three-fifths majority, but tax rate reductions will only require a simple majority, and they may be passed without violating the requirement of a balanced Federal budget.

This unique approach to the balanced budget will place a heavy but flexible lid on spending increases and tax increases while pointing to tax rate reductions as the preferred fiscal method of stimulating economic growth. Under H.J. Res. 278, the Congress will be telling the people of America that the most beneficial way to achieve a balanced budget is by fueling economic growth through supply-side incentives. It will be our way of saying that we in Congress recognize that we could balance the budget by raising taxes through the vehicle of inflation, but that such a fiscal program would not be in the Nation's best interest because it would just tempt a recession.

Judging by our current fiscal policy, the Congress has no intention of balancing the budget through an expanding economy. Today's high rate of inflation is wiping out all the economic gains that we had been making in response to the tax cuts that were enacted last October.

Day by day, inflation is increasing the tax burden levied on labor and capital. In so doing it is virtually guaranteeing a recession. A recession may be the Administration's solution to inflation, but it is not the solution that is supported by historical results. Inflation is a monetary phenomenon, and until we start "trading tobacco leaves" in the economy, as our forefathers did, inflation will continue to be a monetary phenomenon—caused by too much money chasing too few goods. If we are trying to slow down inflation, we should slow down the Federal Reserve's printing presses—not the productive economy.

When will the Congress realize that we can have slow growth and high inflation, high growth and high inflation, and even a recession and high inflation? The state of the economy depends on the rate of growth of the money supply. It depends on whether the tax code is incentive oriented or whether the tax code is punitive in nature. A punitive tax code, such as the steeply progressive one we have at present, combined with high rates of monetary expansion, guarantees high inflation and either a slow-growth, no-growth, or even negative-growth economy.

It is no big secret that inflation pushes workers into higher tax brackets, that it causes fictional gains on the sale of assets, and results in the underdepreciation of plant and equipment. All this leads to the overtaxation of income, which in turn leads to lower growth. These arguments are not new. Yet, why do we continue to heavily tax work, savings, thrift, investment and entrepreneurship while subsidizing non-work unemployment, leisure, debt, spending and mediocrity? How can we do this and still expect to grow economically?

We can balance the Federal budget on the backs of the taxpayers, but such actions do not confer halos upon our heads for fiscal responsibility when we return to our Congressional districts. Most of us are greeted by irate constituents demanding tax relief and less government. Nor will there be any halos for those who continue to blindly vote against balancing the budget, after having fallen for the kinds of arguments advanced by keynesian economists. Keynesians believe that budget deficits can pump purchasing power into the economy. Therefore, by this theory, economic growth can be stimulated when there is slack in the economy. Many economic observers are now, however, taking a more hard-nosed look at the data. Throughout our history, large Federal deficits, caused by a growing Federal budget, have neither systematically reduced the rate of unemployment, nor have they systematically stimulated the economy. If anything, unemployment tends to be higher and the rate of economic growth lower when deficits are large.

Despite all the myths around, we must face the cold facts as to what budget deficits are, and are not. Budget deficits represent an obligation that the Government has to those citizens from whom it has borrowed. It is an obligation to levy taxes on the General citizenry upon the maturity of the debt. In some instances the budget deficit is financed via the Federal Reserve Bank's printing presses, and this can be inflationary. Historically, however, the Fed's role in financing the debt has not been as great as many people have been led to believe. The blame for our current inflation is only partially attributable to our large deficits—the Fed has other ways to gin up the money supply. The real problem with running budget deficits is that in most cases they are simply an expedient way of redistributing earnings from one segment in our society to another segment for forcing future generations to pay for the tab.

Unfortunately, today's generation of taxpayers is already paying part of the tab. With deficits growing, the Federal Government's obligation to increase tax rates has also been growing. As a consequence, our Nation's financial managers have been systematically turning down high risk projects with paybacks too far off in the future. The bottom line has been that investment has been dropping off over a period of years, and along with it productivity. The only reason investment has not fallen completely out of bed is because of the tax cuts we enacted last session. With after-tax incomes for business and individuals higher after the tax cut, the economy has been growing despite higher inflation. In short, all the things we said last summer about the positive effect tax cuts can have on incentives in the marketplace have come true.

Obviously in light of the positive effects tax cuts can have on the economy, we must not undermine the tax cutting movement by forcing the Congress to raise taxes to balance the budget. Across-the-board tax rate reductions will naturally lead to "paper" deficits because the Treasury is simply not able to calculate the supply-side effects that cutting tax rates have on the economy. Therefore, balanced budget proposals which make tax cutting impossible and tax increases inevitable must be avoided.

Mr. Chairman, there can be no doubt of the need to balance the budget. Large deficits associated with increased Federal spending either contribute to inflation or serve only to stifle investment because of the expectation of higher taxes in future years. Nor can there be any doubt that the drafters of the Constitution ever intended to provide the Congress with a free ride to spend to their heart's content by virtue of inflation and the progressive tax code. They adopted provisions to limit the Federal Government—but adoption of the 16th Amendment has lead to the emergence of powerful special interest groups in society and who are competing for larger and larger shares of a growing Federal spending pie.

This Congress is in need of a new set of fiscal rules which automatically limits the growth and the size of the Federal pie by constraining the power to raise taxes either through inflation or by direct vote. After all, even if the tax code was entirely indexed by statute, there would be no guarantee that the Congress would not find some convenient scapegoat to burden with heavier taxes. Some members of Congress are trying to do this to the oil industry. They are trying to raise revenues for spending programs by burning the "oil witch." The irony is that, historically, the more the Federal Government has spent, the less productive our economy has become.

Congress must renavigate its fiscal course, lower the tax rates and reduce the size and scope of Federal Government. We have the ability in the 96th Congress to put an end to the unconscionable Federal intrusions into the workings of our national economy.

Congress has the power to reduce tax rates, restrain Federal Government spending and balance the budget through the Budget Control and Impoundment Act of 1974, but to date, Congress has not been determined to do this. It is therefore apparent that the only recourse is to call for a mandate from the people to prompt Congress to act in a manner more beneficial to the Nation's working taxpayers.

I urge this Subcommittee, which has recognized the immediate need for consideration of a legislative means to require a balanced Federal budget, to favorably act upon the Rousselot-Armstrong Taxpayer's Protection Amendment (H.J. Res. 278) so as to implement a fiscal policy that will generate more revenues through an expanding tax base and create the incentives that this Nation needs to achieve sustained economic growth.●

TRIBUTE TO COMER J. COTTRELL

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. DIXON. Mr. Speaker, I rise today to pay tribute to a man who fought the odds and won. A man whose personal philosophy is as strong as life itself. Comer J. Cottrell is the president and chairman of the board of the Pro-Line Corp., a multimillion-dollar firm which manufactures and distributes black consumer cosmetics.

"Never say, it can't be done," is his motto and it has carried him through life to become the well respected and admired businessman he is today. Members of the Greater Los Angeles area are gathering on November 15 to pay tribute and bid farewell to Mr. Cottrell, who is moving his corporate headquarters to expanded facilities in Texas. His whole life has been an inspiration and a shining example of what can be achieved with the will to succeed.

Starting in 1970, Comer Cottrell built his firm from the ground up into one of the top 100 black businesses in the country today. With an initial investment of only $600, he nurtured his company in less than 10 years into a $12-million-per-year business.

The Pro-Line Corp. found its beginnings in the State of California, and expanded through the years with business sites in Birmingham, Ala.; Nairobi, Kenya; Trinidad, West Indies; and Lagos, Nigeria. This is a long way from home for a man born in Mobile, Ala.

The character of the company reflects the strength and fierce independence of its owner; Pro-Line stands on its own merits. Never in its entire history has the firm been in debt or relied on Government loans. It stands as a model to other businesses with the in-depth interest that is given to developing the talents of its employees. Mr. Cottrell has embodied, through the years, a mandatory reading and seminar program as part of the on-the-job training.

Mr. Cottrell's successes are innumerable but with all his achievments, he never shirked the responsibility of making a contribution to his community. His involvement in Los Angeles civic affairs has been substantial. Over the last 10 years he has served for three terms as chairman of the Black Businessmen's Association of Los Angeles, director of the NAACP Executive Committee, director of PUSH's Executive Committee, executive committee member of the 100 Top Black Businesses, member of the Congressional Minority Business Energy Task Force, member of the district attorney's advisory board, member of the Small Business Administration Advisory Board, and a member of the State Water Quality Control Board.

Comer J. Cottrell has proven that no obstacle or person can stand in the way of reaching your goals. As a businessman and a civic leader, Cottrell is dedicated to building a legacy of hope for today's black youth. I along with fellow members of the metropolitan Los Angeles community wish him the greatest of success at his new home, Dallas, Tex.●

TRIBUTE TO CARL E. WARD

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. ROYER. Mr. Speaker, I want to add my voice to those honoring Carl E. Ward, a constituent of mine from the 11th Congressional District of California, and for the past 19 years a member of the board of trustees of the San Mateo Community College District.

Mr. Carl Ward has been a resident of San Mateo County since 1937, is married and has three children. He is a retired bank executive and has a degree from the Graduate School of Banking, Rutgers University.

Before becoming a member of the board of trustees in 1960, Carl worked on a 28-member community advisory committee which recommended a master plan for development of the district to meet the growing educational needs of residents of San Mateo County. He served on the board throughout the entire transition from a one-college district to a multicollege operation, and watched enrollment in the district colleges grow from approximately 8,000 in 1960 to more than 30,000 students today. Hundreds of new courses and dozens of vocational-technical programs have been added, as well as pioneering ventures in programs for women, minorities, the handicapped, and students in need of financial aid.

Throughout his tenure on the board, Carl Ward's specialized knowledge of banking finance and taxation have been invaluable in assisting the board of trustees to establish strong budgetary and fiscal controls so that operation of the colleges is in the most efficient manner possible.

In addition to his responsibilities as a trustee, Carl has given generously of his time to a wide variety of community causes, thus working for the betterment of the county on many fronts. He served as president of Mary's Help Hospital Community Advisory Board and as a member of the American Institute of Banking, San Mateo County Chapter, and is a director and member of the Governmental Research Council.

Mr. Ward will be honored at a retirement reception on Friday, November 16, 1979, in San Mateo. Mr. Speaker, I am proud of the outstanding public service rendered by Mr. Ward to the citizens of San Mateo County and am glad to see that he will be so honored.●

TRIBUTE TO LIEUTENANTS JAMES, JOHN, AND THOMAS HUNT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. LEWIS. Mr. Speaker, in a world where mediocrity rather than excellence is becoming the standard, and merely getting by is often more valued than far-reaching accomplishment, it is truly refreshing to be associated with individuals whose hard work and success go much beyond that of the ordinary. Lieutenants James, John, and Thomas Hunt of the U.S. Air Force are such individuals. As it is my privilege to pay tribute to these young Americans, I further commend to the House of Representatives their parents, Philip and Eleanor Hunt who share with us their unique experience of having all three of their sons graduate from the U.S. Air Force Academy.

I have known the Hunts for almost 15 years, during which time I have seen these young men grow to become solid citizens. They all have had outstanding high school and Academy careers and their accomplishments are many.

First Lt. James Hunt, stationed at Elmendorf Air Force Base in Alaska as an aircraft commander and functional test flight pilot was continually at the top of his class at the Air Force Academy and during pilot training. He graduated 87th in his class, was on the dean's list seven of eight semesters and graduated on the Commandant's list from the Academy.

During his undergraduate pilot training he received the Commander's Trophy as the outstanding graduate of Vance Air Force Base's class of 1977–78. He received the academic award, was a distinguished graduate and the outstanding graduate in both the T–37 and T–38 aircraft. During advanced training at George Air Force Base, he received the "Academic Wizard" award for the highest overall test scores. James won the "Top Gun" award for the most accurate air-to-ground deliveries and was the outstanding graduate of the class of 1978 at George Air Force Base.

First Lt. John Hunt, graduated from the Air Force Academy in 1977, was on the Commandant's list and was on the dean's list for 2 years. During his tenure

at the Academy, John lettered in varsity wrestling, was the wing champion wrestler as well as a member of the Cadet Drum and Bugle Corps. As a leader in his squadron, he held positions of drug and alcohol representative training officer, executive officer, and squadron commander.

During his undergraduate pilot training John graduated in the T–37 and T–38 aircraft and received his advanced training at George Air Force Base where he won the "Top Strafe" award in the F–4 class. Presently, he is stationed at Moody Air Force Base in Valdosta, Ga., as an aircraft commander.

Second Lt. Thomas Hunt who graduated from the Academy this past spring, is the youngest of the three brothers and perhaps the best athlete of the family. He was a 4-year letterman in gymnastics and won the "Outstanding Cadet in Physical Fitness" trophy. His volunteer work with the handicapped led to involvement in inverted competition, running on one's hands. He holds the world record in the inverted 50 yard sprint at 18.7 seconds. He will travel to Japan to compete against the Japanese national champion and he will also travel to California to appear on the "Guinness Game Show" to attempt to break his own world record.

Thomas was on the dean's list seven of eight semesters, a member of the Catholic Cadet Choir and their solo flutist while at the Air Force Academy. He is presently stationed at Wright Patterson Air Force Base in Dayton, Ohio working in the Environmental Hazards Division, where he is involved in plant and water/fish environmental research.

Mr. Speaker, I hold these gentlemen in the highest esteem, they are truly outstanding Americans who demonstrate that excellence is not a thing of the past. In these men, and those like them, I see the hope and promise of a future that is bright. Far too often we take for granted the contributions of the outstanding in all walks of life. It is certainly fitting that these young men be recognized for their contributions to the Air Force and to our country. Therefore, on behalf of all my colleagues, I take this opportunity to congratulate and commend James, John, and Thomas Hunt.●

TRIBUTE TO RAY ROBERTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. EDWARDS of California. Mr. Speaker, the announcement by my friend RAY ROBERTS that he intends to retire at the end of this Congress came as a surprise to me and I regret his decision.

It has been my privilege to serve with RAY on the House Veterans' Affairs Committee. As chairman of that committee he has provided effective and responsible leadership in behalf of our Nation's veterans. Effective in the sense that he has led the defense of every attempt to weaken the quality of care furnished our veterans in the splendid VA hospital system. Responsible in the fact that he has tried to see that the committee recommended to the Congress sound and justified support and benefits for veterans and has withstood pressures to enlarge programs the American people would not accept.

One measure of a committee's effectiveness is its staff. I commend RAY ROBERTS for the loyal, dedicated, and professional staff he has developed on the Veterans' Affairs Committee. They have been most helpful to me and to others.

I look forward to working with RAY ROBERTS during the second session of the 96th Congress. He is a man of rock-like integrity, and I appreciate the example he has set for the entire House in his role as chairman of the Veterans' Affairs Committee. When he leaves this Chamber in 1981, we shall all be the poorer.●

THE 20TH ANNIVERSARY OF CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. DERWINSKI. Mr. Speaker, the observance of the 20th Anniversary of Captive Nations Week last July and even after, was, by all reports, a success. Here and abroad, the events that took place and the themes expressed clearly showed that the captive nations idea and its vital importance to the security of the free world are understood by a broad spectrum of our citizenry and friends elsewhere. The annual event is not, as too many mistakenly think, a sort of national ritual, "to remember the captive nations;" but rather, it is and has been, a process of education for our people, both official and private, to learn who are the captive nations, particularly those within the Soviet Union and Mainland China, and what their fundamental importance is to world peace, freedom and the eventual defeat of Soviet Russian imperialism.

I wish to insert for the record some reports on the 20th anniversary observance. They are, first, the proclamation by Mayor Edward Koch of New York City; second, a commentary in America's Future, published in New Rochell, N.Y.; third, an editorial in the St. Louis Globe-Democrat on the "Plight of Captive Nations"; fourth, an editorial in the Manchester Union Leader; fifth, a report in the Indianapolis Star; sixth, an editorial in the Columbia, S.C., State, on "Americans Might Note Thanksgiving in July," and seventh, a letter in the Jackson, Miss., Daily News and an editorial in the Cleveland Press:

MAYOR PROCLAIMS WEEK OF JULY 15, 1979 AS "CAPTIVE NATIONS WEEK"

Mayor Edward I. Koch today issued a proclamation declaring the week of July 15 to 21, 1979 as "Captive Nations Week" in New York to call attention to those countries still under the rule of totalitarian systems and to reaffirm our support and sympathy for them in their efforts for freedom and liberty.

Herbert Rickman, Special Assistant to the Mayor, presented the proclamation, on behalf of the Mayor, at brief ceremonies in the Blue Room at City Hall at 1:30 P.M. today. Members of the Captive Nations Committee of New York attended the ceremony.

PROCLAMATION

The freedom of the individual is the cornerstone of the American system of government. Support for the liberty and freedom of others has always been a basic principle of our democratic society.

By unanimous vote, the Congress of the United States has established the third week of July as Captive Nations Week, inviting all our citizens to observe this week with appropriate prayer and ceremonies to express sympathy and support for the continuing aspirations of captive peoples.

New York City, where so many first experienced individual freedom after fleeing totalitarian systems, continues to maintain a special commitment to those still living in captive nations.

Now, therefore, I, Edward I. Koch, Mayor of the city of New York, do hereby proclaim the week of July 15, 1979, as "Captive Nations Week" in New York City, and call upon all our citizens to rededicate themselves to the cause of freedom for all and continue their support of peaceful efforts to liberate oppressed and subjugated people all over the world.

CAPTIVE NATIONS WEEK

An act of Congress passed 20 years ago found expression again this July, much to the anger of the Kremlin, the annoyance of the White House, and the gratitude of the more than one billion people of the world's Captive Nations. It's called Public Law 86–90 and it has required every president since Dwight Eisenhower to proclaim the third week of each July "Captive Nations Week" and to issue a resolution renewing America's support for the principle of universal human freedom.

The first Captive Nations Week proclamation, issued by President Eisenhower in 1959, forthrightly called for the freedom and independence of the 26 countries that had been taken over by the Communists since the beginning of the Soviet empire in 1920. But in subsequent years, as the illusions of East-West détente took hold, the annual Captive Nations resolutions have been watered down to brief, meaningless doubletalk. On more than one occasion, the customary presidential proclamation was literally tossed over the White House transom at the last moment in hopes it would not "upset" the Kremlin.

Fortunately, there remain those in America who are determined that the Captive Nations and their oppressed peoples will not be forgotten. Foremost among these stalwarts is Dr. Lev Dobriansky, a professor of international relations at Georgetown University and for years the Chairman of Captive Nations Week.

Dr. Dobriansky, who is of Ukranian extraction, also is the chief keeper of the "Captive Nations List," which enumerates the ever-growing roster of countries that have disappeared behind the Iron Curtain of Communism. The list is, as Dr. Dobriansky points out, "realistically open-ended. . . . It shows in scoreboard fashion the incredible strides made by Moscow in the span of only three generations. . . . Significantly, much of this was accomplished long before it became the center of a so-called superpower contesting that of the United States."

The Captive Nations List is more than a mere scoreboard, however. "It serves," says Dr. Dobriansky, "as a constant reminder of the overall trends of Soviet Russian imperialism and Red totalitarianism since their inception in the 1918–20 period. Always banking on memory lapses—or no memory at all—Moscow and its offspring find this utility most disconcerting. Also, one would have to be quite obtuse to miss the corollary message of the Captive Nations List, namely, the fundamental illegitimacy of all Red regimes, conceived and built on conquest, Moscow-supported subversion, terrorism and a methodical exploitation of nations and peoples for what is spuriously called 'the final victory of Communism.'"

[From St. Louis (Mo.) Globe-Democrat, July 14, 1979]

PLIGHT OF CAPTIVE NATIONS

In the two decades since Congress designated the third week of July as Captive Nations Week, the number of enslaved countries has increased.

This year the plight of imprisoned nations is underscored dramatically by the bitter fate that is befalling the boat people as they flee the tyranny of Indochina to live amid freedom or die attempting to reach that goal.

But the world, for the most part, does not want to hear their cries. Instead, it turns its back on their problems and brushes aside the refugees' pleas.

Over the years the fervor and the dedication that once marked Captive Nations Week has been diminishing in the United States. In the first proclamation, issued in 1959 by President Eisenhower, the words were barbed in denunciation of the imperialism of Soviet communism and uncompromising on national independence and individual liberties.

Time has eroded the message carried in succeeding proclamations. In 1977 no action on issuing one was taken by the White House until it was besieged by people whose original homelands had been overrun.

The espousal of freedom for all should never be a source of embarrassment. But this year it may become just that to the administration and supporters of SALT II as the proposed treaty is debated in the Senate. Human rights may be a popular issue but not at a moment like this, they seem to believe.

This nation has strayed far from the words and spirit of the 1959 law. Of the 22 enslaved countries mentioned in the legislation, all but four of them were behind the Iron Curtain. Making an issue of the matter at this time might not sit well with the Kremlin and also upset the campaign to ratify the treaty.

Is detente really on a solid foundation when Uncle Sam is required to walk on tiptoes so as not to upset the Soviet tyrants? This approach is not new. The United States has been walking softly and speaking likewise for years. The same policy was followed by President Ford when he declined to invite dissident Alexander Solzhenitsyn to the White House.

This weak-kneed attitude on the part of U.S. leaders should make one suspicious of the benefits of SALT II to this nation. Or is the U.S. permitting itself to be led down the primrose path to eventual subjugation by the Soviet Union?

It is time to turn around and renew the resolve of 20 years ago. One does not have to kowtow to the Reds. Pope John Paul II proved that point during his recent encounter with the Communists in Eastern Europe. A similar approach by the United States would reap greater benefits for this nation and serve as a firmer and more effective voice in support of the downtrodden people of captive nations.

[From Manchester Union Leader, July 13, 1979]

CAPTIVE NATIONS WEEK 1979

(By Paul H. Tracy, Editor-in-Chief)

We are on the eve of a 20th anniversary which the present occupant of the White House apparently wishes would just fade away.

President Carter beats his breast as a champion of human rights, but what about Captive Nations Week?

You don't hear Carter issuing any proclamation calling attention to our failure to act as the Soviets smashed the Hungarian counter-revolution in 1956. In case you have forgotten there now is a total of 30 captive nations in the world.

Eisenhower proclaimed the first Captive Nations Week in 1959. In 1978 Carter was forced to bow to pressure and four days into the week issued a weakly worded proclamation.

Carter's statement did not include one reference to communism.

He almost gained the unenviable distinction of being the first president since Ike not to declare his support of the 1.5 billion enslaved people.

Not being equipped with ESP, we have no idea if President Carter will take official note of Captive Nations Week, July 15–21. But if he does you can be sure it will be of the mealy-mouth variety!

[From Indianapolis, Star, June 24, 1979]

CARTER SETS WEEK FOR CAPTIVE STATES

WASHINGTON (AP).—President Carter on Friday declared the third week in July as Captive Nations Week, urging Americans "to reaffirm our admiration for all the men and women around the world who are committed to the cause of freedom."

He did not mention any specific nations.

[From Columbia (S.C.) State, July 13, 1979]

AMERICANS MIGHT NOTE THANKSGIVING IN JULY

It is easy enough for Americans to feel sorry for themselves these days, what with inflation, the high cost of living, energy shortages, governmental regulation and other assorted ills—real or fancied.

But such lamentations need to be balanced by an appreciation of the blessings—both natural and contrived—which characterize American life. It seems particularly fitting that all of us should pause for such a reappraisal at this particular time, which falls within that period officially designated by Congress as "Captive Nations Week."

The thrust of that action, and of the resulting Presidential proclamations which it triggered, was aimed at calling national and international attention to the plight of those countries which have fallen captive to communist domination. Regrettably, the list of such nations has increased rather than diminished since their "captivity" first was proclaimed back in 1959.

The roster today extends far beyond the confines of Eastern Europe and to lands as far distant as Cuba, North Korea, Vietnam and elsewhere on the continents of Asia, Africa and South America.

But freedom from communism is not the only notable advantage enjoyed by citizens of the United States. Our good fortune is in sharp contrast with the misery suffered by millions of persons across the fact of the earth—from Iran to Cambodia.

Vast areas of the undeveloped world are inhabited by men, women and children who are chronically without adequate food, shelter, or medical care.

And hundreds of thousands of Southeast Asians who were sustaining themselves in relative peace and security now are being forced—often at considerable expense to themselves—to seek safe haven elsewhere. The average American has no concept of the trauma which goes with the experience of being driven from one's home, crowded upon overloaded and under-supplied boats, and cast adrift upon waters controlled by increasingly hostile governments.

But there are refugees elsewhere—in Africa, in the Middle East, and even in much of ostensibly "civilized" Europe.

Furthermore, the ravages of war here and there about the globe are creating additional refugee problems month after month, to say nothing of the lives which are snuffed out in the course of fighting.

Americans who take the trouble to lift their eyes beyond the immediate horizon, depressing as the surroundings might seem at the moment, can find ample cause for genuine rejoicing. True, there is justification for hoping that our own situation will improve—politically, economically, and socially. But we should never lose sight of the blessings visited upon us—often beyond our just desserts.

Captive Nations Week, coming as it does in 1979 amidst a plethora of worldwide miseries, should prompt Americans to think in terms of another event on the United States calendar—Thanksgiving. In all truth, we have reason to observe that particular occasion every day of the year.

CAPTIVE NATIONS' WEEK MEANINGLESS

Editor, Daily News:

In 1959 the Congress passed the Public Law 86–90 or Captive Nations' Proclamation declaring the third week of July the Captive Nations' Week. In fact, the Captive Nations' Week has become almost meaningless. In 1977 President Jimmy Carter issued the Captive Nations' Proclamation only after ethnic groups began calling the White House and demanding it. It is almost needless to say that the Captive Nations' Proclamation of President Carter in 1977, 1978 and 1979 failed to list any captive nations or name the Soviet Union as the only privileged colonial empire, in spite of the fact that almost all former colonial peoples of Africa and Asia have obtained thier independence.

Aleksandr I. Solzhenitsyn and Andrei D. Sakharov have repeatedly asked the Russian Communist leaders to dissolve the Soviet Union of the non-Russian Communist republics and to do away with the Russian control of Eastern Europe in general.

Therefore, persons who realize the danger of Communism should urge the Congress to encourage the explosive forces of nationalism of the Ukranians, Georgians, Armenians, Lithuanians, Latvians, Estonians, Poles, East Germans, Czechs, Hungarians, and other Eastern European peoples. The Congress should be likewise urged to oppose the selling of our machinery and wheat to the Soviet Union and to refrain from making any concessions of credit to Russia. The militarism and imperialism for the only colonial empire should be weakened by imposing strong economic sanctions against the Soviet Union.

Sincerely yours,

DR. ALEXANDER V. BERKIS.

CAPTIVE NATION WEEK PROCLAIMED BY CARTER

Under an act of Congress passed on July 17, 1959, this week has been proclaimed by President Carter as Captive Nations Week throughout the country.

Joseph V. Bosilievic, president of the local Captive Nations Committee, said a request had been sent to all churches that special prayers be said for people living in iron curtain countries.

At St. John's Cathedral, these prayers will be offered on Saturday evening and Sunday. The Good Friday Cross will be placed into

the sanctuary with a crown of thorns and a vigil light.

This year, Pope John Paul II asked that there be prayers during Captive Nations Week "So that the freedom of children of God may be enjoyed by all brothers and sisters throughout the world." ●

MEMORIES, MEMORIES

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. MICHEL. Mr. Speaker, do you remember about 8 or 9 years ago when hundreds of thousands of self-proclaimed idealistic American youths marched down Pennsylvania Avenue, waving North Vietnamese flags, chanting "Ho-Ho-Ho-Chi-Minh" and telling us that nothing could be worse than the Ky-Thieu government in South Vietnam?

And do you remember those television panel discussions at the same time when Southeast Asia experts chuckled at the suggestion that if the Communists triumphed in Vietnam a domino effect would result?

Well, in case you forgot, I wish to remind you that recent reports state that it is the same bunch of thugs in Hanoi, honored by the marchers, who are responsible for stopping food from coming to the starving Cambodians. And I want to remind you that the Carter administration, which contains at many levels those who sneered at the domino theory, is speeding arms to Thailand for fear the Vietnamese Communist invasion of Cambodia will spread.

At this point I wish to include in the RECORD, "U.S., Fearing a Spread of Vietnam Invasion, Speeds Arms to Thais" and "Hanoi Is Said to Place Politics Before Lives of Cambodians" from the New York Times, November 2, 1979.

U.S., FEARING A SPREAD OF VIETNAM INVASION, SPEEDS ARMS TO THAIS

WASHINGTON, November 1.—The senior spokesman for the Defense Department said today that the United States was "concerned" that the Vietnamese invasion of Cambodia might spread to other countries, and has accelerated deliveries of weapons to Thailand, which borders Cambodia.

The spokesman, Thomas B. Ross, told reporters that no one in the department was publicly predicting a Vietnamese thrust into Thailand. But other officials here said that Vietnamese raids across the border were likely because Cambodian forces had taken sanctuary there.

Mr. Ross said the United States sped up shipments of weapons over the last few months in response to a request from the Thai Government, as thousands of Cambodian refugees poured across the border. He said the shipments included 15 medium tanks, some armored personnel carriers, two types of antitank missiles, mortars, machine guns, rifles and ammunition. While he did not give numbers beyond the tanks, other officials said the shipment, mostly by air, had been large.

Mr. Ross said that all the weapons had been sold rather than given to Thailand, which bought $400 million worth of American weapons in the fiscal year that ended Sept. 30. He said there were no plans to return American military advisers to Thailand, where they operated until a year after the Communist takeover of Vietnam in 1975.

Mr. Ross also said that shipments of arms to neighboring Malaysia and to the Philippines had gone according to schedule and had not been accelerated. Malaysia bought $34.8 million worth and the Philippines $15.7 million worth in the last fiscal year.

HANOI IS SAID TO PLACE POLITICS BEFORE LIVES OF CAMBODIANS

(By Henry Kamm)

BANGKOK, THAILAND, November 1.—The Cambodian Government has not only rejected a proposal by three American Senators to receive food for its starving people by road from Thailand, but also continues to delay open and full acceptance of a relief program by two international agencies that are acting in effect on behalf of the Western world.

Asian and Western officials can find only one explanation for Phnom Penh's position, which will result in the deaths of great numbers of Cambodians whose lives might be saved by a more receptive attitude. It is that political and military concerns are viewed with such urgency that they override such matters as the life or death of Cambodians.

The officials use the words Phnom Penh and Hanoi interchangeably because they share a general belief, buttressed by observations of visitors to the Cambodian capital, that Vietnam's role goes beyond the usual master-client relationship to approach full power of decision in anything of importance.

The political and military issues that dominate Vietnamese decisions are the continued activity of forces loyal to the deposed Prime Minister, Pol Pot; the appearance along Cambodia's western border of military units opposed to the Vietnamese occupation but not linked to Mr. Pol Pot, and Hanoi's failure to gain international acceptance of its actions in Cambodia and recognition for the regime of President Heng Samrin.

All these concerns are focused on international relief efforts along the Thai-Cambodian border. To Hanoi and Phnom Penh, the efforts challenge their claim that the Heng Samrin Government is legitimate and controls all of Cambodia, because the aid is given directly to Cambodians and not to the Phnom Penh authorities. Moreover, such assistance goes to Cambodians living under the control of Mr. Pol Pot and other anti-Vietnamese factions and thus helps to keep their military forces in the field.

What the world views as humanitarian aid without political strings is regarded by Hanoi and its dependents as a political fact that is harmful to them and helpful to their enemies. Conversely, what the world, as exemplified by the Senators who visited Phnom Penh last week to offer huge food shipments by road, considers an inhuman sacrifice of countless Cambodians is represented by Hanoi as an intolerable interference in the affairs of its client government. The three Senators were Jim Sasser of Tennessee and Max Baucus of Montana, both Democrats, and John C. Danforth, Republican of Missouri.

The International Committee of the Red Cross and the United Nations Children's Fund, which have been negotiating in Phnom Penh and Hanoi for months for acceptance of a large-scale relief program, believe that the principal obstacle is the opposition of Hanoi and Phnom Penh to the agencies' role in feeding and giving medical care to Cambodians not under Vietnamese control.

RELIEF OFFICIALS ARE WARY

In order not to jeopardize the limited aid that Cambodia allows the two groups to deliver by air to Phnom Penh and by sea to Kompong Som, Red Cross officials here do not disclose how much food is being delivered to the border. The International Red Cross coordinates all border relief operations, in which charitable groups from many countries participate.

The hard Vietnamese attitude also leads the two organizations to accept highly restrictive conditions on their operations within Cambodia. The agencies communicate with their 11 representatives, who were admitted to Cambodia after difficult negotiations, by commercial telegrams sent via Vietnam, which take two to three days each way. The radio that the Red Cross installed on one of its Phnom Penh flights to help communications was impounded.

Informed sources report that the international officials have only limited use of the vehicles they imported to monitor aid distribution, and that they are limited in the details of the work they are allowed to communicate to their organizations.

The Cambodian authorities have banned the agencies from allowing journalists to accompany flights to report on the relief operations.

FULL-SCALE AID EFFORT OPPOSED

But the principal restriction on the relief effort, according to informed officials, is the unwillingness of Hanoi and Phnom Penh to agree to a full-scale program. Experts of the two organizations have drawn up a list of minimal food needs that amounts to 165,000 tons over six months.

The Phnom Penh authorities have refused to commit themselves to accepting this. At the moment, a transport plane flies a daily cargo of 15 tons to Phnom Penh, but there is never any assurance that the next day's flight will be admitted.

Vietnamese and Cambodian officials also allow some relief shipments by sea. But the combined air and sea total since shipments began late in August is about 2,500 tons, which includes trucks, other vehicles, fuel and unloading equipment.●

WE'LL TAKE INEFFICIENCY

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. GOLDWATER. Mr. Speaker, the October 22 edition of the Camarillo Daily News, of Camarillo, Calif., has a succinct and perceptive message about the substance of this Nation that I would like to share with my colleagues:

The ties that bind the foreign policy of American presidents continue to baffle diplomats from other nations.

A federal court ruling that President Carter could not end this nation's mutual defense pact with Taiwan without congressional approval has left diplomats all over the world shaking their heads.

As upsetting as the matter might be to the diplomatic community, it points out one of the most important safeguards to freedom in our system of government.

There are few, if any, other nations in the world where a judge could tell the chief of state he acted improperly in a matter as vital as foreign affairs.

But that's one reason there are no nations in the world where we would rather live.

The ability of a judge to tell a president, no, you can't do that without Congressional approval, or of Congress to tell a president, no you can't do that, is one of the cornerstones upon which this great nation's government was built.

Our system of checks and balances can be awkward in a world where most heads of state can dictate foreign policy unilaterally. It's an inefficient system compared to most. Unlike Mussolini's Italy, our government trains, literal and figurative, rarely run on time.

But given the choice between inefficient government in a free society or an efficient one without freedom, we will opt for inefficiency every time.●

PENSION PORTABILITY

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. PATTERSON. Mr. Speaker, a fundamental issue to which I draw the attention of my colleagues today is the need for pension portability. A number of studies have been completed in the recent past emphasizing some of the problems of vesting requirements and the pension needs of a large segment of the work force.

The trend toward shorter vesting periods provides some relief. Yet other steps must be taken to insure that workers will have the ability to save adequately for their retirement years.

The situation we face is that: First, our society is becoming increasingly mobile; second, our senior citizen population is expanding because of lower birth rates and longer life expectancies; third, the social security fund faces long-range problems despite efforts during the last Congress to protect its solvency; fourth, workers and employers continue to complain of the ever-increasing rates of social security contributions deducted from wages; fifth, inflation is running at an annual rate of 13.2 percent now and presents a serious threat to consumer pocketbooks; and sixth, the combination of these factors and the recognition by policymakers of the need to provide new incentives for saving calls for pension system reforms.

The bill that I am introducing would permit individuals in the private and public sectors to contribute to individual retirement accounts (IRA's). The tax-deductible contribution to the IRA for a taxable year would be the lesser of 15 percent of annual income or $1,500 ($1,750 in the case of an eligible individual with a nonworking spouse). Once the employee becomes fully vested, contributions to the IRA would be limited to the lesser of 5 percent of annual income or $500.

Under present law, employer pension plan participants in the public and private sectors are prohibited from making tax-deductible contributions to IRA's. Allowing individuals on a voluntary basis to contribute to an IRA, however, would be a constructive step in the long run. Initially, we may expect Treasury revenues to decline. But more importantly, what are the probable effects on retirement income security? It is my view that granting individuals the ability to make independent decisions on whether or not to contribute a portion of earnings to an IRA will create another option for retirement savings. As employees are given greater opportunities to save, in the future we may be able to relieve some of the burdens on the social security fund. Additionally, tax-deductible contributions to IRA's will enable individuals to make some adjustments in order to compensate for negative earnings from regular passbook savings accounts due to inflation.

There have been various recommendations on achieving pension portability. The approach I suggest is a simple one, involving relatively low costs of implementation. It is a plan deserving the close attention of the House of Representatives as we assess and attempt to deal with the economic and social needs of the next decade.●

WELCOME TO STUDENTS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. LONG of Maryland. I extend a warm welcome to 90 students, parents, and teachers from the Dundalk Senior High School, Md. My friends and constituents are visiting the Capitol today in connection with a course on "Contemporary America." In what promises to be a memorable day, they will tour the Congress, the Bureau of Engraving and Printing, and the Air and Space Museum. I value this opportunity to meet with the students and faculty of Dundalk Senior High School.

The faculty members are: Robert McCluskey and Sandra Feigley.

The accompanying parent is: Mrs. Betty Eckes.

The students are:

Allen, Jeff; Arkins, Luanne; Arnold, Ann; Asten, James; Bagley, Aaron; Beachum, Don; Bienert, Jeff; Breedlove, Juan; Brice, Tanya; Britt, Sherry; Brown, Gordon; Brown, Muriel; Bullock, Patrica; Cain, Duane; Cifarelli, Rhonda; Damico, Betsy; Danoski, Lora; Denny, Mary; Dickey, Mark; Douglas, Erma; Doyle, Kimberly; Eckes, Cathy; Edmondson, Angel; and Edwards, Brenda.

Also Emmert, Debra; Enders, Matt; Ensinger, Bill; Fulghum, Rex; Gilbert, Doris; Hackman, Kathy; Hagy, Ty; Heier, James; Hronowski, Karen; Jablonski, Carole; Jablonski, Cathy; Jennings, Jan; Jones, John; Jones, Mary; Kalskopf, John; Ki, Moon; Kibler, Bill; Khoerlein, Bob; Krajewski, Claire; and Krakowiak, Bill.

Also Kral, Christina; Leary, Mike; Lupton, Kris; Lyons, Ray; Lyons, Roger; McVey, Dana; Minnick, Margaret; Mondie, Derrick; Morrison, Yvonne; Mullaney, Brenda; Nelson, Rick; Morton, Monica; Oliver, Michelle; Parsons, Patricia; Perrot, Thomas; Pfeifer, Ray; Pope, Ray; Pospisil, Jim; Price, Beth; and Ravenscroft, Patrica.

Also Rosenthal, Carol; Roupe, Charles; Schultz, Cheryle; Seivers, Loretta; Siemp, Robert; Tate, Clinton; Tate, Shari; Thomas, Denise; Tingler, Dave; Vencill, Shawn; Walton, Kim; Watkins, Renaldo; Weaver Dollie; Wedderien, Mike; White, Joe; Wickes, Mike; Wilkins, Charles; Williams, Emory; Wilson, Joyce; Wright, Jackie; Zomolda, Robin; Bragg, Scott; and Michaels, Glen.●

TITLE XI OF THE EDUCATION AMENDMENTS

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BETHUNE. Mr. Speaker, title XI of the education amendments is the substance of a bill I cosponsored earlier this year which enables urban universities to apply their diverse talents and facilities to help solve problems that are unique to individual communities.

Problems of our Nation's metropolitan areas cut across traditional academic lines, and across city and county limits. For the most part, Federal urban programs lack the flexibility to tackle these problems on a one-on-one basis, and, therefore, are unable to accommodate the unique differences that exist in each region of our country. The distinct needs of a city like Little Rock cannot be met by one institution alone or by any single group, be it Federal, State or local. A vehicle is needed to properly meld and apply the skills of people in Government, industry, business, and academic research to programs that effectively address local, high priority urban needs. This legislation provides that vehicle, and more. It encourages universities and communities to become involved partners in developing cooperative urban projects in much the same way land grant colleges provide support and assistance to rural America. Funds authorized by this title act only as a catalyst to bring all these factions together to help cities help themselves.

Since coming to Congress, I have had occasion to explore the wider utilization of university resources with members of the academic community back home. Dr. G. Robert Ross, chancellor of the University of Arkansas at Little Rock and a strong advocate of this title, has illustrated how our cities can be better served through a cooperative partnership between universities and municipalities on projects aimed at meeting local needs. Educators and city officials alike see enormous value in being able to tap the available resources of universities—their faculties, their students, their research facilities—to achieve this end.

Title XI establishes a well-balanced system of project grants designed to stimulate and provide incentives for multilevel participation in and support of local university-municipal cooperation on urban problems. Specifically, this title authorizes a 5-year grant program and an initial $50 million appropriation to get the program underway the first of the 1981 fiscal year. In order to qualify, universities must be located in, and draw a substantial number of their students from, metropolitan areas of at least 500,000 persons. Since no urban area in Arkansas is that large, the title instructs the Education Secretary to designate at least one urban area in States like Arkansas within which universities may apply for grants. By no means is this legislation intended to interfere with the

work of the Department of Agriculture and the State cooperative-extension services under the Morrill, Hatch and Smith-Lever Acts, which established the land grant university program. On the contrary, both the Education and Agriculture Departments are urged to work together to prevent any unnecessary duplication of effort. The title also insures broad geographic representation by giving small urban communities a nearby institution to turn to for assistance. Through consortium arrangements, colleges and universities in those smaller urban areas could participate in service programs for their own communities.

This legislation represents real freedom of choice for municipalities in tackling local problems head on, and I commend my colleagues on the Education Committee for including this worthy program in H.R. 5192. I extend special thanks to Dr. Ross, who recognized the value of cooperation between universities and communities, and enlisted my support in getting the urban grant university program off the drawing board and into action.

I believe this program is the key to urban growth and local home rule. The land-grant colleges have been an excellent example in our rural areas. Cooperative efforts like those called for in this title will encourage ideas that have worked in one city to be tried in others. I think my colleagues would agree that avoiding problems is the best way to go. The time to explore the capacity of an urban-university partnership has come, and I urge my colleagues to unanimously approve this bill.●

DAY OF SORROW

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. McDONALD. Mr. Speaker, today is the 62d anniversary of the Bolshevik revolution in the Soviet Union. A friend of mine gave me a suggested resolution that might be appropriate on this date as a fitting tribute to the biggest arms spender in the world, and also to the nation we can all thank for the present troubles in Cambodia, Vietnam, Laos, Cuba, and elsewhere. The resolution follows for the edification of my colleagues:

RESOLUTION

Whereas, November 7th, 1979 will be commemorated by the leaders of the Soviet Union as the 62d anniversary of the Bolshevik "revolution"; and

Whereas, That "revolution" was nothing but an illegal overthrow of the elected democratic Provisional government of Russia by a small minority political party; and

Whereas, Because of the appearance thus of the first Communist state, born in blood, ruled by a totalitarian regime and characterized by the denial of basic rights and the suppression of opposition; and

Whereas, The ideology of Communism cost Russia, its first victim, and worldwide tens of millions dead and continues to spread around the globe causing further suffering and death;

Now, therefore, I do hereby urge our citizens to become aware of the dangers of Communism and declare November 7, 1979, the 62d anniversary of the Bloshevik usurpation of power, as a "Day of Sorrow".●

DEAUTHORIZING THE INITIAL STAGE OF THE OAHE UNIT

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. BEDELL. Mr. Speaker, today I am introducing legislation that would deauthorize the initial stage Oahe unit of the Missouri River Basin project in South Dakota. I have decided to take this action, which I know is going to be controversial, only after having carefully weighed all of the arguments on both sides. I sincerely believe that the introduction of this measure will ultimately prove to be in the best interests of the Nation's taxpayers as well as the citizens of South Dakota and the rest of the water and power users in the Pick-Sloan system.

Time and space limitations prevent the exhaustive explanation of the circumstances surrounding the need for this deauthorization legislation that its importance warrants. However, I would like to identify the basic elements of the debate, as well as explain how the bill as drafted would address the legitimate concerns of the State of South Dakota, which has justifiably come to expect Federal assistance in meeting its water needs as compensation for past acquisition of land and other resources for the construction of the Missouri River impoundments under the Pick-Sloan plan.

I would like to point out from the outset, Mr. Speaker, that the lines of debate on the deauthorization of Oahe have been clearly drawn as a result of years of intensive scrutiny by interested citizens of the State of South Dakota. Former Senator James Abourezk, who introduced the first deauthorization measure in July of 1978, noted that:

> One would have to search very hard to find any major elected official in South Dakota who believes that the Oahe project, as designed, makes good sense for the State. * * * It is just not a good bargain, even at the highly subsidized rates of Federal water projects. In fact, hundreds of local farmers have come to Washington to ask the Congress and the Interior Department not to build the project. It is rare, indeed, that the supposed beneficiaries of a project come to the Government and say "Don't spend your money on us!"

Even the current Governor of South Dakota, Hon. William J. Janklow—who opposes deauthorization—indicated in a letter to me on October 5 of this year, that:

> * * * The people of South Dakota do not want the original (Oahe) project, and it was partially citizen dislike of the original project that cause President Carter to include Oahe on his "hit list."

Clearly, then, the citizens and elected officials of the State of South Dakota are not supporting the Oahe project as authorized.

Why, then, is there so much controversy surrounding the introduction of legislation to deauthorize a project that seems to be neither in the best interests of the Nation's taxpayers nor the citizens of the State in which the project is to be built? The answer to this question lies in the differing views held by the principals of the ultimate effect of deauthorization. Its proponents claim that it would not only serve to rid the nation of the threat of spending over $500 million for a project that nobody wants, but that it would also break the logjam that presently exists with regard to the identification and development of an alternative water project in South Dakota that is deserving of Federal assistance and that would meet South Dakota's legitimate water needs. The opponents of deauthorization say that such a move would have the effect of forfeiting South Dakota's rights to Federal assistance and that the authorization should be retained as a bargaining device.

Testimony submitted to Congress during appropriations hearings during the past several years and other related public documentation indicates that any project that could be constructed pursuant to the existing authorization would encounter most of the same problems with respect to local opposition that the present proposal now faces. Because of existing contract relationships and obligations, it is questionable whether the existing authorization could be used as the foundation for any similar form of development. In addition, there is reason to believe that the Interior Department and other officials within the administration will not begin to seriously consider alternative plans put forward by the State until deauthorization has occurred.

Mr. Speaker, I would like to briefly highlight the factors which figured most prominently in my decision to proceed with deauthorization legislation.

First, the Oahe project as presently designed fails to meet even the most liberally constructed cost/benefit analysis. On Tuesday, June 14, 1977, I took the floor of the House to register my support for the Derrick-Conte amendment to the fiscal year 1978 public works appropriations bill which would have deleted the funds for 17 projects which were on the President's hit list, one of which was Oahe. At that time, I noted that:

> The Government intends to acquire 110,000 acres of land on which to build the maze of canals and storage pools designed to irrigate some 190,000 acres. The land to be irrigated is now estimated to be worth about $300 an acre and after irrigation will be worth almost $1,100 an acre. The $800-an-acre increase in the value of land will cost the Government $2,323 an acre. Approximately 600 farms will benefit at an estimated cost of $735,655 per farm.

I did not believe then, and I certainly do not believe now, that the benefits justify the cost to the national taxpayer.

Second, the pendulum of public opinion in South Dakota has clearly swung against Oahe. Certainly, there are few, if any, elected officials in South Dakota itself who would say that full funding for Oahe is warranted. For instance, the Spink County Irrigation District Board of Directors, which represents two-thirds

of the land area that would benefit from Oahe unit irrigation has formally called for the project's deauthorization. Further indication of the erosion of support within the State for Oahe comes from the composition of the sole legal contracting entity for Oahe, the Oahe Conservancy Subdistrict. In 1972, its board was in overwhelming support of the project; today, its directors have formally called for deauthorization. It is hard to justify spending hundreds of millions of taxpayer dollars for a project no longer supported by the future beneficiaries.

Third, contrary to the claims of those who predict increased power rates to consumers on the Pick-Sloan system, the measure I am introducing here today will actually reduce rates, while saving the taxpayers hundreds of millions of dollars. This legislation would actually result in cost savings from several different perspectives.

First of all, those who contend that deauthorization would result in increased power rates do so on the basis of speculation on the effects of the Bureau of Reclamation's unusual accounting system. Under present law, costs now attributed to the Oahe irrigation system are deferred without interest until payment for the first phase of the project is completed. My bill would mandate retention of this deferral and would attribute all costs incurred so far—some $40 million—to the general fund of the Treasury and not to the Pick-Sloan Missouri Basin program. This would result in large savings to the Nation's taxpayers, since payment on most of the irrigation project is deferred without interest until payment is completed on the first project, which means that the taxpayer would have to put up some $450 million and pay interest on this amount until the first phase payment is completed—well into the 21st century. It can be argued that, with current interest costs, this interest savings to taxpayers brought about by the legislation would actually exceed the $450 million savings on principal.

Under my bill, all costs that have been assigned to the initial stage Oahe unit which have been deferred without interest will be retained as interest free costs of the Pick-Sloan Missouri Basin program. Consequently, power users would not be penalized by increased rates as a result of this deauthorization legislation. On the contrary, in light of the fact that power users are required to pay nearly 90 percent of the cost of the proposed irrigation project—approximately $450 million—this legislation would significantly reduce long-term costs to power users.

Fourth, the legislation I am introducing recognizes the legitimate claims that South Dakota has to Federal assistance with regard to development of needed water projects in that State. While I do not believe that deauthorization of the Oahe unit plan would necessarily foreclose the commitment embodied in the 1944 Flood Control Act that some form of Federal assistance is due the State of South Dakota for water projects that meet both the criteria of cost/benefit viability and local acceptance, I have included a final section in the bill which clearly expresses it to be the sense of Congress that nothing contained in the act should interfere with or negate that commitment. I want to stress again that my objective is not to deprive South Dakota of water development assistance that it is rightfully entitled to by virtue of its past actions. Rather, it is to remove what every one will agree is a bad project so that the State of South Dakota can get on with the complicated, but necessary, task of identifying alternatives to Oahe, and to assure that the Nation's taxpayers will not have to pay for a bad bargain.

Mr. Speaker, I feel that the debate that is sure to engulf the introduction of this bill will be a significant one. It will be significant not just because of the very legitimate procedural and political questions that will be raised by South Dakotans interested in receiving Federal assistance for their water needs, but also because of the implications it has for the way in which Congress has traditionally approached Federal project funding. I have already been severely taken to task by those in South Dakota who express indignation that a Congressman from another district or State would presume to "dabble" in their State's affairs. I recognize that I will hear much more of that type of rhetoric in the weeks to come. I am compelled to respond to some of those elected officials in South Dakota who have warned that that State's delegation may feel forced to "take a hard look at Federal spending for water projects in Iowa" by saying that I would welcome that sort of assistance. The people of my district do not want to see taxpayer dollars wasted regardless of where the waste may occur.

I am fully convinced that the only way that we, in Government—whether it be Federal, State, or local—are going to successfully come to grips with wasteful and excessive spending, and the devastating inflation it engenders, is for us all to put away the notion that water projects or any other type of Federal assistance, are sacrosanct. When millions of Federal taxpayer dollars are at stake, it does not matter in which State or district the project lies: not only does the Nation and its representatives have the right, they have the duty, to question its worth and appropriateness.

Finally, Mr. Speaker, I wish to say that I have nothing but the highest regard for the State of South Dakota, its people, and its elected officials. I would sincerely hope that, regardless of possible differences of opinions on this and other issues, we can continue to work together in solving problems of mutual interest to our States and the Nation.

Mr. Speaker, I ask that the legislation in its entirety be entered in the RECORD at the close of these remarks. Thank you.

H.R. —

A bill to deauthorize the construction of the irrigation project for the Oahe unit, James division, Missouri River Basin project in South Dakota, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the construction, operation, and maintenance by the Secretary of the Interior (hereinafter referred to as the "Secretary") of the initial stage Oahe unit, James division, Missouri River Basin project, South Dakota, authorized by the Acts of August 3, 1968 (Public Law 90-453; 82 Stat. 624), and October 27, 1972 (Public Law 92-577; 86 Stat. 1265), for the purpose of furnishing a surface irrigation water supply and for other purposes, is hereby deauthorized and is no longer an integral physical or financial part of the comprehensive Pick-Sloan Missouri Basin Program that was approved by section 9 of the Act of December 22, 1944 (58 Stat. 891), as amended and supplemented.

SEC. 2. Within 3 months following the date of enactment of this Act, the Secretary shall submit to the Congress his recommendations for the disposition of those Oahe unit works, facilities, and related properties that have been acquired or constructed. Such recommendations shall be developed by the Secretary in cooperation with the local contracting entity Oahe Conservancy Subdistrict in consultation with other Federal agencies and the general public. The Secretary is hereby authorized to implement such recommendations, except that no appropriation shall be used for implementing such recommendations for disposition of the Oahe unit works, facilities, and related properties prior to 6 calendar days from the date on which the Secretary's recommendations have been submitted to the Congress.

SEC. 3. Those funds previously expended pursuant to authorities contained in the Acts of August 3, 1968 (Public Law 90-453; 82 Stat. 624), and October 27, 1972 (Public Law 92-577, 86 Stat. 1265), shall be charged against the general fund of the Treasury of the United States and shall not be charged against the Pick-Sloan Missouri Basin Program, except that all costs assigned to the initial stage Oahe unit which are deferred without interest shall be retained as interest free costs of the Pick-Sloan Missouri River Basin Program.

SEC. 4. Those revenues derived from the disposition, under the authority of this Act, of Oahe unit works, facilities, and related properties shall be deposited to the general fund of the Treasury of the United States. Such properties shall not be disposed of at less than fair market value at the time of disposition, as determined by the Secretary. In such disposition, the Secretary is authorized, notwithstanding provisions of law to the contrary, to give first right of refusal for the purchase of such properties to previous owners of acquired property or their heirs, as the Secretary may determine.

SEC. 5. This Act is declared to be a supplement to the Reclamation Act of June 17, 1902 (32 Stat. 388), and acts amendatory and supplementary thereto, which shall govern the implementation of this Act except as otherwise provided herein.

SEC. 6. There are authorized to be appropriated such sums as may be required to carry out the provisions of this Act for fiscal years beginning after September 30, 1980.

SEC. 7. Nothing contained in this Act is intended to interfere with the rights of the State of South Dakota as they pertain to the identification and development of alternative water development projects. It is the sense of Congress that the United States should honor its commitments to the State of South Dakota for financial and technical support of water development as compensation for losses incurred as a result of earlier commitments of resources for the Pick-Sloan Missouri River Basin Development in South Dakota.●

U.S.S. "OLIVER HAZARD PERRY"

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. ZABLOCKI. Mr. Speaker, recently the new Navy vessel, the U.S.S. *Oliver Hazard Perry*, visited the Port of Milwaukee, which is located within the congressional district which I have the honor of representing.

The 445-foot guided missile frigate is expected to be the prototype for about 50 other frigates if it tests out successfully. Its mission will be to escort merchant shipping through hostile waters in the event of war.

Mr. Speaker, Milwaukee firms played a significant role in the development of this magnificent ship. Litton Industries' Louis Allen Division, of Milwaukee, Wis., designed and manufactured the secondary propulsion system motors and other power systems. Because of the innovative propulsion system, the docking of the vessel is greatly simplified.

In addition, the Congoleum Corp. and Allen-Bradley of Milwaukee were involved in the manufacture of this ship.

Mr. Speaker, the U.S.S. *Oliver Hazard Perry* is an innovative seagoing vessel which will greatly enhance the U.S. Navy. I am proud to represent so many citizens who had a part in its development.●

LEGALIZED FRAUD

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. GRASSLEY. Mr. Speaker, I would like to request a letter I received from a constituent be inserted in the RECORD. The topic of the letter deals with a sort of legalized fraud—the ability of senior citizens to transfer their assets to receive public assistance for nursing care under title XIX. Every Member in this body should be familiar with this problem, for it is a national phenomenon. At this point I would like to insert the letter:

ELDORA, IOWA, *October 30, 1979.*

Hon. CHARLES E. GRASSLEY,
House of Representatives,
Washington D.C.

DEAR MR. GRASSLEY: As a lawyer I feel it is my duty to my client to properly advise them on the status of the law, regardless of what my feelings as a taxpayer might be. I have today prepared an assignment of a real estate contract from an individual to his nephew and niece, giving them approximately $3200 and have also prepared a deed to his nephew and niece of a house which is in the process of being sold for $25,000. Upon the execution of these instruments he will be entitled to draw support under the provision of Title XIX for his care at a local nursing home, which is running in the neighborhood of $800 per month.

While I am in favor of programs which provide assistance to those in need, I am at a loss to understand why the law should have been written to permit this type of transaction.

Any explanation which you could give me in this regard would be greatly appreciated.

Very truly yours,

WILLIAM N. DUNN.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, November 8, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 9

9:30 a.m.

Commerce, Science, and Transportation
To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

Environment and Public Works
Nuclear Regulation Subcommittee
To continue hearings to examine the cost of recovery and cleanup operations as a result of the nuclear reactor accident at Three Mile Island near Harrisburg, Pennsylvania.
4200 Dirksen Building

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

10:00 a.m.

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on title III, providing aid to developing institutions, of the Higher Education Act.
4232 Dirksen Building

NOVEMBER 13

9:30 a.m.

Environment and Public Works
Business meeting on pending calendar business.
4200 Dirksen Building

*Judiciary
Business meeting, to resume consideration of S. 1246, to protect against the growth of a monopoly power among major petroleum companies, and to encourage oil companies to invest profits back into oil exploration, research, and development, S. 702, to establish a pretrial diversion program within the Department of Justice, S. 608, a private relief bill; and to begin consideration of S. 414, to allow universities, nonprofit organizations, and small businesses to obtain limited patent protection on discoveries they have made under Government-supported research, and S. 68, a private relief bill, and pending nominations.
2228 Dirksen Building

10:00 a.m.

Appropriations
HUD-Independent Agencies Subcommittee
To receive testimony on efforts being made by the Clifton Terrace Tenants Association for securing good management for that apartment complex.
1318 Dirksen Building

Commerce, Science, and Transportation
To resume hearings on S. 1946, to provide railroads with more pricing rate flexibility and contract provisions.
235 Russell Building

Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 14

9:15 a.m.

*Commerce, Science, and Transportation
To resume oversight hearings to review proposed technical methods for industrial development.
235 Russell Building

9:30 a.m.

Environment and Public Works
Nuclear Regulation Subcommittee
To resume hearings on S. 1521, and to begin hearings on a proposed amendment to S. 1521, and S. 1360, all measures to provide a comprehensive approach to the regulation of nuclear waste disposal.
1114 Dirksen Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

Judiciary
Antitrust, Monopoly and Business Rights Subcommittee
To hold oversight hearings to review credit policies of the life insurance industry.
6226 Dirksen Building

Judiciary
Jurisprudence and Governmental Relations Subcommittee
To hold hearings to evaluate the impact of legislative actions and court decisions on the Federal judicial system.
318 Russell Building

Judiciary
Limitations of Contracted and Delegated Authority Subcommittee
To hold oversight hearings on the implementation of title 3, entitled "Strengthening Development Institutions Program" of the Higher Education Act under the Department of Education.
5110 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
324 Russell Building

Banking, Housing, and Urban Affairs
To hold hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corp.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
324 Russell Building

Governmental Affairs
To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

Labor and Human Resources
Business meeting, to mark up S. 1725, to provide grants to assist low- and middle-income individuals to meet the rising home energy costs.
4232 Dirksen Building

Joint Economic
Economic Growth and Stabilization Subcommittee
To hold hearings to examine the potential impact of an accelerated coal-based synfuel development program on the water resources of the Northern Great Plains region.
457 Russell Building

NOVEMBER 15

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on S. 770, to prohibit further abuse and trade price manipulation within the potato futures market.
324 Russell Building

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of all Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

•Governmental Affairs
Intergovernmental Relations Subcommittee
To resume oversight hearings to examine the scope of the general revenue sharing policy.
1114 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of James V. Day, of Maine, to be a Federal Maritime Commissioner.
235 Russell Building

Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To hold hearings on S. 1567, to protect and restore certain coastal lands on Yaquina Head in Oregon.
3110 Dirksen Building

Governmental Affairs
To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

NOVEMBER 16

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

Judiciary
To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

Commerce, Science, and Transportation
To resume hearings on S. 1946, to provide railroads with more pricing rate flexibility and contract provisions.
235 Russell Building

Finance
Public Assistance Subcommittee
To hold oversight hearings on alleged fraud and mismanagement practices within HEW directed toward erroneous State payments to recipients of the Aid to Families with Dependent Children and Medicaid programs under the Social Security Act.
2221 Dirksen Building

Joint Economic
To resume hearings to examine the current unemployment trends and any relation thereto to the increase in criminal activity.
340 Cannon Building

NOVEMBER 19

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

NOVEMBER 20

9:30 a.m.
• Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of the U.S. maritime policy.
235 Russell Building

Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.
3110 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1730 and 1832, bills to declare certain lands in the States of Arizona and New Mexico to be Indian reservation lands.
1202 Dirksen Building

NOVEMBER 21

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1937 and 1965, bills authorizing Federal loan guarantees to the Chrysler Corporation.
5302 Dirksen Building

Rules and Administration
Business meeting, to consider legislative and administrative business.
301 Russell Building

NOVEMBER 26

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1855, authorizing funds through fiscal year 1982 to provide technical assistance for tribally controlled community colleges.
5110 Dirksen Building

NOVEMBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings to examine U.S. and East-West trade and technological competitiveness, focusing on S. 339, to provide identical requirements for determining the eligibility of any Communist state for "most favored nation" status and Export-Import Bank credits, and for reviewing and limiting such credits; S. Con. Res. 47, to approve the extension of nondiscriminatory treatment with respect to the products of China; and to review a report prepared by the Office of Technology and Assessment entitled "Technology and East-West Trade".
5302 Dirksen Building

NOVEMBER 28

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees
To hold joint hearings to examine the implications of grain sales to the Soviet Union on the U.S. transportation system.
457 Russell Building

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1466, to provide for distribution of certain judgment funds in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma.
1202 Dirksen Building

NOVEMBER 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees
To continue joint hearings to examine the implications of grain sales to the Soviet Union on the U.S. transportation system.
457 Russell Building

DECEMBER 3

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 341, 1795, and 1796, bills authorizing certain Indian tribes to file claims for damages for delay in payment for lands claimed to be taken in violation of U.S. laws.
5110 Dirksen Building

DECEMBER 7

10:00 a.m.
Joint Economic
To resume hearings on the employment-unemployment situation and price data information for November.
Room to be announced

JANUARY 15, 1980

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings to examine U.S. trade and technological competitiveness with other industrialized countries, focusing on a report by the International Trade Commission on international trade in integrated circuits relating to the electronics industry.
5302 Dirksen Building

CANCELLATIONS

NOVEMBER 9

10:00 a.m.
Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To resume joint markup of S. 1480, 1335, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

DECEMBER 4

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River and Lake Henshaw, Calif., to be operated and maintained by specified bands of Mission Indians.
Room to be announced

HOUSE OF REPRESENTATIVES—*Thursday, November 8, 1979*

The House met at 10 a.m.

Msgr. Zaven Arzoumanian, pastor, Armenian Orthodox Church, Wynwood, Pa., offered the following prayer:

The fear of the Lord is the beginning of wisdom, and they who live by it grow in understanding.—Psalms 111: 10.

God our Father, who art the source of our strength and refuge of those who put their trust in You, sustain us with Your spirit and steady us with Your grace, lest we allow differences and disagreements to hide Your face from us.

As we pause in Thy presence, O Lord, make us listen to Thy voice and help us receive upright strength for this day, wisdom for our decisions to be made, and peace in our hearts all the way. Thou art ever with us, and behold Thou hast called us again to work with Thee this day in making justice and freedom and good will live in our world. May Thy spirit be so real to us that we can develop in our land a moral strength and a spiritual power to which people can turn for healing and help in time of need.

We pray for our country, our leaders, and our people. Remove from within us, O Lord, all harsh misunderstandings and hostile attitude which are the seeds of strain and strife. Make us ready to welcome every effort for cooperation and every endeavor to strengthen our relationship with each other. Open the door of opportunity and give us the courage to walk through it to a greater life together in the harmony of our freedom and Your unfailing wisdom.

In Thy holy name we pray O Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 199. Joint resolution to amend the act of October 21, 1978 (92 Stat. 1675; Public Law 95-498); and

H.J. Res. 428. Joint resolution designating December 1979 as "National Child Abuse Prevention Month."

The message also announced that the Senate agrees to the amendment of the House to a joint resolution of the Senate of the following title:

S.J. Res. 117. An act to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

The message also announced that the Senate agreed to the further conference report on the concurrent resolution (S. Con. Res. 36) entitled "Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982," and that the Senate concurred in the House amendment with an amendment in the nature of a substitute, to the foregoing bill.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1143) entitled "An act to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CULVER, Mr. MUSKIE, Mr. HART, Mr. CHAFEE, and Mr. STAFFORD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1374. An act for the relief of Lynn Rufus Pereira; and

S. 1682. An act to amend the act of August 9, 1955 (69 Stat. 539) (25 U.S.C. 415), as amended, to authorize a 99-year lease for the Moses Allotment Numbered 10, Chelan County, Wash.

REFLECTIONS ON PAST SALES OF HEATING OIL TO IRAN

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Two short months ago, Mr. Speaker, the State Department announced that this country had sent a shipment of home heating oil to Iran. I was among a number of Congressmen who objected—rather angrily, I am afraid—to that sale. I was very concerned about people in this country—the elderly and the poor, the schools and the hospitals—who were going to be faced with limited supplies of incredibly expensive heating oil.

The State Department seemed astonished that anyone could possibly see anything wrong with selling heating oil to Iran. The Washington Post implied that any objections to the sale came strictly from jingoists.

The argument was that this sale was necessary for humanitarian reasons (never mind that Iran soon announced they intended to sell the heating oil on the spot market for more than they paid for it), and that the sale was necessary to help encourage the friendship of the Government of Iran.

Now, Mr. Speaker, we can see how wise that policy was. Just think, if we had not encouraged the friendship of the Iranian Government, there might be dozens of Americans being held hostage in Tehran at this very moment. The Government of Iran might even go so far as to encourage the mobs that are holding hostages, rather than working to help set them free.

And worst of all Mr. Speaker, the Ayatollah and his officials might refuse even to meet with other Americans sent to negotiate to try to secure the release of the hostages.

Now, Mr. Speaker, I would like to acknowledge that the State Department and the Washington Post were right after all. It really was important to encourage the friendship of the Ayatollah. Imagine where we would be today without it.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

NEW LEGISLATION WOULD INSURE SAFETY AND NUTRITIONAL VALUE OF INFANT FORMULA

(Mr. GORE asked and was given permission to address the House for 1 minute.)

Mr. GORE. Mr. Speaker, recently the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce completed an investigation of infant formulas in the United States, concentrating on an incident in which at least 150 infants around the country became seriously ill because of a defective formula that was sold in interstate commerce.

As a result of that hearing, I have introduced legislation this morning to authorize the Food and Drug Administration to require pretesting of infant formulas, to require that infant formulas include a minimum of 32 ingredients recommended by the American Society of Pediatrics, and to give the FDA mandatory recall authority when an infant formula is found to be defective.

These formulas should not be looked upon simply as a food which is one among many but, rather, as the sole source of nourishment for babies. As such, it should be made carefully, and we should be able to give American parents some assurance that these products are safe and nutritious.

NO ONE WINS WHEN FREEDOM FAILS

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, today we are witness to an international irony. Mrs. Carter is presently in Southeast Asia attempting to pick up the pieces left by the mischief of Ramsey Clark, while Mr. Clark with his Munich mentality waits outside the door of another murderer to practice his brand of appeasement.

Hiram Mann put it aptly:

> No one wins when freedom fails. The best men rot in filthy jails, and those who cry "appease, appease" are hanged by those they try to please.

The President should state firmly that under no circumstances will the Shah be deported.

PERMISSION FOR SUBCOMMITTEES OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT TODAY DURING 5-MINUTE RULE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Science, Research, and Technology and the Subcommittee on Natural Resources and Environment of the Committee on Science and Technology be permitted to sit today despite the fact that the House will be in session under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AN ANSWER TO THE IRANIAN CHALLENGE

(Mr. FOWLER asked and was given permission to address the House for 1 minute.)

Mr. FOWLER. Mr. Speaker, all the world is watching to see how we will respond to this direct challenge in Iran. The world awaits a demonstration of our national will and our national courage. For it is not only the fate of the 65 Americans held hostage that is at stake. We are all the hostages of terrorism and fanaticism, should we fail to act immediately with unity and clarity of purpose.

The United States must not cower under the threat of an oil cut-off from Iran. Our Nation should today state with unmistakable clarity that we will not purchase a single additional drop of Iranian oil until this blackmail ceases, until our countrymen are set free, and until a stable government in Iran emerges.

This is our weapon against aggression. It is the weapon of sacrifice and conservation. Without Iranian oil, yes, we will all be a bit colder this winter than we would like to be, and, yes, we will be a bit warmer in the summer. But as we endure the discomfort of the gaslines, we can take comfort and pride in the fact that we are directly minimizing the changes of blackmail from other nations and acts of terrorism against other Americans around the world.

We are all hostages, Mr. Speaker, unless we say to Khomeini and to the world, "Keep your precious oil." The human price is already too high. We can do without it and be stronger as a nation for doing so.

□ 1010

PRESIDENT URGED TO SUPPORT YASSER ARAFAT'S RESCUE MISSION

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. FINDLEY. Mr. Speaker, it is clear to me that the very best course for the safe rescue of U.S. nationals in Tehran lies in the rescue mission that has been sent there by Yasser Arafat, the chairman of the PLO. Accordingly, I have sent the following wire to President Carter this morning:

NOVEMBER 8, 1979.

Hon. JIMMY CARTER,
The President,
The White House,
Washington, D.C.

I strongly urge that you send a personal message to Yasser Arafat, Chairman of the Palestine Liberation Organization, stating your appreciation and support for any efforts his organization may be able to undertake in behalf of the safety and release of U.S. hostages in Tehran. Based on conversations I have had with the PLO the last 48 hours I am convinced that Chairman Arafat decided to undertake the mission entirely without preconditions or the promise of favors in return. Nevertheless it would be only simple courtesy for you to encourage his help with a personal message, and indeed it may well facilitate the mission.

It is possible that the Iranian authorities may be insisting on a signal of this sort from you before proceeding with the PLO mission now in Tehran.

Chairman Arafat sent word to me yesterday explaining the complexity of this project, and news reports today indicate that a statement from you may be required.

Certainly no harm would be done, and I am confident the American people would respect and support this action on your part. I cannot believe any quarters would protest this action. I have examined carefully the nature of the 1975 understanding with Israel which limits our government's contacts with the PLO. Clearly there is nothing in this understanding which would limit in any way communication on a humanitarian undertaking of this nature.

Sincerely yours,

PAUL FINDLEY,
Member of Congress.

AMERICA SHOULD NOT COWER BECAUSE OF IRANIAN OIL

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, as I drove in today, I heard on the radio that a representative from the Iranian Embassy has stated publicly that they are awaiting some concrete evidence of good faith from the United States before they proceed any further relative to the situation in the American Embassy in Tehran. Evidently 1984 is here, and now we have diplomatic doublespeak. Truth has now been turned on its head. And now we have to show some good evidence on our side before the terrorists—and that is what they are, terrorists—will set our people free. We should make the message very clear that it is only because of this country's regard for human life that military action has not already taken place.

Let our message be clear, let our answer to the nonsense from the Ayatollah cockamamie and his underlings, be very, very clear that America will not cower because of Iranian oil. Let it be clear that the only thing we will negotiate is that our people be set free and be set free without any other requirements on the part of the Iranian Government. To do less is to fail to fulfill our commitment to the American people.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, the gentleman from California (Mr. LUNGREN) serves with me on the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary, and I look forward to meeting with the gentleman later this morning with the view toward introducing legislation pertaining to the status of Iranian students in the United States.

Mr. LUNGREN. Mr. Speaker, I think that should be done immediately. I thank the gentleman.

BREAKING OLD BUDGET HABITS

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker—

> Today this House must decide whether to live by the rules of our budget controls or put them on a shelf to show taxpayers when they complain about big spenders.

That is the opening paragraph of an editorial in this morning's Los Angeles Times entitled "Breaking Old Budget Habits."

The editorial continues:

> After more than 3 weeks in conference with the Senate, the House still cannot bring itself to force a change in the old habit of spending more money than the Federal Government has on hand.

The editorial goes on to explain what reconciliation is, then continues:

> The House finds the decision difficult because it means ordering some of its committee chairmen to cut spending, ordering them to be frugal takes nerve.

Mr. Speaker, the Senate has passed this test of nerve. Will the House be equal to the task as well? Will this House break old budget habits and live within the rules?

Mr. Speaker, with your leadership—I doubt it.

DISPOSAL SITES FOR LOW-LEVEL NUCLEAR WASTES

(Mr. GOLDWATER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOLDWATER. Mr. Speaker, why bother having a President of the United States? Yesterday I sat with the Science and Technology Subcommittee on Energy Research on the issue of disposal sites for low-level nuclear waste. With the closing down of dumps in Washington State, Nevada, and South Carolina, hospitals, university laboratories, and scientific research centers around the country have only a few days of storage capacity left for discarding their contaminated materials.

What has the administration done about this? Absolutely nothing. "We're continuing our studies," energy officials tell us. "We're considering several alternative courses of action," we are informed.

Where is our leadership? In July I offered an amendment to the energy bill on this floor to press ahead with the settlement of federally administered sites. Chairman MCCORMACK offered another amendment to this effect last month. We have a proposal to establish 12 regions in the country for site selection. If the States cannot decide on a policy for themselves, the Federal Government will step in. I have yet to see any action taken by the White House to get this sort of program moving. And this is typical of vacuum of leadership we are experiencing on the energy front. What is the purpose of even having a President if he is not going to do anything?

WELCOME, IRISH PRIME MINISTER LYNCH

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, today, President Carter welcomes to the United States the Prime Minister of Ireland, Mr. Lynch, who is here on an official 10-day state visit.

As chairman of the 130-member ad hoc Congressional Committee on Irish Affairs, I too, welcome the Prime Minister. In advance of his arrival, Mr. Lynch had been interviewed by major U.S. news magazines and newspapers. Whereas the many concerned Irish-Americans in this Nation were hoping to read of Mr. Lynch's plans for peace in Ulster, they instead saw him attack those in America who are working for peace in Ireland.

The Prime Minister has charged that I and my "associates" are supportive of the Provisional Irish Republican Army. Let me state categorically for the record that I and the entire ad hoc Congressional Committee for Irish Affairs deplore all violence whether it be that of the IRA, the Protestant Paramilitaries or that of the British or Irish security forces.

I am for peace and justice in Ireland—nothing more, nothing less. That is my message. Prime Minister Lynch would be hard pressed to attack this message. It is far safer and easier to attack the messenger.

BIAGGI-LYNCH DIALOG

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I read with great interest and concern reports that Prime Minister Lynch of the Republic of Ireland has taken exception to the invitation extended by the White House to MARIO BIAGGI, the chairman of our ad hoc committee on Irish Affairs. I believe that Mr. Lynch is poorly advised in this matter, and I would hope that instead of deploring the fact that he will be in Mr. BIAGGI's company tonight that he would look at this as an opportunity to engage in some constructive dialog and would use this and other opportunities to exchange some positive thoughts in their search for peace in Northern Ireland.

Mr. Lynch's comments about Mr. BIAGGI's support of violent activities is becoming old hat. It is time to shed the misconception that has continually clouded the Irish issue—that anyone who speaks on the topic of human rights in Northern Ireland is an IRA sympathiser. I would hope that Mr. Lynch would look a little more closely at the facts—our ad hoc Committee on Irish Affairs has worked diligently and sincerely to bring peace and justice to Northern Ireland.

I hope that Mr. Lynch and Mr. BIAGGI have the opportunity to speak together tonight and on future occasions, not as adversaries but in working toward the same end—ultimate peace in Northern Ireland.

WELCOME TO THE IRISH PRIME MINISTER

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, I join my colleagues in welcoming the Prime Minister of the Republic of Ireland. I hope that in today's sessions with Members of Congress we will learn more precisely what the policy is of the Irish Republic toward Northern Ireland, what steps the Republics perceive will lead to a political solution and what proposals it has for a role for the United States. I think that on our part we can demonstrate the deep concern of Americans of Irish descent, an issue which I do not believe is fully appreciated by either governments abroad or by our own Government.

I hope, Mr. Speaker, that this will be but the first of many meetings between elected officials of the United States, Great Britain, the Republic of Ireland and the North of Ireland. The situation today is intolerable. It calls for more than passive acceptance, and I hope that we start on the road today of being of help in the solution to this problem.

□ 1020

UNITED STATES SHOULD ELIMINATE DEPENDENCE ON IRANIAN OIL

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, the United States currently receives approximately 7 percent of its imported oil from Iran. The current crisis in Iran has placed that supply of oil in jeopardy of being terminated at a moment's notice.

The present crisis in Iran is partly due to the President's failure to cope with the changing situation in that country. However, the genesis of our troubles with Iran is our over dependence on imported oil. The Department of Energy should develop immediate contingency plans to replace further imports of Iranian oil. As long as the United States remains dependent on Iranian oil, the Ayatollah Khomeini can use the threat of a boycott as leverage against us.

The American people are demanding action. They are demanding that the United States no longer be placed in a situation where we are even unable to protect our own citizens overseas. This Nation must begin today to eliminate its dependence on Iranian oil. The United States cannot afford to be ruled by Iranian mobs.

PERMISSION FOR COMMITTEE ON THE DISTRICT OF COLUMBIA TO FILE REPORT, ALONG WITH ANY MINORITY OR SEPARATE VIEWS, ON H.R. 5811, ALLOWING INTEREST RATE MODIFICATION ACT OF 1979 TO TAKE EFFECT IMMEDIATELY

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia may have until midnight tonight to file a report, along with any minority or separate views, on the bill (H.R. 5811) to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CALL OF THE HOUSE

Mr. SOLOMON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 636]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bowen
Brademas
Bresux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Purnell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

□ 1040

The SPEAKER pro tempore (Mr. BROWN of California). On this rollcall, 369 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

REQUEST TO APPOINT CONFEREES ON H.R. 2440, AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MINETA. Mr. Speaker, reserving the right to object, if I could get an explanation from the chairman of the Committee on Public Works and Transportation relative to the nongermane Senate added provisions on the aviation noise bill aspect of this I would appreciate it, because I think that is an integral part of our discussion here. I would like to hear from our distinguished chairman relative to that portion of it.

I yield to the gentleman from California for that purpose.

Mr. HARSHA. Mr. Speaker, I have a motion to instruct at the desk.

The SPEAKER pro tempore. The gentleman is not in order at this point.

Mr. JOHNSON of California. Mr. Speaker, I thank the gentleman for yielding. I might say that when H.R. 2440 cleared the House of Representatives and came to the floor of the House here under suspension of the rules, it was taken off the suspension list. The committee took it back and we amended it with three minor amendments. We brought it back to the floor under the suspension rule, passed the bill, and sent it to the other body. The other body took its action, amended the bill by striking all after the enacting clause and inserting their version of the aviation noise bill; they named conferees, requested a conference with the House. It has laid on the desk now for 2 weeks.

I do not agree with much of the other body's bill. We have named a very fine conference committee. It has been my experience in 21 years of service here that meeting with the Senate on various conferences, we have never failed to agree and bring a bill back that has been acceptable to both the House and to the other body. We brought them back, modified and sent them on to the President.

I know that there are people in the House who do not agree with my position on aviation noise.

Certainly all of us as conferees will go to the conference on this bill and represent the House position to the *n*th degree. This conference follows the format of many other conferences, we have named the Aviation Subcommittee chairman of the Public Works and Transportation Committee the gentleman from California (Mr. ANDERSON) as the chairman of the conference.

I have always been fair with every Member who has ever served on a conference committee. I have never tried to coerce anyone to do anything against his or her best judgment. When the conference report is agreed on, one can sign or not sign. It still must clear both bodies.

The Ways and Means Committee is involved to an extent in this bill. I have talked this over with the chairman of the Ways and Means Committee, and we are going to give their position every consideration we possibly can.

We have performed in a way that is proper as far as the Committee on Public Works and Transportation is concerned, and the conferees that we have recommended, if they are appointed, I am sure will do a good job representing the House position.

Mr. MINETA. Mr. Speaker, I would like to further ask the distinguished chairman of the Committee on Public Works and Transportation whether or not the conferees have been named.

Mr. JOHNSON of California. I have recommended a list of conferees which is at the Speaker's desk now. It consists of Mr. ANDERSON of California, myself, Mr. ROBERTS, Mr. LEVITAS, Mr. YOUNG of Missouri; and on the Republican side the ranking minority member, Mr. HARSHA, the ranking minority member on the subcommittee, Mr. SNYDER. So, both chairmen of the subcommittee are on the conference, and there are people on the Conference Committee who do not agree with the noise provision of the Senate bill.

Mr. MINETA. And the portion of the bill where the Commerce Committee and the Ways and Means Committee have indicated their interest in it, are they going to have any conferees on this conference?

Mr. JOHNSON of California. The Ways and Means Committee has not asked for any conferees.

I do believe the bill is strictly a public works bill that came out of our committee, and we are going to try to maintain our position. It was a bill that was referred to our committee when it was introduced, dealing with ADAP discretionary funds. That is the way our committee considered it, held the hearings, passed the bill, placed it on suspension.

As I stated, it was taken off the suspension list for a further committee consideration of a minor amendment dealing with a three-part amendment that was taken en bloc, brought to the floor, and passed. There was nothing in the bill whatsoever when it left the House that pertained to any other committee but our committee.

Mr. MINETA. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 36, SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1980

Mr. GIAIMO. Mr. Speaker, I call up the conference report on the Senate concurrent resolution (S. Con. Res. 36), revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report and the Senate amendment in disagreement are considered as having been read.

(For conference report and statement, see proceedings of the House of November 2, 1979.)

□ 1050

MOTION OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GIAIMO moves to concur in the Senate amendment with an amendment as follows: Strike out section 3 and renumber the following sections accordingly.

The SPEAKER pro tempore. Pursuant to the order of the House of November 1, 1979, the gentleman from Connecticut (Mr. GIAIMO) will be recognized for 1½ hours, and the gentleman from Ohio (Mr. LATTA) will be recognized for 1½ hours.

Prior to recognizing the gentleman from Connecticut (Mr. GIAIMO), the Chair will ask the gentleman from Kentucky (Mr. NATCHER) to take the chair.

The SPEAKER pro tempore (Mr. NATCHER). The Chair now recognizes the gentleman from Connecticut (Mr. GIAIMO).

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on Senate Concurrent Resolution 36.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GIAIMO. Mr. Speaker, I yield myself 11 minutes.

Mr. Speaker, as Members know, House and Senate conferees reached agreement on all the particulars of the second budget resolution for fiscal year 1980, except one—the issue of reconciliation. If my motion is successful, the House and Senate will have agreed on the budget aggregates and the functional spending levels. The resolution would then go back to the Senate for concurrence in, or rejection of, our action. I would hope that at this late date—well over a month into fiscal year 1980, the other body would see fit to concur.

Leaving aside for the moment the issue of reconciliation, I believe we have reached sensible compromises and produced a conference report which protects all of the important priorities assumed in the House resolution.

The conference was a difficult and arduous one. It was the most protracted in the history of the congressional budget process—stretching over a period of more than 3 weeks, during which conferees met almost daily.

There were two basic reasons for the lengthy conference:

First, the resolutions as passed by the two Houses showed wider than usual variations in spending levels in a number of important areas. Second, the issue of reconciliation simply did not lend itself to compromise.

But, as I have said, conferees agreed on aggregates which continue the congressional policy of spending restraint to combat inflation while meeting vital national needs.

These are the aggregates agreed to in the conference report:

Revenues: $517.8 billion—$1.45 billion less than in the House resolution.

Budget authority: $638 billion—$6.19 billion more than in the House resolution.

Outlays: $547.6 billion—$575 million less than in the House resolution.

Deficit: $29.8 billion—$875 million more than in the House resolution.

From the outset of the conference, it was apparent that in order to reach agreement, compromises would have to be made in two broad budget areas—defense and social programs.

In the end, House conferees moved toward the Senate's higher defense spending levels. But in return, House conferees insisted that the Senate move substantially toward the House levels in functions 500—education, training, employment, and social services; 550—health; 600—income security; and 700—veterans benefits.

Senate conferees were united on their defense position. They argued that higher defense spending should be approved because of the Senate's concern with real growth in defense and the debate over ratification of the SALT II treaty.

In return, however, House conferees successfully insisted on major concessions in the four budget functions I have mentioned.

As a result, the conference agreement maintains the following critical House priorities:

A total of 200,000 countercyclical public service jobs under CETA title VI and 250,000 public service jobs for the structurally unemployed under title II-D at the end of the fiscal year.

Funding for an antirecession targeted fiscal assistance program to help cities and other local governments suffering fiscal distress because of high unemployment.

Funding to increase the title XX social services program ceiling to $3 billion, including $200 million for child care.

The policy of full funding of the basic educational opportunity grants program to enable all undergraduate students to obtain the full assistance for which they are eligible.

Funding to accommodate a variety of energy-related transportation initiatives.

Funding to liberalize the trade adjustment assistance program to provide protection to workers who become unemployed as a result of foreign trade competition.

It was the belief of the House conferees that the lower funding levels in the Senate-passed resolution would have jeopardized these vital programs, all of them made even more vital by increasing evidence of recession and rising unemployment ahead.

Let me briefly outline some other highlights of the conference agreement:

It assumes $39.5 billion in budget authority and $7.25 billion in outlays in function 270—energy—sufficient to accommodate a wide range of new initiatives—a major synfuels program; increases over the amounts recommended by the President for energy conservation and solar programs; a variety of energy-related transportation measures, as well as a program of assistance to low-income families to offset the effects of higher energy costs in the income security function.

House conferees believe strongly that these initiatives should only be funded from receipts from a windfall profits tax on oil corporations, the enactment of which is assumed in the revenue total in the conference report.

It provides for increased food assistance and disaster relief in response to the emergency in Cambodia and a greatly expanded level of assistance for Indochinese and Soviet refugees.

It will accommodate the child health

assurance program (CHAP) legislation to expand the existing medicaid program to provide screening and follow-up care for nearly 5 million more children of low-income parents as well as pre- and post-natal care for some 220,000 low-income pregnant women. In addition, it will accommodate medicare expansions to improve psychistric benefits for the elderly, expand home health services, and improve coverage for disabled persons.

It will accommodate lifting the appropriations ceiling in the food stamp program to insure that benefits to the needy are not jeopardized because of higher food costs and unemployment.

It will accommodate a 9.9-percent cost-of-living adjustment for veterans with service-connected disabilities and their survivors.

In short, the conference report provides sufficient funding to meet urgent national needs. At the same time, it calls for a minimum few new programs, with energy initiatives a notable and pressing exception. The deficit remains under $30 billion, close to that projected in the House-passed resolution. And projections of current policy in the conference report—that is, a continuation of present programs with no new starts and no tax cut—show that a budget surplus could be achieved in fiscal year 1981 if the economy is stable.

I urge support of the amendment on both sides of the aisle. The conference report, of course, bears the stamp of the majority party, as it should in our congressional system. I would hope, however, that some minority members will find it possible to support the budget, as they do consistently and in large numbers in the other body. I find it difficult to believe that minority members of the House are in total philosophic disagreement with the mainstream of their party in the Senate.

Let me turn now to the issue of reconciliation.

The Congressional Budget and Impoundment Control Act of 1974 provided that the Budget Committees can recommend and the two Houses can direct committees of jurisdiction to make changes in revenue and spending legislation, including legislation already enacted, to meet the fiscal needs as set forth in the second budget resolution.

The Senate chose to invoke this provision for fiscal year 1980. It voted to instruct six Senate and seven House committees to report legislation reducing budget authority by $850 million and outlays by $1.8 billion, and it voted a ceiling on the appropriations committees.

The reconciliation provision is complex, controversial, and potentially cumbersome. After thorough discussion of the issue, the House Budget Committee during markup decided not to invoke the provision because it felt the procedure was not appropriate for the House at this time, and the House adopted the resolution without it.

In conference with the Senate, House conferees made these points in upholding the House position:

First, while Senate committees in some cases breached the targets set in the first budget resolution, most House committees were remarkably successful in observing the targets. We did not deem it appropriate to hold House committees responsible for increases in outlays necessitated by changes in the economy or unforeseen new national needs.

Second, the complexities of the reconciliation process could consume an enormous amount of time in both Houses at a time when action is pending this month and next on a range of major legislation.

Third, and most important, House conferees believe that reconciliation is unnecessary if further progress can be made on a number of legislative reforms in current law recommended by the committee and assumed in both the first and second resolutions.

These reforms, which would change a number of entitlement programs to remove inequities or provisions which have outlived their need, could save much more than the amounts in the Senate's reconciliation directive.

Already, either the House or the Senate or both have reported reforms which would save more than $1.6 billion in outlays in fiscal year 1980 and even larger amounts in subsequent years.

The largest of these is the House-reported hospital cost containment bill, which could save some $620 million. Others include reforms in the medicare and medicaid programs, in social security disability provisions, in cash assistance programs, in child nutrition programs, impact aid to schools, and veterans programs.

Under the leadership of our colleague, LEON PANETTA, a Budget Committee task force has worked tirelessly throughout the session with House committees on the entire package of reform recommendations. The response of the committees has been most encouraging. Their attitude, almost without exception, has been one of cooperation. We have made important breakthroughs, and our task for the remainder of this session and the next will be to carry these reforms forward to final enactment.

We have all heard it said that only about one-quarter of the total Federal budget is "controllable" by the Congress. What is meant by that statement is that a good portion of the remaining three-quarters involves "entitlement" programs previously mandated by the Congress.

But let us not mislead ourselves. We can control Federal spending. We can make changes in entitlement programs. And when provisions in those programs work unfairly or have outlived their usefulness, it is our duty to change them.

It is not easy. We all know that every entitlement program has its organized and vocal constituency. We all know that once a provision is on the books, it is difficult to remove, regardless of whether or not it still fulfills the purpose its framers intended.

But it can be done. We have made more progress in this connection this year than perhaps ever in history. But we need to follow through on the excellent start we have made in this session.

I should point out that while the House disagreed with the Senate on reconciliation for fiscal year 1980, the conference report contains the statement that the House conferees "strongly support the reconciliation process set forth in the Budget Act." We believe it should not be invoked this year. It remains a potential tool for future use, however, if circumstances warrant and if we are unable to restrain spending and to effect long overdue legislative savings.

I would be remiss if I did not at least briefly pay tribute to those who labored through the long conference, representing both the House and Senate. While agreement was arrived at only with great difficulty, a spirit of marked good will, tolerance, and patience prevailed on both sides. While we disagreed fundamentally on reconciliation, I have the greatest respect for the viewpoint of my counterpart, Senator MUSKIE, and his conferees, and for their dedication to making the budget process work.

EXPLANATION OF CONFERENCE REPORT, SECOND BUDGET RESOLUTION FOR FISCAL YEAR 1980

Revenues

[In millions of dollars]

House resolution	$519,250
Senate resolution	514,700
Conference agreement	517,800
Conference over (+) under (−) House	−1,450

The House Resolution provided $519,250 million in revenues through current law and new legislation.

The Senate Resolution provided $514,700 million through current law and new legislation.

The conference substitute provides $517,800 million in revenues, $1,450 million below the House level. The conference substitute assumes that new legislation will result in an increase in revenues on a net basis of $2,400 million. This number does not represent a policy position on tax legislation but a compromise on revenues; there is no intent to prejudge the outcome of the conference on the windfall profits tax.

FUNCTION 050: NATIONAL DEFENSE

[In millions of dollars]

	Budget authority	Outlays
House resolution	138,156	128,587
Senate resolution	141,200	130,600
Conference agreement	141,200	129,900
Conference over (+) under (−) House	+3,044	+1,313

The House Resolution provided $138,156 million in budget authority and $128,587 million in outlays.

The Senate Resolution provided $141,200 million in budget authority and $130,600 million in outlays.

The conference substitute provides for $141,200 million in budget authority and $129,900 million in outlays for the National Defense function. The budget authority amount represents the administration request and the amount in the Senate Resolution. It is $3,044 million higher than the amount contained in the House Resolution.

The outlay estimate is $700 million below the Senate Resolution and $1,313 million higher than the House Resolution.

FUNCTION 150: INTERNATIONAL AFFAIRS

[In millions of dollars]

	Budget authority	Outlays
House resolution	12,593	8,522
Senate resolution	13,100	8,300
Conference agreement	13,100	8,400
Conference over (+) under (−) House	+507	−122

The House Resolution provided $12,593 million in budget authority and $8,522 million in outlays.

The Senate Resolution provided $13,100 million in budget authority and $8,300 million in outlays.

The conference substitute provides $13,100 million in budget authority and $8,400 million in outlays which is an increase of $507 million in budget authority and a decrease of $122 million in outlays from the House Resolution. The level provided is assumed to accommodate final action on foreign assistance appropriations for fiscal year 1980. The conferees also agreed that the amounts provided were consistent with funding food and disaster assistance in connection with the current emergency in Cambodia.

FUNCTION 250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY

[In millions of dollars]

	Budget authority	Outlays
House resolution	5,833	5,662
Senate resolution	5,900	5,700
Conference agreement	5,850	5,700
Conference over (+) under (−) House	+17	+38

The House Resolution provided budget authority of $5,833 million and outlays of $5,662 million.

The Senate Resolution provided budget authority of $5,900 million and outlays of $5,700 million.

The conference substitute provides $5,850 million in budget authority and $5,700 million in outlays. These amounts are slightly higher than the House Resolution in budget authority and outlays because of rounding. However, the policy assumptions adopted in the House Resolution are maintained.

FUNCTION 270: ENERGY

[In millions of dollars]

	Budget authority	Outlays
House resolution	36,266	8,801
Senate resolution	41,000	7,000
Conference agreement	39,500	7,250
Conference over (+) under (−) House	+3,234	−1,551

The House Resolution provided budget authority of $36,266 million and outlays of $8,801 million.

The Senate Resolution provided budget authority of $41,000 million and outlays of $7,000 million.

The conference substitute provides $39,500 million in budget authority and $7,250 million in outlays. These amounts are basically consistent with the policy assumptions in the House Resolution with two exceptions. First, the conferees agreed to a higher allowance in budget authority for new initiatives such as the Energy Security Corporation, conservation, solar, etc. Second, the conferees transferred the allowance for energy-related low-income assistance from function 270, as assumed in the House Resolution, to function 600. This is merely a technical adjustment between functional categories. Additionally, the conferees agreed to leave the allowance for energy-related transportation initiatives in function 270 as it was reflected in the House Resolution.

The House managers further assume that the new energy initiative and tax expenditure programs assumed in this compromise will not be supported to their full extent if the windfall profits tax on the oil industry finally enacted by the Congress is significantly weakened from the House-enacted H.R. 3919.

FUNCTION 300: NATURAL RESOURCES AND ENVIRONMENT

[In millions of dollars]

	Budget authority	Outlays
House resolution	12,525	11,926
Senate resolution	12,700	11,900
Conference agreement	12,600	11,900
Conference over (+) under (−) House	+75	−26

The House Resolution provided budget authority of $12,525 million and outlays of $11,926 million.

The Senate Resolution provided budget authority of $12,700 million and outlays of $11,900 million.

The conference substitute provides $12,600 million in budget authority and $11,900 million in outlays. The level of budget authority provided in the conference substitute reflects a compromise of about half the difference between the House and Senate Resolutions and maintains the policy assumptions of the House Resolution. There is no significant difference in outlays.

FUNCTION 350: AGRICULTURE

[In millions of dollars]

	Budget authority	Outlays
House resolution	4,983	2,542
Senate resolution	5,000	2,600
Conference agreement	5,000	2,550
Conference over (+) under (−) House	+17	+8

The House Resolution provided budget authority of $4,983 million and outlays of $2,542 million.

The Senate Resolution provided budget authority of $5,000 million and outlays of $2,600 million.

The conference substitute provides $5,000 million in budget authority and $2,550 million in outlays. These amounts reflect rounding of budget authority and outlays and are policy consistent with the House Resolution.

FUNCTION 370: COMMERCE AND HOUSING CREDIT

[In millions of dollars]

	Budget authority	Outlays
House resolution	6,778	2,828
Senate resolution	6,800	3,000
Conference agreement	6,800	2,850
Conference over (+) under (−) House	+22	+22

The House Resolution provided $6,778 million in budget authority and $2,828 million in outlays.

The Senate Resolution provided $6,800 million in budget authority and $3,000 million in outlays.

The conference substitute provides $6,800 million in budget authority and $2,850 million in outlays. This is $22 million in budget authority and $22 million in outlays above the House Resolution. The agreement represents appropriations and other spending actions already completed by the House, plus estimates of mortgage credit program activity consistent with the economic assumptions agreed upon by the conferees.

FUNCTION 400: TRANSPORTATION

[In millions of dollars]

	Budget authority	Outlays
House resolution	19,610	18,651
Senate resolution	19,500	18,600
Conference agreement	19,500	18,600
Conference over (+) under (−) House	−110	−51

The House Resolution provided $19,610 million in budget authority and $18,651 million in outlays.

The Senate Resolution provided $19,500 million in budget authority and $18,600 million in outlays.

The conference substitute provides $19,500 million in budget authority and $18,600 million in outlays. This is $110 million in budget authority and $51 million in outlays below the House-passed resolution.

The conference agreement generally provides for the transportation funding levels included in the House-passed Transportation Appropriations Bill, the conference-agreed-upon HUD Appropriations bill and the State-Justice Appropriation bill which has been signed into law. The conference agreement continues the House assumption that air noise legislation will not be enacted in the current session of Congress and in addition, assumes small reductions from the highway funding and appropriated transportation program levels assumed in the House-passed Resolution.

The conference agreement also includes in the Energy Function: 270, $1,300 million in budget authority and $200 million in outlays to accommodate congressional consideration of the President's transportation-energy initiative.

Overall the conference agreement in general reflects the House transportation actions to date with a small program reduction assumed. This is a tight transportation budget but one which provides for our national transportation needs on a priority basis in all modes.

FUNCTION 450: COMMUNITY AND REGIONAL DEVELOPMENT

[In millions of dollars]

	Budget authority	Outlays
House resolution	8,991	8,289
Senate resolution	8,900	8,400
Conference agreement	8,900	8,350
Conference over (+) under (−) House	−91	+61

The House Resolution provided $8,991 million in budget authority and $8,289 million in outlays.

The Senate Resolution provided $8,900 million in budget authority and $8,400 million in outlays.

The conference substitute provides $8,900 million in budget authority and $8,350 million in outlays. This is $91 million in budget authority below the House-passed Resolution

and $61 million in outlays above the House-passed Resolution.

The conferees agreed on budget authority which is $91 million below the House Resolution and the same as the Senate Resolution; outlays are the same as the Senate Resolution and $61 million above the House Resolution. The changes relate primarily to the Small Business Administration Disaster Loan program. The agreement reflects the strong support of the conferees for legislation to rationalize the several Federal programs of disaster assistance in order to reduce demands upon the Federal Treasury.

FUNCTION 500: EDUCATION, TRAINING, EMPLOYMENT AND SOCIAL SERVICES

[In millions of dollars]

	Budget authority	Outlays
House resolution	31,391	31,371
Senate resolution	29,700	30,500
Conference agreement	30,900	31,000
Conference over (+) under (−) House	−491	−371

The House Resolution provided budget authority of $31,391 million and outlays of $31,371 million.

The Senate Resolution provided budget authority of $29,700 million and outlays of $30,500 million.

The conference substitute provides budget authority of $30,900 million and outlays of $31,000 million.

EDUCATION

The conference substitute provides budget authority of $14,600 million and outlays of $14,100 million for education programs, including elementary and secondary school programs, assistance for higher education programs and general aids and research activities. These amounts represent a reduction of $367 million in budget authority and $250 million in outlays from the House-passed Resolution reflecting a reestimate of the costs to provide full funding for the Basic Educational Opportunity Grants (BEOGs) program.

The reduction in BEOGs' budget requirements is based on a recent downward reestimate of student participation in the fiscal year 1979 program which results in a lower level of obligations than had been assumed in the House-passed Resolution. The lower level of fiscal year 1979 obligations results in a greater-than-anticipated carryover of funds into fiscal year 1980 which can be utilized to reduce new BEOGs budget authority. In addition, it is assumed that the fiscal year 1980 program will not exceed the fiscal year 1979 participation rate, thereby also reducing the estimate of fiscal year 1980 budget requirements below the House-passed level. Despite these reductions, the conference substitute provides $500 million in budget authority above the amounts for the BEOGs program included in the Conference Report on the Labor-HEW Appropriations bill.

It is the intention of the House conferees that the policy of full funding for the BEOGs program be maintained in fiscal year 1980. Should the funds included in the conference substitute prove insufficient to fully fund all eligible students, it is assumed that additional funds will be provided through a supplemental appropriation to achieve the full funding objective.

For the remainder of education programs, the conference substitute provides funds at all levels included in the House-passed Interior Appropriations bill and the conference agreement on the Labor-HEW Appropriations bill. The conference substitute also provides additional funding, above the amount included in the Guaranteed Student Loans program. For education programs included in the Legislative Branch Appropriations bill, the conference substitute provides funds consistent with the First Budget Resolution assumptions.

TRAINING AND EMPLOYMENT PROGRAMS

The conference substitute provides $10,600 million in budget authority and $11,450 million in outlays for training, employment and other programs administered by the Department of Labor. These totals are the same as in the House-passed Resolution. The totals assume funding for 250,000 average and year-end title II–D structurally unemployed persons and 200,000 year-end title VI cyclically unemployed persons and include room for an anticipated supplemental of $471 million in budget authority and $351 million in outlays for the Public Service Employment (PSE) programs. Further, the totals assume funding the remainder of the training, employment, and other Labor Department programs at the levels established in the Labor-HEW Appropriations Conference Report, which included $2.1 billion in budget authority for youth employment and training programs.

For the title VI countercyclical program, the conference substitute assumes funding for an average of 235,000 jobs. The conference substitute assumes that the title VI program will phase down from a 1979 end-of-year strength of 300,000 to 200,000 at the end of fiscal year 1980. In order to meet this goal, the conference substitute assumes a supplemental of $237 million in budget authority and $129 million in outlays based on recent estimates of average per-participant costs and revised amounts of funds available from prior years. Further, the conference substitute assumes that CETA prime sponsors, in operating both the titles II–D and VI PSE programs, will carry over 10 percent of their available funds in fiscal year 1981. Over the past two years the national average percent of carryover for CETA PSE programs has ranged from 13 percent to 35.5 percent. While the need for prime sponsors to carry over funds from one year to the next in order to maintain program continuity is recognized, the conference substitute assumes that the carryover will not exceed 10 percent of each prime sponsor's available PSE funds as prescribed in Labor Department regulations.

SOCIAL SERVICES

The conference substitute provides $5,700 million in budget authority and $5,550 million in outlays for social services programs. These totals represent a $100 million reduction in both budget authority and outlays from the House-passed Resolution. The conference substitute provides sufficient funds for a $3.0 billion title XX social services ceiling, as well as sufficient supplemental funds for ACTION. The title XX ceiling of $3.0 billion would be $100 million above the fiscal year 1979 level, $100 million below the House-passed H.R. 3434, Social Services and Child Welfare Act Amendments of 1979, and $300 million above both the Senate Resolution and the Senate-passed H.R. 3434. Finally, the totals assume the funding included for other social services programs in the Labor-HEW Appropriations conference agreement.

[In millions of dollars]

	First Budget Resolution		House-passed Second Budget Resolution		Conference agreement		Conference difference over (+)/under (−) House First Resolution	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Education	14,996	13,966	14,952	14,324	14,585	14,074	−411	+108
Training and employment	10,289	11,234	10,637	11,454	10,637	11,454	+348	+220
Social services	5,727	5,471	5,814	5,606	5,590	5,485	−37	+14
Across-the-board reduction (Fisher amendment)	−150	−159					+150	+159
Offsetting receipts	−12	−12	−12	−12	−12	−12		
Total	30,850	30,500	31,391	31,371	30,900	31,000	+50	+500

Note: Totals may not add due to rounding.

FUNCTION 550: HEALTH

[In millions of dollars]

	Budget authority	Outlays
House resolution	58,767	54,715
Senate resolution	58,800	54,200
Conference agreement	58,800	54,450
Conference over (+) under (−) House	+33	−265

The House Resolution included $58,767 million in budget authority and $54,715 million in outlays.

The Senate Resolution provided $58,800 million in budget authority and $45,200 million in outlays.

The conference substitute provides budget authority of $58,800 million and $54,450 million in outlays for fiscal year 1980.

MEDICARE

The conference substitute includes $35,600 million in budget authority and $32,600 million in outlays for Medicare. The substitute assumes that mandatory hospital cost containment legislation will be enacted in accordance with bills already reported by the House Ways and Means and Interstate and Foreign Commerce Committees.

In addition, the Ways and Means and Finance Committees have each reported a number of different legislative changes which will modify the program and lower costs. These include mandatory reimbursement for the elderly covered under private liability insurance policies, expanded Professional Standards Review Organizations (PSRO) responsibilities, lower reimbursement to hospitals when nursing home care is provided, and increased use of outpatient surgery when medically appropriate. The conference substitute assumes enactment of these measures designed to reduce Medicare outlays by $581 million.

The conference substitute also assumes that needed services for the elderly will be expanded under Medicare. An allowance of

$171 million is included in the substitute for bills reported by the Ways and Means and Finance Committees to provide additional coverage for home health services and elimination of certain restrictions in coverage for disabled persons.

MEDICAID

The conference substitute provides $13,600 million in budget authority and $12,850 million in outlays for Medicaid. This is approximately the same amount as the House Resolution. The substitute assumes the enactment of mandatory hospital cost containment legislation. It also assumes that supplemental funding will be required in fiscal year 1980 to meet program requirements resulting from higher inflation and to replace budget authority borrowed to comply with the fiscal year 1979 Michel Amendment to the Labor-HEW Appropriations bill. The substitute also assumes enactment of legislative reforms, which are being considered by the Interstate and Foreign Commerce Committee, to lower costs in Medicaid. The Senate Finance Committee already has reported amendments which will lower expenditures in fiscal year 1980 by revising letter of credit payments to States and extending PSRO review to additional services. Outlay savings of $376 million are assumed from these reforms in fiscal year 1980.

The substitute also includes $306 million needed in fiscal year 1980 to expand benefits under Medicaid, including implementation of the proposed Child Health Assurance Program which will provide eligibility to comprehensive ambulatory health services to an additional five million low-income children and an additional 220,000 pregnant women.

DISCRETIONARY HEALTH

The conference substitute includes $9,600 million in budget authority and $9,000 million in outlays for health programs other than Medicaid and Medicare. Consistent with the Labor-HEW Appropriations Conference Report, increases are included for community and migrant health centers, family planning services, disease investigation and control activities, health professions student assistance, biomedical research, and health maintenance organizations. Of the total, $800 million in budget authority and $300 million outlays are included to maintain the current level for programs which were unauthorized when the Labor-HEW Appropriations bill was considered. It is assumed that these programs, including nurse training, health planning and alcoholism and drug abuse prevention and treatment will be funded through a fiscal year 1980 supplemental appropriation. The conference substitute includes outlays at the fiscal year 1979 level for these health programs.

The following table provides a more specific comparison of the First Budget Resolution, the House-passed Second Resolution, and the conference substitute.

FUNCTION 550: HEALTH—COMPARISON OF FIRST AND SECOND BUDGET RESOLUTIONS, FISCAL YEAR 1980

	First Budget Resolution		Second Budget Resolution: House-passed		Second Budget Resolution: Conference substitute		Difference conference over/under First Resolution	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Medicare, current law	35,745	33,456	35,618	33,739	35,600	33,550	−145	+94
Proposed legislation:								
Hospital cost containment		−1,300		−540		−540		+760
Other legislative savings		−266		−578		−581		−315
Benefit improvements		156		171		171		+15
Subtotal, medicare	35,745	32,046	35,618	32,792	35,600	32,600	−145	+554
Medicaid, current law	12,795	12,552	13,665	13,083	13,670	13,100	+875	+548
Proposed legislation:								
Hospital cost containment	−100	−100	−50	−80	−50	−80	+50	+20
Other legislative savings	−138	−138	−229	−387	−226	−376	−88	−238
Benefit improvements	312	312	206	206	206	206	−106	−106
Subtotal, medicaid	12,869	12,626	13,592	12,822	13,600	12,850	+731	+224
Discretionary health programs	9,500	9,000	9,571	9,115	9,614	9,014	+114	+14
Offsetting receipts	−14	−14	−14	−14	−14	−14		
Across-the-board reduction		−58						
Total, health	58,100	53,600	58,767	54,715	58,800	54,450	+700	+850

FUNCTION 600: INCOME SECURITY

[In millions of dollars]

	Budget authority	Outlays
House resolution	217,658	188,795
Senate resolution	216,600	188,700
Conference agreement	218,500	190,000
Conference over (+) under (−) House	+842	+1,205

The House Resolution provided $217,658 million in budget authority and $188,795 million in outlays.

The Senate Resolution provided $216,600 million in budget authority and $188,700 million in outlays.

The conference substitute provides budget authority of $218,500 million and outlays of $190,000 million, which is an increase of $842 million in budget authority and $1,205 million in outlays above the House-passed Resolution.

The largest adjustment is the consolidation of the $1,600 million in budget authority and outlays for low-income energy assistance in the income security function. The House Resolution had included $250 million for this program in the income security function. This is the same as the amount included in the conference agreement on the Labor-HEW Appropriations bill. The remaining $1,350 million proposed for this activity by the President was included in the energy function. The Senate had included $572 million in budget authority and $543 million in outlays for low-income energy assistance in the income security function and no funds for this purpose in the energy function.

The conference substitute reduces the estimate for subsidized housing by $200 million in budget authority below the House-passed Resolution, which had included the amount in the conference agreement on the HUD-Independent Agencies Appropriations bill for fiscal year 1980. The Senate Resolution assumed a reduction of $700 million in budget authority below the conference agreement on the appropriations bill. Because the Senate Resolution did not include language which would require reconciliation by the Appropriations Committee, the assumed reduction of $700 million in the Senate Resolution agreement would not have necessarily occurred in subsidized housing. Similarly, the conference substitute does not include a reconciliation directive which would require the reduction to be made in subsidized housing. If the $200 million reduction in the conference substitute were to be made in subsidized housing, however, there would be 2,000 less units available than the 257,000 assumed in the House Resolution.

The conference substitute provides $100 million in budget authority and outlays for legislation under the jurisdiction of the Committee on Ways and Means, a reduction of $100 million in budget authority and outlays from the House-passed Resolution. Because that Committee has reported legislative savings which exceed the target in the House Resolution by $100 million, this reduction does not jeopardize funding for legislative initiatives, such as the Trade Adjustment Assistance Amendments (H.R. 1543), which had been reported when the House approved the Second Budget Resolution.

The conference substitute accommodates the extension of the Indochinese Refugee Assistance program. A reduction to the House estimates of $129 million in budget authority and $27 million in outlays reflects the approach in the extension approved by the Senate (S. 643) which funds the program through annual appropriations. The conference substitute accommodates the program level of 14,000 admissions a month assumed in the House Resolution.

The conference substitute includes several estimating adjustments which total $79 million in budget authority. The largest of these is a reduction of $67 million in budget authority for public assistance, reflecting the fact there was not a drawdown of fiscal year 1980 appropriations to finance the fiscal year 1979 program as assumed in the House Resolution.

Attached is a table which provides more detail on the House allocation of the conference agreement:

FUNCTION 600: INCOME SECURITY—HOUSE/SENATE DIFFERENCES, 2D BUDGET RESOLUTION, FISCAL YEAR 1980

[In millions of dollars]

	House 2d resolution		House allocation of conference agreement 2d resolution		Difference (passed plus conference)	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
General retirement/disability (601):						
Social security	115,368	118,615	115,368	118,615		
Proposed legislation		−17		−17		
Railroad retirement	4,161	4,657	4,145	4,643	−16	−14
Special benefits to coal miners	1,935	1,943	1,935	1,943		
Other	11	11	11	11		
Subtotal (601)	121,475	125,209	121,459	125,195	−16	−14
Federal employee retirement (602)	23,645	14,531	23,645	14,531		
Proposed legislation		−97	4	−97	+4	
Housed-passed legislation	23	12	23	12		
Subtotal (602)	23,668	14,446	23,672	14,446	+4	0
Unemployment insurance (603)	15,880	15,279	15,880	15,279		
Proposed legislation	177	177	177	177		
Subtotal (603)	16,057	15,456	16,057	15,456	0	0
Public assistance and other (604) cash assistance:						
SSI	6,323	6,267	6,323	6,267		
AFDC	7,357	7,180	7,290	7,180	−67	
Legislation:						
Initiatives	126	126	116	116	−10	−10
Impact from social security	23	23	23	23		
Savings	−146	−146	−236	−236	−90	−90
Subtotal, cash assistance	13,683	13,450	13,516	13,350	−167	−100
Housing assistance	27,479	5,334	27,279	5,331	−200	−3
Food stamps	6,189	6,263	6,189	6,263		
Legislation:						
Removal of cap	2,008	1,907	2,008	1,907		
Savings	−250	−250	−250	−250		
Public Law 95-58	18	18	18	18		
Subtotal, food stamps	7,965	7,938	7,965	7,938		
School lunch:						
Child nutrition	4,644	4,403	4,644	4,403		
Proposed legislation	−165	−165	−165	−165		
Refugee assistance	76	138	76	138		
Proposed legislation	76,454	264	325	237	−129	−27
Low-income energy assistance	250	250	1,600	1,600	+1,350	+1,350
Earned income tax credit	1,874	1,874	1,874	1,874		
Other	198	197	198	197		
Subtotal (604)	56,458	33,683	57,312	34,903	+854	1,220
Grand total	217,658	188,795	218,500	190,000	+842	+1,205

Note: Additional allowance of $1,350,000,000 in budget authority and outlays included in function 270: Energy.

FUNCTION 700: VETERANS BENEFITS AND SERVICES

[In millions of dollars]

	Budget authority	Outlays
House resolution	21,607	20,851
Senate resolution	21,200	20,600
Conference agreement	21,450	20,800
Conference agreement over (+) under (−) House	−157	−51

The House Resolution provided $21,607 million in budget authority and $20,851 million in outlays.

The Senate Resolution provided $21,200 million in budget authority and $20,600 million in outlays.

The conference substitute provides $21,450 million in budget authority and $20,800 million in outlays. The conference substitute accommodates veterans programs levels established in the HUD-Independent Agencies Appropriations bill and reflects recent House passage of a 9.9 percent cost-of-living adjustment in compensation to service-connected disabled veterans, as well as a 17 percent increase in the payment rate for vocational rehabilitation for service-disabled veterans. In addition, legislative savings from hospital and medical care reforms are assumed.

[In billions of dollars]

	First Budget Resolution		House-passed Second Budget Resolution		Conference agreement Second Budget Resolution		Conference difference over (+) under (−) First Budget Resolution	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Income security	12.3	12.0	12.5	12.15	12.4	12.1	+0.1	+0.1
Education, training, and rehabilitation	2.3	2.2	2.3	2.2	2.2	2.1	−.1	−.1
Hospital and medical care	6.1	6.0	6.2	6.1	6.2	6.1	−.1	+.1
Housing and other	.6	.4	.6	.4	.7	.5	+.1	+.1
Function total	21.2	20.6	21.6	20.85	21.5	20.8	+.25	+.2

Note: Figures may not add to totals due to rounding.

FUNCTION 750: ADMINISTRATION OF JUSTICE

[In millions of dollars]

	Budget authority	Outlays
House resolution	4,269	4,468
Senate resolution	4,200	4,400
Conference agreement	4,200	4,400
Conference over (+) under (−) House	−69	−68

The House Resolution provided $4,269 million in budget authority and $4,468 million in outlays.

The Senate Resolution provided $4,200 million in budget authority and $4,400 million in outlays.

The conference substitute provides $4,200 million in budget authority and $4,400 million in outlays. This is $69 million in budget authority and $68 million in outlays below the House-passed resolution.

FUNCTION 800: GENERAL GOVERNMENT

[In millions of dollars]

	Budget authority	Outlays
House resolution	4,484	4,301
Senate resolution	4,400	4,200
Conference agreement	4,450	4,200
Conference over (+) under (−) House	−34	−101

The House Resolution provided $4,484 million in budget authority and $4,301 million in outlays.

The Senate Resolution provided $4,400 million in budget authority and $4,200 million in outlays.

The Senate Resolution provided $4,400 million in budget authority and $4,200 million in outlays. This is $34 million in budget authority and $101 million in outlays below the House Resolution. The agreement provides for sufficient funding to accommodate enacted appropriations bills affecting this function.

FUNCTION 850: GENERAL PURPOSE FISCAL ASSISTANCE

[In millions of dollars]

	Budget authority	Outlays
House resolution	9,076	9,075
Senate resolution	9,300	9,300
Conference agreement	9,050	9,050
Conference over (+) under (−) House	−26	−25

The House Resolution provided $9,076 million in budget authority and $9,075 million in outlays.

The Senate Resolution provided $9,300 million in budget authority and $9,300 million in outlays.

The conference substitute provides $9,050 million in budget authority and $9,050 million in outlays. This is $26 million in budget authority and $25 million in outlays below the House-passed Resolution. The agreement provides for funding of an antirecession/targeted fiscal assistance program and full funding of the revenue sharing program at $6,900 million in fiscal year 1980.

FUNCTION 900: INTEREST

[In millions of dollars]

	Budget authority	Outlays
House resolution	58,038	58,038
Senate resolution	58,100	58,100
Conference agreement	58,100	58,100
Conference over (+) under (−) House	+62	+62

The House Resolution provided $58,038 million in budget authority and $58,038 million in outlays.

The Senate Resolution provided $58,100 million in budget authority and $58,100 million in outlays.

The conference substitute provides $58,100 million in budget authority and $58,100 million in outlays. This is $62 million in budget authority and $62 million in outlays above the House-passed resolution. The agreement recognizes estimating adjustments to reflect the assumed deficit amounts and changes in the general level of interest rates.

FUNCTION 920: ALLOWANCES

[In millions of dollars]

	Budget authority	Outlays
House resolution	482	453
Senate resolution	−100	−100
Conference agreement	−200	−200
Conference over (+) under (−) House	−682	−653

The House Resolution provided $482 million in budget authority and $453 million in outlays.

The Senate Resolution provided −$100 million in budget authority and −$100 million in outlays.

The conference substitute provides −$200 million in budget authority and −$200 million in outlays. This is $682 million in budget authority and $653 million in outlays below the House-passed resolution. The agreement assumes that the reductions required by the Michel amendment in the Labor-HEW Appropriations bill and the reduction in travel and transportation required by the recent continuing resolution will more than offset the costs of pay raises in non-defense agencies, assuming absorption of 40 percent of gross costs of the recent 7 percent pay raise.

FUNCTION 950: UNDISTRIBUTED OFFSETTING RECEIPTS

[In millions of dollars]

	Budget authority	Outlays
House resolution	−19,700	−19,700
Senate resolution	−19,700	−19,700
Conference agreement	−19,700	−19,700
Conference over (+) under (−) House		

The House Resolution provided −$19,700 million in budget authority and −$19,700 million in outlays.

The Senate Resolution provided −$19,700 million in budget authority and −$19,700 million in outlays.

The conference substitute provides −$19,700 million in budget authority and −$19,700 million in outlays. This is the same as in the House-passed resolution.

□ 1100

Our Appropriations Committee stayed under the spring target to the budget resolution in every instance but one. That was energy and that was necessitated because of the massive new initiatives that took place in energy this summer. We did not think at this late stage in the legislative year that it was either wise or feasible to mandate reconciliation.

Mr. Speaker, let me say I believe in reconciliation as a budget process. I agree with the Senator from Maine who very strongly has argued in favor of the tool of reconciliation as a budget process. I know that there may be times when we will have to have reconciliation built into a budget resolution. I suggest, however, that, given the efforts of our committees this year, in trying to accommodate and accomplish legislative savings, that it would not be wise to mandate reconciliation in this budget resolution.

For example, Mr. Speaker, the Committee on Veterans' Affairs has tried hard to come up with reforms to save some money in veterans' entitlement. The committee is to be complimented for the efforts which it has made in that regard.

Therefore, Mr. Speaker, I do not think it would be wise or proper for us now to make an order of reconciliation to the Committee on Veterans' Affairs and say to them if "You go and find another $100 million that you can cut out of expenditures in the entitlement program for veterans." That is what is in this issue of reconciliation.

The other body mandated the Committee on Armed Services, the Committee on Education and Labor, the Committee on Finance, the Committee on Veterans' Affairs, the Committee on Agriculture, and some other committees to do that.

We do not think it is the wise moment to do it in this resolution. However, I want to stress again reconciliation is a very real part of the Budget Act. It is a very real part of Congress decision and ability to order its committees and its Members to take certain steps, steps designed to cut down on expenditures, to cut down on entitlements, or steps designed to either increase or reduce revenue. We should not treat this issue lightly. It is a serious question. It is a valid question. I urge and recommend that we do not support the concept of reconciliation in this resolution because of the fact that our House committees have acted notably and effectively in coming forth with legislative reforms which accomplish the same purpose and which will, in fact, reduce expenditures.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, at the outset I want to commend my good friend from Connecticut, the chairman of the Committee on the Budget, for his hard work and for holding up so well under what has been a most difficult year in the brief history of the budget process.

Surely through no fault of the chairman of the Committee on the Budget the House spent nearly 3 weeks debating the first budget resolution for fiscal year 1980 last spring. Now, here we are 6 weeks into the fiscal year and we have yet to adopt a budget. Three weeks were spent in conference with the Senate on this report only to come back with one of the most important parts; namely, reconciliation, in disagreement.

Mr. Speaker, I would like to turn to the issues before us today. While the conference report on the second budget resolution does not have a great deal to recommend it, there are a few isolated things which I can strongly support. Unfortunately, the chairman has moved to strike the good things and keep most of the bad. I refer, of course, to the motion now pending which endorses acceptably high budget figures while eliminating reconciliation. Such a move is designed to give us the worst of both worlds. Certainly it is a little like throwing out the baby with the bath.

Mr. Speaker, let me explain what I mean. As far as the budget numbers go, the conference agreement is nothing but bad news. The deficit on paper is $29.8 billion or $2.2 billion above the deficit for the year just ended; $6.8 billion above the deficit target in the first resolution for 1980 adopted by the Congress in the spring of this year. It is fully $10 billion above the level contained in the budget substitute I offered on September 19.

Mr. Speaker, notice I said the deficit on paper would be $29.8 billion. There are two things which will likely push the figure far higher. One, the failure to include reconciliation language will mean that the deficit will grow by $3 to $4 billion by the time the year is out and, second, deteriorating economic conditions will add billions more to the deficit.

The President's Office of Management and Budget has, according to Newsweek magazine, reportedly calculated that the deficit for fiscal year 1980 will exceed $40 billion not the $29.8 billion mentioned in this resolution. Moreover, this resolution provides no room for a tax cut of any kind, even though inflation and higher social security taxes will cause taxes to rise by over $20 billion in fiscal year 1980.

Mr. Speaker, we all know that the President will propose and the Congress will undoubtedly approve an election-year tax cut early next spring. Failure to accommodate that fact of life in this budget resolution is simply not facing up to reality.

I have had Members ask me why the

deficit is going up when taxes are now taking the highest percentage of Americans' income in history. The answer, of course, is that the majority in this Congress cannot contain their appetite to spend more and more.

Just in the few months between the passage of the first resolution this spring and our consideration of the second resolution at this time, spending rose by over $15 billion. Most of that comes from higher social security payments and interest on the national debt.

Mr. Speaker, the majority makes no effort to offset these higher mandatory payments with reductions in programs of lower priority. Mentioning interest alone, if you look at the figures brought forth by the conferees, the interest remains the same, $58 billion. Everybody knows that the interest payments are going to go up substantially because of the high cost of money right now to the Federal Government. This is not taken into consideration in any meaningful way in this budget resolution.

Mr. Speaker, this is just one of the problems we face.

I might say, Mr. Speaker, that the matter of reconciliation is something with which this Congress should come to grips. What really surprises me about the pending amendment of the chairman to strike reconciliation from this budget resolution is that he is acting as if reconciliation were something foreign to the budget process. Naturally, he says he is for it. Well, if he is for it, let us adopt it and do something about it. Reconciliation is a part of the Budget Act.

Mr. Speaker, we are supposed to uphold the law. Section 310(c) provides for reconciliation.

□ 1110

Let me read it to you, in case you have forgotten about it:

(c) RECONCILIATION PROCESS.—If a concurrent resolution is agreed to in accordance with subsection (a) containing directions to one or more committees to determine and recommend changes in laws, bills, or resolutions, and—

(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House a reconciliation bill or reconciliation resolution, or both, containing such recommendations; or

(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations, whether such changes are to be contained in a reconciliation bill or reconciliation resolution, and submit such recommendations to the Committee on the Budget of its House, which upon receiving all such recommendations, shall report to its House a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revision.

Now, my colleagues, if we do not want to abide by the law, we ought to amend, don't you think? Until such time as we delete that language from the law, it is incumbent upon us to make this budget process work by obeying the law; but we are now being asked by my good friend, the gentleman from Connecticut, not to abide by the law and to strike reconciliation from the report. One of the biggest holdups in the conference was the matter of reconciliation. The Senate is insisting on it and they voted on this conference report last night overwhelmingly, 65 to 27, to keep reconciliation in the process and to make this budget process really work; but no, we are asked today to delete it.

Let me say, there is no quicker way to guarantee that the budget process will be rendered useless than to remove the one real weapon we have to combat excessive spending from it.

While the chairman alluded to his reasoning in his opening statement, I think it is important to examine why it is that the gentleman is asking us to eliminate reconciliation from this budget resolution.

We ought to understand that the numbers in the budget before us, the same numbers the chairman is urging us to accept, are a net of approximately $3 billion in spending cuts, none of which have yet passed the Congress.

In other words, if the Congress does not adopt these legislative changes or savings, the deficit will be $3 billion or more higher than the $29.8 billion being shown in the conference report.

When we talk about legislative savings, we mean savings which can result if and only if certain existing laws are changed. In order to insure that these changes do take place, the Senate courageously included reconciliation in its version of this budget, as I pointed out earlier.

The SPEAKER pro tempore (Mr. NATCHER). The time of the gentleman from Ohio (Mr. LATTA) has expired.

Mr. LATTA. Mr. Speaker, I yield myself 4 additional minutes.

Mr. Speaker, reconciliation forces committees to report out measures which will reduce spending and accomplish these legislative savings; so we note the difference in the two processes. This is what the budget is all about, discipline. Until such time as we come to grips with this matter, we are going to have continuing Federal deficits.

The House, on the other hand, wants to eliminate the $3.6 billion of savings that the Senate wishes to achieve through reconciliation. House leaders want us to believe that the spending committees of the House and of the Senate will voluntarily on their own report out bills which would change laws under their jurisdiction and, thereby, save approximately $3 billion. I have to ask, if this is what is going to happen, when is it going to start? They are talking about adjourning this Congress in December and they had better get started.

Now, let us look at the record. The committees of the House were asked when the first budget resolution was passed to report out legislative savings totaling over $4 billion. Yet, 5 months later, already 6 weeks into the fiscal year, not one dollar of legislative savings has been enacted.

More than that, many committees have not even held hearings or reported out legislation which would be required to make the necessary savings, even though they have had all summer and fall to do it.

In spite of this, the chairman urges us to reject reconciliation in favor of such a voluntary approach.

Now, I understand the chairman's reasoning. He is afraid that if we force a vote on reconciliation alone, he may lose, but the alternative is to continue to adopt budget resolutions which exert no discipline, which bless spending decisions already made independent of budget restraints which have heretofore been really meaningless. That means we have the appearance of a budget process, but in fact we have no real process at all.

After 5 years, I think it is time to lay the cards on the table. If this House does not want to be constrained by a self-imposed budget, let us take a vote and establish that fact once and for all. Let the American people see which Members are really serious about cutting back on spending and balancing the budget and let them see which ones are for spending cuts only when they do not affect his or her own special interests.

The issue before us today is simple. If we believe the committees of the House and the Senate should reduce spending by $3.6 billion in fiscal year 1980, and I remind you this is only six one-thousandths of the total amount in this budget, you should vote against striking reconciliation from the report.

This is the only question, regardless of how complicated the leadership will try to make it. Either we live within the budget or we should do away with the sham of having one in the first place. Either we accept the reconciliation as a necessary and a vital part of the budget process or we tell the voters of this country that deficit spending and tax increases are going to continue.

Mr. Speaker, I urge all of my colleagues to join with me today in defeating the Giaimo motion to strike.

Now, $3.6 billion may not be a great deal of money when compared with the public debt of $886 billion, but it is a small and long overdue step in the right direction.

Mr. ICHORD. Mr. Speaker, will the gentleman yield on that?

The CHAIRMAN. The time of the gentleman from Ohio (Mr. LATTA) has again expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

I would be delighted to yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, the distinguished gentleman from Ohio stated that $3.6 billions are involved in legislative savings. Would the gentleman specifically state just what legislative savings we are talking about, what programs are involved in that $3.6 billion?

Mr. LATTA. It is contained in a whole list of programs and rather than take the time of the House to recite them all, I will pass a copy of them to the gentleman.

They are proposed savings that the committee has come up with but they would require changes in the law.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I would be happy to yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in responding to the question of the gentleman from Missouri, I would like to respond as to what some of those proposals are on legislative savings. They include annualized cost-of-living increases for Federal retirees; decreasing operating differential subsidies; they include eliminating indexing of vocational rehabilitation State grants; they include capping title 20 State and local training grants; they include impact aid reforms.

The SPEAKER. The time of the gentleman from Ohio (Mr. LATTA) has again expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

Mr. PANETTA. Mr. Speaker, if the gentleman will yield further, they include hospital cost containment as one of those legislative reforms, medicare, medicaid, food stamp reforms, cash assistance, and child nutrition reforms.

In total there are about 14 areas that are included in the legislative savings there.

Mr. ICHORD. Mr. Speaker, if the gentleman will yield further, all of them total up to be about $3.6 billion?

Mr. PANETTA. Actually, they total up to $2.7 billion; but what the Senate has done in addition to that is added the appropriations area. The total comes to in excess of $3 billion, because the Senate has, indeed, added the appropriations ceilings to that package as well. We consider about $2.7 billion to be included in this budget resolution on legislative savings per se.

Mr. ICHORD. Mr. Speaker, I thank the gentleman.

Mr. LATTA. Mr. Speaker, may I further answer the question and point out again, there is a difference between legislative savings, as has already been outlined, and the reconciliation process. In the reconciliation process, they are only talking in dollar amounts, rather than specific programs.

Mr. GIAIMO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, will the gentleman from Missouri give me his attention?

One of the reconciliation items which the other body mandated was to the House and Senate Armed Services Committees to reduce expenditures by $100 million.

□ 1120

Mr. ICHORD. In what area?

Mr. GIAIMO. Whatever the areas are that the committees would determine, but the suggested area, of course, is in the cost-of-living adjustment.

Mr. ICHORD. Mr. Speaker, how does the gentleman reconcile that with the position of the Senate in having increased spending in the area of defense as compared to the House?

Mr. GIAIMO. That is a good question, but the point is they have mandated in the other body the Armed Services Committees to find $100 million, and suggested finding savings by adding cost-of-living adjustments once a year rather than twice, which, as the gentleman knows, is a legislative reform we have been trying to accomplish here but have not yet been able to accomplish.

Mr. ICHORD. And I have supported that.

Mr. GIAIMO. And they are ordering the committee to do that.

The SPEAKER pro tempore. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

Mr. GIAIMO. Mr. Speaker, I yield 10 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I rise to urge support of the Giaimo amendment and support of the resolution as it is brought back to the floor.

With regard to the functional categories and how the numbers are divid- I will allow others to speak to those issues. It suffices to say that this resolution is probably not the kind of resolution that I would have drafted and it is probably not the kind of resolution each individual Member would have wished to have adopted. But the heart and soul of the budget process, if it is to survive, is in the area of compromise and balancing a number of different viewpoints and priorities.

This resolution, I do believe, reflects that kind of balance between defense and the social programs and at the same time tries to maintain as low a deficit as possible.

I would like specifically to address the area of reconciliation because this is a complex issue and a confusing issue. I think it is subject to a number of misconceptions.

What is reconciliation? Reconciliation is provided for under the Budget Act, whereby the Budget Committees can in fact order authorizing committees and Appropriations Committees to act with regard to certain legislation to effect certain savings in line with the budget resolution. It orders those committees to act. When those committees have acted, a bill of reconciliation then comes to the floor. The House and the Senate then have to act on a bill of reconciliation that includes all of the savings proposals that have been so ordered.

It is important to remember here that the position of the conferees is not one opposed to reconciliation as a tool in the budget process. It is in the budget process. We accept it as a part of the budget process. But our approach has been to use reconciliation selectively by targeting at those committees that have failed to come forward with legislative savings. That is the distinction.

We do not think we should take reconciliation and attack all committees regardless of what they have achieved with regard to legislative savings. We think it ought to be used selectively.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. If the gentleman will just allow me to complete my statement, then I will be pleased to yield.

Mr. Speaker, we think reconciliation ought to be used selectively with regard to those committees which do not in fact produce the legislative savings reflected in the budget resolution.

That is not what the Senate has done. The Senate has in fact recommended and directed seven of its committees to report legislative savings and has in turn directed seven of the House committees to do the same. To the Committees on Armed Services, Ways and Means, Veterans' Affairs, Post Office and Civil Service, Education and Labor, Public Works and Transportation, and Appropriations, it has said to them, "Regardless of what you have achieved in this area, we direct you to report certain savings back to the floor in a reconciliation bill."

We reject that approach because we think that tool ought to be used selectively.

The second issue and the most important issue is achieving legislative savings. The point of reconciliation and all the talk about reconciliation means nothing if in the end we do not achieve legislative savings. That is the name of the game.

In this budget resolution we have targeted $2.7 billion in legislative savings. We agree that this is an area that has to be focused on. At the present time we know that 75 percent of the budget is virtually labeled "uncontrollable" because of entitlement programs that are not subject to review by authorizing Appropriations Committees.

We think that we need to have committees go back to these various entitlement programs and reform them. We think we have to enact legislation to improve legislation and tighten up on these programs to produce the kind of savings that hopefully will give us a handle on the budget.

The House committees have in fact responded. We developed this strategy on the House side that says we are going to target legislative savings as a very important part of the budget process. We developed a task force in the Budget Committee; we developed the support and cooperation of the Speaker; and we developed tremendous cooperation among the various chairmen. The fact is that out of a target of $2.7 billion we have action that has taken place on roughly $1.7 billion. In the House alone, $1.4 billion has been acted on by the committees or by the House. Mr. Speaker, let me describe some of those proposals. We have disability reform legislation that was adopted by the Committee on Ways and Means, brought to the floor, and passed by the House. Those disability reforms provided savings of $17 million. That has been passed by the House; it is over in the Senate.

The cash assistance bill and welfare reform bill has savings in it of roughly $150 million. That was passed by the House and is now with the Senate.

Impact aid legislation has been adopted in a conference report, and that reflects $29 million in savings.

We have a cap on title 20 grants, with

$18 million in savings. That has been passed by the House.

We have had veterans' legislation that has produced $13 million in savings. That has been passed by the House.

We have a hospital cost containment bill that has been reported both by the Committee on Ways and Means and the Committee on Interstate and Foreign Commerce. The savings in that bill would be $640 million if it is passed by the House of Representatives and by the Congress.

In addition to that, today the Committee on Agriculture is working on food stamp legislation that would produce roughly $300 million in savings.

The Committee on Post Office and Civil Service is looking at the issue of annualizing cost-of-living provisions for Federal retirees that would produce $200 million in savings.

The Committee on Education and Labor is looking at nutrition reforms that could produce in excess of $100 million in savings.

The point is this: That the House committees are working with regard to legislative savings, and that we have a record that supports the fact that they are working in this area. I do not know what the final result will be, whether the Congress will in fact adopt many of these legislative savings when we get to the end of this year. But I do know that it makes more sense, if we are going to pass these savings, to work on them with the committees, to allow time to debate these issues, to allow the House the opportunity to amend these issues, to discuss them, and then to support them or vote against them than it does to package them all in one bill of reconciliation.

Let me say that I am somewhat amused by those who say the answer to this is packaging all of these proposals in a bill of reconciliation and bringing them to the floor. Let me tell the Members what proposals are likely to be part of a bill of reconciliation. That bill would probably contain hospital cost containment. How many Members who are opposed to hospital cost containment in itself would vote for that if it is incorporated in a bill of reconciliation?

That bill would contain reductions in veterans' benefits in terms of burial benefits, and it would contain cost-of-living annualization for Federal retirees. It would contain reductions in child nutrition programs, and it would contain other reductions in highway programs. Those proposals would all be a part of a bill of reconciliation. We would antagonize every major constituency in this country, and no one can tell me that such a bill of reconciliation would not be rejected by the House or the Senate.

The fact is that the end result of that action would be that we would undermine the reconciliation process itself.

So let us not play games here. A bill of reconciliation would be a very controversial issue on this floor. It is far better to go to the individual committees and ask them to work on the legislative savings, report them to the House, and have the House work on these proposals individually.

Mr. LATTA. Mr. Speaker, will the gentleman yield? If the gentleman runs out of time, I will give him additional time.

Mr. PANETTA. I am pleased to yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, did I misunderstand the gentleman to say that reconciliation mandates the committees to come out with recommendations to make those specific cuts he is talking about?

Mr. PANETTA. It mandates these committees to produce savings.

Mr. LATTA. But not in any particular program, as the gentleman has outlined?

Mr. PANETTA. But surely, as the gentleman knows, the way the Senate has designed this is that they have given the committees 30 days to produce savings.

If we go to the Committee on Veterans' Affairs and say to them, "Where are you going to come up with $100 million in savings?" the area is going to be in burial benefit reductions and it is going to be in other benefit reductions. Those are the only savings that have been targeted.

Mr. LATTA. Mr. Speaker, if the gentleman will yield further, that is what the gentleman is saying; that is not specifically what the Committee on Veterans' Affairs would have to do to produce the necessary savings.

Mr. PANETTA. Mr. Speaker, does the gentleman have any idea where else in the Committee on Veterans' Affairs these legislative savings could be effected?

Mr. LATTA. I am not saying where the Committee on Veterans' Affairs should make cuts to come up with particular savings. We are talking about numbers under the reconciliation process but under your legislative savings proposal $57 billion in veterans' benefit reductions would be mandated in given programs.

□ 1130

Now we are not doing that. We do not list the programs like the gentleman says they have got to come up with. We are giving them the options.

Mr. PANETTA. Surely the gentleman knows you are not going to get legislative savings out of the air. You have to come up with some kind of proposals that in fact reduce programs or achieve these savings. That is what we are talking about. Where is the Veterans' Committee going to come up with those reductions? In 30 days, I might add. The fact is that there are very limited areas that they could respond to. The same thing is true with Ways and Means.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. PANETTA) has expired.

Mr. SOLARZ. Mr. Speaker, I yield 4 additional minutes to the gentleman from California.

Mr. PANETTA. We have the Committee on Ways and Means that has already reported out in excess of $1 billion in legislative savings. Where are they going to turn for additional savings when, in fact, they have reported it out?

So let us not kid ourselves. Reconciliation may sound good in terms of rhetoric, but when it comes down to bread-and-butter issues that we have to deal with on the floor, it is another question. We are talking about cutbacks. We are talking about reductions in benefits. We are talking about hospital cost containment. We are talking about proposals that this institution is going to have to vote on. And it does not make it any easier to incorporate it in a bill of reconciliation. We have to deal with these issues individually, as we have been doing on the House side, and that I think is the most successful way to achieve legislative savings.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, first of all I want to say that I appreciate the gentleman's support on the entitlement language that is still part of the bill and the gentleman's support generally for reconciliation.

My question is that I am intrigued when the gentleman says that collectively the majority is going to target savings. By what technique, in the absence of reconciliation language, or in other words, what discipline is there to achieve these "selectively targeted savings" unless there is some discipline in the bill, namely, reconciliation?

Mr. PANETTA. Mr. Speaker, I am pleased to respond to the gentleman's question, because I think the question goes to the very heart of the budget process. The fact is that we set budget goals. We hope that the House and the Congress will abide by those goals. These targets are there. The Budget Committee tries to influence the committees to stick by those targets. The public pressure of sticking by a tight budget also plays a role here. But the fact is that this year for the first time, in setting these legislative savings targets, we have had committees that have been responsive to that. These committees have been responsive. In fact, the Speaker has refused to bring legislation here under the suspension calendar if that legislation did not pay attention to legislative savings. It has been achieved because chairmen have been willing to look at these issues and have begun to consider them.

By taking the position now that we are now going to stuff it down their throats, when in fact they have been responsive, will not be a positive approach to trying to achieve these legislative savings.

The House is a diverse body. We have a number of committees. Each of the Members likes to consider these issues on their own. Does it help for the Budget Committee to say, "You will do this as of a certain date"? And will that, therefore, produce any results? I do not think it will. I think we have produced results through the legislative savings process, and I am asking the House to stick by that until we are convinced that the committees say to us, "We are not going to act at all." And if those committees say that, then I say we should proceed with reconciliation as to those committees without question.

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the gentleman from California (Mr. PANETTA) has indicated in his legislative savings proposal that under hospital cost containment there will be a savings of $640 million. Under the gentleman's legislative savings he has indicated $640 million in fiscal year 1980.

We have just considered hospital cost containment legislation in the Committee on Rules. On page 31 of the Ways and Means Committee report, the Ways and Means Committee only says $340 million will be saved. Is that a misprint of $300 million, or is there a difference in figures? These are CBO estimates.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, we have had, of course, a number of estimates as to what exactly would be the savings. When we first built this into the first budget resolution, the savings that would result from hospital cost containment was $1 billion 400 million. As a result of delays in the enactment of that legislation it is now down to roughly $640 million, and I would assume that the longer that legislation is delayed, the less the savings will be in terms of the final results. So the figure that CBO has presented to the gentleman I cannot quarrel with, but the longer this issue is delayed, obviously, the less the savings will be.

Mr. LATTA. This is a report of the House Ways and Means Committee on the Hospital cost containment bill now before the Committee on Rules.

Mr. PANETTA. I understand that.

Mr. LATTA. These are the latest figures we have available.

Mr. PANETTA. Our figures that we built into the resolution were based on the estimates on the bill as reported by the Commerce Committee, and that was $640 million.

Mr. LATTA. I thank the gentleman.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, we have had good discussion terms for the reconciliation process. I would urge all of the Members, prior to voting on this issue—because the basic question before us at this point is whether or not we have a budget with reconciliation—to read the language that is in issue, starting on page 5 of the conference committee report. The Members will note in there, contrary to what we have heard this morning, that the reconciliation language only deals with aggregates. That is the budget process—aggregates only. We leave it to the authorizing and the Appropriations Committee to make the priority decisions within the aggregates. But if the Members are not willing to face up to the need to set some type of aggregate amount, you are ignoring the need to establish fiscal policy with the budget. So I hope all of the Members will read the reconciliation language prior to voting on this question.

Second, I hope also the Members will read the language on page 10 that was added by my amendment in the House Budget Committee and supported by the gentleman from California (Mr. PANETTA) who preceded me in the well. It states there as follows:

> In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

This language is a very important feature in this resolution and one that was not in issue in the conference. I merely draw it to the attention of the Members.

My colleague, the gentleman from Ohio, the ranking minority member, has pointed out that the budget process requires reconciliation, and he quoted from the law. I would also add to that that it provides that Congress may not adjourn until action is completed on the budget, including reconciliation.

Very briefly, I would like to make three points. First, that the numbers before us presume reconciliation. Therefore, if we are going to scuttle reconciliation by the vote that is coming up as soon as this debate is finished, we are in effect, adding at least $3 billion to the deficit. Keep that in mind, that the deficit number that is in this resolution before you includes the reductions that will result from reconciliation. If we take out the reconciliation language, that vote will add at least $3 billion to the deficit and it will take it to $32.8 billion, rather than the $29.8 billion that is represented in this conference report.

Second, I would point out to the Members that without reconciliation the budget process becomes a charade, we are back where we started from, and that is adding up the numbers produced by the authorizing and appropriations committees. We then have in effect no discipline on the fiscal policies of this Nation.

Therefore, we have an opportunity today, by rejecting this deletion of reconciliation language, to say that we are really going to measure up, that we are going to put some teeth in the budget process.

Third, we have heard a lot—not as much now as earlier in the year—about a constitutional amendment to balance the budget. The response I keep hearing from this body is, "Give us a chance, do not mandate a balanced budget by legislative action at the various State capitals, give us a chance, we are going to get a balanced budget, we are going to work in that direction." And yet I say to the Members today that if we fail to reconcile, if we fail to adopt reconciliation language in this budget, we are not going to get to a balanced budget, we are not adopting the kind of technique that will lead us there and, ultimately, we are going to invite a continuation of these resolutions, we are going to invite having a constitutional amendment requiring a balanced budget and, in effect, the States, by doing that, will be requiring us to reconcile to the point that we get to a balanced budget.

□ 1140

I think it is much more responsive for us to adopt the language of reconciliation to give validity to the proposed deficit rather than to add the $3 billion that will result from the failure to reconcile.

A vote for reconciliation will say to the people of this Nation that we are serious about adopting a responsible fiscal policy and achieving a balanced budget.

Mr. GIAIMO. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MAVROULES).

Mr. MAVROULES. Mr. Speaker, I rise in support of the amendment offered by the gentleman from Connecticut, which strikes the reconciliation instructions from the conference report.

This proposal is fair and realistic.

It also reflects the painstaking efforts that this body has made to keep the budget within manageable bounds without sacrificing critical domestic programs.

Indeed, the Giaimo amendment reflects as tight a budget as we can draft and as great an obsession with dollar signs as is possible, given our exploding inflation, the decline in our economic growth, and our rising energy prices.

In short, it is the best we can do in circumstances that have called for increased Federal spending to save our people programs. Since coming to Congress this past January from a mayor's office, I have listened intently to the talk about balanced budgets and spending cuts: two goals I have totally committed to. And I have seen this body do much to cut waste out of the many Federal programs over which we have oversight. The amendment offered by Mr. GIAIMO, in fact, contains further legislative savings squeezed out of our committees, to the tune of over $2 billion.

To concur with the reconciliation instructions of the conference report, for this reason, then, flies in the face of the reality of this body's efforts to cut down spending without exacting a pound of flesh from the people we represent.

We, in this Chamber, have been conscientious in our efforts to save money. And we have been diligent.

If the proposed deficit of $29.8 billion is in fact larger than the May figure of $23 billion, that does not reflect an increase in wasteful spending on our behalf. Rather, it reflects again that our economy has made a turn for the worse.

Balanced budgets may be a foreseeable goal, something we are all striving for and, hopefully, will attain in a few years, but a balanced budget is something that takes time to realize and to work toward.

It is not something that appears on command, like a genie, to solve all our problems.

But given the state of our flagging economy and our commitment to our people at the lower rungs of the economic scale, this is not the time to balance the books. It is, however, the time to tighten up our programs, and this has been done and is reflected in the proposal now before us.

What is particularly noteworthy of this compromise budget proposal is that it left the conference with the intent of the House not to shortchange our Nation's domestic programs still intact.

I am talking about such important programs as our educational and job-training programs and, of course, our new fuel assistance program.

These are great gains and a significant victory for our House conferees. And they should not be jeopardized either by the Senate-imposed reconciliation instruction or, for that matter, by those of us who have cluttered their vision with dollar signs instead of the faces of their constituents.

I am not only addressing those of us who still want to cut and cut, indiscriminately, across the border on this side of the aisle. I am also addressing my colleagues on my side who would bite their noses, threatening the domestic programs they worked so hard for, to spite their collective faces. Both sides, it seems, have failed to recognize the first law of Government: Compromise.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I would like to review briefly the history of the performance of the Budget Reform Act in this House.

The cry for budget reform arose from the fact that this body and the Congress as a whole, had no fiscal policy. The President had a fiscal policy always, whoever was in the White House. He could say to his Office of Management and Budget, "Here is the fiscal goal I want to achieve for the year." He could tell the Director of OMB, for instance, that he wanted to keep the expenditures under a certain level or that he wanted to make room for a tax cut or that he wanted to reduce the deficit in some way.

The OMB then moved to try to achieve that fiscal goal, acting as the budgeting arm of the executive branch of the Government.

Now, over a period of time, this body had come unfortunately through the separation of powers, through resistance to Executive leadership, to feel that they really owed no great obligation to the executive budget prepared under this process by the President and his Office of Management and Budget. There was deemed a lack in our process that was intended to be met by the Budget Reform Act. If we are a coequal separate branch of Government, we should have some way of injecting fiscal policy into our process, also, so that we would not be able to do whatever lovely thing we wanted to do whenever we wanted to do it, and that was the goal of the Budget Reform Act.

The goal was understandable and needed. In performance, unfortunately, we have found in the work of the Budget Committee great concern about program protection, and the tendency that we have followed has been to start with the various elements of Government, add them up, and conclude from that what our expenditure level and our revenue level should be rather than starting with the idea of a fiscal goal, as the President must when he gives his instructions to the Director of the Office of Management and Budget.

Now, I would be the first to acknowledge that the budget reform process has been of some value. It has at least set up a procedure whereby if we are going to vary the pattern of Government arrived at, even through program protection practices of one sort or another, we at least have to go through a procedure to do it. It has been some drag on spending in what I described earlier as doing whatever lovely thing we wanted to do whenever we wanted to do it.

The element of fiscal goal, the element of fiscal discipline, the process of establishing what the blueprint of Government shall be, and then trying to cut the cloth to fit that pattern has been sadly lacking. We on the Republican side, have put great emphasis on that in our efforts to overturn earlier budgets. We have felt that because we failed to establish fiscal discipline, we inevitably wound up with a larger deficit than we should have.

The best way to do this would be to start with the goal in mind at the beginning of the budget process, but a substitute of some value in fiscal terms would be to go through a reconciliation process, if, when we get the entire procedure completed, we find we have not wound up with a fiscal situation adequately constructive so that we can have some confidence in the value of the dollar and the relative position of the Government and the private economy.

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Reconciliation is an important alternative. It could be an after-the-fact way of imposing a fiscal goal, if we are unwilling to do it before the fact. Frankly, it would be better to do it before, but it is better to do it after the fact than not at all.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. LATTA. Mr. Speaker, I yield the gentleman from New York 2 additional minutes.

Mr. CONABLE. I would gladly accept reconciliation as a substitute for the prior adoption of a fiscal goal. If that is the best we can do, I will support reconciliation, if we can get the principle of reconciliation established and go through a real reconciliation process. Then I will be willing to swallow hard and accept the figures in the budget. Frankly, I do not like having to do that because I think there is as much gamesmanship in the figures because of the unified budget concept, because of the off-budget items, as there has ever been. Clearly the deficit is already too big.

However, a step toward a fiscal policy procedure would give me some reassurance about the future of the budget process. Unless we do that, we clearly are not achieving anywhere what we can in the way of needed discipline to keep the Government off the backs of the people.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. REGULA. First I want to say I agree with the gentleman. I, too, while strongly disagreeing on the figures will support the resolution if we can get the reconciliation process included.

My question to the gentleman is: Is it not inevitable that there will be additional budget resolutions in the absence of reconciliation as we accommodate to spending that exceeds what is provided for in the budget?

Mr. CONABLE. I do not see how we can avoid it. In addition, I would have to say I think some of the figures are quite unrealistic. The gentleman from Ohio (Mr. LATTA) pointed out, for instance, the interest figure, which has not been adjusted in the realities. So I think a third budget resolution is inevitable. It is regrettable that we must do that because it further erodes confidence in the budget process which ought to be an important part of our responsibilities as legislators.

Mr. GIAIMO. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I rise in support of the motion of the gentleman from Connecticut (Mr. GIAIMO). I want to say to him and to the members of his committee that they have done a wonderful job. I do not know of anyone who has taken more heat and who has stood up stronger and more effectively than Mr. GIAIMO and the members of his committee.

I have listened to the debate and listened to the arguments of some of those who oppose the gentleman's amendment. Some of their arguments may sound good but should they win, it simply is not workable.

I oppose implementing the reconciliation proposal of the Senate in this fashion and at this stage of the legislative process.

The ramifications of undertaking to redo much of the work of the House in mid-November or later are just not workable from the standpoint, at least, of the appropriation bills.

I wish to point out, Mr. Speaker, that in the appropriation bills we are within the totals contemplated in the budget resolution, and your Budget Committee has properly recognized this in assuming the position they have taken with the Senate in opposition to reconciliation in the proposed manner at this time.

I would also state, Mr. Speaker, that in the 13 regular appropriations for 1980, we are presently some $9.3 billion under the President's budget. That is on the basis of budget authority and counts the enacted version of seven bills and the House-passed version of the remaining six bills which are either in conference or pending in the Senate. We have shown further restraint in dealing with other appropriations business by reducing the 1979 supplemental by some $3.2 billion and by rescinding some $700 plus, million of budget authority in a separate measure.

In fact the Committee on Appropriations has a long record of restraint. Of the portion of the budget handled by the committee, for every year since World War II—35 years—appropriations have been well below the budget requests with one exception. And in that year, it was less than $400 million above the budget request. It is evident the Committee on Appropriations has done its part in holding the line through the years.

So, Mr. Speaker, I support the motion of the gentleman from Connecticut for these and other reasons.

While the efforts of the conferees have been commendable, I do have some serious reservations with respect to some features of the resolution that is before us. I am concerned that certain recent trends in the economy have not been given adequate attention. Part of the problem, of course, is that these trends have now become more viable since the drafting of the resolution was initiated in midsummer.

For instance, the interest rates assumed in the resolution for certain key Treasury issues is 8.2 percent. The most in the range of 12.1 percent. If such an interest rate prevails for most of this fiscal year, I am advised the interest figure in the budget resolution may be understated by some $5.3 billion. Even if interest rates immediately begin to moderate as many predict and return to the 8 percent bracket by next September, interest in the resolution will be understated by some $4.0 billion. This is because of the Treasury mechanics for financing the debt.

Further, Mr. Speaker, it is my judgment that, for a number of reasons, the resolution has not taken fully into account the impact of the current inflation rate on the budget by means of escalator clauses contained in basic legislation. Such programs represent 58 per cent of the spending budget. The bellwether program, of course, is social security where increases in benefit payments are triggered by inflation as measured by the Consumer Price Index.

I am advised that the inflation increase assumed in the budget resolution is 10.3 percent, but more recent calculations indicate that a figure of 13.5 percent might be more realistic at this time. If this is near the mark, the allowance for programs directly indexed to inflation and those responding to inflation may be understated to the extent of some $3.2 billion. This figure would be larger except that various increased benefit payments tend to occur late in the fiscal year and thus the full impact of the current inflation rates would not be felt in the Federal budget until next fiscal year.

On the other side of the ledger, unemployment, thankfully, is running less than what was assumed in the budget resolution by about half of 1 percent. If this situation continues, there may not be a requirement for spending in the range of $4 billion. This would be an offset to the increases I have cited. There are other volatile factors and uncertainties in the budget which will cause fluctuations in the aggregates in the budget resolution. This is inevitable. The Budget Committee has done the best they could within the time frame in which they have operated.

The principal point I wish to make, Mr. Speaker, is that this budget resolution is very tight—from the standpoint of budget outlays, it is extremely tight.

Our figures show that in terms of outlays and measured from where we stand now, this resolution would leave room for about $5.1 billion for anticipated mandatory programs and about $2.4 billion for supplementals for the entire fiscal year 1980 which ends next September 30. The appropriation bills which are not enacted but which have passed the House and are pending before the Senate or in conference are $1.7 billion net over the House in terms of outlays.

Further, there is pending before the Committee on Appropriations supplemental budget requests and deferred budget requests submitted by the President which total some $2.3 billion in outlays.

Added to that is the very distinct possibility that the pending budget resolution understates outlays in the range of perhaps $3 billion net because of the economic assumptions, as I outlined earlier. In view of this situation and considering that the President's January budget traditionally includes a considerable amount of supplemental requests, I feel that the committee and the Congress should proceed with great caution in considering any further additions to the budget for the current fiscal year. I feel that there must be an indication as to what plans need to be made for a third concurrent resolution on the budget. We must also know what further proposals the President may transmit in his January budget before we begin to consider additional spending proposals beyond those presently in the legislative pipeline. All proposals must be given an opportunity to compete for the amounts available within the total congressional ceilings. Mr. Speaker, there will no doubt be compelling and meritorious budget proposals before us in the months between now and the end of the fiscal year next September 30. To a considerable extent we are propelled into this position under the congressional budget system by uncontrollable features of the budget in the form of escalator provisions in basic law which add inflation to fight inflation.

Mr. Speaker, as I have pointed out to the House on several occasions since I had the honor to become chairman of the Appropriations Committee earlier this year, the enactment of legislative provisions providing for benefits under entitlement programs to increase automatically as the various inflation indexes increase has had an enormous adverse impact on the ability of both the Congress and the executive to control the budget. With the exception of Federal pay, all such adjustments become effective automatically without the requirement of any current action by the executive or Congress.

All major entitlement programs involving payments for individuals are now affected by price indexes. About 58 percent of the budget authority this year involves programs which are adjusted automatically or indirectly by price indexes. Such programs include food stamps, school lunch, veterans and survivors pensions, civil service retirement, railroad retirement, social security, supplemental security income, black lung benefits, older Americans and child nutrition.

The impact of escalator clause adjustments in any one fiscal year differs by program because of variances in effective dates and escalation percentages. However, a recent study by the Appropriations Committee found that, if it is assumed, for example, that a 7-percent adjustment was in effect for all the applicable programs uniformly over a 12-month period, the increased cost would be in excess of $20 billion. I am advised that the current inflation rate as measured by the CPI would generate an additional increase of about $46 billion in the Federal budget. Through these escalator clauses, additional inflation is added to match inflation through devises over which Congress exercises no effective annual review and control.

The committee on Appropriations continues to be concerned that the Congress will never achieve adequate and equitable control of the budget if massive spending features and large segments of the budget are ignored. All Federal programs must compete on the same basis whereby choices can be made and priorities determined on the whole budget not just on a smaller and smaller number of controllable items. Efforts directed at improved congressional control cannot be isolated to that shrinking portion of the budget presently classified as controllable.

In summary, Mr. Speaker, I support the motion of the gentleman from Connecticut. At the same time, I caution the House and others interested in and concerned about additional funds for Federal programs, that we cannot proceed until we have a better view of what is ahead of us in terms of finalizing the pending spending measures and reviewing any additional proposals as may be forthcoming from the President. And in terms of the congressional budget process, it now appears that we might have to await a further concurrent resolution on the budget before we begin to consider the many supplemental requests that will be pending before us.

Mr. GIAIMO. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I will vote for the conference report and hope it will be adopted. I think the distinguished gentleman from Connecticut, the chairman of the Committee on the Budget, Mr. GIAIMO, and all the House conferees have done an excellent job during the past several weeks in resolving the differences between the House and Senate.

As chairman of the Committee on Veterans' Affairs, I can tell you the compromise funding level established for veterans' benefits and services is reasonable given the current budget situation. Budget authority has been reduced by about $150 million from that contained in the budget resolution as passed by the House. Although we would have preferred the House version, we can live with the reduction.

I would be very concerned, however, should the House accept the reconciliation instructions imposed by the other body that would direct six House and Senate committees to cut $850 million in budget authority and $1.8 billion in outlays.

Of this amount, the Veterans' Affairs Committee would be required to come up with another $100 million in cost-savings. To those who would suggest that we should adopt the reconciliation instructions, I want to make sure all Members understand how veterans would be affected. Although we have already cut back the cost-of-living increase in compensation rates by $83 million, we would either have to cut back another $100 million in the cost-of-living increase in the rate of compensation paid to service-connected disabled veterans, or the committee would have to terminate current ongoing veterans' benefits and services.

What are our options? We could save $50 million by eliminating the $300 we pay the widow to help her offset some of the funeral expenses at the death of her veteran husband; we could provide substantial savings by reducing the delimiting date for Vietnam veterans to complete their education program from 10 to 8 years. I can tell you there are many pending bills that would extend the delimiting date from 10 to 12 years. Others would eliminate the delimiting date entirely. We could provide cost savings by eliminating the 3,800 FTEE we recently passed in the VA 1980 appropriations bill to help offset some of the losses we recently experienced in VA's medical care program.

Last year some 6,800 positions were lost and the VA closed more than 5,000 beds. We fought long and hard to get the 3,800 FTEE into the appropriations bill but we could save about $76 million by not proceeding with this action. I doubt that few Members would accept it. The fact is, our options are very limited and some of the suggestions made would, in my opinion, never be accepted by the vast majority of the Members of the House.

No matter how you cut it, veterans are going to be adversely affected, make no mistake about it.

Mr. Speaker, I have received letters from the American Legion, the Disabled American Veterans and the Veterans of Foreign Wars urging that the conference report be adopted and that the reconciliation instructions be rejected. This is a critical issue as far as veterans are concerned, and I strongly support Mr. GIAIMO and thank him for his efforts in behalf of our Nation's veterans.

I include the letters I have received from these veterans organizations in the RECORD following my remarks:

THE AMERICAN LEGION,
Washington, D.C., November 7, 1979.

Hon. RAY ROBERTS,
Chairman, House Committee on Veterans' Affairs, Cannon House Office Building, Washington, D.C.

DEAR CHAIRMAN ROBERTS: The American Legion opposes any efforts to instruct the House Committee on Veterans Affairs to reconciliate $100 million cost savings cuts.

It would be unfair to ask those who are already victims of astronomical inflation to take a cut in existing benefits or to forfeit a cost-of-living increase that closely approximates the actual cost-of-living index.

We are convinced that your Committee has recognized existing budgetary restraints and has been responsive to these conditions by approving legislation which seeks only modest benefit level increases. To pursue further cost reductions by instructing the Committee to reconsider its decisions would punish those veterans who benefit most from properly staffed hospitals and the maintenance of high quality medical care.

The American Legion applauds the position of House conferees on the budget in opposing this attempt to instruct. We ask the defeat of any maneuver to decrease the funding level of the veterans function.

Sincerely,

MYLIO S. KRAJA,
Director,
National Legislative Commission.

DISABLED AMERICAN VETERANS,
Washington, D.C., November 6, 1979.

Hon. RAY ROBERTS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ROBERTS: In the very near future the House and Senate Budget Committees will bring to the floor of both bodies, the Conference Report on the Second Concurrent Resolution on the Budget for Fiscal Year 1980.

The Disabled American Veterans strongly supports the Conference Committee's Budget recommendations which include $21.45 billion in Budget Authority and $20.8 billion in Outlays for Veterans' Programs and Services in FY 1980. We urge your support for the budget totals as contained in the Conference Report.

However, House and Senate Conferees were unable to resolve their differences on the Reconciliation Instructions contained in the Senate version of the Second Concurrent Budget Resolution. In this connection, when the Budget Committees bring the Conference Report to the floor, members will be given the opportunity to (1) adopt the Budget Conference Report and (2) to accept or reject the Reconciliation Instructions.

Simply stated, the Disabled American Veterans is opposed to the Senate proposed Reconciliation Instruction as its adoption would have a severe adverse impact on Function 700—Veterans' Programs and Services—by reducing spending for new initiatives proposed by the Veterans Affairs Committees by $100 million.

As you know, service-connected disabled veterans in receipt of VA compensation payments already are suffering the ill-effects of ever-rising inflation. The Budget Conference totals for veterans' programs provide enough funding for a 10.9 percent increase in VA disability compensation payments. It is conceivable, then, that the $100 million reduction proposed in the Reconciliation Instruction could affect the percentage of increase in these benefits.

Just last week, however, the House passed a measure (H.R. 2282) which calls for a 9.9 percent adjustment in VA compensation benefits for service-connected disabled veterans. If enacted, as expected, the difference (savings) between the Budget Committee's projected increase and the Veterans Affairs Committee bill, H.R. 2282, is $83 million.

Realizing the fiscal restraint that has been placed upon the Congress, it remains, however, our opinion that this nation's 2.2 million service-connected disabled veterans have already borne their fair share of the austerity burden.

Finally, we view the Reconciliation Instructions as an attempt by the Senate Budget Committee to dictate to the Standing Committees of the Congress on just what legislation they may enact and on the scope of these proposals. The effort of the Senate Budget Committee to specifically define substantive legislative proposals and to mandate passage of cost-saving legislation is, clearly, not what the Congress had in mind when it originally conceived the Budget Act—P.L. 93-344.

Accordingly, on behalf of the 630,000 members of the Disabled American Veterans, I strongly urge that you vigorously oppose the adoption of the Reconciliation Instructions as proposed by the Senate.

Sincerely yours,

PAUL L. THOMPSON,
National Commander.

VETERANS OF FOREIGN WARS,
November 2, 1979.

To: All Members of the U.S. House of Representatives.

From: Howard E. Vander Clute, Jr., National Commander-in-Chief, Veterans of Foreign Wars of the United States.

Subject: Veterans' Administration budget for fiscal year 1980.

It is my understanding the Conference Report on the Veterans Administration Budget, for the Second Concurrent Budget Resolution for the Fiscal Year 1980, includes reconciliation instructions directing the Veterans Affairs Committees to reduce spending in reported, enrolled, or enacted legislation by $100 million in both budget authority and outlays. In my opinion, this is not a function of the Budget Committee but, rather, the authorizing committee.

As you must be aware, the Veterans Administration has been the victim of repeated inadequate diminishing budgets, as compared to the Federal Budget, having fallen in recent years from 5.1 percent of the Federal Budget to 3.7 percent in Fiscal Year 1980, at a time when the veteran population is the largest in the history of our nation, standing at 30 million. The result has been a general deterioration of the hospital and medical care system, the denial of medical care to our veterans in need and, for the second consecutive year, no cost-of-living increase for our Vietnam veterans availing themselves of educational benefits under the GI Bill.

I believe the Veterans Affairs' Committees of both Houses have exhibited great restraint and fiscal responsibility and are cost-conscious to the extent we already have a most austere budget.

In view of the foregoing, I urge each and every one of you to vote to accept the Conference Report, as amended, which in essence leaves undisturbed the substance thereof, but deletes the reconciliation instructions.

With best wishes and kind regards, I am,

Sincerely,

HOWARD E. VANDER CLUTE, JR.,
National Commander-in-Chief.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I will be happy to yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I would like to thank my good friend for yielding. I would ask the gentleman is he aware of the fact that under the proposal of the gentleman from Connecticut there are assumed legislative savings of approximately $92 million?

Mr. ROBERTS. Not specifically.

Mr. LATTA. The gentleman is not aware of that?

Mr. ROBERTS. I am aware of the $100 million contained in the reconciliation instructions.

Mr. LATTA. The legislative savings contained in the report before us call for $92 million in savings in the veterans area.

Mr. ROBERTS. Over and above what we already have saved?

Mr. LATTA. That is right.

Mr. ROBERTS. Over the millions we have already recommended and passed by the House?

Mr. LATTA. That is correct. They have suggested changes under section 700, veterans third-party reinbursement. Has the gentleman done anything on that in his committee?

Mr. ROBERTS. Yes, I am aware of those provisions and I am delighted the gentleman has brought it up. We have not, and we have no intention of doing anything about most of those recommended cost-saving proposals.

Let me tell the gentleman what is involved.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. I thank my colleague for yielding me this time, and I want him to know I share his concern.

On its face this proposal looked like a good opportunity to save some money, and for the insurance companies to avoid getting a free ride. We looked into it, we held hearings, and we had our investigative staff to meet with the VA, the insurance carriers, and others regarding the proposal. We found that the vast majority of veterans receiving treatment had no private insurance coverage at all. Many had coverage under medicare or medicaid. It is costing about $135 a day to treat a veteran in a veterans hospital including physician services; it costs much more than that in the private sector. So the savings, when we looked at them, were actually in reverse. It would cost us a lot more money to treat these veterans in a private hospital, under medicare and medicaid. Most of them would be eligible for care and treatment under these programs.

But I share the gentleman's concern and I hope that he will look into it. But those are the results that we found.

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Mr. LATTA. I appreciate the comments of the gentleman, because I think they are very important.

Mr. ROBERTS. It is very important.

Mr. LATTA. The conference report assumes $57 million in savings, which the gentleman says is not going to occur.

Mr. ROBERTS. That is correct.

Mr. LATTA. Then on other veteran reforms they assume $35 million in savings is going to take place, and I just wonder whether or not the gentleman's committee is considering $35 million additional savings.

Mr. ROBERTS. Not by enacting these specific proposals. I think we have saved everything we can unless we want to do some of those things that I listed earlier; cutting the delimiting date for Vietnam veterans educational benefits from 10 years back to 8 years. We could take out the burial benefits completely just because a veteran happens to have social security benefits. It is simply unrealistic and I do not see how we can do it. I think the Members would laugh me off the floor if I brought out some of these proposals for savings of veterans benefits. We can cut the 3,800 people in the hospitals we brought back and put in with the help of both sides. That would save $76 million, but it would not be the thing to do.

Mr. LATTA. I just wonder whether these veteran organizations the gentleman said are supporting this conference report were aware of these assumed savings in this conference report.

Mr. ROBERTS. Yes. They are aware that we have made certain reductions already and have, in fact, included some cost-savings in bills already passed by the House. They are responsible people and understand what we have done is necessary given the current budget situation; however, they are not prepared to accept another $100 million in savings in addition to those savings we have already accepted.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Ohio.

Mr. REGULA. What percent of the veterans budget is for administration as opposed to direct benefits to the veteran?

Mr. ROBERTS. The administration's appropriations budget request for fiscal year 1980 for general operating expenses was $592.8 million. This request was $51.1 million less than the amount requested for fiscal year 1979.

The HUD, independent agencies appropriations bill recently sent to the President, contains $587.4 for general operating expenses.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, to reconcile or not to reconcile; that is the question really before us today. I would like to direct the first part of my remarks, if I might, primarily to our Republican side of the aisle.

Lower taxes is not the issue here. We on our side have talked ourselves hoarse about lowering the tax burden. It was not empty or negative rhetoric. We have suggested innumerable ways of cutting taxes, across the board cuts, specialized cuts, tax incentives, tax credits, and indexing. Time and time again this Democrat Congress has said "no" to our proposals.

A smaller deficit is not the issue today. We on our side offered the American people a balanced budget, and this body said, "no." We offered them a $15 billion deficit, and this body said, "no." We offered them an $18 billion deficit, and again they said, "no." We offered budget reforms, spending ceilings, and even a different set of economic projections, and this Democrat-controlled Congress said no.

Now, is there any doubt where we Republicans have stood on these issues? Is there any doubt about what we have tried to do and who has stopped us? If there is still some doubt, we are not going to erase it by our action today.

We made our stand; we fought our battles. Now, there is only one left. We have only one shot to bring about significant savings, to make significant reform, and this is it.

The issue here today is something foreign and meaningless to the public. It is reconciliation, the process by which we force the House to do what it promised it would do in adopting the Budget Act. As the gentleman from Ohio (Mr. REGULA) and the gentleman from New York (Mr. CONABLE) so eloquently pointed out earlier, it is keeping spending in line with budget projections.

As outnumbered Republicans, it seems to me that we cannot change those projections any more. The hour is past, but we can make the projections stick.

Now, let me say something, if I might, appropriate to both sides of the aisle. Reconciliation, in my judgment, has nothing to do with who chairs what committee or whether any chairman has to be told what he can or what he cannot do. Reconciliation is an integral part of the budget process that was meant to endure long after the tenure of any one of us serving in this body. That is the way I perceived this whole budget control act when it was put together. It is a check in the series of checks and balances in the budget process. It serves as a signal to the American people that we take the budget process seriously and that there will be no passing of the buck or shifting of the blame or hiding spending excesses.

Reconciliation is in the law. It has always been in the law. It is an exercise in self-discipline, whether in any given Congress we need the discipline or not. I submit that we still need that discipline.

We really do not have the luxury of rejecting reconciliation. By doing so, we would be saying to the American people, "Oh, don't worry, you can trust us. You don't need it in writing. We are not going to let you down. After all, we are the government, and we are here to help you."

Well, my friends, our popularity as a body is lower than the President's in any public opinion poll I have read, and I am here to tell you that we had better see that it is put in writing today as a format for years to come.

Reconciliation is a simple, significant step we can take at this late date as partial compensation for what we have done all year.

We have ignored budget procedures and controls. We have tinkered and toyed with the budget process until there is little left, and we have made a mockery of the appropriations process with runaway entitlements, and bloated in supplementals.

So, what is left? Reconciliation is left. Why would not your responsible Members of the majority throw us this bone, give the taxpayers this little crumb. I would urge my colleagues to vote down this move by the majority to scuttle a most important part of our new budget procedures.

Mr. GIAIMO. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, last night we voted and passed the Higher Educa-

tion Act, which was an act of compromise because there were serious differences. This is part of the legislative process. There is no piece of legislation that is more a part of compromise than the budget resolution, because every Member in the House and every Member in the Senate has strong views.

There are portions of this resolution I do not like. I think, for example, that realistically the defense budget authority and outlay are higher than they need to be. There are areas where I would like to see the figure a little higher; there are areas where I would like to see the figures a little lower, but compromise is the essence of legislation. It is particularly the essence of working out a budget resolution.

Now, let us get to some of the specific criticisms that have been aired here today. On the deficit figure, where have we gone? In fiscal year 1976, the deficit voted in the second budget resolution was $74 billion; in fiscal year 1977, it was $69 billion; in fiscal year 1978, it was $61 billion; in fiscal year 1979, it was $38 billion. We are coming down. We are going in the right direction, and in every one of those years, in fact, there has been a shortfall so that the deficit was lower than the second budget resolution.

There is every reason to believe that come the end of fiscal year 1980, in fact the deficit will be lower than we are projecting right now. I would point out one other important point, because budgets have to be fairly conservative documents. That is, if we were to have unemployment for fiscal year 1980 at the level we have had in fiscal year 1979, the deficit for fiscal year 1980 would be below $8 billion.

That is a fairly dramatic figure. We are assuming in this second budget resolution an unemployment figure of 7.2 percent. I hope and pray we do not come anywhere near achieving it. But we are playing a conservative role, I will say to my friends on the minority side, as we put these figures together, and I think it is proper that we play it conservatively as we put these figures together.

□ 1210

There are three other points, very quickly, that have been raised on the opposite side: No. 1, they say we are going to have to have a third budget resolution. I think the minority Members are right, but we have done it before. We cannot massively, after we have 13 days of conference, as the Members know, suddenly recalculate everything. I think in February we are going to have to take a look at where we are, where inflation is, where unemployment is, and where a lot of things are, and we are going to have to have a third budget resolution. I concede the point. I think it is nothing against this particular second budget resolution.

Another point raised by my colleague, the gentleman from New York (Mr. CONABLE), was that the off-budget matters are not part of this. I agree with him. I think they ought to be part of it, but that is a matter of fundamental legislation that has to be passed, and we ought to change that.

Finally, there is the reconciliation process. We are not, if we adopt the Giaimo motion, rejecting reconciliation. We are wise to have that on the statute books, and we may, one of these years, have to use it. We may have to use it in the third budget resolution. But the appropriation committees and the authorizing committees of this House have by and large done an excellent job of trying to restrain themselves and to act responsibly.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GIAIMO. I yield 1 additional minute to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. I thank the gentleman. Here let me pay tribute to my colleague, the gentleman from California (Mr. PANETTA) for his leadership in the legislative savings area. But he and I agree that we should not throw salt in the wounds of our colleagues and the committee chairmen who have done a good job, and particularly the Committee on Appropriations, which with the one exception of energy where we knew the synthetic fuels program was coming along and we went in excess of the first budget resolution—in all other cases we have lived within the budget resolution. I think this motion is a solid one. I hope the House gives us a majority so we can go back and work out a compromise with the Senate on this one last obstacle that faces us in the budget process.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I would suggest that there are two reasons for rejecting this motion which is before us. The first reason is the argument over reconciliation. That argument has been stated most persuasively here, and I will not dwell on it except to say that I endorse completely the view that reconciliation is vital to the budget process and we, therefore, should not set it aside. It is nice to say in theory we are for it but then on the floor to urge voting against simply does not wash. We should support reconciliation, and that is a vital reason for opposing this motion which is before us.

There is, however, a second reason, and that second reason is the resolution itself and the dollar figures which it contains. Two hundred and six Members of this body saw fit to vote against the second budget resolution when it passed through the House, and one of the weightier reasons, I believe, that many Members voted against it was because of the size of the deficit—a $28.9 billion deficit. But what do we have before us today? We no longer have a $28.9 billion deficit; we have a $29.8 billion deficit, almost an additional billion dollars in deficit. But that really does not even tell the whole story.

The whole story is told when one turns to the responsible national news media and reads, as we saw a week or so ago, in one of the national magazines and in several of the newspapers that OMB is recalculating these expenditures, and that the real deficit—the real deficit—is not going to be the $30 billion we are told but it is going to be closer to $40 billion. So we are not voting today on a resolution that provides for roughly a $30 billion deficit. The harsh fact is that we are voting on a resolution which is going to end up providing a $40 billion deficit.

So I say that there are two reasons for voting against the resolution we have before us today. The second reason is because the deficit is increased further. It is increased over the resolution this House voted on just a few weeks ago, and it is going to go still higher and beyond the actual numbers. The first reason to oppose this resolution is because it sets aside the principle of reconciliation. It sets aside a vital part of the budget process, a part which is written into the law. It sets it aside, and that is a good reason for setting aside this resolution. I urge a vote against the resolution which is before us.

Mr. GIAIMO. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I rise in support of this budget conference report, and I especially urge my colleagues to vote for the Giaimo motion which adopts the conference report and disagrees with the other body on the question of reconciliation. In taking this position I want to address my comments especially to my colleagues on both sides of the aisle who have worked long and hard this year to place into the law some meaningful binding provisions that would force Congress to develop tight fiscal budgetary policies.

The Members recall that our first effort at budget discipline took place in March when the balanced budget amendment to the debt ceiling bill, led by such Members as the gentleman from Texas (Mr. GRAMM), the gentleman from Mississippi (Mr. LOTT), and others, was considered on a procedural motion to the rule. Although we lost that procedural motion, we won a commitment from the leadership that the House could have a substantive vote this year. Since that time a great deal of study and a great deal of conversation has taken place, and a number of bills have been introduced to require fiscal discipline. I guess the one that has received the most attention is H.R. 5371 which has a number of cosponsors on both sides of the aisle. It amends the Budget Act and ultimately limits Federal spending to 20 percent of the gross national product. As I say, this legislation has received balanced and bipartisan cosponsorship.

Here is where we are on the leadership's commitment. The bill and other bills have been referred to the Committee on Rules. The chairman, the gentleman from Missouri (Mr. BOLLING), has

appointed a special task force to begin hearings on the budget discipline proposals. This morning I received a reconfirmation from the Speaker's office, from the majority leader, and from the others in the House leadership, that the spending limit amendment to the Budget Act would be voted on this year before we complete this session. It is on the Speaker's list of "must" legislation to be considered by the House. So to those who have gone along with the budget resolution this year, and to those who have insisted to me that they want a chance to vote on a substantive proposal to limit that portion of the GNP spent by the Federal Government, I say that you will have that chance before this session adjourns.

□ 1220

I am fully confident that once the Budget Act spending limit amendment is presented to this House that we will pass it. I fully expect that this new fiscal discipline will be in place before we consider the fiscal year 1981 budget next spring and we will have the tools in place to positively respond to our constituents who are demanding spending restraints by the Congress.

To keep this momentum going it is vitally important that we support the gentleman from Connecticut (Mr. GIAIMO) and adopt this conference report with the Giaimo motion.

Mr. Speaker, developing budget discipline is an evolutionary process. Most of that meaningful evolution has taken place this year by this Congress. Look at what we have begun to do, and look at the things included in this budget conference report. We have taken two important first steps necessary to get a meaningful handle on Federal spending. First, we have recognized that entitlement programs are the uncontrollables which must be controlled if we are to reduce Federal spending.

This conference report adopts the Regula amendment to require that we begin to bring entitlement programs under control and we will make more progress on that next spring when we deal with the 1981 budget.

Second, we have found that tremendous waste occurs during the last quarter of the fiscal year when departments and agencies all across the executive branch obligate funds willy-nilly in order, in my judgment, to exhaust their appropriations so they can come back to Congress and say, "We spent what you gave us last year, we need that much plus some add-ons for next year."

Mr. Speaker, this conference report recognizes for the first time this bad fiscal process and takes some first halting steps toward changing that.

Mr. Speaker, in addition to these two items, as I have already mentioned, we have a firm commitment, again for the first time, that we will have a substantive vote on the overall spending limitation amendment, the kind of discipline that will be built into the budget before we take up the fiscal year 1981 budget.

I think those of us who have been pushing hard for these types of advances and fiscal disciplines, should support this budget conference report.

Let me mention briefly the question of reconciliation. I support the concept of reconciliation. I think we should not hesitate to use it whenever we find a recalcitrant committee flatly refusing to abide by fiscal discipline. However, that is not the case here. It is not the case with the 1980 budget as it applies to the House of Representatives. In my judgment, the only reason that we have reconciliation considered at all and the only reason it is used in such a sledgehammer manner is because the other body was not as successful as the House in cutting spending, was not as successful, and apparently this bludgeon of a broad-base reconciliation was the only tool available to them to achieve budget discipline as well as we have done in the House.

Mr. Speaker, it has already been pointed out that the House's record in achieving savings through specific legislative actions has been exemplary indeed. For example, the Committee on Ways and Means was asked to save $1.1 billion and we have already achieved nearly $1 billion in savings. I think that is a record that is unmatched by any committee in either body.

The reconciliation amendment on which the House and Senate disagree will be meaningless in the House because it cannot possibly be achieved in the 30-day period required. If that happens, if reconciliation becomes meaningless, if it becomes just a political football, if that happens, it weakens the whole reconciliation process, the whole reconciliation tool which can and should be used on selective occasions. Weakening reconciliation weakens the budget discipline that we are trying to achieve.

Finally, let me mention the size of the budget deficit, $29.8 billion. That is much larger than I wanted. Were I solely in charge of the budget it is much larger than it would be. None of us, including the chairman of the committee, the ranking Republican member nor any other has the sole control over what that budget will be. It is a political process and the political process works.

We have been arguing differences for nearly 4 weeks with the other body in conference. This budget conference report is the very best we can achieve this year and still muster enough votes to pass the budget. Failure to pass the budget would be a monumental step backward and I do not believe the American people will look kindly on a total dismantling of the budget process.

I urge approval of this conference. I urge approval of the Giaimo motion.

Mr. LATTA. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I commend the gentleman for his efforts to place a limitation on Federal Government spending but I would ask the gentleman whether he thinks such language in the law would be worth the paper it is written on when, indeed, we have today language in the law which requires reconciliation, yet we are proposing to set that aside. Why would we not set aside a requirement for a limitation on Government spending, given the same logical thinking?

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. There is always the possibility we would set aside language on a spending limitation but the limitation of which I speak is the very thing that the gentleman from Pennsylvania and his colleagues on that side of the aisle have been saying for years is what we need. We need to start out with an overall spending limit and then divide up the pie. We do not do that today, and I think that is the kind of discipline we need.

Reconciliation is an afterthought. What we need is reconciliation in advance and that is what a spending limitation would be.

Mr. SHUSTER. It is part of the budget process.

Mr. JONES of Oklahoma. It is part of the budget process and deals with things to be set aside and that is what we propose to do.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I think that the Giaimo motion to delete reconciliation should be defeated. The gentleman from Oklahoma (Mr. JONES) who preceded me in the well has just given us many good reasons why it should be defeated, and I echo that part of his speech.

The gentleman from Oklahoma also used the word "political" several times. The gentleman is quoted in the Congressional Quarterly as having said that the Republican substitute for the second concurrent budget resolution was political and I suggest that the gentleman has just made a remarkable political speech of his own. He said that he is supporting the Giaimo motion, and then he dissected the motion and disagreed with practically every one of its individual parts. I admire the gentleman's legerdemain—disagreeing with the parts but supporting the whole. I am sure the fact that the gentleman represents a very conservative district in Oklahoma has absolutely nothing to do with it.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Maryland.

Mr. BAUMAN. I compliment the gentleman from Oklahoma for his speech though I disagree with his conclusion.

Mr. Speaker, I have read a great deal in recent months about the gentleman's leadership of the conservative bloc on the Democratic side. By his stand on this motion I was sorry to hear him abdicate that position today.

Mr. RHODES. If the gentleman ever occupied that position.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Ohio.

Mr. REGULA. I think the intriguing

part of all this debate this morning is that almost without exception those on the other side of the aisle have prefaced their remarks by saying, "I favor reconciliation," and have then gone on to say, "Vote against it."

Mr. RHODES. Mr. Speaker, I think that is a very interesting comment.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Georgia.

Mr. GINGRICH. I also would like to comment that I cannot help but be struck by the fact that both the Members on the other side who are now standing have each said, "I favor reconciliation, I want a spending limit, but not now, not today, not on this occasion."

Mr. Speaker, if we do not stop spending now, then always there is a promise in the future.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I would like to yield to the gentleman from Connecticut so he can tell me why reconciliation is even an issue when it is part of the law.

□ 1230

Mr. GIAIMO. Mr. Speaker, I wanted the gentleman to yield to me, and that is all right, I will answer the gentleman's question, I will respond to the gentleman's question; but I do want to ask the gentleman to yield to me and I will get the gentleman time if the gentleman needs it to speak about the gentleman from Oklahoma; but there is no question but that reconciliation is part of the law.

There is no question that reconciliation is a very real budget tool.

There is no question that there are times when you need reconciliation to be put into a resolution, and there are times when you do not.

Now, let me say to the gentleman from Arizona, our committees have tried via the legislative reform route to accomplish the same thing. Our Committee on Ways and Means passed out of the committee $1.4 million in legislative savings, which incidentally I hope the gentleman and the Members on the gentleman's side will support when it comes to the floor next week, one of which will be hospital cost containment.

Does the gentleman intend to support that, may I ask the gentleman? Does the gentleman intend to support hospital cost containment?

Mr. RHODES. Well, now, Mr. Speaker, it is my time.

May I comment on what the gentleman just said?

Mr. GIAIMO. Yes.

Mr. RHODES. It seems to me if, indeed, we have done such a great job on reconciliation already that the gentleman from Connecticut would not fight it so hard. If it is meaningless, then what is the problem?

Of course, the facts are, as the gentleman well knows, that if we adopt the principle of reconciliation as it appears in the Senate amendment, we will actually save about $3.6 billion. Now, I guess the gentleman from Connecticut does not want to do that; so I can understand that. The gentleman has done a good job of talking a balanced budget game, but not a very good job of doing much about it in his respected position of chairman of the Budget Committee.

The gentleman from Connecticut has never been anywhere near me or, as far as I know, any other Member of the Republican side asking for help on the budget or passage of the resolution. The gentleman has completely followed his own line of working only with the majority. The minority gets nothing but the back of the gentleman's hand. I suggest that that is really not a very good way to legislate.

Now, Mr. Speaker, I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Speaker, I appreciate the gentleman yielding. I appreciate the gentleman's comments on my legerdemain.

I would say that I appreciate the gentleman's artful and elusive semantics in trying to dissect what the gentleman said. I still do not understand what it is, but I am sure there was a message somewhere.

Let me just say on reconciliation——

Mr. RHODES. The thing that the gentleman did, I say to my good friend, is to say that the gentleman was in favor of the Giaimo amendment and then completely dissect it and say that the gentleman is against all the parts.

The SPEAKER pro tempore. The time of the gentleman from Arizona (Mr. RHODES) has expired.

Mr. LATTA. Mr. Speaker, I yield 5 additional minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I thought that deserved comment.

Mr. JONES of Oklahoma. Mr. Speaker, if the gentleman will yield further, what I said and what I believe is that reconciliation should be used when any committee in either body fails to respond to what is asked of it.

In the House of Representatives, the committees have responded.

Let me give the gentleman an example in the Committee on Ways and Means. The only way we can achieve the reconciliation called for, for example, is to pass both a hospital cost containment bill and to do away with prepayment programs for hospitals. This comes to about $1.1 billion.

I think that I am a political realist. I know the gentleman from Arizona is a political realist. We know that both of those will not pass the Congress. If they do not, then it makes reconciliation meaningless and that takes away and weakens a very important tool in the budget process.

Mr. RHODES. Mr. Speaker, the gentleman from Oklahoma and the gentleman from Connecticut have both very artfully tried to indicate that the only thing that would happen with reconciliation has to do with hospital cost containment. That is not the situation at all.

Mr. JONES of Oklahoma. I am talking only about the committee jurisdiction with which I am familiar.

Mr. RHODES. Well, I understand that, but the gentleman should become familiar with more things if the gentleman expects to become an authority on reconciliation.

Mr. JONES of Oklahoma. Mr. Speaker, I would suggest the same for the gentleman from Arizona.

Mr. RHODES. I suggest that the motion offered by the gentleman from Connecticut should be defeated, and then proceed to have an up or down vote on the question of keeping reconciliation in the budget resolution.

I cannot believe that the other body is completely out of its collective mind in wanting reconciliation. They do claim that, although the committee system on our side might have worked very well, that maybe their committee system has not worked so well, and therefore if they want to have reconciliation, why should they not have it? Then you can go to conference again and rereconcile the reconciliation.

The facts are, and the gentleman from Connecticut knows this very well, that when we set up the congressional budget system, the centerpiece of it was reconciliation. Everybody knew it would not work unless you were able to re-examine the work of the Appropriations Committee and the Committee on Ways and Means after all appropriations had been made, and to reconcile them with the macroeconomics that are necessary in order to do the best job that we can for the country; but we have neglected that. The congressional budget process has completely neglected this very important centerpiece of the whole matter, which is why the congressional budget system does not work. If we keep doing what we are doing and if we keep having the types of shows that we have every time we have the first concurrent and the second concurrent budget resolutions on the floor with everybody making amendments to this line item and that line item, the Congressional Budget Act is going to be abolished, and it will deserve to be abolished because it will not have done the job.

Now, the only way to make it work is to go back to the original philosophy under which we set it up and to provide for reconciliation at the end of the process.

The gentleman from New York (Mr. CONABLE) has for many months tried to get the House and the Senate to adopt a principle which I think is absolutely important; that is, not to allow an appropriations bill to become law until after the reconciliation process has already taken place. Then you do not have to go through the agony of "unappropriating" funds which have already been appropriated and which is very clumsy, to say the least, if not impossible.

So I think it is absolutely necessary that the gentleman from Connecticut and his committee get together and make some recommendations to the House and to the other body as to how we can do a better job on the budget process than we are doing now.

I suggest that as of now we are not doing the job that this country expects to be done. I hope that we will someday do that job.

Mr. GIAIMO. Mr. Speaker, I yield 8 minutes to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, I rise to offer my full support for the conference report on the second budget resolution for fiscal year 1980.

Mr. Speaker, I was a member of the conference on the second budget resolution and I can personally attest to the struggle that the House conferees went through to sustain an adequate level of funding for social programs. The objectives of the Senate conferees were to cut CETA, inadequately fund BEOG's, abdicate our commitment to provide housing for low-income families, and cut back in social services to the poor, elderly, and disabled. The House conferees opposed the Senate's position on social programs and, in the main, prevailed.

The outcome of the conference is a good resolution. I repeat, it is, on balance, a good resolution. It does not contain everything that I want, or that many other liberals would want; it contains funding levels for some programs that I consider excessive and unnecessary. I readily concede that it is not perfect. However, the desire for something better may blind us to the values of what we have achieved and the reality of what is attainable. I submit to you, my colleagues, that the conference agreement before us represents a budget plan for fiscal year 1980 that is realistic, balanced, and should be acceptable to all liberals.

Permit me to run through again some of the programs that the chairman of the committee discussed in his statement to impress on you the positive aspects of the conference agreement.

In education programs, the resolution provides sufficient funds to permit a supplemental appropriation of $500 million for the basic educational opportunity grants program, should such funding become necessary, to enable all undergraduate students to obtain the full assistance to which they are eligible. In contrast, the Senate would have provided for an inadequate supplemental of $200 million. The position of the Senate did not prevail.

In training and employment programs, the conference agreement provides no change from the House-passed resolution. The totals included in the conference report permit funding for 200,000 countercyclical public service jobs under CETA title VI and 250,000 public service jobs for the structurally unemployed under CETA title II–D at the end of fiscal year 1980. To achieve these job levels, it is estimated that a supplemental appropriation of almost $500 million will be required. The conference agreement provides for this level of supplemental funding. By contrast, the Senate had proposed to reduce the number of title VI jobs to 100,000 by the end of fiscal year 1980 and completely terminate the program in 1981. The position of the Senate did not prevail.

In social services programs, the conference agreement provides funds to sustain a title XX program level of $3 billion. This is an increase of $100 million over the fiscal year 1979 level. The Senate, in contrast, would have reduced the funding level for title XX by $200 million from the fiscal year 1979 level. The position of the Senate did not prevail.

Overall, in function 500, the education, training, employment, and social services function, the Senate was $1.7 billion below the House when we went into conference. At the conclusion of our negotiations, the House had reduced its total by $500 million; the Senate had agreed to increase its total by $1.2 billion.

In function 550, the health function, the conference agreement provides sufficient funds to cover the costs of the child health assurance program (CHAP) designed to provide screening and follow-up care to about 5 million additional poor children not now covered by medicaid and to enable over 200,000 low-income pregnant women annually to obtain prenatal and postnatal care. In addition, under the conference agreement, the medicare program can be amended to provide additional psychiatric coverage for the elderly, expand home health services and enable additional disabled persons to obtain the benefits of medicare coverage.

In function 600, the income security function, the conference agreement includes $1.6 billion to provide relief to low-income families from the escalation in the cost of home heating fuel. The Senate resolution had provided less than $600 million for this purpose. Here again the Senate did not prevail.

In addition, the income security function contains sufficient funds to lift the existing ceiling on appropriations for the food stamp program to insure that this vital benefit to the needy is not jeopardized because of higher food costs and increased unemployment. The conference agreement also accommodates the national policy of admitting and providing assistance to 168,000 Indochinese and 36,000 Soviet refugees in fiscal year 1980. Finally, the Senate had provided no funds in the income security function to accommodate House-passed legislation to liberalize assistance to American workers who become unemployed as a result of foreign trade competition. The House insisted that funds for the trade adjustment assistance program be included. Here again, the House prevailed.

In the veterans function, the conference agreement accommodates a cost-of-living adjustment totaling 9.9 percent for veterans with service-connected disabilities and their survivors.

Overall, Mr. Speaker, the conference agreement protected the programs that many of us on this side of the aisle had insisted had to be protected when the resolution was adopted by the House back in September. For that I commend our chairman and the other members of the House conferees. Of course, concessions had to be made to the position of the Senate. That is inherent in a congressional conference. The House accommodated the Senate in the level of funding for the national defense. We also included more budget authority for energy programs than will probably be necessary; these were concessions necessary for agreement to be reached and I do not fault our side for having made them.

In conclusion, Mr. Speaker, let me repeat that we have a good resolution before us. It is one which no Member on the Democratic side of the Chamber should hesitate to support. I urge my colleagues to vote in favor of the Giaimo motion.

□ 1240

Mr. GRAY. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I am pleased to yield to my distinguished friend and colleague, the gentleman from Pennsylvania (Mr. GRAY).

Mr. GRAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to join with the gentleman in what he has said in terms of the difficult situations that we faced in the conference, and I speak as a member of that conference committee.

I would also join the gentleman in the praise that has been given to the chairman of the committee, the gentleman from Connecticut (Mr. GIAIMO).

I certainly acknowledge, as the gentleman has pointed out, that there were difficult decisions to be made, but in the end I believe we have come up with the best conference report we could, one that will meet the needs of this Nation in terms of security and at the same time serve the people of this Nation who are unemployed and the people who are in need of housing.

So, Mr. Speaker, I would like to identify myself with the comments of my colleague, and I urge strong support of the Giaimo amendment.

Mr. GIAIMO. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. GRAY).

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. STOKES) has expired.

Mr. GIAIMO. Mr. Speaker. I yield 30 additional seconds to the gentleman from Ohio (Mr. STOKES).

Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, I just want to take this time to thank the gentleman from Ohio (Mr. STOKES), and I want the House to know of the work that the gentleman from Ohio (Mr. STOKES) did as a member of this conference committee.

All the members of this conference committee worked harder than I have ever seen any members work on a Budget Committee conference. No member worked harder than the gentleman from Ohio (Mr. STOKES). He attended every session, and he participated completely in the give-and-take of the conference.

Mr. Speaker, I say without any hesitation that urban America is indebted to the gentleman from Ohio (Mr. STOKES) for the effort and the hard work that he put into protecting the programs of urban America.

Mr. STOKES. Mr. Speaker, I thank my distinguished committee chairman.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the term "reconciliation" smacks of the arcane jargon that quite often is used in the House of Representatives and the other body to describe our parliamentary ac-

tivities. But what if we were to admit candidly to the American people today that our vote on this issue will mean that their cost of living will go up if we do not reconcile the budget, that inflation will increase, and that everything they do economically will suffer because of the lack of will on the part of the Members of the Congress of the United States? It is as simple as that.

The motion offered by the gentleman from Connecticut (Mr. GIAIMO) will increase the budget deficit to a level higher than last year's, reversing a trend which he personally has repeatedly crowed about on this floor as being something to encourage. In other words, we are not only going to have a deficit of nearly $30 billion but one in excess of $33 billion by the operation of this one motion.

I heard the gentleman make an excellent speech here a few days ago against a new Federal program that would cost roughly $2 billion, and this motion alone will cost more than the program about which he complained a few days ago.

So I urge the Members of this House to vote down the motion and allow the Budget Act to work as it was intended.

The question is whether or not the majority of this House wants the Budget Act to work. I do not think they do. I do not think that there is any collective will on the part of the majority—and some of the wrong votes come from my side of the aisle on these budget issues—to cut Federal spending or hold down inflation. It is a good issue for lip service and for speeches, but the way you vote is not very good when you must face the hard decisions.

That is what reconciliation is really all about. Will we make the budget that Congress authorized fit the available money? And the pending motion says, "No."

It would have been more honest to come in and just advocate a further increase in the deficit. That would have been the straightforward thing to do. But, no, the other body has been more willing in this instance, by a few billion dollars, to cut down spending; the House has not been willing to follow.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Mr. Speaker, I will finish first, and I will yield in just a moment, if the gentleman wishes, since I have mentioned his name.

Mr. Speaker, let me hark back to a day long ago when the gentleman from Maryland had only been in the House about 8 or 9 months. At that time there was drawing to a close the distinguished career of some 20 years of a Member of Congress from Iowa. On the afternoon of June 18, 1974, the gentleman from Iowa, Mr. Gross, rose briefly and said this:—and I quote from what he said—

> Mr. Speaker, a great day is about to dawn in the House of Representatives. There has been a lack, we are told today, of will, discipline, and restraint, and this budget control bill is going to cure all things.
>
> Bless your hearts and souls. . . .

Then Mr. Gross went on to say this:

> . . . . with this bill, everything and everybody is going to be reformed. Everything is going to be hunky-dory, and the goose is going to hang high. If we just pass this bill, we will have brought into play all the will, all of the restraint, and all of the discipline that is necessary to balance the budget, stop inflation, and restore fiscal sanity.

Then he paused and said this:

> Do not believe it for 1 minute.

Well, the gentleman from Iowa was a prophet in many ways. And today his prophecy comes true again. He went on to discuss how, as he said, the other body and this body "will quickly find ways to warp and bend the reform rules laid down here today" in the Budget Act. Some of the Members, he said, who were on the floor at that very moment in 1974—and that was many years ago—"will be a part of that bending and warping."

Then, Mr. Speaker, he was asked to yield by the gentleman from Maryland, and I agreed with his remarks.

□ 1250

I said then; "I hope that will be engraved in stone so that we can present them in the future, after the gentleman has retired and after the many who have made glowing speeches here about budget control will probably end up voting for more backdoor spending and bigger budget levels and more deficits even if we approve this Act."

Well, I hesitate to remind the Members of the House today that I told you so then. But the fact of the matter is that inherent in the motion offered by the gentleman from Connecticut (Mr. GIAIMO) is the lack of will, the lack of restraint, the desire to bend the process.

I do not know why we have 200 or more employees between the Senate and the House Budget Committees and the plus-200 that the Congressional Budget Office has, I do not know why we are spending millions of dollars on this process if, when you come down to the hard place, you make the decision to chuck the whole budget process into the ashcan. That is what the gentleman's motion entails here.

I suggest that if we are going to follow the direction that the gentleman from Connecticut suggests, it would do the House a service to offer a resolution to repeal the entire budget process. A competent adding machine from any reputable manufacturer can do the same thing that the gentleman is suggesting we do, and that is, go through the whole budget process, add up the cost, and then approve any deficit that results with no restraints applied.

I urge a vote against the motion.

Mr. GIAIMO. Mr. Speaker, I yield 7 minutes to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, when we went to conference with the Senate on the second budget resolution, it was very clear that there were many disagreements which would have to be resolved if we were going to reach agreement on a budget for the 1980 fiscal year. But it was also clear that there were two differences between the House and Senate which, in terms of their political and programmatic consequences, far transcended all of the other relatively minor differences between the two Houses. I am referring to the fact that the Senate was over the House by $3 billion in budget authority and $2 billion in outlays for defense, while the House was over the Senate by $4.1 billion in budget authority and $2.3 billion in outlays for a whole variety of desperately needed and vitally important social programs in functions 500 and 600. And it was obvious that, if there was going to be an agreement between the House and the Senate which would make possible the passage of a second budget resolution for the 1980 fiscal year, the House would, almost by definition, have to move toward the Senate in defense, while the Senate would have to move toward the House in the social programs for functions 500 and 600. This is precisely what happened.

The fact of the matter is that the House conferees drove a very hard bargain with our Senate counterparts on the conference committee. I think it is important to say here that the very distinguished and enormously effective chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO), deserves much of the credit. He was tenacious in squeezing every conceivable concession out of the Senate conferees. He bargained like a rug merchant in the great bazaar in Istanbul. If the President had any sense, he would dispatch the gentleman from Connecticut today to Tehran, and I can tell the Members that if he was admitted to that city and had an opportunity to discuss the current crisis in that country with the Ayatollah, I have absolutely no doubt, based on his performance as chairman of the House conferees, that he would not only be able to secure the release of the 60 Americans who are being held captive in the American compound in Tehran at this moment, but he probably would be able to get the Ayatollah to double oil production in the process.

So we drove a hard bargain, and the proof of the pudding is in the fact that, while the House agreed to go up by $3 billion in budget authority and $1.3 billion in outlays for defense, the Senate went up by $3.1 billion in budget authority and $1.8 billion in outlays for the social programs that were of such special importance to our colleagues here in the House.

As a consequence of the bargain which we struck with the Senate, we have managed to protect and preserve every one of the vitally important social programs that are of such great concern not only to the Members of the House but to the people of this country. We were able to keep full funding for the 200,000 job level in the CETA program. We were able to keep full funding for the title XX social services program. We were able to keep full funding for the BEOG's program which provides educational loans to low- and middle-income college students. We kept the section 8 subsidies for housing.

We were able to keep in the budget resolution the low-income energy assistance program which will be of such great importance to millions of Americans in the winter season this year. We kept the funds for the countercyclical revenue-sharing program, which will hopefully make up to one-half billion dollars of desperately needed Federal funds to depressed communities around the country as we move into a recession later next year.

We were also able to provide in the budget resolution for the substantial increase in Federal funds for the mass transportation component of the President's energy initiative.

So all of these programs are in the budget resolution. The question before us today is not whether we are going to include reconciliation or not include reconciliation; the real issue is whether we are going to have a budget resolution for the 1980 fiscal year at all.

The truth of the matter is that, however theoretically desirable the reconciliation procedure may be—and personally I have no problems with it—the fact is that there is no way to pass a budget resolution in this House so long as we include mandatory reconciliation provisions in it. The reason we cannot pass a budget resolution with the reconciliation provision is that whatever the Republican leadership may say, the truth is that the overwhelming majority of the Members on the other side of the aisle will not vote for a budget resolution even if it has reconciliation in it. To the extent that we include mandatory reconciliation instructions which obligate several committees of this chamber to do things which they may not want to do, we are going to lose the support of a substantial number of Democrats who would otherwise vote for the budget resolution who belong to these committees and who do not want to be in the position of being instructed to do something to which they are fundamentally opposed.

So I would submit that the real question that confronts us is whether we are in fact going to have a budget resolution. Because if the motion offered by the gentleman from Connecticut (Mr. GIAIMO) is defeated, I see no realistic way in which we can go back to conference and get an agreement with the Senate which would then be acceptable to this Chamber. Oh, yes, we could cut $50 million from this function and maybe add $100 million to that function, but with a Federal budget of $550 billion, how do you justify voting down a budget resolution today and then voting in favor of a budget resolution next week in which you have changed less than one-tenth of 1 percent of the total figures in the entire Federal budget?

The truth of the matter is that there is no way in which we can get a substantial reduction in defense and get the support of the Senate or to provide for an even greater increase in social programs and get the support of the Senate as well.

In a similar sense, if we were to substantially reduce the budget authority in outlays for the social programs so important to the House, we would not be able to muster the support necessary for the passage of the budget resolution over here.

So I think that what is really at stake is the viability of the budget process itself. And in a time of double-digit inflation, if we were unable to reach an agreement on the budget for the next fiscal year, then I fear that the political and institutional implications of that failure would have devastating consequences for the Congress and for the county at large.

So in conclusion, recognizing that if the motion offered by the gentleman from Connecticut (Mr. GIAIMO) is defeated, the most likely consequence is not that we will pass the same budget resolution but with reconciliation, or that we will go back to conference and be able to get agreement with substantial changes in the budget, but that we will not be able to pass a budget resolution at all.

Consequently, I want to urge my colleagues to vote in favor of the motion offered by our chairman, the gentleman from Connecticut (Mr. GIAIMO).

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I must, of course, vote against the motion of the chairman of the Budget Committee. He is asking us to abandon an important feature of the budget process, that of reconciliation, in favor of ephemeral legislative savings which will never come to pass.

If we support the Giaimo motion, we will have completely abandoned the use of the budget process as a tool of fiscal policy. During the life of the Budget Act, the budget process has been a simple compilation of committee desires for spending—a wish list of the advocates of our various spending programs.

As we have used it, the budget process has been an engine to increase spending rather than any retardant to congressional openhandedness.

The principle of reconciliation will work no miracles, but it will be another helpful force to make some spending reductions.

Anyone who has been here very long knows that significant spending reductions cannot be made on a program basis. Only by holding down total spending—using the aggregate spending figures as a lid—can we make any fiscal progress. It is much more preferable to establish aggregates as the first step in the budget process, but reconciliation is the next best way to meet the problem.

This budget is too expensive. It has been characterized as a budget of despair, and I concur in that description. It has no tax cut to indemnify the average taxpayer from inflation—escalation of his or her taxes. It contains $10 to $15 billion of spending that is unnecessary. It will not lead us to a balanced budget.

I have voted against every budget resolution this House has ever passed because they all contain too much spending. This one has the same drawbacks, but if we could ratify the principle of reconciliation, I would cast a reluctant vote for the budget because it would give hope for at least some savings in the future.

As indicated earlier, I do not support spending at the $547 billion level contemplated in this budget. I know interest costs are understated. I know inflation will boost costs of entitlement programs. I know the sum of these factors will produce a deficit closer to $40 billion than to the $30 billion dollars shown in this resolution.

Nevertheless, in an effort to achieve some potential tiny future progress, I will vote for the budget if the Senate's reconciliation is included. Without reconciliation, I believe that this budget resolution is wholly irresponsible and wholly unacceptable.

□ 1300

Mr. LATTA. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, as a member of the Budget Committee, I am disappointed with the budget levels recommended by the conference report. Budget authority and outlay levels remain unsatisfactorily extravagant.

The House is presented with a budget which has a deficit almost $1 billion larger than the already exorbitant level agreed upon in September.

While actual outlays have been trimmed, budget authority has swelled by $6 billion, portending ever-increasing expenditures in the future.

The conference report perpetuates the negligence of the House and Senate individually in its failure to recommend reforms which would reduce the gargantuan expenditures required by domestic entitlements programs.

These runaway expenditures are controllable if Congress will exercise the policy controls necessary for prudent fiscal management.

It appears, however, that yet another year's budget is about to pass without these needed reforms. Our Nation will suffer greater deficit spending and subsequent inflation as a consequence of continued congressional negligence to control these spending programs.

The one bright spot in the conference report is the 3 percent real growth in defense spending—an increase of $3 billion in budget authority and $400 million in outlays.

While I had proposed a larger 5 percent real growth level when the House earlier considered the budget resolution, I am pleased to see that at least some real increase is being recommended.

I was disappointed that the House narrowly defeated such an increase when the second concurrent budget resolution was considered in September. I believe the conference recommendation is a significant step in the right direction, although larger increases are desperately needed in order to strengthen our defense capabilities for the 1980's.

I congratulate the other body for having recommended the implementation of the reconciliation procedure whereby committees are directed to reduce spending in bills already reported or enacted.

This procedure was included within the Budget Act in order to provide real

authority for requiring spending restraints rather than simply making hollow "recommendations" for lower spendings levels or other meaningless gestures of restraint.

The decision the House must face is whether to support this frugal budget procedure, or to increase the deficit by another $3.6 billion, outlays which will be required without it.

The reconciliation process should be upheld. I urge a "no" vote on the Giaimo motion.

Mr. GIAIMO. I yield 4 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I rise in support of Chairman GIAIMO's motion to concur with the other body with an amendment to strike the reconciliation provision and thereby set the revenue floor and spending ceilings for fiscal year 1980.

The hour is late. We have already passed the September 15 deadline and we are over a month beyond the beginning of the fiscal year 1980. The public expects the Congress to take the budget process seriously and to act responsibly.

Chairman GIAIMO's motion should be supported for two principal reasons: First, the deficit agreed to by the conferees is below $30 million. This may be optimistic given the state of our economy, but it does show that the Budget Committee has made every effort to exercise fiscal restraint and curtail excessive spending.

Furthermore, the figures in this budget resolution will provide for more than adequate funding for both our national defense and the human resources programs so important to the Members of this body.

Second, this motion moves to strike the reconciliation provision which would direct the committees of the House of Representatives and the Senate to take certain specific actions with regard to spending programs within their jurisdiction.

I believe the House should reject reconciliation at this time. In the House of Representatives, since the Budget Act's inception, we have used the approach of negotiation and persuasion, rather than mandatory instructions requiring committees to act in a specific way at a specific time. On balance, the committees of the House have been cooperative and have already reported many of the legislative savings set forth in this resolution.

I believe it is imperative to maintain the integrity of the budget process through a continuation of the policy of self-discipline based upon mutual trust and cooperation. To abandon this approach at this time is neither practical nor advisable.

For these reasons, then, Mr. Speaker, I urge all Members to join me is support of the Giaimo motion.

Thank you.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, one sometimes thinks what would happen if an individual who was not aware of our process here came in and sat in the galleries for a moment and tried to figure out what was happening. Would they wonder whether they were observing a strong debate on one of the most crucial questions before us, that is, the control of the budgetary process or whether they were seeing a political lovefest?

I think it is all well and good for us to congratulate ourselves on the very hard work we have done and to say, "Boy, no one worked harder, and we put in more hours here, and we have done more work than has ever been done before"; but I would like to remind my colleagues that good efforts do not necessarily mean good results.

It seems to me if we follow the reasoning some suggested, including the chairman, the gentleman from Connecticut (Mr. GIAIMO), that somehow because we have tried so hard on this, we must vote for it, we would transfer that same logic to the area of professional football. Then I could convince the Members today that the Washington Redskins are leading the National Football League because they have tried harder than anybody else. As a matter of fact, they probably tried as hard or harder than the Pittsburgh Steelers the other day. The problem is that their score was less than Pittsburgh's.

The score here, the bottom line here, is what do we have as a work product? What are we asked to vote on? Are we talking about giving an "A" for effort?

Are we talking about giving out report cards because we worked so hard?

Or are we talking about results for the American people?

Since I was just recently the target of a letter that was sent out by the Democratic Congressional Campaign Committee attempting to solicit funds so they could return a number of Members to the other side of the aisle to this august body, I would like to share with my colleagues some of the words mentioned in there.

For instance, it suggested that there is a major difference between the freshman Republicans this year and the freshman Democrats of 1974.

In pointing that out, one of the Members of this House in the letter said, "Working with veteran Members, the class of 1974 helped establish a revoluntary new budget process."

I agree we did set up a budgetary process, but what good is a process if we do not use it? What good is a tool if it is never used? What good is the revolution about this whole process if we do not have really the guts and the will to use this process? Believe me, the freshman Republicans are willing to use the process.

Also, it says here that, in contrast to their Democratic counterparts from 1974, the Republican freshmen of 1978 "are waiting for the problems of inflation and energy to vanish through neglect." Well, where is the neglect here?

What are we talking about here? The majority talking about neglecting the No. 1 problem the American people have today. That is inflation.

They are saying today, "Forget about reconciliation. Forget about the fact that our promise was going to be a real promise." The fact is we have already told the American people: "Here is a budget; this is the budget we are bound by."

My God, we went through three different steps in this procedure. We have spent weeks on it. We are saying here is the budget concept we have. Yet we know that the budget, without reconciliation, is a phony deal.

I ask whether we can say with a straight face to the American people, "Yes, we are really interested about inflation," when we know that is not occurring here.

I have heard Member after Member come here and say, "Look at the great job we did. We didn't cut here. We didn't cut there. We didn't cut anywhere else. Therefore, it is a great job."

I would suggest maybe we did not do the job we set out to do. What we are attempting to do here is to pass a bill of which the numbers will mean nothing—if reconciliation does not follow.

Now someone said before that perhaps we should send one of the Members of this body over to negotiate in Iran. I would suggest if we cannot even deal with the ayatollah of inflation, how are we going to deal with the ayatollah of Iran?

In inflationary terms, we have done nothing here. At best, this is just a meager step. Now we should make an attempt to do what the other body has done, which is, to stand tough. We should know, as many newspaper articles have pointed out, that reconciliation is a tool of self-discipline. As such, we should utilize it. But some say we do not want to subject the chairman of different committees or the members of different committees, to discipline. It was said here a minute ago we do not want to force them to do something they do not want to do.

□ 1310

I thought we were part of a larger body here that is supposed to be making collective judgments for the American people. We must reject the idea that we must have turf fights, that we must be afraid of stepping on toes. It is ironic that the other side of the aisle is sending out letters suggesting that, because we had the tremendous leadership of a freshman class several years ago we were able to get rid of seniority and to change our system in some other aspects, somehow we have made things very, very different. If this resolution is any evidence, I would suggest that is not true and suggest that we vote down this resolution.

The SPEAKER pro tempore. Time of the gentleman from California has expired.

Mr. GIAIMO. Mr. Speaker, I yield the gentleman 1 more minute.

Mr. LUNGREN. I am happy to yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, inherent in the reconciliation process is the issue of hospital cost containment. Does the gentleman intend to support hospital cost containment?

Mr. LUNGREN. Let me say two things on that. No. 1, I do not intend to support it for a number of reasons.

Mr. GIAIMO. Exactly.

Mr. LUNGREN. Second, I am dismayed that the figures that are given

here are apparently at variance with the facts.

Mr. GIAIMO. I do not yield any further.

Mr. LATTA. Mr. Speaker, I yield the gentleman 1 more minute.

Mr. LUNGREN. Mr. Speaker, we have already heard that the suggestion we are going to save $650 million a year is not the correct assessment when compared with the CBO authorization. Moreover, I believe that there are strong suggestions that the hospital cost containment bill would not save us one dime.

Mr. LATTA. Will the gentleman yield to me?

Mr. LUNGREN. I am happy to yield to the gentleman from Ohio.

Mr. LATTA. I just want to correct the record. The gentleman asked a question and inferred that under reconciliation we would have to go with hospital cost containment. That is not true. That is not true.

Mr. LUNGREN. I agree with the gentleman from Ohio. But I would also point out the erroneous nature of the principle invoked that somehow we merely have to wave the wand of cost containment and thereby save tremendous amounts of money.

Mr. GIAIMO. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. I thank the gentleman.

Mr. GIAIMO. Will the gentleman from Maryland yield to me?

Mr. MITCHELL of Maryland. Yes, I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, I just want to briefly point out to my colleagues on the minority side that they cannot have it both ways. The gentleman who was just in the well is up here bleating about reconciliation when he himself tells us that when one of the most major portions of the legislation will come up dealing with reconciliation, hospital cost containment, which will save us $600 million, the gentleman will vote against it.

Mr. MITCHELL of Maryland. Mr. Speaker, I would like to reclaim my time if I may.

Let me start off by saying I support the Giaimo proposition. I would urge all of the Members of the House to vote "aye."

Having said that, let me add very quickly that I, too, want to express my appreciation to the chairman of the Budget Committee and the members who worked so hard to insure that certain social programs would not be ruthlessly slashed. I have served on several conference committees with the Budget Committee, and I know what a hard job it is to try and get any yielding at all from the other body in terms of our social programs.

I would like to announce that I am a liberal. I am a liberal in the House and I make no bones about it. Mine is a liberal political philosophy. I believe government ought to intervene in every process in terms of housing, and business, and everything else when the private sector fails us.

So the question is: What is a good liberal like PARREN MITCHELL doing standing in the well of the House to support this budget resolution, the Giaimo proposition, when there is a $3 billion increase in the military that is totally unnecessary. A $3 billion increase which apparently is a down payment for facilitating the SALT treaty? What is a good liberal like PARREN MITCHELL doing in the well of the House calling on other liberals to support the Giaimo proposition?

The answer is simple. You can be a good liberal, but you have also got to be a pragmatist, and you have got to be a realist. The reality is that in the event the Giaimo proposition does not prevail, I am not at all sure, first, that we will even get a budget resolution. I am sure, however, if we go back to the other body that cuts will be made in social services, human survival programs, functions 500 and 600, because they are the most vulnerable ones. Nobody is really going to touch the big budget busters in this resolution, the DOD and some others. But these programs will be the ones that will be cut.

With reference to the reconciliation language, obviously the other body has made it clear what committees will be banged the hardest by the process of reconciliation. For example, the Committee on Education and Labor is directed to cut $100 million in programs under their jurisdiction. What do they cut? The school lunch program? Child nutrition programs? Vocational rehabilitation programs? Is that what we really want to do?

Mr. GIAIMO. Mr. Speaker, will the gentleman yield at that point?

Mr. MITCHELL of Maryland. I yield to the gentleman.

Mr. GIAIMO. I would say to the gentleman not only that, but they are ordered to do it and to report back and accomplish all of this within 30 days.

Mr. MITCHELL of Maryland. Yes. It is mechanically impossible to accomplish that.

Let us face it, every economist now says we are either in a recession or we are moving toward a recession. The economists are predicting we will have 7.2 percent unemployment. Some are predicting 8 percent unemployment. Others are predicting 9 percent unemployment by September of 1980. I do not know who is right and who is wrong, but I do know we have unemployment; and how in the name of God could we go about the process of reconciliation, which will zero right in on those jobs and job training programs, at the very time when we are anticipating an increase in unemployment?

I would suggest to my colleagues on this side of the aisle and the Members on the other side, who have said we have failed in terms of carrying out a reconciliation process, that that is not quite accurate. Indeed, what has been done in the years that I have served on the Budget Committee, and I am sure it was done this year, in fact I know it was done this year, was to mandate our House committees to come back with some further cuts.

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. GIAIMO. Mr. Speaker, I yield 1 more minute to the gentleman from Maryland.

Mr. MITCHELL of Maryland. The truth of the matter is that the House has done a better job than the other body in reducing spending. The truth of the matter is that the reconciliation on the part of the other body is clearly an attempt to somehow or another cover up the fact that their committees failed to do as significant a job as the House committees did in reducing expenditures.

I appeal to my colleagues on this side of the aisle and on that side of the aisle, and I appeal especially to the liberals of the House, "the endangered species," this is the best proposition that we can get. We can retain our liberal philosophies, but let us be pragmatists, let us be realists, and let us vote "aye" on the Giaimo proposition.

There is some confusion in the minds of some of the Members about whether they should vote "aye" or "no". The answer for the liberals and for the people who care about human beings is to vote "aye" on the Giaimo proposition.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Speaker, I think the distinguished gentleman from Maryland just brought great clarity to this dialog when he said that the vote for liberals is yes. I think those Democrats who think of themselves as not being liberal, therefore, face a problem.

It is little wonder the American people vote in fewer numbers as the years go on because the majority increasingly specializes in words without meaning and promises without performance. The hope is always for tomorrow, but somehow Congress never gets around to real change.

Yet the majority leadership cannot admit how bad a job is being done. In fact, they go the extra mile and boast of the opposite of reality. I quote again from the letter that the gentleman from California cited from the Democratic Congressional Campaign Committee by Mr. UDALL, the gentleman from Arizona, where he said: "Working with veteran members of the class of 1974 helped establish a revolutionary new budget process."

Now, I could understand this letter last year or 6 months ago, but to send a letter out this month, while we are in the process of destroying the very process that they are so proud of, is amazing.

The reality is that today the majority leadership is fighting to destroy the very budget system that its committee quotes and supports. The chairman of the Budget Committee, in a scare tactic unworthy of this body, is distorting the budget reconciliation process with his hospital cost containment argument. It is very clear, and I suggest to my colleagues page 375 of the Congressional Budget and Impoundment Control Act of 1974, it is very clear that each committee on its own, once the totals are given to it by the budget process, is able to find those ways

to cut spending that are appropriate to recommend, and it is ludicrous to use a scare tactic of defining a specific cut or a specific action which each Member would be pledged to because we decided to be fiscally prudent.

□ 1320

The gentleman from Connecticut earlier said—and I paraphrase because I have not seen the quote, "I believe in reconciliation as a budget process. I agree with the Senator from Maine."

Yet, again they consider waiting until tomorrow and telling us, "Let us reconcile next year. Reconciliation does not matter because we are doing it anyway, but since we are doing it anyway we cannot afford to put it in."

The gentleman from New York suggested sending the chairman to Iran. It is true that we are giving in to the ayatollah of inflation. It is a process of greater and greater spending, of less and less control.

It must be embarrassing to have a true liberal stand up and explain why he wants to destroy reconciliation, to have a chairman explain why we should destroy reconciliation, and the gentleman from Oklahoma explain, because of his personal agreement with the leadership that transcends the principle of reconciliation because he supports in the long run a proposal to limit spending, that he will today vote against limiting spending.

The choice today is clear. Earlier, we were offered a choice between a budget of hope and a budget of despair; between cutting taxes and raising taxes; between cutting spending and raising spending; between less inflation and more inflation. Today, we are offered a choice between a process of hope and a process of despair. An aye vote on this proposal is a vote for inflation, a vote for irresponsible budget process, a vote for an unmanaged, chaotic House, a vote for turning the budget process into a running joke with no meaning, a vote for meaningless promises of action tomorrow. It is truly a process of despair.

A no vote on this motion fights inflation, cuts spending and forces the budget process in the House into the world of reality.

Mr. GIAIMO. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I take this time primarily to stress to the Members of the House what the vote will be. There are not going to be two votes—I want to make that eminently clear. There are some Members who believe they are going to get a vote on reconciliation and then get a vote on whether or not to adopt the budget. That is not the parliamentary situation.

They speak of the Giaimo amendment, but we should not think of it as an amendment in the sense that following it there will be a vote on the resolution. The vote is on adopting the conference report with an amendment knocking out reconciliation. That is the vote. There will be just one vote, on a conference report without reconciliation.

I urge you, I plead with you, to vote for this resolution. If you do not, we will not have adopted a budget and we will undoubtedly have to go back to conference or some other things that are just too dreadful to contemplate.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding. I think it has to be made clear, when we are talking about reconciliation, what that interprets out as. We are not talking about simply a reduction in spending as if we were going to take a 2-percent reduction in terms of appropriations. That is not the case at all.

If we are going to do reconciliation as proposed by the Senate, it mandates that we come to the floor with a bill of reconciliation in 30 days, and directs committees to come up with proposals to meet a certain saving level. The fact is, in 30 days the only proposal we are going to be able to move forward with is not this resolution included in the budget resolution. They will include reconciliation in cost containment, reduction for veterans benefits, highway program reductions. Let us not kid ourselves, those are going to be part of a bill of reconciliation.

The fact is, I tend to believe that those who are saying they are for reconciliation may well wind up voting against the bill of reconciliation. That is the reality we are dealing with. We have to deal with legislative savings on an individual, programmatic basis if we are going to service legislative savings. That is what is projected in this process so far.

Mr. GIAIMO. Now, if you vote down the Giaimo amendment, which is the conference report—it is more than just an amendment dealing with reconciliation—if you vote that down, then we will not have adopted a budget resolution. It would be possible for the gentleman from Ohio to move to concur in the Senate amendment, which means we would adopt a budget resolution with reconciliation. The difficulty with that is that I very much doubt, and in fact I am quite certain, that you will not have sufficient votes to pass that resolution; in which case we will again go down to defeat and we will not have adopted a budget for the U.S. Government. Here it is in November already, when the deadline was September 15.

Now, reference was made by the minority leader to the fact that I have treated the minority cavalierly. Those were not his words, but that I did not treat them properly and that I gave them sort of the back of my hand. I would hope that I have never given the minority the back of my hand. I tried to cooperate and work with them, but, you know, the interesting thing is that in the other body, where they voted on this resolution, 60 percent of the Republican Members voted for the resolution. Now, 60 percent of the Republicans in the House is about 95 Members, and I would like to ask the gentleman from Ohio, have you got 95 votes for this resolution? Have you?

Mr. LATTA. Absolutely not, 95 Members.

Mr. GIAIMO. Exactly, and that is the difference. That is the difference, I will say to my friend from Georgia, in the other body, where 60 percent of the Republicans, the minority party, support the budget process. When the budget came up in this House several months ago, not one Republican voted for the budget process.

The SPEAKER pro tempore. The time of the gentleman from Connecticut has expired.

Mr. GIAIMO. Mr. Speaker, I yield myself 2 additional minutes.

Now, they tell me they do not like the process. It costs too much money. Well, I do not like the fact that it costs too much money either. But I think the process has resulted in holding down Federal expenditures. There are many priorities and they do not please everyone. There are priorities in this budget resolution that I fought for, and you know I do not agree with, but I respect the right of others and I respect the right of a majority to have its will accomplished in a budget resolution.

Some do not like it because it is high in defense. Others like it because it is high in defense. Some do not like it because it has taken good care of necessary urban programs, programs which assist poor people and people who need help from their Government. We have covered all of these various priorities.

Now, you cannot please everyone 100 percent. That is what the art of government is, and that is what makes this Government of our, with all of its faults, the greatest government in the world. This is a compromise. A budget resolution is by definition a compromise. For the life of me, I cannot understand why the same resolution which passes the other body with 60 percent support by the same Republican party cannot get one Republican vote in the House of Representatives. I will say to you that when we get some bipartisan support demonstrated from that side of the aisle, you will have greater inputs into the makeup of a resolution.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I would be delighted to yield to the gentleman from Georgia.

Mr. GINGRICH. As the gentleman knows, since he has been here all day, the minority leader spoke and said that he would vote for this with reconciliation, and other Republicans said that they would vote for it.

The SPEAKER pro tempore. The time of the gentleman from Connecticut has again expired.

Mr. GIAIMO. Mr. Speaker, I yield myself 1 additional minute.

□ 1330

Mr. GINGRICH. Would the distinguished chairman, the gentleman from Connecticut (Mr. GIAIMO) vote for it with reconciliation, if his amendment should fail and it should be offered with reconciliation?

Mr. GIAIMO. It was stated to me that if reconciliation were in there, there would be Republican support for it—about 30 or 40 votes. What about the rest of the Republican votes here? You have about 159.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Speaker, at the outset before the gentleman from Maryland (Mr. MITCHELL) leaves, I would like to say that when he was on the floor before, there was no one in this House whom I admired and respected more because that gentleman went to the well and he told the truth. He was sincere. He said, "I am a liberal." He said, "I believe that government ought to intervene in all facets of our life," and he meant every word he said here. And I admire him for doing that because he is sincere. But, Mr. Speaker, he goes home and he says the same thing. And I admire him even more.

Mr. Speaker, what I do not admire is Members of this House, who go home and talk like Governor Ronald Reagan, and then come back here and vote like Senators MCGOVERN and KENNEDY. That is the thing I do not understand here today.

I go home every weekend, and each week more and more people come to me, and talk about the things that the gentleman from Connecticut (Mr. GIAIMO), was talking about the other day when we were debating the fuel assistance bill, that inflation is breaking the backs of all of the American people. No matter how much we give to the needy people, if we are doing it through printing counterfeit money, through deficit-spending processes as we are doing now, we are not helping those people because any small increase they may receive is wiped out by oppressive inflation which is caused by this Congress.

When we enact a deficit budget of $33 billion, which is really, as the gentleman admits and everybody admits, probably closer to $40 billion because of inflation and the increased cost of defense construction—we are not helping those people.

I would urge all of the Members to vote against this deficit budget resolution because if we are ever going to get back on the right track, and if we are ever going to get some fiscal sanity around here, we have got to balance the budget. We cannot balance the budget this year but we can take a step in that direction by cutting back on last year's deficit figure.

Inflation this year is running at about 14 percent and even higher when you consider the increased cost of basic necessities such as food, fuel, medicine, and gasoline.

My colleagues, this cannot continue. Inflation must be brought under control. If this budget resolution passes, the Congress will have once again fueled the fire of inflation. Don't let that happen—defeat this bill.

Mr. LATTA. Mr. Speaker, I yield myself 5 minutes.

Let me say to my good chairman, the gentleman from Connecticut (Mr. GIAIMO), that I am glad that he, after an interruption had occurred, went on to explain to the House there could be a second vote, rather than only one vote, and that the budget process and the budget itself will not go down the drain if we fail to adopt his motion. I am glad he finally got around to that, because if this motion is defeated, there will be an opportunity to vote on exactly—exactly—the same set of figures with one slight exception: one dealing with future years where we have to make a small amendment to be consistent with the rules of the House, we will have an opportunity to vote on the same proposition the Senate passed yesterday 65 to 27. It has already been passed by the U.S. Senate. So we are not going to be voting on something that was hastily cooked up; we would have an opportunity to vote to keep reconciliation in the budget process. But before we get there, we have to vote against the motion of the gentleman from Connecticut (Mr. GIAIMO).

Let me say to the gentleman from Connecticut (Mr. GIAIMO) absolutely and positively we are more conservative on this side of the aisle than the Members are on his side of the aisle, and until such time as they get their outlay figures within reason and lower their deficit, you are not going to get my vote. Let me say to my good friend, let us look at the record. Let us look at the record since this budget process has been in being, and find out whether it is accomplishing anything. Certainly on that side of the aisle they are saying, we want to keep it but we do not want to keep it all; we only want that part which permits us to continue our spending ways. That is what they want. They do not want reconciliation, even though it is in the law.

Let us look at the record. This process came into being back in 1976. In 1975 we had outlays of $326 billion. But with this process in being and going along with all of these requested additional outlays, we are now up to $547 billion in outlays.

This increase just since 1976 when this process became effective. The reason for this is the thinking among a majority of the Members of this House. Typical of this thinking was displayed here today when one individual got up here on the floor and said, "Well, we have given this group all they wanted. We have given this group all they wanted. We have given this group all they wanted. We have given this group all they wanted." But he forgot about the taxpayers. He did not say one single word about the taxpayers of this country.

And during this time how have the taxpayers of the future fared? They have not fared very well, because we have seen an increase in deficit spending of $216 billion. We have seen the public debt during this short period of time go from $544 billion to a requested $886.4 billion. Is that a record we can be proud of? I do not think so.

I go home and I face my constituents. I go home and I face my kids. I do not like to look at them and say, "Look at what we have done with your money. Look at what we have done to your future." It is shameful. It is absolutely shameful.

We have had opposition on the Democrat side of the aisle continuously against any constitutional amendment to balance the budget. This would help in our effort to curb spending but we have not succeeded. And now on this little bittle item of reconciliation in this proposal, which only amounts to $3.6 billion, we get the same kind of opposition, and we hear the story, "We can't cut spending." We cannot force this reconciliation process on the committees. "Why we can't go the legislative savings route." That does not mean a thing. That does not mean a thing, because not one piece of the legislation they have alluded to to bring about savings has become the law of the land. Until it becomes the law of the land, we are not going to have any legislative savings. So if we really want to do anything about $3.6 billion, we have to do it through the reconciliation process. That is what it is all about, and when we have enough people on our side of the aisle who say that we will vote for this resolution to pass it, if we put into the law what the law says should be there—reconciliation—I think it is high time we adopt it and set a precedent so we can take a step toward stopping this deficit financing which has been going on in this country for far too long.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding. I would like to point out that what he has just stated belies what our distinguished chairman said indicating that outlays have been reduced or saved since the budget process has been instituted under the Budget Act. There have been no savings, outlays have enormously increased. Why cannot the budget be based on the amount of money that we think we have, the estimated revenues available, in the way we would do from our own pocketbooks for our personal budgets, and then put the budget together? If this were done there would be no need for reconciliation.

□ 1340

It appears that the Budget Act is being used as a tool to continue to spend, spend, and spend, rather than hold down profligate Government spending as was intended by the Budget Act.

Mr. LATTA. Let me just conclude by saying all during the conference the Senate took the position it wanted reconciliation. It was an open conference. That is on the record. And all during the conference my friend from Connecticut took the position: We cannot pass it in the House. Not an effort was made.

I think the House should have had an opportunity to vote on this matter as presently in the law. And today we have that opportunity. The only way you are going to get a vote on that is to vote down the question that the gentleman from Connecticut has put and then vote for the report as passed by the Senate without his motion to strike.

As I said earlier, we will have an opportunity to vote on the same report the Senate passed yesterday (65 to 27) if we vote down this Giaimo motion.

Mr. Speaker, I yield back the balance of my time.

● Mr. FISHER. Mr. Speaker, I would have liked to support the conference re-

port on the second concurrent budget resolution for fiscal year 1980. I support the congressional budget process. I believe that it represents a substantial improvement over the haphazard and uncoordinated system of appropriating in the blind, which had been the normal procedure for the preceding decades.

I favor the approach outlined by Mr. GIAIMO, the chairman of the House Budget Committee, in his motion to strike the Senate language which would have required the House to utilize the reconciliation process. I agree that this substantial authority of the Budget Committee to order authorizing or appropriating committees to report out legislation which would have an impact on the size of the budget and the deficit should only be used selectively.

I support the chairman particularly in this instance because it is quite possible that the reconciliation process will be unnecessary with respect to the House for fiscal year 1980. The House has already passed legislation which will produce savings of over $1.4 billion. These measures include social security disability reforms, medicare and medicaid reform, and the capping of title XX State and local training grants. In doing so, the House has nearly matched the Senate's target for legislative savings already. Furthermore, legislative savings by the House of another billion dollars may yet be possible with respect to fiscal year 1980.

In light of the actions already taken by the House, I believe that it would have been an error to agree to the Senate's language in favor of utilizing the reconciliation process. Simply, it is too powerful a club to wave gratuitously. If we reconcile in anticipation, what added suasion will there be when we may one day have to reconcile in desperation? I feel strongly on this issue and wish that it would have been possible to have a separate vote on it so that I could have expressed my support for the committee's position.

However, the issue was not presented in this manner. Instead, we were asked to vote on the budget figures, in terms of budget authority, outlays and deficit, at the same time we were asked to vote on the reconciliation question. It was a package deal which I could not accept.

When the second concurrent budget resolution was considered by the House in September, I opposed it because I believe that the committee's reduction of the fiscal year 1979 deficit by $900 million did not demonstrate as determined a commitment to reduce Government spending as is necessary during this inflationary period. At that time I offered an amendment to reduce the committee's spending totals by one-half of 1 percent and would have done so again if the parliamentary procedure had permitted it. This amendment would have reduced the Federal deficit by approximately $2.7 billion from the projected deficit for fiscal year 1979. It would have represented a more steadfast commitment to move in the direction of a balanced budget in the early 1980's.

Inflation remains the major economic problem facing the Nation; a tighter, more restrained budget for 1980 will help in fighting inflation.

As it is now, the conference agreement on the second budget resolution does not project any reduction in the budget deficit from fiscal year 1979 to fiscal year 1980. At a time when a concerted, yet responsible, attack is called for, we are merely marching in place. I do not believe that we can afford to waste another fiscal year without cutting expenditures. I believe that the deficit is too high. I believe that it can be reduced, and I believe that we must act now.●

● Mr. HARRIS. Mr. Speaker, I would like to call the attention of my colleagues to the language in the second concurrent resolution on the budget conference report on wasteful yearend spending. The conferees state that they "are very concerned about wasteful Government spending which may result from agency practices of obligating substantial amounts of funds during the last weeks and months of the fiscal year in order to avoid lapse of unneeded funds at yearend."

I would like to commend them for pointing out this serious problem which is costing the taxpayers billions of dollars and for recommending that this Congress and the executive branch take remedial action.

As chairman of the Human Resources Subcommittee, I have held extensive hearings on this spending spree as it relates to Federal contracting and the evidence of waste in this area is well documented. H.R. 4717, which I introduced to stop waste in Federal contracting, will stop this yearend spending spree. The Post Office and Civil Service Committee will consider H.R. 4717 next Wednesday. I urge my colleagues to join with me to insure that taxpayers dollars are not wasted.●

● Mr. MATTOX. Mr. Speaker, the second budget resolution which establishes spending ceilings and a revenue floor is long overdue. It should have been passed under the law by September 15; it certainly should have been passed by the beginning of the fiscal year 1980 on October 1. Fiscal responsibility requires that we enact our budget immediately.

In my view, this resolution carries too much deficit spending. Although I support our commitment to a strong national defense and our desire to protect the welfare of our people, particularly the poor and unemployed, I still believe we could have done much better by eliminating some of these new and ill-conceived programs, such as countercyclical assistance.

I shall vote for this resolution today, not because I agree with all of the decisions that have been made, but because it does represent a ceiling: it does say no more spending beyond this point. For that reason, I can support it, because without such a ceiling, we could continue to spend our way into bankruptcy.

We have made some movement toward the necessary fiscal restraint to balance the budget. We have not done enough and I hope next year we can continue to make progress, but at a much more rapid pace.●

Mr. GIAIMO. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and the Speaker pro tempore announced that he was in doubt.

Mr. GIAIMO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 205, nays 190, not voting 38, as follows:

[Roll No. 637]

YEAS—205

Addabbo	Frost	Nowak
Akaka	Fuqua	Oakar
Albosta	Garcia	Oberstar
Alexander	Gephardt	Obey
Ambro	Giaimo	Ottinger
Anderson, Calif.	Gibbons	Panetta
Andrews, N.C.	Ginn	Patten
Annunzio	Gonzalez	Patterson
Anthony	Gore	Pease
Ashley	Gray	Pepper
Aspin	Guarini	Perkins
Bailey	Gudger	Peyser
Baldus	Hall, Ohio	Preyer
Barnes	Hanley	Price
Beard, R.I.	Harkin	Rahall
Bedell	Harris	Ratchford
Bellenson	Hefner	Reuss
Bennett	Hightower	Richmond
Biaggi	Holland	Roberts
Bingham	Howard	Rodino
Blanchard	Hubbard	Roe
Boland	Hutto	Rose
Bolling	Ireland	Rostenkowski
Bonior	Jenkins	Roybal
Bonker	Jenrette	Russo
Bouquard	Johnson, Calif.	Sabo
Brademas	Jones, N.C.	Scheuer
Breaux	Jones, Okla.	Selberling
Brodhead	Jones, Tenn.	Shannon
Brooks	Kastenmeier	Simon
Brown, Calif.	Kazen	Skelton
Burlison	Kildee	Slack
Burton, Phillip	Kogovsek	Smith, Iowa
Byron	Kostmayer	Solarz
Chappell	Lederer	St Germain
Chisholm	Lehman	Stack
Clay	Leland	Staggers
Coelho	Lloyd	Steed
Collins, Ill.	Long, La.	Stewart
Corman	Long, Md.	Stokes
Cotter	Lowry	Stratton
Danielson	Luken	Studds
Daschle	McCormack	Swift
Davis, S.C.	McHugh	Synar
Derrick	McKay	Thompson
Dicks	Maguire	Traxler
Diggs	Markey	Udall
Dingell	Matsui	Ullman
Dodd	Mattox	Van Deerlin
Donnelly	Mavroules	Vanik
Downey	Mica	Vento
Drinan	Miller, Calif.	Watkins
Duncan, Oreg.	Minsta	Weiss
Early	Minish	White
Eckhardt	Mitchell, Md.	Whitley
Edgar	Moakley	Whitten
Edwards, Calif.	Moffett	Williams, Mont.
English	Mollohan	Wilson, C. H.
Fary	Montgomery	Wirth
Fascell	Moorhead, Pa.	Wolff
Fazio	Murphy, Ill.	Wolpe
Ferraro	Murphy, N.Y.	Wright
Florio	Murtha	Wyatt
Foley	Myers, Pa.	Yates
Ford, Mich.	Natcher	Yatron
Ford, Tenn.	Neizi	Young, Mo.
Fountain	Nelson	Zablocki
Fowler	Nichols	Zeferetti
	Nolan	

NAYS—190

Abdnor	Bauman	Buchanan
Andrews, N. Dak.	Beard, Tenn.	Burgener
Applegate	Benjamin	Butler
Archer	Bereuter	Campbell
Atkinson	Bethune	Carney
AuCoin	Bowen	Carr
Badham	Brinkley	Carter
Bafalis	Broomfield	Cheney
Barnard	Brown, Ohio	Clausen
	Broyhill	Cleveland

Clinger	Hance	Pashayan
Coleman	Hansen	Paul
Collins, Tex.	Harsha	Petri
Conable	Hillis	Pickle
Conte	Hinson	Pritchard
Conyers	Hollenbeck	Pursell
Corcoran	Hopkins	Quillen
Coughlin	Horton	Railsback
Courter	Huckaby	Regula
Crane, Daniel	Hughes	Rhodes
D'Amours	Hyde	Rinaldo
Daniel, Dan	Ichord	Ritter
Daniel, R. W.	Jacobs	Robinson
Dannemeyer	Jeffords	Roth
Davis, Mich.	Jeffries	Royer
Deckard	Johnson, Colo.	Rudd
Dellums	Kelly	Santini
Derwinski	Kemp	Satterfield
Devine	Kindness	Sawyer
Dickinson	Kramer	Schulze
Dornan	Lagomarsino	Sebelius
Dougherty	Latta	Sensenbrenner
Duncan, Tenn.	Leach, Iowa	Sharp
Edwards, Ala.	Leach, La.	Shelby
Edwards, Okla.	Lee	Shumway
Emery	Lent	Shuster
Erdahl	Levitas	Smith, Nebr.
Erlenborn	Lewis	Snyder
Ertel	Livingston	Solomon
Evans, Del.	Loeffler	Spence
Evans, Ind.	Lott	Stangeland
Findley	Lungren	Stanton
Fish	McClory	Stark
Fisher	McCloskey	Stockman
Fithian	McDade	Stump
Flippo	McDonald	Tauke
Forsythe	McEwen	Taylor
Frenzel	McKinney	Thomas
Gaydos	Marks	Trible
Gilman	Marlenee	Vander Jagt
Ginsrich	Marriott	Volkmer
Glickman	Martin	Walgren
Goldwater	Mathis	Walker
Goodling	Mazzoli	Wampler
Gradison	Michel	Weaver
Gramm	Miller, Ohio	Whitehurst
Grassley	Mitchell, N.Y.	Whittaker
Green	Moore	Williams, Ohio
Grisham	Moorhead, Calif.	Wilson, Bob
Guyer	Mottl	Winn
Hagedorn	Murphy, Pa.	Wydler
Hall, Tex.	Myers, Ind.	Wylie
Hamilton	Neal	Young, Fla.
Hammer-schmidt	O'Brien	

NOT VOTING—38

Anderson, Ill.	Hawkins	Rosenthal
Ashbrook	Heckler	Rousselot
Bevill	Heftel	Runnels
Boggs	Holt	Schroeder
Boner	Holtzman	Snowe
Burton, John	LaFalce	Spellman
Cavanaugh	Leath, Tex.	Stenholm
Crane, Philip	Lujan	Symms
de la Garza	Lundine	Treen
Dixon	Madigan	Waxman
Evans, Ga.	Mikulski	Wilson, Tex.
Fenwick	Quayle	Young, Alaska
Flood	Rangel	

□ 1350

The Clerk announced the following pairs:

On this vote:

Mr. Hawkins for, with Mr. John L. Burton against.

Mrs. Boggs for, with Mr. Rousselot against.

Mr. Rangel for, with Mrs. Snowe against.

Mr. Waxman for, with Mrs. Holt against.

Mr. Rosenthal for, with Mr. Madigan against.

Ms. Holtzman for, with Mr. Lujan against.

Mrs. Spellman for, with Mr. Runnels against.

Ms. Mikulski for, with Mr. Ashbrook against.

Mr. Dixon for, with Mrs. Heckler against.

Mr. Flood for, with Mrs. Fenwick against.

Until further notice:

Mr. Bevill with Mr. Anderson of Illinois.

Mr. Heftel with Mr. Leath of Texas.

Mr. Boner of Tennessee with Mr. Quayle.

Mrs. Schroeder with Mr. Young of Alaska.

Mr. de la Garza with Mr. Symms.

Mr. Evans of Georgia with Mr. Lundine.

Mr. LaFalce with Mr. Cavanaugh.

Mr. Charles Wilson of Texas with Mr. Philip M. Crane.

Mr. RICHMOND and Mr. DINGELL changed their votes from "nay" to "yea."

Messrs. CONTE, CONYERS, and CARR changed their votes from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2222, AMENDING NATIONAL LABOR RELATIONS ACT

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96-594) on the resolution (H. Res. 479) providing for the consideration of the bill (H.R. 2222) to amend the National Labor Relations Act to clarify the scope of its coverage, which was referred to the House calendar and ordered to be printed.

□ 1400

PROVIDING FOR CONSIDERATION OF H.R. 3398, AGRICULTURE ADJUSTMENT ACT OF 1979

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 364 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 364

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3398) to amend the Food and Agriculture Act of 1977 relating to increases in the target prices of the 1979 crops of wheat, corn, and other crops under certain circumstances, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 364 is an open rule providing for the consideration of H.R. 3398 which amends the Food and Agriculture Act of 1977 relating to increases in the target prices of the 1979 crops of wheat, corn, and other crops under certain circumstances.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. House Resolution 364 is a simple open rule and any germane amendment to the bill will be permitted when H.R. 3398 is considered under the 5-minute rule.

Mr. Speaker, H.R. 3398 amends the 1977 Agriculture Act to increase the 1979 target prices for wheat, corn and feed grains by seven percent over 1978 levels. The bill, as reported by the Committee on Agriculture, would raise the 1979 target prices for wheat from $3.40 per bushel to $3.63 per bushel and for corn from $2.20 per bushel to $2.35 per bushel. In addition, the bill gives the Secretary of Agriculture the discretion to make proportional adjustments in the target prices for feed grains. I might point out that only those farmers who participate in the set-aside program for the commodity can take advantage of the increases in target prices and such increases affect only deficiency payments made to such farmers. Deficiency payments are provided only if the market prices are below target prices.

Mr. Speaker, target prices do not affect market prices. By adopting a 7 percent increase in target prices, we are not driving up the market price of wheat, corn and feed grains, instead we are providing assurances necessary for the American farmer so that he can plant full acreages despite increased costs of production. I would urge my colleagues to adopt this rule so that the House may proceed to the consideration of H.R. 3398.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this rule is in crystal-clear language. It provides for 1 hour of debate. It is an open rule. Most recently the Committee on Rules has been hammering out modified closed rules, but I think the open rule process is better.

Mr. Speaker, the gentleman from Texas (Mr. FROST) has ably explained in some detail the provisions of the resolution and the provisions of the bill itself. It is a very modest measure, allowing only a 7-percent increase—the inflationary figure that has been used throughout the country—on the 1979 crops. The 1980 crops are not included, but I understand there is going to be a push to do so in the conference.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4930, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1980

Mr. YATES. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 4930) making appropriations for the Depart-

ment of the Interior and related agencies for fiscal year 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON S. 1319, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1980

Mr. NEDZI submitted the following conference report and statement in the Senate bill (S. 1319) to authorize certain construction at military installations, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96-595)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1319) to authorize certain construction at military installations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Military Construction Authorization Act, 1980".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $1,250,000.
Fort Campbell, Kentucky, $18,200,000.
Fort Drum, New York, $690,000.
Fort Greely, Alaska, $820,000.
Fort Hood, Texas, $13,650,000.
Fort Hunter Liggett, California, $2,900,000.
Fort Lewis, Washington, $7,400,000.
Fort Meade, Maryland, $18,500,000.
Fort Ord, California, $17,380,000.
Fort Polk, Louisiana, $26,810,000.
Fort Richardson, Alaska, $5,250,000.
Fort Riley, Kansas, $28,350,000.
Fort Sheridan, Illinois, $1,200,000.
Schofield Barracks, Hawaii, $2,750,000.
Fort Stewart/Hunter Army Air Field, Georgia, $39,900,000.
Yakima Firing Center, Washington, $1,100,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Camp Perry, Ohio, $1,000,000.
Fort Belvoir, Virginia, $2,420,000.
Fort Benning, Georgia, $12,800,000.
Fort Bliss, Texas, $30,000,000.
Fort Eustis, Virginia, $6,410,000.
Fort Benjamin Harrison, Indiana, $4,450,000.
Fort Knox, Kentucky, $22,815,000.
Fort Leavenworth, Kansas, $540,000.
Fort Lee, Virginia, $3,960,000.
Fort Rucker, Alabama, $2,060,000.
Fort Story, Virginia, $2,450,000.
Fort Leonard Wood, Missouri, $6,350,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $5,400,000.
Anniston Army Depot, Alabama, $4,850,000.
Badger Army Ammunition Plant, Wisconsin, $650,000.
Corpus Christi Army Depot, Texas, $1,560,000.
Crane Army Ammunition Activity, Indiana, $2,490,000.
Detroit Arsenal, Michigan, $4,400,000.
Harry Diamond Laboratories, Maryland, $2,800,000.
Dugway Proving Ground, Utah, $520,000.
Indiana Army Ammunition Plant, Indiana, $1,010,000.
Iowa Army Ammunition Plant, Iowa, $2,060,000.
Joliet Army Ammunition Plant, Illinois, $5,800,000.
Kansas Army Ammunition Plant, Kansas, $650,000.
Lake City Army Ammunition Plant, Missouri, $3,800,000.
Letterkenny Army Depot, Pennsylvania, $1,200,000.
Lexington-Blue Grass Army Depot, Kentucky, $1,500,000.
McAlester Army Ammunition Plant, Oklahoma, $1,470,000.
Michigan Army Missile Plant, Michigan, $2,550,000.
Fort Monmouth, New Jersey, $1,650,000.
Newport Army Ammunition Plant, Indiana, $1,550,000.
Picatinny Arsenal, New Jersey, $9,750,000.
Radford Army Ammunition Plant, Virginia, $6,100,000.
Red River Army Depot, Texas, $8,600,000.
Redstone Arsenal, Alabama, $7,200,000.
Riverbank Army Ammunition Plant, California, $1,100,000.
Rock Island Arsenal, Illinois, $5,900,000.
Rocky Mountain, Arsenal, Colorado, $6,500,000.
Scranton Army Ammunition Plant, Pennsylvania, $3,750,000.
Seneca Army Depot, New York, $8,350,000.
Sharpe Army Depot, California, $1,650,000.
Sierra Army Depot, California, $770,000.
Tobyhanna Army Depot, Pennsylvania, $10,410,000.
Tooele Army Depot, Utah, $1,050,000.
Volunteer Army Ammunition Plant, Tennessee, $810,000.
Watervliet Arsenal, New York, $1,300,000.
White Sands Missile Range, New Mexico, $5,750,000.
Yuma Proving Ground, Arizona, $4,300,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $830,000.
Indiana Army Ammunition Plant, Indiana, $10,490,000.
Lake City Army Ammunition Plant, Missouri, $140,000.
Lone Star Army Ammunition Plant, Texas, $1,890,000.
Longhorn Army Ammunition Plant, Texas, $170,000.
Louisiana Army Ammunition Plant, Louisiana, $670,000.
Milan Army Ammunition Plant, Tennessee, $450,000.
Radford Army Ammunition Plant, Virginia, $67,350,000.
Riverbank Army Ammunition Plant, California, $280,000.
Scranton Army Ammunition Plant, Pennsylvania, $720,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $1,150,000.
Fort Ritchie, Maryland, $7,850,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $13,350,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $650,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Terminal, New Jersey, $920,000.
Oakland Army Base, California, $1,100,000.
Sunny Point Terminal, North Carolina, $31,290,000.

OUTSIDE THE UNITED STATES

KWAJALEIN MISSILE RANGE

National Missile Range, $2,900,000.

UNITED STATES ARMY FORCES COMMAND

Panama Area, Canal Zone, $26,060,000.

UNITED STATES ARMY, JAPAN

Okinawa, $2,700,000.

UNITED STATES ARMY, EUROPE

Germany Various Locations, $128,490,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND

Various Locations, $2,800,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedule, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1980, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1981, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $52,270,000.

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Base, Camp Lejeune, North Carolina, $24,630,000.
Marine Corps Base, Camp Pendleton, California, $14,200,000.
Marine Corps Air Station, Cherry Point, North Carolina, $8,410,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, $4,800,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, $4,500,000.

Marine Corps Development and Education Command, Quantico, Virginia, $7,300,000.
Marine Corps Air Station, Tustin, California, $3,400,000.
Marine Corps Base, Twentynine Palms, California, $5,700,000.
Marine Corps Air Station, Yuma, Arizona, $9,700,000.

CHIEF OF NAVAL OPERATIONS

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $20,330,000.
Naval Support Activity, Mare Island, California, $1,050,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Charleston, South Carolina, $3,600,000.
Naval Amphibious Base, Little Creek, Virginia, $1,670,000.
Naval Submarine Base, New London, Connecticut, $15,850,000.
Naval Air Station, Oceana, Virginia, $14,700,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, $19,950,000.
Naval Amphibious Base, Coronado, California, $1,600,000.
Naval Air Station, Lemoore, California, $6,300,000.
Naval Magazine, Lualualei, Hawaii, $15,700,000.
Naval Air Station, Miramar, California, $4,050,000.
Naval Air Station, North Island, California, $1,650,000.
Naval Station, San Diego, California, $9,200,000.
Navy Submarine Support Facility, San Diego, California, $3,200,000.
Naval Air Station, Whidbey Island, Washington, $2,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $720,000.
Naval Training Center, Great Lakes, Illinois, $6,300,000.
Naval Air Station, Memphis, Tennessee, $4,700,000.
Fleet Anti-Submarine Warfare Training Center, Atlantic, Norfolk, Virginia, $1,200,000.
Naval Air Station, Pensacola, Florida, $520,000.
Fleet Training Center, San Diego, California, $8,300,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Camp Pendleton, California, $2,050,000.
Naval Regional Medical Center, San Diego, California, $5,900,000.

CHIEF OF NAVAL MATERIAL

Naval Air Rework Facility, Alameda, California, $3,500,000.
Puget Sound Naval Shipyard, Bremerton, Washington, $2,545,000.
Puget Sound Naval Supply Center, Bremerton, Washington, $1,000,000.
Charleston, Naval Shipyard, Charleston, South Carolina, $2,250,000.
Naval Weapons Station, Charleston, South Carolina, $5,000,000.
Polaris Missile Facility Atlantic, Charleston, South Carolina, $7,500,000.
Naval Air Rework Facility, Cherry Point, North Carolina, $750,000.
Naval Weapons Center, China Lake, California, $4,350,000.
Naval Weapons Station, Concord, California, $3,950,000.
Naval Weapons Support Center, Crane, Indiana, $590,000.
Naval Air Rework Facility, Jacksonville, Florida, $3,600,000.
Navy Fuel Depot, Jacksonville, Florida, $1,400,000.
Portsmouth Naval Shipyard, Kittery, Maine, $6,250,000.
Long Beach Naval Shipyard, Long Beach, California, $8,250,000.
Naval Air Engineering Center, Lakehurst, New Jersey, $700,000.
Naval Ordnance Station, Louisville, Kentucky, $1,850,000.
Navy Ship Parts Control Center, Mechanicsburg, Pennsylvania, $2,400,000.
Naval Supply Center, Norfolk, Virginia, $25,960,000.
Naval Air Rework Facility, North Island, California, $3,200,000.
Naval Air Test Center, Patuxent River, Maryland, $4,540,000.
Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $7,300,000.
Navy Public Works Center, Pearl Harbor, Hawaii, $1,000,000.
Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $510,000.
Naval Construction Battalion Center, Port Hueneme, California, $1,200,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, $19,200,000.
Naval Ocean Systems Center, San Diego, California, $5,800,000.
Navy Supply Center, San Diego, California, $11,600,000.
Naval Weapons Station, Seal Beach, California, $960,000.
Naval Surface Weapons Center, Solomons Island, Maryland, $860,000.
Mare Island Naval Shipyard, Vallejo, California, $16,220,000.
Naval Weapons Station, Yorktown, Virginia, $2,270,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Unit, Cutler, Maine, $950,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $6,505,000.

OUTSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $11,700,000.

OFFICE OF NAVAL RESEARCH

Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt, $30,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Bermuda, $860,000.
Naval Station, Keflavik, Iceland, $17,650,000.
Naval Station, Roosevelt Roads, Puerto Rico, $1,300,000.

NAVAL FORCES EUROPE

Naval Station, Rota, Spain, $6,600,000.
Naval Air Facility, Sigonella, Italy, $9,700,000.

CHIEF OF NAVAL MATERIAL

Navy Public Works Center, Guam, Mariana Islands, $3,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Station, Harold E. Holt, Exmouth, Australia, $2,500,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edsell, Scotland, $1,400,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $30,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1980, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1981, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $23,160,000.

AL GHARDAQA MARINE LABORATORY, EGYPT

SEC. 204. The Secretary of the Navy is authorized to expend excess foreign exchange funds in the amount of $580,000 for the construction of a multipurpose marine biological laboratory at the Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $6,990,000.
Kelly Air Force Base, Texas, $6,350,000.
Newark Air Force Station, Ohio, $860,000.
Robins Air Force Base, Georgia, $10,750,000.
Tinker Air Force Base, Oklahoma, $15,600,000.
Wright-Patterson Air Force Base, Ohio, $15,500,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,500,000.
Eglin Air Force Base, Florida, $5,100,000.
Hanscom Air Force Base, Massachusetts, $5,600,000.
Johnson Space Center, Texas, $12,400,000.
Maui Optical Site, Hawaii, $3,650,000.
White Sands Missile Range, New Mexico, $2,100,000.

AIR TRAINING COMMAND

Keesler Air Force Base, Mississippi, $840,000.
Lackland Air Force Base, Texas, $5,400,000.
Laughlin Air Force Base, Texas, $4,500,000.
Mather Air Force Base, California, $1,650,000.
Maxwell Air Force Base, Alabama, $6,600,000.
Sheppard Air Force Base, Texas, $2,050,000.
Vance Air Force Base, Oklahoma, $1,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $13,400,000.

MILITARY AIRLIFT COMMAND

Andrews Air Force Base, Maryland, $1,900,000.
Kirtland Air Force Base, New Mexico, $2,170,000.
Little Rock Air Force Base, Arkansas, $510,000.
McChord Air Force Base, Washington, $4,100,000.

Pope Air Force Base, North Carolina, $5,400,000.

Richards-Gebaur Air Force Base, Missouri, $1,100,000.

Scott Air Force Base, Illinois, $10,060,000.

Travis Air Force Base, California, $6,300,000.

STRATEGIC AIR COMMAND

Castle Air Force Base, California, $5,300,000.

Ellsworth Air Force Base, South Dakota, $17,000,000.

Griffiss Air Force Base, New York, $8,080,000.

Grand Forks Air Force Base, North Dakota, $4,900,000.

Grissom Air Force Base, Indiana, $4,700,000.

K. I. Sawyer Air Force Base, Michigan, $5,200,000.

March Air Force Base, California, $6,600,000.

Minot Air Force Base, North Dakota, $5,100,000.

Offutt Air Force Base, Nebraska, $2,190,000.

Vandenberg Air Force Base, California, $122,800,000.

Various Locations, $14,200,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $7,850,000.

Cannon Air Force Base, New Mexico, $5,750,000.

Davis-Monthan Air Force Base, Arizona, $5,540,000.

England Air Force Base, Louisiana, $6,390,000.

George Air Force Base, California, $18,350,000.

Holloman Air Force Base, New Mexico, $3,600,000.

Homestead Air Force Base, Florida, $9,870,000.

Langley Air Force Base, Virginia, $2,500,000.

MacDill Air Force Base, Florida, $2,350,000.

Moody Air Force Base, Georgia, $1,990,000.

Mountain Home Air Force Base, Idaho, $60,000.

Myrtle Beach Air Force Base, South Carolina, $670,000.

Nellis Air Force Base, Nevada, $3,690,000.

Seymour Johnson Air Force Base, North Carolina, $3,650,000.

Shaw Air Force Base, South Carolina, $2,780,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,950,000.

OUTSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Thule Air Base, Greenland, $3,150,000.

AIR FORCE SYSTEMS COMMAND

Mahe Tracking Station, Seychelle Islands, $550,000.

Various Locations, $2,350,000.

MILITARY AIRLIFT COMMAND

Roberts International Airport, Liberia, $4,950,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $1,100,000.

Kunsan Air Base, Korea, $4,010,000.

Osan Air Base, Korea, $20,080,000.

Taegu Air Base, Korea, $510,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Canal Zone, $4,485,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, Various Locations, $13,990,000.

United Kingdom, Various Locations, $14,920,000.

Various Locations, $10,770,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons development, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1980, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1981, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $29,310,000.

REALLOCATION OF PREVIOUSLY AUTHORIZED FUNDS TO NATO INFRASTRUCTURE

SEC. 304. (a) Section 301 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 368), is amended by striking out "$97,905,000" in the item relating to the authorization for acquisition and construction at various locations under the heading "UNITED STATES AIR FORCE IN EUROPE" and inserting in lieu thereof "$77,905,000".

(b) Section 602(3) of such Act is amended by striking out "$147,942,000" and "$421,249,000" and inserting in lieu thereof "$127,942,000" and "$401, 249,000", respectively.

INCREASE IN AUTHORIZATION FOR AEROSPACE CORPORATION

SEC. 305. Section 301 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1754), is amended by striking out "$9,000,000" in the item relating to the authorization for acquisition and construction for the Aerospace Corporation at Los Angeles, California, and inserting in lieu thereof "$20,500,000".

CONTRIBUTION FOR UPGRADING WASTE TREATMENT FACILITIES AT LITTLE ROCK, ARKANSAS

SEC. 306. (a) Subject to subsection (b), the Secretary of the Air Force is authorized to contribute to the appropriate local authorities the sum of $2,400,000 for the share of the Department of Defense for the upgrading of the waste treatment facility that serves Little Rock Air Force Base, Little Rock, Arkansas.

(b) No amount may be contributed pursuant to the authorization in subsection (a) until (1) the President, after consideration of the decision of the Comptroller General relating to Federal facility contributions to capital costs of sewage treatment projects, dated October 4, 1979, determines whether, in order to comply with the Federal Water Pollution Control Act, the Federal share of the cost of upgrading local waste treatment facilities shall be borne solely through grants from the Environmental Protection Agency or through contributions by the Federal departments and agencies using such facilities, and (2) a copy of the decision of the President is transmitted to the Committees on Armed Services of the Senate and House of Representatives.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Depot, Memphis, Tennessee, $670,000.

Fuel Terminal, Ozol, California, $3,650,000.

Fuel Terminal, Escanaba, Michigan, $600,000.

DEFENSE MAPPING AGENCY

Defense Mapping Agency Hydrographic/Topographic Center, Bethesda, Maryland, $825,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,800,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Wake Island Air Force Base, $11,400,000.

OFFICE OF THE SECRETARY OF DEFENSE

DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS' EDUCATION

Alconbury Royal Air Force, United Kingdom, $2,340,000.

Atsugi Naval Air Facility, Japan, $580,000.

Bad Hersfeld, Germany, $770,000.

Baumholder, Wetzel Housing Area, Germany, $1,920,000.

Grafenwoehr, Germany, $1,640,000.

Keflavik Naval Air Station, Iceland, $1,700,000.

Ludwigsburg, Germany, $570,000.

Pruem Air Station, Germany, $1,000,000.

Schwaebisch Gmuend, Germany, $575,000.

Seoul, Yongsan, Korea, $3,290,000.

Soesterberg, Camp New Amsterdam, Netherlands, $3,300,000.

Yokota East Air Base, Japan, $2,450,000.

NORTH ATLANTIC TREATY ORGANIZATION

INFRASTRUCTURE

Various Locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area, $185,000,000. Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred by the United States for the United States share of the cost of such multilateral programs.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $15,000,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $5,250,000.

DEFICIENCY AUTHORIZATION FOR HIGH ENERGY LASER FACILITY, WHITE SANDS, NEW MEXICO

SEC. 404. (a) Section 401 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 369), is amended by striking out "$33,449,000" in the item relating to the High Energy Laser Facility at White Sands, New Mexico, and inserting in lieu thereof "$40,749,000".

(b) Section 602(4) of such Act is amended by striking out "$55,909,000" and inserting in lieu thereof "$63,209,000".

INCREASE IN PRIOR YEAR AUTHORIZATION FOR NATO INFRASTRUCTURE

SEC. 405. (a) Section 401 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 576), is amended by striking out "$120,000,000" in the item relating to North Atlantic Treaty Organization Infrastructure and inserting in lieu thereof "$140,000,000".

(b) Section 602(4) of such Act is amended by striking out "$217,610,000" and inserting in lieu thereof "$237,610,000".

TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

SEC. 501. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units:

Fort MacArthur, California, two hundred units, $11,500,000.

Tinker Air Force Base, Oklahoma, three hundred thirty-two units, $12,000,000.

(d) The amount specified in this section may, at the discretion of the Secretary of Defense, or the Secretary's designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

LEASING OF FAMILY HOUSING

SEC. 502. (a) Section 2686(c) of title 10, United States Code, relating to leases for military family housing, is amended by striking out "$300" in clause (1)(A) and inserting in lieu thereof "$310".

(b) Section 2675(d) of title 10, United States Code, relating to leases in foreign countries, is amended—

(1) by striking out "$485" and "$850" in the first sentence of paragraph (1) and inserting in lieu thereof "$550" and "$970", respectively; and

(2) by striking out "16,000" in paragraph (2) and inserting in lieu thereof "17,000".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. (a) There is authorized to be appropriated for fiscal year 1980 for use by the Secretary of Defense, or the Secretary's designee, for military family housing as authorized by law for the following purposes:

(1) For construction of, or acquisition of sole interest in, family housing, including minor construction, an amount not to exceed $15,000,000, and for planning, an amount not to exceed $900,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m), an amount not to exceed $1,062,525,000.

(3) For homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, an amount not to exceed $5,000,000.

(b) The amounts authorized to be appropriated in subsection (a) may be increased to the extent additional funds are appropriated to defray increased pay costs associated with actions taken pursuant to law.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. There are authorized to be appropriated for fiscal year 1980 such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: inside the United States $552,925,000; outside the United States $162,950,000; minor construction $52,270,000; for a total of $768,145,000;

(2) for title II: inside the United States $400,990,000; outside the United States $55,440,000; minor construction $33,160,000; for a total of $489,590,000;

(3) for title III: inside the United States $432,530,000; outside the United States $80,865,000; minor construction $29,210,000; for a total of $542,705,000;

(4) for title IV: a total of $345,230,000, including $6,250,000 for minor construction; and

(5) for title V: military family housing and homeowners assistance program, $1,694,925,000, including $3,000,000 for minor construction.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b), (c), (d), and (g), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN INSTALLATION TOTALS—ONLY ONE PROJECT AT AN INSTALLATION.—When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) VARIATIONS IN INSTALLATION TOTALS—REPORTS BY THE SECRETARY OF DEFENSE.—When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such construction or ac-

quisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS; REPORTS TO CONGRESS.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects, may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such projects exceeds by more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed from the date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) COST AND FLOOR AREA VARIATIONS—SOLAR ENERGY.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost or floor area of a project authorized by this Act shall be in addition to any other increase in such cost or variation in floor area limitations authorized by this or any other Act.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR YEAR AUTHORIZATIONS; EXCEPTIONS

SEC. 605. (a) As of October 1, 1980, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1981, whichever is later, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565), and all such authorizations contained in Acts approved before September 8, 1978, and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1980, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1981, whichever is later, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1979 (Public Law 95-356, 92 Stat. 583), authorizations for the following items shall remain in effect until October 1, 1981, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later;

(1) Barracks Complex—Trainee construction in the amount of $14,967,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(2) Brooke Army Medical Center Hospital alternation in the amount of $10,000,000, at Fort Sam Houston, Texas, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(3) Reception Station construction in the amount of $5,886,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(4) POMCUS Maintenance Complexes in the amount of $33,768,000 at Kaiserslautern, Firmasens, Germersheim, Gersweski Barracks, Mannheim, Miesau, Nahbollenbach, and Neureut Kaserne, all in Germany, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 360).

(5) Morse Training Building construction in the amount of $2,400,000 at Naval Technical Training Center, Pensacola, Florida, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(6) Medical/Dental Branch Clinic construction in the amount of $4,350,000 at the Navy Regional Medical Center, Pearl Harbor, Hawaii (Naval Station, Midway Island), authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(7) Relocation of the weapons range from the Culebra Complex in the amount of $12,000,000 for the Atlantic Fleet Weapons Range, Roosevelt Roads, Puerto Rico, authorized in section 204 of the Military Construction Authorization Act, 1974 (Public Law 93-166; 87 Stat. 668) and extended in section 605(b)(H) of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 565) and in section 605 (b)(4) of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 376).

(8) Industrial Waste Collection in the amount of $2,650,000 at the Naval Torpedo Station, Keyport, Washington, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 363).

(9) Municipal Sewer Connection in the amount of $2,100,000 for the Long Beach Naval Shipyard, Long Beach, California, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 369).

(10) Municipal Sewer Connection in the amount of $4,150,000 for the Navy Public Works Center, Norfolk, Virginia, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 363).

(11) Municipal Sewer Connection in the amount of $2,200,000 for the Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 363).

(12) Alter Sewage Treatment and Disposal Facilities in the amount of $631,000 at King Salmon Airport, Alaska, authorized in section 301 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 366).

(13) Small Aircraft Maintenance Facility in the amount of $1,928,000 for Moody Air Force Base, Georgia, authorized in section 301 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 367).

(14) High Energy Laser Facility construction in the amount of $33,449,000 at White Sands, New Mexico, authorized in section 401 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 369).

(15) CIDC Field Operations Building at Fort Hood, Texas, in the amount of $890,000 authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358).

(16) Radar Operations Facility at Redstone Arsenal, Alabama, in the amount of $962,000 authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 359).

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $48 per square foot for permanent barracks; or

(2) $52 per square foot for unaccompanied officer quarters;

unless the Secretary of Defense, or the Secretary's designee, determines that, because of special circumstances, application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of the enactment of this Act.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $18,237,000; and

(B) for the Army Reserve, $24,824,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $16,090,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $29,500,000; and

(B) for the Air Force Reserve, $9,500,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

CONTRIBUTIONS FOR GUARD AND RESERVE FORCES FACILITIES

SEC. 703. Section 2233 of title 10, United States Code, is amended—

(1) by striking out "and" after clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(5) contribute to any State or Territory, Puerto Rico, or the District of Columbia, such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by the failure of existing facilities to meet the purposes of this chapter. A contribution made for an armory may not be more than 75 percent of the cost of construction of which it is applied.".

INCREASE IN MAXIMUM CONTRIBUTION FOR GUARD AND RESERVE FORCES FACILITIES WITHOUT NOTIFICATION TO CONGRESS

SEC. 704. Paragraph (1) of section 2233a of title 10, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$175,000".

TITLE VIII—GENERAL PROVISIONS

REVISIONS TO MINOR CONSTRUCTION AUTHORITY

SEC. 801. Section 2674 of title 10, United States Code, relating to minor construction, is amended—

(1) by adding at the end of subsection (b) the following new sentence: "Approvals under the preceding sentence are not required for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives."; and

(2) by adding at the end of subsection (f) the following new sentence: "Such notice is not required for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives.".

AMENDMENT WITH RESPECT TO DEVELOPMENT OF SOURCES OF ENERGY ON MILITARY LANDS

SEC. 802. Section 803 of the Military Construction Authorization Act, 1979 (30 U.S.C. 1002a), is amended as follows:

(1) The section heading is amended to read as follows:

"DEVELOPMENT OF SOURCES OF ENERGY ON OR FOR MILITARY INSTALLATIONS".

(2) Subsection (b)(1) is amended by inserting "or on private property" after "jurisdiction".

USE OF ROI-NAMUR ISLAND

SEC. 803. (a) The Secretary of Defense may pay to the owners of the land of Roi-Namur Island, Marshall Islands District of the Trust Territory of the Pacific Islands, such amount as the Secretary of Defense determines to be in the public interest for the use after 1960 of Roi-Namur Island by the Government of the United States.

(b) Subsection (a) shall take effect on October 1, 1979, and shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

USE OF SOLAR ENERGY SYSTEMS IN NEW CONSTRUCTION

SEC. 804. (a)(1) Chapter 159 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2688. Use of solar energy systems in new facilities

"(a) The Secretary of Defense shall require that all new facilities (including family housing) placed under design after the date of the enactment of the Military Construction Authorization Act, 1980, shall include consideration of solar energy systems in those cases in which solar energy has the potential to save fossil-fuel-derived energy. All contracts for construction resulting from such design shall include the requirement to furnish and install solar energy systems if such systems can be shown to be cost effective.

"(b) For the purposes of this section, a solar energy system shall be considered to be cost effective if the original investment cost differential can be recovered over the expected life of the facility.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2688. Use of solar energy systems in new facilities.".

(b) Section 804 of the Military Construction Authorization Act, 1979 (42 U.S.C. 5504a), is repealed.

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS WITH RESPECT TO CERTAIN BASE CLOSURES AND REALIGNMENTS

SEC. 805. (a) No action with respect to the closure of, or the realignment of, the Army Training Command at Fort Dix, New Jersey, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realignment. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(b) No action with respect to the closure of, or the realignment of, the Air Training Command at Goodfellow Air Force Base, San Angelo, Texas, may be taken unless and until the Secretary of the Air Force has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realignment. Such environmental impact statement shall place special emphasis on socio-economic factors in San Angelo, Texas, and the affected area.

(c) No action with respect to the closure of, or the realignment of, Fort Indiantown Gap, Annville, Pennsylvania, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realignment. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(d) No action with respect to the closure of, or the realignment of, New Cumberland Army Depot, New Cumberland, Pennsylvania, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realignment. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(e) No action with respect to the closure of, or the realignment of, Fort Monroe, Hampton, Virginia, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realignment. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

LEASE OF REMAINING PORTION OF FORMER ENT AIR FORCE BASE TO THE UNITED STATES OLYMPIC COMMITTEE

SEC. 806. The Secretary of the Air Force is authorized to lease the excess 5.6 acres of land and improvements on the remaining portion of the former Ent Air Force Base, Colorado Springs, Colorado, to the United States Olympic Committee.

USE OF MASS TRANSIT ON MILITARY INSTALLATIONS

SEC. 807. (a) Subsection (a) of section 2632 of title 10, United States Code, is amended to read as follows:

"(a) Whenever the Secretary of a military department determines that it is necessary for the effective conduct of the affairs of that department, he may, at reasonable rates of fare under regulations to be prescribed by the Secretary of Defense, provide assured and adequate transportation by motor vehicle or water carrier—

"(1) among places on any military installation (including any subinstallation thereof) under the jurisdiction of that department; and

"(2) to and from their places of employment—

"(A) for persons attached to, or employed in, that department; and

"(B) during a war or national emergency declared by the Congress or the President, for persons attached to, or employed in, a private plant that is manufacturing material for that department.".

(b) Subsection (b) of such section is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out "subsection (a)" and inserting in lieu thereof "subsection (a)(2)";

(3) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively; and

(4) by adding at the end thereof the following new paragraph:

"(2)(A) The Secretary of Defense shall require that, in determining whether to provide transportation at any military installation under subsection (a)(1), the Secretary of the military department concerned shall give careful consideration to the potential for saving energy and reducing air pollution.

"(B) In providing transportation at any military installation under such subsection, the Secretary of the military department concerned may not require any fare for the transportation of members of the armed forces if the transportation is incident to training or other operational activities on such installation.

"(C) The authority under subsection (a)(1) to enter into contracts under which the United States is obligated to make outlays shall be effective for any fiscal year only to the extent that the budget authority for such outlays is provided in advance by appropriation Acts.".

(c)(1) The heading of such section is amended to read as follows:

"§ 2632. Transportation to and from certain places of employment and on military installations".

(2) The item relating to such section in the table of sections at the beginning of chapter 157 of such title is amended to read as follows:

"2632. Transportation to and from certain places of employment and on military installations.".

ROLLING AIR FORCE EXTENSION

SEC. 806. Section 607(b) of the Military Construction Authorization Act, 1966 (Public Law 89-188; 79 Stat. 818), is amended by striking out "January 1, 1980" both places it appears and inserting in lieu thereof "October 1, 1984".

LAND CONVEYANCE, SAN DIEGO, CALIFORNIA

SEC. 809. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to acquire, by condemnation or otherwise, all right, title, and interest of the city of San Diego, California (hereinafter in this section referred to as the "City"), in and to a tract of land consisting of 40 acres, more or less, in the Balboa Park in San Diego, California. Land acquired pursuant to this section shall be used as the site for construction of any new Navy hospital or medical center that is authorized to be constructed in the greater San Diego area after the date of the enactment of this Act and for related purposes.

(b) The Secretary is authorized to convey to the City, in consideration for the acquisition under subsection (a), all right, title, and interest of the United States in and to all or any part of the real property (including improvements thereon) of the Naval Regional Medical Center, San Diego, that has been conveyed, leased, or otherwise made available to the United States by the City.

(c) The exact acreage and legal description of any land acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(d) The authority of the Secretary to obligate funds under this section shall be effective only to the extent that appropriated funds are available for that purpose.

LAND, CONVEYANCE, TUSTIN, CALIFORNIA

SEC. 810. (a) Subject to subsection (b), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Irvine Company, a Michigan corporation, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 84 acres located in the northeastern portion of the Marine Corps Air Station (Helicopter), Tustin, California, together with the improvements on such land. Such conveyance shall be made subject to such terms and conditions as the Secretary considers to be in the public interest.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Irvine Company shall—

(1) convey to the United States land and interests in land that the Secretary considers to be equivalent in value to the land conveyed by the Secretary under subsection (a) and that are otherwise acceptable to the Secretary,

(2) pay the costs of relocating the Military Affiliate Radio Station (MARS) radio facilities and the skeet range facilities located on the land conveyed under subsection (a), and

(3) pay all costs of surveys, appraisals, and evidence of title involved in both such conveyances.

(c) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys which are satisfactory to the Secretary.

(d) The Secretary is authorized to accept any land conveyed under subsection (b), and any such land shall be administered by the Secretary.

LAND CONVEYANCE, CHARLESTON, SOUTH CAROLINA

SEC. 811. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange all right, title, and interest of the Charleston County Aviation Authority (hereinafter in this section referred to as the "Authority") in and to a replacement hazardous cargo handling area to be constructed by the Authority at the Charleston County Airport, South Carolina, for the Air Force.

(b) As consideration for the acquisition under subsection (a), the Secretary is authorized to convey to the Authority all right, title, and interest of the United States in and to land (and improvements thereon) having a fair market value not more than the fair market value of the property to be acquired.

(c) The exact acreages and legal descriptions of the properties to be acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary and to the Authority.

LAND EXCHANGE, KING COUNTY, WASHINGTON

SEC. 812. (a)(1) Subject to subsection (b), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to King County, Washington, all right, title, and interest of the United States in and to that parcel of land, together with improvements thereon, at Boeing Field, Seattle, Washington, occupied on the date of the enactment of this Act (under a lease from the Department of the Air Force) by the 143d Combat Squadron, Washington Air National Guard.

(2) The conveyance authorized by paragraph (1) shall be made subject to such terms and conditions as the Secretary determines necessary to protect the interests of the United States, but in no event may be made until a replacement facility for the 143d Combat Squadron, Washington Air National Guard, has been made available in accordance with subsection (b).

(b) In consideration for the conveyance authorized under subsection (a), King County shall—

(1) make available to the Secretary a leasehold interest in land acceptable to the Secretary as a site for a replacement facility for such Air National Guard unit, together with funds in an amount sufficient to purchase or make improvements on such land for such replacement facility; or

(2) convey to the United States unencumbered fee simple title to land in the area of Seattle, Washington, which contains improvements acceptable to the Secretary as a replacement facility for such Air National Guard unit.

(c) Any funds made available under subsection (b)(1), and any land conveyed under subsection (b)(1) or (2), shall be subject to terms and conditions to be agreed upon by the Secretary and King County and which the Secretary considers to be in the public interest.

(d) If the cost of the replacement facility provided under subsection (b)(1) is less than the fair market value of the existing facility of such Air National Guard unit, King County shall pay the amount of the difference to the United States, and such amount shall be deposited in the Treasury as miscellaneous receipts.

LAND CONVEYANCE, HUNTSVILLE, ALABAMA

SEC. 813. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey, without monetary consideration, to the Alabama Space Science Exhibit Commission (an agency of the State of Alabama) all right, title, and interest of the United States in and to the real property described in subsection (c). Any real property conveyed under the preceding sentence shall be conveyed for use as a permanent site, in addition to the real property conveyed under Public Law 90-276, for the Alabama Space Science Exhibit.

(b) The conveyance authorized by subsection (a) shall be subject—

(1) to the condition that the real property so conveyed shall be used by the State of Alabama (A) as a permanent site for an Alabama Space Science Exhibit to display suitable public exhibits of United States weaponry and allied subjects, developments of the National Aeronautics and Space Administration, and space-oriented exhibits of other United States Government departments, agencies, and instrumentalities, (B) for educational and recreational purposes related to the purposes described in subclause (A), or (C) for the purposes described in subclauses (A) and (B);

(2) to the condition that if such property is not used for one or more of the purposes described in subclause (A) or (B), all right, title, and interest in and to such real property shall revert to the United States, which shall have the right of immediate entry thereon; and

(3) to such other conditions as the Secretary may prescribe to protect the interest of the United States.

(c)(1) The real property referred to in subsection (a) is a certain tract or parcel of land containing 300 acres more or less (less that land occupied on the date of the enactment of this Act by the Department of the Navy), lying within range 1 west, township 4 south, parts of sections 8 and 9, and more particularly described as beginning at the established northeast corner of the Alabama Space and Rocket Center, running east along the Redstone Arsenal northern boundary, thence south along the Redstone Arsenal eastern boundary to a point north of the northwest corner of the intersection of Patton Road and Goss Road, thence west parallel to the north site of Goss Road to MacDonald Creek, thence northwesterly parallel to the east bank of the creek to the northern line of the Tennessee Valley Authority easement, thence west along the easement to the Alabama Space and Rocket Center established corner, thence north and east along the Alabama Space and Rocket Center boundary to point of beginning.

(2) The exact description of such property shall be determined by a survey approved by the Secretary.

(d)(1) The real property conveyed by the United States to the Alabama Space Science

Exhibit Commission under the authority of Public Law 90-276 may, in addition to the use authorized by section 3 of such Public Law, be used for educational and recreational purposes related to the use authorized by such section.

(2) Use of such property under this section shall be subject to the same condition as the condition prescribed in section 3 of such Public Law.

TECHNICAL AMENDMENT TO THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1979

SEC. 814. Section 603(a) of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565), is amended by striking out "(a), (b), (c)" and inserting in lieu thereof "(b), (c), (d)".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

MELVIN PRICE,
LUCIEN NEDZI,
CHAS. H. WILSON,
JACK BRINKLEY,
MENDEL J. DAVIS,
WON PAT,
VIC FAZIO,
BOB WILSON,
G. WILLIAM WHITEHURST,
ROBIN BEARD,
DONALD J. MITCHELL,
Managers on the Part of the House.

GARY HART,
HENRY M. JACKSON,
HOWARD W. CANNON,
HARRY F. BYRD,
SAM NUNN,
STROM THURMOND,
JOHN TOWER,
J. WARNER,
GORDON HUMPHREY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1319) to authorize certain construction at military installations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

COMPARISON OF HOUSE AND SENATE BILLS

As passed by the Senate, S. 1319, provided $3,730,566,000 in new authorization.

The bill as amended by the House provided $3,843,449,000 in new authorization.

SUMMARY OF RESOLUTION OF DIFFERENCES

As a result of the conference between the House and Senate on the differences in S. 1319, the conferees agreed to a new adjusted authorization for military construction for fiscal year 1980 in the amount of $3,838,846,000.

Originally, the Department of Defense and the respective military departments had requested a total of $3,721,356,000 for new construction authorization for fiscal year 1980. Subsequently, the Department submitted an amended fiscal year 1979 supplemental request of $147,480,000 (consideration of which was combined with the fiscal year 1980 request) and an additional request of $57,000,000 for fiscal year 1980. The total requested authorizations were $3,925,836,000. The action of the conferees therefore decreases the Department's combined requests by $86,990,000 in new authorization.

Total authorization granted, fiscal year 1980

Title I (Army)	
Inside the United States	$552,925,000
Outside the United States	162,950,000
Minor construction	52,270,000
Subtotal	768,145,000
Title II (Navy)	
Inside the United States	400,990,000
Outside the United States	55,440,000
Minor construction	33,160,000
Subtotal	489,590,000
Title III (Air Force)	
Inside the United States	432,530,000
Outside the United States	80,865,000
Minor construction	29,310,000
Subtotal	542,705,000
Title IV (Defense Agencies)	240,080,000
Minor construction	5,250,000
Subtotal	245,330,000
Title V (Military Family Housing)	1,694,925,000
Title VII (Reserve Forces facilities)	
Army National Guard	18,237,000
Army Reserve	24,824,000
Naval and Marine Corps Reserve	16,090,000
Air National Guard	29,500,000
Air Force Reserve	9,500,000
Subtotal	98,151,000
Total granted by titles I, II, III, IV, V and VII	3,838,846,000

GENERAL TOPICS

Solar energy systems

Section 804 of Public Law 95-356 required the Defense Department to conduct solar system analyses on new facilities and to install solar systems if they could be shown to be cost effective.

As originally written, Section 804 required solar analyses on 25 percent of all new facilities (other than family housing, all of which was included). This was done to get some experience with solar design and costing. From testimony it appears that solar systems will play a significant role in future Defense Department construction. Section 804 has been revised this year to require solar system analyses on all new facilities, including family housing where solar energy may have the potential to save fossil fuel derived energy.

The conferees noted that, in implementing the original Section 804, the Department of Defense in its instructions had directed that operating and maintenance (O&M) costs of the solar system should be disregarded. In effect, this infers that any increase in O&M costs for the solar system will be offset by decreased O&M costs for the conventional system, an inference which the conferees endorse and direct be continued until actual O&M costs associated with solar systems can be gathered. The conferees further noted that solar cost analyses were being based on undiscounted dollars associated with future costs and savings; this practice should continue.

Section 804, as it is included in this bill, requires life cycle costing of solar systems in all new facilities. In conducting this life cycle costing the solar system operating and maintenance cost differential will be considered zero and all calculations will be based on undiscounted, non-constant dollars over the expected life of the facility. The conferees intend that the Department of Defense not change its current implementing directives on cost analyses of solar systems except that such analyses should now be performed on all facilities where there is potential for solar energy to reduce fossil fuel requirements.

Mass transit systems

To further promote energy conservation and pollution abatement the conferees agreed to authorize the use of mass transit systems on military installations by amending 10 U.S.C. 2632.

In doing so it is not the intent of the conferees that the authority be used to establish military mass transit systems in competition with private enterprise. The conferees envision mass transit systems within a military installation or in some cases between sub-installations that are within reasonable proximity.

Costs of the mass transit system should be recovered through a fare system. Costs include capital investment costs, salaries, and operating and maintenance costs. If a mass transit vehicle is to be used for operational purposes as well as administrative purposes, only that portion of the costs directly associated with the mass transit system for administrative purposes need be recovered.

The conferees expect the Department of Defense to keep the Committees on Armed Services advised of the regulations implementing this provision and Defense witnesses should be prepared to report on the estimated impact of the program at the time the next budget request for military construction is considered.

Base realignments

The conferees were faced with three different provisions regarding base realignments—Section 810 of the House amendment and Sections 809 and 812 of the Senate bill. These provisions demonstrate the deep concern that Congress has for base realignments. While the Congress recognizes the prerogatives of the Executive Branch in the base realignment area, the basic law governing base realignments, 10 USC 2687, places an oversight responsibility on the Congress. In order for the Congress to influence base realignment decisions that may be faulty or unjustified, legislation is necessary. In agreeing to retain some base realignment provisions in this bill, the conferees are not seeking to dampen the prospect of future realignments which have the potential for improved management and dollar savings, the conferees are singling out specific decisions which in their view need to have a careful second look.

Section 809 of the Senate's bill prohibited the base realignment of Loring Air Force Base, which had been announced by the Secretary of the Air Force in March 1979, due to the significant strategic value of the Base and the complex set of evolving decisions regarding U.S. strategic programs.

The House amendment did not include this provision.

On the basis of the Secretary of Defense's decision of October 31, 1979, wherein he announced that Loring Air Force Base would remain a fully operational Strategic Air Command (SAC) base, the conferees withdrew this provision. The conferees agree with the decision of the Secretary of Defense that the reduction of Loring to a forward operating base should not occur because of the need for maintaining maximum flexibility in strategic and tactical forces in the 1980's and due to the evolving strategic basing requirements such as decisions on

the buddown of the air launched cruise missile, a follow-on penetrating bomber, and a new air defense interceptor. While a full discussion of the strategic considerations of Loring Air Force Base would get into classified information, the need for Loring can be justified by its significant contribution as a strategic asset. The conferees further agree that construction and O&M funds to upgrade and maintain this base should be planned and programmed for FY 1980 and future years in order that the base retain a high level of strategic and tactical capability.

Section 810 of the House amendment prohibited the closure or realignment of certain military installations until the respective service secretary prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act (NEPA). The impact statement must include special emphasis on the socio-economic factors of the areas surrounding the installations.

The Senate bill did not include this provision.

The conferees agreed to accept the House language. In accepting this language, the conferees wanted to make clear their position with respect to the NEPA requirements as they relate to base realignments. In general, each base realignment proposal must be carefully assessed to determine if it will significantly affect the quality of the human environment. Socio-economic impacts must be assessed together with physical impacts and if these impacts, when considered collectively, are significant, then the preparation of an Environmental Impact Statement is necessary. Not all base realignments will require the preparation of Environmental Impact Statements; on the other hand, it is difficult to envision a base realignment that triggers the threshold of 10 USC 2687 that does not have a significant impact on the surrounding area.

In the case of the installations named in Section 805 of the conference report, there is serious question as to whether the socio-economic impacts have been adequately assessed. The Secretary of Defense should take a second look. This second look may or may not trigger the requirement to prepare an Environmental Impact Statement in accordance with NEPA.

In the case of Fort Dix, New Jersey, the Secretary of the Army has announced that previously stated plans to close the Army Training Center have been suspended pending a further review of Army recruit training needs over the next twelve to eighteen months. That review should include an ongoing assessment of potential environmental impacts with heightened emphasis on the socio-economic impacts.

In the case of Fort Monroe, Virginia, the existing Environmental Impact Statement should be carefully reviewed, especially with regard to the socio-economic impacts, and if necessary in accordance with NEPA, the EIS should be revised or amended.

Facilities appropriate for construction with non-appropriated funds

The conferees noted the disparity between services with regard to the use of non-appropriated funds for the construction of certain facilities. Some facilities such as, commissaries, exchanges, and bowling alleys are now built exclusively with non-appropriated funds. Other facilities such as child care centers, gymnasiums, and auto hobby shops are built with both appropriated and non-appropriated funds with each service determining its own programming approach. The conferees believe that the Department of Defense must resolve this inconsistent programming policy.

In general the conferees feel that those facilities (1) which do not directly support a military mission or provide a required amenity for the service person and/or (2) which are revenue-producing facilities, should not be constructed with taxpayers' money. This is a matter of simple priority. As the construction backlog grows in real terms, the available construction dollars must go to support the direct military requirements.

The conferees will expect the Defense Department to have established a consistent programming policy for this class of facilities in their Fiscal Year 1981 budget request and such policy will be examined during hearings on next year's bill.

Dollar revaluation

The fiscal year 1979 supplemental request included nearly $100 million for previously authorized projects in Europe and Japan that had been affected by the declining value of the dollar. The Defense Department supplemental request was based on the change in the dollar exchange rates that occurred between the time of the original budget request and the date of the supplemental request. The House had granted part of this request; the Senate had not.

The Senate position which the conferees adopted, was that the services had sufficient flexibility within each title to execute the most essential projects even at revised exchange rates. This will require the services to manage their programs carefully, building only the highest priority requirements and using the cost flexibility provided by Section 603. Despite repeated requests, the Services were unable to provide specific information as to the impact of not receiving the dollar revaluation authority. The conferees recognize that constraining the services to title total authorizations will mean that certain lower priority projects will not be built. The conferees feel that management of the program within title total constraints, considering the flexibility within the title total, is appropriate and insures the optimum return on available dollars.

Prior year authorizations

The conferees considered eight projects previously authorized where authorizations had not expired. In agreeing to direct the services to utilize existing authorization it is recognized that scope changes may be involved with some of the projects. The conferees do not object to justified changes and expect the services to use Section 603 authority when required in reporting revised costs to the committees after project bids have been received.

Miscellaneous report requirements

In their respective reports on the bill, both the Senate and the House Armed Services Committees included items of "special emphasis". The conferees hereby endorse the language on items of "special emphasis" found in both reports and, unless some modification to that language is contained in this joint statement of the committee of conference, the positions and requirements contained under items of "special emphasis" in both Senate and House reports on the fiscal year 1980 military construction authorization bills are concurred in by the conferees.

TITLE I—ARMY

The Senate approved new construction authorization in the amount of $747,695,000, including $51,970,000 in minor construction for the Department of the Army. The House approved new construction authorization for the Army in the amount of $780,514,000, including $52,620,000 in minor construction. The conferees agreed to a new total for Title 1 in the amount of $768,145,000, which is $20,450,000 above the Senate figure and $12,369,000 below the House figure. Among the major items considered in conference and acted upon by the conferees were the following:

Child care centers

The House authorized $3,200,000 for two child care centers. The Senate did not provide authorization for the projects.

In the absence of a uniform Department of Defense funding policy for such facilities the conferees agreed to defer the projects without prejudice. (See previous discussion.) Presently, each of the services has different methods of providing funds for child care centers. In the case of the Army, centers are built with both nonappropriated and appropriated funds. The Department of Defense is directed, therefore, to have a standard policy established on child care center funding in time for committee consideration during the hearings on the fiscal year 1981 military construction request.

Health clinic—Fort Hunter-Liggett, California

The House authorized $1,350,000 for a health clinic at Fort Hunter-Liggett. The Senate questioned the scope of the project in view of the limited number of permanent personnel at the installation and did not provide authorization.

It was agreed to provide contingent authorization. The Army is directed to reexamine the scope of the project, revalidate it and advise the Armed Services Committee of its revalidation before any funds are obligated.

Dollar revaluation

The House authorized $31,434,000 to compensate for inflation and dollar devaluation with overseas construction.

The Senate did not provide such authorization.

The Department of the Army has approximately $41 million in either unfunded or unutilized fiscal year 1979 authority and a number of projects have been deferred because of technical problems. As discussed previously, the Army needs to review its construction and establish priorities for executing authorized projects before receiving additional authorization.

In conjunction with the fiscal 1981 military construction hearings, the Army should be prepared to discuss with the Armed Services Committees those previously authorized projects which are to be undertaken and those projects which are to be deferred as a result of title total limitations.

TITLE II—NAVY

The Senate approved $462,210,000 in new construction authorization, including $33,080,000 in minor construction for the Department of the Navy. The House approved new construction authorization for the Navy in the amount of $489,745,000, including $33,325,000 in minor construction. The conferees agreed to a new total for Title II in the amount of $489,590,000, which is $27,380,000 above the Senate figure and $155,000 below the House figure.

Among the major items considered in the conference was the following:

Sanitary sewage treatment facility—Midway Island

The House provided $3,900,000 in authorization for a sanitary sewage collection and treatment facility on Midway Island. The Senate withheld authorization questioning the requirement for the facility at such a remote location.

The permanent population of this base has been reduced from 1500 to 343; therefore, the House recedes. The conferees agreed that the Navy should revalidate the requirement for this project considering the reduction in the base population.

TITLE III—AIR FORCE

The Senate approved $482,450,000, including $29,310,000 in minor construction, in new construction authorization for Department of Air Force. The House approved $543,438,000 in new construction authorization including $28,960,000 for minor construction authorization.

The conferees agreed to a new total in the amount of $542,705,000 which is $60,255,000 above the Senate figure and $733,000 below the House figure.

Among the major items resolved in conference were:

Space Shuttle—Thrust augmentation

The Senate authorized $13,500,000 for the thrust augmentation component of the space shuttle launch complex at Vandenberg Air Force Base, California. The House did not provide authorization. Questions were raised about the design level of the project being sufficiently advanced to accommodate a subsequent decision by the National Aeronautics and Space Administration (NASA) on the power booster system for the space shuttle.

It was determined later that the design effort had been completed and that the thrust augmentation component could accept any auxiliary power system NASA selected. The House recedes.

MX test facilities

The Department of the Air Force with the concurrence of the Department of Defense submitted an additional $57,000,000 request for fiscal 1980 for the construction of four MX-missile system test facilities at Vandenberg Air Force Base.

To meet the presidential timetable of an initial test flight of January 1983 and an initial operating capability of mid-1986 for the MX missile, the House approved the authorization. The Senate had passed the military construction bill prior to the request being submitted by the Air Force; however, Senate hearings were held and the conferees supported the request.

It should be emphasized that in authorizing this construction, the conferees are supporting only the developmental effort of the MX missile itself. The decision to proceed with the production of the missile is still to be made. Likewise, nothing in the approval of this construction effort should be construed as supporting any particular basing mode; and the developmental facilities authorized should be designed to accommodate the widest range of possible basing modes.

Operational facilities, Roberts International Airport, Liberia

The Senate had deferred an Air Force request for $4,950,000 for various operational facilities at Roberts International Airport (IAP) in Liberia. These facilities, including aircraft parking aprons and refueling facilities, would improve the utility of Roberts IAP as a contingency airfield for requirements in Africa or the Middle East. The Senate deferred the project because a facilities improvement agreement covering the United States rights to use the facilities had not been negotiated between the governments of the United States and Liberia.

The conferees learned that such an agreement which would grant the United States priority access to the airfield in return for the construction of the facilities was under preparation. Therefore, the conferees agreed to provide contingent authorization of this project subject to the following conditions.

Before any of the funds authorized are obligated:

1. An acceptable agreement must be negotiated between the two governments which will assure that the United States may have priority access to these facilities subject only to reasonable prior notice, and

2. A period of thirty calendar days must expire following receipt of the Armed Services Committees of the Senate and the House of Representatives of the completed agreement.

European construction

The House authorized $13,000,000 for collocated operating bases (COB's) in Europe. The Senate did not provide authorization, indicating that the North Atlantic Treaty Organization (NATO) Infrastructure fund should be used to finance the projects.

The House conferees, agreeing that the use of NATO Infrastructure funds should be maximized, argued that two COB's on the northern flank of NATO were of such strategic importance that they should be constructed at the earliest possible time. The Senate receded to $3,600,000 with the understanding that every effort will be made to recoup these funds from the NATO Infrastructure program.

Sewage treatment facility, Little Rock Air Force Base, Arkansas

The Senate bill authorized $2,400,000 for the Air Force share of a sewage treatment facility upgrade project serving Little Rock Air Force Base in the Jacksonville, Arkansas area. The House amendment did not contain authorization for the project.

Subsequent to Senate passage of S. 1319, the Comptroller General issued a decision stipulating that the Environmental Protection Agency should provide a 75% Federal grant to upgrade a regional sewage treatment plant even though a Federal facility uses the sewage treatment system. Previously EPA contributed 75% of the non-Federal share.

The conferees believe that the ruling of the Comptroller General is proper. Under previous EPA grant procedures, a regional sewage treatment upgrade project received more than 75% Federal money, since the using Federal agency paid 100% of its "share" and EPA provided grant money for 75% of the remaining "non-Federal share."

The conferees believe that the issue must be resolved before the Air Force is permitted to fund any portion of the project. Contingent authorization is provided for the project subject to a review of the decision by the President. The conferees would expect such a decision within 90 days of the date of enactment of this bill.

TITLE IV—DEFENSE AGENCIES

The Senate approved $256,635,000 in new construction authorization for the Defense agencies, including $5,250,000 for minor construction. The House approved $214,707,000, including $5,250,000 for minor construction.

The conferees agreed to a new total of $245,330,000, which is $11,305,000 below the Senate figure and $30,623,000 above the House figure.

Defense Mapping Agency, Panama

One of the major items resolved by the conference in this title was the question of authorizing the relocation of the Defense Mapping Agency's Inter-American Geodetic Survey activities within Panama as a result of the Panama Canal Treaty. The Senate authorized $2,600,000 for such purposes.

The House did not provide authorization. Testimony revealed that the mapping activity is not essential to the canal's defense. Also, it was shown that relocating the activity within Panama could be more costly than moving it to the United States.

The conferees agree with the House position and expect the Defense Mapping Agency to relocate its Inter American Geodetic Survey Headquarters and activities to a more cost efficient location.

Dependent's schools

The conferees agreed to authorize $12,115,000 for overseas school construction but are aware that a new Department of Education now has the responsibility for supervision of such schools. It is recognized that a transition period of up to three years has been established for the new Department of Education to assume responsibility for the overseas dependents school system. The conferees expect construction supervision for the overseas school program to remain within the Department of Defense during the transition period. Further, the conferees serve notice that unless it can be fully justified and demonstrated that a transition period of more than one year is necessary, authorization of school construction projects will not be considered for inclusion in future military construction authorization programs.

Miscellaneous

Other items agreed to by the conference were the following:

$4,250,000 for procurement of two fuel terminals.

$15 million for the Secretary of Defense's emergency construction fund.

$185 million for the NATO Infrastructure Fund.

TITLE V—MILITARY FAMILY HOUSING

The Senate approved $1,663,425,000 for construction, operation, maintenance, leasing and debt payment for military family housing. The House approved $1,736,894,000.

The conference agreed to a new total in the amount of $1,694,925,000, which is $11,500,000 above the Senate figure and $41,969,000 below the House figure.

The conferees approved the following authorizations:

$11,500,000 for construction of 200 units of family housing, Ft. MacArthur, California.

$12,000,000 for acquisition and conversion of 332 units of family housing for Tinker Air Force Base, Oklahoma.

$1,662,525,000 for operation and maintenance, debt payment, and homeowner's assistance.

TITLE VI—AUTHORIZATION OF APPROPRIATION AND ADMINISTRATIVE PROVISIONS

The Senate bill provided for extension of authorization for seven projects not included in the House amendment. The House recedes.

The conferees agreed to delete the October 1, 1979, effective date for project authorizations in Titles I through V of S. 1319, since the new fiscal year had begun prior to the conference.

TITLE VII—GUARD AND RESERVE FACILITIES

In its bill the Senate provided lump sum authorization of $98,151,000 for the Guard and Reserve construction program. The House approved $78,151,000. The conferees agreed to the higher authorization.

The Senate agreed to the House provision broadening the Secretary of Defense's authority in 10 U.S.C. 2233 to assist the Reserve components facilities development program.

TITLE VIII—GENERAL PROVISIONS

Ent Air Force Base

Section 806 of the conference report provides authorization for the Secretary of the Air Force to lease 5.6 acres of land and improvements which were formerly part of Ent Air Force Base, Colorado Springs, Colorado. The Olympic Committee is currently using the remainder of former Ent Air Force Base under a lease for one dollar per year from the city of Colorado Springs. The 5.6 acre portion included in this section is also being used by the Olympic Committee without cost by agreement with the Air Force. The purpose of this legislation is to insure that the Olympic Committee has the continued use of this 5.6 acre portion of Air Force land at token cost.

The conferees agreed to the following major items in addition to those previously discussed:

Five land conveyances

Extension of authority for exclusive military use of the Bolling/Anacostia complex.

MELVIN PRICE,
LUCIEN NEDZI,
CHAS. H. WILSON,
JACK BRINKLEY,
MERVIL J. DAVIS,
WON PAT,
VIC FAZIO,
BOB WILSON,
G. WILLIAM WHITEHURST,
ROBIN BEARD,
DONALD J. MITCHELL,
Managers on the Part of the House.

GARY HART,
HENRY M. JACKSON,
HOWARD W. CANNON,
HARRY F. BYRD,
SAM NUNN,
STROM THURMOND,
JOHN TOWER,
J. WARNER,
GORDON HUMPHREY,
Managers on the Part of the Senate.

CHIEF AND CERTAIN OTHER PERSONNEL OF THE CAPITOL POLICE

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up the bill (H.R. 5651) to establish by law the position of Chief of the Capitol Police, and for other purposes, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1821 of the Revised Statutes of the United States (40 U.S.C. 206) is amended by adding at the end thereof the following new sentence: "The Capitol Police shall be headed by a Chief who shall be appointed by the Capitol Police Board and shall serve at the pleasure of the Board.".

(b) The individual serving as Chief of the Capitol Police on the effective date of this Act shall be deemed, effective on such date, to be appointed to the position established by the amendment made by subsection (a).

(c) The Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 2. (a) Any member of the Metropolitan Police Force detailed to the Capitol Police (other than the individual referred to in subsection (b) of the first section)—

(1) who on August 31, 1980, has completed 20 years or more of police service shall be reassigned to the Metropolitan Police force effective October 1, 1980, unless during the 30-day period beginning on September 1, 1980, such member makes an election under subsection (b); or

(2) who after August 31, 1980, completes 20 years of police service shall be reassigned to the Metropolitan Police force effective at the end of the 30-day period beginning on the date of such completion, unless, during such period, such member makes an election under subsection (b).

(b)(1) A member of the Metropolitan Police force described in subsection (a) may elect to transfer to the Capitol Police with the rank, pay, and seniority that are most nearly equivalent to the rank, pay, and seniority of such member on the day before the date of such transfer, as determined by the Capitol Police Board.

(2) A transfer to the Capitol Police under this subsection shall be effective on the date on which the electing member would have been reassigned to the Metropolitan Police force but for the election by such member under paragraph (1).

(3) An election under paragraph (1) shall be made in writing to the Chairman of the Capitol Police Board in such form and manner as may be prescribed by the Board.

(c) In each case in which a member of the Metropolitan Police force transfers to the Capitol Police under subsection (b), the position occupied by such member immediately before the effective date of such transfer shall, beginning on such date, be a position on the rolls of the Capitol Police for the purpose of providing for the assimilation of such member.

SEC. 3. (a) Any police service—

(1) of the individual referred to in subsection (b) of the first section shall be treated, effective on the effective date of this Act; and

(2) of a member of the Metropolitan Police force transferred to the Capitol Police under section 2(b) shall be treated, effective on the effective date of such transfer;

as creditable service as a congressional employee for purposes of determining eligibility under subchapter III of chapter 83 of title 5, United States Code.

(b) Effective on the date on which police services is first treated as creditable service as a congressional employee under subsection (a), the individual or member involved shall forfeit all annuity rights under the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–521 et seq.).

SEC. 4. (a) An amount equal to the total amount of—

(1) deductions and withholdings from pay for retirement under the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–521 et seq.) for police service treated as creditable service as a congressional employee under section 3; and

(2) sums paid by the Congress to the District of Columbia as a retirement contribution for any such police service performed while detailed to the Capitol Police;

shall be paid by the Mayor of the District of Columbia into the Treasury to the credit of the Civil Service Retirement and Disability Fund. For purposes of section 8334 (c) of title 5, United States Code, such payment shall constitute the required deposit for police service treated as creditable service as a congressional employee under section 3.

(b) Payments into the Treasury required by subsection (a) shall be made not later than the date on which police service is first treated as creditable service as a congressional employee under section 3 with respect to the individual or member involved.

SEC. 5. As used in this Act—

(1) the term "Metropolitan Police force" means the Metropolitan Police force of the District of Columbia; and

(2) the term "police service" means creditable service under subdivision (c) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–23).

SEC. 6. Until otherwise provided by law, the contingent fund of the House of Representatives shall be available to carry out this Act.

SEC. 7. This Act shall take effect on the first day of the second month after the month in which this Act is enacted.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the bill be dispensed with, and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume, and I will, when I have finished, yield such time as he may desire to the distinguished ranking minority member of the subcommittee.

Mr. Speaker, this bill was adopted unanimously by the Committee on House Administration. It establishes the position of Chief of the Capitol Police by statute and provides an orderly and equitable system for phasing out the Metropolitan Detail to the Capitol Police Force. In the process it eliminates a 61.4-percent surcharge against salaries which the District of Columbia levies for our use of these officers. In fiscal year 1980 this surcharge amounts to a total of $521,000.

The present Chief of the Capitol Police is assigned to Capitol Hill from the District of Columbia where he holds the rank of Assistant Chief on the Metropolitan Police Department. Enactment of H.R. 5651 makes the Chief a congressional employee and allows the present Chief, James M. Powell, who has been assigned to Congress since 1958, to continue in that capacity.

The other 28 officers of the metropolitan detail who, like the Chief, have given loyal and dedicated service to Congress for many years can, after 20 years of service, elect to be assimilated into the Capitol Police Force with rank and seniority intact; or they can retire under the D.C. Policemen and Firemen's Disability Act; or they can return to the Metropolitan Police Force and continue their career with the city government.

Mr. Speaker, I want to point out to the House that H.R. 5651 provides Congress with its own self-contained professional police department. All of its officers will be congressional employees for the first time in many decades and, this legislation will save the taxpayers approximately $600,000.

Mr. Speaker, I now yield such time as he may consume to my distinguished colleague, the gentleman from Georgia (Mr. GINGRICH), who has ably assisted me and the entire committee to realize this goal.

Mr. GINGRICH. Mr. Speaker, I thank my colleague for yielding this time to me.

I would like to make the comment that I think this is a very well worked out and a very minor piece of legislation, one which does require the District of Columbia to pay back to the Federal Government those moneys which have been accrued in the pension funds. It does allow us to work out the details, with a minor amount of money, in a way

which I think is of benefit to the U.S. Government and this particular body.

Mr. Speaker, this is a bill that we should pass forthwith.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to my colleague, the gentleman from Maryland.

□ 1410

Mr. BAUMAN. Mr. Speaker, I listened carefully to the gentleman's explanation, and I believe I heard him say that those with 20 years of service could elect certain alternatives, either returning to the D.C. force or being assimilated into the Capitol force upon retirement.

Mr. ANNUNZIO. That is right.

Mr. BAUMAN. What about those with less than 20 years of service, and how many fall into that category?

Mr. ANNUNZIO. We are talking about 29 men in the police department. Those who do not have 20 years of service will stay here until they reach 20 years of service, and then they can make the choice.

But I also want to assure the gentleman from Maryland—and I want the record to show this—that as far as the Subcommittee on Personnel and Police is concerned, the present complement of police is about 1,200. When all of the selections have been made by these officers to either go back to the D.C. Police Force or to be assimilated into our own police force, the chairman of this committee does not intend to create any additional positions. I want to make that absolutely clear. We will not only realize a $600,000 saving, as the Congressional Budget Office Director, Mrs. Rivlin, notified us in her letter, ultimately it could reach over $1 million by not filling these positions. We do not need more positions. We have enough.

Mr. BAUMAN. If the gentleman will yield, I compliment the gentleman on his determination not to increase the cost of the police force but, based on the legislation that you have been passing here in recent years, you may need a great many more police to protect Congress from the taxpayers' wrath. But that is another matter.

I thank the gentleman.

Mr. ANNUNZIO. I thank the gentleman for his contribution.

Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AGRICULTURE ADJUSTMENT ACT OF 1979

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3398) to amend the Food and Agriculture Act of 1977 relating to increases in the target prices of the 1979 crops of wheat, corn, and other crops under certain circumstances, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3398, with Mr. HARRIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3398, the Agriculture Adjustment Act of 1979. H.R. 3398, as reported by the House Committee on Agriculture, would amend the Food and Agriculture Act of 1979 to provide increases of 7 percent in the target prices for wheat and feed grains. Thus, the bill would raise the target prices for wheat from $3.40 per bushel to $3.63 per bushel, and for corn from $2.20 per bushel to $2.35 per bushel. Target prices for grain sorghums and barley would be adjusted accordingly.

This legislation is made necessary by the inflation which continues to plague the U.S. economy. H.R. 3398 is a stopgap measure which provides a modest increase in the target prices to the American grain producers. These increases in target prices are made available only to those producers who participated in the set-aside program for the commodity and would affect only deficiency payments, if any are made to such producers, and disaster payments. The deficiency payments are based on the difference between the target price and the higher of the market price during the first 5 months of the marketing year or the loan level. Disaster payments based on a specified percentage of the target price are made to producers who because of a disaster were prevented from planting or suffered a low yield in their production of the crop.

The bill would have no affect on consumer prices for the commodities since the loan rates are left unchanged. H.R. 3398 is not expected to result in substantial Government costs because current expectations are that the prices of the major grains covered by the bill would remain above the proposed target prices. The increase in target prices provided by H.R. 3398 is consistent with the President's inflationary guidelines.

The 7-percent increase in target prices provided by H.R. 3398 is far less than warranted by the actual increase in costs of farmer inputs. In the year since the 1978 crop was harvested, the prices paid by farmers for commodities, services, interest, taxes, and wage rates have increased 14 percent or twice the increase in target prices provided by H.R. 3398. In the absence of legislation, the 1978 target prices would continue unchanged for 1979 grain crops despite these increased costs. A comparable situation applies for the other commodities covered by this bill.

A major source of the problem faced by grain producers stems from the steadily increasing cost of energy. The cost-price squeeze on U.S. agriculture has been accelerating and the adjustment provisions contained in the Food and Agriculture Act of 1977 have not been adequate to accommodate the type of changes that have occurred in the farm economy during the past 2 years.

H.R. 3398 was reported by the Committee on Agriculture on May 30, 1979. Because of other priority measures before the House the bill has been delayed until now in coming to the floor. I hope the Members will join me in supporting this modest increase in target prices.

Relief is needed for the 1980 crop even more than for the 1979 crop. In the absence of legislation for 1980, the target price for wheat would fall substantially from the 1979 crop level of $3.40 per bushel—or $3.63, if this bill is passed—to less than $3.10 per bushel in 1980 according to current estimates. Thus far in 1979 the cost of farmer inputs have increased an additional 14 percent, or approximately 28 percent in the last 2 years.

In an amendment I had hoped to offer, the target prices provided in H.R. 3398—$3.63 per bushel for the 1979 crop of wheat and $2.35 for corn—would be extended without change to the 1980 crop. Under my amendment, farmers would receive this modest protection against the inflationary cost pressures that they have endured in the last 2 years. The amendment posed some problems under the rules on the issue of germaneness and because of a technical issue under the Budget Act. The Rules Committee was unable to act on my amendment in time so that it could be considered in order during these proceedings today. If this bill is adopted, the Senate may well provide an amendment dealing with the 1980 crop, in which event, we will be able to address the issue in conference.

In summary, although the market price circumstances have improved somewhat since this bill was reported out of committee in May, passage of this legislation is still very important. Passage now means keeping faith with the producers by providing some additional income support to producers at a minimal cost to the Treasury.

But what is even more important, House action on H.R. 3398 today will make it possible to quickly get this legislation over to the Senate side so that they can add the language providing similar target price levels for the 1980 crops of wheat and feed grains. This will assure producers that in the event the cost-price squeeze worsens in 1980 under full production, these producers will have at least this much additional income protection.

Mr. SEBELIUS. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. WAMPLER), the distinguished ranking minority member on the Committee on Agriculture.

Mr. WAMPLER. Mr. Chairman, I rise in support of H.R. 3398, the Agriculture Adjustment Act of 1979. This legislation to amend the Food and Agriculture Act of 1977 increases the target prices of the 1979 crops of wheat, corn, and other feed grains by 7 percent. This would raise the target prices on wheat from $3.40 per bushel to $3.63 per bushel; for corn from $2.20 per bushel to $2.35 per bushel; and for grain sorghum and barley, the target price would be adjusted to such levels as the Secretary of Agriculture deems fair and reasonable in relation to corn.

The target price concept provides income security for farmers. Target prices are not designed to be a guaranteed income program or to cover total costs of production or to guarantee profits to farmers at the expense of taxpayers but is designed to give the farmer a safety net should prices decline precipitously when supplies are in excess of market requirements.

The 1977 farm bill contained a cost of production formula to adjust target prices each year, but obviously the formula has not been working due to rampant inflation that has been occurring. Consequently, this legislation, as originally introduced by the gentleman from Oklahoma (Mr. ENGLISH) last April, is designed to comply with the President's anti-inflation guidelines by providing a 7-percent increase. Costs of production have increased about 14 percent this year so this is considered to be a modest increase. Farm income is up but anyone familiar with rising production costs at the farm level for fuel, fertilizers, pesticides, and farm equipment, recognizes that per bushel costs of production are still above the target prices as set forth in this legislation.

This Nation needs the farmer in order that its citizens may eat. The latest figures I have seen shows that the average citizen in the United States spends 16½ percent of his disposable income for food which is a figure for which there should be no complaint. The farmer also helps with our balance-of-payments problems in paying for our imported oil by exporting the grain surplus to our domestic needs. Agriculture exports also help support the full utilization of land, labor, and capital resources in farming. Surely with what the farmer does for the Nation, we should be willing to provide a bit of security for him when we ask him to gamble on the weather as well as gambling as to prices he receives for his crops. We encourage the farmer to participate in the price support and production adjustment program that the Congress has devised so that this Nation can be assured of abundant supplies of cheap food so we must be prepared to provide the farmer with some protection as he makes his decisions to participate in the program.

As we all know, grain prices this year have been increasing so the exposure of the Federal Government will not be as great as we expected when the bill was originally passed last spring, nevertheless, it is a principle we are considering here today. As I stated previously, we need the farmer, so I am prepared to provide this income security, small as it may be, to help the farmer meet his production costs and stay on the farm. I urge my colleagues to join me in support of H.R. 3398.

□ 1420

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. ENGLISH).

Mr. ENGLISH. Mr. Chairman, the past year would appear to have been a good one to farmers. Not only have grain prices generally been strong, due mainly to increased export demand, but, farmers have been harvesting record crops. Wheat farmers this year harvested over 2.1 billion bushels, the second largest crop in history and corn growers are now completing another record crop estimated to be well over 7 billion bushels.

Although these circumstances would appear to paint a rosy picture, there are serious problems facing American farmers. Production expenses in 1979 will total nearly $114 billion, an increase of over 16 percent from 1978. Most of this increase is due to feed, livestock, fuel, and interest expenditures. Fuel expenses alone have increased nearly 40 percent since 1978. The outlook for 1980 is becoming increasingly more alarming. Just this week USDA has predicted that farmers can expect a substantial reduction in net farm income in 1980. The reduction predicted by USDA, from $31 billion in 1979 to around $24 billion in 1980, is a drop of almost 20 percent. This substantial decline in net farm income could be devastating to the farm structure of this Nation.

Mr. Chairman, the purpose of this legislation, providing a 7-percent increase in the target price for wheat and corn, is not to create an exception for the farmer or treat him differently. The adjustment we are seeking is much less than warranted by the increases in production costs. However, we have held to this level to abide by the President's 7-percent guideline in his anti-inflation program. The purpose of this modest proposal is only to allow the farmer the same consideration as other segments of our economy.

In urging the passage of this bill, I would like to remind Members that deficiency payments are not likely to be made in 1979 so the Government outlay will be minimal. Also, this legislation will have no effect on consumer prices since the loan rates are left unchanged.

This bill merely recognizes agriculture as an important segment of our economy that should be given the same consideration as business and labor in the President's anti-inflation program.

Mr. SEBELIUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before us today is an extremely modest attempt by the Agriculture Committee to deal with the problem of rapidly rising farm production costs. According to the latest figures published by USDA, the index of prices paid by farmers for commodities and services, interest, taxes, and wage rates now stands at about 251. A year before, it stood at 220. That means farm production costs rose 14 percent during 1 year.

In September 1978, farmers were paying 46 cents a gallon for diesel fuel. According to USDA, in September of this year, farmers were paying 81 cents; an increase of 76 percent. Seed wheat cost $5.90 per bushel last year. This year that price increased 25 percent to $7.40. A two-wheel-drive tractor that cost $25,900 last year increased in price by 12 percent to $29,000 this year.

Mr. Chairman, I could go on and on.

How did the Committee on Agriculture respond to this overall 14-percent increase in production costs? By reporting a bill to raise the target prices for wheat and feed grains by a mere 7 percent.

To understand the committee's restraint, it is important to review events of the past year. In October 1978, President Carter unveiled his voluntary wage and price guidelines. While the guidelines allowed as much as a 9.5-percent increases in prices, it generally was accepted that the administration's objective was to limit wage and price increases to 7 percent.

In February, farmers from across the Nation came to Washington to express their deep concern that increases in production costs were outstripping increases in prices they received for their products. Making matters worse, farm prices had trended downward during the past few years, while production costs went one way—up.

Because of my concern, I introduced H.R. 2416, the Agriculture Inflation Protection Act of 1979. This would have increased wheat and feed grain target prices by 9.5 percent, the maximum then allowed under the President's wage and price guidelines. It was then, and still is, my feeling that past downward price trends in agricultural commodities justified the maximum increase consistent with a responsible effort to keep a lid on inflation.

We all know what became of the President's guidelines. We all know that inflation is expected to continue at a double digit rate for the remainder of this year. It seems to me that it is only fair to give the people who work and grow our food protection similar to that given to the food stamp recipients who eat that food.

Earlier this year, we increased the

"cap" on food stamp spending by about 10 percent. If inflation continues, we will be back next year increasing it again. The same thing will happen in farming and we will be back again next year with another target price bill.

Let us take a look at the bill before us. H.R. 3398 would increase 1979 wheat and corn target prices to $3.63 per bushel and $2.35 per bushel, respectively. The target prices are now set at $3.40 for wheat and $2.20 for corn.

Because the bill gives the Secretary authority to adjust the target prices for grain sorghum and barley to levels that are "fair and reasonable" with respect to corn, we can assume that targets for these crops also will be increased by 7 percent to avoid distortions in the feed grain market.

How much will all this cost? The Congressional Budget Office estimates that it could add $115 million to the budget in fiscal year 1980. At this point in time that is a speculative amount or cost but a paltry sum when compared to our increase in the budget for food stamps.

Mr. Chairman, we do not even anticipate making deficiency payments on wheat and corn, and the CBO estimates for barley and grain sorghum payments are based on recent price relationships which might not hold true in the future. If this turns out to be the case, one could argue that this bill is superfluous. However, disaster payments are computed on the basis of the target price. Thus, farmers who suffer losses due to circumstances beyond their control stand to recover more if the target price is increased.

Some persons contend that even this disaster protection is excessive and that farmers should assume some of the costs of this protection. The crop insurance bill (H.R. 4119) now pending before this body is an attempt to address this situation.

Mr. Chairman, about the only thing I can say against this bill is that it does not go far enough in protecting the farmer. I think the level of protection contained in this bill should be increased at least another 7 percent and extended to cover the 1980 crops, some of which have now been planted.

In addition, the extra protection afforded in this bill should be available only to those who plant within their normal crop acreages. Some farmers are trying to take advantage of the Agriculture Secretary's decision not to implement a set-aside for 1980 crop wheat and feed grains.

By breaking out new ground, these farmers are bringing about more soil erosion, leading to more sedimentation in the Nation's waterways. This action also increases the likelihood of growing surplus stocks, bringing a greater potential for future deficiency payments and storage costs for Government-acquired stocks.

Because of parliamentary problems, it recently was decided to address 1980-crop issues in separate legislation. It is my hope that the Senate, in its deliberations on this bill, will see fit to amend this bill to correct these deficiencies.

Mr. Chairman, the parity prices for wheat and corn were $6.09 per bushel and $4.25 per bushel, respectively, in mid-October. The target prices contained in this bill fall far short of these levels. I urge my colleagues to support this bill for what it is: A modest attempt to address a growing problem in farm country.

□ 1430

With parity at the levels I have just cited, that means that wheat parity today is about 64 percent. If we apply that figure out in GLENN ENGLISH's district, or my district, or JIM ABDNOR's district, it is far less than that, because we have to knock off 35 cents or 40 cents for transportation. If you have the Rock Island Railroad or the Milwaukee Railroad which is in or near bankruptcy going through your district, it is going to discount you 20 more cents just to try to get it to market. So I think this bill falls far short of anything near cost of production. I think we probably have shirked our responsibility if we meant to attain a target price somewhere near parity.

But GLENN ENGLISH is trying to deal with the realm of the possible in offering a target price above which the administration threatens a veto. When I came up with my first bill and we discussed it after he had flown with the President out to his home State, he thought it was something we could get done. We have had it laying around for quite some time and it should be cleaned up on the Senate side. An assurance should be given to the farmer and his banker and that his heavy cost-intensive business will be given at least one peg that he can look to for support on his 1980 crop.

Mr. Chairman, I think this is desirable legislation. It should be passed here today and sent over to the other body.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, I want to associate myself with the gentleman's very excellent remarks. Also I want to commend the gentleman from Oklahoma for this piece of legislation and all of the committee, for that matter. I especially want to commend the gentleman from Kansas for setting out the problems that are confronting many of our grain farmers and our farmers throughout the United States.

While we are all concerned about the rising expenses and costs, I do not know of any profession or business that incurs as great a rise as those in agriculture when, as the gentleman said, in speaking of energy no one uses more energy in the course of a day than a family farmer who gets on his tractor at 7 o'clock in the morning and goes until dark.

The gentleman also neglected to mention interest rates. I frankly cannot understand how farmers today can add to their farm or help their sons and daughters go into the farming business with the cost of interest. I have talked to bankers and they expect businesses to reap at least a 15 percent profit if they are going to borrow money on an investment.

I think I am relatively safe in saying, at least in South Dakota that farmers, if they take the current value of their farm and all of their expenses into consideration, actually net 3 or 4 percent, without their labor and management involved, they are, indeed, fortunate. I think probably farmers, without many people realizing it, in many instances find themselves in as big a bind today as at any time over a great many years.

So I greatly appreciate the comments of the gentleman from Kansas for bringing to the attention of this body what the farmers are really up against.

Mr. SEBELIUS. I thank the gentleman for that contribution.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Oklahoma.

Mr ENGLISH. Mr. Chairman, much has been said, the gentleman stated in his statement, and I stated in mine, that this is a very modest measure, particularly considering 1979 and the fact that market prices have been over the target prices included in this bill. But I think we should also state that this legislation is extremely important from the standpoint of 1980. The gentleman from Kansas and I and others of the committee had hoped that we would have a rule that would allow the inclusion of 1980 in this particular measure. There is agreement by the Agriculture Committee, very solid agreement, that we should include and extend protection of this bill into and including 1980, because we have an unprecedented type of situation taking place; namely, that the target prices for 1980 will not remain at $3.40 a bushel for wheat. In fact, I understand that those target prices will drop as low as $3.06 or $3.07 a bushel.

So, this bill is extremely important and very critical for the farmer's income that year.

I think we should also point out last week the Secretary of Agriculture was noting the fact that there had been substantial erosion taking place throughout the country; namely, because farmers had been breaking out fragile and marginal ground, due to the fact that there is no set-aside for 1980, and there is no restriction to the normal crop acreage. In fact, the program that is in place today for 1980 encourages farmers to break out that marginal land.

What we hope to do by extending this bill to 1980, and I am sorry to say that we are going to have to rely on the other body to do it, is the simple act of including a normal crop acreage provision to promote good farming practices once again and also maintain, some control on the surplus of wheat and other grains that this Nation has.

So this legislation is critical to avoid, once again, finding ourselves in 1980 struggling to deal with potential catastrophe.

Mr. SEBELIUS. I thank the gentleman for that contribution.

It is certainly true, and we are at-

tempting to deal with that potential catastrophe and hope it has been addressed to some extent in this bill and may be further addressed for the 1980 crops in the Senate.

I join the chairman of our Agriculture Committee and compliment him for getting this on the calendar and getting it to the Senate so that we can work on it in a House-Senate conference. Because the gentleman knows and I know that last winter the farmers poured into our offices, they poured into my office as they did his, and the winter before that as well and not without good cause in most cases. Unless we respond to a greater extent to these legitimate producer needs, and to a far better degree than we have in this bill by adding a provision for 1980 crops in the Senate, then we are going to have them in Washington again come January, February, March.

So I do recommend this bill to my colleagues for their earnest and good consideration. The farmers work for all of us, they are highly productive, their agriculture exports aid all Americans by helping us with our balance-of-payments problem. They need a safety net for prices when inflation is running at 14 percent per year.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I thank my colleague for yielding. I want to compliment the gentleman from Kansas for his very effective work in helping to fashion the 1977 farm bill and for his continued interests in this vital area of target prices for wheat, corn, and other feed grains.

As one of the senior members of the committee and as the ranking minority member of the Livestock and Grain Subcommittee, I know of his very strong interest that something should have been done in this bill to help in the year 1980. But under the rule granted by the Rules Committee which governs how we consider this bill, that is impossible. It would be my hope that when the bill goes to the other body some action might be taken in that regard and it would come back to us in that form.

If it does not, I want to assure the gentleman from Kansas and, in fact, the entire committee that it would be my purpose to try to move legislation to help in that regard. No one can predict with certainty what the economy will be in the months ahead, but I think any reasonable rationalization would indicate that we are going to continue to have rampant inflation. The question is at what rate. It is currently running about 14 percent.

Again I want to commend the gentleman for his statement and for his continuing interest, and assure him that it will be my purpose to work with him and the other members of the committee to address ourselves to this vital need of keeping our target prices at reasonable levels. I thank the gentleman.

Mr. SEBELIUS. I thank the gentleman for those remarks.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to my colleague from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I want to associate myself with the gentleman's remarks and express my appreciation for the leadership as well as the leadership of the gentleman from Oklahoma (Mr. ENGLISH). This is a very minimal bill and may provide some protection in the event that cash grain prices go down.

I hope we can up the bill either now or sometime later in the future. I appreciate the gentleman's efforts to try to provide some meaningful relief for our Kansas wheat farmers.

Mr. SEBELIUS. I thank the gentleman.

Mr. Chairman, I have no further requests for time.

□ 1440

Mr. FOLEY. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, Agriculture Department statistics reveal that the production expenses incurred by farmers in 1979 will be 16 percent higher than in the previous year. H.R. 3398 increases the target prices for wheat and corn by only 7 percent. Obviously, this bill is hardly adequate to meet the needs of farmers. I think everybody should know why the House Agriculture Committee reported such an inadequate bill to the House floor. Simply enough, the Carter administration threatened to veto any bill with more realistic support levels. Indeed, the Carter administration opposes H.R. 3398—which indicates how far out of touch this administration is when it comes to farm policy.

I urge my colleagues to support H.R. 3398. By anyone's standards, it is about the least the House can do.

Mr. FOLEY. Mr. Chairman, I yield 1 minute to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Chairman, I rise in support of the bill currently before the committee, H.R. 3398, the Agriculture Adjustment Act of 1979, legislation which would provide for a modest increase in wheat and feed grains target prices.

Mr. Chairman, it should not be a secret to anybody in this body that our Nation's agricultural producers are caught in a severe cost-price squeeze, forcing the decline of nearly 866,000 family farming operations from 1963 to 1977.

The farm population has traditionally received a lower per capita disposable personal income than nofarm people. A recent General Accounting Office study indicated that by 1976, farmers have received an average income of only 81 percent of that of their urban counterparts.

It is not a mystery to the farmers and ranchers throughout the country why their city counterparts cannot understand their plight when attention is focused only on the price increases that farmers receive. This makes the news, simply because the prices received by farmers have a direct effect upon consumers.

Unfortunately, one can imagine the consternation experienced by farmers who ask why equal billing is not given to the expenses paid by farmers to receive that "massive profit." It is these expenses that brings this legislation to the House floor today.

There is not one Member in this body who has not heard from their constituents regarding the effect that spiriling energy costs have had on their lifestyles. But how many Members are aware that nearly 22 percent of the country's total energy supply is consumed to grow, harvest, process and market our country's supply of food, fiber, and forest products?

With agriculture commanding such a great percentage of the country's energy resources, one does not have to live on a farm to realize the effect that these rising energy costs have had on our country's agriculture economy.

According to USDA figures, in 1974 energy use on the farm included 3.7 billion gallons of gasoline at a cost of $1,870 million and diesel fuel of 2.6 billion gallons, for a cost of $950 million. These figures obviously do not take into account the tremendous price increases experienced since 1974. That cost today has reached the astronomical level of $6 billion.

It is very important that every member of the Committee keep these facts in mind during the consideration of the legislation before us today. What we are asking for is a modest 7-percent increase in target prices. Many Members representing rural areas believe that this legislation does not even get us to first base considering production costs have more than doubled, increasing from $31.6 million in 1963 to $83 million in 1976.

H.R. 3398, which was introduced by my friend and colleague on the House Agriculture Committee, Mr. ENGLISH, would increase target prices for 1979 wheat from $3.40 to $3.63, and the target prices for corn from $2.20 to $2.35. Grain sorghums and barley would be increased in relation to corn

This bill, while providing only modest relief to the cost price, is designed to comply with the President's inflation guidelines, with hopes that the same consideration will be granted to our country's family farmers that is available to every other segment of our economy.

● Mr. HAGEDORN. Mr. Chairman, I rise in support of H.R. 3398, the Agriculture Adjustment Act of 1979. This legislation received my support during both subcommittee and full committee debate and I commend my fellow colleagues on the House Agriculture Committee for their favorable consideration of this proposal.

This legislation is designed to help farmers cope with rising costs by mandating a 7-percent increase in Federal target prices for 1979 grain crops. H.R. 3398 would raise the price for wheat to $3.63 per bushel and corn to $2.35 per bushel with barley and grain sorghum determined in relation to the rate for corn. These increased targets will not directly affect commodity market prices or consumer food costs. Rather, they will provide income protection to farmers

who have been squeezed by higher production costs, skyrocketing interest rates, inflation, and energy.

Farmers in Minnesota have been hard pressed with increased fertilizer costs, fuel shortages combined with increased costs, and severe transportation problems. I need not remind my colleagues of the devastating effects the Duluth/Superior grain handlers' strike had on grain prices in the Midwest. This strike coupled with the perpetual bottleneck at locks and dam 26 and the strike against the Rock Island Railroad caused grain prices to plunge. Grain producers in Minnesota, as well as the Nation, need this legislation in the event wheat and feed grain prices plunge precipitously because world supplies are in surplus.

On the other hand, let me point out that at this late date passage of this bill for only 1979 is somewhat meaningless. However, it is imperative that it pass. While the House Rules Committee did not see fit to allow for an amendment to include higher target price coverage for 1980, I am hopeful that acceptance of this bill in the House will serve as a vehicle for the Senate to consider such a proposal.●

● Mr. ALBOSTA. Mr. Chairman, I rise in support of H.R. 3398, the Agricultural Adjustment Act of 1979. This bill provides for a 7-percent increase in target prices for the U.S. Department of Agriculture's price support program for wheat and feed grains.

In a time when this country is experiencing an annual inflation rate of more than 12 percent, we cannot expect farmers to operate under a target price system enacted over 2 years ago. The real issue here is whether the Government is going to encourage the continued vitality of the American family farm or allow more agricultural land to go out of production thereby creating greater corporate farming. The family farm has efficiently produced an abundant supply of food for this country and the world for over 2 centuries. Agriculture exports will total approximately $30 billion this year. Without our agricultural exports, the United States would have a much higher balance-of-payments deficit in foreign trade.

By adjusting target prices upward by 7 percent, H.R. 3398 is a first step in keeping the family farm strong, and a strong family farm is vital to producers and consumers alike. Earlier this year, I sponsored legislation which would have raised the loan rate gradually to 90 percent of parity over a 3-year period. I believe passage of H.R. 3398 is important if we are to reach the goal of 90 percent of parity. Let us not forget the farmers who have been in Washington the last two winters. Now is the time to pass the Agricultural Adjustment Act of 1979 and keep American agriculture strong.●

● Mr. ALEXANDER. Mr. Chairman, as a cosponsor of this legislation, I rise in strong support of its passage. Though the farm outlook is generally good for the foreseeable future, the production costs of this Nation's most efficient producer—the family farmer—continue to escalate. Chief among those costs are energy requirements and energy-derived products such as fertilizer, pesticides, and farm equipment.

The legislation before us today is a response to those rising production costs. This bill will increase by 7 percent, in line with the President's anti-inflationary guidelines, the target price for wheat and corn for the 1979 crop. Consumer prices will not be adversely affected by the increase, as the bill makes no changes in the loan rates for these commodities.

And since the market price of wheat and corn currently is above the target price, it is highly unlikely that the Federal Government will be required to make deficiency payments.

The increase contained in this bill is necessary to protect the producer from the cost-price squeeze that continues to grip the agricultural sector due to our dependence on foreign energy. This increase will also motivate producers to remain in the current set-aside program to lessen total supplies and keep market prices healthy.

Mr. Chairman, this bill is not inflationary. The modest 7-percent increase in the target price simply affords the agricultural producer with the same consideration granted to other sectors of the U.S. economy.

I urge its adoption.●

Mr. FOLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 3398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agriculture Adjustment Act of 1979".

SEC. 2. Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by adding at the end of subsection (b) the following: "Notwithstanding any other provision of law, whenever a set-aside is in effect for the 1979 crop of wheat, the Secretary shall increase the established price for such crop to $3.63 per bushel, and whenever a set-aside is in effect for any 1979 crop of feed grains, the Secretary shall increase the established price for the 1979 crop of corn to $2.35 per bushel. The payment rate for grain sorghums and barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.".

SEC. 3. The provisions of this Act shall become effective October 1, 1979, and the Secretary of Agriculture shall pay beginning on such date any person, who would have been entitled to an increase in payments on the 1979 crop of wheat and feed grains if the provisions of this Act had been in effect during the period beginning on the date of the enactment of this Act and ending September 30, 1979, an amount equal to the amount of such increase.

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

● Mr. HIGHTOWER. Mr. Chairman, this bill, H.R. 3398, the Agriculture Adjustment Act of 1979, will not solve the problems of the wheat and feed grain farmer. It will, however, keep this portion of our farm program from getting farther out of balance. If we were passing target prices that reflected the farmers' true cost of production, we would be talking about an increase of at least a dollar to a dollar and a half a bushel instead of a mere 7-percent increase.

This bill is in keeping with the President's guidelines for other sectors of the economy. It will not reflect the increases farmers are facing daily. The price of diesel fuel alone has increased over 300 percent since January. This bill does not mean an increase in Federal tax outlays. The market price is above the levels in this legislation. The target prices do not influence food prices. This bill does keep a viable farm program that is aimed at providing a stable food supply and keeping the family farm in existence.

The Secretary of Agriculture is now holding hearings all over the Nation asking for input on the structure of agriculture. Let us keep the program as current as possible until the 1981 farm program is written. If we do not keep programs abreast of changes in the sectors the programs effect, they do no good at all.

Inflation has battered the farmer harder than almost any part of our economy. The farmer faces unknown problems with weather and pests and variables of nature. This bill is an attempt to let farmers know the Congress had not forgotten their problems.●

● Mr. MARLENEE. Mr. Chairman, I rise in support of the Agricultural Adjustment Act of 1979 (H.R. 3398). I must commend the Agriculture Committee and my colleague from Oklahoma (Mr. ENGLISH) for bringing this bill before the House in spite of opposition expressed by the administration.

This legislation is sorely needed by grain producers who have been squeezed by increased costs of production, transportation, and energy. Recently, rail transportation costs for grain rose by over 8 percent in the West, the fertilizer industry warned farmers that prices will rise in the near future, and middle distillates have skyrocketed in price, as have equipment prices.

Recent increases in interest rates have also restricted farmers' ability to produce. Agriculture, the primary industry in this country, cannot remain the most productive segment of the economy if there is continual erosion of its financial base. The 7-percent increase proposed in this legislation does not go far enough in stemming the tide of economic erosion and decline experienced not only by the producer, but by the rural communities which depend upon the farmer as a source of income.

Agriculture cannot continue to be held by Congress to the 7-percent inflation guidelines proposed by the administration, while the inputs needed for food production have been increasing at a much faster rate. While the 7-percent stopgap proposal is welcome, I respectfully request that the Agriculture Com-

mittee and the House consider additional legislation in the near future which would provide more realistic target prices for the agricultural community.

While I am sure that many of my colleagues would like to see a higher target price established, including the author of the legislation, I urge that we pass this legislation and move forward with additional measures to assist the grain producers.●

The CHAIRMAN. Are there any amendments? If not, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GIAIMO) having assumed the chair, Mr. HARRIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3398) to amend the Food and Agriculture Act of 1977 relating to increases in the target prices of the 1979 crops of wheat, corn, and other crops under certain circumstances, and for other purposes, pursuant to House Resolution 364, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

The title was amended so as to read: "A bill to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in the RECORD on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

(By unanimous consent Mr. FOLEY was allowed to speak out of order.)

ANNOUNCEMENT OF HEARINGS

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I wish to announce the scheduling of a hearing for Thursday, November 15, 1979, on implementation of the Agricultural Trade Act of 1978. The hearing will be held jointly by the Committees on Agriculture and Foreign Affairs, at 10 a.m., November 15, in room 2172, Rayburn House Office Building. The U.S. Department of Agriculture will be testifying at the hearing. Representatives of agricultural producer, exporter and cooperator groups who may wish to do so are invited to testify or submit statements expressing their views on the operations under this act since it became law a year ago. Those interested should contact Christine Abram, House Agriculture Committee, 202/225-2171.

CALL OF THE HOUSE

Mr. FOLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 638]

Abdnor	Dellums	Huckaby
Addabbo	Derrick	Hughes
Akaka	Derwinski	Hutto
Albosta	Devine	Hyde
Alexander	Dickinson	Ichord
Ambro	Dicks	Ireland
Anderson, Calif.	Dingell	Jacobs
Andrews, N.C.	Dodd	Jeffords
Andrews, N. Dak.	Donnelly	Jeffries
Annunzio	Dornan	Jenkins
Anthony	Dougherty	Johnson, Calif.
Archer	Downey	Johnson, Colo.
Ashley	Duncan, Oreg.	Jones, N.C.
Aspin	Duncan, Tenn.	Jones, Okla.
Atkinson	Early	Jones, Tenn.
AuCoin	Edgar	Kastenmeier
Bafalis	Edwards, Ala.	Kazen
Bailey	Edwards, Okla.	Kelly
Baldus	Emery	Kildee
Barnard	Erdahl	Kindness
Barnes	Ertel	Kogovsek
Bauman	Evans, Del.	Kostmayer
Beard, R.I.	Evans, Ind.	Kramer
Beard, Tenn.	Fary	LaFalce
Bedell	Fazio	Lagomarsino
Benjamin	Ferraro	Latta
Bennett	Findley	Leach, Iowa
Bereuter	Fish	Leach, La.
Bethune	Fisher	Lederer
Biaggi	Fithian	Lee
Bingham	Flippo	Lehman
Blanchard	Florio	Leland
Boland	Foley	Lent
Boling	Ford, Tenn.	Levitas
Bonior	Forsythe	Lewis
Bouquard	Fountain	Lloyd
Bowen	Fowler	Loeffler
Brademas	Frenzel	Long, La.
Brinkley	Frost	Long, Md.
Brodhead	Fuqua	Lott
Brooks	Garcia	Lowry
Broomfield	Gaydos	Luken
Brown, Calif.	Gephardt	Lungren
Brown, Ohio	Giaimo	McClory
Broyhill	Gilman	McCormack
Buchanan	Ginn	McDade
Burgener	Gingrich	McEwen
Burlison	Glickman	McHugh
Butler	Goldwater	McKinney
Byron	Gonzalez	Madigan
Campbell	Goodling	Maguire
Carney	Gore	Markey
Carr	Gradison	Marks
Carter	Gramm	Marlenee
Chappell	Grassley	Marriott
Cheney	Gray	Martin
Chisholm	Green	Matsui
Clausen	Grisham	Mattox
Cleveland	Guarini	Mavroules
Clinger	Gudger	Mica
Coleman	Guyer	Michel
Collins, Ill.	Hagedorn	Miller, Calif.
Collins, Tex.	Hall, Ohio	Miller, Ohio
Conable	Hall, Tex.	Mineta
Conte	Hamilton	Minish
Conyers	Hammer-schmidt	Mitchell, N.Y.
Corcoran	Hance	Moakley
Corman	Hanley	Moffett
Cotter	Hansen	Mollohan
Coughlin	Harkin	Montgomery
Courter	Harris	Moore
Crane, Daniel	Hefner	Moorhead, Calif.
D'Amours	Hightower	Moorhead, Pa.
Daniel, Dan	Hillis	Mottl
Daniel, R. W.	Hinson	Murphy, Ill.
Danielson	Holland	Murphy, Pa.
Dannemeyer	Hollenbeck	Murtha
Daschle	Hopkins	Myers, Ind.
Davis, Mich.	Horton	Myers, Pa.
Deckard	Howard	Natcher
Dellums	Hubbard	Neal
Derrick	Huckaby	Nedzi
Derwinski	Hughes	Nelson
Devine	Hutto	Nichols
Dickinson	Hyde	Nolan
Dicks	Ichord	O'Brien
Dingell	Ireland	Oakar
Dodd	Jacobs	Oberstar
Donnelly	Jeffords	Obey
Dornan	Jeffries	Panetta
Dougherty	Jenkins	Pashayan
Downey	Johnson, Calif.	Patten
Duncan, Oreg.	Johnson, Colo.	Patterson
Duncan, Tenn.	Jones, N.C.	Paul
Early	Jones, Okla.	Pease
Edgar	Jones, Tenn.	Pepper
Edwards, Ala.	Kastenmeier	Perkins
Edwards, Okla.	Kazen	Petri
Emery	Kelly	Peyser
Erdahl	Kildee	Pickle
Ertel	Kindness	Preyer
Evans, Del.	Kogovsek	Price
Evans, Ind.	Kostmayer	Pritchard
Fary	Kramer	Pursell
Fazio	LaFalce	Quayle
Ferraro	Lagomarsino	Quillen
Findley	Latta	Rahall
Fish	Leach, Iowa	Rallsback
Fisher	Leach, La.	Rangel
Fithian	Lederer	Ratchford
Flippo	Lee	Regula
Florio	Lehman	Reuss
Foley	Leland	Rhodes
Ford, Tenn.	Lent	Richmond
Forsythe	Levitas	Rinaldo
Fountain	Lewis	Ritter
Fowler	Lloyd	Roberts
Frenzel	Loeffler	Robinson
Frost	Long, La.	Roe
Fuqua	Long, Md.	Rostenkowski
Garcia	Lott	Roth
Gaydos	Lowry	Roybal
Gephardt	Luken	Royer
Giaimo	Lungren	Rudd
Gilman	McClory	Russo
Ginn	McCormack	Sabo
Gingrich	McDade	Santini
Glickman	McEwen	Satterfield
Goldwater	McHugh	Sawyer
Gonzalez	McKinney	Schulze
Goodling	Madigan	Sebelius
Gore	Maguire	Sensenbrenner
Gradison	Markey	Shannon
Gramm	Marks	Sharp
Grassley	Marlenee	Shelby
Gray	Marriott	Shumway
Green	Martin	Shuster
Grisham	Matsui	Simon
Guarini	Mattox	Skelton
Gudger	Mavroules	Slack
Guyer	Mica	Smith, Iowa
Hagedorn	Michel	Smith, Nebr.
Hall, Ohio	Miller, Calif.	Snyder
Hall, Tex.	Miller, Ohio	Solarz
Hamilton	Mineta	Solomon
Hammer-schmidt	Minish	Spence
Hance	Mitchell, N.Y.	St Germain
Hanley	Moakley	Stack
Hansen	Moffett	Staggers
Harkin	Mollohan	Stangeland
Harris	Montgomery	Stanton
Hefner	Moore	Stark
Hightower	Moorhead, Calif.	Steed
Hillis	Moorhead, Pa.	Stewart
Hinson	Mottl	Stokes
Holland	Murphy, Ill.	Studds
Hollenbeck	Murphy, Pa.	Stump
Hopkins	Murtha	Synar
Horton	Myers, Ind.	Tauke
Howard	Myers, Pa.	Taylor
Hubbard	Natcher	Thomas
	Neal	Thompson
		Traxler
		Trible
		Udall
		Ullman
		Vander Jagt
		Vanik
		Vento
		Volkmer
		Walgren
		Walker
		Wampler
		Watkins
		Weaver
		Weiss
		White
		Whitehurst
		Whitley
		Whittaker
		Whitten
		Williams, Mont.
		Williams, Ohio
		Wilson, Bob
		Wilson, Tex.
		Winn
		Wirth
		Wolff
		Wolpe
		Wright
		Wyatt
		Wydler
		Wylie
		Yates
		Yatron
		Young, Fla.
		Young, Mo.
		Zablocki
		Zeferetti

□ 1500

The SPEAKER pro tempore (Mr. LEHMAN). On this rollcall 360 Members have recorded their presence by electronic device, a quorum.

Pursuant to the rule, further proceedings under the call are dispensed with.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE CONFERENCE REPORT ON H.R. 4440, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. DUNCAN of Oregon. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow to file a conference report on the bill (H.R. 4440) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. DINGELL. Mr. Speaker, reserving the right to object, I have the highest regard for my dear friend, the gentleman from Oregon (Mr. DUNCAN).

Mr. Speaker, as my good friend from Oregon well knows the House adopted by a rather large vote a prohibition against the Department of Transportation taking steps to implement or enforce its air-bag standards while providing that the Department conduct further tests to evaluate the safety and effectiveness of passive restraints.

Mr. Speaker, I trust that the conferees are keenly aware of the position of the House and the position of the Senate. Am I correct on that point?

Mr. DUNCAN of Oregon. If the gentleman would yield, there is no item in dispute. The Senate does not dispute the amendment that was added. The bill is intact in that respect.

Mr. DINGELL. I thank the gentleman.

Mr. Speaker, I assume the gentleman and the conferees expect we will follow the ancient rule of legislative construction and that is, where the language is clear that extraneous matters will not be injected into the deliberations of the courts for purposes of determining what the intent of the Congress might be?

Mr. DUNCAN of Oregon. Mr. Speaker, if the gentleman will yield, I am committed to working out some language in the committee report and I have been trying to confer as closely as possible with the gentleman as the prime sponsor of the amendment in question, in order to arrive at satisfactory language in the committee report.

Mr. DINGELL. I thank the gentleman for that.

I have a concern that over the past few years the Department of Transportation has been suppressing information, concealing its investigations, denying Congress access to its books, records, papers and memorabilia relating to the air-bag testing in which it has been engaged.

Am I correct that it is the intention of the committee that the Congress will have full access to all books, records, papers, memorabilia, films, computer readouts, et cetera, relative to the testing?

Mr. DUNCAN of Oregon. The gentleman has made his statement. I have no basis to either incur in or disapprove of what the gentleman says. I personally have had no difficulty in obtaining information that I directly requested from any agency of this Government and I would be terribly distressed if that were to have occurred.

Mr. DINGELL. Then I understand the gentleman is saying that the books, records, papers, memorabilia, films, documents, computer printouts and so forth relative to testing will be available to the Congress, to individual Members of Congress on demand? Am I correct on that?

□ 1510

Mr. DUNCAN of Oregon. Mr. Speaker, if the gentleman will yield further, I have no more control over the administrative branch of this Government than does the gentleman from Michigan. I see no reason why the reports of the testing ought not to be made available fully to all members of the committee.

Mr. DINGELL. Mr. Speaker, I really appreciate that and I assume that the testing will be done to get a truthful answer as to what constitutes the real information as regards the best points and liabilities of the air-bag restraint and different forms of passive restraint.

Now I yield to my good friend, the gentleman from Oregon.

Mr. DUNCAN of Oregon. If the gentleman would yield, I would assume that to be the intention of the administrative branch of the Government and certainly any funds that we put in in order to test, we expect the testing to be fair and accurate within human capabilities.

Mr. DINGELL. Leading toward an honest evaluation of a different system.

Mr. DUNCAN of Oregon. I see no reason to have the test unless you are going to have an honest evaluation.

Mr. DINGELL. Well, I want to express my high regard to the gentleman. I want the gentleman to understand that my questions are not critical of the gentleman. They are, as the gentleman well knows, highly critical of the irresponsible behavior of the Department of Transportation on the passive restraint matter, which reflects no credit on it. It is an attempt to see to it that the testing is openly done and to see that the information is available to the Congress and to see that the tests are directed at getting the facts and the information. I am sure the gentleman concurs with me in that.

Mr. DUNCAN of Oregon. I have no disagreement with that statement.

Mr. DINGELL. I thank the gentleman.

Mr. DUNCAN of Oregon. Mr. Speaker, if the gentleman will yield further, I would like to also suggest that no language in the committee report as far as I am concerned or as far as any court is concerned can change the express language of the statute.

Mr. DINGELL. I do thank the gentleman. I have the highest regard for the gentleman. I am satisfied the gentleman is doing his best to represent the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon (Mr. DUNCAN)?

There was no objection.

TO DISAPPROVE REORGANIZATION PLAN NO. 3 OF 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 428 to disapprove Reorganization Plan No. 3 transmitted by the President on September 25, 1979; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the resolution may continue not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New York (Mr. HORTON) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 428, with Mr. CHARLES WILSON of Texas in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

The CHAIRMAN. Pursuant to section 912, Public Law 95-17, and under the unanimous-consent request, the gentleman from Texas (Mr. BROOKS) will be recognized for 30 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, House Resolution 428 provides for the disapproval of the President's Reorganization Plan No. 3 of 1979. The resolution was introduced by me to allow the Members of this body to have a vote on this plan which comes to us under the reorganization authority granted the President by the Congress under Public Law 95-17.

By recommending that this resolution be disagreed to, the Committee on Government Operations is supporting the reorganization plan as submitted by the President.

Reorganization Plan No. 3 of 1979 restructures the international trade functions of the executive branch with the general goal of improving the capacity of our Government to increase the exports of U.S. products and services and to develop a framework within which fair international trade practices will be maintained.

At present, our international trade performance leaves much to be desired. All of us are aware of our continuing and increasing negative trade balances—our growing dependence upon foreign oil—and international pressures on the dollar. These conditions underscore the importance of restructuring the Government's trade machinery.

During the course of 4 days of hearings, we actively sought the views of all interested parties concerned with the problem of consolidating the trade functions of the U.S. Government. We heard from administration spokesmen, as well as Members of the House and Senate who had previously introduced trade reorganization legislation. At a full committee meeting on October 30, this plan was supported by a vote 30 to 1, a quorum being present.

The plan changes the name of the Office of the Special Representative for Trade Negotiations to the Office of the U.S. Trade Representative and the U.S. Trade Representative is given primary authority, with the advice of an interagency Trade Policy Committee, for developing and coordinating the implementation of U.S. international trade policy. As the principal adviser to the President on international trade, the Trade Representative is given "lead" responsibility on all matters of trade policy. Moreover, the Trade Representative has lead responsibility for conducting international trade negotiations and has the authority to issue "policy guidance" to all departments and agencies which will provide the policy framework within which all trade functions are exercised.

Reorganization Plan No. 3 gives the Department of Commerce general operational responsibility for major nonagricultural trade functions. It transfers from the Department of the Treasury all monitoring and enforcement authorities related to our antidumping and countervailing duty laws. In addition, the Department of Commerce will be responsible for export development and commercial representation abroad. To accomplish this, Reorganization Plan No. 3 transfers all full-time commercial posts abroad from the Department of State to the Department of Commerce. This will

immediately involve the transfer of 162 foreign service positions and 499 local national employees to a newly organized career Foreign Commercial Service within the Department of Commerce. American businessmen generally feel this move will insure that their interests in developing new markets for American goods and services will be well represented abroad.

Reorganization Plan No. 3 also places the Trade Representative and the Secretary of Commerce on the Board of Directors of the Export-Import Bank as nonvoting ex officio members. In addition, the plan makes the Trade Representative vice chairman and voting member of the Board of Directors of the Overseas Private Investment Corporation. Together, these decisions are aimed at achieving greater coordination between the development and implementation of trade policy and the financing of American exports.

If approved here today and by the Senate, Reorganization Plan No. 3 will be swiftly implemented by both the Office of the U.S. Trade Representative and the Department of Commerce in order that our Nation may take advantage of the new trade opportunities opened up by the new MTN codes.

While the plan does not go as far as some Members would prefer—for example, it clearly does not create a separate Department of Trade—it nevertheless creates an organization which should strengthen our Nation's ability to compete in international commerce.

For this reason, I urge Members to support this plan and to vote no to the resolution of disapproval under consideration.

Mr. HORTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of Reorganization Plan No. 3 of 1979 regarding Trade Reorganization for several reasons. First, there is no question in my mind that the trade functions of our Government must be reorganized into a more rational structure. Approximately one dozen departments and agencies in the Federal Government are currently responsible for some aspect of the formation and implementation of U.S. Foreign Trade Policy. As a consequence, no one is really in charge of trade matters. With this proposal, there is little doubt that the Special Trade Representative will be in charge of trade policy, coordination, and negotiations. And, there is little doubt that the Department of Commerce will be in charge of implementation and given new responsibilities for trade export promotion which leads into the second reason I support this proposal.

Foreign trade is vitally important to this country, but unfortunately, it is shrinking. Let me cite just a few statistics:

In 1968, the United States had a trade surplus of $1 billion. In 1978, the United States had a trade deficit of approximately $28.5 billion.

In 1960, the United States had a 20-percent share of the world export market. In 1978, that U.S. share had shrunk to just 14 percent.

In 1968 the value of U.S. exports was twice that of Japan's and slightly greater than West Germany's. In 1978, Japan's exports exceeded U.S. exports and German exports were almost 25 percent greater than those of the United States.

In 1978, U.S. imports of oil alone totaled $54 billion. By 1990, experts estimate that, in current dollars, the U.S. oil bill will reach $175 billion, meaning our trade balance will worsen unless something is done.

In the manufacturing goods area, the United States dropped from a $20 billion surplus in 1975 to a deficit of almost $6 billion last year.

Finally, let me cite two statistics that show even more that our economy needs trade. These are:

The Congressional Budget Office has estimated that for every billion dollars worth of exports, 40,000 to 50,000 additional American jobs are created, and

The United States has approximately 250,000 manufacturing firms, but only 25,000 are exporters. It has been estimated that this figure could double if they tried, or were encouraged.

Mr. Chairman, the plan before us is not a panacea, and no one, not even the administration claims that it is. However, when you look at the present organization, and the increasing problems in the trade area, I think you have to conclude that something should be done and that this is a good, positive, first step.

Therefore, I urge my colleagues to support this proposal by voting against the resolution of disapproval.

Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, the proposal before us is an extension of the MFN conforming legislation which this House and the other body passed this summer. At that time the committees who are most responsible for trade policy were greatly concerned by the fact that responsibility for the creation and the conduct of trade policy was split through many agencies of our executive department.

So when we were hearing the MFN implementation bill, we called in our friends and colleagues, the experts from the Committee on Government Operations, the distinguished gentleman from Texas and the distinguished gentleman from New York, and asked for their help in trying to move a reorganization plan forward. Their cooperation has been splendid and I must compliment them, and their entire committee, for doing a first-rate job of helping to create this reorganization, and for moving it forward.

The reorganization consolidates most of the trade operating functions in the Department of Commerce and most of the policy functions in the STR. It does not give us a single responsibility, but it gives us a much greater consolidation of responsibility.

I believe it will be a great step forward. Maybe sometime in the future we will want a single department, but first we will have a chance to see if this new, more concentrated reorganization will work.

One of the key elements here is that we take the commercial counselors out of the control of the State Department and put them under the control of Commerce. We are hopeful that putting trade-oriented personnel into our embassies will not only signal our increased interest in trade but will also render real assistance to American exporters.

A second important part of this reorganization is that we take the antidumping and countervailing duty enforcement out of the Treasury Department and put it in the Commerce Department. U.S. industry and labor had been very critical of Treasury's administration of these laws. Consensus testimony favored transfer to Commerce for more prompt, and more even-handed, administration.

□ 1520

Mr. Chairman, I think altogether the House can be proud of this reorganization plan and proud of the work of the committee that produced it.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished chairman of the Subcommittee on Trade.

Mr. VANIK. Mr. Chairman, I want to thank my distinguished colleague for yielding. I concur in the remarks the gentleman has made. I think this bill is a step in the right direction.

I want to thank the chairman of the Government Operations Committee the gentleman from Texas (Mr. BROOKS), and the Committee on Government Operations for so promptly and so effectively dealing with this issue. It is very, very important that we put into operation a meaningful system of managing trade, especially because of the multilateral agreement which will be in full operation next year.

Mr. Chairman, I want to express my support for the legislation and my gratitude to the committee for working it out. I certainly think the case the gentleman has made in support of the legislation is a good one. There is no partisan difference involved in this matter at all.

Mr. FRENZEL. Mr. Chairman, I thank the distinguished gentleman from Ohio (Mr. VANIK) for his contribution.

I would only say further that when we were engaged in working out the MTN bill, Representatives of the other body were very nervous about our ability to move this plan through the House. The distinguished chairman of the Committee on Government Operations told them, and us, that he would do his part. Not only has he done what he said he would do, but he has done it before the other body, which had the greatest enthusiasm for this change, acted.

Mr. Chairman, I am very proud of the committee's activities.

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I rise in support of the position taken by the distinguished chairman of the Committee on Government Operations and the ranking minority member of the committee, and I would like to associate myself with their remarks.

I think it is very important to have this reorganization because it does give

more emphasis to the U.S. Trade Policy which is so important in providing jobs at home and rectifying the unfavorable balance of trade that we now experience.

I have, however, one or two reservations about this reorganization plan, and I would like to make note of them now so that as we reevaluate this program in the next few years, we can ascertain whether some of these concerns are in fact legitimate concerns.

The first is that there is no single agency or department which will have responsibility for trade matters. Although we are upgrading the role of the Department of Commerce, we are still separating its trade role from that of the U.S. Trade Representative.

I would much rather have seen this important function put together in one place because I am quite concerned that when we separate policy from implementation, we create a situation in which the policymakers will blame the implementers for poor policies and the implementers will blame the policymakers for lack of adequate response to the programs which are developed.

Consequently, I think we need to be looking down the road to bringing these functions together in a single agency or department.

The second concern I have relates to the Trade Policy Committee which is established under this plan. It is an interagency committee consisting of the major Secretaries and heads of government departments affected by trade policies. My concerns are twofold.

The first concern is that with all these important officials as part of this committee, the committee will in fact rarely meet and its functions will be turned over to staff. I hope that will not be the case. I would certainly hope that we would be sensitive to this possibility, and that the trade policy committee will function as a committee with the highest policy makers involved.

Also I noted that the Department of Transportation is not included on the Policy Committee. I am informed by Director McIntyre of OMB that the Trade Representative will be meeting with Mr. Goldschmidt, the Secretary of Transportation, to ascertain whether that Department should also be included in the Trade Committee. I trust they will conclude that our domestic and international transportation policies have a major impact on trade and that the Secretary of Transportation should be on the Policy Committee.

Finally, I should like to make note of the fact that the Committee on Government Operations has for several years held oversight hearings on these trade programs. Many of the recommendations made by the Committee on Government Operations have been incorporated in this plan, upgrading the commercial counsellors and placing them under the jurisdiction of the Department of Commerce, making certain the regional outreach projects are included to assure that the small- and medium-sized business can take advantage of foreign trade opportunities, and making sure the plan will be implemented.

Mr. Chairman, I think if we do this, we will have accomplished a great deal and the U.S. Trade Policy in this plan will have served its purposes.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. SCHULZE).

Mr. SCHULZE. Mr. Chairman, the House is now considering reorganization plan No. 3, transmitted to Congress by the president on September 25, 1979. Let me begin with a little history.

After 5 years, the Tokyo round of multilateral trade negotiations concluded on April 12, 1979, in Geneva, Switzerland. It contained for the first time international agreements, or codes of conduct, emphasizing non-tariff barriers to trade. Included were rules on Government subsidization, dumping, Government procurement, procedures, product standards, and licensing procedures which in the past have impeded fair international trade.

The Congress, working with the administration, deliberated for months developing the legislation to implement this important trade pact. The legislation addresses some of the deficiencies in our current dumping and countervailing duty laws. Procedures have been improved, time schedules for action have been tightened, and the rules and standards have been clarified. I believe it is a step in the right direction and I have supported it.

But enactment of the trade agreements act was only a first step. Perhaps the most serious problem over the years in efforts to use this country's unfair trade laws has been their administration—the will on the part of our Government to enforce the laws. In this respect, I was heartened to read in the Wall Street Journal on November 5, 1979, an article which indicates that our new Trade Representative Mr. Askew favors vigorous enforcement of our domestic trade laws. Mr. Chairman, I would like to have that article included in the RECORD following my statement.

The President has submitted to this body his Reorganization Plan No. 3, for restructuring the international trade functions of the executive branch by expanding trade responsibilities of the Department of Commerce and strengthening the trade policy role of the Office of the Special Trade Representative.

The reorganization plan, although not ideal, deserves our support. On balance it should substantially enhance the importance of international trade. It attempts to stress development of long-term United States trade strategies and policies.

After 5 years of negotiations, and the many months of deliberations over implementing legislation and reorganization plans, you would think we were all finished. But a number of questions and issues still will need to be answered. Will the new time constraints prove to be realistic? Will the appeal procedure work as Congress intended it to work? Will there be too great a burden on Commerce staff, petitioners and importing interests with regard to the handling of antidumping and countervailing duty cases? Will the international dispute settlement mechanisms prove to be as effective as they were originally contemplated?

There are some of the questions on the MTN and its accompanying implementing legislation to be addressed in the future.

Turning to the trade reorganization plan before us, was the judgment of the administration correct in transferring the antidumping and countervailing duty enforcement responsibilities from Treasury to Commerce? Or should the responsibilities be transferred to an independent agency as was suggested by several members? Was it wise to have a reorganization proposal which separates the policy function in STR from the enforcement responsibility in Commerce? Or should we have embraced the proposed Department of International Trade which would put all executive branch trade functions into one cabinet-level department? How will the STR interpret its policy oversight responsibilities with regard to the enforcement of unfair trade statutes? Will STR's interpretation of that responsibility conflict with congressional intent? Finally, will the enlarged sectoral analysis capabilities proposed by the President in his reorganization plan be increased satisfactorily?

The complexity of the new trading rules, and the potential unknown involving the administration of the new statutes almost mandates some type of oversight by the Congress. I would like to request from the gentleman from Ohio (Mr. VANIK), chairman of the House Ways and Means Subcommittee on Trade, and the gentleman from Texas (Mr. BROOKS), chairman of the House Government Operations Committee, that regular oversight hearings be held in the committees you chair. There must be some type of follow-up to all the efforts of this body on the MTN and its implementing legislation and the trade reorganization now before us to insure that the expectations of Congress as well as the responsibilities of the administration are met.

[From the Wall Street Journal, Nov. 5, 1979]

MULTILATERAL TRADE ACCORD TO TAKE EFFECT BY JANUARY 1, U.S. ENVOY ASKEW IS CONVINCED

(By Richard J. Levine)

WASHINGTON.—Reuben Askew, the U.S. trade representative, is convinced that the multilateral trade agreement concluded earlier this year will go into effect by Jan. 1.

Despite some recent delays, he said: "I don't sense in any way a lack of will or commitment of our major trading partners" to approve the agreement. "Too much effort has been put into this" to contemplate failure at this point, he added.

Mr. Askew's comments came in an interview a month after he was sworn in as the U.S. special trade representative, succeeding Robert Strauss. Mr. Askew's optimism about the timetable for the massive trade agreement which aims at reducing both tariff and nontariff barriers to trade, contrasts with views expressed last week by Anthony Solomon, Under Secretary of Treasury for monetary affairs.

PLANS NOVEMBER RULING

Mr. Solomon noted that the U.S. is the only major trading nation that has "completed the necessary procedures to bring its legislation into accord" with the trade agreement. The U.S. plans to sign the agreement in late November and put it into effect by Jan. 1, he said, adding: "This timetable could be jeopardized, however, if other trading nations fail to sign the agreement during this period."

It is Mr. Askew's expectation that they

won't. His office, he said, is keeping in close contact with the European Common Market, Japan and Canada. He added, "I think the European community will work out its internal differences."

Mr. Askew, who served eight years as governor of Florida, said his "immediate goal" is to oversee the start-up of the agreement and the reorganization of the U.S. government's trade bureaucracy, a reorganization that will give Mr. Askew's office as well as the Commerce Department increased power and responsibility.

One of his aims, he said, is to ensure that a "good representative sample" of developing nations sign the multinational trade agreements. Most developing nations have been unenthusiastic about the agreement, contending that it was designed by and for the major industrial countries.

CONTACTING MAJOR ACTORS

While the job of putting the trade agreement into effect lacks the "drama" of the negotiations of recent years, Mr. Askew said it could prove even more difficult. "You've got to get down to 'interpreting the are's and the aren'ts" of complex rules, he explained.

In his early days in Washington, Mr. Askew has been busy reaching out to major actors on the U.S. trade scene such as the steel industry, the textile industry and the AFL-CIO. He recently wrote AFL-CIO President George Meany that "those who produce goods and those who work in related services mustn't be disadvantaged" by the new trade accord.

Mr. Askew, who is learning the technical complexities of the trade field, emphasized that he favors vigorous enforcement of U.S. laws and rights in the trade field to protect the interests of American manufacturers and workers. "The strict enforcement of the (trade) codes shouldn't be considered protectionist," he declared.

TAKES TOUGH STANCE

Mr. Askew took a tough stance on the issue of Chinese textile imports into the U.S. In the absence of a bilateral agreement limiting these imports, he said, the U.S. will maintain "unilateral" restraints. "They have the ability to swamp us" with textile goods, he said.

A self-described "trade advocate" at the highest levels of government, Mr. Askew made it clear during the interview that he favors "more aggressive" export promotion and deeper "market penetration" in order to improve the U.S. "competitive position" in the world. We must make sure that "we pursue our rights," he said.

"If you don't do that," he continued, "you don't retain the (political) base" for trade-liberalization moves.

The former Florida governor, who President Carter had asked to join his original cabinet, agreed that the sluggish world economic outlook could generate new protectionist pressures in the months ahead. These pressures will "make our job a little more difficult." Mr. Askew said, though "I feel reassured by the commitment of Congress" to the new trade agreement.

Mr. Askew said it's too early to start talking about the next round of multilateral trade talks. "As a practical matter we have to make work what we've already done," he said.

Mr. HORTON. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I appreciate the work that the Committee on Government Operations has done on this reorganization plan, and I intend to support the plan. It is a good measure as far as it goes, but the proof of the pudding is in the eating.

Unless this signals a new interest in or new support for export policy and a new policy on the part of our Government in the promotion of exports and in the facilitating of export trade in world markets, then I am afraid that all the work done in the multilateral trade negotiation, with the removal of obstacles that that effort implied, is going to come to nothing.

Our own Government has given a major harassment to the export trade. We in this body have contributed to that by passing a large number of legislative enactments, to some degree tying the President's hands. Whether it is with respect to the extraterritorial applications of the Antitrust Act, the Corrupt Practices Act, the Anti-Arab Boycott Act, the Export Administration Act, or the steps implementing the human rights policies of the American Government, whether it is section 911 of the tax code or whatever, we have thrown all kinds of obstacles in the way of our companies doing business overseas.

We must find some way of reviewing these legislative enactments and seeing if there is not some way that they can be molded together into a more rational export policy. We must also develop, on the part of the administration and the Government itself, ways of facilitating rather than obstructing the export trade.

This reorganization is a step in the right direction, and I support it, but we must find a new dedication to trade outreach following the passage of MTN or we are going to continue to have an imbalance of trade that will be quite damaging as we continue to increase our purchases of energy from abroad.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to thank the gentleman from New York (Mr. CONABLE) for his very fine contribution to the debate on this bill.

I am concerned personally about the USTR and the small staff which is going to be provided. It will not exceed 116. We have felt in the subcommittee that it should be in the neighborhood of 135 to 150. I hope, that the USTR will draw on the expertise and the talents of other Government agencies to carry out these functions.

Mr. CONABLE. Mr. Chairman, I thank the gentleman from Ohio (Mr. VANIK) for the point he has made. That is perhaps illustrative of the point I was making also.

We must have a new dedication to trade outreach. It has to be expressed in a number of ways. There is no panacea. Structural change of this sort is important, but, as I say, the proof of the pudding is in the eating.

Mr. Chairman, I think we must have legislative oversight to see that we are taking the steps necessary in fact to extend our export trade.

Mr. VANIK. Mr. Chairman, I thank the gentleman from New York (Mr. HORTON).

□ 1530

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, I want to add my congratulations to the Committee on Government Operations and to the Carter administration for a truly bipartisan effort in taking this very important second step to make some rational sense out of America's trade policy. Others have tried to bring together a coherent trade policy and they have failed. I think it is a tribute to this Congress and to this administration that we have made this step. I hope that we will continue, as the gentleman from New York said, to try to erase as many other impediments and barriers to trade so that we can go on with an aggressive export policy that will carry our economic growth into the next generation.

Mr. HORTON. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, as I was saluting the Committee on Government Operations, I should also have made the same comment just made by the distinguished gentleman from Oklahoma.

The Carter administration gets precious little praise from this side of the aisle, but it deserves copious praise for its work in trade. I think its fine work on the MTN negotiations, and the successful conclusion of those negotiations, has been largely overlooked both by the press and by the public. It did splendid work on MTN, and it also did a splendid job on this bill.

At the request of our subcommittee the administration was asked to bring in a plan. Working with the Committee on Government Operations it produced this fine bill. For its prompt effective work the administration should be saluted as well.

● Mr. LONG of Louisiana. Mr. Chairman, I want to join a number of my colleagues in support of Reorganization Plan 3. Mr. BROOKS and the Committee on Government Operations deserve our special thanks for handling the reorganization of our trade functions in an expeditious and thoughtful manner.

The plan itself takes a number of steps in the right direction. The renamed U.S. Trade Representative is made the principal spokesman on trade matters and charged with the formulation of U.S. trade policy. Full responsibility for trade negotiations in all international forums will now be centralized in the USTR.

Under the trade reorganization plan, responsibility for the operational side for export of promotion and a wide variety of other trade matters has been placed in the Commerce Department. I am particularly pleased that the Commerce Department has coupled its added trade responsibilities with the creation of a new Bureau of Industrial Analysis.

Over the past two decades, Congress has become increasingly concerned about America's ability to maintain a strong position in international trade. In the recent efforts at trade reorganization, it was Congress that first sensed the need for a more efficient trade bureaucracy. Effective reorganization, like effective

implementation of the new multilateral trade agreements, will require skillful administration and constant congressional scrutiny. I want to add my voice to those of my colleagues who have called for the Congress to exercise its oversight responsibilities in the trade area.

Once again, I want to thank Chairman BROOKS and his committee for moving so quickly on such a delicate matter after having already undertaken a heavy reorganization burden in this Congress.●

Mr. BROOKS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. If there are no further requests for time, the Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 428

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 3 transmitted to the Congress by the President on September 25, 1979.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise and report the resolution back to the House with the recommendation that the resolution be not agreed to.

The motion was agreed to.

Accordingly the committee rose; and the Speaker pro tempore (Mr. MINETA) having assumed the chair, Mr. CHARLES WILSON of Texas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 428) to disapprove Reorganization Plan No. 3 transmitted by the President on September 25, 1979, had directed him to report the resolution back to the House with the recommendation that the resolution be not agreed to.

The Clerk reported the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was rejected.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PRIVILEGES OF THE HOUSE—ALLEGED CONSTITUTIONAL VIOLATION OF SENATE AMENDMENT TO HOUSE AMENDMENT TO S. 1871

Mr. VANIK. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 478) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Senate amendment to the House amendment to the text of the bill (S. 1871), an act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program, in the opinion of this House contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House, and that said bill, with the amendments, be respectfully returned to the Senate with a message communicating this resolution.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Speaker, has the Chair ruled on whether this is a matter of privileges of the House?

The SPEAKER pro tempore. The Chair is about to do that at this time.

The Chair has examined the resolution submitted by the gentleman from Ohio (Mr. VANIK) and finds that it presents a question of the privileges of the House pursuant to rule IX of the Rules of the House of Representatives.

The gentleman from Ohio (Mr. VANIK) is recognized for 1 hour.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, on what basis does the action of the other body contravene rule IX? It seems to me that this is a matter ordinarily handled through other rules of the House dealing with disagreements of the two bodies on legislation.

The SPEAKER pro tempore. The Chair will advise the gentleman from Maryland that what has been raised is a question of the constitutional prerogatives of the House, and that is to be decided by the House by a vote on this resolution. The Chair has only ruled that the resolution raises a question of privilege of the House, not that the Senate has infringed the House's prerogatives.

Mr. BAUMAN. Dealing with the House's right to originate appropriation bills?

The SPEAKER pro tempore. A revenue matter, yes.

Mr. BAUMAN. Revenue matters.

I thank the Chair.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) is recognized for 1 hour.

Mr. VANIK. Mr. Speaker, the problem has occurred with a Senate amendment to Senate bill 1871. Without going into the merits of the language of that amendment, the problem is that the Senate has added an amendment directly dealing with the power over importation involving matters which traditionally have been considered to be within the revenue powers of the House. It added these to the Senate bill and sent the amendment to this body in that posture.

Mr. Speaker, the action infringes upon the constitutional authority of this House to originate this kind of legislation.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. VANIK. Mr. Speaker, for purposes of debate only, I yield such time as he may require to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. I thank the gentleman for yielding.

Mr. Speaker, it is my impression that we do not wish to discuss the substance of this matter.

Mr. VANIK. That is correct.

Mr. CONABLE. I quite agree that as a nongermane amendment it involves origination by the Senate of legislation that is within the province of this body.

Mr. VANIK. That is correct.

Mr. CONABLE. And as such it should be returned to the Senate.

Mr. VANIK. It infringes on the constitutional rights of this body.

Mr. CONABLE. I agree with the conclusion the gentleman has arrived at. Without discussing the substance of the measure, I urge the House to follow his lead on this matter.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. VANIK. Mr. Speaker, for the purposes of debate only, I yield to my colleague, the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I agree that if we put aside the substance of the Senate action, which I support, the point that the gentleman from Ohio is making is correct. It is a violation of lawful procedures, and the gentleman's motion should be adopted.

Mr. VANIK. Mr. Speaker, for the purposes of debate only, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I rise in support of the resolution. The Senate has placed in S. 1871 a provision relating to import quotas and fees on legislation relating to antitrust immunities for activities under the international energy program.

The Senate amendment would subject to a congressional veto process any Presidential decision to impose quotas or fees on imported crude oil and petroleum products. I take no position on the merits of the provision at this time. However, I do find that the provision is an infringement of the privileges of the House. The provision contravenes article I, section 7, of the Constitution, which requires that "all bills for raising revenue shall originate in the House of Representatives." In amending this legislation to include the matter of import fees, the Senate has contravened the Constitution. The House has the responsibility to protect its constitutional prerogatives. Therefore, it is necessary to send the bill, with its amendments back to the Senate.

Although the privileges of the House could also be protected by refusing to further consider this bill, such a course would be unwise. The provisions of existing law relating to the international energy program will expire at the end of this month if this legislation is not passed. Both Houses agree that the provisions should be extended. Therefore, this procedure will keep the legislation alive so that the provisions relating to the internal energy program may be enacted.

The Subcommittee on Energy and Power is deeply interested in the Nation's oil import policy. Decisions relating to

import quotas and fees are intertwined with energy issues such as refinery policies, pricing and allocation policies, and the regulation of the energy industry. The Energy Policy and Conservation Act includes provisions on oil import authorities, and bills such as those requiring the Government to be the sole importing authority have been referred to our committee and to the Ways and Means Committee.

I do not view this resolution as an issue of committee jurisdiction. It is an issue of the privileges of the House under the Constitution. The Senate provision clearly infringes on those privileges and I support the resolution for that reason.

Mr. VANIK. I thank the distinguished gentleman from Michigan.

The Ways and Means Committee and its Subcommittee on Trade have been doing a great deal of work on the issue of oil import quotas and the impact of the Tokyo summit quota commitments and the President's import proposals. We have held 3 days of hearings on July 16 and 17 and October 10 on oil import policy. We plan additional hearings in the very near future. We have obtained from the Library of Congress the first and only detailed economic studies of the impact of the President's plan. We have been monitoring the Department of Energy's hearings on the proposal, and Congressman SHANNON, a member of the subcommittee, testified before the Boston regional hearing conducted by DOE. I am testifying tomorrow.

I suspect that many of our committee's members would support the amendment to require a congressional vote prior to the imposition of any quota. But others, such as myself, view this as an opportunity to make certain additional changes in the manner in which we control oil imports. Legislation affecting the manner in which we import oil offers a natural and logical opportunity to consider various bills establishing oil import purchase authorities and oil import corporations. These types of bills have been sponsored by some 82 Members of the House and should be given serious consideration. I have proposed, and plan to introduce shortly, legislation which would provide for a much more flexible, less disruptive, year-by-year quota system that would help educate Americans on the importance in holding down the volume of imports.

The President's quota program will not "bite" or take effect for some time. The Library of Congress predicts that it will have no effect until 1982. Therefore, there is no rush to strip the President of this authority. We have time. Your committee is working on this issue. I simply ask for some additional time so that the House may have the input into this issue which is called for in the Constitution.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VANIK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the action just taken.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MILK PRICE SUPPORT ACT

Mr. BALDUS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4167) to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price therefor.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. BALDUS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4167, with Mr. LEVITAS Chairman pro tempore in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Monday, October 29, 1979, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 4167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second sentence of subsection (c) of section 201 of the Agricultural Act of 1949, as amended (7 U.S.C. 1446(c)), is amended by striking out "March 31, 1979" and inserting in lieu thereof "September 30, 1981".

(b) The first sentence of subsection (d) of such section (7 U.S.C. 1446(d)) is amended by striikng out "March 31, 1981" and inserting in lieu thereof "September 30, 1981".

□ 1540

Mr. JEFFORDS. I move to strike the last word.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, when the last general farm bill, the Food and Agriculture Act of 1977, won Senate approval, the 4-year minimum milk price support of 80 percent of parity earlier approved by the House was trimmed to 2 years. I served on the House Agriculture Committee at that time and fully supported a 4-year program as was given other commodities. It was with reluctance that I accepted the 2-year limitation imposed by the Senate as I felt milk was being subjected to unfair and prejudicial treatment. Nonetheless, those who supported the 2-year limitation did so as a means to test the 80 percent level of parity to assure the proper level of milk supply between surplus and scarcity would be maintained.

By any benchmark, the 80 percent of parity level wins with flying colors. It merits extension for another 2 years without alteration or limitation to complete the legislative cycle permitted other commodities under the 1977 farm bill.

In approving H.R. 4167 as the means to continue the 80 percent of parity price support for milk for another 2 years, the House Agriculture Committee wisely observed this level of support runs below actual market prices and Commodity Credit Corporation purchases have barely run more than those needed for foreign and domestic distribution programs. This shows the 80 percent of parity figures serves the consumer, the dairy farmer and the taxpayer with equal and full benefit. In fact, the Agriculture Committee noted that only 3 days of milk production stood between a condition of surplus and one of shortage in dairy products used daily by American families.

High beef prices will likely continue through the next 2 years offering the dairy farmer the option of quick cash for slaughter should milk prices decline. Agricultural investment would then be diverted to crops or other livestock where more price stability exists as is encouraged by the 4-year term of the 1977 farm bill for other commodities. The result would be cyclical price and supply conditions in milk instead of the even and steady predictability that has existed at minimal cost to taxpayer and consumer alike for the last 2 years.

The Congressional Budget Office, very neutral on this issue, has determined that the 80 percent of parity rate would not cause any major changes in consumer prices or Federal budget outlays but it would assure steady and adequate supplies of milk. For the price and the assurance of milk availability, H R. 4167 is a bargain. I have always supported a support at least at this rate and do now as our dairy farmers badly need this assistance to stay in production, which the consumer badly needs. I have watched the dairy industry closely and firmly believe it will not continue to exist without this support. I urge the bill's passage.

Mr. JEFFORDS. Mr. Chairman, I would just like to echo the comment of the gentleman from Louisiana. This is nothing new to this House. This House approved identical language 2 years ago for a 4-year bill; however, in conference committee it was agreed to see what would happen after 2 years and then see if we ought to continue the 80-percent floor for an additional 2 years.

We looked at it after 2 years have gone by and found things are in fine shape. In fact, things have improved.

Our milk equivalent supplies are down by some 55 percent. We have a program which is working well for the farmers, the taxpayers, and well for the consumers. It is a program which has brought the taxpayer expense to a very, very minimum. It also has some additional advantages which we must take into consideration at this time, which I will bring

out more fully later. The multinational trade negotiations have created a new situation for the dairy industry in that imports will be allowed in under different criteria. This bill will give the kind of insurance which is necessary to insure those imports do not disrupt the market.

Also, this is a time of inflation, and a program that we presently have is working toward a stable milk supply and available program and fairly level prices.

It is a good program. It is going well now. It is a good bill, and it ought to be supported.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: On page 2, immediately after line 7, add a new subsection (c) as follows:

(c) Subsection (d) of such section is further amended by adding at the end thereof a new sentence reading as follows: "Notwithstanding any other provision of this Act, if thirty days before the beginning of the marketing year or thirty days before the beginning of each semiannual period after the beginning of each marketing year, the quantity of milk or the products of milk acquired by Commodity Credit Corporation during the previous 12 calendar months exceeds the quantity of the products of milk sold by Commodity Credit Corporation for unrestricted use during the same period by at least 350 million pounds of nonfat dry milk or a quantity of butter and cheese equivalent to at least 3.5 billion pounds of milk, the Secretary may continue to effect the then current support price for milk or modify the amount of any increase which might otherwise be required: *Provided,* That at the beginning of any marketing year the level of support for milk shall be not less than 75 per centum of the parity price therefor."

Mr. FINDLEY. Mr. Chairman, while the attendance in this Chamber is very light, just about as light as I can recall in my experience here, we have the hope that some of the Members are watching by television and therefore even though——

The CHAIRMAN. The gentleman will suspend.

The Chair will admonish the gentleman to address the Chair and the Members in the body and not to make reference to the television.

Mr. FINDLEY. I thank the chairman for the admonition, but if he will recall my words he will realize I was not addressing Members outside the Chamber. I am aware of no prohibition against reference to television.

It is important that we keep clearly in mind certain facts about the dairy support program, facts that are not mentioned often enough.

For one thing, total production of dairy products in the United States is supported by the Government. There are no exceptions, no matter how much in the way of dairy products a dairy farmer produces, total production is supported at the level of 80 percent of parity under this bill.

There is no other commodity that I can cite whose price is fixed by Government support in the absence of some sort of production control.

We have support prices for other commodities but, without exception, the other commodities are under some form of production control device of one sort or another. Here there is a price support for unlimited production.

To my knowledge, there is no one other commodity that is supported as high as 80 percent of parity.

Now, parity is hardly a scientific way to measure profit and loss, but nevertheless it is widely used, and there is not one other commodity that is supported as high as 80 percent of parity. I am not sure about peanuts. They may be supported at 75 percent of parity, but certainly not at 80 percent. Most commodities are supported at a level considerably lower than the 75-percent level.

This bill would mandate the 80-percent parity price support for total production of the dairy industry of the United States for the next 2 years, no matter what happens in the way of accumulation of Government holdings of dairy products.

We all know that over the years, dairy production has often been a burdensome item, costly to the taxpayers and costly to the consumers.

The amendment that I have offered is a complicated set of words. I wish it were not so complicated. I believe I can explain it in very simple terms. I accepted the language, because it was drafted by the Secretary of Agriculture's office.

Mr. Bergland, of course, coming from a dairy area, is not apt to be offering amendments that are injurious to the long-term or even short-term interest of dairy producers; so the language I have presented here is language recommended to the Committee on Agriculture by the Department of Agriculture.

Mr. Chairman, the amendment I offer would give the Secretary of Agriculture the necessary flexibility in setting milk price supports to provide a "relief value" for taxpayers should dairy surpluses develop and yet it would still encourage the Nation's dairy farmers to sustain future production to meet consumer demands.

The bill before us, H.R. 4167, would mandate at 80 percent of parity the minimum level of support prices for milk for the next 2 years—raising the 75 percent of parity price floor of present law to this higher minimum. Under this bill there is no downward flexibility allowed the Secretary of Agriculture in the event that burdensome surpluses of milk occur, which is a distinct possibility.

In such a situation, a mandated floor of 80 percent of parity would restrict the Secretary of Agriculture's ability to reduce the support price in the event of a marked rise in milk production, a rise which would require excessive Federal spending for supports.

For the sake of taxpayers and dairy farmers themselves, the milk price support program ought to have enough flexibility to serve as an early warning system against surplus buildups and excessive Government spending to support milk prices.

The present dairy price support program has such flexibility. The basic 1949 Agricultural Act requires that the price of milk to producers be supported at such level between 75 and 90 percent of parity as will assure an adequate supply, reflect changes in the cost of production, and assure a level of farm income to maintain productive capacity sufficient to meet future needs.

As my colleagues know, the Secretary of Agriculture just recently used his administrative authority to set milk supports at 80 percent of parity for the 12 months beginning October 1. This brings the support price to 16 percent above last year's support. In fact, it takes the support level to about $1 a hundred pounds above the Agriculture Department's estimate of 1979 milk production cost—certainly a huge increase to be effected by Government decree in these inflationary times.

As concerned as I am about that decision, I am even more concerned about the effects of H.R. 4167 in the second half of its 2-year life—the marketing year of October 1980 to September 1981. It would require the Secretary of Agriculture to keep price supports at the 80 percent of parity level a year from now, through September 1981, irrespective of what happens to milk production, farm production costs, or Federal budget expenditures. Many experts believe that the already high support prices are likely to stimulate increased milk production and thereby result in substantial surpluses and high Government costs in the future. Under public law, all production is supported. In other words, the price is supported for unrestricted production. There are no quotas, set-asides, or other devices to limit production.

The amendment I have introduced would not interfere with the 80 percent of parity minimum support level of H.R. 4167, unless substantial stocks abcumulate.

The amendment gives the Secretary of Agriculture the authority to maintain the support price or to adjust the amount of any increase which might otherwise be required as of October 1 or April 1 if the total of CCC purchases in the preceding year exceed either of two trigger levels—350 million pounds of nonfat dry milk or 3.5 billion pounds of butter-cheese milk equivalent. In no case could the support level be put at less than 75 percent of parity.

This means that this relief valve for taxpayers and consumers could not be utilized unless the accumulation of new surplus stocks of dairy products amounted to about $350 million worth of nonfat dry milk or about $480 million worth of butter-cheese milk equivalent, based on present price support levels.

The above figures are calculated as follows: 350 million pounds of nonfat dry milk times 84 cents per pound (the present suoport price) plus 20 percent (estimated purchasing and handling cost) equals $353 million. 3.5 billion pounds of milk equivalent times $11.49 per hundredweight (the present support price) plus 20 percent (estimated purchasing and handling cost) equals $483 million.

This amendment is the very least we owe to the taxpayers of this country. Instead of locking in dairy price supports at not less than 80 percent of parity regardless of where the Government holdings go, there should be this reasonable condition, this very reasonable relief valve to enable the Secretary of Agriculture to adjust the level of price supports if surpluses become mountainous.

This double trigger level system, in fact the wording of my amendment, is the same as was recommended to both the House and Senate Agriculture Committees by Secretary of Agriculture Bob Bergland.

According to Mr. Bergland's testimony to both committees, and I quote:

If the "trigger" were activated, the Secretary would have authority to make a smaller adjustment than would otherwise be required by law, either in the form of an annual adjustment on October 1 or in the form of a semiannual, April 1 adjustment. The Secretary would determine the adjustment to be made by considering two additional factors—first, whether the trend in removals is moving up or moving down. If the problem is worsening, a signal to the industry in the form of a scheduled increase not made would be appropriate. If, on the other hand, the problem is about to correct itself, the opposite signal would be appropriate.

The second factor to be considered would be the cost of production. If costs are above support levels because, for example, the parity index is not responding adequately to cost increases, it would not be appropriate to hold down supports, even if removals exceeded the trigger at that point.

Those comments were contained in letters from Secretary Bergland to House Agriculture Committee Chairman THOMAS S. FOLEY on May 24, 1979, and to Senate Agriculture Committee Chairman HERMAN T. TALMADGE on September 14, 1979. As the Secretary indicated in these letters, the trigger system would be a mechanism that—

. . . would add important flexibility and that having it would help both producers and consumers. It could not be used unless needed. When needed, it would give producers a clear but moderate signal that there is a problem and that changes are needed. It would prevent unnecessary expenditures by consumers and taxpayers, and avoid undesirable criticism of the dairy program. (End of quote from Secretary Bergland's letters.)

As I stated earlier, the Secretary of Agriculture has exercised the rather ample flexibility accorded him by present law to raise milk price supports to 80 percent of parity as of October 1, the beginning of the milk marketing year. This raised the support level for milk to $11.49 a hundred pounds, based on the U.S. annual average milkfat content of 3.67 percent.

I want to point out that this support price increase amounted to $1.62, or 16 percent, higher than a year ago when an 80 percent of parity support level also was in effect. That 12-month increase of 16 percent compares with a 10-percent gain in consumer prices for all foods, meaning that the parity level has gone up more than food inflation. According to U.S. Department of Agriculture data, that support price increase is equivalent to 6 cents per gallon of milk, 10 cents per pound of butter, 8 cents per pound of cheese, and 5 cents per pound of instant nonfat dry milk. That is just the cost increase of raw milk ingredients and does not reflect the multiplier effect as the incrcases go through the processing and distribution system. You can add another 30 percent at least to the increased costs I have cited to get an idea of the price increases to consumers.

The support increase of $1.62 for this marketing year in effect guarantees that consumer costs for milk products will be at least $2 billion more than would otherwise have been the case had the Secretary not raised the support price.

As to Government costs, USDA recently revised its estimate for Commodity Credit Corporation net expenditures for milk price supports for the October 1979 to September 1980 marketing year. CCC net expenditures now are estimated at $557 million. That compares to the previous estimate of $217 million. The increased cost of CCC purchases is attributed to increased milk production and to consumption at stable to declining levels. In fact, this suggests that the Secretary of Agriculture made a costly mistake in announcing an 80 percent of parity support level for the current marketing year.

More importantly, that estimate of $557 million in CCC net expenditures this marketing year compares with last year's net expenditures of $230 million. In other words, CCC net expenditures for milk supports in the current year will more than double the amount of last year.

That, I submit, indicates that we have a potential problem facing us if we vote to mandate an 80 percent of parity price floor for 2 years without regard to production levels.

With my amendment in effect, if CCC purchases exceed the trigger level, the Secretary of Agriculture may or may not reduce support levels. However, without this amendment, the Secretary would be compelled to maintain 80 percent of parity price supports irrespective of the cost to the Government or how much surplus production developed.

If this bill is adopted without the trigger level amendment, some industry sources estimate that net expenditures by Government in the 1980–81 marketing year (the second year covered by this bill) will cost about $1 billion.

Mr. Chairman, I do not believe this Congress ought to enact such a rigid price support system as is provided by H.R. 4167. That system is a mandated 80 percent of parity minimum support level with which taxpayers would have to live for the coming 2 years without regard to probable milk surpluses and without regard to assured high Government costs.

Mr. Chairman, I would be hopeful that in the summer of 1980, as we look toward adjournment, we are not faced with the vexing problem of explaining to our constituents why dairy food prices continue to rise at a time when our Government is purchasing large dairy surpluses at great Government expense.

The trigger level amendment I have offered provides a "relief valve" for taxpayers and an "early warning system" for dairy producers. This trigger level system, advocated by the administration, is geared to preventing excessive and unnecessary Government expenditures yet still encouraging the Nation's dairy farmers to sustain production for future needs.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

As I understand the gentleman's amendment, it would specifically allow the Secretary to forego or modify the amount of support increase which would otherwise be required if Commodity Credit Corporation acquisitions during the preceding 12 months exceeded CCC sales of milk for unrestricted uses by 350 million pounds of nonfat dry milk or a quantity of butter and cheese equivalent to at least 3½ billion pounds of milk.

I think this is a very, very important amendment. I think the taxpayers of America have a great stake in this legislation.

Am I correct in believing, if the gentleman's amendment is not adopted, that it is estimated that the net expenditures by the Government in October 1980 to September 1981 marketing year will cost in the neighborhood of a billion dollars?

Mr. FINDLEY. I will say to the gentleman the information I have supports that estimate. There are probably arguments in the forecasting field. Experts often disagree, but I think it is quite clear that, given the present trend of prices and price support levels, the probability is that it will reach up toward the $1 billion level, and that is an item of considerable consequence, even in this day.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. FINDLEY) has expired.

(At the request of Mr. VANIK and by unanimous consent, Mr. FINDLEY was allowed to proceed for 5 additional minutes.)

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Ohio.

Mr. VANIK. Am I correct in understanding during the current marketing year the net Government expenditures are about $557 million compared with last year's expenditures of $230 million?

Mr. FINDLEY. The gentleman is correct. It is also correct to state that the level of price support is up, I believe, about 16 percent, 16 percent over last year's support level.

□ 1550

Mr. VANIK. If the gentleman will yield further, this is a hidden tax on milk. That is really what we are talking about if the amendment is not adopted.

Mr. FINDLEY. This is price fixing on a major, important food item on a grand scale, price fixing at a very high level. The consumer simply had no choice but to pay the price. We are legislating higher food costs here today, that is what it comes down to.

Mr. VANIK. I support the gentleman's amendment. I certainly hope the

members of the committee will vote for it.

Mr. FINDLEY. I would like to explain in just a few words the effect of my amendment. I would like to say what my amendment does not do. My amendment does not give the Secretary of Agriculture any authority to reduce the dollar value of price supports. He cannot under this amendment or under existing law reduce the dollars and cents value that the farmer will get for selling his milk products. The only effect is to permit him to avoid raising the dollar and cents level of price supports if the accumulation of Government holdings gets up to around $350 million.

Mr. BALDUS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first I wish to commend the gentleman from Illinois for correctly stating that the amendment is a product the Secretary of Agriculture brought to the committee. Furthermore, the committee and the Dairy and Poultry Subcommittee gave this amendment serious consideration. However for good reasons this amendment was not adopted.

This amendment was not adopted because the testimony as given by the Secretary of Agriculture indicated that it was new and untried. He could not assure us that it would benefit either the producer or consumer. Furthermore, the Secretary has repeatedly stated that in recent months to many including myself that a trigger may be beneficial. I think the dairy industry generally, and many of the members of the Committee on Agriculture feel that something like this may be beneficial and should be considered during the interval of time that we have before consideration of the 1981 farm bill.

There was a colloquy about a worst case situation, not a probability. The probability is, that production during the year 1980 will probably be 123.5 billion pounds. The Congressional Budget Office estimate was 125 billion pounds, considerably above that, which would put the cost estimate considerably below that, but still the CBO supported the 80-percent level.

It is necessary for members to understand that we will have a system of stabilization, under 80 percent parity. I agree with the gentleman from Illinois that this is a system of stabilization that has been enforced for something like 40 years. The purpose is and has been to assure an adequate supply; to take what is a very fragile product, which has to be produced on a daily basis, and make it available on a daily basis; to have an adequate supply, because when the supply runs out the price goes up quickly. It takes just a little shortage to influence an increase in price. Certainly a little shortage goes a long way.

During the period of time that I have been in Congress, I have seen coffee prices go from $1 a pound to $3 or more per pound. I have seen sugar go from 6 cents a pound to over 60 cents a pound. Obviously this is what happens when there is a shortage: The price goes up quickly.

This legislation is to continue a stabilization program that has been in progress for many, many years. We want to maintain the program for 2 more years during which time we can study amendments to those offered by my colleague from Illinois (Mr. FINDLEY). In fact, that amendment might well be adopted 2 years from now. It is premature to adopt that amendment now. Thus, I urge the Members to resist it.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. BALDUS. Yes, I yield to the gentleman from Vermont. But first let me take this opportunity to say that the ranking member of the Dairy and Poultry Subcommittee has been very helpful and constructive in putting together this dairy legislation. I appreciate his help a great deal.

Mr. JEFFORDS. I appreciate the comments and certainly feel the same way about my esteemed chairman.

I would like to get to the essence of this amendment and say that it is very subtle and yet very deceptive. I would hope the gentleman would agree with me that the particular trigger level set in the amendment is actually no trigger level at all, but really a complete abrogation of the 80 percent of parity.

□ 1600

As I understand the amendment, the trigger level is at about 3.5 billion pounds milk equivalent. The Government purchases about 2.5 billion pounds milk equivalent for its own programs. This is where most of the costs to the taxpayers come from. Is that correct?

Mr. BALDUS. The gentleman is correct.

Mr. JEFFORDS. With the increased imports that are anticipated under the MTN, it is quite likely that with normal Government purchases for domestic programs and anticipated imports, we could well have the trigger level reached with no change in present circumstances. Is that correct?

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(At the request of Mr. JEFFORDS and by unanimous consent, Mr. BALDUS was allowed to proceed for 5 additional minutes.)

Mr. BALDUS. The latest reports I have are that it would not even, under the worst case scenario, reach the trigger level. That is an uncertainty.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield on the anticipated increase in imports?

Mr. BALDUS. I yield.

Mr. FRENZEL. The gentleman from Vermont anticipates some increase in imports. I would like to know, if there are any milk imports increased, as I understand the results of the MTN negotiations which were of concern to milk producers, is that they will in fact result in lower imports of cheese when we get out a few years in this dangerous period. It may be somewhat confusing to talk about increased imports.

Mr. BALDUS. I agree that it is confusing because the Multilateral Trade Negotiations would theoretically allow a billion pounds milk equivalent increase in imports. However, the latest report I just read shows the level of those imports during this last year is very close to the amount of imports that may be coming in.

Mr. FRENZEL. I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, if the gentleman will yield, I would like to indicate that the United States had significant, if not substantial, imports of casein, which is not under the normal dairy import restriction. This has resulted in an increase in purchase of nonfat dry milk by this Government. Is that correct?

Mr. BALDUS. There is a considerable concern in the increase in the amount of casein that is coming into the country. The Multinational Trade Commission is currently looking into it. We do not know the result of that, but there is a concern.

One of the things I fear about this amendment is that, if this amendment were accepted, it could be a signal to dairy farmers that the support program, the stabilization program that has been built up over the years, is being abandoned. With current prices of beef; with the average age of dairy farmers being 57 years of age, it might signal to them that this is a good time to sell out. So, again I want to say that a little bit of shortage can go a long way. What may seem like an amendment that would be very good for the consumer side of the equation may be just the opposite.

Mr. JEFFORDS. I think that is the essence of the situation. What the dairy farmer needs is a program which is working. I think when the Secretary of Agriculture first came to our committee, he stated that the program was working well, and no changes were needed. OMB, however, wanted a safety value, the Secretary responded. This is what we are talking about.

The Secretary's testimony and the CBO estimates of the consumer impact, indicate that the program is working and that there is no need to change the program. If a program is working why put it in a situation of peril.

The Secretary may not exercise the trigger, but it is there. If we remember what happened back in 1973 and 1974, in a time of high inflation when Government picked on the dairy industry to show some symbolic action and it totally backfired. The price of milk went up 20 percent. When the Government realized what was happening it was too late and it took a long time to get the supply.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

(At the request of Mr. JEFFORDS and by unanimous consent, Mr. BALDUS was allowed to proceed for 2 additional minutes.)

Mr. JEFFORDS. When that occurred and farmers came back to give us the supply needed, the price to the farmers came down 20 percent and the price to the consumer came down 2 percent. That action resulted in both a substantial unnecessary increase to the consumer which would not have happened if we had a milk marketing act supported by 80 percent of parity. If we had not fooled with the program for demagoguery in

order to gain favor with the American public. Am I correct?

Mr. BALDUS. Correct. The gentleman is correct.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. BALDUS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would like to commend the gentleman from Wisconsin and the gentleman from Vermont for the excellent analysis of how bad this amendment will be to the dairy price support program. One thing this Congress cannot change is the law of supply and demand. If there is a little bit of shortage, the price of milk and other dairy products will skyrocket up all out of proportion to the shortage that would exist.

I would like to emphasize the statements that have been made by the gentleman from Vermont and the gentleman from Wisconsin. The rules governing the dairy industry have been changed somewhat with the passage of the multinational trade negotiation bill, which becomes effective as of January 1. In 1977, for example, there was 93,000 metric tons of cheese imported into the United States. That will be increased under MTN to 125,000 metric tons. That means that there is an increased supply, there is increasing competition, but it also means that there are many dairy farmers that might think that the time has come to pull up stakes and get out of the business, particularly with beef prices being as high as they are, herds being liquidated at a very pleasant price, and the farmer simply retires.

So, I would hope that this amendment would be defeated, and I congratulate the gentleman from Wisconsin for his opposition.

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, after listening to this debate I cannot resist commenting on the irony of this situation. It seems to me that the agriculture policy in this country is not developed in a rational, logical method.

□ 1610

It is developed on the basis of where people are and where Representatives come from, and how many Representatives we have who represent particular commercial interests. We do not develop a sugar policy on the basis of whether or not we need sugar or the sugar industry. We really get a sugar policy on the basis of how many Representatives we do not have for people who are growing sugar.

We have a dairy industry that is in the process of having perhaps a billion dollar program, and the people from the dairy regions of this country voted practically unanimously against a sugar bill that only involved $50 million.

I am not pointing the finger at any individual speaking here today, but I am trying to point out that when we were trying to deal with a sugar policy that meant $50 million, people were standing up here on the floor screaming about how much money was going to be taken out of the consumers' pockets and the taxpayers' pockets, and what a ripoff it was and, my goodness. It was an immoral program. Now we have people from the same regions, not the same individuals—one does not have to get upset as an individual. The point is that here is a billion dollar program,and I do not see any of these marvelous statements about the taxpayer being ripped off or about the foreign consumers or the foreign producer who can ship milk in here at a cheaper price. I do not see any of the individuals standing up here today who spoke on behalf of the sugar industry a couple of weeks ago.

My point is that if we are going to have an agriculture policy develop, it should be on a nationwide basis, and if we have sugar people who are coming here with a reasonable policy, it should not be approached as a regional ripoff. We should also be a little bit vulnerable, it seems to me, when you come from a dairy producing region, whether you have 80 percent of parity, 85 percent of parity, or 90 percent of parity if the Secretary chooses to give it during an election year, and nobody else gets that much.

We do not see any of the dairy individuals who get up during the course of debate in other commodities trying to say why we have got to have this agriculture policy; it is on a regional approach. The wheat producer gets up and talks on behalf of wheat and tells the tobacco producer to go hang. The sugar producer gets up and talks about sugar and tells the dairy producer to go hang, and vice versa. This is the most flagrant example one can imagine.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

I would just like to correct something the gentleman said. No. 1, we did not vote nearly unanimously in opposition to the sugar bill. I used to have a lot of sugar beets in my State in my district, and that is one of the reasons why I did not speak on the floor in favor of the sugarbeets in my State in my district, sectional interests they were nuts to be opposing the legislation because they did not understand what the problem was in developing production capability in the sugar industry, and I think the sugar bill should have passed. I think you will find some of the people leading the support for the Findley amendment today who voted for the legislation.

Mr. JOHNSON of Colorado. I will take back my time. There is no reason for us to get involved in personal dialog because I am not pointing a finger at the gentleman or anybody who has spoken today. The point is instead of having a national approach to agricultural problems, it is a regional approach. If the gentleman will evaluate the votes cast on the sugar bill, almost unanimously those people who come from the dairy regions of this country voted against it. I did not say totally but almost.

Mr. OBEY. Mr. Chairman, will the gentleman yield further?

Mr. JOHNSON of Colorado. I yield to the gentleman.

Mr. OBEY. I think the gentleman is right. There ought to be a national policy. Frankly, the reason this Member does not speak on issues pertaining to wheat is because I consider myself to be a total ignoramus on that subject. I do not understand the issues, and I am not in the habit of speaking on issues that I do not understand very well. I think the gentleman is right. We do need a national food production policy geared to national interests, not to sectional interests, and I think the gentleman's point is well taken.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding. I want to mention to the gentleman that the amendment which I offered is the amendment recommended by the administration. I hope at the tail end of the gentleman's remarks he will express his support for my amendment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 1 additional minute.)

Mr. JOHNSON of Colorado. I am going to support the gentleman's amendment. There have been many times when the gentleman and I have been on opposite sides of the agriculture policy, but I do not see anything wrong with having the Secretary have this kind of discretion for the milk industry.

The milk industry has been protected in a way no other commodity has been protected. The Secretary—and this is a result of the majority party's policy on agriculture—and the President have almost total discretion to set the levels of support for every other commodity, and that has not been given in the case of milk. The milk people have received higher and higher supports, primarily again because of the political power that they have here, and it has no relationship to the rest of agricultural policy.

I happen to disagree with the policy that turns over total authority to the administration to decide what the loan levels and support levels are going to be. I think if we are going to have it for wheat, corn, cotton, and the other commodities, we should have the same policy for milk, and ultimately we will take back the authority we should have in this body and make policy here.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would also like to commend the chairman and the ranking minority member of the subcommittee, but I would also like to take exception to the remarks of my good friend, the gentleman from Ohio (Mr. VANIK) when he says that the milk support price bill is an anticonsumer bill, when in actuality it is just the opposite. Let me tell you why.

My good friend, the gentleman from Kentucky (Mr. CARTER) also spoke about this bill, worrying about the price that young children are going to have to pay for milk. Let me tell all of the Members in this body here that the vast majority

of all the milk that is produced in the United States that children drink is produced in areas such as I come from. I represent an area which is about the 25th largest milk-producing congressional district in the United States—in New York State.

The herds in the area where I live range from 20 to 80 head of cattle that produce milk, and if we keep an existing parity, we are going to keep those farmers in business.

I think the chairman mentioned that the average age of a farmer in this country is 57 years. In my State the average age is 58 years, and there is extreme difficulty in getting the younger generation to continue the farming business to produce milk. If we allow them to dwindle at the rate of 500 farms a year, what is going to happen when there is less competition and less milk being produced? The price is going to go up even higher.

All of these small dairy farmers are faced with increasing costs, environmental costs, the OSHA costs, the labor costs and when we consider that all of these small farms throughout this country have an average mean income of $15,000, it is absolutely imperative that we give them price support insurance in order to encourage the continuance of these small farms.

We are not talking about peanuts. You may not plant peanuts 1 year, but if you let a dairy herd, whether it is 20, 80, or 200 head of cattle, go down the drain in 1 year, it takes 5 years to build that herd back up. That is what is going to happen to the milk industry if we do not maintain and let these farmers know they can have confidence and security in the programs we maintain here.

I commend the chairman and the minority member for the work they have done. Whether a Member of this House represents a dairy district or a large city of milk consumers, every Member should support this legislation and I urge its passage.

□ 1620

Mr. RICHMOND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 4167, the Milk Price Support Act. As chairman of the House Agriculture Subcommittee on Consumer Relations, I am concerned that we encourage farm production and maintain adequate supplies of commodities at reasonable prices for consumers. H.R. 4167 will help assure my concerns are met by setting the milk price support at 80 percent of parity. Lower support prices would lower milk production and result in shortages of dairy products for consumers. The short supply and increased demand for one of our most essential and nutritious foods would increase the costs for consumers who are already strapped with rising food prices. Since milk and milk products are necessary for the health and well-being of all, we should do all we can to assure adequate and affordable supplies.

The milk price support program has been working well. This is particularly evident at a time when high beef prices provide an economic incentive for dairy farmers to sell their herd for a fast profit rather than maintain the herd for milk. The program works for the benefit of the consumer, as well. CCC sales of dairy products in the last year helped to keep down retail prices of dairy products at a time when beef shortages were inflating food industry prices.

Stability for dairy farmers and those considering dairy farming is becoming critical. Since 1950, farms, including dairy interests, have been going out of business at the rate of 2,000 per week. The average dairy farmer is in his mid-fifties. We must do all we can to stabilize the market and encourage younger farmers to invest in dairy farming. And, I do mean invest. Dairy farmers long ago relegated the milk bucket, three-legged stool and 10 gallon milk can to antique dealers. Today's dairy farmer employs automatic milking equipment to provide us with wholesome dairy products. Like other American businessmen, he must pay higher prices for the modern equipment he needs, higher interest rates to banks, and higher fuel bills.

H.R. 4167 is the vehicle we need to achieve our objective of stability in the marketplace for farmers and consumers.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I want to commend the gentleman on his statement. I know that at times we have been at odds on these questions. I know we have agreed on 80 percent of parity for when we tried to get above it, 85 percent, the gentleman fought us and defeated us. However, I think the gentleman recognizes that 80 percent of parity is a figure that has really stabilized the market, kept the consumer price fairly level. It has been as much of a benefit to the consumer as to the farmer.

Mr. Chairman, again to echo the remarks of the gentleman from New York (Mr. SOLOMON), it is the small, independent dairyman we are talking about here. He is the one who needs this insurance policy, to keep him in business, to keep that supply coming, to keep that price down to where it is a reasonable price for the consumers. I support the gentleman's statement. I think it was courageous and I appreciate it.

Mr. RICHMOND. Mr. Chairman, I thank the gentleman from Vermont.

Mr. MITCHELL of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I represent a large dairy district in upstate New York. Through the years I have represented it, I have gained a great deal of respect for the family farmer. I think he is a special breed of man. He has a very large investment. He works long hours. Usually the family helps out in the barn. It is not unusual for the wife and the kids to help with the other chores. A survey I ran in my district demonstrated that the average farm family in my district, worked about 150 hours a week. 7 days a week. It is hard, physical labor for the most part. The family farmer has to be his own veterinarian, his own plumber, carpenter, and mechanic. He makes very little money. I think if we divide the number of hours the whole family works into the annual income they would be earning far less than the minimum wage.

Mr. Chairman, I do not think they are compensated sufficiently at 80 percent of parity. I remember when 75 percent of parity prevailed and the family farmers in my district were going out of business right and left.

Mr. Chairman, that is the big danger to the consumer, the fact that the family farmer just is not going to be there because he can't make a living. We are not going to have that family farmer—a person whose prime motivation is the love of his land and the thrill of seeing a family work together to accomplish a common goal. We are going to have the big business operators come in whose primary motivation is profit. They are going to take over and will have to abide by a lot of labor laws that are going to cost their operation a lot more money and eventually the price of milk is going to increase markedly.

Mr. Chairman, the Findley amendment has to hurt the consumer, if it passes. I urge my colleagues to vote against it. It is certainly not in the best interests of the hard-working, backbone of America-type farmer. This is one of those rare instances where we can vote for price supports and vote for the consumer all in one vote.

Mr. Chairman, I urge my colleagues to support the bill.

Mr. Chairman, I do not need to go into greater detail here about the uncertain future of the family farm. We have all heard the arguments on this issue, and I am sure your memories of the tractors on the Mall last January are as vivid as mine.

What I would like to underscore here is that we cannot only exercise a reasonable amount of foresightedness by supporting this bill to protect the dairy farmers, but that we are not hurting the consumer by doing so. The Agriculture Committee has already determined that the 80-percent price support level established 2 years ago has worked very well. The retail dairy price has increased less than the consumer price index, consumers have had an adequate supply of milk, and dairy farmers have been able to get a fair price for their product.

By establishing the milk price support level at 80 percent of parity, we have maintained, and can continue to maintain, a stable dairy industry. That is tremendously important, and not only because it will provide a stable price for consumers.

Several years ago, I held hearings in my district on the dairy industry and its concerns. I took an informal survey that showed many family dairy farmers, in the business for over 20 years, had an income below the national poverty level. They work an average of 80 hours per week, 7 days a week, and the rest of the family pitches in to cut down on the cost of hired labor. Vacations are extremely rare, and dairy cows do not recognize any Federal holidays.

The point is that these people are

farmers because they want to be. They are dedicated to farming as a way of life, despite the long hours and the low returns. By maintaining price supports at 80 percent of parity, we can enact a reasonable measure that will protect consumers by protecting the farmers who will preserve the stability of the dairy industry.

Retail milk prices have increased as a result of the shortage of beef cows. If we help to make the liquidation of dairy herds into beef products more attractive than the production of milk, we are going to see increasing dairy prices and fewer dairy farmers. The 80 percent minimum price support level will help avert this situation. Dairy farmers have already had to accept higher levels of import competition under the Multilateral Trade Agreement we recently approved. The maintenance of the 80 percent level will help the farmers recoup some of the losses they will suffer from increased import competition.

There is some concern that the 80 percent price support level will promote excess production and cost the Government, through the Commodity Credit Corporation, millions of extra dollars in purchases to stabilize the market. However, the Congressional Budget Office indicates that we will not be concerned with dairy surpluses over the next 2 years. We do have to be concerned with how the dairy farmers will survive if they are not guaranteed a fair price for their milk, and we must be concerned with the consequences of losing, during the next 2 years, hundreds of dedicated dairy farmers who insure the stability of the market, if we do not defeat the Findley amendment and then approve this measure.

● Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 4167, the Milk Price Support Act, which would extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 percent of parity.

Mr. Chairman, the 26th Congressional District is an important milk producing area for the New York metropolitan region. The price that milk fetches in New York is above the current support level, but dairy farmers in our region are interested in the health of the industry as a whole, and have asked that I support this legislation.

This bill is a simple extension of a program which has been in effect for 2 years. In the absence of the bill, the provisions of the Agricultural Act of 1949 which require that milk be supported between 90 and 75 percent of parity would take effect, and the requirement for semiannual adjustments would terminate on March 31, 1981.

The purpose of the milk support program is to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production and assure a farm income adequate to maintain productive capacity to meet anticipated future needs.

Mr. Chairman, in recent years there has been growing recognition that short-term price instabilities which may benefit consumers or producers may, in the long term, damage both the dairy industry and the consumer. Therefore, it is in the national interest to seek stability in both supplies and prices of dairy products at the 80 percent of parity level that has been effective the past 2 years.

The Congressional Budget Office estimates that this bill would have not any budgetary impact, since the administration is expected to maintain the support level at 80 percent of parity, regardless of whether or not this legislation is enacted.●

● Mr. TRAXLER. Mr. Chairman, I want to express my complete support for the passage of H.R. 4167, the Milk Price Support Act of 1979. This measure will insure the continued stability of milk prices for both farmers and consumers, and will not increase milk prices to consumers by virtue of its adoption.

The Secretary of Agriculture has maintained milk price supports at 80 percent of parity for some time now under his existing authority. The legislation before us will allow 80 percent to continue as the minimum support level for milk, and it will also allow the Secretary to readjust support levels on a semiannual basis, as is the current practice.

Consumers and producers share a common goal: fair and stable prices. Price support programs have historically helped to keep prices within a reasonable range while avoiding the terrible cyclical swings that have been associated with the prices of nonsupported commodities.

Farmers need to be assured of a fair price for any commodity, including milk, if they are to continue producing the quantities that we need. I think all of my colleagues must understand that price support programs do not make anyone rich; they simply provide the same kind of insurance for income that we expect from minimum wage legislation for wage earners.

Consumers are really the primary beneficiaries of price support programs. Prices while supported rarely fluctuate in any appreciable amount. Since one of our primary concerns is food price inflation—a problem that is created by the middleman and not the farmer—we must do all we can to assure consumers that we are attempting to limit food price fluctuations that have caused so many problems, especially for those on fixed incomes.

The gentleman from Wisconsin (Mr. BALDUS) eloquently pointed out that our milk production is fairly consistent with demand. Surpluses are rarely known, and adequate supplies of milk have been guaranteed by milk price-support programs over the years. I want to compliment the gentleman for his excellent work as chairman of the Subcommittee on Dairy and Poultry of the House Agriculture Committee on this essential piece of agricultural legislation.

My congressional district is one of the primary dairy areas in the State of Michigan. Our farmers provide Michigan's consumers with adequate supplies of milk and the resultant dairy products, and I know that their expenses have risen faster than the general rate of inflation. The support levels provided in this bill help ease that inflationary burden somewhat, but they do not totally cover the cost increases they have incurred. I want to emphasize this point so that all of my colleagues who believe that farm price-support programs are efforts to help farmers get rich understand that these programs just about keep our farmers in business.

I also want to point out at this time that it is rare that we get to vote on several important pieces of agricultural legislation in a short time, but we will have an amendment offered by my good friend from North Dakota, Mr. ANDREWS, to the FTC authorization bill in order to allow agricultural cooperatives to continue their operations in a reasonable fashion with the supervisory powers of the Department of Agriculture, the Agency most familiar with the historical significance of agricultural cooperatives.

The co-op concept has been essential to the dairy industry. Co-ops have helped their members survive the good times and the bad, and I want my colleagues to keep this in mind as we approve this dairy parity price bill today. This traditional agricultural co-op concept must be preserved for the benefit of agriculture and the people who depend on agriculture: The consumers of this Nation.

I urge all of my colleagues to vote in support of the passage of H.R. 4167, the Milk Price Support Act of 1979.●

● Mr. NOLAN. Mr. Chairman, I strongly support passage of H.R. 4167 in order to assure dairy producers of 80 percent of parity price supports for their milk production.

This legislation is vital to America's dairy farmers because the Carter administration is not fully committed to maintaining the 80 percent of parity support level. The administration's support for a measure to reduce the support level if stocks of butter, cheese, and nonfat dry milk increased beyond a certain point clearly illustrates the need for legislation to keep the milk support level at 80 percent of parity.

Dairy producers need 80 percent of parity price supports in order to stay in the business and I urge my colleagues to support H.R. 4167.●

● Mr. DASCHLE. Mr. Chairman, I rise in strong support of H.R. 4167, the Milk Price Support Act, and urge its adoption by my colleagues.

Until the Food and Agriculture Act of 1977 temporarily raised the minimum price support level for milk to 80 percent—through March 31, 1979—a 75-percent minimum price support level for milk was established.

Essentially, this legislation would set into law what the Secretary of Agriculture has seen fit to do in two instances by administrative authority—extend the 80-percent support level past the March 31 deadline.

A review completed by the House Agriculture Committee indicates that the 80-percent price support level has been working to the benefit of both the producer and the consumer, with actual market prices running, in most instances, continually higher than the price support level.

Second, this legislation provides for Commodity Credit purchases in instances of milk product surpluses. However, one must keep in mind that in the first year

that the 80-percent support level was in effect, domestic production exceeded consumption by a mere 3 million pounds of milk products, an equivalent of 2 or 3 days of production. Because of this, the Commodity Credit Corporation has been able to sell most of its stock rather than turning to large purchases of dairy products.

Another very important fact to keep in mind when considering this bill is that dairy product real costs have decreased steadily since 1950. According to House Agriculture Committee figures, butter is down 52 percent; milk, down 44 percent; American cheese, down 19 percent; and ice cream, down 60 percent.

It is obvious that the statistics indicate the effectiveness of this 80-percent level of price supports. We must remember that short-term price fluctuations, while they might seem attractive to consumers on the face, work to the detriment of the consumer and the producer over the long term.

I want to commend my colleague and the distinguished chairman of the House Agriculture Subcommittee on Dairy and Poultry, Mr. BALDUS, and the subcommittee's ranking member, Mr. JEFFORDS, for their diligence in pressing this legislation through the committee, and, Mr. Chairman, urge the adoption of this most important legislation.●

● Mr. HAGEDORN. Mr. Chairman, I rise in support of H.R. 4167, the Milk Price Support Act, to extend until September 30, 1981, price support levels for milk at not less than 80 percent of parity.

As a Representative from Minnesota, I strongly feel that this legislation is needed to provide a consistent level of support for this country's dairy farmers. Minnesota is one of the leading milk-producing States in this country, second only to Wisconsin in number of dairy farmers, in the production of manufacturing milk, and in the processing of dairy products. Minnesota and Wisconsin are the lifeblood of this Nation's milk shed.

Passage of H.R. 4167 is needed to assure an adequate supply of milk, to reflect changes in the cost of production and to assure dairy farmers an income that will enable them to maintain sufficient productive capacity to meet anticipated future needs.

Favorable consideration of this legislation will be beneficial to dairy farmers and consumers alike.●

● Mr. ALBOSTA. Mr. Speaker, I rise in support of H.R. 4167, the Milk Price Support bill now before the House. This legislation, which extends the milk program through September 1981, is vital to the dairy industry in this country. Over the years, the milk price support program has operated effectively and efficiently. Actual market prices have run higher than the 80 percent of parity minimum in this bill and because of this, surplus milk production has been held close to demand. This slight surplus gives this country a cushion against an unexpected drop in production due to a natural disaster or some other unforeseen event.

At the same time, the retail price index for dairy prices has increased less than the consumer price index despite the facts that the cost of goods and services dairymen buy has increased continuously. This dairy program has given the American people a plentiful supply of nutritious dairy products at reasonable prices compared to other foods on the market today.

I therefore urge my colleagues to vote for this important piece of legislation affecting not just farmers but consumers as well. It is in everyone's interest to have a stable production of dairy products produced in this country.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. FINDLEY. Mr. Chairman, on that I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 639]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boland
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
DeLuma
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Donnelly
Dornan
Downey
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Motl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rostenkowski
Roth
Roybal
Rudd
Russo
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Tauke
Thomas
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

□ 1640

The CHAIRMAN pro tempore. Three hundred and fifty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

The pending business is the demand of the gentleman from Illinois (Mr. FINDLEY) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. LEVITAS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4167) to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be sup-

ported at not less than 80 per centum of the parity price therefor, pursuant to House Resolution 385, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. FINDLEY. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FINDLEY moves to recommit the bill, H.R. 4167, to the Committee on Agriculture with instructions to report it back forthwith with the following amendment: On page 2, immediately after line 7, add a new subsection (c) as follows:

"(c) Subsection (d) of such section is further amended by adding at the end thereof a new sentence reading as follows: 'Notwithstanding any other provision of this Act, if thirty days before the beginning of the marketing year or thirty days before the beginning of each semiannual period after the beginning of each marketing year, the quantity of milk or the products of milk acquired by Commodity Credit Corporation during the previous 12 calendar months exceeds the quantity of the products of milk sold by Commodity Credit Corporation for unrestricted use during the same period by at least 350 million pounds of nonfat dry milk or a quantity of butter and cheese equivalent to at least 3.5 billion pounds of milk, the Secretary may continue to effect the then current support price for milk or modify the amount of any increase which might otherwise be required: *Provided*, That at the beginning of any marketing year the level of support for milk shall be not less than 75 per centum of the parity price therefor.'"

Mr. FINDLEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit and the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes in support of his motion to recommit.

Mr. FINDLEY. Mr. Speaker, each Member of this body will have an opportunity to vote on this amendment very soon, and I would think it would be in the interest of the membership to know what is in the amendment.

The amendment was not drafted by myself; it was drafted by the Department of Agriculture and recommended to the Congress by the Secretary of Agriculture, Bob Bergland. Mr. Bergland, as we all know, is a former Member of this House who represented the dairy heart of the State of Minnesota, so we can believe that he is not about to recommend to this body an amendment to a dairy bill that is harmful to the interests of the dairy farmer.

This amendment is not a Findley amendment; it is a Bergland amendment. It is supported on a bipartisan basis. I would like to explain the amendment to the Members.

□ 1650

Mr. Speaker, let me mention, first of all, what the amendment does not do. It does not permit a reduction in the price support of milk at any time during the 2-year life of this bill. No matter what happens, the Secretary of Agriculture cannot reduce the price support.

The only thing it does permit its discretion in the hands of the Secretary to keep the price of milk from going still higher, and then only for the second year of this bill, and then only if a very important condition is met; that condition is that there be an accumulation of Government-owned dairy products valued at $350 million during the 12-month period preceding his decision to keep the price from going up. That is all it does. It is discretion authority to the Secretary to keep the price of milk products from going still higher during that second year of the life of this bill, and he can use that discretion only if Government accumulations of dairy products increases during the 12 months preceding that time by $350 million.

Mr. Speaker, this amendment is fair to the dairy producer, it is fair to the consumer, and it gives some modest consideration to the interest of the taxpayer. If you have more taxpayers and more consumers of dairy products in your home district than you have dairy cows, I would recommend that you vote for the amendment.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. BALDUS) is recognized for 5 minutes in opposition to the motion.

Mr. BALDUS. Mr. Speaker, I will be very brief. I simply rise to ask the Members to vote against the motion to recommit. The motion to recommit with instructions would write a new bill, something into law that has never been tried.

Yes, it is an amendment that the Secretary brought to the committee. The subcommittee and the full committee rejected it. Even the Secretary said it was new and untried. He was unsure about the trigger level, he was unsure about the numbers, he was unsure about the final result.

Economic studies made show that in several cases in the past it would have given the wrong signal to dairy farmers and the wrong result would have occurred.

A little bit of shortage can go a long way. This is what might occur if this amendment and the motion to recommit were to pass.

Mr. Speaker, I urge the Members to vote against the recommital and for the bill.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. BALDUS. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Speaker, I want to agree with the gentleman's statement and to point out that all we are asking you to do is to do again what this body did 2 years ago in saying that 80 percent of parity is the right figure. We have taken another look at it because the Senate required us to do that, and it is working. This body overwhelmingly approved this program 2 years ago. Let us keep the program going and vote no on this recommital.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FINDLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. FINDLEY. Mr. Speaker, I demand a division.

On a division (demanded by Mr. FINDLEY) there were—yeas 53, nays 202.

Mr. FINDLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. FINDLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will advise the gentleman from Illinois (Mr. FINDLEY) that a quorum has just been established on the division vote, 255 Members having arisen. A quorum is present.

So the motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YATES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 310, nays 64, not voting 59, as follows:

[Roll No. 640]

YEAS—310

Abdnor	Brooks	Diggs
Addabbo	Brown, Calif.	Dingell
Akaka	Broyhill	Dodd
Albosta	Buchanan	Donnelly
Alexander	Burgener	Dornan
Ambro	Burlison	Dougherty
Andrews, N.C.	Burton, Phillip	Downey
Andrews, N. Dak.	Butler	Duncan, Tenn.
Annunzio	Byron	Eckhardt
Anthony	Campbell	Edgar
Applegate	Carr	Edwards, Calif.
Archer	Carter	Edwards, Okla.
Ashley	Chappell	Emery
Aspin	Chisholm	English
Atkinson	Clausen	Erdahl
Bafalis	Clay	Ertel
Bailey	Cleveland	Evans, Del.
Baldus	Clinger	Evans, Ind.
Barnard	Coleman	Fary
Bauman	Collins, Ill.	Fazio
Beard, Tenn.	Conable	Ferraro
Bedell	Conte	Fish
Benjamin	Conyers	Fithian
Bennett	Cotter	Flippo
Bereuter	Coughlin	Foley
Bethune	Courter	Ford, Mich.
Biaggi	D'Amours	Ford, Tenn.
Bingham	Daniel, Dan	Fountain
Blanchard	Daniel, R. W.	Fowler
Boland	Danielson	Frenzel
Bolling	Dannemeyer	Frost
Bonior	Daschle	Fuqua
Bouquard	Davis, Mich.	Garcia
Bowen	Davis, S.C.	Gaydos
Brademas	Deckard	Gephardt
Breaux	Derrick	Giaimo
Brinkley	Dickinson	Gilman
	Dicks	Gingrich
Ginn	McCormack	Roth
Glickman	McDade	Roybal
Goldwater	McHugh	Rudd
Gonzalez	McKay	Russo
Goodling	McKinney	Sabo
Gore	Madigan	Santini
Gramm	Marks	Satterfield
Grassley	Marlenee	Sawyer
Gray	Marriott	Schulze
Grisham	Martin	Sebelius
Guarini	Mathis	Seiberling
Gudger	Matsui	Sensenbrenner
Guyer	Mattox	Sharp
Hagedorn	Mavroules	Shelby
Hall, Tex.	Mazzoli	Shumway
Hamilton	Mica	Shuster
Hammer-schmidt	Michel	Simon
	Miller, Ohio	Skelton
Hance	Mineta	Slack
Hanley	Mitchell, Md.	Smith, Iowa
Harkin	Mitchell, N.Y.	Smith, Nebr.
Harsha	Moakley	Snyder
Hefner	Mollohan	Solarz
Hightower	Montgomery	Solomon
Hillis	Moore	Spence
Hinson	Murphy, Ill.	Stack
Holland	Murphy, N.Y.	Staggers
Hopkins	Murphy, Pa.	Stangeland
Horton	Myers, Ind.	Stanton
Hubbard	Myers, Pa.	Steed
Huckaby	Natcher	Stewart
Hughes	Neal	Stokes
Hutto	Nedzi	Stratton
Ichord	Nelson	Stump
Ireland	Nolan	Swift
Jeffords	Nowak	Taukc
Jeffries	O'Brien	Thomas
Jenkins	Oakar	Thompson
Johnson, Calif.	Oberstar	Traxler
Jones, N.C.	Obey	Trible
Jones, Okla.	Ottinger	Vander Jagt
Jones, Tenn.	Panetta	Vento
Kastenmeier	Pashayan	Volkmer
Kasen	Patterson	Walker
Kildee	Pease	Wampler
Kindness	Perkins	Watkins
Kogovsek	Petri	Weaver
Kramer	Peyser	White
LaFalce	Preyer	Whitehurst
Latta	Price	Whitley
Leach, Iowa	Pursell	Whittaker
Leach, La.	Quayle	Whitten
Lederer	Quillen	Williams, Mont.
Lee	Rahall	Williams, Ohio
Lehman	Railsback	Wilson, Bob
Leland	Rangel	Wilson, C. H.
Levitas	Ratchford	Wilson, Tex.
Lewis	Regula	Winn
Lloyd	Reuss	Wirth
Loeffler	Rhodes	Wolpe
Long, La.	Richmond	Wright
Lott	Ritter	Wyatt
Lowry	Robinson	Yatron
Lukan	Rodino	Young, Mo.
McClory	Roe	Zablocki
McCloskey	Rostenkowski	Zeferetti

NAYS—64

Anderson, Calif.	Fisher	Minish
AuCoin	Florio	Moffett
Badham	Forsythe	Moorhead, Calif.
Barnes	Gibbons	Motti
Beard, R.I.	Green	Patten
Bellenson	Hall, Ohio	Paul
Brodhead	Hansen	Pritchard
Broomfield	Harris	Rinaldo
Carney	Hollenbeck	Scheuer
Chaney	Howard	Shannon
Collins, Tex.	Hyde	St Germain
Corcoran	Jacobs	Stockman
Crane, Daniel	Johnson, Colo.	Studds
Dellums	Kelly	Van Deerlin
Derwinski	Kemp	Vanik
Devine	Kostmayer	Weiss
Drinan	LeBoutillier	Wolff
Early	Lent	Wyden
Erlenborn	Long, Md.	Wylie
Fascell	McDonald	Yates
Findley	Maguire	Young, Fla.
	Markey	

NOT VOTING—59

Anderson, Ill.	Dixon	Leath, Tex.
Ashbrook	Duncan, Oreg.	Livingston
Bevill	Edwards, Ala.	Lujan
Boggs	Evans, Ga.	Lundine
Boner	Fenwick	Lungren
Bonker	Flood	McEwen
Brown, Ohio	Gradison	Mikulski
Burton, John	Hawkins	Miller, Calif.
Cavanaugh	Heckler	Moorhead, Pa.
Coelho	Heftel	Murtha
Corman	Holt	Nichols
Crane, Philip	Holtzman	Pepper
de la Garza	Jenrette	Pickle
Roberts	Snowe	Treen
Rose	Spellman	Udall
Rosenthal	Stark	Ullman
Rousselot	Stenholm	Walgren
Royer	Symms	Waxman
Runnels	Synar	Young, Alaska
Schroeder	Taylor	

□ 1710

The Clerk announced the following pairs:

Mr. Corman with Mr. Young of Alaska.
Mr. Bevill with Mrs. Snowe.
Ms. Holtzman with Mr. Philip M. Crane.
Mr. Jenrette with Mr. Taylor.
Ms. Mikulski with Mr. Brown of Ohio.
Mr. Pepper with Mr. Anderson of Illinois.
Mr. Roberts with Mrs. Holt.
Mr. Rosenthal with Mr. Livingston.
Mr. Stenholm with Mrs. Heckler.
Mr. Ullman with Mr. Lujan.
Mr. Waxman with Mr. Ashbrook.
Mrs. Spellman with Mr. Gradison.
Mr. Runnels with Mrs. Fenwick.
Mrs. Schroeder with Mr. Lungren.
Mr. Udall with Mr. McEwen.
Mr. Leath of Texas with Mr. Royer.
Mr. Stark with Mr. Edwards of Alabama.
Mr. Synar with Mr. Rousselot.
Mr. Miller of California with Mr. Symms.
Mr. Moorhead of Pennsylvania with Mr. Nichols.
Mrs. Boggs with Mr. John L. Burton.
Mr. Coelho with Mr. Bonker.
Mr. Cavanaugh with Mr. Dixon.
Mr. de la Garza with Mr. Duncan of Oregon.
Mr. Evans of Georgia with Mr. Hawkins.
Mr. Heftel with Mr. Rose.
Mr. Murtha with Mr. Pickle.
Mr. Boner of Tennessee with Mr. Walgren.

Mr. MICA changed his vote from "nay" to "yea."

Mr. KOSTMAYER changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BALDUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONFERENCE REPORT ON H.R. 3354, NAVAL PETROLEUM AND OIL SHALE RESERVES AUTHORIZATION ACT, 1980

Mr. STRATTON submitted the following conference report and statement on the bill (H.R. 3354), to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96-596)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3354) to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

Sec. 2. The Secretary of the Navy, in coordination with the Secretary of Energy, shall insure that commissioned officers of the Navy on active duty continue to be assigned to key management positions within the Office of Naval Petroleum and Oil Shale Reserves in the Department of Energy. The position of Director of such Office shall continue to be filled by a qualified officer of the Navy on active duty in the grade of captain.

Sec. 3. (a) Section 7422(c) of title 10, United States Code, is amended by striking out the last sentence of paragraph (1).

(b)(1) Section 7432 of such title is amended to read as follows:

"§ 7432. Authorizations of appropriations

"(a) Funds for the following purposes may not be appropriated unless such appropriations have been specifically authorized by law:

"(1) Exploration, prospecting, conservation, development, use, operations, and production of the naval petroleum reserves as authorized by this chapter.

"(2) Production (including preparation for production) as authorized by this chapter or as may be authorized after April 5, 1976.

"(3) The construction and operation of facilities both within and outside the naval petroleum reserves incident to the production and the delivery of petroleum, including pipelines and shipping terminals.

Sums appropriated for such purposes shall remain available until expended.

"(b) Contracts under this chapter providing for the obligation of funds may be entered into for a period of five years, renewable for an additional five-year period; however, such contracts may obligate funds only to the extent that such funds are made available in appropriation Acts.".

(2) The item relating to section 7432 in the table of sections at the beginning of chapter 641 of such title is amended to read as follows:

"7432. Authorizations of appropriations.".

(c) The naval petroleum reserves special account established by section 7432 of title 10, United States Code, as in existence on the day before the date of the enactment of this Act, is abolished. Unappropriated balances of funds in the naval petroleum reserves special account on the date of enactment of this Act shall be transferred on the books of the Treasury into miscellaneous receipts, and all moneys accruing to the United States after such date under chapter 641 of title 10, United States Code, shall be covered into the Treasury as miscellaneous receipts.

And the Senate agree to the same.

SAMUEL STRATTON,
ROBERT H. MOLLOHAN,
DAN DANIEL,
BOB BEARD,
ROBERT W. DANIEL, Jr.,
Managers on the Part of the House.

GARY HART,
HENRY M. JACKSON,
HOWARD W. CANNON,
STROM THURMOND,
JOHN TOWER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R.

3384) to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the bill struck out section 2 and substituted therefor a new section 2 containing a permanent authorization of appropriations for the naval petroleum and oil shale reserves and certain "housekeeping" provisions requested by the Administration.

The Senate recedes from its disagreement on the assignment of commissioned officers of the Navy to the Office of Naval Petroleum and Oil Shale Reserves in the Department of Energy. The House recedes from its disagreement on the "housekeeping" provisions contained in the Senate bill and they are included in section 3 of the Conference Report. The conferees agreed to substitute a requirement for specific authorization of appropriations for the conservation, exploration, development and use of the naval petroleum and oil shale reserves.

The House had included in its bill the requirement for the Navy to assign 16 Naval Officers to the Office of Naval Petroleum and Oil Shale Reserves during Fiscal Year 1980. The Senate amendment did not include this provision. Administration witnesses had testified against the House provision, preferring instead to "civilianize" the management of the Office of Naval Petroleum and Oil Shale Reserves.

The conferees are mindful that the naval petroleum and oil shale reserves were originally set aside for national defense contingency purposes. The Congress, in drafting the Department of Energy Organization Act, had sought to continue this emphasis, requiring that the Secretary of Energy "take into consideration the requirements of national security" in administering these reserves. The conferees continue to feel strongly that these reserves are a unique national asset that should be carefully managed with primary consideration being given to the national defense requirements. The historic connection between the reserves and the Department of Defense through the Navy is more than a tradition; it is a clear reminder of our armed forces' crucial dependence on mobility fuels. That connection must be maintained. Under the provisions of the Naval Petroleum Reserves Production Act, there will be a key decision in 1982 regarding continued production of the reserves. National defense needs must drive that decision.

In view of the above, the conferees agree that Navy management of the reserves should continue. The specific House requirement for 16 naval officers has been dropped in favor of a general requirement that Navy officers be assigned to key management positions. The position of Director of the Office of Naval Petroleum and Oil Shale Reserves is required to be filled by a Navy captain. The remaining numbers and positions to be filled by naval officers are left to the joint determination of the Secretaries of Energy and Defense. As a minimum, the conferees would expect to see naval engineers assigned to all of the field sites.

The conferees noted that the Navy no longer trains officers, engineers, or lawyers to take a management role in the reserves. The Navy should correct this shortcoming.

SAMUEL STRATTON,
ROBERT H. MOLLOHAN,
DAN DANIEL,
BOB BEARD,
ROBERT W. DANIEL, JR.,
Managers on the Part of the House.

GARY HART,
HENRY M. JACKSON,
HOWARD W. CANNON,
STROM THURMOND,
JOHN TOWER,
Managers on the Part of the Senate.

FEDERAL FIRE PREVENTION AND CONTROL AUTHORIZATION, 1980

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1160), an act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

SECTION 1. Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 17. (a) There are authorized to be appropriated to carry out the foregoing provisions of this Act, except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act, an amount not to exceed $25,210,000 for the fiscal year ending September 30, 1980, which amount includes—

"(1) $4,781,000 for programs which are recommended in the report submitted to the Congress by the Administrator pursuant to section 24(b)(1);

"(2) $9,430,000 for the National Academy for Fire Prevention and Control;

"(3) $307,000 for adjustments required by law in salaries, pay, retirement, and employee benefits;

"(4) $500,000 for additional rural firefighting technical assistance and information activities;

"(5) $500,000 for the study required by section 26 of this Act; and

"(6) $110,000 for the study required by section 27 of this Act.

"(b) There are authorized to be appropriated for the additional administrative expenses of the Federal Emergency Management Agency, which are related to this Act and which result from Reorganization Plan Numbered 3 of 1978 (submitted June 19, 1978) and related Executive orders, an amount not to exceed $600,000 for fiscal year ending September 30, 1980.".

SEC. 2. Section 21(b)(4) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(b)(4)) is amended by striking out: "$100 a day" and inserting in lieu thereof "the daily equivalent of the maximum, annual rate of basic pay then in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332(a))".

SEC. 3. Section 16(b) of the Act entitled "An Act to establish the National Bureau of Standards", approved March 3, 1901 (15 U.S.C. 278f(b)), is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated an amount not to exceed $5,650,000 for the fiscal year ending September 30, 1980, which amount includes—

"(1) $525,000 for programs which are recommended in the report submitted to the Congress by the Administrator of the United States Fire Administration pursuant to section 24(b)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2220(b)(1)); and

"(2) $119,000 for adjustments required by law in salaries, pay, retirement, and employee benefits.".

SEC. 4. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 26. (a) The Administrator shall, within ten months of the date of enactment of this section, complete a study of the effectiveness of smoke detectors, heat detectors, and sprinkler suppression systems in saving lives, preventing injuries, and limiting property damage in fires, which report shall be submitted to the Congress and the President. In conducting such study, the Administrator shall consider, among other factors—

"(1) whether and the extent to which such devices and systems have been and are effective in reducing the severity of fires, including estimates with respect to the potential for savings in lives, and injury prevention attributable to the operation of such systems and devices;

"(2) the experience of Federal organizations, States, localities, and other political subdivisions which have required the use of such systems and devices; and

"(3) a description of Administration programs regarding smoke detectors, heat detectors, sprinkler suppression systems and other systems, together with an analysis of the utilization of these systems and devices as a result of these programs.

"(b) If the Administrator determines, as a result of the study conducted pursuant to subsection (a) of this section, that smoke detectors, heat detectors, sprinkler suppression systems or other similar systems or devices either have been or may be of assistance in the detection and control of fire, the Administrator shall include, as part of the report conducted pursuant to this section, recommendations regarding what should be the Federal role, if any, with respect to creating incentives for the use of such devices or systems by the public, by business concerns, and by Federal, State, and local governments. In making such recommendations, the Administrator shall consider—

"(1) the incentives, including financial incentives, which might be developed to require or facilitate installation within new or existing buildings of smoke detectors, heat detectors, sprinkler suppression systems, or any combination of such systems, or other similar systems and devices; and

"(2) the benefits, if any, of demonstration or other such programs directed at residents in high impact fire areas in order to increase the use of smoke detectors, heat detectors, sprinkler suppression systems, or other systems or devices.

"(c) As part of its report submitted pursuant to this section, the Administrator shall provide specific legislative proposals to the Congress for implementing any recommendation made pursuant to this section.

"(d) Upon request of the Administrator, each Federal department and agency shall furnish to the Administrator such information, data, estimates, and statistics, and allow the Administrator access to all information in its possession, as the Administrator may reasonably determine to be necessary for the conduct of the study required by this section.".

SEC. 5. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is further amended by adding at the end thereof the following new section:

"FIREFIGHTER SAFETY STUDY

"SEC. 27. (a) The Administrator shall conduct a review of firefighter safety. Such review shall include, but need not be limited to—

"(1) an analysis of the current situation with respect to the safety of firefighters;

"(2) an analysis of the effectiveness of protective garments, firefighting breathing equipment, personal communications systems, and other protective subsystems, together with recommendations for improving such equipment in order to further firefighting safety;

"(3) development of a plan for increased technology transfer to firefighting units of more effective technologies in the areas identified in paragraph (2) of this subsection.

"(b) The Administrator shall submit to Congress the results of such review, together with appropriate recommendations for legislation, not later than March 31, 1980.".

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment—Senate amendment to the House amendment—be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HOLLENBECK. Mr. Speaker, reserving the right to object, I would yield to the gentleman from Florida for the purpose of explaining the amendment.

Mr. FUQUA. Mr. Speaker, I rise in support of S. 1160 to authorize fiscal year 1980 appropriations for the U.S. Fire Administration and the Center for Fire Research at the National Bureau of Standards. My colleague, the gentleman from California, spells out the details of the bill in his remarks. Let me say that I commend him and the other members of our Science, Research and Technology Subcommittee for their efforts in fashioning a compromise between the House and Senate versions of this bill.

I will just make a few points on my own. First, the Senate initiatives on home fire detectors, rural firefighting, and firefighter safety are valuable and bring out explicitly several concerns expressed in testimony. I wholeheartedly recommend their authorization.

The bill also represents our determination that new programmatic initiatives, such as those I just mentioned, must be scrutinized carefully. For example, in connection with the firefighter safety item we negotiated a very substantial budget reduction with the Senate. We did so because we believe that effective transfer of new technology developed by Federal research is fundamentally product marketing involving close personal contact. Selling a product involves more than distributing glossy brochures, and technical papers, or conducting isolated field tests. In its proposal the Senate would have authorized $955,000 for additional field tests of new firefighter protection equipment first developed by NASA and now being adapted in a collaborative effort with the U.S. Fire Administration.

While I commend this collaboration, we urged, and the Senate graciously accepted our suggestion to authorize $110,000 to permit the Fire Administration to develop a comprehensive program of technology transfer in this area. Therefore, I hope the Administrator of the U.S. Fire Administration will exploit this mandate to develop an outstanding and innovative technology transfer program involving close personal contact between itself, NASA, and State and municipal fire departments. As chairman of our Space Subcommittee, I know well that their experience could benefit many Federal agencies.

Mr. Speaker, I strongly support S. 1160 and hope the House will accept this compromise.

Mr. HOLLENBECK. Mr. Speaker, further reserving the right to object, I would yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I rise in support of S. 1160. S. 1160 authorizes $25,210,000 for the U.S. Fire Administration, $5,650,000 for the Fire Research Center of the National Bureau of Standards, and $600,000 for administrative expenses of the Federal Emergency Management Agency required for implementation of the 1974 Federal Fire Prevention and Control Act for the fiscal year 1980. I think that we have arrived at a fair and responsible agreement with the Senate which incorporates the best features of the Senate's programmatic initiatives while not substantially increasing the amount authorized by the House. I think the substantive contributions of the Senate are an improvement on our bill.

Mr. Speaker, the bill divides the authorization between two agencies, the Fire Research Center of the National Bureau of Standards and the U.S. Fire Administration which is part of the new Federal Emergency Management Agency. It is perhaps simpler if I combine these two authorizations to give the overall figures authorized under this bill and compare them with the President's budget.

First, the authorization includes $17,896,000 representing the basic request of the President to operate the programs of the U.S. Fire Administration and the Center for Fire Research. That figure represents an increase of $395,000 over the amount authorized by the House. Essentially in our compromise with the Senate, we agreed to match the President's request although the marginal difference of $395,000 itself represents a certain confusion within the President's budget as to whether base pay increases and FEMA management expenses would be allocated within the funds for the U.S. Fire Administration or as a separate line item. Given the important objectives of this act, I think it is suitable that we go along with the Senate's feeling that approval of the President's meager request be accepted.

In addition there is another consideration. Since the initial authorization hearings on this bill, the rate of inflation has nearly doubled. This very small increased authorization ($395,000) may offset somewhat, problems which would occur from the unanticipated growth in the rate of inflation. In making this allowance, however, I want to make it very plain that I think the administration should do its utmost to tackle the problem of inflation. By that I mean going far deeper than minor tinkering with monetary policy.

We must get at the root of inflation, that is the basic stagnation of the U.S. economy as a result of declining innovative capacity in the face of spreading resource shortages. These have set us at a distinct economic disadvantage with foreign competitors. I will leave that subject for further discussion in the context of other legislation. I note it here simply as a reservation to the acceptance of the cost-escalator inflation which has unfortunately increased during the last several months, since this authorization process began.

The next item consists of $6,122,000 to operate the U.S. Fire Academy. At the time of the preparation of the President's budget, the Academy had not yet been purchased and thus was submitted as a supplemental appropriation request. This figure incidentally is nearly $1 million less than the estimated expenditure provided to us by the Fire Administration last April. I am glad that the Administration has examined its estimates more closely.

The next item consists of $426,000 for base pay increases mandated by law. This is the figure contained in our original bill, H.R. 4016. It should be noted that the Senate bill, through an oversight, did not contain this amount. I feel it would be unfair to penalize our legislative partners for this temporary lapse; however, we did use it to good advantage in negotiating careful scrutiny of the rationale for initiatives which the Senate desired.

Next the bill authorizes $600,000 for Federal Emergency Management Agency (FEMA) management expenses. This figure, too, is based on an estimate provided to us in April by representatives of the U.S. Fire Administration. This line item also was left out through oversight by the Senate. My rationale for accepting this figure is the same as for the previous case of base pay increases. Nevertheless, I note again that we impressed upon the Senate the need to draft their legislation carefully and to justify fully those programmatic increases which they desired.

The next line item consists of $5,306,000 for programs connected with arson prevention and control. These grew out of a report requested by the Congress in the fiscal year 1979 authorization. That report has now been received although somewhat late—an occurrence we hope will not be repeated. This item represents a genuine increase over the President's request since all the previous items were included in the form of "as necessary" in the President's request bill.

As I mentioned last spring I believe the area of arson prevention and control is one of the few areas where there

exists evidence to suggest that a small infusion of Federal money could leverage very substantial benefits in the reduction of arson. Arson is growing to epidemic proportions throughout the country; it represents a major killer and a major loss of property. I believe the administration has done a reasonably good job in preparing this report. However, as I emphasized last spring I hope they will report back to us on the success of this first year trial program and will not hesitate to deal frankly with both the successes and the difficulties which they have encountered. At that time we can judge, based on the evidence, whether the program should be continued.

The next three items represent requests by the Senate. All, I believe, have sound aims, and I do hope that the Fire Administration can achieve them.

The first authorizes $500,000 for a study of the effectiveness of smoke detectors, heat detectors, and sprinkler systems, particularly in residences.

Mr. Speaker, the major cause of fire deaths and property losses are fires in residences. Many of these fires occur when people are asleep, as a result of fires started in mattresses or in couches following cigarette smoking. There is every reason to believe that smoke detectors and home sprinkler systems could make a substantial reduction in this cause of fire deaths and fire property losses. Indeed, until recently, at least, the sale of smoke detectors has been one of the fastest growing industries in the country. Yet, how effective are smoke detectors and home sprinkler systems?

Research by the Fire Administration and the National Bureau of Standards indicates the latter are now reaching the cost level where they can be afforded by the individual homeowner. But how many deaths do they really prevent? Furthermore, how effective have been the nearly 2 million public brochures distributed by the U.S. Fire Administration which urge homeowners to purchase and install smoke detectors. These are the questions for which we seek answers in this line item initiated by the Senate. I heartily approve the intent, and I hope that the Administration will respond to this challenge. The report is to contain, among other things, a description of Administration programs regarding fire and smoke detectors and should analyze how Federal programs have increased the use of smoke detectors above and beyond what would have occurred without the Federal program. In addition, the study requests that the experience of States and cities which have required the use of smoke and fire detectors should be examined.

The next line item consists of $500,000 for rural fire protection assistance. Mr. Speaker, as the Senate report rightly notes, fire statistics developed by the Fire Administration have shown that the per capita death rate in rural areas may far exceed the national average. This situation may even be exacerbated by the current U.S. energy problems. For example, the increased use of wood to heat rural homes, which I thoroughly approve, nevertheless opens up the hazard of chimney fires started in improperly maintained chimney flues.

In addition, the vast majority of the fire departments of this country are smalltown volunteer fire departments; they are not the big city fire departments. We must make a much greater attempt to reach out to these small departments and provide them with the technical assistance and information which is beyond their technical and personnel resources to acquire on their own.

In this connection, new developments in communications technology, particularly satellite communications, make it possible to imagine a "disaster proof" emergency information network which could supply vital information and communication links to isolated fire departments during large-scale emergencies. These links could also be used to provide direct class participation in advanced training courses to rural fire departments. I specifically urge the Fire Administration to investigate the feasibility of applying advanced communication technology, especially satellites, to developing a comprehensive emergency management information network. Concern for rural fire protection, Mr. Speaker, was expressed by several members of our subcommittee during the markup in full committee, I am glad that the Senate has explicitly recognized this need.

I hope the Fire Administration will also provide technical assistance and information to establish training and practice centers designed to meet the special needs and conditions of rural firefighters. In addition, we must obtain better data on the true extent, nature, and causes of rural fires, and I hope the Fire Administration will apply some of this funding to that aim above and beyond current activities. Obviously, $500,000 does not go very far, but I hope the Fire Administration will take this additional authorization and apply it as seed money for exciting and innovative projects to reduce the deplorable high toll of rural fires.

The final item in the bill consists of $110,000 for a review of firefighter safety. Mr. Speaker, firefighting is one of the most hazardous occupations surpassed only, I believe, by deep sea diving, and there are, of course, many fewer divers than there are firefighters. This hazard to firefighters derives from two general causes: First, firefighters are subject to extreme stress and heavy physical exertion in smoke-filled environments, but also spend much time in a sedentary condition while waiting for the next alarm to sound. Second, a great deal of firefighters' protective equipment is outmoded—jackets are heavy and stiff, thus making it extremely hard to move about.

Mr. Speaker, I should note that the Senate requested $955,000 for increased field testing of protective garments developed by the National Aeronautics and Space Administration (NASA) and being adapted with the U.S. Fire Administration to civilian specifications.

I heartily approve this type of effort. Our Science, Research, and Technology Subcommittee has held numerous hearings to try to discover and foster better mechanisms for applying and disseminating the products of Federal research. But if there is one thing we have learned, it is that technology transfer from Federal laboratories to State and local governments occurs on a personal basis. It does not occur because some agency publishes a brochure or because there is one field test. It seems to occur most effectively when individuals go out and make contacts selling the product like any other business with potential clients. These "technology transfer agents" find the individual clients and adapt the agency product to their needs.

Therefore, in our negotiations with the Senate, we urged them not to authorize more money for a few additional field tests, but to authorize the Fire Administration to undertake a substantial study to develop a program of effective technology transfer to State and local governments, as soon as practical. Such a program might include further field tests but, I believe, should strongly emphasize the recruitment and training of personnel who can go out acting almost in the capacity of a consultant to determine individual fire department's needs with regard to firefighting protective garments, breathing equipment, personal communications systems, and other protection devices.

If some of these devices are not now being manufactured, I hope that NASA and the U.S. Fire Administration, having perhaps surveyed potential market demands, will find ways to stimulate the private sector to undertake production. It is seed money for this future technology transfer program which we authorize here. The figure of $110,000 was chosen based on the fact that last year we authorized $100,000 for an arson study. After compensating for inflation over the intervening years, we have set the figure at $110,000 as the reasonable amount to undertake this proposal.

I congratulate the Senate for pointing out this important initiative, but I want to emphasize that the Fire Administration should recognize that a critical element in successful technology transfer is personal contact from agency to the client. Technology transfer is the business of promoting Federal technology. That requires just as much a selling job as does marketing any product. We should accept that fact and stimulate the right attitude within Federal agencies. I hope the U.S. Fire Administration will take the lead in setting an example to other agencies in FEMA and throughout the Federal Government.

Mr. Speaker, that concludes my speech except to mention two deleted items from the House and Senate bills.

First, the Senate requested $594,000 in additional funds in the Center for Fire Research. We could not find any satisfactory record to justify this request and, hence, we urged them to focus the program where demonstrated needs exist. They have been more than reasonable in concurring.

Second, the bill as passed by the House made the authorization for the FEMA management expenses contingent upon completion of the reorganization of that agency and upon the appointment of a Director. Both conditions have now have fulfilled. I am glad they have taken the step of bringing separate Federal emergency agencies together, and I am glad that there is now a Director after many months of delay. Let me also say that the need for comprehensive planning program design within the agency is still there. Emergency management must be planned as a comprehensive, systematic effort to better prevent catastrophes and emergencies such as fire, earthquake, flood and nuclear war.

To summarize the bottom line, the Senate asked for $33,899,000; the House authorized $31,049,000 representing a difference of $2,850,000. The compromise bill authorizes $31,460,000; that is $411,000 above the House proposal, but $2,439,000 below the Senate proposal. Mr. Speaker, I believe we have done very well in our negotiations. I wish to thank my colleagues on the Science Committee and the staff for their assistance in preparing this bill.

I urge the House to accept (S. 1160) the Senate amendment to the House bill.

Mr. HOLLENBECK. Mr. Speaker, I join my colleague, the distinguished gentleman from California and rise in support of S. 1160 which authorizes appropriations for the Federal Fire Prevention and Control Act. Let me say that this is a time of financial limits. In the course of reaching this compromise, we examined closely the aims and purposes of this act to arrive at an excellent compromise between our two bills without busting the budget. I agree that the Senate initiatives on rural firefighting protection, on firefighter safety and on the test of the effectiveness of smoke detectors and home sprinkler systems are excellent. On the latter subject I should note that I have for many years supported legislation which would grant a tax deduction for homeowners who install smoke detectors. I hope that this study would provide some information as to how effective such measures might be while giving us, at the same time, insight on the effectiveness of public education programs run by the U.S. Fire Administration.

Mr. Speaker, from my point of view, in one of its most important provisions this legislation authorizes $5,306,000 for a program of arson prevention and control. As I noted in my remarks on H.R. 4016 this spring, in 1 month recently 28 people were killed in my State of New Jersey in arson fires. In other States as well, arson has risen dramatically over the past 4 years. Annual losses are $1.4 billion a year in property and over a thousand lives out of total fire deaths in this country of 8,700 per year. Mr. Speaker, I think it is very important that antiarson efforts be pursued vigorously.

I would like to emphasize how important it is that the Federal program take a comprehensive view to the solution of our arson problem as a total community effort. It is not one which can be solved solely by investigative forces with more efficient sniffers but involves the creation of community attitudes which frown upon arson and which take pride in maintaining and preserving buildings.

I hope that we will also receive recommendations as to how we might remove incentives for arson which exist in Federal, State, and local laws. For example, I understand that some unscrupulous landowners are taking advantage of Federal insurance programs in ghetto areas to destroy properties through arson for insurance benefits. This situation must be corrected. I would stress here that this authorization is on a trial basis, however, and we want to receive continued reports as to the effectiveness of the program so that it may be adjusted upward or downward as appropriate.

Mr. Speaker, I also concur with the remarks of my colleague, Chairman FUQUA, in insisting upon the importance of personal contact in effective technology transfer. I urge the Fire Administration to be bold and innovative in designing this novel technology transfer program for firefighter safety which we will authorize here today if this bill passes. As he wisely notes, technology transfer is nothing other than a fancy term for marketing a product. If agencies need new legislative mandates to undertake this sort of activity, so be it. We should grant it to them. We should not have the results of Federal research and development lying idle on the shelves of Government laboratories.

I commend the NASA and USFA initiatives in this regard, but recognize that it must go much further than the printing of glossy colored brochures. As we all know, it is a good sales effort which sells us and convinces us of the need of a new product. The situation is no different because this is a public technology as opposed to one developed by the private sector.

Mr. Speaker, I urge my colleagues to pass this bill. I think it contains a fiscally sound compromise with the Senate. We have made the Senate examine its priorities while recognizing the important initiatives which they undertook; I can wholeheartedly recommend S. 1160 from a substantive as well as a fiscal point of view. I wish to commend Chairman BROWN, Chairman FUQUA, Mr. WYDLER, my colleagues on the subcommittee and the staff for arriving at this compromise. I urge the Senate bill be adopted.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. WYDLER. Mr. Speaker, I join my colleagues, CAP HOLLENBECK, Chairman FUQUA, Chairman BROWN, and rise in support of S. 1160 which authorizes fiscal year 1980 appropriations for the Federal Fire Prevention and Control Act of 1974. Since the arguments have been well presented, I will be brief.

Let me say that this bill does represent a real effort at tough bargaining with the Senate. We have reduced their authorization request from $33,899,000 to $31,460,000—which is $411,000 above the amount authorized in our bill, H.R. 4016. But, let me say, this process has been highly constructive as well. As the remarks of my colleagues on the firefighter safety program illustrate, this bargaining forced both the Senate and House committee members and staff to examine closely the real priorities which were involved in these bills.

While fully recognizing the tremendous importance of improving firefighter safety, for firefighting is one of the most hazardous occupations in this country, I do not believe that simply undertaking more field tests of new equipment is the way to proceed. It is most important that the U.S. Fire Administration develop an aggressive sales force, as they say in the private sector, to get out and market these new inventions to State and local fire departments. It may be necessary to custom design and adapt this new equipment to meet particular local needs.

I look forward to hearing next year of the type of program which the U.S. Fire Administration intends to put forward. I hope it will live up to my expectations. We need to develop far better methods for applying the result of federally sponsored research and development—not only in fire protection but all scientific fields.

Mr. Speaker, in conclusion let me say that I support the proposed S. 1160. I urge the House to support the compromise too. I commend my colleagues, CAP HOLLENBECK and Chairman BROWN, as well as the staff of the Subcommittee on Science, Research and Technology for their efforts in preparing this legislation for our consideration today.●

● Mr. ERTEL. Mr. Speaker, this authorization for the U.S. Fire Administration is an important one. The bill authorizes funding for two necessary and long-neglected programs: Arson prevention and rural fire protection. I am extremely pleased to see that much needed attention is being focused on these programs.

The Nation's arson problem is growing seriously. It has been termed "a national epidemic fanned by criminal involvement, urban decay, social change, and economic trends." While arson has traditionally been viewed as a local problem, its patterns, the criminals' operations, and the magnitude of the problem extend beyond municipal boundaries. Only through a coordinated effort by Federal, State, and local agencies can arson be reduced. This is the type of effort envisioned in this authorization.

Arson is the fastest growing crime in America—rising at a national average rate of 23 percent each year. More than 1,000 lives are lost to arson each year. The national annual direct loss to arson is estimated at $65 billion. This is comparable to larceny-theft ($1.1 billion) and robbery ($1.3 billion). Tax losses could multiply that figure as much as four times.

Arson motives range from arson-for-profit to revenge. It is committed to stop business losses, to collect insurance

moneys, to remove low-income tenants, to create new parcels for construction, and to settle fights. The funding under this legislation for an arson program should make an important contribution to our efforts to deal with this serious problem.

This legislation also provides funds for a rural fire protection program. This is an area which has been neglected for too long. The funds will be used, among other things, to provide technical assistance and information to establish training and practice centers designed to meet the special needs and conditions of rural firefighters. The program will also analyze the quality of data on rural fires. At this time we do not really have any accurate statistics in this area. There are indications, however, that rural fires are a much greater problem than has previously been thought.

Finally, the rural fire protection program will also be active in public education activities to delineate what steps are needed to deal with rural fire problems and strengthen fire protection efforts.

Mr. Speaker, this bill is an important one which addresses itself to significant needs. I urge my colleagues to join me in support of this legislation.●

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida to dispense with reading of the Senate amendment to the House amendment?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1037, DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. DELLUMS. Mr. Speaker, I call up the conference report on the Senate bill (S. 1037), to establish an actuarially sound basis for financing retirement benefits for police officers, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the provision of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 2, 1979.)

The SPEAKER pro tempore. The gentleman from California (Mr. DELLUMS) will be recognized for 30 minutes, and the gentleman from Connecticut (Mr. MCKINNEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

The House and Senate have reached agreement in conference on a thorough reform of the District of Columbia pension system for police officers, firefighters, judges, and teachers. This legislation is a landmark in municipal pension reform.

This conference report is the result of over 6 years of study and hard work by the House and Senate District of Columbia Committees and the government of the District of Columbia.

Since 1975, the House District Committee alone has taken testimony on this proposal from over 100 witnesses. Further, in its current form this bill represents a carefully crafted compromise between the District's employees and retirees, the District government, and the Federal Government.

The conference report adopts a substitute for both the Senate bill and the House amendment to the text of the bill. The major agreements reached in the conference include:

S. 1037 would establish 3 separate retirement funds for D.C. police officers and firefighters, teachers, and judges—all to be managed by one 11-member Retirement Board with 6 members elected by active and retired employees and 5 appointed by the city. The Board would control and manage the three funds according to standards, including reporting and disclosure, modeled on the Employment Retirement Income Security Act.

Funding would be provided by the District government, the Federal Government, and employee contributions. The conference report would set the Federal contribution at $52.07 million a year for 25 years as the Federal share of the unfunded liability for employees who retired before "home rule" began in January 1975. The funding figure is a compromise between Senate and House figures. The total includes $34 million for the police officers and firefighters' fund, $17.68 million for the teachers' fund and $220,000 for the judges' retirement fund.

The conference report would set the effective date of funding at fiscal 1980, accepting the House's position on the date.

The conference report would commit the Federal Government to provide funding for 80 percent of the unfunded liability for service retirements and 33⅓ percent of the unfunded liability for disability retirements as of the date of "home rule," with interest accrued to October 1, 1979, a compromise between House and Senate versions.

The conferees adopted a Senate provision to require a reduction in the Federal contribution in any year when the estimated cost of disability retirements for police officers and firefighters hired prior to enactment exceed by more than 2 percent the cost of disability retirements they would have been entitled to if they had been hired after enactment and subject to reforms made by the bill. Also accepted by conferees was a House amendment to guide the actuary.

The conferees accepted a House amendment which would require that all those who retire in the future and then accept employment with the District would have their salaries reduced to insure that combined retirement and active service pay would not exceed the salary for the new position.

The conferees agreed to provisions, which would terminate disability benefits for persons reemployed by departments from which they retired, for persons medically determined to have recovered, for persons whose earning capacity has been restored, or for police officers and firefighters, hired in the future, who are retired, and then refuse an offer of reemployment from their department.

COST

The conference report would authorize a total of $1,301,750,000 for fiscal 1980 through 2004.

Mr. Speaker, I would like to conclude by thanking my distinguished colleague, the Delegate from the District of Columbia (Mr. FAUNTROY), and my distinguished colleague, the gentleman from Kentucky (Mr. MAZZOLI), and certainly we appreciate the extraordinary work of my colleague on the other side of the aisle, the gentleman from Connecticut (Mr. MCKINNEY).

□ 1720

Mr. MCKINNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with the chairman of the House Committee on the District of Columbia in bringing to the floor the long overdue District of Columbia Retirement Reform Act. What we have before us today is the end product of many months of hard work.

The original D.C. pension reform bill was introduced by our former colleague from California, the Honorable Tom Rees, in the 93d Congress and the resultant delay in getting it this far has been both frustrating and costly. Last year, in the closing days of the 95th Congress, we were confident that we had laid this issue to rest only to have the President, acting on what I and many of my colleagues considered ill advice, pocket veto this legislation.

As proves to be the case with many pieces of legislation which are debated for an extensive period of time, the bill which has emerged from conference is a better bill overall. It is a better bill because the Federal contribution, that amount to be carried by the American taxpayer, is significantly less. Admittedly, the final annual Federal authorization of $52.07 million is $2.33 million more than the $49.74 million contained in the original House bill (H.R. 3939). However, this final figure is $12.93 million less than the annual Federal authorization contained in the original Senate bill, S. 1037.

Also, in using simple mathematics without adjustments for inflation, this

represents an annual $12 million savings for the Federal Government over the bill passed last year. These savings were arrived at by a readjustment of the formula for ascertaining the Federal/District contribution to the unfunded liabilities for service retirements and disability retirements.

In addition to the adjustments in the funding formulas, the compromise bill which we bring to the floor today has also succeeded in plugging some of the loopholes which have been the avenues for abuse of the present D.C. retirement system. I refer in particular to the disability retirements of the District's police and firefighters. Whereas, we ended with 99 percent of the firefighters and 98 percent of the police officers retiring on disability in 1969, a figure which has since been lowered to 44 percent, passage of this legislation will assure that we in the Congress and the citizens of the District of Columbia will never have to witness such exorbitant figures in the future.

Mr. Speaker, I know that it has been said many times in relation to this issue, but Congress created the problem we face today by ignoring this issue for far too long. Last year, the 95th Congress gave its overwhelming approval to the conference report on the D.C. pension bill. I am hopeful that the Members of the 96th Congress will recognize their responsibility to resolve this issue once and for all.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MCKINNEY. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I wanted to rise in support of the conference report, and also to express my personal pleasure with being able to cosponsor and support legislation along with the gentleman from Connecticut and the gentleman from California, the distinguished chairman of the District of Columbia Committee. It is a rather rare juxtaposition of support for legislation. I hope it does not damage the chances of passage.

Mr. MCKINNEY. I will think of this moment often. I thank the gentleman.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to my distinguished colleague from Kentucky (Mr. MAZZOLI), a gentleman who worked very hard to bring this legislation before us today.

Mr. MAZZOLI. Mr. Speaker, I would like to rise very briefly to commend my chairman, the gentleman from California (Mr. DELLUMS), for his very diligent work now through two Congresses in shepherding this bill to final passage today. Second, I would like to commend, as I am sure my chairman already has, the excellent staff work we have had throughout this entire effort on both sides of the aisle. Our staff has been superb and has done a job that this House can be proud of.

Mr. Speaker, I rise in support of the conference report.

This bill, S. 1037, is the result of over 4 years of study and hard work by the House and Senate District of Columbia Committees, and the government of the District of Columbia.

Since 1975, the House District Committee alone has taken testimony on this proposal from over 100 witnesses. Further, in its current form this bill represents a carefully crafted compromise between the District's employees and retirees, the District government, and the Federal Government.

Also, the conference report before the House reflects the hard work and care with which the committee and its distinguished chairman, the gentleman from California (Mr. DELLUMS), approached this problem.

The conference report contains, as its central feature, a funding system that will—with a Federal contribution of slightly more than $50 million per year—put the District's pension plans well on the road to financial health.

Adoption of this conference report, by creating an actuarially sound funding system, by recognizing a Federal responsibility for part of the cost of District pensions, and by reducing the cost of disability retirements will be a considerable step forward.

I must emphasize this point though: this conference report is only the first step on the road to financial health for these pension plans. Budgetary concerns and restraints have mandated that this first step be a small first step.

The conference report would have the Federal Government assume 80 percent of the liability for normal retirements which occurred prior to home rule and 33⅓ percent of the liability for disability retirements which occurred prior to home rule.

The conference report also calls for an annual actuarial report on the amount of the unfunded retirement liabilities which is not identified as a Federal responsibility.

In addition to the 20 percent of regular retirements and 66⅔ percent of disability retirements occurring prior to home rule, the unfunded retirement liability includes 100 percent of the pension liability accruing for employees in District's employ as of the date of home rule.

The conference report puts the control of these pension funds under an independent board, a majority of whose votes are controlled by District employees. This board will invest funds subject to careful guidelines and disclosure requirements to prevent abuses.

The conference report makes two provisions to reform disability retirements which have been the subject of much abuse in the past.

First, for all future employees, disability retirements benefits will be based on the extent of the actual disabling injury.

Second, no employee—including current employees—will be able to receive a service-connected disability retirement on the basis of on-duty aggravation of an off-duty injury.

The House District Committee's investigations have indicated these two changes will lead to dramatic savings in disability retirements costs.

Also, since last year's conference report was adopted by the House, the District of Columbia has taken a number of administrative steps which have greatly reduced the cost and number of disability retirements. The conference report adopts House language which should facilitate this welcome process of administrative reform.

In short, Mr. Speaker, this is a good conference report. I urge that my colleagues give it their support.

Mr. DELLUMS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL FAMILY WEEK

Mr. HANLEY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 68) to authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. MARRIOTT. Mr. Speaker, reserving the right to object, as a sponsor of this joint resolution along with my good friend from Indiana, Congressman JOHN MYERS, who has been a champion of this cause, I rise to voice my strong support of this joint resolution and of the committee for taking it up and bringing it before this body.

Mr. Speaker, once again we have before this body a bill to designate a National Family Week. And once again, as its sponsor, I stand before you to plead the cause for the survival of the family in America.

House Joint Resolution 68 will establish the week of November 18 through 24 as National Family Week. I urge the President of the United States, Governors of the individual States, mayors of our cities and towns, as well as community leaders of all civic and religious organizations, to use that week as a platform in calling attention to the importance of family life in America.

The family is the basic unit of society. It is the most important institu-

tion in the world and the very lifeblood of America. It has by far the most influence in shaping our children's destiny and in forming their attitudes and habits.

Experts tell us that a child's psychological development is determined almost entirely by parents in the family relationship—and that the most critical years are the first 6 years of life.

The family relationship should provide for every child a place of peace, a refuge from sarcasm, criticism, and loneliness. The family relationship instills a sense of purpose to life. A healthy family relationship can provide training, learning, spirituality, patriotism, and love unequaled by any other institution.

As policymakers deliberate and act, whether on the National, State, or local level, they should have concern for the effect their decisions might have upon the family—because family relationships are deteriorating in America.

The deterioration of the family relationship is having a devastating effect on the well-being of our Nation. In addition to the loss of internal tranquility, the deterioration of the family relationship is costing the taxpayers billions of dollars annually.

The causes of family breakdowns include: Alcohol and drunkenness, pregnancy before marriage, physical abuse, society's emphasis on self-fulfillment first, greed, social acceptance of divorce, deemphasis of the family in religion, financial burdens due to inflation and social pressure, government policies on welfare, and mobility. The average American moves 14 times in a lifetime, and 20 percent of the population move each year.

It is time we identify problems for what they are. Divorce is a national crisis. And not an acceptable standard. Yet today's statistics tell us that 96 percent of adults will marry, and 38 percent of them will be divorced—79 percent will remarry, and 44 percent will divorce again. Forty percent of all marriages now end in divorce. Divorces exceed a million per year. That is twice as many as in 1966 and three times as many as in 1950.

Family breakups are also having a negative effect on the crime rate and the welfare of our children. There are 66 million children under age 18 in American families; 11 million of them live with one parent. Crimes involving children—including murder, assault, robbery, rape—have jumped over 200 percent in the last 5 years. And the suicide rate among children has tripled. Suicide is now the second leading cause of death among persons 15 to 24.

A great spiritual leader, David O. McKay, said:

> No success in life can compensate for failure in the home.

Do we want national security, national tranquillity, national will, and peace in our daily lives? The family is is where it is at.

I urge this Congress and our leaders in every State and community to proclaim National Family Week and work to strengthen the family unit throughout the coming year.

> Only men to whom the family is sacred will ever have a standard by which to criticise the state, because they alone can appeal to something more holy than the gods of the city.—G. K. CHESTERTON.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MARRIOTT. I yield to my colleague from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, as the author of National Family Week when it was first introduced back in 1970, I urge my colleagues to approve House Joint Resolution 68. This resolution was introduced by the gentleman from Utah (Mr. MARRIOTT) and me, and it has been cosponsored by more than 218 Members of the House. A similar resolution was introduced in the other body by Senator BURDICK and it passed on August 3.

All Americans were impressed by the warmth and honesty of the words of Pope John Paul II when he toured our Nation just a few weeks ago. I was moved by his comments during his Mass on the Mall when he said:

> When the value of the family is threatened because of social and economic pressures, we will stand up and reaffirm that the family is not only necessary for the private good of every person, but also the common good of every society, nation and state.

His Holiness was reaffirming a simple thought put forward by the late Margaret Mead who once said, "As the family goes, so goes the Nation." Their words succinctly state the importance of the family in our society and the worthiness of observing National Family Week.

The purpose of National Family Week is simple: It sets aside a specific time during the year to pay homage to the one institution which has given so much meaning to human life and provided a stable structure to our society. It recognizes the importance of the family as the foundation of American life and the fundamental role the family has played in securing those values upon which our Nation was founded.

National Family Week is appropriately observed during the week including Thanksgiving, a time when American families are reunited for the purpose of giving thanks for the blessings which have come to them. It is a time to recognize the contribution the family has made to the Nation's shared values of liberty, justice, equality, freedom, and compassion.

A wise philosopher observed thousands of years ago, "the root of the state is in its family." The pressures of our modern age make this a time of challenge for families in America, but we can take time this Thanksgiving and this National Family Week to offer our thanks for keeping families strong and united and our Nation's people strong and united for the good of all mankind.

In the American family lie the seeds of greatness for tomorrow.

If illiteracy is finally to be banished, it will be by families who fear ignorance.

If poverty is truly abolished, it will be because families cared about others.

If war is ever to become past history and peace see the light of day, the families of the world will have seen to it.

If prosperity is ever to be a natural part of our daily living, it will emerge first from homes where the family flourishes and where materialism is of second importance.

If harmony is to return to our land, it will come only because families have practiced tolerance, patience, understanding, and affection toward their own and others.

National Family Week has the support of a number of national service organizations. They include the American Family Society, American Home Economics Association, American Legion, National Red Cross, B'nai B'rith, Boy Scouts and Cub Scouts of America, National Exchange Club, Center for the Family, Community Family Life Services, Community Group Health Foundation, Family Service Association of America, Future Homemakers of America, General Federation of Women's Clubs, Individual Psychology Association, Masonic Service Association, National Catholic Community Services, National Council of Catholic Women, National Council of Jewish Women, Salvation Army, Washington Urban League, Big Sisters of Washington, D.C., Black Silent Majority Committee, Church of Jesus Christ of Latter-day Saints, Lions Clubs, National Congress of Parents and Teachers, National Society of Daughters of the American Revolution, Veterans of Foreign Wars, and American Association of Doctors' Nurses.

In addition, National Family Week has been recognized by the Governors of more than 40 States and territories of the United States. It has passed both Houses of Congress and been proclaimed by three different Presidents of both parties in 1972, 1976, 1977, and 1978.

I urge my colleagues to join me in honoring the family by celebrating National Family Week 1979 during the week of Thanksgiving, November 18–24.

□ 1730

Mr. MARRIOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DERWINSKI. Reserving the right to object, Mr. Speaker, I do so merely to commend my chairman, the gentleman from New York (Mr. HANLEY) for his special attention to this resolution and seeing to it that it did clear the committee and reach the floor.

I am pleased to join with the distinguished gentleman from Utah (Mr. MARRIOTT) in support of House Joint Resolution 68, designating the week of November 18–24, 1979, which includes Thanksgiving Day, as "National Family Week."

The backbone and strength of our country or any free society is the family. In my opinion Thanksgiving Week is the

most appropriate time for us to honor family loyalties and ties. Thanksgiving is the traditional time in America when families are rejoined for the purpose of giving thanks to God for the blessings which have come to them.

National Family Week is a positive response in keeping with our great traditions.

National Family Week would serve as the focal point for millions of American parents to appreciate the wants and needs of their children and to encourage the children to better understand their duties and obligations to their parents to perpetuate and strengthen the quality of the family unit.

I urge my colleagues to adopt this resolution.

Mr. DERWINSKI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. HANLEY)?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 68

Whereas the family is the basic strength of any free and orderly society; and

Whereas it is appropriate to honor the family as a unit essential to the continued well-being of the United States; and

Whereas it is fitting that official recognition be given to the importance of family loyalties and ties: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week," and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such day with appropriate ceremonies and activities.

● Mr. COURTER. Mr. Speaker, I rise in support of House Joint Resolution 68, designating the week of November 18–24, 1979, as "National Family Week."

The purpose of the resolution is to restore the family to its rightful place in society by enlisting the millions of American parents and children in an effort to understand the significance of the family in the development of this Nation.

Thanksgiving Day, which coincides with National Family Week, is also a time when American families traditionally unite and reflect on the meaning and importance of family life in America.

The designation of November 18–24 as National Family Week recognizes the family as the cornerstone and the foundation of our society.

It is my hope that the designation and promotion of Family Week will serve to focus the thoughts and actions of Americans toward the importance of the family unit. It is also my hope that this focus will lead to sustained action on the part of Americans throughout the year. The passage of this bill is a most effective way of remembering our families as well as enhancing our family ties.

I urge my colleagues to join me in supporting this legislation.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A GIANT LEAP BACKWARD IN AIRPORT NOISE ABATEMENT

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADDABBO. Mr. Speaker, I would like to voice my displeasure at S. 413 and H.R. 2440 which would push back the deadlines for bringing two, three and four-engine subsonic aircraft into compliance with noise standards over the next several years. Should it be successful, it will mean another decade of noise abuse for our citizens.

Today, millions of Americans live in noise-impacted zones around major airports. Many of them, such as people in my district, were living there long before the airports were thrust upon them. They had no choice then and it seems, if this measure is passed, they will have no choice now.

Let us recall that the Federal commitment to a quieter skies was not made casually. In 1976, after long years of inquiry and debate it was determined that retrofitting of noisy subsonic aircraft over a 6- to 8-year span was technologically and financially feasible from within the airline industry. Under the terms of the existing Department of Transportation/Federal Aviation Administration regulation, one-half of the two and three-engine planes in the domestic fleet must be in compliance with Federal Aviation Regulation part 36 noise levels by 1981 and the remainder by 1983. For four-engine aircraft, the dates are one-quarter of the fleet by 1981, one-half by 1983 and the remainder by 1985. Airport operators are hopeful that all aircraft in international service also will be brought under the Federal noise reduction criteria by 1985.

But that regulation stands to fall by the wayside because of a move that has permitted the modified noise abatement provisions to be added on to an airport aid bill, which would all but nullify the present schedule for quieting the aircraft fleet, prolonging the use of noisy aircraft beyond 1985 through wavers that would extend the life of these aircraft.

This move, if successful, would represent a giant leap backward in our goal of quieter aircraft. It would mean that communities living near airports would continue to suffer at the hands of these aircraft. This undue inconvience should not be tolerated and urge my colleagues to defeat any measure that would hinder compliance with these noise standards.

Yesterday I participated in a press conference with other Members of the House and many airport operators from around the country who fear they will suffer the brunt of criticism from the general public if present law is watered down. They are right because the American people are fed up with the stalling techniques used by the airlines to get around legislation put on the books by this Congress. It is time that we in this House hang tough on this important issue.

CAMBODIAN FOOD AID SUPPORTING VIETNAMESE ARMY?

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROTH. Mr. Speaker, I have been very touched, as many of my colleagues have been, at the tragic circumstances existing in war-torn Cambodia. On October 25, this body voted to appropriate $30 million to assist in alleviating the devastating starvation and disease running rampant in that country. I supported that action. Many other charitable and humanitarian groups have been organized to gather funds also designed to provide some relief.

However, I recently read a most disturbing article in the Friday, November 2, Christian Science Monitor, Opinion and Commentary page written by Mr. Scott Thompson, that I would like to commend to the attention of my colleagues, and request that it be printed in the RECORD in full.

Mr. Thompson is a former White House fellow assigned to the Pentagon and is a visiting scholar at Harvard's Center for International Affairs. If what Mr. Thompson reports in this article is true, then much of the food that is supposedly going to help the civilian population is in reality going to support the Vietnamese Army. I am very much in favor of providing relief to the thousands of helpless, innocent victims caught in the middle of a political struggle between two warring factions. On the other hand, I do not believe we are helping our cause or the Cambodian people by sending food and medical supplies if it is in fact being seized to support the Vietnamese Army. Perhaps, we should take another look at the logistics involved in the transfer of these supplies and, before we send any more, be assured that they are going to the destination we seek.

The Christian Science Monitor article is as follows:

[From the Christian Science Monitor, Nov. 2, 1979]

HOW VIETNAM USES FOOD TO FIGHT A WAR

(By Scott Thompson)

The Vietnamese Army in Cambodia launched a dry season offensive in mid-September, with the obvious purpose of mopping up remaining Pol Pot resistance in the area along the Eastern Thai border. What the Army's tactics would be was less obvious.

Cambodia in the past nine years of war, most people would agree, has witnessed almost every known variety of barbarity. But in fact the Vietnamese tactic chosen this year seems to have exceeded them all, according to a lifelong Western student of and authority on Indo-China who recently

talked to local officials in Thailand. That tactic, as confirmed by Vietnamese defectors, and "Democratic Kampuchean" (DK) forces of Pol Pot now in Thailand, is to seize relief food supplies and Cambodian food stocks for the Vietnamese Army and disrupt further food production in the contested areas.

Hanoi sent in four divisions in September, but they were spread over such a wide area that experts in Bangkok concluded the objective could not possibly be to engage DK forces, as they are called. Then reports streamed in that the Vietnamese Army was even seizing cooking utensils in DK villages as a means of forcing the villagers to resettle in Vietnamese controlled areas. While at it the Army also destroyed rice crops in the fields and in many villages, seized the relief supplies outright. Hanoi's tactic thus became evident.

Confirmation of the tactic was supplied by the artillery shelling in that Malai mountain area near the border where relief supplies were widely supplied to civilians—the families of the DK forces who have been fighting Vietnamese forces on the important Route 5. About 35,000 civilians were pushed into Thailand as a result, forcing them to abandon the food that had begun to pour in and thus also preventing the families from supplying DK soldiers with desperately needed provisions.

According to a report from Thailand, one Vietnamese defector from the 75th Division, claims that the food of his own units had the words "World Food Program" on it—suggesting that the Vietnamese Army has itself become increasingly dependent on relief supplies from humanitarian organizations.

As the world gears up to mitigate the suffering of Cambodians, note must be taken of the preeminent political fact about this dying nation. No organized network has survived the destruction of the country's commercial transport system. There remains only the network of the Vietnamese force. Therefore the only way relief supplies are going to get to the suffering people themselves is through the Vietnamese Army, so long as it occupies most of the country. But the Army's priority is to bring Cambodia under full military control, a goal jeopardized by relief supplies going to the Pol Pot resistance.

Moreover, the evidence from the Thai border makes clear that the Vietnamese Army is having trouble feeding its own troops. As things are going now, it obviously intends to continue to use the world food program and other humanitarian-supplied food stocks for its own sustenance first. It is difficult to see, in the circumstances, how relief supplies can get to where they are most needed—in the populous outer areas beyond immediate Vietnamese Army control.

The United States is now undertaking a gigantic program to pour millions of dollars' worth of relief supplies into Cambodia. Reports from Washington make clear that all the above information has been reported to senior administration officials. Yet this has not deterred them from charging ahead irrespective—or, in the case of some, because of—the consequences. This preeminently means the strengthening of Hanoi's occupation Army (and, ultimately, further destruction of Cambodia's long-suffering people).

Only the most compelling international campaign to force Vietnam to allow international supervision of the distribution of relief supplies will bring any real help to the Cambodian people. But with officials in Jimmy Carter's administration turning a blind eye to the obvious effect of American actions, this does not seem about to happen.

STATEMENT ON IRAN

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, how time marches on. It was just 2 years ago that the Shah of Iran was lectured by President Carter at the White House about human rights in what was supposed to be welcoming remarks for a state visit. As the President lectured the Shah, violent, masked Iranian demstrators were allowed to break our laws by marauding in earshot of the White House welcoming ceremony. This process, perhaps, signaled to the Shah's enemies that the Carter administration would not stand behind the Shah and the time was ripe to move against him.

Following this event, and up until the Shah exited Iran, our Government continued to look the other way as many of the 85,000 Iranians, in this country on student and other types of visas, violated our hospitality and civil laws by participating in violent demonstrations. In Houston, they overturned and burned cars. In California, they attacked our police and attempted to burn the home of the Shah's mother.

Our Government seemed to do all the wrong things as Iran slid into anarchy. As violent Iranians demonstrated both here and in Iran, one of our generals was sent to Iran to advise the Iranian military not to oppose the Shah's demise. They followed our advice and are now dead, the victims of the Ayatollah Khomeini's firing squads. Even as the Ayatollah was failing to practice the type of compassion and human rights the President had lectured the Shah about, United Nations Ambassador Andrew Young, President Carter's appointee and friend, canonized the Ayatollah by saying he "will be some kind of a saint when we finally get over the panic of what is happening in Iran."

These kinds of action and thinking have brought us to where we are today—the chickens have come home to roost. There is not much we can do about past mistakes except not commit them again.

As I view the television pictures and newsphotos of American citizens in Iran—diplomatically immune officials of our Nation—being paraded around like animals, I say that we had better turn over a new leaf, start a new beginning, rebuild our lost strength and morale, and begin again to act like the world leader and power we once were.

Our first order of business, of course, is to get our citizens safely out of Iran, but at the same time, we should begin immediately to deport all Iranians who violate our hospitality and laws. This should be done without delay.

I am told by the State Department that visas can be revoked when visitors violate the terms of their visas or violate our laws. Certainly arson, assaulting policemen, violent demonstrations, and many other factors violate the strict features of the student visa. I call on the State Department and the Immigration and Naturalization Service to get cracking, cut the redtape, and get the bums out of our country.

How can we command any respect in the world, or even of ourselves, if we do not begin again to act like the powerful and morally strong Nation we once were, and should be?

INTERPARLIAMENTARY UNION 66TH CONFERENCE, CARACAS, VENEZUELA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 60 minutes.

GENERAL LEAVE

Mr. PREYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. PREYER. Mr. Speaker, I take this special order to report on the 66th Conference of the Interparliamentary Union which was held in Caracas, Venezuela, between September 13 and 21 of this year. Attending were members of parliaments from 82 countries, as well as international observers from United Nations organization and other international bodies. Our delegates from the House appointed by the Speaker included myself as chairman, the gentleman from Illinois (Mr. DERWINSKI) as vice chairman, the gentleman from Florida (Mr. PEPPER), the gentlemen from Texas (Messrs. PICKLE and DE LA GARZA), the gentleman from Oregon (Mr. DUNCAN), the gentleman from Guam (Mr. WON PAT), the gentleman from Illinois (Mr. MCCLORY), the gentleman from Virginia (Mr. BUTLER), the gentleman from Pennsylvania (Mr. GOODLING), and the gentleman from Michigan (Mr. VANDER JAGT), and from the Senate (Mr. STAFFORD). I want to thank all of these Members of Congress for their very effective participation and their dedicated hard work at this meeting.

I also wish to thank the Navy and Captain McDaniel and his staff for their superb escort service. I want to thank the House and Senate staffs that accompanied us, and in the House particularly, Mr. Edmund L. Henshaw, Ellen Rayner, Diane Stoner, and Vance Hyndman for very efficient work. I am afraid they saw very little of Venezuela outside of the control room.

I also want to thank from the Department of State John Ward who accompanied our group, and the Congressional Research Service for preparing very valuable briefing papers for us.

In Venezuela we do thank particularly Ambassador William Luers and his staff who gave us service far beyond the call of duty. I think even hardened and veteran, perhaps a little cynical even, IPU members were impressed by the superlative briefing which Ambassador Luers gave us and the reception which he held for IPU delegates. It was not only a pleasure but it was also very useful to us in our relations with the other IPU countries. I will include in the RECORD, Mr. Speaker, the details of our delegation's participation.

I might briefly mention that our delegation spoke on six occasions. The opening address was given by the gentleman from Texas (Mr. DE LA GARZA) for our delegation, and I think it was particularly impressive to our host since he delivered the opening address in Spanish.

Looking to future meetings, I think we should recognize some problems in our relations with the IPU. For one thing, other countries have been much more active in interim meetings between the two full scale annual meetings than the United States. We lose the opportunity by not attending the interim meetings to put forward our views at these meetings. As a result, we are often faced with almost a fait accompli with the issues already framed, sometimes worked out, when we arrive at the full IPU meeting, and then it is an uphill struggle to prevail on an issue.

Second, there has been concern over the difficulty we have had in eliting participation from the Members of Congress. I think there are several problems that cause this. One, these meetings cannot be scheduled to suit the benefit of any one country and, therefore, they do not always fall during congressional recesses, and it is difficult for Members of Congress to leave when they are in session.

□ 1740

Also, press attention which has been given to foreign travel in this country tends to describe every trip as a junket and that discourages participation. I want to point out on the Venezuelan trip there were no side trips, there were no stopovers, no shopping junkets. It was hard work.

The basic purpose of the Inter-Parliamentary Union is to strengthen parliamentary domocracy. I think the IPU needs to strengthen the real parliaments of the world, compared with those parliaments of the world which are really just technically parliaments. The United States being a great democratic society that it is, certainly should be taking a lead in this area.

The next meeting of the Inter-Parliamentary Union will be in Oslow, Norway, about Easter time next spring and I welcome hearing from Members of Congress who are interested in attending that meeting. It should be a very interesting meeting.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. PREYER. I am glad to yield to the gentleman from Illinois (Mr. DERWINSKI), our vice chairman who is Mr. Inter-Parliamentary, Union in this Congress. We are always impressed with the respect in which the other 82 countries of the world hold him. We appreciate all his contributions.

Mr. DERWINSKI. Mr. Speaker, I thank the gentleman for yielding. I commend the gentleman for emphasizing the practicality of this assignment, the fact that there are over 80 countries participating. The U.S. Congress as a most respected parliamentary group has to be represented. I think it is most practical that the gentleman emphasizes we need the positive support and cooperation of enough Members to make up a strong delegation, since we do not control the schedule for the meetings and they often conflict with our own schedules here and it is a burden, then, for the Members to leave but it is a duty and they do undertake it.

I also commend the gentleman from North Carolina for the leadership he gave as chairman, the balanced delegation that the gentleman was able to develop, the way the gentleman was able to cover the issues effectively. This is in keeping, I think, with the necessary rule of leadership that the United States must exercise in any international organization. That is especially so of the Inter-Parliamentary Union.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Virginia. I thank the gentleman for all of his contributions to the IPU.

Mr. BUTLER. Mr. Speaker, this is the third such conference I have attended and I found it quite beneficial as always.

The committee to which I was assigned in both sessions this year was concerned with the law of outer space.

A system of international law to govern activities in outer space is developing in a slow but orderly manner. Of particular concern at this time, for example, are the problems of remote sensing and the transmission of television or radio signals via satellite.

Next year's agenda includes a review of problems and laws concerning international refugees, certainly a matter of global concern involving legislation of many nations.

As is the practice in most international bodies, the votes are very much weighted in favor of the smaller countries. The United States is always prepared to be outvoted by the aggregation of votes of delegations from smaller states, but it is not always a comfortable position in which to be.

Resolutions of the IPU, however, are not binding on the participating nations. An effort is generally made to find a consensus of all delegations on the questions involved in a particular resolution. Whether the consensus is found or not, an Interparliamentary Union is valuable as a forum for Representatives of all nations, large and small, to become acquainted with one another, to share views, express concerns, and suggest solutions to problems which affect each of them.

Other nations of the world take the deliberations of IPU a good deal more seriously than do we. For example, the conference in Venezuela was 10 days long. Almost every nation represented had a full delegation of the same delegates present the entire time. By contrast, it is almost impossible to persuade the Members of our Congress to take that much time off from their duties in Washington. We work in shifts, and I was present in Caracas for only the last 3 days. It is easy to see why the continuity of the Conference is lost for much of the American delegation, and much of the impact we could reasonably expect to have as well.

Generally speaking our technical staff members have limited experience and are spread too thin as well. Many of the Members of Congress who should be a part of the American delegation decline to attend because of the unfortunate impression that the American people have about foreign travel by elected representatives.

In short, the IPU is an important international forum, of which the U.S. Congress is a participating member. As such, we are putting the prestige of our Nation on the line, with other nations of the world. But we are coming off as unprofessional and indifferent, the effect of which cannot be helpful. If we are to participate in a conference of this nature, we cannot afford to do it with less than total commitment.

Unfortunately lacking is a commitment by the leadership of the Congress to the high standards of performance which the rest of the world expects of us. As a practical matter, this means we need more and earlier staff participation, preparation and research, more careful and earlier selection and encouragement of participation by the membership, and possibly more considerate congressional legislative scheduling.

Mr. PREYER. Mr. Speaker, I thank the gentleman from Virginia for his comments. The gentleman has made some excellent points. I certainly think that all the points the gentleman mentions are those we should work on. We do not want the IPU just to become the world's largest travel agency. It can be a very effective forum. If we do not do our part of the job on it along the lines indicated by the gentleman from Virginia, it is not going to have the kind of effectiveness we want.

Mr. MCCLORY. Mr. Speaker, will the gentleman yield to me?

Mr. PREYER. I am delighted to yield to the gentleman from Illinois. Again, the gentleman has certainly been one of our most faithful Members and is most respected by parliamentarians all around the world. We appreciate the gentleman's contribution.

Mr. MCCLORY. Mr. Speaker, I thank the gentleman for yielding. I commend the gentleman on his leadership of our IPU group and for his performance at Caracas and the fact that he has undertaken this extremely important responsibility.

Mr. Speaker, I am pleased to participate in this special order relating to the recent Inter-Parliamentary Union Conference in Caracas, Venezuela.

While our participation in this Conference was limited because of the press of business here in the House, by dividing our American delegation into two groups we were able to cover the entire work of the Plenary Conference as well as the committee sessions.

I was privileged to address the General Conference in behalf of our Nation, taking particular note of the report of the Secretary General regarding the activities of the IPU. In this connection I pointed out the expansion of the

parliamentary library in the IPU headquarters in Geneva, an initiative which was undertaken some years ago by our former colleague and former chairman of our American group, Mrs. Katharine St. George of New York.

Likewise I took occasion to emphasize the importance of these conferences between parliamentarians from around the world as a method for promoting representative government and international understanding. While progress in this direction appears frequently to be slow, it is only throught the medium of the IPU, including both the formal sessions and individual contacts, that these objectives of the IPU may be eventually achieved.

Mr. Speaker, it would be misleading to suggest that our tasks at this or other recent IPU meetings have been easy, or that all of the objectives which we sought to achieve were fulfilled. Instead, I would hasten to point out that the problems we encountered at this and other recent IPU meeings are far more complex and are fraught with far greater difficulties than was the case in earlier years.

The IPU now includes more than 90 member nations, including such recent member countries as Surinam, Comores, South Yemen, and other small Third World countries. The demands of the Third World countries are great—and its attacks against our country and other economically wealthy nations of the Western free world are contagious.

In light of experiences such as this, some might conclude that it would be preferable for us to withdraw from the IPU. However, I would reject this suggestion as it would be a negative response to a genuine and continuing problem—and would certainly be counterproductive to our aims as a leader of the free world. Instead, I would encourage our more active participation in the IPU and other such gatherings of representatives of sovereign nations. It is only through our communication with both friendly and unfriendly nations, between the East and the West, and between the economically wealthy nations of the free world and those representatives of so-called Third World countries, that improved human understanding can result and our long-term national interests can be attained.

Mr. Speaker, I commend our chairman, Congressman RICHARDSON PREYER, on his leadership of our American group, and all of my colleagues who participated in the recent Caracas Conference. My Illinois colleague, EDWARD DERWINSKI, and our counterpart in the other body, Senator BOB STAFFORD of Vermont, who is our U.S. representative on the Executive Committee of the IPU are also entitled to special commendation.

Mr. Speaker, I look forward to our next IPU meeting in Oslo in April 1980, and to our continued and enhanced participation in the activities of the Inter-Parliamentary Union.

□ 1750

Mr. PREYER. Mr. Speaker, I want to thank the gentleman. The gentleman made one of our six speeches made by our delegat.on, and I think of all the speeches made at the IPU the one of the gentleman from Illinois was the only one which dealt with the question of the meaning of the IPU, that we were there to strengthen parliamentary democracy. Most of the speeches were sometimes heated discuss ons, and the gentleman did us all a favor by reminding us why we were there. We appreciate the gentleman's contribution.

● Mr. PICKLE. Mr. Speaker, at the recent Inter-Parliamentary Union meeting in Caracas, Venezuela, I was privileged to serve on the Subcommittee on Education, Science, Culture, and Environment. During the considerations of that subcommittee a resolution was drafted which was contrary to the recommended position of the United States. The meeting in Caracas was a continuation of a similar meeting held in Prague, Czechoslovakia, in the spring, at which our delegation also voiced objection to this approach.

Basically the amendment would provide prior consent on any matter relating to broadcasting by satellite from space, and this is obviously contrary to the longstanding position of the United States. I feel, and I am sure that our delegates felt, that those nations which do participate in the space program, and particularly to nations which broadcast information for anyone in the world, it would be a free expression of public comment and thus not have to get permission from any or all nations before such broadcasts can be transmitted into that particular country. This is much the same as the freedom-of-speech or freedom-of-press principle we have always advocated in a democratic government. Since members of the Inter-Parliamentary Union are members of a parliamentary body, we thought that the principle of free speech and free expression ought to be extended to outer space.

I am attaching a statement in essence that I made to the Inter-Parliamentary Union body in full plenary session in which we voiced our objection to the resolution as drafted. Later the United Kingdom was in agreement with the United States and asked for a rollcall vote.

I regret to say that the United States and England lost that vote, and even our normal allies from Canada, Australia, New Zealand and some of the European blocs did not vote to strike that particular section from the resolution. But I think that was primarily because the able Chairman of that Committee was a delegate from Canada and had recommended the resolution. As it was, the United States lost this amendment almost unanimously, although several nations did abstain from voting. I accept this defeat as a normal consequence of any parliamentary body, although, of course, I was disappointed. I believe very strongly that the United States was correct and that we must pursue the principle of freedom of speech and expression in the years ahead. And ultimately I think we can win the argument.

What bothers me most about the session in Caracas, however, is that, in my opinion the United States of America is not fully prepared to either attend or participate in these IPU meetings as I think we should. Perhaps this is an admission of weakness on my part or on our particular delegation, or previous delegation. Admittedly, our delegation was not a unified delegation this year because a group of some 10 delegates attended the first 3 days of the session and then another group of delegates attended the last half of the session.

I am sure this gives the impression to the delegates from other nations that we were not serious in our attendance or at least that we were willing to split the delegations, which in effect meant that the new group had to start all over and literally play catchup on the proceedings. We must admit that this was not a good practice and that other nations would know that we could not have one delegate to tell them something on Monday and then send another delegate to talk with them on Friday. I am afraid our practice was almost a laughing matter, but our country dutifully tried to have at the conclusion enough votes to cast our full complement.

I also feel that more planning and dedication should be put into attending these meetings so that the United States could more effectively visit with and attempt to have IPU relations with other nations in a more straightforward and friendly manner. I am sure that some of the nations feel that we might think we are not as concerned as they are with the problems being discussed. There is an additional factor in that a delegate from the United States, a Member of Congress, must under the present general plan be willing to go to an IPU meeting and attend for 1 full week. That is a very difficult commitment for a Member of Congress to make because critical votes usually are going on back in the Congress and it is a definite sacrifice for a Member to go to one of these IPU meetings and stay for a week.

Many people may think that these are "junkets," but I submit to you that staying a full week in Prague, Czechoslovakia, is not a junket, and staying in Caracas, Venezuela, as lovely as both Caracas and Prague might be, is not a fancy junket. It is an attempt to make a serious contribution to a world parliamentary body that was created by statute and which has been ongoing for nearly 75 years. The IPU's predated the U.N. by 30 to 40 years and were designed to make much the same kind of contribution for parliamentary bodies that the United Nations does today.

Mr. Speaker, I speak now as an individual Member of the Congress and not representing our delegation or the Congress itself. I am convinced that the United States, however, must decide whether we wish to continue on a full-fledged, fully dedicated basis to participate in the IPU meetings, or else we should withdraw. Except for a few Members of the Congress who are unbelievably dedicated to the success of these meetings, most of the Congress—and I would imagine the U.S. citizens in general—think that the Inter-Parliamentary Union meetings are merely a means for a few Members of Congress to make a trip or to go on a junket.

It is quite the contrary, Mr. Speaker. As we operate today, however, I do not think our country is nearly as effective as we should be and that we should have a full reappraisal of our participation in IPU meetings. Again, I say that we should either get in all the way or get out. In making that decision I think we should ask ourselves whether these types of meetings are important to our country.

Is it important for the United States to be in full attendance and to attempt to have our say in matters which affect world parliamentary groups? I wonder what the parliamentary bodies of the world would think if the United States simply said that we have decided to express ourselves on these matters solely through the U.N. Would our people care? Sometimes I doubt that they would and perhaps we should seriously debate this question. I do feel personally, however, that our participation has not been as effective as it should be and that the only way we are going to settle this question is to have a national or congressional discussion of the issue.

I am submitting the specific resolution we submitted in Caracas, as follows:

U.S. EXPLANATION OF THE VOTE ON SPACE LAW RESOLUTION

Mr. Chairman, fellow Parliamentarians, the contentious issues in this paragraph are not new. We had the same problems with them earlier in Prague. In fact the basic problem is as old as mankind. It is whether or not freedom of speech and expression in all its forms is to be respected by all.

The primary reason for our inability to support this resolution is that it endorses the concept of "prior consent" which means that a state which would transmit television broadcasts from space to another country must have the receiving states' permission to do so. That would permit controls over the content of such broadcasts. This, in the U.S. view, would constitute an abrogation of the right of free speech and international communication.

The same problem exists with respect to the remote sensing of the earth by satellites, as shown in 4(b).

The U.S., and no one else, as far as we are aware, has no intention of using the valuable technologies—direct broadcasting from space (and/or remote sensing) to the disadvantage of any other state.

Therefore, it is difficult for us to comprehend the obvious mistrust many delegations have over the use of these valuable space tools.

Let me point out that:

No one has done anything to create such mistrust;

These limitations could hurt, not help, in making available the benefits of space technology;

"Prior consent" is not part of space legislation and it should not be;

The U.S. believes that it would be sufficient to have "prior consultations." Thus, we should remove this "prior consent" paragraph and consider it further at the next session of this body.●

● Mr. DERWINSKI. Mr. Speaker, I would like to commend the distinguished gentleman from North Carolina (Mr. PREYER), for taking the time this afternoon to allow those Members of the House who participated in the fall Interparliamentary Union Conference, held in Caracas, Venesuela, to report on their activities.

I attended the first week of the Conference and represented the United States as a member of the Executive Committee substituting for Senator STAFFORD. During these meetings, a number of preliminary resolutions and draft proposals were offered and later adopted. In addition, a number of new national groups were voted affiliation status with the Interparliamentary Union, bringing the total to 82 groups participating in the organization. Another procedural question of allowing nongovernmental groups observer status with the IPU was debated.

This Conference was concerned with a number of important topics including the overall human rights situation, Indochina refugees, and assistance for Nicaragua. Additionally, the issues surrounding the Middle East question and the Palestinian problem were debated and a resolution was adopted on this subject. The legislative aspects of space law, the role of the protection of the family and general care of children in connection with the International Year of the Child, and recommending initiating negotiations leading to a measure for cessation of the conventional arms race and declaring a resolution against any form of aggression, were matters debated in committee meetings.

The IPU is the oldest and most broadly representative interparliamentary association in the world. It dates its existence from 1889. Its aim is to promote personal contacts between members of all parliaments and democratic governments and to unite them in common action to secure the full participation of their respective governments in the advancement of the work of international peace and cooperation.

In this regard, there has been a valuable international exchange between various countries. Following our fall Conference, several delegates from Ireland, the United Kingdom, Sweden, Turkey, Lebanon, Egypt, Morocco, and Belgium, to name a few, have visited Washington, and held informal discussions with Members of Congress. It is vital for our national leaders to develop these broad-based contacts with leaders of other nations with whom we have the opportunity to develop ties of peace and mutual understanding.

In closing, I would also like to take this time to pay special tribute to Chairman PREYER for his overall leadership and effectiveness during this fall session, in lieu of the fact that Congress was in session at the time of the Conference, thus causing a "split" delegation process in order for the U.S. Congress to field a delegation. And of course, Senator STAFFORD is to be commended for his outstanding representation of our U.S. delegation, the Congress, and our country at the Caracas meetings. Both these gentlemen brought much needed expertise and broad understanding of international affairs, and an ability to cultivate good diplomatic relations with officials throughout the world.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

● Mr. RAILSBACK. Mr. Speaker, on Monday, July 30, 1979, I cochaired a hearing of the House Select Committee on Narcotics Abuse and Control, on which I serve as the ranking minority member. The hearing was held in Chicago, Ill., and focused on the Chicago Tribune task force series on the abuse of prescription drugs. Because of this official business, I was unavoidably absent from the House on that date.●

WILL SBA SHUFFLE SUCCEED?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 15 minutes.

● Mr. MARTIN. Mr. Speaker, once again I call to our colleagues' attention the shabby shuffle by which this administration is deporting 16 Small Business Administration district directors to force them to resign. Despite the protest of the SBA that no politics is involved, the fact is that 15 are Republicans, the other one is Independent.

I offer the following new articles as clear proof that politics is all it is.

Read the June 8 article from the Columbus Citizen-Journal. The county Democratic chairman has openly sought the post to deal out for a patronage plum, claiming "it has always been a patronage job."

In March of last year, President Carter vowed to take it out of politics. At his recommendation we passed a law to prohibit such abuse and provide reforms to protect civil service jobs, which these are.

Look at the SBA claim in the October 24 issue of the same paper, denying politics. Then examine the sordid scramble among rival Democratic honchos in the October 29 Columbus Dispatch, all of whom assert their patronage rights as a justification for deporting the current district director, a Republican.

Mr. Speaker, this is a clear violation of the 1978 Civil Service Protection Act, and amounts to collusion to thwart this law. Notice closely that if, despite righteous denials from the SBA, they succeed in dumping these 16 non-Democrats, a clear precedent will be set for nullifying the 1978 reform law, not just for this administration, but for those eventually to come.

The articles follow:

[From the Columbus Citizen-Journal, June 8, 1979]

DEMOCRATS CONSIDER MEN FOR SBA POST

The Franklin County Democratic Party, wanting a Democrat as district director of

the Small Business Administration, has a former state senator, the president of Columbus City Council and the county finance director in mind as candidates.

Interested in the job are former state Sen. Robert O'Shaughnesay, Council President M. D. Portman, and County Finance Director Don Brown.

John E. Jones, county Democratic chairman, said Thursday he hopes to hear by the end of this month from state party headquarters regarding his efforts to replace current district director Frank Ray.

"It has always been a patronage job," complained Jones.

Ray, who describes himself as nonpartisan, was appointed to the post in 1971. Ray said Thursday he was unaware of any change contemplated.

Starting pay is $38,160 a year.

[From the Columbus-Citizen Journal, Oct. 24, 1979]

SMALL BUSINESS ADMINISTRATION: RAY'S TRANSFER WAS NOT POLITICAL

(By Jerry Condo)

A Republican shouted "politics."

A Democrat smiled.

Why?

Because the Republican director of the federal Small Business Administration office in Columbus has been transferred to Helena, Mont.

District director Frank Ray, who has held the $47,500-a-year job since 1971, had little to say about the transfer which is effective Nov. 19.

"It really hasn't had a chance to sink in yet," Ray said.

The transfer of Ray is part of the shakeup involving top officials in SBA offices in 16 cities across the U.S. The SBA office in Washington said it has not selected a replacement for Ray in Columbus.

"This sounds political to me," said Terry Casey, executive director of the Franklin County Republican Party.

County Democratic Party Chairman John E. Jones agreed.

"I'm surprised it took President (Jimmy) Carter this long to transfer him," said Jones, who has been lobbying intensively for the last several months to put a Democrat in the SBA job.

Jones added that the Nixon Administration quickly got rid of Democrat Richard C. Sensenbrenner the same way back in the late 1960's. Sensenbrenner, son of former Mayor M. E. Sensenbrenner, was appointed SBA director here on March 1, 1968, only to be transferred to Salt Lake City in late 1969.

Sensenbrenner resigned rather than accept the transfer.

There is considerable speculation that one of three local Democrats may wind up with the SBA job here.

Jones has forwarded the names of City Council President M. D. Portman, former State Senator Robert O'Shaughnessy and County Finance Director Don Brown to the state Democratic party headquarters for consideration.

"In turn, the state headquarters sent those names to the White House," said Jones.

However, a spokesman for the SBA office in Washington said Tuesday afternoon that politics had nothing to do with Ray's transfer. Chuck Searcy, assistant administrator for public communications, said the Ray transfer is part of a new policy of rotating district directors.

"This rotation is the most recent in a series of management initiatives," said Searcy. The spokesman said SBA has been busy reorganizing itself in recent months from the top level on down. "Politics has not been a consideration," said Searcy.

The local SBA office is responsible for a 60-county area of Ohio, including the northwest, central and southern parts of the state.

Casey, told of SBA's claim that the transfer had no political motivation, said the claim was nonsense.

"Democratic party chairman Jones has been yelling for months that he wants the heads of some Republicans like Ray. Apparently his buddies in the Carter administration gave him what he wants," Casey said.

[From the Columbus Dispatch, Oct. 29, 1979]

WHITE HOUSE CONSIDERING SWEENEY TO FILL SBA DISTRICT DIRECTOR'S POST

The White House is seriously considering rejecting recommendations from the Franklin County Democratic Party and naming Randall Sweeney as the new district director for the Small Business Administration (SBA), informed sources reported Monday.

Sweeney, director of the Ohio Vietnam Veterans Bonus Commission, is the choice of Ohio House Speaker Vernal G. Riffe Jr., D-New Boston. The White House is reportedly leaning toward Riffe's choice because he is one of President Carter's staunchest supporters in Ohio.

If Sweeney gets the $47,500-a-year post, it would mark a defeat for county Democratic Chairman John E. Jones. Jones has recommended that either County Finance Director Don Brown, Columbus Council President M. D. Portman or former State Sen. Robert O'Shaughnessy be named to replace Frank Ray.

Ray, a Republican, was transferred last week from his job as SBA district director for central Ohio to the agency's Helena, Mont., office.

Jobs as SBA district directors generally are considered political posts. Some local Democrats have been surprised that it took Carter's Democratic White House almost three years to transfer Ray.

Ray was appointed to the SBA post by President Richard M. Nixon in 1971. Local Democrats expected Ray to be fired shortly after Carter took office in 1977.

Riffe's behind-the-scenes backing of Sweeney stems from a promise the House speaker made to the bonus commission director last year, sources reported.

At the time, Sweeney, son of Ohio Supreme Court Justice A. William Sweeney, was seriously considering running in the June 1978 Democratic primary for secretary of state.

However, Riffe backed then-State Sen. Anthony J. Celebrezze Jr. for the nomination. Sweeney finally decided to drop out of the primary contest after Riffe and Celebrezze offered him a job in the secretary of state's office if Celebrezze won the November general election, sources reported.

Although Celebrezze won the November election, the secretary of state-elect reportedly defaulted on his promise of a job for Sweeney. However, Riffe's commitment to Sweeney remained.

Jones confirmed his nominations and said that his efforts prompted the transfer of Ray in a move to open the post for a Democratic appointment.

Jones said that Sweeney "made an end run" and got letters of support from numerous state officeholders, including Riffe.

He indicated he wasn't happy with Sweeney's maneuvering and bypassing of the county party. Brown, he said, has applied for the job, too.

THE SITUATION IN IRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, the takeover of American diplomatic missions in Iran reflects the Nation's collapse into a state of anarchy. Although the formal apparatus of a government exists, it is incapable of governing. All political power in Iran is concentrated in Ayatollah Khomeini. Although Khomeini has not assumed formal responsibility for the taking of U.S. diplomatic personnel as hostages by a student mob, it appears that they were encouraged to do so by Khomeini.

We must take every reasonable measure to safeguard the lives of the hostages, but we cannot give in to terror and blackmail. The mob-rule which now prevails in Iran will not be appeased for long by delivery of the Shah for whom I hold no brief—nor to satisfy the number of remaining demands relating to Israel, and so-called American imperialism.

There appear to be no remaining organized entities in Iran capable of governing; not the armed forces, not the police, not the business community, and certainly not what now passes for the Iranian Government. Hence, the U.S. Government is facing a case of bargaining with a terrorist group with all of the difficulties such negotiations imply. The lessons learned from other terrorist incidents over the past decade by the United States, West Germany, Israel, and other nations facing a terrorist challenge show that there is nothing to be gained from appeasement, indeed, it is counterproductive.

A dimension of the problem, thus far receiving little notice is the announced effort of the Palestinian Liberation Organization to intervene in the negotiations in progress between the U.S. Government and the forces sponsoring the student mob now controlling the U.S. Embassy. Such an effort could be a contrived effort to "cover" the PLO's lengthy record of terrorist activities with a politically expedient effort to negotiate the end of a terrorist activity for the benefit of the United States. It is too early to tell whether or not the PLO had any direct or indirect role in the assault on the U.S. Embassy, but it is an interesting coincidence that the mob holding the Embassy prominently displays PLO slogans.

The United States should hold the Khomeini group responsible for the fate of the American hostages now being held. As the Khomeini group is unwilling to respect the elementary rules of diplomatic behavior and the treatment of diplomatic personnel, the President could provide Khomeini with some helpful incentives to change his behavior.

First, and most important, the U.S. Government should order a freeze on all physical and financial assets in the United States or in the custody of U.S. financial institutions anywhere in the world, held by the Iranian Government or by institutions owned or controlled by the Iranian Government. These assets amount to billions of dollars, and account

in large measure for the current revenues of the Iranian state. These revenues are the principle source of the remaining vitality in the Iranian economy, and thus are a major weapon for the support of U.S. diplomacy in Iran.

Second, the President should immediately stop the flow of spare parts for the Iranian Armed Forces. The cutoff of these spare parts would sharply reduce the effectiveness of the Iranian Armed Forces to the point where they would become increasingly vulnerable to the separatist revolt of the Kurds, thereby threatening the breakup of the Iranian state.

Third, the President should stop sales of heating oil now being sold to Iran. It was doubtful whether this carrying of coals to Newcastle was ever a wise policy, but it is clearly unwise under the present circumstances.

Fourth, the United States should attempt to mobilize international opinion, including opinion in the Islamic world against the barbaric behavior of the Khomeini group in their assault on American diplomatic representatives. Every nation, including Arab nations and Iran itself, benefits from the custom of affording protection to diplomatic representatives; if Khomeini's mob rule is allowed to prevail, every nation will suffer.

The United States cannot permit acts of organized terror against its diplomatic representatives or citizens to pass without resolute action. To allow the Iranian student mob to triumph would make the United States vulnerable to every terrorist organization with a grudge against the United States to inflict grave damage to U.S. interests throughout the world.●

LEGISLATION TO INDEX CONSUMER PRICE INDEX TO TAX TABLES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. COURTER) is recognized for 10 minutes.

● Mr. COURTER. Mr. Speaker, inflation has made each day in the life of a New Jersey citizen a hopeless and losing struggle to stay even financially, not to mention getting ahead.

The major cause of inflation is the massive deficit spending Congress engages in year after year. Deficit spending uses money in excess of revenues and that money must be made up somewhere. The gap is closed by borrowing, which raises interest rates, or by monetization which creates money out of thin air via the Federal Reserve System.

This oversupply of money deflates what "real" money we have left. Hence, inflation will continue, and get worse, as long as the Government spends money it does not have.

The normal reaction is to get a raise to "get ahead" of inflation. But unfortunately, Mr. Speaker, a raise that is equal to the rate of inflation does not even keep you even because the tax brackets become more steeply graduated as they go up. The tax tables were created when a dollar was a true measure of buying power. Those days are long gone, our taxes go up at a faster rate than inflation. For every 1-percent increase in the Consumer Price Index there is a 1.6 percent increase in taxes.

Simply getting a raise puts you further behind in the game. For example, if inflation goes up 10 percent and a family's income is unchanged, they are 10 percent worse off than before. However, if they get a 10 percent pay raise to offset inflation, the resulting increased taxes actually leave them with less real buying power.

To correct this situation, I am a cosponsor of a bill introduced by Congressman JACK KEMP of New York that will index the Consumer Price Index to the tax tables. This way, a raise will be used to fight the ravages of inflation without having lost any ground to the ever-seductive Federal Treasury.

Mr. Speaker, this bill should be passed because we, as Members of Congress, have a responsibility to help people with the symptoms while we work on the cure to America's all-consuming illness.

The situation of taxes fueling inflation and inflation fueling taxes is doubly distressing to me because it is an automatic tax increase that allows the White House and the majority leadership of both Houses the charade of claiming to reduce deficit spending. In reality, they actually increase Federal revenues by reaching deeper into the pockets of all Americans with this hidden tax. It is my firm belief that all tax increases should be subject to the normal legislative process in the House rather than be the result of Government-caused inflation.

Mr. Speaker, if this Congress is serious about doing something about inflation, this hidden, growing tax situation must be changed.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 5 minutes.

● Ms. FERRARO. Mr. Speaker, due to personal medical reasons, I was unable to be on the floor of the House for part of the session on Thursday, November 1, and Friday, November 2. Had I been present, I would have voted as follows:

Rollcall No. 623: Eckhardt amendment to eliminate the authority of the Energy Mobilization Board to waive substantive law. "No."

Rollcall No. 624. Final passage of H.R. 4985, to establish an Energy Mobilization Board. "Aye."

Rollcall No. 625: Ordering the previous question on House Resolution 465, the rule providing for the consideration of H.R. 4904, the Social Welfare Reform Amendments of 1979. "Yea."

Rollcall No. 626: Passage of House Resolution 465. "Aye."

Rollcall No. 627: Aporoving the Journal of Thursday, November 1. "Yea."

Rollcall No. 628: Petri amendment to H.R. 5192, Higher Education Act amendments, to provide for a program of student loan forgiveness for services as an enlisted member of the Selected Reserve of the Ready Reserve or on active duty as an enlisted member of the Armed Forces. "Aye." ●

LATVIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on November 18, 1918, the courageous people of Latvia received their independence from Russian domination and with it their goal of self-determination, along with the privilege of developing and enriching their social and cultural institutions without the interference of foreign conquerors.

On Friday, November 16, a commemorative ceremony in observance of the 61st anniversary of Latvian Independence Day will be held at the Chicago Latvian Community Center, 4146 North Elston Avenue, in Chicago, sponsored by the United Latvian Associations of Chicago, Ilmars Bergamis, chairman; and the Chicago Latvian Community Center, Viktors Viksnins, president. The Chicago Latvian Association has issued a statement entitled, "The Latvian Flag," which follows:

THE LATVIAN FLAG

The time: Early 12th century. The place: Latvia. A band of Latvian tribesmen have engaged a troop of the German Order of the Sword. They have managed to capture the white flag of the German Knights. However, during the battle the chief of the tribe is mortally wounded. The tribesmen lay their chief on the white flag and his blood slowly colors the edges of the flag crimson. Dying, he summons his captains and bids them to fight until the last invader is driven from their land. The chief dies, his people raise high the crimson-white-crimson flag and beat the German Knights. . . . Thus says the legend on how the Latvian flag was born in an ancient battle.

However, besides legend, there is also fact that makes the Latvian flag one of Europe's oldest, almost rivaling the Danish flag. This fact can be found from a contemporary chronicle, dated 1279. The chronicler tells of a Latvian troop that carries a crimson-white-crimson flag, and assures the reader that this is indeed the flag of the Latvians. This fact gives rise to the celebration of the 700th anniversary of the Latvian flag.

Before this flag could be adopted as an official banner of a Latvian state, many centuries passed. Latvia became a battle-field again and again. The Russians, the Swedes, the Poles, the French and the Germans, all fought on Latvian soil. Independence came at the end of World War I, when many Eastern European peoples asserted the right to be free.

It was almost six years after Latvia proclaimed its independence, but on January 23, 1923, the Latvian government adopted a flag, drawn by the artist, Ansis Cirulis. It was very much like the flag the legend or the chronicler tell about. It is crimson-white-crimson in a proportion of 2:1:2. This flag is revered by Latvians everywhere. In occupied Latvia the flag is strictly forbidden. Soviet occupational authorities have forced on their colony a flag of their choosing.

The Latvian flag has survived 700 years. It will survive to lead Latvians again.

Latvia, a nation situated on the eastern side of the Baltic Sea, was privileged to enjoy only a brief period of national independence between the world wars. In 1920 the Soviet Union signed a treaty which recognized Latvia as a sovereign nation "forever," but only 20 years later, in 1940, Stalin cynically broke this agreement and the Red army marched in and began a brutal occupation of the country, accompanied by forced deportations of Latvians to Siberia and other remote parts of the Soviet empire in addition to wholesale jailings and executions of Latvian patriots, cultural and Government leaders, and other non-Communists.

Latvia continues to be governed from Moscow, not from Riga, the country's capital. Freedom of expression in religion, literature, and art is suppressed, and the Russians steadily continue their efforts to destroy the Latvian people as a nation and as a cultural entity. It was for this reason that I have cosponsored House Concurrent Resolution 200, recently reported by the House Foreign Affairs Committee and expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain U.S. citizens, and I urge the strong support of all my colleagues in the House of Representatives for this vital bill. The text of House Concurrent Resolution 200 follows:

H. CON. RES. 200

A concurrent resolution expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain United States citizens

Whereas the United States since its inception has been committed to the principle of self-determination; and

Whereas the United States as a member of the United Nations has pledged to uphold the provisions of the United Nations Charter and to take joint and separate action to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion; and

Whereas the United Nations and the United States delegation to the United Nations have consistently upheld the right of self-determination of people of those countries in Asia and Africa that are, or have been, under foreign political rule;

Whereas the United States, as a signatory to the Final Act of the Conference on Security and Cooperation in Europe, endorsed Principle VIII concerning equal rights and self-determination of peoples; and

Whereas in 1940 the Soviet Union unilaterally and forcibly annexed the Baltic States (Lithuania, Latvia, and Estonia), which were sovereign members of the League of Nations; and

Whereas in 1954 the House of Representatives Select Committee to Investigate Communist Aggression concluded that the Baltic States "were forcibly occupied and illegally annexed by the Union of Soviet Socialist Republics" and that "the continued military and political occupations of Lithuania, Latvia, and Estonia by the Union of Soviet Socialist Republics is a cause of the dangerous world tensions which now beset mankind and therefore constitute a serious threat to the peace"; and

Whereas the desire of the citizens of the Baltic States for national independence remains strong despite efforts by the Soviet Union to destroy the Baltic peoples as distinct cultural, geographical, ethnic, and political entities through dispersions and deportations to Siberia, replacing them with ethnic Russians; and

Whereas the peoples of the Baltic States are entitled to equal rights and self determination as set forth in Principle VIII of the Helsinki Final Act and should be allowed to hold free elections conducted under the auspices of the United Nations after the withdrawal of all Soviet military forces and political, administrative, and police personnel from the Baltic States; and

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States, and continues to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia; and

Whereas in past years this policy has received strong support in the Congress; and

Whereas, in addition, the United States since its inception has been committed to the protection of its citizens, whether naturalized or native born; and

Whereas the Soviet Union recently promulgated a law designating as a Soviet citizen any person who was born in the Soviet Union, was naturalized as a Soviet citizen, or is the child of parents who were Soviet citizens at the time of the child's birth, irrespective of whether the child was born on Soviet territory; and

Whereas this law which went into effect on July 1, 1979, states that a person who is a Soviet citizen is not recognized as having the citizenship of a foreign state, and thus specifically does not recognize United States citizenship in such cases; and

Whereas this law applies to millions of Americans, including those who, under United States law, are native-born citizens of the United States; and

Whereas this Soviet law intimidates many United States citizens who might otherwise travel to the Soviet Union or come under Soviet authority or control: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) it is the sense of the Congress that the President, in order to assure true and genuine peace in the Baltic region and in Europe in general, should instruct the United States delegation to the 1980 Madrid meeting of the Conference on Security and Cooperation in Europe to seek full implementation of Principle VIII of the Helsinki Final Act concerning equal rights and self-determination of peoples.

(b) It is further the sense of the Congress that the President should, through such channels as the International Communication Agency and other information agencies of the United States Government, do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications.

(c) It is further the sense of the Congress that the President should use his good offices to make every effort to gain the support and cooperation of other nations for the realization of the independence of the Baltic States.

SEC. 2. (a) The Congress views with deep concern the action on the part of the Soviet Union making citizenship claims on millions of Americans who were born in the United States or naturalized.

(b) It is the sense of the Congress that the President should warn the Soviet Union against taking any action under this new Soviet citizenship law which would be detrimental to the interests of the United States and its individual citizens, and that the Secretary of State should inform United States citizens planning to visit the Soviet Union of the implications of this law.

Mr. Speaker, the determined spirit of the Latvian people is still unbroken and I was glad to appeal to Soviet authorities to urge the release of Zanis Skudra, a Latvian who is being held in a Soviet prison and who was sentenced to 12 years of hard labor only because he took pictures of ruined churches to publish abroad. I have also contacted the Soviets on behalf of two brothers in Latvia, Maris and Janis Tilgals, who were sent to prison for speaking out too frankly on matters considered controversial by Soviet occupation authorities.

This 61st anniversary of Latvian Independence Day is a most appropriate occasion to proclaim our precious heritage of liberty and remain firm in our sympathy for the aspirations of the Latvian people in their struggle to resist the vicious Communist system, and I am proud to join with Americans of Latvian descent in the 11th Congressional District, which I am honored to represent, in the city of Chicago, and all over this Nation, as they observe this commemoration of Latvia's freedom and continuing dedication to freedom's ideals.●

WORLD ADMINISTRATIVE RADIO CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, the World Administrative Radio Conference is presently meeting in Geneva, attended by 142 nations with approximately 1,800 delegates and observers. This is the first such conference in 20 years with the power to consider all uses of the radio frequency spectrum as well as related technical and procedural provisions. Since the outcome of the conference is vital to U.S. interests, I thought my colleagues would be interested to read the progress reports prepared by the Department of State:

WORLD ADMINISTRATIVE RADIO CONFERENCE
(Summary Report No. 1)

This report covers the period September 24–October 6. It is planned that subsequent reports will be issued on a weekly basis.

On September 27 the World Administrative Radio Conference (WARC) held its first Plenary Session, thereby officially opening the Conference. The opening had been delayed since September 24 due to the lack of a consensus regarding selection of the Conference chairman. The following is the slate of conference officials approved by the opening Plenary:

Conference Chairman: R. J. P. Severini (Argentina);

Vice-Chairmen: Glen O. Robinson (USA), A. L. Badalov (USSR), J. Jipguep (Cameroon), A. Petti (Italy), Li Linchuan (China), H. Kieffer (Switzerland). Kieffer was designated as special coordinator for Committees 4, 5, and 6;

Committee 1 (Steering): Consists of the Conference Chairman and Vice-Chairmen, and the Chairmen and Vice-Chairmen of the other Committees;

Committee 2 (Credentials): Chairman—C. J. Martinez (Venezuela), Vice-Chairman—Amer Jomard (Iraq);

Committee 3 (Budget Control): Chairman—Z. Kupcsyk (Poland), Vice-Chairman—K. P. R. Menon (Malaysia);

Committee 4 (Technical Regulations): Chairman—N. Morishima (Japan), Vice-Chairman—M. M. Cisse (Senegal);

Committee 5 (Frequency Allocations): Chairman—M. Harbi (Algeria), Vice-Chairman—J. J. Hernandez (Mexico);

Committee 6 (Regulatory Procedures): Chairman—M. Joachim (Czechoslovakia), Vice-Chairman—E. J. Wilkinson (Australia);

Committee 7 (General Administrative): Chairman—P. O. Okundi (Kenya), Vice-Chairman—H. L. Venhaus (Fed. Rep. of Germany);

Committee 8 (Reorganization of the Radio Regulations): Chairman—O. Lundberg (Sweden), Vice-Chairman—G. I. Warren (Canada);

Committee 9 (Editorial): Chairman—P. Bassole (France), Vice-Chairmen—V. Quintas (Spain), D. E. Baptiste (United Kingdom).

The majority of comments by participants during the opening Plenary were directed toward items on the WARC agenda. Three countries, however, digressed to flavor the session with political commentaries. Comments of the three countries, Colombia, Costa Rica, and Afghanistan, are summarized below.

As expected, Colombia made its claim regarding sovereignty over the geostationary orbit. They pointed out that the WARC is not competent to allocate positions on the geostationary orbit to individual countries, and that the U.N. Committee on the Peaceful Uses of Outer Space is dealing with the legal aspects of this matter. In general, they noted that communications has gained political importance and that ITU conferences no longer have mere technical implications. Colombia stated that politics is increasing in the ITU, and that this trend cannot be avoided.

Costa Rica commented about the injustice of the present communications system and the distribution of frequencies among nations. They spoke of the control and exploitation of the geostationary orbit by a few nations (not identified) at the expense of the developing nations. While briefly stating that the Conference does indeed have a technical base, Costa Rica declared that the distribution of frequencies and the regulatory structure is obviously political. They said that social, economic and political factors must now set the priorities for the WARC.

Most of the speech by the Afghanistan delegate was devoted to praise for his new government. Mention was made, however, of Afghanistan's underdeveloped condition and the need for the Conference to give it special concessions in the HF and VHF bands.

The Committees had their initial meetings on September 28 and 29. The meetings were organizational in nature.

The first full week of Conference activity, October 1-6, moved at a very slow pace, often as a result of minor points being debated in both full committee and working group levels.

Two problem areas have arisen at the working group level in Committee 4. First, in band 2.5-2.655 GHz, the United Kingdom wants to lower the PFD by 7 dB and the United States wants to raise it by 10 dB. Secondly, comments reflect strong opposition to the United States sharing proposals at 7/8 GHz between mobile satellite and fixed services.

In general, except as noted above, U.S. objectives are being met in all committees on the relatively few issues that have been considered. These are generally minor issues except for 1215–40 GHz where U.S. proposals for the GPS satellite navigation system were approved at the working group level.

WORLD ADMINISTRATIVE RADIO CONFERENCE
(Summary Report No. 2)

There was an increase in activity during the third week of the Conference (October 8–13), although consideration of specific proposals was often painfully slow. Four simultaneous meetings of committees and/or working groups were held each morning and afternoon, as well as on Saturday morning. No plenary sessions were held, and at the present time none are scheduled until the sixth week.

Committee 4 (Technical). Three working groups have been established, *i.e.*, 4A (Definitions), 4B (Space Coordination and Space-Terrestrial Sharing) and 4C (Miscellaneous). There is general agreement on matters of substance, consistent with U.S. objectives, with regard to Appendix 28 (procedure for determination of the coordination area around an earth station in frequency bands between 1 and 40 GHz shared between space and terrestrial radiocommunication services) and Appendix 29 (method of calculation to evaluate the degree of interference between geostationary satellite networks sharing the same frequency bands.)

Committee 5 (Allocations). Five working groups have been established:

5A (Definitions).
5B (Below 27.5 MHz).
5C (27.5–960 MHz).
5D (960 MHz–50 GHz).
5E (above 40 GHz).

Working group 5A has developed, and Committee 5 has approved, a set of standard texts for footnotes to the allocation table that should be used to the maximum extent possible.

Most work in 5B has been below 285 kHz. Minor activity has started above MHz, with preliminary discussions of the bands 4000–4063 kHz and 25–27.5 MHz.

In 5C, the U.S. national VHF allocations for domestic service have so far not been affected by WARC. Our objective of maximum flexibility in the international table, however was not maintained in all bands, as a majority preferred separate allocations for fixed, mobile, and broadcasting services as opposed to co-equal primary status. The UHF bands (470–890 MHz) have not yet been considered.

In 5D, the U.S. proposal for an aeronautical radionavigation satellite in the 960–1300 MHz band was rejected. The USSR has proposed extension of the GPS radionavigation satellite band to include 1240-1260 MHz. The U.S. is attempting to meet this request while satisfying other requirements in the 1215–1300 MHz band. The language of the U.S. footnote in regard to a solar power satellite has met strong resistance, primarily due to environmental concerns; a compromise text is being developed. On the topic of mobile service satellites, the U.S. proposal at 7/8 GHz continue to encounter considerable opposition, while the proposals at 20/30 GHz are gaining a more favorable reaction. Discussions of increased allocations for the fixed-satellite service have been deferred pending the results of an ad hoc group that has been asked to analyse and present all such proposals in a convenient form for discussion. The U.S. proposals at 12 GHz have not yet been discussed; in the meantime, U.S./Canada discussions are continuing in an effort to resolve differences.

Committee 6 (Regulatory). Consideration of the existing regulatory provisions is proceeding in a slow, methodical fashion. There has been only a minor discussion of principles concerning planning of the fixed-satellite service, with nothing contrary to U.S. objectives to date. There have been only behind-the-scene discussions of the Algerian proposal that the HF fixed-service bands be split on a 70–30 basis in favor of the developing countries; the Algerians may be studying the shortcomings of their proposal as pointed out by the U.S. and others.

Committee 7 (Administrative). The medical transport topic is being treated to the satisfaction of U.S. objectives.

Committee 8 (Reorganization of the Radio Regulations). The work is nearing completion. U.S. objectives are being met.

Miscellaneous. The latest count shows 150 countries now represented at the WARC. Approximatey 1,600 delegates and observers are physically present. Over 14,000 individual proposals have been submitted by 91 countries.

WORLD ADMINISTRATIVE RADIO CONFERENCE
(Summary Report No. 3)

Re Summary Report No. 2. The first sentence of the last sub-paragraph on the first page should be corrected to read: "In 5C, the U.S. national VHF allocations for domestic service have so far not been affected by WARC." The next sentence should be amended to read: "Our objective of maximum flexibility in the international table, however, . . ."

Activity during the fourth week of the Conference (October 15–20) was maintained at a moderate pace. The level of activity will have to increase if all items on the agenda are to be fully covered within the allotted period of time for the Conference.

Committee 4 (Technical). Work on appendices 28 and 29 continues to be compatible with the U.S. objectives. In the area of definitions, agreement has been reached on some technical definitions (e.g., radiation, emission, harmful interference, etc.) while some problems have arisen in the consideration of definitions for permissible and acceptable interference.

Committee 5 (Allocations). An ad hoc group has been set up to examine all proposals related to high frequency (HF) broadcasting (excluding proposals for frequency allocations) in the context of an HF broadcasting conference. The terms of reference include the approaches to and the possibilities of planning the HF bands allocated to broadcasting, and the preparatory work necessary to organize such a conference including the development of principles and technical basis for planning. The U.S. supported the idea of a future HF broadcasting conference but stressed, along with Sweden, that a meaningful conference would depend on a substantial increase in HF allocations for broadcasting.

In 5B, the U.S. is attempting to resolve differences with Canada and Mexico regarding the expansion of broadcasting and protection of radiolocation in the 1605–2000 kHz band. The U.S. seeks protection of radiolocation in the lower half of the band, while Canada and Mexico want an exclusive allocation for broadcasting from 1605 to 1705 kHz. The U.S. proposal for broadcasting in the 1500–1560 kHz band has no support in Region 2.

In 5C, concerning 470–890 MHz, most Region 2 administrations oppose the U.S. concept of shared allocations below 806 MHz. U.S. domestic allocations, however, are not in jeopardy. As with the VHF area, the preference in Region 2 is for discrete allocations in the VHF bands for the mobile, broadcasting and fixed services.

In 5D, at 7 and 8 GHz the exclusive bands for the fixed-satellite service were eliminated by virtue of the inclusion of the terrestrial fixed and mobile services. The U.S. was suc-

cessful in its compromise objectives, i.e., footnote recognition of the mobile-satellite service in the 7250–7375 and 7900–8025 MHz bands, and, a yet unknown number of European and Asian countries are joining in a footnote which indicates that the terrestrial fixed and mobile allocations would be on a secondary basis in their respective countries. At 12 GHz, the U.S. delegation had discussions with Brazil and Canada, and is attempting to satisfy the Canadian desire to allow at least limited broadcasting-satellite access to the lower band (11.7–12.2 GHz) and limited fixed-satellite access to the upper band (12.2–12.7 GHz), while still maintaining separate frequency allocations for the two services.

Committee 6 (Regulatory). The U.S. has presented the concept for a geostationary orbit access procedure (GOAP). Canada has an almost identical concept which has been submitted as a formal proposal. The U.S. delegation believes that the introduction of improved procedures may alleviate some concerns of the developing countries.

Committee 7 (Administrative). Provisions in regard to medical transports have been approved for submission to the plenary. U.S. objectives have been met.

Committee 8 (Reorganization of the Radio Regulations). Virtually all U.S. proposals have been accepted. The Additional Radio Regulations have been deleted.

WORLD ADMINISTRATIVE RADIO CONFERENCE

(Summary Report No. 4)

Re Summary Report No. 3. The last sentence of the first full sub-paragraph on page 2 should be corrected to read "____, the preference in Region 2 is for discrete allocations in the UHF bands _____."

The following are highlights of the fifth week (updated through October 29, 1979).

Committee 4 (Technical).

In working group 4A, the table on nomenclature of the frequency and wavelength bands was expanded to 3000 THz. Definitions agreed by the working group include: frequency tolerance, reference frequency, characteristic frequency, acceptable interference, effective radiated power, radio frequency channel, and definitions of various expressions of power (e.g., peak, mean and carrier).

In 4B, the draft revision of Appendix 28 is virtually complete and generally acceptable to the U.S. Appendix 3 (Table of Frequency Tolerances) has been completed and all U.S. objectives have been met. Appendix 4 (Table of Permitted Levels of Spurious Emissions) is under review and is very contentious. A new Appendix 5 has been developed for classification of emissions and determination of necessary bandwidths.

Committee 5 (Allocations).

In 5B, the treatment of HF allocations is proceeding slowly. The amateur service is retained at 7000–7300 kHz in Region 2. A small increase for broadcasting was agreed (by a narrow margin) in 7300–7400 kHz. There is strong opposition to the expansion of allocations for HF broadcasting.

In 5D, the delegation expects that U.S. objectives at 1535–1600 MHz will be met.

Several proposals to accommodate the fixed-satellite service (FSS) are controversial and unresolved. Three bands are at the center of the controversy: 3400–3600 MHz, 4400–4490 MHz and 14.5–15.35 GHz. The band 3400–3600 MHz is already allocated for FSS but on a shared basis with radiolocation in Regions 2 and 3; the working group agreed, over strong U.S. objections, to reduce radiolocation to a secondary status, and the U.S. is now seeking restoration of the primary status. In the 4400–4490 MHz band there is a move by the LDC's to allocate some or all of the band for the FSS downlink; the U.S. and NATO are opposed. At 14.5–15.35 GHz there is a strong effort by LDC's to add either the FSS or a feeder link for the broadcasting-satellite service; the U.S. is opposed and has suggested alternative bands (10/11 GHz, 12/13 GHz and 17/18 GHz). In each case the strength of support for the U.S. position is uncertain and the ultimate outcome is not predictable.

For passive remote sensing, it appears that the U.S. proposal at 10.6 GHz will be accepted, but there is strong opposition to our proposal at 18.6 GHz by countries having conflicting terrestrial services.

The 12 GHz problem has been kept out of 5D while the U.S. delegation continues to have discussions with Canada and Brazil.

Committee 6 (Regulatory.)

There were non-conclusive discussions of the procedures relative to replacement satellites. India raised the matter of FSS planning and wants it taken up in Committee 5, while the U.S. and several other delegations want it kept in Committee 6 on the basis that planning is a regulatory question. Progress was made toward a compromise of the Algerian "70–30" proposal; the compromise would involve a combination of procedural matters and assistance by the IFRB in the satisfaction of the LDC's specific requirements.

FTC FUNERAL RULE WOULD PROTECT CONSUMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, in several days we will consider H.R. 2314, the Federal Trade Commission authorization. During consideration of this legislation, the gentleman from Illinois (Mr. RUSSO) will offer an amendment that would prohibit the Federal Trade Commission from spending funds to promulgate or enforce any rule regulating the funeral industry.

I will rise in strong opposition to that amendment. The FTC's proposed funeral rules are a moderate attempt to offer the 1,900,000 persons who arrange funerals each year—at a cost of $5.4 billion—at least a modicum of protection from unscrupulous trade practices. These rules, which are based on 6 years of study and a 45,000-page rulemaking record, have been endorsed by a wide spectrum of religious leaders, labor unions, and consumer, senior citizen, and public interest groups.

I am convinced that the FTC's rulemaking procedure has been fair and that its proposed regulation of the funeral industry will not interfere significantly with the operation of any reputable funeral home. The FTC's proposed rules will, however, address industrywide problems by ensuring that consumers will have access to full information about funeral prices and options, and by prohibiting funeral directors from embalming without permission. Promulgation and enforcement of these rules would protect consumers from unfair trade practices and could save them many millions of dollars annually.

At this point, Mr. Speaker, I would like to include in the RECORD for the benefit of my colleagues a compelling article about the funeral industry and the FTC's proposed regulations, which was written by Father Thomas J. Reese and published in the June 23, 1979, issue of America magazine. The article follows:

THE FUNERAL INDUSTRY: LIVING OFF THE DEAD

(By Thomas J. Reese)

At some point in your life, you will probably have to deal with a funeral parlor to prepare for burial of a friend or relative. Someday, someone will have to do the same for you. With the average cost of a funeral over $2,000, for many families this will be the third most costly purchase—after buying a home and a car—you or your loved ones will make. But the arrangements are usually made with much less thoughtful consideration than the costs warrant. The deceased's family are not in a position to make very intelligent decisions because of grief, time pressures for arranging the funeral and general lack of knowledge about death-related legal and religious requirements.

Most families depend on the funeral director's advice and counsel for the funeral. But the Federal Trade Commission (F.T.C.) has found that many members of this $5.4 billion industry take advantage of the family's grief and ignorance and, like maggots, live off the dead.

Many funeral directors, for example, refuse to give specific price information over the telephone or in the funeral home until after a purchase has been made. Some directors fail to inform families accurately about the legal requirements for funeral merchandise such as coffins or for services such as embalming.

These directors are, of course, a disgrace to the industry and perhaps a small minority, but the industry itself has done little to discourage them. In fact, it has actively opposed attempts by the F.T.C. to stop these abuses through regulations.

The industry argues that the abuses are not widespread and that consumers are in fact well treated by funeral homes. A survey sponsored by the National Funeral Directors' Association found that 88 percent of the respondents were very satisfied with the funeral director's service, and 90 percent thought the funeral director adequately explained the choices the consumer could make. The F.T.C. felt, however, that consumer satisfaction was not a good indicator of abuses because purchasers frequently do not know what is being done to them.

My own experience with the funeral industry when my father died confirms the findings of the F.T.C. Luckily, my father had threatened to come back and haunt us if we dared have anything but the cheapest funeral possible. Such instructions from the deceased—preferably in writing and filed away with his will—are extremely important in alleviating guilt feelings. It is difficult to deal with an irrational relative who wants to give nothing but the best—the most expensive—to the deceased. The only definitive antidote to such nonsense is the expressed wishes of the deceased.

When I saw the funeral director, I explained that my mother wanted my father's body cremated. "Oh, we can have that done, but I won't guarantee that the Catholic cemetery will accept the ashes." Since I was a priest, I told him I would take care of that. Since the body was to be cremated, I saw no reason to have it embalmed or put in a coffin. "No, I'm sorry, but the law requires embalming and a casket." Thus, rather than being cheaper, I found that cremation was going to cost as much as a regular funeral plus $50 for the crematory. Finally we picked out the second cheapest coffin in the showroom. The cheapest was a disgusting pink, and I did not care what my father said, he was not going to be buried in that!

I later found out, while reading the F.T.C. June 1978 study of funeral industry practices, that I had been subjected to a classic case of the way in which many funeral directors treat their customers. While laws governing the care of the dead vary from state to state, in general here are some things you should know about them before you see a funeral director.

EMBALMING

Prior to the Civil War, embalming was not commonly practiced in this country. Embalming began at that time in order to preserve the bodies of deceased soldiers so that they could be shipped home. In earlier times, it was common for members of the family or friends to wash and prepare the body for burial. Frequently a member of the family or the local carpenter would make the coffin.

Today, according to the F.T.C., "no state has an absolute legal requirement that remains must be embalmed in all circumstances. . . . The special circumstances under which embalming may be required include death by communicable disease, interstate transportation, holding the body beyond a specified length of time and, in Kansas, burial in a mausoleum and intercounty transportation of the remains."

Embalming has been defended by some in the funeral industry as a public health measure. But the F.T.C. reported: "A review of the evidence suggests that the empirical basis for the public health necessity claimed for embalming is at best dubious." Dr. Bruce Dull, assistant director for programs at the Public Health Service's Center for Disease Control, said: "We have yet to see any data indicating that there is a public health problem in the United States today associated with unembalmed or ineffectively embalmed cadavers."

Even the embalming of those who have died of communicable disease has been criticized by public health officials. "In those few cases where a person dies of a highly infectious disease," commented a British Columbia Department of Health official, "a far better procedure would be to wrap and securely seal the body in heavy plastic sheeting before removing it from the room where death occurred." The City of Vancouver Health Department reached a similar conclusion "There does not seem to be any indication that embalming is necessary from the public health point of view, except when it is necessary to preserve the body for some time, for example, to permit its shipment abroad for disposal."

There is, of course, no religious requirement for embalming. In fact, it is forbidden by Orthodox Jews, who consider it a desecration of the dead. Thus, the women who came to Jesus' tomb on Easter morning came to anoint His body with spices but not to embalm it.

Some funeral directors have falsely claimed that embalming would protect the deceased from decay forever. But the purpose of embalming is really only to preserve the body for a short period of time. No matter how well embalmed, the body will eventually decay. At best, it will end up looking like King Tut—not a pretty sight once the gold and jewels are removed.

The F.T.C. is considering requiring funeral directors to provide a written statement explaining that embalming would not prevent the eventual decay of the deceased's body. The funeral industry objects to such a requirement, and the staff of the F.T.C. is having trouble drafting a statement that might not be offensive and distasteful to the deceased's family. The F.T.C. rules does forbid any misrepresentation of the preservative value of embalming or of using sealed (supposedly watertight or airtight) caskets, but this rule is more difficult to enforce.

Caskets. The casket is usually the most expensive item purchased for the funeral. Since funeral homes make a commission from the sale of caskets, they give careful consideration to how the caskets are presented to their customers. The F.T.C. found that many funeral homes display their cheapest casket in a soiled condition or in an unattractive color.

Worse yet, many do not even put their cheapest coffin in the showroom. As a Texas state legislator explained: "The family sees that apparently the cheapest priced casket and service is $600. How is the family to know that sitting in the back room are caskets and services for as little as $200?" A survey of 116 funeral homes in Maine found that one-third failed to display their least expensive casket.

One Washington consumer reported: "When I inquired if they did have any caskets for sale under $500, I was told, 'Oh, we have a few out in the garage that are just plain black and for use with welfare cases only. They are so dusty, you surely would not want to look at them.'" A former casket manufacturer, funeral director and Texas state legislator noted that funeral directors tell the manufacturer to "make it look as bad as you can," and that manufacturers do produce ugly caskets which the funeral directors point to with a shrug, saying, "Well, here is our least expensive one."

These merchandising strategies have been developed into a science that is taught in some mortuary schools. Besides displaying cheap caskets in the worst light, some directors intimidate the deceased's family with comments like: "This is the last act you can perform for your mother." "He deserves better than that." "Consider what the neighbors will think when they see the casket." Spend enough to do credit to the deceased."

Some organizations have been formed to provide people with cheap coffins. The St. Francis Burial and Counseling Society, for example, provides a pine coffin for as little as $160 (or $115 for a coffin kit) plus shipping costs. The Society also provides "How To Build Your Own Coffin" plans ($2.50) together with suggestions on practical uses for the coffin as a storage chest, book shelf, coffee table, wine rack or bench until it is needed as a coffin. I must admit, using a coffin as a coffee table is a bit much, but the other suggestions are not unreasonable.

Regular caskets vary greatly in price. Sales statistics maintained by the Casket Manufacturers Association showed the following average wholesale charges in 1975: cloth-covered wood, $98; steel, $224; hardwood, $300; copper or bronze, $955. These prices must be adjusted upward for inflation by approximately 8.5 percent a year. Price can also vary depending on whether the casket is "sealed," that is, supposedly watertight. But no matter how well embalmed the body and how airtight the casket, the body will decay.

CREMATION

Many Catholics are still under the false impression that their dead must be buried and not cremated. This is no longer true, although the church's "preference" is "for the custom of burying the dead in a grave or tomb. . . ." But as is explained in the introduction to the *Rite of Funerals*: "Christian funeral rites are permitted for those who choose to have their bodies cremated unless it is shown that they have acted for reasons contrary to Christian principle." Thus, unless the reason for choosing cremation is a disbelief in the Resurrection or some other Christian principle, cremation is permitted. The officiating priest can deal with the problem of "denial of Christian principles" or scandal or confusion by making a proclamation of belief in the Resurrection through the prayers and/or homily. And the rites ordinarily performed at the cemetery chapel or at the grave may be used in the crematory building.

Numerous people, myself included, have been told that a casket is required even if the body is going to be cremated. However, no state has an explicit casket requirement. Statutes in Maine and New Hampshire require a body to be shipped to a crematory in a casket or other suitable container. Florida law permits crematories to require "a container in the form of a cardboard container * * * or a wooden box or casket. * * *" Five states (California, Maryland, Minnesota, New Mexico and Wisconsin) have specifically prohibited any requirement of a coffin.

Funeral directors will often say that a casket is required to ship the body to the crematory or that the crematory requires a casket. The Cremation Association of North America has indicated that caskets are definitely not necessary for cremation. In fact, there are many other types of containers suitable for holding and transporting a body that are available to funeral directors. Under the general heading of "alternative containers" are rigid boxes made of pressed wood, heavy cardboard or composition and opaque canvas or polyethelene pouches (such as were used in Vietnam). These containers are less expensive than caskets, some wholesaling for as little as $5.

The cost of the cremation itself is usually between $50 and $150. Containers or urns for the ashes are priced between $50 and several hundred dollars. Final disposition costs vary with the type of disposition chosen: A niche in a columbarium can cost from $50 to $750; a burial in a cemetery may cost between $50 and $150 (less expensive than a full-sized plot); scattering can cost as much as $250 if done through a commercial service.

Sometimes a casket may be needed for services prior to cremation. Thus, families who desire public viewing of the deceased and a funeral service prior to cremation may wish to purchase a casket, but this is not always necessary. Visitation or viewing might utilize a "viewing dais" instead of a casket. A service may be held with the cremation container covered by a pall. Finally, it is also sometimes possible to rent a casket for the viewing and funeral.

FTC PROPOSED REGULATIONS

After a five-year study of the funeral industry, the F.T.C. staff drafted a series of regulations in 1978 to protect consumers from unfair and anticompetitive practices by funeral home operators. These regulations were then subject to public comment and were weakened because of complaints from the funeral industry. In March of 1979, the F.T.C. met to consider the regulations, and it hopes to promulgate final rules by next fall.

The F.T.C. regulations require that funeral directors give price information over the telephone. They must also provide a written price list by mail or at the funeral home to anyone requesting it. The purpose of this requirement is to allow consumers to do comparative shopping.

The price list must disclose the retail prices of all caskets offered which do not require special ordering. In addition, the following notice must be printed on the price list: "1. No law requires that you buy a sealer or protective casket except in special circumstances. 2. You do not have to buy a casket if you want cremation. Caskets are listed from least expensive to most expensive. If you want to see a listed casket which is not on display, please ask."

The funeral home must also provide a price list for other services: embalming, transportation, use of the funeral home for services or viewing, use of hearse, limousine, etc. The funeral director must also disclose the cost (with and without his commission) of services provided by others: clergy, florist, death certificate, newspaper notices, etc.

Each customer must also be provided with a written agreement listing the services and merchandise selected by him together with the price for each item.

Consideration was given to requiring funeral homes to display in their casket selec-

tion rooms the cheapest casket they carried, but the commission feared that such a requirement would be counterproductive since some funeral homes would merely discontinue carrying the cheaper models.

The regulations do forbid requiring a casket for cremation. They also are considering a requirement that funeral directors who offer cremation must make available an alternative container to any consumer who desires to purchase one instead of a casket for cremation. The F.T.C. likes the idea, but it is not sure it has the legal authority to demand that merchants carry a certain type of merchandise.

The commission also forbade the embalming of a body without permission from a legally authorized family members or representative. The commission has found that embalming without permission was a not uncommon practice. Under the proposed regulations, if the body is embalmed without approval, the family does not have to pay for it.

The original regulations also forbade false or misleading statements regarding legal or religious requirements dealing with funerals. This rule was dropped but later it was restored except for the "religious" requirements. The F.T.C. felt that it was possible to police false claims about legal requirements, but it did not want to get into deciding what was or was not a false or misleading statement about religious requirements. Because of the variety of religious customs, the F.T.C. probably made an intelligent decision here. At the same time, this now leaves to churches the responsibility of policing funeral homes to make sure that they do not misrepresent religious requirements on customs like cremation.

It should be remembered that these are proposed regulations subject to approval and change by the F.T.C. The final regulations will probably not go into effect until next year.

CHURCHES' RESPONSIBILITIES

That some members of the funeral industry have been able to treat the public unfairly, while working with churches to bury the dead, is a disgrace. Most pastors will not give their parishioners advice about funeral services. Some do not want to appear to favor one funeral director over another. Most do not know the field themselves and, therefore, would not want to give advice on something in which they have no expertise. Others, perhaps, are influenced by the lucrative donations or advertising in the parish bulletin that come from funeral homes.

Dioceses are no better. Funeral homes advertise in the diocesan paper, which may be reluctant, as a result, to run an exposé of the local funeral industry. Since churches or dioceses frequently own cemeteries, they have a conflict of interests because of their relationships with the industry. An average sized cemetery can easily net a quarter of a million dollars a year. It is not surprising, then, that although churches take positions on everything from the Panama Canal Treaty to SALT II, most have avoided the issue of regulating the funeral industry. Individual members of the clergy were very active on both sides of the issue. The U.S. Catholic Conference did not comment. This is surprising, considering that burying the dead is a very traditional corporal work of mercy about which the church should have something to say. The National Council of Churches is in the process of preparing a position on the funeral industry.

One director of a major Catholic cemetery testified against regulatory overkill by the F.T.C. He feared that funeral practices would be hemmed with such detailed operating regulations that they could adversely affect costs. His experience over the years with funeral directors indicated that the shortcomings were hardly endemic.

After studying the final proposed regulations, he concluded, however, that "they are all reasonable as they stand now. Whether they are *necessary* is difficult to answer. Individually, some of them don't address any particular major flaw of which I am aware; collectively, as a body of rules, they address a certain historical mind set that needed to be modified. A mystique had developed around funeral service, that it was gauche if not immoral to question prices or to do any preshopping. Funeral directors played a part in that, but I believe some of it was built by the public itself. I have tried to look at these rules as though they had been imposed on cemeteries, but virtually all of them recommend practices that we ourselves follow, so it is difficult to find major fault with them. Probably a major irritant is a sense of stigma that attaches to having the Government step in and legislate industry practices."

PREPARING YOUR OWN FUNERAL

If after reading this article you decide to prepare your own funeral, there are a number of things you should keep in mind. It is best to leave written instructions for your funeral, since that will avoid arguments among the family over what you wanted. Make sure someone knows where you have left these instructions.

The instructions should specify whether you want to be cremated or not, whether you want a casket and at what cost, whether you want to be embalmed, how much should be spent on flowers and where your remains should be placed. Some people also wish at this time to donate their bodies or some organs of it to a hospital or medical school. If a body is accepted by a medical school, the cost for burial or cremation is, of course, eliminated. Since many medical schools have received in this way more bodies than they need, alternative plans should be made in case your body is rejected.

These decisions can have a tremendous financial effect on the family you leave behind. As the F.T.C. noted: "Funeral costs vary enormously among different funeral homes and among different kinds of dispositions and ceremonies. For example, the cost of donating a body to medical science may be only a minimal fee for transportation of the body; an immediate cremation may cost $250–$350; an immediate ground burial may cost $420–$500; a cremation after a funeral service may cost $650–$800; and a typical traditional funeral with ground burial may cost $2,200–$2,400 for both funeral and burial expenses." The sky is the limit, of course, for extras.

It is your body. Plan now, die later.●

STATEMENT OF CONGRESSMAN CHARLES A. VANIK, 22D DISTRICT OF OHIO, BEFORE THE HOUSE WAYS AND MEANS COMMITTEE, THE VALUE ADDED TAX, AND TESTIMONY OF THE HONORABLE G. WILLIAM MILLER, SECRETARY OF THE TREASURY BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, today the Ways and Means Committee began hearings on Chairman AL ULLMAN's bill to provide a new value-added tax to provide a lower rate of corporate income taxes and as a substitute for certain portions of the social security taxes.

Secretary G. William Miller made one of the most persuasive presentations I have heard in my time on the Ways and Means Committee. It was a profound, dustless, and noiseless demolition of the value-added tax plan. The administration does not support the idea—at least at this time.

As bad as our tax system is, I contend that it is infinitely better than almost anything it can be compared with from abroad. The value-added tax would multiply, not reduce inequities. It would shift the tax burdens to the shoulders of those seldom represented by lobby groups in the committee room.

The value-added tax would not have any significant effect on our trade posture. Our trade balance and our capacity to export could be improved in more effective ways with low-cost tax incentives for new technology.

The value-added tax is not a simple tax plan. It would require 13 to 15 million new filings and an entire new range of bureaucratic reports and regulations. It could overwhelm and bring about the last stand of small business in America. It would not reverse or affect the problem of underground, unreported income.

I consider the value-added tax an unwise import from abroad. It is, indeed, alien to American concepts. It would be a burden on consumers. It would raise prices. It would multiply tax burdens on those who support others. It would be a new tax on the family.

At this point, I would like to place Secretary Miller's statement in the RECORD. I hope that Members of this body will carefully review the value-added tax proposal and react quickly to the Ways and Means Committee deliberation before the idea takes root for unwarranted reasons.

TESTIMONY OF THE HONORABLE G. WILLIAM MILLER, SECRETARY OF THE TREASURY, BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS

Mr. Chairman and Members of this distinguished Committee: It is a pleasure to appear before this Committee to discuss the important issues raised by H.R. 5665, the "Tax Restructuring Act of 1979." This bill would result in fundamental changes in our Federal tax structure. Income taxes on corporations and individuals, as well as social security taxes, would be cut by $130 billion in 1981. A Federal value added tax would offset this revenue loss. This testimony will not concentrate on the specifics of H.R. 5665, but on the basic issue which the bill raises: whether the United States should replace some of its income taxes with a consumption tax. That is, whether the Federal tax system should weigh more heavily on consumption and less heavily on saving and investment. Many believe that such a change would contribute significantly to improved capital formation, higher productivity, and a more competitive position for American business in world markets. Others express concern that a consumption tax would have only small effects on investment and would place an unfair burden on lower income families already plagued by high prices for energy, food, housing, and other basic necessities of life. Higher consumption taxes, they believe, would mean still higher prices. These hearings will serve the valuable function of focusing the discussion on these significant economic and social issues.

An important element in this discussion is the role of a value added tax in the Federal tax structure. A value added tax is a multistage tax on consumer goods and services. Unlike a retail sales tax, it is collected at each stage in the production and distribution process. But since it is levied only on

the amount of value added (the difference between sales and purchases) at each stage, rather than on the full selling price, it avoids the cascade, tax-on-tax, effects of a turnover sales tax. A value added tax is similar to a retail sales tax in that the total tax paid by the consumer is equal to the final price of the product multiplied by the tax rate.

Many European countries have value added taxes. Typically, they are imposed at a rate of about 15 to 20 percent and generate about 15 percent of a country's total national and local tax revenue. In contrast, state and local retail sales taxes raise about 7 percent of the total Federal, state, and local tax revenue in the United States. The $130 billion in value added tax revenue estimated to be raised by H.R. 5665 would be about 14 percent of total Federal, state, and local 1981 tax liabilities, assuming it is accompanied by the proposed income and social security tax cuts.

In nearly all cases, the European value added taxes replaced sales taxes, frequently of the cascade turnover type which, unlike the value added tax, taxed the full sales price at each stage, without allowing a credit for tax on previous transactions. The Europeans found the cascade tax objectionable because it discriminated against nonintegrated firms and because the export rebate and import tax could not be accurately estimated for border adjustment purposes. Thus, in the European case, the adoption of a value added tax was regarded as a reform of an unwieldy and distortionary system of indirect taxation. This characterization does not apply to the present indirect tax system in the United States. Only the United Kingdom has used the value added tax to reduce income taxes, as Chairman Ullman is suggesting for the United States.

The popularity of the value added tax is not universal. The voters of Switzerland have twice rejected it by referendum. The latest rejection was based in part on a perceived threat to local autonomy since a Federal value added tax would have replaced some of the local Swiss taxes. Most recently, Japan, largely as a result of its parliamentary elections, appears to have postponed the planned introduction of a value added tax.

For the United States, a value added tax raises a number of important questions. Would it encourage capital formation? What impact would it have on the price level? Would it improve the trade balance? Would it be regressive? No one is seriously suggesting the value added tax solely as an additional Federal tax. Consequently, the answers to these questions, as well as others, depend upon which taxes the value added tax replaces. By way of illustration, two of the proposals made by Chairman Ullman call for reducing the corporate income tax and the social security taxes.

CAPITAL FORMATION

Taxes on capital income, such as the corporate income tax and the individual income tax on interest and dividends, reduce the after-tax return on savings. Put another way, an income tax encourages present, as compared to future, consumption. With no taxes, a person with $100 of income could choose between buying $100 of consumption goods this year or saving now and buying $110 of consumption goods next year, assuming the interest rate is 10 percent. Thus, a person can consume 10 percent more next year by saving now. Similarly, with a consumption tax, which exempts the earnings from capital, a person with $100 of income could consume $50 this year and pay $50 in tax or, by saving the income this year, could consume $55 next year and pay $55 in tax. Thus, a person could still consume 10 percent more next year by saving now.

If a 50 percent income tax, rather than a consumption tax, is imposed, however, the individual, after paying the tax, can buy $50 of consumption goods this year or can save the $50 and, after paying the tax on the interest earnings, buy $52.50 of consumption goods next year. Because of the income tax, a person can buy only 5 percent, rather than 10 percent, more consumption goods next year. Because of this lower return, the individual may decide to consume now rather than save for future consumption. It is important to recognize, however, that the responsiveness of saving to more favorable taxation is an unsettled issue. If one concludes that savings will rise in response to reduced taxation, then substituting a value added tax for the corporate income tax should encourage saving.

There are other considerations in assessing the mechanism that leads to an increase in investment. First, an increase in savings must be channeled into domestic financial markets in order to lower interest rates and therefore the cost of capital. Second, producers must respond to the lower cost of capital by using more capital intensive methods of production. There probably will be some response, but its magnitude is open to discussion. Third, the mix of new investment must be considered: it may be concentrated in housing, consumer durables, or fixed business capital. Thus, the substitution of a value added tax for the corporate income tax will increase capital formation only if savings increase, the cost of capital falls, and business responds by investing in the United States.

Finally, it bears noting that the potential of the value added tax for promoting capital formation may be exaggerated by an analysis that compares a "pure" consumption tax with a "pure" income tax levied on all returns to capital. The current income tax does not apply with full force to all types of saving and investment. For example, home ownership, pension reserves, and assets eligible for the investment tax credit or the asset depreciation range receive relatively favorable tax treatment. Similarly, not all forms of consumption would be taxed the same under any likely value added tax.

In contrast to an income tax, neither the social security tax nor a value added tax applies directly to the return from saving. Consequently, substituting a value added tax for the social security tax would be unlikely to affect savings decisions.

PRICE LEVEL IMPACT

A value added tax, by itself, will probably increase prices, since the tendency for business to pass the tax on to consumers is unlikely to be offset by an unduly restrictive monetary policy. The result would be a "one-shot" increase, not a recurrent increase, in the price level, although the subsequent price effects of adjustments in wage contracts, social security payments, and other indexed items may occur over time. In this regard, it is noteworthy that the Thatcher government's program of increased value added taxation and reduced individual income taxation has been accompanied by a significant increase in the consumer price index in the United Kingdom.

The important question, then, is whether the inflationary impact of the value added tax would be offset by reductions in other taxes. In the short run, the corporate income tax reduces the after-tax rate of return to capital, rather than increases product prices. Accordingly, prices will probably not fall as corporate income taxes are cut. Thus, substituting a value added tax for the corporate income tax is likely to increase prices. This is a serious drawback to the value added tax.

Substituting a value added tax for the social security tax may be less inflationary. Reducing the employer portion of the social security tax would tend to reduce business labor costs and possibly prices. Reducing the employee portion of the social security tax, however, would probably have no effect on the price level. Thus a value added tax, accompanied by an equivalent reduction in employer and employee social security taxes, would result in some increase in the price level. This would be particularly distressing to individuals least able to protect themselves from rising prices.

The impact of a value added tax on prices is largely independent of whether it is hidden in the price of the product or whether it is quoted separately to consumers. While it is not customary in Europe to quote the value added tax separately, this need not be the case in the United States. State retail sales taxes are quoted separately because the merchants persuaded legislators to require it, and the same could occur in the case of a United States value added tax. Furthermore, nonseparate quotation of the value added tax might be viewed as an attempt to hide the tax from public scrutiny.

BALANCE OF TRADE

Many have expressed the view that a value added tax would improve our trade balance. This is based on the observation that current international rules allow indirect taxes, such as sales or value added taxes, to be imposed on imports and rebated on exports. These adjustments are not allowed for direct taxes, such as the corporate income or social security taxes. It is doubtful, however, that the U.S. trade balance would improve significantly from substituting a value added tax for the corporate income tax.

The impact of the value added tax on trade is closely related to what happens to prices. Quite simply, one must ask the question: will the substitution of the value added tax for some other tax increase prices? It seems likely that the immediate impact of substituting a general value added tax of 5 percent for part of the corporate income tax would be to increase prices by about 5 percent. Since the new tax would be rebated on exports, just like our state retail sales and Federal excise taxes, exports would leave the country tax free. While domestic prices would be 5 percent higher, export prices would remain unchanged. Foreign consumers, therefore, would find U.S. products no more attractive than before; there would be no increase in demand for U.S. exports.

Since imports would be subject to the value added tax their prices also would increase by about 5 percent, the same as for domestic goods and services. As a consequence, domestic consumers would find imports just as attractive as before; there would be no incentive to reduce the demand for imports. Thus, on both the export and import side, there would be little immediate impact on the U.S. trade balance if a value added tax were substituted for the corporate income tax. There might, of course, be a positive trade impact in the long run if the substitution led to an improved investment climate, enhanced capital formation, and a more productive and competitive U.S. economy.

A modest trade balance improvement might result from replacing the social security tax with a value added tax, if the price level increased by less than the value added tax. Because of the price-dampening effect of reducing the employer portion of the social security tax, this is a possibility.

Regardless of which tax it replaces, many believe that a value added tax rebate, in itself, will expand exports and that a value added tax levy will retard imports. This belief might have a positive effect on trade if it encourages businesses to compete more vigorously in international markets. This result would depend upon the importance of nonprice considerations in explaining export activity.

It is also important to recognize that other countries could restructure their own tax systems if they felt the United States was gaining an unfair trade advantage. Relative to other countries, the United States has a moderately high corporate income tax, but a low social security tax. Thus, the possibility

exists that other countries might maintain their competitive position by increasing their existing value added taxes and reducing their corporate income or, especially, their social security taxes. This outcome is by no means certain. After all, a country's tax structure is not determined solely by international considerations. Moreover, except for Japan, U.S. indirect taxes, as a share of gross domestic product, are the lowest of the major developed countries. Other countries may believe that the United States should be allowed to "tilt" its tax structure to reach some "reasonable" or "average" level of indirect taxation.

This issue has been studied before. Both the President's Task Force on Business Taxation, in its 1970 review of tax policy, and the Advisory Commission on Intergovernmental Relations, in its 1973 value added tax study, considered the trade issue. Both expressed doubt over any trade benefits resulting from substituting a value added tax for the corporate income tax both noted the possibility of foreign retaliation.

DISTRIBUTION OF TAX BURDEN

Lower income taxpayers, who must spend all their income on consumption, may find a value added tax burdensome because of its regressivity. While a value added tax, by itself, is regressive, one must consider which tax it replaces. The immediate impact of the corporate income tax is probably progressive since it falls on income from capital. Therefore, substituting a value added tax for the corporate income tax would make the tax structure less progressive. The social security tax, on the other hand, also is regressive because it is limited to the first $22,900 of wages and applies only to labor income. Accordingly, substituting a value added tax for the social security tax would not make the tax system noticeably less progressive. One regressive tax would be substituted for another. Retired individuals, however, who do not pay social security tax, would be distressed by having to pay value added tax. They could justifiably say that they already had paid for their retirement during their working years and that higher prices and taxes in retirement were unfair. Their distress might be partially assuaged by the fact that social security payments are indexed.

One way to illustrate possible distributional effects is to ask what would happen to tax burdens if a value added tax completely replaced the individual income and social security (employee portion) taxes. The combination of the current income and social security taxes is progressive while a value added tax, even with necessities excluded, is regressive. As a share of income, the present individual income and social security taxes are only 2 percent for families with less than $5,000 in income, but increase throughout the income range to 33 percent for families with over $100,000 in income.

This may be contrasted with a value added tax with no exclusions at a 23.2 percent rate, sufficient to equal the revenue raised by the individual income and employee social security taxes in 1978. As a share of income, such a value added tax would be 35 percent for families with less than $5,000 in income, but fall to 6 percent for families with over $100,000 in income.

No one, of course, is proposing the complete substitution of the value added tax for the income and social security taxes. A more realistic alternative would be to substitute a value added tax for part of the combined individual income and social security taxes. One possibility would be to reduce income and employee social security taxes by $100 billion, keeping the same degree of progressivity for these taxes as under present law, and offset the revenue loss with a $100 billion value added tax with no exclusions. The resulting distribution of tax burdens would be regressive at the lowest income levels and mildly progressive elsewhere. As a share of income, families with less than $5,000 in income would pay 17 percent in taxes, families with between $5,000 and $10,000 in income would pay 14 percent, and taxes would then increase throughout the income range so that families with over $100,000 of income would pay 21 percent of their income in taxes. The overall distribution is significantly less progressive than the present combination of income and employee social security taxes.

The regressivity of the value added tax can be moderated, but not eliminated, by special measures. One possibility is the use of exemptions and reduced rates for necessities, as in Chairman Ullman's proposal and in some European countries. These reduce the tax burden of the value added tax at the lowest income levels, but the tax remains aggressive. Exemptions and reduced rates, moreover, create administrative problems. A tax with two, three, or four rates is more complex than a tax with one rate. The specially-taxed items must be identified. Does a lower rate for food, for example, apply to such items as chewing gum, soda pop, candy, or caviar? Experience with the income tax shows that even medical services and drugs are not easy to define. Beyond the definitional problems, total or partial exclusions erode the value added tax base and its revenue potential.

The regressivity of a value added tax also can be reduced by a refundable income tax credit for tax paid on a necessary amount of consumption. This avoids the need to define exempt commodities and can be implemented at a lower revenue cost than a complete exemption for certain "essential" commodities. It can, for example, be phased out at increased income levels. In effect, middle and upper income groups would still pay tax on purchases of food and other necessary items. On the other hand, a refundable credit is effective only if it reaches the roughly 25 million individuals who do not appear on an income tax return. These tend to be individuals most in need of the credit, mainly recipients of social security benefits and of transfer payments under social and welfare programs. Unlike lower rates and exemptions, if the credit was not paid until the end of the year, the consumer would have to finance the tax during the year.

ADMINISTRATIVE AND DESIGN CONSIDERATIONS

Both the European value added taxes and the tax suggested by Chairman Ullman have certain basic similarities:

They are broad based, applying to services as well as goods;

Tax liability is determined by the credit method with tax paid on purchases deductible from tax due on sales;

They are consumption type taxes, any tax paid on capital equipment purchases is immediately deductible; and

They extend through the retail stage.

A value added tax of this type for the United States would involve about 15 million taxpayers. This number might be reduced by 5 million if exemptions were provided for very small proprietorships and farming. But under a value added tax, nearly all transactions are taxed. Even a firm that is tax exempt on its sales will have paid tax on its purchases. If it is to receive credit for tax paid on its purchases, it either would have to file a return or the credit would have to be made available to its customers.

Even 10 million taxpayers would add about 30 percent to the number of returns filed with the Internal Revenue Service, assuming quarterly returns are required. Since the value added tax would not totally replace any other tax and would be a new tax, requiring new returns, new regulations, and a new body of case law, this would be a net addition to the work of taxpayers, the Internal Revenue Service, and the courts. This differs sharply from the typical European case where the value added tax completely replaced another sales tax.

Reporting and payment requirements for a value added tax would be similar to those for Federal excises, which require liability to be computed on a semimonthly basis with payment due 9 days later. The actual excise tax return is filed quarterly and is accompanied by the payment of any remaining balance. Liquor and tobacco excises, however, have slightly different rules. A value added tax payment system which would fit more neatly with ordinary bookkeeping would be a monthly liability period with payment due at the end of the next month. This would be similar to that proposed by Chairman Ullman.

OTHER CONSIDERATIONS

A Federal value added tax would raise a number of other issues. Forty five states and the District of Columbia impose general sales taxes, a revenue source which they tend to view as belonging exclusively to them. Sales and gross receipts taxes account for about 30 percent of state tax revenue. In contrast, excise taxes generate less than 4 percent of Federal tax collections. Nevertheless, while a Federal value added tax may make it more difficult for the states to raise their sales taxes, it should not prevent such increases. All levels of government, for example, impose income taxes. Moreover, total Federal, state, and local sales tax collections are lower in the United States than in most developed countries.

Because of likely differences in the tax bases, it is doubtful that a Federal value added tax could be coordinated with the state sales taxes. Separate taxes, admittedly, would mean higher administrative and compliance costs. Each level of government would require a collection and audit capability. Taxpayers would have to become familiar with separate tax bases and separate returns. Revenue departments and taxpayers, however, already face this problem with Federal and state income taxes. Efforts aimed at Federal-state cooperation and coordination have not been successful.

As shown by Chairman Ullman's proposal, even a broad-based value added tax may not apply to all forms of final consumption. Practical considerations may require special treatment for many items. In the area of housing, for example, homeowners and tenants should be treated equally. But if rental payments are taxed, how should homeowners be taxed? It may be difficult to value the so-called "imputed rent" on owner occupied housing. Taxing the purchase price of a home is one alternative, but this may aggravate the problems of many families already hard pressed to cope with high housing prices. The treatment of interest in the housing area also is troublesome. If it is exempt, what part of a rental payment should a landlord be allowed to exclude from the tax base? These and other problems will require careful study.

The value added tax is a very potent revenue source. At 1979 levels of consumption, a value added tax would raise roughly $10 billion in revenue for each percentage point. Thus, a 7 percent value added tax would raise about as much revenue as the corporate income tax and a 12 percent value added tax would raise as much revenue as the social security taxes. With such a powerful instrument for raising revenue, many are concerned that the value added tax eventually will be used to add to the total Federal tax burden.

CONCLUSION

Mr. Chairman, you are to be commended for initiating an examination of the very important, but complex, issues of how the Federal tax structure affects our national well

being. This is a time of great change. It is also a time of troublesome and unfamiliar economic conditions. The combination of high inflation, slow growth, and persistent trade deficits must make us wonder if the traditional economic remedies still work. In this sense, your decision to study a broad range of new initiatives could not come at a better time. But changes of such major consequences require careful and deliberate study. We welcome the opportunity to particate with you in that study.

ANNEX A

FEDERAL, STATE, AND LOCAL TAX REVENUES FOR SELECTED COUNTRIES AS PERCENT OF GROSS DOMESTIC PRODUCT, BY TYPE OF TAX, 1975

[Country rankings in parentheses]

Country	Total	Indirect taxes, sales and excise [1]	Direct taxes							Total direct taxes
			Social security [2]							
			Total	Employer	Employee and self-employed	Corporate income	Noncorporate income [3]	Property [4]	Other [5]	
Belgium	41.43 (5)	10.87 (6)	13.14 (5)	8.44 (4)	4.70 (5)	3.07 (6)	13.24 (4)	1.01(12)	0.10 (8)	30.56 (4)
Canada	33.98 (9)	10.94 (4)	3.22(12)	NA	NA	4.67 (2)	11.32 (7)	3.13 (3)	.70 (4)	23.04(11)
Denmark	43.05 (4)	14.71 (1)	.48(13)	.31(12)	.17(12)	1.37(13)	23.86 (1)	2.57 (4)	.06(10)	28.34 (3)
France	36.90 (6)	12.44 (2)	14.72 (3)	10.61 (2)	4.11 (6)	2.00 (9)	4.58(13)	1.46 (9)	1.70 (2)	24.46 (8)
Germany (Federal Republic)	35.22 (8)	9.37 (8)	12.03 (6)	6.60 (7)	5.43 (4)	1.56(12)	10.60 (8)	1.09(11)	.57 (6)	25.85 (7)
Italy	32.34(10)	9.34 (9)	14.83 (2)	11.92 (1)	2.91 (9)	2.04 (8)	4.95(12)	1.17(10)	.01(11)	23.00(12)
Japan	20.23(13)	3.67(13)	5.09(11)	2.63(11)	2.46(10)	3.43 (4)	5.07(11)	1.94 (7)	1.03 (3)	16.56(13)
Luxembourg	46.74 (2)	9.72 (7)	14.05 (4)	7.80 (6)	6.25 (2)	7.22 (1)	12.78 (5)	2.34 (5)	.63 (5)	37.02 (1)
Netherlands	46.90 (1)	10.91 (5)	17.99 (1)	8.40 (5)	9.59 (1)	3.61 (3)	12.66 (6)	1.48 (8)	.25 (7)	35.99 (2)
Sweden	45.96 (3)	11.48 (3)	8.89 (7)	8.47 (3)	.42(11)	1.99(10)	21.17 (2)	.51(13)	1.92 (1)	34.48 (3)
Switzerland	29.49(12)	5.90(11)	8.49 (8)	3.05(10)	5.44 (3)	2.46 (7)	10.51 (9)	2.13 (6)	----------	23.59(10)
United Kingdom	36.77 (7)	9.24(10)	6.71(10)	3.75 (9)	2.96 (8)	1.92(11)	14.29 (3)	4.54 (1)	.07 (9)	27.53 (6)
United States	30.31(11)	8.49(12)	7.42 (9)	4.18 (8)	3.24 (7)	3.29 (5)	9.96(10)	4.13 (2)	----------	24.82 (8)

[1] Includes general sales, value added, and specific excise taxes.

[2] Include contributions of employers, employees, and self-employed. Catagory is broadly defined to include all tax payments to institutions of general government providing social welfare benefits, provided they are levied as a function of pay or a fixed amount per person. Thus, for the United States this category includes contributions to the railroad retirement fund, unemployment insurance fund, workman's compensation fund, and civil service retirement program in addition, of course, to the more familiar social security-type payments made pursuant to the Federal Insurance Contributions Act (FICA).

[3] Includes income taxes on individual and unincorporated enterprise, such as propietorships and partnerships.

[4] Includes taxes on net wealth, immovable property, estates, and gifts.

[5] Includes taxes on employers based on payroll or manpower and miscellaneous taxes which cannot be classified within a specific direct tax category.

[6] Computed by subcontracting sales and excises from total.

Source: Revenue Statistics of OECD Member Countries, 1965–75.
Office of the Secretary of the Treasury, Office of Tax Analysis.

EFFECTIVE DATE OF REGISTRATION REQUIREMENTS FOR BONDS ISSUED UNDER H.R. 5741

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, on October 30, 1979, I, with Mr. CONABLE, Mr. CORMAN, and Mr. MOORE as cosponsors, introduced H.R. 5741, the Mortgage Subsidy Bond and Interest Exclusion Tax Act of 1979. There is a technical error that appears in the bill relating to the application of the registration requirement for qualified veterans' bonds and for industrial development bonds for low- or moderate-income rental housing. As in H.R. 3712, as reported, we intended that the registration requirement apply only to bonds issued after the date of enactment. Accordingly, H.R. 5741 should have read as follows:

On page 20 strike out lines 1 through 4 and insert in lieu thereof the following:

(g) REGISTRATION REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the amendments made by sections 2 and 3, insofar as they require obligations to be in registered form, shall apply to obligations issued after the date of the enactment of this Act.

(2) BONDS UNDER TRANSITIONAL RULES.—Any obligation issued by reason of subsection (b), (c), (d), (e), or (f) of this section after the date of this Act shall be in registered form.●

CATASTROPHIC HEALTH AND PREVENTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 10 minutes.

● Mr. ADDABBO. Mr. Speaker, the cost of extended health care is rapidly reaching the point where it will soon be beyond the grasp of many Americans. Until a comprehensive national health insurance plan is carefully developed we must devote our energy to filling the gaps with immediate legislation.

The first and foremost gap in our "health system" is to provide insurance for every citizen against catastrophic illness or accident. With thousands of Americans facing financial ruin every year because of an illness that wipes out life savings, we must tackle the problem head-on and without undue delay. We have to face the realization that health care costs associated with a major illness or accident could cause financial ruin for all but the wealthiest of families and that a comprehensive health plan may not be enacted for several years.

In general, expenditures that exceed 10 or 15 percent of an individual's gross income are considered catastrophic. The Congressional Budget Office estimates that 21.4 million families—or 28 percent of total families—experienced expenses exceeding 15 percent of family income in fiscal year 1978. Ninety percent of these costs were expected to be paid by third party sources, such as private industry and insurance. If out of pocket expenses only were considered, an estimated 6.9 million families—9 percent—were expected to have expenses exceeding 15 percent of family income. The burden falls primarily on the low income with 2.3 million or 28 percent of those families with incomes under $5,000 incurring catastrophic expenses.

In addition, although many persons not covered under private insurance plans receive assistance for their health care expenses through public programs such as medicare, medicaid, and the Veterans' Administration, an estimated 22 million people, or 12 percent of the American population, have no health insurance protection under either public or private programs.

Let us not be fooled because a person is under a health plan that guarantees that he or she is covered if major expenses begin to mount. Although 75 percent of the population under age 65 is covered under a major medical or comprehensive health plan, many of these plans contain certain limits on maximum benefits per episode or per lifetime that prove inadequate in the face of long-term illness or the need for exotic medical treatments. The elderly, as usual, take the brunt of long-term costs head on and with full force.

For example, the medicare program is an example of partial coverage and deficiencies. Medicare provides good protection for basic health expenses but less than adequate coverage for catastrophic costs. Less than 1 percent of the aged have hospital stays that exceed medicare limitation; however, for stays beyond 60 days, the beneficiary becomes liable for daily coinsurance payments. The program's coverage of other institutional services is less adequate.

Protection is available for only 100 days of posthospital care in skilled nursing facilities. Thus, the primary catastrophic expense of the elderly long-term institutional care is not fully addressed by the program. This 20 percent can be a severe burden. The long illness that exhausts inadequate insurance is a terror that haunts the middle class and aged of our country.

I am not blind to the fact that a catastrophic health plan will cost money. But I am also aware that we can cut our costs for such a plan if we change our present system of health care. We have a health care system that treats sickness but does very little to encourage us to

stay healthy. If it is a major concern that we protect the poor, the middle class, and the elderly from financial ruin we should act to reduce the likelihood of crippling disease and accidents from taking place.

If the big killers in this country are coronary heart disease, cancer, and stroke, and if the treatment is very costly, financially as well as spiritually, then we ought to consider that incidence is related in part to lifestyle, such as sedentary living, poor diet, obesity, and smoking. We have to understand that the way to lower health costs and longevity is through prevention, not diagnosis. Public and private insurance plans pay more than 90 percent of hospital bills, and 70 percent of doctor's bills.

Yet, medicare, which will provide coverage for an estimated 27 million aged and disabled persons in 1980, paying 80 percent of treatment costs for people over 65—with certain limits—is explicitly forbidden to pay a nickel for preventive measures. Neither Blue Cross-Blue Shield nor most commercial insurance plans pay for vaccination against such diseases as measles, whooping cough, and polio, though they will usually pay at least part of the much greater cost of treating those diseases. If you get sick, your insurance carrier will usually pick up at least part of the tab; if you try to avoid getting sick, you are on your own.

Whether or not insurance companies and hospitals like it, people should be encouraged to do everything not to get sick. They should be encouraged and rewarded when they take the proper steps and keep them out of costly hospitals. If adequate nutrition reduces the incidence of disease, if environmental contaminents cause disease, and if smoking, obesity, drinking, lack of exercise, and sleep reduce longevity and are related to the incidence of disease, then we should start at that point, not on the operating table. We can have a fighting chance to reduce sickness and cut our medical bills if we think of doctor's visits and surgery as our last resort, not our first.

Catastrophic health plans and a fundamental reshaping of our system of medical care is urgently needed. If we cannot stop a catastrophic event from taking place then we must do all we can to insure that the anguish and utter helplessness a family suffers when a loved one is seriously ill is not further compounded by the fear of being financially as well as spiritually broken.●

RECLAMATION REFORM ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

● Mr. UDALL. Mr. Speaker, today a bill is being introduced by the chairmen of the Committees on Ways and Means and Interior and Insular Affairs for the purpose of amending the Reclamation Act of 1902. We seek to quell the great consternation that has been generated by the proposed enforcement of this 75-year-old law. We seek to update and modernize a program that has served us well, but which has not been rigorously applied for decades.

Our bill is not notable for altering the spirit of the original act; we wish to preserve the family farm. Our bill is not a "giveaway"; we have effectively banned large corporate agriculture from the reclamation program—as did the Senate. Our bill is notable for the long-term stability and security it provides those who farm the reclaimed desert lands of the West.

It has inevitably taken the administration a very long time to prepare the environmental impact statement on the rules and regulations it is promulgating to enforce the reclamation law. In the meantime many thousands of farmers—not to mention mortgage companies and financial institutions—have been kept hanging—not knowing if they would still be in the agricultural business when the next growing season came around.

We have heard excellent arguments about the efficiency of corporate agribusiness. It is clear that some economies of scale can be achieved with much larger farms. But we do not believe that these corporations belong in the reclamation program. As the Supreme Court has stated, the program is "designed to benefit people, not land. * * * It is a reasonable classification to limit the amount of project water available to each individual in order that benefits may be distributed in accordance with the greatest good to the greatest number of individuals." We must insure that the enormous expenditures involved in the reclamation program will not go in disproportionate share to a few individuals with large land holdings.

Over 90 percent of the farmers in the reclamation program will be completely unaffected by this legislation. The hue and cry of the remainder, we feel, comes from those who would try to monopolize the benefits of the reclamation program. We feel we have been generous: what was a 160-acre restriction has been expanded to 1,120. According to the administration over 97 percent of irrigated farms are smaller than 1,000 acres, and over 91 percent are smaller than 500 acres. Nothing could more clearly demonstrate the economic viability of our acreage figure. Landholders who are in compliance when the construction charges are paid off would be permanently excused from the acreage restrictions. This insures that the Federal Government, having achieved the objectives of the program, does not needlessly retain control of farm size.

We have done away with the residency requirement because of its incompatibility with the way Americans live; ours is a mobile people, and it would not make sense to set down an arbitrary limit between a person's farm and his or her home. But this is not to say we are going to permit absentee landlords to continue to reap the benefits of the reclamation program. Beginning with all new owners, there must be a 5-year period when that farmer actually manages the farm, and derives most of his or her income from agriculture.

We have attempted to reconcile the many divergent views of our colleagues on this subject. We invite them, and we especially invite the farmers of the West to analyze this bill and let us know in what ways they feel it succeeds in its purpose to reconcile modern-day agriculture with the spirit and intent of the reclamation program.

Some of the basic provisions of our bill are:

First. Acreage limitation/eligibility requirements: The bill will replace existing acreage restrictions with a maximum eligible farm size of 1,120 acres owned or leased in any combination per qualified recipient. An eligible landholding is one owned by an individual or any entity benefiting 18 persons or less.

This acreage level vastly expands the present acreage limitation. The size of the family would no longer determine the size of the farm. This approach also explicitly insures that we are only providing enough flexibility for the modern family farm, or a small family corporation or partnership. Large corporations are ruled out.

Second. Equivalency: The bill would apply a class 1 project land equivalency formula for projects having a growing season of 180 days or less. It would also give the Secretary discretion to provide equivalency for high elevation lands, and poor land classifications. The equivalency formula would be based on the most optimal national 180 day or less growing season.

Third. Residency/agricultural participation test: The residency requirement no longer necessarily assures that the benefits of the program go to people involved in agricultural production. With the growth of population in western towns and cities many potential speculators are now easily within the perimeters of residency radii. While speculators within these areas could acquire lands without ever intending to farm them, this law might create significant problems for young farmers trying to break in, or old farmers who decide to retire and lease their lands. This bill would abolish the residency requirement.

The bill would replace a residency requirement with an agricultural participation test. This test would require those who acquire a significant parcel of land in the future to directly participate and derive a significant part of their income from the day to day agricultural production of their land. This test would apply for a period of 5 years after which an operator could lease the land. Exemptions or postponement provisions would be allowed for hardship, problems pertaining to certain agricultural crops, and so forth.

Fourth. Public participation: The bill would require public notice of proposed district contracts and amendments, offer the opportunity for public comment, and provide for the review of proposed contracts or amendments by the Secretary.

Fifth. Disposition of excess lands: The bill would limit the classes of eligible purchasers from whom the seller could choose to three groups: relatives, tenants and employees of more than 10 years standing, or adjoining neighbors. If a seller is unable to sell his excess land to an eligible purchaser by the end of the recordable contract period the Secretary would sell the remaining lands by lottery.

The bill also places additional nonspeculation requirements on the purchase price and sale of excess lands to assure divestment in an equitable manner.●

CONDEMNATION OF IRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

● Mr. HARRIS. Mr. Speaker, the time has come for congressional voices of reason and justice to speak out. In Iran today, violence and anarchy are reality. Every American is outraged by the hideous behavior of the Iranian students who are holding American Embassy personnel hostage at this time and I condemn the actions of the Ayatolla Khomeini.

Every U.S. citizen must be freed immediately and the United States must draw the line against these ruthless and unstable individuals. America will not stand for this type of treatment. Certainly the Iranian Government has the responsibility, under international law, to protect a foreign embassy and respect its inviolability. Many of the Americans now being held hostage are members of the Foreign Service and many of these are career Federal employees who have unselfishly given of their time and efforts to serve their country. These individuals should be able to know that when they are serving America in a foreign country they will not be faced with a student seige on the U.S. Embassy.

Previously, the Ayatollah Khomeini helped to resolve a crisis at the American Embassy in Tehran. Now he must again act to see that our personnel are released to safety and that the U.S. compound is secured. These barbaric actions must come to an end and the United States must make it crystal clear that although this Government will watch while the various revolutionary forces struggle, we will never again play a part in their heavy-handed justice or political infighting. Nor will we let oil be a bargaining agent.

As a Member of Congress, I have spoken out repeatedly against international terrorism and I will continue to do so. The United States must strengthen its security at all embassies throughout the world so that these countries who will not use diplomatic channels to convey their positions will meet total failure when they stoop to crude terrorist tactics. Certainly unlawful detention is one of these tactics.●

LOBBYING ATTACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ECKHARDT) is recognized for 30 minutes.

● Mr. ECKHARDT. Mr. Speaker, in 1974, the business community came to the Congress and complained that FTC actions against individual companies were unfair because other similarly situated companies did not have to comply with these orders. In response, I supported legislation to give the FTC authority to issue rules of general applicability.

The business lobbyists spent hours of my time discussing the matter of due process in rulemaking proceedings. As a result, my colleague, JIM BROYHILL and I drafted the most due process-oriented rulemaking procedure that has ever been enacted into law.

The resulting legislation, the Magnuson-Moss Act of 1975, permits affected individuals to present their views at a hearing, to cross-examine witnesses, and to have any rule reviewed by Federal court on the standard of whether or not the rule is supported by substantial evidence—not whether the agency acted arbitrarily and capriciously.

But despite the fair process provided in the Magnuson-Moss Act, we now see the business community attempting to attack and circumscribe the Magnuson-Moss Act on many fronts and in many areas.

It is a lobbying attack, and a special kind of lobbying operation. Heretofore, the lobby has attempted to convince the Congress on the basis of certain principles. For instance, the lobby attacked Congressman BEN ROSENTHAL's consumer agency on grounds that the Federal Trade Commission actually constituted an agency dealing with consumer protection questions. The lobby also promoted, again on a rational argumentative basis, the Levitas concept calling for a review of administrative rules by Congress with a right to legislatively veto such rules as Congress deemed inappropriate or beyond the intended scope of the Federal Trade Commission's authority.

Though I disagreed with the lobbyists position on each of these issues, it cannot be denied that there was a respectable body of support for both of them. The important point, however, is that the lobby was acting in its most legitimate manner: As an advocate for a reasoned legislative approach to the problem.

The lobbyists prevailed on both these points: The consumer agency is now dead, and the Levitas amendment is contained in the FTC authorization bill now coming before the House. But the lobby is now acting in its less reputable capacity of sharpshooter, attempting to strike down politically a rule that has been established by due and proper statutory process, respecting, in each case, a very special interest or to strike down even the authority to consider such a rule.

In October, the lobby had a field day in an appropriations subcommittee. There it was argued that, since no FTC authorization bill had been passed, it was proper for the appropriations subcommittee to achieve some direct limitations on the FTC's authority. In preliminary discussions, various members of the subcommittee and lobbyists present took a shot at each of their favorite targeted consumer rules.

I do not accuse any Member of any impropriety here because it is quite understandable that some are affected by constituents, of one kind or another, who have interest quite legitimately impacting the consumer. But in the aggregate, all the attacks by of these interests, if successful, would simply dismantle the statutory authority of the Federal Trade Commission to protect consumers in the marketplace.

The used car industry would prevent any appropriation to the Federal Trade Commission to enforce a used car rule.

The morticians would destroy the funeral rule.

The manufacturers of sugar coated children's food products would destroy rules affecting their industry.

The banks would dismantle the holder in due course rule.

The vocational schools would prevent a vocational school rule.

The optometrists would prevent an eyeglass rule.

The mobile home manufacturers would prevent rules applicable in their field.

Credit merchants would prohibit a credit practices rule.

Drug manufacturers would invalidate any OTC drug rule.

Franchisors would prohibit a franchise rule.

In addition, other proposed rules like the insulation R-value rule, the standards and certification rule, the protein supplement rule, the ant'acid rule, the appliance rule, the care labeling rule and the warranty rule were all attacked by proposing that the Commission be denied the funds to even go forward with consideration of matters which present a crying need for some action to afford consumer protection.

This is not to say that all of these matters should be settled in the manner originally proposed by the Commission, but to deny the Commission the funds to even consider such areas of consumer complaint is simply to surrender to the lobby.

The meeting referred to was an informal meeting which was attended by the very lobbyists that represented many of the interests referred to above. A consensus was arrived at that these limitations would be included in the recommendations to the Appropriations Committee. Had such recommendation ultimately been followed by the House, the FTC would not have been permitted even to consider these areas of deep consumer concern. Fortunately, this movement was stopped when Chairman SCHEUER insisted that his authorization bill, which had already passed out of the Commerce Committee, receive a rule. This destroyed the argument that the Federal Trade Commission was proceeding without an authorization bill and therefore the matter was to be left open for a field day of limitations in the appropriations process.

However, unfortunately, the lobby is continuing its attempt to a dismantling of FTC authority by single shotting a variety of rule proposals.

The funeral rule will be attacked by an amendment which has been made an order which would prevent the Federal Trade Commission from finalizing a rule which essentially simply provides that funeral homes identify the separate costs of various funeral services, refrain

from false advertising and from giving misleading information.

Another amendment, specially identified and made in order, would prohibit the Federal Trade Commission from engaging in its traditional role in antitrust enforcement in any manner in which an Agricultural co-op was involved, even if the co-op were engaged in anticompetitive practices with other businesses. Practically speaking, this amendment does not favor farm co-ops by which farmers produce and use goods and services, but rather very large industrial entities which stand between the farmer and the consumer, like Farmland Industries, Inc., with consolidated sales of over $3 billion per year, which stands as number 78 in the Fortune 500.

In addition, it must be said that there is one type of special interest already protected in the bill. As was pointed out by four of the six subcommittee chairmen in dissenting views, the bill would provide anticompetitive protection for manufacturers who use trademark protection from competition even though their product has become one whose trade name is synonymous with the name in common uses for many products in the marketplace, as in the case of formica. In so providing, the bill has materially altered the Lanham Act, and this was done without hearings on the subject.

If we should proceed to satisfy the two special interests through the amendments I have described above, we will set the stage for other lobbies' further dismantling the Federal Trade Commission's authority in many of those areas which I have identified as being under attack.

Senators CANNON and FORD, it is understood, are bringing to the Senate floor a companion FTC authorization bill which would prohibit the Federal Trade Commission from making rules affecting: First, standards and certification; second, children's advertising; third, over-the-counter drugs; fourth, food advertising; fifth, antacids; and sixth, eyeglasses. Other areas may be added. When asked why the funeral rule has not also been outlawed in the Senate draft, lobbyists have indicated their confidence that such limitation will be placed on the bill in the House. I hope you will see that that confidence is not warranted.

The question is: Are we for the interests with the long memories and intense concern, or are we for the people. They may not notice, and they may forget. But in these days of price gouging and royal ripoffs, I would not bet on it.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. SWIFT) is recognized for 5 minutes.

● Mr. SWIFT. Mr. Speaker, this afternoon I did not respond to a recorded quorum (rollcall No. 638) because I was deeply involved in a hearing of the Subcommittee on Communications, which was dealing with telecommunications common carrier issues. I was here and concerned with substantive issues and did not interrupt that for the nonsubstantive quorum call.●

HEARINGS ON COPYRIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

● Mr. KASTENMEIER. Mr. Speaker, November 15 and 26 have been set aside by the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice for hearings on two separate issues involving copyright law: performance rights in sound recordings and the compulsory license for cable retransmission of copyrighted broadcast programing. The issue of performance rights in sound recordings is reflected in pending legislation, H.R. 997, sponsored by Congressman GEORGE DANIELSON and 48 colleagues. An identical Senate bill, S. 1552, has been introduced by Senator HARRISON WILLIAMS and five cosponsors.

There is presently no legislation on the question of copyright liability for cable retransmission. Therefore, the hearings will simply focus on the two primary areas of controversy surrounding cable television—the adequacy of the royalty revenue generated by the 1976 copyright law and the possible impact of deregulation by the Federal Communications Commission on the existing compulsory copyright license.

Only two witnesses are scheduled for November 15, the Honorable Henry Geller, Assistant Secretary of Commerce for Communications Policy and the Honorable Barbara Ringer, U.S. Register of Copyrights. Ms. Ringer will address both issues and Mr. Geller will address only the cable television issue. The November 15 hearing will be held in room 2226, Rayburn House Office Building, at 10 a.m.

On November 26 the subcommittee will receive testimony from interested industry associations and private experts.

Exact details of the November 26 hearing will be made available at a later time.●

THE SEIZURE OF OUR EMBASSY IN IRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes.

Mr. HUGHES. Mr. Speaker, I have today introduced a resolution expressing the sense of Congress that the seizure of our Embassy in Iran be brought before the United Nations.

Even now, as I speak, some 60 or 65 Americans continue to be held hostage by students in Iran, with the Government of Iran doing absolutely nothing to achieve their freedom. In fact, this seizure, and the taking of hostages, has been condoned and encouraged by those exercising control of the Government of Iran.

This state-sanctioned takeover of our Embassy is not merely an attack upon the United States. It also represents an attack upon the most fundamental and universal principle of international law; namely, the respect and protection that must be accorded by every nation to the embassies and ambassadors of others. Without such respect and protection, the entire structure of communication, and peaceful resolution of disputes among nations, is seriously jeopardized.

Every nation in the world has a deeply rooted and vital interest in assuring the safety of its ambassadors and protecting the orderly exchange of views that are the underpinnings of modern diplomatic communication.

The tactics being used in Iran cannot be allowed to achieve legitimacy without undermining the very pillars upon which rest the structure of international diplomacy.

Despite some past failures, the United Nations now has a unique opportunity to bring the weight of world opinion to bear on the Government of Iran. The world community must insist that Iran act responsibly, and in accord with universally accepted principles of international law—or suffer the consequences.

My resolution calls upon our Ambassador to the United Nations to bring this matter either before the Security Council, as a threat to the maintenance of international peace and security, or before the General Assembly, in order that the community of nations may take any and all action necessary to bring this outrageous breach of international law to an immediate end.

The hopes and prayers of the people of the United States are with the hostages in Iran tonight. But this by itself will not be enough.

The entire community of nations must now speak out with a single voice against those who would break down the traditions based on centuries of experience in order to achieve a narrow selfish goal.

SCHOOL BREAKFAST HEARINGS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PERKINS. Mr. Speaker, during this week and next, the Subcommittee on Elementary, Secondary, and Vocational Education is conducting oversight hearings on the school breakfast program. We will be looking at what efforts have been made to expand the program and what barriers still exist limiting the program's availability.

The fact that breakfast has a tremendous effect on a child's mental and physical development is not news to any of us. And we have all read or heard data extolling the positive impact of a nutritious breakfast on a child's academic achievements. However, studies indicate that one-fourth of the Nation's children are arriving at school either hungry or having eaten a breakfast of empty calories. With two-thirds of the Nation's mothers working, the need for an expansion of the breakfast program is critical in my view.

It seems, however, that we have a long way to go. I was saddened when I learned that of the 27.4 million children eating school lunches last year, only 3 million were also eating school

breakfasts. And of the 94,500 schools that have lunch programs, only 38,400 also have breakfast programs.

It baffles me that glaring inconsistencies still exist between rate of participation in the lunch and breakfast programs, despite 13 years of outreach efforts on the part of Congress and breakfast advocates across the country. Even the administration, which is doggedly trying to cut back the lunch program and other child nutrition programs, is making efforts to expand the breakfast program.

Just last year, Congress passed legislation with built-in incentives to encourage schools to implement a breakfast program. One amendment provides that schools with either a State law requiring the service of breakfast or with a high percentage of needy children may receive an increased reimbursement to cover the costs of serving breakfast to large numbers of poverty children. Another amendment allows schools with both breakfast and lunch programs to combine the accounting for costs incurred in these programs. In addition, schools that are planning to implement a breakfast program are given first priority when applying for equipment funds.

There may be more that we can all do to promote the breakfast program. During the 2 days this week and the 1 day next week, we will be learning the problems and accomplishments of the program from the Department and individuals in the field. Not every child is going to want a school breakfast, however, we would surely like the choice to be theirs.

If any Member would like to testify at our hearing tomorrow or at our hearing next week on November 15, or if any Member knows of an individual who would want to contribute to our oversight on the school breakfast expansion, please contact the subcommittee so that we may schedule you at that time. We will also schedule additional days of testimony on the breakfast program if any Member wishes to testify and cannot appear next week.

RELIEF FOR THE GUILLAIN-BARRE VICTIMS OF THE SWINE FLU PROGRAM OF 1976

(Mr. MAZZOLI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MAZZOLI. Mr. Speaker, today I am introducing legislation to bring about expeditious settlement of Guillain-Barre syndrome (GBS) claims which result from the national swine flu immunization program of 1976.

Three years have elapsed since the Federal Government initiated a campaign to immunize every American against swine flu. The expected outbreak of swine flu never materialized but some Americans, who acted on their Government's request and received inoculations, died or became paralyzed by a rare neurological disorder known as GBS. Most of these people have yet to be compensated by the Government.

Former Health, Education, and Welfare Secretary, Joseph A. Califano, announced in June 1978 that the Government would not require GBS plaintiffs to prove negligence on the part of the Government in order to establish a successful claim for damages.

Unfortunately, GBS plaintiffs' hopes for timely settlement for their damages have been frustrated by the Justice Department's interpretation of Secretary Califano's policy announcement.

In the opinion of District Court Judge Gerhard A. Gesell, who is presiding over pretrial discovery for all GBS cases, the Justice Department's handling of these cases has transformed Mr. Califano's pledge into nothing more than a "public relations ploy."

I believe that these delays in settlement are a striking failure to deal equitably and humanely with those who acted upon the Government's request to be inoculated. Further, failure to settle these cases undermines the good faith upon which any inoculation program is based, thereby casting doubt on the ability of the Government to gain the cooperation of the public for any future immunization program.

Mr. Speaker, the legislation I am introducing will establish a seven-member tribunal to settle claims from the injuries and death of individuals who contracted GBS after receiving immunizations in accordance with the national swine flu immunization program. This legislation stipulates that once a claim is filed, the tribunal will have a maximum of 240 days in which to conduct hearings, make determinations, and award payments.

I urge my colleagues to give this measure full consideration.

CONFERENCE REPORT ON H.R. 4930

Mr. YATES submitted the following conference report and statement on the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96-604)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the Senate recede from its amendments numbered 2, 18, 21, 26, 46, 60, 83, 88, 96, 98, 99, 101, 102, 103, 104 and 105.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 7, 10, 12, 13, 19, 23, 27, 28, 33, 35, 36, 39, 42, 44, 55, 57, 68, 69, 70, 71, 72, 81, 85, 92, 93, and 106, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$30,781,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert $15,351,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$509,194,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$300,000,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$22,373,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$152,928,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,000,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$55,000,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$206,641,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$382,775,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$112,154,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$132,753,000"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$24,687,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$789,051,000"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$106,795,000"; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$72,879,000"; and the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$625,532,000"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$186,725,000"; and the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$423,412,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$28,835,000"; and the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$746,627,000"; and the Senate agree to the same.

Amendment numbered 76: That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$103,250,000"; and the Senate agree to the same.

Amendment numbered 77: That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$111,221,000"; and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$88,750,000"; and the Senate agree to the same.

Amendment numbered 79: That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$628,702,000"; and the Senate agree to the same.

Amendment numbered 80: That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$141,250,000"; and the Senate agree to the same.

Amendment numbered 84: That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$182,879,000"; and the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$538,874,000."; and the Senate agree to the same.

Amendment numbered 95: That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,200,000"; and the Senate agrees to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,250,000"; and the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$22,241,000"; and the Senate agree to the same.

Amendment numbered 112: That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$240,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 3, 15, 17, 24, 25, 30, 31, 34, 37, 38, 40, 47, 48, 49, 50, 51, 52, 53, 54, 56, 58, 59, 67, 73, 74, 82, 87, 89, 90, 91, 94, 107, 108, 109, 110, and 111.

SIDNEY R. YATES,
GUNN MCKAY,
CLARENCE D. LONG,
R. DUNCAN,
J. P. MURTHA,
NORM D. DICKS,
BO GINN,
JAMIE L. WHITTEN,
JOSEPH M. MCDADE,
RALPH S. REGULA,
CLAIR W. BURGENER,
SILVIO O. CONTE,
Managers on the Part of the House.

ROBERT C. BYRD,
ERNEST F. HOLLINGS,
BIRCH BAYH,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
PATRICK J. LEAHY,
QUENTIN BURDICK,
JOHN A. DURKIN,
TED STEVENS,
MILTON R. YOUNG,
MARK O. HATFIELD,
HENRY BELLMON,
JAMES A. MCCLURE,
PAUL LAXALT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4930), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $301,896,000 for management of lands and resources instead of $295,861,000 as proposed by the House and $295,836,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the Senate consists of the following: $250,000 for natural and cultural resource management; $920,000 for off-road vehicle management; $200,000 for management and protection of ancient sites at Escalante, Colorado; $500,000 for interim management and protection of the California Desert; $390,000 for supervision of special recreation area permits; $1,000,000 for wilderness management; and $2,800,000 for cadastral survey.

The managers are in agreement on the following: that the Spanaway Distribution Center in the State of Washington shall continue operations; that the Secretary of the Interior is urged to designate the Forest Service as competent to conduct cadastral surveys on Federal lands and develop an inventory of the highest priority survey needs of all land management agencies; that funds be committed to carry out an adequate controlled burning program in the Cow Mountain area of Mendocino and Lake Counties in California; and that, within available funds, $150,000 be made available to plan, survey, and design a trail for use by handicapped persons located along the Old Excelsior Mining Ditch in Nevada County, California.

Amendment No. 2: Provides that not less than $62,700,000 available from receipts shall be obligated in fiscal year 1980 for Oregon and California grant lands as proposed by the House instead of $55,400,000 as proposed by the Senate.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That the Secretary of the Interior and Secretary of Agriculture shall (a) review Federal agricultural financial assistance programs to determine to what extent such programs provide opportunities to assist livestock operators adversely affected by reductions in grazing allotments on public rangelands, as defined in the section 3 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1902); and (b) submit the results of this review to the Committees on Appropriations of the House of Representatives and the Senate within ninety days of the effective date of this Act, together with details on available programs, opportunities for more effective use of such programs, additional budget requirements needed to augment such programs, and any legislation needed to improve opportunities for assistance: *Provided further*, That the Secretary of the Interior shall develop criteria for extending, on a case-by-case basis, the period allowed for phased livestock reductions on public rangelands administered through the Bureau of Land Management up to five years. Such criteria shall take into account available agricultural assistance programs, the magnitude of projected livestock reductions, alternative pasturage available, and ability of such public rangelands to sustain such phasing in of livestock reductions without damage to rangeland productivity: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within 30 days after receipt of a final grazing allotment decision or 90 days after the effective date of this Act in the case of reductions ordered during 1979, whichever occurs later. Reductions of up to 10% in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10% shall be suspended pending final action on the appeal, which shall be completed within 2 years after the appeal is filed".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers are in support of BLM efforts to improve range conditions through required reductions in grazing but are concerned over the economic impact of sizeable cutbacks without adequate reviews. The language adopted is designed to minimize livestock production losses and to assure full and fair review of management decisions through administrative appeals before large reductions are implemented.

OFFICE OF WATER RESEARCH AND TECHNOLOGY

Amendment No. 4: Appropriates $30,781,000 for salaries and expenses instead of $30,977,000 as proposed by the House and $30,522,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of increases of $150,000 for new processes research and $50,000 for identification of a third desalting demonstration site and a decrease of $396,000 for desalting demonstration plant design.

Amendment No. 5: Provides that $11,464,000 for salaries and expenses shall remain available for obligation until September 30, 1981, as proposed by the Senate instead of $11,660,000 as proposed by the House.

HERITAGE CONSERVATION AND RECREATION SERVICE

Amendment No. 6: Appropriates $15,351,000 for salaries and expenses instead of $15,656,000 as proposed by the House and $15,289,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of $105,000 in the rural recreation needs study and $200,000 for demonstration assistance, evaluation, and Federal surplus real property. The total amount available includes $65,000 for phase III of the Walpi archeological project on the Hopi reservation in Arizona. The managers recommend that the Secretary reexamine the delegation of authorities for river and trail studies between HCRS and the NPS to determine (1) whether the Department's responsibility should be divided and (2) if so, that any vestige of overlap or duplication be eliminated.

For the Urban Park and Recreation Fund, the managers agree to the distribution as recommended by the Senate with the understanding that contracting for State administrative support does not include the authority for the State to recommend approval or disapproval of projects proposed by the applicants. The managers also agree that priority should be given to innovative grant projects which benefit the handicapped and the elderly and to adaptive reuse projects.

The managers further agree that HCRS and the State of Mississippi should accelerate action on determining the eligibility of the Lyric Theatre in Oxford, Mississippi, to be placed on the National Register of Historic Places.

Amendment No. 7: Provides $7,393,000 for Land and Water Conservation Fund administrative expenses as proposed by the Senate instead of $7,693,000 as proposed by the House. The reduction of $300,000 is in Federal administrative expenses.

Amendment No. 8: Appropriates $509,194,000 for the Land and Water Conservation Fund instead of $447,079,000 as proposed by the House and $554,547,000 as proposed by the Senate.

Amendment No. 9: Provides $300,000,000 for payments to the States instead of $300,000,000 as proposed by the House and $359,307,000 as proposed by the Senate. The amount recommended, along with $6,693,000 to administer the state programs, totals $306,693,000, or 61.7 per cent of the total appropriation.

Amendment No. 10: Provides $2,750,000 for the Bureau of Land Management as proposed by the Senate instead of $3,690,000 as proposed by the House. The managers have no objection to the acquisition of the Sleeping Giant site within available funds following normal reprogramming guidelines.

Amendment No. 11: Provides $22,373,000 for the Forest Service instead of $41,573,000 as proposed by the House and $21,953,000 as proposed by the Senate. The net decrease below the amount proposed by the House consists of reductions for Alpine Lakes ($7,000,000), wild and scenic river slippage ($3,500,000), large unobligated balances ($10,000,000); and an increase of $1,300,000 for the Crescent Moon Ranch properties in the Red Rock Composite in Arizona. The managers urge the Forest Service to utilize approved reprogramming procedures to take funds for specified areas where acquisition problems develop and apply them to areas where unbudgeted acquisition opportunities arise.

Amendment No. 12: Provides $11,750,000 for the Fish and Wildlife Service as proposed by the Senate instead of $20,600,000 as proposed by the House. The managers recommend the Service acquire any specific areas denied with available unobligated balances following normal reprogramming procedures. The managers encourage the efforts of the authorizing committees in their review of Fish and Wildlife Service land acquisition and refuge establishment procedures and policies.

Amendment No. 13: the word "and" as proposed by the Senate.

Amendment No. 14: Provides $152,928,000 for the National Park Service instead of $173,503,000 as proposed by the House and $149,394,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of the following: an increase of $225,000 for Frederick Law Olmsted NHS and decreases of $300,000 for preauthorization, $600,000 for Point Reyes NS, $5,000,000 for Virgin Islands NP, $1,000,000 for War in the Pacific NP and $15,000,000 because of slippage in proposed acquisitions.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $12,000,000 (including $800,000 for planning) for Pinelands National Reserve from the Land and Water Conservation Fund.

Amendment No. 16: Provides that $9,000,000 of state assistance funds may be available as a contingency reserve to be administered by the Secretary instead of $12,000,000 as proposed by the House and $6,000,000 as proposed by the Senate.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: Restore the matter stricken by said amendment amended to read as follows: "*Provided further*, That the $12,500,000 available to the Forest Service in fiscal year 1979 for acquisition of the Kahle and Jennings properties may be used to acquire the Jennings property and other in the Tahoe Basin of California and Nevada without regard to the matching requirements and zoning restrictions included in the 1979 appropriation act".

The managers understand that private interests and Douglas County, Nevada, intend to purchase the Kahle site. This meets the intent of the managers in having the Federal contribution matched. Managers were informed that the Nevada legislature, by legislative action effective May 4, 1979, has precluded issuing any additional unrestricted gaming permits in the Tahoe Basin.

Amendment No. 18: Deletes language proposed by the Senate regarding a general $10,000,000 reduction.

Amendment No. 19: Deletes House language appropriating $12,000,000 for Pinelands National Reserve land acquisition from the general fund.

Amendment No. 20: Appropriates $55,000,000 for the Historic Preservation Fund instead of $50,000,000 as proposed by the House and $67,500,000 as proposed by the Senate. The amount recommended by the managers includes $5,200,000 for the National Trust for Historic Preservation, $42,022,000 for grants to states, and $1,778,000 for administrative expenses.

Amendment No. 21: Restores House language stricken by the Senate which prohibits industrial facilities from being added to the list of National Historic Landmarks without the consent of the owner.

UNITED STATES FISH AND WILDLIFE SERVICE

Amendment No. 22: Appropriates $208,641,000 for resource management instead of $207,055,000 as proposed by the House and $205,421,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of the fololwing: Increases of $2,000,000 for grants for state cooperative endangered species program and $28,000 for legislative liaison; and decreases of $570,000 for resource development planning, $696,000 for migratory bird refuge operation (Houre general increase —$625,000; Grasslands NWR, Ca. —$50,000; Butte Sink NWR, Ca. —$46,000; Elkhorn Slough NWR, Ca. $50,000; and Oyster Bayou NWR, Tx. —$25,000), $269,000 for mammal and nonmigratory bird refuge operation (Minnesota Prairie NWR, Mn. —$27,000; Bogue Chitto NWR, La. & Ms. $118,000; and Atlantic Coast areas, N.C. —$114,000), $21,000 for blackbird research and control (providing a total of $300,000 over the budget to be divided equally between Arkansas and Louisiana), and $886,000 in travel.

The managers share the concern expressed in the Senate report about Service practices in establishing or expanding refuges with minimal Congressional review. The managers note that the House legislative committee has agreed to review the Service practices and procedures in this area. The managers agree that up to $38,000 in available funds may be used to manage Conboy Lake NWR and that $6,000 is within available funds for additional feed at Bowden NFH. The Service must assure itself that hatchery managers acquire such basic materials as fish food.

The support level of the western energy land use team at Fort Collins, Colorado, provided in the FY 1979 bill should be maintained, but this does not extend to providing funds for budgeted increases specifically denied. The managers also agree that significant changes should not be made in current fish stocking allocations for state-owned or managed waters.

Amendment No. 23: Provides that $5,000,000 for state cooperative endangered species grants will remain available until expended as proposed by the Senate instead of $3,000,000 as proposed by the House.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $58,757,000 for construction and anadromous fish instead of $56,327,000 as proposed by the House and $56,945,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the following: Decreases of $225,000 for the Suquamish Indian Hatchery and a $212,000 pay cost reduction; and increases of $870,000 for the White River NFH, $105,000 for the White Sulphur Springs NFH, $43,000 for the Bowden NFH, $318,000 for the Wolf Creek NFH, $431,000 for the Frankfort NFH, and $1,000,000 for a striped bass recovery research program.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $4,712,000 for anadromous fish grants to states and the striped bass recovery research program shall become available only upon enactment of S. 838 or similar legislation.

Amendment No. 26: Appropriates $15,000,000 to the Migratory Bird Conservation Account as proposed by the House instead of $8,400,000 as proposed by the Senate. The managers agree that the Service should acquire the McFaddin Marsh area in the Texas Gulf Coast area.

Amendments Nos. 27 and 28: Provide for the purchase of two aircraft by the Fish and Wildlife Service as proposed by the Senate instead of three as proposed by the House.

NATIONAL PARK SERVICE

Amendment No. 29: Appropriates $382,775,000 for operation of the national park system instead of $383,512,000 as proposed by the House and $380,244,000 as proposed by the Senate.

The net decrease under the amount proposed by the House consists of the following: Increases of $105,000 for the Harpers Ferry, W. Va. police force, $500,000 for cooperative agreements with the Folger Theatre and the Corcoran Gallery, and $30,000 for the Congressional Affairs Office; and decreases of $125,000 for the Park Police helicopter third shift, $207,000 for land cost studies, $100,000 for water resource studies with no reduction in the $295,000 budgeted for specific park studies, $400,000 for the Alaska Native Claims Settlement Act with no reduction in the $800,000 budgeted to validate native selections, and $640,000 in budgeted travel.

Should it be designated as an historic site, a portion of the $600,000 shall be made available for maintenance funding of the Arena Stage.

The managers agree that no funds will be provided for the Folger Theatre and Corcoran Gallery cooperative agreements in the future without specific legislative authority. The managers also agree that, within available funds, $85,000 may be used to augment Park Police patrols along the C&O Canal and that the Service should submit detailed quarterly reports on expenditures from the "Director's Reserve Fund."

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed to be stricken by said amendment, insert the following: ": *Provided further*, That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation."

This replaces language supporting a Park Police third shift helicopter operation as proposed by the House and deleted by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment precludes the Service from entering into future concessions contracts unless termination for cause with possible extinguishment of possessory interest is provided.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $105,000 to the Town of Harpers Ferry, West Virginia, for police force use. The managers agree that this grant shall be subject to the same criteria, restrictions, and overview requirements as other Federal grants administered by the National Park Service. The grantee shall be required to seek overview and coordination with the NPS law enforcement officials and/or any other State or Federal law enforcement specialists whom NPS deems appropriate in areas of law enforcement operations and concomitant community relations activities.

Amendment No. 32: Appropriates $112,154,000 for construction instead of $97,144,000 as proposed by the House and $119,938,000 as proposed by the Senate. The net increase over the amount proposed by the House consists of the following: Increases of $15,000,000 for the Yellowstone NP concessions purchase; $2,360,000 for structural repairs to the National Visitors' Center; $200,000 for Piscataway development; $1,300,000 for Harpers Ferry NHP townhouse restoration; $185,000 for furnishings for Andrew Johnson NHS; $150,000 to complete restoration of Sewall-Belmont House NHS; and $1,090,000 for Cowpens NB; and decreases of $275,000 in travel and $5,000,000 related to anticipated slippage and savings.

The managers agree to consider reprogramming proposals for any costs above the $15,000,000 provided for the Yellowstone concession buyout and that $50,000 is provided for fencing at Indiana Dunes within available funds. The managers also agree that, within available funds, the following project planning is approved: Glen Canyon NRA, Lone Rock Marina, $200,000; Sleeping Bear Dunes NL, $291,000; Fort Smith NHS Commissary, $44,000; Harpers Ferry NHS footbridge, $70,000; and Harpers Ferry NHS townhouse restoration, $50,000. The managers are concerned that the Service planning estimates appear excessive. The Service must take every action to ensure that planning for the above projects and all projects be accomplished at the lowest possible cost.

The managers are distressed that the Park Service has little or no recourse when a Park concessionaire provides inadequate service. Although termination is possible, the concessionaire must still be compensated for any possessory interest. The managers have therefore included language in the operation of the National Park System account which provides for the inclusion of a clause that gives the Service the capability of extinguishing some or all of any possessory interest if there is a termination for cause. The managers request that the appropriate legislative committees review the present concessions legislation to eliminate this and other problems that have become apparent.

Amendment No. 33: Appropriates $15,500,000 to liquidate contract authority as proposed by the Senate. The contract authority, provided by section 105(a)(8) of Public Law 94-280, is for work associated with a tunnel to bypass Cumberland Gap NHS as authorized by section 160 of Public Law 93-87.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for rescission of $5,552,000 in unexpended appropriations to liquidate road construction contract authority.

Amendment No. 35: Appropriates $16,217,000 for planning, development, and operation of recreation facilities as proposed by the Senate instead of $15,781,000 as proposed by the House. The $436,000 increase over the House is for initiation of visitor transportation systems. The managers agree that, within available funds, up to $80,000 is for an authorized study of historic Camden, South Carolina.

Amendment No. 36: Appropriates $4,030,000 for the John F. Kennedy Center for the Performing Arts as proposed by the Senate instead of $3,875,000 as proposed by the House. The increase of $155,000 over the House provides for repairs to the sea wall.

GEOLOGICAL SURVEY

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $452,055,000 for surveys, investigations, and research instead of $448,290,000 as proposed by the House and $450,805,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the Senate consists of the following increases and decrease: Increases of $1,200,000 for regulation of Outer Continental Shelf (OCS) operations, and $550,000 for the Earth Resources Observation System; and a decrease of $500,000 for the OCS information program.

The managers agree that $2,000,000 from within available funds should be used to begin the use of side-looking airborne radar imagery for topographic and geological mapping, and geological resource surveys in promising areas, particularly Alaska.

The managers agree further that up to $300,000, within the allowance for the Federal-State cooperative water program, should be available for a cooperative Arizona flood mapping program.

The managers also agree that $100,000 within funds for water resources investigations should be available for a baseline uranium hydrology study in the Powder River Basin of Wyoming.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing that $39,027,000 shall be available only for cooperation with states or municipalities for water resources investigations instead of $39,227,000 as proposed by the House and $39,814,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The decrease under the amount proposed by the House is a $200,000 general reduction in the Federal-State cooperative water program.

Amendment No. 39: Appropriates $175,627,000 for exploration of the National Petroleum Reserve in Alaska as proposed by the Senate instead of $145,927,000 as proposed by the House. The increase of $29,700,000 is for development of the Barrow area gas fields.

The managers agree that, within the $141.5 million for exploration of the Reserve, reprogramming requests will be considered, if necessary, to adjust the amounts specified in both House and Senate reports for the various elements of the exploration program, based on actual program needs as exploration proceeds.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following: ": *Provided*, That the Secretary of the Interior shall review the rates being charged to the residents of Barrow for natural gas to determine if a proceeding should be instituted to revise such rates,".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

BUREAU OF MINES

Amendment No. 41: Appropriates $132,753,000 for mines and minerals instead of $134,883,000 as proposed by the House and $131,603,000 as proposed by the Senate. The increase over the amount proposed by the Senate consists of $700,000 for wilderness and public land assessments, and $450,000 for common program services.

Amendment No. 42: Provides that $106,151,000 for mines and minerals shall remain available until expended as proposed by the Senate instead of $107,501,000 as proposed by the House.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Amendment No. 43: Appropriates $84,687,000 for regulation and technology instead of $85,520,000 as proposed by the House and $82,625,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of the following increase and decreases: An increase of $2,500,000 for Federal inspection and enforcement; and decreases of $1,000,000 for State regulatory program grants, and $2,333,000 for development of permanent Federal programs.

With regard to grants to states under section 705 of P.L. 95-87, the Surface Mining Control and Reclamation Act of 1977, the managers note that eligibility for grants under that section is not conditioned upon prior submission or approval of a state program for the grantee state. Such grants should be fully available to the states for the development of state programs.

The managers agree that $270,000 for a Mining and Mineral Research Institute in the state of Indiana should be made available within funds in this account, provided that the state applies for funds by March 15, 1980, for a school that is eligible under current criteria.

Amendment No. 44: Appropriates $94,916,000 for the Abandoned Mine Reclamation Fund as proposed by the Senate instead of $111,416,000 as proposed by the House.

The managers agree that up to $300,000 should be made available for a study of mine subsidence in the Tri-state Mining District which includes parts of Kansas, Missouri, and Oklahoma, within the amount provided.

BUREAU OF INDIAN AFFAIRS

Amendment No. 45: Appropriates $789,051,000 for operation of Indian programs instead of $792,753,000 as proposed by the House and $770,835,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of the following increases and decreases: Increases of $1,000,000 for tribally controlled community colleges; $2,500,000 for implementation of the Indian Child Welfare Act (total FY 1980 program of $5,500,000); $300,000 to operate four new detention facilities on the Pine Ridge Reservation, South Dakota; $1,000,000 for the Papago farms agriculture project, Arizona; $375,000 for operation of the Lummi salmon culture facilities, Washington; and $500,000 for natural resources development for fishery restoration at Pyramid Lake, Nevada; and decreases of $565,000 for central office comprehensive planning; $1,051,000 for law enforcement; $401,000 for self-determination grants; $871,000 for the Indian Action program; $393,000 for natural resources, general; $1,000,000 for lease compliance; $268,000 for executive direction and equal employment opportunity functions; $400,000 for Indian intake and development program; $3,328,000 for facilities operation and maintenance; $500,000 for trust responsibility for the Pyramid Lake fishery; and $600,000 for travel.

The managers are in agreement on the following: that the amount provided for tribally controlled community colleges includes $400,000 for feasibility studies, $600,000 for technical assistance, and $4,000,000 for direct grants; that the Bureau pay more attention to the law enforcement needs of the Papago Reservation, Arizona; that the amount provided for the Indian Action program shall include assistance to the Coushatta Tribe of Louisiana and the Miccosukee Tribe of Florida; that an appraisal be performed by the BIA and the Department of Interior of Indian preference regulations and policies to develop remedies, if necessary; that development of early childhood programs should be a part of a total comprehensive plan in cooperation with tribes; that the BIA report by February 1, 1980, on the progress the Bureau has made on the development of accurate enrollment statistics and establishment of a system for tracking educational expenditures under the new education formula; that, within the business enterprise allowance, no more than $70,000 be available for support of the Jojoba agriculture project on the San Carlos Indian Reservation; that, within available funds, $60,000 be provided to enable the Ute Mountain Tribe to meet its commitments under the recent hunting agreement and consent decree with the State of Colorado; that $30,000 shall be available to determine the true north boundary of the Quinault Indian Reservation; that none of the funds appropriated under the Johnson-O'Malley education assistance program shall be used for other than supplemental support of public school districts; and that no relocation of the Juneau area office is to occur without prior approval of the House and Senate Appropriations Committees.

The managers are also in agreement that before a contract secondary school is begun on the Pyramid Lake Paiute Tribe Reservation, a feasibility study be performed to determine, among other items, the responsibility and commitment of the State of Nevada to provide for the education of those students, the costs, both current and future, to the BIA to assume this responsibility, and the ability of the tribe to operate a school. If, based on the feasibility study, and with approval of the House and Senate Appropriations Committees, it is determined to begin a contract school funds are to be provided from within the total amount available for school operations and facility operations and management.

The managers agree that transfer of the Albuquerque Indian School (AIS) to the Santa Fe campus of the Institute of American Indian Art (IAIA) is not a permanent solution. The BIA must be prepared to return AIS to the Albuquerque campus and improve facilities there if an agreement cannot be reached which guarantees the integrity of the programs and facilities of the IAIA national program.

Amendment No. 46: Provides $58,753,000 for higher education scholarships and assistance to public schools as proposed by the House instead of $58,553,000 as proposed by the Senate.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds appropriated by this Act may be used to reimburse school districts for educating Indian students who reside in Federal boarding facilities and who are residents of the State in which such school districts are located but do not normally reside in such districts.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the sum proposed by said amendment, insert the following: "including a $5,000,000 interest free loan to the Confederated Tribes of the Warm Springs Reservation of Oregon to be repaid to the Revolving Fund for Loans established in the Bureau of Indian Affairs at the end of a 20 year period after the effective date of this Act, $89,374,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the Senate consists of $5,000,000 for the facility improvement and repair program; $16,000,000 for irrigation facilities; and $1,500,000 for renovation, Office of Technical Assistance and Training.

The managers are in agreement on the following:

That the Bureau should carefully review the Ft. Totten school project before committing any of the construction funds. Revised BIA estimates now raise the total project cost from the $14,812,000 provided to as high as $20,000,000. The review should cover the alternatives of refurbishing the existing facility and construction of a smaller new structure. An analysis of all reasonable alternatives and costs should be submitted to the Committees on Appropriations as soon as possible;

That available funds should be used to plan new school facilities at Fort Hall, Idaho, and Navajo Mountain, Utah. Design and construction funds will be given priority consideration when reliable project estimates are available;

That project costs of the Headgate power plant should be repaid to the extent of revenues collected on any sale of power outside the Colorado River Indian Reservation;

That within available funds $100,000 is for continuing the proposed White River Reservoir study in Utah;

That of the total funding available for facility improvements and repairs; $9,000,000 is earmarked for advance engineering and design; and

That $250,000 of available funds shall be for renovation of the Duckwater Shoshone Elementary School, Nevada, without taking priority over critical life safety projects.

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $66,479,000 for road construction instead of $60,379,000 as proposed by the House and $46,479,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase over the amount proposed by the House consists of the following: $5,000,000 for road construction in the Four Corners area, a joint project with the State of New Mexico; and $1,100,000 for construction of the Inchelium Ferry on the Colville Reservation, Washington.

The managers are in agreement on the following: That, in addition to the increase of $2,000,000 for the road from Mexican Water to Bluff, Utah, $2,000,000 be provided from existing funds of the Navajo road construction program, for a total expenditure in fiscal year 1980 of $4,000,000; and that the BIA develop a priority system for road projects based on the greatest need to determine funding priorities for fiscal year 1981 and be integrated into the fiscal year 1982 budget development process.

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That no part of any appropriations to the Bureau of Indian Affairs shall be available to continue academic and residential programs of the Chilocco and Seneca boarding schools, Oklahoma beyond June 15, 1980.". The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

OFFICE OF TERRITORIAL AFFAIRS

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with

an amendment providing $86,861,000 for administration of territories instead of $54,-161,000 as proposed by the House and $63,-061,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of an increase of $6,500,000 for a penitentiary on Guam and a decrease of $4,000,000 for a power plant in the Northern Marianas.

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing that $62,589,000 be available for expenses of the Governments of American Samoa, Guam, the Virgin Islands, the Northern Marianas, and the Northern Mariana Islands Federal Laws Commission instead of $60,089,000 as proposed by the House and $58,989,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of an increase of $6,500,000 for a pentitentiary on Guam and a decrease of $4,000,000 for a power plant in the Northern Marianas.

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed insert the following: "$113,785,000, and of the amount appropriated under this head in P.L. 95-355, $1,400,000 shall be for an *ex gratia* payment to the people of Bikini Atoll".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of an increase of $1,925,000 for construction of an upgraded communications system, and a decrease of $900,000 for transition expenses of local government units.

The managers agree that revised reprogramming guidelines are necessary in the Trust Territory construction program. On a district-by-district basis, savings from one project may be applied to a shortfall on another without prior Appropriations Committee approval. The managers expect, however, that timely reports on these reprogrammings will be forwarded to the Committee by the Department. The managers emphasize that this is the sole exception to the Committee's established reprogramming guidelines agreed to in the Conference.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides a permanent indefinite appropriation for such sums as are authorized to be remitted to the Territories of Guam and the Virgin Islands under sections 1(c) and 4(c) (2) of P.L. 95-348, 92 Stat. 487. The House-passed bill contains no such appropriation.

This appropriation accelerates payments of amounts already due by law to Guam and the Virgin Islands. Current estimates of payments are $17,500,000 for Guam and $24,-000,000 for the Virgin Islands. The budget estimate was $44,000,000.

OFFICE OF THE SOLICITOR

Amendment No. 55: Appropriates $15,741,-000 for salaries and expenses as proposed by the Senate instead of $15,500,000 as proposed by the House. The increase over the House includes $241,000 and 7 positions to administer additional responsibilities arising from the enactment of the OCS amendments of 1978 (2 positions and $75,000) and the Sufrace Mining Control and Reclamation Act of 1977 (5 positions and $166,000).

OFFICE OF THE SECRETARY

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the sum proposed, insert the following matter: "including not less than $9,000,000 for an Office of Construction Management, $49,344,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of the following: Decreases of $400,000 for the Assistant Secretary for Indian Affairs; $116,000 for hearings and appeals; $4,800,000 for the National Mine Health and Safety Academy; and $100,000 for travel; and an increase of $9,000,000 for construction management.

While agreeing to restore Senate reductions in congressional and public affairs, the managers are of the opinion that the Department continues to operate outside the limitations contained in Section 304. In addition to the explicit prohibition in the bill against influencing legislative proposals, the managers further direct that the same prohibition shall be applied to influencing proposed administrative actions on which a final determination has not been made.

Amendment No. 57: The managers agree with the action of the Senate in deleting a separate account for the Office of Construction Management and including funds for it in the departmental management account.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 108. No appropriations made in this title shall be available for implementation of any decision with regard to any lease, administrative transfer, or withdrawal not now existing of lands and waters comprising Wild Horse Reservoir, Nevada, or any lands immediately adjacent thereto: *Provided*, That this limitation is not applicable to water necessary for current or future irrigation practices.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have no objection to the continuation of the present decision process underway regarding Wild Horse Reservoir, Nevada. However, no decision should be implemented until the Congress has had an opportunity to review that decision. The Secretary's final decision is scheduled for early February 1980 and will be reviewed in the appropriation hearings on the fiscal year 1981 budget.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 109. No appropriations made in this title shall be available for the identification of lands not now so identified or acquisition (by withdrawal, transfer or purchase) of lands for or associated with the Unique Wildlife Ecosystem Program as now defined by the United States Fish and Wildlife Service not authorised by law under an existing program.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers are concerned over the expanded concept of habitat preservation established without Congressional review and approval under the recently implemented Unique Wildlife Ecosystem Program. Activities of the Fish and Wildlife Service tend to promote public support for land acquisition and management proposals whose scope has not been clearly identified nor fully defined. Many aspects of the Unique Ecosystem Program resemble those considered but not approved during Congressional consideration of the proposed natural diversity legislation. Bill language approved by the managers is intended to prevent any further expansion of this program in the absence of Congressional review and authorization. It is not designed to interfere with accepted wildlife refuge acquisition and management practices. Nor is it intended to dismantle currently established unique ecosystem programs.

The managers recommend the legislative committees of jurisdiction consider specific authorizations for these and other programs that depart from normal wildlife conservation programs. Any appropriation requests for unique ecosystem programs should be clearly identified as such in the future.

Amendment No. 60: Deletes language proposed by the Senate preventing funds in the bill from being used to acquire a tract of land at Cape Lookout National Seashore by condemnation. The managers agree that the Park Service shall review carefully the land acquisitions from the Reeves family to determine whether there was an agreement that the tract involved would continue to be titled to and used by the Reeves family. Should such an agreement be verified, the managers agree that the pending condemnation should be withdrawn and an alternative such as lifetime occupancy be explored with the Reeves family.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Amendment No. 61: Appropriates $108,-795,000 for forest research instead of $109,-490,000 as proposed by the House and $105,414,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of $100,000 for renewable resource economics research and $595,000 for forest recreation research.

The following project additions are provided within the appropriation: $300,000 for forest residues reduction system, Portland, Oreg.; $260,000 for the range validation program, LaGrande, Oreg.; $50,000 for wood products insect research, Gulfport, Miss.; $170,000 for silviculture of hardwoods of the Cumberland Plateau, Sewanee, Tenn.; $165,-000 for urban forestry, Chicago, Ill.; $100,000 for scleroderris canker disease research, St. Paul, Minn.; $57,000 for sand pines research, Marianna, Fla.; $50,000 for southern pine beetle research, Alexandria, La.; $50,000 for insect control ecology, Moscow, Idaho; and $104,000 for chestnut blight research, Morgantown, W. Va.

Amendment No. 62: Appropriates $72,879,-000 for state and private forestry instead of $65,964,000 as proposed by the House and $73,518,000 as proposed by the Senate. The net increase over the amount proposed by the House consists of the following increases and decreases: Increases of $450,000 to initiate a 4-year program with the State of Vermont to develop a model comprehensive forest resources plan and $7,500,000 for rural fire control; and decreases of $675,000 for dutch elm disease control and tree utilization program, and $360,000 for travel.

Amendment No. 63: Appropriates $825,532,-000 for national forest system instead of $847,151,000 as proposed by the House and $796,824,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of the following: $4,823,000 for general land activities; $1,493,000 for cooperative law enforcement; $3,126,000 for

wildlife and fish habitat management; $5,-573,000 for range activities; $4,564,000 for soil and water management; and $2,040,000 for travel.

The managers are in agreement on the following: That, except in cases of emergency, the Forest Service should make a public announcement in advance of any forest road closures; that a plan should be prepared for transferring Forest Service land now used for an administrative site to the city and borough of Juneau, Alaska, for construction of a convention center. The arrangement includes providing the Forest Service space for a visitor information service in the convention facility. If this arrangement is not fulfilled, the land should revert to the Forest Service.

Amendment No. 64: Provides that $186,-725,000 shall remain available for obligation until September 30, 1981, for reforestation, timber stand improvement, cooperative law enforcement, and maintenance of forest development roads and trails instead of $188,-218,000 as proposed by the House and $180,-746,000 as proposed by the Senate.

Amendment No. 65: Appropriates $423,412,-000 for construction and land acquisition instead of $425,823,000 as proposed by the House and $409,458,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of $1,900,000 for construction of nurseries, and $511,000 for travel.

The following projects have been included within the amount appropriated for construction and land acquisition: $3,625,000 for construction of a headquarters/laboratory at Asheville, North Carolina; $2,097,000 for development of Angeles High Country; $3,500,000 for Mount Nebo Scenic Loop Road, Uinta National Forest; $300,000 for LaSal Loop Road, Manti-LaSal National Forest; $251,000 for recreation improvements, Monongahela National Forest, West Virginia; $40,000 for construction of the Highland Scenic Highway Picnic and Overlook, Monongahela National Forest, West Virginia; $1,510,000 for Lake Kincaid recreation development, Louisiana; and $100,000 for site planning and facility design on Mount Magazine recreation area, Arkansas.

The managers are in agreement that a minimum of $12,500,000 provided for construction and land acquisition be allocated for recreation roads to provide better access to the nation's forests; and that $300,000 is included in the amount provided for nursery construction for the Ashe Nursery in Mississippi.

Amendment No. 66: Provides $38,835,000 for construction and acquisition of buildings and other facilities instead of $30,735,000 as proposed by the House and $34,881,000 as proposed by the Senate.

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment earmarking $401,242,000 for construction of forest development roads and trails and construction and maintenance of forest development roads by timber purchasers instead of $384,910,000 as proposed by the House and $383,076,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers are concerned that Forest Service Road Specifications impose a higher standard than necessary, making construction too costly. Funds could be more efficiently utilized and logging areas returned to their natural state more quickly if road specifications are drafted to meet logging requirements only.

Amendment No. 68: Provides langauge as proposed by the Senate combining amounts provided for construction of forest development roads, timber purchaser roads, and trails.

Amendment No. 69: Deletes House language as proposed by the Senate.

Amendment No. 70: Appropriates $54,000,-000 for the youth conservation corps as proposed by the Senate instead of $27,400,000 as proposed by the House.

Amendment No. 71: Provides that $27,000,-000 of the amount appropriated for the youth conservation corps shall be available to the Secretary of the Interior as proposed by the Senate instead of $13,700,000 as proposed by the House.

Amendment No. 72: Provides that $27,-000,000 of the amount appropriated for the youth conservation corps shall be available to the Secretary of Agriculture as proposed by the Senate instead of $13,700,000 as proposed by the House.

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds available to the Forest Service may be advanced for the emergency rehabilitation of burned-over lands under its jurisdiction.

DEPARTMENT OF ENERGY

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

ALTERNATIVE FUELS PRODUCTION

In order to expedite the domestic development and production of alternative fuels and to reduce dependence on foreign supplies of energy resources by establishing such domestic production at maximum levels at the earliest time practicable, there is hereby established in the Treasury of the United States a special fund to be designated the "Energy Security Reserve", to which is appropriated $19,000,000,000, to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate domestic commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts: *Provided further*, That of these funds $1,500,-000,000 shall be available immediately to the Secretary of Energy to carry out the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq.), to remain available until expended, for the purchase or production by way of purchase commitments or price guarantees of alternative fuels: *Provided further*, That the Secretary shall immediately begin the contract process for purchases of, or commitments to purchase, or to resell alternative fuels to the extent of appropriations provided herein: *Provided further*, That of these funds an additional $708,000,000 shall be available immediately to the Secretary of Energy, to remain available until expended, to support preliminary alternative fuels commercialization activities under the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, of which (1) not to exceed $100,000,000 shall be available for project development feasibility studies, such individual awards not to exceed $4,000,000: *Provided*, That the Secretary may require repayment of such funds where studies determine that such project proposals have economic or technical feasibility; (2) not to exceed $100,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000, to support commercial scale development of alternative fuels facilities; (3) not to exceed $500,000,000 shall be available for a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities as authorized by the Federal Nonnuclear Energy Research and Development Act of 1974, as amended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed under this appropriation shall not exceed the aggregate of $1,500,000,000; and (4) not to exceed $8,000,-000 shall be available for program management.

This Act shall be deemed to satisfy the requirements for congressional action pursuant to sections 7(c) and 19 of said Act with respect to any purchase commitment, price guarantee, or loan guarantee for which funds appropriated hereby are utilized or obligated.

For the purposes of this appropriation the term "alternative fuels" means gaseous, liquid, or solid fuels and chemical feedstocks derived from coal, shale, tar sands, lignite, peat, biomass, solid waste, unconventional natural gas, and other minerals or organic materials other than crude oil or any derivative thereof.

Within ninety days following enactment of this Act, the Secretary of Energy in his sole discretion shall issue a solicitation for applications which shall include criteria for project development feasibility studies described in this account.

Loan guarantees for oil shale facilities issued under this appropriation may be used to finance construction of full-sized commercial facilities without regard to the proviso in section 19(b)(1) of said Act requiring the prior demonstration of a modular facility.

In any case in which the Government, under the provisions of this appropriation, accepts delivery of and does not resell any alternative fuels, such fuels shall be used by an appropriate Federal agency. Such Federal agency shall pay into the reserve the market price, as determined by the Secretary, for such fuels from sums appropriated to such Federal agency for the purchase of fuels. The Secretary shall pay the contractor, from sums appropriated herein, the contract price for such fuels.

All amounts received by the Secretary under this appropriation, including fees, any other monies, property, or assets derived by the Secretary from operations under this appropriation shall be deposited in the reserve.

All payments for obligations and appropriate expenses (including reimbursements to other Government accounts), pursuant to operations of the Secretary under this appropriation shall be paid from the reserve subject to appropriations.

For the establishment in the Treasury of the United States of a special fund to be designated the "Solar and Conservation Reserve", $1,000,000,000 to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate solar energy and conservation: *Provided further*, That the withdrawal of said funds shall be subject to the passage of authorizing legislation and only to the extent provided in advance in appropriations Acts.

Beginning six months after the date of enactment of this Act, and every six months thereafter, the Secretary is required to submit to the Congress a written report detailing the activities carried out pursuant to this appropriation.

The managers or the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The House originally provided $1.5 billion for the purchase or production of synthetic fuels under the Defense Production Act of 1950, and further provided for the derivation of such funds from the Energy Trust Fund or equivalent mechanism if established by law. If no such fund were established, the House bill would have provided the funds from general funds of the Treasury. No facility construction was allowed from funds appropriated.

The Senate amendment struck the House language and substituted therefor a $20 billion "Energy Security Reserve" for synthetic or "alternative" fuels and further appro-

priated $2.2 billion from the reserve for beginning a comprehensive program of purchases, purchase commitments, price supports, loan guarantees, loans, and cooperative agreements under the basic authority of the Federal Nonnuclear Research and Development Act of 1974, as amended. The Senate amendment also established a "Solar and Conservation Reserve" of $1,000,000,000.

The major provisions of the Senate amendment are as follows:

1. Establishes an "Energy Security Reserve" of $20 billion in the Treasury of the United States.

2. Provides that $1.5 billion of the reserve be derived by transfer from previously appropriated funds in the "strategic petroleum reserve" account.

3. Provides that funds be available only for stimulation of commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts.

4. Provides $1.5 billion out of the reserve for purchase commitments or price guarantees for alternative fuels under the authority of the Federal Nonnuclear Research and authorizes the Secretary of Energy to contract for such purchases to the extent of appropriations provided.

5. Provides an additional $708,000,000 from the reserve of which:

(a) not to exceed $100,000,000 shall be available for direct loans for project development feasibility studies, with individual loans not to exceed $4,000,000, and provides that the Secretary may waive repayment if studies determine that the project has no economic or technical feasibility.

(b) not to exceed $100,000,000 shall be available for cooperative agreements with non-Federal entities, such agreements not to exceed $25,000,000 each.

(c) not to exceed $500,000,000 shall be available for a reserve to cover any defaults from loan guarantees issued to finance construction of facilities authorized by the Federal Nonnuclear Research and Development Act of 1974. Indebtedness guaranteed shall not exceed $1,500,000,000.

(d) not to exceed $8,000,000 shall be available for program management.

6. Provides that the Act satisfies the requirements of the Federal Nonnuclear Research and Development Act of 1974 for specific congressional action on price guarantees, purchase commitments, or loan guarantees.

7. Defines alternative fuels.

8. Provides that within 60 days of enactment the Secretary of Energy shall establish and publish final criteria for loans previously described.

9. Establishes a "Solar and Conservation Reserve" of $1 billion to be available only subject to passage of authorizing legislation and to the extent provided in advance in appropriations Acts.

10. States that nothing in this appropriation precludes further Senate action on synthetic fuels or sets a binding pattern for these items in the future.

The managers are in agreement that the increased emphasis on alternative fuels production and the broad authorities contained in the Senate amendment are necessary for the expeditious development of domestic alternative fuels capacity in a reasonable time frame. It is urgent that action begin immediately to establish such capacity to offset the Nation's unacceptable and increasing dependence on foreign sources of energy.

The managers emphasize that, in view of projected increasing dependence on imports, alternative fuels production should reach maximum levels as soon as practicable. Testimony before the Congress differs with regard to levels of production that can be achieved by various dates. Minimum and maximum goals of 500,000 barrels per day by 1986 and 6,000,000 barrels per day by 1995 have respectively been projected. The managers agree that maximum levels should be pursued within the reasonable constraints of environmental concerns and the Nation's economic and productive capacity.

The substitute amendment agreed to by the managers contains nearly all the substantive provisions of the Senate amendment. The differences are as follows:

1. Introductory language is included stating a goal of "domestic production at maximum levels at the earliest time practicable". As discussed previously, production should be at levels consistent with reasonable economic benefits, available industrial productive capacity of the Nation, and environmental and other regulatory constraints.

2. The "Energy Security Reserve" appropriation is $19 billion instead of $20 billion in the Senate amendment. Including the $1 billion for a "Solar and Conservation Reserve" the total of this account is $20 billion, the amount of the amended budget, instead of $21 billion in the Senate bill.

3. The $1.5 billion transfer from the "Strategic petroleum reserve" account is deleted. The managers agree that sufficient funds should be retained in the "Strategic petroleum reserve" account to allow the Secretary to begin immediate purchase of oil for the reserve, to adjust for increased oil prices, and to allow for more flexible, longer contract terms for purchase if justified.

4. The word "domestic" is added to commercial production language to clarify the intent of both houses on the source of alternative fuels.

5. Language is added directing that the Secretary begin the contract process for purchase commitments and price guarantees immediately rather than "authorizing the Secretary to contract."

6. Loans for project development feasibility studies are changed to regular procurement awards in order to expedite the process of receiving and processing requests for assistance. The Secretary may require repayment of these awards if the projects are determined to be economically and technically feasible. Loans would have required establishment of a new administrative system complete with regulations.

7. Within 90 days the Secretary is directed to issue solicitations for project development feasibility studies, instead of a 60 day period for issuing loan criteria.

8. Loan guarantees for oil shale facilities provided for in the Senate amendment can be issued for full-sized commercial facilities, without first demonstrating a modular facility as required in section 19 of the Federal Nonnuclear Reserve and Development Act of 1974. This provision will expedite by several years the development of any oil shale facilities which apply for loan guarantees. It does not waive any substantial requirements of environmental law.

9. Operation of the reserve is further defined in the Senate amendment by:

(a) Providing that Federal agencies pay into the reserve the market price for alternative fuels purchased by the government under this appropriation, thus replenishing budget authority in the reserve.

(b) Providing that all funds derived by operations under this appropriation be deposited in the reserve.

(c) Providing that all payments out of the reserve must be from appropriations from the reserve.

10. Lastly, the agreement provides a secretarial report to Congress every six months after enactment.

The managers believe that this program is necessary to begin the expeditious pursuit of alternative fuels capacity as one of the main efforts in alleviating our ruinous dependence on foreign sources of energy.

The managers agree further that for project development feasibility studies, interest rates on repayment should be five percent. The managers also agree that the Secretary should establish definitive criteria for deciding the economic and technical feasibility of such studies prior to repayment decisions on such awards.

The managers also agree that $22,000,000 of the funds provided for cooperative agreements should be made available for an agreement with Great Plains Gasification Associates for preliminary work on a commercial coal gasification facility.

Amendment No. 75: Appropriates $746,627,000 for fossil energy research and development instead of $699,377,000 as proposed by the House and $798,302,000 as proposed by the Senate. The net increase over the amount proposed by the House consists of the following increases and decreases: Increases of $3,000,000 for underground coal mining; $1,500,000 for chemical coal cleaning; $5,000,000 for SRC–II: $29,500,000 for the H–coal pilot plant; $7,500,000 for an H–coal commercialization study; $4,000,000 for coal materials handling in advanced research and supporting technology; $4,500,000 for low grade heat recovery; $5,000,000 for university coal research; $2,000,000 for heavy oil refining; and $2,500,000 for enhanced gas recovery; and decreases of $5,000,000 for surface mining R&D; $1,000,000 for a gasification test facility; $4,000,000 for coal materials handling in gasification; $3,700,000 for peat gasification; $1,000,000 for a utility technology program plan; $2,000,000 for automotive engine combustion technology; $300,000 for improved oil and gas burners; and $250,000 for coal-oil mixture research.

The managers agree that within the amounts provided for high Btu entrained bed gasification $250,000 is available for preliminary evaluations related to the establishment of an entrained bed test facility on the site of the BIGAS plant.

The managers support the rapid development of thermionic energy converters suitable for improving power plant performance. An aggressive research and development program leading to evaluation of utility scale power modules should be pursued by the Department. The Department should evaluate the program and submit a request for reprogramming or supplemental funding in FY 1980 if necessary.

The managers further agree that $1,500,000 is available, within the amount provided, for demonstration of innovative small atmospheric fluidized bed technology as originally proposed by the Senate.

Funds for automotive engine combustion technology, deleted in this account, are transferred to the conservation account in the amount of $1,500,000.

The managers agree that the $5,000,000 added for university coal research is for research at universities having existing laboratories capable of coal research, and is not to be used to establish a system of "University Coal Laboratories", as authorized by P.L. 95–87, the Surface Mining Control and Reclamation Act of 1977.

The managers agree that up to $1,000,000 within available funds should be provided for a feasibility study on the further use of the Cresap, West Virginia, test facility to be completed as soon as possible, but no later than June 1, 1980.

Amendment No. 76: Appropriates $103,250,000 for fossil energy construction instead of $71,250,000 as proposed by the House and $105,250,000 as proposed by the Senate. The decrease under the amount proposed by the Senate consists of $2,000,000 for a second high-Btu gasification demonstration plant.

The managers agree that the Department of Energy should use the $2 million provided in fiscal year 1979 for project 77–1–b to continue preliminary work on a second high-Btu synthetic pipeline gas demonstration plant. DOE, in selecting a process technology, shall

consider processes of a second-generation technology that will advance the state-of-the-art.

DOE shall report to the Appropriations Committees on plans for initiating construction of a second plant prior to FY 1981.

Amendment No. 77: Appropriates $111,221,000 for energy production, demonstration and distribution instead of $125,971,000 as proposed by the House and $106,971,000 as proposed by the Senate. The net increase over the amount proposed by the Senate consists of the following increases and decreases:

Increases of $1,000,000 for coal bed methane; and $11,750,000 for the Federal buildings solar program; and decreases of $2,000,000 for coal policy studies; $2,000,000 for naval shale reserves; $1,500,000 for oil shale commercialization; and $3,000,000 for solar commercialization.

The managers agree that coal policy studies should be accomplished within existing departmental funds for policy and evaluation activities.

Within the funds provided for solar commercialization, $3,000,000 is for wood combustion and gasification. Additional funding for commercial wood utilization is provided within the alternative fuels account.

Lastly, the managers agree that funds recommended by the House for urban waste projects should be reduced to $3,000,000 and transferred to the energy conservation account.

Amendment No. 78: Provides that $88,750,000 of the funds provided for energy production, demonstration, and distribution remain available until expended instead of $104,500,000 as proposed by the House and $78,000,000 as proposed by the Senate. The net under the amount proposed by the House consists of the following increase and decreases: An increase of $2,000,000 for shale reserves development; and decreases of $11,750,000 for the Federal buildings solar program; and $6,000,000 for urban waste conversion.

Amendment No. 79: Appropriates $628,702,000 for energy conservation instead of $566,052,000 as proposed by the House and $692,502,000 as proposed by the Senate. The net decrease under the amount proposed by the Senate consists of the following increases and decreases:

Increases of $3,000,000 for urban waste research, development and demonstration; $200,000 for the federal energy management program; $1,050,000 for heat pumps; $3,375,000 for projects with the aluminum and steel industries; $3,250,000 for industrial cogeneration; $1,500,000 for diesel propulsion research; and $2,500,000 for administration of the schools and hospitals grant program; and decreases of $3,675,000 for the emergency buildings temperature restriction program; $2,000,000 for steam engine propulsion research; $3,000,000 for the National Alcohol Fuels Commission; and $70,000,000 for energy impact assistance.

The managers note that $3,000,000 provided for urban waste shall be transferred into this account from energy production, demonstration, and distribution. Also, $1,500,000 allowed for diesel production has been transferred from the fossil energy research and development account. Funding proposed by the House for urban waste loan guarantees has been deleted from this account, because it is included within loan guarantees provided by the proposed alternative fuel production account.

The managers agree that any formcoke demonstration project initiated by the department must include a provision for industrial cost sharing of project construction.

Amendment No. 80: Reappropriates $141,250,000 for energy conservation grants instead of $180,000,000 as proposed by the House and $102,500,000 as proposed by the Senate. The decrease is $38,750,000 of FY 1978 funds proposed by the House for reappropriation to the schools and hospitals grant program.

Amendment No. 81: Deletes language proposed by the House earmarking $5,000,000 for a reserve to cover defaults from loan guarantees issued for financing the construction of facilities to convert municipal waste into synthetic fuels.

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that none of the funds provided for State energy conservation grants shall be available to any jurisdiction that has not implemented section 362(c)(5) of Public Law 94–163.

Amendment No. 83: Deletes language proposed by the Senate which would have provided $3,000,000 for the National Alcohol Fuels Commission.

Amendment No. 84: Appropriates $152,879,000 for the Economic Regulatory Administration instead of $125,697,000 as proposed by the House and $154,264,000 as proposed by the Senate. The net increase over the amount proposed by the House consists of the following increases and decrease:

Increases of $10,000,000 for coal conversion prohibition orders; $4,200,000 for major refiner compliance; $10,000,000 for non major refiner compliance; and $4,182,000 for fuels regulation; and a decrease of $1,200,000 for innovative rate structure pilot studies.

While the managers support the purposes and goals of the Fuel Use Act, and to that end are including increased funding to expedite conversions, some conferees have expressed concern over the regulations promulgated by the Department of Energy to implement the Fuel Use Act and wish to make clear that increased funding for this program does not necessarily imply that all of those concerns have been alleviated.

Amendment No. 85: Deletes House language appropriating $8,391,000 for the strategic petroleum reserve.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES ADMINISTRATION

Amendment No. 86: Appropriates $538,874,000 for Indian health services instead of $541,449,000 as proposed by the House and $536,580,000 as proposed by the Senate. The net increase over the amount proposed by the Senate consists of the following increases and decrease: A decrease of $400,000 to operate and equip the Colville Convalescent Center, Washington; and increases of $2,000,000 for Indian health manpower and $694,000 for health education.

The managers are in agreement on the following: That, within available funds, $300,000 be used to undertake a feasibility study to determine if the Alaska Hospital and Medical Center in Anchorage meets current health care requirements of the beneficiary population; that IHS not support any facility constructed by EDA unless it intends to seek necessary operating funds and has departmental clearance to do so in advance; that, within available funds, $70,000 be allocated to the Indian Development District of Arizona for the establishment of a training program for emergency medical personnel; that, within available funds, $77,000 be allocated to Fort Berthold for a physical extender service; that IHS provide technical assistance to the Tulalip Tribe, Washington, to develop a health care delivery system; that the IHS develop a priority ranking system for health services and submit the system to the House and Senate Appropriations Committees for review by February 1, 1980; that IHS report to the House and Senate Appropriations Committees within 60 days on the resources available to the Indians of the various states and on the impact of the health care and funding commitment implicit in the recently adopted IHS regulations on contract care delivery areas; and that funds reprogrammed from the Fort MacArthur Clinic be distributed on the following basis: 80% to reservation programs and 20% to urban program.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for construction, repair, and improvement of Indian health facilities and related activities as proposed by the Senate.

Amendment No. 88: Appropriates $74,302,000 for Indian health facilities as proposed by the House instead of $36,062,000 as proposed by the Senate.

The managers are in agreement on the following: That of the amount provided for sanitation facilities, $4,000,000 be made available for design and initial construction of a rural water distribution system for the Turtle Mountain Indian Reservation, North Dakota; that the Indian Health Services and the Department of Health, Education, and Welfare develop a sound priority system for the sanitation program; that IHS and the Department develop firm estimates for both construction and leasing for the Bethel housing project and include those recommendations in the FY 1981 budget justifications; that the Department carefully review the adequacy of cost estimates for IHS construction projects and the actual housing needs for the Red Lake facility and report to the House and Senate Appropriations Committees by February 1, 1980; and that a 60-bed facility, not including a school of optometry sponsored by Northeastern Oklahoma State University, be constructed at Tahlequah, Oklahoma.

Amendments No. 89 & 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language clarifying the use of funds collected under the authority of the Indian Health Care Improvement Act.

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the lease of permanent structures without advance provision therefor in appropriations Act".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

OFFICE OF EDUCATION

Amendment No. 92: Provides language proposed by the Senate earmarking funds for Parts B and C of the Indian Education Act.

Amendment No. 93: Appropriates $75,900,000 for Indian education as proposed by the Senate instead of $75,675,000 as proposed by the House. The increase over the amount proposed by the House is to provide a total of $200,000 for the operation of the National Advisory Council on Indian Education.

INSTITUTE OF MUSEUM SERVICES

Under the provisions of Section 413(a) of Public Law 96–88, the Secretary of Education is authorized to consolidate various educational and related agencies within the newly established Department of Education. One agency, funded in this bill, identified as eligible for such action, is the Institute of Museum Services. The Managers have no objection to merging this unit with other comparable units if this will help the Secretary

develop and manage a viable Department. The managers further agree that oversight of the programs of the Institute would be continued wherever it may be situated.

SMITHSONIAN INSTITUTION

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $103,781,000 for salaries and expenses instead of $103,498,000 as proposed by the House and $102,710,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase over the amount proposed by the House consists of $233,000 for the Tropical Research Institute as recommended by the Senate for fence construction ($22,000), two game wardens ($98,000), increased utility costs ($81,000), and two administrative positions ($32,000) and $50,000 for American and Folklife Studies.

Amendment No. 95: Appropriates $4,200,000 for museum programs and related research (special foreign currency program) instead of $3,700,000 as proposed by the House and $4,700,000 as proposed by the Senate. The managers agree that the establishment of a substantial reserve fund for future year programs should be reviewed within the context of the 1981 priorities.

Amendment No. 96: Restores House language stricken by the Senate that limits the total amount of museum programs and related research grants to Smithsonian employees to $500,000.

Amendment No. 97: Appropriates $6,250,000 for construction and improvements, National Zoological Park instead of $6,500,000 as proposed by the House and $6,000,000 as proposed by the Senate. The decrease under the amount proposed by the House deletes $250,000 budgeted for redesign of the parking facility addition.

Amendment No. 98: Appropriates $5,250,000 for restoration and renovation of buildings as proposed by the House instead of $5,150,000 as proposed by the Senate. The managers agree this amount should be adequate to renovate and repair the buildings associated with the newly acquired African Museum of Art.

Amendment No. 99: Appropriates $20,600,000 for construction of the Museum Support Center as proposed by the House instead of $10,850,0000 as proposed by the Senate. No funds are included for South quadrangle planning.

Amendment No. 100: Appropriates $22,241,000 for salaries and expenses of the National Gallery of Art instead of $22,311,000 as proposed by the House and $21,978,000 as proposed by the Senate. The decrease under the amount proposed by the House deletes funds for the direct funding of the Repertory of International Literature of Art (RILA).

Amendment No. 101: Appropriates $1,611,000 for salaries and expenses of the Woodrow Wilson International Center for Scholars as proposed by the House instead of $2,611,000 as proposed by the Senate. No funds are provided for a one time appropriation to establish the Hubert H. Humphrey fellowship in social and political thought.

NATIONAL ENDOWMENT FOR THE HUMANITIES

Amendment No. 102: Appropriates $111,700,000 for salaries and expenses as proposed by the House instead of $109,400,000 as proposed by the Senate.

Amendment No. 103: Provides $100,300,000 for program funds as proposed by the House instead of $98,900,000 as proposed by the Senate.

Amendment No. 104: Provides $11,400,000 for administrative expenses as proposed by the House instead of $10,500,000 as proposed by the Senate.

The managers urge both Endowments to confine their grants to programs and organizations whose purposes are closely identified with the arts and humanities. Support for general operations, such as those for public television stations, should be left to those Federal programs specifically established for such purposes. A special effort should be made to insure that museum grants are directed at distinct arts and humanities programs and not those supported by the National Institute of Museum Services.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Amendment No. 105: Appropriates $1,350,000 for salaries and expenses as proposed by the House instead of $1,460,000 as proposed by the Senate.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Amendment No. 106: Appropriates $1,856,000 for salaries and expenses as proposed by the Senate instead of $1,811,000 as proposed by the House.

Congress has approved the overall plan for the Pennsylvania Avenue Development Corporation. As part of that plan, interim regulations have been published containing specific goals that assure an affirmative action plan guaranteeing the participation of minority businesses. The affirmative action plan adopted by the Corporation provides for equity participation only where such equity contribution exists. The managers strongly support that concept and we expect the PADC to report progress in implementing the plan to the Committee as well as any pressures being exerted from other units of government urging otherwise. The Committees expect the Pennsylvania Avenue Development Corporation to report back to the Congress as soon as possible its progress in this matter.

FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

Federal inspector for the Alaska gas pipeline

Permitting and Enforcement

For necessary expenses of the Federal Inspector for the Alaska Gas Pipeline, $10,600,000, of which $3,600,000 shall remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Federal Inspector is recognized by the managers as a representative of the President in conducting negotiations with Canada, the Provinces of Canada and other interested entities in obtaining approval of the financing and construction of the pipeline. As such, he may expend such funds as may be provided by the President or his duly authorized representative for official reception and representation expenses.

COMMUNITY SERVICES ADMINISTRATION

Emergency fuel assistance

Amendment No. 108: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which appropriates $1,350,000,000, instead of $1,200,000,000 as proposed by the Senate. There were no funds for this purpose in the House bill, as the House has passed a separate bill (H.J. Res. 4430) containing $1,350,000 for emergency heating assistance. The amendment reads as follows:

Community Services Administration

Community Services Program

For an additional amount for "Community services program", $1,350,000,000: *Provided*, That of this amount $1,200,000,000 shall be transferred by allocation to the Secretary of Health, Education, and Welfare for payment of energy grants and allowances and related administrative costs: *Provided further*, That energy allowances shall not be considered as income or resources under any other public or publicly assisted income tested program, but shall be taken into consideration in determining eligibility for energy crisis assistance: *Provided further*, That the States shall, in awarding funds, give priority to those households experiencing significant increases in heating fuel costs over the levels of the previous year: *Provided further*, That States shall, in establishing such priority, provide for determining the extent to which increases in rents are caused by increases in heating fuel costs and consider such portions of increases in rents to be increases in heating costs: *Provided further*, That proof of income eligibility shall be required of all applicants: *Provided further*, That an annual audit shall be made of this program and all of its components: *Provided further*, That no awards to applicants shall be made after June 30 1980: *Provided further*, That $400,000,000 shall be paid as a special one-time energy allowance to recipients of Supplemental Security Income distributed among the States according to the following formula: (1) 33⅓ per centum based on the number of heating degree days squared times the number of households below 125 per centum of poverty; (2) 33⅓ per centum based on the difference in home heating energy expenditures between 1978 and 1979; (3) 33⅓ per centum based on the number of Supplemental Security Income recipients (other than those receiving no more than $25 because of their presence in a Medicaid institution) in each State relative to the national total: *Provided further*, That no Supplemental Security Income recipient shall receive more than $250 from the funds provided for Supplemental Security Income recipients: *Provided further*, That the remainder of any funds that would have been allotted to any State for Supplemental Security Income recipients if no maximum payment limitation had been in existence shall be allocated based on the State determination previously made in regard to funds provided for special energy allowances to recipients of Aid to Families with Dependent Children (AFDC) or block grants to States: *Provided further*, That $942,600,000 shall be distributed among the States according to the following formula: (1) 50 per centum based on the number of heating degree days squared times the number of households below 125 per centum of poverty; (2) 50 per centum based on the difference in home heating energy expenditures between 1978 and 1979: *Provided further*, That, in the State Funding Plan, the Governor shall provide assistance for those who pay fuel bills indirectly as well as directly: *Provided further*, That from revenues received from any windfall profit taxes imposed by Federal law on producers of domestic crude oil, there shall be reimbursed to the general fund of the Treasury an amount equivalent to the amount of funds appropriated to carry out the purposes of this paragraph: *Provided further*, That for the purposes of this paragraph, the term "States" shall include the "insular areas" of the United States.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to provide the full amount requested by the President for low-income energy assistance. The budget request in this amount is contained in the House Document Nos. 96-188 and 96-207. This amount, together with $250 million appropriated earlier will provide a total of $1.6 billion for the upcoming winter.

The amount in the conference agreement (less Federal administrative costs) will be allocated as follows: $400,000,000 will be distributed to Supplemental Security Income (SSI) recipients, according to the State in which they live, by a three-part formula consisting of (1) one-third based upon heating degree days squared times the number of households below 125 percent of poverty (2) one-third based upon the difference in home heating energy expenditures between 1978 and 1979 and (3) one-third based upon the number of SSI recipients in a State compared to the total number of such recipients in all the States; and $942,600,000 will be allocated to the States under a two-part formula consisting of (1) 50 percent based upon heating degree days squared times the number of households below 125 percent of poverty and (2) 50 percent based upon the difference in home heating energy expenditures between 1978 and 1979.

The conference agreement includes $150,000,000 for the energy crisis assistance program administered by the Community Services Administration. That amount, together with $250,000,000 appropriated earlier, will provide a total of $400,000,000 for fiscal year 1980. The funds will be distributed among the States as block grants for the same purposes specified in the conference report to accompany the Labor-HEW Appropriation Bill for 1980 (House Report 96-400). Included in the amount aproved by the conferees is $3,400,000 for administrative expenses, as requested in the budget, to enable CSA to maintain current employment levels and to add 50 temporary positions to assist in the administration of the program.

The conference agreement includes $1,200,000,000 which will be transferred to the Department of Health, Education, and Welfare for administration by that Department. Of that amount, $400,000,000 will be paid as a special one-time energy allowance to recipients of Supplemental Security Income. No SSI recipient may receive more than $250 in this manner. Any SSI funds that cannot be utilized by a State because of the maximum payment limitation shall be allocated based upon the State determination previously made in regard to funds provided for special energy allowances for AFDC recipients or block grants to the States. Federal administrative costs of $4,000,000 are also included. The budget proposed to utilize the remainder of the funds for special energy allowances to recipients of Aid to Families with Dependent Children (AFDC). The conferees direct that States be given the option of either participating in the AFDC payment plan presented in the budget request or of receiving their share of those funds in the form of a block grant. The block grant would be used to provide assistance to households with incomes below 125 percent of the poverty level. States wishing to receive a block grant will have 30 days from enactment of this bill to submit a plan for approval to HEW; HEW will then have 15 days from the date the plan is submitted to approve it. If HEW fails to act on a plan within 15 days, it will automatically be considered as approved. If HEW rejects a State plan, the State will have 5 days to submit a new plan; HEW will then have 5 more days to either accept or reject that plan.

The conferees direct that HEW consider any plan that has been submitted by a State for energy assistance to CSA and that has been approved be automatically considered as approved for the purpose of that State's participation in the HEW block grant program. The conferees intend that this provision will expedite the implementation of this program and that minor modifications necessary to be consistent with the new provisions in this conference report shall not be considered as requiring new plan approval.

The States can use the block grant in a variety of ways, including, but not limited to the following: retain all or part of the funds for crisis intervention; target households with higher energy costs rather than distributing it broadly; establish a vendor line of credit; make payments to those already participating in other income assistance programs (AFDC, food stamps).

The conferees expect HEW and CSA to work together as closely as possible in carrying out this program to reduce duplication and overlap to a minimum and to ensure that the funds are made available to the intended recipients as quickly and expeditiously as possible. States may use up to 10 percent of the block grants for administrative expenses.

The conferees direct the Community Services Administration to amend its regulations to provide equal treatment of paid fuel bills and unpaid fuel bills. Cash payments for bills already paid shall be equivalent to payments for unpaid bills. Although the conferees agree on the need to impose a ceiling on the funds available to each eligible household, the conferees are also aware of the unique heating requirements of each State. The conferees therefore recommend that regulations be amended to allow the Governor of each State to request the authority to increase this ceiling.

The conferees direct that there be no duplication of payments from any funds contained in this program.

The conferees are deeply concerned about unemployed individuals and their families. Accordingly, the States are directed to notify individuals receiving unemployment compensation benefits regarding the availability of funds under the Community Services Administration energy crisis assistance program for emergency fuel needs. In regard to the block grant program to the States, HEW or CSA, as appropriate, shall make adequate provisions for the participation of Native Americans.

The conference agreement also provides for the following: that the States shall, in awarding funds, give priority to those households experiencing significant increases in heating costs over the levels of the previous year; that the States shall, in establishing such priority provide for determining the extent to which increases in rents are caused by increases in heating costs and consider such portions of increases in rents to be increases in heating costs; that the States shall provide assistance for those who pay fuel bills indirectly as well as directly; that proof of income eligibility shall be required of all applicants; that an annual audit shall be made of this program and all of its components; and that no awards to applicants shall be made after June 30, 1980.

The conferees feel that time is of the essence in this matter. For this reason, they have agreed to provide the funds on an emergency basis in this bill.

TITLE III—GENERAL PROVISIONS

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

None of the funds appropriated under this Act shall be available to implement any amendment to, or provision of, the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 providing for an increase or decrease in any month beginning after the date of the enactment of this Act in the ratio of the number of entitlements issued any firm with respect to any imported refined petroleum product to the number of barrels of such product imported by such firm in such month above the ratio in effect on April 30, 1979 unless the President has transmitted such amendment or provision to the Congress as an "energy action" under section 551 of the Energy Policy and Conservation Act (Public Law 94-163) and neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in such section 551 of such Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The provision allows for a 50% entitlement for imported residual fuel oil for the State of Michigan and the East Coast market instead of the 30% entitlement included in the Senate-passed bill. This entitlement is identical to that provided for the past year in the fiscal year 1979 Interior and Related Agencies Appropriations Act. Additionally, any changes to imported residual fuel oil entitlements or entitlements for any other imported refined petroleum products are made subject to "energy action" procedures under the Energy Policy and Conservation Act, Public Law 94-163.

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds may be used to contract with private firms to provide plant care or watering services except for indoor plants.

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides an exemption to the State of Alaska from application of certain provisions of the Export Administration Act of 1979.

It is the intent of the managers to continue to encourage the Forest Service to restrict administratively the export of unprocessed western red cedar logs from Alaska as soon as the capability develops to process such logs in Alaska.

Amendment No. 112: In lieu of the sum named insert $340,000.

The Bureau of Indian Affairs is currently providing contract support for attorneys' fees to four Pueblos in New Mexico in the case of *State of New Mexico* v. *Aamodt*. The Bureau determined that separate representation is required for each Pueblo to settle conflicts of interest between the Indians.

The Secretary shall request the Attorney General to determine if the trust responsibility of the government requires Federal financial support for legal representation to settle intertribal disputes.

The Secretary shall report back to the Committee within six months.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for 1980 follow:

New budget (obligational) authority, fiscal year 1979	$12,325,236,000
Budget estimates of new (obligational) authority, fiscal year 1980	[1] 30,079,538,000
House bill, fiscal year 1980	10,231,970,000
Senate bill, fiscal year 1980	29,571,647,000
Conference agreement	30,304,887,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979	+17,979,651,000
Budget estimates of new (obligational) authority, fiscal year 1980	+225,349,000
House bill, fiscal year 1980	+20,072,917,000
Senate bill, fiscal year 1980	+733,240,000

[1] Includes $21,626,768,000 of budget estimates not considered by the House.

SIDNEY R. YATES,
GUNN MCKAY,
CLARENCE D. LONG,
R. DUNCAN,
J. P. MURTHA,
NORM D. DICKS,
BO GINN,
JAMIE L. WHITTEN,
JOSEPH M. MCDADE,
RALPH S. REGULA,
CLAIR W. BURGENER,
SILVIO O. CONTE,
Managers on the Part of the House.

ROBERT C. BYRD,
ERNEST F. HOLLINGS,
BIRCH BAYH,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
PATRICK J. LEAHY,
QUENTIN BURDICK,
JOHN A. DURKIN,
TED STEVENS,
MILTON R. YOUNG,
MARK O. HATFIELD,
HENRY BELLMON,
JAMES A. MCCLURE,
PAUL LAXALT,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DE LA GARZA (at the request of Mr. WRIGHT), for November 8 and 9, 1979, on account of official business.

Ms. HOLTZMAN, Ms. MIKULSKI, Mrs. BOGGS, and Mrs. SCHROEDER (at the request of Mr. WRIGHT), for November 8 through 13, 1979, on account of the official delegation to urge the Cambodian Government to permit food shipments for the starving children of that country.

Mrs. SPELLMAN (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. PEPPER (at the request of Mr. WRIGHT), after 4:45 p.m. today, and for November 9, on account of official business.

Mr. YOUNG of Alaska (at the request of Mr. RHODES), for today, on account of illness.

Mrs. SNOWE (at the request of Mr. RHODES), for November 8 through 13, 1979, on account of official business.

Mrs. HECKLER (at the request of Mr. RHODES), for November 8 through 13, 1979, on account of official business.

Mrs. FENWICK (at the request of Mr. RHODES), for November 8 through 13, 1979, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SOLOMON) to revise and extend their remarks and include extraneous material:)

Mr. RAILSBACK, for 5 minutes, today.

Mr. COLLINS of Texas, for 15 minutes, today.

Mr. MARTIN, for 15 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. COURTER, for 10 minutes, today.

Mr. COURTER, for 5 minutes, on November 9, 1979.

(The following Members (at the request of Mr. MINETA) to revise and extend their remarks and include extraneous material:)

Ms. FERRARO, for 5 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. FASCELL, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. VANIK, for 10 minutes, today.
Mr. ULLMAN, for 5 minutes, today.
Mr. ADDABBO, for 10 minutes, today.
Mr. HARRIS, for 5 minutes, today.
Mr. UDALL, for 5 minutes, today.
Mr. BINGHAM, for 5 minutes, today.
Mr. ECKHARDT, for 30 minutes, today.
Mr. SWIFT, for 5 minutes, today.
Mr. KASTENMEIER, for 5 minutes, today.
Mr. HUGHES, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ZEFERETTI, and to include extraneous matter.

Mr. MARLENEE, to revise and extend his remarks prior to passage of H.R. 3398, today.

Mr. HIGHTOWER, to revise and extend his remarks prior to the vote on H.R. 3398, today.

Mr. SCHULZE, and to include extraneous matter, following his remarks during consideration of House Resolution 428 in the Committee of the Whole today.

Mr. DASCHLE, to revise and extend during debate of H.R. 4167 in the Committee of the Whole today.

Mr. ERTEL, to insert remarks immediately following Mr. FUQUA's comments on S. 1160.

(The following Members (at the request of Mr. SOLOMON) and to include extraneous material:)

Mr. FISH.
Mr. WILLIAMS of Ohio.
Mr. EDWARDS of Alabama.
Mr. DANIEL B. CRANE.
Mr. DERWINSKI in two instances.
Mr. MICHEL in three instances.
Mr. WYDLER in two instances.
Mr. CAMPBELL.
Mr. WHITEHURST.
Mr. COLLINS of Texas in two instances.
Mr. CORCORAN.
Mr. LIVINGSTON.
Mr. LENT.
Mr. KEMP.
Mr. SCHULZE.
Mr. FINDLEY in two instances.
Mr. PAUL in six instances.
Mr. STOCKMAN.
Mr. SYMMS in two instances.
Mr. MCCLORY.
Mr. COURTER.

(The following Members (at the request of Mr. MINETA) and to include extraneous matter:)

Mr. YATRON in two instances.
Mr. JACOBS in two instances.
Mr. WOLFF in two instances.
Mr. ROE.
Mr. PEPPER in two instances.
Mr. ROBERTS.
Mr. ADDABBO.
Mr. NOWAK.
Mr. DELLUMS.
Mr. ULLMAN in two instances.
Mr. RICHMOND in two instances.
Mr. BOLLING.
Mr. SOLARZ.
Mr. MAZZOLI in two instances.
Mr. MYERS of Pennsylvania.
Mr. MOTTL.
Mr. WILLIAMS of Montana.
Mr. GUDGER.
Mr. MCCORMACK.
Mr. MURPHY of Illinois.
Mr. FORD of Michigan.
Mr. WAXMAN.
Mr. MCDONALD in two instances.
Mr. LLOYD.
Mr. ROSENTHAL.
Mr. LONG of Maryland in three instances.
Mr. LUNDINE.
Mr. CHAPPELL.
Mr. FROST.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1374. An act for the relief of Lynn Rufus Pereira; to the Committee on the Judiciary; and

S. 1682. An act to amend the Act of August 9, 1955 (69 Stat. 539) (25 U.S.C. 415), as amended, to authorize a 99-year lease for the Moses Allotment Numbered 10, Chelan County, Wash.; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 117. Joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

ENROLLED JOINT RESOLUTIONS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 199. Joint resolution to amend the Act of October 21, 1978 (92 Stat. 1675: Public Law 95-498); and

H.J. Res. 428. Joint resolution designating December 1979 as "National Child Abuse Prevention Month."

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On November 7, 1979:

H.R. 998. To amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties; and

H.R. 2196. To establish a Congressional

Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths.

On November 8, 1979:

H.R. 3319. For the relief of Jose Quintana Domingues Sendejas; and

H.R. 5279. To provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany."

ADJOURNMENT

Mr. PREYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, November 9, 1979, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2793. A letter from the Acting Secretary of Agriculture, transmitting a table showing the final Public Law 480 Title I country allocations for fiscal year 1979; to the Committee on Foreign Affairs.

2794. A letter from the Comptroller General of the United States, transmitting a report on the financial condition of public housing agencies (CED-80-2, November 7, 1979); jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. Supplemental report on H.R. 3755 for the relief of St. Paul's Episcopal Church, Riverside, Conn. (Rept. No. 96-561, Pt. II). Referred to the Committee of the Whole House.

Mrs. CHISHOLM: Committee on Rules. House Resolution 479. Resolution providing for the consideration of H.R. 2222 to amend the National Labor Relations Act to clarify the scope of its coverage. (Rept. No. 96-594). Referred to the House Calendar.

Mr. NEDZI: Committee of conference. Conference report on S. 1319. (Rept. No. 96-595). Ordered to be printed.

Mr. STRATTON: Committee of conference. Conference report on H.R. 3354 (Rept. No. 96-596). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4084. A bill to provide for a cooperative agreement between the Secretary of the Interior and the State of California to improve and manage the Suisun Marsh in California; with amendments (Rept. No. 96-597, P & I). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 552. A bill to provide for the alleviation of high ground water conditions in and adjacent to the town of Moses Lake, Wash., and for other purposes; with an amendment (Rept. No. 96-598). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1967. A bill, to modify the boundary of the White River National Forest in the State of Colorado; with an amendment (Rept. No. 96-599). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2111. A bill to extend the service area for the Sacramento Valley Canals, Central Vallejo project, California, and for other purposes; with an amendment (Rept. No. 96-600). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2757. A bill to authorize the Secretary of the Interior to engage in a feasibility study; with amendments (Rept. No. 96-601). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 5481. A bill, to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes; with an amendment (Rept. No. 96-602). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5811. A bill to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately (Rept. No. 96-603). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee of conference. Conference report on H.R. 4930 (Rept. No. 96-604). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X, and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. GAYDOS:

H.R. 5833. A bill to improve the administration of Federal firearms laws, and for other purposes; jointly to the Committees on the Judiciary and Rules.

By Mr. GIBBONS:

H.R. 5834. A bill to provide lump sum death benefits for certain Federal law officers and firefighters killed in the line of duty; to the Committee on Education and Labor.

H.R. 5835. A bill to provide criminal penalties for assaults on certain Federal law officers and firefighters; to the Committee on the Judiciary.

By Mr. GORE:

H.R. 5836. A bill to amend the Federal Food, Drug, and Cosmetic Act to require infant formulas to provide certain nutrient levels and to require seizure actions to be instituted against an adulterated infant formula if the manufacturer has not initiated a satisfactory recall; to the Committee on Interstate and Foreign Commerce.

By Mr. HANLEY (by request):

H.R. 5837. A bill to authorize payment from the Civil Service Retirement and Disability Fund for the expenses of retirement appeals; to the Committee on Post Office and Civil Service.

By Mr. MAZZOLI:

H.R. 5838. A bill to establish a Commission to hear, determine, and pay claims against the United States for money damages for the injuries to individuals who contracted the Guillain-Barre Syndrome after receiving immunizations under the national swine flu immunization program, and for other purposes; to the Committee on the Judiciary.

By Mr. MOTTL (for himself and Mr. GORE):

H.R. 5839. A bill to amend the Federal Food, Drug, and Cosmetic Act to strengthen the authority under that Act to assure the safety and nutrition of infant formulas; to the Committee on Interstate and Foreign Commerce.

By Mr. NOLAN:

H.R. 5840. A bill to amend the Internal Revenue Code of 1954 to permit certain farmers to obtain the investment credit for used section 38 property acquired from a related party; to the Committee on Ways and Means.

By Mr. NOLAN (for himself and Mr. PHILLIP BURTON):

H.R. 5841. A bill to develop a plan for a "National Hostel System" to encourage the development of hostels, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Banking, Finance, and Urban Affairs.

By Mr. PAUL:

H.R. 5842. A bill to make all Iranian students in the United States ineligible for any form of federal aid; jointly, to the Committees on Education and Labor and Government Operations.

By Mr. PERKINS:

H.R. 5843. A bill to amend title 28 of the United States Code to maintain the filing fee of $15 for any civil action commenced in a Federal district court relating to eligibility for or the amount of social security benefits, supplemental security income, or black lung benefits; to the Committee on the Judiciary.

By Mr. PURSELL:

H.R. 5844. A bill to establish a Federal program to provide public information on wildlife preservation and the endangered species; to the Committee on Merchant Marine and Fisheries.

By Mr. UDALL (for himself and Mr. ULLMAN):

H.R. 5845. A bill to revise requirements under the Federal reclamation laws relating to acreage limitations, equivalency, and residency, to provide for validation of repayment contracts and written representations, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WHITEHURST:

H.R. 5846. A bill to amend the Immigration and Nationality Act to provide for the deportation of certain nonimmigrant alien students; to the Committee on the Judiciary.

By Mr. GIBBONS:

H.R. 5847. A bill relating to the application of section 103(b) of the Internal Revenue Code of 1954 to certain bonds for harbor improvements; to the Committee on Ways and Means.

By Mr. MATHIS:

H.R. 5848. A bill to amend the Immigration and Nationality Act to provide for the deportation of nonimmigrant alien students who knowingly participated in a violent political demonstration or otherwise participated in activities inconsistent with the terms of their admittance to the United States; to the Committee on the Judiciary.

By Mr. STRATTON (for himself, Mr. FISH, Mr. GILMAN, Mr. OTTINGER, and Mr. PEYSER):

H.R. 5849. A bill to amend title I of the Federal Water Pollution Control Act to authorize a demonstration project for the reclamation of the Hudson River; to the Committee on Public Works and Transportation.

By Mr. SYMMS (for himself and Mr. DUNCAN of Oregon):

H.R.5850. A bill to approve dimethyl sulfoxide for the relief of inflammation from arthritis, bursitis, rheumatism, and other disorders of the muscular-skeletal system; to the Committee on Interstate and Foreign Commerce.

H.R. 5851. A bill to approve dimethyl sulfoxide for the treatment of acute brain and spinal cord injuries; to the Committee on Interstate and Foreign Commerce.

By Mr. CHARLES WILSON of Texas:

H.R. 5852. A bill to provide for the deportation from the United States of certain aliens who engage in demonstrations in sup-

port of acts of anti-American terrorism; to the Committee on the Judiciary.

By Mr. HUGHES:

H. Con. Res. 208. Concurrent resolution expressing the sense of the Congress that the Ambassador of the United States to the United Nations should take such steps as are necessary to bring the matter of the seizure of the U.S. Embassy in Tehran before either the Security Council, as a threat to the maintenance of international peace and security, or the General Assembly, in order that the community of nations may take any and all action which is necessary to bring this breach of international law to an immediate end; to the Committee on Foreign Affairs.

By Mr. BEARD of Rhode Island:

H. Res. 480. Resolution urging the Attorney General to revoke immediately student visas held by Iranian citizens who participate in political demonstrations in the United States and to require that all Iranian citizens in the United States submit to the Immigration and Naturalization Service a statement of their intention to respect the laws of the United States; to the Committee on the Judiciary.

By Mr. MOAKLEY:

H. Res. 481. Resolution authorizing the consideration of reports from the Committee on the District of Columbia on days other than those designated by rule, subject to prior announcement, and for other purposes; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1603: Mr. HYDE, Mr. GEPHARDT, Mr. SWIFT, Mr. QUAYLE, and Mr. BROOMFIELD.

H.R. 2248: Mr. KEMP, Mr. BETHUNE, Mr. MCDADE, Mr. TAUKE, Mr. HAMMERSCHMIDT, and Mr. GORE.

H.R. 4513: Mr. LUNGREN, Mr. BROOMFIELD, and Mr. CAVANAUGH.

H.R. 4762: Mr. KELLY, Mr. MCEWEN, and Mr. SIMON.

H.R. 4796: Mr. HEFTEL and Mr. WHITTEN.

H.R. 5000: Mr. WHITEHURST, Mr. PETRI, Mr. SEBELIUS, Mr. DAVIS of Michigan, Mr. WOLFF, and Mr. COUGHLIN.

H.R. 5206: Mr. HANSEN.

H.R. 5227: Mr. HOLLAND, Mrs. PENWICK, Mr. DANNEMEYER, Mr. FROST, Mr. WIRTH, and Mr. WOLPE.

H.R. 5371: Mr. HOPKINS, Mr. NEAL, Mr. FAZIO, and Mr. SHUMWAY.

H.R. 5394: Mr. STANTON, Mr. RAHALL, Mr. FITHIAN, Mr. GUYER, Mr. ADDABBO, Mr. FLOOD, Mr. FAZIO, Mr. COUGHLIN, Mr. JENRETTE, Mr. ROE, Mr. REUSS, Mr. SLACK, and Mr. ZEFERETTI.

H.R. 5396: Mr. MCKINNEY.

H.R. 5407: Mr. MOAKLEY, Mr. CLINGER, Mr. LAGOMARSINO, Mr. CARNEY, Mr. FLOOD, Mr. PHILIP M. CRANE, Mr. ROE, Mr. BENJAMIN, Mr. HORTON, Mr. MCDONALD, and Mr. LEDERER.

H.R. 5477: Mr. PURSELL.

H.R. 5504: Mr. NOLAN and Mr. FISH.

H.R. 5571: Mr. LUKEN.

H.R. 5586: Mr. BURGENER.

H.R. 5610: Mr. BEARD of Tennessee, Mr. CORCORAN, Mr. COURTER, and Mr. VENTO.

H.R. 5694: Mr. BEILENSON, Mr. BONIOR of Michigan, Mr. DICKINSON, Mr. EDWARDS of California, Mr. EDWARDS of Oklahoma, Mr. EDGAR, Mr. HUGHES, Mr. ICHORD, Mr. KOSTMAYER, Mr. JOHNSON of Colorado, Mr. MATHIS, Mr. MARSOLI, Mr. PEPPER, Mr. RAHALL, and Mr. VENTO.

H.R. 5697: Mr. EDWARDS of California.

H.R. 5752: Mr. AKAKA, Mr. WEAVER, Mr. SCHEUER, Mr. CHARLES H. WILSON of California, Mr. JEFFORDS, Mr. BEDELL, and Mr. FROST.

H.R. 5823: Mr. VANIK.

H.J. Res. 389: Mr. LENT, Mr. PANETTA, Mr. RICHMOND, Mr. BLANCHARD, Mr. LOWRY, Mr. STARK, Mr. GRAY, Mr. NOLAN, Mr. NEAL, Mr. ALEXANDER, and Mr. GOODLING.

H.J. Res. 407: Mr. MOORHEAD of Pennsylvania.

H. Con. Res. 160: Mr. DOWNEY, Mr. LLOYD, Mr. MILLER of California, Mr. VENTO, Mr. WON PAT, and Mr. DORNAN.

H. Res. 477: Mr. WHITEHURST, Mr. DEVINE, Mr. HOPKINS, Mr. FUQUA, Mr. CARTER, Mr. MURPHY of Pennsylvania, Mr. TRIBLE, Mr. LOEFFLER, Mr. CHARLES WILSON of Texas, Mr. ROUSSELOT, Mr. HINSON, Mr. GOLDWATER, Mr. MATHIS, and Mr. DUNCAN of Tennessee.

PETITIONS, ETC.

Under clause 1 of rule XXII,

218. The SPEAKER presented a petition of the Federal of Western Outdoor Clubs, Bozeman, Mont., relative to logging in the Tongass National Forest, Alaska; and protection of bald eagles; to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2626

By Mr. JACOBS:

(To the amendment by Mr. Jones of Oklahoma.)

—The substitute would consist of the text of the amendment in the nature of a substitute reported by the Committee on Ways and Means with the following changes:

In lieu of lines 4 through 8 on page 57, insert the following:

(d) (1) Subject to paragraph (2), the Secretary may not enter into an agreement under section 1866 of the Social Security Act with any hospital for any period beginning after the end of the voluntary period of the hospital (as determined under subsection (c)).

On page 57, strike out line 12 and all that follows through page 71, line 15, that is, strike out part A of title II, and redesignate succeeding provisions, the table of contents, and cross-references thereto, accordingly.

Page 73, amend lines 19 through 23 to read as follows:

(c) (1) There shall be exempted from any restriction under section 115(d) (1) any agreement under section 1866 of the Social Security Act of a hospital in a State which begins in a year in which a State mandatory hospital cost containment program for the State has been approved under this section.

Page 75, amend lines 3 through 5 to read as follows:

SEC. 213. The Secretary may exempt hospitals from the application of the restriction of section 115(d) (1) if he determines that—

Page 75, strike out line 14 and all that follows through page 81, line 14, that is, strike out section 221 (civil penalties).

Page 81, strike out lines 22 through 24.

Page 82, line 1, strike out "such a limit" and insert in lieu thereof "a restriction under section 115(d) (1)".

Page 82, strike out lines 12 through 14.

Page 82, line 15, strike out "such a limit" and insert in lieu thereof "a restriction under section 115(d) (1)".

Page 89, line 6, strike out "part A of title II" and insert in lieu thereof "section 115 (d) (1)".

Page 90, strike out line 10 and all that follows through page 91, line 19, that is, strike out section 313 (consolidated treatment of certain hospitals with common ownership).

Page 98, line 1, strike out "and shall not" and all that follows through "title II" on line 3.

Page 99, amend lines 3 through 5 to read as follows:

(3) restrictions under section 155(d) (1) on entering into agreements under section 1866 of the Social Security Act shall not apply to agreements entered into for periods beginning after 1983; and

Page 101, strike out lines 11 through 13 (and redesignate succeeding provisions, and cross-references thereto, accordingly).

H.R. 2727

By Mr. FRENZEL:

—On page 5, line 21, strike out the words "1,200,000,000 pounds" and insert in lieu thereof: "1,250,000,000 pounds".

By Mr. GRADISON:

—On page 5, line 21, strike the words "1,200,000,000 pounds." and insert in lieu thereof "1,300,000,000 pounds."

—On page 8, strike line 20 and all that follows thereafter through line 19 on page 10, and insert in lieu thereof the following new subsection:

"(g) The President may suspend any proclamation made under subsection (f), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

"(1) such action is required by overriding economic or national security interest of the United States, giving special weight to the importance to the nation of the economic well being of the domestic livestock industry;

"(2) the supply of meat articles will be inadequate to meet domestic demand at reasonable prices; or

"(3) trade agreements entered into after the date of enactment of the Act insure that the policy set forth in subsections (c) and (d) will be carried out.

Any such suspension shall be for such periods, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection."

Relabel subsections "1" through "1" accordingly.

—Strike all after the enacting clause, and insert in lieu thereof:

"That section 2 of the Act of August 22, 1964, entitled "An Act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products" (19 U.S.C. 1202 note, Public Law 88-482) is repealed."

H.R. 5297

By Mr. SEIBERLING:

—On page 7, make the following changes:

Lines 18 and 19, strike "by October 1, 1979" and insert in lieu thereof: "within 90 days of enactment of this legislation";

Line 22, after the period, insert the following: "Such notice shall not be treated as 'safeguards information' for the purposes of section 147 of the Atomic Energy Act of 1954. The Commission may require each Governor receiving notice to comply with the procedures and the standard of confidentiality respecting such notice as the Commission deems necessary to prevent any unauthorized disclosure of information where such disclosure could have a significant adverse effect on the health and safety of the public or the common defense and security by facilitating the theft, diversion, or sabotage of the waste to be transported.".

SENATE—*Thursday, November 8, 1979*

(Legislative day of Monday, November 5, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DAVID L. BOREN, a Senator from the State of Oklahoma.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Merciful Father, who sufferest in the pain and fear and woe of Thy children, take under Thy protection and surround by Thy love our fellow countrymen, now captive to violent and unpredictable forces abroad. Protect them from injury. Give them courage for every exigency. Strengthen their faith in Thee. Guide the leaders of this Nation in the measures taken for their release and future safety.

O God of justice and Protector of the helpless, grant in mercy a speedy deliverance from the tyranny and terror of evil forces wherever such exists. Hasten the reign of righteousness, justice, and truth under Thy sovereignty.

Grant us Thy higher wisdom and a measure of Thy grace as we work in this place.

We pray in the name of Him who was a man of sorrows, acquainted with grief, who was wounded for our transgressions and by whose stripes we are healed. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 8, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID L. BOREN, a Senator from the State of Oklahoma, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BOREN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The acting minority leader, the Senator from Alaska, is recognized.

Mr. STEVENS. Mr. President, I yield our leadership time to the Senator from New Mexico.

VETERANS DAY: A VIEW AHEAD

Mr. SCHMITT. Mr. President, I want to take this opportunity to ask that all of us here step away for a moment from our immediate concerns of energy and think about a time not too long ago when this Chamber was dealing with a very different, yet overriding, trauma, in our history.

That period of time was the Vietnam war and, with Veterans Day approaching, I would like to make you all aware of what I consider to be a truly magnificent tribute to those who lived, fought, and died in Vietnam, whatever one's feelings about that unfortunate war may be.

There exists, in Eagle Nest, N. Mex., in the beautiful Moreno Valley, the only monument built solely to celebrate the memory of the victims of Vietnam—the Vietnam Veterans Peace and Brotherhood Chapel.

Built almost singlehandedly, and with his own money, by a man named Victor Westphall from Springer, N. Mex., this chapel not only reminds us of the love Victor and Jeanne had for their son lost in Vietnam, but of the strong character and youthful spirit of Americans and Vietnamese alike who engaged in that conflict so far from home.

Now, to think of the atmosphere and the structure is to be filled with hope and optimism that one ordinarily would not expect at other such places. That is why, whenever I return to the Sangre de Cristo Mountains, I remember that day in October of 1977 when I spoke before a group assembled at the chapel.

I pay tribute to the Westphalls, their son, and all veterans with those words. They describe for you a family's suffering, a beautiful piece of New Mexico, and a view ahead from that time in our lives not many years ago.

I ask unanimous consent that that statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE VIEW AHEAD

(By Senator HARRISON SCHMITT)

Those of us who traveled here today could see once again that Summer is losing its yearly battle with Winter.

We could see that the battlefield is covered with the beautiful fall casualties of that conflict.

Moving through the mountains which our ancestors called the "Sangre de Cristos," and into this lovely Moreno Valley, we rested our minds in the colors of the earth's reminders of change.

In the valleys of the Rio Grande and its tributaries are now the splashes of yellow cottonwoods, the last skirmishes of fall having left the mountains. Only days ago the golden aspen, accented by the always blue spruce and Winter's first capping of dusty snow, made the fir and ponderosa appear like a deep green Indian blanket over this special land.

"Sangre de Cristos." Those are ancient words, the sounds of which reflect their deep meanings to all the religions of Christ.

As mountains, they have helped modern man learn about billions of years of Earth's history.

As observers of our ancestors and ourselves, these mountains have seen the struggles of men and women as they created a New Mexico cherished by all she shelters.

Now, as the home of this chapel, these same mountains remind us of history; the recent history of suffering, of heartache, of change and of challenge.

At times, the citizen, the politician and the child forget the value of history. There is a tendency to look back on history as a source of shame and disappointment.

History, including that terrible period immortalized by this chapel, should be viewed rather as a source of hope. From such history we gain the lessons and insights by which we survive the present and secure our future.

By opening our minds and hearts to these lessons we become truly human; we plan for better times.

Today, we should stand in awe and in respect of history but not as slaves to history.

In the past, freedom was preserved by men who were peaceful, but not passive. Freedom was preserved when peaceful men discarded peace in the face of threats to their freedom. Our fathers and brothers who fought in World War II may have seen the last clearly definable threat to our freedom; a threat to which they could react without question.

Equally great but less obvious threats to our freedom still exist. However, we seem to be in a period of historical transition; a period in which war may be disappearing as an instrument of international competition. Competition is not disappearing, but the permissible outlets for competition are now

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

elsewhere—in economics, in technology, and in space. We are moving through this transition with difficulty, but the alternatives to not moving through it are unacceptable. Korea, Vietnam, Sinai, Angola and other names remain all too familiar reminders of how slow is our progress.

We are, then, in a period of paradox. The realities of world power mean that strength cannot remove threats to freedom, but without strength we cannot preserve freedom. We must have great power to survive, but if we must lose that power, we have lost.

Our generation's challenge may be even greater than that of preceding generations. We must learn to meet competition among nations without war. We must learn economic unity among free peoples without subordination. We must learn to help peoples who are not free without destroying them or ourselves. The Vietnam era has written the historical text from which we must learn.

Many of us felt shame over the actions of this great nation in Vietnam. The greater shame will be that of not recognizing the positive lessons from that period and then using those lessons to build a better future.

A part of that future was created in the 1960's at the same time as we agonized over war's bloody pictures, peace's student riots, and the awakenings of forgotten minorities. At the same time as our evening's news pounded us toward depression and guilt, that same news showed us brighter paths to the future as we explored the earth's frontier in space. If we are to maintain our perspective, the eras of Vietnam and space must be viewed together as they happened together. We found relief from depression and guilt, however briefly, through the excitement and pride of Mercury, Gemini and Apollo.

We found, if we looked deeply enough, that the course of human history had been altered by hundreds of thousands of other Americans who fought a different kind of war; a war against the dark past of human suffering and conflict; a peaceful war, the legacy of which may someday put an end to future Vietnams and the graves of youthful dreams.

We found, if we looked far enough, that we had started a revolution in mankind's ability to do things for himself; a technological revolution that has brought light at the end of the dark tunnels of human misery called hunger, ignorance, poverty, disease and misunderstanding. It has been in the darkness of these tunnels that mankind has fought its wars against itself.

American voices from space and American footprints on the moon heralded this revolution. They brought hope to all of us as well as to much of a less fortunate world.

Now we have been told that dim echoes of those voices and faint shadows of those footprints brought hope and pride to P.O.W.'s when Hanoi's wall of silence about the moon landing was broken by a postage stamp on a long-delayed and much-censored letter from home.

My friends, I have taken on an irregular journey today. From the beauty of our surroundings, into war, into space and now back to this quiet chapel. I hope that I have shared the belief that by fighting, by suffering, and far too often by dying, the men and women we honor here gave opportunity, not shame or guilt. They gave us the opportunity to see, through the clouds of war, that we can change the trend of history and still remain free. They have given us the perspective necessary to open a new road to greatness.

The view back along the road to the sacrifices of our loved ones must always be used to understand the view ahead.

Mr. SCHMITT. Mr. President, I ask unanimous consent to have printed in the RECORD an article that appeared in last Sunday's Albuquerque Journal Parade Magazine, and other newspapers, about Victor and Jeanne Westphall and their years of love and dedication to build the Vietnam Veterans Peace and Brotherhood Chapel. It is hoped that some way will be found to recognize this monument as a national shrine.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONE MAN'S SHRINE TO ALL WHO FELL IN VIETNAM

(By Michael Satchell)

In May 1968, two Marine officers arrived at the New Mexico home of Victor and Jeanne Westphall with sad news. Their son, Lt. David Westphall—poet, musician, athlete and professional soldier—had been killed in action in Vietnam.

Many parents, wives and relatives of the 47,000 American servicemen slain in that bitter struggle took various actions in response. Some joined the peace movement. Some began supporting the war vociferously. Some did volunteer work at V.A. hospitals. Some became political activists.

Victor Westphall, too, shared the deep feeling that he must respond in some way if his son's death was to have any meaning. But his reaction was unique.

From the wellspring of his grief and anger emerged the Vietnam Veterans Peace and Brotherhood Chapel—a beautiful, awe-inspiring structure near Eagle Nest, N. Mex., and a statement of his commitment to the idea that the lessons of Vietnam must never be forgotten.

Almost singlehandedly—and with mostly his own money—Westphall has spent the last 11 years building the chapel. While it has been open to visitors since May 1972, small parts are still incomplete.

The chapel is dedicated to all victims on both sides of the conflict and to the ideal of international peace and brotherhood. On one of the interior walls, photographs of American war dead are displayed and Westphall insists: "If there were any way to learn the identity of the Vietnamese who killed my son, and if he too died and it were possible to get a photograph of him, I would display it right alongside David's picture. This memorial is for all Vietnam veterans, of any nationality."

In creating the nation's only permanent national memorial chapel to the dead of the Vietnam era, Westphall has overcome a lack of funding, public apathy, government indifference and skepticism about his motives.

Says Westphall, shaking his head, "Some people just don't understand and probably never will."

The chapel, which cost $100,000 to build—and which is probably worth three or four times that amount today—needs $20,000 a year to pay for utilities, maintenance and repairs. The Disabled American Veterans organization in 1977 pledged $10,000 a year for a decade to help defray expenses. Visitors leave $2000 or $3000 a year in the contributions box.

But the chapel needs some form of perpetual care arrangement and source of funds, for the 65-year-old Westphall has neither the financial resources nor the years ahead of him to assure its continued existence. Despite attempts by the New Mexico Congressional delegation to introduce legislation to have the National Park Service take over the memorial, and repeated approaches to various foundations, help is nowhere in sight.

The chapel had its genesis when the Westphalls pondered what to do with $30,000 in life insurance they received after David's death.

"I suggested to Victor that some form of memorial to all of the Vietnam war dead might be an appropriate gesture, although I was thinking of some small thing," says Jeanne Westphall.

Victor, a retired high school and college history teacher and owner of a small construction company, agreed, and Santa Fe architect Ted Luna was commissioned to design an appropriate memorial to be built on land owned by the Westphalls on U.S. Highway 64, about 25 miles northeast of Taos.

After four years, with $60,000 of his own funds added to the insurance money and with $10,000 in contributions from others, Westphall had completed the chapel to the point where it could be opened to the public. Dedication was held on May 22, 1972, the fourth anniversary of his son's death. And since then, he has continued work on the unfinished portions as time and finances have allowed.

Almost every day, he drives the 120-mile round trip from his home in Springer, N. Mex., to open the chapel, greet visitors and make sure everything is clean and in order. The chapel is built into the side of a hill in the Moreno Valley, dominated by snowclad 13,160-foot Wheeler Peak, highest point in the state. The Sangre de Cristo Mountains form a spectacular backdrop. Visitors can spot the edifice from miles away, for its graceful lines rise out of the hillside like the prow of a ship breaking through the waves.

The interior—designed more as a secular sanctuary than a religious shrine—is a single, large room of triangular shape with concave walls and a starkly simple design. The only religious motif is a 13-foot-tall white cross with a bowl of flowers at the foot and an eternal flame at the peak. One wall is devoted to the display of 125 photographs of Vietnam war dead. The pictures have been mailed by parents and relatives who have heard about the chapel, and some have been hand-carried to be placed in the display. Music, played on tapes, floats through the chamber—not religious works, but tunes popular during the Vietnam era, the music of Bob Dylan, Joan Baez, John Denver, the Beatles, Jimi Hendrix and others. The overall effect is stunning.

New Mexico Sen. Pete Domenici twice has introduced legislation in Congress to provide for a feasibility study to have the chapel declared a national monument to be administered by the National Park Service, which operates most of the nation's monuments, memorials and historic battlefields.

Both times, however, the agency's advisory board rejected the proposal, saying that the chapel does not have the necessary national significance and pointing out that the only war memorials it administers outside of Washington, D.C., are located in historical parks, mostly Civil War battlefields.

Dismissing the chapel in this way angers many of those familiar with the project, particularly Vietnam veterans. A group in Washington, D.C., recently formed the Vietnam Veterans Memorial Fund, Inc., to raise funds to support the chapel and to build a suitable monument in Washington. The government's only memorial recognition to Vietnam veterans was a plaque dedicated last year in Arlington National Cemetery.

"I hope this doesn't sound trite," says Victor Westphall, "but I hope it will encourage mankind to preserve rather than destroy. Vietnam came along at a critical juncture in our history, and it marked the decline of morale for our nation. I want people to visit the chapel to remember the war dead and to be reminded that they forget the lessons of Vietnam at their own peril."

S. 1989—MILITARY MANPOWER STUDY ACT OF 1979

Mr. SCHMITT. Mr. President, I am introducing today a bill designed to begin the process of meeting this country's military manpower needs. One reason

that we have gotten ourselves into trouble in the past has been that we have been unprepared or, at least, insufficiently prepared, to protect ourselves.

The most serious issue facing our Nation is our defense posture in the broadest sense of that expression. The SALT II treaty has brought to the attention of the American people what many Members of Congress have been concerned about for many years; that is, the growing problems of our national defense. These problems relate to both our strategic and our tactical forces, our nuclear and our conventional forces; however, the conventional threat is much more serious from the strategic threat at this time. The problems include the lack of sufficient equipment, our failure to modernize existing equipment over the years, and logistical problems, as well as the number of men and women in our military services.

By far the most serious problems we are facing in the conventional defense arena are manpower and manpower mobilization in time of need. The fact is the All-Volunteer Force is not working in its present form. The Congress has already begun debating this issue and will have to deal with it further in the near future. This is not to say that the All-Volunteer Force cannot work, but if it is to work, some adjustments must be made.

Suggestions and recommendations have been made to return to the draft. Others have recommended a national service approach. All of these proposals have serious technical and political problems. The Congress will have to study all the options, but study them soon and well, before we embark on a program to meet the military manpower needs of the Nation for the 1980's.

During the Senate discussion of the draft registration issue, it became obvious that conflicting information was presented during the debate. The important questions, it seems, are: First, are we meeting our military manpower requirements; and second, can we mobilize quickly in an emergency situation.

In my opinion, the Senate debate has answered these questions in the negative, but without establishing the true nature of our problems or how to solve them.

Today, I am joining with Senators INOUYE, DOMENICI, SIMPSON, MATSUNAGA, HELMS, and ARMSTRONG in introducing a bill which would begin to provide the Congress with necessary manpower information now and systematically in the future. The first section of the bill would require the Secretary of Defense to report to the Congress within 6 months on the immediate manpower needs of the Nation. This report would include the present status of our military forces as well as the projected needs for the next decade.

The Secretary would also report on the potential threats our Nation faces related to manpower as well as the ability of our allies to contribute to our mutual defense. The cost, feasibility, and effectiveness of four alternatives to meeting our military manpower needs (conscription, universal service, an improved all-volunteer military, and an improved all-volunteer military augmented by an improved Reserve and National Guard) will be addressed in the report.

The second and most important section of the bill would create a National Commission for Military Manpower Needs, with a 5-year mandate to study many of these issues but in much greater depth and with more independence than can the administration. The Commission would draw on our total national expertise with membership from the Congress, the executive branch, and the private sector. In addition, the Commission would study and report annually to the Congress on the development and solutions of problems with our military manpower and the adequacy of any actions which the Congress may take during this period.

Let me stress that this bill in no way is meant as a substitute for any concrete actions dealing with this pressing problem, be they changes to the all volunteer military, draft registration, an improved Reserve and National Guard force or any other proposal. This bill is intended to provide comprehensive, accurate, and systematic information to Congress, both in the short- and long-term.

Congress will be forced to deal with the manpower problems in our military in the very near future or the rational conduct of our foreign policy will become impossible. Proposals to reinstate draft registration have already come before us. I have serious doubts that this would be any solution at all; however, I hope that we can enter the debate and decisionmaking with as much information and as accurate information as possible. This bill will be a step in that direction. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Manpower Study Act of 1979."

STUDY BY THE SECRETARY OF DEFENSE

SEC. 2. (a) The Secretary of Defense shall conduct a comprehensive study of the immediate and long range military manpower needs of the Nation.

(b) In carrying out such study the Secretary of Defense shall specifically consider—

(1) the present status of the military manpower of the Nation and whether such status is adequate to meet the missions of the various components of the armed forces;

(2) the nature of any threat to the national security of the United States presented by the military manpower and conventional military weapons and equipment of potential adversaries and their allies;

(3) the projected military manpower needs of the Nation for the next five and ten year periods and what actions should be taken in order to insure that those needs can be met;

(4) the ability of the allies of the United States to help the United States meet potential military threats against the free world;

(5) the state of the Reserve forces and the National Guard, including—

(A) an assessment of the equipment available to the Reserve forces and the National Guard and the extent to which such equipment is out-of-date or insufficient in quantity,

(B) the quality and adequacy of the training programs of the Reserve forces and the National Guard,

(C) the degree of readiness of the Reserve forces and the National Guard in the event of partial or total mobilization, and

(D) the projected manpower and equipment needs of both the Reserve forces and the National Guard and the ability of the Department of Defense to meet those needs;

(6) the cost, benefits, liabilities, feasibility, and effectiveness of reliance upon each of the following means of providing the military manpower needs of the United States:

(A) conscription;

(B) a universal service program;

(C) an improved all volunteer military service program; and

(D) an improved all volunteer military service program augmented by an improved Reserve force and National Guard;

(7) the various actions that feasibly can be taken to substantially upgrade the Reserve forces and the National Guard;

(8) the probable cost of providing the incentives necessary to obtain increased voluntary participation in the Reserve forces and National Guard, the probable cost of improving the training and readiness state of the Reserve forces and the National Guard, and the probable cost of providing adequate quantities of modern equipment to the Reserve forces and the National Guard; and

(9) the desirability and feasibility of broadening the peacetime missions of the Reserve forces and the National Guard.

The Secretary of Defense shall submit a written report on the results of the study required by this section to the President and to the Congress not later than one hundred eighty days after the date of enactment of this Act, together with such comments and recommendations as he deems appropriate.

NATIONAL COMMISSION FOR MILITARY MANPOWER NEEDS

SEC. 3. (a) There is hereby established a commission to be known as the National Commission on Military Manpower Needs (hereinafter in this section referred to as the "Commission").

(b) The Commission shall be composed of fifteen members as follows:

(1) four members to be appointed by the Speaker of the House of Representatives not more than two of whom may be from the same political party.

(2) four members to be appointed by the President pro tempore of the Senate, not more than two of whom may be from the same political party;

(3) the Secretary of Defense;

(4) the Assistant to the President for National Security Affairs;

(5) the Director of the Central Intelligence Agency; and

(6) four members to be appointed by the President, by and with the advice and consent of the Senate, from private life.

(c)(1) The term of office for members of the Commission shall be for the life of the Commission. A vacancy shall not affect the powers of the Commission but shall be filled in the same manner in which the original appointment was made.

(2) The President shall designate one member of the Commission to serve as chairman and one member to serve as vice chairman.

(3) The first meeting of the Commission shall be held within thirty days after all members have been appointed.

(4) Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day he or she is engaged in the actual performance of his or her duties as a mem-

ber of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(d)(1) It shall be the duty of the Commission to conduct a comprehensive study of the short and long term military manpower needs of the Nation and of how such needs can be most effectively and practically met. In carrying out such study the Commission shall examine each of the means specified in clauses (A) through (D) below with a view to determining which means, in terms of military preparedness and cost effectiveness, would be the most practicable to provide the military manpower needs of the United States:

(A) conscription;

(B) a universal service program;

(C) an all volunteer military service program; and

(D) increased reliance on the Reserve forces and the National Guard.

(2) The Commission shall also examine the organizational structure of the military forces of other countries with a view to determining whether the organizational structure of the military forces of the United States should be modified.

(e)(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable.

(2) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

(f) The Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(3) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services;

(4) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies; and

(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(g)(1) The Commission shall submit a final report to the President and to the Congress on the results of its study not later than the fifth anniversary of the date on which the Commission holds its first meeting. The Commission shall include in such report such recommendations for legislative action for meeting the short and long term military manpower needs of the Nation as the Commission deems appropriate.

(2) The Commission shall also submit interim reports to the President and to the Congress on the results of its study at the end of each of the first four years following the date of the first meeting of the Commission together with such comments and recommendations as the Commission deems appropriate.

(h) The Commission shall cease to exist 30 days after the date on which it submits its final report to the President and the Congress.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

CONSTITUTIONALITY OF THE LEGISLATIVE VETO

Mr. SCHMITT. Mr. President, the Senate will soon be considering S. 1020, the Federal Trade Commission authorization bill, and amendment No. 212, which would provide for proposed FTC rules to be subject to possible review and disapproval by the Congress. It is surprising that the concept embodied in this amendment has aroused so much controversy; its intent is decidedly democratic. It would simply allow the elected Representatives of the American public to do their job—which is to pass judgment on what is to be the law of the land.

Several objections have been raised to providing Congress with the power of the legislative veto. The most frequent is the claim that the legislative veto is somehow unconstitutional. It is clear, however, that if it were unconstitutional, we would surely know it by now; since 1932, Congress has enacted over 295 provisions of law with legislative review or veto powers many of which are comparable to those in amendment 212.

It is interesting to note that on September 18 of this year, the Congress exercised its prerogative to veto one of the proposed rules of the Federal Election Commission. When it passed a resolution of disapproval over a rule concerning the funding and sponsorship of candidate debates. This veto resolution was passed with no mention of the constitutionality of the procedure. There was no debate on the workability of the legislative veto. The specter of the Congress becoming overburdened with reviewing FEC rules was not raised. On the contrary, the veto action was considered to be appropriate by both the chairman and the ranking minority member of the Senate Rules Committee.

I ask unanimous consent that the text of their debate be reprinted in full at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. SCHMITT. It is an enigma to me why the legislative veto procedure should be thought appropriate when used to deal with the rules of the Federal Election Commission which regulate Members of Congress—but highly objectionable when it might be used to exercise oversight over the rules of the Federal Trade Commission which regulates our constituents.

If an FEC rule is objectionable to a single Member of Congress then a resolution of disapproval may be introduced and the concerns of that Member can be given fair consideration by the appropriate committee. However, the rules of the Federal Trade Commission, which may impose tremendous costs, paperwork, and inconvenience on small business, general business, local government and the public are beyond the reach of the Congress. The public must bear the cost and wait a year or two or more before an amendment to an authorization bill may be considered or a bill of repeal acted upon. This inconsistency is troubling to many. It suggests that we, as Members of Congress, believe we should live by different rules than the ordinary citizen. We must reject this notion. I am convinced that given the opportunity, the Members of the Senate will find the legislative veto procedure as appropriate and efficient when it is directed toward the concerns of the public about FTC rules as it is when it is directed toward the concerns of the Congress about FEC rules.

Mr. President, there are a number of occasions in which the constitutionality of the legislative veto has been reviewed by the courts. I think it will be instructive to review for a moment some of these cases.

Mr. President, in *Atkins* v. *United States*, 556 F. 2d 1028 (Ct. Cl. 1977), 140 Federal judges challenged the constitutionality of the congressional veto provision contained in the Federal Salary Act, 2 U.S.C. 351 et seq. Under that provision, all or part of the Presidential recommendations to Congress regarding executive, legislative, and judicial branch rates of pay become effective automatically within a specified time unless neither House of the Congress has enacted legislation which specifically disapproves all or part of such recommendations.

The Senate exercised its prerogative under section 359(1)(B) and passed a disapproving resolution. The judges argued that one-House veto was unconstitutional because it violated: first, article I, section 1, which vests the legislative authority of the United States in Congress as a body and not in one House alone; second, article I, section 7, which reserves to the President the power to veto every order, resolution, or vote to which the concurrence of both Houses is necessary; and third, the principle of separation of powers and article II, section 1, which vests all executive power in the President.

The Court of Claims rejected each of these contentions. The principle of bicameralism is not violated, it ruled, because rejecting Presidential recommendation to increase or decrease salaries is a form of legislative activity which does not require the affirmative concurrence of both Houses since the effect of such action is not to make law but rather to preserve the status quo. Similarly, there is not usurpation of the Presidential veto power since the Chief Executive had

his opportunity to veto the creation of the mechanism in the first instance; and, in any event, the concurrence of both Houses is not constitutionally necessary where only Presidential recommendations are involved.

Finally, the court held that the doctrine of separation of powers was not being infringed. It noted that the Constitution nowhere dictates a strict compartmentalization of powers between branches. What the Constitution seeks to avoid is the accumulation of too much of all powers in one branch. It further noted that paysetting is basically a legislative function. In this instance, the function has been conditionally delegated to the executive. Such delegation does not irrevocably commit authority to the executive because in exercising the function the executive merely acts as an agent of the Congress. The legislature retains the right of supervision or oversight. The particular legislative veto in question does not seek to enforce any law or appoint any agents to enforce the law and thus does not call upon the legislature to administer the laws. It is, therefore, a device used in aid of legislation on a matter historically within the legislative power. The court concluded on a practical note, emphasizing that the legislative veto is an appropriate response to the changing circumstances of modern government.

Mr. President, I ask unanimous consent that the portion of the opinion of the court in that regard be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follow

We end this part III of the opinion by reiterating that the one-House veto present in the Salary Act is a device authorized by article I, section 1, coupled with the necessary and proper clause, and that it contravenes neither the broad principle of the separation of powers nor any specific provision of the Constitution. In particular, we note that the necessary and proper clause, which has sanctioned the massive delegation; of legislative functions over the past century, provides a firm grounding for this legislative veto. Congress plainly felt the need for this veto device instead of relying solely on the power to override presidential recommendations by a full-fledged statute. In McCulloch's phrases, Congress exercised "its best judgment" in the selection of this measure and sought to "accommodate its legislation to circumstances." In the world of reality, the mechanism, as we have underscored, was a fair substitute for full bicameral concurrence, did not materially invade the Executive's own sphere, and took due account of the limited presidential participation. It was a permissible accommodation of competing interests, reflecting both on appropriate check by Congress upon the Executive and some check by the Executive upon the action which could be taken by one House alone. To borrow the Supreme Court's language, some 50 years ago, in upholding congressional delegation, this particular one-House veto seems to us to pass the test of "common sense and the inherent necessities of the governmental coordination." *Hampton & Co.* v. *United States*, supra, 276 U.S. at 406.

Mr. SCHMITT. Mr. President, the recent Supreme Court decision in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), provided an opportunity for the Court to address the legislative veto.

While the full Court did not decide the case on the basis of the legislative veto, Justice White in his separate opinion expressed the attitude in dicta that it is constitutional:

I am also of the view that the otherwise valid regulatory power of a properly created independent agency is not rendered constitutionally infirm, as violative of the President's veto power, by a statutory provision subjecting agency regulations to disapproval by either House of Congress. For a bill to become law, it must pass both Houses and be signed by the President or be passed over his veto. Also, "Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary . . ." is likewise subject to the veto power (U.S. Constitution, Art. I, § 7, cl. 3). Under § 438(c) the FEC's regulations are subject to disapproval but for a regulation to become effective, neither House need approve it, pass it, or take any action at all with respect to it. The regulation becomes effective by non-action. This no more invades the President's power than does a regulation not required to be laid before Congress. Congressional influence over the substantive content of agency regulation may be enhanced, but I would not view the power of either House to disapprove as equivalent to legislation or to an order, resolution or vote requiring the concurrence of both Houses. Buckley, 284, 285.

Mr. President, of particular importance in this debate, I think, will be a question of the meaning of the necessary and proper clause, which reserves the right to the Congress to do what is necessary and proper in its legislative functions as designated by the Constitution.

THE NECESSARY AND PROPER CLAUSE

As the cases cited above indicate, the Congress has ample authority to exercise a legislative veto. This authority is grounded in the necessary and proper clause of the institution, article I, section B, clause 18. That clause rests in the Congress the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the Government of the United States."

In McCullough against Maryland Chief Justice Marshall wrote that this clause must be interpreted as providing the national legislature "that discretion, with respect to the means by which the powers it—the Constitution—confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional."

Marshall made clear that the Congress has wide discretion in the means it chooses to carry out the powers vested in it by the Constitution. The legislative veto is a procedure that has evolved over time as a means of dealing with legislative authority that the Congress has delegated to the President, the executive agencies or the so-called independent agencies which, in reality, are arms of the Congress. It is particularly appropriate to note, Mr. President, at this point, that the Federal Trade Commission is such an arm of the Congress, or independent agency.

Its purpose is simply to insure that although such legislative powers may be delegated, they are not abandoned. The procedure insures that the final authority over changes in the law of the land shall rest with the Congress.

Both the Senate and the House of Representatives have hired distinguished legal counsel to represent the interests of Congress before the courts with regard to several legislative veto cases. Eugene Gressman, who represented the House, and Cornelius Kennedy, who was engaged by the Senate, both contend that the legislative veto is constitutional, provided it is structured appropriately. Mr. Gressman recently testified before the Senate Commerce Committee, and his statement is a clear and forceful presentation of the constitutional basis for the legislative veto.

Mr. President, I think my colleagues would learn a great deal by reading Mr. Gressman's statement, and I ask unanimous consent that his testimony be printed in full at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

Mr. SCHMITT. Mr. President, if the actions of the FTC are to become consistent with congressional intent, if its regulatory activities are to become subject to the will of the people as expressed through their elected representatives, then Congress must act to provide for congressional review and possible disapproval of proposed and existing FTC rules.

In the 95th Congress, the House of Representatives passed an FTC authorization bill providing for a mechanism for the disapproval of proposed FTC rules. The Senate did not act on a similar provision. The conferees twice returned a conference report to the House which did not contain a legislative veto. On both occasions, it was rejected. This action shows the depth of the commitment in the House to restraining the regulatory bureaucracy. The result was that there was no FTC authorization bill in the 95th Congress, nor had there been one in the 94th Congress.

It is clear that the House, the other body, is concerned that if we do not soon authorize a continuation of the Federal Trade Commission, that it is becoming inappropriate to provide appropriations to that body.

In the current Congress, the House Committee on Interstate and Foreign Commerce has included a legislative veto provision in the FTC authorization bill. The House will almost certainly send a bill to conference with the Senate with this provision intact.

I urge my colleagues to join me and the cosponsors of this amendment in a bipartisan effort to curb the regulatory abuses of the Federal Trade Commission and, in reality, in a bipartisan effort to share the burden with the body that cre-

ated the Federal Trade Commission, to provide some of the laws we are unwilling to make ourselves.

I think it is highly inappropriate for Congress to continue to create regulatory authority in these bodies and then turn its back on them until one or more of our constituents screams. We must share that responsibility at the outset of the rulemaking procedure.

The House of Representatives has heard the call of the American people on this issue, and we can only hope that the Senate will do the same.

EXHIBIT 1

RESOLUTION RELATING TO FUNDING AND SPONSORSHIP OF CANDIDATE DEBATES

Mr. PELL. Mr. President, I wish to make a brief comment on the resolution of disapproval of the debate regulations submitted by the Federal Election Commission which I submitted. This resolution is submitted pursuant to the FECA which reserves to the Congress the power to disapprove regulations.

The Senate's action today should not be construed to prohibit, in any way, organizations such as the League of Women Voters, or broadcasters from sponsoring candidate debates. Debates have been a beneficial means of presenting the views of the candidates on issues of concern and should continue.

Rather, it is my hope, in introducing this resolution with Senator HATFIELD, not to discourage such debates, but to encourage them. Consistent with my support of debates, I feel that any regulation which could be interpreted as being burdensome to organizations which are likely to sponsor candidate debates, or which could in any way impede the heretofore successful debate procedure that has evolved through direct arrangements made between sponsors and candidates should not be allowed to take effect.

I feel that this resolution is necessary to keep the candidate debate process which has evolved workable, open, and accessible to candidates. I would strongly support the passage of legislation or the promulgation of any regulation which would encourage candidate debates. However, I am of the opinion that we must disapprove these regulations for the reasons previously set forth.

Mr. HATFIELD. Mr. President, I am concerned that the Federal Election Commission's proposed regulations on the funding and sponsorship of candidate debates represent an unwarranted intrusion of new Federal regulation into the political process, and are not in keeping with Congress intent in enacting Federal election campaign laws.

Letters to both the Rules Committee and the FEC from the Federal Communications Commission, CBS, NBC, and the National Association of Broadcasters have voiced the criticism that the regulations as they are written would prohibit the broadcast media's sponsorship of candidate debates. Broadcast stations are already subject to regulation by the FCC, and to provisions of the Communications Act. The FCC has urged that the proposed regulations be rejected, saying that local broadcasters would devote less time to the discussion of public issues, when faced with the problem of complying with the new regulation. Pointing to the broadcast industry's role in informing the electorate during Federal elections campaigns, the FCC stressed that such a result would be contrary to the public interest.

Another serious question raised by the regulations is their restriction of newspapers' sponsorship of candidate debate.

A representative of the Gannett newspaper chain, in a letter to the FEC's General Counsel, described the experience of a selected handful of local papers which had sponsored candidate debates—and stated strongly that such debates enriched citizen knowlege of elections issues and candidates, and were conducted in as fair and impartial a manner as the sponsors could devise. I express my own concern on this point that the record is bare of evidence of abuse by the thousands of newspapers in the States and communities across the country which have in the past sponsored candidate debates.

It was Congress intent in enacting Federal election laws to safeguard the integrity of the electoral process largely by means of campaign finance disclosure. The laws were not intended to impede the free flow of information to the voters, or disrupt the dialog among candidates for political office.

Principles of restraint should guide us when considering the reach of the laws that Congress enacted into a new area in the form of regulation. I question whether Congress ever intended to involve the Federal Election Commission in determining the format for candidate debates, or in deciding who may sponsor them.

The Senate has received no statement from the Commission offering to amend the regulations in response to the serious criticisms which have been leveled at them. It is my understanding that in light of the controversy surrounding the proposed regulations, that this matter has been discussed at several Commission meetings without resolution. Given all the facts and circumstances, I feel it is appropriate for the Senate to act to disapprove the proposed regulations.

In my view they would, if enacted, place yet another burden on participants in the political process, on the pretext of remedying abuses which have not been shown.

For this reason, I support the resolution disapproving the proposed regulations, and urge my colleagues to do the same.

Mr. PELL. Mr. President, I call for the motion on the resolution.

Mr. BAKER. Mr. President, will the Senator yield to me a moment?

Mr. PELL. I yield.

Mr. BAKER. Mr. President, I am on the Rules Committee, as the Senator knows, and I, of course, respect the decision of the ranking member, but I must say I was not aware of this nor that it was going to come up this morning.

I wish just a few minutes to look into this matter, if the Senator does not mind.

Mr. PELL. Certainly.

Mr. BAKER. If the Senator will withhold, then, his request, I assure the Senator that with the concurrence of the majority leader I will be glad to consider it at some point soon, meaning this morning, but I wish just a few minutes to check into this.

Mr. ROBERT C. BYRD. I thought it was cleared on the minority side.

Mr. BAKER. It may have been. It was not cleared with me.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator from Rhode Island yield to me?

Mr. PELL. I yield to the Senator from Tennessee.

Mr. BAKER. I appreciate the Senator from Rhode Island's accommodation to me in permitting me to try to check with Members on this side to see what kind of condition we were in on this matter.

Let me say for the record that the fault does not lie with the distinguished Senator from Rhode Island nor the distinguished majority leader. Word was given to my staff in my office; it was simply that there was another commitment outstanding in this respect that they were not aware of. That caused this complication; but I am ready to proceed now, although in view of the situation I would hope that the distinguished majority leader and the Senator from Rhode Island would not proceed through the step of reconsideration.

Mr. PELL. Yes, of course.

Mr. ROBERT C. BYRD. I am agreeable to that.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 236.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The resolution will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) for himself and Mr. CANNON submits a resolution (S. Res. 236) to disapprove of the regulations proposed by the Federal Election Commission relating to the funding and sponsorship of candidate debates.

Mr. PELL. I move the adoption of the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 236) was agreed to, as follows:

RESOLUTION

To disapprove of the regulations proposed by the Federal Election Commission relating to funding and sponsorship of candidates debates

Resolved, That the Senate disapproves of the regulations proposed by the Federal Election Commission relating to the funding and sponsorship of candidate debates, submitted to the Senate pursuant to section 315(c) of the Federal Election Campaign Act of 1971, and received by the Senate on July 2, 1979.

EXHIBIT 2

THE CONSTITUTIONALITY OF THE ONE-HOUSE VETO DEVICE

This statement is directed to the proposition that the device known as the legislative or one-House veto can be structured and used in a manner consistent with the letter and the spirit of the Constitution. That proposition rests upon a constitutional rationale established by Chief Justice Marshall in *McCulloch* v. *Maryland*, 4 Wheat. (17 U.S.) 316 (1819), a rationale revived and applied by the Court of Claims to sustain a version of the so-called one-House veto in *Atkins* v. *United States*, 556 F. 2d 1028, 1057–1071 (Ct. Cl. 1977), certiorari denied, 434 U.S. 1009 (1978).

My commitment to that proposition is thus something more than academic or theoretical, however relevant those factors may be.[1] It is a commitment forged in the fires of litigation respecting the constitutionality of this legislative device. I have had the honor of representing the House of Representatives in all five cases that to date have involved serious challenges to the use of the device.[2] In that capacity, I have observed and hopefully contributed to the development of a viable constitutional footing for the use of this legislative technique.

The arch critics of the one-House veto device, including every President since the days of President Hoover, have yet to achieve any degree of success within judicial arenas. None of the four judicial decisions thus far rendered have indicated any tolerance or acceptance of their constitutional criticisms.[3] True, the Clark and McCorkle courts found compelling reasons for not addressing the constitutional issue, but such avoidance affords no comfort for the critics. The three-judge court in Pressler rejected, without extended discussion, a somewhat belated claim that the one-House veto provision in the Federal Salary Act, 2 U.S.C. § 359(1), was invalid, a claim that was renewed on the appeal to the Supreme Court. Without comment, the Supreme Court summarily affirmed the lower court's ruling in Pressler. 434 U.S. 1028.

However opaque may be the Pressler rulings with respect to the validity of the Salary Act veto provision, the Atkins decision of the Court of Claims leaves no doubt as to the speciousness of the constitutional assaults on that Salary Act provision. By any standard, the Atkins opinion is a model of judicial statesmanship and craftsmanship. It is a comprehensive analysis of the historic and pivotal role that Congress plays in the effective functioning of all three branches of the federal government. And it is a convincing demonstration of the enduring quality of John Marshall's "necessary and proper" analysis of the constitutional powers of Congress.

The impressiveness of the Atkins approach to the so-called one-House veto problem has seemingly stunned the critics of the veto. The chief critic, the Department of Justice, rarely if ever mentions the existence of the Atkins decision in its public statements, preferring simply to reiterate the constitutional objections that were so roundly analyzed and repudiated by the Court of Claims. When pressed, the Department brushes aside the Atkins ruling as merely "the view of four of the judges on the Court of Claims, upholding the one-House veto provision of the Federal Salary Act."[4]

Some references are also made to the fact that the Court of Claims dealt only with the veto provision in the Salary Act and expressly disclaimed any "overarching attempt to cover the entire problem of the so-called legislative veto, or even a large segment of it." 556 F.2d at 1059. And the "necessary and proper" analysis that so permeates the Atkins decision is generally disposed of by the Department, if it is mentioned at all, by a footnote comment that the Necessary and Proper Clause does not authorize Congress to legislate by unconstitutional means, a proposition that is said to be "so self evident as not to require extended discussion."[5]

But the intrinsic importance of the Atkins ruling and its constitutional analysis rises above all attempts to ignore or understate the decision. The powerfulness of the constitutional concepts expressed in this ruling, particularly in its use of Chief Justice Marshall's perspective on the Necessary and Proper Clause, has completely shifted the focus and the nature of what until now has been a purely academic debate swirling about the constitutional propriety of the legislative oversight technique known popularly as the "one-House veto." That this first judicial declaration on the matter has been rendered by a federal court inferior to the Supreme Court does not detract from the force of the reasoning and analysis employed therein. A constitutional idea can have an importance and an impact without regard to the status of the court that first articulated the idea.

Because the Atkins rationale is so instructive as to how Congress may properly exercise some of its oversight functions through use of this so-called veto technique, it becomes appropriate briefly to summarize the sweep as well as the limits of the Atkins ruling. It must be emphasized at the outset of this recapitulation that Atkins does not purport to give Congress a blank check to review, revise or veto any and all forms of final executive or administrative action. One must begin this review, therefore, with a firm understanding of the kind of "one-House veto" provision that was put into issue in Atkins, as well as in the other four cases involving similar constitutional challenges.

THE NATURE OF THE VETO IN QUESTION

The term "one-House veto" or "legislative veto" is not a precise term of art, legislatively of constitutionally speaking. It is simply a popular shorthand term that covers a variety of forms of legislative oversight, some of which may not involve any attempt by Congress to "veto" or second-guess some final executive or administrative action.

It is a fact, doubtless coincidental, that all three statutes that have been challenged in courts for their embodiment of the so-called "one-House veto" are not true examples of the "veto" technique of oversight. The Atkins-Pressler-McCorkle trilogy of cases all involved the Salary Act provision that reserved to Congress its vested power to make final determinations as to the pay scales of the three branches of government. That power was exercisable by giving approval by inaction, or disapproval by resolution of either House, of salary recommendations that Congress had authorized the President to make.

In a word, the Salary Act provision at issue in the Atkins was not a true "one-House veto" provision. Disapproval of the President's recommendations did not mean a "veto" of a pay scale that had become final and effective upon issuance of the President's recommendations. His recommendation was simply a recommendation, nothing more, nothing less. Disapproval of such a recommendation, like disapproval of a legislator's proposal for salary increases, simply meant that the recommended or proposed new salary scale was not approved by Congress, leaving in effect the status quo as to salary scales. Since the President's salary recommendations under review in Congress merely had "the potentiality of becoming law—if neither House objects within 30 days of their announcement," 556 F.2d at 1063, neither House was in position to "veto" any final Presidential action that had acquired the force of law.

The same kind of "non-veto" situation pertained in the Clark and Chadha litigation. Clark involved the issuance of proposed regulations by the Federal Election Commission, regulations that could not become effective until Congress had reviewed them and given its approval by failure of either House to adopt a disapproval resolution within the prescribed 30 legislative days. Likewise, Chadha involved a recommendation by the Attorney General that Congress permit a deportable alien to acquire permanent residential status in the United States, a recommendation that could be rejected by a disapproval vote in either House. In neither instance was Congress seeking to upset or veto any final action of the Federal Election Commission or of the Attorney General. In both instances the Congress was using the device of one-House disapproval as a means of exercising its reserved and vested power not to alter the status quo.

THE SCOPE OF THE NECESSARY AND PROPER CLAUSE

An understanding of the peculiar and misnamed kind of "one-House veto" prescribed in the Salary Act is the key that opens the constitutional path followed by the Atkins court in validating that so-called veto technique. The problem was to discover and define the power of Congress to affirm by inaction, or disapprove by a one-House resolution, a recommendation made to it by the President respecting a matter that lay within the exclusive legislative power of the Congress. The answer to that problem was found in the Necessary and Proper Clause of the Constitution, Article I, Section 8, Clause 18. That Clause vests in the Congress the power—

"To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

It is immediately apparent that this Clause enables Congress to make whatever laws are necessary and proper for carrying into execution two basic categories of vested powers: (1) those powers that are vested in Congress by Article I or any other provision of the Constitution; and (2) those powers that are vested by the Constitution in other organs of the Government of the United States, be it the executive or the judicial branch or any department or officer of the Government. The power to implement the execution of Congressional vested powers constitutes the "vertical effect" of the Necessary and Proper Clause, while the Congressional power to carry into execution the powers vested in other branches and agencies of the Government is known as the "horizontal effect" of the Clause. See Van Alstyne, The Role of Congress in Determining Incidental Powers of the President and of the Federal Courts: A Comment on the Horizontal Effect of "The Sweeping Clause," 36 Ohio State L. J. 788 (1975).

The classic delineation of the meaning and scope of the Necessary and Proper Clause was provided by John Marshall in the famous case of *McCulloch* v. *Maryland*, 4 Wheat. (17 U.S.) 316, 421 (1819), where he wrote that the sound construction of this Clause—

". . . must allow to the national legislature that discretion, with respect to the means by which the powers it [the Constitution] confers are to be carried into execution.

[1] In my role as a professor of constitutional law at the North Carolina Law School at Chapel Hill, I have studied and taught the entire spectrum of the Constitution. I have yet to find anything therein supporting the frequently expressed academic view that the one-House veto device, in all its manifestations, necessarily violates the lawmaking procedures set forth in Article I, Sections 1 and 7, of the Constitution, as well as the basic principles of bicameralism, separation of powers and the presidential role in legislation established by those constitutional provisions. See, e.g., Watson, Congress Steps Out: A Look at Congressional Control of the Executive, 63 Cal. L. Rev. 983 (1975).

[2] The five cases in which the validity of the one-House veto has been put into issue are:

(1) Clark v. Valeo, 559 F.2d 642 (App. D.C. 1977), affirmed *sub nom.* Clark v. Kimmitt, 431 U.S. 950 (1977);

(2) Pressler v. Simon, 426 F.Supp. 302 (D.D.C., three-judge court, 1976), affirmed *sub nom.* Pressler v. Blumenthal, 434 U.S. 1028 (1978);

(3) McCorkle v. United States, 559 F.2d 1258 (C.A. 4, 1977), certiorari denied, 434 U.S. 1011 (1978);

(4) Atkins v. United States, 556 F.2d 1028, 1057–1071 (Ct.Cl. 1977), certiorari denied, 434 U.S. 1009 (1978);

(5) Chadha v. Immigration and Naturalization Service, C.A. 9, No. 77-1702, pending for decision since May 1978.

A few other challenges to the one-House veto have been made but not pursued or processed through to a court decision.

[3] While the Ninth Circuit has yet to resolve the *Chadha* case, that court in April of 1978 ordered that post-argument briefs be submitted on a narrow jurisdictional issue. If that issue is deemed dispositive, the court might feel it unnecessary to reach the question as to the validity of the one-House veto provision in § 244(c)(2) of the Immigration and Nationality Act.

[4] Brief for the Immigration and Naturalization Service, p. 19, filed in Chadha v. Immigration and Naturalization Service, C. A. 9, No. 77-1702. This brief was prepared and signed by an Assistant Attorney General and an Assistant to the Solicitor General.

[5] *Ibid.*, p. 18, fn. 17, *supra*, note 4.

which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional."

The essential point of Marshall's great decision is that Congress has complete discretion, consistent with all other provisions of the Constitution, to select the means to carry into effect and execute all powers vested by the Constitution in Congress or in any other branch, department or office of the Government. Once a vested power has been properly identified, the Necessary and Proper Clause gives Congress an affirmative power to help execute that vested power through the enactment of whatever laws are deemed by Congress to be necessary or appropriate to that legitimate or vested end. As the Atkins opinion noted, this Clause "can authorize a given method of obtaining a desired result, as well as ground a substantive provision (as in *McCulloch*)." 556 F. 2d at 1061.

Following John Marshall's conception of the Necessary and Proper Clause, the Atkins court first identified the end sought to be achieved by the legislative technique in question. That end, that vested power, was identified as the vested power of Congress to fix the compensation of federal judges. And to that end, Congress has wide discretion to select the method of obtaining or executing that desired result. In that case, the Necessary and Proper Clause was found to authorize Congress "to choose, first, to delegate the initial power to make [salary] proposals to the President, and, then, to select for itself the appropriate method for checking and monitoring the President's action." 556 F. 2d at 1061. That appropriate method, of course, was embodied in the so-called "one-House veto" provision of the Salary Act, whereby one House could disapprove any finalization of the President's recommendations respecting judicial salaries.

The affirmativeness of the grant of power to Congress given by the Necessary and Proper Clause is what the legal opponents of the "one-House veto" technique will not concede. They seek to dispose of the entire "necessary and proper" argument by slipping immediately to the last item in John Marshall's "necessary and proper" methodology—the requirement that the means selected by Congress be "not prohibited, but consistent with the letter and spirit of the Constitution." But Marshall obviously meant that the actual means selected by Congress be tested against other provisions of the Constitution, not that such other provisions be deemed controlling without regard to the affirmative powers granted Congress by the Necessary and Proper Clause.

In other words, only after the end has been found legitimate and the means appropriate to that end can the means properly be tested against other provisions of the Constitution. That is precisely what the Atkins court did. It identified the legitimate end, the Congressional power to set judicial salaries. And it interpreted the means selected in the Salary Act as appropriate to that end, at least in the minds of Congress. It is at this point that the proper delineation of the means selected becomes critical. Once the court realized that Congress had not delegated to the President its total or final authority to set judicial salaries, but retained that final authorization unto itself, the court was able to test such a carefully limited means against the constitutional challenges that have so long been indiscriminately made against all forms of the "one-House veto" device. The Atkins court had little difficulty in disposing of those challenges once the means selected by Congress in the Salary Act was understood.

THE CONSISTENCY WITH OTHER PROVISIONS

It bears reiteration that the Atkins court was confronted with "necessary and proper" means selected by Congress that amounted to nothing more than the ability of one House to block Congressional approval or acceptance of a Presidential salary recommendation that bore no elements of a final executive determination. So identified, such means were found not to be prohibited by other provisions in the Constitution. To wit:

(1) The provision in Article I, Section 1, vesting all legislative power in a two-House Congress, does not require that all activities of a legislative nature be accomplished by bicameral action. And there is certainly no requirement that the refusal to accept the recommendations of the President respecting judicial salaries must be with the concurrence of both Houses. Just as one House can vote down a proposal for new legislation, which involves no changing of the status quo, so too one House can vote down acceptance of a Presidential recommendation.

(2) The Presidential power under Article I, Section 7, Clause 3, to approve or veto new legislation enacted by both Houses in the traditional bicameral fashion, is simply not implicated by the refusal of one House to approve a Presidential recommendation.

(3) The exclusivity of the executive power vested in the President by Article II, Section 1, is not compromised by a statutory procedure whereby Congress calls upon the President to assist it, by way of making studies and recommendations, in the execution of its vested authority to establish judicial salaries. Moreover, whatever power the President exercises in connection with judicial salary recommendations, that power stems not from Article II but from a statutory delegation from Congress, acting pursuant to the Necessary and Proper Clause. The horizontal thrust of that Clause would confer vast power upon the Congress to assist the President in the execution of this delegated function. And since the ultimate power with respect to setting judicial salaries is vested in and retained by Congress, the President cannot be heard to complain that some kind of unconstitutional conditions have been placed upon his execution of an exclusively executive power.

In sum, the Court of Claims decision in Atkins is an unusually clear blueprint for the constitutional structuring of the device commonly known as the "one-House veto." It warrants the most careful consideration by all who propose or oppose continued use of this oversight device.

RECOGNITION OF SENATOR JAVITS

Mr. JAVITS. Mr. President, I ask the Chair to notify me when I have used 5 minutes of my time.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico still has time remaining.

Mr. SCHMITT. Mr. President, I yield to the Senator from New York, for use at his discretion, the remaining time and the time of the assistant minority leader which was yielded to me.

Mr. JAVITS. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Senator has approximately 1 minute remaining.

Under the previous order, the Senator from New York is now recognized for a total of 16 minutes.

SENATE RESOLUTION 277—SUBMISSION OF A RESOLUTION RELATING TO CAMBODIAN RELIEF

Mr. JAVITS (for himself, Mr. SASSER, Mr. DANFORTH, Mr. BAUCUS, Mr. BOSCHWITZ, Mr. PELL, Mr. EXON, Mr. BENTSEN, Mr. GOLDWATER, Mr. HEINZ, Mr. DURENBERGER, Mr. HELMS, Mr. MELCHER, Mr. FORD, Mr. CHILES, Mr. INOUYE, Mr. SCHWEIKER, Mr. WEICKER, Mr. TSONGAS, Mr. SARBANES, Mr. WILLIAMS, Mr. HATFIELD, Mr. MOYNIHAN, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. PRESSLER, Mr. MORGAN, Mr. NELSON, Mr. PACKWOOD, Mr. RANDOLPH, Mr. RIBICOFF, Mr. RIEGLE, Mr. MAGNUSON, Mr. PRYOR, Mr. METZENBAUM, Mr. GRAVEL, Mr. HAYAKAWA, Mr. PERCY, Mr. MCGOVERN, Mr. BRADLEY, Mr. BURDICK, Mr. CHAFEE, Mr. CHURCH, Mr. COHEN, Mr. DECONCINI, Mr. DOMENICI, Mr. GLENN, Mr. JACKSON, Mr. LUGAR, Mr. HUMPHREY, Mr. STAFFORD, Mr. DOLE, Mr. MATSUNAGA, and Mr. BIDEN) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 277

Whereas, inside Cambodia today, and in refugee camps located in Thailand near the Cambodia border, there is a tragedy of enormous and appalling proportions in which hundreds of thousands of Cambodians face imminent death by starvation and disease; and

Whereas, up to two million other Cambodians face serious food shortages; and

Whereas, the very survival of the Khmer race is threatened by a genocide greater than the world has seen in 35 years; and

Whereas, the international intergovernmental and voluntary organizations should be highly commended for their persistent efforts to reach agreements with the authorities in Phnom Penh on the supply of food, medicine, and other needed provisions for the Cambodian people; and

Whereas, political obstacles have hampered these organizations in their efforts to launch the massive relief effort required to save the Cambodian people; and

Whereas, the needs of the Cambodian people are estimated to be 30,000 tons of food and medical supplies each month; and

Whereas, the current means of supply via sea and air cannot meet these needs; and

Whereas, most of the nations of the world, at the special U.N. November 5th pledging conference, have promised support for the relief efforts; and

Whereas, every day of delay in providing the needed assistance will mean the death of thousands of Cambodians: Now, therefore, be it

Resolved, that it is the sense of the Senate that all countries and all people be urged to respond generously to the international and intergovernmental and voluntary relief efforts for the people of Cambodia, and

That the authorities in Cambodia be encouraged on humanitarian grounds to allow all possible avenues for delivering food and medical supplies to be used by the international agencies in these efforts, and

That the United States and the United Nations should express to the great power supporters of the factions in Cambodia, in the strongest terms possible, our concern and expectation that they will use their good offices to ensure that one of the great human tragedies of the century does not occur and that they share in the international responsibility for averting a famine.

Mr. JAVITS. Mr. President, I have sent to the desk, for appropriate reference, a resolution on behalf of myself and 53 Senators—32 on the Democratic side of the aisle and 22 on this side of the aisle—dealing with the danger of genocide in Cambodia and our desire to do something effective.

The principal sponsors of the resolution with me, are what I call our three heroes—Senator SASSER, Senator BAUCUS, and Senator DANFORTH—who went over there and publicized this situation in an unparalleled way.

The reason I have submitted the resolution is that last Friday, I joined in managing the refugee bill which passed the Senate unanimously, and I developed in the course of that debate this idea of an appropriate resolution. I therefore submitted this resolution, and I will do my utmost to bring it out of the Foreign Relations Committee at the earliest possible moment, perhaps even as early as tomorrow, and certainly next week.

The ACTING PRESIDENT pro tempore. The resolution will be received and appropriately referred.

Mr. JAVITS. Mr. President, we have taken this action because of three obstacles which we see in the way of effective action. One is financial.

Last week, we approved a $30 million authorization for Cambodian relief, bringing the U.S. contribution for the first 6 months to $69 million.

Last Monday, at a U.N. pledging conference of 76 nations, in which Secretary of State Vance participated, $210 million in cash and supplies was raised. This is still $100 million short of the annual expected total costs. So we need, very urgently, contributions from other nations and private citizens throughout the world.

The second difficulty, Mr. President, is the attitude of the authorities in Cambodia. Phnom Penh's recent decision to allow food shipments on the Mekong River is an auspicious beginning, but the situation calls for more. Senators DANFORTH, SASSER, and BAUCUS have proposed the only really feasible solution to the problem of immediately delivering large quantities of food to the people most in need of it—a truck convoy from Thailand into Cambodia.

So our resolution urges the Cambodian authorities to lay aside political questions, which too often in our world, unhappily, are held above human considerations, and to put the needs of their starving people first. All possible means of bringing in food should be embraced by the Cambodian authorities.

The third problem—and to me a very important one on which I spoke last Friday—is the dominant role of the Soviet Union in the unfolding Cambodian tragedy. It seems incomprehensible to me that the presence of 200,000 Vietnamese troops is not a clear indication of the complete control of Vietnam over the Heng Samrin regime and, therefore, the complete control of Vietnam's protector and ally, the Soviet Union over that regime. It is very hard to believe that the Soviet Union's influence over the Vietnamese and the Cambodian authorities would not open the door to the most effective way to feed the Khmer people rather than let them die and become the latest in the world's genocides.

Mr. President, if the Soviet Union had actually contributed the 200,000 tons of food it allegedly has given to Cambodia, and if that really were being given to the starving people, they would not be starving today. There is no evidence that the Soviet Union has pledged even one ruble to international relief efforts nor to the international refugee efforts of the U.N. High Commission.

Mr. President, the Soviet Union wants to be a superpower, and it certainly has achieved that in the military sphere. But a superpower has to have compassion for a starving population threatened with extinction. Let us judge if the Soviet Union really is a superpower by how it performs in this situation.

I submit an article which appeared in Sunday's New York Times, by James Reston, which expressed the problems inherent in "Moscow's Deaf Ear." I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOSCOW'S DEAF EAR

(By James Reston)

WASHINGTON, November 3.—Two points need to be made about the inexpressible tragedy of the Cambodian people. First, that the present threat to the very existence of that nation is being caused by a conflict between two Communist regimes. And second, that the Soviet Union has not only refused to use its influence to stop the carnage, but won't even cooperate with the civilized nations to save the Cambodian children.

The United States, during the Vietnam War, acquired its own burden of guilt in Cambodia, but at least it has had the decency to try to make amends and respect the sanctity of human life.

Meanwhile, the Soviet Union, which has been proclaiming its compassion for the suffering people of the world for over 60 years, and which castigated the Nazis for trying to exterminate the Jews, is not only doing nothing to help, but is denouncing the humanitarian efforts of the United States and other Western nations as a kind of geopolitical capitalist trick.

On the level of world politics, it might be possible to understand even a savage Moscow policy of establishing its power on the southern flank of its Communist rival, China. But Moscow's ally in Hanoi has already won that war. It now has over 200,000 Vietnamese troops in Cambodia and the rag-tag remnant of the former Communist government there is not likely to succeed against the organized Vietnamese forces that, with the help of Moscow, even prevailed over the modern weapons of the United States.

In short, Moscow and its allies in Vietnam now dominate the strategic positions in the Southeast Asia peninsula. Washington is no longer challenging that. All Washington is asking the Moscow officials is that they save the Cambodian children, and that they don't, like the ghouls in the Middle Ages, allow the wounded to be stripped on the battlefield.

It's surprising that President Carter has been so slow in taking the lead in this matter. He has run into stern opposition on the SALT treaty, and has been trying to deal with this in such a way as to show that he can stand up to the Soviets as well as to Ronald Reagan, Howard Baker, or any other Presidential candidate.

But Cambodia was probably a better issue. If ever there was a test of Mr. Carter's Christian principles, and his willingness to stand for an accommodation with the Soviet Union for a decent political order in the world, the tragedy of Cambodia was it.

Last month, Mr. Carter gave the Soviet Union permission to buy a record 25 million metric tons of U.S. corn and wheat during the fiscal year 1979–80.

It has, of course, always been a principle in this city never to use food as an instrument of political power when people anywhere in the world were in need. Yet why should we relieve the Soviet Union of its grain shortages if Moscow will not even help to get food to Cambodia to save the children there?

Belatedly, Mr. Carter has come forward with proposals and now has the support of the Congress for about $100 million in aid for Cambodia, but the Congress is still fiddling with this. And there is still the problem of getting the food into Thailand and, more importantly, into Cambodia.

The President and the Congress can provide money and food, but they need permission to get planes and trucks to the starving people. This is a problem that Moscow has the power to resolve. The women and other members of the Congress and also others outside the Government have been imploring President Carter to take the issue directly to the Soviet Government.

A bipartisan group of 66 members of the House of Representatives appealed to Mr. Carter this week to try to set up a joint airlift with the Soviet Union. "We urge you to take immediate steps to launch a joint U.S.-Soviet airlift of trucks, food, medicine and other humanitarian and relief supplies," they said.

The Rev. Theodore M. Hesburgh, president of Notre Dame University, made the point more dramatically in an interview with Graham Hovey of The New York Times. "Why not go to the Russians and say, 'The American people may take a dim view of you buying 2 million tons of grain from us if you refuse to collaborate with us in making 150,000 tons available right now to people who are starving.'

"I'm perfectly willing," Father Hesburgh said, "to ride in the lead truck and get shot at in the process, rather than sit back and have it on my conscience that I did nothing to stop a second Holocaust."

The Carter Administration is sensitive to this rebuke, but it is still not drawing the line in the matter of supplying Moscow with American grain while Moscow refuses to help in Cambodia. The State Department is saying that it has discussed the question with Moscow officials but adds, "We have no guarantee where the relief supplies would end up in that kind of operation."

So the tragedy is left there, in an argument between the President and the Congress—each sensitive to the problem, but neither doing enough to deal with the misery of the Cambodian people.

Mr. JAVITS. Mr. President, I ask that I may yield the remaining time I have to Senator DANFORTH, who will control it in respect to this resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Missouri is recognized.

Mr. DANFORTH. I thank the senior Senator from New York.

Mr. President, this resolution is absolutely correct in all respects, and it is part of a series of events which further call the attention of our country and the world to the situation in Cambodia.

Mrs. Carter has just arrived in Bangkok. She will be touring the refugee camps.

That trip obviously will focus the attention of our country and the world on this crisis.

This morning a group of Congresswomen very appropriately began the trip to Bangkok. They will also visit the refugee centers and perhaps go to Phnom Penh.

All of these are positive steps focusing attention of the country and the world on this situation.

This resolution is absolutely correct in all respects. It is correct in its whereas clauses and it is correct in the resolution itself. The whereas clauses appropriately point out the tragedy, and that is the word that is used, the tragedy of enormous and appalling proportions that is occurring in Cambodia.

The resolution points out very clearly that the survival of an entire race, the Khmer race, is at stake. It further points out that international and intergovernmental voluntary organizations should be highly commended for the role that they have played, the international Red Cross and UNICEF and a host of other organizations, which are doing a splendid job delivering food and medical supplies to as many people as they can reach. The resolution points out that the needs of about 30,000 tons of food and medical supplies a month greatly outstrip what can be provided by present methods of transportation, namely, air and ship.

The resolution itself urges all countries and all peoples to respond generously to the needs of Cambodia.

This response, Mr. President, has been forthcoming. At the pledging conference at the United Nations on Monday approximately 70 to 80 countries from all over the world pledged their support and exceeded the estimates of what would be provided at that pledging conference.

Money, food, trucks, medical supplies, all are available. The problem is not availability. The problem is not generosity of the rest of the world. The problem is the politics of the situation and the fact that politics is standing in the way of logistics, standing in the way of delivery of the necessary tonnage which can only be accomplished by truck.

So the resolution in addition to calling on all countries to respond generously calls on the authorities in Cambodia to be encouraged on humanitarian grounds to allow all possible avenues for delivering food and medical supplies. It calls on the authorities in Cambodia to open up the truck routes which is so very necessary if this job is going to be done.

Finally, the resolution focuses on the role of the great world powers, and as Senator JAVITS points out in his remarks he had in mind specifically the Soviet Union.

Mr. President, the Soviet Union is deserving attention in this regard. There is no question that the Soviet Union stands behind Vietnam, that the Soviet Union supported the Vietnamese invasion of Cambodia last Christmas Day, and that the Soviet Union has the power, has the clout, and has the ability to open up those truck routes if it has the will to do so.

Therefore, the Soviet Union which has been allowed to lurk in the corners, to hide behind the curtains, is now coming onto center stage of world attention. The spotlight of attention is on the Soviet Union, and the United States and the rest of the world are waiting for the Soviets to use the full authority which they have to get these trucks rolling and to save hundreds of thousands and even millions of lives that are involved.

Mr. President, I yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I very deeply thank the Senator from Missouri who has been the leading force in efforts in the Senate to try to focus world attention and opinion on the problem in Cambodia.

Mr. President, we all know what the problem is. We all know that there is a tragic drama unfolding in Southeast Asia, not only because of the massive suffering that we have seen in pictures and evening news and read about in the newspapers, but also because of the insensitivity of authorities who are in a position in Southeast Asia, including the Soviet Union, to do something about the problem, that is, open up the borders so that food and supplies and aid can go into Cambodia to relieve the suffering that is presently there.

This resolution here this morning will help keep the pressure on those who are responsible.

But it is my fervent hope that we do not stop here today. I know we will not stop here today. I know that our efforts in the last 2 weeks will continue. But I strongly urge my colleagues in the Senate and anyone else who has any sensitivity to the problem of Southeast Asia to begin to work even more diligently, more imaginatively, and more aggressively than we have in the past until the famine, the starvation, the disease, and the suffering of the Cambodian people, who are very warm and generous people but who were caught in a very tragic set of circumstances, is alleviated and prevented.

It is easy to talk about a problem. It is much more difficult to do something about it. Action does speak louder than words. We are doing all we can here today by talking about the problem, focusing world attention and opinion upon the problem. It is my fervent hope that all of us here today will keep working as diligently as in the past and, as I said, even more so, particularly focusing attention upon the Soviet Union which is in the position to talk to the Vietnam and the Phnom Penh authorities in order to open up the border.

Mr. President, I thank my colleague from Missouri for yielding. He has been the guiding light and the guiding force here and without his efforts I do not know where we would be today.

Thank you very much.

Mr. DANFORTH. Mr. President, I thank the Senator from Montana and appreciate his comments. There were at least three guiding lights in this effort.

I yield to the Senator from Minnesota.

Mr. BOSCHWITZ. I thank my friend from Missouri.

Mr. President, I always have a difficult time determining what the motivation is that allows people to commit such atrocities as we see taking place in Cambodia today. I just have an impossible task of trying to fathom what human beings will do to one another, in seeking political advantage.

It is time once again to speak up against these kinds of actions no matter where they take place in the world. I have listened to the distinguished senior Senator from Wisconsin speak daily about his proposed genocide treaty of which I am proud to be a cosponsor. I am also pleased that I am one of the initiators of the efforts to provide funding to help the starving people of Cambodia as well as a supporter and cosponsor of this resolution under consideration today.

I am particularly pleased that this resolution points its finger at the Russians who share a great responsibility for this tragedy. It is the clients of the Russians—the Vietnamese—with their 200,000 troops who are allowing this massive tragedy to occur in Cambodia and who are blocking the attempts of the outside world to bring food to starving people. There is just no justification whatsoever for such action.

I also think it is appropriate that we point our fingers in the direction of the Russians at this particular time as they are attempting to negotiate peace with us through SALT II. The record must show that even under those circumstances they do not allow the most humane efforts to take place with respect to starving people.

So, Mr. President, I am very pleased to be a cosponsor of this resolution, and I look forward to speaking time and time again in the future against such cruelty and genocide wherever it takes place in the world.

I thank the Chair.

● Mr. DOLE. Mr. President, tragic events do not occur in orderly fashion with one succeeding the other, leaving sufficient breathing space for one problem to be solved, before the next one arises. Instead, crises tend to overlap one another in this world of political upheavals and widespread instability.

And so it is, that in recent days, headlines on Cambodia have been replaced by the events that have occurred in Iran, events that, in their own seriousness have somewhat overshadowed the tragic situation in Cambodia. Yet, the famine that is slowly but surely decimating an entire people has not gone away. People are still dying while the world is watching.

The United States has increased funds in order to do its share in trying to alleviate the situation, but more, much more, needs to be done. Serious problems remain that must be solved in order for help to be effective in reaching those who need it, the thousands, perhaps millions, who are lying in camps, not faced with starvation and death but dying of it.

We must awaken the rest of the world to the magnitude of the tragedy. The entire international community must be encouraged to do more; it must be encouraged to emulate our own efforts.

The puppet regime of Cambodia, headed by Heng Samrin and controlled by Vietnam, must be encouraged in no uncertain terms to allow humanitarian concerns to transcend political considerations. It is imperative that authorization by Cambodian and Vietnamese authorities be obtained in order that trucks carrying medicine, food, and other supplies be able to cross over the border from Thailand into Cambodia.

It is doubtful that Cambodians and Vietnamese authorities, who have until now refused such permission, will change their position, unless they are persuaded to do so by their supporters abroad. The United States and the United Nations can and must use their influence in persuading these powers that their intervention is absolutely necessary if the tragedy is to be averted at all.

It is in the belief that we are all responsible that I support and cosponsor the resolution submitted today by my distinguished colleague, Senator JAVITS.●

RECOGNITION OF SENATOR BUMPERS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I agree in all magnanimity to yield to the Senator from Virginia (Mr. HARRY F. BYRD, JR.). I might inquire how much time does the Senator have allocated to us?

Mr. HARRY F. BYRD, JR. Fifteen minutes.

Mr. BUMPERS. That is fine.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. BUMPERS. We are simply trading places, Mr. President.

RECOGNITION OF SENATOR HARRY F. BYRD, JR.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

THE CHRYSLER BAILOUT: NEW DIMENSIONS IN CORPORATE WELFARE

Mr. HARRY F. BYRD, JR. Mr. President, in a few weeks, the Senate will be called upon to decide whether or not to authorize large-scale loan guarantees for Chrysler Corp.

President Carter has asked the Congress to approve up to $1.5 billion in assistance for Chrysler. Even before he made his recommendation, Members of the Michigan delegation introduced legislation authorizing loan guarantees for the Nation's No. 3 automobile manufacturer, with no limit specified.

The negotiations leading to the recommendation by the President followed a most interesting pattern. After talks between Chrysler officials and the Secretary of the Treasury narrowed the potential forms of assistance to guarantee for loans, Chrysler proposed that the amount be $1.2 billion. Secretary Miller rejected that request as "way out of line."

The Chrysler group then went back to the drawing board and returned with a request for $750 million. This was greeted as being more reasonable.

Then, without warning Secretary Miller on November 1 announced that the administration would propose loan guarantees of $1.5 billion—exactly double Chrysler's most recent request, and $300 million larger than the proposal which the Secretary had rejected out of hand.

This sequence of events can be reduced to a fascinating dialog:

CHRYSLER. How about $1.2 billion?

Secretary MILLER. That's way out of line.

CHRYSLER. Well, what do you think of $750 million?

Secretary MILLER. That won't do the job. You may not know it, but you need $1.5 billion.

It would appear that Mr. Miller, in his relatively brief tenure in Washington, already has learned a favorite bargaining trick of our State Department: To wrap up a negotiation, offer the other side more than they are asking.

It never fails.

The legislation introduced earlier by Members of the Michigan delegation, with cosponsors from other States, likewise has a fascinating feature.

Often in Senate debate I have heard a bill described as a "blank check." Usually, however, this has been a rhetorical flourish on the part of the speaker.

But the sponsors of the Chrysler bailout bills have produced what must be the first honest-to-goodness "blank check" legislation in congressional history. These bills literally have blanks. I refer my colleagues in the Senate to page 12 of S. 1927, and our friends in the House to page 11 of H.R. 5630.

There they are. Two blank spaces.

The sections of the legislation which I am citing purport to prescribe a limit on the amount of loan guarantees which can be proffered to Chrysler Corp. But the amount is left blank.

I have filled in my blank. I wrote in $1.50. I believe we can take that much of a chance, but no more.

One can see that the prelude to the debate on aid to Chrysler has had, to say the least, some interesting features.

Let us look for a moment at the facts of the Chrysler situation.

During the most near recent quarter, Chrysler posted a loss of $460.6 million, a near record for a U.S. corporation in a single 3-month period. It is anticipated that the firm's total loss for 1979 will approximate $1 billion, which will shatter all records for a year.

Chrysler is a big company. It is our 10th largest corporation, with assets of some $7 billion. Its difficulties are correspondingly large and complex.

Many reasons have been cited for Chrysler's current financial plight. Proponents of aid to the ailing corporation tend to emphasize a combination of the effects of Government emission, safety, and mileage requirements, the generally unfavorable economic conditions now prevailing, and increased foreign penetration of the U.S. car market. Opponents stress what they term bad management decisions, notably an insistence on competing with General Motors and Ford across the full range of automotive production, and a failure to capitalize upon the surge in demand for small automobiles.

I see no reason to deny the validity of either side's analysis. In all probability, each of these factors has played a part in creating Chrysler's current crisis.

But the issue before the Congress will not be, "Who is to blame?" It will be, rather, "What, if anything, should the Government do?"

In deciding this question, we must look both at precedents and at probable results.

At this point I want to pay a special tribute to the senior Senator from Michigan, Mr. RIEGLE. Earlier in my remarks I referred to the "blank check" in his bill, in a light vein, but now I want to say seriously that the speech which he gave upon introduction of that legislation was thoroughly researched and brilliantly articulated.

(Incidentally, Senator RIEGLE has since introduced the administration's proposal.)

I mention Senator RIEGLE's speech of October 24 at this point because he so ably set forth his arguments in terms of the precedents for Government assistance and the impact of a Chrysler failure.

Let us look first at the matter of precedent.

There is no questioning the fact that the Federal Government is heavily involved in supporting business in this country. Senator RIEGLE cataloged many types of loan guarantees afforded to business by the Government, but if anything he understated his case. He omitted more than $5 billion guaranteed through the facilities of the Export-Import Bank to promote U.S. exports, and his figure of $300 million for guarantees to railroads is about one-third the total given in the President's budget document (Special Analysis F).

Furthermore, Washington lends vast sums directly to business (as opposed to guaranteeing loans by private lenders). My own review of the budget indicates that the Federal Government has some $30 billion outstanding in loans of direct benefit to business, and I have made this estimate as conservative as possible.

Little effort, then, is required to establish the precedent of Federal assistance to business through loans and guarantees.

The tradition goes back to the middle of the last century, when the Government gave the railroads 131 million acres of land and lent them $64 million (which would be about $10 million in today's budgetary terms) to open up the West.

But neither the size nor the antiquity of these Federal programs is a true precedent for the proposal to bail out Chrysler.

The fundamental reasons are two: First, Chrysler is a single corporation, not an industry; and second, the proposed assistance to Chrysler serves no positive national purpose.

In the past, nearly all Federal assistance has been made available to entire industries, such as railroads and steel, or to whole classes of enterprises, such as small farms and small business generally. The only previous large-scale aid to a single company of which I am aware is the guarantee of $250 million in loans to Lockheed Aircraft Corp. in 1972. I opposed that guarantee because I felt it

would set an unfortunate precedent, and sure enough, it is being trotted out as the leading precedent for aid to Chrysler.

It is true that, in financial terms, the Lockheed bailout was a success. Lockheed has been restored to health, and the Government made a profit on the deal. But that certainly does not insure that all such assistance by the Government will end so happily.

A number of analysts have suggested that Chrysler's officials, in projecting a surge in market share and profitability with the benefit of Government aid, may be looking at the future through glasses of a rosy tint. Alan Greenspan, former chairman of the Council of Economic Advisers, has flatly termed Chrysler's assumptions overly optimistic. Similar skepticism was expressed at hearings before the Senate Committee on Banking, Housing, and Urban Affairs by officials of the Federal Trade Commission and the Department of Transportation.

In short, many competent observers see the Federal guarantees of loans to Chrysler as risky. And the risk is of huge dimensions: If the President's plan were approved, the amount guaranteed by the Government would be six times the largest previous pledge for a single firm; namely, the $250 million for Lockheed.

So it would appear that despite a long history of Federal assistance to private enterprise, a guarantee of $1.5 billion for Chrysler would depart from tradition not only in focusing on a single company, but also in scale and degree of risk.

I mentioned previously the issue of national purpose, and this too should be explored.

To the best of my knowledge, all past Federal aid to business has been advanced on the basis of some rationale connected with large and positive public purposes. Thus, the Government supported the railroads in the 1800's to open a continent; it supported defense producers, including Lockheed, primarily to insure timely availability of military hardware; it formed ConRail to keep alive a rail freight system in the Northeast; it supported farm prices to maintain a strong capacity for production of food and fiber, and to prevent collapse of small-scale farming; it supported small business to preserve economic opportunity and competition; it supported American shipbuilding and ship operators to insure a shipyard capacity and a merchant fleet in time of war.

But what national purpose is served by risking the taxpayers' money to bail out Chrysler?

The Chrysler Corp. as presently structured is not essential to national defense, to our transportation system, or to our industrial capacity. The attempt to salvage this particular company is not an effort to preserve anything vital to our security or our way of life. It is, pure and simple, a bailout of one company for its own sake.

This brings me to the second major point argued by Senator RIEGLE and other advocates of assistance to Chrysler, namely, the economic consequences of the company's collapse.

In this phase of the debate, we move into an area of speculation. The economists who have studied the matter do not pretend to have absolute answers, and indeed, there is not solid agreement among them.

This is not surprising. The present rate of inflation in the United States, unforeseen by any of the major economic forecasters, reminds us—once again—that predicting the course of economic events is less than an exact science. Moreover, there are many imponderables in the Chrysler case: Would the present corporation be entirely liquidated, or could it be reorganized on a lesser scale? Would some of Chrysler's facilities survive under other ownership, domestic or foreign? To what extent would the skills of Chrysler employees be of value to other auto manufacturers, or to other firms needing persons with similar qualifications?

These and other questions are difficult to answer. Chrysler officials have provided their own answers, painting a very bleak picture, but we must bear in mind that it is in their interest to paint a bleak picture.

The analysis of a Chrysler failure done for the Congressional Budget Office by Data Resources, Inc. projects an increase in unemployment of as much as 600,000 by late 1980, dropping off to 200,000 by the end of 1981. The peak direct job loss would be 340,000; the rest is an estimate of "ripple effect" throughout the economy.

DRI also estimates a 1980 loss of about 0.6 percent in real gross national product, which loss also would decline in 1981.

But among the stated assumptions of the DRI study are these: All Chrysler employees released over the first half of 1980, no corresponding short-term expansion by other domestic auto firms, and 40 percent of the Chrysler market going to imports. None of these assumptions is a certainty.

Moreover, we have seen that some analysts believe that Government aid to Chrysler may not rescue the firm. If assistance is given and Chrysler nevertheless fails, the Government will have borne the costs of a bailout and both the Government and the economy as a whole will have suffered the setback occasioned by collapse of the company.

One further point must be considered in connection with the Chrysler case. That is the attitude of the financial community, specifically the banks which are Chrysler's leading creditors.

For some time now, the banks have been chilly to Chrysler requests for funds. This circumstance is a leading cause of the corporation's appeal to the Government for assistance. Put another way, this means that the banks do not regard further extension of money to Chrysler as a sound risk. They demand a Government guarantee.

This in turn raises the question as to what happens if the Government does guarantee loans to Chrysler, and the firm nevertheless fails? Who has first claim on assets—or, in financial parlance, who has seniority?

Throughout the discussion of guarantees, the administration has said it would insist on seniority for its own claims; that is, the taxpayers' interest would come first. Also, the administration said it would require an increase in unguaranteed financial support for Chrysler by other parties, presumably including the banks.

But as of November 1, the administration's rhetoric on this matter suddenly changed. Treasury Department spokesmen now say that the Government may yield seniority in claims to make further financing possible. Now we find that while the guarantee of loans by the Government is to be firm, the guarantee of protection for the taxpayer has become negotiable.

And as to increased bank participation, we now find the Treasury Department talking in terms of creditors "maintaining their position." What does that mean?

Furthermore, we find that the Chrysler bailout plan has become a longer term affair than advertised earlier. Whereas in the past we have heard discussion in terms of a 4-year plan of recovery, now we discover that under the administration's proposal, Chrysler would not have to complete repayment of guaranteed loans until December 31, 1990. The 4-year plan has become an 11-year plan.

The Congress is going to have to take a long, hard look at this proposal.

Let me summarize the points I have covered:

First. The administration's proposal offers Chrysler twice as much in loan guarantees as the company's most recent request, $1.5 billion as opposed to $750 million. It is even $300 million above Chrysler's highest previous appeal.

Second. The proposed Chrysler bailout would be six times as large as the biggest previous loan guarantee to a single company.

Third. Competent economists regard Chrysler's projections for return to profitability as too optimistic.

Fourth. The proposed Chrysler bailout departs radically from the general tradition of Federal aid to business, which usually has been to entire industries or sectors of the economy.

Fifth. There is no national security justification for aiding Chrysler with Government funds.

Sixth. The economic impact which would result from an actual collapse of Chrysler is uncertain and may be overstated by proponents of Government assistance.

Seventh. The banking community does not regard Chrysler as a sound investment.

Eighth. The administration has backed down from its earlier insistence that Government claims on Chrysler assets would have priority in the event of collapse.

Ninth. A bailout plan of 4 years has been extended to 11 years.

I cannot support any such program as this. I do not believe that the Congress has the right to take a $1.5 billion plunge on a shaky manufacturer with the taxpayers' money.

I would not object to the Government's extending help to Chrysler along

the lines of the assistance earlier granted to American Motors Corp., such as tax benefits, Government purchasing arrangements, and deferral of emission standards.

We may expect the administration to push very hard for the Chrysler loan guarantee. Everyone is aware that there are crucial primary elections next year in several of the States where Chrysler facilities are concentrated.

Political considerations suggest that the rescue plan for Chrysler may be approved. But should that occur, new and dangerous ground will have been broken.

There is no large firm in the country whose failure would not result in a measurable increase in unemployment and a decline in production and profits. If Chrysler is bailed out, who can be turned away?

Approval of the Chrysler bailout would mean the creation of a risk-free environment for every major employer in the United States, at the expense of the taxpayer.

In my view, that is totally incompatible with the free enterprise tradition of our Nation.

Mr. President, I want to call the attention of the Senate to several recent articles and editorials concerning the Chrysler situation.

First, an editorial which appeared in the September 19 edition of the Norfolk Virginian-Pilot, entitled "No to Chrysler," which opposes the bailout plan.

Second, an editorial from the New York Times of November 4, which raises serious questions about the Government aid plan and urges the Congress to insist on more help for Chrysler "from those with the most to lose."

Third, three news articles from the Wall Street Journal, dated September 26, October 11, and November 2, which contain facts of great importance to us in reaching a decision on the Chrysler issue. Two of the articles contain statements by qualified authorities questioning Chrysler's projections of its future with Government aid, and the third details the retreat by the Treasury Department on the issue of protecting the taxpayers' stake in the event assistance should be granted.

I ask unanimous consent that these articles be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Norfolk Virginian-Pilot, Sept. 19, 1979]

NO TO CHRYSLER

The Carter administration would do well to hang tough with Chrysler Corporation. The public is in no mood to watch Uncle Sam coddle big business, much less big, sick business.

That was smart teamwork last weekend on the part of two new Carter Cabinet members. On Saturday, Treasury Secretary G. William Miller rejected as "way out of line" Chrysler's request for $1.2 billion in federal loan guarantees. In Sunday's second act, Transportation Secretary Neil Goldschmidt refused Chrysler exemption from federal pollution and fuel-mileage standards.

Chrysler would have us believe that federal regulations are the root of its woes, that bigger GM and Ford can spread the cost of new fuel-economy standards over larger numbers of cars, and that since the federal government buried Chrysler, we taxpayers have the duty to exhume it.

There is truth to those assertions. But it has been compromised by Chrysler's unwillingness to accept its fair share of fault. After the 1973–74 Arab oil embargo, Chrysler could have built its own four-cylinder engine plant to power the popular sub-compact Dodge Omni and Plymouth Horizon. Instead, it contracted with Volkswagen for 300,000 engines a year, not nearly enough for today's robust small car market. One has but to survey Chrysler's August inventory of 80,000 unsold vehicles to understand the problem: the company has been making too many big cars that buyers don't want.

Chrysler is bleeding Mr. Carter politically. It warns that unless Federal assistance is forthcoming, "360,000 workers would face immediate job loss, and the full number could reach as high as one million jobs."

High unemployment in politically crucial Michigan during an election year would terrify any incumbent president. Beyond that, there is the poignant question of why mismanagement in Detroit should cost a Tidewater dealer or worker his livelihood.

Yet every business failure claims its unfair victims. If the prospect of unemployment becomes the litmus test for taxpayer assistance, we will soon see innumerable ailing businesses—large and small—at the federal trough. Moreover, Chrysler's jobless figures may themselves be scare statistics. Were the company to fail, other auto manufacturers would expand production and hire many Chrysler workers in the process.

The company's puff sheet assures us that a bailout won't cost us one nickel "because Chrysler will repay the government out of future profits." But the public may justly ask why confidence is justified in a company whose share of the domestic auto market plummeted from 16.2 percent in 1968 to 9.1 this year. Are we to be told each year by management that profitability lies just around the corner, only another billion dollars of assistance away?

For us, the principle is the precedent. In Britain, huge subsidies for steel and shipbuilding created permanently sick industries. Is our government henceforth to reward inefficiency and subsidize incompetence? Does the least successful competitor merit the most public props? Do the weak become the special favorites of commercial law? What kind of free enterprise is that? Failure is the free market's way of flushing out those companies on whose useful life the twilight falls. Nostalgia for the great Chrysler of the Forties and Fifties must not blind us to the facts today.

[From the New York Times, Sept. 4, 1979]

NOT SO FAST ON CHRYSLER

The route to Federal aid for the Chrysler Corporation is now greased. With President Carter signed on, there is little chance that Congress will be able to resist the opportunity to win friends and votes by guaranteeing loans for the beleaguered auto giant.

Good politics, however, doesn't always make for good economics. Chrysler's problems are largely of its own making, and so should be the solutions. Helping the company out of its jam is a bad precedent, one that will make it harder to resist the next corporate bailout, and the next. The only way Congress can discourage the precedent is to condition aid on major sacrifices by Chrysler's creditors, workers and suppliers—something the Administration seems unwilling to do.

True, the Administration would attach some conditions. In return for $1.5 billion in loan guarantees, it would require Chrysler to come up with an additional $1.5 billion from other sources. The company would also have to satisfy the Treasury that it has a fighting chance to stay afloat through 1983. But these ties have been left deliberately loose, so much so that they would not bind.

Consider, for example, the requirement that Chrysler obtain sizable private lines of credit. Last month, Treasury Secretary William Miller asserted that he would insist on protecting taxpayers' interests in any aid package by retaining a first claim on Chrysler's assets for the Government. But the auto maker's bankers seem reluctant to risk more money under these conditions. And now President Carter and Secretary Miller would oblige them. The Treasury proposes to waive its status as senior creditor should Chrysler's other creditors insist.

The Administration has also been quick to assign the largest part of the aid package to the taxpayer. Everyone who has studied its books agrees that Chrysler needs at least $3 billion more to develop cars that will be competitive in the 1980's. It is not so clear, however, that half this amount must come from Uncle Sam. Besides bank creditors, two other sources remain to be tapped: Chrysler's suppliers and its employees.

In the course of business, the auto maker pays its suppliers one month after delivery. Since Chrysler spends about $800 million a month for materials and fabricated components, that one-month delay effectively creates a permanent $800-million line of supplier credit. If suppliers would simply extend credit for an extra month, the company would gain an extra $800 million to help it through the cash squeeze.

As for employees, Chrysler has reduced the salaries of 1,700 executives and laid off about 8,000 white-collar workers. But the United Automobile Workers, which represents 111,000 Chrysler employees whose jobs are said to be on the line, has been unwilling to accept more than a token sacrifice. Under the latest contract negotiated for the Big Three automobile companies, labor costs will reach $20 an hour by 1982—at least a third more than the average industrial worker can expect. Yet all the union has really offered is $203 million over two years—less than a dollar an hour.

No one should lightly advocate bankruptcy for Chrysler. But by the same token, no one should want to set the precedent of bailing out a huge industrial corporation except as a last resort. Before coming to Chrysler's rescue, Congress has an obligation to ask more from those with the most to lose.

[From the Wall Street Journal, Sept. 26, 1979]

CHRYSLER IS PINNING PROFITABILITY HOPES ON LINE OF COMPACTS SIMILAR TO GM CARS

(By Charles B. Camp and Andy Pasztor)

DETROIT.—Chrysler Corp.'s initial hopes for returning to profitability, if it gets federal help, clearly hinge on a line of 1981 compact cars that appear to be designed to catch up with the fast-selling front-wheel-drive small cars that General Motors Corp. put on the market last spring.

The struggling No. 3 auto maker, which is seeking federal loan guarantees to help finance its new-product program through 1982, gave a rare preview of some of its future models to a group of newspaper publishers here yesterday. Lee A. Iacocca, Chrysler chairman, and Harold K. Sperlich, executive vice president, left little doubt that the crucial step in the company's recovery strategy will be its line of 1981 compacts. They are stunningly similar in size, concept and styling to the widely publicized compacts being sold by GM.

In their comments to the newspaper executives, the Chrysler officials reiterated statements made in a detailed "survival plan" presented to the Treasury Department that they expect two new models to increase

Chrysler's overall car sales, its share of the total U.S. auto market, and its per-unit profit margins when they arrive in showrooms about a year from now.

Chrysler has told the government that it expects to improve its per-car profit margin nearly $600 by 1982, and that the new front-wheel-drive compacts will help push its share of the auto market to 12% by then from about 10% now. Previously, Mr. Iacocca has estimated that each percentage point gain in market share is worth $150 million in profit to Chrysler.

By 1982, Chrysler hopes to have on the market its new Dodge and Plymouth compacts, a luxury version that will carry the Chrysler name, and a new, conventional-design luxury car that will revive the Imperial name and will compete with models such as the Cadillac Eldorado. Several current models also will be continued.

But the compacts are clearly intended as bread-and-butter autos for Chrysler. Mr. Sperlich said that Chrysler plans to build them at two of the company's five domestic assembly plants at a volume of about 600,000 units a year. Coupled with the company's current subcompact Omni and Horizon models and the line of Japanese small cars Chrysler imports, that should put Chrysler's sales of small, front-wheel-drive fuel-efficient autos at more than one million units in 1981, Mr. Sperlich said.

The Chrysler compacts, code-named "K" cars for now, will be produced in two-door, four-door and station-wagon versions. The sedans resemble the current Buick and Oldsmobile versions of GM's front-wheel-drive compacts, exhibiting a stubby rear trunk, flat sides, and square roof and fender lines. The similarity to GM's cars may not be a disadvantage, however, because currently the GM cars are the hottest-selling autos built by Detroit, propping up GM and industry sales at a time when overall auto demand is weak.

The obvious comparisons that will be made with the GM cars haven't escaped Chrysler, either. Mr. Sperlich pointedly told the publishers that the cars will be practically the same size inside and out as the GM cars, 135 pounds lighter and will average one-mile-a-gallon better fuel economy. (That, he said, means they will be 27 inches shorter than Chrysler's current compacts, 1,030 pounds lighter, and get seven more miles a gallon.)

Perhaps even more important to Chrysler's strategy than catching up with the changing auto market and increasing its volume, however, is its effort to increase its profit per car. Mr. Sperlich said the auto maker has a "gigantic program" in progress to improve per-car profit.

Although he didn't spell out the specific profit-improvement goals for the new compacts, the plan Chrysler submitted to the government said that by 1982 it expects to realize $593 more a car than it does currently. Of this amount, the company expects to gain $257 a car because its products will be more "competitive" and thus sell better, and because of design changes that will allow use of less-costly materials and manufacturing techniques.

Chrysler also expects to earn $89 more per unit by pushing more optional equipment such as tilt steering wheels, sophisticated sound systems and other electronic gadgets.

The balance of this improvement in "variable profit margins" is supposed to come from other manufacturing efficiencies, less-costly parts and reduced warranty expenses stemming from design and manufacturing improvements, according to Chrysler's plan.

Chrysler hopes to apply the same strategy to improve the profitability of its trucks, though it won't come out with all-new, scaled-down pickup trucks until 1983 and a new, small van until 1986. Chrysler also plans to replace its continuing line of larger cars in 1984 and 1985 with front-wheel-drive versions that will be smaller and more fuel-efficient.

The auto maker didn't display those models yesterday. However, Mr. Iacocca and Mr. Sperlich stressed that Chrysler intends to fight for a piece of the lucrative luxury-car market, too, with its 1981 Imperial, styled to partly resemble the Cadillac Eldorado and partly the Cadillac Seville, and its 1982 Chrysler luxury compact.

If Chrysler's strategy works, the auto maker estimates that it will produce $393 million profit in 1981, compared with this year's projected loss of more than $1 billion and a 1980 projected deficit of $482 million. By 1985, Chrysler projects continued sales gains, growth in market share to 12.4%, and profit of $996 million.

However, there are some skeptics, including some government officials and even some Congressmen sympathetic to Chrysler's plea for government help, who question whether Chrysler can increase its volume and market share in an increasingly competitive small-car sales environment.

Both GM and Ford Motor Co., for example, are also scrambling to bring out more small, thrifty front-wheel-drive cars. Foreign auto makers, too, are expected to offer a variety of new models in the next few years.

That, critics say, could call into question some of Chrysler's profit projections and ultimately the amount of help it may need from outside sources to bring its product plan to fruition. It is understood, for example, that the management-consulting firm of Booz Allen & Hamilton Inc., which has been retained by Chrysler to help with its planning, thinks Chrysler's market-share projections may be too optimistic.

Sources say that, as a result, the firm has privately indicated to Chrysler and the Treasury Department that it is uncertain about how much public backing it might give Chrysler's detailed plan if it reaches Congress in the form originally drawn.

[From the Wall Street Journal, Oct. 11, 1979]

U.S. HELP FOR CHRYSLER WOULDN'T ASSURE REVIVAL, FEDERAL AIDES TELL SENATE UNIT

(By Andy Pasztor)

WASHINGTON.—Chrysler Corp.'s claim that speedy federal help will enable it to return to profitability hasn't won many converts among federal officials who monitor the auto industry.

During the first day of congressional hearings on the cash-starved company's plea for federal loan guarantees, officials of the Federal Trade Commission and the Department of Transportation said they aren't convinced of Chrysler's long-term ability to continue to compete as a full-line auto maker. And they made it clear that even if the No. 3 auto producer receives government help in the next few months—which isn't at all certain—both agencies are skeptical about the company's argument that it expects to increase its market share substantially and revive its finances with the introduction of new, fuel-efficient compacts, starting with the 1981 model year.

The testimony, before the Senate Banking Committee, could hurt Chrysler's chances of convincing the Carter administration and Congress that it needs only a one-time infusion of federal aid to help pay for development of new products.

ROLE OF UAW

Meanwhile, it is understood Chrysler is considering possible concessions by the United Auto Workers union in the company's labor negotiations as the key factor in assembling a recovery strategy acceptable to the Treasury Department. Chrysler's chairman, Lee A. Iacocca, has been meeting periodically with the union's president, Douglas Fraser, and another private session between the two is slated for tomorrow.

During the three-hour hearing before the Banking Committee yesterday, Alfred P. Dougherty, director of the FTC's Bureau of Competition, said it "may be impossible to judge the soundness" of Chrysler's forecast for improved sales starting next year unless the company provides more detailed information to the government. Moreover, Mr. Dougherty said Chrysler's scenario for recovery could be hurt by changes in future marketing and production plans by other auto makers, also working to come out with smaller, more fuel-efficient vehicles in the 1980s.

In his testimony, Mr. Dougherty questioned Chrysler's claim that many of its dealers, suppliers and customers would abandon the company if it failed to get federal help and was forced into bankruptcy or reorganization. He said it isn't clear what impact such a step would have on Chrysler's ability to continue making and selling cars, and he urged a "serious examination" of the risks of such a strategy compared with the risks of supplying Chrysler with federally backed loans.

INTEREST COSTS CITED

Later in the hearing, several federal transportation officials told the Senators they were skeptical about Chrysler's argument that it needs federal help by the beginning of 1980 or it will have to slash future production plans. Martin Anderson of the Transportation Systems Center, a Cambridge, Mass., study group, said that the information obtained from Chrysler and other sources so far doesn't indicate that the company faces such an urgent need for outside cash. He also said that if Chrysler's projections of future sales turn out to be unduly optimistic, additional interest costs could hurt the company's chances of survival even if the loans were backed by the government.

Despite the lukewarm reaction to its initial proposal for help in some government circles, Chrysler is clearly hoping to gain a speedy concession from the UAW. The company hopes that cooperation from its employes will provide momentum to help it procure critical concessions from its banks, state governments and other groups the Treasury wants to see represented in a revised financing plan.

Among other things, sources said Chrysler is negotiating with Michigan and the city of Detroit for an aid package of roughly $200 million that could include tax relief and direct cash help from the sale of state-backed bonds. Also, Chrysler executives for some time have been talking with representatives of the company's more than 4,000 dealers about sources of additional money, including a special stock issue that would be purchased primarily by certain dealers and suppliers. Although those discussions are continuing, it is understood that the company considers the stock issue an outside possibility at best.

[From the Wall Street Journal, Nov. 2, 1979]

CARTER PLAN TO AID CHRYSLER URGES U.S. LOAN GUARANTEE OF $1.5 BILLION

WASHINGTON.—The Carter Administration, showing more generosity and flexibility than it said it would, proposed a $1.5 billion federal loan guarantee for Chrysler Corp., if the automaker can raise an equal amount and meet other conditions.

Treasury Secretary G. William Miller said that under the proposed legislation Chrysler would receive the federal assistance if its creditors "maintain their position" and the company raises an additional $1.5 billion of "new unguaranteed capital" through additional borrowing, the sale of assets and concessions from those with an economic stake in the company.

Chrysler also would have to provide the government with a four-year operating plan showing in detail how it would remain viable through Dec. 31, 1983. Mr. Miller said the $3 billion package would make the rescue effort "more certain of success" than the earlier, far smaller plan the government had suggested.

Indeed, the administration's proposed guarantee is double what the company currently is requesting. Last July the company first asked for a $1 billion government cash infusion, but Mr. Miller turned down that request as well as a second one in September for up to $1.2 billion in loan guarantees. So Chrysler last month lowered its federal loan guarantee request to $750 million, although most analysts considered this too small to meet its needs.

Chrysler's chairman, Lee Iacocca, called the proposal "good news for Chrysler and all the people of this country." In a statement released in Washington, he said the administration's backing "should insure that we get a loan guarantee passed in this session of Congress and that Chrysler's future as a strong competitor will be assured."

Mr. Miller's long-awaited formal support for the beleaguered No. 3 auto maker's aid request came in the wake of commitments of help from Chrysler's unionized employees, the state of Michigan and some key congressional supporters. For some time, Chrysler has been accelerating its efforts on Capitol Hill to try to pressure the administration to speak out strongly in its behalf and to increase the total amount of loan guarantees the Treasury would be willing to support.

SEVERAL FACTORS INVOLVED

Mr. Miller said several factors caused the administration to recommend significantly more aid. Among them he cited a "changed outlook for the auto industry" that will lead to "reduced levels of activity in this industry." Many economists believe that the credit-tightening moves announced by the Federal Reserve Board Oct. 6 will put a greater crimp in economic activity than had been previously expected. Mr. Miller said "current economic conditions are more uncertain" than in September.

In addition, referring to the $460.6 million third quarter loss Chrysler reported earlier this week, Mr. Miller said the company's "outlook clearly calls for greater resources than were apparently required in August." Earlier, Mr. Miller had indicated that he thought the company might be able to survive without any federal aid.

Mr. Miller also said the auto industry is an important one that "deserves attention from the federal government." A Chrysler failure, he added, would have a "serious impact on localities around the country." He said the alternative to aiding the company could be costly to the government because of the loss of tax revenue and federal payments for unemployment and other forms of compensation. A Chrysler failure would also reduce to two the number of major domestic auto makers, he noted.

The administration's proposed bill doesn't mean that the road ahead is clear for Chrysler. Congress will have the chance to alter the proposal, and some members of Congress have expressed strong opposition to any federal assistance. Mr. Miller expressed confidence that a bill would clear the House "fairly promptly," and would be approved by both houses "in this session." He said it would be "somewhat of a setback" if the legislation were held over until next year.

The administration's bill was prompted in part by congressional pressure. A House Banking subcommittee has held hearings on aid to Chrysler and planned to begin drafting a bill yesterday. The session was postponed, however, when the administration announced its bill. The bill hadn't been expected to be ready for about a week, a Treasury spokesman said.

Chrysler's congressional supporters were optimistic about the measure's chances, and House Speaker Thomas O'Neill (D., Mass.) said the bill would be on a list of priority legislation for this year.

But Sen. William Proxmire (D., Wis.), chairman of the Senate Banking Committee, said he was "deeply disappointed" by the administration's request for twice the amount of guarantees Chrysler was asking for. His committee will hold hearings on the legislation beginning Nov. 19 and Mr. Proxmire, who opposes federal aid for the company, said he intends "to see that the terms of any legislation reported by the committee are as tough and protective of the public interest as possible."

Also, a Chrysler failure would create political problems for President Carter by raising unemployment at a time when he will be fighting for renomination. Mr. Miller said Chrysler "would have a difficult road ahead without the assistance."

GREATER FLEXIBILITY

In addition to increasing the amount of the guarantee, the administration's bill shows far more flexibility than Mr. Miller had demonstrated earlier. For example, Mr. Miller said in August that the administration's approval would be dependent upon Chrysler's submission "of an acceptable overall financial and operating plan."

Deputy Treasury Secretary Robert Carswell said in an interview yesterday that details of such a plan "will be worked out over a period of months at the earliest." And he conceded that "every one of the contributions by those with a stake in Chrysler's future will present a problem."

The proposed plan also takes some pressure off the United Auto Workers union regarding its future contribution to Chrysler's recovery. The proposed bill says the $1.5 billion raised or saved by the company will include actions taken after Oct. 17, the day Chrysler submitted its revised plan to the government. Last Thursday the union agreed to a two-year wage settlement that will cost Chrysler $203 million less than if the company had had to accept an accord similar to other auto makers. Mr. Miller said this saving would count toward the $1.5 billion, and Mr. Carswell agreed that "you could argue" that this takes some pressure off the union.

Attempting to show that the company is willing to make maximum concessions before accepting federal help. Chrysler's board yesterday decided to ax the quarterly dividend on the auto maker's 10 million shares of preferred stock outstanding. That move is expected to save the cash-starved company about $27.5 million a year.

In its announcement, Chrysler confirmed reports that it is considering issuing additional preferred shares "in the near future." If that happens, the company said, the board will "consider the desirability of resuming payment of the preferred" stock dividend. It is understood that one plan the company is studying calls for the purchase of millions of dollars of new preferred stock by some of the company's dealers and suppliers.

In response to questions, however, Chrysler didn't indicate the current status of those discussions.

The legislation is hazy about what further assistance is expected from the concern's bankers and what their status as lenders would be. Mr. Miller had been saying that the banks would have to make a greater contribution before federal assistance would be provided. The proposed bill, however, says lenders must "maintain their position" but doesn't say specifically how much more lending is expected.

BANKER'S VIEW

Earlier this week, the chairman of Manufacturers Hanover Trust Co., Chrysler's lead bank, said additional, unsecured loans weren't "feasible to the banking community" in view of Chrysler's financial health. Mr. Carswell said yesterday, "I assume that they will contribute some part of the $1.5 billion." He said Mr. Miller spoke yesterday with the bank's chairman, John McGillicuddy, and "suggested they start thinking about it." Mr. McGillicuddy didn't make a firm commitment, Mr. Carswell said.

Further, the bankers are concerned about their status as lenders if the federal government has top priority on Chrysler's assets, and Mr. Miller indicated that this, too, would be used as a bargaining chip in attempting to negotiate the total rescue package.

Under the proposal, other loans would be subordinated to the ones guaranteed by the federal government unless the government waives this provision to "facilitate the ability" of Chrysler to obtain financing. This option hadn't been previously mentioned by Mr. Miller, who has said for several months that a prime concern would be to protect taxpayers from possible losses if Chrysler defaults.

Mr. Carswell said, "We'll try to stay with senior status," but he conceded that "there may be areas where we have to" waive it. The Treasury said a similar waiver was contained in the government's guarantee of New York City lending, and was used on several occasions. Mr. Carswell said, "It was done (with Chrysler) knowing that this is a negotiation and we want it to be successful."

Earlier this week, Mr. McGillicuddy told a House Banking subcommittee it wasn't certain whether banks would agree to make additional loans if the federal government had senior status. Most members of Congress had assumed the government would demand that other loans be subordinated to the ones it guarantees, sources said.

Mr. Miller also made clear that the federal government, like "any good lender," would have a voice in some of the company's future actions. He said that "certain approvals" of sales of assets to raise cash "normally are subject to creditor consultations." But he added that the federal government wouldn't get involved in the details of managing the company, or in its rescue plan. He said those with a stake in Chrysler must find "appropriate levels" of further aid and concessions.

Under the plan, the government would receive yearly a fee of at least 0.5 percent of the amount of loans guaranteed. And although the bill speaks of a four-year rescue plan, Chrysler would have until Dec. 31, 1980 to repay the guaranteed loans fully.

Trading halted in the various notes and debentures of both Chrysler and its Chrysler Financial Corp. unit following announcement of the Treasury's loan-guarantee plan. The parent concern's debt securities recently had fallen to prices at which they yielded almost 20 percent and the better-protected finance subsidiary's issues to levels yielding more than 15 percent.

Those notes and debentures are certain to stage a strong price rebound when normal trading resumes according to several market specialists, who all declined to make any investment recommendation. "Fundamentally, it would be easy to conclude that Chrysler is going bust so you should short the issues" by selling borrowed securities, one dealer remarked. "However, investment and financial logic don't matter any more because Chrysler's fate is in the unpredictable hands of politicians, just as in the case of New York City bonds," he added.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. HARRY F. BYRD, JR. I thank the Senator from Arkansas for yielding me additional time.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Arkansas is recognized under previous order.

BIENNIAL BUDGETING

Mr. BUMPERS. Mr. President, I want to take a few minutes today and express my concern over the existing budgeting authorizing and appropriations process in the Congress. Currently, under the Congressional Budget and Impoundment Control Act of 1974, we have to pass two budget resolutions, the last of which is to be enacted by September 15 of each year. Also, under the Budget Act the authorizing legislation for a particular program has to be reported by May 15. And, for the fiscal year 1980 the appropriations bills were to have been enacted by September 10 of this year. These deadlines are designed to insure an orderly flow of the Government fiscal process.

However, Mr. President, today is November 8, we are near the end of the first session of the Congress, we still have not enacted all appropriations bills and the second concurrent budget resolution is still unresolved. We are already 5 weeks into fiscal 1980 and still have six appropriations bills to pass this fiscal year. We are required by law to have passed these bills 2 months ago. Now, we have extremely important energy legislation before us and also, the SALT II treaty, which will consume much of the rest of this year. So we are into the month of November and still working on the budget process.

Mr. President, because of my concern over the increasing problem the Congress faces each year in the budgeting process, I introduced Senate Resolution 197 in July of this year. My resolution would require the Senate Budget and Governmental Affairs Committees to study the feasibility of conducting our Government's fiscal affairs on a biennial basis. Under this resolution these committees will be required to submit their recommendations to the Senate by February 29, 1980.

In introducing this resolution, Mr. President, I do not intend to minimize the fine job the Senate Budget Committee and its distinguished chairman, Mr. MUSKIE, have performed. They have worked long hours on the budget and related fiscal matters. However, I do believe that because of the increasingly heavy workload of the Congress, biennial budgeting is an idea whose time has come.

The annual budget cycle poses a severe dilemma for Congress. On the one hand, annual review of authorizations and appropriations provides Congress with an opportunity to influence programs and policies, in addition to performing the oversight function. On the other hand, as annual authorizations and appropriations increase the workload of Congress, the quality and time spent on congressional oversight has diminished.

The study to be performed under Senate Resolution 197 could apply to all of the components of our budget processes—authorizations, appropriations, and the budget resolutions.

Annual authorizations place severe time restrictions on the legislative committees who must report the authorizing legislation by May 15 of each year. By using a biennial authorization cycle, these committees would have increased time to spend on their oversight responsibilities.

The only time we really perform our oversight responsibilities well around here is when there is a gigantic story in the press about some terrible aberration, how the Government has been ripped off. If it gets press and television camera attention, then, of course, we go right to work on it. But we are not performing the mundane chore of oversight responsibility. This has generated much hostility across the country at the local levels where people are having to deal with the way we appropriate money and the purposes for which we appropriate it.

Before World War II authorizations were usually permanent. It has been estimated that at the end of World War II, 95 percent of Federal spending, exclusive of one-time projects, was under permanent authorization. Therefore, Mr. President, this Government has recently moved toward an annual authorizations and appropriations process. Today, annual authorizations comprise approximately 15 percent of the Federal budget, which will be $638 billion in fiscal 1980.

A biennial authorization procedure would help to alleviate the tremendous workload of Congress. If we could relieve the burden of annual authorizations, the Congress could spend more time in its oversight responsibilities. A 2-year authorization would free the legislative committees to investigate and review governmental agencies and programs more effectively. The biennial authorization procedure would also encourage the orderly consideration of authorizations and appropriations and relieve the scheduling problems caused when authorizations are not enacted on time. Indeed, Mr. President, this orderly consideration of authorizations is provided for in section 607 of the Congressional Budget and Impoundment Control Act of 1974. The section reads:

> In the case of a request for the enactment of legislation authorizing the enactment of new budget authority for a new program or activity which is to continue for more than one fiscal year, such request shall be for at least the first two fiscal years.

Finally, Mr. President, biennial authorizations would help relieve the scheduling and time problems that annual authorizations present. A study by the Congressional Research Service of authorizations which had created bottlenecks for appropriations acts, authorizations requiring budget waivers, bills with a large number of separate authorizations, and authorizations for large dollar amounts shows the time sequence for these bills. In the sampling for authorization bills in the 95th Congress almost half were not enacted until after the appropriations bills had been enacted.

Let me repeat that. Half of the authorization bills in the sampling had not been enacted at the time the appropriations were passed. You and I both know, Mr. President, that no money is supposed to be appropriated until it has been authorized.

Further, a majority of the authorization bills were not completed by early September. The study concludes:

> The sample indicates that the legislative process involved with some authorization bills has been too lengthy to be accomodated within the prescribed schedule in the Budget Act.

Everybody recognizes that we have a serious problem. Therefore, Mr. President, a biennial authorization procedure is necessary to give the Congress more time for oversight responsibilities and also, to have an orderly consideration of authorizations and appropriations.

The second component of biennial budgeting is the appropriations process. Congress has traditionally encouraged and used annual appropriations to exert more control over the budget. For example, in 1966 the Joint Committee on the Organization of the Congress declared:

> We strongly believe that an annual review is the best means of insuring that Federal spending received adequate congressional attention.

Also, section 253 of the Legislative Reorganization Act encourages the Congress to make appropriations for continuing programs on an annual basis. Finally, section 402 of the Congressional Budget Act requires the committees of both Houses to study permanent appropriations and recommend terminations or modifications.

With the legislative directives I just mentioned, Mr. President, we are moving toward an increased number of annual appropriations. This can only mean an increased workload and additional time spent on appropriations. The result of this increased time on appropriations will be a diminished role for legislative oversight. I do not intend to diminish the vital part that the appropriations process plays in the Congress responsibilities. Mr. President, it is just that we are spending too much time on appropriations and not nearly enough time on seeing how that money is being spent.

The final part of a biennial fiscal cycle, Mr. President, could be the application of the biennial cycle to our existing budget resolution process. Instead of enacting the budget resolutions for a single fiscal year the Budget Committeees could report the resolutions on a biennial basis. The Congressional Budget Act contains provisions to encourage the Budget Committees and Congress to look beyond the immediate fiscal year. Some of the requirements are:

First. The Congressional Budget Office must project the 5-year impact for every spending bill reported by the House and Senate Committees;

Second. At the beginning of each fiscal year the Congressional Budget Office must report to Congress on spending, revenue, surplus or deficit, public debt and tax expenditures for the coming 5 years; and

Third. The President must project the effects of his annual budget over 5 years. Further, the new Public Debt Limit Act signed in April of this year directs the

Budget Committees to submit two alternative multiyear budget plans.

I voted for it, Mr. President, and a vast majority of my colleagues in the Senate voted for it.

The report from the Senate Budget Committee provides:

> The dynamism of multi-year budgeting is a dramatic advancement over the static limits of single year planning. Multi-year planning alone can allow Congress to exert firm control over spending, revenues, and the size of the deficit or surplus.

Two-year budget resolutions would still provide Congress with budget control and permit planning and flexibility to adjust to changing economic conditions. Congress could enact 2-year budget resolutions and still retain some annual appropriations, while enacting 2-year appropriations on a selective basis.

We would not be locked in stone. We pass supplemental appropriations all year long.

The selective use of biennial appropriations with 2-year budget resolutions offers Congress the opportunity to study the effectiveness of the 2-year cycle without sacrificing much short-term control of the budget. It could also help in determining how the congressional workload and floor scheduling would be affected by a change to the 2-year cycle as well as whether a decrease in workload would encourage greater oversight.

In conclusion, Mr. President, I firmly believe that biennial budgeting is a procedure which can be effectively implemented and will alleviate many of the difficulties the Congress encounters in carrying out its very important oversight function.

When I was Governor of my State we used biennial budgeting. Most States in the country use it. I know the State of Arkansas is not the Federal Government and I promise you our budget does not approach it. However, we ran our government very efficiently and we did not have any problems budgeting on a biennial basis. We made some mistakes. We almost always had legislative sessions to correct them but, they did not take very long. One of the reasons Government is bogging down is because Congress is not overseeing and supervising the expenditure of this $600 billion we are appropriating. We are appropriating it, but we are not following it up to see how it is being spent.

If I have any time remaining, I yield to my distinguished colleague from Indiana, Mr. BAYH.

The PRESIDING OFFICER. There are 2 minutes remaining.

Mr. BAYH. Mr. President, I appreciate the courtesy of my good friend from Arkansas.

SENATE RESOLUTION 278—RECOGNITION OF GEORGE ROGERS CLARK

Mr. BAYH. Mr. President, almost 200 years ago, a great man from Virginia led one of the most daring and successful wilderness campaigns in the Revolutionary War. This almost forgotten hero, George Rogers Clark, was responsible for a victory in 1779 that nearly doubled the size of the United States after the war. The extraordinary courage Clark and his heroic regiment of frontiersmen showed enabled Indiana, Illinois, Michigan, Wisconsin and parts of Ohio and Minnesota to become U.S. States rather than Canadian territories.

Along with a companion in the spring of 1773, Clark descended the Ohio River on an exploration of the area. They explored nearly 175 miles. The two spent the winter alone on Fish Creek, part of the Ohio River, devoting their time to preparing for the cultivation of land. The next season, Clark also gave attention to surveying farms for the settlers who were coming to the region in increasing numbers.

By 1776, Clark was accorded a place of leadership among Kentuckians, and was commissioned the task of organizing a militia for defense against the British and Indian expeditions. He bound them together to form a small troop of men. These brave, young frontiersmen captured, by surprise, a line of British-controlled forts in the Mississippi and Wabash Valleys by rowing down the Ohio River and marching across the Illinois plains. Clark, a man of high moral character, easily won the faith of the French inhabitants. He also negotiated agreements with various Indian tribes which had, up to that time, been supporting the British. Long a friend of the Indians, they respectfully called him "Long Knife."

In the greatest triumph of his campaign, Clark gained control of the vast Northwest Territory for America. This task was accomplished by attacking Fort Sackville at Vincennes on the Wabash in midwinter. Eighteen hours after Clark's riflemen attacked, Governor Hamilton surrendered, thus smashing his scheme for invading the colonies' Western frontier.

As a Senator from Indiana, I am pleased to be able to honor the memory of George Rogers Clark because of the tremendous impact he had on the history and development of my State.

George Rogers Clark deserves more national attention for the public service to which he devoted his life. The enormous energies and admirable traits which this man possessed should be considered a shining example to all Americans. Several Midwestern cities and States have commemorated the Bicentennial of Clark's deeds. Let us as a Nation, follow their lead and recognize this man of great American ideals.

The victory at Vincennes, Mr. President, has long been overlooked for its significance.

With the permission of my colleagues, I send to the desk a resolution which memorializes and recognizes the exploits of George Rogers Clark and recommends the traits that he possessed—courage, fortitude, and dedication—to America for subsequent generations to consider and to emulate. I suggest that the Senate recognize November 19, 1979, as the anniversary of the birth of George Rogers Clark, in tribute to the memory of this great man.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 278), in recognition of George Rogers Clark.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, the resolution has been cleared with the leadership, and there is no objection.

Mr. BAYH. Mr. President, one last word. I express my deep appreciation to our leader for making it possible to work in this most worthwhile resolution for the recognition of George Rogers Clark at this time. I realize the burden that he and the Senator from Louisiana are carrying and their effort to try to accommodate me.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 278) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 278

Resolved, Whereas, George Rogers Clark dedicated his life to the establishment of orderly government and public service through courageous leadership and demanded political and religious freedom for the colonists; and

Whereas, George Rogers Clark, respected by the American Indians and known by them as "Long Knife," devoted much of his life and energy toward the exploration of the Ohio River region, surveying and preparing land for cultivation by incoming settlers for farms, enabling Indians and other states to become the world's leading producers of agricultural products which contributed to the prosperity and independence of this Nation; and

Whereas, he was commissioned with organizing a militia for the defense of the colonies against British expeditions in the Midwest and Northwest territories; and

Whereas, he led one of the most daring and successful wilderness campaigns during the American Revolution that assisted in doubling the size of the United States after the War; Therefore, be it

Resolved, That George Rogers Clark be recognized for his patriotism, accomplishments and outstanding contributions to the development and ideals which this great Nation represents to the world; and

Sec. 2, that the Senate recognize November 19, 1979, the anniversary of the birth of George Rogers Clark, in tribute to the memory of this great man.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1979

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business, S. 932, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (S. 932) to extend the Defense Production Act of 1950, as amended.

The Senate resumed consideration of the bill.

Mr. JOHNSTON. Mr. President, I want to announce to all Senators that our plan today is to try to finish this entire bill and all its titles before the night is out. In other words, to do that, everyone who has an amendment must put it in,

be ready to discuss it, and hopefully, we shall be able to get it rejected by the Senate. There is a lot of work to do because we have a huge amount of subject matter involved in the bill.

Speaking for myself, and I know for Senator DOMENICI, we shall try to be reasonably succinct in our arguments. I hope that, where we accept amendments, we shall not have to discuss them for a long time but be able to accept them and do that immediately without detailed explanation.

I say that because, as I look at the clock, we started at 10, and it is now 11:15. I can see a long night coming. I urge all Senators who have amendments, beginning with the synfuels section—we are going to try to take this bill title by title. I urge them to bring those amendments forth and let us get cracking.

Mr. GARN. Mr. President——

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. DOMENICI addressed the Chair.

Mr. GARN. I am happy to yield to my most distinguished colleague from New Mexico.

Mr. DOMENICI. I am most appreciative.

Mr. President, on our side, we know of some of the amendments. We have looked at them, and I am sure there are others. I hope the Senators will get us their amendments as soon as possible so we can expedite matters. I do want everybody to know that there is no agreement on title-by-title consideration, so amendments are authorized any time on any of the measures.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Frank Shaffroth of the Committee on Banking, Housing and Urban Affairs, have the privilege of the floor during the consideration of S. 932, to amend the Defense Production Act of 1950.

UP AMENDMENT NO. 739

(Purpose: To provide for live television and radio coverage of the Senate consideration of the Strategic Arms Limitation Treaty)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 739.

Mr. GARN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

Sec. . (a) The Committee on Rules and Administration of the Senate shall provide for television and radio coverage (including videotapes and radio broadcast recordings) of proceedings in the Senate Chamber during consideration of the Strategic Arms Limitation Treaty. Such coverage shall be provided for continuously at all times while the Senate is considering the treaty, except for any time when a meeting with closed doors is ordered.

(b) Under such terms and conditions as the Committee on Rules and Administration of the Senate may prescribe—

(1) television and radio coverage of proceedings in the Senate Chamber provided for in the first section shall be made available to public and commercial television and radio broadcasting and networks; and

(2) videotapes and recordings shall be made available to such stations and networks, to Members of the Senate, and to such other organizations and persons as the committee may authorize.

(c) The television and radio coverage of proceedings in the Senate Chamber under this section shall be carried out in such manner as the Committee on Rules and Administration of the Senate shall prescribe.

(d) This section is enacted as an exercise of the rulemaking power of the Senate.

Mr. GARN. Mr. President, I should like the attention of the majority leader at this time.

This is an amendment that I am bringing up rather precipitately. I am glad the majority leader is on the floor. I would have requested his presence had he not been here.

Mr. ROBERT C. BYRD. The majority leader is usually on the floor. I am sorry to say I have to spend hours and hours here.

Mr. GARN. I understand that he is.

Mr. ROBERT C. BYRD. I certainly get tired of it.

Mr. GARN. Mr. President, this is an amendment that would authorize radio and TV coverage of the SALT debates. The reason I do this, Mr. President, in a precipitate fashion is that we are running out of time.

Mr. President, the Senate will almost certainly soon have before it the SALT II treaty, presently nearing the completion of its consideration by the Foreign Relations Committee. The debate on the treaty, and its instrument of ratification, will be before this body, at least. This amendment will see to it that the treaty debate is brought before the American people, as well.

As my colleagues examine the language of this amendment, they will find that it is not new. It is essentially identical to the resolution I introduced on May 10 of this year, just over 5 months ago. The Rules Committee, to which that resolution, Senate Resolution 158 was referred, has been a very busy committee. They have been unable to schedule hearings on this resolution, and so nothing has been done to bring this proposal to the floor.

As I said, Mr. President, we are running out of time. There is much to be done before television cameras and microphones can begin broadcasting the SALT debate. My sole purpose in calling up this amendment today is to relieve the Rules Committee of the extra burden of evaluating the merits or demerits of broadcasting the SALT debate. That is, after all, an issue that the entire Senate must decide directly. I propose that we make that decision today, so that, if it is the will of the Senate, the Rules Committee can proceed directly to the question of the terms and conditions of the debate broadcast, which this amendment directs and empowers them to do.

That, Mr. President, is the essence of my amendment today: To start the ball rolling. To let the American people know, today, that they can expect this body to share with them its historic and vitally important consideration of the SALT treaty and all of its various implications for this Nation's security.

This amendment does not attempt to answer questions about the specific details of the procedures necessary to broadcast the SALT debate. No such amendment should do that. We have a very competent and thoroughly professional staff serving the Rules Committee, and very capable and diligent Members serving on that committee, under their distinguished Chairman, Senator PELL. Several of them have examined aspects of this issue before, at least partially, when the Senate chose to allow the radio broadcast of the Panama Canal treaty debate. They have been studying various aspects of the concept of televised broadcasts from the Senate Chamber for several years. They are certainly capable of evaluating the present state-of-the-art in cameras and lighting technology and establishing guidelines for implementing the will of the Senate in broadcasting this debate. I would hope that during our consideration of this amendment today we will be able to perhaps establish some sense of the direction those guidelines might take.

Ultimately, however, this amendment entrusts the Rules Committee with the responsibility of insuring comprehensive broadcast coverage of the debate in a manner which preserves the integrity of the Senate and the legislative process while at the same time providing the maximum level of exposure of this important debate to the American people.

There has been some suggestions in recent weeks that the broadcasting of the SALT debate might be conditioned upon the establishment of a time agreement, limiting the length of debate on SALT II. Let me say very clearly, Mr. President, that I would have no objection to reaching such a time agreement. I am, quite literally, prepared to bring the debate to a close at the earliest possible moment, after the broad range of viewpoints on the treaty have been adequately discussed before the Senate and the public. I do not favor endless debate.

We have a decision to make about this treaty, and we must get on with the task of making it. But I am only one Senator, and such a time agreement requires the unanimous consent of all Senators. I am convinced that such unanimity cannot be achieved, or, at least, that it is not very likely that an agreement could be reached that would satisfy all concerns.

But I do not believe, Mr. President, that the question of whether or not the American public are able to witness this historic debate should be used as the stakes in some parliamentary poker game. We are talking about the fundamental right of the American people to know what their Government is doing. We have had enough of Washington behind closed doors. There can be no time limit on the public's right to be informed.

As I have said, there can, and perhaps should, be a time limit on the amount of

time the Senate should take in debating the SALT treaty on the floor. Much has already been said about it, and there is other important legislation pending before the Senate. But I feel very strongly that such a limit should not be obtained as a quid pro quo for the broadcasting of the SALT debate. I do not believe any of us can truly justify using the widespread support for broadcast of the debate as a tool for limiting it.

That support is genuine, Mr. President, and it is widespread. It grows out of an awareness on the part of the American people that they do not know enough about this treaty.

Despite many months of hearings, debate and seemingly nonstop rhetoric, a recent Harris poll indicated that only about one-half of all Americans considered themselves adequately informed to express an opinion about the proposed SALT II treaty.

That disturbing finding provides an ideal backdrop for the following letter I received from Paul M. Davis, president of the Radio-Television News Directors Association, in support of Senate Resolution 158:

The Radio-Television News Directors Association, representing more than 2,000 persons in network and local radio and television newsrooms around the country, applauds your efforts to open the historic debate on the SALT treaty to the vast broadcast audience in the United States.

A democracy thrives on a well-informed public, and for issues as grave as those involved in our arms limitation talks with the Soviet Union, it seems to us urgent that the American voters have the opportunity to see and hear for themselves, the vital arguments debated by the Senate as it strives for a decision that will best protect the futures of our nation.

You and your colleagues in the Senate have the gravest responsibility in the months ahead. We believe that a major element in this responsibility is to create an informed public opinion which can understand the extremely complex issues which must be thrashed out by the Senate.

Radio and television, through which the American public receives more of its news than through any other medium, can help immeasurably in this process.

The Senate, we feel, cannot afford to lose this opportunity for both public education and to a greater public understanding of how the Senate truly functions. To allow the Senate's traditional ban on broadcast coverage of the floor to block this opportunity would be short-sighted for the Senate—and damaging to its constituents throughout the land.

Since I introduced Senate Resolution 158 last May, I have received numerous letters from radio and television stations across the Nation, echoing Mr. Davis' concern about allowing the public to participate fully in one of the most important decisions of this century, which can only occur if radio-television coverage is authorized. Here is a brief sampling:

From WVUT and WVUB in Vincennes, Ind.:

(We) continue to go on record in full support of any legislation which expands the public right to full access to Congressional proceedings, including live coverage. The significant impact of the SALT II treaty makes such coverage even more imperative.

From WGOW in Chattanooga, Tenn.:

Putting it simply, we wholeheartedly endorse the passage of Senate Resolution 158, giving full radio and television coverage to the floor debate of SALT II. We agree that the American public needs to know the full story behind SALT II and as a journalist, the passage of Senate Resolution 158 would make the job easier.

From KCRG-TV in Cedar Rapids, Iowa:

We believe (radio and television) coverage is highly desirable and would be of great benefit to the American people. The arms limitation agreement will have an enormous effect on the future of our country and the public has the right and the obligation to as much as possible. Radio and TV coverage could go far in providing that knowledge.

From WGN radio and television in Chicago, Ill.:

The nation has been able to hear presidential addresses to Congress on radio for fifty years and has been able to see them on television for nearly thirty years. Over the past three decades, committees of both the House and Senate have opened their proceedings to broadcasting. And, earlier this year, sessions of the House itself have become available.

Now, it's the turn of the Senate. Debate on the SALT treaty is likely to begin in the fall. It is a subject of great public interest. It is also a subject which could play a major role in the 1980 elections. Yet, unless the Senate changes its rules, we won't be able to see or hear our senators—learn their positions first-hand—as this significant treaty is debated . . . it is time to convince Senate conservatives that it is past time to allow the electorate electronic access to the Senate chamber.

I am sure that the majority of my colleagues would agree with the general principle voiced in these letters: that SALT II is too important an issue to be discussed behind closed doors, which is exactly what the public perception will be if we do not allow radio-TV coverage. The Roper organization has found consistently that most Americans get most of their news from television—and consider it to be most believable. A vote against radio-TV coverage, then, would be tantamount to telling the majority of Americans that they have no right to monitor the SALT debate on the news media which they prefer.

There have been several previous resolutions calling for a trial of floor broadcasts, including one in 1973 which prompted our distinguished senate majority leader to say:

The time has come for a new look at the possibility of using the electronic media to bring the Senate and the people closer together.

While radio coverage was allowed during the Panama Canal treaties debate in 1978, the other resolutions were undermined by worries about technical difficulties as well as concern about maintaining the traditional "dignity" of the Senate.

With respect to possible technical problems, I have received assurances from the four major television networks—ABC, CBS, NBC and PBS—that recent advances in camera technology have virtually eliminated traditional worries about "glaring lights" and "noisy equipment." In a letter from Edward M. Fouhy, vice president and Washington bureau chief for CBS, on behalf of the other networks, he outlines the technical procedures which would be followed in televising the SALT debate:

In response to your request for specific details, we thought it would be useful to outline the proposals we are prepared to make should the Senate decide to move forward on Senate Resolution 158. We feel our proposals are consistent with the public's right to know and the dignity of the U.S. Senate.

We believe the best approach is to form a four network pool consisting of ABC, CBS, NBC and PBS to take responsibility for the coverage. This network pool would make available the output of the pool cameras and microphones to all bona fide broadcasters. We would propose continuous coverage of the debate, which we understand would last four to six weeks.

One company would undertake to set up the technical equipment, including lights, cameras and associated control room equipment, but the operation of the pool would be rotated regularly among the four participants.

As you know, there has not been a demonstration of television technology in the Senate chamber since 1977, and in that time there have been some important technical achievements in the matter of camera and lens systems which permit us to reduce the amount of light necessary to produce an acceptable picture. We stand ready to demonstrate the new technology at a time of the Senate's choosing and we think that such a demonstration would be persuasive to those who have found the light levels uncomfortable in the past. The new cameras could be placed unobtrusively, since they are smaller than previous models, in fixed positions. The pool would operate totally at the expense of the broadcasting industry. And the pool would provide, at no cost to the government, a complete visual record of this historic debate to the National Archives for study by scholars yet unborn. I personally favor the previously mentioned pool approach, since it will not cost the taxpayer's money and preserves the important independent nature of the news media.

As I mentioned in my opening statement, I asked the Rules Committee several weeks ago to authorize a demonstration of the technical aspects of radio-TV coverage. I am confident that such a test would allay most of the concerns my colleagues may have. The other historical arguments against radio-TV coverage of the Senate can be typified by this statement from a study by Mr. Len Allen for the Congressional Research Service:

Opponents say: We don't want TV dictating our way of business. We don't want the Senate floor turned into Ringling Brothers, Barnum and Bailey with the flamboyant atmosphere of the Big Tent. We don't want showboats in the chamber hogging the cameras and talking endlessly for their personal glory or re-election hopes. We don't want any Senator inhibited during spontaneous debate by the knowledge that words recorded on radio-TV tapes cannot be called back and later clarifications may never catch up with the original statement.

Recent experience in the House of Representatives, the Canadian House of Commons, and in State legislatures across the country has demonstrated that most of these arguments are groundless.

For example, in the House of Representatives, ego-trippers quickly incur the wrath of their peers, as well as of their home constituents, who are often embarrassed by their representatives' love affair with the television camera—and let them know it. Once the Members become used to the cameras, they no longer feel impeded from pursuing their normal activities.

Stephen Hess, a senior fellow at the Brookings Institute, noted in a recent Philadelphia Inquirer article that the Canadian House of Commons has experienced similar positive results since allowing television coverage in October, 1977.

"If anything," Hess wrote, "the decorum of Canadian parliamentarian, has improved. At first one Member of Parliament was viewed picking his teeth and another was seen ogling an attractive employee. But the lawmakers have now caught on to what is considered proper behavior by the folks back home, and act accordingly. In fact, Ottawa reporters say that the politicians even have improved their wardrobes."

The quality of debate also has improved, Hess noted. "According to Morris Wole, writing the Canadian magazine Saturday Night, 'Questions and answers are becoming more direct and concise, and those members who are long-winded tend to come off worst.' "

State-by-State reports to CRS, as reported in Mr. Allen's study, indicate that legislators, broadcasters, and the public alike are strongly favorable to the televising of legislative sessions. Summing up its findings on TV in legislatures to date, the Twentieth Century Fund task forces stated:

> Despite what many legislators initially fear, experience seems to indicate that television coverage of legislative sessions can be good for the institution, useful to the viewer and not annoying to the member. Certainly coverage can be provided by means that are acceptable to both the broadcaster and the institution.

Supporters of floor TV, says Mr. Allen, also claim the Senate will reap additional benefits from permitting cameras in the Chamber. "Simply making the public more aware of the Senate as an institution could help build public trust," he says. One only has to look at public opinion surveys—in which Congressmen score very low—to recognize that improving the Nation's trust should be one one of our definite goals, and TV coverage could not hurt. "The more the Senate as a whole is seen performing its constitutional duties in a responsible manner, the more you eliminate the ignorance of Senate procedures, which some believe underlie low ratings of Congress," Allen stated.

I believe any objective analysis will suggest the Senate should enter the electronic age and allow full gavel-to-gavel radio-TV coverage of the SALT II debate. This historic confrontation is too important to be hidden from view of Americans by a closed-door mentality, based on traditional concerns whose validity is questionable, at best. The American people have a right to know; we have an overriding obligation to recognize that right by approving this amendment.

Mr. President, I have no desire to delay the Senate's consideration of the energy bill. I think the issue is very clear cut. Again, I bring it up precipitately only because I have patiently waited for 5 months for some consideration and we are running out of time. There are technical issues that must be considered. The Rules Committee, I think, is the one that should decide the terms and conditions of the broadcast. The Senate should make the decision that we go forward with this now, so that the Rules Committee can have the time to explore the methods in which the broadcast can be produced.

I do not intend to take a lot of time. I simply would like to have a vote and get back to the energy business and let the will of the Senate be done.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. GARN. I am happy to yield for a question.

Mr. DOMENICI. I know that yesterday, the Senator from Utah was kind of angry at th's bill. D'd we do something to cause him to bring this matter to our attention on this bill? Senator JOHNSTON and I did not want to do that.

Mr. GARN. No; absolutely they did not. It would make no difference what bill is being brought up today. Again, I repeat, I am perfectly willing to have a vote now, after the majority leader or anyone else has spoken. I have no desire to have any prolonged debate. This is a clear-cut question of whether we want to allow the debate to be televised or not and we can have it all over in 15 minutes. I am willing to abide by the decision of the Senate.

Mr. JOHNSTON. Mr. President, I love and respect each and every one of my colleagues to an almost unlimited extent. I think their ability to speak and to hold the floor here and stir passions and to instruct the Members of this body as well as the country is almost without limitation.

Having said that, however, Mr. President, there are times when some of our colleagues, as much as we love them and as articulate and as persuasive as they are, are prone to speak maybe just a minute or two longer than is necessary.

I fall into that category and say that I am, as well, guilty of speaking too long.

But, Mr. President, we have never seen anything like what we would see on the floor of this Senate if we had the TV cameras up there filming our activities.

Mr. ROBERT C. BYRD. Well, we should have them here right now. We have entered the silly season. I wish we had TV cameras so the American people could see just what is happening on the Senate floor.

Mr. JOHNSTON. Mr. President, I can say that we would be here until virtually midnight every night.

When I was in the Louisiana legislature, and they had cameras in there, we could tell when the cameras came on because a little red eye would blink at us.

We never heard such speeches as my colleagues made when that camera was on. But let the light go out and reason would return and debate would then make a little sense, and the unnecessary speeches would not be made.

Not only would some of our more grandiloquent colleagues tend to speak longer than they would ordinarily, but some of us——

Mr. DOMENICI. What was that word? What kind of colleagues?

Mr. JOHNSTON. Republican.

Mr. DOMENICI. Oh, Republican.

We hardly ever get to talk. Maybe we need the cameras.

Mr. JOHNSTON. But, Mr. President, even those of us who try to be succinct and try not to take the Senate's time, if the cameras were in and our constituents from back home were writing and calling and saying, "Where were you, where were you when it was time for Louisiana"—or New Mexico—"to stand up and be heard and you were not there?"

It would, therefore, cause us in self-defense to make some additional unnecessary speeches. Perhaps this speech of mine, Mr. President, is, indeed, unnecessary.

I am wondering whether my colleague will want a record vote on this matter.

Mr. GARN. Oh, absolutely. I want a record vote.

Again, I have no desire to get into a long debate. That would occur only if the opponents of the SALT debate wish to engage in one. Again, it should be clear that I am only speaking of the SALT debate, I am not talking about general coverage of the Senate by television.

I would suggest to my distinguished colleague from Louisiana that his fears about grandstanding were expressed initially in the House of Representatives. They have had TV for some time now.

Mr. JOHNSTON. And those fears were vindicated.

Mr. GARN. I do not believe that is true.

The Canadian Parliament experienced the same thing, and the same fears proved unfounded.

On the Panama Canal debate, we found that with the radio coverage, during the first 2 or 3 days, some of our colleagues got rather long winded, and spoke more often and longer than they may have without it. But I think we found that pretty soon we got back to the normal routine.

So I do not have those fears, other than I would agree that perhaps for a very brief initial time we might see that happen. But I think it will simmer down.

That has been the experience in many other legislative bodies. It has been the case in courts, where attorneys initially did that. But this is a different story. I am not advocating permanent television coverage.

I am not advocating that we televise the energy bill, or anything else, but the SALT debate.

This, in my opinion, regardless of how we feel about SALT, whether for or against, we must agree is probably the most important foreign policy issue that has been debated before this Senate in the last 30 or 40 years, or maybe in this century.

I think the American people are entitled to hear that debate, to hear both sides of that debate.

Now, I am one, as the majority leader knows, who, as an individual, has been willing to agree to a time limit on the SALT debate from the very beginning.

I would be willing to consider that. As far as I am concerned, as one who spent 2½ years on the issue, I can say all I know and it will not take 2 weeks. I can guarantee that. It simply is not necessary to repeat over and over and over again, as we did on the Panama Canal debate, the same things that were said in the first 2 or 3 days.

So I, personally, would agree to a time limit. I do not know about my other colleagues.

But I do not feel we should hold hostage to a time agreement the question of allowing the American people to see the debate.

Once again, I want to emphasize that I do not care to delay the Senate in its consideration of the energy bill. I would like to finish it tonight, as well.

So I am willing, anytime, to have a vote on this issue and let the will of the Senate be heard.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Has the Senator yielded the floor?

Mr. GARN. I am happy to yield.

Mr. ROBERT C. BYRD. Has the Senator yielded the floor?

Mr. GARN. I am happy to yield the floor.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I am no Johnny-come-lately when it comes to advocating television coverage for the Senate, the Senate debate.

It was I who authorized the first television cameras that were ever put into the Senate Chamber at the time the late Nelson Rockefeller was inaugurated as Vice President of the United States. The then-majority leader Mansfield was in China and the press approached me with the request that the inauguration be televised, and I gave that approval.

So let the record show, until the crack of doom, that it was this Senator who authorized television originally.

Second, it was this Senator who led the way to have radio coverage of the Panama Canal treaties debate.

I think, as Woodrow Wilson once said, and I may paraphrase, that the informing function of the Senate is as important as the legislative function.

So I thought we ought to have radio coverage so that the American people could be informed as to the merits of the Panama Canal treaties. The Senate agreed to that judgment and we had excellent radio coverage.

May I say that public broadcasting performed in a way that was most admirable. Each evening they capsuled the developments of the day. I think that a great contribution was made by public broadcasting to that debate.

There is no doubt in my mind, and there never will be any doubt in my mind, and there will never be any force on Earth, or in Heaven, or in the place below, that will change my mind, I will always maintain that the fact that that debate was broadcast not only performed a good function of informing the American people, but also resulted in an unnecessary extension of the debate.

That debate went on for 8 weeks. It could have been completed in 4 weeks or 5 weeks. It would have been the same decision, undoubtedly. We ran the great risk in that instance—by virtue of inflammatory statements that were made on the floor from time to time and were being heard in Panama by the people there who were listening to the radio—ran the great risk of seeing some unfortunate situation develop in Panama that would have destroyed the chance for approval of the treaties.

Now, Mr. President, as to televising the debates on the SALT treaty, I personally favor this. I will say why. I believe that if the American people could be shown the merits of this treaty the support for the treaty would grow.

It was only after thoroughly reading the transcripts of the hearings and having read the treaty time and time and time again, and having read almost everything else I could get my hands on with respect to the treaty, that I reached my own decision to support the treaty.

But it was in the course of reading those transcripts that I became alert to the fact that this country is, in the early to mid-1980's, going to be in a situation in which the land-based ICBM's, the land-based leg of the triad, are going to become increasingly vulnerable.

There were other things that I learned that I did not know, about the shortcomings of our national defense program.

So I think the American people need to know these facts.

But, Mr. President, to have a televised debate of this treaty without there being a time limitation would merely open the treaty up to prolonged, protracted debate and redundant and repetitious statements, and this would not be in the interest of the Senate or of reaching a considered, sound judgment on the treaty.

The thing that is of primary importance in connection with the treaty is that it be thoroughly debated and that the Senate reach a considered, sound judgment on the treaty.

Television is important; it is a fascinating and gripping idea; but television is not of primary importance here. Whether the debate on the treaty is televised or not is of secondary importance, not of primary importance. That is of secondary importance.

I favor it as a means of better informing the people, but only if we have a time agreement, so that the time can be controlled. All Senators would then have an opportunity to have a part of the time, and the time would not be by one, two, three, or a half dozen Senators, to the disadvantage of other Senators who wish to speak. It is a gripping idea; it is fascinating. I would like to see this experiment take place.

However, do we want this experiment to take place on something which may be the most important issue on which any of us will ever vote in the Senate and under circumstances that may not be most conducive to the arrival of that sound, considered judgment on that treaty? I would like to have this experiment. I am perfectly willing to have the debate televised, but under the condition that we have a time agreement.

I have talked with representatives of the commercial networks and public television. I have talked with my colleagues on both sides of the aisle, going back over a period of months. So I have been working, exploring, trying to develop the situation; so that if indeed it is considered to be the judgment of the Senate that we should have televised debate of the treaty, we could do it in an orderly way and in a way that would be conducive to the creating of an atmosphere that is not filled with political partisanship, which would be most unfortunate, in my judgment.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I will yield shortly.

This matter is not closed, Mr. President, and it is not a matter that should be decided on the floor of the Senate today.

I have no doubt that there are Senators who are opposed to televising this debate. I have talked with many Senators: Some are opposed; some are for it. Those who are opposed to televising the debate are fearful that it would contribute to political partisanship, and that it would contribute to extending, prolonging, protracting the debate, and to the detriment of the Senate and the treaty.

So, Mr. President, I support the idea, under the condition that there be a time agreement. I am not prepared to vote on that today, and I will vote against this amendment.

First, Mr. President, I send to the desk an amendment to the amendment.

UP AMENDMENT NO. 745 (TO UP NO. 739)

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 740 to unprinted amendment numbered 739.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. STEVENS. Would the majority leader allow us to hear it?

Mr. GARN. Could I have a copy of the amendment?

Mr. ROBERT C. BYRD. Yes.

First, I ask unanimous consent that the amendment be read and that I not lose my right to the floor.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> In lieu of the language proposed to be inserted, insert the following:
>
> "SEC. . Subsection 133(f) of the Legislative Reorganization Act of 1946, as amended is hereby repealed."

Mr. ROBERT C. BYRD. Mr. President, my amendment is offered not in the spirit of anything other than the utmost sincerity. I want to see where the Senate stands on the repeal of the 3-day rule. I have had my problems with the 3-day rule here all too long. So my amendment would repeal the 3-day rule.

Mr. STEVENS. Mr. President, will the Senator yield now?

Mr. ROBERT C. BYRD. Mr. President, without losing my right to the floor, I yield only to my good friend from Alaska, for the purpose of a statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the majority leader has shown his usual ability to be quite incisive in terms of some of the problems he deals with daily. I admire his amendment to the amendment.

First, if I may, let me talk about the amendment of the Senator from Utah. The minority leader and I have been seeking coverage for the SALT debates. For myself, I have sought that coverage only on the basis of an agreement, because I also want to get to the other subjects that are pending before this body, before the end of the year.

I am afraid that the traditional "flame and moth" problem comes with televised debates of the SALT treaty, with one-third of our Members up for election; and these proceedings, being covered by the networks and by public broadcasting, would be the greatest single contribution to all the candidates that I can think of.

Mr. ROBERT C. BYRD. And I might be catapulted into the Presidential sweepstakes, myself, if we were to televise this debate. [Laughter.]

Mr. President, I feel that I can hold my own when it comes to showmanship, if that is what it takes, and playing to the cameras. I believe I can hold my own. It might be a good idea. We might have another entry into the Presidential sweepstakes.

Mr. STEVENS. Could we have a week off to get a suntan before we appear on the tube? It always makes you look pale if you do not have a suntan.

Mr. President, this is a serious amendment by the Senator from Utah. I want to tell him that we support his objective. He knows that we support the objective. But I hope he will not pursue this amendment on this bill, because we do need some time to continue the negotiations. My good friend and I have been talking for some time, and we have been talking among ourselves, as to what would be a fair agreement to enter into in terms of not only the time limit for the debate but also the allocation of that time on the tube.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I think that is as important as anything else.

That leads to the question of how many Senators will have an opportunity to present their amendments and at what time.

We have the consideration of the fact that what is prime time is one part of the country is not prime time in another part of the country. I am afraid that we would be in late every night.

Mr. ROBERT C. BYRD. No doubt about that. We might be in many nights.

Mr. STEVENS. The Senator understands that in order for me to hit prime time, we would have to be here at 11 o'clock at night. [Laughter.]

Mr. ROBERT C. BYRD. We would not want to deny the distinguished Senator from Alaska his shot at the cameras.

Mr. STEVENS. I understand that. I would not want to be denied. That is why I would like to be involved in this negotiation.

We are talking about a very serious problem, a controversial subject, about not having coverage in the West and on into my area.

As a matter of fact, in Adak, we would have to have 7 hours. We want the people in Adak to know what is going on here. When they are off from work, we have to have 7 hours.

So the majority leader would not mind, I am sure, being in session at 1 a.m. to assure equal coverage for the people of Adak.

It is a very serious problem, I think, that should be negotiated out so that we know what we are doing. I think we need representatives of the networks involved in those negotiations as well as public broadcasting, as well as the Members of the Senate who are deeply interested—and I am deeply interested in seeing it done because I think it would be a unique experience—on probably the most controversial subject before the Senate this year; that is, if we forget about windfall profits tax, this bill, the water resources bill, the Alaska lands bill, and a few other bills.

What I am saying is I think if we open the door on this one we are going to face similar demands for the future, and we better know where we are going and what the time frames are for control of the time.

With due regard to my friend, I do not want to delegate that to the Rules Committee, and I think this amendment will do that as I understand it.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, without losing my right to the floor, I yield now to the distinguished Senator from Utah.

Mr. GARN. I thank the distinguished majority leader.

Mr. President, I say first of all to my distinguished colleague from Alaska as well—he was not here when I called up this amendment—I repeat to those colleagues who have since arrived, that I originally introduced this amendment as Senate Resolution 158 on the 10th of May, and in 6 months, nothing has happened with it. My concern is that time is running out.

I agree with the vast majority of what the majority leader has said about this, and I certainly did not in any way indicate that he was personally opposed to having a SALT debate on TV. Quite the contrary. I recognize his past leadership on this issue.

Mr. ROBERT C. BYRD. The Senator will agree that I am a man of honor.

Mr. GARN. Yes, if we do not have a Saturday session.

[Laughter.]

Mr. ROBERT C. BYRD. I think that is what Anthony said about Brutus. "Brutus is an honorable man."

Mr. GARN. We both agree that we are both honorable.

Mr. ROBERT C. BYRD. We start with that premise that all Senators are men of honor.

Mr. GARN. I have the utmost admiration for the distinguished majority leader and I think he knows that.

Mr. ROBERT C. BYRD. I was just reminding the Senator of what he said last evening.

Mr. GARN. I understand that.

Mr. President, in making the decision to bring this amendment today up, I considered the fact that 3 or 4 weeks ago, if I may address some of the concerns that were brought up by the Senator from Alaska, I wrote the Rules Committee a letter simply asking that we conduct a test; that we get into some of the technical issues factors and we find out what the technical feasibility is of televising the floor proceedings. It may not be that the lighting is sufficient for example, and there are other kinds of mechanical details.

I did not think that was an unreasonable request that we begin to answer those technical questions. Then we would know. But I received no assurance at all that that would be done. In fact, the letter back from the Rules Committee did not really address the question of a test. So I brought this up today, to demonstrate my great concern for this question.

In bringing it up, to show the great respect I have for the majority leader, there was no doubt in my mind that I would not be able to get a vote on this amendment, not because the majority leader is opposed to TV. I understand he wants a time agreement with it, and I can accept that. I do not disagree with him at all. I tried to think of all the things he would do to keep me from bringing up and getting a vote, and I did not know what, but I knew that he would find something and I would not get a vote, because he wants to wait for a time agreement.

Nevertheless, I wanted to bring it up and discuss it and bring out my concerns about the need to have this debate brought to the American people. We can make light of it, if we want, though I am sure some of the things Senator STEVENS pointed out about time difference and all of that are correct. But forgetting all the levity, and I enjoy it, too, I do think this is a serious matter, and I would really like for us to proceed. We are running out of time. I expect the Foreign Relations Committee will complete its consideration of the treaty soon. I expect it will be ready for action later this month. If we are going to have TV, regardless of the fact that, as the minority whip indicated, these negotiations have been going on, we have got to test the technical feasibility. I would appreciate it if we could at least get some commitment to proceed with making some of the technical tests and decisions that would then allow us to make the political or the philosophical decision of whether we want to allow the cameras. Otherwise, we might make the decision and find out that, although most of the networks assure me with new cameras' low light capabilities are adequate, they may be unable to do it with existing lights. We have not tested that.

I feel very, very strongly that we should do it, but at the very least at this time we should start pressing along, taking those steps that would make it possible for us to make that decision.

Is there any possibility that we could get the Rules Committee to conduct a test?

Mr. ROBERT C. BYRD. Mr. President, the Senator is asking me that question. We have had tests in the Senate. I have been present when the tests were conducted, and Senator CANNON was present when the tests were conducted. Others have been present. We have not had any, recently. But we have had some tests not too long ago, which brought out some problems.

I was amazed when I found that after we had those tests and we were talking about having television we got about 30 objections, I am told by my staff, 30 objections from the print media to having television because all the cables and other equipment up there would get in their way. The print media objected. That was just an indication of the fact that there are problems. Maybe the print media expressed concerns. I should not say they objected. In any event, there were those problems.

May I say to the distinguished Senator I have attempted to proceed in an orderly fashion to explore this matter. Has the Senator discussed it with representatives of public television?

Mr. GARN. I have discussed it with representatives of the three networks and public television, and I think the majority leader is well aware that they have proposed jointly that the four of them would pool the coverage. So, yes, I have met with representatives of the three commercial networks and also public television.

Mr. ROBERT C. BYRD. Mr. President, I have attempted to explore it, as I say, in an orderly fashion. I have attempted to discuss it with my colleagues, also. I wanted to know how they felt about it. I do not think that this is the appropriate bill to bring up this amendment or the appropriate time.

I think the Senator knows that with all due respect to him, I love him and am fond of him as I am of the distinguished Senator from Wisconsin, whom I love and respect, as I said yesterday. But this is the wrong time and the wrong bill.

I regret to vote to table my own amendment to repeal the 3-day rule. Who would have ever thought that the day would come when I would vote to table an amendment to repeal the 3-day rule. Oh, that thorn in my side. Oh, my back, my aching back—that 3-day rule.

Now I have the opportunity to vote to repeal the 3-day rule, and who would have thought it? I am about to move to table the amendment.

Mr. GARN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. GARN. As I said, I really never cease to be amazed at the majority leader's ingenuity with the rules. The 3-day rule is one that the majority leader knows is very valuable to the minority and if it ever switches and we are in the majority——

Mr. ROBERT C. BYRD. It is not going to switch.

Mr. GARN. If we are ever in the majority, he will wish the 3-day rule was there.

Let me say what I said to begin with, Mr. President: It was not my intention in bringing this up to delay the Senate. We have important business. I wanted to make a point about my feelings, the fact that since May 10 I had received no indication of any intention to act on my resolution. I have learned at least one thing in 5 years in the Senate—how to count. I do not think it is necessary even to waste 15 minutes of the Senate's time voting on a motion to table. Therefore. I withdraw my amendment.

Mr. ROBERT C. BYRD. Mr. President, the Senator cannot withdraw it. Action on his amendment——

The PRESIDING OFFICER. There has been no action.

Mr. ROBERT C. BYRD. I have offered an amendment to it.

I ask for the yeas and nays.

Mr. GARN. Mr. President, parliamentary inquiry. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. The Senator does not have the floor and he cannot suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from West Virginia does have the floor.

Under the Senate precedents, the Senator from Utah may withdraw his amendment.

Mr. GARN. That is right.

Mr. ROBERT C. BYRD. I hate to see the Senator withdraw his amendment. I want to get a vote on the 3-day rule, and a vote to table the Senator's amendment would table mine.

Mr. GARN. I understand exactly what the majority leader wants to do, and I wish to withdraw my amendment.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, did the Senator wish me to yield? I yield without losing my right to the floor.

The PRESIDING OFFICER. The Chair will rule now that the Senator from Utah must have the floor if he wishes to withdraw his amendment.

Mr. ROBERT C. BYRD. That is right. I yield to the Senator from Utah for the purpose only of allowing him to withdraw his amendment.

Mr. GARN. I thank the distinguished majority leader. For the third time I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn, and with it the amendment of the Senator from West Virginia falls.

Mr. ROBERT C. BYRD. Oh, there goes my amendment.

Mr. MELCHER addressed the Chair.

Mr. ROBERT C. BYRD. I yield to the Senator from Montana without losing my right to the floor.

Mr. MELCHER. I thank the Senator.

I want to get back to a part of the bill dealing with energy. On page 67, at the bottom it states:

Provided further, That such term (synthetic fuel project) shall include for the sole purpose of financial assistance pursuant to subtitle D any commercial magnetohydrodynamics facility located in the United States.

The relevance of my statements that are to follow, Mr. President, is that included in the bill dealing with this point on magnetohydrodynamics is that MHD, as it is commonly called, has received some appropriations from Congress beginning—with slight amounts prior to 1971—but in fiscal year 1971 the amount appropriated was $500,000 for MHD research and development. The program increased rapidly percentage-wise, because it was such a small amount, through the next fiscal years, and eventually in 1976 we got to where we thought there was a breakthrough because Congress appropriated $41.3 million for the program.

Now in 1977 that amount was increased to $58.9 million; in 1978 to $71.5 million; and in fiscal year 1979 $80 million.

This year in the Senate appropriation bill dealing with the program the Senate appropriated $130 million, while the House only appropriated $75 million. Right now on this very day a conference committee is meeting to try to finalize action on the conference report.

I am taking the floor at this time to demonstrate to the Senate what we would be losing if we did not move forward with MHD research and development.

I am sure there are plenty in the Senate and in the public-at-large who have no comprehension of what the MHD program is. Let me read to you a report which clearly——

Mr. ROBERT C. BYRD. Mr. President, I have the floor. How long does the Senator wish to speak, may I ask?

Mr. MELCHER. I would think about 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask that I may be permitted to yield for that length of time without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. I thank the leader.

The report states:

A conventional fossil fuel generator now gets around 35 to 40 per cent efficiency and nuclear power plants have an even poorer track record, about 33 per cent efficiency. Present technologies waste more potential energy than they convert for use.

MHD's potential for up to 60 per cent efficiency gives it an edge of about 50 per cent over all presently-used methods. Obvious environmental and economic advantages result from increased efficiency.

When you are able to produce more electricity from the same amount of coal, you save money. When you are able to produce more electricity from a certain amount of coal, the ratio of environmental effects to amount of energy produced is balanced a little more toward Mother Nature's side.

Researchers across the country largely concur that sulphur dioxides and the vapor from potassium salt will combine at the high temperatures required in the MHD cycle. The potassium is costly and must be recovered. So, too, would the sulphur emissions. Researchers continue to study a possible sulphur dioxide problem in the MHD process, but, to date, studies still indicate sulphur dioxides will be contained from 92 to 99 plus

per cent if enough potassium is used in the seeding process.

MHD's other major environmental selling point—that it requires little cooling water—makes it attractive to areas concerned with thermal pollution. Figures of heat rejected per kilowatt-hour of electricity produced in a study done at Avco Everett Research Laboratory show an MHD-steam turbine plant would release 30 per cent of what the present nuclear plant releases; 36 per cent of what an advanced nuclear plant will release, and 45 per cent of what other fossil fuel steam plants release.

However promising it appears, MHD is not a messiah of energy conversion. Although it has obvious advantages over present technologies, it still is a process that burns coal, and may be caught in typical pitfalls experienced by other fossil fuel burners.

Research shows particulate matter will be emitted from an MHD plant at a rate equal to conventional fossil fuel plants. A study recently completed by the Montana Energy and MHD Research and Development Institute (MERDI) noted that the high temperatures necessary to complete the MHD cycle may increase emittance of sub-micron particles.

Researchers agree that nitrogen oxides will form at a much higher rate in the MHD cycle than other fossil fuel plant. But researchers have generally agreed that nitrogen oxide emissions could be controlled in the HMD cycle to less than present Environmental Protection Agency (EPA) standards.

Two processes are being studied presently to handle the high formation of nitrogen oxides. First, and most probable at this time, are combustion techniques that will set a ratio of air to fuel to allow for the least formation of nitrogen oxides. A radiant boiler downstream from the MHD channel could allow slight cooling of the gases to the point where the nitrogen and oxygen will decompose.

The other possibility is to encourage the formation of nitrogen oxides and remove them for production of fertilizer. Although the idea is widely discussed in the MHD community, technology has not been developed to the point where it is considered a workable option now.

India and Japan, two of about 20 countries interested in and presently researching MHD's possibilities, are interested in the process largely because of its potential as a fertilizer supplier. Decreasing availability of natural gas, the prime element in fertilizer production, may make recovery of nitrogen oxides so attractive economically that technologists will respond with a means of recovering the nitrogen.

Dr. F. A. Hals, an Avco scientist who has done substantial research and testing in the environmental effects of MHD, believes controlled combustion can decrease the level of nitrogen oxide emissions to a third of the present EPA standards, possibly to as little as one fifth of the present standards.

Nitrogen oxides are more easily controlled in an MHD process, Hals said, because the MHD channel is small (a commercial plant's channel is comparable in size to a typical family garage) and combustion is achieved in a smaller volume because of the high temperatures.

Research done by Pittsburg Energy Research Center (PERC), Avco, and Stanford University has shown nitrogen oxides can be controlled to EPA standards, possibly considerably less than present standards.

However, research being carried out at the Exxon Research and Engineering division under contract with the EPA indicates nitrogen oxides could be a problem. Figures taken from a computer analysis of the chemical reaction of nitrogen oxides in the MHD cycle show the effluents in an MHD plant could just meet present EPA standards.

Standards for nitrogen oxides are expected to tighten, and if they do and the Exxon figures are correct, nitrogen oxide effluents will exceed the limit. One study done under contract to Exxon showed nitrogen oxide effluents to be about 400 to 600 parts per million. Present standards allow 500 parts per million.

Dr. Henry Shaw, a physical chemist who is researching the environmental aspects of MHD for the Exxon study, said he has become less optimistic about MHD as the study has progressed. He is about half way through the 30-month project.

"It is a unique technology in many respects," he said. "But it has, in our opinion, many problems in development."

Shaw is concerned about control of nitrogen oxides, as well as regeneration of the seed. The potassium is separated from the sulphur because of its high cost. Methods of effectively doing that on a large scale have not been proven and may not be cost-effective. Shaw hopes the Exxon study will encourage the federal government to allocate funds to areas in need of more research. He said Exxon would not design a plant with the information it now has available, but that concerted and immediate research could solve the problem.

MERDI senior staff engineer Roman J. Kramarsic said he was not surprised Exxon would not build an MHD plant with the information they have now. He noted they did not have expertise in MHD technology. Avco, Westinghouse Research Laboratories and General Electric have contracted with the Department of Energy (DOE) to do a preliminary design of an MHD pilot plant. Westinghouse and G.E. previously contracted with the federal government in the Energy Conversion Alternative Study (ECAS) to evaluate the prospects of MHD.

Most research today is directed toward open-cycle MHD with a steam bottoming plant. However, other options exist. A gas turbine could be used as a bottoming cycle for an open-cycle plant. A closed-cycle MHD system would involve separate treatment of the seed material and coal. The seed gases would be recirculated. The main problems involved with the use of a closed cycle center around development of feasible heat exchangers. Other processes could work in conjunction with a closed-cycle MHD system. For example, it has been suggested that the waste heat from a nuclear power plant could be used in a closed-cycle MHD plant.

However, a closed-cycle MHD plant is much further in the future than the open cycle and most of the MHD research being done today is directed toward use of an open cycle.

Although MHD may have more problems environmentally than was first visualized, it has on its side time—in terms of research and development—and a more concerned public as well as government. Unlike the "old days," when technologies were developed and environmental effects were evaluated far down the road, DOE policy calls for technological and environmental research to proceed hand in hand. That gives MHD and 10 other advanced technologies under study a head start environmentally.

And for MHD, more so than most of the other technologies, increased efficiency is an added advantage. Researchers at MERDI say MHD's potential efficiency means that given the same amount of coal, an MHD generator will produce 4,500 kilowatt-hours of electricity, while a conventional plant will produce 3,000 kilowatt-hours.

Dr. Ralph Detra, Vice President in MHD power generator at Avco, testified before a Senate committee for increased MHD funding a year or two ago. He pointed to the NASA ECAS study that evaluated the six most promising advanced energy conversion technologies. He said it showed MHD to be the most efficient studied. And, he said, MHD received the highest environmental rating for cleanliness and projected capital costs were less with MHD than other methods studied.

"If, for example, in 1976 fossil fuel power plants in Massachusetts had been operating with the MHD system," Detra said, "fuel savings alone would have been nearly $300 million."

Why, given its promise, at least on paper, hasn't MHD become a reality? For one thing, although the ECAS study showed it to be least expensive to operate, costs and time of research and development necessary were higher with MHD than most of the other advanced methods.

A closer look at the history of MHD research and governmental allocations should cast more light on the subject.

It seems there is nothing new under the sun; not even in advanced technology. Michael Faraday first theorized on the MHD concept in 1832. He speculated that electricity could be generated by passing a plasma (or gas) through a magnetic field. Then he left the idea on the shelf. No one picked it up until more than a century later when American scientists began to take a closer look at the concept.

By 1958 Avco had built a small MHD generator intended to demonstrate the basic ideas of the principle were sound. An early leader in the field, Avco built other models and continued research through the 1960s, joined by the Arnold Engineering Development Center, the University of Tennessee Space Institute, PERC and other universities and research institutes.

Occasional grants were obtained for research from various governmental agencies. The agency that seemed the most appropriate source for research allocations for MHD was the Office of Coal Research (OCR) under the Department of the Interior, and they were notably non-pulsed by the MHD concept.

Initial research had been financed partly by private industry, but MHD research proved costly. In 1967 private companies were willing to share half the costs of a pilot plant program with the federal government. But just as research and interest in MHD was gathering momentum, governmental interest and funding turned to other energy providers—notably nuclear power—and MHD was back on the shelf.

Montana Energy and MHD Research and Development Institute (MERDI) in Butte, Mont. has played an important role. MERDI was to coordinate MHD research in Montana, and eventually the country through the federally-funded Component Development and Integration Facility (CDIF) at Butte.

The CDIF will be used to test components for an MHD plant and its successor, the ETF, to be built by the mid-1980s, is planned to produce 60 to 100 megawatts of power. A commercial plant is planned after that.

Possible problems in the technological aspects of the MHD process persist. Most of them deal with the effects of burning coal at such high temperatures—up to 5000 degree farenheit——and the velocity of the gases as they pass through the channel at nearly the speed of sound.

The MHD process has been described as a rocket firing into a magnet. Finding materials that will withstand such high temperatures and corrosive conditions is of prime importance. The seed material and slag carry over will cause both erosion and corrosion in the MHD channel. And coal slag buildup on the electrodes in the channel could be a problem. However, research at Avco indicates the slag may be a blessing in disguise. Its buildup could protect the walls of the channel and eliminate worry about the effects of high temperatures.

Despite its early pioneering in MHD technology, the United States is not the leader in MHD research today. USSR scientists became interested in MHD in the 1960s. When the results of Avco's Mark V generator were declassified in 1964 Soviet scientists reviewed the tests. Then they went back to Russia and began work on a full-scale program. Within seven years they had built an MHD pilot plant, the U-25.

The U-25 has operated at more than 20 megawatts for about 30 minutes and in the spring of 1975 it produced 12.4 megawatts of power, enough to supply energy to a central power grid to meet the demands of 100,000 Moscow residents for half an hour. Since then a 200 megawatt thermal plant is on line and Russia has started construction on a 500-megawatt plant.

MHD presently is the largest technological exchange between the U.S. and the USSR. U.S. scientists sent a $2.5 million superconducting magnet to Russia for use in their pilot plant. The Soviets plan to have a commercial plant operating in the early 1980s that will produce 400 to 500 megawatts of power. Presently they are burning natural gas, but they plan to use coal in the future and they are looking with increasing interest at U.S. research in coal use.

The primary reason the Soviets have jumped ahead of this country in MHD development is that their approach has been toward a whole program, with no delays because of inadequate funding, according to a Soviet engineer and MHD specialist who recently visited MERDI. Valerly Ovcharenko, who represents the USSR in the energy policies and projections branch of the United Nations, said our system of private enterprise and federal spending has resulted in research funded on a yearly basis and directed at developing separate elements—such as the superconducting magnet—whereas the Soviets have gone ahead with a full-scale program aimed at building a commercial plant.

"It happens the conditions for cooperation are very favorable," he said. "The Soviet Union agrees to build a U-25 by-pass loop for experiments and the U.S. agrees to supply some of the elements."

The development of MHD as a technology obviously is benefitted by joint cooperation between the two countries, as well as several other countries also involved in MHD research. More importantly, in terms of its environmental aspects, is the research of potential environmental problems and effects that is going on in concert with the development of the technology.

Dr. Hals, Avco researcher, noted the difference in approaches: "I think what one did in the past was because you had a cheap source of energy in this country. As we are proceeding we are getting more and more concerned with the environment. You can't neglect the environmental impact of any proposed power system. It ought to be included in whatever costs you are projecting."

Hals noted the costs of installing environmental controls after a plant is built. Although costs are always high, he said, "you can't dismantle a conventional power plant very easily. To dismantle a nuclear power plant the costs are almost as much as putting it together."

MERDI's recent contribution to DOE's environmental development plan for MHD notes the importance of environmental research and technological research progressing hand in hand. And DOE's policy for developing technologies clearly states environmental problems will be tackled not after the fact, but as part of the fact—part of the process.

Don Breisford, head of the environmental research division at MERDI, agrees with the concept. But he remembers a time when technology went ahead without environmental considerations. "We were just doing the hardware and the environmental sides were saying, 'Why don't you clean up your act?' The public has made it plain they won't accept technology not compatible with health and quality of life," he said.

"With integrating environmental and technological factors, the technology can be optimally adopted so that environmental problems can be minimized, or the technology is dropped," he said. "It would have been interesting if that would have been done with atomic energy. It probably would have been dropped way back then."

The Exxon study also noted the new approach: "The pollution caused by existing energy conversion processes has contaminated our environment and caused serious health problems. Control of these effluents within reasonable limits is a goal sought by both government and industry. However (present) methods used for pollution abatement also cause some reduction in energy conversion efficiencies and add to the costs. Thus, while considering new energy conversion cycles, it is essential to investigate related pollution problems and their control."

With the cost of energy seemingly rising every day, the concept of cost-effectiveness in energy processes changes. Energy will not be cheap in coming decades, no matter what courses are taken. Environmental considerations in developing technologies may increase the cost of energy, but decisions—taking into consideration both technological and environmental aspects—may be made during research and development. If environmental problems are addressed along the way, instead of as an afterthought, and the promise of MHD and other advanced technologies proves out, increased efficiency and environmental cleanliness will be a financial boon when the systems become a reality.

Mr. President, of all the research and development programs we have concerning coal this is a technology that we look to for central station generation of electricity.

In my State of Montana and in the State of Utah, the question of getting steam generating plants approved burning coal under conventional methods has been a very time-consuming and often not successful effort.

We have just approved in Montana the so-called colstrip 3 and 4 plants, but it took 4 or 5 years to get that approval. Approval was delayed to prove that effluents from the stacks would be acceptable in terms of air quality. Approval envisions getting sufficient quantities of water for the cooling process, and in every instance of a steam generating plant using the conventional method of generating electricity in the West that has come up in the past several years it has been an extremely long, drawn-out process for approval and permits.

What we are looking for in Montana and other Western States is a clean method of generating electricity using coal, where the air quality is not sacrificed, where the water demands are low, and where the efficiency of the operation is increased. MHD research and technology so far has indicated that this technology is the most promising of all for such generation of electricity using coal.

Now, Senators might ask what are other countries doing with it? Well, let me point out that the Soviet Union has on line a 250-megawatt thermal MHD plant.

They have started construction of a 500-megawatt electrical generating plant, to be located some 100 kilometers south of Moscow. That plant would actually produce electricity in terms of 250 megawatts, and could be used for the additional generation of 250 megawatts on the other cycle, if they so chose, but it would appear that the plans right now are to use the great amounts of heat provided by the MHD cycle to heat buildings in the area.

It is important for the Senate to understand that the Russian technology on MHD does use natural gas, but it is their intention that in the future plants they will start to construct using the MHD process they will change to coal.

Why do we have a reluctance in Congress to move toward a meaningful effort in MHD research and development? That answer must lie within the Department of Energy. We have had some difficulty in the past in getting acceptance of upping or increasing the amount of research and development within the Department. However, this year, as a result of the Senate's request of last year, the Department has prepared a capability study to indicate what they could do if the amount appropriated by Congress for the MHD research and development program were increased.

They assumed the figure of $120 million, which was slightly below the amount that we passed in the Senate version of the appropriation bill dealing with this research and development, but it is considerably greater than the amount that the House has seen fit so far to agree to. They have indicated that the additional funds for fiscal 1980 to accelerate the technology and development, to enhance the engineering test facility, in title I, starting phase, of fiscal year 1984, could be improved upon.

Their capability study indicates that the budget for MHD is categorized in five different areas. First of all, the component development integration facility project; second, the engineering development; third, the engineering test facility; fourth, systems engineering; and fifth, supporting research.

Taking an additional amount of about $28 million over last year's appropriation they would increase the component and development integration facility project by $14 million during fiscal year 1980. They indicate how they would break that down. They would augment the iron-core and superconducting magnet development by $4 million, increase the operation for this component development integration facility by $8 million, and augment first and second generation flow train development by about $2 million.

Engineering development would be increased by $11 million. Increasing the operations capability of the coal-fired flow facility in Tennessee, with modification of that facility in Tennessee to accept low-slagging HRSR and power train subsystems, operating on both eastern and western coals, a small increase in coal combustors, and several other items. They would increase specific priorities for engineering development by about $11 million, and that would, in effect, demonstrate the wise use of an additional $28 million increase in outlays above the amount that was appropriated and was spent for fiscal 1979.

Now, Mr. President, with all of the positive notes I have listed, it seems incomprehensible to me how any conference dealing with this subject could ignore the national interest that is involved in furthering our research and development capabilities for this very fine program.

The fact that we are trailing the Russians in this technology is of concern to us, but it is not just a matter of competition between two countries. It is a question of whether the United States, relying on coal as one of the greatest and most significant sources of energy to solve our energy needs in this country, is going, with cohesion and directness, into the technologies that will solve those very problems.

I think we can safely say that with a few million dollars more than was appropriated in fiscal 1980 we can move the program forward on its time frame by at least 1 year. The capability study developed by the Department of Energy seems to bear that out; at least, in my judgment, convinces me that that is the case.

If the House amendment of $75 million would be adhered to and that is the final amount that the conference agrees to, we are dropping back in the research and development for MHD by a significant amount. Remember that $80 million was the amount expended for this purpose in fiscal 1979. Seventy-five million dollars would represent a $5 million decrease. But, in addition to that, when the effect of inflation is figured in, it would be an additional decrease of about $8 million—a step backward of at least $13 million from what we did in 1980, a serious jolt to the MHD research and development program, and one serious enough to move it back a full year.

So the options are, by moving forward with at least a $28 million increase over fiscal 1980, which would be about $108 million, we have the option of moving forward 1 year. If we settle on the House's position of $75 million, we would move back 1 year. We would lose, in effect, 2 years.

I cannot believe that Congress can assert leadership in energy research and development, particularly with coal, by moving backward in one of the key areas for our research and development efforts.

I would hope that the conferees, when they meet this afternoon, will keep these thoughts in mind and be constructive on the MHD research and development program for the coming fiscal year.

Mr. President, I thank the majority leader for yielding me this time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Montana.

UP AMENDMENT NO. 741

Mr. President, I call up an amendment and I ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 741.

On page 151, strike lines 20-24, and insert the following:

(5) "Alcohol" means—

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 151, strike lines 20-24, and insert the following:

"(5) "alcohol" means methanol, ethanol, or any other alcohol which is produced from coal or renewable resources and which is suitable for use by itself or in combination with other fuels as a motor fuel;"

METHANOL FROM COAL: AN IMPORTANT FUEL OPTION

Mr. ROBERT C. BYRD. Mr. President, the Senate has made a clear decision on synthetic fuels in title I of S. 932—we will have a strong and aggressive development effort of substitutes for crude oil.

That decision must be extended to title II. My amendment will fill a gap in the gasohol title by including methanol made from coal in the definition of alcohol fuels.

The purpose of the amendment is to make certain that methanol from coal is not excluded from the jurisdiction of the Office of Alcohol Fuels in the Department of Energy, which title II establishes. More importantly, the amendment insures that coal-based methanol will not be excluded from the financial assistance available to other alcohol fuels.

Purchase agreements, price guarantees, and loan guarantees are provided in title II for the production of alcohol fuels. These financial arrangements will greatly aid those seeking to produce clean-burning substitutes for gasoline and diesel fuel.

The technology to produce methanol from coal already exists. In fact, studies by the Department of Energy and by the Office of Technology Assessment conclude that methanol can be produced for between 40 and 80 cents per gallon.

The studies estimate that gasoline costs about 80 to 85 cents per gallon to produce at current prices. Most ethanol made from farm products costs about 80 cents to $1.50 per gallon to produce.

The advantages of methanol from coal extend beyond production costs. Methanol is far cleaner than gasoline when it is produced and when it is burned. It can be substituted for gasoline, diesel fuel, kerosense, and home heating oil. Methanol production is clean and free from hydrogen emissions, which makes it cleaner than a typical oil refinery.

The potential of a fuel which has these advantages and possibilities must not be dismissed. I believe it is sound policy to move ahead with the development of this substitute for imported crude oil and refined products.

I urge that my amendment be adopted.

Mr. DOMENICI. Mr. President, I regret to tell the majority leader that there is strong opposition to this amendment in committee. I will have to ask for a quorum call while we advise Senators it is the pending amendment and determine whether they desire to be heard.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my amendment may be laid aside temporarily so that Senator MATSUNAGA may call up some amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii (Mr. MATSUNAGA) is recognized.

UP AMENDMENT NO. 742

Mr. MATSUNAGA. Mr. President I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an unprinted amendment numbered 742.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

At page 311 at line 17, delete '.' and insert in lieu thereof ', with a minimum of $10,000,000 specifically for energy self-sufficiency initiatives.'

Mr. MATSUNAGA. Mr. President, this is an amendment which was discussed in committee. Since it was thought the committee report might be insufficient to clarify the matter, it was felt that language in the bill itself might be a safer way to do it. It makes no change in the total amount to be authorized, which remains at $50 million, in title 6. It merely identifies $10 million to initiate a program which will enable the Department of Energy to develop a comprehensive plan and to implement projects to combine synergistically the available renewable energy resources at sites which have already been studied to reduce fossil fuel importation.

I have discussed this matter with the majority and the minority and it is my understanding that there is no objection to the amendment.

Mr. JOHNSTON. Mr. President, I am sorry not to be acquainted with the amendment. Will the Senator repeat precisely what this does?

Mr. MATSUNAGA. The various titles and sections of S. 932 largely promote the utilization of individual technologies. Section 607 of the renewable energy initiatives title attempts to bring together all the renewable energy alternatives in commercial applications to demonstrate the total system.

As the Senator knows, the authorization calls for $50 million total. My amendment will not in any way change that total. It merely identifies $10 million to initiate this program, which will enable the Department of Energy to develop a comprehensive plan and to combine synergistically the implementation of the available renewable energy resources at sites which have already been studied, to reduce fossil fuel importation.

At the staff level, this has been discussed and the language agreed to.

Mr. JOHNSTON. Unfortunately, staff has not discussed it with me. I am hopeful that we can accept it here.

Does the minority manager wish to say anything?

Mr. DOMENICI. No, Mr. President, we have discussed this amendment at the staff level and they have shared their views with me. We have no objection to this amendment.

Mr. MATSUNAGA. I might say to the Senator from Louisiana that this measure was taken up in committee and agreed to. No objection was raised in committee. I see no reason why this would not be acceptable now.

Mr. JOHNSTON. Mr. President, as I understand it, what the Senator wants to do is take some of the money that is presently allocated to renewables and put it in a special office designed to promote energy self-sufficiency in Hawaii or on an island. Is that correct?

Mr. MATSUNAGA. That is correct.

Mr. JOHNSTON. What would this money be spent for? Why should we have $10 million in a special fund for Hawaii?

Mr. MATSUNAGA. It is not for Hawaii strictly. It is up to the Department of Energy to select a site, a locality—it could be an island, it could be a State, it could be a county—to make that specific selected site energy self-sufficient in order to prove that energy self-sufficiency can be attained. As the Senator knows, we have a great possibility of making perhaps one of the islands in Hawaii or Puerto Rico, or even areas in Florida and California, energy self-sufficient by use of those resources which are available within that area.

I cite one example: The big Island of Hawaii, which was largely dependent upon foreign imported oil only a few years ago, today generates 40 percent of its electricity from biomass; that is, sugar cane waste.

Then we have had a breakthrough in OTEC, ocean thermal energy conversion. By an accelerated program in this area, we hope to produce another 10 or 20 percent of the total electricity produced.

We also have a geothermal well which will be producing, by August 1 of next year, about 3 megawatts.

I might point out to the Senator from Louisiana that this is within, definitely, the concept of the bill itself, that there is definitely a policy expressed in the existing language of the bill that this will be one of the objectives of this bill to attain energy self-sufficiency.

Mr. JOHNSTON. Mr. President, I wonder if the Senator, in lieu of the kind of language that says, "with a minimum of $10 million," specifically for self-sufficiency initiatives, would be willing to put "with not more than $10,000,000," and have a colloquy here that will urge the Department of Energy in submitting their budget to set aside a sufficient amount?

My hesitancy is this, that for us to pick a special figure and say that it must be a minimum of $10 million may be misallocating the funds instead of putting them where they can do the best good for the purpose of self-sufficiency.

In other words, it may be better to put more money into wind energy research and development, for example, than to spend $10 million a year for office expenses, in effect.

I mean, I want to go along with the Senator in what he is trying to do because it is a constructive thing and we are for it in the committee, I think. But to specify a hidebound figure of $10 million concerns me.

Mr. MATSUNAGA. I might point out to the Senator from Louisiana that this is not for the purpose of actual office expense. It is implementation of projects.

We are quite advanced to a point where, as the Senator well knows, we can definitely work toward energy self-sufficiency in some sites that the Department of Energy has in mind.

This, as the Senator knows, is not opposed by the Department of Energy. As a matter of fact, it is supported by the Department of Energy.

I regret the staff had not had a chance to brief the Senator. I thought it had been done.

Mr. JOHNSTON. I think we can work something out here because I know what the Senator is driving at.

I do not think we have got a problem of $10 million so long as it is used on initiatives which may be useful in, I think, energy self-sufficiency, because that would include a broad range of initiatives.

I wonder if this kind of language would be suitable to the Senator, "with a minimum of $10 million to be spent on initiatives which may be used, or useful, to attain energy self-sufficiency"?

Mr. MATSUNAGA. I would be happy to accept that modification.

Mr. JOHNSTON. If the Senator would perhaps temporarily lay this aside, I think we can draw this language and bring up the next amendment.

Mr. MATSUNAGA. I agree.

Mr. President, I ask unanimous consent that the amendment be set aside temporarily and that I may offer a second amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, this means we are still temporarily setting aside the leader's amendment, is that correct?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my amendment continue to be set aside temporarily so that other amendments may be called up.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 743

(Purpose: To amend S. 932, to extend the Defense Production Act of 1950, as amended)

Mr. MATSUNAGA. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an unprinted amendment numbered 743.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 288 between lines 22 and 23 insert the following:

"Sec. 542. Section 1141(b) of the Act is further amended by

"(1) striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and 'or;' and,

"(2) adding at the end of paragraph (5) the following new subparagraph:

"'(6) in the case of a geothermal facility, the principal purpose of which is the generation of electrical power, the construction of electrical transmission lines, whether land or marine based, from the generating facility to the intertie with an existing transmission line.'"; and,

At page 288 at line 23, delete "Sec. 542" and insert in lieu thereof "Sec. 543" and renumber each succeeding section accordingly.

Mr. MATSUNAGA. Mr. President, this amendment is a very simple one. The Senator from Louisiana, the floor manager, and the Senator from New Mexico, I am sure, are familiar with this because they were at the committee meeting when this matter was discussed.

Very briefly, this amendment would provide the Department of Energy with specific authority under the geothermal loan guarantee program to insure that the loan guarantee program is available to cover the transmission lines that will be constructed from geothermal powerplants to intertie with existing transmission lines.

I believe the Senators will recall this. This is purely a clarifying amendment to what was agreed in committee, so it will not be misinterpreted.

Mr. JOHNSTON. Mr. President, we are happy to accept the amendment.

As the Senator from Hawaii says, we thought that this was clear in the original text adopted in committee. But, indeed, upon checking with it, it is not clear that we can have transmission from the geothermal source to the powerplant, as in Hawaii, where it is remote from the location.

What this amendment does is make very clear we can build those transmission lines in the situations that exist in Hawaii, where the geothermal source is some distance from the powerplant.

So we are happy to accept it. I appreciate the Senator's watchfulness in the language.

Mr. MATSUNAGA. I thank the Senator.

Mr. DOMENICI. Mr. President, we have no objection so long as it is understood we are only talking about the lines that are necessary.

We cannot have outside lines that are not necessary for the new source to the grid. That is the line we are talking about.

Mr. MATSUNAGA. That is definitely my understanding.

Mr. DOMENICI. We commend the Senator for the amendment and have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (UP No. 743) was agreed to.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 742, AS MODIFIED

Mr. MATSUNAGA. Mr. President, we come back now to the earlier amendment which I offered. I ask unanimous consent that we may return to the consideration of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, as I understand it, the floor manager on the majority side would be willing to accept the amendment with the modification he has suggested.

I am happy to accept the modification.

The PRESIDING OFFICER. Would the Senator send the modification to the desk?

He has a right to modify his amendment.

Mr. MATSUNAGA. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The modified amendment reads as follows:

At page 311 at line 17, delete "." and insert in lieu thereof ", with a minimum of $10,000,000 to be used for initiatives which may be useful in attaining energy self-sufficiency."

Mr. JOHNSTON. Mr. President, this is the amendment just discussed. Simply, it makes clear that the $10 million may be spent on a wide range of initiatives, from geothermal to OTEC to wind energy to solar energy—even to a wider than that, perhaps some biomass initiatives—which would be useful in attaining energy self-sufficiency.

I think it is a constructive amendment, and we are glad to accept it.

Mr. DOMENICI. Mr. President, we think it improves the bill. The modification speaks for itself. It is very clear as written. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 744

(Purpose: To provide certain technical amendments and clarifying language relating to the terms and conditions of the loan program contained in Title VII of S. 932)

Mr. MATSUNAGA. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an unprinted amendment numbered 744.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 318:

In Sec. 705(c)(2)(B), on line 12, insert after the word "system", the words ", which, for the purposes of this subsection only, shall include any new transmission system which the Secretary determines is required to be constructed in order to connect the wind energy system into the electrical system,".

Page 318:

In Sec. 705(c)(2)(C), on line 21 after the word paragraph", omit "(a) and (b);" and substitute in lieu thereof "(A) and (B);".

Page 318, following line 21:

In Sec. 705(c)(2), immediately after Sec. 705(c)(2)(C) and before Sec. 705(c)(3), add two new subsections as follows:

"(D) Loans shall mature 5 years after: the close of the fiscal year in which the Secretary determines that the annual capital, operation and maintenance costs of the wind energy system as determined in paragraphs (A) or (B) has become competitive with available conventional energy sources, as determined in paragraphs (A) or (B); or the close of fiscal year 1990, whichever comes first."

"(E) Each loan made pursuant to this section shall bear interest commencing on the first day of the fiscal year following the fiscal year in which the Secretary makes such determination that the wind energy system is competitive, said interest to be payable from that date until maturity at a rate determined by the Secretary to be equal to the interest obtainable on the commercial credit market by the debtor for investments in power production facilities. Such loans can be prepaid at any time without prepayment penalty and shall be contingent upon such other terms and conditions as may be prescribed by the Secretary hereunder.

In Sec. 705(d), on line 19, omit the word "Title" and substitute in lieu thereof the words "For the purposes of paragraphs (c)(3), (4) and (5), title".

Mr. MATSUNAGA. Mr. President, the purpose of this amendment is to provide certain technical amendments and clarifying language relating to the terms and conditions of the wind energy loan program contained in title VII.

With the world oil situation in such a volatile state, both with respect to prices and stability, we must do all that we can as a country to reduce our national dependence on oil. To accomplish this, we must look for other means to meet our country's energy needs. There is no simple solution to the problem, but that does not mean we can afford to delay taking action right away.

Because many of the alternatives available to us as a country are still in the early stages of development—some still in the research and development phase—it is imperative that Congress take a leadership role in providing the necessary incentives to provide viable energy alternatives, particularly in helping to bring alternate energy from the research and development stage to the commercialization stage.

Wind energy holds great promise to meet our energy needs in the 1980's. Today, wind programs are still primarily in the research and development stage and the costs of these systems are not yet commercially competitive with conventional energy sources. However, all indications to date show that wind systems can soon become commercially feasible. Rather than do nothing and wait for this to happen, thus further delaying the commercialization of the wind program, we can take a positive step to bring this about at the earliest practicable date. Title VII provides the necessary economic incentive to make this possible.

Turning to the amendments themselves, the first two amendments are technical in nature, amending section 705(c)(2)(B) and (C). Added to section 705(c)(2)(B) is the same identical language which appears in section 705(c)(2)(A), relating to the Secretary of Energy's determination. Section 705(c)(2)(C) has been changed to correct a typographical error by capitalizing the references to sections 705(c)(2)(A) and (B).

Section 705(c)(2) is amended by adding clarifying language to cover the terms and conditions of the loan program referred to in section 705(c)(2). It is my understanding that these two new subsections were inadvertently left out of the original bill, S. 1844.

Subsection 705(c)(2)(D) and (E) add provisions inadvertently omitted, relating to the duration, rate and repayment of loans under the program. These provisions track generally similar provisions in title V, sections 512 and 513 relating to geothermal reservoir confirmation loans.

Subsection (D) relates to the maturity dates of the loans; subsection (E) contains provisions on the interest rates and repayment of interest.

Maturity of the loans is set at the earlier of 5 years after 1990 or 5 years after the year in which the system is commercially competitive with conventional energy sources.

Loans will bear interest at the discount or interest rate used at the time the loan is made for water resource planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). The loans may be prepaid without penalty.

Summarizing these two amendments, subsections (D) and (E) contain necessary provisions on loan duration, interest rates and repayment that were inadvertently left out of the original bill, and generally track similar provisions in title V on geothermal loans.

The last amendment is a technical one to section 705(d) relating to title of the wind and energy systems. Since the question of conveyance of title does not apply to the loan program, section 705(d) has been amended to limit the application of the title conveyance section to section 705(c)(1), (2) and (3).

Finally, I would like to explain what is meant by several of the terms contained in title VII.

First, the definition of "cost effective" starting on line 17 of page 315 does not refer to the loan program set forth in section 705(c)(2). Rather, this definition relates primarily to Federal acquisitions of wind energy systems.

Second, the phrase "displacement for conventional fuels" set forth in section 705(c)(2)(A) on line 20 of page 317 is meant to cover that type of situation when the wind energy system replaces a conventional fuel oil fired system on a nonfirm basis—in other words only when the wind is blowing—as contrasted to a base load generating system referred to in section 705(c)(2)(B).

Third, I would like to explain what is meant by the formula on lines 5 and 6 of page 318 of the bill that refer to "The annual cost of available conventional fuel." Here we are referring only to the cost of the fuel oil, for example, that would otherwise be used to provide a comparable amount of kilowatt hours of energy as the wind system. Since subsection (A) does not involve a wind system that is a substitute for baseload generation, we are only talking about the kilowatt hour cost of the fuel in this part of the formula and not the costs associated with capital or operation and maintenance expenses.

Fourth, I would like to explain how the cost differential is determined in section 705(c)(2)(C). As stated on page 215 of the committee report accompanying this bill. "The costs and differences which determine the maximum size of the loan should be completed on a cost per Btu basis" (cents per kilowatt hour).

Let me give an example.

Assume that the total costs associated with one wind machine in a wind energy system at the time of the loan are, say, $5 million, and the total annual energy costs for that machine at the time are estimated to be, say, 7 cents per kilowatt hours. These costs would include capital, operation and maintenance, and also transmission costs if included by the Secretary of Energy. Assume also that the energy cost of the fuel oil component taken by itself, is say, 5 cents a kilowatt hour (which incidentally would be equivalent to approximately $31.85 per barrel). To determine the amount of the loan, the kilowatt hour energy cost of fuel oil (5 cents) is subtracted from the equivalent kilowatt hour energy cost of the wind machine (7 cents) and the difference is divided by the kilowatt hour energy cost of the wind machine (7 cents). This ratio of 2/7 represents the cost differential percentage of 28.6 percent. This percentage is then multiplied by the total dollar cost of the wind machine ($5 million) resulting in a sum of $1,428,591, which represents the amount of the loan for one machine under section 705(c)(2)(A). This figure ($1,428,591) is then multiplied by the number of wind machines in the wind energy system, say, 10, to determine the total amount of the loan which would then be $14,285,710.

Finally, I would like to explain what is involved in the Secretary of Energy's determination that the wind energy system is "competitive with available conventional energy sources." First of all "competitive" means that the total energy costs of the wind energy system is economically equivalent to the energy cost of say, fuel oil, which was used in the previous example. It should also be pointed out that the phrase "conventional energy" is modified by the word "available" to insure that the determination of competitiveness of each loan is made on the basis of the cost of that particular wind energy system compared to the current average cost of all the conventional energy sources which are currently available to that entity. For example if an entity is using only fuel oil, and the energy cost of that fuel oil is equivalent to 8 cents per kilowatt hour, this is the figure that is used in determining the competitiveness of the two sources of energy and not the cost of some other source of conventional energy such as nuclear or coal at some other place in the country.

Mr. President, I have discussed this with the managers on both sides—at least, the staff has taken it up, I presume—and I understand that there may not be any objections to the amendment.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. MATSUNAGA. I yield.

Mr. JOHNSTON. I see some language here which indicates that each loan, "pursuant to this section, shall bear interest commencing on the first day of the fiscal year following the fiscal year in which the Secretary makes such determination that the wind energy system is competitive."

Is that language still in the bill? If so, does it mean that the loan is interest-free until the wind energy is competitive?

Mr. MATSUNAGA. That is correct.

Rather than provide for grants, as we frequently do, it was believed that interest-free loans would be much more beneficial to the taxpayers as well.

Of course, this is an area in which grants would be appropriate. However, in talking with the business people who will be involved in this area, they prefer to have outright grants rather than interest-free loans. What I am proposing would be less of a burden to the taxpayer.

Mr. JOHNSTON. Mr. President, I would have to object to having an interest-free loan, certainly one that does not have a cap date.

For example, if it takes until 1990 for wind to become competitive, there would be perhaps as much as a 10-year interest-free loan. When that is applied to present inflation rates, it could mean that the Federal Government would pay in excess of 90 percent of the value of that loan. To pay 90 percent for a technology which is not competitive, which is not producing energy, I believe is going in the wrong direction.

I think we need to encourage wind energy, and indeed we do in the original bill. But that kind of massive subsidy, that kind of encouragement to technologies which have not yet matured, is not the proper direction to go, it seems to me.

I wonder whether the distinguished Senator would allow us to delete that subsection (E) dealing with those interest rates; so that in his amendment, we would maintain his first paragraph, dealing with transmission, keep subsection (D), dealing with the maturity of the loan, but eliminating subsection (E)—that is, eliminating on page 1 of his amendment, line 19 through the rest of the page and lines 1 through 9 on the second page.

Would the Senator agree to that?

What I am asking the Senator is simply to eliminate his subsection.

Mr. MATSUNAGA. I cannot agree with the Senator. Perhaps we can discuss this matter.

Mr. DOMENICI. Mr. President, we find section (E) unacceptable, because there could be periods when no interest would be charged; and under one scenario, they could get by and pay no interest ever.

We do not think that is what the Senator intended, so we hope he will modify it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 744, AS MODIFIED

(Purpose: To provide certain technical amendments and clarifying language relating to the terms and conditions of the loan program contained in Title VII of S. 932)

Mr. MATSUNAGA. Mr. President, I send to the desk a modification to my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes a modification to unprinted amendment numbered 744.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

Page 318:

In Sec. 705(c)(2)(B), on line 12, insert after the word "system", the words ", which for the purposes of this subsection only, shall include any new transmission system which the Secretary determines is required to be constructed in order to connect the wind energy system into the electrical system,".

Page 318:

In Sec. 705(c)(2)(C), on line 21 after the word "paragraph", omit "(a) and (b);" and substitute in lieu thereof "(A) and (B);".

Page 318, following line 21:

In Sec. 705(c)(2), immediately after Sec. 705(c)(2)(C) and before Sec. 70-(c)(3), add two new subsections as follows:

"(D) Each loan shall be for a term which the Secretary deems appropriate, but no loan shall exceed twenty years beyond the date the wind energy system is energised into the electrical system."

"(E) Each loan made pursuant to this section shall bear interest at the discount or interest rate used at the time the loan is made for water resource planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a))." Such loan can be prepaid at any time without prepayment penalty and shall be contingent upon such other terms and conditions prescribed by the Secretary.

In Sec. 705(d), on line 19, omit the word "Title" and substitute in lieu thereof the

words "For the purposes of paragraphs (c)(3), (4) and (5), title".

Mr. MATSUNAGA. Mr. President, during the brief quorum call we talked about this, and the modification, as I understand it, is now acceptable to both the majority and minority floor managers.

I call attention of the Senate to that initial section there which calls for insertion after the word "system" the words "which for the purposes of this subsection only, shall include any new transmission system which the Secretary determines is required to be constructed in order to connect the wind energy system into the electrical system," . . .

This, of course, meets with the satisfaction of both managers and instead of the interest-free loan we have the standard low interest loan, just as we do now in existing law for water projects and other authorized projects. By agreeing to this modification, I would expect the Secretary of Energy to give favorable consideration to granting these loans for the full twenty year period authorized by the amendment. This would carry out our intent of promoting alternate energy programs such as the wind program.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Hawaii has accurately stated the amendment. It does require that the loans bear interest at the rate in the water resources legislation, under which I believe the present rate is 7.8 percent or 7.25 percent or 7. something percent, and provides that it shall not rise, as I recall, more than a half percent a year.

This is the same kind of treatment which we have given to low head hydro and to geothermal, and I think it is appropriate, particularly when we consider that with the powerplants that use, for example, fossil fuels they can deduct from their income tax the amount of fuel used, which is a real help to those kind of fossil fuel plants. So a subsidy for wind energy of the difference between whatever the market rates are and the rates paid under this water resource bill is I think appropriate, and we are glad to accept it.

I congratulate the Senator from Hawaii for being the real champion not only of energy self-sufficiency but as well for wind energy.

Mr. MATSUNAGA. I thank the Senator from Louisiana.

Mr. DOMENICI. Mr. President, we have no objection. We think it is a warranted amendment and commend the Senator for offering it and urge its adoption.

Mr. MATSUNAGA. I thank the Senator from New Mexico.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Hawaii.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 741

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Is not the amendment of Senator ROBERT C. BYRD now the pending business again?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

UP AMENDMENT NO. 745

Mr. LEVIN. Mr. President, first, I ask unanimous consent that the amendment of Senator BYRD be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 745.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 82 add a new subsection 122(e) as follows:

"Sec. 122(e)(1) Notwithstanding the provisions of subsection (c), if at the expiration of such time as the Corporation is permitted for submission of its comprehensive energy strategy to the Congress, the Corporation determines that an adequate basis of knowledge has not yet been developed upon which to formulate and implement a comprehensive energy strategy for the achievement of the goals of this Title, the Corporation shall report the reasons for such determination to the Congress, and may request such additional time up to one year as the Corporation considers necessary for the formulation of its proposed strategy.

"(2) Such request shall be deemed approved after 30 calendar days of continuous session of the Congress have expired following the date of its submission, unless either House of Congress has, during such 30-day period, adopted a resolution disapproving such request pursuant to this section. If such request is disapproved pursuant to this subsection, the Corporation shall submit its proposed comprehensive energy strategy to the Congress within 90 days of such disapproval."

Mr. LEVIN. Mr. President, the Energy Committee amendment which we have adopted requires the Energy Security Corporation to submit to Congress its proposed comprehensive energy strategy within 5 years of the date of the enactment of the act.

There is, however, a possibility that the Corporation will not have accumulated adequate information at that point to formulate such a strategy.

In that event, Mr. President, this amendment would allow the corporation to request from Congress an extension of time up to 1 year for submitting its proposed strategy if it determines that an adequate basis of knowledge has not yet been developed for formulating the strategy.

The request of the corporation would be subject to one-House disapproval by the Congress. It would be deemed approved if not disapproved within 30 days. If the request was disapproved, the corporation would be required to submit a strategy to Congress within 90 days.

Any extension beyond that mechanism, Mr. President, would have to come through amendment of this legislation by Congress.

I believe this amendment is acceptable to both managers.

I yield the floor.

Mr. JOHNSTON. Mr. President, this is a good amendment because it gives to the Corporation more flexibility if needed and more time if needed to put together the comprehensive strategy. I hope they will be able to come in with the comprehensive strategy with advice from Congress much sooner than contemplated by this amendment. But this does give an extra year of fail-safe time. And, frankly, if for some good and sufficient reason they cannot do it within this period of time, they can always request us and we, I am sure, would consent to additional time.

But this at least enshrines their flexibility in the statute. We are glad to accept this amendment. We want to thank the distinguished Senator from Michigan for his help, not only in this amendment but other amendments, which have helped make this bill a better bill.

Mr. DOMENICI. Mr. President, the minority has no objection. In fact, we commend the Senator. In a broader sense than merely the language of the amendment, it is obvious that the distinguished Senator is concerned because he has learned that it is going to be rather difficult for this country to assess, based upon the first go-around, the broad spectrum of synthetic fuels and its effect on our country, both on the positive and the negative side, and he is concerned that we want to make well-considered opinions with plenty of time. It is that that promotes the amendment, I am sure.

We think the additional year of flexibility is a good addition. We hope that they will be able to do so and to have their plan much ahead of the 5 years, but in case they need more time this is a good mechanism. We urge the adoption of the amendment.

Mr. LEVIN. Mr. President, I am very grateful to both floor managers, the majority and the minority, for their cooperation in this regard.

The PRESIDING OFFICER. The

question is on agreeing to the amendment.

The amendment (UP No. 745) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Is the amendment of the distinguished majority leader the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 572, AS MODIFIED

(Purpose: To determine the causes and effects of acid precipitation throughout the United States and to develop and implement solutions to this problem)

Mr. MOYNIHAN. Mr. President, I call up my amendment No. 572, as modified, which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment of the Senator from West Virginia will be laid aside once again. The amendment of the Senator from New York will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) for himself and Mr. BAUCUS, Mr. COHEN, Mr. DURENBERGER, Mr. DURKIN, Mr. HEINZ, Mr. LEAHY, Mr. METZENBAUM, Mr. NELSON, Mr. RIBICOFF, Mr. SCHMITT, Mr. WARNER, Mr. WEICKER, Mr. WILLIAMS, Mr. DOMENICI, and Mr. BOSCHWITZ, proposes amendment numbered 572, as modified.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . (a) STATEMENT OF FINDINGS AND PURPOSE; GENERAL DEFINITION.—(1) The Congress finds that acid precipitation—

(A) contributes to the increasing levels of heavy metal concentrations in public reservoirs, water distribution systems, and waterways which often exceed recommended standards for human health;

(B) causes a retardation of a wide variety of forest growth;

(C) is responsible for the fact that hundreds of lakes no longer support fish life;

(D) is a growing concern in many areas of the country;

(E) may significantly reduce wildlife presence and productivity in both aquatic and terrestrial environments;

(F) damages natural ecosystems;

(G) is associated with the corrosion of metals caused by atmospheric sulfur pollutants, costing approximately $7 per person in the United States in 1970;

(H) especially damages such materials as galvanized steel, nickel-plated steel, painted woodwork, antirust painted steel, limestone, and sandstone;

(I) apparently results from combinations of sulfur, nitrate, and chloride emissions in upwind locations which are often remote from the authority and control of affected States;

(J) comes from such diverse sources as auto exhausts, powerplants, home heating plants, and industrial processes;

(K) has increased in its areas of impact and effects as a result of increased fossil fuel combustion and may relate to certain regulatory pollution abatement efforts such as the increase of stack heights and the removal of particulates;

(L) will increase as alternative energy sources such as coal and synthetic fuels replace oil and natural gas in combustion;

(M) has long- and short-term effects that are not clearly understood or documented;

(N) is a serious problem in Europe, Canada, and the United States, where studies in these countries indicate that there are no simple or quick solutions to the acid precipitation problems;

(O) is an interstate and international problem that must be dealt with over vast airsheds encompassing many jurisdictional boundaries and requires interstate and international solutions; and

(P) is presently addressed by the Federal Government inadequately and in a manner lacking interagency coordination.

(2) The Congress declares that it shall be the policy of the United States to—

(A) identify the sources of acid precipitation;

(B) understand the airborne chemistry resulting in acid precipitation;

(C) determine the environmental, social, economic, and human impacts of acid precipitation;

(D) develop and implement a comprehensive plan to mitigate the harmful effects of acid precipitation in this Nation;

(E) utilize universities and other research and demonstration centers to encourage public participation in activities to influence the causes of acid precipitation and to rehabilitate affected areas; and

(F) to encourage State participation in solving acid precipitation problems.

(3) For purposes of this Act the term "acid precipitation" means the wet or dry deposition from the atmosphere of chemical compounds, usually in the form of rain or snow, having the potential to form an aqueous compound with a pH level lower than the level considered normal in natural conditions, or lower than 5.6.

(b) INTERAGENCY TASK FORCE AND COMPREHENSIVE PLAN.—(1) There shall be formed an Acid Precipitation Task Force which shall consist of the Administrator of the Environmental Protection Agency as the head of the task force, and one representative each from the Department of the Interior, the Department of Health, Education, and Welfare, the Department of Energy, the Department of Commerce, the Department of Agriculture, the National Science Foundation, and the Tennessee Valley Authority. There shall also be an additional four members who are to be appointed by the President with the concurrence of the appropriate congressional committees, and who shall represent all regions of the United States.

(2) The members of the task force shall prepare a comprehensive plan of action (hereafter in this Act referred to as the "comprehensive plan"), which shall be a coordinated plan to ameliorate the harmful effects of acid precipitation by the end of the ten-year life of this Act by focusing the combined efforts of Federal agencies, State agencies, universities, other research entities and private and public corporations on this problem. In the preparation of the comprehensive plan the members of the task force shall review similar efforts such as the plan prepared by the President's Council on Environmental Quality.

(3) The comprehensive plan shall include but not be limited to programs for—

(A) establishing and operating a nationwide monitoring network similar to the Organization for Economic Cooperation and Development (OECD) Programme on Long Range Transport of Air Pollutants employed in western Europe, which would cooperate with similar programs in Canada and Mexico;

(B) identifying and measuring the sources of acid precipitation;

"(C) understanding the airborne chemistry responsible for acid precipitation;

(D) assessing the economic, social, human health, and environmental impacts of acid precipitation;

(E) developing recommendations to eliminate or reduce the adverse impacts of acid precipitation;

(F) effecting scientific and management interchanges and agreements with appropriate foreign governments and with public and private multinational organizations such as the OECD, which is currently recognized as an effective coordinator of European acid precipitation programs, and bilateral efforts between Canada and the United States on the transboundary air pollution problem;

(G) commenting on the adequacy of the provisions and funding levels authorized in this Act;

(H) documenting all current Federal activities related to acid precipitation efforts and recommending steps to assure that efforts which are compatible with the comprehensive plan are maintained;

(I) considering, evaluating, and, as appropriate, recommending both regulatory and nonregulatory solutions such as—

(i) economic sanctions against sources of acid precipitation including, but not limited to, compensatory payments to individual victims, governmental jurisdictions, corporations, businesses, and others who are harmed by such acid precipitation,

(ii) rehabilitation of habitats, buildings, and areas already harmed by acid precipitation,

(iii) adjusted pollution standards and regulations for proven sources of acid precipitation, and

(iv) alternative means of control of acid precipitation source areas where existing or adjusted uniform standards have contributed to such a problem;

(J) developing a methodology to assess the benefits and costs of alternate solutions to the problem, the cost effectiveness of recommended options vis-a-vis other options, and the social and institutional mechanisms available to implement recommended options;

(K) establishing performance evaluation standards for the recommended options;

(L) making recommendations as to the appropriate role of universities, public and private organizations and individuals to carry out the work set forth in the comprehensive plan through such action as—

(i) offering courses, assistantships, fellowships, and scholarships for acid precipitation related subjects,

(ii) developing centers and projects to demonstrate solutions or alternatives for those affected by acid precipitation,

(iii) interpreting available research findings to groups who can use the information, and

(iv) establishing extension services to businesses, homemakers, corporations, resort owners, foresters, farmers, fishermen, and other affected groups to involve them in the overall program;

(M) describing a role for affected and contributing States to participate in this national effort to reduce acid precipitation and to rehabilitate affected areas by encouraging those States to—

(i) coordinate current actions associated with acid precipitation,

(ii) develop future programs to deal with acid precipitation,

(iii) integrate current and future State actions with Federal efforts to attain the national goal, and

(iv) develop counterparts to the task force where appropriate;

(N) recommending to the Congress potential Federal-State cost-sharing opportunities for worthwhile capital expenditures to control sources or rehabilitate affected areas;

(O) identifying State agencies that should be encouraged to develop and implement acid precipitation programs with funding authorized under this Act; and

(P) utilizing and coordinating programs and expertise in public and private corporations relevant to the solution of the acid precipitation problem.

(4) All of the subjects to be addressed in the comprehensive plan shall be dealt with on the basis of our presently limited knowledge, and the fact that there may be insufficient data to make certain determinations at this time shall not be grounds for postponing the completion of the comprehensive plan by the required deadline.

(5) The comprehensive plan shall be—

(A) the basis for determining goals and for determining who is to receive the funds authorized under this Act;

(B) the basis for establishing diplomatic initiatives and bilateral treaties with other countries involved in acid precipitation programs;

(C) submitted to the Congress and for public review one year after the date of the enactment of this Act. In the Senate it shall be submitted to the Committee on Environment and Public Works.

(D) available for public comment for a period of sixty days;

(E) revised if appropriate as a result of consideration of public comment; and

(F) considered in final form, with respect to the first, second, and third year expenditures recommended, thirty days after the close of the public comment period.

(6) The task force shall convene as necessary during the period of eleven fiscal years which begins with the fiscal year in which the plan is submitted.

(7) The members of the task force shall be responsible for the implementation of all recommendations after public and congressional review and modification.

(8) The task force shall submit to Congress, on the annual anniversary date of the submission of the comprehensive plan, an annual report which shall be referred to the Senate Committee on Environment and Public Works and shall—

(A) summarize and evaluate, vis-a-vis the goals of this Act, all Government-sponsored acid precipitation activities to date;

(B) summarize and evaluate, vis-a-vis the goals of this Act, the expenditure rate for all funds authorized under this Act;

(C) summarize and evaluate, vis-a-vis the goals of this Act, the progress to date in implementing the comprehensive plan and in reaching the national goal;

(D) document the results of the analysis of alternatives and performance evaluation actions conducted pursuant to subparagraphs (J) and (K) of subsection (b)(3) of this section;

(E) contain recommendations for additional funding needs where appropriate; and

(F) contain recommendations for cost-sharing capital expenditures with State governments to control sources or rehabilitate affected areas.

(9) The task force shall modify the comprehensive plan to reflect current knowledge and performance evaluations of overall progress. Such a modified plan shall be submitted to Congress and for public review and comment for a period of sixty days.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of establishing the task force and developing the comprehensive plan there are authorized to be appropriated $1,000,000 for the first fiscal year beginning after the date of the enactment of this Act.

(2) For the purpose of carrying out the duties of the task force in each of the ten fiscal years following the fiscal year referred to in subsection (c)(1), there are authorized to be appropriated $200,000 for each such fiscal year.

(3) For the purpose of implementing those provisions of the comprehensive plan which require Federal action under subparagraphs (A) through (E) of subsection (b)(3) of this section, there are authorized to be appropriated—

(A) $1,000,000 for each of the first three fiscal years following the fiscal year described in subsection (c)(1);

(B) $2,500,000 each year for the fourth and fifth fiscal years following the fiscal year referred to in subsection (c)(1);

(4) For the purpose of implementing those provisions of the comprehensive plan relating to the utilization of university and other research and demonstration centers, as described in subsection (2)(3)(L) of this section, including the making of grants to such entities, there are authorized to be appropriated—

(A) $1,500,000 for each of the first four fiscal years following the fiscal year referred to in subsection (c)(1);

(B) $2,000,000 each year for the fifth, sixth, and seventh fiscal years following the fiscal year referred to in subsection (c)(1);

(5) For the purpose of implementing those provisions of the comprehensive plan relating to the encouragement of State participation, as described in subparagraph (M) and (O) of subsection (b)(3) of this section, including the making of grants to States, there are authorized to be appropriated $5,500,000 for each of the first six fiscal years following the fiscal year described in subsection (c)(1).

(6) All funds authorized under this Act shall be appropriated to the Environmental Protection Agency, which shall carry out the provisions of this Act, including the making of grants as authorized under subsections (c)(4) and (c)(5) of this section.

(7) The Administrator of the Environmental Protection Agency, after agreement by the members of the task force, may, beginning with the fourth fiscal year following the fiscal year referred to in subsection (c)(1), shift amounts authorized under one subsection of this section for use as provided under another such subsection if he determines, based upon research and rate of attainment of goals under the comprehensive plan, that the funds would be more usefully spent if so shifted. No amount in excess of 15 per centum of the amount authorized for any fiscal year under any subsection may be so shifted, except that up to 30 per centum of the amount authorized for any fiscal year under any subsection may be so shifted by the Administrator if given approval by each of the chairmen of the committees of the House and Senate having jurisdiction over this Act.

Mr. MOYNIHAN. Mr. President, I rise today to offer as an amendment to the synthetic fuels legislation under discussion, a modified version of my bill, S. 1754, the Acid Precipitation Act of 1979, now submitted as printed amendment No. 572. As many of you know, on September 14 of this year I first introduced this bill and it has since been gathering support. In virtually all respects this amendment is identical to my original bill. The two exceptions are that this amendment specifies funding levels slightly lower than in S. 1754 and expands membership on the task force to include regional representatives.

In the course of this debate that bears so directly on our energy future, I believe that it is particularly important that the problem of acid precipitation be addressed now, and I offer my bill as a vehicle for doing so.

Acid precipitation, formally defined as that with a pH of under 5.6, affects broad areas throughout the country, though its effects are most pronounced in the East. Sulfur and nitrogen compounds in the environment, much of it the result of fossil fuel combustion, chemically combines with moisture in the atmosphere to form acids. These substances travel long distances and finally fall to Earth in the form of rain or dry particulates. It is suspected that the acid rain problem in Europe is caused in part by pollutants from the east coast of this country which travel across the entire Atlantic before falling. We also know that emissions in certain parts of this country can result in acid rain several States away. In short, the phenomenon of acid precipitation extends far beyond borders and boundaries, be they between States or nations.

What are these environmental effects of acid precipitation? Although there is as yet a great degree of uncertainty associated with its effects, it is nonetheless clear that certain damage is attributable to this phenomenon. Perhaps the most well known effect is the gradual acidification of streams and lakes, eventually resulting in the death of fish populations. In the Adirondacks, the crystalline lakes in the uplands are dead, no longer sustaining plant or animal life; all has been poisoned, killed by acid rain.

Acid rain has other ill effects as well. It erodes marble and limestone buildings—even the columns of the Greek Parthenon and the flying buttresses of the Cathedral of Notre Dame in Paris. It eats at the metal in water and waste pipes—adding lead and other metals to our drinking water, with consequences to health not yet fully understood. Beyond this, it may also be responsible for a decline in crop and forest productivity.

And let me stress that not only the East is suffering from the harmful effects of acid rain. Similar problems plague the Boundary Waters Canoe Area in Minnesota, where granite bedrock and shallow soil cannot counteract the acid effects of the rain. Recent studies show that the problem is also evident in the Rockies. One map prepared by the Environmental Protection Agency indicates that well over half the country has local conditions that tend to either moderate or high sensitivity toward acid deposition.

Our knowledge of the exact nature and extent of these detrimental effects is uncertain and incomplete but it can be stated that the trends are already evident; acid precipitation is likely to increase and spread as our pattern of energy usage rests more heavily on high sulfur content fossil fuels. In most cases, future emissions are likely to have an even more devastating effect than do present emissions because natural buffers that neutralize the acid in the air, land, and waters are gradually being exhausted. Much like the suddenly high acid levels found each spring when the winter's acid snow melts en masse, this future acidity may well create effects strikingly worse than those we are now feeling. Already some sources predict that over 50,000 lakes in North America will become sterile, perhaps by the end of the decade. All of these trends are disturbing.

Today we are debating the nature of our energy future, and the extent to which synthetic fuels will play a part in that future. It is clear given our limited range of energy options and given our energy demand, that synthetic fuels will be a necessary and increasing source of energy in the coming years. I see this and I agree that such a synfuels effort should be undertaken.

Yet, while we plan our energy future, we must not forget the byproducts of this new energy supply. Acid precipitation, is in part caused by the combustion of fossil fuels. So, for that matter, is carbon dioxide, a separate but similar issue addressed by Senator RIBICOFF and other of my colleagues. As we set this country on a path that will increase its dependence on fossil fuels—particularly those of higher sulfur content than the imported oil from which we seek to wrest ourselves—I say that it is appropriate at this time to look closely at the effects of such a step, and to increase our understanding of the consequences of our actions.

My amendment would do precisely this. It will establish a comprehensive and long-term effort to understand and solve the problems of acid rain, and in the interim will encourage short-term efforts to ameliorate the effects of the problem.

In outline, the amendment I am now proposing will provide the following:

It will establish a Federal Acid Precipitation Task Force composed of representatives of the Departments of the Interior; Energy; Health, Education, and Welfare; Commerce; Agriculture; the National Science Foundation; the Tennessee Valley Authority, and four persons appointed by the President to represent all regions of the Nation.

The task force will be chaired by the Administrator of the Environmental Protection Agency;

It directs this task force to develop a comprehensive plan to coordinate the efforts of Federal and State agencies, localities, university, other research and demonstration centers, and public and private corporations.

At the Federal level the amendment proposes that the task force programs be designed to:

Understand the complex meteorological and chemical process involved in the acid rain phenomena;

Determine and document the effects of acid rain, and develop recommendations for the redressing of these effects;

Foster scientific and management interchanges and agreements with foreign governments and public and private multinational organizations;

Consider and recommend regulatory and nonregulatory solutions to the problem, which may include compensatory payments or effluent charges to industry, rehabilitation of affected areas, adjustment of pollution standards, and other emission control techniques.

At the State level, this legislation would:

Encourage Federal and State cost-sharing opportunities for the capital expenditures needed for controlling pollution sources and rehabilitating affected areas;

Authorize Federal funds for the States to implement such recommendations.

In addition, this legislation will authorize Federal funds to be allocated to universities and other research and demonstration centers to carry out activities set out for them by the Acid Precipitation Task Force. Such actions should include:

Developing course curricula on acid precipitation problems;

Establishing university centers to evaluate the effectiveness of proposed solutions to the acid rain problems; and

Establishing university extension services in local communities to involve local groups in the overall program set out by this legislation.

The Federal task force is also directed to assess the effectiveness of all its programs in meeting the overall objectives of the act. Each year a report will be submitted to Congress documenting the progress made to date toward finding solutions to the acid rain problem. While research is the emphasis in the early years of the act, implementation programs are given greater incentives in the later years of the act.

Listening to me, some of my distinguished colleagues may wonder of the need for this amendment, given the President's recent initiatives in acid precipitation research, as detailed in his environmental message of August 2. And indeed, I am not unaware of his effort. However, the program I propose here goes beyond that of the administration, in several ways. First, in adopting this amendment, the Congress would be establishing a Federal program that would continue for the 11-year life of the Acid Precipitation Task Force. This would be the case regardless of administration or the currents of environmental awareness. Then too, this legislation would provide additional funds for the study of this issue while the President merely reprograms some funds and arrives at a study of a smaller magnitude than this one. Importantly, much of the funding in my proposal is targeted for specific research efforts, including State and local programs and universities and other research and demonstration efforts.

Public and congressional scrutiny also plays a greater role under this proposal than under the President's policy. In the case of the program I advocate, the task force would formulate its recommendations, after study and analysis, and would then have the authority to implement them, subject to congressional and public review. Similar authority is not conveyed under the President's proposal.

It is clear that the difference between the two programs centers in the degree of concern, direction and serious long-term study and resolution of this problem. I am offering more than a token effort, and I ask my colleagues to support me in this effort. For all the uncertainty involved, it is clear that the problem can only grow, and we are already overdue in our effort to understand it, and in the long term, to resolve it.

Mr. President, as the distinguished managers of this legislation know, this is a bill which has been referred to the Committee on Environment and Public Works. Along with a companion measure, which the distinguished senior Senator from Connecticut has already successfully introduced, we are proposing to add it to the present legislation because of the intimate relationship between the national enterprise to produce more energy and the simultaneous need to cope with environmental aspects of increasing energy use. These environmental consequences of energy use have reached the point of being profoundly troublesome.

The Senator from Connecticut has proposed an inquiry into the effects of increasing CO_2 atmospheric concentrations on the climate in the prospective future. This relates to the so-called greenhouse effect, which has absorbed scientists for the last 10 or 15 years. Increasing CO_2 levels are suspected to trigger climatic changes and the probable or at least the possible changes of much higher orders which simply have to be comprehended more than we do. We have learned to measure these concentrations but have not learned to judge what will finally be their impact or how that impact might be offset.

Similarly, in recent years we have begun to notice the increasing acidity rain and the extraordinary effects which acid precipitation can bring about. It is this concern which prompts me and Senators BAUCUS, COHEN, DURENBERGER, DURKIN, HEINZ, LEAHY, METZENBAUM, NELSON, RIBICOFF, SCHMITT, WARNER, WEICKER, WILLIAMS, DOMENICI, and BOSCHWITZ to move this measure now.

I would note, Mr. President, that this is an aspect not only of national but of international concern.

This week the President will be visiting with the new Prime Minister of Canada. One of the principal topics of discussion between them will be acid rain.

There are industrial parts of the world where rain has fallen with the acidity of vinegar. Even more striking than this is that this is an environmental effect that can be felt oftentimes tens of thousands of miles from its source. The simple fact is that the chemical aftermath of combustion of fossil fuels is carried high into the air and thence by winds to distant parts of the globe. Rain carries these acids to the ground, and with it a variety of harmful environmental consequences.

In the Adirondacks, particularly in areas of higher altitudes in the northern part of my State, most of the lakes have, in effect, been "killed." One of the great natural resources and wonders, if you will, of the Northeastern United States

are the high lakes of the Adirondack Mountains. Almost a century ago the State of New York bought up these areas and declared them to be a forest preserve which our State constitution says shall be kept forevermore—it is unbelievably difficult to try to straighten out a road in a forest preserve; you need a constitutional amendment to cut down a tree. This designation of the Adirondacks as a forest preserve was the first great environmental protection event in the history of the United States. The idea of wilderness, the idea that has made the national parks what they are, the idea of wild rivers and such as that—all this began with the effort in the Adirondacks, the effort that would insure that they would be untouched by modernization and by economic exploitation. They would remain a wilderness for men on foot, on horseback, or in canoes, to enjoy. Yet 80 years later we looked up and found the lakes to be dead, killed by chemicals from other countries and other States.

Mr. President, this particular problem is a scientific inquiry for which a solution can be expected, that the application of resources will bring answers. The answers may be that there is nothing that can be done, though that is unlikely. In any event, the application of resources will produce results, and it is time we began doing so. The resources involved are paltry. The sums of money are a few million dollars each year for the next decade, but it could be the beginning of a data base and of a technological understanding of the meteorological, hydrological, and ecological aspects of the acid rain phenomenon.

Mr. JOHNSTON. I wonder if the Senator will yield for me to say that I think his amendment is an excellent one. Acid rain is a phenomenon that we know very little about, except that the consequences of acid rain are very serious and we must find out about it. This study is to be operated within the Environmental Protection Agency and I think it is very appropriate for that purpose.

We are glad to accept the amendment and congratulate the Senator and his cosponsors for their leadership in bringing this to our attention and making it part of this bill.

Mr. SCHMITT. Will the Senator yield further?

Mr. MOYNIHAN. I am happy to yield to my friend, of whom I often have occasion to say that, since Thomas Jefferson presided, he is the first scientist to be in the U.S. Senate.

Mr. SCHMITT. The Senator is, once again, very kind and his kindness is appreciated.

Mr. President, the minority joins with the Senator from Louisiana in his enthusiastic acceptance of this amendment.

I am a cosponsor of this amendment. I can only add to the very appropriate remarks of the Senator from New York that what he said is true: If we can just define the problem, we can more than likely find a solution or at least understand better the consequences of not finding a solution or not searching or being willing to pay for such a solution.

As a geologist, I can say, I think, with 4½ billion years of time to back me up, that the Earth is a very resilient place. Unbelievably catastrophic things have happened to this place, either very quickly or over periods of time. Vast populations of species have died out because of it.

We need to understand better whether mankind has reached that point where it can overcome the resilience that the Earth has shown in the past. If we overcome it by an excessive pollution of our atmosphere, lower as well as upper, we must be willing to pay for those consequences. I believe, on the other hand, that once we fully understand this problem, we shall be willing to pay the price or find the alternatives that will eliminate them.

The sulfur, nitrates—we know pretty much what the elements are that are causing the problem. The question is, are we going to develop the technologies and allocate the resources to eliminate those products at their source before they reach the atmosphere, before they become products that can go into solution in the rain?

The Senator, having brought this to everyone's attention, certainly should be complimented. I support him completely, as does the minority of the committee.

Mr. MOYNIHAN. I thank my friend from New Mexico. I thank him for confirming, in as courteous a way as he thought he could do that this kind of problem will respond to inquiry and that the Senate is proposing to learn something about the subject before it mandates solutions.

It will be possible to make profoundly gross mistakes here if we do not do some research first, mistakes that would cost billions. It may be that countermeasures here, buffering measures here, as yet unimagined, will turn out to be just the trick we need. This is work for good brains, given a certain amount of resources and a certain amount of time.

I see the Senator from Pennsylvania is on the floor. He is a cosponsor, my neighbor and friend. I hope that he would like to speak to this matter.

Mr. HEINZ. The Senator is correct in his observation and his surmise. I thank the Senator for yielding.

Mr. MOYNIHAN. I am happy to yield.

Mr. JOHNSTON. Mr. President, I hope we can pass this amendment that has been accepted on both sides. We have to finish this whole bill by midnight tonight and I am afraid it will take every minute of that.

Mr. HEINZ. Mr. President, I shall be brief.

I rise in support, very strong support, of the amendment offered by Senator MOYNIHAN, of which amendment I am a cosponsor. I commend him for his leadership on this issue. He was the first to introduce substantive legislation in this body, a very comprehensive bill, I had the privilege to work with him and his staff to make a few very modest suggestions, which have been incorporated into this amendment.

SYNFUELS PROGRAM NOT COMPLETE WITHOUT FUNDING TO COMBAT PROBLEM OF ACID RAIN

Mr. President, as the Senate considers the synthetic fuels bill, I cannot overemphasize the importance of including in this measure a program to deal with the growing threat to plant and aquatic life, farmland, property, and human health posed by acid rain. As you may be aware, acid rain is the result of emissions of nitrogen and sulfur dioxide which combine with water molecules to form two of the most corrosive substances known to man: Nitric acid and sulfuric acid. In turn, this acid rain retards forest growth, damages crops and cropland, renders lakes and rivers sterile by acidification, deposits toxic metals in water supplies, and corrodes buildings and automobile paint. Acid rain is borne at such high altitudes that much of the Scandinavian rain problem comes from other western European nations and even from North America. Similarly, Canada receives three times as much sulfur dioxide from the United States as it sends back.

Because of the national commitment to energy independence—a commitment necessitating greater coal utilization and a demonstration program of synfuels development—the phenomenon of acid rain is likely to worsen without some form of decisive action to deal with a problem that respects no State or national boundaries. The synfuels development program would thus seem to be a logical place to include a program of acid rain research and demonstration projects which I have previously cosponsored in the form of a bill, S. 1754, along with my distinguished colleague from New York, Senator MOYNIHAN.

Briefly, this program would:

First. Establish a Federal Acid Precipitation Task Force chaired by the Administrator of EPA and composed of representatives from the Departments of Agriculture; Commerce; Health, Education, and Welfare; and Interior; from the National Science Foundation and the Tennessee Valley Authority, and from the various regions of the country.

Second. Direct the task force to develop a plan to coordinate the efforts of Federal and State agencies, localities, universities, and research and demonstration centers, and public and private corporations; and

Third. Authorize $125 million to be spent by the Federal Government over the next 11 years.

This amendment is also extremely timely in view of an international conference on acid rain held in Toronto on November 1, 2, and 3 which attracted more than 700 scientists, government officials, industrialists, and environmentalists from Canada, the United States, and Europe. In fact, this conference provided the impetus for the excellent New York Times article of November 6 documenting what is known about the hazards of acid rain and what remains to be discovered.

My interest in the problem of acid rain was first sparked by scientific reports establishing that Pennsylvania is in the "eye of the acid rain storm." In fact, samples taken during the past year at the Northeastern Forest Experimental Station at Kane, Pa., have recorded on a continuing basis some of the most potent acid precipitation anywhere in the United States and possibly in the world. Since that time, I have encountered numerous other reports documenting the effects of acid rain—effects so severe that Sweden and Norway are considering taking the issue before the World Court to try to collect damages from other countries, and Mexico and Canada would like to negotiate treaties with the United States to deal with the problem. Therefore, last month I testified before the National Commission on Air Quality about the growing threat posed by acid rain and urged passage of S. 1754. I ask unanimous consent that a copy of my testimony before the Commission be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEINZ. Mr. President, in short, I feel that the Senate would be remiss if it were to enact a synfuels development program without also including provisions to deal with the environmental problems which such a program would exacerbate. I urge my colleagues to join me in supporting this measure.

Mr. President, this amendment addresses an extremely timely problem and, like some things, now is the time to address a problem of modest seriousness before it becomes a very serious problem that is much more costly to address. I urge my colleagues to accept the amendment.

EXHIBIT 1

STATEMENT OF SENATOR JOHN HEINZ, NATIONAL COMMISSION ON AIR QUALITY MEETING ON ACID PRECIPITATION, OCTOBER 5, 1979

Mr. Chairman, I am most grateful for this opportunity to appear today before the National Commission on Air Quality as it investigates the problem of acid rain. I shall not occupy too much of the Commission's time as I understand you have several expert witnesses appearing before you today and I have pressing business at the Finance Committee. I would, however, like to take a few minutes to express my concern about the acid rain problem and offer a few suggestions for its resolution.

As you know, my interest in environmental issues is a longstanding one, dating back to my days in the House of Representatives when I helped organize the Environmental Study Conference and was one of the principal authors of the Clean Air Act Amendments. I am particularly interested in the topic of your meeting today because whatever solution the Commission and others now studying the acid rain problem ultimately produce will have a significant effect on the state which I represent, Pennsylvania.

First, although much remains to be discovered about the causes and potentially harmful effects of acid rain, preliminary investigation has established that Pennsylvania is in the "eye of the acid rain storm." According to an article in a recent issue of Pennsylvania Forests, which I am asking be inserted in the RECORD, samples taken during the past year at the Northeastern Forest Experimental Station at Kane, Pennsylvania, have recorded on a continuing basis some of the most potent acid precipitation anywhere in the United States and possibly in the world. As evidence of the mounting concern in my state about acid rain, at a recent meeting of conservation groups in Pittsburgh which I convened to discuss the issues of Alaska lands and RARE II wilderness areas in the Allegheny National Forest, several spokesmen for environmental groups wanted to know what Congress intended to do about the acid rain problem. And just last week, the Philadelphia Inquirer ran a front-page article on the growing threat posed by acid rain.

Not only is Pennsylvania disproportionately affected by acid rain, some of its key industries such as coal and steel may well be called upon to bear the brunt of whatever solution to the acid rain problem that the Commission and others studying the problem may propose. As part of the national goal of energy independence, of which I am in full support, the nation's output of coal is to be doubled by 1985 to replace imported oil and scarce natural gas reserves, and air quality standards may be eased. Yet frequently cited as a cause of acid rain are particles of sulfur dioxide produced mainly by power generating plants and large industrial smelters—which use the coal so abundant in Pennsylvania and other states and so necessary if the dependence on imported oil now crippling the nation's economy is to be reduced. I am thus concerned that in the process of attaining energy independence, the health of our people and the productivity of our forest, agricultural, and water resources are not sacrificed. At the same time, I would hope that in attaining the equally worthy goals of air quality and reduced acid rain, we do not place an unreasonable burden on those industries whose continued vitality is crucial to meeting the nation's energy needs.

I shall not dwell at length on the effects of acid rain, leaving such a discussion to the expert witnesses from whom you will be hearing today. Suffice it to say that the reports I have seen, several of which I am inserting into the hearing record for the benefit of Commission members and staff, have established the following:

Scandinavian studies have demonstrated decreased forest growth in areas of acid rain. This phenomenon has been documented to a lesser extent in the Northeastern United States.

Farmers find themselves forced to counteract the effects of acid rain by adding fertilizer to replace nutrients leached from the soil and lime to neutralize acid. A strong acid rain can result in holes in lettuce, spots on tomatoes, damage to leaves, and retardation of plant growth.

Acidification of lakes and rivers can render them sterile. Not only does acidity adversely affect the reproductive capability of adult fish and the survivability of eggs and young fish, a sudden acid-laden snow melt may kill thousands of fish in a single day by acid shock or aluminum poisoning. In Scandinavia, there are already 15,000 fishless lakes. In Canada, scientists fear that as many as 50,000 lakes may become sterile over the next two decades. And in the Adirondack Mountains of New York, over 300 lakes are now sterile.

The quality of drinking water is harmed by acid rain as it deposits toxic metals into reservoirs, leaches metals out of the soil and into the water table, and picks up metal from pipes. Last year Dr. William E. Sharpe at Pennsylvania State University studied drinking water in Clarion, Pennsylvania, where residents depend on cisterns for drinking water. In several instances drinking water exhibited dangerously high levels of lead. Snow in the area showed high levels of lead and cadmium, both of which are toxic in sufficient quantities. "And those were just the ones we checked for," observed Dr. Sharpe. "There could have been other things—arsenic, mercury . . . we didn't check for those."

Acid rain has a corrosive effect on buildings and automobile paint. In fact, during the same week that the highest acid precipitation rate yet observed was recorded at Kane, Pennsylvania, over 200 cars in the Harrisburg area alone received damage to painted surfaces from acid dew. Even nylon stockings deteriorate more rapidly from acid rain.

Ironically, efforts to meet air quality standards by building taller smokestacks have contributed to the acid rain problem and spread it across vast distances. As a result, acid rain in Europe is borne by Atlantic air currents from North America. In fact, Norway and Sweden are considering taking the issue before the World Court to try to collect damages from other nations. Similarly, Canada receives three times as much sulfur dioxide from the United States as it sends back and therefore wants to negotiate an air pollution treaty with the United States. And here in the U.S., evidence suggests that much of the acid rain problem in the Northeastern states originates in the Midwest.

Because of the scope of the acid rain problem—and the fact that it respects no state or national boundaries—a nationwide research effort is needed to determine the origins of acid rain, identify its hazardous effects, and suggest solutions. In recommending such an effort I do not intend to denigrate the ongoing research of the Acid Precipitation Experiment (APEX); the National Atmospheric Deposition Program (NADP) at the Department of Agriculture; the Multistate Atmospheric Power Production Pollution Study (MAP3S) at EPA; and the Sulfate Regional Experiment (SURE) sponsored by the Electric Power Research Institute (EPRI).

However, I feel that a more comprehensive approach is warranted. In his 1979 Environmental Program President Carter has proposed a ten-year Acid Rain Assessment Program, an approach whose concept I support. That is why I am cosponsoring, along with my distinguished colleague from New York, Senator Moynihan, S. 1754, the Acid Precipitation Act of 1979. This bill would, among other things, do the following:

(1) Establish a Federal Acid Precipitation Task Force chaired by the Administrator of EPA and composed of representatives from the Departments of Agriculture, Commerce, Health, Education and Welfare, and Interior, and from the National Science Foundation and the Tennessee Valley Authority.

(2) Direct the Task Force to develop a plan to coordinate the efforts of federal and state agencies, localities, universities and other research and demonstration centers, and public and private corporations.

(3) Authorize $152 million to be spent by the federal government over the next eleven years.

There are some modifications to the measure, however, which I would like the Environment and Public Works Committee to consider. First, I am concerned about the cost of the program and would want assurances that its work would not duplicate the ongoing research efforts which I cited previously. Second, there exists a more serious omission in the bill as introduced which is that representatives of state governments which will be called upon to implement the recommendations of the Task Force are not included among its membership. Similarly, I feel that the Task Force should include representatives of industries likely to be affected by its findings. Third, I would like to direct the Task Force to seek solutions to the acid rain problem which do not place an unreasonable burden on those industries whose continued vitality is crucial to meeting the nation's energy needs. The provision in S. 1754 for capital grants to states is a step in this direction.

More importantly, in calling for this long-term research effort I do not mean to suggest that there are not immediate steps which can be taken to reduce the environmental and health hazards posed by acid rain. Although additional scientific research is needed to demonstrate conclusively the causes and effects of acid rain, any reason-

able man—or woman—can infer on the basis of evidence already available that:

(1) acid rain has harmful effects on plant and aquatic life, farmland, property, and human health; and

(2) the primary source of acid rain is emissions of sulfur and nitrogen from such sources as fossil fuel burning power plants.

I therefore suggest that the following steps be taken to alleviate the effects of acid rain:

First, the use of stopgap measures such as liming of acidified lakes to reduce the immediate hazards of acid rain while long-term solutions are being devised;

Second, a ban on further construction of tall stacks which heretofore have been used by many air pollution sources to comply with clean air standards;

Third, economic feasibility studies of retrofitting existing tall stacks and other pollutant sources with scrubbers;

Fourth, requiring that new power plants and other contributors to the acid rain problem not be sited where they will exacerbate the acid rain problem; and

Fifth, including funding in the national energy program of increased coal utilization and synthetic fuels development for emissions control equipment and other programs to combat acid rain.

In conclusion, I hope that this meeting of the Commission and proposals such as I have outlined today will help draw further attention to the problem of acid rain and expedite the development of much-needed solutions. I hope that the Commission has found my remarks today enlightening in this respect.

ACID RAIN ON PENNSYLVANIA FORESTS, WATERS

(By Larry J. Schweiger)

A young tree planter clad in blue jeans and a cotton plaid shirt bends over a newly created hole in the ground. With the last of many White Pine transplants to be set into the soil this spring day, his hands spread the fine root system throughout the hole. While carefully pressing excavated soil back around the roots, sticky clay particles cling to his hands.

Completing the task, he unconsciously rolls the clay globs into a ribbon and looks over the day's work. Scattered throughout this clearcut can be seen small but ubiquitous mixed pine seedlings midst downed tree tops. He ponders about future fruits of his effort, knowing fullwell these seedlings must fend against a miriad of natural enemies including insects, wildlife and forest fires.

Their future unfortunately, will be out of the planter's control and increasingly threatened. For on top of a number of natural enemies to tree seedlings, modern civilization is stacking many more insidious threats. One very critical to the future forest is acid rain from air pollution.

Worldwide concern has been growing in recent years about forest productivity that may be reduced by far away air pollution emissions. The rate of forest growth has declined in Southern Scandinavia and in the Northeastern United States between 1950 and 1970. Documentation of the cause of the decline is lacking, but acid precipitation is increasingly suspect.

Numerous laboratory experiments have shown that acid rain can damage leaves; alter trees responses to both beneficial and disease causing organisms; effect the germination of conifer seeds and interfere with the establishment of seedlings effect the availability of needed nitrogen and potassium in the soils; decrease soil respiration; and increase leaching of nutrient ions from the soil.

A report entitled: "Environmental Effects of Increased Coal Utilization," by the Environmental Protection Agency, sites the above laboratory results but warns: "It has not yet been possible to demonstrate unambiguously decreased tree growth in the field." But in all probability, it is happening now.

Pennsylvania appears to be in the eye of the acid rain storm. Samples taken at the Northeastern Forest Experimental Station during the past year show its station at Kane to be recording on a continuing basis some of the most potent acid precipitation anywhere in the United States and possibly in the world.

Debilt station in the Netherlands had a pH of 3.78 as a yearly weighted average in 1966–67 which is considered the highest acid precipitation rate in the world. The lowest pH reading at Kane occurred on the nineteenth of September of 1978 when a sample collected showed a pH reading of 2.32. During the same week over 200 cars in the Harrisburg area alone, received damage to painted surfaces from acid dew.

In a statement before the Environmental Quality Board on January 1979, Ralph Abele the Executive Director of the Fish Commission said, "As more data are received on this subject, it becomes clear that Pennsylvania is now a full partner with the problem of acid precipitation which was first observed in Scandinavia and in upper New York State.

Maps developed by researchers indicate that large areas of Pennsylvania are receiving the brunt of the acid precipitation in the eastern United States. The evidence seems to indicate that this may be the result of long-distance transport of pollutants from the midwestern industrial centers. In all probability, the problem has been intensified by states to the west of us allowing the construction of tall stacks without the use of scrubbers which would eliminate the source of much of the acid rain.

PH isophleths from 1955–56 to 1972–73 in the northeastern portion of the United States indicate the average annual pH has been decreasing steadily. The most recent data shows that this trend is continuing. In response to this problem, several networks of acid rain stations are being formed in the United States and more stations should be considered.

A thorough study of existing information and data has already caused the President's Council on Environmental Quality to call acid precipitation one of the two most critical environmental problems. (The other is the buildup of atmospheric carbon dioxide with it's long-term potential for profound climatic alteration. Atmospheric carbon dioxide has increased 12% since 1850.)

An acid rain report prepared by the National Atmospheric Deposition Program to the Council on Environmental Quality states: "The increasing acidity of precipitation has already caused measurable damage to aquatic ecosystems and has the potential for longer-term injury over decades to forest systems.

"It can severely impoverish sensitive soils and degrade the natural ecosystem so important to human welfare. The continuing, unchecked environmental degradation caused by acid precipitation could reach a stage where the damage to natural ecosystems would be irreversible."

There basically appears to be four forces in eastern United States to cause acid rainfall increases:

1. Increased consumption of high sulfur fuels to solve the energy crisis.—Pennsylvania, for example, has increased coal production by 23 million tons since 1961. Between 1960 and 1980, nationwide sulphur oxide emissions to the atmosphere will have nearly doubled. SO_2 emissions amounted to twenty-three million tons in 1960, thirty-three million tons in 1970 and estimates indicate emissions will reach forty-one million tons by 1980.

2. Increasing acid loads from the automobile.—Gasoline contains small quantities of thiophene which is an organosulfur compound. Thiophene is oxidized through combustion to form sulphur dioxide in the automobile engine. In new autos equipped with catalytic converters, some of the SO_2 may be converted to SO_3, which readily reacts with water vapor in the exhaust system to form H_2SO_4 or sulfuric acid.

Small quantities of acid then are emitted from the converter as acid aerosol. Despite this fact, the Environmental Protection Agency after study recommends that no automotive devices be added or altered to curb the sulfur related emissions primarily because this source is thought to be "minor".

3. Loss of buffering potential from fly ash reductions.—Fly ash is neutral to slightly basic in nature and has a tendency to act as a buffer against acids. The struggle to meet established air quality standards has been much more successful in the area of controlling particulates than that to control sulfates.

Electrostatic precipitators have been the primary device for controlling fly ash from coal burning power plants. First used in 1923, precipitators were increasingly applied to control particulates through the fifties and sixties. Today, the average particulate removal efficiency is 99.5%.

On the other hand, sulfur controls are moving much slower. As of May of 1978, only thirty - six scrubber - equipped - coal - fired plants were in operation nationwide, representing less than 5% of all coal generation. It has been estimated that only one hundred and thirty-eight flue gas scrubber-equipped-coal-fired utilities will be operational by 1986.

Additionally, a recent inter/agency study on Ecological Effects of Increased Coal Utilization concluded that this trend will continue over the next twenty years as sulfur oxide emissions will increase 25% over 1975 levels by the year 2000 while the particulates will continue to be reduced to about 80% of the 1975 levels.

Since fly ash is known to have buffering effect on rainfall pH, the contention is made by many experts that high particulate loading from the combustion of coal in the past could have caused a buffering of acids. A study of Lichen and Borman of Cornell University for example, conclude that the installation of partical removing devices eliminates these alkaline substances consequently permitting appreciable quantities of SO^2 to be converted to free acid. Free acid is now believed by some to account for up to 80–100% of total acid.

4. The role of nitrogen oxide in the formation of acid is believed to be on the increase in eastern United States.—

Nitrogen oxides are favored during high temperature combustion and come from atmospheric nitrogen that becomes part of combustion air. (Nitrogen makes up 78% of the atmosphere.)

In the past, nitrogen oxides play a larger role in the formation of western acids but have played a much smaller role in the formation of those in the east. However, NO_x is currently believed to be increasing from 22% of the total to 30% of the total acid load.

With the National energy goal of double coal output by 1985 to replace imported oil and scarce natural gas reserves, we can only expect short and long-term impacts of acid rain to become more damaging to sensitive forest and water ecosystems. Further softening of air quality standards also appears imminent.

The Environmental Protection Agency is under pressure from many forces, and is proposing to relax air pollution standards

for new coal fired plants by shifting from full to partial scrubbing on a sliding scale of 70–90% depending on sulfur content of coal consumed. The scale will be based upon meeting the ceiling of 1.2 pounds of sulfur per million Btu's.

This proposal is in violation of the 1977 Clean Air Act amendments which mandate the Environmental Protection Agency to require "best available control technology" (full scrubbing) on new facilities. According to estimates, this move may reduce future electric bills by an average of fifty-five cents per month. But the costs will be passed along to the owners of forest lands in terms of damage to natural reproductivity.

Thus, acid rain has already become a destructive intruder into Pennsylvania's forests, frustrating the young tree planter and forest land manager alike. Over the past seventy years, foresters have made great strides in the direction of better forest resource management. It now appears that this work might be severely marred by forces largely out of the hands of those responsible for the resource.

There are however, many things that foresters can do to help win the battle against forest damages caused by acid deposition. The forest industry should support research projects to determine the long-term impacts and costs of acid on various soils and tree species. Foresters may also be helpful by supporting the various environmental groups' efforts to prevent relaxation of air quality standards.

This Nation needs to minimize the dependence on foreign sources of energy. But in pursuit of that goal, we must also minimize the environmental damage caused by air pollution.

In the short-term, it might appear wise to relax air quality standards to burn more coal. In the long pull however, coal's future will largely depend on our ability to clean it to acceptable levels.

In 1976, Dr. Lichens of Cornell University suggested that desulfurization was the only realistic and viable alternative to minimizing the sulfur oxide problem. He estimated that the United States could cut sulfur emissions in half by spending four billion dollars in control measures.

Other researchers indicate the cost can further be reduced by the generation of "producer gas" from coal and by further "fine tuning" the combustion process to minimize emissions.

A study by Dr. Cooper in 1976, envisioned a system of sulfur recovery which included transporting sulfur wastes to western agricultural areas to supplement sulfur deficient soils thus increasing soil productivity and turning a liability into an asset.

The United States vitally needs coal-produced energy! However, we do not need energy at the sacrifice of paper, wood, food, fish and wildlife resources or environmental quality. With careful management and planning, we can have sufficient energy and a healthy environment at the same time.

[From the Philadelphia Inquirer, Sept. 12, 1979]

EPA SEES DANGER OF "ACID RAIN" RISING DAILY

(By David Hess)

WASHINGTON.—Evidence is mounting that the smokestacks of the Midwest are endangering the health and property of millions of Americans and Canadians in the northeastern quarter of the continent.

Environmental Protection Agency (EPA) scientists, although admittedly far from reaching definite conclusions on the extent of the danger, say that the threat is rising daily. It will get "a helluva lot worse before it gets better," one scientist said.

They have a shorthand description of the threat: "acid rain."

EPA researchers believe that it is contaminating public drinking water supplies, reducing some farm crops and damaging certain forests, especially deciduous hardwoods.

Here's what happens:

Sulfur-laden smoke, laced with nitrogen oxides, plumes skyward from thousands of coal-fired boilers in Ohio, Indiana, western Pennsylvania and other Great Lakes states.

Wafting at high altitudes, the plumes bear north by northeast, impairing visibility and mixing slowly with clouds.

Combined with moisture, the sulfur and nitrogen oxides capture the hydrogen atoms in the water. When atmospheric conditions are right, they plummet to earth as rain or dust in Canada, in the Adirondack and Allegheny mountains and in New England.

And what goes up as smoke is not the same as what comes down as rain and dust. The bond between the hydrogen and sulfur-nitrogen oxides forms two of the most corrosive substances known to man, sulfuric and nitric acids.

Over the last few years, the northeastern United States and vast tracts of eastern Canada have been bathed increasingly by these acid rains.

Already, hundreds of mountain lakes in New York, Pennsylvania and New England have been "killed" by the acidic downpour, and no longer can support fish or other aquatic life. In Canada, thousands of pristine lakes have been similarly destroyed.

EPA scientists also have found evidence that acidic contamination of lakes and streams increases the amount of dangerous heavy metals such as mercury and aluminum by suspension. This poses a serious threat to some drinking water supplies.

Acidic contamination of water supplies has corroded the pipes of some public water systers in upstate New York, the EPA says, causing harmful metal particles to flake off into drinking water.

"The long-term effects of this contamination could be horrendous," said EPA deputy administrator Barbara Blum.

EPA officials say the exact extent and severity of the pollution has not been established.

In Pennsylvania, the Department of Environmental Resources has brought suit against the EPA for allowing two power plants in West Virginia to burn high-sulphur coal, arguing that its use will worsen the acid rain problem in Pennsylvania.

"The Pennsylvania Fish Commission has been studying streams throughout the state and found that the water in them is becoming more acidic, as a result of acid rain," said David Milne, spokesman for the Department of Environmental Resources.

"Farmers have been finding that their soil is more acidic, so they have to lime more, and it has an effect on automobile paint and buildings, and even causes nylon stockings to deteriorate."

EPA is mounting a $5 million research program, starting Oct. 1, to begin a systematic collection and evaluation of evidence of the pollution draft. The Agriculture Department and President's Council on Environmental Quality, among others, also are involved in the hunt.

In his Aug. 2 environmental message, President Carter committed an additional $10 million, over the next decade, to the research effort.

Much of the money is expected to go for research on the direct and indirect effects of acid rain and dust on people, land, plants, surface and underground water supplies, and man-made structures.

EPA admits that it does not fully understand the basic physical processes involved in the formation, spread and deposit of the acidic residues.

East of the Mississippi River, the principal source of the pollutants is the electric utility industry, whose coal-fired boilers spew millions of tons of sulfur and nitrogen oxides into the air yearly.

Ohio is the major source of the pollution, EPA experts say, accounting for about 11 percent of the nation's total polluted smoke.

The EPA has been battling with Ohio officials and utilities for years in an effort to bring the state into compliance with current air quality rules.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Pennsylvania for his generous remarks. He is a full partner in this endeavor.

I see the Senator from Montana, who is also a cosponsor of this legislation. He has a modification of my amendment that strikes me as being altogether appropriate in this enterprise. I yield to the Senator from Montana.

Mr. BAUCUS. I thank the Senator from New York.

Mr. President, I think that it should be made very clear to the American people that Senator MOYNIHAN's proposal to attack the problems associated with acid precipitation is a good one.

Many in this country are simply not aware of the seriousness of the problem, and that bold and energetic initiatives such as this one are necessary if this country is to head off what is clearly a very formidable threat to its environment.

Not only do I uphold what Senator MOYNIHAN is proposing, but I ask other Senators here in this Chamber to consider very carefully the potentially beneficial implications to their own States if this measure is adopted, and especially those Senators representing Western States.

Many of our children in the Eastern United States are already aware of the serious challenge that acid precipitation poses to the environment.

Without our realizing it, acid precipitation has killed literally thousands of lakes and streams in the Northeast, and, to no mean or insignificant degree, has poisoned many of the best agricultural lands throughout this country.

As serious as acid precipitation is, it is a subtle threat. It pollutes slowly, and in the past we have awakened to its challenge when it was too late. As a Nation, we have failed to understand acid precipitation, and as a result, we have not made the decisions necessary to curb its effects.

The cost has been the death of many of our lakes and streams, especially in the Northeast. But before it is too late this country, particularly the West, we must act in concert to attack this problem.

The peoples who inhabit other portions of the country apart from the Northeast must be aware of the threat that acid precipitation poses to them also, and they must understand this now.

I want to stress that Senator MOYNIHAN's proposal has significant and positive implications for more than just the Northeast. It calls for widespread action, and over a period of several years. It calls for research which will reveal sources and solutions.

It calls for initiatives which will spare all portions of America this terrible threat. Speaking as a westerner, and one

who is a strong supporter of our environment, I urge my colleagues to support Senator MOYNIHAN in his most important efforts.

This is especially true for the Western interests of this country. Senator MOYNIHAN has agreed to accept my proposal for four regional representatives, to be appointed by the President and approved by the appropriate committees of Congress, to the task force which his measure will establish. This means that the South, Southwest and Northwest will have an important voice in this decisionmaking body.

Regional representation on the task force will also enable Western States to voice concerns and solutions in addition to providing the hard data required for domestic and international solutions.

At this time, Senator MOYNIHAN endorses an amendment I propose, which will give the Governments of Canada and Mexico the option to appoint one adviser each, who will have no decisionmaking capacity, to the acid precipitation task force.

This is an acknowledgement that acid precipitation will require international as well as domestic cooperation. It gives our neighbors an opportunity to share directly any information they deem necessary and beneficial to our common interests and our common concerns.

I applaud Senator MOYNIHAN for his wisdom and eagerness to accept the revisions I have made to his important measure, and speaking as a westerner, and as a Senator who believes that the United States must further cooperate with its foreign neighbors, I firmly endorse Senator MOYNIHAN's measure to bring an end to the problem of acid precipitation.

UP AMENDMENT NO. 746

Essentially, Mr. President, the modification which the sponsor of the amendment has so graciously agreed to provides that the Governments of Mexico and Canada, at their option, may appoint a person to the commission, the task force, without any decisionmaking authority—as advisers only—due to the international implications of the development of synthetic fuel plants, not only in America but certainly in southern Canada and Mexico as well.

I urge the distinguished Senator from New York to accept it. I know he has already, for which I thank him.

Mr. MOYNIHAN. Mr. President, I send to the desk a modification of the amendment before us, which has been offered by the Senator from Montana.

Mr. JOHNSTON. Mr. President, the Senator has the right to amend his amendment, of course. As amended, we shall accept it.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) further modifies his amendment with an unprinted amendment numbered 746:

Add to page 5, line 3 in (b) (1):

Recognizing that the solutions to the problems of acid precipitation will require international as well as domestic cooperation, and recognizing that the Acid Precipitation Task Force is required to share research and other information with appropriate foreign governments, the government of Canada, and the government of Mexico, may, if they so chose, designate one representative each who would serve as members of the Acid Precipitation Task Force as advisers only, and who would not have any decision making function.

Mr. MOYNIHAN. Mr. President, I yield further to the Senator from Montana.

Mr. BAUCUS. Mr. President, I rise for a point of clarification. Being from the Northwestern part of the United States, I want to be sure that it is the understanding of the Senator from New York that one of the four regional representatives on the Commission will represent the Northwestern United States.

Mr. MOYNIHAN. The Senator is entirely correct. If I may say, we have the unimaginative but not impractical proposal of having four regions—meaning Northeast, Northwest, Southeast, Southwest.

Mr. BAUCUS. I thank the Senator for his impeccable logic and for his assistance.

Mr. DURENBERGER. Mr. President, I am pleased to cosponsor this amendment to S. 932 and to urge the support of the Senate for a program to research acid rain. For it is fast becoming one of the most significant and dangerous environmental problems, not only in the United States but throughout much of the industrialized world.

Indeed, the trend is painfully clear. Measurements of the acidity of rain and snow reveal that in Western Europe and in parts of the United States, precipitation has changed from a nearly neutral solution 200 years ago, to a much stronger solution of sulfuric and nitric acids. In the most extreme example yet recorded, a storm in Scotland in 1974, the rain was the acidic equivalent of vinegar.

Acid rain is created when sulfur dioxide and nitrogen oxides, two gaseous pollutants, are further oxidized to the acid form and fall in rain or snow. The phenomenon was first noted in industrial England during the early part of this century. Today, rain falling over the Eastern United States is concentrated 50 times greater in dilute sulfuric and nitric acid than 30 years ago. Sulfur from industry-refineries, metal smelters, and power plants contributes 60 to 70 percent of the acidity. Most of the remaining acidity, nitrogen oxides, comes from auto emissions and powerplants.

The United States discharges 50 million tons of sulfur and nitrogen into the air each year. And this amount is expected to increase. For example, despite strict new air quality standards established for new powerplants, EPA tentatively predicts that emissions of sulfur dioxides by utilities will rise from 18.6 million metric tons in 1975 to 23.8 million metric tons in 1995 under existing regulations. This increase is due to the expected increase in the use of coal as a replacement for oil. Emissions of nitrogen oxide are also expected to increase substantially.

Acid rain is an international problem respecting no boundaries. Carried for days by global winds, acid rain falls to Earth in definite patterns along major weather routes. It causes acidification and degradation of soil, severe disruption of fresh-water ecosystems, and architectural damage and corrosion (estimated at $2 billion a year in the United States). Over the long term forest productivity may be damaged, and public health may also be at risk from acid aerosols and the contamination of food and drinking water.

Some areas are especially vulnerable to the effect of acid rain, particularly those underlaid by highly siliceous types of bedrock such as granite and quartzite. These rock types are resistant to weathering, and the characteristic soft waters of such areas have a low buffering capacity—a low ability to neutralize additions of acid. Bedrock geology, therefore, provides a rough indication of the location of sensitive areas.

The more than 1,000 vulnerable lakes in the Minnesota Boundary Waters Canoe Area, northern Wisconsin and Michigan are very sensitive to acid rain. In fact, they are comparable in vulnerability to other systems which have been severely impacted by acid rain and snow in Europe and in other parts of North America. Most of these surface waters have little ability to neutralize acid inputs from acid precipitation. Already atmospheric loadings near the Boundary Waters Canoe Area and Voyageurs National Park region in Minnesota are at levels associated with the onset of severe lake acidification in Sweden.

Indeed, research conducted by Dr. Gary E. Glass and others at the U.S. Environmental Protection Agency's Environmental Research Laboratory in Duluth, Minn., has indicated that at least 35 percent of the lakes in northeastern Minnesota and up to 15 percent of the lakes in Wisconsin have reached critical acidity levels, even without the addition of new pollutants. These lakes are literally on the verge of destruction from acid precipitation.

The diverse and valuable fishery of this area of Minnesota includes species which have been greatly reduced or eliminated by acid rain and snow in other parts of the United States and Canada. While damage there has been less than in the Northeast, studies have shown increased levels of mercury in trout, Walleye Pike and Northern Pike, which may well have resulted from acid rain. Fish kills not only result from the direct effects of acidic lake water, but also from the toxic metals—such as aluminum—that are released as acid rain is transported through surrounding soils. These same chemical processes could cause toxic substances to enter drinking water supplies.

The threat to the forests of Minnesota is also of great concern. Acid rain in the Voyageurs National Park, Boundary Waters Canoe Area and Superior National Forest may affect the growing rates of sensitive pine species, cause detrimental effects on other vegetation, and increase toxic element impacts on entire food chains.

Mr. President, the need for immediate legislative action to address this major problem has been clearly demonstrated.

The amendment which I have cosponsored would establish the importance of: First, identifying the sources of acid precipitation; second, understanding the atmospheric chemistry resulting in acid precipitation; third, determining the environmental, social, economic, and health impacts of acid precipitation; fourth, developing and implementing a comprehensive plan to mitigate the harmful effects of acid precipitation in this Nation; five, utilizing universities and other research demonstration centers to encourage public participation in activities to remove the causes of acid precipitation and rehabilitate affected areas; and six, encouraging State participation in solving acid precipitation problems.

Mr. President, acid rain affects our entire country and, as a national and international issue, must be addressed by the Congress.

We urgently need to know if what we now suspect, and what we fear, is true regarding this global phenomenon. We must carefully monitor the trends and determine the extent of the sulfur dioxide and nitric oxide emissions. The decisions we make regarding the future must be made on the basis of the best information we can obtain. Unfortunately, we do not have much of the information that is vitally needed to solve the acid rain problem, and a major research effort is urgently needed to provide it. We must have this information if we are to make rational decisions regarding energy production and avoid severe impacts on the environment.

I strongly support this amendment and urge passage of this response to the critical problem of acid rain.

I ask that materials analyzing the effects of acid rain be printed in the RECORD following my remarks.

The materials follow:

ACID RAIN

(By Gene E. Likens, Richard F. Wright, James N. Galloway and Thomas J. Butler)

Measurements of the acidity of rain and snow reveal that in parts of the eastern U.S. and of western Europe precipitation has changed from a nearly neutral solution 200 years ago to a dilute solution of sulfuric and nitric acids today. In the most extreme example yet recorded—a storm in Scotland in 1974—the rain was the acidic equivalent of vinegar (pH 2.4). The main reason for this trend is the rise in the emission of sulfur and nitrogen oxides to the atmosphere accompanying the rise in the burning of fossil fuels. Partly because acid precipitation has a variety of harmful effects on plant and animal life, efforts have been made to curb the emission of such oxides. Notwithstanding these efforts the level of emissions is expected to rise further under the present policy of turning increasingly to coal as a source of energy. At the very least the prospect suggests that a more substantial effort should be made to determine more precisely the effects of acid precipitation; it might also suggest a more vigorous exploration of ways to reduce the release of both sulfur and nitrogen oxides into the atmosphere.

Acidity in a solution such as rain is synonymous with the presence of hydrogen ions (H^+). A common measure of acidity is pH, which is defined as the negative logarithm of the hydrogen ion concentration. The pH scale ranges from 0 to 14, with a value of 7 representing a solution that is neutral, values below 7 indicating greater acidity and values above 7 indicating greater alkalinity. One should bear in mind that the pH scale is logarithmic, so that solutions of pH 6, 5 and 4 contain respectively one, 10 and 100 microequivalents of acidity (H^+) per liter (abbreviated $\mu eq/l$).

What determines the chemistry of rain and snow? The water comes from evaporation and transpiration (water vapor lost by plants) and is essentially distilled, or pure. Once the vapor reaches the atmosphere, however, it condenses on solid particles and soon reaches equilibrium with atmospheric gases. One of the gases is carbon dioxide (CO_2), and as carbon dioxide dissolves in the water carbonic acid (H_2CO_3) forms. Carbonic acid, being a weak acid, dissociates only slightly in distilled water, yielding hydrogen ions and bicarbonate ions (HCO_3^-). At normal concentrations and pressures of carbon dioxide in the atmosphere the pH of rain and snow would be 5.6.

Other substances reaching the atmosphere tend to shift the pH one way or the other. For example, small amounts of dust and debris are swept from the ground into the atmosphere by the wind. Soil particles are usually slightly basic, or alkaline, in distilled water and release into solution base cations (positive ions) such as calcium, magnesium, potassium and sodium (Ca^{++}, Mg^{++}, K^+ and Na^+), with bicarbonate usually the corresponding anion, or negative ion. Ammonia gas in the atmosphere originates largely from the decay of organic matter. The ammonium ion (NH_4) in rain and snow tends to increase the pH. In coastal areas sea spray may contribute significantly to the chemistry of precipitation. Here the important ions added are the ones most abundant in seawater, namely the cations Na^+ and Mg^+ (sodium and magnesium), the anion Cl^- (chloride) and to a lesser extent cations of calcium and potassium (Ca^{++}, K^+) and anions of sulfate (SO_4^{--}).

Gases such as sulfur dioxide (SO_2) and hydrogen sulfide (H_2S), which come from volcanoes and from other natural sources, can also alter the chemistry of precipitation locally. Sulfur dioxide and hydrogen sulfide are oxidized and hydrolyzed in the atmosphere to sulfuric acid. Nitrogen oxides are similarly converted into nitric acid. If these acids are present in significant quantities, they can acidify precipitation to below pH 5.6.

The chemistry of natural precipitation, then, depends on the relative amounts of these various substances in the atmosphere. The precipitation in coastal areas can be generally characterized as very dilute seawater if winds are toward the shore. In areas with high winds and sparse vegetation, such as deserts, the precipitation may contain relatively large amounts of base cations. Precipitation in regions with calcareous soils often contains calcium and bicarbonate, presumably as a result of the incorporation of dust, and the pH of rain and snow is usually well above 6.

The pH of precipitation that fell before the Industrial Revolution and has been preserved in glaciers and continental ice sheets is generally found to be above 5. Swiss workers in Greenland recently measured the pH of ice that had originated as snow some 180 years ago; it had a pH ranging from 6 to 7.6.

Human activities have significantly changed this picture on a continental scale and perhaps a global one. Large quantities of sulfur and nitrogen oxides are emitted into the atmosphere by the combustion of fossil fuels and the smelting of sulfide ores, particularly in the heavily industrialised and urbanized North Temperate Zone. These oxides are converted into strong acids (sulfuric and nitric) in the atmosphere and fall to the ground in rain and snow. Strong acids dissociate completely in dilute aqueous solutions and lower the pH to less than 5.6. The definition of acid precipitation is rain and snow at a pH below that value.

An irony in this matter is that the trend toward building taller stacks to relieve local pollution problems has turned the local problems into regional ones. In 1955 only two stacks in the U.S. were higher than about 180 meters; now essentially all stacks being built in the world. In the United Kingdom 45 stacks taller than 300 meters had been built in the world. In the United Kingdom tall stacks were an integral part of measures employed to reduce the severity of smog in London after episodes of life-threatening pollution in the 1950's.

The copper-nickel smelter in Sudbury, Ont., has a superstack more than 400 meters tall. Some 1 percent of the total annual emissions of sulfur throughout the world (from both natural sources and human activity) come from this one smelter complex. During the past decade the annual emissions of sulfur from Sudbury have about equaled the amount thought to have been emitted by all the volcanoes of the world.

It is beyond argument that such pollutants are transported over long distances through the atmosphere. Studies of the deposition of sulfur, lead and other materials on the Greenland ice cap and in other remote places demonstrate such mechanisms of dispersal. What is a matter of sometimes heated discussion, particularly when it is alleged that pollution is crossing a political boundary, is the proportion of pollutants that can be attributed to remote sources.

On an annual basis rain and snow over large regions of the world are now from five to 30 times more acid than the lowest value expected (pH 5.6) for unpolluted atmospheres. The rain of individual storms can be from several hundred to several thousand times more acid than expected. Concern over the environmental effects of acid precipitation has led to major research efforts in Sweden, Norway, the U.S. and Canada.

Acid precipitation has been known for many decades in the vicinity of large cities and industrial plants such as smelters, but the phenomenon is now much more widespread. In large areas of the eastern U.S., southeastern Canada and western Europe the annual average pH of precipitation ranges from about 4 to 4.5. Since the data are fuller for Europe than for North America, we shall discuss Europe first.

The discovery that precipitation in large regions of Europe had become decidedly acidic followed the establishment in the 1950's of the European Atmospheric Chemistry Network (also known as the IMI Network, for the International Meteorological Institute in Stockholm). At times the network encompassed up to 175 stations in northern and western Europe, from which monthly samples of bulk precipitation (a method of collecting with sampling apparatus that is always open) were analyzed for the concentration of 11 major ions. Although many of the stations are no longer in operation, the data provide a record for the pH of precipitation on a regional scale in Europe more than 20 years ago.

In 1968 Svante Odén of Sweden pointed out that precipitation in Europe had clearly become more acidic since the network was established. Maps of volume-weighted mean annual pH in precipitation showed that a central region of high acidity (pH 4 to 4.5) had spread from the area of Belgium, the Netherlands and Luxembourg in the late 1950's to most of Germany, northern France, the eastern British Isles and southern Scandinavia by the late 1960's.

The Organization for Economic Cooperation and Development (OECD) recently concluded a three-year study that gives a more detailed picture of the present acidity of precipitation in Europe. The results of the study appear in Long-Range Transport of Air Pollutants, Measurements and Findings, a sum-

mary of the daily sampling done at 67 stations from 1973 to 1975 as part of the OECD project. The resulting map shows that acid precipitation has continued to spread and today encompasses nearly all of northwestern Europe. (The situation in eastern Europe is unclear for lack of long-term data; clarification may be at hand from data from a new network for precipitation chemistry initiated by the United Nations Economic Commission for Europe.)

The lowest pH value reported for an individual storm in Europe up to now is 2.4 on April 10, 1974, at Pitlochry, Scotland. In the same month values of 2.7 and 3.5 were reported respectively on the west coast of Norway and at a remote station in Iceland. The lowest annual pH yet recorded is 3.78 in 1967 at De Bilt in the Netherlands.

At some stations the increase in the annual concentration of hydrogen ions in precipitation since 1955–56 has been about tenfold. This increase in acidity is matched by increases in the concentrations of sulfate and nitrate over the past 20 years. In northern Europe the excess sulfate concentration (in excess of contributions of sea salt) rose markedly from 1955 to about 1963 and has remained virtually constant since then; overall the rise from 1955 to 1975 was about 2 percent per year. The concentration of nitrate in precipitation has increased quite steadily since 1955 at the rate of about 4 percent per year. Both increases parallel rises in the emission of sulfur and nitrogen oxides from the combustion of fossil fuels.

Emissions of sulfur dioxide in Europe were estimated at about 25 million metric tons of sulfur in 1973. A map showing the regional sources was prepared as part of the OCED study; it revealed regions with particularly high emissions in central Britain, the Ruhr area of West Germany, the coal areas of southern East Germany, southern Poland and Czechoslovakia. It is estimated that human activity accounts for about 90 percent of the sulfur emissions.

It is also estimated that the annual anthropogenic emissions of nitrogen oxides from the 11 OECD countries of Europe totaled about two million metric tons of nitrogen in 1973. The OECD study indicated that these emissions almost doubled from 1959 to 1973. A similar trend might be expected for eastern Europe. In addition biological processes supply oxides of nitrogen to the atmosphere, but the magnitude and significance of these emissions are not known.

The general pattern of the deposition of acid in European rain and snow reflects the long-range transport of air pollutants from the sources of emission. The *p*H of precipitation is generally lowest near the sources and increases with distance. The normal flow of air from southwest to northeast results in an asymmetrical pattern, with acid precipitation reaching far up into northern Scandinavia. Swedish investigators have calculated that more than 70 percent of the sulfur in the atmosphere over southern Sweden is from human activity, and 77 percent of it is believed to originate from sources outside Sweden.

The gradient of acidity is accentuated in mountainous areas that are generally downwind of urban and industrial sources. Mountains enhance precipitation, which continuously removes pollutants from passing masses of air. This situation is found in southernmost Norway, where air masses from the major source areas in the British Isles and central Europe travel many hundreds of kilometers over the North Sea and over land areas of relatively low relief before most of the pollutants are removed in the precipitation over a belt from 100 to 200 kilometers wide along the mountainous Norwegian coast. By the time the air masses have passed over mountainous areas with an elevation of 1,000 meters or so the *p*H of the precipitation has changed from an average of 4.2 at the coast to 4.6 or 4.7, representing a decrease in the concentration of hydrogen ions from about 60 microequivalents per liter to about 20.

Since mountains enhance precipitation, their windward flanks receive large amounts of acid. Data from the OECD project show that the annual deposition of acid in rain and snow in 1974 was highest along the mountain slopes of southernmost Norway, southern Germany and Switzerland. Values ranging from 88 milliequivalents per square meter per year to 120 were observed in those areas.

Dry deposition of sulfur dioxide gas and particulate sulfate also represents the deposition of an equivalent amount of hydrogen ions. Data from the OECD study show maximum values of dry deposition of 10 grams of sulfur per square meter per year in central Europe, or four times the deposition rate by rain and snow, with rates decreasing rapidly with increasing distance from the emission sources to values of about .1 gram in northern Scandinavia. Wet deposition of sulfate in rain and snow begins at three grams of sulfur per square meter per year near the major sources and decreases less rapidly to .5 gram in northern Scandinavia. Dry deposition of sulfur is therefore the dominant mode near the emission sources, whereas wet deposition dominates in remote areas of northern Europe.

The record of changes in precipitation chemistry over North America is much less clear. No monitoring network has been maintained from the 1950's to the present. Even today the monitoring that is done is not sufficient to give a detailed picture.

It is known that before about 1930 relatively large amounts of bicarbonate were found in samples of precipitation in Virginia, Tennessee and New York. Although no determinations of *p*H were made, the presence of bicarbonate in the samples shows that they could not have had a *p*H of less than 5.6. The earliest measurement of precipitation *p*H in the U.S. that we know of was made during a rainstorm in Maine in 1939 by Henry G. Houghton of the Massachusetts Institute of Technology. He obtained a value of 5.9.

If accurate chemical data are available and the hydrogen-ion concentration is more than about three microequivalents per liter, reliable *p*H values can be calculated from a detailed chemical analysis of dilute aqueous solutions. Such chemical data were collected for precipitation at 24 sites in the eastern U.S. in 1955–56 by C. E. Junge of the Air Force Cambridge Research Laboratory. The data have been employed to calculate the *p*H distribution at the time. Although the density of sampling points was low, the general pattern is quite clear: a large area of the northeastern U.S. was receiving acid precipitation by 1955.

From 1959 through 1966 the U.S. Public Health Service and then the National Center for Atmospheric Research operated a sampling network for precipitation chemistry throughout the 48 contiguous states of the U.S. During the latter part of the period (1964–66) some 30 stations, 17 of them east of the Mississippi, collected monthly samples of rain and snow with automatic samplers that were open only during precipitation. The majority of the stations west of the Mississippi consistently showed monthly *p*H values above 5.6; most commonly the values were above 6.5. East of the Mississippi the precipitation was much more acidic. Notwithstanding the paucity of the data from this now discontinued network, the general pattern was quite obvious: areas of acid precipitation were widespread in the eastern U.S., with the most acidic rain and snow falling on New England, New York and Pennsylvania.

Even today there is no high-density, synoptic coverage of the chemistry of precipitation in North America. The situation may soon improve, however, because both the U.S. and Canada have started long-term programs for measuring the composition of atmospheric deposition. The Canadian Network for Sampling Precipitation (CANSAP) began operating in 1976 and the U.S. National Atmospheric Deposition Program (NADP) was initiated in 1978.

In an effort to obtain synoptic data on the current *p*H of precipitation in the eastern U.S. we personally communicated with all the individuals, groups and state and Federal agencies we knew to be studying precipitation chemistry. Although the density of sampling points is still low (46 stations east of the Mississippi, 19 more in Canada), it is much higher than it was in 1955–56 or 1964–66. The data reveal a southward and westward extension of the area receiving acid precipitation and an intensification of acidity in the Northeast and Southeast since 1955. (We wish to acknowledge in this context the contributions from Gerald M. Aubertin and J. Currier of data for West Virginia; Patrick L. Brezonik for Gainesville, Fla.; T. Burton for Tallahassee, Fla.; D. Charles for Ray Brook, N.Y.; K. G. Dickson for the Lake Okeechobee area in Florida; M. J. Duever for Corkscrew Swamp in Florida; the Environmental Data and Information Service for Caribou, Me., Wake County and Macon County in North Carolina, Lauderdale County in Mississippi, Salem, Ill., and Atlantic County in New Jersey; Donald F. Gatz for Urbana, Ill.; Bruce L. Haines for Athens, Ga.; Evelyn B. Haines for Sapelo Island, Ga.; G. S. Henderson for Oak Ridge, Tenn.; Jay S. Jacobson for Yonkers, N.Y.; K. Kuntz for Ontario; J. G. McColl and David F. Grigal for Minnesota; J. M. Miller for Washington, D.C.; M. P. Olson for Ontario and Sable Island in Canada; Rosa de Pena for State College, Pa.; C. J. Richardson for Michigan; W. T. Swank for Asheville, N.C.; the U.S. Geological Survey for sites in the Northeast, and Herbert L. Volchok for Argonne, Ill., New York, N.Y., Chester, N.J., and Woods Hole, Mass.)

It is worth noting that the most rapid increase in precipitation acidity over the past two decades has been in the Southeast. (The trend is more apparent than it is in the Northeast because a smaller amount of acid is required to cause a change of *p*H from, say, 6 to 5 than from 5 to 4.) In the same period the Southeast has had a large expansion of the urban and industrial activities that give rise to emissions of sulfur and nitrogen.

As in Europe, nitrate concentrations in precipitation have increased severalfold in the northeastern U.S. during the past decade or so. Although sulfuric acid is the dominant acid in acid precipitation, nitric acid appears to be contributing about 30 percent (and an increasing proportion) of the hydrogen ions in acid precipitation.

Measurements of the dry deposition of sulfur in the U.S. and Canada are highly scattered. A recent report by the National Academy of Sciences on sulfur oxides suggests that the dry deposition of sulfur is approximately equal to the wet deposition in the eastern U.S.

Since there are large sources of emissions in the middle-western U.S. and the general flow of air is from west to east, it is understandable that acid precipitation is a phenomenon of eastern North America. The phenomenon could become national, however, in the view of the planned increases in the combustion of fossil fuels in the western regions of the continent.

What effect has the increased acidity had on the environment? The question has not been fully answered, but certain freshwater ecosystems seem to be particularly sensitive to inputs of acid. Such ecosystems are generally in areas underlain by highly siliceous

types of bedrock such as granite, some gneisses, quartzite and quartz sandstone. These rock types are highly resistant to dissolution through weathering, with the result that surface waters in such areas contain very low concentrations of ions derived from weathering. Characteristically such soft waters have a low buffering capacity (a low ability to neutralize additions of acids or alkalis). Hence when acid precipitation falls on such an area, the acids are not fully neutralized in the terrestrial watershed or catchment, and so streams and lakes become acidified.

Bedrock geology therefore provides a rough indication of the location of such sensitive areas. Maps of the bedrock, however, do not take into account the mineralogy of overlying, unconsolidated deposits such as glacial till, glaciofluvial materials and marine sand, which may have been transported far from their source and may have a mineralogy quite different from that of the bedrock. Local variations in the chemistry of surface waters then may result from differences in these two geological substrates, in soil type and in vegetation.

Areas of highly siliceous bedrock are widespread on the Precambrian Fennoscandian Shield in Scandinavia, the Canadian Shield, the Rockies, New England, the Adirondacks, the Appalachians and smaller areas elsewhere. Fresh waters acidified to below pH5 as a result of acid precipitation are found in southern Norway, southern Sweden, Britain, the Netherlands, East Germany, Nova Scotia, Ontario, northern New England, the Adirondacks and Florida. One clear effect has been on the fish populations, which have been virtually wiped out or severely reduced in acidified lakes in some of these regions.

For example, in southern Norway the acidification of thousands of freshwater lakes and streams has affected fish populations in an area of 33,000 square kilometers. In addition several other ecological changes have been observed as a result of the acid stress in such lakes. The rate of decomposition of organic matter is slowed, presumably because of changes in the predominance of bacteria and fungi. Bacteria, which are efficient decomposers, generally do worse in an acid environment. Changes occur at all levels of the food web: phytoplankton, zooplankton and fishes, all of which decrease in number of species. Even the behavior of organisms may change because of changes in their environment.

The distribution of acid lakes is congruent with the distribution of acid precipitation. Further evidence of the impact of acid precipitation is that acid fresh waters are normally not found in regions that would be sensitive to acid (being nutrient-poor and poorly buffered) but lie outside the regions of highly acid precipitation. These observations lead to the conclusion that both the amount of acid in precipitation and the geological characteristics of the area are important in determining the sensitivity of fresh waters to acid precipitation.

Working with water-chemistry data from more than 1,000 lakes in Norway, Arne Henriksen of the Norwegian Institute for Water Research has recently developed an empirical relation by which the sensitivity of a given freshwater system to inputs of acid precipitation can be estimated. For example, he predicts that a calcium bicarbonate soft-water lake of the kind found by the thousands in North America and northern Europe with about 80 microequivalents per liter of bicarbonate (corresponding to about 1.7 milligrams of calcium per liter and a *p*H of about 6.5) will lose its bicarbonate buffer to the point where the pH drops below 5 and fish are eliminated if the long-term average *pH* of precipitation is below about 4.3. It would take precipitation even less acidic to give rise to similar conditions in lakes with originally lower concentrations of bicarbonate.

Summer rains are appreciably acid in large areas of North America and Europe, particularly the first part of a rainstorm. They are certainly within the range of acidity where laboratory studies indicate that harmful effects could be expected on growing vegetation if it were exposed and sensitive. It is difficult, however, to isolate the effects of one environmental stress from all the others affecting vegetation, and so the overall effect of acid precipitation on plants has to be regarded as ambiguous in the light of the present state of knowledge.

A natural ecosystem is extremely complex, with numerous interactions at all levels of organization. Evaluating the effects of acid precipitation on such a system is difficult and expensive. The social, economic and political aspects of acid precipitation are particularly vexing because air, rain and snow are not confined by political boundaries. For example, Norway is now completing a $10-million study of the effects of acid precipitation on its forests and lakes. In the U.S. a recent report by the National Atmospheric Deposition Program to the President's Council on Environmental Quality (CEQ) concluded that a program of research costing $9 million per year will be necessary to evaluate the phenomenon of acid precipitation and its effects.

It seems unlikely that the combustion of fossil fuels will decline in the industrialized countries over the next 30 years or so. It is more likely to increase because of the increased reliance on coal as a replacement for oil. The question of the broad environmental effects must be faced. In the U.S. the President's Committee on Health and Environmental Effects of Increased Coal Utilization has identified acid precipitation as one of the two major global environmental problems, the other being the increased emissions of carbon dioxide with their potential effects on climate.

In the U.S. the Environmental Protection Agency (EPA) has ruled that from 70 to 90 percent of the gaseous sulfur must be removed from the emissions of all new coal-based power plants. Old plants remain largely uncontrolled. The control in new plants would be achieved by the installation of scrubbers: flue-gas desulfurization units.

Even so, the EPA predicts that emissions of sulfur dioxide by utilities, which are by far the largest single source in the U.S., will rise from 18.6 million metric tons in 1975 to between 20.5 (with conservation and the best available controls) and 23.8 million (under existing regulations) in 1985. Although such projections are dependent on a variety of known and unknown factors and hence are tenuous, with increased emissions of sulfur dioxide (and nitrogen oxides) it can generally be expected that the deposition of hydrogen ions with precipitation will increase.

The installation of scrubbers is expensive, but the environmental costs of inadequately controlled emissions are also large. Many costs are hidden, particularly the ones associated with the synergistic effects of the stresses that acid puts on organisms (for example, increasing their susceptibility to pathogens and predators). The easy solutions, such as burning low-sulfur coal and oil, have already been applied in the control of emissions in some areas. Nevertheless, in some areas the *p*H of rain and snow has already been pushed through the "easy" part of the scale (from 7 to 4). Reductions in acidity will now be more difficult and far costlier to effect. Ultimately the solution to the acid-precipitation problem lies in the decrease in emissions of sulfur and nitrogen oxides to the atmosphere. This objective can be achieved with a combination of improved control technology and the conservation of fuel.

[From the New York Times, Nov. 11, 1979]

ACID RAIN: AN INCREASING THREAT

(By Bayard Webster)

TORONTO.—The rapid rate at which rainfall is growing more acidic in more areas has led many scientists and governmental officials to conclude that acid rain is developing into one of the most serious worldwide environmental problems of the coming decades.

Rainfall with an acidity level of vinegar that can have a deleterious effect on aquatic and terrestrial ecosystems has been reported in widely separated areas of the earth in recent years. And the trend toward more acidic rain has been accelerating in eastern Canada, the northeastern and northwestern United States, the southern Appalachians, parts of Florida, and in Europe and sections of Asia.

A three-day conference here last week on acid precipitation and its movement across national boundaries attracted more than 700 scientists, government officials, industrialists and environmentalists from Canada, the United States and Europe. In more than a score of seminars and meetings, discussions and lectures were held on the sources and causes of acid rain, the extent of its air pollution role, possible corrective measures and the outlook for the future.

John Fraser, Canada's Minister of the Environment, who addressed the conference, said in an interview that acid rain was "the most serious environmental problem that Canada faces." He noted that toxic fumes from Canada's smokestacks that caused acid rain were transported across the border to the United States, where they had a damaging impact, just as American emissions carried northward had a major impact in Canada.

"The problem can't be solved without an agreement between the two countries," he said, adding that diplomats were working on a treaty and that President Carter and Canadian Prime Minister Joe Clark were scheduled to discuss joint action when they meet in Ottawa next weekend.

Gus Speth, the chairman of the United States Council on Environmental Quality, told the conference that "too much damage has already been done by acid rain—too many trout lakes and salmon streams have already been rendered lethal to fish, and valuable wilderness areas are beginning to show signs of acidification."

Although many aspects of the physical and chemical actions that occur in the formation of acid rain are not known, scientific research has pinpointed the major events that take place. Acid rain is formed when the gases of nitrogen oxide and sulfur oxide are emitted into the atmosphere and, as they are carried along by wind currents, they combine with water vapor molecules and are transformed over a period of hours or days into microscopic drops of nitric and sulfuric acids. These are returned to earth when they encounter rain- or snow-producing clouds, sometimes hundreds or thousands of miles from their original point of emission.

Sulfur dioxide, which comprises about 60 percent of the acid components of acid rains, is created almost entirely by the combustion of coal and oil in power plants, smelters, steel mills, factories and space heaters. Nitrogen oxide, which makes up about 35 percent of the acid in the rains, originates in the exhausts of internal combustion engines, mostly in automobiles, and in the emissions resulting from high-temperature fossil fuel combustion processes.

TROUT AND SALMON AFFECTED

In North America, surveys by chemists, biologists and nature conservation groups such as the National Wildlife Federation have shown that the United States and Canada discharged some 50 million tons of sulfur and nitrogen oxides into the air each year. In Europe, industrialized countries such as Britain, Germany and France produce millions of tons that affect their neighbors, particularly Scandinavia.

The effects of acid rains include the decimation or malformation of fish, particularly trout and salmon, in acidified streams and lakes in North America and Europe. It has been estimated that some 50,000 lakes in the Adirondacks and Canada have become acidified to the point that the fish population has declined or been destroyed.

Several scientists at the conference said that acid rains can cause the leaching of essential plant nutrients from the soil and can reduce nitrogen fixation by microorganisms, causing the soil to be less fertile. They also reported that above-normal amounts of acids in lakes and streams tends to cause the extraction from the bottom sediments of toxic metals such as cadmium, lead and aluminum. These, like sulfuric and nitric acid, can destroy fish and contaminate drinking water.

RELATIVELY LITTLE RESEARCH

The acidity or alkalinity of water is commonly measured by the pH scale, which ranges from 0 to 14. A reading of 7 is neutral; readings above 7 are alkaline and below 7 are acidic. Biologists consider that rainfall or water with a pH lower than 5.6 can be harmful to plant, animal and human life. The average pH of normal rainfall, 5.6, is slightly acidic but harmless because of the naturally and human-generated carbon dioxide in the air, which forms mild carbonic acid when united with water molecules.

The advent of acid rains that have lowered the pH of some lakes and streams to levels ranging from 5 to 2.8 has become most noticeable in the last 10 years as the number of power plants, ore smelters and automobiles has multiplied in industrialized countries. As a result, there has been comparatively little scientific research into the effects of sulfur dioxide and nitrogen oxides on soil and on animal and plant life. More has been discovered about the impact of sulfur oxides than that of nitrogen oxide because the latter chemical involves a more complicated series of chemical actions in the formation of acid rain than does its constant companion, sulfur dioxide.

Attempts have been made to disperse or detoxify the emissions that cause acid rain to offset the rain-caused acidity of lakes, streams and soils, and to breed new plant or animal species that would be acid-resistant. Biologists, agronomists and industrial concerns have devised various systems, devices and breeding programs, most of which, ironically, have had effects opposite to those intended.

SCRUBBERS ARE EFFECTIVE

Smokestack scrubbers, which remove much of the sulfur at the point of emission, have been found to be an effective but expensive way of alleviating the problem at the source. But the following methods and plans have proved counterproductive or hold little hope for the future:

Tall smokestacks. Originally built to disperse acid emissions that fell on surrounding urban areas, the stacks have been found to send the offending chemicals high in the atmosphere, providing them with the air currents that transport them to rain clouds miles away. A copper smelter smokestack in Sudbury, Ontario, is 1,200 feet tall and has been found to be the cause of acid rains that fall miles away.

Liming of acidified lakes. In attempts to decrease the acidification of lakes, tons of lime have been added to the water. But the lime has combined with heavy metals in the bottom sediment, freeing them and increasing the toxicity of the water.

Breeding acid-resistant fish. Dr. Harold Harvey, a University of Toronto zoologist, told the conference that "it makes no sense to breed acid-resistant fish," adding, "Would we breed a gas-resistant canary for miners?"

Many scientists told the audience that perhaps the most serious problem would turn out to be the long-range irreversible effects of acid rains. In an interview Dr. Jay Jacobsen of the Boyce Thompson Institute at Cornell University said of acid rain: "It occurs repeatedly, it affects large regions and it falls on different political arenas. So it's going to be hard to cope with. What happens when you change the soil's chemistry for example? We're going to have to institute a long-range monitoring program for air, soil and water before we really find out the extent of the problem."

[From the Minneapolis Tribune, Nov. 7, 1979]

POLLUTION DISPUTE UNSETTLED AS ATIKOKAN PLANT GOES UP

(By Dean Rebuffoni)

ATIKOKAN, ONTARIO.—In the woods seven miles north of Atikokan, in the middle of a triangle formed by three lakes, a wide swath of land has been cleared of its trees, stripped of its brush and bulldozed smooth.

Right over there, said Don Beckett, is where the powerhouse will be built. And there, just beyond the site of the administrative building, will be the lignite coal stockpile, he said. The smokestack, 650 feet tall, will be over there, he said.

And there, right there, he said, is where the cooling water from Moose Lake will be pumped into the plant, circulated through it and discharged over there, into Snow Lake.

"It's almost an ideal situation," he said. "We'll be making use of something—water—which was already altered for use by the iron mines. We can do that without buggering up more ground."

Beckett has this nice, very-y-y Canadian, title—Superior Supervisor Managing Construction—and he's the man that Ontario Hydro has hired to build a $600 million, coal-burning, electrically-producing power plant.

It is, of course, the same plant that for the last three years has been the target of heavy criticism by environmentalists in Canada and the United States. They charge that it will pour a particularly harmful form of pollution—acid rain—on portions of both nations.

The environmentalists pointed out that the plant would be built 11 miles from Quetico Provincial Park, 35 miles from the Boundary Waters Canoe Area Wilderness (BWCA) and 45 miles from Voyageurs National Park. They charged that sulfur dioxide emitted from that tall plant smokestack would combine with water vapor and turn up in rain as sulfuric acid. And that, they said, would be particularly damaging to the region's soft water lakes and coniferous forests.

At first, the environmentalists tried to prevent the plant's construction and failed. Then, aided by U.S. officials, they tried to convince the Canadian government that the two nations' dispute over the plant should be resolved by an international advisory body. Again, they failed.

Then the environmentalists tried another approach. Since you're going to build the darned thing anyway, they told the Canadian government, at least install sophisticated air pollution control equipment on it.

And, again, they failed.

So work on the plant began in earnest in January 1978 and now there are about 100 construction workers busy in the woods north of Atikokan. That will increase to 180 workers next year and to 780 in 1982, when construction is at its peak. Within five years the plant should be producing electricity.

But it won't be producing as much power as much pollution as the environmentalists had feared that it would—at least not in the foreseeable future.

Ontario Hydro, the electric utility owned by the provincial government, originally planned to build an 800-megawatt plant at Atikokan. That would have cost $800 million.

However, the utility decided in April to scale down the plant to a $600-million version because of a decline in demand for power in Ontario. The scaled-down plant will consist of two 200-megawatt generating units. The first unit is to be operating by 1984; the second by 1988.

Still, Ontario Hydro readily admits that an additional 400 megawatts could later be added at the plant, depending on future electrical demands.

While the environmentalists worry about the plant's impact on the wilderness, most of Atikokan's 6,000 residents look forward to having the plant as a neighbor. In part, that's simply because there's so much wilderness in Ontario, and the potential harming of some of the province's woods and waters seems to be a small price to pay for having a new source of electricity.

But a key reason for Atikokan's enthusiasm is the fact that the plant is creating jobs in a town where new jobs are at a premium.

For years, Atikokan's economy has been based on the wages paid by two major iron-ore mining operations: Steep Rock Iron Mines and Caland Ore Co. Together, they employed about 1,200 workers.

But Steep Rock shut down last year, and Caland is phasing out its operations. Those mines made use of the same set of lakes from which the power plant will draw its cooling water. As Beckett said, that means Ontario Hydro won't be buggering up more ground."

Some supporters of the plant have suggested that its 650-foot smokestack will be tall enough to disperse pollutants over a wide area and thus reduce their harmful impact. That argument has particularly angered environmentalists, who contend that "dilution is the solution to pollution" is an old argument that has been thoroughly discredited by new research.

They have pointed out that International Nickel Company's 1,200-foot-tall smokestack on its copper smelter at Sudbury, Ontario, has been found to be the cause of acid rain that falls miles away.

The answer, environmentalists say, is for Ontario Hydro to install sophisticated scrubbers on the smokestack that will trap sulfur dioxide and other pollutants before they are released into the atmosphere.

Beckett said it may be possible, although he is not certain, that scrubbers could be added to the Atikokan plant in the event that the two nations reach some sort of international air quality agreement calling for such equipment. An agreement is under discussion between top U.S. and Canadian officials.

But scrubbers would cost up to $70 million, depending on the ultimate size of the plant. Ontario Hydro has not been too excited about paying such a high price, in part because the plant as it is now designed will meet Canadian and Ontario environmental standards. Also, the provincial utility simply doesn't agree with U.S. studies that contend the plant will cause severe environmental harm.

For example, at an international conference on acid rain in Toronto last week, an American researcher said that acid rain from the smaller version of the Atikokan plant could significantly damage waters in the BWCA and Voyageurs Park.

The researcher, Gary Glass, is a chemist

at the U.S. Environmental Protection Agency's research laboratory in Duluth. His recently-completed study on the impact of the power plant on Minnesota wilderness areas has been frequently cited by environmentalists in the United States and Canada.

Glass said that new projections show that the plant will increase acid rain falling in northeastern Minnesota by 25 percent. He said that even relatively small amounts of additional acid could push some of the region's lakes, which now are teetering on the brink of acidification, over the edge.

But his figures were disputed at the Toronto conference by W. R. Effer, Ontario Hydro's manager of environmental studies.

"The effects of the Atikokan plant on air quality and acid rain have been grossly exaggerated," he said, adding that his research shows that the plant will not violate Canadian, Ontario or U.S. air-quality standards.

Mr. COHEN. Mr. President, I rise in support of the amendment offered by the Senator from New York (Mr. MOYNIHAN).

One of the most deadly environmental problems we face in the industrial world today is, sadly enough, among those we know the least about.

Every day of the year, our food crops, fish, trees, lakes, soil and buildings are poisoned by deadly chemicals which rain on them from the sky. These deadly compounds, which are created when sulfur dioxide and nitrogen oxides, two gaseous pollutants, react and combine with rain water, know no boundaries. Carried for days by global winds, the "acid rain" falls to Earth in definite patterns along major weather routes. Recipients of acid rain may be thousands of miles away from the original source of the pollutants.

Canada, for example, estimates that wind carries some 4 million tons of U.S. sulfur dioxide up the St. Lawrence corridor each year. However, every year 1.3 million of the 8 million tons generated by Canada drift south over our border.

The effects of this deadly precipitation are acidification and demineralization of the soil, reduction in crop and forest productivity, architectural damage and corrosion—estimated to cost the United States $2 billion annually—health effects—estimated to cost at least $1.7 billion—and the disruption of freshwater ecosystems.

While our European neighbors have long had their own air quality monitoring system in order to accumulate data to cope with this problem, we in the United States have only begun to understand the phenomenon and the potential remedies.

Federal responsibility for this problem must increase as the Government encourages the burning of coal and synthetic fuels rather than oil, for combustion of these fuels will only continue to aggravate the spread of acid rains.

I believe the time has come for us to formulate a comprehensive plan to deal with acid precipitation. Only by coordinating national, State, local and private efforts to reduce acid rain can we begin to understand meaningful ways to combat this problem.

For these reasons, I wholeheartedly support the amendment offered by the Senator from New York, which under the guidelines of the Acid Precipitation Act of 1979 introduced earlier this year, would establish a task force to study the acid rain phenomenon over an 11-year period.

The task force would be directed to develop a comprehensive plan to coordinate the efforts of different Government agencies, university and other research and demonstration centers and public and private corporations.

At the Federal level, the task force would establish programs designed to not only research the complex meteorological and chemical processes involved in acid rain, but foster scientific and management interchanges and agreements with foreign governments and international organizations. At the State level, this legislation would encourage Federal and State cost-sharing programs to produce the capital expenditures needed for controlling pollution scources and rehabilitation in affected areas.

The Federal task force is also directed to assess the effectiveness of all of its programs in meeting the overall objectives of the amendment. Each year a report would be submitted to Congress documenting the progress made to date toward finding solutions to the acid rain problem.

In the meantime, the Federal Government must assume the responsibility for a more vigorous program to detoxify our lakes and streams. At present over half of the lakes in the Andirondacks and Canada—some 50,000—are so acidified that the fish population has declined or been destroyed.

In my own State of Maine, researchers have begun to find sharp increases in the acidity levels in hundreds of lakes, making it difficult for plants and fish to survive, and threatening trout and salmon populations.

Additional effects of acid rains which have been detected include the leaching of plant nutrients from soils, and the extraction from lake and stream beds of toxic metals such as cadmium, lead and aluminum which can destroy fish and contaminate drinking water.

I cannot emphasize strongly enough the importance of identifying and tackling this serious problem, and I urge my colleagues to support this amendment.

● Mr. NELSON. Mr. President, I am pleased to cosponsor the amendment offered by my distinguished colleague from New York (Mr. MOYNIHAN).

The threat to our Nation's lakes, forests, and agricultural lands, buildings, and even our own health posed by the present and growing danger of acid rain is far too serious to receive any less than the immediate attention proposed by this amendment. According to yesterday's New York Times, many scientists and government officials have concluded that:

> Acid rain is developing into one of the most serious worldwide environmental problems of the coming decades.

We have no choice but to act now to prevent any further escalation of this danger into a worldwide calamity.

At the same time, I need not remind you of the multiple threats to the external and internal national security posed by our current energy situation. Everyone of us recognizes the absolute necessity of reducing our dependence on foreign sources of oil. And none of us doubts that our energy status quo will fail to achieve energy independence.

Over the past weeks, Congress has voted to cast aside the energy status quo, with legislation on several energy development and related issues. During each debate, scientists, physicians, and others have identified potential dangers and urged that an extra measure of caution and care for the health of our environment be included in any formula to speed up the pace of our march toward energy independence.

This is the case today. Acid rain is produced, primarily, by the interaction of emissions from our fossil fueled powerplants, factories, and automobiles with moisture in the atmosphere. The problem was first identified as early as 1880 in industrial England, but only recently have we realized the full potential for destruction of acid rain. We cannot allow this danger to go unchecked. The consequences are far too great.

Last week in Toronto, scientists from all over the world gathered to share their research into this phenomena. According to these and other scientists, acid rain:

Leaches essential plant nutrients from the soil and reduces nitrogen fixation by microorganisms, causing the soil to be less fertile;

Causes the release of toxic metals from bottom sediments in lakes, destroying aquatic and terrestial life and contaminating drinking water, often beyond recommended standards for human health;

Reduces forest yields;

Damages crops and reduces agricultural yields;

Corrodes metal, painted woodwork, limestone, and sandstone, at a cost of $7 per person in the United States in 1970.

In my own State of Wisconsin, a recent study of 350 lakes by the Environmental Protection Agency found that fish in 80 percent of them are in danger of being wiped out by acid rain. The recreation industry is vital to Wisconsin's economy and the destruction of our recreational fishing resources would devastate that industry. The study results were described in a recent Milwaukee Journal article. I ask that the text of the article be inserted in the RECORD at this point.

The text follows:

ACID RAINS PERIL HIGH, EPA REPORTS

DULUTH, MINN.—An Environmental Protection Agency study of 350 lakes in northern Wisconsin has found that fish in 80% of the lakes are in danger of being wiped out if acid rain continues.

The problem is far greater than expected before the study was started, according to Gary Glass, senior research chemist at the EPA Water Control Laboratory in Duluth.

The acid rain is caused by automobile exhaust, burning of coal—particularly by power plants—and other sources of chemicals that react with water vapor to form sulfuric, nitric and hydrochloric acids.

Most of the lakes in which problems were found were in Vilas and Oneida Counties. A smattering of lakes with acid conditions were found in Lincoln, Langlade, Taylor and Price Counties in the new survey.

NOT JUST PUDDLES

"These are not puddles or swamps, but lakes of 20 acres and larger," said Glass.

Glass said that 15%, or 50 of the 350 lakes, had acid PH conditions that were putting fish under stress. That does not mean that the fish are dead or dying, but in the PH range encountered, they no longer reproduce, he said.

PH is the symbol used to measure the relative acidity or alkalinity of water. The PH scale runs from 0 to 14, and a PH of 7 is normal.

"We are not saying that these lakes are dead," Glass emphasized. He said fish might be caught in the endangered waters for 10 years, but that new fish might not be produced.

Studies have not been done on the fish, themselves, Glass said, but the EPA and Wisconsin authorities are trying to obtain money for a study of the effect of acid rain on fish.

BIGGEST SURPRISE

The biggest surprise was the 15% figure of threatened lakes, he said.

Other researchers have found that an acid PH of 6 to 5.5 means that walleye and smallmouth bass stop reproducing.

If a lake PH falls between 5.5 and 5.2, lake trout would no longer breed. If an acid PH of 4.5 is reached, fish eventually would die out.

Another recent EPA study of the Boundary Waters Canoe Area of northern Minnesota found that about 66% of those clearwater lakes had acidity problems. That is considerably lower than the 80% of troubled clearwater lakes found in the Wisconsin survey.

Both surveys indicate that there are problems in regions where problems with pollution are seldom expected.

BUILDUP CONTINUES

Acid rain, if it continues to fall, continues to build up in lakes. The ecological impact of acid rain on fish populations was not reported until recent years when it was found that acid conditions had caused ecological damage or fish dieoffs in 15,000 lakes in Sweden and about 90 lakes in upper New York State.

There was a report this past summer by the International Joint Commission that all parts of the Great Lakes watershed were receiving snow and rain that was 5 to 40 times more acid than normal.

OTHER VULNERABLE LAKES

At that time, Stanley Kmiotek, a DNR fish management specialist, said the most susceptible lakes were in Iron, Oneida and Vernon Counties because they already were very acidic.

Less acid, but still vulnerable, he said then, were some lakes in Washburn, Burnett, Sawyer and Polk Counties.

Another DNR specialist, William Threinen, said last summer that the lakes had only low levels of magnesium carbonates and alkaline calcium that were able to buffer the acids.

As a result, female fish may fail to spawn after acid rain buildups.

The obvious answer to the problem is lowering the amount of pollutants that enter the air, and eventually fall with rain.

That is a political problem.●

Mr. LEAHY. Mr. President, yesterday the Senate approved a massive, $88 billion program to support the development of a synthetic fuels industry.

Synthetic fuels may very well play an important role in our energy consumption well into the next century. The production and consumption of synthetic fuels from coal and oil shale will also have a potentially profound effect on our environment, most notable in the form of air pollutants and acid rain.

If we are to push forward with our desire to accelerate the consumption of these fuels, we must take similar, if not more aggressive, steps to protect our environment from further degradation—to protect the air we breathe, our water supplies, agricultural and forestry commodities, and our wildlife. We must assess the potential for irreversible damage before we are faced with these losses.

Mr. President, I am pleased to join Senator MOYNIHAN and our other colleagues in cosponsoring this amendment.

As the United States moves to cut its consumption of imported oil, we must carefully weigh the environmental impact that these alternative fuels pose. Just as reduced energy consumption will affect our standard of living, the alternative sources being proposed can adversely affect our quality of life. The time for studying these impacts is before we make the headlong plunge into synthetic and alternative fuel production—a plunge we are now making as the world runs out of oil. Mr. President, we have made significant progress in recent decades in our battle for clean air and water. We must not lose sight of these goals as we explore and develop new energy sources. The push for synthetic fuels, the increasing use of wood and conversion from oil to our most abundant fuel, coal, poses many problems.

One of the least understood problems is "acid rain." Precipitation forming in the atmosphere absorbs airborne pollutants such as sulfur, chloride, and nitrate. In combination with water these compounds form acids that fall in rain and snow. These mild acids erode buildings, eat away metals and bleach the soil of nutrients. The impact on food production and timber harvests must be studied now. Some air pollution regulations have contributed to this problem. Particulate removal, with stack scrubbers, removes the grit that many of these compounds attach themselves to. They now become airborne into the upper atmosphere where before they fell in soot. Stack height regulations have also contributed to the problem by giving these compounds a lofty head start.

The acid rain problem is international and is already showing up in Europe, Canada, and many urban areas in the United States. The Northeast is particularly hard hit. New York has documented over 100 lakes in the Adirondack region that no longer support fish life. The acid rain has dissolved metals in the soil and washed them into streams and lakes retarding fish spawning. Neighboring New Hampshire is also uncovering such problems. In Vermont, there is concern being expressed by environmental officials but as yet no State program is studying the impact.

The second problem associated with synthetic and fossil fuels is the buildup of carbon dioxide (CO_2) in the Earth's atmosphere. The source of this buildup is man's burning of fossil fuels, coal, gas, and oil. CO_2 is being released faster than plants and ocean life can absorb it. The buildup is beginning to create a so-called "greenhouse effect" that eventually could raise the Earth's temperature as it traps the Sun's heat closer to the surface.

The consequences of this problem could become acute within the next century. Raising the Earth's temperature to a high enough level could melt the "Southern Antarctic Ice Sheet" releasing a tremendous amount of water that could raise the ocean level by as much as 20 feet. The warming of the atmosphere would disrupt weather patterns, trigger droughts and affect worldwide food production.

The accelerated use of fossil fuels, the extraction of oil from coal and shale, and the production of synthetic fuels will increase CO_2 emissions. To remove carbon dioxide from exhausts takes almost as much energy as was originally produced. It is expensive and right now is impractical. There are only two solutions, increase the biotic sink (plant more trees) and reduce emissions. These solutions are expensive and long-range.

There are other problems associated with synthetic fuel production but the acid rain problem and CO_2 buildup need to be our two immediate areas of concern and action.

I am pleased to join with Senator MOYNIHAN of New York in sponsoring this amendment to create an interagency task force on acid rain. This group would collect further data and would recommend steps to reduce the incidence of acid rain that adversely affects our crops, forests, and structures. The massive Federal synthetic fuel program must be studied because it would create new sources of pollution and CO_2 emissions. While the short-term energy crunch could be alleviated through this program, we must move with caution and knowledge of the consequences.

We have only one atmosphere from which to draw our needed breath. Let us not ignore our present progress in cleaning it up and let us not foul it up in the future.

Mr. MOYNIHAN. Mr. President, I believe there are no further Senators wishing to speak on the matter. Since the managers of the bill have accepted it, I move the adoption of the amendment as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my amendment continue to be laid aside temporarily.

I hope that Senators who have amendments will call them up. This is going to be a long day. I can say that with some belief that my prophecy will come true. I hope the Senators will come and call

up their amendments and that the amendments will be disposed of as expeditiously as possible.

The PRESIDING OFFICER. Without objection, the amendment will continue to be laid aside.

Mr. ROBERT C. BYRD. It was a long day when Joshua commanded the Sun to stand still, but this is going to be another long day.

Mr. President, I want to protect Senators who have amendments. I do not want the Chair to put the question on third reading.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I do not mean to give carte blanche consent to lay my amendment aside. But as each amendment comes up, I would like to have the opportunity to determine at that point whether I continue to lay my amendment aside.

I ask unanimous consent that my amendment be laid aside temporarily to take up an amendment by the Senator from Wyoming (Mr. SIMPSON).

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 747

(Purpose: To provide that the Corporation pay certain taxes)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for himself and Mr. WALLOP, proposes an unprinted amendment numbered 747:

On page 115, line 23, strike "and".

On page 116, line 5, strike the period and substitute "; and".

On page 116, insert the following between lines 5 and 6:

(3) the Corporation shall be subject to any mineral severance, sales or use tax levied or imposed by any State, county, municipality, or local taxing authority.

Mr. SIMPSON. Mr. President, I thank the floor managers of the bill for this opportunity to briefly state that I wish to review, briefly, an amendment offered jointly by myself and my very good friend and colleague (Mr. WALLOP).

Senator WALLOP has already clearly addressed the need to authorize State government the ability to assess mineral severance taxes on the mining and mineral extraction activities associated with enterprises directly or indirectly associated with the development efforts of the Energy Security Corporation; formerly the Energy Security Corporation, now the Synfuel Corporation.

I endorse his statement completely. Creation of this federally chartered entity, such as the Energy Security Corporation, and I have deep reservation about the entire concept, raises complex constitutional issues of immunity from State and local taxation. I believe it was the intent of the Committee on Energy and Natural Resources—from reading the report—to structure this legislation in order that the tax base and revenue of State and local government would not be jeopardized by ESC projects.

My reading of the committee transcripts discloses the intention to exempt "intangible and incorporeal" interests of the ESC from State taxation. I do not profess to be an expert on taxation—only a consumer of it while serving here, and an expender—but certainly we should provide that State sales and use taxes shall be assessed on ESC activities. The assessment of a sales and use tax is the most efficient mechanism for generating "up front" revenue for the towns and counties where the social and economic impact from the construction of synthetic fuel projects will be most clearly focused.

I should like to share with my colleagues a recent experience that Converse County, Wyo., has had in dealing with a federally chartered corporation not at all unlike the mascent ESC. Recently, the Tennessee Valley Authority acquired 30,000 acres of uranium property in central Wyoming. Development plans by TVA called for the opening of several mines to service a central processing mill.

As a Federal entity, TVA was statutorily immune from State and local taxation. This peculiar twist of the law meant that not only would the tax base and revenues drop, but the bonded debt limit for the county and school district would also decrease. And all this to come at a time when the need would be most paramount to raise revenues to meet the increased demand for community facilities and social services to accommodate the population growth that would be engendered by the project.

I may tell you candidly that we are a State which welcomes responsible industrial development, and much of this synfuel development will come in our State of Wyoming. We have all the natural resources that this country is searching for and this possible loss of local tax revenues was totally alienating public support for this project. Fortunately, the diplomacy, commonsense, cooperation and good will of State officials and TVA's officers and directors has very nearly resolved this issue. But the example stands and the precedent is there.

As it now stands, the ESC is exempt from State and local taxes, except those assessed on real property. This provision is most helpful. But new plants will not go on the ad valorem property tax rolls until they are in substantial final stages of completion.

The purchase of the required heavy equipment, construction materials and fabricated industrial components for synthetic fuel projects will indeed be major commercial transactions. The ability to levy a sales or use tax on these transactions will assure that revenue vitally needed by State and local government may be secured when the need is at its very greatest—in the early construction phases where population impact is the most dramatic.

I feel we must provide the State and local government with all the tools to meet their needs and governmental objectives and not bind their hands behind their backs—an allusion my friend and colleague from New Mexico makes so well in these synfuels discussions.

Any other result might require that the Congress certainly be expected to make up the loss in local revenue that we will create—and then only by direct payments from the Federal Treasury. I would hope to avoid that. This method will guide us away from that result.

Mr. JOHNSTON. Will the Senator yield?

Mr. SIMPSON. Yes.

Mr. JOHNSTON. The Senator certainly means nondiscriminatory taxes, does he not?

Mr. SIMPSON. I do.

Mr. JOHNSTON. Would the Senator have any objection to putting in the word "nondiscriminatory" there on line 4, right before "minerals," so that we could make it clear it is nondiscriminatory?

Mr. SIMPSON. Mr. President, I will ask the Senator the definition of nondiscriminatory as he states it, if he would share that with me. What is the Senator stating when he states "nondiscriminatory"?

Mr. JOHNSTON. I think in this context it would be relatively clear it is not a tax which is not generally applicable. In other words, not a tax specifically designed for the project.

Mr. WALLOP. If the Senator will yield for a clarification on this, I have been working with the Senator and I think I can clarify what it means.

Essentially, what he is saying is the tax cannot be levied against projects of the Security Corporation alone in excess of what it would be by a corpopration undertaking the same activity.

Mr. JOHNSTON. That is exactly correct. Nondiscriminatory here would be used similarly to equal protection or due process.

The same kind of concept is that the States cannot make a special deal for these projects.

Mr. WALLOP. Projects of the Security Corporation, that would not be the same kind of tax levied against other similar projects of the private sector.

Mr. JOHNSTON. That is right. But we want to make it clear we cannot define nondiscriminatory too carefully without reference to the factual context.

We do not want to allow the State to come in and say, as the Louisiana legislature used to do, any city above 250,000 population, and with the idea that was nondiscriminatory. But when we looked at the facts, we found out that applied only to the city of New Orleans.

So we mean nondiscriminatory here in the real sense of the word.

Mr. SIMPSON. If the Senator will yield and let me withdraw this particular amendment without prejudice to its later consideration, I understand the staffs

are working on this issue and several other points that might be of clarification.

So, without prejudice, I move that this amendment be removed from the desk at this time.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER. The Senator has a right to withdraw the amendment.

The question occurs on the amendment of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 1-hour time limitation on an amendment by Mr. PERCY and that there be a time limitation of 30 minutes on any amendment to that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Would that be the next pending business?

Mr. ROBERT C. BYRD. If the Senator gets recognition, yes.

Mr. PERCY. Could we ask unanimous consent?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. PERCY be the next amendment, following the Jackson amendment, and that my amendment be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 748

(Purpose: To authorize assistance for synfuel projects in the Western Hemisphere)

Mr. JACKSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from West Virginia? The Chair hears none.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 748.

Mr. JACKSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 140, after line 14, insert the following new section:

WESTERN HEMISPHERE PROJECTS

SEC. 179. The Corporation may use its authority for financial assistance pursuant to subtitle D for not more than two synthetic fuel projects located in the Western Hemisphere outside the United States if the Corporation determines that (1) the project will use a class of resource that is located in the United States but that such class of resource will not be subject to timely commercial production in the United States even if the Corporation provided financial assistance, or (2) the fuel produced will be available to users in the United States at prices and in quantities the Corporation determines to be equitable considering the nature and amounts of its financial assistance.

Mr. JACKSON. Mr. President, the amendment I am proposing would authorize the synfuels corporation to provide financial assistance for not more than two synfuel projects located in the Western Hemisphere but outside the United States. This authority could be exercised only if first, the project will use a class of resource that is located in the United States but that such class of resource will not be subject to timely commercial production, even with financial assistance from the corporation; or second, the fuel produced will be available to users in the United States at prices and in quantities which are equitable considering the nature and amount of the financial assistance.

Mr. President, as currently drafted, S. 932 limits the corporation's authority to projects located in the United States. I am in full agreement with this limitation as a general rule. However, I believe strongly that the corporation should have the authority to participate in a limited number of projects outside the United States which are located in the Western Hemisphere under the conditions provided by my amendment.

The tar sands and the heavier oils of the United States, Canada, and Venezuela dwarf the remaining recoverable reserves of ordinary oil in the world.

With these, there is no need for original exploration. But great financial, technical, logistical, and political problems do stand in the way of their exploitation. A beginning has already been made. Research ventures in unconventional oil processing are underway between Venezuela and the United States, Canada and Venezuela, and the United States and Canada. The Canadian private sector has done even more. We must now deepen and extend these initiatives without delay. Of course, these synfuel projects will be launched only if both parties believe them to be in their own national interest.

Mr. President, I recognize that some may may argue that Federal assistance for synfuel projects should not involve any projects outside the United States. They will say, "Why should we risk our capital in a situation where if we have a successful project a foreign government may prevent us from reaping the benefits of it?" I would answer that we must recognize that the nations of the Western Hemisphere—whether exporters or importers of oil—have a strong common interest in maintaining the security of the Western Hemisphere Relationships among Western Hemisphere nations will not always be smooth. There is no doubt, however, that in the long run, our national interests far outweight our differences. I believe my amendment will make it possible to foster these common interests.

Mr. President, I offer this amendment particularly in the context of the President's visit to Canada tomorrow.

Canada has developed a tremendous synfuel program. The two plants in Alberta are two of the largest of their kind in the world. I think Canada is an example—it is not confined to Canada—of how a country can be assisted by some of our technology, and at the present time we can be assisted by their technology and the developments that have been made there.

I hope the amendment will be agreed to.

Mr. DOMENICI. Mr. President, I ask the Senator from Washington this: In the bill as presently drawn, there is a phase 1 and a prospective phase 2. Are we talking about these two synthetic fuel projects being under phase 1?

Mr. JACKSON. In general, I should say. It is a general authority.

Mr. DOMENICI. But, as an example, if there are none in phase 1, then part of the comprehensive plan would include a recommendation that there could be up to two in phase 2.

Mr. JACKSON. Yes.

Mr. DOMENICI. But if two arrive on the scene in phase 1, there would be none left.

Mr. JACKSON. That is right.

Mr. DOMENICI. Second, these would not necessarily be GOCO's, would they? The private sector could build them.

Mr. JACKSON. They cannot be; they are not GOCO's.

Mr. DOMENICI. Then, why do we want to have the Corporation setting the price? Would not the price be set by the marketplace?

Mr. JACKSON. We do not set a price. It is set by the market.

Mr. DOMENICI. It says:

The fuel produced will be available to users in the United States at prices and in quantities the Corporation determines to be equitable.

I do not think the Senator really intends that, does he?

Mr. JACKSON. The point is that we are trying to determine an equitable price. It may not be the market price.

Mr. DOMENICI. I do not know why we need that.

If one is going to make a financial transaction that is economical in Canada, I think the company that builds it up there should determine the price. Why should the Corporation do that?

Mr. JACKSON. For example, just from a selfish standpoint, we want to be sure that the price situation is such that not all of it will end up in Canada. That is why there has to be some determination on price.

Mr. DOMENICI. I say to the Senator that we could do that by saying in the amendment that, as condition to the financial arrangement, the Corporation shall insist on an equitable share of the product for the United States.

Mr. JACKSON. That is all right.

Mr. DOMENICI. If we do that, I have no objection.

Mr. JACKSON. That is the purpose of it. That is the purpose of the amendment, so there will be equitable sharing. I think the colloquy here will cover it.

Mr. DOMENICI. If the Senator strikes the words "at prices," it will read appropriately:

Available to users in the United States in quantities the Corporation determines to be equitable, considering the nature and amounts.

Mr. JACKSON. Mr. President, I ask unanimous consent that my amendment be so modified.

The PRESIDING OFFICER. The amendment is so modified.

Will the Senator send his modification to the desk?

Mr. JACKSON. On line 9, strike "at prices and" after "United States."

The modified amendment is as follows:

On page 140, after line 14, insert the following new section:

WESTERN HEMISPHERE PROJECTS

SEC. 179. The Corporation may use its authority for financial assistance pursuant to subtitle D for not more than two synthetic fuel projects located in the Western Hemisphere outside the United States if the Corporation determines that (1) the project will use a class of resource that is located in the United States but that such class of resource will not be subject to timely commercial production in the United States even if the Corporation provided financial assistance; or (2) the fuel produced will be available to users in the United States in quantities the Corporation determines to be equitable considering the nature and amounts of its financial assistance.

Mr. DOMENICI. With that, we have no objection.

Mr. JOHNSTON. Mr. President, the committee accepts the amendment. It is a good amendment, and we are glad to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized.

AMENDMENT NO. 576

Mr. PERCY. Mr. President, I call up my amendment No. 576.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY), for himself, Mr. CRANSTON, Mr. ARMSTRONG, and Mr. PROXMIRE proposes an amendment numbered 576:

Beginning on page 106, line 1, through page 111, line 19, strike subtitle E, "CORPORATION CONSTRUCTION PROJECTS", and making conforming amendments striking references thereto throughout the bill.

Mr. PERCY. Mr. President, it is quite apparent to my colleagues that I have benefited from the discussion last evening in the Chamber. To remove the problems that some Senators felt were present in the technical amendments that were incorporated all the way through to change and clean up some of that language, I have simply stripped out those technical amendments and will leave it to the committee to make whatever technical changes might be necessary in the bill if this amendment prevails.

Mr. President, the element of Government ownership of synthetic fuels facilities, so-called GOCO's, has surfaced in the Energy Committee's version of the Energy Security Corporation. This is in spite of the fact that the strong support for the concept originally shown by the administration has been largely withdrawn. I see no real enthusiasm whatsoever in the administration for this concept.

I think they have been listening to many practical voices, many voices of concern. There are reasons to believe that this concept might even delay implementing the end goals of, which we all agree, may some day lower our dependence on foreign oil. But GOCO's are, in my judgment, not the right way to go.

Synthetic fuel technologies will require massive amounts of money and considerable time before they can be brought into commercial application. Some of them may not prove commercially viable, and must not be allowed to become white elephants. GOCO's, however, would encourage white elephants. We know from the SST experience in other countries what an abysmal job governments typically do in commercializing new and untried technologies.

I can see a situation developing where a GOCO-run synthetic fuels plant, located in a particular congressional district, would be supported for political reasons long after economics called for the project's termination.

We have all seen this happen with military installations. Any time there is a Government installation, economic factors are not the key thing. It is the political impact which becomes solely important.

The question is, should we allow all of these political factors with Government-owned corporations to intervene in an energy program when we really have one clearcut goal, the reduction of our dependence on foreign oil? Economics should reign, not politics. Yet we are creating a labyrinth of Government-owned corporations, whether it is 1, 3, 10, or 20. The minute you get them started, there is going to be a political momentum that develops to continue, not economic forces that force companies out of business if they are not doing well. Politics is going to reign, not economics.

This is why I have authored this amendment to delete Government ownership or operation authority from the Energy Committee bill. The basic development and commercialization of synthetic fuels in the United States should remain in the private sector.

Direct intervention by the Government will only further distort an already distorted energy market. The private sector, not the Federal Government, is best able to manage the commercialization of these new technologies. It is highly likely that only the private sector would be able to abandon a technology if it turned out that the chosen project is not as promising as it first appeared.

I believe that Government can play an important role by providing the private sector with a variety of economic incentives for the accelerated development of alternative fuel technologies. The establishment of GOCO's, however, would lead to excessive Government involvement and poor decisionmaking.

Mr. President, I am hopeful that my distinguished colleagues will support this amendment to remove Government ownership and operation authority from the Energy Committee bill.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors. In addition to my principal Democratic cosponsor, Senator CRANSTON, and Senator ARMSTRONG and Senator PROXMIRE, I ask unanimous consent that Senators HATCH, DECONCINI, BOREN, BOSCHWITZ, and JEPSEN be added as cosponsors.

The PRESIDING OFFICER (Mr. INOUYE). Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. PERCY. Yes, I am happy to yield.

Mr. ARMSTRONG. Mr. President, I compliment the Senator from Illinois for the amendment. There is little that can be added to the well-reasoned and persuasive arguments which he has advanced in support of this amendment which I am proud to cosponsor.

I wish to make two observations:

First, yesterday a substantial minority of this body made it plain that we have very great reservations about this bill. By a close vote, the Senate declined to strike from this legislation the Energy Security Corporation, but it is obvious that here in the Chamber and around the country there are some serious reservations. I believe that if the Senate were to adopt the amendment, which has been brought to the floor under the leadership of the Senator from Illinois, it would go a long, long way towards quieting the fears which have been so forcefully expressed about the concept of this bill. So, for that reason, I hope it will be adopted.

Second, I emphasize and underscore the Senator's concern that having the GOCO fallback position could well slow down development of synthetic fuels in the private sector. So long as the Government is hovering in the background with even a fallback or a standby authority to get directly into the energy producing business, the temptation to drag our feet in fostering private sector initiatives will be very great and so we may actually impede rather than stimulate synfuel production.

So again I associate myself with the leadership of the Senator from Illinois and join with him in urging adoption of this amendment.

Mr. PERCY. I thank my distinguished colleague who is one of the early cosponsors. I know the Senator believes very deeply in the principle involved.

GOCO's could make this such a misleading venture. We are talking about Chrysler Corp., and $1½ billion, in a known field that we have been in for years. What could be the cost if Uncle Sam is writing the check and we have all these so-called free windfall dollars pouring in on this synthetic fuel operation? The potential for waste and the potential for backing projects that are not economically sound is simply horrendous.

We are talking about potentially having 10 Chryslers on our hands.

I can point to countries like Italy that went that route. Italy, during World War II, took common stock holdings in companies it wished to give assistance. The

United States, in contrast, gave debt assistance to troubled corporations. Italy took common stock; they ended up owning half of their industrial base. This slowed their economic recovery down 10 to 15 years.

Why do we now try to say there is only one way to solve our problems? Why do we copy the system of government ownership that has not worked all these years in other countries?

I am delighted to yield to my distinguished colleague from Utah, Senator HATCH.

Mr. HATCH. Mr. President, I would like to congratulate the Senator from Illinois, my friend.

Mr. PERCY. May I interrupt the Senator? I ask unanimous consent that my distinguished colleague, Senator HATCH, be added as a cosponsor, and also my distinguished colleague, Senator MCCLURE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I want to congratulate the distinguished Senator from Illinois for this great amendment. I agree with everything he had to say. Anytime the Federal Government gets involved in any of these organizations, it seems we go to the inefficiencies of Federal Government and we ignore the efficiencies of the private sector that are, it seems to me, much better.

I commend the Senator from Illinois. I think that his amendment certainly should be supported, and I hope everybody does support it. If it is not supported on the floor of the Senate, I think we should all consider further steps that must be taken with regard to this bill.

I am very concerned. May I ask the Senator from Illinois what is his attitude with regard to Government-owned and Government-operated companies? Will the Senator's amendment go to that, or does it need to go to that, so that we can clear that up on the floor at this time?

Mr. PERCY. Government-owned and Government-operated would be even worse. I would tend to think at least in a company-owned plant you do have a vestige of the private management and the techniques they have developed in the private sector. But with Government-operated you have the same horrendous problem that we have in increasing efficiency and meeting market conditions because Government is too far removed from the market to really be sensitive to it. I feel that would be an even worse step.

Mr. HATCH. It is my understanding that the distinguished Senator from Illinois' amendment does not go to Government-owned and Government-operated companies with regard to the bill.

Mr. DOMENICI. Mr. President, will the Senator yield for a question? Is the Senator under the impression that this bill permits Government-owned and Government-operated?

Mr. HATCH. I am not, and I understand the administration is not going to advance it at this point; is that correct?

Mr. DOMENICI. The bill does not permit Government-owned and Government-operated, and I know of no amendment by anyone to expand upon the Government-ownership, contract operated provisions.

Mr. HATCH. I think that clarifies the matter. That is my understanding of the purpose of the bill.

Mr. PERCY. The purpose of the Senator from Illinois' amendment is to make impossible both types, Government-operated and contractor-operated as well.

Mr. HATCH. That is my understanding, and I am glad it has been brought out on the floor.

I commend the Senator for the amendment he brought forth. I certainly support it and I ask all of my colleagues to do likewise.

Mr. PERCY. Mr. President, I ask unanimous consent to add Senator WALLOP as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, if you made a list of Senators of from one to a hundred ranked according to who loves the oil companies most or more properly who hates them the least, I would certainly be on the top or bottom of this list, depending on which is more appropriate.

But, Mr. President, if we eliminate the possibilities of GOCO's, let me tell every Member of this body that in the context of this bill it could make it a very bad deal for the American public and a very sweetheart deal for principally big oil companies.

Let me tell you why, Mr. President. We have given to this corporation appropriate but very sweeping powers. First of all, we invest the Corporation with $19 billion in budget authority, plus another $1 billion to be in the Department of Energy for biomass, but in this corporation itself $19 billion. We give them a mandate to put on line the most promising of the one-of-kind commercial demonstration technologies so that they will have the money, they will have the mandate to go out and get the plants built.

The reason we have wanted this corporation is not only because of the skill of the people, their business judgment, their experience, but because we can give them a mandate, insulate them from changes in politics, and tell them to get the job done. That is what we want.

But the obverse side of that, Mr. President, is that we do not want to put the corporation in a position to have to accept the first deal they are offered by, for example, Exxon. I do not mean to use the word "Exxon" in a deprecatory sense because I think that big oil companies do a great job for this country, and I do not cry as much as my colleagues when they make big profits. I cry more for Chrysler when they make no profits.

Nevertheless——

Mr. PERCY. Mr. President, will the Senator yield for a question on that point? Will it not still be possible for the Government to enter into joint ventures?

Mr. JOHNSTON. I will address that in just a moment.

Mr. President, Exxon, for example, is what you might call the owner of a process called Exxon donor solvent, which is a coal liquefaction process. They are further along than anybody else. It is a good process, and I think it may well be one of those processes that ought to be demonstrated by the Synfuel Corporation.

What we want to do is to give the members of the board of this corporation the power to sit across the table with, for example, Exxon and work out a tough-minded deal that will get that process, if it is appropriate, built and demonstrated on a commercial basis for the American people.

But what happens, Mr. President, if Exxon says, "Your deal is not good enough. Our corporation knows it is not good enough, and knows it can make a profit with it." They simply say, "No deal. You play according to our rules, according to our prices, or you do not get a deal."

What we want to have, Mr. President, is the possibility of a GOCO, a Government-owned, company-operated plant.

Call it an ace in the hole or a club in the closet as a bargaining chip available to this Corporation so that if all else fails they have the possibility of demonstrating the commercial technology through the GOCO.

We make it very difficult indeed to get a GOCO demonstration. In the first place, we set up a hierarchy of the kinds of financial assistance that shall be given to the private sector. A preferred list of priorities. At the top are price guarantees; the second are loan guarantees, and then you come on down the list, to loans, completion guarantees, joint ventures, and at the bottom of the list is GOCO. Under the Bentsen amendment adopted yesterday they will have to advertise notice of any GOCO plan in the Federal Register, and I believe it is a period of 30 days that must go by before they can make a deal. So there are all kinds of injunctions and mandates to the corporation not to go in the direction of GOCO unless all else fails and unless the technology needs to be demonstrated.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, I yield.

Mr. CHILES. I was listening to the comments of the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. PERCY) about the inherent evils of Government-owned, company-operated plants. I certainly would be against that as a normal thing. It seems that is the way it is as opposed to private enterprise.

But if my memory serves me a little bit—and I was kind of at a tender age—in World War II when we were trying to get this country producing rubber synthetically, and when we were trying to make cannon shells, and we were trying to produce all kinds of other materials for the war effort, did we not have something like these plants at that time?

Mr. JOHNSTON. This country has a long and rich history with respect to GOCO's. For example, going back to World War I, take the U.S. Shipping Board Emergency Fleet Corporation, for

example. We were in a deficit situation with ships, as the Senator will remember from his history books. Because we had been observing the shipping conventions, maritime treaties and because our opponents had not, we had to get some ships built, and built quickly. So we gave that corporation $2.5 billion and told them to do the job, and they did it.

Other examples are the War Finance Corporation in 1918; Amtrak; COMSAT; and the Reconstruction Finance Corporation. Now, that was in 1932 and I know it was well before the Senator was born, but the RFC started in 1932 and spent $54.4 billion, and many of us think it got us out of the depression. So, yes, there are plenty of them.

Mr. CHILES. What happened to those plants in World War II that were Government owned and privately financed, or Government owned and Government operated? As soon as the emergency was over, the war was over, I do not remember a lot of those continuing in Government ownership. It seems to me that those were converted over or sold to private companies.

I remember early on reading that we could not get a sale for certain ones, those that were still making cannon shells, because nobody wanted to buy them. Aside from that, did not most of those plants all go to the private sector?

Mr. JOHNSTON. The Senator is correct.

Mr. CHILES. The Government does not own any rubber plants today, does it?

Mr. JOHNSTON. No. There are some GOCO's still in existence. For example, in the munitions field.

Mr. CHILES. In the munitions field, but that is where there were not any private seekers.

Mr. JOHNSTON. The Senator is correct. Virtually all of these operations have gone back to private enterprise. The GOCO approach is taken only in unusual circumstances. But in virtually every circumstance, which called for this extraordinary action, it has been done with success.

I think it is particularly appropriate here, not because we want to move in their direction. Frankly, I hope we do not get a single GOCO built. I hope private enterprise is there to respond to the generous, but not overly generous, subsidies available under this bill.

But I do not want to subject this country and this Corporation to an exorbitant holdup by any American corporation. And that is what we are going to do.

Mr. CHILES. The Senator said American corporation. That holdup could be by multinational corporations, could it not?

Mr. JOHNSTON. Absolutely.

Mr. CHILES. Not just an American corporation?

Mr. JOHNSTON. Absolutely. I want a tough-minded bunch of corporation members to be able to go into a bargaining session with a full deck, so that they are on an equal basis with large companies. I keep using the example of Exxon, only because they happen to be one of the companies that has a process that we probably want to develop. I want this corporation to be able to look at Exxon eye-to-eye on an equal basis.

Mr. CHILES. But you want them to look Shell in the eye, too?

Mr. JOHNSTON. I want them to look Shell in the eye, too.

Mr. CHILES. It is not exactly an American corporation.

Mr. JOHNSTON. And any other companies.

Mr. CHILES. Or British Petroleum?

Mr. JOHNSTON. Sure; all of them.

Because otherwise, with the power and the mandate we give this corporation, they are likely to get skinned; not on purpose, but simply because they do not have the right cards in their deck.

Let me say one more thing, Mr. President. The distinguished Senator from Illinois asked about joint ventures. Under our joint venture language, such ventures are restricted to synthetic fuel modules. Now, a module is something less than a commercial demonstration. That is where you have a technology that is not ready to go into full swing. It is not a 50,000-barrel-a-day demonstration. It might be, for example, in the case of oil shale, a 5,000-barrel-a-day demonstration as opposed to commercialization.

Further, under the bill you may have a joint venture for the module only if it can, at the same time, be expanded into a synthetic fuel process. So the joint venture is a different concept at a lower level than full commercialization. It is no answer, I think, to the GOCO.

I would hope that the distinguished Senator from Illinois would, perhaps, agree with us in this matter, understanding that we do not want GOCO's to be built. But we want to vest this corporation with bargaining strength; with a full deck at the bargaining table, so they can extract the best deal for the American people.

I hope the Senator will look at it in that light, and while he is thinking about it also consider that his amendment is subject to a point of order, which we are very reluctant to make. I hope we can work this whole matter out.

Mr. President, how much of my time is remaining?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. DOMENICI. Will the Senator yield 5 minutes?

Mr. JOHNSTON. I yield 5 minutes to the distinguished Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say to my good friend from Illinois and those who are cosponsors of this amendment that I certainly do not want the Federal Government to be involved in an ownership or equity position in the first phase of synthetic fuel development to any extent other than that which might be absolutely necessary to accomplish the goals and purposes of the bill.

I believe, with the adoption of the Bentsen amendment and the language in the bill, which is found on pages 78 and 79, it is absolutely clear that it is the intention of the committee that we not have any GOCO's unless there is absolutely no way to get the diversification and the technology with all of the other tools available. The Bentsen amendment makes that even clearer.

Second, there is a prohibition against any of them being involved in phase 2. We are only talking about phase 1.

Now, there is a problem that we should address, and that is the way the bill is drawn. The three that I have just described, kind of last-option, "only-way-to-get-done" proposals, is not the only way to get GOCO's in phase 1. Because there is language that says if more are deemed necessary the Corporation recommends them, and then Congress has the right to veto.

Now, what I am going to do, and the Senator from Louisiana agrees, is offer an amendment here shortly, not in any way to deny the Senator from Illinois an up-or-down vote on his amendment, but I will offer an amendment striking that optional language, and thus the bill will unequivocally be for three only, under those extreme circumstances, which are kind of "if ever, probably never" sort of circumstances.

I want to say, from my standpoint, in the debates in committee I favored GOCO's under extreme circumstances. I thought it best to have Congress pass them, even as to three. I believe, however, with the Bentsen language, with the clear formula in the bill as to the previous things that must first be used, that we ought to leave the option there in phase 1, which is demonstration, bring on board commercial in a demonstration manner, prohibit anything beyond it, and continue the prohibition in phase 2, which is the American broad-based commercialization of synthetic fuels.

I am positive that if this program proceeds right, if energy continues as scarce as it is—and I see no abatement—if the price of crude oil continues to rise—and I see no relief from that—we will be able to demonstrate each of these technologies with the private sector making a fair and square deal with this corporate board, without us ever needing GOCO's.

I cannot support the Senator's amendment. I will offer one to make it absolutely impossible to go beyond the three, and I think we are adequately protected. I commend the Senator from Illinois for raising the issue. I think it is one that all Senators should vote on and express their views. I think it is not unheard of; it is not unprecedented.

I do not believe the private sector ought to be fearful. We need this corporation to get these started. If it works, the private sector will have a brand new industry that they can be involved in, and we will have tried the technology for them.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Illinois has proposed an amendment. The distinguished Senator from New Mexico has proposed a compromise which, when, read in tandem with the amendment of the distinguished Senator from Texas adopted yesterday, goes, I think, most of the way in the direction being taken by the Senator from Illinois. I would hope that he would take the suggestion of the distinguished Senator from New Mexico in that light. Under that set of

circumstances, as to the compromise offered by the Senator from New Mexico, I would be happy to accept that. We can avoid the point of order and we can tie the whole thing up into a neat little package. I hope we can do so.

Mr. METZENBAUM addressed the Chair.

Mr. JOHNSTON. Will the Senator withhold to see if we are going to get an affirmative answer?

Mr. PERCY. Mr. President, my comments will be very brief. I think your question, Senator JOHNSTON, is a question of principle, really.

In the bill we are already limited to three projects. In section 142 during phase 1 up to three such projects could be authorized.

I will come back to this, after Senator METZENBAUM has finished his comment, as to why I feel very deeply.

This is the wrong path. It would really mislead us. It would create all kinds of problems for the Energy Committee. Obviously, the goal the Senator has ahead of him, and the job that lies ahead of him, will take a lifetime.

I appreciate the fact that we can have an up or down vote. I think it will send a message to the Department of Energy as to how many Senators feel strongly on this subject.

Should my amendment pass, we would then have an effective limitation. Those administering these programs will be extraordinarily cautious before going ahead with GOCO's. We will be putting tight guidelines on them and not letting them run away with this.

I prefer to have an up and down vote. I appreciate the fact that we can.

I would be delighted to hear from Senator METZENBAUM on the time of the Senator from Louisiana.

Mr. JOHNSTON. I yield 5 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I know of no issue in this bill that has had more working over, more amendments, and more consideration by the Energy Committee than this particular aspect of the bill. I well understand the concern of my friend from Illinois who expresses himself on the whole question of a free enterprise system and whether the Government is going into business.

The fact is that because there were many members of the Senate committee who were concerned in the same manner that the Senator has indicated he was concerned, there were great limitations put upon the bill.

Senator BELLMON's amendment provided that only after all other incentives have been tried can there be GOCO's. Senator BENTSEN's amendment provided only after notice of intent has been published with 30 days for response. Senator DOMENICI's provided no more than three without congressional approval, and we know he is about to offer an amendment to limit it to three, period, without a new act of Congress.

Actually, the issue is: How are we going to develop the synthetic fuels of this Nation? I say to Senator PERCY that is the most challenging aspect of the entire legislation. Can we do it? If so, how can we do it? We all know we have to have synthetic fuels developed.

I never thought I would be on the floor of the Senate speaking on behalf of the Columbia Gas Co., which is the world's largest independent natural gas producer, seller, marketer. I have in my hands a letter from the Columbia Gas Co. of Ohio in which they are urging us to keep the GOCO's in. They write as follows:

As you know, the Senate will begin floor consideration of the synthetic fuels legislation next week. Columbia Gas of Ohio supports the Energy and Natural Resources Committee bill particularly because it provides for GOCO's if the other forms of financial assistance prove inadequate.

They go on to say:

We believe GOCO's are vital in the development of commercial-scale plants to turn bituminous coal into pipeline quality gas.

The interesting thing about this is the fact that the Senator from Illinois represents a State that has much of the inventory of bituminous coal in this Nation, and we are talking about making that bituminous coal available for conversion into natural gas.

Columbia Gas addresses themselves to this issue and says:

Commercial gasification of bituminous coal has not been accomplished, and will not be accomplished, on the basis of loans, loan guarantees, price guarantees, or purchase commitments alone.

GOCOs hold the most promise for breaking the bottleneck now precluding commercial gasification of bituminous coal, just as they successfully led to development of synthetic rubber during World War II.

The Senator and I represent two of the major States in the Nation which have bituminous coal resources. I am not sure whether Columbia Gas serves the Senator's State or not. It is the major marketer in my State. Here is this company, certainly a major factor in the entire business community, telling us that they need GOCO's if they are going to be able to get natural gas as a result of the conversion of bituminous coal.

I believe this is the only road we can go. I believe the Senator from Illinois has a concept and a concern which has been well expressed. But having said that, I think it is an imperative from the Senator's own State standpoint that his amendment be withdrawn. I think it would be wrong to a company such as this one, actually the largest natural gas company in our Nation, telling us that it will not be produced unless you have GOCO's, that the private sector is not in a position to provide the funding for it.

That, I believe, is why the GOCO's are so important. Not many, but enough to provide the possibility that we can develop synthetic fuels that we need so badly in this Nation and that we will not have unless we have the GOCO's.

In addition to that, the remarks of the Senator from Louisiana certainly were most persuasive, that this gives us a negotiating tool, a means of dealing with those who are interested in developing their technologies, and gives some form of protection in the negotiating process to the American people.

I say to Senator PERCY that I think in the interests of Illinois and in the interests of the Nation, I would truly hope he would consider withdrawing his amendment.

Mr. President, I ask unanimous consent that the letter to which I referred as well as the supporting documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLUMBIA GAS OF OHIO, INC.,
Washington, D.C., November 1, 1979.

Attention: Mark Messing.
Hon. HOWARD METZENBAUM,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR METZENBAUM: Attached is a paper discussing Columbia Gas of Ohio's reasons for supporting the government-owned, contractor-operated (GOCO) provisions of S. 932 as reported by the Senate Energy and Natural Resources Committee.

As you know, the Senate will begin floor consideration of the synthetic fuels legislation next week. Columbia Gas of Ohio supports the Energy and Natural Resources Committee bill particularly because it provides for GOCOs if the other forms of financial assistance prove inadequate. As the attached paper outlines, we believe GOCOs are vital to the develoement of commercial-scale plants to turn bituminous coal into pipeline-quality gas.

I urge you to support the Energy and Natural Resources Committee bill and oppose any efforts to delete or weaken its GOCO provisions.

Thank you for your consideration. If you have any questions concerning our position please don't hesitate to contact me.

Sincerely,

DANIEL R. HELMICK,
Manager, Federal Governmental Affairs.

ISSUE PAPER—GOCO'S ROLE IN SYNFUELS LEGISLATION

Bituminous coal represents approximately 70 percent of the nation's coal reserves, a strategic resource the nation must utilize if it is to reduce dependence on imported oil. The key is the effective development of commercial gasification of bituminous coal.

Commercial gasification of bituminous coal has not been accomplished, and will not be accomplished on the basis of loans, loan guarantees, price guarantees or purchase commitments alone.

Substantial up-front financing in the form of self-terminating government-owned contractor-operated provisions (GOCOs) are necessary to absorb the considerable risk inherent in determining the most effective technology for commercial scale demonstration of bituminous coal gasification.

Bituminous coal is medium hard, sticky and tends to clog up Lurgi gasifiers which are best suited to western coals. New technologies (2nd or third generation) will be required for the effective gasifying of bituminous coal on a commercial scale basis.

The chance that any one such project will fail is significant and the costs substantial (approximately $2 billion). Thus, these projects are beyond the means of all but the few largest corporations.

GOCOs hold the most promise for breaking the bottleneck now precluding commercial gasification of bituminous coal, just as they successfully led to development of synthetic rubber during World War II.

CONCLUSION

1. The Senate Energy Committee bill should be enacted with its present GOCO provision.

That provision makes GOCOs available only if other forms of financial assistance are inadequate to enable the Synthetic Fuels Corporation to meet Congress' production goals.

It limits them to three, unless Congress should specifically approve more.

2. If retention of the complete GOCO provision is impossible, it should be retained for biomass and pipeline quality coal gasification on a commercial scale demonstration basis. This could be accomplished by changing Sec. 141, as follows:

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

CORPORATION CONSTRUCTION AND CONTRACTOR OPERATION

SEC. 141. (a) Subject to the requirements of sections 122(a)(1)(D) and 142, the Corporation is authorized to own, and shall contract for the construction and operation of commercial scale demonstration plants for pipeline quality coal gasification and for biomass (hereinafter referred to as a "Corporation construction project"); *Provided*, That, prior to the adoption of a comprehensive strategy pursuant to section 122 (b) and (c), the Corporation may undertake such contracts only if, in the judgment of the Board of Directors, the Corporation construction project is necessary to meet the objectives of section 122(a)(2) and would not otherwise be constructed pursuant to subtitle D.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. PERCY. Mr. President, I yield myself such time as I may require.

I would like to first answer one of the arguments raised by Senator JOHNSTON. Senator JOHNSTON mentioned the Exxon donor solvent program, and he could not have raised a better argument to support the position of the Senator from Illinois. This was never done in a GOCO. This was a process developed through Government-industry cooperation partially funded by the Senate Energy Committee and carried out through DOE. That is exactly the kind of project that I think can and should be done and would be done, but you do not need a GOCO for that.

My distinguished colleague from Ohio (Mr. METZENBAUM) has made reference to the effects on my home State. I have very much in mind those 19,000 coal miners and the huge deposits of coal. What I have in mind also, as the Senator well knows, is the direct use of coal. We ought to mandate that 119 public utility boilers be directed to convert over to the direct use of coal and away from gas and oil. That would help a tremendous amount, the equivalent of a million barrels a day being saved, I think, before 1990.

What we need is more direct usage.

If a synthetic fuel appears to have the possibility of a market, there is no lack of private enterprise ready to go to work. It may require some Government grants and help, and assistance with technology, all of which the Department of Energy is prepared to do.

Coal gasification in the State of Illinois, mentioned by the Senator from Ohio, is something we are very much interested in. But we are simply saying that we would much rather have a private sector company than a Government-owned company in the State of Illinois. We would much sooner have the consortium of German manufacturers who are now making a presentation to the city of East St. Louis, for whom we made a presentation to the Department of Energy. It would not require a Government corporation—Germany is willing to bring into Illinois all the technology and know-how they have built up over a score of years to build a gasification plant there. We are not asking for a Government-operated facility or a Government-owned facility.

Also, Food Machinery Corp., now known as FMC of Chicago, has put together a consortium of companies that are making a similar bid, as is an Ohio group. I hope both of them can be awarded contracts to go ahead in the private sector, using American technology and know-how, in the coal gasification field.

I do think, Mr. President, that we have every possibility to move ahead. I concur with the conclusions of the Committee on Banking. They unanimously opposed granting authority to Government construction for synthetic fuel plants, even as a last resort. I served on that committee for many years. The men who serve on that committee are men who have looked at the problem with extraordinary care. They concurred that there should be a vast limitation on GOCO's. The Energy Committee has agreed to some restrictions. The only difference is whether we have no option for Government plants, so that all the incentive is given to the private sector to move ahead with Government help and assistance, or whether there is going to be a potential for, possibly, three plants. Who gets those three plants, what States get those three plants, what goes into those three plants, how significantly can those three Government-operated plants operate, and what will the eventual cost be?

There is a risk, with a Government-owned plant, that we are going to go into a process when everyone else has turned it down.

We must ask if the taxpayers of this country should be asked to take a risk that no one else in the country will take. I think it is wrong to make them take that risk and, at the same time, tell them we are creating an industry which will be sensitive to market pressures.

Also, I think we have to be very concerned about the fact that Government construction would transfer the cost and technological risk from private venture to the Government, even if we do limit it to three plants. It simply removes the program from the primary question that should be looked at: What are the market forces? Again, market forces have been used to stimulate one area that is moving ahead now with tremendous speed in synthetic fuel. That is gasohol. Illinois is the leading State in the Union—not as a Government-operated program at all. Archer-Daniels of Decatur, Ill., has gone into it because the Government has provided some of the incentives.

The amendment that I put in, that was accepted, exempted any gasohol of a 10-percent blend from Federal taxation making 4 cents of difference in the cost structure. That showed that the Government symbolically wanted to do everything it could to encourage gasohol. We can do other things to stimulate it and if we do, there will be plenty of companies coming into that field. Archer-Daniels is not going to be in there alone. There are other companies moving in.

Shell Oil, 6 months ago, during a tour of their research laboratories, told me that their top management was not interested in gasohol. That is the same thing Standard Oil of Indiana had told me. They are now taking a look at it. In 6 months, Standard Oil has moved in. And Shell Oil has said they are going to take a whole new look at this.

Archer-Daniels is not going to have this field alone because the process is profitable, it is marketable, and the product can be gotten out. Not a Federal penny, really, of the construction costs, bricks and mortar, will have to go into that field. The same thing can happen in other areas.

The reason I dislike Government operation so much is that when the Government accepts the ultimate risk, it reduces the incentive for efficient operation. The Banking Committee came to this conclusion: The incentive is removed. I should like to read, finally, a quote by Alice Rivlin, Director of the Congressional Budget Office, who testified on this very point:

If the Federal Government itself were to build these plants, it would then absorb all the risks—that is, the technological and cost risks, as well as the risk associated with any future changes in OPEC prices. This would give contractors less incentive to build the most cost-effective plants, since no private sector money would be at risk. Overall efficiency would, therefore, be reduced.

Finally, a report prepared for the Senate Budget Committee by ICF, Inc., discussed this same problem. It said:

The President proposes to allow the ESC to initiate GOCO's as a last resort. GOCO's contradict every one of the guidelines just cited from the MIT work. The demonstration would be removed from the normal workings of the private sector; project managers (most likely working on a cost plus fixed fee basis) would not be subject to serious market or cost reduction pressures, and full federal financing would provide no information about the likely financing cost for a commercial project . . .

Finally, Mr. President, on a lot of the decisions that we make on this floor we can ultimately determine whether we made the right decision. We shall have a chance in time to determine who was right in this case. Certainly, even if this amendment does not prevail, I would enthusiastically support any further tightening, any further limitation on GOCO's that we can do. We are all concerned about this.

Let us admit it, we are all concerned about going down this path. The administration, originally for it, now really has totally retreated from it. I think they

just do not want any part of it. I think for that reason, we want to approve this amendment.

By proposing this amendment, I in no way wish to detract from what I think is a magnificent job the Energy Committee has done. I do not think anybody in the country realizes the time and effort that have been committed to solving this problem. We have some of the best minds and the best men and women that I have known working on this problem in the Senate of the United States. We just disagree on this particular point. But I do not want that to detract a bit from my deep appreciation for the work of my distinguished colleagues, particularly those managing this bill, Senators DOMENICI and JOHNSTON, and the rest of the subcommittee.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, how much time remains?

The PRESIDING OFFICER. Seven and one-half minutes.

Mr. JOHNSTON. I yield myself 4 minutes, Mr. President.

Mr. President, the distinguished Senator from Illinois has said that we should let market forces work their will in synthetic fuels.

Now, nobody is taking that approach today, not even the Banking Committee. The Banking Committee proposed some $3 billion worth of financial assistance, which is far from market forces.

The fact of the matter is that, left to market forces, it has been 52 years since the Federal Government built the first two experimental retorts in oil shale near Rifle, Colo. Fifty-two years later, we have no commercial demonstration at all.

The fact of the matter is that there must be Government involvement.

The House bill, the Banking Committee bill in the Senate, and the Energy Committee bill, all recognize that.

If market forces could do it, Mr. President, we would not be proposing this legislation. We not only want it to be done, but we want it to be done as quickly as possible in phase 1. Phase 1 being one-of-a-kind commercial demonstrations, about 10, perhaps 12, in number.

Mr. President, I wish the distinguished Senator from Illinois would look down the list of possible candidates and note the possible candidates. I just name one. Exxon's donor process is more or less the property of one company.

It is not true with every process, but in many of these areas we have, in effect, a process, a technology, developed by one company.

Another example that is high in the news now is the SASOL company's Fisher-Tropsch process now in use in South Africa. They have developed and pionneered the process. They have a commercial demonstration. They are moving now into a second phase of commercial demonstration.

Mr. President, why then a GOCO? Because when our Corporation sits down across the table from Exxon and Exxon says, "Yes, we are anxious to build our process, but we insist on a loan guarantee of 90 percent and we insist on a price guarantee of $100 a barrel," I want our Corporation to be able to say, "Well, please do not give me an offer I cannot refuse. Please do not give me a take-it-or-leave-it proposition." I want this Corporation to have the ability to say, "Well, if you will not make a reasonable offer, then we will do it, because it is a process that needs to be developed."

That is what this is all about, Mr. President, not that we want the Government to build the GOCO's. I hope there is not a single GOCO built. But if we do not have the possibility of a GOCO, we are going to severely deprive this Corporation of its bargaining power. That is what this is all about. Bargaining power.

Mr. President, I am willing, as the manager of the bill, to accept the Domenici amendment, the Domenici compromise just mentioned, where we will limit this to three GOCO's with no possibility of any other GOCO's.

I know the Senator wants a vote on his amendment, but it is subject to a point of order.

The PRESIDING OFFICER. The time has expired.

Mr. JOHNSTON. Mr. President, I yield myself 1 additional minute.

I would ask the Senator to consult with the Parliamentarian who will advise him that the point of order is well taken. In that spirit, both of compromise and of parliamentary exigency, I hope he will join with us, lock arms and march into the sunset, in agreement on the matter of the GOCO's.

Mr. PERCY. I hope my distinguished colleague will not ask for a point of order on the amendment. I think that although it is an issue that was argued in the committee, there are many Senators who feel strongly about it. I would hope the distinguished Senator would give the Senate a chance to have the same kind of vote the committee had.

As I have already indicated, if this amendment fails, the Senator from Illinois will fully support the amendment of the distinguished Senator from New Mexico (Mr. DOMENICI) to limit it to three.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. PERCY. How much time has the Senator from Illinois remaining?

The PRESIDING OFFICER. Two minutes and thirty-four seconds.

Mr. PERCY. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Will the Senator from Louisiana yield me 1 minute?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. I hope the Senator from Louisiana will not press for the point of order. I believe the distinguished Senator can make an amendment not subject to a point of order that will accomplish the same goal.

I think we would be wasting time. Those of us who want an opportunity to vote should be given that chance.

I do want to make clear that the amendment which I suggested to the Senator, and have cleared with most members of the committee, merely makes it absolutely clear that in phase 1 and phase 2, all combined, the entire American program, as promoted by this bill, will have only three GOCO's possible under the most stringent circumstances.

That is what my amendment will do, delete any language that indicates under some other circumstance we may have more pressure proscribed on Congress, not vetoing a plan. They are all gone. There is no way under mine but for the three.

But that does not take care of the issue of whether we should have the possibility of three, or not. I think we ought to let the Senate vote on that issue. I hope the Senator from Louisiana will do that.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I will not press the point of order. The distinguished Senator from Illinois has importuned me as to the importance of letting the Senate express itself on this amendment.

I would just urge the Senate in the strongest possible way to defeat the Percy amendment because, otherwise, Mr. President, we are going to denude this corporation of that essential bargaining power which it needs.

The Percy amendment completely strips out of the bill any authority whatsoever, even the possibility of a GOCO. If that happens, we are going to subject the Corporation and, in turn, the American public to being taken to the cleaners, to have to pay exorbitant loan guarantees, or exorbitant price guarantees.

Remember, Mr. President, we have given this corporation the mandate to go out and put on line the most promising of the synthetic fuel technologies.

Without this bargaining power, Mr. President, we can just expect the market forces to work. The companies that own these technologies will try to get the best deal they can, and that is going to be a sweetheart deal unless we have the possibility of a GOCO.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. Mr. President, I cannot support the Percy amendment to bar the construction of synthetic fuel facilities by the Synthetic Fuels Corporation.

I would like to reiterate some of the thoughts I have about the concept of a Government corporation, as well as the concerns I have about the structure of the corporation authorized in the pending legislation.

The establishment of a Government corporation to build a few "yardstick" plants is worthy of consideration, particularly in the synthetic fuels area.

A Government corporation with all of the powers inherent in a private corporation could play an important role in the development of synthetic fuels. This kind of corporation would inject important social, economic, and environmental objectives into its decisionmaking that would not necessarily be present in a private enterprise.

The corporation construction projects would provide the Government with full information on all aspects of the development of these new technologies. This would then provide a yardstick by which to measure proposals for private construction and requests for financial support from the private sector. These requests could be measured against the Government's own experience with its own plants.

Unfortunately, the kind of corporation and the kind of Government construction projects available in the Energy Committee bill do not contain the characteristics I have discussed. A Government construction project would not be allowed unless all other means of bringing the project into construction had failed. In other words, the Government would be given the right to build the projects most likely to fail, and be barred from constructing facilities when private interests would undertake such projects.

I fear that this limitation may result in Government construction of projects with a high likelihood of failure for economic or environmental reasons.

Nevertheless, these plants will still provide a proving ground for technologies which may be successful. I do not think we can foreclose this avenue of technology development. And, if the projects constructed by the corporation are unsuccessful, this knowledge also will be a yardstick by which to measure other proposed facilities and other unproven technologies.

For these reasons, Mr. President, I will oppose the Percy amendment to prohibit construction of synfuels facilities by the Synthetic Fuels Corporation.

Mr. DOLE. Mr. President, I agree with the amendment proposed by the distinguished Senator from Illinois (Mr. PERCY). While title I would authorize GOCO's only as a last resort to develop synthetic fuels, this is not an option we ought to make available. Our goal is to find a commercially viable technology for developing synfuels, and the Government is not known for engaging in commercially viable enterprises. The GOCO's would be an unfortunate hybrid, sufficiently insulated from market pressures to be useless in providing information about the commercial potential of synthetic fuel technologies. We need an energy bill that is tightly focused and carefully constructed to encourage new enterprises that can stand on their own feet. We cannot afford to keep energy options open, and we need to make choices. The GOCO's are one option that we ought to eliminate right now.

Mr. FORD. Mr. President, I rise in opposition to the amendment and in support of the Government owned/company operated (GOCO) last resort option in S. 932.

Certain promising technologies or abundant domestic energy resources may not be developed if the GOCO option is not available to the Synthetic Fuels Corporation (SFC). It is possible—but far from certain—that the SFC may need to use a GOCO to commercialize the gasification/liquefaction or other energy use of municipal or agricultural waste, peat, eastern oil shale, or highly caking eastern coal.

The GOCO provision is a last resort alternative. Sufficient safeguards exist—including Senator BENTSEN's amendment—to prevent its abuse. As S. 932 is presently drafted, the SFC could build a GOCO only if no private sector party is interested in constructing that project in spite of the availability of all other SFC incentives—including the joint ownership incentive. In addition, the Corporation is limited to three GOCO's, after which it needs two-House approval to build another GOCO.

The Corporation can only build a GOCO if the construction of that plant is necessary to achieve its overall plan.

GOGO's constructed by the SFC will be subject to all Federal and nondiscriminatory State and local environmental land use and siting laws to the same extent as private sector projects.

Small and regulated companies cannot use the front-end incentives (that is, price and purchase guarantees) that are provided in the SFC. In certain cases, the technological risk associated with a key process or resource such as highly caking eastern coal will prevent use of the back-end incentives provided for in S. 932 (that is, loan guarantees, loans, and joint ventures).

In these special cases a GOCO incentive may be needed to allow the complete and competitive development of a comprehensive synfuels industry. For a number of industries, particularly regulated industries such as the gas and electric utilities, it may prove difficult to raise the investment capital needed to construct the synthetic fuels facilities. This is particularly true during periods of tight money.

Therefore, it may be necessary in the SFC to have a limited GOCO incentive available to assist technologies which supply energy to our Nation's regulated utility systems and smaller companies.

For example, in previous synthetic fuels hearings before the Congress, members of the investment banking community have testified that synthetic gas plants would not be built without some form of front-end incentive, such as loan guarantees, loans, joint ventures, and GOCO's.

Mr. President, the Percy amendment should be defeated in order to provide the similar massive undertaking that our great Nation did in World War II to develop the aluminum and rubber industries with Government financing. The South African Government is often cited as a model for the synthetic fuels industry.

Additionally, I have been advised that GOCO's will allow the chemical industry to participate in synthetic fuels development through their considerable operating expertise. This additional industry participation helps diversify the type involvement in our Nation's energy production.

North Carolina and Minnesota peat, coal in Pennsylvania, Ohio, Kentucky, West Virginia, and other eastern States, New Jersey municipal waste, Midwestern States' agricultural waste—all these resources across the United States could move faster through this limited GOCO provision.

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. If the Senator from Illinois removes the last two lines of the amendment, if he removes the following wording, "and making conforming amendments striking references thereto throughout the bill," would the point of order be withdrawn?

Mr. JOHNSTON. Mr. President, I have told the Senator that I will not press the point of order.

Mr. PERCY. I thank the Senator.

I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JOHNSTON. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from South Dakota (Mr. PRESSLER) and the Senator from Rhode Island (Mr. CHAFEE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 47, nays 44, as follows:

[Rollcall Vote No. 393 Leg.]

YEAS—47

Bayh	Heflin	Muskie
Bentsen	Hollings	Nelson
Bradley	Huddleston	Nunn
Bumpers	Inouye	Pell
Burdick	Jackson	Pryor
Byrd, Robert C.	Javits	Randolph
Chiles	Johnston	Riegle
Church	Leahy	Sarbanes
Culver	Levin	Stennis
DeConcini	Long	Stevenson
Domenici	McGovern	Stewart
Durkin	Magnuson	Stone
Eagleton	Mathias	Talmadge
Eaton	Matsunaga	Tsongas
Ford	Metzenbaum	Williams
Hatfield	Morgan	

NAYS—44

Armstrong	Dole	Humphrey
Baucus	Durenberger	Jepsen
Bellmon	Garn	Kassebaum
Boren	Glenn	Laxalt
Boschwitz	Goldwater	Lugar
Byrd, Harry F., Jr.	Gravel	McClure
Cochran	Hart	Melcher
Cohen	Hatch	Packwood
Cranston	Hayakawa	Percy
Danforth	Heinz	Proxmire
	Helms	Roth

Schmitt	Stevens	Warner
Schweiker	Thurmond	Weicker
Simpson	Tower	Young
Stafford	Wallop	Zorinsky

NOT VOTING—9

Baker	Chafee	Pressler
Biden	Kennedy	Ribicoff
Cannon	Moynihan	Sasser

So the motion to table was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. METZENBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from West Virginia.

Mr. DOMENICI. Mr. President, can we set the Senator's amendment aside while we take up another amendment?

Mr. ROBERT C. BYRD. Yes. I ask unanimous consent that my amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 749

(Purpose: To remove any authority for the Corporation to build more than three Corporation Construction Projects)

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 749.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 108, strike subsection 142(b), lines 8 through 17. Renumber succeeding subsections accordingly and make any necessary technical conforming changes to the bill.

Mr. JOHNSTON. Mr. President, point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. Did the Chair say a moment ago that the motion to lay on the table was agreed to?

The PRESIDING OFFICER. The Chair did.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order.

The Senator from New Mexico.

Mr. TALMADGE. Mr. President, will the Senator yield 30 seconds to me?

Mr. DOMENICI. I would be pleased to yield

Mr. TALMADGE. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of S. 932, including all rollcall votes thereon: Henry Casso, Carl Rose, Phil Fraas, Bill Bates, Bill Lesher, Jim Giltmier, George Dunlop, and John Bode.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. I thank my friend from New Mexico.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. DOMENICI. I would be pleased to yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? Mr. President, can we determine how many Senators still have amendments? Mr TALMADGE, Mr. EXON, Mr. BRADLEY, Mr. CHURCH, Mr. CRANSTON——

Mr. DOMENICI. Are we talking about the whole bill?

Mr. ROBERT C. BYRD. Amendments to the bill.

Mr. DOMENICI. I have one

Mr. ROBERT C. BYRD. Mr. NELSON, Mr. HATCH, Mr. GARN. Senator DOLE has five.

Mr. NELSON. Senator FORD from Kentucky has an amendment

Mr. ROBERT C. BYRD. Can we get some time agreements on some of these amendments? Mr. CRANSTON?

Mr. CRANSTON. Fifteen minutes to the side.

Mr. ROBERT C. BYRD. Fifteen minutes to the side on Mr. CRANSTON'S amendment.

Mr. DOMENICI. What is his amendment?

Mr. JOHNSTON. Mr. President, reserving the right to object——

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senate will be in order.

Mr. JOHNSTON. Mr. President, reserving the right to object, and I shall not object, I wonder if the majority leader might be in a position to again ask unanimous consent to take up the bill title by title. Have we got——

Mr. JAVITS. I object. Right now I have told those who have inquired—and a number have, and I have to consult another Senator—I wish to be protected on my own amendment which I am now checking, so I cannot agree to the unanimous-consent request.

Mr. DOMENICI. I wonder if the Senator can agree——

Mr. JAVITS. No, he cannot. I would like to wait a few minutes.

Mr. ROBERT C. BYRD. Would the managers of the bill be agreeable to 30 minutes?

Mr. DOMENICI. I have been informed on our side that unless we know exactly what the amendment is and properly identified, we cannot.

Mr. CRANSTON. It is in relationship to heavy oil.

Mr. DOMENICI. We cannot agree to a time limit on that.

Mr. HELMS. Mr. President, will the majority leader excuse Senator HATCH?

Mr. ROBERT C. BYRD. Mr. GARN; how much time, Mr. DOLE?

Mr. DOLE. I ask for about 4 minutes.

Mr. RANDOLPH. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The point of order is well taken. The Senate will be in order. The Senate will come to order. Members will clear the aisles and staff members will return to the designated area. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, it is hoped the Senate can complete its work on this bill today and it is for that reason I am attempting to see if we can get some time agreements. We would like to take up the DOD appropriations bill tomorrow and not Saturday, and we would like to finish this today.

Mr. JAVITS. Will the Senator finish this bill tonight?

Mr. ROBERT C. BYRD. We hope to finish it tonight.

Mr. JAVITS. We hope too. Do you expect that you will?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. Because if you want a time agreement you will not finish tonight. I will not break an important engagement just for the purpose of making a time agreement.

Mr. ROBERT C. BYRD. Mr. President, I have seen many situations in which there are more amendments than I have seen indicated here today, and we finished. So I hope we can finish. I cannot say categorically we will.

Mr. McCLURE. Mr. President, will the Senator yield? I will reserve the right to object unless we have some idea about how the order is in proceeding on this bill. Until we have got some idea of the order, it is unwise from my standpoint to agree to any time agreement.

Mr. STEVENS. Mr. President, will the Senator yield? I have asked Senators on our side who have amendments to offer to come to the floor, and they are on their way now. They would like to participate in an agreement not only as to time but as to order so we might find a way to finish tonight. I would urge the Senator let us get all of the Members here who will offer amendments and see if we can divide the time between 3:30 and midnight so we can finish.

Mr. ROBERT C. BYRD. All right. I think that is a good idea.

Mr. METZENBAUM. I do not know what amendments will be forthcoming. It will be difficult to assess those amendments on the floor. Some amendments may necessitate subsequent amendments to be offered, and in order that the leader will be advised, I will object to any time limit or any agreement on such a basis until I ascertain where we are going.

Mr. ROBERT C. BYRD. Mr. President, we will attempt to see if we can work out time agreements with Senators who have amendments and then attempt to get the sequential order cleared.

I yield the floor. I hope a Senator will call up an amendment.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. I have an amendment pending, Mr. President.

This amendment is the one I told the Senate about immediately prior to the vote on Senator PERCY's that I would offer. It is now pending. It makes it absolutely clear that there can only be up to three GOCO's under any circumstance under this Senate bill, three only. It strikes all language so as to extraordinary circumstances which may permit additional ones, and that is precisely what it does. It strikes that language. That is all it does.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. DOMENICI. I would be pleased to yield.

Mr. PERCY. I would just like to say that the Senator from Illinois fully supports the amendment and is very pleased indeed that apparently it will be accepted by the majority floor manager of the bill. I think it is much better to limit this to three projects. That would certainly permit a decisionmaking process so that the three most efficient technologies that cannot be done in any other way, will be selected.

Mr. DOMENICI. Mr. President, does the Senator from New York have a question?

Mr. JAVITS. I do. I have a question about the amendment.

Is the effect of the amendment to cause the law, if enacted as the Senate will have dealt with it, to state that if there are more than three GOCO's they have to be authorized by law like any other measure or any other bill; therefore, the number that we have permitted by tabling the Percy amendment is three, period?

Mr. DOMENICI. The Senator is absolutely right. When we say "authorized by law," what we mean is that there is no provision for anything but up to three. Here we would have to have a whole new national piece of legislation to increase that number.

Mr. JAVITS. One other question. The up to three means three different types of synfuels, not three of the same?

Mr. DOMENICI. That is absolutely correct.

Mr. JAVITS. I thank the Senator from New Mexico very much.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico still has the floor.

Mr. WARNER. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield, if it is on the amendment.

Mr. WARNER. Yes; I am the author of amendment No. 575. Mr. President, the subject of this amendment is identical to an earlier piece of legislation, S. 1403, passed by this body. Accordingly, I am willing to assist the leaders of this legislation by saying 5 minutes to a side for it.

Mr. JOHNSTON. Mr. President, the Domenici amendment is now pending. Senator METZENBAUM is off the floor and asked me to protect him on any time agreements, but I would not expect that we would have any long debate on it, anyway. It will help if the Senator will let us agree to the Domenici amendment, the amendment discussed earlier in the debate, which I am prepared to do. It has precisely the effect that he indicated it did; that is, it further limits the possibility of a GOCO. I am willing therefore, to accept the amendment, on behalf of the committee.

Mr. DOMENICI. Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP No. 749) was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is the Senator from Louisiana still seeking recognition?

Mr. JOHNSTON. No, Mr. President.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment offered by the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my amendment be temporarily laid aside and that the Senator from Nebraska may proceed with his.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nebraska is recognized.

UP AMENDMENT NO. 750

(Purpose: To increase the amount authorized in S. 932, title II, subtitles D and E, for the purpose of encouraging the production, development, and commercialization of alcohol fuels)

Mr. EXON. I thank the Senator from West Virginia, the managers of the bill, and the Chair.

Before I proceed, Mr. President, I would like to ask the managers of the bill if it is in order at this time for me to offer an amendment that I have discussed with them on section 2 of S. 932.

Mr. JOHNSTON. Mr. President, under the rules it is certainly in order. I had hoped that we could get unanimous consent to take this bill up title by title, and dispose of one title and move on to the next. We have not been able to get that agreement. So, without prejudice to our strong desire to get that agreement agreed to in a matter of moments, I will yield to the Senator's desire and hope that that is the only amendment that we will take up out of order.

Mr. EXON. I thank the manager of the bill.

Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an unprinted amendment numbered 750:

On page 167, line 3, strike "20" and substitute "10".

On page 176, line 19, strike "$650,000,000" and substitute "$1,200,000,000".

Mr. EXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 167, line 3, strike "20" and substitute "10".

On page 176, line 19, strike "$650,000,000" and substitute "$1,200,000,000".

On page 178, line 14, strike "$450,000,000" and substitute "$800,000,000".

On page 179, line 8, strike "$200,000,000" and substitute "$400,000,000".

On page 179, line 15, strike "$550,000,000" and substitute "$1,200,000,000".

Mr. EXON. Mr. President, I believe that we can disperse of this matter in fairly rapid order and save time.

Mr. President, Senator STEWART, Senator BAYH, and I are offering this amendment today to increase the authorization levels for the overall gasohol production program on a larger scale to increase production development, commercialization and needed technological improvements. Gasohol is a blend of 10 percent alcohol and 90 percent gasoline. It is proven technology which can offer some relief to our crippling dependence on imported oil almost immediately as we develop our "mixed energy economy" of tomorrow.

The Department of Energy's "Report of Alcohol Fuels Policy Review," June 1979, concluded that new ethanol facilities are more energy efficient than existing facilities which were built when energy costs were much lower than they are now, and can yield a net gain of 5 percent in liquid fuels when ethanol is produced. In addition, the report stated that ethanol conversion facilities can readily be designed to use fuel sources other than oil or gas.

The September 1979 "Technical Memorandum" prepared by the Office of Technology Assessment (OTA) has concluded that if alcohol is produced using coal, solar power, or other nonpremium fuels to supply energy for the distillation plant, currently planned ethanol capacity could save 35 to 80 million gallons of gasoline equivalent per year by the end of 1980.

Mr. President, gasohol provides an almost immediate access to extensions for our tight gasoline supplies. To improve and advance on this, however, we need sufficient flexibility in terms of authorization levels to encourage the development of small, medium, and large size gasohol production facilities. Without enough money to establish the broad spectrum of plant sizes we will not adequately tap the gasohol potential.

Small gasohol production facilities provide a broad-based effort at expanding the availability of gasohol throughout our entire country. To do this, however, we need sufficient authorization levels to insure that the needed technological advice and information is available to different parts of the country where different systems may be required. For instance, the feedstocks available in Nebraska or Indiana may be different than the feedstock available in Alabama and therefore this information must be available to each individual producer wanting to establish a project, together with needed studies and efforts to improve the existing "state of the art."

We have succeeded in convincing the American public that gasohol is an excellent fuel that is a step toward solving our immediate problems. From its humble beginnings in Nebraska, which pioneered the use of grain fuels in recent years and even popularized the name

"gasohol" sales have increased dramatically nationwide. There are now more than 1,000 stations in 29 States selling gasohol. There are only optimistic reports about its feasibility as a readily available, renewable source of solution to recurring gas lines. The Senate must move rapidly to spark sufficient production of domestic ethanol to meet ever-increasing demands.

Mr. President, as a U.S. Senator from Nebraska, the State which piloted much of the research we now have on gasohol, I strongly urge my colleagues in the Senate to give their support to this measure, reminding all, once again, that this is an energy bill which employs the resources of our own Nation to reduce our crippling dependence on foreign energy sources.

Mr. President, I ask unanimous consent that the name of the senior Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, we are agreed that all this amendment does—and I think we have worked it out and have a general agreement on it—is simply increase the amount of money in title II of S. 932 from the stated figure of $650 million to $1.2 billion.

Many of us feel that the bill that was brought out of the Energy Committee was a good one, and we have supported it down the line. But I sincerely believe we should put a little more money into gasohol than was originally provided. I have no further statement at this time. I reserve the remainder of my time. I would like, if I could, to recognize the Senator from Georgia.

The PRESIDING OFFICER. Is the Senator yielding to the Senator from Georgia?

Mr. EXON. I am yielding to the Senator from Georgia.

Mr. STEWART. Alabama.

Mr. EXON. Alabama, I am sorry.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. STEWART. Mr. President, the amendment we are offering today, Senator EXON, Senator BAYH, Senator RANDOLPH, and myself, will do just as he said. It will increase the amount of moneys that are contained in the bill from $650 million to $1.2 billion.

This title will provide the needed financial assistance to build a strong and viable alcohol fuel industry in the United States. Alcohol can provide one of the many parts of the puzzle that is needed to solve this country's energy problem in the coming years. With the financial assistance contained in this amendment, alcohol can reach its full potential as a significant contributor to the energy supply of America.

No one in this body needs to be reminded of the difficult situation in the Middle East. Our Nation is placing its entire security in the hands of a small number of oil producing nations. Though we cannot escape from this situation immediately, we can take major steps with the passage of a strong energy bill. And, alcohol fuel must be an essential element of that program. While we are moving toward a synthetic fuels industry, the United States can take a more immediate step toward energy independence by passing a solid alcohol fuels bill.

Title II of this bill is such a bill. I would like to strongly commend the distinguished Senator from Idaho, Mr. CHURCH, for his strong leadership on this issue. His subcommittee and the full energy have produced a good section on alcohol fuel. This amendment would strengthen the bill by adding more financial assistance.

One of the strengths of this legislation is that it allows for the development of alcohol fuel production from all sized plants, from smaller facilities to very large plants. The amendment we are offering would increase the authorization levels, so that all the various technologies are given a chance to develop. This bill already provides technical assistance to people and companies who wish to get into the alcohol fuel production business. If we are not to have a high rate of failure, I believe it is essential that the Office of Alcohol Fuels have the necessary funds to develop the necessary technological information and to provide that information to whoever would need it. This amendment would help accomplish that objective.

Finally, the amount we are seeking is a minimum amount that will enable this country to reach the production goals established by this legislation. I am therefore pleased to be able to join Senator EXON and Senator BAYH and others in offering this amendment. Both of these distinguished Senators have long been leaders in the fight for alcohol fuels. Senator EXON actively fought for alcohol fuels while Governor of Nebraska and Senator BAYH has been a national leader on this issue.

Mr. President, this amendment is vitally needed for alcohol fuels to make its maximum contribution to our Nation's energy effort. I strongly urge my colleagues to join in the support of this amendment.

Mr. EXON. Mr. President, I yield to the senior Senator from West Virginia.

Mr. RANDOLPH. I commend the leadership of Senator EXON as he points to the value of gasohol as a substitute for gasoline made from foreign oil.

This sum of money is not exorbitant. Frankly, it is perhaps a lesser amount than is actually needed. But, it is a realistic increase, as the able Senator from Nebraska (Mr. EXON), the diligent Senator from Alabama (Mr. STEWART), and others have stated.

The American people will respond affirmatively to this amendment. I hope it will be accepted by the capable managers of the bill. I embrace the opportunity to cosponser this amendment.

Interest in the use of alcohol as a motor fuel is not new. Beginning with the invention of the automobile and proceeding to the present time, alcohol has been used in various forms. Henry Ford recommended its use and predicted that eventually the United States would rely exclusively on alcohol as a motor fuel. Race car drivers have used alcohol as a fuel or fuel additive from the inception of the sport.

Agriculture has shown interest in alcohol fuels from time to time. Enthusiasm for its use has increased each time grain surpluses have developed or when agriculture was in a depressed condition. Basically three factors have revived the discussion on this issues.

The United States has become increasingly dependent on imports of foreign oil at an ever increasing cost.

Coal and grain are in abundant supply.

Metropolitan areas are seeking an answer to their municipal wastes and air pollution.

Much testimony has been presented to the Congress in 1978 and 1979 concerning alcohol production and marketability.

There are sufficient raw materials in our Nation to supply enough alcohol for a significant percentage of our liquid fuel needs. It can be used as an additive or by itself as a motor fuel, while decreasing exhaust emissions.

Expanded use of methanol and ethanol I believe can be produced and sold for profit on a national basis. This $1.2 billion will be seen as money well spent as oil, both domestic and foreign become more scarce, and the price of these fuels continue to increase.

Mr. EXON. I thank the Senator from West Virginia. I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I am pleased to rise today to speak on behalf of title II, the Gasohol Motor Fuel Act of 1979, a critical section of S. 932, the Defense Production Act amendments. I introduced this bill on October 4, along with Senators CHURCH and JOHNSTON, as a printed amendment to S. 932. The Energy Committee subsequently adopted it as part of the energy bill before us.

The Gasohol Motor Fuel Act directs the President to set up an independent Office of Alcohol Fuels in the Department of Energy responsible for administering a program of financial incentives for alcohol production and responsible for achieving certain production goals. The bill, as reported by the committee, authorizes $200 million of Federal outlays, in the form of price guarantees, purchase guarantees and loan guarantees to enable us to reach the goal of 920 million gallons of alcohol, for blending with gasoline, by 1982.

Further, the bill directs the Office to develop a plan for submission to the Congress, indicating how we can reach the goal of replacing 10 percent of our gasoline with alcohol by 1990. Finally, it provides for coordination between the Department of Energy and other departments and agencies with related responsibilities, in order to coordinate Federal efforts in this area, and directs Federal use of gasohol in the Federal fleet. I am hopeful that the Office of Alcohol Fuels will provide a focal point for this activity and finally bring the focus and priority to this promising energy alternative that has been sorely lacking to date.

Mr. President, I am also joining with Senators EXON and STEWART in offering an amendment to title II to increase the

funding level provided in the committee bill. As it now stands, title II provides for $200 million in Federal outlays for alcohol fuel development, and obligational authority of up to $650 million. The bulk of these obligations represent backing for loan guarantees, and not actual expenditures by the Government unless borrowers default on their loans, an unlikely prospect.

Our amendment increases this level to $400 million in outlays and $1.2 billion in obligational authority, a level we feel is sufficient to meet the production goals in the bill. The floor managers of this bill, Senators JOHNSTON and CHURCH, have agreed to accept it. I believe, Mr. President, that with this one change, we will truly launch an aggressive and successful alcohol fuel development program.

Mr. President, I believe title II sets up a workable Federal program to get this ball rolling. Title II recognizes that future alcohol producers will be drawn from a number of different players: Large commercial producers such as agribusiness and food processing and marketing companies, distillers, and maybe even oil companies; smaller community-based organizations, such as farm cooperatives, small refiners, jobbers, and small businesses; and individual farmers interested in producing alcohol for their own on-farm use. I believe the Office of Alcohol Fuels will be able to efficiently and quickly assist all of these interested parties, with their very different needs, and I urge all those out there interested in harnessing our vast renewable resources to join this effort to make America more energy independent. The time is long past gone that we can afford to wait any longer. We have a critical liquid fuels problem in this country, that can only get worse without decisive action. The gravity of this situation has been underscored once again by recent events in Iran. We must get going now.

Mr. President, an adequately funded alcohol fuels program is a necessary supplement to S. 932. Alcohol fuels work. They are a versatile fuel suited for use in automobiles, utility peaking units, boilers, and industrial heating units, as well as for a variety of on-farm uses. They are also a valuable feedstock for the petrochemical industry and may well serve as an environmentally acceptable additive for the refining industry. Perhaps most importantly, alcohol fuels are a domestic energy source made from diverse renewable resources and wastes available in abundant quantities in every region of this country. We must turn our agricultural surpluses, and wastes, into opportunities. This will be a boon to our farmers, local economies, all across the land, and relieve taxpayers from paying farmers not to grow crops—on which we spent over $10 billion last year. It can also free the drain on urban budgets caused by municipal waste disposal costs.

Mr. President, alcohol fuels will reduce our dependence on imported oil. If we make a substantial commitment now, ethanol can be available in the near future, and is in fact the only immediately available liquid fuel supplement on the horizon. Alcohol prices are not prohibitive in the short run, and can be brought down significantly in the long run. Alcohol fuels can result in a net energy gain, and particularly a net liquid energy gain.

Our present situation, Mr. President, is this. We have a growing market for gasohol, evidenced by the number of new outlets selling gasohol opening each day. We have distributors anxious to market gasohol, and we have sufficient feedstocks to supply a major effort. But we are in a chicken-egg situation to this extent: Our potential producers are ambivalent about investing in production facilities because they are uncertain about market potential and security. Banks are hesitant to loan money to alcohol producers. Sales are therefore limited because our production has been limited. Adoption of title II will provide a means of breaking out of this circle, and make sure that interested alcohol producers can get financing. I urge my colleagues to adopt this amendment and hope that we will begin to see positive results in the very near future.

Mr. President, I very much appreciate the opportunity to join as a cosponsor of this amendment with my distinguished friend from Nebraska. As we look at the potential for increasing our sources of liquid fuel, there are not very many sources that we can bring on line in any short period of time. We are talking about 5 or 10 years for the synfuels projects in the synfuels program we adopted yesterday. The one opportunity to bring liquid fuel on line very quickly is to develop alcohol fuels. I think it is important to move as quickly as we can.

I appreciate the opportunity to join with my friend from Nebraska, and I am hopeful we can agree to this amendment very quickly.

Mr. EXON. I thank the Senator from Indiana for his comments. I yield to the Senator from Alabama.

Mr. STEWART. Mr. President, I ask unanimous consent that my colleague from Alabama (Mr. HEFLIN) be listed as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I now yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I ask that I be made a cosponsor of the amendment, and I associate myself with the remarks made by the distinguished Senator from Nebraska (Mr. EXON), the distinguished Senator from Alabama (Mr. STEWART), the distinguished Senator from Indiana (Mr. BAYH), and the distinguished Senator from the great State of West Virginia (Mr. RANDOLPH).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I am delighted to have the Senator as a cosponsor.

Mr. President, now I yield to the Senator from Idaho.

Mr. MAGNUSON. Will the Senator yield?

Mr. CHURCH. I yield.

Mr. MAGNUSON. Will the Senator from Nebraska add me as a cosponsor?

Mr. EXON. Mr. President, I ask that the Senator from Washington be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, title II in the pending bill represents the end product of the work of the Energy Committee in fashioning a program for stimulating the production of alcohol for fuel.

Nearly 2 years ago I introduced the initial measure that, in its original form, would have mandated the principal oil companies of this country to commence mixing alcohol with gasoline, giving them a schedule within which to bring that mixture up to a 10-percent blend.

Hearings were held on that proposal. After we had heard from the experts, both here in Washington and in the field, it appeared to us that the provisions of the original bill should be changed and that the Government should stimulate the production of alcohol by loan guarantees, by price guarantees, and by purchase arrangements so as to expand this country's capacity to produce alcohol for mixing with gasoline as rapidly as possible.

Few of us really appreciate the enormity of the task. As I recall the figures, the United States is producing annually no more than 50 million gallons of alcohol suitable for fuel. In order to achieve 10 percent blend, we will have to increase our production from 50 million gallons a year to 11 billion gallons a year.

That is why I feel that the Senator from Nebraska, along with his able colleagues, the Senator from Alabama (Mr. STEWART), the Senator from Indiana (Mr. BAYH) and the Senator from Kansas (Mr. DOLE), who all have taken a personal interest in gasohol and worked with the rest of us who are so inclined to get the program moving, are doing the right thing this afternoon. They fully appreciate the enormity of the task, to expand our alcohol production sufficiently so that it will begin to make a difference within the next few years.

I think the amendment they offer, which roughly doubles the authorized levels for loans and other forms of Government participation to stimulate this production, is in order. I commend them for bringing this amendment to the floor. Since I am with them in spirit, I should like to join them as a cosponsor of the amendment. I ask unanimous consent that my name be added to the others on the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I thank my friend from Idaho. We are delighted to have him as a cosponsor.

Mr. President, in addition, I ask that Senator MELCHER and Senator LEVIN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. There is no time limitation.

Mr. EXON. Mr. President, I just want to comment that it is interesting and heartening to see those who have been pioneers in the gasohol efforts at the national level stand up and support this proposal. I remember a few years ago when we were working so hard. Mem-

bers who have talked about this on the floor today—and others who have not spoken yet, who are attending other duties—were the ones who led the fight in the Senate to get the exemption from the Federal tax, which was tremendously instrumental in bringing gasohol along to the place where it is right now.

I wish to also point out, Mr. President, that I sincerely feel, and most of the experts feel, that as we move forward in cutting down our reliance on imports of foreign petroleum products, gasohol is one of the most effective forms in which we can move. Therefore, Mr. President, I hope the amendment will be agreed to. Mr. President, I would also request that the Senator from New York (Mr. JAVITS) and also the Senator from New Jersey (Mr. BRADLEY) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator yield the floor?

Mr. EXON. Mr. President, I ask for the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I congratulate the Senator from Nebraska (Mr. EXON) who has worked in this field for 10 years and knows a great deal about it. I congratulate the Senator from Alabama (Mr. STEWART), who introduced the first bill in the Agriculture Committee; also, Senator CHURCH, the author of the section now contained in the bill; Senator BAYH, who has worked for a long time in this area; as well as Senator DOLE, who has been a real leader in this field.

This amendment, Mr. President, has been worked out with us. While it substantially increases the funds which we provide in the Energy Commitee bill I think honestly it is a responsible amount. We accept it not just in the spirit of going along but because I think it is a proper amount. This is so particularly when you consider that some of the larger plants which provide economies of scale would, but for the increase here tend to sop up the funds leaving insufficient funds available to fund not only the small plants but all of those which could appropriately be brought on line to meet the specified goals. The goals are 10 percent alcohol fuels by the year 1990, with a specific goal for the year 1982 of not less than 60,000 barrels a day at that time, and we hope considerably more.

So, Mr. President, we accept the amendment with thanks to the strong group of Senators who have sponsored it.

Mr. McCLURE. Mr. President, I thank the Senator from Nebraska for offering the amendment. It has my strong support. I shall not take the time to make all the speeches I have made over the last 10 years in Congress in regard to alcohol and gasohol, but I strongly support this program. We accept the amendment on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment offered by the Senator from West Virginia.

Mr. JOHNSTON. Mr. President, I do not see the Senator from West Virginia on the floor. I ask unanimous consent that that amendment be laid aside for the purpose of considering the amendment of the Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Will the Senator from Georgia withhold for a moment for a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. Mr. President, have we adopted the committee-recommended amendments with respect to gasohol, subtitle K and subtitle L?

The PRESIDING OFFICER. The amendment offered to that title was passed. That is the amendment offered by the Senator from Nebraska. Other amendments have not yet been offered to that title.

Mr. JOHNSTON. I thank the Chair.

UP AMENDMENT NO. 751

(Purpose: To add to S. 932 provisions for a rural energy program in the Department of Agriculture coordinated with other Federal energy policies and programs)

Mr. TALMADGE. Mr. President, in behalf of myself, Mr. HELMS, Mr. McGOVERN, Mr. BOSCHWITZ, Mr. DOLE, and Mr. STEWART, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. TALMADGE), for himself and Mr. HELMS, Mr. McGOVERN, Mr. BOSCHWITZ, Mr. DOLE, and Mr. STEWART, proposes an unprinted amendment numbered 751.

Mr. TALMADGE. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 147, between lines 12 and 13, insert a new title II as follows:

"TITLE II—AGRICULTURAL, FORESTRY, AND RURAL ENERGY

"SEC. 201. This Act may be cited as the 'Agricultural, Forestry, and Rural Energy Act of 1979'.

"SEC. 202. The table of contents in the first section of the Food and Agriculture Act of 1977 is amended by adding at the end thereof the following:

"TITLE XX—AGRICULTURAL, FORESTRY, AND RURAL ENERGY ACT

"Sec. 2001. Short title.

"SUBTITLE A—FINDINGS, PURPOSES, AND DEFINITIONS

"Sec. 2002. Findings.
"Sec. 2003. Purposes.
"Sec. 2004. Definitions.

"SUBTITLE B—AGRICULTURAL, FORESTRY, AND RURAL ENERGY PRODUCTION, USE, AND CONSERVATION PROGRAM

"Sec. 2011. Duty of the Secretary.
"Sec. 2012. Agricultural, Forestry, and Rural Energy Board.
"Sec. 2013. Program development.
"Sec. 2014. Agricultural, Forestry, and Rural Energy Production, Use, and Conservation Program.
"Sec. 2015. Annual reports to Congress.

"SUBTITLE C—AGRICULTURAL, FORESTRY, AND RURAL ENERGY RESEARCH AND EXTENSION

"Sec. 2021. Agricultural, forestry, and rural energy research.
"Sec. 2022. Agricultural, forestry, and rural energy extension.
"Sec. 2023. Coordination of research and extension.

"SUBTITLE D—WOOD ENERGY DEVELOPMENT

"Sec. 2031. Definition.
"Sec. 2032. Wood Energy Centers.
"Sec. 2033. Cost sharing for production of timber for wood energy.
"Sec. 2034. Forest management loan pilot program.
"Sec. 2035. Assistance to State forestry agencies.
"Sec. 2036. State advisory committees.
"Sec. 2037. National Forest System assistance in wood energy development projects.
"Sec. 2038. Forest land restoration.

"SUBTITLE E—AGRICULTURAL BIOMASS ENERGY DEVELOPMENT

"Sec. 2041. Definition.
"Sec. 2042. Agricultural Biomass Energy Centers.
"Sec. 2043. Small-scale agricultural biomass production assistance.

"SUBTITLE F—AGRICULTURAL, FORESTRY, AND RURAL ENERGY PRODUCTION, USE, AND CONSERVATION LOANS, DEMONSTRATION GRANTS, AND COST SHARING

"Sec. 2051. Loans and demonstration grants.
"Sec. 2052. Consolidated Farm and Rural Development Act amendments.
"Sec. 2053. Rural electrification demonstration grants for alternative energy sources.
"Sec. 2054. Lending for energy production and conservation projects by production credit associations, Federal land banks, and banks for cooperatives.
"Sec. 2055. Agricultural Conservation Program energy conservation cost sharing.

"SUBTITLE G—FOREST SERVICE LEASES AND PERMITS

"Sec. 2061. Forest Service leases and permits.

"SUBTITLE H—EFFECTIVE DATE

"Sec. 2071. Effective date.".

"SEC. 203. The Food and Agriculture Act of 1977 is amended by adding at the end thereof a new title XX as follows:

"TITLE XX—AGRICULTURAL, FORESTRY, AND RURAL ENERGY ACT

"SHORT TITLE

"SEC. 2001. This title may be cited as the 'Agricultural, Forestry, and Rural Energy Act'.

"Subtitle A—Findings, Purposes, and Definitions

"FINDINGS

"SEC. 2002. Congress finds that—

"(1) the dependence of the United States on imported petroleum and natural gas must be reduced by all economically and environmentally feasible means, including the use of domestic biomass energy sources;

"(2) the agricultural, forestry, and rural sectors of our economy must conserve energy and substitute renewable sources of energy for imported petroleum and natural gas to the extent consistent with the maintenance of agricultural and forest productivity and a healthy rural economy;

"(3) agricultural commodities, forest products, and their wastes and residues are renewable biomass resources that, when properly used for the production of industrial hydrocarbons, alcohol fuels, and other energy sources, can substantially assist in reducing United States dependence on imported petroleum and natural gas and in making the agricultural, forestry, and rural sectors of our economy more energy self-sufficient;

"(4) the Secretary of Agriculture and the agencies under the direction of the Secretary of Agriculture administer programs and exercise authorities affecting the production of energy from, and management of, renewable biomass resources;

"(5) the programs and authorities of the Department of Agriculture also serve other national needs, including the production of food, animal feed, wood and wood products for housing and other uses, and other necessities; and

"(6) a national program for increased production and use of energy from biomass that does not impair the Nation's ability to produce food and fiber on a sustainable basis for domestic and export use, and for rural energy conservation, must be formulated and implemented within a multiple-use framework.

"PURPOSES

"SEC. 2003. The purposes of this title are to—

"(1) facilitate the development and production of fuels from biomass by use of appropriate technology for direct application in on-farm and rural energy situations, and research, extension, and conservation activities related to agricultural, forestry, and rural energy;

"(2) assure the development and implementation of an agricultural, forestry, and rural energy production, use, and conservation program that will enable the United States to meet the goals of net energy independence for agriculture and forestry, and a 50 percent reduction in petroleum and natural gas use by rural residents and communities, by the year 2000;

"(3) create within the Department of Agriculture an Agricultural, Forestry, and Rural Energy Board to assist the Secretary of Agriculture in developing and implementing the agricultural, forestry, and rural energy production, use, and conservation program; and

"(4) make changes in existing programs and authorities of the Department of Agriculture, consistent with, and not duplicative of programs and authorities of the Department of Energy, related to research, technology transfer, and operational activities, in order to conform such programs and authorities to the needs of the agricultural, forestry, and rural energy production, use, and conservation program, and establish new programs and authorities necessary for the effective implementation of that program.

"DEFINITIONS

"SEC. 2004. As used in this title, the term—

"(a) 'biomass' means agricultural commodities, forest products, and their wastes and residues that can be used as fuel or for the production of industrial hydrocarbons, or alcohol fuels or other energy sources, that will assist in reducing petroleum and natural gas imports. Biomass, without limiting its meaning, includes grain and stalks of corn, wheat, rice, and sorghum, cottonseed and peanut hulls, fruits and vegetables and their processing byproducts and residues, aquatic plants, specific energy-farm crops, animal wastes, wood and wood products, bark, wood pulp and chips, residues from logging and paper manufacturing, and animal waste products;

"(b) 'Board' means the Agricultural, Forestry, and Rural Energy Board created under section 2012 of this title;

"(c) 'Program' means the Agricultural, Forestry, and Rural Energy Production, Use, and Conservation Program developed under section 2014 of this title; and

"(d) 'Secretary' means the Secretary of Agriculture.

"Subtitle B—Agricultural, Forestry, and Rural Energy Production, Use, and Conservation Program

"DUTY OF THE SECRETARY

"SEC. 2011. In order to enable the United States to achieve net energy independence for agricultural and forest production, processing, and marketing, and to reduce the petroleum and natural gas consumption of rural residents and communities by 50 percent by the year 2000, the Secretary, in coordination with the Secretary of Energy, shall implement the Program developed under section 2014 of this title.

"AGRICULTURAL, FORESTRY, AND RURAL ENERGY BOARD

"SEC. 2012. (a) The Secretary shall establish an Agricultural, Forestry, and Rural Energy Board to perform, and assist the Secretary to perform, the functions and duties required by this title.

"(b) The Board shall be composed of four members, as follows—

"(1) the Secretary,

"(2) the Secretary of Energy,

"(3) the Deputy Secretary of Agriculture, and

"(4) the Deputy Secretary of Energy.

"(c) The members of the Board may authorize designees to represent them at meetings of the Board.

"(d) The Secretary shall be Chairperson of the Board.

"(e) The Secretary shall designate an executive director for the Board, to be paid at a rate not in excess of the rate prescribed for grade GS-18 in the General Schedule set out in section 5332 of title 5 of the United States Code, and shall provide for such additional professional and clerical assistance as may be necessary for the Board to perform its responsibilities under this title.

"(f) Beginning October 1, 1980, the Board may use, to the extent provided in appropriation Acts, the resources of all Department of Agriculture agencies (except the Commodity Credit Corporation), and outside consultants, as may be necessary to perform its responsibilities under this subtitle. In fiscal year 1980, the Board may use the funds and facilities of the Commodity Credit Corporation to carry out its responsibilities under this subtitle. There are hereby authorized to be appropriated, for each of the fiscal years 1981, 1982, 1983, and 1984, such sums as may be necessary for the Board to carry out its responsibilities under this subtitle.

"(g) The Board shall meet at the call of the Secretary, but at least quarterly.

"PROGRAM DEVELOPMENT

"SEC. 2013. (a) The Board shall assist the Secretary in carrying out section 2011 of this title by—

"(1) assessing the Nation's agricultural, forestry, and rural energy needs, resources, practices, legal authorities, programs, and related elements;

"(2) preparing the Program based upon such assessment; and

"(3) preparing the reports required by section 2015 of this title.

"(b) In performing the agricultural, forestry, and rural energy assessment, the Board shall—

"(1) identify agricultural, forestry, and rural energy objectives, consistent with the goals contained in section 2011 this title;

"(2) determine the quality and quantity of biomass that is potentially available for energy production;

"(3) identify the ways in which biomass can be used to meet United States energy needs and especially promising areas of development;

"(4) identify and assess practices to conserve energy in agricultural and forest production, processing, and marketing and in rural communities;

"(5) identify and evaluate agricultural, forestry, and rural energy production, use, and conservation systems and technologies;

"(6) identify the policies and procedures necessary to ensure that the production of agricultural commodities and forest products will not be interrupted by energy shortages;

"(7) identify the practices necessary to conserve and enhance the productivity of soil resources, while pursuing the goals contained in section 2011 of this title;

"(8) identify ways to minimize the adverse consequences of energy production on agricultural, forest, and rural lands and related natural resources, and rural communities;

"(9) analyze the comparative economic value of biomass materials within a framework that takes into account the various uses to which these materials can be put, including, in addition to potential energy use, alternative uses such as the production of food, animal feed, housing and other construction materials, fertilizer, and petrochemical substitutes;

"(10) assess existing and anticipated Federal and State laws, policies, programs, and regulations relating to the production and use of biomass energy and the conservation of energy in agriculture, forestry, and rural communities;

"(11) evaluate the effectiveness of existing Department of Agriculture programs and policies in achieving the goals contained in section 2011 of this title; and

"(12) analyze the adequacy of existing legal authorities and funding, and recommend changes in such authorities and funding necessary, to achieve the goals contained in section 2011 of this title.

"(c) The assessment required under subsection (b) of this section shall be completed by September 30, 1980, and updated when necessary, but at least every five years. The initial assessment and the updated assessments shall be submitted to Congress.

"(d) In performing its duties under this section, the Board shall use, to the maximum extent feasible, the information, analyses, assessments, and evaluations available from other Federal agencies, in order to avoid duplication of effort.

"AGRICULTURAL, FORESTRY, AND RURAL ENERGY PRODUCTION, USE, AND CONSERVATION PROGRAM

"SEC. 2014. (a) The Board shall prepare an Agricultural, Forestry, and Rural Energy Production, Use, and Conservation Program setting forth measures, actions, funding levels, and other means to achieve the goals contained in section 2011 of this title without reducing the ability of United States agriculture or forestry to meet other national needs, or adversely affecting rural communities. The Program shall include, but not be limited to—

"(1) an inventory of the specific needs and opportunities for public and private investment in agricultural, forestry, and rural energy production, use, and conservation projects;

"(2) identification of the estimated costs, returns, results, and benefits associated with investments in such a manner that the estimated costs can be directly compared with the total related benefits; and

"(3) a discussion of the priorities and options for the accomplishment of the Program, specifying estimated costs, results, and benefits.

"(b) The Program shall use and be based on the Board's assessments made under section 2013 of this title, as well as other relevant data (including the renewable resource assessments and renewable resource programs prepared under the Forest and Rangeland Renewable Resources Planning Act of 1974 and appraisals and national soil and water conservation programs prepared under the

Soil and Water Resources Conservation Act of 1977). The Program shall be consistent with any energy policies and programs developed by the Department of Energy.

"(c) The Program shall be developed in cooperation with Federal, State, and local agencies and organizations in accordance with such procedures as the Board may prescribe to ensure public participation.

"(d) The Program shall be completed and submitted to the President and Congress by December 31, 1980, and shall be reviewed and revised when necessary, but shall be reviewed at least every five years, and resubmitted to the President and Congress.

"ANNUAL REPORTS TO CONGRESS

"SEC. 2015. For the purpose of providing information that will aid Congress in its oversight responsibilities and improve the accountability for agency expenditures and activities, the Secretary, with the assistance of the Board, shall prepare annual reports that evaluate the implementation of the Program and submit them to Congress by February 1 of each year, the first such report to be submitted by February 1, 1982.

"Subtitle C—Agricultural, Forestry, and Rural Energy Research and Extension

"AGRICULTURAL, FORESTRY, AND RURAL ENERGY RESEARCH

"SEC. 2021. (a) To facilitate the development of agricultural, forestry, and rural energy production, use, and conservation, the Secretary shall implement an agricultural, forestry, and rural energy applied research program within the Department of Agriculture in accordance with the Program, using the programs and authorities established under this title and other programs and authorities available to the Secretary. The Secretary shall use, to the extent practicable, existing facilities of the Department of Agriculture and the Wood Energy Centers and the Agricultural Biomass Energy Centers established under this title, to implement the applied research program. Applied research under this subsection, to the extent that such research does not duplicate to any significant degree any program of the Department of Energy, shall include, but not be limited to, applied research to develop—

"(1) economical and energy-efficient fuel, industrial hydrocarbons, and petrochemical substitutes from biomass;

"(2) techniques for using energy derived from biomass in the production, processing, and marketing of agricultural commodities and forest products, especially techniques that farmers and owners of private forest land may use;

"(3) economical ways in which rural residents and communities can use energy derived from biomass;

"(4) the use of wood as an economical and energy-efficient material in building construction; and

"(5) energy conservation systems and techniques for farmers, owners of forest land, rural residents, and rural communities.

"(b) Section 1 of the Act of June 29, 1935 (49 Stat. 436, as amended; 7 U.S.C. 427), is amended by inserting after 'irrigation);' in the third sentence the following: 'in coordination with the Department of Energy, applied research to develop agricultural, forestry, and rural energy production, use, and conservation;'.

"(c) Effective October 1, 1980, section 3 of the Act of March 2, 1887 (24 Stat. 441, as amended; 7 U.S.C. 361c), is amended by—

"(1) in subsection (a), inserting '(1)' immediately after the subsection designation and adding at the end thereof a new paragraph (2) as follows:

"'(2) Subject to the requirements and restrictions of section 2023 of the Food and Agriculture Act of 1977, there are further authorized to be appropriated such sums, not in excess of $50,000,000 annually, as Congress determines necessary for the purpose of applied research at State agricultural experiment stations and eligible colleges and universities to develop agricultural, forestry, and rural energy production, use, and conservation. This authorization is in addition to any other authorization provided in this Act or in other law. As used in this paragraph, "eligible colleges and universities" means those institutions eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including Tuskegee Institute, and the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a and 582a–1—582a–7).';

"(2) in subsection (b)(1), striking out 'such sums' and inserting in lieu thereof 'the sums appropriated under subsection (a)(1) of this section'; and

"(3) in subsection (c), striking out 'subsection (b)' where it first appears and inserting in lieu thereof 'subsections (a) and (b)'.

"(d) Section 3(a)(1) of the Forest and Rangeland Renewable Resources Research Act of 1978 is amended by inserting 'energy production and conservation of energy (subject to the requirements and restrictions of section 2023 of the Food and Agriculture Act of 1977),' immediately after 'for timber,'.

"(e) Because biomass energy production must be balanced with food, fiber, and wood production and the land on which these types of production take place is finite, consideration must be given to the land available for such production. To ensure that land availability is given appropriate consideration in developing biomass energy production, the Secretary shall (1) include in the research performed under this section analyses of the possible restrictions to biomass energy production due to the limited availability of land, and (2) coordinate such analyses with similar activities conducted under the Soil and Water Resources Conservation Act of 1977 and the Forest and Rangeland Renewable Resources Planning Act of 1974.

"(f) The Secretary shall conduct a study of the feasibility of crop-livestock production systems to produce both food and fiber for domestic and export markets and biomass for use in the production of energy. The study shall include, but not be limited to, determination of—

"(1) the technical feasibility of such systems;

"(2) the proper use and conservation of soil and water resources under such systems;

"(3) potential fuel, livestock, and grain production under such systems;

"(4) the practical farm-level applicability of such systems; and

"(5) the potential economic and Government policy initiatives to promote the development of such systems.

The study shall be completed, and a report of the Secretary's findings submitted to Congress, by December 31, 1982.

"AGRICULTURAL, FORESTRY, AND RURAL ENERGY EXTENSION

"SEC. 2022. (a) In order to facilitate the development of agricultural, forestry, and rural energy production, use, and conservation, the Secretary shall implement an agricultural, forestry, and rural energy extension program in accordance with the Program using the programs and authorities established under this title and other programs and authorities available to the Secretary, to disseminate the results of research performed under this title and encourage farmers, owners of forest land, rural residents, and rural communities to adopt projects for the production and use of energy from biomass, and energy conservation techniques. The extension program shall be coordinated with the Energy Extension Service of the Department of Energy and shall include onsite demonstrations of techniques by which farmers and owners of forest land may produce their own energy supplies, energy consumption per unit of production may be minimized, and rural residents, businesses, and communities may reduce their energy consumption.

"(b) Effective October 1, 1980, the Act of May 8, 1914 (38 Stat. 372–374, as amended; 7 U.S.C. 341–349), is amended by—

"(1) striking out in section 1 (7 U.S.C. 341) 'and home economics' and inserting in lieu thereof 'home economics, and rural energy';

"(2) striking out in section 3(c) (7 U.S.C. 343(c)) 'subsection (b)' and inserting in lieu thereof 'subsections (b) and (f)'; and

"(3) adding at the end of section 3 (7 U.S.C. 343) a new subsection (f) as follows:

"'(f) There are further authorized to be appropriated such sums, not in excess of $50,000,000 annually, as Congress determines necessary for rural energy cooperative extension work at eligible colleges and universities. This authorization is in addition to any other authorization provided in this Act or other law. As used in this subsection, "eligible colleges and universities" means those institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305 and 307–308), the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including Tuskegee Institute, and the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a and 582a–1—582a–7). Such funds shall be used—

"'(1) to establish working groups at the State level to—

"'(A) train extension agents in agricultural, forestry, and rural energy production, use, and conservation techniques, and

"'(B) perform such other activities as the Secretary of Agriculture determines necessary for the rural energy cooperative extension program,

"'(2) to implement a program to provide onsite farm and rural residential energy audits and energy conservation plans to farmers and rural residents, and

"'(3) for the conduct of workshops and provision of similar training, dissemination of information, and provision of technical assistance with respect to the small-scale production of energy from agricultural biomass, as provided in section 2043 of the Food and Agriculture Act of 1977.

These activities shall be coordinated with the Energy Extension Service of the Department of Energy.'.

"(c) Effective October 1, 1980, the first sentence of section 6 of the Renewable Resources Extension Act of 1978 is amended to read as follows: 'There are hereby authorized to be appropriated to implement this Act $15,000,000 for the fiscal years ending September 30, 1979, and September 30, 1980, and $20,000,000 for each of the next eight fiscal years, including for each fiscal year beginning with the fiscal year ending September 30, 1981, $5,000,000 for forest energy production, use, and conservation work under this Act. Such forest energy production, use, and conservation work shall be coordinated with the Energy Extension Service of the Department of Energy.'.

"COORDINATION OF RESEARCH AND EXTENSION

"SEC. 2023. (a) The applied research and extension programs conducted under this title shall be coordinated with the programs of the Department of Energy and the food and agricultural research and extension activities conducted under title XIV of this Act.

"(b) The Board shall consult on a continuing basis with—

"(1) the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology.

"(2) the Joint Council on Food and Agricultural Sciences, and

"(3) the National Agricultural Research and Extension Users Advisory Board,

for the purpose of coordination of research and extension activities.

"Subtitle D—Wood Energy Development

"DEFINITION

"SEC. 2031. For the purposes of this subtitle, 'wood energy' means energy produced from wood and wood products, bark, wood pulp and chips, wood waste and residues, and residues from logging and paper manufacturing.

"WOOD ENERGY CENTERS

"SEC. 2032. (a) The Secretary shall establish not less than four nor more than eight Wood Energy Centers, each in a different geographic region of the United States and located in an area containing substantial amounts of forest land. To the extent practicable, the Centers shall be established at existing Department of Agriculture facilities for forest research.

"(b) Under the direction of the Board and in coordination with the programs of the Department of Energy and without significant duplication of such programs, each Wood Energy Center shall—

"(1) conduct applied wood energy production and use and energy conservation research projects that recognize the needs and opportunities of the region in which the Center is located;

"(2) develop and maintain a wood energy research information bank;

"(3) field-test promising research findings on wood energy production and use and energy conservation;

"(4) in cooperation with the State extension services and State foresters or equivalent State officials, and other appropriate State agencies, and through contracts with local entities having the necessary technical resources, provide technical assistance to farmers and other interested persons in its region on agricultural, forestry, and rural energy production, use, and, conservation and commercialization of rural energy projects;

"(5) demonstrate wood energy production and use and energy conservation projects, using, to the extent feasible, applied research performed under this title, including, but not limited to, demonstrations of—

"(A) the production, transportation, and handling of fuel from wood;

"(B) the use of wood energy for industrial parks, rural businesses, and rural communities;

"(C) wood pyrolysis and gasification for crop and lumber drying, poultry housing, and other uses;

"(D) the direct burning of wood for industrial and home use;

"(E) in cooperation with institutions of higher learning and State foresters or equivalent State officials, using privately owned land voluntarily offered or land available to the Forest Service, wood energy plantations; and

"(F) in cooperation with institutions of higher learning, engineering techniques that efficiently use wood for fuel;

"(6) in cooperation with the State extension services and State foresters or equivalent State officials, and other appropriate State agencies, disseminate information on new energy technologies through the conduct of conferences, seminars, and training programs;

"(7) perform energy need analyses for rural residents and communities and State governments within the region;

"(8) where appropriate, provide recommendations to the Secretary on the technical feasibility and potential benefit of demonstration projects for which applications for grants are made under section 2051 of this title; and

"(9) where appropriate, conduct similar research, field-tests, and demonstration programs with respect to agricultural commodities and waste products.

"(c) Where appropriate, the Secretary may authorize the Wood Energy Centers to implement the provisions for solar energy model farms and demonstration projects contained in subtitle H of title XIV of this Act.

"(d) Where appropriate, the Wood Energy Centers shall share resources and coordinate efforts with the regional solar energy research, development, and demonstration centers established under section 1455 of this Act and appropriate elements of the Department of Energy as designated by the Secretary of Energy.

"(e) Effective October 1, 1980, there are authorized to be appropriated such sums, not in excess of $30,000,000 annually, as Congress determines necessary for the Wood Energy Centers. Such sums shall be in addition to appropriations for forest research facilities that house the Centers.

"COST SHARING FOR PRODUCTION OF TIMBER FOR WOOD ENERGY

"SEC. 2033. (a) The Cooperative Forestry Assistance Act of 1978 is amended by—

"(1) in section 2(b), striking out the semicolon after 'timber' and substituting in lieu thereof a comma and the following: 'including timber produced for wood energy;';

"(2) in the second sentence of section 4 (a), inserting ', including timber produced for wood energy,' after 'production of timber'; and

"(3) in section 4(b), inserting 'or timber used for wood energy' after 'industrial wood'.

"FOREST MANAGEMENT LOAN PILOT PROGRAM

"SEC. 2034. (a)(1) In order to encourage owners of private forest land to implement and maintain forest management programs, and thereby increase the production of wood for energy and other uses, the Secretary shall conduct a pilot program of financial assistance to owners of private forest land. The program shall include, but not be limited to, insured loans and guaranteed loans that provide periodic loan disbursements to participating landowners.

"(2) The pilot program shall operate for five consecutive calendar years, beginning with the first full calendar year in which funds are first made available under this section. No new loans shall be insured or guaranteed under this section after the fifth calendar year of operation of the pilot program.

"(3) The Secretary may defer the repayment of principal and interest on loans to landowners insured under this section under such conditions as the Secretary shall deem appropriate.

"(4) Any contract of insurance or guarantee executed by the Secretary under this section shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder of the contract has actual knowledge.

"(5) The provisions of section 310B(d)(6) of the Consolidated Farm and Rural Development Act shall apply to loans insured or guaranteed under this section.

"(b) Any individual, group, Indian tribe or other native group, association, partnership, corporation, or other legal entity owning five thousand acres or less of private forest land capable of producing wood for energy or other purposes designated by the Secretary shall be eligible to receive insured or guaranteed loans under this section if the applicant certifies in writing, and the Secretary determines, that the applicant is unable to obtain sufficient credit elsewhere at rates and terms comparable to those provided in this section.

"(c)(1) The Secretary shall not insure or guarantee a loan in excess of $50,000 to any one landowner under this section.

"(2) The total period of time permitted for repayment for a loan insured or guaranteed under this section shall not exceed forty years.

"(3) The Secretary may guarantee to any Federal or State chartered bank, savings and loan association, cooperative lending agency, Federal land bank, or other legally organized lending institution not to exceed 90 percent of that portion of the overall loan to a landowner that exceeds the market value of the assets securing the loan in the event of default by the landowner.

"(4) Insured or guaranteed loans under this section shall be made on the personal liability of the borrower and shall be secured by (A) the land, (B) the timber grown thereon, or (C) the land and timber, with respect to which the loan is made, and such other security as the lender may require. If such loans are secured by the timber alone, additional security may include insurance on the timber crop against natural hazards if, such insurance is available, or a performance bond on the outstanding loan obligation.

"(5) Loans guaranteed under this section shall bear interest at rates agreed on by the lender and landowner, but not in excess of such rate as may be determined by the Secretary. Loans insured under this section shall bear interest at rates determined by the Secretary, but not less than such rates as determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted in the judgment of the Secretary of the Treasury to provide for rates comparable to the rates prevailing in the private market and considering the Secretary's insurance of the loans, plus an additional charge prescribed by the Secretary to cover the Secretary's losses and cost of administration, and further adjusted to the nearest one-eighth of 1 percent.

"(6) The landowner shall prepare, keep current, and adhere to an individual forest management plan that shall (A) be developed in cooperation with, and approved by, the State forester or equivalent State official, (B) describe the activities needed to maintain or increase the productivity of the owner's forest land for the production of wood, and (C) include estimates of the volume of timber to be harvested during the term of the loan and the value thereof. The Secretary shall ensure that such management plans include adequate ecological safeguards to protect the forest resources. The estimated value so determined shall serve as the basis for determining the principal amount of the loan. The landowner may use the balance of any periodic disbursement received, after bringing interest and any other charge current, in any manner the landowner deems appropriate, so long as the provisions of the management plan and loan agreement are observed.

"(7) Borrowers who sell the forest land with respect to which an insured or guaranteed loan is made before the loan term is completed or who do not carry out the activities prescribed by the forest management plan required by paragraph (6) of this subsection shall make immediate repayment of all principal and accrued interest, plus costs that may have been incurred by the Secretary in insuring or guaranteeing the loan, except as provide in paragraph (10) of this subsection. In addition, the Secretary may assess penalties the Secretary deems appro-

priate on the termination of the loan prior to the time agreed upon by the borrower and the Secretary or, in the case of guaranteed loans, the lender as provided in this paragraph.

"(8) The amount of the periodic loan disbursements to a landowner under this section shall be based upon the future expected market value of the timber produced on the land, but in no case shall the total principal and interest obligation of the loan exceed 80 percent of the future expected market value of the timber as estimated in the forest management plan.

"(9) Individual loan agreements and forest management plans shall be periodically reviewed by the lender and the * * * comparable to those provided in this section, the landowner shall, upon request by the Secretary, apply for and accept such loans in an amount sufficient to repay the Secretary and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

"(d) To assist in the development of the pilot program conducted under this section and aid in preparing recommendations regarding the continuation and expansion of the program, the Secretary shall appoint a committee, to be in existence through the period of the pilot program under this section, of not less than five persons, including, but not limited to, representatives from public agencies, private lending institutions, private forestry concerns, and individual landowners. The Secretary shall consult with the committee in the preparation of reports required under subsection (f) of this section. The Secretary shall establish procedures for the selection of members and operation of the committee. Individuals who serve on the committee and are not employed by the Federal Government shall be paid such compensation for their services as the Secretary shall determine, but such compensation shall not exceed the equivalent of the rate prescribed for grade GS-18 in the General Schedule set out in section 5332 of title 5 of the United States Code per day, and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5 of the United States Code for persons in Government service employed intermittently, when assisting in the development of the pilot program away from their homes or regular places of business. The committee established under this subsection shall coordinate its activities with the Board.

"(e) The Secretary may issue such regulations as are necessary to implement this section.

"(f) The Secretary shall annually report to Congress on the progress of the pilot program conducted under this section. The first such report shall be submitted upon the completion of the first year of operation of the pilot program. A final report shall be submitted prior to completion of the fifth year of operation of the pilot program and include an evaluation of the pilot program and the Secretary's recommendations on the need for, and the nature and scope of, a permanent forest management loan program.

"(g)(1) The loan program authorized under this section shall be funded using moneys drawn from the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act and shall be subject to the provisions of that Act governing that fund. Effective October 1, 1980, and only to the extent provided by appropriations Acts, the Secretary may use such moneys to (A) make insured loans to eligible landowners under this section, but not in excess of $5,000,000 in total may be obligated for such loans annually, and (B) guarantee loans to eligible landowners under this section, but not in excess of $5,000,000 in total may be obligated for such loans annually.

"(2) Effective October 1, 1980, there are authorized to be appropriated such sums as Congress determines necessary for administrative and operating expenses under this section and reimbursement to the Rural Development Insurance Fund for funds withdrawn for the operation of the program.

"ASSISTANCE TO STATE FORESTRY AGENCIES

"SEC. 2035. (a) The Secretary may make grants to State foresters or equivalent State officials for the employment of additional foresters or equivalent State officials, including consultants, to provide technical assistance to owners of private forest land (1) in identifying the opportunities for, and increasing, the production of wood or energy, and (2) in developing individual forest management plans under the cost sharing program authorized under section 2033 of this title and the forest management loans pilot program authorized under section 2034 of this title, and as necessary and appropriate to ensure the efficient application of forest management practices under such programs.

"(b) The Secretary may take such actions as the Secretary deems necessary to make training programs on the production of wood energy available to State foresters or equivalent State officials. The Secretary shall consult with the Secretary of Energy on training materials and other assistance available from the Department of Energy.

"(c) The Secretary may provide management and planning assistance under section 8 of the Cooperative Forestry Assistance Act of 1978 to State foresters or equivalent State officials, upon their request, on State programs relating to the production of wood for energy.

"(d) Effective October 1, 1980, there are authorized to be appropriated such sums, not in excess of $8,500,000 annually, as Congress determines necessary to carry out the purposes of this section.

"(e) In determining the amount of financial assistance to be provided to any State under this section, the Secretary shall consider the quantity of forest growth that is underused and the potential for use of this material in the production of energy in each State, using as a basis for such consideration the renewable resource Assessment prepared under section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974, along with other pertinent information.

"STATE ADVISORY COMMITTEES

"SEC. 2036. The Secretary shall establish State advisory committees in States in which there are significant amounts of private forest land. Each committee shall (1) advise the Secretary and the State forester or equivalent State official on its determinations as to the effectiveness of Federal programs designed to assist owners of private forest land in producing wood for energy, (2) determine the potential for the development of markets for wood energy and (3) report its findings on these matters to the Secretary and State forester or equivalent State official periodically. The Secretary shall establish procedures for the selection of the members and operation of the committees. State forestry planning committees where they exist shall serve as advisory committees.

"NATIONAL FOREST SYSTEM ASSISTANCE IN WOOD ENERGY DEVELOPMENT PROJECTS

"SEC. 2037. The Secretary shall make available wood and its wastes and residues from the National Forest System to assist in the research field-tests and demonstrations authorized under sections 2032 and 2042 of this title. The Secretary may make available the timber resources of the National Forest System in accordance with appropriate timber appraisal and sale procedures to commercial energy production enterprises established with loans or grants provided under sections 2051, 2052, and 2053 of this title.

"FOREST LAND RESTORATION

"SEC. 2038. Section 4 of the Cooperative Forestry Assistance Act of 1978 is further amended by—

"(1) in the second sentence of subsection (a), inserting 'clearing and' immediately before 'reforestation' and inserting 'or forest lands on which trees have been destroyed or severely damaged by natural disaster' immediately after 'understocked forest lands'; and

"(2) in subsection (g), inserting 'clearing the land,' immediately after '(4) the need for'.

"Subtitle E—Agricultural Biomass Energy Development

"DEFINITION

"SEC. 2041. For purposes of this subtitle, 'agricultural biomass energy' means energy produced from biomass materials other than wood or wood products, bark, wood pulp or chips, wood wastes or residues, or residues from logging and paper manufacturing.

"AGRICULTURAL BIOMASS ENERGY CENTERS

"SEC. 2042. (a) The Secretary shall establish not less than four nor more than eight Agricultural Biomass Energy Centers, each in a different geographic region of the United States and located in an area in which there is intensive use of the land for producing agricultural commodities. To the extent practicable, the Centers shall be established at existing Department of Agriculture facilities for agricultural research.

"(b) Under the direction of the Board and in coordination with the programs of the Department of Energy and without significant duplication of such programs, each Agricultural Biomass Energy Center shall—

"(1) conduct applied agricultural biomass energy production and use and rural energy conservation research projects that recognize the needs and opportunities of the region in which the Center is located;

"(2) develop and maintain an agricultural biomass energy research information bank;

"(3) field-test promising research findings on agricultural biomass energy production and use and rural energy conservation;

"(4) train extension personnel to conduct workshops on the production of agricultural biomass energy, as provided in section 2043 of this title, and develop model training programs for the workshops;

"(5) in cooperation with the State extension services and other appropriate State agencies, and through contracts with local entities having the necessary technical resources, provide technical assistance to farmers and other interested persons in its region on agricultural, forestry, and rural enegy poduction, use, and consevation, and energy production, use, and conservation, and

"(6) demonstrate agricultural biomass energy production and use and energy conservation projects using, to the extent feasible, applied research performed under this title including, but not limited to, demonstrations of—

"(A) the production, transportation, and handling of fuel from agricultural biomass;

"(B) the use of agricultural biomass energy for rural businesses and rural communities;

"(C) the use (directly or through generation of electricity needed in agricultural biomass energy production) of direct solar, passive solar, wind, and geothermal energy to convert agricultural commodities to fuel;

"(D) in cooperation with institutions of higher learning, engineering techniques that efficiently use agricultural biomass for energy; and

"(E) solar power for crop drying, irrigation pumps, and other purposes;

"(7) in cooperation with the State extension services and other appropriate State agencies, disseminate information on new energy technologies through the conduct of conferences, seminars, and training programs;

"(8) perform energy need analyses for rural residents and communities and State governments within the region;

"(9) where appropriate, provide recommendations to the Secretary on the technical feasibility and potential benefit of demonstration projects for which applications for grants are made under section 2051 of this title, and

"(10) where appropriate, conduct similar research, field-tests, and demonstration programs with respect to wood and waste products.

"(c) Where appropriate, the Secretary may authorize the Agricultural Biomass Energy Centers to implement the provisions for solar energy model farms and demonstration projects contained in subtitle H of title XIV of this Act.

"(d) Where appropriate, the Agricultural Biomass Energy Centers shall share resources and coordinate efforts with the regional solar energy research, development, and demonstration centers established under section 1455 of this Act and appropriate elements of the Department of Energy as designated by the Secretary of Energy.

"(e) Effective October 1, 1980, there are authorized to be appropriated such sums, not in excess of $30,000,000 annually, as Congress determines necessary for the Agricultural Biomass Energy Centers. Such sums shall be in addition to appropriations for agricultural research facilities that house the Centers.

"SMALL-SCALE AGRICULTURAL BIOMASS PRODUCTION ASSISTANCE

"SEC. 2043. (a) In order to enable the United States to produce sufficient agricultural biomass energy to meet the goal of net energy independence for agricultural and forest production, processing, and marketing contained in section 2011 of this title, the Secretary shall implement a program, using the State extension services, to conduct workshops and provide similar training, disseminate information, and provide technical assistance with respect to the small-scale production and use of ethanol, methanol, low and medium British thermal unit gas, and other energy forms from agricultural biomass, as provided in this section. The program shall be conducted, under the direction of the Board, in areas of the United States in which there is intensive use of the land for producing agricultural commodities.

"(b) The State extension service shall conduct agricultural biomass energy workshops that provide instruction to (1) interested persons on the construction and operation of small-scale agricultural biomass energy production facilities, and (2) county extension agents on the conduct of agricultural biomass energy extension at the local level. The State extension services shall use personnel trained at the Agricultural Biomass Energy Centers for the conduct of the workshops, but may also contract with colleges and universities, junior colleges, and vocational schools, including vocational agricultural schools, for facilities and additional personnel needed for the workshops. To the extent feasible, each workshop shall be conducted at a location at which an operational agricultural biomass energy production unit is available. To the extent feasible, not less than one hundred workshops shall be conducted annually. At least 5 percent of the county extension agents in each State in which there is intensive use of the land for producing agricultural commodities shall be trained through the workshops to provide the practical training, information, and technical assistance on agricultural biomass energy production required under subsection (c) of this section.

"(c) The State extension services shall, at the local level and on a continuing basis, make available practical training, information, and technical assistance to farmers and other interested persons in the economical and energy-efficient small-scale production of ethanol and other agricultural biomass energy. Such assistance shall include educational programs to inform persons of Federal laws affecting the production, transportation, and handling of agricultural biomass energy products.

"(d) For the purpose of this section, 'small-scale production' means production annually of not more than two million gallons of ethanol or, for other forms of agricultural biomass energy, its energy equivalent.

"Subtitle F—Agricultural, Forestry, and Rural Energy Production, Use, and Conservation Loans, Demonstration Grants, and Cost Sharing

"LOANS AND DEMONSTRATION GRANTS

"SEC. 2051. (a) To accelerate the development of biomass as a source of rural energy and improved rural energy conservation practices and reduce the Nation's need for imports of petroleum and natural gas, the Secretary shall establish projects for efficient use of energy in rural areas and rural production of energy from biomass through direct, insured, or guaranteed loans as provided in this section to finance the construction, establishment, renovation, or operation of projects.

"(b) In order to encourage the adoption of systems and techniques for rural biomass energy production and efficient use of energy in rural areas, the Secretary may make grants for the construction, establishment, renovation, or operation of projects for rural production of energy. There are hereby authorized to be appropriated $100,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984 for the purpose of making such grants.

"(c) The Board shall establish, and the Secretary shall use, a program for the selection of projects to receive financial assistance under this section. To the extent practicable, the Secretary shall select for financial assistance under this section projects that (1) show promise of success based on research, field-testing, and demonstrations performed by the Wood Energy Centers and Agricultural Biomass Energy Centers established under this title or by any other federally assisted demonstration program and (2) carry out the Program. Priority shall be given to any project that uses a fuel other than petroleum or natural gas in producing the biomass fuel.

"(d) Loans may be made, insured, or guaranteed, and grants made for projects located in rural areas under this section—

"(1) with respect to on-farm projects, to any farmer or rancher in the United States or on-farm, cooperative, or private domestic corporation or partnership that is owned or controlled by farmers or ranchers and engaged primarily and directly in farming or ranching in the United States; and

"(2) with respect to other projects, to any domestic agricultural cooperative association owned or controlled by farmers or ranchers, domestic public or private organization organized for profit or not for profit, or individual who is a United States citizen.

"(e) No loan may be made, insured, or guaranteed, and no grant may be made, under this section for a biomass energy production project unless the Secretary determines that the total energy content of the biomass fuel to be produced under the project will exceed the total energy from the petroleum and natural gas used in producing the biomass fuel.

"(f)(1) Subject to the provisions of subsection (l) of this section, the total amount of loans made or insured under this section in any fiscal year may not exceed $250,000,000. Not less than one-third of the total amount of loans made or insured under this section in any fiscal year shall be allocated for projects that use wood biomass, and not less than one-half of the total amount of loans made or insured under this section in any fiscal year, including loans for projects that use wood or agricultural biomass, shall be allocated for projects for small-scale production facilities.

"(2) Subject to the provisions of subsection (l) of this section, the total amount of loans guaranteed under this section in any fiscal year may not exceed $500,000,000. Not less than one-third of the total amount of loans guaranteed under this section in any fiscal year shall be allocated to projects that use wood biomass, and not less than one-fourth of the total amount of loans guaranteed under this section in any fiscal year, including loans for projects that use wood or agricultural biomass, shall be allocated for projects for small-scale production facilities.

"(3) For the purpose of this subsection, 'small-scale production facilities' means facilities that annually produce not more than two million gallons of ethanol or, for other forms of biomass energy, its energy equivalent.

"(g) The Secretary shall establish such terms and conditions for loans and grants under this section as the Secretary determines necessary to implement this section and ensure the prompt repayment of loans.

"(h) Insofar as practicable, not less than 75 percent of the loans, loan guarantees, and grants made under this section in any fiscal year shall be executed by May 31 of such fiscal year.

"(i) The Secretary may use any agency of the Department of Agriculture to carry out the loan and grant program under this section.

"(j) The Secretary shall coordinate the loan and grant program under this section with (1) the industrial hydrocarbon and alcohol loan and grant programs conducted under section 1419 of this Act and section 509 of the Rural Development Act of 1972, as added by section 1420 of this Act; (2) the loan programs conducted under the Consolidated Farm and Rural Development Act, as amended by section 2052 of this title; and (3) the program for solar energy model farms and demonstration projects conducted under sections 1452 through 1454 of this Act.

"(k) The Secretary may issue such regulations as are necessary to implement this section.

"(l) The Secretary shall carry out the provisions of this section regarding direct, insured, and guaranteed loans through the Commodity Credit Corporation. The Commodity Credit Corporation (1) may not make, insure, or guarantee loans under this section after September 30, 1984, and (2) beginning October 1, 1980, may make, insure, or guarantee loans under this section only to the extent authorized in appropriation Acts. Any contract of insurance or guarantee executed under this section shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder of the contract has actual knowledge.

"(m) In the case of a project that will produce more than one million gallons of alcohol (or, for other forms of biomass energy, such amounts of energy products determined by the Board to be appropriate) annually, the Secretary shall obtain the concurrence of the Secretary of Energy before awarding a grant, loan, or loan guarantee under this section.

"CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

"SEC. 2052. Effective October 1, 1980, the Consolidated Farm and Rural Development Act is amended by—

"(1) in section 303(b)(1), inserting 'in any farm operation or' after 'system';

"(2) in section 306(a)(14)(A), inserting before the second sentence the following: 'The Secretary may also make or insure loans in the full amount thereof for rural electric systems for the construction and operation of electric generating facilities that use energy sources other than petroleum or natural gas, including, but not limited to, biomass and hydropower from small streams and rivers in rural areas, but not in excess of $25,000,000 in total may be expended annually for such loans for facilities that use alternative energy sources.';

"(3) in the first sentence of section 310B (a), inserting 'commercially feasible projects for biomass energy production,' after 'control,';

"(4) in section 312(a)(2), striking out 'solar energy' and inserting in lieu thereof 'biomass or solar energy or increases energy conservation'; and

"(5) adding at the end of section 346 a new subsection (c) as follows:

"'(c) In addition to amounts otherwise authorized, loans for each of the fiscal years ending September 30, 1981, and September 30, 1982, are authorized to be insured, or made to be sold and insured, or guaranteed—

"'(1) under the Agricultural Credit Insurance Fund as follows:

"'(A) real estate loans, $50,000,000 for farm improvements that establish nonfossil energy systems on the farm; and

"'(B) operating loans, $20,000,000 for equipment that uses biomass or solar energy or promotes energy conservation,

which amounts, in the discretion of the Secretary, may be used either for insured or guaranteed loans; and

"'(2) under the Rural Development Insurance Funds as follows:

"'(A) industrial development loans, $270,000,000, of which $20,000,000 may be for insured loans and $250,000,000 may be for guaranteed loans, with authority to transfer amounts between such categories, to be used for commercial biomass energy production projects; and

"'(B) community facility loans, $25,000,000 for loans for rural electric systems for electric generating projects that use energy sources other than petroleum or natural gas, which amount, in the discretion of the Secretary, may be used either for insured or guaranteed loans.'.

"RURAL ELECTRIFICATION GRANTS FOR ALTERNATIVE ENERGY SOURCES

"SEC. 2053. (a) The Administrator of the Rural Electrification Administration may make grants to rural electric borrowers eligible for loans under the Rural Electrification Act of 1936, or federations of these borrowers, for projects using alternative energy and energy conservation technologies including, but not limited to, small-scale hydropower, geothermal, wind, solar, and biomass projects.

"(b) Grants may cover all or a portion of the cost of such projects, including, but not limited to, expenditures for construction and operation, and required economic, environmental, technological, planning, or other studies. Grants may be made alone or in combination with other governmental assistance or private funding.

"(c) Grants shall be made on such terms and conditions as the Administrator considers appropriate to further the purposes of this title.

"(d) There are authorized to be appropriated such sums, not in excess of $10,000,000 for the fiscal year ending September 30, 1981, $20,000,000 for the fiscal year ending September 30, 1982, $25,000,000 for the fiscal year ending September 30, 1983, and $30,000,000 for the fiscal year ending September 30, 1984, as Congress determines necessary for the purposes of this section.

"LENDING FOR ENERGY PRODUCTION AND CONSERVATION PROJECTS BY PRODUCTION CREDIT ASSOCIATIONS, FEDERAL LAND BANKS, AND BANKS FOR COOPERATIVES

"SEC. 2054. The Farm Credit Administration shall encourage the production credit association, Federal loan banks, and banks for cooperatives to use the existing authority in the Farm Credit Act of 1971 to make loans to farmers for the establishment or operation of commercially feasible biomass energy production or energy conservation projects.

"AGRICULTURAL CONSERVATION PROGRAM ENERGY CONSERVATION COST SHARING

"SEC. 2055. Section 8 of the Soil Conservation and Domestic Allotment Act is amended by—

"(1) inserting after the word 'conservation' in the first rentence of subsection (b) the following: '(including energy conservation)'; and

"(2) inserting after the first two sentences of subsection (b) a new paragraph as follows:

"'The Secretary may provide financial assistance to agricultural producers for the purpose of encouraging energy conservation by sharing the costs and providing technical assistance for (1) the establishment, restoration, and better use of shelter belts to conserve energy on farmsteads and feed lots, (2) the establishment and use of minimum tillage systems, (3) the efficient storage and application of manure and other suitable wastes to the land for land fertility and soil improvement, (4) the use of integrated pest management, (5) the use of energy-efficient irrigation water management, (6) the establishment of water conservation measures necessary for the improvement of crop yields in relation to the amount of energy used in crop production, and (7) such other land, water, and related resource management practices that the Secretary may determine to have significant energy conserving effects.'.

"Subtitle G—Forest Service Leases and Permits

"FOREST SERVICE LEASES AND PERMITS

"SEC. 2061. (a) It is the intent of Congress that the Secretary of Agriculture shall proceed to process applications for leases on National Forest System land in an expeditious manner, notwithstanding the current status of any plan being prepared under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, and shall report progress in this regard to the appropriate committees of Congress within ninety days after the enactment of this Act, and annually thereafter through 1985.

"(b) It is also the intent of Congress that applications for permits to explore, drill, and develop resources on land leased from the Forest Service shall also be processed in an expeditious manner, with due regard for environmental standards.

"Subtitle H—Effective Date

EFFECTIVE DATE

"SEC. 2071. Except as otherwise provided in this title, the provisions of this title shall become effective upon enactment.".

And redesignate all titles that follow accordingly.

Mr. TALMADGE. Mr. President, the amendment is based on the language of S. 1775—the Agricultural, Forestry, and Rural Energy Act of 1979—as reported by the Committee on Agriculture, Nutrition, and Forestry. The amendment incorporates changes in S. 1775 that have been suggested by the Committee on the Budget and the Committee on Energy and Natural Resources.

They are good changes—improvements that recognize budgetary constraints and eliminate any chance of duplication with other energy programs that have been proposed or enacted into law. I appreciate the cooperation of Senators JACKSON, HATFIELD, and MUSKIE.

This substitute represents the best possible bill that provides, at a minimum cost, a central focus and a stimulus to the energy-related activities of the Department of Agriculture. The amendment builds, as does S. 1775, upon the unique capabilities of the Department of Agriculture's agencies for research, development, information transfer, and financial assistance to farmers, woodlot owners, and rural residents.

It requires, as does S. 1775, that the Secretary of Agriculture implement a comprehensive agricultural, forestry, and rural energy production, use, and conservation program for the development and production of alternative fuels from biomass, and for research, extension, and conservation activities related to agricultural, forestry, and rural energy. These policies and program activities are to be compatible with, and protect the basic functions of, the agricultural and forestry sectors. The goal of the program is to achieve net energy independence for the agricultural and forestry sectors, and a reduction of 50 percent in petroleum and natural gas consumption of rural residents and communities, by the year 2000.

The amendment also establishes an Agricultural, Forestry, and Rural Energy Board, as does S. 1775. The Board's membership, however, has been changed to reflect the importance of coordinating the energy-related activities of the Department of Agriculture with the Department of Energy. The amendment provides that the Board be composed of the Secretary of Agriculture, the Secretary of Energy, the Deputy Secretary of Agriculture, and the Deputy Secretary of Energy. The Board will assist the Secretary of Agriculture in developing and carrying out the program in an efficient and effective way—one that is coordinated with other energy programs within the Federal Government.

To assure achievement of the goals of the program, the amendment authorizes $50 million to be appropriated annually to support applied research by colleges and universities to develop renewable resources energy production and rural energy conservation practices. An additional $55 million is authorized to be appropriated annually for rural energy extension work by cooperative State extension services. Identical research and extension funding is provided for in S. 1775.

To help realize the full energy potential from wood and wood wastes, the amendment would establish at least four wood energy centers, each in a different region of the Nation, in areas in which there are large amounts of forest land. Where feasible, each center would be located at an existing forest research facility of the Department of Agriculture. Under the direction of the Agricultural, Forestry, and Rural Energy Board, each center would perform research, provide technical assistance, and operate demonstration projects relating to wood energy production and use, and energy production, use, and conservation in the rural areas within the region. Each wood energy center could also provide expert advice to the Agricultural, Forestry, and Rural Energy Board in making decisions on the production of biomass energy and on rural energy conservation.

These centers would be centers of excellence, central places to go for the best technical expertise on energy conservation and the development of wood and wood wastes as a source of energy tailored to the local and regional potential and needs. As does S. 1775, the amendment provides up to $30 million to be annually authorized for appropriations for the operation of the wood energy centers.

The amendment also provides, as does S. 1775, that timber produced for wood energy be included as an eligible activity for cost-sharing agreements currently carried out under the forestry incentives program. It also establishes a 5-year pilot program under which the Secretary would make loans to owners of 5,000 acres or less of forest land to support forest management practices designed to increase the production of wood for energy and other uses. Up to $5 million in direct loans and $5 million in guaranteed loans are authorized for this program annually.

To further the use of wood and wood wastes for energy, the amendment authorizes the Secretary of Agriculture to provide personnel, training, and management assistance to State foresters. Up to $8.5 million annually is authorized to be appropriated for this program. S. 1775 provides for a similar program.

To help realize the great potential for energy production from agricultural products and residues, the amendment establishes at least four agricultural biomass energy centers, each in a different region of the Nation, in areas in which there is intensive use of the land for growing agricultural commodities. Where feasible, each center would be located at an existing agricultural research facility of the Department of Agriculture.

Under the direction of the Agricultural, Forestry, and Rural Energy Board, each center would perform research, provide technical assistance, and operate demonstration projects relating to agricultural biomass energy production and use, and energy production, use, and conservation in rural areas within the region, and train extension personnel to conduct agricultural biomass energy workshops. Up to $30 million is authorized for appropriations annually for the operation of these centers.

To increase the amount of the energy produced from agricultural commodities and residues, the amendment directs the Secretary of Agriculture to implement a workshop, training, information dissemination, and technical assistance program on small-scale agricultural biomass energy production for farmers and rural residents and communities. The program would be conducted by the cooperative State extension services in areas in which there is intensive use of the land for agricultural production. To the extent feasible, at least 100 workshops would be conducted annually. S. 1775 has a similar provision.

To provide the financial assistance to meet the goals of the rural energy program, the amendment provides discretionary authorities to the Secretary of Agriculture to assist projects for agricultural and forestry energy production and use and energy conservation in rural areas that warrant Federal grants, loans, or loan guarantees. The amendment provides annual funding of up to $100 million for demonstration grants, $250 million of direct or insured loans, and $500 million of guaranteed loans for this assistance.

Unlike S. 1775, the amendment requires that the demonstration grants and direct or insured loans be subject to the appropriations process and only authorizes these programs through fiscal year 1984. The loan guarantees are reduced from $1 billion to $500 million annually, using the Commodity Credit Corporation as the funding source and subject to the appropriations process after fiscal year 1980. Like S. 1775, this amendment earmarks one-third of all loans and loan guarantees for wood energy projects.

To emphasize the potential of small-scale energy production projects, one-half of the direct and insured loans are earmarked for small-scale projects. In addition, one-fourth of the $500 million in loan guarantees are earmarked for small-scale production projects. A small-scale production facility is defined as any facility that annually produces not more than 2 million gallons of alcohol or its energy equivalent for other forms of biomass energy.

Like S. 1775, the amendment requires that the amount of petroleum and natural gas used for such projects not exceed the amount of the alternative fuel produced. It further provides that priority for financial assistance must be given to those projects that use agricultural and forestry biomass as a process fuel in the production of alternative fuels.

To avoid any duplication of financial assistance for large-scale alcohol projects available through other programs of the Federal Government, the amendment requires that no alcohol project that would produce more than 1 million gallons of alcohol annually be approved for financial assistance without the concurrence of the Secretary of Energy. Criteria for the concurrence of the Secretary of Energy with respect to other biomass projects would be developed by the Secretary of Agriculture and Secretary of Energy.

To further assist in producing alternative fuels and in conserving the use of existing fossil fuels, the amendment provides for loans targeted specifically for farmers, rural industries and communities, and rural electric systems similar to those provided for in S. 1775. The amendment authorizes farm ownership loans for nonfossil fuel energy systems used in farm operations, and farm operating loans for equipment that uses energy derived from renewable resources or that increases energy conservation. For each of the fiscal years 1981 and 1982, the amendment specifically authorizes the use of $50 million for farm ownership loans, and $20 million for farm operating loans.

Also authorized are rural industrialization loans for commercially feasible projects for renewable resources energy production. For each of the fiscal years 1981 and 1982, the bill specifically authorizes the use of $20 million for direct loans and $250 million for guaranteed loans for such projects.

In addition, the amendment authorizes loans for rural electric systems for projects to generate electricity using nonfossil fuel sources. For each of the fiscal years 1981 and 1982, the bill specifically authorizes the use of $25 million for these loans.

The amendment would also authorize the Administrator of the Rural Electrification Administration to make grants in fiscal years 1981 through 1984 to rural electric borrowers for projects demonstrating alternative energy and conservation technologies, including small-scale hydropower, geothermal, wind, solar, and biomass projects. Appropriations would be authorized for such grants as follows: $10 million for fiscal year 1981, $20 million for fiscal year 1982, $25 million for fiscal year 1983, and $30 million for fiscal year 1984.

In addition, the amendment directs the Secretary to provide cost-sharing and technical assistance to farmers under the agricultural conservation program for energy conservation measures such as shelterbelts around farmsteads and feedlots, establishment of minimum tillage systems for crop production, and energy-efficient irrigation water management.

Mr. President, I am convinced that agriculture, forestry, and rural United States can do much in making this Nation less dependent, in the near term, on petroleum and natural gas—the two major energy sources we import today. What is needed is for the Federal Government to implement the proper set of technical and financial incentives so that we can get started on this crucial mission.

Initially, the program will involve a Federal investment—perhaps $200 to $300 million annually for the next few years. But once it is shown that energy production, use, and conservation on farms and in rural areas are practicable and profitable, private enterprise will do the rest. The benefits from the money spent today could prove to be immeasurable.

Again, I want to express my appreciation to those who helped shape this amendment into its present form—especially Senator HELMS, the distinguished minority member of the Senate Committee on Agriculture, Nutrition, and Forestry. Many long and hard hours have been spent refining S. 1775—the amendment is truly a consensus bill. I urge all of my colleagues to support its adoption.

A COMPREHENSIVE DESCRIPTION OF THE AGRICULTURAL, FORESTRY, AND RURAL ENERGY AMENDMENT

The energy crisis is one of the most important domestic issues this Nation faces.

Energy production in the United States depends on large quantities of petroleum and natural gas. Today, more than 75 percent of our energy requirements are filled by these fuels. This dependence has been brought about primarily by the low cost and abundance of these energy sources during the last four decades.

The supplies of these fuels are dwindling, however, both domestically and worldwide. No matter how large the quantity of untapped fossil fuels, the supply is limited and will become exhausted within a few decades.

In addition, we rely heavily on imported petroleum. Currently, we import about one-half of our liquid fuels at a cost of about $50 billion annually. In all likelihood, the price of imported energy will escalate in the future.

In order to reduce our dependence upon foreign sources of energy, we must pursue every appropriate means to conserve oil and gas and to increase the domestic production of energy from new or renewable sources.

One means of increasing our domestic energy production is to produce alcohol, processed wood, methane gas, and other combustible materials from agricultural and forest biomass, of which we have plentiful domestic supplies. Energy would be an additional output from the Nation's already productive farms and forests.

This approach need not be viewed as a dramatic and new initiative because much of the technology needed for renewable resources energy production is already available, and the Nation already has sufficient agricultural and forest production capability to produce energy feedstocks in abundance.

Indeed, the Department of Agriculture estimates that the existing supply of agricultural and forestry biomass that could be used for alternative fuels is equivalent to one-fourth of the Nation's total current energy consumption as follows:

Energy production from biomass

Current energy production from biomass:

Source:	*Quads*
Forest sources:	
Residue recovery by industry	.9
Home heating and other industry	.2
Total	1.1
Agricultural sources (negligible).	
Potential:	
Estimated total availability of energy from biomass on a strictly biological basis (assuming sound forestry and agricultural practices but not including economic or other factors):	
Source:	*Quads*
Forest sources	9.1
Agricultural residues from existing cropland	1.0
Livestock wastes	.1
Total	10.2
Non-cultivated agricultural lands including pasture	10.0
Total	20.2

The amount of energy actually achievable by 1990 depends upon many factors that are unclear at this time. Perhaps a realistic goal, assuming provision of the required economic incentives, and other necessary support such as soil conservation practices, would be 5 quads from both forestry and agricultural sources—with forestry serving as the primary source. This amount would, in effect, place the agricultural and forestry sectors on a net energy self-sufficiency basis by 1990.

Total U.S. energy consumption is now about 80 quads annually. The 20.2 quads therefore represents 25 percent of total current energy usage; the five quads represents 6 percent of total usage.

Because there is no need for a lengthy startup period, biomass energy can fill the gap until other alternative fuel sources are developed and advanced.

There is every indication that a carefully focused and sustained commitment result in making the agricultural and forest biomass for energy, in combination with the continued production of food, feed, fiber, lumber, and paper products, and rural energy conservation, can result in making the agricultural and forestry sectors of our economy energy independent on a net basis by the year 2000.

This achievable goal recognizes that some of the energy produced from agricultural and forest biomass will be retained and used within these sectors, while another portion of that energy will be made available to the transportation sector and other uses throughout the economy. It is possible, however, that by the year 2000, the total production of energy from all types of agricultural and forest biomass can equal or exceed the total energy used in the agricultural and forestry sectors.

It is a goal of great importance to agriculture and rural America. A continuous and reasonably priced energy supply is vital to the production of food, fiber, and forest products and the economic and social well-being of every rural resident.

COMMITTEE'S FINDINGS

The Committee on Agriculture, Nutrition, and Forestry has held extensive hearings over the last 2 years on the issue of energy as it pertains to agriculture and rural America. The testimony from a number of experts with diversified backgrounds was that small-scale production of alternative fuels from agricultural and forest biomass offers one of the most practicable and least costly ways for the Nation to respond immediately to the energy crisis and that the technologies for the efficient production of alternative fuels from wood, grain, and other agricultural biomass materials are becoming available now for on-farm and small- and intermediate-scale commercial application. Also, it was pointed out during these hearings that methods to conserve the amount of energy used by farmers, rural residents, and rural communities are now ready for adoption and can substantially reduce the Nation's overall energy consumption.

What is needed, the committee has learned through these hearings, is an effort by the Department of Agriculture to provide the necessary applied research, technical know-how, and financial assistance in these areas. The Department already has in place an efficient delivery system that can be used for this effort.

The amendment meets this need. It amends the Food and Agriculture Act of 1977 to establish a coordinated program of research and technical and financial assistance within the Department of Agriculture to help farmers and ranchers and rural businesses and communities develop renewable resources energy production and use. It also promotes rural energy conservation practices on farms and in rural areas.

The amendment is expressly tailored to meet the needs of agriculture and rural America, using the agencies of the Department of Agriculture that serve rural United States. It builds upon the unique capabilities of the Department of Agriculture for research, development, information transfer, and financial assistance to farmers, woodlot owners, and rural residents, businesses, and communities. To the extent feasible, it uses current programs of the Department of Agriculture, rather than creating new programs to compete with other Federal activities.

The amendment will not duplicate or lessen the effect of other energy activities within the Federal Government.

Many uses are, and can be, made of agricultural commodities and forestry products to meet the needs of the Nation—for food, animal feed, fiber, paper, and housing and other construction material, as well as for biomass energy. The development of policies and programs to produce and use biomass for fuel will, therefore, have to be considered as part of overall agricultural and forestry policies and programs. The amendment is designed to provide this focus to the renewable resources energy effort.

A COMPREHENSIVE RURAL ENERGY PROGRAM

The amendment mandates the development and implementation of a comprehensive agricultural, forestry, and rural energy production, use, and conservation program that provides for the development and production of alternative fuels from biomass, and for research, extension, and conservation activities related to agricultural, forestry, and rural energy, to be coordinated with the Nation's other energy programs.

The Department of Agriculture's activities under the rural energy program called for under this amendment are to protect the basic functions of the agricultural and forestry sectors and achieve the goals of net energy independence for the agricultural and forestry sectors, and a reduction of 50 percent in petroleum and natural gas consumption by rural residents and communities, by the year 2000.

AGRICULTURE, FORESTRY, AND RURAL ENERGY BOARD

The amendment also establishes an Agricultural, Forestry, and Rural Energy Board composed of the Secretary of Agriculture, the Secretary of Energy, the Deputy Secretary of Agriculture, and the Deputy Secretary of Energy. The Board will assist the Secretary of Agriculture in developing and carrying out the rural energy program in an efficient and effective way.

In establishing the Agricultural, Forestry, and Rural Energy Board as the

primary unit for the coordination of energy-related activities of the Department of Agriculture, with the Department of Energy, the amendment recognizes that these activities are not operations that can be consolidated into a single operating agency. Instead, the Department of Agriculture's energy-related activities tend to be dispersed through separate agricultural, forestry, and rural programs and functions. Creation of the Board recognizes the necessary dispersion of energy-related activities throughout the Department, and provides a coordinating unit for central direction and focus for the energy effort with other energy programs of this Nation.

The use of the Board will increase the extent to which competing demands for agricultural and forestry products, such as demands for corn both for food and alcohol or wood both for lumber and heating buildings can be reconciled and agricultural and forest commodities used most productively.

The Board will be authorized to use the resources of all Department of Agriculture agencies in developing and implementing the rural energy program. It is intended that the activities under the rural energy program be integrated with other programs in the Department of Agriculture and in the Department of Energy.

RESEARCH AND EXTENSION

The amendment authorizes the use of $50 million annually to support applied research by colleges and universities to develop renewable resources energy production and use and rural energy conservation practices. An additional $55 million annually would be authorized for rural energy extension work. New renewable resources energy production and use and rural energy conservation technologies must be developed and refined, and the information developed must be disseminated to our Nation's farmers, ranchers, and rural businesses and communities.

At present, there are many farmers who wish to produce biomass energy, but they do not know how to begin. Questions must be answered concerning the appropriate technology, the scale of operation, and other such fundamental matters. An applied research and extension program will provide these answers.

Federal funding of agricultural research and extension activities over the years is a major reason why our farmers and ranchers are so productive today. With the necessary funding, there is little doubt that similar impressive results would occur with respect to renewable resources energy and rural energy conservation.

WOOD ENERGY

There are about 488 million acres of commercial forest land producing wood. Wood is one of the most versatile natural resources available. Historically, our Nation has relied on its forests to build its homes and to provide its paper products.

Forests can also supply a significant amount of the energy the Nation needs. Our Nation's forests have great potential in providing substitutes for petroleum fuels, natural gas, and substitutes for petroleum feedstocks used in the chemical and plastics industries.

The potential exists to satisfy completely the entire energy needs of the wood products industry and provide energy to the general economy through increased wood production, increased use of wood residue to produce energy, and conservation in logging and milling activities.

In fact, the lumber and paper industries have used wood for energy on a large scale, by burning waste wood to generate steam and electricity in their plants, for years. At present, these industries use about 1.1 quadrillion Btu's of energy derived from wood—more than the energy produced from all other renewable energy sources combined.

Outside of the forest products industries, wood has not been extensively used as fuel. Yet, six and one-half quadrillion Btu's of energy exist in excess growth, noncommercial timber, logging residue, and standing cull and dead timber—wood that now never leaves the forest. An additional 3.2 quadrillion Btu's of energy exist in the form of material that could be produced from thinning and mill waste. Further, there are several technologies now emerging that will allow wood to be used for energy to a much greater extent than now if the necessary incentives are provided.

Wood biomass, available on an annual basis, can produce 9.6 quadrillion Btu's of energy—over 10 percent of our Nation's yearly needs. In addition, using waste wood as an energy source will permit a new forest industry to take its place alongside the lumber and paper industries, one that would not do away or threaten the present timber supply.

The most promising and immediate prospect for converting wood to energy is the use of solid wood and wood chips and pellets in newly developed wood-burning furnaces and boilers that are efficient and virtually pollution free. Such units are particularly suited for commercial and institutional uses. Two wood-fired utility plants now produce energy for public consumption—one in Vermont and one in Oregon. Work is under way to develop similar units to heat small buildings such as private homes.

Another technology for converting wood to energy is through the process of pyrolysis. This is not a new technology, but builds upon knowledge developed with coal in World War II. By pyrolyzing wood, the solid fuel can be transformed into char, oil, and gas suited for large energy users who can refit existing oil and natural gas furnaces.

Technology for the total gasification of wood is also rapidly being developed. Wood gas produced by gasifiers can be burned in boilers and dryers or converted into alcohol.

In addition to industrial-scale pyrolysis and gasification units, home heaters are now available that operate 5 to 10 times more efficiently than old-fashioned fireplaces.

Specialized equipment is also being developed that will put raw wood into pellet or briquette forms. This processing will allow wood to be handled as a fuel commodity with fixed energy values and greatly reduced storage and handling costs.

The economic benefit of wood energy is perhaps as important as the energy benefit. If we build a new market for waste wood, rural jobs will be created and rural incomes will be increased, strengthening our rural economy. Nationally, it is estimated that wood can produce $8 to $10 billion in energy sales, or about $20 billion in total economic activity. This is nearly one-half the cost of the foreign oil that we buy today.

We must continue to strive for net increases in volume from every timber stand. We must be careful to see that timber products are directed toward their highest use and that we get maximum use from every tree.

WOOD ENERGY CENTERS

To help realize the full energy potential of wood, the bill would establish at least four Wood Energy Centers, each in a different region of the Nation, in areas in which there are large amounts of private forest land. Where feasible, each Center would be located at an existing forest research facility of the Department of Agriculture. Under the direction of the Agricultural, Forestry, and Rural Energy Board, each Center would perform research, provide technical assistance, and operate demonstration projects relating to wood energy production and use, and energy production, use, and conservation in the rural areas within the region. Each Wood Energy Center could also provide expert advice to the Agricultural, Forestry, and Rural Energy Board in making decisions on the production of renewable resources energy and on rural energy conservation.

These facilities would be centers of excellence, where the best technical expertise on energy conservation and the development of wood as a source of energy, tailored to local and regional needs and potential, would be made available. Expenditures of $30 million would be authorized for the annual operating costs of the Wood Energy Centers.

PILOT WOODLAND MANAGEMENT LOANS

It is clear that small, privately owned woodlots can be better managed to increase wood supplies for energy and other uses.

In order to encourage the production of wood by small private landowners, the amendment would make timber stand improvement practices, carried out by private landowners producing wood for energy, eligible for cost sharing under the forestry incentives program.

In addition, the amendment would establish a 5-year pilot program under which the Secretary of Agriculture would make loans to owners of 5,000 acres or less of forest land to support forest management practices designed to increase the production of wood for energy and other uses. As it stands now, it is not economically feasible for many landowners, especially owners of small woodlots, to engage in better forest management practices because the initial costs of reseeding and timber stand improvement are great and the expected economic return may not be forthcoming for 20 to 30 years. The pilot loan pro-

gram is designed to determine if the economic restraints can be overcome with Federal assistance.

The amendment authorizes the Secretary of Agriculture to provide personnel, training, and management assistance to State foresters. Eight and one-half million dollars would be authorized to be appropriated for this program annually. As I have noted, this Nation has available wood and wood wastes capable of meeting 10 percent or more of our annual national energy needs.

To reach this potential, technical assistance is necessary; and this new authority is aimed at providing such assistance to States in which there is potential for using forest resources for energy. This aid would encourage States to initiate their own wood energy development programs.

AGRICULTURAL BIOMASS ENERGY

Agricultural residues constitute a large tonnage of biomass. According to Department of Agriculture estimates, plant wastes—such as cereal straw, corncobs and stalks, and sugarcane bagasse—total about 40 million tons of organic solids per year. Farm animals, many of which are confined in feedlots or broiler operations, generate another 210 million tons of organic solids yearly. These residues represent an important, and at present largely untapped, energy source. The net energy yield from 1 ton of dry organic waste is equal to approximately 1.3 barrels of oil. Assuming that only a portion of the potential energy in agricultural biomass is recovered, it is estimated that the annual energy yield could come close to the energy supplied by 160 million barrels of oil, not only a significant contribution to our energy supplies, but the equivalent of all gasoline and diesel fuel now used in farming.

In addition to the use of residues for energy, agricultural commodities can be processed to yield both high-value ingredients for food, animal feed, and fiber and feedstocks for energy production. For example, corn can be processed to remove the germ, gluten, oil, and other products for food uses, while using the remaining starch to make alcohol.

A technique involving agricultural biomass energy that has received wide attention is the manufacture of gasohol, a mixture of 90 percent gasoline and 10 percent alcohol. Alcohol can be produced from a wide variety of agricultural crops and waste residues—all the way from commodities such as corn and sorghum to waste products such as sugarcane bagasse, peanut hulls, citrus pulp, or commodities that have gone out of condition in storage.

AGRICULTURAL BIOMASS ENERGY CENTERS

To help realize the great potential for energy production from agricultural commodities and residues, the amendment establishes at least four Agricultural Biomass Energy Centers, each in a different region of the Nation, in areas in which there is intensive use of the land for growing agricultural commodities. Where feasible, each center would be located at an existing agricultural research facility of the Department of Agriculture.

Under the direction of the Agricultural, Forestry, and Rural Energy Board, each center would perform research, provide technical assistance, and operate demonstration projects relating to agricultural biomass energy production and use, and energy production, use, and conservation in rural areas within the region, and train extension personnel to conduct agricultural biomass energy workshops. Like the Wood Energy Centers, these would be centers of excellence making the best technical expertise available to farmers and others in the region. Expenditures of $30 million would be authorized for the annual operating costs of these centers.

To accelerate production of energy from agircultural commodities and residues, S. 1775 would direct the Secretary of Agriculture to implement a workshop, training, information dissemination, and technical assistance program on small-scale agricultural biomass energy production for farmers and rural residents and communities. The program would be conducted by the cooperative State extension services in areas in which there is intensive use of the land for agricultural production. To the extent feasible, at least 100 workshops would be conducted annually.

LOANS AND DEMONSTRATION GRANTS

It appears that farmers, ranchers, and rural businesses may have problems in convincing banks to loan them money for rural energy projects that are new and innovative. For example, a poultry farmer in Georgia is presently thinking about purchasing corn, using the starch in the corn to make alcohol on a small scale, and feeding the residual material, called distiller's dried grain, which is high in protein, to poultry. The corn primarily would be used for feed. However, alcohol would also be produced—increasing the farmer's income while reducing our dependence on imported oil.

Since the feedstock used to furnish the heat to distill the alcohol from the corn would be wood, every gallon of alcohol produced from this small-scale unit would be replacing its energy equivalent of imported oil. There is only one problem—private lenders remain skeptical about this new idea. Either a Federal loan or loan guarantee is needed before private capital will participate in financing this innovative project.

To spur the investment of private capital in rural energy projects needed to meet the goals of the rural energy program under this amendment, the bill provides discretionary authority to the Secretary of Agriculture to assist projects for agricultural and forestry energy production and use, and energy conservation in rural areas, through grants, loans, and loan guarantees. The amendment provides annual funding of up to $100 million for demonstration grants, $250 million for direct or insured loans, and $500 million for guaranteed loans for this assistance.

The amendment requires that the demonstration grants and—beginning in fiscal year 1981—direct or insured loans be subject to the appropriations process and only authorizes these programs through fiscal year 1984. The loan guarantees use the Commodity Credit Corporation as the funding source and are subject to the appropriations process after fiscal year 1980.

With respect to the use of wood for energy, a tremendous potential for energy production exists based upon the amount of material available for use. In recognition of this great potential, one-third of all loans and loan guarantees would be earmarked for wood energy projects.

The $100 million authorized for demonstration grants primarily would be used as seed money to get new and promising projects started. Each grant would most likely be used for planning and design purposes, although some of these funds may be used for a portion of the actual cost of constructing the projects. Used in this manner, many projects could be assisted with grants.

With an adequate amount of grants used as seed money, a direct loan and loan guarantee program is the best and most cost-effective way the Federal Government can stimulate renewable resources energy production and rural conservation efforts.

Under the loan guarantee program, private capital will be used to finance the projects. The Federal Government would only guarantee loans against default. The loan guarantee program should cost the Government little or nothing since only those projects with demonstrated potential would be approved.

With direct loans, the interest charged would be at least the cost to the Government of borrowing money, so that the direct loan program should have minor effect on the budget.

The grant, loan, and loan guarantee programs will stimulate the development of new techniques, especially those well suited for small-scale application, that will lead to greater availability and increased use of alcohol and other biomass fuels on a nationwide basis. They could assist significantly in reducing our dependence on foreign oil—the goal that President Carter has now set as the highest national priority. But there would also be direct benefits to farmers, consumers, and taxpayers with the development of new markets for farm products, lower costs of Government price support programs for the agricultural commodities that are used for energy, and increased fuel supplies.

To avoid any duplication of financial assistance for large-scale alcohol projects available through other programs of the Federal Government, however, the amendment requires that no alcohol project that would produce more than 1 million gallons of alcohol annually be approved for financial assistance without the concurrence of the Secretary of Energy. Criteria for the concurrence of the Secretary of Energy with respect to other biomass projects would be developed by the Secretary of Agriculture and Secretary of Energy.

The amendment also requires that the amount of petroleum and natural gas energy used for such projects may not exceed the amount of energy in the alternative fuel produced. It further provides that priority for financial assistance must be given to those projects that use agricultural forestry biomass as the fuel used in the production of alternative fuels.

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT LOANS

To further assist in developing the production and use of alternative fuels and in conserving the use of existing fossil fuels, the amendment authorizes the use of the Consolidated Farm and Rural Development Act loan program for energy-related loans to farmers, rural industries and communities, and rural electric systems.

The amendment authorizes farm ownership loans for nonfossil fuel energy systems used in farm operations and farm operating loans for farm equipment that uses energy derived from renewable resources or that increases energy conservation. The use of $50 million for such farm ownership loans, and $20 million for such farm operating loans, would be authorized for each of the fiscal years 1981 and 1982.

Also authorized would be rural industrialization loans for commercially feasible projects to produce renewable resources energy. The use of $20 million for direct loans, and $250 million for guaranteed loans, for such projects would be authorized for each of the fiscal years 1981 and 1982.

The amendment authorizes loans for rural electric systems for projects to generate electricity using nonfossil fuel sources. The use of $25 million for such loans would be authorized for each of the fiscal years 1981 and 1982.

REA GRANTS

The amendment would also authorize the Administrator of the Rural Electrification Administration to make grants in fiscal years 1981 through 1984 to rural electric borrowers for projects demonstrating alternative energy and energy conservation technologies, including small-scale hydropower, geothermal, wind, solar, and biomass projects. Appropriations would be authorized for such grants as follows: $10 million for fiscal year 1981, $20 million for fiscal year 1982, $25 million for fiscal year 1983, and $30 million for fiscal year 1984.

CONSERVATION COST SHARING

The Department of Agriculture estimates that 15 to 20 percent of all energy used in farming can be saved through the application of conservation measures. The amendment directs the Secretary of Agriculture to provide cost sharing and technical assistance to farmers under the agricultural conservation program to encourage the application of energy conservation measures such as shelter belts on farmsteads and feedlots, establishment of minimum tillage systems for crop production, and energy-efficient irrigation water management.

CAUTION NEEDED

While there is great promise in wood and agricultural biomass as alternative forms of fuel, we must exercise caution because the land does not issue its bounty without extracting a price.

We must continue to stress conservation—conservation of fuels, conservation of materials, conservation of our soils, and conservation of our water.

We must not take so much biomass material from the land that the soils are depleted and eroded. Obviously, research is needed to determine what the biological limitations of the use of biomass for energy may be.

We must be careful that we do not jeopardize the Nation's food and timber supply in our zeal for alternative sources of fuel. But even with these considerations in mind, I believe that there are many opportunities that we must begin to take advantage of in order to lessen our dependence on foreign oil.

MEETING RURAL AMERICA'S ENERGY NEEDS

This amendment is tailored to fit the needs of agriculture and rural America. It is not designed to compete with or duplicate, in any way, the energy efforts of other Federal agencies. It sets in place the necessary programs within the Department of Agriculture to tap the potential that our farmers, ranchers, and other rural residents, businesses, and communities have in moving to the use of alternative energy sources and reducing energy consumption.

The various agencies of the Department of Agriculture already work closely—face to face—with rural individuals and groups. The local and decentralized delivery system of the Department of Agriculture's agencies for research, development, information transfer, and financial assistance is well suited to get the job done. No other Federal agency or Department has the delivery system to develop the potential that exists in rural areas to reduce our dependence on imported oil and natural gas.

In summary, Mr. President, this amendment represents the view that small-scale production of alternative fuels from agricultural commodities and forestry products offers one of the most practicable and least costly ways of filling the Nation's energy gap. I believe it will greatly benefit not just rural America but the entire Nation.

Mr. President, as I have stated, the amendment incorporates changes in S. 1775 that have been suggested by the Committee on the Budget and the Committee on Energy and Natural Resources. I believe it has been discussed with the distinguished floor managers of the bill on both sides of the aisle. I hope that they are ready to accept the amendment.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield.

The PRESIDING OFFICER (Mr. EXON). The Senate will please be in order.

Mr. JOHNSTON. Mr. President, there has been a great deal of discussion over a long period of time and a lot of work in the Agriculture Committee which, of course, the distinguished Senator from Georgia chairs, as well as in our committee. The fruit of much of that staff work is represented by this amendment. I am frank to say, Mr. President, that I have not read the amendment. It is rather lengthy, 60-some pages, I think, in length. However, I have been given a brief description of this program.

From the description, Mr. President, and from what the staff has briefed me on, it appears to be a constructive and worthwhile program. I do not believe it duplicates the work of the Committee on Energy and particularly does not replicate that which we have already done in the amendment just adopted.

I make that statement, not with great confidence as to its accuracy, but simply representing a quick judgment on my part. Therefore, Mr. President, I am willing to accept that amendment, of course with the understanding that we shall have to get into the amendment as we go to conference. If there are some things to be reconciled, some amounts to be dealt with, we shall simply do the best we can. I know the Senator understands that.

I congratulate the senior Senator from Georgia for his work in gasohol in rural America. He is the Senate's recognized leader in agricultural matters, the champion of rural America. Of course, this amendment of his has the goal of making rural America to the extent of 50 percent energy self-sufficient by the year 2000. The amendment moves in that direction.

With that understanding, Mr. President, we shall accept the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. TALMADGE. Mr. President, I am grateful to the distinguished Senator from Louisiana, the floor manager of the bill. I point out that this country is in an economic war. We have only two alternatives. One is to send troops to the Middle East and take the energy; the other is to develop the energy resources of this country.

The one viable, immediate alternative that we have that is short range is to develop alcohol and other fuel from biomass—agricultural products, wood, and agricultural waste products. That can be done in a matter of months. I think there is overwhelming support throughout the country for moving and moving now. We have delayed far too long.

This bill was reported unanimously from the Committee on Agriculture and Forestry, is cosponsored by 35 Members of the U.S. Senate, and has overwhelming interest throughout this country. The time to act is now, not later. We should have done it years ago. We have been dilly-dallying around.

I appreciate very much that the distinguished floor manager of the bill accepts the amendment. I yield to my distinguished friend from North Carolina, the ranking minority member of the committee.

Mr. HELMS. I thank the Chair. I thank the distinguished Senator from Georgia.

RENEWABLE ENERGY FROM AMERICA'S FARMS

Mr. HELMS. Mr. President, as ranking minority member of the Senate Committee on Agriculture, Nutrition, and Forestry, and as an original cosponsor of S. 1775 with Senator TALMADGE, I commend this amendment to the distinguished managers of the bill. I hope they will accept it.

Our committee, under Senator TALMADGE's able leadership, has worked hard

to refine this proposal into the best possible form. It has been my pleasure to work with the Senator from Georgia and other members of the committee.

The amendment now before the Senate reflects that effort and the changes made to accommodate concerns expressed to us by the Committee on the Budget and the Committee on Energy and Natural Resources.

S. 1775 on which this amendment is based, is a sound proposal designed to encourage production of alternate fuels and to promote energy conservation in the near future on our farms and rural areas.

The amendment requires the Secretary of Agriculture to assess agricultural, forestry, and rural energy needs and resources. And, it stipulates that the Secretary will assess the potential for the production and conservation of energy from those renewable resources. The amendment then provides for a program to meet rural energy goals through research, extension, demonstration projects, loans, grants, and cost-sharing programs.

There is a tremendous potential for America to work itself out of the energy crisis. But that potential does not lie with the Government or in Washington; it lies in the private sector and on the farms in our rural areas.

This country can have the benefit of abundant biomass and alcohol fuels if we will just let the free enterprise system function. If we do that, the tremendous creative energy of our people will allow this country to have the energy resources it needs for continued growth and prosperity. Indeed, we are already witnessing the success of several forms of biomass conversion. Already developed are such things as gasohol distilled from grain crops, methane distilleries, and production of forestry wastes into pellitized fuel.

The wood and biomass energy centers provided for in this amendment will serve as research banks that will facilitate a coordinated approach to the advancement of technology to more efficiently produce and make use of agricultural energy. Building upon activities at existing institutions, these wood and biomass energy centers will perform research, provide technical assistance in cooperation with agricultural extension service workers, and operate and supervise demonstration projects. Their work on energy production, use, and conservation in the rural areas within their respective regions will make these centers one of the best bargains the taxpayers will have going.

Of course, this important research would all be for naught without extension's activities to deliver the knowledge and techniques now existing and soon to be developed at the energy centers and elsewhere. Through an extension program of workshops, training, information dissemination, and technical assistance, interested local citizens will be instructed in the latest methods of producing and conserving agricultural energy.

These extension activities will make use of an existing network of skilled personnel. As a result of extension's past successes the American farmer stands unquestionably among the world's most productive.

Parallelling the efforts of extension will be the equally capable State forestry agencies, which are authorized grants for additional State foresters who will provide technical assistance to forest landowners in producing wood for energy and, in turn, energy from wood.

The amendment also provides for incentives in the form of loans and some very limited cost sharing so that those who are otherwise capable might be financially able to undertake the creative activities that this legislation is intended to promote.

A program of direct and guaranteed loans is established, with appropriate restrictions to assure there is no duplication between the Departments of Agriculture and Energy. The Consolidated Farm and Rural Development Act is amended to permit existing loan programs to accommodate rural energy production and conservation needs. The forestry incentives program is changed so cost-sharing assistance provided under that program may be used for timber to produce wood energy. A pilot program is authorized for the Secretary of Agriculture to make loans to private forest landowners who use forest management practices designed to increase the production of wood. And, the Administrator of the Rural Electrification Administration is authorized to make grants to rural electric borrowers for projects demonstrating alternative energy and energy conservation technologies.

Mr. President, the point that must be made about this legislation is that it addresses our energy problems in a very reasonable manner. It does not ignore existing agencies and programs; it does not give rise to a new bureaucracy; and it does not call for the exorbitant Federal outlays we find in other energy bills in Congress today. Excessive Government regulation in the past has swamped energy production in a mire of debilitating redtape. This amendment does not repeat that mistake. It correctly recognizes the private sector as the appropriate vehicle for pulling ourselves out of the energy crisis into which excessive Federal regulation has thrown us.

This is a sound, reasoned approach to one major aspect of our energy predicament. America could have been energy independent decades ago if the kinds of things we anticipate happening because of this legislation were not prevented by Federal rules and regulations. There is no advantage in further delay in getting about the business of encouraging the free enterprise system to work our way out of our energy shortages.

Mr. CHURCH. Mr. President, I want to say a word in commendation to the distinguished Senator from Georgia for this proposal. As I understand it, it is not offered as a substitute for title II in the bill.

Mr. TALMADGE. The Senator is entirely correct. It is a new title of the bill.

Mr. CHURCH. It is meant to be supplementary to the provisions of the bill.

Mr. TALMADGE. Exactly.

Mr. CHURCH. I notice in the purposes, the first purpose stated is "To facilitate the production for direct application in on-farm and rural energy situations," where there is a great opportunity to do this on a small-scale basis.

Mr. TALMADGE. The Senator is entirely correct.

We can have thousands and thousands of these small plants on forks of every creek in the Nation, where they have the most available and the most cost-effective material source that can be found.

Mr. CHURCH. Moreover, there is a very real need for alcohol for on-farm uses.

Mr. TALMADGE. The Senator is entirely correct.

Thousands and thousands of farmers throughout the United States now want to produce their own energy to use on their own farm, which they can do now.

Mr. CHURCH. I think this is a very badly needed program. I congratulate the Senator for offering it.

I notice on page 6 of his proposal that, once again, the statement is made that part of the purpose of this proposal is to make changes in existing programs and authorities of the Department of Agriculture consistent with and not duplicative of programs and authorities of the Department of Energy.

Mr. TALMADGE. The Senator is entirely correct.

Mr. CHURCH. It underscores the supplementary aspect of the proposal.

Mr. TALMADGE. The Senator is entirely correct.

I appreciate the support of the distinguished Senator from Idaho. I am grateful, indeed, for the enormous amount of work he has done in this particular field.

Several Senators addressed the Chair.

Mr. TALMADGE. Mr. President, I do not have the floor.

Mr. CHURCH. I have the floor and I will yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. Mr. President, as an original cosponsor of S. 1775, the Agricultural, Forestry and Rural Energy Act of 1979, I wish to express my strong support for this amendment. It is now clear that this country will be embarking on a program that will provide us with synthetic fuels to relieve our crippling dependence on foreign oil. While the synfuels program may offer a long-term solution we all recognize that it will be years before the first commercial quantities will flow to the consumer.

Alcohol fuels from renewable resources offer much earlier relief from motor fuel shortages through gasohol and diesohol. Ethanol production technology is well developed; and with the use of nonpetroleum fuels, cogeneration of process heat, solar and other energy sources, gasohol use may save 1 gallon of gasoline or natural gas equivalent for each gallon of ethanol used. The Office of Technology Assessment has estimated that the potential exists to replace 18 percent of our

gasoline use with gasohol using crops, crop residues, forage grass and considerably more if we add wood as a feed stock.

Having the potential, Mr. President, is one thing. Reaching it is another. Our current ethanol capacity is 15–20 million gallons per year. To reach our potential, we need 100 times that amount. The program being proposed can provide the support that is needed for on-farm production that can help assure that oil shortages will not endanger our food supply. The proposed research centers will be able to improve the efficiency of small stills and develop improved feedstocks.

Mr. President, the Nation is ready for gasohol now. The largest gasohol plant in the country is being built in Sioux City, Iowa. Phillips Petroleum is test-marketing gasohol in two Iowa cities and many small independents are blending their own gasohol. The demand is now so great that a major gasohol company in New York will be importing 120 million gallons of ethanol from Brazil, a country that is converting to gasohol now and is looking toward a future with automobiles using alcohol alone.

Mr. President, just as we must speed the development of synthetic fuels, we must move quickly to expand our capacity to produce fuel from renewable resources.

Mr. DOLE. Mr. President, the Senator from Kansas is pleased to join with the distinguished chairman of the Senate Agriculture Committee, Mr. TALMADGE, the ranking minority member, Mr. HELMS, and the other members of the Senate Agriculture Committee in introducing this amendment, the Agricultural, Forestry, and Rural Energy Act of 1979. Being a member of the National Alcohol Fuels Commission, I am particularly interested in the purpose of this measure and the benefits it will bring to this Nation at a time when domestic energy production is so desperately needed.

GOAL OF THE PROGRAM

Mr. President, this bill addresses the needs of each and every farmer whose farming operation has been touched by the shortages in diesel and gasoline. The bill also addresses the production of alternate fuels on a small scale from agricultural and forestry products in a practical and less costly approach than the massive synfuel programs the Senate now has under review. In addition, methods to conserve the amount of energy used by farmers, rural residents, and rural communities are provided in this legislation.

Simply, Mr. President, this bill requires the Secretary of Agriculture to implement within the Department of Agriculture an agricultural, forestry, and rural energy production program of utilization and conservation. Its goal is to enable the United States to reach net energy independence by the year 2000 and a 50-percent reduction in petroleum and natural gas use by rural residents and communities.

This bill will establish research, extension, demonstration, loan, grant, and cost-share programs necessary for the effective implementation of the program.

ENERGY FROM WOOD AND ITS WASTES

It is estimated today that 2 percent of our energy needs come from wood. It is also estimated that our forests can produce up to 8 quadrillion Btu's or one-tenth of our national energy needs for this year and every year in the future. With this bill enacted, those figures could go even higher. It should be made clear that this bill would not call for supplies of wood which are now being used for construction or paper, but the residues of those products. With this use of timber wastes, we are utilizing valuable materials once thought to be waste and also are building a new forest industry alongside of the timber and paper industries today.

There are many technologies for utilizing wood into energy form—the most promising method is the use of chips and solid wood in newly developed wood-burning furnaces and boilers which are highly efficient and pollution free. Another technology is the process known as pyrolysis. This process takes the solid form and transforms it into char, oil, and gas and can be used by large energy users who can refit existing oil and natural gas furnaces. There is also a developing technology in total gasification of wood and also home heaters on the market that can operate 5 to 10 times more efficiently than old-fashioned fireplaces. All of these technologies are workable in converting wood to energy cleanly, efficiently, and economically.

ENERGY FROM COMMODITIES

Another alternative fuel this bill addresses is that of alcohol. This alternative, ethyl alcohol, or ethanol, can be produced with existing technology from a wide variety of crops and waste products. The commodities which can be used range from corn to waste products such as peanut hulls. These new processes can be refined and put to on-farm and small scale commercial applications. In Kansas, there are numerous gasohol operations and the interest in setting up large-scale operations is growing day by day. This alternative fuel, alcohol, will create a new crop for the farmer—an energy crop—which can be grown profitably. The implementation of these operations on many farms across this Nation could forseeably change the net income of the U.S. agriculture industry.

As my colleagues know, I have been a long-time supporter of gasohol—during my first year in the Senate, I introduced a bill which would allow for development of gasohol fuels with farm commodities by providing funding for pilot projects. Years later, Mr. President, the gasohol industry has seen many advancements made, such as the inclusion in the Food and Agriculture Act of 1977 the requirement that the Secretary of Agriculture provide for four pilot projects for the production of gasohol from agriculture and forest products through Commodity Credit Corporation loan guarantees of up to $60 million.

Since the passage of that measure, I have been contacted at least once a day by individuals interested in alcohol production and plans they have designed to increase alternative energy production utilizing farm and forest products.

Mr. President, this country has gone through a trying period in regards to our energy supplies and the energy outlook to the future. There are many bills before the committees in both the House and Senate which promise to bring fuels from sources such as tar sands, shale oil, and even the sea. However, Mr. President, all these technologies have been accompanied by high prices and time constraints. What this measure presents to us is technology that has been developed and is ready now. The sources for the fuels—agricultural and forest commodities and wastes—are here now. What is needed is the structure provided in this measure for these commodities and technology to work effectively together.

Mr. President, I urge my Senate colleagues to join me in supporting this measure.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I, also, join in support of this amendment. I join with the distinguished Senator from Georgia who says that this is a quick way to implement an energy program, a quick way with quick resources, renewable resources.

Through the Department of Agriculture which has already in place a system through which much of it can be implemented, I believe that we will make a meaningful impact on reducing the necessity for foreign oil and putting self-dependence back in our country.

AGRICULTURAL FORESTRY AND RURAL ENERGY ACT OF 1979

Mr. President, the United States is dependent upon huge quantities of oil and natural gas. Over three-fourths of this Nation's energy needs are filled by petroleum and natural gas. The supplies of these fuels are finite and will eventually be exhausted.

The United States is currently heavily dependent on foreign sources for these fuels. About half of the oil consumed in this country is imported. This Nation, since 1973, has become painfully aware that foreign sources of oil are very uncertain. The only certainty about foreign oil is that prices since 1973 have skyrocketed. There is every indication that there will be continued wild and sudden price hikes.

This heavy dependence on foreign oil has taken a heavy toll on the Nation's economy. The rising cost of energy imports has been the major factor in the U.S. trade deficit. This has depreciated the value of the dollar and has served as a major contributor to inflation in this country.

It is absolutely essential that the United States reduce its dependence on foreign oil. Every reasonable means of increasing domestic production of energy must be pursued.

The President, and most of the Members of Congress, in wrestling with this energy problem, have placed most of their emphasis on synthetic fuels—tar sands, oil shale, et cetera. I am quite sure that synthetic fuels have some potential for reducing the Nation's dependence on

foreign oil. But these synthetic fuel technologies are essentially unproven, very costly, potentially damaging to the environment and require large plants which would take several years to construct and become operational.

Congress must not overlook or underestimate the potential for other less exotic means of adding to the Nation's energy supply.

Production of energy from agricultural and forest producers will of course not provide the total answer to the Nation's energy problem. But agriculture and forestry do offer good potential to increase domestic energy production.

In a recent study conducted at Purdue University it was estimated that between 1.5 and 2.3 billion gallons of alcohol could be produced from agricultural crop residues in this country. This estimate takes into account crop residues necessary to control erosion and maintain fertility. This estimate is also based on the assumption that it would only be feasible to collect crop residues in States with the highest concentrations of crop residues—13 States mostly in the Corn Belt and Great Plains. In addition, the study also assumes that it would be feasible to use only two-thirds of these residues for alcohol production. So you can see this is a reasonable and conservative estimate.

In addition, in the same study, it was estimated that from 5.2 to 8.7 billion gallons of alcohol could be produced from bringing additional land into production. It was also estimated that 2.7 to 6 billion gallons of alcohol could be produced through improved production of forage crops.

The study's total estimate of technically feasible alcohol production potential from agricultural crops and residues ranges from 11 to 18.6 billion gallons. These estimates are technical in nature and do not consider the economics of energy production from agricultural crops and residues. But this Nation should not, and really cannot, afford to ignore this energy production potential.

Big Farmer magazine in its August 1979 issue reviews some of the currently available farm level technologies for manufacturing alcohol from biomass and methane gas from livestock manure. The equipment and methods discussed in this magazine article were all developed by innovative farmers, usually in an attempt to become energy self-sufficient in their farm operation. Most of the equipment discussed in this article is currently, or in the near future will be, available for sale to other farmers.

There is tremendous interest in producing energy from agricultural and forest products. My office, and I am sure the offices of many of my colleagues, have received inquiries about Government efforts to promote development of alternative sources of energy from agriculture and forestry.

Enactment of this amendment will allow Government to do more. This bill gives the Department of Agriculture the authority to provide the applied research, technical assistance necessary to push this country toward development of agriculture's full energy production potential. In addition the bill gives the Department the authority to undertake initiatives to encourage conservation of energy in agriculture.

SUMMARY OF MAJOR PROVISIONS

This amendment establishes a Rural Energy Board to implement an agricultural, forestry, and rural energy production use and conservation progam.

It authorizes research, extension, demonstration, loan, loan guarantee, grant, and cost share programs to carry out implementation of this overall agricultural, forestry, and rural energy program.

RURAL ENERGY BOARD

The amendment establishes an Agricultural, Forestry, and Rural Energy Board made up of the top officials of the Department of Agriculture and the Department of Energy. This Rural Energy Board is mandated to assess agricultural, forestry, and rural energy needs. Upon completion of the assessment of needs and resources, the Board is to develop an agricultural, forestry, and rural energy production use and conservation program which will enable the United States to meet the goals set in this legislation—net energy independence for agriculture and forestry and a 50-percent reduction in the use of petroleum and natural gas by rural residents and communities, by the year 2000.

AGRICULTURAL RESEARCH AND EXTENSION

The amendment provides for applied research and extension programs in energy production and conservation to be carried out by the Department of Agriculture and at the State level, by universities and State extension services. The amendment provides for appropriations of up to $50 million annually for applied research by colleges and universities. Our amendment authorizes appropriations of up to $50 million annually under the Smith Lever Act and annual appropriations of up to $5 million under the Renewable Resources Extension Act of agricultural, forestry, and rural energy extension work by the State extension services. It also directs the Secretary of Agriculture to implement a workshop, training, information dissemination, and technical assistance program on small scale agricultural biomass energy production for farmers to be carried out by the State extension services.

In addition, it authorizes the establishment of Wood Energy Centers and Agricultural Biomass Centers. Up to $30 million is authorized to be appropriated annually for not less than four nor more than eight of each of these types of centers—$60 billion total. Each of these centers would be located in a different forest region in the case of Agricultural Biomass Energy Centers. Each of these centers would perform research, provide technical assistance, and operate demonstration projects relating to energy production, use, and conservation within the respective region of the country the center serves.

LOAN, GRANT, AND COST SHARING PROGRAMS

The amendment authorizes the Secretary of Agriculture to make direct loans of $250 million, and to provide $500 million in loan guarantees for on-farm or commercial projects for the production of energy from agricultural commodities and forestry products. This program would be carried out through the Commodity Credit Corporation with one-third of these loans allocated to wood energy projects. In addition, up to one-half of the direct loans and one-fourth of the loan guarantees would be allocated to small scale projects.

It also authorizes $50 million in farm real estate loans for non fossil fuel energy systems and $20 million for operating loans for these systems in fiscal years 1981 and 1982.

Also, in fiscal years 1981 and 1982, the bill authorizes $20 million in direct loans and $250 million in loan guarantees for commercially feasible energy projects using renewable resources and $25 million to rural electric systems for projects to generate electricity using sources of energy other than petroleum and natural gas.

The amendment also establishes a 5-year pilot loan program for improving forest management practices on privately held forest land. Up to $5 million in direct loans and $5 million in guaranteed loans could be obligated annually with no loan or loan guarantees made in excess of $50,000 per landowner.

Several grant programs are authorized by this amendment. It provides for grants of up to $100 million annually for demonstration projects producing energy from renewable resources. The amendment also authorizes grants of $8.5 million annually to State forestry agencies for hiring additional foresters to provide technical assistance to private landowners in producing wood for energy. In addition it provides for grants to rural electric utilities for projects demonstrating alternative energy technologies such as wind, solar, biomass, and so forth. These grants would be for $10 million, $20 million, $25 million, and $30 million in fiscal years 1981 through 1984, respectively.

The amendment also provides for cost sharing assistance under already existing programs for energy production and conservation. The amendment makes land used to produce wood for energy eligible for cost sharing assistance for reforestation under the forestry incentives program. In addition, it will provide cost sharing under the agricultural conservation program for energy conservation measures such as establishment of shelter belts, use of integrated past management, use of minimum tillage methods, and so forth.

Alcohol fuel skeptics continually raise questions about the wisdom of developing a national alcohol fuels program. Two of the frequently raised questions concern net energy balance and the feasibility of small farm scale production technology.

FEASIBILITY OF FARM-SCALE TECHNOLOGY

The Office of Technology Assessment (OTA) in a recent report expressed general optimism about the potential for alcohol production to add to the Nation's supply of motor fuel.

But OTA was very pessimistic about the economic feasibility of farm-scale biomass conversion to alcohol. Yet at the

same time OTA reports that the Bureau of Alcohol, Tobacco, and Firearms (BATF) expects to receive 5,000 applications for on-farm alcohol distillation permits.

Apparently the OTA believes that farmers are not rational economic people. OTA apparently believes that they possess knowledge or information that farmers do not possess. I can assure you that farmers are the most rational of economic men. They operate in a competitive business environment, not in an office building here in Washington.

Farmers are interested in alcohol production for fuel because it will open up a whole new market for their products. They are particularly interested in farm-scale production because it would give them the opportunity to move up the marketing chain—to earn a return for marketing and processing the product as well as producing it. Of even more importance to farmers, is that on-farm production of alcohol would allow farmers to become energy self-sufficient.

NET ENERGY BALANCE

Almost from the time people began to consider alcohol as an alternative fuel, oil company executives and others have cited figures to show that alcohol production yields an energy loss, that it takes more energy to produce the alcohol than the energy contained in the alcohol itself.

The figures cited were based upon beverage alcohol production in older, less-energy-efficient plants. Fuel-grade alcohol needs less refining than beverage-grade alcohol, thus requiring less energy input. In addition, most beverage alcohol distilleries were built many years ago when energy costs were less, and efficient energy use was not nearly so important.

In a recent Department of Energy publication it is reported that when using corn as a feedstock, even considering the energy used in the production of the corn, a distillation plant using modern technology will yield a positive net energy balance.

Although absolute energy balance is important in deciding whether to convert a product into alcohol, an even more important consideration is how much petroleum or natural gas can be displaced in the process. In the recent OTA report it was cited that every gallon of ethanol—grain alcohol—used for fuel could save between ⅓ and 1 gallon of gasoline, depending upon the energy source used in producing the alcohol.

I have explained very briefly what the amendment does, and why it is needed, and I have attempted to answer some of the questions directed at the amendment. I now ask my colleagues to support the amendment. Our Nation needs it.

Mr. President, this amendment provides for $500 million in loan guarantees and $250 million in direct loans to be used specifically for the production of biomass energy. I have become very concerned about what agency, within USDA or the Department of Energy, will be responsible for administering these loans.

Under the 1977 Food and Agriculture Act, four pilot projects were funded for the production of alcohol from different agricultural commodities. The Office of Energy was chosen to be the agency within USDA to handle these four pilot projects.

Today, now over 2 years since the passage of the 1977 Farm bill, only one of the four loan guarantees have been granted.

Mr. President, it would be my hope that the Office of Energy would not be the agency responsible for the administration of these loan guarantees. Rather, it would be my hope that the Farmers Home Administration within USDA would be the agency to administer these loans.

I feel that the Farmers Home Administration should administer the loans because they already have a well defined review and distribution process for the loans they make. Each State has a Farmers Home Administration office, which stands ready to handle this new lending authority.

Mr. President, I feel that it is very important to handle this new loan authority through an agency which already has a well defined distribution process. I feel it is very important to handle this new loan authority through an agency which is currently making loans to agricultural and forestry interests. And, Mr. President, the likely choice for this new authority is the Farmers' Home Administration.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, I am pleased to join with Senator TALMADGE in offering this amendment.

As the members of the Committee on Agriculture know, this bill was a marriage of Senator TALMADGE's proposal relative to the wood energy legislation with the grain alcohols proposal I introduced some time ago.

The measure was reported out of the Committee on Agriculture, Nutrition, and Forestry unanimously. It has some 35 sponsors. I think it is an excellent formula to get us quickly into the production of alcohol fuels.

It does provide, as pointed out, some $250 million in direct loans and $500 million in Federal loan guarantees, with the amendments specifying that half of that money has to be designated for smaller plants.

I am very hopeful, Mr. President, that the amendment will be adopted. I think it strengthens the measure now before us and it is in the interest of the country.

Mr. President, I am pleased to join with the Senator from Georgia in offering this amendment to the alcohol fuels provision of this bill. Although I realize considerable effort was given to the development of the original language, I believe this amendment will better serve our Nation's needs to quickly commercialize alcohol fuels and gasohol technology.

Mr. President, unlike questionable synthetic fuel technologies, we have the technology and materials available today to immediately produce alcohol fuels and wood energy. Given our Nation's great need to take action which will reduce our dependence on foreign fuels both in the near future as well as through the next century, it is imperative that any energy legislation we enact contain strong provisions to develop these alternative energy resources.

The amendment we are proposing is the result of months of effort on the part of the Senate Agriculture Committee. This amendment contains the major provisions of the Agricultural, Forestry, and Rural Energy Act which was reported unanimously from the committee and has more than 25 sponsors. The support for this legislation particularly from agricultural States has been overwhelming.

Mr. President, many of my colleagues and I prefer the language of this amendment over the present provisions of title II, because of the emphasis the amendment places on small-scale alcohol-fuels development. The Agricultural, Forestry, and Rural Energy Act provides $250 million in direct loans for the construction of alcohol fuel plants as well as $500 million in Federal loan guarantees. One-half of the direct loans and loan guarantees must be allocated for the development of small-scale plants which are defined as plants producing less than 2 million gallons annually.

The availability of small scale assistance is vital to the thousands of farmers who want to construct these facilities using their own farm products or waste as the fuel source. The allocation of these funds for small scale plants will not only allow our country to make immediate progress in reducing our fuel import dilemma, but will provide a critically needed market for agricultural commodities, and stimulate rural economies.

In addition this amendment would establish a total of eight wood energy and agricultural biomass centers throughout the Nation. These centers, similar to the regional solar energy centers would provide technical assistance and training in wood energy and alcohol fuels technology. This provision of the bill is especially important in light of the minimal alcohol fuels training presently available at a reasonable cost.

I firmly believe that the Congress would be redundant in enacting both the existing language of this title and the Agricultural, Forestry and Rural Energy Act. However, I am equally convinced that the provisions drafted by the Senate Agriculture Committee are a more comprehensive response to the energy supply problems we face and will provide more benefits to our Nation's farmers.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. STEWART. Mr. President, I join my colleagues in commending the distinguished Senator from Georgia for his excellent work in the field of alcohol fuels.

His particular emphasis on rural energy independence exemplifies, I think, the kind of contribution he has made on behalf of the people from the rural areas, not only of his State of Georgia, but all across America.

It is my pleasure to serve with him on the Agriculture Committee, which he

chairs. It is my pleasure to join with him in cosponsoring this amendment. I hope it is accepted.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I wonder if I might address myself to the distinguished floor manager of the bill.

Amendments are being offered and accepted by the managers of the bill and by the Senate. I want to be sure that we have not lost sight of our budget targets.

With respect to this particular legislation, I understand that the compromise which the distinguished Senator from Georgia is offering represents a reduction in grants, direct loans, and loan guarantees, from those in the original bill. Am I correct in that impression?

Mr. JOHNSTON. The question of the Senator—what is the level of the——

Mr. MUSKIE. I understand it is smaller than the levels provided in the original Talmadge bill. As I add it up, it is about $100 million in grants in the first year, about $250 million in direct loans——

Mr. TALMADGE. That is correct with respect to grants, direct loans, and loan guarantees to be made through the Commodity Credit Corporation.

Mr. MUSKIE. And $500 million in loan guarantees.

Mr. TALMADGE. That is correct.

Mr. JOHNSTON. The original level of authorization in the bill was $623.5 million per year in loans and grants in various programs. That has now been reduced to an authorization for loan guarantees by $500 million annually, which would leave, if I am correct—excuse me. First of all, these have been limited to 4-year programs.

It is now $750 million in loan guarantees and $500 million for energy production and conservation, but for the 4-year limit. It has been reduced below what it was as originally introduced.

Mr. MUSKIE. As I understand it, each of these programs is subject to the appropriations process?

Mr. JOHNSTON. They are subject to the appropriations process.

Mr. TALMADGE. That is correct except that CCC funding may be used for loan guarantees and direct loans during the first year.

Mr. BELLMON. Will the Senator yield?

Mr. MUSKIE. Yes.

Mr. BELLMON. That is not the case for 1980. There is a provision that allows $250 million of direct loans, and $500 million of loan guarantees, for the current fiscal year, which is not subject to the appropriation process. I am going to offer an amendment to cure that.

Mr. TALMADGE. The Senator is correct.

Mr. MUSKIE. We have approved the Exon amendment. I have discussed the effect of doubling or increasing the budget authority for a larger program of gasohol.

How does that fall within the budget totals provided in the second budget resolution?

Mr. JOHNSTON. I say to my distinguished friend, we are going to have to reconcile all these amounts. As I mentioned to the distinguished chairman of the Agriculture Committee, we took this amendment in the spirit that we are going to have to go to conference and get all these programs which, altogether, will not fit within the authorization as provided by the Budget Committee resolution.

Therefore, we are going to have to do some paring and shaving and fit them within that authorization.

The outlay impact, of course, is not very great. But the authorization is rather great.

Of course, that must conform to the budget resolution, as well.

So it is within that spirit that we have accepted the amendment.

Mr. MUSKIE. I appreciate what the Senator has said. He said it to me privately as well as in this colloquy.

The Senator was a member of the conference on the budget, and he recalls, I am sure, quite vividly, the struggle we had with House conferees in establishing the Senate numbers, both for budget authority and outlays.

So, having come out of that struggle, the Senator and I are particularly sensitive to the concern of the House about these numbers. It is difficult to add them up as we go along, but I am reassured by what the Senator has said about his intentions in this respect.

Mr. JOHNSTON. I thank the Senator. We will have to pare them down. Then, the $39.5 million in budget authority is provided in that resolution.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. MAGNUSON. I say to the Senator from Maine that all these items are subject to appropriation.

Mr. MUSKIE. Except for the first year.

Mr. MAGNUSON. I do not understand what the Senator from Oklahoma said about the first year.

Mr. JOHNSTON. I believe he has an amendment he is ready to submit.

UP AMENDMENT NO. 752 (TO UP NO. 751)

Mr. BELLMON. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 752 to the unprinted amendment by Mr. TALMADGE numbered 751:

On page 50, strike "October 1, 1980" and insert in lieu thereof "October 1, 1979".

Mr. BELLMON. Mr. President, the purpose of this amendment is to make the 1980 fiscal year direct loans and loan guarantees subject to the appropriation process in the same way that the grants, direct loans, and loan guarantees are subject to the appropriations process in fiscal years 1981, 1982, 1983, and 1984.

Members should realize that this is a major spending thrust we are undertaking here, and I support in a general way what is being undertaken. But the total amount of the grants over the next 5 years, including 1980, are $400 million; the total of direct loans, $1.250 billion; and loan guarantees for the 5 years total $2.5 billion.

I believe the Talmadge amendment is entirely appropriate in making these large expenditures subject to the appropriations process; but I believe a mistake is being made here in not making the fiscal year 1980 direct loans of $250 million and the $500 million of loan guarantees also subject to the appropriations process.

In fact, if we adopt this amendment as it now stands, we are authorizing and appropriating in the same bill, and I believe that is a serious mistake for the Senate.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the names of Senator SIMPSON, Senator LUGAR, and Senator JEPSEN be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, will the distinguished Senator from Oklahoma yield?

Mr. BELLMON. I yield.

Mr. TALMADGE. I read from the conference report on the Agriculture Appropriations Act for fiscal year 1980:

Amendment No. 56 provides a limitation of $500 million on the amount of loans that can be guaranteed by the Commodity Credit Corporation for the production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and various products as proposed by the Senate.

Does the Senator's amendment contravene this conference report?

Mr. BELLMON. Will the Senator tell me if that language also includes direct loans?

Mr. TALMADGE. No.

Mr. BELLMON. Then, the answer I have is that my amendment does not contravene; it supplements.

Mr. TALMADGE. If it supplements it, I have no objection.

The Senator has served on the Agriculture Committee with great distinction for many years. I know of his strong desire to make this country energy independent as rapidly as we can. The only way we can move short term to produce an alternative source of energy is, as the Senator knows, from alcohol. So if the Senator is not contravening this particular amendment, I have no objection.

What I want to do is to get our country in the business of producing alcohol and get it in that business fast. The Senator is not denying that right, is he?

Mr. BELLMON. The Senator is correct.

I am in support of what the Senator is trying to do, but I feel that we are moving rapidly in this area of energy legislation; that unless these activities are subject to the appropriation discipline, we are going to wind up with a lot of duplicating programs.

Mr. TALMADGE. What we are doing here, only for fiscal year 1980, is letting them guarantee loans up to $500 million. Thereafter, it is subject to the appropriation process.

Mr. BELLMON. But there also are direct loans of $250 million.

Mr. TALMADGE. That is correct.

Mr. BELLMON. My amendment would make that subject to the appropriations process.

I do not believe that this program necessarily will be slowed down by this amendment, because we will have a supplemental appropriations bill this spring and it will take a good length of time to get this program geared up, in any event.

Mr. TALMADGE. If the Senator will amend his amendment to make the $250 million in direct loans subject to the appropriations process, I would have no objection.

Mr. BELLMON. You based that on the limitation already contained in the fiscal year 1980 appropriations bill dealing with the loan guarantees?

Mr. TALMADGE. That is correct.

Mr. MAGNUSON. I say to the Senator from Georgia that we will have a supplemental, I imagine, early in January or February, and we can take up this matter. I do object to the legislative committees legislating and appropriating at the same time.

Mr. TALMADGE. No, I am trying to avoid that. What we are trying to do here is not to appropriate at the same time. But we do have a provision for loan guarantees for fiscal year 1980 to be made through the Commodity Credit Corporation.

I have no objection to the amendment of the distinguished Senator from Oklahoma about the direct loans. If he wants to modify it and strike that provision, I will not object to it.

We are quibbling about $250 million, and we will import $70 billion worth of energy from OPEC next year. So what we are doing is really quibbling over a small amount of money in trying to get something done.

Mr. MAGNUSON. We are not objecting to what the Senator is trying to do with the figures. We merely want them subject to the appropriation process.

Mr. TALMADGE. I have no objection, if the Senator from Oklahoma will modify his amendment to make the direct loans of $250 million subject to the appropriation process.

Is the Senator from Oklahoma agreeable to that?

Mr. BELLMON. The suggestion by the distinguished Senator from Georgia is based on the fact that the $500 million of loan guarantees already has been dealt with by the Appropriations Committee?

Mr. TALMADGE. That already has been done.

Mr. BELLMON. As soon as we get the language ready, I will be glad to offer it.

Mr. TALMADGE. If the Senator will do that, I have no objection.

Mr. BELLMON. To make my amendment pertain only to the $250 million in direct loans.

Mr. TALMADGE. I appreciate the cooperation of the distinguished chairman of the Appropriations Committee. I know that he is anxious to get this matter completed in a hurry.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum, so that we can get the language ready.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment of the Senator from Oklahoma be laid aside temporarily, in order that I may offer an amendment to this title; that upon disposition of the amendment I offer, the amendment of the Senator from Oklahoma be the pending business.

The PRESIDING OFFICER. It would require that both amendments be laid aside.

Mr. McCLURE. I want to offer an amendment to the Talmadge amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 753 (TO UP NO. 751)

Mr. McCLURE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 753 to the unprinted amendment by Mr. TALMADGE numbered 751.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, insert the following after subtitle:

SUBTITLE I—AGRICULTURE COMMODITIES UTILIZATION PROGRAM

SEC. 2020. Notwithstanding any other provision of law—

(a) The Secretary of Agriculture shall permit, subject to such terms and conditions as he shall prescribe, all or any part of the acreage set aside or diverted from the production of a commodity for any crop year under this title to be devoted to the production of any commodity for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary of Agriculture determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

(b)(1) During any year in which there is no set aside or diversion of acreage under this title, the Secretary of Agriculture may formulate and administer a program for the production, subject to such terms and conditions as he may prescribe, of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel. Under the program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to the production of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel.

(2) The payments under this subsection shall be at such rate or rates as the Secretary of Agriculture determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of the agricultural commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuels.

(3) The Secretary may issue such regulations as necessary to carry out the provisions of this subsection.

(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

Mr. McCLURE. Mr. President, I have discussed this amendment with the distinguished Senator from Georgia, the chairman of the Agriculture Committee, who is the author of the pending amendment, and with Mr. HELMS, the ranking minority member of the Agriculture Committee.

This deals with the Agriculture Commodities Utilization program, and it is what the Energy Committee recommends as subtitle L and appears on page 161 of the committee report on the pending measure.

This is language which was identical to language which was heretofore passed by this body and was later modified in conference with the other body and is now a part of Public Law 95-379.

Mr. President, very briefly, it allows us to use the diverted acres that are diverted under the diversion programs to be used for the production of crops that can be utilized in the alcohol production program.

The Energy Committee looked at this amendment and discussed it. We decided rather than try to adopt it in the committee and, therefore, have some conflict with the Agriculture Committee, we would come to the Chamber and offer it as a committee recommended amendment when we reached the Chamber.

Mr. TALMADGE. Mr. President, this authority is in existing law. I believe, however, it is discretionary at the present time, and I believe the Senator's amendment would make that mandatory.

Mr. McCLURE. Yes.

Mr. TALMADGE. I have no objection to it.

Mr. McCLURE. I thank the Senator from Georgia.

Mr. HELMS. I certainly have no objection to it.

Mr. BAYH. Mr. President, I only rise to say that this amendment makes good sense. Last year we spent $10 billion to pay farmers not to grow crops. Hoosier farmers do not like this, and city people justifiably cannot understand it.

In 1977 I authored the bill, now law, to give the Secretary of Agriculture authority to permit farmers to grow energy crops on their set-aside acreage.

Why the Secretary of Agriculture has not used this discretion, I do not know.

This will certainly remedy that and begin to put those acres into corn and other kinds of crops that we can use to make alcohol.

Mr. JOHNSTON. Mr. President, we accept and agree to the amendment.

Mr. TALMADGE. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

(Putting the question.)

All those in favor signify by saying aye.

Those opposed, no.

The ayes appear to have it. The ayes have it.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

Mr. METZENBAUM. Mr. President, before acting on the motion to reconsider may I ask the Senator——

Mr. HELMS. Mr. President, will the Senator use his microphone?

The PRESIDING OFFICER. The motion before the Senate is to table, and that motion is not debatable.

Mr. METZENBAUM. Mr. President, I do not think the motion to table was made prior to the time I was recognized.

The PRESIDING OFFICER. The Chair feels the Senator from Ohio is incorrect.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. HELMS. Mr. President, if the Senator will withhold that, I made the motion to table. I shall withhold that so the Senator may speak.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I only wish to be certain that the amendment by the Senator from Idaho that was just agreed to was an amendment to the Talmadge amendment having to do with gasohol. Is that my understanding?

Mr. McCLURE. That is correct.

Mr. METZENBAUM. I have no objection.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 752

The PRESIDING OFFICER. The question occurs on agreeing to the amendment of the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 752, AS MODIFIED

Mr. BELLMON. Mr. President, I have a revised amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes to modify his unprinted amendment numbered 752, as follows:

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, lines 2–5, strike "and (2) beginning" through "appropriation Acts" and insert in lieu thereof, "(2) beginning October 1, 1980, may guarantee loans under this section only to the extent authorized in appropriations Acts, and (3) beginning October 1, 1979, may make or insure loans under this section only to the extent authorized in appropriation Acts"

Mr. BELLMON. Mr. President, the amendment as redrafted does the things that the distinguished Senator from Georgia has requested. The new language would apply only to direct loans and would not cover guarantee loans which are already under an appropriations limitation.

Mr. TALMADGE. I understand that your amendment makes the $250 million direct loan program for fiscal year 1980 subject to the appropriations process.

Mr. BELLMON. That is exactly right.

Mr. TALMADGE. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. I believe the amendment, as amended, is now in order.

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Mr. President, is there a time agreement on this amendment?

The PRESIDING OFFICER. There is no time agreement.

Mr. BUMPERS. Mr. President, will the Senator from Georgia yield to me for some questions?

Mr. TALMADGE. Yes, I yield.

Mr. BUMPERS. Under the Senator's amendment, are there any loans, loan guarantees, or grants for the development of alcohol plants from urban waste?

Mr. TALMADGE. No.

Mr. BUMPERS. There are not?

Mr. TALMADGE. No.

Mr. BUMPERS. No. 1, how much is provided for loan guarantees under the amendment?

Mr. TALMADGE. The sum of $500 million per year for 5 years.

Mr. BUMPERS. How much in direct loans?

Mr. TALMADGE. The sum of $250 million per year for 5 years.

Mr. BUMPERS. How much in grants?

Mr. TALMADGE. The sum of $100 million per year for 4 years.

Mr. BUMPERS. That is a total of $850 million in direct loans, grants, and loan guarantees?

Mr. TALMADGE. The Senator is correct. We are, of course, talking only about grants, direct loans, and loan guarantees to be made through CCC.

Mr. BUMPERS. What are the limitations in the feedstocks to be used in the production of either methanol or alcohol under the Senator's amendment?

Mr. TALMADGE. Will the Senator repeat the question?

Mr. BUMPERS. My question is, I assume there is a limitation since the Senator has already said there is no provision in here for the amount of active alcohol from urban waste, so let me rephrase the question to ask the Senator what feedstocks may be used in the production of alcohol and still qualify for assistance under any one of those three authorizations? Does it have to be an agricultural product? Does it have to be a product such as timber or chips?

Mr. TALMADGE. Biomass is defined in section 2004 of the new title, and I quote: "Biomass, without limiting its meaning, includes grain and stalks of corn, wheat, rice, and sorghum, cottonseed and peanut hulls, fruits and vegetables and their processing byproducts and residues, aquatic plants, specific energy-farm crops, animal wastes, wood and wood products, bark, wood pulp and chips, residues from logging and paper manufacturing, and animal waste products."

Mr. BUMPERS. Let me ask one additional question. Are there any grants provided in this as an incentive for the production of any of those crops for the use of manufacturing alcohol?

Mr. TALMADGE. No.

Mr. BUMPERS. Finally, could the Senator tell me how his amendment differs from any provisions in the Energy Committee bill so far as creating incentives to produce alcohol are concerned? How does it differ from the Energy Committee bill?

Mr. TALMADGE. My amendment is related primarily to the farm. It includes rural energy research and extension. We want to get energy plants in operation, and we want to get technical information directly to the farm level and encourage everyone who can to produce his own energy and to save energy. My amendment, in contrast with the Energy Committee bill, is more oriented toward agriculture and forestry.

Mr. BUMPERS. Would somebody who was interested in developing a biomass conversion facility be eligible for assistance under the Senator's amendment?

Mr. TALMADGE. Will the Senator repeat the question, Mr. President?

Mr. BUMPERS. Will somebody who was interested in building what is often called a biomass conversion facility—that is, I assume, when we talk about biomass conversion that takes in a multitude of feedstocks, including agricultural waste. Is the word "biomass" used anywhere in the Senator's amendment?

Mr. TALMADGE. It is.

Mr. BUMPERS. Does that mean then that anybody who wanted to build a biomass conversion facility would be eligible for assistance at least under one of those authorizations?

Mr. TALMADGE. As stated in my amendment, "biomass" means, and I quote: "Agricultural commodities, forest products, and their wastes and residues that can be used as fuel for the production of industrial hydrocarbons, or alcohol fuels or other energy sources,

that will assist in reducing petroleum and natural gas imports."

Mr. BUMPERS. That satisfies me. I thank the Senator.

One other question: Does the Senator have any objection so far as he is personally concerned to a program not as extensive or expensive as this but one which would also provide some incentives for the production of alcohol from urban waste?

Mr. TALMADGE. Certainly not.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BUMPERS. I would be happy to.

Mr. McCLURE. Of course, there is such incentive under title I, title II. This one would not apply to urban waste, but it would apply to cellulosic materials that put the definition within this title. But there are provisions in two other titles of the legislation that would cover the urban waste question.

Mr. BUMPERS. If you separated urban waste from cellulose and noncellulose, that part of your urban waste would qualify under the amendment of the Senator from Georgia, would it not?

Mr. McCLURE. I do not think it would qualify under this title, but it would under title I and title II of the bill.

Mr. BUMPERS. Wait just a moment. Why would it not qualify? For example, I live in Montgomery County and we are forced to separate all paper products in our garbage there, and I assume it is going to be used for the creation of energy in some form, maybe alcohol as long as it is a cellulose product, whether it is a finished product or a raw material. Would that make a difference?

Mr. TALMADGE. I think that qualifies under title I of the existing bill I am amending, Senator.

Mr. BUMPERS. But it is not the Senator's intention to cover, say, paper waste under his amendment; is that correct?

Mr. TALMADGE. No. I am trying to relate it to agricultural products, biomass forest products, and things of that nature.

Mr. BUMPERS. Is the Senator from Idaho saying those products would qualify under title I of the bill?

Mr. McCLURE. The Senator is correct.

Mr. BUMPERS. Would that be classified as a synthetic fuel?

Mr. McCLURE. It is biomass.

Mr. BUMPERS. I thank the Senator.

Mr. McCLURE. Under title I.

Mr. LEAHY. Mr. President, I rise to give support to the amendment. If enacted, this legislation will greatly reduce our dependence on foreign oil and give this Nation the kind of renewable energy resources it so desperately needs.

The chairman and ranking minority member of the Senate Committee on Agriculture, Nutrition and Forestry, Senators TALMADGE and HELMS, deserve much credit for the development and expedient movement of this legislation in the Senate. By sampling a wide range of ideas and often conflicting interests, a major renewable resource energy package was developed and quickly earned, on its merits, the unanimous support of the Agriculture, Nutrition, and Forestry Committee.

Mr. President, for clarification I would like to briefly discuss section 2034 and section 2035 in the amendment with the distinguished Senator from Georgia.

On September 6 of this year I introduced S. 1718, the Woodlot Management for Energy Act of 1979. It is my understanding that the two major components of S. 1718, a pilot loan program for private woodlot owners and a grant program for the hiring of additional State foresters, are both contained in essence in the amendment as section 2034 and section 2035 of the Food and Agriculture Act of 1977, respectively. Is this accurate?

Mr. TALMADGE. The Senator from Vermont is correct. Although the full committee in considering S. 1775, made some changes in sections 2034 and 2035, changes which the Committee on Agriculture, Nutrition, and Forestry unanimously supported, these are essentially the same sections as contained in the Woodlot Management for Energy Act of 1979 as introduced by the junior Vermont Senator.

Mr. LEAHY. Mr. President, I would like to clarify some of the changes made in sections 2034 and 2035 by the full committee, changes which I fully support.

First, I ask the Senator from Georgia if my interpretation of the purpose of the pilot loan program is accurate. My interpretation is that the primary purpose of the loans are to develop wood for energy. However, recipients of the loans may use their woodlot timber for other purposes as well. Is this an accurate statement?

Mr. TALMADGE. Yes it is. While the primary purpose of these loans is to develop forests for the production of fuelwood, the loans are also available for private owners of nonindustrial woodlots who desire to make other uses of their forestry resources.

Mr. LEAHY. Mr. President, finally I would like to clarify with the Senator from Georgia that section 2035, which provides grants for the employment of additional State foresters, is essentially the same as section 8 of S. 1718. Both bills, mine and the committee's, give these grants to the States to allow them to better manage their forest resources. It is my understanding that while the primary job of these new State foresters will be to aid in developing wood for energy, their services will be available for other woodlot management purposes as well. Is this correct?

Mr. TALMADGE. This is an accurate assessment. As with the loans provided under section 2034, grants to States to hire additional State foresters under section 2035 are primarily provided to increase the availability of fuelwood. However, State foresters hired by these grants will have the latitude to initiate forest techniques for other uses of woodlot resources as well.

Mr. LEAHY. Mr. President, I thank the Senator for discussing these clarifications with me. This amendment is a very sound and very good approach to solving our rural energy problems. The full Committee on Agriculture, Nutrition, and Forestry, and especially the accomplished chairman of that committee, should be complimented for this bill. I would urge all of my Senate colleagues to support its adoption.

Mr. STENNIS. Mr. President, I am pleased to support the amendment offered by the distinguished Senator from Georgia. The adoption of this amendment would be a very important step in our drive for energy independence and I highly commend the Senator from Georgia for his informed and timely interest in this important matter.

As the Senator from Georgia has explained, the amendment would require the Secretary of Agriculture to implement, within the Department of Agriculture, an agricultural, forestry, and rural energy production, utilization, and conservation program. The goal would be to assist the United States in achieving energy independence for agricultural and forestry production, processing, and marketing, and a 50-percent reduction in the petroleum and natural gas used by rural residents and communities. It would establish the research, extension, demonstration, and grant programs necessary for the effective implementation of the program and require that the Secretary of Agriculture coordinate these programs.

Mr. President, I believe that we must actively pursue and develop all possible alternatives for petroleum products as sources of energy. For example, I have announced my support for the large-scale program directed at the development and production of synthetic fuels. However, I believe that it is essential that all programs and measures that will lend encouragement to research into and development and production of alternate fuels be fully explored. The extent and gravity of the energy crisis confronting this country today demands that we leave no stone unturned in our quest for alternative sources of energy.

I share the view of the Senator from Georgia that biomass, or the production of fuels from wood, grain, and other products of field and forest, is one of the avenues which must be explored. The production of alternate fuels from agricultural and forestry products offers a practical and relatively inexpensive way of reducing our dependence on foreign oil. The technology for the efficient production of such fuels from wood, grain, and other biomass materials is already substantially developed and is ready for almost immediate application on the farm and in small commercial activities.

Mr. President, the State of Mississippi has an abundance of agricultural and forestry products which would be used and useful in a biomass development and production program. Despite our rapid progress in other areas, agriculture remains the backbone of our economy. Therefore, if this amendment becomes law, as I hope it will be, I anticipate that my State will play a significant part in the programs which it would provide. We are already very deeply involved in research and experimentation in agriculture and forestry and participation in the biomass program would be a natural and easy step for us to take. This would enable Mississippi to make a further contribution toward solving the energy prob-

lem and, at the same time, by providing new and increased use of and markets for products of the field and forest, it would contribute significantly to the economic development as well as industrial expansion of the State and thus would result in added employment opportunities and increased income.

Mr. President, this is a very important and significant amendment. I hope that it will be adopted by the Senate and will ultimately become law.

Mr. MUSKIE. Mr. President, the Senate now is considering the Talmadge amendment of S. 932. This amendment incorporates many provisions of S. 1775, the Agricultural, Forestry, and Rural Energy Act of 1979, and addresses an important national need for the development of small scale energy production from renewable resources.

The emphasis on small scale production would be particularly attractive to farmers and rural communities. Increased energy self-sufficiency at the farm level would assure the uninterrupted production of food during any future oil shortage. At the national level, the benefits from this type of energy can be significant in decreasing our dependence on imported oil.

We have much positive evidence on the potential for energy production from renewable resources. In Maine, wood has long been an important energy source in our pulp and paper industry and even in home heating. This amendment will help to insure that our Nation achieves the full potential of its renewable energy resources.

In the amendment before the Senate there are several technical changes from the original Agriculture Committee reported bill which are of budgetary significance. These changes have not altered the substance of the bill but have removed some potential backdoor spending provisions. This action will assist both the Budget and Agriculture Committees in their mutual responsibility to oversee and control Federal spending.

Mr. President, I want to commend Senator TALMADGE and the Agriculture Committee for incorporating the Budget Committee recommendations in their amendment and I recommend its adoption.

Mr. TALMADGE. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia, as amended.

The amendment (UP No. 751), as amended, was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 754

(Purpose: To expand the Motor Vehicle Study)

Mr. JAVITS. Mr. President, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 754:

On page 183, line 8, insert the following before the period: "including, requirements that would mandate specified proportions of alcohol in all motor gasoline sold".

Mr. JAVITS. Mr. President, I would greatly appreciate it if the managers of the bill would tell me whether they are ready to consider it now. It is a gasohol amendment. If they are not, I will hold it out until they are ready. The only question is whether or not the Senators are willing to include in the study a section for gasohol, the requirements, and they advise as to whether or not it is desirable or undesirable, and if so in what percentage and in what way they would mandate a specific element in the gasoline to be alcohol. If that is acceptable, that is all right. If not, I do not want to detain the Senators now and other Senators if they have other amendments. It is the same subject, and I thought it was the right time to propose it.

Mr. JOHNSTON. Mr. President, as I understand it, this amendment simply requires that as part of a study that DOE study the question of the requirement of putting in specified levels of ethanol to mix with gasohol. I think that is an appropriate matter to be studied, and we would, therefore, accept the amendment.

Mr. JAVITS. I thank my colleague.

Mr. McCLURE. Mr. President, I think it is worth noting that the question of how much should be mandated is a serious question.

Mr. JAVITS. Of course.

Mr. McCLURE. It ought to be studied, and from that standpoint I think the Senator from New York has made a constructive addition to the bill, and I am happy to accept it.

Mr. JAVITS. I thank my colleagues very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. I thank the Senator very much.

Mr. WALLOP. Mr. President, I ask unanimous consent that the pending amendment of the Senator from West Virginia be temporarily laid aside for the purpose of considering another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 755

(Purpose: to provide for consultation with States in which projects will be located)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) for himself, Mr. DOLE, and Mr. SIMPSON, proposes an unprinted amendment numbered 755.

On page 83, line 17—

Mr. WALLOP. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, line 17, insert "(1)" after "(e)".

On page 83, insert the following between lines 23 and 24:

(2) The Corporation shall consult with the Governors of the States in which proposed projects would be located with regard to the manner in which the project would be developed and regularly licensing and related governmental activities pertaining to such project. The States shall have the opportunity to provide written response to the Corporation on all aspects of project development, licensing and operation.

Mr. WALLOP. Mr. President, I have spoken with the managers of the bill on this amendment. It simply requires that the Energy Security Corporation consult with the Governors of the States in which these projects are to be located about the project, the nature of it, about their plantsiting laws, and their other laws which will be affected by it and provide those Governors the opportunity to submit written comments about the proposal.

It does not, in fact, require the Energy Security Corporation to perform any other function than to consult and to have the written comments submitted to them and to consider them. They do not, in fact, have to perform anything thereafter. But I think what we will do by way of this is provide a means of easing these projects along and maintaining a circumstance in which people are not necessarily head to head in an adversarial posture when it comes to the establishment of the project.

It will also provide information for the Energy Security Corporation about the types of laws, about the types of impact that the project which they might be proposing would have within the State. Many of these States will find that these projects are, perhaps, the biggest undertaking ever to happen within the boundaries of that State.

I do this only to try to ease the posture between the States and the Energy Security Corporation and to make the process go more smoothly.

It is an important component to synthetic fuels development because some projects sponsored by the corporation may become the largest undertaking ever attempted in a State. By adopting this amendment, a State will have the opportunity to provide written response to the

corporation on all aspects of the project development, licensing, and operation.

The Energy Committee is to be complimented in its effort to make State and local environmental, land use, and siting laws applicable to synthetic fuels projects that are sponsored by the corporation. This amendment would compliment those provisions by insuring that States have the opportunity to participate in multibillion-dollar decisions that will affect its citizens.

States are making major strides in developing plans for the siting of energy developments and for the delivery of needed public facilities and services to communities affected by new energy development. By providing mandatory consultation with Governors, this legislation will insure that State plans and efforts are integrated with plans and projects developed by the Synthetic Fuels Corporation. Consultation with Governors will also insure that State expertise will be drawn into the process of selecting and planning projects and sites and will help to avoid any conflicts between State/local officials and the Synthetic Fuels Corporation.

Mr. President, this amendment has the support of the National Governor's Association and I urge its adoption.

Mr. JOHNSTON. Mr. President, I would ask the Senator, does this requirement of consultation pertain to the Government on projects or does it pertain to the privately owned projects, as well?

Mr. WALLOP. The privately owned projects presumably would be subject to all the laws and criteria of the States themselves.

So it primarily refers to the Government-owned projects. But if there were to be some conclusion on the part of the Security Corporation that the project that they were funding in some manner would not be subject to the laws of the State, it would apply in that instance, as well.

Mr. JOHNSTON. Mr. President, I certainly support what the Senator wants to do here. My only concern is that we have the Corporation consulting about a privately owned project. So I wonder if the Senator will agree, if this comports with his intent, to putting in the following language: After "proposed" and before "projects", put in the phrase "Government-owned" to make it clear that this does apply only to Government-owned projects. Because otherwise the Corporation would be consulting for the privately owned projects; and the privately owned projects are, of course, under the terms of the bill, subject to State law anyway.

Mr. WALLOP. Well, to the extent that that is made clear in the report—what I do not want is to have a quasi-joint venture kind of project to be outside of this. And, really, this is not an impossible requirement for them to do. It is simply a means of notification and consideration, rather than anything else.

So, to the extent that a joint venture might be considered by the Security Corporation as a means around it, I do not think it would be in the interest of either party to do that.

Mr. JOHNSTON. How about putting "Government-owned or joint venture"?

Mr. WALLOP. I would be happy with that. I think that would solve the problem.

Mr. President, I ask that my amendment be so modified.

The PRESIDING OFFICER. The amendment is so modified.

Mr. JOHNSTON. Mr. President, with that modification, I will agree to the amendment.

Mr. DOMENICI. Might I ask, how are you modifying it?

The PRESIDING OFFICER. Will the Senator please send the modification to the desk?

Mr. JOHNSTON. Mr. President, I send the proposed modification to the desk.

Mr. WALLOP. The modification reads:

in which proposed Government-owned or joint venture projects.

Mr. DOMENICI. Could I ask my friend from Wyoming, are we now saying that the process you are talking about applies to some, but not to others?

Mr. WALLOP. Well, it is the understanding of the Senator from Wyoming that all private ventures, even though they may have loan guarantees for products, purchase arrangements, or other kinds of arrangements with the Government, that are not joint venture and are not Government-owned are subject to the laws of the States in which they are to be located without regard to this process.

Mr. JOHNSTON. It is simply a consultation process.

Mr. DOMENICI. I know it is a consultation process.

If the Senator is satisfied with that as you were talking about it; it ought to apply to them all.

Mr. WALLOP. I agree with the Senator. But I do not really think that it is incumbent upon the Energy Security Corporation to consult with the State of Wyoming, should Carter Mining want to get into a gasification project within the State, when they are going to be subject to the laws of the State anyway.

Mr. DOMENICI. All right. That is fine. We have no objection.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 83, line 17, insert "(1)" after

On page 83, line 17, insert "(1)" after "(e)".

On page 83, insert the following between lines 23 and 24:

"(2) The Corporation shall consult with the Governors of the States in which proposed Government-owned or joint venture projects would be located with regard to the manner in which the project would be developed and regulatory licensing and related governmental activities pertaining to such project. The States shall have the opportunity to provide written response to the Corporation on all aspects of project development, licensing and operation."

Mr. WALLOP. Mr. President, I move my amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified by the Senator from Wyoming.

The amendment (UP No. 755), as modified; was agreed to.

Mr. WALLOP. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my amendment be temporarily laid aside, and that the Senator from Wyoming (Mr. SIMPSON) be recognized to call up an amendment.

Mr. SIMPSON. Mr. President, I thank the majority leader for his courtesy.

UP AMENDMENT NO. 756

(Purpose: To provide that the Corporation pay certain taxes)

Mr. SIMPSON. Mr. President, I have an amendment at the desk, which I ask be read in full.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for himself and Mr. WALLOP——

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 115, line 23, strike "and".

On page 116, line 5, strike the period and substitute "; and".

On page 116, insert the following between lines 5 and 6:

(3) the Corporation shall be subject to any nondiscriminatory tax levied or imposed by any State, county, municipality, or local taxing authority on those assets of a corporation construction project pursuant to subtitle E, including only,

(i) the extraction or severance of minerals owned or leased by the Corporation, and

(ii) on the purchase or lease of tangible personal property.

Mr. SIMPSON. Mr. President, earlier in the consideration of this legislation, I submitted an amendment which was later withdrawn at my request, to draft language which would be more appropriate to accomplish the result desired.

Mr. JOHNSTON. Mr. President, if I may interrupt the distinguished Senator, let me say this: This amendment as now drafted does comport with our discussion, and we accept it, with congratulations to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I appreciate that, and resubmit my remarks.

Mr. President, I now understand that this amendment relating to State and local taxation of Energy Security Corporation mining and project construction activities is in a form that is acceptable to both sides of the aisle.

The importance is the need to waive tax immunity for those State and local revenue measures, such as mineral severance, sales and use taxes, which reach those commercial transactions associated with the purchase or lease of heavy equipment, and industrial components specifically connected with synthetic fuel projects initiated or under-

written by the Synthetic Fuels Corporation.

These revenues are then immediately available to State and local governments to defray the cost of public services and facilities required by the impact of industrial development. That, Mr. President, is the intent of the second subsection of this amendment.

The nature of major construction and mining projects are such that there is a period of critical lead time before revenues come to the local governments from the taxation of mineral extraction or the addition of a plant to property tax rolls.

I appreciate the courtesy of the able floor manager of this bill and their capable staff for accepting this amendment.

I would simply conclude by saying it is a very important amendment, to provide for certain tax immunity for these particular corporations, and that they be subject to State and local taxes, including State sales, use, and mineral severance taxes. I move the adoption of the amendment.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. SIMPSON. I shall indeed.

Mr. WALLOP. Mr. President, the amendment that I am cosponsoring with my distinguished colleague from Wyoming will correct an oversight in the current version of the synthetic fuels title of S. 932. The amendment will require that any Corporation construction project will be subject to mineral severance, sales, or use taxes.

It has been repeatedly stated that this synthetic fuels initiative is needed to provide economic incentives. In other words, it is designed to complement the private sector and not compete with it. Yet if Corporation projects are exempt from these excise taxes, they would not only enjoy a significant competitive advantage over non-Government projects but it would hamstring the ability of State and local governments to provide the services necessary to cope with the problems of impact.

This amendment simply states that Corporation construction projects shall be subject to excise taxes. In essence, they will be treated like a non-Government entity that is trying to develop synfuels.

Mr. McCLURE. Mr. President, we have examined the amendment offered by the distinguished junior Senator from Wyoming with his colleague, and, as it has been amended, it seems to me to carry out the intention that he has expressed, and is acceptable to us.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming (Mr. SIMPSON).

The amendment (UP No. 756) was agreed to.

Mr McCLURE. Mr. President, has the amendment of the Senator from Wyoming been agreed to?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 757

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from Kansas.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 757:

On page 75 line 19 through page 78 line 7:

Strike subsection 116(a) following the first sentence, and substitute the following:

"For purposes hereof, administrative expenses shall be that portion of the Corporation's account for general and administrative expenses, including salaries of personnel and consultants, expenses for computer usage, space needs of the Corporation, and similar expenses."

Mr. DOLE. Mr. President, this is not a highly significant amendment, but I hope the chairman of the Appropriations Committee and the authorizing committee chairman will at least focus their attention on this proposal.

In the committee version, section 116, subsection (A), provides an automatic cost-of-living increase in authorized cash outlays for administrative expense of the Energy Security Corporation. In short, the authorization of administrative expenses is indexed to inflation. My amendment would strike the indexing feature, and instead Congress can increase the authorization each year if it deems that necessary.

Mr. President, every Government agency, authority, department or what-have-you would like to have its funding indexed.

This is a bad example to set, particularly when the Government speaks constantly about the need for belt-tightening, austerity, and wage restraint. It will not be a great burden on Congress to review this funding authorization when necessary, but it would be an insult to the taxpayer to provide an automatic increase. We do not adjust income tax liabilities for inflation, although we ought to—the windfall in tax revenues from inflation encourages the kind of automatic, unthinking spending growth we have here. It may be a small amount of money, but it is symbolically important. We could not possibly set a worse precedent for future expense authorizations, and we ought to reject, here and now, the notion of providing automatic increases in funding of Government programs.

I urge the adoption of my amendment.

I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, the Senator from Kansas addressed the same issue that the Senator from Oklahoma addressed yesterday from a little bit different standpoint. That is the fact that we do not want this corporation to be continually growing and also increasing the number of employees. It seems to me that the approach of the Senator from Oklahoma, which has been incorporated in this bill, is a better approach. What he does is to put a strict limit, with no indexing, of 300 employees in the professional category on the personnel limit of the corporation. That, Mr. President, I think, is the proper approach.

What this proposed amendment would do is to make this corporation subject to annual appropriations and, in effect, an annual veto by the Congress. We want to give this corporation an independence, but not the ability to grow in employees; not the ability to grow in scope, and a limited authorization—$35 million in real dollars each year, and that amount cannot grow beyond a $35 million real dollar figure.

I would hope with the understanding now that the amendment of the Senator from Oklahoma having been adopted and the strict limit of 300 employees put on, that the Senator from Kansas will consider this sufficient protection and might consider withdrawing his amendment.

Mr. DOLE. The Senator from Kansas will not withdraw the amendment but he is willing to have a voice vote. I know the Senator from Louisiana has worked long and hard on this legislation. I will not insist on a rollcall, but it seems to me it is a concept that at least ought to be noted as we gear up this $88 billion monster.

Mr. JOHNSTON. Mr. President, the bill has also been modified to make clear that it is not an $88 billion corporation. Phase 2, which is anything above $20 billion, would be subject to authorization by both Houses of Congress, in addition to the appropriation process.

I am willing to accept a voice vote, Mr. President, and I am willing to put the question at this point.

Mr. METZENBAUM. Will the Senator from Kansas or the Senator from Louisiana advise me? I have no objection to the new language but what is all the language being deleted on page 76, line 8, through page 78, line 7? Is that applicable only to this very matter?

Mr. DOLE. Right.

Mr. METZENBAUM. And it covers nothing but the question of administrative expenses?

Mr. DOLE. That is correct. This amendment would require the corporation to come to the Congress. It seems to me maybe they should be totally independent, but it is not a precedent I want to join in. If I am defeated, I am willing to accept that and I will not delay the Senate.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. UP 757) was rejected.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from West Virginia.

Mr. MELCHER. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 758

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) for himself and Mr. BOSCHWITZ, proposes an unprinted amendment numbered 758.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 274, after line 21, add a new Subtitle as follows:

Subtitle J—Amendments to the Weatherization Grant Program

(a) LIMITATIONS ON EXPENDITURES.—Section 415 of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by striking out "except that not more than 5 percent of any grant made pursuant to section 413(a)" in subsection (a) and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "except not to exceed 10 percent of a grant made under this part and not to exceed 5 percent of a grant made to a State pursuant to section 413(a), may be used for administration in carrying out the duties under this part."

(2) by deleting in subsection (c)(1) the words "paragraph (2)" and inserting in lieu thereof "paragraphs (2) or (3)," and adding the following new paragraph (3) to the end of subsection (c):

"(3) the Administrator may use financial assistance provided under this part or increase the limitation of $800 described in paragraph (1) to secure installation of weatherization materials where the Administrator, with the concurrence of the Secretary of Labor, determines that there is an insufficient number of volunteers and training participants and public service employment workers, pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors and foremen."

Mr. MELCHER. Mr. President, the draft legislative language, which is attached, provides two changes to the weatherization assistance program for low-income persons ("WAP"):

First. The 10-percent restriction on administrative expenditures is revised to permit States to pass on up to the full 10 percent, but not less than 5 percent, of a grant to local program operators for administrative costs. As presently enacted, local operators only receive 5 percent of a grant for administration even though a State would be willing to provide more by passing on a portion of the State's administrative funds.

Mr. President, we thought the original statute would permit this, but find out that is not the case. This is to correct that provision.

Second. Language is provided to clarify DOE's authority to pay for the installation of weatherization materials where program operators are unable to obtain labor from CETA or other sources. Specifically DOE is authorized to raise the present limitation of $800 per dwelling unit where it is demonstrated labor is unavailable to weatherize dwelling units. This language does not alter the current requirement that, to the maximum extent practicable, labor is to be used from the CETA program. However, where labor is unavailable from CETA or other sources, DOE would be able to take immediate action, such as authorizing program operators to: hire CETA eligible labor; supplement CETA wages to attract employees; hire experienced laborers for jobs requiring a special skill; and use contractors to install materials on a short-term basis where there is temporary unavailability of labor.

Mr. President, I move adoption of the amendment.

Mr. JEPSEN. Mr. President, I ask unanimous consent that I be listed as a cosponsor on the amendment to authorize installation of weatherization material by non-CETA employees in communities which have a shortage or absence of CETA workers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEPSEN. Mr. President, the Senator's amendment is worthy of our support because of the severe shortage of CETA employees to install weatherization material in the homes of eligible citizens, primarily elderly citizens.

The main objective of the amendment is to allow non-CETA employees in communities which have a shortage or absence of CETA workers to install weatherization materials in eligible homes.

Mr. President, I know that other Senators have expressed concern over this particular issue, such as Senator NELSON. It is most distressing to me to hear from my State of Iowa that thousands of homes are not being weatherized because of the lack of workers. What is more distressing is that the shortage of workers is due to an administrative policy put into force by the Departments of Energy and Labor.

I do not want to take the Senate's time pointing the finger of blame at an administrative agency. I have been informed that legislation is forthcoming to address the problem with the Departments of Energy and Labor.

Instead, Mr. President, I simply urge my colleagues here to support this amendment. Materials are literally lying on the ground in many States. Money which has already been appropriated since 1975 is still unspent as a result of the shortage of CETA workers. Therefore, in order to weatherize the homes of eligible citizens, elderly citizens, I support this amendment.

Mr. JOHNSTON. Mr. President, the existing weatherization program has not worked because, frankly, there has been a dispute between the Department of Labor and OMB as to how the Davis-Bacon Act will be applied and how it will operate.

What this amendment does is straighten out that dispute. It has been agreed to by the Department of Labor and OMB, and it will make a workable program out of the existing weatherization program.

In the committee we considered this matter but were not able at that point to offer the amendment to straighten it out because there had been no agreement between the Department of Labor and OMB, and the other parties involved. This does solve that problem which we discussed in committee. It is an appropriate amendment and I think it will make the weatherization program work. We accept the amendment.

Mr. DOMENICI. Mr. President, we have no objection to the amendment. This is one of the suggested ways to make the weatherization program work better. The suggestion was not ready in time to get up to the committee when we were discussing it. It will improve the program as it relates to CETA. It gives more discretion to the States that have indicated they need more discretion to make the program work. We commend the Senator for offering it, and have no objection to its adoption.

Mr. MELCHER. I thank the Senators.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from West Virginia.

Mr. DURKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

Mr. HATCH. Mr. President, I call up my printed amendment No. 578 and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair states that it will take unanimous consent to lay aside the pending amendment, which is the amendment of the Senator from West Virginia.

Mr. HATCH. It is my understanding that the Senator from West Virginia—I ask unanimous consent that the Senator from West Virginia temporarily lay his amendment aside.

Mr. METZENBAUM. Reserving the right to object, and I do not intend to object, will the Senator from Utah be good enough to tell me what his amendment is?

Mr. HATCH. Yes. My amendment is to authorize the Secretary of the Interior to issue prospecting permits for coal, tar

sands, oil shale, and phosphate, which cover lands subject to mining claims. Basically, I have a short, two-page statement on it that will describe it further. If we could get the pending amendment temporarily laid aside, I shall discuss it further.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object, I am advised that the majority leader wanted to protect his amendment. Am I correct that the majority leader wanted an objection to be made?

Mr. HATCH. Mr. President, I am not asking to have it set aside except by the majority leader. If he does not want to have it set aside, I shall be happy to suggest the absence of a quorum.

Mr. DOMENICI. Mr. President, may I say that we have had a sort of gentleman's understanding here that we are setting it aside for the purpose of considering amendments. Why would we not do it now?

Mr. JOHNSTON. It is perfectly all right with me. I am advised that it is OK.

I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 578

(Purpose: To authorize the Secretary of the Interior to issue prospecting permits for coal, tar sands, oil shale, and phosphate which cover lands subject to mining claims)

Mr. HATCH. Mr. President, I call up my amendment No. 578 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an amendment numbered 578.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 140, between lines 14 and 15 insert the following new section:

CONFLICTS BETWEEN LEASABLE AND LOCATABLE MINERALS

SEC. 180. (a) Notwithstanding any other law or rule of law, the provisions of the Act entitled "An Act to amend the mineral leasing laws and the mining laws to provide for multiple mineral development of the same tracts of the public lands, and for other purposes," approved August 13, 1954 (68 Stat. 708), shall be deemed to include within its purview authority for the Secretary of the Interior to have issued prospecting permits for coal, tar sands, oil shale, and phosphate which cover lands subject to a valid mining claim, if such permits could have otherwise been issued but for such claim.

(b) Delete from section 9(b) of the Mineral Leasing Act of 1920, (30 U.S.C. 211(b)), the words "unclaimed, undeveloped".

Mr. HATCH. Mr. President, I do not want to take up a lot of time with this amendment. It does not involve a controversial consideration. I hope that, once I have made clear what it is supposed to do, the Energy and Natural Resources Committee will accept it as an extension of this measure we are debating today.

The Mineral Leasing Act of 1920 originally provided for leasing of public lands for the exploration and development of energy minerals so long as the lands in question were "unclaimed and undeveloped." When the demand for uranium, oil, and gas rapidly increased after World War II, the conflicts between mineral leases and mining claimants became significant because many areas that were potentially valuable for uranium were also valuable for oil and gas leasing. In 1954, Congress passed the Multiple Mineral Development Act as a permanent solution to this problem. The purpose of that legislation was to eliminate conflicts between those claiming under the Mineral Leasing Act and those claiming minerals under the Mining Law of 1972.

In spite of this clear statement of congressional intent, in 1977, the solicitor of the Interior Department issued an opinion that explicitly reversed that intent for coal and phosphate preference—right lease tracts.

My amendment, Mr. President, simply reaffirms the intent of the 1954 law and extends the concept to other leasable minerals.

I assure my colleagues that the mining industry is well accustomed to sharing surface occupancy and exploration rights amongst themselves simultaneously on the same lands for different mineral commodities. I urge my colleagues to adopt this amendment in the interest of removing one of many potential impediments to the development of the resources that this entire synfuels program is going to require to operate.

I reserve the remainder of my time, Mr. President.

Mr. JOHNSTON. Mr. President, the Senator from Utah may have a very good bill here, and I say "bill" advisedly because it is a matter which lies within the jurisdiction of our committee but which, unfortunately, has had no hearings. It raises a number of questions, one of which we cannot answer from the face of the amendment, that it may have the effect of validating mining permits that have already been ruled invalid by the Solicitor but which, in turn, would take away existing rights from other permit holders. So it might have that effect, Mr. President, and it is the kind of amendment that ought to be heard.

I certainly would not want to prejudge it and I am sure there are probably strong cases to be made in individual instances, where we could find out whether there really is a question.

I urge the Senator to submit this as a bill to us and we shall try to give it expeditious hearing in the Committee on Energy and Natural Resources and give him an answer that way. But I would not want to accept this amendment on this bill, Mr. President, with those questions outstanding.

Mr. DOMENICI. Mr. President, I say to my friend from Utah that he raises a significant issue that cries out for an answer and we ought to answer it. We ought to resolve the dispute that he described here.

As he indicates, there are many, perhaps an overwhelming number of people who know who indicate that there is no reason for the differing treatment here. You cannot be mining uranium and coal on the same Federal land. Many industry people would say if you do no harm to anyone, that is a kind of ridiculous, long-term distinction with no rationale.

I, too, hope that not only would the majority indicate that this deserves a hearing but that they would commit to the Senator that we have early hearings to get this matter resolved.

That does not mean committed to hearings next week, but as soon as possible to ask the subcommittee to have hearings, listen to the experts the Senator has obviously heard, resolve this issue and let it come to the floor as soon as possible.

I, for one member of the committee, would agree that is what we ought to do. I hope the Senator from Louisiana would agree to ask the chairman to have early hearings on this matter.

Mr. JOHNSTON. The Senator is correct.

I would concur in that request.

Mr. HATCH. Mr. President, I appreciate the comments of my colleagues.

As they know, it is pretty tough to get people to invest with conflicts of this kind unresolved, and this is a major one that we should resolve.

With the understanding that if we submit this as a bill, that members of the committee will hold hearings at the earliest convenience of the committee, I certainly accept my colleague's assertions in that regard, and, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HATCH. I thank my colleagues for their kindness.

Mr. DOMENICI. I thank the Senator from Utah for his excellent issue and for withdrawing the amendment at this time.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from West Virginia.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I am not certain that the distinguished Senator from West Virginia is prepared to move ahead, or not. I ask unanimous consent the amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

UP AMENDMENT NO. 759

(Purpose: To require the President to purchase oil for the Strategic Petroleum Reserve)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 759.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 147, following line 12, insert the following new sections:

SEC. . (a) Notwithstanding any other provision of law the President shall immediately resume the purchase of crude oil, by contract, for the Strategic Petroleum Reserve established in the Energy Policy and Conservation Act, at a minimum average rate of 100,000 barrels per day per year.

(b) Any import quotas imposed under section 107 of the Energy Policy and Conservation Act shall not apply to the Strategic Petroleum Reserve buildup.

(c) There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary.

(d) The Department of Energy is authorized to contract for consideration of facilities needed to store the additional reserves.

SEC. . Paragraphs (1) and (4) of section 160(b) of the Energy Policy and Conservation Act are repealed.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator from New Jersey (Mr. BRADLEY) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, last week when the Senate had before it S. 1871, I had hoped to offer an amendment dealing with the strategic petroleum reserve. I did not offer it at that time because the Senate was working under strict time constraints and I did not want to jeopardize quick passage of that legislation dealing with the international energy agreement.

During debate on S. 1871, I engaged in a colloquy with the distinguished Senator from Louisiana (Mr. JOHNSTON), the result of which was that he supported my contention that we as a nation need to restore priority status to the SPR program and that we should address this particular problem on the next appropriate vehicle. The Senator from Kansas, as well as Mr. JOHNSTON, thought that the DOE authorization bill would be the natural vehicle. Purchases of crude for the SPR affect the world market and the prices paid by consumers.

These are certainly legitimate concerns and it is my intention to address these head on.

My original intention was to offer this amendment, as I stated earlier, to the DOE authorization bill. However, after reviewing the pending legislation it became apparent that S. 932 was a much better vehicle. S. 932 itself amends and extends the Defense Production Act of 1950, which assigns priority ratings to important defense procurement. EPCA implements the Defense Production Act of 1950 by establishing an energy priority system which includes the SPR.

In addition, the current bizarre events in Iran have highlighted the urgency of the SPR question, at least for this Senator. The Ayatollah Khomeini is now officially supporting the takeover of the U.S. Embassy in Tehran, and is directly attempting to use the threat of an oil embargo to dictate U.S. policy with regard to the Shah.

The ayatollah's embargo threats must be taken seriously by the administration because we do not have a viable strategic oil reserve to enable us to withstand a temporary interruption in the supply of OPEC oil. Thus, when OPEC talks Washington listens. Even though we import only between 700,000 and 800,000 barrels of oil from Iran each day, we would be seriously damaged by an Iranian oil embargo since even such a minor shortage will have serious consequences, and would inevitably bring back the long gaslines of last spring and summer. Moreover, the embargo by Iran could be joined by other OPEC states.

Our SPR was abruptly terminated by President Carter last November in deference to the wishes of OPEC's oil sheiks. Although our SPR was supposed to hold 1 billion barrels—good for 3 months—by the early 1980's, according to the original Gerald Ford plan, President Carter has halted the SPR at 92 million barrels—barely enough to keep us going for 12 days.

Without a strong SPR, we will be negotiating with OPEC from a position of weakness and dependence. Since oil is the lifeblood of our economy, OPEC has a perpetual sword of Damocles hanging over our heads, by virtue of their control of our crude oil faucet.

No matter how much the Carter administration tries to conceal the true reason for their unilateral termination of our SPR program, by stating specious argument after specious argument about continued purchases "adversely driving up the price of world oil," and by "cost," they cannot successfully mask the fact that they have put us in a dangerous state of dependence and vulnerability to another oil embargo, as the current events in Iran have shown.

LOOPHOLE IN EPCA

Mr. Carter has used a glaring loophole in the Energy Policy and Conservation Act (EPCA), section 160(b), to justify his decision to indefinitely suspend building up the SPR. Under section 160(b)(4) of EPCA, the Secretary of Energy is granted a loophole to arbitrarily stop building the reserve, if he finds that such a buildup would have "an adverse impact on supply levels and market forces," and he is required to build the SPR only "to the extent practicable."

These phrases are so vague that virtually any external market conditions can be characterized by the President and his energy bureaucracy to "have an adverse impact on supply levels and market prices." And virtually any excuse can be seized upon to declare that it is not practicable to build up the SPR.

DOLE AMENDMENT

Mr. President, this section 160(b)(4) has got to go. My amendment would repeal this loophole section and would require the President to immediately resume purchasing crude oil for the SPR at an average minimum rate of 100,000 barrels per day, per year.

In addition, my amendment would repeal section 160(b)(1) which now gives the President the excuse to stay out of the spot market to buy oil for the SPR. Third, the amendment would require that any purchase of foreign crude oil for the SPR would not be included in any quotas imposed by the President under section 107 of EPCA.

CARTER "MARKET PRICE" EXCUSES NOT VALID

President Carter has argued that to resume purchasing oil for the SPR would cause an "adverse impact on world oil prices." However, the slightest knowledge of economics and mathematics shows the absurdity of this argument.

There are today about 50 million barrels of oil sold in the world market each day. If we buy only 100,000 barrels per day for the SPR, this would represent only 0.2 percent of the world oil sales—hardly enough to have a serious impact on world prices.

The President could transfer oil from our naval oil reserves at Elk Hills and Teapot Dome to the SPR, instead of selling it to private oil companies, as he has been doing since 1977, thus depleting this important reserve. Obviously, transferring oil from Elk Hills to the SPR would not cause a serious adverse impact on the world oil prices. This oil is "sweet crude," and is of the highest quality oil. One can only wonder whether it was OPEC pressure here too which convinced Mr. Carter to deplete this Elk Hills reserve.

Even if for some reason the President chooses not to transfer oil from Elk Hills to the SPR, we could still buy the oil for the SPR from the spot market or contract market. There are always cargo ships full of "distress oil cargo" which have missed their delivery so such oil is available for sale by brokers on the spot. If we are willing to pay the price for 100,000 barrels per day, we can and will get the oil for the SPR.

However, if we do not buy oil on the spot market, other countries will anyway, so we will not be driving up world oil prices.

Furthermore, Mr. President, those who say that the spot market price of $40 a barrel is too much to pay for SPR oil are telling us that our national security is not worth the price.

I disagree with these voices. Some would have us strip down our energy and military defenses, while lavishly spending billions of dollars on frivolous new Federal bureaucracies.

The money for buying 248 million barrels of SPR oil has been already appropriated and the facilities have been built. What a shame it is that facilities and money sit idle, waiting to be used, when we need security so badly. Resuming purchase of oil for the SPR would neither involve huge budget drains nor would it develop the world market price of oil.

Despite these economic facts, the President insists that the reason he halted the program is that buying oil for the reserve would drive world market prices up, and would therefore have an adverse impact on market forces. The administration has also employed budgetary arguments to support the SPR termination decision. When our national security is at stake, these arguments are at best specious. Our Nation can no longer afford policies like these. Today

the strategic petroleum reserve holds only 92 million barrels—barely enough to last 12 days. One need not have a very active imagination to envision what would result if our energy faucet were turned off—total economic upheaval and the abandonment of our society as we know it today.

Mr. President, I am not in the habit of using scare tactics to secure the needed votes to pass a proposal. The aforementioned is a real risk; my scenarios are not mere tactics but very real possibilities. By not building a viable SPR we are holding ourselves ransom to OPEC's whims. No matter what we do with synfuels, biomass, solar, or any other alternative energy source, we will be dependent on foreign sources to a great extent over the next decade and possibly longer. Should OPEC shut off our oil faucet, we will be left only with the alternative of accepting economic disaster or using military force to seize the Arab oil fields. With a viable SPR we could withstand a temporary embargo during which we could negotiate with the Arabs from a position of strength and credibility.

When President Carter made the decision to unilaterally terminate our reserve—the very minute he made that decision—he placed the United States behind the energy eight ball. The opponents of my proposal are quite right; to begin now to make up for lost time we would be forced to purchase so much oil that the world market may very well be upset. I recognize this, just as all Senators do; but, unlike some, I will not simply lay down and play opossum; nor will I join the silent minority who call for appeasement to OPEC, using any excuse they can find to mask the fact of their appeasement.

The United States should never have totally stopped buying SPR oil, but we did. What is needed now is to embark on a course of action that will focus the President's attention as to the importance of the SPR and secondly to direct the President to purchase oil, even if on a very small scale, for our reserve. Had we not stopped the program our reserve today would have had upward of 300 million barrels in it, as President Ford's original timetable proposed.

Finally, Mr. President, I point out that the very credibility and viability of the synthetic fuels program which S. 932 proposes will be placed in serious doubt if we fail to build up our reserves. The SPR is an integral part of any energy proposal. Since increasing our domestic synfuels serves the same purpose as building up our SPR—that is, it reduces our dependence on OPEC—is it illogical to assume that OPEC will eventually complain as bitterly over our synfuels program as it does over our SPR? Will we then find another excuse to suspend development of our synfuels program? What will be the final result?

Once a policy of acquiescence is initiated and our credibility is in question, the road to recovery is a difficult one to travel. There is no limit as to where the process of appeasement will lead us. Tomorrow, OPEC may express displeasure at our 6th Fleet floating around in the Mediterranean Sea. Will we then acquiesce and withdraw the fleet in order to please the OPEC countries?

If we cannot stand up to OPEC on the relatively modest, when considered in context with all aspects of the energy crisis, issue if the SPR now, how can we hope to stand up to them in a military emergency.

If the Soviet Union starts to buy OPEC oil soon, as a CIA report says it will, We can expect to see an "OPEC-Soviet axis" pressing for all sorts of demands on the United States to yield on Middle East policy, or else suffer the havoc a slowdown in production will cause.

Already we see candidates for the highest office in the land recommending that we reduce our commitment to Israel in order to please OPEC. If we fail to build up our SPR, we can only expect to hear more voices of appeasement in the future, recommending we do anything to please the Arab oil men.

It seems to me that this is a matter that should be addressed, and I hope the amendment will be accepted by the managers of the bill.

Mr. President, I yield to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BRADLEY. Mr. President, I support the amendment by the Senator from Kansas. I think it is a particularly timely amendment, one long overdue.

The fact is that this country is perilously dependent upon insecure sources of oil; 25 percent of all the oil we consume comes from the Persian Gulf area; 75 percent of Japan's oil comes from that region. Close to 40 percent of Europe's oil comes from that region.

We have discontinued filling the strategic petroleum reserve and therefore have nothing to cushion us in the event of a supply cutoff.

Mr. President, the Government anticipated by 1985 to have 1 billion barrels of oil in storage. As of tonight, we have 94 million barrels of oil in storage, which is the equivalent of about 13 days' supply of the oil we import every day in order to make our economy run in this country.

Mr. President, it is important beyond any emphasis that a Senator could place on this measure that we move to fill that strategic petroleum reserve. This bill addresses long-term energy problems, with the passage of the synfuels bill, 10 or 15 years down the road, before we get anything. Solar energy is a shorter distance away than that. Conservation is a shorter distance away than that. Yet, we have nothing to cushion us in the event of a supply cutoff in the near term.

The argument that has been offered against the buildup of a strategic petroleum reserve is that the economic costs would be too great, that the prices would escalate, because we would be taking oil and putting it away for the eventuality of a cutoff.

Mr. President, recent studies just completed by Stanford University convey to us that if we had a cutoff about the size of our dependence on Persian Gulf oil, 3.3 million barrels a day, and if that cutoff lasted for about 12 months, the economic costs of that cutoff would be $110 billion to the economy of this country.

Mr. President, this is an essential act we must take. We must begin to fill that strategic petroleum reserve. Not only must we look at it from the standpoint of economic cost, which I believe justifies filling the strategic petroleum reserve, but also, we must consider the national security implications.

This is a long overdue amendment, which I strongly support, and I applaud the Senator from Kansas for offering it at this time, on this bill.

Mr. DOLE. Mr. President, I thank the distinguished Senator from New Jersey. I think he is exactly right.

We talk about cost and wring our hands. It would be reasonable to look ahead, as the distinguished Senator from New Jersey has indicated, and consider what would happen in the event of an interruption, and consider the cost and the burden that would place on the American people. I think it is time we take some action to assure that we start again to build up this strategic petroleum reserve.

Mr. President, I ask to modify my amendment in subparagraph (b), by inserting after the word "section," "232(b) of the Trade Expansion Act of 1962 as amended," striking out "107 of the Energy Policy and Conservation Act."

I think that is correct, and I sent that modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment as modified, is as follows:

On page 147 following line 12, insert the following:

SEC. . (a) Notwithstanding any other provision of law the President shall immediately resume the purchase of crude oil, by contract, for the Strategic Petroleum Reserve established in the Energy Policy and Conservation Act, at a minimum average rate of 100,000 barrels per day per year.

(b) Any import quotas imposed under section 232b of the Trade Expansion Act of 1962 as amended shall not apply to the Strategic Petroleum Reserve build up.

(c) There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary.

(d) The Department of Energy is authorized to contract for construction of facilities needed to store the additional reserves.

SEC. . Paragraphs (1) and (4) of section 160 (b) of the Energy Policy and Conservation Act are repealed.

Mr. DOLE. I do not know whether the managers will be willing to accept the amendment.

Mr. JOHNSTON. Mr. President, I have looked at the amendment in its original form with care, because I was not aware of import quotas under EPAC. They are imposed under the Trade Expansion Act.

However, we just adopted on the floor of the Senate a limitation on the President's power to impose quotas and fees under the Trade Expansion Act; and I am advised that the House blue-slipped our action, stating that that was a matter dealing with the jurisdiction of the House as to possible revenue measures. Therefore, they blue-slipped us.

The senior Senator from Louisiana is very cognizant of this matter.

There are other objections as well, but I hope that objection will be sufficient for the Senator from Kansas to withhold his amendment until another day and another vehicle.

Mr. DOLE. I am not certain I understand the House suggestion that this would be subject to a point of order.

Mr. JOHNSTON. It might be subject to a point of order, because the Trade Expansion Act deals with quotas and fees. The House takes the position that those matters, under the Constitution, must originate in the House. I wish it were otherwise, but they just blue-slipped us on this act.

Mr. DOLE. One way to deal with that is this: The Senator from Kansas further modifies the amendment to strike out that subsection and reletter the other paragraphs. I will send the modification to the desk. That would take care of that.

The PRESIDING OFFICER. Will the Senator restate the modification?

Mr. DOLE. The Senator would strike out the section just referred to by the distinguished Senator from Louisiana.

Mr. JOHNSTON. Subsection (b).

Mr. DOLE. Subsection (b). Subsection (c) would be (b), and subsection (d) would be (c).

I send that modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as further modified, is as follows:

On page 147 following line 12 insert the following:

SEC. . (a) Notwithstanding any other provision of law the President shall immediately resume the purchase of crude oil, by contract, for the Strategic Petroleum Reserve established in the Energy Policy and Conservation Act, at a minimum average rate of 100,000 barrels per day per year.

(b) There are authorized to be appropriated to carry out the purchases of this section such sums as may be necessary.

(c) The Department of Energy is authorized to contract for construction of facilities needed to store the additional reserves.

SEC. . Paragraphs (1) and (4) of section 160(b) of the Energy Policy and Conservation Act are repealed.

Mr. JOHNSTON. Mr. President, as the Senator from Kansas knows and as I have stated in this Chamber before, I strongly support his view that the strategic petroleum reserve is a matter of first priority for this Nation in dealing with energy shortages should we get into that kind of difficult situation which is becoming more and more thinkable. Just yesterday it seemed it was almost unthinkable that this Nation would be subjected to a severe cut off. It is becoming more and more thinkable, more and more possible, in fact it looms on the horizon like a sword of Damocles over our head.

The Senator from Kansas will be pleased to know that just yesterday the conference committee on the Interior appropriations bill deleted that section of the bill as provided by the Senate which transferred $1.15 billion from SPR to the Department of Energy. That has been deleted so that $1.5 billion is still with SPR.

However, I urge the Senator not to put in this amendment in its present form for two reasons:

First of all, it requires a minimum average rate fill-up of that reserve at 100,000 barrels per day per year.

I think this might, first of all, exceed the capacity we have at some assumed point because we have to leach out those caverns in order to receive the oil. Of course, there is room for some days now, but, nevertheless they need to leach out those caverns in order to make room for more capacity.

Second, and more seriously, to require and enshrine in the statutes a requirement of 100,000 barrels per day without the authority and the ability of the President to modify that in the event, for example, of a cutoff, an embargo, or a shortage, might have a statutory effect that would exacerbate the gasoline lines which might be extant at any particular time.

Certainly, we would need to suspend any activity to fill up the SPR during such a shortage.

Finally, as to the last section which says, "Paragraphs (1) and (4) of section 160(b) of the Energy Policy and Conservation Act are repealed,". Those are the provisions that state that in filling up this reserve the President shall seek to minimize the cost and minimize the impact of such acquisition upon supply levels and market forces. Of course, what this means is that in the cyclical business of oil pricing under present law the President must look to those market cycles in picking the best time to fill SPR. We do not want to require him to buy at the top of the market, to buy in times of short supply, to perhaps even exacerbate a worldwide shortage.

I wish there were another formulation of this amendment because I am very sympathetic to what the Senator is trying to do. I wish at least to have some expression of sentiment by this body that we wish the President to resume that fill-up. I think if we had that expression of sentiment incorporated in the bill perhaps that would accomplish what we are after.

But to do it under the conditions stated under this amendment I believe is the wrong thing to do.

Mr. DOLE. Mr. President, I certainly respect the views of the distinguished Senator from Louisiana. The last thing I want to do is frustrate or to set some rigid figure. I think we might work out some way to express the sense of the Senate and at the same time accommodate some of the objections raised by the floor manager of the bill. If the cosponsors of the amendment do not object to that, perhaps this amendment could be set aside temporarily and we could work on some modification that might be acceptable to the distinguished Senator from Louisiana and the distinguished Senator from Idaho. I am perfectly willing to do that if that is satisfactory with the floor managers.

Mr. JOHNSTON. Yes. I am happy to work with the Senator on getting an acceptable amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that this amendment be set aside temporarily so we may work out some accommodation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from West Virginia.

Mr. BAYH. Mr. President, is it appropriate to send an amendment to the desk at this time?

The PRESIDING OFFICER. The Chair states that it will take unanimous consent.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside so the Senator from Indiana may offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana is recognized.

Mr. BAYH. I thank my colleague from Idaho.

UP AMENDMENT NO. 760

(Purpose: To revise provisions relating to natural gas priorities)

Mr. BAYH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for himself and Mr. DOLE, proposes an unprinted amendment numbered 760.

Mr. BAYH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 183, line 25, insert the following:

(c) For the purposes of section 401 of the Natural Gas Policy Act of 1978 (Public Law 95-621) the term "essential agricultural use" shall include use of natural gas in the distillation of fuel-grade alcohol from food grains or biomass by existing facilities.

Mr. BAYH. Mr. President, for the past few days we have been dealing with very important legislation to address our liquid fuel problems. Those of use who are supporting these efforts as strongly as we can have to be a bit frustrated by the reality that the liquid energy production we hope to stimulate by S. 932 is not going to come on line for 5 to 10 years from now.

However, there is one liquid energy source that can be brought on line almost immediately—and I mean alcohol produced by the idle distilling capacity that exists in abundance in our country.

The amendment I am offering will make it possible for gas-fired distilleries, that are presently idle, to get the natural gas they need to produce alcohol.

More specifically, it would guarantee that those distilleries that are willing to incur the added costs of retrofitting their plants to produce 190 plus proof alcohol have the natural gas to do so. The language would affect only those plants that are currently producing beverage spirits or those that have been

mothballed—like the Hiram Walker plant in Peoria, Ill. The amendment is not intended to guarantee natural gas for any new plants. As a matter of policy, we probably shouldn't be encouraging the new plants to rely on gas; they should be looking for ways to use coal, waste steam, waste electricity, or renewable resources for the heat necessary for the distillation process.

During one of his last visits to the Hill, DOE Secretary Schlesinger testified before the Interior Appropriations Subcommittee, in response to my questions, that this country's best near-term opportunity to bring more ethanol into production rests in the hands of our distillers. Even if we broke ground today on some of the alcohol plants that will be built thanks to S. 932, it would be at least 2 years before the first drop of ethanol was produced. In contrast, it would take distillers only 2 to 3 months to retrofit their plants to upgrade the proof of their product. And the way things are going, Mr. President, we may need this liquid supplement that soon.

Schenley Distillers, with plants in Indiana and Kentucky, have 10 million gallons of excess capacity by themselves. A survey by the Kentucky Bureau of Energy Research conservatively estimates the idle distilling capacity in that State at 15 to 20 million gallons, of which about 8 million gallons comes from gas-fired facilities. This represents about 80 million gallons of gasohol for Kentucky. The projected consumption of gasohol in Kentucky for calendar year 1979 is 13 to 15 million gallons. So we see that in Kentucky alone we have the opportunity with this amendment to increase the market availability of gasohol fivefold.

Likewise with my State. This amendment would make it possible for Schenley to retrofit an idle distillery near Lawrenceburg, Ind., with an investment of $500,000—which they are willing to make. The only thing stopping them is the Natural Gas Act. This amendment will allow them to begin manufacturing up to 7 million gallons of alcohol fuel per year in a matter of months, hopefully using Hoosier farm products. Right now, our Farm Bureau Co-op is selling gasohol statewide, but buys it from Illinois. I would like to see that alcohol produced in Indiana.

And look at the national impact. There are no firm figures on national idle distilling capacity. The estimates range from a low of 40 million gallons to a high of 270 million gallons—with the distillers running 24 hours a day/7 days a week. An industry source estimates idle capacity at about 65 million gallons. If we use Kentucky as a benchmark, we can estimate that about half of that 65 million gallons—or 32.5 million gallons—is produced by gas-fired distillers. Using the 32.5 million figure as the estimate—and this is probably conservative—we see that 325 million gallons of gasohol could be brought onto the marketplace. This figure is particularly dramatic because the estimated 1979 national production of fuel-grade alcohol is estimated at around 40 million gallons. Distillers have the capacity to at least double the market availability of gasohol and inject some price competition into a distinctly seller's market which is now pretty much monopolized by one producer.

Mr. President, the amendment would divert almost no natural gas from other users. Sticking with the figure of 32.5 million gallons of alcohol, we can give a ballpark estimate of how much natural gas distillers would consume. The ADM plant in Decatur, Ill., which I toured with Secretary of Energy Duncan last week, uses about 75 cubic feet of gas to produce 1 gallon of ethanol.

The ADM process does not, however, involve the drying of the final byproduct, which is the protein-rich distillers dried grain (DDG). Therefore, another 25 percent should be added to that 75-cubic-foot figure, or about 19 additional cubic feet. So, with a baseline of 94 cubic feet of gas to produce ethanol and DDG, an estimated 3 million Mcf of gas would be consumed. Three million Mcf of natural gas represents one ten-millionth of the projected 1979 national consumption of natural gas. One ten-millionth of the natural gas to double the market availability of gasohol. Mr. President, if there was ever a good use to which the so-called "gas bubble" should be put, this is it.

I hope that my colleagues will support my amendment.

I see my distinguished colleague from Kentucky here.

Mr. FORD. Mr. President, will the Senator yield?

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. JOHNSTON. Mr. President, we have discussed this amendment in some detail and are willing to take this amendment to conference.

I hope we can retain it in conference. I think it is a good amendment. It will promote gasohol by giving the corn distillers appropriate relief under the Natural Gas Act and we are, therefore, ready to accept it.

Mr. DOLE. Mr. President, the Senator from Kansas is pleased to support this amendment offered by my colleague from Indiana, Mr. BAYH. The purpose of this amendment is to enforce the provisions enacted under the Natural Gas Policy Act of 1978 to provide natural gas in the production of alcohol fuels in existing facilities.

We all know that America is in dire need of an alternative, renewable source of fuel and I believe that alcohol fuel production will provide a significant part of the solution to this Nation's energy problem. Even though these fuels cannot in the near term be a major solution to our national energy needs, they do represent an important energy component and building block for the longer term. Our national energy needs must be met by developing contributions from a large number of energy supplies, building on this Nation's abundant resources. Alcohol fuels represent important supplies based on the American agriculture community and the potential for the production and marketing beyond 1985 will be quite large—especially if we develop further the existing facilities that are needing this natural gas for operation. The project facilities in operation and under construction today will lead to providing a greater proportion of our energy supply in the future.

In less than 1 year, this Nation has witnessed an explosion of interest and involvement in the alcohol fuels industry. The number of retail outlets have increased to over 800. Gasohol is currently being sold in California, Colorado, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Virginia, Wisconsin, and Wyoming. Only if we expand existing technologies and the capabilities of existing plants, will sales continue.

Mr. President, I urge my colleagues to join with me in supporting this amendment. By providing this natural gas to existing facilities we will reach our goal in establishing alcohol fuels as one of the energy components in the future, alongside such energies as nuclear, solar, and wind. As a result our fuel costs will go down, our supplies will be replenished and increased, and our balance of payments will through a decrease in our inflation, become more equitable.

We need to master our energy problem and the production and utilization of these alternative fuels will help us do just that.

Mr. McCLURE. Mr. President, I certainly agree with the objectives of the amendment of the Senator from Indiana, and I commend him for identifying a possible source of energy that could be utilized in the near term where that is one of the most critical needs.

So we are very happy to accept the amendment.

Mr. BAYH. Mr. President, I thank my colleagues for their tolerance, and I shall not continue my remarks. I might unsettle them.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I appreciate the efficiency of the Chair but I wanted to be a part of the amendment of the distinguished Senator from Indiana, since I was a cosponsor of his bill when it was introduced, and to lend my support to that direction and to enforce his position.

I congratulate the floor managers of the bill for making a wise decision to help the immediate future by helping the distilleries.

I do thank the Senator from Indiana.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. FORD. Yes, I yield.

Mr. BAYH. I think it is only fair that the Senator's name be added, because he joined in a letter to try to free up some of this distilling capacity.

Mr. FORD. I would be most pleased to have my name added.

Mr. BAYH. It is one of the things we can do in the short term to get liquid energy, and I congratulate the Senator from Louisiana, the Senator from Kentucky, and the Senator from Idaho.

Mr. FORD. Mr. President, I ask unanimous consent that my name be added to the amendment of the distinguished Senator from Indiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question now recurs on agreeing to the amendment of the Senator from West Virginia.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 761

(Purpose: To provide for a study of the effects of the production of synthetic fuels on health and environment)

Mr. METZENBAUM. Mr. President, I call up an amendment at the desk and ask for its immediate consideration.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside so that the Senator from Ohio can offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 761.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 147, insert the following between lines 12 and 13:

SUBTITLE L—STUDY

SEC. 196. (a) The Secretary of Energy shall conduct a comprehensive and ongoing study of the effects on the environment and on health related to the production and use of synthetic fuels.

(b) There are authorized to be appropriated to carry out the purposes of this section a minimum of $5,000,000 to remain available until expended.

Mr. METZENBAUM. Mr. President, I am proposing an amendment which would direct the Department of Energy to undertake research studies, simultaneously with synfuels development, to examine the impact of the production and use of synfuels on the environment and on health.

This amendment is not a statement of skepticism about the development of new technologies to deal with the energy problem in this country. Rather, this proposal is an attempt to avoid some of the unforeseen problems that new products and technologies have created in the past.

All this amendment would do is insure that the byproducts of synfuel production be assessed as to their impact on the workers involved with their production, on the Americans who use the product, and on the environment.

Tomorrow, the National Academy of Sciences will publish a report of their October Conference on Synfuels. This report will recommend that as pilot plants are built to develop and demonstrate new processes, we should at the same time carefully assess the impact of synfuels production. Such assessment, the report will suggest, should be an integral part of the synfuel development process. I think the recommendations of the prestigious academy will speak for themselves.

I urge your support on this proposal. For a mere $5 million of a $20 billion plan, we determine early on what, if any, effects synfuel production will have on the health and safety of all Americans.

I hope the floor managers of the bill will see fit to accept the amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, my only concern is this phrase "a minimum of." Would the Senator be willing to strike those three words "a minimum of" so that we know what the authorization is?

Mr. METZENBAUM. I accept the suggestion.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 147, insert the following between lines 12 and 13:

SUBTITLE L—STUDY

SEC. 196. (a) The Secretary of Energy shall conduct a comprehensive and ongoing study of the effects on the environment and on health related to the production and use of synthetic fuels.

(b) There are authorized to be appropriated to carry out the purposes of this section $5,000,000 to remain available until expended.

Mr. JOHNSTON. Mr. President, we are happy to accept this amendment to study the environmental and health effects of synfuels. We hope this first phase of the Synfuels Corporation will show that they do not have a great effect, but we will not know that until we try and until we study it. So I support this amendment.

Mr. METZENBAUM. I thank the Senator.

Mr. President, before acting upon it, I ask unanimous consent that the distinguished senior Senator from West Virginia (Mr. RANDOLPH), and the chairman of the Environment and Public Works Committee, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, we have no objection. I think we ought to know what the effects may be, and I think it is a constructive amendment. I am happy to agree with it.

Mr. METZENBAUM. I thank my friend from Idaho.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BAUCUS). The question now recurs on the amendment of the Senator from West Virginia.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia (Mr. ROBERT C. BYRD) temporarily be laid aside and that the Senator from Massachusetts (Mr. TSONGAS) be recognized to offer six amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 762

Mr. TSONGAS. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 762.

Mr. TSONGAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 341, line 7 add the following: "and $275,000,000 for the fiscal year ending September 30, 1983. In any year no more than $10,000,000 shall be available to carry out the provisions of section 810."

Mr. TSONGAS. Mr. President, the first amendment authorizes $275 million for fiscal year ending September 30, 1983. What happened in committee was that we agreed to level funding after 1982, and that figure was simply not put in the deliberations. So that is the same figure that is there for fiscal year 1982 and it would be continued at the same level through fiscal year 1983.

Mr. JOHNSTON. Mr. President, the Senator is correct. We accept the amendment.

Mr. McCLURE. Mr. President, the $275 million figure on the third year of authorization has our acceptance. We accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 762) was agreed to.

UP AMENDMENT NO. 763

Mr. TSONGAS. Mr. President, I call up my second amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 763.

On page 225, line 20, strike the words "and $450 million for fiscal year ending—"

The amendment is as follows:

On Page 225, line 20, strike the words "and $450,000,000 for the fiscal year ending September 30, 1985." and replace the number "$450,000,000" on lines 15, 16, 17, and 19 with "$800,000,000".

Add at the end of Sec. 415 the following: "In any year no more than $20,000,000 shall be available to carry out the purposes of Sec. 411."

Mr. TSONGAS. Mr. President, this amendment authorizes for 1980 through 1985—the authorization is raised from $450 million to $800 million and reflects the authorization for the conservation bank.

Mr. JOHNSTON. Mr. President, the Senator correctly states the amendment. It is acceptable.

Mr. McCLURE. Mr. President, I do want to confirm that this amendment has been reviewed on this side and it is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 763) was agreed to.

UP AMENDMENT NO. 764 (en bloc)

Mr. TSONGAS. Mr. President, I send to the desk the third and fourth amendment. I ask unanimous consent that these two amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments en bloc will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 764.

On page 213, strike lines 4 through 14 and insert in lieu thereof:

Section 405(a)—

The amendments en bloc are as follows:

On page 213, strike lines 4 through 14 and insert in lieu thereof:

"Sec. 405. (a) There is hereby created the Energy Conservation Bank (hereafter referred to as 'the Bank') which shall be in the Department of Housing and Urban Development and shall have the same corporate powers given the Government National Mortgage Association in section 309(a) of the National Housing Act. The Bank Shall have succession until September 30, 1984.

"(b) There is established in the Department of Housing and Urban Development the position of President, Solar and Conservation Banks, which shall be filled by the President with the advice and consent of the Senate and which shall be compensated at the rate now or hereafter prescribed for Executive Level V by Section 4316 of Title 5 United State Code. Subject to the direction of the Secretary of HUD and the consultation of the Advisory Board, the President, Solar and Conservation Banks shall as part of his duties, manage, and supervise the affairs of the Bank with the assistance of an Executive Vice President, Conservation Bank, appointed by him to carry out such functions, powers, and duties as he shall prescribe.

"(c) The General Accounting Office shall periodically audit the financial transactions of the Bank, and, for this purpose, shall have access to all of its books, records, and accounts.

"(d) The Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

"(e) No officer, attorney, agent, or employee of the Energy Conservation Bank may participate, directly or indirectly, in any manner in the deliberations upon, or the determination of, any matter affecting his personal interest, or the interests of any corporation, partnership, or association with which he is directly or indirectly associated.

"(f) Where deemed appropriate the administrative functions of the Conservation Bank shall be performed jointly with those of the Solar Bank.

"(g) The Secretary of Housing and Urban Development may permit the Bank to utilize the services of personnel within the Department of Housing and Urban Development, including the personnel of the Government National Mortgage Association, for the purpose of carrying out the provisions of this subtitle."

On page 330, strike lines 14 through 24, and on page 331, strike lines 1 through 20 and insert in lieu thereof:

"Sec. 804. (a) There is hereby created a Solar Energy Development Bank (hereafter referred to as the Solar Bank) which shall be in the Department of Housing and Urban Development and shall have the same corporate powers given the Government National Mortgage Association in section 309(a) of the National Housing Act. The Bank shall have succession until September 30, 1985.

"(b) There is established in the Department of Housing and Urban Development the position of President, Solar and Energy Conservation Banks, which shall be filled by the President with the advice and consent of the Senate and which shall be compensated at the rate now or hereafter prescribed for Executive Level V by Section 4316 of Title 5 of U.S.C. Subject to the direction of the Secretary of HUD and in consultation with the Advisory Board, the President, Solar Energy Conservation Banks shall, as part of his duties, manage and supervise the affairs of the Solar Bank with the assistance of an Executive Vice President, Solar Bank, appointed by him to carry out such functions, powers and duties as he shall prescribe.

"(c) The General Accounting Office shall periodically audit the financial transactions of the Solar Bank, and, for this purpose, shall have access to all of its books, records, and accounts.

"(d) The Solar Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

"(e) No officer, attorney, agent, or employee of the Solar Bank may participate, directly or indirectly, in any manner in the deliberations upon, or the determination of, any matter affecting his personal interest, or the interests of any corporation, partnership, or association with which he is directly or indirectly associated.

"(f) Where deemed appropriate the administrative functions of the Solar Bank shall be performed jointly with those of the Conservation Bank.

"(g) The Secretary of Housing and Urban Development may permit the Solar Bank to utilize the services of personnel within the Department of Housing and Urban Development, including the personnel of the Government National Mortgage Association, for the purpose of carrying out the provisions of this title.".

Mr. TSONGAS. Mr. President, in consideration of the Solar Bank and Conservation Bank, there was some concern expressed by the floor manager and others as to the structure. These two amendments reflect a series of negotiations with the floor manager and the ranking minority member. The solar and conservation banks are united under one president. The solar and conservation banks shall have high visibility in HUD and there is a chance to streamline what may otherwise have been an awkward administrative setup. In this way, they are both under the same structure with similar chains of command and, therefore, we think will be more efficient.

Mr. JOHNSTON. Mr. President, the Senator correctly states the amendment. We concur in it.

Mr. McCLURE. Mr. President, we have no objection to the amendments and concur in the amendments considered en bloc.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments.

The amendments, en bloc (UP No. 764) were agreed to.

UP AMENDMENT NO. 765

Mr. TSONGAS. Mr. President, I send a fifth amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 765.

On page 332 add section 805(c)—

The amendment is as follows:

On page 332 add sec. 805(c) that with respect to any expenditures for which a loan under this title is sought, the sum of the subsidy paid by the Solar Bank to the financial institution, appropriately discounted over the life of the loan, and the amount of any solar tax credits claimed by the applicant for such expenditures, pursuant to section 101 of Public Law 95-618, does not exceed 50 percentum of the amount of such expenditures. In the case of passive solar systems, which might involve performance based subsidies, the Secretary is authorized to promulgate regulations which provide comparable subsidies.

Mr. TSONGAS. Mr. President, this amendment and the one that will follow referred to the concerns expressed by the Senator from Louisiana that on the solar loan program that there is not some kind of a cap. So we agreed there would be two amendments, one which places the cap of income at $50,000 after the second year of the program and the second amendment says that the subsidy cap is to equal 50 percent of the total expenditure. So the loan program and tax credits, whatever, would add up to a maximum of 50 percent. I think this is a reasonable amendment. I thank the chairman for his time and consideration.

Mr. JOHNSTON. Mr. President, this whole series of amendments reflects an

agreement between both the minority and majority floor managers of the bill and Senator TSONGAS and Senator DURKIN. I think they make a better solar bank bill.

First of all, they do put that income test on the solar bank loans. In the committee bill, there was no income test, so it was literally possible for a millionaire to get an 82-percent subsidy on a solar installation, which was not appropriate, in my view. So what we have done is put an income test, but after the second year.

The Senator from Massachusetts has a point that we need to get the solar industry started. So this will give them a chance to get started for 2 years, with the more wealthy people being able to come in and sort of break the ice and get the industry started, but thereafter the income test will be at $50,000 a year indexed, which I think is an appropriate level.

Then we do have now a subsidy cap so that all subsidies, tax credits, loans, grants, whatever, they will all be limited to 50 percent of the total expenditures.

We will have some work to do in the conference committee to provide for some of the details of the matter as to which Federal agency has responsibility for overseeing the whole matter.

We have here a package which strengthens the solar conservation bank, elevates its status, increases somewhat its funding, and, in amendments to be offered, provides for a workable discount rate on the solar installations on Federal buildings, and other definitions which make, I think, a good package to strengthen the solar bank concept.

So, Mr. President, I would concur with the amendment.

Mr. TSONGAS. If I may, I would like to explain to the Senator from Idaho that the way the bill is written now there are no caps at all, which is my preferred position. I can understand the position of the Senator from Idaho and the Senator from Louisiana.

This is an attempt to put on caps.

Mr. McCLURE. Mr. President, I want to make clear that we have cleared the amendment on this side of the aisle, but the Senator from Idaho has reservations concerning the income cap or the income test being applied here. The majority of the Members on my side of the aisle supported the idea of an income test in the committee deliberations. The Senator from Idaho did not. I agreed at that time with my colleagues who were arguing that it should not be put on. I am not sure in my mind that this is a step forward.

I think the subsidy cap that has been proposed is a good idea. It is administratively difficult to do under the language as submitted. I think the agreement is that we agree to that in concept and we will do what is necessary in redrafting, if that proves to be the case, as we take it to the conference. But we accept the concept of the subsidy cap.

Mr. President, with respect to the solar bank, if our objective is to get a lot of solar use in order to substitute for imported oil, we do not further that objective by putting artificial limits on the encouragement to use it. So the Senator from Idaho wants to clearly state that while on behalf of the minority as a whole he will accept it, the junior Senator from Idaho finds it objectionable.

Mr. TSONGAS. It is my understanding that the House does not have such a cap so it can be resolved in conference.

Mr. McCLURE. I appreciate that statement. I just wanted to make clear that, speaking for the minority, I speak for them with one voice but for myself with another.

Mr. RANDOLPH. Mr. President, who has privilege of the floor?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I take this occasion to commend the diligent Senator from Massachusetts (Mr. TSONGAS) for his efforts on the subject of solar experimentation and the potential for solar use in volume prior to what is thought to be possible. In the State of West Virginia, as in other States, we participate during the experimental stage and have many projects underway, under the set-aside of the Department of Energy. At the location of the National Fish Hatchery, which is 70 miles west of the Capitol, we have, for example, an installation.

I am a believer in solar energy. Certainly, I might be fairly accused and I accept the assertion that I am strongly woven into the subject matter of coal. I do believe, however, that so far as the alternatives to petroleum now being brought in from abroad at the price we have to pay and in the amounts we receive, that this legislation is properly oriented, overall, to an aggressive synthetic liquid fuels program. I would not want it to be understood because of my fight for this bill, with its emphasis on coal and oil shale, that I do not believe there are other alternatives. In fact, these alternatives will be moving into the energy picture in a few years, hopefully, to provide greater proof for the role for solar energy as a valuable asset in our effort to establish independence, energywise, for our country and our people.

Mr. TSONGAS. Mr. President, I thank the Senator from West Virginia (Mr. RANDOLPH) for his very kind remarks. I must say I feel better about coal all the time.

Mr. President, a parliamentary inquiry. There were two amendments. Are they both before the body?

The PRESIDING OFFICER. There is one amendment.

Mr. TSONGAS. Inasmuch as we have discussed both, I ask that they be considered as one amendment.

Mr. McCLURE. Let us identify the subject matter.

Mr. TSONGAS. The income limits and the subsidy.

Mr. McCLURE. The income test and the subsidy cap?

Mr. TSONGAS. That is correct.

Mr. McCLURE. We are combining those to be considered en bloc?

The PRESIDING OFFICER. The Chair will have to examine the amendments in order to answer that.

The Chair informs the Senator that the previous amendment deals with the solar bank and subsidy cap.

Mr. McCLURE. I wonder if the Chair would repeat that comment.

The PRESIDING OFFICER. It is the understanding of the Chair that the amendment presently under consideration deals with the solar base subsidy cap. The second amendment is the income test amendment.

Mr. McCLURE. And it is those two amendments on which it is asked that they be considered en bloc?

The PRESIDING OFFICER. That is correct.

Mr. McCLURE. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (No. UP 765) were agreed to.

Mr. TSONGAS. Mr. President, I move to reconsider the votes by which the six amendments were agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be laid aside temporarily so that Senator DURKIN may call up the last of the solar amendments. I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

The Senator from New Hampshire.

UP AMENDMENT NO. 766

Mr. TSONGAS. Mr. President, I will call up the amendment for Senator DURKIN and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN), for himself and Mr. TSONGAS, proposes an unprinted amendment numbered 766.

Mr. DURKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 606 is amended by deleting subsection (b) and inserting in lieu thereof:

(b) For the purposes of this section, a solar energy system shall be considered cost-effective if the simple sum of all capital and operating expenses associated with the system can be recovered over the expected life of the system or during a period of thirty years, whichever is shorter, using noninflating dollars, marginal fuel costs as determined by the Secretary, and a real discount rate of 3 per centum per year.

(c) For the purposes of this section, the marginal fuel cost shall be the equivalent of the cost of oil in international markets plus fees for international transportation, refining, and domestic delivery. In the case of natural gas, coal, and nuclear fuel, the marginal cost shall be the cost of the most expensive 10 per centum of fuel supplies in the region purchased or contracted for during the previous quarter. In the case of electricity, the marginal price shall be the least cost new supply which would have been charged by the utility in the service area

supplying the facility. Least cost new supply may, if appropriate, include externally purchased power and demand management. In the case where new capital is required the assumption shall be that the new capital plant and equipment in the service area is financed at the average cost of new capital available to the utility, that equipment is purchased at the prices expected for new plants ordered in the region, and that fuel used by the utility is purchased at the marginal prices described previously.

Subsections (c), (d), (e), (f), (g), (h), and (i) are amended to become subsections (d), (e), (f), (g), (h), (i), and (j)..

Mr. TSONGAS. Mr. President, one of the issues related to solar system was the issue of cost-effectiveness over the life of the facility. This amendment reads:

(b) For the purposes of this section, a solar energy system shall be considered cost-effective if the simple sum of all capital and operating expenses associated with the system can be recovered over the expected life of the system or during a period of thirty years, whichever is shorter, using noninflating dollars, marginal fuel costs as determined by the Secretary, and a real discount rate of 3 per centum per year.

(c) For the purposes of this section, the marginal fuel cost shall be the equivalent of the cost of oil in international markets plus fees for international transportation, refining, and domestic delivery. In the case of natural gas, coal, and nuclear fuel, the marginal cost shall be the cost of the most expensive 10 per centum of fuel supplies in the region purchased or contracted for during the previous quarter. In the case of electricity, the marginal price shall be the least cost new supply which would have been charged by the utility in the service area supplying the facility. Least cost new supply may, if appropriate, include externally purchased power and demand management. In the case where new capital is required the assumption shall be that the new capital plant and equipment in the service area is financed at the average cost of new capital available to the utility, that equipment is purchased at the prices expected for new plants ordered in the region, and that fuel used by the utility is purchased at the marginal prices described previously.

Mr. President, the language which has been worked out is simply to define what is meant by life cycle cost effectiveness.

Mr. JOHNSTON. Mr. President, this amendment establishes a life cycle cost at 3 percent real; that is, 3 percent over and above inflation. So that, in order to determine whether an insulation has energy efficiency, you would take the price of energy, the top 10 percent of your energy, project that out as to what that energy will cost over the life cycle of the insulation, and then decrease it by a factor which equals inflation plus 3 percent. That, I think, establishes a realistic yardstick for determining whether the insulation, solar insulation, is life cycle cost effective. I think it is better, probably, than the Secretary of Energy is now using. I understand he is now using 10 percent.

Mr. TSONGAS. That is correct.

Mr. JOHNSTON. This is much more realistic and we accept the amendment.

Mr. TSONGAS. Mr. President, I only add that one of the issues to be raised next year before the Banking Committee is the question of HUD using similar analyses in the instance of using solar equipment in its section 8 facilities and others. I hope that the officials of HUD will take a look at this language and consider it for their programs next year.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TSONGAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from West Virginia.

Mr. DOLE. Mr. President, I ask unanimous consent that that amendment be temporarily set aside and that we consider at this time the Dole amendment that was set aside earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 759

The modified amendment will be read.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) reproposes his unprinted amendment numbered 759, as modified.

Mr. DOLE. Mr. President, I send a modification of that amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment and the amendment is so modified.

The amendment, as modified further, is as follows:

On page 147 following line 12 insert the following:

Sec. . (a) Notwithstanding any other provision of law, including paragraphs (1) and (4) of Sec. 160(b) of EPCA, the President shall immediately resume the purchase of crude oil, by contract, for the Strategic Petroleum Reserve established in the Energy Policy and Conservation Act, no later than 4 months after the date of enactment of this Act, at a minimum average rate of 100,000 barrels per day per year, subject to the availability of adequate storage capacity.

(b) There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary.

(c) The Department of Energy is authorized to contract for construction of facilities needed to store the additional reserves.

Mr. DOLE. Mr. President, I ask unanimous consent that this amendment be temporarily set aside so the distinguished Senator from New York may bring up an amendment.

Mr. JAVITS. I ask unanimous consent for that purpose.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 767

(Purpose: To require a study of the impact on fuel economy of passenger cars and light duty trucks with regard to certain types of tires and oils)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 767.

Mr. JAVITS. I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

Sec. . (a) The Administrator of the Environmental Protection Agency in consultation with the Secretary of Energy and the Secretary of Transportation shall conduct a study with regard to the impact of (1) low rolling resistance tires, (2) slippery oils, and (3) underinflated tires, on the fuel economy of passenger cars and light duty trucks.

(b) The Administrator of the Environmental Protection Agency shall prepare a report on the results of the study required by subsection (a) and submit such report and recommendations to the Congress not later than six months after the date of enactment of this Act.

Mr. JAVITS. Mr. President, I am deeply concerned that we as a nation are not doing all we can to reduce automobile fuel consumption, which is the single largest contributor to our Nation's current and prospectively worsening energy shortage and dependence on foreign supplies.

My concern was heightened recently by a number of reports which indicated that substantial energy savings could be realized through implementation of measures designed to increase the fuel efficiency of the existing automobile fleet.

Attention in the Congress and within the administration has focused almost exclusively on reducing gasoline consumption by requiring automobile manufacturers to produce more fuel efficient cars. However, the fuel inefficiency of the existing fleet of cars has gone almost unnoticed. I am convinced that while reducing the energy consumption of new automobiles in the long term will assist our energy conservation effort, it will not in itself resolve our present energy crisis. However, if we are able to increase the fuel efficiency of the existing fleet, we can have a direct and immediate impact on fuel consumption.

The existing automobile fleet represents 90 percent of the passenger cars and light duty trucks on the road today. In addition, these cars and trucks consume approximately 5 million barrels of oil per day compared to 500,000 barrels of oil per day consumed by new cars. These figures demonstrate the need, to focus our attention on reducing the energy consumption of the existing fleet. In addition, we cannot claim to have a national comprehensive automobile fuel economy program, until the existing automobile fleet is incorporated into our conservation efforts.

This amendment is designed to be a first step toward including the existing fleet in our automobile fuel conservation effort. It would require the Environmental Protection Agency, in consultation with the Department of Energy and the Department of Transportation, to examine the impact on the fuel economy

of passenger cars and light duty trucks of: Low rolling resistance tires; slippery oils; underinflated tires.

These areas have been identified by researchers as offering the best method for reducing the gasoline consumption of the existing fleet.

Should EPA find that these three factors would make a substantial contribution to the reduction of fuel consumption, its report and recommendations could serve as a basis for legislative action. In addition, I hope that this amendment will focus attention on this most important issue within Congress and the administration.

Mr. President, as I have said, this amendment seeks a study by the Environmental Protection Agency, in consultation with the Department of Energy and the Department of Transportation, to examine what can be saved in fuel economy for passenger cars and light duty trucks if we go to low rolling resistance tires and slippery oils. These areas have been identified by researchers as offering the best method for reducing gasoline consumtion of the existing fleet. The estimate is that it could affect a reduction of 10 percent in the use of oil which is turned into gasoline, which would be 600,000 barrels a day by 1985.

Mr. President, the only reason I interrupted Senator DOLE and sent this amendment to the desk is, if it is found acceptable by the managers, fine. Otherwise, I shall pull it out because I do not believe an amendment of this kind should be contested.

The staff has had this amendment for a week, I say to Senator JOHNSTON, so perhaps they could advise the Senator and the other manager.

I yield to Senator BUMPERS.

Mr. BUMPERS. Mr. President, is the Senator asserting that a study such as this is not in existence now?

Mr. JAVITS. I have checked with the staff and I understand that no such research exists.

Mr. BUMPERS. I understand from the Department of Energy, especially with regard to the inflated tires, that they do have a study.

Mr. JAVITS. I have checked with my own researcher, who is sitting next to me. Apparently, this is an area that should be looked into and apparently has not been.

Mr. McCLURE. Mr. President, I think the study is useful and would provide some information that we ought to have. I commend the Senator from New York for offering the amendment, and I support the amendment.

Mr. JAVITS. I thank the Senator very much.

I ask the Senator from Louisiana if it is all right with him.

Mr. JOHNSTON. Mr. President, this is the amendment that directs the Secretary of EPA to study the effect on fuel economy of low rolling resistance tires?

Mr. JAVITS. Exactly.

Mr. JOHNSTON. Mr. President, it is a good amendment and we accept it.

Mr. JAVITS. I move the amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 759

Mr. DOLE. Mr. President, are we now back to the modified Dole amendment?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. Mr. President, the Senator from Kansas has heard what I consider to be real objections and reasonable objections to my original amendment. I have made a number of modifications. I have discussed these modifications with the distinguished Senator from New Jersey (Mr. BRADLEY). We believe that the amendment as modified does serve a purpose. We believe that we should continue purchases for the special petroleum reserve. We have now modified the amendment to read "no later than 4 months after the date of enactment of this act," so there would be some lead time.

We also suggest that, because the distinguished Senator from Louisiana objected to the 100,000 barrels per day because of the availability of storage, we have added the provision "subject to the availability of adequate storage capacity." We have removed controversial section (b) and then this last section, which was also objected to.

It seems to the Senator from Kansas, and I hope my distinguished cosponsor will agree, that we have made about all the modifications we can. I am prepared to have an up or down vote on the amendment in its present form.

I yield to my distinguished colleague from New Jersey.

Mr. BRADLEY. Mr. President, I think the modifications that have been made should meet the objections that were voiced in the Chamber by the distinguished manager of the bill.

We have made the purchase of 100,000 barrels a day subject to adequate storage capacity.

I know that over the years there has been a continuing debate on where that capacity should be, how dispersed it should be, in what form it should be. I think they are legitimate questions that should be raised.

I think probably in the next year or so they will be raised again and storage capacity will be increased because the difficulty will be broadened. But, again, it being subject to the availability of adequate storage.

I think the other changes that have been made in conjunction with the Senator from Kansas, are adequate to meet my purposes. I am prepared to have an up or down vote on this issue.

Mr. DOLE. Mr. President, I appreciate the comments of the Senator from New Jersey.

I emphasize that we do provide to resume the purchase of crude oil by contract. If made today, for delivery at some later time, we could take up some storage and cut problems on delivery a year from now.

I am prepared to vote up or down.

Mr. BRADLEY. Will the Senator yield?

Mr. DOLE. Yes.

Mr. BRADLEY. The Senator has just made an important point. That is, that we at least begin to purchase by contract, perhaps not delivered for a while. But I think as we are not purchasing, we are sending a message to the suppliers of our oil, to the insecure suppliers of our oil.

I think by having the Congress state affirmatively that we are going to begin purchases again, that we will be telling them we will no longer be so vulnerable as we are tonight.

Mr. DOLE. I thank my colleague.

I am prepared to hear from the managers on the modified amendment, if it is acceptable. If not, I am prepared to ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the formula of this amendment rearranges the words, but it still is subject to the same disability that we had previously. That is, it is a mandatory matter.

It does, of course, make it subject to availability of adequate storage. But it, nevertheless, mandates that filling proceed at a minimum average daily rate of 100,000 barrels per day per year.

So, Mr. President, as much as I concur with the desire of the Senator from Kansas to see this program continued, and certainly will work with him on another bill, or maybe on another amendment, I would hope he would not press this amendment at this point.

Mr. DOLE. Let me say to my friend, the Senator specifically mentioned four problems with the amendment on strategic building of reserves.

One was, technically, with subparagraph (b), so I took it out.

One was the inflexibility of the reserve purchases. So Senator Bradley and I stated that purchases would begin 4 months after enactment. So that is some flexibility.

The third objection was storage capacity may eventually conflict with our daily goal of 100,000 barrels a day. So we added "subject to the availability of adequate storage capacity."

The fourth objection was that the paragraphs originally set forth for repeal were necessary, so we retained those, but with the thought in mind the minimum fill rate is the primary objective.

So I only say that we have attempted in every respect to make reasonable adjustments in the amendment.

Mr. JOHNSTON. Will the Senator yield?

Mr. DOLE. Yes.

Mr. JOHNSTON. The Senator stated the last matter respecting paragraphs 1 and 4 of that section. Actually, that has been rearranged and put up in section (a). So the effect is precisely the same.

Mr. DOLE. With that totally removed, we have the same—well, some would call it a loophole.

But it seems to me it is a matter that deserves our attention. Certainly, not today, but maybe 2 weeks ago. We would just like to follow on it.

I do not want to take the time of the

Senate, I can understand there may be very logical objection, but we would like the Senate to express its will and I ask for the yeas and nays.

Mr. JOHNSTON. If the Senator will withhold that, I will move to table and get the yeas and nays on that.

Mr. DOLE. Yes.

Mr. JOHNSTON. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Kansas. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators who wish to vote?

The result was announced—yeas 36, nays 53, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—36

Bellmon	Huddleston	Nelson
Boschwitz	Humphrey	Nunn
Burdick	Jackson	Randolph
Byrd, Harry F., Jr.	Johnston	Riegle
Chiles	Leahy	Stafford
Church	Long	Stennis
Cranston	Magnuson	Stevenson
Culver	Mathias	Stone
Eagleton	McClure	Tsongas
Glenn	Metzenbaum	Wallop
Hart	Morgan	Warner
Hollings	Moynihan	
	Muskie	

NAYS—53

Armstrong	Garn	Packwood
Baucus	Gravel	Pell
Bayh	Hatch	Proxmire
Bentsen	Hatfield	Pryor
Biden	Hayakawa	Roth
Bradley	Heflin	Sarbanes
Bumpers	Heinz	Schmitt
Byrd, Robert C.	Helms	Schweiker
Chafee	Inouye	Simpson
Cochran	Javits	Stevens
Cohen	Jepsen	Stewart
Danforth	Kassebaum	Talmadge
Dole	Laxalt	Tower
Domenici	Levin	Weicker
Durenberger	Lugar	Williams
Durkin	Matsunaga	Young
Exon	McGovern	Zorinsky
Ford	Melcher	

NOT VOTING—11

Baker	Goldwater	Ribicoff
Biden	Kennedy	Sasser
Cannon	Percy	Thurmond
DeConcini	Pressler	

So the motion to table was rejected.

Mr. JOHNSTON. Mr. President, I moved to table this amendment because this amendment is a very inflexible means of requiring the President to fill the strategic petroleum reserve at a minimum average rate of 100,000 barrels a day, notwithstanding embargoes, prices, and an overwhelming need on behalf of the American people.

We could have lines at the gas pump, and this amendment requires by statute with no discretion that the President proceed to put oil in the strategic petroleum reserve at the rate of 100,000 barrels per day minimum average rate.

Second, it repeals that protection in the Energy Policy and Conservation Act of 1975 which requires the President to seek the best price. In other words to acquire the oil at a time when the market is in a suitable condition to buy the oil.

What we have here is a requirement that the President might have to go out at spot market prices, and the highest spot price I have heard of recently is $48, and acquire oil for that petroleum reserve.

Mr. President, I support the strategic petroleum reserve as strongly as anyone in this body, but to require under these inflexible conditions the President to proceed, notwithstanding anything else, to fill up that reserve I think is wrong.

Nevertheless, the Senate has spoken, and I will not ask for a rollcall on acceptance of the amendment. I think the Senator understands that the House of Representatives will have a chance to look at this in conference committee. If there is a way we could make this amendment less inflexible so it does not require by statute that we shoot ourselves in the foot, I would be delighted to go along with it, and I have told the Senator from Kansas that.

But in any event for the time being the Senate has spoken and I will not further object.

Mr. METZENBAUM. Mr. President, will the Senator from Kansas yield for a question?

Mr. DOLE. Yes.

Mr. METZENBAUM. Does the Senator from Kansas feel any cause for concern that if we accept this amendment, in view of the Saudis representations to us that they would cut back their production if we continue to go forward with the strategic petroleum reserves, it might do more harm than good and might actually cause the Saudis to cut back their production? Is the Senator not concerned about that?

Mr. DOLE. Mr. President, the Senator from Kansas is concerned about a lot of things around the world, including the Saudis and what is happening in Iran.

We can buy, if we wish, from Elk Hills, from some domestic source. The same threat was made to President Ford, but he kept buying these reserves, to his credit, and had we continued that practice, we would have about 300 million barrels in reserve now instead of 92 million barrels, enough for only 12 days.

But we modified the amendment in four different ways because we believed some of the objections raised by the distinguished floor manager, Senator JOHNSTON, should have been raised, but we believe now we have satisfied and we have made it flexible. We say that no later than 4 months we make it available subject to the availability of storage. We have taken out a couple of sections that were objected to.

I believe as the Senator from New Jersey believes, and I want him to respond to this question the Senator raised because it is a good question. We can talk about price, and we can talk about supply, but, in fact, if there is an interruption what are we going to do in this country? We talk about the cost today of $40 a barrel or $30 a barrel, or $26 a barrel. But, in fact, if there is an interruption we have 12-days supply. It seems to me that this is the right way to go. I am not threatening anyone. The Senator from Kansas wishes to be realistic, and I believe this is a realistic amendment.

I yield if the Senator from Ohio will yield to the Senator from New Jersey.

Mr. METZENBAUM. I am glad to yield the Senator from New Jersey.

Mr. BRADLEY. Mr. President, in response to the question of the Senator from Ohio about the Saudis, I do not think that the energy security policy of this country should be determined in another country. I think, in fact, that is what this amendment is directed toward. As of tonight we are dependent for about 600,000 barrels of oil per day on Iran. What if that is cut off tomorrow?

We only have 94 million barrels in storage, which is 13 days' supply. Sooner or later we are going to have to address the question of energy security because 25 percent of our oil comes from insecure Persian Gulf sources.

We talk about the Energy Security Corporation, synfuel, solar, whatever. That does not protect us with the supply cut off. If your worry is higher prices, what would the prices be if Iran was cut off again, with the 600,000 barrels a day? What would be the prices if the Persian Gulf area lost production of 3.3 million barrels per day and we had no strategic petroleum reserve? In my opinion—and it is only one Senator's opinion—we have gone too long since last November for any purchases for the strategic petroleum reserve. This would be a small effort to show the world that we have begun to develop an energy security policy.

Mr. METZENBAUM. Mr. President, will the Senator from New Jersey yield? Would the Senator care to relate to the Senator from Ohio how many barrels of oil per day we import from Saudi Arabia?

Mr. BRADLEY. Our level of import from Persian Gulf States, including Iran, Saudi Arabia, Kuwait, Iraq, comes to a total of about 3.3 million to 3.8 million barrels a day.

Mr. METZENBAUM. I specifically addressed myself to Saudi Arabia's oil

minister, Sheikh Yamani who made it very clear that if we continue to build up this strategic petroleum reserve they may not continue with their oil exports at the same rate to our country. There is not much question since they have increased their production level by about a million barrels per day that the Saudis have been a stabilizing force with respect to price, and what concerns me is that the proposal of the Senator from New Jersey and the Senator from Kansas is very attractive.

We have to build up our own strategic petroleum reserve, and I could not agree more with that. But we also have to be pragmatic in the world in which we live, and our major supplier of oil from an import standpoint is Saudi Arabia, and Saudi Arabia has accommodated this Nation with respect to increasing its production and Saudi Arabia has continued to maintain a price level lower than the rest of the OPEC nations.

What I am concerned about is whether this action of the Senate flies in the face of friendly advice and concern expressed by a nation with which we have a good working relationship vis-a-vis the subject of oil imports, and whether it does more harm than good. I wonder whether or not the timing of the Senate action fails to serve our Nation's interests.

Mr. BRADLEY. In response, I say to the Senator, I, too, had a meeting with the oil minister, and he felt our OECD allies would not want that, want that we build petroleum reserves, and I can understand why he would say that, because if we build a strategic petroleum reserve that will mean there will be a somewhat greater pressure on Saudi Arabia to increase production for world consumption.

I think there should be a line drawn somewhere. I mean the thrust of our energy security policy should be diversification of our suppliers of oil and not increasing dependence to the point where one supplier is controlling the foreign policy of this country.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I will say, in response to the distinguished Senator from Louisiana's comments to the Senator from Kansas, that the Senator from Kansas did make a statement earlier, and will not repeat that now. I believe with the modifications made by the Senator from Kansas and the Senator from New Jersey we have tried to answer those objections we felt should have been addressed, and I hope further flexibility can be accommodated in the conference.

We have appropriated money now for 248 million barrels of SPR oil. That money is already appropriated. I know what has happened in the Budget Committee and the Appropriations Committee, but it is my understanding there is money now—maybe not quite that now because of the increase in cost—but I hope, in the spirit suggested by the Senator from Louisiana, if there is more flexibility needed, we can work it out in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from West Virginia.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside and that the Senator from Virginia be permitted to offer an amendment.

Mr. MUSKIE. Mr. President, was I not recognized? I tried to get recognition before final action on the Dole amendment. It may have serious budget implications which I thought needed to be discussed. As I was hearing the figures it was apparent that the Senate was moving toward a vote, and I just want to find out what the parliamentary situation is on the Dole amendment.

Mr. McCLURE. The Dole amendment has been agreed to.

The PRESIDING OFFICER. The Dole amendment has been agreed to.

Mr. MUSKIE. I am sorry to hear that. I came off the floor just momentarily. This may be a real budget buster that we just approved, and I merely want to inquire.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes, I yield.

Mr McCLURE. Mr. President, I wonder if the Senator from Maine might be accommodated by setting aside the action by which the Senate adopted the Dole amendment in order to permit this discussion to take place prior to the consideration of the vote. Would the Senator from Kansas object to that?

Mr. DOLE. I do not think the Senator from Kansas objects because I know the Senator from Maine is going to make a point that is probably worth listening to. But I only say before that that we discussed with the distinguished floor manager, who had agreed after the motion to table failed, that he would not ask for the yeas and nays.

Mr. MUSKIE. I understand that, may I say to the Senator. I simply should have been on the floor. I understand that, too.

Mr. DOLE. I am willing to vacate the action. I have been here long enough to respect my colleagues. and I am very pleased to set aside the action taken and let the Senator from Maine proceed without any prejudice.

Mr. McCLURE. Mr. President, I ask unanimous consent that the action of the Senate in adopting the Dole amendment and having tabled the motion to reconsider to set aside, and that the Dole amendment therefore be the pending business before the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MUSKIE. Mr. President, may I have Mr. McCLURE's attention? May I have a quorum call for just a couple minutes so that I can get my facts straight? Mr. President, I suggest the absence of a quorum.

Mr. DOLE. Mr. President, will the Senator from Maine permit us to set aside the amendment and then move on to another. I ask unanimous consent that we temporarily set aside the embattled Dole-Bradley amendment and move on to something else.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair understands that this would also require setting aside the amendment of the Senator from West Virginia.

Mr. McCLURE. Mr. President, I ask unanimous consent that that be done, temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Virginia is recognized.

AMENDMENT NO. 575

(Purpose: To amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87) to provide an extension of time for the submission and approval of State programs or the implementation of a Federal program, to clarify the contents of a State program, to provide for increased cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and for other purposes)

Mr. WARNER. Mr. President, I send to the desk my printed amendment No. 575.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposes an amendment numbered 575.

At the end of title I——

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I insert a new subtitle as follows:

SUBTITLE I—SURFACE COAL MINING OPERATIONS

SEC. 197. Sections 502(d), 503(a), and 504(a) of the Surface Mining Control and Reclamation Act of 1977 (hereafter referred to as "the Act") are amended as follows:

(a) in section 502(d) of the Act in the last sentence, strike the words "forty-two months" and substitute the words "fifty four months";

(b) in section 503(a) of the Act, strike the words "eighteenth-month" and substitute the words "thirtieth month";

(c) in section 504(a) of the Act, strike the words "thirty-four months" and substitute the words "forty-six months";

(d) in section 504(a)(1) of the Act, strike the words "eighteen-month" and substitute the words "thirtieth month".

SEC. 198. Sections 503(a)(7) and 701(25) of the Act are amended as follows:

(a) in section 503(a)(7) of the Act, strike the phrase "regulations issued by the Secretary pursuant to";

(b) in section 701(25) of the Act, strike the phrase "and regulations issued by the Secretary pursuant to this Act".

SEC. 199. Section 523(a) of the Act is amended by striking the words "and implement" in the first sentence thereof, and by adding at the end of the subsection a new sentence as follows: "Subject to the provision of section 523(c), implementation of a Fed-

eral lands program shall occur and coincide with the implementation of a State program pursuant to section 503 or a Federal program pursuant to section 504, as appropriate.".

SEC. 200. Section 502 of the Act is amended by adding a new subsection "(g)" as follows:

"(g) Notwithstanding any other provision of this section, each State shall, to the greatest extent possible, have principal responsibility for the inspection of mines during the period of time prior to the submittal of State plans for approval. Such responsibility shall remain with each State until such time as the Secretary disapproves the State plan. The Secretary shall furnish personnel assistance to the States in carrying out this responsibility upon request of the State regulatory agency.".

Mr. WARNER. Mr. President, I ask unanimous consent that the name of our distinguished colleague from West Virginia (Mr. ROBERT C. BYRD) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, on September 11, the Senate reinforced Congress original intent concerning the Surface Mining Control and Reclamation Act of 1977 when it overwhelmingly passed S. 1403, the Surface Mining Amendments of 1979.

One of the primary purposes of S. 1403 was to reiterate Congress conviction that the primary governmental responsibility for developing regulations for surface mining and reclamation operations subject to the Surface Mining Act should rest with the States.

Congress had concluded in 1977 that, due to basic geographic differences in the physical properties of land and in local environmental concerns, there could not be one Federal program which could be reasonably or prudently imposed upon the diverse coal producing States. Congress clear intention on this matter was codified within section 101(f) of Public Law 95-87, the Surface Mining Act.

However, experience under Public Law 95-87 has overwhelmingly shown that what Congress unquestionably intended by written law was not being implemented in actual practice.

Extensive oversight hearings held by Congress have indicated that the States are being forced to comply, not only with very strict requirements called for by the Surface Mining Act, but also with much more burdensome regulations written by the Office of Surface Mining. These Executive regulations, contrary to the intent of Congress, did not take into consideration the individual States widely differing characteristics.

This basic inconsistency with the law, coupled with an unfortunate delay in the implementation of the act, created uncertainty among the States in formulating their individual reclamation plans—and was, indeed, one of the major reasons for a delay in this Nation's coal production program.

Accordingly—in an effort to clear up this problem and unfetter the Nation's ability to produce enough coal for meeting current and future energy needs under proposed energy programs—the Senate considered and passed S. 1403.

The vote on S. 1403 was 69 to 26. It was bipartisan and nonideological. The Senate's message to the House was clear: This legislation was vital and necessary to the Nation's energy program, and prompt action was required.

In the House, S. 1403 was referred to the House Interior Committee, chaired by Congressman MORRIS UDALL, of Arizona.

Chairman UDALL, upon receipt of S. 1403, indicated that he would not allow his committee to consider it.

In response to Mr. UDALL's stated intentions, 25 members of the Interior Committee, spanning both sides of the aisle, wrote him a letter requesting committee action on the amendment.

The committee members letter, dated September 30, stated:

S. 1403 is of great concern to all of us as it very much affects the welfare of our districts and the energy independence of our country. In recent weeks considerable interest has been shown regarding much needed amendments to the Surface Mining and Reclamation Act. As you recall, the Senate and House held oversight hearings and at both hearings most of the testimony pointed to the problems with the current mining regulations and the great need for legislation to correct them.

Congressman UDALL, in written correspondence, indicated that he could not support any attempt to take action on S. 1403.

Thereupon, a majority of the House Interior Committee, acting under committee rules which had been previously approved by Chairman UDALL, attempted to discharge its Subcommittee on Energy and Environment from further consideration of this legislation, and thus bring the bill before the full committee for prompt action.

The chairman, however, vitiated the committee procedures, to which he had earlier agreed and which would have allowed for the committee to discharge this bill. By his actions, the chairman made it abundantly clear that his personal preferences would prevail over the will of the majority of his committee, as well as the overwhelming will of the U.S. Senate. As a result, S. 1403, still is bottled up in committee in the House.

But, Mr. President, the circumstances which existed on September 11, and which called for the passage of S. 1403, still exist today. This measure is of such importance to the Nation and to the mining community that I feel it is only appropriate for Congress to take unusual steps, if necessary, to secure enactment of this bill.

Consequently, I am introducing as an amendment to S. 932 the provisions passed by the Senate as S. 1403.

The provisions of my amendment, which would be contained in a new subtitle entitled "Surface Mining Operations," have already been debated extensively and agreed to by the Senate. The purposes of my amendment are fourfold:

First. To extend the deadlines for submission and approval of State programs by 12 months;

Second. To delay implementation of a Federal lands regulatory program from October 23, 1979 until State programs are implemented in mid-1980 or early 1981;

Third. To eliminate the requirement that State regulations be identical to those of OSM—thus allowing the States to tailor their regulations to take into account the special needs and unique features of each State, so long as those regulations conform to the strict standards of the act;

Fourth. Until a State plan has been approved or disapproved, to reserve to the State regulatory agency the responsibility for controlling reclamation problems.

These purposes were embodied in S. 1403.

It is not the purpose nor the intention of this Senator—nor has it been the intention of the Senate—to overturn the existing Federal law controlling surface mining. On the contrary, as was stated on September 11, my present amendment, which was then being considered as S. 1402, reinforces the requirement that States must comply with the very stringent standards and procedures of the Surface Mining Control and Reclamation Act of 1977.

While my amendment would give the States the lead in implementing and enforcing the Surface Mining Control Act, the Federal Government would continue to exercise its secondary oversight responsibilities as set forth under the act.

Arguments have been mounted against S. 1403, that the bill would somehow subvert the intent of Congress to protect this Nation's environment when dealing with surface mining lands.

Mr. President, this is simply not the case. This Senator, and the Senate, are very concerned that the environmental requirements set forth in the law are observed and honored to the letter.

My amendment and S. 1403 merely reassert the clear intent of Public Law 95-87—that each State must be allowed to take into consideration its own individual characteristics in formulating its own individual plan. However, this State plan must comply with those environmental requirements hammered out in the Surface Mining Act of 1977.

Mr. President, I reject the implication that State officials, either in the formulation of the State plan or in its implementation, would not abide by the strict Federal environmental law requirements set forth in the act.

I firmly believe that State reclamation officials are as concerned about our environment as are Federal reclamation officials.

Moreover, State officials must live in the very environment which they are regulating. As a result, they may be expected to be, if anything, even more concerned that Federal environmental standards are met than would the more remote Federal bureaucrats in Washington, D.C., who are less directly affected by the regulations that they write.

In addition, of course, the Federal Government, in exercising its oversight authority under the act, has the clear responsibility to assure that Federal environmental standards are adhered to by the States.

Mr. President, today we are considering a synthetic fuel bill which will call for the use of coal or coal byproducts as the primary source of feed stock. Any amendment which will help to facilitate the increased production of coal in compliance with the environmental laws of this country is surely in the best interest of this program and the Nation.

In the hearings and meetings that I have attended and held in the Senate and in my own State of Virginia, respectively, I have heard many stories of overregulation by Federal reclamation officials—actions which have increased the cost of coal, decreased the production of coal, and forced the layoff of thousands of coalfield workers.

My State of Virginia currently has some 2,000 miners out of work in its coalfields—roughly 10 percent of Virginia's coalfield work force. The distinguished majority leader's home State of West Virginia has some 9,000 workers currently unemployed in its coalfields. Other coal-producing States are similarly affected.

I find it incredible, Mr. President, that at this very moment—as this body is debating synfuels legislation, as our President is calling for increased coal production, as we are facing massive unemployment in the coalfields—at this very moment, our Nation is importing foreign coal and foreign coke/coal to be utilized by our domestic utilities and industries because it is so inexpensive.

However, one of the major reasons that our Nation's domestically-produced coal is more expensive than the foreign product is because of the multiplicity of our own governmental regulations. My amendment—which, I repeat, would not harm the environment, and would merely allow the States to implement their own plans according to their own individual circumstances—would help to do away with unnecessary regulation. Thus, it would help to lower the price of our domestic coal, making it more competitive in today's markets, and in turn increase employment in our Nation's coalfields.

I ask unanimous consent that there be inserted in the RECORD, at the conclusion of these remarks, an article which appeared in the Bluefield, W. Va. Daily Telegraph dated October 26, 1979. It points out that complying with Federal regulations will cost one major coal company $1.7 billion over the next 11 years.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. WARNER. This is an enormous price to pay—particularly when, as it appears, it is not really necessary to expend such sums in order to comply with the basic intent of Federal environmental laws.

Mr. President, I would note that, on October 3, 1979, subsequent to Senate passage of S. 1403, the Southern Governors Association unanimously passed a resolution on "National Coal Policy," endorsing the proposals embodied in S. 1403. I ask unanimous consent that the text of this resolution be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 2.)

Mr. President, I believe that I have shown that my amendment will not harm the environment, will offer the States the flexibility to produce coal according to their individual conditions in keeping with the intent of Congress, will help provide the increased feed stocks necessary for a synfuels program such as we are considering today, will reduce coalfield unemployment, and will promote a stronger, healthier coal industry in the United States.

For these reasons, I invite my colleagues to join with me in reiterating the Senate's continued and overwhelming support for this needed legislation.

Now, Mr. President, as an act of courtesy, I yield to the distinguished Senator from Ohio (Mr. METZENBAUM), who has asked that I yield to him before I proceed further.

EXHIBIT 1

GUESS WHO WILL PAY?

Consolidation Coal Co. has spent a lot of time and money on a study designed to demonstrate that the federal Office of Surface Mining has developed a nightmarishly complicated regulatory program which is going to cost all of us dearly. The study clearly demonstrates exactly that.

The Consol study involved thousands of man-hours of analysis of just 21 of the hundreds of regulations developed by OSM. The conclusion backed by a raft of statistics, is that these 21 regulations over the next 11 years (1980 through 1990) will add an astonishing $2.7 billion to the cost of coal produced by Consol under the regulations. That additional money will be paid not by Consol in the long run, of course, but by the consumers of the coal Consol produces, assuming they can afford to buy coal at the price it will be necessary to charge for it.

The study also demonstrated, to the satisfaction of the scientists and technicians, at least, that every objective of the federal surface mining law could be achieved at a cost to Consol of just $1 billion over the same period, by using standard "good engineering practices." The difference between the two figures, $1.7 billion, is created by the manner in which OSM propounded rigid, inflexible regulations to carry out the law. Consol maintains that the study proves that this $1.7 billion expenditure is "unnecessary, unjustified and inflationary."

The figures Consol cites, applying only to its own operations, are horrifying enough. We are then led to consider, since Consol produces only 8 percent of the nation's coal output, what the OCM regulatory burden will add to the U.S. coal industry as a whole.

The Consol study takes that into account. It says the industry-wide cost of complying with the same 21 OSM regulations over the next 11 years will be $34.8 billion, of which at least $22.1 billion is totally unnecessary to comply with the requirements of Congress, but will have to be spent to satisfy the demands of the OSM regulation-makers.

All of us should understand that this really is more important to the rest of us than it is to Consol, which, as the energy crunch steadily worsens in coming years, will be able to sell its coal at any price. Those of us who consume coal-produced energy, meaning practically all of us, are going to be the ones who will have to fork over the unnecessary $22 billion, and probably a good bit more, to satisfy the OSM regulators. It is going to be an unavoidable part of the cost of mining coal.

What is even more galling is that we also are going to have to continue to pay the additional millions and billions necessary to keep thousands of federal regulators in business, busily enforcing old regulations and inventing new ones which will cost us still more. This is just one of the vicious circles created by the increasing federal presence in every area of the nation's life.

Consol is asking both Congress and President Carter to consider its study and correct the problem before too many more billions of coal dollars are wasted. We doubt that the company is very optimistic about the outcome of its plea, but it is to be commended for making the effort, at least.

EXHIBIT 2

NATIONAL COAL POLICY

Whereas, the nation's coal industry today suffers from massive unemployment and underutilized production capabilities of well over one hundred million tons; and

Whereas, since the 1973 oil embargo coal consumption has increased at a rate of only two percent per year while oil imports have increased almost eight percent per year; and

Whereas, electric utilities and large industrial users of oil and natural gas have not been able to convert to coal because of unduly restrictive federal regulatory policies; and

Whereas, the cost of producing coal is unnecessarily increased by wholly unnecessary and inflexible surface mining regulations; and

Whereas, the states, in order to permit conversions to coal in the public interest and in order to reduce the cost of production of coal, believe that the present inflexibility in administering both the Federal Surface Mining Act and the Federal Clean Air Act must be altered in order to permit the states the flexibility to achieve these mandated statutory goals by more flexible state regulation; and

Whereas, the goals can be achieved without environmental degradation because the Clean Air Act Amendments will maintain federally mandated health standards and the Surface Mining Act Amendments will require that the Federal Surface Mining Act be fully implemented in accordance with the statute.

Now, therefore, be it resolved that the Southern Governors in convention assembled support and endorse bills designed to amend the Clean Air Act to permit greater flexibility in enforcing the state implementation plans; and also endorse and support the legislation which will permit the states greater flexibility in implementing the Federal Surface Mining Act; we also urge the President and his Administration to support the enactment of such bills.

Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, Virgin Islands, West Virginia.

Mr. METZENBAUM. Mr. President, I know that the Senator from Virginia has prepared to offer and has offered this amendment having to do with vitiating the impact of the strip mining laws that were passed by the last Congress, in the previous session. I know that the Senator from Virginia feels very strongly with respect to the merits of making that change, along the lines of an amendment heretofore considered by the Senate and passed by the Senate.

I have indicated to the Senator from Virginia that I believe this is not the right place to add this amendment, that I think it is the wrong bill to add it to, that I think that the issue of strip mining is a subject that Senators did not fully appreciate and consider when they first acted on this legislation, and I further indicated to my good friend from Virginia that I am prepared to spend an extended period of time discussing and explaining the negative aspects of this proposed amendment. As a matter of fact, I have on my desk here a considerable amount of material that I had

hoped to make available to Members of the Senate, in order to edify them concerning the issues.

I now yield to my friend from Virginia.

Mr. WARNER. I thank the distinguished Senator from Ohio.

Mr. President, I take issue with the statement that this is not the right place for this particular piece of legislation. It is legislation that has previously been before the Senate and fully debated, and the Senate has, I might say, almost overwhelmingly, by a 69 to 26 vote, adopted it not more than a few weeks ago. The Senate has fully considered it, and has expressed its will; but our distinguished colleague from Ohio has made it clear that he is prepared tonight to initiate a filibuster.

Therefore, after consultation with my colleagues and the managers of the legislation on the floor, I have decided, together with my cosponsor, the Senator from West Virginia (Mr. ROBERT C. BYRD), to withdraw this amendment.

However, in so doing, I wish to advise the Senator from Ohio that I accept his challenge. At a future date, filibuster or no filibuster, to pursue this matter and to let the Senate exercise its will. This is a matter which, in our judgment, unfairly handicaps many miners across the country, particularly the Eastern part of the United States, who will be or are losing their jobs at the very time that the United States needs the coal which their hands are ready and willing to produce.

I assure my colleagues that my cosponsor, Senator ROBERT C. BYRD, and I will soon select another piece of legislation to which we will attach S. 1403, which is the legislation passed by this body not long ago, and that we will welcome the opportunity to meet the Senator from Ohio (Mr. METZENBAUM) head-on and let the Senate exercise its will.

Mr. METZENBAUM. Mr. President, I am very pleased to learn that the distinguished Senator from Virginia is going to take down his amendment. I understand his desire to bring it up at a later date.

I do want to say that, heaven forbid, I would never think of participating in a filibuster; but I did think that the Senate was entitled to learn all about the lack of merit of this proposed amendment, and thought it might take me more than a little while to explain it. But I certainly would not think of using a filibuster to resist the efforts of my friend from Virginia.

However, since he is taking it down, we will not quibble about the terminology.

Mr. WARNER. Well, Mr. President, in colloquy in the cloakroom it was made clear to me that it would require the Senator from Ohio and his distinguished colleagues the better part of tonight, well into tomorrow, and perhaps through Saturday in which to acquaint me with the merits of his position. In the light of that and the importance of this legislation, and in deference to my colleagues who have worked so hard to get this legislation to its present point, which I hope will result in its adoption later tonight, and my willingness to take this matter up at a very early opportunity henceforth, the merits being balanced, I feel that I should go ahead and withdraw this amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The question is on agreeing to the amendment (UP No. 759) of the Senator from Kansas.

The Senator from Kansas is recognized.

UP AMENDMENT NO. 759

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Maine, the chairman of the Budget Committee.

Mr. MUSKIE. Mr. President, I think that the problem which I feared might exist with respect to the Dole amendment is not a problem from the budget point of view.

I would simply like to say this for the record, so that the Senate may understand why I was interested in making the record on what I thought might be a budget problem. Both the Senate and House Budget Committees, after carefully looking into the SPRO program in our separate markups, concluded that the likelihood of making substantial progress on meeting the objectives of that program were pretty dim in fiscal year 1980.

So, without making any policy judgment, simply anticipating how much might be spent, given the progress or lack of progress in the program up to date, both committees reduced the amount allocated to this program below what had been the traditional levels.

As a matter of fact, both Houses called for a $1 billion rescission of the available $2.6 billion. And even assuming the $1 billion rescission, a rapid calculation of the cost of implementing the Dole amendment suggests that it would come within the $1.6 billion that is available. That being the case, it is not my prerogative, as Budget Committee chairman, to challenge the Senate's decision on the policy question that is involved. I simply wanted to be sure that we stayed within the budget constraints.

It seems to me that even if the administration has to turn to the spot market, there is enough flexibility in the Dole amendment to permit the administration to live within the amount allocated by the budget resolution.

I thank the distinguished Senator from Kansas for his patience in permitting me to get to the facts. I hope the facts are helpful to him and the other Members of the Senate.

Mr. DOLE. I thank the distinguished Senator from Maine. I would say that it is helpful to the Senate, and we do have an obligation in the Senate, certainly the Budget Committee has an obligation, to take a look at everything that is offered on this floor. So I think it improves the record. It indicates that there are no budget problems. And I think the Senator from New Jersey shares that view. We thank our colleague for raising the question.

Now, we can vote.

The PRESIDING OFFICER (Mr. METZENBAUM). The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 759) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from West Virginia.

Mr. JAVITS. Mr. President, I ask unanimous consent, if it is agreeable to the managers, that that amendment be temporarily laid aside so I may call up an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 768

(Purpose: To revise provisions relating to energy conservation improvements)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration, an amendment on behalf of myself and Senators MOYNIHAN, WILLIAMS, RIBICOFF, DURKIN, and MELCHER.

The PRESIDING OFFICER (Mr. METZENBAUM). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) for himself and Mr. MOYNIHAN, Mr. WILLIAMS, Mr. RIBICOFF, Mr. DURKIN, and Mr. MELCHER, proposes an unprinted amendment numbered 768.

Mr. JAVITS. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 220, between lines 2 and 3, insert the following:

(d) (1) The Bank may subsidize loans upon application by owners or lessees pursuant to cooperative agreements between such owners and one or more lessees to finance energy conservation measures in a residential building which agreements may include sharing of costs and benefits of such measures, between such owner and lessee.

(2) The Secretary may promulgate, for use by participating lending institutions, a model contract which provides for owners and lessees to enter into an agreement for the owner to share in the costs of conservation measures by either—

(1) reducing lessees' rent if the energy conserved is paid as an undesignated part of the rent; or

(2) reimbursing the lessees at a future time or when the lessees vacate the unit for the value of installed conservation measures.

Mr. JAVITS. Mr. President, this amendment goes with two other amendments, and I would like to ask unanimous consent—though I am not asking it at this minute, I will—that they be considered en bloc when I explain what I have in mind because it is a logical way to approach this and will save the Senate a lot of time.

Mr. President, I propose these three amendments only because they go to

different subsections of the same part of the bill. These subsections relate to subsidized loans and grants. The purpose of my amendments which, as I say, are individual amendments because they go to different sections of the same title of the bill, is to bring into the conservation programs of the bill multifamily dwellings over and above the minimum number which is specified in the bill for the purpose of conservation assistance. That is my purpose.

I believe the managers of the bill have copies of my amendment. My office tells me that many copies have been made available, but I apologize if the managers have not actually received them.

Mr. FORD. Will the Senator yield? I do not seem to have a copy.

Mr. JAVITS. We will have more made. This will probably be debated for a little while.

I might say to the managers when ever they are ready to look them over, if they will let me have the amendments considered en bloc——

Mr. McCLURE. Will the Senator reserve that request until we have had a chance to look at them?

Mr. JAVITS. Of course.

Mr. President, the reason I raise this issue is because it is a big issue. The fact is that multifamily dwellings were included in the Banking Committee's bill. I voted with the Energy Committee on the synfuels matter. I knew what I was doing because, after all, we have to keep our eye on the main point. I believe that the Energy Committee's approach to the whole production proposition was much more advisable in the interests of the country. But the amendment process is intended to enable us to raise just such issues as I propose to raise. The issue has to be raised. Mr. President.

One-third of American families live in dwelling units which are multifamily; hence, it would be out of the question just to pass them by.

The figures show that there are some 67.5 million aggregate number of family units who occupy separate quarters. The total rental units out of that total of 67.5 million, is 23.5 million.

Under the provisions of the bill relating to 4-family units which are allowed into the scheme of the bill for subsidized loans, and 8-family units, which are allowed into the bill for grants, that amounts to 2,283,000 units of renter-occupied. So that is 10 percent of the total renter-occupied units. Hence, Mr. President——

Mr. FORD. Mr. President, could we have order?

The PRESIDING OFFICER. Will Senators please return to their seats or retire to the cloakroom for their conversations?

The Senator from New York.

Mr. JAVITS. So, Mr. President, this involves the exclusion of 21.25 million units from any benefit respecting conservation. That, Mr. President, is a pretty big slice. It is almost one-third of the total. The number of renters allowed to benefit by the bill is not very great. That is a pretty big slice of American families that are excluded. It certainly deserves consideration and a vote by the Senate.

As is generally true around here, you have to have an interest to take something on. We certainly have an interest in New York. That is, we have just about one-third of our families housed in these excluded units. But also, Mr. President, it is not an exclusive New York interest. Indeed, the District of Columbia has more renter-occupied units than the State of New York, and the average throughout the United States, Mr. President, is that 13 percent of all multifamily buildings have more than four units. Hence it becomes a very major and appreciable problem.

To give the situation in the bill first and also what the Banking Committee did, with both factors being necessary to understand the situation, I state the following: This bill provides that renter-occupied units, which would include condominia and co-ops of four or less, may have the benefit of subsidized loans for conservation purposes, and that renter-occupied units of eight or less may have the benefit of grants. The criteria are that for loans the family or rental units may not have an income of more than $40,000 per year, in round figures, and for grants such a family may not have an income of more than $16,000 a year.

The Banking Committee in its provision deals solely with the category of subsidized loans and did not deal with grants at all, but it admitted for subsidized loans all rental units.

Of course, that takes, as I said, 21¼ million new units, which is a big slice of this whole question.

Mr. President, it is very interesting to me that some of our States which are not big States have very heavy interest in a matter of this kind. For example, Colorado has 13 percent of its rental housing units with more than four units. Interestingly enough, aside from the great big States, Hawaii has about 19 percent of its units in this status. Maryland has 17.5 percent; Massachusetts has 15 percent. Nevada, a relatively sparsely settled State, has 14 percent. New Jersey, for example, has 17 percent. Those are States which are hardly identified with the kind of problem I have described.

Now, what does my amendment seek to do? It would, first, make tenants in the larger apartment buildings eligible for subsidized loans and Federal grants for apartment alterations for energy conservation. These, of course, are excluded by the bill, for subsidized loans, to families living in multifamily units over four and for grants to those living in multifamily units over eight.

So, point one, it would make these tenants in the multifamily buildings eligible. Two, it would remove the requirement that tenants must pay their own heating bills to qualify for, clearly, only tenants who can save money will spend money. As the grant is a matching grant, a tenant has to spend if he is going to get something out of it. As the subsidized loan first has to be made by a bank, which has to have assurance of getting its money back because the subsidization is only for interest over 6 percent, we can assume that the banks will only make loans that they consider sound. So these are self-operative protections.

The second thing, we do not have to require separate meters to be installed in buildings which, in many cities, including my own New York City, have as many as 100 apartments. It would, first, be impractical and, second, highly unlikely that any such thing would be done. But we can rely upon the fact that either the tenant will find it worth while or, by arrangements with his landlord, as are contained and carried in my amendment, a deal will be made which will be worthwhile for the purpose of installing conservation measures.

Finally, my amendments would make an apartment building owner eligible for subsidized loans of $2,000 per unit for energy conservation improvements up to a ceiling of $250,000 per building.

Mr. President, the real points that my amendment makes are: One, shall those who happen to live in large multifamily buildings be excluded from the benefits of the law? That seems to me to be discriminatory, unless there is some very good reason for it. But that is the situation which I think we face.

Second, Mr. President, are we engaged in a social exercise to benefit only a certain class of American, or are we engaged in trying to save oil and other forms of energy because we wish to encourage, by subsidy and subsidized loans, conservation and conservation practices?

The figures, Mr. President, are very large. We are losing a lot of energy by the failure to give adequate incentives to those who happen to live in apartments. We have available—Members are invited to look at it—a Department of Energy study made in May 1979 on conservation in multifamily dwellings. According to that study, the equivalent of 4.4 million barrels of oil per day—that is one-quarter, roughly, or close to one-quarter of the total consumption of the United States in oil—is used in these multifamily buildings. So this is not a conservation objective which we ought to kick away.

Much of that 4.4 million barrels per day is residual fuel oil, of which 80 percent is imported at a cost of $25 per barrel. The Department of Energy study indicates, Mr. President, that there can be a saving. The target saving could be 30 percent of that oil. So, Mr. President, we are talking about a saving, if it is fully used, of 1,200,000 barrels, the equivalent of 1,200,000 barrels of oil per day if we do something intelligent about this situation.

Finally, Mr. President, I understand from my staff, which has done a very careful and effective job in this matter, that a question arose in the debate in the Energy Committee, which considered this matter, as to what could be done to conserve energy in this type of building. Fortunately, we have received, as part of this Department of Energy study, which is very recent—May 1979—a list which was an exhibit in that study of what can be done.

Mr. JAVITS. Mr. President, I should

like to give the headings to indicate its relevance: "Space Heating Energy Conservation Measures," which include boiler and furnace efficiency improvements, improvements through controls, thermostats, valves, and so forth; insulation; the reduction of the admission of outside air; and building envelope thermal performance improvements, which includes caulking and weather stripping, attic-roof insulation, storm windows, and an increase in winter solar gain.

The next heading is "Domestic Water Heating Conservation Measures." That includes various types of insulation as well as reduction of the temperature of domestic water heating, faucet flow reducers, and so forth.

The next heading is "Lighting Energy Conservation Measures." That includes reduction of lamp wattage, installation of timers on exterior lighting, converting incandescent to fluorescent lighting.

Mr. President, talking about the installation of timers on exterior lighting, who has not been appalled by the glowing buildings at night as one flies over any big city? We are talking about saving energy and cutting out imports and they are ablaze with light, most often because the cleaning ladies may not turn off the lights or because the landlord thinks it is great, or for whatever reason. But there it is. So, Mr. President, a lot can be done which is not being done today.

The next heading is "Space Cooling Energy Conservation Measures." The last is "Behavioral Measures;" for example, conversion to individual metering for electricity and the possibility, where it is possible—I dealt with that a minute ago—of decentralizing heating, cooling, and domestic water heating systems, as well as an energy cost indicator to give a reading on exactly what is used in terms of energy.

Mr. President, there is plenty of room for action in this matter, plenty of room for inducements and incentives, just as for individual owners, they can do a lot, which we are just letting go by the board.

Mr. President, now I come to my final point. I do not think this issue can be passed over. I talked with the managers of the bill, publicly as well as privately. I do not know what can feasibly be worked out. But I do not see how we can pass an energy conservation bill and simply strike out one-third of the housing units of the United States which are using such a large volume of oil equivalent, and just forget about it.

Mr. President, I just do not see how we can do that.

I would be very sympathetic to whatever the managers feel they could do about working out a system which will give this enormous constituency some kind of recognition. But to just leave it out completely is not the way we ought to operate. I do not think that is the way our country would feel.

There are too many people and too many units involved.

So if my particular approach has some difficulties or bugs the managers do not like, I do not think that is any reason for defeating it.

I think this is something we have to do. We have to find some way of accommodating this constituency which is absolutely blocked out, omitted, from this whole bill.

I do not believe that is just, or right, or the way in which it is our legislative purpose to legislate.

For all those reasons, Mr. President, I hope the Senate will look with favor on this amendment.

Now, Mr. President, may I inquire of the managers whether I may submit the rest of my amendments which I have explained and ask it all be considered en bloc so we may have one vote?

Mr. JOHNSTON. Mr. President, I would be willing to have it submitted en bloc.

I would have to oppose the amendment, but I will certainly not oppose having it submitted en bloc.

Mr. McCLURE. Mr. President, let me suggest, the same way, that I have no objection to it being submitted en bloc.

UP AMENDMENT NO. 769

(Purpose: To remove the limitation on the number of units contained in a residential building for the purposes of loans and grants)

Mr. JAVITS. Mr. President, I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 769, en bloc.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 217, line 7, insert "other" after "any".

On page 217, lines 8 and 9, strike "which contains two, three, or four units".

On page 217, line 8, insert "(not to exceed $250,000 per building loan)" after "building".

On page 217, strike lines 14 through 20.

On page 217, line 21, strike "(7)" and substitute "(5)".

On page 218, line 4, strike ";" and substitute ", unless the loan is made to an owner of a residential building of 5 or more units for improvements in such buildings".

On page 218, line 5, strike "(8)" and substitute "(6)".

On page 218, strike lines 9 through 20.

On page 218, line 21, strike "(10)" and substitute "(7)".

On page 219, line 3, strike "(11)" and substitute "(8)".

On page 219, line 5, strike "(12)" and substitute "(9)".

On page 219, line 9, strike "(13)" and substitute "(10)".

On page 231, line 17, insert "and" after the semicolon.

On page 231, lines 19 and 20, strike "two, three, or four units" and substitute "more than one unit".

On page 231, line 22, strike "expenditures; and" and substitute "expenditures.".

On page 231, strike lines 23 through 25.

On page 232, insert a colon at the end of line 1, and strike lines 2 through 9.

On page 232, lines 17 and 18, strike "not more than eight units and".

On page 232, strike lines 22 through 24.

On page 233, lines 14 and 15, strike "containing not more than four dwelling units".

Mr. JAVITS. Mr. President, I ask unanimous consent the three amendments may be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Committee on Energy and Natural Resources gave great time and attention in the markup, as well as in the hearing part of our deliberations, to the question of how to apply the amount of dollars we had with respect to energy conservation.

I am somewhat embarrassed to tell the Senator how many dollars we have in this bill for energy conservation. It is $6.295 billion for energy conservation.

So, Mr. President, please let no one accuse our committee of being stingy, of being niggardly, with the conservation dollar. We have been very generous and, for good reason, Mr. President. We think that there is good reason to believe that energy conservation can pay off in real terms to this country, and in saving energy on a cost-effective basis.

However, Mr. President, we had to determine how to maximize the payoff from energy conservation.

Our first consideration, Mr. President, was, what is the ability of the conservation, particularly the insulation market, to service the amount of dollars we were willing to put into the conservation effort?

We found, Mr. President, that at present the insulation market is operating at an average of 85 percent capacity. At certain times of the year, because insulation is so much a seasonal program, it is operating above 95 percent.

So that almost every dollar we add on of the $6.295 billion will have to come out of incremental capacity not now existing, which must be added to the insulation base.

Now, that is not bad. We want the insulation business in this country to expand. But it highlights the fact, Mr. President, that there is not enough to go around right now.

So that to the extent that we apply money to the vendors, as described in the Javits amendment, we take it away from that which we have already provided for.

Now, what did the Senate Energy Committee do, Mr. President? It provided loans and grants to individuals who own their own homes, with an income limit of $40,000 apiece, to businesses with $1 million in annual gross sales, loans of up to $2,500 for detached buildings, of $2,000 for two- to four-unit buildings, and $50,000 for commercial buildings.

Mr. President, these are generous loans for individual buildings as well as for commercial buildings.

With respect to the grants, Mr. President, we provided that they could be made to individuals who made not more than the national median income because, after all, Mr. President, we are going to be taking money from poor taxpayers in this country—indeed, all taxpayers, including poor taxpayers—and redistributing that income to others.

To the extent we redistribute that income, albeit for the worthy purpose of conservation, we did not want that money to go to those who are already better off than average.

So we put a limit on that of not more than the national median average income.

We also provided that where a renter is a grantee of a grant, that he must pay the fuel bill, because we wanted the grant to go to the person who is responsible for the bill; that is, the renter.

We were also generous with those over 65 by giving them 150 percent of the grants provided for others.

Having dealt generously with those classes of people, and having provided for renters of four units or less, we then considered, Mr. President, whether the owner of a high-rise apartment should be able to get a grant on that high-rise building.

We specifically, and I think, if I recall, unanimously, or close to unanimously, rejected making the owners of high-rise apartments eligible for these grants. The reasons were several.

First, a high-rise building is not nearly as good a candidate for energy conservation as are detached buildings. With detached buildings, one can insulate walls and ceilings, apply insulation around the doors, and that kind of thing, whereas with a high-rise building, the individual renter only has access to the outside from his outside wall. It hardly does any good to insulate between the other walls. There is very little opportunity to insulate a high-rise building.

Second, Mr. President, we were concerned that the opportunity for what would amount to, if not fraud, then perhaps skirting on the edge of the intent of this bill, by making grants to owners of high-rise apartments for such things as thermal curtains, which involve very little more than paying for a redecoration of the apartment-owner's premises. A redecoration under the guise of energy conservation, with taxpayers' dollars, is something we do not want to do.

Third, we were concerned with the problem of rich apartment owners being eligible for grants made up from taxes collected from across-the-income spectrum, including the poor people, as I mentioned earlier.

In the Javits amendment, as I understand it, there is no income limitation for the owner of an apartment, is that correct?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. JAVITS. On grants, there are. There is the median income level which is in the bill. In other words, you cannot get a grant unless your income is below the median level.

Mr. JOHNSTON. Is there a grant availability for the owner of the apartment?

Mr. JAVITS. If he has a median-level income of less than $16,000, he is hardly a rich landlord.

Mr. JOHNSTON. Does he need the renters consent to get the grant?

Mr. JAVITS. They have to make a contract with him as to what it is going to be used for, and so forth. Remember, they have to match a grant 50–50.

You can do that with a single-family dwelling. You can make a deal with somebody to repair a lot of houses.

Mr. JOHNSTON. But there is no income limit with respect to loans.

Mr. JAVITS. There is no income limit with respect to loans, on the subsidization of the loans.

I want to explain. We thought the limit was so high, anyhow—$40,000—that it is the old story: It just is not worth winnowing beyond that, so we eliminated it.

Mr. JOHNSTON. Mr. President, I know what the distinguished Senator from New York wants to do, and we certainly are more than sympathetic. We are enthusiastic about energy conservation in our committee; but we simply do not think that a subsidized loan to a very wealthy apartment owner is a proper expenditure of funds, particularly when we are clawing and scrambling to try to find every dollar we can to apply in the place where it will do the most good.

For those three reasons, Mr. President, these dollars will not do the most good in apartment buildings: Because there are not many opportunities for making savings, because there is limited availability of insulation materials, because this violates a principle of not giving money to those who are wealthy. For the reasons I have stated, we would have to oppose this amendment.

I also point out that if we went this route and approved the Javits amendment, it simply would make less available to individual homeowners who are below the median income and to apartment renters in four units or less who are below the income level, namely those who are helped under our bill.

It would be taking money away from them, taking available insulation away from them, and giving it to those who are less worthy in terms of ability to save energy and who are considerably higher up on the income scale.

Does the Senator want a record vote on this matter?

Mr. JAVITS. Yes.

Mr. JOHNSTON. Mr. President, if the Senator is ready for the vote, and I hope he is—is the Senator ready for the vote?

Mr. JAVITS. I have to answer a good many things the Senator from Louisiana has said. It is late, and I do not want to keep Members here all night. So far as I am concerned, I can finish within 15 minutes.

Should the leader wish to limit our time now, I am perfectly willing to do anything reasonable on that.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote in relation to the amendment occur no later than 8 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I will take 10 minutes, and the Senator from Louisiana can have 5, if he wishes.

Mr. President, with all the goodwill in the world, there are a good many fallacies in the argument made against this amendment. In the first place, there is the fallacy of bulk. You cannot argue that one-third of the American people are so rich that they do not need any help for conservation. No matter what else you might think, it is not so. It cannot be so.

In addition, how can you talk about not dealing with the wealthy, when this bill provides that you can get a subsidized loan if your income is under $40,000 a year. That is not a bad income in most places in the United States.

That is just confined, however, to individual property owners and to occupiers of multifamily units of less than four. Why not 8, 10, 12, 14, or 19, if it can save energy? I do not see it.

In addition, the argument absolutely fails to take account of the only authoritative study that has been made, that of the Department of Energy, which finds that 30 percent of the oil equivalent used in these very buildings we are talking about can be saved. That is not an argument on the Senate floor. That is an authoritative finding of a possible saving of 1.2 million barrels a day—the biggest single saving I have heard talked about here in this whole debate—found by the Department of Energy as possible in this situation.

Finally, Mr. President, we settled the matter of grants. A grant can only go, under my amendment, to an owner or a renter who has less than the median income. There is no other way. Remember, a grant must be matched; so that these people are not out of their right minds if they want to make a contract with their landlord to match and use the grant for conservation purposes. They should have the same right to do it as any other grantee who lives in a multifamily structure which has less than nine units. That is permitted under this bill, but it is not permitted if you live in a multifamily unit of more than eight units, and I think that is unfair.

The argument is made that the payer of the bill—to wit, the renter who pays the heat bill or the light bill—should be the only one benefited. Why? He pays just the same in his rent or in his maintenance for his condominium or for his co-op. Why should he be discriminated against simply because he pays money for heat and light in a different way, or he pays to the utility company in the case of light?

So, Mr. President, I do not believe that that is a proper argument against this bill.

The argument is made that we are taking money away from them. What that argument means, just turned around, is that we are giving money to others—only a certain section of the population belonging to the other section—just because one set of people happens to live in housing circumstances which are different. A multifamily building can be right next to a four-family building or an eight-family building, right next door, and not get help. But the eight-family and the four-family do get

it. It can be on the same street, in the same location, with the same class of people, right next door. One gets it; the other does not.

Mr. President, let us remember this also: More and more, these buildings around the country which are multifamily structures are being converted to condominiums and to co-ops. The reason for their conversion is that they are not making money. Therefore, let alone conservation, they are not being maintained adequately. That is one of our big problems, for example, in the operation of buildings. Here is an opportunity for a cooperative tenant-landlord effort to maintain buildings.

Mr. President, we have just had on this floor the increase of the conservation bank by about $1 billion. The amendment by Senator TSONGAS increases the conservation bank by $950 million.

If there is to be a reason for that increase that is a mighty good reason: instead of distributing more to those who are already getting it, to let in those who are not considered by this bill at all.

This involves a very large number of people. I wish to again, because I think it is so critically important, refer to these figures of the number of people who are involved. Twenty-one-and-a-quarter million family units, out of a total of 67 million family units in the United States; one-third of the client population is excluded.

Finally, and very importantly, we talk about giving to those who have. I have already dealt with those arguments. But it seems to me that is the crowning blow of all. Listen to who is benefited under this bill: Producers of gasohol, renewable resource equipment, coal, oil shale, stripper oil, tertiary recovery oil, geothermal heat, and of course small refineries.

Mr. President, are those the poor of our country, the underprivileged, those who need help in this bill as if they were welfare cases? Of course that is not true, and there are millions of people among the 21 million whom I have named who are far more deserving, if you are going to put it on that basis.

Mr. President, let us remember this is an energy conservation bill, not an effort to readjust the society or the incomes of the United States. We want conservation and in addition, as to this argument of insulation, in a multifamily dwelling the least amount of insulation is used because it is used essentially for the exterior facing.

I have put into the RECORD and read and I refer again to the many things which can be done in conservation if these people get some break as do the others who are covered by the bill under the terms of this bill.

Let me go over it again: Space heating energy conservation measures, boiler and furnance efficiency, controls improvements dealing with thermostats and valves, et cetera; insulation for piping and ductwork, which handles the distribution of heat and hot water in a building; building envelope thermal performance improvements, including calking and weatherstripping, attic/roof insulation, storm windows, and winter solar gain. The next heating is domestic water heating conservation measures, everything that has to do with domestic water heating, including the temperature, the timers on the recirculation pumps, faucet flow reducers, et cetera; lighting energy conservation measures, which include reduction of lamp wattage and what I emphasized when I made my argument in chief, the installation of timers on exterior lighting, which is a very, very important manifestation of how we waste energy today. Space cooling energy conservation measures of all kinds, including equipment and control improvements.

Finally, individual metering, and decentralizing the costs of payment for heating, cooling, and domestic water heating systems.

It seems to me that having heard the arguments in opposition we have not had a rational explanation for why one-third of the American people should be excluded from these conservation measures in which I thoroughly believe, especially when it can be done efficiently and when there is a relationship between the recipient and what he gets based upon his own performance as, for example, in grants where there has to be a 50–50 matching and in loans where a liability has to be undertaken a lender and the only thing that the Federal Government is subsidizing is the interest.

Mr. President, for all of those reasons I deeply believe that as a matter of elementary justice the Senate should approve this amendment.

Mr. President, I ask unanimous consent that excerpts from the DOE study I have cited appear in the RECORD following my remarks. I reserve the balance of my time.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STRUCTURAL AND ENERGY CONTROL MEASURES POTENTIALLY APPLICABLE TO EXISTING APARTMENTS

Space Heating Energy Conservation Measures:

Boiler/furnace efficiency improvements.

Control improvements: high temperature limit thermostats, thermostatic radiator values, clock thermostats, energy monitoring and control systems.

Insulate distribution piping and ductwork.

Reduce excess outside air*.

Building envelope thermal performance improvements: caulking and weather stripping, attic/roof insulation, storm windows, increase winter solar gain.

Equipment conversion from electric to fossil fuel (may save primary energy).

Domestic Water Heating Conservation Measures:

Insulate DHW tank and distribution piping.

Reduce DHW temperature*.

Timer or DHW recirculation pump*

Faucet flow reducers.

Solar energy*.

Lighting Energy Conservation Measures:

Reduction of lamp wattage.

Installation of timers on exterior lighting.

Convert incandescent to fluorescent lighting.

*Code compliance requirements applicable in some locations.

Space Cooling Energy Conservation Measures:

Install shading devices to avoid solar gain in summer.

Use light color when repainting facades and replacing roofs.

Equipment efficiency improvements.

Controls improvements.

Behavioral Measures:

Convert to individual metering for electricity and decentralized heating, cooling, and DHW systems.

Energy cost indicator (feedback meter) for individually metered units.

Appropriate measures differ from building to building.

Not all of the measures shown in Exhibit E-1 will be applicable to any specific building, and not all applicable measures will be cost-effective to the apartment owner or tenant.

1. Applicability of Measures to a Specific Building Is Determined by:

Location—which determines climatic conditions and applicable building codes.

Type and condition of energy using systems including heating, hot water, cooling, lighting, and related control systems.

Construction and condition of the building envelope including thermal insulation, air leakage, and fenestration.

Conservation measures already existing which may reduce the need for, or performance of, other possible measures.

2. Cost-Effectiveness of Applicable Measures Is Determined By:

Cost of the measure including design, construction, and maintenance.

Savings from the measure which in turn is determined by the amount of energy saved and the price which would be paid for the energy if it is not saved.

Because there is substantial variation in the above factors from one building to another, cost-effective measures will differ significantly for different buildings. Exhibit E-2 shows measures were found by energy audits to be cost-effective (i.e., meet owners investment criterion) for apartment buildings in various U.S. locations. As illustrated in this exhibit, cost-effective measures differ significantly from building to building. Therefore, it is not possible to say definitively which measures are best for apartments. However, it is possible to make some generalizations with regard to the relative potential of different types of measures. The remaining sections of this appendix provide such assessments.

3. Heating System Measures Offer the Largest Conservation Potential.

In general, heating system modification measures offer the greatest potential for significant energy savings. Review of energy audits shows that substantial heating energy savings can often be achieved—sometimes exceeding 50 percent of original heating energy consumption—through a combination of heating system conservation measures. Many of these measures are cost-effective—often with paybacks less than three years. The types of measures which offer the most attractive potential are:

Boiler efficiency improvements.

Controls improvements.

Insulation of distribution piping.

Boiler efficiency improvements range anywhere from simple burner cleaning to complete replacement. Simple low cost operations and maintenance measures are particularly cost-effective and should be undertaken before any other measures.

A major waste of energy occurs in the over heating of buildings, particularly older ones with central systems, because of lack or improper functioning of temperature controls. This waste is aggravated by overheated tenants opening windows to get rid of the excess heat—in turn causing the heating system to supply still more heat. It is suspected—without any supporting data unfortunately—that this situation may represent the single greatest energy waste problem in the older buildings in the Northeast and elsewhere. To reduce overheating two types of measures are most effective:

Improved temperature controls.

Insulation of exposed distribution piping.

One temperature control measure in particular appears quite promising—thermostatic radiator valves. These valves are retrofitted to existing radiators and prevent introduction of hot supply water or steam if the temperature in the space does not require heat, by simply bypassing the radiator.

4. Building Envelope Measures are Less Cost-Effective.

Energy audits of apartments indicate that building envelope conservation measures—such as insulation and storm windows—are often less cost-effective than other measures to save heating energy and often do not meet the payback criteria limits of apartment owners. Several factors contribute to this situation.

If overheating is a major cause of heating energy waste, envelope measures will not save any energy and may even increase the severity of the problem resulting in even greater energy waste as windows are opened to offset excess heat.

The exterior envelope surface of apartment buildings, particularly larger ones, is mostly wall surface, which is costly or impractical to retrofit with insulation. By contrast, a significant portion of the envelope of single family houses is attic space which is relatively inexpensive to insulate.

Apartment windows are not as standardized as those of single family houses. This causes storm windows for apartments to be more expensive. In addition, installation of storm windows for high-rise buildings is more difficult, thus more costly, than in single family houses.

It is important to point out that these general findings about envelope measures do not apply to all situations. For example, in poorly insulated low rise, gable roof apartment buildings, attic insulation may be very cost-effective.

Interestingly, the NAA survey of apartment owners described in Appendix D indicates that building envelope measures are among the most frequently installed measures by owners who have taken conservation actions. Since most of these owners probably had not had a professional energy audit, it appears that many owners may have installed insulation and storm windows as a result of marketing efforts on the part of vendors of these products, rather than on the basis of sound engineering economic analysis.

5. Water Heating Energy Conservation Potential is Limited.

Domestic hot water heating (DHW) accounts for the second largest portion of energy consumption in apartments. Unlike heating, domestic hot water energy use is not significantly affected by location and thus represents a conservation opportunity in all areas of the country. Several DHW measures are often found to be cost-effective, where they are applicable:

Flow reducers at faucets.

Reduction of DHW temperature—but not below limits (if any) set by code.

Installation of timer to reduce hot water recirculation during low usage hours, however, this may be prohibited by codes in some jurisdictions.

Insulation of DHW storage tanks and distribution piping, although for larger central systems tanks are almost always already insulated and piping is usually inaccessible.

Although the above measures are often cost-effective to apartment owners, they save a relatively small percentage of water heating energy—even in combination. This is true because there is an unavoidable energy need to raise water temperature from normal supply temperatures of around 55° F. to minimum acceptable residential DHW temperatures of at least 125° F. Therefore, the only means of obtaining substantial reduction in DHW energy consumption is through utilization of alternative energy sources, such as solar or waste heat recovery, to displace fossil fuels.

The opportunity for solar energy for water heating is most favorable in the Southern region for several reasons. Availability of sunlight is greatest and water heating is the largest component of apartment energy use in the South (37 percent). In the Southern region about 25 percent of water heating energy is presently provided by electricity and solar systems are most cost-effective as a substitute for electricity than for fossil fuels.

In most cases solar energy water heating systems do not meet the cost-effectiveness criteria of apartment owners at present system cost levels, even in the South. Federal solar tax credit incentives enacted as part of the National Energy Act help somewhat but are still not sufficient to make solar cost-effective to most apartment owners.

6. Lighting and Cooling Conservation Measures Offer Little Savings Potential.

Several lighting and cooling conservation measures are cost-effective where they are applicable. However, these two end-uses constitute such a small percentage of national energy consumption that the aggregate savings potential is small.

7. Metering Conversion Has Limited Applicability.

Conversion from master metering to individual metering is done to make tenants pay directly for energy used and thereby to encourage conservation behavior. While this is probably effective, the applicability of metering conversion is limited because metering conversion is not practical for the central fossil fuel heating and hot water systems which account for the bulk of energy consumption in apartments. This factor sometimes leads to an undesirable situation in which apartment owners desiring to individually meter tenants convert heating systems having central fossil fuel systems to decentralized electric systems. Such conversions may result in increased primary energy consumption in cases where fossil fuels are used by the utility company to generate power.

The issues related to metering conversion are complex. For further information, these are dealt with in much greater depth than is possible here in a concurrent study conducted by the DOE Office of Buildings and Community Systems.[1]

Mr. McCLURE. Just very briefly, Mr. President, because I tend to be sympathetic with the goals of the Senator from New York, I find it very difficult for me at this hour to say I oppose the amendments but I must because we wrestled with all of these balances at great length. Although I did not agree with all the balances that were struck in the committee measure, I have to say that I think that they dealt with a number of the problems that have been identified by the Senator from New York in a slightly different fashion. But, nevertheless, they were considered and after consideration the committee did vote on each of those items and in some instances I was on the side of the Senator from New York and would have tended to move in that direction. But it does not make sense to me to put an income limit on a man who owns a house, an individual home, or a small residence and then have no income limit on the great big multiple unit residence, and that is what the Senator's amendment would do.

That is just an example, I think, of the tendency in which the amendments fail to keep the kind of balance that we tried to strike in the committee. Therefore, I must reluctantly oppose the amendment.

Mr. JOHNSTON. Mr. President, I move to table the Javits amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. JAVITS. I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to lay on the table the amendments en bloc of the Senator from New York.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness.

I further announce that, if present and voting, the Senator from Texas (Mr. BENTSEN) would vote "yea."

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from South Dakota (Mr. PRESSLER), and the Senator from South Carolina (Mr. THURMOND), are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The PRESIDING OFFICER (Mr. SARBANES). Are there any Senators in the Chamber desiring to vote who have not yet voted?

The result was announced—yeas 45, nays 39, as follows:

[1] *Alternative Metering Practices: Implications for Conservation in Multifamily Residences*, Report prepared for DOE by Booz, Allen & Hamilton under Contract EC-77-003-1693, March, 1979.

[Rollcall Vote No. 296 Leg.]

YEAS—45

Armstrong	Gravel	Morgan
Baucus	Hart	Muskie
Bellmon	Hatch	Nelson
Boren	Heflin	Nunn
Burdick	Helms	Proxmire
Byrd,	Hollings	Pryor
Harry F., Jr.	Humphrey	Randolph
Byrd, Robert C.	Jackson	Stafford
Chiles	Johnston	Stennis
Church	Leahy	Stewart
Cochran	Long	Talmadge
Durenberger	Lugar	Wallop
Eagleton	McClure	Young
Exon	Magnuson	Zorinsky
Ford	Matsunaga	
Garn	Metzenbaum	

NAYS—30

Boschwitz	Inouye	Roth
Bradley	Javits	Sarbanes
Chafee	Jepsen	Schmitt
Cranston	Laxalt	Schweiker
Culver	Levin	Simpson
Danforth	McGovern	Stevens
Dole	Mathias	Stevenson
Domenici	Melcher	Stone
Durkin	Moynihan	Tower
Glenn	Packwood	Tsongas
Hatfield	Pell	Warner
Hayakawa	Percy	Weicker
Heinz	Riegle	Williams

NOT VOTING—16

Baker	Cohen	Pressler
Bayh	DeConcini	Ribicoff
Bentsen	Goldwater	Sasser
Biden	Huddleston	Thurmond
Bumpers	Kassebaum	
Cannon	Kennedy	

So the motion to lay on the table Mr. JAVITS' amendments was agreed to.

Mr. HEINZ. Mr. President, I send an amendment to the desk.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside.

The PRESIDING OFFICER. The motion to table having been agreed to, under the precedents of the Senate, the question now is on——

Mr. HEINZ. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside, for the purpose of offering another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I renew my request.

The PRESIDING OFFICER. The question now is on agreeing to the unanimous-consent request of the Senator from Pennsylvania that the amendment of the Senator from West Virginia be temporarily set aside. Is there objection to the request of the Senator from Pennsylvania? The Chair hears none, and it is so ordered. The Chair recognizes the Senator from Pennsylvania.

UP AMENDMENT NO. 770

(Purpose: To stimulate the utilization of abandoned or underutilized industrial facilities for the generation of energy from any locally available renewable resource)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 770.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 309, line 9, strike "and";

On page 309, line 12, strike "." and insert in lieu thereof, "; and";

On page 309, after line 12, insert the following new paragraph:

"(4) to stimulate the utilization of abandoned or underutilized industrial facilities for the generation of energy from any locally available renewable resource, such as municipal solid wastes, agricultural wastes, or forest products waste."

Mr. FORD. Mr. President, will the Senator yield for a point of information?

Mr. HEINZ. I am pleased to yield to the Senator from Kentucky.

Mr. FORD. Can we determine how many more amendments will be offered to this piece of legislation before the evening is over? Can the floor manager give me some kind of indication of how many more amendments there will be tonight?

Mr. HEINZ. Mr. President, may we have order so that we can hear the Senator from Kentucky?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order. Senators will please take their seats. Staff members will clear the aisles.

Mr. FORD. Mr. President, I will repeat my question. Can the floor manager give us some idea of how many amendments there will be? I have one; it may take some little time. That is not my fault. But I am wondering how many other amendments there will be.

Mr. JOHNSTON. Mr. President, I think the Senator from New Hampshire has three. I hope he has eliminated all the amendments we cannot take.

Mr. DURKIN. Yes, I have three that there is no objection to.

Mr. JOHNSTON. I hope the Senator is correct. The Senator from Ohio (Mr. GLENN) has one.

Mr. GLENN. I have one, and probably one with the majority leader, if you are counting that one. We are working on it now.

Mr. JOHNSTON. Yes. The Senator from Michigan (Mr. LEVIN) I think has three, which we are working to try to make acceptable. We have not yet worked that out.

The Senator from Idaho has three. Are those the three that we have agreed upon?

Mr. McCLURE. And one the committee recommended.

Mr. JOHNSTON. I do not believe we are going to require a vote on the amendments of the Senator from Idaho.

Mr. McCLURE. I do not believe so.

Mr. JOHNSTON. I do not know of other amendments.

Mr. FORD. Mr. President, that is 10 or 11 amendments, plus the amendment that is before the Senate, which makes 12. So we have 12 amendments, then, that will be pending before we leave here tonight, on this bill

Mr. JOHNSTON. I hope that is all we have.

Mr. FORD. I suspect there may be more. There are some developing.

Mr. JOHNSTON. Please do not consider that as an invitation from the floor manager for more amendments.

Mr. FORD. Mr. President, I have one final question. I appreciate the patience of the Senator from Pennsylvania.

Is the manager first going to take the amendments that apparently will be acceptable?

Mr. JOHNSTON. I hope we could take the acceptable amendments first before we vote.

Mr. FORD. We have already lost 16 Members so far, and with 11 amendments still to go I expect there might not be quite 84 Members remaining.

Mr. HEINZ. Mr. President, we are an affluent people; we are, however, also a wasteful people. In years past our failure to reuse vital resources has caused little immediate harm but, we are now faced with the cumulative effects of our neglect. Our reserves of nonrenewable fossil fuels have dramatically dwindled and we are in an age when we must reconsider our management of all of our resources. I am today offering an amendment to S. 932 which will begin to redirect our attention to the understanding of America's full potential and ingenuity. This amendment will quite simply encourage the development and distribution of information which will aid local governments and private decisionmakers in their planning for and implementation of programs which will develop an alternative energy industry, using existing and renewable human, natural, industrial, and commercial resources.

Each year this Nation produces: 140 million tons of municipal solid waste; 277 million dry tons of agricultural waste; 124 million dry tons of forest waste; and, 26 million tons of fecal waste.

These products are not in fact waste but raw materials capable of producing heat, electricity, steam, gas, and oil.

Within all of our States there exist abandoned or underutilized industrial or commercial facilities which could again be turned to productive purposes. As was recently brought to my attention, in a study prepared by the Northeast Solar Energy Center, the similarities between the physical plants necessary to produce steel and those to produce such renewable energy sources as pelletized wood are remarkable.

Within a 50-mile radius of the towns and cities which make up our States there exists an unemployed labor force, who with little training can turn an area's municipal solid waste into the fuel which heats its homes.

To date, there have been various parties who have spoken against our utilization of waste materials as natural resources. Today's economy, however, requires a reevaluation of this policy.

What I am today suggesting in my amendment is the rudimentary beginnings of a Federal program which will aid local jurisdictions in evaluating their potential natural wealth and in planning for its utilization.

Basically, this program will provide for the development of a handbook which will give local decisionmakers a "recipe" for increasing their energy independence. It will show them how to evaluate abandoned facilities for their potential as energy factories; it will offer a procedure by which market potential may be estimated; it will suggest changes in local zoning and use regulations so that a community may both produce and use locally derived energy in a manner compatible with human health; it will suggest the private and public mechanisms which a town can use to finance its own energy development; and, finally, if successful, it will offer the Congress another vital option in its attempt to deal with the energy crisis.

This amendment does not support a massive construction program nor even a small pilot plant. It expands on the program in section 607 of the bill, which directs the Secretary to research, collate and publish information necessary for local action. It does not create new programs but augments existing ones. It will allow such agencies as the Northeast Solar Energy Center to play the role for which it was established. The identification and brokerage of private sector alternative energy generation opportunities—not pilot plants, demonstrations nor grants—but technically and economically feasible money-making propositions.

Mr. President, I urge adoption of this amendment.

I will summarize and only say that the purpose of this amendment is to provide for a utilization of an additional energy self-sufficiency initiative under section 607. It is essentially a permissive amendment in order to stimulate the utilization of abandoned or underutilized industrial facilities for the generation of energy through any locally available renewable resource, in other words, biomass.

I have discussed this with the managers of the bill and I understand it is acceptable to them.

Mr. JOHNSTON. Mr. President, this is, in fact, a permissive amendment, authorizing the establishment of a program for the purposes stated, and we accept the amendment.

Mr. McCLURE. Mr. President, we are pleased to accept the amendment and we are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 770) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside so that the Senator from Idaho may offer two amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 771

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 771:

Page 282, line 2, strike the period and insert in lieu thereof,

"or section 863–1 (a) through (e) of Title 46, United States Code."

Mr. McCLURE. Mr. President, this deals with the eligibility test in the geothermal section of the bill. We unfortunately had one amendment that needs to be added to the test that we had applied there. This amendment would supply the additional test on eligibility. I think it is agreeable on both sides.

Mr. JOHNSTON. Mr. President, this simply makes clear that Shell Oil meets the citizenship test with respect to a geothermal installation and is a good candidate. We accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 771) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 772

Mr. McCLURE. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 772.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 67, line 9, after the period insert the following: "Specifically, the project shall include the facility which converts the domestic resource to the liquid, gaseous or solid hydrocarbon which can be used as a substitute for supplies of petroleum or natural gas and any facilities and equipment to be used in the extraction of a mineral directly for such conversion, which are co-located with the conversion facility: *Provided, That* facilities and equipment used in extraction of a mineral for any other use shall not be included in the project: *And provided further,* That property or services obtained for the facility in a transaction with a person who has or will have a substantial ownership or profits interest in the facility shall be valued at the lower of cost to the project or fair market value disregarding any portion of such market value which is attributable to the prospect of receiving financial assistance under this title."

Page 81, line 12, after the period, insert the following: "The comprehensive strategy shall directly address and give emphasis to private sector responsibilities in the efforts necessary to achieve such goal, and additionally shall specifically address how any federal involvement recommended in the strategy will be expressly limited and ultimately terminated upon a date or event certain in the future."

Page 88, line 16, after the period insert the following:

"The Corporation shall not make such requirement unless the Board determines that such recipient has made a full, good faith effort to satisfy all the requirements for such regulatory action, that the regulatory action or lack of a final agency action without further pending judicial review, and that the regulatory action or lack of action is, in fact, an absolute bar to construction of the project (rather than merely an additional requirement for action by the recipient associated with such construction)."

Page 91, line 2, after the period insert the following:

"The Corporation shall not award more than a single form of financial assistance under this title unless the Board determines that multiple forms of financial assistance are required for the viability of the project, and further that the project is necessary to satisfy the goals and objectives of this title."

Page 91, line 2, insert a new subsection 131(p), which reads as follows:

"(p) The Corporation shall make awards of loan guarantee assistance pursuant to section 133 only upon a determination by the Board that price guarantees and purchase agreements will not adequately support the construction and operation of the synthetic fuels project or will restrict the available participants for that project. Additionally, the Corporation shall not award financial assistance in the form of loans pursuant to section 132 or joint ventures pursuant to section 136 unless the Board determines that price guarantees, purchase agreements and loan guarantees will not adequately support the construction and operation of the synthetic fuels project or will restrict the available participants for that project."

Page 91, line 2, insert a new subsection 131(q), which reads as follows:

"(q) The Corporation, in consultation with the Secretary of Treasury, shall insure to the maximum extent feasible that the timing interest rate and substantial terms and conditions of any financial assistance will have the minimum possible impact on the capital markets of the United States, taking into account other Federal activities which directly or indirectly impact on such capital markets. Additionally, the Corporation shall impose such terms and conditions on any financial assistance under this title (after analyzing the financing of the facility, the tax benefits which would be available to investors in the facility, and any regulatory actions associated with the facility) as may be necessary to assure that any investors having an ownership or profit interest in the facility bear a substantial risk of after tax loss in the event of any default or other cancellation of the project."

Page 91, line 2, insert a new subsection 131(r), which reads as follows:

"(r) The Corporation shall insure that financial assistance awarded under this title encourages and supplements, but does not compete with nor supplant any private capital investment which otherwise would be available at a viable cost for a proposed, specific synthetic fuel project. To that end, the Corporation shall establish internal procedures, standards and criteria for the timely review for compliance with such requirement of each new award of financial assistance for a specific proposed synthetic fuel project,

and further the Board shall determine that any financial assistance by the Corporation for the project will not compete with or supplant such available private capital investment and that adequate financing for the project would not otherwise be available at a viable cost for the project without financial assistance under this title."

Page 91, line 11, strike the period and insert in lieu thereof ": *Provided That*, a loan under this section shall be limited to the lesser of the maximum of 49% of the project costs or not more than a minority financial position in the project, unless the Board determines that the borrower has satisfactorily demonstrated that such limits would prevent the financial viability of the proposed project and therefore additional loan assistance is necessary."

Page 94, line 2, strike the period and insert in lieu thereof, ":, *Provided further*, that loan guarantee assistance pursuant to this section shall be limited to concern or concerns which by virtue of their size and assets otherwise would be unable to finance such a project."

Page 96, line 20, after the period, insert the following:

"In awarding financial assistance under this section, the Corporation shall establish such specified sales price at the level which will provide the minimum subsidy determined by the Board to be necessary to provide an adequate incentive, in light of projected prices of competing fuels and the requirements for economic and finanical viability of the synthetic fuels project."

Page 91, line 2, insert a new subsection 131(s), which reads as follows:

"(s) Any price guarantee pursuant to section 134 or purchase agreements pursuant to section 135 shall include an express provision to the effect that the price or purchase agreement shall be the subject of review and possible renegotiation in not less than ten years from the date of initial production by the project, at which point the Corporation shall specifically determine the need for continued financial assistance pursuant to such agreement."

Page 101, line 4, insert the following new subsection (e) as follows:

"(e) The Corporation participation in any joint venture pursuant to this section shall be limited to financial participation only and shall not include any direct role in the management, construction or operation of the module. Additionally, the Corporation's participation in any joint venture shall, pursuant to partnership law applicable to such joint venture, be limited to limited partnership status, with only financial participation in the venture. Additionally, such limited partnership shall not exceed a minority equity position in such joint venture and under no circumstance shall provide for the Corporation to obtain a majority equity position in the project."

Page 91, line 2, insert a new subsection 131(t), which reads as follows:

"(t) Any specific tax credit directly associated with a synthetic fuels project shall be taken into consideration in determining the need for financial assistance awarded pursuant to this title.

Page 102, lines 14 and 15, strike "concern anticipates going into default or is in default" and insert in lieu thereof "the Board determines that the concern is in default or immediately will go into default".

Page 103, line 2, strike the period and insert in lieu thereof, ":, *provided* additionally that authorities in this subsection shall not be available for synthetic fuel projects which are the subject of price guarantees and purchase agreements."

Page 104, line 7, after the period, insert a new subsection 137(e) which reads as follows:

"(e) Any Congressional review and disapproval pursuant to subsections (b) and (c) shall utilize the procedures specified in the Energy Policy and Conservation Act, section 551."

Page 104, line 7, after the period, insert a new subsection 137(f) which reads as follows:

"(f) Any control of synthetic fuel projects obtained pursuant to subsections (b) or (c) must be disposed of within not more than five years after acquisition of such control."

Page 105, line 22, after the period, insert:

"The Corporation shall by public sale dispose of any security within one year after the Corporation obtains title to the security (except this shall not apply to securities held as collateral for financial assistance).

Page 121, line 22, after the comma, insert:

"or upon petition of the Comptroller General of the United States,"

Page 125, line 25, Section 171(b)—General Powers.

On line 25, strike the period and insert in lieu thereof "and, notwithstanding any other provision of law, the Corporation shall have no legal authority, power, or purpose pursuant to this title or any other law to engage in any other activities of a business, commercial, financial, or investment nature or perform any governmental function; and any violation of this subsection shall be subject to punishment pursuant to section 166, additional penalties pursuant to section 166 and equitable relief pursuant to section 167.

TECHNICAL AMENDMENT—FUNDING AUTHORIZATION

At page 146, strike lines 9 through 11 and insert in lieu thereof the following:

"the 'Energy Security Reserve' established in the Treasury of the United States by the Department of the Interior and Related Agencies Appropriation Act, 1980, which account, and the appropriations therefor, shall be available to the Secretary for the purpose of carrying out the purposes of this title. The appropriations and authorities provided for alternative fuels production in said Appropriations Act are hereby authorized without fiscal year limitation."

At page 146, line 16, strike "synthetic fuel account" and insert "Energy Security Reserve account."

At page 146, line 24, strike "synthetic fuel account" and insert "Energy Security Reserve account."

Mr. McCLURE. Mr. President, this amendment is a series of technical amendments to the language of the bill which were negotiated with the Senator from New Mexico, the Senator from Louisiana, and myself, starting before the vote yesterday and culminating just a few minutes ago. I think in each instance the entire language is acceptable to the managers of the bill on both sides. It deals only with title 1 of the bill.

Mr. JOHNSTON. Mr. President, I would first ask of the Senator from Idaho, and I think this is clear from his language, that this does not create a set of criteria for lawsuits against the corporation, but, rather, describes in greater detail and with more restriction the conditions under which the subsidization, whether by loans, price guarantees, et cetera, could be made.

Mr. McCLURE. The Senator is correct.

Mr. JOHNSTON. Mr. President, we have approved this language and we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 772) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside so that I can proceed with an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 773

Mr. DURKIN. Mr. President, I send four amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. Is the Senator requesting that the amendments be considered en bloc?

Mr. DURKIN. Yes.

The PRESIDING OFFICER. Is there objection to the request?

Mr. JOHNSTON. I have no objection to considering these en bloc, Mr. President, if I can get copies. I think these are the ones I am ready to accept.

Mr. DURKIN. The Senator has all of my copies now. I am down to the last one.

The PRESIDING OFFICER. Without objection, the four amendments sent to the desk by the Senator from New Hampshire will be considered en bloc, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 773.

Mr. DURKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 337, line 4 add:

The Solar Bank may make payments reducing the principal obligations of loans to builders of residential and commercial buildings. No more than 20% of the funds available to the bank shall be made directly to builders during the first year of the bank's operation. In the case where the builder receives a payment, the total payment to the builder and any subsequent owners, on qualifying systems, shall not exceed 40 percent of the amount of such expenditures.

On page 337, line 19 add: (except in the case of loans or payments made to builders, where no such minimum term shall apply)

On page 340, after the word program, add the following sentence: This report shall also assess the relative effectiveness of subsidies made to builders and subsidies made to purchasers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Defense Production Act Amendments are amended by adding at the end thereof the following new section:

"Small-Scale Hydropower Initiatives

"SEC. 1. That the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2708) is amended as follows:

"(a) In section 408 by deleting paragraph (1) and inserting in lieu thereof—

"(1) small hydroelectric power projects means any hydroelectric power project

which has not more than 30,000 kilowatts of installed capacity;".

"SEC. 3. (a) The Secretary of Energy shall establish, within six months after the date of enactment of this part, such rules and regulations necessary to fully implement Title IV of the Public Utility Regulatory Policies Act of 1978 (92 Stat. 3117).

"(b) Not later than 3 months after the date of the enactment of this part, the Secretary of Energy shall complete a study of the existing federal programs and policies relating to the development and commercialization of small-scale hydropower which contains (1) a survey and description of such federal programs and policies, (2) an assessment of the efficacy of such federal programs and related policies, and (3) the need for consolidation, reorganization or change in such programs and policies in order to improve and insure their effectiveness.

"SEC. 4. (a) There is hereby authorized to be appropriated in each of the fiscal years 1981 and 1982 not to exceed $10,000,000 in addition to the amounts authorized by the Public Utility Regulatory Policies Act of 1978 for purposes of loans to be made pursuant to section 402, such funds to remain available until expended.

"(b) There is hereby authorized to be appropriated in each of the fiscal years 1981 and 1982 not to exceed $100,000,000 in addition to the amounts authorized by the Public Utility Regulatory Policies Act of 1978 for purposes of loans to be made pursuant to section 403, such funds to remain available until expended.".

Mr. DURKIN. Mr. President, the first amendment is a technical amendment to provide eligibility for passive solar with respect to the solar bank. It takes care of the special problems of builders using the subsidized loans of the solar bank. One of the problems has been that the builder has no incentive to incorporate passive solar design. This amendment clarifies the provision in the bill which provides for the builders.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. DURKIN. I yield.

Mr. JOHNSTON. Does the Senator have the 40 percent limitation?

Mr. DURKIN. Forty percent in the next to the last line.

Mr. JOHNSTON. Mr. President, my copy of that amendment has 50 percent.

Mr. DURKIN. Mr. President, the one I sent to the desk has 40 percent.

Mr. JOHNSTON. Mr. President, I have no objection to this amendment. I have some reservations about grants of this size to builders but I would not impose any objection at this time. We will try to make this acceptable in whole or in part in the conference committee.

Mr. McCLURE. Mr. President, we are prepared to accept the amendment.

Mr. DURKIN. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Earlier the unanimous-consent request of the Senator from New Hampshire was for all four amendments to be considered en bloc.

Mr. DURKIN. The Chair is correct.

Mr. President, the second amendment changes the definition of small scale hydro from 15,000 to 25,000 kilowatts. Similar legislation has been introduced in the past by Senator JACKSON and myself earlier in the year.

I do not believe there is any objection.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. DURKIN. I yield.

Mr. JOHNSTON. I ask, did the Senator take out section 2, authorizing FERC to surrender licensing authority to State agencies?

Mr. DURKIN. Yes.

Mr. JOHNSTON. That has been stricken.

That amendment is acceptable, Mr. President.

Mr. President, I am advised by the clerk that section 2 has not been taken out of the bill.

Mr. McCLURE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. The Senator from New Hampshire would have the right to modify it by striking section 2, would he not?

Mr. DURKIN. I think the Senator could look at that copy.

Mr. JOHNSTON. I am advised that the Senator has in fact stricken it.

The PRESIDING OFFICER. It will take unanimous consent to strike section 2.

Mr. JOHNSTON. I am advised by the clerk, Mr. President, that section 2 has been stricken.

Mr. DURKIN. I ask unanimous consent to strike section 2.

The PRESIDING OFFICER. Section 2 has been stricken from the amendment offered by the Senator.

Mr. DURKIN. The third amendment, Mr. President, requires DOE to establish such rules and regulations as it requires to assess the effectiveness of the loan program. I do not believe there is any objection to that.

The fourth part extends the authorization on DOE loan programs through 1982.

Mr. McCLURE. Mr. President, we have no objection. I commend the Senator for accomplishing with this amendment something we have been trying in the committee to get accomplished for a year. We accept the amendment.

Mr. JOHNSTON. Mr. President, the Senator is referring, when referring to amendments 3 and 4, to sections 3 and 4 on the amendment given to me, is that correct?

Mr. DURKIN. The Senator is correct.

Mr. JOHNSTON. Mr. President, we have no objection to the amendment.

Mr. DURKIN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the four amendments en bloc.

The amendments were agreed to en bloc.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from West Virginia.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 774

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 774.

Mr. JOHNSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 704. is amended by deleting paragraph (7) and inserting in lieu thereof:

(7) the term "cost-effective" means the simple sum of all capital and operating expenses associated with the system can be recovered over the expected life of the system or during a period of thirty years, whichever is shorter, using noninflating dollars, marginal fuel costs as determined by the Secretary, and a real discount rate of 3 per centum per year. The marginal fuel cost shall be the equivalent of the cost of oil in international markets plus fees for international transportation, refining, and domestic delivery. In the case of natural gas, coal, and nuclear fuel, the marginal cost shall be the cost of the most expensive 10 per centum of fuel supplies in the region purchased or contracted for during the previous quarter. In the case of electricity, the marginal price shall be the least cost new supply which would have been charged by the utility in the service area supplying the facility. Least cost new supply may, if appropriate, include externally purchased power and demand management. In the case where new capital is required the assumption shall be that the new capital plant and equipment in the service area is financed at the average cost of new capital available to the utility, that equipment is purchased at the prices expected for new plants ordered in the region, and that fuel used by the utility is purchased at the marginal prices described previously.

Mr. JOHNSTON. Mr. President, this is a technical correction of an amendment numbered 766, passed earlier today, by the Senator from New Hampshire. It simply rearranges some numbers and some technical data in the bill which did not fit in the bill. There is no substantive change whatsoever.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. DOMENICI. Mr. President, we have no objection on this side.

The amendment was agreed to.

Mr. DURKIN. I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from West Virginia.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 775

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 775.

Mr. BAUCUS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 260, on line 25, at the end of the line, add the following sentence:

The Secretary may in consultation with appropriate state officials provide for definitions of energy audits that differ from region to region to account for regional variations in energy use.

Mr. BAUCUS. Mr. President, this is a simple amendment. It simply gives the Secretary authority to define energy audits that are required in the bill. Essentially, it allows the Department of Energy to consult with various States to provide for regional differences in energy audit criteria because of different conditions in different parts of the country. It is entirely discretionary with the Secretary of Energy.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. BAUCUS. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator's amendment provides for definition of energy audits that differ from region to region. Would it not be better to say "provide for criteria for energy audits?" It is not the definition but the criteria in the definition that we are concerned with.

Mr. BAUCUS. That is fine.

Mr. JOHNSTON. If the Senator will modify that, we are delighted to take it.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the amendment be so modified.

Mr. JOHNSTON. That is by striking the word, "definition," and inserting in lieu thereof, "criteria for energy audits."

The PRESIDING OFFICER. Upon the request of the sponsor of the amendment, the amendment is so modified.

The amendment, as modified, is as follows:

On page 26, on line 25, at the end of the line, add the following sentence:

The Secretary may in consultation with appropriate state officials provide for criteria for energy audits that differ from region to region to account for regional variations in energy use.

Mr. FORD. Mr. President, I should like to say that this would be a logical place to bring up my amendment to amend the amendment of the distinguished Senator from Montana, that already has a unanimous-consent agreement. I am trying to work out something here and I do not want keep the Senate in very long. I should like to have a vote on my little amendment. Apparently, there is a gun at my head. I just wanted to make the parliamentary point that I could have amended this amendment.

Mr. JOHNSTON. We sincerely thank the distinguished Senator from Kentucky, who is always noted for his courtesy and forbearance.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

Mr. DOMENICI. Mr. President, we have reviewed this amendment. We think it is a good amendment and we have no objection. We urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAUCUS. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily set aside.

Mr. DURKIN. Reserving the right to object, is there a second amendment?

Mr. BAUCUS. The Senator is correct.

Mr. DURKIN. On audits as well?

Mr. BAUCUS. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 776

Mr. BAUCUS. Mr. President, I have an amendment which I send to the desk and ask to have considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 776:

On page 88, on line 4 at the end of the line, add comma, to be followed by "and appropriate State agencies."

Mr. BAUCUS. Mr. President, very simply, I am suggesting that any contract for financial assistance required under the bill, where the boards of directors of the corporation and the synfuel plants have to consult with EPA or DOE, also be required to consult with the States. It is merely a provision to provide for consultation with States. There is no requirement that States have to give approval, no veto authority. It is merely consultation.

Mr. JOHNSTON. Mr. President, the Senator from Montana accurately states the amendment. We approve of it and accept it.

Mr. DOMENICI. Mr. President, we have not seen the amendment. We do not want to delay things, but could we see it?

Mr. President, we have no objection. Our staff had cleared that. They were confused as to whether it was the amendment which had been cleared. We urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAUCUS. I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment offered by the Senator from West Virginia, amendment No. 741.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield to the Senator from Georgia (Mr. TALMADGE).

UP NO. 751 (MODIFICATION)

Mr. TALMADGE. Mr. President, early in the afternoon, the Senate agreed to an amendment I offered. Due to a printing error, certain words were omitted from one sentence of the amendment. I ask unanimous consent that the amendment be corrected to include the words that I send to the desk at this time.

This is a technical amendment. It has been cleared on both sides of the aisle.

Mr. JOHNSTON. Mr. President, the Senator is correct. It is a technical amendment, and we support it.

Mr. BELLMON. There is no objection on the minority side.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

Mr. TALMADGE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45 of unprinted amendment No. 751, insert after line 21 the following: "from biomass or efficient use of energy in rural areas, as provided in this section.".

The PRESIDING OFFICER. The question is on agreeing to the modification of the amendment.

The modification to the amendment was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the modification to the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. I thank the distinguished floor manager of the bill.

Mr. JOHNSTON. I thank the distinguished Senator from Georgia.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, while Senators are working on amendments, I ask the Chair whether there has been any period for morning business today.

The PRESIDING OFFICER. The Chair informs the majority leader that there has not been a period for the transaction of morning business.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to exceed 10 minutes, and that Senators may speak therein up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

A ROGUE GOVERNMENT RUN AMOK

Mr. LEVIN. Mr. President, I am appalled by the situation in Iran. I am angered by the callous and irrational behavior of the Ayatollah and I am frustrated by the inability of the United States to quickly and cleanly remove the threat to American citizens now being held in the Embassy.

A number of Members of the Senate, including myself, met with Secretary of State Vance about this situation yesterday and I have directed my staff to stay in contact with the State Department in an effort to keep abreast of what is a rapidly changing situation. The primary goal of our Government must be to protect the lives of the Americans being held hostage. The best way to accomplish that goal, at this point, is by continuing to pursue every available diplomatic option open to us. The State Department is doing that now. I support their efforts.

While the temptation to move in and attempt a rescue of the Americans now being held captive is great, I am not persuaded that we have exhausted other more promising alternatives, and if I believed that military action would save American lives, I would support it. But military action would cost the lives of our people already there plus additional lives.

This Nation will support any reasonable action which is designed to resolve this situation—but we cannot give in to blackmail or force. Our commitment, as a nation, to human rights and individual liberty cannot be bought by a threat to our oil supply, nor can our faith in American strength be broken by the immoral and irrational acts of blackmail being perpetrated by a rogue government run amok.

THE 60TH ANNIVERSARY OF JUNIOR ACHIEVEMENT PROGRAM

Mr. LEVIN. Mr. President, I am delighted to add my support to Senator RIBICOFF's Senate Joint Resolution 66 to honor the 60th anniversary of the junior achievement program.

In our present society, both parents are required to work, in order to provide a financially viable homelife. In some cases, this situation creates a lack of parental guidance. I recognize the need for programs such as junior achievement, which not only helps to rehabilitate the delinquent but also provides incentive for youths to work and help to reduce the dependency on the welfare system.

If this Nation is to prosper, we need to encourage more programs like junior achievement. I am sure junior achievement will continue for many more than 60 years to produce productive, civic-minded citizens.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders are recognized under the standing order, Mr. JEPSEN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the order for the recognition of Mr. JEPSEN on tomorrow, Mr. RIEGLE be recognized for not to exceed 15 minutes, to be followed by Mr. ROBERT C. BYRD for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF DEPARTMENT OF DEFENSE APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, if the Senate completes the energy bill before the close of business today, I ask unanimous consent that when the orders for the recognition of Senators are completed on tomorrow, the Senate return to the consideration of the Department of Defense appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1979

The Senate continued with the consideration of the bill, S. 932.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 777

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 777.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 311, at the end of title VI add the following:

"Sec. (a) The Secretary of Energy (hereinafter referred to as "Secretary") may enter into price support loan agreements with the owner or operator of a resource recovery facility pursuant to the terms of which quarterly disbursements to such owner or operator shall be made in an amount calculated by multiplying the quantity (measured in millions of Btu's) of recovered fuel products or electricity or steam produced by the resource recovery facility by the support price as determined with reference to:

"(1) (A) in the case of recovered fuel products except as provided in subparagraph (B), the lesser of—

"(i) the difference between the standard support price as determined under subsection (b) (1) and the average cost per million Btu value during the previous four fiscal quarters for fuel previously purchased by the customer who now intends to purchase, and thereby substitute, the recovered fuel products from the resource recovery facility, or

"(ii) $2.00 per million Btu value; or

"(B) Notwithstanding the above, in the case where a recovered fuel product displaces the use of oil, the amount of price support shall be the difference between the customer's actual cost of oil during the previous four fiscal quarters and the standard support price plus $0.80 per million Btu value; or

"(2) (A) in the case of electricity or steam produced by the resource recovery facility except as provided in subparagraph (B), the lesser of—

"(i) the difference between the adjusted support price, as determined under subsection (b) (2), and the average cost per million Btu value during the previous four fiscal quarters for electricity or steam previously purchased by the customer who now intends to purchase, and thereby substitute, the electricity or steam purchased from the resource recovery facility, or

"(ii) $2.00 per million Btu value; or

"(B) Notwithstanding the above, in the case where a recovered fuel product displaces the use of oil, the amount of price support shall be the difference between the customer's actual cost of oil during the previous four fiscal quarters and the standard support price plus $0.80 per million Btu value.

"(b) (1) For purposes of this section the term "standard support price" means, that price set by the Secretary which reflects the average cost per million Btu value over the preceding three months, as measured from that date when the Secretary determines such price, of imported 0.7% sulfur No. 6 fuel oil F.O.B. in New York harbor. *Provided that:* The Secretary shall determine the standard support price within six months of the enactment of this section, and such price shall be set on a cost per million of Btu value basis.

"(2) For purposes of this section the term "adjusted support price" means that price which is determined by the Secretary by multiplying the standard support price by

such price support factors as are determined by the Secretary. The adjusted support price shall be applicable where electricity or steam produced by a resource recovery facility is sold to any customer.

"(3) For purposes of this section the term "price support factor" means those factors which take into account any operating efficiencies, other cost savings and any other economic benefits realized in producing such electricity or steam as determined by the Secretary pursuant to published regulations.

"(c) The value of the price support determined pursuant to subsection (a) shall be reduced each fiscal quarter beginning with the fifth consecutive fiscal quarter during which the resource recovery facility has maintained commercial operation at substantially the level for which it is designed and, *Provided that:* The value of such price support shall be zero by the end of the twenty-eighth fiscal quarter as measured from the first of the four consecutive fiscal quarters referenced above.

"(d) The amount of disbursements made pursuant to this section and which remains outstanding at the end of the twenty-eight consecutive fiscal quarters during which this price support loan program is utilized by the owner or operator of any resource recovery facility shall bear interest at a reasonable rate determined by the Secretary, in consultation with the Secretary of the Treasury, but in no case shall such interest rate exceed five percent, and, *Provided that:* Such interest shall not begin to accrue until the final disbursement has been made.

"(e) The terms of the agreement between the Secretary and the owner or operator of the resource recovery facility shall require full repayment of the cumulative total of the amounts disbursed by the Secretary thereunder, *Provided that:* Such repayment shall commence at a date no later than one year after the date of the last disbursement by the Secretary and shall be completed no later than the earlier of fifteen years after such date or the time at which the indebtedness incurred to acquire the resource recovery facility has been repaid, and shall provide for a repayment schedule as mutually agreed upon by the Secretary and the owner or operator of the resource recovery facility after taking into account the impact of the timing and amount of annual repayment on the economic stability of the resource recovery facility and the integrity of the financing agreements.

"(f) Price support loan agreements undertaken by the Secretary pursuant to this section are hereby expressly limited to the use and sale of recovered fuel products and electricity or steam produced by a resource recovery facility and shall not extend to the sale of other recovered materials produced by such a facility.

"(g) Notwithstanding any other provision of this section, the Secretary shall have no authority to disburse amounts pursuant to any price support loan agreement made under this section after December 31, 1994.

"(h) For purposes of carrying out the provisions of this section, the amounts of $36,000,000 are authorized to be appropriated for the fiscal year 1981; $67,000,000 are authorized to be appropriated for fiscal year 1982; $93,000,000 are authorized to be appropriated for fiscal year 1983."

Mr. BRADLEY. Mr. President, this is an amendment to legislation which had been introduced on October 24. Specifically, the amendment would authorize a price support loan program for providing financial incentives for the development of municipal solid waste to energy systems. The incentive is in the form of a price support which will be applied to each unit of fuel or energy that is actually produced from the garbage processing or conversion facility.

After a designated period of time the total amount of the price support given to the program is repayable to the Federal Government.

Mr. President, this is a proposal which is intended to authorize a program to utilize the best features of both price support and loans.

The incentive is tied to specifically the production of energy; thus, the private party working in the marketplace is still required to assume the risk of construction and operation of the garbage processing and conversion process. But once the project is operational, then a Government incentive is provided for a limited period of time to support the price of the product and make the garbage-derived energy or fuel cost competitive with conventional fuels. Anticipating that the cost of conventional fuels will continue to rise, the price support to a given project will be terminated on a date certain and the total value of the price support provided to that time by the Federal Government will be made repayable to the Government along with interest.

In this way, the repayable feature of the proposal incorporates the idea of a loan in lieu of an outright Government grant but provides the possibility of the loan being used directly to construct the garbage-to-energy facility.

Mr. President, our country is facing a very serious crisis and there is need to diversify our sources of energy supply, and we have in our country the possibility of over 129 million barrels of oil annually from the production of garbage energy systems.

I suggest that this amendment provides an adequate way to get at that supply of energy. It is built on the concept of no Government grant but a Government payment that will be repaid as the garbage energy facility becomes competitive. As the price of other energy sources rise garbage becomes much more competitive as an energy source.

I suggest that the managers of the bill carefully look at this and respond.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, the Senator from New Jersey has put out a most interesting amendment here, the purpose of which we totally concur with. It is a complicated mechanism, involving payment to the producers of energy from garbage which I think may well be an appropriate subject on which we will want to legislate in the terms that the Senator from New Jersey has stated.

However, we have not been able to have hearings on this measure, and I think it is the kind of measure that should have hearings. I urge that the Senator give us a chance in the Committee on Energy and Natural Resources to hold hearings on this matter. I for one, and I think I speak for the committee, will look very sympathetically on the purpose of this amendment and perhaps the precise mechanism, but in any event, it should have hearings. I say that in an encouraging way to the Senator because it is a most interesting idea that I think has great promise for not only doing away with municipal garbage but producing useful energy from that garbage as well.

Mr. DOMENICI. Mr. President, I agree with the majority manager of the bill and I say to my good friend from New Jersey I recall 4 years ago we started hearings on a bill that was aimed at trying to promote the utilization of garbage for electrical energy. I remember quite vividly that it was then said that there was enough energy to produce lights for all the homes in America. That was the equivalent if we could find a way to make this conversion. We have had all kinds of energy shortages and we have still made very few strides in converting refuse and garbage to energy.

I think the Senator's approach has great merit. I hope that the Energy Committee will immediately begin hearings.

We know that this is not a problem only in States such as New Jersey. We note that States like Idaho are concerned. Senator McCURE has indicated that he would like to have people from his State testify as to the validity of this conversion and to get on with helping to see that it takes effect.

So I commend the Senator for it. I hope he will withdraw it, and I will join with Senator JOHNSTON in urging that we have early hearings to get something to the Chamber that will make this a reality.

Mr. BRADLEY. Mr. President, I point out that in the energy bill that we are presently considering we have basically authorized over $88 billion for synthetic fuels and after this afternoon's action a little over $1 billion for gasohol, about $5.5 billion for conservation, about $750 million for geothermal, about $50 million for renewables, about $100 million for wind and $475 million for solar bank, and of this virtually nothing for garbage.

I suggest that the important point to make here is that we are not banking on a new technology being developed. We have at this time in this country a number of facilities that are producing energy directly from urban solid waste. It is a known technology with a known return, a known oil equivalent.

I also suggest that because of that there is a very short time for payback or payout of oil equivalent amounts of energy.

I hope that the Senate will consider movement on this amendment, as it is important and in the national interest, in as speedy a manner as we have considered movement in all of these other areas.

I yield to my colleague from Massachusetts.

Mr. TSONGAS. I thank the Senator.

Mr. President, I would like to commend the Senator from New Jersey on his initiative. Judging from the reaction we just heard here with reference to the word "garbage" I would say to you that a rose by any other name would still smell as sweet. The technical term is pyrolysis, and I think if we had introduced it by that name there would have been more enthusiasm.

Mr. METZENBAUM. There is a lot of garbage in the bill now. [Laughter.]

Mr. TSONGAS. There seems to be a tendency—and I suppose it is human

nature—that the more esoteric it is, the more attractive it is. Here we are dealing with oil shale, tar sands, and coal liquefaction. This is something immediate and does not seem to have the same attractiveness.

In the State of Massachusetts, there is going to be the same kind of facility privately financed in which the city of Worcester is going to provide the solid waste so that the Norton Co., which is a major user of energy, can have an infinite supply of energy. The economics clearly are there, and we are much closer to those economics than we are to any of the alternatives we have been discussing in the last 2 days.

I would just like to commend the Senator, and I am pleased to see that Senators JOHNSTON and DOMENICI are prepared to support hearings and that some time early next year this will become law.

Mr. BRADLEY. I yield to the Senator from Michigan.

Mr. LEVIN. Mr. President, I, too, want to join my voice in support of this amendment. It not only will have a tremendous potential—it could have a tremendous potential—in terms of energy production but an important side effect is the reduction of municipal waste and, therefore, it has a very strong environmental flavor to it as well.

The volume of waste can be reduced by 95 percent. The waste could be reduced by 80 percent if we make greater use of waste for the production of energy. So energy production, environmental production are both the results of this amendment.

Each year the United States lives up to its deserved reputation as the most wasteful country in the world by throwing out more than 135 million tons of municipal solid waste. This waste is dumped in the oceans, dumped on the ground, dumped in landfills or openly incinerated. However it is dealt with, it creates environmental problems and effectively eliminates the possibility of reusing many valuable materials.

This waste, the product of our throwaway society, is a constant drain on world resources and energy. While little can be done about our society's disposable attitude, we can deal more effectively and efficiently with the wastes we produce. If Senator BRADLEY's amendment is passed, we will be encouraging the development of a technology that turns a social liability into a socially productive commodity.

The concept and objectives of municipal waste recovery are clear. First, it will dispose of waste in an efficient and environmentally sound way. The volume of waste could be reduced by 95 percent, and the weight could be reduced by 80 percent, making disposal of what remains a vastly simpler task; Second, the project should be economically sound in the long-run, eventually helping to pay for itself through fees charged for waste disposal and energy sales; Third, an energy product will be produced, helping to relieve our energy bind; and Fourth, a waste recovery plant may recycle metals and glass, conserving raw materials and additional energy.

This bill has provided billions of dollars for the production of alcohol from agricultural products. We are asking for a much smaller amount of money for the development of energy from urban waste, which we consider to be another usable resource.

Municipal waste recovery can stand alone on its merits as an energy saver and producer. It could stand on its own for its environmental considerations. One amendment which helps to achieve both of these things represents a one-two punch and that is why I take particular delight in joining Senator BRADLEY as a cosponsor of this amendment.

I ask unanimous consent that I be listed as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I hope I can receive a commitment from the two distinguished floor managers of the bill for early hearings and support of the general concept of price supports in the area of garbage as it relates to energy systems.

Mr. JOHNSTON. Mr. President, I certainly support hearings for the Senator's bill, and I support the concept of incentives, whether they are price supports or whatever the particular mechanism is. That would be a proper subject for hearings. But I think they certainly need some incentive, and price supports may be the appropriate role.

I commend the Senator for putting in the amendment and for withdrawing it as well, and I would certainly work with him to see that this matter is brought to an early and, hopefully, successful resolution.

Mr. BRADLEY. Mr. President, since the distinguished floor manager is his usual persuasive self, I will withdraw the amendment.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

The question recurs now on agreeing to the amendment of the Senator from West Virginia.

Mr. DOMENICI. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on passage of the pending bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside and that the Senator from Idaho be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 778

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 778.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 185, line 19, insert the following:

SUBTITLE K

Sec. 2010. (a) The Internal Revenue Code of 1954 is amended by redesignating section 5181 as section 5182 and by inserting in lieu thereof the following new section 5181.

"SEC. 5181. DISTILLED SPIRITS FOR FUEL USE

"(a) Notwithstanding any other provision of this Title or of any other provision of law, the Secretary, upon application, shall issue operating permits for distilled spirit plants established solely for producing, processing, storing, using, and distributing distilled spirits exclusively for fuel use.

"(b) Such application shall include the name and address of the applicant, the location of the plant, and the volume of distilled spirits anticipated to be produced. Based on such application, the Secretary shall issue within 30 days of receipt of such application said operating permit.

"(c) If, based on the application, the Secretary determines that said permit should not be issued, the Secretary shall, within 30 days of receipt of such application, give notice in writing to the applicant of the Secretary's determination; and such notice will include, in detail, the circumstances resulting in the Secretary's determination.

"(d) No determination made pursuant to subsection (c) of this section shall prejudice any further application for permit made by the same individual, individuals or organization whose application for permit had previously been denied.

"(e) If, within 30 days from the Secretary's receipt of said applications, said permit has not been received by the applicant and said notice of permit denial has not been received by the applicant, the applicant shall assume said permit has been issued and may lawfully commence operation.

"(f) Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other then fuel use. Distilled spirits produced under this section shall be rendered unfit for beverage use by addition of substances which will not impair the quality of the spirits for fuel use. Such substances must be added prior to withdrawal from the premises of a distilled spirits plant.

"(h) For purposes of this section, the term 'distilled spirits' does not include distilled spirits produced from petroleum or natural gas.

"(1) Notwithstanding any other provision of this Title or of any other provision of law, no bond shall be required for the production, processing, storage, use, or distribution of distilled spirits manufactured for fuel use.".

"(j) If more than one application is submitted by a person in any one calendar quarter, the provisions of this section shall apply only to the first application submitted by such person in such quarter." For purposes of this provision, a corrected or amended application shall not be considered as a second application, and the 30 day period referred to in subsection (b) shall commence with receipt of the said corrected or amended application."

(b) Section 5601(a) of the Internal Revenue Code of 1954 is amended by adding the word "or" after paragraph 14 and by adding a new paragraph 15 to read as follows:

"(15) UNAUTHORIZED WITHDRAWAL, USE, SALE, OR DISTRIBUTION OF DISTILLED SPIRITS FOR FUEL USE.—Withdraws, uses, sells, or otherwise disposes of distilled spirits produced under section 5131 for other than fuel use;".

(c) Section 5214(a) of the Internal Revenue Code of 1954 is amended by striking from paragraph (10) the period and inserting in lieu thereof a semicolon and the word "or" and by adding a new paragraph (12) to read as follows:

"(12) free of tax in the case of distilled spirits produced under section 5181.".

(d) Section 5004(a)(2)(B) of the Internal Revenue Code of 1954 is amended by striking out "or (a)," and inserting "(a) or (12).".

(e) Section 5005(d) of the Internal Revenue Code of 1954 is amended by striking out "or (A)," and inserting "(a), or (12).".

(f) Section 5025 of the Internal Revenue Code of 1954 is amended by redesignating paragraph (m) as (n) and by adding a new paragraph (m) to read as follows:

"(m) DISTILLED SPIRITS FOR FUEL USE.—The processing of distilled spirits exclusively for fuel use produced under section 5181 shall not be deemed to be rectification within the meaning of sections 5021, 5081, and 5062.".

(g) Section 5063 of the Internal Revenue Code of 1954 is amended by adding a new paragraph (16) to read as follows:

"(16) Processing distilled spirits for fuel use, see section 5025(m).".

(h) The table of sections for subchapter B of chapter 41 of the Internal Revenue Code of 1954 is amended by redesignating section 5181 as section 5182 and by inserting after section 5180 the following:

"Sec. 4181. Distilled spirits for fuel use."

Mr. LONG. Mr. President reserving the right to object is this an amendment to amend the Internal Revenue Code?

Mr. McCLURE. Mr. President I would say to the Senator from Louisiana yes, it is. It is the amendment which the committee considered, did not enact in the committee, recommended the amendment, and it appears on page 159 and 160 of the committee report.

Mr. LONG. Mr. President, I have looked at that amendment of the committee, since it is in the committee report, and I am really not qualified to pass judgment on the merits of the amendment, but of this much I am convinced: That that amendment is clearly within the jurisdiction of the Committee on Finance, and we would like the opportunity to look at it and study it, and give the Senate the benefit of our judgment.

After this bill is passed, there will be, I believe, one other important appropriation bill to pass, and then we will move on to the energy tax bills next week. The windfall profit tax legislation will be before this body, and it will be perfectly in order and I would have no objection to the Senator offering the amendment on the windfall profit tax bill.

Meanwhile, I would like to urge our staff to study the amendment, and urge Senators on the Finance Committee to look at it, so we could give the Senate the benefit of our judgment. It may very well be that I will favor the Senator's amendment. I am not prepared to pass now on the merits of it; all I can say is that it is clearly within our jurisdiction, and we would like to discharge our duty to the Senate; and I would hope the Senator would not insist on the amendment tonight, but consider offering it as an amendment to the windfall profit tax bill.

Mr. McCLURE. I thank the Senator from Louisiana for his comments.

Mr. President, I might say just this much about the amendment: This amendment does deal with a section of the Internal Revenue Code that deals with the issuance of permits by the Bureau of Alcohol, Tobacco, and Firearms, a bureau within the Department of the Treasury, with respect to the permits issued to those who produce alcohol. It is in the Internal Revenue Code because alcohol is heavily taxed, and that is the regulatory regime for the production of alcohol.

This amendment which I propose does not affect the revenue aspect, it affects only the procedural aspects of the granting of such a permit. We have found in practice that while the BATF says it is going to expedite the handling of these permits, the people who are out there actually trying to get into the business of producing alcohol, many of them very small producers, many times on the farm, for their own consumption or that of their neighbors, will experience some difficulty in getting their permits, because the BATF is used to dealing with moonshine bootleggers, I guess, and they are afraid somebody is going to get away with a gallon of moonshine and they will drink it instead of putting it in their tractor. So they have been very slow about granting these permits.

It was my desire, in dealing with this legislation dealing with the production of alcohol, to deal with one of the major impediments to the small unit production and what that could contribute.

I appreciate the suggestion that has been made by the Senator from Louisiana. We have discussed this. Of course, I would like to have it included in this measure, but I understand what the Senator from Louisiana is saying. With the assurance that it will get that kind of treatment, if the manager of the bill on behalf of the majority has no objection, I would withdraw the amendment, and I ask for that concurrence on his part simply because this was considered by the committee, was recommended by the committee, and was offered tonight on behalf of the committee.

Mr. JOHNSTON. Mr. President, I certainly concur with the suggestion of my senior colleague from Louisiana and the Senator from Idaho. I think that is the appropriate way to deal with this amendment.

Mr. McCLURE. Again, I thank the Senator from Louisiana for his consideration.

Mr. LONG. I thank the Senator from Idaho.

I may say that the Senator from Kansas (Mr. DOLE), who is a member of the Finance Committee, is equally as much interested in gasohol as any Senator in this body. I believe all of us who represent the States which produce a lot of farm commodities or have a lot of forestry products are very much interested in moving forward with gasohol, because it is a recurring source of energy; it is there year after year and it is not depletable.

So we think that it would have tremendous prospects and we put a lot of emphasis on it in the windfall profits tax bill. We have a lot of tax credits for it. I believe the Senator's purpose is to expedite the program of producing gasohol and I believe he can rely on a sympathetic ear for his amendment when he offers it on the other bill.

Mr. McCLURE. I will be happy to yield to the Senator from Kansas, because I do know of his interest in this subject.

Mr. DOLE. I just want to concur in the statement of my chairman. We cannot accept it yet, because we do not have the bill on the floor. But I would think the Senator will find us a very understanding group, notwithstanding his views on other portions of the windfall profit tax bill.

Mr. McCLURE. Mr. President, we have spent a great deal of time in this legislation trying to further alcohol production. We have done a number of things in a number of areas trying to make it possible for us to move alcohol from theory into the fuel tanks.

One of the major deterrents is this procedural hangup. If we were not going to be moving very soon to an appropriate vehicle for such legislation, I would be pressing harder to have it considered here tonight on this legislation. But since we will be moving very soon to other legislation where the chairman of the committee has assured me, at least, of a sympathetic hearing, Mr. President, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

GASOHOL: ITS TIME HAS COME

● Mr. CHURCH. Mr. President, rampant inflation, our increasing trade deficit, gasoline lines, and growing numbers of citizens unable to pay spiraling heating costs, are all symptoms of an energy crisis with which we must come to grips.

A crash program for developing synthetic fuels is one way to reduce our country's dependence on imported oil. Yet, the full potential of this ambitious program will not be realized until the turn of the century. With spot shortages of gasoline, diesel, and heating oil already occurring with alarming frequency, we must find energy prescriptions that will get us through the next two decades. The stakes are tremendous.

Shortages of diesel fuel which occurred in Idaho last August are illustrative of the fragility of the situation; the summer drought brought Idaho severe forest fires and an early wheat harvest, placing additional strains on an already short supply of diesel fuel. Had not late August brought with it cooler and damper weather, diesel shortages could have become so severe as to have resulted in the loss of large quantities of unharvested wheat and other crops.

Stretching available fuel supplies by mixing into our gasoline alcohol from renewable resources could significantly reduce the potential occurrence of such disastrous events. That is why I sponsored title II for incorporation in this bill, the Gasohol Motor Fuels Act of 1979, along with my distinguished colleagues, the Senator from Louisiana, Mr. JOHNSTON, the Senator from Indiana, Mr. BAYH, and 17 other cosponsors.

The most encouraging aspect of the alcohol fuels' technology is that it is not a pipedream—it is in fact an existing technology waiting to be tapped. The frustrating part is that, although it is available, it has yet to be used. While the recently published "Report of the Alcohol Fuels Policy Review," prepared by the Department of Energy, characterized alcohol fuels as "the only alternative fuel commercially available now, and the only one likely to be available in quantity before 1985," we find the actual production of alcohol from renewable resources just a tiny fraction of what it needs to be.

The minuscule use of alcohol fuels, to date, is neither indicative of the lack of entrepreneurial interest nor to the lack of public acceptance of the fuel. To the contrary, witness after witness at hearings I conducted in both Boise, Idaho, and Washington, D.C., expressed a tremendous amount of enthusiasm for the increased production and use of alcohol fuels. One Idaho witness indicated that a poll he had just completed showed that "almost to a man, the farmers of Idaho are willing to commit, on a long range basis, a portion of their production for gasohol."

General Motors testified that most of their gasoline engines would operate satisfactorily on gasohol and that they would be able to solve whatever problems that might arise. GM, Ford, and Volkswagen have already responded to such a market demand in Brazil, where a highly successful alcohol production program will put 1.7 million alcohol-powered cars on the road over the next 5 years.

With such enthusiasm, wherewithal, justification and need, there is absolutely no reason why an alcohol fuels' program should not proceed with the greatest of speed. As another witness at the Boise hearing declared: "those farmers who fired the first shots at Lexington and Concord have the ability today to deliver a salvo for energy independence. Our future is tied to alcohol; by the jug, if we despair, or by the bushel if we succeed."

The production goals of the gasohol title to S. 932 subscribe to the ambitious "bushel" approach. As they must if we are to overcome the anticipated energy supply shortfalls of the 1980's. The loan guarantees and purchase agreements authorized in title II are a small price to pay for the increased energy independence such an investment can provide. With these assurances of a guaranteed market for alcohol, producers will be less hesitant to move into the production of alcohol, made from renewable resources. With such an inducement, there is every reason to believe that we can attain our 1982 goal of 920 million gallons of alcohol, and by 1990 have 10 percent of all our motor fuel made from this domestically produced alcohol.

In addition to the financial incentives, it is essential that an alcohol fuels program be properly directed and coordinated if the production goals are to be attained. To date, alcohol programs have been dispersed between many different agencies with negligible results. The gasohol title provides for an independent Office of Alcohol Fuels to be established within the Department of Energy to coordinate the production goals of the program.

By creating such an office, greater emphasis can be placed on alcohol fuels' production in the Energy Department's order of priorities. The title, at the same time, permits the Department of Agriculture to deliver the program benefits to the agricultural community through the agricultural extension service and soil conservation service. In this manner, the Office of Alcohol Fuels will make maximum utilization of existing agencies while providing, at the same time, the needed program coordination from one central source.

I urge Senators, many of whom are cosponsors of this and other alcohol fuels' legislation, to actively support the creation of this urgently needed, centrally coordinated alcohol fuels' production program. The billions of gallons of alcohol that will be produced through this program will greatly assist in avoiding spot shortages of gasoline during the next few years; it will stimulate competition among gasoline suppliers, it will provide markets for agricultural products, including surplus potatoes, sugar, sorghum, corn, wheat, and many other crops; it will provide relief for the solid waste problems of urban areas, and it will, as a new domestic energy source, reduce our heavy reliance on imported oil. With the program's potential for providing so many benefits to all parts of this country. I ask that title II, the Gasohol Motor Fuels Act of 1979, be approved.

Mr. President, I request that a section-by-section analysis of title II be included here in the RECORD.

The material follows:

TITLE II—GASOHOL

SEC. 201. The name of this title is the "Gasohol Motor Fuel Act of 1979".

SEC. 202. Findings.

SEC. 203. Purposes.

One of the primary purposes of this bill is to achieve the displacement of imported foreign oil.

SEC. 204. General Definitions.

This Title is concerned with the production of alcohol from renewable resources, which is defined to mean any substance which is a source of energy, and which is available in an inexhaustible supply in the foreseeable future, such as timber, crops and crop waste, animal and timber waste, cellulosic waste, food processing waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter. This definition therefore excludes petroleum, natural gas, coal and other fossil fuels as feedstocks for alcohol fuel projects qualifying under this title. Petroleum and natural gas production of alcohol, or synthetic alcohol production, is a well known and well established industry in the United States. Coal to methanol production involves capital formation problems similar to other large coal conversion facilities, and therefore the Committee has decided to include any coal to methanol project under the aegis of the Synthetic Fuels Corporation. The Committee intends that the term "alcohol fuel project" will include distilleries that are retrofitted to produce alcohol fuel, distilleries that will use unused capacity to produce alcohol fuel, and other facilities that have the opportunity to produce alcohol fuel.

SUBTITLE B—ESTABLISHMENT OF THE OFFICE OF ALCOHOL FUELS

SEC. 210. This section requires the President to establish the Office of Alcohol Fuels Production as an independent office in the Department of Energy. The office will be headed by a Director, as provided in this section.

SEC. 211. This section provides for the responsibility of the Director over the terms and conditions of the contracts for financial assistance and the selection of recipients thereof. The Secretary shall have general supervision over the Director for these matters. For all other matters, the Director shall be subject to the Secretary. In no case may the Secretary delegate his responsibility under this section to another office of the Department.

SEC. 212. This section requires the Office to submit a separate report in the annual budget submission of DOE. It also requires the Office to submit copies of all of its extra-departmental commitments on legislation to the Congress.

SEC. 213. This section requires the submission of an annual report. On or before September 30, 1990, the Corporation is required to submit a report on the status of alcohol fuel projects and a plan for the termination of the Office. Rather than require the Office to terminate by a date certain, this section would require the Office to first prepare a plan for termination which the Congress could then consider in evaluating the subsequent utility of this Office.

SEC. 214. The Director, acting through the Secretary, is required to consult with named heads of other Departments and agencies, or their appointed representatives, and to coordinate the programs under the Director's responsibility with other progams within the Department of Energy and in the named Departments and agencies.

This requirement focuses the efforts of the Federal Government in the Department of Energy and thereby centralizes Federal policy for the purpose of achieving the national goal established herein. Each Department mentioned has either regulatory or programmatic responsibilities directly affecting alcohol fuel production; this section does not affect the responsibilities or authorities which these agencies are now utilizing. However, consistent with the DOE Organization Act, Public Law 95-91, this centralizes Federal energy policy for alcohol fuels in the Department of Energy.

SEC. 215. The Secretary is required to make available public information relative to the production of alcohol fuel and construction of alcohol fuel plants, which is at his disposal.

SEC. 216. The Secretary is required to sub-

mit a report on incentives for alcohol motor fuel to the Congress, within 120 days.

SUBTITLE C—ALCOHOL FUEL PRODUCTION

SEC. 220. The President shall seek to achieve a national goal of a volume of alcohol fuel from renewable resources equal to 10 percent of the estimated gasoline consumption in the United States by 1990. As a first step in achieving this goal, the President shall achieve a production level as high as is technically and economically feasible, but at least 60,000 barrels per day of alcohol fuels from renewable resources, by 1982.

SEC. 221. The Office shall solicit proposals from the general public and, if insufficient proposals are received, it shall then seek to negotiate proposals with qualified applicants. In the process of selecting recipients for financial assistance, the Office shall give a first priority to achieving the national production goal for 1982 of, at a minimum, 60,000 barrels per day. As a second priority, the Office shall seek to assure the availability of new technologies which will be able to utilize new feedstocks for the production of alcohol or which will have the capability of utilizing multiple feedstocks, at least some of which are not now considered to be commercially usable. This second priority is of importance because new feedstocks will be needed for use in order to achieve the national goal for alcohol fuel production. The national goal will require the conversion of a large volume of renewable resources. In order to achieve this goal, new feedstocks, such as municipal solid waste, must be utilized.

By September 30, 1982, the Office shall submit a comprehensive strategy for the achievement of the national goal for alcohol fuel production and report on the feasibility of achieving this goal.

SEC. 222. The Office is directed to solicit proposals, beginning within 6 months of the date of enactment of the Title. The Office is also required to set up a two-step procedure for handling and expediting applications for financial assistance. This expeditious procedure will require that all DOE Offices, Agricultural Extension Services Offices, and Energy Extension Services Offices, or other Federal Offices designated by the Director, shall be utilized for the distribution and collection of applications for financial assistance. After an applicant correctly files his necessary forms, the Office will then review the form according to previously issued guidelines and regulations, and certify whether or not the applicant can proceed to negotiations for financial assistance. This certification procedure shall be completed within 90 days. After that certification, the Office shall enter into negotiations with the applicant with the objective of providing whatever financial assistance the Office can make available.

In cooperation with the Department of Agriculture and the Energy Extension Service, the Office shall provide technical assistance and educational projects.

SUBTITLE D—FINANCIAL ASSISTANCE

SEC. 230. This section authorizes the Office to issue financial assistance, and requires certain terms and conditions thereof.

This section also requires that one-third of the amount authorized for contractual obligations shall be used for small alcohol producers. Small alcohol producers are defined elsewhere in the bill to be plants producing less than 2 million gallons of alcohol annually. This would, for example, include plants supplying typical farmer cooperatives.

The Director is required to give priority to those alcohol fuel projects which will displace more motor fuel than they consume in the production of the alcohol fuel. The Director shall establish guidelines for his or her use in making this determination of priority and these guidelines should be updated to reflect the state of the art of alcohol fuel projects. In establishing the guidelines, the Director may establish categories based on size and types of alcohol fuel projects. In utilizing the guidelines the Director shall seek recipients so as to achieve the guidelines and thereby achieve an increasing substitution of alcohol fuel for motor fuel derived from petroleum.

SEC. 231. Authorizes the Office to issue loan guarantees.

SEC. 232. Authorizes the Office to issue price guarantees.

SEC. 233. The Office is authorized to enter into agreements to guarantee the purchase of alcohol fuel produced by an alcohol fuel project. Therefore, if an applicant wishes, the Federal government will be in the position of a purchaser of last resort for his alcohol fuel.

SEC. 234. The Office is allowed to acquire an alcohol fuel project only by foreclosure pursuant to a contract for loan guarantee assistance under this Title. This title does not authorize the Office to operate any project. The Office shall seek to dispose of the alcohol fuel project in as expeditious a manner as possible and pursuant to existing law. In the process of disposing of the project, the Office shall seek to assure that the project will continue in operation where feasible, and will result in the least adverse impact to the host community.

SEC. 235. The Office may charge up to a one-percent fee for financial assistance.

SEC. 236. The Secretary of Treasury may sell any notes, bonds, or other evidences of indebtedness which the Office may own, pursuant to this Title.

SEC. 237. The provisions for the treatment of patents made or conceived in the course of or under financial assistance agreements pursuant to this Title reflects the patent treatment which will be given by the Synthetic Fuels Corporation in the program under that authority. The intent is to give alcohol fuel projects the same treatment as will be derived by producers of synthetic fuels pursuant to financial assistance from the Synthetic Fuels Corporation.

SUBTITLE E—AUTHORIZATION AND FUND

SEC. 240. The Office is authorized to incur obligations or made commitments not to exceed $1.2 billion in the aggregate. This authority does not encompass any provision for roll-over of any previously obligated amount; therefore, the total program authorized cannot exceed this sum. The Committee provided this amount of contractual authority which must be provided in order for the Office to support the additional alcohol fuel production which will be necessary to achieve the minimum 1982 goal of 60,000 barrels per day. DOE estimates that 20,000 barrels per day of alcohol fuel will be produced in 1982 under the present Federal system of incentives.

SEC. 241. The fund is authorized to a level of $400 million. This should be sufficient budget authority to assure bankers and investors that the Office will be able to provide for all contingencies. In addition, the Director is authorized $800 million in borrowing authority to cover the contractual obligations he is authorized to write.

In the event that the Synthetic Fuels Account is created, pursuant to the enactment of Title I of this bill, the above authorizations, to whatever extent they have not been exercised, will no longer be available. In lieu thereof, $1.2 billion, less any other amount already appropriated, pursuant to this Title, will be transferred to the fund. Therefore, if both the Synthetic Fuels Account and the fund are created in the same Act, as is contemplated, no appropriations will be required pursuant to the authorized amounts contained in subsections (d) and (e): a simple transfer of the entire amount authorized in (f) will occur from the Account to the fund.

SUBTITLE F—UTILIZATION OF EXCESS SUGAR

Section 250. Subsection (a) deals with the sugar stocks obtained by the Commodity Credit Corporation during crop years 1977 and 1978. The CCC is directed within 3 months after the date of enactment to make every reasonable effort to sell that surplus sugar in accordance with 7 U.S.C. 1427, which enumerates the authorities and restrictions on the CCC sale of surplus commodities.

After that 3 month period, the CCC is directed to sell the remaining sugar for the restricted use of processing into ethanol for use in motor fuel or for livestock feed. The restrictions in 7 U.S.C. 1427 regarding the price for which the sugar is sold do not apply in this post-three-months effort to sell the sugar. The sugar would be sold by competitive bid without regard to the support price for sugar.

Subsection (b) deals with sugar surpluses from crop years after 1978, treating them as under subsection (a) except that the CCC has one year from the time of acquisition to sell these stocks under normal procedures before they are directed to sell the stocks for processing into ethanol for use in motor fuel or for processing into livestock feed.

Subsection (c) is triggered only if attempts at selling an annual sugar crop surplus under subsection (a) or (b) for the restricted uses of processing into ethanol for use in motor fuel or as a livestock feed have continued for the applicable period but failed to result in substantial sales of that sugar surplus.

Subsection (c) requires the CCC to enter into processing agreements to convert the sugar to ethanol and to make this ethanol available for purchase for use as a motor fuel in motor vehicles owned or leased by the Federal government.

Subsection (d) addresses the extent to which 7 U.S.C. 1427 applies to this section.

SEC. 260. USE OF GASOHOL IN FEDERAL MOTOR VEHICLES

The intent of this section is clear. The Secretary will define the term "gasohol" including the percentage blend of alcohol in gasoline that will constitute gasohol for purposes of this section.

SEC. 270. MOTOR VEHICLE STUDY

The intent of this section is clear.

SEC. 280. PRIORITIES

Section 401 of the Natural Gas Policy Act of 1978 (Public Law 95-621) grants a priority for supply of natural gas in the event of a supply curtailment to any "essential agricultural use", as defined in that section. This section provides that the use of natural gas in sugar refining for production of alcohol is an essential agricultural use. Similarly, this section provides that the use of natural gas for agricultural production on set-aside acreage or diverted acreage is an "essental agricultural use", where the acreage is devoted to the production of any commodity for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as a motor or industrial fuel.

SEC. 290. STANDBY AUTHORITY

This section amends section 4 of the Emergency Petroleum Allocation Act of 1973 to require the President to exercise standby authority if he finds that significant quantities of alcohol suitable for use in motor fuel are not being used for that purpose because of an unavailability of refined petroleum product in which to blend to alcohol.

His standby authority is to allocate crude oil to refiners of petroleum products and to petroleum product marketers where such special allocation would result in the blending of the available alcohol into motor fuels so as to stretch supplies of motor fuel.

The definition of alcohol adopted for purposes of this section includes any alcohol produced from any source, whether renewable or not, so that, for example, methanol made from coal would qualify under the definition of alcohol.●

Mr. DOMENICI. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from West Virginia.

Mr. DOMENICI. Mr. President, I ask unanimous consent that that amendment be temporarily set aside so that an amendment that I will send to the desk can be offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 779

Mr. DOMENICI. I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 779:

On page 296, line 12—

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 296, line 12, strike the parenthetical clause beginning, "except", through line 15 ending, "capacity)."

Page 296, line 19, strike the parenthetical clause beginning, "(except", through line 22 ending, "capacity)."

Page 296, line 24, insert new subsection (3) as follows,

"(3) inserting "and multiple geothermal project units at a site with a total maximum of not more than 140 MWe capacity" after the matter inserted by subsection (1) and after matter inserted by subsection (2).

Mr. DOMENICI. Mr. President, this amendment inserts on page 296 of the bill a separate and new section providing for multiple geothermal project units at a single site, and permits a total of not more than 140 megawatt capacity for that particular and specific kind of project. We have increased the size in the main bill, in the body of the bill, and I did not want to raise that to 140 megawatts. But there are certain projects contemplated that need between 120 and 140 megawatts, and they would be multiple units on a site.

In section 548 of S. 932 the Committee on Energy and Natural Resources amended section 210 of The Public Utility Regulatory Policies Act of 1978. The amendment extended the regulatory exemption of geothermal facilities from 30 MWe to 80 MWe. The reason for the 30 MWe exemption from utility regulation in the PURPA legislation was to encourage the development of geothermal resources by private resource developers. The limit of 30 MWe in PURPA was insuffcieint to cover even the smallest facilities which are now being contemplated. The present state of the art is such that a single geothermal unit is at least 55 MWe. By extending the regulatory exemption to 80 MWe the committee took single unit facilities into account, but failed to cover the more likely instance where two unit facilities are contemplated.

Now, my amendment would extend the exemption to 140 MWe to cover those private developers who wish to build two unit facilities and it would also cover several plants presently being constructed at the Geysers in California, which are 135 MWe.

Who are these private developers and why do they need such an exemption? These private developers are mining and drilling concerns who wish to enter into geothermal development and have the unique expertise to do so. They need this exemption because if they do not have it they will become a fully regulated concern once they begin to produce geothermal power. They will not pursue geothermal development if their entire operations are to become regulated under utility regulations.

Who will protect the energy consumers? Let me point out that these developers do not wish to market their geothermally produced energy. They will sell that energy to already regulated utilities. In that way the guarantee that power will be sold at a reasonable rate is made because the power can only be bought if it is reasonably priced.

Thus, I am offering a separate section. I ask that the floor manager on the majority side and the distinguished Senator from Idaho (Mr. MCCLURE), the prime mover of the geothermal section, accept my amendment.

I have constructed it in such a way that if we have to drop it in conference because of the size, we will do no harm to the basic provisions in the bill. It can be dropped separately and still the new limits set in the bill can be retained.

I would like to do it this way and see if there is serious objection. If there is, I am willing to relinquish. If not, I believe that there are certain projects in the country that might get built if we will permit this size, and they would be clusters and multiple units on a single site.

Mr. JOHNSTON. Mr. President, I do have serious misgivings about the exemption for a 140-megawatt cluster of geothermal projects to be exempted under the Federal Power Act. However, the Senator does make a point that this is a detachable amendment which may be separately dropped in conference if, indeed, it does spark the kind of opposition which I think is possible. But I think it will be an appropriate matter to consider in conference and to have the various parties let us hear from them between now and the time of the conference.

In the spirit that the Senator from New Mexico has offered the amendment, that is, to take it to conference with the understanding that it may spark great opposition which would require its dropping, with that understanding, Mr. President, we will accept the amendment.

Mr. MCCLURE. Mr. President, I want to express my appreciation to the Senator from New Mexico for having formulated the amendment in the manner in which he has. There was my concern that if it were not as a separate amendment, it might very well cloud the effort which we had already made. I appreciate the fact that he has drawn it in this manner.

I echo the sentiments expressed by the majority floor manager of the bill. I am pleased to concur in the acceptance of this amendment and take it to conference.

Mr. DOMENICI. Mr. President, I am most appreciative of the consideration of the Senator from Idaho. I know of his hard work in preparing the geothermal section and his genuine interest in seeing that kind of energy move ahead in our country.

My motives, as the Senator knows, are clear. I think this size is needed for clusters. I am pleased that the Senator will support me.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MCCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, as we conclude debate on this omnibus energy production bill, the importance of this legislation cannot be overemphasized. The Senate has fashioned a response to the energy supply crisis. The number of measures to increase production of domestic energy resources and to conserve energy which are included in this bill will serve as the best national insurance policy against OPEC price increases and supply shortages. Some of these measures will afford short term energy savings; others will set in motion the machinery to develop over the long run our own plentiful domestic energy resources. Together, these initiatives will lessen our dangerous dependence on foreign oil. This must be our first priority.

Current events underscore the immediate need to develop our own energy resources.

The potential loss of oil imports from Iran and the large OPEC price increases we have recently witnessed demonstrate our vulnerability. Moving toward energy self sufficiency is more critical than ever.

I want to congratulate and commend the distinguished chairman of the Energy Committee for his outstanding leadership on this bill. The tireless efforts of the distinguished Senator from Louisiana (Mr. JOHNSTON) and the distinguished Senator from New Mexico (Mr. DOMENICI), who managed this bill must be commended. Their valuable expertise guided this legislation through committee and through this sometimes heated debate and they deserve congratulations.

Strong opinions on the Government's role in the development of synthetic fuels were aired during this debate. Some members believed that the Federal Government's participation in this effort should be minimized, with private in-

dustry taking the lead in the development of synfuels from coal and oil shale. Those who held that position are to be respected and I would hope that their concern for the direction of the synfuels program will continue. In particular, I must commend the distinguished chairman of the Banking Committee for his outstanding work and cooperation on this legislation. The complexity of these issues demanded the expertise of many Senators in a bipartisan effort to forge this legislation.

I believe we have created a blueprint for this Nation's energy security. First we have created a synthetic fuels corporation for the purpose of guiding and supporting private industry investment in this initiative. This new financing institution will undertake the responsibility of administering the Federal financial aid which will be necessary to encourage the construction of commercial scale synthetic fuels plants. This unique undertaking—the development of oil substitutes from coal, oil shale, and biomass—will require the private investment of billions of dollars. The enactment of this legislation will provide the evidence of national commitment to make synthetic fuels a reality. It is an important indication to the financial community that the risks entailed in such an enterprise will be worthwhile.

This bill also provides the authority to appropriate the funds which the Senate approved earlier to get the synthetic fuels program underway. The $20 billion provided in the Interior appropriations bill is complementary to this legislation. This would allow for the construction of a number of synthetic fuel plants, which will demonstrate the commercial feasibility of a variety of technologies. This will be accomplished with a minimum of Federal expenditure through a diverse program of price and loan guarantees, direct loans, joint ventures, and as a last resort, direct Government investment. Successful production of synthetic fuels will be realized with this type of comprehensive committed effort.

The Senate adopted provisions related to the development of alcohol fuels made from renewable resources in title II of this bill. A reasonable framework for stimulating both small and large alcohol fuel plants was arrived at between the chairman and members of the Energy Committee, and the chairman and members of the Agriculture Committee. Under S. 932 as passed, the Department of Energy will be responsible for the development of large ethanol plants, or methanol from wood plants of substantial size.

The Department of Agriculture will oversee small on-farm or self-sufficient alcohol facilities. Farmers are likely to use most of the output of the small facilities themselves, so the USDA is the appropriate body to be involved with these small producers.

Senator TALMADGE has worked well with Senator JACKSON on the resolution of the jurisdictional problems related to gasohol, and his hard work in this area is to be commended.

The bill also enacts a far-ranging conservation program which will provide a variety of financial incentives to consumers to install conservation equipment. Conservation may be our best energy resource in the short term and significant energy savings can be achieved if the proper encouragement is provided. The combination of loans and grants which will be available to property owners and renters will allow significant investment by citizens of all economic means. Such investment in conservation will effectively combat rising energy costs and fuel shortages.

Mr. President, this legislation is momentous and urgently needed. Throughout debate this week, we have crafted a national program to accelerate the development of domestic energy supplies. There will be no more important vote which can be cast to insure this Nation's strategic and economic security.

I urge my colleagues support of this critical legislation.

UP AMENDMENT NO. 780

Mr. ROBERT C. BYRD. Mr. President, I withdraw my amendment and send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for himself and Mr. GLENN, proposes an unprinted amendment numbered 780.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, between lines 9 and 10, insert the following new subsection:

"(d) Thirty days after enactment of this Title, the Secretary of Energy on behalf of the corporation and pursuant to the authorities granted in this Title, shall make a solicitation for commercial scale methanol from coal plants which shall be reviewed and acted upon by the corporation pursuant to this Title.

Mr. ROBERT C. BYRD. Mr. President, my intention in offering this amendment with my distinguished colleague, Senator GLENN, is to insure that the production of methanol from coal is given early and certain consideration in the synthetic fuels program established by title I of S. 932.

As you know, title II of this measure provides a program for assistance to projects for the production of alcohol fuels from renewable resources. For the most part these projects assisted by title II will be relatively small and will produce an alcohol for direct blending with gasoline.

The production of methanol from coal will also offer a very attractive source of high-value alcohol fuels. The projects involved, however, are expected to be larger, more sophisticated, and more costly. They are, therefore, best assisted by the Synthetic Fuels Corporation established in title I which has far more extensive financial resources and better ability to deal with the financial complexities of large investments.

I wish to be certain, however, that the Corporation is well aware of the congressional intent that this form of alcohol production will be an important objective of the Corporation and that this technology will be given early and specific consideration.

My amendment requires an early solicitation of proposals for methanol projects for consideration of the Corporation.

Does the manager of the bill share my objection and my understanding of this amendment?

Mr. President, this amendment has been discussed with the managers of the bill, and I hope they will support it.

Mr. JOHNSTON. Mr. President, I can assure you that it is the firm intention of the committee that the Corporation is empowered and expected to give full consideration and assistance to acceptable proposals for methanol projects using coal.

The amendment offered by the majority leader insures that such proposals will be invited and the committee expects that if such proposals are viable the Corporation will proceed with financial assistance expeditiously.

Methanol offers an opportunity for an inexpensive, clean burning fuel which can be especially valuable in displacing scarce heating oil and diesel fuel at an early date. It is also an option which is not limited by raw materials and which could be expanded to several longer term applications such as fuel cells.

I commend the majority leader for lending this additional emphasis to an important alternative, and I reemphasize the committee's expectation that methanol from coal be an important objective of the Corporation.

Mr. GLENN. Mr. President, it pleases me greatly to cosponsor this amendment with the distinguished majority leader, Senator ROBERT C. BYRD, and I wish to associate myself fully with his remarks.

It is important to recognize that one of our major near term and intermediate term energy problems is going to be a shortage of liquid fuels. We have already seen evidence of the impact of such shortages whenever we find ourselves waiting in a gas line. This amendment requires that the Synthetic Fuels Corporation give explicit recognition to this problem by assuring that early consideration be given to an award for financial assistance for at least one commercial scale methanol-from-coal plant under the synfuel demonstration program. Indeed, it should be the Corporation's objective to put such a plant on line as soon as possible.

Such plants will provide us with the technical, regulatory, and financial facts we will need to better understand the problems associated with the commercialization of this technology. When those problems are worked out, we will not only be in an excellent position to make good use of high-sulfur eastern coal while reducing the problem of air pollution from sulfur dioxide, but we will have taken a giant step toward increasing our production of liquid fuels without further dependence on imported oil.

Mr. DOMENICI. Mr. President, I join with the majority manager of the bill and associate myself with his remarks.

I commend the Senator from West Virginia for bringing this matter to our attention. I believe it adds significantly to the bill.

I might just say in passing, the bill has been pending long enough. I am glad we are going to get it passed.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I earlier asked for the yeas and nays on passage of the bill. I have forgotten what we are going to vote on is a motion to concur in the House amendment with an amendment in the nature of a substitute.

I ask that the yeas and nays on "passage of the bill" be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order to order the yeas and nays on the motion at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 781

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 781.

Mr. LEVIN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 212, line 16, insert the following:

"(16) 'financial institution' means a lending entity which appears on a list pursuant to section 213(a)(3) of P.L. 95-619, or any utility providing financing for the purchase and installation of energy conservation measures pursuant to subtitle E;".

Mr. LEVIN. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside.

The PRESIDING OFFICER. Which amendment is the Senator speaking of? The one he just introduced?

Mr. LEVIN. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 782

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 782.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 229, line 13, change the semi-colon to a comma, and insert the following: "which plan shall include a requirement that each utility notify all of its residential customers of the availability of, and method of application for, grants and loans under this Title;".

Mr. LEVIN. Mr. President, this amendment would require that utilities notify all of their customers of the availability of Federal loan and grant assistance for financing conservation investments, and of the procedures for applying for such assistance. The bill already requires the State supplemental plan to include a program for notifying all eligible persons of the Federal assistance which is available, and the most efficient method—at least one of the most efficient—for dissemination of that information is through the utilities, who already are in regular contact with their customers and are required by Public Law 95-619 to distribute other information on a regular basis.

I understand that this amendment is agreeable to the managers of the bill.

Mr. JOHNSTON. Mr. President, this can be complied with by utilities by simply putting a notice on the bill which they send out every month. It is appropriate and helpful, at least for communicating the availability of loans and grants to customers. It improves the bill and we accept the amendment.

Mr. McCLURE. Mr. President, may I direct a question to the distinguished Senator from Michigan?

The Senator has a series of amendments that deal with the availability of financing for these improvements. The first such amendment, which was offered and then set aside, would permit a utility to make that loan to the consumer. The second one that we are discussing now will direct the utility to give notice to their customers of the availability of the program. Is that provision that we are now discussing limited only to the utilities that have such a program under subtitle C of the bill?

Mr. LEVIN. No, Mr. President, all available loans and grants.

Mr. McCLURE. So that all utilities, regardless of whether they are involved in such a program or not, would be required to give that information to their consumers?

Mr. LEVIN. To put that into their bills, as the Senator from Louisiana said, to insert that notice into their bill.

Mr. McCLURE. Mr. President, let me say I am not terribly enthusiastic about requiring a utility to do something that is unrelated to their own business and which they are not involved in. I would have no objection at all if it were confined to those utilities notifying their own customers where they were involved in such a program. But I shall not object to the adoption of the amendment this evening. I really think it ought to be so limited.

Mr. LEVIN. I suggest to the Senator that the wording might be viewed as utilities giving a preference to their own programs. That is the reason why it was made more general.

Mr. McCLURE. I say to the Senator it is not a question of whether they are talking about their own program or not; it is a question of whether or not utilities that have no program are to be required to notify their consumers of programs in which they are not involved. So it is quite the opposite of the suggestion that the Senator from Michigan has made but I shall not object.

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 783

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 783.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 229, line 23, add the following:

"(6) a plan for dispersing grants, upon the joint request of a qualified applicant and a contractor listed pursuant to the provisions of section 213(a)(2) of Public Law 95-619 who supplies or installs residential energy conservation measures for such qualified applicant, directly to such contractor who certifies that the grant has been credited in full to the qualified applicant.

Mr. LEVIN. Mr. President, the bill requires that a State supplemental plan for eligibility for Federal grant money must include a plan for dispersing grants to homeowners qualified to receive them. This amendment would allow grants to be dispersed directly to contractors making the conservation improvements, thereby requiring a smaller cash outlay by the homeowner than would be required if he were forced to make the entire payment before being reimbursed by the Government. Direct payments could only be made to contractors meeting the requirements of the program, and only upon a joint request from the applicant and the contractor.

I believe this amendment has been cleared with both managers.

Mr. JOHNSTON. Mr. President, this is a good amendment. It has a double protection in it because, even though the check may be made jointly to the contractor and the homeowner, it provides that only such contractors as are qualified under the law may be eligible for this benefit, and there are rules provided for

on the qualifications of the contractors so we can insure that contractors will be open and above board in the way they treat this money.

In addition, they must certify that the grant has been credited in full to the qualified applicant. This is a double protection.

With those two qualifications and protections, Mr. President, I think this amendment will make it easier to get people into the program. Therefore, we enthusiastically accept the amendment.

Mr. McCLURE. Mr. President, I congratulate the Senator from Michigan for offering this amendment and for the constructive changes that were made in it to guarantee that the benefit of the program would pass through to the consumer. This is a mechanism by which the consumer and a contractor can jointly become involved and, are therefore, more likely become involved in the program. I think it is a constructive amendment. I am happy to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 783) was agreed to.

Mr. LEVIN. I thank my friends from Idaho and Louisiana.

UP AMENDMENT NO. 781

Mr. LEVIN. Mr. President, the amendment which was temporarily laid aside is still going to have to be temporarily laid aside while we work out some additional changes.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that the amendment which was laid aside before be withdrawn.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment is withdrawn.

UP AMENDMENT NO. 784

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes unprinted amendment numbered 784.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 212, line 16, insert the following: "(16) 'financial institution' means a lending entity which appears on a list pursuant to section 213(a)(3) of Public Law 95-619, or any utility providing financing for the purchase and installation of energy conservation measures pursuant to subtitle E;".

On page 219, following line 22, add a new paragraph:

"(14) in the case of a payment to a utility, the utility passes through the value of the subsidy to the loan applicant."

Mr. LEVIN. Mr. President, the bill elsewhere repeals the prohibition on utility financing of conservation investments made by homeowners.

This amendment would permit those utilities which voluntarily decide to embark on such a financing program to pass along loan subsidies to their customers for conservation investments.

This amendment does not require utilities to become so engaged in the finances of conservation investments. But, if they do so, with approval of State public service commissions, of course, the loan subsidy would become available to them for the purpose of passing it along to their customers.

This amendment would not disrupt established relationships between utilities and lenders and would not exclude loan lenders from the financing process because bank subsidies would be available, regardless of the source of the utility's funds.

Mr. President, I believe that this amendment is now approved by the managers.

Mr. JOHNSTON. Mr. President, this modifies the definition of financial institutions so as to permit utilities to act as financial institutions in making subsidized loans. But only in those limited circumstances as provided for in the section of the bill offered in committee by Mr. HATFIELD where, under the public utilities commission, the utility as well as the Governor or other appropriate party designated under State law have all consented to this arrangement.

It also provides that to the extent there is a subsidized loan, the full amount of the subsidy must inure to the benefit of the customer or the lendee and the utility cannot scrape off a half percent, or any other amount, as a fee for servicing the loan.

In that light, Mr. President, I think it may be a mechanism that may be very useful, and may help this program work more easily and more efficiently, to the benefit of the consumer.

We, therefore, accept the amendment and thank the Senator for offering it.

Mr. McCLURE. Mr. President, I thank the Senator from Michigan for having made the changes that were suggested in the discussions about this amendment.

First, to limit it to those that qualify under subtitle (e) of the title and, secondly, to make certain that there was a guaranteed passthrough of the benefits, and that has been added.

I think with those two changes, the amendment is acceptable.

I congratulate the Senator for having offered it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 784) was agreed to.

Mr. LEVIN. I thank my friend for helping in support of the amendment and clarifying and improving it.

UP AMENDMENT NO. 785

(Purpose: To delete the requirement for an energy audit at time of transfer of a residence)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) for himself, Mr. WALLOP, Mr. ROTH, and Mr. DURKIN, proposes an unprinted amendment numbered 785:

Strike out all beginning on page 272 with line 9 and ending on page 274 with line 21.

Mr. FORD. Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. DURKIN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, the amendment that Senators WALLOP, ROTH, and I are offering today is to delete section 481 of title IV. Section 481 would require, as a general rule, that energy audits be performed on transfer of residence.

First of all, I would like to commend the sponsor of this provision, the able Senator from Ohio (Mr. METZENBAUM), for the changes that he made in committee with respect to "time of transfer" energy audits. The time for audits, both before and after transfer, was extended. Provisions were made for exemptions by the Secretary of Energy. The requirement for a performance affidavit was deleted because of its possible perjury consequences. A provision was added to attempt to write around the real danger that a loan or transfer might be invalidated and a title clouded by nonperformance.

The able sponsor of the section recognized the "uncertainty" of the section's effects by making these changes. However, uncertainty of effect remains, and for that reason I believe that the section should be struck.

Mr. President, first of all the apparatus is not in place for energy audits. Existing law calls for utilities to provide for audits, but not until final rules and regulations are promulgated and State plans are approved. The DOE has until January 1, 1980, or 6 months after the State plan is approved to issue final rules.

The director of the residential energy conservation program recently stated audits would be available to homeowners "when the program begins operation in the next year or two." He further stated that—

The rules take effect officially next December 6, starting a 15-month timetable of deadlines in which states may choose to draw up their own specific plans for managing the program, subject to department approval.

Evidently Mr. Tanck does not think the audits will be available for every home sold within 1 year of the program's initiation.

Existing law mandates HUD to study residential energy efficiency standards. The subjects to be examined shall include, but not be limited to, mandatory notification to purchasers, and policies to prohibit exchange or sale, of properties which do not conform to such standards.

The study, among other things, is to consider the very uncertainties that section 481 poses—the extent to which such a requirement would affect the real estate, home building, and mortgage banking industries; the effect of such a requirement on availability of credit in the housing industry; and the extent to which the imposition of mandatory Federal requirements would temporarily reduce the number of residential dwellings available for sale and the resulting effect of such mandatory actions on the price of those remaining dwelling units eligible for sale.

The study has not been completed. It is needed before section 481 should be enacted.

Mr. President, I have asked for VA and FHA position papers on the effects of section 481. They have not been forthcoming.

I have been informed that there are almost 4 million housing transfers every year. Now I ask you, who is going to be out there ready to go with 4 million energy audits when we are talking about a program that has not been implemented yet, a program the effects of which are very uncertain?

Utilities do not have the required energy auditors. I know that section 481 recognizes this and limits its provisions to buildings served by a utility offering an audit program. Section 481 actually may impede the program if utilities are reluctant to become involved in home transfer transaction problems—the section could well be counterproductive.

S. 932 recognizes that the apparatus is not in place. Our bill provides for an auditor-training program. This certainly is needed before we begin to impede home transfers.

Mr. President, in summary I can see only uncertainty resulting from section 481, and Heaven knows we have enough uncertainty in the market that governs home transfers. Financial institutions are reluctant to make the loans because the legality of their actions is subject to doubt because of the provisions in other laws. Section 481 would introduce yet another suspect of legality, even with the refinements made in it by its sponsor. Section 481 would result in one of two things—either the seller automatically will put up the $50 if he does not want an energy audit, thus once again retarding the purpose of energy audits, or the buyer will insist on so many contingencies in the contract that home transfers will be impeded.

Mr. President, I have been fooling around. I was called to come over at 3 o'clock this afternoon. Everyone had amendments. Here I am at 10 o'clock at night, 6 hours later, because I have a gun at my head.

I had a little amendment to start out with, that would not hurt anybody and would help 4 million people, to take off a $50 bond that had to be placed on every transaction of a real estate sale that did not have an energy audit, and that $50 bond was on the mortgage or that deed subject to the energy audit within 12 months.

That house could have been sold again, and you would have two bonds on it.

I am not an attorney. My daddy always told me, "A little knowledge of the law is dangerous. Get you a good lawyer and stay with him."

Well, my good lawyers—and there are several of them in this Chamber—have told me that this bond puts a cloud on that transaction, particularly the second.

So, Mr. President, maybe we may have an agreement as to modification of this amendment. I have not received a signal yet as to whether we are going to do it or not, and I got the signal to go ahead and talk.

I do not want to talk very much if we have an agreement. I want to go home. I do not want to filibuster. I want to let these Senators go home to a cold meal and a mad wife. [Laughter.]

Mr. METZENBAUM. I appreciate the cooperative effort of the Senator from Kentucky. I think we do have an agreement, but I am not certain whether it needs a little clarification. If the Senator does not mind, I would like to suggest the absence of a quorum, so that I might speak with him.

Mr. WALLOP. Mr. President, will the Senator withhold that request?

Mr. FORD. I yield to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I ask unanimous consent that the names of Mr. HELMS, Mr. STEVENS, Mr. JEPSEN, and Mr. SCHMITT be added as cosponsors of the amendment.

The PRESIDING OFFICER (Mr. WILLIAMS). Without objection, it is so ordered.

Mr. WALLOP. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I send a modification of my amendment to the desk and ask that the clerk read the modification.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

AMENDMENT NO. UP 785 (MODIFIED)

The Senator from Kentucky (Mr. FORD) modifies his unprinted amendment numbered 785 as follows:

On Page 274, line 21, insert a new subsection 233(a) which reads as follows.

(e) The provisions of this section shall apply only in major metropolitan areas in excess of 500,000 people and only in each such area upon a certification by the Secretary of Energy that energy audits as defined under Section 215 (b) (1) (A) or 217 (a) (2) (A) are available in a timely and sufficient manner to all residential buildings served by a public utility offering a utility program or served by a participating home heating supplier.

For the purposes of this subsection (e), "major metropolitan area" means an urban area within a large metropolitan area as those terms are used by the Bureau of the Census in the 1978 Edition of the Statistical Abstract of the United States.

Mr. FORD. Mr. President, I want to be sure it is understood that in modifying my original amendment, I eliminated the language in that original amendment, and it no longer is a part of the proposed amendment.

Mr. JOHNSTON. Mr. President, I congratulate the Senator from Kentucky and the Senator from Ohio for working out this matter, for saving us from long hours of debate, and particularly for saving the floor manager from the very uncomfortable position of having to defend the committee in resisting an amendment with which I partially concurred. I think this is a very good solution. Therefore, we accept the amendment, with gratitude.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. BENTSEN. Some of us are not part of the deal. We would like to know what was done.

Mr. JOHNSTON. If the Senator would wait outside the door——

Mr. BENTSEN. No. I would like to know, because I am concerned about the amendment. I would like to understand what was done here in the way of a compromise. I favored the Senator's position from the very beginning.

Mr. FORD. We did not want to stay all night because of my amendment. With the cloud that was hanging over this amendment, the leadership made an effort—as well as the chairman of the committee and the floor manager—to work out something that would be acceptable so that we could complete our business tonight.

Mr. JOHNSTON. If the Senator will yield, I will explain what the amendment does.

It makes the requirement of the energy audit applicable only in major metropolitan areas in excess of 500,000 people, and only in such areas where the Secretary certifies that energy audits are available in a timely and sufficient manner to all residential buildings served by a public utility offering a utility program or served by a participating home-heating supplier.

A major metropolitan area is defined in the same way as in the statistical abstract of the census.

Mr. BENTSEN. It means that my friend has taken care of his State.

Mr. FORD. I have taken care of a lot of them. But in the latter part, it means an urban area within a large metropolitan area, as those terms are used by the Bureau of the Census. It extends it a little further.

If the Senator from Texas wants to object to this, it will tickle me to death, because I wanted my other amendment. But in order to try to work things out, this is the closest thing I could get to an agreement.

Mr. BENTSEN. Is this part of the House bill?

Mr. JOHNSTON. It is not part of the House bill.

Mr. BENTSEN. I would hope, then, that the conferees would have the good judgment to drop it.

Mr. WALLOP. Mr. President, I ask unanimous consent that the names of Senators DOMENICI, HATCH, MCCLURE, and DOLE be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, as an original cosponsor of the original amendment, and a reluctant party to the compromise, I point out that I think we are launched on a course that will provide a greater level of irritation to the average American involved in a home sale transaction than almost anything we could have conceived of, except to have done it to everybody.

We have moved it down to a standard metropolitan statistical district; but, frankly, I think that any semblance of voluntarism that might well have provided the kind of incentive we needed is gone from it.

I agree with the Senator from Texas: I hope there is a clear and substantial look at it on the part of the conferees and perhaps on the part of the House, before they get too overly enthusiastic about this program.

Mr. DOLE. Mr. President, I want to be a cosponsor of the original, not the compromise.

Mr. WALLOP. I assume that is what I have been adding cosponsors to. But the Senator from Kentucky has modified his own amendment, which he is entitled to do.

Mr. FORD. Mr. President, I ask unanimous consent that the names of the junior Senator from Georgia (Mr. NUNN) and the senior Senator from Georgia (Mr. TALMADGE) be added as cosponsors of the original amendment.

Mr. BENTSEN. I ask unanimous consent that my name be added as a cosponsor of the original amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I hope the Chair will go ahead with the vote on this amendment, before they change their minds.

Mr. WALLOP. All the names the Senator from Wyoming has mentioned are to be cosponsors of the original amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

AGRICULTURE, FORESTRY, AND RURAL ENERGY TITLE

Mr. TALMADGE. Mr. President, I am pleased that the language of S. 1775, as modified, has been accepted as an addition to S. 932.

S. 1775 represents the ideas and efforts of many Senators. I am proud of the fact that 35 Members of the Senate joined as cosponsors of the bill. I am particularly pleased that all 18 members of the Committee on Agriculture, Nutrition, and Forestry joined me in introducing and developing this legislation.

Mr. President, I especially want to compliment and commend the Senator from North Carolina, Mr. HELMS, the ranking minority member of our committee, for his support and guidance in this legislation. He contributed in a major way to the development of the bill and to its acceptance here on the floor. Once again, Senator HELMS has demonstrated his total commitment to the welfare of American agriculture and his dedication to the goal of achieving energy independence for the American farmer.

I also wish to commend the Senator from South Dakota, Mr. MCGOVERN, for his unstinting efforts to develop a national energy program focusing on alcohol production from agricultural commodities and waste residues. He has never lost sight of what this can mean to the family farms of America. He has performed a yeoman service in a great cause.

I again want to thank the Senator from Washington, Mr. JACKSON, the chairman of the Committee on Energy and Natural Resources, and the Senator from Oregon, Mr. HATFIELD, the ranking minority member of that committee, for their cooperation and support. Also, I am grateful to the Senator from Louisiana, Mr. JOHNSTON, and the Senator from Idaho, Mr. MCCLURE, for accepting our amendment.

Finally, Mr. President, I want to thank the Senator from Maine, Mr. MUSKIE, and the Senator from Oklahoma, Mr. BELLMON, for their assistance in clearing up any questions the Budget Committee had concerning the financing of the programs authorized by the agriculture, forestry, and rural energy amendment.

Mr. PRESSLER. Mr. President, I rise in support of S. 932, "The Energy Security Act." It pays substantial attention to the development of gasohol. I do not like some of the spending levels in this bill, but we have done nothing up to this point. It is time for some action.

I have studied and worked on gasohol, ethynol and methanol during my 5 years in Congress. In fact one of the first bills I sponsored upon coming to Congress in 1975 was to stimulate the production of alcofuels.

In title I, II, and III of this bill there is potentially $6.45 billion in this bill for gasohol and alcofuels. This is a step forward. Now we must be certain that the agencies properly administer these programs.

Recently I discovered that the Department of Energy does not have readily available plans to build gasohol stills. We need to have research and development so that individuals, cooperatives, and corporations can build gasohol stills. The great oil companies do not need to control this—it can be controlled by entrepreneurs at every level.

The President must instruct his agencies and departments to spend this money in a fashion as to ultimately have free enterprise develop an abundant supply of energy for our Nation.

TITLE V

Mr. CHURCH. Mr. President, I am happy to support title V of S. 932 as reported by the Energy Committee, which contains a number of amendments which will help speed the development of our vast geothermal resources. The amendments I have proposed in title V are from the "Omnibus Geothermal Commercialization Act of 1979," S. 1388, introduced by myself and Senator DURKIN.

The title before the Senate contains provisions from the bill and S. 1330, introduced by Senator MCCLURE:

First. Reservoir confirmation loans, convertible to grants;

Second. An amendment to the geothermal loan guarantee program, increasing to 90 percent the amount which may be covered by a Government loan guarantee;

Third. A reservoir insurance program;

Fourth. Loans for feasibility studies of geothermal reservoirs;

Fifth. An extension of the geothermal loan guarantee program;

Sixth. Authority for other specified agencies to use money from the Geothermal Resources Development Fund for loan programs in those agencies;

Seventh. A provision to require that information utilized in the preparation of one EIS will not be questioned subsequently in another EIS, as part of the application for a loan guarantee;

Eighth. A provision requiring the Secretary of Energy to establish expedited procedures for handling applications for loan guarantees;

Ninth. Provisions mandating research and development programs in geopressured methane, hot dryrock systems, and environmental control technology; and

Tenth. A requirement to utilize geothermal wherever possible in Federal buildings.

After 8 months of discussion with industry, State and local energy officials and the Department of Energy, it has become clear to me that drilling risks would be sufficiently lowered if forgivable loans for drilling exploration and confirmation wells were made available at reasonable terms to the drilling industry.

My intention in establishing this loan program is not to remove all risk. Clearly, geothermal developers stand to gain much by finding a viable reservoir, and they should be expected to share significantly in the risk. On the other hand, the very low number of wells drilled to date clearly demonstrates the need for the Government to also share the risk. I have, therefore, set the loans at 50 percent of project costs. I believe that this percentage is sufficiently low to stop wildcat drilling which would waste the taxpayers' money and most likely would not lead to the confirmation of major new reservoirs, and yet it is sufficiently high to entice a rapid expansion in much needed drilling activity.

In the area of space heating or cooling and process heat from geothermal resources, this title will allow reservoir confirmation loans up to 90 percent of the project costs. This is a new and exciting area for the application of geothermal resources, which has not yet been fully investigated. The people who will be utilizing geothermal resources will have to be on-site users, as opposed to electrical generation systems for long distance transmission. Therefore, the economics are quite different from the higher temperature projects. In order

to give more incentive to the discovery and utilization of this valuable, lower temperature resource, I believe that a higher percentage is necessary.

In addition, I have also proposed in this title an amendment to the geothermal loan guarantee program already in existence. This would also provide a 90-percent assumption of risk for a geothermal project which is to be used for space heating or cooling, or for process heat. Once again, the infancy of this industry and the different financial characteristics involved justify the increased share of the risks on the part of the Federal Government.

The authorization for this program and for other programs are made to the Geothermal Resources Development Fund. Depositing all appropriated amounts into this fund will serve a valuable function by assuring investors that the Government will be able to quickly respond to any liability which may occur due to the guarantee and loan programs which are established pursuant to this title. The amounts authorized are the recommended levels of funding which should cover the costs associated with each program.

I urge my colleagues to adopt this title.

Mr. LEVIN. Mr. President, I ask unanimous consent that my name be added as a cosponsor of UP amendment No. 763 by the Senator from Massachusetts (Mr. TSONGAS).

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Are there further amendments?

Mr. JOHNSTON. Mr. President, I hope we are ready for final passage. Is there a further amendment?

The PRESIDING OFFICER. Are there further amendments?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute by the Committee on Banking, Housing, and Urban Affairs.

Mr. JOHNSTON. Mr. President, I move that we reject the substitute from the Committee on Banking, Housing, and Urban Affairs, and concur in the House amendments with an amendment in the nature of a substitute.

The PRESIDING OFFICER. That is not in order. It is coupling.

The first question is on the amendment that is first stated, which is the Banking substitute.

Mr. JOHNSTON. Then it would be appropriate, I believe, in view of the previous actions for us to reject that amendment. Am I correct?

The PRESIDING OFFICER. That is the option before the Senate.

Mr. JACKSON. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

(Putting the question.)

The amendment in the nature of a substitute was rejected.

Mr. JOHNSTON. Mr. President, I move that the Senate concur in the House amendments with an amendment in the nature of a substitute.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to concur in the House amendments with an amendment in the nature of a substitute.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. Mr. President, I have supported this bill throughout its consideration, but we have an absent Member, the Senator from South Carolina, who wishes to be recorded in favor of the bill.

Although I would normally vote in favor of this bill, in this instance I am going to announce a pair with the Senator from South Carolina (Mr. THURMOND). If he were present, he would vote "aye." I would vote "nay" under these circumstances, and I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. PRYOR), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 65, nays 19, as follows:

[Rollcall Vote No. 396 Leg.]

YEAS—65

Bellmon	Hatfield	Muskie
Bentsen	Hayakawa	Nelson
Boren	Heflin	Nunn
Bradley	Heinz	Packwood
Burdick	Hollings	Pell
Byrd, Harry F., Jr.	Huddleston	Percy
Byrd, Robert C.	Inouye	Pressler
Chafee	Jackson	Randolph
Chiles	Javits	Riegle
Church	Johnston	Roth
Cranston	Kennedy	Sarbanes
Culver	Levin	Schweiker
Danforth	Long	Stafford
Domenici	McClure	Stennis
Durenberger	McGovern	Stewart
Durkin	Magnuson	Stone
Eagleton	Mathias	Talmadge
Exon	Matsunaga	Tsongas
Ford	Melcher	Warner
Glenn	Metzenbaum	Williams
Hart	Morgan	Young
	Moynihan	Zorinsky

NAYS—19

Armstrong	Helms	Schmitt
Baucus	Humphrey	Simpson
Bumpers	Jepsen	Tower
Cochran	Kassebaum	Wallop
Dole	Laxalt	Weicker
Garn	Lugar	
Hatch	Proxmire	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevens, against.

NOT VOTING—15

Baker	Cohen	Pryor
Bayh	DeConcini	Ribicoff
Biden	Goldwater	Sasser
Bumpers	Gravel	Stevenson
Cannon	Kennedy	Thurmond

So the motion to concur was agreed to.

The title was amended so as to read:

An Act to extend the Defense Production Act of 1950, as amended, and for other purposes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Florida (Mr. CHILES) had planned to call up an amendment, and through inadvertence, the final vote occurred before the Senator had an opportunity to call up his amendment. I believe I am stating the situation correctly, and I will say that the manager of the bill and the ranking minority member were aware of this, but I must say that the Senate has considered 47 unprinted amendments today, and in the course of all this the Chiles amendment was overlooked.

With the concurrence of the manager and the ranking minority member, and out of fairness to Mr. CHILES, I ask unanimous consent that the measure be returned to the message from the House being before the Senate, that the Senator from Florida be permitted to call up his amendment, that no amendments to that amendment be in order, that there be 2 minutes on the amendment, and then that, upon the disposition of the amendment, the measure be considered as having been voted up as amended further, and a motion to reconsider laid on the table.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, it is my understanding that this amendment, incorporating the sunshine law, is limited solely to title I. Is that correct?

Mr. ROBERT C. BYRD. That is correct.

Mr. STEVENS. And it would extend to just the Energy Security Corporation and no farther; is that correct?

Mr. JOHNSTON. That is correct.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

The Senator from Florida.

UP AMENDMENT NO. 788

(Purpose: To subject the Synthetic Fuels Corporation to the provisions of 5 U.S.C. 552(b))

Mr. CHILES. Mr. President, I send to the desk an amendment and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 786:

On page 70, line 21—

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70, line 21, delete everything after "(f)" through page 71 line 17; insert the following in lieu thereof:

"The provisions of section 552b of Title 5 of the United States Code shall apply to the Corporation notwithstanding any other provision of law."

Mr. CHILES. Mr. President, I think the purpose of the amendment has been expressed accurately by the Senator from Alaska. It does apply the sunshine provisions that are in the general law now to title I, which would be to the Energy Security Corporation itself.

Mr. President, this amendment would place the Board of Directors of the Synthetic Fuels Corporation under the provisions of the Government in the Sunshine Act.

The Board of Directors will be a collegial body composed of five voting members appointed by the President with the advice and consent of the Senate, and three nonvoting members. As such, the board would statutorily fall within the definition of "agency" contained in the Sunshine Act and thus be fully subject to the act's provisions.

Subsection (f) section 112 of S. 932, however, removes the Board from the coverage under the Sunshine Act. The provision for open meetings contained in subsection (f) is significantly more limited than the provisions of the Sunshine Act. For example, it fails to provide:

First, the procedures for closing a meeting; second, the same carefully drawn, specific exemptions to the open meeting requirement; third, the requirement for a week's public notice, absent a need for earlier action; fourth, maintenance of transcripts or recordings of closed meetings; fifth, procedures for promptly releasing transcripts, recordings or minutes to the public; and sixth, of great significance, S. 932 fails to provide the presumption of openness contained in the Sunshine Act,

The Sunshine Act was enacted by Congress more than 3 years ago as our firm commitment to open Government. It declares that the public has a right to the fullest practicable information regarding the decisionmaking process of the Federal Government. It clearly expresses as our national policy that the public is entitled to observe and be fully informed on what the Federal agencies are doing, how they operate, and equally important, why they make the decisions they do.

Sunshine's primary objective is to make government more accountable and responsive to the people it serves. The first amendment of the Constitution embodies the profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide open. To accomplish this, the public must know what government is doing and how it is conducting the public's business.

I can think of no other public issue that our citizens have more of an interest in right now than energy. In recent months, with gas lines, rising fuel costs, and the ongoing public controversy over nuclear energy, the public has become keenly aware of our serious energy situation. Energy is an issue that directly affects each and every member of the public in his or her everyday life. Moreover, it has a direct impact on our Nation's current and future economic condition, on the economic condition of every person in this country.

The public's current confidence level in government and its ability to effectively deal with the energy situation is rather low. The need for broad public access to information on the Government decisions being made for the public on energy supplies and alternative sources is critical. It is important for the public to have an opportunity to be fully informed and to better understand government actions. This is especially true with respect to energy-related decisions. The citizens need to understand the reasons for our energy actions before they will be willing to accept our judgments and comply with them.

I understand that S. 932 contains an abridged open meeting provision. It fails, however, to place the necessary emphasis on openness and access to information. It contains no presumption of openness, nor does it carefully restrict and regulate closing.

I also understand that there is occasionally a need to exempt certain meetings, due to their sensitive nature, from the open meeting requirement. There is also a need for flexibility in other aspects, such as public notice. I strongly feel that the Sunshine Act has adequately taken care of all of the reasonable legitimate problems that may arise with respect to the Board's activities. We must keep in mind that several agencies which deal with sensitive matters, such as the Federal Reserve Board, the Securities and Exchange Commission, and the Nuclear Regulatory Commission, are covered by the Sunshine Act and have operated under it for nearly 3 years.

The provision in S. 932 is a step backward for open Government. A number of the provisions already in the Sunshine Act assure that the board of directors will be able to conduct its business, with efficiency and discretion. There are 10 exemptions in the Sunshine Act which allow for an agency to close meetings of a sensitive nature.

For example, the Sunshine Act now contains the following provisions to meet any objections raised with respect to the activities of the Corporation:

First. Exemption 4 provides that a meeting may be closed to avoid disclosure of trade secrets and commercial or financial information.

Second. Exemption 6 provides that a meeting may be closed to avoid disclosure of information of a personal nature where disclosure of information would constitute an unwarranted invasion of personal privacy.

Third. Exemption 9 allows an agency to close a meeting to avoid premature disclosure of information which could lead to significant financial speculation or significantly endanger the stability of any financial institution. Exemption 9 also allows closing a meeting if premature disclosure is likely to significantly frustrate implementation of a proposed agency action.

Fourth. Section (e)(1) of the act allows for flexibility in the requirement for a week's advance notice to the public. Any fear of time delays due to Sunshine is without basis because flexibility is built into the Sunshine Act.

Fifth. Section (d)(4) allows an agency, a majority of whose meetings may be closed pursuant to exemptions 4, 8, 9a or 10, to provide by regulation for expedited closings. This category of meetings may also be exempt from certain other procedural requirements, such as maintenance of a transcript. It is required, however, that detailed minutes be kept of meetings exempt from the open meeting requirement under exemptions 4, 8, 9a, or 10.

Sixth. Although a transcript of recording is required in the case of a closed meeting under all exemptions except 4, 8, 9a or 10, the agency can withhold portions of the transcript or recording if they may be withheld under one of the 10 exemptions from the open meeting requirement.

The effect of these provisions is to let the board of directors close any meeting it must close due to particularly sensitive subject matter. Many of the meetings the Corporation may close will deal with matters which can subsequently be made public. The current abridged provision in S. 932 does not require that a transcript or recording be maintained and the public may unnecessarily be denied access to much information about the Corporation and its thinking and actions. The experience with the Federal Reserve Board and other similar agencies indicates that the board will be able to operate efficiently and effectively within the provisions of the Sunshine Act.

With the Sunshine Act, Congress has taken every reasonable step to accommodate any problems that the board of directors may experience. After almost 3 years of experience of agencies operating in the Sunshine, it is clear that it does not hinder an agency with regard to any sensitive matters it may have to deal with.

The Corporation as run by the board of directors will be making important decisions which will impact everyone in America. It will have significant authority and responsibilities directly relating to the welfare of our Nation and its economy. In view of this, I do not think it should be treated differently and allowed to operate without the safeguards contained in the Sunshine Act.

I do not think that any agency should be exempted from any of the specific provisions in the Sunshine Act, which are designed to foster openness and disclosure, while allowing for information to be withheld when necessary.

For these reasons, I am offering an amendment to S. 932 to bring the Corporation's board within the Sunshine Act and thus open it up to the public.

Mr. JOHNSTON. Mr. President, the committee dealt at some length and in some detail with the subject matter of the so-called sunshine legislation, feeling that it was necessary to have the negotiations of the Corporation with private companies in camera, because of the obviously private nature of those negotiations.

However, in consultation with the Senator from Florida, we have found that the Sunshine Act actually permits all those things we spelled out in detail in the bill; so, in effect, what we have done in the bill was to repeat the provisions of the sunshine law as interpreted.

We do not want to do that unless it is necessary, because we understand the necessity of preserving the sunshine law and not having a new one written for every law we pass. So in that spirit. Mr. President, we will accept the amendment.

Mr. DOMENICI. Mr. President, I want to say to the Senator from Florida that I personally apologize. I knew he had an amendment, and somehow during the day I thought maybe it had been taken care of, and it slipped my mind.

Mr. CHILES. I certainly accept that, and I also thank you for your courtesy, and the majority leader for his. I have been on the floor all day. I have put my name on every list that came up to have an amendment, and I was waiting for the rollcall on the Ford amendment to occur and then demand my time on the floor, and I found that the rollcall on the Ford amendment was actually on the final passage of the bill. So I left the floor 5 minutes too early. I guess, before they worked out the Ford amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment (UP No. 786) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, am I correct in stating that the motion made by Mr. JOHNSTON earlier has been voted up by virtue of the rollcall, and that the motion to reconsider has been laid on the table?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. I ask unanimous consent that S. 932, as passed by the Senate, be printed, and that 1,000 copies be made available to the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I made a statement earlier commending the managers of the bill, so I will not repeat that statement now. I do commend them and personally thank them.

Mr. JOHNSTON. Mr. President, I want to thank the staff of the Committee on Energy and Natural Resources. I will not name them all: Dan Dreyfus, Dick Grundy, Pete Smith—I was trying to think of all the majority members and particularly the minority members who have been so helpful to us: Chuck Trabant—would the Senator from New Mexico name all the rest of them?

Mr. DOMENICI. Dave Swanson, Steve Hickok.

Mr. McCLURE. Mr. President, I hope the Senator would include in that some members of my own staff: Frank Cushing and Ron Shiflett.

Mr. JOHNSTON. And the members of my staff, as well.

Mr. President, this has been a monumental task for members of the staff of both the majority and the minority. It has been an unusual bipartisan effort.

The Senator from New Mexico has been outstanding in his management of the bill for the minority, as he always is. And I do not think we would have lost the one amendment we did lose today if he had not sneaked off the floor to entertain some New Mexicans. Next time, we will chain him to his desk so that we will insure that we win on all the amendments.

The Senator from Idaho (Mr. McCLURE), as usual, has added a great deal, as well as all members of the majority and the minority of the Committee on Energy and Natural Resources. We are grateful to the Members of the Senate for endorsing the legislation as promulgated. And I can say that the legislation retains all of the essential elements and is only improved by the floor action today and on previous days.

Mr. DOMENICI. Mr. President, let me just say that I am most appreciative of the kind remarks that my good friend from Louisiana had not only for me but for our staff and for our other minority Senators who have helped.

I would say that the truth about the amendment we lost is not that I left the floor, but rather that I just disagreed with the Senator from Louisiana, and so he lost. He did not want to say it that way, but that is the truth of the matter; and we want the record to be truthful. Senator McCLURE has taught me that since I first came here. We have been truthful in the record.

Mr. McCLURE. Mr. President, since my name has been used, I wonder if the Senator will yield.

Mr. DOMENICI. I am pleased to yield to the Senator from Idaho.

Mr. McCLURE. I obviously have failed in that effort, and I think the last few remarks bore the truth of my comment.

Mr. President, I think we should also thank the leadership and the other staff of the Senate for having accommodated, through rather unusual and difficult circumstances, the unusual number of staff who were present on the floor. I do appreciate that accommodation. It was sometimes difficult, but we had many different subjects and the staff responsibility was divided among subjects. We could not tell when we were shifting from one area of the bill to another, in spite of the good efforts of the majority leader earlier to get some order in that. That made it necessary for us to have an unusual number of staff assistants here on the floor at any one time. I do appreciate the willingness of the rest of the staff of the Senate to accommodate that requirement on our part.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his comments with respect to the leadership.

May I express my appreciation to the distinguished acting Republican leader who, as usual, has been most cooperative, understanding, and helpful.

Mr. President, I must say again that the managers of the bill are to be highly commended. This was a bill which was supposed to have taken a long time. But, as Mr. JACKSON said many days and weeks ago, the time that was being spent in committee on this bill was going to be helpful when the bill came to the floor. And he proved to be right again.

Mr. DOMENICI. Mr. President, will the distinguished Senator yield 1 minute?

Mr. ROBERT C. BYRD. I yield.

Mr. DOMENICI. I wanted to commend one other member of the staff, of my staff, Steve Bell. I remember when we were not serious about using the corporate entity and well before the President announced that he wanted to use this as a vehicle. I am very pleased that his work yielded much of the framework from whence this Corporation came.

I also want to say that when it got down to the real push and shove of keeping the corporate entity or moving to a lesser approach, we could not have won this without the help of the distinguished majority leader. For those of us committed to that proposition, we thank him for his help and his remarks on the floor. We only hope that this will yield something significant and good for the people of our country.

Mr. JOHNSTON. Mr. President, I associate myself with those remarks. The leadership of the majority leader is so stalwart and so often that sometimes we neglect to say it. I should have said that first of all because we could not have passed this bill without his outstanding leadership. I thank him and I know the Senate does.

Mr. ROBERT C. BYRD. I thank the distinguished Senators.

I yield to the distinguished minority leader.

Mr. STEVENS. Mr. President, being from Alaska, I understand the sunshine rule does not apply in here on the floor of the Senate, but I think it is appropriate that I offer the last piece of sort of the midnight sunshine and commend all parties by presenting my statement for the RECORD at this point.

Mr. President, the synthetic fuels bill will go a long way in helping to make this country more energy self-sufficient. I realize many Members of the Senate are not completely happy about investing the amount of money we on the Energy Committee have recommended. Yet, in the end, I think it will have proven itself a wise investment in meeting our future energy needs.

It is my opinion that this bill represents a good compromise as a result of the amendment by our chairman, Senator JACKSON, and others on the committee. The Congress has the power to OK the final go-ahead, and the bill insures a role for the Congress to play in monitoring the progress of the program.

I want to commend Senators HATFIELD and DOMENICI for their part in forging this complicated and controversial measure through the Senate.

Senator DOMENICI, in particular, deserves credit for promoting the program through his cogent arguments in sup-

port of the legislation. His contribution was a necessary element toward successful passage of the synthetic fuels bill and, on behalf of the minority, I thank him for his efforts.

I also appreciate the work of the distinguished Senator from Louisiana (Mr. JOHNSTON) who on behalf of the chairman, has done an outstanding job during consideration of the many amendments proposed to this bill. The majority leader's strong support for this legislation, as well as the impassioned speech by Senator JACKSON, was the key to getting the bill passed in its final form.

Again, this bill represents the sincerity of the efforts of the Senate to deal with the problems this Nation faces with respect to our energy policy, and I commend the Senators mentioned for their important roles in achieving this end.

Let me also express my appreciation to staff members Chuch Trabandt, Dave Swanson and Steve Hickok for their fine assistance to all Members on our side of the aisle.

Mr. President, I would add that I think we should commend Senators WALLOP and FORD for their last-minute concession in agreeing to the modification of their amendment which I believe terminated the consideration of this bill and led to its final approval.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business not to exceed 15 minutes with Senators being permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CRISIS IN IRAN

Mr. HARRY F. BYRD, JR. Mr. President, the present situation in Iran is a most perilous one. The President is faced with difficult decisions, and of course, like all Americans, I hope the efforts which he has undertaken are successful.

Yesterday I met with Vice President MONDALE and Secretary Vance, who urged that Members of the Senate, because of the extreme delicacy of the situation with regard to the hostages, be very careful in any public statements they might make.

The safety of the 60 to 65 Americans held hostage at the U.S. Embassy in Teheran must be this nation's first concern. The resignation of the Bazargan government makes communication and negotiations extremely difficult, and one can only hope that the representatives sent to Iran by the President will be able to secure the safe passage of the hostages.

In view or the tumultuous situation in Iran, which appears to extend beyond the crisis at the Embassy to all aspects of the nation's life. I think it is important that while negotiations are going forward—if, indeed, they do go forward—our Government simultaneously take other precautionary measures.

I hope that the administration is making adequate preparations for circumstances which may arise. I am not recommending any rash action, but rather sensible contingency planning. The upheaval in Iran strongly suggests that we cannot count on the success of any one course of action.

I am particularly hopeful that there are ongoing discussions with the Government of Saudi Arabia and her Arab neighbors in the Persian Gulf region with regard to what must be seen as mutual security concerns.

During my visit to several of the moderate Arab countries earlier this year, I found concern in every capital about the overthrow of the Shah, the instability of the regime of the Ayatollah Khomeini and what was widely perceived as the inadequacy of mutual security arrangements in the gulf region. Clearly the United States must share these concerns, and the current Iranian crisis illustrates the importance of a continuing dialog with the moderate Arabs.

The tumult in Iran must not be permitted to become a menace to her neighbors, or to the very real interests of the United States in the region.

EXPEDITIOUS DEVELOPMENT OF SYNTHETIC FUELS

Mr. DOLE. Mr. President, yesterday the Senate voted on the approach of the Banking Committee as sponsored by Senator PROXMIRE and others.

I strongly support the expeditious development of synthetic fuels. Reliance on foreign oil and gas saps our economy, weakens the dollar, and endangers our national security. We must move rapidly to develop our vast domestic alternative energy supplies, including coal, oil shale, tar sands, agricultural and forestry sources, and other energy resources.

The Finance Committee considered ways to develop alternative energy sources as part of its deliberations on the windfall profits tax. As ranking Republican on the Finance Committee, I must say I believe the committee adopted a sound approach by providing incentives for private industry to invest in the development and application of alternative energy production methods, including a $3 per barrel tax credit for production of synthetic fuels through a variety of methods. The Finance Committee would also provide tax incentives for use of solar, wind, and geothermal energy, and for development of hydroelectric projects. This is a sensible approach because it recognizes that the fastest way to diversify energy sources is to encourage private industry to develop and use these various technologies. Industry will have every reason to move quickly and efficiently toward energy diversification, whereas efficiency is not a common characteristic of most government programs.

In light of his experience on the Finance Committee, the Senator from Kansas would like to focus on title I of the two committee bills before us. At the appropriate time, I will have further remarks on other portions of these bills, particularly those dealing with development of the energy potential of the agriculture and forestry sectors of our economy. I would just note here that I am grateful that the Energy and Banking Committees acknowledge that our farms and forests can make a major contribution to our energy needs.

Both the Energy Committee bill and the Banking Committee bill recognize in title I the importance of developing expeditiously these so-called synfuel sources. Each bill seeks to encourage projects using diverse technologies to exploit our domestic energy potential.

But, Mr. President, there is a very fundamental difference in the approach of the two bills to development of alternative energy. In essence, the Banking Committee approach says, "Let the private sector develop synfuels, but with important support from the Government in the form of purchase and loan guarantees linked to the marketplace." The Energy Committee approach is to create yet another energy bureaucracy, endow it now with some $88 billion, and allow it to plunge into the synfuels industry.

Mr. President, I have no difficulty deciding that the Banking Committee approach is far preferable. Whether it is perfect in all details, the thrust is certainly correct. The expertise to develop synfuels lies in the private sector and should remain there. Through purchase commitments and loan guarantees, and with the incentives recommended by the Finance Committee, the Government can give the needed extra push to assure more rapid development by the private sector. But rapid development does not mean we should throw billions of dollars and masses of bureaucrats at a hodgepodge of unconsidered projects.

The Banking bill contains important safeguards against massive commitments to white elephants. Government commitments will not be open ended. Loan guarantees are made available only for 75 percent of the funding of a project. The Government cannot directly run or finance a project. These and other safeguards help to assure that private business and technological expertise will develop synfuels, with a needed element of market discipline, expedited by limited but important governmental guarantees.

I recognize that the Energy Committee approach is more spectacular, and therefore more appealing to some. We would have a new bureaucracy—the Energy Security Corporation. That bureaucracy would be endowed with some $88 billion and empowered, not just to provide purchase or loan guarantees for projects, but to make direct loans and even own energy projects.

The motivation of each of these features of the Energy Committee bill is well intended. Proponents promise that the new bureaucracy will be lean and tight. They tell us it is necessary because the existing bureaucracy is large and unwieldy. The Senator from Kansas agrees that the bureaucracy is strangling our Nation. The answer, however, is certainly not to create yet one more agency. The unwieldiness of the bureaucracy was the justification, we may remember, for the creation of the Department of Energy. The failure of that body should not lead us to try to solve the problem by

creating a new organization. The answer is not more, but less, Government.

I know that proponents are also well-intentioned in proposing that we now authorize some $88 billion for this program. They tell us that this is justified by the degree of our energy problem, and that furthermore we can veto $68 billion of that amount in 3 years if it then appears unwise.

The response, I think, is quite simple. As we should have learned from the past, the answer to every problem this country faces is not to throw the taxpayer's dollars at it. We need to take a hard and continuing look at money we authorize for this or any other purpose. It may be that $88 billion will be amply justified for synfuels. If so, you may be sure that the Senator from Kansas will be supportive. But right now none of us knows what is justified. Indeed, a major point of these bills is that we do not yet know.

But let us come to these decisions in an orderly way through our proper legislative budgetary procedures. The opportunity for a legislative veto is not the way to authorize $68 billion. I share the concerns and applaud the wise words of the senior Senator from Mississippi, who warned us on Monday of legislating by congressional veto. We should also bear in mind that, like new bureaucracies, major financial commitments take on a life of their own. The energy bill would severely limit our ability to give this massive funding the careful congressional scrutiny it will need.

The final major point of criticism of the Energy Committee bill that I have at this time is that it would empower this new Energy Security Corporation to make direct loans, to purchase failing projects from the private sector, and to own its own projects whether government-owned and company-operated or government-owned and government-operated. This is probably the worst feature of this approach. Before we have even seen what can be done in the private sector backed by appropriate Federal purchase or loan guarantees, we will be authorizing the Government to go into the energy production business.

Let us not be deluded by the stated intent that such Government involvement be a last resort under the Energy Committee bill. We will have a new and wealthy bureaucracy whose only purpose is to dispense its vast billions. If there is one thing Government agencies know how to do well, it is spend every dime they have available. If there are not enough sound private sector projects, you can be sure we will have GOCO's and GOGO's (Government-owned/contractor-operated and Government-owned/Government-operated) sprouting everywhere until the last dollar is gone. Further, we may well dry up sound private sector initiatives, since the availability of direct Government money will diminish the normal market incentives. You also would increase the risk of interference by bureaucrats who believe they know more than private industry.

Mr. President, let me return to my initial point. We need to encourage development of synfuels. My quarrels with the Energy Committee bill are in no sense a disagreement with this fundamental objective. But, in pursuing this objective, let us not create new bureaucracies, engender expectations of instant miracles through Government monies, and dispense with proper legislative procedures. Most fundamentally, let us not lose sight of the fact that our country and our economy has been built by private citizens, not State-run enterprise. We can move quickly toward our objectives and avoid these pitfalls by building on the sound approach of the Banking Committee bill.

IT IS USELESS TO BLAME ARABS FOR CRIPPLED DOLLAR

Mr. HELMS. Mr. President, the October 12 edition of a fine newspaper in my State, the Durham Morning Herald, contains an editorial entitled, "It's Useless to Blame Arabs for Crippled Dollar."

I have listened with regret as prominent national leaders—who surely know better—have blamed the decline and fall of the U.S. dollar on oil prices, or on the skyrocketing price of gold, or on farm prices, or big unions or big business.

Surely these people know that OPEC could not effectively function had not the United States so rapidly destroyed the value of the dollar in the early 1970's—and along with the dollar, its purchasing power in exchange for every barrel of oil purchased from oil exporting nations. In fact, when we look at the prices of oil and gold back then, the ratio worked out to about 17 barrels of oil per ounce of gold—about $2 per barrel, and $35 per ounce of gold. Today, gold is over $375 per ounce, and oil is $25 per barrel.

In other words, it is the dollar that has collapsed. It has collapsed because the United States abandoned the gold standard. It has collapsed because the Federal Government has been spending billions more than it has been taking in, year after year. It has collapsed because the Federal Reserve has monetized those deficits—turning them into billions of unneeded dollars.

Mr. President, I commend the perceptive editor who wrote this editorial, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Durham (N.C.) Morning Herald, Oct. 12, 1979]

IT'S USELESS TO BLAME ARABS FOR CRIPPLED DOLLAR

Americans, not Arabs or any other foreigners, have the power to stop the depreciation of the dollar. They can stabilize prices by not spending more money than they have and by paying taxes for all the goods and services they demand from government. All efforts short of this will lead to more inflation, higher prices and greater unemployment.

So says the American Economic Foundation of New York.

Its supportive arguments lend weight to this conclusion.

In 1944, the foundation says, the International Monetary Fund (IMF) was established and all member nations except the United States were relieved of the obligation to make their currency convertible into gold. They were entitled to make it convertible merely into dollars. This meant that any IMF nation could receive one ounce of gold from the United States Treasury for every 35 paper dollars turned in. Redemption of paper dollars lasted until August 15, 1971, when the international stampede out of dollars became so great it forced President Nixon to shut the gold window. Foreigners realized that the American people would not stop their 40-year deficit spending policy which was inflating the money supply and decreasing the value of each unit of its purchasing power.

Arab nations held large quantities of paper dollars when the United States reneged on its promise to redeem them for gold. Their holdings had grown as a direct result of U.S. government regulatory interference, high taxes and inadequate depreciation allowances that made it more economical and profitable for American oil companies to explore and develop Arab oil fields instead of American oil fields. To maintain the same amount of purchasing power in terms of depreciating dollars, Arabs were forced to increase the dollar price for each barrel of oil.

The price of Arab light, the most desirable oil, rose from $1.80 per barrel in August 1970 to $18 per barrel in August 1979. In that same period—1970 to August 1979—the price of gold rose from $35.90 per ounce to more than $800 per ounce. And we all know it topped $400 per ounce recently. Therefore, it took more than 300 paper dollars to buy the same ounce of gold that 35 paper dollars could buy in 1970. In other words, the value of each paper dollar, measured against a set weight of gold, has declined by almost 1,000 percent—the same percentage increase reflected in today's higher oil prices.

Money must be a store of value as well as a medium of exchange. The late economist James C. Dolley explained that its store of value depends entirely upon public expectation of the future value of the currency. If the expectation is nil, then the value of the currency is nil, and the economy collapses for want of a medium of exchange. Rising prices and unemployment are economic distortions aggravated in large part by the growing number of people who have shrinking expectation of the future value of the dollar.

As we said—and the American Economic Foundation said—in the beginning, Americans have the power to stabilize their economy. Sylvia Porter, in her recent series in the Herald, underscored the need to quit spending excessively and to carry only manageable debt loads.

It's a clear lesson in economics for the individual, which, when multiplied many times over, becomes our destiny as a nation.

JAPAN AIR LINES WANTS TO SERVE CHICAGO

Mr. PERCY. Mr. President, on October 10, 1979, Monte Lazarus, senior vice president—public affairs for United Airlines, gave a speech before the Midwest-Japan Association in Chicago on the need to reach a new international aviation agreement with the Japanese Government. The speech makes a compelling case for the approval of Chicago as a new landing point for Japan Air Lines. Such service would be of great benefit to the 2,500 Japanese businessmen and their families who now live in Chicago as well as making the Midwest much more accessible to a growing Japanese market. It will also provide more competitive service for nonstop flights between Chicago and Tokyo.

It is my hope that discussions with the Japanese Government will go well so that lower fares and liberalized char-

ter rules will be accepted by the Japanese in exchange for additional landing points in the United States for Japan Air Lines.

I ask unanimous consent that the speech by Mr. LAZARUS be placed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY MINTE LAZARUS

Thank you for the opportunity to be with you today. On behalf of United Airlines I'm honored to be with you because of our strong ties to Japan and our great interest in providing service to Japan. Beyond that, as a major corporation based in Chicago United is vitally interested in developing business relationships between the city of Chicago and Japan. We see tremendous opportunities starting right now to build those opportunities.

Looking backward for a moment, United has enjoyed strong and long friendship with Japan Air Lines; 25 years ago United helped establish Japan Air Lines' route between Tokyo and San Francisco. In fact, we provided assistance on JAL's inaugural flight. Ever since, United has provided the ground servicing for JAL at San Francisco, and we are now also providing ground servicing at Los Angeles and Kennedy Airport in New York. We helped train Japan Air Lines' pilots. We're extremely proud of our long history of friendship and cooperation. We have many friends and colleagues at Japan Air Lines, and we value their friendship dearly.

The close ties between Japan and the United States—and most important to us today, Chicago—have been made possible in large part by air transportation. It's no coincidence that economic development and transportation go hand-in-hand. As our friends at the Boeing Company remind us, transportation is second only to education in influencing economic growth.

In Chicago we are deeply interested in expanding our business ties with Japan, and we at United are anxious to promote those closer relationships. I hope it is not too much to expect that businessmen in Japan feel a similar way about expanding their business ties with Chicago. It's been said many times, but it bears repeating that Chicago is the heartland of America. We are blessed with great companies, banking interests, universities and others who have a vital interest in promoting trade and commerce with Japan.

Let me turn then to our key point—how to expand our mutual business opportunities through better air transportation. As I mentioned earlier, transportation is vital to economic development. Our industrial and business nerve center in Chicago can benefit from better service to Japan; and Japanese business interests can obviously benefit from better service to the United States, particularly Chicago.

At United we know that our friends at Japan Air Lines have, for many years, wanted a route between Japan and Chicago. And, for many years the air transport policies of both the U.S. and Japanese governments have effectively prevented Japan Air Lines from getting that route to Chicago—or U.S. carriers from getting new routes to Japan.

The world is changing, however. In the past two years in the United States there have been very significant changes:

We have a new law which recognizes the benefits of competition. That law deregulates domestic air transportation, and allows air carriers to compete freely in the marketplace. The benefits of this new law to the public, to American business, to the airlines, will be enormous.

In international aviation we have a new U.S. international aviation policy which emphasizes the benefits of competition and lower fares. Under that new policy the U.S. has successfully negotiated new bilateral air transport agreements which benefit the public, the business communities and the governments and the airlines of both nations by expanding route opportunities and allowing the air carriers to be more innovative in the marketplace. Again, I emphasize the benefits to both sides.

We believe the time has come for the U.S. and Japan to take advantage of the new and very real opportunities for both sides. At United we support the entry of Japan Air Lines to Chicago. We also support the entry of Japan Air Lines to other cities in the United States. With Japan Air Lines serving Chicago our community will make even greater strides in bringing Japanese and American business ties even closer together.

You may be asking about now, what's in all of this for United Airlines? Is United simply being nice because of its long friendship with Japan Air Lines? Not at all. We have a business interest, too. United has long wanted a route between our Pacific Northwest—Seattle and Portland to Japan. After years of trying, we were finally awarded that route by the U.S. in October of 1978. However, the Japanese Government appears very reluctant to give us the authority we need to begin operations. To us this is unfortunate. We are missing a tremendous opportunity to improve conditions for both sides, and the business community in both countries loses as a result. We can only hope that business leaders in Japan and the United States can overcome the reluctance to expand those very important business ties that bind us together.

This all sounds very simple, but aren't there any problems? Of course there are—some very serious problems. But, the problems will be overcome within the next couple of years, and now is the appropriate time to begin moving.

Let's look at some of those problems that affect both sides:

First—Fuel. The price of jet fuel has risen faster this year than at any time in history. And, there are supply problems. We are fully aware of the fuel situation at Narita airport, but we are confident that those problems will be resolved satisfactorily.

Second—Airport limitations. We have the same view with respect to the airport facilities at Narita. There is no apparent reason why a strong effort with the full cooperation of airlines serving Japan should not produce solutions to any airport problems.

Third—the concerns of Japan Air Lines about low fares, competition, capacity and route exchanges. We understand the concerns of our friends at Japan Air Lines. But, we sincerely believe that the concern is not warranted. Both factors of low fares and increased competition serve to expand the market to the benefit of both sides. With the new market opportunities for Japan Air Lines in places like Chicago, they stand to benefit tremendously by the kind of agreement we're talking about. On the subject of capacity, let's understand that United Airlines is as much interested in sound business actions as any other sensible business. We believe in healthy competition, not destruction.

Finally—The possibility of route improvement for Japan Air Lines is significant—the greatest opportunity for expansion in many, many years.

In short, the way is open for Japan Air Lines to come to Chicago—to further their own interests, and the joint business interests of Japanese and U.S. industry. All that is really needed is for the Japanese Government to adopt a less restrictive policy in the area of air transportation and to permit greater freedom for the forces of competition to work. The Japanese business community has shown an unmatched ability to compete in worldwide markets in other fields. We are convinced they can be equally successful in a more competitive transportation environment.

MIDWAY AIRLINES OFF TO FLYING START

Mr. PERCY. Mr. President, on November 1, 1979 the first all-jet interstate airline to be created in U.S. history began service from Chicago's Midway Airport. Midway Airlines initially will serve Cleveland, Detroit, and Kansas City with fares 25 to 50 percent below those offered by the airlines flying out of Chicago's congested O'Hare International.

The creation of the new airline has already generated close to 200 jobs with an annual payroll of $4.2 million. By next October the work force is expected to climb to 485 with an annual payroll of $7.2 million. Hundreds of new off-airport jobs are expected to be created on the southwest side of Chicago, giving the area a much needed economic boost.

The creation of these jobs and infusion of new economic life did not cost a penny of taxpayer funds. This is truly a tribute to airline deregulation legislation which I and others supported and which has reaped so many benefits. Attending the inaugural events on October 30, 1979 was Alfred E. Kahn, President Carter's chief inflation adviser. Mr. Kahn said all he did was step aside to allow Midway Airlines to operate when he was chairman of the Civil Aeronautics Board. Typically, Fred Kahn has downplayed his role in cutting through redtape that would still have the CAB meeting to determine if additional service should be approved for Midway Airport.

Also present was Marvin Cohen, current chairman of the Civil Aeronautics Board, who has done so much to carry out the wishes of Congress in deregulating the airline industry. Regrettably, J. Phillip Bakes, a native of Chicago and former General Counsel to the CAB was not present. Mr. Bakes worked long and hard to make certain that Midway Airlines got off the ground. Representative JOHN FARY, of the Fifth Congressional District was there. He supported Midway's revitalization, along with Representative MORGAN MURPHY. On the dais at the October 30, 1979 inaugural ceremony were: the Reverend Leonard A. Martin, pastor of the Nazareth Evangelical Lutheran Church, 3250 W. 60th Street, Chicago; Mayor Richard L. Barkley of Kansas City, Mo.; Fred Warren of Brentwood Associates of Los Angeles; the Honorable J. Patrick Dunne, commissioner of aviation for the city of Chicago; Frank Considine, president, National Can Co.; the Honorable John Fary; Thomas Nayder, president, Chicago Building Trades Council; John Robson, former chairman of the Civil Aeronautics Board; Ken Carlson, vice president-marketing, Midway Airlines; Robert Donohue, director of aeronautics for the State of Illinois; Jack Bowen, vice president-public affairs, Midway Airlines; Irving Tague, president, Midway Airlines; Marvin Cohen, chairman of the Civil Aeronautics Board; Wayne Barlow, Midwest director for the Federal Aviation Administration; Bruce Sagen, publisher, Economist newspapers; Thomas Coulter, executive director, Chicago Association of Commerce and Industry; Thomas Moloney, representing the Chicago Superintendent of Education; Alderman John Madrzyk, of the 13th Ward and chairman of the Aviation Committee of the Chicago City Council; Howard S. Marks, of my staff; Mayor Jack Reardon, of Kansas City, Kans.; Malcolm Dade, executive assistant to Mayor Coleman Young of Detroit; and Father Joseph Bowen, president of St. Ignatius High School, 1076 W. Roosevelt Road, Chicago.

The list of Midway Airport revitalization supporters is endless and could fill many pages.

No wonder Midway Airlines is off to a flying start. Even before its first flight took off, plans were underway to expand its reservation staff from 15 to 35 to handle thousands of unanswered calls. Understandably, its phone lines have been jammed with requests on low fares. It is anticipated it will save travelers $15.2 million during its first year of operation alone.

Midway Airlines is also a fuel-efficient carrier. It is anticipated that it will divert enough motorists from interstate highways to result in a 5.4 million gallon fuel savings during its first year of operation alone. It will start us on the road to contain air carrier congestion at O'Hare which wastes 67 million gallons of fuel annually as planes are left in lengthy holding patterns or wait on the ground for take-off clearances. Several interesting articles have been written about Midway including one by Ms. Carole Shifrin, a reporter for the Washington Post; another by David Young, transportation editor and Storer Rowley both of the Chicago Tribune; and an editorial that appeared in the October 28, 1979 Southtown Economist newspaper. I also commend to my colleagues a superb analysis written by Representative MORGAN MURPHY.

Mr. President, I ask unanimous consent that these articles be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

MIDWAY AIRLINES READY FOR A CROWD

(By Carole Shifrin)

CHICAGO, October 30.—Midway Airlines set up a luncheon for 450 today in the middle of the lobby of Midway Airport without disturbing a soul.

If Midway Airlines is successful, however, the lobby will hustle with airline passengers in the future, not diners.

The luncheon celebrated the inauguration of Midway's scheduled service from Chicago's little used airport to Cleveland, Detroit and Kansas City. Thursday, Midway Airlines will begin service of the nation's newest airline and the first all jet interstate airline to be created since the Airline Deregulation Act.

Midway will operate 184 flights a week, using DC-9 aircraft, at air fares that are 25 to 50 percent less than competitors' flights to and from O'Hare International, a congested airport Midway officials hope prospective passengers will want to avoid.

Marvin S. Cohen, chairman of the Civil Aeronautics Board (CAB) told Midway's well-wishers here that "the commencement of service . . . brings together in one operation so many of the promises of deregulation—new entry, satellite airport development, low fares and innovative services."

The festivities started this morning when Midway's three planes—bright stripes of navy, yellow, orange and red on white—arrived within 15 minutes of each other, bringing civic leaders from the three cities the new airline will serve.

"It was a pleasure not to be held up at O'Hare," Jack E. Reardon, mayor of Kansas City, Kan., said after the easy arrival.

Midway Airport was once the world's busiest, accommodating 20 million passengers a year before the airlines abandoned it in 1973 for O'Hare. Only Delta Airlines continued service there with two flights a day.

City officials who have supported the airport's revitalization hope that Midway's low fare service will bring more business to the airport and to the southwest area of Chicago, where it is located.

Midway Airlines said that response has been so enthusiastic over the low rates that many flights are already sold out and waiting lists have been started.

As an example of the savings, Midway offers a regular coach fare to Kansas City of $56 and a fare of $37 for all weekend flights and some off-peak weekday flights. The two unrestricted fares compare with a $86 coach fare of its O'Hare competitors.

"As someone whose monthly job is to explain what has happened in the past months to the Consumer Price Index, I find this is a particularly happy occasion," Alfred E. Kahn, President Carter's chief inflation advisor, told the gathering here today. Kahn served as chairman of the CAB when it gave Midway federal permission to operate as an airline into Midway airport.

"I hope you make a billion dollars," Kahn told Midway president Irving T. Tague.

Kahn sported a Chicago tie given him by Chicago's aldermen the week after he blasted them for taking a 40 percent increase in pay that he said violated the wage-price standards. Kahn gave President Carter credit for supporting deregulation of the airline industry, which Midway officials say allowed them to get started.

"So you see, my wearing my Carter-Mondale button is not a political act," he said. "It is a historical statement."

Conspicuously absent was Chicago Mayor Jane Byrne, who was scheduled to take part in today's activities but canceled to hold a press conference to endorse Sen. Edward M. Kennedy for president.

Midway President Tague says the airline expects to carry about 700,000 passengers during its first year and nearly double the second year. In the spring, the airline will take delivery of two more planes. It is considering adding Midway services to Washington, D.C., and Minneapolis-St. Paul.

AN AIRLINE THAT DOESN'T GO TO O'HARE

(By Carole Shifrin)

CHICAGO.—Last year, nearly 50 million passengers—many of them swearing—pushed through busy O'Hare International Airport while fewer than 100,000 walked easily through Midway Airport located just across town.

Once the world's busiest airport with 20 million passengers a year, Midway fell on hard times when the major airlines pulled out to go to the newer, bigger O'Hare in 1973. Because it has been nearly a ghost-town ever since, it was not surprising at all to hear a man in the small bar at Midway a couple of weeks ago exclaim to his companions, "This is an airport," when the sound of a descending airplane intruded on Midway's normal silence. The plane was one of just three daily scheduled flights that broke the quiet here.

But things may be changing now with the birth last week of a brand new airline named after the airport that will serve as the center of its activities. Aided by deregulation and a surrounding community that is uncharacteristically enthusiastic about the sound of roaring jets above, Midway Airlines may succeed in putting Midway Airport back on travelers' itineraries.

The time appears right for it: Many business and other travelers who dread the delays and congestion that have become practically synonymous with O'Hare, and others who will be attracted by the unrestricted cut-rate air fares that the new Midway Airlines offers on all its flights, may find Midway a godsend.

Passengers will find it takes less time to get to Midway from downtown Chicago by cab or bus than to O'Hare, less time to park a car in the 1,300-space, nearly empty parking lot in front of the terminal, less time to buy a ticket with the airline's simplified ticketing system, less time to get to the gates which are nearly adjacent to Midway Airline's ticketing counters, less time waiting on the ground in the plane while the pilot waits his or her turn to take off and less time for baggage retrieval.

And where possible, Midway plans to fly to other convenient in-town airports such as Cleveland's Burke Lakefront Airport, located just minutes—and even within walking distance of downtown Cleveland.

"If we do our jobs, once people travel with us and see how easy it is compared with O'Hare, word will spread," Irving T. Tague, president of the new Midway, said confidently.

Midway initially will offer 28 daily flights—184 a week—between Chicago and Cleveland, Detroit and Kansas City on 83-passenger DC9 aircraft. Midway's regular coach fare on weekday flights is about 25 percent lower than its competitors, and its weekend and some offpeak weekday fares run 50 percent lower. For instance, it will cost $49 to fly between Chicago and Cleveland on weekdays during peak hours and $33 during off-peak hours and the weekends. The established airlines charge between $66 and $72 for the same service.

Even before Midway's service began on Thursday, word had spread so fast that its initial reservations staff of 15 could not answer the calls that began to pour in each day. For instance, last Monday—the day before Midway's inaugural festivities—1,599 calls were answered and 1,074 reservations were made, but 3,453 calls were lost, a computerized counter indicated. The number of calls, and lost calls, continued to build, and Midway decided to double its reservations staff and increase the number of phone lines.

"This is our problem," a beaming Kenneth Carlson, vice president of marketing, said during a tour of Midway's facilities, including the room with two long tables of phones that serves as the reservations center. "It's one Irv and I always hoped to have."

One significant attention-getter was Midway's announcement of a promotional "pocket change" fare for the first weekend—when passengers, on a first-come, first-served basis—would be able to fly literally for "pocket change." The promotion, which reduces the $33 weekend fare to Cleveland, for instance, to 33 cents, and so on, swamped Midway with 17,000 calls.

But more important, on Wednesday the level of daily bookings reached 1,200—the number Tague and Carlson believe they need daily to make Midway a success. On Thursday, there were 1,600 bookings. Four flights were sold out for Friday; a total of 31 flights were sold out for around Thanksgiving.

Tague jokes that Carlson scheduled a "brilliant marketing coup" by arranging the Thanksgiving and Christmas holidays—periods already solidly booked on other airlines—during Midway's first two months of operations. Midway expects to carry 700,000 passengers the first year, and double that the second.

If enough people travel on Midway in the next two months and are happy about it, Midway's officials believe the airline will be able to draw on its success to sustain loads through the winter—when travel traditionally is slow and weather often bad—not to mention the recession that many believe may cut travel budgets.

"If I have any concern at all, it's with the first quarter," Tague said. But some "Tague economic theory" gives him hope: "In the last recession, the short-haul carriers did better than they had done before and better than the larger carriers," he said.

Barely off the ground, Midway already has plans to expand—very likely to Washington, D.C., and Minneapolis/St. Paul—when two more DC9s are delivered in the spring. The first five planes are leased, but Midway has placed orders with McDonnell Douglas for five new 120-passenger DC9s for delivery in 1982 and after. So far, Midway has authority to fly to another 26 cities from Midway Airport.

The first airline to be created since the Airline Deregulation Act and the first in U.S. history to start passenger operations as an all-jet interstate carrier, Midway was three very long years in the making. After the Civil Aeronautics Board authority was granted, it took Tague and Carlson a full year to raise the $5.7 million needed to start operations from 16 different sources, mostly venture capital firms. None of the money came from Chicago, despite the city's and state's interest in revitalizing the airport and the depressed environs surrounding it. (Midway's initial payroll is $3.2 million annually, and many of the 200 hires came from neighborhoods around the airport.)

Besides using convenient satellite airports when possible and offering low fares, Midway has also come on board with an innovative ticketing program. Passengers can buy a book of 10 tickets that are good for a year, protecting them against fare boosts and giving frequent travelers the pleasure of bypassing the ticket counter.

Midway is offering the same books of 10 tickets for the price of nine to travel agents, giving them a 10 percent commission on their sales. The tickets are refundable, but Midway is insisting that the agents pay for the tickets up front. Initially the agents resisted but interest in Midway from their customers has made some of the larger agencies decide to buy the books and offer Midway's tickets to their customers.

The first couple of days of operation went off without a hitch—"It's working beautifully," Carlson crowed—but there are problems that have to be worked out. For instance, not having any operating experience, Midway declined initially to "overbook," that is, give passengers more confirmed reservations than there are seats on a flight to compensate for the "no-shows"; in the first few days, between 10 percent and 20 percent of the passengers with confirmed reservations failed to show. After it collects some accurate statistics, Midway probably will begin overbooking as other airlines do.

(There is another problem Midway's officials will have to resolve: During the inaugural ceremonies last week, a group of the new flight attendants were complaining in the restroom that the newly issued shoes hurt their feet.)

Because of its simple route, fare, ticketing and corporate structure—its "corporate offices" are plain rooms in the airport off the concourse near their gates—Midway won't need as many passengers as others do to make money. It estimates that it will break even when just 47 percent of its seats are filled systemwide with its mix of 60 percent regular coach, 40 percent off-peak economy. Right now, 65 percent of its advance reservations are for the off-peak "pleasure" fares and 35 percent are booked for its normal coach fares.

SAFETY FIRST, THEN LICENSE FOR MIDWAY

(By David Young)

About 30 minutes before he was scheduled to land his DC-9 jetliner in Chicago, pilot Doug Erickson was handed a note telling him to keep his hands off the controls and to stare out the window for the remainder of the flight.

Though somewhat surprised, Erickson did exactly as he was told.

The incident was not a skyjacking or an aerial event staged to dramatize the demands of some foreign radical group.

It was an attempt by the federal government to find out whether Chicago's newest airline is safe to fly.

Midway Airlines is the first new airline to be formed since the industry was deregulated by Congress last year. In fact, when its first planes take off for Detroit, Kansas City, and Cleveland early Thursday morning, it will be the first interstate airline in more than 30 years to be started from scratch.

Officials of the new airline, which gets it name from the fact that it flies from Midway Airport, hope to lure passengers to their jets by offering budget fares substantially below those of airlines flying from O'Hare International Airport.

The Midway fare to Detroit, for example, will be $42 during the week and $33 during weekends. The regular one-way fare from O'Hare is $61 for coach and $76 for first class.

Before a new airline can carry its first passenger, however, its safety must be checked thoroughly by the Federal Aviation Administration.

Erickson complied meekly with the note's demand because Larry Niemann, the FAA's principal operations inspector in Chicago, had given it to him.

Niemann was trying to determine whether the copilot, William French, was capable of flying the airplane should Erickson suddenly suffer a seizure in the cokpit. Since DC'9s have only two man in the cockpit, versus three on larger jetliners, it is important that the copilot keep an eye on the pilot.

"It went just fine," said Niemann, who grew up in west suburban Hinsdale before getting into military aviation after college. "The copilot took only a few seconds to figure out what was wrong," he added.

While Niemann was testing the cockpit crew, at least three other FAA inspectors were in the cabins, testing the crews.

On one flight, the harried crew had to put up with an FAA-sponsored hijacking, a drunk passenger, and a bomb threat.

"We kept changing problems so they wouldn't know what to expect," Niemann said.

At one point he secretly arranged with the FAA control tower at Midway to tell the DC-9 crew to abort the flight as they were rolling down the runway to take off. On an aborted takeoff, the crew must safely stop the plane on the ground before they run out of runway.

The in-flight inspections were conducted for four days ending last weekend during what is known as "proving runs." Midway Airlines was required to operate its three DC-9 jets on regular schedules to Detroit, Kansas City, and Cleveland, just as it would on Thursday when it begins carrying passengers.

However, the FAA inspectors actually began their work on the new airline two months ago, when it officially applied for certification as an air carrier.

If Midway passes its tests, and FAA officials say that looks like a good bet, it will be handed a certificate by the FAA sometime Wednesday, permitting it to begin carrying passengers on Thursday.

The new airline was given the authority by the Civil Aeronautics Board in July, 1978, to operate several routes from Midway Airport. The CAB regulates airline routes and fares, but not aviation safety. That is the FAA's job.

It was not until Aug. 1 that Irving Tague, president of Midway, was able to round up $5.7 million from investors to enable him to begin service. A month later, he applied to the FAA for a certificate to operate, and that is when Niemann got into the act.

Niemann works for the FAA's flight standards department—one of the less glamorous branches of the federal agency that is constantly left standing behind others, such as air traffic control, when it comes time to budget money. The flight standards unit is in charge of making sure airplanes and airlines are safe.

With only 60 days to get the job done on Midway Airlines, the FAA's Chicago field office had to assign 11 of its 15 inspectors to the certification of the new carrier.

"We couldn't put everyone on the Midway job because we have other jobs to do," said Niemann.

Five inspectors were assigned to look into the operation of the airline, four to check on its maintenance and planes, and one each to inspect its electronics and security systems.

Even then, there weren't enough men for the job, so FAA inspectors in other cities were asked to help, and at least two Midway pilots were pressed into service as "check airmen" to run tests on their colleagues, a sometimes controversial practice the FAA has adopted, because it does not have enough manpower in its flight standards department.

The first task faced by the FAA's Chicago office was to wade through Midway's foot-thick application for certification. The application included the airline's maintenance and operating manuals—the documents critical to the safe operation of any airline because they become the laws by which pilots and ground crews operate.

Another early check by both the airline and FAA were the rear walls, or bulkheads, in the passenger cabins of the three DC-9s that Midway is leasing. The bulkhead is in the rear of the passenger cabin and contains a pressurized door which leads to the tail cone.

Meanwhile, Midway's 20 pilots and copilots were being given a week of classroom instruction on the new operations manual. They were then sent to two weeks of ground school at the Douglas factory in Long Beach, Cal., to learn everything they could about the plane.

Each flight crew member was then put in a complex, computer-driven simulator for several days to test his ability to fly the plane.

The simulators are airline cockpit mock-ups rigged to a computer and a complex hydraulic system so that they act like real airplanes in flight. The inspectors shut down engines in flight, cause hypothetical fires, and cause various systems to fail to see how the crews would react.

The final stage before FAA certification was the proving flights, which began Thursday and ended Sunday.

Although his office has never before certified a new airline, Niemann said what he has seen has convinced him Midway will be safe to fly.

"The airline will do everything safely, or we won't certify it," he said.

LOT OF GROUNDWORK PRECEDED FIRST FLIGHT OF NEW AIRLINE

(By David Young)

Irving Tague and Kenneth Carlson sat anxiously in a room in the Oak Lawn Towers

last July 31 and began to make notes on a legal pad.

"The first thing we put on the list was 'planes'," Carlson recalled. "Then 'people,' and then 'facilities'."

Some 130 items later they had managed to scratch out the master plan for the nation's first new interstate airline in three decades. That airline, they hoped, would be flying passengers in just 90 days between Chicago's Midway Airport, Detroit, Kansas City, and Cleveland.

If Tague and Carlson were anxious, it was because in less than 24 hours they would be signing the papers to finance the new Midway Airlines.

Until then, the airline had unofficially existed for nearly three years on some route applications filed before the Civil Aeronautics Board in Washington and on prospectuses submitted to various venture capital sources.

At 6 a.m. Thursday, Midway will become a reality when two of its red, orange, yellow, and blue-striped jetliners simultaneously take off from Cleveland and Detroit for flights to Chicago. At 7 a.m. the new airline's first flight from Midway Airport will take off for Detroit.

For Tague, 51, former head of Hughes Airwest and now Midway president, and Carlson, 35, those first flights represent a successful three-year struggle to get a budget airline operating from Chicago's nearly abandoned Southwest Side airport.

It also represents a $5.7 million gamble on the part of Tague and his investors that the new airline will work. Nearly $2 million of that has already been spent.

The idea behind Midway Airlines is to duplicate the success formula of two budget intrastate airlines in California and Texas by offering no-frills service at fares below what the airlines using O'Hare International Airport can offer. Tague says the success of Pacific Southwest Airlines [PSA] in Los Angeles and Southwest Airlines in Dallas inspired him.

Midway was chosen because it has available space, is closer to the Loop, and has less congestion than O'Hare.

Tague claims that despite the softening of the air travel market in recent months and gloomy projections for the coming months, his new airline will survive. "If we can acquire the aircraft we need, we should be grossing $50 million a year within 18 months to two years," he predicted.

Even before it has flown its first passenger, Midway had placed an order with McDonnell Douglas Corp. for five new DC-9 jetliners. The 120-seat planes, which are scheduled for delivery in late 1982, will cost $10.2 million apiece.

Opinions in the rest of the airline industry vary over whether Midway can survive and prosper. "I think they're going to make it," said an official of another airline. "With all the congestion and parking problems at O'Hare, people are looking for alternatives."

He pointed to the success of Delta Airline's two-flight a day budget service between Midway and St. Louis. Delta charges a $60 round trip fare from Midway, versus the $112 coach fare for its eight daily round trips between O'Hare and St. Louis.

Although the Midway service draws about 30 percent of its 5,500 to 6,000 monthly passengers from the O'Hare route, Darrell C. Hatton, Delta marketing director in Chicago, considers 70 percent of the Midway passengers to be "new business"—people who used to drive.

"If you look at the new airlines, like Southwest, they didn't take passengers from the existing airlines. They took people off the roads," said one Midway executive. "We have more opportunity to take people off the roads here than they did in Texas because we have worse weather."

Not all airline officials are optimistic about Midway's chances for success, however. "They are going to have a tough time, especially since we are running into decreased traffic projections because of the recession," said one official. "They also have a hell of a problem with fuel costs. They are running airplanes with only 83 seats—not the most efficient to operate."

Industry projections show that jet fuel will climb to 70 cents per gallon by Dec. 1—about a nickel a gallon over the mid-October price.

Possibly the biggest imponderable is whether an airline serving Chicago can survive without business connecting from other cities. An estimated 50 to 60 percent of the airline passengers using O'Hare are transferring between flights.

Such business will be extremely limited at Midway, but officials of the new airline are convinced there are enough travelers to and from Chicago to support them.

"The San Francisco Bay Area has a population of 3.5 million and three airports [San Francisco International, Oakland, and San Jose]," said Tague. "If you draw a line through the middle of the Chicago area, there are 3.5 million people living on our [the south] side."

To lure some of those people to Midway, the airline is offering fares substantially below those at O'Hare. A coach passenger from O'Hare to Cleveland must pay $67. From Midway he will pay $49 at rush hour, and $33 during mid-day or on weekends.

Besides, Midway Airlines will fly to Burke Lakefront Airport—much closer to downtown Cleveland than Hopkins International, the airport used by most airlines. Midway Airlines is also negotiating with officials in Kansas City to use either the old Kansas City Municipal Airport near downtown or the Fairfax Airport across the Missouri River in Kansas City, Kan. For the time being, however, Midway flights will go to Kansas City International.

"I'll beat the Cleveland portal to portal time of any O'Hare airline by an hour because Midway and Burke are closer to downtown and less congested," said Tague.

"At Midway you can park your car in the lot in front of the terminal, buy your ticket in two minutes, and be in the plane in less time than it takes you to find a parking space at O'Hare," he added.

The story of Midway Airlines began on Oct. 13, 1976, when Tague and his colleagues applied to the CAB for permission to start budget airline service between Midway and six cities. At the time, Mayor Daley had been attempting to induce the scheduled airlines using O'Hare to transfer some flights to Midway to revive the airport, but the airline in early 1977 vetoed the idea.

Meanwhile, the Midway Airline case dragged on through the CAB administrative process until July 13, 1978, when that agency gave the green light to Midway, the Texas-based Southwest Airlines, and the airlines using O'Hare to operate budget flights from the Southwest Side airport.

With CAB certification, Tague, who had been waiting in his California home, could finally try to round up financing. "We didn't even try for financing until we got CAB approval," he said. "We started out by trying for $6 million. It was my first venture into the world of venture capital."

Two big Chicago banks—Continental and First National—turned him down flat, as did one of Chicago's wealthier families. It became obvious that Tague would have to look to other cities for the money to start his Chicago airline.

"The venture capital world does very few startups, and the airline industry is unfamiliar to them. We're a high technology industry," Tague added.

The first break came in October, 1978—a month after he entered the market—when he came up with $750,000 from a Los Angeles capital firm. Then came a lag, and Midway officials admit they considered giving up.

"None of us are wealthy, and we had our doubts. How long can you live without a paycheck?" Tague added. "I made 100 trips that year trying to get money."

The second investor finally agreed to provide some money early this year, then others fell in line. By July, it was obvious Tague would have enough money to get Midway rolling.

On Aug. 1 when the deal was finally closed, Tague, Carlson, and their colleagues could finally begin putting together an airline.

Jack Bowen, former Chicago deputy aviation commissioner, had been hired to work out any problems that developed with the city, but the problem remained to put together a competent staff, acquire planes, and lease ground facilities—all in 90 days.

It was arranged to lease five older DC-9s—three immediately and two more next year.

Midway struck a deal with United Airlines to take over its long dormant counter, offices, and gates at the airport. United had been paying rent on the unused facilities since an ill-fated attempt to revive Midway flopped in the early 1970s, and Midway got them at "near cost."

Tague also began to put together a staff with impressive credentials. Robert L. Smith, a retired Air Force colonel, was hired away from Douglas, where he had been a test and production pilot on the DC-9 since 1976, to become Midway's new vice president of flight operations.

Smith began hiring veteran air crews available from Douglas and the Air Force. Midway officials boast that the day they start service, the average age of their pilots will be 43 years, with 9,000 hours flying experience. About 3,000 of those hours will be in DC-9s.

Edwin A. Leiser, who once headed Overseas National Airways' DC-9 program, came to Midway to head the maintenance department.

Smith and Leiser had the new airline's operating and maintenance manuals drafted within a month of the date they reported for work, then began screening potential employees. The 20 pilots Smith hired were sent to Douglas in Long Beach, Cal., and Hughes Air West in Phoenix for additional training.

Meanwhile, other Midway officials were wrestling with the problem of hiring another 160 employees—flight attendants, ramp and passenger service agents, maintenance crews, reservations clerks, and ticket agents.

More than 1,800 persons applied for just 28 flight attendant jobs, and a total of 5,000 for all 160 positions.

The 28 flight attendants were promptly sent to TWA's Kansas City school for training.

Carlson, vice president of marketing, was wrestling with the problem of attracting passengers to an airline that did not yet exist; and Brian M. Campbell, 37, vice president of finance, was worried about how to keep costs down.

Carlson's $300,000-$400,000 marketing budget meant there would be no television advertising. "We couldn't afford it," he said. He decided to split it evenly between billboards, radio spots, and newspaper advertising.

"We didn't have a name recognition problem in Chicago, but who under 35 years old in Kansas City, Cleveland, and Detroit ever heard of Midway?" Carson said.

The airline's reservation office [actually nothing more than a room with a long table and lots of telephones] was handling about 100 calls a day after opening in mid-September. But when the first of the 660 billboards appeared Oct. 10, calls went to 250. An average of about 100 of those daily callers booked flights.

When the radio spots began running on Oct. 15, the calls doubled to 500—about half of them reservations.

"We already have sold out nine flights

around Thanksgiving, but we'll need 1,500 calls a day to break even," Carlson added.

To hype the economy weekend service, Midway officials decided to offer flights for pocket change. On a first-come, first-served basis with no reservations, travelers Saturday and Sunday can board a flight to Cleveland for 33 cents, Detroit for 28 cents, and Kansas City 37 cents.

Keeping the costs down is not simple. Tague estimates that Midway has already spent $1.9 million to get ready, and will be spending $1.3 million a month once it starts to fly.

[From the Southwest Economist Newspapers, Oct. 28, 1979]

MIDWAY'S REBIRTH AUGURS PROSPERITY FOR SOUTHWEST

The start of service from Midway Airport by Midway Airlines on Nov. 1, coupled with other service which can develop in coming months, presages a period of economic development for the South Side.

One only has to look at the tremendous growth in recent years in the vicinity of O'Hare to gain an idea of what can happen—but on a more limited scale—through utilization of Midway. Rosemont and other areas near O'Hare have burgeoned, with new hotels, an exposition center and a convention center, along with office buildings, in recent years.

The most complete assessment of the potential of Midway Airport, found in the 1974 study prepared for the Federal Aviation Administration, shows the field could serve a potential annual passeger volume of 10 million by the mid 1980s, should full use of its facilities be made by the airlines.

This would increase the Chicago air transportation system capacity by almost 20 per cent and would help relieve the air and groundside congestion at O'Hare.

In order for Midway to realize its growth potential, the FAA study relates, the airlines must institute a time-phased plan to move some operations to Midway. So far the carriers have been reluctant to do so.

Moderate growth to approximately 5 million passengers and 97,000 annual air carrier operations by the mid 1980s can be accommodated with no significant physical changes. An additional 2,600 parking places would be needed, however.

Should the growth be such that 10 million passengers were handled annually, a more efficient terminal would be desirable, along with 6,200 more parking spaces, the report continues.

Growth of Midway to 10 million annual passengers would result in more than 10,000 new jobs, approximately $79 million in increased personal income and an increased demand for residential and business property amounting to $27 million.

Noise impacts on the community will increase as traffic volumes increase, although preferential use of runways can minimize it, the study says.

There will be need for improved road access if Midway growth is to be achieved. At one time the hope was the Crosstown Expressway would provide a corridor to Midway. In absence of such a project there will be need for other roadway adjustments, the study points out.

Energy consumption impacts from use of Midway would be significant, it is clear. By the mid 1980s there could be a saving of 7,730 barrels of fuel daily though elimination of traffic delays at O'Hare, with moderate growth, and a total of 10,820 barrels daily through full utilization of Midway.

There would be significant gas saving by carriers, as well. O'Hare is 23 miles from the Loop, while Midway is only eight miles, according to a report prepared by the staff of Congressman John Fary of the 5th District.

"Midway can once again become an integral part of the Chicago airport system," Fary's reports points out. Midway also will help the nation as a whole, it goes on, by saving energy and stimulating the economy.

Midway Airlines will begin operations with a fleet of three DC-9s. They will be one-class planes, each with a capacity of 85 passengers.

MIDWAY REVIVAL—ANOTHER GAIN FROM AIRLINE DEREGULATION

(By Representative MORGAN F. MURPHY)

The revitalization of Midway Airport began today. As of Nov. 1, Midway Airlines has started 14 round trip, low-fare flights daily to Kansas City, Detroit, and Cleveland, with plans to expand service to Minneapolis next year. Fares on these flights will be 25 to 50 per cent lower than standard fares charged to the same cities by airlines serving O'Hare Airport.

That's good news for Chicagoans, particularly those living on the South Side, who for the past decade have been pushing for more flights out of Midway. The struggle to get this needed service to Midway, which for years has had only two or three daily flights to St. Louis operated by Delta Airlines, was long and hard. But the persistence of people with confidence in Midway's future paid off.

That list includes Mayors Daley, Bilandic, and Byrne; Jack Bowen, former deputy city aviation commissioner; Bob Swaney, president of the Chicago South Chamber of Commerce; members of the Illinois congressional delegation, notably Sen. Charles Percy and Rep. John Fary; and, of course, Irv Tague, president of the airline company that is launching the $5.7 million business venture.

In addition to the efforts of individuals, airline deregulation—which started under President Ford, continued under President Carter, and was finally enacted into law by Congress in October, 1978—helped spur the revitalization of Midway Airport. That legislation, which I cosponsored, helped create a favorable climate for starting up service at Midway. It did this by giving airlines their greatest freedom since 1938 to compete for passengers by cutting fares and serving new routes.

What has, in fact, been the overall impact of airline deregulation during the last year?

To be sure, there have been some problems and complaints. Congestion and noise have increased at some of the larger airports. Passenger safety is more of a concern because of the growth in air traffic. There have been objections to reduce service at some small community airports. And nobody likes the 25.9 per cent rise in standard coach fare that has occurred since January [an increase prompted by rising jet fuel costs].

But according to a new study by the Civil Aeronautics Board, the impact of airline deregulation has been, in general, very good. The CAB report states that the first year of airline deregulation has been marked by greater productivity, more service, lower fares, higher profits, and more jobs.

The CAB notes the following:

Productivity increases for the airline industry over the last 18 months have far exceeded increases in most U.S. industries.

Keener competition has stimulated the airlines to offer a wide variety of discount fares, including a $108 flight from New York to Los Angeles, and a $22 trip from Houston to New Orleans. While standard coach fares have risen, about half of all air travelers take advantage of low-fare alternatives that range from 10 to 70 percent below normal coach fare.

As a result, the CAB estimates that in the first 11 months since Congress passed the airline deregulation bill, consumers saved approximately $1.5 billion in current [inflation-eroded] dollars over what they would have had the board's traditional pricing policies been in effect. And despite rising fuel and labor costs, the average fare paid in August, 1979, was actually lower—even in dollars not adjusted for inflation—than it was in 1977.

Lower fares have stimulated more airline travel, which rose more than 16 percent in 1978 and was up another 14 percent through August of this year. Last June domestic airlines carried 2 million more passengers than they did in June, 1978, even though the Federal Aviation Administration grounded all DC-10s during the early part of the peak travel season.

Despite fears once raised that competition would hurt the financial position of the airline industry, company profits hit an all-time high of $1.4 billion in 1978. And for the period covering July, 1978 through July, 1979—a period riddled by rising fuel costs, the DC-10 groundings, and a strike against United Airlines—profits still reached $904 million.

Under deregulation, which makes it possible for airlines to enter and exit markets more quickly, airlines started flights on 176 new routes as of Sept., 1979. Although some communities have experienced cutbacks in flights, none has lost essential service. In fact, CAB has used its authority under the airline deregulation bill to prevent airlines from reducing or suspending service at 45 points. This contrasts with the 10 years preceding the bill's passage when 129 communities lost all service.

Very importantly, employment in the airline industry grew 10 percent from July, 1978, to July, 1979. That certainly has been one of the law's best effects. Chicago will soon be benefiting from it, since Midway Airlines plans to hire 200 people with an annual payroll of $4.2 million.

There are, of course, problems in any industry, regulated or unregulated. The airline industry, the Federal Aviation Administration, and the CAB must work to solve those resulting from deregulation. But on the whole, the results of deregulation—lower fares, more service, higher profits, and more jobs—have been unusually good.

It's not often that Congress enacts a law that fights inflation, creates jobs, and spurs new business, all at the same time.

[From the Chicago Tribune, Nov. 4, 1979]

POCKET CHANGE FLIGHTS PULL CROWDS TO MIDWAY

(By Storer Rowley)

Pressed by spiraling inflation and an offer they couldn't refuse, hundreds of Chicagoans queued up Saturday at an airport that has seen lean times in recent years.

On a first-come first-served basis, with no reservations, travelers Saturday and Sunday could fly from Midway Airport to Cleveland for 33 cents, to Detroit for 28 cents, and to Kansas City for 37 cents. It was part of a promotion by newly formed Midway Airlines.

For a short while, airfares fell below telephone rates—at least for 22 flights, 11 each day, this weekend.

And Midway Airport—the world's busiest airport before O'Hare International came along and one of the world's idlest since—had a burst of activity.

By 8 a.m. Saturday, 1,000 people, some of whom had camped at the terminal overnight, were awaiting that day's 11 flights. Those handing the clerk a dollar would get change with their ticket.

Some were bound to be disappointed. Each plane could hold only 85 passengers, and the total for the 11 flights was 913 people.

The first three flights, one to each city, were filled.

The Stratton clan—19 strong—found it cheaper to fly than to phone their mother in Kansas City, Mo., so they went to Midway 15 hours ahead of time to beat the crowds.

They spent more getting to the airport than they would on plane fares.

For the first time in four years, all seven brothers and sisters were going to see their mother, Dorothy, 58, along with their spouses and eight children. Joan Stratton Tonkinson, 26, and her son, Craig, 19 months, came all the way from Los Angeles for the reunion.

"We've all been down to K.C. separately," said Marilyn Stratton, 29, of Maywood. "But it's the first time we're all going together—and for 74 cents round-trip we can't afford not to go, even if we lose a night's sleep."

The "pocket change" flights are a promotion by Midway Airlines—the first new interstate airline in three decades—which started low fare service to those cities Thursday. Economy flights are $33, $28, and $37, respectively—which prompted their penny counterparts.

Families, friends, and funseekers started showing up as early as 4 p.m. Friday, lining up at ticket counters with luggage, backpacks, sleeping bags, blankets, and pillows. By midnight, the terminal resembled a campsight and playground.

Babies slept and cried in strollers, children played catch with Frisbees and balls, and adults passed the time chattting, snacking, reading, and listening to radios and tape players.

The Strattons typified a predominant spirit of family reunion, but the small change fares were reason enough for many to travel.

Joanne O'Leary, 41, of Chicago, brought two of her children and picked the longest line, waiting to go to Kansas City. "The majority of people were going there and it looked like they had something," she said.

South Sider Andrew Patner, 19, a student at the University of Chicago, had something else in mind as he waited in the Kansas City line. "We're going for ribs," he said. Patner and fellow students Jake Levine, 21, and Leslie Wick, 21, both of Chicago, were headed for Arthur Bryant's restaurant in Kansas City. Patner said, "They're supposed to have the greatest ribs in the world."

North Siders John Connelly, 11, and his brother, Tristam, 9, were headed for Detroit to see aunts and uncles. They said it was cheaper than driving. "I'm excited," said John, "we have to stay up all night."

MIDWAY AIRLINES WILL RUN WITH 3 LEASED DC-9 JETS

The three early-model DC-9 jetliners Midway Airlines has leased will permit it comfortably to handle its schedule of 28 daily flights between Midway Airport and Kansas City, Detroit, and Cleveland's Burke Lakefront Airport.

Each of the 13-year-old twin-jets has approximately 25,000 hours of flying time.

In the world of aviation, which measures age of a plane by its flying time, that is not particularly old. The typical jetliner should be able to log 50,000 hours or more without major maintenance, aviation experts claim.

The major drawback of the planes is their seating capacity. They are among the Series 10 DC-9s, built by Douglas Aircraft Co. in 1966 [prior to its merger into McDonnell Corp.] and contain only 63 seats, meaning they are not as fuel-efficient as later model DC-9s. They will give the new airline a daily passenger capacity of 2,324.

Midway has already placed orders with Douglas for five later-model DC-9-30 aircraft—a stretched version of the plane. The Series 30 planes, which will cost Midway $10.2 million apiece and are scheduled for delivery in late 1982 have 120 seats apiece.

The existing planes were acquired through an unusual deal involving Trans World Airlines, their original owner, Douglas, and Midway. Douglas bought back the three planes from TWA for $3.5 million, then had TWA put them through their heavy maintenance overhaul before leasing them to Midway with an option to buy.

The deal was so favorable to Midway that it has ordered two more DC-9s from the TWA fleet for delivery in the spring to enable it to expand service to Minneapolis, and possibly Washington National Airport, Memphis, or St. Louis.

Midway has scheduled the airplanes for nine hours a day of flying time—a figure higher than the industry average—with turnaround times of only 30 to 40 minutes between flights. "In theory, the less time you let an airplane sit on the ground, the more money you'll make as an airline," said one aviation official.

The new airline will operate on a hub-spoke system. That means all flights will either originate or end in Chicago, and a person wishing to travel between Cleveland and Kansas City for example, will have to change planes at Midway Airport.

FREE PARKING FOR CONGRESSIONAL EMPLOYEES MUST END

Mr. PERCY. Mr. President, on April 9, 1979, I introduced S. 930, the Federal Employee Parking Act of 1979. Senators DURENBERGER, ZORINSKY, TSONGAS, CHAFEE, MORGAN, and DOMENICI joined me in cosponsoring this bill. S. 930 provides for a system of parking fees that would cover all Federal employees and be determined by the Administrator of the General Services Administration, the Director of the Administrative Office of the U.S. Courts and the Architect of the Capitol. The Federal parking fees for each location would be based on fees charged for similar commercial facilities in the same general area. This is a fair and equitable system that requires Federal employees to pay no more or no less than the private sector pays in the same area. In suburban and rural areas where no parking fees are customarily charged for parking and public transportation is often unavailable, no fee would be required. The Federal Government of Canada instituted a similar fee schedule a few years ago and this was followed by a measurable decrease in the use of the private automobile for commuting during rush hours.

Mr. President, as we are all aware, President Carter issued an Executive order requiring employees of the executive branch to begin paying parking fees as of the 1st of November. I commend the President for his action. This places Congress, however, in a very embarrassing position. While calling on the public to conserve energy and to cut the wasteful use of gasoline, we continue to include ourselves in a small, elite group of Federal Government employees and officials who are provided with free parking.

Late last month I received an excellent letter from David Cohen of Common Cause—a group for which I have high regard—calling for quick passage of the Federal Employee Parking Act. I, too, ask my colleagues to work for the speedy passage of this bill and ask unanimous consent that David Cohen's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMON CAUSE,
Washington, D.C., October 22, 1979.

DEAR SENATOR PERCY: Common Cause strongly supports S. 930, the legislation you have introduced, which would eliminate free parking for Congress and its staff as well as for judicial and executive branch employees. We find it deeply disturbing that, at a time of energy shortages and dwindling reserves, Congress continues a practice that encourages energy use, while the American people are being asked to sacrifice. While most citizens pay commercial parking rates or take public transportation to work, Congress and its staff, through taxpayer subsidized parking, get a free ride. It is time that Congress end the double standard which it has set for itself regarding energy conservation policy.

Last April, President Carter issued an executive order requiring executive branch employees to begin paying commercial parking rates by October 1. Your proposal would put the President's executive order into law and broaden its scope to cover employees in all three branches of the government. Common Cause believes that it is now up to Congress to show that it has a serious commitment to conservation and the country's energy needs by passing S. 930.

S. 930, which amends the National Conservation Policy Act, goes beyond correcting the obvious inequity of giving special privileges to a select group. By removing the free parking privileges for federal employees in all three branches of government, this legislation would have a substantial impact on energy conservation and would help protect the environment. In his testimony before the Senate Governmental Affairs Committee, D.C. Mayor Marion Barry estimated that there are 40,000 federal parking spaces in the District of Columbia alone. He also estimated that if a pay parking plan equal to commercial rates were enacted, it could result in 27,000 fewer people driving to work everyday. This reduction in traffic in turn could save up to 3.7 million gallons of gas annually and eliminate 3.5 million tons of pollutants from the environment.

We appreciate your leadership on this issue and urge the Governmental Affairs Committee to move expeditiously on the bill and report it favorably to the full Senate.

Sincerely,

DAVID COHEN,
President.

MONITORING AND VERIFICATION PROCEDURES UNDER SALT II

Mr. GOLDWATER. Mr. President, a number of months ago I made the statement on the floor of the Senate that I felt that the monitoring and verification procedures called for in SALT II could be accomplished, although I placed limitations with that statement. I was depending, to a great extent, on the availability of new equipment. This new equipment has not come through and the chances of it coming through do not look immediate or good to me at this time. Mr. President, I wish to correct my position that I took at the time I have referred to and state that I have doubts now of a sufficient nature to cause me to say that I do not feel that we can depend on the verification capabilities of this country and, I might add, those capabilities are not up for criticism where monitoring is needed that are not exactly 100 percent. If any Members of the Senate would like a more detailed explanation

of my reason I will be glad to talk with them.

THE HELSINKI ACCORDS

Mr. JAVITS. Mr. President, the United States has examined its compliance with the Helsinki accords, and the Commission on Security and Cooperation in Europe has released a thorough and objective report on U.S. implementation on the Helsinki final act.

Any Senator interested in this may communicate with me or with DANNY FASCELL of the other body to obtain a copy of this report.

THE GENOCIDE CONVENTION: A SUPPLEMENT TO FOOD

Mr. PROXMIRE. Mr. President, we are all aware of the events transpiring in Cambodia. Thousands are dying every day. Even if the horrors end soon, millions will have perished in the most gruesome display of inhumane behavior since the Hitler-directed holocaust of World War II.

Countries around the world have initiated massive food shipments into the impoverished nation. The United States is among these. If this desperately needed food is delivered, perhaps many of the lives presently in danger can be saved. But many more will die before the horror ends.

Mr. President, the United States and other nations are to be commended for quickly coming to the rescue of the ill-fated Cambodians. These nations have shown compassion in this crisis, setting aside political differences and acting in the name of humanity.

In this connection, we have seen a fine demonstration of Senate compassion, which was a great tribute to the Senator from Missouri, the Senator from Montana, and the Senator from Tennessee, who played such a great role in that respect.

As was reported yesterday, 76 nations have joined together to raise $210 million in cash and supplies, demonstrating broad political support for internationally sponsored relief efforts.

But this crisis highlights the fact that while food may save many who are presently starving, the shipments cannot help those who have already perished.

However, there is known today one measure which might work to prevent tragedies similar to Cambodia. This remedy is not food to save famished millions—it cannot be eaten.

Mr. President, I refer to the Genocide Convention of 1949; 30 years later, it is still pending before the Senate. Ratification might help discourage atrocities such as the one going on in Cambodia from reoccurring and would certainly strengthen our Nation's moral leadership.

Mr. President, it is ironic that we can quickly win a unanimous Senate vote to try to feed those starving in Cambodia but have not acted in 30 years to ratify the Genocide Convention which would help prevent such a tragic waste of human lives from occurring in the first place. I urge my distinguished colleagues to join me in supporting this treaty.

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 11:53 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S. J. Res. 117. A joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 4007. An act to amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States which have outstanding loans will not apply if the State makes certain repayments.

ENROLLED JOINT RESOLUTIONS SIGNED

At 2:20 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

H. J. Res. 199. A joint resolution to amend the Act of October 21, 1978 (92 Stat. 1675; Public Law 95-498); and

H. J. Res. 428. A joint resolution designating December 1979 as "National Child Abuse Prevention Month".

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 4:10 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendment of the Senate to the amendment of the House to the resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982, with amendments in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 4007. An act to amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States which have outstanding loans will not apply if the State makes certain repayments; to the Committee on Finance.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. BOREN) announced that on today, November 8, 1979, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

H.R. 3319. An act for the relief of Jose Quintana Domingues Sendelas; and

H.R. 5279. An act to provide for the distribution within the United States of the International Communications Agency film entitled "Reflections: George Meany."

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, November 8, 1979, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 117. A joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2447. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the fifth report on rural development progress; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2448. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Rental Housing: A National Problem That Needs Immediate Attention," November 8, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-2449. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Prospects for Cooperation and Trade of Energy Resources Between the United States and Canada," November 8, 1979; to the Committee on Energy and Natural Resources.

EC-2450. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on money spent by the Commonwealth of Massachusetts, the City of Lowell, and nonprofit entities for activities at Lowell National Historical Park; to the Committee on Energy and Natural Resources.

EC-2451. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, the President's determinations regarding the People's Republic of China; to the Committee on Finance.

EC-2452. A communication from the Assistant Secretary of Housing and Urban Development (Administration), transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC-2453. A communication from the Administrator, Law Enforcement Assistance Administration, Department of Justice, transmitting, pursuant to law, the Third Analysis and Evaluation of Federal Juvenile Delinquency Programs; to the Committee on the Judiciary.

EC-2454. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on environmental and nuclear power program activities abroad; to the Committee on Energy and Natural Resources, the Committee on Foreign Relations, and the Committee on Governmental Affairs, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Assistant Secretary for Congressional Relations, Department of State, reporting on environmental and nuclear power program activities abroad, be referred jointly to the Committee on Energy and Natural Resources, the Committee on Foreign Relations, and the Committee on Governmental Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Appropriations, with amendments:

H.R. 4391. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-407).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 3236. An act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes (Rept. No. 96-408).

MILITARY CONSTRUCTION AUTHORIZATIONS—CONFERENCE REPORT

Mr. HART, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1319) to authorize certain construction at military installations, and for other purposes (Rept. No. 96-409).

NAVAL PETROLEUM AND OIL SHALE RESERVES AUTHORIZATION ACT, 1980—CONFERENCE REPORT

Mr. HART, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3354) to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes (Rept. No. 96-410).

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

S. 43. A bill to promote safety and health in skiing and other outdoor winter recreational activities (Rept. No. 96-411).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Inez Smith Reid, of New York, to be Inspector General, Environmental Protection Agency. Referred to the Committee on Governmental Affairs for not to exceed 30 days pursuant to order of March 1, 1979.

(The above nomination from the Committee on Environment and Public Works was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. MELCHER, from the Select Committee on Indian Affairs:

William Edward Hallett, of Colorado, to be Commissioner of Indian Affairs.

(The above nomination from the Select Committee on Indian Affairs, was reported with the recommendation that it be confirmed, subject to the commitment of the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. MELCHER. Mr. President, from the Select Committee on Indian Affairs, I report favorably the nomination of William E. Hallett, to be the Commissioner of Indian Affairs, and I ask unanimous consent that a financial statement and biographical sketch of the nominee be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Hallett, William Edward.

Position to which nominated: Commissioner, Bureau of Indian Affairs.

Date of nomination: Sept. 27, 1979.

Date of birth: May 18, 1942.

Place of birth: Red Lake Indian Reservation, Minnesota.

Marital status: Married.

Full name of spouse: Kathryn (Johannsen) Hallett.

Name and ages of children: Peter William Age 8, Mary Kathryn Age 7.

Education: Institution, dates attended, degrees received, and dates of degrees:

Red Lake Indian High school, 1956-1960, High School, 1960.

Brigham Young University, 1960-1962.

Bemidji State College, 1963-1965, BA-Bus. Admin., 1965.

Univ. of New Mexico, 1974-1975.

PERSONAL RESUME OF WILLIAM E. HALLETT

Present Address: 1065 W 154th Ave., Broomfield, Colorado 80020.

Telephone: 303-452-4850 Home; FTS-327-2963 Office.

EDUCATION

High School: Red Lake Indian High School, Red Lake, Minnesota. Graduated June 1960.

College: Brigham Young University, Provo, Utah. September 1960 to June 1962 and Summer session 1964. Major field of study was accounting.

Bemidji State College, Bemidji, Minnesota. January 1963 to June 1963. Received a Bachelor's Degree in Business Administration with Minor's in Economics and Psychology.

University of New Mexico, Albuquerque, New Mexico. August 1974 to August 1975. Attended the University under the HUD Career Education Program. Areas of study included Business and Public Administration, with emphasis upon Organizational Behavior. Grade point average was 3.67.

WORK EXPERIENCE

9-75 to Present: Assistant Regional Administrator, Office of Indian Programs, (GS 15/4) Region VIII. Administers and directs the delivery of all HUD resources and services available to Indian Tribal Governments. Resources consist of the Low-Rent Public Housing Program (Production, Management, ACC Amendments, Modernization and Management Initiatives For Indian Housing); and the Community Planning and Development Programs (701 Planning and the Community Development Block Grant Programs).

8-70 to 9-75: Special Assistant to the Regional Administrator for Indian Affairs, (GS 13 and GS 14) Region VIII. Principal advisor to the Regional Administrator and to other divisions and units within the Regional Office on overall policy and administrative aspects of the programs affecting Indian communities.

4-70 to 8-70: Independent Consultant to the following:

1. National Council on Indian Opportunity, Washington, D.C. "Project Outreach," an evaluation of the delivery of Federal resources to Indian Reservations.

2. George Washington University, Washington, D.C. Review and comment on various reports.

3. IDEAS, INC., Washington, D.C. "Submarginal lands and Indian Reservations."

4. President's National Advisory Council on Minority Business Enterprise, Washington, D.C. Developed report on Indian business enterprise.

11-68 to 4-70: Director, Industrial Development, National Congress of American Indians, Washington, D.C. Supervised and directed a National effort to attract developmental investments for American Indian Reservations.

6-67 to 11-68: Director, Housing and Manpower Programs, Red Lake Band of Chippewa Indians, Red Lake, Minnesota. Set up and directed the Tribal Home Construction Company and developed and secured funding for various training programs.

8-65 to 6-67: Personnel Technician, Chicago Police Department, Chicago, Illinois. Conducted various classification studies, supervised various special projects and developed and conducted various Departmental examination and evaluation programs.

HUD AWARDS AND PROMOTIONS

December 1971: Quality Within-grade Step Increase.

May 1972: Promotion from GS-13 to GS-14.

June 1973: Quality Within-grade Step Increase.

June 1974: Selected to participate in the HUD Career Education Program.

September 1975: Promotion from GS-14 to ARA GS-15.

PERSONAL DATA

Full Name: William Edward Hallett.

Date of Birth: May 18, 1942.

Place of Birth: Red Lake Indian Hospital, Red Lake, Minnesota.

Social Security No.: 473-46-0526.

Marital Status: Married to Kathryn Rae (Johannsen) on November 8, 1968. Two children, Peter William born September 19, 1971 and Mary Kathryn, born November 20, 1973.

Activities: Football, basketball, baseball and track at Red Lake High; football and wrestling at Brigham Young University; football at Bemidji State College.

Background: Born and raised on the Red Lake Indian Reservation. I am ¾ Chippewa Indian. Both parents still reside on the reservation.

References: All Tribal Councils of Region VIII and Roger Jourdain, Chairman, Red Lake Band of Chippewa Indians, Red Lake, Minnesota.

Military service: Enter all military service if not included above: service, dates, rank, type of discharge. None.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement:

December 1971, Quality Within-Grade Step Increase.

May 1972, Promotion from GS-13 to GS-14.

June 1973, Quality Within-Grade Step Increase.

June 1974: Selected to participate in the HUD Career Education Program.

September 1975, Promotion from GS-14 to GS-15.

Memberships: National Congress of American Indians, Director—Economic Development, 1968-1970.

Colorado Arabian Horse Club, Chairman—Trails, 1978-1979.

Published writings: None.

Qualifications: See Cover Letter.

Future employment relationships:

1. Indicate whether you will sever all con-

nections with your present employer, business firm, association or organization if you are confirmed by the Senate. Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term? Yes.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future? No.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Refer to the Assistant Secretary—Indian Affairs.

6. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. See Attached (A).

ATTACHMENT A

In accordance with the provisions of 43 C.F.R. 735–14, Department of the Interior Employee Responsibilities and Conduct, Mr. Hallett will refer to this office any decision which might result in a conflict or appearance of conflict because of his membership in the Red Lake Band of Chippewa Indians. This provision is specifically stated in 43 C.F.R. 735–14(b)(3):

"An Indian or Alaska Native employee of the Department shall not make nor participate in a substantial manner in any decision of the Department if he has a private direct interest as defined in paragraph 20.735–15(b) in the results of the decision. If the decision is one which the employee would be expected to make if he or she had not direct interest, the matter shall be referred to the next higher authority of the Department which does not have such private direct interest in an appropriate form but without recommendation by the employee having a private direct interest."

FORREST J. GERARD,
Assistant Secretary—Indian Affairs.

FINANCIAL STATEMENT

Name: Hallett, William Edward.

Position to which nominated: Commissioner—Bureau of Indian Affairs.

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks, $900.
U.S. Government securities—add schedule, $200.
Listed securities—add schedule
Unlisted securities—add schedule
Accounts and notes receivable: $300.
Due from relatives and friends
Due from others
Real estate interests—add schedule No. 2, $115,000.
Personal property
Life insurance—cash value, $100,000.
Other assets—itemize:
Horses, $10,000.
Farm Equipment, $2,000.
Total assets, $241,400.

LIABILITIES

Notes payable to banks—secured, $2,200.
Notes payable to banks—unsecured
Notes payable to relatives
Notes payable to others
Accounts payable
Unpaid income tax
Other unpaid tax and interest
Real estate mortgages payable—add schedule No. 3, $34,000.
Chattel mortgages and other liens payable, $5,000.
Other debts—itemize:
Master Charge, $2,500.

CONTINGENT LIABILITIES

As endorser, comaker or guarantor
On leases or contracts
Legal Claims
Other
Total liabilities, $43,700.
Net worth, $197,700.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

Schedule No. 1:
U.S. Government Series "E" Bonds.

Schedule No. 2:
(a) Lot. Ocean City, Maryland Purchased 3/69 @ $5,000. Present value, estate @ $8,000.
(b) Residence in Broomfield, Colorado. Purchased 8/72 each @ $45,000. Present value estate each @ $105,000. Total real estate: $113,000.

Schedule No. 3:
United Mortgage Company, Denver, Colorado. Unpaid principal is approximately $34,000.

2. Are any assets pledged? (Add schedule.) See schedules for net worth statement.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain. Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? No.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY THE COMMITTEE ON FINANCE, U.S. SENATE, EXPENDED JULY 1 TO SEPT. 30, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bradley:									
France	Franc				$1,697.00				$1,697.00
Belgium	Franc	5,575	$190.13					5,575	190.13
U.S.S.R. (Leningrad)	Ruble	106.59	164.73					106.59	164.73
U.S.S.R.	Dollar		150.00						150.00
Great Britain	Pound	45.88	103.23	456	1,005.48			501.88	1,108.71
Senator Boren:									
Belgium	Franc	4,419.26	150.71					4,419.26	150.71
U.S.S.R. (Leningrad)	Ruble	126.59	195.64					126.59	195.64
U.S.S.R.	Dollar		150.00						150.00
Great Britain	Pound	87.94	198.74					87.94	198.74
Michael Stern:									
Israel	Israeli pounds	3,765.00	150.00					3,765.00	150.00
Egypt	Egyptian pounds	210.00	300.00	30.00	42.86			240.00	342.86
Saudi Arabia	Riyals	516.80	152.00					516.80	152.00
Total			1,905.18		2,745.34				4,650.52

Nov. 5, 1979.

RUSSELL B. LONG,
Chairman, Committee on Finance.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY THE COMMITTEE ON APPROPRIATIONS, U.S. SENATE, EXPENDED APRIL AND JUNE 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency[1]	Foreign currency	U.S. dollar equivalent or U.S. currency[1]
Senator Sam Nunn:									
Italy	Lire	64,275	$75.00					64,275	$75.00
Israel	Pounds	7,042	291.71					7,042	291.71
Jordan	Dinars	19,205	62.77					19,205	62.77
Egypt	Pounds	157,500	225.00					157,500	225.00
Reimbursement of $147.50 by personal check provided for expenditures of a personal nature.									
Total			654.48						654.48

Note: Supplement to Consolidated Report of Expenditure of Foreign Currencies and Appropriated Funds, Committee on Appropriations, published in the Congressional Record, July 12, 1979.

Nov. 2, 1979.

WARREN G. MAGNUSON,
Chairman, Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SCHMITT (for himself, Mr. INOUYE, Mr. DOMENICI, Mr. SIMPSON, Mr. MATSUNAGA, Mr. HELMS, and Mr. ARMSTRONG):

S. 1989. A bill to provide for a comprehensive study and evaluation of the military manpower needs of the Nation and how best to meet those needs; to the Committee on Armed Services.

By Mr. WARNER:

S. 1990. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment for purposes of the consolidated return regulations of stock in certain railroads which transferred property to ConRail; to the Committee on Finance.

By Mr. FORD:

S. 1991. A bill to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorizations for appropriations for the Federal Trade Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATHIAS:

S. 1992. A bill to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately; to the Committee on Governmental Affairs.

By Mr. HART:

S. 1993. A bill to increase small business participation in energy research and development; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS (for himself, Mr. BAKER, Mr. MCGOVERN, Mr. CHURCH, Mr. JACKSON, Mr. RANDOLPH, Mr. GOLDWATER, Mr. BAYH, Mr. NUNN, Mr. WARNER, Mr. HATFIELD, Mr. HEINZ, Mr. INOUYE, Mr. COCHRAN, Mr. LEVIN, Mr. GARN, Mr. HUDDLESTON, Mr. BOREN, Mr. JOHNSTON, Mr. HUMPHREY, Mr. EXON, Mr. DECONCINI, Mr. CRANSTON, MRS. KASSEBAUM, Mr. JAVITS, and Mr. EAGLETON):

S.J. Res. 119. A joint resolution to authorize the Vietnam Veterans Memorial Fund, Inc. to erect a memorial; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHMITT (for himself, Mr. INOUYE, Mr. DOMENICI, Mr. SIMPSON, Mr. MATSUNAGA, Mr. HELMS, and Mr. ARMSTRONG):

S. 1989. A bill to provide for a comprehensive study and evaluation of the military manpower needs of the Nation and how best to meet those needs; to the Committee on Armed Services.

(The remarks of Mr. SCHMITT when he introduced the bill appear earlier in today's proceedings.)

By Mr. FORD:

S. 1991. A bill to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorizations for appropriations for the Federal Trade Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL TRADE COMMISSION ACT OF 1979

Mr. FORD. Mr. President, last May I announced my intention for the Senate's Consumer Subcommittee to hold extensive oversight hearings on the Federal Trade Commission before the year was over. Those hearings are now history. The various testimony has now been digested, and I am now ready to make my initial legislative recommendations to the full Commerce, Science and Transportation Committee in the form of this bill I am introducing today.

As those of you who attend these hearings know, there was no shortage of ideas, recommendations and suggestions from the various witnesses concerning the FTC. It was crystal clear from the hearings that the FTC certainly is one agency which is suffering from no identity crisis as far as the general public is concerned.

Let me make it clear at the start that it is not my intent to go so far with these recommendations as to take the proverbial "teeth out of the tiger." The basic mission of the FTC is an important one, aimed at protecting both consumers and industry against unfair methods of competition and unfair or deceptive acts or practices.

However, recently we have seen the Commission take its broad statutory mandate—enforcement and administrative authority under 27 separate acts since 1914—and push it above and beyond the limit. Congress created the Commission, but in recent years the Commission has acted as though it is the lone public policymaker—a development which I believe to be contrary to congressional intent. From my perspective, the proper role for the FTC is, as an arm of Congress, to carry out the public policy objectives of that body and be a strong law enforcement agency over business.

The only way Congress can be assured that this agency—or, for that matter, any agency—is following through on its congressional mandate is through regular and vigorous oversight. If it is determined that congressional intent is not being met, then steps must be taken to put the agency back on the proper course.

The 8 days of oversight I conducted in September and October revealed that the FTC indeed strayed in several areas from what I perceived to be the prescribed course. The legislation I am recommending attempts to address various problem areas that we were able to identify. I might add that our oversight is far from completed and will be continued by the subcommittee every 6 months under provisions of my legislation.

The legislative package that I am proposing primarily addresses the actions taken by the committee under the Magnuson-Moss Act enacted in 1975. This act clarified the Commission's authority to issue industry-wide trade regulation rules.

My recommendations are broad-based, changing the procedures under the act as well as clarifying and limiting the statutory authority under this rulemaking provision. I have been especially troubled by the FTC's action in issuing indefinite subpenas amounting to a "fishing expedition," and topping this off by the release of confidential subpenaed information, placing companies in an unfair competitive position.

It is my hope that the amendments will result in an agency that acts in a responsible manner while being responsive to the concerns of Congress.

In summary, here are my recommendations:

STANDARDS AND CERTIFICATION

An amendment prohibiting the FTC from issuing antitrust rules under its Magnuson-Moss authority would strike the proposed standards and certification rule.

CHILDREN'S TV ADVERTISING

An amendment requiring that the FTC publish the "text" of a rule at the commencement of a rulemaking proceeding, and making this amendment retroactive would require the Commission to reinstitute this rulemaking. In addition, an amendment would limit the FTC's advertising authority to cases of "false and

deceptive advertising." (Unfairness would be deleted.)

USED CAR RULE

An amendment would make it clear that the FTC does not have authority to require mandatory warranties in connection with the sale of used cars.

SUBPENA POWER

The FTC's subpena power would be narrowed in investigations of unfair or deceptive acts or practices. The Commission would be required to specify the conduct they are investigating and why the Commission believes that the conduct violates the FTC Act. This should force the Commission to draft narrower and more reasonable subpenas, and also establish criteria for judicial review of these subpenas. Procedures in issuing and complying with subpenas comparable to the CID of the Department of Justice would be required.

CONFIDENTIALITY

An amendment would impose strict confidentiality requirements on the Commission with respect to any confidential business information obtained under a subpena. In addition, information obtained under a subpena would be exempt from the Freedom of Information Act. Third, an amendment to section 6 would prevent the disclosure of confidential information relating to a particular business under the Commission's section 6(f) reporting authority. Finally, an amendment would protect "line of business" information by restoring provisions of law that had been previously incorporated in appropriations bills, but which have lapsed.

REGULATORY ANALYSIS

This amendment would require the Commission to publish an analysis of rulemaking options when they begin a rulemaking proceeding and in connection with the publication of a final rule. The Commission would be required to estimate the benefits and the adverse effects of the proposed rule and its alternatives. The analysis will be subject to judicial review as part of the rulemaking record.

OVERSIGHT HEARINGS

The bill would require the Consumer Subcommittee to hold oversight hearings on the FTC at least once every 6 months during the life of the authorization.

REGULATORY AGENDA

This amendment would require the Commission to publish semiannually an agenda of all planned rulemaking activities. This will give the public and the Congress a better picture of the overall regulatory plans of the FTC.

ATTORNEY'S FEES

This amendment would incorporate the substance of S. 265, previously passed by the Senate, which would provide for the recovery of attorney's fees by small businesses in cases in which they prevail against the FTC.

PUBLIC PARTICIPATION

This amendment would restrict the amount any one group can receive in a rulemaking proceeding to $75,000 and impose the same restriction on any one group on the amount they can receive in any one year. This amendment is comparable to a provision in the House authorization bill.

ADVANCE NOTICE OF PROPOSED RULEMAKING

This amendment would require the Commission to publish an advance notice of rulemaking investigation outlining the areas they have under investigation and requiring the Commission to consult with the parties on the matters they have under investigation. The Commission must report to the committee and wait 30 days before publishing a notice of proposed rulemaking.

EX PARTE CONTACTS

This amendment would preclude meetings between the FTC rulemaking staff and the Commissioners unless they were on the record. Also, the Commissioners would be encouraged to have more on the record meetings with industry and announce these meetings in advance through the public calendar.

PRESIDING OFFICER

This amendment would separate the Presiding Officers from the General Counsel's office to assure their independence and also require them to make findings and conclusions at the close of rulemaking hearings.

CEASE AND DESIST

This amendment would limit the effect of affirmative requirements of cease and desist orders to 3 years.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Trade Commission Act of 1979".

COMMERCIAL ADVERTISING

SEC. 2. (a) Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) is amended by inserting immediately before the period at the end thereof the following: ": *Provided, however,* That this paragraph shall not apply to acts or practices with respect to commercial advertising".

(b) Section 5(a) of such Act is amended by redesignating paragraph (2) as paragraph (3), and by inserting immediately after paragraph (1) the following new paragraph:

"(2) False and deceptive acts or practices with respect to commercial advertising in or affecting commerce are hereby declared unlawful.".

(c) Section 5(a)(3) of such Act, as redesignated by subsection (b) of this section, is amended by inserting immediately before the period at the end thereof the following: "and false and deceptive acts or practices with respect to commercial advertising in or affecting commerce".

(d) Section 5(b) of such Act is amended by inserting immediately after "unfair or deceptive act or practice in or affecting commerce" the following: "or false and deceptive act or practice with respect to commercial advertising in or affecting commerce".

(e) Section 5(m) of such Act is amended to read as follows:

"(m)(1)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person, partnership, or corporation which violates any rule under this Act respecting unfair or deceptive acts or practices or false and deceptive acts or practices with respect to commercial advertising (other than an interpretive rule or a rule violation of which the Commission has provided is not an unfair or deceptive act or practice or false and deceptive act or practice in commercial advertising in violation of subsection (a)(1) or (a)(2) of this section) with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair or deceptive or that such act or practice with respect to commercial advertising is false and deceptive and is prohibited by such rule. In such action, such person, partnership, or corporation shall be liable for a civil penalty of not more than $10,000 for each violation.

"(B) If the Commission determines in a proceeding under subsection (b) of this section that any act or practice is unfair or deceptive, or that any act or practice with respect to commercial advertising is false and deceptive, and issues a final cease and desist order with respect to such act or practice, then the Commission may commence a civil action to obtain a civil penalty in a district court of the United States against any person, partnership, or corporation which engages in such act or practice—

"(i) after such cease and desist order becomes final (whether or not such person, partnership, or corporation was subject to such cease and desist order), and

"(ii) with actual knowledge that such act or practice is unfair or deceptive or that such act or practice with respect to commercial advertising is false and deceptive and is unlawful under subsection (a)(1) or (a)(2) of this section.

In such action, such person, partnership, or corporation shall be liable for a civil penalty of not more than $10,000 for each violation.

"(C) In the case of a violation through continuing failure to comply with a rule or with subsection (a)(1) or (a)(2) of this section, each day of continuance of such failure shall be treated as a separate violation, for purposes of subparagraphs (A) and (B) of this paragraph. In determining the amount of such a civil penalty, the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(2) If the cease and desist order establishing that the act or practice is unfair or deceptive or that the act or practice with respect to commercial advertising is false and deceptive was not issued against the defendant in a civil penalty action under paragraph (1)(B) of this subsection, the issues of fact in such action against such defendant shall be tried de novo.

"(3) The Commission may compromise or settle any action or a civil penalty if such compromise or settlement is accompanied by a public statement of its reasons and is approved by the court.".

(f) Section 12(b) of the Federal Trade Commission Act (15 U.S.C. 52(b)) is amended to read as follows:

"(b) The dissemination or the causing to be disseminated of any false advertisement within the provisions of subsection (a) of this section shall be a false and deceptive act or practice with respect to commercial advertising in or affecting commerce within the meaning of section 5 of this Act.".

DISCLOSURE OF COMMERCIAL OR FINANCIAL INFORMATION

SEC. 3. Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended to read as follows:

"(f) To make public from time to time such portions of the information obtained by it hereunder as is in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted to public

information and use: *Provided, however,* That the Commission shall not disclose trade secrets, or confidential commercial or financial information which is not in the public domain, or any information protected against disclosure pursuant to any other act of Congress, except that the Commission may disclose such information to the Department of Justice or a State law enforcement agency upon such agency's prior certification that such information will be maintained in confidence and will only be used for official law enforcement purposes.".

CONFIDENTIALITY OF LINE-OF-BUSINESS REPORTS

SEC. 4. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end thereof the following new subsection:

"(i) No employee of the Commission or any Commissioner may publish or disclose information to the public, or any Government agency, whereby the line-of-business data furnished by a particular establishment or individual can be identified. No one other than designated sworn officers and employees of the Commission may examine the line-of-business reports from individual firms, and information provided in the line-of-business program shall be used only for statistical purposes. Information for carrying out specific law enforcement responsibilities of the Commission shall be obtained under existing practices and procedures or as changed by law.".

ADVERTISING RULEMAKING

SEC. 5. (a) Section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) is amended to read as follows:

"(B) rules which define with specificity—

"(i) false and deceptive commercial advertising in or affecting commerce within the meaning of section 5(a)(1) of this Act, or

"(ii) other unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1) of this Act).

Rules under this subparagraph may include requirements prescribed for the purpose of preventing such acts or practices.".

(b) Section 18(b)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(b)(1)) is amended by inserting immediately after "particularity" the following: "the text of the rule, including alternatives, which the Commission proposes to prescribe, and".

(c) The amendments made by subsections (a) and (b) of this section shall take effect on the date of enactment of this Act, except that any rulemaking currently in progress (1) which is not in compliance with subsection (b) of this section and (2) in which all hearings have not been completed shall be discontinued. Any rulemaking initiated under section 18 of the Federal Trade Commission Act after the date of enactment of this Act shall be conducted in acordance with the provisions of this section.

ANTITRUST RULEMAKING

SEC. 6. Section 18(a)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(2) is amended by striking the second sentence and inserting in lieu thereof the following: "Nothing in this section authorizes the Commission to prescribe any trade regulation rules with respect to unfair methods of competition. This paragraph shall not affect any other authority of the Commission to prescribe rules (including interpretive rules), and general statements of policy, with respect to unfair methods of competition in or affecting commerce.".

PREVALENCE OF UNLAWFUL ACTS AND PRACTICES

SEC. 7. Section 18(a) of the Federal Trade Commission Act (15 U.S.C. 57a(a)) is amended by inserting at the end thereof the following new paragraph:

"(3)(A) The Commission shall issue a notice of proposed rulemaking only where it has reason to believe that the unfair or deceptive acts or practices or false and deceptive commercial advertising acts or practices which are the subject of the proposed rulemaking are prevalent.

"(B) A determination of prevalence shall be made by the Commission only if:

"(i) it has issued cease and desist orders regarding such unfair or deceptive acts of practices or false and deceptive commercial advertising acts or practices, or

"(ii) any other information available to the Commission indicates a pattern or practice of unfair or deceptive acts or practices or false and deceptive commercial advertising acts or practices.

"(C) This paragraph applies only to rules for which initial notices are published after the date of enactment of this paragraph.".

ADVANCED NOTICE OF PROPOSED FEDERAL TRADE COMMISSION RULES

SEC. 8. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended by adding at the end thereof the following: "Prior to the publication of notice of proposed rulemaking pursuant to paragraph (1) of this subsection, the Commission shall publish an advance notice of proposed rulemaking in the Federal Register. The notice shall contain a brief description of the area of inquiry under consideration, the objectives which the Commission is interested in achieving and possible regulatory approaches under consideration, and shall invite the response of interested parties with respect thereto, including any suggestions or alternative methods for achieving the State objectives. The Commission shall submit such advance notice of proposed rulemaking to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives. In addition, the Commission may use such mechanisms as it finds useful to obtain suggestions regarding the content of the area of inquiry prior to the publication of general notice of proposed rulemaking under such paragraph. The Commission shall, 30 days prior to the publication of a notice of proposed rulemaking pursuant to paragraph (1) of this subsection submit such notice to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives.".

PRESIDING OFFICER

SEC. 9. Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)) is amended by adding at the end thereof the following:

"(5) The officer who presides over the rulemaking proceedings should not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission. The same officer who presides over the rulemaking proceeding shall make a recommended decision based upon findings and conclusions as to all relevant and material evidence except where such officer becomes unavailable to the Commission. Except as required for the disposition of ex parte matters as authorized by law, no such officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.".

PUBLIC PARTICIPATION

SEC. 10. (a) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is amended by redesignating paragraph (3) as paragraph (4), and by inserting immediately after paragraph (2) the following new paragraph:

"(3) The amount of compensation which may be paid to any person under this subsection in connection with the participation by such person in any particular rulemaking proceeding under this section may not exceed $50,000. The aggregate amount of compensation paid under this subsection in any fiscal year to any person for all rulemaking proceedings in which such person participates during such fiscal year may not exceed $50,000.".

(b) Section 18(h)(4), as redesignated in subsection (a) of this section, is amended by striking "$1,000,000" and inserting in lieu thereof "$750,000.".

(c) Section 18(h)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(h)(2)) is amended by striking "25" and inserting in lieu thereof "50".

EX PARTE MEETINGS

SEC. 11. Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is further amended by adding at the end thereof the following:

"(i)(1) Within 60 days after the date of enactment of this subsection, the Commission shall promulgate a proposed rule, and within 180 days after the date of enactment of this subsection, shall promulgate a final rule, which shall authorize the Commission or any Commissioner to meet with any outside party concerning any rulemaking proceeding or any investigation preliminary to a contemplated rulemaking proceeding. This regulation shall provide that notice of any such meeting be included in the weekly calendar of the Commission and that a verbatim record or summary of any such meeting be kept, made available to the public, and included in the rulemaking record.

"(2) As used in the subsection, the term 'outside party' means any person who is not a Commissioner, not an employee, not under contract to do work for the Commission, or not a consultant to the Commission.

"(j) Within 60 days after the date of enactment of this subsection, the Commission shall promulgate a proposed rule, and within 180 days after the date of enactment of this subsection, shall promulgate a final rule, which, except to the extent required for the disposition of ex parte matters as authorized by law, shall prohibit any employee or agent of the Commission who performs investigative or prosecuting functions in rulemaking proceedings from making or knowingly causing to be made to any member of the Commission, or to the presiding officer of such rulemaking proceeding, or to the personal staff of any Commissioner, any communication relevant to the merits of that or any factually related rulemaking proceeding, unless notice of any such meeting is included in the weekly calendar of the Commission and a verbatim record or summary of any such meeting is kept, made available to the public, and included in the rulemaking record.".

CIVIL INVESTIGATIVE DEMAND

SEC. 12. The Federal Trade Commission Act, as amended, is further amended by redesignating sections 20 and 21 as sections 27 and 28, respectively, and by inserting immediately after section 19 thereof the following new section:

"SEC. 20. (a) For the purposes of this section—

"(1) The term 'Commission investigation' means any inquiry conducted by a Commission investigator for the purpose of ascertaining whether any person is or has been engaged in any unfair or deceptive acts or practices or false and deceptive acts or practices in commercial advertising in or affecting commerce under section 5 of this Act.

"(2) The term 'violation' means any act or omission in violation of unfair or deceptive acts or practices or false and deceptive acts or practices in commercial advertising in or affecting commerce under section 5 of this Act.

"(3) The term 'Commission investigator' means any attorney or investigator employed by the Commission who is charged with the duty of enforcing or carrying into effect any provisions of section 5 of this Act relating to unfair or deceptive acts or practices or false

and deceptive acts or practices in commercial advertising in or affecting commerce under section 5 of this Act.

"(4) The term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law.

"(5) The term 'documentary material' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document.

"(6) The term 'custodian' means the document custodian or any deputy custodian designated under section 21(a)(1) of this Act.

"(b) For the purpose of investigations performed pursuant to this section with respect to unfair or deceptive acts or practices or false and deceptive acts or practices in commercial advertising under section 5 of this Act, all actions of the Commission taken under section 6 and section 9 of this Act shall be conducted pursuant to subsection (c) of this section. No information obtained pursuant to any other investigatory process under this Act may be used to enforce section 5 of this Act for the purposes of investigating unfair or deceptive acts or practices.

"(c)(1) Whenever the Commission has reason to believe that any person under investigation may be in possession, custody, or control of any documentary material relevant to unfair or deceptive acts of practices or false and deceptive commercial advertising acts or practices in or affecting commerce under section 5 of this Act, the Commission may, prior to the institution of the appropriate action under such sections, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

"(2) Each such demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable thereto.

"(3) Each such demand for production of documentary material shall—

"(A) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(C) identify the custodian to whom such material shall be made available.

"(4) Each such demand for answers to written reports or answers in writing to specific questions shall—

"(A) propound with definiteness and certainty the reports or answers to be answered;

"(B) prescribe a date or dates at which time answers to written reports or answers in writing to specific questions shall be submitted; and

"(C) identify the custodian to whom such answers shall be submitted.

"(5) Each such demand for the giving of oral testimony shall—

"(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(B) identify a Commission investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.

"(6) Any such demand may be served by any Commission investigator at any place within the territorial jurisdiction of any court of the United States.

"(7) Service of any such demand or of any petition filed under this subsection may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

"(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(8) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(d) Materials received as a result of a civil investigative demand made pursuant to this section shall be subject to the procedures of section 21 of this Act.

"(e) Whenever any person fails to comply with any civil investigative demand duly served upon him under this section, or whenever satisfactory copying or reproduction of material requested pursuant to such demand cannot be accomplished and such person refuses to surrender such material, the Commission, through such officers or attorneys as it may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section.

"(f) Within twenty days after the service of any civil investigative demand upon any person under subsection (c) of this section, or at any time before the return date specified in such demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any Commission investigator named in the demand, such person may file with the Commission a petition for an order by the Commission modifying or setting aside such demand. The time permitted for compliance with such demand in whole or in part as deemed proper and ordered by the Commission shall not run during the pendency of such petition in the Commission. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of such person.

"(g) At any time during which any custodian is in custody or control of any documentary material delivered by any person in compliance with any civil investigative demand made under the provisions of this section, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by, such custodian of any duty imposed upon him by this section or section 21 of this Act.

"(h) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this Act. Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof.

"(i) Notwithstanding any other provision of the law, the Commission shall have no authority to issue a subpena or make a demand for information, under authority of this Act or any other Act, unless such subpena or demand for information is signed by a Commissioner acting pursuant to a Commission resolution. The Commission shall not delegate the power conferred by this section to sign subpenas or demands for information to any other person or persons.

"(j) This section shall not apply to any proceeding under section 5(b) of this Act where the Commission has issued its complaint.

"(B) The custodian may prepare copies of the documentary material or transcripts of oral testimony as may be required for official use by any duly authorized official or employee of the Commission under regulations which shall be promulgated by the Commission. Notwithstanding subparagraph (C) of this paragraph, this material and transcripts may be used by any such official or employee in connection with the taking of oral testimony under this section.

"(C) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material shall be available for examination by an individual other than a duly authorized official or employee of the Commission without the consent of the person who produced the material or transcripts. Nothing in this section is intended to prevent disclosure to either body of the Congress or to any authorized committee or subcommittee of Congress, except that the Commission shall immediately notify the owner or provider of any such information of a request for information designated as confidential by the owner or provider.

"(D) While in the possession of the custodian and under such reasonable terms and conditions as the Commission shall prescribe, (i) documentary material shall be available for examination by the person who produced the material, or by any duly authorized representative of that person, and (ii) transcripts of oral testimony shall be available for examination by the person who produced the testimony, or his counsel.

CONFIDENTIALITY

SEC. 13. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting immediately after section 20, as added by section 12 of this Act, the following:

"SEC. 21. (a) With respect to any document or transcript of oral testimony received by the Commission pursuant to compulsory process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, the following procedures shall apply:

"(1) The Commission shall designate a duly authorized agent to serve as custodian of all such documentary evidence and transcripts of oral testimony, and such additional duly authorized agents as the Commission shall determine from time to time to be necessary to serve as deputies to the custodian.

"(2)(A) Any such documentary evidence and transcripts of oral testimony shall be delivered to the custodian, who shall take physical possession of them, and who shall be responsible for the use made of them and for the return of documentary material, under the requirements of this subsection.

"(3) Whenever the Commission has instituted a proceeding against a corporation or other person, the custodian may deliver to any official or employee of the Commission documentary material or transcripts of testimony for official use in connection with that proceeding. Upon the completion of the proceeding, the official or employee shall return to the custodian any such material or transcripts so delivered which have not been received into the record of the proceeding.

"(4) If any documentary evidence has been produced in the course of any investigation by any person pursuant to compulsory process and—

"(A) any proceeding arising out of the investigation has been completed; or

"(B) no proceeding in which the material may be used has been commenced within a reasonable time after completion of the examination and analysis of all such documentary material and other information assembled in the course of the investigation; the custodian shall, upon written request of the person who produced the material, return to the person any such material which has not been received into the record of any such proceeding (other than copies thereof, made by the Commission pursuant to paragraph (2)(B) of this subsection).

"(5) The custodian of any documentary material, written reports or answers in writing to specific questions, or transcripts of oral testimony may deliver to the Department of Justice, in response to a written request, copies of such material, answer, or transcripts for use in connection with an investigation or proceeding under the Department's jurisdiction. Such material, answers, or transcripts may only be used by the Department in such manner and subject to such conditions as apply to the Commission under this act. In addition, the custodian may make such materials available to any State law enforcement agency upon such agency's prior certification that such information will be maintained in confidence and will only be used for official law enforcement purposes.

"(6) In the event of the death, disability, or separation from service in the Commission of the custodian of any documentary material or transcripts of oral testimony produced under any demand issued under this section, or the official relief of the custodian from responsibility for the custody and control of the material or transcripts, the Commission shall promptly (A) designate another duly authorized agent to serve as custodian of the material or transcripts, and (B) transmit in writing to the person who produced the material or testimony notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such material or transcripts all duties and responsibilities imposed by this section upon his predecessor in office with regard to that information, except that he shall not be held responsible for any default or dereliction which occurred prior to his designation.

"(b) All information reported to or otherwise obtained by the Commission which is not the requirements of subsection (a) of this section shall be considered confidential when so marked by the person supplying the information and shall not be disclosed except in accordance with the following procedures:

"(1) If the Commission determines that a document marked confidential by the person supplying it should be disclosed, it shall notify in writing that person that it intends to disclose the document at a date not less than 10 days from the date of receipt of notification.

"(2) Any person receiving such notification may, if he believes disclosure of the document would cause disclosure of a trade secret or confidential commercial or financial information, which is not in the public domain, before the date set for release of the document, bring an action in a United States district court to restrain disclosure of the document. The document shall not be disclosed during the pendency of any such proceeding and any appeal, if taken.

"(c) Nothing in subsection (b) of this section shall prohibit—

"(1) the disclosure of information to either body of Congress or to any authorized committee or subcommittee of Congress, except that the Commission shall immediately notify the owner or provider of any such information of a request for information designated as confidential by the owner or provider;

"(2) the disclosure of the results of investigations or studies prepared by the Commission, except that no information shall be identified nor shall information be disclosed in such a manner as to disclose a trade secret or confidential commercial or financial information, which is not in the public domain, of any person supplying the confidential information.

"(d) Any documentary material, answers to written reports or answers in writing to specific questions, or transcripts of oral testimony provided pursuant to any demand issued under this section or section 6 of this Act shall be exempt from disclosure under section 552 of title 5, United States Code.".

DEFINITIONS

SEC. 14. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 21, as added by section 13 of this Act, the following new section:

"SEC. 22. For purposes of section 23, 24 and 25 of this Act:

"(1) The term 'rule' means any rule prescribed by the Commission under section 6 or section 18 of this Act (15 U.S.C. 46, 57a), except that such term does not include interpretive rules, rules involving Commission management or personnel, general statements of policy, or rules relating to Commission organization, procedure, or practice. Such term does not include any amendment to a rule unless the Commission—

"(A) estimates that such amendment will have an annual effect on the economy of $100,000,000 or more;

"(B) estimates that such amendment will cause a substantial change in the cost or price of goods or services which are used extensively by particular industries, which are supplied extensively in particular geographic regions, or which are acquired in significant quantities by the Federal Government, or by State or local governments; or

"(C) otherwise determines that such amendment will have a significant impact upon persons subject to regulations under such amendment and upon consumers.

"(2) The term 'rulemaking' means any Commission process for formulating or amending a rule.".

REGULATORY AGENDA

SEC. 15. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 22, as added by section 14 of this Act, the following new section:

"SEC. 23. (a)(1) The Commission shall publish at least semiannually a regulatory agenda. Each regulatory agenda shall contain a list of rules which the Commission intends to propose or promulgate during the 12-month period following the publication of the agenda. On the first Monday in October of each year, the Commission shall publish in the Federal Register a schedule showing the dates during the current fiscal year on which the semiannual regulatory agenda of the Commission will be published.

"(2) For each rule listed in a regulatory agenda, the Commission shall—

"(A) describe the rule;

"(B) state the objectives of and the legal basis for the rule; and

"(C) specify any dates established or anticipated by the Commission for taking action, including dates for advance notice of proposed rulemaking, notices of proposed rulemaking, and final action by the Commission.

"(3) Each regulatory agenda shall state the name, address, and telephone number of the Commission official responsible for responding to any injury relating to each rule listed.

"(4) The Commission is authorized to propose or promulgate a rule which was not listed on a regulatory agenda only if the Commission publishes with the rule an explanation of the reasons the rule was omitted from an agenda.".

REGULATORY ANALYSIS

SEC. 16. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 23, as added by section 15 of this Act, the following new section:

"SEC. 24.(a) In any case in which the Commission publishes notice of a proposed rulemaking, the Commission shall issue a preliminary regulatory analysis relating to the proposed rule involved. Each preliminary regulatory analysis shall contain—

"(1) a concise statement of the need for, and the objectives of, the proposed rule;

"(2) a description of any reasonable alternatives to the proposed rule which may accomplish the stated objective of the rule in a manner consistent with applicable law; and

"(3) for the proposed rule, and for each of the alternatives described in the analysis, a preliminary analysis of the projected benefits and adverse economic and other effects, and of the effectiveness of the proposed rule and each alternative in meeting the stated objectives of the proposed rule.

"(b) In any case in which the Commission promulgates a final rule, the Commission shall issue a final regulatory analysis relating to the rule. Each final regulatory analysis shall contain—

"(1) a concise statement of the need for, and the objectives of, the rule;

"(2) a description of any alternatives to the rule which were considered by the Commission;

"(3) an analysis of the projected benefits and the adverse economic and other effects of the rule;

"(4)(A) an explanation of the reasons for the determination of the Commission that the rule will attain its objectives in a matter consistent with applicable law and the reason the particular alternative was chosen, if other alternatives to the rule would attain these objectives in a manner consistent with applicable law and had significantly less economic and other adverse effects; and

"(5) a summary of any significant issues raised by the comments submitted during the public comment period in the response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

"(c)(1) In order to avoid duplication or waste, the Commission is authorized to—

"(A) consider a series of closely related rules as one rule for the purposes of this section; and

"(B) whenever appropriate, incorporate any data or analysis contained in a regulatory analysis issued under this section in the statement of basis and purpose to accompany any rule promulgated under section 18 (a)(1)(B) of this Act (15 U.S.C. 57a (a)(1)(B)), and incorporate by reference in any preliminary or final regulatory analysis information contained in a notice of proposed rulemaking or a statement of basis and purpose.

"(2) The Commission shall include, in each notice of proposed rulemaking and in each publication of a final rule, a statement of the manner in which the public may obtain copies of the preliminary and final regulatory analyses. The Commission may charge a reasonable fee for the copying and mailing of regulatory analyses. The regulatory analyses shall be furnished without charge or at a reduced charge if the Commission determines that waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public.

"(d) The Commission is authorized to delay the completion of any of the requirements established in this section by publishing in the Federal Register, not later than the date of publication of the final rule involved, a finding that the rule is being promulgated in response to an emergency which makes timely compliance with the provisions of this section impracticable. Such publica-

tions shall include a statement of the reasons for such findings.

"(e) The requirements of this section shall not be construed to alter the substantive or procedural standards otherwise applicable to any action by the Commission.".

JUDICIAL REVIEW

SEC. 17. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 24, as added by section 16 of this Act, the following new section:

"SEC. 25. (a) Any regulatory analysis by the Commission under this Act shall be subject to judicial review only upon review of a rule pursuant to section 18(e) of this Act (15 U.S.C. 57a(e)). Such regulatory analysis shall be available to the reviewing court as a part of the whole record in connection with the court's review of the rule to determine whether the rule shall be set aside on any ground specified in subparagraphs (A), (B), (C), or (D) of section 706(2) of title 5, United States Code (taking due account of the rule of prejudicial error).".

AWARD OF ATTORNEY FEES AND OTHER EXPENSES

SEC. 18. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 25, as added by section 17 of this Act, the following new section:

"SEC. 26. (a) Whenever the Commission conducts an adjudication, fees and other expenses incurred in connection with the proceeding by a prevailing party other than the Commission shall be awarded to such party, unless the Commission finds that the position of the Commission as a party to the proceedings was substantially justified or that special circumstances would make an award unjust. The Commission may reduce the amount to be awarded, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A decision of the Commission under this section shall be made a part of the record and shall include written findings and conclusions and the reasons or basis therefor.

"(b)(1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorneys fees. The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the United States, and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee; and

"(B) 'party' means any individual whose net worth is less than $1,000,000 at the time the civil action was filed, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth was less than $5,000,000 at the time the civil action was filed.

"(c)(1) The Commission shall by rule establish procedures for submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the adjudication of the Commission, an award of fees and other expenses may only be made pursuant to subsection (f) of this section.

"(2) A party dissatisfied with a determination by the Commission with respect to the award of fees and other expenses may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the adjudication of the Commission. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants a petition, it may modify the determination of the Commission only if it finds the failure to make an award, or a calculation of the award, was an abuse of discretion.

"(d) Fees and other expenses awarded under this section shall be paid by the Commission from any sums appropriated to the Commission, except that no sums shall be appropriated to the Commission specifically for the purpose of paying fees or expenses awarded under this section.

"(e) The Commission shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature and amount of the awards, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.

"(f)(1) In addition to the costs awarded pursuant to subsection (a) of this section and except as may otherwise be specifically provided by statute, a court shall award fees and other expenses to any party other than the Commission which prevails in any civil action brought by or against the Commission in any court which has jurisdiction of that action, unless the court finds that the position of the Commission was substantially justified or that special circumstances may make an award unjust. The court, in its discretion, may reduce an amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A party seeking an award of fees and other expenses shall, within 30 days of final judgment in the action, submit to the court an application which provides evidence of such party's eligibility for the award and the amount sought, including an itemized statement from attorneys and experts stating the actual time expended in representing such party and the rate at which fees were computed.

"(2) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an agency adjudication, the court shall include in such award the fees and other expenses for services performed during the administrative proceedings unless the court finds that during such proceedings the position of the Commission was substantially justified, or that special circumstances make an award unjust.

"(g) For purposes of this section, fees and other expenses may be awarded against the Commission without regard to section 2412 of title 28, United States Code, or any other provision of law.

"(h) Nothing in this section modifies, repeals, invalidates, or supersedes any other provision of State or Federal law which authorizes an award of such fees and other expenses to any party, other than the Commission, who prevails in any civil action brought by or against the Commission.

"(i) The provisions of this section shall apply to any adjudication or civil action which is pending on the date of enactment of this section, or which is commenced on or after the date of the enactment of this section.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. Section 27 of the Federal Trade Commission Act, as redesignated by section 12 of this Act, is amended—

(1) by striking "and" after "1976;"; and

(2) by striking "1977. For fiscal years ending after 1977, there may be appropriated to carry out such functions, powers, and duties, only such sums as the Congress may hereafter authorize by law.", and inserting in lieu thereof "1977; not to exceed $70,000,000 for the fiscal year ending September 30, 1980; and not to exceed $75,000,000 for the fiscal year ending September 30, 1981.".

OVERSIGHT

SEC. 20. The Consumer Subcommittee of the Senate Committee on Commerce, Science, and Transportation shall hold an oversight hearing of the Federal Trade Commission at least once during the first 6 calendar months, and at least once during the last 6 calendar months, of each year for the period of the authorization provided in section 19 of this Act.

USED CAR WARRANTY AUTHORITY

SEC. 21. Section 109(b) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (15 U.S.C. 2309(b)) is amended by inserting immediately before the period at the end thereof the following: ", but any such rule may not require a mandatory warranty in connection with the sale of a used motor vehicle".

By Mr. MATHIAS:

S. 1992. A bill to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately; to the Committee on Governmental Affairs.

● Mr. MATHIAS. Mr. President, I am today introducing legislation that would waive the 30-day congressional review period mandated by section 602(c) (10) of the District of Columbia Self-Government and Governmental Reorganization Act, commonly known as the D.C. Home Rule Act (Public Law 93-198, as amended by Public Law 95-526). This legislation is needed because of a situation that has arisen in the District regarding the availability of mortgage funds.

As my colleagues may know, on October 19, 1979, the D.C. Superior Court ruled that repeated use by the District City Council of its emergency legislation power under section 412 of the Home Rule Act on a single issue was invalid. Because of this ruling, and because of the fact that the D.C. City Council has relied on this emergency power to temporarily raise the usury limits in the city several times, the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corp. (Freddie Mac) have both ceased buying mortgage loans in the District of Columbia. They have taken this action because they question the legality of the current usury limits established by the City Council under its 90 day emergency powers. The closing off of the secondary mortgage market to the District of Columbia has had the effect of halting residential mortgage lending in the District. An estimated $66 million in mortgage commitments are thus frozen at this time. Buyers, sellers, and lenders, have been unable to go to settlement or transact business since the D.C. secondary mortgage market closed down.

On Tuesday of this week, the City Council passed and the Mayor signed permanent legislation that would increase the city's usury limit to 15 percent. Under the normal course of events, such legislation must come to the Congress for a 30-day review period. If the Congress does not enact a resolution

disapproving the act of the Council within those 30 days, it would become effective.

The emergency nature of the situation now before the Congress arises because of the fact that the 30 days, which began to run November 6, will not be reached until sometime in January, assuming that the Congress stays on its current adjournment schedule.

The bill that I introduce today would waive the requirements of section 602(c)(1) of the Home Rule Act in this instance only, so that the 30-day layover period for the act raising the D.C. usury limit can take effect as soon as possible. Similar legislation has been introduced in the House, and in an emergency session of the House District Committee this morning was considered and ordered reported to the full House.

Mr. President, I urge the expedited consideration of this legislation by my colleagues. The situation that has arisen is very serious and only speedy and deliberate action by the Congress will alleviate the residential mortgage lending situation in the District of Columbia.●

By Mr. HART:

S. 1993. A bill to increase small business participation in energy research and development; to the Committee on Energy and Natural Resources.

SMALL BUSINESS ENERGY R. & D.

● Mr. HART. Mr. President, as Congress acts on new measures aimed at achieving energy self-sufficiency, we must not overlook the important role that small business can play. Legislation I am introducing today, identical to that adopted by the House on October 18, 1979, would require 12 percent of all DOE research and development to be awarded to small business unless the Secretary of Energy formally notifies Congress this would be impractical. I commend Representative KOSTMAYER, who introduced this in the House, for his fine work on this issue.

This legislation will double the level of small business participation in the Nation's energy development program. At the same time, it insures flexibility by allowing the Secretary of Energy to waive the requirement if he finds that meeting the target would be impractical or would interfere with the selection of the most technically competent candidate for the job. If the Secretary waives the requirement, however, he must report to Congress to explain why the goal cannot be met.

At a time when the rate of productivity growth in the United States lags behind many of our competitors in the world economy, and our country is suffering from unemployment, inflation, and a negative balance of payments, it is essential that we encourage productivity in our Nation's most productive sector: small business. The goal of this legislation, however, is not merely to help small business, although it surely will. Rather, this legislation encourages us to use small business to help solve our energy problems.

A study conducted by the National Science Foundation has shown that, of the major innovations introduced into the marketplace in the past 25 years, small firms were found to produce about 24 times more per R. & D. dollar than large firms and four times as many as medium firms. In this time of fiscal austerity, Congress must take this into account when determining how to spend money in the most productive manner. It is time to let the agencies know that Congress wants the most from every R. & D. dollar spent. This amendment is one way to get it.

I am concerned that the small business share of the Federal research program may be declining. For example, the percentage of Federal solar research dollars awarded to small firms declined from 17 percent in fiscal year 1977 to 14 percent in 1978. During the same period, the share of solar funds awarded to large corporations increased from 29 to 24 percent. This trend raises disturbing questions about competition and concentration in energy R. & D. which Congress should address.

Mr. President, when this legislation was before the House, it was endorsed by the National Federation of Independent Businessmen, whose Washington Counsel Mike McKevitt explained:

> The Department of Energy has the key responsibility for administering the Federal government's financial incentives for energy research and innovation. DOE research and development contracts provide important opportunities for small firms to demonstrate their ingenuity and capacity in the field of energy research.

Mr. President, this legislation is a sensible, flexible, and meaningful way of increasing the level of small business participation in the Nation's energy development program. I am also introducing this proposal as an amendment to the Department of Energy authorization bill, and I urge my colleagues to support it when it comes to the Senate floor. I ask unanimous consent that the text of the legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to carry out a policy that the Department of Energy maximizes procurements of research and development from small businesses, not less than 12 percent, determined on the basis of value, of research and development projects and services procured by the Department of Energy with funds authorized to be appropriated for the purposes of the Department of Energy shall be procured from small businesses, except as provided in subsection (b).

(b) If the Secretary determines that compliance with the 12 percent requirement set forth in subsection (a) is impracticable, the Secretary shall transmit to the Committees on Science and Technology, Interstate and Foreign Commerce, Small Business, Interior and Insular Affairs, and Government Operations of the House of Representatives, and to the Committees on Energy and Natural Resources, Governmental Affairs, and Small Business of the Senate, a report which—

(1) apprises such Committees of the impracticability of compliance with such requirement, and

(2) lists the reasons for such determination of impracticability.

(c) For purposes of this section, the term "small business" shall have the meaning given such term under section 3 of the Small Business Act.●

By Mr. MATHIAS (for himself, Mr. BAKER, Mr. MCGOVERN, Mr. CHURCH, Mr. JACKSON, Mr. RANDOLPH, Mr. GOLDWATER, Mr. BAYH, Mr. NUNN, Mr. WARNER, Mr. HATFIELD, Mr. HEINZ, Mr. INOUYE, Mr. COCHRAN, Mr. LEVIN, Mr. GARN, Mr. HUDDLESTON, Mr. BOREN, Mr. JOHNSTON, Mr. HUMPHREY, Mr. EXON, Mr. DECONCINI, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. JAVITS, and Mr. EAGLETON):

S.J. Res. 119. Joint resolution to authorize the Vietnam Veterans Memorial Fund, Inc., to erect a memorial; to the Committee on Rules and Administration.

VIETNAM VETERANS MEMORIAL

Mr. MATHIAS. Mr. President, this Sunday we will observe Veterans Day and in anticipation of that occasion I am today introducing a joint resolution authorizing the Vietnam Veterans Memorial Fund, Inc., to construct a memorial on public grounds in the District of Columbia in recognition of the men and women of the Armed Forces of the United States who served in the Vietnam war. The memorial would be financed by public subscription and will provide a long overdue acknowledgment by the American people of the sacrifice and service of Vietnam veterans. It will contribute greatly toward resolving the real and continuing divisions in our society as a result of that war.

On Veterans Day 1979, it seems appropriate to turn our thoughts to the youngest crop of American veterans, the men who fought in Vietnam. They are the freshman class of American veterans. That does not mean we should not think about that remnant of veterans from the Spanish-American War or the larger group from World War I or the many millions from World War II and from the Korean war.

Only 10 years ago, however, the involvement of the United States in Vietnam was at its zenith. At that time, over 500,000 members of our Armed Services were in Vietnam. That war became the longest in our history. Eventually more than 2.7 million Americans served in it. Over 57,000 died and the fate of many is still unknown. The 300,000 who were wounded bear the scars of Vietnam to this day.

The Vietnam war provoked a bitter debate at home. It divided generations and families; it severed friendships. Today, Vietnam is now far enough in the past that we can look hopefully to the reconciliation of the country after the divisions caused by the war.

I have long supported measures to improve and upgrade the pension programs for veterans and their survivors, to improve veterans' housing, educational benefits, and to provide quality health care and readjustment counseling. In my opinion, however, such assist-

ance to veterans—while certainly necessary—is not the end of our responsibilities. There should also be a symbol of our Nation's gratitude for honorable service rendered. It is for this reason that a group of dedicated Vietnam veterans came together in April of this year to form the Vietnam Veterans Memorial Fund, Inc., a nonprofit corporation. The primary purpose of the fund is to raise, through contributions from the American people, the money necessary to create an appropriate national memorial in West Potomac Park to all American veterans of the Vietnam war, especially those who gave their lives. The Vietnam Veterans Memorial Fund proposes a landscaped garden as the memorial. It will enhance and be in harmony with the natural beauty of its surroundings. The names of the 57,414 who gave their lives will be appropriately displayed.

My resolution designates a site of two acres in Constitution Gardens, adjacent to the Reflecting Pool northeast of the Lincoln Memorial.

A location on the mall is symbolically appropriate. We can all recall when the Mall was the battleground of opinion and dissent regarding America's role in Vietnam. Its proximity to the Lincoln Memorial is also fitting for not since the Civil War had this Nation suffered wounds and divisions as grievous as those endured over Vietnam.

In the Lincoln Memorial these words, from Lincoln's Second Inaugural Address, are inscribed for posterity:

> Let us strive . . . to bind up the nation's wounds to care for him who shall have borne the battle and his widow and his orphan.

I believe that our Nation has come to that point where the bitter experiences of Vietnam can be confronted, accepted and resolved. Our national wounds can now be healed.

By contributing to this project, Americans, irrespective of their views regarding U.S. policy in Vietnam, may acknowledge the sacrifice of those who served there. For Vietnam veterans, the memorial will stand as testimony that the American people care about them and respect their service and their sacrifice. For all Americans this memorial will be a symbol of the reconciliation and reunion that preserves us as a nation.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD, and that it be followed by the text of the remarks made today by Jan Scruggs of Maryland, the president of the Vietnam Veterans Memorial Fund.

There being no objection, the joint resolution and address were ordered to be printed in the RECORD, as follows:

S.J. RES. 119

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Vietnam Veterans Memorial Fund, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia, is authorized to erect a memorial on public grounds in West Potomac Park in the District of Columbia, in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam War.

SEC. 2. (a) As the site upon which may be erected the memorial authorized in the first section of this Resolution, there is hereby designated a parcel of land of not less than two acres in the area known as Constitution Gardens in West Potomac Park in the District of Columbia, which parcel the Secretary of the Interior, in consultation with the Vietnam Veterans Memorial Fund, Inc., is authorized and directed to select.

(b) The design and plans for such memorial shall be subject to the approval of the National Commission of Fine Arts, in consultation with the Secretary of the Interior and the National Capital Planning Commission.

(c) Other than as to the land authorized for the erection of the memorial in subsection (a), neither the United States nor the District of Columbia shall be put to any expense in the erection of this memorial.

SEC. 3. The authority conferred pursuant to this resolution shall lapse unless the erection of such memorial is commenced within five years from the date of enactment of this resolution.

SEC. 4. The maintenance and care of the memorial erected under the provisions of this resolution shall be the responsibility of the Secretary of the Interior.

REMARKS OF JAN SCRUGGS

I am Jan Scruggs, president of the Vietnam Veterans Memorial Fund, and I would like to begin by thanking my Senator from Maryland for his introduction and for the time that he has put into helping us with this important project.

Just as the Vietnam war was unique in the way that it was fought—so too has been our Nations treatment of the men and women who served in that brutal conflict. American servicemen were subjected to unparalleled pressures, not only in the close quarters combat of Vietnam, but tragically, also upon our return home. The unpopularity of the war did little in the way of creating a supportive societal atmosphere for the returning veterans. By and large the war created a sharp division in our generation, not one of enmity, but one in which those of us who did go to Vietnam were cast into a void with little or no acknowledgement or appreciation of the honest service we rendered.

I was one of a handful of graduates from a nearby Maryland high school who volunteered for combat in 1968. I was barely 19 when I was assigned to an infantry company in Vietnam. By the end of my tour, half of the men in my company would be killed or wounded. Some are now in wheelchairs or have other disabilities which they would not have— . . ., had they not served this country. About 90 percent of the Army Infantrymen I served with were drafted to do the fighting in that unpopular war. Yet, if the war was unpopular at home, it was probably liked even less by those who were on the front lines.

Upon returning home, I soon found that being a veteran of that war was a dubious distinction at best. The true story of the Vietnam amputee being told "It serves you right, for going there!" This epitomizes the psychological quagmire that Vietnam veterans have for too long endured. I have testified before the Senate and published the results of a research project on Vietnam veterans. Those who served in combat units had statistically higher rates of divorce, evidenced low faith in human nature, and many had low self esteem and continued to dream of Vietnam combat. My study is one of many that documents an unhappy legacy of a war that our country would like to forget. But it should not be forgotten and the needs of Vietnam veterans must not be forgotten.

The Vietnam Veterans Memorial Fund was formed in April of this year to provide a special tribute from the people of this country to those who served. It is a project that can be supported by everyone regardless of how they felt about the war. We especially want this Memorial to be a symbol of reconciliation . . . of our Nation's determination to restore the unity that has been lacking since the divisive Vietnam war.

It is especially appropriate that this monument stand in Constitution Gardens in the shadow of the Lincoln Memorial. President Lincoln many times spoke of his concern for reconciliation and regaining national unity after the Civil War. Although the circumstances were different, certainly the need for unity after a divisive era is just as great.

The money for this landscaped memorial will come from the American people. The former Secretary of the Navy, and the Senator from Virginia, John Warner, has agreed to assist us in raising the initial capital for our national campaign.

I have been asked whether the money for this memorial is really worth it. Well, in the audience today is an esteemed Marylander and a Virginian who are former presidents of the Gold Star Mothers. Each of these women gave this country a courageous son who laid down his life in Vietnam. There are over 52,000. The women in her organization have some very strong feelings about this project, because on that memorial the name of each American who made the ultimate sacrifice in that war will be perpetually displayed.

In closing let me state that we want this memorial to stand not only as a symbol of our country's gratitude to Vietnam vets but also as a symbol of national unity and as a focal point for all the American people to remember the tragedies wrought by that war, and the lessons taught us thereby.

If the present and future generations can be reminded of these things, then this memorial will indeed be a wise investment.

VIETNAM VETERANS MEMORIAL

Mr. HUDDLESTON. Mr. President, I am extremely pleased to join with my distinguished colleague from Maryland, Senator MATHIAS, in introducing this resolution authorizing the Vietnam Veterans Memorial Fund, Inc., to erect a memorial in the District of Columbia by public subscription to honor the U.S. men and women who served in the Vietnam war. I am particularly gratified to participate in this effort since I believe it is a natural follow on to a similar resolution which I submitted and which passed the Senate in the 93d Congress. Specifically Senate Joint Resolution 45, authorizing and directing the Secretary of the Interior to erect a memorial passed the Senate on April 12, 1973.

Unfortunately, we were unable to gain House approval for the resolution. Now, however, I believe there is a much clearer recognition of the real need for a memorial of the nature being suggested by Senator MATHIAS.

As I said on introduction and passage of Senate Joint Resolution 45, the monument is not designed to honor or glorify war. Rather it is designed to pay tribute to the thousands of brave men and women who were called on to fight a long, unpopular, and little understood war.

Hopefully, the monument would also

stand as a significant gesture toward healing some of the great divisions that arose, indeed still exist, in this country as a result of the Vietnam experience. Vietnam represents a truly painful chapter in our Nation's history. However, before the memory of that expensive and divisive war fades, we must salute those who served and recognize the unique nature of the difficulties they have faced as a result of their participation.

The American people can do no less than demonstrate a deep respect and honor for the sacrifices and bravery of those who served.

As I stated earlier, the public consciousness has been elevated recently as a result of such events as "Vietnam Veterans Week" earlier this year and the release of numerous movie and television productions depicting many aspects of the overall impact of the war. Construction of the monument called for in this resolution will be yet another step in that process.

The monument will not bring back the dead; it will not heal the wounded; or will it erase the scars of war suffered by thousands. But it will symbolize and serve as a constant reminder to all of us of the courage and bravery of thousands of our countrymen. It will also be a symbol of the unity of our Nation after the divisions and differences which the war had generated.

For these reasons I urge my colleagues to join those of us who are supporting this very timely and appropriate effort.

ADDITIONAL COSPONSORS

S. 655

At the request of Mr. WEICKER, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 655, the Small Business Investment Incentive Act.

S. 1179

At the request of Mr. BAYH, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1179, a bill to incorporate the Gold Star Wives.

S. 1382

At the request of Mr. BENTSEN, his name was removed as a cosponsor of S. 1382, the Family Welfare Improvement Act.

S. 1629

At the request of Mr. JACKSON, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 1629, the Civil Air Patrol supply bill.

S. 1861

At the request of Mr. STONE, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 1861, a bill to amend the Internal Revenue Code of 1954, and for other purposes.

S. 1925

At the request of Mr. WILLIAMS, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1925, the Savings of Income for Retirement Act.

AMENDMENTS SUBMITTED FOR PRINTING

HOME ENERGY ASSISTANCE ACT—S. 1724

AMENDMENT NO. 581

(Ordered to be printed and to lie on the table.)

Mr. PELL (for himself, Mr. CHAFEE, Mr. HEINZ, Mr. LEAHY, Mr. RANDOLPH, Mr. RIEGLE, Mr. STAFFORD, and Mr. WEICKER) submitted an amendment intended to be proposed by them, jointly, to S. 1724, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

● Mr. PELL. Mr. President, on behalf of Senators CHAFEE, HEINZ, LEAHY, RANDOLPH, RIEGLE, STAFFORD, WEICKER, and myself, I am submitting an amendment to S. 1724, the Home Energy Assistance Act, to insure that increases in State public assistance payments specifically earmarked for energy-related expenses will not be offset by automatic cuts in food stamp benefits.

Because it is the middle of November, and the Federal Government is only now acting on a proposal to provide energy assistance to low- and moderate-income individuals, some States have increased their public assistance payments to help low-income beneficiaries meet the dramatic increase in home heating costs that has occurred over the past year. In my own State of Rhode Island, for example, energy costs have increased over 70 percent during this period, and the State is increasing welfare payments to help meet those costs.

Unfortunately, these increases in State public assistance payments are making many low-income families and individuals ineligible for the food stamp benefits they have been receiving. For others, this monthly energy supplement decreases their food stamp allotment and, paradoxically, larger families who necessarily spend more to heat their homes lose a greater proportion of assistance. For these families the choice between food and fuel will become a horrible reality.

To prevent this unintended hardship, I am offering this amendment which would hold current food stamp beneficiaries harmless, so that what has been designed as a mechanism to lessen the economic burden for one of the necessities of life will not threaten their eligibility for other essential programs.

This amendment would not require any additional Federal spending, since we are not increasing program eligibility. The amendment, however, would enable the elderly and low-income individuals who receive energy assistance from the State to maintain their current food stamp allotment.

Without this amendment, we will be robbing Peter to pay Paul. What the State government giveth, the Federal Government will taketh away.

I believe this amendment is essential to permit Federal and State governments to work in tandem instead of at opposite ends.

Mr. President, I ask unanimous consent that the text of the amendment, together with a factsheet, be printed in the RECORD.

There being no objection, amendment and fact sheet were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 581

On page 39, between lines 3 and 4, insert the following new paragraph:

(2) Section 5(d) of the Food Stamp Act of 1977 is amended by striking out "and (10)" and inserting in lieu thereof the following: "(10) any income attributable to an increase in State public assistance grants which is intended primarily to meet the increased cost of home energy, and (11)".

FACT SHEET ON FOOD STAMP AMENDMENT

1. What does it do? In an effort to respond to the need for some type of energy assistance payments this winter, Rhode Island has increased welfare payments. This provides some protection for low-income individuals against the rising cost of home heating oil. The problem is that this is considered additional income for these households and makes many of them ineligible for food stamps. This is the classic case of robbing Peter to pay Paul, because what the states have done to help individuals meet the rising cost of one of the necessities, threatens their eligibility for Federal assistance to meet the cost of another necessity.

2. How much does it cost? Nothing. This is a hold-harmless provision to insure that state action for one purpose (i.e., to provide monthly supplements to welfare beneficiaries to meet the rising cost of energy) does not threaten their eligibility for another program (i.e., food stamps).

3. What states have done this? Rhode Island, Colorado and Iowa. Other states are in the process of doing this, and others have not done it because of the problem it creates—without this amendment—for food stamp eligibility.

4. Is their a need to treat renters separately under this amendment? No. They may not all pay fuel bills directly, however, they bear the brunt of rising energy costs through rent increases.

5. How does increases in welfare payments threaten food stamp eligibility dollar for dollar? For every $10 increase in public assistance, on the average, beneficiaries will lose $3 out of their food stamp allotment.

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENTS NOS. 582 AND 583

(Ordered to be printed and to lie on the table.)

Mr. MELCHER submitted two amendments intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

At the request of Mr. MELCHER, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 582

Insert where appropriate.

Section 904(a) (relating to the limitation on the foreign tax credit) is amended to read as follows:

"(a) LIMITATION.—The total amount of the credit taken under section 901(a) shall not exceed the excess of—

"(1) the same proportion of the tax against

which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year, over

"(2) 17.5 percent of an amount equal to the excess of the taxpayer's taxable income from sources without the United States (but not in excess of a taxpayer's entire taxable income) over the amount of the credit which could be taken under section 901(a) if this section did not apply.

For purposes of the preceding sentence, in the case of an individual the entire taxable income shall be reduced by an amount equal to the zero bracket amount."

AMENDMENT No. 583

Insert where appropriate

Taxation of Earnings and Profits of Controlled Foreign Corporations.

(a) GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by inserting after subpart II thereof the following:

"Subpart I—CONTROLLED FOREIGN CORPORATIONS

"Sec. 963. Amounts included in gross income of United States shareholders.

"Sec. 964. Definitions.

"Sec. 965. Rules for determining stock ownership.

"Sec. 966. Exclusion from gross income of previously taxed earnings and profits.

"Sec. 967. Adjustments to basis of stock in controlled foreign corporations and of other property.

"Sec. 968. Records and accounts of United States shareholders.

"Sec. 969. Election by individuals to be subject to tax at corporate rates.

"Sec. 970. Records and accounts of United States shareholders.

"Sec. 970A. Transition rules for period before subpart I is completely phased in.

"Sec. 963. Amounts Included in Gross Income of United States Shareholders.

"(a) AMOUNT INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every United States shareholder of such corporation which owns (within the meaning of section 965(a)) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in its gross income, for its taxable year in which or with which such taxable year of the corporation ends, its pro rata share of the corporation's earnings and profits for such year.

"(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—A United States shareholder's pro rata referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 965(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to the earnings and profits for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by—

"(B) an amount (i) which bears the same ratio to the earnings and profits of such corporation for the taxable year, as (ii) the part of such year described in subparagraph (A)(ii) during which such shareholder did not own (within the meaning of section 965(a)) such stock bears to the entire year.

"(b) EARNINGS AND PROFITS.—For purposes of this subpart, under regulations prescribed by the Secretary, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312(m)(3), shall be determined according to rules appropriate to carry out the rules of this subpart.

"(2) shall be reduced (or in the case of a deficit, shall be increased) by the amount, if any, by which the sum of the deficits in earnings and profits of such corporation for any prior taxable years beginning after December 31, 1979, exceed the sum of the earnings and profits of such corporation of such prior taxable years.

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country but any such amounts shall be included in earnings and profits for the first taxable year in which such restrictions or limitations are terminated or modified to permit distribution of such amounts.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(d) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"(e) CONSOLIDATION OF EARNINGS AND PROFITS FROM MULTIPLE FOREIGN CORPORATIONS.—(1) Subsection (a) shall be applied to a United States shareholder who owns stock in more than one controlled foreign corporation, or who owns stock in other foreign corporations (whether controlled foreign corporations or not) through stock owned by a controlled foreign corporation, by taking into account the aggregate earnings and profits of all such foreign corporations.

"(2) The Secretary shall prescribe Regulations to carry out the purposes of subparagraph (1).

"SEC. 964. DEFINITIONS.

"(a) UNITED STATES SHAREHOLDER DEFINED.—For purposes of this subpart, the term 'United States shareholder' means, with respect to any foreign corporation, a United States person (as defined in section 957(d)) who owns (within the meaning of section 965(a)), or is considered as owning by applying the rules of ownership of section 965(b), 1 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

(b) "CONTROLLED FOREIGN CORPORATION DEFINED.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation—

"(1) of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 965(a)), or is considered as owned by applying the rules of ownership of section 965(b), by United States shareholders on any day during the taxable year of such foreign corporation, or

"(2) over which United States shareholders exercise actual control, as determined by the Secretary, from all facts and circumstances in the case.

"(c) LIMITATION ON ACTUAL CONTROL DETERMINATION.—In the case of a foreign corporation of which not more than 20 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 965(a)), or is considered as owned by applying the rules of ownership of section 965(b), by one or more United States shareholders on any day during the taxable year of such foreign corporation, the burden of proof in respect of the issue, for purposes of subsection (b)(2), as to whether such United States shareholders exercise actual control shall be upon the Secretary.

"SEC. 965. Rules for determining stock ownership.

"(a) DIRECT AND INDIRECT OWNERSHIP.—

"(1) GENERAL RULE.—For purposes of this subpart, stock owned means—

"(A) stock owned directly, and

"(B) stock owned with the application of paragraph (2).

"(2) STOCK OWNERSHIP THROUGH FOREIGN ENTITIES.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation of foreign estate (within the meaning of section 7701(a)(31)) or by or for a partnership or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(b) CONSTRUCTIVE OWNERSHIP.—For purposes of section 964, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any domestic corporation as a United States shareholder within the meaning of section 964(a), or to treat a foreign corporation as a controlled foreign corporation under section 964(b), except that—

"(1) In applying subparagraphs (A), (B), and (C) of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all of the stock entitled to vote.

"(2) In applying subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C).

"Sec. 966. Exclusion from gross income of previously taxed earnings and profits.

"(a) EXCLUSION FROM GROSS INCOME.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of

a United States shareholder under section 963(a) shall not, when such amounts are distributed directly, or indirectly through a chain of ownership described under section 965(a), to—

"(1) such shareholder (or any person which acquires from any other person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary may by regulations prescribe), or

"(2) a trust (other than a foreign trust) of which such shareholder is a beneficiary, be again included in the gross income of such United States shareholder (or of such domestic corporation or of such trust).

"(b) EXCLUSION FROM EARNINGS AND PROFITS OF CERTAIN FOREIGN SUBSIDIARIES.—For purposes of section 963(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 963(a), shall not, when distributed through a chain of ownership described under section 965(a), be also included in the earnings and profits of another controlled foreign corporation in such chain for purposes of the application of section 963(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).

"(c) ALLOCATION OF DISTRIBUTIONS.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

"(1) first, to earning and profits attributable to amounts included in gross income under section 963(a), and

"(2) then to other earnings and profits.

"(d) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME NOT TO BE TREATED AS DIVIDENDS.—Any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

"Sec. 967. Adjustments to basis of stock in controlled foreign corporations and of other property.

"(a) INCREASE IN BASIS.—Under regulations prescribed by the Secretary, the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which it is considered under section 965(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in its gross income under section 963(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder.

"(b) REDUCTION IN BASIS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the adjusted basis of stock or other property with respect to which a United States shareholder or a United States person receives an amount which is excluded from gross income under section 966(a) shall be reduced by the amount so excluded.

"(2) AMOUNT IN EXCESS OF BASIS.—To the extent that an amount excluded from gross income under section 966(a) exceeds the adjusted basis of the stock or other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"Sec. 968 Special rules for foreign tax credit.

(a) TAXES PAID BY FOREIGN CORPORATION.—

"(1) FIRST TIER FOREIGN SUBSIDIARY.—For purposes of subpart A of this part, if there is included, under section 963(a), in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation at least 1 percent of the voting stock of which is owned by such domestic corporation then, under regulations prescribed by the Secretary, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in the gross income of the domestic corporation bears to the entire amount of the earnings and profits of such foreign corporation for such taxable year.

"(2) SECOND TIER FOREIGN SUBSIDIARY.—If the foreign corporation described in paragraph (1) (hereinafter in this subsection referred to as the 'first foreign corporation') in the gross income of which there would be included (under section 963(a) applied as if the first foreign corporation were a domestic corporation) any amount attributable to the earnings and profits of a second foreign corporation in which it owns 10 percent or more of the voting stock the first foreign corporation shall be deemed to have paid the same proportion of any income war profits, or excess profits taxes paid or deemed to be paid by the second foreign corporation to any foreign country or to any possession of the United States for the taxable year on or with respect to the earnings and profits of the second foreign corporation as the amount of earnings and profits of the second foreign corporation included (under rules similar to the rules prescribed under paragraph (1)) in the gross income of the first foreign corporation bears to the entire amount of the earnings and profits of the second foreign corporation for such taxable year.

"(3) THIRD TIER FOREIGN SUBSIDIARY.—If the first foreign corporation owns 10 percent or more of the voting stock of a second foreign corporation in the gross income of which there would be included (under section 963(a) applied as if the second foreign corporation were a domestic corporation) any amount attributable to the earnings and profits of a third foreign corporation in which it owns 10 percent or more of the voting stock, the second foreign corporation shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid by such third foreign corporation to any foreign country or to any possession of the United States for the taxable year on or with respect to the earnings and profits of the third foreign corporation as the amount of earnings and profits of the third foreign corporation included (under rules similar to the rules prescribed under paragraph (2)) in the gross income of the second foreign corporation bears to the entire amount of the earnings and profits of the third foreign corporation for the taxable year.

"(b) TAXES DEEMED PAID.—

"(1) TAXES PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—If a domestic corporation receives a distribution from a foreign corporation, any portion of which is excluded from gross income under section 966, the income, war profits, and excess profits taxes paid or deemed paid by such foreign corporation to any foreign country or to any possession of the United States in connection with the earnings and profits of such foreign corporation from which such a distribution is made shall not be taken into account for purposes of section 902, to the extent such taxes were deemed paid by a domestic corporation under subsection (a) for any prior taxable year.

"(2) TAXES PAID BY FOREIGN CORPORATION AND NOT PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—Any portion of a distribution from a foreign corporation received by a domestic corporation which is excluded from gross income under section 966(a) shall be treated by the domestic corporation as a dividend solely for the purposes of taking into account under section 902 any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such distribution is made, which were not deemed paid by the domestic corporation under subsection (a) for any prior taxable year.

"(c) SPECIAL RULES FOR FOREIGN TAX CREDIT IN YEAR OF RECEIPT OF PREVIOUSLY TAXED EARNINGS AND PROFITS.—

"(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

"(A) either (i) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 963(a) to include in his gross income an amount in respect of a controlled foreign corporation, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits to any foreign country or to any possession of the United States, and

"(B) chooses to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 966(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A), and

"(C) for the taxable year in which such distribution or amount is received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distribution or amount, the applicable limitation under section 904 for the taxable year in which such distribution or amount is received shall be increased as provided in paragraph (2), but such increase shall not exceed the amount of such taxes paid, or deemed paid, or accrued with respect to such distribution or amount.

"(2) AMOUNT OF INCREASE.—The amount of increase of the applicable limitation under 904(a) for the taxable year in which the distribution or amount referred to in paragraph (1)(B) is received shall be an amount equal to—

"(A) the amount by which the applicable limitation under section 904(a) for the taxable year referred to in paragraph (1)(A) was increased by reason of the inclusion in gross income section 963(a) of the amount in respect of the controlled foreign corporation, reduced by

"(B) the amount of income, war profits and excess profits taxes paid or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for the taxable year referred to in paragraph (1)(A) and which would not have been allowable but for the inclusion in gross income of the amount described in subparagraph (A).

"(3) CASES OF WHICH TAXES NOT TO BE AL-

LOWED AS DEDUCTION.—In that case of any taxpayer who.—

"(A) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 963(a) to include in his gross income an amount in respect of a controlled foreign corporation, and

"(B) does not choose to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 966(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A), no deduction shall be allowed under section 164 for the taxable year in which such distribution or amount is received for any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States on or with respect to such distribution or amount.

"(4) INSUFFICIENT TAXABLE INCOME.—If an increase in the limitation under this subsection exceeds the tax imposed by this chapter for such year, the amount of such excess shall be deemed an overpayment of tax for such year.

"Sec. 899. Election by individuals to be subject to tax at corporate rate.

"(a) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate in the case of a United States shareholder who is an individual and who elects to have the provisions of this section apply for the taxable year—

"(1) the tax imposed under this chapter on amounts which are included in the gross income under section 963(a) shall (in lieu of the tax determined under section 1) be an amount equal to the tax which would be imposed under section 11 if such amounts were received by a domestic corporation, and

"(2) for purposes of applying the provisions of section 906 (relating to foreign tax credit) such amounts shall be treated as if they were received by a domestic corporation.

"(b) ELECTION.—An election to have the provisions of this section apply for any taxable year shall be made by a United States shareholder at such time and in such manner as the Secretary or his delegate shall prescribe by regulations. An election made for any taxable year may not be revoked except with the consent of the Secretary or his delegate.

"(c) SURTAX EXEMPTION.—For purposes of applying subsection (a)(1), the surtax exemption provided by section 11(c) shall not exceed, in the case of any United States shareholder, an amount which bears the same ratio to the surtax exemption as the amounts included in his gross income under section 963(a) for the taxable year bears to his pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such United States shareholder includes any amount in gross income under section 963(a).

"(d) SPECIAL RULE FOR ACTUAL DISTRIBUTIONS.—The earnings and profits of a foreign corporation attributable to amounts which were included in the gross income of a United States shareholder under section 963(a) and with respect to which an election under this section applied shall, when such earnings and profits are distributed, notwithstanding the provisions of section 986(a)(1), be included in gross income to the extent that such earnings and profits so distributed exceed the amount of tax paid under this chapter on the amounts to which such election applied.

"Sec. 990. Records and accounts of United States shareholders.

"(a) RECORDS AND ACCOUNTS TO BE MAINTAINED.—The Secretary may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart.

"(b) TWO OR MORE PERSONS REQUIRED TO MAINTAIN OR FURNISH THE SAME RECORDS AND ACCOUNTS WITH RESPECT TO THE SAME FOREIGN CORPORATION.—Where, but for this subsection, two or more persons would be required to maintain or furnish the same records and accounts as may by regulations be required under subsection (a) with respect to the same controlled foreign corporation for the same period, the Secretary may by regulations provide that the maintenance or furnishing of such records and accounts by only one person shall satisfy the requirements of subsection (a) for such other persons.

Technical and Conforming Amendments.—

(1) Section 864(c)(4)(D) is amended to read as follows:

"(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote.".

(2) Section 951 is amended by adding at the end thereof the following:

"(c) TAXABLE YEARS BEGINNING ON ENACTMENT OF THIS ACT.—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1) of such subsection) with respect to a taxable year of a controlled foreign corporation beginning after December 31, 1979, to the extent that such amount is required to be included in the gross income of a United States shareholder under section 963(a).".

(3) Section 1016(a)(19) is amended by striking out "section 961" and inserting in lieu thereof "sections 961 and 987".

(4) Section 1246(a)(2)(B) is amended by inserting "or 963" after "section 951" and by inserting "or 986" after section 959".

(5) Section 1248 is amended by amending subsection (d)(1) to read as follows:

"(1) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 951 OR 963.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 951 or 963, with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount from gross income under section 959 or 986.".

(6) Section 78 (relating to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit) is amended by striking out "or under section 960(a)(1) (relating to taxes paid by foreign corporation)" and inserting in lieu thereof the following: ", under section 960(a)(1) (relating to taxes paid by foreign corporation), or under section 988(b) (relating to taxes deemed paid by corporations)".

EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years of foreign corporations beginning after December 31, 1979, and to taxable years of United States shareholders which end within or with such taxable years of such foreign corporations.

DEPARTMENT OF ENERGY CIVILIAN AUTHORIZATIONS—S. 688

AMENDMENT NO. 584

(Ordered to be printed and to lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to S. 688, a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

(See the remarks of Mr. HART when he introduced S. 1993 under "Statement on Introduced Bills and Joint Resolutions" earlier today.)

NOTICE OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. JAVITS. Mr. President, I wish to announce that the Governmental Affairs Committee will have a hearing on medical records privacy, on Tuesday, November 13, 1979, at 9:30 a.m., in room 3302, Dirksen Office Building. Anyone wishing further information, will please contact the committee staff.

SUBCOMMITTEE ON ANTITRUST, MONOPOLY AND BUSINESS RIGHTS

Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly and Business Rights will hold a hearing on credit life insurance on November 14. The hearing will begin at 9:30 a.m. in room 6226 of the Dirksen Senate Office Building.

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Select Committe on Indian Affairs.

The hearing is scheduled for December 4, 1979, beginning at 10 a.m. in room 5110, Dirksen Senate Office Building. Testimony is invited regarding S. 341, S. 1795, and S. 1796, bills to confer jurisdiction upon the U.S. Court of Claims to hear claims of the Three Affiliated Tribes of Fort Berthold Reservation, the Gros Ventre Tribe, the Assiniboine Tribe, and the Blackfeet Tribe.

For further information regarding the hearing you may wish to contact Max Richtman of the committee staff on extension 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Senate Select Committee on Indian Affairs, room 6313, Dirksen Senate Office Building, Washington, D.C. 20510.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Senate Select Committee on Indian Affairs.

The hearing will be held on January 4, 1980 at 9 a.m. in the Maricopa County Board of Supervisors' auditorium, Phoenix, Ariz. Testimony is invited regarding the Indian Health Service and Indian health related issues.

For further information regarding the hearing you may wish to contact Max Richtman of the committee staff on extension 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

ADDITIONAL STATEMENTS

ADDITIONAL VIEWS ON WINDFALL PROFITS TAX LEGISLATION

● Mr. DOLE. Mr. President, the Senate Finance Committee has finally, after months of deliberation, reported the so-called windfall profits tax bill. The legislation is complicated, combining the intricacies of the tax code with the most confusing aspects of oil price regulations. The role of two new Senators to the Finance Committee proved significant. Their knowledge of our energy situation was a valuable committee resource throughout the consideration of the bill. Senator WALLOP, of Wyoming, and Senator BOREN, of Oklahoma, worked diligently toward a balanced, production-oriented bill. Although not successful in all of their efforts to amend the House bill, both Senator WALLOP and Senator BOREN made constructive contributions. The supplemental views of these two Finance Committee members provide valuable insight to the committee bill. I would like to call to the attention of my colleagues their thoughts. I request that supplemental views of Senators WALLOP and BOREN, and the additional views of Senator WALLOP, be printed in the RECORD.

The material follows:

SUPPLEMENTAL VIEWS OF SENATORS BOREN AND WALLOP

The Finance Committee's windfall profits tax bill is a significant improvement over the House-passed bill in addressing the Nation's energy problem. The committee bill provides greater incentives for conventional oil production while offering new incentives for development of synthetic fuels and the conservation of energy. Nevertheless, it should be recognized that the imposition of a windfall profits tax will significantly reduce the amount of domestically produced energy which would have resulted from decontrol. The tax will diminish incentives for domestic oil production and retard the ability of the industry to finance exploration. One source estimates that the Finance Committee's windfall profits tax will reduce domestic oil production by 1 million barrels per day in the late 1980's. This is compared to a production loss of 2 million barrels per day that would result if the House-passed windfall profits tax were enacted into law.

Most of the changes made by the Senate Finance Committee are in the best interest of American consumers. They will result in the production of more energy at a far lower per unit cost than OPEC oil or synthetic fuels produced with government inducements.

One of the most positive steps taken by the Finance Committee was the exemption of newly discovered oil from the tax. It will help to reduce our dependence upon foreign sources of energy. It is expected that this exemption will increase oil production by as much as 1½ million barrels per day by 1990. This exemption would cover oil which was first produced on a property after January 1, 1979. The whole rational for having a "windfall profits tax" has been that it would be a tax on inventory profits. Obviously there can be no windfall profits on something which has yet to be discovered.

More positive action was taken with the exemption of incremental tertiary oil from this excise tax. An exemption of this kind is necessary to provide maximum incentives for producers to make the large investments required for tertiary projects. The Department of Energy has testified that with proper inducement over 2 million barrels of oil production per day could be recovered by 1990.

To practice these enhanced recovery methods and to recover the large amounts of oil which remain in the ground after primary production, there must be special incentives to keep these wells in production. If they are prematurely abandoned, the resource may be lost forever. It was with this thought in mind that the Finance Committee provided for the exemption of stripper oil owned by independent producers. There is well documented proof that special treatment for stripper wells produces constructive conservation results. Since the price for stripper oil was decontrolled in 1975, the abandonment rate on stripper wells has decreased by 500 percent. It is estimated that exempting stripper wells from the tax will increase production of oil in this country by ½ million barrels per day by 1990, and maintain millions more in reserve which otherwise might not be saved for enhanced and tertiary recovery methods.

The committee also recognized the importance of keeping marginal properties on line by expanding the definition of marginal wells to include properties which produce a high ratio of water to oil. These properties are operated at a very high cost and are often prematurely plugged, resulting in a loss of production. By giving high water producing wells marginal well treatment, it is estimated that 11,000 barrels per day of production could be saved at a cost of about one-third the price of OPEC oil. For example, there is a field in Garvin County, Okla., where nine wells produce 350 barrels of oil per day and 9,133 barrels of water per day. The operator of the field has estimated that with marginal oil tax treatment an additional 700,000 barrels of oil could be produced during the life of the field.

Percentage depletion was also reinstated on the oil taxed by the windfall profits tax. Independent producers are the only producers entitled to the use of this deduction. They are already facing a 32 percent increase in their tax burden over the next four years resulting from the scheduled reduction in the depletion rate from 22 percent to 15 percent. To deny percentage depletion on that portion of oil taxed by windfall profits is to even further increase the income tax independent producers and royalty owners must pay on top of the windfall profits tax which would also be imposed on this portion of their income. It is estimated that this action by the committee will encourage the drilling of over 630 new wells a year.

The tax was also made subject to a phase-out once 90 percent of the revenue from the tax is raised. The phase-out of the tax would begin at a rate of 3 percent per month over a 10 year period. The committee decided that it made no sense to structure a tax which takes into the government coffers more money than is actually needed to provide revenue for conservation and alternative energy programs.

While the committee improved the bill and provided a much more balanced approach, there are still other changes which were not made by the committee which would have benefited all Americans.

It was a mistake for the committee to reject the exemption for the first 3,000 barrels per day of production owned by the independent producer. The windfall tax will have a greater impact upon independent producers than on the large oil corporations. Because the independent producer derives his income from a single activity, the discovery and production of oil and gas, any capital loss resulting from increased taxes will mean that fewer wells can be drilled. During the five year period from 1969 through 1973 independent producers accounted for 89.2 percent of the wildcat wells drilled, 75 percent of the new field found, and 54 percent of the total oil and gas discovered. These producers plow-back 105 percent of their wellhead revenues from both crude oil and natural gas production into more exploration, drilling, and production activities.

An exemption for these producers would also have helped to reduce the heavy administrative burdens under which independents must operate. Although the first purchaser collects the tax, the operator must certify the applicable pricing and tax classifications for each barrel of crude oil. Before oil is completely decontrolled in 1981 the producer must constantly reclassify his oil for pricing according to the decontrol schedule. He must also keep a separate accounting for tax purposes.

For example, it requires countless attorneys and accountants to figure out what the legal price and tax would be when the oil can be priced at a lower tier rate and taxed on an upper tier base. There are countless other complex situations.

The exemption of independent producers from the tax would have eliminated most of the regulatory maze. These smaller producers are not equipped, as are large international corporations, to deal with complex regulations. These regulations become a significant deterrent to exploration and production, sometimes surpassing pricing restrictions and tax rates in importance.

Another major flaw in the bill as reported is the failure to exempt all stripper oil from the windfall tax. The United States needs to maintain and increase stripper production. The soundest conservation policy of all is the preservation of a resource which we now have. Every time a well is prematurely plugged we have lost oil now being produced on which the environmental costs have already been paid. In additional, for secondary and tertiary recovery to be possible, the life of the stripper must be prolonged. Wells which are plugged are gone.

In addition, there is a substantial production response to increased stripper price. CBO estimates that a stripper exemption would increase production by 235,000 barrels per day by 1985 and a study by Dr. William Talley estimates an additional 497,000 barrels by 1990, if all stripper production were exempt.

Although the language in the bill exempts about 50 percent of the stripper wells (those owned by independent producers) the remaining stripper wells are facing what is in effect a roll-back in price from the world price of $23 a barrel to the Tier III base price of $16. In addition, the provision against avoiding a net loss on a property (the net income limitation) won't provide enough help to stripper wells. Individual stripper wells which are losing money will be shut down even if the total property is not losing money. In addition, stripper wells periodically must be shut down for workovers. On the average, workovers cost $3,000 for a 3,000 foot well. Costs may run much higher. A new surface pump costs $17,500, for example. Even if a well is doing better than breaking even, it still might not justify a major workover because the pay out period would be too long and uncertain. Without proper pricing and tax incentives, it may be plugged prematurely in this situation.

The economics and operational problems associated with stripper wells are real for all producers, independents and major companies alike. The cost of materials and labor for workovers and maintenance are the same for all producers. Pumps still fail and wells need to be reworked, no matter who owns the well. Half of all stripper wells are not exempt from this tax and may be shut in for failing to pay their own way.

The greatest shortcoming of the committee bill was the outright refusal to address the near term supply problems facing America. The only measures adopted by the committee which can help reduce our dependence on foreign energy supplies in the early 1980's are the energy conservation tax in-

centives. The committee should be commended for recognizing the contribution that energy conservation can make to reducing our dependence on imported oil over the next few years. Unfortunately, the committee abandoned support for measures that would increase energy production in the near term, thereby losing an increasingly rare opportunity to affect the national energy supply picture in a coordinated manner.

The bill reflects a tragic misunderstanding of how various categories of oil respond to price and incentives over time. A commonly held belief is that the exemption for newly discovered oil is a panacea, creating abundant new energy sources immediately. The exemption for newly discovered oil is perhaps the most significant production oriented provision in the committee bill, but the benefits of this action will not accrue to the nation until the mid 1980's. Bringing production on line from newly discovered properties is a process of several years, even under the most favorable conditions.

In the immediate future, domestic oil production can only be increased by allowing properties to realize the benefits of decontrol. Lower and upper tier of properties could provide the most immediate response to improve prices. Imposing a 60 percent tax on upper tier oil, a harsher levy than the one originally proposed by the President, will reduce the incentive to develop these properties to their full potential. Penalizing lower tier oil with the 75 percent tax and a 1.5 percent decline curve will not only end the hope of increased production from these properties, but will also cause the premature abandonment of old oil wells. How painfully short sighted.

Lower tier oil represents the properties discovered prior to 1973, and has the highest production decline rates among the major categories of oil. The production objectives for this category are similar to those for stripper wells. Investments must be made to arrest or slow the production decline in each well. The adoption of a 75 percent tax and 1.5 percent decline curve on Tier I oil will give producers little incentive to reduce the declining oil production. Since the lower tier properties were placed under price controls, economic returns from these wells have not been adequate to support the full cost of the well workovers, infield drilling, or the replacement of old equipment. These investments are needed if the declining production of these wells is to be arrested.

The 2 percent decline rate originally adopted by the administration offers promising production incentives for more than half of the lower tier properties. The committee adopted the 1.5 percent decline rate contained in the House bill. By selecting a 1.5 percent decline rate a significant number of properties, those with faster than average decline rates, will not be able to realize the benefits of phased decontrol. The 1.5 percent decline rate leaves many producers with little alternative but to let their production decline naturally with no additional incentives to increase production. This production could have been available to help meet our acute short term shortages.

Our current energy crisis in this country is not primarily economic. It is certainly not a shortage of energy resources. We have enough coal, for example, to last for more than 100 years. Our problem is political.

It is obvious that we produce too little energy within the United States and that we consume too much, yet we continue to follow a policy of taxing production while subsidizing consumption. It makes no sense economically even though it plays well politically.

It is always popular to tell people what they want to hear. Many wish to believe that we can have more energy by paying less for it. Unfortunately, the only way that we can free ourselves from dependence upon OPEC is to invest more money to produce energy here at home. Oil wells cannot be drilled, or coal mined, or solar panels built for free. Someone must pay the bill.

The truth is that the public will pay the bill. New energy production must be financed either by the profits of private companies or by the government through money collected in taxes.

History clearly shows that the free enterprise system produces goods and services much more cheaply than the government. Private companies can move a barrel of oil through pipelines from the Gulf of Mexico to New York City for a fraction of the cost to the U.S. Postal system for delivering a letter from Houston or New Orleans to New York.

In the long run, the only way to bring down the high cost of energy, is to invest now to produce more here within the United States.

Regional rhetoric also will not do the job. All Americans should favor more oil production whether that oil lies beneath Texas or Oklahoma or Massachusetts or Connecticut. We should all be for mining more coal whether it comes from Rhode Island or West Virginia or Wyoming. We should all be for developing mass transit where it is feasible, even those of us from areas where population density makes it unlikely that we will receive mass transit funds. We must pull together to help ease the burdens for the elderly who can't protect themselves against the rapidly rising costs of heating oil, even if heating oil isn't used in our States.

In short Americans must stand together and have the will to face the truth and meet it head on. The "windfall" tax is a retreat from that goal. The government will already reap hundreds of billions of dollars, over 60 percent of every dollar generated in profits as a result of decontrol without "windfall" tax. It will already have enough to adequately pay for aid to the poor, proper conservation programs, and the development of alternate energy sources.

If our job is to produce more energy and to reduce the wasteful consumption of energy, the windfall tax has no economic justification. Politically, it may have its short term benefits, but economically the best that can be said of the bill as reported by the committee is that it isn't as destructive of the national interest as it was before the committee amended it.

ADDITIONAL VIEWS OF SENATOR WALLOP

Upon passage of the House windfall profits tax bill, the legislation was projected to raise $105 billion in net windfall profits tax revenues using a price assumption of $22 per barrel for imported oil. The President declared his support for the House-passed bill, because it provided adequate funds for the aide to the poor, the Energy Security Corporation and incentives for conservation and transportation programs.

The Finance Committee bill would raise $138 billion in net windfall tax revenues over the next decade, but the committee faces accusations that its bill provides inadequate revenues. This accusation fails to recognize the dynamics of the windfall tax, and the constantly changing position of the administration in regard to how much revenue is in fact needed to address the problems which President Carter identified in his proposals.

The windfall tax is tied to the world price of oil, so that as oil prices increase, there is an increase in revenue from the tax. Over the last six months, every oil price increase or change in the future price of oil creates a windfall to the government in projected tax revenues. As oil price assumptions and revenue projections rose, the Administration made corresponding increases in its estimates of how many billions in tax revenues must be spent without so much as a backward glance at their original purpose. This procedure and the policy rationale behind its conflict with the prevalent economic belief that higher energy prices will induce more private investments in conservation and cost competitive synthetic energy development, thereby reducing the need for government subsidies and windfall profits tax.

The committee bill commits the nation to a windfall profits tax with a limited revenue goal and a specific policy purpose. The bill is designed to raise funds to be used to encourage energy conservation, synfuels production, and help Americans make the transition from an era of low cost energy. The phaseout provision provides a guarantee that the tax will raise adequate revenues while avoiding the consequences of establishing a permanent tax.

There is no reason to establish a tax that raises more revenue than is actually needed to address these identified problems of the nation. If we need revenue to fund other programs, unrelated to our energy problems, Congress can consider raising taxes or establishing a new tax. The windfall tax should not be established to fund an expanding federal government or shelter future administrations from the national cry for greater fiscal responsibility.

The tax must nonetheless be criticized for its complexity and its costly administrative burdens for both government and industry. The maddening structural complexity of different categories of oil, base prices, decline curves and tax rates demonstrates that phased decontrol of oil prices will not solve the administrative burdens facing oil producers. If anything, the complexity and cost of the administrative burden will only increase as the windfall tax imposes a new form of price controls on the oil industry. Where oil was previously controlled by the Department of Energy through the regulation of price, future controls will be maintained through a tax mechanism. All private industry should be concerned by this precedent. Given the national aversion to price controls, future administrations may be tempted to selectively control the returns of industry through a similar excise tax.

The Senate and the public should be aware that the "windfall profits" tax bears no relation to profits in the oil industry. As an excise tax, it applies only to domestically produced oil and it will have no effect on the profits earned by international oil companies in their overseas operations. Under the Finance Committee bill, the House bill, and the President's original proposal, not one penny's worth of tax will ever be paid on foreign OPEC oil, or by those who broker it. Can anyone cite the logic behind a policy which penalizes domestic production and subsidizes foreign imports? That is precisely what we will do and through existing legislation as well. Despite the rhetorical speeches calling for energy independence, this tax will perpetuate a circumstance that makes it a better business deal to explore for, produce, and import foreign oil than to solve America's energy problems. If the public feels deceived, it is because it has been.●

A NEW AMERICAN DIPLOMACY FOR SOUTHEAST ASIA

● Mr. McGOVERN. Mr. President, the international community is finally making available the resources necessary to avert a horrible crisis of human suffering in Cambodia. The outcome of the United Nations pledging Conference this week, the congressional action last week on the Danforth and McGovern amendments to the refugee assistance bill and other actions of private agencies all are grounds for encouragement. The response of America has been moral and nonpartisan.

However, we must match our humanitarian efforts with diplomatic initiatives. We need parallel humanitarian and diplomatic strategies for several reasons. First, effective diplomacy can insure that humanitarian efforts are implemented more swiftly and effectively. Whether food is distributed by air lift, land bridge, or river transport is not primarily a logistical issue—it is a diplomatic question Drawing the Cambodian authorities into an effective distribution scheme may require diplomatic answers.

Second, diplomacy is needed to lessen the basic regional tensions which seem to cause perpetual crises in Southeast Asia. The people of this region recently have experienced not only starvation, but invasions, genocide, and a refugee crisis. Unless we address ourselves to the fundamental issues we may be able only to ameliorate the present crisis while standing by helplessly waiting for the next crisis.

Finally, diplomacy is needed because the United States alone among the great powers has the capacity to influence the shifting power relationships in the region. We can contribute not only our food and medicines and airlift. We can also use our diplomatic leverage. All the countries of the region want better relations with us. All of them seek our participation. It is time to put our influence to work constructively. The United States has not caused these crises or been directly involved in the struggles between Asian Communist powers. But we are uniquely well positioned to help find solutions to the conflicts.

Looking beyond the immediate humanitarian situation to the broader diplomatic context is difficult because the region has become an extremely complex geopolitical puzzle. But it is clear that the basic cause of the crises in Southeast Asia is the dramatic new political realinements which have emerged in the region in the past decade. The primary conflict is not between East and West, between Communist and anti-Communist. The primary conflict is between China and Vietnam, two Communist powers, who are fighting Asia's new cold war.

The recent events in the region are a consequence to one degree or another of this primary conflict. Unless this primary conflict can be resolved or reduced, there can be no stability, no peace, and no progress toward a more humane living standard in the region. There will be instead a series of military conflicts, human disasters, and international crises.

Our diplomacy must evolve in response to this long-term regional conflict. I believe the United States can affect the primary conflict through a combination of positive incentives and negative pressures. Our good offices should be made available to facilitate compromises on the major issues, including Cambodia.

China has viewed Vietnam as a threat both to its regional influence in Asia and to its anti-Soviet policy. It supported the Pol Pot regime's aggressive border policy to increase tensions between Vietnam and Cambodia while, at the same time, it attempted to destabilize the Vietnamese regime by recalling Chinese technicians, cutting off aid, and encouraging ethnic Chinese in northern Vietnam to leave. Last year China invaded Vietnam to punish it for the Cambodian invasion. All of these Chinese moves have been directed against Vietnam as a Soviet proxy. Rightly or wrongly, China is obsessed with the Soviet Union as a geopolitical competitor.

China apparently still seeks a military solution in Cambodia by its support for the Pol Pot guerrilla warfare in Cambodia. And it is reserving the right to invade Vietnam again, perhaps this time to overturn the regime in Hanoi by imposing a military defeat.

Vietnam has reacted to Chinese pressure with intense fear and irrationality. Obsessed with the threat of a Chinese invasion from the north, the Vietnamese began to expell ethnic Chinese much as ethnic Japanese were interned in World War II. The Vietnamese invasion of Cambodia followed after negotiations on the border disputes failed. At the same time, Vietnam began to abandon its traditional policy of remaining equidistant from the great powers by intensifying its formal military and economic ties with the Soviet Union as a deterrent against a Chinese invasion.

The result is a vicious cycle of fear and reaction, insecurity and counter-reaction in the area. China pressures Vietnam as part of its anti-Soviet policy. Fearing an alliance between China, Pol Pot, Thailand, and the United States, Vietnam responds to protect its security by taking measures which compound human tragedy, force refugees to leave, and exacerbate the food problem. China responds with more pressure to back Vietnam into a corner which reduces Vietnam's incentives to be flexible on humanitarian relief measures.

Thus, the starvation crisis, the refugee crisis, and the boat people crisis are being generated by this exploding chain reaction of geopolitical realinements.

And it is the Cambodian people who suffer as a result. For China views Cambodia's future as an instrument of its anti-Soviet and anti-Vietnam policy while Vietnam views Cambodia's fate as an instrument of its anti-Chinese fears and insecurities.

The role of the United States should be to induce China and Vietnam to moderate their basic conflict. We have the diplomatic leverage to induce this moderation because both China and Vietnam seek normalization of relations with the United States. China seeks U.S. support to modernize its economy and armed forces, to prevent U.S. military withdrawals from Asia which would create a power vacuum for the Soviets to enter, and to join in an anti-Soviet front with Japan, Western Europe, and China. Since early 1978, Vietnam has sought normal diplomatic and trade relations with the United States to maintain a balance in its relations with the three superpowers, to reduce its dependence on the Soviet Union and to have access to our technology, trade, and oil exploration.

For almost 2 years, the United States has had a unique diplomatic opportunity to stabilize the region and enhance the prospects for peace. An American policy of evenhanded relations in the area would have given Vietnam an alternative to a dependency relationship with the Soviet Union while lessening Chinese fears of Soviet encirclement. As a result, different alternatives could have opened up for Cambodia.

But instead of playing a balanced role to stabilize the area and to increase our influence in Southeast Asia, the United States has tilted visibly toward China. This basic orientation has been evident through a series of moves, including Dr. Brzezinski's confirmation in China in 1978 that the United States and China would engage in "parallel pursuit of our similar objectives," the mild U.S. reaction to the Chinese invasion of Vietnam, American support for Pol Pot's genocidal regime in the United Nations, and most recently Vice President MONDALE's assertion in Peking of mutual security interests. All of these events indicate a pro-China tilt in American policy.

As a result of trying to "play the China card," against the Soviet Union globally, the United States indirectly has contributed to the geopolitical tensions in Southeast Asia which are the backdrop of the human tragedies we see today.

The pro-China tilt to American policy has encouraged China to feel it has a free hand to use its diplomatic and military power recklessly in the region whatever the political or human consequences. As a result, the Chinese may have become more aggressive toward Vietnam—and thus made Vietnam more irrational and inhumane in defending its security—than it would have if the United States had taken an even-handed stance in the Sino-Vietnamese conflict.

Unfortunately, the United States is now in the uncomfortable position of tactically encouraging irresponsible Chinese policies by offering what amounts to unconditional political, economic and diplomatic support for China. This will be the message to China and Vietnam if Congress approves unconditionally China's request for most-favored-nation status, Export-Import Bank credits, and Overseas Private Investment Corporation guarantees.

On the other hand, the United States has not held out serious incentives to the Vietnamese to moderate or change its behavior toward Cambodia, either before the invasion or afterward. Once the Vietnamese believe that American policy is alined with China against it, there is little influence or credibility we can have. In addition; the Vietnamese response to the absence of any American gestures concerning lifting the trade embargo or normalizing relations has been to increase its reliance on the Soviet Union—a move which, in turn, feeds Chinese paranoia about Vietnam acting as a pawn of the Soviets.

The consequences of "playing the China card" in Southeast Asia have been damaging as well to regional stability and to American interests. First, the instability caused by the refugees from Indochina has generated concern and resentment among ASEAN nations. Second, the apparent detente between Vietnam and the ASEAN nations evident last summer has fallen apart, thus delaying regional stability. Third, it has made the Vietnamese more dependent on the Soviet Union, thus raising fears of our

ASEAN allies. Fourth, it has put the United States in the embarrassing position of acquiescing in Chinese actions—such as the invasion of Vietnam—which are detrimental to our objectives in Asia and which raise doubts in the minds of our European allies about the future of United States-Soviet relations. Fifth, economic deterioration in Vietnam caused by constant military mobilization will exacerbate the human rights problems there. Sixth, and perhaps most importantly, a renewed Chinese invasion would raise the serious danger of Soviet intervention in order to protect the Vietnamese Government—and the risk of Soviet preemptive military action against China's northern border. The United States would be drawn into this great power conflict. The risk of nuclear war in this area is greater than in any other area of the world today.

There is an important additional danger to mention. Thailand is being subjected to enormous pressures from all sides which threaten to break the Thai Government apart and directly involve the United States in another war in Asia. The vast numbers of Cambodian refugees now in Thai camps which are close to the border with Cambodia are a source of friction. China continues to pressure Thailand to funnel arms to the Pol Pot guerrilla forces in Cambodia or in Thai camps. Getting the Thais to fight against Vietnam even covertly will increase Thailand's political and military dependence on China. To the extent that Thailand becomes a party to the Chinese effort in Cambodia, the Vietnamese will come to regard Thailand as a potential enemy.

These external pressures are having serious political repercussions within Thailand. There is a group of rightists generals in Thailand who favor stronger attacks against Vietnam and who are encouraged by the Chinese. A coup is considered a possibility in Bangkok. If a coup were to take place, or if Chinese support to Pol Pot continued through Thailand, it is not inconceivable that Vietnam would lash out against Thailand to wipe out the Pol Pot camps or to try to bloody Thailand's nose. This in turn raises the issue of U.S. guarantees under the Manila Pact for Thai security and the specter of new American military intervention. These are some of the major waves spreading out from the Sino-Vietnamese conflict.

This is but a brief background to some of the geopolitical issues involved. The shifting alliances, historical animosities and ethnic rivalries are too complex to summarize in such a brief statement.

In my view, a new American diplomatic role in the region is necessary. There are reasonable policy alternatives available to the United States which can improve the prospects for a mediated settlement in Cambodia, for an end to the direct military Sino-Vietnamese confrontation and faster progress on humanitarian aid implementation.

First, the United States must return to a balanced view of great power alinements in Southeast Asia. We should be neither pro-China or pro-Vietnam in the region. The China card—which has amounted to American accommodation to the Chinese interests in the region—should be returned to the deck. Tilting toward China has had many costs and few gains. The region cannot escape turmoil as long as we remain the silent partners of the Chinese. We need to make clear that we will pursue a balanced relationship between the Soviet Union and China. In Southeast Asia, such a policy means moving to strengthen stability and to secure U.S. interests in a way clearly independent of China. No other step will have such a profound affect on our ability to work effectively for short-term humanitarian relief or for long-term stability in the region.

Second, we must work for a solution to the Sino-Vietnamese security problem and to their direct military confrontation.

This problem cannot be solved without the United States. The State Department should seek a nonintervention or a nonaggression pledge by China. Solutions to all other problems await this resolution. In addition, agreement should include a cease-fire and troop pullback from the border areas. It is important that the United States make clear to China that the United States-China relationship will depend on greater restraint and responsibility on China's part than has been shown in the first 9 months of normal relations. The extension of these new economic benefits without assurance of moderation of China's policies would signify the abandonment of U.S. interests in stability and peace in Southeast Asia in pursuit of the global "China card."

Third, we must offer Vietnam positive incentives to moderate its behavior in the region, to provide an alternative to its dependence on the Soviet Union and to accept a political solution in Cambodia. It is in the region's interest, in our interest, and in the Vietnamese interest to establish normal diplomatic and trade relations between Vietnam and the United States. The President should consider making an opening gesture by resuming normalization negotiations with Vietnam by an offer of diplomatic relations and a lifting of the trade embargo. We need an embassy in Hanoi to serve as a listening post and as an improved channel of communications in a crisis like Cambodia. If we can have proper diplomatic relations with the big communist powers of the Soviet Union and China, there is no reason we cannot have them with smaller powers like Vietnam.

Fourth, we must press for a diplomatic solution to restore Cambodia's independence and neutrality. The Chinese still envision a military solution to Cambodia. As long as China is committed militarily to Pol Pot, it seems unlikely that Vietnam will make the compromises necessary to negotiate a solution. Thus, we must begin to conceptualize an independent American alternative to the Chinese approach for the purpose of creating the conditions necessary for a long-term solution. The steps I have recommended already should facilitate this new alternative. Additional elements would include:

We need to make clear the United States is opposed to all forms of military or intervention in Cambodia. The Vietnamese must withdraw their forces and permit the Cambodians to determine their own destiny. The Chinese must stop shipping arms to Pol Pot through Thailand.

We should support an international conference to arrange for demilitarization of Cambodia and free elections under international supervision. A compromise solution would involve a coalition beginning with the Sihanouk Forces and the Phnom Penh authorities. Observers believe that later on it could include individuals from the Pol Pot regime. The narrow Phnom Penh regime has recently been broadened somewhat with individuals associated with Sihanouk. This should be encouraged. The United States should pressure China to accept this move while the Soviet Union would be approached to encourage Vietnamese acceptance; and

The Vietnamese last summer sent diplomatic signals that they might be willing to be flexible on Cambodia's future government if a shift occurred in U.S. Asian diplomacy. The respected Far Eastern Economic Review journalist Nayan Chandra reported in July that Vietnam would be willing to settle for a compromise on Cambodia if the United States were to make a gesture toward Vietnam, such as lifting the trade embargo. He quotes a source close to Hanoi as saying:

> Vietnam wants to see evidence that the United States is not tied to China in a "holy alliance" against Vietnam before accepting a compromise over Kampuchea. (Hanoi's Peace Feeler to Washington, FEER, July 6, 1979).

It is difficult to know how much weight should be given to this report. The response from Vietnam may not be immediate. But we have to create the conditions from which a neutral Cambodia, which is neither anti-Chinese nor anti-Vietnamese, will emerge. A more independent American posture will lay the groundwork for Vietnamese perceptions of alternatives.

We would make it clear that our goodwill gesture toward normalization should be accompanied by reciprocal gestures by Vietnam on Cambodia's future.

Fifth, Thailand's stability and security must be assured. Here again there are several elements:

American sales of military equipment to Thailand should occur on a reasonable and prudent basis with a minimum of direct U.S. military personnel present. The goal should not be to turn Thailand into a major military power. Our diplomacy can do more to insure Thailand's security than can big new arms shipments.

China's political pressure on the Thai Government should be moderated to permit the Thais to evolve their own policy of balancing relations between Vietnam and China. Thailand need not be pressured into carrying out China's support for Pol Pot;

Thailand should reconsider whether it is in its best interest to serve as an arms and supply conduit for Pol Pot's forces in Cambodia.

Humanitarian relief to the refugees in Thai camps should be stepped up pending a political solution to Cambodia's future.

These are the essential elements of a new positive diplomatic role for the United States. It involves a reconsideration of our policy toward China and toward Vietnam. These steps will be difficult and will involve political leadership and courage at home. But if these steps will help remove obstacles to both short-term humanitarian relief and to long-term diplomatic resolution of the causes of conflict—they should be taken to make a critical breakthrough.

A recent editorial from the Washington Post sums up this new outlook very well. It concludes:

> It is all too likely, however, that little can be done for the Cambodians while China and Vietnam, the generators of the conflict, remain in a state of undeclared war. That is all the more reason for the United States to unhook itself from a policy that makes it a backdoor partner of Pol Pot, a proven mass butcher; it should float free. And it is all the more reason to reconsider a policy so fixed upon enhancing geopolitical accommodation with China that it makes the United States an arm of Chinese policy in Southeast Asia."

I have been deeply impressed by the humanitarian response of the American people and Members of Congress to the Cambodian famine. Overwhelming votes have been taken to send food and medicines. Proposals have been sincerely put forward for a land bridge, an air drop, and other distribution arrangements. International pressure is being put on the Soviet Union and on Vietnam to agree to support and facilitate the accomplishment of a major international relief effort. I strongly support these efforts. All of them can and should be done.

But if the threat of starvation is severe, if the survival of the Khmer race is at stake, how can we refuse to reconsider our policies toward China or overcome our animosities toward normalizing relations with Vietnam if these steps would help prevent a monumental tragedy of human suffering.

Humanitarian relief programs are essential. They must be pressed with full financial and political backing. But at the same time, we should place these efforts in a larger context and try to moderate or resolve the contending regional forces which erupt to produce major human crises.●

THE COAST OF MAINE

● Mr. COHEN. Mr. President, 80 years ago Charles W. Eliot, a former president of Harvard University, wrote of the scenic beauty along Maine's coast and the hardy life of its residents.

In "John Gilley of Baker's Island," Eliot wrote:

> They always had before them some of the most splendid aspects of nature. From their sea-girt dwelling they could see the entire hemisphere of the sky; and to the north lay the grand hills of Mount Desert, with outline clear and sharp when the northwest wind blew, but dim and soft when southerly winds prevailed. In every storm a magnificent surf dashed up on the rockbound isle. In winter the low sun made the sea toward the south a sheet of shimmering silver; and all the year an endless variety of colors, shades and textures played over the surfaces of the hills and sea.

Residents along much of Maine's 3,478-mile coast continue to enjoy an identical vision. They are now struggling to preserve this gift of nature and the traditional way of life it has nurtured for 200 years.

The pressures of development along the coast, however, are endangering local efforts to determine their own future. Ongoing plans for heavy industries—refineries, deep water tanker ports and oil rigs—may defeat their hopes.

Maine has long realized that its future will be determined by the appropriate development of its coast. The goal is to preserve the essential beauty of the region while permitting adequate development to guarantee Maine people rewarding livelihoods. The survival of this area, unique to the east coast, may well depend on the revitalization of its most traditional industry—fishing.

The potential for increasing harvests from the sea is immeasurable. Maine's catch rose from 138 million pounds in 1975 to 182 million in 1977. Statewide, 15,000 people are employed on the sea and an additional 3,000 are employed in processing plants. Only 14 years ago, however, there were 50 fish canneries along the coast. Today there are 15. Thirty years ago Maine fishermen hauled 350 million pounds of fish, but Canadian competition, subsidized by their government, has severely hindered Maine's industry.

Today, the State's fishing and lobstering vessels are undergoing much needed modernization, without much assistance from the U.S. Government. Maine fishermen might qualify for Government aid if they agreed to fish designated species such as pollock and hake, which are widely considered underutilized and undesirable fish.

It appears today, rather than assisting a vital industry of Maine, the Government is determined to endanger its existence through promotion of oil exploration on Georges Bank. The chronic spillage of oil along the coast, if rigs and tankers become common sights here, could do irreparable damage to the best fishing grounds off the Atlantic seaboard. Sulfuric dioxide wastes from oil refineries could stimulate acidic rainfall, seriously distorting the ecological balance of the coast.

The following articles, which appeared recently in the Boston Globe, describe in greater detail Maine's promising, but still uncertain future. I request that they be printed in the RECORD.

The articles follow:

[From the Boston Globe, Nov. 4, 1979]

CAN MAINE TURN BACK COASTAL BLIGHT?

(By Jack Thomas)

Drawn by the sea, Americans in record numbers are settling within the narrow strip of land along the nation's 88,633 miles of shore. For three months, Globe reporter Jack Thomas has studied the growing pressures on this environmentally sensitive area of the country. This article, to continue in Monday's Globe, focuses on the Maine coast. It is another in a series of reports on threats to one of America's most valuable resources.

On the pier at Eastport, Maine, where the United States coastline begins, it was damn cold.

The wind blew in icy gusts across Passamaquoddy Bay, a warning of winter, and a fishing boat, the Laura Lee, churned past the pier, riding the tide to sea the way fishermen have to the Gulf of Maine for nearly five centuries. Overhead, gulls played noisily on an updraft as Dick Stevenson, 43, set his fishing pole down on the pier and huddled away from the wind to light his cigarette.

Having already dug two bushels of clams that morning, Stevenson now was standing on a pier at the edge of the United States, fishing for flounder for dinner and sculpin for the cat.

"When I retired as a master sergeant a few years ago," he said, shifting from one foot to the other to keep warm, "I was sure of only one thing—I wasn't going back to North Dakota to live. I wanted to be near the ocean, and it had to be in either Oregon or Maine, so, here I am, living on the most beautiful coastline in the most beautiful state in the United States. What more could I ask for?"

Stevenson is not the first person to be seduced by the coastline of Maine.

No other state along the Atlantic, Gulf or Pacific coasts mingles mountains, ocean, islands, inlets, bays, rocks, rock pools, sand, seaweed, the pungent fragrance of pine and balsam and the grandeur of desolation in such a stunning composite, one that makes California, the Carolinas, and even Cape Cod, despite their beauty, seem bland by comparison.

The coast of Maine is like two sisters. The northern portion is a beauty, the southern something of a beast, at least in parts.

The northern sister, from Canada to Portland, is more attractive because of her natural beauty. She needs no makeup.

But, unless she resists the temptation to welcome the growing hordes of suitors attracted by her virginity, she's certain to suffer the abuse and indignity that afflicts her sister to the south, the stretch from Portland to New Hampshire, once upon a time as pretty as the north, but now worn down too soon by careless lovers who've neglected her for several decades.

The north, in short, is struggling to retain its natural beauty, the south to regain it.

For northern Maine, the problem is to protect the coastline from too much growth too soon, from giant industries, oil refineries, and ticky-tacky tourist development. For southern Maine, the challenge is to repair the damage caused by decades of development that was unplanned, uncontrolled and uncoordinated.

The difference between Maine and other states along the Atlantic is that, while the rest have lost the chance to preserve so large a section of their coasts in a natural state, Maine still has the opportunity.

In the past 15 years, though, excessive development along the southern coast has resulted in the same competition for resources and the same resulting deterioration that has plagued most of the United States coastline. Between 1968 and 1974, for example, in some communities in Maine, the amount of land allotted for residential commercial or industrial use jumped by 100 percent, most of it strip development, much of it along the coast.

Already, nearly half the state's population of one million is bunched along the coastline, which comprises only 12 percent of state's land. From 1970 to 1975, while the national population was growing by 4 percent, the population in the coastal counties of Maine was growing by up to 16 percent.

Of the eight million tourists who come to Maine every year, the number visiting the coast is six million, says the Chamber of Commerce, nearly six times the population of the state.

In 1970, Maine had the nation's highest percentage of second homes, one in five. In the summer, many communities triple their population, and for some, like Chebeague

Island off Yarmouth, the increase is sevenfold, from 350 in the winter to 2,500 in the summer.

In Hancock County, near Mt. Desert Island, growth was so rapid in some communities that citizens asked for a moratorium on further development until a long-term plan could be devised.

But the greater threat to the coast may come, not from population growth and tourism, but rather from heavy industries, particularly those involved in producing energy. As the nation's need for energy increases, the industry looks more covetously at the Maine coast, with its deep harbors and long, undeveloped stretches of shoreline.

In the last decade, for example, there have been proposals for the Maine coast to accommodate four electric generating plants, increased mining operations, three oil refineries and additional development of deep water ports.

"What we're afraid of here in Maine," says Frank Gramlich, of the Fish and Wildlife department in Augusta, "is not necessarily the oil refineries or other heavy industry, but the spinoffs. First thing you know, you find yourself without a coastline, not only in Maine but everywhere along the Atlantic. There'll be no place to go to relax. This is the end of it here in Maine, and you can't go out and build a new coastline. There's just no way or replacing what we've got here now."

Crossing the line from New Hampshire, a visitor enters the old state of Maine and a new state of mind. Nature created the 3478-mile Maine coast from Kennebunk to Eastport with the skill of a playwright, scattering 2000 islands along the way to make it the most picturesque, most photographed shore on the East Coast. The scenery is unforgettable, with one of Nature's exciting episodes here to contrast with an interlude of peace there, all building dramatically to climax in the lonely isolation of northern Maine.

The healthiest coastlines in the continental United States are in Oregon, Washington and Maine, all for the same reason—because their three coastlines are less developed than the other 19, and fewer houses and fewer people mean less pressure on the fragile ecology of the coastline.

The coast of Maine is less crowded than the coast of Florida, the air purer than it is along the Southern California coast, the water sweeter than it is in Massachusetts, less fouled with oil than it is in Texas and the fish caught in the Gulf of Maine contain fewer PCPs and pesticides than those caught in New York.

But as shorelines from Florida to Massachusetts become more crowded, more people begin to look to the coast of Maine for their escape, with the result that the state's greatest challenge during the '80s will be to cope with the influx of residents, tourists and industry without losing the very beauty of the coast that attracts them.

"What's exciting," said Edward Kaelber, president of the College of the Atlantic in Bar Harbor, "is that Maine is up for grabs. But there are a lot of questions. Do we want to encourage big business and develop like, say, New York or New Jersey? How do we build an economic base? Muskie says the aquaculture industry here is a potential $2 billion.

"But if we harvest the waters, should it be a General Motors type operation, or should we concentrate on helping the small fisherman? How heavily do we invest in tourism? And what kind—resident, summer or transient? The omens are good, but there's reason to be cautious."

New England is, in a sense, the womb of the nation, the starting place, and no other region has a stronger identity. As John Gunther pointed out, every schoolboy knows the boundaries of New England, but who can say where the Midwest begins or where the Southeast ends?

Like other coastal states in New England, Maine turned to the sea early, and for good reason.

New England had none of the iron, gold, silver or copper that boosted the economies of other regions, and no mineable coal, oil or gas reserves. Indeed, even the oil discovered in Georges Bank a few years ago was judged by the courts in 1975 to be under the control of, not New England, but the federal government.

Therefore, it was Maine's natural landscape, and particularly her coastline, with its potential for fishing and tourism, that became crucial to the economic stability of the state.

"We're lucky," says Benjamin Emory director of the Maine Coast Heritage Trust. "Relative to the rest of the nation, Maine is in pretty good shape. We're less developed than any other state on the East Coast. That doesn't mean we don't have problems. We have 3500 miles of coast, but most of the problems are on the 40 miles nearest the New Hampshire border."

There is disagreement as to where the impairment of the south ends and the beauty of the north begins, but clearly Maine is her pristine self along the northern third of the coast, from Bar Harbor north.

That is where, driving south from Canada, one first senses the change in the mood of Maine. The splendid isolation of the north gives way to the busyness of Bar Harbor where tourists with Nikons around their necks browse in elegant shops that sell Australian glace apricots, and those in the know show no surprise at estates advertised at a million dollars or so.

The stores in Bar Harbor still sell the traditional Maine shirts, plaid and woolen, except that they are imported these days from Hong Kong. Displayed in the window of one gift shop are a buoy and lobster pot, covered by glass and suitable as a coffee table, for $125. Fifty miles north, however, on Beals Island, Willis Beal, the lobsterman, will sell you the same combination, minus the glass, for $6.

Bar Harbor provides delicacies unheard of in the poor fishing village to the north. Jamaica coffee is $2.50 a cup, and a Crabtree hairbrush is $22.50. An employee at one of the better restaurants at Bar Harbor boasts that Rockefeller's mother died downstairs, and at groovy bars, like Geddy's Pub, the conversation is oh, so chic.

He: You've got a lot of hangups.

She: Those aren't hangups, those are morals.

He: You mean laurels.

The differences between north and south Maine are evident in the cost of shorefront property. In the north, in Machias, a 200-foot oceanfront lot sells for about $13,000, says Robert Wright, a Machias broker. In the south, says John Downing, a broker in Wells, a 200-foot oceanfront lot in Ogunquit will bring $65,000.

"But remember," says Downing, "Ogunquit is 85 miles from Boston, and Machais is 325 miles from Boston, and the further you go from Boston, the cheaper the lot."

The problems along the southern shore are similar to, if less serious than, those common in overdeveloped coastal communities elsewhere in the United States—lack of public access, erosion of sand dunes, and too many houses built too close to the water and, therefore, vulnerable to storms and expensive to taxpayers who finance the rebuilding through federal subsidies.

"Public access here in Maine is a big problem," said Cheryl Ring of the Maine Audubon Society, "and no one, I repeat, no one, can come to a decision about it. People who live inland, who actually live in Maine can't get to the water because so much of the coast is owned by people who live elsewhere. It's not fair."

The Maine Coast Heritage Trust says that 96 percent of the coastline, including islands, is privately owned, and, once again, the problem is more severe along the southern coast.

"Public access? That's not even an issue here in Machias," said real estate broker Robert Wright. "Anybody who wants to go swimming can go, so why should the state buy up a lot of land? The state owns a 3500-acre pond nearby, and if you can't vent your frustration on 3500 acres, well then, you just better head for Nova Scotia."

Of Maine's 3478-mile coast, only 36 miles, or one percent, is sandy beach, and virtually all of that is south of Boothbay Harbor. The beaches and dunes are the outstanding attraction of southern Maine, drawing tourists from as far away as Canada, an eight-hour drive.

No beach in southern Maine is more popular, nor more intensely developed, than Old Orchard, nine miles of perhaps the finest beach in New England, a Coney Island of Maine, where the pressures to develop land are so severe that there are now houses situated within 20 feet of the ocean.

"On some beaches," said Ring, "like Camp Ellis, near Biddeford, and Higgins Beach, near Scarborough, the problem is not just one row of houses too close to the water. There are as many as four rows built too close to the water, and, therefore, in danger every year of being washed away.

"And you can't develop a beach," said Ring. "There's no sense suggesting that, to be on the safe side, people ought to move back from the water, to get out of harm's way so they won't be sitting ducks."

Efforts are under way to restore the dunes, and to teach people their importance. Stunned by the extent of damage from storms in 1978, Marcel Moreau of Ocean Park enlisted the aid of a geologist to help the town restructure the damaged dunes. Volunteers planted more than 100,000 dune-grass seedlings to reinforce the dunes over a one-mile stretch, and then put up a fence to protect them. In addition, the Audubon Society distributes a brochure to tourists, describing the value of dunes and warning that, without the grass, the dunes will disintegrate.

Already, though, 62 percent of the sand dunes are developed, leaving the area increasingly vulnerable to northeast storms. Indeed, in 1978, two such storms caused $47 million damage to public and private property.

The extent of damage is seen as a warning to Maine that the state must take a more active role in determining how private land along the coast will be used. Existing laws were not designed to protect the remaining 38 percent of sand dunes that provide a natural buffer against storms.

[From the Boston Globe, Nov. 15, 1979]

MAINE WORRIES ABOUT JOBS, LOBSTERS, OIL, BIG INDUSTRY

(By Jack Thomas)

Harmon Tibbetts of Boothbay Harbor, ordinarily a patient man, was waspish this sunny day, worried that he'd miss the afternoon tide, and irritated at a reporter's request that he explain why he might have to quit the lobster business after 40 years and five generations of living off the sea.

"You used to be able to survive just by lobstering," said Tibbetts, spearing a sea perch and pitching it into the trap. "But now, you gotta get a winter job to make ends meet, and around here there's nothing, no work. You can't buy a job."

Tibbetts doesn't mind getting up at 4 in the morning six days a week, or the long hours at sea hauling 325 pots a day. But the

profit margin for lobstermen these days is smaller, and without the winter job . . .

"I don't know what's going to happen," he said. "Last winter I couldn't get a job, and I went in the hole something awful, borrowing and charging, and I gotta make it up or get out of the lobster business.

"Everything's gone up except the price of lobster," he said, stacking the traps at the end of his 30-foot boat. "I was getting $1.70 a pound last year, and it's only up to $1.90 now. But rope's way up, bait's up, and it used to be $15 to haul a boat for painting, and now it's $40 to $45. So you figure it out."

"You buy a lobster dinner in Boston, and it's gone from $7 to $8 a few years ago to $12 to $14 now. The lobsterman's like the poor old farmer. Somebody in the middle's making all the money.

Lobstering is not only a big business in Maine, it's a big problem, too, these days, one of the many problems along the 3478-mile coast of Maine.

While the eastern coast has retained its pristine beauty, the southern shore is now paying the price for decades of unrestrained growth. Sand dunes are eroded. Beaches are crowded. Tourist attractions are ticky-tacky, and the fishing and lobster industries are outdated and vulnerable now to proposed oil refineries.

Eight thousand people in Maine are employed in lobstering, and the 1977 catch exceeded 18 million pounds. But the figures are misleading because it takes nine times as many traps today to catch a little more than twice the harvest of 40 years ago.

Tibbetts was interrupted by his friend, Murray Pinkham, vice president of the lobster co-op in Boothbay Harbor. "You got three choices here," he said, spitting his tobacco off the pier. "You got the shipyard at Bath, the Central Maine Power or the telephone company. Otherwise, you're stuck on a 40-hour job that pays $120, and you take home $85. Hell, that wouldn't even pay my booze bill. I take in $42,000 a year lobstering, and I'm left with $15,000, and, poundage-wise, I'm in the top five percent. Hey, I got five kids. In New York City I'd be living at the poverty level."

Like most people in Maine these days, lobstermen worry about the coming of the oil industry, which is attracted to the Atlantic because of oil in Georges Bank and to the coastline of Maine because of its deepwater ports and long stretches of relatively undeveloped shoreline.

Oil spills are certain to affect the lobster industry, Lorraine L. Stubbs says in a study for the Department of Marine Resources. "A concentration of oil as small as one-tenth of one percent is lethal to larval lobsters," her report stated, "and . . . an oil spill along the coast could reduce the lobster population for as much as five years."

The future of the Maine coast may well depend on which new energy facilities are located where, and how much damage they cause.

"A lot of future development here is energy related," said Benjamin Emory of the Maine Coast Heritage Trust, "and that raises a philosophical question: We don't need all that much additional energy in Maine; most of the energy would be exported, be it liquefied natural gas, oil or electricity, and the question is this: To what extent does Maine want to be a power platform for the rest of New England?"

Maine, however, as part of New England, doesn't have the political clout in Washington to block heavy industry along the coast. In 1800 one out of four Americans lived in New England, and the region had a strong voice in Washington. By 1900 the percentage of Americans living in New England had dropped to seven percent, and today it is less than six percent.

The energy industry has shown little interest in tidal power, which is feasible in eastern Maine, where tidal polls average up to 20 feet. Instead, it is pursuing sites along the Maine coast for oil, LNG and nuclear power facilities.

In the next 25 years the Maine coast will be proposed as a location for LNG terminals, nuclear power plants, oil terminals, oil refineries, coal-fired power plants, coal storage and handling yards, and construction sites for offshore oil platforms.

For six years environmentalists have blocked plans by the Pittston Oil Co. to build a $750 million facility on Passamaquoddy Bay in Eastport to refine 250,000 barrels of crude oil a day.

"That refinery is a tremendous threat," said Emory. "Sure, we've got a responsibility. We use energy and oil, too, and we've got to do some refining, but we say, put it in the Portland area.

"If heavy industry goes the wrong way in Maine, there's going to be an environmental disaster on this coast. If you're going to have a refinery, you're going to have spills, possibly even a blowout. It's something you have to worry about. We ought to be taking time to make decisions that do not damage our natural resources. If you take a problem that is essentially biological and make a decision based on popularity, then you're going to have trouble.

"You take a heavy oil refinery and put it into the middle of Casco Bay and you are going to turn it into another New Jersey."

Environmentalists argue that the refinery would imperil the American bald eagle, already an endangered species. Last year, 50 pair bred in the Passamaquoddy region, one of the few nesting areas in the East.

Emissions of sulphuric dioxide from the refinery might fall back to land and ocean in acidic rain, say the environmentalists, at great risk to fish and wildlife, including the endangered eagles.

One proposal has been for the state to confine heavy industry along the coast to specific areas like Casco Bay or Searsport.

"Sure it's analogous to statewide zoning," said Cheryl Ring of the Maine Audubon Society, "but you've got rocks and fog at Eastport, and the danger of oil spills is tremendous. Just the chronic spillage alone could damage our fishing industry."

The future of Maine coastline also depends on a rebirth of her oldest, most traditional industry, fishing, vital even today in many seacoast towns.

Statewide, 15,000 people are employed in the business of catching fish, and another 3000 in processing. Every year fishing adds about $250 million to the economy of Maine.

In Kennebunkport, for example, a community of only 2200 people, more than 6.4 million pounds of fish valued at $2.3 million were landed last year by 109 lobster boats and 18 fin fish boats.

Recent figures are impressive but, once again, misleading. Statewide, the catch went from 138 million pounds in 1975 to 182 million in 1977. Thirty years ago, however, the catch totaled 350 million pounds.

"You compare the fishing industry in Maine and the fishing industry in Canada, and you'll see one hell of a difference," said Otto Miller, who teaches commercial fishing at a vocational school in Eastport."

The poverty in little eastern fishing villages like Eastport and Lubec is painful because across the bay into Canada, fishermen, greatly subsidized by the federal government, can earn up to $50,000 a year.

By comparison, Eastport, once the sardine canning capital of the world, now has little to distinguish itself. What the tourist guides show is that it's the eastern-most point in the United States. What the residents know, though, is that the unemployment rate exceeds 40 percent.

In Canada, federal subsidies enable Canadian fishermen there to learn the latest techniques and to purchase the most modern equipment. "When a Canadian fisherman wants to buy a fishing boat with the latest equipment," said Miller, "he puts in 10 cents and the government furnishes the other 90, and the fisherman pays back in stock, so, if you don't catch anything, you don't pay back anything.

"Young men in Maine just don't have the same opportunities," said Miller. "Here, most of the time, they just go out on their boat and work."

Fishing boats have been greatly modernized in recent years. For example, because of their sophisticated gear, Canadian fishermen can switch from bottom to midwater fishing in 30 minutes while at sea. The same adaptation for most American boats takes up to a week in port.

There are signs, though, of a revitalization.

In Eastport 94 students are enrolled at the vocational school, where Miller is teaching commercial fishing, boat building, marine mechanics and marine fishing, and the use of hydraulic systems and electronic fish-finders that will enable them to catch more fish with fewer men.

"Our goal," said Miller, "is to teach American young people to fish the way the Canadians do.

"It's not an easy life, but I tell students that, depending how hard they work, they can earn $25,000 a year as deck hands."

By comparison, oldtimers like Reid Wilson of Eastport earn about $4000 a year, using a simple hand line, the way fishermen have for thousands of years.

There are other good signs. The largest fish cannery in the state, Stinson Co., with factories in Southwest Harbor, Belfast, Bath, Prospect Harbor and Rockland, has invested $3 million in the most modern vessel possible, a 135-foot vessel due to be christened in Jacksonville, Fla., next week.

"We have great confidence in the future of the fishing industry in Maine," said the president, Calvin Stinson. "The world needs protein; fishing is one of the best sources, and I think we can compete with the foreign fleets."

In 1965 there were 50 canneries on the Maine coast, and today there are only 15. "We have fewer fishermen making a better living," said Stinson.

Stinson's firm, which grossed $30 million last year, is paying for the vessel without the kind of government assistance available in Canada. "In order to be eligible for government help here," he explained, "we would have had to agree to catch the species the government specifies—underutilized fish like pollock and hake.

Once upon a time Maine was known world over for her seamen and the quality of her boats. At the end of the 19th century, for example, 10 percent of the nation's sea captains were said to come from Bucksport, Maine.

And for nearly a half century after the war of 1812, Maine led the nation in shipbuilding, turning out every kind of craft from fishing smacks and dredges to six masters and, later, destroyers and submarines. By the mid-19th century, shipbuilding was the chief industry in 50 coastal towns in Maine, supporting 200,000 workers.

Ironically, though, Stinson's new fishing vessel was built in Florida, where the climate is milder and the costs lower. "I can't even remember whether there were any bids from Maine," said Stinson.

For the eastern part of Maine, tourism is not seen as a threat, partly because of the absence of sandy beaches and partly because of the coldness of the water.

Are environmentalists asking for no development at all?

"No," said Emory. "Our philosophy is that we would like to see the essential scenic qual-

ity of the Maine coast and the essential ecological quality maintained in the face of the development that we know is going to come."

The quiet life of eastern Maine does not appeal to everyone.

After medical school George Nackley, a surgeon, moved to Machias because while there was one doctor for every 97 people in Boston; there was only one for 3,300 people in Machias. "Schools are a problem here," he said. "Most high school graduates in Maine couldn't pass a seventh grade test at Boston Latin School, and the SAT scores are consistently lower than the national 'average."

Young people complain that life is too slow in eastern Maine. Cathy Burns, 18 for example, works at a tourist information center in a model lighthouse by the side of the road in Lubec, a few miles from the Canadian border.

"Why do people come to Lubec?" she said, repeating the question. "I haven't the slightest idea. Everything in Lubec's getting boarded up because there's no business anymore. It's a dying town."

Indeed, once a thriving fishing town, Lubec looks dead these days. In the middle of the afternoon of a working day, a visitor can look up and down the main street and not see another person. As many as seven consecutive stores are boarded up. "You can clam here and get about $4000 a year," said George Eaton, who works at the Coast Guard station, "but basically it's a quiet town for old people who just exist here."

Millions of years ago the coastline of Maine was made up of sandy beaches similar to the rest of the Atlantic Coast. But during the Ice Age ice caps two miles thick scraped the beaches into the sea and the coastline of yesterday became today's Continental Shelf. When the ice cap melted, the entire coastal plain from Long Island north became submerged.

The rocks that remained make the eastern Maine coast exceptionally rugged. Estuaries are narrow and deep, squeezing the coastal ecosystem into narrow, horizontal bands. The ocean is working to restore the beaches, but it has been only 10,000 years, the twinkling of an eye geologically.

To preserve the coast, environmentalists seem content with Maine's laws, as long as they're enforced. "Next year is the year of the coast around the nation," said Ring, "giving people a chance to focus on the problems of the coast. But here in Maine we've been having our own year of the coast for the past four years or so."

It's true. Maine saw the problems of the coast long before the federal government and established a coastal planning program in 1969, three years before Congress approved the national Coastal Zone Management program.

On Beal's Island near Addison a few weeks ago Willis Beal was repairing a pot hauler on his lobster boat, and trying to explain why he would never move or give up the lobster business.

"My family has been here for five generations, and we work ourselves to the bone, but we have to survive. Money isn't everything, though. I like to be pretty much on my own, and 'round here we do pretty much as we please, and it's no matter to anyone else. Most people feel things are just right the way they are.

"I had a chance to leave once. Some man liked the design of the lobster boat I build, and he offered me a chance to move to Greece, and I'd have been a supervisor. I told him no, that I liked it here. Did I think about it? No, I didn't think about it at all. I didn't have to. I just told him flat out, 'no.' I don't think you'll find anything better than we have it here in Maine."●

VETERAN SENIOR CITIZEN HEALTH CARE

● Mr. CULVER. Mr. President, I am pleased to join as a cosponsor of S. 1523, the Veteran Senior Citizen Health Care Act of 1979. This bill is designed to provide specific statutory authority for the Veterans' Administration (VA) to meet the demand for geriatric health care posed by the advent of record numbers of elderly veterans.

The statistics indicate that America is graying. The 65-and-over population group in the United States will increase from 23 million in 1976 to 32 million in the year 2000, and to 45 million in 2020. Because of the large numbers of veterans of World War II and Korea, more than 50 percent of the males over the age of 65 in the year 1990 will be veterans. This figure will exceed 60 percent by 1995.

The rapidly expanding veteran population above the age of 60 requires increased attention to both the acute and long-term medical care needs of this group of individuals in the health care delivery system of the Veterans' Administration. Unfortunately, the VA has not shown sufficient leadership in elevating geriatric medicine to a high priority position within its Department of Medicine and Surgery. The development of geriatric care capabilities in the VA has been in an embryonic stage since the establishment in 1973 of a limited geriatric research, education, and clinical centers (GRECC) program. The GRECC's current program status as a low-visibility, low-priority, administratively authorized program does not allow it to meet the growing demand for geriatric care among the Nation's elderly veterans. Veterans must be assured that the VA's health care system will be capable of handling their needs in the future. They only way to assure this is to begin planning for the future today.

The purpose of S. 1523 is to elevate geriatric medicine into its proper position as a major concern of higher visibility and priority within the VA. Specifically, the bill would establish the position of Assistant Chief Medical Director of Geriatrics and Extended Care and direct that official to coordinate all VA geriatric care operations.

It would also require the VA Administrator to establish a Geriatrics and Extended Care Task Force to assess the VA's capability to provide high-quality geriatric care on a sustained and growing basis as well as the current and projected needs among eligible veterans for such services. The VA Administrator would be required to designate 7 to 12 additional Veterans' Administration hospitals as locations for demonstration centers of geriatric research, education, and clinical operations and authorize increased appropriations for these centers over the next 4 years.

The House of Representatives has passed this legislation by a unanimous vote, and the Senate Veterans' Affairs Committee has begun hearings on this bill. I hope the committee and the full Senate will expeditiously approve this important legislation.●

THE PRESIDENT'S LAWYERS TRY TO RUN FOREIGN POLICY

● Mr. GOLDWATER. Mr. President, I rise to protest the attempt by civil servants to steal from the President and Congress control of the foreign policy of this country.

I am referring to the words which President Carter's lawyers have put in his mouth in the brief they filed on Monday with the appellate court in the case I have brought to uphold the Senate's treaty power.

For the first time anywhere, these lawyers, many of them entrenched employees at the State and Justice Departments, declare for the United States that the Mutual Defense Treaty with Taiwan became "inoperative" on January 1. They declare further that it became impossible to have a military alliance with Taiwan once the President switched embassies from Taipei to Peking.

Mr. President, these are serious foreign policy statements. They are completely contradicted by everything President Carter has said previous to this time. They hold grave consequences for the credibility of America's word in the outside world and may endanger world peace.

At page 63 of their brief, the President's lawyers argue that "the Defense Treaty became inoperative upon derecognition of Taiwan."

They repeat this historic fabrication at least two more times in their paper.

Mr. President, does this mean that if Communist China should attack shipping in the Taiwan Straits or mount an invasion of Taiwan, we would do nothing because the treaty is not in operation? Does it mean that if the Soviet Union is tempted to acquire use of strategic ports and airbases in Taiwan by threats or actual force, the United States will sit back and say: "The treaty is inoperative; Taiwan does not exist so we cannot have a military alliance with her"?

Of course, these are absurdities. But they are the logical consequences of the erroneous statements announced as government policy by the President's lawyers.

Mr. President, I call upon President Carter to repudiate this blatant attempt by his subordinates to run the Nation's foreign policy. The position taken by his lawyers in court would, if it stands, make Jimmy Carter the biggest liar in American history. I am convinced he would never have said these things himself, based on his own past statements.

The fact is that President Carter has never said the defense treaty is inoperative. He has never said we cannot have an alliance with Taiwan. In fact, he has said exactly the opposite.

President Carter has claimed solely that he was seeking to terminate the treaty under one of its provisions that allows either "party" to revoke it after giving 1 year's notice.

Before actually giving notice to Taiwan of his desire to terminate the treaty, President Carter went so far as to admit that:

> Had I cancelled the treaty or abrogated the treaty peremptorily as of the first day of January . . . there may have been some justification for that court challenge.

He made this statement in a CBS Report interview with Walter Cronkite on December 19, 1978.

Later, on January 17, 1979, President Carter informed the American people at a news conference:

> The treaty will be terminated in accordance with its own provisions—with a one year's notice to Taiwan. 37 Congressional Quarterly Weekly Report 101 (Jan. 20, 1979).

Now, it is important to notice that in each of these statements President Carter made no mention or claim that the treaty was inoperative or in any way less than fully applicable.

The President's lawyers also ignore the President's own action when he issued a directive to all Government agencies and departments claiming to preserve the validity of all treaties and agreements with Taiwan after derecognition (44 Fed. Reg. 1075, Jan. 4, 1979). His memorandum directs that these agreements—

> . . . shall continue in force and shall be performed and enforced by departments and agencies beginning January 1, 1979, in accordance with their terms.

No exception is made in this directive indicating that the defense treaty is to be inoperative.

The President's lawyers also ignore the express language of the Taiwan Relations Act, which preserves the operation and forces of all laws, treaties, and other agreements with respect to Taiwan. The pertinent part of section 4 of this act reads:

> (c) For all purposes, including action in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law." (P.L. 96–8, 93 Stat. 16)

The entire scheme of section 4 of the Taiwan Relations Act is focused on preserving the status quo of relations and dealings with the authorities and people on Taiwan. Taiwan is not a puff of smoke, regardless of what these bureaucrats may say. Congress, with the President's signature, specifically provided that Taiwan continues to exist and shall be given the status of an independent nation under our laws. No representative of the President argued or informed Congress before enactment of this law that Taiwan was a nonstate or that the defense treaty had become inoperative on January 1, 1979. It is far too late now for anyone to retract what has been said and done and to rewrite the plain import of the Taiwan Relations Act.

True, dealings between the two countries are superficially being carried out through two "private institutes." But everyone knows this is a transparent scheme.

For example, the Taiwan Relations Act openly allows transfer of U.S. Government personnel for employment with the Institute and protects all their benefits and promotion rights, including coverage of Government health and life insurance, during and after service with the Institute, as if they were still Government civilian officers and employees (Public Law 96–8, 93 Stat. 18–19). In fact, the American Institute in Taiwan is staffed with individuals who are career Foreign Service and Government officers and employees. The President's lawyers put mere semantics over substance.

Mr. President, I will read at this point from a description of the American Institute as it has been reported in the Washington Post of July 9.

> Although the American Institute is allegedly a private organization, it uses the offices of the old U.S. military command and is staffed by U.S. Foreign Service officers on 'temporary leave.' The State Department employees have been assured that their salaries, benefits and seniority rights will continue and that they may immediately reenter official U.S. government service once they leave Taiwan.
>
> [T]he American Institute, with a staff of about 50, is still the largest foreign representation in Taipei, official or otherwise.
>
> The diplomats at the Institute do nearly all the same jobs they used to do at the embassy, including political and economic reporting back to Washington. Although the last U.S. military personnel were officially withdrawn early this month, the Institute has a staff capable of handling Taiwan's purchases of U.S. military equipment.

Mr. President, I would also add that there is nothing incompatible in continuing to have a military alliance with a friendly people and governing authorities, especially when those authorities are officially recognized as continuing to exist for all purposes of U.S. law under a formal statute signed by the President after derecognition.

Section 15(2) of the Taiwan Relations Act provides that the term "Taiwan" includes—

> . . . the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979.

Further proof that derecognition is not incompatible with a military alliance between the United States and Taiwan is given by President Carter himself, who has announced that the option of giving and carrying out exactly such a defense commitment to Taiwan is a viable feature of U.S. policy, now and after the treaty might expire. He has announced to the American people that his policy on China—

> . . . does nothing to prohibit a future president or a future congress, if we feel that Taiwan is unnecessarily endangered, from interposing the American Pacific fleet between the island and the mainland (or) from even going to war, if (we) choose, to protect the people of Taiwan.

This statement is reported in the Washington Post of February 11, 1979.

As a practical matter, Mr. President, dealings with, and life in, Taiwan are continuing as they existed prior to derecognition. Total United States-Taiwan trade has increased 37 percent this year, Taiwanese and American citizens are freely visiting each nation, the American investment of more than $500 million in Taiwan is being increased, U.S. Export-Import Bank credits have been increased by hundreds of millions of dollars, and over 10,000 American civilians are living in Taiwan. In these circumstances, it is entirely logical and realistic for two friendly peoples and governmental entities, with such an enormous range of on-going and expanding contacts, to have a continuing defense alliance.

Finally, Mr. President, I again request President Carter to repudiate the lies which his lawyers have put in his mouth.●

TAXPAYERS WILL SACRIFICE FOR A WINDFALL PROFIT TAX

● Mr. HATCH. Mr. President, it appears as though we may be debating shortly the matter of a windfall profit tax on our Nation's oil producers. In my opinion, this legislation is shortsighted, political, and extremely costly to our constituents. It is not a tax on the oil industry, but a tax on consumers. This legislation will cost the taxpayers billions of dollars and it will make the Federal Government the sole beneficiary of rising energy prices, providing little incentive for a more stable, permanent solution to our energy problem.

The multiple costs of this tax were enumerated very effectively in an editorial from the Wall Street Journal on Friday, October 19. I commend it to the attention of my colleagues and request that it be printed in the RECORD.

The editorial follows:

SCRAP THE "WINDFALL PROFITS" TAX

When Congress passed the Natural Gas Policy Act with its 23 natural gas categories, we thought the lawmakers had reached the limit in unbelievable complexity and bad law—an "unintelligible piece of legislation that will generate tons of regulatory paperwork and litigation." That was before we observed the Senate Finance Committee at work on the oil "windfall profits" tax.

In principle a windfall profits tax is simple enough. First you apply the income tax to profits, and then you apply the windfall profits tax to what is left—a straightforward procedure that ordinary humans can understand. In fact, it's so simple you wouldn't believe what webs of bafflement the Finance Committee can weave with it in practice.

Begin with an ordinary category that people can comprehend—oil producers. Differentiate them into different categories so they can be treated differently. Then do the same thing to oil. And—presto—depending on who they are and what kind of oil they own you can tax them differently.

As the web is now woven domestic oil producers each face a different bite from the tax spider. They may pay a tax of 50 percent, 60 percent, 75 percent, or escape altogether, on a multiplicity of crude oil categories arbitrarily base-priced at six (or more) levels ranging between $7.50 and $17 a barrel. And if that's not enough complexity to feed a jillion lawyers, accountants and bureaucrats, the tax on "upper tier" and "lower tier" oil is variable and changes monthly during the first two years.

Now imagine thousands of producers, independents and multinationals tracking these categories through crude oil gathering, storage and pipeline systems in order to report accurately to their various customers and the IRS the precise amounts of oil in each of the multiple categories that are mixed together in a common stream. Then tell us it is possible for the government to monitor this system for compliance.

The political process has not created a windfall profits tax but what the Independ-

ent Petroleum Association calls a "mecca for manipulators seeking to gerrymander categories to beat the tax." It offers greater rewards to people adept at changing oil from higher taxed to lower taxed categories than it does for finding new oil. By creating artificial distinctions that make it profitable to cheat, the tax begets years of scandal, corruption and litigation.

These costs must be set against the revenues raised, and there are other costs as well. One is the cost of removing future energy development from efficient private hands to inefficient government hands. Another is the cost of rending the fabric of property rights by confiscating oil owners' equity. Then there is the cost of the enormous increase in the regulatory burden that comes with the Finance Committee's bill. The "regulatory tax," already running at over $100 billion a year, is a senseless tax that raises costs and discourages output without raising a cent in revenues.

Moreover, by adding to the regulatory morass it will add to the difficulty people already face in going about their business without being vulnerable to the charge that they are violating some law or regulation. It will make it easier for government to bring charges of wrong-doing, making it more costly for private business to resist Washington's will.

When all these costs are taken into account, the cost of this tax is going to be greater than any benefits from the revenues it raises. At this point the best thing that can be done with the tax is to scrap it. Congress should be content with the vast windfalls in additional income tax revenue that it can reap just by decontrolling the price of oil. The Congress's own Joint Committee on Taxation says that simple act alone will bring in $148-275 billion in new revenues over the coming decade. And if that's not enough largess for the proteans on the Hill to rain on their constituents, they can draw on the $1 trillion in new tax revenues that the Joint Committee on Taxation forecasts over the next decade from existing tax law.

You can tax an activity to death or you can regulate the life out of it. Before Congress does both to the oil industry, it should back off and take a fresh look at the "windfall profits" tax.●

HISTORIC PRESERVATION: AN ECONOMIC BOOST

● Mr. CULVER. Mr. President, the economic benefits which are possible when communities engage in historic preservation projects have not always been recognized. In my own State of Iowa, many towns have begun to acknowledge the important economic resources which are contained in the original storefronts and buildings of the American "Main Street." By preserving these buildings, the cities are able to strengthen their existing tax base, provide attractive and convenient shopping for residents, and maintain the regional character of the community as seen in the architecture and design.

In addition, it is often true that renovation is cheaper than new construction and is more energy efficient.

The current issue of Historic Preservation, the publication of the National Trust for Historic Preservation, contains an article outlining these benefits. I believe the article is helpful and instructive.

Mr. President, I request that the following article, "Preservation Can Make a Profit," be printed in the RECORD.

The article follows:

PRESERVATION CAN MAKE A PROFIT

(By Paul Edward Parker, Jr.)

In 1969, the Chemical Bank hired me to help New York City's poor. As director of Urban Affairs, I had a staff of two and a budget of $300,000 to upgrade poor neighborhoods. The assignment reflected the mood of the business community at that time: "It is up to businessmen to make common cause with reformers . . . to initiate necessary reforms that will make it possible for business to continue to function in a new climate as a constructive force in our society," wrote Chase Manhattan Bank Chairman David Rockefeller in the *New York Times* after the urban riots.

I soon discovered that I was not really a part of the Chemical staff but an outsider; I was "social." My fellow workers made money; I spent it. I was a "cost center"; they were a "profit center." Acting on the well-tested theory, "If you can't lick 'em join 'em," I set out to become a profit center and a member of the team.

The first year I made $250,000 on a single project—an $11 million rehabilitation project in central Harlem. What is more, I supplied more aid to the poor than anyone had imagined and without spending all my $300,000 budget. I became a profit center and a member of the team.

I encourage you to become profit centers and members of the team because business may still consider your historic preservation activities "social." My evidence and experience support the claim that preservation is a good investment opportunity, one that makes a profit. Throughout the country, too, business has found that historic preservation can be financially rewarding.

Preservation has grown up. Once considered a harmless hobby of bleeding hearts and dreamers, it has become an integral part of the country's economy. What used to be a cultural nicety has unexpectedly burgeoned into an economic necessity. The preservation movement is still growing because its advocates are being drawn from the nation's wide variety of ethnic groups, income levels and localities. This widespread following means that preservation has voter appeal. Politicians, always looking for extra votes, have responded by passing favorable legislation. To the business community, voter appeal translates into buyer appeal. Always looking for extra profits, the private sector has responded with an increasing amount of favorable financing.

What is behind this new popularity? Over the past 20 years, the preservation movement has been responding steadily to ordinary citizens' unfolding needs. Along with the so-called bleeding hearts and dreamers, many ordinary people wanted to preserve their historic buildings and old neighborhoods, their roots, their sense of place, their sense of time. And evidence is mounting from all over the nation that preservation is popular with business, too, and good for the entire economy.

Take the case of Rutland, Vt. The Downtown Development Corporation initiated a preservation project that produced 60 full-time jobs, the equivalent of 3 percent of the city's unemployed work force, and reduced city welfare costs by $360,000. By matching a $350,000 grant from the Economic Development Administration, (EDA) with a $180,000 loan from six local banks, $1.5 million in construction was created in 1977. This coordinated effort produced rewards for the entire community: a financial return for business, jobs for labor, a revitalized center for the city and historic buildings for the preservationists.

Projects such as Rutland's carry economic rewards that can stimulate business involvement. Some of these rewards may be useful to keep in mind when you seek business cooperation for your own projects. Briefly, preservation projects:

Are less expensive than new construction because they use less materials.

Save energy (23 percent) and natural resources by recycling original materials.

Take a third the time of new construction. Fewer work days are lost because workers are shielded from the weather.

Create more jobs for the same amount of money, an average of 109 jobs per $1 million spent, against 70 jobs for new construction, according to the EDA.

Reduce land costs. Undeveloped land for new construction used to be much less expensive than it is today. Inflation has eroded this cost advantage.

Can be rented more quickly than new buildings that have to be almost finished before being put on the market.

Allow costs to be written off more quickly than the costs of building replacement.

Save on personal investment by enlisting government and business support.

Generate tax money by making obsolete real estate productive again.

Offer tax savings for preservation of historic structures listed in the National Register of Historic Places.

Aid from government and business lets you spend less of your own money on preservation. For a complete list of what government can do, contact your elected representatives—local, state and federal. They will be glad to help. When you do, keep in mind that government money is best used when it stimulates local investment. Its purpose is not to pay for projects but to get them going. Government's role is to provide an economic opportunity so that business will take over and assume the major financing. Government simply does not have enough money to pay for all preservation needs. Business does.

Urban renewal (or "removal") used to be based on new construction. The idea was to demolish buildings perceived to be outdated. Vast sums of government funds—our tax money—were expended, but the results were not always successful. A sense of place was swept away. Now, a new breed of city dwellers has halted the tide of urban removal by purchasing and rehabilitating. Once forgotten corners of the city have been transformed, with and without government help, into good places in which to live and bring up a family.

Before approaching any of the resource groups—business, government, foundations or whatever—be sure you know what you want. Plan first. Collecting information about available funds can be confusing without a plan. In any case, do not get money and commitments just because they are available and then make or adapt your plans to fit them.

Contact only prospective financiers with a natural interest in your project. For instance, if you wish to convert a landmark into a hospital, the U.S. Department of Health, Education and Welfare may have construction money; it certainly has funds for the staff and for patient care.

Remember that the most important contribution you can provide is your knowledge of community needs, which are not always known to the people who can help. This knowledge is invaluable for any successful preservation project. Grass-roots knowledge spearheaded the conversion of an obsolete church in Brooklyn Heights into a modern residential and commercial neighborhood amenity. Here community people, like yourselves, took the lead in saving the Spencer Memorial Presbyterian Church, a city landmark built in 1850. There was a profit of $730,000.

With all this citizen, business and government involvement, it is not surprising that preservation has mushroomed. A decade ago, the U.S. Department of the Interior found that the construction industry was estimated at more than $10 billion. The 1977 issue of Building Design and Construction, a

trade publication, reported that the rehabilitation of nonresidential buildings had increased from 3.5 percent of the construction market in 1970 to almost 25 percent in 1977, representing approximately $20 billion-worth of construction. According to 1976 Census Bureau estimates, residential property rehabilitation may soon reach 38 percent of the construction market, an expenditure of $32 billion. That is big money and further enticement for your potential partner in the corporate boardroom.

So, pick your project, involve your community, make your plans and share them with business. Remind business that preservation is an economic opportunity, a profit center, a good investment. You have a sound proposition to sell. You are not bleeding hearts and dreamers. You are realists.●

DIPLOMATIC EARTHQUAKE

● Mr. GOLDWATER. Mr. President, as the Members know, a Federal court recently declared null and void President Carter's unilateral action terminating our defense treaty with Taiwan. Presently the administration is appealing this decision in attempt to gain for the Chief Executive legal sanction for the right to terminate treaties without consulting Congress. Should it succeed, U.S. Presidents would have the right to terminate any American treaty anyplace in the world at their personal whim. It would set a dangerous foreign policy precedent for years to come.

In this connection, the Tempe (Ariz.) Daily News recently carried an excellent editorial entitled "Diplomatic Earthquake." The editorial was distributed by the Copley News Service and I request that the following article be printed in the RECORD.

The article follows:

DIPLOMATIC EARTHQUAKE

The federal court's ruling that struck down President Carter's independent termination of the Mutual Defense Treaty with Taiwan has jolted diplomatic seismographs around the world and particularly in Asia.

Amidst the ensuing torrent of comments, the reaction voiced by the first secretary of Peking's Washington embassy, Yu Zhishong, most aptly perhaps summarized the new situation. He simply observed that the United States now has a "serious problem" in its relationship with the Republic of China. And so we have.

U.S. District Judge Oliver Gasch agreed with Sen. Barry Goldwater, R-Ariz., and others whose lawsuit contended that, as the Constitution requires the president to obtain consent of two-thirds of the Senate to make a treaty, the same Senate approval is required to break one. Judge Gasch ruled, in effect, that treaty-making is a contractual undertaking between president and Congress and "neither the executive nor the legislative branch has the exclusive power to terminate treaties."

Thus, a federal court has declared null and void President Carter's surprise decision announced last Dec. 15 to scrap the defense pact signed with Taiwan 25 years ago and to derecognize that ally in order to achieve full diplomatic relations with mainland China. The problem worrying the Chinese and the State Department, not to say others, is that the court decision legally restoring U.S. recognition and the defense treaty to Taiwan automatically calls into question the status of U.S. relations with China. Washington, Peking and Taipei all agree on the convenient fiction that there is but one China. Everyone knows there shouldn't be two U.S. ambassadors to one country.

This unexpected can of worms, as Washingtonians are wont to call such problems, is stupefying.

The Carter administration's response is to file an appeal with the Circuit Court of Appeals in the hope that Judge Gasch's decision will be overturned.

We believe this course is a mistake and we agree with Sen. Goldwater that Mr. Carter should seek congressional approval of his China-Taiwan policy "rather than continue to battle Congress over an issue of constitutional power."

As a practical matter, it would appear there are good chances for quick approval of either two-thirds of the Senate or a majority of both houses of Congress to ratify existing arrangements between the United States, Taiwan and the Republic of China, with perhaps only minor amendments. Congress would be under enormous pressure to resolve the complications and preserve the status quo.

But even if the administration should win its appeal, there is no reason to expect Sen. Goldwater et al won't go to the US Supreme Court. The outlook then for the administration's legal route is, at best, for protracted litigation that could last months and even years.

And another urgent consideration, it seems to us, is whether the higher courts will sustain the administration's position, which already has a strike against it.

The Constitution is silent on how treaties can be terminated and, indeed, the question has never before been tested in the courts during the life of this country. It stands to reason that the presidential-congressional partnership set forth in the Constitution for the making of treaties would extend to the unmaking of them.

Obviously, should the administration prevail on this and should US Presidents thereby gain the right to terminate treaties at their convenience, no US treaty could be counted on to last long or be worth much.

In fact, President Carter should tremble at the consequences of winning such authority. If, say, Ronald Reagan should be elected president in 1980, what would restrain him from scrapping the SALT II treaty, assuming it is ratified, or the treaties with Panama on the status of the canal?

The President should have the authority to terminate any treaty considered to be not in the best interest of the United States. But such a decision should be subject to congressional consultation and consent. If the China-Taiwan episode can nail down this concept, then Mr. Carter's hasty, independent policy, which radically altered the US relationships in Asia, will have served a useful and historic purpose despite its complications.●

ADDITIONS TO THE TECHNICAL CORRECTIONS ACT OF 1979

● Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Senate Finance Committee, of which I am chairman, on Wednesday, November 7, held hearings on H.R. 2797, the Technical Corrections Act of 1979. This measure makes technical corrections to tax legislation which passed the 95th Congress.

In addition to the provisions of the House bill, the Department of the Treasury, in cooperation with the staffs of the Joint Committee on Taxation and the Committee on Finance, proposed at the November 7 hearing various technical amendments to the House bill.

For public comment, I am submitting for the RECORD a summary of the proposed changes.

The Subcommittee on Taxation and Debt Management welcomes public comment on these additional proposals from interested members of the tax community. The committee record will be held open for 2 weeks.

The material follows:

SUMMARY OF PROPOSED CHANGES

Treatment of Earned Income Credit in AFDC and SSI Programs: (Section 101(a)(2)(A) and (B) of the Technical Corrections Act and sections 402 and 1612 of the Social Security Act).

The Technical Corrections Act, as passed by the House, amends the Social Security Act to specify that the earned income credit—including both the portion received in advance payments and the portion received as a tax refund—is to be treated as earned income for the purposes of the AFDC and SSI programs. The proposed amendment would make it clear that, if advance payments of the earned income credit exceed the actual credit so that the individual must return the difference, the welfare agency would give some reconciling increase in AFDC or SSI benefits. The procedures for computing this increase would be provided in regulations by the Secretary of Health and Human Services.

Clarification of Effective Dates of Coordination of Investment Credit Rules for Pollution Control Equipment: (Section 103(a)(2) of the Technical Corrections Act and sections 46(c)(5)(B) and 48 (l)(1) of the Code).

Section 103(a)(3) of the Technical Corrections Act deals with coordinating the changes made to the general limitation on credits for pollution control equipment (Code section 46(c)(5)(B)) with a specific limitation for purposes of the energy credit for energy property, including certain pollution control equipment (Code section 48(l)(11)). If both limitations apply to pollution control equipment eligible for the energy credit, this credit is reduced to an effective rate of 2.5 percent. The Technical Corrections Act, as passed by the House, would make the general limitation inapplicable for purposes of the energy credit. This technical correction is effective on January 1, 1979.

However, the energy credit became effective 3 months earlier, on October 1, 1978, and the interaction of the old (pre-1979) general limitation and the energy credit limitation will also cause the effective rate of the energy credit for pollution control equipment to be only 2.5 percent during the period from October 1, 1978 through December 31, 1978.

The proposed amendment would address this problem by making the effective date for the technical correction as if it were included in the relevant provision of the Energy Tax Act of 1978, rather than the Revenue Act of 1978, so that it would become effective at the same time as the energy credits on October 1, 1978.

Rules for Work Incentive Credit and Targeted Jobs Credit for Cooperatives: (Section 103(a)(4) of the Technical Corrections Act of 1979 and sections 50B(f), 52(f), and 53(h) of the Code.

Prior to the Revenue Act of 1978, special rules applied for purposes of determining the amounts of work incentive (WIN) credit and general jobs credit which could be used by cooperatives. These special rules applied the same rules under which the amount of investment credit for cooperatives was determined. The Revenue Act of 1978 revised the rules pertaining to the investment credit for cooperatives. However, it did not change the rules pertaining to the WIN and jobs tax credits for cooperatives. The Technical Corrections Act, as passed by the House, provided that the new rules for investment credit of cooperatives would also apply to the WIN and jobs tax credits. This amendment was accomplished by adding a cross reference in the WIN credit (Code section 50B(f)) and the jobs tax credit (Code section 52(f)). This amendment is to be effec-

tive for taxable years ending after October 31, 1978 (the same effective date as the change in treatment of investment tax credit). However, the provision now described in section 52(f) of the Code was numbered section 52(h) of the Code. This renumbering was effective for wages paid or incurred after December 31, 1978, in taxable years ending after that date. As a result, the amendment in the Technical Corrections Act, as passed by the House, does not cover wages paid or incurred in the period between October 31, 1978 and December 31, 1978. The proposed amendment would correct this result so that wages paid or incurred by a cooperative during the period from October 31, 1978 to December 31, 1978 would qualify for the new treatment.

Application of Withholding Tax to Medical Reimbursements: (Section 103(a)(10)(A) of the Technical Corrections Act and section 3401(a)(19) of the Code).

Prior to the Revenue Act of 1978, medical reimbursements paid to, or on behalf of, an employee under a self-insured medical reimbursement plan of an employer generally were excluded from the employee's gross income and were not subject to withholding tax. Under the Act, such payments may be fully or partly includable in an employee's gross income for a year if the medical reimbursement plan discriminates in favor of highly compensated individuals for the year, and such payments are subject to withholding tax and reporting if they are includable.

The Technical Corrections Act, as passed by the House, povides an exclusion from withholding tax for amounts paid under a medical reimbursement plan for an employee if it is reasonable to believe that the employee will be allowed to exclude the payment from gross income under the rules applicable to such plans. The proposed amendment would provide an exclusion from withholding tax for all amounts paid under such a plan regardless of whether it was reasonable to believe that such payments would be excludable from gross income. However, reporting of taxable payments would continue to be required.

Clarification of Effective Date for Medical Reimbursement Plans: (Section 103(a)(10)(D) of the Technical Corrections Act and section 366(b) of the Revenue Act of 1978).

Under the rules provided by the Revenue Act of 1978 for self-insured medical reimbursement plans, excess reimbursements made during a plan year are includable in the gross income of a highly compensated individual for the taxable year in which (or with which) the plan year ends.

The Technical Corrections Act, as passed by the House, provides that the medical reimbursement plan rules apply only to reimbursements paid after December 31, 1979. However, the legislative history indicates that, in determining the taxability of reimbursements made under a fiscal year plan, the employee coverage and benefits provided by a plan for its entire plan year beginning in 1979 will be taken into account. The proposed amendment would provide that payments made in 1979 would not be taken into account in determining whether payments made after 1979 are taxable.

Clerical Amendment Relating to Capital Gains Changes: (Section 104(a)(3)(C) of the Technical Corrections Act and section 593(b)(2)(E)(iv) of the Code).

For purposes of computing the addition to reserves for bad debts of a thrift institution, taxable income is determined by excluding the effective amount of net capital gains not subject to tax. The Technical Corrections Act, as passed by the House, would change the computation to conform to the reduction in the top corporate tax rate and in the alternative tax rate on corporate capital gains. However, that change does not take into account the different rates in effect during a transitional period prescribed in the Revenue Act of 1978. The proposed amendment would correct this error.

Clarification of Tax Treatment of Cooperative Housing Corporation Upon Death of Promotor: (Section 531 of the Revenue Act of 1978, section 105(a)(6) of the Technical Corrections Act, and section 216(b)(6) of the Code).

A tenant-stockholder in a cooperative housing corporation is entitled to deduct amounts paid to such a corporation to the extent such amounts represent his or her proportionate share of allowable real estate taxes and interest relating to the corporation's land and buildings (section 216). In general, for a corporation to qualify as a cooperative housing corporation (which can pass through these deductions to tenant-shareholders), 80 percent or more of the gross income of the cooperative housing corporation must be derived from individual tenant-stockholders.

Under the Revenue Act of 1978, as modified by the House version of the Technical Corrections Act, if an original seller (*e.g.*, promoter) acquires stock of a cooperative housing corporation either from the corporation or, in certain cases, by foreclosure, the original seller shall be treated as a tenant-stockholder for a period of not to exceed 3 years from the date of the acquisition of the stock.

Neither the 1978 Act nor the Technical Corrections Act, as passed by the House, indicate the tax treatment of the corporative housing corporation where the original seller dies within the 3-year period. The proposed amendment would allow the estate of the promotor to qualify the cooperative housing corporation for the same tax treatment as if the promotor had not died.

Cash distributions from Employee Stock Ownership Plans After December 31, 1978: (Section 101(a)(6)(B) of the bill and sections 409A(h) and 4975(e)(7) of the Code.

The tax credit employee stock ownership plan provisions of the Revenue Act of 1978 generally applied with respect to qualified investment for taxable years beginning after December 31, 1978. The Technical Corrections Act, as passed by the House, specifies the effective date of the provisions with respect to ESOPs. Under the Technical Corrections Act, the cash distribution option provided in section 409A(h) of the Code would not apply to ESOPs until after December 31, 1979.

The proposed amendment would provide that cash distributions made from an ESOP after December 31, 1978 and before July 16, 1979, would be permissible.

Limitation on Election to have New Tax Credit Employee Stock Ownership Plan Rules Apply 1 Year Early: (Section 101(a)(6)(B) of the bill).)

The Technical Corrections Act would allow taxpayers to elect to have the new tax credit employee stock ownership plan rules apply to taxable years beginning after December 31, 1977, rather than December 31, 1978. The proposed amendment would limit this election to plans adopted after December 31, 1978.

Election to have New Put Option Rules Apply in Employee Stock Ownership Plans: (Section 101(a)(6)(B) of the Technical Corrections Act).

Under the Technical Corrections Act as passed by the House, an employer would be permitted to elect to have the new put option rules apply to all employer securities held by a tax credit employee stock ownership plan which are not readily tradable on an established market. The election could be revoked only with the consent of the Secretary.

The proposed amendment would delete this provision from the Technical Corrections Act because there is no need for legislative action. It is understood that the Secretary of the Treasury, under regulations, can, under present law, allow such an election (and revocation of election) of the new put option rules with respect to both tax credit employee stock ownership plans and employee stock ownership plans.

Definition of Employer Securities for Employee Stock Ownership Plans: (Section 101(a)(6)(C) of the Technical Corrections Act and Section 4975(e)(8) of the Code).

The Technical Corrections Act, as passed by the House, amends the definition of qualifying employer securities for purposes of the prohibited transaction loan exemption available to employee stock ownership plans. The proposed amendment would make clear that this change in the definition of qualifying employer securities does not affect the status of employer securities acquired before December 31, 1979, which constituted qualifying employer securities as defined in section 4975(e)(8) of the Code at the time they were acquired.

Special Effective Date for Certain Deferred Compensation Payments to Independent Contractors: (Section 133 of the Revenue Act of 1978).

Prior to the Revenue Act of 1978, section 404(a)(5) of the Code provided that where an employer deferred payment of compensation to an employee pursuant to a nonqualified plan, the employer could deduct the compensation only in the year in which the compensation was includable in the employee's gross income. If the payment was not made pursuant to a qualified plan, but pursuant to a "method of employer contributions or compensation [having] the effect of a stock bonus, pension, profit-sharing, or annuity plan, or similar plan deferring the receipt of compensation. . . ." the deduction-timing limitations of section 404(a) were also applicable.

Section 133 of the Revenue Act of 1978 added a new Code section 404(d) which extends the deduction-timing limitation of section 404(a) to payments of deferred compensation made to independent contractors. Section 133 of the Revenue Act of 1978 also amended Code section 404(b) by changing the words "or similar plan" to read "or other plan." The provisions apply to deductions for taxable years beginning after December 31, 1978.

The proposed amendment would generally provide that the changes made by section 133 of the Revenue Act of 1978 would not be effective until taxable years beginning after December 31, 1979, in the case of a plan which defers payment of certain commissions by a title insurance company to its members.

Employee Stock Ownership Plans Name Change: (Section 141 of the Revenue Act of 1978 and sections 46, 48, 56, 401, 409A, 415, 4975 and 6699 of the Code).

The Revenue Act of 1978 changed the names given to employee stock ownership plans. Under the Act, employee stock ownership plans were renamed "leveraged employee stock ownership plans," and TRASOP's were renamed "ESOP's."

The proposed amendment would again change these names. A leveraged employee stock ownership plan would be called an "ESOP" (as it was before the 1978 Act). An ESOP (TRASOP), as it was known before the 1978 Act) would be called a "tax credit employee stock ownership plan."

Amount of Matching Employer Contributions to a Tax Credit Employee Stock Ownership Plan: (Section 141 of the Revenue Act of 1978 and section 48(n)(1)(B)(i) of the Code).

The 1978 Revenue Act continued the provision of prior law which allows a taxpayer to elect an additional one-half of 1 percent investment tax credit if employer securities (or cash used to acquire employer securities) are transferred to a tax credit employee stock ownership plan and are matched by employee contributions. However, the Code, as amended by the Revenue Act, does not provide an effective limitation on the qualified employee matching contributions which must be matched by the employer in order to obtain the credit. The proposed amendment would provide that in order for the taxpayer to be eligible for the additional one-half percent credit, the taxpayer must transfer securities having an aggregate value at least equal to the lesser of the sum of qualified matching employee contributions or one-half of 1 percent of the taxpayer's qualified investment for the taxable year.

Time for Contribution of Matching Employer Contributions to Tax Credit Employee Stock Ownership Plan: (Section 141 of the Revenue Act of 1978 and section 48(n)(1)(C) of the Code).

Prior to the Revenue Act of 1978, employers were generally required to contribute any matching employer contributions to a tax credit employee stock ownership plan within 30 days after the time for filing the corporate income tax return for the taxable year for which the investment credit was taken. Employees were given up to 24 months after the close of that taxable year to make matching employee contributions.

The proposed amendment would clarify the rule relating to the time for making matching employer contributions to a tax credit employee stock ownership plan by allowing employers to make the matching employer contributions at the time the matching employee contributions are made.

Voting Rights for Participants in Employee Stock Ownership Plans: (Section 141 of the Revenue Act of 1978 and section 409A(e) of the Code).

Under the Revenue Act of 1978, employee stock ownership plans are required to allow participants to direct the trustee in the manner in which employer securities allocated to the participants accounts are to be voted. Full voting direction is required where the employer has a registration-type class of securities. Limited voting direction (*i.e.*, only on major corporate issues) is required where the employer does not have a registration-type class of securities.

The amendment would repeal the requirement for limited direction of voting under an employee stock ownership plan where the employer does not have a registration-type class of securities. However, employee stock ownership plans would still be subject to the general rule that a defined contribution plan which is established by an employer whose stock is not publicly traded and which has more than 10 percent of the plan assets invested in securities of the employer will be required to pass through voting rights to employees on major corporate issues.

Rules for Time of Establishing a Tax Credit Employee Stock Ownership Plan: (Section 141 of the Revenue Act of 1978 and section 409A(f) of the Code).

The proposed amendment would clarify section 409A(f) in two ways. First, it would provide that a tax credit employee stock ownership plan will not fail to meet the requirements of Code section 401(a) merely because it is not established by the close of the employer's first taxable year for which the employer claims a tax credit for contributions to the plan. Second, it would provide that a tax credit employee stock ownership plan will fail to meet the requirements of section 409A of the Code unless it is established before the due date for filing the employer's tax return (including extensions) for the first taxable year for which the employer claims a tax credit for contributions to the plan.

Definition of Employer Securities for Employee Stock Ownership Plan Purposes: (Section 141 of the Revenue Act of 1978 and section 409A(l) of the Code).

The Revenue Act of 1978 added to the Code a definition of employer securities for purposes of tax credit employee stock ownership plans and ESOP's.

The proposed amendment would make three changes in this definition.

First, the proposed amendment would make clear that where an employer has not issued readily tradable common stock, the term "employer securities" will include common stock issued by the employer which has a combination of voting power and dividend rights equal to the class of common stock with the greatest voting power and the class of common stock with the greatest dividend rights.

Second, the proposed amendment would provide that, under regulations to be issued by the Secretary, convertible preferred stock would be included in the definition of employer securities where such stock is subject to a call which would either (1) cause the preferred stock to be exchanged for other employer securities, or (2) cash out the preferred stock subject to the right of the holder of the preferred stock to convert the preferred stock into common stock.

Finally, the proposed amendment would make clear that the definition of employer securities would include preferred stock which is convertible into common stock which is not readily tradable.

Unrealized Appreciation in Employer Securities: (Section 142 of the Revenue Act of 1978 and sections 402 and 2039 of the Code).

The proposed amendment would make it clear that in order for a lump sum distribution from a pension plan to qualify for the estate tax exclusion, it is not necessary to include in gross income the net unrealized appreciation in employer securities received in such distribution.

Integration of Simplified Employee Pensions with Social Security: (Section 152 of the Revenue Act of 1978 and section 408(k) of the Code).

The provisions relating to simplified employee pensions, as added by section 152 of the Revenue Act of 1978, allow an employer to take into account contributions or benefits provided by the employer under the Federal Insurance Contribution Act, and in certain cases, require an employer to take into account payments made with respect to the tax on self-employment income. However, this provision was not intended to allow an employer to maintain both a conventional pension plan qualified under section 401(a) of the Code and a simplified employee pension where each plan is integrated with social security. Therefore, under the proposed amendment, a SEP could be integrated with social security only in those situations where the employer does not maintain any other tax-qualified plan which provides for integration of employer contributions or plan benefits with social security contributions or benefits.

Reporting Requirement for Simplified Employee Pensions: (Section 152(b) of the Revenue Act of 1978 and sections 408(1) and 6693(a) of the Code).

The Revenue Act of 1978 created a new type of retirement plan, known as a "simplified employee pension" ("SEP"). The Revenue Act requires an employer who makes contributions on behalf of an employee to a SEP to provide reports to the employee with respect to such contributions. However, no express provision is currently included in the Code to impose penalties if an employer fails to furnish required information to an employee.

Unless employers timely report the amount contributed to the SEP, employees will lack the information required to take the appropriate deduction on their tax returns. Therefore, the proposed amendment would extend to SEP's the current penalty relating to failure to provide reports on individual retirement accounts or annuities. This penalty is $10 for each failure unless the failure is due to reasonable cause.

Aggregation of Simplified Employee Pensions with Other Plans. (Section 152(g)(3) of the Revenue Act of 1978 and section 415(e)(5) of the Code).

The Code limits the "annual additions" (employer contributions, forefeitures and, in some circumstances, a portion of employee contributions) that may be allocated to a participant's account in a defined contribution plan for any year. For this purpose, an individual retirement account or annuity ("IRA") is aggregated with other defined contribution plans of an employer if the participant for whom the IRA is maintained is in "control" of the employer. As drafted, the Revenue Act treats simplified employee pensions ("SEP's") the same as IRA's under the aggregation rule, so that a SEP for the benefit of a participant will be aggregated with the defined contribution plan of an employer only where the participant is in "control" of the employer.

A broader aggregation rule was intended with respect to SEP's. The legislative history of the Revenue Act of 1978 contemplates that employer contributions to a SEP are to be taken into account as employer contributions to a defined contribution plan under the "annual addition" limitations in all cases, without regard to whether the employee is in control of the employer. The proposed amendment would effect this change.

Penalty for Failure to File a Partnership Return for Underwriting Syndicates: (Section 211 of the Revenue Act of 1978 and section 6698 of the Code).

The Revenue Act of 1978 imposed a penalty on the failure to file a partnership return Historically, partnership returns have not been filed in the case of syndicates of dealers in securities formed for the purpose of underwriting, selling or distributing securities. The proposed amendment would provide an exception to the penalty for failure to file a partnership return in such a case.

Computation of Tax Form Foreclosure Property of a Real Estate Investment Trust: (Section 301 of the Revenue Act of 1978 and section 857(b)(4)(A) of the Code).

Under present law, a tax is imposed on the net income from foreclosure property of a real estate investment tax. The tax is determined using the corporate rates with a surtax exemption of zero. The Revenue Act of 1978 removed the surtax exemption for corporation and replaced it with a graduated rate schedule. The proposed amendment would make a conforming amendment providing that the tax on net income from foreclosure property of a real estate investment trust is to be computed at the highest rate applicable to corporations.

WIN Credit for Subchapter S Corporations and Estates and Trusts: (Section 322 of the Revenue Act of 1978 and section 50B(d) and (e) of the Code).

The Revenue Act of 1978 provides that an employer's deduction for wages is reduced by the amount of WIN credit allowable (Code section 280C(a)). However, for estates, trusts, and subchapter S corporations, the credit is computed by individual beneficiaries and shareholders, who are not allowed deductions for the wages paid by the estate or corporation. Thus, the new provision is inconsistent with the current law method for the computation of the WIN credit by beneficiaries and shareholders. The proposed amendment would provide that the WIN credit is to be computed by the estate, trust or subchapter S corporation, rather than by individual shareholders and beneficiaries. The deduction of the estate, trust or subchapter S corporation will be reduced by the amount of WIN credit allowable.

WIN Credit for Child Care Expenses Between October 1, 1978, and December 31, 1978: (Section 323 of the Revenue Act of 1978 and section 50B(a)(2)(B) of the Code).

The WIN credit, as in effect before the amendments of the Revenue Act of 1978, contained a provision denying the credit in connection with services performed after Octo-

ber 1, 1978, in connection with a child day services program. The Revenue Act permits a WIN credit for such services performed after December 31, 1978. The proposed amendment would repeal the termination date under prior law to avoid a 3-month gap in WIN credit coverage.

Correction of Typographical Error: (Section 337(a) of the Revenue Act of 1978).

The proposed amendment would correct a typographical error in section 337(a) of the Revenue Act of 1978 by changing "or a refund profit" to "of a refund profit."

Clarification of the Limitation on the Nondeductibility of Certain Entertainment Facility Expenses Includable in Income: (Section 361 of the Revenue Act of 1978, and section 274(e) of the Code).

Prior to the enactment of the Revenue Act of 1978, expenses incurred with respect to entertainment facilities* were deductible if they were ordinary and necessary, the facility was used primarily for the furtherance of the taxpayer's business (*i.e.*, more than 50 percent of the time that it was used), and the expense in question was related directly to the active conduct of the taxpayer's business. For this purpose, entertainment facility expenses included dues or fees paid to any social, athletic, or sporting club or organization. Dues or fees paid to professional associations, civic organizations, or to clubs operated solely to provide meals under circumstances normally considered to be conducive to business discussions generally were not considered to be entertainment facility expenses.

The Revenue Act of 1978 provided generally that no deduction was allowable for any entertainment facility expense. However, the Act retained a number of exceptions to the general rule that existed under prior law. One of these relates to expenses treated as employee compensation which are subject to withholding (section 274(e)(3)). The proposed amendment provides an exception from the facility expense deduction disallowance rule in the case of expenses for individuals who are not employees if the taxpayer files an information return with respect to the amount includable in the individual's gross income (regardless of the amount involved).

Clarification of Treatment of Liabilities of Controlled Corporation: (Section 365(a) of the Revenue Act of 1978 and section 357(c)(3) of the Code).

The Revenue Act of 1978 provided that where a cash basis taxpayer transfers property to a controlled corporation subject to certain liabilities, then certain "accounts payable" would not be taken into account in determining the amount of gain recognized by the transferor on the transfer. The legislative history indicates that the taxpayer could also qualify under this provision where he was using a hybrid method of accounting. The legislative history also indicates that "accounts payable" would include trade accounts payable and other liabilities (*e.g.*, interest and taxes) which relate to the transferred trade or business. Thus, the legislative history indicates that the scope of the provision as intended by Congress is broader than the literal language of the statute would seem to indicate. The proposed amendment clarifies the statutory language consistent with the intent of Congress by deleting the requirement and that the taxpayer be using the cash method of accounting and that the liabilities to be disregarded must be "accounts payable".

Relationship of the Recapture of the Investment Tax Credit and WIN Credit and the Alternative Minimum Tax: (Section 421(a) of the Revenue Act of 1978 and section 55(b)(2) of the Code).

The Revenue Act of 1978 imposed a new alternative minimum tax on individuals. The tax is the amount by which the gross alternative minimum tax exceeds the "regular tax" on the taxpayer. In determining the taxpayer's regular tax, certain penalty taxes are not taken into account. However, no adjustment to regular tax is made for the recapture of investment tax credit or WIN credit. As a result, there is no additional tax by reason of the recapture of the investment tax credit or WIN credit in any year where the alternative minimum tax occurs. The proposed amendment would correct this problem by excluding recapture of investment tax credit and WIN credit from the definition of regular tax.

Allocation of Tax Preference Items in the Case of Trusts and Estates: (Section 421(c) of the Revenue Act of 1978 and section 58(c) of the Code).

The Revenue Act of 1978 imposed a new alternative minimum tax on individuals including trusts and estates. In the case of a trust or estate, items of tax preference are to be apportioned between the estate or trust and the beneficiaries on the basis of income of the estate or trust allocable to each. This rule does not work well in the case of the preference for adjusted itemized deductions. The proposed amendment would provide that the allocation of items of tax preference would be made in accordance with Treasury regulations.

Recapture of Depreciation of Certain Subsidized Low-Income Housing: (Section 701(f)(3)(E) of the Revenue Act of 1978 and section 1250(a)(1)(B) of the Code).

The Revenue Act of 1978 added a provision to clarify that in computing the depreciation recapture under section 1250 of the Code for property on which rehabilitation expenditures were amortized under Code section 191, the amount of "straight line" depreciation is to be computed without regard to the 5-year useful life under section 191. This amendment may inadvertently have caused additional recapture to apply to certain subsidized low-income housing. The proposed amendment would negate this inadvertent impact by providing that subsidized low-income housing remains eligible for the special phase-out of recapture even though rehabilitation expenditures for that housing have been amortized under Code section 191.

Employee of Grantor or Beneficiary Treated as Related Person for Purposes of the Tax on Generation Skipping Transfers: (Section 702(n)(2) of the Revenue Act of 1978 and section 2613(e) of the Code).

Under the generation skipping provisions, an individual is a beneficiary of a trust if he has a present or future power or interest in it. "Power" means "any power to establish or alter beneficial enjoyment of the corpus or income of the trust." A person has an "interest" if the person has either "a right to receive income or corpus from the trust" or "is a permissible recipient of such income or corpus." Thus, one can be a beneficiary by satisfying either or both of the tests.

The Tax Reform Act of 1976 excluded certain independent trustees from being treated as beneficiaries solely because of powers which they held to distribute trust corpus and income. The original language in section 2613(e) was found too restrictive and section 702(n)(2) of the Revenue Act of 1978 expanded the categories of individuals to whom independent trustees could make distributions without being treated as beneficiaries.

The 1978 Act excluded from the independent trustees any person who is an employee of a corporation in which the stockholdings of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of voting control, an employee of a corporation in which the grantor or any beneficiary of a trust is an executive, an employee of a corporation in which the grantor or any beneficiary of the trust is an executive, and an employee of a partnership in which the grantor or any beneficiary of the trust is a partner. However, the provision did not exclude a person who is directly employed by the grantor or any beneficiary of the trust. The proposed amendment would exclude an employee of the grantor or any beneficiary of the trust from being an independent trustee.

Certain Powers of Independent Trustees Not Treated as a Power for Purposes of the Tax on Generation-Skipping Transfers: (Section 702(n)(2) of the Revenue Act of 1978 and section 2613(e) of the Code).

Under the generation-skipping provisions, an individual is a beneficiary of a trust if he has a present or future power or interest in it. "Power" means "any power to establish or alter beneficial enjoyment of the corpus or income of the trust." A person has an "interest" if the person has either "a right to receive income or corpus from the trust" or "is a permissible recipient of such income or corpus." Thus, one can be a beneficiary by satisfying either or both of the tests.

The Tax Reform Act of 1976 excluded certain independent trustees from being treated as beneficiaries solely because of powers which they held to distribute trust corpus and income. The original language in section 2613(e) was found too restrictive and section 702(n)(2) of the Revenue Act of 1978 expanded the categories of individuals to whom independent trustees could make distributions without being treated as beneficiaries.

The statute presently provides that an individual will not be treated as having a power if such an individual "is a trustee who has no interest in the trust." Thus, an individual trustee who was the permissible appointee of trust assets under an unexercised power of appointment held by another would be deemed to have an interest in the trust and would therefore be treated as having a power over the trust. The trustee would be a beneficiary of the trust and the independent trustee exemption would be negated.

The legislative history of the Revenue Act of 1978 states that an individual trustee will not be treated as a beneficiary if "he has no interest in the trust other than as a potential appointee under a power of appointment held by another." The proposed amendment would adopt this result by providing that, solely for purposes of the independent trustee exemption, a trustee will not be treated as having an interest in the trust if his only interest is as a permissible appointee under an unexercised power of appointment held by another.

Correction of Cross Reference: (Section 4(d)(7) of Public Law 95-227 and section 7454(b) of the Code).

The cross reference in section 7454(b) of the Code to section 502(c)(21) would be corrected to section 501(c)(21).

Correction of Cross References in Code Section 401(a)(20): (Section 4 of Public Law 95-458).

Public Law 95-458 amended Code sections 402(a)(5) and 403(a)(4). Code section 401(a)(20) includes cross references to sections 402(a)(5) and 403(a)(4), but these cross references were not amended to reflect the changes made by Public Law 95-458. The proposed amendment would correct the cross references to reflect these changes.

Security for Recapture of Estate Tax Reduction from Farm Valuation Where Property had been Involuntarily Converted: (Section 4 of Public Law 95-472 and section 6324B(c) of the Code).

The Tax Reform Act of 1976 provided that certain property used for farming or in a closely held business may be valued for estate tax purposes at its current use value instead of its highest and best use value. However, if the property is disposed of within a 15-year period all or part of the estate tax benefit is recaptured. A lien is placed on the property for the amount of the recapture tax. Section 4 of Public Law 95-472 provides that if an involuntary conversion of qualified real property takes place, no recapture of the estate tax benefit will occur if the property is replaced by other real property of at least equal value acquired for the same use. However, the property acquired in the involuntary conversion may be more highly leveraged so that the lien on the equity interest is insufficient for the recapture of tax benefits. The proposed amendment would provide that, if at any time the value of the property subject to the lien is less than the amount of the potential recapture tax, the Treasury Department may require the additional of additional property subject to the lien or other security (such as a bond) which would bring the total amount of the security up to the amount of the potential recapture tax.●

*An entertainment facility generally is any item of personal or real property owned, rented, or used by a taxpayer during the taxable year for, or in connection with, an activity normally considered to be of an entertainment nature.

THE FIRST AMENDMENT

● Mr. NUNN. Mr. President, on October 19, 1979, my good friend Gene Methvin, senior editor of the Washington office of Reader's Digest, delivered a very thoughtful address on the controversy that has been generated by recent decisions of the Supreme Court involving interpretations of the First Amendment.

Mr. Methvin's remarks were delivered during the national conference on "Public Views of Doctors and Lawyers—Media, Images and the Professions" which was held at the University of Pennsylvania Annenberg School of Communications, Philadelphia, Pa.

I commend the entire text of his address to the careful review of my colleagues and ask that it be printed in the RECORD.

His remarks follow:

JOURNALISTS VS. JUSTICES

Abraham Maslow ranked near the top of his hierarchy of human needs the so-called "love needs" of self-esteem, respect and approval from others. Everybody wants to be admired and loved, and I suppose that's why we have conferences like this one at a school of mass communications. The doctors and lawyers must have a faint hope that they will find the secret key to universal esteem here in the manger of journalists.

Trouble is, journalists can never provide a portrait that will allow people to see themselves as they would like to be seen. That gift is not in their power, as Robbie Burn's little poem "To a Louse" suggests. By nature, they are creatures of the unusual, the extraordinary—muckrakers for the most part, alas and hooray! That great pioneer of American urban sociology, Robert E. Park, who started out as a muckraking newspaperman himself, defined "news" as "anything that makes people talk." Unfortunately, much of it is bad: violence, conflict, fraud, the bizarre, the sordid, much more often than the saintly and sublime. Thorstein Veblein coined the phrase "trained incapacity" to refer to the inability of those with sociology or engineering training to understand certain issues they would have seen without their professional education. Similarly, we journalists suffer a "trained incapacity" to accentuate the positive. The very process of acquiring journalistic expertise involves selective indoctrination and a very special intellectual environment. That process equips us with the eye of the critic and with enlarged, hyperactive outrage glands.

One great old city editor for whom I once labored in Washington had a standing rule, "If you can't make 'em mad by the third paragraph, forget it!" The result is that journalists tend to come out of this training process resembling Goethe's depiction of Mephistopheles in Faust. Goethe's Mephistopheles, Thomas Carlyle points out, "is a philosophe and doubts most things. . . . He is the Devil, not of Superstition, but of Knowledge. . . . He despises all things, human and divine. . . . He calls himself the Denier . . . detecting the false, but without force to bring forth, or even to discern, any glimpse of the true. . . . A combination of perfect Understanding with perfect Selfishness. . . ."[1]

Now, just like doctors and lawyers, we journalists are subject to Maslow's basic human desire to be loved, admired and approved. And I would not want anyone at this conference to think that, just because I am criticizing my fellow journalists, I think generally ill of our breed. By and large, we are excellent fellows (and gals), and we do a highly essential, strategic job in our democratic body politic. And we do it well. I often linger in American newsstands before the array of newspapers and magazines just marveling at the magnificent flood of brilliantly packaged and textured information that we ink-stained wretches lay before John Q. Public; and television newsmen, both network and local stations, have, I think, finally arrived on a near par with the print media at real journeyman status in news and "documentary" coverage. I want to say these words of approbation simply because, in turning my trained critical eye upon my fellow journalists, I might be accused of the same sin of omission we are all so often indicted for: failing to mention the good while dissertating on the warts, with a consequent loss of "perspective."

In other words, I'm like old "Mar'se Henry" Watterson, the flaming 19th-century editor of the Louisville Courier-Journal, who was an ardent Democrat and kingmaker in his party and who constantly wrote editorials excoriating this or that Democrat or party policy. One lady wrote a letter to the editor demanding to know why he never criticized or even mentioned the Republicans, while constantly denouncing his fellow Democrats. Watterson answered her with a two-line couplet:

"Things have come to a helluva pass,
When a man can't flog his own jackass."

Now this conference is focusing on public images of doctors and lawyers, not journalists. But the mind-set of journalists I have been describing is a major dynamic in the view that the mass media generally bring to and transmit on any subject. I want to focus for a moment on the way that dynamic is affecting one particular small group of lawyers: the five or seven members of the United States Supreme Court who have been spooning out some very distasteful medicine to the journalists in recent years, and particularly in the Court's last two terms, which produced 16 major First Amendment decisions, more than in any other area except criminal law.

I've said that journalists too want to be loved and admired. And they cannot understand or accept very gracefully when the many publics they perform for do not praise and stroke them. Hurt turns to outrage when the criticism comes from judges. Let the judges give them bad marks or suggest they are not the penultimate paragons of virtue in our society, and above all, let the judges call them to court to answer for their conduct occasionally, and journalists get a terribly acute case of "cognitive dissonance." Hell hath no fury like a journalist subpoenaed.

The Fourth Estate's reaction to Supreme Court decisions involving its interests has been generally infantile and hysterical, unrestrained and unfair. This reaction can only confirm the worst fears of justices, judges, lawyers and laymen alike that the media needs external restraints if it is not to run roughshod over the rights of everyone else in the name of that shibboleth "the people's right to know." We have given the world a demonstration of how to make things worse than they really are by crying "Wolf" so loudly we may indeed attract the wolf, plus a public audience cheering him on to give the uppity journalists a deserved comeuppance. I can only hope that the justices' professional habit of detachment, objectivity and balance in judging will prove stronger than our own.

In our constitutional scheme, increasingly since a famous footnote in the 1938 Carolene Products case gave rise to a "preferred freedoms" theory with the justices as the chosen guardians, liberty of the press consists of what any five members of the Supreme Court can agree on for the moment—at least until a new justice with a different view comes along. They constitute what one law professor whose identity I would go to jail to protect as a confidential source has called "the Big Brother Club" in Washington. And—this is important—almost every step of the way, for the last 40 years, most of the moguls of the media have been applauding the Court's continued enlargement of its power. Under color of "interpreting the Constitution," and specifically the Fourteenth Amendment's due process and equal protection clauses, the justices have steadily claimed vast new powers that once lodged exclusively and largely unchallenged in other domains: state legislatures, city councils, school boards, college presidents, trial judges and juries and thousands of other power centers in our society. In 1961—the Mapp case—they claimed the right to edit the evidence jurors could receive in deciding criminal cases. It should have been clear that they would one day claim the right to edit the news that prospective jurors might read—but the notion escaped most of us at the time. When we back away and look at the long history of the American people's defense of grassroots government, it is really amazing to see how we have acquiesced in the great acquisition of power by a continuing committee of nine lawyers, any five of whom can change the signals. They are the only non-elected body among the three power pinnacles in our political edifice. They truly constitute the "oldest established floating constitutional crap game" in Washington.

The Fourth Estate shot a "natural" in the 1964 case of *New York Times* v. *Sullivan*. That case destroyed the settled law of libel and imposed new rules very favorable to the media. And we had an amazing run of luck, winning several straight "passes." Succeeding court decisions vastly enlarged our power and privilege. But it should have been clear to everyone that sooner or later we had to "crap out."

Now, I don't want to ride the logic of this metaphor to hell, so I'll change horses in the middle of the stream and go back to Professor Maslow. It has fallen the lot of the U.S. Supreme Court to blow the whistle and call journalists to account for their exercise of our power and privilege in our society. And the Fourth Estate's reaction has been little short of hysterical, if you judge by the statements of leading publishers, commentators and cartoonists.

Let me cite just a few examples picked randomly from the September issue of the Quill, the magazine of the Society of Professional Journalists, Sigma Delta Chi, which embraces some 25,000 or so of us ink-stained and pancake makeup-besotted wretches:

The cover consists of a small photo of the nine Supreme Court justices, with the large black legend: "For the Nation's Press, October will come too soon."

[1] "Goethe's Helena," Carlyle's *Critical and Miscellaneous Essays*, Centenary edition 157–58. Quoted, *Sartor Resartus* (Indianapolis: Odyssey Press edition, 1938), p. 157n.

Quill's pages are dotted with cartoons excoriating the Supreme Court. One depicts six Supreme Court justices as vultures sitting on a limb above bones picked clean, symbolizing the First Amendment after the latest Supreme Court press libel decision. Another shows the Burger Court tossing the First Amendment into a waste basket and adjourning, and all the justices hop away as kangaroos.

Reuven Frank, former NBC News president, has an article entitled "The lawyer's adversary system is adverse to a journalist's thinking." His first sentence announces grimly: "Freedom of the press is threatened by lawyers." He depicts reporters as the last free spirits, survivors of King Arthur's golden roundtable, crusaders for truth and justice. And lawyers and judges—"And, don't forget, a judge was first a lawyer," Frank warns—are trained in the adversary system. And that, wunderbar means they generally believe there may be two or 20 sides to every story, and sometimes journalists don't get them all right. Ergo, says Frank, "The law business and the news business in this country are on a collision course."

Finally, Al Neuharth, chairman of the American Newspaper Publishers Association and of the Gannett Newspapers, which lost a close 5–4 decision on the last day of the Court's term in July, called the decision "another chilling demonstration that the majority of the Burger Court is determined to unmake the Constitution." Neuharth's chain promptly launched a series of advertisements with cartoons and text denouncing the Court up one side and down the other.

It's plain to see, from the reactions of Reuven Frank and Al Neuharth, that journalists are generally inclined to take a jaundiced view of lawyers as a breed as a result of the drift of Supreme Court decisions these days.

The whole journalistic profession, it seems, is up in arms. A dozen journalism organizations are sponsoring a "First Amendment Congress" in Philadelphia next January, with Walter Cronkite keynoting it in the Hall of Congress where the First Amendment Bill of Rights was adopted. A second "First Amendment Congress" will be held on James Madison's birthday in Williamsburg to develop "educational programs" that will reflect the journalists' constitutional interpretations, not the justices'.

It is still a fact, as that magnificent newspaper critter Mr. Dooley observed, that "the Supreme Court follows the election returns." And over the last ten years the polls have shown the repute of journalists generally to be falling, while the justices have climbed considerably from their nadir in 1969—in other words, from the time Chief Justice Warren retired and the Senate rejected the Fortas nomination and Warren Burger took the center place on the High Bench.

Nobody paid any attention to the fact, but Justice Fortas' opinions indicate he probably would have led the Court faster and farther than Burger in curtailing the latitude given the Fourth Estate in its 1964–69 run of luck with the justices. I was not generally an admirer of Justice Fortas and did everything I could to help bring about the change of the climate of opinion that defeated his nomination as chief justice. But I thought one dissent he wrote against the Court's expansion of press privilege was both prescient and sound and in the long run far better for the health of the press than the prevailing opinion. That was in the 1967 case of *Time, Inc. v. Hill* in which the Court ruled 7–2 that private persons deemed "newsworthy" could not recover for invasions of privacy without proof of malice or reckless disregard of truth.

Fortas wrote:

"The courts may not and must not permit either public or private action that censors or inhibits the press. But part of this responsibility is to preserve values and procedures which assure the ordinary citizen that the press is not above the reach of the law—that its special prerogatives, granted because of its special and vital functions, are reasonably equated with its needs in the performance of these functions.

"For this Court to rally to immunize the press . . . in areas far beyond the needs of news, comment on public persons and events, discussion of public issues and the like would be no service to freedom of the press but an invitation to the public hostility to that freedom."

Let me note a historic irony about this decision. Fortas' dissent supported the position of a plaintiff's lawyer, who was arguing his first and only case before the High Court, a man who later was back as a defendant in a very important case: Richard M. Nixon. And if Fortas' nomination had prevailed, we journalists probably would be in a lot deeper gulch today than we are with the so-called "Nixon Court"! I can think of several cases in which Fortas' vote probably would have come down against the press, while Chief Justice Burger wrote resounding opinions for the press. (Burger in fact was once an aspiring journalist, an editor of his high-school newspaper and budding cartoonist who used to originate ideas for cartoons for the St. Paul Pioneer-Press.)

THREE RECENT CASES

Lawyers are concerned with limits, and journalists are after license; and so the clash is inevitable. A court that will not allow absolute privilege to a President of the United States is hardly going to concede it to the press or broadcasters, regardless of who sits on its bench. American jurists have never given anyone absolute privilege—except themselves—and so they are not about to give it to journalists either. Nor are the legislators going to do it; there's a large question whether they can, since the Sixth Amendment grants an accused defendant the right to compulsory process to secure witnesses in his behalf.

Where the Sixth and the First Amendments clash, the judges must balance (though under Section 5 of the Fourteenth Amendment, Congress can shift the balance to suit).

Farber v. New Jersey. In the New York Times-Farber-Jascalevich case there was a head-on clash between the Sixth and First, and Farber went to jail. Nothing new about that; reporters have been going to jail to protect sources since 1896. What is new is the notion that we can go crying to Washington and get the Supreme Court to change the state laws and court decisions governing such contests. And this Supreme Court refused to hear the case, which puts the issue right back in local legislatures and courts where we of the media ought to be able to exercise maximum influence.[2]

In the Farber case, had I been a legislator or judge, I would have wanted the defendant to make some kind of minimal showing that there really might be something material to Jascalevich's defense to be obtained from Farber's notes or sources; there was absolutely no showing of materiality, so far as I could see. But New Jersey's Supreme Court decided defendants did not need to bear that burden because their sixth Amendment privilege outweighs ours under the First. Even so, without any help from Farber's notes, Jascalevich won acquittal. But any fair-minded, objective person will have to concede that where the journalist's claim of privilege clashes with the right of an accused man trying to defend himself in a murder trial to compulsory process, it is a very close question.

Herbert v. Lando. In the Lando case, again, the media lawyers were after a new privilege—after virtual total immunity, almost untouchability.

Let me cite the account in the Quill by Lyle Denniston, Supreme Court reporter for the Washington Star and one of the most respected, venerable "regulars" on the beat:

In *Herbert v. Lando* the Court significantly raised the professional costs of being sued for libel by a "public figure." In the process, it raised to constitutional dignity the process of forcing answers from the press about gathering news.

Now, virtually every step in the news-gathering process is subject to compelled disclosure before trial, on pain of losing by default for refusing to reply. Lawyers for a "public figure" may probe the origin of the story idea, the choices on how it was to be pursued, the questions asked or unasked, the persons interviewed or bypassed, the office talk about the story (in conference or in idle chatter or gossip), the choice of what to tell or not in the story, the decisions on how to phrase it, the judgments made in editing—plus what everybody thought along the way.

All due respect to my friend Lyle Denniston, this just plain ain't so! The Court did not change anything. All it did was reject an assertion by lawyers for CBS of a privilege never heretofore granted to make journalists immune to questioning on their motives and editorial process. Justice White's opinion cited more than 40 cases in which such questioning has been accepted in defamation suits in the past. Yet here is the Society of Professional Journalists' own magazine giving journalists the notion that the Court has somehow stripped them of a right they have enjoyed in the past!

If proving malice is the standard to which we journalists as defendants may hold plaintiffs, a great advantage given us by the Warren Court in *New York Times v. Sullivan*, then defendants are obliged to undergo this kind of psychological pelvic examination. Or else there will be no libel law left. And I would hate to live in a society where journalists had such license. We would all be in general ill repute, as Justice Fortas. Unchecked power is not good for anybody, be it justices, presidents—or journalists.

Gannett v. DePasquale. The reaction of both journalists and judges to Gannett leaves me wondering if either group knows how to read or bothers to read Supreme Court decisions. Freshmen law students learn on Day One to know the difference between holding and dictum: what the Court actually decides, distinguished from what the dominant opinion may say, that is not really necessary to the result. Gannett was a 5–4 decision, and only two justices agreed unreservedly with Justice Stewart's opinion for the Court, which said as dictum that there was in the Sixth Amendment no right on the part of the public to attend trials—only that the defendant is entitled to have his trial in public if he wishes. Chief Justice Burger concurred separately, saying he was going along only because the case involved a pretrial hearing, and he found in the history behind the Sixth Amendment that pretrial hearings had been closed. That's fair notice to all that Burger is not likely to vote to close trials themselves.

Yet in the first month following the decision, judges across the land closed at least

[2] Cert. denied 11/27/78. As the New York Times itself pointed out in its news account (11/28/78), the justices might have declined to review the New Jersey Supreme Court's interpretation of the federal constitutional question because Justice Brennan did not take part in the Court's consideration of the case, apparently because his son, a New Jersey lawyer, had some professional connection with Jascalevich's lawyer; that would have left only eight justices to decide the case and might have ended in a 4–4 deadlock. So the refusal to take up the issue does not mean the Court might not do so at some future date and overrule the position taken by the New Jersey justices.

eight trials, according to the Reporters Committee for Freedom of the Press. They did so in the face of clear warning by two of the five justices in the Gannett majority that there is no majority for that conclusion. The Richmond newspapers in August brought the justices an appeal over a secret murder trial a year earlier in Hanover County—surely a positive litmus test of disregard for the First Amendment.

I hope the intemperance of much of the Fourth Estate's reaction to the Gannett decision has not prejudiced the Richmond newspapers' appeal by convincing the two justices who were almost with us in Gannett that we're such a rowdy bunch we need to go sit in the courthouse corner and meditate upon our sinfulness. The New York Times' Linda Greenhouse reported in September that Powell at one stage actually voted with Justice Blackmun, whose dissent would have carried the day had not Powell changed at the last minute and voted instead for Stewart's position. Even so, Powell wrote a separate concurrence emphasizing the press's constitutional right to have access in the courts. Let's hope he switches again in the closed-trial case.

The closing of pretrial hearings is one case in which I feel we journalists have a legitimate beef. Even though five justices do not think our right to monitor these often decisive hearings rises to the level of a constitutional right, I think we should strive to impress all and sundry that it is, nevertheless, a very important right. We should wage an all-out campaign with any judge and public prosecutor who agrees to any such closed proceeding. Where they are elected, we ought to call them to account at the polls. Where they are appointed, we ought to reason with them editorially, at length, until they see the error of their ways. And we must never forget the constitutional history and source of the cause of most defense efforts to close pretrial hearings: the exclusionary rule. This judicial abomination was forced upon the states in the 1961 Warren Era Mapp decision in which six justices claimed vast new powers to "edit" the evidence jurors are allowed to see in criminal cases. In the 1977 case of *Brewer v. Williams*, decided 5 to 4, Chief Justice Burger openly declared his intent to campaign for the one convert needed to junk the whole fetid exclusionary rule. When that is done, as I am sure ultimately it will be, pretrial hearings will shrink in importance—though however unimportant, they should be open absent truly egregious circumstances.

A FAILURE OF PROFESSIONALISM

Most journalists insist that "the First Amendment is absolute." Their idols on the Supreme Court bench, now gone, were Justices Black and Douglas, who propounded and defended this view. But few journalists know or note that, in the long history of the Court, of all the 101 justices who have served on it, only those two have been First Amendment absolutists. The rest realized that the rights of scribes often conflict with the rights of others and must be balanced in that quintessential process of judging.

In sum, I have to say that Reuven Frank is right: journalists and lawyers do not think alike, and the law business and the news business are indeed on a collision course. Our rights and privileges and immunities are inevitably going to be decided in the courts and legislatures and ultimately in the court of public opinion, where we are not, after all, exactly defenseless. But no power has "the gift given us to see ourselves as others see us," and neither public nor courts see us as the shining white knights of flawless plume that Reuven Frank depicts. So it is inevitable that we are going to get our feelings hurt by the courts and lawyers whose destiny it is to tell us that we cannot have all the rights and privileges and immunities we want for ourselves.

I doubt that journalists generally will grow up enough to accept and like and respect the role of the Supreme Court in defining their limits. So I expect we will see the justices continually depicted as buzzards or kangaroos or scoundrels in robes, carving up the Constitution and throwing it in the waste basket and running roughshod over the liberties of the American people. The concept of liberties without limits is as nonsensical as the concepts of fried ice and horsefeathers. And this jejeune journalistic response is sad, really, because while we journalists chant constantly about "the people's right to know," the people also have the right to some unbiased lenses through which to view an institution so crucial to the maintenance of ordered liberty. And we of the Fourth Estate are certainly not generally giving such an uncracked view where our interests are at stake. We are not living up to our own canons of objectivity and fairness.●

SUBSTITUTE FOR THE MX RACETRACK SCHEME

● Mr. STEVENSON. Mr. President, since the President decided to move ahead with the so-called racetrack basing mode for the MX missile, we have seen the beginnings of what promises to be an extended debate on the strategic wisdom, the technical feasibility and the financial implications of this scheme. An important part of that debate should be the careful scrutiny of alternative basing modes.

The October 12 issue of Science contains an article by Eliot Marshall entitled "MX Missile to Roam 200 Racetracks," which offers a critique of the racetrack plan and suggests an alternative in the form of a shallow underwater missile (SUM) system. Small conventional submarines, fitted with two or three missiles and operating close off our shores with a high degree of invulnerability, could provide with greater certainty and at much lower cost the security we lose because of the growing vulnerability of Minuteman III missiles.

This is a proposal that deserves careful study, and I ask that the entire text of Mr. Marshall's article be printed in the RECORD.

The article follows:

MX MISSILE TO ROAM 200 RACETRACKS

Jimmy Carter announced on 7 September that he had made the most important decision for America's nuclear forces in more than a decade, likening it to President Truman's decision to create the Strategic Air Command and Kennedy's creation of the Minuteman missile force. Carter endorsed a plan drawn up by the Defense Department to install the newest and most lethal nuclear missile, called the MX, on movable launchers and have them hauled about by 3000-horsepower locomotive-like trucks. These will be sent to roam over 5000 miles of as yet unbuilt military highway in the Southwest, where they will play hide-and-seek with Soviet satellites. As soon as it was announced, the scheme began to draw critical fire from the arms control community.

Debate over the basing system for the MX, which became quite frenetic within the government this year, is now officially at an end. But some independent defense analysts say the decision should not be considered final, for they believe it was a serious mistake and will soon be recognized as such. They argue that, in the interest of national security, the debate should be resumed, because there are simpler and safer approaches than the one the President has taken. Furthermore, there is time to reconsider, they say; the MX will not be ready for deployment until 1985.

The Administration's basing system, nicknamed the "racetrack," will call for an enormous construction project in the Southwest's desert valleys, where water, labor, and support facilities are scarce or nonexistent. The basic plan calls for building 200 road loops, each 15 to 20 miles long, in the deserts of Nevada and Utah. In each loop there will be one missile aboard a mobile launching vehicle (called a transporter-erector-launcher or TEL). A motorized shed on wheels will surround the TEL and accompany it whenever it moves along the loop. The shed will be used to hide the missile's true location from the Soviets.

Around each road loop, at 7000-foot intervals, will be 23 underground garages made of thick concrete to resist the blast of incoming missiles. When it is time to install the missile in a garage, the TEL will drive into its appointed loop with the shed moving along above it. The shed will drive up to each garage on the loop as though to install the TEL at each one. But in reality the TEL will slip out under the shed and park surreptitiously in only one of the garages. At monthly or bimonthly intervals, the shed will visit all the garages and move the missile to a new site. At greater intervals—perhaps once every 6 months or every year—slats in the roofs of the sheds and the garages will slide open to reveal that there is, in fact, only one missile in each loop. On notice of a Soviet missile attack, the TEL's, without their sheds, will "dash" from their garages at 30 miles an hour, park in a new garage, and prepare for launching.

The Defense Department estimates that it will cost $2 million to build each garage and that the total program, missiles and all, will cost about $33 billion in 1980 dollars. The entire network of 4600 garages should be in place, barring unforeseen political, legal, or environmental problems, by 1989 or 1990.

"It's a Rube Goldberg scheme," says Sidney Drell, a defense analyst and deputy director of the Stanford Linear Accelerator Center: "I've never heard of anything so rococo in my life. It's absurd." Richard Garwin, another veteran defense consultant, former director of applied research at IBM, and professor at the Kennedy School of Government at Harvard University, says Carter's choice for MX basing is "absolutely wrong." The racetrack, he claims, is "a vulnerable system; I will bet that within 2 years it will be regarded as just as vulnerable as the Minuteman it is replacing."

Drell and Garwin have looked closely at the proposals for basing the MX and have become vocal critics of the racetrack scheme. In 1978 Drell headed a study on the future of U.S. missile policy that was conducted at the Stanford Research Institute for the Defense Department. He concluded that mobile missiles should be based on small submarines patrolling off the east and west coasts. Garwin sat on a task force on missile modernization put together by the White House Office of Science and Technology Policy, and, like Drell, he concluded that submarines offered the best solution to the problem of missile basing in the 1980's. This conclusion was rejected by the Pentagon, although defense officials agree there is merit in it. As Garwin put it, "Mostly they say it's a very good idea for the 1990's after we finish building Trident [the new nuclear submarine] and get the MX deployed." Understandably, the authors of the minisub proposal have an interest in defending their own research. But their criticism of the racetrack is so fundamental it can hardly be brushed aside as sour grapes.

Drell and Garwin argue that the President has opted for an unnecessarily costly

and cumbersome program that will not even come to grips with the problem it is supposed to solve. They agree that the problem requires action: by 1982 or thereabouts, America's most accurate big missiles—the land-based Minuteman-III force—will become vulnerable to a Soviet first-strike attack. This will occur because Soviet missiles will have better guidance systems by then. If the Soviets wished to start a nuclear war, they would be able to use their land-based missiles to destroy over 90 percent of the U.S. Minuteman arsenal. For this to happen, the United States would have to leave its missiles in the ground after being warned that the Soviet missiles were in the air. And even if this first strike were successful, the Soviets would not be able to destroy simultaneously all American bombers and submarines. These would still be free to shower several thousand warheads on the Soviet Union—enough to end civilized life there.

Thus, "Minuteman vulnerability" is a largely theoretical problem. But it is worrisome because it diminishes confidence in the most accurate, heaviest, and best-controlled segment of the U.S. nuclear triad. (Submarines and bombers are the other segments.) This may not be the most important practical problem confronting our strategic forces, Garwin says, but it is the one which the Defense Department has advertised most and seems most concerned about.

Garwin points out that there are several quick and relatively cheap measures that could be taken to restore full confidence in our nuclear forces, and he recommends that all of them be followed. They involve such things as improving the guidance and communications for submarine-based missiles to make them as threatening to the Soviets as Minuteman, installing simple nonnuclear defenses around Minuteman silos, and developing an airborne missile equivalent to Minuteman. But, he says, the Pentagon does not like to solve problems with technical fixes; it prefers to buy whole systems. For this reason, the only solution that meets the Pentagon's terms of acceptability is one that creates a new and truly invulnerable heavy missile system—one which, like Minuteman, is highly accurate and securely linked with a central command post.

According to Garwin and Drell, one of the glaring flaws in the racetrack scheme is that it will be just as vulnerable to a Soviet first strike as Minuteman during the early part of its construction. This is so because the Soviets will have enough warheads to aim two at each missile garage during this period. Only when the construction program enters the final stage—in 1988 or 1989—will U.S. missile garages be so numerous as to present targeting problems for the Soviets. There is another catch: the SALT II treaty, now being considered by Congress, is due to expire in 1985. If it is allowed to lapse, the Soviets will be free to place more warheads on their missiles and, of course, to build more missiles beginning in 1985. Yet the racetrack system will not be finished until 4 or 5 years later. The invulnerability of the race track scheme thus depends on persuading the Soviets to limit the number of warheads on their missiles, or alternatively, on building $2-million garages in the Southwest faster than the Soviets can place warheads on their missiles.

Garwin recently wrote that the United States is buying itself an "anti-bargaining chip" for the next round of negotiations with the Soviets: "Can you imagine that in 1983 as SALT III negotiations are coming down to the wire, the U.S. says to the Soviet Union, 'Please Mr. Soviet Union, we have committed $30 billion to the deployment of the [new missile] system, which will be vulnerable if you deploy a lot more warheads. Therefore, won't you be so good as to agree in SALT III not to have enough warheads to threaten the MX?' No doubt the Soviet Union will be only too glad to agree, but what price will they exact as a condition of that agreement?"

Garwin says he has been warning Defense officials for years that if they say that the Soviet Union is going to imperil Minuteman in 1982 but then provide no solution until 1988, "they're just going to be laughed out of court." He continued: "They get everybody to feel that Minuteman vulnerability is unacceptable and a terrible political threat, and then they say, 'By the way, you have 7 to 10 years of assured vulnerability.' What kind of business is that?"

When asked about this weakness in a press conference, William Perry, undersecretary of defense for research and engineering, said he doubted the Soviets would try to place more warheads on their missiles, because the United States would be able to expand and accelerate its racetrack construction program, building 10,000 rather than 4600 shelters by 1989.

"We can do that while still maintaining the final operational date—1989—provided we know what is happening by about 1983 or 1984. It's a matter of how many shelters we build and how many missiles we build. We can build about 2000 shelters a year without going into a war emergency kind of a footing. . . . We can demonstrate, not only to you and to the Congress, but I believe to the Soviets, that . . . they cannot win that sort of a race. . . ."

A second major flaw in the racetrack, Drell says, is its dependence on deception. For the system to work, it must contain more garages than the Soviets have warheads, but it must also deceive the Soviets about the missile's location. This will require elaborate security controls to keep information from the crews that operate the missile bases, and it will mean that the garages and the sheds that hide the TEL's must be designed to give the Soviets the impression that each one has a missile in it. The Defense Department, for example, has not yet decided whether it will be necessary to install huge concrete weights (at a total cost of $1.4 billion) in each shed to deceive seismic sensors. In an article written for the Arms Control Association, Drell says that in adopting deception as a defense (rather than a straightforward concealment), the United States will be trying to compete on the Soviets' home turf: "The Soviet system is far better adapted to the imposition of controls, secrecy, and limitations on their population. The Soviets also have 2½ times the territory of the continental U.S. . . . in which to deploy and 'hide' mobile ICBMs. We should prefer to compete with the Soviets on our own home turf of mobility based on new system and reliable technologies."

A third flaw in the racetrack plan, say Garwin and Drell, is that it will make arms control more difficult. It may magnify fears of a surreptitious "breakout" strategy, in which surplus missiles are stockpiled slowly and then, in a surprise move, rushed to preconstructed launching sites. If the Soviet Union were to copy the U.S. racetrack and put 200 missiles in 4600 concrete shelters, Garwin claims, there would be no way to assure the public that the Soviets were not building a threatening stockpile of more than 200 missiles. Fears of this sort could frighten both sides into producing more warheads.

A submarine missile system based near the coast would eliminate or diminish nearly all of these problems, according to Drell and Garwin. They claim that most of the technology is available and could be adapted for an operational system much sooner than the racetrack scheme will be ready—perhaps by 1985 or 1986. Germany already has built 18 modern subs weighing 450 tons each (as compared with 8000 tons for the Poseidon and 18,000 tons for Trident), and uses them in the Baltic Sea. In the Garwin-Drell scheme, the small vessels would be fitted with two or three external missile capsules, a power system already in use on commercial surveying subs, and a new communications system. About 100 of these little subs could be built in fairly short order, the proponents say, at a much lower cost than the racetracks proposed by the Defense Department. In terms of security, their most important feature is invulnerability: unlike the land missiles which are safe only in the aggregate, the submarines are individually invulnerable. Each one, as it puts to sea, diminishes the perceived Soviet threat to Minuteman. They do not require a massive program of deception. They have a distinct advantage in terms of arms control; because they are easy to count as they are assembled in shipyards, they would create no fear of a breakout.

Air Force officials say the idea has technical flaws. For example, they argue that the submarines might be rolled over or destroyed in the turbulence that could be caused by a Soviet barrage of American coastal waters. And they fear that—no matter how sophisticated—the communications link with the little subs would be markedly inferior to the one planned for the racetrack. Garwin disputes both points.

Perhaps even more important than the technical criticism is the feeling, as one Air Force officer put it, that moving into subs would be like telling the Soviets they had "chased us off the land." In this context, it is useful to keep in mind the Defense Department's doctrine of the strategic triad: America must have invulnerable nuclear forces in the water, in the air, and on the land. Under this doctrine, one does not solve the weakness of a land-based force by putting a new force underwater. Besides, the Air Force, which is due to get the MX, is not eager to go underwater, and certainly not in diminutive German submarines. The Navy is bored with the idea. Drell suspects, because it would siphon off funds from the Trident construction program, which is already a huge financial burden, and slow the pace of the ambitious new conventional shipbuilding plan. As Drell claims, "The principal obstacle to the [submarine] system at this time is that it has no institutional home or constituency."●

REPORT ON DOMESTIC COMPLIANCE ISSUED BY HELSINKI COMMISSION

● Mr. PELL. Mr. President, as cochairman of the Commission on Security and Cooperation in Europe, I am pleased to announce that the Commission has today issued its report on U.S. implementation of the Helsinki Final Act. The detailed report, entitled "Fulfilling Our Promises: The United States and the Helsinki Final Act," is a comprehensive review of the progress—or lack of progress—that the United States has made in implementing the provisions of the Helsinki accord.

Preparation of the report has been a major staff project during the past year. The Commission had the assistance of U.S. Government agencies and departments who—at the direction of President Carter—designated a high-level official to cooperate with the Commission in this domestic compliance monitoring effort. Information obtained through extensive staff research, 3 days of public hearings, and contacts with individuals and private organizations interested in various aspects of domestic compliance was incorporated into the report.

The report—issued 4 years after the signing of the Helsinki Final Act and 1

year before the Madrid review meeting—establishes the good faith of the United States in conscientiously examining its own compliance record. Not only will it encourage greater efforts at improved implementation at home but, we hope, it will prompt other signatory countries to undertake similar public assessments of their performance. I know my colleagues in the Senate—who have supported the Commission's efforts to encourage compliance in other CSCE countries—will be greatly interested in this report.●

SURVIVABILITY OF OUR STRATEGIC DETERRENT

● Mr. CRANSTON. Mr. President, I am not yet convinced that the MX missile basing mode which the President has chosen, or that any engineering solution, will guarantee survivability for U.S. land-based forces in the long run. That question and others will be explored as we continue the research, development, testing and evaluation programs for the MX missile and basing modes.

TIME FOR FULL CONSIDERATION OF MX-HORIZONTAL DASH, ALTERNATIVES, ARMS CONTROL SOLUTIONS

We—the Congress and the Executive—have ample time and opportunity to consider how best to insure the overall survivability of our strategic deterrent. I am pleased that the Carter administration has rejected the theory that our deterrent to nuclear war vanishes the day that Soviet ICBM's have the theoretical capability to destroy most of our ICBM force. Rather, as Dr. William Perry, Under Secretary of Defense for Research and Engineering, stated on September 12:

> Fortunately, the future vulnerability of the Minuteman force does not imply the concurrent vulnerability of the United States. We can afford some temporary degradation in the ICBM force because our overall strategic capability will remain strong. The other two legs of the strategic triad are not now threatened in the same way as our ICBMs. But we have decided to build up the leg of the triad that is temporarily weak so that should other parts of our strategic forces become more vulnerable at some later time, our overall strategic deterrent will not be eroded.

Both the U.S. bomber force, deployed with air-launched cruise missiles, and our SLBM force are expected to remain survivable well into the 1990's and perhaps beyond.

Thus, we need not be panicked into making a commitment to any basing system which may or may not insure long-term survivability of our ICBM's, which are, after all, only part of our strategic triad deterrent. I wish to emphasize that the decision Congress is making in providing $670 million for the MX in fiscal year 1980 is only the decision to continue research and development. This is not a production decision. It is not a commitment to build any specific number of MX missiles in the future. We are funding only the continuing search for a possible engineering solution to the problem of ICBM force vulnerability.

WORKING FOR AN ARMS CONTROL SOLUTION

In the coming years we should pursue with equal effort and vigor arms control solutions to the problems of ICBM vulnerability. If the SALT III negotiations could eliminate the threat to land-based forces through major mutual reductions, that clearly would be vastly preferable to deploying the very expensive and potentially destabilizing MX missile.

The MX will not even begin to be deployed until 1985—the year SALT II terminates. Both the United States and the Soviet Union have commited themselves in the SALT II Treaty to finalizing a SALT III agreement before SALT II expires. Even if the 1985 deadline should pass, it would still be years before the MX is fully deployed. In the years ahead, I will be working hard in the Senate to insure a good SALT III agreement.

Thus, I believe there is ample time for the United States to pursue an arms control solution as well as to continue to try to find an engineering solution as a further hedge.

SENATOR HATFIELD'S AMENDMENT

I do not believe this continuing exploration process would be served best by eliminating most of the $670 million requested for fiscal year 1980, as proposed by my distinguished colleague from Oregon, Senator HATFIELD. However, I do strongly support Senator HATFIELD's view that the Department of Defense should fully consider the alternative basing mode called "SUMS," or a shallow underwater mobile system using submarines. As recently as October 23, Dr. Perry discussed with me the pros and cons of the SUMS alternative and the further studies on SUMS which are underway in his department. If additional moneys are needed to continue these studies in fiscal year 1980, I will certainly join with my colleague from Oregon in seeking to insure that those funds are available. At this time, I have as many questions about SUMS as I do about the so-called racetrack or horizontal dash shelter system. For example, I am concerned that submarines operating in shallow water, may be as vulnerable to the same pin-down barrage-type attack as land-based missiles.

Another concern is that communications with submarines tend to be less secure and noncontinuous than those with our land-based missile system. We must have, to the maximum extent possible, prompt and continuous control over our strategic forces.

Finally, it is not self-evident that SUMS would be less expensive than the shelter basing system. There may well be technical solutions to these and other problems regarding SUMS. My only point is that there are many unknowns and that further exploration is both necessary and desirable. I believe the Department of Defense is willing to continue these explorations and I pledge to work with my distinguished colleague from Oregon and the other Senators on both sides of the aisle and of diverse political persuasions who are dissatisfied with the current MX basing scheme to insure that the Department of Defense keeps its options open for the best practical solution.●

WAGE AND PRICE CONTROLS

● Mr. PELL. Mr. President, on October 25 I introduced legislation giving the authority to impose controls on wages, prices, rents, and salaries.

Today, we have evidence that a clear majority of the American people, facing the ravages of continued inflation, want and support wage and price controls.

A national poll, conducted by the New York Times and CBS News, shows that 58 percent of the people favor Government-enforced wage and price limits to combat inflation.

The poll shows further that wage and price controls are not a matter of contention or division between poor and rich, whites and blacks, Republicans or Democrats. Support for wage and price controls is nearly uniform.

This is in marked contrast to other proposals to combat inflation, which are either clearly divisive or do not command strong public support at all.

I believe this indication of strong, uniform public support for wages and price controls is important because the success of any program to control inflation relies very heavily on public support and acceptance.

If an inflation-control program is seen by the poor or the rich or by any racial or ethnic group as unfair or discriminatory, the programs chances of succeeding are seriously damaged.

This is what the Time/CBS poll showed:

Only about one third of those polled accept the idea of letting unemployment increase as part of a program to combat inflation. Among blacks and persons with incomes below $15,000 the number willing to accept higher unemployment rates is substantially lower.

While a large percentage of the public is willing to cut back on Government social programs to combat inflation, there are huge differences between blacks and whites, and between rich and poor on this question. It is clear that blacks and lower income individuals believe that such a policy would make them bear an unfair share of the burden of combating inflation.

Indeed, of all the solutions tested in the poll, only wage and price controls command strong, uniform support from all groups involved.

With inflation continuing to rage unchecked, with interest rates soaring weekly to unprecedented levels, there is growing public demand for more vigorous Government action to halt inflation.

I believe the time is rapidly approaching when wage and price controls will be seen, not only among the general public, but among economists, Government officials, and here in the Congress, as vastly preferable to the damage being done daily to our economy by continued inflation.

I hope my colleagues will pay particular attention to this latest report of the public view of what should be done to control inflation, and I ask that an article from the New York Times today reporting on the Times/CBS poll be printed in the RECORD.

The article follows:

POLL FINDS PUBLIC SUPPORTS VARIETY OF MOVES IN FIGHT ON INFLATION

The American people say they want to do almost anything to control inflation, including cutting their own standard of living, but the richer half of the population is much readier to accept a variety of social hardships than is the poorer half, according to the latest New York Times/CBS News Poll. Whites were also more prepared for overall sacrifice than blacks.

Wage and price controls were equally supported by those above and below the median income level and by blacks and whites. Fifty-eight percent of the public wanted them imposed.

Clear majorities of the public also supported reducing government social programs and cutting regulation of business and industry. But two out of three said they did not believe in "letting unemployment go up"—the effect almost all economists think would follow from using traditional forms of budgetary and monetary restraint to cool the economy.

Only two Americans in five said they believed "an effective President would be able to control inflation," but four out of five thought the problem could be controlled "if Congress and the President worked together." Only a fifth of the public thought they worked together now.

INFLATION ISSUE STRESSED

This Times/CBS Poll of 1,365 voting-age Americans, based on telephone interviews from Oct. 20 to Nov. 3, followed an early October poll in which 40 percent of the public identified inflation as the issue on which they most wanted Presidential candidates to concentrate. The new survey followed up by asking the public's willingness to accept solutions proposed by candidates and others.

Besides the marked differences by family income, the poll also showed very strong racial differences in responses. While 33 percent of the whites, for example, said they would accept greater unemployment to curb rising prices, only 17 percent of the blacks found that acceptable. Over all, 31 percent of the public favored that course, and 63 percent did not.

In a similar pattern, twice as high a percentage of whites as blacks said they would, to curb inflation, be willing to "cut back the number of government social programs." Seventy-five percent of the whites said they would, but only 36 percent of the blacks did.

Those respondents in roughly the upper income half of the population, with family incomes of $15,000 or more, gave that idea solid support, with 79 percent of them agreeing. But the lower half also favored the idea, at 63 percent approval. For the public as a whole, the percentage was 71 percent.

LETTING UNEMPLOYMENT RISE

Partisan differences on the suggested inflation remedies were generally slight. On the question of letting unemployment rise, 37 percent of Republicans and 28 percent of Democrats said they would accept such a step.

The biggest partisan difference, however, came on a remedy that Republican Presidential candidates have been stressing. The respondents were asked if they would accept having "less government regulation of business and industry." While half the Democrats said they would be willing, two-thirds of the Republicans approved.

Aside from wage and price controls, that issue produced the smallest income differential, with 54 percent of the poorer half saying yes to it and 60 percent of the richer half. That issue did strike home with the respondents having family incomes over $25,000, where it again got two-thirds approval.

That wealthier group was also most willing to say it would accept a reduction in its own standard of living to curb inflation. Seventy-seven percent of those with family incomes of $25,000 or more said yes to that proposition, while those with less than $15,000 in family income were considerably less enthusiastic, with only 57 percent agreeing.

The question of a reduction in one's own standard of living also produced the single sharpest age difference in responses. In contrast to the 65 percent of the general public who said they would cut back their own standard of living, 40 percent of the respondents 65 and over said they would. Of those from 45 to 64, 72 percent said they would accept such belt-tightening.●

ADDITIONAL VIEWS OF SENATOR GRAVEL ON WINDFALL PROFITS TAX

● Mr. GRAVEL. Mr. President, the so-called windfall profits tax bill will be coming to the Senate floor soon from the Finance Committee. This bill would siphon over $100 billion from the oil industry in the United States during the next 10 years at a time when hundreds of billions must be invested in oil and gas exploration and development just to keep our domestic production up to the current levels.

The bill will effectively keep the market price of domestic oil below that of foreign production. This will continue to discourage domestic production while doing nothing to stem the tide of foreign imports.

This tax is unnecessary. Enough revenues will be raised by the corporate income tax on oil companies as a result of the deregulation of domestic oil to pay for any programs presently being proposed for the development of alternative fuels, low-income energy assistance, mass transit, and conservation.

I believe that this bill represents a serious threat to our economy. I was the only member of the Finance Committee to vote against referring this bill to the floor and I continue to oppose its passage. My position on this legislation is set out fully in my committee report statement and, in order to make that position clear to this body, I ask that it be printed in the RECORD.

The material follows:

ADDITIONAL VIEWS OF SENATOR GRAVEL

HISTORY OF DOMESTIC OIL PRICE CONTROLS

The price of oil since its discovery at Titusville, Pa., in 1859, has been low in relation to other commodities. Initially, farmers considered the black goo a liability and sold oil rich lands as worthless. As industrial economies began to realize the attractiveness of oil as a fuel source the commodity became marketable and eventually the search for oil expanded beyond the United States. Throughout the first half of this century world oil reserves expanded faster than consumption. Major discoveries in Texas, the American Southwest and the Near East added huge reserves to the world stock of oil.

The major multinational oil companies are predominantly American owned and operated. These companies opened up the large foreign oilfields which now form the bulk of OPEC production. During the decades of the fifties and sixties the majors, controlling production from the huge fields of the Middle East, kept the price of oil low. In fact, the price of foreign crude was so low that import quotas were placed on foreign oil to prevent it from driving higher cost domestic oil out of the market.

At the beginning of the 1970's the countries which had provided us so abundantly with cheap oil began to realize that they were selling their birthrights for less than they might receive. Reacting in a perfectly logical fashion they joined together to seek higher prices for their crude oil. Because of the gluttony of the industrialized West, OPEC became a success and has continued to set the world price for oil since its formation in 1973.

The United States responded to the OPEC challenge in a most unsatisfactory way. Instead of acknowledging our dependence on imported oil and adjusting to price increases through encouraging domestic production of hydrocarbons, we levied price controls on domestic oil in an effort to delay the consequences of the OPEC price increases. Price controls on oil were initiated by President Nixon on August 15, 1971, as part of a general program of price controls. Prices were frozen at May 15, 1971, levels and not allowed to rise with the world price for oil.

By early 1973 price controls lapsed to voluntary guidelines. Due to heating oil shortages the Cost of Living Council imposed mandatory controls on the oil industry alone. We decontrolled the price of all other commodities, but continued controls on domestic oil with President Nixon freezing all oil prices. This was phase IV of the price control program which became the forerunner of the DOE programs of today.

In 1973 the Arab-Israeli war led to prices rising faster and higher than expected. In the United States, domestic crude prices were allowed to rise in response to supply shortfalls. The Cost of Living Council targeted regulations more specifically on the functions of the industry. Production, refining, marketing, and ceiling prices were set and mandatory allocations began. New oil was decontrolled. Producers increasing their production above 1972 levels were allowed one barrel of old oil at world price for every new barrel produced.

In November 1973, Congress passed the Emergency Petroleum Allocation Act which enacted into law most of the Cost of Living Council regulations. In addition, that act created the Federal Energy Administration to regulate prices and allocate production. It also created a cost equalization program for purchasers of crude oil bringing with it the "entitlements" program. President Ford imposed two $1 per barrel tariffs on imported crude oil under the Trade Expansion Act of 1960. These tariffs did not require congressional approval.

In 1975 the Energy Policy and Conservation Act was passed; largely continuing EPAA price regulations. This bill allowed FEA to establish "old" and "new" domestic oil prices such that the weighted average of domestic oil prices would not exceed $7.66 per barrel. The bill also placed stripper oil under controls, disallowed the release of oil to uncontrolled status, and authorized the President to initiate major regulatory program changes with congressional oversight.

In August 1976, the Energy and Conservation Act was passed by the Congress. This act decontrolled stripper well output allowing this oil to rise to world price. Authority was granted to raise the EPCA composite price by 10 percent per year although this action has never been taken by either FEA or DOE to the full extent allowed by law.

The dominant theme in this history of domestic oil price controls in the United States is one of increasing complexity. Starting with a general price control program on all goods we have developed in less than a decade a price control program for one domestic commodity which requires thousands of people and billions of dollars to administer. These price controls have helped keep the

price of oil to U.S. industry and consumers below that paid by other countries. But the controls have not been without cost. We have continued our energy gluttony, our oil imports have risen, domestic production has been discouraged by artificially low prices, and we have lost face in the world by hiding from our energy problems.

Efforts to establish a domestic energy policy in the field of oil have centered around increasing the consumer price of oil to the market price established by OPEC while denying producers the revenues from higher retail prices. The crude oil equalization tax proposed by President Carter in 1977 and rejected by the Congress would have taxed the price of domestic oil to the world price. It, like the windfall profits tax, was deregulation without decontrol. Congress wisely rejected this tax, understanding that it promised higher prices with no hope for increased domestic production.

President Carter took a courageous step earlier this year when he announced a plan for the phased decontrol of domestic oil prices. As pointed out in his announcement, decontrol of domestic oil prices will contribute significantly to increased domestic production of oil. However, in a proposal which takes back with the left hand that which has been given with the right, the President asked the Congress to impose a "windfall profits tax" on the revenue flowing to domestic petroleum producers as a result of decontrol. The proposed tax has nothing to do with profits of domestic oil producers but simply places an excise tax on each barrel of oil produced domestically from certain categories. It is a punitive tax which does nothing to reduce our reliance on foreign oil, but reduces the incentive to produce American oil. Most discouragingly the crude oil severance tax is unnecessary since a rational national energy policy for the United States can be financed out of increased corporate income tax revenues resulting from decontrol.

THERE ARE NO WINDFALL PROFITS

The question of oil company profits has been thoroughly demogogued. Political and media denunciations of oil industry profits ring with moral outrage and colorful adjectives. What most of these denunciations lack is any reference to the facts. Prices of oil and related products are not exceptionally high, nor are oil companies abnormally profitable.

OIL PRICES ARE NOT OUT OF LINE

There have been allegations that much of the inflation in our economy is due to the rapid OPEC price increase in crude oil. It is interesting to compare the price of crude oil and related products with the Consumer Price Index to determine just how much the price of oil has risen in real terms. The relationship between the CPI and the price of gasoline and motor oil for the years 1972–78 is shown by the following chart:

[Chart not reproducible in RECORD]

Prior to the first quarter of 1974 the price of these commodities lagged behind the increases in the general level of prices. Following the oil embargo in 1974 gasoline and motor oil prices rose above the general level of prices. But, by 1978 prices fell back to a point where, in real terms, they were no higher than the general level of prices measured by the CPI

In addition to dramatic price increases in the nominal cost of energy other goods have inflated rapidly. President Carter's economic report to Congress relates the cost of energy and all other items in a chart set forth below:

[Chart not reproducible in RECORD]

In terms of dollars and increased outlay for gasoline and oil was far down the list, less than the increased expenditures for furniture. A further illustration of the status of domestic energy costs can be shown by comparing the cost of a gallon of gasoline with the average hourly earnings of American workers. The following chart shows dramatically that the cost of fuels in the United States fell significantly between 1928 and 1978 in relation to wages.

This discussion is not intended to suggest that all is well with U.S. energy policy, but merely to put the discussion of "windfall profits" into perspective. Since World War II the cost of petroleum based energy products in the United States has fallen in terms of real dollars until only very recently. It has been only since the beginning of 1979 that the cost of oil based hydrocarbons fuels in the United States has risen in real dollars. This is an exemplary record for the industry which our leaders have chosen to vilify.

PRICE INCREASES ARE DUE TO OPEC

The argument is made that domestic oil should not receive the current world price of oil because that price is an artificial one established by the OPEC cartel. However, from the standpoint of the United States the cost of a barrel of domestic oil which is not produced is the OPEC price because we must import that barrel from abroad. We must give up the goods and services from our domestic economy necessary to pay the OPEC price.

Because we must pay the OPEC price for imported oil the real cost of an additional barrel of oil, regardless of its source, is the OPEC price. If we are unwilling to pay this price for domestic production we use more of our resources to purchase foreign oil than domestic oil. But, clearly, it is preferable from the viewpoint of our economy to encourage domestic production to its fullest. Even at the OPEC price a barrel of domestic oil is preferable to a barrel of imported oil because the domestic production brings employment, income and tax revenues which foreign production exports.

Because of price controls, continued in de facto form by the crude oil severance tax, the United States is not producing those quantities of oil which could be produced with fewer resources than we use to purchase oil abroad; that is the oil which could be produced above the domestic controlled or tax base price and below the full world price. For every additional barrel of domestic oil we produce costing less than the world price, we obtain a net resource savings, which can then be used for the production of additional goods and services for consumption within the United States. If the price of oil received by domestic oil producers is permitted to rise to the world price, we could get more oil for the resources used at home and reap increased real income at the same time.

This is not to say that OPEC is not important with respect to a determination of domestic crude oil profits. If domestic prices are decontrolled increases in world prices will increase domestic oil prices and the profits of petroleum companies. This increase in profits is desirable in that it will encourage capital to flow to the domestic oil industry expanding domestic production until the cost of purchasing an additional barrel abroad. As the committee substitute is currently drafted an incentive remains to purchase oil abroad rather than to produce it at home.

INFLATION NOT CAUSED BY OIL PRICES ALONE

Many people in the United States blame the chronic increases they are witnessing in the cost of living on skyrocketing oil prices. By association, they place much of the onus for inflation on oil companies taking advantage of OPEC pricing practices. But rising oil prices are not the whole explanation for the inflation we are now experiencing in the United States. The predominant responsibility lies with the deplorably low productivity experienced in the United States since the early 1960's.

Japan, which is almost totally dependent on oil imports from OPEC, has far surpassed U.S. productivity in manufacturing and other non-farm business since 1960. Likewise, many European nations and Canada have experienced higher productivity than the United States. The economic slowdown associated with rising oil prices has not occurred nearly as fast in those countries as in the United States. The table below shows the low productivity in U.S. manufacturing from 1960–78, contrasted with that of several European countries and Japan.

The committee substitute concentrates on punishing the oil companies for profiting from oil price increases over which they have no control. This does nothing to resolve the problem of inflation in our economy. Instead, the Committee should be addressing the problem of inflation by stimulating productivity through the growth of capital stock and supplies of primary resources at home. Efforts to reduce the tax and regulatory barriers to growth will be far more constructive than creating additional programs for removing corporate profits from the economy.

PETROLEUM COMPANY PROFITS

Many of America's major oil companies operate worldwide and their costs and investments as well as their profits are measured in billions of dollars. But, their return on investment and their profits are not unfair. In fact, oil companies make about the same return on their investments as most other segments of American industry. Over the past 10 years the return on capital invested by U.S. petroleum companies has been about 10 percent. Ten percent return on invested capital is similar to publishing, slightly less than the automotive average, and considerably less than the office equipment industry (13 percent) or the drug industry (16 percent). Until 1974 the return on equity in the oil industry was below that of average manufacturing. As a result of the OPEC price increases of 1973–74 the returns in the oil industry increased slightly above that of average manufacturing, but by 1977 were back to their earlier levels. The following chart traces the return on equity of a number of major oil companies from 1968 through 1978.

Our financial magazines, such as Forbes, Fortune, and Business Week, report regularly on corporate profitability and a glance at their charts will show that oil company profits average only in the middle range. Time and Newsweek have also pointed this out in recent editions.

Even with the current surge in oil and gas prices, profits have not become excessive. Television reports have emphasized the percentage increase of profits in the third quarter of 1979 over profits in the same quarter a year ago. But this can't tell the whole story unless we're aware that last year's profits were relatively low. Exxon's profits in the recent quarter were reported up 118 percent, but at that rate Exxon's return on investment for the year would be only 18 percent. Gulf's profits were reported up 97 percent for the third quarter, but at that rate, annualized return on investment for Gulf would be only 10.8 percent. Boeing, by contrast, had earnings for the second quarter up 139 percent with an annualized return of 19.3 percent. On a 5-year average, Exxon's profits at the current rate would yield only 12.9 percent return on invested capital; Gulf's would yield only 10.8 percent. Lockheed makes an interesting comparison with a 5-year return based on recent earnings of 24.8 percent. On the same basis the Washington Post is earning a 16.5 percent return on capital.

The highest profit year for the oil industry in recent decades was 1974, the result of price increases by OPEC, not the industry. In 1974, according to the Salomon Bros. investment firm, return on investment for large oil companies averaged 17.5 percent. This

compares interestingly with performance by the most profitable of the Fortune 500, America's 500 largest corporations. More than 30 percent of these companies earned better than 20 percent last year as defined by return on equity and/or return on total capital.

OIL EXPLORATION AND DEVELOPMENT

Oil reserves in the United States have been shrinking in the past decade. Our reserves in 1978 were sufficient for only 4 years of production while in 1970 reserves had been sufficient for over 7 years of production. Much of this decline in reserves has been due to a smaller rate of reserve addition per foot of well drilled in the past decade. In the period 1973 to 1976 the barrels of oil discovered per foot of well drilled dropped from 53 to 18. This large drop has come since the regulation of domestic oil prices was instituted in 1973. The decrease in domestic reserves occurred in the face of a 53-percent increase in the footage of wells drilled during this same period.

Oil in the United States is becoming more difficult to find as the best prospects are drilled and more land is closed to drilling through environmental legislation and regulation. What this means is that a massive investment program in the exploration for new oil will be required to maintain and increase both domestic reserves and production. Chase Manhattan Bank estimates that just to replace domestic reserves produced currently will require capital expenditures of $350 to $400 billion in the period 1979–85.

PRICING POLICIES ARE NOT THE ONLY PROBLEM

The price controls on domestic oil are not the only impediment to increased domestic exploration for oil. The United States is the most thoroughly explored country in the world. As of the end of 1975 exploration wells in the United States had been drilled to a density of 20 per square mile, nearly 10 times the density of our closest competitor, the Soviet Union. The density of exploration in the United States as compared with the rest of the world is graphically demonstrated in the following chart in which each black circle represents 50,000 wells and the space for each country or region represents its petroleum prospective areas (sedimentary basins) both onshore and offshore to the depth of 200 meters.

In spite of the considerable density of exploratory wells drilled within the United States 86 percent of our potential oil and gas bearing lands remain totally unexplored. Many of the most favorable areas for the exploration of oil and gas in America may never be drilled. Our environmental laws place heavy burdens on companies seeking to drill for oil and gas. We have set aside thousands of acres of potentially oil rich sedimentary basins in national parks, refuges and wilderness areas. In Alaska alone the President has adversely impacted 40 million acres of potentially oil rich but unexplored lands. Compare this to Prudhoe Bay, which sits on only 190,000 acres of land and provides one-third of all U.S. oil and one-fourth of U.S. gas reserves.

PROFITS HAVE BEEN REINVESTED IN OIL

We have already pointed out that oil company profits are not "extreme", "outrageous", "obscene" or any of the other invectives which have been used to describe them. In fact, oil companies earn returns on their investments which are comparable to manufacturing companies operating in the United States. But then, one must ask, what do oil companies do with these profits? The answer is that they reinvest them in the search for and production of oil. The following chart compares oil company profits and oil company investments for a group of 27 of the largest domestic oil companies.

In all the years shown in the chart capital expenditures exceed net income. This means that oil companies in this group were investing more each year than they were earning. They were borrowing to invest. Between 1973 and 1976, when U.S. petroleum profits expanded rapidly, investment expenditures increased even more rapidly than profits in both absolute and percentage terms. Since 1976 as the growth rate in petroleum profits fell and earnings leveled off investment declined.

This increased investment has been concentrated in the oil and gas production and transportation fields. The following chart gives the breakdown of oil company investment by type for the years 1968–77:

Comparison of petroleum company investment by type

	1968–73		1973–77	
	Amount (billions)	Percent of total	Amount (billions)	Percent of total
Production	$17.2	51.4	$36.6	53.3
Transportation	1.7	5.2	11.1	16.2
Refining and petrochemicals	6.9	20.6	13.7	19.9
Marketing	5.8	17.5	3.0	4.4
Other	1.8	5.3	4.3	6.3
Total	33.4	100.0	68.7	100.0

Source: Chase Manhattan Bank for the Chase group of companies.

It can be seen that oil company investment in the 1973–77 period was much more oriented toward production and transportation than in the earlier period. Since 1973 the bulk of the transportation investments were directly related to the movement of crude oil from the producing areas. The expenditures for production and transportation grew from 57 percent of total capital expenditures in the earlier period to 69 percent in the later period.

Allegations have been made that oil companies are using their profits to invest heavily in nonoil industries diversifying their operations and getting out of the oil business. Analysis of the situation by Chase Manhattan Bank indicates that the magnitude of capital expenditures outside the industry is extremely small in comparison to total expenditures made within the oil industry. The share of capital expenditures going to "other" in the chart has remained constant over the period at approximately 6 percent. Stock acquisitions are not reported as capital expenditures but a review of SEC filings over the last 5 years indicates that the major noncapital acquisitions have been the Mobil acquisition of Marcor, ARCO's acquisition of Anaconda, and SoCal's acquisition of 20 percent of AMAX. Chase analysis suggests that such acquisitions represent a small fraction of the amount of funds that these firms reinvested in the oil business and that, on an industry basis, the outside investment has been very small. By and large the oil industry is the least likely of American industries to invest outside its own industry.

THE UNITED STATES: AMERICA'S LARGEST OIL COMPANY

The largest owner of potential oil reserves in the United States is the Federal Government. Through its ownership of millions of acres of Federal lands, our Government, and indirectly the American people, control a large share of the as yet unexplored or undeveloped petroleum potential in the United States. Yet, the Federal Government has acted to close off large portions of these lands to exploration through national parks, wildlife refuges and wilderness areas.

The Alaska experience is illustrative of the problem. At a time of grave energy shortages, the President of the United States, the same President who now calls for massive synfuels development, established by administrative action 17 new national monuments in Alaska. By this act alone, he withdrew from oil exploration and development 56 million acres of land. Additional withdrawals made at the same approximate time and the blocking of access to remaining lands significantly reduces the likelihood of exploration of an additional 100 million acres. In all, on December 19, 1978, he jeopardized oil development in an area nearly the size of Texas.

Over 10 million of the acres in monuments fall within sedimentary basins having potential for oil and gas discovery. That is 15,000 square miles of sedimentary basins. Little exploration has been carried out in these areas, and virtually no wells have been drilled. In fact, outside of known fields, less than 30 exploration wells have been drilled throughout Alaska.

Throughout Alaska there have been less than 1,000 oil and gas wells drilled to date, or about one well for every 375,000 acres in Alaska. In the lower 48 States there have have been more than 2 million oil and gas wells drilled, or about one well for every 1,000 acres. With this level of exploration it is absurd to "write off" any area as having no potential for oil and gas.

In addition to the potential areas within the monuments, these designated areas, because of their vast size, effectively block access to adjacent areas having oil and gas potential. As an example, the combined Noatak/Gates of the Arctic Monuments form an interlocking barrier stretching nearly 400 miles across the central and western Brooks Range. This prohibits any surface access route through this area to reach nearly 30 million acres of State, Native corporation, and Federal lands within the petroleum reserve to the north, all of which have high potential for oil and gas.

What is happening in Alaska is just the most outrageous of administrative and congressional actions which are taking a resource rich nation and making it a net importer of strategic materials, oil among them. The administration takes the position that even if the petroleum industry were to receive the full revenues from the sale of its domestic oil heavy reinvestment of those revenues in the search for oil and gas would not produce major increases in supply. As can be seen from the examples pointed out here the administration position is a self-fulfilling prophecy. Through environmental closures and delays in Federal leasing the administration is assuring that their predictions of "no more oil" will come true.

FEDERAL DEVELOPMENT IS TOO SLOW

Even when the Federal Government decides to develop the oil and gas potential on Federal lands the process is so slow as to be absurd. The United States has been engaged in a program to determine the quality of reserves in the national petroleum reserve in Alaska. The Naval Petroleum Reserve Act of

1976 authorized the President to study the best way to produce and transport the NPR–A reserves. As part of this study the Department of Interior has undertaken through private contractors a drilling program on NPR–A.

To date 14 wells have been drilled and 11,000 miles of seismic data collected. The administration has recommended a 19-well program with a cost of over $600 million. The Congress is suggesting an even more extensive program stretching well into the 1980's. In a time of gravest national emergency, we are taking a costly, go slow approach to the development of the Government-owned oil resources. Immediate lease sales on the Naval Petroleum Reserve-Alaska would bring private bidders to develop the resources in the shortest possible time.

The administration's position on NPR–A is to terminate the Government exploration program and seek the necessary legislative authority to open portions to private exploration. It is the view of the administration that:

Petroleum would be discovered sooner using different exploration strategies rather than a single government exploration strategy;

The high cost of Government exploration places an unnecessary burden on the Federal Treasury; and,

Additional drilling information would not significantly improve the accuracy of the overall resources estimate.

Yet, in spite of these conclusions drawn by the Department of Interior, the Congress has refused to terminate the Federal exploration program and put leases on the NPR–A out to private bid. Many of the same elected officials who voted not to develop the NPR–A in the most expeditious and inexpensive manner are among those first to rail against the petroleum companies for failing to solve our energy supply problems. Thus, we see that even when the Federal Government chooses to develop a portion of its oil resources it acts slowly, failing to take what steps it can to contribute solutions to our energy shortage.

THE COMMITTEE SUBSTITUTE—INCENTIVES FOR OIL PRODUCTION

The best incentive for the production of domestic oil has already been taken. President Carter, in his decision to decontrol the price of domestic oil, has done more for the production and conservation of oil in this country than any provision of this bill. By permitting prices to rise to world levels, the President will encourage conservation by individuals and businesses. Price is the appropriate means of encouraging conservation in a free economy because it allows each individual to determine where he wishes to conserve. The alternative is a bureaucratic regulatory system inevitably causing shortages and misallocation of resources. However, what the President has done through decontrol of oil prices he would undo through the adoption of the crude oil severance tax. The crude oil severance tax effectively continues the control of domestic oil prices for the production subject to the tax. To the producer of oil the world price is irrelevant except as that price is reflected in the price which he receives for his oil. If a portion of the selling price is taxed away in the form of a severance tax on his production, it is the same as if the price controls on his oil were never lifted, or as if the controlled price were merely increased to something below the world price.

The committee chose to impose a crude oil severance tax in order to shift decontrol revenues away from the petroleum companies to the Government for programs involving transfer payments and alternative energy development. However, the committee recognized that the tax constituted a significant disincentive to the production of domestic oil. Domestic oil and gas provides the only short and mid-term solution to the energy problems of the United States. Alternative energy sources cannot hope to provide sufficient energy during the 1980's to alleviate the crisis which we are experiencing today. Thus, the committee decided that it was necessary to give back to producers a portion of that incentive which was initially granted by the President and then taken away again by the proposed tax.

"The incentive which the committee adopted in the form of exemptions from the tax are good as far as they go. These incentives will prevent the crude oil severance tax from having an effect as drastic as might otherwise be. However, they do not go far enough. They tend to favor one type of oil over another. Stripper oil remains favorably priced and, although no examples have been given of reduced production to obtain stripper status, the economic incentive still remains on a marginal well to reduce production rather than increase it. With respect to high cost oil the committee has failed to take into account the high production costs associated with some tier one oil which may result in deferred maintenance on many wells further decreasing their production.

The committee made some progress in the treatment of Alaskan North Slope crude oil when it voted to increase the base price at which the tax would begin to apply. The committee rejected the better solution of exempting Arctic oil from the tax altogether and as a result of that decision as much as 3 billion barrels of reserves may remain in the ground because at the lower price they will be uneconomic.

When one considers what needs to be done in the exploration and development of oil and gas in the Arctic and other frontier regions, the tax treatment of Alaska North Slope crude oil is inappropriate. Taxing the only major project contributing to domestic energy supplies in the last 10 years is counterproductive. There remains a great deal of work to be done on Prudhoe Bay to have that oil field realize its full potential in both oil and natural gas production. Estimates of future capital expenditures required to maintain the productivity of Prudhoe Bay exceed $12 to $15 billion.

It is generally agreed that there is a greater degree of risk in exploration and development in frontier areas, such as the Alaska North Slope than there is in the traditional lower 48 oil exploration. Major factors contributing to these increased risks are severe weather conditions, remoteness, sensitive environmental and geological characteristics, and a lack of normal social and industrial infrastructure.

Future exploration for significant oil and gas finds in this country will need to be in frontier areas. Frontier oil development in such locations as the Alaskan North Slope, the Baltimore Canyon, Gulf of Alaska, and deep drilling on the Overthrust Belt and the Beaufort Sea require a recognition of the higher risk of exploration of these frontiers and commensurate returns to those willing to take the risks. It does not make any sense to tax away the returns to producers who are knowledgeable in frontier exploration and expect those same companies or other companies to turn around and take the significant risks for further frontier exploration.

Frontier oil is characteristically distant from the marketplace and requires expensive transportation costs to bring the oil to market. Savings in these transportation costs should not be subject to the ravages of both inflation and the windfall profits tax. Adjustments recognizing the changes in transportation costs, such as the TAPS tariff adjustment should receive the same protection from the ravages of inflation as the wellhead price of oil and, therefore should be adjusted for changes in inflation.

As pointed out in earlier discussions, incentives for the production of oil are only a part of the necessary structure for successful exploration and development of domestic oil. Incentives without capital sources will never produce oil. By taxing existing oil at the levels proposed in the committee substitute the capital required for additional exploration and development of new domestic reserves is impaired. Since exploration for new oil is a very risky proposition, lenders are unwilling to finance such projects. By taxing away revenues of existing oil production, we assure that the petroleum industry's sole source of finance for exploration is impaired.

CONSERVATION AND ALTERNATIVE ENERGY TAX INCENTIVES

In general, my position on the committee substitute does not arise as a result of committee action on tax incentives for conservation and alternative energy production. While disagreeing with the committee's approach on a number of these issues, I voted against referral of the committee substitute because the committee sought to fund these credits and incentives with the proceeds of an unnecessary tax on the domestic production of oil. Even with its faults, the committee substitute would have been an acceptable bill if the committee had relied on increased revenues from the corporate income tax on petroleum companies to finance its programs and rejected the call for a crude oil severance tax.

One of the greatest concerns which must be dealt with in fashioning energy policy for America is to avoid reliance on uneconomic energy sources for our future supplies. Nuclear generation of electricity was America's first synthetic fuel. Because of our national pride and guilt over the destructive use of the atom, Government force fed the development of peacetime nuclear power. When it became clear that private investors would not assume the large risks inherent in the construction of nuclear generating facilities, the Government removed the liability. We now have significant nuclear generation and, after 25 years, are just beginning to discover what nuclear power really costs. The Three Mile Island accident is only the tip of the iceberg. Plants all over the country are shut down for long periods while consumers pay their high cost but without increases in energy supply. Storage of atomic wastes is a bureaucratic horror story waiting to explode into our national consciousness.

The lesson which should be learned from the open ended cost of nuclear power is that the market, not the Government, should be making the decisions with respect to our energy future. Bureaucratic force feeding of one or several alternatives will assure the United States of power in the future priced far above our competitors who rely on free market forces to shape their energy futures. If we shackle our factories and homes with exotic energy sources generated by large subsidies or price supports. America will be left at a serious competitive disadvantage in international trade, and we will have simply exchanged one problem for another.

One of the bright spots in the committee substitute is the provision extending the privilege of tax exempt financing to all hydroelectric facilities. This provision promises to encourage and facilitate construction of environmentally sound hydroelectric facilities. Hydroelectric generation has been with us for over 100 years and has proved to be a clean and efficient source of renewable electric energy. In addition, hydroelectric generation provides the lowest cost power per kilowatt of any alternative source. The Washington Post, in an article of Sunday, October 29, 1979, noted that the utility rates in the Pacific Northwest are the cheapest in the Nation. In August, the cost of 500 kilowatt-hours of electricity was $9.45 in Seattle and

$46.72 in New York City. This differential is due to the heavy use of hydroelectric power in the Northwest. The reason hydroelectric power proves so inexpensive in spite of large capital costs is that there are no fuel costs involved in generating hydroelectric power. Operating costs for hydroelectric facilities are extremely low, allowing rapid retirement of construction costs and low fees for power thereafter. The United States should move quickly to develop to its fullest extent our capacity for generating hydroelectric power.

The use of tax exempt financing for hydroelectric construction is attacked by the administration on the grounds that expansion of the use of tax exempt financing into this field will increase interest rates, driving out other tax exempt borrowers such as schools and hospitals. The administration position has no basis in fact. Historically, when the investments eligible for tax exempt financing have been expanded, the markets have expanded to absorb the new issues without affecting interest rates. In recent years two major new markets for tax exempt bonds have developed without affecting interest rates. These two major new markets were pollution control facilities and housing mortgage bonds.

The tax exempt bond market has consistently expanded in volume year by year without affecting interest rates on tax exempt bonds. The interest rate on tax exempt bonds is not tied to the volume of bonds issued but to the cost of money generally. The Treasury and the Federal Reserve System do more to affect the interest rate on tax exempts than any conduct in the market. The market for tax exempt bonds is not a closed market with a limited volume all its own, but a market like other markets, which interacts with markets for other financial assets. The Treasury appears to view this market as closed, with a finite possible size in spite of historical evidence to the contrary.

LOW-INCOME ENERGY ASSISTANCE

Low-income people are particularly hard hit by rising energy prices. Although the price of energy generally has tracked with the cost of living, the the heating problems of the poor are exacerbated by the sheer size of heating bills. The poor of America felt the harsh rise in the price of home heating oil last year through prices which began the steep upward trend during the winter. This winter promises to be even worse for the poor and any effort we in the Congress can take to alleviate the problem is important.

The low-income energy assistance provisions of the committee substitute are a step in the right direction. The committee substitute will help soften a portion of the higher fuel costs experienced by low-income individuals. The direct benefit payment to individuals and households will be a welcome addition to this winter's budgets. The fuel budget will also benefit from the tax credits which low-income taxpayers will receive. Together these provisions give a wide range of energy assistance and allow the States to administer programs which are already underway or under consideration by the various States. The committee was properly concerned that funds be available for distribution this winter so that America's poor need not suffer through another winter without some help. For that reason it was very encouraging to see the Senate act expeditiously to appropriate funds for this purpose.

While the committee substitute provides an acceptable form of low-income energy assistance it is unfortunate that the committee chose to rely on the crude oil severance tax to finance the low-income energy assistance program. Testimony before the full committee and the Subcommittee on Energy and Foundations indicated that sufficient revenues would be generated by the corporate income tax to adequately fund this low income energy assistance program, as well as the other programs and credits adopted by the committee in its committee substitute.

FINANCING THE PROGRAMS

The committee substitute relies on the crude oil severance tax to finance the programs for energy conservation and alternative energy production as well as the programs for low-income assistance. The committee has completely ignored the $340 billion in additional corporate income tax revenues which will accrue to the Federal Government, as a result of deregulation. All of the programs which the committee substitute provides and many other programs as well could be financed in their entirety without the adoption of any new taxes. Why then, one must ask, do we find the committee substitute proposing a massive new tax on an essential industry. The conclusion can only be drawn that the committee and the Congress seeks to penalize the petroleum industry in the United States for the actions of OPEC because of our colossal national misperception with respect to corporate profits and their function in our free enterprise system. Such a course of action is irrational, for the petroleum industry in the United States has served us well. It has provided us with the cheapest energy in the world for over half this century and provided this energy in abundance. These companies are not disembodied spirits, but representatives of their millions of shareholders in the United States and the world upon whom this massive new tax will fall. By taxing the petroleum companies and the consumers of energy in this unnecessary manner we tax millions of our own people in an effort to draw capital from the only industry which can solve our short and medium term energy problems.

Time and time again during consideration of the committee substitute the question was asked regarding the use of the revenues accruing to the Federal Government above and beyond those raised by the crude oil severance tax. No satisfactory answer was given. The committee substitute raises $138.2 billion in revenues over the 10-year period to 1990; $141 billion in new taxes at a time when the Federal Government anticipates additional revenues of $340 billion with no new taxes. Until a satisfactory answer is given to the question of what is to be done with the additional income tax revenues the committee left lying on the table when it passed this crude oil severance tax the Congress should be loath to enact any new tax.

Thus, I voted against adoption of the committee substitute for the following reasons:

1. It discourages production of domestic oil.
2. It levies an additional $141 billion in unnecessary taxes on American companies, shareholders and consumers.
3. It provides incentives for the production of uneconomic energy alternatives.
4. It will do nothing to reduce our reliance on foreign oil.
5. It will destroy our already impaired productivity.
6. It will create additional governmental interference within the U.S. economy.

I support provisions in the committee substitute encouraging the development of mass transit, hydroelectric power and conservation. I also support provisions for low-income energy assistance to help the poor in our Nation bridge the long jump into an energy expensive future. In spite of these attractive features of the committee substitute, I find I must oppose this legislation as extremely detrimental to the Nation because it will launch us into a decade of economic difficulties. Therefore, I encourage its defeat by the Senate.●

SUCCESS OF THE HEAO PROGRAM

● Mr. STEVENSON. Mr. President, in recent weeks there has been ample coverage of the problems that still afflict development of the space shuttle. But there has been little, if any, recognition of the National Aeronautics and Space Administration's highly successful high energy astronomy observatories (HEAO) program. It is appropriate to draw attention to this program that is well within its budget, on time, and producing a wealth of scientific information.

The HEAO's are the heaviest unmanned Earth satellites orbited to date by the U.S. satellites. Following a redesign of the initial concept to scale down the size and cost of the observatories, the three-spacecraft HEAO program began in 1975. A 7,000-pound spacecraft that could be launched by an Atlas-Centaur, instead of the more powerful and expensive Titan III, was developed.

The three-mission HEAO program was completed at a cost under the $250 million originally projected. The contract between the Marshall Space Flight Center and TRW, Inc., the prime contractor, called for a schedule of launches in consecutive years—1977, 1978, and 1979. That schedule was met. HEAO-1 operated for 11 months longer than its design lifetime of 6 months. HEAO-2 is near completion of its 1-year mission and is expected to continue operating for another 2 years; 6 months is the goal for the HEAO-3 mission launched on September 20 of this year, but the first two satellites give promise that HEAO-3 will operate for at least 18 months.

Throughout the HEAO program, approaches were taken to minimize the amount of test hardware that was needed and to achieve a maximum degree of commonality for the three missions. For example, the HEAO subsystems took full advantage of existing hardware designs developed in other programs. The HEAO's were built with approximately 80 percent "off-the-shelf" flight-qualified hardware, a tremendous cost savings. A common equipment module was used on all three spacecraft. It contained all of the functional systems necessary to operate and control each HEAO and its experiments.

The first two HEAO's have produced significant advances in astronomy, particularly in our knowledge of celestial X-ray and gamma-ray sources. The catalog of X-ray sources has been increased by HEAO from 350 previously known sources to about 1,500. HEAO-1 discovered a new black hole candidate to increase the number to four. Another discovery was a dust and gas cloud with a mass equal to a million billion suns enveloping a supercluster of galaxies. This might be part of the "missing" mass of the universe needed to support the closed universe theory.

HEAO-2 carries the largest X-ray telescope ever built and has transmitted to Earth the first really good X-ray generated images of celestial objects other than the Sun. One of these X-ray images is of a known quasar more than 10 billion light years away at the very edge of the observable universe. Until HEAO, it was not known that any source that far from the Earth would emit X-rays.

Since its near-perfect launch in September, HEAO-3 has been operating exactly as planned, with every indication that its systems and experiments will satisfy all requirements and all expectations.

NASA's programs include many which have made outstanding contributions to mankind's knowledge of the Earth, the solar system, the universe. Near the top of that list are the high energy astronomy observatories.

Mr. President, I congratulate NASA, its contractors, and principal investigators.●

LOOPHOLES REMAINED UNCHECKED

● Mr. HATCH. Mr. President, very shortly the Foreign Relations Committee will be reporting the SALT II treaty to the floor of the Senate. At that time the Senate as a body will be charged with the duty of insuring that the treaty is in the best interests of the security of the United States.

While the treaty has been before the committee we have witnessed a reluctance on the part of the committee to approve any amendment which may result in renegotiation with the Soviet Union. What we have seen is a parade of "understandings" on the part of the United States, none of which have any legal application with respect to the Soviet Union.

Mr. President, we have allowed the dictums of the Kremlin to dictate our actions toward the SALT II treaty. Statements by various Soviet leaders have been used time and time again to explain why we must ratify the treaty with exactly the same text as presented. What is the point of the constitutional mandate for the Senate to give its advice on such matters? Is the role of the Senate to be a "rubber stamp"? Are we to be mentioned in the same group as the Soviet "legislature" which, according to these same Soviet leaders, will give their assent to the treaty without any major complications? These are questions that we as a body had better start asking ourselves before it is too late.

The point of the matter is that there are some serious problems with this treaty. There are loopholes that will permit the Soviets to exploit the language to their benefit. Several of these loopholes have been outlined in an editorial in the San Diego Union. In the October 25 issue of the paper an editorial entitled "SALT II's Gaping Loopholes" appeared and listed some serious faults of the treaty.

The first item mentioned is the failure of the treaty to deal with the Backfire bomber. This is an issue that all of us have heard before and for some reason we fail to come to grips with the problem. Are the American people willing to accept the so-called unilateral statement of the Soviet Union on such a crucial issue? I don't think the people of Utah are willing to do so.

Another of the dangers that is mentioned concerns the stockpiling of missiles. The editorial points out that the Soviets have in excess of 1,000 missiles which remain available through cold launch techniques and quick platform technology. The editors state that:

It would be sheer folly to assume that the Soviets might not suddenly deploy these missiles on easily concealable launching pads at the critical moment of some future crisis. Why else would they retain such large numbers of supposedly superfluous missiles?

There are other loopholes.

Mr. President, the dangers of the treaty are clear to everyone, yet we remain passive in our actions. I recommend this editorial to all of my colleagues and therefore ask that it be printed in the RECORD.

The editorial follows:

SALT II'S GAPING LOOPHOLES

The SALT II treaty is supposed to establish a stable nuclear equilibrium by limiting the United States and the Soviet Union to 2,250 strategic-weapon launchers each. But, in fact, this seeming parity is mostly cosmetic. Treaty loopholes allow the Soviets an additional and unregulated arsenal that already exceeds 2,000 nuclear missiles and delivery systems, all capable of reaching the United States.

It doesn't require a special grasp of nuclear strategy to imagine what this strategic bonus does to a Soviet-American military balance already shifting in Moscow's favor.

The most celebrated of these loopholes is the exemption from treaty limits granted the Soviets' supersonic Backfire bomber. By the time SALT II expires in 1985, this concession alone will have provided the Soviets the equivalent of a strategic air command—375–400 Backfires armed with nuclear missiles and bombs, all outside treaty ceilings.

Menacing as the Backfire threat is, however, it may be less destabilizing to the strategic balance than the stockpiling of intercontinental ballistic missiles, a critical issue ignored by the treaty. This loophole goes to the heart of SALT II's failure as an alleged "arms-control" treaty.

In general, the treaty limits the numbers of missile launchers and not the missiles themselves. Yet one searches the treaty in vain for a comprehensive definition of a missile "launcher." A mere technicality? Hardly.

For treaty purposes, ICBM launchers are considered to be the fixed, underground silos utilized by both sides for intercontinental-range missiles.

But no law of physics requires that ICBMs be launched from concrete holes in the ground. The U.S. Air Force has successfully test fired a Minuteman ICBM from a simple concrete pad with nothing more than a transportable erector and a portable electrical power source. The technology is elementary and certainly within Soviet capabilities.

What makes this significant is the fact that the Soviets have already replaced some 1,500 of their older ICBMs with more modern missiles. By 1985, an estimated 2,200 Soviet ICBMs will have been withdrawn from their silos in favor of more accurate, lethal versions.

Nothing in the 1972 SALT I agreements or in the SALT II treaty requires that these "surplus" missiles be dismantled. So, no one should have been surprised last April when a new U.S. intelligence study of Soviet strategic forces concluded that the Soviet Union possess at least 1,000 stockpiled ICBMs in addition to the 1,398 housed in fixed launchers.

It would be sheer folly to assume that the Soviets might not suddenly deploy these missiles on easily concealable launching pads at the critical moment of some future international crisis. Why else would they retain such large numbers of supposedly superfluous missiles?

Moreover, about one-fourth of the Soviet Union's ICBM silos employ the so-called "cold launch" technique that permits rapid reload and launch of additional missiles, a capability U.S. silos lack. Inasmuch as the cold-launch feature is useless without a supply of stockpiled missiles, Soviet intentions are as ominous as they are apparent.

Other treaty loopholes permit the Soviets to maintain up to 300 ICBM launchers not counted toward SALT II ceilings. U.S. negotiators agreed to exempt 150 Soviet silos as "test and training" launchers although the United States manages to get by with only 14. Another 150 Soviet silos are exempted because, say the Russians, they are "command and control" facilities, not launchers.

Finally, the SALT II treaty inexplicably exempts 69 Soviet submarines armed with a total of 454 nuclear-tipped cruise missiles and 26 additional Soviet submarines carrying an aggregate of 78 ballistic nuclear missiles.

While it is true that many of these submarines are older models equipped with relatively short-range missiles, every one of these weapons could reach U.S. targets from offshore stations along the Atlantic, Gulf, and Pacific coasts. The SALT II treaty's arbitrary definitions of what does and does not constitute a strategic weapon cannot obviate the threat these weapons pose nor lessen their impact on the actual military balance.

The Carter administration, and the Kremlin, insist that any attempt by the U.S. Senate to close these loopholes would effectively kill the entire treaty and rekindle the Cold War. But unless these and the treaty's other manifest flaws are corrected, SALT II will stand as a cruel, dangerous betrayal of the legitimate hopes for equitable arms control.●

SECOND CONGRESSIONAL BUDGET RESOLUTION—CONFERENCE REPORT

● Mr. BOREN. Mr. President, yesterday, I voted against the compromise agreement reached by the two budget committees on Concurrent Resolution 36, the second concurrent budget resolution setting permanent ceilings on spending for this first session of the 96th Congress.

There are at least three major areas in which the compromise agreement lets down the American people—defense spending, the deficit and the apparent failure of the reconciliation process to keep us on the road to a balanced budget.

At the insistence of the House conferees, increases in defense spending will be held to 2½ percent real growth. That is $700 million below the figure I have viewed as the minimum figure required to meet both our commitment to our NATO allies, and, more importantly in my view, the 3 percent real growth effort this country must make to achieve and maintain adequate defense strength in the face of the long and continuing threat to our security posed by the military buildup of the Soviet Union.

The only way to insure peace, Mr. President, is through strength. Defense spending at the level contained in this budget is not enough. This budget resolution will cause me to view even more critically the 5 year projections for defense spending the administration is to provide the Congress before we vote on SALT II.

Secondly, Mr. President, the projected deficit, $29.9 billion, is $2 billion higher

than the deficit for the fiscal year which ended last month.

I realize that in terms of real growth these figures represent a decline in Government spending from the 3.4 percent average increase of the last 5 years to 1.8 percent increase for fiscal year 1980.

However, Mr. President, the deficit figure is higher and that reverses a steady trend the Senate and its Budget Committee has established over the last few years. That reversal sends absolutely the wrong message to the people of the United States. It tells our constituents that the Congress is apparently unwilling to take the hard steps necessary to continue reductions in deficit spending—reductions that must be continued if we are to balance the Federal budget.

This brings me to my third disappointment with this budget proposal, Mr. President, the apparent failure of the reconciliation process.

Last May when the pressure was low and budget balancing rhetoric was high, we instructed our Budget Committee, Mr. President, to bring before the Senate two budget proposals that would lead to a balanced budget.

They did. We then debated those proposals and with great flourish adopted spending limits that were to lead to a balanced budget and tax cuts in fiscal year 1981.

When the second budget resolution was brought to us in September, the Budget Committee properly reminded us of our May promises, Mr. President, and asked us to live up to them through the reconciliation process—the first time in the short history of the budget act that the reconciliation process has been employed.

We grumbled a little, Mr. President, and some modifications were made, but in the end we passed the resolution.

Now it all may be lost. Now the House conferees tell us that insistence on reconciliation will doom the budget in the House.

Again I say, Mr. President, we are sending the wrong signals to the American people. If we are to ask the American people to believe our willingness to balance the budget—if we are to ask the American people to sacrifice in the name of fighting inflation—then we must do our part, we must lead the way with our own example.

The example shown in this budget proposal is not the best we could or should do.●

THE PARMA REVIEW: A REVIEW OF 70 YEARS

● Mr. CHURCH. Mr. President, the Parma Review, a small weekly newspaper in Idaho, celebrates its 70th anniversary of publication on December 15. I mention this anniversary because of an unusual project the paper plans to undertake over the next year in celebration of this anniversary: The compilation of historical articles on the community it serves, complete with old photographs. The entire community has been asked to help prepare the material.

Two things I believe are significant in this undertaking. First, in an era where many people receive their news from electronic media, which leaves no permanent record, weekly newspapers have to struggle to survive. Yet historians cherish and value the news they find in such periodicals for the perspective they provide in tracing the legacy of any community. Thus, I believe this project will be welcomed not only by the people of Parma, but by future historians as well.

Secondly, I wish to say a personal word about an old friend, Mrs. Theron Gough, the editor and publisher of the Review. Mrs. Gough's husband died earlier this year, leaving Mrs. Gough to take over and manage the paper. Rather than selling the paper, or folding it, she decided to continue its operation as a family enterprise. In these days of increasing chain ownership of both daily and weekly newspapers, that is a development to be welcomed. The project of publishing a compilation of historic articles on her community fulfills a plan her husband had begun.

Mr. President, I request that a brief article on this project that appeared in the November 1 issue of the Parma Review be printed in the RECORD.

The article follows:

PARMA REVIEW CELEBRATES ANNIVERSARY YEAR WITH HISTORIC EDITION AND ARTICLES

The Parma Review will celebrate its 70th anniversary of publication on December 15, 1979. It began publication in December of 1909 under the management of a lady, Miss Lillian Dickinson.

The Parma Review will also be celebrating another anniversary in November of 1980, commemorating 60 years of publication by a member of the Gough family.

Theron's father, Thomas McParlin Gough, purchased the newspaper started by Miss Dickinson, and took possession on November 1, 1920.

It had been Theron's plan, prior to his death, to publish an Historical Anniversary Edition of The Parma Review this November, commemorating these two historic events in the history of this community. With the complications of a change in Editor and Publisher and the problems of learning the business and coping with a new direction to our lives as a family, it has not been possible to carry out this plan this month.

However, your new editor-publisher would like to carry out her husband's plan, but use the whole year from November 1, 1979 until November of 1980 as an Anniversary Year.

Parma Historians Lucile Peterson and Helen Lowell, as well as Jean Stone and many others, have been compiling historical articles about Parma as requested by Theron. We will take a year to put together the next 70 years of Parma History beginning where "The First Hundred Years" left off which was compiled and written in book form by Lucile and Helen and Published in 1976 as part of our country's 200th birthday anniversary.

We will be publishing an historical article each month beginning this November as part of the year-long celebration. These will not be in the Anniversary publication except in some cases, perhaps in a condensed form. We are anxious to have the histories of every organization and business in Parma during the past seventy years as well as old pictures of people, places and events. Anyone having material they think would be of interest and importance in Parma's history, please call us or bring them in to the office. Our goal is to publish a 70 page tabloid size supplement to the Parma Review on book paper which will be free to all subscribers. We will also publish an extra 600 anniversary issues which will be for sale. It will be necessary to sell at least 22 pages of advertising to finance the project and these ads may contain the histories and pictures of businesses, families and organizations, so as to be a contributing part of the historic record.

It is hoped that the community will find this project of special interest and a worthwhile contribution to the historic record of our area.

Further information may be obtained at The Parma Review. (The following is reprinted from the October 21, 1920 issue of the Parma Review).

T. M. GOUGH BUYS REVIEW

(NOTE.—Former Midvale editor becomes owner of Parma Review plant and building—editor goes to Seattle.)

T. McPharlin Gough of Payette has purchased the Parma Review newspaper plant and building and will take possession of his new property on November 1st. Mr. Gough is a newspaper man of wide experience in every department. He came to Idaho in January 1909 from Los Angeles, California, where he had been engaged in the printing business up to that time. Since arriving in Idaho he has worked on the Vale Enterprise, Ontario Argus and Midvale Reporter, purchasing the last named newspaper and assuming entire control in 1914. Until March of this year Mr. Gough remained at Midvale as editor and publisher of the Midvale Reporter.

While there he took prominent part in town affairs serving as town clerk and justice of the peace, four years, as postmaster for two, as clerk of the school board and member of the town board. Recognition of his ability in public affairs was his election to the state legislature as representative from Washington County in 1919, on the Republican ticket.

Under Mr. Gough's ownership the Midvale Reporter maintained a high editorial standard and was known as an influential Idaho weekly. His decision to cast his lot with the future of Parma is a distinct gain for the town. The newspaper as published under his management will undoubtedly be one of which Parma may well be proud. Mr. and Mrs. Gough and three small children will move to Parma about November 1st. The present editor, Miss Lillian Dickinson, leaves later in the month to make her home at Seattle, where she resided before coming to Parma.●

LIBRARIES: THE QUIET NATIONAL RESOURCE

● Mr. CHURCH. Mr. President, in August I was pleased to keynote the 69th annual conference of the Pacific Northwest Library Association in Boise, Idaho. As the White House Conference on Library and Information Services begins next week, I thought it might be timely to publish this address. Accordingly, I request that it be printed in the RECORD.

The address follows:

LIBRARIES: THE QUIET NATIONAL RESOURCE

Most American institutions have become stereotyped, and libraries, of course, are no exception. When I accepted Rich Wilson's invitation to keynote this 69th Annual Conference of the Pacific Northwest Library Association, I found myself conceptualizing libraries in their stereotype as the quiet national resource.

On learning of the invitation, one of my assistants told me that his uncle, Dr. Norman Stevens, had written a book entitled Library Humor. Somehow—stereotypically, I am sure—Library Humor struck me as odd.

My curiosity having been aroused, I asked for a copy of Library Humor from that very special repository, the Library of Congress.

Well, my preconditioning led me to expect that Library Humor would be a slim monograph, but I was pleasantly surprised to find

that Dr. Stevens has compiled a large number of selections covering over 400 pages. One quaint selection was written by Edmund Lester Pearson in 1915—more than 60 years ago. Mr. Pearson relates a lecture given to the senior class of a school for children's librarians:

"Young ladies," said Miss Tush, principal of the Philander School for Children's Librarians, addressing the senior class, "remember that the future of the country is, in the larger sense, in your hands. A wrong decision on any point may be very grave. Consider carefully are you sure when you put up a picture bulletin that it is in the right spirit? It represents daffodils, let us say, against a pale green background. Would honeysuckles be better? Do not make a false step. Ponder everything.

"You will meet with opposition, of course. In every library, I am glad to say, the children's department maintains a gentle but firm opposition to all others. They have not received the light yet, so we must be patient. Patient and sweet. Be very sweet. They are rude, of course, and uncouth, and it is by sweetness that we conquer them in the end.

"Hold firm to the ideal. The most significant department of the library must receive its due recognition. And that is what we represent—the most significant department. How picturesque, ladies, is the well-equipped children's room! How pleasing to all who follow the ideal! How educational! How well adapted to the photographer's art!

"The story-hour—can anything be sweeter than the young lady with the eager little ones about her, listening to her recital of that charming tale—Section 12, Group 2, Plan 8, Story A, of the prescribed Course for Armenian and Italian Children, mixed, from 9 to 10 and a half years, during the Easter Vacation, afternoons only.

"I will now assign the subjects for four more of the graduation theses. Miss Dipsy will take as her theme: The Cultural Value of White Crocuses on the Charging Desk as Contrasted with Pink Azaleas, Miss Pippin will write on: Should the Assistant-Children's Librarian-in-Charge-of-Story-Telling wear Mauve or Pale Blue? Miss Bunn will discuss: Dealing with the Scoffer. And Miss Lippitt will treat: The Cooing Voice, and How to Cultivate it. That is all today. At the next lecture please all bring a sprig of forsythia, in order to be in the right mood toward what I have to say."

Story hours and even forsythia still have their place in our nation's libraries, but even more substantive services for adults as well as children are the order of the day.

The rising illiteracy rate among our children is a startling development. It is being met with the battlecry: "Back to the basics." Well, in my eyes, back to the basics includes libraries.

It is simply not enough to teach children the basic skills of reading: The desire to read must be instilled in the young at the very same time that the skill is taught. Libraries—story hours and all—stress the pleasure of reading.

How well I remember, as a youngster, my first library visit. I recall the awe with which I was struck by the library silence, a stark counterpoint to the noisy exuberance of youth. And I wondered why so many adults were sitting there reading when they obviously had no class assignments.

We all understand the importance of this experience for our children. Libraries are the quiet resource which must be sustained or any reading skills will wither from neglect.

Unfortunately, however, libraries are far too often among the first to feel the budgetcutter's ax. At the same time they are being counted upon to help overcome illiteracy, their funds are being chopped off.

Public funding for libraries is a legitimate government obligation, one that people expect government to perform. No one can say that such expenditures have ever been extravagant. Certainly, at the federal level, library dollars have always been few and far between.

This year, however, the Senate Appropriations Committee made an extraordinary recommendation: No funds for the college library program. While a compromise struck with the House of Representatives does restore some funding from this program, it is only half the level of last year.

This development underscores the very bleak handwriting on the wall which I am certain all here today have already read. There are no "untouchables" left in the federal budget. Spending levels of the past may no longer be relied upon to serve as guidelines for the future.

But I regret that Congress is showing so little discrimination in its legitimate effort to achieve a balanced budget. When it comes to the husbandry of our national resources, our forests, our grasslands, the quality of our water, air and soil, too little money spent today can only make us poorer tomorrow. So it is also with our most precious resource of all, the human resource. Children must learn to read, and libraries are a crucial part of that learning. Scholars must learn, and libraries are at the heart of self-preservation for any civilization, including our own.

In direct contrast to the "know-nothingism" of reducing support for libraries in the face of increasing illiteracy among the young, there is the bright phenomenon of a renewed emphasis on continuing education among adults in every strata of our society. During the several years I served as Chairman of the Senate Committee on Aging, the phenomenon of older Americans in record numbers engaging in the continuation of their educations give birth to the phrase "life-long learning."

Whether it's called life-long learning for seniors, or "continuing education" for professionals, or characterized as general "adult education," Americans of all ages are seeking out classrooms and libraries to enrich and expand their lives. The demand for library services is greater than ever before, and libraries are doing their best to meet the challenge, as pointed out in the following statement from a recent background paper for the White House Library Conference:

"Public libraries are changing from passive repositories to active purveyors of information and knowledge to all those who need it."

How can libraries meet these increased demands when nearly all publicly funded programs are on the chopping-block, and the ax must fall if balanced budgets are to be achieved. The Pacific Northwest Library Association itself provides part of the answer.

It is one of many organizations in the Northwest promoting regional cooperation. In fact, we must be in the forefront of regional cooperation, if I can judge from the inquiries I receive from other parts of the country on our many regional successes. Established 69 years ago, your group has been a model for regional cooperation.

The first lesson you have taught is that regional cooperation must be established from the top down. Initial efforts at the local level are the cornerstone of every cooperative success.

A few years ago, I was working with the Washington and Oregon Congressional delegations for Federal funding to compliment state and local efforts to promote the education and training of librarians. A meeting was held with Congressmen and Senators from other regions who occupied key positions on the Congressional Committees involved. With no similar regional cooperation in their own areas, they were obviously reluctant to go along.

Instead, they pulled a program out of the committees' oven which was half-baked. One of the prominent universities in their part of the country would become a regional education center for librarians. No locally interested individuals had ever been contacted. The proposed program would simply be imposed from the federal level by dumping money on a single campus.

Northwest libraries understand that a plan so concocted is doomed to frustration and failure. Local parties must be united if the savings and rewards of regional cooperation are to be achieved. With the long and successful history of your organization, Northwest libraries have a sturdier umbrella to withstand the storm of government spending reductions which may come in the years ahead.

In addition, I have noted that it was 28 years after the founding of the Pacific Northwest Library Association before your Pacific Northwest Bibliographic Center was begun. And it is especially noteworthy that it was funded first through a private grant. Furthermore, it was only after its establishment that the Bibliographic Center and its emulations in other parts of the country received any Federal funds.

The approach of self-reliance has persisted in the Northwest to this day. Another recent example is WAMI, a program of cooperation in medical education among the states of Washington, Alaska, Montana and Idaho also centered at the University of Washington, but with facilities in each of the other states.

Self-reliance and regional cooperation are going to remain of paramount importance in the years to come. Rising illiteracy among the young is a national embarrassment that must be corrected. The gratifying growth in the desire of adults for educational opportunities must be fulfilled. The Pacific Northwest Library Association will be pivotal in these efforts. Libraries are indeed the quiet national resource, and you can be assured of my continued support.●

ARRESTS OF SOVIET DISSENTERS

● Mr. CHURCH. Mr. President, I wish to call the attention of the Senate to a very disquieting development in the Soviet Union last week, the simultaneous arrest of three active figures in the campaign for civil and human rights. Their names—Mrs. Tatiana Velikanova, Rev. Gleb Yakunin, and Anatanas Terletskas—are little known in the United States, but the contributions they have made over the years to the cause of human dignity in the U.S.S.R. have long since earned them the respect and affection of many Soviet citizens. Their arrests now earn them our concern as well.

The concern is first of all for three courageous individuals. Mrs. Velikanova, a grandmother, has been in the forefront of the open, law-abiding protest movement in Moscow since it first found public voice some 14 years ago. She has long been a member of the Initiative Group for Human Rights, founded and led by Nobel Peace Prize winner Andrei Sakharov. In 1974 she was one of three individuals to take public responsibility for the reappearance of the briefly suppressed information journal, the Chronicle of Human Rights, a remarkably objective and accurate source of news on dissent and its repression in the Soviet Union.

Reverend Yakunin is also a veteran of

the effort to make the Russian Orthodox Church a voice to the faithful, not a subordinate to the Soviet state. He has been instrumental in getting the World Council of Churches to take note of the persecution of religion in the Soviet Union, and as a founder of the Christian Committee for the Defense of Believers' Rights, he has helped Orthodoxy reach out to the other church communities in the U.S.S.R. Mr. Terletskas, too, has long been active in the struggle of Lithuanians to preserve their national identity and the integrity of the Lithuanian Catholic Church. In recent years he has been close to the Lithuanian Helsinki Watch group, as well.

While these three Soviet citizens matter to us as individuals who have given much to the cause of human rights, their simultaneous arrest are cause, as well, for deep anxiety about Soviet conduct. The arrests followed a familiar, ominous pattern in which extensive searches of the apartments of many human rights activitists are made the prelude to detention and then trial and conviction of a limited number from the same, embattled community. The purpose of the Soviet authorities is to use such tactics to intimidate the friends and acquaintances of those who are singled out for arrest. The procedure is calculated to obtain the maximum repressive effect at the cost of minimal protest within and outside the Soviet Union.

Remarkably, however, these tactics have failed time and again. The courage of Soviet dissenters seems contagious and these arrests only serve to bring forth new sympathizers, new adherents to the continuing campaign for justice. They should also serve, however, to galvanize new protest in the West over the cynical disregard some Soviet officials show for the solemn undertakings their leaders gave in ratifying the International Covenants on Human Rights and in signing the 1975 Helsinki agreement.

It is to voice such protest that I speak today. This week the Soviet Union celebrates the anniversary of the 1917 revolution that promised the citizens of the Russian Empire a freer, better life. That promise has yet to be redeemed, and in the arrests of dissenters last week we see—yet again—how deeply it is being dishonored.●

WITH TAXPLATION, DO NOT EXPECT TO GET AHEAD

● Mr. DOLE. Mr. President, much attention has been focused lately on the amount of debt held by American citizens. The emphasis is on personal debt, from things like auto loans and other financing for consumer purchases, and mortgages on homes. The concern at this time is that, as Federal Reserve tightening causes restriction of credit sources, some debtors may not be able to meet payments on outstanding debt. Some commentators have also argued that the high debt burden of our citizens is a major contributing factor to inflation.

Why is that debt burden so high? Psychology is important here, and we should take a close look at what makes people believe they can handle a high level of debt. One reason may be illusory income gains. Over the last 30 years or so, people have become accustomed to a slow but steady rise in their standard of living, and to incremental, but real, gains in income. On paper it looks as though this trend has continued, or even accelerated, in the 1970's. From 1972 to 1979, the median family (one fulltime wage earner, nonworking spouse, two children) experienced a gain in income from $11,152 to about $18,467. It looks as though the wage earner is getting ahead, and ought to be able to afford more consumer goods. But after inflation and taxes take their toll, the real purchasing power of that median family has declined $700. The working man or woman may rightly be disturbed by the fact that this "gain" in income is actually a loss. If they want to advance their standard of living, working people may as well borrow now and repay their debt later in inflated dollars.

If we want to discourage this trend, the obvious thing to do is to restrain inflation by cutting the size of the Government and reducing the deficit. That will be a long and difficult process, but it must be done. But there is another step we can take immediately to restore some real income gains to taxpayers.

We can eliminate taxflation by passing the Tax Equalization Act, S. 12. I proposed this legislation in order to halt the automatic tax increases that result when inflation pushes people into higher tax brackets. The tax system does not take account of the income distortions caused by inflation, but it ought to. My bill would adjust the tax brackets, and the zero bracket amount and personal exemption, according to the rise in the Consumer Price Index. Income would be measured accurately and consistently for purposes of income tax, and people would have a better notion of where they stand.

Mr. President, the Tax Equalization Act would restore equity to the tax code and help people to manage their personal finances in these times of high inflation. It requires our immediate attention.●

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REDUCTION OF TIME OF THE TWO LEADERS UNDER THE STANDING ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for the two leaders on tomorrow be reduced to 3 minutes each.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO THE CONSIDERATION OF H.R. 4391

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the Defense Department appropriations bill, the Senate proceed to the consideration of the military construction appropriations bill, H.R. 4391, with the understanding that no action be taken on the military construction bill before Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, the Senate will come in at 10 o'clock. I believe there are three special orders, are there not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Upon the consummation of the special orders, the Senate will resume consideration of the Department of Defense appropriations bill, Calendar Order No. 420. There is a time agreement on that bill. There will be rollcall votes throughout the day. It could be a long day tomorrow, but the leadership expects to finish action on that bill tomorrow, in which case the Senate would go over until Tuesday.

There is one other thing, and that is I hope the Senate will be able to complete action on the Interior appropriations conference report.

Mr. STEVENS. Mr. President, I join in the hope that we can get to that bill, upon which we have all worked. It is my understanding that it may not be available for presentation tomorrow, but I hope it will be.

I also join with the majority leader in expressing the hope that we will finish the Department of Defense appropriations bill tomorrow so that there will be no Saturday session. I think all Members ought to be advised of the statement made by the majority leader that that is a possibility. If we can finish that bill tomorrow, we will not be in session, as I understand, on Saturday.

Mr. ROBERT C. BYRD. Mr. President, I hope it will be possible to cut down the time on amendments tomorrow. There seems to be a willingness, as I assessed the situation tonight, to do that. Does the distinguished acting Republican leader feel that is a good prospect?

Mr. STEVENS. With the time agreements already in place, this Senator, for myself, cannot contemplate that bill not being finished tomorrow, but one can never tell. I do believe it will be finished tomorrow.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to, and the Senate, at 10:47 p.m., recessed until Friday, November 9, 1979, at 10 a.m.

EXTENSIONS OF REMARKS

HOSPITAL COST CONTAINMENT AND THE ELDERLY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. PEPPER. Mr. Speaker, a few days ago several organizations representing this country's senior citizens held a local rally in which I and other Members of Congress participated to protest the continued rise in the cost of hospital care, and to express their firm support for passage of H.R. 2626, the Hospital Cost Containment Act of 1979. While the opponents of this legislation would have us believe that rising hospital costs are not keenly felt by the American people, our Nation's elderly continue to be victimized by this insidious inflationary spiral. A majority of our citizens over 65 live on fixed incomes, and are already beset by exorbitant increases in the price of other basic necessities, such as food and fuel. Now they must face a 12.2 percent statutory increase in the medicare hospital deductible effective January 1. This deductible, which by law must be increased to reflect the average cost of a day in the hospital, has risen 40 percent over the past 10 years—an intolerable pace by any standard.

H.R. 2626 offers an immediate means of addressing this national problem. We cannot afford to set this measure aside for still another year. I would like to share with my colleagues a recent article from the St. Petersburg Times which illustrates the importance of immediate legislative action and insert it in the RECORD at this time.

[From the St. Petersburg Times, Oct. 14, 1979]

PAINFUL HOSPITAL BILLS

The Medicare hospital deductible, the minimum that Medicare patients must pay for each hospital confinement, will go up from $160 to $180 on January 1. The increase imposes a burden on the elderly poor, but it's only a small reflection of the soaring national cost of hospital care, which now amounts to almost $85 billion a year.

The increased Medicare deductible should help to focus public demand that Congress pass the hospital cost-containment bill proposed by President Carter. The bill has been approved by two House committees, Commerce and Ways and Means, and is due for a floor vote this session. If passed by the House, Senate approval is believed likely.

A clear expression of public support is needed to counter the well-financed medical lobby. The Federation of American Hospitals (1,000 privately owned hospitals), the American Hospital Association and the American Medical Association are among the potent lobbies that are actively opposing the bill.

Toleration by the public of hospital cost increases well in excess of the national inflation rate has a simple explanation.

The patient, who might scream and protest, frequently doesn't even see the whole bill, though the part he is required to pay may be painful enough.

Hospitals receive payment from insurance companies that, as "third parties," have little incentive to exercise control. They can simply pass the cost along in higher health insurance premiums charged to individuals and employers. Medicare charges, administered in Florida and many states by Blue Shield, are paid out of receipts from the Social Security tax on workers and employers.

The public, which finally pays, is not stingy about paying necessary medical costs. In Framingham, Mass., last week, a special town meeting voted overwhelmingly for a small increase in local property taxes to enable a retired fireman to receive a heart transplant operation without which he will die.

But the public should demand that restraint be imposed on the rapid escalation of hospital costs, as proposed in the pending administration bill.

Under the bill, mandatory government controls would be imposed only if hospital costs nationwide grow more than 11.6 percent this year.

In that event, mandatory limits would be set on revenues in future years, with allowances for the higher cost of labor, food and other supplies that are beyond the hospitals' control. If a hospital receives revenues in excess of its limit, it would be subject to a penalty of 150 percent of the excess.

Beyond its immediate objective, passage of the cost-containment bill is essential before Congress can seriously consider establishment of an inclusive national health plan.

In its consideration of the bill, the House faces this challenge from President Carter:

"This is undoubtedly the single most important anti-inflation and budget-saving bill the Congress will face this session. Every member's seriousness in dealing with excessive inflation and wasteful federal spending will be judged—correctly—in large part by his or her vote on this issue."●

NEW AMPHIBIOUS ASSAULT LANDING CRAFT

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. LIVINGSTON. Mr. Speaker, many Members who are concerned about the continued maintenance, growth, and technological improvement of U.S. military hardware, particularly in light of America's narrowing lead over the Soviets, will be interested in a recent news release issued by Bell Aerospace Textron noting their development of the new amphibious assault landing craft:

PANAMA CITY, FLA.—From the sea, through the surf and onto the beach at Tyndall Air Force Base, came America's largest military air cushion vehicle in an operational demonstration recently conducted here by the U.S. Navy.

The new Amphibious Assault Landing Craft (AALC JEFF(B)) skimmed waves at a speed of 45 knots, topped surf and sand dunes as high as 10 feet, then continued inland to the drop point while carrying a 60-ton main battle tank, a jeep, and a detachment of Marines.

It maneuvered through an unprepared beach area threading its way through trees, brush, and seagrass to disembark its load in a simulated beach attack.

These dramatic operational demonstrations of the Navy's new Amphibious Assault Landing Craft took place in August at the Naval Coastal Systems Center here it was announced today by the Naval Sea System Command.

In related tests, the 47-foot wide LC JEFF (B) maneuvered in and out of the 48-foot wide well dock of the USS *Spiegel Grove* while it was underway at eight knots on the Gulf of Mexico. The JEFF(B) also performed similar maneuvers with the LSD 32 at anchor with its well deck flooded to six feet of water. Subsequent tests proved the JEFF(B) could also carry an "overload" payload of 70 tons over the beach to an inshore drop point.

The JEFF(B) has achieved an over-water speed of 62 knots in the Gulf of Mexico with a full 60-ton payload, as well as operations at full weight with two of its six engines shut down.

Designed and built by Bell Aerospace Textron, New Orleans Operations, the JEFF(B) was delivered to the Navy in July of last year and has been undergoing intensive tests since then. The 160-ton air cushion vehicle rides on a five-foot air "bubble" and is operated by a four man crew. In addition, three technicians were on board during the August tests to measure and record results.

The operational demonstration tests involved more than 30 government and contractor organizations including the U.S. Marine Corps, Naval Beach Group II, Naval Cargo Handling and Port Group, Operational Test and Evaluation Force, Naval Coastal Systems Center, and David Taylor Naval Ship Research and Development Center. Additional agencies are Naval Ship Engineering Center and Naval Sea Systems Command.●

IN SUPPORT OF IDA NUDEL

HON. MICHAEL O. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. MYERS of Pennsylvania. Mr. Speaker, I would like to join with my many colleagues in the House of Representatives who have raised their voices in support of Ida Nudel, the Moscow activist who is now in Siberia.

It is not necessary at this time for me to dwell on Ida Nudel's plight. Her story is well known to the Members of this body, and I am sure my fellow legislators in the Congress share my deep concern for Ida's well-being.

Ida Nudel is a 48-year-old Soviet Jew who has spent a major part of her life in constant fear for her life and without the opportunity of expressing her religious beliefs. These difficult physical and moral conditions have taken their toll on Ida Nudel and she has aged rapidly and her health has begun to fail.

This fine woman has been banished to Krivosheino, an isolated and inaccessible village in Siberia, to serve her term of exile. Her one request of the government is that she be granted a visa to join her sister who is now living in Israel.

Mr. Speaker, as a matter of conscience, I join with my friends in the House in their support of Ida Nudel's request.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

TRIBUTE TO MAMIE EISENHOWER

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, Mamie Doud Eisenhower, the widow of President Dwight D. Eisenhower, and one of the Nation's most admired women, died of cardiac arrest on November 1. It is indeed a special privilege to join with my colleagues to honor our former First Lady, Mrs. Eisenhower, who served her country with such grace, courage, and dignity. I am sure I will echo the many fine things that have already been said.

Mrs. Eisenhower still led an active life well into her eighties. In fact, her appearance over the years remained the same as it did when she first entered the national scene as the wife of the man who became the Supreme Allied Commander in Europe during World War II; bangs, carefully matched coat and hat, and the cheerful smile that were her trademarks.

As the General's partner, she came to be known for her personable nature, vivaciousness and her contentment to be in the background, supportive of her husband's career. She often quipped that "Ike is my life," a fact that could not be easily overlooked. She pictured herself in the role of public emissary to her husband.

Throughout her marriage, Mamie got used to having no permanent address, and moved with her husband from one Army post to another. In fact, Time reported in its January 19 issue back in 1953 that "Mamie learned to clean, decorate and move out." These quarters were widely scattered parts of the globe, including Paris, the Panama Canal Zone, and the Philippines.

With great competency, Mrs. Eisenhower ran the many households into which her husband's political and military careers placed her. Although she resided in over 28 homes throughout these years, she labored arduously to make each and every one a true home—where her heart was—for her husband and her family. In fact, the Eisenhowers did not purchase their first home until 1950 in Gettysburg, Pa.

General Eisenhower credited his wife's role in his own success. He was once quoted as saying that—

> If I had not listened to Mamie on two or three occasions, I might not have had the opportunities to serve the country that I have had the fortune to have.

Mrs. Eisenhower once stated that—

> She knew almost from the date that I married Dwight that he was destined to become a great man. He was always dedicated, serious, and purposeful about his job. Nothing came before his duty. I was forced to match his spirit of personal sacrifice as best I could. Being his wife meant that I must leave him free from personal worries to conduct his career as he saw it.

Mamie endured long, difficult, and lonely years during World War II while the general was winning the war overseas. At home in Washington, she contributed to the war effort through her extensive volunteer services at the Soldiers, Sailors, and Marines Club.

Although the First Lady considered herself "nonpolitical," she personally accompanied her husband on his 50,000-mile Presidential campaign tour and thus her warm smile became a familiar figure to the Nation.

In her official capacity as First Lady, she brought to the White House her many years of experience as hostess for other leading European political figures while her husband was stationed abroad.

As a charming hostess, Mrs. Eisenhower was famous for having an amazing memory for names and faces. When necessary, she could shake more than 1,500 guests' hands without seeming fatigued. She felt that she had an obligation to greet as many citizens who wanted to see the President's wife as she was able. Mamie managed to have something to say to each guest at the White House to make them feel welcome. By the end of her husband's first term of office, Mrs. Eisenhower had rightfully earned the title of "Top Hostess in Washington." During her White House years, Mamie's popularity was second only to her husband's fame. Her down-to-earth attitude led the press and general public to fondly refer to her as simply "Mamie." Since 1960, many first ladies have occupied the dwelling at 1600 Pennsylvania Avenue and all have tried to emulate Mamie's personal style that endeared her to most Americans.

In her last interview with Barbara Walters, when asked how she would like to be remembered, she responded as "just a good friend." In my judgment, Mrs. Eisenhower was truly a good friend to the American people. She will be remembered as a special part of our history during an era when our country was at its best, and through a period of our heritage to which all Americans can be proud.●

CONGRESSIONAL SALUTE TO THE HONORABLE MARIE A. FITZGERALD OF PASSAIC, N.J., DISTINGUISHED CHARTER MEMBER OF THE PATERSON DIOCESAN COUNCIL OF CATHOLIC WOMEN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. ROE. Mr. Speaker, on Saturday, November 10 residents of my congressional district, State of New Jersey will join with His Excellency, the Most Reverend Frank J. Rodimer, D.D., Bishop of the Diocese of Paterson and other esteemed members of the clergy and laity at the 35th Annual Convention of the Paterson Diocesan Council of Catholic Women in testimony to the lifetime of good works of the council's most distinguished charter member and good friend, the Honorable Marie A. FitzGerald, whose standards of excellence in the activities of the diocesan council as well as her public service career in the administrative offices of the County of Passaic have truly enriched our community, State and Nation.

Mr. Speaker, the 35th Annual Convention of the Paterson Diocesan Council of Catholic Women is designated as a tribute to "the gracious woman who wins esteem" (Prov. 11–16)—Marie A. FitzGerald—and is dedicated to the theme, "Focus on Family."

Marie is an outstanding individual who throughout her lifetime has earned the respect and esteem of all of us who have had the good fortune to know her. She was born in Passaic, N.J. on December 24, 1902, the daughter of the city of Passaic's fire chief, William FitzGerald, and was educated in local schools.

She is a graduate of the St. Nicholas Parochial School and attended Passaic High School. She completed her high school curriculum evenings at Paterson Prep and obtained her business training at the Holy Trinity Business School. In 1931 she attended evening classes at Washington Square College of New York University which led to her enrollment as a practice teacher at the local high school.

In 1922 Marie commenced her career with the office of the Passaic County clerk. In 1936 she received her bachelor of arts degree in English, French, and psychology and returned to her career with the county of Passaic where she continued her public service endeavors until her retirement in 1972.

Miss FitzGerald was actively involved in civic and community endeavors and particularly in Catholic action with her parish, St. Nicholas of Passaic. In 1945 she became the second president of the Passaic-Clifton district of the newly formed Paterson Diocesan Council of Catholic Women, one of the seven districts of the diocesan council, and in 1970 was elected president of the Diocesan Council of Catholic Women.

In seeking ways to express the esteem of her associates for her many, many accomplishments—the richness of her wisdom, warmth of her friendship, and sincerity of purpose in everything she set out to do, the Paterson Diocesan Council of Catholic Women has planned the following program in her honor at the 35th annual convention to be held in my hometown of Wayne on Saturday, November 10:

THIRTY-FIFTH ANNUAL CONVENTION

OF THE

PATERSON DIOCESAN COUNCIL OF CATHOLIC WOMEN

(Under the Patronage of His Excellency the Most Reverend Frank J. Rodimer, DD. Bishop of Paterson, N.J.)

PROGRAM

Convention Chairman, Mrs. Harold Van Winkle.

9:00 a.m. Eucharistic Liturgy. Theme: "Mary, the Heart of the Family" prepared by Mrs. James Barrett, Church Community Chairman Immaculate Heart of Mary Church, Wayne, N.J.

Celebrants—Rt. Rev. Monsignor John J. Shanley, Ph.D., P.A., Diocesan Moderator and the District Moderators.

10:00 a.m. Continental Breakfast—Wayne Manor.

10:15 a.m. Formal Opening of Business Meeting—Mrs. Thomas Bay, Diocesan President.

Scripture Reading—Monsignor John Shanley.

Salute to the Flag and National Anthem—Entire Assembly.

11:15 a.m. Introduction of Theme: "Focus on Family"—Mrs. Harold Van Winkle.

Speakers—Commission Chairmen

Mrs. John McManus, Organization Services.
Mrs. Joseph Levendusky, Family Affairs.
Mrs. James Barrett, Church Community.
Mrs. Anthony Radloe, Community Affairs.
Mrs. Frank Bollerman, International Affairs.
Miss Marie A. FitzGerald, Legislative Information.

Closing Remarks—Monsignor John J. Shanley, Mrs. Thomas Bay.

Review of Exhibits—Mrs. Andrew Metzger. Coordinator of Events—Mrs. Peter Sagan.

1:00 p.m. Luncheon—Mrs. Sal Donatiello, Chairman.

Introductions—Mrs. Thomas Bay.

Tribute and Presentation to Miss Marie A. FitzGerald by Mrs. Thomas Bay, Bishop Rodimer, Monsignor John Shanley.

Report of Election of Officers—Mrs. John McManus.

Installation of Officers—Monsignor John J. Shanley.

Address—The Most Reverend Frank J. Rodimer, D.D., Bishop of Paterson.

Remarks—Monsignor John J. Shanley.

Closing—Mrs. Thomas Bay.

Executive Board of the Paterson Diocesan Council of Catholic Women:

Diocesan Moderator, Msgr. John J. Shanley, Ph.D., P.A.
President, Mrs. Thomas Bay.
Vice President, Mrs. Norman Sergeant.
Recording Secretary, Mrs. Paul Chorney.
Treasurer, Mrs. Elmer Dutcher.
Corresponding Secretary, Mrs. George Murphy.

Sussex

President, Mrs. L. DeLima.
Moderator, Rev. S. B. Dabkowski.
Directors at Large, Mrs. P. Chorney, Miss A. Bishut, Mrs. F. Keslo.

Madison—Chatham

President, Mrs. J. Stewart.
Moderator, Msgr. J. J. Shanley.
Directors at Large, Mrs. T. Bay, Mrs. J. McManus, Mrs. L. Tyler.

Boonton—Dover

President, Mrs. L. Cifaldi.
Moderator, Rev. J. Doyle.
Directors at Large, Mrs. P. DiRupo, Mrs. S. Zimmerman, Mrs. C. Konyak.

Morristown

President, Mrs. J. Daniels.
Moderator, Msgr. C. Haas.
Director at Large, Mrs. A. Radice, Mrs. J. O. Keefe, Mrs. H. de Mena.

Paterson—Hawthorne

President, Miss A. Geerinck.
Moderator, Rev. Ciampaglic.
Directors at Large, Mrs. E. Dutcher, Mrs. A. Macchiarella, Mrs. A. Metzger.

Passaic—Clifton

President, Mrs. P. Sagan.
Moderator, Rev. J. Demkovick.
Directors at Large, Mrs. K. Kirtchner, Miss M. O'Malley, Mrs. F. Volpe.

Butler

President, Mrs. K. Moore.
Moderator, Rev. E. McQuaic.
Directors at Large, Mrs. N. Sergeant, Mrs. H. O'Keefe, Mrs. Bollerman.

Past Diocesan Council Presidents

Mrs. Robert Donaldson, Mrs. Richard Gormley,* Mrs. Leo Sweeney, Mrs. George Kirchner, Mrs. John Eggert, Mrs. Eugene Klein, Mrs. Daniel Mustic, Mrs. Paul Cannezzo.

Mrs. Thomas Reilly, Mrs. Tracy Cortright, Mrs. Marda Haas*, Mrs. James Sebold, Mrs. Kermit Sidle, Mrs. Michael Gelormino, Miss Marie FitzGerald, Mrs. Harold Van Winkle, Mrs. Casimir Pokyrwka.

*Deceased.

TRIBUTE TO MARIE FITZGERALD

"Wisdom is more precious than corals." (Prv. 3:15).

Generous Father, we thank You for Your gift of coral—our Council's thirty-fifth anniversary. Though the ancients esteemed coral, holding it as mysteriously sacred, because of its unique branched beauty, still they recognized that wisdom was a more precious possession.

During our thirty-five years, we have grown and branched in wisdom, through Your gift of grace. And who is wise among us? She who has been mentor, peacemaker, and tireless worker. Marie FitzGerald. Marie who has been "heart" of our Council family from its very beginning.

Lord, we thank You for Your lavish gifts to us—the gift of coral; thirty-five years of Council service; the gift of Marie, whose friendship and example of Christian living continues to inspire us; the gift of Mary, who is "heart" in every family. Father, we are grateful. Amen.

Mr. Speaker, it is most significant that this year's convention theme dedicated to "Focus on Family" has been selected to commemorate a most distinguished charter member whose faithful and active participation in the most noble endeavors of the diocesan council has been of inestimable value to all of our people.

Pope John XXIII described the family as "the first and essential cell of human society." The family is indeed the basic fabric of our society—the foundation of a healthy and vibrant communion of people—who nurture, support and care for their own members, in many different cultures, providing irreplaceable strength and shelter for one another.

Family life provides a forum for the sharing of the unique gifts of family tradition among our people. And so it is with the membership of the Paterson Diocesan Council of Catholic Women who have chosen Marie as this year's honoree to applaud her service, particularly through legislation, which has helped to chart the path that will lead our citizens toward the fullest development of their potential.

Mr. Speaker, it is indeed a great privilege for me to echo the sentiments of the officers and members of the diocesan council with deepest of appreciation for the quality of her leadership and sincerity of purpose throughout her lifetime in devoted and dedicated service to her fellowman.

We do indeed salute a grand lady—a distinguished citizen, a compassionate and benevolent worker for the public good, esteemed friend and great American—the Honorable Marie A. FitzGerald.●

CHAIRMAN'S RETIREMENT

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. MOTTL. Mr. Speaker, it was with regret that I learned of Chairman RAY ROBERTS' decision to not seek reelection. His leadership in both veterans' affairs and public works will be sorely missed by the Congress. Experience is always a good teacher; and when this is combined with the qualities of leadership possessed by Chairman ROBERTS, it is the people of this great Nation who reap the benefit.

Mr. Speaker, I have had the privilege of serving as a member of the Committee on Veterans' Affairs under the chairmanship of RAY ROBERTS since I came to the 94th Congress. He has always displayed the unusual qualities that younger members appreciate so much as they go about the business of learning the legislative and oversight functions required of them. When I became the chairman of the Special Investigations Subcommittee of the House Committee on Veterans' Affairs, Chairman ROBERTS assured me of his complete support. Mr. Speaker, that is exactly what he has given me.

Under Chairman ROBERTS' stewardship, the veterans of this Nation have always been treated fairly. At the same time, he has never lost sight that these programs must be financed through tax revenue, and they have been contained within reasonable limits rather than becoming unrestricted as some have advocated. He has helped lead us through a most difficult period.

His retirement will mean a great loss to veterans and to the Congress as a whole. He has earned his retirement, if this is his choice. On this occasion, I want to convey to him my sincere thanks for his friendship and the limitless assistance he has provided to me personally and to the entire Committee on Veterans' Affairs. He is a very effective leader and I look forward to working with him next year as a member of the Committee on Veterans' Affairs.●

URANIUM, COAL, OIL—WHICH?

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. FISH. Mr. Speaker, I believe that our Nation must press forward now with the development of an effective energy conservation program. The benefits of energy conservation are enormous—it is economic, nonpolluting and environmentally acceptable.

The advantages and benefits of energy conservation are made clear in an editorial which appeared in the Washington Post of November 8. The editorial sheds much light on the benefits of holding down our energy consumption to wise levels. I urge my colleagues to read this editorial.

The editorial follows:

URANIUM, COAL, OIL—WHICH?

The outlook for nuclear power is, post-Kemeny, somber at best. But burning coal throws toxic gases into the atmosphere and, while technology can lower the risks to health, it cannot entirely eliminate them. Natural gas is needed for higher uses than firing utility boilers. As for oil, you have only to follow events in Iran to perceive that it has become the least certain of all sources of energy.

Uranium, coal, gas and oil: the country's four principal ways of generating electricity each lies under a shadow. Each is, for its own reasons, dangerous, uncertain or unavailable. How does the country avoid being left in the dark?

The first truth is that there is no entirely safe way to generate electricity. Any large power station, regardless of its technology, carries with it some degree of damage to the environment and some element of risk to public health. It's not a matter of finding a safe solution—but of finding the safest among several choices.

The second truth is that the choices have to be made. The idea of at least a conditional moratorium on new reactors seems to be gaining momentum in Congress. But if you don't like nuclear power, what kind of power do you like? The most available alternative is coal—but there is a death rate associated with the heavy use of coal. That is a thought for Congress and its constituents to keep in mind during the coming debates on nuclear regulation.

Fortunately, in most of the country, the need for new generating plants is not immediate. There is time—although not unlimited time—for reflection. It is the result, quite simply, of rising prices for power. Before the first oil crisis, six years ago, consumption of electric power in this country was rising 7 percent a year—a phenomenal rate at which the total load doubles every 10 years. At that pace, utilities were under ferocious pressure to keep building plants and to keep building them constantly bigger.

But in the past several years, the pattern has sharply changed. The load is currently rising less than 4 percent a year—hardly more than half the pre-1973 rate. That's why some companies have, temporarily, excess capacity. It's also why a lot of companies have cancelled some of their construction plans. For purely economic and financial reasons, sales of nuclear reactors had dropped off sharply even before the Three Mile Island accident. Utilities are now being pushed toward building smaller plants—easier to locate and easier to manage safely.

Low rates of increase in consumption mean easier choices of power sources. A wise public policy for power will insist on a balance among different kinds of sources, avoiding total reliance on any one of them. But wise public policy will also recognize that conservation, to hold down consumption, reduces the risk from all of them.●

KENNEDY OIL BILL RECKLESS

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, a bill pending in the other body restricts American oil companies from the exploration and recovery of oil in foreign countries.

At a time of oil shortages, the introduction of this bill is not only mindless; it is reckless.

What purpose will be accomplished except to raise the price of oil—if we can get it?

The Decatur (Ill.) Herald has rightly criticized this irresponsible bill, and I offer this October 12, 1979, editorial for my colleagues' review.

The editorial follows:

GIVE OIL FIRMS LATITUDE

Oil legislation can be as slippery as a greased pig.

Before the Senate Judiciary Committee is a bill sponsored by Sen. Edward Kennedy to prohibit oil companies from being involved in mergers or acquisitions worth more than $120 million.

Also in the bill is a provision restricting foreign investment pegged to a notion that American oil companies should spend their money at home.

This intricate maneuver has left Great Britain's prime minister, Margaret Thatcher, sputtering almost as furiously at young Ted as Winston Churchill once did at the father of the clan, Joseph Kennedy, for saying the British were about to be conquered by Germany.

British objections are simple enough. Whether intended or not, Kennedy's bill would prohibit American companies from participating in the development of North Sea oil fields. For Britain, as well as the United States, this would be an economic and social disaster.

"No self-respecting government of a foreign country would be likely to sit idly by while the largest oil company in that country—a subsidiary of Exxon or Mobil, for example—rejected that government's request on the ground that it was forbidden by United States law to undertake such an operation," George W. Ball, an international lawyer and former deputy secretary of state, told the Senate Judiciary Committee of which Kennedy is chairman.

Unfortunately, Kennedy was absent, being, perhaps, too busy fending off demands that he run for president.

President Jimmy Carter's folks were at the meeting with "helpful hands," including an amendment to allow "transactions likely to enhance the production or development of energy." This provides a loophole nice enough to make the law virtually worthless.

In reality there is a kind of fatuous quality to that part of Kennedy's proposal, similar in some respects to the catchy "food for crude" slogan earlier this summer.

Restricting foreign investment by domestic corporations sounds good as a way of promoting domestic production. It might make some sense if huge pools of untapped oil reserves were just awaiting an exploratory drill in the United States.

But this hasn't been the case for the better part of two decades. To find oil and develop oil fields, one must go where the oil is likely to be found.

Right now this means taking rigs to the North Sea, the Middle East, the South Pacific and other out of the way ports of call around the world.

To say by law that American companies shouldn't participate in this quest is to try to gain energy by drilling dry wells.

Kennedy should go back to the drafting board before Mrs. Thatcher slops buckets of North Sea oil over the family retreat at Hyannis Port.●

REPEAL OF THE CARRYOVER BASIS RULE

HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. EDWARDS of Alabama. Mr. Speaker, I would like to take this opportunity to commend the House Ways and Means Committee for their plans to hold hearings on the carryover basis rule for estate taxes. I have introduced one of the several bills which have been sponsored this year to repeal the carryover basis provision, and I urge the committee to approve that legislation.

I would also like to bring to the attention of committee members that the Southern Governors' Association, at its annual meeting in New Orleans, October 1–3, adopted a resolution in behalf of the repeal of the carryover basis. The text of that resolution is as follows:

REPEAL OF THE CARRYOVER BASIS RULE

Whereas, the practice of bequeathing possessions of value to one's heirs is a cherished right of Americans; and

Whereas, providing security for one's spouse, children and other relatives is a prime incentive for Americans to invest, thereby creating capital for business and jobs for the public; and

Whereas, the tradition of handing down property from one generation to the next is threatened by the carryover basis rule, a capital gains tax process that will greatly diminish the estates of many Americans; and

Whereas, the complexities of this carryover basis rule will place an additional costly burden on those faced with tracing the history of each asset, piece of property, and family heirloom in an estate subject to capital taxation.

Now, therefore, Be It Resolved in the Southern Governors' Association duly convened in New Orleans, Louisiana, that this Association urges all members of the United States Senate and House of Representatives to support and vote for the repeal of the carryover basis rule. Be It Further Resolved that this Association entreats President Jimmy Carter to endorse the will of the Congress of the United States in repealing this confiscatory, complex tax rule.●

SOCIAL REFORM AMENDMENTS OF 1979

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. HARRIS. Mr. Speaker, although the United States is a land of great natural resources and inherent wealth, it is an unfortunate fact of life that many Americans are in legitimate need of financial assistance. The American people have extended their hands to those of our population truly in need, and have made a commitment to provide them with assistance to enable them to live with some semblence of dignity.

Despite the best of intentions, however, what began as a sincere effort to help the needy has grown into one of the worst Federal-State-local boondoggles ever imagined. The welfare system that we live with is a patchwork, piecemeal program without direction or design. Most taxpayers are highly critical of how the welfare program operates—and justifiably so. They are convinced that much of their hard-earned tax dollars are being wasted through mismanagement and fraud.

Today, the Congress has the opportunity to take a giant step toward cleaning up the welfare mess. By passing the Social Reform Amendments of 1979 we will enhance the cost-effectiveness of the U.S. taxpayer's dollar.

I believe that anyone who is capable of holding a job should not receive welfare benefits. I also believe that any benefits received should be based on the legitimate needs of the individual or family.

However, it is no secret that the welfare system is rampant with fraud and abuse.

This legislation is designed to drastically curtail the instances of welfare cheating. For example, benefits will be based on actual, rather than projected, income. The income of the recipients will be required to be reported on a monthly basis. The income of all people residing in the household will be taken into account when computing benefits. By standardizing and coordinating certain procedures in the aid to families with dependent children and food stamps programs, the bill will streamline administration and reduce error and fraud. In addition, the Federal Government would provide financial incentives to the States to develop computerized information systems so that they can more effectively administer their programs.

Besides curbing abuses, this bill will remove many of the work disincentives that currently exist. For some people, it is often more beneficial to go on the welfare rolls rather than the work rolls. This legislation seeks to remedy that situation to insure that anyone who is capable of handling a job does just that. The welfare system should not be a subsidy for the lazy, and I am very pleased to see that this bill addresses this issue.

In closing, I urge my colleagues to look at the beating the American taxpayer is already taking at the hands of inflation, and then look at how many of their tax dollars are being wasted through mismanagement and fraud in the welfare system. How then can we justify not passing this bill—a bill that will give the American taxpayers more for their money?●

NEWS OF THE DAY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. MICHEL. Mr. Speaker, when big oil companies announce gains in profits the story is on the front page of every newspaper.

When a certain candidate for the Presidency does so much as bend over to tie his shoelaces, dozens of reporters breathlessly watch to see how he does it. Diagrams of his charismatic shoe-lace techniques are shown to readers on the front page, along with learned analysis on what it all means.

When President Carter and his traveling array of goodie-dispensers visit a community and just happen to have brought along a new dam, the news is thundered from one end of the country to the other.

But when Central Intelligence Agencies Office state in congressional testimony that the Soviet Union is spending about 50 percent more on military spending than the United States, this news just manages to make it to page 3 of the Washington Post in a wire service story. The New York Times does not even bother to carry it.

Does not anyone care what is really happening to our Nation?

At this time I wish to insert in the RECORD, "Soviet Military Spending Up," from the Washington Post, November 2, 1979:

SOVIET MILITARY SPENDING UP

The Soviet are spending about 50 percent more on military outlays this year than the United States, CIA analysts told Congress yesterday.

They predicted Soviet military spending will continue to increase at least through 1985 despite the strain on the Russian economy.

A private analyst and two members of the Senate Armed Services Committee said they thought the CIA statistics were too low.

Sen. Robert C. Byrd, (D-W.Va.), chairman of a Senate Armed Services subcommittee, said the panel was seeking to learn if the "massive surge of unprecedented military procurement" by the Soviets in the 1970s was likely to be matched in the 1980s.

Byrd said, "we must have facts to formulate the fiscal 1981 (defense) budget"—which, with increases promised by President Carter or demanded by sectors of Congress, may run as high as $160 billion.

"In 1979, the Soviet total will be about $150 billion, about 50 percent higher than U.S. outlays," said Donald Burton, chief of the CIA's Military Economics Analysis Center.

Total Soviet defense activities for the 1970s, he said, exceeded comparable U.S. outlays by almost 30 percent.

Estimated costs of Soviet defense activities "caught up with U.S. defense outlays in 1971 and have exceeded them by a widening margin in each succeeding year," Burton said.

Byrd scheduled another hearing for Thursday.●

COMMON CAUSE: PRACTICE WHAT YOU PREACH

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. CAMPBELL. Mr. Speaker, last Friday's Washington Post contained a most interesting article about the self-styled citizens' lobbying group, Common Cause. While I have consistently applauded the efforts and intentions of local Common Cause chapters, I have and do seriously question whether the national headquarters accurately reflects grassroots opinion. The Post article, describing a power grab by the Washington Common Cause office, calling attention to such abuses as salary discrimination based on sex and closed-door decisionmaking, certainly adds credence to my contention.

Mr. Speaker, particularly in view of the sincerity of Common Cause's membership around the Nation, I deplore this hypocritical "do as I say, not as I do" attitude on the part of the national office. I comment the Post article to the attention of my colleagues, and ask that it be included in the RECORD at this point.

[From the Washington Post, Nov. 2, 1979]

COMMON CAUSE RACKED BY CONFLICT IN REORGANIZATION

(By Glenn Frankel)

Closed-door meetings, conflicts of interest, sex discrimination in pay scales—those are the kind of practices Common Cause, which calls itself a citizens lobbying group, has long deplored and sought to purge from government.

But in the last few weeks, Common Cause itself has been racked with allegations that the leaders of the Washington-based organization have engaged in those same practices.

At issue is a proposal to consolidate the organization's 40 state offices into a dozen or so regional ones, a move that the group's national staff contends is needed to help keep Common Cause solvent, but that state activists claim would, as one state memo put it, "emasculate state organizations."

"Our view is that it kills us," and Virginia Common Cause Chairman Warren Dahlstrom of the proposal which was distributed to the states three weeks ago and is due for a final vote at meetings in Washington today and tomorrow. "It's already had a demoralizing effect on many people," he said.

"It's being rushed through and I don't understand the reasons for that," said Michigan Chairman Stephen Carter. For someone who for five years has fought for open government meetings and open decision-making, this is awfully hard for me to swallow.

Behind it all is the question of survival for an organization that struggles to keep the public interested in questions like campaign financing and government ethics at a time when pocketbook issues like inflation, energy and taxes claim a large share of the public's attention.

Founded nine years ago by former Health, Education, and Welfare secretary John Gardner, Common Cause took on "the task of opening up government," as Gardner once put it. In the aftermath of the Watergate scandals, the movement attracted strong and loyal support and boasted as nationwide membership that in 1974 exceeded 300,000.

Membership and financial strength have eroded in recent years to the point where last August Common Cause reported having about 220,000 members.

Looking for a way to retrench and cut expenditures, the group's national governing board earlier this year authorized a study committee to examine reorganization. The committee quickly targeted state organizations, which had mushroomed in the mid-1970s and some of which had developed strong and independent programs for lobbying state legislatures.

The Virginia group is considered to have one of the strongest state programs. Much of the credit has gone to Judy Goldberg, who started as a volunteer in Richmond six years ago and later became a full-time, paid executive director. Under Goldberg's leadership, the state group lobbied successfully at the Virigina General Assembly over the last four years for stiffer financial discolsure, lobbying and open meeting laws.

But insiders say Goldberg and activists from other states clashed several times with the organization's national staff over direction and legislative priorities.

Last summer Goldberg submitted a salary study that concluded that female state executive directors received an average of $2,000 a year or 16 percent less pay than their male counterparts, and that all state executive directors averaged considerably less pay than national staff members. Even administrative assistants on the national level averaged $1,000 a year more than the state directors.

Goldberg, who usually is willing to talk freely to reporters on any pertinent subject, refuses to comment on the survey. She won't even acknowledge that she wrote it, although other Common Cause members say she did.

Common Cause President David Cohen says state salaries are set by the state organizations, which accounts for the disparities.

even though funding is channeled through national headquarters.

The salary disparities were one of the reasons cited by the study committee in its recent report advocating consolidation. It also cited a growing deficit, in state expenditures—projected to reach at least $400,000 next year—and what it called "enormous strains between the staff and volunteers as well as between the state and national organizations."

The report, mailed to state leaders Oct. 14, has triggered a reaction that New York Chairman Howard Hoffman says "has been on the verge of hysterics."

State leaders say they are convinced the report's adoption will mean quick elimination of Goldberg and others who have offended the national staff. They are particularly incensed by a charge that the committee drafted its final report in a closed-door session early last month in Cincinnati without notifying organization members. An Ohio Common Cause official contended that committee chairman Kathleen Sebelius told her she could not attend the meeting.

"Would Common Cause tolerate a government agency's going behind closed doors to prepare recommendations of such consequences?" asked a memo circulated to state organizations by Common Cause of Virginia. "Does not our commitment to the principle of open government extend to our own governance?"

Sebelius was en route to Washington from her Topeka, Kans., home yesterday and was not available for comment.

Arthur Ceceiski, another committee member who says he investigated the incident who says Sebelius told him she discouraged attendance but never told anyone the meeting was closed.

Ceceiski, a Springfield resident, is himself the subject of another allegation—that his participation in drafting the proposals constitutes a conflict-of-interest because his wife Dorothy is a member of the national staff, which stands to benefit if the report is approved.

Not true, says Ceceiski: "I'm very sensitive to conflict-of-interest issues and I don't think this is one at all."

Most of all, state leaders say they are concerned that the proposal will be rammed through this weekend by a governing board that rarely fails to approve proposals supported by the national staff.

For his part, Common Cause President Cohen denies the proposal is part of a power play or a purge of dissidents by the national staff. He notes that several heads of smaller state organizations favor the plan, which he says is necessary to maintain Common Cause's financial stability.

Cohen contends Common Cause has just as big a role to play in the 1980s as it did in the Watergate era.

"The question is still how to end the sour relationship between citizens and government, how to make sure government is accountable," he said. "For me, it's an exciting time."●

VETERANS DAY

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. ROBERTS. Mr. Speaker, at 11 a.m. on November 11, 1918, representatives of the Allied forces and the German Imperial Army sat down together in a railroad car on a siding outside of Paris and brought to an end 5 years of bloody warfare that had ravaged the continent of Europe and split the entire world. We have remembered that occasion ever since as a moment that signaled instant jubilation across this land. Bells rang, and men and women poured into the streets. They danced and they sang. They cheered that the "War to End All Wars" had finally come to an end. They cheered that the American boys, across the Atlantic Ocean, would soon be coming home.

We have kept November 11 as a special day ever since: First, as "Armistice Day" to recognize the courage of those who fought "The Great War" and witnessed the United States emerge as a world power for the first time. Later, November 11 became Veterans Day to honor all Americans who have been called to arms, so often in this century, that our country might always remain both strong and free.

Mr. Speaker, there are over 30 million veterans from five wars living in the United States today. Over the years our Government has provided for those who served in its defense the most progressive and beneficial assistance program of any nation on Earth. The impetus behind these veterans benefits and services has normally accompanied a great upsurge of gratitude following a period of prolonged war.

For example, on that first Armistice Day, and on V–E Day and V–J Day, all were heroes and deservedly so. Our Nation was unified in its support for those who had fought and especially for those who had paid a price of their own because of their service in defense of our country. However, from an historical standpoint, as we as a Nation go farther down the road in peace and farther away from the immediate memory of war, the priorities which once seemed so absolute in the minds of many fade with the passage of time.

The plight of our Nation's veterans is surpassed by new problems and complex exigencies of a more immediate nature. Indeed, we face many difficult problems in the United States today: Inflation, energy, military strength just to name the top three. We must meet these problems head on, and we will, but in doing so we must not forget our continuing obligation to the veteran.

There are almost 600,000 World War I veterans, average age 83, in the United States today. World War II and even Korean conflict veterans also are reaching the point in their lives where they will need that assistance, rightfully provided by our Government, more than ever before. This will mean that in future years we will have to maintain a program of equitable compensation for their needs, and a medical care system second to none. Our youngest veterans, the 9 million who served during the Vietnam era have different expectations.

The vast majority returned from war proud of their service and eager to get on with the business of living. However, in many instances, Vietnam veterans came back from military service without the adulation and the universal gratitude of the American people experienced by their fathers and their grandfathers. We salute them, and we are determined to care for their disabilities and provide the necessary readjustment assistance to bring them all home again at full potential. Doing so will be worth all the ticker-tape parades in the world rolled into one.

This year the Congress has returned the observance of Veterans Day to its original date, November 11. No longer will this important occasion be shifted on the calendar and be considered a casual holiday to accommodate a 3-day weekend. Veterans Day should remain a traditional day of remembrance and thanksgiving for the dedication and special sacrifice of all Americans who have served their country in time of war. This is as it should be, not only for this day, but for every day.

This Sunday at 11 a.m., precisely the time the guns fell silent throughout Europe 61 years ago, ceremonies will begin at Arlington National Cemetery to pay tribute to the veterans of this country. Let us join all Americans in the spirit of this occasion. Our veterans did not let America down before; America should not abandon them now or in years to come.●

DEPRECIATION AND CAPITAL FORMATION PROBLEMS OF SMALL BUSINESS

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. NOWAK. Mr. Speaker, the House Small Business Subcommittee on Access to Equity Capital and Business Opportunities which I chair, held hearings ings September 12 and 13, on the capital formation problems of small business. One of the issues addressed was depreciation reform. Depreciation is generally defined as a capital recovery concept. This concept suggests that a businessman should be able to recover the money he invests in a capital asset over the useful life of the asset. It gives the businessman the capital necessary to replace worn out plant and equipment with newer, more efficient productive capacity.

The major bill before the Congress on depreciation reform is the Capital Cost Recovery Act of 1979, introduced by Representatives JONES and CONABLE as H.R. 4646. H.R. 4646 has acquired the nickname of the "10–5–3 proposal," as it provides for a 10-year writeoff for commercial buildings, 5 years for equipment and 3 years for automobiles and light trucks.

Consistently, throughout the summer and fall, national newspapers and business periodicals have portrayed the 10–5–3 bill as a consensus measure. Offhand, it would appear that business is united in support of H.R. 4646.

Several small business groups, however, have problems in supporting this measure as presently drafted. It was brought out by witnesses such as National Tool, Die, & Precision Machinery Association and the National Small Business Association, that they fully support the need for depreciation reform and the abandonment of the useful life concept.

This is consistent with the original intent of H.R. 4646; but they are concerned with the impact of H.R. 4646 on small business should it be enacted in its present form.

In order to give a proper airing to the views of these groups, and because of the vital importance of this subject to the American business community and to the Congress, I am submitting for insertion in the RECORD a statement presented at the hearings by the National Tool, Die, & Precision Machinery Association.

The statement follows:

STATEMENT OF NATIONAL TOOL, DIE & PRECISION MACHINING ASSOCIATION

Mr. Chairman and Members of the Committee: Good morning. My name is William E. Hardman. I am Executive Vice President of National Tool, Die and Precision Machining Association, an association of 3,000 small businesses who manufacture tooling, dies, precision machined parts, molds and special machines. With me is Mr. Herb Liebenson, Vice President, Governmental Affairs with the National Small Business Association. NSBA represents over 50,000 small businesses in 1,000 of 1,200 SIC codes in the United States. Mr. Liebenson is also Associate Director of the Small Business Legislative Council, which represents 72 national trade associations. Also sitting with us is the special tax counsel for the National Small Business Association, Mark Weinberg, who will discuss technical aspects. Mr. Weinberg was formerly an attorney advisor with the Office of the Chief Counsel of the IRS and is now with the Washington Law Firm of Arent, Fox, Kintner, Plotkin and Kahn.

I am grateful for the opportunity to share our thoughts on depreciation. This area is absolutely critical to the survival of small business in America. Basically what is needed is legislation that will do two things. First, it should encourage small business to increase capital investment and thus help close the gap between capital investment in the U.S. and foreign countries.

Second, since big business is steadily increasing its share of the Nation's economic activity, the legislation should attempt to reverse the disturbing trend towards economic concentration by providing enough stimulus to small business to enable it to regain some small share of the American dream.

Nineteen years ago, small business manufacturers under $10 million in assets accounted for 20 percent of the total business assets. Now they account for 10 percent. In the same period those U.S. corporations with over $1 billion in assets increased their assets from under 30 percent of total business assets to over 50 percent of total business assets.[1] Moreover, total United States investment in R & D and capital investment is far below most competing industrialized countries. I'm also sure that small businessmen don't invest as much on a percentage basis as does big business.

Many of our members got into the tool and die business after rising up through the ranks as apprentices. In earlier days a person who was willing to work hard could save a little money and start his own business with a reasonable chance of success. Today 55 percent of new businesses in the U.S. fail within the first five years.[2]

We have some great toolmakers in this industry.

A top toolmaker can easily earn over $30,000, and some gross $40,000.[3] But with the cost of today's machine tools and today's property and buildings he probably couldn't save enough to enter this business in his lifetime. When today's American has to face these kind of odds, odds that are getting worse each year, how much longer do you think the Horatio Alger concept of a free enterprise United States economy will last? How will minorities and women ever attain their share in American business?

Two of the proposals originally mailed to us by the committee promise real help for the small businessman. The first of these good proposals is H.R. 5096, introduced by Mr. Nowak on August 2. It provides each company with the same maximum dollar expense deductions for office equipment and pollution control equipment, and allows rapid amortization for machinery and equipment and motor vehicles. The beauty of the Nowak bill is that it offers help to the retail and service segment of small business and it softens the costs of mandated pollution control equipment whose entire cost does not contribute to productivity. Moreover, in terms of loss of U.S. revenue, it is a modest bill whose cost would be reasonable. If anything, its limits could be raised. We wholeheartedly support it.

Likewise, S. 110 introduced by Senator Nelson on January 23, is also fair and evenhanded to all business. It allows a straight line depreciation based over 36 months for business property with a useful life of three years or more and a basis not in excess of $25,000. Like Mr. Nowak's bill it helps all business. It is a modest bill whose cost could be about $200 million in 1980 rising to $2.7 billion in 1983 and then settling down to an average of $1.7 billion per year by 1988.[4]

Another valuable point about these approaches is that they focus the benefits on the segment which creates the jobs. (It has long been acknowledged that small business creates 66 new jobs for every one provided by big business.)[5] Neither of these bills would foster the continuing decline of small business. Both, in fact, should contribute to the restoration of small business in this country.

On the other hand, H.R. 4646 will do nothing but enhance the ability of U.S. corporate giants to expand and engulf what little of the market remains for small business. The revenue loss in 1984 is estimated to be about 30.2 billion dollars.[6] Over 75 percent of those benefits, or $22.5 billion will go to 1.3 percent of businesses which are the corporate giants in this country. The 98.7 percent remaining small businesses will get to split less than one-fourth of the benefits.[7]

We think that this is outrageous. Small business is dying anyway and H.R. 4646 would provide 75 percent of the benefits to the big businesses which are killing us as it is. What good are the benefits to a small town shoe store owner when he arrives to his shop one morning and sees Kinneys building a new store on one side of him and Thom McAn on the other? What good will it do our industry when our major customers decide to use the new tax advantages to build their own captive shops?

And what else can happen when 75 percent of the benefits are given to the 24,876 largest and best financed companies in the country? How much good will 25 percent of the benefits do the 1,912,140 small companies who must compete with them?

It's not that we are opposed to big business. In our industry our customers are major corporations and we want them to grow. But we want them, and us, to grow at the expense of foreign competitors who have more favorable economic and tax structures. The present trend has been for imports and U.S. big business both to grow at the expense of small business in this country. Any change in tax laws must bring a balance to it so that small business can again be competitive with imports and with big business. A tax bill increasing the competitive edge now held by big business could destroy the small subcontractors manufacturers and retailer dealers upon whom large concerns depend for supplies and outlets. Giant corporations would substitute their own manufacturing and retail operations. The result would be even greater economic concentration and the acceleration of the extinction of small business in this country.

This is not to say the economic principles developed in H.R. 4646 are invalid. The work of the Business Roundtable, the Chamber of Commerce of the U.S. and the National Association of Manufacturers, and the NFIB should be praised.

They have recognized a key economic fact of life in this modern interlocking world economy. That fact is that the present concept of "useful life" makes about as much economic sense as a buggy whip in an interdependent world trade environment. The international technological explosion often makes new machinery and equipment obsolete before its installed. Businesses in other countries are investing much more in capital and in research and development than the U.S. The reason for the difference is due to incentives in the tax structure. Whether their mix of incentives incorporates lower tax rates or better depreciation rates, it makes no difference. The fact is that our competitors have a better mix of incentives and as a result invest more in capital. Since we trade openly with those countries, the failure of this government to encourage a similar level of development will spell doom for American small business and the American economy.

What is needed is an approach which combines the economic concepts developed by the proponents of H.R. 4646 with the evenhanded approach employed in H.R. 5096 introduced by Mr. Nowak and S. 110 introduced by Senator Nelson. We support a 10 year write-off for buildings and fixtures. We think there should be a four year maximum write-off for machinery, equipment, furnishings, autos and light trucks. Any new legislation should preserve a 10 percent investment tax credit and an advanced depreciation rate for machinery, equipment, furnishings, autos and light trucks.

In order to bring down the cost and provide the same benefits to all it should have ceilings like Mr. Nowak's bill and Senator Nelson's S. 110. The accelerated depreciation should only be taken up to a certain maximum level per year. Over that amount, any remaining amount to be depreciated would be taken at conventional existing rates. An additional advantage is that this maximum level could be adjusted upward or downward to produce a balance between the need for an economic stimulus and the effect of the revenue loss. The maximum limit should be high enough so that every small business would have only one schedule to worry about. That way those businesses having to revert to the existing schedules based on useful life for excess amounts of their depreciation would be sophisticated enough to cope with the complexity of two schedules. The bulk of business depreciation would still be taken under current schedules based on the present concept of useful life.

[1] Future of Small Business in America, Committee on Small Business, U.S. House of Representatives, November 9, 1978, page 44.

[2] National Small Business Administration.

[3] NTDPMA Confidential Wage & Fringe Benefit Survey, April 30, 1979.

[4] Congressional Record, January 23, 1979.

[5] Future of Small Business in America, Committee on Small Business, U.S. House of Representatives, November 9, 1978, page 8.

[6] Accelerated Capital Recovery—A Simulation Study, Data Resources Inc., June, 1979.

[7] U.S. Treasury Data, Depreciation Deductions by U.S. Firms, 1974.

A preliminary and unscientific look at the IRS depreciation data suggests that a $1 million ceiling on the amount of annual depreciation taken on the accelerated rate would reduce the revenue loss to around $10 billion. It would also change the balance so that 75 percent of the benefits went to 98.7 percent of U.S. companies which are small business and 25 percent of the benefits went to the 1.3 percent of companies which are large.[1] We are working to develop some hard data and we request that the record be held open so that we may supply it.

In light of the $20 billion projected cost of H.R. 4646, we wonder if our approach isn't more realistic. Our last major tax cut was around $30 billion and two-thirds of it went to individuals. This balance in tax cuts existed for some time.

There are other approaches as well. Some tax experts have suggested job credits for each employee on the payroll, up to a certain number of employees. Perhaps a special higher credit could be provided for new jobs created in a company.

We certainly would welcome any efforts by Mr. Smith, Mr. Nowak, and Senator Nelson to combine the sound tax approaches in each of these bills into a badly needed omnibus small business tax bill. NSBA and NTDPMA would certainly support such efforts and would be glad to offer any assistance we could.

Thank you.●

OUR CHALLENGE: GLOBAL, POLITICAL, MILITARY, ECONOMIC, SPIRITUAL

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. MICHEL. Mr. Speaker, from October 9–13, 1979, the 25th Annual Assembly of the Atlantic Treaty Association was held in Washington. The prestigious Foreign Affairs Research Institute of London has published a paper summarizing the reports made at this conference.

The theme of the conference was that the NATO forces are faced with a global, not just a regional, threat. When you consider—to take just two of the more chilling statistics—that "at current Soviet deployment rates there is one new SS–20 warhead deployed roughly every second day" and that the "Soviets are building nuclear submarines at the rate of one every 7 weeks," you realise the grave danger the West is in.

It is my hope that all of our colleagues take the few minutes needed to read the following. It will scare you, but I hope—as was the case when I read it—it will also inspire you to do all you can to see to it that all Americans realise that we are threatened not only militarily but economically as well.

At this point I wish to insert in the Record, "NATO Experts Consider the Survival of the West", by Geoffrey Stewart-Smith, published by the Foreign Affairs Research Institute:

[1] Future of Small Business in America, Committee on Small Business, U.S. House of Representatives, November 9, 1978, p. 44 and U.S. Treasury Data, Depreciation Deductions by U.S. firms, 1974.

NATO EXPERTS CONSIDER THE SURVIVAL OF THE WEST

(By Geoffrey Stewart-Smith)

The 25th Annual Assembly of the Atlantic Treaty Association was held in Washington DC from 9–13 October. Some 400 delegates and observers attended from the 15 NATO nations and I was present as a British delegate. Our hosts, the Atlantic Council of the United States organised the conference admirably and the United States Government allowed the proceedings to be held in the State Department.

The main theme of the conference was 'The Golbal Nature of the Threat against the West', but while the consensus agreed overwhelmingly that the main threat to the Alliance came from outside the NATO area, the same consensus rather lamely concluded that for political purposes it was impossible to extend its boundaries beyond those agreed in 1949. It was felt—probably quite rightly—that the 15 NATO nations would never agree amongst themselves politically about a joint NATO intervention outside their present treaty boundaries, and that any such intervention would have to be undertaken by one or more NATO nations acting together on their own initiative.

In his opening remarks the Chairman of the Atlantic Council of the United States, Mr. Kenneth Rush set the scene by stating "I do believe that NATO must get into the habit of thinking more in global terms and that NATO, or some of its members acting together, should be ready and willing to take appropriate action to stem this insidious expansion of Soviet power and influence."

He went on to remind the audience that "the threat we face in the Western world is by no means confined to armed forces and military establishments. It has equally important political, economic and psychological aspects which we ignore at our peril. The Russians frequently refer to 'the correlation of forces' in the world, by which they mean the various components of power at the disposal of a modern industrial nation. This should remind us in the West that our approach to security must be total as well as global. We all agree that we need greater strength on land, on the sea and in the air. But we also need to tackle our political and economic problems with equal intensity."

Representing President Carter, the U.S. Vice President Mr. Walter F. Mondale attended and gave the delegates a valuable assurance of American intentions, "the history of our country has shown that consistently from the beginning and including today, the commitment to NATO by our Nation is a bipartisan American commitment that is permanent and lasting and complete in terms of total public support."

POLITICAL INTIMIDATION

Dr. Zbigniew Brzezinski, Assistant to the President for National Security Affairs, gave a forceful description of the reality of Soviet military might and chilled the audience with the revelation of the scale of the missile threat against Western Europe "At current Soviet deployment rates there is one new SS–20 warhead deployed roughly every second day."

Appreciating that the world is getting smaller every day, he went on "Western Europe, the Far East and the Middle East represent three interrelated strategic zones of central importance to the survival of the West as a whole and to global economic stability. This is an important strategic reality, and it has political as well as military implications. The United States must work with the countries in all three zones to protect the independence of these regions . . . Moreover, the momentum of the Soviet nuclear build-up does pose the possibility that the Soviet Union may be seeking a genuine nuclear war fighting capability. . . .

"The challenge we now confront is not only a military one. I believe that we have far more to fear from the possibility of political intimidation. Should NATO be viewed as unwilling or unable to respond to threats of nuclear warfare confined to the European area—as the lack of any effective theater forces would almost certainly make it appear to be—the opportunity for Soviet political pressure would be correspondingly enlarged."

Turning to the Third World, he observed "It is important that the inevitable tensions associated with basic sociopolitical change should not be exploited by major powers either directly or indirectly. The export of revolution through proxies or by direct military power has to be resisted, for otherwise global change will become global anarchy."

The Secretary General of NATO, Dr. Joseph Luns, stressed the vulnerability of Western Europe, and increasingly North America, to imported raw materials "For the West, an oil shortage alone spells economic crisis. But the same phenomenon of asphyxia could arise in connection with other sensitive and strategic raw materials. This situation clearly calls for consultation among the Western countries, which are largely dependent on external sources of supply."

SOVIETS SEEK SEA CONTROL

A very competent maritime view was given by Vice-Admiral Sir David Loram, the British Deputy Supreme Allied Commander, Atlantic. He revealed that "The Soviets are currently building nuclear submarines at the rate of one every seven weeks, and the number of their nuclears will double within a decade . . .

"We are beginning to see emerging from Soviet shipyards a deep water navy, designed for sea control rather than sea denial. It has sophisticated logistic support and increasing access to overseas bases. It poses a substantial and credible open-ocean surface threat to the trade routes not only in the North Atlantic but also in the other oceans of the world.

"Just imagine what one or two of these battle groups could do or threaten to do to our oil supplies if they were at large off the Cape of Good Hope. Imagine what they could do to the supply of other vital raw materials—bauxite, manganese, sugar, if they were free to roam the Caribbean. Imagine what they could do to the supply of raw rubber, of tin, or other minerals, if they were in the Pacific . . .

"The materials I have mentioned are necessary for many of our countries. But they are particularly important to the United States, which is the power house of our Alliance."

He then went on to consider the growing naval deployment of the Soviet Backfire bomber which has been used by the Soviet naval air arm since 1975. "There are now some 40 of these highly sophisticated, swing-wing, Mach 2 aircraft with the navy and this number could be trebled by the mid 80s—even if production is limited by treaty . . .

"In sum the Soviets with an avowed policy of world domination are creating a maritime capability which will assist this achievement. They have gone to sea—they have become seaminded—they are challenging us for world-wide sea control. We, on the other hand remain in a straightjacket, focusing only on a small geographical area . . .

"Against the backcloth that it is the West who are dependent on the sea routes of the world and not the Soviet Union, I find this Alliance entering the dangerous 80s encumbered by the straitjacket of its maritime boundaries while trying to combat a threat which has not only immeasurably increased but has become global."

Reflecting on this challenge, the Admiral

opined "I need hardly stress the danger to the West if Moscow perceives a weakness in leadership, a public indifference, a paralysis of will."

MODERNISATION OF THE ESSENTIAL

The new Supreme Commander of NATO, General Bernard W. Rogers gave a thoughtful presentation which naturally concentrated on the military aspects of the Alliance. Dryly he observed of the declining US strategic nuclear deterrent that "We can take no comfort that the present situation is as much a function of Western design as Soviet development." Echoing Dr. Henry Kissinger's remarks in Brussels in September, he continued "With the onset of strategic equivalence the West can no longer rely on American strategic nuclear superiority as the ultimate arbiter in every crisis which directly or potentially involves the Soviet Union. . . .

"Today over 100 mobile SS 20 launchers with the multiple and highly accurate MIRVed missiles and reload capability and 90 Backfire bombers are deployed against Allied Command Europe . . .

"Despite the many attempts being made to turn our nations from this (theater nuclear force) modernisation, we must proceed with the vital Alliance decision to deploy long range theater nuclear systems, coupled with the parallel arms control approval, if we are to demonstrate the cohesion and solidarity of the Alliance in the face of the threat. I would hope that our member nations will never permit propaganda and pressures from the East—especially the Soviet Union—to prevent the Alliance from taking whatever actions it deems necessary—to include the deployment of appropriate theater weapons systems—to deter the threat for which the Soviet Union itself is responsible. Surely the West must not put itself in the position of letting the Soviet Union decide for us the means we should use to deter the growing threat posed by the Soviet Union and Warsaw Pact . . .

"Weakness, unpreparedness and equivocation are provocative. Equivalence, force readiness and determination are protective."

A QUESTION OF WILL

The paper presented by Lt. General Brent Scowcroft, former Assistant for National Security to the President contained some very valuable observations on Soviet military trends.

"In the strategic field, the Soviets are well into the deployment of third generation missiles. In addition, there are strong indications that, notwithstanding the SALT II treaty, they are preparing to begin testing on at least four new or substantialy modernised ICBMs. Observed qualitative improvements planned for the currently deployed missile forces are such that within two or three years the Soviets, utilising only a small proportion of their own land-based missiles, will be able to pose a mortal threat to U.S. ICBMs."

Turning to the risk of a surprise attack in Europe, he noted

"If the Soviets have developed their forces to the point where they could mount a successful attack against NATO with little or no detectable prior reinforcement from the western military districts of the USSR, a fundamental underpinning of NATO strategy—that we would receive sufficient warning of a major attack to undertake our time-consuming but essential measures of mobilisation and force deployment—is destroyed. The impact is obviously of catastrophic proportions. . . ."

"It now is not simply a case of the Soviets having to estimate whether or not the US would risk its cities by responding strategically to an attack on Europe which appeared to be succeeding. There is now as well the consideration for the Soviets that we are no longer able to reverse the war outcome through escalation either through the use of theater nuclear weapons or the use of US strategic forces. This is a development of profound significance for the West."

General Scowcroft then described the enormous additional resources allocated to the Soviet armed forces and concluded "The overall impact is likely to be that the Soviets will feel less deterred, more self confident, that they will push harder, dare more. We may already be witnessing such a change in behaviour, a change which spells increased danger to us all . . .

"The Soviet problem is structural, if not systemic. The NATO problem is fundamentally one of will. If we do not succumb to the prophets of doom, if we accept that our task may be without end, if we will work together to use our minds to take advantage of the many currents flowing in our rapidly changing world and turn them to our own purposes, surely we will prevail."

RAPID REINFORCEMENT PROGRAMME

Happily specific solutions were offered as to what should be done to rectify the military situation in Europe in a witty speech by Mr. Robert W. Komer, Advisor to the Secretary of Defense for NATO Affairs when he addressed the participants at the National War College.

"One of the most critical deficiencies in NATO's vital Center Region is the relative thinness of our widely stretched ground forces. Once penetrated, they lack operational reserves to restore the situation. Let me tell you what we Americans are finally doing about this. . . .

"We are spending billions today on a massive Rapid Reinforcement Program, designed to more than double our in-place ground forces in Europe within less than two weeks, and triple our tactical airforce. To give you some idea of magnitude within two weeks we plan to have in Europe more US firepower than the entire German Army, European NATO's strongest ground force, and air squadrons double the number of the entire RAF or Luftwaffe. This is not two weeks after the war starts but after the decision to reinforce is taken. . . .

"This will give the NATO commanders vitally needed operational reserves to prevent a breakthrough well forward or pinch it off if it occurs. Our technique is to preposition full sets of equipment in Europe, and fly over the troops by passenger airlift. Since our tactical aircraft can self-deploy, all they need is enough well-stocked Allied bases to receive them; negotiations to this end are well underway.

"But timely provision of this massive reinforcement is critically dependent upon our European allies doing two things. First, you must provide storage sites and warehouses for our prepositioned equipment, collocated operating bases for our air squadrons, ammunition depots to store much more ammunition and the like. . . . Second, we simply cannot simultaneously deploy to Europe the equally massive logistic support forces needed to back them up. Hence we have turned to an innovative concept called Host Nation Support, whereby our European Allies will help provide us, out of the same mobilised civilian resources which you use to support your own forces, with the airlift and sealift, port and airfield reception and unloading, transport forward to the battle area, depot, construction and medical facilities, fuel storage and tank trucks etc. vital to our ability to fight. . . .

"In short, America has proposed a Transatlantic bargain to its European partners. We'll deploy rapidly massive combat reinforcements if you'll help provide the European facilities and Host Nation Support to enable us to do so. If you don't, we can't. . . .

"Again we are spending several billions to develop and field long range mobile cruise and ballistic missile systems to maintain the continuum of NATO's deterrent spectrum. But it is up to Europe to agree to receive them and help support them for the common defense. . .

"The days of defense on the cheap for Europe are over, with nuclear parity at hand. But we need not disrupt our economies or neglect social needs either, if we will rise above national parochialism and collaborate more effectively in the common defense."

STATUTORY COMMITTEES NEEDED

The paper presented by the British Conservative Member of Parliament, Mr. Eldon Griffiths returned to the global theme of the conference, and he felt that "It may be assumed that a Soviet invasion of Europe quite likely would be combined with a thrust to seize the oil states of the Gulf and to interdict the Cape Route and vice versa. . . .

"The threat has changed in two important respects:

"1. It is global, not regional. No longer can it be contained within the geographic limits of the North Atlantic Treaty.

"2. It is political, economic, indeed spiritual. The Alliance cannot any longer hope to defend its interests by a wholly or even largely military response."

He then went on to make some specific recommendations:

"Some actions perhaps can be taken within the present structure of the Alliance. One possibility might be 'standby' forces to assist in peace-keeping, disaster relief, help for refugees, e.g. the Vietnamese 'boat people', and in the rescue of Allied citizens caught up in crisis situations outside the NATO Alliance . . .

"To ensure success for such limited activities, the cooperation of non-member states nearly always is indispensable . . ."

Turning to Africa, Mr. Griffiths pointed out that:

"The Soviet Union has established a military presence in the Red Sea and the Horn of Africa. Together with its Cuban allies, it has extended Soviet influence to Angola and Mozambique. Meanwhile, through Africa—the 'Saudi Arabia of minerals'—a large share of the Alliance's sources of minerals could be at risk to political instability and possibly racial war, backed by Soviet and other outside forces. . . .

"To focus Allied attention on these areas of mutual concern, it is proposed that NATO should set up four Statutory Committees. These would be concerned with:

"(a) The oil producing areas of the Middle East.

"(b) The South Atlantic.

"(c) Relations with South East Asia and Japan.

"(d) Latin America.

"The duties of each committee would be to monitor, study and report on all aspects of the possible threat to Alliance interests in its area, political, military and economic; to advise on closer relationships, should these seem desirable, between members of the Alliance and specific countries outside NATO and with their defence establishments and, as appropriate, to recommend action . . .

"If Soviet strategy is now intercontinental, so must NATO's be. The threat has become global. To be effective our response must be global too."

It was a joy to witness the change of attitude in Washington. The American people are very resilient and they have shaken off their post-Vietnam depression and regained their self-confidence. As manifest leaders of the Free World, they bear a terrible responsibility to world history.

The Secretary General of NATO, Dr. Joseph Luns ended his speech with these words to describe the duties of all NATO nations in the future:

"May I conclude by saying that the most immediate menace to the West would arise from any lessening of our resolve to look to

our own defence. This would be all the more paradoxical since the Western countries have at their disposal as incomparable human potential and an economic capability unsurpassed by any other country or group of countries. Future generations would not forgive our nations if, for want of vigilance or moral courage, they failed to take up the challenge confronting their civilization and ideals." ●

AMBASSADOR MIKE MANSFIELD REVIEWS AMERICA'S JAPANESE RELATIONS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. WILLIAMS of Montana. Mr. Speaker, I urge each of my colleagues to read this address by Ambassador Mike Mansfield. Former Senate Majority Leader and now Ambassador Mansfield presented this address to the Foreign and Domestic Issues Council in Tokyo on September 12, 1979:

When I first arrived in Japan in June of 1977, I felt strongly that the framework of close and friendly ties between our two countries was firmly established. After many years in the U.S. Congress, and on the basis of a long and enthusiastic interest in Asia, I had concluded that our two democracies had much in common and that a U.S.-Japan partnership was vital to our mutual well-being.

There were some problems in our relationship—for example, the concern here about the disposition of U.S. ground forces in Korea, and differences concerning the initial operation of the nuclear fuel reprocessing plant at Tokai Mura—but I felt confident that those questions could be managed and resolved with goodwill and cooperation on both sides. That confidence was well placed. We have worked out good understandings on those and other issues, testifying to the basic strength of our relationship.

The state of our economic relations in June of 1977, however, was not good. We were in serious difficulty. The U.S. was heading into a period of severe trade deficits, while Japan was having record breaking surpluses. There was a long list of problems and complaints relating to particular industries. Color television exports to the U.S. were arousing strong objections from industry and labor. Some TV trade issues were being tested in U.S. courts. We had problems in our trade in special and carbon steel. The multilateral trade negotiations had been going on for four years, but had made virtually no substantive progress. The mood in the U.S. Congress was problematical and there were increasing pressures for protectionist actions which would have left serious long-term damage.

In short, while there was no doubting our strong ties of friendship and our ability to talk to each other frankly, our ties were deeply troubled by many difficult issues. The next two years, consequently, were among the most difficult period in our relationship since the end of world War II.

Today the picture is markedly different—and the change has been for the better. Our two countries have developed a broader and more productive political partnership and are cooperating actively in a growing variety of areas. The breadth and depth of our relations were demonstrated by the highly successful visits to Washington by former Prime Minister Fukuda last year and Prime Minister Ohira last May, and that of President Carter to Tokyo in June. The Joint Communique agreed to between President Carter and Prime Minister Ohira on May 2 did not concern only bilateral issues. It mirrored in its scope and variety the fact that our two countries have a growing mutual concern about world issues and that our bilateral relationship has a growing multilateral dimension. President Carter's state visit just before the Tokyo Summit demonstrated a new maturity and balance in our relations. In addition to the very good discussions he held with the Prime Minister, and the important formal aspects of his stay, the President was particularly gratified to have had the opportunity to meet and talk directly with the Japanese from all walks of life at his town meeting in Shimoda which dramatized the close ties and common interests which characterize U.S.-Japan relations. In some respects that meeting was the highlight of the bilateral visit.

Japan seems to me to be reaching out, taking on a new and more active international role—and I believe this is good, for Japan and the world. As it does so, the United States will remain a consistent partner and fellow activist, for we believe in the old saying that far more can be achieved by two nations—no less than two persons—working together than by the sum of our separated efforts. We welcome Japan's new activism and leadership, whether in coordinating our approaches to the energy crisis, or in dealing with the tragedy of Indochina refugees. I should add that Japan's performance as host for the Economic Summit in June demonstrated clearly its stature as a leading country in the free world.

One of the most rewarding and satisfying aspects of our ties in the time I have been here has been U.S.-Japan security relations, which have never been better. In the last two years, a number of steps have been taken which enhance them. Japan is going ahead with the procurement of modern defense systems such as the F-15 fighter, the P3C anti-submarine warfare aircraft, and the E2C early-warning aircraft which lend credibility to its defensive posture. Japan has contributed a substantial share to the cost of U.S. Defense Forces located in Japan for mutual security purposes. Representatives of our two governments have developed guidelines for defense planning, which will add a new and important dimension to our cooperation in the security field. We are also engaged in intensive and high-level consultations on a broad range of defensive issues; the recent successful meeting between JDA Director General Yamashita and Defense Secretary Brown in Washington is a good example.

But perhaps the most impressive improvement has been in the area of our trade and economic relations. I think the extent of the change is not fully appreciated, so I would like to cite the record.

In the first half of 1979 U.S. exports to Japan were up 46 percent compared to a year ago. U.S. imports from Japan were also up, but only by 8 percent. When in the past U.S. representatives said they were seeking a correction of the trade imbalance, but not restrictions on imports, this was precisely the trend they had in mind.

Japan's global current account surplus has disappeared and Japan had a deficit of $1.8 billion for the first seven months of 1979. In part that is the result of sharply higher oil prices, but it also reflects import increases across the board. By the end of 1979 we may well see more increases in Japanese exports, but there is no reason why the problem of burdensome Japanese surpluses should not be behind us.

Some of Japan's traditionally strong exports have declined or levelled off, at least in volume terms. Color TV shipments to the U.S. so far in 1979 are down by 52 percent compared with the similar period in 1978. Steel is down by 6.8 percent, and autos are down 3.2 percent. Because of strong demand in the U.S. for smaller, energy efficient cars it is certain that Japanese auto exports will rise to some extent. This trade is beneficial to both countries, and we should expect increases in response to demand, but I hope that they are smooth and in accord with market developments.

U.S. agriculture continues to be a bright spot in our world trade, and Japan is our best foreign market. In 1978 we shipped $4.4 billion in agricultural products to Japan, up by a half a billion dollars from the year before, and the total should be over $5 billion this year. We are also doing well in capital goods, up 29 percent in 1978, and in consumer goods which were up 33 percent.

There are many reasons for this improvement, but one of them is that we Americans are following your advice and working harder at selling in Japan. You sent a record-breaking trade development mission to the U.S. in the spring of 1978, and we reciprocated by sending a mission of over 100 members to Japan in October. This year we and the Japanese Government are cooperating in a project to use the Japanese exhibit ship, the Shin' Sakura Maru, to bring U.S. consumer products to 13 port cities in Japan beginning in October for two months. One hundred forty eight U.S. firms will be represented and we will find local distributors for them to develop their sales in the future. U.S. products will be sold, not just shown, and I hope all of you will find the time to visit the ship and see what we will have to offer.

The successful completion of the Multilateral Trade Negotiations is another major achievement. Japan made a splendid contribution, agreeing to lower duties on industrial goods from applied rates by 28 percent and much more from statutory rates, while the U.S. cut will be 31 percent. As a result, Japan's average tariff on dutiable industrial goods will be 4.9 percent, the lowest of any major industrial country. Japan also contributed greatly in the negotiation of new codes governing international trade, and I hope Japan will ratify them expeditiously. The success of the MTN and continuing benefit of all is our best answer to protectionism.

As trade expands and more and more business is conducted across national boundaries, the rules of international conduct become more important. The Lockheed scandal which shook Japan is an example of how things can go wrong. We must be sure that international business is carried on in accordance with the highest ethical standards. However, I do not think that any one country can or should dictate what is ethical behavior in international business. Therefore, I firmly support Senator Proxmire's proposal last month for a conference of leading industrial countries to consider an international convention on business conduct. This idea is not new; the need for multilateral action is clear, and I think all industrialized countries should act on this without delay.

We still have much to do. Our problems really have not all disappeared. I have heard it said, for example, that Japan's payments surplus has not gone away for good, but is only hiding for awhile and will soon be back. There is no reason for that to happen; surely we have all learned that a balanced course is a wiser course, and that all countries share the responsibility for avoiding excessive surpluses or deficits. The Carter-Ohira Communique of May 2 confirms that we must take a common approach which will contribute to a stable payments pattern. It is clearly in our interest to do so.

The success of the MTN also imposes obligations on us all to make it work. The U.S. Congress has already passed our implementing legislation by an overwhelming vote. The Japanese Diet will have to act soon in accordance with Japanese law. The MTN codes

and the agreement of June 2 between Ambassador Ushiba and Ambassador Strauss also commit both countries to clear up some difficult problems relating to import standards, sales of tobacco to the Japan tobacco monopoly, and procurement by government controlled agencies, especially NTT. We must approach these issues in a spirit of compromise and with the will to settle them in a manner consistent with the principles of reciprocity and open trade. The objective is to assure reciprocal access and expanded opportunities for business.

Japan also needs to develop a better image in the U.S. as a business partner. The task is not easy. Much of the difficulty lies in our different approaches to trade expansion. We see our market as fully open to all, and only after imports in one category grow too fast or too large, do we seek to restrain them. When that happens Japanese exporters feel that they are blamed for being "too successful". When we try to sell to Japan the most severe problems arise before the entry of a new company or product. Sometimes the result is that a would-be American exporter fails before he even gets started. To him that seems unfair—as if he had never even had a chance. We need to find a way to avoid giving such an impression to newcomers to Japan.

Changing our attitudes and styles of behavior is not easy. We Americans need to take a longer view, and not give up in the face of initial resistance. We also need to invest our resources and energy for benefits received over a long time. Japanese need to recognize how damaging it can be to them when an American is given a bad impression at the start. American exporters know that they must market competitive products and meet Japanese standards. They should be given to understand that they can export to Japan on the same basis as Japanese export to the U.S.

Such problems can rise owing to the cultural and societal differences between us. Despite our friendship, partnership and interdependence, we are separated by cultural gaps which have to be understood if they are to be bridged. To help that process along I would like to propose a program of work-study grants to help Americans understand Japan better. Many Japanese learn English and spend many years in America really learning American ways firsthand and conducting profitable business as American experts. They make a tremendous contribution to better understanding, but there are few Americans who do the same in Japan. We need more. I would like to see U.S. businesses operating in Japan devote a portion of their profits to supporting several top U.S. graduate students in Japanese studies each year who would come to Japan for a year or two of language study and academic preparation, followed perhaps by a three-year assignment in the Japan offices of an American company. They would live and work in a business environment in Japan for a long period. Having learned something of Japanese language, culture, history and society first, they would move on to learning firsthand how modern business and life in Japan really works. This would represent a long-term investment, both for the individuals and for the organizations which would participate, but in time it would pay great dividends.

Another theme I wish to emphasize is the importance of increasing U.S. productivity. Productivity is a major determinant of how competitive any country is in world trade, and also of the general welfare of workers themselves. In the United States our record has been poor. U.S. productivity has risen only 0.3 percent annually since 1973, and in recent months has actually gone down. Japan during the 1970's has increased productivity by an average of 7.7 percent every year. Japan has continued to save and invest a high proportion of personal income and substantial gains in that income have resulted. This is an example Americans should study. In a spirit of friendship and cooperation there is much we can learn from you. In such an environment we can solve problems, increase the welfare of people in both our countries, and work to build a more peaceful and prosperous world. We can all be proud of our major achievements to date, but I do not think we should let that make us too complacent. For, as our experience has shown, by working together we can make the most of the many opportunities ahead. ●

THE LESSON OF TEHRAN

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. GUDGER. Mr. Speaker, in recent years, American Ambassadors have been kidnaped and even murdered in the line of duty. In Iran today, scores of American diplomats and staff are being held hostage in the Embassy in Tehran by radical Moslem students who want the United States to deliver the ailing Shah of Iran for trial. Moreover, the Ayatollah Ruhollah Khomeini has endorsed the students' action of storming the Embassy. These violations of diplomatic immunity are part of a continuing pattern of international brigandage that has shaken the world in this decade. This brigandage has included the murder of Israeli athletes at the Munich Olympics by terrorists from the Palestine Liberation Organization (PLO), the skyjacking to Cuba and elsewhere of commercial airliners by PLO agents, and other incidents involving diplomats and private citizens of many nations.

While some might be prompted to view the Tehran situation as a cause for rash unilateral action, we should recall the restraint we have exercised earlier with the skyjackings. We mounted no assault on Cuba or elsewhere but rather began policing our own aircraft as well as working out agreements with Cuba, despite having no public relations with that country. We continue this protective action with our aircraft and because of this type of action, attempts to take over aircraft have become rare.

The situation in Tehran also seems to call for restraint, at least so far. We want no confrontation with Iran despite Khomeini's endorsement of the student move on the Embassy. The situation seems to call for quiet diplomacy carried out through whatever channels promise to be most fruitful. In short, restraint may well be the better part of valor. Consequently, we welcome the news that President Carter has sent a former attorney general and a Senate Intelligence Committee staff member to Tehran to try to find a solution to the trouble. We are also aware of reports that the PLO is going to intercede on behalf of the American hostages—although we do not know the PLO's motives for such action. Meanwhile, let me quote from the New York Times editorial of November 6, 1979, which sums up the situation in this way:

In any case, a regime bent on irrational conduct cannot be appeased. The avowed purpose of the embassy takeovers is to force the United States to return the ailing Shah to face a revolutionary tribunal. The idea is unconscionable. The right of political asylum is another valued tradition that the Ayatollah seems to consider diabolic now that he no longer needs his own revolutionary platforms of asylum in Iraq and France. Whatever the merits of admitting the Shah for medical treatment, after discouraging his residence in the United States, the turmoil in Iran requires all nations to reaffirm their respect for asylum and immunity.

Many previous exiles from the Shah, including some of the Ayatollah's closest associates, once took refuge in the United States. Many may want to seek it again, from the Ayatollah. While pressing for the release of our own citizenry, the United States should feel no shame in resisting outrageous demands. A multitude of devils swarm in the bottle that the Ayatollah has recklessly uncorked.

Missing from the New York Times editorial is the idea of what to do when an embassy is denied protection by a host country. In my opinion, the United States would be wise to begin a search for the machinery to cope with such breaches of diplomatic immunity as the takeover of the Tehran Embassy. We also must explore the possibility of developing unilateral techniques for the emergency evacuation of beleaguered diplomatic posts. Naturally, we all remember a few years ago when the Israelis rescued 100 or so victims from the skyjacked Air France plane. However, the Israeli raid on the airport in Entebbe, Uganda was a stroke of great brilliance difficult to duplicate. Other similar operations, such as the Egyptian mission at the airport in Nicosia, Cyprus, and our own recapture of the American vessel *Mayaguez*, were far less successful. Nevertheless, our diplomatic missions must be protected. If host governments will not or cannot protect them, as they are supposed to do by ancient usage, then we have no alternative but to do the job ourselves. Perhaps, this is the lesson to be learned from Tehran. ●

CRACKDOWN ON IRANIAN STUDENTS IN THE UNITED STATES

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. ZEFERETTI. Mr. Speaker, I want to join other Members of Congress in expressing shock and outrage at the seizure of the U.S. Embassy in Iran. Even more unconscionable is the fact that the Iranian Government has refused to permit American envoys entry into Iran to negotiate the safety of American hostages.

I would be remiss if I failed to express my dissatisfaction at the response of the Carter administration during this crisis. The American Government must take a staunch stand against this terrorism, and we should also take the necessary actions here in the United States against the protests and demonstrations of Iranian students.

Earlier this week a number of Iranian students occupied the Statue of Liberty in New York City, chaining themselves inside the monument for several hours. Federal Park officials were forced to close the landmark and to evacuate more than 1,000 tourists from the island.

Mr. Speaker, under title VIII of the United States Code, the Attorney General of the United States has the authority to deport these lawbreakers. Today, I have forwarded a telegram to Benjamin Civiletti, Attorney General of the United States, urging him to instruct agents of the Immigration and Naturalization Service to closely monitor the activities of these activists—within the framework of U.S. law—to determine if they are fulfilling the terms of their visas. Those that represent a danger to public welfare and safety should have deportation proceedings initiated against them.

In addition, I have contacted President Carter and urged him to join in this effort to quell these outrageous protests against our Government.

The following is a text of my telegram to the Attorney General:

NOVEMBER 8, 1979.

Hon. BENJAMIN CIVILETTI,
Attorney General,
Department of Justice,
Washington, D.C.

DEAR ATTORNEY GENERAL: In light of the continuing stalemate involving American hostages at the U.S. embassy in Iran and the unlawful activities of a number of Iranian students in this country, I strongly urge you to take the steps necessary to identify those lawbreakers and, where possible, to undertake deportation proceedings against them.

The occupation of the U.S. embassy in Tehran and the taking of American citizens as hostages is an unconscionable act of barbarism. Even more incredible is the fact that the Ayatollah Khomeini has condoned this act of terrorism through his refusal to permit American envoys to enter the country to negotiate the safe release of those hostages.

This crisis must be met both forcefully and expeditiously by the President and the State Department to ensure the safe return of those hostages. In this country, the Immigration and Naturalization Service must make every effort to enforce all American immigration laws that pertain to Iranian students and temporary residents as a sign to the Iranian government that we will not stand idly by while this debacle in Tehran continues.

In the tradition of American goodwill toward the international community, our government has welcomed students from around the globe—including several thousand Iranian students—in order to permit them to participate in our institutions of higher learning. This privilege does not grant these temporary visitors the right to disrupt American society through unruly protests and demonstrations.

Earlier this week, a number of Iranian students occupied the Statue of Liberty in New York City—our great monument symbolising liberty and opportunity for the people of all lands. Chaining themselves inside the monument for several hours, federal park officials were forced to close the landmark and to evacuate more than 1,000 tourists from the island. Other Iranian students throughout the United States have also held disruptive demonstrations of support for the despicable acts of their countrymen.

Title VIII, Subsection 1182, paragraph 27 of the U.S. Code states that aliens "shall be ineligible to receive visas and shall be excluded from admission into the United States" if "the consular officer or the Attorney General knows or has reason to believe (they) seek to enter the United States solely, principally or incidentally to engage in activities which would be prejudicial to the public interest or endanger the welfare, safety, or security of the United States."

I interpret this statute to mean that the students who occupied the Statute of Liberty can and should be deported. In addition, Immigration and Naturalization Service officials must now make every effort to more closely monitor the activities of all Iranian activists residing in the United States to determine whether they are upholding the terms of their visas and the laws of the land. Immigration and Naturalization Service agents in Washington and in the field offices throughout the Nation must be given notice to crack down on the illegal activities of Iranian demonstrators. Those that represent a danger to public welfare and safety should have deportation proceedings initiated against them.

Obviously, it is imperative that this job be carried out within the framework of American law to ensure that the civil rights of any individual are honored. However, the current situation demands that our immigration laws are diligently upheld.

The time for leniency toward these culprits has passed and the patience of the American people has reached the breaking point. It is time for the United States government to take a staunch stand against lawlessness perpetrated by these temporary visitors to our great country. I urge you in the strongest possible terms to make every effort to ensure that the lives and liberties of the American people are protected.

Sincerely,

LEO C. ZEFERETTI,
Member of Congress.●

TREATMENT OF VIETNAM VETERANS A SHAMEFUL CHAPTER FOR NATION

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. BOLLING. Mr. Speaker, I draw the attention of my colleagues to a column appearing in the AFL-CIO News, October 27, 1979, written by Gus Tyler, chairman of the American Veterans Committee. As we approach the national observance of Veterans' Day, it is crucial that we recognize the special problems faced by our Vietnam veterans.

The column follows:

FORGOTTEN MEN AND WOMEN: TREATMENT OF VIETNAM VETERANS A SHAMEFUL CHAPTER FOR NATION

(By Gus Tyler)

Most Americans believe that the Vietnam veterans have been treated in a shabby, even shameful, way. Three out of four Americans believe that the Viet vets should be getting more aid and benefits and that they have a harder time adjusting to civilian life than veterans of other wars.

Two out of three Americans believe that people have not treated Viet vets as well as veterans of other wars and that we have been mean to Viet vets because the war was unpopular. These are the findings of a poll conducted by the New York Daily News.

Most Americans believe what most Viets feel with passion. They feel it, yet they hesitate to sound off because somehow they have been made to feel ashamed of themselves.

If you are not a Viet vet, it is hard to get under his skin to feel as he feels unless you are fortunate enough to spend an hour or two with Bobby Muller as he pours out his heart on the plight of his erstwhile fellows-in-arms.

Bobby is an ex-Marine who agonized through the decimation of a platoon under his command. He is a one-man crusade to get America to understand the men—and women—who fought in Vietnam. From his wheelchair, he speaks out with fire and finely honed fury.

The Vietnam veteran is different, he insists. He was engaged in a war he never understood that was fought in a way he never understood.

There were those who said that we should just blow those Communists right off the map—with bombs or A-bombs or whatever it took. And there were those who said that we had no business there in the first place.

But practically nobody knew what they were doing there or why. So, to keep going, they drowned their doubt in alcohol and narcotics.

Back home, people began to make judgments about them. They were hopheads and junkies. They were sadistic Lt. Calleys. They were jerks for having allowed themselves to get drafted. They were no damn good, without morals or mind.

Then to top it all off, "they" lost the war. Nobody loves a loser, especially since this was the first war we have ever lost. (We lost the war of 1812, but Andrew Jackson's victory at New Orleans after the war was over gave the country the feeling of victory.)

Rotten as many of them felt about themselves over there, they felt even worse about themselves when they returned not as conquering heroes to be welcomed by banners and bands, but as the defeated, confronted with silence and a sneer. Coming home was numbing; but as the numbness passed with time, hurt and hostility set in.

Bobby was speaking to me because he wants to send a message to America to open its heart to the Viet vet. He was speaking to me because he knows that the American Veterans Committee I chair is deeply concerned that no element in our society, especially veterans, shall be pariahed out of our national community. He was speaking because he is a man of courage who fears, who fears what will happen to the country for which he has given much as the stormy clouds of disappointment, disrespect and disorder accumulate among the Viet vets.●

AN ENERGY VIEWPOINT FROM BANKERS TRUST

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. WYDLER. Mr. Speaker, the movement of the recent synthetic fuels legislation through the Congress, of course, raises the question about the levels of Federal and private sector investment required to develop a synthetic fuels industry and at the same time enhance our domestic oil and gas supplies.

The Bankers Trust Co. of New York last month published an energy newsletter which is a valuable contribution to the national debate over the economics of energy supply. Its conclusions are that if we are to maintain today's level of oil and gas production in 1990, given major growth in coal and nuclear for electricity, it will require much greater capital investment than we see today.

I suggest that the following two sections of the newsletter would be particularly interesting to Members in shaping the congressional pieces of a major energy policy. The report certainly raises questions about current economic policy and outlines major changes which must be made to insure financing for adequate energy supply.

The newsletter follows:

OIL AND GAS SHARE

Based on these inflation rate estimates and on the constant dollar expenditures projected earlier, oil and gas capital requirements would rise from $20 billion in 1978 to $142 billion in 1990 in current dollars. Meanwhile, total business investment would increase from $223 billion in 1978 to $690 billion by 1990. As a result, the oil and gas industry's capital needs in 1990 would climb to 21 percent of the nation's total investment, up from only 6 percent in 1978 and 9 percent last year.

It is obvious that the oil and gas industry is extremely unlikely to capture such a high proportion of total business investment. If the industry actually managed to do this, all other business investment would be limited to about 1½ percent real annual growth through 1990. This is completely incompatible with our fundamental assumption of GNP growing at 3 percent; a 1½ percent growth in business investment cannot be expected to propel GNP at 3 percent. Our energy needs would have the investment sector seriously out of balance.

The inescapable conclusion, as we see it, is that the United States must devote a larger share of its gross national product to fixed business investment, if it is to maintain its economic strength. This need not become an unbearable sacrifice as other industrialized nations can demonstrate. For example, in Germany the ratio of investment to GNP is currently 15 percent while in Japan it is 20 percent. If our present 10.2 percent share in the U.S. were increased by 1½ percentage points, then some $104 billion would be transferred to the investment sector in 1990. In this case the oil and gas industry's proportion would still be 18 percent, but the remaining capital supply would be sufficient to support the predicated 3 percent real growth rate in all other business investments.

SUMMARY AND CONCLUSION

To avoid economic stagnation during the 1980's, we will need a maximum effort both to produce and conserve energy in the United States. Merely to stabilize U.S. oil imports will require enormous growth in available capital over the next decade. Not only will expenditures for oil and gas be increasing, but also massive expenditures for replacing capital stock to improve energy efficiency and utilize alternative energy sources will be necessary. This suggests that the investment share of GNP will have to increase to meet the balanced needs of both the energy and other industries through the coming decade.

This means more savings will be required. The government could encourage savings with tax incentives which recognize the need for more rapid depreciation rates for industry to cover soaring replacement costs. Moreover, tax credits for energy conservation, which are already in place, may have to be increased. Personal savings could be encouraged by the moderation of interest rate ceilings and taxes on savings deposits. Similar treatment for dividend earnings would also be helpful. Other strategies are available.

Most importantly, because inflation discourages both business and personal savings, a greater effort to curb inflation is mandatory. This translates into fiscal responsibility on the part of the Federal Government and prudent monetary growth on the part of the Federal Reserve Board, two conditions which have not prevailed in the recent past.●

TOSSING A DROWNING MAN AN ANCHOR

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. CORCORAN. Mr. Speaker, the House last week passed H.R. 4985, the Priority Energy Project Act. This fast track legislation would establish an Energy Mobilization Board with broad powers at all levels of Government. Soon, the full House will be debating the creation of yet another agency, the Energy Security Corporation. I have argued that what we really need is not more bureaucracy, but a comprehensive review of existing statutes which are perceived by many to hinder the planning and implementation of energy projects.

Recently, I received a letter from the president of the American Mining Congress in which the establishment of an EMB and an ESC is seriously questioned. AMC president J. Allen Overton states that—

Mismanagement by existing federal agencies has contributed largely to the energy crisis, and to argue that creation of one more agency is part of the solution, seems on a par with tossing a drowning man an anchor.

He also calls for the reform of the "oppressive regulatory regime already in being." I agree with this assessment and commend the letter to my colleagues.

OCTOBER 23, 1979.

Re: Energy Mobilization Board; Energy Security Corporation

Hon. TOM CORCORAN,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: The growing dependence of the United States on foreign sources of oil is now generally recognized as perilous in the extreme. The volatility of these foreign sources poses stark geopolitical risks for our national security, while our bondage to these sources tends to fetter American foreign policy. At the same time, the rising cost of oil imports due to higher volume and prices stimulates inflation at home and undermines the economic order of the globe.

There is no alternative on the immediate horizon other than making greater and better use of energy resources domestically available, including oil, gas, coal and nuclear power. In the short term, at least for the next decade or two, expanded use of the nation's abundant coal reserves is essential.

For these reasons, the American Mining Congress favors a vigorous program of synthetic fuels development, provided it is properly constituted.

We believe the amendment offered by Majority Leader Robert Byrd and approved by the Senate last week, establishing a $20 billion trust fund for synfuels development, sets an appropriate level of public funding at this time.

We further believe that government funding should be restricted to assisting initial commercial-scale plants that demonstrate synfuels technology. This could include loans, loan guarantees and purchase contracts. It is our view that a new Energy Security Corporation is not required to accomplish these goals.

In opposing the establishment of an Energy Security Corporation or similar type body, one of our main reasons is the fear that it would pave the way for government-owned facilities, which we regard as a hindrance to the sound development of a synthetic fuels industry. This fear has been realized in the bill approved by the Senate Energy and Natural Resources Committee, which would authorize up to three government owned plants.

Mismanagement by existing federal agencies has contributed largely to the energy crisis, and to argue that creation of one more agency is part of the solution, seems on a par with tossing a drowning man an anchor. We can only envision another cadre of officials who will seek the utmost limits of their authority and maximum interference in the marketplace. While it is theoretically possible to have a federal agency that does not try to extend its domain, in reality such an agency has been seen with about the same frequency as a unicorn.

In point of fact, no synthetic fuels program is likely to work unless the oppressive regulatory regime already in being is reformed. This holds true for development of other domestic energy resources as well.

Federal regulations governing the minerals industry of the nation are vague where they should be precise . . . rigid where they should be flexible . . . arbitrary where they should be equitable . . . and legalistic where they should embody common sense. They are prime culprits in the energy crisis.

An Energy Mobilization Board that can cut through the regulatory labyrinth to clear a path for priority energy projects is a critically needed reform. Such a Board is provided for in the bill approved by the Senate Energy and Natural Resources Committee, but its powers are too severely circumscribed. Rather than being the rogue elephant some of its critics claim, it is a toothless tiger in the regulatory jungle.

The Board would have power only to accelerate the strictly procedural requirements of regulations, but it could do nothing about the substantive bias of the underlying laws and the prejudicial mind-set of their enforcers. What it would amount to, then, is the promise of a speedy trial for a man who's predestined to hang. This offers him scant solace.

A much preferred version of the bill is being sponsored by Rep. John Dingell and has been approved by the House Interstate and Foreign Commerce Committee, but unfortunately it veers to the opposite extreme. It grants the Energy Mobilization Board authority to waive all federal, state and local laws, as well as to clear procedural roadblocks to priority energy projects.

Such sweeping powers are neither necessary nor wise. The fact is that the major impediments lie in federal laws and in actions imposed on the states by these laws, and the Board certainly should have authority to waive these provisions. Beyond that, however, it is important to preserve states' rights in determining issues that necessarily vary

from state to state, and it is particularly vital not to allow interference with the water laws in the West, which have evolved through long experience and practical testing.

If the Dingell bill were modified to meet these requirements, it could lead to a regulatory climate in which industry and government collaboration, rather than the stalemate of confrontation, could produce a synthetics fuels program of marked success.

It must be emphasized, however, that the need for action is urgent, because American dependence on foreign oil plus its attendant perils is growing daily. It took only about a decade of misbegotten governmental policies to produce this sorry situation, but the nation doesn't have another ten years to begin extricating itself from it. Already Washington has spent over half a decade debating a national energy policy, without any notable progress to date.

Production of energy resources cannot be increased like the flow of water from a faucet, and the requisite facilities can take years to build. The sooner we get started, the sooner we will win our freedom from the tyranny of economic and national security instability at the hands of OPEC. The time to act is now.

Sincerely,

J. ALLEN OVERTON, Jr.,
President.●

THE UNITED STATES HAS "THE RIGHT STUFF"

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. MICHEL. Mr. Speaker, a few years ago Americans were treated to the unintentionally hilarious antics of fashionable liberals when Tom Wolfe wrote "Radical Chic." Can anyone forget the near total fatuousness of those who played patron to the Black Panthers because it seemed the "in" thing to do? Wolfe singlehandedly demolished the pretensions of the limousine liberals, political dilettantes and assorted high-fashion revolutionaries.

Since then Wolfe has continued to cast a skeptical eye on the lunacies of the fashionmakers. But recently he has written a book of praise. This book, "The Right Stuff," praises the kind of people the radical chic crowd had no use for: The astronauts.

In a recent interview Wolfe explained his views on art, politics and the future of our Nation. I am glad to say that this superb writer feels we are "in America's Elizabethan period and don't know it * * * this is our season of the rising sap * * *."

At this point I wish to include in the RECORD, "Tom Wolfe Examines Why The New Left Disappeared" in U.S. News and World Report, November 5, 1979:

TOM WOLFE EXAMINES WHY "THE NEW LEFT DISAPPEARED"

(By Tom Wolfe)

"WE DON'T HAVE ANY UNIVERSAL HEROES"

We still have heroes in America, although not in the sense of national heroes. We only have national heroes when there is a real external threat to the country.

In the case of the astronauts, who certainly were heroes, the threat was the cold war. It's hard to remember now how much of a threat the cold war seemed. That was why the first seven astronauts were instant heroes and why the astronauts selected later, when the cold war had faded, were not.

Ethnic and racial heroes exist today. All you have to do is go to a closed-circuit-television showing of a Muhammad Ali fight and you will quickly find out that he is a real hero to colored peoples of all sorts.

We don't seem to have any universal heroes. I don't think of show-business and sports figures as heroic, except in the case of Ali, who actually represents a great deal more than just sports. But I think there would be a great flood of heroes coming up if we really thought the country was in danger.

"IT SEEMS EASY TO GO BACKWARDS IN THE ARTS"

I look upon the arts as one of the chief areas that disapproves our assumption about constant progress. We're so used to progress in the scientific and technical side of things, we often think there's going to be progress in every area. In fact, it seems to be very easy to go backwards in the arts.

I'll just mention two areas that I'm personally interested in:

One is caricature. I do a page of caricature every month in Harper's magazine, and I'm acutely aware that caricature has reached its lowest ebb in the last hundred years. The reason is that most artists today are no longer trained in many fields, as they once were—in anatomy, architecture and landscapes, just to mention three.

Those who couldn't make a go of it in the higher forms of painting would make a living doing illustrations and caricatures. They tended to be awfully good at it because you cannot do caricature well unless you can deal with human form, human raiment and the trappings of rooms and buildings. Now many art schools do not emphasize such broad studies, and the result is that we have a very sad lot of caricaturists, over all.

"THE LAST LITTLE OBEDIENT COLONY OF EUROPE"

In literature, something similar has happened. Realism in fiction was mainly an invention of the 18th century, when writers began to portray the everyday life of all types of people with detailed attention to dialogue and natural surroundings. It turned out to have a power that no other written literature had ever had. The most sophisticated British critic of his day, Lord Jeffrey, confessed to having broken down and cried upon reading of the death of Little Nell in The Old Curiosity Shop by Charles Dickens.

Now, you don't have to like Dickens or The Old Curiosity Shop to see the power of a form using realism that can actually move people to tears. But many writers have given up realism in the novel. That is like an engineer saying: "We've been using electricity for a hundred years. We're going to do something else from now on."

Since the second World War, there's been a fashion reigning in the universities, where most writers come from, that has turned away from realism and has begun what I think of as the "new fabulism." In that form, you tell modern fables, usually nihilistic in tone. There are many talented writers operating in this area—people like John Gardner, John Barth and Thomas Pynchon. I think they've put themselves in a corner. They're using a tenth of the wattage that is available with realism.

I'm just getting ready to write a sequel to The Painted Word, which will deal with architecture and serious music, and a little with dance and philosophy. In all of these areas, as with painting, I think, for the past 40 to 60 years artists have been devoting all of their talents not to some vision that they themselves have had but to theoretical concepts that usually came from Europe. When it comes to the arts, we're the last little obedient colony of Europe. In architecture, for example, we have often looked toward Europe for the lead, ignoring even great American architects like Frank Lloyd Wright and Louis Sullivan.

The European intellectuals who fled to the United States in the '30s were bowed down to—like white gods in jungle movies of that period. This country, which seemed so maverick and self-confident in almost every other area, was intellectually timid in the arts.

BLACK PANTHERS, THE WEATHERMAN AND RADICAL CHIC

There is no more radical-chic society.

The people who were involved in what I call radical chic were always much more interested in the chic part than the radical part. They were not anxious to endure the heat if it became unpleasant. So they were quite ready to jettison the Black Panthers of the Weatherman or any of those groups when it became known that they were supporting those causes.

UNNOTICED: A "MOST IMPORTANT" DROPOUT

In 1970, the New Left disappeared within six months. The New Left had reached a kind of second great peak of power in 1970 after the shootings at Kent State and the invasion of Cambodia. Many leaders of the student movement of that time were saying they were going to take a very active part in the congressional elections in the fall of 1970. But they didn't; they just faded from sight.

Since then, there has really been no left in the United States. The only thing you really find is the antinuclear movement. But even that is very broad based, including many people who 10 years ago were simply referred to as conservationists. It also attracts those with left-wing sympathies. But there really is no left. This is one of the most important things that's happened in the 1970s, and yet very little note has been made of it.

"FADING INTELLECTUAL ANTAGONISM" IN THE WEST

One of the reasons for the disappearance of the left is the influence of Alexander Solzhenitsyn and his Gulag Archipelago. I have the feeling that that book will be seen eventually as one of the most influential pieces of writing in history.

What Solzhenitsyn did was to establish once and for all that there were concentration camps in the Soviet Union. Others had said it before, but he had cultural cachet: He was a respected novelist. And Nikita Khrushchev gave Solzhenitsyn even more credibility by putting his arm around the author at the time of the publication of One Day in the Life of Ivan Denisovich and saying: "Yes, this is true. This happened." So there was no denying after that that socialism can lead to the concentration camp.

I feel rather optimistic about the 1980s in the West because a lot of intellectual antagonism in the United States and the other Western democracies is fading. There's still a strong left wing in Italy, but I think it's slowly diminishing and has diminished considerably in France and England.

It really can be traced to Solzhenitsyn.

LET'S CELEBRATE "OUR SEASON OF THE RISING SAP"

We are in America's Elizabethan period and don't know it.

We have been told so often that capitalism and the West are in their twilight and the best we can hope for is to make the remaining years as comfortable as possible. In fact, this is our season of the rising sap.

This is the century in which the United States became the most powerful country on earth militarily, the wealthiest country on earth, the country that developed the capacity to exterminate mankind with the atomic bomb but then went ahead and developed an escape route to the stars through the space program.

This is the country that started the phenomenon—which Europe is beginning to catch up with—of wealth at every class level except the class that doesn't work at all. This is our Bourbon Louis period. It's been a time of tremendous exuberance, tremendous energy, tremendous growth. Yet people of influence in this country so often act as if it were the opposite.

Because of these achievements, it's hard for me to be terribly pessimistic about the rest of this century.●

LONGVIEW OBJECTS—MASSIVE PAPERWORK

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. COLLINS of Texas. Mr. Speaker, energy and inflation are the major domestic concerns before Congress. Down in Texas, we have worked to conserve oil and gas so we turned to coal. The Texas Utility Co. was way ahead of the congressional mandate and has for years been developing and turning to a lignite program. Texas utilities has an excellent record of returning the top soil so the land is in better shape after they left than before they came in for the lignite.

When Congress discussed Government strip mining legislation, we did not have a single complaint from Texas. Every community spoke well of the fine strip mining job of the Texas utilities.

Yet, Congress passed a law that is burdensome, top heavy, and places tremendous additional costs upon the consumer. I remember discussions about the need to make this law comprehensive because they had heard of some abuse in West Virginia; and the law for the entire Nation must cover the West Virginia situation. It reminds me of the principal of the school who had heard one pupil had misbehaved and to correct the situation, he lined up every youngster in the school and beat the daylights out of them.

An excellent editorial on this subject was written by the Longview Daily News in east Texas. You will be interested in reading the viewpoint on excessive paperwork by the Longview Daily News:

PERMIT APPLICATION COST HALF MILLION

Changes in Texas Railroad Commission rules governing surface mining operations will force lignite users into vastly heavier costs and more voluminous reporting systems, but that will be the price of keeping Uncle Sam's nose out of Texans' private business.

A recent application by Texas Utilities Company for a permit to mine lignite in Panola county weighed 474 pounds and was prepared at a cost of half a million dollars. But the waste involved in these application processes is not all the state agency's fault. Compliance with federal guidelines also is a big factor, and the recent move came as the commission sought to bring its system into compliance with the federal statutes.

The Congress enacted the legislation to begin with and then made a provision that if the various states wished to exercise authority and resume responsibility for compliance in mining operation in their own boundaries they must submit a set of rules by which they propose to operate. This was done by the Texas body and the rules have been tentatively approved. A hearing is due shortly by the federal Office of Surface Mining to determine the rules' adequacy. If they are found acceptable they will be adopted, perhaps in February.

But the pathway which the utility had to follow in securing a permit to operate was a bureaucratic nightmare. In 1976 the utility got a permit to do the surface mining in Panola county and the questionnaires and reports required for the permit weighted 77 pounds and cost $50,000 to prepare. The commission required 10 copies.

The most recent weighted 474 pounds, cost half a million dollars and there were 20 copies this time. These are the kinds of things about which business, large and small, has complained for years. There is no way that all this material can be assimilated by three members, and certainly requiring 20 copies of anything represents the waste of more than half of them. We might hope that at the compliance hearing on the matter, some of the 330-page volume of present requirements may be deleted as superfluous.

But if the federal government is involved, and it certainly is here, the chances are that if changes are made it will be to add pages, not to subtract anything. It has been years since Uncle Sam used a modus operandi like that.●

THE "GARDEN OF EATING" PROGRAM

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. RICHMOND. Mr. Speaker, in the past two sessions, the Congress has enacted pioneering legislation in the area of nutrition and food marketing—legislation designed not only to protect but to enable and encourage the American consumer to understand and to act intelligently on those diet and nutrition matters that directly impinge on health. Nutrition has become a matter of public policy—and that is as it should be.

Of course, there is still a large job to be done—there are still critical needs that the Congress will be asked to help meet. In the session ahead we will be considering a number of these urgent food and nutrition issues—and I am confident that we will act on them with foresight and full sensitivity to the national interest.

What prompts these remarks at this time is a recent development that touches on my own particular interests in a very real way. I want to share with you a report I have just received describing the "Garden of Eating" program—a nutrition education program for kindergarten and first grade sponsored as a public service by the Weight Watchers organization.

So the "Garden of Eating" program was born—a set of interrelated classroom resources and educational aids—designed to enable the primary grade teacher to help children understand the relationship of food to the body; develop a sense of excitement and adventure in learning about food; and begin to assume personal responsibility for food selection and to understand the probable consequences of individual food choices.

The "Garden of Eating" materials are fresh, child centered, colorful and innovative. They permit the teacher to introduce young children to an exciting way of exploring food through stories, poetry, songs, educational games, creative art projects and other activities, in the classroom and in the home.

This past spring semester these resources were field tested in 161 classrooms across the country. The curriculum specialists and teachers who participated in the field test were particularly enthusiastic about the observed effect of the program on children. For instance, school food service personnel reported children making wiser food choices in the lunchroom, and parents commented on improved eating habits at home, such as insistence on breakfast and the unacceptability of junk foods for snacks.

Are not these the very concerns that this Congress has been addressing itself to for some time now?

This is the first year of the program. In this year, the "Garden of Eating" materials are being provided free to the schools by Weight Watchers area directors.

This program exemplifies the best aspects of American education and of socially responsible American business. What I feel is particularly commendable about the "Garden of Eating" is that it provides a clear guidepost to ways the private sector and public education can work cooperatively to strengthen the curriculum.

The strength of America is American public education—and the strengths of American education are many. It is universal, it is free, and it is responsive to the aspirations and goals of the citizens whose children it enrolls.

This ability of the schools to respond to citizen concerns is extraordinary. When Sputnik went up, Americans demanded a new emphasis in the physics and science curriculum, and the schools responded, and have been responding to public concern on public issues ever since. Witness: The national consumerist movement, and the introduction of consumer education as a major curriculum area in the Nation's schools; the energy crunch followed by incorporation of energy education in the classroom; public focus on the environment and on an economy of shortages and the enormous push for conservation education.

While nutrition education has long been a school concern, particularly among the professional leadership, today's widespread public interest in all aspects of food and nutrition has given

the subject a new, highly emphasized position in the curriculum—at all grade levels from kindergarten through high school.

Accordingly, schools across the United States are now gearing up to meet the new mandates to strengthen their classroom nutrition education programs—and school administrators and curriculum specialists acknowledge they need help with this challenge—from all appropriate sources—from both the public and private sectors. Indeed, the degree of help that will be forthcoming from the public sector is defined and limited, and so support from the private sector, if appropriate and educationally sound is eagerly sought and willingly accepted.

Weight Watchers "Garden of Eating" program gives me hope that other responsible American business will undertake appropriate support of the curriculum in similar fashion. Indeed, a number of companies and trade organizations already are doing so. Obviously, neither Weight Watchers nor any other corporation is in a position to take on the sole responsibility for providing nutrition education materials for all grade levels and all schools. They are not even in a position to do that for a single grade level. Nor, in my judgment, would it be appropriate for any company to take on a continuing burden of that dimension. But it seems to me that what the Weight Watchers nutrition education program does do—as do a few other similar public service efforts—is to point the way in which corporations working cooperatively with educators can share in meeting our schools' curriculum needs. These needs are large but so is businesses' capacity. The challenge today is to motivate the private sector to take on responsibilities in this arena.●

HOUSE OF REPRESENTATIVES—*Friday, November 9, 1979*

The House met at 9 a.m. and was called to order by the Speaker pro tempore, Mr. BRADEMAS.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

NOVEMBER 8, 1979.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore on Friday, November 9, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

God is our refuge and strength, a very present help in trouble.

Therefore we will not fear, though the Earth be removed, and the mountains be carried into the midst of the sea.

The Lord of hosts is with us; the God of Jacob is our refuge.—Psalms 46: 1–3, 7.

Bless our Nation, and all the people, O Lord, and may Your spirit give us confidence and patience in the face of adversity. We pray for all those who are anxious or have special need that You will comfort them by Your presence. Encourage them with the promise of hope and the abiding assurance of the unity of our people. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

A MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 668. An act to permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the U.S. Court of Claims any claim such band could have filed with the Indian Claims Commission under the act of August 13, 1946 (60 Stat. 1049).

ACTION URGED TO COUNTER IRANIAN THREAT TO U.N. CHARTER

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, as the Ayatollah Khomeimi-incited revolutionaries continue to threaten and hold hostage 60 Americans in Tehran, at this point we do need to give President Carter what he asks of us regarding this tragic crisis—"the continued support of the American people."

Yes, I admit I am humiliated and very angry about the events in Tehran. Iran is in obvious violation of the first principle of the United Nations Charter—that force or the threat of force should not be used to achieve national political objectives.

When will the world leaders of the United Nations take strong action against Iran's current mob rule—a dangerous affront to the U.N. Charter?

I have never been impressed by the ability of the United Nations to solve crises, but it would be refreshing to see the United Nations prove now they are capable of intervening to bring about a peaceful settlement of the conflict in Iran.

FURTHER DEMONSTRATIONS SEEN AS THREAT TO LIVES OF HOSTAGES IN TEHRAN

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I am deeply concerned at reports that District of Columbia officials may permit anti-American demonstrations today by Iranian students.

At a time when every American is deeply concerned about the lives of those U.S. Embassy employees being held hostage in Tehran, such a decision is not only ill-advised but dangerous.

While I am vitally concerned about preserving every citizen's right to free speech, the potential for violence in such demonstrations could only further inflame the situation, hinder the President's diplomatic efforts and endanger the lives of those American hostages.

I am much more concerned about preserving the rights—and the lives—of those Americans held hostage in Tehran than I am about the rights of those Iranian noncitizens who are, after all, guests in our country.

The President is to be commended for the restraint he has shown in dealing with this difficult situation. He clearly has placed the safety of the hostages ahead of all other considerations and I fully support the diplomatic initiatives he has undertaken to win their freedom.

There are indications that those efforts may now be making some progress and we all have a responsibility to make certain they are not upset.

ANOTHER PERSONNEL RESHUFFLING AT SSA

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, Social Security Commissioner Stanford Ross recently announced his resignation, after barely a year on the job.

Serious questions can be raised about such short tenure in such an important post. But an overriding question, Mr. Speaker, is whether the Social Security Administration can stand another reorganization, which a new Commissioner understandably might wish to effect.

Over the past 5 years, this agency has been through three different reorganizations—plus the added burden of the supplemental security income program, and other duties assigned by Congress. It takes time for people to adjust to new work situations, and Social Security people have not had enough time to adjust to any of the three reorganizations.

They need that time. A fourth reshuffling could have a demoralizing effect. The work of the agency could be disrupted to the point of creating administrative chaos.

That should not be allowed to happen. There is too much at stake. The interests of 35 million beneficiaries and 110 million contributing taxpayers will not be well served by a Social Security Administration rendered less efficient through excessive reorganization.

Therefore, Mr. Speaker, I urge the President and the Secretary of HEW to exercise great care in the choice of a successor to Mr. Ross, and to take personal interest in the stability, morale, and administrative efficiency of the SSA's personnel.

Our constituents have the right to expect the thoughtful attention and consideration skilled and well-organized Social Security workers are capable of giving them. The new Commissioner should not be asked to make no changes at all, but to be aware of the SSA's history of recent organizational turmoil.

UNITED NATIONS INACTION IN IRAN SUGGESTS WITHDRAWAL OF SUPPORT

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, while our State Department officials nervously sit around a table and look at each other and wonder what to do, I wonder what has happened to the United Nations Security Council. What has happened to the peacekeeping function of the United Nations?

It seems to me if they, too, are going to sit around and do nothing, we should seriously consider whether there is any value in belonging to this organization. I think that unless the United Nations makes a positive move to release the hostages in Iran, we should seriously consider withdrawing any further financial support from the United Nations and perhaps go the next step of disassociating from the organization altogether and moving the U.N. out. Most of the members vote against the U.S. positions anyway, and are interested only in our money.

ALMONDS AND EEC ENLARGEMENT

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker, I followed the course of the multilateral trade negotiations closely because of their importance to the State of California and to my district. Overall the trade package brought home by our negotiators represented distinct gains for U.S. agriculture, and I was pleased to vote for passage of the Trade Agreements Act of 1979.

The almond industry in California, however, was very disappointed in the outcome of the negotiations with the European Economic Community. Its primary negotiating objective was to obtain a zero duty for exports of almonds to the EEC. It is my understanding that our U.S. negotiators requested this, but were unable to accomplish it. Our negotiators assured the almond industry that it would begin negotiations on almonds again this fall. Based on these assurances, the almond industry also supported passage of the Trade Agreements Act of 1979.

Spain, the largest competitor for California almond growers, is soon to begin negotiations leading toward membership in the EEC. I would urge our negotiators to resume immediately negotiations with the EEC on almonds. Once negotiations between the EEC and Spain begin, it may well be too late. I feel certain that the United States still wants to achieve this important concession on almonds from the EEC.

LOW-LEVEL RADIOACTIVE WASTE SITES

(Mr. McCORMACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCORMACK. Mr. Speaker, the Nation is facing a difficult problem caused by the closing of low-level radioactive waste sites. Recently we have had three sites in operation; one in South Carolina, one in Nevada, and one in Washington State. Two of these have been closed, either temporarily or permanently, and one is operating on limited regulations.

The major constituents of these low-level radioactive wastes come from hospitals, medical schools, pharmaceutical manufacturers, trace elements removed in the water cleanup at nuclear powerplants, and many uses in industry.

We simply cannot allow the medical treatment of millions of Americans to stop and the diagnoses of thousands of Americans needing care to stop because of the inadequate management and policy in handling these low-level radioactive wastes. We cannot allow the many benefits of nuclear power and the many beneficial uses of radioactive materials to be reduced or interrupted by a lack of adequate facilities or by the lack of a national policy or program for managing and disposal of low-level radioactive wastes.

We have this week held hearings on this matter in the Subcommittee on Energy Research and Production, and I have this week submitted legislation that would create about 12 regional low-level radioactive waste disposal sites in this country. The gentleman from South Carolina (Mr. DERRICK) has also submitted legislation which has a similar goal.

I call this matter to the attention of the Members of the House at this time because it is a critical matter. We must direct our attention to it at once. We must have these low-level radioactive waste disposal sites in operation in this country in the very near future.

UNITED STATES SHOULD ACT ON AMERICAN HOSTAGES IN TEHRAN

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, the surest way to compound the danger of the hostages being held in the U.S. Embassy in Tehran is to continue to display weakness on the part of the Government of the United States.

There are a number of options available to the President of the United States which would at least affirm that we are serious in doing something serious about this predicament. We could, for instance, close the Iranian Embassy and all of its consulates in the United States. We could embargo all trade. We could deport all of those Iranian students who act in an illegal manner, and we could deny demonstration permits, as I call upon the Mayor of this city, the District of Columbia, to do immediately this morning. But most of all, the President of the United States could open his mouth and say something. He could stand up and make the world understand that we mean to act as a strong nation instead of acting like the doormat of the world.

DESIGNATING FEDERAL BUILDING LOCATED AT 727 EAST DURANGO, SAN ANTONIO, TEX., AS THE JOHN H. WOOD, JR., BUILDING

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1728) to designate the U.S. Federal Courthouse Building located at 655 East Durango, San Antonio, Tex., as the "John H. Wood, Jr., Federal Courthouse," with House amendments thereto, and recede from the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the House amendments, as follows:

Strike out all after the enacting clause, and insert:

That the Federal Building located at 727 East Durango, San Antonio, Texas, shall hereinafter be called and designated as the "John H. Wood, Jr., Building". Any reference in law, map, regulation, document, record, or other paper of United States to such building shall be held to be a reference to the John H. Wood, Jr., Building.

Amend the title so as to read: "An Act to designate the Federal Building located at 727 East Durango, San Antonio, Texas, as the 'John H. Wood, Jr., Building'.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, are the House

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

amendments germane to the bill, and what do they do?

Mr. LEVITAS. If the gentleman will yield, this is a bill which names a Federal courthouse in San Antonio, Tex., after the late John H. Wood, Jr. The differences between the Senate and the House bills are these: The Senate designated a courthouse building as the appropriate place to be named. The House had designated a Federal building. It was agreed that we would designate the courthouse as the building to be named after the late John H. Wood, Jr.

Mr. Speaker, I rise today to concur in the fact that in honor of Federal Judge John H. Wood, Jr., who was assassinated last May 29, 1979, in the middle of a brilliant career that it is fit and proper that a building where he served with great distinction for 8 years be named in his honor. Namely, the U.S. Federal courthouse building located at 655 East Durango, San Antonio, Tex., shall be designated the "John H. Wood, Jr., Federal Courthouse."

This will, indeed, symbolize by such designation Judge Wood's lifelong devotion to the law, the course of justice, and vigorous law enforcement.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

● Mr. JOHNSON of California. Mr. Speaker, I would like to lend my strong endorsement to this legislation to designate the U.S. Federal courthouse building in San Antonio, Tex., as the "John H. Wood, Jr. Federal Courthouse." The untimely death by an assassin's bullet of Judge John H. Wood on May 29 last took from the ranks of the judiciary one of its most distinguished and able members. Judge Wood served the western district of Texas for 8 years and he exemplified the Federal judiciary working at its best, and I believe this is a fitting tribute to an outstanding jurist.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2603, DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1980

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 471 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 471

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2603) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. It shall be in order to consider the amendment recommended by the Committee on Armed Services now printed on page 14, lines 4 through 25 of the bill, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 2603, it shall be in order in the House to take from the Speaker's table the bill S. 673 and to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 260 as passed by the House.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 471 provides for the consideration of H.R. 2603, which authorizes appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes.

This is an open rule providing for 1 hour of general debate on the bill. The time is to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Armed Services. A motion to recommit is in order upon completion of the consideration of the bill.

It shall be in order to consider the amendment recommended by the Committee on Armed Services now printed on page 14, lines 4 through 25 of the bill, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI, the germaneness rule, are hereby waived.

After passage of the bill, it shall be in order in the House to take from the Speaker's table the bill S. 673 and to move to strike out all after the enacting clause of the Senate bill and insert in lieu thereof the provisions of H.R. 2603 as passed by the House.

Mr. Speaker, H.R. 2603 authorizes appropriations of $2.9 billion for the operating expenses and plant and equipment expenses of the national security programs for the Department of Energy. The bill authorizes appropriations for such programs as defense waste management, nuclear materials security and safeguards, weapons activities, naval reactors development, and so forth.

Mr. Speaker, for 30 years now we have enjoyed the benefits of nuclear power. Yet we have not come to grips with the problem of nuclear waste management. We must develop means for the safe and permanent disposal of nuclear waste. This bill authorizes appropriations for nuclear waste management programs and other essential nuclear energy programs. I urge my colleagues to adopt House Resolution 471 so that we may proceed to the consideration of this very important legislation, H.R. 2603.

□ 0920

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule, making in order that consideration of H.R. 2603, Department of Energy National Security and Military Applications of Nuclear Authorization Act of 1980. The bill is to be read for amendment by titles, instead of by sections. Under the terms of the rule, an amendment recommended by the Armed Services Committee on the last page of the bill is made in order notwithstanding clause 7, rule XVI, the germaneness rule. After passage of H.R. 2603, it will be in order to take S. 673 from the Speaker's table, strike out all after the enacting clause, and insert in lieu thereof the text of H.R. 2603.

The bill would authorize appropriations for the use of the Department of Energy in the amount of $2,946,427,000 for fiscal year 1980. The DOE programs included involve national security matters including research, development, and production in support of the armed services, the production of strategic, and critical materials, and the military applications of nuclear energy.

The DOE National Security and Military Applications of Nuclear Energy Authorization Act of 1979 requires the Secretary of Energy to submit to the Congress for fiscal year 1980 and thereafter, a single request for authorizations for appropriations for all programs of the Department of Energy involving national security and national defense matters. The DOE request for fiscal 1980 is the first authorization request submitted under that statute.

The Committee on Armed Services on May 8, 1979, approved H.R. 2603 by a rollcall vote of 41 to 0. I have no objection to the rule and support the bill's immediate consideration.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 541]

Abdnor	Annunzio	Baldus
Addabbo	Anthony	Barnard
Akaka	Aspin	Barnes
Albosta	Atkinson	Bauman
Alexander	Badham	Beard, Tenn.
Anderson, Calif.	Bafalis	Bedell
	Bailey	Benjamin

Bennett	Green	Nowak
Bereuter	Grisham	O'Brien
Bethune	Guarini	Oakar
Biaggi	Gudger	Oberstar
Bingham	Guyer	Obey
Blanchard	Hagedorn	Panetta
Boner	Hall, Ohio	Pashayan
Bonior	Hall, Tex.	Patten
Bonker	Hamilton	Patterson
Bouquard	Hammer-schmidt	Paul
Brademas	Hanley	Pease
Breaux	Hansen	Perkins
Brinkley	Harkin	Peyser
Brodhead	Hefner	Price
Broomfield	Hightower	Quillen
Brown, Calif.	Hillis	Rahall
Broyhill	Hollenbeck	Rallsback
Burgener	Hopkins	Ratchford
Burlison	Horton	Regula
Butler	Howard	Rinaldo
Byron	Hubbard	Ritter
Campbell	Huckaby	Robinson
Carney	Hughes	Rodino
Carr	Hutto	Rose
Carter	Hyde	Rostenkowski
Chappell	Ireland	Roth
Coleman	Jacobs	Roybal
Collins, Ill.	Jeffords	Rudd
Collins, Tex.	Jeffries	Russo
Conable	Jenkins	Sabo
Conte	Johnson, Colo.	Sawyer
Corcoran	Jones, Tenn.	Schulze
Coughlin	Kazen	Sensenbrenner
Courter	Kelly	Shannon
Crane, Daniel	Kildee	Sharp
D'Amours	Kindness	Shelby
Daniel, Dan	Kogovsek	Shumway
Daniel, R. W.	Kostmayer	Shuster
Danielson	Kramer	Simon
Dannemeyer	LaFalce	Slack
Daschle	Lagomarsino	Smith, Iowa
Davis, Mich.	Latta	Smith, Nebr.
Davis, S.C.	Leach, Iowa	Snyder
Deckard	Leach, La.	Solomon
Dellums	Lederer	Spence
Derrick	Lehman	Stack
Derwinski	Levitas	Staggers
Devine	Lewis	Stangeland
Dickinson	Lloyd	Stanton
Donnelly	Loeffler	Stenholm
Dornan	Long, La.	Stewart
Dougherty	Long, Md.	Stockman
Downey	Lott	Stratton
Drinan	Lowry	Studds
Duncan, Tenn.	Luken	Stump
Early	McClory	Swift
Edwards, Calif.	McCormack	Tauke
Emery	McHugh	Thomas
Erdahl	Madigan	Thompson
Ertel	Markey	Traxler
Evans, Del.	Marks	Trible
Evans, Ind.	Marlenee	Van Deerlin
Fary	Marriott	Vanik
Fascell	Martin	Vento
Fazio	Mathis	Volkmer
Ferraro	Matsui	Walgren
Fish	Mavroules	Wampler
Fisher	Mica	Watkins
Fithian	Michel	Weaver
Flippo	Miller, Calif.	Weiss
Florio	Miller, Ohio	White
Ford, Tenn.	Mineta	Whitehurst
Forsythe	Minish	Whitley
Fountain	Mollohan	Whittaker
Fowler	Montgomery	Williams, Mont.
Frenzel	Moore	Williams, Ohio
Frost	Moorhead, Calif.	Wilson, Bob
Fuqua	Motti	Wirth
Gaydos	Murphy, Ill.	Wolff
Gibbons	Murphy, Pa.	Wolpe
Gilman	Murtha	Wyatt
Gingrich	Myers, Ind.	Wylie
Glickman	Myers, Pa.	Yates
Gonzalez	Natcher	Yatron
Goodling	Neal	Young, Mo.
Gore	Nelson	Zablocki
Gramm		Zeferetti
Grassley		

□ 0930

The SPEAKER pro tempore. On this rollcall, 282 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On October 31, 1979:

H.R. 1825. An act to protect archaeological resources on public lands and Indian lands, and for other purposes;

H.R. 5386. An act to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States; and

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program.

On November 1, 1979:

H.R. 3923. An act to amend chapter 25 of title 44, United States Code, to extend for one year the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes.

On November 2, 1979:

H.J. Res. 3. Joint resolution designating November 4, 1979, as "Will Rogers Day."

On November 5, 1979:

H.R. 4394. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes; and

H.R. 2515. An act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes.

□ 0940

PROVIDING FOR CONSIDERATION OF H.R. 2335, SOLAR POWER SATELLITE RESEARCH, DEVELOPMENT, AND EVALUATION PROGRAM ACT OF 1979

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 458 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 458

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2335) to provide for a research, development, and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. FROST) for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent to amend the rule to make a technical change on page 2, line 7, of House Resolution 458 to correct a printing error. The rule mistakenly calls for "on hour" of general debate instead of "one hour" of general debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, House Resolution 458 is an open rule providing for the consideration of H.R. 2335 to provide for a research, development, and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology. House Resolution 458 is a simple open rule permitting any germane amendment when H.R. 2335 is considered under the 5-minute rule.

Mr. Speaker, H.R. 2335 authorizes appropriations of $25 million for fiscal year 1980 to the Department of Energy for a solar power satellite research, development, and evaluation program to test the feasibility of electrical power generation by solar satellites. The funds authorized in H.R. 2335 are in addition to the $5 million already appropriated in the fiscal year 1980 energy appropriation bill for an existing NASA–DOE paper study of the solar power satellite concept. H.R. 2335 requires the Department of Energy, in consultation with NASA, to go beyond the ongoing study to formulate a comprehensive solar power program plan, including on-the-ground tests of the technology used in the satellite.

Mr. Speaker, I would urge my colleagues to adopt this resolution so that the House may proceed to the consideration of H.R. 2335.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the provisions of the resolution have been adequately explained. Mr. Speaker, what is happening in Iran at this very moment clearly demonstrates the need for research and development for alternative sources of energy. The threat of cutting off the oil supply from that country, with the high-rising cost of crude oil from the other Mideast countries mandates that this Nation must go forward and be self-sufficient energywise, and solar energy is one of those alternatives that we must go forward and develop.

This is a modest bill of only $25 million. We passed it almost in the same form last year by a tremendous majority, but the Senate did not take it up. So

whenever we consider here on the floor of the House alternative sources of energy such as solar, geothermal, more production of coal and coal gasification, and nuclear—you name it—we should go forward without delay and develop an energy program satisfactory to the people of America, and say to those countries over there who would blackmail us, "We can stand on our own two feet."

Mr. Speaker, I have no requests for time on the rule, but I reserve the remainder of my time.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 1, answered "present" 1, not voting 112, as follows:

[Roll No. 642]

YEAS—319

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Chisholm
Clay
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edwards, Calif.
Emery
English
Erdahl
Erlel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hanley
Hansen
Harkin
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
McClory
McCormack
McDade
McHugh
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Preyer
Price
Pursell
Quillen
Rahall
Rallsback
Ratchford
Regula
Reuss
Rinaldo
Ritter
Robinson
Rodino
Rose
Rostenkowski
Roth
Roybal
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Tauke
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—1

McDonald

ANSWERED "PRESENT"—1

Stack

NOT VOTING—112

Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Ashbrook
Ashley
Baldus
Boggs
Boiling
Bowen
Brooks
Brown, Ohio
Burton, John
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coelho
Conyers
Corman
Cotter
Coughlin
Crane, Philip
de la Garza
Dicks
Diggs
Dodd
Duncan, Oreg.
Edgar
Edwards, Ala.
Edwards, Okla.
Erlenborn
Evans, Ga.
Fenwick
Findley
Flood
Ford, Mich.
Garcia
Gephardt
Ginn
Goldwater
Gradison
Gray
Hance
Harris
Harsha
Hawkins
Heckler
Heftel
Holland
Holt
Holtzman
Huckaby
Jeanette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kemp
Kindness
Leath, Tex.
Lee
Livingston
Lujan
Lungren
McClosky
McEwen
McKay
McKinney
Maguire
Mazzoli
Mikulski
Mitchell, Md.
Murphy, N.Y.
Nedzi
Nichols
Nolan
Pepper
Pickle
Pritchard
Quayle
Rangel
Rhodes
Richmond
Roberts
Roe
Rosenthal
Rousselot
Royer
Runnels
Scheuer
Schroeder
Sebelius
Seiberling
Skelton
Snowe
Spellman
Stark
Symms
Synar
Taylor
Treen
Udall
Ullman
Waxman
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Young, Alaska
Young, Fla.

□ 1000

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REFUGEE ASSISTANCE APPROPRIATIONS, 1980 AND 1981

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4955) to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendment and the proposed House amendment to the Senate amendment.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That section 102(a)(4) of the Department of State Authorization Act, fiscal years 1980 and 1981 is amended for fiscal year 1980 by striking out "$248,951,000" and inserting in lieu thereof "$456,241,000" and for fiscal year 1981 by striking out "$254,188,000" and inserting in lieu thereof "$457,798,000".

SEC. 2. Section 610(a) of the Foreign Assistance Act of 1961 is amended by striking the period at the end thereof and inserting the following: "except that for the purpose of providing food, medicine, and other humanitarian assistance to the people of Cambodia up to $30,000,000 may be transferred to, and consolidated with, the funds made available for section 491.".

SEC. 3. (a) Section 2(b) of the Indochina Migration and Refugee Assistance Act of 1975, as amended, is further amended to read as follows:

"(b) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981.".

(b) The amendment made by this section shall take effect on October 1, 1979.

SEC. 4. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"SEC. 495H. CAMBODIAN DISASTER RELIEF ASSISTANCE.—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate human suffering arising from famine, disease, and war in Cambodia, authorizes the President to furnish humanitarian assistance, on such terms and conditions as he may determine, for the people of Cambodia. Such assistance may include food, medicine and medical care, clothing, housing and other forms of shelter, and transportation for emergency supplies and personnel. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for the fiscal year 1980 for the purposes of this section $30,000,000, which amount is authorized to remain available until expended.

"(b) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

"(c) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing humanitarian assistance to the people of Cambodia may be charged to the appropriations authorized under this section.

"(d) Nothing in this section shall be interpreted as endorsing the Vietnamese invasion of Cambodia or as recognizing any group claiming to be the Government of Cambodia.".

SEC. 5. All funds authorized under this or any other Act to provide humanitarian assistance to the people of Cambodia shall, to the maximum extent practicable, be provided through international agencies and private voluntary organizations, among others, such as the World Relief Committee, World Medical Missions, Inc., Cama Services, World Vision, Food for the Hungry, Thailand Baptist Mission, Catholic Relief Services, OXFAM, and International Rescue Committee.

SEC. 6. Within sixty days after the date of the enactment of this Act, the President shall report to the Senate and the House of Representatives—

(1) the estimated total costs to the United States, during fiscal year 1980 and fiscal year 1981, of domestic and foreign assistance to refugees under all programs of the United States Government, and

(2) the estimated total costs to State and local governments during such fiscal years for assistance to refugees which is attributable to such programs.

House amendment to Senate amendment: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SUPPLEMENTAL MIGRATION AND REFUGEE ASSISTANCE AUTHORIZATION

SECTION 1. Section 102(a)(4) of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I of Public Law 96-60), is amended by striking out "$248,951,000" for the fiscal year 1980, and $254,188,000 for the fiscal year 1981" and inserting in lieu thereof "$456,241,000 for the fiscal year 1980, and $457,798,000 for the fiscal year 1981".

CAMBODIAN DISASTER RELIEF ASSISTANCE

SEC. 2. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"SEC. 495H. CAMBODIAN DISASTER RELIEF ASSISTANCE.—(a) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering arising from famine and disease in Cambodia. Accordingly, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief to alleviate the suffering of the victims of famine and disease in Cambodia. Assistance provided under this section shall be for humanitarian purposes and limited to the civilian population, with emphasis on providing food, medicine and medical care, clothing, temporary shelter, transportation for emergency supplies and personnel, and similar assistance to save human lives.

"(b) Assistance provided under this section or any other provision of law to alleviate the human suffering caused by famine and disease in Cambodia shall be provided, to the maximum extent practicable, through international agencies and private voluntary organizations such as (among others) the World Relief Committee, World Medical Missions, Inc., Cama Services, World Vision, Food for the Hungry, Thailand Baptist Mission, Catholic Relief Services, Oxfam, and the International Rescue Committee.

"(c)(1) In providing assistance under this section, the President shall satisfy himself that adequate procedures have been established to ensure that such assistance reaches the innocent victims of famine and disease for whom it is intended. Such procedures shall include end use monitoring of deliveries on a periodic basis by individuals having freedom of movement where the assistance is being distributed within Cambodia.

"(2) Not later than 90 days after the enactment of this section, the President shall report to the Congress on compliance with this subsection.

"(d)(1) In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section $30,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended.

"(2) Obligations incurred, prior to the enactment of appropriations to carry out this section, against other appropriations or accounts for the purpose of alleviating the human suffering caused by famine and disease in Cambodia may be charged to the appropriations authorized by paragraph (1) of this subsection.

"(3) The President may exercise the authority of section 610(a) of this Act (without regard to the 20 percent limitation contained in that section on increase in accounts) in order to transfer, for use in carrying out this section, up to $30,000,000 of the funds made available for the fiscal year 1980 to carry other provisions of this Act.

"(4) Priority shall be given in allocating assistance under the Agricultural Trade Development and Assistance Act of 1954 to furnishing agricultural commodities for use in carrying out this section.

"(e) Assistance under this section shall be provided in accordance with the policies and utilizing the general authorities provided in section 491.".

INDOCHINA MIGRATION AND REFUGEE ASSISTANCE PROGRAM

SEC. 3. (a) Section 2(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended by striking out "1979" and inserting in lieu thereof "1981".

(b) The amendment made by subsection (a) shall be effective as of October 1, 1979.

REPORT ON COST OF REFUGEE ASSISTANCE PROGRAMS

SEC. 4. Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress—

(1) the estimated total costs to the United States Government, during fiscal year 1980 and fiscal year 1981, of domestic and foreign assistance to refugees under all programs of the United States Government, and

(2) the estimated total costs to State and local governments during such fiscal years for assistance to refugees which is attributable to such programs.

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to H.R. 4955 and the proposed House amendment thereto be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

Mr. BUCHANAN. Mr. Speaker, reserving the right to object, I reserve the right to object in order that the distinguished subcommittee chairman might explain these amendments.

First of all, let me ask the gentleman, is there any additional authorization involved beyond that which the House authorized earlier in this legislation?

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. Yes.

Mr. FASCELL. There is not. The money amounts are exactly the same as in the House-passed version and as the gentleman knows, the appropriation has already been adopted for the full amount.

Mr. BUCHANAN. Mr. Speaker, would the chairman then explain what changes are involved in the Senate amendment?

Mr. FASCELL. The first change, I will say to the gentleman, was one which would allow an additional $30 million for Cambodian relief to be transferred from other accounts. It is not mandated, but it simply provides the President with additional flexibility.

Mr. BUCHANAN. Are there any other changes?

Mr. FASCELL. Well, there is a provision extending until September 30, 1981, the authority on reimbursement in the Indochinese program for State and local governments until such time as a new Refugee Act is passed. H.R. 2816 is expected to come to the floor of the House shortly. Until such time as that passes, this bill extends until September 30, 1981, the reimbursement provisions of that act.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield.

Mr. BUCHANAN. Yes, certainly.

Mr. DERWINSKI. Mr. Speaker, I think this is a necessary step we are taking. It is consistent with what I believe is the overwhelming intent of the Congress and certainly the intent of the public, that we show the kind of leadership that we are expected to in this Cambodian tragedy.

I commend the gentleman for this expeditious handling.

Mr. BUCHANAN. Mr. Speaker, continuing to reserve the right to object, I think there is much merit in what the gentleman says.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. Yes, I yield to the distinguished chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the unanimous-consent request that the House agree to the Senate amendment to H.R. 4955, with an amendment.

The distinguished gentleman from Florida (Mr. FASCELL) has thoroughly described the contents of the Senate version of this legislation and the proposed amendment thereto. So I will not take the time of the House to discuss those details any further.

I do, however, want to emphasize the importance of quick action on this legislation. Not only is there a need for the refugee funds authorized in this bill, but there is also a more urgent need to provide immediate and massive humanitarian assistance to the millions of Cambodian people who are being victimized by a terrible famine which, if not reversed, could result in the extinction of an entire people.

Mr. Speaker, at a special U.N. General Assembly session on this urgent matter last Monday, 51 nations pledged more than $200 million to relieve the famine and disease now ravaging Cambodia. This legislation, by providing authorization to appropriate $30 million for this purpose and by providing appropriate transfer authority, will enable the United States to meet its pledge of $69 million for the famine relief program.

Mr. Speaker, I urge the House to support this procedure so that we may facilitate enactment of this urgently needed legislation.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. Yes. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Speaker, I thank the gentleman for yielding.

Let me concur in what the chairman has just said on the U.N. Conference. It far exceeded the amount that we anticipated and it was due to the leadership of the Congress that really this conference was called.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. Yes, I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman for yielding.

I wish also to add my voice and my support to this legislation. I do rise in support of it.

I would inquire as to the nature of this unanimous-consent request. It is only for the reading, this is not a unanimous consent concerning final passage of the measure, is it?

Mr. BUCHANAN. Yes; I would say to the gentleman, the unanimous-consent request is to make possible an agreement between the House and the Senate pertaining to the legislation we have already passed. It is the refugee authorization and the only changes pertain to the Cambodian program. As the chairman has explained, there is no new authorization, rather we are agreeing to transfer authority in addition to the additional funds we authorized for Cambodian relief earlier; also, there are certain other changes.

Let me yield to the chairman.

Mr. FASCELL. Mr. Speaker, this is the same bill we passed just a little while back 362 to 10.

Mr. BRINKLEY. Mr. Speaker, if the gentleman will yield further, I understand that. I do not object at all to that. I support that, but I understood the nature of this unanimous-consent request was as to the reading. It is not as to final passage.

Mr. BUCHANAN. Mr. Speaker, I will say the gentleman made two unanimous-consent requests. I did not object to the first, nor did anyone else, which was for the amendment to be considered as read. That followed a unanimous-consent request which is the basic proposition before us the chairman has just described, to which I did reserve the right to object. So, the gentleman did make two requests, but there was no objection to the request pertaining to the reading.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. Yes, I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I did not understand the last amendment that the chairman explained extending the time to 1981. That deals with something other than just the $30 million that we are talking about?

□ 1010

Mr. BUCHANAN. Mr. Speaker, I will say—and the chairman of the subcommittee can explain it further—that we are dealing with the entire refugee package passed recently by the House by an overwhelming vote. All of that is before us. This is the only item in disagreement that does not pertain strictly to Cambodian refugee relief.

There is no new authorization involved. This is simply a Senate variation on what we had included in the overall package in the earlier refugee bill.

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield further, I supported that bill, but I just wanted to make sure that this amendment concurring with the Senate action does not deal with giving direct aid to Vietnam or to the Cambodian Government.

Mr. FASCELL. Mr. Speaker, if the gentleman from Alabama will yield, I can assure the gentleman from New York that it does not.

Mr. BUCHANAN. No; it does not. Mr. Speaker, I will assure the gentleman from New York (Mr. SOLOMON) that if that were the case, I would indeed object to this request. That is not the case, and I support the proposition.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. WOLFF. Mr. Speaker, I am pleased to join with the chairman in support of the proposed legislation. The passage of this bill marks the culmination of congressional efforts to provide humanitarian assistance to the people of Cambodia.

As you know, those efforts began in June when eight Members of the House and Senate joined in a letter to the President calling for immediate humanitarian assistance to the countless thousands of Cambodian refugees then along the Thai-Cambodian border.

Legislative action began on September 26, with the introduction by the members of the Subcommittee on Asian and Pacific Affairs of House Resolution 431, a resolution calling on the President to seek an emergency agenda item before the United Nations General Assembly to inaugurate an emergency food and medical relief program for the people of Cambodia.

On September 27, the Honorable JOHN ANDERSON of Illinois, and the Honorable STEPHEN SOLARZ, of New York, introduced H.R. 5443 and on October 9, I joined with the chairman of the House Foreign Affairs Committee, the Honorable CLEMENT J. ZABLOCKI, of Wisconsin, to introduce H.R. 5199. Both bills authorized the appropriation of funds for U.S. participation in an international emergency relief program for the people of Cambodia.

On October 10 and again on October 17, the Subcommittee on Asian and Pacific Affairs met to take public testimony on the proposed legislation and at the conclusion of the October 17 hearing, unanimously recommended favorably consideration of the legislation by the full Foreign Affairs Committee.

And, on October 24, the legislation was reported out by the Foreign Affairs Committee and passed the House the following day.

Also on October 24, President Carter announced that the United States would participate in an international relief effort for Cambodia. And, on November 6, at the United Nations General Assembly, Secretary of State Cyrus Vance pledged a total of $69 million as the U.S. contribution to the international relief program.

Today's action is the culmination of all our efforts. Today the Congress and the people of the United States join with the administration and the international community in an effort to save the people of Cambodia. As I have noted elsewhere, the issue of famine relief for the people of Cambodia is, quite simply a matter of life and death for 3 million human beings. And, our response today is an affirmation of our finest traditions and values.

Finally, as chairman of the Subcommittee on Asian and Pacific Affairs, let me take this occasion to express my appreciation to the members of the subcommittee, to the chairman and members of the Foreign Affairs Committee, and to my colleagues in the House for their efforts in this truly humanitarian cause.●

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida (Mr. FASCELL)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1980

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2603) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2603, with Mr. BRODHEAD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 30 minutes, and the gentleman from California (Mr. BOB WILSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on behalf of the Committee on Armed Services it is my privilege to bring before the House the bill H.R. 2603 with the unanimous recommendation of the committee for its passage, as amended.

H.R. 2603 would authorize appropriations only for the national security and military applications of nuclear energy programs administered by the Department of Energy for fiscal year 1980. Other programs of the Department are included in another bill, H.R. 3000, which has been reported by other committees.

The Committee on Armed Services has been mindful of its jurisdiction, and has sought to eliminate from H.R. 2603 those programs which do not have national defense and national security applications.

In my brief comments, I will explain the highlights of the bill and the committee amendments. But first, by way of background, I will say that the President's fiscal year 1980 budget request has been most thoroughly reviewed by the Subcommittee on Procurement and Military Nuclear Systems which I have the honor to chair.

The subcommittee held 8 full days of hearings during which we heard more than 20 witnesses. In addition, a great deal of information was supplied for the record.

In arriving at its recommendations, the committee considered the paramount objectives of the DOE's national security programs. These objectives are the production and maintenance of a reliable offensive and defensive nuclear deterrent for the United States. The committee gave first priority to the programs essential to these primary missions and made adjustments within a tight budget.

The committee also considered certain situations which came about subsequent to the preparation of the budget request and which, in the committee's judgment, required a change in priorities for the next fiscal year.

The bill as reported by the committee is much more responsive to national security requirements than the budget request.

HIGHLIGHTS OF H.R. 2603

The bill, as amended by the committee, would authorize appropriations totaling $2.946 billion—which is $107.5 million below the amount requested.

Principal increases were made by the committee in operating expenses for weapons testing and production, and for special materials production. These programs were substantially underfunded by the budget request.

The committee recommends other reductions in operating expenses requested for long-term and terminal waste management research and development programs which were poorly defined and justified by the information presented. Reductions are also recommended in several construction projects for which authorizations were requested in excess of required appropriations. These changes are summarized on pages 6 and 7 of the report, and are explained in detail in other parts of the report.

In addition to authorizations for research and development, testing and production of weapons, the bill would continue the very important inertial confinement fusion research program. The bill would also authorize appropriations for the development of improved naval propulsion reactors, and for technology to improve our ability to monitor foreign nuclear tests.

The committee adopted three amendments to title II, the general provisions of the bill.

The first of these amendments, section 210, prohibits the use of authorized appropriations for the licensing of DOE defense activities by the Nuclear Regulatory Commission.

The second, section 211, would bar the use of funds authorized to be appropriated for the purposes of paying fines and other penalties under the provisions of the Clean Air Act where it is physically impossible to comply with the act by July 1, 1979, or where the President has asked for the funds to permit compliance and the Congress has not provided appropriations.

The third amendment to title II would require the Secretary of Energy to renegotiate an existing contract with the Washington public power supply system for the delivery of byproduct steam in order to assure that the Federal Government receives the fair market value of the steam.

As the committee's report emphasizes, the nuclear arsenal of the United States exists only for the purpose of supporting our national security policy. This policy includes the deterrence of a nuclear attack upon the United States or its allies. It includes the deterrence of war against our NATO allies. It includes the protection of Japan. H.R. 2603 is in support of that policy.

H.R. 2603 would authorize appropriations in support of the President's decisions to develop the MX and Trident strategic missiles, the air-launched strategic cruise missile, and the ground-launched and sea-launched cruise missiles. The bill also supports the Presidents pledge to modernize NATO's tactical nuclear forces.

While this authorization bill represents only 2 percent of the President's total request for national defense for fiscal year 1980, its importance and contribution to our future strategic posture is much greater than its percentage indicates.

The bill deserves the support of the House and I ask for its overwhelming approval.

Mr. BOB WILSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2603 and wish to associate myself with the remarks of the distinguished chairman of the Committee on Armed Services and of the Subcommittee on Procurement and Military Nuclear Systems.

As Chairman PRICE has explained, this bill would authorize appropriations for a national security program of the Department of Energy (DOE) for fiscal year 1980. This bill is most important to the national security and to the defense of the United States.

While the defense programs of the DOE have little visibility, it is these programs which have provided and will continue to provide all of the deterrent power which resides in our strategic nuclear systems and in our tactical nuclear forces. All of the strategic missiles in our ICBM and SLBM forces would be useless unless they were supported by the research, development, testing, and maintenance effort which this bill would support.

In addition, this bill supports the important naval reactor development program which is constantly improving the propulsion plants of our nuclear-powered Navy and the very important task of training naval reactor operators and supervisory personnel. One goal of the naval reactor development program is to develop a powerplant which will not have to be refueled during the 30-year life of a naval vessel. I predict that Admiral Rickover and his team of engineers and contractors will reach this goal eventually.

Also supported by this bill are the nuclear materials security and safeguards program and the program for management of radioactive wastes in an environmentally safe manner.

The Committee on Armed Services reported H.R. 2603 on May 15 of this year, more than 5 months ago. The Subcommittee on Procurement and Military Nuclear Systems conducted thorough hearings on the budget request and made certain structural changes in several programs. In addition, title II contains several housekeeping items which are needed for congressional oversight purposes.

Mr. Chairman, since H.R. 2603 was reported in May, several new requirements have emerged with respect to Department of Energy national defense programs. These requirements were not known and could not be addressed when H.R. 2603 was reported. For the same reason, these requirements were not addressed by the Senate counterpart to H.R. 2603. I understand that several amendments will be offered by Chairman PRICE at an appropriate time to provide for additional authorization for three programs. I will support these amendments when they are offered. This bill is noncontroversial. H.R. 2603 was reported unanimously by the subcommittee and by the full Armed Services Committee. We have brought out a good bill. I support it and strongly recommend its passage.

Mr. PRICE. Mr. Chairman, I yield such time as he may require to the gentleman from South Carolina (Mr. DERRICK).

Mr. DERRICK. Mr. Chairman, I thank the gentleman for yielding me this time.

I would like to engage in a colloquy with the chairman of the Armed Services Committee, if he would be so kind.

Mr. PRICE. If the gentleman from South Carolina would yield, I would be happy to engage in a colloquy with my colleague.

Mr. DERRICK. With regard to the

waste presently being stored in tanks at the Savannah River plant in South Carolina, can the chairman advise me of the committee's intention to pursue alternatives for the permanent disposal of the waste?

Mr. PRICE. It is the intention of the committee to see that a long-term waste management program is developed for the Savannah River plant that will result in the waste being processed in the safest and most economical manner. It is further the committee's desire to see that this matter is actively pursued, so that the waste can be permanently disposed of as quickly as is technically feasible.

Mr. DERRICK. It is my hope that the committee shares my concerns that the waste not remain in the tanks for 50 or 60 years, but rather, that through continued research and through plant engineering and design work, a process can be developed that will allow the facility to proceed with due speed toward long-term waste management. Toward that goal, I plan on offering an amendment that will provide the Savannah River plant with the authority to proceed with plant engineering and design work on a waste solidification process. This will allow the plant to not only continue with its research work, but also work toward the design of the waste processing facility. This will help insure that the waste will be properly taken care of, but does not commit the Department of Energy to any one particular process.

Mr. PRICE. The committee shares your concerns and will agree to the gentleman's amendment when it is offered.

Mr. DERRICK. Mr. Chairman, I thank the gentleman for his considerations and also wish to commend the distinguished chairman for the most capable manner in which he has served this Chamber.

Mr. PRICE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, I thank the very distinguished chairman of this very important committee for yielding me this time.

Mr. Chairman, I rise to ask a question in order that I may more fully understand the meaning of the language in section 205, on page 12 of the bill, which reads as follows:

> When so specified in an appropriation Act, funds authorized to be appropriated by this Act may be transferred to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

The question I have is this: Does this transcend the national defense aspect? I ask the question because it does not limit it to what agency these authorizations may be transferred in an appropriation act over which, of course, this committee would not have any control.

Mr. PRICE. Mr. Chairman, if the gentleman will yield, I would say to the gentleman from Texas (Mr. GONZALEZ) that this language has been in this bill for at least the last 10 years.

It has been requested by the Committee on Appropriations, and evidently it helps them in the normal process of handling these funds.

Mr. GONZALEZ. But it is not the understanding of the committee that such transfer would be to another agency unconnected with a defense or security situation?

Mr. PRICE. The language states, currently for the performance of the work for which the appropriation is made. So it is tied down specifically to language in the appropriation bill.

□ 1020

Mr. GONZALEZ. So that that in effect really would have reference to the defense appropriation?

Mr. PRICE. That is right. I would say so, because it is limited to the purpose of the appropriation.

Mr. GONZALEZ. Because you do not specify which appropriation act. And I assume that we would then have a common understanding that it would refer to the defense or the military appropriation act.

Mr. PRICE. Yes; at the present time, at least this year, the appropriation act is the energy and water developemnt appropriation bill.

Mr. GONZALEZ. I thank the gentleman very much.

Mr. PRICE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BOB WILSON. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the bill by titles.

The Clerk read as follows:

H.R. 2603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980".

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy (hereinafter in this title referred to as the "Department") for fiscal year 1980 for operating expenses incurred in carrying out national security programs, including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy, in the amount of $2,394,364,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department for fiscal year 1980, for plant and capital equipment, including planning, construction, acquisition, or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, necessary for national security programs, as follows:

(1) For inertial confinement fusion:

Project 80-PE&D-1, plant engineering and design, $1,500,000.

Project 75-3-b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $8,000,000, for a total project authorization of $62,500,000.

(2) For naval reactors development:

Project 80-AE-1, fluids and corrosion test facilities upgrading, various locations, $17,900,000.

Project 80-GPP-1, general plant projects, $3,300,000.

(3) For weapons activities:

Project 80-AE-4, addition to computer facility, Sandia Laboratories, Livermore, California, $2,800,000.

Project 80-AE-5, ground launched cruise missile (GLCM) warhead production facilities, various locations, $7,000,000.

Project 80-AE-6, utilities and equipment restoration, replacement and upgrade, various locations, $69,300,000.

Project 80-AE-7, relocate water towers, Mound Facility, Miamisburg, Ohio, $1,400,000.

Project 80-AE-8, advanced size reduction facility, Rocky Flats, Golden, Colorado, $10,000,000.

Project 80-AE-9, new polymer production facility, Bendix Plant, Kansas City, Missouri, $1,400,000.

Project 80-AE-10, additional loading facilities, Savannah River Plant, Aiken, South Carolina, $3,500,000.

Project 80-GPP-1, general plant projects, $25,400,000.

Project 80-PE&D-1, plant engineering and design, $3,600,000.

Project 71-9, fire, safety, and adequacy of operating conditions projects, various locations, an additional sum of $7,000,000, for a total project authorization of $287,000,000.

Project 77-11-c, 8" Artillery Fired Atomic Projectile (AFAP) production facilities, various locations, an additional sum of $4,600,000, for a total project authorization of $27,200,000.

Project 78-16-d, weapons safeguards, various locations, an additional sum of $2,000,000, for a total project authorization of $28,000,000.

Project 78-16-g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $6,200,000, for a total project authorization of $12,500,000.

Project 79-7-b, fire protection improvements, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $2,500,000, for a total project authorization of $4,500,000.

Project 79-7-c, proton storage ring, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $16,100,000, for a total project authorization of $21,100,000.

Project 79-7-l, system research and development laboratory, Sandia Laboratories, Albuquerque, New Mexico, an additional sum of $12,000,000, for a total project authorization of $13,000,000.

Project 79-9-n, utility system restoration, Y-12 plant, Oak Ridge, Tennessee, an additional sum of $15,800,000, for a total project authorization of $18,000,000.

Project 79-7-o, universal pilot plant, Pantex Plant, Amarillo, Texas, an additional sum of $3,900,000, for a total project authorization of $7,400,000.

(4) For materials production:

Project 80-AE-2, replace obsolete processing facilities, HB Line, Savannah River, South Carolina, $19,000,000.

Project 80-AE-3, steam generation facilities, Idaho Chemical Processing Plant, Idaho, $23,500,000.

Project 80-GPP-1, general plant projects $15,000,000.

Project 80-PE&D-1, plant engineering and design, $3,400,000.

Project 77-13-a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, an additional sum of $84,400,000, for a total project authorization of $149,400,000.

Project 78-18-e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, an additional sum of $11,500,000, for a total project authorization of $40,000,000.

Project 79-7-h, utilities replacement and expansion, Idaho Chemical Processing Plant, Idaho Falls, Idaho, an additional sum of $5,500,000, for a total project authorization of $10,500,000.

Project 79-7-i, transmission and distribution systems upgrading, Richland, Washington, an additional sum of $7,000,000, for a total project authorization of $14,000,000.

(5) For defense waste management:

Project 80-GPP-1, general plant projects, $8,880,000.

Project 80-PE&D-1, plant engineering and design, $21,320,000.

Project 77-13-f, Waste Isolation Pilot Plant, Delaware Basin, southeast New Mexico (A-E, land lease acquisition and long-lead procurement), an additional sum of $55,000,000, for a total project authorization of $93,000,000.

(6) For capital equipment not related to construction, $179,924,000.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment to title I.

The Clerk read as follows:

> Committee amendment: Page 2, line 10, strike out "in the amount of $2,394,364,000." and insert in lieu thereof "as follows:".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment to title I.

The Clerk read as follows:

> Committee amendment: Page 2, line 12, insert the following:
>
> (1) For the defense inertial confinement fusion program—
>
> (A) for glass laser experiments, $44,200,000;
>
> (B) for gas laser experiments, $29,300,000;
>
> (C) for electron and particle beam experiments, $12,200,000;
>
> (D) for supporting research and experiments, $15,500,000, of which no more than $2,800,000 may be used to finance contract modification numbered ED-78-C-08-1598 or any revision or modification thereof; and
>
> (E) for personnel, $1,090,000.
>
> (2) For the naval reactor development program—
>
> (A) for the naval reactor development program, $232,600,000; and
>
> (B) for personnel, $8,767,000.
>
> (3) For weapons activities—
>
> (A) for research and development, $421,143,000;
>
> (B) for weapons testing $225,000,000;
>
> (C) for production and surveillance $772,000,000; and
>
> (D) for personnel, $37,096,000.
>
> (4) For verification and control technology (including personnel), $36,800,000.
>
> (5) For materials production, to be administered by the Assistant Secretary for Defense Programs—
>
> (A) for production reactor expenses, $180,300,000;
>
> (B) for the processing of nuclear materials, $82,400,000;
>
> (C) for supporting services, $59,714,000;
>
> (D) for fluorinel processing of nonproduction fuels and related activities, $21,390,000;
>
> (E) for advanced isotope separation research, $5,000,000; and
>
> (F) for personnel, $944,000.
>
> (6) For defense waste management (including $1,691,000 for personnel) $211,250,000, of which no funds may be used for the Waste Isolation Pilot Plant, Delaware Basin southeast New Mexico.
>
> (7) For the nuclear materials security and safeguards technology development program (defense program), including $3,560,000 for personnel, $43,227,000.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. PRICE TO THE COMMITTEE AMENDMENT

Mr. PRICE. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

> Amendment offered by Mr. PRICE to the committee amendment: In paragraph (5) (C) of the matter proposed to be inserted by the committee amendment (page 3, line 19), strike out "$59,714,000" and insert in lieu thereof "$67,714,000, of which $15,000,000 shall be used for the fiscal year 1980 increment of startup costs for the Purex chemical processing plant at Richland, Washington".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE) to the committee amendment.

The amendment to the committee amendment was agreed to.

AMENDMENT OFFERED BY MR. STRATTON TO THE COMMITTEE AMENDMENT, AS AMENDED

Mr. STRATTON. Mr. Chairman, I offer an amendment to the committee amendment, as amended.

The Clerk read as follows:

> Amendment offered by Mr. STRATTON to the committee amendment, as amended: In paragraph (1)(D) of the matter proposed to be inserted by the committee amendment (page 2, line 19), strike out "$15,500,000" and insert in lieu thereof "$38,300,000".

Mr. STRATTON. Mr. Chairman, I will be offering two closely related amendments in relation to the inertial confinement fusion program. The first amendment would increase the authorization for operating expenses for the ICF program which is included in section 101 of the committee amendments. The other amendment, which will be offered later, would decrease the amount authorized for capital equipment for the ICF program which is included in section 102 of the committee amendments.

Mr. Chairman, these amendments will add $22.8 million to the operating expenses line for the inertial confinement fusion program of the Department of Energy, while at the same time reducing the inertial confinement fusion equipment line by $7.3 million. This amounts to a net increase in the whole authorization of only $15.5 million.

My purpose in introducing these amendments is to take care of requirements which have emerged since H.R. 2603 was reported by the Armed Services Committee.

As the committee points out in its report, the amount requested for this important field of inertial confinement fusion research was insufficient to support needed programs and to offset the unexpected double-digit inflation which has occurred and which we can expect to continue. These programs are carried out primarily at the Government-owned laboratories at Livermore, Calif., at Los Alamos, N. Mex., and in Albuquerque, N. Mex.

Other Government supported laser fusion programs have also been carried out by KMS Fusion at Ann Arbor, Mich., and at the National Laser Fusion Users Facility at the University of Rochester in New York.

Discussions I have had with Dr. Deutch, the Under Secretary of Energy for Defense Programs, indicate that the Department wants to expand the role of the Rochester facility in support of the basic research program at the Livermore Laboratory. This, however, will require a modest supplemental appropriation, probably during the next session.

In addition, Mr. Chairman, the House Armed Services Committee has been advised that all inertial confinement fusion programs will suffer as a result of inflation and underfunding unless such a supplemental appropriation is received. The Secretary of Energy, I understand, will be submitting a supplemental request. The laser fusion program is now estimated to require a total budget of $135.2 million for fiscal year 1980. This bill, H.R. 2603, presently provides only $119.7 million. My amendments therefore provide a needed additional authorization of $15.5 million.

I have discussed these amendments with DOE officials and they support them. I have also discussed the amendments with the distinguished chairman of the committee, Mr. PRICE, and with the ranking minority member, Mr. WILSON. I have also discussed the matter with the chairman of the Committee on Science and Technology, Mr. FUQUA, and the gentleman from Washington (Mr. MCCORMACK) who also have a great interest in this research program.

Mr. Chairman, I move the adoption of the first amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the gentleman's amendment. I commend him for offering this amendment. I think it is a very modest amount to offer, in view of the tremendous potential that the inertial confinement fusion program has to offer for civilian energy application needs. For a public leery and concerned about the radioactivity aspect of our conventional nuclear program, I think the laser fusion program is a tremendous contribution to make to this country for our future energy supplies. I am very pleased that the gentleman recognizes the KMS Co. in Ann Arbor, Mich., an area that I am familiar with, which on its own independently has initiated research in this field, and I certainly

hope the gentleman's amendment will be accepted.

Mr. STRATTON. Mr. Chairman, I want to thank the gentleman for his support. There is no question about the fact that laser fusion offers a new type of energy which, hopefully, will be available by the year 2000, and it would be in many ways an improvement on nuclear fission that we are already familiar with. As the gentleman knows, the projects at KMS and at Rochester do provide an opportunity for the civilian community to understand these important new developments.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from California.

Mr. BOB WILSON. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman indicated in his remarks, we have examined the gentleman's amendments, and we find full concurrence with them. I urge the adoption of this amendment.

Mr. STRATTON. I thank the gentleman.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Illinois.

Mr. PRICE. Mr. Chairman, I, too, have carefully examined this amendment, and I have discussed it with the gentleman from New York. I find no problem with the amendment, and I respectfully urge that the Committee adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON) to the committee amendment, as amended.

The amendment to the committee amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

□ 1030

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk proceeded to read the committee amendment.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments 3 through 11 of the bill be considered en bloc and, further, that they be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The committee amendments are as follows:

Committee amendments: Page 4, after line 20, insert the following:

Project 80-AE-11, target fabrication facility, Los Alamos Scientific Laboratory, New Mexico, $1,000,000.

Project 80-AE-12, target fabrication facility, Lawrence Livermore Laboratory, California, $1,000,000.

Page 5, line 16, strike out "$7,000,000" and insert in lieu thereof "$4,000,000".

Page 5, line 19, strike out "$69,300,000" and insert in lieu thereof "$39,400,000".

Page 5, strike out lines 20 and 21.

Page 5, line 3, strike out "$10,000,000" and insert in lieu thereof "$5,000,000".

Page 7, line 7, strike out "$16,100,000, for a total project authorization of $21,100,000" and insert in lieu thereof "$11,700,000, for a total project authorization of $16,700,000".

Page 8, line 2, strike out "23,500,000" and insert in lieu thereof "$10,000,000".

Page 8, line 11, strike out "$84,400,000 for a total project authorization of $149,400,000" and insert in lieu thereof "$54,400,000, for a total project authorization of $119,400,000".

Page 8, strike out lines 19 through 22.

The committee amendments were agreed to.

The CHAIRMAN. The Clerk will report the remaining committee amendment.

The Clerk read as follows:

Committee amendment: Page 9, line 7, strike out "$21,320,000" and insert in lieu thereof "$5,000,000".

AMENDMENT OFFERED BY MR. DERRICK TO THE COMMITTEE AMENDMENT

Mr. DERRICK. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. DERRICK to the committee amendment: In lieu of the matter proposed to be inserted by the committee amendment, insert page 9, line 7: "'$8,000,000, of which $3,000,000 shall be available only for plant engineering and design at the Savannah River Plant Aiken, South Carolina".

Mr. DERRICK. Mr. Chairman, for 30 years now we have enjoyed the benefits of nuclear power. Yet we have not come to grips with the long-term problem of nuclear waste disposal. What I propose today is a modest step, and yet a very important one, toward addressing this problem. We must accept the responsibility for developing a means to safely and permanently dispose of our Nation's nuclear wastes.

I am offering today an amendment authorizing $3 million for fiscal year 1980 for the engineering and design of vitrification project at the Savannah River plant in South Carolina. This project ultimately lead to the solidification of high-level nuclear waste, so that it may then be put in a permanent dispository rather than continued to be stored in temporary storage tanks, as it is today.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I congratulate the gentleman for his amendment and for his desire to move forward with the program of glassifying or vitrifying the wastes at Savannah River. This is an important step. These high level military wastes that have been accumulating there since the Second World War. The Savannah River storage area must be considered as a temporary facility because of the geologic and hydrologic conditions there.

The wastes must be glassified for permanent deep geologic burial. This provides us with an excellent opportunity to demonstrate to the entire world that we can convert these old military wastes to glass for permanent geologic disposal. We will also demonstrate how we will eventually handle the high-level wastes for our nuclear energy program, which will evolve in the future after we establish a reprocessing program.

Accordingly, I congratulate the gentleman from South Carolina on his amendment, and urge its acceptance.

Mr. DERRICK. I thank the gentleman.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, I congratulate, also, the gentleman and commend him for his amendment.

I think the gentleman is approaching and facing a problem that is, if anything, the Achilles heel of the entire nuclear program in this country.

I think his amendment would go a long way toward solving that problem. We support it enthusiastically on this side.

Mr. DERRICK. Mr. Chairman, I thank the gentleman.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Illinois.

Mr. PRICE. Mr. Chairman, I have had an opportunity to discuss the amendment with the gentleman from South Carolina (Mr. DERRICK), and since it would require no additional funds to be appropriated, I see no reason why we should not approve the amendment.

Mr. DERRICK. Mr. Chairman, I thank the distinguished gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. DERRICK) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 9, beginning on line 10, strike out "an additional sum of $55,000,000, for a total project authorization of $93,000,000" and insert in lieu thereof "a reduction in the amount previously authorized of $30,000,000, for a total project authorization of $38,000,000".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 9, line 16, strike "$179,924,000" and insert "as follows."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 9, after line 17, insert the following:

(A) For inertial confinement fusion, $17,400,000 of which $9,400,000 shall be used for a high energy national laser fusion users facility.

(B) For naval reactors development, $15,800,000.

(C) For weapons activities, $104,164,000.

(D) For verification and control technology, $1,060,000.

(E) For materials production, $35,000,000.

(F) For defense waste management, $12,000,000.

(G) For nuclear materials security and safeguards, $3,400,000.

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. STRATTON TO THE COMMITTEE AMENDMENT

Mr. STRATTON. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON to the committee amendment: In subparagraph (A) of the matter proposed to be inserted by the committee amendment (page 9, beginning on line 17), strike out "$17,400,000, of which $9,400,000 shall be used for a high energy national laser fusion users facility" and insert in lieu thereof "$10,100,000".

Mr. STRATTON. Mr. Chairman, this is the other amendment which goes along with the one that was approved a moment ago to take care of the national laser fusion users facility. This amendment reduces the amount for equipment for inertial confinement fusion by some $7 million. I urge its immediate approval.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENTS OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. PRICE: After line 5, page 6, insert the following language:

Project 80-AE-11. Pershing II warhead production facilities, various locations. $5,000,000.

After line 14, page 9, insert the following language:

Project 75-1-c, new Waste Calcining Facility, Idaho Falls, Idaho, an additional sum of $25,000,000, for a total project authorization of $90,000,000.

Mr. PRICE. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PRICE. Mr. Chairman, both of the amendments I am offering now are to take care of urgent requirements of the Department of Energy defense program which have emerged subsequent to May 15, when H.R. 2603 was reported.

PERSHING II PRODUCTION FACILITIES

The first amendment would provide a $5 million authorization for Pershing II missile warhead facilities. The fiscal year 1980 budget, submitted in January, supported production of the Pershing II warhead beginning in 1984. After the budget was submitted, a very high national priority was assigned to the Pershing II missile and the Department of Energy must now support a production schedule which has been accelerated by 16 months.

To meet this new schedule, an additional line item authorization is required. The Department is not requesting new appropriations for fiscal year 1980. Funds will be allocated from lower priority programs for these facilities. This line item authorization is required before funds can be reprogramed for these facilities.

NEW WASTE CALCINING FACILITY

The second amendment deals with a nuclear waste treatment facility at the Department of Energy facility in Idaho Falls, Idaho. The amendment would provide an additional authorization of $25 million for this 1975 project.

This project is now authorized at the level of $65 million. However, under the cost variation provisions of the law, $81 million has been appropriated to date. The project is now 75 percent complete.

To prevent a work stoppage and a delay of from 1 to 2 years which would result in very high cost increases, it is prudent to provide an additional authorization above the amount which has already been appropriated. Without this additional authorization the Department could not legally reprogram funds in order to keep the project going.

Mr. Chairman, I move the adoption of the amendments.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, we concur in these amendments on this side of the aisle.

Mr. PRICE. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. PRICE).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—GENERAL PROVISIONS

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of either (A) 105 percent of the amount authorized for that program by this Act, or (B) $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the appropriate committees of Congress receive notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

SEC. 202. The Secretary of Energy is authorized to start any project provided for under the general plant projects provisions set forth in this Act only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Secretary determines that it is necessary to do so in the interest of efficiency and economy, and

(2) the total cost of all projects undertaken under all general plant projects provisions in this Act does not exceed the estimated cost of all such projects by more than 25 percent.

SEC. 203. (a) Whenever the currently estimated cost of a line item construction project for which appropriations are authorized in section 102 of this Act exceeds by more than 25 percent the estimated cost for such project on the date of the enactment of this Act, such project may not be started or additional obligations incurred in excess of the amounts currently appropriated, as the case may be, unless (1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after the appropriate committees of Congress receive a notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (2) each such committee before the expiration of such period has transmitted to the Secretary of Energy written notice to the effect that such committee has no objection to the proposed action.

(b) The provisions of this section shall not apply to any project which has a currently estimated cost of less than $5,000,000.

SEC. 204. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 205. When so specified in an appropriation Act, funds authorized to be appropriated by this Act may be transferred to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

SEC. 206. The Secretary of Energy is authorized to perform construction design services for any construction project of the Department of Energy in support of national security programs which have been presented to the Congress, in amounts not in excess of the amounts specified in section 102 for plant engineering and design. In any case in which the estimated design cost for any project is in excess of $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the estimated design cost for such project at least thirty days before any funds are obligated for design services for such project.

SEC. 207. In addition to construction design services performed with plant engineering and design funds, the Secretary of Energy is authorized to perform construction design services for any Department of Energy construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Secretary, and (2) the Secretary determines that the project

is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois (Mr. PRICE)?

There was no objection.

□ 1040

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment to title II.

The Clerk read as follows:

Committee amendment: Page 12, line 1, insert "of Energy" after "Secretary".

The committee amendment was agreed to.

Mr. HALL of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would ask the distinguished chairman of the committee to engage in a colloquy for one or two questions.

Mr. Chairman, on page 16 under the weapons testing program, with specific reference to U.S. nuclear weapons testing, I see where the administration, asked for $198 million and the committee, through deliberation, increased that sum to $225 million.

My first question is how will this additional sum be used relative to nuclear testing? Will there be more underground testing?

Mr. HALL of Ohio. My question is, Mr. Chairman, what is the increased funding going to be used for?

Mr. PRICE. For additional tests, to get additional information and test data that is needed, of course, for keeping the stockpile in the most modern condition and to be certain that the weapons are reliable after years of storage.

Mr. HALL of Ohio. My second question, Mr. Chairman, is, Did the Armed Services Committee receive any kind of testimony from any of the witnesses relative to any kind of an environmental impact concerning underground testing?

Mr. PRICE. Yes, we did. In addition to receiving testimony from any outside witnesses—I would make this clear, the Armed Services Committee has never been closed to any group, and anyone who requested to testify on any subject before the Armed Services Committee has always been heard by the Armed Services Committee.

Environmental considerations receive a great deal of attention in the nuclear weapons test field. Every proposed test is reviewed in the greatest detail to assure that detrimental environmental effects will not result. In addition, the test site is monitored to assure that any unforeseen environmental effects result from the tests.

Mr. HALL of Ohio. I thank the gentleman for yielding.

The CHAIRMAN. The Clerk will report the next committee amendment to title II.

The Clerk read as follows:

Committee amendment: Page 13, line 11, insert "defense activity" after "Department of Energy".

The committee amendment was agreed to.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that sections 210, 211, and 212 be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

The CHAIRMAN. The Clerk will report the next committee amendment to title II.

The Clerk read as follows:

Committee amendment: Page 14, after line 3, insert the following new sections:

SEC. 210. None of the funds authorized to be appropriated by this or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

SEC. 211. None of the funds authorized to be appropriated by this or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if (1) the Secretary of Energy finds that compliance is physically impossible within the time prescribed for compliance, or (2) the President has specifically requested appropriations for compliance as a part of the budgetary proces and the Congress has failed to make available such appropriations.

SEC. 212. Beginning in fiscal year 1980, the Secretary of Energy shall ensure that the contract for the delivery of byproduct steam to the Washington Public Power Supply System is renegotiated in such a manner that the United States will recover the fair market value of the steam so delivered.

AMENDMENT OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE: At the end of the bill, add the following new section:

SEC. 213. (a) The Secretary of Energy shall proceed with the Waste Isolation Pilot Plant construction project authorized to be carried out in the Delaware Basin of southeast New Mexico (project 77-13-f) in accordance with the authorization for such project as modified by this section. Notwithstanding any other law, the Waste Isolation Pilot Plant is authorized as a defense activity of the Department of Energy, administered by the Assistant Secretary of Energy for Defenes Programs, for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States exempted from regulation by the Nuclear Regulatory Commission.

(b)(1) In carrying out such project, the Secretary shall consult and cooperate with the appropriate officials of the State of New Mexico, with respect to the public health and safety concerns of such State in regard to such project and shall, consistent with the purposes of subsection (a), give consideration to such concerns and cooperate with such officials in resolving such concerns.

(2) The Secretary of Energy may not enter into any agreement or make any commitment under which the State of New Mexico, or any official of such State, could in effect veto such project.

(c) No law enacted after the date of the enactment of this Act shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PRICE. Mr. Chairman, the consideration of the waste isolation pilot plant, or WIPP, project has consumed a very large share of time of the Committee on Armed Services for the past 2 years. We have held extensive hearings on this project since it was first submitted to our committee early in 1977. We held our last hearing on the project on July 18 of this year.

Unfortunately, the WIPP project has become embroiled in bureaucratic politics within the current administration and in the politics of the State of New Mexico. I think that even those in the highest level of management in the Department of Energy (DOE) will admit that the project has been mishandled by the Department.

Mr. Chairman, this amendment will simply return the project to the same status that it was in when it was first presented to our committee. The amendment specifically authorizes this project as a defense activity of the DOE for the express purpose of providing the Department with a research and development facility.

The purpose of the project is to demonstrate whether or not the radioactive wastes which have been and will be generated as a result of the nuclear weapons program and other defense programs of the Department of Energy can be safely stored and isolated from the environment in deep-lying salt beds. The amendment simply restates current law, that is, section 202 of the Energy Reorganization Act of 1974, Public Law 93-438. That section exempts research and development projects such as the WIPP from the regulatory authority of the NRC. The amendment makes no change in existing law nor does the amendment give the project any special consideration with respect to environmental laws.

The amendment recognizes and reiterates the responsibility of the Secretary of Energy to consider the environmental health and safety concerns of the State

in which the facility will be located. In addition, Mr. Chairman, I would expect the Secretary of Energy and State officials to arrive at an understanding and procedures by which State and Federal officials may cooperate with each other on these matters. The amendment makes clear, however, that these understandings and procedures will not serve to thwart the purpose of the Congress in authorizing this project by means of a veto by State officials. This part of the amendment merely recognizes and reinforces the so-called "supremacy" and "property" clauses of the Federal Constitution. I do not believe that any Member of this body would agree to the expenditure of Federal funds for the purpose of constructing any kind of a Federal project which, after its completion, could not be used as a result of political action within a State.

Mr. Chairman, this R. & D. project is the only one in the entire country which is now in progress and which can begin to demonstrate the means to more safely isolate the radioactive wastes which now exist. It is important that we get on with the project and that is the purpose of this amendment. If this amendment is adopted, I can support negotiation with Senate conferees as to the level of authorization for the project. If the amendment is not adopted, I cannot support further funding of the project because it would have little chance of success in the future.

This amendment is a responsible exercise of congressional power and represents, I believe, a response to the desire of the public that something be done about radioactive wastes. I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BOB WILSON OF CALIFORNIA

Mr. BOB WILSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOB WILSON of California: At the end of the bill, add the following new section:

SEC. 213. (a) As soon as practicable and not later than February 1, 1980, the Secretary of Energy shall submit to the Congress a plan for the termination of the performance of work of the Department of Energy at the Ernest Orlando Lawrence Livermore Laboratory and at the Los Alamos Scientific Laboratory under contracts numbered W-7405-ENG-36 and W-7405-ENG-48 between the United States and the Regents of the University of California (a corporation of the State of California). Such plan shall include provisions to assure that such a termination of work would be conducted in accordance with the terms of such contracts.

(b) The Secretary of Energy shall study the types of contracts that would best provide for the continued performance of the work performed under the contracts referred to in subsection (a). The Secretary shall include in any contract proposed to replace such contracts terms to assure that—

(1) the paramount objectives and missions of such laboratories continue to be in the field of national security;

(2) the transition from management of such laboratories by the University of California to management by any new contractor will be orderly, involve a minimum of uncertainty, and provide employee rights and benefits (including rights and benefits with respect to pensions and retirement) reasonably comparable to those currently provided employees of the laboratories by the Regents of the University of California; and

(3) any new contractor may retain as many of the current management officials and employees of the laboratories as may be consistent with maintaining and fostering excellence in carrying out the functions assigned to the laboratories.

(c)(1) The Los Alamos Scientific Laboratory at Los Alamos, New Mexico, shall after the date of the enactment of this act be known and designated as the "Los Alamos National Scientific Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Los Alamos Scientific Laboratory shall after such date be considered to be a reference to the Los Alamos National Scientific Laboratory.

(2) The Ernest Orlando Lawrence Livermore Laboratory at Livermore, California, shall after the date of the enactment of this act be known and designated as the "Ernest Orlando Lawrence Livermore National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Ernest Orlando Lawrence Livermore Laboratory shall after such date be considered to be a reference to the Ernest Orlando Lawrence Livermore National Laboratory.

(3) The Sandia Laboratories at Albuquerque, New Mexico, and Livermore, California, shall after the date of the enactment of this act be known and designated as the "Sandia National Laboratories". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Sandia Laboratories shall after such date be considered to be a reference to the Sandia National Laboratories.

Mr. BOB WILSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BOB WILSON. Mr. Chairman, this amendment, in all modesty, should be called the Wilson amendment because it was drafted by Representative CHARLES WILSON who is unable to be here this morning, and I am offering it in his name.

Mr. Chairman, the amendment I have offered will add a new section 213 to the committee bill. The purpose of the amendment is very simple.

Since the creation of the Department of Energy's nuclear weapons laboratories at Los Alamos, N. Mex., in 1943 and at Livermore, Calif., in 1952, these weapons facilities have been managed under contracts with the regents of the University of California. Over the years the Atomic Energy Commission, the Energy Research and Development Administration, and to some extent the Department of Energy have enjoyed a harmonious relationship with the university.

In recent years, pressures have developed within the university, and outside the university which now make it undesirable and no longer in the best national interest for the Government to maintain the current management relationship. The laboratories now being managed by the regents were originally authorized, funded, and supported by the Congress for the sole purpose of research, development, design, testing, and evaluation of the U.S. nuclear weapons stockpile. While it is true that these laboratories now do other types of work on a not-to-interfere basis, weapons work remains as their No. 1 reason for existence. This is in accord with the longstanding policy of the United States that defense and national security objectives are paramount where nuclear energy is concerned.

The weapons laboratories at Los Alamos and Livermore are absolutely essential to the maintenance of the nuclear deterrent of the United States. They will remain essential for as long as world conditions require this country to have a nuclear weapons arsenal. These laboratories, with their sophisticated equipment, are national assets. The greatest assets, however, are the more than 10,000 dedicated and highly trained scientists, engineers, technicians, and other people who work at the laboratories.

The management of weapons laboratories by the university is now strongly opposed by California's Governor, Edmund G. Brown, Jr., and his position is supported by a considerable number of the regents themselves, and by a considerable number of the university's faculty. This opposition has placed a considerable burden on the personnel at the laboratories, the laboratories' management and management personnel within the Department of Energy. On May 18, 1979, Governor Brown proposed that the board of regents withdraw from its contract with the Federal Government for the development of nuclear weapons. However, he proposed that the Livermore Laboratory remain under the university's management for nonweapons purposes. This is an impossible suggestion since the removal of weapons work from the Livermore Laboratory would disrupt the U.S. weapons program, cripple the laboratories, and cost hundreds of millions of dollars.

Governor Brown and certain of the university's regents, by their statements and actions, have created serious uncertainties in the minds of the management and the employees of the laboratories. This amendment will resolve those uncertainties if it is necessary to bring about new management for the laboratories.

My amendment directs the Secretary of Energy to submit a contingency plan by February 1, 1980, to terminate the existing contracts with the university regents when they expire on September 30, 1982, and plan to implement alternative arrangement for the management of the laboratories. The Secretary is directed to assure that the primary national defense objectives and missions of the laboratories are continued, and that the transition be orderly and adequately preserve employee rights and benefits, including their pension rights. The amendment is intended to preserve the excellent laboratory work force.

The amendment further would change the names of the laboratories by adding the word "national" to each laboratory designation. The purpose of these

changes is to emphasize the character of these laboratories as national laboratories.

I believe that my amendment is in the best interest of the country and is the only sensible way for the government to proceed. I have discussed the amendment with the chairman of the committee and I hope he will accept it. An identical amendment was adopted by the House to H.R. 3000, which applies only to the Lawrence Berkley Laboratory. This amendment was offered by the distinguished chairman of the Committee on Science and Technology.

Mr. Chairman, I urge the adoption of the amendment.

□ 1050

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I will be happy to yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding. I would like to ask the gentleman if he would explain to me and to the members of the Committee whether or not the amendment assumes that the existing contractual relationships will be terminated, or whether it simply sets up a mechanism by which this matter can be resolved as to whether or not they shall be terminated.

Mr. BOB WILSON. No, it does not assume anything. I would say to the gentleman from Washington. The management of the weapons laboratories by the university is now strongly opposed by the Governor of California, Edmund G. Brown, Jr., and his position is supported by a considerable number of the regents themselves and by a considerable number of the university's faculty. This opposition has placed a real burden on the personnel of the laboratories—the laboratories' management and the management personnel within the Department of Energy.

On May 18, 1979, Governor Brown proposed that the board of regents withdraw from its contract with the Federal Government for the development of nuclear weapons. So I would say that clearly the State of California would like to disassociate itself from weapons development and weapons maintenance.

Mr. McCORMACK. If the gentleman will yield further, I would like to suggest that I believe he is reading a little more into this, into the situation, than is my interpretation of the situation.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. McCORMACK, and by unanimous consent, Mr. BOB WILSON was allowed to proceed for 3 additional minutes.)

Mr. McCORMACK. If the gentleman will yield further, it is quite legitimate to open this matter to discussion, but I am deeply concerned with the presumption that relationships between the University of California and the laboratory should be terminated, and that seems to be the thrust of the amendment the gentleman is offering.

Mr. BOB WILSON. No. The thrust is merely to set up a commission that would study the proposition and report back to us. This is not a statutory change; it is merely the setting up of a study to see if this meets with the concurrence of the regents of the University of California. From all we can see from prior evidence, that is the case.

Mr. McCORMACK. All right, then, if there is no presumption that the contract should be terminated, and there is no presumption in the amendment of the position of the people of California, then I have no objection to it. I think it is perfectly acceptable to open the discussion from both ends, an arm's length discussion between the people of the government of California and the Department of Energy or the Department of Defense.

Mr. BOB WILSON. As I said, all we are asking for is that the Secretary of Energy submit a contingency plan by February 1 with regard to the contract with the university regents. At that time we will have a chance to argue the merits of the plan that will be submitted.

Mr. McCORMACK. I thank the gentleman.

Mr. BOB WILSON. Mr. Chairman, I yield back the remainder of my time.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rose in connection with a similar amendment which was proposed in the DOE bill, the other portion of it, and I wanted to make clear in the record what my views are with regard to this specific amendment so that there would be no misunderstandings about the matter. I am well aware of the history of discussion within the academic community at the University of California with regard to the desirability of continuing with the contractural relationships. That has been a matter, as has happened on most campuses, where there is a defense relationship. It has been a matter of debate amongst some of the students and amongst the faculty and has been going on for several years in California.

The distinguished gentleman from California, the ranking minority member (Mr. BOB WILSON), said that the State of California had clearly indicated its views on this matter, and I think he was referring to this debate that has been going on and to the position of the Governor, which was for canceling the contract. But the actual position of the State of California is clearly represented by a vote of the board of regents to continue with this contract, after years of debate. There is no question about the position of the State of California, which is not always, as I think the Members of this House know, set forth accurately by the Governor of the State. So my concern is that we not misunderstand this. The regents, the governing body of the University of California, have overwhelmingly voted to continue with these contracts. Any presumption to the contrary is unwarranted, and the merit of this amendment is only as a contingency measure in the event that there should be some change in a situation, which I do not anticipate and I do not think anyone else anticipates.

Furthermore, I am deeply concerned, and I think sufficiently concerned, to vote against this amendment because of the fact that it singles out the University of California, when this same identical foment with regard to defense contracts and DOE contracts managed by universities exists wherever those contracts are. Hence, this contingency plan, which I concur with the gentleman is valuable, should be extended to all situations where circumstances of this sort might develop. I would hope the gentleman would concur with me in that.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. Yes, I would be happy to yield to the gentleman.

Mr. BOB WILSON. Yes. I would say I would concur with the gentleman. As I said before, this is a proposal that they bring in a contingency plan and let us investigate it and study it. There is a problem, as the gentleman knows, among the requests. Some of the regents want to cancel the program entirely; some want to cancel just the military aspects of it and separate out the nonmilitary, and we cannot do it that way. It just does not work, and it is really an impossible suggestion. To have this thing sort of stirred up constantly is, I think, degrading somewhat the capability of the laboratories. I am very hopeful that when the Secretary of Energy does submit a contingency plan that we can have debate on the floor that will clear up this thing so that we will know that the Laboratories themselves can go ahead with the very good work that they are doing, not only in defense matters but in nondefense-related matters.

Mr. BROWN of California. I thank the gentleman for his point, with which I happen to agree. The personnel at the laboratory are disturbed by this foment. They are even going to be more disturbed by this amendment, I might say, because it is going to lead them to feel that despite the firm position taken by the regents and their own views for continuing the contract, the Congress may, because it has singled them out, singled the labs out with this amendment, feel that the situation ought to be changed. In other words, their fears are going to be changed from being directed at the regents to being directed at the Congress, and I would regret that very much. I would hope that the members of the committee, who I know are concerned with the best interests of the laboratories as well as with the defense of the country, could make it clear that this is merely prudent contingency planning and that it should be extended to every situation, we will say at least where there is a university-administered contract where this possibility is equally possible as it is at the University of California. I hope the committee will consider these points.

Mr. PRICE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from California (Mr. BROWN) I think analyzed and stressed the fact that these conditions exist. I certainly will go along with the amendment, and I urge the Committee to approve the amendment.

□ 1100

The CHAIRMAN. The question is on

the amendment offered by the gentleman from California (Mr. BOB WILSON).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. BRODHEAD, Chairman of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2603) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes, pursuant to House Resolution 471, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. THOMAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 28, not voting 101, as follows:

[Roll No. 643]

YEAS—304

Abdnor
Addabbo
Akaka
Alboeta
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boland
Boner
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Drinan
Duncan, Tenn.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzales
Goodling
Gore
Gramm
Grassley
Green
Gresham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hanley
Hansen
Harkin
Harsha
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, Tenn.
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lukens
Lundine
McClory
McCormack
McDade
McDonald
McHugh
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nowak
O'Brien
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quillen
Rallsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solars
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Tauke
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti
Rosenthal
Rousselot
Royer
Runnels
Schroeder
Sebelius
Shelton
Snowe
Spellman
Stark
Symms
Synar
Taylor
Treen
Udall
Ullman
Waxman
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Young, Alaska
Young, Fla.

NAYS—28

AuCoin
Bellenson
Bingham
Bonior
Burton, Phillip
Chisholm
Clay
Conyers
Dellums
Downey
Eckhardt
Edwards, Calif.
Forsythe
Gray
Hastenmeier
Maguire
Markey
Miller, Calif.
Moffett
Ottinger
Paul
Rahall
Rahe
Seiberling
Simon
Stokes
Weaver
Weiss

NOT VOTING—101

Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Ashbrook
Ashley
Badell
Boggs
Boiling
Bowen
Brooks
Brown, Ohio
Burton, John
Carr
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coelho
Corman
Cotter
Crane, Philip
de la Garza
Dicks
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Erlenborn
Evans, Ga.
Fenwick
Findley
Flood
Florio
Ford, Mich.
Garcia
Giaimo
Ginn
Gradison
Hance
Harris
Hawkins
Heckler
Heftel
Holland
Holt
Holtzman
Huckaby
Ireland
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kemp
Leath, Tex.
Lee
Livingston
Lujan
Lungren
McCloskey
McEwen
McKay
Mathis
Mazzoli
Mikulski
Mitchell, Md.
Murphy, N.Y.
Nedzi
Nichols
Nolan
Oakar
Pepper
Pickle
Quayle
Rhodes
Richmond
Roberts

□ 1110

The Clerk announced the following pairs:

Mr. Richmond with Mr. Anderson of Illinois.

Mrs. Boggs with Mr. Gradison.

Mr. Corman with Mr. Quayle.

Mr. Hawkins with Mr. Andrews of North Dakota.

Mr. Giaimo with Mr. Brown of Ohio.

Mrs. Spellman with Mr. Hance.

Mr. Ullman with Mrs. Holt.

Mr. Murphy of New York with Mr. Rousselot.

Mr. Mitchell of Maryland with Mr. Royer.

Mr. Jones of North Carolina with Mr. Young of Florida.

Mr. Jenrette with Mr. Wydler.

Mr. Cotter with Mr. McEwen.

Mr. John L. Burton with Mr. Lujan.

Mr. Brooks with Mr. Clinger.

Mr. Ashley with Mr. Clausen.

Mr. Ford of Michigan with Mr. Kemp.

Ms. Holtzman with Mr. Symms.

Mr. Ireland with Mr. Taylor.

Mr. Johnson of California with Mr. Cheney.

Mr. Mazzoli with Mr. Cleveland.

Mr. Nedzi with Mr. McClosky.

Mr. Wright with Mr. Livingston.

Mr. Charles H. Wilson of California with Mr. Philip M. Crane.

Mr. Nichols with Mr. Edwards of Alabama.

Mr. Pepper with Mr. Erlenborn.

Ms. Oakar with Mr. Wynn.

Mr. Roberts with Mr. Synar.

Mr. Rosenthal with Mrs. Snowe.

Mrs. Schroeder with Mrs. Fenwick.

Mr. Stark with Mr. Findley.

Mr. Pickel with Mr. Sebelius.

Mr. Udall with Mr. Young of Alaska.

Mr. Waxman with Mr. Huckaby.

Ms. Mikulski with Mr. Leath of Texas.

Mr. Mathis with Mr. Lee.

Mr. Heftel with Mr. Lungren.

Mr. Garcia with Mr. Andrews of North Carolina.

Mr. Badell with Mrs. Heckler.

Mr. Ginn with Mr. Jones of Oklahoma.

Mr. Harris with Mr. Skelton.

Mr. Nolan with Mr. Charles Wilson of Texas.

Mr. Runnels with Mr. Holland.

Mr. McKay with Mr. Ashbrook.

Mr. Florio with Mr. Coelho.

Mr. Early with Mr. Dicks.

Mr. de la Garza with Mr. Edgar.

Mr. Bowen with Mr. Evans of Georgia.

Mr. Carr with Mr. Flood.

Mr. Cavanaugh with Mr. Duncan of Oregon.

Mr. BINGHAM and Mr. SIMON changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. PRICE. Mr. Speaker, pursuant to the provisions of House Resolution 471, I call up from the Speaker's table the Senate bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. PRICE

Mr. PRICE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PRICE moves to strike out all after the enacting clause of the Senate bill, S. 673, and to insert in lieu thereof the provisions of the bill, H.R. 2603, as passed, as follows:

That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980".

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy (hereinafter in this title referred to as the "Department") for fiscal year 1980 for operating expenses incurred in carrying out national security programs, including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy, as follows:

(1) For the defense inertial confinement fusion program—

(A) for glass laser experiments, $44,200,000;

(B) for gas laser experiments, $29,300,000;

(C) for electron and particle beam experiments, $12,200,000;

(D) for supporting research and experiments, $38,300,000, of which no more than $2,800,000 may be used to finance contract modification numbered ED-78-C-08-1598 or any revision or modification thereof; and

(E) for personnel, $1,090,000.

(2) For the naval reactor development program—

(A) for the naval reactor development program, $232,600,000; and

(B) for personnel, $8,767,000.

(3) For weapons activities—

(A) for research and development, $421,143,000;

(B) for weapons testing, $225,000,000;

(C) for production and surveillance, $772,000,000; and

(D) for personnel, $37,096,000.

(4) For verification and control technology (including personnel), $36,800,000.

(5) For materials production, to be administered by the Assistant Secretary for Defense Programs—

(A) for production reactor expenses, $180,300,000;

(B) for the processing of nuclear materials, $83,400,000;

(C) for supporting services, $67,714,000, of which $15,000,000 shall be used for the fiscal year 1980 increment of startup costs for the Purex chemical processing plant at Richland, Washington;

(D) for fluorinel processing of nonproduction fuels and related activities, $21,390,000;

(E) for advanced isotope separation research, $5,000,000; and

(F) for personnel, $944,000.

(6) For defense waste management (including $1,691,000 for personnel) $211,250,000, of which no funds may be used for the Waste Isolation Pilot Plant, Delaware Basin, southeast New Mexico.

(7) For the nuclear materials security and safeguards technology development program (defense program), including $3,560,000 for personnel, $43,227,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department for fiscal year 1980, for plant and capital equipment, including planning, construction, acquisition, or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, necessary for national security programs, as follows:

(1) For inertial confinement fusion:

Project 80-PE&D-1, plant engineering and design, $1,500,000.

Project 80-AE-11, target fabrication facility, Los Alamos Scientific Laboratory, New Mexico, $1,000,000.

Project 80-AE-12, target fabrication facility, Lawrence Livermore Laboratory, California, $1,000,000.

Project 75-3-b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $8,000,000, for a total project authorization of $62,500,000.

(2) For naval reactors development:

Project 80-AE-1, fluids and corrosion test facilities upgrading, various locations, $17,900,000.

Project 80-GPP-1, general plant projects, $3,300,000.

(3) For weapons activities:

Project 80-AE-4, addition to computer facility, Sandia Laboratories, Livermore, California, $2,800,000.

Project 80-AE-5, ground launched cruise missile (GLCM) warhead production facilities, various locations, $4,000,000.

Project 80-AE-6, utilities and equipment restoration, replacement and upgrade, various locations, $39,400,000.

Project 80-AE-8, advanced size reduction facilities, Rocky Flats Plant, Golden, Colorado, $5,000,000.

Project 80-AE-9, new polymer production facilities, Bendix Plant, Kansas City, Missouri, $1,400,000.

Project 80-AE-10, additional loading facilities, Savannah River Plant, Aiken, South Carolina, $3,500,000.

Project 80-AE-11, Pershing II warhead facilities, various locations, $5,000,000.

Project 80-GPP-1, general plant projects, $25,400,000.

Project 80-PE&D-1, plant engineering and design, $3,600,000.

Project 71-9, fire, safety, and adequacy of operating conditions projects, various locations, an additional sum of $7,000,000, for a total project authorization of $287,000,000.

Project 77-11-c, 8" Artillery Fired Atomic Projectile (AFAP) production facilities, various locations, an additional sum of $4,600,000, for a total project authorization of $27,200,000.

Project 78-16-d, weapons safeguards, various locations, an additional sum of $2,000,000, for a total project authorization of $28,000,000.

Project 78-16-g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $6,200,000, for a total project authorization of $12,500,000.

Project 79-7-b, fire protection improvements, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $2,500,000, for a total project authorization of $4,500,000.

Project 79-7-c, proton storage ring, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $11,700,000, for a total project authorization of $16,700,000.

Project 79-7-l, system research and development laboratory, Sandia Laboratories, Albuquerque, New Mexico, an additional sum of $12,000,000, for a total project authorization of $13,000,000.

Project 79-7-n, utility system restoration, Y-12 plant, Oak Ridge, Tennessee, an additional sum of $15,800,000, for a total project authorization of $18,000,000.

Project 79-7-o, universal pilot plant, Pantex Plant, Amarillo, Texas, an additional sum of $3,900,000, for a total project authorization of $7,400,000.

(4) For materials production:

Project 80-AE-2, replace obsolete processing facilities, HB Line, Savannah River, South Carolina, $19,000,000.

Project 80-AE-3, steam generation facilities, Idaho Chemical Processing Plant, Idaho, $10,000,000.

Project 80-GPP-1, general plant projects, $15,000,000.

Project 80-PE & D-1, plant engineering and design, $3,400,000.

Project 77-13-a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, an additional sum of $54,400,000, for a total project authorization of $119,400,000.

Project 78-18-e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, an additional sum of $11,500,000, for a total project authorization of $40,000,000.

Project 79-7-i, transmission and distribution systems upgrading, Richland, Washington, an additional sum of $7,000,000, for a total project authorization of $14,000,000.

(5) For defense waste management:

Project 80-GPP-1, general plant projects, $8,880,000.

Project 80-PE&D-1, plant engineering and design, $8,000,000, of which $3,000,000 shall be available only for plant engineering and design at the Savannah River Plant, Aiken, South Carolina.

Project 77-13-f, Waste Isolation Pilot Plant, Delaware Basin, southeast New Mexico (A-E, land lease acquisition and long-lead procurement), a reduction in the amount previously authorized of $30,000,000, for a total project authorization of $38,000,000.

Project 75-1-c, new Waste Calcining Facility, Idaho Falls, Idaho, an additional sum of $25,000,000, for a total project authorization of $90,000,000.

(6) For capital equipment not related to construction, as follows:

(A) For inertial confinement fusion, $10,100,000.

(B) For naval reactors development, $15,800,000.

(C) For weapons activities, $104,164,000.

(D) For verification and control technology, $1,060,000.

(E) For materials production, $35,000,000.

(F) For defense waste management, $12,000,000.

(G) For nuclear materials security and safeguards, $3,400,000.

TITLE II—GENERAL PROVISIONS

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of either (A) 105 percent of the amount authorized for that program by this Act, or (B) $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the appropriate committees of Congress receive notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

SEC. 202. The Secretary of Energy is authorized to start any project provided for under the general plant projects provisions set forth in this Act only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Secretary determines that it is necessary to do so in the interest of efficiency and economy, and

(2) the total cost of all projects undertaken under all general plant projects provisions in this Act does not exceed the estimated cost of all such projects by more than 25 percent.

SEC. 203. (a) Whenever the currently estimated cost of a line item construction project for which appropriations are authorized in section 102 of this Act exceeds by more than 25 percent the estimated cost for such project on the date of the enactment of this Act, such project may not be started or additional obligations incurred in excess of the amounts currently appropriated, as the case may be, unless (1) a period of thirty days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after the appropriate committees of Congress receive a notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (2) each such committee before the expiration of such period has transmitted to the Secretary of Energy written notice to the effect that such committee has no objection to the proposed action.

(b) The provisions of this section shall not apply to any project which has a currently estimated cost of less than $5,000,000.

SEC. 204. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 205. When so specified in an appropriation Act, funds authorized to be appropriated by this Act may be transferred to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

SEC. 206. The Secretary of Energy is authorized to perform construction design services for any construction project of the Department of Energy in support of national security programs which have been presented to the Congress, in amounts not in excess of the amounts specified in section 102 for plant engineering and design. In any case in which the estimated design cost for any project is in excess of $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the estimated design cost for such project at least thirty days before any funds are obligated for design services for such project.

SEC. 207. In addition to construction design services performed with plant engineering and design funds, the Secretary of Energy is authorized to perform construction design services for any Department of Energy defense activity construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Secretary, and (2) the Secretary determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

SEC. 210. None of the funds authorized to be appropriated by this or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

SEC. 211. None of the funds authorized to be appropriated by this or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if (1) the Secretary of Energy finds that compliance is physically impossible within the time prescribed for compliance, or (2) the President has specifically requested appropriations for compliance as a part of the budgetary process and the Congress has failed to make available such appropriations.

SEC. 212. Beginning in fiscal year 1980, the Secretary of Energy shall ensure that the contract for the delivery of byproduct steam to the Washington Public Power Supply System is renegotiated in such a manner that the United States will recover the fair market value of the steam so delivered.

SEC. 213. (a) The Secretary of Energy shall proceed with the Waste Isolation Pilot Plant construction project authorized to be carried out in the Delaware Basin of southeast New Mexico (project 77-13-f) in accordance with the authorization for such project as modified by this section. Notwithstanding any other law, the Waste Isolation Pilot Plant is authorized as a defense activity of the Department of Energy, administered by the Assistant Secretary of Energy for Defense Programs, for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States exempted from regulation by the Nuclear Regulatory Commission.

(b)(1) In carrying out such project, the Secretary shall consult and cooperate with the appropriate officials of the State of New Mexico, with respect to the public health and safety concerns of such State in regard to such project and shall, consistent with the purposes of subsection (a), give consideration to such concerns and cooperate with such officials in resolving such concerns.

(2) The Secretary of Energy may not enter into any agreement or make any commitment under which the State of New Mexico, or any official of such State, could in effect veto such project.

(c) No law enacted after the date of the enactment of this Act shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.

SEC. 214. (a) As soon as practicable and not later than February 1, 1980, the Secretary of Energy shall submit to the Congress a plan for the termination of the performance of work of the Department of Energy at the Ernest Orlando Lawrence Livermore Laboratory and at the Los Alamos Scientific Laboratory under contracts numbered W-7405-ENG-36 and W-7405-ENG-48 between the United States and the Regents of the University of California (a corporation of the State of California). Such plan shall include provisions to assure that such a termination of work would be conducted in accordance with the terms of such contracts.

(b) The Secretary of Energy shall study the types of contracts that would best provide for the continued performance of the work performed under the contracts referred to in subsection (a). The Secretary shall include in any contract proposed to replace such contracts terms to assure that—

(1) the paramount objectives and missions of such laboratories continue to be in the field of national security;

(2) the transition from management of such laboratories by the University of California to management by any new contractor will be orderly, involve a minimum of uncertainty, and provide employee rights and benefits (including rights and benefits with respect to pensions and retirement) reasonably comparable to those currently provided employees of the laboratories by the Regents of the University of California; and

(3) any new contractor may retain as many of the current management officials and employees of the laboratories as may be consistent with maintaining and fostering excellence in carrying out the functions assigned to the laboratories.

(c)(1) The Los Alamos Scientific Laboratory at Los Alamos, New Mexico, shall after the date of the enactment of this Act be known and designated as the "Los Alamos National Scientific Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Los Alamos Scientific Laboratory shall after such date be considered to be a reference to the Los Alamos National Scientific Laboratory.

(2) The Ernest Orlando Lawrence Livermore Laboratory at Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Ernest Orlando Lawrence Livermore National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Ernest Orlando Lawrence Livermore Laboratory shall after such date be considered to be a reference to the Ernest Orlando Lawrence Livermore National Laboratory.

(3) The Sandia Laboratories at Albuquerque, New Mexico, and Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Sandia National Laboratories". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Sandia Laboratories shall after such date be considered to be a reference to the Sandia National Laboratories.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2603) was laid on the table.

□ 1120

APPOINTMENT OF CONFEREES ON S. 673

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill, S. 673, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the request of the gentleman from Illinois? The Chair hears none and, without objection, appoints the following conferees: Messrs. PRICE, CHARLES H. WILSON of California, DAN DANIEL, CARR, STUMP,

BOB WILSON, Mrs. HOLT, and Mr. ROBERT W. DANIEL, JR.

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENTS TO S. 673

Mr. PRICE. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate bill, S. 673, the Clerk be authorized to make necessary technical corrections, including section numbers, punctuation and cross references, as may be necessary, to reflect the actions of the House in amending the bill, H.R. 2603.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON S. 673 AT CERTAIN TIMES

Mr. PRICE. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. PRICE moves that, pursuant to rule XXVIII, paragraph 6. (a) of the House rules, the conference committee meetings between the House and the Senate on the Senate bill, S. 673, be closed to the public at such times as national security information is under consideration: *Provided, however,* That any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The Chair will advise the House that this motion will require a rollcall vote.

The gentleman from Illinois (Mr. PRICE) is recognized for 1 hour.

Mr. PRICE. Mr. Speaker, I ask for a vote, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

All those in favor of the motion will vote, "yea," those opposed will vote "nay."

The vote was taken by electronic device, and there were—yeas 325, nays 0, answered "present" 1, not voting 107, as follows:

[Roll No. 644]

YEAS—325

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Applegate
Asoin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Clay
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Pascell
Panio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammer-schmidt
Hanley
Hansen
Harkin
Harsha
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
McClory
McCormack
McDade
McDonald
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Purseil
Quillen
Rahall
Rallsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Rudd
Russo
Sabo
Sarasin
Satterfield
Sawyer
Scheuer
Schulze
Selberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Tauke
Thomas
Thompson
Trible
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti
Heftel
Holland
Holt
Holtzman
Huckaby
Ireland
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kemp
Latta
Leath, Tex.
Lee
Livingston
Lujan
Lungren
McCloskey
McEwen
McKay
Mathis
Mazzoli
Mikulski
Mitchell, Md.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nichols
Nolan
Oakar
Pepper
Pickle
Quayle
Rhodes
Richmond
Roberts
Rosenthal
Rousselot
Royer
Runnels
Schroeder
Sebelius
Skelton
Slack
Snowe
Solarz
Spellman
Stark
Symms
Synar
Taylor
Traxler
Treen
Udall
Ullman
Waxman
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Young, Alaska
Young, Fla.

□ 1130

So the motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed and on the motion to close the conference.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON HOUSE JOINT RESOLUTION 440, FURTHER CONTINUING APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the joint resolution (H.J. Res. 440) making further continuing appropriations for fiscal year 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MAKING IN ORDER ON TUESDAY NEXT, OR ANY DAY THEREAFTER, CONSIDERATION IN THE HOUSE, AS IN COMMITTEE OF THE WHOLE, HOUSE JOINT RESOLUTION 440, FURTHER CONTINUING APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday next, or any day thereafter, to consider in the House as in the Committee of the Whole the joint resolution (H.J. Res. 440) making further continuing appropriations for fiscal year 1980, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON S. 239, DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1979

Mr. PERKINS submitted the following conference report and statement on the Senate bill (S. 239) to authorize

NAYS—0

ANSWERED "PRESENT"—1

Van Deerlin

NOT VOTING—107

Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Ashley
Bedell
Beres
Bolling
Bonker
Bowen
Brooks
Brown, Ohio
Burton, John
Cavanaugh
Chaney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Corman
Cotter
Crane, Philip
de la Garza
Dicks
Diggs
Duncan, Oreg.
Early
Edwards, Ala.
Erlenborn
Evans, Ga.
Fenwick
Findley
Flood
Garcia
Glinn
Glickman
Gradison
Hall, Ohio
Hance
Harris
Hawkins
Heckler

appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96-606)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 239) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Domestic Volunteer Service Act Amendments of 1979".

ASSIGNMENT OF VOLUNTEERS

SEC. 2. (a) Section 103(b) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) (hereinafter in this Act referred to as "the Act") is amended by—

(1) striking out in the second sentence "Prior to" and inserting in lieu thereof "Not later than 30 days after"; and

(2) adding at the end the following new sentence: "The Director shall offer to provide each volunteer enrolled for a period of full-time service of not less than one year under this title, and, upon the request of such volunteer, provide such volunteer with an individual and updated plan as described in the preceding two sentences.".

(b) Section 103(d) of the Act is amended by—

(1) inserting "in a program or project" after "work";

(2) inserting "or project" after "program"; and

(3) striking out in the first sentence "has not" and all that follows through the end of such subsection and inserting in lieu thereof "such Governor or other chief executive officer has not, within 45 days of the date of such submission, notified the Director in writing, supported by a statement of reasons, that such Governor or other chief executive officer disapproves such program or project. In the event of a timely request in writing, supported by a statement of reasons, by the Governor or other chief executive officer of the State concerned, the Director shall terminate a program or project or the assignment of a volunteer to a program or project not later than 30 days after the date such request is received by the Director, or at such later date as is agreed upon by the Director and such Governor or other chief executive officer."

SUPPORT SERVICES

SEC. 3. The first sentence of section 105(a)(2) of the Act is amended to read as follows: "Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service.".

LIMITATION ON USE OF FUNDS FOR CERTAIN GRANTS

SEC. 4. (a) Section 108 of the Act is amended by—

(1) striking out "20" and inserting in lieu thereof "16"; and

(2) adding at the end the following new sentence: "During the fiscal year ending September 30, 1980—

"(1) in no event may in excess of $5,800,000 be used pursuant to grants and contracts under this part for the direct cost of supporting such volunteers; and

"(2) funds obligated pursuant to such grants and contracts for such cost may be used to support no greater number of years of volunteer service than the number of such years supported during the fiscal year ending September 30, 1979, pursuant to grants and contracts for such cost.".

(b) Section 108 of the Act, as amended in subsection (a), is further amended by inserting "(a)" after "Sec. 108." and by adding at the end the following new subsection:

"(b) No funds shall be obligated under this part pursuant to grants or contracts made after the date of the enactment of the Domestic Volunteer Service Act Amendments of 1979 for new projects for the direct cost of supporting volunteers unless the recipient of each such grant or contract has been selected through a competitive process which includes—

"(1) public announcements of the availability of funds for such grants or contracts, general criteria for the selection of new recipients, and a description of the application process and the application review process; and

"(2) a requirement that each applicant for any such grant or contract identify, with sufficient particularity to assure that the assignments of volunteers under such grants and contracts will carry out the purpose of this part, the particular poverty or poverty-related human, social, or environmental problems on which the grant or contract will focus, and any such grant or contract shall specifically so identify such problems.".

SERVICE IN UNIVERSITY YEAR FOR ACTION PROGRAMS

SEC. 5. Section 113(a) of the Act is amended by striking out "and" and inserting in lieu thereof "except that volunteers serving in the University Year for ACTION program may be enrolled for periods of service of not less than the duration of an academic year, but volunteers enrolled for less than 12 months shall not receive stipends under section 105(a)(1). Volunteers serving under this part".

SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 6. Section 114(a) of the Act is amended by—

(1) striking out in the first sentence "10" and inserting in lieu thereof "22"; and

(2) striking out in the last sentence "$6,700,000" both places it appears and inserting in lieu thereof "$4,000,000".

SPECIAL VOLUNTEER PROGRAMS

SEC. 7 (a) Section 122(a) of the Act is amended by—

(1) inserting "in urban and rural areas" after "programs" the first place it appears;

(2) striking out "and" the first place it appears, and by inserting after "abusers" a comma and "a program of assistance to victims of domestic violence, a program to provide technical and management assistance to distressed communities, a program designed to provide personal and group financial counseling to low-income and fixed-income individuals (utilizing volunteers with specialized or technical expertise), and a Helping Hand program"; and

(3) adding at the end the following new sentence: "In carrying out programs authorized by this part, the Director is authorized to provide for the recruitment, selection, and training of volunteers.".

(b) Section 122(a) of the Act, as amended in subsection (a), is further amended by inserting "(1)" after "Sec. 122. (a)" and by adding at the end the following new paragraph:

"(2) For purposes of this subsection, the term 'Helping Hand' program means a program utilizing person-to-person services to reduce the necessity for institutionalization (in hospitals, mental institutions, nursing homes, other extended-care settings, and other facilities) and to ameliorate residential isolation (through senior centers, half-way house facilities, and other residential settings) of older persons, handicapped persons, and other affected persons, stressing interactions between persons from various age groups, particularly young and old, and carried out in coordination with the appropriate State system for the protection and advocacy of the rights of persons with developmental disabilities established pursuant to section 113 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6012).".

(c) Section 122(c) of the Act is amended to read as follows:

"(c)(1) The Director, in accordance with regulations which the Director shall prescribe, may provide to volunteers enrolled for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks under this part such allowances, support, and services as are described in section 105(b) and as the Director determines are necessary to carry out the purpose of this part, and shall apply the provisions of sections 104(c) and 105(b) to the service of volunteers enrolled for full-time service under this part.

"(2) The Director, in accordance with regulations which the Director shall prescribe with respect to volunteers enrolled for periods of full-time service of not less than one year under this part—

"(A) may provide to such volunteers such stipends, in total amounts not in excess of stipends provided under section 105(a) to volunteers serving under part A of this title, as the Director determines are necessary to carry out the purpose of this part; and

"(B) to the extent that the terms and conditions of the service of such volunteers are of similar character to the terms and conditions of the service of volunteers enrolled under part A of this title, shall apply to the service of such volunteers enrolled under this part the provisions of sections 103(b) relating to low-income community volunteers, 103(d), 104(d), and 105(a) to the extent such provisions are applied to the service of volunteers enrolled under such part A.".

(d) Not later than 18 months after funds are first made available to carry out activities under the amendments to part C of title I of the Act made by this section, the Director of the ACTION Agency shall submit to the appropriate committees of the Congress a report on programs, activities, grants, and contracts so carried out, including a description of all programs established and contracts and grants made under such amended provisions, the amounts of funds obligated for such programs, activities, grants, and contracts under such amended provisions, and the specific arrangements for the conduct of evaluations of such programs, activities, grants, and contracts pursuant to section 417 of the Act.

PROHIBITION OF USE OF FUNDS FOR CERTAIN POLITICAL OR LOBBYING ACTIVITIES

SEC. 8. (a) Section 403(a) of the Act is amended by—

(1) inserting in the first sentence "or the outcome of any election to any State or local public office," after "Federal office,"; and

(2) inserting in the last sentence "(when referring to an election for Federal office)" before "has the same meaning" the first place it appears.

(b) Section 403(b) of the Act is amended by—

(1) inserting "(1)" after "(b)";

(2) redesignating clause (1), clause (2), and clause (3) as clause (A), clause (B), and clause (C), respectively;

(3) designating the last sentence of such subsection as subsection (c); and

(4) inserting after paragraph (1) (as so redesignated in clause (1) of this subsection), and before subsection (c) (as so designated in clause (3) of this subsection), the following new paragraph:

"(2) No funds appropriated to carry out this Act shall be used by any program assisted under this Act in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except—

"(A) in any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of, such a program to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or

"(B) in connection with an authorization or appropriations measure directly affecting the operation of the program.".

SPECIAL LIMITATIONS

SEC. 9. Section 404(g) of the Act is amended by—

(1) inserting "(1)" after "(g)";

(2) inserting before the period at the end of such paragraph (as so redesignated in clause (1) of this section) a comma and "except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater"; and

(3) adding at the end the following new paragraph:

"(2) Nowithstanding any other provision of law, a person enrolled for full-time service as a volunteer under title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.".

COORDINATION WITH OTHER PROGRAMS

SEC. 10. Section 410 of the Act is amended by adding at the end the following new sentence: "The Director, in consultation with the Director of the Office of Personnel Management and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment; and (2) to make provisions for the listing and description of volunteer work on all employment application forms.".

APPLICATION OF FEDERAL LAW

SEC. 11. (a) Section 415(b) of the Act is amended by—

(1) striking out in the first sentence "in programs under title I of this Act for periods of service of at least one year" and inserting in lieu thereof "as volunteers for periods of full-time service, or, as the Director deems appropriate in accordance with regulations, for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks, under title I of this Act";

(2) striking out in clause (3) "and";

(3) striking out in clause (4)(A) "the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS-7 employee," and inserting in lieu thereof "the annual rate of pay of a volunteer enrolled for a period of full-time service under such title I shall be deemed to be that received under the entrance salary for a grade GS-7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service under such title I shall be deemed to be such entry salary or an appropriate portion thereof as determined by the Director,"; and

(4) inserting before the period at the end a comma and the following: "and (5) be deemed employees of the United States for the purposes of section 5584 of title 5, United States Code (and stipends and allowances paid under this Act shall be considered as pay for such purposes)".

(b) Section 415 of the Act is amended by adding at the end the following new subsection:

"(f)(1) The remedy—

"(A) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or

"(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function denial auxiliary, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of such person's duties as a volunteer enrolled under title I of this Act shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or such person's estate) whose action or omission gave rise to such claim.

"(2) The Attorney General of the United States shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate supervisor or to whomever is designated by the Director to receive such papers, and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought and to the Attorney General.

"(3) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's volunteer assignment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a district court of the United States determine on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of such person's volunteer assignment, the case shall be remanded to the State court.

"(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.".

NONDISCRIMINATION PROVISIONS

SEC. 12. (a) Section 417(a) of the Act is amended by—

(1) inserting "handicap," after "age,"; and

(2) adding at the end the following new sentence: "For purposes of this subsection, and for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (Public Law 94-135, title III; 42 U.S.C. 6101 et seq.), any program, project, or activity to which volunteers are assigned under this Act shall be deemed to be receiving Federal financial assistance.".

(b) Section 417 of the Act is amended by adding at the end the following new subsection:

"(c)(1) The Director shall apply the nondiscrimination policies and authorities set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and in the Age Discrimination Act of 1975 (Public Law 94-135, title III; 42 U.S.C. 6101 et seq.) to applicants for enrollment for service as volunteers, and to volunteers serving, under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.). Any remedies available to individuals under such laws, other than the right of appeal to the Civil Service Commission authorized by section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or volunteers.

"(2) Not later than 90 days after the date of the enactment of the Domestic Volunteer Service Act Amendments of 1979, the Director, after consultation with the Equal Employment Opportunity Commission with regard to the application of the policies set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) and with the Interagency Coordinating Council, established by section 507 of the Rehabilitation Act of 1973 (29 U.S.C. 797), and the Interagency Committee on Handicapped Employees, established by section 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. 791(a)), with regard to the application of the policies set forth in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and, not later than 90 days after the Secretary of Health, Education, and Welfare or the Secretary of Health, and Human Resources, as the case may be, publishes final general regulations to carry out the Age Discrimination Act of 1975 (Public Law 94-135, title III; 42 U.S.C. 6101 et seq.), and after consultation with the Secretary with regard to the application of the policies set forth in such Act, shall prescribe regulations establishing the procedures for the application of such policies and the provision of such remedies so as to promote the enrollment and service of persons as volunteers without regard to the discriminatory factors described in such laws.".

REQUIREMENTS FOR PRESCRIBING REGULATIONS

SEC. 13. (a) Section 420 of the Act is amended to read as follows:

"Requirements for Prescribing Regulations

"Sec. 420. (a) For purposes of this section—

"(1) the term 'regulation' means any rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by the Director pursuant to this Act; and

"(2) the term 'Committees' means the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(b) Regulations prescribed by the Director or by any other officer of the ACTION Agency, in connection with, or affecting, the administration of any program carried out under this Act shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

"(c)(1) Except as provided in paragraph (2)(B) of this subsection, no proposed regulation prescribed pursuant to this Act for the administration of any program carried out under this Act may take effect until 30 calendar days after it is published in the Federal Register.

"(2)(A) During the 30-day period before the date upon which such regulation is to be effective, the Director shall, in accordance with the provisions of section 553 of title 5, United States Code, offer any interested party an opportunity to make comment upon, and take exception to, such regulation and shall reconsider any such regulation upon which comment is made or to which exception is taken.

"(B) If the Director determines that the 30-day requirement in paragraph (1) of this subsection would cause undue delay in the implementation of a regulation, thereby causing substantial hardship for the intended beneficiaries of any program carried out under this Act, the Director may waive the application of such requirement and shall immediately submit a notice of such determination and waiver, including a statement of the reasons therefor, to the Committees.

"(d) Concurrently with the publication in the Federal Register of any final regulation, a copy of such final regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Except as is provided in the following sentence, no such final regulation may take effect until 45 calendar days after such transmission. If the Director determines that such 45-day requirement would cause undue delay in the implementation of the regulation, thereby causing substantial hardship for the intended beneficiaries of any program carried out under this Act, the Director may waive the application of such requirement and shall promptly submit a notice of such determination and waiver, including a statement of the reasons therefor, to the Committees.

"(e) Not later than 60 days after the date of the enactment of any Act affecting the administration of any program carried out under this Act, the Director shall submit to the Committees a schedule in accordance with which the Director has planned to prescribe final regulations implementing such Act or part of such Act. Such schedule shall provide that all such final regulations shall be prescribed not later than 180 days after the submission of such schedule. Except as is provided in the following sentence, all such final regulations shall be prescribed in accordance with such schedule. If the Director determines that, due to circumstances unforeseen at the time of the submission of any such schedule, the schedule submitted pursuant to this subsection cannot be met, the Director shall submit a notice of such determination, including a statement of the reasons therefor, to the Committees and shall submit a new schedule which shall then be considered, for the purposes of this subsection, as the schedule originally submitted in connection with the enactment of the Act involved.".

(b) The table of contents for the Act is amended by striking out the item relating to section 420 and inserting in lieu thereof the following new item:

"Sec. 420. Requirements for prescribing regulations.".

REDUCTION OF PAPERWORK; REVIEW OF PROJECT RENEWALS

SEC. 14. (a) Title IV of the Act is amended by adding at the end the following new sections:

"REDUCTION OF PAPERWORK

"SEC. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act.

"REVIEW OF PROJECT RENEWALS

"SEC. 424. If the executive authority of any State or local government submits to the Director, not later than 30 days before the expiration of any contract or grant to carry out any project under this Act, a statement which objects to the renewal of such contract or grant, then the Director shall (1) review such statement and take it into account in determining whether to renew such contract or grant; and (2) submit to such executive authority a written statement of reasons regarding the Director's determination with respect to such renewal and specifically with respect to any objection so submitted.".

(b) The table of contents for the Act is amended by inserting after the item relating to section 422 the following new items:

"Sec. 423. Reduction of paperwork.

"Sec. 424. Review of project renewals.".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 15. (a) Section 501(a) of the Act is amended by—

(1) striking out in the first sentence "and" after "September 30, 1977,", and by inserting "September 30, 1979, September 30, 1980, and September 30, 1981," after "September 30, 1978,"; and

(2) striking out in the second sentence "this title" and inserting in lieu thereof "this section for the purpose of carrying out title I of this Act".

(b) Section 501 of the Act, as amended in subsection (a), is further amended by adding at the end the following new subsection:

"(c)(1) Of the funds appropriated for each of the fiscal years 1980 and 1981 for the purpose of carrying out title I of this Act (A) not less than $28,000,000 shall first be available for carrying out the VISTA program under part A of such title, and (B) of the funds appropriated for each such fiscal year for the purpose of carrying out such title which are in excess of $28,000,000 (i) not less than $2,300,000 for fiscal year 1980 and not less than $1,600,000 for fiscal year 1981 shall be available for carrying out the University Year for ACTION program under part B of such title, and (ii) not less than $500,000 for each such fiscal year shall be available for carrying out service-learning programs under section 114.

"(2) Of the funds appropriated for each of the fiscal years 1980 and 1981 for the purpose of carrying out part C of title I of this Act which are in excess of $2,500,000 but not in excess of $10,000,000, not less than 50 per centum for each such fiscal year shall be available for carrying out the fixed-income counseling and Helping Hand programs under section 122.".

(c) Section 504 of the Act is amended by striking out "and" after "September 30, 1977,", and by inserting "September 30, 1979, September 30, 1980, and September 30, 1981," after "September 30, 1978,".

RURAL PROGRAMS REPORT

SEC. 16. Not later than February 1, 1980, the Director of the ACTION Agency shall submit to the appropriate committees of the Congress a report specifying the special needs and circumstances to be addressed in designing programs under the Domestic Volunteer Service Act of 1973 for implementation in rural areas. Such report shall include a detailed statement of the manner in which the Director intends to address such needs and circumstances, together with a timetable for designing and implementing such programs.

AMENDMENT TO OTHER LAW

SEC. 17. Subsection (b) of section 5 of the Act entitled "An Act to amend further the Peace Corps Act, and for other purposes", approved November 14, 1975 (Public Law 94-130; 89 Stat. 684), is amended by striking out the last sentence of such subsection.

TECHNICAL AMENDMENTS

SEC. 18. (a)(1) The table of contents for the Act is amended by striking out the items relating to title III, section 301, section 302, and section 503.

(2) Section 418 of the Act is amended by striking out "titles II and III" and inserting in lieu thereof "title II".

(b) Section 221 of the Act is amended by striking out "Office of Economic Opportunity" and inserting in lieu thereof "Community Services Administration".

(c)(1) Section 403(c) of the Act, as so designated in section 8(b)(2) of this Act, is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(2) Section 415(c)(2) of the Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

CARL D. PERKINS,
PAUL SIMON,
JOHN BRADEMAS,
EDWARD P. BEARD,
GEO. MILLER,
AUGUSTUS F. HAWKINS,
MARIO BIAGGI,
EDWARD J. STACK,
ARLEN ERDAHL,
Managers on the Part of the House.

HARRISON A. WILLIAMS, JR.,
ALAN CRANSTON,
GAYLORD NELSON,
DON RIEGLE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 239) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The provisions of the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made

necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

CAREER DEVELOPMENT PLAN FOR VISTA VOLUNTEERS

Time when provided

Both the Senate bill and the House amendment provide that the post-service career development plan required by existing law for all low-income VISTA volunteers be provided within 30 days after the volunteer's assignment, rather than, as at present, prior to such assignment.

The conference agreement includes this provision.

Provision to other volunteers

The Senate bill requires the Director to offer and provide, upon request, such a career development plan to any other VISTA volunteer enrolled in a program under title I for a period of full-time service of one year or more.

The House amendment does not contain a comparable provision.

The House recedes.

ASSIGNMENT OF VISTA VOLUNTEERS AND TERMINATION AND RENEWAL OF PROJECTS

The Senate bill adds the following requirements to the provision in existing law regarding the disapproval by a Governor or other chief executive officer of a State of the assignment of VISTA volunteers: (1) that such a disapproval of a proposed project by the chief executive officer must be made in writing within 45 days after submission of notice to him, supported by a statement of reasons for the disapproval, and (2) that the Director shall terminate an ongoing project or program, or the assignment of a particular volunteer, not later than 30 days after a request to do so is made, in writing supported by a statement of reasons, by the chief executive officer, or at such later date as is agreed upon by the Director and the official.

The House amendment provides for disapproval of VISTA projects and termination of volunteers at the request of local officials, and adds a new section prohibiting the Director from renewing any contract or grant to carry out any project under the Act if the chief executive officer of the State involved does not concur in such renewal, and providing that if any mayor or other local authority objects to a renewal the Director take this objection into account in deciding whether to renew the project.

The conference agreement includes the Senate provision relating to assignment of VISTA volunteers and a new section 424 relating to all programs carried out under the Act which provides that if the executive authority of any local or State government submits to the Director, not later than 30 days before the expiration of any contract or grant, a statement objecting to the renewal of such contract or grant, the Director shall review such statement and take it into account in determining whether to renew such contract or grant and shall submit to such executive authority a written statement of reasons regarding the Director's determination with specific references to any objection so submitted.

VISTA VOLUNTEER STIPENDS

Both the Senate bill and the House amendment provide that accrued stipends may be payable during the period of a volunteer's service, in accordance with regulations prescribed by the Director.

The conference agreement includes this provision.

VISTA GRANTS AND CONTRACTS

The House amendment reduces from 20 percent to 15 percent the limitation in existing law on obligation of title I, part A (VISTA), funds for grants and contracts under section 402(12).

The Senate bill provides for a ceiling of $5,800,000 for fiscal year 1980 for such purpose and that in no case shall funds obligated in fiscal year 1980 support a greater number of volunteer service years than during fiscal year 1979. In addition, the Senate bill requires that the recipients of any new VISTA project administered through such a grant or contract be selected through a competitive process which shall include (1) public announcement and (2) a requirement that each applicant and any resultant grant or contract clearly identify the poverty problems on which the project will focus.

The conference agreement includes both provisions, but raises the percentage in the House amendment from 15 percent to 16 percent to be consistent with the effects of the restrictions in the Senate bill.

SERVICE IN UNIVERSITY YEAR FOR ACTION PROGRAMS

The House amendment provides that volunteers serving in University Year for ACTION (UYA) programs may be enrolled for periods of service of not less than the duration of an academic year, rather than the existing law requirement of a full year.

The Senate bill does not contain a comparable provision.

The Senate recedes with an amendment providing that volunteers so enrolled for less than 12 months may not receive stipends under section 105(a)(1). The conferees believe that the practice of enrolling students for a full-year commitment with the expectation that they will resign after nine months should be discontinued and that any UYA contract or grant should provide that, except in extraordinary circumstances, academic credit should be reduced for those students who make a full-year commitment, receive stipends in connection therewith, and then resign early.

SERVICE-LEARNING PROGRAMS

The House amendment (1) authorizes the Director to establish a national office for service-learning to provide technical assistance and financial support for the assignment of non-UYA title I, part B, volunteers in service-learning programs, and (2) expands the Director's authority to provide support and allowances to title I, part B, volunteers beyond the authority in existing law to provide support other than living allowances only in unusual or special circumstances.

The Senate bill does not contain a comparable provision.

The House recedes.

SPECIAL VOLUNTEER PROGRAMS

Rural programing

The Senate bill adds emphasis on development of discretionary and demonstration projects in rural as well as urban areas.

The House amendment does not contain a comparable provision.

The House recedes.

Specific demonstration programs

Both the Senate bill and the House amendment add, as examples of special volunteer or demonstration programs, programs providing for financial and consumer counseling for low- and fixed-income persons, and a program to reduce the necessity of institutionalization and ameliorate residential isolation of older, handicapped, and other similarly isolated persons (called "Helping Hand" in the Senate bill).

The Senate bill, but not the House amendment, adds programs of assistance to domestic violence victims. The House amendment, but not the Senate bill, adds programs to provide technical and management assistance and to provide volunteers and neighborhood organizations with materials, tools, supplies, and administrative support to carry out community betterment projects.

The House recedes with an amendment adding programs to provide technical and management assistance to distressed communities. It is the intention of the conferees that the conditions set forth in the new part D which would have been added to title I by S. 239 as introduced and by H.R. 2859 as reported be applied to the carrying out of any urban volunteer activities that would have been authorized by that new part.

Recruitment, selection, and training of special volunteers

The Senate bill restates and clarifies the authority in existing law for the Director to provide for the recruitment, selection, and training of volunteers for programs authorized by title I, part C.

The House amendment does not contain a comparable provision.

The House recedes.

Support for and conditions of service of part-time, short-term volunteers

Both the Senate bill and the House amendment authorize the Director to provide support for part-time, short-term volunteers and clarify the status of full-time title I, part C, volunteers. The Senate bill, but not the House amendment, provides that full-time volunteers enrolled for periods of 1 year or more shall be subject to the provisions of section 103(d) relating to veto by the Chief Executive officer of a State.

The House recedes.

Report on programs established

The Senate bill requires a report to the appropriate committees of Congress, not later than 18 months after funds are first made available after the date of enactment of this legislation, on the programs, activities, grants, and contracts made, and the specific arrangements for the evaluations of such programs, activities, grants, and contracts.

The House amendment does not contain a comparable provision.

The House recedes.

POLITICAL ACTIVITIES

State and local elections

The Senate bill adds a prohibition on the use of funds to finance, directly or indirectly, any activity designed to influence the outcome of any election to "State or local", as well as (at present) Federal, office.

The House amendment does not contain a comparable provision.

The House recedes with a technical amendment.

Lobbying

The Senate bill amends section 403(a) to add to the prohibitions there a prohibition on the use of ACTION Agency funds or programs for the purpose of financing any activity designed to influence a member of a State or local legislative body on any legislative or appropriation measure, with the proviso that this shall not prevent communication with or provision of information to any such member by a part-time volunteer when not serving as a volunteer or, at the request of such member, committee, or legislative body, by any full-time volunteer.

The House amendment amends section 403(b) to (1) provide that programs assisted under the Act may not be carried out "in any manner for the purpose of providing assistance for" any of the activities prohibited in section 403(b) rather than the provision in existing law which prohibits the carrying out of those activities "in a manner supporting or resulting in the identification of such programs" with the prohibited activities, and (2) add a prohibition on programs furnishing any assistance in connection with partisan or non-partisan attempts to influence the passage or defeat of any Federal, State, or local legislation, referenda or other ballot initiatives, or any rulemaking or regulatory action.

The conference agreement provides that no funds appropriated to carry out this Act shall be used by any program for activities for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, and clarifies that this anti-lobbying provision does not preclude (1) communications where a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of, such a program to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member, or (2) in connection with an authorization or appropriation measure directly affecting the activities of the program. It is the intention of the conferees that "measure directly affecting the activities of the program" not be interpreted to be limited solely to a measure affecting the ACTION-Agency-funded portion of a particular program's activities, but rather be interpreted to mean any measure affecting the existence or basic structure or operation of the program.

RECEIPT OF ASSISTANCE OR SERVICES UNDER OTHER FEDERAL PROGRAMS

Clarification of status of low-income VISTA volunteers

Both the Senate bill and the House amendment provide that full-time volunteers under title I otherwise entitled to receive assistance under Federal Government programs before their enrollment shall not be denied assistance because of a failure to seek or accept employment or training during periods of volunteer service.

The conference agreement contains this provision.

Effective date

The House amendment establishes an effective date of October 1, 1979 for the provision.

The Senate bill does not contain a comparable provision.

The House recedes.

Limitation on income-disregard provisions

The Senate bill adds an exception to the income-disregard provisions in existing law to limit the application of that provision to volunteer payments with a value of less than the Federal minimum wage.

The House amendment does not contain a comparable provision.

The House recedes with an amendment providing that the income-disregard provisions shall continue to apply as long as the Director determines that the value of such payments does not exceed the State's minimum wage if higher than the Federal.

VOLUNTEER EXPERIENCE

Both the Senate bill and the House amendment provide for the Director, in consultation with the heads of other departments and agencies, to take appropriate steps to encourage employers to take into account experience in volunteer work in the consideration of applicants for employment and in preparing employment application forms. The Senate bill, but not the House amendment, specifically includes consultation with the Director of the Office of Personnel Management and the Secretaries of Labor, Commerce, and the Treasury.

The House recedes.

REGIONAL DISTRIBUTION

The Senate bill provides that benefits and services under the Act be distributed equitably among the various regions of the country in addition to the requirement in existing law for equitable distribution between residents of rural and urban areas.

The House amendment does not contain a comparable provision.

The Senate recedes.

APPLICATION OF OTHER FEDERAL LAWS

Volunteers covered

The House amendment provides that, in addition to the full-time volunteers presently deemed to be Federal employees for the purposes of the Hatch Act, the Internal Revenue Code of 1954, title II of the Social Security Act, the Federal Tort Claims Act, and the Federal Employee's Compensation Act, all other full-time volunteers who serve 8 weeks and part-time volunteers enrolled for at least 20 hours per week for 26 or more consecutive weeks shall also be deemed Federal employees as the Director determines appropriate for the purposes of these Acts.

The Senate bill provides for the same coverage but does not limit coverage of full-time volunteers in terms of the length of their service.

The House recedes.

Levels of compensation

Both the Senate bill and the House amendment provide that, for the purpose of treating volunteers as Federal employees for the purposes of the Federal Employee's Compensation Act, the annual rate of pay for a full-time volunteer shall be deemed to be the entry salary for a GS-7 employee.

The Senate bill provides that the annual rate of pay for a part-time volunteer shall be deemed to be the entry salary for a GS-7 or an appropriate portion thereof as determined by the Director. The House amendment provides that the annual rate of pay for a part-time volunteer shall be deemed to be the entry salary for a GS-2.

The House recedes.

Application of Federal Tort Claims Act

Both the Senate bill and the House amendment, with technical differences, add a new provision to the Act to make the Federal Tort Claims Act the sole available remedy of an individual claiming medical malpractice as a result of actions by a volunteer serving in a health-care capacity. The House amendment, but not the Senate bill, applies the new provision to only full-time volunteers.

The House recedes.

NONDISCRIMINATION PROVISIONS

Both the Senate bill and the House amendment expand the various nondiscrimination provisions in existing law to cover volunteer applicants and volunteers serving in ACTION Agency programs under title I of the Act, and provide for a remedy process. The Senate bill, but not the House amendment, extends coverage to all volunteer applicants and volunteers serving in ACTION Agency programs. The Senate bill requires the Director, in preparing the handicapped discrimination regulations, to consult with the Rehabilitation Act title V Interagency Coordinating Council, whereas the House amendment specifies such consultation with the Secretary of Health, Education, and Welfare.

The House recedes.

LEGISLATIVE VETO AND REPORTING REQUIREMENTS

The House amendment adds a provision including the requirements of section 431 of the General Education Provisions Act (20 U.S.C. 1232), relating to the Congressional review and veto of regulations, with two differences: (1) section 420(a)(1) adds that any regulation, as defined, prescribed by the Director shall not have the standing of a Federal statute and (2) section 431(f) of the General Education Provisions Act is not included.

The Senate bill does not have a comparable provision.

The Senate recedes with a substitute amendment requiring the publication in the Federal Register of regulations prescribed under the Domestic Volunteer Service Act of 1973, submission of such proposed regulations to the Education and Labor Committee of the House of Representatives and the Labor and Human Resources Committee of the Senate, delaying the effective date of regulations until 30 days after publication in the Federal Register (and final regulations until 45 days after submitted to such Committees) unless the Director waives such requirement on the basis of a determination (and so notifies the Committees) that such delay would cause substantial hardship for the intended beneficiaries of a program, requiring the Director to submit to those Committees, not later than 60 days after the date of the enactment of any part of any Act affecting the administration of any program under the Domestic Volunteer Service Act of 1973, a timetable for promulgation of all regulations implementing such former Act or part of such Act which timetable shall provide that all final regulations be prescribed within 180 days after submission of the schedule, unless the Director determines that, due to circumstances unforeseen at the time of submission of such a schedule, the schedule submitted cannot be met, and providing that, under such circumstances, the Director need not comply with the original schedule but rather shall submit a notice of such determination, including a statement of reasons, to the Committees along with a new schedule which shall be considered as the schedule originally submitted, thereby beginning anew the submission-of-schedule process.

REDUCTION OF PAPERWORK

Both the Senate bill and the House amendment provide for the Director to take such action as may be necessary to reduce paperwork under the Act. The House amendment, but not the Senate bill, makes references to chapter 35 of title 44, United States Code, relating to coordination of Federal reporting services.

The House recedes. It is the expectation of the conferees that the Director will adhere to the provisions of 44 U.S.C. 3501 *et seq.*, relating to the coordination of Federal reporting services, in carrying out this provision.

AUTHORIZATION OF APPROPRIATIONS

Title I

The Senate bill authorizes the appropriation of such sums as may be necessary under section 501 for title I programs for fiscal years 1979, 1980, and 1981.

The House amendment authorizes the appropriation for this purpose of $42,413,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981.

The House recedes.

Poverty earmark in title I

The Senate bill strikes out $29,600,000 and inserts in lieu thereof 80 percent as the minimum amount of appropriated funds to be expended on title I programs designed to eliminate poverty and poverty-related problems.

The House amendment does not contain a comparable provision.

The Senate recedes.

VISTA earmark

The Senate bill strikes out a provision referring to a minimum amount of funds ($22,300,000) to be expended on programs authorized under part A of title I and strikes out the requirement that funds appropriated in excess of $37,600,000 be allocated so as to provide for a commensurate increase in the funds available for part A.

The House amendment does not contain a comparable provision.

The Senate recedes.

Earmark of title I, part B, funds

The Senate bill (1) allows up to 13 percent of the first $4,000,000 in title I, part B, appropriations to be used for programs other

than UYA, rather than not more than 10 percent of the first $6,700,000 as in present law, and (2) notwithstanding that limitation, allows for one-third of the first $1,000,000 appropriated for part B programs to be used for continuation of programs, other than UYA, of demonstrated effectiveness.

The House amendment eliminates the existing 10-percent limitation and provides (1) that not less than $873,000 (the amount of the Administration fiscal year 1980 budget request) shall be available for the operation of service-learning programs under section 114 for each of fiscal years 1980 and 1981 and (2) that not less than $3,200,000 shall be available for UYA programs for fiscal year 1980 and not less than $2,200,000 for fiscal year 1981.

The conference agreement provides that (1) up to 22 percent of part B appropriations may be used for programs other than UYA and (2) of the funds appropriated for each of fiscal years 1980 and 1981 for carrying out title I not less than $28,000,000 shall first be available for the purpose of carrying out part A of the title, and, of the funds appropriated in excess of $28,000,000, not less than $2,500,000 and $1,800,000 in the two fiscal years, respectively, shall be available for the operation of UYA in each such year, and not less than $500,000 in each such year shall be available for the operation of other service-learning programs.

Earmark of title I, part C, funds

The Senate bill requires that not less than 50 percent of title I, part C, funds exceeding the fiscal year 1979 level of appropriations shall be used to carry out the fixed-income counseling and "Helping Hand" programs.

The House amendment does not contain a comparable provision.

The House recedes with a substitute amendment providing that not less than 50 percent of the funds appropriated for title I, part C, in fiscal years 1980 and 1981 in excess of $2,500,000 but not more than $10,000,000 shall be used to carry out the fixed-income counseling and "Helping Hand" programs.

Title III

The Senate bill authorizes the appropriation of such sums as may be necessary for fiscal year 1979 for title III programs now reauthorized in the Small Business Act as a result of P.L. 95-510.

The House amendment does not contain a comparable provision.

The Senate recedes.

Title IV

The Senate bill authorizes the appropriation of such sums as may be necessary for title IV—Program Administration—for fiscal years 1979 and 1980. The House amendment authorizes such appropriations for fiscal years 1980 and 1981.

The conference agreement authorizes the appropriation of such sums as may be necessary for title IV for fiscal years 1979, 1980, and 1981.

REPORT ON RURAL PROGRAMING

Both the Senate bill and the House amendment provide for the Director of the ACTION Agency to report to Congressional Committees on special needs and circumstances to be addressed in designing programs under the Act in rural areas. The House amendment, but not the Senate bill, specifies that the report be submitted only to the authorizing Committees and spells out the content of the report in more detail.

The conference agreement incorporates the Senate provision with the House description of the report contents.

STIPEND INCREASES FOR FULL-TIME VOLUNTEERS

Both the Senate bill and the House amendment amend section 5(b) of Public Law 94-130 (the 1975 Peace Corps Act Amendments) by striking out the last sentence thereof in order to permit appropriations for the increase in the stipend for full-time volunteers to $75 per month, as authorized in that law, without specifically providing for the increase in any appropriations Act.

The conference agreement contains this provision.

REHABILITATION AMENDMENTS

The Senate bill authorizes the Commissioner of Rehabilitation Services to continue funding until December 31, 1980, from funds appropriated under section 100(b)(2) of the Rehabilitation Act of 1973 (P.L. 93-112). This amendment addresses a situation which arose when the statutory authorities under which such entities were receiving grants were struck by certain provisions of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978 (P.L. 95-602).

The House amendment does not contain a comparable provision.

The Senate recedes.

LIMITATION ON CONTRACTS AND PAYMENTS

The House amendment provides that the Director may enter into contracts or make payments under the Act only to the extent or in such amounts as are provided in appropriations Acts.

The Senate bill does not contain a comparable provision.

The House recedes.

COMMISSION ON VOLUNTEERISM

The Senate bill authorizes the establishment of a Commission on Volunteerism.

The House amendment does not contain a comparable provision.

The Senate recedes.

TITLE OF THE BILL

The House recedes from its amendment to the title of the bill.

CARL D. PERKINS,
PAUL SIMON,
JOHN BRADEMAS,
EDWARD P. BEARD,
GEO. MILLER,
AUGUSTUS F. HAWKINS,
MARIO BIAGGI,
EDWARD J. STACK,
ARLEN ERDAHL,
Managers on the Part of the House.

HARRISON A. WILLIAMS, Jr.,
ALAN CRANSTON,
GAYLORD NELSON,
DON RIEGLE,
Managers on the Part of the Senate.

CSCE COMMISSION ISSUES REPORT ON DOMESTIC COMPLIANCE

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute an to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, yesterday, the Commission on Security and Cooperation in Europe issued a report on U.S. compliance with the provisions of the Helsinki Final Act. The result of extensive staff research, public hearings, and the assistance of U.S. Government agencies and departments, this is the first comprehensive review by any CSCE signatory of its own compliance record. In preparing this report, the CSCE Commission has taken note not only of criticism from domestic groups, but also from the media and from other CSCE signatory states such as the Soviet Union and Eastern Europe.

Issued some 4 years after the signing of the Helsinki accords, the report is a thorough examination of U.S. compliance in such areas as human rights—including the status of women and minority groups, economic and scientific cooperation with nonmarket countries, and the free flow of people and ideas between East and West. Although there are certainly some areas in which improvement is needed, the report finds that, overall, the United States has taken its Helsinki obligations seriously and is in general compliance with the Final Act.

The aim of the report is twofold: To encourage better implementation by the United States, and to stimulate other Helsinki signatories to undertake similar serious assessments of their own compliance records. Such assessments of domestic performance—in tandem with thorough examinations of the records of all the Helsinki partners—are essential elements in any meaningful CSCE review meeting, the next of which will take place in Madrid in 1980.

□ 1140

MAKING IN ORDER ON TODAY CONSIDERATION OF CONFERENCE REPORT ON H.R. 4930, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. YATES. Mr. Speaker, I ask unanimous consent that it may be in order later today to call up the conference report on the bill, H.R. 4930, making appropriations for the Department of the Interior and related agencies.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) reserves the right to object.

Mr. BAUMAN. Mr. Speaker, I would like to make a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, if this permission is granted, any proper points of order would lie against the conference report later today if it is called up; is that correct?

The SPEAKER pro tempore. This is correct, except for the 3-day rule.

Mr. BAUMAN. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois (Mr. YATES)?

There was no objection.

HELSINKI COMMISSION RELEASES REPORT ON U.S. COMPLIANCE WITH HELSINKI FINAL ACT

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, I am pleased to announce the release of the Commission on Security and Cooperation in Europe's comprehensive report

on U.S. compliance with the provisions of the Helsinki Final Act. The report, entitled "Fulfilling Our Promises: The United States and the Helsinki Final Act," was formally adopted by the Commission yesterday and released to the press today. It is the first review by any CSCE signatory of its own compliance record which takes into account criticism from other Helsinki states as well as from domestic observers.

While the Commission believes that the U.S. record of implementation has been second to none among the 35 signatory countries, as this report illustrates, our work is not complete. The Final Act pledges us to strive constantly for improvement both in the achievement of civil, political, economic, and social rights as well as in the expansion of our cooperation with other CSCE states. Other signatories will better understand the depth of our concern for the full realization of the Helsinki promises if we demonstrate that we are working hard at home to fulfill our side of the bargain.

Many of my colleagues in the Congress have made valuable contributions to the work of the Commission and have assisted us in our efforts to encourage compliance by all the signatories. I am sure that this latest report, which will be distributed to Members of both the House and the Senate within the next few weeks, will be of great interest to my colleagues.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill, H.R. 2335.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

SOLAR POWER SATELLITE RESEARCH, DEVELOPMENT, AND EVALUATION PROGRAM ACT OF 1979

Mr. FUQUA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2335) to provide for a research, development, and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SEIBERLING. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 311, nays 13, not voting 109, as follows:

[Roll No. 645]

YEAS—311

Abdnor
Addabbo
Akaka
Alboata
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boner
Bonior
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Chisholm
Clay
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Derwinski
Devine
Dickinson
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hanley
Hansen
Harkin
Harris
Hefner
Hightower
Hillis
Hinson
Holtzendeck
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Ledderer
Lehman
Leland
Lent
Levitas
Lewis
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Purcell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solars
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Tauke
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—13

Conable
Deckard
Edgar
Kindness
Lloyd
Luken
McDonald
Paul
Rahall
Seiberling
Weaver
Weiss
Wilson, Bob

NOT VOTING—109

Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Barnard
Boggs
Boland
Bolling
Bunker
Bowen
Brooks
Brown, Calif.
Brown, Ohio
Burton, John
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coelho
Corman
Cotter
Crane, Philip
de la Garza
Dicks
Diggs
Dingell
Duncan, Oreg.
Early
Edwards, Ala.
Erlenborn
Evans, Ga.
Fenwick
Findley
Flood
Forsythe
Garcia
Gialmo
Glinn
Glickman
Gradison
Hance
Harsha
Hawkins
Heckler
Heftel
Holland
Holt
Holtzman
Huckaby
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kemp
Leath, Tex.
Lee
Livingston
Lujan
Lungren
McCloskey
McEwen
McKay
Markey
Mathis
Mazzoli
Mikulski
Mitchell, Md.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nichols
Nolan
Oakar
Pepper
Pickle
Quayle
Rhodes
Richmond
Roberts
Rosenthal
Rousselot
Royer
Runnels
Satterfield
Schroeder
Sebelius
Skelton
Snowe
Spellman
Stark
Symms
Synar
Taylor
Treen
Udall
Ullman
Warman
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Young, Alaska
Young, Fla.

□ 1150

Mr. DASCHLE changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2335, with Mr. HIGHTOWER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from California (Mr. DOWNEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of H.R. 2335, the Solar Power Satellite Research, Development, and Evaluation Program Act of 1979. This bill is similar to H.R. 12505 which passed the House in the 95th Congress, however there is less emphasis on the demonstration aspects in the current bill. The Subcommittee on Space Science and Applications held 3 days of hearings on H.R. 2335 in March 1979. Testimony was taken from engineering societies, environmental groups, cognizant Federal agencies, and industry. Dur-

ing previous hearings the witnesses included representatives of the scientific community with expertise in environmental areas such as long-term, low-level exposure to microwave energy; effects of microwave energy transmission through the ionosphere; and effects of large scale launch operations on the atmosphere.

There currently exists a joint Department of Energy/NASA solar power satellite program which involves mostly paper studies on systems definition, environmental issues, and economics. These studies are based on existing information and involve no new research or experimentation.

However, testimony at these hearings confirmed that the technical, environmental, economic, and other issues cannot be resolved without an adequate technology verification program. Studies to date have not identified any barriers with regard to technical feasibility. Although solar power satellites represent a large engineering endeavor, I am told by a number of respected scientists and engineers that there are no scientific breakthroughs required.

Additional experimental research and technology development is needed to resolve issues, such as effects of long-term, low level exposure to microwave energy; effects of microwave energy transmission through the ionosphere; and effects of large scale launch operations on the atmosphere.

As reflected by the bill, there is no attempt at this time to commit the Nation to construction of full-scale commercial solar power satellites. The thrust of this bill is to formally establish a program office within the Department of Energy; to assign roles to both DOE and NASA; to require a comprehensive program plan which identifies the basic elements of the program, establishes a program schedule, and identify a series of decision points to evaluate further program commitments; and finally the bill would authorize $25 million for the program in fiscal year 1980.

Mr. Chairman, conservation, rapid development of known and new fossil fuel deposits, and refinement of nuclear fission reactors will play dominant roles in meeting the needs for primary energy for the remainder of this century. Inevitably, however, mankind must turn to new sources, preferably nondepletable sources, for much of his energy. Material resources, such as natural gas, will eventually prove to be of more value for the products they yield than for use as fuel. The search of nondepletable energy sources of sufficient potential contribution is therefore of vital importance to avoiding long-range energy shortages. For example, nuclear fusion research is progressing in the scientific laboratories of the world. The difficult plasma-containment problems may eventually be resolved sufficiently to permit large-scale replication on Earth of the fusion process which drives the Sun.

Direct engineering application of the solar energy potential is beginning, with major emphasis upon low-temperature heating of water and air, and lesser emphasis upon the more difficult and larger challenge of supplying a part of the industrial energy supply. Tax credits, mass production, distribution economics, and rising fuels prices should increase these uses of solar systems for domestic and light-commercial space conditioning and thus permit this source to make a modest but important contribution to the total energy supply in the near future. The conversion of solar energy into baseload electricity at centralized generating plants will also be necessary if solar energy is to support the energy density of our industrial structure.

If the solar energy systems are to capture a significant portion of the investment in new electrical power generation capacity, the power generation concept should fulfill several criteria:

Provide nonintermittent, baseload power;

Provide power at costs which are competitive with alternative sources;

Be nonregional in its geographical availability and cost; and

Be environmentally acceptable.

One of the options for transforming solar energy into electricity is the subject of this bill. This concept employs space satellites to collect and transfer solar energy to Earth. The concept has been under evaluation at a very low level of effort for several years and now appears, from this limited body of information, to hold promise of meeting all four of the criteria cited.

The solar power satellite is an opportunity for the application of the space technology and engineering competence of the United States toward a partial solution to the imminent shortage of primary energy. The elements of the SPS are logical extensions of the photovoltaic cell development program and of our space capabilities. Significant advances in knowledge of the component efficiencies, costs, and weights and of environmental effects may be obtained within the next few years by an aggressive program of analysis and technology development.

Solar power satellite concept may well be one important ingredient in the future energy systems mix and may help to minimize economic dislocations. It needs to be accelerated to insure that the energy potential of the Sun may be applied to drive our industrial complex as well as to provide warmth for our buildings. Current programs are making progress in understanding of the SPS, but much more rapid progress is both possible and desirable.

Mr. Chairman, in summary I want to again state that the thrust of the bill is to provide for a technology verification program which will attempt to resolve the technical, environmental, economic, and institutional issues. I want to emphasize that there is no commitment to the construction of a demonstration solar power satellite. In addition the bill provides for an annual review of the program progress and resolution of issues.

In reporting the bill, the Committee on Science and Technology adopted two language amendments:

First. In section 4(b)(2), the committee acted to broaden the types of terrestrial alternatives to be considered in comparative assessments; and

Second. The committee added a new section 5(1)(D) to direct the Department of Energy to coordinate, and when appropriate, contract with the Environmental Protection Agency and other agencies for environmental, safety, and institutional studies.

Prior to concluding my statement Mr. Chairman, I would like to point out to the Members two typographical errors in the report No. 96-151 accompanying the bill. On page 9 under sectional analysis of section 1, the title should read "Solar Power Satellite Research, Development, and Evaluation Program Act of 1979." On page 10 of the report under cost and budget data, line 3 of that paragraph should read "program in the amount of $25,000,000 for fiscal year 1980." The year dates referred to in both page citations were incorrect.

Mr. Chairman, I congratulate the gentleman from Alabama (Mr. FLIPPO) in his foresight in introducing this legislation. I would also like to recognize the gentleman from New York (Mr. WYDLER) and the gentleman from Kansas (Mr. WINN) for their efforts in guiding this legislation through committee.

H.R. 2335 deserves the support of this body as we search for a solution to future energy supplies and I urge its passage.

□ 1200

Mr. DORNAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a pleasure for me to rise in support of H.R. 2335, the Solar Power Satellite Research, Development, and Evaluation Act of 1979. I want to thank the committee chairman, the gentleman from Florida (Mr. FUQUA) for his spirited and aggressive support for this excellent legislation and also to the gentleman from Alabama (Mr. FLIPPO) for his vision and his leadership in introducing it, the minority on the Committee on Science and Technology, including the gentleman from New York (Mr. WYDLER) and the gentleman from Kansas (Mr. WINN). I might add that the gentleman from New York (Mr. WYDLER) had pressing business in his district. Everyone in this Chamber knows how seriously committed he is to this bill. So also the gentleman from Kansas (Mr. WINN) has pressing business at the United Nations, and there is no more important focus than that, given the tragedy in Iran going on at this time.

This should lead no one to think that the gentleman from Kansas (Mr. WINN) is not forcefully behind this bill also. They are both strongly alined, and it was an honor that they would ask me to sit in their stead as the chairman on this bill on our minority side.

As our colleagues will recall, a similar piece of legislation was passed in this body during the 95th Congress with overwhelming support, 267 to 96. As a result of the hearings which were conducted a year ago, plus the additional hearings conducted this year, I feel confident that we have objectively reviewed both perspectives and the merits of this bill.

The Space Science and Applications Subcommittee, of which I am a member, has received testimony from economists, physicists, environmentalists, citizens groups of all kinds, professional societies, and industry. We have heard views that vary from strong support to absolute total opposition. The result of hearing these views is reflected in the legislation. The way in which this is reflected is quite unique in that it does not allow either extremity of the positions to dominate. Obviously, the strong advocates of this concept would like total commitment to build a demonstration satellite.

However, it is far too early, as the gentleman from Florida (Mr. FUQUA) has pointed out. The design is too premature for such a total commitment. On the other hand, opponents would like to destroy this project before it even gets started. This is equally as irrational because of the vast energy potential that it holds. Instead of fostering either of these proposals, this legislation is designed to provide a logical and objective step-by-step method for evaluating the advantages and the disadvantages as the concept matures. This is accomplished by explicitly stating that passage of H.R. 2335 does not in any way commit this nation to build a demonstration satellite. It is clearly stated that this is a separate decision point.

The bill further states that it will be the responsibility of the Department of Energy and NASA—and here I use an exact quotation—"to identify a series of decision points within the program to evaluate the major technological achievements and uncertainties and to justify a further program commitment." I submit to my colleagues that this is powerful language. This means that this program is being formulated in such a way that each progressive step of commitment can be thoroughly debated, and if the program cannot stand on its own merits, then it will and should die.

This is an important and necessary aspect of the legislation but, in my opinion, it is certainly not the most important view. The most significant aspect is that this legislation represents an aggressive mood toward assuming our role of technological leadership.

□ 1210

This Nation has a technological expertise which is second to none. Yet everyday we read headlines about burgeoning trade deficits and growing dependence upon foreign energy sources. This should make any red-blooded American man or woman fume to see a Nation that originated phrases like "Yankee ingenuity"—and that phrase was used and respected all over the world particularly during and after World War I—or phrases like "Damn the torpedoes, full speed ahead," and here we slink off like a cowering dog from this area of high technology. It is time we face reality.

Our Nation is no stronger than our economy and our economy is no stronger than our technology.

In a recent Washington Post article entitled "A Prod to Productivity," the author made the following statement, short but powerful. He said:

> Our country is at a cross-roads in economic policy. We can try to solve our inflation problem by restricting economic growth to avoid demand pressures or we can be bold and look to expand and develop high technology industries.

I wholeheartedly agree with that Post clear observation. It is time we face the facts. High technology is one of the most valuable resources we have available to us in our Nation. We must turn to this resource if we expect to solve the problems of energy dependence, trade deficits, and environmental pollution. It is time we displayed some of the courage and leadership that has been our heritage. We need to face these problems squarely and to bring to bear our best tools to solve them.

Mr. Chairman, this legislation demonstrates exactly that type of leadership. This concept may seem overly bold to a few but that should not be a reason for the rest of us to turn our backs on it. If that logic were used against my own State of California we would never have grown out there to be the sixth largest governmental entity on the face of the Earth with an economy to match. The aspect we should be concentrating on is the potential this bill provides for the development of a nondepletable energy resource, an energy source that could conceivably provide an unlimited supply of baseload electrical power to operate our factories and, yes, our homes, not only in our Nation but throughout the world.

Mr. Chairman, we must realize that the only way we are going to heal our economic problems is to guarantee our future energy supplies and as long as we are dependent upon foreign sources, that is never going to happen. We can conserve and we should, we must, but that does not contribute at all to the long-term future of the energy supply.

Mr. Chairman, this is good legislation. This is solid legislation. The program establishes a position of leadership in an exciting area of high technology. Let us get on with it.

Mr. Chairman, I again commend the leadership on the majority side of this futuristic and visionary committee upon which I am proud to serve. I encourage my colleagues to give their support wholeheartedly to H.R. 2335 and let us have an even bigger vote of support than we had last year.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield gladly to the distinguished gentleman from Ohio.

Mr. SEIBERLING. It certainly would not surprise me, coming from the district the gentleman represents, that he would support this program because it is going to be an incredible subsidy to the aerospace industry. But the amount of money that would be spent on the project envisioned here, which is in the range of a trillion dollars, would be enough money to give every single home in this country a solar-energy installation that would make this whole thing unnecessary.

Mr. Chairman, it seems to me this is a very serious misallocation of resources and in this particular bill it is, too, because there is already $16 million in the works that is paying for a study, and we should wait until that study is completed before we authorized another $25 million for another study.

Mr. Chairman, I suggest while it might benefit the district of the gentleman from California (Mr. DORNAN), that it would be a waste of money of the United States as a whole.

Mr. DORNAN. The distinguished gentleman has made an important point about cost and the care we should use in respect for the taxpayers' money these days, particularly since this body before I came here and since I have been here along with the other body has studied some things to death. However, I can stand here, open-faced, before God, this body and the distinguished gentleman and tell him I do not know to a dollar if this will benefit my district or not.

Mr. Chairman, I know I represent an aerospace district and I would be surprised if some of the action here did not have something for my district but when I joined and asked to be on the Subcommittee on Space Science and Applications of the Committee on Science and Technology, I did it with the same spirit of vision that motivates the ranking members on the majority side. I repeat, I honestly do not know if $1 will go to the great 27th District of California.

Mr. SEIBERLING. Mr. Chairman, if it did not, I would be very surprised.

Mr. DORNAN. I might be, too.

Mr. FUQUA. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. WOLPE), a member of the committee.

Mr. WOLPE. Mr. Chairman, I rise in reluctant opposition to the bill before us, reluctant because it is always difficult to oppose my chairman, the gentleman from Florida.

It has been a privilege to serve on the gentleman's committee and there is no one in the House for whom I have deeper respect. Likewise, I have only the warmest feelings for the chief sponsor of the legislation, the gentleman from Alabama, who is one of the most valuable members of the committee and with whom I have enjoyed working this year. However, Mr. Chairman, I must strongly oppose this bill because in my judgment it is simply bad public policy. It makes no sense for the American taxpayer, it makes no sense in terms of energy policy, it makes no sense in terms of the technology assessment of this project that is already under way at the direction of the Congress, the findings of which will be submitted to the Congress by the middle of next year.

Mr. Chairman, I think it is important in the beginning that we understand the ultimate concept of the satellite power system as envisioned by its proponents.

Let me briefly describe what is involved. What the proponents of the satellite power system are proposing is to put into space 60 satellites, each 55 square miles in size—the size of Manhattan—covered with photovoltaic cells. These must be built in space some 22,000 miles from Earth. To put into space the construction materials and the personnel would require something in the neigh-

borhood of 15,000 rocket launches over a 30-year period. That is a launch a day for 30 years. It would require the development of a rocket that is 5 times larger than our largest existing rocket, the Saturn rocket. Once constructed in space, the photovoltaic cells on the satellites would convert sunlight into electricity, the electricity into microwaves, which would then be beamed to Earth to receiving antennas, each of which would require approximately 74 square miles of land. The microwaves would be reconverted to electricity and then transmitted over thousands of miles of high-voltage transmission lines to population centers. That, briefly, is the concept.

Mr. Chairman, what about the question of ultimate cost? DOE/NASA and aerospace industry studies show that the construction of the entire solar powered satellite system as I have described it would cost between $500 billion and $800 billion. Those conservative figures. The lowest figures that have come out in the course of the studies have been in the $500 billion range. Other estimates go into the trillions of dollars.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I would be pleased to yield to the chairman.

Mr. FUQUA. Mr. Chairman, the gentleman is making a statement but I do not think it is related to this bill. This bill does not authorize figures in the neighborhood the gentleman is referring to.

Mr. WOLPE. The gentleman is quite correct and I will be glad to address that point in just a moment.

Just to put the first satellite in place, Mr. Chairman, under the program envisioned by the proponents, would cost between $60 billion and $80 billion in Federal research and development money. To put that in perspective, that amounts to over 15 times the total Department of Energy fiscal year 1980 research and development budget. All of this would be happening at a time when we are talking about fiscal restraint and the need to curtail wasteful Federal spending.

Mr. Chairman, what do we get in the end, given the concept I have just described? Can we justify beginning the development of a project—and I concur with my chairman that we are talking about the beginning of that development in this bill not its completion—which has a projected ultimate cost of at least $500 billion to $800 billion, when this technology is expected to provide no more than 10 percent of our Nation's energy needs by the year 2025?

Mr. Chairman, not only does this technology represent a potentially tremendous drain on the National Treasury and on limited capital resources, but the prospective investment of such an enormous sum on one energy source threatens to dangerously distort our national energy research and development priorities.

Mr. Chairman, we have been told we ought to attend to what is happening in Iran today and to the importation of oil and our dependence on that oil. The strongest reason to be opposed to this legislation is that we need to be taking measures that will address that dependence on oil today. I would like to emphasize that this technology cannot make a sizable contribution to the Nation's energy needs until well into the next century. If the dollars go into this project they will not be available to encourage the development of a wide range of more immediately available, and less costly alternative energy technologies to address the urgent problem of our dependence on imported petroleum.

Now, Mr. Chairman, I want to address the point that was raised directly by the chairman of my committee. We are told this bill will not commit us to the entire solar power satellite project. We are told it is only a modest $25 million as a research effort. One of the central issues in the committee debate on the bill was the effort I made to eliminate any reference to the word, and concept, of development in the bill.

Mr. DORNAN. Mr. Chairman, I yield the gentleman 2 additional minutes.

□ 1220

Mr. WOLPE. Mr. Chairman, the effort to delete the concept of development from the legislation was strongly and unfortunately, in my judgment, successfully resisted by the bill's sponsors.

I submit that this bill is, in fact, the first step in an effort to commit us to the premature development of the entire solar power satellite concept.

Let me quote from a letter that I received from the National Taxpayer's Union, which has come out in strong opposition to the bill:

> Once we buy the hardware connected with this research, and have people working on it, we will find the valve to the Federal Treasury permanently stuck in the "open" position.

I submit that once the "foot is in the door," it will be extremely difficult to close again. Every development dollar spent this year will yield that much greater political and economic pressure for increased spending in following years.

All of that begs the point that right now we have in place a Department of Energy and National Aeronautics and Space Administration study—for which $16 million has been already appropriated—the initial recommendations of which are to be presented to this Congress in the middle of next year. This bill is an attempt to move this highly questionable technology into the development stage prior to the completion of the feasibility study that was mandated by the Congress.

This DOE/NASA study is examining the various technological, economic, societal, and environmental questions relating to satellite power station development.

We are told that there are many questions that cannot be answered, and that is correct; but the reason the Congress has commissioned the initial preliminary study is to determine whether we ought to be pursuing a further direction and, moreover, in what direction that research should be focused, if any.

To pass this legislation before the release of that study—while the jury is still out, and fundamental questions remain to be answered—would preempt this fiscally sound technology assessment process which the Congress itself has created.

The passage of this bill will increase pressure to continue the development of the SPS concept, regardless of the outcome of the DOE/NASA study. I strongly urge my colleagues to oppose this attempt to prematurely develop this costly and highly questionable technology.

Mr. FUQUA. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER), who is also a member of the committee.

Mr. OTTINGER. Mr. Chairman, I thank my chairman for yielding the time and I would echo the sentiments of the gentleman from Michigan. I have the highest regard for our chairman, the gentleman from Florida (Mr. FUQUA). It is only with great reluctance that I oppose the gentleman and it is because I very genuinely do disagree with him on this issue.

I would also like to acknowledge the really able work that has been done on this bill by the gentleman from Alabama (Mr. FLIPPO). The gentleman has pursued this very sincerely and very diligently for over a period of years now, and very ably. We just do not agree with respect to the advantages of the pace at which this project is being pursued.

I think that the so-called paper studies that are being conducted are proper to try and ascertain whether or not it would be advantageous for us to proceed further with this kind of a project and to be able to get much harder figures than we have at the present time with respect to its ultimate cost.

Indeed, in the hearings I indicated that I would support this bill if the money authorized would be confined to just further feasibility studies or studies on some of the very severe environmental problems that are likely to result from this technology if we ever put up a solar power satellite—as an example, microwave studies that would be useful to the Government, regardless of whether we proceeded with the solar power satellite—but the sponsors of the legislation were unwilling to make that limitation. They took out the word "demonstration" from the bill and said there is no intent here to demonstrate the technology; but they put in instead the words "technology verification."

I read from the report. Mr. Frosch, who is head of NASA, was asked what this technology verification amounted to and he said, "I can't really tell you."

The report says that the purpose of this bill is to augment the paper studies being conducted by the Department of Energy and NASA with a technology verification program. It says that the present studies are focused on establishing the overall feasibility of the solar power satellite concept through system definition studies and environment and socioeconomic evaluations so that development program directions can be defined, and I support that.

It says further:

> These studies are based on existing and projected information. Technology verification and technology advancement for the solar power satellite systems definition, environmental assessment, and socioeconomic assessment will require laboratory investigations, terrestrial testing, limited space experiments and continuing in-depth evaluation of environmental effects. . . .

And so forth.

Then the report says that the ground-based technology verification program that would be included in this extra $25 million, includes "energy conversion, materials, structures, electrical systems, radio frequency systems, flight control, space transportation, space construction operations," and so forth, and so what we are doing here is going far beyond merely studying the feasibility of this. We are getting into this technological verification area, which is going to involve procurement of materials, involve a certain amount of space testing and space experiments. It is going to involve construction, and what you are going to get is a vast increase in the commitment to this kind of a program. Once you get thousands of people who are working on this, you begin to get vested interests and it is very hard to stop.

Now, I fear that the National Taxpayer's Union, from which the gentleman from Michigan quoted, is right, that the real push from this comes from the aerospace industry and its desire to continue its operations at Federal expense.

The Taxpayer's Union letter says:

> H.R. 2235 comes at a time of a slowdown in space programs and that industry has been desperately seeking new wells to slake its thirst. We will be irretrievably committed to gargantuan Federal expenditures in the future. For once we buy the hardware connected with this research and have people working on it, we will find the valve to the Federal Treasury permanently stuck in the "open" position.

Mr. Chairman, I genuinely urge that this $25 million addition is going to get us too committed and we should not proceed with it at this time.

What we are getting committed to if we pass this bill and proceed with the project would be the largest Federal commitment in the history of our Government. We would contemplate a Federal R. & D. commitment of $40, to $80 billion and eventual costs of $500 billion to $2.5 trillion to put the system into operation. The capital required would drain the country of capital needed for other uses including alternate energy options. The environmental problems are horrendous. Other communications and defense problems are also serious and unresolved.

To make a major commitment now to proceed, in advance of completion of the feasibility studies this summer, would be unwarranted and unwise.

I urge defeat of the bill.

Mr. DORNAN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Chairman, I rise in support of the solar power satellite legislation, H.R. 2335. The Nation's so-called energy policy has lacked emphasis on the energy producing aspects for some time. This legislation will provide another step toward emphasizing the energy producing capability by embarking on a program that could conceivably provide a significant portion of our baseload electrical power requirements. Power that can be used to operate our factories, and run the dishwashers, and televisions in our homes.

The logical question to ask is why do we need this legislation now? The answer of course is obvious—we cannot afford to allow this Nation to become more and more dependent upon foreign energy sources. Every year we delay to develop our own environmentally acceptable energy supply contributes 1 more year to the ever increasing problem of international trade deficits. We cannot continue to turn our backs on this problem. We must face this problem squarely. This Nation possesses the most powerful technological enterprise in the world. This unique capability must be applied to resolving this problem.

Solar power satellites epitomize the utilization of high technology. Technology brought to bear not only to generate baseload electrical power, but produce to it in an environmentally and socially acceptable manner. The draftees of H.R. 2335 recognized the myriad of environmental and social problems which face a concept such as SPS and have addressed those concerns with reason and logic.

It is imperative that this body recognize this and does not fall into the trap of thinking passage of this legislation will mean acceptance of an enormous Government pork barrel. This Congress will have an opportunity to judge the merits of this program each and every year.

I urge my colleagues to support this bill, H.R. 2335.

Mr. FUQUA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Ohio (Mr. PEASE), also a member of the committee.

Mr. PEASE. Mr. Chairman, I rise also in reluctant opposition because of my loyalties to my committee and to my chairman and to my friend, the gentleman from Alabama.

Mr. Chairman, as a member of the House Science and Technology Committee which reported H.R. 2335, the Solar Power Satellite Research and Development Act, I signed the dissenting views in the committee report because of my conviction that the $25 million that the bill authorizes for fiscal year 1980 for a study of the satellite is an unconscionable waste of Federal money. In addition, the implementation of a solar power satellite is premised on a pie-in-the-sky expectation of the development of extraordinary technology. It would not only be unbelievably expensive, but the concept reaches science fiction proportion in its conception.

Although H.R. 2335 calls for $25 million this year to conduct a study of the solar power satellite by the Department of Energy and the National Aeronautics and Space Administration, the lowest estimate of total costs involved in implementing a full-scale system is $500 billion. Other estimates range to over $2.5 trillion.

Our major consideration today should be what is the best use of our Federal money to develop solar energy as a cost-effective alternative to oil, gas, and coal? How can we generate the most solar energy for the lowest cost? The Congress had already embarked on a very prudent decisionmaking course when it authorized the Department of Energy 2 years ago to assess the environmental, cost and societal aspects of the SPS and to compare it with alternative methods of generating energy. This study is expected to be reported to Congress in June 1980. At that time we will have a common basis of definitions and cost figures with which to determine the next logical steps in researching and developing the solar power satellite.

To approve H.R. 2335 today, without waiting for the results of the 3-year study we have already commissioned, renders our previous decision meaningless. Not only that, but we have already paid $16 million to study the concept of SPS including an appropriation of $5.5 million this year for operating expenses and for capital equipment for the study. Now supporters of the SPS would urge you to add $25 million for this year to bring the grand total to approximately $41 million. I cannot approve this waste of Federal dollars at a time when the Congress has had so much trouble setting spending priorities for this fiscal year because of the effects of inflation on our economy.

To center the debate on this legislation on the merits of a solar power satellite compared to other energy forms or to a terrestial solar installation is putting the cart before the horse. The 3-year study will be available in June, and at that point Congress will have information to debate the next logical step in researching and developing this proposal.

Next-to-nothing is now known about the cost/benefit ratio of SPS or the effects of microwave exposure on humans. Thus, it is pointless to compare SPS to other systems at this time or to offer this proposal to a desperate nation as a solution to all our energy problems. For example, it is my understanding that comparative studies between SPS and terrestial solar projects will be included in the findings of the present study.

An important and significant difference between H.R. 2335 and the current study is the inclusion of the word "development" in this bill. We are all aware that once development is underway—once equipment is purchased and people are hired—it is going to be exceedingly difficult to turn off the Federal funding spigot. We will then be asked to approve the Government expenditure of $60 to $80 billion that is estimated to be necessary to put up the first experimental satellite. I ask you to compare this $60 to $80 billion figure to the total amount the Federal Government spends today on energy research and development which is by contrast, an anemic $4½

billion. The politics of this proposal, as we are all aware, are that the more money there is in the pipeline, the more difficult it is to reverse the decision.

The administration is opposed to this bill because it is unnecessary at this time in light of the presence of the current study. H.R. 2335 would be a totally premature commitment on our part.

It is also interesting to note that the cost of photovoltaic cells, that are crucial to both SPS and the terrestial solar installations, is expected to be diminishing over the next 30 years. This is interesting because the lower the cost of these cells, the lower will be the cost of land-based solar systems. On the other hand, the cost of photovoltaic cells for SPS is quite small in relation to its total financial expenditures. Therefore, any argument for SPS couched in economic terms will become less attractive in the coming years.

I am a long-standing proponent of prompt and widespread development of solar energy. The positive features of solar energy are obvious and numerous. However, the SPS is taking a simple and benign solution and exaggerating it into exotic and possibly health-threatening technology. This program is a creature of the space industry—it is predicated on the development of satellites that are 12 miles long and 6 miles wide—to be constructed in space. These satellites will have to be built on space platforms with an estimated 400 people working in space or possibly, as some scientists have suggested, on the Moon. It will be necessary to build rockets that are five times the size of our largest existing Saturn rocket. It is estimated the launch vehicle will cost $10 billion just to develop—we are talking about a fantastically large enterprise and I ask you once again to consider whether these astronomical costs and this science fiction variety technology is the most efficient and most cost-effective method of fulfilling man's centuries-old dream of harnessing the energy of the Sun.

To decide how we can most wisely and efficiently go about the development of solar energy is a challenge before each of us here today. A thoughtful seeker of solutions to the problems posed by our dependence on foreign sources of energy can only conclude that approval of H.R. 2335 is premature and without justification at this time.

□ 1230

Mr. FLIPPO. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I am happy to yield to my friend, the gentleman from Alabama.

Mr. FLIPPO. Mr. Chairman, the gentleman is using dollar figures. He has not told us the source of his cost estimates. It is awfully hard for us to talk about dollar cost figures when unsubstantiated figures are presented.

Would the gentleman offer us some idea about the source of his figures?

Mr. PEASE. Mr. Chairman, I rely for my information on my good friend, the gentleman from Michigan (Mr. WOLPE).

Mr. FLIPPO. Mr. Chairman, I thank the gentleman very much.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I am happy to yield to my friend, the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, the gentleman from Michigan (Mr. WOLPE) and I have, along with the gentleman from Alabama (Mr. FLIPPO), done an extensive investigation as to what the real research and development costs are, and I think the facts of the matter are that there are no real costs at this point.

There is a JPL study that estimated $60 billion to $80 billion. The sponsors of the project estimated $40 to $80 billion. We have had an OMB study, and they have indicated those figures are perhaps too low, and that it would cost $70 billion to $80 billion just for research.

The gentleman from Alabama will undoubtedly quote a letter he just received from Donald Beattie, of NASA, indicating the costs in the JPL study are very much outdated. I think that is probably true. We talked to Mr. Beattie this morning, and he confirmed to me that he thinks those JPL studies are out of date, "but," he said, "I can't tell you what the real costs are—the range of $40 to $80 billion is probably still correct."

The fact is that this will be an enormously expensive project and we will not have firmer figures until the study commissioned by DOE and NASA is complete.

Mr. DORNAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I rise in support of the Solar Power Satellite Research, Development and Evaluation Program Act of 1979. This bill provides for a research, development and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth. It allows the Department of Energy and NASA to carry out needed research and development activities to consider the technical, environmental and socioeconomic issues regarding the viability of the solar power satellite concept.

There is no question that we must examine the feasibility of developing all practical, renewable energy sources if we are to satisfy our future energy demands. I have long been an advocate and strong supporter of our Federal programs to help us tap the great potential offered by the Sun. Collection of solar energy in space is one such option, and offers us a potentially attractive method that deserves further consideration.

I believe that we would be remiss if we did not further study the solar power satellite concept. Solar power satellites may one day prove to be a cost-efficient way of solving our future energy problems. Mr. Chairman, I do not think that any of my colleagues would disagree with the fact that there are still numerous and important questions—environmental, safety, health—that have to be resolved before we can proceed with the actual construction of a solar satellite.

However, I believe that we must now try to answer these questions. While solar power satellites represent a huge financial undertaking by any standard, I would like to point out that H.R. 2335 only authorizes $25 million to determine if we should pursue this particular application of solar energy. It does not commit us to any imprudent, huge expenditure of funds at this time, but only calls for the formulation of a national program plan to determine the feasibility of solar power satellites. Today, we are not embarking on any long range commitment. Should we ever decide to build these satellites on a huge scale, it will only be after a detailed evaluation of their economics, and after it is clear that they would be more cost effective than other ways to generate electricity.

H.R. 2335 reaffirms our willingness to examine the merits of all possible energy sources. Today we are limited to paper studies. This bill allows us to investigate in more detail an energy source of unlimited potential. The solar power satellite program shows enough promise to warrant further consideration now. These satellites may one day prove to be a viable alternative to the construction of additional conventional central generating plants, fossil or nuclear.

Part of our energy dilemma today is our late start in developing alternative sources. Let us not repeat this mistake, but rather have the vision to look decades into the future.

Mr. FUQUA. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Alabama (Mr. FLIPPO), the prime sponsor of the bill and one Member who has worked very hard on this bill. I will not take up the time of the committee too long, but I do want to commend the gentleman from Alabama (Mr. FLIPPO) personally for the dedication and hard work he has done in spearheading this effort and bringing this bill to the floor.

Mr. FLIPPO. Mr. Chairman, I thank the chairman of the committee.

Mr. Chairman, the recent history of our Nation in dealing with energy is replete with missed opportunities. For more than 40 years the Congress and the executive branch have been trying to develop programs and policies that would reduce our dependence on oil and increase our use of our vast coal resources and other energy alternatives.

We have, on a number of past occasions, started down the road toward a viable synfuels program, or a conservation program or other energy research and development programs only to turn back before reaching our goal. At times we simply caved in to powerful groups protecting their own special interests. At other times, we foolishly stopped because the search for an energy alternative seemed to be too costly, unnecessary, or environmentally unsound. We are now at the point where this Nation can ill afford to cast aside a potential source of energy.

The short-term outlook for energy is bleak. The OPEC nations are increasing the price of oil with impunity. The OPEC pricing decisions are based on their own peculiar political and economic reasons. The spot price of oil has recently reached $48 per barrel.

Sheikh Yamani of Saudi Arabia recently stated that we would probably not have any gasoline lines in the United States in 1980. This sounds like good news until you consider the underlying assumptions of this forecast. The oil minister's prediction of no shortages in 1980 is predicated on no disturbances in the Middle East and the adoption of strong conservation measures in this country.

The sheikh went on to predict serious spot shortages of oil in the United States in 1981 and 1982. In 1982 these shortages will be chronic, deep, and of long duration.

We are in this deplorable position of costly dependence on foreign suppliers because we have failed to seize the opportunities offered to us in the past to develop energy alternatives. We are now in the position of paying more for less, jeopardizing our national economy and security simply because we failed to reject specious arguments of those who opposed new energy initiatives in the past.

The long-term outlook for energy is not much better. We are now taking the steps necessary to improve our energy situation over the next 20 years. We are just beginning now, this session, to create the programs and invest the funds necessary to help us develop synfuels and other alternative sources that will come on stream soon.

We are not, however, giving enough attention to the energy needs we will have after the turn of the century. This Nation is pursuing one long-term option—nuclear fusion—but, not with the vigor and financial support necessary to insure that it will be available when needed.

The only other long-term option now in view is the solar power satellite. It is time we moved ahead on this program so that we will have an opportunity to make a wise decision on the use of solar power satellites as a means to provide a clean and inexhaustible supply of energy. The current paper studies are inadequate to provide us with the necessary information to make an intelligent decision about the role of SPS in meeting our future needs. Current energy policies provide only short-term answers to long-range problems.

It is a great risk for our Nation to continue to depend on nuclear technology, shrinking supplies of expensive fossil fuels and undependable foreign sources of oil without having a viable alternative source of energy. We must begin to control our own destiny by using our immense scientific and technological capabilities to develop long-range solutions. SPS is one option which shows great promise. But, here we are today, listening to individuals who want to block the basic research necessary to fully and adequately investigate this energy alternative. Their arguments are based on exaggerated cost and erroneous environmental consideration. These arguments sound like excerpts from CONGRESSIONAL RECORDS of the 1940's and 1950's with sinister conspiracies lurking behind any attempt to explore something new or investigate something different. Then, just as here today, opponents of nontraditional energy research and development posed similar arguments against progress, new concepts, and the future. That old maxim is still relevant today—"Those who fail to read history are doomed to repeat it."

The arguments of the opponents of this bill remind me of the statement Dr. Vannevar Bush said in December 1945 about the possibility of developing intercontinental missiles. Dr. Bush said:

> I say, technically, I don't think anyone in the world knows how to do such a thing, and I feel confident that it will not be done for a very long period of time to come . . . I think we can leave that out of our thinking. I wish the American public would leave that out of their thinking.

I urge you to reject the negative views of the few who want to delay or stop research on this important energy concept. This Nation cannot afford the luxury of stopping research on any energy option, particularly one which shows such great promise as a means to plug into the vast energy resource, the Sun. A vote for H.R. 2335 is not a vote for an expensive new space program. It would not be a mandate for an expensive demonstration unit. A vote for H.R. 2335 simply would be a vote for a ground-based exploratory research and technical verification. It would be a vote for additional research on a promising source of energy. I urge your support.

□ 1240

Mr. DORNAN. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I think it is ironic to hear some of my colleagues, such as the gentleman from Michigan (Mr. WOLPE), the gentleman from New York (Mr. OTTINGER), and, certainly, the gentleman from Ohio (Mr. SEIBERLING), stand up here and speak against solar energy, when year after year they were standing in the well doing just the opposite. It is difficult for me to understand their complete opposition to another solar program here which has the possibility, certainly as much possibility, as such programs as wind energy that is being funded to the tune of $43 million just this year and especially in relationship to the cost/benefit ratio.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, one of our real concerns is that this is a question of the space industry trying to jump on the bandwagon of solar's popularity. They are going to use up all of the capital that would be available for development of terrestrial solar energy, as well as the capital that is needed for all kinds of other purposes in this country. If the estimates are anywhere near in the ballpark, putting up such a system would cost, say, more than $1 trillion. That is an astronomical sum of money, and I think it would prevent us from going ahead with the sound solar energy programs which the gentleman has very strongly supported and which I have very strongly supported.

Mr. GOLDWATER. Mr. Chairman, I will point out to my colleagues that NASA is very much involved in the whole energy picture. They are running our complete engine program. They are very much involved in the wind program and other energy sources. But nevertheless, I recall sitting with my friends back in 1974, when the solar budget was less than several million dollars, and today it is close to $1 billion, and certainly the gentleman and others were a driving force behind building this budget up to $1 billion to investigate, to research, and develop solar energy. So I am just kind of amused to find that now, all of a sudden, they are reversing themselves and they are appearing to be opponents of solar energy. I am not sure where the rationale really stands.

I think, Mr. Chairman, that this is a good program and it is certainly worthwhile exploring it. I think there is a question of the level of spending. So far we have spent about $20 million since 1977 exploring this solar power satellite concept. I am curious as to what this money is going to be spent for. I am always curious, from the standpoint of solar energy, that we are not going too fast and, in essence, wasting money. I would be hopeful that if in fact this bill is accepted and it becomes law that the committee will follow up with a great deal of oversight to make sure that this money is being spent wisely and not just as another employment bill. I think the solar power satellite certainly has potential. Any potential I think we should be exploring with basic research and development. But nevertheless, I think just throwing money at some of these programs is not going to bring us any closer to a solution.

Mr. Chairman, I will support this bill, even though I perhaps have some reservations as to the amounts of money. I have no reservation over the program itself. I would only be hopeful that the members of the committee who are following this, such as the gentleman from Alabama (Mr. FLIPPO), and others, will watch it very carefully to make sure we are in fact getting our money's worth.

In addition to that, Mr. Chairman, I think a viable question is, from here, what happens in 1981 and 1982? What are the funding levels projected and what are the projects envisioned? We have not heard any dissertation or clarification of this, and I am wondering if my colleague, the gentleman from California, can shed any light on what it is we are going to be doing with this money and what do we see projected for the future.

Mr. DORNAN. If the gentleman will yield, Mr. Chairman, I am glad the gentleman asked the question. As the gentleman has already pointed out, in a period of our Federal history when every single tax dollar is important, total honesty and sunshine in every piece of legislation is beneficial, and that is the way to get the proper support of the American people.

What I have liked about this program from the beginning is that no one on

either side of the aisle has ever said that it would not be expensive. Next year's projection will be somewhere in the neighborhood of $25 million, the following year, $50 million, then $75 million, and $75 million, and $45 million. That is a 5-year program totaling $270 million. However, the important aspect here is that all the way along in this program there are decision points where, if some aspect of the program, including a decision that it is a total waste of time, that we are on a dead-end street, then all money and funding stops at that point.

In this first funding cycle, in 1981, there are several areas we will go into. For example, selecting a preferred system, maybe solid state to amplifiers, or a laser power beam would be better than the microwave route. Under conducting a definitive environmental analysis and all of the experiments and systems there involved, we would be looking at the health and ecology aspects, the atmospheric impacts.

At every single point, the way this bill has been structured—and that is why I complimented the gentleman from Florida (Mr. FUQUA) and the gentleman from Alabama (Mr. FLIPPO) for their leadership—there is an opportunity to evaluate exactly where we are going year by year so that we do not go off on some sort of an approach where we take a serendipity attitude and say, "Well, let us just spend the money because it is futuristic, it is space and exciting."

In other words, I would say to my distinguished colleague, the gentleman from California, there is no Governor Moonbeam, if I may refer to our own Governor, there is no Governor Moonbeam of just playing around with a million dollars just so you can talk about how visionary you are.

Mr. GOLDWATER. I thank the gentleman for his contribution.

Mr. Chairman, there have been a lot of people who have been a driving force behind solar power satellites in this country. There is no one who has made a greater contribution than Christopher Kraft, Director of the Houston Space Flight Center, and one of the originators of our space program. He has taken an intelligent approach and certainly has presented the necessary arguments that make it viable to proceed.

Mr. DORNAN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. WALKER).

□ 1250

Mr. WALKER. Thank you, Mr. Chairman. I thank the gentleman for yielding.

I think it is important to deal with this question of cost, because I think that it may be one of the key reasons for Members of Congress to support the particular bill we have before us.

I think what we should be talking about is an investment to build upon investments already made in space. We have invested a great deal of money in the space program over the years. The promise of the space program has been that some day we would be able to use space for the benefit of this country and for the benefit of the world. That is billions of dollars we have put forward toward an attempt to some day commercialize outer space. This program, the solar power satellite, is one of the real hopes that we have of early commercialization of space that can be used for the benefit not only of this Nation, but all mankind.

What we propose is to get something out of an investment that the American taxpayers have already made to a substantial degree.

I also think that it is important to recognize the kind of investment that is already in place in our energy systems across the country.

Solar has to be viewed as a mode of the future for energy, not only in narrow categories but in the broadly based categories that build upon our present energy systems.

I do not think that we can only regard solar energy as that which we can put onto a roof.

I think solar energy can be something which is a broadly based kind of energy source for our future.

What am I saying? We have already made an investment in massive utility grids across this country. Here is an opportunity to use solar power to tie into those utility grids and give industry and home owners and everyone an opportunity to utilize the benefits of the Sun.

What I am afraid is that much of the opposition to this particular brand of solar energy development is more based upon social philosophy rather than economic considerations, because the social philosophy being represented is one of, if it is not an individualized solar reflector upon the roof, it somehow does not fit with what we think solar should be.

I do not think solar is one-directional. I think it can be multidirectional. I think an investment at this time to study the concept, to do some research on the concept, to find out whether it is feasible, whether further investment should be made, is perfectly appropriate.

I think it would be well for this Congress to approve this legislation.

● Mr. WOLFF. Mr. Chairman, I rise in support of H.R. 2335. This bill authorizes $25 million in fiscal year 1980 for the Department of Energy to conduct research and evaluate the merits of solar satellite power. The measure calls for DOE to work with NASA to resolve any major technical problems associated with solar satellites, and to plan for a comprehensive solar satellite program.

The concept of a solar satellite involves positioning a satellite with photoelectric panels so that it is continuously illuminated by the Sun and transmits electricity to the Earth via microwaves.

I believe that in this time of high energy demand, our Nation must explore all the options available to us in the energy field. Solar energy is a very viable alternate energy source for the future, and an option which we cannot afford to ignore. A solar power satellite system (SPS) can offer us a substantial portion of our Nation's energy supply without the pollution problems and dangers associated with fossil fuels and nuclear power respectively. In addition, a solar power satellite system would stimulate U.S. industry and the development of high technology, as well as enable the United States to export energy.

I am well aware of the fact that the SPS concept has problems ranging from environmental impacts, to economic costs and social consequences. For just this reason, I urge my colleagues to support this measure. Now is the time to carry out an extensive research and development program in order to answer the many questions and solve the problems associated with SPS. Let me make it clear that this bill calls for the continuation of research on SPS, not a commitment to build a satellite system. I emphasize that our Nation's energy situation demands that we explore every possible energy alternative. Thus, we certainly cannot afford to disregard as attractive an option as solar energy, which could provide us with a nonexhaustive generator for heat and electricity.

I have long advanced the efforts to expand solar energy, and am happy to have the opportunity to lend my continued support for research in this area. I commend the gentleman for introducing this legislation, enabling us to keep all of our options open and explore an avenue which has great potential for our future energy situation.●

● Mr. HARKIN. Mr. Chairman, I rise in support of H.R. 2335 to provide for research, development, and evaluation activities to examine the feasibility of collecting in space solar energy to be transmitted to the Earth and to generate electricity to meet the world's energy needs. In the years ahead this Nation and the world will need an inexhaustible and reliable energy source to replace our conventional energy supply which can only diminish with time. Clearly, no single source of energy will serve to meet our needs. We need to have a number of feasible options so that we may choose those energy sources which are efficient, socially, and environmentally acceptable.

The bill before us today, H.R. 2335, will help us determine if solar power satellites have a place in meeting our future energy requirements. It is a simple bill which defines roles in our executive branch, calls for a detailed plan, and establishes a technology verification program to help assure that no long-term commitment to the solar power satellite system is made until we have reasonable answers to the environmental and economic questions which need to be answered not only for the solar power satellite concept, but also, for any and all energy concepts which this body will reconsider in the years ahead.

Questions have been raised as to the soundness of such a system. These questions are serious and important. Only through undertaking the technology verification program, proposed in this legislation, will the Congress obtain the answers it needs to make a decision to proceed or not to proceed with development of the solar power satellite concept. To not explore a potential solution to meet

our energy needs such as the solar power satellite concept would mean that we would be ignoring a potentially inexhaustible energy supply which could be made readily available to any part of the world. Safeguards have been placed in H.R. 2335 to assure that the plan to be developed by the Department of Energy and NASA will not commit our Nation to an energy system which fails to meet sound economic and environmental standards.

I urge the support of every Member of this body for this important legislation.●

● Mr. WINN. Mr. Chairman, I rise in support of the legislation, H.R. 2335, and encourage my colleagues to do the same. This bill represents a very rational method for answering the technological questions associated with the solar power satellite concept.

In the very early stages, this concept seemed so far out that it did not require much attention. After 10 years of preliminary studies it is obvious that this is the furthest from the truth. This system has a great potential of providing a major portion of the baseload electrical power requirements of this Nation. In fact, some estimates indicate that 30 percent of the required electrical power could be provided by the solar power satellite system between the year 2000 and 2025. This represents a potential that cannot be ignored.

This legislation will establish a joint effort between the Department of Energy and the National Aeronautics and Space Administration directed at answering many of the technological questions relative to the solar power satellite. However, it must be emphasized that this legislation in itself does not make a commitment to a demonstration satellite. In fact, the legislation specifically states that this will be a separate decision point.

At the present time, the paper studies have revealed that there are no technological barriers to the concept. This implies that we do not have to develop any basic science to construct such a system. This represents the real advantage to the solar power satellite concept. Every scientific principle required in this system has been demonstrated from the photovoltaic conversion of sunlight to electricity to the microwave transmission of the power.

The questions that remain to be answered are engineering questions; such things as optimum microwave transmission frequencies, best microwave beam density, effects of low-level microwave exposure, fabrication techniques for large satellites in orbit. These are just a few of the engineering questions that this legislation will address—questions which are not presently being answered. The current NASA/DOE program is addressing some of the technological questions but it is predominantly paper studies—we must perform some critical laboratory-type experiments to answer these essential questions—questions which must be answered before decisions can be made about the integrity of the concept.

Mr. Chairman, it is time that we give this concept the attention that its potential warrants. We must face the fact that solar power satellites and nuclear power are the only sources that offer the potential of providing long-term base load electrical power. For this reason, this concept should not be viewed as being competitive with such concepts as terrestrial solar or wind. On the contrary, they should be viewed as complementary.

In closing, I would like to comment on the cost of such a system. I have heard the opponents of this concept quoting cost of a commercial system as a primary deterrent to pursuing this technology. These cost figures vary from $400 to $500 billion dollars. There are two points which I would like to make regarding those figures. First, these figures are very inaccurate due to the maturity of the concept. There are many technological questions which must be answered before a good estimate can be made. In fact, that is one of the primary justifications for the legislation.

Secondly, anytime we discuss figures we must keep those figures in proper perspective. For example, the current electric power producing capability of this Nation was built at an investment of approximately $200 billion in fiscal year 1975 dollars. To increase that capability by approximately 50 percent, using conventional techniques, would cost nearly $500 billion which is quite comparable to the solar power satellite estimates, the point being that there are no inexpensive techniques for generating base load electrical power.

This legislation is needed. We have an obligation to the American taxpayer to develop the potential of this high technology system. Consequently, I urge my colleagues to support this legislation.●

● Mr. WYDLER. Mr. Chairman, I rise in support of H.R. 2335, the Solar Power Satellite Research, Development, and Evaluation Program Act of 1979. The legislation has strong committee support, as indicated by the unanimous voice vote to report the bill from committee.

In the past years, I have witnessed continued attacks on nearly every energy producing concept which has been brought before this body. We have seen the use of coal attacked because of the air pollution; nuclear is attacked because of the safety; hydroelectric power is attacked due to the impact on the wilderness and land usage in general. The only conclusion I can draw from this response is that there is no perfect energy source that will satisfy all of the needs and concerns of every interest group. Further, I feel that what this implies is that future energy sources must be diverse. We cannot allow ourselves to fall further into the energy trap of foreign dependence that we find ourselves in today. We must develop a diversified approach to energy supply that takes advantage of the natural resources and technological capability of this Nation. The solar power satellite, if the research and evaluation process shows positive results, could play an integral role in resolving that problem by providing baseload electrical power to the Nation and even the world.

This legislation is unique because it lays out a very rational, step-by-step plan to not only evaluate the energy-producing systems but also consider the environmental concerns, utility interfacing and societal problems. In addition, the legislation is very explicit in stating that passage does not commit the Nation to a multibillion-dollar demonstration program. That is an entirely separate decision and would be faced no sooner than 5 to 10 years in the future. In the meantime, this program will be reviewed by the Congress on an annual basis and will provide an opportunity for serious scrutiny.

Mr. Chairman, this is a good piece of legislation that warrants the support of the Congress. Similar legislation was passed with overwhelming support from the House in the 95th Congress and similar action will hopefully encourage the other body. I urge my colleagues to support this legislation.●

Mr. BAUMAN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The call will be taken by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 646]

Abdnor	Daniel, R. W.	Hagedorn
Addabbo	Danielson	Hall, Ohio
Akaka	Dannemeyer	Hall, Tex.
Albosta	Daschle	Hamilton
Ambro	Davis, Mich.	Hammer-schmidt
Anderson, Calif.	Deckard	Hanley
Andrews, N.C.	DeLlums	Hansen
Annunzio	Derwinski	Harkin
Anthony	Devine	Harris
Applegate	Dixon	Hefner
Aspin	Dodd	Hightower
Atkinson	Donnelly	Hillis
AuCoin	Dornan	Hinson
Bafalis	Dougherty	Hollenbeck
Bailey	Downey	Hopkins
Barnes	Drinan	Howard
Bauman	Duncan, Tenn.	Hubbard
Beard, R.I.	Eckhardt	Hughes
Beard, Tenn.	Edgar	Hutto
Bedell	Edwards, Okla.	Hyde
Bellenson	Emery	Ichord
Benjamin	English	Ireland
Bennett	Erdahl	Jacobs
Bereuter	Ertel	Jeffords
Bethune	Evans, Del.	Jeffries
Bevill	Evans, Ind.	Jenkins
Biaggi	Fascell	Johnson, Colo.
Bingham	Fazio	Jones, Tenn.
Blanchard	Ferraro	Kastenmeier
Boner	Fish	Kazen
Bonior	Fisher	Kelly
Bouquard	Fithian	Kildee
Breaux	Flippo	Kindness
Brinkley	Florio	Kogovsek
Brodhead	Foley	Kostmayer
Broomfield	Ford, Mich.	Kramer
Brown, Calif.	Ford, Tenn.	LaFalce
Broyhill	Forsythe	Lagomarsino
Buchanan	Fountain	Latta
Burgener	Frenzel	Leach, Iowa
Burlison	Frost	Leach, La.
Burton, Phillip	Fuqua	Lederer
Butler	Gavdos	Lehman
Byron	Gephardt	Leland
Campbell	Gibbons	Lent
Carney	Gilman	Levitas
Carr	Gingrich	Lewis
Carter	Goldwater	Lloyd
Chappell	Gonzalez	Loeffler
Coleman	Goodling	Long, La.
Collins, Ill.	Gore	Lott
Collins, Tex.	Gramm	Lowry
Conable	Gramley	Luken
Conte	Gray	Lundine
Corcoran	Green	McClory
Coughlin	Grisham	McCormack
Courter	Guarini	McDade
Crane, Daniel	Gudger	McDonald
	Guyer	

McHugh
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Purselll
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Rudd
Russo
Sabo
Satterfield
Sawyer
Schulze
Selberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Tauke
Thomas
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

□ 1300

The CHAIRMAN. Three hundred and one Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. FLIPPO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. HIGHTOWER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2335) to provide for a research, development, and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes, had come to no resolution thereon.

□ 1310

CONFERENCE REPORT ON H.R. 4930, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. YATES. Mr. Speaker, I call up the conference report on the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of November 8, 1979.)

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. YATES) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. McDADE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, first, may I express my gratitude to the leadership on the minority side and to my colleagues in the House for their cooperation in permitting me to bring up the conference report on the bill ahead of its normal legislative schedule. Ordinarily I would not have requested the indulgence of the House, but the report that we are talking about contains funds for the fuel assistance program.

Mr. Speaker, we are already much too late in having taken action on that bill. I heard this morning as I listened to the radio driving to the House that the first snowfall of the winter is already expected in my home city of Chicago tomorrow. I think it is well that we pass this report today. I am told that the other body expects to consider it later in the day, and from then on we hope that the executive branch will be expeditious in taking action on the bill.

Mr. Speaker, this is a good conference report. It provides a total of $30,304,887,000, which is $17,979,661,000 above the 1979 appropriations. It is $225 million above the budget estimate. It is $733,240,000 above the Senate bill and $20,072,917,000 above the bill that was approved by the House. It must be noted in connection with the figure above the House, Mr. Speaker, that the Senate considered $21,676,768,000 in budget estimates that were not considered by the House. The estimates included $20 billion for an alternative fuels reserve and $1,350,000,000 for low-income fuel assistance.

Mr. Speaker, I propose now to describe what the conference did on the fuel assistance program. Of the $1,350,000,000 made available for the low-income fuel assistance program, $150 million is for the Community Services Administration to be distributed to the States on a block grant basis, along with $1,200,000,000 for the Social Security Administration. Of that amount $400 million is to be distributed to the States for energy replacement costs for supplemental security income recipients. This $400 million is distributed, one-third based on heating degree days squared, times the number of households below 125 percent of poverty. One-third is distributed on the basis of the difference between heating energy expenses that occurred between 1978 and 1979, and the remaining one-third is distributed in proportion to the number of SSI recipients in a State to the total number of SSI recipients in the United States. There is a cap of $250 per SSI recipient. The $800 million remaining in the Social Security Administration is distributed to States as follows: 50 percent based on the heating degree day squared times households below 125 percent of poverty, and the remaining 50 percent based on the difference between heating energy expenditure changes between 1978 and 1979.

In the event the State provides an approved distribution plan, the money to the State may be distributed on the basis of that plan. If the State does not have an approved plan, the State's allocation would be distributed to AFDC recipients within the State. In my opinion, this is a better bill than the one which passed the House a few weeks ago.

It is our intention with respect to low-income fuel assistance that HEW be responsible for auditing the program. The Secretary should make available the necessary administrative funds to accomplish that from funds available for State block grants.

Mr. Speaker, may I in passing express my gratitude to the distinguished chairman of the Labor-HEW Subcommittee of the Committee on Appropriations of the House, the gentleman from Kentucky (Mr. NATCHER), for his outstanding cooperation in connection with our working out the formula, and also to my good friend, the gentleman from Massachusetts (Mr. CONTE) who presented the amendment that was accepted by the conferees that resulted in breaking a deadlock that seemed to be growing in the conference committee.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding. I want to commend the chairman of the Interior Appropriations Subcommittee and the gentleman from Kentucky (Mr. NATCHER), the gentleman from Mississippi (Mr. WHITTEN) and, of course, the gentleman from Massachusetts (Mr. CONTE) for their work on this crisis intervention fund and the emergency assistance program. It is terribly important, I think, that the House has prevailed in terms of the amount in terms of House Concurrent Resolution 430, and in terms of the distribution formula which is much more equitable.

I wish to commend all the members of the conference committee for maintaining the House position regarding the low-income energy assistance provision.

There are two aspects of this section which deserve special note. The conference approved the higher funding level as contained in House Concurrent Resolution 430. The report also contains the House version of the allocation formula. This is critically important because this provision gives the appropriate recognition to cold weather factors which any low-income energy assistance program should reflect. This report also maintains the dual nature of assistance. It provides for a general energy assistance program for low income and elderly persons specifically assuring assistance for AFDC and SSI recipients who will be faced with increasing energy bills. In addition, the crisis intervention program funding is expanded and formula revised to insure that those individuals faced with severe financial problems can prevent their source of heat from being discontinued. I have heard objections from some on the formula change that CSA initially used, but in all fairness to that formula, the only legislative guidance that CSA had, was misconstrued. Those that demand that we adhere to it fail to point out that it considered all household energy cost increases rather than just heating costs. If there is sentiment for such meaningful energy assistance let's not try to pass it off as cold weather assistance.

Mr. Speaker, there is no way that we can totally make up the outrageous price increases that are resulting from OPEC and the multinational oil companies conduct, rather we should address effectively and realistically the problems inherent in decontrol of oil and middle distillate products rather than follow the path of accommodation. This program of emergency fuel assistance, hopefully to be funded by the windfall profits tax which is languishing in the U.S. Senate, will obviously not meet all the needs, but it is the best we can do at this point.

The Congress can be justifiably proud of our swift action to attempt to prevent the tragedy which could affect millions of people in this country. It has only been 3 weeks since the Javits' amendment was added to the Interior appropriation, and in that short period of time this Congress has responded. Because this legislation will not serve all the families and individuals who are adversely affected by the rising costs of home heating, it is incumbent upon the States to design and provide sufficient funding for their own unique situations.

Mr. Speaker in addition to the members of the conference committee, I wish to commend the House leadership. It is a result of the visable advocacy of the leadership that this issue was brought, so swiftly, to a resolution.

Mr. YATES. I thank the gentleman.

In the field of energy, Mr. Speaker, the conferees have agreed to a $19 billion energy security reserve to stimulate the domestic commercial production of alternative fuels and a $1 billion solar and conservation reserve. That figure is important in view of the debate on the bill that was in the Committee of the Whole a few minutes ago and which resulted in the Committee's rising.

Of the $19 billion in the energy security reserve, $2,208,000,000 will be appropriated immediately. The balance of the reserve will be provided in subsequent appropriation acts.

May I say, Mr. Speaker, in passing that the $19 billion in the reserve will only be available on the basis of further appropriations.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. YATES. I would be glad to yield to the gentleman from Maryland. I may say in passing that I appreciate the gentleman's cooperation in permitting us to bring this bill to the floor.

Mr. BAUMAN. I thank the gentleman for yielding. I appreciate the gentleman's cooperation regarding certain funds contained in this bill. I had a question about some other matter, and that is amendment No. 74 which the gentleman has just mentioned. As I understand the language that he proposes or will propose, it says that there is hereby established in the Treasury a special fund to be designated as the energy security reserve to which is appropriated $19 billion to remain available until expended. That appears to the gentleman from Maryland to be an appropriation of $19 billion; yet the gentleman contends that that will not be available until another appropriation occurs in the future.

Mr. YATES. The gentleman from Illinois makes that contention. There is specific language in the conference report to that effect, that until further appropriation bills are approved by the Congress, no funds will be made available from that reserve.

□ 1320

Mr. BAUMAN. Does that mean, if the gentleman will yield further, that if the so-called synfuels program does not produce the kind of activity that we foresee that we could withhold further approval of funds in the future, despite this $19 billion appropriation?

Mr. YATES. May I say to the gentleman whatever program, respecting synfuels, is adopted by the Congress, no funds will be made available for that program out of the $19 billion reserve until the Congress approves the money through the appropriations process.

Mr. BAUMAN. To begin that program this year the gentleman proposes in excess of $1 billion?

Mr. YATES. We propose $2,208,000,000 to initiate the synfuel program.

Mr. BAUMAN. Mr. Speaker, the last question I have of the gentleman is, if neither of these programs, the fuel assistance program or the synfuels program, are authorized by current law, what will happen when the Congress addresses itself finally and those laws, the authorizing bills, are signed? Does your appropriation language govern how the programs will be conducted?

Mr. YATES. It is my opinion that the appropriations language will govern, I will say to the gentlean. This is an appropriations bill.

Mr. BAUMAN. Well, then what the gentleman is saying is that we are about to vote on the major energy initiative we will ever address in this Congress. This is the authorizing bill and appropriating bill——

Mr. YATES. May I say to the gentleman, this is a major energy initiative but it is in the appropriations process. It is the beginning of the energy program and subsequent authorizing legislation will also control the direction of that program. For example, the bill that was passed by the House and which is now over in the other body provides certain standards and legislative formula for the energy program. They will control. In the meantime, this language that is in the appropriation bill will govern.

Mr. Speaker, I would like to make one further point: The definition in the bill is important. We make available purchase commitments and price guarantees for alternative fuels. These are defined as gaseous, liquid, or solid fuels and chemical feedstocks derived from coal, shale, tar sands, lignite peat, biomass, and, may I say that biomass includes alcohol to extend gasoline in the form known as gasohol solid waste, unconventional natural gas, and other minerals, or organic materials other than crude oil or any derivative thereof; $700,000,000 is provided, including $100,000,000 for project development feasibility studies, $100,000,000 for cooperative agreements to support commercial scale development of alternative fuels facilities and $500,000,000 for a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities as authorized by the Federal Nonnuclear Energy Research and Development Act of 1974 as amended. This reserve is one-third of a total loan guarantee or commitment not to exceed $1,500,000,000. This is a significant change from the bill as passed the House which included only $1,500,000,000 for purchase, commitments, or price guarantees as authorized by the Moorhead Act. The program, as agreed by the managers, will expedite the domestic development and production of alternative fuels to reduce the dependence on foreign supplies of energy resources by establishing domestic production at the earliest time practicable.

In addition to those two major changes, the conferees made many changes in the balance of the bill which deals primarily with the resource management agencies of the United States. The conferees agreed to provide $300,000,000 for land and water conservation fund grants to States. This is $100,000,000 above the amount proposed by the House and $59,307,000 below the amount proposed by the Senate. The State share is 61 percent of the total amount appropriated which is subject to sharing. Additional information on agreements reached by the managers is contained in House Report 96-604, which is printed in the CONGRESSIONAL RECORD, November 8, 1979, p. 31565.

I should like to make reference to one item relating to the Smithsonian Institution—the proposed south quadrangle complex. The conferees struck out planning funds of $250,000 in order to provide an opportunity for further reviews of certain aspects of the project.

Mr. Speaker, I include at this point in the RECORD a table comparing new obligational authority recommended in the bill for 1980, and the respective recommendations contained in the House and the Senate bills in comparison thereto.

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1980	Estimate, 1980	House bill	Senate bill
TITLE I—DEPARTMENT OF THE INTERIOR									
LAND AND WATER RESOURCES									
Bureau of Land Management									
Management of lands and resources	$342,756,000	$296,231,000	$295,361,000	$295,836,000	$301,896,000	−$40,860,000	+$5,665,000	+$6,535,000	+$6,060,000
Acquisition, construction, and maintenance	19,011,000	16,343,000	16,343,000	16,343,000	16,343,000	−2,668,000			
Payments in lieu of taxes	105,000,000	108,000,000	10,000,000	108,000,000	108,000,000	+3,000,000			
Oregon and California grant lands (indefinite, appropriation of receipts)	55,000,000	55,000,000	55,000,000	55,000,000	55,000,000				
Range improvements (indefinite, appropriation of receipts)	8,665,000	10,900,000	10,900,000	10,900,000	10,900,000	+2,235,000			
Recreation development and operation of recreation facilities (indefinite, special fund)	300,000	300,000	300,000	300,000	300,000				
Service charges, deposits, and forfeitures (indefinite, special fund)	13,750,000	13,750,000	13,750,000	13,750,000	13,750,000				
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000	100,000	100,000				
Total, Bureau of Land Management	544,582,000	500,624,000	499,754,000	500,229,000	506,289,000	−38,293,000	+5,665,000	+6,535,000	+6,060,000
Office of Water Research and Technology									
Salaries and expenses	28,357,000	30,739,000	30,977,000	30,522,000	30,781,000	+2,424,000	+42,000	−196,000	+259,000
Total, Land and Water Resources	572,939,000	531,363,000	530,731,000	530,751,000	537,070,000	−35,869,000	+5,707,000	+6,339,000	+6,319,000
FISH AND WILDLIFE AND PARKS									
Heritage Conservation and Recreation Service									
Salaries and expenses	15,174,000	14,954,000	15,656,000	15,289,000	15,351,000	+177,000	+397,000	−305,000	+62,000
Urban park and recreation fund	20,000,000	150,000,000	125,000,000	125,000,000	125,000,000	+105,000,000	−25,000,000		
Land and water conservation fund (indefinite)	737,025,000	508,000,000	447,059,000	554,547,000	509,194,000	−227,831,000	−88,806,000	+62,135,000	−45,353,000
Pinelands National Reserve		12,000,000	12,000,000				−12,000,000	−12,000,000	
Historic preservation fund	60,000,000	45,000,000	50,000,000	67,500,000	55,000,000	−5,000,000	+10,000,000	+5,000,000	+12,500,000
Total, Heritage Conservation and Recreation Service	832,199,000	819,954,000	649,715,000	762,336,000	704,545,000	−127,654,000	−115,409,000	+54,830,000	−57,791,000
U.S. Fish and Wildlife Service									
Resource management	200,439,000	208,055,000	207,055,000	205,421,000	206,641,000	+6,202,000	−1,414,000	−414,000	+1,220,000
Construction and anadromous fish	97,856,000	47,574,000	56,327,000	56,945,000	58,757,000	−39,099,000	+11,183,000	+2,430,000	+1,812,000
Migratory bird conservation account (definite, repayable advance)	10,000,000	10,000,000	15,000,000	8,400,000	15,000,000	+5,000,000	+5,000,000		+6,600,000
Development and operation of recreation facilities (indefinite, special fund)	150,000	200,000	200,000	200,000	200,000	+50,000			
Total, U.S. Fish and Wildlife Service	308,445,000	265,829,000	278,582,000	270,966,000	280,598,000	−27,847,000	+14,769,000	+2,016,000	+9,632,000
National Park Service									
Operation of the national park system	387,806,000	394,177,000	383,512,000	380,244,000	382,775,000	−5,031,000	−11,402,000	−737,000	+2,531,000
Construction	118,488,000	87,718,000	97,144,000	119,938,000	112,154,000	−6,334,000	+24,436,000	+15,010,000	−7,784,000
Appropriation to liquidate contract authority					(15,500,000)	(+15,500,000)	(+15,500,000)	(+15,500,000)	(+15,500,000)
Rescission of an appropriation to liquidate contract authority				(−5,552,000)	(−5,552,000)	(−5,552,000)	(−5,552,000)	(−5,552,000)	
Planning, development, and operation of recreation facilities (indefinite, special fund)	15,478,000	28,465,000	15,781,000	16,217,000	16,217,000	+739,000	−12,248,000	+436,000	
John F. Kennedy Center for the Performing Arts	4,055,000	4,287,000	3,875,000	4,030,000	4,030,000	−25,000	−257,000	+155,000	
Total, National Park Service	525,827,000	514,647,000	500,312,000	520,429,000	515,176,000	−10,651,000	+529,000	+14,864,000	−5,253,000
Total, Fish and Wildlife and Parks	1,666,471,000	1,600,430,000	1,428,608,000	1,553,731,000	1,500,319,000	−166,152,000	−100,111,000	+71,710,000	−53,412,000

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1980	Estimate, 1980	House bill	Senate bill
ENERGY AND MINERALS									
Geological Survey									
Surveys, investigations, and research	$418,606,000	$459,321,000	$448,290,000	$450,805,000	$452,055,000	+$33,449,000	−$7,266,000	+$3,765,000	+$1,250,000
Exploration of national petroleum reserve in Alaska	231,048,000	4,427,000	145,927,000	175,627,000	175,627,000	−55,421,000	+171,200,000	+29,700,000	
Total, Geological Survey	649,654,000	463,748,000	594,217,000	626,432,000	627,682,000	−21,972,000	+163,934,000	+33,465,000	+1,250,000
Bureau of Mines									
Mines and minerals	148,507,000	135,194,000	134,883,000	131,603,000	132,753,000	−15,754,000	−2,441,000	−2,130,000	+1,150,000
Helium fund (permanent contract authority)		47,500,000					−47,500,000		
Total, Bureau of Mines	148,507,000	182,694,000	134,883,000	131,603,000	132,753,000	−15,754,000	−49,941,000	−2,130,000	+1,150,000
Office of Surface Mining Reclamation and Enforcement									
Regulation and technology	53,944,000	81,320,000	85,520,000	82,625,000	84,687,000	+30,743,000	+3,367,000	−833,000	+2,062,000
Abandoned mine reclamation fund (definite, trust fund)	61,451,000	113,916,000	111,416,000	94,916,000	94,916,000	+33,465,000	−19,000,000	−16,500,000	
Total, Office of Surface Mining Reclamation and Enforcement	115,395,000	195,236,000	196,936,000	177,541,000	179,603,000	+64,208,000	−15,633,000	−17,333,000	+2,062,000
Total, Energy and Minerals	913,556,000	841,678,000	926,036,000	935,576,000	940,038,000	+26,482,000	+98,360,000	+14,002,000	+4,462,000
INDIAN AFFAIRS									
Bureau of Indian Affairs									
Operation of Indian programs	792,052,000	792,020,000	792,753,000	770,835,000	789,051,000	−3,001,000	−2,969,000	−3,702,000	+18,216,000
Construction	126,554,000	67,721,000	83,395,000	66,874,000	89,374,000	−37,180,000	+21,653,000	+5,979,000	+22,500,000
Road construction	79,253,000	56,579,000	60,379,000	46,479,000	66,479,000	−12,774,000	+9,900,000	+6,100,000	+20,000,000
Alaska native fund	30,000,000	30,000,000	30,000,000	30,000,000	30,000,000				
Trust funds (definite)	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
Trust funds (indefinite)	23,000,000	23,000,000	23,000,000	23,000,000	23,000,000				
Eastern Indian land claims fund	3,500,000					−3,500,000			
Salt River Pima-Maricopa settlement			3,917,000	3,917,000	3,917,000	+3,917,000	+3,917,000		
Total, Bureau of Indian Affairs	1,057,359,000	974,120,000	996,444,000	944,105,000	1,004,821,000	−52,538,000	+30,701,000	+8,377,000	+60,716,000
TERRITORIAL AFFAIRS									
Office of Territorial Affairs									
Administration of territories	55,410,000	46,904,000	84,161,000	63,061,000	86,661,000	+31,251,000	+39,857,000	+2,500,000	+23,600,000
Trust Territory of the Pacific Islands	114,706,000	99,010,000	112,700,000	105,790,000	113,785,000	−921,000	+14,775,000	+1,025,000	+7,995,000
Micronesian claims fund, Trust Territory of the Pacific Islands	12,600,000					−12,600,000			
Total, Office of Territorial Affairs	182,716,000	145,814,000	196,921,000	168,860,000	200,446,000	+17,730,000	+54,632,000	+3,525,000	+31,595,000
SECRETARIAL OFFICES									
Office of the Solicitor									
Salaries and expenses	15,085,000	15,860,000	15,500,000	15,741,000	15,741,000	+656,000	−119,000	+241,000	
Office of the Secretary									
Departmental management	43,100,000	48,761,000	45,760,000	45,144,000	49,344,000	+6,244,000	+583,000	+3,584,000	+4,200,000
Construction management			9,400,000					−9,400,000	
Salaries and expenses (special foreign currency program)	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Total, Office of the Secretary	44,100,000	49,761,000	56,160,000	46,144,000	50,344,000	+6,244,000	+583,000	−5,816,000	+4,200,000
Total, Secretarial Offices	59,185,000	65,621,000	71,660,000	61,885,000	66,085,000	+6,900,000	+464,000	−5,575,000	+4,200,000
Total, title 1, new budget (obligational) authority, Department of the Interior	4,452,226,000	4,159,026,000	4,150,401,000	4,194,908,000	4,248,779,000	−203,447,000	+89,753,000	+98,378,000	+53,871,000
Consisting of:									
Appropriations	4,452,226,000	4,111,526,000	4,150,401,000	4,194,908,000	4,248,779,000	−203,447,000	+137,253,000	+98,378,000	+53,871,000
Definite appropriations	3,598,758,000	3,381,811,000	3,584,311,000	3,520,894,000	3,620,118,000	+21,360,000	+238,307,000	+35,807,000	+99,224,000
Indefinite appropriations	853,468,000	729,715,000	566,090,000	674,014,000	628,661,000	−224,807,000	−101,054,000	+62,571,000	−45,353,000
Permanent contract authority		47,500,000					−47,500,000		

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1980	Estimate, 1980	House bill	Senate bill
TITLE II—RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
Forest Service									
Forest resources management:									
Forest research	$110,947,000	$105,054,000	$109,490,000	$105,414,000	$108,795,000	−$2,152,000	+$3,731,000	−$695,000	+$3,381,000
State and private forestry	80,611,000	37,938,000	65,954,000	73,518,000	72,879,000	−7,732,000	+34,941,000	+6,915,000	−639,000
National forest system	815,308,000	752,137,000	847,151,000	796,824,000	825,532,000	+10,224,000	+73,395,000	−21,619,000	+28,708,000
Total, Forest management, protection and utilization	1,006,866,000	895,139,000	1,022,605,000	975,756,000	1,007,206,000	+340,000	+112,067,000	−15,399,000	+31,450,000
Construction and land acquisition	430,010,000	337,438,000	425,823,000	409,458,000	423,412,000	−6,598,000	+85,974,000	−2,411,000	+13,954,000
Youth conservation corps	60,600,000		27,400,000	54,000,000	54,000,000	−6,000,000	+54,000,000	+26,600,000	
Forest roads	243,466,000					−243,466,000			
Forest roads and trails	231,392,000					−231,392,000			
Timber salvage sales	3,000,000					−3,000,000			
Acquisition of lands for national forests:									
Special acts (special fund, indefinite)	385,000	325,000	325,000	325,000	325,000	−60,000			
Acquisition of lands to complete land exchanges (special fund, indefinite)	239,000	155,000	155,000	155,000	155,000	−84,000			
Rangeland improvements (special fund, indefinite)	5,400,000	5,900,000	5,900,000	5,900,000	5,900,000	+500,000			
Assistance to States for tree improvement	1,522,000					−1,522,000			
Construction and operation of recreation facilities (indefinite, special fund)	3,459,000	3,850,000	3,850,000	3,850,000	3,850,000	+391,000			
Rights-of-way (indefinite)	100,000					−100,000			
Total, Forest Service	1,985,839,000	1,242,807,000	1,486,058,000	1,449,444,000	1,494,848,000	−490,991,000	+252,041,000	+8,790,000	+45,404,000
DEPARTMENT OF ENERGY									
Alternative fuels production		20,000,000,000	1,500,000,000	19,500,000,000	20,000,000,000	+20,000,000,000		+18,500,000,000	+500,000,000
By transfer				(1,500,000,000)					(−1,500,000,000)
Fossil energy research and development	659,112,000	714,082,000	699,377,000	798,302,000	746,627,000	+87,515,000	+32,535,000	+47,250,000	−51,675,000
Fossil energy construction	99,709,000	140,050,000	71,250,000	105,250,000	103,250,000	+3,541,000	−36,800,000	+32,000,000	−2,000,000
Energy production, demonstration, and distribution	171,763,000	146,299,000	125,971,000	106,971,000	111,221,000	−60,542,000	−35,078,000	−14,750,000	+4,250,000
Energy conservation	632,138,000	641,185,000	566,052,000	692,502,000	628,702,000	−3,436,000	−12,493,000	+62,650,000	−63,800,000
Reappropriation		200,000,000	197,500,000	120,000,000	158,750,000	+158,750,000	−41,250,000	−38,750,000	+38,750,000
Economic Regulatory Administration	99,233,000	183,263,000	125,687,000	154,264,000	152,879,000	+53,646,000	−30,384,000	+27,182,000	−1,385,000
Strategic petroleum reserve	3,007,071,000	8,391,000	8,391,000			−3,007,071,000	−8,391,000	−8,391,000	
Energy Information Administration	65,644,000	88,657,000	87,273,000	87,273,000	87,273,000	+21,629,000	−1,384,000		
Total, Department of Energy	4,734,670,000	22,121,947,000	3,381,511,000	21,564,562,000	21,988,702,000	+17,254,032,000	−133,245,000	+18,607,191,000	+424,140,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Health Services Administration									
Indian health services	482,193,000	535,116,000	541,449,000	536,580,000	538,874,000	+46,681,000	+3,758,000	−2,575,000	+2,294,000
Indian health facilities	76,960,000	50,240,000	74,302,000	26,062,000	74,302,000	−2,658,000	+24,062,000		+48,240,000
Total, Indian health	569,153,000	585,356,000	615,751,000	562,642,000	613,176,000	+44,023,000	+27,820,000	−2,575,000	+50,534,000
Office of Education									
Indian education	71,735,000	76,875,000	75,875,000	75,900,000	75,900,000	+4,165,000	−975,000	+25,000	
Office of the Assistant Secretary for Education									
Institute of Museum Services	7,852,000	10,900,000	10,900,000	10,900,000	10,900,000	+3,048,000			
Total, Department of Health, Education, and Welfare	648,740,000	673,131,000	702,526,000	649,442,000	699,976,000	+51,236,000	+26,845,000	−2,550,000	+50,534,000
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION									
Salaries and expenses	8,752,000	950,000	950,000	950,000	950,000	−7,802,000			
SMITHSONIAN INSTITUTION									
Salaries and expenses	98,202,000	104,740,000	103,498,000	102,710,000	103,781,000	+6,579,000	−959,000	+283,000	+1,071,000
Museum programs and related research (special foreign currency program)	3,700,000	7,700,000	3,700,000	4,700,000	4,200,000	+500,000	−3,800,000	+500,000	−500,000
Science Information Exchange	2,063,000					−2,063,000			
Construction and improvements, National Zoological Park	3,900,000	6,550,000	6,500,000	6,000,000	6,250,000	+2,350,000	−300,000	−250,000	+250,000
Restoration and renovation of buildings	2,100,000	4,900,000	5,250,000	5,150,000	5,250,000	+3,150,000	+350,000		+100,000
Construction	573,000	21,100,000	20,600,000	10,850,000	20,600,000	+20,025,000	−500,000		+9,750,000
Subtotal	110,540,000	144,990,000	139,548,000	129,410,000	140,081,000	+29,541,000	−4,909,000	+533,000	+10,671,000

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1980	Estimate, 1980	House bill	Senate bill
Salaries and expenses:									
National Gallery of Art	$19,041,000	$22,577,000	$22,311,000	$21,978,000	$22,241,000	+$3,200,000	−$336,000	−$70,000	+$263,000
Woodrow Wilson International Center for Scholars	1,588,000	1,648,000	1,611,000	2,611,000	1,611,000	+23,000	−37,000		−1,000,000
Total, Smithsonian Institution	131,169,000	169,215,000	163,470,000	153,989,000	163,933,000	+32,764,000	−5,282,000	+463,000	+9,944,000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES									
National Endowment for the Arts									
Salaries and expenses	102,310,000	97,000,000	97,000,000	97,000,000	97,000,000	−5,310,000			
Administrative expenses	9,775,000	10,500,000	12,000,000	12,000,000	12,000,000	+2,225,000	+1,500,000		
Subtotal	112,085,000	107,500,000	109,000,000	109,000,000	109,000,000	−3,085,000	+1,500,000		
Matching grants (indefinite)	37,500,000	46,900,000	45,400,000	45,400,000	45,400,000	+7,900,000	−1,500,000		
Total, National Endowment for the Arts	149,585,000	154,400,000	154,400,000	154,400,000	154,400,000	+4,815,000			
National Endowment for the Humanities									
Salaries and expenses	98,485,000	100,300,000	100,300,000	98,900,000	100,300,000	+1,815,000			+1,400,000
Administrative expenses	10,246,000	10,800,000	11,400,000	10,500,000	11,400,000	+1,154,000	+600,000		+900,000
Subtotal	108,731,000	111,100,000	111,700,000	109,400,000	111,700,000	+2,969,000	+600,000		+2,300,000
Matching grants (indefinite)	36,500,000	39,000,000	38,400,000	38,400,000	38,400,000	+1,900,000	−600,000		
Total, National Endowment for the Humanities	145,231,000	150,100,000	150,100,000	147,800,000	150,100,000	+4,869,000			+2,300,000
Total, National Foundation on the Arts and the Humanities	294,816,000	304,500,000	304,500,000	302,200,000	304,500,000	+9,684,000			+2,300,000
COMMISSION OF FINE ARTS									
Salaries and expenses	263,000	271,000	268,000	268,000	268,000	+5,000	−3,000		
ADVISORY COUNCIL ON HISTORIC PRESERVATION									
Salaries and expenses	1,204,000	1,672,000	1,350,000	1,460,000	1,350,000	+146,000	−322,000		−110,000
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and expenses	2,019,000	2,193,000	1,975,000	1,975,000	1,975,000	−44,000	−218,000		
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and expenses	20,000	10,000	40,000	40,000	40,000	+20,000	+30,000		
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA									
Salaries and expenses	594,000					−594,000			
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and expenses	1,659,000	1,856,000	1,811,000	1,856,000	1,856,000	+197,000		+45,000	
Land acquisition and development fund (borrowing authority)	33,000,000	17,000,000	17,000,000	17,000,000	17,000,000	−16,000,000			
Public development	30,255,000	20,110,000	20,110,000	20,110,000	20,110,000	−10,145,000			
Total, Pennsylvania Avenue Development Corporation	64,914,000	38,966,000	38,921,000	38,966,000	38,966,000	−25,948,000		+45,000	
FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE									
Permitting and enforcement		14,850,000		13,433,000	10,600,000	+10,600,000	−4,250,000	+10,600,000	−2,833,000
COMMUNITY SERVICES ADMINISTRATION									
Community service program		1,350,000,000		1,200,000,000	1,350,000,000	+1,350,000,000		+1,350,000,000	+150,000,000
Total, title II, new budget (obligational) authority, related agencies	7,873,000,000	25,920,512,000	6,081,569,000	25,376,739,000	26,058,108,000	+18,183,108,000	+135,596,000	+19,974,539,000	+679,369,000
Consisting of:									
Appropriations	$7,840,000,000	$25,703,512,000	$5,867,069,000	$25,239,739,000	$25,880,358,000	+$18,040,358,000	+$176,846,000	+$20,013,289,000	+$640,619,000
Definite appropriations	7,756,417,000	25,607,382,000	5,773,039,000	25,145,709,000	25,786,328,000	+18,029,911,000	+178,946,000	+20,013,289,000	+640,619,000
Indefinite appropriations	83,583,000	96,130,000	94,030,000	94,030,000	94,030,000	+10,447,000	−2,100,000		

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1980	Estimate, 1980	House bill	Senate bill
TITLE II—RELATED AGENCIES—Con. COMMUNITY SERVICES ADMINISTRATION—Con.									
Reappropriation		200,000,000	197,500,000	120,000,000	158,750,000	+158,750,000	−41,250,000	−38,750,000	+38,750,000
Borrowing authority	33,000,000	17,000,000	17,000,000	17,000,000	17,000,000	−16,000,000			
By transfer				(1,500,000,000)					(−1,500,000,000)
RECAPITULATION									
Total, new budget (obligational) authority, all titles	12,325,226,000	30,079,538,000	10,231,970,000	29,571,647,000	30,304,887,000	+17,979,661,000	+225,349,000	+20,072,917,000	+733,240,000
Consisting of:									
Appropriations	12,292,226,000	29,815,038,000	10,017,470,000	29,434,647,000	30,129,137,000	+17,836,911,000	+314,099,000	+20,111,667,000	+694,490,000
Definite appropriations	(11,355,175,000)	(28,989,193,000)	(9,357,350,000)	(28,666,603,000)	(29,406,446,000)	(+18,051,271,000)	(+417,253,000)	(+20,049,096,000)	(+739,843,000)
Indefinite appropriations	(937,051,000)	(825,845,000)	(660,120,000)	(768,044,000)	(722,691,000)	(−214,360,000)	(103,154,000)	(+62,751,000)	(−45,353,000)
Reappropriations		200,000,000	197,500,000	120,000,000	158,750,000	+158,750,000	−41,250,000	−38,750,000	+38,750,000
Borrowing authority	33,000,000	17,000,000	17,000,000	17,000,000	17,000,000	−16,000,000			
Permanent contract authority		47,500,000					−47,500,000		
By transfer				(1,500,000,000)					(−1,500,000,000)
TITLE I—DEPARTMENT OF THE INTERIOR									
Bureau of Land Management	544,582,000	500,624,000	499,754,000	500,229,000	506,289,000	−38,293,000	+5,665,000	+6,535,000	+6,060,000
Office of Water Research and Technology	28,357,000	30,739,000	30,977,000	30,522,000	30,781,000	+2,424,000	+42,000	−196,000	+259,000
Heritage Conservation and Recreation Service	832,199,000	819,954,000	649,715,000	762,336,000	704,545,000	−127,654,000	−115,409,000	+54,830,000	−57,791,000
United States Fish and Wildlife Service	308,445,000	265,829,000	278,582,000	270,966,000	280,598,000	−27,847,000	+14,769,000	+2,016,000	+9,632,000
National Park Service	525,827,000	514,647,000	500,312,000	520,429,000	515,176,000	−10,651,000	+529,000	+14,864,000	−5,253,000
Geological Survey	649,554,000	463,748,000	594,217,000	626,432,000	627,682,000	−21,972,000	+163,934,000	+33,465,000	+1,250,000
Bureau of Mines	148,507,000	182,694,000	134,883,000	131,603,000	132,753,000	−15,754,000	−49,941,000	−2,130,000	+1,150,000
Office of Surface Mining Reclamation and Enforcement	115,395,000	195,236,000	196,936,000	177,541,000	179,603,000	+64,208,000	−15,633,000	−17,333,000	+2,062,000
Bureau of Indian Affairs	1,057,359,000	974,120,000	996,444,000	944,105,000	1,004,821,000	−52,538,000	+30,701,000	+8,377,000	+60,716,000
Territorial Affairs	182,716,000	145,814,000	196,921,000	168,860,000	200,446,000	+17,730,000	+54,632,000	+3,525,000	+31,586,000
Office of the Solicitor	15,085,000	15,860,000	15,500,000	15,741,000	15,741,000	+656,000	−119,000	+241,000	
Office of the Secretary	44,100,000	49,761,000	56,160,000	46,144,000	50,344,000	+6,244,000	+583,000	−5,816,000	+4,200,000
Total, Title I—Department of the Interior	4,452,226,000	4,159,026,000	4,150,401,000	4,194,908,000	4,248,779,000	−203,447,000	+89,753,000	+98,378,000	+53,871,000
TITLE II—RELATED AGENCIES									
Forest Service	1,985,839,000	1,242,807,000	1,486,058,000	1,449,444,000	1,494,848,000	−490,991,000	+252,041,000	+8,790,000	+45,404,000
Department of Energy	4,734,670,000	22,121,947,000	3,381,511,000	21,564,562,000	21,988,702,000	+17,254,032,000	−133,245,000	+18,607,191,000	+424,140,000
Indian Health	569,153,000	585,356,000	615,751,000	562,642,000	613,176,000	+44,023,000	+27,820,000	−2,575,000	+50,534,000
Indian Education	71,735,000	76,875,000	75,875,000	75,900,000	75,900,000	+4,165,000	−975,000	+25,000	
Institute of Museum Services	7,852,000	10,900,000	10,900,000	10,900,000	10,900,000	+3,048,000			
Navajo and Hopi Indian Relocation Commission	8,752,000	950,000	950,000	950,000	950,000	−7,802,000			
Smithsonian	110,540,000	144,990,000	139,548,000	129,410,000	140,081,000	+29,541,000	−4,909,000	+533,000	+10,671,000
National Gallery of Art	19,041,000	22,577,000	22,311,000	21,978,000	22,241,000	+3,200,000	−336,000	−70,000	+263,000
Woodrow Wilson International Center for Scholars	1,568,000	1,648,000	1,611,000	2,611,000	1,611,000	+23,000	−37,000		−1,000,000
National Endowment for the Arts	149,585,000	154,400,000	154,400,000	154,400,000	154,400,000	+4,815,000			
National Endowment for the Humanities	145,231,000	150,100,000	150,100,000	147,800,000	150,100,000	+4,869,000			+2,300,000
Commission of Fine Arts	263,000	271,000	268,000	268,000	268,000	+5,000	−3,000		
Advisory Council on Historic Preservation	1,284,000	1,672,000	1,350,000	1,460,000	1,350,000	+146,000	−322,000		−110,000
National Capital Planning Commission	2,019,000	2,193,000	1,975,000	1,975,000	1,975,000	−44,000	−218,000		
Franklin Delano Roosevelt Memorial Commission	20,000	10,000	40,000	40,000	40,000	+20,000	+30,000		
Joint Federal-State Land Use Planning Commission for Alaska	594,000					−594,000			
Pennsylvania Avenue Development Corporation	64,914,000	38,966,000	38,921,000	38,966,000	38,966,000	−25,948,000		+45,000	
Federal Inspector for the Alaska Gas Pipeline		14,850,000		13,433,000	10,600,000	+10,600,000	−4,250,000	+10,600,000	−2,833,000
Community Services Administration		1,350,000,000		1,200,000,000	1,350,000,000	+1,350,000,000		+1,350,000,000	+150,000,000
Total, Title II—Related Agencies	7,873,000,000	25,920,512,000	6,081,569,000	25,376,739,000	26,056,108,000	+18,183,108,000	+135,596,000	+19,974,539,000	+679,369,000
Grand total	12,325,226,000	30,079,538,000	10,231,970,000	29,571,647,000	30,304,887,000	+17,979,661,000	+225,349,000	+20,072,917,000	+733,240,000

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

Mr. Speaker, my question goes to the community services program, the heating cost amendment. There is some ambiguity in the wording of this particular portion of the bill.

I should like to see if we can get resolution of it in the RECORD.

When the authorizing legislation was before the House it was amended so that in all cases it talked about heating costs instead of fuel costs so as to be absolutely certain we were talking about all expenditures involved in heating, including electricity, as well as liquid fuels, for instance.

Mr. Speaker, in the measure before the House, we have one reference to heating fuel costs, another one to increases in rents caused by increases in heating fuel costs, and another for heating energy expenditures.

I wonder if the subcommittee chairman could tell us if this appropriations bill is consistent with the authorizing bill and that this funding is for heating costs broadly interpreted, which would include electricity, rather than just for fuel costs?

Mr. YATES. It is the understanding of the gentleman from Illinois that the gentleman's interpretation is correct.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, the chairman of the subcommittee, the distinguished gentleman from Illinois (Mr. YATES), has gone to some length in explaining this bill. We on this side of the aisle unanimously support the adoption of this conference report. It is a major bill that has to do with the resources of this Nation. It contains the urgently needed fuel assistance program. It also contains major initiatives with respect to energy in this country.

Mr. Speaker, I reserve the balance of my time.

● Mr. FRENZEL. Mr. Speaker, because this appropriation is several hundred million dollars over budget, I am obliged to vote against it. But there are many parts of it I favor.

The emergency fuel assistance program, for which I voted when it was presented in a separate bill, has an improved distribution formula. As noted previously, there are many things wrong with this program, including the hazard that it could become another permanent welfare program. But, since we have chosen the decontrol policy, I think it is reasonable to provide assistance to the poor—out of windfall tax revenues.

This conference report also provides a beginning, and necessary, appropriation of $2.2 for our alternative fuels development program.●

Mr. YATES. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 271, nays 46, answered "present" 1, not voting 115, as follows:

[Roll No. 647]

YEAS—271

Abdnor
Addabbo
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boner
Bonior
Brademas
Breaux
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Chappell
Chisholm
Coleman
Collins, Ill.
Conte
Corcoran
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Eckhardt
Edgar
Edwards, Okla.
Emery
Erdahl
Ertel
Evans, Del.
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Gaydos
Gephardt
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Gore
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hanley
Harkin
Harris
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jenkins
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mavroules
Mica
Michel
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nowak
O'Brien
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Perkins
Petri
Peyser
Price
Pritchard
Pursell
Quillen
Rahall
Ranzel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Rudd
Russo
Sabo
Santini
Scheuer
Selberling
Shannon
Sharp
Shelby
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stewart
Stokes
Stratton
Studds
Swift
Tauke
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wirth
Wolff
Wolpe
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—46

Badham
Bauman
Bouquard
Brinkley
Butler
Collins, Tex.
Conable
Crane, Daniel
Daniel, R. W.
Dannemeyer
Deschle
Devine
English
Evans, Ind.
Frenzel
Gingrich
Gramm
Hansen
Harsha
Jacobs
Jeffries
Kelly
Kindness
Levitas
Lott
McDonald
Martin
Mattox
Miller, Ohio
Moore
Panetta
Pashayan
Paul
Robinson
Satterfield
Sawyer
Schulze
Sensenbrenner
Shumway
Shuster
Stenholm
Stockman
Stump
Volkmer
Weaver
Williams, Mont.

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—115

Akaka
Ambro
Anderson, Ill.
Andrews, N. Dak.
Archer
Ashbrook
Baldus
Barnard
Boggs
Boland
Bolling
Bonker
Bowen
Brooks
Brown, Ohio
Burton, John
Cavanaugh
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Conyers
Corman
Cotter
Crane, Philip
de la Garza
Dicks
Dixon
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Ga.
Fary
Fenwick
Findley
Flood
Foley
Fuqua
Garcia
Gisimo
Ginn
Glickman
Gradison
Hance
Hawkins
Heckler
Heftel
Holland
Holt
Holtzman
Horton
Huckaby
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kemp
Leath, Tex.
Lee
Livingston
Lujan
Lungren
McCloskey
McEwen
McKay
Mathis
Mazzoli
Mikulski
Mitchell, Md.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nichols
Nolan
Oakar
Pepper
Pickle
Quayle
Railsback
Rhodes
Richmond
Roberts
Rosenthal
Rousselot
Royer
Runnels
Schroeder
Sebelius
Skelton
Snowe
Spellman
St Germain
Stark
Symms
Synar
Taylor
Treen
Udall
Ullman
Waxman
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

□ 1340

The Clerk announced the following pairs:

Mr. Pepper with Mr. Anderson of Illinois.
Mrs. Spellman with Mr. Ashbrook.
Mr. Roberts with Mr. Findley.
Mr. Pickle with Mr. Railsback.
Mr. Foley with Mrs. Snowe.
Mr. Ginn with Mr. Royer.
Mr. Glickman with Mr. Wylie.
Mr. Jenrette with Mr. Rousselot.
Mr. Mazzoli with Mr. Young of Florida.
Mr. Mitchell of Maryland with Mr. Sebelius.
Mr. Nichols with Mr. Lujan.
Mr. Fary with Mr. Bob Wilson.
Mr. Murphy of New York with Mr. Young of Alaska.
Mr. Boland with Mr. Livingston.
Mr. John L. Burton with Mrs. Fenwick.
Mr. Coelho with Mr. Quayle.
Mr. Dicks with Mr. Cleveland.
Mr. Edwards of California with Mr. Symms.
Mr. Corman with Mr. Winn.
Mr. Evans of Georgia with Mr. Taylor.
Mr. Clay with Mr. Wydler.
Mr. Udall with Mr. Gradison.
Mr. Synar with Mrs. Heckler.
Mr. Wright with Mr. McEwen.
Mr. McKay with Mr. Kemp.
Mr. Nedzi with Mr. Lee.
Ms. Mikulski with Mr. Duncan of Tennessee.
Mr. Ullman with Mr. Erlenborn.
Mr. Mathis with Mr. Lungren.
Mr. Early with Mr. Philip M. Crane.
Mr. Yatron with Mr. Brown of Ohio.
Mr. de la Garza with Mr. Clinger.
Mr. Waxman with Mr. Archer.
Mr. Leath of Texas with Mr. Clausen.
Mr. Charles Wilson of Texas with Mr. Andrews of North Dakota.
Mr. Skelton with Mr. Cheney.
Mr. Richmond with Mr. McCloskey.
Mr. Nolan with Mr. Horton.
Ms. Oakar with Mr. Runnels.
Mr. Fuqua with Mr. St Germain.
Mr. Rosenthal with Mrs. Schroeder.
Mr. Garcia with Mr. Stark.
Mr. Hance with Mr. Charles H. Wilson of California.
Mr. Gisimo with Mr. Hawkins.
Mr. Jones of North Carolina with Mrs. Holt.
Mr. Holland with Mr. Jones of Oklahoma.
Mr. Heftel with Mr. Duncan of Oregon.
Mr. Convers with Mr. Edwards of Alabama.
Mr. Brooks with Mrs. Boggs.
Mr. Akaka with Mr. Baldus.
Mr. Bowen with Mr. Ambro.
Mr. Cavanaugh with Mr. Huckaby.
Ms. Holtzman with Mr. Bonker.
Mr. Johnson of California with Mr. Barnard.
Mr. Cotter with Mr. Murphy of Illinois.

Messrs. LOTT, MOORE, and MARTIN changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. HAMILTON). The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 1: Page 2, line 4, strike out "$295,361,000" and insert "$295,836,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$301,896,000".

The motion was agreed to.

The SPEAKER pro tempore (Mr. MINETA). The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 6, line 14, insert ": *Provided further*, That none of these appropriations available to the Bureau of Land Management shall be used to effect reductions of licensed animal unit months to any grazing permittee or lessee that exceeds 10 per centum from the level established in fiscal year 1979.".

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following. ": *Provided further*, That the Secretary of the Interior and Secretary of Agriculture shall (a) review Federal agricultural financial assistance programs to determine to what extent such programs provide opportunities to assist livestock operators adversely affected by reductions in grazing allotments on public rangelands, as defined in the section 3 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1902); and (b) submit the results of this review to the Committees on Appropriations of the House of Representatives and the Senate within ninety days of the effective date of this Act, together with details on available programs, opportunities for more effective use of such programs, additional budget requirements needed to augment such programs, and any legislation needed to improve opportunities for assistance: *Provided further*, That the Secretary of the Interior shall develop criteria for extending, on a case-by-case basis, the period allowed for phased livestock reductions on public rangelands administered through the Bureau of Land Management up to five years. Such criteria shall take into account available agricultural assistance programs, the magnitude of projected livestock reductions, alternative pasturage available, and ability of such public rangelands to sustain such phasing in of rangeland productivity: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within 30 days after receipt of a final grazing allotment decision or 90 days after the effective date of this Act in the case of reductions ordered during 1979, whichever occurs later. Reductions of up 10 percent in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 percent shall be suspended pending final action on the appeal, which shall be completed within 2 years after the appeal is filed".

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 15: Page 8, line 11, insert "; and (6) not to exceed $12,000,000 shall be available for land acquisition at Pinelands National Reserve, including $800,000 for planning, only in accordance with the authorization and matching requirements of section 502 of Public Law 95-625: *Provided*.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 17: Page 8, line 19, strike out ": *Provided further*, That the $12,500,000 available to the Forest Service in fiscal year 1979 for acquisition of the Kahle and Jennings properties may be used to acquire other properties in the Tahoe Basin of California and Nevada with no matching requirement".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows: ": *Provided further*, That the $12,500,000 available to the Forest Service in fiscal year 1979 for acquisition of the Kahle and Jennings properties may be used to acquire the Jennings property and other properties in the Tahoe Basin of California and Nevada without regard to the matching requirements and zoning restrictions included in the 1979 appropriations act".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

Mr. YATES. Mr. Speaker, I ask unanimous consent that each remaining Senate amendment in disagreement be designated by number and the reading be waived.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 24: Page 11, line 8, strike out "$56,327,000" and insert "$56,945,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$58,757,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 25: Page 11, line 9 ": *Provided*, That $4,712,000 shall become available only upon enactment of S. 838 or similar legislation.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement:

The amendment is as follows:

Senate amendment No. 30: page 14, line 1, strike out ": *Provided further*, That the National Park Service is authorized to receive contributions for third shift operation of the Park Police Helicopters and that $125,000 of this appropriation shall become available for obligation only to the extent it is matched by such contributions".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the matter proposed to be stricken by said amendment, insert the following: ": *Provided further*, That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation.".

The SPEAKER pro tempore. The gentleman from Illinois (Mr. YATES) is recognized for 1 hour.

Mr. YATES. Mr. Speaker, I yield myself 5 minutes.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am concerned, as I read down through the conference report, with what seems to me to be a good bit of money in one area. I am concerned about a good deal of money that seems to be headed toward one little community.

I know that the gentleman worked very hard in the course of the conference to assure that there is some sanity here, but as I look down through the conference report, I find $105,000 to the police force in Harpers Ferry, W. Va.

Then I look further and I find $1.3 million for a Harpers Ferry townhouse restoration, then $70,000 for a Harpers Ferry footbridge, and then $50,000 for a Harpers Ferry, W. Va. townhouse restoration.

It just seems to me that there is a whole series of dollar expenditures headed into one little community.

Can the gentleman assure me that this money is much needed?

I have been to that little town, and it is a nice place. I never felt I was going to be mugged on the streets, but this appropriates $105,000 for the police there. I just wondered about that.

Mr. YATES. Mr. Speaker, with respect to each of the items, there is reason as to why we acted. As the gentleman well knows, Harpers Ferry is a very historic community and has been so designated by appropriate action.

With respect to the townhouses, it is following the effort by the Park Service to restore Harpers Ferry to the condition that existed at its historic moment or the condition that appeared to prevail in that community at a certain moment in the history of this country.

□ 1350

After assuring ourselves that the money was necessary for that restoration, we concurred with the Senate.

With respect to the money for the footbridge, the conferees on the part of the House were actually dismayed by the amount that was sought for design for the footbridge. There is no controversy that the footbridge is required to eradicate an unsafe condition that now exists for tourists crossing the railroad bridge in Harpers Ferry. But we were appalled that the sum of $70,000 should seem to be necessary for that purpose. So what we did was to seek the concurrence of the Senate and received that concurrence that the Park Service would be requested to investigate the matter and to come back to the Appropriations Committees of the House and the Senate with a realistic figure that would cover the design for the footbridge and action would be taken at that point.

We fought tooth and nail, may I say, against the appropriation for the Harpers Ferry police force. We saw no reason for that appropriation. We had concurred with protest to a similar appropriation last year, finally conceding and receding when it appeared that the Senate was going to hold up the entire appropriation bill for the Department of the Interior in the event no agreement was possible. We thought we had reached an agreement that there would be no appropriation for that police force this year. We encountered the same kind of demand on the part of the Senate that the money be made available, and it was passed until other items in the appropriation bill—which, may I say, totals in excess of $30 billion—were agreed to. We fought against it, and I stated to the conferees for the Senate that this was the last time that the House would concur in this term, positively.

In addition to that, we asked the assurance that there would be cooperation between the Harpers Ferry police force with the Park Service. As a result, we were able to persuade the Senate to accept an amendment which would require the police force of the town of Harpers Ferry that the grant would be subject to the same criteria, the restrictions and the overview requirements of other Federal grants administered by the National Park Service. The grantee will be required to seek overview and coordination with the National Park Service law enforcement officials and any other State or Federal law enforcement specialists whom the National Park Service deems appropriate in areas of law enforcement operation and concomitant community relations activities.

So I will say to the gentleman that we were able to obtain the concession, that the police force of Harpers Ferry will work in cooperation and in coordination with the police authorities of the National Park Service.

I want to assure the gentleman that the conferees on the part of the House will make the same protest and representation if the Senate again puts that appropriation in the bill the next time.

Mr. WALKER. If the gentleman will yield, I thank the gentleman for his explanation. As usual, the gentleman has done a marvelous job of explaining the House position. I do thank the gentleman for the work that has gone into this. I had seen some media accounts that the junior Senator from West Virginia may have been trying to find places here for additional spending, and I wanted assurance that what the House was concurring in was something which we can justify.

Mr. YATES. I thank the gentleman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. YATES).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 31: Page 14, line 5, insert ": *Provided further*, That $105,000 shall be available for the National Park Service to assist the Town of Harpers Ferry, West Virginia, for police force use."

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 34: Page 14, line 20, insert:

ROAD CONSTRUCTION

(APPROPRIATION TO LIQUIDATE CONTRACT AUTHORITY)

Appropriations previously provided in this account to liquidate contract authority in the amount of $5,552,000 are rescinded.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 37: Page 16, line 24, strike out "$448,290,000" and insert "$450,805,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$452,055,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 38: Page 16, line 25, strike out "$39,227,000" and insert "$39,814,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$39,037,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. YATES. Mr. Speaker, I ask unanimous consent that all other amendments in technical disagreement that are pending be considered en bloc, up to amendment No. 108.

The SPEAKER pro tempore. The Chair will advise the gentleman from Illinois that some of these amendments are to recede and concur and some are to concur with amendment. Such amendments cannot be considered en bloc.

PARLIAMENTARY INQUIRY

Mr. CONTE. Mr. Speaker, is it not possible to consider en bloc all of the amendments that we agree to and to consider en bloc all of the amendments that we disagree to? Mr. Speaker, I make that unanimous-consent request.

The SPEAKER pro tempore. The Chair will advise the gentleman that in the instance where all of the amendments are to be agreed to, a request to consider them en bloc could be entertained; in the instance where some are to recede and concur and some are to concur with amendment, that type of a request could not be entertained.

Mr. CONTE. In other words, Mr. Speaker, we have to give all the numbers?

The SPEAKER pro tempore. The gentleman from Massachusetts is correct.

Mr. YATES. Mr. Speaker, in view of the Chair's ruling, I think it would be better to proceed amendment by amendment.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 40: Page 17, line 10, insert ": *Provided*, That $141,500,000 provided for evaluation and assessment of the reserve shall be available only for closing out Federal exploration activities if legislation is enacted during the first session of the 96th Congress authorizing private exploration activities.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following: ": *Provided*, That the Secretary of the Interior shall review the rates being charged to the residents of Barrow for natural gas to determine if a proceeding should be instituted to revise such rates".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 47: Page 21, line 14, insert ": *Provided further*, That, notwithstanding the provisions of section 6 of the Act of April 16, 1934 (48 Stat. 596), as added by section 202 of the Indian Education Assistance Act (88 Stat. 2213, 2214; 25 U.S.C. 457), funds appropriated pursuant to this or any other Act for fiscal years ending September 30 of 1979 and 1980 may be utilized to reimburse school districts for up to the full per capita cost of educating Indian students (1) who are normally residents of the State in which such school districts are located but do not normally reside in such districts, and (2) who are residing in Federal boarding facilities for the purpose of attending public schools within such districts.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein.

The motion was agreed to.

Mr. CONTE. Mr. Speaker, I ask unanimous consent that we consider en bloc all of the amendments that we recede and concur in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. DAVIS of South Carolina. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 48: Page 22, line 6 strike out "$63,395,000" and insert "$66,874,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "including a $5,000,000 interest free loan to the Confederated Tribes of the Warm Springs Reservation of Oregon to be repaid to the Revolving Fund for Loans established in the Bureau of Indian Affairs at the end of a 20 year period after the effective date of this Act, $89,374,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 49: Page 22, line 14 strike out "$60,379,000" and insert "$46,479,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$66,479,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 50: Page 25, line 12, insert ": *Provided*, That none of these appropriations shall be available to continue academic and residential programs of the Chilocco and Seneca boarding schools, Oklahoma, beyond January 15, 1980.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 50 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That no part of any appropriations to the Bureau of Indian Affairs shall be available to continue academic and residential programs of the Chilocco and Seneca boarding schools, Oklahoma beyond June 15, 1980.".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 51: Page 26, line 22, strike out "$84,161,000" and insert "$63,061,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 51 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$86,661,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendments No. 52: Page 25, line 23, strike out "$80,089,000" and insert "$58,989,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$82,589,000".

The motion was agreed.

□ 1400

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 53: Page 28, line 4, strike out "$112,760,000" and insert "$105,799,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the sum proposed insert the following: "$113,785,000, and of the amount appropriated under this head in P.L. 95-355, $1,400,000 shall be for an ex gratia payment to the people of Bikini Atoll".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 54: Page 28, line 22, insert:

PAYMENTS TO THE UNITED STATES TERRITORIES, FINAL ASSISTANCE

There is hereby appropriated for the fiscal year 1980 and for each fiscal year thereafter, such sums as are authorized to be remitted to the Territories of Guam and the Virgin Islands under sections 1(c) and 4(c)(2) of Public Law 95-348, 92 Stat. 487.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 55: Page 29, line 14, strike out "$45,760,000" and insert "$45,144,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert the following matter: "including not less than $9,000,000 for

an Office of Construction Management, $49,344,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 56: Page 32, line 21, insert: SEC. 108. No appropriations made in this title shall be available in connection with any lease, administrative transfer, or withdrawal not now existing of lands and waters comprising Wild Horse Reservoir, Nevada, or any lands immediately adjacent thereto.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 108. No appropriations made in this title shall be available for implementation of any decision with regard to any lease, administrative transfer, or withdrawal not now existing of lands and waters comprising Wild Horse Reservoir, Nevada, or any lands immediately adjacent thereto: *Provided*, That this limitation is not applicable to water necessary for current or future irrigation practices.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 59: Page 33, line 1, insert:

SEC. 109. No appropriations made in this title shall be available for research, planning, identification of lands, implementation of plans, preservation of lands, or any other activity associated with the unique wildlife ecosystem program as now administered by the U.S. Fish and Wildlife Service not specifically authorized by law.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 109. No appropriations made in this title shall be available for the identification of lands not now so identified or acquisition (by withdrawal, transfer or purchase) of lands for or associated with the Unique Wildlife Ecosystem Program as now defined by the United States Fish and Wildlife Service not authorized by law under an existing program.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 67: Page 34, line 25, strike out "$384,910,000" and insert $383,076,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$401,242,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 73: Page 38, line 11, insert:

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System limitation for the emergency rehabilitation of burned over lands under its jurisdiction.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 73 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 74: Page 39, line 1, strike out:

SYNTHETIC FUELS PRODUCTION

For expenses necessary to carry out the provisions of the Defense Production Act of 1950, as amended (50 U.S.C. 2061 et seq.), $1,500,000,000, to remain available until expended, for the purchase or production of synthetic fuels and synthetic chemical feedstocks, to be derived from the Energy Trust Fund established by H.R. 3919 or a fund or segregated account or equivalent mechanism established by equivalent legislation: *Provided*, That if no such fund, account, or mechanism has been established upon enactment of this bill, funds for such program shall be derived from general funds of the Treasury not otherwise appropriated, to be reimbursed from such fund, account, or mechanism at such time as it is established: *Provided further*, That this appropriation shall not be used for the construction of facilities: *Provided further*, That the President is authorized to contract for purchases of or commitments to purchase, or to resell synthetic fuels and synthetic chemical feedstocks to the extent of appropriations provided herein.

And insert:

ALTERNATIVE FUELS PRODUCTION

For the establishment in the Treasury of the United States of a special fund to be designated the "Energy Security Reserve", $20,000,000,000, of which $1,500,000,000 shall be derived by transfer from the "strategic petroleum reserve" account, to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts: *Provided further*, That $1,500,000,000 shall be available immediately to the Secretary of Energy for expenses necessary to carry out the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended to remain available until expended, for the purchase or production by way of purchase commitments or price guarantees of alternative fuels: *Provided further*, That the Secretary is authorized to contract for purchases of or commitments to purchase, or to resell alternative fuels to the extent of appropriations provided herein: *Provided further*, That an additional $708,000,000 shall be available immediately to the Secretary of Energy, to remain available until expended, to support preliminary alternative fuels commercialization activities, of which (1) not to exceed $100,000,000 shall be available for direct loans for project development feasibility studies, such individual loans not to exceed $4,000,000: *Provided*, That the Secretary may waive repayment of such loans where studies determine that project proposals have no economic or technical feasibility; (2) not to exceed $100,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000, to support commercial scale development of alternative fuels facilities; (3) not to exceed $500,000,000 shall be available for a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities as authorized by the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq.): *Provided*, That the indebtedness guaranteed or committed to be guaranteed under this appropriation shall not exceed the aggregate of $1,500,000,000; and (4) not to exceed $8,000,000 shall be available for program management.

This Act shall be doomed to satisfy the requirements for congressional approval of sections 7(c) and 19 of said Act with respect to any purchase commitment, price guarantee, or loan guarantee for which funds appropriated hereby are utilized or obligated.

For the purposes of this appropriation the term "alternative fuels" means gaseous, liquid, or solid fuels and chemical feedstocks derived from coal, shale, tar sands, lignite, peat, biomass, solid waste, unconventional natural gas, and other minerals or organic materials other than crude oil or any derivative thereof.

Within sixty days following enactment of this Act, the Secretary of Energy in his sole discretion shall establish and publish final criteria for loans described in this account.

For the establishment in the Treasury of the United States of a special fund to be designated the "Solar and Conservation Reserve", $1,000,000,000 to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate solar energy and conservation: *Provided further*, That the withdrawal of said funds shall be subject to the passage of authorizing legislation and only to the extent provided in advance in appropriations Acts.

Nothing herein is intended to preempt, preclude or prejudge the Senate's consideration of appropriation, authorization or revenue bills which may be reported by Senate committees relative to expenditures on synthetic fuels, solar (including renewables) and conservation, in this or subsequent fiscal years, nor is anything herein intended to establish or set a binding pattern as to the proportion of appropriations for synthetic fuels, solar (including renewables) and conservation.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

ALTERNATIVE FUELS PRODUCTION

In order to expedite the domestic development and production of alternative fuels and to reduce dependence on foreign supplies of energy resources by establishing such domestic production at maximum levels at the earliest time practicable, there is hereby established in the Treasury of the United States a special fund to be designated the "Energy Security Reserve", to which is appropriated $19,000,000,000, to remain avail-

able until expended: *Provided*, That these funds shall be available for obligation only to stimulate domestic commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts: *Provided further*, That of these funds $1,500,000,000 shall be available immediately to the Secretary of Energy to carry out the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq.), to remain available until expended, for the purchase or production by way of purchase commitments or price guarantees of alternative fuels: *Provided further*, That the Secretary shall immediately begin the contract process for purchases of, or commitments to purchase, or to resell alternative fuels to the extent of appropriations provided herein: *Provided further*, That of these fuels an additional $700,000,000 shall be available immediately to the Secretary of Energy, to remain available until expended, to support preliminary alternative fuels commercialization activities under the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, of which (1) not to exceed $100,000,000 shall be available for project development feasibility studies, such individual awards not to exceed $4,000,000: *Provided*, That the Secretary may require repayment of such funds where studies determine that such project proposals have economic or technical feasibility; (2) not to exceed $100,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000 to support commercial scale development of alternative fuels facilities; (3) not to exceed $500,000,000 shall be available for a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities as authorized by the Federal Nonnuclear Energy Research and Development Act of 1974, as amended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed under this appropriation shall not exceed the aggregate of $1,500,000,000; and (4) not to exceed $8,000,000 shall be available for program management.

This Act shall be deemed to satisfy the requirements for congressional action pursuant to sections 7(c) and 19 of said Act with respect to any purchase commitment, price guarantee, or loan guarantee for which funds appropriated hereby are utilized or obligated.

For the purposes of this appropriation the term "alternative fuels" means gaseous, liquid, or solid fuels and chemical feedstocks derived from coal, shale, tar sands, lignite, peat, biomass, solid waste, unconventional natural gas, and other minerals or organic materials other than crude oil or any derivative thereof.

Within ninety days following enactment of this Act, the Secretary of Energy in his sole discretion shall issue a solicitation for applications which shall include criteria for project development feasibility studies described in this account.

Loan guarantees for oil shale facilities issued under this appropriation may be used to finance construction of full-sized commercial facilities without regard to the proviso in section 19(b)(1) of said Act requiring the prior demonstration of a modular facility.

In any case in which the Government, under the provisions of this appropriation, accepts delivery of and does not resell any alternative fuels, such fuels shall be used by an appropriate Federal agency. Such Federal agency shall pay into the reserve the market price, as determined by the Secretary, for such fuels from sums appropriated to such Federal agency for the purchase of fuels. The Secretary shall pay the contractor, from sums appropriated herein, the contract price for such fuels.

All amounts received by the Secretary under this appropriation, including fees, any other monies, property, or assets derived by the Secretary from operations under this appropriation shall be deposited in the reserve.

All payments for obligations and appropriate expenses (including reimbursements to other Government accounts), pursuant to operations of the Secretary under this appropriation shall be paid from the reserve subject to appropriations.

For the establishment in the Treasury of the United States of a special fund to be designated the "Solar and Conservation Reserve", $1,000,000,000 to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate solar energy and conservation: *Provided further*, That the withdrawal of said funds shall be subject to the passage of authorizing legislation and only to the extent provided in advance in appropriations Acts.

Beginning six months after the date of enactment of this Act, and every six months thereafter, the Secretary is required to submit to the Congress a written report detailing the activities carried out pursuant to this appropriation.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 82: Page 44, line 18, insert ": *Provided further*, That none of the funds provided for State energy conservation grants shall be available to any jurisdiction that has not implemented section 362(c)(5) of Public Law 94-163".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 87: Page 47, line 6, insert "construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites; purchase and erection of portable buildings; purchase of trailer; and for".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 87 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 89: Page 47, line 23, insert "of new facilities,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 90: Page 47, line 24, insert "existing".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 91: Page 48, line 12, insert "*Provided*, That none of these appropriations to the Health Services Administration shall be available for the lease of permanent structures without advance provision therefor in appropriations Acts".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 91 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the lease of permanent structures without advance provision therefor in appropriations Act".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 94: Page 50, line 5, strike out "$103,498,000" and insert "$102,710,000: *Provided*,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 94 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "$103,781,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 107: Page 57, line 8, insert:

FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

PERMITTING AND ENFORCEMENT

For necessary expenses of the Federal Inspector for the Alaska Gas Pipeline, $13,433,000, of which $4,473,000 shall remain available until expended.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amendment, as follows: In lieu of

the matter proposed by said amendment insert the following:

FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

PERMITTING AND ENFORCEMENT

For necessary expenses of the Federal Inspector for the Alaska Gas Pipeline, $10,600,000, of which $3,600,000 shall remain available until expended.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 108: Page 57, line 14, insert:

COMMUNITY SERVICES ADMINISTRATION

EMERGENCY FUEL ASSISTANCE

For emergency fuel assistance programs administered by the Director of the Community Services Administration under section 222(a)(5) of the Economic Opportunity Act of 1964, $1,200,000,000.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 108 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

COMMUNITY SERVICES ADMINISTRATION

COMMUNITY SERVICES PROGRAM

For an additional amount for "Community services program", $1,350,000,000: *Provided*, That of this amount $1,200,000,000 shall be transferred by allocation to the Secretary of Health, Education, and Welfare for payment of energy grants and allowances and related administrative costs: *Provided further*, That energy allowances shall not be considered as income or resources under any other public or publicly assisted income tested program, but shall be taken into consideration in determining eligibility for energy crisis assistance: *Provided further*, That the States shall, in awarding funds, give priority to those households experiencing significant increases in heating fuel costs over the levels of the previous year: *Provided further*, That States shall, in establishing such priority, provide for determining the extent to which increases in rents are caused by increases in heating fuel costs and consider such portions of increases in rents to be increases in heating costs: *Provided further*, That proof of income eligibility shall be required of all applicants: *Provided further*, That an annual audit shall be made of this program and all of its components: *Provided further*, That no awards to applicants shall be made after June 30, 1980: *Provided further*, That $400,000,000 shall be paid as a special one-time energy allowance to recipients of Supplemental Security Income distributed among the States according to the following formula: (1) 33⅓ per centum based on the number of heating degree days squared times the number of households below 125 per centum of poverty; 33⅓ per centum based on the difference in home heating energy expenditures between 1978 and 1979; (3) 33⅓ per centum based on the number of Supplemental Security Income recipients (other than those receiving no more than $25 because of their presence in a Medicaid institution) in each State relative to the national total: *Provided further*, That no Supplemental Security Income recipient shall receive more than $250 from the funds provided for Supplemental Security Income recipients: *Provided further*, That the remainder of any funds that would have been allotted to any State for Supplemental Security Income recipients if no maximum payment limitation had been in existence shall be allocated based on the State determination previously made in regard to funds provided for special energy allowances to recipients of Aid to Families with Dependent Children (AFDC) or block grants to States: *Provided further*, That $942,600,000 shall be distributed among the States according to the following formula: (1) 50 per centum based on the number of heating degree days squared times the number of households below 125 per centum of poverty; (2) 50 per centum based on the difference in home heating energy expenditures between 1978 and 1979: *Provided further*, That, in the State Funding Plan, the Governor shall provide assistance for those who pay fuel bills indirectly as well as directly: *Provided further*, That from revenues received from any windfall profit taxes imposed by Federal law on producers of domestic crude oil, there shall be reimbursed to the general fund of the Treasury an amount equivalent to the amount of funds appropriated to carry out the purposes of this paragraph: *Provided further*, That for the purposes of this paragraph, the term "States" shall include the "insular areas" of the United States.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, I yield myself 5 minutes.

Mr. GRAMM. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Texas.

Mr. GRAMM. I thank the gentleman for yielding.

I would like, Mr. Speaker, to talk about why the formula that was adopted by the House and that we took to conference is greatly unfair, why there is no logical foundation for it, and why we should recede to the Senate's amendment, which simply allocates $1.2 million, but does not set out a formula.

In the formula we voted on in the House version of this bill, we allocated $174 million among the States on the basis of heating-degree days squared, multiplied by the number of people whose income is 125 percent of the poverty level or less.

The Oceanography and Meteorology Administration tells me that they have done conclusive research which indicates that there is a linear relationship between heating-degree days and the amount of heating to be done, in terms of heating cost. Therefore, if it is three times as cold in Massachusetts in terms of heating-degree days as it is in Texas, people in Massachusetts have to spend three times as much money to heat their homes as people do in Texas.

If our objective is to help poor people who have to heat their homes, then we should have set out a formula that had a linear relationship between the amount of money we gave the State and the number of heating-degree days that that State has. But by squaring the number of heating-degree days, if Massachusetts has three times the heating-degree days Texas does, and rather than giving them three times as much money, we give them nine times as much money.

If we take the linear relationship formula that would be dictated by the research of the Oceanography and Meteorology Administration and compare it to the formula the House has used, we find that by squaring heating-degree days, we greatly distort the allocation of funds. This means that relative to what would be dictated by need, Alabama gets 50.1 percent less; Arizona gets 56.7 percent less; Arkansas gets 40.1 percent less; and California gets 49.3 percent less.

□ 1410

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from California.

Mr. PHILLIP BURTON. The gentleman is dealing in percentages. I would like to have the gentleman take a look at the dollar loss that California sustained as a result of the conference committee. When the gentleman concludes his presentation, I am going to ask unanimous consent he be permitted to continue so he and I can engage in some rather sympathetic exchanges.

Mr. GRAMM. Had funds been allocated on the basis of need and heating costs, California would have received $27.6 million under the funds allocated by heating degree days. As a result of squaring, however, California gets only $14 million, a loss of $13.6 million.

I could go down the list, Mr. Speaker, but basically what we did by squaring this formula was set up the situation where those areas that were cold, rather than being compensated for the fact that they were cold, were overcompensated by squaring.

I believe people who live in the northern part of our country should get more money because it is colder there, but I do not think they should get some multiple of the justified differential. Cold is cold. Heating bills are heating bills, no matter where you live.

I think it is important that we remember that our objective here is to protect poor people. We do not protect poor people by setting up a formula whereby we square heating degree days, which is totally unjustified in terms of a relationship between requirements for heating and costs as dictated by temperature differentials. By squaring we are taking money away from poor people who live in the South and in the West. These people have to pay utility bills, these people are poor, and these people need help, too.

Mr. PHILLIP BURTON. Will the gentleman yield to me further?

Mr. GRAMM. I am happy to yield to my colleague from California.

Mr. PHILLIP BURTON. Mr. Speaker, I would like to join with my colleague in the well. As I understand, among other things, they use a statewide formula to determine whether or not we have these heating days. We could tuck all of Massachusetts into our back pocket, the whole State, the northern part of the State, and qualify, Mr. Speaker.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. YATES. Mr. Speaker, I yield the gentleman 3 additional minutes.

Mr. GRAMM. Mr. Speaker, I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, we can tuck Massachusetts in the north-

ern part of our State and not miss it in the whole State, populationwise. But because we have a whole State average, this particular formula just happens to give it to us in the pants.

I would like to note the other day our delegation voted overwhelmingly in support of welfare reform. Our State, under that formula, will pay out more money than our people will get. Our colleagues agreed to do this. We agreed to do this because we have some national responsibility, even though we pay more taxes than any State in the land does to the Federal Treasury.

But when we have a formula that purports to be equitable and is simply rigged, let us not kid anybody, this bill also provides a measurement of poverty that completely disregards reality in the high cost, highly urbanized sections of the country where the State money is used, they use the State funds to see these people in need have their income maintained.

I would like to alert my colleagues from the northern tier, if I may, they have for the last time had the support of States like ours if they continue to hand us once again or ever again a rigged formula to take care of the needs of poor people to meet these energy costs. If you live in the southern part of our State it costs you just as much or more through our heating season to keep body and soul alive with air-conditioning as it does for the elderly poor and the poor in the Northeast. For them the crisis is here now, but do not try to hay-shake us the next time, because we are not going to be taken.

Mr. GRAMM. If I may reclaim my time, I would simply like to point out that the other body in its version of 108 has allocated $1.2 billion, with no formula prescribed. If we recede to the position of the other body we can go back and generate a reasonable, ordered and just basis formula fair to everybody. We can escape a formula which is totally unjustified by heating needs and expenses, which robs from people in one part of the country and gives disproportionate amounts of money to people in other parts of the country. Our objective is to help poor people who have heating needs, no matter where they live and, therefore, I urge my colleagues to reject the House version of amendment No. 108, so that we may recede to the other body.

Mr. PHILLIP BURTON. If the gentleman will yield for one final point, the point is that if we really were well organized—that is a big "if"—we would have long ago or in the recent past increased all of the SSI people to a stable, monthly amount to take into account energy costs, and then not added that hokey aspect of this formula to this proposal.

The SPEAKER pro tempore. The time of the gentleman from Texas has again expired.

Mr. YATES. Mr. Speaker, I yield the gentleman an additional 2 minutes.

Mr. GRAMM. Mr. Speaker, I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, because we did not treat generically the SSI problem as we should have, we are now compelled to be sure these people are not ignored by trying to squeeze them into this formula. But even having done that, we produce internal inequities in a State, and inequities between one SSI recipient and another in differing parts of the country. So I cannot lay that part of the blame on the Interior Committee whose work I applaud in virtually all respects. But I can note that the Ways and Means Committee ought to get their act together and recognize the peculiar problem with the SSI, the elderly, and the crippled and the poor, and raise those stable monthly benefit amounts, and not get into this yoyo where we are going to increase a grant 1 month, reduce it the next, at the cost of $8 each grant computation change. It is sheer nonsense, and a lousy way to do business.

Mr. CONTE. Mr. Speaker, I wish to be recognized on my own time.

Mr. Speaker, as we all know, both the House and Senate Interior Appropriations conferees have been meeting for the past week. One of the more critical provisions in this appropriations bill is the emergency heating assistance program.

Yesterday, while in conference, it was readily apparent that a compromise needed to be struck between the two Houses of Congress. As a result, I offered an amendment which I am pleased to say was adopted. The effect of my amendment is that SSI recipients will now receive up to a maximum of $250 per person. I believe that the amendment is a fair and equitable one.

The emergency heating assistance language of the Interior bill now provides for the following distribution of $1.35 billion:

First, $150 million to be distributed by CSA as crisis intervention funds (which is to be added to the already distributed $250 million for a total of $400 million). The $150 million will be distributed using the House-passed formula under the Labor-HEW bill.

Second, $400 million will be distributed to SSI recipients, according to the State in which they live, by a three-part formula which consists of the House-passed formula plus an additional factor which was adopted yesterday in conference.

One-third based upon heating degree days squared times the number of households below 125 percent of poverty.

One-third based upon the difference in home heating energy expenditures between 1978 and 1979 and

One-third based upon the number of SSI recipients in a State compared to the total number of such recipients in all States.

Third. Approximately $791 million will be made available for distribution by HEW to AFDC recipients. If the State decides to "opt in," it may take its share of the $791 million (based on the House-passed formula) and proceed to use it under a plan already approved by CSA and therefore automatically approved by HEW. In addition, it is intended that this provision will expedite the implementation of this program and that minor modifications necessary to be consistent with the new provisions in the conference report shall not be considered as requiring new plan approval.

The States can use the block grant in a variety of ways, including but not limited to the following: Retain all or part of the funds for crisis intervention; target households with higher energy costs rather than distributing it broadly; establish a vendor line of credit; make payments to those already participating in other income assistance programs (AFDC, food stamps).

The conferees expect HEW and CSA to work together as closely as possible in carrying out this program to reduce duplication and overlap to a minimum and to insure that the funds are made available to the intended recipients as quickly and expeditiously as possible. States may use up to 10 percent of the block grants for administrative expenses.

Although the conferees agree on the need to impose a ceiling on the funds available to each eligible household, we are also aware of the unique heating requirements of each State. The conferees therefore recommend that CSA regulations be amended to allow the Governor of each State to request the authority to increase this ceiling.

It is also directed that there be no duplication of payments from any funds contained in this program.

Time is of the essence in this matter, we must not place the many citizens of this country of having to chose between heating and eating.

	CSA[1]	SSI[2]	AFDC[3]	Total
Alabama	4.57	6.11	4.36	15.04
Alaska	1.15	1.16	3.10	5.41
Arizona	1.99	1.65	1.88	5.52
Arkansas	3.09	3.70	3.31	10.10
California	17.48	30.08	20.97	68.53
Colorado	4.82	4.54	10.43	19.79
Connecticut	9.01	7.94	21.19	38.14
Delaware	1.20	1.14	2.67	5.01
District of Columbia	1.49	1.54	3.04	6.07
Florida	5.30	6.61	2.60	14.51
Georgia	6.06	7.10	5.77	18.93
Hawaii	.19	.33		.52
Idaho	2.23	1.99	5.15	9.37
Illinois	23.77	19.33	45.52	88.62
Indiana	11.23	8.77	21.95	41.95
Iowa	6.51	5.99	15.22	27.72
Kansas	3.12	2.37	5.17	10.66
Kentucky	6.18	6.40	9.59	22.17
Louisiana	3.05	5.21	2.11	10.37
Maine	4.86	5.01	12.50	22.37
Maryland	6.85	6.57	14.64	28.06
Massachusetts	17.79	18.06	40.64	76.49
Michigan	21.24	19.98	47.49	88.71
Minnesota	13.74	13.26	36.14	63.14
Mississippi	3.06	4.65	2.46	10.17
Missouri	9.35	8.35	16.02	33.72
Montana	2.17	2.05	5.35	9.57
Nebraska	3.22	2.74	6.83	12.79
Nevada	.90	.74	1.55	3.19
New Hampshire	3.04	2.81	7.75	13.60
New Jersey	16.51	15.20	36.47	68.18
New Mexico	1.90	1.93	3.16	6.99
New York	52.04	51.76	117.73	221.53
North Carolina	9.11	10.28	16.24	35.63
North Dakota	2.33	2.61	7.06	12.00
Ohio	20.64	17.58	40.11	78.33
Oklahoma	3.67	3.71	4.61	11.99
Oregon	4.72	4.55	11.30	20.57
Pennsylvania	28.06	25.71	59.28	113.05
Rhode Island	2.90	2.72	6.56	12.18
South Carolina	3.75	4.45	4.83	13.03
South Dakota	2.11	2.20	5.77	10.08
Tennessee	6.47	7.56	9.33	23.36
Texas	9.86	11.18	8.16	29.20
Utah	2.02	1.67	4.28	7.97
Vermont	2.06	2.15	5.44	9.65
Virginia	8.35	8.30	16.68	33.33
Washington	7.91	7.81	18.63	34.35
West Virginia	3.84	3.77	6.83	14.44
Wisconsin	13.05	12.79	31.35	57.19
Wyoming	.79	.71	1.91	3.41

[1] $250 M, via old formula: $150 M, via House-passed formula.
[2] $400 M, out via compromise formula.
[3] Or block grant to States $800 M via House-passed formula

	House bill	House formula	Compromise
Alabama	11.66	2.23	6.11
Alaska	.56	1.59	1.16
Arizona	2.40	.96	1.65
Arkansas	6.95	1.69	3.70
California	58.18	10.73	30.08
Colorado	3.83	5.34	4.54
Connecticut	2.64	10.84	7.94
Delaware	.74	1.36	1.14
District of Columbia	1.54	1.55	1.54
Florida	10.45	1.33	6.61
Georgia	12.92	2.95	7.10
Hawaii	.52	.00	.33
Idaho	.93	2.64	1.99
Illinois	14.09	23.29	19.33
Indiana	4.59	11.23	8.77
Iowa	3.16	7.79	5.99
Kansas	1.99	2.65	2.37
Kentucky	9.76	4.91	6.40
Louisiana	9.77	1.08	5.21
Maine	3.25	6.40	5.01
Maryland	5.12	7.49	6.57
Massachusetts	15.77	20.80	18.06
Michigan	14.90	24.30	19.98
Minnesota	4.31	18.49	13.26
Mississippi	9.24	1.26	4.65
Missouri	9.61	8.20	8.35
Montana	.99	2.74	2.05
Nebraska	1.58	3.49	2.74
Nevada	.66	.80	.74
New Hampshire	.70	3.97	2.81
New Jersey	9.64	18.66	15.20
New Mexico	2.76	1.62	1.93
New York	42.23	60.24	51.76
North Carolina	13.12	8.31	10.28
North Dakota	.98	3.61	2.61
Ohio	14.04	20.53	17.58
Oklahoma	6.0	2.36	3.71
Oregon	2.3	5.78	4.55
Pennsylvania	19.72	30.33	25.71
Rhode Island	1.74	3.36	2.72
South Carolina	7.07	2.47	4.45
South Dakota	1.00	2.95	2.20
Tennessee	12.73	4.78	7.56
Texas	19.16	4.18	11.18
Utah	.83	2.19	1.67
Vermont	1.28	2.78	2.15
Virginia	8.04	8.53	8.30
Washington	5.23	9.53	7.81
West Virginia	4.83	3.50	3.77
Wisconsin	8.84	16.04	12.79
Wyoming	.26	.98	.71
All States	404.83	404.83	404.83

Mr. Speaker, I want to direct my remarks to the gentleman from California. I think he is very unfair. He talked to me in the aisle earlier today. The only thing I wish is that more people in this House could sit in on the conference.

The gentleman from Illinois, chairman of the committee (Mr. YATES) did a yeoman's service, a tremendous job, a very tedious job, 5 solid days with the other body.

Does the gentleman know what the other body wanted to do to California? I will tell the gentleman what they wanted to do to California, and I stopped them. They wanted to give California $10 million under SSI. We fought it, and fought it, and fought it, and then finally came up with this compromise with regards to the SSI recipients. The gentleman spoke to me in the aisle about it.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. PHILLIP BURTON. If my dear friend will yield for a moment, the Javits amendment did not produce this result.

Mr. CONTE. No, not the Javits amendment.

Mr. PHILLIP BURTON. The gentleman is talking about an amendment that was pulled out of the closet by the conferees of the other body. The other body never acted on the Javits amendment, and that difference did not exist between the House and Senate-approved proposals.

Mr. CONTE. I take back my time.

What happened was the Javits amendment to the Interior appropriations bill went through on the Senate side, but this House passed an HEW appropriation for emergency fuel. The other body refused to take it up. They would not even take it up. Rather, they included three sentences or three lines for an emergency fuel bill in their Interior bill and started to write a bill in the conference. And there we were, we were stymied. I would ask the chairman of the committee (Mr. YATES), am I not right?

Mr. YATES. Mr. Speaker, will the gentleman yield to me?

Mr. CONTE. Yes, I yield to the gentleman from Illinois.

Mr. YATES. The gentleman is exactly right. We tried to insist upon the House version of the bill and the Senate conferees would not even listen to us. The question was whether or not we would come out with a bill. We were at loggerheads, we had no way to move, and the gentleman from Massachusetts proposed an amendment which seemed to us to provide a halfway point, an equitable distribution, and that was the reason.

Mr. PHILLIP BURTON. If the gentleman would yield, I would like to applaud the gentleman in the well and applaud the gentleman from Illinois. We have all had to do business with the other body. We ofttimes do not succeed too well.

□ 1420

But if I can make this one general kindly footnote, I thank the gentleman in the well. I will not go into how well Massachusetts and Illinois did vis-a-vis the House version. I think the gentleman struggled with his conscience and he won. Massachusetts did better under this version than it did under the House version.

Mr. CONTE. I might say in all fairness, not very much better, not very much better. But when I was drawing up this compromise and trying to reach a compromise with the Senate, I tried to determine the most equitable approach to the problem. The gentleman from California (Mr. PHILLIP BURTON) is the one who gave me the idea. He suggested that we not leave out the SSI recipients. So I did not, instead I factored in the SSI recipients in each State with my compromise formula. We put a $250 limitation on it so no SSI recipient will get over $250. If any recipient is entitled to more than the $250, the States can take that amount of money and use it in with their block grant program. It is amazing—amazing. Finally the Senate said, "All right. You came up with a good idea." Senator BURDICK said, "You are a genius. You came up with a good idea. We are going to buy it," and that is it. If it were not for that, we would not be here tonight acting on this piece of legislation getting these checks out to the poor people.

The Members all read the RECORD. They can read all about my amendment.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I just do not understand how all of this happened, because when the fuel assistance bill came through here like a locomotive about 10 days ago, we were assured by all of you folks it was the best formula, the best legislation; it was perfect, and we should pass it, despite the fact that it never went through an authorizing committee.

Mr. CONTE. Let me say this: The chairman of the committee and I argued very, very strongly, very vociferously, for the House-passed bill, but the Senate never even held hearings.

If the gentleman knows the gentleman over there who runs that other body—whose name we cannot say under the rules of the House—they were holding this particular bill hostage.

Mr. BAUMAN. If the gentleman will yield, we are not permitted under the rules to mention a name.

Mr. CONTE. That was something else, and that was unfortunate, but this was a fast-track vehicle to make it a right act.

Mr. PHILLIP BURTON. If the gentleman will yield, the senior Senator from North Dakota struggled with his conscience and walked off with a good deal more under the gentleman's formula than the House-passed bill.

Mr. CONTE. I hope this is passed. And if a motion is made by someone to recede and concur with the Senate, please do not do it because there is nothing there.

Mr. YATES. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, it is obvious that a formula cannot be drafted which satisfies every State in the Union. One formula will cause dissatisfaction in some of the States; another formula will cause dissatisfaction in other States. We have struggled with what we thought was a fair formula, and we have produced what we thought was a fair result. I think we ought to vote.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. YATES).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GRAMM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 103, not voting 148, as follows:

[Roll No. 648]

AYES—182

Abdnor	Bonior	D'Amours
Ambro	Brademas	Daniel, Dan
Annunzio	Brodhead	Daschle
Ashley	Broomfield	Davis, Mich.
Aspin	Brown, Calif.	Deckard
Atkinson	Burlison	Devine
AuCoin	Butler	Diggs
Bailey	Carney	Dingell
Barnes	Carr	Dodd
Beard, R.I.	Carter	Donnelly
Bedell	Coleman	Dougherty
Bellenson	Collins, Ill.	Downey
Benjamin	Conable	Drinan
Bereuter	Conte	Edgar
Biaggi	Corcoran	Edwards, Okla.
Bingham	Coughlin	Emery
Blanchard	Courter	Erdahl

Ertel
Evans, Del.
Evans, Ind.
Ferraro
Fish
Fisher
Florio
Foley
Ford, Mich.
Forsythe
Frenzel
Gaydos
Gephardt
Gilman
Goodling
Grassley
Gray
Green
Guarini
Guyer
Hagedorn
Hall, Ohio
Hanley
Harkin
Harris
Harsha
Hillis
Hopkins
Howard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Kastenmeier
Kildee
Kindness
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lent
Long, Md.
Lowry
Luken
Lundine
McClory
McCormack
McHugh
Madigan
Maguire
Markey
Marks
Marlenee
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nowak
O'Brien
Oberstar
Obey
Ottinger
Patten
Pease
Perkins
Petri
Price
Pritchard
Purcell
Rangel
Reuss
Rinaldo
Ritter
Robinson
Rodino
Roe
Roth
Sabo
Sawyer
Scheuer
Schulze
Selberling
Serzenbrenner
Shannon
Sharp
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Staggers
Stangeland
Stanton
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Tauke
Trible
Vander Jagt
Vanik
Vento
Volkmer
Weaver
Weiss
Whitehurst
Whittaker
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Yates
Young, Mo.
Zablocki

NOES—103

Alexander
Anderson, Calif.
Anthony
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bethune
Bevill
Boner
Breaux
Brinkley
Broyhill
Buchanan
Burgener
Burton, Philip
Byron
Campbell
Collins, Tex.
Crane, Daniel
Daniel, R. W.
Danielson
Dannemeyer
Davis, S.C.
Dellums
Derrick
Derwinski
Dickinson
Dixon
Dornan
Eckhardt
English
Fascell
Fazio
Flippo
Fountain
Fowler
Frost
Gingrich
Goldwater
Gonzalez
Gore
Gramm
Grisham
Hall, Tex.
Hammer-schmidt
Hansen
Hefner
Hightower
Hinson
Hubbard
Jenkins
Jones, Tenn.
Kazen
Kelly
Kramer
Lagomarsino
Leach, La.
Lehman
Leland
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Lott
McDonald
Martin
Matsui
Mattox
Mica
Miller, Calif.
Mineta
Montgomery
Moore
Moorhead, Calif.
Neal
Nelson
Pashayan
Patterson
Paul
Preyer
Rose
Roybal
Rudd
Santini
Satterfield
Shelby
Shumway
Spence
Stack
Stenholm
Stump
Thomas
Van Deerlin
Walgren
Walker
Wampler
White
Whitley
Whitten
Wyatt

NOT VOTING—148

Addabbo
Akaka
Alboita
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Baldus
Barnard
Boggs
Boland
Bolling
Bonker
Bouquard
Brown
Brooks
Brown, Ohio
Burton, John
Cavanaugh
Chappell
Chisney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Conyers
Corman
Cotter
Crane, Philip
de la Garza
Dicks
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Ga.
Fary
Fenwick
Findley
Fithian
Flood
Ford, Tenn.
Fuqua
Garcia
Giaimo
Gibbons
Ginn
Glickman
Gradison
Gudger
Hamilton
Hance
Hawkins
Heckler
Heftel
Holland
Hollenbeck
Holt
Holtzman
Horton
Huckaby
Hutto
Ireland
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kemp
Kogovsek
Latta
Leath, Tex.
Lee
Livingston
Lujan
Lungren
McCloskey
McDade
McEwen
McKay
McKinney
Marriott
Mathis
Mavroules
Mazzoli
Mikulski
Mitchell, Md.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nichols
Nolan
Oakar
Panetta
Pepper
Peyser
Pickle
Quayle
Quillen
Rahall
Rallsback
Ratchford
Regula
Rhodes
Richmond
Roberts
Rosenthal
Rostenkowski
Rousselot
Royer
Runnels
Russo
Schroeder
Sebelius
Skelton
Snowe
Spellman
St Germain
Stark
Symms
Synar
Taylor
Thompson
Traxler
Treen
Udall
Ullman
Watkins
Waxman
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

□ 1440

Messrs. GUARINI, VOLKMER, and JEFFRIES, changed their votes from "no" to "aye."

Messrs. LELAND, BUCHANAN, ECKHARDT, GORE, and ENGLISH changed their votes from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 109: Page 58, line 15, strike out:

No part of any appropriation under this Act shall be made available to the Secretary of the Interior for the leasing of oil and natural gas on publicly owned lands within the boundaries of the Flathead National Forest, Montana, except for such leases which the Forest Service determines will not significantly impact these lands and for which the Forest Service in granting the leases specifically outlines exploration and development guidelines designed to protect these lands from significant adverse environmental impact".

And insert:

None of the funds appropriated under this Act shall be available to implement any amendment to, or provision of, the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 providing for an increase in any month in the ratio of the number of entitlements issued any firm with respect to any imported refined petroleum product to the number of barrels of such product imported by such firm in such month,

(a) in the case of residual fuel oil, above 0.3; and

(b) in the case of any other refined petroleum product, above the ratio in effect on April 30, 1979

unless the President has transmitted such amendment or provision to the Congress as an "energy action" under section 551 of the Energy Policy and Conservation Act (Public Law 94-163) and neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in such section 551 of such Act.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 109 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following: "None of the funds appropriated under this Act shall be available to implement any amendment to, or provision of, the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 providing for an increase or decrease in any month beginning after the date of the enactment of this Act in the ratio of the number of entitlements issued any firm with respect to any imported refined petroleum product to the number of barrels of such product imported by such firm in such month above the ratio in effect on April 30, 1979 unless the President has transmitted such amendment or provision to the Congress as an "energy action" under Section 551 of the Energy Policy and Conservation Act (Public Law 94-163) and neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in such section 551 of such Act."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 110: Page 60, line 7, insert:

SEC. 307. Notwithstanding the provisions of any other law, appropriations in this Act or any other Act may be used to contract with private firms to provide plant care or watering services except for indoor office plants.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 110 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment is as follows:

Senate amendment No. 111: Page 60, line 11 insert:

SEC. 308. Notwithstanding the provisions of any other law, the State of Alaska is exempted from application of the provisions of section 7(i) of the Export Administration Act of 1979 (Public Law 96-72).

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 111 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that I may revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks, to include extraneous material and tabular information, on the conference report on H.R. 4930 which was just agreed to.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from Illinois?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked permission to proceed for 1 minute for the purpose of inquiring of the distinguished majority whip as to the program for next week.

Mr. BRADEMAS. Mr. Speaker, will the distinguished minority whip yield?

Mr. MICHEL. I would be happy to yield.

Mr. BRADEMAS. Mr. Speaker, the program for the House of Representatives for the week of November 12, 1979, is as follows:

On Monday, since it is Veterans Day, the House is not in session.

On Tuesday, November 13, the House meets at noon on the Suspension Calendar. There are eight bills on the Suspension Calendar:

H.R. 4308, Legionville, Pa., National Historic Site;

H.R. 5461, Martin Luther King birthday bill;

H.R. 5481, international aviation;

House Concurrent Resolution 200, Baltic States and Soviet citizenship claims;

House Concurrent Resolution 202, Ida Nudel emigration to Israel bill;

H.R. 5037, Federal Reserve Act amendments;

H.R. 5235, pay restructure of uniformed services health professionals; and

H.R. 5811, interest rate modifications.

The suspensions will be followed by consideration of House Joint Resolution 404, Continuing Appropriations; H.R. 2727, Meat Import Act of 1979, under an open rule with 1 hour of debate;

H.R. 2335, Solar Power Satellite Research and Development Program Act, to complete consideration of that bill.

On Wednesday, November 14, the House will meet at 10 a.m. to consider the following bills:

H.R. 2063, National Economic Development and Public Works Act of 1979, under an open rule with 1½ hours of debate.

H.R. 2313, Federal Trade Commission Authorization, under a modified rule, with 1 hour of debate, the rule having already been adopted.

H.R. 3948, Experienced Pilots Act of 1979, under an open rule, with 1 hour of debate.

Then on Thursday, November 15, the House will meet at 10 a.m. and on Friday at 10 a.m., to consider the following bills:

H.R. 2626, hospital cost containment, subject to a rule being granted.

H.R. 2608, NRC Authorization Act, under a modified open rule, with 1 hour of debate.

H.R. 4119, Federal crop insurance program, subject to a rule being granted.

H.R. 2222, coverage of medical House staff under National Labor Relations Act, under an open rule, with 1 hour of debate.

H.R. 3546, Extend Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), under an open rule, with 1 hour of debate.

Finally, H.R. 3394, Resource Conservation and Recovery Act Amendments of 1979, under an open rule, with 1 hour of debate.

The House will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days, except Wednesday.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. MICHEL. Mr. Speaker, may I inquire of the distinguished majority whip whether plans have changed any for the week of Thanksgiving. Is it still hard and fast that there will be no legislative business, but that there will be pro forma sessions during the week of Thanksgiving?

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. MICHEL. Mr. Speaker, I thank the gentleman. Might I inquire what days those pro forma sessions will be during Thanksgiving week?

Mr. BRADEMAS. I am not in a position to give the gentleman from Illinois that information at this time, but it is the intention of the leadership that when the House adjourns on Friday, November 16, at the close of business, we return to legislative business on the Monday after Thanksgiving, on November 26, but that there should be no rollcall votes until Tuesday, November 27.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Speaker, I would like to ask if there is any possibility that the House might remain in session, at least pro forma, over this long holiday season. There is no holiday for our hostages in Iran and if there is such an effort to ask unanimous consent to go over until Tuesday, I would like to advise the House that I do plan to object, because I feel we at least ought to show some support for those people there and not go back to our constituents with the idea that we are not on call.

Mr. BRADEMAS. Mr. Speaker, if the gentleman from Illinois will yield, I might respond to the gentleman from Idaho that inquiries have been made of the Secretary of State and of the White House with respect to whether or not it would be thought helpful for the House to remain in session, as the gentleman from Idaho has suggested.

We were advised that no useful purpose would be served by our being in session on Monday next.

Moreover, I would advise the gentleman from Idaho that the majority leader of the other party has already made clear that the other body will be going over until Tuesday of next week, so that it would not be possible in that event for there to be any measures requiring the approval of both bodies to be completed, even if we in the House were to be in session.

□ 1450

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Speaker, I would like to say that I think whatever the other body does—and I hope this is not an indication that there will not be any results over the weekend on the negotiations—that in order for us to show our moral support for the situation there, we should at least remain in a pro forma session so we are in a sense on call if anything should happen or should break and so the American people will know that we at least show that much concern.

Mr. Speaker, I will so move when the appropriate time comes.

Mr. BRADEMAS. Mr. Speaker, I appreciate the constructive contribution of the gentleman from Idaho (Mr. HANSEN).

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, November 14, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REQUEST TO MAKE IN ORDER CONSIDERATION OF PRIVATE CALENDAR AND CONSENT CALENDAR ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that it be in order to consider the Private Calendar and the Consent Calendar on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

MONDAY VOTES ON PRIVATE AND CONSENT CALENDAR LEGISLATION

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I might simply advise the Member on the other side who objected to my last request—and my eye did not fall upon that Member—that it will be necessary, in view of that objection, that we then have votes on the Private and Consent Calendars on some Monday upcoming. So Members in their planning should understand that it would be necessary for us to fill in those votes on some Monday in order to dispose of that business.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. Of course, I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I will inform the gentleman from Indiana (Mr. BRADEMAS) that the rules do not require votes. The only thing that can occur is an objection.

Mr. BRADEMAS. I would only reiterate what I have said, Mr. Speaker.

REQUEST TO SET HOUR OF MEETING ON FRIDAY, NOVEMBER 16, 1979

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House convenes on Friday, November 16, 1979, it convene at 9 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. HANSEN. Mr. Speaker, reserving the right to object, am I to understand that we are talking about 9 a.m. on Tuesday?

Mr. BRADEMAS. No; Mr. Speaker, if the gentleman will yield, I would reiterate that my unanimous-consent request is that when the House convenes on Friday, November 16, 1979, it convene at 9 a.m. That is to say we would convene at 9 a.m. rather than at 10 a.m., as has been customary throughout most of the session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I have already observed that this practice was started 2 weeks ago, and at that time the House was told that we would adhere to a 2 o'clock adjournment. I was informed that the leadership on the other side made it clear that they wanted the Interior appropriation conference report considered today, and we all know what time it is now.

If we are not in fact going to adjourn at 2 o'clock on Fridays, I see no point in coming in at 9 o'clock on Fridays.

Mr. Speaker, since that is the case, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT TO TUESDAY, NOVEMBER 13, 1979

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday, November 13, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. HANSEN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. BRADEMAS. Mr. Speaker, I move that when the House adjourns today, it adjourn to meet at noon on Tuesday, November 13, 1979.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HANSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 161, nays 89, answered "present" 1, not voting 182, as follows:

[Roll No. 649]

YEAS—161

Abdnor
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Ashley
Atkinson
AuCoin
Bailey
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boner
Bonior
Brademas
Breaux
Brodhead
Broyhill
Burgener
Burlison
Burton, Phillip
Coleman
Collins, Ill.
Conte
D'Amours
Daniel, Dan
Danielson
Dellums
Derrick
Dickinson
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Eckhardt
Edgar
Emery
English
Erdahl
Evans, Del.
Evans, Ind.
Fazio
Ferraro
Fisher
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fowler
Frenzel
Frost
Gaydos
Gephardt
Gonzalez
Gore
Gramm
Gray
Guarini
Hall, Ohio
Harkin
Harris
Hefner
Hillis
Howard
Hughes
Ichord
Ireland
Jones, Tenn.
Kazen
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lewis
Lloyd
Long, La.
Long, Md.
Lott
Lundine
McCormack
McHugh
Maguire
Markey
Marks
Matsui
Mica
Michel
Miller, Calif.
Mineta
Moakley
Moffett
Mollohan
Moore
Murphy, Pa.
Murtha
Natcher
Nelson
Oberstar
Obey
Ottinger
Patterson
Pease
Preyer
Price
Pritchard
Rangel
Reuss
Rinaldo
Roe
Roybal
Sabo
Santini
Scheuer
Seiberling
Shannon
Sharp
Shelby
Shumway
Slack
Smith, Iowa
Snyder
Solarz
Stack
Staggers
Stangeland
Stanton
Steed
Stockman
Stokes
Stratton
Studds
Swift
Thomas
Trible
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Weaver
Whitehurst
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wirth
Wolff
Yates
Young, Mo.
Zablocki

NAYS—89

Badham
Bafalis
Bauman
Bereuter
Bethune
Broomfield
Buchanan
Butler
Byron
Campbell
Carney
Carter
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Derwinski
Devine
Edwards, Okla.
Fish
Fountain
Gilman
Gingrich
Goldwater
Goodling
Grassley
Green
Grisham
Guyer
Hagedorn
Hammer-schmidt
Hansen
Harsha
Hinson
Hopkins
Hubbard
Jacobs
Jeffords
Jeffries
Kelly
Kildee
Kramer
Lagomarsino
Leach, Iowa
Leach, La.
Lent
Levitas
Loeffler
Lowry
Luken
McClory
McDonald
Marlenee
Martin
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Myers, Ind.
Nowak
Pashayan
Paul
Petri
Robinson
Roth
Rudd
Satterfield
Sawyer
Schulze
Shuster
Smith, Nebr.
Solomon
Spence
Stenholm
Stump
Tauke
Vander Jagt
Walker
Wampler
White
Whittaker
Wyatt

ANSWERED "PRESENT"—1

Dornan

NOT VOTING—182

Addabbo
Akaka
Albosta
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Aspin
Baldus
Barnard
Beard, Tenn.
Bingham
Boggs
Boland
Bolling
Bonker
Bouquard
Bowen
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Burton, John
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Conyers
Corman
Cotter
Crane, Daniel
Crane, Philip
de la Garza
Dicks
Diggs
Dixon
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Erlenborn
Ertel
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fithian
Flood
Ford, Tenn.
Fuqua
Garcia
Glaimo
Gibbons
Ginn
Gickman
Gradison
Gudger
Hall, Tex.
Hamilton
Hance
Hanley
Hawkins
Heckler
Heftel
Hightower
Holland
Hollenbeck
Holt
Holtzman
Horton
Huckaby
Hutto
Hyde
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kemp
Kindness
Kogovsek
Latta
Leath, Tex.
Lee
Livingston
Lujan
Lungren
McCloskey
McDade
McEwen
McKay
McKinney
Madigan
Marriott
Mathis
Mattox
Mavroules
Mazzoli
Mikulski
Minish
Mitchell, Md.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Neal
Nedzi
Nichols
Nolan
O'Brien
Oakar
Panetta
Patten
Pepper
Perkins
Peyser
Pickle
Purseil
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rhodes
Richmond
Ritter
Roberts
Rodino
Ross
Rosenthal
Rostenkowski
Rousselot
Royer
Runnels
Russo
Schroeder
Sebelius
Sensenbrenner
Simon
Skelton
Snowe
Spellman
St Germain
Stark
Stewart
Symms
Synar
Taylor
Thompson
Traxler
Treen
Udall
Ullman
Watkins
Waxman
Weiss
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wolpe
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

□ 1500

Messrs. DANNEMEYER, JEFFORDS, and MILLER of Ohio changed their votes from "yea" to "nay".

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO HAVE UNTIL MIDNIGHT, TUESDAY, NOVEMBER 13, 1979, TO FILE CONFERENCE REPORT ON H.R. 2676, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1980

Mr. AMBRO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Tuesday, November 13, 1979, to file a conference report on the bill (H.R. 2676) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from New York.

There was no objection.

ANDERSON DISCUSSES FOREIGN STUDENT DEMONSTRATIONS

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, I want to once again express my deep resentment of the current political activities of some students here in the United States—and at this moment I refer to Iranian students. I addressed myself to this same subject almost a year ago, in January following the shocking action of Iranian students in my own State of California.

The rights of Americans to demonstrate in a peaceful and law-abiding manner is an established right and one that must be protected. What has been occurring recently with the Iranian students, here only through the good graces of the American Government which allows them to study in our institutions, has involved something very different. These students are allowed to enter our country to study, not demonstrate. If they want to demonstrate, let them return to their homeland to do so.

These students entered our country on visas granted for the specific purpose of permitting them to study at our educational institutions. But many of them are grossly abusing any rights they have by virtue of these visas. It is absurd for Americans to sit idly by and take the kind of abuse being heaped upon us by the Iranians, either here or in Iran. At the moment, unfortunately, there is little we can do to ease the situation in Tehran, if we intend to save the American lives involved there. We can, though, take a firm stance here against the kinds of actions undertaken by Iranian students in the United States. We should not and we must not tolerate this kind of behavior. Action must be taken and taken now to deal with it.

With this in mind, I want to express my strong support for legislation that would clarify and expedite the procedure by which students could be expelled if the terms of their student visas are violated, particularly by the types of inexcusable demonstrations of late—violent, political demonstrations against the U.S. Government. Something must be done.

Foreigners who enter our country legally do so with visas granted for a specific purpose—business, tourism, study, and so forth. The vast majority come for their declared purpose and then depart. We should warmly welcome and encourage this type of visitor. However, those who accept our hospitality and then promptly violate it by engaging in political demonstrations on our soil should have their visas canceled; be promptly deported; and permanently banned from entering the United States. At present any prompt action is impossible due to a lengthy appeals procedure. In the case of foreign visitors this is most inappropriate.

In the current case of the Iranian demonstrators—and the morning news reports several demonstrations are expected today—let us see how many of them would like to return to Iran now. Let us see if they could get away with this kind of behavior in Iran, if it were aimed against Khomeini. And I wonder how many are here whose visas have already expired? I am sure the Justice Department has no idea. I am introducing legislation that would address this problem, by creating additional grounds for deportation and insuring that the Justice Department has the authority to promptly expel students who come here to demonstrate rather than to study. I urge your support of this legislation.

LEGISLATION AUTHORIZING DEPORTATION OF DEMONSTRATING IRANIAN STUDENTS

(Mr. HIGHTOWER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Speaker, 2 days ago I introduced a bill, H.R. 5813, that would authorize the deportation of Iranian students, as well as students from all other nations, who have abused this Nation's hospitality by participating in actions intended to further the tyranny in their home countries. Similar measures were introduced yesterday by other Members and the legislative counsel has told me that other bills are being drafted. As of this hour 30 of my colleagues have notified me of their desire to cosponsor my bill.

The situation in Iran has not changed. The Ayatollah Khomeni continues to flout international law and make a mockery of every principle of human decency. The 60 Americans being held hostage in our Embassy in Tehran reportedly have not been physically harmed, but photographs appearing on the front pages of today's newspapers provide stark evidence of their being terrorized mentally, subjected to intense personal humiliation and, on a broader plane, deepening the humiliation to the proudest Nation on Earth.

But the situation at home is changing, and for the worse. Yesterday in Houston demonstrators surrounded the main entrance of the Iranian consulate in reaction to a march the day before by Iranian students supporting the Tehran authorities. Other confrontations between Americans and Iranian students occurred in Portland, Oreg. and Carbondale, Ill.

The spark that could lead to the powder keg of violence has been ignited. We must defuse it before it erupts. Violence at home could incite tragic reprisals against Americans still in Iran. The Mayor of Washington, D.C., has ignored pleas by the President to refuse permits for further demonstrations and is authorizing a planned march and rally today in the Nation's Capitol by Iranian students.

Our severely limited options to assure the safe return of the hostages and other Americans in Iran has fomented a deepening sense of frustration and outrage by the American people. We can diminish this feeling by passing legislation authorizing the deportation of students whose objective seems to be agitate instead of educate.

When I reintroduce H.R. 5813 next Tuesday I fervently hope a strong show of support by my colleagues will clearly indicate that we must have immediate hearings in the Judiciary Committee and begin the process of ridding this Nation of these disruptive influences.

HOW MOBIL OIL SETS ITS PRICES

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WEAVER. Mr. Speaker, in my district a former Mobil Oil Corp. employee, John Hanks, revealed in an article in the Oregon Times magazine the inner workings of Mobil Oil Corp. in setting prices for its oil.

The article follows:

UPWARD MOBILITY

(An insider's account of how Mobil padded prices in Oregon during the last energy crunch)

Inside his garage in a quiet, middle-class Eugene neighborhood, John Hanks keeps an almost compulsively thorough filing cabinet of documents, inter-office memoranda, and other souvenirs from his 14-year career with the Mobil Oil Corporation.

"If I were a good, loyal Mobil Man," Hanks says carefully, examining an invoice, "I would have burned this stuff."

Hanks, 37, is a self-described right-wing Republican with an abundant shock of strawberry hair, enough faith in America's future to collect vintage wines, and a full-time interest in organizing political campaigns for conservative candidates.

Last December, Hanks walked away from his $30,000-plus job in Mobil's mid-Willamette industrial sales division after balking at a transfer to Corpus Christi, Texas. When gas lines began forming late this spring, Hanks decided to come forward with the story of life inside the oil industry during the last energy crisis.

Congress had empowered the Federal Energy Administration to allocate petroleum products and freeze prices for every class of distillate fuel. Under a program to control profits, May 15, 1973, was the magic date. The FEA instructed the oil companies to compute an average price for gas, diesel and heating oil at every one of thousands of U.S. delivery points, using May 15 sales receipts. Whatever the price had been on May 15—or the nearest date before—became the "base price," and only costs such as increased taxes or higher wages could be added to that price.

Hanks said he helped set "75 percent of the base prices in the Northwest for industrial consumers," then adds: "It's not a duty that I'm proud of."

Hanks spent weeks "flying between Mobil's Portland delivery terminal, Seattle division office, Los Angeles accounting center and Dallas region headquarters to review sales receipts, documents and guidelines." Finally, base pricing for the Pacific Northwest states was finished in November 1974.

So far so good, Hanks says, until mid-level management executives gerrymandered the definition of "distribution points" to serve Mobil's bottom line.

Take Eugene, for example. The way diesel prices were established in Eugene ended up costing consumers tens of thousands of dollars extra.

There was only one May 15, 1973 diesel

sale in Eugene on the books—at 13.55 cents per gallon. However, 46 miles to the East in the mill town of Oakridge, an unauthorized shipment to a logging contractor was made on the same date—but at a price that was 8.2 cents a gallon higher.

For the purposes of establishing a base price, Mobil decided to treat the Oakridge transaction as a basis for Eugene pricing—an apparent case of the tail wagging the dog. As a result, the price of Mobil No. 2 diesel to Eugene-area farmers, contractors, industrial users, and government agencies was more than half again higher than it otherwise would have been.

Hanks objected to the decision, as did at least one other Mobil employee, J. Scott Erbe, on the grounds that it was inconsistent to merge Eugene and Oakridge for price basing when Mobil had divided Seattle and Tacoma prices—terminals only 30 miles apart. Furthermore, the merging mixed apples with oranges since the Oakridge delivery had been made by a small (and more expensive per gallon) "tank wagon" truck.

Back from Mobil's Office of General Counsel came a reaction—not a legal opinion, the memo stressed—to Hanks' and Erbe's objection. According to Mobil's legal team, the Oakridge sale (from a 14,000-gallon tank on major customer Pope and Talbot property) didn't have to be counted as a separate base price from Eugene because it was "no more than additional storage for Mobil's convenience on deliveries originating from Eugene."

To figure out how much this informal "reaction" may have cost Eugene customers of No. 2 diesel for about two years until price controls were removed from diesel fuel is no simple task. The Oregon Department of Energy has no figures on how much diesel flows out of the Eugene terminal on a month-by-month basis. Mobil Northwest Division Manager Larry Larson at the company's Portland terminal says his office has no way of computing Eugenes' total Mobil deliveries of diesel.

Hanks, however, notes that Mobil's share of the industrial market alone was about 15–20 percent and that one Eugene-area lumber company alone used 800,000 gallons a year in the early 70's. The total for the town may have been twice that. At 8.2 cents per gallon in padded profits, the disputed overcharge could easily have reached $25,000 a year.

Splitting hairs over a legal definition is one thing, but in the case of Mt. Vernon, Washington, Mobil actually back-dated an invoice to establish a higher base price, contents Hanks, and he had the "pink" slip copy of the invoice in question to prove it.

Here's what happened. During a cold snap in the winter of 1973, the City of Mt. Vernon took a delivery of light No. 1 heating oil simply because it was too cold to use the heavier No. 2 heating oil originally contracted for. The City was subsequently billed at Mobil's posted price difference of 1.9 cents a gallon higher for No. 1 fuel. Mt. Vernon paid the bill.

When it came time to set base prices, nearly a year and a half later, Hanks was told that the old invoice must be changed. Since no heating oil price differential was specified in Mt. Vernon's contract, the highest market price for No. 1 fuel would be charged. Hanks balked. "We should have lived with it," he says. "I refused to raise the price." So Irwin Wayne (I.W.) Jordan, the western commercial manager in Dallas, gave instructions that the invoice was to be changed. The west coast controller, Norm Mendenhall, carried out those instructions.

Because of the altered billing, a new base price for No. 1 diesel fuel was established in Mt. Vernon—at 6.7 cents a gallon higher.

In another case, complaints to Hanks' boss, Jim Kimner, that Mobil was selling diesel to U.S. Plywood in Lebanon at about a penny a gallon over the base price did no good, even after Hanks pointed out that the sales were putting Mobil "into a ticklish situation." Kimner fired back an unambiguous memo in August, after two more prods from Hanks. "John, once and for all, forget this Problem and go on to working on new business, or something else. N.Y. says last and final time, No change—Leave it alone."

Of course, in as complicated a bureaucratic scheme as forcing the price of petroleum by distribution point, by product, and by mode of transport, some errors were inevitable. Mobil's official policy was that if base prices were found to be incorrect, the consumer's money would be refunded. Hanks says that is "one of the few times I believe Mobil deliberately lied. They knew no one could interpret federal guidelines, so no money ever would be returned.

"Some customers," wrote I. W. Jordan in a 1976 memo to mid-level managers, "may be due refunds for overcharges as a result of an adjustment to a base price. It will be some time before we know who (is) entitled to refunds at each of the more than 1700 source points. You will be advised on this subject in future communications."

By the time Hanks left Mobil in December of 1978, such a "communication" had never been made. However, says Hanks, the ideal opportunity to rebate consumer cash presented itself in North Bend—over the issue of 18 months' Mobil-admitted overcharges.

Mobil employees had established two separate base prices in August 1974 for the adjoining towns of Coos Bay and North Bend. This decision, which penalized North Bend a few cents a gallon for gas, kerosene, heating oil and diesel, contradicted a Mobil pricing guideline that "commission truck routes . . . making deliveries out of terminals should be included in the price survey as an integral part of the terminal complex." North Bend was served by such a truck route.

Hanks first raised this issue in a November 23, 1974 letter. His file shows seven more memos on the subject over the next year, most of them ignored, before the question was sent off to New York headquarters for resolution. Sure enough, on February 19, 1976, base prices at the two locations were combined.

"I stressed then that Mobil must rebate money for the 18-month period," Hanks says. "We admitted our mistake on pricing, but when I brought up the subject of rebates, I was told by the pricing manager, the regional manager and everybody else involved to drop the subject and never bring it up again."

And the money rolled in. Mobil bought Montgomery Ward and Container Corporation. Hanks remembers: "They were making so much money they gave every employee a month's salary as a bonus. I thought it was really nice of them to give it to us instead of the government." Apparently, Mobil's huge profits created tax problems.

Hanks still maintains that, on major issues, Mobil was characterized by liberal and enlightened policy decisions. But executives within the giant corporation, he adds, could be surprisingly petty and cheap when it came to relatively small matters.

Salesmen were sometimes instructed not to let customers know about potential savings. Hanks complained that the information should be getting out. Despite his annoying role as corporate gadfly, no one argued with his job performance. Among Hanks' garage file of memorabilia is one folder prominently displaying the Mobil logo and labeled. "Extra Effort Recognition." Inside is a photo of Hanks, smiling broadly, sandwiched between Kimner and Jordan, in the act of accepting a national sales award.

Hanks' increasing objection to Mobil pricing policies peaked in February of 1975. One evening that month, Hanks found himself, over dinner at Eugene's Coburg Inn, with Kimner and Jordan, airing his doubts. As he was want to do, Hanks took the opportunity to quote back to his bosses Mobil's ethics policy. All Mobil employees are required to sign it. "The maintenance of the highest reputation for integrity is essential," the last sentence reads, "and is not in any circumstances to be sacrificed for the sake of results."

According to Hanks, the dinner came to an unpleasant end when Jordan "turned red, jumped up from the table, shook his finger three inches from my nose and said, 'Resign, you ———, resign! I want no more of this ———. I run this region. Shut up, resign, or I'll fire you.' "

"Needless to say," Hanks adds, "Mr. Kimner turned white."

Jordan, through his secretary in Dallas, after repeated calls, refused to answer any questions about his role in the establishment of base prices and referred all questions to Mobil's public relations specialist in Los Angeles.

Kimner, however, when reached at his home in Darien, Connecticut, only a short commute from New York City, where he serves as Mobil's international sales training manager, denied that he heard such an outburst. "I remember dinner at the Coburg Inn, but I was not in the room, nor was I at the table during the incident," Kimner said. "I was off in another part (of the Inn) for awhile making phone calls. I just remember John saying next morning that the evening hadn't gone as well as he'd planned." Kimner added that the whole matter of over pricing in the mid-70's is "ancient history in the light of today's situation."

Mobil's official 5-sentence reaction to Hanks' allegations echoes that theme, conceding that "there has been some confusion within the oil industry concerning price control regulations," but that, as far as particulars go, "we do not think it appropriate or meaningful to comment on individual cases."

But Hanks doesn't see it that way. For one thing, he argues, "If one person ran into this stuff setting industrial base prices for three states, think about the rest of the country."

Today, with the United States on the verge of a rationing program, and Congress talking about a windfall profits tax to catch up with oil decontrol, Hanks sees a moral in the story. "Watch out for middle management," he warns. "They'll always find some way to soak America."

□ 0910

VIRGIN ISLANDS NATIONAL GUARD OFFICER RECOGNITION

(Mr. EVANS of the Virgin Islands asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of the Virgin Islands. Mr. Speaker, today I am introducing legislation to amend title 32 of the United States Code to allow for Federal recognition of officers in the National Guard of the U.S. Virgin Islands in grades above the grade of colonel.

Of the 53 American jurisdictions to which a National Guard has been authorized, only the U.S. Virgin Islands is subject to a statutory restriction on the maximum grade in which its officers may be federally recognized. This restriction, as so stated in title 32 of the United States Code, section 307, subsection (g),

prevents the Adjutant General of the Virgin Islands from being federally recognized in general officer grade. No other adjutant general is so restricted. My amendment would repeal this United States Code provision.

Congress imposed this grade limitation initially because of the small size of the National Guard of the Virgin Islands. The total Virgin Islands Army National Guard strength of 900 persons certainly compares favorably with States such as Nevada (at 1,121) and Wyoming (at 1,391) (figures as of January 1979). Yet, the adjutant generals of these two States are federally recognized major generals. Furthermore, each State is authorized an additional Army National Guard general officer as the assistant adjutant general (Army) in the grade of brigadier general.

The position of adjutant general is by nature and definition of general officer position, calling for a broad range of command and managerial expertise.

The Adjutant Generals of the United States and U.S. territories collectively form the top leadership of the National Guard, and should stand, among themselves, as equals. To deny general officer grade to the adjutant general of only one American jurisdiction, albeit the smallest, cannot be justified.

Mr. Speaker, I sincerely believe that passage of this amendment will greatly benefit the National Guard of the Virgin Islands by bringing us more in line with the 50 States, the Commonwealth of Puerto Rico, and the District of Columbia.

I urge the House of Representatives to adopt this measure.

OUTRAGE IN IRAN

Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. KOSTMAYER. Mr. Speaker, today, the American people and people throughout the world are witnesses to an outrage in Iran. The behavior of the Iranian Government, and the Ayatollah Khomeini in particular, defies all standards of international and civilized conduct among men and women.

Iran under Khomeini, as under the Shah, is an unhappy land whose leaders sanction lawlessness and terror. Mired in constant turmoil and violence, the current Government of Iran under the Ayatollah Khomeini lacks any respect for fundamental human rights and international law. Faced with the task of rebuilding Iran, Khomeini and his followers seem obsessed with hatred. They prefer the safety of their hollow rhetoric to the challenge of rebuilding their society.

Our own Government's position regarding the current crisis in our Embassy in Tehran is too conciliatory. After all, Mr. Speaker, this is the second time in 9 months that the American Embassy has been taken over.

Once the present crisis has passed, the United States should consider severing all ties with Iran and terminating American purchases of Iranian oil.

I reach this conclusion regretfully for the United States should end its relationships with other countries only for the most serious reasons.

But, at the very least, Mr. Speaker, the President of the United States should make it clear that this Government is prepared to take strong action should any American lives be lost, for we have been too tolerant for too long. It should be the President, not his Secretary of State or Press Secretary, who speaks for our country on this matter at this time.

The one issue of importance is the lives of American hostages. Some in the House have suggested that our Government take immediate military action. But at this delicate time such a move could prove inflammatory and seal the fate of those captive Americans. While I believe we should be prepared to undertake a military rescue, it should be considered only if all other efforts fail first. This is not a time to act hastily—not with innocent lives at stake.

Mr. Speaker, any government that would bargain with the lives of innocent men and women has no place in the family of nations. Now is the time for public opinion throughout the world to condemn the repugnant Government of Iran for its monstrous actions. For what is happening today in Tehran is not simply a transgression against American citizens but a violation of international conduct which threatens the rule of law. While we work hour by hour to reach a diplomatic resolution of the crisis, let us call upon the nations of the world that respect international law to stand by us and to let Iran know that its actions are monstrous and intolerable.●

SOCIALISM AND ENERGY

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, the record from around the world shows that wherever Socialist economic and landownership policies are in effect, the result is a shortfall in energy production.

Many people criticize the price incentives of energy regulation by saying that we must conserve because the planet Earth has only a limited supply of energy resources and we are about to use them all up. The answer they give is that America must drastically cut back its standard of living and return to a simple basic economy.

But the truth is that the Earth is not running out of oil. Since 1859, when the first oil well in history was drilled at Titusville, Pa., mankind has produced 330 billion barrels of oil. Experts estimate that the petroleum still easily recoverable at current prices and technology is about 2,500 billion more barrels.

Why is this energy not being produced? The answer is that oil and gas exploration and production have only taken place where free enterprise incentives have prevailed. We can take a lesson from where all the drilling and exploration has occurred, if we examine the excellent research from the objective energy studies made by the noted economist Jude Wanniski. In the 120 years since 1859, mankind as a whole has drilled 3.2 million oil wells around the world, and 2.4 million—75 percent—of them have been drilled in the 48 continental United States, mostly in the Southwest and gulf coastal areas, even though we only have 6 percent of the world population.

Of the 645,000 exploratory wells drilled on Earth by the end of 1978, 616,000, or 95.4 percent of them, were drilled in the industrialized nations, and 482,000 of them in the United States. Africa, Latin America, China, India, and Southeast Asia have barely been touched. Why is this so?

The answer is partly that we in America had the trained skills and technology to do so, but there is also a very basic political reason. The free enterprise system of the United States, and our stable government, have acted to protect the private property rights and earned profits of private American landowners and entrepreneurs.

Where the homesteading pattern was not followed so well in the lands opened in the later stages of western migration, we have seen much less energy development. To this day, the U.S. Federal Government owns 87 percent of the State of Nevada, and that area has never been explored for oil or gas.

Alaska has also been almost untouched by energy exploration, and now President Carter has closed off 185 million more acres of land to mineral exploration, to bring the total Alaskan land sealed off to energy production to almost 700 million acres, an area more than four times the entire State of Texas. Who knows what we are passing up in Alaskan energy resources while Americans pay higher prices and prepare to lose hundreds of thousands of jobs in northern cities again if they have shortages this winter. To get one idea of just what we may be missing, consider that the North Slope oil field in Alaska, the largest oil field ever discovered in the United States—now determined to be even bigger than the entire east Texas field—amounts to only 400 square miles out of 566,000 square miles of Alaska.

In developing nations where policies of Socialist land ownership closes out private enterprise, we see no energy exploration or production at all. Even in those Third World developing nations which have stable governments, the government usually keeps all title to the land in the name of the collective Socialist interest, and, where there is some rare parcel of private or foreign-owned land, they either nationalize it or seize all mineral rights. Usually income taxes are so high that even if a private investor or outside oil company is allowed to come in and buy the mineral rights, he cannot afford to drill because all the rewards will be confiscated by the government.

What do all these Socialist governments do with their energy-rich lands after they force out private enterprise? Nothing. The record shows that, all around the world, wherever government socializes the land, nothing is ever done to develop oil and gas from it.

Even in an advanced Western bloc nation like Australia, we see the pattern. Almost all of Australia's 3 million square miles is collectivized, and we see that in the entire year of 1978 only 53 wells were drilled on the entire continent, and less than 30 were drilled in all of 1977.

In the Middle East, the sheiks have made almost no energy development at all since forcing out the American companies. Since 1974, Saudi Arabia averaged only 10 wells a year, Iraq only 1 a year, and the entire Middle East only 95 a year. Before the sheiks moved in to socialize everything, private enterprise did enough drilling and production in this area to make it the energy breadbasket of the world, but since the sheiks took over they cannot drill more than 95 holes a year in the entire Middle East. Geologists think that the area around the island of Madagascar off the coast of Africa is in one of the most oil-rich areas on the entire planet Earth, but since the colonial government achieved independence in 1975, they have only averaged 20 new wells drilled per year. Compare these annual figures of 53, 30, 10, 1, or 20 with the 48,513 wells drilled in the United States last year.

Mr. Speaker, the record shows that all over the world, where privately owned land has been collectivized; or a Socialist government has kept out free enterprise, energy exploration and discovery always comes to a complete standstill.

SYNTHETIC FUELS BILL H.R. 4514 SHOULD BE DEBATED ON FLOOR

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERKINS. Mr. Speaker, almost from the beginning of my service as a Member of this House, I began taking the floor to call for creation of a national energy policy. We did not have a coherent energy policy back there in the late 1940's and early 1950's.

Today, as we close out the 1970's and move toward the 1980's things have not changed. We still do not have a coherent energy policy.

And the Member from the coal fields of eastern Kentucky is still taking the floor to call for a sane policy that will get us out of this terrible energy trap we are in.

Those among us who resist change and who do not want to disturb the status quo should take great comfort in the present situation. If we persist in the present course—if you want to call standing still a course—we will have plenty of time to reflect upon the principle as we sit in our cold houses and look out at the useless automobiles stacked up in the silent streets.

We in America have built a society heavily dependent upon petroleum. Now that petroleum is in short supply, and will get even shorter, we still have not made adequate preparation for an energy substitute.

From the very first day the settlers landed upon this continent, we have had almost under our shoe soles an abundance of energy-rich coal which can be turned into clean, efficient, liquid fuel for our Nation and its society.

We used it for a century and a half—until Americans began their economic honeymoon with petroleum. Then the use of coal began to decline. People came to think of it as "dirty" and old-fashioned.

The technology for making clean, environmentally acceptable fuel from coal has been with us for decades. And it is improving all the time.

We do know how to make liquid fuel synthetically from coal. We could have synthetic fuel plants in operation in 3 to 5 years, or even sooner, if we recognize the real national emergency that is upon us.

There are those in this country, perhaps in this Congress, who would cling to our dependence upon petroleum until the last barrel is pumped from the rocks of Earth. If this view prevails we will be dancing with the dead and whirling with the dust.

And this American Nation we have built will become something far, far different. It is apt to be something not to our liking.

How many times do we have to be told that we are using twice as much petroleum as we produce from American wells?

How many times do we have to hear that we are dependent upon foreign nations for half of our liquid energy fuels? And how many of our foreign suppliers could we really depend upon when the chips are down?

When will the terrible truth of our situation sink in and galvanize us to do something about it?

There is no great mystery about how to get out of this fix we are in. All we have to do is gear up a synthetic fuels industry that will utilize our hundreds of years supply of coal.

That will put us once more in control of our destiny. That will rid us of the threat of blackmail by terrorists and crazy holy men. That will put us beyond the power of the international oil cartel which is wrecking our economy and which is responsible for the 15½-percent prime rate that punishes the United States today.

It is a sad spectacle, Mr. Speaker, when a nation once so proud and strong is paralyzed in the conduct of its foreign policy in the oil-producing areas.

It is humiliating when we must go hat in hand to some irrational despot in Iran and say, "Please, may we have our embassy and our citizens back?"

We would not be in this sorry shape today if back in the early 1950's we had not been so foolish as to junk the beginnings of our synthetic fuels industry based upon coal.

The great oil companies responsible for that folly are still around today—only they are bigger and richer now. And they have become international to the point that their responsibilities are not exclusively to the United States, but to international stockholders whose interests are not the same as ours.

Now, I know that this sounds like ancient history. Only the distinguished chairman of the Armed Services Committee, Mr. PRICE, and I remain of those who battled against the oil companies on this floor in 1953.

We had a good synthetic fuels program going, with operations in Missouri and Alabama and Colorado.

The Missouri plants were at that time producing coal-based motor fuel at a price within 2 cents a gallon of that produced from petroleum.

But the Eisenhower administration, then in its first 3 or 4 months of office, was completely taken into camp by the big oil interests—principally Walter Hallinan of Pittsburgh who was chairman of the President's energy advisory group. This group told the President that synthetic fuel production based on coal was a waste of time—that it would never be needed. We had plenty of petroleum, Mr. Hallinan said.

Well, the President and his Budget Bureau lost no time in gutting the synthetic program, and the House and Senate appropriations committees bowed to their wishes.

Exit the synthetic fuels program. And enter the long road to dependence upon oil from the Shah and the ayatollah and any other ruler who had a teacup of oil to peddle on the world market. That was how the big oil companies looked after our national interests back there in 1953. And I gather, from reading the papers the last day or two, they are still looking after our interests in about the same way.

Mr. Speaker, the hour has long past when the giant oil companies and cartels can be trusted with the economic and military security of this country.

For 3 years, we in this Congress and the preceding one have been talking about energy and we have done next to nothing.

There may be times when we best serve the Republic by doing nothing—but this is certainly not one of them. The time for action is upon us. We will deserve the censure of our fellow citizens if we do not come to grips with the paramount energy problem.

It is true that the administration has at long last come forward with a synthetic fuels proposal.

It is true that the House has passed an amendment to the Defense Production Act which will get us started—but very slowly—toward providing synthetic fuels for the defense establishment.

It is true that both Houses of Congress have synthetic fuels legislation under consideration.

But it is not true, Mr. Speaker, that any one of them or all of them combined will make a real dent in the crisis.

To talk about a goal of synthetic fuel production of a million or two barrels a day by 1995 is like talking about a fly speck on an elephant's hip.

The House leadership is aware, I am sure, that the Committee on Education and Labor earlier this year reported a bill, H.R. 4514, which would make a significant and crash effort to equalize synthetic fuels production with present petroleum imports—and do it in the shortest possible time.

I urge the leadership to summon up its courage and bring this bill to the floor, and let us debate it and amend it if need be and vote upon it.

Our bill provides for a wholly owned Government corporation with directors and management appointed by the President with the consent of the Senate to set up and operate a synthetic fuels industry in this country.

It is not limited to energy from coal—but it encompasses all known forms of energy available within our borders: Shale, solar, biomass, gasohol, and any others.

It provides for a broad spectrum of participation by private industry as well as by the Government corporation. It offers every incentive that has ever been suggested to get private industry into the production of energy which we can control right here in our own country.

It is a comprehensive bill, and in my judgment far superior to anything that has yet been produced by the administration or other sources.

Mr. Speaker, I urge the Congress to consider this legislation. Let us do something to let the ayatollah know that the American spirit of old is not dead, and that the hour will come when those who insult us will suffer for it.

□ 1510

THE IRANIAN SITUATION

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I know that all Americans have followed the events in Iran with great concern. We all share in the concern for the well-being of the hostages and condemn the actions of the students and the total disregard by the religious and governmental leadership for the safety of the hostages and for the most basic tenants of international law.

This is a new experience in American history. We are faced with the life-and-death situation for American diplomatic personnel and other innocent American citizens and yet we seem to be unable to come to their assistance. In earlier times, we might have sought their release through force. Such an action is impossible for it would certainly bring about the death of the hostages and reprisals against other Americans in Iran.

I commend the President for his restraint and sound judgment in dealing with this crisis. The use of all available diplomatic channels is the best way that we can secure the hostages.

The current crisis gives rise to a basic question of American policy. How are we to deal with nations whose leadership chooses blackmail to try to change American policy? Are we and other nations to surrender each time a leader blindly pursues a taste of revenge? Obviously the contempt of the world community means nothing to a man such as the ayatollah and force, in most circumstances, is neither desirable nor effective. We do, however, possess an effective means with which we bring pressure on the ayatollah and those who would follow his terroristic example. Such leaders still value and need the flow of American dollars to purchase natural resources such as oil.

Iran is holding more than 60 American citizens, the Ayatollah, through pricing and export policies, is trying to hold the American economy hostage. It is time that this administration, Congress, and the American people recognize that unless we intiate the necessary action, Iran and others will be encouraged in their efforts to determine American policy through economic and terroristic blackmail. It is time that we say "No" to Iran's terror and blackmail by halting the purchase of Iranian oil.

I recognize that such a step will not preclude others from purchasing this oil but it is my hope that the international community would recognize that they are equally as vulnerable to this blackmail and that only through a cooperative boycott can the blackmail of leaders like the Ayatollah be combated and discouraged.

The American boycott of Iranian oil will exact a certain price from the American people. Higher gas prices and a return of the gasline may occur but the President does have sufficient authority to deal with any problems that do occur and can minimize negative impacts. While we will have to undergo some changes because of this boycott, these changes are preferable to our continued vulnerability to the Iranian leadership.

It is my hope that the President will give serious consideration to imposing a boycott on Iranian oil. I believe that this is the most effective weapon available to deal with the Iranian leadership, particularly if other nations would join the boycott. In addition, such a move would, I believe have the wholehearted support of the American people who are tired of an American policy of acquiescence.

ANDREWS AMENDMENT TO H.R. 2313, THE FEDERAL TRADE COMMISSION AUTHORIZATION

(Mr. DASCHLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DASCHLE. Mr. Speaker, a few days ago, an advertisement appeared in the Washington Post urging Members of Congress to oppose the amendment offered by the gentleman from North Dakota, (Mr. ANDREWS), which exempts the antitrust activities of agricultural cooperatives from the purview of the FTC. I would like to respond to that advertisement because I have found that Congressman ANDREW's amendment is well founded and very necessary.

The Capper-Volstead Act granted farmers the right to organize and operate cooperatives without regard to the antitrust statutes. The Congress believed that sufficient reason existed to justify an exception for agricultural co-ops, as a matter of public policy, from the Clayton and Sherman Antitrust Acts. That justification applies equally with regard to the FTC.

Congress purpose in permitting the formation and operation of agricultural cooperatives was for the expressed purpose of giving farmers some semblance of market power to counter that of the larger processing and marketing organizations with whom they had to deal.

Concentration and the size of corporations with which farmers must deal has increased steadily since Congress enacted the Capper-Volstead Act. Even areas where farmers have successfully organized into effective cooperatives, the power held by cooperatives continues to remain sufficient to countervail the power held by large corporate food organizations, retail grocery chains, and conglomerates.

Sizes of some food corporations

[Dollars in billions]

	1978 sales	Fortune 500 ranking
Procter & Gamble	$6.100	30
Beatrice Foods	6.314	31
Esmark	5.827	38
Kraft	5.670	39
General Foods	5.278	41
Greyhound	4.351	55
Pepsico	4.300	60
Ralston Purina	4.066	64
Borden	3.803	68
Consolidated Foods	3.556	76
American Brands	3.293	89
General Mills	2.243	90

All above are larger than the largest farmer cooperative in the United States. Many more food corporations are larger than most agricultural cooperatives.

It is in the interest of farmers to hold food prices at reasonable levels. Farmers need an efficient and effective marketing system. Such a system is beneficial to both producers and consumers. Cooperatives contribute to such a system.

Protection of the consumer against artificially high food prices has been delegated by the Congress to the Secretary of Agriculture. The Secretary, through his USDA staff, has the expertise necessary to determine whether food prices are being maintained artificially high—whether they are being unduly enhanced.

The FTC is trying to usurp the power granted by Congress to the USDA. It is high time that the various branches of Government utilize their time and efforts in those areas of responsibility delegated to them by Congress and discontinue trying to encroach on the responsibilities assigned to other branches of Government. There is no logic why one branch of the same Government—such as the FTC—will do a more effective job of "protecting the consumer" from artificially high food prices than USDA is doing. Certainly there is no need to have two branches of Government doing the same job.

Agricultural cooperatives are not insulated from competition. Producers, by joining together in an agricultural cooperative are protected from violation of antitrust laws. Inflationary food prices are not the result of cooperative activities. In fact, the basic opposition to the Andrews amendment comes from those organizations who are competing with agricultural cooperatives or those who are now having to deal with farmers who have obtained some countervailing power.

The proportion of the consumer food dollar that goes to cover the marketing, processing and distribution costs exceeds

the cost received by farmers for producing the food.

PERSONAL EXPLANATION

Mr. DASCHLE. Mr. Speaker, earlier today there was a vote on the conference report on the Department of the Interior and related agencies appropriations for 1980.

Inadvertently, I voted "no." I meant to vote "aye."

THIRD ANNUAL REPORT FOR 1978 OF HEALTH SERVICES ADMINISTRATION ON PROGRESS MADE IN IMPLEMENTATION OF GENETIC SERVICES PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

In accordance with Section 1106 of the Public Health Service Act, I am transmitting to Congress the Third Annual Report for 1978 on the Administration of the National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Disease Act.

This report has been prepared by the Health Service Administration and submitted to me as required by law. The Report describes further progress made towards implementation of a Genetic Services Program.

JIMMY CARTER.

THE WHITE HOUSE, *November 9, 1979.*

H.R. 5858
SUNSET REVIEW ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. LONG) is recognized for 15 minutes.

● Mr. LONG of Louisiana. Mr. Speaker, I am today introducing the Sunset Review Act of 1979, a bill to schedule, coordinate, and encourage congressional oversight by standing committees. This bill is the product of nearly a year's work by the Subcommittee on the Legislative Process of the Committee on Rules. It represents a combination of the best qualities of several oversight proposals, including H.R. 2, the Sunset Act of 1979, and H.R. 65, the Legislative Oversight Act of 1979. The "combined" approach represented by this new bill will, I am sure, draw the favor of all those interested in real and workable improvements in the congressional oversight process. This bill is coauthored by my friend and colleague on the subcommittee, BUTLER DERRICK. As the author of H.R. 65, he has brought special expertise and sound counsel to our collaboration on this bill. I feel we have forged a strong partnership in this effort.

Congress came to Washington early this year with one message from our constituents weighing heavily on our minds—that we, as a Congress, have to get a better handle on the rising costs and sagging performance of Government. We have asked Government to take on many new responsibilities over the past few decades. Our difficulties in getting Federal programs to operate at top efficiency represent the "growing pains" of Government. We now need to match that growth with a major effort to make corresponding gains in Government efficiency and productivity. As we enter an era of limited budgets, the need to closely monitor how tax dollars are spent becomes crucial.

Oversight by standing committees is the traditional way Congress monitors programs once they are enacted. Sensing the public mood, many predicted that this 96th Congress would later be known as "the oversight Congress." Our oversight activities have been on the rise. Many committees now diligently monitor Government programs through the use of hearings, reports, and investigations. But there is little doubt in my mind that we can do better.

Recognizing that there is room for improvement, proposals have been put forward to upgrade Congress' oversight practices. It needs to be made clear that these proposals would go beyond a mere enlargement or multiplication of current oversight efforts. It was not a lack of oversight that sparked these ideas alone. Rather, it was the view that we need to include coordinated, periodic review as a regular part of the legislative process. Just as the enactment of the Congressional Budget Act was aimed at better coordinating Congress' taxing and spending decisions, program review legislation is intended to better organize Congress' oversight activities.

SUBCOMMITTEE CONSIDERATION

Several proposals linking review to the authorization process were referred to the Committee on Rules. These include H.R. 2, the Sunset Act of 1979, and H.R. 65, the Legislative Oversight Act of 1979, also known as the sunrise proposal. H.R. 2364, the Regulatory Reform Act of 1979, which contains elements relating to the oversight of regulatory agencies, was also referred to the committee. The Committee on Rules established a new subcommittee, the Subcommittee on the Legislative Process, and charged it with a thorough study of these proposals.

This new subcommittee, which I have the honor to chair, builds on the work of its predecessor in the 95th Congress, the Subcommittee on Rules and Organization of the House. While committees of the Senate have devoted several years of study to S. 2, the companion measure to H.R. 2 in the Senate, the efforts of our subcommittee represents the first in-depth study of these measures in the House of Representatives. It also represents the first time in either House that both sunset and sunrise approaches were considered in a comparative context.

Our subcommittee has held seven hearings to date, receiving the testimony of over 50 witnesses. Those submitting testimony included Members of Congress, representatives of the administration, program and regulatory agencies, public interest groups, labor, and business. Testimony was heard from academic witnesses on Congress and fiscal policy, and from officeholders in States that have enacted sunset legislation. We circulated an extensive questionnaire to committees, soliciting their views on the impact this legislation would have on their work. Their detailed responses impressed us with the obvious attention and thought they were given. These questionnaires make informative reading. I encourage interested Members and staff to review the complete responses, available in the subcommittee office.

EVALUATING CURRENT PROPOSALS

The more the subcommittee delved into this subject, the more we became convinced that these far-reaching proposals could not be judged solely on their face. It is of paramount importance that we assess how these proposals would mesh with the current authorization, appropriation, and budget processes. The present balance between these processes is a precarious one. The rigorous timetable imposed by the Congressional Budget Act, combined with the need for this Congress to enact major legislation in many key policy areas, has placed heavy demands on the schedules of both committees and the floor. Any additional requirements imposed by new oversight legislation has to work with and not against these institutional procedures.

Above all, review legislation must be able to match its promise with performance. It must work in practice, not just on paper. Both sunset and sunrise proposals hold great promise, but there are troubling aspects as well.

First, we are concerned about the exemption of major areas of spending in some proposals. A major goal of review legislation is to enhance congressional control over the budget. If review requirements exempt major direct spending programs, it weakens that effort. If the legislation fails to treat tax expenditures in the same manner as direct spending, it also lessens control. There is little question in my mind but that exemption of one category of spending will lead to a move to classify many new programs into that category as a means to escape review.

Second, we are worried about the problems arising from "sudden-death" automatic termination procedures. The notion that an established program or tax expenditure could end without a vote of the Congress has justifiably alarmed many. Civil rights groups worry about the protection of constitutional rights. Business worries about abrupt changes in tax laws that could create economic instability. Pensioners worry that programs for which they paid into for years will be ended. Each group can make a legitimate case for exemption from automatic termination. The end result, as I outlined earlier, is a list of exemptions that rival the inclusions. The essence of the sunset principle is that Congress should reexamine programs, and, if they no longer justify continuance, should terminate them. Automatic termination is not the only or the best way to encourage this review. To the contrary, under automatic termination, programs or tax expenditures could be ended by

filibuster, parliamentary delay, or veto. Programs enacted by Congress could end without a vote, much less without a review. We thus came to the conclusion that there had to be a better way to encourage review.

Third, we are troubled by forcing an inflexible review schedule on future Congresses. One Congress cannot predict what the pressing issues of another Congress will be. Schedules for review must be flexible on a Congress-by-Congress basis to accommodate the priorities of individual committees in each Congress.

Fourth, we are very aware that placing unrealistic sanctions or demands on committees may result in pro forma compliance with the requirements. The surest path for improved oversight is to create incentives for committees to incorporate review into their regular legislative activities. It is unrealistic for requirements to go beyond the resources and responsibilities of committees. Committees must be willing to conduct the reviews or they will not be done.

A "COMBINATION" APPROACH

Given these concerns, we went to work at framing legislation that would achieve the goals of "sunset" and "sunrise" while ironing out some of these problems. The bill I am introducing today is truly a "combination" approach. From H.R. 2, we adopted the idea of an oversight agenda, and the role given committees in setting review priorities. From H.R. 65, we included the establishment of performance measures. From both bills, we included the compilation of a program inventory.

At this point, let me note that this bill is the product of suggestions not just from the subcommittee, but from all the members of the Rules Committee, from the principal sponsors of H.R. 2 and H.R. 65, and from other Members who have held a long interest in the subject of oversight.

I again want to thank my colleague, BUTLER DERRICK, a member of the subcommittee and the author of H.R. 65, for his major contributions in drafting this bill. I also wish to thank the principal sponsors of H.R. 2, Representatives BLANCHARD, GEPHARDT, and MINETA. They have provided assistance and encouragement throughout our deliberations. I think we have developed a framework in this bill that all can support. Let me now outline the basic features of our proposal.

The process works on a Congress-by-Congress basis. It begins with the development and adoption of "committee review agendas" by legislative committees. These agendas, which must be prepared by March 1 of the first session of each Congress, will include those programs and tax expenditures within a committee's jurisdiction that the committee intends to review that Congress. A committee's primary funding resolution will not be in order until the committee has reported its agenda. The committee agendas are then assembled into a "consolidated review agenda," to be acted on by Congress by March 31 of the first session.

Special floor procedures expedite the consideration of the consolidated agenda as a concurrent resolution. This resolution directs committees to conduct reviews on the items included, and to report by May 15 of the second session, legislation modifying, continuing, or terminating said items. After the expiration of a two-Congress "learning period," the agenda will be subject to amendment on the floor. Congress will then be able to add or delete items from a committee's review agenda, provided that the item had not been reviewed during the last three Congresses.

This process effectively links the review priorities of committees to the reporting of legislation during the same Congress. By allowing committees to focus on priority items, the reviews are more likely to be of greater depth and detail. Tying review to legislative action provides a major incentive for committees to conduct serious review. In addition, the performance of committees in conducting review will be subject to judgment by the full Congress. This occurs twice in a Congress—when committees submit their agendas for approval in the first session, and when they report legislation based on their review in the second session.

Most important, no program or tax expenditure will terminate automatically. Committees will have the opportunity to conduct a thorough review, and the Congress will have the opportunity to vote on committee recommendations. This feature allows us to include all programs and tax expenditures without exemption.

An essential tool for the review process will be the compilation of the first complete inventory of Federal programs and tax expenditures. The inventory will arrange programs and tax expenditures by committee jurisdiction. It will provide the "common language" for House and Senate committees by assigning each program and tax expenditure an official name and unique identification number. Cross-references will be provided for committees sharing jurisdiction, and between programs and related tax expenditures. Let me make clear that the inventory will not change or assign committee jurisdictions. Each committee will review the draft inventory to insure that it correctly reflects their jurisdiction.

The approach is simple in design, building on current congressional procedures and the committee system. We have given committees the major role in governing the review process, for that is where the work has to be done. We have given Congress the major role in determining the status of programs and tax expenditures, for they were originally enacted into law by Congress. Throughout our deliberations, our major concerns were twofold. First, that whatever process we develop for improving oversight work with, and not against, current congressional procedures; and second, that the reviews to be conducted have a high likelihood of being meaningful reviews. I believe the approach we have developed meets both those concerns.●

● Mr. DERRICK. Mr. Speaker, I am pleased to join the distinguished chairman of the Legislative Process Subcommittee in sponsoring the Long-Derrick bill, the Sunset Review Act of 1979. This bill represents a major step toward improved congressional oversight of Federal programs. It will help us to insure that programs are carried out as Congress intended, and it will help us weed out programs that have outlived their usefulness.

As with any successful piece of legislation, the bill represents an amalgam of ideas of many individuals. I am most pleased to report, however, that the bill contains most of the essential features of the sunrise legislation upon which I have worked for more than 3 years and which more than 125 Members of the House and Senate have joined me in cosponsoring. Like the sunrise bill, this bill provides an orderly procedure for reviewing programs and tax expenditures with little or no risk of unintended termination. This bill preserves the key features of sunrise, which include the front-end statement of objectives and accomplishment plans, the front-end establishment of the key indicators of program success which Congress will consider in its subsequent oversight activities, a means for identifying and comparing related programs, and annual submissions to the Congress of concise information from the administering agencies on the indicators of program success which the Congress has set forth.

Some will, of course, say that the Long-Derrick bill does not go far enough; others will say it goes farther than necessary in establishing procedures for improved congressional program oversight.

I sincerely believe, however, that the bill represents a reasonable and workable compromise that should be acceptable to the many, many Members of Congress who have a strong interest in developing an effective and workable improvement to the oversight process. I hope that all of you who have joined me in cosponsoring the sunrise bill, as well as those of you who have cosponsored sunset, will give your support to the Long-Derrick bill since it also preserves key aspects of the sunset concept.

Furthermore, the bill has been carefully designed to avoid certain program risk and workload problems that troubled many people about previous sunset proposals, and although it contains a mechanism by which Congress can terminate programs, it virtually assures that no such termination will occur unintentionally or arbitrarily. Therefore, I believe that many Members who were in the past uncomfortable with the sunset bills will want to support the Long-Derrick bill, and we solicit your cosponsorship.

Like H.R. 65, this bill takes an even-handed approach toward all programs, and none are exempted from the selective review mechanism which the bill establishes. Similarly the bill provides for selective review of tax expenditures but without the risk of unintended termination.

I wish to thank my distinguished subcommittee chairman for his cooperation and support in helping us to further develop a practical and effective program

oversight bill which I sincerely believe the vast majority of the Members of the House and Senate, of both parties, will be able to support it.

Thank you.●

GENERAL LEAVE

Mr. ANTHONY. Mr. Speaker, I ask unanimous consent that all Members may have 5 days to revise and extend their remarks and to include extraneous material on the subject of the special order speech today of the gentleman from Louisiana (Mr. LONG).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

THE IRANIAN SITUATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RUDD) is recognized for 15 minutes.

● Mr. RUDD. Mr. Speaker, the administration's humiliating inaction in the case of Iran is merely symptomatic of the loss of determination and self-esteem which our Nation displays to the world.

There are two aspects that this situation brings to mind: First, the destruction of our intelligence system; and second, inattention to our Military Establishment.

As a former career agent with the FBI, much of it abroad on diplomatic assignment, one of the most obvious concerns that I have had over the Iranian situation was that possibly our intelligence network in Iran failed to anticipate the ambush and capture of our Embassy in Tehran due to a lack of intelligence-gathering.

Had our intelligence agencies not been downgraded, their reporting would have certainly gained the attention of the White House and the State Department.

This morning's Washington Post carries a story which indicates that our intelligence operation quite accurately forecast the explosive situation which has now developed.

Rather, it seems that State Department officials blatantly disregarded this information and proceeded with a "business-as-usual" attitude right up to the moment the embassy was overtaken by the radical Iranian students—never alerting the endangered Americans to the imminent danger.

This is another in an all too long series of misjudgments by officials of the Carter administration who mistakenly persist in believing that the United States can dabble with adamantly anti-American foreign officials.

Sixty American lives are now endangered because of this foolish and naive hope. Many Americans are asking, "When will we learn?" When, indeed.

On the defense front, it is a sad state of affairs when the U.S. military establishment—once the strongest in the world—has fallen on such lean times that it is no longer respected as it should be abroad.

Incidents like the terrorist attack on our embassy and citizens would not have been contemplated, much less implemented, in earlier years when the United States commanded the admiration and respect of world leaders—even those with whom we disagreed.

This serves as one more example to me of why it is imperative for the United States to restore its military capabilities to a level which will once again command respect, rather than attracting contempt, from hostile foreign governments.

The administration's paralyzing inaction in the face of this direct attack on U.S. integrity should cause—and indeed has caused—alarm among our citizens who believe that firm and decisive action should be taken. Yet we must have the military strength and versatility to respond appropriately when such blatant attacks on American citizens and American prestige take place.

Other nations, like Iran, have witnessed the increasing U.S. tendency to back away from conflicts, even when vital U.S. interests are involved.

In my view, it is imperative that the United States undertake an immediate and consistent build-up of our defense capabilities in order to insure that we will have the military ability to resist aggression against American citizens around the world.

Th administration should seek deployment of the neutron artillery shell.

We should build the B-1 bomber or a suitable alternative which is vitally needed as part of our traditional Triad defense philosophy. Remember, the Soviets have corresponding operational aircraft.

The President has signaled a lack of U.S. commitment to our allies by his advocacy of reduced presence in South Korea and his revocation of our defense commitments to Taiwan.

These actions tend to undermine the confidence of our allies while encouraging increasingly brazen hostile action by anti-American governments.

The President should drop his opposition to the needed nuclear aircraft carrier which would improve our naval readiness.

The administration needs to stop dawdling and increase the pace of these programs.

We must not neglect our national defense. It is obvious that governments of all sizes and philosophies are watching to see the commitment which the United States will make to its own defense and the protection of its allies.

I regret to say that such actions will inevitably continue and increase unless and until the United States demonstrates to the world that we intend to maintain the national defense necessary to insure our security and support our close allies.

If we as a Nation begin now to reverse the trends, we will preempt such events as that taking place in Iran today. If, however, we fail to act to maintain peace through strength, such incidents—and others conceivably worse—will invariably continue.●

CONGRESSMAN TONY P. HALL SPEAKS ON ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. HALL) is recognized for 20 minutes.

Mr. HALL of Ohio. Mr. Speaker, since I was sworn into office this past January, one of the questions which my constituents have most often asked is "What really is happening with respect to energy, and what are you doing about it?" Since I have answered this question so many times at townhall meetings, senior citizen centers, and before student groups, I rise this afternoon to place my remarks and thoughts on this issue in the RECORD.

As you so accurately stated, Mr. Speaker, in your testimony before the Labor-HEW Appropriations Subcommittee on Legislation to provide assistance to low income and elderly households with their energy bills:

> Few Americans have an easy time adjusting to seventy-percent increases in their heating bill. Some simply cannot.

I would add that most Americans have a hard time understanding how Congress can allow this huge increase in heating and gasoline prices which seemingly only fills the pockets of the oil companies and empties the pockets of the average American consumer.

CONSUMERS VERSUS OIL COMPANIES

It is astonishing when one notices that in the first quarter of 1979 profits of the 20 major oil companies exceeded their first quarter 1978 profits by 54 percent or a total of $1.5 billion. Most recently, Sohio (Standard Oil Co. of Ohio) announced a 191 percent increase in their 1979 third quarter profits over the third quarter profits of last year. Helping to bloat these profits are the price increases that the consumer has to pay. Since the start of this year, the American consumer has had to pay an average increase of 28.2 cents per gallon in the cost of gasoline.

For the month of August alone according to a report published by the White House Office of the Special Assistant for Consumer Affairs, gasoline prices rose 4 percent, and electricity and natural gas rates rose 1.3 and 1.4 percent, respectively. In my district, the Dayton, Ohio area, the average monthly winter heating bill has increased from $45 in 1973 to $110 in 1979. Nationally, since January of this year, an average 500 kilowatt-hour electric bill has increased 11.5 percent.

All of these figures point out that the consumer is bearing a crippling energy cost burden. Nevertheless, the oil industry is demanding Federal policies which will only make this burden worse. For example, the oil companies have been pressing Congress and the administration to decontrol the price of crude oil.

I contend that decontrol of crude oil is illogical at this time of high inflation.

Therefore, I voted on several occasions to continue price controls on domestic crude-oil, to reimpose price controls on heating and diesel fuel, and to tax the excess profits of the oil companies.

Representative TOBY MOFFETT of Connecticut offered an amendment to the Energy Department authorization bill to restore price controls for 1 year on certain domestically produced oil. The House rejected the amendment by a 135 to 257 vote. I voted in favor of this amendment. I also cosponsored, H.R. 3621, a bill to continue price controls on domestically produced crude oil for 2 more years.

The amendment to restore controls on heating oil and diesel fuel was offered by Representative PETER KOSTMAYER of Pennsylvania. Although I supported this amendment to the authorization bill, it was also rejected by a 124 to 243 vote.

During consideration of the Department of Energy authorization bill, the House of Representatives reversed an earlier decision in favor of an amendment to immediately decontrol the price of gasoline which was offered by Representative COURTER of New Jersey. Fortunately this amendment was defeated by a vote of 189 to 225.

When H.R. 3919, the windfall profits tax bill, came before the full House of Representatives on June 28, I voted in favor of the 70-percent tax rate on oil industry profits. Although the House approved this higher rate on an initial vote, it ultimately adopted the Jones-Moore substitute taxes the difference between the actual selling price of the oil and its base price, adjusted for inflation, at a rate of 60 percent. The substitute also would terminate the tax at the end of 1990. I was among those who voted against the Jones-Moore substitute, which I believed weakened the bill too much.

While I supported the higher tax rate, I did vote in favor of the amended bill on final passage, since I felt that the decontrol of oil without any tax whatever would allow the oil companies to profit inordinately at the expense of the American consumer.

When the oil companies drilled currently operating wells, they did not expect to get the high prices decontrol will bring them. For most types of oil, these higher prices will lead to only very limited increases in production. The increased profit, therefore, is an unearned profit.

I also disagree with the argument that petroleum should be priced at foreign price levels so that the oil companies can produce additional domestic crude oil. A recent report by the Central Intelligence Agency suggests that the oil companies will have problems finding new oil and gas, no matter how hard they look or how much they spend on the search. Statistics published by the CIA show that the rate of discovery of oil and natural gas has declined sharply despite greatly increased drilling activity in the lower 48 States. Clearly, we are dealing with a finite natural resource. Increased prices simply will not bring increased production no matter what those oil companies advertisements try to make us believe.

Our energy problems have been compounded by a lack of information regarding our energy supplies. For this reason, I voted in favor of H.R. 291, resolution of inquiry on the energy situation. The resolution called upon the administration to provide the House of Representatives with essential energy data, such as petroleum reserve stock levels, import volumes, effects of Energy Department allocation rules, domestic oil production levels, and other related information.

What can be done in regard to America's energy problem? Obviously, the first answer is to boost other sources of supply.

DEVELOPMENT OF ALTERNATIVE ENERGY SOURCES

One of the first significant actions that the 96th Congress took in promoting alternative energy sources was the synthetic fuels bill. The synthetic fuels bill, an amendment to the Defense Production Act of 1970, calls on the Government to encourage production of the equivalent of 500,000 barrels a day in synthetic fuels by 1985, with the additional goal of 2 million barrels a day by 1990. The House authorized $3 billion to help stimulate U.S. industry to produce synthetic fuel. In addition, the House also adopted a $1.5 billion appropriation for fiscal year 1980 for the Department of Energy's synthetic fuel program.

I fully supported these initiatives taken by the House to ease U.S. dependence on imported oil. The United States imports about 8.6 million barrels of oil a day, or about 43 percent of consumption. Furthermore, the U.S. oil import bill, $42 billion last year, is expected to run well over $55 billion at the end of 1979.

The House of Representatives, by a vote of 299 to 107 on November 1, approved a key component of the President's energy package, the Energy Mobilization Board. This new agency will have the power to expedite construction of pipelines, refineries, synthetic fuel plants and other priority energy projects. The approval of such energy projects can contribute to the achievement of national oil import reduction goals.

To create a balance between our zealous efforts to establish some independency from foreign oil imports and to maintain certain environmental safeguards, I supported the Udall bill which was offered as a substitute to the pending Commerce Committee bill.

The original Commerce Committee legislation would have waived substantive State, local, and Federal environmental laws. This would have negated the studies, reports, and findings that led to these environmental laws. It also would have negated the rights of State and local governments to fully participate in decisions that affected their environment and health conditions.

The Udall substitute approached these important problems in a more reasonable manner. The board would not have been able to waive substantive environmental laws. At the same time, the Udall bill established guidelines on how to streamline and consolidate the regulatory processes that in many instances have hampered or delayed essential energy projects. Unfortunately, the Udall substitute failed by a vote of 192 to 215.

Nevertheless, the Commerce bill was amended to delete the authority of the board to waive State and local laws. Although the board still could waive Federal and State laws that were mandated by Federal legislation, I felt the amended bill establishes a reasonable balance between energy development and environmental safeguards. Thus, I voted for final passage.

One of the best energy sources on Earth is actually 93 million miles above it—the Sun. As an energy supplier, however, the Sun has largely been overlooked. Ever since the time of the industrial revolution, electricity, petroleum, and natural gas have been exploited to meet energy requirements.

Now we are discovering that the resources upon which we have been depending for so long to meet our energy needs are not as readily available and inexhaustible as we once thought. The time is at hand to look for renewable energy sources, and the search is leading us to turn toward the Sun.

In June I supported the House-approved $133.3 million budget for development and demonstration of solar energy technology and the development of wind conversion techniques.

In his recent energy message, President Carter called for a $100 million national solar bank. I support this initiative which is intended to develop a national strategy for accelerating the use of solar and other renewable resources which will provide us with 20 percent of the Nation's energy needs by the year 2000.

In conjunction with the synthetic fuels and solar programs, the House approved $57.8 million for biomass—conversion of animal, municipal, or agricultural waste into an energy-productive substance—research and development, and $150.2 million for geothermal and hydroelectric projects in the Department of Energy authorization bill. I voted in favor of these provisions.

The Energy Tax Act of 1978 provides a residential energy tax credit for insulation and other energy-conserving components and certain renewable energy source property expenditures, including geothermal systems. There are approximately 600 geothermal systems in my congressional district. However, none is eligible for the energy tax credit under the proposed IRS definition. On September 12, 1979, in testimony before the Internal Revenue Service, I proposed a change in the IRS-proposed definition of geothermal energy so that it would be applicable to residential usage. The proposed IRS ruling established a temperature degree exceeding 60° Celsius or 140° Fahrenheit as measured at the wellhead. This restriction would be more applicable to usage by a utility company, an energy company, or the Federal Government.

The geothermal units in my district use a shallow geothermal well with a water temperature of 55° Fahrenheit instead of the proposed 140° Fahrenheit.

Another attractive alternative energy source is gasohol. Gasohol usually is a blend of 10 percent alcohol and 90 percent unleaded gasoline refined from crude oil.

To encourage the production of gasohol, the House Agricultural Committee reported out of committee the National Alcohols and Alcohol Fuel and Farm Commodity Production Act of 1979. This bill provides $800 million in loans and loan guarantees to help build alcohol fuel plants. In addition to the loan provisions, the bill authorizes $20 million over 2 years for the construction of 10 alcohol demonstration plants, and another $20 million for educational programs on the feasibility of alcohol fuels.

President Carter has given impetus to the development of gasohol by announcing that he will make available $11 million in loans and loan guarantees to build 100 new alcohol fuel plants. His proposal was made while he was in Iowa where gasohol sales in March 1979 were 2.5 percent of total gasoline sold.

As an alternate source, nuclear power possesses the potential to significantly aid the world's energy picture. However, I want to be absolutely sure that in developing its potentials, we do not inadvertently create a deadly hazard that will plague mankind. Like each new technology, nuclear energy should demonstrate that its benefits outweigh its risks. Once Congress has had the opportunity to fully study the recommendations from the House Committee on Interior and Insular Affairs and the President's Three Mile Island Commission, we should clearly define the possible role that nuclear energy will play in the near future.

CONSERVATION

The second answer to our energy problem is conservation. Conservation can contribute tremendously to solving our present energy problem and assisting us in developing our energy future.

Daniel Yergin, one of the coauthors of the "Energy Future, Report of the Energy Project at the Harvard Business School," states:

> If the United States were to make a serious commitment to conservation, it might well consume 30 to 40 percent less energy than it now does, and still enjoy the same or an even higher standard of living. That saving would not hinge on a major technological breakthrough, and it would require only modest adjustments in the way people live. Moreover, the cost of conservation energy is very competitive with other energy sources. The possible energy savings would be the equivalent of the elimination of all imported oil—and then some.

Mr. Speaker, encouraging energy conservation has become a major priority in my role as a U.S. Representative. In Dayton, Ohio, I have initiated a door-to-door campaign to encourage energy conservation and provide assistance to low income and senior citizens in their attempt to meet high energy bills. I have assembled an energy information package consisting of several Department of Energy pamphlets such as "How to Save Gasoline * * * and Money," "Insulate Your Water Heater and Save Fuel," and "Tips for Energy Savers."

In addition, I enclosed fact sheets on the energy crisis assistance program which helps low income and senior citizens who are hardest hit when severe weather abruptly increases their utility bills or causes fuel shortages. Also included in the package is the State of Ohio's 25-percent discount program on utility bills, and information regarding the Federal energy tax credit.

Second, I have tried to use every possible measure to retain the only national east-west passenger rail line serving mid-America, the National Limited. This train route offers high ridership potential and energy savings. In addition, I supported an amendment to the supplemental appropriations bill to provide an extra $125 million for mass transit programs. The potential for energy conservation through the development of mass transit and fuel economy is enormous.

In response to the potential of increased conservation in transportation, Congress included in the Energy Policy and Conservation Act of 1975 provisions raising automobile fleet-average fuel economy is enormous.

In response to the potential of increased conservation in transportation, Congress included in the Energy Policy and Conservation Act of 1975 provisions raising automobile fleet-average fuel economy from slightly less than 14 miles per gallon for the 1974 model year to 27.5 miles per gallon by 1985. While I applaud the implementation of this statute, I believe there is a need for more cooperation between Government and automobile manufacturers in an effort to produce more energy efficient cars. The automobile industry, universities, and Government agencies should coordinate their research endeavors in this field. I believe this cooperation would result in swifter implementation of the act, and make possible more ambitious fuel efficiency targets for the future.

I supported the House-passed Emergency Energy Conservation Act of 1979, better known as the Gas Rationing Act. The act grants the President authority to impose a gasoline rationing plan in the event of a severe gasoline shortage, and allows the President to set State conservation targets for motor and other fuels. Under the bill, each State will draw up a plan to meet the conservation target set by the President; if any State fails to submit a plan or if the plan is not approved by the Energy Department, a Federal conservation plan will be implemented in that State.

I believe the Nation should not have to face a severe motor fuels shortage without the Government having authority to distribute fuel in a fair manner. The alternative to rationing in times of a major shortage undoubtedly would be skyrocketing prices, with ample supplies available for the wealthy, while the average American consumers would be unable to meet their basic needs for gasoline and diesel fuel.

CONCLUSION

It seems clear that the era of abundant cheap oil and gas has ended. If our society is to maintain a standard of living anywhere near what we have come to expect, alternate sources of energy must be developed and employed. The problem is so large that we will have to use a mix of all the technologies available and encourage further conservation.

Furthermore, America's total energy posture must accommodate potential abrupt energy shortages, immediate energy problems and future energy needs.

WHO/UNICEF MEETING ON INFANT AND YOUNG CHILD FEEDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 5 minutes.

● Mr. BINGHAM. Mr. Speaker, last month a remarkable meeting took place in Geneva on infant and young child feeding, with specific reference to the developing countries. The meeting was jointly sponsored by the World Health Organization and by UNICEF, and was attended by several governments, nongovernmental organizations, scientists, infant formula producers, and United Nations agencies.

The meeting produced recommendations in the following areas: First, the encouragement and support of breast feeding; second, promotion and support of appropriate and timely weaning practices with the use of local food resources; third, strengthening of education, training, and information on infant and young child feeding; fourth, development of support for improved health and social status of women in relation to infant and young child feeding, and fifth, appropriate marketing and distribution of infant formula and weaning foods.

The meeting was called in an attempt to begin to work out an international solution to the very difficult, complex, and emotional issue of infant formula use in the less developed countries. The infant formula producers view their product as a proven, nutritious food supplement that can add significantly to the often inadequate nutritional resources of the LDC's. Critics of the industry point out, however, that poverty and illiteracy in the LDC's make it inevitable that the formula will often be overdiluted, mixed with unclean water, served in unsterilized bottles, improperly refrigerated, and generally used in an unsafe manner, leading to infant malnutrition and death.

It is because of concerns such as these that H.R. 4093, the Infant Nutritions Act, sponsored by our colleagues from California, Messrs. DELLUMS and MILLER, was introduced and referred to the Subcommittee on International Economic Policy and Trade, which I have the honor to chair. The bill is also pending before the Health and Environment Subcommittee of the Committee on Interstate

and Foreign Commerce. The bill would regulate the export of infant formula by U.S. firms to the LDC's, prohibit all promotion of the product in the LDC's, and require certain labeling reforms.

While I sympathize with the purpose of this bill, it does present certain problems inherent in unilateral legislation. The principal one is that the United States is not a major supplier of the formula. We have only about 20 percent of the LDC market; Nestlé, a Swiss company, is the major supplier. There is also the problem of controlling the reexports from third countries and of attempting to reach promotional practices in the importing countries with U.S. law. Finally it is very difficult to fashion export control legislation which would make the formula available to women who are able to use it properly, but not to those who are not.

For all these reasons, I had high hopes that the Geneva meeting would start us down the road to an international solution to the infant formula problem which would be concurred in and supported by the producers, the exporting countries, and the LDC governments themselves. I think the outcome of the meeting justifies those hopes. Among the recommendations agreed to with respect to marketing and promotion of infant formula were the following: there should be no advertisement or other form of sales promotion to the general public; promotion to health personnel should be restricted to factual and ethical information; advertising or promotional distribution of samples through health services should not be allowed; in no case should public health personnel be paid by infant formula companies; company personnel should not be permitted to promote the formula in the hospitals; each consuming country should adopt its own legislation or code governing marketing practices in that country; and WHO and UNICEF should organize the preparation of an international marketing code. If faithfully adhered to, these recommendations would go a long way toward eliminating past and present abuses.

Much remains to be done, of course, before the recommendations of the meeting become a reality. The recommendations are unofficial and nonbinding at this stage, and are open to conflicting interpretations. The Director General of WHO and the Executive Director of UNICEF must still determine whether to submit the meeting's recommendations to their respective governing bodies for formal adoption. The international marketing code must be drawn up and agreed to, and the LDC governments themselves must produce their own national codes. I hope all concerned will work diligently on all these fronts. The Subcommittee on International Economic Policy and Trade intends to be as vigilant and as supportive as it can along the way.

I wish space limitations did not preclude my submitting the entire final document of the meeting for the RECORD. It constitutes an eloquent and powerful statement of the rights of children to safe and adequate nutrition—the more so because of the variety of organizations, public and private, from all parts of the world, that have agreed to it. I submit at this point the statement of the meeting, and the recommendations of the fifth working group on marketing and distribution, as well as a New York Times control on the meeting.

The material follows:

STATEMENT ON INFANT AND YOUNG CHILD FEEDING

The joint WHO/UNICEF Meeting on Infant and Young Child Feeding, which was held at WHO in Geneva from 9 to 12 October 1979; in expressing the need for urgent action by governments, international agencies, nongovernmental organizations and the infant-food industry and health and development workers to promote the health and nutrition of infants and young children, made the following statement:

1. Poor infant-feeding practices and their consequences are one of the world's major problems and a serious obstacle to social and economic development. Being to a great extent a man-made problem it must be considered a reproach to our science and technology and our social and economic structures, and a blot on our so-called development achievements. It is not only a problem of the developing world: it occurs in many parts of the developed world as well.

2. The question of adequate nutrition for mankind has been exercising international and national bodies for the last three decades, but the problem of malnutrition is not becoming less. It is taking a heavy toll in deaths and in long-term mental and physical disability. Women, with infants and young children, are its chief sufferers. This is socially, economically and politically unacceptable.

3. In this International Year of the Child, national governments and the international community are being called upon to focus on this complex problem and to take steps to ensure that children everywhere get a proper start in life on the basis of, *inter alia*, adequate nutrition. Governments and local communities have a major role to play in supporting action aimed at mothers and children to ensure sound infant and young child feeding practices.

4. Malnutrition in infants and young children cannot be separated from malnutrition and poor health in women. The mother and her infant form a biological unit; they share also the problems of malnutrition and ill-health, and whatever is done to solve these problems must concern them both together.

5. The problem is part of the wider issues of poverty, lack of resources, social injustice and ecological degradation; it cannot be considered apart from social and economic development and the need for a new international economic order. It is also a basic issue for health care systems and its solutions must be seen in the context of Health for All by the Year 2000.

6. The WHO/UNICEF Meeting on Infant and Young Child Feeding affirms the right of every child and every pregnant and lactating mother to be adequately nourished as a means of attaining and maintaining physical and psychological health. It stresses the responsibility of every society to ensure the effective enjoyment of this right so that children may develop to their full potential.

7. Breastfeeding is an integral part of the reproductive process, the natural and ideal way of feeding the infant and a unique biological and emotional basis for child development. This, together with its other important effects, on the prevention of infections, on the health and well-being of the mother, on child spacing, on family health, on family and national economics, and on food production, makes it a key aspect of self-reliance, primary health care and current development approaches. It is therefore a responsibility of society to promote breastfeeding and to protect pregnant and lactating mothers from any influences that could disrupt it.

8. The period of weaning from the breast is a critical stage which often results in malnutrition and disease if the child does not have a diet that is adequate in quantity and quality, hygienically prepared and culturally, socially and economically acceptable.

9. The health of infants and young children cannot be isolated from the status of women and their roles as mothers and as partners in social and economic development. In poor urban and rural communities where the health and socioeconomic status of women is deteriorating, a corresponding deterioration is taking place in the health of infants and young children.

10. Health for all cannot be attained unless there is a substantial improvement in the socioeconomic condition of women, the particular needs of mothers and their infants and young children are recognised and met, and conditions are provided that promote and sustain the well-being of the family. These conditions include the right of women to information and education that will enable them to improve their own health and that of their families and to take an active part in decision-making on matters that affect their own and their children's health. They include also attention to the role of fathers in providing for the needs of their family.

11. The production, preservation, processing and distribution of food are essential components of any approach to ensuring the proper feeding of families and children. Emphasis should be placed on fresh local foods and traditional practices, complemented only when necessary, and under the guidance of government, by industrially processed products.

12. The WHO/UNICEF Meeting on Infant and Young Child Feeding affirms the need for sustained national and international action, and for the active participaiton of families, and especially mothers, in the elimination of malnutrition and the promotion of health. This is a challenge to all social and economic development strategies and to the world community as a whole. In the International Year of the Child it is fitting that national and international efforts be intensified, and that the enthusiasm it has generated in the cause of child health be sustained, to respond to this challenge.

RECOMMENDATIONS ON APPROPRIATE MARKETING AND DISTRIBUTION OF INFANT FORMULA AND WEANING FOODS

The government of each country has the responsibility to promote coherent food and nutrition policies which should give special attention to mothers, infants and children. These policies should emphasize the preservation of breastfeeding and the implementation of appropriate nutritional guidance (calendrier nutritionel). Governments have a duty to ensure the supply and availability of adequate infant food products to those who need them in ways that will not discourage breastfeeding. Informed advice should be given at the appropriate time and place to mothers and families about best infant and young child feeding practices.

Breastfeeding is the only natural method of feeding babies and it should be actively protected and encouraged in all countries. Therefore, marketing of breastmilk sub-

stitutes and weaning foods should be designed not to discourage breastfeeding.

There should be no sales promotion, including promotional advertising* to the public of products to be used as breastmilk substitutes or bottle-fed supplements and feeding bottles. Promotion to health personnel should be restricted to factual and ethical information.

There should be an international code of marketing of infant formula and other products used as breastmilk substitutes. This should be supported by both exporting and importing countries and observed by all manufacturers. WHO/UNICEF are requested to organize the process for its preparation, with the involvement of all concerned parties, in order to reach a conclusion as soon as possible.

Monitoring of marketing practices is recommended. Usually this will be done under government auspices. Advertising councils and industry, consumer and professional groups can make an important contribution.

There should be no marketing or availability of infant formula or weaning foods in a country unless marketing practices is in accord with the national code or legislation if these exist, or, in their absence, with the spirit of the meeting and the recommendations contained in this report or with any agreed international code.

Facilities of the health care system should never be used for the promotion of artificial feeding. Therefore, advertising or promotional distribution of samples of breastmilk substitutes through health service channels should not be allowed. Artificial feeding should not be openly demonstrated in health facilities.

No personnel paid by companies producing or selling breastmilk substitutes should be allowed to work in the health care system, even if they are assigned more general responsibilities that do not directly include the promotion of formulas, in order to avoid the risk of conflict of interest.

Production and distribution of foods for infants and young children should be governed by strict legal standards. They should be labelled to indicate proper and safe home preparation. Governments should adopt the recommended international standards covering foods for infants and young children developed by the Codex Alimentarius Committee on Foods for Special Dietary Uses and should support the elaboration of standards by this Committee to ensure nutritional value and safety. Governments that have not yet adopted such codes or regulations are urged to do so.

Products that are not suitable alone as weaning foods, such as sweetened condensed milk, cornstrach, cassava flour and cereal flours, should be required by proper regulations not to be packaged, labeled, advertised or otherwise promoted in ways that suggest they should be used as a complement or substitute for breastmilk. Vigorous educational efforts should be made against their misuse for the purpose by mothers.

[From the New York Times, Oct. 13, 1979]

BABY-FOOD INDUSTRY AGREES TO A CURB ON THE PROMOTION OF INFANT FORMULAS

(By Victor Lusinchi)

GENEVA, October 12.—Representatives of the baby-food industry, at a conference sponsored by the World Health Organization and the United Nations Children's Fund, subscribed today to a call for a ban on all sales promotion that would discourage breastfeeding.

Doctors, nutritionists, industry spokesmen and representatives of consumer organizations and activist groups agreed at the four-day session that breast-feeding should be "protected and encouraged" everywhere.

For this reason, according to the conference's recommendations, "The marketing of breast milk substitutes and weaning foods should be designed not to discourage breast-feeding."

The recommendations went on to specify that the ban should apply to all advertising and sales promotion to the public of breast milk substitutes and baby bottles.

RESTRICT ALL PROMOTION

Even the promotion of such substitutes among the medical profession and health personnel "should be restricted to factual and ethical information," the 150 conference participants agreed.

Fears expressed by activist groups opposed to all promotion of infant foods in underdeveloped countries that the recommendations left gray areas that the baby-food industry could exploit were dismissed by Dr. Halfdan Mahler, Director General of the World Health Organization.

The industry, he said at a news conference, is now under a "moral obligation" to change its practices and to refrain from "pushing promotion and advertising."

Speaking for the International Council of Infant Food Industries, Ian Barter, chairman of the British concern Cow and Gate Ltd., said the acceptance of the recommendations by consensus meant that "anything that is a direct sales promotion is out."

"This is an extraordinary concession for an industry like ours," Mr. Barter said. The council comprises 12 companies, including Nestlé, and according to Mr. Barter they account for 85 percent of all baby food sales in the developing countries.

In the United States, Nestlé is currently the target of a national boycott for its promotion of infant formula in the third world. The boycott, which began in June 1977, is sponsored by a confederation of church organizations and consumer groups calling itself Infant Formula Action Coalition, known as Infact.

Douglas Johnson, the group's chairman, who was here for the conference, said the boycott would continue "for the time being." But he added that Infact would seek to confer with Nestlé "to see how the recommendations of the World Health Organization will be carried out."

Dr. Mahler said that he would take action immediately on the call for the drafting of an international code on the marketing of infant formulas and other products used as breast milk substitutes.

The promotion of these products in the third world has been criticized by the World Health Organization Assembly of member states and by activist groups as inducing mothers in emerging nations not to breast-feed. Failure to breast-feed is often to the detriment of the babies' health, the assembly said.

Not only does some evidence point to the superiority of breast milk over formula, but protesters also contend that the early use of formula by impoverished mothers can result in malnutrition and disease because the mothers cannot afford to continue buying the formula and they turn instead to inadequate substitutes. The mothers also frequently lack the necessary sanitation for bottle feeding.

Dr. Mahler said he would present proposals to the assembly at its meeting next May on arrangements for drafting the proposed code in conjunction with all interested organizations.

The assembly will have to decide whether to adopt the draft in the form of an international convention binding on governments that ratify it or as a recommendation to governments to use as a model for their national codes, he said.

THIRD WORLD EMPHASIS

The meeting viewed infant nutrition as a global problem because, according to the World Health Organization, feeding deficiencies are a major cause of the death of one baby in 10 in the world during the first year. However, the emphasis was on the third world, where infant mortality often runs from 20 to 25 times higher.

The recommendations stressed the need to prepare all mothers for breast-feeding during pregnancy, and that postnatal care should be directed toward the "maintenance of breast-feeding for as long as possible."

A healthy, well-nourished, breast-feeding mother should not need to give any additional nourishment to the child during the first four to six months, it was said.

The first alternative to the milk of a child's own mother should be the use of "breast milk from other sources," according to the recommendations.

The recommendations called for breast-feeding to be initiated "as soon after birth as possible."●

*This includes the use of mass media and other forms of advertising directly to the mother or general public, designed to increase sales of breastmilk substitutes, to the detriment of breastfeeding.

REQUEST FOR A RULE ON H.R. 2626, THE HOSPITAL COST CONTAINMENT ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

● Mr. WAXMAN. Mr. Speaker, I take this occasion to advise my colleagues as to the nature of my request to the Committee on Rules for the rule on H.R. 2626, the Hospital Cost Containment Act of 1979. I have recommended the following modified closed rule:

(a) that H.R. 2626 as amended by the Committee on Ways and Means be in order as an original bill for purposes of amendment,

(b) that H.R. 2626 as amended by the Committee on Interstate and Foreign Commerce be in order as a substitute for the Ways and Means bill,

(c) that a specific amendment to the Commerce substitute by Congressman Rangel, to be printed in the Record, be in order,

(d) that no further amendments except for pro forma amendments be in order to either the Commerce substitute or the Ways and Means bill.

I must specifically note, so there can be no confusion on the part of my colleagues, that these are personal recommendations and are not made in a capacity as the official designee of the Committee on Interstate and Foreign Commerce.●

REVERSE FREEDOM OF INFORMATION LITIGATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, I am today introducing the Reverse Freedom of Information Litigation Act. This bill is designed to solve some of the complex questions of judicial and administrative procedure that have arisen in connection with reverse freedom of information lawsuits. My proposal is largely based on

the July 1978 report of the House Committee on Government Operations entitled "Freedom of Information Act Requests for Business Data and Reverse-FOIA Lawsuits" (H.R. 95-1382). The report was based on a study conducted by the Subcommittee on Government Information and Individual Rights, which I chair.

Because of the complexities of the issues, I would like to explain some of the background of my bill. A typical lawsuit filed under the Freedom of Information Act is one brought by a person who has requested information from an agency and who has been denied. The FOIA provides a clear and specific remedy for those who believe that information has been improperly withheld by the Government and this remedy has worked well.

However, those who have followed the development of FOIA law have become increasingly familiar with the reverse-FOIA lawsuit. This is an action brought by a person who has submitted information and who seeks to enjoin the agency from disclosing that information under the FOIA. The complications presented by these reverse-FOIA lawsuits have only become apparent in the last few years.

The most significant feature of reverse-FOIA litigation is that there are usually three parties in interest: The submitter of the information, the requester of the information, and the agency which holds the documents. Depending in part on how the request for information was handled by the agency, litigation can be initiated by either the requester or the submitter or by both parties. Matters can become especially tangled when more than one submitter has an interest in the documents requested.

The central issue in any FOIA litigation is whether a document should be disclosed. If a requester and a submitter have filed separate actions in different Federal courts over the disclosure of the same documents, it is apparent that the actions should be consolidated in one place, that one judicial decision should result, and that all parties should be bound by that decision. One of the basic purposes of my bill is to establish rules requiring consolidation of these cases. The bill will also establish a standard by which the courts can review an agency decision to disclose information.

In order to simplify the procedures for litigation, some changes in the administrative handling of FOIA requests are also appropriate. Not only should requesters and submitters be brought together in court, but both parties should have the opportunity to present their views on disclosure to the agency that make the initial determination. In order to accomplish this, it is necessary to tell a submitter that a request has been received for information that he has supplied to the agency. This is the second basic purpose of my bill.

At present, most agencies already notify submitters that FOIA requests have been received. However, this practice is informal, and submitters are understandably concerned that it will not be followed in all cases where it is appropriate. Also, the existing time limits of the FOIA do not permit much time for submitters to present their arguments to the agency. Accordingly, I also propose a small relaxation of the time limits for FOIA requests where an agency is obliged to notify a submitter that a request has been received.

There are several court cases pending that could result in a definitive ruling on some of the questions of judicial procedure raised by reverse-FOIA litigation. If existing rules of civil procedure contain adequate solutions to the problems of reverse-FOIA litigation, then some parts of my bill may be unnecessary. However, as we learned when the Supreme Court decided its first reverse-FOIA case—Chrysler against Brown—earlier this year, court decisions sometimes raise as many questions as they answer. My comments on the Chrysler decision appear in the CONGRESSIONAL RECORD of May 3, 1979.

Because the issues are so complex, I think that it is useful to begin to look at them now. My bill is a starting point for debate, and I invite comments from any interested parties. I expect that the Subcommittee on Government Information and Individual Rights will hold hearings on reverse-FOIA litigation issues early next year.●

GOLFER CHICK EVANS LEFT A LEGACY FOR YOUNG MEN AND WOMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, Chick Evans died Tuesday. He was a golf legend. From the Sunday putters to the pros, everyone in golf knew about Chick Evans.

The winner of four major championships in his day, Chick Evans played golf and worked until this year. He was 89 years young when he died. But his golf records represent only a part of his achievement. Before the days of athletic scholarships, Mr. Evans was forced to drop out of college because his family didn't have enough money for him to continue his studies. Chick Evans never turned professional, but he wanted to make sure young people had their chance to enjoy golf and to get a college education. He started a scholarship foundation so that young caddies who had academic ability but no money for college could go to school. Unlike some scholarship programs that demand excellence before a youngster even starts the game, golf ability is not a criterion of selection for an Evans scholarship.

Today the Foundation is administered by the Western Golf Association. Mr. Marshall Dann, executive director of the association told me the foundation has provided $26 million to young scholars over the years. Two scholars graduated in 1930. To date, 3,167 young people have graduated from college because of Chick Evans' scholarships. These full tuition scholarships support 922 men and women caddies in colleges today. Charles "Chick" Evans is dead, but his caddie-scholarship dream will not die. A great number of young men and women have had and will have a better chance in life because Chick Evans cared. I would like to insert into the RECORD a Chicago Tribune story about this remarkable man.

GOLFER CHICK EVANS DIES AT 89

Charles "Chick" Evans, dean of amateur golf in the United States and founder of the Evans Scholars program, died late Tuesday at the age of 89 in Augustana Hospital.

Although confined in recent weeks by illness to the hospital or his North Side Chicago apartment where he lived for more than 50 years, Evans had remained active in golf and business until this year. Throughout last winter's heavy snows he commuted regularly to his Loop office.

Evans was born July 18, 1890, in Indianapolis, and his family moved to Chicago's North Side when he was 3. Nearby was the former Edgewater Golf Club where Evans was introduced to golf as a caddie at the age of 8.

This contact launched him into eight decades of association with golf—as a boy wonder, a national star, a golf official, and finally as the guiding light behind the Evans Scholars program.

Along the way, Chick won almost every title available to him in his era. He was voted into every hall of fame in golf.

Evans won all four major championships of his day—the U.S. Open in 1916, Western Open in 1910, U.S. Amateur in 1916 and again in 1920, and the Western Amateur eight times between 1909 and 1923.

His two-under-par 286 total in winning the 1916 U.S. Open at Minikahda Club in Minneapolis marked the first time par was broken for 72 holes in the event, and the score stood as a record for 20 years. He did this with only seven hickory shafted clubs.

When he also won the U.S. Amateur later in the year, he became the first to hold those two United States Golf Association titles the same year, a feat matched since only by Bobby Jones. Evans still remains the only amateur to win a Western Open.

Chick was a durable performer on the links winning senior tournaments in the late 1960s, more than 60 years after his first titles. He competed in a record 50 successive U.S. Amateur championships. He won four Chicago City Amateurs—his first in 1907 and his fourth in 1944 at the age of 54.

His final appearance as a player was in 1967 at the Western Amateur, but for the last 12 years he followed the golfers in a cart, stopping along the way to shake hands and chat with his admirers.

Overshadowing his greatness and durability as a player was Evans' unique contribution to golf in the creation of the caddie-scholarship concept.

Chick enrolled at Northwestern at an early age after winning several tournaments as a teen-age prodigy. Evans was forced to drop out of Northwestern after only a year because his family lacked the financial resources for him to continue. This was before the day of athletic scholarships.

Chick was firm about never turning professional. There were many offers, especially when he held both the U.S. Open and U.S. Amateur crowns for three years. World War I postponed his defense of the 1916 titles until 1919, and he was a headlined star in more than 400 exhibition matches in that span for the Red Cross.

Evans received a trickle of income from golf, income he could not accept and remain an amateur. Some came from phonograph records with golf lessons, recorded on conditions that the income go into an escrow

account. Other endorsement income boosted that fund.

Some 10 years later, in the late 1920s, Chick convinced the Western Golf Association to take over the fund, to use it for college scholarships for deserving and needy caddies—for boys like himself 20 years earlier.

His dream came true in 1930 as the first two Evans Scholars entered college. The idea caught on elsewhere growing widely. Such scholarships are now offered by the WGA and 29 affiliated state or regional golf associations from coast to coast.

In accordance with Evans' wishes, there will be no visitation and services will be private. Burial will be at Memorial Park Cemetery in Skokie. He asked that flowers be omitted and that contributions be sent instead to his Evans Scholars Foundation, Golf, Ill. 60029.

A memorial service will be held at the First Presbyterian Church, 1427 Chicago Ave., Evanston, Monday at 3 p.m.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LUNDINE) is recognized for 5 minutes.

● Mr. LUNDINE. Mr. Speaker, I regret that a long-standing commitment to give a talk at Harvard University kept me from participating in two important votes yesterday afternoon: the conference report on the second budget resolution for fiscal year 1980 and passage of H.R. 4167 establishing 80 percent parity for milk price supports through September, 1981.

Had I been here I would have opposed the conference report on the budget resolution, as I opposed the resolution itself when it was first reported to the House by the Budget Committee. At the time of that earlier vote, I believed that the fiscal year deficit contained in the resolution was too high and, moreover, that an equal sacrifice had not been made by all Federal departments in limiting spending.

When I review what has since occurred in the conference committee, I find that the deficit has increased further and that the House gave in completely to the Senate's addition of $3 billion in budget authority for defense spending. I continue to believe that our efforts to balance the budget cannot succeed as long as we exempt certain functions from the requirements of austerity.

At this time I would also reaffirm my continued support for 80 percent of parity in the price supports for milk. I believe that the 80 percent level strikes a good balance between the needs of America's dairy farmers and the interests of consumers who deserve secure supplies of milk products at reasonable prices. Had I been here yesterday afternoon I would have voted for H.R. 4167 and I would have opposed the amendment, offered by my colleague from Illinois, to permit the Secretary of Agriculture to reduce the parity level under certain circumstances.●

THE CHRYSLER CORP. BAILOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

● Mr. VANIK. Mr. Speaker, on November 2, the Carter administration proposed that the Government of the United States provide a billion and a half dollars in loan guarantees to keep the Chrysler Corp. from going bankrupt. The plan provides that Chrysler would have to raise another $1.5 billion from private sources before any loans would be guaranteed. The Government would have leverage over the company's operation—including the right to demand management changes. The United Auto Workers Union has indicated that it would consider additional concessions to help Chrysler raise the required matching funds.

As a Representative to the Congress, my first concern should be the interest of the American taxpayer. Although I have a large Chrysler producing facility in Twinsburg, Ohio, with substantial employment, 3,532 jobs, it also happens that this production facility is presently engaged in one of the more successful Chrysler operations—the assembly of the Omni and Horizon. As I have previously reported, this product is in the nature of an international product since the engine blocks, manual transmissions, and axles are produced in Germany; the ignition control system, air-conditioners, and compressors are produced in Japan, and the drive shafts and steering units are produced in the United Kingdom. However, the Twinsburg operation is a substantial utilization of a mix of domestic and international production. It has produced the most attractive and meaningful items in the entire Chrysler automotive line. In my judgment the Twinsburg facility would survive as a successful operation regardless of what happens to Chrysler. The facility would be an attractive operation for anyone involved in the automotive industry. It is modern, it is sufficient, and it produces a product for which there is great popular demand.

I hold no brief for the past management of Chrysler. The company was led to its present plight because of an almost total indifference to the need to move into the age of conservation. In 1974 when I first proposed a gas-guzzler's tax in order to conserve gasoline and in order to prevent the shift to foreign cars, I recall very vividly the chairman of the board of Chrysler stating:

> Chrysler will continue to make the big cars, that is what the American people want.

My response was that the American people want what they are taught to want in advertising promotion. If Chrysler had moved more rapidly into the production of a low fuel consuming car at that moment of decision with either a utilization of its own engineering or the use of foreign engineering through license, the company would today be a real threat to its competitors in the automobile industry. Today almost every fuel efficient engine utilized by Chrysler is produced abroad as a captive import.

The critical situation that confronts Chrysler today would have been considerably more serious if we were not able to induce foreign producers to exercise restraint in the American market. Two years ago I warned the Japanese automobile producers of the possibility of Chrysler's bankruptcy and suggested it would be credited to their imports if they continued to increase their percentage of the American market. In my considered judgment the Japanese Government exercised official restraint in entering the American market. The damage to Chrysler would have been even more serious if the Japanese had pressed the sales that were available in the American market which was stunned by OPEC price policies and the incredible increase in the cost of motor vehicle fuel.

The question arises as to why the Federal Government should consider a bailout of Chrysler as the 10th largest corporation in America. When I met with the Council of Smaller Enterprises, an affiliate of the Cleveland Growth Board, in Cleveland last Monday, October 29, many members raised the issue of why the American Government should provide financial assistance for only the large corporations of America rather than the smaller companies which are the lifeblood of the economy. This is a proper complaint to which we should address our concern. Perhaps we may have to restructure the former Reconstruction Finance Corporation to provide strength to American enterprise in this climate of intolerable interest rates and inflation.

From documents I have received it appears that small business in my area is the principal beneficiary of the Chrysler bailout. In 1978, in the seven congressional districts of the Greater Cleveland area, 981 suppliers provide $597,204,114 in goods each year.

The involvement of small business throughout America is sufficient reason of itself to warrant a Chrysler rehabilitation and bailout.

It becomes quite apparent that the magnitude of a Chrysler collapse and shutdown would have a multiplier effect on the entire economy. From my rough calculations at this point it appears that it would result in an across-the-board attrition of industrial activity in our entire northern Ohio area. Our economy is much too fragile to suffer the collapse of the Chrysler operations.

The bottom line in this decision is the ultimate cost to the taxpayer. If vital jobs are lost, it means that the American taxpayer must pick up the cost of unemployment compensation benefits since the payout in compensation would have to be replenished, the Federal Government, the State and local governments would have to share in the cost of added burdens of welfare, job retraining and general family support. In addition, the Nation would have to face the program to reconstruct substitute forms of employment for the displaced workers. A mere sustaining CETA job in the public sector has an annual cost of about $10,000 per year. Restoring a total Chrysler collapse would cost $1,400,000,000 per year in nonproductive public service jobs. The creation of new private sector jobs could cost 10 times as much. The Department of Labor estimates the cost of creating one industrial

private job at $55,500. Replacement of Chrysler jobs could cost $7 to $8 billion.

From the standpoint of the taxpayer, it is far more expensive to build new jobs in new enterprises than it is to bolster a feasible operation. This does not mean that I support the continuance by Chrysler of inefficient divisions. There are some inefficient operations which must be closed which have contributed to the failure of the company. There are other items of production which the company may consider. Today there is a railroad car shortage in America estimated at 125,000 cars and the need is increasing. We are today importing railroad car assemblies from abroad and the agricultural portions of the country are frustrated by the breakdown of our railroad system which is unable to move essential items of production from the farm to the market or to export. There are other critical industrial needs in America which are unmet, in which there are huge backlogs of order and need. Chrysler must be urged to move into these alternate areas of production.

Under no circumstance should the Federal guarantee be used to bail out the banks or the investors who have exercised bad judgment in making precarious loans and investments. They should be compelled to assume such losses with the tremendous profits they are incurring in other areas with current levels of high interest. This should be a bailout for the benefit of workers and not the bankers. Nor should the bailout be used to fund tremendous foreign imports of automotive engines and parts. It can only be justified if it extends the base of domestic production.

If a Chrysler bailout will cost less to the taxpayer than a collapse—and I believe that will be the case—I will be willing to support a feasible program of loan guarantees with adequate safeguards to the American taxpayer. In the long run I think it will prove infinitely less expensive than the process of reconstructing new jobs, particularly in an economically suppressed circumstance which currently exists throughout the country.●

TRIBUTE TO RAY ROBERTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. SATTERFIELD) is recognized for 5 minutes.

● Mr. SATTERFIELD. Mr. Speaker, on Monday, October 29, my colleague, the able chairman of the Committee on Veterans' Affairs, the honorable gentleman from Texas, RAY ROBERTS, announced that he would not seek reelection in 1980 and will retire at the end of the 96th Congress.

I am distressed to learn of his decision to leave the House for he has demonstrated able, effective leadership as the chairman of our committee. His dedication to the best interests of our Nation's veterans, so ably demonstrated in his unflinching defense of their rights and benefits and by mustering congressional support of "the Roberts' amendment," earlier this year. He will be sorely missed.

Mr. Speaker, when RAY came to the Congress January 30, 1962, and became a member of the committee, there were 22 million veterans in this country and the Congress appropriated $6.6 billion for the VA, of which $1 billion was allocated to the medical program. Today, with RAY at the helm of the committee there are 30 million veterans and the VA appropriation is over $21 billion, with the medical program receiving over $5 billion to maintain the largest health care system in the Western World. The VA health care system serves our Nation's veterans through its 172 hospitals, 220 outpatient clinics, 88 nursing home care units, 18 spinal cord injury centers, 16 domiciliaries and approximately 1,200 specialized medical care units. This year, the VA health care facilities will provide inpatient hospital care, nursing home and domiciliary care for a record 1.4 million veterans, or more than two-thirds again as many veterans as were cared for when the chairman came to the Congress. It will also treat an all-time high of 17.9 million outpatient visits compared to 3.6 million for the same period of time. RAY can be justifiably proud of this record.

Chairman ROBERTS, while considering the real time problems of veterans, has fought long and hard to insure adequate funding to operate this effective VA health care system and he has been consummately successful in his effort. As a man of vision he has vigorously supported legislation to provide care for our aging veteran population which includes approximately 600,000 World War I veterans as well as 13 million veterans of World War II. As a result of his support, the VA is pursuing unique and innovative treatment methodology for these aging veterans and consequently has become a pioneer in the fields of gerontology, cardiovascular, and pulmonary disease treatment and rehabilitation. He has constantly emphasized the overall need to provide first-rate medical services as well as effective research, nursing home and domiciliary care to alleviate the problems brought on by the aging process. At the opposite end of the veteran age spectrum, RAY ROBERTS has been in the forefront in his vigorous support of legislation for benefits and entitlements for our Vietnam-era veterans.

By far the greatest impact on the veterans health care system since its inception in 1946 has been the influx of the veterans of the Vietnam era who represent nearly one-third of the entire veteran population of the United States. With Chairman ROBERTS' illustrious leadership, the Congress has moved perceptably in legislating new authority for the VA to meet the special, specific needs of our newest generation of war casualties. Total Federal expenditures for hospital care and medical services for Vietnam-era veterans, who account for 15 percent of all admissions to VA medical centers and over 25 percent of all outpatient visits, have amounted to more than $3 billion. RAY was one of the first to recognize that Vietnam veterans are not only unique in the emerging nature and extent of their medical needs. This is especially true of psychiatric and psychological care where 40 percent of current admissions are Vietnam veterans largely because of the strain of their wartime service, social pressures and readjustment problems. Recognizing that the high incidence of drug and alcohol abuse is a major part of the readjustment problem, especially among disabled veterans, RAY worked hard to secure legislation designed to authorize an innovative methodology of contract for treatment in a nonclinical environment, such as halfway houses and community based treatment centers, in an "outreach" program for readjustment of veterans suffering from these maladies.

In closing I wish to observe that his judgment on legislative matters has reflected a total understanding of the importance of fiscal restraint in dealing with our Federal budget coupled with fine insight into the relative priorities between separate budget categories. That is clearly demonstrated by his personal dedication first and foremost to those legislative proposals which have significant merit and which are entitled to the highest priority. His struggle on behalf of veterans programs is in consonance with that posture and in harmony with the traditions of our grateful Nation. In these endeavors, the gentleman from Texas deserves the sobriquet—"Mr. Veteran."●

THE 1979 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

● Mr. FLOOD. Mr. Speaker, on the basis of even the cumulative reports of the 1979 Captive Nations Week last July, all knowledgeable Americans can take pride in the success of this national event. Additional published reports clearly serve to confirm this. In our country and abroad, the 1979 Captive Nations Week was a huge success, and this augurs well for the future.

For the historical record I submit: First, the proclamation by Gov. James B. Hunt, Jr., of North Carolina; second, the article by Dr. Lev E. Dobriansky of Georgetown University in Spotlight, July 30; third, items on the week in the Los Angeles Tidings, Louisville Courier-Journal and Manchester Union-Leader; fourth, more reports in the St. Louis Globe-Democrat, Lincoln Star, Union-Leader, and Syracuse Herald-Journal; fifth, an item in the Chicago Tribune; and sixth, an editorial "Captive Nations: Forgotten Week?" in the Shreveport Times:

PROCLAMATION BY GOV. JAMES B. HUNT, JR.

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions

of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such a week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations;

Therefore, I proclaim the week of July 15–21, 1979, as "Captive Nations Week in N.C." and commend this observance to our citizens.

[From the Spotlight, July 30, 1979]

U.S. OFFICIALS ARE, HAVE BEEN VICTIMS OF MYTHS ABOUT CAPTIVE NATIONS

(By Lev E. Dobriansky)

Then-Vice President Richard M. Nixon, who in his "Six Crises" virtually admits he didn't know what hit him when Nikita Khrushchev berated him for our congressional Captive Nations Week resolution, played on many myths during his visit to the USSR in July, 1959. The so-called "kitchen debate" with the Soviet chief was spectacular but of little substantive value.

What the Kremlin chief undoubtedly reveled in was his repetitive, monolithic terms as "Soviet nation," "Soviet people" and Ukraine as the "Texas" of the mythical nation. I wrote a memo pointing out these and other errors made by him on this visit (Oct. 30, 1959). Nixon cordially replied, saying in part, "You may be sure that I shall find these suggestions most helpful as I continue my study of the many problems we face in this war with communism" (letter, Nov. 11, 1959). By the time he became president there was no improvement; in fact, it was even worse.

During the Kennedy administration, myth-making about "Russia" continued, and reached a high point in the clash between Secretary of State Dean Rusk and our UN ambassador, Adlai E. Stevenson. The latter is a story in itself.

Early in his administration, President Kennedy was presented with a wonderful opportunity by Khrushchev in his challenge to debate imperialism in the UN, really an effect of the Captive Nations Week resolution that Krushchev railed against for months. Apparently insecure on these grounds, the president failed to accept the challenge for real. . . .

Kennedy's view of the USSR can be readily gleaned from his stirring address at American University, when, without foundation, he asserted, "no nation in the history of battle ever suffered more than the Russians suffered in the course of the second world war" (the Washington "Post," June 11, 1963).

NON-RUSSIANS KILLED

Of the 23 million military and civilians killed, what happened to the Lithuanians, Byelorussians, Ukrainians and others in the non-Russian areas, where most of the fighting was waged? Admittedly, it's hard to prove, but taking the two facts of about 43 percent of USSR forces being non-Russian and the non-Russian areas of combat, the probability is that more non-Russians were killed than Russians. Again, underlying the mistaken view is the myth that the USSR equals "Russia."

The fight in 1961 for a Special Committee on Captive Nations in the House brought into sharp focus some contrasting views of the USSR between Kennedy's secretary of state and Ambassador Stevenson. Opposing such a committee, Dean Rusk came forth with a classic blunder in a letter to the Rules Committee chairman, Howard W. Smith: "The U.S. government's position is weakened by any action which confuses the rights of formerly independent peoples or nations with the status of areas such as the Ukraine, Armenia or Georgia, which are traditional parts of the Soviet Union. Reference to these latter areas places the U.S. government in the undesirable position of seeming to advocate the dismemberment of an historical state" (Aug. 22, 1961).

Established in 1922–23, the USSR an historical state? What of the independence periods in the past of the three nations Rusk mentioned—and other non-Russian nations? At least verbally, the USSR Constitution provides for the secession of these non-Russian nations from the ersatz union; yet Rusk wouldn't even have us talk about the right of national independence. Obviously by "an historical state," Rusk meant that the USSR is just another form of "Russia."

MYTH-BUSTING MEMO

Whatever the motivations behind Stevenson's intervention in the battle (he wanted to be secretary of state), his timely release of a memo on the subject caused no end of embarrassment to Rusk. The memo precisely cites the record of Soviet Russian imperio-colonialism and beautifully shows up the conceptual myths of the secretary. As a matter of record, this Stevenson memo is the finest statement yet given on the subject by any of our representatives in the UN (memorandum to UN delegations, Nov. 25, 1962).

In response to this memo and other protests at the time, Rusk sent another letter, dated Dec. 27, 1961, to the Rules chairman, Smith, retreating from his original position . . . and upholding "the national aspirations of the minority peoples of the USSR." So now, the "historical state" myth gives way to another typical myth of "minority peoples" or "minority nationalities." Apart from quantitative questions on the subject, since when, from a qualitative viewpoint, do Georgians or Lithuanians who predominate in their respective, historic homelands suddenly become "minority peoples"? In the use of words, Moscow appears to demonstrate greater sagacity with national references to "equal among equals."

Similar misconceptions dominated the turbulent Johnson era. For masterful confusion this statement by President Johnson is sufficient unto itself: "The common interests of the peoples of Russia and the United States are many—and this I would say to the people of the Soviet Union: There is no American interest in conflict with the Soviet people anywhere" (text of Johnson's speech on "U.S. Aim to Keep Peace," the Washington "Post," June 4, 1965).

In this one statement you find the old czarist imperial usage, "the peoples of Russia," and now they are metamorphosed into one as "the Soviet people," another illusion . . . Former Sen. J. W. Fulbright, who for many years chaired the Foreign Relations Committee, wallowed in a variety of illusions regarding the USSR. For instance, referring to that state, he wrote, "Insofar as a great nation mobilizes its power and resources for aggressive purposes, that nation, regardless of ideology, makes itself our enemy" ("Congressional Record," March 25, 1964, p. 6029).

He was supposed to be dispelling "old myths" and . . . pictures the USSR as a nation. In other quotes, like Eisenhower, he too, harbored the illusion of "200 million Russians" in existence.

RECKLESS ERROR

When Nixon became president, the top official view of the USSR didn't improve; it became worse. Nixon never attained to an understanding of the USSR, and his advisor, Dr. Henry Kissinger . . . couldn't help . . . Both were prisoners of a nation-state concept and, in sharp contrast to any administration before or after, they committed the reckless error of accepting the traditional Russian imperial principle of noninterference in the internal affairs of the imperial state in the Moscow Declaration of 1972. When Nixon appeared in Kiev, Ukraine, he called the capital "the mother of Russian cities," similar to designating a woman as half-pregnant. His confused views also can be gleaned from many of his untutored statements.

For example, speaking of the USSR, Nixon declared, "But as we have the valor to defend those principles which divide us as nations, we must have the vision to seek out those things which unite us as human beings" (address at the U.S. Naval Academy, June 5, 1974).

The USSR a nation? Conquerors and exploiters of nations—meaning the non-Russian nations within the USSR and only secondarily those without—are scarcely qualified for such a vision other than when it serves their interests. In an address to "the people of the Soviet Union," Nixon persists with the illusion to the detriment of those captive non-Russian nations: "Our two nations will continue to have differences" ("Weekly Compilation of Presidential Documents," July 8, 1974, p. 746).

During the 1976 presidential campaign, Gerald Ford . . . adamantly held that Eastern Europe was under no Russian domination. Kissinger congratulated him on his performance. Finally, during the Carter administration, some of the noted myths continue to linger on.

An analyst for the Washington "Star," discussing Leonid Brezhnev, states, "He has his problems in keeping together the many conflicting groups of his large, diverse nation."

John Kenneth Galbraith, a facile writer (but one who appears to have a confirmed opinion about everything) says, "The reality in the case of the United States and the Soviet Union is of two large industrial nations" ("The New Industrial State," Boston, 1967, p. 332). The USSR a nation? Even Moscow disputes this.

[From the Los Angeles (Calif.) Tidings, July 13, 1979]

PRAYERS, MASS TO MARK CAPTIVE NATIONS WEEK

Captive Nations Week will be observed July 15–21 by proclamation of the President.

Msgr. Felix Diomartich, Episcopal Vicar for the Multilingual Apostolate, has asked pastors to encourage their people to pray during the week, and especially this Sunday, for the people of the Captive Nations.

A concelebrated Mass at 5:05 p.m., July 21 in St. Basil's Church will be offered for the intentions of all enslaved peoples, Msgr. Diomartich said. Representatives of Americans for Freedom of Captive Nations will attend.

[From the Louisville (Ky.) Courier-Journal, July 26, 1979]

CAPTIVE NATIONS WEEK

(By Ed Laste)

Each year the third week of July is designated as Captive Nations Week by our Congress and was signed by President Eisenhower in 1959. The key words of this law are, ". . . the President is authorized and requested to issue a proclamation each year until such a time as freedom and independence shall have been achieved for all the captive nations of the world."

The sad truth is that since 1975, the number of captive nations is increasing because of the illegal seizures of Laos, Cambodia, South Vietnam, Angola and Afghanistan by forces of Marxist-atheistic communism. So the total number of captive nations is now some 34 over the world.

The evidence shows that Communist holocaust, a systematic extermination of subjugated nations, continues. The Soviet Union . . . is violating the Helsinki Accord of July 1975.

Now the Soviet Union is eager to use SALT II, where they have gained military advantage, for consolidating regional Communist conquests.

The unbelievable American and free world self-destruction is that our government . . . by trade and loans granted under the process of detente, helps Soviets to finance and build a military might for its projects devoted to the world conquest.

Indeed, Marxism-communism is a global threat for the free world.

During Captive Nations Week, there will be parades, proclamations, speeches in Congress, and church services in awareness, to keep America free and independent and that some day all the captive nations again will enjoy their God-given rights for self-determination and freedom from Marxist-Leninist communism's tyranny. All nations have a right for independence.

[From the Manchester (N.H.) Union Leader, July 9, 1979]

CAPTIVE NATIONS WEEK TO BE OBSERVED

(By V. Grundmanis)

Addressed to William Loeb: Again is the time to observe and do our best for the captive nations under bloody, brutal Communist rule in the Captive Nations Week 1979 from July 15 till 21, the third week of July, 1979.

We, people of the free world, can commemorate now the 20 years of Captive Nations Proclamation by the United States of America, but our efforts were in vain to somehow help the enslaved peoples, who suffer loss of freedom individually and have lost the independence of their former free nations. We, the free people, tried to do our best in demonstrations, speeches, writings and other activities against the godless Communist regimes, but that is not enough—we have to fight and work in the Holy War against communism by all means, including our help in supplying materials to foster dissent, sabotage, guerrilla warfare, revolts and revolutions all over the world of ours against inhuman Communists, the enemy of God and humanity.

That is our duty and goal to free all captive nations, may almighty God help us in this sacred obligation for all free people to give liberty, freedom and independence to every man, woman, child and nation of the world of ours on the earth of God. Let us start now to do all we can "with God against communism" by all to us available means not only in the coming Captive Nations Week 1979, but every day, every moment of our lives to help the captive nations to gain their deserved freedom and independence. "Freedom for captive nations!"

[From the St. Louis (Mo.) Globe-Democrat, July 16, 1979]

PLIGHT OF CAPTIVE NATIONS

(By Marian Oreit)

Soviet Foreign Minister A. Gromyko is urging the creation of a Palestinian state.

This issue should not be of concern to the Soviet Union. But, of course, the reason behind this "humane" attitude is a politico-strategical one. Regardless, it concerns the Middle-East countries alone, and they will, in time, find a solution to this vital problem.

He and his government should rather direct their attention toward nations like Lithuania, Estonia, Latvia, the Ukraine and many others, which they have taken by force, enslaved and deprived of their basic human rights. They are entitled to rule themselves, to live and exist as free, independent countries.

Ever since the Communist revolution in 1917, millions of innocent freedom-loving Soviet citizens of all nationalities have fallen victims to the Soviet murderers, Russians included.

Even today, approximately one million political prisoners are tortured and many executed without a trial. Their desire for freedom, independence, liberty has never ceased to grow. And never will.

In the past these nations have always been the free world's allies, and will be again, after they achieve their sublime goal. The dissident movement, especially after the signing of the Helsinki agreement, provides proof. These courageous fighters have time and again risked their very existence to find a way to reach the free nations and to point out the atrocities committed by the Soviet dictators, the noncompliances committed by their usurpers, regarding SALT I and many other treaties we've signed with the Soviets.

They are our true allies, and always will remain. They are asking us for no more but our moral support in their battle for their noble cause. Should they be denied what they so much deserve?

To the contrary, we should make every effort available to us to give them the support. The legacy left by our wise forebearers that "all men are equal and should be free," applies to all people, everywhere!

We Americans are a nation admired by people the world over and considered as the citadel of freedom, liberty, independence. By supporting the captive nations in their battle for the same ideals, we also help our own country to maintain this status for generations to come. The restoration of those countries to their original status would put a definite stop to the Communist expansionism.

[From the Lincoln (Nebr.) Star, July 24, 1979]

CAPTIVE NATIONS WEEK

(By Alexander V. Berkis)

In 1959 the Congress passed Public Law 86–90, or Captive Nation Proclamation declaring the third week of July Captive Nations Week. In fact, Captive Nations Week has become almost meaningless. In 1977 President Jimmy Carter issued the Captive Nations Proclamation only after ethnic groups began calling the White House and demanding it. It is almost needless to say that the Captive Nations Proclamations of President Carter in 1977, 1978, and 1979 failed to list any captive nations or name the Soviet Union as the only privileged colonial empire in spite of the fact that almost all former colonial peoples of Africa and Asia have obtained their independence.

Aleksandr I. Sozhenitsyn and Adrei D. Sakharov have repeatedly asked the Russian communist leaders to dissolve the Soviet Union of the non-Russian republics and to do away with the Russian control of Eastern Europe in general.

Therefore, persons who realize the danger of communism should urge the Congress to encourage the explosive forces of nationalism of the Ukrainians, Georgians, Armenians, Lithuanians, Latvians, Estonians, Poles, East Germans, Czechs, Hungarians, and other Eastern European peoples. The Congress should be likewise urged to oppose the selling of our machinery and wheat to the Soviet Union and to refrain from making any concessions of credit to Russia. The militarism and imperialism of the only colonial empire should be weakened by imposing strong economic sanctions against the Soviet Union.

[From the Manchester (N.H.) Union-Leader, July 13, 1979]

CAPTIVE NATIONS WEEK 1979

(By Paul H. Tracy)

We are on the eve of a 20th anniversary which the present occupant of the White House apparently wishes would just fade away.

President Carter beats his breast as a champion of human rights, but what about Captive Nations Week?

You don't hear Carter issuing any proclamation calling attention to our failure to act as the Soviets smashed the Hungarian counter-revolution in 1956. In case you have forgotten there now is a total of 30 captive nations in the world.

Eisenhower proclaimed the first Captive Nations Week in 1959. In 1978 Carter was forced to bow to pressure and four days into the week issued a weakly worded proclamation.

Carter's statement did not include one reference to communism.

He almost gained the unenviable distinction of being the first President since Ike not to declare his support of the 1.5 billion enslaved people.

Not being equipped with ESP, we have no idea if President Carter will take official note of Captive Nations Week, July 15–21. But if he does you can be sure it will be of the mealy-mouth variety! See commentary by John Chamberlain on back page.

[From the Syracuse (N.Y.) Herald-Journal, Sept. 1, 1979]

CAPTIVE NATIONS RALLY SCHEDULED

The Captive Nations Committee of Syracuse and Onondaga County will conduct its 20th annual rally at 7:30 p.m. Sunday in Le Moyne College Auditorium.

Dr. Askold Lozynski, a Ukrainian-American, will be the principal speaker. He is an attorney in New York City and active in Ukrainian exile organizations. He will discuss the 20-year-old Captive Nations movement, human rights violations behind the Iron Curtain and the danger of Soviet colonialism.

The Captive Nations Week proclamations of President Carter, Gov. Hugh Carey, Mayor Lee Alexander and County Executive John Mulroy will be presented during the rally. The opening remarks will be delivered by Dr. Anthony T. Bouscaren, Le Moyne College professor of political science, and chairman of the Captive Nations Committee of Syracuse, which initiated the yearly rally.

Entertainment will include folk music by the Ukrainian Male Chorus under direction of Wasyl Zhmur and the Vietnamese Band. There also will be a dance demonstration by the Odessa Dance group of the Ukrainian Youth Organization, under direction of Peter Lutsyshyn and folksongs presented by a Ukrainian Bandurist musician. The Ukrainian Congress Committee of America, Syracuse branch, coordinates this cultural program.

The Captive Nations Committee organized this rally in observance of the 20th anniversary of the Captive Nations Resolution, introduced by Congress as Public Law 86–90 on July 17, 1959.

According to Co-Chairman Tibor Helcz, there were 22 nations under Soviet domination in 1959 and this number has increased to 36 by this year.

[From the Chicago Tribune, July 22, 1979]

CAPTIVE NATIONS REMEMBERED

Two rows of cardboard cut-out figures dangling from hammer-and-sickle symbols represent countries living under communism during a "Captive Nations Day" rally Saturday in the Daley Plaza. The annual event is staged to remind Americans that so few others enjoy their freedoms. Special guest at the rally was Valentyn Moros, who, after 14 years in a Soviet labor camp was freed with four other dissidents in April with the help of the United States.

[From the Shreveport (La.) Times, July 19, 1979]

CAPTIVE NATIONS: FORGOTTEN WEEK?

This is the 20th anniversary of "Captive

Nations Week," July 15-21, but if the word hasn't reached you, don't feel bad. In the two decades since President Eisenhower signed a congressional resolution into law, Captive Nations Week has been gradually transformed into what amounts to a state secret.

The idea of the week, as it was conceived in 1959 at least, was basically to point a finger of shame at the Soviet enslavement of Eastern Europe. That was the main thing, though Communist domains in Asia were added to the list of "Captive Nations."

But with the coming of detente between the Soviet Union and the United States, the assumption that the captive nations were gradually asserting their independence from Russian rule, and the reality that we were not about to do anything about Kremlin control anyway, this particular "anti-Communist" week lost whatever steam it ever had.

The week may be a dead, decaying relic of Cold War rhetoric. But the realities that created the captive nations observance are, unfortunately, very much alive. Despite the signing of the SALT II treaty, detente has been badly damaged by Soviet behavior in Africa and elsewhere—along with the much more ominous Soviet military buildup that backs up that dangerous behavior.

And what about that well-advertised assumption that the captive nations of Eastern Europe were gradually regaining control of their national destinies from Moscow? There have been glimmerings of limited liberation from Russia (primarily Romania), but the Soviets have crushed, by raw force, three waves of national revolution in Eastern Europe since World War II. Soviet troops remain stationed in division strength in captive nations. These are occupied lands.

Have the captive nations, then, learned to live with Moscow's socialism, or perhaps even come to like it? That little theory was shattered recently by the Pope's visit to his native Poland, where he was met with a wave of adulation that was as much nationalistic as religious.

THE LAST REALITY

Of course, we will buy that last reality: the West is not prepared to rally behind any East European revolution against Soviet rule. That was proved in East Germany, Poland, Hungary and most recently in Czechoslovakia.

Given this reality, we agree that people should not be called to revolution by a West unwilling—or in a nuclear-triggered age unable—to support it. We would never support encouraging such a bloodbath.

But Pope John Paul II proved that the spirit of the West remains a mighty broadsword—a broadsword that in Poland, only a few weeks ago, cut through more than four decades of Communist rule. The observance of Captive Nations Week could offer the same sort of spiritual sustenance to people who obviously still crave it. The week itself may be as dead as the so-called detente that killed it, but the captive nations are alive. Ask Pope John Paul.

CONFERENCE REPORT ON H.R. 4440

Mr. DUNCAN of Oregon submitted the following conference report and statement on the bill (H.R. 4440) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96-610)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4440) making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 5, 6, 8, 22, 27, 30, 34, 35, 36, 37, 43, 52, 55, and 67.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 7, 11, 13, 14, 15, 16, 24, 31, 32, 33, 44, 54, 57, 59, and 60, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,650,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "for necessary expenses to carry out the provisions of 23 U.S.C. 219, $20,000,000, to remain available until September 30, 1983;".

And the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$100,000,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$188,600,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$2,500,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$83,228,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,913,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$36,869,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,139,500"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$87,798,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$873,400,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$630,400,000"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$211,000,000 shall be available for capital improvements, and for labor protection costs pursuant"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$69,300,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$66,800,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$615,000,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,846,000"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$11,040,000"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$16,782,500"; and the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert: "$76,699,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$76,000,000"; and the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change the date to: "March 1, 1980"; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,750,000,000"; and the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert "$650,000,000"; and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows: In lieu of "Sec. 320.", insert "Sec. 319."; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 29, 40, 42, 47, 51, 53, 58, 61, 63, 64, and 66.

E. DUNCAN,
TOM STEED,
ADAM BENJAMIN, JR.,
WILLIAM LEHMAN,
MARTIN OLAV SABO,
BENNETT M. STEWART,
EDWARD P. BOLAND,
JAMIE L. WHITTEN,
SILVIO O. CONTE,
JACK EDWARDS,
CLARENCE MILLER,
LARRY COUGHLIN,
Managers on the Part of the House.

BIRCH BAYH,
WARREN G. MAGNUSON,
JOHN C. STENNIS,
ROBERT C. BYRD,
THOMAS EAGLETON,
JOHN A. DURKIN,
JAMES A. MCCLURE,
C. MCC. MATHIAS, JR.,
L. P. WEICKER, JR.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4440) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—DEPARTMENT OF TRANSPORTATION

COAST GUARD

Operating expenses

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment amended to read as follows: ": *Provided further*, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees intend that the amendment also be applicable to any United States territories or possessions.

Acquisition, construction and improvements

Amendment No. 2: Appropriates $296,011,000 as proposed by the House instead of $290,161,000 as proposed by the Senate. In deleting funds for the infrared/ultraviolet line scanner portion of the medium range surveillance aircraft sensor system, the conferees do not intend to delay the installation of this equipment. The conferees will consider a supplemental request for this procurement at such time as the research, development, test and evaluation program is completed. No funds have been included for the St. Mary's River and Delaware Bay and River aids to navigation projects. The conferees believe that there are sufficient unobligated funds under this appropriation to install these aids to navigation, if the Coast Guard determines that they are high priority requirements.

Alteration of bridges

Amendment No. 3: Appropriates $7,650,000 instead of $6,900,000 as proposed by the House and $14,900,000 as proposed by the Senate. The conference agreement includes $750,000 for the Central New Jersey Railroad bridge project. The conferees direct that these funds, plus the $4,000,000 previously appropriated, shall be available to accomplish, but not exceed, the work described in additive 2 of the Coast Guard plan.

Pollution Fund

Amendment No. 4: Appropriates $10,000,000 as provided by the Senate.

Federal Aviation Administration

Operations

Amendment No. 5: Appropriates $2,085,520,000 as proposed by the House instead of $2,086,770,000 as proposed by the Senate. The conference agreement includes 94 air traffic control positions, 25 flight service stations positions and 36 flight standards positions in addition to those allowed by the House.

Amendment No. 6: Deletes language proposed by the Senate prohibiting the use of funds for payment of expenses incurred for the closure of operations or reduction in grade of personnel of the general aviation district offices in the State of Montana.

Facilities and equipment

(Airport and Airway Trust Fund)

Amendment No. 7: Appropriates $293,000,000 as proposed by the Senate instead of $290,800,000 as proposed by the House. The conference agreement includes funds for the establishment and relocation of airport control towers at Houma, Louisiana and Farmingdale, New York, the installation of a full instrument landing system at Port Angeles, Washington and the installation of airport surveillance radars at Bismarck, North Dakota, Florence, South Carolina and Mansfield, Ohio.

Surface transportation

Highway Beautification

Amendment No. 8: Restores reference to section 131(j) of title 23 U.S.C. as proposed by the House. The conferees understand that the Department of Transportation has undertaken a general review of this program. The conferees expect that this review will be completed in a timely manner so that a determination on further funding of the program can be made in connection with the fiscal year 1980 supplemental appropriation bill.

Safer Off-System Roads

Amendment No. 9: Appropriates $30,000,000 instead of $40,000,000 as proposed by the House. In addition to the funds contained in this amendment, the conference agreement includes $35,000,000 for safer off-system roads.

Urban Discretionary Grants

Amendment No. 10: Appropriates $100,000,000 instead of $70,000,000 as proposed by the Senate and $130,000,000 as proposed by the House. In addition to the funds contained in this amendment, the conference agreement includes an additional $1,280,000,000 for the urban discretionary grants program.

The conferees direct that the fiscal year 1980 funding for urban discretionary grants be allocated as follows:

Bus and bus related facilities	$355,000,000
Rail modernization and system extensions	650,000,000
New systems	320,000,000
Downtown people movers	20,000,000
Urban initiatives	80,000,000
Planning	55,000,000

The funding available under the heading "Rail modernization and system extensions" may be utilized by the eight areas for modernization and extension of the fixed route overhead electrification for propulsion of trolley bus systems. This heading is not intended to provide funding for trolley bus vehicles which should be funded under the allocation for acquisition of buses.

Urban Formula Grants

Amendment No. 11: Appropriates $15,000,000 as proposed by the Senate instead of $30,000,000 as proposed by the House.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on general operating expenses

Amendment No. 12: Limits general operating expenses to $188,600,000 instead of $189,200,000 as proposed by the House and $189,000,000 as proposed by the Senate.

National scenic and recreational highway

Amendments No. 13 and 14: Delete $2,000,000 appropriation proposed by the House.

Access highways to public recreation areas on certain lakes

Amendment No. 15: Appropriates $9,650,000 as proposed by the Senate instead of $2,000,000 as proposed by the House.

Amendment No. 16: Provides that the appropriation under this heading shall remain available until September 30, 1982, as proposed by the Senate instead of September 30, 1981, as proposed by the House.

Alaska highway

Amendment No. 17: Appropriates $2,800,000 instead of $5,000,000 as proposed by the Senate.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Operations and research

Amendment No. 18: Appropriates $83,228,000 instead of $80,286,000 as proposed by the House and $86,170,000 as proposed by the Senate. The increased funds in the amount of $2,942,000 are to be used at the discretion of the Secretary to further the goals of the traffic and highway safety programs except that none of the appropriated funds shall be used for the public participation program.

The conferees intend that the language of Section 317 permits broad research and development activities related to the provisions of occupant restraint standard No. 208. Where a regulation is final and must be met by manufacturers at a fixed future date, the Secretary's activities must be realistically and broadly construed. The Secretary is expected to perform and report the findings of his diverse actions, including validation studies, investigations, and assessments, to maximize the regulation's effectiveness and reliability. The conferees expect that all tests be fairly conducted and evaluated and be open and available to the Congress.

Amendment No. 19: Provides that $25,913,000 of the appropriation shall be derived from the Highway Trust Fund instead of $25,174,000 as proposed by the House and $26,652,000 as proposed by the Senate.

Amendment No. 20: Provides that $36,869,000 of the appropriation shall remain available until expended instead of $34,617,000 as proposed by the House and $39,161,000 as proposed by the Senate.

Amendment No. 21: Provides that $9,139,500 of the amount appropriated to remain available until expended shall be derived from the Highway Trust Fund instead of $8,863,000 as proposed by the House and $9,396,000 as proposed by the Senate.

State and Community Highway Safety

The conferees do not believe that there should be a mandatory set aside within the Section 403 state and community highway safety program for 55 mph enforcement efforts. The conferees believe that the sanctions included in Section 205 of the Surface Transportation Assistance Act of 1978 (P.L. 95-599) provide sufficient incentive for the

states to spend adequate amounts of their Section 402 grant money on 55 mph enforcement.

FEDERAL RAILROAD ADMINISTRATION

Railroad Safety

The conferees direct the Secretary to use funds appropriated for the State safety grant-in-aid program to pay GSA for rent accrued by the National Association of State Regulatory Commissioners (NARUC) pursuant to 49 U.S.C. 10344(f). The conferees understand that the present level of obligation is $68,422. The conferees agree that the payment of any such future rental charges shall be the responsibility of NARUC.

Railroad research and development

Amendment No. 22: Appropriates $54,750,000 as proposed by the House instead of $56,750,000 as proposed by the Senate. The conferees agree that within the amount appropriated $2,000,000 shall be used for an intercity rail passenger demonstration program between Concord, New Hampshire and Boston, Massachusetts.

The conferees also agree that tilt-body technology has the potential to reduce significantly passenger train trip times both in the Northeast Corridor and in other parts of the country. If this potential is verified, the utilization of tilt-body vehicles may permit the trip times in the Northeast Corridor to be met without the great costs associated with the straightening of curves. Therefore, the conferees agree that within the amount appropriated $700,000, including the $200,000 in the budget request, shall be used for the initiation of an expedited research effort to provide the Congress with good information as soon as possible on the safety and effectiveness of tilt-body technology.

Rail service assistance

Amendment No. 23: Appropriates $87,798,000 instead of $62,798,000 as proposed by the House and $92,798,000 as proposed by the Senate. Of the amount appropriated, the conferees agree that $80,000,000 shall be available for the local rail service assistance program.

Northeast Corridor improvement program

Amendment No. 24: Appropriates $381,000,000 as proposed by the Senate instead of $481,000,000 as proposed by the House.

Last January, the Department estimated that, in addition to the $1,750,000,000 presently authorized for the Northeast Corridor Improvement Program, an additional $654,000,000 would be needed to complete the project. The conferees now understand that well over $1,000,000,000 in additional funds would be needed to complete the work described in the January, 1979 Redirection Study. The conferees are very concerned about the planning, management, and cost overrun problems that continue to be characteristic of this project. The conferees understand that the House and Senate authorizing committees are presently considering additional authorizations for this project. The conferees direct that, with the exception of design work and until additional authorization legislation is enacted, the obligation of funds appropriated for this program shall be confined to projects which are not dependent on additional authorizations for their completion.

Grants to the National Railroad Passenger Corporation

Amendment No. 25: Appropriates $873,400,000 instead of $812,300,000 as proposed by the House and $899,700,000 as proposed by the Senate.

Amendment No. 26: Provides that not more than $620,400,000 of the appropriation shall be available for operating losses incurred by Amtrak instead of $574,300,000 as proposed by the House and $630,900,000 as proposed by the Senate.

Amendment No. 27: Provides that not more than $20,000,000 of the appropriation shall be available for capital and operating expenses resulting from services provided pursuant to section 403(b) of the Rail Passenger Service Act, as amended, as proposed by the House instead of $23,800,000 as proposed by the Senate.

Amendment No. 28: Provides that not more than $211,000,000 of the appropriation shall be available for capital improvements and labor protection costs instead of $176,000,000 for capital improvements and $30,000,000 for labor protection costs as proposed by the House and $233,000,000 as proposed by the Senate. The conferees intend that of the amount provided $191,000,000 shall be available for capital costs, including $15,000,000 for low-level cars, and $20,000,000 shall be available for labor protection costs. The conferees are in agreement that a supplemental budget request will be given full consideration if the amount provided for capital and labor protection proves to be insufficient to meet Amtrak's essential requirements during fiscal year 1980.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks $12,000,000 of the amount made available for capital improvements and labor protection costs for capital improvements in connection with the Indianapolis-Chicago service.

Amendment No. 30: Deletes $148,100,000 advance appropriation for fiscal year 1982 proposed by the Senate. The conferees are in agreement that Amtrak should have the flexibility of entering into a contract for the purchase of not to exceed 200 low-level cars because of the potential economies involved in procuring a larger number of cars as opposed to separate contracts for smaller numbers of cars. The conferees expect that the total price of these 200 cars would not be substantially in excess of $228,000,000.

Payments to the Alaska Railroad Revolving Fund

Amendment No. 31: Inserts the word "operations" as proposed by the Senate. This amendment permits the use of appropriated funds for operating expenses.

Amendment No. 32: Appropriates $6,500,000 as proposed by the Senate instead of $2,000,000 as proposed by the House.

Railroad rehabilitation and improvement financing funds

Amendment No. 33: Inserts the words "and section 803 of Public Law 95-620," as proposed by the Senate.

Amendment No. 34: Appropriates $100,000,000 as proposed by the House instead of $150,000,000 as proposed by the Senate. The conferees intend that $50,000,000 of the amount appropriated is provided to implement the provisions of Public Law 95-620 for the rehabilitation of railroads to haul coal.

The conferees are concerned that the Department's utilization of the preference share program is doing little to alleviate the problem of excess physical plant in the railroad industry. The conferees believe that careful administration of this program in conjunction with the exercise of the Secretary's authority under Section 401 of the 4 R Act could result in substantial benefits to railroads and shippers as well as to the taxpayers. Section 401 permits the Secretary to assist in the planning and negotiations between railroads with respect to unification or coordination of operations and facilities. Section 401(c) authorizes the Secretary to determine the potential cost savings and service quality improvements associated with "the elimination of duplicative or overlapping operations and facilities; the reduction of switching operations; utilization of the shortest, or the most efficient, and economical routes; and the exchange of trackage rights". The conferees direct that the Federal Railroad Administration utilize the preference share program to the extent possible to stimulate higher density operations and the reduction of excess capacity. The conferees will, of course, consider carefully a request for supplemental appropriations if the funds appropriated for fiscal year 1980 prove to be insufficient. However, the conferees expect that any future request for funds for this program will be accompanied by a detailed analysis of the benefits which have been achieved through the preference share program.

Amendments No. 35 and 36: Limit obligations for loan guarantees under Sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1976 to $600,000,000 as proposed by the House instead of $700,000,000 as proposed by the Senate.

URBAN MASS TRANSPORTATION ADMINISTRATION

Administrative Expenses

Amendment No. 37: Appropriates $19,260,000 as proposed by the House instead of $19,760,000 as proposed by the Senate.

The conferees are concerned about the Urban Mass Transportation Administration's current bus and rail car specifications and procurement policies. For example, UMTA's procurement policies have resulted in the availability of only the Advanced Design Bus which is produced by two U.S. manufacturers. This bus has significantly increased weight and substantially lower fuel efficiency than the prior generation of buses currently in use.

If the goal of energy savings through the Federal Government's investment in mass transit is to be realized, the conferees believe some modifications are essential in UMTA's current procurement policies. The conferees, therefore, direct UMTA to undertake a thorough review of both its bus and rail car specifications with special attention being given to eliminating those specifications, procurement policies, and administrative policies which are either contrary to the overall goals of the transit program or add to the original or operating costs of the equipment.

In the area of procurement policies, the conferees urge UMTA to pay attention to the trend for each transit operator to, in effect, design his own vehicle. While the conferees realize different areas of the country will have somewhat differing needs, changes in seating configurations, for example, tend only to increase costs with little or no commensurate benefit to the operator or the public. The conferees reiterate the language of Senate Report 96-377 emphasizing standardization and the development of a long term bus procurement program.

The conferees direct that up to $250,000 out of existing appropriations for administrative expenses, research or technical studies be used to address the concerns expressed in Senate Report 96-377 and this report.

Research, development, and demonstrations and university research and training

Amendment No. 38: Appropriates $69,300,000 instead of $63,500,000 as proposed by the House and $71,600,000 as proposed by the Senate. In addition to the amounts provided by the House, the conference agreement includes $300,000 for bus and paratransit research and $5,500,000 for a cold weather research program to be conducted by the University of Notre Dame.

Amendment No. 39: Earmarks $66,800,000 of the appropriation under this heading for research, development and demonstrations instead of $61,000,000 as proposed by the House and $69,100,000 as proposed by the Senate.

Urban Discretionary Grants

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that grants awarded for the acquisition of rolling stock, including buses, shall only be awarded on the basis of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant.

Urban Formula Grants

Amendment No. 41: Appropriates $615,000,000 instead of $600,000,000 as proposed by the Senate and $650,000,000 as proposed by the House. The conference agreement includes $15,000,000 for tier II grants in addition to the Senate amount.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that grants awarded for the acquisition of rolling stock, including buses, shall only be awarded on the basis of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant.

Waterborne transportation demonstration project

Amendment No. 43: Appropriates $10,000,000 as proposed by the House.

Interstate Transfer Grants

Amendment No. 44: Deletes advance appropriation for fiscal year 1981 of $425,000,000 proposed by the House. The conferees believe that action on this advance appropriation should be deferred at this time. The conferees are in agreement that $320,000,000 of the fiscal year 1980 appropriation shall be available for those projects previously financed with contract authority in the following areas: Boston, Massachusetts; Philadelphia, Pennsylvania; Washington, D.C. (Maryland suburbs); Hartford, Connecticut; and Portland, Oregon.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Research and Special Programs

Amendment No. 45: Appropriates $25,846,000 instead of $24,396,000 as proposed by the House and $27,296,000 as proposed by the Senate. The conference agreement includes $1,400,000 for the Automotive Transportation Center, $500,000 for the development and testing of a lighter-than-air aerial transportation system and $200,000 for the hazardous materials activities and research described in the Senate report.

Amendment No. 46: Provides that $11,040,000 of the appropriation shall remain available until expended instead of $9,590,000 as proposed by the House and $12,490,000 as proposed by the Senate.

OFFICE OF THE INSPECTOR GENERAL

Salaries and Expenses

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $700,000 together with $11,493,000 to be derived by transfer and $6,960,000 to be derived from funds available under 23 U.S.C. 104(a).

TITLE II—RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

Salaries and Expenses

Amendment No. 48: Appropriates $16,782,500 instead of $16,730,000 as proposed by the House and $16,835,000 as proposed by the Senate.

CIVIL AERONAUTICS BOARD

The conferees agree that none of the appropriated funds shall be used for the public participation program.

INTERSTATE COMMERCE COMMISSION

Salaries and Expenses

Amendment No. 49: Appropriates $76,699,000 instead of $76,099,000 as proposed by the House and $78,599,000 as proposed by the Senate.

The conferees have not appropriated funds for the Office of Rail Public Counsel. The conferees expect the ICC to fully perform its legislated responsibility to act in the public interest. The conferees direct the ICC to fully develop the record in all of its hearings—supplementing the record developed by the parties to the extent it deems necessary to make decisions that are in the public interest. The conferees are especially concerned that the record in rail abandonment proceedings reflect the interests of affected communities and users and that field hearings be held if required.

The conferees agree that the Interstate Commerce Commission should not implement any action by rulemaking or effect adoption of a rule or a general policy which would permanently change existing standards pursuant to 49 U.S.C. 10922; nor adopt any permanent rule or general policy change under 49 U.S.C. 10706(b), pending new legislation. The conferees are aware, however, of the possibility that such new legislation may not be forthcoming in the near future and recognize that the quickly changing economic climate may require the ICC to make certain rulings that change the regulatory climate for some carriers. In order to be prepared for such action, the conferees direct the ICC to develop, and submit to the House and Senate Appropriations Committees, a position paper outlining the major policy guidelines that they would use to pursue the making of such determinations.

The conferees agree that the ICC may utilize appropriated funds to undertake studies that it finds necessary to fulfill its regulatory responsibilities in a manner that is consistent with the views of the conferees expressed above. The conferees have not included funds for the evaluation of actions taken by the Congress in the area of regulatory reform and will consider a request for such funds if and when such evaluations are requested by the Congress.

Payments for Directed Rail Service

Amendment No. 50: Appropriates $76,000,000 instead of $36,000,000 as proposed by the House and $100,000,000 as proposed by the Senate.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment amended to read as follows: "*: Provided further*, That none of the funds provided under this Act shall be available for the execution of programs the obligations for which can reasonably be expected to be in excess of $80,000,000 for directed rail service under 49 U.S.C. 11125".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees strongly believe that directed rail service should be only a temporary mechanism to continue essential rail service for a brief period of time until a permanent solution is implemented. The conferees are doubtful that all of the services provided by the Rock Island are essential within the meaning of 49 U.S.C. 11125, in view of the long history of financial difficulties of this railroad. The conferees believe that directed rail service should be continued only where it is essential to prevent severe economic disruption. The conferees are hopeful that the Commission's hearings being held in the geographical areas served by the Rock Island will enable the Commission to separate nonessential and essential services. The conferees direct the Commission to consider only essential services for further directed service orders and to limit the duration of any further directed service orders to the minimum period of time found necessary to implement a permanent solution. The conferees believe that thoughtful and fair Commission decisions which distinguish between essential and nonessential service will indicate to those who may continue to receive essential service that such service is only temporary and that an alternative solution must be found. The conferees direct that the Commission not order directed service on the Rock Island which can reasonably be expected to result in obligations in excess of $70,000,000, without consultation with the House and Senate Appropriations Committees.

Amendment No. 52: Deletes language proposed by the Senate providing that none of the appropriation shall be available for directed rail service over the properties of the Chicago, Milwaukee, St. Paul and Pacific Railroad unless such service is provided entirely by the Chicago, Milwaukee, St. Paul and Pacific Railroad at the level of service existing on October 10, 1979.

PANAMA CANAL COMMISSION

Amendment No. 53: Reported in disagreement.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

Investment in fund anticipation notes

Amendment No. 54: Inserts the words "and section 803 of Public Law 95-620," as proposed by the Senate.

Amendment No. 55: Provides $100,000,000 as proposed by the House instead of $150,000,000 as proposed by the Senate.

UNITED STATES RAILWAY ASSOCIATION

Payments for the Purchase of Conrail Securities

Amendment No. 56: Includes language proposed by the House which would prohibit USRA from making any of the appropriated funds available to Conrail if any of the funds would be used to compensate Conrail for losses incurred as a result of making certain employee protection payments authorized by Title V of the Regional Rail Reorganization Act of 1973 (3 R Act), as amended. The limitation would not apply to eligible employees who have been deprived of employment or whose employment has been materially diminished. The limitation would not become effective until March 1, 1980, instead of December 31, 1979, as proposed by the House.

The conferees intend that the phrase "deprived of employment" shall be defined as it is in Section 501(6) of the 3 R Act, as amended. In essence, that Act defines the phrase as meaning that a protected employee is unable through the normal exercise of seniority to obtain a position with Conrail or with a subsidiary. The phrase "whose employment has been materially diminished," as it relates to non-operating employees, is construed to cover a protected employee who is working in a job or position that pays an hourly wage rate less than that paid by a job or position held by that employee on September 1, 1979.

As it relates to operating employees, the conferees intend that the phrase "whose employment has been materially diminished" shall be interpreted to cover an employee who is working in a job or position in which his or her monthly compensation, in the month of claim, is less than the average monthly compensation, in that same month, for all employees in a similar craft and class; except that any employee whose 1974 guarantee is less than the average monthly compensation for his or her class or craft, shall only be eligible for that 1974 guarantee.

In determining the appropriate similar craft and class for any employee, it shall be the craft and class in which the employee worked the preponderance of his hours in 1974. The conferees also intend that maintenance-of-way employees shall be treated in accordance with the principles described above.

Of the sums made available to Conrail, the conferees expect that not less than $400,000,000 shall be used for capital projects. If this is not possible due to unforeseen circumstances, USRA shall report to the House and Senate Appropriations Committees the reasons for the shortfall and the latest reestimate of the capital program.

The conferees understand that Conrail is committed not to remove track, signal systems, or other equipment necessary for rail passenger service from the former Erie-Lackawanna rail line between Scranton, Pa. and Port Morris, N.J. until Amtrak has evaluated the 403(b) application from the Pennsylvania Department of Transportation (to be delivered before November 30, 1979) and decided whether to fund rail passenger service. The conferees also understand that Conrail will consider reasonable and timely alternatives to 403(b) funding offered by the State or local government agencies and private parties. The conferees further understand that Conrail has agreed not to remove any track or signal system on the former Erie-Lackawanna line from Scranton, Pa. through Binghamton, N.Y., while active good faith negotiations are being conducted for the sale of that line. The conferees request that Conrail notify the House and Senate Appropriations Committees ahead of time of any decision which will be made which could affect those commitments.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Interest Payments

Amendment No. 57: Deletes language proposed by the House providing that $14,187,000 of the appropriation for interest payments shall be derived by transfer.

NATIONAL ALCOHOL FUELS COMMISSION

Salaries and Expenses

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $1,500,000.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

Salaries and Expenses

Amendment No. 59: Appropriates $66,157 as proposed by the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 60: Limits commitments for grants-in-aid for airports to $640,000,000 as proposed by the Senate instead of $620,000,000 as proposed by the House.

The conferees direct that any airport projects referred to in the fiscal year 1979 reports of the House and Senate Committees on Appropriations, which were not funded as of September 30, 1979, should be accomplished within the fiscal year 1980 obligation limitation.

In addition to the specific directions provided in the House and Senate reports as to locations where airport improvements should be made, the conferees direct that $2,500,000 shall be provided to the Akron-Canton Regional Airport.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment amended to read as follows: ", of which $30,000,000 shall be added to the discretionary fund available for distribution pursuant to 49 U.S.C. 1715 (a)(3)(B) and (a)(4)(C)".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 62: Limits obligations for Federal-Aid Highways to $8,750,000,000 instead of $8,500,000,000 as proposed by the Senate and $9,000,000,000 as proposed by the House. The conferees are in agreement that, if necessary, a supplemental estimate to increase the obligation ceiling will be considered.

The conferees recognize the enormous damage wrought by Hurricane Frederic in Alabama and direct the Secretary of Transportation to make such reprogrammings as necessary within the emergency relief program to ensure that funds are made available for repairing damages to the Federal-aid highway system in Alabama.

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that the Secretary shall designate as a route on the national system of Interstate and Defense highways 6 miles extending I-164 southward to South Lane Drive to tie into U.S. 41 South.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment amended to read as follows: ": *Provided further*, For not more than 90 per centum of the necessary expenses of the functional replacement of publicly-owned facilities located within the proposed right-of-way of Interstate Route 170 in Baltimore, Maryland, $2,000,000 out of the Highway Trust Fund, to remain available until expended: *Provided*, That the Secretary of Transportation is authorized and directed to proceed with the obligation of the necessary funds for such publicly-owned facilities without regard to the provisions of the National Environmental Policy Act of 1969, as amended: *Provided further*, That actual construction of a highway on the right-of-way with respect to which said funds are expended shall be commenced within a period not exceeding ten years following the date of enactment of this Act or said funds shall be repaid to the Highway Trust Fund with interest.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 65: Limits guarantees of private aircraft loans to $650,000,000 instead of $500,000,000 as proposed by the House and $800,000,000 as proposed by the Senate.

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment amended to read as follows: ": *Provided*, That the funds in this Act shall be available for the guarantee of loans for the refinancing of aircraft purchased after January 30, 1979, if an application for an aircraft purchase loan guarantee covering such aircraft was filed prior to that date but after October 24, 1978, and if such application meets the requirements of section 42(d) of the Airline Deregulation Act of 1978.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 67: Deletes language proposed by the Senate which would limit the obligation of funds made available for terminal development under the Airport and Airway Development Act of 1970 to projects whose costs are directly related to the movement of passengers and baggage in air commerce within the boundaries of an airport. The conferees agree that no funds made available under the Airport and Airway Development Act of 1970, as amended, shall be obligated for statues or other artwork for airports.

Amendment No. 68: Inserts language proposed by the Senate which would exempt two rail crossings in Connecticut from the requirements under section 322 of Title 23 of the United States Code or under sections 701 or 703 of the Railroad Revitalization and Regulatory Reform Act of 1976, to eliminate at-grade crossings along the Northeast Corridor, and conforms section number.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for 1980 follow:

New budget (obligational) authority, fiscal year 1979	$9,358,203,096
Budget estimates of new (obligational) authority, fiscal year 1980	[1] 9,983,319,782
House bill, fiscal year 1980	9,416,015,782
Senate bill, fiscal year 1980	9,865,446,929
Conference agreement	[2] 9,561,312,439
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979	+203,109,343
Budget estimates of new (obligational) authority, fiscal year 1980	−422,007,343
House bill, fiscal year 1980	+145,296,657
Senate bill, fiscal year 1980	−104,134,500

[1] Reflects $713,351,000 of budget estimates not considered by the House; does not reflect $405,000,000 for fiscal year 1981 Interstate transfer grants which was deferred from consideration by the conferees.

[2] Reflects $463,887,000 for Panama Canal Commission which is reported in disagreement.

R. DUNCAN,
TOM STEED,
ADAM BENJAMIN, Jr.,
WILLIAM LEHMAN,
MARTIN OLAV SABO,
BENNETT M. STEWART,
EDWARD P. BOLAND,
JAMIE L. WHITTEN,
SILVIO O. CONTE,
JACK EDWARDS,
CLARENCE MILLER,
LARRY COUGHLIN,
Managers on the Part of the House.

BIRCH BAYH,
WARREN G. MAGNUSON,
JOHN C. STENNIS,
ROBERT C. BYRD,
THOMAS EAGLETON,
JOHN A. DURKIN,
JAMES A. MCCLURE,
C. MCC. MATHIAS, Jr.,
L. P. WEICKER, Jr.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 2676

Mr. FUQUA submitted the following conference report and statement on the bill (H.R. 2676) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 96-611)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2676) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, and 7 and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1980 for the following activities:

(1) $66,659,000 for water quality activities authorized under the Federal Water Pollution Control Act of which—

(A) $25,224,000 is for the Health and Ecological Effects program: *Provided*, That of the funds appropriated pursuant to this paragraph, $900,000 shall be obligated and expended on the Cold Climate Research program through the Environmental Protection Agency's Corvallis Environmental Research Laboratory, Corvallis, Oregon: *Provided further*, That of the funds appropriated pursuant to this paragraph, $3,600,000 shall be obligated and expended on the Great Lakes Research Station, Grosse Ile, Michigan: *And provided further*, That of the funds appropriated pursuant to this paragraph, $1,000,000 shall be obligated and expended on research to develop environmentally sound methods to control aquatic weeds;

(B) $14,827,000 is for the Industrial Processes program;

(C) $12,250,000 is for the Monitoring and Technical Support program, and

(D) $14,358,000 is for the Public Sector Activities program.

(2) $9,638,000 for activites under the Federal Insecticide, Fungicide, and Rodenticide Act of which—

(A) $8,298,000 is for the Health and Ecological Effects program:

(B) $900,000 is for the Industrial Processes program; and

(C) $440,000 is for the Monitoring and Technical Support program.

(3) $26,919,000 for water supply activities authorized under the Safe Drinking Water Act of which—

(A) $21,944,000 is for the Public Sector Activities program;

(B) $4,000,000 is for a groundwater program to include soil pollution research activities; and

(C) $975,000 is for the Monitoring and Technical Support program.

(4) $30,977,000 for toxic substances control activities authorized under the Toxic Substances Control Act of which—

(A) $26,397,000 is for the Health and Ecological Effects program;

(B) $1,742,000 is for the Industrial Processes program; and

(C) $2,838,000 is for the Monitoring and Technical Support program.

(5) $2,930,000 for radiation activities authorized under the Public Health Service Act, in the Health and Ecological Effects program.

(6) $71,963,000 for air quality activities authorized under the Clean Air Act of which—

(A) $46,624,000 is for the Health and Ecological effects program;

(B) $4,050,000 is for the Industrial Processes program; and

(C) $21,289,000 is for the Monitoring and Technical Support program.

(7) $10,243,000 for solid waste activities authorized under the Resource Conservation and Recovery Act, of which—

(A) $8,143,000 is for the Public Sector Activities program, and

(B) $2,100,000 is for a Hazardous Waste program, of which—

(i) $300,000 shall be used for a study of non-nuclear hazardous waste disposal including consideration of the effects of such disposal on the environment, and a general review of disposal technology, alternatives to disposal, and options for containing or removing hazardous wastes already in the environment. The Administrator of the Environmental Protection Agency shall enter into appropriate arrangements with the National Academy of Sciences to conduct this study. The Academy should complete the study within eighteen months after funding arrangements have been made and make interim reports at least every six months to the Congress and the Environmental Protection Agency. The Administrator shall regularly report to the Congress on the Agency's response to the interim reports and shall deliver his recommendations for acting on the findings of the final study no later than July 1, 1981;

(ii) $300,000 shall be used to begin development of protocols and working manuals specifying the types of health problems associated with various hazardous wastes, effects of various kinds of exposure, strategies to contain releases from hazardous disposal sites, actions to be taken by on-scene response teams, and other activities deemed by the Administrator to be of urgent need in responding to hazardous waste releases; and

(iii) $1,500,000 shall be used to demonstrate cost-effective strategies for isolating, containing, or neutralizing hazardous wastes.

(8) $500,000 for noise control activities authorized under the Noise Control Act, in the Health and Ecological Effects program.

(9) $25,449,000 for Interdisciplinary activities of which—

(A) $5,099,000 is for the Health and Ecological Effects program;

(B) $16,883,000 is for the Anticipatory Research program; and

(C) $3,467,000 is for the Monitoring and Technical Support program.

(10) $103,461,000 for Energy-related activities of which—

(A) $49,186,000 is for the Health and Ecological Effects program; and

(B) $54,275,000 is for the Energy Control program.

(b) There is authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, for the fiscal year 1980, for program management and support, $26,753,000.

(c) No funds may be transferred from any particular category listed in subsection (a) or (b) to any other category or categories listed in either such subsection if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in subsection (a) or (b) from any other category or categories listed in either such subsection if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Administrator of the Environmental Protection Agency or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(d)(1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full-scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air Act as amended, the Federal Water Pollution Control Act as amended, and other pertinent pollution control statutes.

(2) Energy-related environmental protection projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to the Department of Energy or reduced through budget amendment. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects.

(e) The Administrator shall establish a separately identified program to conduct continuing and long-term environmental research and development. Unless otherwise specified by law, at least 15 per centum of the funds appropriated to the Agency for environmental research and development in each category listed in subsection (a) of this section shall be allocated for such long-term environmental research and development under this subsection.

And the Senate agree to the same.

DON FUQUA,
JEROME A. AMBRO,
GEORGE E. BROWN, Jr.,
JIM BLANCHARD,
ROBERT S. WALKER,
DON RITTER,
Managers on the Part of the House.

JOHN CULVER,
MIKE GRAVEL,
GARY HART,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2676) to authorize appropriations for environmental research, development, and demonstrations for fiscal year 1980, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the elect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate made seven amendments to the House-passed bill, four of which (numbered 1, 2, 4 and 5) were substantive in nature and three of which (numbered 3, 6, and 7) were conforming amendments. The principal differences between the House and Senate versions arose because of amendment numbered 1 by which the Senate replaced section 2 of the House bill with a new version. Thus, in developing compromise language for section 2, the conferees dealt with most of the substantive matters before them. All of the agreements reached are described in the following paragraphs on a section-by-section basis (according to section numbers in the House bill). Thus, each Senate amendment and its resolution is dealt with as it comes up in the bill. Emphasis is given to changes made, but sections of the House version not changed by the Senate are indicated.

SECTION 1—SHORT TITLE

The short title was not changed and thus stands as passed by the House.

SECTION 2—PROGRAM AUTHORIZATIONS

Section 2, Program Authorizations, was amended by the Senate (amendment numbered 1), and further amended by the conferees. The Senate amendment was a substitute for the House-passed version. This amendment had two principal effects: first, it related the research program activites to regulatory statutes. For example, water quality research was tied to the Federal Water Pollution Control Act. The conferees agreed to this.

Second, the Senate amendment changed the funding levels for some of the program elements. The action of the conferees with regard to each of these elements is described below together with other minor alterations. The program funding levels are contained in such section 2(a).

The following table summarizes the amount of funds that would be authorized by the conference recommendation.

	President's request	House authority	Senate authority	Conference agreement
Air:				
Health and ecological effects	45,524	45,524	[1] 50,624	[1] 46,624
Industrial	4,050	4,500	4,050	4,050
Monitoring and technical support	21,289	21,289	21,288	21,289
Subtotal	70,863	71,313	75,962	[1] 71,963
Water:				
Health and ecological effects	22,224	25,224	23,124	25,224
Industrial	14,827	14,827	14,827	14,827
Public sector	14,358	14,358	14,358	14,358
Monitoring and technical support	12,250	12,250	12,250	12,250
Subtotal	63,659	66,659	64,559	66,659
Drinking water:				
Health and ecological effects and public sector	22,944	23,944	18,944	21,944
Monitoring and technical support	725	975	725	975
Groundwater	0	4,000	4,000	4,000
Subtotal	23,669	28,919	23,669	26,919
Solid waste:				
Hazardous waste	0	0	0	[2] 2,100
Public sector	8,143	8,143	8,143	8,143
Subtotal	8,143	8,143	8,143	[2] 10,243
Pesticides:				
Health and ecological effects	8,298	8,298	8,298	8,298
Industrial	900	900	900	900
Monitoring and technical support	440	440	440	440
Subtotal	9,638	9,638	9,638	9,638
Radiation: Health and ecological effects, subtotal	2,930	2,930	2,930	2,930
Noise: Health and ecological effects, subtotal	0	0	2,000	500
Toxic:				
Health and ecological effects	29,397	26,397	29,397	26,397
Industrial	1,742	1,742	1,742	1,742
Monitoring and technical support	2,838	2,838	2,838	2,838
Subtotal	33,977	30,977	33,977	30,977
Energy:				
Health and ecological effects	49,186	49,186	[3] 53,486	[3] 49,186
Energy control	53,275	54,275	53,275	54,275
Subtotal	102,461	103,461	106,761	103,461
Interdisciplinary:				
Health and ecological effects	5,099	5,099	5,099	5,099
Public sector	0	0	0	0
Anticipatory	12,433	12,433	[3] 16,883	[3] 16,883
Monitoring and technical support	2,567	3,467	2,567	3,467
Subtotal	20,099	20,999	24,549	[3] 25,449
Program management and support, subtotal	27,753	26,753	27,452	26,753
Subtotal	363,192	369,792	379,640	375,492
Special authorizations:				
Long term research	4,450	4,450	(3)	(3)
Gulf Coast study	1,100	1,100	(1)	(1)
Waste water reuse	0	1,000	0	0
Total EPA	368,742	376,342	379,640	375,492
Environmental research at NBS	3,372	5,000	4,000	4,000
Grand total	372,114	381,342	383,642	379,492

[1] Gulf coast study funding of $1,100,000 included in air health and ecological effects category.
[2] Hazardous waste research and demonstration moved from energy programs in Senate bill to solid waste program.
[3] Long-range research $4,450,000, is listed separately in the House bill, but is included in anticipatory research in Senate bill and conference agreement.

SECTION 2(a)(1) WATER QUALITY ACTIVITIES

(A) Health and ecological effects program

The bill, as agreed upon in conference, provides the House-passed level of $25,224,000, an increase of $2,100,000 above the Senate level. The bill directs that EPA use the following amounts of apportioned funds under this authorization for the purposes described below:

(1) An extra $2,000,000 over the President's request of $1.6 million is to be used for the Great Lakes Research Program implemented through the Environmental Protection Agency's Large Lakes Research Station, Grosse Ile, Michigan, to ensure that efforts to assess the effects of chemical, biological, and physical pollutants on the Great Lakes are continued at the fiscal year 1979 level of $3,600,000.

Efforts to develop a way to remove toxic substances from sediments, without causing the pollutants to become suspended again, are to be continued. Emphasis should be placed in two areas: (1) The relationship between consumption of fish and levels of contamination in the human body, in order to provide necessary data to link sources of pollution to accumulation of these substances in man; and (2) the development of a management strategy for control of toxic substances in the Great Lakes.

(2) $1,000,000 is to be used for aquatic weed control. The committee of conference notes with deep concern that the Agency has proposed no research program in this area for fiscal year 1980. The conferees intend that a research program be conducted with the purpose of eventually providing environmentally sound solutions to the problems of aquatic weeds, and that this research program have a national scope.

(3) $900,000 to continue activities formerly conducted by the Arctic Laboratory in Fairbanks, Alaska, and conducted in fiscal year 1979 through the Environmental Protection Agency's Corvallis, Oregon, Environmental Research Laboratory. This funding, although listed under water quality programs for purposes of convenience, has been used in the past to perform environmental research in several media, spanning the entire spectrum of the Agency's program offices. The conferees anticipate that this would continue, and it is the intent of the conferees that funds from other categories may be used for these activities. The Agency has maintained for several years a Cold Climate Research Laboratory in Fairbanks, Alaska, to conduct cold climate environmental research. Last year, the Agency decided to close this laboratory due to manpower and cost efficiency considerations. The laboratory officially closed in fiscal year 1979.

The Agency has assured the conferees that the cold climate research would be continued extramurally through grants and cooperative agreements to the University of Alaska, the State government, and other qualified researchers, both in other Federal agencies and in the academic and scientific world. These grants and/or cooperative agreements would be managed by one or more of the Agency's laboratories which conduct cold climate research.

The conferees encourage the Agency to coordinate its cold climate research with similar work being conducted in other agencies such as the Fish and Wildlife Service, National Oceanic and Atmospheric Administration, and the U.S. Army Corps of Engineers, so that the particular expertise of each Federal agency is used to its fullest in designing a comprehensive environmental research program in this area.

In water as with other media, the committee of conference recommends that health effects research give proper emphasis to reducing and eliminating, where possible, the uncertainties associated with exposure to substances already on the regulatory agenda. It is of great concern that relatively little is known about the health effects of many environmental pollutants and toxic chemicals, and the committee of conference is concerned that in the past, too much research has focused on compiling lengthy lists of potential hazards and not enough on establishing estimates of total human exposure, the relative risks of various hazards, and the determination of human health effects at known or typical exposure levels.

(B) Industrial processes program

Both the House and Senate endorsed the President's request of $14,827,000 in this area.

(C) Monitoring and technical support program

Both the House and Senate endorsed the President's request of $12,250,000 in this area.

(D) Public sector activities program

Both the House and Senate endorsed the President's request of $14,358,000 in this area.

SECTION 2(a)(2) PESTICIDE ACTIVITIES

Both the House and Senate endorsed the President's request of $9,638,000 in this area.

SECTION 2(a)(3) DRINKING WATER ACTIVITIES

(A) Public sector activities program

The conferees agreed to the Administration's proposed level of funding with one change which resulted because both the House and Senate created a new category for research into groundwater protection.

Groundwater is becoming an increasingly important source of drinking water. Its quality is faced with increasing threat of pollution due to our nation's growth, due to the increasing use of toxic substances, and due to their release into groundwater as other disposal means are regulated. The conferees therefore intend that groundwater research be carried on as a separate program. To this end, $1,000,000 for groundwater research has been shifted out of the ongoing Health and Ecological Effects Program into the new category leaving an authorization of $21,944,000. This shift is $3,000,000 less than contemplated in the Senate bill. It should be emphasized that the $1,000,000 shift is really only a relabeling of ongoing work.

(B) Groundwater research program

In addition to shifting $1,000,000 as described above, the conferees agreed to add $3,000,000 for a total authorization of $4,000,000 in section 2(a)(3)(B).

It is intended that this funding be used to increase our understanding of the movement of groundwater in general; the entry of contaminants into groundwater both from point sources (such as open dumps and

spills) and from non-point sources; the movement of contaminants in groundwater; and how contaminated aquifers or parts of aquifers can be purified and isolated.

Because contaminated soil and surface runoff may often be pathways to pollution of groundwater, it is the intent of the conferees that a Federal research program employ the expertise of the leading universities which are already concerned with soil conditions and quality, such as Iowa State University, to perform portions of this groundwater research.

(C) Monitoring and technical support program

The conferees agreed upon the House level of $975,000, an increase of $250,000 over the Administration's request and the Senate bill. The purpose of this increase is to restore an emphasis on an automated laboratory testing system which assists States and regions in implementing water supply laboratory certification programs and in assuring data quality control.

SECTION 2(a)(4) TOXIC SUBSTANCES ACTIVITIES

(A) Health and ecological effects program

The House version provided $3,000,000 less than the Administration's proposed level of $29,397,000. The Administration's proposed budget, which included 59 positions, was a substantial increase from the final 1979 level by $17,350,000 and 27 positions. Because the Director of the Office of Health and Ecological Effects has been only newly appointed, and because some of the Agency's health research laboratories have not been fully utilized during the past year (according to the report of the Health Effects Research Review Group), it was felt that a smaller increase for fiscal year 1980 would not significantly harm the Agency's planned new initiatives in this area. The conferees agreed upon the House level of $26,397,000.

The conferees are concerned that not enough past research has focused on establishing estimates of human exposure, the relative risk of various hazards, and on prediction of human health effects at different exposure levels, and direct the Agency to achieve a proper balance between these areas of research and research to identify new potential health hazards.

(B) Industrial processes program

Both the House and Senate endorsed the President's request of $1,742,000 in this area.

(C) Monitoring and technical support program

Both the House and Senate endorsed the President's request of $2,838,000 in this area.

SECTION 2(a)(5) RADIATION ACTIVITIES

Both the House and Senate endorsed the President's request of $2,930,000 in this area.

SECTION 2(a)(6) AIR QUALITY EFFECTS PROGRAM

(A) Health and ecological effects program

The conferees agreed to the House-passed level of $45,524,000 and to include in this category the Gulf Coast Air Quality Study (an ongoing research program which the House had authorized separately in Section 3 of the House bill) for a total of $46,624,000. This is a reduction of $4,000,000 below that which had been authorized by the Senate. The Senate addition was to be for additional research on pollutants from diesel engines and control strategies for those pollutants. The conferees concluded that increased research into control of pollution from diesel engines is necessary, and that this need would best be met by the creation, in fiscal year 1980, of a specific agency plan for such research and submission of a budget proposal reflecting increased diesel research in fiscal year 1981. The agency is so directed.

(B) Industrial processes program

The Senate authorized funds at the level requested by the Agency, $4,050,000, while the House authorized an additional $450,000 to improve and facilitate the effective use of new control technologies. The level agreed upon is the level requested, i.e., $4,050,000, and reflects the appropriation for this item.

(C) Monitoring and technical support program

Both House and Senate endorsed the President's request of $21,289,000 in this area.

SECTION 2(a)(7) SOLID WASTE ACTIVITIES

(A) Public sector program

Both the House and Senate voted to authorize the Administration's proposed total of $8,143,000 for Public Sector Activities.

(B) Hazardous waste program

Originally the Senate had voted to break the energy-related research authorization into activities authorized under each regulatory statute. This was contrary to the format of both the President's request and the House bill. The conferees agreed to recombine energy-related research as in the House bill. The reason this is relevant is that the Senate had added $4,000,000 to the energy-related activities in the Solid waste category, with the intention that the funds be used for research related to hazardous wastes. The conferees decided to retain $2,100,000, for dealing with hazardous waste, and agreed that hazardous waste research merits a separate authorization category. The conferees have included this category under Solid Waste Activities.

Both the House and Senate have heard a great deal of testimony, including testimony from the Agency itself, regarding the serious health problems posed by old and abandoned hazardous waste dumps and by the ongoing practice of "midnight dumping". This testimony has indicated that in many instances, control technology does not exist or experimental control systems must be devised on the spot as releases from these dumpsites are discovered. In most cases, the only effective known control strategy is that of physically removing wastes and waste-impregnated soil and water, and taking these materials to distant incinerators or containment facilities. This strategy can be monumentally expensive and poses its own environmental and public health risks. The Agency estimates that 2,000 hazardous waste sites across the nation pose potential threats to public health. The cost of removing and destroying or permanently isolating wastes, using existing technology, was approximately $25 million per site in one recent estimate calculated by a contractor for the agency.[1] On the other hand, the potential damage from one of these sites can run into hundreds of millions of dollars.

The conferees therefore conclude that a research program to find less expensive and more effective control strategies is not only an excellent investment of public funds, it is imperative for protection of the public health and welfare, and therefore they direct the Agency to set up such a program. Of the first-year authorization of $2,100,000 for this category, $1,000,000 is to demonstrate the technical feasibility and cost-effectiveness of in-place solidification of hazardous wastes at an ongoing Environmental Protection Agency project in Charles City, Iowa, and $500,000 is for a project to demonstrate effective control strategies at a hazardous waste site in Coventry, Rhode Island.

An additional $300,000 is to be used for a National Academy of Sciences study (sec. 2(b)(2) of the House bill, sec. 2(a)(7)(B)(1) of the Senate bill). The conferees conclude that this study is urgently needed and is essential to the establishment of an effective research program on the serious health problem of hazardous waste sites, spills, and illegal dumping.

This study will address technical issues associated with cleaning up or mitigating releases of hazardous wastes into the environment and is intended to provide guidance useful in setting research and development priorities.

An additional $300,000 is allocated to actions that the Agency deems to be of the highest priority; this would include devising strategies to contain releases from hazardous disposal sites; creating protocols and technical manuals for on-scene response teams; development of containment systems and measures, and other short-term research.

SECTION 2(a)(8) NOISE CONTROL ACTIVITIES

Health and ecological effects program

The Administration proposed no noise research in the Agency's research budget, but did propose $500,000 in the separate budget for the Office of Noise Abatement and Control (ONAC) which is not a subject of this conference.

The Senate proposed an additional authorization of $2,000,000 for noise health effects research, while the House did not provide any additional authority in the Agency's research budget.

The conferees concluded that $500,000 in additional research authority (over that proposed for the Office of Noise Abatement and Control) is justified. Recent studies have indicated that severe and repeated exposures to noise may have severe health effects other than the known effects on hearing, and the conferees conclude that further research in this area is warranted.

Because some noise research is presently conducted in the Office of Noise Abatement and Control and none is conducted in the research office, the conferees believe it would be appropriate to continue this research under the present regime in the current year. However, the Agency is directed to notify the appropriate committees of the House and Senate if the authority under this legislation is used for any noise research beyond that likely to be approved in the ONAC authorization. Further, if the Agency plans to continue noise research within the ONAC in future years, it is directed to so notify the Committee on Science and Technology of the House and the Committee on Environment and Public Works of the Senate during the 1980 fiscal year, giving its reasons for keeping the research function within the regulatory office.

SECTION 2(a)(9) INTERDISCIPLINARY ACTIVITIES

(A) Health and ecological effects program

Both the House and Senate endorsed the President's request of $5,099,000 in this area.

(B) Anticipatory research program

Both the House and Senate and the Conference Report endorsed the funds in the President's request in this area, $16,883,000, but with a small difference. That is, the House bill had separated out the funding ($4.45 million) for the Agency's Center Support Research Program (see below) and included it (at the President's level) in section 3, Special Authorizations, as funding for "long-term environmental research programs". This was done principally to emphasize the importance attached to the program, not to change it. The Senate had kept the funding as part of the Anticipatory program. The conferees agreed to the Senate format, and thus removed the funding from section 3.

Center of Excellence

It has come to the attention of conferees that the Agency is planning to augment its present research capabilities through the establishment of "Centers of Excellence" at various universities throughout the nation. EPA had planned to begin its efforts in this regard in fiscal year 1979, but due to re-

[1] "Preliminary Assessment of Cleanup Costs for National Hazardous Waste Problems." Fred C. Hart Associates, Inc., 527 Madison Avenue, New York, N.Y. 10022, Feb. 23, 1979.

ductions in the anticipatory research budget, the agency was not able to proceed with this program as planned. The conferees endorse the concept of allowing the Agency to enhance its research capability by building upon the extensive experience and expertise of various universities and hopes that the funds for this effort will be made available from the fiscal year 1980 budget.

(C) Monitoring and technical support program

The House version added $900,000 to the Administration's request for $2,567,000, essentially restoring the program to its 1979 level. The conferees agree with the Agency's decision to shift funding responsibility for some of the technology transfer activities to the users; however, not all users will have such funds, and the Agency may want to provide technological support and information to some users at no charge and to find potential users whose needs are not being met. The conferees conclude that the increase could be used for these types of activities.

SECTION 2(a)(10) ENERGY ACTIVITIES

(A) Health and ecological effects program

The Senate version authorizes a level of $53,486,000 (in the Senate bill this amount is distributed among the various authorization categories and does not appear as a single figure). This is $4,300,000 more than the Administration's proposal and the House-passed level of authorization, reflecting the creation of a hazardous waste research program (under the category Solid Waste-Energy in the Senate bill). The conferees agreed on a level of $49,186,000 which was the House level and the President's request.

As discussed elsewhere in this report, the conferees conclude that the importance of controlling hazardous wastes justifies creation of a separate program of research, and have separated this funding from the energy program. Thus the apparent decrease of $4.3 million in the Senate-authorized funding for the energy program reflects in part a shift in the category under which hazardous waste research appears.

(B) Energy control program

The House version increases funding for energy controls by $1,000,000 over the Administration's recommended level of $53,275,000. The purpose of this increase is to accelerate development of control technology to enable the nation to increase environmentally sound use of coal, our nation's most abundant domestic fuel source. In agreeing on a level of $54,275,000 the conferees agreed that this is an appropriate increase for this area, and a modest one.

SECTION 2(b) PROGRAM MANAGEMENT AND SUPPORT

The Administration proposed a level of $27,753,000 for Program Management and Support, which is 18 percent more than the fiscal year 1979 budget for this category. The House version cuts $1,000,000 from this request, and in addition directs that $300,000 from the appropriation for Program Management and Support be used for a special study of non-nuclear hazardous waste disposal, to be conducted by the National Academy of Sciences. The Senate version also requires that the Agency fund this study, but otherwise restores the decrease made by the House.

The conferees concluded that in a tight budget year, an 18 percent increase in authorizations for Program Management and Support is unwarranted, especially in light of the fact that the total budget for research and development is up only about 10 percent. The conferees, therefore agreed to the House-passed level of $26,753,000. However, it was concluded that the study of non-nuclear hazardous waste should more appropriately be undertaken as part of the newly created Hazardous Waste Research Program. Therefore, in the bill as reported from the committee on conference, this study is directed under Hazardous Waste activities in the Solid Waste Program. Its content and timetable were not changed.

SECTION 3—SPECIAL AUTHORIZATIONS

Senate amendment numbered 2 struck this section. The House yielded after the conferees agreed that certain of the funds authorized in section 3 of the House bill would be included in the conference amendment to the amendment numbered 1 (i.e., in the program authorizations of sec. 2).

Specifically, section 3 had authorized:

(a) $4,450,000 for long-term research. The conferees agreed to include this funding in the Anticipatory Research program (in section 2), as it had been in the President's request.

(b) $1,100,000 for the Gulf Coast study (authorized in section 403(d) of the Clean Air Act amendments of 1977). The conferees agreed to include this funding in the Air/Health and Ecological Effects program (in section 2) as it had been in the President's request.

(c) Wastewater Reuse Grants. The Administration did not propose any funding in this area for fiscal year 1980, as studies conducted under the fiscal year 1979 authorizations were being completed. The House version included $1,000,000 for these grants, while the Senate version did not include an authorization for this area. The conferees concluded that an authorization is not needed until such time as new uses for wastewater are identified as both needy and worthy of demonstration funds.

Thus in agreeing to the Senate amendments the conferees would delete only one authorization, while the other two would be merely moved from this section to section 2, where the Senate had placed them.

SECTION 4—OTHER AUTHORIZATIONS

This section authorizes environmental research activities at the National Bureau of Standards. Senate amendment numbered 3 would change the number of this section (from 4 to 3) and the conferees agreed since they had agreed to delete section 3. Senate amendments numbered 4 and 5 would change the levels authorized (a) for measurement sciences from $3,000,000 to $500,000 and (b) for activities authorized under the Resource Conservation and Recovery Act from $2,000,000 to $3,500,000.

(a) Environmental measurement sciences

The House version includes $3,000,000 for research in this area, an increase of $2,750,000 over the Administration's request. The conferees endorse the House committee report's position that this research is important and should be strengthened, and recommend an authorization level of $500,000, which is $250,000 higher than the Administration's request.

(b) Research under the Resource Conservation and Recovery Act

The conferees agreed to add $378,000 to the Administration's request of $3,122,000 for a program in the Department of Commerce to develop specifications for materials recovered from waste streams. These specifications are a first necessary activity before a market can be developed for these materials. This research was to have been completed by October 21, 1978, but it has not been completed due to lack of funding. The object of this activity is resource conservation, which will not only help the nation to achieve its environmental goals, but will also contribute to saving energy which would otherwise be used in mining and purification of virgin materials. The conferees strongly recommend that this program be stepped up.

SECTION 5—REPORTING

This section requires the EPA to keep the Congress currently informed of its activities, including budget requests. The Senate agreed to this provision. Senate amendment numbered 6 would only change the number of the section (from 5 to 4) in order to conform.

SECTION 6—REIMBURSEMENT FOR USE OF FACILITIES

This section allows EPA to be reimbursed for costs incurred when it allows its special testing facilities to be used by outside groups. In many cases the public interest would be served if more use could be made of certain special test facilities; at the same time it was felt that EPA should not pay costs of outside use nor should it subsidize private concerns, thus the need for reimbursement. (An example of the kind of facility being addressed is the EPA "OMHSETT" facility, a very large tank (with wave-making capacity) which is used to test full-scale equipment for cleaning oil spills).

The Senate conferees agreed to this provision and their amendment numbered 7 would make only a conforming change of section number (from 6 to 5).

DON FUQUA,
JEROME A. AMBRO,
GEORGE E. BROWN, JR.,
JIM BLANCHARD,
ROBERT S. WALKER,
DON RITTER,
Managers on the Part of the House.

JOHN CULVER,
MIKE GRAVEL,
GARY HART,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. CHENEY (at the request of Mr. RHODES), for today, on account of official business.

Mr. CORMAN (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. GLICKMAN, for afternoon of November 9, 1979, on account of attendance at activities of National Alcohol Fuels Commission hearing.

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for November 9 through 16, on account of illness.

Mrs. SPELLMAN (at the request of Mr. WRIGHT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SOLOMON) to revise and extend their remarks and include extraneous matter:)

Mr. RUDD, for 15 minutes, today.

Mr. BUCHANAN, for 5 minutes, today.

Mr. BETHUNE, for 1 hour on November 13, 1979.

Mr. PAUL, for 1 hour on November 13, 1979.

Mr. MARTIN, for 15 minutes, today.

(The following Members (at the request of Mr. ANTHONY) to revise and extend their remarks and include extraneous matter:)

Mr. WEAVER, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. HALL of Ohio, for 20 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. WAXMAN, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. LUNDINE, for 5 minutes, today.

Mr. VANIK, for 10 minutes, today.

Mr. SATTERFIELD, for 5 minutes, today.

Mr. FLOOD, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SOLOMON) and to include extraneous matter:)

Mr. SYMMS.

Mr. BUCHANAN.

Mr. RITTER.

Mr. FORSYTHE.

Mr. PAUL.

Mr. GILMAN in two instances.

Mr. TAUKE in two instances.

Mr. EVANS of Delaware.

Mr. KELLY.

Mr. DERWINSKI in two instances.

Mr. GINGRICH.

Mr. MCCLOSKEY.

Mr. GRASSLEY.

Mr. HANSEN in five instances.

(The following Members (at the request of Mr. ANTHONY) and to include extraneous matter:)

Mr. FISHER.

Ms. FERRARO.

Mr. MCDONALD in three instances.

Mr. BARNARD.

Mr. MARKEY.

Mr. OTTINGER in two instances.

Mr. BAILEY.

Mr. RANGEL.

Mr. HARKIN.

Mr. CONYERS.

Mr. SIMON in two instances.

Mr. MICA.

Mr. SOLARZ.

Mr. WOLFF.

Mr. OBERSTAR in two instances.

Mr. OBEY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 668. An act to permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the U.S. Court of Claims any claim such band could have filed with the Indian Claims Commission under the act of August 13, 1946 (60 Stat. 1049); to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1160. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes.

ADJOURNMENT

Mr. ANTHONY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 16 minutes p.m.), under its previous order the House adjourned until Tuesday, November 13, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2795. A letter from the Secretary of Agriculture transmitting the fifth report on rural development progress, pursuant to section 603(b) of the Rural Development Act of 1972; to the Committee on Agriculture.

2796. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on environmental and nuclear power program activities abroad, pursuant to section 1913 of Public Law 95-630; to the Committee on Foreign Affairs.

2797. A letter from the Assistant Attorney General for Administration, transmitting notice of a proposed new system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2798. A letter from the Assistant Attorney General for Administration, transmitting notice of a proposed new systems of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2799. A letter from the Comptroller General of the United States, transmitting a report on problems Federal agencies have encountered in contracting for computer software development (PGMSD-80-4, November 9, 1979); to the Committee on Government Operations.

2800. A letter from the Secretary of the Interior, transmitting a report on the amounts of money spent by the Commonwealth of Massachusetts, the city of Lowell, and nonprofit entities in furtherance of the Lowell National Historical Park, pursuant to section 103(d) of Public Law 95-290; to the Committee on Interior and Insular Affairs.

2801. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting reports for the month of July 1979, on changes in market shares of refined petroleum products and of retail gasoline, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

2802. A letter from the Secretary of Transportation, transmitting a report on Department of Transportation contracts negotiated under 10 U.S.C. 2304(a)(11) during the 6 months ended September 30, 1979, and a negative report on procurements under 10 U.S.C. 2304(a)(16) during the same period, pursuant to 10 U.S.C. 2304(e); to the Committee on Merchant Marine and Fisheries.

2803. A letter from the Administrator, Small Business Administration, transmitting the 1978 annual report of the Small Business Administration, pursuant to section 10 of the Small Business Act; to the Committee on Small Business.

2804. A letter from the Comptroller General of the United States, transmitting a report on the Nation's rental housing market (CED-80-11, November 8, 1979); to the Committee on Government Operations, and Banking, Finance and Urban Affairs.

2805. A letter from the Comptroller General of the United States, transmitting a report on prospects for cooperation and trade of energy resources between the United States and Canada (ID-80-2, November 8, 1979); jointly, to the Committees on Government Operations, and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. S. 1454. A bill to amend the act of August 10, 1956, as amended; section 716 of title 10, U.S.C.; section 1006 of title 37, U.S.C.; and sections 8501(1)(B) and 8521(a)(1) of title 5, U.S.C. (Rept. No. 96-539 Pt. II). Ordered to be printed.

Mr. WHITE: Committee on Armed Services. H.R. 5753. A bill to amend title 10, U.S.C., to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for the purpose of laws providing benefits for members of the National Guard and their dependents and beneficiaries; with amendments (Rept No. 96-605). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of conference. Conference report on S. 239 (Rept. No. 96-606). Ordered to be printed.

Mr. WHITE: Committee on Armed Services. H.R. 5766. A bill to amend title 10, U.S.C., to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes (Rept. No. 96-607). Referred to the Committee of the Whole House on the State of the Union.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 2816. A bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes; with an amendment (Rept. No. 96-608). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 440. Joint resolution making further continuing appropriations for the fiscal year 1980, and for other purposes; with an amendment (Rept. No. 96-609). Referred to the Committee of the Whole House on the State of the Union.

Mr. DUNCAN of Oregon: Committee of conference. Conference report on H.R. 4440 (Rept. No. 96-610). Ordered to be printed.

Mr. FUQUA: Committee of conference. Conference report on H.R. 2676 (Rept. No. 96-611). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BONER of Tennessee:

H.R. 5853. A bill to amend the Immigration and Nationality Act to provide for the annual review of immigrant student visas, for the automatic review of such a visa whenever the student is convicted of a criminal offense, and to make a nonimmigrant student who is convicted of a criminal offense subject to deportation; to the Committee on the Judiciary.

By Mrs. BYRON:

H.R. 5854. A bill to amend the Internal Revenue Code of 1954 to provide, for purposes of the deduction for real property taxes, that certain assessments on real property which are used to provide certain facilities and services of the type which might otherwise be provided by a municipal government shall be treated as real property taxes; to the Committee on Ways and Means.

By Mr. EVANS of Delaware:

H.R. 5855. A bill to permit the deportation of aliens participating in violent public demonstrations; to the Committee on the Judiciary.

By Mr. EVANS of the Virgin Islands:

H.R. 5856. A bill to amend title 32, United States Code, to allow Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the grade of colonel; to the Committee on Armed Services.

By Mr. FLORIO (for himself, Mr. MADIGAN, Ms. MIKULSKI, Mr. LEE, Mr. OTTINGER, Mr. ROBERT W. DANIEL, JR., Mr. WHITEHURST, Mr. MOAKLEY, Mr. BEARD of Rhode Island, Mr. FORD of Tennessee, Mr. NOLAN, Mr. MOTTL, Mr. BEDELL, Mr. HORTON, Mr. CAVANAUGH, Mr. RINALDO, Mr. PEPPER, Mr. HUGHES, Mr. BONIOR of Michigan, and Mr. DOWNEY):

H.R. 5857. A bill to amend the Solid Waste Disposal Act to facilitate and promote the recovery of energy and materials from municipal solid waste, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LONG of Louisiana (for himself, Mr. DERRICK, Mr. BLANCHARD, Mr. GEPHARDT, Mr. MINETA, Mr. ANDERSON of Illinois, Mr. ASHLEY, Mr. BRILENSON, Mr. BOLLING, Mr. CAVANAUGH, Mrs. CHISHOLM, Mr. CLEVELAND, Mr. COELHO, Mr. DODD, Mr. FROST, Mr. GIAIMO, Mr. GIBBONS, Mr. MCKAY, Mr. MOAKLEY, Mr. MURPHY of Illinois, Mr. PANETTA, Mr. PEPPER, Mr. UDALL, and Mr. ZEFERETTI):

H.R. 5858. A bill to establish as a part of the Rules of the House of Representatives and the Senate a procedure for the periodic congressional review of Federal programs and tax expenditures, and to improve legislative oversight of Federal activities and regulatory programs; to the Committee on Rules.

By Mr. JACOBS:

H.R. 5859. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide that an individual who has attained age 65, and who is eligible for old-age insurance benefits but has not filed application therefor, may elect (on an annual basis) to treat his or her employment or self-employment as not covered for social security benefit purposes and as exempt from social security taxes; to the Committee on Ways and Means.

By Mr. MOORHEAD of Pennsylvania (for himself, Mr. ASHLEY, Mr. BLANCHARD, Mr. EVANS of Indiana, Mr. GARCIA, Mr. MCKINNEY, Ms. OAKAR, and Mr. VENTO):

H.R. 5860. A bill to authorize loan guarantees to the Chrysler Corp.; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PREYER:

H.R. 5861. A bill to amend the Freedom of Information Act with respect to procedures for the disclosure of certain types of information, and for other purposes; to the Committee on Government Operations.

By Mr. PREYER (for himself and Mr. STOCKMAN):

H.R. 5862. A bill to repeal the Federal requirement on incremental pricing under the Natural Gas Policy Act of 1978; to the Committee on Interstate and Foreign Commerce.

By Mr. RINALDO:

H.R. 5863. A bill to prohibit any Iranian student in the United States from receiving any form of Federal assistance; to the Committee on Government Operations.

By Mr. WHITTEN:

H.J. Res. 440. Joint resolution making further continuing appropriations for the fiscal year 1980, and for other purposes; to the Committee on Appropriations.

By Mr. APPLEGATE:

H.J. Res. 441. Joint resolution proposing that a Presidential commission be established to study full implications of compliance with the Clean Air Act, as amended, and adjusting the criteria that is used in monitoring air quality; to the Committee on Interstate and Foreign Commerce.

By Mr. MICA:

H.J. Res. 442. Joint resolution designating the week beginning June 22, 1980, as "National Athletic Boosters Week"; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana:

H.J. Res. 443. Joint resolution to authorize the President to issue a proclamation designating the week beginning November 23, 1980, as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. DANIEL B. CRANE:

H. Res. 482. Resolution expressing the sense of the House of Representatives regarding the situation in Iran and the attitudes and conduct of Iranian nationals presently in the United States; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself, Mr. DINGELL, and Mr. BROWN of Ohio):

H. Res. 483. Resolution to disapprove the proposed amendment to the strategic petroleum reserve plan which sets forth a method of drawdown and distribution of the reserve (Department of Energy, energy action numbered 5); to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. CONTE introduced a bill (H.R. 5864) for the relief of Dr. Christojohn Samuel and Malathi Samuel, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 135: Mr. BAILEY

H.R. 1290: Mr. FAZIO, Mr. DOWNEY, and Mr. MINETA.

H.R. 1600: Mr. BAUMAN, Mr. HUTTO, Ms. FERRARO, Mr. ROYER, Mr. DORNAN, Mr. CHENEY, and Mr. OBERSTAR.

H.R. 2653: Mr. BEDELL and Mr. EDWARDS of Oklahoma.

H.R. 4400: Mr. MCKINNEY.

H.R. 4717: Mr. ROYER, Ms. OAKAR, Mr. BONKER, Mr. DAVIS of South Carolina, Mr. FORD of Michigan, Mr. DICKS, Mr. ICHORD, Mr. ADDABBO, Mr. BUCHANAN, Mr. GOODLING, and Mr. SYNAR.

H.R. 4944: Mr. FISH.

H.R. 5127: Mr. DASCHLE.

H.R. 5166: Mr. CAMPBELL.

H.R. 5362: Mr. YATRON, Mr. HYDE, Mr. EMERY, Mr. ANDREWS of North Dakota, Mr. LAFALCE, Mr. DODD, Mr. RATCHFORD, Mr. BOLAND, Mr. DONNELLY, Mr. DRINAN, Mr. MOAKLEY, Mr. SHANNON, Mr. BEARD of Rhode Island, Mr. JEFFORDS, Mr. PEPPER, Mr. OBERSTAR, Mr. SOLOMON, and Mr. GILMAN.

H.R. 5511: Mr. SHARP.

H.R. 5596: Mr. MOAKLEY, Mr. HORTON, Mr. LAGOMARSINO, Mr. SCHEUER, Mr. MITCHELL of Maryland, Mr. YATRON, Mr. D'AMOURS, Mr. EMERY, Mr. MURTHA, Mr. OBERSTAR, Mr. CHARLES WILSON of Texas, Mr. PEPPER, Mr. DODD, Mr. MCKINNEY, Mr. BOLAND, Mr. DONNELLY, Mr. MARKEY, Mr. MAVROULES, Mr. SHANNON, Mr. BEARD of Rhode Island, Mr. ST GERMAIN, Mr. JEFFORDS, Ms. FERRARO, and Mr. NOLAN.

H.R. 5607: Mr. ADDABBO, Mr. MITCHELL of Maryland, Mr. HANLEY, Mr. LAFALCE, Mr. RICHMOND, Mr. BALDUS, Mr. NOLAN, Mr. NOWAK, Mr. SKELTON, Mr. CONTE, Mr. ROTH, Mr. ANDREWS of North Dakota, Mr. BEVILL, Mr. COELHO, Mr. FORSYTHE, Mr. GLICKMAN, Mr. HAMILTON, Mr. HUGHES, Mr. LEACH of Iowa, Mr. LLOYD, Mr. LOTT, Mr. MARKEY, Mr. MAZZOLI, Mr. MINETA, Mr. MITCHELL of New York, Mr. MURPHY of Pennsylvania, Mr. MURPHY of Illinois, Mr. NELSON, Mr. RAHALL, Mr. SHARP, Mr. SHUMWAY, Mr. SOLOMON, Mr. VENTO, Mr. WHITEHURST, Mr. CHARLES WILSON of Texas, and Mr. WINN.

H.R. 5720: Mr. COELHO, Mr. EDWARDS of Oklahoma, Mr. GUYER, Mrs. HOLT, Mr. SEIBERLING, Mr. VAN DEERLIN, Mr. WHITEHURST, Mr. BOB WILSON, Mr. WINN, and Mr. CLEVELAND.

H.J. Res. 147: Mr. BAFALIS.

H.J. Res. 366: Mr. ANDREWS of North Carolina.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2063

By Mr. GREEN:

—On page 16, line 20, insert the following after the word "loans": "and other investments".

On page 16, immediately after line 21, insert the following new subsections (b) and (c) and redesignate the succeeding subsections accordingly:

"(b)(1) The Secretary, on an experimental basis, may approve, and make grants for, non-Federal revolving loan funds which permit the use of not more than 10 per centum of the initial grant for investments in equity securities, or debt securities convertible into equity securities of businesses in the area. No eligible redevelopment area which receives a grant under this subsection may own more than 49 per centum of the outstanding voting shares of any business. Such investments shall not exceed $500,000 in any business, and may be otherwise limited by such conditions as may be prescribed by the Secretary at the time of the initial grant.

(2) The Secretary shall attempt to insure that not less than 10 per centum of the authorization provided for in this Section shall be used for such investments, as defined in Subsection (b)(1).

(3) Any earnings derived by the redevelopment area as a result of the non-Federal equity investments and funds obtained by selling the non-Federal equity investments shall be retained by the redevelopment area for the purpose of further non-Federal equity investments and loans.

(C) Each redevelopment area which receives assistance under this section shall annually during the period of such assistance make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the assistance provided under this section in meeting the problem it was designed to alleviate and the purposes of this section.

H.R. 2626

By Mr. BUCHANAN:

(To the amendment in the nature of a substitute reported by the Committee on Interstate and Foreign Commerce.)

—Page 18, line 14, strike out "or".

Page 18, line 16, strike out the period and insert in lieu thereof ", or".

Page 18, insert after line 16 the following new subparagraph:

(G)(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatient rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and (ii) is not a part of any other hospital.

(To the amendment in the nature of a substitute reported by the Committee on Interstate and Foreign Commerce.)

—Page 113, amend the items in the table of

contents relating to title III, part A of such title, and section 301 to read as follows:

TITLE III—NATIONAL COMMISSION, STUDIES, ADMINISTRATIVE PROVISIONS, AND DEFINITIONS

PART A—NATIONAL COMMISSION AND STUDIES

Sec. 301. National Commission on Hospital Cost Containment.

Sec. 302. Taskforce on Consumer and Physician Incentives Toward Hospital Cost Containment.

Sec. 303. Evaluation of cost containment program.

Sec. 304. Study of cost containment alternatives.

Page 131, strike out line 11 and all that follows through page 132, line 7.

Page 143, insert after line 2 the following new subsection:

(d) For purposes of applying the mandatory percentage limits under subsection (a) as they relate—

(1) to average inpatient charges per admission of a hospital, there shall be excluded from the computation of the amount of inpatient charges in an accounting period (and in the base accounting period) an amount equal to the amount of SHUR expenses of the hospital attributable to inpatient hospital services for the respective accounting period, and

(2) to average reimbursement payable to a hospital by a cost payer per admission, there shall be excluded from the computation of the total amount of reimbursement with respect to the cost payer in an accounting period (and in the base accounting period) an amount equal to the product of (A) the amount of SHUR expenses of the hospital attributable to inpatient hospital services for the respective accounting period, and (B) the proportion of such expenses determined, in accordance with regulations of the Secretary, to be properly allocated to that cost payer.

Page 153, insert after line 16 the following new subsection:

(d) On the request of a hospital, filed in accordance with the second sentence of subsection (a), the Secretary shall make an addition to the mandatory percentage limit for an accounting period otherwise computed under this part to the extent to which the hospital can demonstrate that higher reimbursement or inpatient charges per admission would otherwise be permitted are attributable to capital-related expenses (including depreciation and interest) related to capital expenditures which have been approved by the State health planning and development agency for the hospital on or before the date of the enactment of this Act.

Page 153, line 17, strike out "(d)" and insert in lieu thereof "(e)".

Page 168, strike out lines 1 through 4 and insert in lieu thereof the following:

TITLE III—NATIONAL COMMISSION, STUDIES, ADMINISTRATIVE PROVISIONS, AND DEFINITIONS

PART A—NATIONAL COMMISSION AND STUDIES

Page 171, insert after line 7 the following new sections:

TASKFORCE ON CONSUMER AND PHYSICIAN INCENTIVES TOWARD HOSPITAL COST CONTAINMENT

SEC. 302. (a)(1) There is hereby established a Taskforce on Consumer and Physician Incentives Toward Hospital Cost Containment (hereinafter in this section referred to as the "Taskforce"), to be composed of seven members—

(A) three appointed by the President,

(B) two appointed by the Speaker of the House of Representatives, and

(C) two appointed by the President of the Senate.

Members of the Taskforce shall serve without additional compensation.

(2) The Taskforce shall carry out its activities in consultation with appropriate Federal agencies, private organizations, consumers, physicians, and other interested parties.

(b) The Taskforce shall study—

(1) the effect of different policies and procedures (including use of deductibles, coinsurance, and cost- or risk-sharing; tax deduction and exclusion from income provisions of the Internal Revenue Code of 1954; and prepaid health plans) relating to payment for hospital services on (A) consumer and physician awareness of the relative cost and quality of different hospital (and outpatient) services, (B) utilization of hospital services, and (C) the quality of hospital services provided, and

(2) the desirability of increasing the use of these and similar methods in federally funded and other health insurance programs,

and shall make recommendations to the Congress for appropriate changes in legislation. The Taskforce shall complete its study, and submit a report thereon to the appropriate committees of the Congress, not later than two years after the date members are first appointed to the Taskforce.

EVALUATION OF COST CONTAINMENT PROGRAM

SEC. 303. (a) The Secretary shall conduct a comprehensive evaluation (hereinafter in this section referred to as the "evaluation") of the cost controls established under this Act, focusing on—

(1) their efficiency, effectiveness, and fairness compared to alternative strategies for containing hospital costs, and

(2) modification of the present system of reimbursing hospitals under the medicare program on the basis of their retrospectively determined costs.

(b) The Secretary shall submit to the Congress not later than—

(1) six months after the date of the enactment of this Act, a formal plan for the evaluation,

(2) two years after the date of the enactment of this Act, an interim report on the evaluation, and

(3) December 31, 1983, a final report on the evaluation.

REPORT ON COST CONTAINMENT ALTERNATIVES

SEC. 304. (a) The Secretary shall prepare and submit to Congress, not later than one year after the date of the enactment of this Act, a report on additional or alternative measures (such as changes in (1) methods of third-party reimbursement for health costs, (2) physician reimbursement, (3) payment for drugs and medical supplies, (4) utilization of health facilities and services, and (5) capital expenditures) that can be taken to control costs in the health care industry, as well as the hospital part of the industry.

(b) The report shall include the results of a study, conducted by the Secretary in consultation with appropriate national organizations, on the activities, programs, operating costs, and reimbursement of children's hospitals (described in section 321(6)(E)). With such results, the Secretary shall include findings and recommendations, including a recommendation with respect to the use of a system for the prospective measurement of costs of such hospitals.

Page 179, line 4, insert after the period the following new sentence: "The Secretary, in carrying out the requirements of this subsection with respect to hospitals located in Hawaii or Alaska, shall make such adjustments as may be necessary to reflect the higher prices for classes of goods and services prevailing in each of those States.".

Page 183, insert after line 15 the following new subsection:

(d) The Taskforce on Consumer and Physician Incentives Towards Hospital Cost Containment shall be established under section 302 not earlier than October 1 of the year in which this Act is enacted and shall be terminated not later than March 1, 1985.

Page 187, insert after line 11 the following new subparagraph:

(E) is an institution (i) organized and operated for the care of children and youth, and (ii) a majority of the inpatients of which are eighteen years of age or younger,

Page 187, lines 12 and 15, strike out "(E)" and "(F)", respectively, and insert in lieu thereof "(F)" and "(G)", respectively.

Page 188, insert after line 17 the following new paragraph:

(1)(A) The term "hospital expenses", for purposes of title I, does not include any SHUR expenses (as defined in paragraph (4)).

Page 188, line 18, strike out "(1)" and insert in lieu thereof "(B)".

Page 191, insert after line 6 the following new paragraph:

(4) The term "SHUR expenses" means expenses incurred by a hospital only in order to comply with the requirements of sections 1861(v)(1)(F) and 1902(a)(40) of the Social Security Act (relating to reporting under a system for hospital uniform reporting).

Page 191, line 7, strike out "(4)" and insert in lieu thereof "(5)".

Page 191, line 22, insert "or SHUR expenses" after "(2)(A)".

Page 193, line 5, insert "or SHUR expenses" after "(4)(A)".

Page 193, line 7, insert after the comma the following: "except that the Secretary, in applying such percentage increase with respect to hospitals located in Hawaii or in Alaska, shall make such adjustment in such percentage increase as may be necessary reflect any higher rate of increase in the prices of classes of goods and services in those States as compared with such rate of increase in the United States".

Page 194, strike out line 17 and all that follows through page 195, line 13 and insert in lieu thereof the following:

(1)(A) Subject to subparagraph (B), the term "percent change in area population" means, for an accounting period of a hospital, the higher of—

(i) the precentage change in the size of the population of the Standard Metropolitan Statistical Area (as determined by the Office of Management and Budget), if any, in which the hospital is located in the year preceding the year in which the accounting period ends over the size of the population of such Area in the second preceding year, or

(ii) the percentage change in the size of the population of the county or county equivalent area (as recognized by the Bureau of the Census) in which the hospital is located in the year preceding the year in which the accounting period ends over the size of the population of such county or area in the second preceding year,

except that in no case shall such percent change be less than zero.

(B) In the case of hospital located in a Standard Metropolitan Statistical Area, county, or county equivalent area which has a rate of increase in its population of persons sixty-five years of age or older for a year exceeding the rate of increase in the population of such persons in the United States for the year, the Secretary shall determine the amount of such difference and shall provide for an adjustment in the percent change in population of the Area or of the county or county equivalent area (for purposes of clauses (i) and (ii), respectively, of subparagraph (A)) for the accounting period of the hospital ending in the year in such a manner as takes into consideration the additional costs (based on national data for cost of hospital services per capita for such persons as opposed to persons of other ages) involved in caring for such persons to the extent of such excess increase rate.

SENATE—*Friday, November 9, 1979*

(Legislative day of Monday, November 5, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by HON. WALTER D. HUDDLESTON, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, before whom the nations rise and pass away, in this time of trouble suffer not our trust in Thee to fail. We thank Thee for this good land which Thou hast given us, for its luminous past, its challenging present, and its promising future. We thank Thee for the hero's valor, the patriot's devotion, the prophet's voice, and the toil and pain by which we have become great and good and strong. As on Veterans Day we gratefully remember those who have spent themselves in defense of the Nation, we pray for our fellow countrymen now in bondage to demonic powers abroad. Surround them with Thy love, assure them of our care, protect them from harm. Guide our leaders in the fragile quest for deliverance, freedom, and peace.

Be with us as we work. And may the light of God surround us, the love of God enfold us, the power of God protect us, and the presence of God watch over us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 9, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WALTER D. HUDDLESTON, a Senator from the State of Kentucky, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HUDDLESTON thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TODAY UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, just as a precaution and with no suggestion that the Senate will be in tomorrow—I have every reason to believe that the Senate will complete action of the DOD appropriations bill today—I have no doubt of that. Of course, I do not need unanimous consent. A motion to come in tomorrow and go out today at a certain time can be made and it is not debatable.

Mr. PROXMIRE. Will the Senator use the microphone, please? I cannot hear him.

Mr. ROBERT C. BYRD. Oh, yes, of course. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield my 3 minutes to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. I thank the distinguished majority leader.

THE GENOCIDE CONVENTION: CONTINUING THE TRADITION OF THE DECLARATION OF INDEPENDENCE

Mr. PROXMIRE. Mr. President, our Declaration of Independence states—

That all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.

Based upon this sacred pledge, our Nation has struggled to uphold and further the cause of individual and human rights. Except for a few notable exceptions, our Nation can be proud of our record in this regard.

We believe our Nation to be a true leader in the area of human rights. In order to retain this position, we must speak out. We must be in the forefront of the human rights movement. Only by continuous action will we have the leverage to help further human rights throughout the world.

Ratifying the Genocide Convention will help us maintain our recognized leadership in the field of human rights. By ratifying this treaty we will remove a blemish on our Nation's human rights record.

Clearly, ratification of the treaty will give the United States more leverage in dealing with foreign countries who may be violating basic human rights. Eighty-three countries have already ratified the treaty. We must join those who have made a solemn commitment to deal with the terrible violation of human rights known as genocide. By doing so we will be joining the governments representing the overwhelming majority of the world's people.

Every major nation in the world has ratified the Genocide Convention, except the United States. Every President has pleaded with us to ratify it. Every Secretary of State, every Attorney General, every religious group in the country of any significance has supported the ratification of the treaty. Only the Senate stands in the way.

In ratification, we are keeping with our own rich tradition of protecting human and individual rights which has its roots in the Declaration of Independence.

Mr. President, on these grounds I urge my colleagues to join me in asking for ratification of this treaty.

Again, I thank the majority leader and yield the floor.

CHRYSLER AID

Mr. ROBERT C. BYRD. Mr. President, last week the Treasury announced a proposal to help Chrysler avoid bankruptcy. The plan would offer the company a Federal guarantee of up to $1.5 billion if it can independently raise an additional $1.5 billion.

I have been observing the evolution of this issue for some time. On September 6, in remarks on the Senate floor, I suggested that Chrysler must exhaust all self-help possibilities before the Government could properly offer assistance. I am pleased that the Treasury's proposal does require the company to raise additional unguaranteed capital.

However, in that same address and on many occasions subsequently, I have recommended that any Federal aid to Chrysler be linked to a transfer of a significant amount of Chrysler stock to its employees.

Unfortunately, the Treasury failed to recognize the boon to Chrysler's productivity which could result from such an approach. An employee stock ownership plan, such as that included in Senator RIEGLE's bill, would result in Chrysler's receiving the same amount of cash just as quickly as it would without the ESOP. In addition, by creating a trust to acquire shares for the workers, Chrysler's work force would be offered a tangible financial incentive to make the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

sacrifices which the Treasury plan will require.

There is wide support in the Senate for sharing ownership of Chrysler with its employees.

It is my understanding that the Treasury was concerned that including an ESOP in its plan could result in a delay in the legislative process. Because of the support for an ESOP in the Senate, my reading of the situation and my advice to the Treasury was that inclusion of an ESOP approach may have expedited the legislative process.

This is an important piece of legislation. I have stated that the Senate could find time to consider it if the Banking Committee reports a bill. But this legislation needs a broad base of support in order to get out of committee and to merit consideration late in an already busy session.

I believe that the ESOP plan, as contained in Senator RIEGLE's bill, could help generate the level of support which would invite Senate consideration.

Requiring Chrysler to provide its employees with approximately one-third of its voting stock has another important benefit. This "bitter medicine" will insure that assisting Chrysler will not invite a rash of appeals from other companies for Government financial aid. Diluting existing shareholders' ownership, together with the inevitable election of employee representatives to the board of directors, will discourage all but the most desparate companies from approaching the Government for help. I believe that such a disincentive must be built into any acceptable Chrysler aid legislation.

Mr. President, I am informed that in its negotiations with Chrysler the United Auto Workers Union has agreed to forgo or defer wages, benefits, and pension contributions in the range of $400 million. This flexibility is essential for the company's survival. If other parties with an interest in the company's survival demonstrate similar cooperation, and if Chrysler's management is willing to dispose of or refinance some of the company's assets, Chrysler should be able to meet the Treasury's goal of raising $1.5 billion in additional nonguaranteed capital.

There are significant potential costs to the Government if Chrysler fails. Through guarantees of the company's pension funds alone, the Federal Government could lose up to $750 to $900 million. If we can avoid the costs to the Government and the dislocations to the economy of a Chrysler failure, we will serve the Nation well by considering all the possible options for Federal financial aid. I believe the most attractive option is one which incorporates an ESOP, offers an adequate guarantee level to see the company through its difficult times, and requires maximum self-help.

I will be watching the Banking Committee's progress on this issue with continued interest and will be reserving my final judgment on aid to Chrysler until the hearing record is complete. My final decision will be strongly influenced by the structure of the plan which is ultimately reported by the Banking Committee.

SOVIET EXIT VISAS

Mr. ROBERT C. BYRD. Mr. President, Soviet officials have indicated to me that exit visas have been granted to:

Mr. Jan Kargol and family, and

Mr. John Kachurak and family.

I had asked Soviet officials to give compassionate consideration to these and other cases. I had first raised this matter with President Brezhnev when I met with him in the Soviet Union in July.

I have been informed by the Soviets that certain other cases I have raised remain under active consideration.

Mr. Kargol and Mr. Kachurak represent long-standing hardship cases. Both were born in the United States and have been "dual citizens." They and their families have long sought to come to the United States and be reunited with relatives here. They have been attempting to obtain exit visas for many years. Mr. Kargol first applied to leave the Soviet Union in 1939. The U.S. Embassy made its first representations on Mr. Kargol's behalf in 1947. Mr. Kachurak and his family have been trying to obtain Soviet exit visas to the United States since 1964 to reunite with his mother in Philadelphia.

I welcome these actions by the Soviet Government, which obviously have great meaning for the individuals and families involved, but which also constitute a constructive contribution to United States-Soviet relations.

I believe that progress in resolving other cases I have raised with the Soviets—on humanitarian grounds—would be helpful to the general atmosphere of United States-Soviet relations.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized for not to exceed 3 minutes.

CONCERN FOR THE HOSTAGES IN IRAN

Mr. STEVENS. Mr. President, in the middle of the night last evening, I was called by one of my very best friends, upon whom I rely heavily for advice. It is hard to take advice in the middle of the night from anybody, even a friend. But he said "Ted, there is only one thing I hope you are keeping in mind throughout this Iranian crisis and that is the safety of the American people who are in custody there."

Many of us have been asked for comments and suggestions as to what we would do under the circumstances. My best advice to the Members of the Senate on my side of the aisle and, to all Members of the Senate for that matter, is that we keep our ideas to ourselves during this most critical time.

The administration has done its best job yet in keeping us informed as to the developments in Iran. Thanks to the majority leader's intervention, we have had full-scale briefings from the Vice President and the Secretary of State. It is my understanding that there will be a similar meeting today and it is apparent to me that every American's first concern ought to be the same as that of my late night caller and friend who asked: "How are we going to assure the safety and the return to freedom of our Americans who are held in custody?"

I think the Senate has to understand that if we are to assume the full powers that we have under our Constitution, such as the right to advise and consent to foreign treaties or agreements, then we should, in turn, allow those who have their own constitutional authority to conduct foreign affairs to do so without our interfering in their prerogative by making statements that might prove harmful at such a time of very serious crisis.

Having said that, Mr. President, I ask unanimous consent to have printed in the RECORD at this point an editorial from this morning's New York Times. I think it goes a little further than I would, but nevertheless it is consistent with my view that the first goal for all Americans should be to pray for the early return to freedom of our fellow citizens who went to Iran to conduct the business of this country.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE STAKES IN IRAN

There have been good reasons for responsible Americans to hold their tongues about the outrage in Iran this week. No one, plainly, has a really good plan to assure the rescue of the 60 hostages and other vulnerable Americans in that disintegrating society. John Connally was quick to cast blame; he seems to believe it is sinful only to appease a foreign crowd. But given the widespread frustration of Americans, the wonder is that so many political figures have understood the predicament of the President—and of the hostages—and taken care not to goad the nation into frenzied action.

The off-stage whispering, however, seems to dwell on two extreme responses: get rid of the Shah or call out the cavalry. They deserve some ventilation before glib conclusions gain public favor.

Whatever one's view of the Shah, he was admitted to the United States, rightly or wrongly, because he was sick and powerless. Iran's student warriors may not know that, but Ayatollah Khomeini does. He knows that Washington tried to appease him by discouraging the Shah from settling here in the first place. The Ayatollah also knows that the Carter Administration gave him military aid to crush various rebels and encouraged American business to help rebuild his economy. If all that was not enough to preserve an elementary diplomatic civility, it can only be because the Ayatollah needed this contest of will. The suspicion grows that to salvage his power in the streets of Teheran, he found it necessary to reopen a unifying battle against the Shah and America. No shameful ransom will dissolve such calculated hostility.

Some may think the Shah is not worth the risk to 60 American lives. But if they do not see dishonor in trading him, they need at least to recognise that paying blackmail to a government that kidnaps diplomats can only invite further humiliations, and not

only by Iran. Above all they need to understand that bargaining away the rights of immunity and sanctuary that have been violated at the Teheran embassy would destroy the rules that even warring nations normally observe to protect human life and communication the world over. That cause far transcends the Shah.

So why not send the troops and get it over with? It may come to that if the hostages are harmed. But Teheran is not Entebbe airport; a huge force would be needed to seize the hostages and protect their evacuation. The casualties would be great, especially among those being saved. And hundreds of other Americans in Iran would suffer the vengeance of the mob.

Moreover, a temporary invasion could well rescue the Ayatollah from the collapse his policies have brought near. As Steven Erlanger wrote in The New Republic before the embassy was seized, the embattled priest has managed to excommunicate nearly all of the forces of the middle class, the left and the military that united to topple the Shah—leaving only the priests and the formidable but incoherent mass of the poor. "And they are hardly enough to preserve anything but a prolonged anarchy." That is why Khomeini has been inventing plots and American devils.

Delay, then, is a prudent course if it can be used to obtain the release of the captives without revivifying the Ayatollah's gasping regime. But that delay and those efforts should not be allowed to confuse the other interests that the United States is determined to protect. The Iranian authorities should have been on clearer notice all week that they will be deemed responsible for the fate of all Americans in their country. And the world needs to understand that American and other emissaries will discuss, but not bargain for, the release of the hostages.

If the Palestine Liberation Organization for example, wants to improve its reputation among Americans by arranging an evacuation, that is one thing. But if the P.L.O. were to replace the Ayatollah as ransom collector by demanding official recognition in exchange for its help, that is quite another matter.

Even this much speculation can cause damage in such a volatile situation. But this episode promises to trigger a heated debate about America's standing in the world. The nation's purpose ought to be clear even before it knows whether its tactics were right.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. STEVENS. I do yield.

Mr. ROBERT C. BYRD. Mr. President, I share the sentiment that has been expressed by the acting Republican leader. Now is the time for restraint, not rhetoric. It is time for diplomacy. It is the time for cool heads, because the lives of at least 60 Americans are in great jeopardy at this moment.

I compliment my colleagues for the restraint that they have all demonstrated. We all know the feeling of our people and we share their feeling, but now is the time to let diplomacy work in this very delicate, very sensitive situation.

I also commend the press for the restraint that has been shown by the press.

I thank the Senator.

Mr. STEVENS. I thank the majority leader for yielding me that time.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I am glad to yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield 5 minutes to the distinguished acting Republican leader. I think he is going to need it to yield to someone.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. I yield such time as I have remaining to the Senator from Minnesota (Mr. DURENBERGER) to be used following the special orders, if I may do so. I ask unanimous consent that I may do that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Minnesota is recognized.

Mr. STEVENS. It will be to follow those Members who come to the floor to express sentiments under special orders.

The ACTING PRESIDENT pro tempore. Without objection, it——

Mr. STEVENS. Mr. President, it is not my desire to do that. The Senator from Iowa is here. I ask unanimous consent to yield to the Senator from Minnesota to follow the Senator from Iowa.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Iowa (Mr. JEPSEN) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Will the Senator yield for just a request?

Mr. JEPSEN. I yield.

Mr. ROBERT C. BYRD. Mr. President, do I have 10 minutes remaining?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I yield 9 minutes to Mr. RIEGLE if he needs it and the additional minute to Mr. JEPSEN.

Mr. JEPSEN. Mr. President, the Senator from Iowa yields to the distinguished Senator from Minnesota (Mr. DURENBERGER).

Mr. DURENBERGER. Mr. President, I thank the distinguished Senator from Iowa for yielding.

COMPETITION AND HEALTH CARE

Mr. DURENBERGER. Mr. President, last week I introduced the revised version of the Health Incentives Reform Act, S. 1968. The bill was not printed in the RECORD. I ask unanimous consent that S. 1968 be printed in the RECORD at this time, together with two articles which describe the need for a return to competition in health care.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Incentives Reform Act of 1979"

STANDARDS FOR HEALTH BENEFIT PLANS PROVIDED BY EMPLOYERS

SEC. 2. (a) Part II of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1954 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"Sec. 86. Employer contributions to health benefit plans.

"(a) IN GENERAL.—

"(1) EXCESS CONTRIBUTIONS.—Notwithstanding section 106, any contribution to or on behalf of a taxpayer by his employer to a health benefit plan, or dental benefit plan, or both, for any month shall be included in such taxpayer's gross income to the extent that such contribution amount exceeds the limitation on contribution under subsection (c) for that month with respect to such taxpayer.

"(2) NON-QUALIFIED CONTRIBUTIONS.—Notwithstanding section 106, any contribution to or on behalf of a taxpayer by his employer to a health benefit plan for any month shall be included in such taxpayer's gross income if such employer fails to comply during that month with any requirement of this section (to the extent that such requirement applies to that employer).

"(b) DEFINITIONS.—For purposes of this section—

"(1) The term 'health benefit plan' means a separate plan of an employer, or a plan to which such employer contributes, for the benefit of his employees or their spouses or dependents to provide such employees, spouses, or dependents with specified hospital or medical services, through prepayment of fees, direct provision of services, payment of insurance premiums, or reimbursement for expenses incurred. For purposes of this section, plans described in this paragraph provided by an employer to two or more distinct categories of employees, which have different employer contribution amounts, shall be considered to be separate health benefit plans if the distinct categories of employees are reasonably differentiated for purposes of determining fringe benefits on a basis other than their choice of, or participation, in a health benefit plan or option thereof.

"(2) The term 'carrier' means an organization (including a self-insured organization or a multiemployer group) which—

"(A) is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar arrangements; and

"(B) offers at least one health benefit plan (or option thereof) meeting the standards of subsections (h) and (i) which individuals entitled to conversion rights under subsection (f) or (g) may purchase, in accordance with the provisions of subsection (f) or (g) at a reasonable premium rate (as determined by the appropriate State agency in accordance with standards prescribed by the Secretary, which standards shall ensure that the rate is reasonable on the basis of the costs involved in providing such coverage).

"(c) MULTIPLE CHOICE OF PLAN OPTIONS.—

"(1) Any employer having a total of more than 100 employees covered under any health benefit plan offered by such employer at any time during a calendar year must provide that such plan offers at least three options for coverage under such plan, each of which meets the requirements of subsections (f), (g), (h), and (i), and each of which is offered by a separate carrier.

"(2) For purposes of determining whether an option is offered by a separate carrier—

"(A) any carriers which are component members of a controlled group of corporations (as determined under section 1563) shall be considered to be a single carrier; and

"(B) any carriers which are under common

control (as determined under section 414(c)) shall be considered to be a single carrier.

"(3) For purposes of determining whether an employer has more than 100 employees covered under a plan—

"(A) all employees of all corporations which are members of a controlled group of corporations (as determined under section 1563) shall be treated as employed by a single employer;

"(B) all employees of trades or businesses which are under common control (as determined under section 414(c)) shall be treated as employed by a single employer; and

"(C) in the case of a plan offered by a multi-employer group, each employer of employees covered under the plan shall be considered to have more than 100 covered employees if the total number of covered employees of all member employers exceeds 100.

"(4) For purposes of this subsection, the three option requirement applies to each type of benefit required under subsections (h) and (i), and more than one carrier may be used under each option, provided that there are at least three options available (by three separate carriers) for each such type of required benefit. The requirements of this subsection shall not apply to benefits offered under a plan which are not such required benefits.

"(d) EQUAL CONTRIBUTION REQUIREMENTS.—

"(1) With respect to any employer offering more than one coverage option under a health benefit plan, the amount of such employer's contribution shall not depend upon which such option an employee chooses.

"(2) If the contribution amount selected by such employer is in excess of the total cost of any option offered, the employer shall contribute, to any employee choosing such option, an amount equal to the difference between the employer contribution amount and the total cost of the option chosen by that employee. Such contribution may be in cash or in any other form of compensation or benefit, but each such employee shall have the option of receiving such contribution in cash.

"(3) For the purposes of this section and section 125 (relating to cafeteria plans)—

"(A) a contribution required by this subsection which consists of additional health benefits shall be treated as a separate health benefit plan option; and

"(B) a contribution required by this subsection which consists of any type of benefit other than cash or health benefits shall be subject to the provisions of section 125.

"(4) No contribution shall be required under this subsection in the case of an employee who chooses not to participate in any option offered under a health benefit plan.

"(e) LIMITATION ON AMOUNT OF EMPLOYER CONTRIBUTION.—

"(1) For purposes of this section, the limitation on employer contribution to a health benefit plan, or to a dental benefit plan, or both, with respect to each month shall be an amount equal to the indexed contribution amount in effect for such month as determined under paragraph (2).

"(2) The indexed contribution amount for each month in a calendar year shall be an amount equal to the indexed contribution amount in effect for the preceding calendar year, increased or decreased (as the case may be) by the percentage increase or decrease in the medical care component of the Consumer Price Index for the third quarter of the preceding calendar year, as compared to such component for the third quarter of the second preceding calendar year.

"(3) For months in the calendar year 1980, the indexed contribution amount shall be—

"(A) $50.00 with respect to coverage provided for the employee only;

"(B) $100.00 with respect to coverage provided for the employee and his spouse; and

"(C) $125.00 with respect to coverage provided for a family group consisting of the employee and his family (other than coverage described in subparagraph (B)).

"(4) The Secretary shall by regulation establish methods for determining the amount of the employer contribution to or on behalf of each employee in the case of a self-insured employer.

"(f) CONTINUITY OF COVERAGE.—In order to be a qualified contribution under subsection (a)(2), the employer contribution must be for a plan (or option thereof) that provides—

"(1) continued group coverage under such plan or option in the event of the death, separation from employment, or divorce, of the employee, for a period of 30 days following such event, for any individual who had such coverage at the time of such event (and the plan shall provide that such employer shall continue his contribution during such period);

"(2) continued group coverage under such plan or option for an additional period of 180 days after the 30-day period referred to in paragraph (1) for any individual referred to in paragraph (1) upon payment of a premium not to exceed the applicable group premium rate for such period (and such payment may be made through the employer); and

"(3) for the right of any individual referred to in paragraph (1) to convert, during the 180-day period described in paragraph (2), to an individual health benefit plan or option that meets the requirements of subsections (h) and (i), without regard to prior medical condition or proof of insurability.

"(g) COVERAGE FOR FAMILY OF EMPLOYEE.—

"(1) In order to be a qualified contribution under subsection (a)(2), the employer contribution must be for a plan (or option thereof) that—

"(A) allows each employee choosing such plan or option to purchase coverage under such group plan or option, for so long as such employee maintains coverage for himself, for his spouse and any of his qualified children;

"(B) allows any such qualified child covered under the plan or option the right to convert, during the period of 180 days following the date on which he ceases to be a qualified child of the covered employee, to an individual plan or option that meets the requirements of subsections (h) and (i), without regard to prior medical condition or proof of insurability; and

"(C) provides that with respect to any employee who is covered under the plan or option at the time of the birth or any qualified child of his, the coverage under such plan or option shall automatically include such child (and the cost of coverage shall be adjusted accordingly); except that such employee may choose, during the 60-day period following such birth, to waive such coverage for the child.

"(2) A qualified child of an employee is an individual who is a child of the employee (within the meaning of section 151(e)), and who (A) has not attained the age of 19 and resides in the same household as the employee, or (B) is a student (within the meaning of section 151(e)).

"(h) MINIMUM BENEFITS.—

"(1) In order to be a qualified contribution under subsection (a)(2), the employer contribution must be to a plan (or option thereof) that at least provides coverage for the same types of services for which coverage is provided under title XVIII of the Social Security Act.

"(2) The requirements of paragraph (1) shall not affect any provisions of such plan or option relating to deductibles or copayments, or relating to requirements that covered services be provided by particular persons or facilities.

"(i) CATASTROPHIC EXPENSE PROTECTION.—

"(1) In order to be a qualified contribution under subsection (a)(2), the employer contribution must be to a plan (or option thereof) that provides for payment of 100 percent of the cost of services included under subsection (h)(1) which are provided to an individual covered under such plan or option during a catastrophic benefit period.

"(2) A catastrophic benefit period with respect to any individual—

"(A) shall begin at such time as the individual and his spouse and qualified children, if covered, have incurred, while covered under the plan, out-of-pocket expenses for services included under subsection (h)(1) provided to them during any calendar year in excess of $3,500; and

"(B) shall end at the end of such calendar year.

"(3) For purposes of this section the term 'out-of-pocket expenses' means expenses, the payment for which such individual, or his spouse, or qualified child covered under the plan or option, is responsible, and for which reimbursement cannot be made, or cannot reasonably be expected to be made, under any other form of insurance or benefit plan, or any law or Government program, but does not include expenses incurred to which reimbursement is not made under a health benefit plan or option solely by reason of the fact that the individual or his spouse or qualified child incurred such expenses provided by a person or facility, and under such circumstances, such that payment under such plan or option is not authorized.

"(4) For purposes of this section the term 'qualified child' has the same meaning as in subsection (g).

"(5) In the case of an employer whose contribution amount to a health benefit plan for his employees is less than the full amount necessary to provide catastrophic expense protection as required by this subsection, one health plan option offered by such employer shall be considered to meet the requirements of this subsection if it meets all such requirements except that the deductible amount is in excess of $3,500.".

(b) The table of contents of part II of subchapter B of chapter 1 of subtitle A of such Code is amended by adding at the end thereof the following item:

"Sec. 86. Employer contributions to health benefit plans.".

EFFECTIVE DATE

SEC. 3. The amendments made by this Act shall become effective on January 1, 1982.

SPECIAL RULE FOR EMPLOYMENT TAXES

(a) GENERAL RULE.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"Sec. 3508. Treatment of excess employer contributions and rebates under section 86 health plans.

"(a) AMOUNT INCLUDED IN GROSS INCOME UNDER SECTION 86(a) TREATED AS REMUNERATION.—For purposes of this subtitle, any amount required to be included in the gross income of an employee under section 86(a) with respect to any month—

"(1) shall be treated as paid in cash to such employee at the close of such month, and

"(2) shall not be treated as paid under a health or similar plan of the employer.

"(b) SPECIAL RULES FOR CASH PAYMENTS.—In the case of any required cash payment under section 86(d)(2)—

"(1) FICA, RRT, AND FUTA TREATMENT.—No amount (in addition to that to which subsection (a) of this section applies) shall be subject to tax under chapter 21, 22, or 23.

"(2) WITHHOLDING.—The remainder of the rebate (after the application of subsection (a) of this section) shall be subject to tax under chapter 24."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3508. Treatment of excess employer contributions and rebates under section 86 health plans.".

COORDINATED ADMINISTRATION

Sec. 5. The Secretary of the Treasury, in determining whether health plans or options meet the criteria of subsections (h) and (i) of section 86 of the Internal Revenue Code of 1954 (relating to minimum benefits and catastrophic expense protection) shall coordinate such determinations with the regulations and decisions of the Secretary of Health, Education, and Welfare in carrying out the program established under title XVIII of the Social Security Act.

COMPETITION IN THE DELIVERY OF MEDICAL CARE

(By Jon B. Christianson, Ph.D., and Walter McClure, Ph.D.)

Abstract.—One approach to reform of the medical-care-delivery system emphasizes the development of constructive competition among providers of health care. In this article we describe competition among providers in Minneapolis-St. Paul, one of the few areas that can provide information concerning the practicality of this type of reform. We have found that competition has helped to reduce hospitalization, contain costs and improve access to medical services. At the same time it has focused attention on consumer satisfaction with medical services, increased the range of consumer choice and given consumers better information about providers. Certain public and private measures could facilitate the development of similar competition in other communities. (N Engl J Med 301:812–818, 1979.)

The current debate concerning the appropriate public policy for restructuring the medical-care-delivery system in the United States appears to have identified two broad policy options. The first alternative is increased regulation, probably eventually including mandatory ceilings on health-care expenditures. A second approach emphasizes the introduction of effective market incentives in the delivery of medical care through the establishment of competing "health-care plans" in communities.[1-4] These organizations could take many different forms,[5] but their common characteristics would be the provision of comprehensive medical services by means of a defined set of physicians to a voluntarily enrolled population paying a prospective per capita fee. (Participating physicians could be paid in any way agreed on with their plan.) The major effect of this reform would be the division of providers into experience-rated groupings. Consumers would choose among these groupings and traditional providers under insurance plans on the basis of service and premiums. Thus, a health-care plan with efficient, highly qualified providers could draw patients away from inefficient providers by offering better service and broader benefits or lower premiums. This system contrasts with the present system of comprehensive third-party insurance coverage, which does not reward patients who choose efficient providers or providers who deliver care efficiently.[1,3]

Advocates of increased competition in the delivery of medical services have offered primarily theoretical arguments in its support. As a result the enthusiasm of many people for this approach has been tempered by concern about its practicality.[6] Can health-care plans be established on a wide scale and in a reasonable time? Will they really compete and not collude? Will consumers accept them in a setting of free choice? Will traditional providers respond positively to their development? Will a competitive market restrain increases in expenditures without impairing quality? These concerns about the actual performance of a competitive medical-care system can be addressed adequately only on the basis of experience, and there have been few, if any, examples of a competitive medical-care system in action. However, the recent development and growth of several health-care plans in Minneapolis-St. Paul has provided interesting evidence and insight into the practicality of this competitive approach.

Footnotes at end of article.

A COMPETITIVE SYSTEM IN PRACTICE

There are now seven health-maintenance organizations (HMO's) in the Minneapolis-St. Paul metropolitan area. Their total enrollment has grown at an average annual rate of 27 percent since 1971,[8] and as of December 31, 1978, enrollment totaled approximately 240,800 members, or 12.4 per cent of the standard metropolitan statistical area (SMSA) population in the Twin Cities. Since this population grew very slowly over the past seven years, increases in HMO enrollment occurred at the expense of private insurers and traditional providers. Because of certain federal and state restrictions, HMO enrollees are drawn almost entirely from employed groups. There is only one "federally qualified" HMO in the Twin Cities. Thus, members older than 65 years are essentially precluded by Medicare reimbursement regulations that require HMO's to be federally qualified before enrolling the group eligible for Medicare. However, the age-sex distribution of members of these HMO's is still similar to that in HMO's in other parts of the United States.[6,7] As many as 35 per cent of those in eligible employee groups initially enrolled in the HMO's; after several enrollment periods the majority of employees in many major groups in the Twin Cities (for example, General Mills, Prudential Insurance, Cargill, Hennepin County and Deluxe Check Printers) have become HMO members.

SPONSORSHIP AND RISK-SHARING

The HMO's in the Twin Cities have been sponsored by a variety of organizations and feature many different financial arrangements for distributing risk. The largest and oldest HMO, Group Health Plan (121,184 members on December 31, 1978), began operation as a consumer cooperative, employs physicians on a salary basis and purchases hospital services by contractual arrangements with community hospitals. The second largest HMO, the MedCenter Health Plan (46,706 members), was sponsored by the St. Louis Park Medical Center, a multispecialty group practice. The plan has added several other physician groups and secures hospital services through negotiated contracts with a number of local hospitals.

In contrast to Group Health and MedCenter, there are three HMO's with somewhat closer ties to hospitals. The Ramsey Health Plan (4,025 members) contracts with St. Paul Ramsey Hospital, a public general hospital, for staff, hospital and ancillary services and clinic space, and the hospital is partially at risk for the expense of hospitalizing plan members. SHARE Health Plan (21,862 members) is located adjacent to Samaritan Hospital, which it uses for inpatient and outpatient ancillary services and hospitalization of members. However, the hospital is not financially at risk for the expense of hospitalizing SHARE members. SHARE was sponsored initially by a mutual-benefit association for railroad employees, but it is now independent and community-based, and its physicians are salaried employees of the health plan. It is the only HMO in the area that has sought federal qualification. The Nicollet-Eitel Health Plan (8,485 members) is a joint venture of the Nicollet Clinic (a multispecialty group practice) and Eitel Hospital. The clinic absorbs two-thirds of any financial losses associated with the plan, and Eitel Hospital is at risk for the remaining third.

The two newest HMO's were formed partially in response to the growth of the five organizations described above HMOMinnesota (HMOM, Twin Cities enrollment 12,170) consists of independent physician groups that contract with Blue Cross-Blue Shield to provide medical care to an enrolled population on a prepaid, capitation basis. One of these groups is sponsored by the Ramsey County (St. Paul) Medical Society. Hospitals throughout the Twin Cities provide institutional services on a contractual basis, and Blue Cross-Blue Shield provides administrative and support services. The Physicians Health Plan (PHP) 26,422 members), an "individual practice association" HMO, was sponsored by the Hennepin County Medical Society and includes over 1,200 physicians, or approximately 75 per cent of those in private practice in greater Minneapolis. Participating physicians agree to absorb any losses incurred by the plan, and enrollees are hospitalized through contractual arrangements with most of the hospitals in the Twin Cities.

COMPARATIVE PRICES

There is considerable variation in the premiums that the HMO's quote to different groups. In general, the quoted premiums of the HMO's vary with the benefit package offered, the expected premiums of competitors, the predicted use of services by the potential enrollee group, the ability of the HMO to assimilate additional membership and the marketing strengths other than price of competing HMO's. However, SHARE must construct premiums based on a community-wide rating system required of federally qualified HMO's.

Because of the variation in quoted premiums, average HMO monthly revenue per member derived from premiums provides the best proxy measure for HMO prices. This average rose at an annual rate of 18 per cent from 1974 to 1977 because of price inflation, increased benefit coverage and the high initial premiums of the newer HMO's formed by Blue Cross-Blue Shield and the Hennepin County Medical Society. However, during this period approximately 80 per cent of enrollment in HMO's in the area was concentrated in MedCenter and Group Health, and consequently these HMO's represented the major competition to traditional providers. The average monthly premium income per member for MedCenter and Group Health rose at annual rates of 13 and 16 per cent, respectively. (Percentage changes were calculated on the basis of revenue data from annual financial statements filed by the HMO's with the Minnesota Department of Health.)

On a group-by-group basis the premium advantage enjoyed by standard insurance plans over HMO's has decreased steadily, despite the more comprehensive benefits provided by the HMO's. For some groups, such as employees of Honeywell and General Mills, the difference has been eliminated entirely. All six of the HMO's that Honeywell initially offered to its employees (April, 1978) had lower premiums and broader benefit coverage than Honeywell's traditional insurance plan (Table 1). As a result 5300 Honeywell employees (33 per cent) switched from Blue Cross-Blue Shield to HMO membership. At the next enrollment period one year later (April, 1979), the proportion of Honeywell employees enrolled in HMO's rose to 45 per cent.

TABLE 1.—COMPARISON OF PREMIUMS AND BENEFITS OFFERED AT HONEYWELL, APRIL 1978

Feature	Group health	MedCenter	Share	Nicollet-Eitel	HMO-Minnesota	Physicians Health Plan	Blue Cross-Blue Shield
Monthly charge to employee for family coverage.	$8	$5	$8	$8	$12	$13	$14.25.
Maximum lifetime dollar limit	None	None	None	None	None	None	$250,000.
Major medical deductible	do	do	do	do	do	do	$150 per family.
Major medical coinsurance	do	do	do	do	do	do	80 percent of 1st $15,000 after deductible.
Coverage for routine physical examinations, eye-ear examinations and immunizations.	100 percent	100 percent	100 percent	100 percent	100 percent	100 percent	None.
Coverage for hospitalization for psychiatric illness.	100 percent for 70 days.	>$15 per day for 21 days, >$25 per day for 22d through 65th day.	>$15 per day for 30 days.	>$20 per day for 30 days.	100 percent for 45 days.	80 percent for 73 days.	100 percent for 70 days, 80 percent after deductible.
Coverage for hospitalization for alcohol or chemical dependency.	100 percent for 73 days.	>$15 per day for 21 days, >$25 per day for 22d through 75th day.	>$15 per day for 73 days.	100 percent for 1st 3 days, >$20 per day for next 70 days.	100 percent for 73 days.	80 percent for 73 days.	100 percent for 70 days, 80 percent after deductible.

The decreasing relative price of HMO services seems partially attributable to two policies of the Minneapolis-St. Paul business community in structuring their health-care-benefit options. First of all, it is common practice for companies to offer more than one HMO as an alternative to their traditional insurance plans. This practice encourages the HMO's to compete with each other, as well as with the insurer, for enrollees. Secondly, most employers in the Twin Cities contribute a fixed dollar amount to whichever benefit option is chosen. The employee must contribute the difference between this negotiated amount and the quoted premium (Table 1). Consequently, there is an incentive for employees to be conscious of price variation when making their choice among benefit options, and the HMO's are encouraged to compete on the basis of premiums. Since several HMO's are available as benefit options, no single HMO can successfully peg its premium increases to those of traditional insurance plans and still maintain enrollment growth. The number of HMO's and their diversity of organizational sponsorship and motivation make it unlikely that any collusive pricing arrangement (with this objective) could be sustained. In fact, there is no apparent pattern of price collusion, price leadership or predatory pricing in the HMO market in the Twin Cities.

COMPARATIVE COSTS

The necessity to be price competitive has forced HMO's in the Twin Cities to control costs tightly. The average HMO cost per enrollee per month in 1977 was $23.67 (Table 2)—$8.85 less than the average cost of $32.52 for enrollees in federally qualified HMO's[8] during that year. (Part but not all of this difference may be due to variation in the reporting requirements of the Department of Health, Education, and Welfare and the Minnesota Department of Health.) In 1977, only two HMO's in the Twin Cities had a net deficit on total income, whereas three achieved a surplus on premium income alone despite a relatively low income per enrollee ($24.79 per month versus an average of $28.52 per month in 1977 for federally qualified HMO's).[8]

TABLE 2.—EXPENSE AND INCOME PER ENROLLEE PER MONTH, 1977[8]

Health plan	Expenses*				Income ($)	
	Inpatient†	Outpatient	Administrative	Total	Premium‡	Total§
Group Health Plan	$7.24	$13.82	$1.42	$22.48	$23.04	$24.40
Med Center Health Plan	5.78	16.05	1.68	23.52	23.14	23.83
Ramsey Health Plan	9.14	14.10	3.74	26.98	24.79	25.79
SHARE Health Plan	7.04	13.97	2.69	23.70	23.85	24.90
Nicollet-Eitel Health Plan	10.36	16.44	3.22	30.02	25.22	139.02
HMOMinnesota	12.14	13.45	¶7.83	33.43	27.72	27.02
Physicians Health Plan	9.71	12.88	3.17	25.75	26.53	26.79
Mean	7.44	14.19	2.04	23.67	23.63	24.79
Proportion of total	.31	.60	.09	1.00	.95	1.00
Standard deviation	1.39	.99	1.27	2.40	1.28	1.29

*The correlation of inpatient expenditures to total expenditures equals 0.82, of outpatient expenditures to total expenditures equals 0.06 and of administrative expenditures to total expenditures equals 0.54.

† Inpatient expenses are primarily hospital charges to the HMO's. Payments to physicians are included under outpatient expenses.

‡ Income from capitation payments divided by total enrollee mo/yr.

§ Sum of all HMO income from capitation payments, grants, investments and copayments (but excluding fee-for-service income) divided by total enrollee mo/yr.

‖ Because of internal risk-sharing arrangements, the total net income of cost figures for Nicollet-Eitel Health Plan may not be comparable to those of other HMO's.

¶ HMOMinnesota has added administrative expenses because of marketing of the plan in northwest Minnesota.

The performance of the SHARE Health Plan in the area of cost containment has been striking. From 1974 to 1978 SHARE reduced its monthly cost per enrollee from $25.72 to $25.61[6] despite an overall rise in the consumer price index of 38 percent in Minneapolis-St. Paul. Like SHARE, MedCenter and Group Health had average costs of under $27.00 per enrollee in 1978. In 1975, SHARE Health Plan enrolled approximately 300 recipients of the Aid for Dependent Children program through prepaid contracts with the Minnesota Department of Public Welfare. The average monthly cost for these enrollees was $23.90, as compared with an average cost of $36.79 for persons eligible for this aid who were served by traditional providers.[9]

Footnotes at end of article.

Inpatient costs

The success of the newer HMO's in competing for enrollees with Group Health and traditional insurers seems closely related to their ability to contain premiums by conservative hospitalization of their members.[10] The decrease in SHARE's costs cited above were paralleled by a reduction in hospital use from 752.5 to 422.8 days per 1000 members annually (Table 3). At the same time SHARE increased its membership by 560 per cent.[6]

TABLE 3.—HOSPITALIZATION

[Days per thousand]

Plan	1973	1974	1975	1976	1977	1978		
						Mental health	Nonmental health	Total
Group Health Plan[8]	489.0	490.2	504.8	500.8	496.6	122.3	360.0	482.3
MedCenter Health Plan[8]	329.9	354.0	465.2	*372.6	417.9	22.2	332.4	354.6
Ramsey Health Plan[8]	†630.9	740.5	729.8	719.9	709.9	118.6	504.9	623.5
SHARE Health Plan[6]	816.9	752.5	474.9	449.7	383.5	42.13	380.7	422.8
Nicollet-Eitel Health Plan[8]	†439.9	466.2	868.0	601.5	453.1	104.9	341.9	446.8
HMOMinnesota[8]‡		275.1	732.3	698.4	680.3	122.3	345.4	467.0
Physicians Health Plan[8]			†905.4	638.2	635.7	73.26	437.7	511.1
Average (weighted)‡	496.3	490.1	520.3	500.3	492.9	89.6	366.6	456.2
Kaiser Foundation Health Plan, northern California					[15] 421.0			†372.0
Federally qualified HMO's[7]					[15] 422.0			†397.0

*Reported hospitalization in 1976 was 506 days per 1,000 enrollees but excluded mental-health-related hospitalization. Mental-health hospitalization in 1976 was estimated by an actuarial adjustment of reported figures for mental-health hospitalization in 1977.

†Annual rates are based on less than 12 mo data.

‡Hospitalization data from 1974–77 based on experience of total membership, including plan Members residing outside the Twin Cities. Data for 1978 apply to Twin Cities members only

MedCenter, the fastest growing HMO, has been characterized by relatively low hospital use and premiums since its formation. The population base provided by the HMO membership merely permitted documentation of the already conservative hospitalization practices of MedCenter's sponsoring physicians, the St. Louis Park Medical Center. In contrast, the Ramsey Health Plan has been unable to achieve low rates of hospitalization and consequently has had high premiums and small enrollment gains.

The Physicians Health Plan lost more than $700,000 during its first two years of operation by underestimating, when constructing premiums, the rate at which its physicians would hospitalize patients. To remain financially solvent and at the same time offer competitive premiums, the plan found it necessary to institute tight controls over physician behavior. All hospital admissions by participating physicians must now be approved in advance by the plan, with an agreed-on length of stay. Physicians who fail to follow this procedure are not reimbursed by the plan, and some have been asked to leave it. These controls were instrumental in reducing hospitalization by over 100 days per 1000 members in 1978. HMOMinnesota has also been forced by the competitive environment in the Twin Cities to implement a similar set of controls, with equally impressive results (Table 3). The fact that HMO's sponsored by a medical society (such as the Physicians Health Plan) or containing major medical-society representation (such as HMOMinnesota) constrain their physicians to this extent indicates the emphasis that the HMO's place on controlling hospitalization. The acceptance of these constraints by the participating physicians demonstrates that they perceive the medical market in the Twin Cities to be quite competitive.

As a consequence of their efforts to reduce hospital use, the HMO's provided an average of 456.2 days of hospitalization per 1000 enrollees in 1978 (Table 3). Included in this average were 89.6 days of mental-health hospitalization per 1000 HMO members. These hospitalizations involved chemical dependency and alcohol abuse as well as acute psychiatric care. Comprehensive insurance coverage for inpatient treatment of alcohol and chemical dependency (Table 1) was ordered by the Minnesota Legislature in 1973. Thus, comparison of the hospitalization rates of HMO's in the Twin Cities and in other areas is somewhat difficult. (For instance, only 43 per cent of the members of the Kaiser Health Plan in Northern California had mental-health coverage as of December, 1977.[12] Eliminating mental-health hospitalization from the Kaiser data reduces its average total hospitalization by only 2.7 days per 1000 members.)

The non-mental-health hospitalization by HMO's in the Twin Cities, rather than the total hospital days per 1000 members, probably provides a better standard for comparison with the reported hospitalization by other HMO's. On the basis of this measure, Twin Cities HMO's were effective in limiting hospitalization relative to federally qualified HMO's (Table 3). By whichever measure is chosen, HMO hospital days reported are considerably lower than the 860 days per 1000 members reported for Blue Cross-Blue Shield employed groups in Minnesota during 1977.[11] These groups could be expected to have an age-sex distribution similar to that in HMO's in the Twin Cities.

It appears that the conservative use of hospital resources by Twin Cities HMO's represents no threat to community health standards. As observed previously, the St. Louis Park Medical Center instituted no new hospitalization controls on its physicians when it began to accept a portion of its patients as prepaid HMO enrollees in MedCenter. Yet the hospitalization rate for these members has varied little from its initial year and currently is less than the metropolitan and national HMO averages (Table 3). This observation suggests that these physicians, who are regarded as practicing high-quality medicine by their peers, have always hospitalized patients conservatively. But since over 70 percent of the physicians in the Twin Cities now participate in HMO's the low hospitalization rate for HMO members in other plans cannot be attributed to the physicians' style of medical practice before participation in an HMO. The reduction of hospital use over time in plans such as the Physicians Health Plan and HMOMinnesota indicates a substantial change in the style of their participating physicians. The willingness of the overwhelming majority of physicians to remain in these plans suggests that they do not perceive these more conservative practices as a threat to the quality of their patient care.

In addition to containing inpatient expenses through reductions in hospital use, the HMO's have been able to negotiate favorable contracts with hospitals in the Twin Cities. As noted above, Eitel Hospital and Ramsey Hospital participate in risk-sharing arrangements with the Nicollet-Eitel Health Plan and Ramsey Health Plan. The HMO's believe that these arrangements make hospitals more cost conscious SHARE Health Plan, Group Health and MedCenter pay rates reduced by about 4 to 9 per cent to their primary sources of inpatient services. The HMO's request these discounts because there is no delay in their payment of hospital charges and the hospitals incur no bad debts as a result of treating HMO members. Physicians Health Plan and HMOMinnesota customarily pay standard community charges since their hospitalization is not concentrated in particular facilities. Hospitals in the Twin Cities have sought HMO patients, even at discounted fees, because they currently have, on average, only a 74 per cent occupancy rate.[14] Through long-term enrollment growth, an HMO affiliation can potentially stabilize or increase a hospital's occupancy rate and thus reduce the possibility of hospital closure due to financial or regulatory pressures.

Outpatient costs

Although outpatient expenditures form the major category of HMO costs (Table 2) they vary little among the different HMO's. In all HMO's a greater proportion of the dollars go for physician care than for hospital care, reversing the usual split of conventional insurance dollars. Group Health and SHARE attempt to contain their outpatient expenditures by carefully matching numbers of salaried physicians with enrollment growth. Enrollment has grown rapidly in both HMO's during the past three years, but the number of full-time physicians per 1000 enrollees has remained stable, in the range from 0.6 to 0.8.[5] Both Group Health and SHARE have also responded to increased enrollment by reliance on physician extenders of various types; in 1977, 27 physician extenders were employed by Group Health and eight by SHARE.[6]

Competitive pressure to contain costs has apparently not lowered the referral rate of Minneapolis-St. Paul HMO's. The different plans averaged 0.34 referrals per enrollee per year in 1974 but 0.46 in 1976.[6] (The Minnesota Department of Health has reported no data on referrals after 1976.) Concurrently, referral expenses per month per enrollee increased from $1.64 to $2.13, which was approximately equal to the rate of increase in average HMO costs during the same period. However, the average cost of a referral visit decreased from $53.62 to $49.78.[6] This lower cost per referral could reflect either an increase in cost consciousness in the selection of referral physicians or a decrease in the seriousness of the medical condition of the average referral patient, owing to the larger number of referrals.

Administrative costs

The administrative costs of Minneapolis-St. Paul HMO's have averaged less than 10 per cent of total costs for the past five years. As one would predict, the larger HMO's have lower administrative costs per member, but even the smaller HMO's have consistently reported administrative costs well within the normal range of 10 to 15 per cent.[15] The organizations that have been the most successful at minimizing administrative costs also have the lowest total cost per member (Table 2).

COMPETITION ON ASPECTS OTHER THAN PRICE

Relative premium levels are not always the determining factor in the consumer's choice of an HMO. Other important factors are location of delivery sites, benefit coverage and the specific physicians participating in the plan. When Honeywell offered participation in an HMO (Table 1), over half the employees who chose to join selected the HMO with the highest premium—the Physicians Health Plan. Because of the accessibility of its 1200 participating physicians and the likelihood that an employee can enroll without changing physicians, the Physicians Health Plan can charge more than its HMO competitors and still achieve comparable enrollment gains. To attract enrollees most Twin Cities HMO's have added new locations. Group Health has constructed four new satellite buildings since 1974, and the Nicollet-Eitel plan has constructed one new facility and is in the process of building another. MedCenter, however, has taken the lead among "group practice based" HMO's in adding delivery sites. Primarily by contracting with existing group practices, MedCenter has increased its delivery outlets from five in 1974 to 17 at present. Because it has added delivery sites with a minimum of capital expenditure, MedCenter has been able to expand rapidly and there has been little impact on its costs. HMOMinnesota has also expanded its service network aggressively, particularly with the addition of the Ramsey County Medical Society sponsored independent-practice association as a participating provider group. When constructing new clinics or adding provider groups, the HMO's have emphasized the convenience of these locations for consumers rather than physicians. Consequently, HMO office construction tends to occur along main traffic arteries or near major retail centers, rather than near hospitals.

Another aspect of competition among HMO's has been the expansion of benefit options and covered services. Minnesota state law requires extensive benefit coverage for HMO's but allows some latitude in copayments and deductibles. A major variation in benefits now occurs in the payment for hospitalization for psychiatric care and alcohol or chemical dependency (Table 1). However, the overall trend in HMO benefit coverage has been toward increased comprehensiveness and decreased patient out-of-pocket expenditures. For example, until recently there were differences in maternity benefits among the HMO's, but now all feature complete coverage with no member payment required. Along with expanded benefits, some HMO's have begun to extend regular clinic hours to include Saturday mornings in an effort to attract enrollees.

CONSUMER INFORMATION

To clarify differences in benefits and services, larger employers distribute brochures that compare the benefits of HMO's and traditional insurance plans and describe the locations and characteristics of the various HMO's in a systematic, easily understood format. In addition, the HMO's have begun to advertise services, benefits and locations through local newspapers during enrollment, thus competing for larger groups like Honeywell, which has 16,000 eligible employees in the Twin Cities. Therefore, the potential enrollee is provided with considerable information concerning the non-price features of the HMO's.

Footnotes at end of article.

CONSUMER SATISFACTION

The continued growth of Twin Cities HMO's is one important indication that consumers are satisfied with the services that they receive. Consumer satisfaction is also monitored by the government, employers, unions and the HMO's themselves. The Minnesota State Department of Health, which licenses all HMO's in the state, requires that the HMO's maintain quality-assurance programs and collects data concerning the nature and frequency of complaints issued by HMO members; written complaints were filed by less than 0.2 percent of all members in 1977, with less than 40 percent of these complaints relating to the delivery of medical care.[6]

Coupled with these government activities is continuing evaluation by employers and unions. Before recommending the HMO's as benefit options, some of these groups have undertaken studies of their facilities, financial stability and treatment procedures. After offering the HMO's, many employers conduct periodic surveys of members to determine employee satisfaction with HMO services. In the published results of one such survey conducted by General Mills, only 2 per cent of HMO enrollees were dissatisfied with their choice, whereas 45 per cent reported that the care provided by their HMO (MedCenter) was better than their previous care.[16]

Approximately 12 per cent of HMO enrollees in the Twin Cities terminated their membership during 1978, as compared with 19 per cent in 1974.[6] The most common reasons appear to be moving away from an HMO's service area, change of employment and enrollment in a different HMO, but no data were available on the relative frequency of these factors.

CONCLUSIONS

The HMO's in Minneapolis-St. Paul have demonstrated that a variety of health-care plans can develop, attract employees and become financially stable in a relatively short period, with little assistance from the public sector. (SHARE Health Plan is the only Twin Cities HMO to receive federal development funds.) Traditional providers have responded competitively to HMO growth, as evidenced by the formation of the Physicians Health Plan and HMO Minnesota and by the efforts of physicians participating in these plans to reduce hospitalization. Competition among healthcare plans has focused greater employer and union attention on the medical services offered to employees and their satisfaction with these services. It has stimulated the provision of better information concerning the medical care at various HMO's, increased consumer access to medical facilities and provided consumers with a choice among different approaches to the financing and delivery of medical care, some of which would be unavailable without the stimulus of a competitive marketplace.

Since the development of a competitive market in the Twin Cities is obviously in its initial stages, the data are incomplete. Further study of these HMO's is needed to determine whether any reductions in the supply of community physicians or hospital beds are precipitated by enrollment growth, whether competitive health plans will enroll the poor and elderly if the opportunity and incentive are provided, whether hospitalization rates lower than those of traditional providers will persist over time and whether constructive competitive behavior will continue as the market share of the health plans grows.

A careful comparison of the quality of the medical care delivered by traditional providers and health-care plans is also needed. Despite these caveats, we believe that conditions in the Minneapolis-St. Paul medical-care marketplace are encouraging and indicate that similar competition in other locations could be beneficial. Certainly, observation of other competitive markets at various stages of development would provide information on whether the health plans in Minneapolis-St. Paul demonstrate the benefits of competition.

Competition appears most likely to develop in communities where three conditions exist: at least two and preferably more reputable health-care plans are available to consumers; any contribution by an employer or government is the same for all plans, with the consumer paying or being rebated the difference; and efficient providers are permitted to attract consumers through more comprehensive benefits or lower enrollee premiums. Except for Medicare and Medicaid, much of the Minneapolis-St. Paul medical-care market contains these essential features, primarily because of efforts of the private sector undertaken in a reasonably benign regulatory climate. The important influence of Twin Cities employers in stimulating competition among health-care plans has already been noted.

There appears to be nothing in the minneapolis-St. Paul experience that would preclude duplicating it in other areas through private actions. The widespread adoption of multiple-choice benefit options by employers, coupled with the contribution of a fixed dollar amount to each option and the enthusiastic endorsement of choice and competition, would provide a favorable climate for the formation and growth of health plans. In addition, a supportive set of public policies could reinforce these private actions and increase the likelihood that competition would envolve in receptive areas. Specifically, public policies emphasizing "choice and competition" among a variety of private health-care plans and traditional providers, rather than the current policy of promoting specific "federally qualified HMO's," would be desirable.[3] In this respect, federal, state and local governments might set an example by expanding the options available to their own employees. If such supportive policies are not adopted, governmental attempts to reform the delivery of medical care should at least be structured so that they do not restrict the development of competitive systems through private initiatives. Protection of the option for individual communities to develop competitive medical-care systems through their own efforts should be an important consideration in any national health-insurance scheme.

We are indebted to Paul Ellwood, Kent Peterson, Frank Tsai and many interviewees in the Minneapolis-St. Paul area for helpful comments.

FOOTNOTES

[1] McClure W: Health Care Cost Commission: choices for medical care. Minn Med 61: 261–271, 1978.

[2] *Idem:* On broadening the definition of and removing regulatory barriers to a competitive health care system. J. Health Politics Policy Law 3:303–327, 1978.

[3] Enthoven AC: Consumer-choice health plan. N Engl J Med 298:650–658, 709–720, 1978.

[4] Ellwood PM Jr, Anderson NN, Billings JE, et al: The health maintaining strategy. Med Care 9:291–298, 1971.

[5] Starr P: The undelivered health system. Public Interest 43:66–85, 1976.

[6] Statistical Report on Minnesota Health Maintenance Organization Operation (1974–1978 editions). Minneapolis, Minnesota Department of Health, Health Systems Division.

[7] National HMO Census of Prepaid-Plans, Office of Health Maintenance Organizations, Division of Program Promotion, Department of Health, Education, and Welfare: 11, 1978.

[8] Quarterly Report (Table E-1), Data Management Branch. Washington, DC, Office of Health Maintenance Organizations, Department of Health, Education, and Welfare, December, 1977.

[9] Report to the Minnesota Legislature on the Development of Health Maintenance Organizations, 1977. Minneapolis, Minnesota Department of Health, Health Systems Division, 1977.

[10] Luft HS: How do health-maintenance organizations achieve their savings? rhetoric and evidence. N Engl J Med 298:1336–1343, 1978.

[11] Enrollment and Utilization Report of Blue Cross Plans, Fourth Quarter and Year, 1977. Chicago, Research and Development, Blue Cross Plans, 1977.

[12] Kaiser Foundation Health Plan, Northern California: Report to the Office of Health Maintenance Organizations (OMB No. 68-R-1496, HSA-51), Department of Health, Education, and Welfare: Table N-3A, 1977.

[13] National HMO Census Survey, 1977. Washington, D.C., Group Health Association of America, 1977.

[14] Citizens League Committee on Hospitals in the Twin Cities: More Care about the Cost in Hospitals. Minneapolis, MN, Citizens League, 1977.

[15] Arthur Young and Company: Financial Review Protocol for Health Maintenance Organization Grant Applications. Rockville, Maryland, Health Services Administration, 1976.

[16] Craig JL: A medical director's experience with an HMO. J Occup Med 17:640–642, 1975.

IT PAYS TO SHOP FOR HEALTH INSURANCE

(By Kenneth Bredemeier)

The estimated 400,000 federal and District government workers in the Washington area could save $300 or more in health insurance costs next year if they take the time to pick an insurance plan that best suits their needs, a new consumer's study showed yesterday.

The survey of the 30 health insurance plans available to federal and D.C. workers in Maryland, Virginia and the city shows that while the benefits from several plans may be virtually identical the premium and health care costs are often substantially different.

Moreover, the study by the Washington Consumers' Checkbook magazine showed that some high-cost plans do not provide the range of health care options that less costly plans do.

The survey showed that the most popular insurance plan, the Blue Cross-Blue Shield high option plan, is consistently, one of the most costly. Nonetheless almost half of the government workers here have signed up for that plan, the magazine stated.

Conversely, Robert Krughoff, Checkbook's publisher, said that relatively few workers have chosen the Government Employees Hospital Association (GEHA) insurance plan, despite the fact that its costs are often much cheaper than virtually any other plan, regardless of family size, and its benefits often the same or superior.

Krughoff described the GEHA program as "obviously a superb plan."

The survey also showed that Health Maintenance Organization plans, under which consumers typically pay for their health care on an annual fixed cost basis, can also be expensive.

"A big rationale for them is that they prevent unnecessary medical care," Krughoff said. With a fixed payment schedule, "They eliminate the incentive for doctors to prescribe more medicine and surgery."

But the survey showed that such preventive care health plans are among the most costly here, because the premiums often are so high that they more than outstrip the

savings in the out-of-pocket expenses that traditional health plans require.

The survey urges individual government workers to study thoroughly the various plans and their own personal medical care needs before finally selecting one. This was particularly important, the magazine said, if an individual or family is expecting unusual expenses, such as bills for dental or psychiatric care, that one plan might cover and another with the same premium might not.

Such insurance choices are relevant at the moment for federal and D.C. government workers, the magazine said, because the workers have their annual opportunity to switch insurance plans between next Monday and Dec. 7.

The magazine said that the vast differences between plans could easly be illustrated by comparing their highly ranked GEHA plan for a family of four with the lowly ranked Blue Cross-Blue Shield high option plan.

The study showed that in an average year the GEHA plan would cost about $680, including $235 in premiums and about $445 in unreimbursed expenses. The Blue Cross plan for about the same coverage will cost $1,040 in an average year, about $360 more than the GEHA plan.

While the Blue Cross plan would reimburse a greater proportion of a patient's bills, the premiums will be more than $450 higher.

"Over a 20-year period you will probably save over $5,000 by selecting GEHA," the magazine said. "Of course everyone would not have this much, and some families would actually come out ahead under the Blue Cross high option plan. But other families, the luckiest ones, would come out even more than $5,000 ahead under GEHA."

Washington Consumers' checkbook is published by the nonprofit Washington Center for the Study of Services, a group that previously has produced surveys of a variety of often-used consumer services.

Mr. DURENBERGER. Mr. President, briefly, my proposal is an attempt to apply the principles of competitive markets to our system for providing health care coverage. The theory of competitive markets is, of course, the basis of the American economy. The market approach is an effective alternative to greater Federal regulation and control of our health care system.

While Government regulation is becoming the norm for health care, there are areas in the country which have turned to the competitive-incentive model as a more appropriate means for the delivery of health care services. The Twin Cities of Minnesota is one area where competition is working. I have included with the bill an article describing the Minnesota experience. I would also like to call my colleagues' attention to an article which appeared in the Washington Post describing how the smart consumer can make an intelligent choice in choosing health insurance.

CONCERN FOR THE HOSTAGES IN IRAN

Mr. JEPSEN. Mr. President, I wish to echo the sentiments and comments of my distinguished colleague from Alaska (Mr. STEVENS) in regard to his request that all America should pray for the safety of those Americans being held hostage by some in Iran.

I also add that I hope we all pray for the President, and all those that govern and rule, that they may be given not only the wisdom, but the patience and the good fortune to do the things that need to be done, the way they ought to be done, in order that we might again have all our Americans safe at home with us.

MEALS ON WHEELS

Mr. JEPSEN. Mr. President, I ask unanimous consent to have printed in the RECORD "Self-Help Gets a Swift Kick," published in the Washington Star on October 28, 1979.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SELF-HELP GETS A SWIFT KICK

(By Michael Balzano)

"Resolved . . . that in recognition of the selfless service performed, the president is hereby authorized and requested to issue a proclamation designating the week of September 16 through 22, 1979, as 'National Meals-on-Wheels Week' . . ." With these words, the Congress prepared to celebrate the 25th anniversary of a typically American phenomenon.

But only a few weeks earlier HEW's Administration on Aging (AOA) unveiled draft regulations for a new federal home-delivered meals program; if left unchanged, these regulations threaten to drive Meals-on-Wheels right off the road.

Some birthday present! By any standard, these thousands of neighborhood programs constitute the very model of what has always been valued most in this country; tens of thousands of volunteers identifying a genuine community need, amassing private resources, and meeting that need—with a minimum of bureaucratic fuss and a maximum of effective service.

Every day for 25 years now, and often twice a day, these local, private, non-profit programs deliver hot meals (and often essential ties with the outside world) to the home bound. Most of them are old—but they need not be 60 years of age or older. Many pay some or all of the cost of the meals; others pay none. Local churches and charities make up the deficit. The programs are tailored to virtually individual situations—and apparently they work.

In 1972, responding to no less worthy a need but quite a different one, Congress amended Title VII of the Older Americans Act to authorize a so-called congregate nutrition program. These programs serve a hot meal to senior citizens (60 and over) five days a week in a group—congregate—setting. There is no means test or charge for the meals, voluntary contributions are accepted. Last year these congregate centers served some 500,000 meals a day at an annual cost to the taxpayers of more than $300 million.

So, for about six years now, there have been two nationwide networks providing meals to the elderly, each with a legitimate, different, and apparently complementary purpose; voluntary meals-on-wheels programs serving the homebound, and federal Title VII programs serving the physically mobile. The one was a citizens' effort, locally designed, flexible, and privately supported; the other, necessarily encumbered by federal regulation ranging from the nutritional content of the meals to equal opportunity requirements for the hired staff. The one represented no appreciable drain on the U.S. Treasury, the other a considerable one.

In 1978, Congress began debating the creation of a national, federally funded, home-delivered meals program. It was principally concerned with the nutrition needs of the homebound elderly and saw in meals-on-wheels a logical vehicle for getting the job done.

The legislation was supported by both the National Association of Title VII Project Directors, representing existing federal grantees, and by the National Associations of Meals Programs (NAMP), representing a number of meals-on-wheels programs. But the two groups disagreed on how the funds should be channeled. The Title VII directors argued that their network of congregate centers should operate the federal meals-on-wheels services—with the private programs participating only under the authority of Title VII grantees, not as direct recipients of federal grants.

NAMP's case, in contrast, was that the local voluntary programs were already in place, had a proven track record, needed money to meet a growing demand with which charitable contributions were not keeping pace, and ought to be eligible to receive federal grants. They should remain reasonably autonomous, free of burdensome federal regulations, and serve as conduits—draining off almost nothing in overhead—for federal aid to those who need it. What NAMP had in mind was a partnership, not absorption.

Another sort of concern was expressed by local programs that did not themselves want federal funds but feared the impact of a new federal meals-on-wheels program growing out of the Title VII centers. They assumed—quite rightly as it turned out—that the two different services would operate under the same guidelines—that meals would be free and that their own "pay if and what you can" principle would not be able to withstand that competition.

As passed by Congress on October 18, 1978, the meals-on-wheels bill was incorporated into amendments to the Older Americans Act that greatly expanded social services for the elderly. Still, NAMP had solid grounds for believing that it was the intent of Congress to expand meal service to the homebound by using local voluntary meals-on-wheels programs as the main vehicle. Many members of the Senate and House authorizing committees said it was, including the chairmen, Senator Thomas Eagleton and Representative John Brademas: "In awarding funds, first consideration must be given to organizations like Meals on Wheels . . ." (Letter to The Washington Star, July 21, 1978).

Moreover, Congress provided two separate authorizations, one for the existing congregate programs and another for home-delivered meals. This was taken as a signal of congressional intent that meals-on-wheels programs would be eligible for direct grants from the area agencies and not subsumed under the authority of Title VII projects. Finally NAMP was assured by the commissioner on aging that the regulations would specifically protect the local voluntary programs from being forced out of business by Title VII competition.

On July 31, 1979, the draft regulations finally appeared in The Federal Register. The key provision states: "The area agency may only award funds for home delivered meals to a service provider that also provides congregate meals." This flatly rules out all but a handful of the voluntary meals-on-wheels programs from eligibility for direct federal grants—since, by definition, it is not their purpose to serve congregate meals. It also eliminates the possibility of funding any home-delivered meals services in areas where no congregate meal center exists.

So much for congressional intent and signals, and so much for the commissioner's assurances!

A NARROW READING

Now, assuming some rationality in the universe and honorable intentions all around, the question has to be, Why? Why these provisions in the regulations? In a July 12, 1979 letter to NAMP, the commissioner on aging justified them as mandated in the statute itself. He cited a clause that says, with respect to nutrition services:

"Each project will provide meals in a congregate setting, except that each such project may provide home delivered meals . . ." Admittedly, this language is susceptible—especially if read in isolation—of the commissioner's interpretation that home-delivered meals may only be provided in addition to, rather than instead of, meals in a congregate setting. But to give it such an interpretation in the face of the legislative history is to conclude that the Congress actually accomplished the precise opposite of what it intended.

If the Congress fails to challenge AoA on its narrow translation of this ambiguous clause, some questions remain: Will the voluntary meals-on-wheels programs be utilized at all under the new law? And are there any provisions, as promised, to protect those local programs that do not want federal funds from inevitable Title VII competition? AoA says yes: "The nutrition services provider must purchase home delivered meals from an organization, where one exists that (i) Demonstrates proven ability to provide home-delivered meals effectively and at reasonable costs . . ." Officials at AoA argue that the intent of this provision is to require Title VII nutrition projects to purchase meals from the voluntary programs. Well, not quite: the wording is such that any organization, even a profit-making catering service, could qualify to provide the meals.

More important by far, reducing the relationship to the terms-and-conditions for "purchasing" meals—as the proposed regulations would—scarcely suggests the partnership that NAMP had in mind. Most of the local programs do a lot more than just provide meals. In addition to screening applicants, the volunteers help their clients establish eligibility for other kinds of assistance, arrange transportation, run errands, write letters, and deliver a host of other services. If participation in the federal program means simply delivering meals, many local groups will want no part of it.

So what future will they have? The experience of Twin Cities Area Meals-on-Wheels of Benton Harbor, Michigan, may be instructive. This four-year-old program used to serve 40 homebound people two meals a day, operating at a monthly deficit of $350 (offset by charitable contributions). The program's director said this to me in a letter dated August 9.

"Approximately three months ago we started receiving phone calls from clients saying, "I didn't get a meal." The people who were calling were not in our program. Upon investigation, we found that a duplicate program sponsored by Title VII was developing in this area and many of the clients didn't even know where their meals were coming from. Since that time we have found a gradual decrease in the number of clients who are requiring our services. This decrease has (reduced us) to approximately 20 meals per day and it is prohibitive for us to continue to maintain a half-time person, a telephone, an office and the various other overhead items to maintain a program that only serves 20 meals per day."

It seems clear that if the existing meals-on-wheels services choose not to participate in the new federal program—or are not chosen to participate—they probably will not make it. (The board in Benton Harbor, for one, already has decided to terminate its program.)

All of which constitutes a sorry reward for local voluntary initiative. Congress apparently did not carefully assess the impact of the legislative language. And, this failure has doubtless been compounded by an outbreak of extreme bureaucratic literalness in construing the statute and writing the regulations. Unless a way can be found to fund the voluntary effort directly, the law and the regulations are likely to have the unintended consequence of destroying the thousands of community-based programs that have been serving the homebound for so long at just about zero cost to the taxpayer.

SELF-HELP REPUDIATED

Given all the congressional accolades and assurances, why did the private meals-on-wheels programs fare so poorly? One reason surely is that NAMP, an all-volunteer organization, lacks the funds and lobbying skills to do battle with the federal legislative/regulatory process, whereas the Title VII organization is amply supplied with both.

A more interesting question is how did another new federal program pass the seemingly suspicious eye of a budget-conscious Congress? The answer is that, during the more visible period of the bill's congressional hearings, the motherhood-and-apple-pie Meals on Wheels vehicle was driven through a Proposition 13 Congress without a roadblock. Then when the bill reached the conference committee, all references to Meals on Wheels were removed. Congressional staff aides working closely with AoA bureaucrats helped to fashion the language that would enable AoA to interpret the law precisely as it did. The members of Congress were simply caught off guard. So the result is that the government ends up repudiating the philosophy of self-help and citizen responsibility!

What is at issue in all this is the nature and purpose of government, and of the federal establishment in particular. It is fair to assume that most Americans continue to believe that the central government's principal responsibility is to undertake great enterprises—to put people on the moon, to protect the nation from its enemies, to establish broad standards of public policy—and that, otherwise, it should do only that which individuals and voluntary groups, localities and states, cannot do as well for themselves.

On this assumption, it would seem that policy-makers have an obligation to fashion an approach for getting meals to the homebound that finds room for worthy national purposes, effective local enterprise, and a productive partnership between them. Surely this falls within the range of human ingenuity.

Mr. JEPSEN. Mr. President, in this article Dr. Michael Balzano describes a relationship between community service programs and the Federal regulative bureaucracy: A relationship that poses a serious threat to the community structure of our Nation.

Focusing on the Administration on Aging's treatment of private, nonprofit, voluntary Meals-on-Wheels programs, Dr. Balzano has uncovered some shocking policies.

The Administration on Aging has interpreted the Older Americans Act to require that any program receiving Federal funds for the delivery of meals to shut-ins, Meals-on-Wheels, must also operate a congregate feeding program. This effectively forces any small community operated Meals-on-Wheels programs to radically change their program, or simply shut down.

It is clear that congressional intent has consistently been in favor of helping these small community programs. In numerous attempts to improve the nutritional welfare of the Nation's elderly, agreements have been reached to work with the existing programs, so that the necessary services might be provided in the most efficient manner.

But honorable intentions somehow only continue to fuel the regulatory nightmare. It has been over a year since the Older Amercians Act required the Administration on Aging to submit regulations for congressional approval for the distribution of funds. At this time there are still no legal guidelines in action. The unofficial procedures now in use may well put every community based meals-on-wheels program into a grave, in spite of all congressional intent.

When the dust clears we may be left with massive elderly feeding programs that serve only the elderly in large urban areas.

In Benton Harbor, Mich., for example, a 4-year-old community based meals-on-wheels program woke up one morning to find a duplicate, federally sponsored program had moved in down the block. Within 3 months the independent program, which had been operating at no governmental expense, was serving half as many meals as it had before its unneeded neighbor moved in. It quickly became impossible for the community program to maintain its personnel, its telephone and office space, and virtually all of its overhead expenses.

In the same vein, the attempts to form massive feeding programs, whether needed or not, have proven particularly dangerous in a rural setting. By issuing rules and regulations to support programs for areas with large populations only, the Administration on Aging has categorically denied even minimal subsidies to areas that are sparsely populated. My constituents in Iowa have been penalized across the board because of a lack of concern for a rural environment. For example, Lanesboro, Iowa, recently had their Federal subsidy for meals canceled because they were only serving one meal a week.

Mr. President, why did we stop encouraging the community to take care of its own? The Administration on Aging has illustrated to the citizens of Benton Harbor, and of many other communities nationwide, that community concern is ultimately of no use. As the Federal bureaucracy continues to preempt the community-based programs, residents will learn to avoid community involvement; the caring community will soon disappear.

I am forced to ask why? Who can possibly benefit from this misguided Government philosophy? Is it possible that our massive regulatory bureaucracy intends to regulate the senior citizens in our rural areas to that of second-class citizens?

It would be helpful if I could point my finger at a responsible culprit and demand immediate reform. But the nature of our bureaucracy is such that no one seems guilty. These regulatory fiascos seems to create themselves.

Mr. President, we must work immediately to insist that the Administration on Aging follow the wishes of Congress. I respectfully ask the Special Committee on Aging, the Subcommittee on Aging, of the Labor and Human Resources Committee, and representatives of the Administration get together to guarantee the continued existence of the com-

munity programs that have operated efficiently and meaningfully. The U.S. Senate must look very carefully at what the Administration on Aging does to preserve these private, nonprofit, voluntary programs, with the realization that concrete actions must be taken in this body, if progress is not evident.

Finally, Mr. President, I make a plea for the integrity of the community itself. These community-based programs, such as Meals-on-Wheels, are the lifeline of any community: these are the programs that bind individual lives into caring communities of life. Congress must be willing to assert its power in helping the community to help itself.

FEDERAL MEAT INSPECTION

Mr. JEPSEN. Mr. President, S. 531, a bill to amend the Federal Meat Inspection Act, permits the sale of State-inspected meat products to federally inspected plants. Currently restricted interstate movement discriminates against State-inspected plants and narrows the market for smaller producers. Senator BENTSEN's bill is clearly an attempt to provide equitable treatment to our Nation's small meat producers. I applaud my distinguished colleagues for introducing this bill.

Mr. President, I ask unanimous consent that my name be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JEPSEN. Mr. President, high standards of meat inspection are absolutely essential to insure that Americans are provided clean, healthy meat. I wish to express my complete support and endorsement of both Federal and State meat inspection systems. And I should add that my support of S. 531 is the result of careful examination and research convincing me that high standards of meat inspection will be continued.

In 1967 the Congress passed the Wholesome Meat Act, establishing a relationship between State and Federal meat inspection systems. Under this act, State-inspected meat products cannot be sold across State lines to federally inspected establishments; a plant wanting to sell to another State, must apply for Federal inspection. The costs of applying for Federal inspection may not pose a problem to newer, large-line plants, but for small, family-owned plants the costs of complying are often prohibitive.

A spokesman for the U.S. Department of Agriculture testified in a recent hearing that costs of complying with Federal facility requirements are "neither unreasonably costly nor burdensome." His testimony implies that the USDA is aware of the costs, but they are dismissed as being "not unreasonable." Such rhetoric evades the real problem facing small producers in America: excessive costs of complying with excessive regulations.

The Meat Inspection Act of 1967 also requires the Federal Government to "designate" States that cannot afford, or choose against, maintaining their own inspection systems. So far, 18 States have been "designated."

The 32 States that do maintain their own inspection systems serve 5,083 plants. These States must develop and enforce requirements at least "equal-to" those of Federal meat inspection. And the law guarantees that precautions are taken to insure that sanitary meats are provided by these State facilities.

In Iowa, we have 50 State-employed inspectors providing fine service to as many as 445 plants. These inspectors are educated in Federal training schools monitored by the USDA. The only major difference between State and Federal inspectors is their salaries; Federal inspectors are paid a salary of about $6,000 more than State inspectors.

Since State inspection is monitored by the USDA, and since all State meat processing plants operate under "equal-to" requirements, they should be allowed "equal-to" trade.

Our Government must recognize that small businesses are still the keystone of our market society. Small businesses contribute clean, healthy meat to American consumers. Small businesses deserve the right to interstate commerce and increased productivity provided by S. 531. Passage of S. 531 would offer consumers a greater variety of sanitary meat products, and ultimately, better prices in the marketplace from over 5,000 State-inspected plants.

Mr. President, I join consumers desiring efficient inspection of meat products. I support the USDA in its inspection of large plants that can afford to comply with facility requirements. But I remind my colleagues that we are not living in 1900. The appalling conditions of U.S. packinghouses exposed by Upton Sinclair's book, "The Jungle," are no longer with us. This is a new day—a new era. Today, a new book, called "The Jungle," would depict Government regulation and redtape strangling farmers and agribusiness. The pendulum has swung beyond the parameter of commonsense.

In closing, I want to commend the U.S. Department of Agriculture for its efforts to guarantee the production of quality meats. To maintain our posture as exporters and consumers of sanitary meats, we must keep a high standard of inspection. And in doing so, we must give fair treatment to our small, State-inspected meat producers. That is the purpose of S. 531.

ORDER OF BUSINESS

Mr. JEPSEN. Mr. President, I yield the remainder of my time, whatever it may be, to the distinguished Senator from Vermont (Mr. STAFFORD).

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I thank the distinguished Senator from Iowa (Mr. JEPSEN) very much for yielding to me.

Mr. President, how much time remains to the Senator from Iowa?

The ACTING PRESIDENT pro tempore. Nine minutes remain.

Mr. STAFFORD. I thank the Chair.

INTERNATIONAL PARLIAMENTARY UNION

Mr. STAFFORD. Mr. President, I am taking this time this morning to again bring to the attention of my colleagues in the Senate the next meeting of the International Parliamentary Union which will occur in Oslo, Norway, during the Easter recess of the Senate next spring.

The meeting will actually occur between April 7 and April 12, 1980.

Mr. President, I have taken this time to talk a minute this morning after consultation with my fellow vice president in the American delegation to IPU, the distinguished Senator from New Jersey (Mr. WILLIAMS).

I would like to point out at the outset that the last meeting of the International Parliamentary Union occurred in Caracas, Venezuela, in September. There were 82 nations represented by delegations at that meeting. Many of the delegations were much larger and more fully prepared, frankly, than was the delegation from the United States.

Eighty-eight nations now belong to the International Parliamentary Union. Many of my colleagues, many people who listen this morning, or read the RECORD, may inquire as to what the International Parliamentary Union is.

It is an organization of parliamentarians, now from 88 nations, which meets twice a year. It is a very old organization. It was founded in 1889.

So this is the 90th year of the existence of the International Parliamentary Union.

The United States has belonged to the Union for a great many years. Twice in this century, the United States has served as the host for a meeting of the parliamentarians from the nations which belong to the International Parliamentary Union.

I particularly want to emphasize the meeting this coming spring, because Members who are interested in going as part of the U.S. delegation will not miss any votes in the Senate.

Any Members who might be interested in attending should contact either the majority leader or the minority leader, as appropriate, to indicate their interest.

I also invite the attention of my colleagues to the fact that in the RECORD for yesterday, November 8, beginning on page 31536 and continuing through the next pages, there are statements by Mr. PRYOR, the president of the U.S. delegation to the International Parliamentary Union; Mr. DERWINSKI, Mr. BUTLER, Mr. MCCLORY, and Mr. PICKLE concerning the work of the U.S. delegation at the meeting in Caracas. There also is some general discussion of the purposes of International Parliamentary Union.

The Union really is designed to bring together parliamentarians of the world. While the United Nations brings diplomats of the world together, the parliamentarians of the world are the ones who must enact legislation, if any legislation is to result from meetings of these international bodies.

Mr. President, at the spring meeting in

Oslo, Norway, April 7–12, which will be interesting, the study committees of International Parliamentary Union will be dealing with the following subjects:

Committee on Political Questions, International Security, and Disarmament:

The strengthening of the process of detente: the urgent need, need to arrive at international agreements in the field of arms control and disarmament and in particular the comprehensive strengthening of the NPT regime;

Committee on Parliamentary, Judicial, and Human Rights Questions:

The problem of refugees: its legal and humanitarian aspects;

Economic and Social Committee and Committee on Education, Science, Culture and Environment:

The Third United Nations Development Decade: its economic, social, educational, scientific, cultural and environmental aspects;

Committee on Non-Self-Governing Territories and Ethnic Questions:

Progress toward the achievement of decolonization including the full implementation of the right to self-determination.

Mr. President, any Members who are interested in joining in the work of International Parliamentary Union will be welcomed by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Vermont. We would be glad to make available any further information Members might desire concerning the work of International Parliamentary Union.

DANGEROUS EFFECTS OF PBB

Mr. STAFFORD. Mr. President, as many Members know, the Subcommittees on Environmental Pollution and Resource Protection are in the process of marking up S. 1480, a bill which would create a liability and compensation scheme for releases of hazardous and toxic substances in the environment.

One of the most widely publicized and serious releases of toxic substances was that of polybrominated biphenyls in the State of Michigan in 1973. Although several years have elapsed since then, it is still not clear exactly how the PBB's were released. All we know is that somehow the chemical became mixed with the feed for dairy cattle and thereby was distributed throughout the State. One study showed that 90 percent or more of the residents of Michigan carried body burdens of polybrominated biphenyls in their blood.

At the recent meeting of the American Public Health Association in New York City, several scientists submitted papers describing the effects of PBB on laboratory animals. Their work indicated that extremely low dosage levels of PBB's caused hyperactivity and a decrease in the animals' ability to discriminate in the performance of certain tasks. Other papers indicate that low doses of PBB's caused up to a 160-percent increase in liver damage and a more than 600 percent increase in liver enzyme production. These were accompanied by an apparent permanent decrease in the production of thyroxin, a hormone produced by the thyroid gland.

While it is certainly not clear that humans carrying PBB would necessarily respond in the same way as laboratory animals, these studies do raise some serious questions concerning the long-term health of large numbers of people exposed to low levels of chemical poisons.

Recently the September issue of Reader's Digest contained an article describing the PBB incident in Michigan, focusing on some of those long-term implications. I think some Members may be interested in that story, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE POISONING OF MICHIGAN

(By Ted J. Rakstis)

The trouble began quietly in the small central Michigan town of St. Louis (population 4200), home of the Michigan Chemical Corp. In October 1971, Michigan Chemical began to manufacture Firemaster BP-6, a fire retardant made of highly toxic chemicals called polybrominated biphenyls (PBBs). Although Michigan Chemical's own safety department recommended that workers handling Firemaster wear respirators, rubber gloves, chemical safety goggles and sanitary clothing, nobody enforced the rules. Baggers handled it freely, inhaled its dust, took work clothes home to dump in the family laundry.

By early 1972, many of them were feeling sick. Packager Charles Gross had memory lapses and shooting pains in his neck, back and shoulders. And he was sleeping excessively—12 or more hours a night.

Then, in 1973, Michigan Chemical introduced a new product called Nutrimaster, a cattle-feed additive made of magnesium oxide. The biggest buyer was Farm Bureau Services, Inc. (FBS), a farmers' cooperative affiliated with the Michigan Farm Bureau.

Michigan Chemical packaged Firemaster in brown bags bordered and printed in red, and Nutrimaster in similar bags printed in blue. Large piles of 50-pound bags of each were stored in the same warehouse. Later in 1973, a paper shortage caused the company to package both chemicals in brown bags identical except for the names (which were stenciled in black). Sometime between May and July, a forklift-truck operator loading a shipment of Nutrimaster picked up the wrong pile. Roughly 40 bags of Firemaster—about a ton—went out to the FBS central mixing mill in Battle Creek.

At the mill, Charles Szeluga, a feed mixer, noticed the different name. He says he was told that Firemaster was just a new trade name for Nutrimaster, and so he went ahead and mixed it. And soon FBS trucks began to carry the poison to feed mills and grain elevators across the state.

ELEPHANT HIDES

George LeMunyon is a 69-year-old bachelor who raised his young partner, Bernard Drent, as his own son. He lives with Bernard and his family in Cedar Springs, north of Grand Rapids, on a 450-acre farm. In the summer of 1973, LeMunyon's 150 milking cows stopped eating. Their hair fell out, sores developed on their bodies, their hoofs became grotesquely elongated, like wooden shoes.

Around the same time, in Missaukee County 100 miles north, Bob Geering's 40 milking cows developed ugly abscesses on their hocks, and their feet began to rot. Newborn calves had eye infections and battered their heads blindly on the barn walls.

Near Battle Creek, Rick Halbert and his father and brother ran one of the state's most profitable dairy farms. The family had 800 head of cattle, including 400 milking cows. But in September of that year the cows refused to eat, and milk output dropped by half. Halbert suspected his feed (which was enriched with what he thought was Nutrimaster).

Then Halbert's cows began aborting and dying when they tried to give birth. And when he fed the "Nutrimaster" mixture experimentally to some calves, they lost their hair and their skin began to look like elephant hide. When one calf died, Halbert took it to the diagnostic lab at Michigan State University. Vets cut it open and found a large ulcer, inflamed kidneys and almost no body fat. Their report stated that the problem was malnutrition.

Halbert then persuaded the Geagley Laboratory of the Michigan Department of Agriculture (MDA) to test the feed. It was given to six mice for ten days. All died. When Halbert reported this to the FBS staff, their response was to continue testing.

The breakthrough came in mid-April 1974, when Halbert sent feed samples to Dr. George Fries at the U.S. Department of Agriculture laboratory in Beltsville, Md. "This looks like something I've run a test on before—a fire retardant," Fries reported. "The trade name is Firemaster BP-6. I got a sample from Michigan Chemical Corp. in St. Louis."

All this time—for at least nine months—FBS feed was being used across the state. PBB would eventually be found in feed or residues at 189 mills and elevators. Nobody knows how many of Michigan's 9,000 dairy farms got the contaminated feed.

NOBODY KNEW

When it was proved that PBB had contaminated its grain, FBS announced a recall, and MDA began to quarantine dairy herds. More than 550 farmers were told they could not move their animals off the farms or sell their products. Many faced bankruptcy.

Yet even at this point nobody really knew how poisonous PBB was. The U.S. Food and Drug Administration (FDA) set "safe" guidelines at 1000 parts per billion (p.p.b.) in animal or milk fat, an arbitrary limit because PBB never had been in the food chain before. MDA tests of Halbert's milk showed 40,000 p.p.b., and his cows had between 500,000 and one million p.p.b. in their fat.

Farmers who had watched their livestock die, now began to get sick themselves. Rick Halbert and his wife, Sandy, suffered from stress, and she developed an ulcer. George LeMunyon had severe headaches, and sores covered his groin. Bernard Drent lost all feeling in his right arm; in a barn accident, he sliced off two fingertips and felt nothing. Bob Geering's failing memory made farm work impossible. He would try to plow a field and suddenly stop, unable to understand what he was doing. Geering's wife, June, also had dizzy spells and memory loss. And their daughter, Amy, became so fatigued that she went to bed immediately after school.

In November, as these stories spread, the FDA lowered the PBB tolerance level from 1000 p.p.b. to 300 p.p.b. for meat and milk. This became the state's official quarantine guideline, and financial settlements from Michigan Chemical and FBS generally followed that guideline. At the outset, only farmers under quarantine were eligible for a settlement. But many of them, offered what they believed to be only ten cents on the dollar, refused to settle and awaited court action.

NATIONAL SPOTLIGHT

In the fall of 1974, Michigan Chemical agreed to halt production of Firemaster. But the problem was far from over. PBB residuals in FBS mixing bins brought more contamination to farms. The quarantine total mounted, and some farmers not yet quarantined sent their cattle to be slaughtered. An unknown amount of meat went into the human food chain, primarily as hamburger, while the by-

products—mainly bones and entrails—were recycled as livestock feed. This spread the poison to farms and consumers not previously exposed to PBB.

At the University of Michigan, Dr. Thomas Corbett fed PBB to mice and found that they developed liver damage and birth defects. Alarmed over long-range health consequences, Corbett called Dr. Irving J. Selikoff, noted environmental-contamination expert at Mount Sinai School of Medicine in New York, and urged him to come to Michigan to study the state's human population.

Selikoff agreed, if state officials would extend a formal invitation. But Gov. William Milliken's office and the MDA never issued one. And while the state identified certain areas, such as Newaygo and Mecosta counties, as PBB "hot spots," it said that some other parts of the state had no poisoning at all. From the outset, the MDA sided with FBS, arguing that the farmers' problems were caused by bad management rather than PBB.

In Lake County, on a farm ruled not high enough in PBB levels for quarantine, Al and Hilda Green watched their world crumble. Most of their cattle were dead or dying. Al's body was covered with red welts, and his arms resembled elephant hide. The Greens could still legally sell their milk and beef, but Al said, "I wasn't going to poison other people." They asked permission to have their cows taken to Kalkaska, where a site for slaughtering and burying contaminated animals had been established. But since their cows were not quarantined, permission was refused.

So, on November 10, 1975, the Greens and a dozen neighbors met at ten o'clock near a 15-foot pit bulldozed the day before. Each neighbor carried a rifle. They herded the Greens' 112 remaining cows near the pit and shot them. Another American farm story was over.

But the Greens would be heard from again. Led by state Rep. Donald Albosta, a Special House Committee in March 1976 held hearings in Grand Rapids, Sault Ste. Marie and Cadillac. Mrs. Green testified, as did many others. The Albosta hearings brought the disaster into the national spotlight. On March 22, a caravan of farm trucks loaded with dead cows, sheep and calves headed for the capitol in Lansing. One truck bore a coffin, and the farmers carried signs—"Don't Let the State Poison you." They demonstrated in front of the capitol, and TV cameras told the country of their plight.

A statewide lobbying group, called the PBB Action Committee, was formed, and Hilda Green was named president. Across the state, bumper strickers bore the legend: "PBB—Cattlegate: Bigger Than Watergate." Public concern intensified when a state study showed that 96 percent of all nursing mothers tested had traces of PBB in their milk.

FAUSTIAN BARGAIN

In the fall of 1976, Bobby D. Crim, speaker of the Michigan house, learned of Irving Selikoff's offer to come to the state—a year and a half after he had volunteered. Crim invited Selikoff, and the Mount Sinai scientist put together a team of 50 physicians and technicians to begin the largest clinical field study of its kind ever conducted in the United States. After examinations of 1029 farmers, Michigan Chemical workers and consumers of food from contaminated farms, a preliminary report in January 1977 showed that 37 percent of the people tested had significant complaints, including liver abnormalities and neurological defects such as memory loss, extreme fatigue, lack of coordination and numbness.

In February 1977, Canada, Michigan's largest out-of-state beef market, announced that no meat with detectable PBB would be permitted to cross its border. For all practical purposes, Canada was closed to Michigan beef.

All these events finally prompted the state legislature in July 1977 to lower the PBB tolerance level to 20 p.p.b. in meat. Tests for PBB levels were begun on animals from every farm in Michigan, and farmers were paid for animals that had to be destroyed. The loss eventually totaled more than 30,000 cattle, 5,000 swine and sheep, 1.5 million chickens and many tons of dairy products. The state also filed a $119.2-million lawsuit against Michigan Farm Bureau, FBS, Michigan Chemical (now Velsicol Chemical Corp.) and Velsicol's parent company, Northwest Industries, Inc., and two subsidiaries. Velsicol later was indicated by a federal grand jury on charges of concealing material facts and conspiring to defraud the federal government.

In October of that year, following a 10-month trial, a circuit-court judge in Cadillac ruled against Roy and Marilyn Tacoma, dairy farmers who contended that their herd was ruined even though their cattle showed lower levels of PBB than those om many farmers who received large settlements. With little hope of help from the courts, most of the remaining claims were settled. The settlement total has reached more than $40 million spread among some 650 claims.

But even as claims were paid, Michigan farmers faced a new crisis. In the summer of 1978, recontamination had showed up on farms that had been heavy users of Nutrimaster, PBB, which may be buried as low as eight inches by plowing, had been spread primarily by manure used as fertilizer. The poison is now permanently embedded in barn-feed lots, machinery, barn walls. No amount of cleaning will remove all of it.

Thus "Cattlegate" has become the greatest man-made ecological tragedy in U.S. history. Although PBB is no longer manufactured by any American company, and Michigan's meat and dairy products are now considered safe to consume, it may be 20 years or more before PBB's long-range effects are known. In tests last year at the U.S. Center for Disease Control in Atlanta, rats given PBB developed tumors in the liver that could become cancerous. Monkeys given "safe" levels of PBB at the University of Wisconsin showed growth retardation. Last March, Selikoff and his research team reported that up to 90 percent of Michigan's nine million people have PBB in their body fat, and much of it will probably remain there for the person's entire lifetime.

The effects certainly linger for Charles Gross. He is still seriously ill and cannot find a job. "When they learn you worked at Michigan Chemical, they treat you like a leper," he says ruefully. Ron Creighton, another victim, feels useless and bitter. "I just don't think you should feel like 90 years old when you're only 34," he declares.

Selikoff feels that we have made "a Faustian bargain" with the chemical world. We demand the advantage of chemicals—synthetic clothes, fire-resistant plastics and fabrics, preserved foods. "But we are paying a price," he declares, "and the bills are now coming due."

STREAM CHANNELIZATION

Mr. STAFFORD. Mr. President, when the Senate earlier this year considered S. 914, the bill to reauthorize the Public Works and Economic Development Act, I sponsored an amendment to prevent the use of any money in that bill for the purposes of stream channelization. That amendment was adopted unanimously by the Senate. Because of the significance of this issue, and the destructive character of much of the stream channelization that occurs across the Nation, I intend to do all that I can to assure that my amendment will be included in any eventual conference report on this legislation.

The Jackson, Miss., Clarion-Ledger recently published an article by Tom Barlow discussing the issue and problems of stream channelization. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AGAINST CHANNELIZATION

(By Tom Barlow)

For decades federal agencies have been ditching and draining, chewing up natural streams, with channelization projects. In the past 30 years the U.S. Department of Agriculture in the name of "conservation" has helped dig drainage channels for over 50 million acres of land across the nation. In Mississippi 3,800 miles of channelization have been completed by the U.S. Army Corps of Engineers and Soil Conservation Service (SCS) in the name of "watershed protection" over the last three decades, and another 3,000 miles of such dragline work to drain tens of thousands of acres is awaiting construction funding.

The principle rallying the sponsors of these projects is "get those waters off my land." Quite simply, draining water rapidly downstream is "flood control."

But in the wake of the April and May backflooding of a half million acres on farms northeast of Vicksburg, warnings of flood overflows of the corps' dams in northern Mississippi and record-breaking flood crests on the Tombigbee, it's time to take a hard look at what our agencies are doing to us with channelization.

Wildlife professionals and naturalists have attacked channelization projects for years. With the destruction of bottomland forests and swamps after construction work is done, Americans have lost forever rich recreational and biological resources. For example, over 60 percent of the 1.2 million acres of bottomland hardwood forests in the Mississippi Yazoo Delta remaining in 1970 have now been cleared.

Rep. Tom Bevill, D-Ala., claims that federal flood control projects costing $10 billion over the past 30 years have resulted in flood control benefits to homes and industry located in flood plain areas valued at $68 billion.

However, because of upstream channelization, these flood protection benefits become potential flood losses.

Flooding increases because upstream as cropping intensifies on the lands bordering new channels they lose their water retaining capacities and shrug off rainloads almost as soon as they hit. For instance, over 900 miles of channel work in six SCS watershed projects in Rep. Jamie Whitten's district at the Tombigbee headwaters flushed tremendous volumes of water quickly downstream to compound floods in Bevill's district in Alabama in April.

The SCS has over 400 watershed projects across America already authorized and many more in the planning stages with over 8,000 miles of channel modification work to be done.

Although publicized as helping the farm community, channelization projects are in fact causing serious damage to the farm economy. Much of the 50 million acres the U.S. Department of Agriculture has helped to drain would have remained swamp and marsh if generous government flood control and drainage assistance had not been provided to finance up to 95 percent of project dollar costs.

In effect, as a result of channelization, over the past 30 years, a whole new agricultural empire has developed in America's bottomlands, rationalized by engineers pointing to development opportunities and crop increases to justify this work.

To be sure there are beneficiaries of these projects—the owners of this developed acreage.

But there are many farms (bottomland as well as upland farms) that can be hurt economically as the production from this new empire has surged into markets to hold down commodity prices.

Even with price supports, it is logical that only occasionally do we see crop prices soar to the point where farmers can retire debt and save enough to tide them through lean years.

Perhaps it is no coincidence that during the decades when federally financed channelization and drainage projects increased, there has been an alarming decline in the number of farms, especially small farms. Across our nation four million farms have disappeared since 1945.

Quite simply, more production has meant depressed commodity prices and currently when the costs of farming are skyrocketing, profit margins are rendered paper-thin on all but the largest operations. In America's current farm economy, soaring debt has become the order of the day. But the engineers still dig and drain.

What to do:

Halt all federal and state agency ditching and channelization until the downstream flooding impacts can be properly assessed.

Direct the corps of engineers through its permit authorities to survey all watershed and river basin ditching work to ensure that any drainage that will result in downstream flooding is regulated.

Where downstream flooding is occurring, go back upstream and recreate the wetland expanses which formerly held back flood volumes. In the wake of disastrous floods in the Red River Valley, the Minnesota Legislature is preparing to authorize such an effort in that state. Increase the capacity for detention reservoirs and build new impoundments upstream of the Delta areas of the Yazoo, for instance.

Turn off the flow of federal water resource development projects which are piling up crop production at a faster rate than demand is increasing, meaning that farms are going broke on commodity prices that hardly return the costs of production.

RECOGNITION OF SENATOR RIEGLE

Mr. STAFFORD. Mr. President, I again thank the distinguished Senator from Iowa for yielding this time to me, and I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan is recognized for not to exceed 24 minutes.

SUPPORT FOR SALT II TREATY

Mr. RIEGLE. Mr. President, at the outset, I pay my personal respects to the majority leader, Senator ROBERT C. BYRD. He has given important personal leadership on the SALT II issue, and I admire him for it. He is performing a great service to the country.

Mr. President, I rise today to indicate my support for the essential ingredients of the SALT II treaty.

After months of study, analysis, and personal reflection I have concluded that ratification of the treaty as written is a safer and stronger course for America than the alternatives we would face should the treaty be defeated.

This does not mean that the treaty contains all that I would have hoped or might have liked. In fact, I am giving serious consideration to joining an effort that would tie the continued effect of SALT II, once ratified, to specific progress on a SALT III agreement that would require new and substantial mutual reductions in strategic stockpiles.

Moreover, while I am prepared to support SALT II without new amendments that would require renegotiation, I am not prepared either now or later to commit myself to SALT II if it is materially enlarged by side agreements and additional strategic commitments demanded by other Senators as the price for their ratification vote. If SALT II is altered in this fashion, then I will be compelled to reevaluate the entire matter and make a new judgment at that time.

It is my sincere hope that the administration will resist any attempts to add new strategic commitments demanded by other Senators. Any such arrangements will undermine the entire ratification process—and very likely doom SALT II.

As to the treaty as negotiated and presented to the Senate for ratification, I think it serves the strategic interests of the United States—and is greatly to be preferred over the totally unrestrained, dangerous, and wasteful arms race that will be triggered if it is defeated.

My support for SALT II is not based on a belief that the Russians are to be trusted. On the contrary, I believe that experience shows that the Russians are not to be trusted—and thus I prefer the monitoring safeguards and procedures that SALT II provides us as important means of keeping track of Soviet strategic arms activity.

Let me now address certain issues raised by the opponents of SALT II.

The issue of which side has superior nuclear strength is both devoid of relevant meaning and misleading. Both sides possess now—and in the future under SALT II—the capacity for complete mutual annihilation under any and all scenarios one can imagine. A nuclear exchange by either side is an act of national suicide. Both sides know this. Nuclear superiority in today's world is a fool's notion—it is a fiction with or without SALT II.

So SALT II does not guarantee either side nuclear survival. It is much more limited than that. It does little more than slow the arms race, which is a necessary step to the later possibility of halting and then reversing the nuclear buildup.

But it is clear to me that failure to decelerate the arms race by mutual agreement can only lead to an unrestrained acceleration of the arms race. However frail the tangible gains of SALT II may appear, their greatest value will be measured by the absence of monumental new dangers that would quickly appear without SALT II.

Such awful choices necessarily stagger a sane mind; the nuclear arms race now victimizing the world lost any relevance to sanity long ago. How does one make sense of a United States and Soviet inventory of 14,000 nuclear weapons, which in the aggregate represent destructive power over a million times greater than the bomb that destroyed Hiroshima in 1945? Anyone who imagines that a single additional nuclear weapon produces a safer world lives in a fool's paradise.

On the other hand, unilateral disarmament makes no sense either. We are left with the slow and halting steps of the SALT process as our only rational alternative.

SALT II will slow the arms race and by so doing will reduce somewhat the risk of a nuclear war that can only destroy both sides. It is why both countries find it in their mutual interests, despite deep suspicion and mistrust, to edge back from the brink of self-destruction.

A profoundly important second level benefit that accrues if SALT II is ratified is that the United States and the U.S.S.R will then have a chance to prove to themselves and to each other that mutual restraint can make both sides safer and stronger. This new path of mutual self-interest that diminishes the risk of mutual destruction and offers tangible gains to both sides may lead to other avenues of cooperation and accommodation that can further benefit both nations.

When "kill or be killed" has become "kill and be killed," the time has come to stop the blind rush toward the methods and means of killing. That is the essence of SALT II, a cautious and limited mutual step away from self destruction.

Gen. Douglas MacArthur's words echoing over some 25 years are directly relevant today. In 1954 General MacArthur said this:

> War has become a Frankenstein to destroy both sides. No longer is it the weapon of adventure whereby a short cut to international power and wealth—a place in the sun—can be gained. If you lose you are annihilated. If you win, you only stand to lose. No longer does it possess the chance of the winner of duel—it contains rather the germs of double suicide.

While the SALT II issue centers on strategic weapons, I think it is appropriate to express here my concern about what I consider to be the growing inadequacy of U.S. conventional military capability. The enormous cost of unrestrained strategic weapons development can leave the U.S. muscle-bound with unusable nuclear arms while we are underfinanced and undersupplied with more flexible conventional military capability better suited to the kinds of regional conflicts that can directly jeopardize the strategic interests of the United States.

A capacity for nuclear exchange has no practical value when one is faced with protecting vital shipping lanes, or faced with securing foreign oil fields vital to western industrial survival. When dollars are scarce, we must maximize the effectiveness of our military spending, and I think our current area of greatest military need is in the area of conventional forces. SALT II will reduce U.S.

spending for strategic weapons and free those resources to modernize and upgrade our conventional forces. That is a gain.

While SALT II is an agreement between the United States and the Soviet Union, all other nations have a direct and vital interest in this treaty.

Our Western European allies particularly have an enormous stake in the outcome of the SALT II process. They understand this and have so stated publicly. Every NATO country is on record as supporting SALT II as negotiated.

At a recent NATO parliamentarians meeting in Ottawa, Canada which I and other Senators attended, the parliamentarians assembled from all the NATO countries, after months of analysis and open debate, went on record as supporting SALT II treaty without a single dissenting vote.

That was a tremendously important expression by our NATO allies that they view SALT II as serving the vital strategic security interests of the entire Western alliance. Their safety and security is at stake as is ours, and their unanimous recommendation is that we ratify SALT II in behalf of the security interests of the free world.

The debate on SALT II has been valuable in causing a complete reassessment of U.S. strategic military posture.

And one troubling fact that has come to light, and I say this to my colleagues who are in the Chamber, one very troubling fact that has come to light reflects the glaring inequities in defense spending by the leading Western nations. While we and our NATO allies agree on strategic arms control, we do not agree on how the remaining cost burden is to be shared.

Most Americans are stunned when they learn that in 1978 the United States was spending $517 per capita on defense, while West Germany was spending $337, France $325, and Japan only $74. These are shocking differentials, and it is obvious that new efforts are needed to better balance the military cost burden of defending the free world.

Our inflationary Federal deficits are largely caused by the United States bearing the lion's share of free world defense costs. This must change.

Nothing more clearly illustrates our failure to be prudent in this regard than two recent events that illustrate our blindness to this problem. Short weeks ago this Senate voted to break the budget and enlarge the Federal deficit by adding a 3-percent increase to our planned military spending, ostensibly to meet a solemn NATO commitment. Within days of that action by the U.S. Senate, the West German Government quietly indicated they were cutting their military spending increase in half, to 1½, and even that figure appears inflated. Our enthusiasm to make an extra effort enabled them to reduce their effort.

Some of those who whoop and holler the loudest here on the Senate floor about meeting NATO spending targets ought to stop playing into the hands of our friends who encourage us to spend our scarce dollars for their defense, while they quietly divert their resources away from mutual defense to internal capital investment, reindustrialization, and their own national purposes.

In 1978, the United State spent 5 percent of our GNP on defense; Germany, by contrast, spent only 3.3 percent; and Japan spent less than 1 percent; they spent 0.9 of 1 percent. It is no wonder that their currencies are stronger than ours, that their inflation and interest rates are lower than ours, that they are better able to modernize their industrial base, sell their surplus production here in the U.S. market and export American jobs to their countries. It is time that we woke up to these realities and stop living in a dream world of military sloganeering and hurrah. Unless we face these hard realities and adjust our policies accordingly, we will continue to drain vital strength from the United States that can only make us weaker and more vulnerable in the future.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIEGLE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the distinguished Senator from Michigan on his very perceptive analysis of the SALT II treaty and of his articulate expression of support for the treaty.

I certainly share his concern that without the treaty we will be draining moneys away from conventional forces and from nuclear theater forces. There should not be any doubt, that without the treaty this country is going to be spending more, more, more for strategic systems in order to try to keep up with the Soviets, the Soviets already having developed the momentum and trends to go on and on for some years in building clear superiority in their central systems. Instead of 308 biggies, the Soviets can go to 400, 450, 500, and we will try to keep up undoubtedly, and as we do this we drain just that much money away from conventional forces, thus making us unable to deal with contingencies that can very well erupt here, there, elsewhere quickly, and which would necessitate our being able to deploy military forces in order to protect our national security interests.

So I say to all Senators who have concern for the inadequacies of our conventional forces—and I am not saying we have not been doing anything, we do not contend that—the SALT treaty hearings have convinced me that we need to do more to emphasize the conventional side of our military structure, and we are not going to be able to do that if we have to engage in a protracted and intensified strategic nuclear arms race, and it will be a race, it could be a race. So I commend the Senator. He put his finger right on an important point.

As we look at the tense international situation around the world, we look at the tenuous energy supply lines which are vital to our national security, suppose something happened here or there? Are we ready? Are we conventionally prepared to deal with it so that it will not escalate into a nuclear exchange? Or is that all we have? Are we going to be left only with a nuclear exchange to deal with those situations which could arise imperiling our security interests, and with which we could deal if we were conventionally prepared?

We do not want to be left in that situation where a nuclear exchange is the only answer.

So I congratulate the Senator. He has made some rather excellent points in his statement, and I agree with him that there should be a better balance in cost-sharing among our NATO friends.

But I do not think we should overlook the fact that Mrs. Thatcher, that is her government, is denying themselves other needs in order to meet that 3 percent, and that is a commitment on our part. President Carter made that commitment. It was he who led the way to a NATO summit last year, and we made that commitment, and I think we should live up to it because only by setting the example can we criticize constructively our NATO allies.

But it is shocking when the Senator speaks of Japan, a very, very strong ally, very resourceful people, spending so little, relatively speaking, for defense.

I thank the Senator and I congratulate him.

Mr. RIEGLE. Mr. President, let me just say that I appreciate the comments of the majority leader. I might say, I want to repeat what I said at the beginning of my remarks. I want to particularly pay my respects to the majority leader who, I feel, has given important personal leadership to the SALT II issue, and has thereby performed a great service to the country.

Let me say, in response to the point he has made, that if one goes to West Virginia today and we look at the problems facing the coal miners there or steelworkers there or we go to my home State of Michigan or we go to other industrial regions of the United States and we see problems with many of our people out of work, unable to compete with the flood and the influx of foreign products from Japan, West Germany, other allied nations, and we dig deeper into that matter and take a look at these defense spending differentials, what we find is that the money we need to spend to modernize our industrial base is going into free world defense.

The money from these other nations, the scarce capital, is, by and large, going into their nations to make them stronger economically and to put ourselves—while we are still on a friendly basis—in a more adverse position.

So these things are related, and we have to understand that relationship, because if we are not strong at home we are not going to be able to be strong abroad.

That is why this issue, the SALT II debate, has performed a service in the sense that it is bringing these kinds of questions to the surface.

I think the Senator's point about the additional efforts being exercised by the new government in Great Britain indicates some sign, at least in that one place, of a greater effort. But, as the Senator has acknowledged, in other nations that are much stronger economically and much better prepared to make a commitment of greater effort, that effort has fallen short.

I might further say, and it is important for us to remember the lessons of recent years, that this is my 13th year in Congress, and I recall very vividly the period of our involvement in the Vietnam war. That was a different situation but, I think, the principle is the same.

We found in the case of the Vietnam war that the more we were prepared to do for the South Vietnamese the less they were prepared to do for themselves, and it became a self-defeating course of action.

We cannot go back now and change that history, but in terms of burden-sharing today, allies who are in a stronger economic condition than we are, whose unemployment rates are lower, whose inflation rates are lower, whose currency is more valuable than ours, whose balance-of-payments situation is more favorable than ours, have to begin to carry their fair share in terms of free world defense, and its relationship to the SALT treaty which is direct in regard to the notion of who carries the bulk of the burden for strategic weapons spending.

That is why I think this treaty, if ratified, offers the possibility for the United States to be both safer and stronger in the future because we need our scarce resources for conventional military strength, we need them for reindustrialization within the United States, and for other purposes.

VETERANS DAY

Mr. BAKER. Mr. President, this Sunday, November 11, is the day our Nation has set aside to honor our veterans. A brief history of the significance of this date, I believe, is appropriate. In 1921, an American soldier—his name "known but to God"—was buried on a Virginia hillside overlooking the Potomac River. The Arlington National Cemetery burial site of this unknown World War I soldier became the personification of dignity and reverence for America's veterans. Similar ceremonies occurred earlier in England and France, where an "unknown soldier" was buried in each nation's highest place of honor. These memorial gestures all took place on November 11, giving universal recognition to the celebrated ending of World War I hostilities at 11 a.m., November 11, 1918—the 11th hour of the 11th day of the 11th month.

Originally known as "Armistice Day," this day of observance became a national holiday by congressional resolution in 1938. The idealistic hope that World War I was "the war to end all wars" was shattered the day World War II broke out in Europe. In answer to the dilemma of how to pay tribute to those who had served in that war, the name "Armistice Day" was changed to "Veterans Day" in 1954. Additional significance was added to Veterans Day in 1958, when two more unidentified American war dead were brought to Arlington Cemetery from overseas and interred beside the World War I soldier. One had been killed in World War II, the other in Korea. A law passed in 1973 provides for the future interment of an unknown American who lost his life in Southeast Asia during the Vietnam era if unidentified remains are discovered.

In keeping with our national tradition of honoring those brave men and women who have served their country, I am happy to announce my cosponsorship of several measures designed to pay tribute to our veterans who served during the hostilities in Southeast Asia. The first is a joint resolution to set aside a 2-acre section of Constitution Gardens in Washington, D.C. for a Vietnam memorial. Mr. Jan C. Scruggs, a veteran of the Vietnam war and now president of a memorial fund to raise the private donations for this monument, deserves much credit for his efforts to end "the sharp division in our generation" created by an unpopular war. This new legislation will enable Mr. Scruggs' fund to finance the building of a memorial on the Mall inscribed with the names of the 57,414 Americans who died in Vietnam. I share the view of my colleague, Senator MAC MATHIAS, that the memorial is a long overdue acknowledgement by the American people of the sacrifice and service of Vietnam veterans.

In addition to this type of recognition, I also believe that real, concrete steps need to be taken, to assist our Vietnam veterans in solving a number of continuing problems which have been ignored far too long. Therefore, I am also joining my colleagues, Senators HEINZ, JAVITS, MOYNIHAN, and PRESSLER in cosponsoring the Vietnam Veterans Act, which will provide a program of career development, advancement, and training; outreach and supportive services; increased funding and improved programs for health and psychological care; improved education assistance; and other provisions designed to help these veterans overcome significant readjustment problems.

A law passed in 1968 had changed the national commemoration of Veterans Day to the fourth Monday in October, but it soon became apparent that November 11 was a matter of historic and patriotic significance too great to be ignored. I was pleased when the Congress enacted legislation in 1978 returning the observance of this very special day to its traditional date. All of us in this country owe much to our veterans, and it is with humility and great admiration that I extend my personal gratitude and tribute to them on this Veterans Day.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business (H.R. 5359), which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The ACTING PRESIDENT pro tempore. Debate on this bill is limited to 4 hours, to be equally divided between and controlled by the Senator from Mississippi (Mr. STENNIS) and the Senator from North Dakota (Mr. YOUNG), with 1 hour on any amendment in the first degree except a Heflin amendment on helicopter training, on which there shall be 2 hours, a Hatfield amendment on the MX missile, on which there shall be 3 hours, and an Armstrong amendment on pay cap, on which there shall be 3 hours, with 30 minutes on any amendment in the second degree, and with 20 minutes on any debatable motion, appeal, or point of order.

The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, the Senator from North Dakota (Mr. YOUNG) and I are ready to proceed as comanagers of the bill. May we ask, what time is there remaining from the 4-hour time limitation on the bill? I believe that all of that time is still available; is that right?

The ACTING PRESIDENT pro tempore. The Senator from Mississippi has 93 minutes remaining. The Senator from North Dakota has 118 minutes.

Mr. STENNIS. That is what we call "on the bill"?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STENNIS. All right.

Mr. President, the Senator from Oregon (Mr. HATFIELD) has a sweeping amendment here with reference to the MX. He has a very substantial argument, with strong points, and I appreciate the fact that he is ready this morning, and also willing to proceed now. He has such time as the Chair has already related. We have a like amount.

We are all inclined to get this matter before the body and then have the vote and turn back any time remaining, but we do not know yet what the requests are going to be from our colleagues for sharing time; so we will just withhold all comment on that, except to state our willingness to try to reduce the time somewhat.

I thank the Chair for recognizing me. I am charged with the time on this side. I have conferred with the Senator from North Dakota, and I have been speaking for him as well on that point.

If the Senator from Oregon now seeks recognition, I yield to him.

UP AMENDMENT NO. 787

(Purpose: To eliminate funds for the MX missile and provide $20 million for research and development in connection with the shallow underwater mobile Minuteman III missile system)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 787:

On page 28, line 19, strike out "$4,892,043,000," and insert in lieu thereof "$4,942,043,000, of which $30,000,000 shall be used only for research, development, testing, and eval-

uation to determine the feasibility, the cost estimate for implementation, and an estimate of the time period required to attain both initial and full-scale deployment of a shallow underwater Minuteman III missile system;".

Mr. HATFIELD. Mr. President, basically this amendment proposes to stop the MX missile, and to provide us with a more logical and practical alternative. In my remarks I hope to convince my colleagues of the wisdom of this action; because, Mr. President, the Senate has been asked in the legislation before us to approve of a weapons system which will be the most expensive, most lethal and most intensely complicated project in U.S. history. Some $670 million is being appropriated in this bill for the MX missile and its so-called "racetrack" basing scheme. Brig. Gen. Guy Hecker, Jr., Office of the Special Assistant for MX Matters, USAF, has called MX "man's largest project, larger than the Great Wall, larger than the Pyramids, larger than the Alaska pipeline or the Panama Canal."

I am here today, Mr. President, to challenge the fundamental wisdom of the MX project and, just as importantly to offer an alternative which some of the finest scientific minds in this country believe to be far superior to the proposed MX scheme. The option is to put all or a portion of the present Minuteman III missile aboard a shallow underwater mobile system; hereafter referred to by the acronym "SUM."

The SUM proposal has been suggested by Drs. Richard Garwin and Sidney Drell, consultants to both the White House and Arms Control and Disarmament Agency. Both these highly respected scientists testified before the House Arms Services Committee earlier this year on the SUM alternative. In addition, Dr. Drell is a defense analyst and deputy director of the Stanford Linear Accelerator Center. He headed a study on the future of U.S. missile policy that was conducted at the Stanford Research Institute for the Department of Defense.

Dr. Garwin has sat on a task force on missile modernization put together by the White House Office of Science and Technology Policy. Garwin is a long-time defense consultant, former director of applied research at IBM, and professor at the Kennedy School of Government at Harvard University. I ask unanimous consent at this point that a detailed correspondence with Dr. Richard Garwin describing the SUM system be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

CORRESPONDENCE BY RICHARD L. GARWIN

AUGUST 31, 1979.

Hon. MARK O. HATFIELD
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: This letter responds to the request of 08/30/79 from your office for my views on the suitability of Minuteman for survivable basing on small submarines. For the last three years I have studied extensively the possibility for basing the next-generation ICBM—the MX—on small submersibles and reported favorably on that possibility, for instance, in my testimony of 02/07/79 to the House Armed Services Committee.

The concept for the water based MX (WBMX), also called the Shallow Underwater Missile System (SUM) is simple—to carry ICBMs horizontally (not vertically as in the POSEIDON and TRIDENT submarines) in individual, releasable capsules. When the submarine wants to fire a missile, it releases a capsule which bobs to the surface and fires the missile as the missile capsule breaks the surface of the water. The concept can be used with missiles of size ranging from the very smallest, single-RV missile to the largest MX such as the 195,000 pound missile committed by President Carter to engineering development June 1979. A very interesting point is that the same largely-autonomous encapsulated missile which would be optimum for land-basing in so called mobile-modes, is suitable essentially without modification for the SUM system.

As I pointed out in my testimony, the same navigation/guidance system on the missile which is to provide good accuracy for the MX, can be used to navigate the submarine, although submarine navigation accuracy is not a requirement, even to fire missiles with good impact accuracy and good time on target. Missile accuracy could be maintained by equipping the missile guidance system on the missile itself with a receiver-computer for the NAVSTAR system, which would in fact permit accuracies twice as good as those projected for the silo-based MX system were it not to have this NAVSTAR supplement.

Furthermore, just as the land-based MX could continue to obtain such accuracy even in the absence of the NAVSTAR satellites (by the employment of the GBS (Ground Beacon System), the SUM missiles launched within a few hundred miles of U.S. shores could use the GBS system in just the same way, since the missiles as they boost will be able to have the GBS transmitters in sight.

It should be noted that recognition of the desirable aspects of the SUM system for invulnerability of basing and low operating cost go back to the mid 1960's, to the "STRAT-X" study, in which the technical preference was clearly toward the use of a "wooden round" or low-maintenance missile which would be carried in a horizontal capsule outside the pressure hull of the submarine. This essentially decouples the problems of submarine construction and operation from those of missile design, and this point is capitalized upon in our SUM proposal.

As emphasized in my testimony, all of the objective requirements stated by Air Force Chief of Staff General Lew Allen for the land-based MX are satisfied by the SUM system—it is the ideal follow-on ICBM basing system. For your convenience, I attach as the first enclosure pp. 29–36 of my testimony of 02/07/79 on the WBMX.

As for cost, proposals for developing, building, basing, and operating 200 MX missiles on land have involved manufacturing costs (after development) of the missiles themselves of about $3 B, while overall system costs (including 10 years of operation) amount to some $25 B to $40 B. The actual construction and purchase of the small submarines for basing the encapsulated missiles is likely to be only 20% to 30% as costly as the land-basing schemes, and because of the low manning requirements (less than the security force alone for land-based deployments) the operating costs will be tolerable.

As regards the schedule, cost, and realizability of the SUM system for MX, my review of the situation this year makes me even more optimistic. It is important to separate the bureaucratic impediments from the technical problems of small-submarine basing of ICBMs. I have looked again at the WBMX this summer and find that the German Navy operates modern military diesel-electric submarines built in the FRG, and of a size (450 tons) precisely that envisaged to carry the MX. Furthermore, I have looked at the communication means and find that a cheaper, nearer-term approach would be to use an expendable buoy with just a few hours life, connected by a slack line to the patrolling submarine. We should also plan to have a backup UHF whip a few inches long on the buoy, to receive signals directly from satellites if the VLF normal transmission to submarines were destroyed.

For your information, I enclose data on the HDW type-600 ocean-going submarine. The evidence on operability of submarines of this size in a military mode, the availability of a scheme for communications, and the decision to develop the large MX missile (compatible with water-basing) all lead me to believe that the submarine-based option for the ICMBs is a near-term possibility, available as soon as the missile itself.

Thus I believe that the SUM system could be ready and with its bugs worked out by the time MX missiles could be available in 1985 or 1986. Furthermore, even the early MX missiles could be invulnerably based in the first few small submersibles—quite different from the vulnerability of a deceptive-basing land system, which begins to be survivable only when most of the shelters have been deployed—which means, obviously, toward the end of the deployment period!

The suitability of Minuteman III for SUM deployment, has not received much concrete study. The question can, however, be answered reasonably well by comparison with the studies already done for road-mobile deployment of Minuteman III or for the ALPS redeployment of Minuteman to a large number of vertical shelters in the Minuteman operating area. Both of these deployments require that the Minuteman be modified to be capable of movement by truck while fully assembled and in the horizontal position. Both require modification to the guidance system to avoid certain limitations of maneuver of the missile while it is being transported. The ALPS concept requires that the Minuteman be largely free from maintenance as does the current silo deployment (simply for economic reasons).

The unique requirement for SUM deployment of Minuteman is the waterproof capsule, designed to house the missile, provide a simple attachment to the submarine, and to bob to the surface and fire the missile. I am quite sure that this could be developed and ready by the time the Minuteman missile could be modified for horizontal transport.

Thus, in view of the substantial investigation and discussion of underwater basing of MX, my views on near-term underwater basing of Minuteman III are as follows:

1. Feasibility. It is undoubtedly feasible to utilize Minuteman III in the SUM mode. Essentially the same modifications need be made to the Minuteman III missiles as would make it road mobile or suitable for ALPS deployment. Incorporation into the Minuteman III guidance system of a GPS/GBS receiver-computer would provide accuracy twice as good as that projected for MX. The requirement on low maintenance for the SUM deployment is considerably simpler to meet than the requirement for an ALPS or MPS deployment, simply one new-type ICBM, there is no such limitation on new-type SLBMs, as evidenced by our freedom to proceed with the Trident-II missile even though President Carter has committed the MX to engineering development. Thus the modification of Minuteman III to submarine basing would not impair our freedom to build one new-type ICBM such as the MX (or a different ICBM if we decided not to deploy the MX). Furthermore, if the MX were to be developed for basing on the small submersibles, as a follow-on to the modified Minuteman III, the U.S. could later develop still another ICBM, so long as the MX was never based on land.

Finally, it is necessary to rectify two misconceptions. First, the submersibles would *not* be stationary on the continental shelf, nor would they necessarily be deployed in the waters over the continental shelf. Their primary areas of deployment would be at few hundred foot submarine depth in waters exceeding 800 foot depth on or beyond the continental slopes within a few hundred miles of U.S. shores. Given this large area of deployment, it would not add vulnerability at all to deploy submarines at an appropriate density in the Great Lakes or on the waters of the continental shelves. Second, the communication link to the submarines can be made at least as solid as that to the Minuteman silos. Not only do the submarines have the benefit of the normal fleet VLF broadcast—because our scheme envisages a small UHF wire antenna attached to the expendable float, the SUM system can be commanded by aircraft, satellites, or missiles.

I do believe that small-submersible basing of ICBMs is not only an important option for the long term but the system which can be used soonest in a technically sound manner to allay fears of Minuteman vulnerability.

If I can be of further help with papers or testimony, please let me know.

Sincerely yours,

RICHARD L. GARWIN.

TESTIMONY BY RICHARD L. GARWIN

WATER-BASED MX

In the space and time available, I shall describe the proposed system, evaluate it against the criteria which had been applied to the MAP system, inquire about the status of the WBMX, and make some recommendations for the present.

Prominent among the strategic offensive force candidates in the classic 1967 study of U.S. strategic force options was the carriage of encapsulated missiles in a horizontal position outside the pressure hull of a submarine. Alternatives included the vertical carriage of missiles inside the pressure hull (as is the case with the Poseidon and Trident submarines). The demonstrated advances of technology since 1967 have made horizontal carriage and encapsulated missiles a highly desirable approach, which also fits well under SALT (a distant consideration in 1967).

The technologies of importance for the WBMX are:

A 6,000-mile-range missile, encapsulated and in need of minimal associated support equipment. Note that the Trident-I missile itself, offloaded to 4 RVs, has about 6,000-mile range.

The GPS system, supplemented by inverted GPS for missiles fired from the territory of the U.S. or near U.S. territory, and

Encryption and verification procedures to constitute a flexible and secure "permissive action link" (PAL) so that missiles may not be fired or nuclear warheads armed except by the National Command Authority (NCA).

Specifically two of the largest missiles considered for the MX application (192,000 lb each, 10 RV) in their capsules would weigh about 350 tons and could be carried horizontally strapped to the side of a 350-ton minisubmersible. The United States Navy already has an 800-ton submersible, the DOLPHIN, and other craft of this size are in commercial use. In the WBMX concept, a fleet of perhaps 100 such submersibles would operate within a few hundred miles of the east and west coasts of the United States, lost in an area far too large for the Soviet Union to barrage effectively, even by devoting the entire throw weight of their ICBM force.

Although capable of operation at depths on the order of 600–1,000 ft. the submarines would normally patrol at a depth of 200 ft. so that they would be less vulnerable to attack by nuclear weapons, which for greatest capability against submarines should be exploded deep in the water. Under normal circumstances, the minisubs would be in constant (receive-only) communication with the NCA, by very low frequency radio (VLF) received by a free-swimming fish directly above the submarine and submerged a few feet below the water surface. If the ground-based VLF transmitters are destroyed, their role is assumed by the TACAMO aircraft which radiate the VLF signal from a long wire trailed by the aircraft. Ultimately, many other continuous communication and back-up systems are available—among them connection to the moving submarine by means of a fiber-optic thread which the submarine unreels as it cruises, plugging in again every few hours to a prearranged junction point. The fiber-optic approach would allow the submarines to receive continuously not only commands as required but also commercial TV as desired and provided by the management.

Since the submarines need deploy only a few hundred miles from many ports within the U.S., the high speed required of conventional Polaris and Poseidon ships enroute to duty station is unnecessary. A patrol speed of 5 kt and the small size of the loaded submerable (700 ton versus 8,000 ton for Poseidon and 18,000 ton for Trident) mean that the installed propulsion power need be no more than 50 kw. In order to have a burst speed of 10 kt, a 400 kw power plant could be installed. The primary power can be supplied either by means of fuel cells or by a Stirling engine. The fuel cells using hydrogen and oxygen would consume about 7.5 tons in one month to supply 25 kw on the average. Fuel cells which use oxygen and hydrocarbons would use about 9 tons of fuel in a month at an average output of 25 kw, and for a maximum output of some 400 kw would weigh about 30 tons. Neither fuel need result in bubbles, water and carbon dioxide being retained in the fuel tanks.

A tour of duty of 2 weeks or 4 weeks would be perfectly adequate to retain high fraction of the time on station, since the patrol area is close to the home port. As discussed, the crew of the submersible would have no ability to fire the missiles and no obligation to delay firing of the missiles on receipt of the proper encrypted command.

Thus crew responsibility and necessary crew training are minimal, as is crew size. Although the mission could be done with an unmanned submersible, as a baseline I provide three crew per watch for a total of 12 on board.

As for vulnerability and survivability of this system, I have considered threats of nuclear barrage, of Soviet aircraft rapidly deploying thousands of sonobuoys and attempting to detect the submarines and to hunt them down, and I find the WBMX highly survivable. The nature of survivability for the WBMX is substantially different than that for the Poseidon or the Trident, since the WBMX patrols in regions near U.S. shores, where the U.S. has a very substantial anti-submarine warfare ASW presence under normal conditions—ground-based patrol aircraft, ships, fixed-acoustic systems, and the like. Furthermore, it is quick and easy for the U.S. to take action against hostile measures deployed against the MBMX fleet. Finally, the small size of the submarine and its low normal speed (together with its proximity to the U.S.) make it feasible to develop and deploy decoys to counter long-range acoustic detection and tracking.

In comparison with other contemplated strategic offensive forces, particularly the MAP system described above, the WBMX should have comparable accuracy if it uses IGPS as indicated, or if survivability or redundancy of the GPS system could be maintained. Personnel requirements for these vehicles would be about 1200 (and on a 2-crew basis, 2400) to be compared with the 4300 personnel contemplated for a MAP deployment. Because of the low speed and the short tour of duty, nuclear power is both unnecessary and undesirable for such vehicles.

Quoting from General Allen's letter to Chairman Price:

"The following is a list of characteristics that silo-based ICBMs bring to the Triad today:

"Different pre-attack survival mode than aircraft or SLBMs and a different penetration to target mode than aircraft.

"Independence from strategic or tactical warning for pre-launch survival.

"Exceptionally reliable command, control, communications for positive control.

"Unique military capability as embodied in the ICBM's rapid response capability, prompt retargeting ability, short flight time to target, hard target capability, high alert rate and range.

"Enduring survivability in an extended nuclear conflict.

"Low domestic profile, but large international perception.

"High confidence in nuclear weapon safety and security.

"Relatively low operating cost and personnel requirements.

"Independence from concealment for survival.

"Straightforward SALT verification concept."

I find that the WBMX satisfies these requirements, some of them in a fashion preferable to that of MAP. Furthermore, the WBMX does *not* possess the characteristic common to Minuteman and its MAP replacement:

Subject to being pinned-down and launch denied for a period of hours at the option of the Soviet Union.

STATUS OF THE WBMX

Air Force has begun a preliminary look at the specific WBMX system outlined here. Navy interest is minimal, in my opinion because of the ongoing Trident program, although my judgment is that if the Trident program were presented for decision again as it was in 1972, Navy and DoD would choose to field a different system. Still, so long as we have an ongoing Trident building program, WBMX will be regarded by the Navy as a potential successor to Trident, and not something which can be accomplished in the near term.

Air Force familiarity with the operation of saltwater submersibles is nil, and there is no large constituency in USAF for the development and operation of such vehicles. Nevertheless, I believe that the development and deployment of an operating fleet of WBMX could be very rapid, using the VLF communication system, and that the small size of the individual ship would allow the development and procurement to be done in a fashion quite different from that appropriate for nuclear-powered ballistic missile launching submarines. Thus one could contemplate purchasing two operating WBMX ships from each of the first two contractors who make a plausible proposal at a fixed price, the requirements to include operation by contractor personnel (not military personnel) for two years after delivery of the vessel.

The low weight and small size of the WBMX vessel should be considered not as a result of squeezing all of the capability of a Trident submarine (SONAR, electronic defenses, inertial navigation systems, and the like) so that it will fit in a smaller ship, but rather what is left of required space after all these functions have been removed from the submarine. Thus, the submarine precision navigation should be done by the missile

navigation system, so that after the submarine has fired its missiles (or if the missiles are incapable of being fired because they require maintenance), the submarine should navigate like any other Navy ship, with frequent fixes obtained from navigation satellites, compass headings, dead reckoning, and the like. Under these circumstances (and missile development costs aside), the development cost of a 350 ton submersible should be only a few percent that of a Trident-size submersible, and the best way to ensure that the price paid for development is reduced in proportion to the cost is the fixed-price competitive procurement of end items from several suppliers.

SUBMARINE TYPE 600

MAIN PARTICULARS

Length over all, 48,90 m.
Length b.p., 48,00 m.
Inner diameter of pressure hull, 4,80 m. (parallel part)
Mean draft, 4,20 m.
Height over all, 8,80 m.
Standard displacement, approx. 550 long tons.
Surface displacement, approx. 600 m³.
Submerged displacement, approx. 665 m³.
Reserve of buoyancy, approx. 10%.
Maximum diving depth, 200 m.
Maximum operating depth, 160 m.
Maximum submerged speed, 17,0 Kn.
Maximum snorting speed, 9,0 Kn.
Maximum surface speed, 11,5 Kn.
Submerged cruising range (battery discharge 80%) at 4 Kn submerged speed, approx. 240 NM; at 6 Kn submerged speed, approx. 120 NM; at 16 Kn submerged speed, approx. 16 NM.
Total cruising range (snorting speed 6 Kn) at 4 Kn submerged speed, approx. 5400 NM; at 8 Kn submerged speed, approx. 3200 NM; at 16 Kn submerged speed, approx. 1500 NM.
Provisions for 30 days.
Complement 16.

PROVISIONS

Capacity of fresh water tanks, approx. 13,0 m³.
Capacity of drinking water tanks, approx. 3,7 m³.
Capacity of fuel oil tanks, approx. 23,0 t.
Food provision, 1,8 t.
Soda lime, 1,9 t.

PROPULSION PLANT

Propeller, 1.
Propulsion motor (sea water temperature 28°C) approx. 1 x 1320 kW; 1600 PS at 290 RPM max.
Diesel output when snorting (air temperature 40°C in front of the suction filter, sea water temperature 35°C), approx. 2 x 405 kW, at 1500 RPM.
Batteries, 3 x 120 cells (3 x 32 t).

ARMAMENT

8 swim-out torpedo tubes for short or long torpedoes; torpedoes SUT, MK 37 and NT 37 (6 long and 4 short or 16 short torpedoes).
A mine chamber with 24 mines can be mounted.

ACCOMMODATION

Commanding officer's cabin for 1 person.
Officer's living quarters for 4 persons.
Chief petty officer's, petty officers and ratings accommodation for 11 persons.
Reserve for 3 persons.
Galley.
1 lavatory with wash basin and WC.
1 washroom with shower, wash basin and WC.

YORKTOWN HEIGHTS, N.Y.,
October 24, 1979.

Hon. MARK O. HATFIELD,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: Following up on my letter of August 31, 1979 in response to your request for comment on the small-submersible basing option for ICBMs, I want simply to estimate the 10-year cost of such a system. The system concept is that of my earlier letter, with 4 Minuteman III missiles in individual capsules (neutrally buoyant) carried horizontally alongside a submersible of some 300–450 tons. Such a system would also be suitable to carry 2 encapsulated MX missiles per submarine.

I have not seen a recent cost breakdown of the proposed "racetrack" deployment of MX, but MX missile development cost must be in the range of $6 B, MX missile unit production cost on the order of $15 per missile, and manning costs on the order of $100,000 per man-year.

The comparable investment costs for a SUM (shallow undersea submersible) basing of Minuteman III include some $3 B for development and modification of Minuteman III to a missile capable of encapsulated horizonal carriage, $30 M each for the 450-ton submersibles, and $100,000 per individual for the 15-man crews (2 crews per submarine). To this must be added the cost of in-port facilities, which must be carefully selected if they are not to contribute excessively to the overall system cost. The simple submarines, with shallow draft, and the encapsulated missiles minimize the amount of in-port maintenance required and allow great flexibility in basing. For instance, it is not necessary to use deep-draft dock space; the submersibles can be moored in the waters of the harbor.

The investment cost of the Minuteman-III SUM system is dominated by the $5.3 B for developing and modifying some 300 missiles and building 75 450-ton submersibles. Operating costs are dominated by the perhaps $3 M annual bill for total manpower costs (salary, benefits, training, and the like) for the 30 men of the two crews assumed for each submersible. The cost for investment and 10 years of operation of such a system is thus in the neighborhood of $9 B, assuming that other cost elements are small.

A system for preserving 100 MX missiles against Soviet attack, assuming that 80% of them can be kept at sea, would involve 125 MX and some 63 450-ton submarines to carry them (2 MX per submersible). This would be comparable in post-strike capability to the land deployments considered for MX, in which some 50% of the missiles could be destroyed by the assumed Soviet force which might be allocated to their destruction. From the cost elements previously assumed, such a SUM system would involve investment costs of some $10 B for missile development and procurement, and for manufacture of the 63 submersibles. Ten-year manning would add some $2 B, for a 10-year system cost in the range of $12 B. Of course, the MX SUM system could inherit from an early Minuteman-III SUM system the submarines, training, bases, and the like.

A system with the same first-strike capability as a 200-MX land deployment would involve some 100 submersibles and, according to these same planning figures, would have a cost, for investment and 10 years of operation, of some $15 B. I believe that it would constitute a far less vulnerable system, and one of no less capability than has been estimated for the best land-based deployment.

I look forward to the results of more detailed study than I have been able to give this problem. My judgment on technical feasibility and schedule is considerably more firm than on 10-year cost, but it is clear that the SUM system is far cheaper than would be either the racetrack or the vertical-silo deceptive basing of MX on land.

Sincerely yours,

RICHARD L. GARWIN.

Mr. HATFIELD. It is the belief of these scientists that the SUM/Minuteman III alternative will save years of theoretical U.S. ICBM vulnerability, save the American taxpayer tens of billions of dollars, pose virtually no environmental, legal or verification problems, and do nothing to destabilize the nuclear strategic balance. In short, the SUM/Minuteman III alternative offers dramatic strategic, budgetary and logistical strengths when compared to the proposed MX racetrack. It is vital that the Senate give consideration to the alternative before we become hostage to a deeply flawed MX proposal. Let me cite these strengths in more detail.

TIME/U.S. VULNERABILITY

President Carter has termed the theoretical vulnerability of our ICBM's to a Soviet first-strike attack "our most pressing strategic problem." But there is a very grave danger that the Carter decision, to redress this problem through deployment of the new MX in a racetrack scheme, might aggravate the problem of vulnerability by locking the United States into a decade of complicated missile development and land-based mobile deployment that serious strategic analysts believe might never be fully built.

Even if the MX scheme is finished within the decade cited, an increasingly dubious assumption, there is real concern that Soviet technological breakthroughs, or abandonment of the warhead limits under SALT II by 1986, will vitiate the entire MX concept. A mountain of environmental and legal action awaits the first shovelful of dirt in the Southwest desert. The Soviets have already complained about the proposed deployment scheme of the MX. The Air Force is already talking about the need to place an ABM system of untold expense around the MX site, an admission of the potentially deep inadequacies of the MX scheme for meeting in an effective and timely fashion supposedly the greatest strategic problem we face.

To be more specific, the Air Force assures us that the entire MX project can be built and functioning in the middle of the desert by September 1989. That is a decade from now. The Department of Defense estimates that the theoretical U.S. ICBM vulnerability to Soviet attack will become severe around 1983. Therefore, even the most optimistic Air Force assumption assures this Nation of at least 6 years of direct ICBM vulnerability by deployment of the MX. This means that during times of international crisis in the years ahead, the United States will presumably have adopted, as Secretary of Defense Brown has indicated, a launch on warning strategic stance for our ICBM force. I know of no one who does not consider this alteration of U.S. policy an extremely dangerous decision. It is therefore in everyone's interest for the United States to seek alternatives which will dramatically limit this vulnerability.

But consider the problems—environmental, legal and construction problems will work against even the September 1989, deadline. Simply to build the MX racetrack, the fourth largest city in Nevada will have to be created and sustained in the middle of the desert. For example, the project will require (and

these are only the latest tentative figures): 2 million tons of cement; 40 billion gallons of water for construction alone; 136 megawatts of power; 430–540 million cubic yards of earth; 160,000 tons of reinforcing steel; 48 million tons of sand; 140–210 million gallons of asphalt; a 64,000 population increase; 24,000 new housing units; and 23–28 million gallons of liquid asphalt.

These figures give the broad outline of the largest and most complicated project in U.S. history. Given the time and cost overruns associated with Department of Defense projects that have become a near legend over the years, and given the environmental and legal battles already being formed, do any of my colleagues reasonably believe that this massive project is going to come in at the 1989 deadline? And I will remind my colleagues that every year in court, every year of construction delay, and every year of bureaucratic inertia, are years added to the already 6 years of guaranteed U.S. ICBM vulnerability under the MX project.

SUM

By dramatic and direct contrast, the deployment of part or all of the Minuteman III missiles in the SUM proposal could begin by 1983 and end by 1986. There would be no unique or serious construction delays as would with MX. They could be built in almost any major shipyard. The designs for construction exist, Germany has already floated a fleet of similar submarines. In fact, construction of the submarines would be a tremendous boon to a number of U.S. shipyards suffering serious economic and unemployment problems.

In addition, the invulnerability of the 200 MX missiles will only occur during the final stages of construction—1988 or 1989. With Minuteman III deployment at sea in SUM, proportionate invulnerability occurs as soon as the first submarine is launshed in 1983. This is a major attraction associated with deploying the existing missiles rather than waiting until 1986 when the MX missiles have finally been researched, tested and constructed.

The massive environment concerns associated with MX—which might face unnecessary delays—simply do not exist with SUM. Moreover, the SUM system would be easily verifiable and fall without difficulty within the limits of SALT II. In short, the complex problems which seriously threaten the already decade-long timetable of the MX scheme do not exist for SUM.

Dr. Garwin believes that the 1983–86 timetable for SUM Minuteman III deployment is not just feasible—it is practical. At a minimum, therefore, the SUM proposal I offer today as an alternative to the MX could save 3–4 years of our theoretical ICBM vulnerability, the very problem which the President has termed the most dangerous strategic problem we face.

COSTS

The Air Force assures us that the MX racetrack and the 200 missiles to be shuttled among them can be built for $33 billion. Again ignoring for the moment the environmental and construction problems associated with the MX project, which may well drive up costs, the Congressional Budget Office estimated the inflation-adjusted cost at about $48 billion.

But Mr. President, even these unprecedented expenditures for the American taxpayer do not begin to reflect the ultimate costs involved.

I ask unanimous consent at this point in my remarks to have printed in the RECORD an article which appeared on August 7, 1979, in the Washington Post detailing the intent of the Air Force to possibly deploy an ABM system around the MX site.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AIR FORCE SUGGESTS REVIVING ABM TO PROTECT MX

(By George C. Wilson)

Even after a $30 billion outlay to make the new MX blockbuster hard to hit by hauling it back and forth in tunnels or around a race track, it still may need a revived anti-ballistic missile to protect it.

The Air Force acknowledges that possibility in recently released Senate testimony, terming the combination of the MX and ABM "a very happy marriage" for offsetting the threat of a barrage of Soviet warheads.

Rep. Les Aspin (D-Wis.), however, says that the Air Force testimony raises doubts in his mind about the wisdom of the MX project.

"It's time to seriously consider whether maintaining a huge, land-based ICBM force is really worth it at all," he said in a statement issued after reading the Senate testimony. Aspin said the prospect of having to build the ABM to protect the MX adds "a whole new dimension" to the debate.

Maj. Gen. Kelly Burke told the Senate Armed Services Committee at a closed session in April that the Soviets might decide to deploy enough warheads to bombard all the shelters to be built for the MX, which is still under development.

Under the Air Force scheme, each MX would be shuttled among 25 underground shelters so Soviet gunners would not know which one to aim at.

"The Soviets," Burke told the Senate committee, "have to attack all 25 in order to destroy" one MX missile.

"But with the Army's ballistic missile defense system in a mobile mode," Burke continued, "we could preferentially defend the occupied shelters and ignore the others."

In other words, the Air Force would make the ABM mobile along with the MX—presumably by putting some part of the warhead defense on its own wheels or tracks. The ABM would then concentrate on protecting the silo which held the MX missile without giving away the "shell game."

To be sure of breaking through the ABM shield, the Soviets would have to shoot two warheads at each of the 25 MX shelters, said Burke, who called such an effort prohibitively expensive.

Burke is director of operational requirements in the Air Force's research office. His superior, Lt. Gen. Thomas Stafford, deputy Air Force chief of staff for research, also portrayed the ABM as a potential guardian of the MX which is expected to be deployed in 1986.

Under the strategic arms limitation treaty before the Senate, the United States and Soviet Union could not arm a single missile with more than 10 warheads. However, the Pentagon has said that the Soviet SS18 missile already in the inventory has enough lift to carry 30 warheads.

Burke and Stafford see the ABM as a desirable protection if the Russians deploy more than 10 warheads on each missile after the SALT II treaty expires in 1985.

Stafford told the Senate committee that shuttling the MX from one shelter to another would be enough protection "for a period of time.

"But," he added, "if the Soviets should increase their number of boosters overtly or covertly, or number of re-entry vehicles, a ballistic missile defense could help offset that." Stafford said he did not know how much an ABM for MX would cost.

The Army spent $6 billion on the ABM from 1968 through 1975 before abandoning the idea of stopping a bullet with a bullet. Research on advanced ABMs has continued since then.

The testimony by Burke and Stafford comes at a time when some specialists are quietly advocating a heavier investment in weapons designed to defend the nuclear offense.

(Mr. PRYOR assumed the chair.)

Mr. HATFIELD. The ABM around the MX is not a strategic figment of some defense planner's imagination. With the MX deployment scheme, the option to Soviet breakout after 1985—or technological improvement in accuracy—an ABM is the only viable option to the constant building of shelters and racetracks every time the Soviets add warheads to their arsenal. The cost of such an ABM system?

The Army's tentative analysis indicates that a minimum of $4–6 billion in constant dollars would be required to be added to the $33 billion cost of the project to ABM the MX site. I stress that this is, according to the CBO, a very tentative figure. It could be far greater. Furthermore, the ABM system, no matter what the cost, will not be ready until the early 1990's. With an ABM system, and in inflation-adjusted terms, MX may cost at least $55 billion. This total assumes that there will not be a single day of environment delay, and that construction of the largest project of its kind in history will not meet any unanticipated delays.

Our experience with such cost overruns is, however, painful. A recent report by the General Accounting Office, the Systems Acquisitions Report, showed that 55 major Pentagon projects were initially estimated to cost $125 billion. As of September, 1978, the total cost of those projects was put at $210 billion. The GAO reported that 33 percent of the $85 billion increase can be attributed to inflation. The other $57 billion is the clear result of waste, bad planning and mismanagement. This $57 billion cost the average American family $1,140. What would be the cost overrun of the MX scheme? This is, of course, uncertain. A recent study by the machinists' union, for example, puts the cost of MX at $70 billion.

On top of all this, we assume that the Soviets will be benevolent enough to continue the warhead limits under SALT II beyond 1985, or that they will not acquire the capability of destroying the MX shelter with a single warhead, rather than the two now needed. The first of these eventualities will throw the United States into a highly dangerous and costly race with the Soviets. We will be forced to build a $2 million shelter every time the Soviets fractionate a warhead. The second eventuality, a Soviet technological breakthrough in accuracy or retargeting capability, will

totally vitiate the MX concept. By the late 1980's, the MX racetrack system may well be a $30 to $70 billion dinosaur lying useless in the desert, made extinct by the ongoing, complex rush of technology, environmental laws, and construction delays.

SUM

By contrast, the costs of the SUM/Minuteman III alternative are far more controllable. The submarines have already been built in West Germany, as I have indicated. Cooperation arrangements between the Federal Republic of Germany and the United States could speed building of the SUM fleet and minimize costs. A crash building program could be dispersed to a number of shipyards around the country.

Dr. Garwin estimates that the Minuteman III missiles can be redesigned and encapsulated for submarine launch for a total cost of $3 billion. Construction of the SUM fleet could occur for $6 billion. A total cost of $9 to $15 billion, depending on how large a percentage of the Minuteman III force was needed in SUM, would, in the opinion of these experts, be within conservative fiscal projections.

Most importantly, costs of the SUM/Minuteman III alternative would not be held hostage to environmental or legal actions, nor would they be forced upward through a breakdown of SALT or any conceivable near-term breakthrough in Soviet technological capabilities. Any Soviet threat to the entire SUM fleet would require, one, a major Soviet breakthrough in submarine detection and the building of a massive anti-submarine-warfare—ASW—force; and, two, a large-scale offensive incursion of ASW forces into U.S. coastal waters—probably itself an act of war. Most technologists agree that neither of these eventualities is possible within the foreseeable future. This contrasts sharply with the almost predictable Soviet technological breakthroughs needed to threaten the MX force on land.

Therefore, the SUM/Minuteman III alternative could save $15 to $50 billion in the next decade when compared to the projected costs of the MX.

COUNTERFORCE

MX

Mr. President, I have commissioned a Library of Congress study which has confirmed that the MX missile force will give the United States a first-strike counterforce capability against Soviet ICBM silos with tremendous residual strategic power remaining.

The combination of increased warhead yield, increased numbers of warheads, and increased accuracy of each warhead with the MX will mean that the lethality of U.S. ICBM force alone will be increased by a minimum of 450 percent. Once the MX system is deployed, it will pose an immediate threat to the entire Soviet land-based force.

The U.S. first-strike counterforce threat with the MX will dwarf the Soviet counterforce threat posed by the SS-18, SS-19, and SS-17 rockets. Fully 70 percent of Soviet warheads rest atop their land-based missiles. Some 25 percent of U.S. warheads rest on our ICBM's. If the strategic situation were reversed and the Soviets deployed a missile system that would be an immediate threat to 70 percent of our arsenal in a first-strike attack, who among the Members of the Senate would not draw the very darkest conclusions about U.S. strategic position and Soviet intentions?

We must understand that pursuit of the immense lethality of the MX missile will not be without serious consequences. The positive effect is that we will be able to say we have matched the Soviets large ICBM capability, while de-emphasizing the vast U.S. lead in submarine and bomber forces. But the negative factor of MX deployment will be that it will require the Soviets to take one or more of three very dangerous strategic steps. First, the Soviets may move to make their land-based missile system mobile. We have no guarantees that they will build a verifiable system.

Indeed, if the Soviets build precisely the same racetrack scheme that is being pursued by the United States, I can envision resounding cries of protest from a number of my colleagues, who will no doubt be uncomfortable with the possibility that Soviets may secretly deploy stockpiled missiles into shelters avoiding U.S. detection.

Second, Soviets may, as we have already indicated we shall, move to a launch-on-warning strategic stance. No one here needs to be apprised of the extremely dangerous situation this raises in times of international crisis and nuclear alert.

Third, the Soviets may begin to ABM their missile fields. Once we force perfection of ABM systems for missiles, does anyone truly feel confident that we will not move from the ABMing of missile fields to the ABMing of cities? This, in turn, could force the abrogation of the one solid accomplishment of the SALT process: limitation on ABM systems.

The question must be asked, Mr. President: If we are moving to make our ICBM force invulnerable, through either a land-based or sea-based deployment, why do we then choose to make that invulnerable missile force into a first-strike counterforce weapon? Such a decision, if the MX missile force is deployed, will give the United States a unilateral first-strike capability against Soviet ICBM sites. This will unnecessarily endanger the strategic balance and force the Soviet into decisions which could put a hair-trigger on nuclear war.

SUM

The SUM concept envisioned will place the present Minuteman III force of 550 missiles on 138 small coastal submarines. Four encapsulated missiles per submarine will patrol one-half million square miles of U.S. coastal waters. The Library of Congress has assured us that the present Minuteman III force, while offering a wide range of strategic options, does not constitute a first-strike counterforce threat at the present time.

In addition, deployment of Minuteman III aboard the SUM system will allow for the United States to actively pursue a proposal considered by both sides during the SALT II negotiations at Geneva. This proposal, last offered by the Soviet Union in the spring of 1978, would place a mutual moratorium on the deployment of new land-based missiles. This would be a tremendously positive step forward in trying to grasp control of the burgeoning nuclear arms race and to halt Soviet ICBM growth. In addition, the United States, with the existing Minuteman II missiles remaining on land, would have a four-sided strategic "mix." This would be far preferable to a continuation of a triad, the MX land-based leg of which will become highly vulnerable to theoretical Soviet attack by late in the decade.

Finally, Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received from Drs. Drell and Garwin responding to possible concerns raised by those objecting to the SUM proposal. The response is to questions of verifiability and possible vulnerability of SUM to surf zone turbulence, referred to as the Van Dorn effect. I ask that the portion of the letter dealing with these two subjects be reprinted in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

1. VERIFIABILITY

The SUM proposal differs in no essential way from the practice for SLBM verification already accepted at SALT. Indeed, it capitalizes on the change from SALT I, which limited number of submarines in the missile fleet (or SSBN's to SALT II which counts only the number of launchers, i.e., the number of missile tubes. The SLBM's enter the official launcher inventory after sea trials and commissioning. Procedures for submarine construction would conform with the agreed rules ("no deliberate concealment") presently in force. We know of no credible way to construct in secrecy a fleet of 130 foot long, 30 foot wire, 900-ton systems (approximately 450 tons for the submarine and a comparable weight for the encapsulated missiles—perhaps four to a boat if they are suitably adapted Minuteman III's). Furthermore, the support network for construction, outfitting, missile handling, launching, and sea trials would be identifiable with confidence by present practice. The Soviet Union would surely have no credible basis for challenging U.S. procedures—nor have they for U.S. SLBM's/SSBN's in the past. There is no basis for U.S. loss of verification vis-a-vis comparable Soviet programs. The main point is: there is nothing required for SUM verification in addition to what has already been agreed to at SALT. In contrast, the requirements for cooperative assembly and operational procedures for the MX racetrack system are entirely new departure and an extension of SALT verification requirements.

2. SURF ZONE EFFECTS

Analysis indicates that in coastal waters of depths less than 400 feet there would be serious surf, zone waves and turbulence generated by nuclear detonations farther offshore. We do not advocate deployment of the entire SUM force in such shallow waters. Our proposal calls for deploying this force in coastal strips 200 miles wide in order to distribute the mini-subs over a broad enough ocean area so that the force cannot be barraged at any depth. In particular, the Pacific waters rapidly become deeper than 400 feet beyond a few miles near coast whereas the continental shelf off the Atlantic Coast drops below 100 fathoms or 600 feet within a distance of less than 100 miles from the coast line. There is thus no surf zone problem (van Dorn effect) for the survival of the SUM force although a fraction of the submarines in

transit or in port might be destroyed. In fact for the Soviets to develop any barrage threat to the SUM force would require their development and testing of new missile RV's designed to penetrate to deep ocean depths. Only then would the full energy of the explosion remain in the water. However, even if we make a very conservative assumption of SUM vulnerability to a shock wave at a distance of six miles from a 1MT detonation it would require 5,000 attacking megatons to destroy a SUM force loading one-tenth that magatonnage and deployed in a 200-mile wide belt. Of course the submarines could be deployed in a wider belt, requiring thereby more megatonnage to barrage.

We hope these comments are useful to you.

Sincerely,

RICHARD L. GARWIN,
SIDNEY D. DRELL.

Mr. HATFIELD. Mr. President, I also ask unanimous consent that another letter received from Dr. Garwin dealing with questions of command, control, and accuracy capabilities of the SUM system be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

YORKTOWN HEIGHTS, N.Y.,
November 6, 1979.

Hon. MARK O. HATFIELD,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: In response to your request, I am providing further detail on the command, control, and communications for the shallow underwater missile system (SUM), as well as on the achievable accuracy.

A normal means of reception of command signals by the deployed SLBM fleet is via VLF radio from a fixed-based 16 kilohertz transmitter at Cutler, Maine. In case this transmitter is destroyed, the Navy has long maintained a backup fleet of P-3 aircraft with powerful VLF transmitters and a long trailing wire antenna. Our submarines on patrol can receive these signals by means of a buoy towed a few feet below the ocean surface, or on a floating wire trailed by the submarine. The SUM system can use these standard techniques. A better system (and one available also to the Poseidon and Trident submarines) would use an expendable molded plastic buoy weighing less than a pound, packaged with a spool of very fine plastic-insulated wire about 6 miles long and carried in a dispenser with some hundreds of its fellows outside the hull of the SUM submarine. The buoy would contain a small ferrite-rod antenna for VLF, such as is contained in the small transistor-radios one buys for a few dollars. For VLF no battery is required, but the expendable buoy can also be used to receive a UHF signal direct from the strategic command, control, and communication transmitters placed on satellites and commanded to operate when the VLF transmitter and the TACAMO aircraft are destroyed. A small battery and amplifier receive this signal and translate it to the VLF band so that it can be transmitted via the wire to the submarine. One can economize a bit further by limiting most of the buoys to VLF receive capability, with a set of UHF receiving buoys available if the VLF signal is not received. The connecting wire is paid out freely by the submarine as it patrols, like the fishing line from a "spinning rod," or the string from a cone of string in the bakery shop. Because the supply is exhausted in about 2-3 hours, many buoys are to be found on the ocean surface, and finding a buoy does not indicate the presence of a submarine, thus maintaining the invulnerability conferred by concealment. There is clearly no problem in having the requisite number of such buoys produced by 1982, or by the time modified Minutemen (or submarines) could be available.

Submarine-launched ballistic missiles have traditionally been less accurate than our most accurate missiles launched from silos, because of the uncertainty regarding submarine location, orientation, and velocity. Both Air Force and Navy contractors have studied the use of NAVSTAR receiver-computers which could be incorporated in the guidance system of the missile itself to determine repeatedly during missile powered flight the position of the missile to 30-ft. accuracy and its velocity to a few hundredths of a foot per second. It is cheaper to obtain good accuracy this way than by an all-inertial system, and one can do without the delicate and costly inertial navigation system now used in the submarine itself. Furthermore, reception of the NAVSTAR signal during all of powered flight would essentially eliminate all guidance errors and would leave as missile inaccuracy primarily the wander of the reentry vehicle as it returned through the atmosphere. Compared with the 0.1 nmi (nautical mile)—600 ft.—projected for accurate Soviet silo-based ICBMs, NAVSTAR-guided missiles could achieve 150-ft. accuracy, if desired.

The NAVSTAR signal would normally be provided by a constellation of 24 satellites in intermediate orbit, which would have many other uses. Because of the large cost of shifting existing users of other navigation systems to NAVSTAR, DoD may not deploy NAVSTAR as rapidly as is feasible. Furthermore, although NAVSTAR would be available to our strategic forces worldwide for guidance before the outbreak of high-intensity nuclear war, the satellites themselves could be destroyed by a concerted Soviet effort to do so. The SUM system would patrol within a few hundred miles of U.S. shores, and so the SUM missile NAVSTAR receiver-computer could receive line-of-sight signal from many NAVSTAR-like transmitters which could be deployed on U.S. soil—too many (with similar-appearing decoys) for the Soviet Union to attack. Reception of these signals would provide similar accuracy to the NAVSTAR satellite signals themselves under most circumstances. During a heavy nuclear exchange, best accuracy might be maintained by terminating the influence of radio guidance at the time the missile enters the ionosphere (about 50 miles altitude), because of the increased and variable electron density which can increase the position and velocity uncertainty available from the radio system. These ground-based transmitters would constitute an "inverted NAVSTAR" or "inverted global positioning system"—inverted GPS or "IGPS."

Whether or not NAVSTAR is deployed by 1983 or 1985, the inverted NAVSTAR system could easily be deployed by then, since weight, reliability, power requirements, and design are all significantly easier for ground deployment than for space.

Sincerely yours,

RICHARD L. GARWIN.

Mr. HATFIELD. Mr. President, in short, Mr. President, the SUM/Minuteman III alternative I present today holds out tremendous strengths when compared to the MX racetrack system. It can save many years of strategic vulnerability, it can neutralize first-strike counterforce capabilities on both sides in the decade ahead, it can save tens of billions of taxpayers' dollars, and it offers fresh arms control possibilities for the immediate years ahead. It is critical that the Senate exercise its duty to the American people and future stability of the arms race by insisting that this option be given comprehensive analysis before we embark on the most complicated project in the history of this Nation, and perhaps the world. For the MX project may have the ironic and tragic effect in the long-run of deepening this Nation's vulnerability to strategic attack or economic challenge from the Soviet Union. All of my colleagues are fully aware of the difficulties in stopping a program once we have committed billions of dollars to its continuation. This amendment urges that a strategic option which has the backing of some of the finest scientific minds of this country be fully explored prior to such a dangerous and wholesale commitment to the MX missile and its basing scheme.

Now, Mr. President, I would like to pause at this moment to recognize the distinguished Senator from Illinois (Mr. STEVENSON) so that he has an opportunity to make some remarks, and I will yield him such time as necessary for that purpose. Before I do that I ask unanimous consent to add Senator STEVENSON as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I commend the Senator for offering this amendment, for his persuasive arguments in behalf of the amendment, and I also thank him for adding me as a cosponsor.

Before I make a few observations in support of the amendment I wonder if the Senator would be good enough to yield for a brief question.

Mr. HATFIELD. I would be happy to yield.

Mr. STEVENSON. The Senator referred in his comments to a diesel electric submarine, that was developed and manufactured by the West Germans. Does the Senator know what the cost of such a submarine, in which an MX or a Minuteman III missile might be based, is?

Mr. HATFIELD. Yes, about $30 million per submarine is the estimated cost of this type referred to as submarine type 600, German type.

Mr. STEVENSON. I thank the Senator.

Mr. President, it is my understanding that estimates of the relative costs of these two basic modes, if that submarine is used, produce a difference of about $35 billion. These estimates are, of course, imperfect, but based on the use of the submarine to which the Senator referred. It is possible, if not probable, that the racetrack system could cost some $35 billion more than the SUM system and without the vulnerability.

I support the amendment of the Senator from Oregon which would delete $670 million from the Department of Defense appropriations bill for development of the MX missile and its basing system which the President has decided should be the "racetrack" system.

The development of a land-based MX missile will not restore the deterrence eroded by the vulnerability of Minuteman. We would only invite the Soviets to match our efforts and, with improvements in accuracy, eventually make the MX as vulnerable as the Minuteman.

The racetrack basing mode requires

outlays for a system that is dependent on SALT II ceilings to be minimally effective and long after SALT II has expired. We are urged to support this basing mode in the hope that unratified and unnegotiated SALT agreements, or Soviet restraint, will reduce Soviet warheads to a level that can with confidence be survived by U.S. missiles based in the race track. That is not a safe assumption.

It is more prudent to counter the growing vulnerability of the Minuteman with a basing mode, using either the MX or existing missiles, that provides incremental deterrence as it is built, rather than devote vast resources to a dubious scheme that will not be effective until the last increment is in place, perhaps 10 years hence, and only then, if it is environmentally, fiscally, and technologically sound—and if the Soviets do not deploy weapons which require the United States to supply still more aiming points in what could become an endless escalation of the strategic arms race.

The proposal of the Senator from Oregon to delete $670 million for the MX, which includes, according to my understanding, about $235 million for development of the basing mode, is sound. We need to study alternatives. The shallow underwater missile system—SUM—which the Senator from Oregon suggests be studied is one such alternative. There are others. What is needed is a careful analysis, separate from the politics of the SALT debate, before we commit ourselves irrevocably to a "racetrack" that the administration says will cost $33 billion but which other estimates put at $60 billion and up.

The time spent studying alternative basing modes need not delay replacement of Minuteman. The development of such missiles, necessary, could proceed, with the decision on the basing mode to follow and with no delay for deployment.

Alternative basing modes may provide more invulnerability at less expense and without the destabilizing implications of a mode that ultimately relies on good faith for verification. If the Soviets were to approve a similar racetrack in a closed society and with vast expanses of land to hide it, I doubt we could accept the adequacy of our ability to verify its numbers or characteristics. This "racetrack" therefore, threatens to undermine the very basis of SALT which is an ability to monitor the activities of the other side by national technical means and with confidence. It would be better to pick up from SALT I and encourage the movement of missiles to sea with better prospects for verification and survivability for both sides. All the basing mode possibilities should be studied before embarking on this expensive and dangerous program.

For those reasons, Mr. President, I urge the Senate to approve the amendment offered by my good friend the Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the Senator from Illinois for his kind remarks, and wish to express my deep appreciation for his interest in and cosponsorship of this measure, and for the leadership he has provided in the Senate's consideration of arms control matters for many years.

Mr. President, let me emphasize again that the $20 million that remains in the budget in this amendment I am proposing would be given over to the SUM program in bringing it to a point of construction and deployment.

Mr. President, what is the remaining part of my time?

The PRESIDING OFFICER (Mr. CHILES). The Senator from Oregon has 62 minutes and 26 seconds.

Mr. HATFIELD. I thank the Chair.

Mr. President, I reserve the remainder of my time.

Mr. HATFIELD. I yield myself such time as is necessary.

Mr. President, I ask unanimous consent to have printed in the RECORD comments from a point paper put together by the Air Force. It is entitled "Point Paper on Shallow Underwater Missile Systems."

The U.S. Air Force has made some charges or has made some rebuttals to my proposal, and I would like to go over them briefly.

In response to my assertion that:

The Shallow Underwater Missile System (SUM) alternative will be fully deployed at least 3-4 years sooner than the MX system, thus solving the vulnerability problem of our ICBM force at the very time in the 1980's when the Soviet first-strike threat is expected to be severe.

The Air Force has said that:

The initial operating capability of the SUM system is unknown. If, as the U.S. Navy suggests, new larger submarines must be developed, and new submarine support facilities must be built, the initial, and full operating capability, may occur much later than for the MX. Kosta Tsipis, a nuclear physicist from MIT and an opponent of land-based missiles, wrote in the November issue of Scientific American magazine: "Such a coastal submarine-based system could not be ready for deployment in the next decade or so."

The U.S. Navy is not able at this time to estimate how long it will take to deploy the system.

The small submarines in the SUM system would by no means be "large" by any definition. The SUM submarines will weigh about 450 tons. By contrast, the Trident submarines weigh 18,000 tons. These submarines have already been built and launched by the Germans. Full speed construction and deployment on an urgent basis could occur rapidly. Plans for construction exist now. It is by no means certain, according to Drs. Garwin and Drell, that substantial support facilities will be needed. In fact, the submarines are purposefully made simple by design. They could be adequately maintenanced by "tender ships"—thus rarely having to put into port. Land-based support systems needed for the massive Trident ships could be minimal in the case of the SUM submarines, and would be unlikely to slow a decision toward rapid deployment.

By contrast, MX guarantees at a minimum 6 years of Minuteman vulnerability. This assumes that there will be absolutely no environmental or construction delays in the largest construction project in history—an increasingly dubious assumption.

This morning I received a letter at my request from Professor Tsipis at MIT. He put it over the telephone for us so that we would have an immediate response. It is dated November 9, today.

DEAR SENATOR HATFIELD: In responding to your inquiry regarding the possibility of deploying Minuteman III missiles on a shallow underwater mobile system (SUM), the Air Force, it is my understanding, has quoted me as saying that such a basing system would require ten or more years to develop and deploy. I believe this is a misunderstanding that I would like to rectify.

In my article "Land-Based Intercontinental Ballistic Missiles" that appeared in the November 1979 issue of Scientific American, I state that the development and deployment of a new small submarine using a novel propulsion system and capable of carrying two MX missiles each weighing 195,000 pounds would probably take ten years. On the other hand, it is not necessary for the U.S. to confine the response to the perceived vulnerability of the silo-based Minuteman force to such an r & d effort. A much earlier deployment of MM III missiles on a SUM system can be achieved if we use the 450-ton diesel/electric submarine already developed and produced by West Germany.

This submarine can carry horizontally four MM III missiles in neutral-buoyancy watertight canisters external to its pressure hull. The canisters can be released to reach the surface of the ocean in a perpendicular position and launch the missile. Guidance, command and control, maintenance facilities preparation, and crew training requirements for these submarines have shorter time constants than the modification of MM III missiles for horizontal transportation. Therefore, the pacing element of such deployment will be the missile and not the submarine. Such missile modifications can be achieved in three years; consequently, initial operational deployment of the proposed system can begin in late 1983 or 1984.

Since the submarines represent a technology already at hand, the alternative basing for the MM III force that they offer is not only more secure in terms of the invulnerability they offer than the "race-track" basing proposed by the Carter Administration, but much less venturesome since it does not involve any research and development effort, and has no impact on the environment of the continental U.S.

Even though I have not studied the technical details of Dr. Garwin's proposal for basing MM III missiles on these submarines, and therefore I cannot have a firm opinion about it, I strongly urge that his proposal is seriously considered because it offers both rapid relief from the perceived vulnerability of silo-based MM III and opens the way for orderly development and deployment of an entirely new class of small non-nuclear ballistic missile submarines if they become necessary sometime in the future.

I will be happy to help you and your staff with technical information or testimony on this matter.

With best regards,

Respectfully yours,

K. TSIPIS.

I think that pretty well destroys the first argument used against our program by the Air Force. On the second point, the Air Force responds to my argument that:

In the long-run, the SUM alternative would save the American taxpayer a minimum of $15 billion, and probably a good deal more.

Now the Air Force challenges this statement on the ground that:

It is difficult (if not impossible) to reliably estimate overall system cost, but $12-15 billion appears optimistically low considering: the requirement to modify the Minuteman missiles for underwater carriage and dormancy; the development and production of the submarines themselves; the acquisition of the support infrastructure including new bases; R&D required for encapsulation technology; and the necessary maintenance and logistical support.

Long term and continuing operating costs of a submarine system will soon eat up any potential savings in capital investment.

The $3 to $6 billion cost of modifying the Minuteman III missiles is based on the Air Force's own estimate of the costs for encapsulating the Minuteman III missile for mobile deployment on land in the ALPS system. The costs of building the submarines is based on the present cost per ton of submarine construction. The total cost also includes projected 10-year operating expenses for the crews. Unlike the 100-plus crew members aboard the Poseidon and Trident subs, the SUM submarines, because of their simplicity of design and direct command and control links, would only require a crew of 12 to 15. Long-term operating costs of the SUM concept would therefore be kept minimal compared to the deepwater SLBM force.

By contrast, the proposed costs of the MX racetrack scheme are open ended. How many shelters will have to be built at $2 million a throw should the Soviets decide to end the warhead limits under SALT II when the treaty expires in 1985? The Air Force assures us that if the Soviets add a warhead, we will add a shelter. We are told that the Soviets could possibly have 17,000 warheads by late in the decade.

That alone would add a minimum of $10 billion to the system—with no end in sight. In addition, there is evidence that the Soviets will be able to add warheads far more cheaply than it costs the United States to build a shelter—a perpetually losing proposition. If the Soviets develop a capability to knock out a shelter with one warhead—the entire MX scheme is vitiated. We are also told an ABM system may be needed to guard MX from such a Soviet breakout. The cost of that? Well, how much? Another $10 billion, at the very least. In fact, in his recent newsletter, Senator HOLLINGS has pointed out that had the Soviet advantage in heavy missiles allowed under SALT II not occurred, "we would not be required to spend anywhere from $30 to $90 billion to disperse our MX's in a racetrack type mobile mode."

Clearly in the area of overall cost, the Air Force has a lot more explaining to do than those supporters of the SUM concept.

Now, the third point the Air Force makes is:

We must examine closely the environmental effects of having more than 100 nuclear armed, diesel submarines operating in our shallow coastal waters in close proximity to our shipping, fishing, and recreational areas. Further, we have no idea of the environmental impacts of developing the bases to operate and maintain 138 or more submarines. Our experience with a new Trident base points to these problems.

The environmental impact of the MX is now under detailed study and now from all indications appears to be manageable.

This rebuttal by the Air Force conjures visions of nuclear missiles floating just off shore, barely out of the way of water skiers, surfers, and fishermen.

In fact, the submarines would chiefly patrol a 200-mile strip of ocean up and down the entire Atlantic and Pacific coastlines. They would travel in waters of 400 to 600 feet. Each submarine would be roughly equal in size to a 50-foot pleasure boat. It would be submerged at nearly all times. To argue that some 100 submarines of this size patrolling in one-half million square miles of ocean poses environmental risks to fishing and recreational areas is stretching the bounds of rational thought. I have already spoken to the projected minimal needs of this fleet for land basing, and the possibility that these submarines can be serviced by tender vessels in harbor.

By contrast, the MX project poses as complicated a barrage of possible environmental and legal problems as any project in history. I will repeat from my speech: No less than 33 Federal laws bear on the question of land acquisition alone. This is the largest project ever undertaken. By any realistic definition the potential environmental, legal, and construction problems posed by the MX racetrack are truly monumental.

The fourth charge by the Air Force:

I am particularly worried about the verification aspects of this system. Very small submarines may be difficult to count and verify, but mostly I'm concerned about the encapsulation of the missiles which are carried externally on these submarines. These missiles could be transported from port, dropped off at an undersea location, and the submarine return to port to be "reloaded," making counting of missiles virtually impossible.

The Air Force is concerned that the encapsulated missiles aboard SUM might secretly be dropped off in some "undersea location" and be returned to port to be "reloaded," thus making the counting of missiles virtually impossible. This is an interesting concern, but it overlooks one rather essential point: there are only 1,000 total Minuteman missiles. We propose to deploy 550 existing Minuteman III missiles. The 450 existing Minuteman II's will remain on land as the fourth leg of the new SUM enhanced strategic arsenal. Minuteman production lines have been shut down. There can be no concern, therefore, that the United States could "stockpile" additional Minuteman missiles on the ocean floor.

Mr. President, to respond to the Air Force rebuttal on the verification of the SUM/Minuteman III proposal, I would like to read a letter from Dr. Drell which was sent in anticipation of this argument being raised. In this letter he states:

1. VERIFIABILITY

The SUM proposal differs in no essential way from the practice for SLBM verification already accepted at SALT. Indeed, it capitalizes on the change from SALT I, which limited number of submarines in the missile fleet (or SSBN's), to SALT II which counts only the number of launchers, i.e., the number of missile tubes. The SLBM's enter the official launcher inventory after sea trials and commissioning. Procedures for submarine construction would conform with the agreed rules ("no deliberate concealment") presently in force. We know of no credible way to construct in secrecy a fleet of 130 foot long, 30 food wide, 900-ton systems (approximately 450 tons for the submarine and a comparable weight for the encapsulated missiles—perhaps four to a boat if they are suitably adapted Minuteman III's). Furthermore, the support network for construction, out-fitting, missile handling, launching, and sea trials would be identifiable with confidence by present practice. The Soviet Union would surely have no credible basis for challenging U.S. procedures—nor have they for U.S. SLBM's/SSBN's in the past. There is no basis for U.S. loss of verification vis-a-vis comparable Soviet programs. The main point is: there is nothing required for SUM verification in addition to what has already been agreed to at SALT. In contrast, the requirements for cooperative assembly and operational procedures for the MX racetrack system are an entirely new departure and an extension of SALT verification requirements.

The Air Force goes on ad nauseam with their charges. The fifth one is:

REBUTTAL

There is no reason to suspect that the MX per se will force the Soviets to a mobile basing of their land-based missiles. The Soviets, who have already demonstrated a propensity for mobile systems, will move to mobile basing when their fixed sites become vulnerable and they become concerned about a U.S. first strike. I suspect they will be threatened by the accurate Air Launched Cruise Missile, the Trident, and perhaps even our Minuteman missiles. Therefore, it is important for the U.S. to have established the precedent of a system which is unquestionably verifiable.

There is no question that the MX is a prompt, first-strike counterforce weapon against the 70 percent of Soviet warheads on their land-based missiles. If we are responding by mobilizing our land-based missiles which carry 25 percent of our warheads, how can the Air Force possibly assert that the Soviets won't feel compelled to somehow protect their warheads? It is curious to assert that the Minuteman III force is the first-strike counterforce weapon when it presently has too few warheads to pose any credible first-strike threat. The air launched cruise missile will take hours—not minutes—to reach its targets and is therefore incapable of being involved in a surprise first-strike threat. Clearly the existence of the Minuteman force today, and the impending deployment of the cruise missile in only a few years has done nothing to "threaten" the Soviets into mobilizing their larger missiles.

There is absolutely no guarantee that the Soviets will copy the MX scheme when—and if—they go mobile. Other alternatives forced by deployment of the first-strike threat of the MX are conveniently ignored by the Air Force. They include a Soviet ABMing of their missile fields or, more dangerously, a Soviet move to land a "launch on warning" strategic stance in times of nuclear crisis. The United States has announced its active consideration of both of these highly destabilizing alternatives.

The Air Force's argument that MX would set a "precedent" in verifiable mobile systems infers that Soviet perceptions of verifiability are the same as our own. Not only is there no evidence

to support this argument, but Soviet statements indicate that there very well could be fierce objections to the racetrack basing scheme.

To my argument that the SUM/Minuteman III system would neutralize first-strike counterforce capabilities emerging in the decade ahead on both sides, capabilities which threaten to dangerously destabilize the nuclear balance in times of international crises, the Air Force responded:

Stability is gained by survivability and confidence in survivability. The MX will negate the political and military utility of the new Soviet ICBM by creating so many possible launch points that an enemy attack would be futile. This is a passive move that demonstrates our resolve to provide survivability without appreciably increasing our dependence on nuclear weapons.

The unknown vulnerabilities of a shallow-based system may create a lucrative first-strike target to the Soviets. Surely that would be a destabilizing situation.

Mr. President I challenge this argument on the grounds that stability is derived from two principal elements:

First, survivability of forces.

This is attained by SUM/Minuteman III which, because of its large deployment area and concealed nature provides for higher confidence in survivability than the MX racetrack system as it cannot be pattern bombed or barraged. It would be neither practical nor rational for the Soviets to deploy enough warheads to saturate one-half million square miles of ocean area. Furthermore, even if this were attempted, a significant number of SUM/Minuteman III subs would still survive.

In contrast, MX in the racetrack basing mode is subject to "pindown"—a succession of warheads detonated in the air over missile silos which prohibits effective launching of missiles because they cannot penetrate the radioactive shield which this creates.

The second principle is that stability is a function of deterrence, which is greatly undercut by an increase in pressure toward a launch on warning strategic stance.

If we are moving to make our ICBM force invulnerable (through either a land-based or sea-based deployment), why do we then choose to make that invulnerable missile force into a first-strike counterforce weapon?

Finally, in response to my argument that by fully protecting our missiles while not proceeding with the MX the United States could accept a proposal considered by both sides during SALT discussions to establish a moratorium on new land-based missiles and this would be a major step toward limiting the nuclear arms race, the Air Force response was:

I question how "fully" we protect our missiles in the SUM system. Certain nuclear effects may make the coastal submarine particularly vulnerable. The so-called "Van Dorn" effect can create a "surf zone" on the continental shelf. Under certain conditions, the entire area could be seen breaking waves several hundred feet high, with a duration of several hours. The "bottom effect" may significantly increase the damage range by reflecting and enhancing the energy from an attacking weapon.

MX, on the one hand, relies on proven and understood hardening techniques for land-based missiles.

The security and invulnerability of an MX system may be the step to bring us to serious negotiations to reduce our dependence on nuclear weapons. We must not abandon the Triad which has served us so well, especially in the face of a Soviet threat.

Mr. President, analysis indicates that in coastal waters of depths less than 400 feet there would be serious surf zone waves and turbulence generated by nuclear detonations farther offshore. We do not advocate deployment of the entire SUM force in such shallow waters. Our proposal calls for deploying this force in coastal strips 200 miles wide in order to distribute the minisubs over a broad enough ocean area so that the force cannot be barraged at any depth. In particular, the Pacific waters rapidly become deeper than 400 feet beyond a few miles near coast whereas the continental shelf off the Atlantic Coast drops below 100 fathoms or 600 feet within a distance of less than 100 miles from the coast line. There is thus no surf zone problem (van Dorn effect) for the survival of the SUM force although a fraction of the submarines in transit or in port might be destroyed. In fact for the Soviets to develop any barrage threat to the SUM force would require their development and testing of new missile RV's designed to penetrate to deep ocean depths. Only then would the full energy of the explosion remain in the water. However, even if we make a very conservative assumption of SUM vulnerability to a shock wave at a distance of 6 miles from a 1MT detonation it would require some 5,000 attackng megatons to destroy a SUM force loading one-tenth that megatonnage and deploying in a 200-mile wide belt. Of course the submarines could be deployed in a wider belt, requiring thereby more megatonnage to barrage.

Again, the SUM/Minuteman III concept does not envision the abandoning of the land-based leg of the Triad. There are 450 existing Minuteman II missiles that will remain on land. We would not abandon the Triad. We are creating a Quadrad.

Mr. President, it is wise to disperse nuclear weapons technology among the land, air, and sea in order to insure against enabling the enemy to focus on one or two areas with increased capability.

These arguments are valid, but they do not apply to SUM/Minuteman III because of its close proximity to U.S. coast lines. SUM/Minuteman III thus departs from the Diad concept in two important respects.

Command, control, and communication are maintained at a level equivalent to that of land-based ICBM's, unlike a Poseidon or Polaris submarine somewhere in the middle of the ocean.

Because SUM/Minuteman III will be deployed in U.S. coastal waters, it can be easily protected; in addition, great numbers of Soviet "killer" subs would have to travel great distances without being detected; thus, SUM/Minuteman III contains virtually none of the vulnerability characteristics of strategic submarines. Finally, because noise levels become very high the closer one gets to shore, present and projected ASW technology would be rendered incapable of distinguished between normal interference and noise generated by the SUM fleet.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I commend the Senator from Oregon for the work that he has done on this problem. It is a problem for all of us, a highly important matter in connection with our triad of strategic weapons, and the question of the modernization of the ICBM leg and is related to the Trident and Polaris submarines and also long-range bombers.

This is a long drawn-out program. It will take time to build. There is a great difference of opinion about the type of basing required.

But there is a great preponderance of opinion in the committee, and I think on the floor and in the House of Representatives, and the White House, everywhere, that while we regret it very much we are compelled to take a step.

This MX the Senator would strike out is the major step that needs to be taken now if we are really going to build up the land-based leg of the Triad.

His reference to a substitution of a small submarine is very sincere. I think at some stage it could well be considered. I cannot, for my part, give any encouragement to considering it in the 1980 budget. The 1980 budget year has already started, as we know, and this bill must move today, then go to conference and come back next week, or otherwise we will run out of time on our continuing resolution.

But in the beginning of the early consideration of the 1981 budget, we would be glad in our committee to give some consideration to the proposal being made, the so-called small submarine missile system that is mentioned here by the Senator from Oregon.

I think to really settle this matter today about the MX will require a vote on the Senator's proposal to strike the MX out of the bill. If that prevails, that ends the argument for now, perhaps. But I do not think we ought to strike the MX from the bill by any means.

This matter has been up before us now for 2 or 3 years with growing intensity. Now, a fairly definite plan, the research and development for the new missile, requires time. That time is running now and it will be running out. We must make a start.

Therefore, the authorizing committees, each, in the House and the Senate, this year have considered this matter. The committees, almost unanimously agreed to the MX as contained in the bill, and the same is virtually true in the appropriating committees, with all the facts before them.

This matter has already passed the House of Representatives in appropriation form with the figure still intact.

Now we are having this debate on the Senate floor. As I have said, it is very timely and, even though some phases are still in disagreement, the idea of having to go for the MX is almost unanimous.

I hope we can go along now and vote down this amendment. I believe if we do, then will come another understanding, or amendment, or agreement of some kind, with reference to the MX that will make it clear that this is not carte blanche authority to go all the way on the deployment of this new phase of this MX, the deployment of the horizontal system, as it is called, but that there will be another look by the Congress on that matter, the matter of the deployment.

In consideration today of the MX, there will be $400 million for research and development about which there is no real substantial dispute. Then the rest of that $670 million for MX will go for purposes that are not missile research and development, but will be spent in other ways.

I have a letter here from the Department of Defense addressed to our subcommittee, and I consider it for the whole Congress. We could not consider the Senator's amendment without this letter. It will be printed in the RECORD. It is from the Secretary of Defense with reference to the spending of the money beyond the research and development or the missile alone.

I believe that what is contained in that letter will correspond to most of the thinking here on the subject matter.

If we do not get some kind of agreement on that, we will just have to present it and see where the votes are.

My disposition would be that if we do not agree, we frame it up in such a way that we get clear and unmistakable votes on the amendment.

I favor legislation that would make it clear that this appropriation is not a carte blanche authority to proceed with the present basing of MX.

It is a reservation by the legislative branch, and the letter from the Secretary of Defense gives the interpretation that it is a reservation. That extra work must be done, and we must utilize the 2 years' time that otherwise would be lost. Whichever way the deployment goes, the present appropriation will be utilized, except in the neighborhood of about $50 million. That $50 million is a good deal of money; but with a project of this kind and considering the time that would be lost if we are not willing to take that load, the $50 million is not too big a price to pay. We will work out the details of that later.

I have asked Senators who have had different proposals to see if we can have a little meeting during a quorum call of 10 minutes, to see just where we are on the possibility of another agreement. I bring it up now because it reflects directly on the pending amendment.

The Senator from North Dakota is in the Chamber, and he has heard what I have said. I hope he is inclined to make a statement with respect to this matter.

Mr. YOUNG. Mr. President, it is always with great reluctance that I oppose anything advocated by my good friend from Oregon, Mr. HATFIELD. In this case, I feel that I must.

During SALT I, the Russians made their greatest gains, as I see it, in intercontinental missiles. At the start of SALT I, we were far superior to the Russians in intercontinental missiles, and overall nuclear power. Now they have the SS-18, which did carry one warhead of 25 megatons, which is a tremendous power in itself. But they are MIRV-ed now, so that the SS-18 carries 10 warheads, and it can carry up to 30 warheads.

We have the Minuteman III, which can carry three, and II with less. I believe this is one area in which we are greatly deficient in overall military power.

One thing that concerns me about SALT II is this great difference with respect to strategic nuclear power, particularly in the ICBM area, between the Soviet Union and the United States. I believe that we must go ahead immediately with the MX, a better missile. I do not think we need to be in a great hurry about how we will be deploying it, but it will take at least 3 or 4 years to come near finishing the research and development, and of course the deployment will come after that.

In any event, even going ahead as fast as we could, the MX would not be deployed until after the expiration of SALT II.

Mr. President, I hope the amendment is rejected.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, we have not had any other requests by Senators who wish to be heard on this amendment. If anyone wishes to be heard in opposition to the Hatfield amendment, we will be glad to yield time at this point.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. STENNIS. I yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I am as reluctant as the distinguished Senator from North Dakota to oppose the Senator from Oregon.

However, I do think, as I have said many times on this floor, that it is necessary for us to take a realistic look at our national defense posture, particularly one in which we might be required to implement a SALT treaty, and that posture has to be one of strength in a variety of ways.

The threat we face from the Soviet strategic missile force is now roughly balanced with our own capabilities—and I hope with our own will. The problem, of course, is becoming such that in the next few years, that threat will be unbalanced. I believe that the existence of a new missile production line is going to be extremely important to insure that we balance that threat so the threat never will be carried out.

It is unfortunate, in this time of human history, that we must deal with these kinds of weapons. Unfortunately, the clock cannot be turned back. If our civilization is to survive, it must survive through strength.

The distinguished chairman of the committee, I am sure, also realizes that our times are not unlike those of the 1930's, when the democracies of the world were unknowingly being threatened with their greatest challenge. A few people recognized it, but not enough did, until the threat became reality, with the attack on Pearl Harbor and subsequent events.

The times are analogous—not that we are unprepared militarily, but that the time we have to react to a potential threat is much less than it was in the 1930's and the 1940's, when we had months and, in fact, years to prepare and to develop the capability to defeat our adversaries who were threatening our freedom and democracy. Now we are looking at a threat measured in minutes, if not, in some possibilities, even seconds.

The only way to counter those kinds of threats is with greater strength.

I believe that this particular missile development is one we must begin. We must move rapidly on it, if it is going to be clearly a part of our total deterrent capability.

Not only are there alternatives in the long term to this type of defense, but also, there clearly are alternatives to the way in which this MX missile is based and deployed, and those alternatives should not be decided today. We in the legislative branch must take due deliberation of the possibilities, of the effectiveness, and of the costs involved.

So I reluctantly oppose the amendment of the Senator from Oregon, and I hope our colleagues will do the same.

Mr. STENNIS. Mr. President, we have several speakers who want to use some time. I am going to yield to them now as nearly in the order in which they have mentioned it to me as I can remember.

I yield 5 minutes to the Senator from Washington (Mr. JACKSON).

Mr. ARMSTRONG. Mr. President, will the Senator from Washington yield for a brief unanimous-consent request?

Mr. JACKSON. Yes, I yield.

Mr. ARMSTRONG. Mr. President, I have discussed the request I am about to make with the distinguished chairman and the distinguished ranking minority member of the committee.

My request is that on completion of the Hatfield amendment and any other pending amendments on the MX, the amendment sponsored by the Senator from Hawaii (Mr. MATSUNAGA) and me be the pending order of business.

The PRESIDING OFFICER (Mr. BOREN). Is there objection?

Mr. STENNIS. Mr. President, reserving the right to object, if the Senator will strike out that word "pending," I will have no objection. We may have another amendment on the MX, which has not actually been submitted yet.

Just make it "following the disposition of any MX amendments that may be submitted following the Hatfield amendment."

The PRESIDING OFFICER. Does the Senator from Colorado so modify his request?

Mr. ARMSTRONG. Yes, I do so modify the request, and I appreciate the Senator's assistance.

Mr. JACKSON. Mr. President, I rise in opposition to the amendment offered by my friend from Oregon. I do so because I am concerned that a modern, survivable land-based intercontinental missile force is essential to our national security. I have come to this conclusion based on several considerations.

First, our present, aging force of Minuteman ICBM's is being increasingly threatened by Soviet missiles.

Second, our national security dictates that steps must be taken to reduce this level of vulnerability.

Third, having failed to achieve meaningful constraints on Soviet large throw-weight, highly accurate missiles through our arms control efforts in SALT, we must develop and deploy some alternative weapon system which will retain our credible deterrent capabilities and be survivable.

In short, as I have said on many occasions, I profoundly regret, as does my friend from Oregon, the failure of SALT II to produce deep, mutual, balanced reductions on an equitable basis in the strategic nuclear arsenals of both the superpowers.

Certainly it is the height of irony that having spent 7 years negotiating an arms control agreement, we stand here today needing to spend enormous amounts of money precisely because the administration concluded an agreement which fails to get any meaningful cuts in the strategic arsenal of the Soviet Union.

The issue now before us is how we should respond to the increasingly destabilizing Soviet buildup in lethal, counterforce missiles aimed at our Minuteman force. The Senator from Oregon and I agree that something must be done to reduce our strategic vulnerability.

Mr. President, after considerable deliberation, debate, and unfortunate delay, the President of the United States has concluded that the long-standing policy of this country to diversify its strategic deterrent into three components continues to be a sound one—a bomber force, a submarine-launched ballistic missile force, and a land-based intercontinental ballistic missile force.

President Carter decided that the strategic triad represents the best way to provide for the national defense since the inherent vulnerabilities of each leg are offset by the strengths of the others. As it became evident that one leg of our triad—the ICBM force—was becoming vulnerable to a Soviet first strike, the Carter administration took a long, hard look at the option of eliminating that leg in favor of a strategic "diad."

But after considerable review, the idea of eliminating ICBM vulnerability by eliminating the ICBM force was rejected by President Carter. The administration concluded that to rely for deterrence only on a submarine-launched ballistic missile force and a strategic bomber force could have dangerous consequences. It would simplify the Soviet targeters' job in trying to destroy our strategic deterrent. It would also significantly reduce the capabilities of our forces, and raise the prospect that a single breakthrough in weapons technology—namely in the antisubmarine warfare area—could produce a profound change in the strategic balance.

Therefore, the administration has decided to proceed with modernisation of the Triad, including the development and deployment of a new intercontinental ballistic missile, known as the MX, a land-based intercontinental ballistic missile with its inherently secure and reliable command, control, and communications characteristics.

Let me be clear about my own reservations with respect to the MX program. It is a program—we have to be candid—that is troubled with complications, not of a technical, but of a political nature.

In arguing for proceeding with the MX missile, I have no intention of supporting the racetrack basing mode that has been discussed—more, one sometime thinks, in the press than among the scientists and engineers who will have to make it work. I have profound reservations about the racetrack basing mode. It strikes me as cumbersome, risky, and expensive. It is a concept developed less by American engineers than by Soviet negotiators, and that troubles me deeply.

Mr. President, before any final deployment decision is taken on the MX, I believe the Senate must establish two critical points:

First, the bilaterally recognized right of the United States to proceed with a mobile missile incorporating deceptive basing in which the missile and launcher is moved among shelters; and

Second, the right of the United States and the intention of its Government to deploy the MX in a reliable, survivable, and cost-effective manner. In my judgment, this requires a finding that vertical shelters must be permitted by any arms control agreement we might ratify.

As many of my colleagues know, the Soviets have insisted that deceptive basing of ICBM's is inconsistent with SALT. The official position of the United States is that it is consistent with SALT. But if the MX can only be made consistent when deployed in an absurdly costly and technically doubtful manner, then it will never be deployed. So I intend, when SALT reaches the floor, to press for a clarification about the impact of the treaty and for a determination that we can proceed with vertical shelters as an alternative to the racetrack system now being considered in research and development.

The Senate and its Committee on Armed Services have repeatedly supported the MX missile and urged its expeditious development as essential to the maintenance of the Triad as a credible deterrent. Senators are being asked not only to reaffirm their support of the strategic Triad but to reassert the commitment of the United States to begin to redress the adverse trends in the strategic nuclear balance which this country has witnessed for the last decade.

Mr. President, I urge my colleagues to join me in voting against the Hatfield amendment and the movement it represents toward a less survivable, less capable and less credible deterrent posture for the United States.

I yield back any time remaining.

Mr. STENNIS. Mr. President, I yield 3 minutes to the Senator from Alaska.

Mr. STEVENS. I thank the chairman. I shall not even use that amount of time.

In the Appropriations Committee I supported the Senator from Oregon because of my opposition to the racetrack basing mode. Following the consideration of his amendment, I shall offer an amendment that will not commit the United States to any one basing mode for this MX missile system.

The action taken in the committee led to reports that I did not support the MX missile, which I regret, because I do support the missile. On the other hand, I believe that the racetrack basing mode would lead to such an escalation of costs, not only in terms of original construction but in terms of annual cost, and also such a tremendous potential for delay, that we would not really achieve the construction and deployment of the MX missile system as will be required to protect our national security.

I will be discussing this matter later, but I wanted to state now why having supported the amendment of the Senator from Oregon in committee, I shall not support it here now, and I will not offer my amendment as a substitute for the Senator's amendment. I will wait until his is disposed of. Assuming his is defeated, I will offer mine. If it is not, of course, I will not have the opportunity.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Nebraska.

Mr. EXON. I thank the Chair.

Mr. President, I do not know of one of our colleagues here in the Senate who does not deeply share the concerns of my friend, the Senator from Oregon, over the proliferation of nuclear weapons in arsenals of the United States and the Soviet Union. I, like the Senator from Oregon, am keenly disappointed that the SALT II treaty before us does not call for deep reductions in nuclear weapons. I do not want to build the MX missile system. When I had the honor of entering this body last January as a representative of the people of my State and with their authority, I was not persuaded for certain that deployment of the MX was necessary, for many of the reasons that have been so well articulated by the Senator from Oregon.

My service on the Armed Services Committee has since convinced me that, in a practical defense sense, we have no other viable alternative.

The Soviet Union, through their massive arms buildup, has placed us in a position where we must act now. The projected ability of the Soviets to make our land-based missile force vulnerable in the mid-1980's dictates that we proceed with further MX research and development. The missile forces which the Soviets have in place and which they will continue to build and improve upon have placed us in this situation.

The Secretary of Defense, Harold Brown, made a telling point when he stated, "When we build, they build. When

we cut back, they build." Arms control is a two-way street. We have learned that the thing the Soviets respect most is strength. The strategic Triad of land- and sea-based missiles and bombers has served us well in this respect.

However, that Triad of weapons is aging and we must take corrective actions. We are doing just that. The MX missile, Trident submarines, and air-launched cruise missile forces we are developing and building will accomplish this task. The diversification of our strategic weapons poses the most complicated of challenges to a Soviet war planner. He cannot simply channel his resources to defeat one type of weapon. Instead, he must work on antisubmarine warfare to counter our missile submarines; he must work on air defense to counter the air-breathing leg of air Triad; and he must devote massive resources to counter our land-based missile force. This is the crux of diversification and of our Triad. By abandoning our land-based force and substituting a new and different submarine-based missile force, we make his job easier.

Mr. President, I have not made up my mind yet on the SALT II treaty. But one thing is certain: If this treaty is ratified, with or without my support, then I want to immediately begin negotiating for arms reduction, rather than arms limitation. If the treaty is not ratified and sent back for renegotiation, it will be because it did not go far enough. In either event, recent history has shown that negotiating from strength is the best posture in dealing with the Soviets. I want our negotiators to be in the best possible position, one of strength, to achieve these desired goals.

Mr. President, strategic superiority at the level of weaponry is what we are talking about. This deals as much with perceptions as megatonnage. I want the Soviet Union to know that they cannot get away with even the perception of placing our strategic forces in jeopardy. While I am not thrilled about building a weapon with a potential first-strike capability, the Soviets have embarked on this course. The only way we can hope to get both sides to stop is to make them as uncomfortable as we are in such a situation. If we can somehow negotiate the threat away—fine. If we cannot, then I must feel—and make them feel—that what they are trying to do to us to improve their position simply will not work or be tolerated. This is why MX must be built and I urge my colleagues to support it and defeat the Hatfield amendment.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield 10 minutes to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I want the RECORD to be clear on exactly what it is that this Senator is voting for today. I am voting in favor of the MX missile, but I am most certainly not voting in support of the racetrack basing mode which has been proposed.

The need to move ahead swiftly with building the MX missile is, of course, apparent. Our aging Titan and Minuteman missiles are, every day, more vulnerable to Soviet counterforce weapons. The Soviets have not only built larger and more powerful missiles than we, but they have developed an accuracy on a plane with our own technology. Last-generation weaponry is inadequate to our security requirements. As a vital leg of the American strategic triad, our ICBM's must be afforded maximum survivability. The MX is, in short, sorely and urgently needed. Of course, one weapon alone cannot redress the military imbalance which favors the Soviets, and the MX, while twice the size of a Minuteman, is still very much smaller than the Soviet SS-18—the "heavy" missiles which we are allowing the Soviets to build and deploy and which now number 308. The MX will be a potent and needed addition to our arsenal, however, and, with the proper kind of basing mode, can significantly enhance our missile survivability.

Supporting the MX missile and supporting the racetrack basing mode are two entirely different things. MX is the right missile, but the racetrack basing is nonsensical extravagance. It is a budget-buster of the first order, and in terms of cost-effectiveness fails miserably to make the grade. I have looked at the matter of costs, and I can say that, without doubt, an MX system with the racetrack basing mode is going to cost the American taxpayer somewhere between $30 billion and $90 billion. If there were no other way to do it, and given the need to do whatever we must to insure the safety of our people, we would be justified in going ahead. But there are other, less costly options. One is the vertical shelter (MPS) system, which would be less expensive, and I think considerably more effective, than the racetrack. I think the record ought also to show that if it had not been for SALT I, with its sanction of Soviet "heavies" and its denial of American "heavies," we would not have some of these problems. Similarly, we would be in a better position to consider the option of an ABM system to protect our country. We could deploy an ABM system for somewhere in the vicinity of $10 billion, which is quite a saving when compared to the extravagance of the racetrack.

Thanks to their SALT ingenuity, the Soviets now have us debating not only the need for new weaponry, but also whether, under SALT II, we can even proceed with the development and deployment of the systems under consideration. Defense Secretary Harold Brown and Soviet Defense Minister Dmitriy F. Ustinov discussed this specifically, and Ustinov indicated that both the racetrack system and the multiple-aim point system would be violations of SALT II. SALT I constrained us from proceeding with what was essential. SALT II will accomplish the same end for the Soviets. There must be no question that we can proceed with so-called deceptive basing, vertical shelters, and whatever else is essential to the effective deployment of the MX missile.

In conclusion, Mr. President, let me repeat to my colleagues that by voting to defeat the Hatfield amendment, they are in no way closing off their consideration of basing systems other than the racetrack mode. We will have the opportunity to discuss and debate the basing system, and the vote today does not impact that debate any way whatsoever.

Mr. President, what I am supporting is the initiative of my distinguished colleague from Alaska, who has prepared an amendment saying that none of the funds appropriated under this paragraph for continued development of the MX missile may be used in a fashion which would commit the United States to only one basing mode for the MX missile system. Anyone who wants to continue the Triad should realize that we need the MX. The Minuteman, with its three warheads, is just not powerful enough against a hard target with the capacity of the SS-18's in Russia. We need that kind of capacity—the 10 warheads at 335 kilotons per warhead, or 3,350 kilotons total—if we are going to stay in the competition.

Mr. President, this is a very interesting thing: How do we make survivable this limited number of missiles? For one thing, we go right straight to the debate 7 years ago, on SALT I and the heavy megatonnage SS-9's, which were later developed into the SS-18's. We objected at that time and we opposed SALT I, but we were told not to worry, that we would equalize that in SALT II.

Now we have gone to SALT II but we have not done away with the SS-18's. If we had, all we would need is the MX missile in the same Minuteman silos and you would not have the $50 billion to $60 billion operational racetrack, horizontal, open the doors, shut the doors, budget-busting, Rube Goldberg arrangement. We should have gone to the conference and said, "Look, we are not here to get permission to put 308 heavies in for ourselves. The SS-18's are like rattlesnakes; we are trying to get rid of the rattlesnakes, because these SS-18's are what is destabilizing. It is rattlesnakes that are causing the difficulty, so let us get them out of the house."

Henry Kissinger finally realized it after SALT I. He tried in 1973 to limit the number of heavies to 50, and he tried again in 1977 to limit them to 150. But barring that, we needed to have at least that kind of parity. If we could not get rid of them, we should have insisted upon the additional megatonnage of 150 extra MX's. Three hundred and eight SS-18's have more megatonnage of destruction than all the ICBM's and all the Poseidon submarine-launched ballistic missiles of the United States put together.

So much for that. I emphasize the cost, which bothers all of us here in the Senate. Hawk and dove, conservative and liberal alike, realize that we are going into exorbitant costs for something that was never fully considered. We have a multiple-point vertical protection system that is verifiable. We can take off the covers at any time. They will tell you in SALT II, it is not; that is because the Russians did not like it. But it is verifiable and it is survivable.

So it is at the Soviet request that we go from the vertical to the horizontal. And if the very alert press would please

go out and talk to Martin and to Boeing, to the contractors, and ask them categorically to answer the question: "What is the difference between the vertical in cost and the horizontal in cost," they would be told 20 billion bucks. That is why I say SALT II is a budget buster.

Look at some of the other budget busters in SALT II. We have to have "Functionally Related Observable Differences" for the B-52, at a cost of $300 million. We have to have a new wide-bodied carrier to deliver the cruise missile. That is $2 billion more. We are denied optimal use of our cruise missiles which could save us planes at the front, and billions of dollars more; the Soviet Navy has SSN-3's. But we are not allowed. We are restricted. We do not restrict the Soviets' intermediate ballistic SS-20, but we restrict our intermediate cruise missiles. And they call that a good contract, a good agreement.

SALT II is replete with budget busters, and if we end up with this $20 billion racetrack mode, that will be the biggest budget buster of all.

We debated on defense on the floor of the U.S. Senate earlier this fall and proved categorically that if we turned down SALT II in the next 10 minutes there would not be one additional military program under the 5 percent voted by this U.S. Senate. But if we approve it, here is $20 billion more.

The Secretary of Defense in his letter to the distinguished chairman—and I take it that has been printed in the RECORD—admits to $1 billion, and this is $20 billion more here.

That is why I feel very strongly we need that MX, but do not need this horizontal racetrack, race around kind of system, that anybody with good commonsense realizes is not workable.

Mr. President, I know the time of the chairman is really limited, so I yield back the remainder of my time.

Mr. President, I thank the distinguished chairman.

Mr. STENNIS. I thank the Senator.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Who yields time?

Mr. STENNIS. Mr. President, we switch from one aisle to another. I yield to the Senator from Virginia for 3 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank my distinguished chairman of the Senate Armed Services Committee.

I have the utmost respect for my distinguished colleague from Oregon, but I rise in opposition to this amendment.

I have now served during my first year in the Senate as the ranking minority member of the Research and Development Subcommittee of the Armed Services Committee. That subcommittee has held lengthy hearings on this matter with many witnesses. We have considered carefully the MX missile system—both the missile and its various basing modes.

Mr. President, we have not spent any considerable time, very little, if at all, on the system proposed as an alternative by the distinguished Senator from Oregon. The feasibility of similar systems had already been considered by the Department of Defense and rejected.

I wish to urge my colleagues to place their trust and confidence in the expertise of the Senate Armed Services Committee and to rely on its decision as a committee that this system commonly known as MX is essential for America's future defense.

I believe it would be a very serious mistake to cut funding for development of the MX missile and to support instead a program with so many unknowns as the so-called shallow underwater missile system.

The MX missile program which is now before us is a program which has been thoroughly studied over the course of the last several years. The Department of Defense has studied the MX program and the Congress has reviewed it year after year. There is now widespread consensus that the MX program is a sound, cost-effective, and stabilizing means of responding to the problem of the vulnerability of our fixed, land-based missiles. The President believes the MX is a sound and necessary program; the Secretary of Defense believes it is a sound and necessary program. The Defense Science Board believes it is a sound and necessary program, and a substantial majority of both Houses of Congress have so far believed it to be a sound and necessary program.

The details are complex, lengthy, and in part, classified, and I shall not go into them at this point.

I wish we did not have to build the MX. We surely could find better ways to spend the funds if they were not necessary for our security.

But they are necessary. The Soviets have made the MX decision for us. They have built their strategic forces up to a point where they provide a destabilizing threat to the survival of the land-based portion of our deterrent.

We have no real choice. Either we restore the survivability of our land-based missile force or we accept a destabilizing situation and a much diminished deterrent.

The amendment offered here is a questionable substitute for the MX program. It offers a system whose concept has been seriously considered by the Department of Defense—and rejected. It is a program filled with unknowns. It is a program of reduced capabilities, great technical uncertainty, and doubtful survivability. It is a program that may wind up costing far more than MX in the end.

Mr. President, the arguments against this amendment have been made in detail by others and I shall not repeat those arguments any further. The President, the Secretary of Defense, and the relevant committees of the Congress all support the MX program and they would therefore oppose this amendment.

I urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I am glad to yield to the Senator from Utah for 5 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, I thank the distinguished chairman of the Armed Services Committee.

Mr. President, to save the time of the Senate, I ask unanimous consent that a statement by me before the Appropriations Committee of the House of Representatives in Cedar City, Utah, on the MX, November 5, 1979, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JAKE GARN

Recent decisions by President Carter with regard to the MX, a land-based intercontinental ballistic missile (ICBM), will have important consequences for the security of the United States and the lives of the people of Utah. Approximately 30 percent of the 200 MX missile force will be deployed in southwestern Utah. It is, therefore, essential that we examine this issue with great care, and I appreciate this opportunity to address the issue of MX and its impact on U.S. national security and the state of Utah.

MX: What is it and why do we need it?

The MX, or Missile-Experimental, is a land-based intercontinental range ballistic missile which is intended to augment our present Minuteman ICBM force. The MX will be able to carry a heavier load, and therefore a larger number of multiple independently targetable reentry vehicles, or "MIRVs", and be more accurate than our current land-based ICBM missiles. The deployment of MX will give the U.S. an enhanced capability to credibly threaten Soviet military targets. The improved destructive potential of the MX missile, and its technical capabilities, however, are only effective as a deterrent when the chances for the missiles' survival are good.

President Carter has proposed to deploy the MX in horizontal shelters around what has been called a "racetrack" or "closed-loop" basing system. The random deployment of one MX among twenty-three shelters will dramatically increase the number of targets a Soviet surprise attack would have to contend with in order to assure themselves that the U.S. would not be able to effectively retaliate. This same concept applies, whether we are talking about a "racetrack" basing system, or other possible basing modes that could be adopted for MX. I would have preferred, in fact, to explore the vertical, multiple protective shelters as opposed to the racetrack system. I believe it would be less costly and more survivable.

The United States needs the MX missile because of the growing imbalance between our own strategic forces and those of the Soviet Union. The number of Russian missiles and their size and accuracy have increased to the point that they now pose a very real threat to our Minuteman missile system. This was described by Secretary of Defense Harold Brown, when he observed:

"The combination of accurate guidance and the large number of warheads expected in the early 1980s will give their (the Soviets') ICBM force the capability to destroy most of our ICBM silos with a relatively small fraction of their ICBMs. This is the most serious problem we face, probably in terms of threat to our strategic forces and certainly in terms of perceptions of equivalence."

Why has this situation been allowed to develop? It seems hard to believe, doesn't it, that we would have knowingly placed ourselves in such a vulnerable position? The reason is actually quite simple, and can be summed up in one word: MAD. MAD is the acronym for the doctrine of Mutual Assured Destruction which is the theory that has guided our strategic arms decisions for the past fifteen years. It says, in effect, that nuclear war is effectively deterred

when both the United States and the Soviet Union are vulnerable to a nuclear attack that would devastate their major population and industrial centers. The citizens—the civilian population—are, in effect, held hostage.

Homes, libraries, schools, churches, museums and factories are the principal targets—not the missile silos, air bases or harbors. This is the theory that makes Civil Defense or an ABM system wrong, because they would be "provocative acts". This is the theory that allows President Carter to feel he is justified in saying that just one Polaris submarine carries enough destructive power to effectively threaten the Soviet Union because it can destroy Moscow and Leningrad, and several other major Soviet cities. This so-called "Counter-value" targeting concept, required by the MAD theory, is no longer valid, if it ever was.

Even Dr. Henry Kissinger, one of the proponents of the MAD concept, now says it is wrong for today's world. Mutual Assured Destruction is no longer valid, because it is no longer "mutual". The Soviets have a massive civil defense program; they have an ABM system, and could quite easily deploy it throughout the country in a crisis situation. They are aiming their missiles at our missiles and at our bombers and submarines, and improving their accuracy so they can take out our ability to retaliate. Both SALT I and now SALT II have failed to meet the promise of arms control that would reduce this growing threat. To a certain extent, the failure of SALT II was inevitable, because the failure of SALT I left us in a very weak bargaining position.

You simply don't deal effectively with the Soviet Union from a position of weakness. If we are ever to bring them to consider arms reductions we must strengthen our own position. The deployment of MX in a survivable basing system will give us back some of that strength. A rejection of the tired old concept of MAD, and an improved ability to target and destroy Soviet military—not civilian—targets, must go along with the deployment of MX.

Let me say a little more about the implications of MX for arms control.

IMPLICATIONS FOR ARMS CONTROL

A recent editorial in the Wall Street Journal pointed out that the Soviets "use arms control negotiations as an offensive weapon to gain real military advantage". If we are to be successful in competing with the Soviets in the area of arms control, we need to recognize that Soviet arms control strategy is geared towards undermining Western security. Harvard Professor Richard Pipes has noted that the Soviet Union has used SALT to freeze our strategic nuclear systems, to inhibit our technological initiative, and to undermine our national commitment or perception of need in defense matters. The control and reduction of nuclear weapons is a worthy goal. But attempts to achieve it must be equitable and verifiable, and they must promote international peace and stability. Thus far, U.S.-Soviet arms control efforts have been none of these things.

Unless and until we are prepared to modernize our strategic forces, the Soviets will never be willing to negotiate meaningful arms control. In testifying before the Senate Foreign Relations Committee, Henry Kissinger stated that:

"Rarely in history has a nation so passively accepted such a radical change in the military balance. If we are to remedy it, we must first recognize the fact that we have placed ourselves at a significant disadvantage voluntarily."

The litany of U.S. defense programs that have been either cancelled or delayed in recent years includes the B-1 bomber, the Trident submarine and missile, the MX ICBM we are discussing today, cruise missiles, and the neutron bomb. If this trend continues, our negotiating position in future SALT talks will become increasingly untenable. As Kissinger went on to note in his testimony:

"SALT cannot be a substitute for defense programs. If we fall behind by our own actions, SALT runs the risk of perpetuating an inequality. If we want equality, we must build to equality."

The fact is, that had the SALT process to date not been such a monumental failure, particularly in allowing the Soviets to convert their light SS-11 ICBMs into very capable and destructive SS-19s and especially in legitimizing the exclusive Soviet deployment of 308 SS-18 heavy missiles, then U.S. ICBMs would not be so vulnerable today, and we would not be faced with the need to build the MX.

SOCIO-ECONOMIC AND ENVIRONMENTAL IMPACT

The people of Utah have traditionally been supporters of a strong national defense posture. I know this continues to be the case. Nonetheless, there are legitimate concerns which the people of this state have raised regarding the deployment of the MX in Utah. These concerns must and will be addressed. I have no doubt in my mind that this nation can provide for its self-defense while at the same time safeguard the material well-being of its citizens.

I believe that early identification of problems and openness in dealing with them are the keys to a successful MX deployment. The Air Force should be commended for its openness and its efforts to work with state and local government in Utah and Nevada. I hope the Air Force will recognize that expenditures to mitigate environmental and socio-economic impacts are as much an expenditure for national defense as expenditures on the missile system itself. Clearly, it is fully identifying and dealing with these problems at the front end that the way will be cleared for MX to be built.

There is much experience to draw on: the Alaska pipeline, the Trident submarine base in Seattle, a decade of construction of enormous power plants and coal mines in the West. We will need to draw on the lessons learned in each of these prior efforts to competently and effectively manage the direct impacts and the side-effects of building this vital system.

The key to coping with the staggering problems we will likely encounter is two-fold: planning and money. Effective planning will require involvement of state and local governments throughout the process as joint partners, not simply as reviewers at the end of the process. I commend the Governors of Utah and Nevada for establishing MX task forces in each of their states, and for establishing a bi-state task force to coordinate and integrate the efforts of the two states.

As far as funding is concerned, I think the recent construction of the Trident submarine base in Seattle provides a useful yardstick. In a project which cost $800,000,000 approximately $200,000,000 additional was provided for socio-economic impacts. This does not mean the Department of Defense must provide the same ratio of funding for Utah and Nevada in constructing MX. It simply means DoD and the Congress must provide full and timely funding to get the job done in a manner satisfactory to the residents of these states.

Let me now comment briefly on some specific areas where we are likely to experience the greatest problems. First among these is water. The Air Force has an ongoing drilling program to locate supplies. The water authorities in Nevada and Utah should be fully involved in all drilling and allocation studies. It is not enough to quantify the construction and operational needs of MX. We've been told there is more than adequate water for these purposes. The real focus must be on developing and maintaining supplies for the population attracted to the area, both permanent and temporary. Further, I believe the Air Force must comply with state water law and must not seek to assert a federal water right, reserved or unreserved. In addition, the Air Force must understand the relationship between underground water and surface water flows, and make certain that in mining underground water for the enormous supplies needed they do not deplete our water aquifers at a rate faster than they are recharged.

Second, very careful analysis must be done to examine the impact of the MX construction on the supply of concrete, construction workers and associated skilled workers, and other raw materials. It is my understanding the Air Force will fund job training for local residents and this is laudable and essential. But we must balance the recruitment and carefully plan the purchase of materials and services from both inside and outside the state, to make certain other areas and sectors of the state aren't starved for resources or priced out of the market.

Third, the question of land use must be raised and responsibly addressed. We need full disclosure of possible restrictions around the 25 square miles of fenced shelters. Additionally the 8,000 or 10,000 miles of roads and railways, although constituting only 75 square miles, will realistically impact thousands of square miles. There must be a full exploration of restrictions for security reasons which might be necessary, and the implications of those restrictions for access to and use of the land involved in the project.

Finally, the whole question of the boom/bust nature of this development must be carefully phased to smooth out the peaks and valleys of going from 25,000 workers and perhaps 100,000 people total at the peak of construction, to a permanent settlement of around 40,000 people. Our communities could be saddled with financial obligations for very expensive improvements—schools, hospitals, etc.—which will be necessary to accommodate the population at its peak during the height of construction. The Department of Defense, and the Air Force, through joint planning with state and local governments, and through full front end financing, must make certain this does not happen.

It will not be easy to meet the kinds of challenges that I have noted. It may even prove to be impossible. I have said recently that I am pessimistic about the MX ever being built. It's an expensive program, and one you just don't complete overnight. Over the years of its development the costs for deployment will increase. The figure of thirty billion dollars or so is expressed in today's dollars, with little or no hedge for inflation. No one can really say with any certainty what it will ultimately cost. And there is no guarantee that this Congress or this President, much less a future Congress or a future President, will continue the funding necessary to complete the program, however militarily important the MX system is. Look at what happened to the B-1.

I hope I am wrong. I hope my pessimism is unfounded. I hope we can develop a basing mode and a construction program whose benefits to the state and the nation far outweigh the costs, which I also hope we can minimize. I hope we'll meet that challenge. It will take a lot of work and a firm commitment from the people of Utah and Nevada who would have to live with the system and the impacts of its development. It will also require the dedicated efforts of public officials at every level of government. As a Senator representing the State of Utah, I will certainly do all in my power to assist in

meeting this challenge. I will be watching the development of MX very carefully. Every dime spent on the MX must be approved by the Defense Appropriations Subcommittee, on which I serve. That subcommittee will be holding hearings similar to this hearing today during the early, pre-construction stages of the MX program, as part of its responsibility to oversee the expenditure of public funds.

I would also like to point out that General Guy Hecker, Special Assistant for MX Matters, U.S. Air Force, has agreed to brief the Utah delegation on a bimonthly basis during the initial construction stages of the MX and on a more frequent basis whenever we request him to do so.

CONCLUSION

The U.S. has delayed action on the MX for far too long. We have placed in jeopardy an essential element of our strategic nuclear defenses. We have shown a lack of resolve to compete with the Soviets, and they, in turn, have done everything they can to exploit our self-imposed lethargy.

Let us now, therefore, work in a constructive manner and spirit to make the MX program a success for national defense policy and a social and economic model for the nation.

SUM: IT DOES NOT ADD UP

Mr. GARN. Mr. President, the SUM (shallow underwater missile) system proposed on September 18, 1979, is of dubious technical feasibility. The idea of placing three Minuteman III intercontinental ballistic missiles (ICBM's) weighing 100 tons on a very small 450-ton submarine is extremely questionable, to say the least; but even if it is possible to design a small submarine that can carry so large a missile, the SUM strategy is neither cheap, effective nor compatible with arms control.

Proponents of this strategy seem to be comparing total acquisition costs of the MX system with partial acquisition costs of the SUM system. Moreover, there are many other costs for the SUM system that are hidden costs. Also, there is no comparison of the military effectiveness of the two systems, nor is there an evaluation of the impact of SUM on strategic arms control. But first, let me disqualify SUM compared to MX on cost grounds alone.

MX VERSUS SUM

[Fiscal year 1980, in billions of dollars]

	MX	SUM
Acquisition	[1] 33.0	[2] 12.0–16.0
Operations and support (O. & S.), 15 yr	6.6	18.0–21.0
HIDDEN COSTS		
R. & D. on SUM system		.5– 1.0
New submarine bases		2.0– 3.0
ASW forces to protect SUM submarines:		
2 P-3C squadrons (24 aircraft):		
Acquisition		.36
O. & S. (15 yr)		.27
6 attack submarines (SSN):		
Acquisition		3.0
O. & S. (15 yr)		1.4
1 patrol frigate squadron (12):		
Acquisition		2.4
O. & S. (15 yr)		1.5
Total	39.6	47.1–55.6

[1] Missile and construction.
[2] Submarine only.

It is well known that operational costs for SLBM's are far higher than for ICBM's, even with the proposed "racetrack" basing concept of MX. To operate 138 submarines of the type necessary for the SUM strategy would require the construction of new submarine bases or large scale construction of facilities at existing bases—at great costs. Such construction would involve the same sort of economic and environmental impacts associated with MX.

Another major hidden cost would be the cost of defending these submarines. They would be exceptionally vulnerable to antisubmarine warfare (ASW). They would be extremely slow and be easily detectable by sonar, because large missile canisters would be strapped on their sides. The coastal areas of the United States are not sanctuaries. Current ASW forces are needed for other missions and should not be diverted to protect these submarines, which would be little more than sitting ducks if they were not defended. Since spare ASW forces currently do not exist, they would have to be acquired and operated at very substantial cost.

The military effectiveness of Minuteman II missiles on small submarines could not compare with the MX. Not only would their warheads need to be smaller, but their accuracy would be far less. Indeed, it is difficult to imagine that these missiles would be as accurate as the current U.S. Trident I missiles which have the benefit of a much more sophisticated navigation system than could be put aboard so small a submarine.

In addition, Submarine Launched Ballistic Missiles (SLBM's) have a much lower alert rate—it is about 50 percent for Poseidon submarines. For the type of small conventional submarines that the SUM system requires, the alert rate could be no more than 30 percent or 40 percent compared to over 90 percent with the MX. Hence, the difference in the forces between the two competing systems would be about 1,800 MX warheads on day-to-day alert compared to perhaps 500 SUM warheads on day-to-day alert, and the MX warheads would have a higher yield.

Since these submarines would be conventionally powered, and since the United States has not done anything significant in the development of diesel-electric submarine propulsion for perhaps 20 years, the SUM submarines would have to operate at periscope depth, snorkeling for most of the time in order to provide air for operation of the engine. This would substantially increase their vulnerability to ASW and to some form of advanced satellite detection. It is striking that this proposal would have us attempt to meet improving Soviet ASW capabilities in the 1980's and 1990's with the most primitive type of submarine that exists in the world today.

The possibility of putting more U.S. strategic nuclear weapons systems on submarines (although usually on far more technically feasible systems) has been studied in the past and consistently rejected. This course involves placing far more of our retaliatory assets in a single basket, and at this time a survivable submarine communications system does not exist, nor is one planned. The small submarines of the SUM system proposal would have a far more severe communications problem than even the existing, more sophisticated U.S. missile submarines.

If the United States puts its ICBM's on submarines and concentrates them in the relatively small oceans of the east and west coast of the United States, it opens the possibility that the Soviets could "barrage" attack the Continental Shelf area with weapons in the 50-megaton range. Tens or hundreds of these weapons might be detonated to destroy these submarines in the event of a Soviet attack. Very large yield thermonuclear weapons are cheap and could be produced in large numbers. In the event of an attack, the tidal waves and flooding of our heavily populated coasts would be catastrophic.

Perhaps the most telling argument against the SUM system is that it is not compatible with arms control. If we design a missile canister that can be attached to a very small submarine and successfully test launch an ICBM that could be delivered to its target with high accuracy, then it becomes impossible to verify the provisions of SALT II or any feasible arms control agreement. If we can do this with the least capable submarine in the world, the Soviets can certainly do this with any of the hundreds of existing Soviet attack submarines that are many times larger than the proposed SUM submarines. Also, the Soviet Union has three missiles—the SS-13, SS-16, and SS-20—that are comparable in size to the U.S. Minuteman III and since they are all solid fueled, they could easily be used in a Soviet SUM system.

If one wished to promote the technical feasibility of the SUM system, one must conclude that the Soviet Union has the potential of deploying thousands of additional warheads by this scheme alone. The Soviet Union has reportedly been constructing submarine berthing tunnels which would allow the conversion of large numbers of existing submarines to such missile launchers without detection.

Many years ago in the 1960's when the United States studied the future of its SLBM force it concluded that a large submarine like the Trident was more cost effective than small submarines in maintaining missiles at sea. While one may challenge the choice of the specific Trident design, it is clear from all studies that very small submarines are not a cost effective means of putting missiles to sea.

In the uncertain world of the late 1980's and 1990's it would be unreasonable to abandon the ICBM element of our strategic nuclear forces triad—ICBM's, SLBM's, and aircraft—bombers and planned cruise missile carriers. Unfortunately, we are moving in this direction by our failure to modernize our forces. We have allowed our ICBM force to become vulnerable and we are in the process of allowing our bomber force to become vulnerable.

In 1800 the United States had underway a program to build large frigates. In an economy move, President Thomas Jefferson canceled the construction of

these vessels and used the money to build large numbers of very small gunboats. These turned out to be almost completely useless; firing a single round almost capsized them. The few large frigates we had built in the 1790's helped prevent the defeat of the United States in the War of 1812. If we make a mistake of a similar nature in the 1980's, the security of the United States will be seriously jeopardized.

Mr. President, this one area I do have some personal expertise in. For 4 years, I was a Navy pilot and I was in an antisubmarine squadron. I spent a good 3 years of that 4 years looking for submarines.

It is a difficult task, at best, to find them. Fortunately, since I did that, our capabilities have improved considerably over the Soviet Union. This area is one area where we are far ahead in our ability to detect and destroy submarines.

But as one who spent 3 years of my life looking for submarines, there is one thing we really like. We like them in shallow water. It is so much easier to find them in shallow coastal waters than in the deep blue ocean, there simply is no comparison.

The equipment that is available, I certainly will not discuss today. But it is much easier to find them in shallow coastal waters.

Secondly, once we have found them, it is much easier to destroy them. Because of the ground effect of conventional depth bombs, or atomic depth bombs, it would be much easier to destroy them than in the open waters.

Where we have very slow-moving diesel electric submarines that must snorkle to get air, the signature of those submarines from a noise level puts them in a category where current Soviet ASW capabilities would make it possible for them to find them much easier.

It would not compare to our atomic powered submarines, with quiet-running gear—but again, not to get into all the detail.

So, from a matter of personal experience, in my opinion, it just does not add up. It is not technically feasible. It is not cost effective. I believe it would end up costing far more than MX.

So, with all due respect to my distinguished colleague from Oregon, I must vote against his amendment and encourage my Senate colleagues to do so.

In closing, I agree with some of my colleagues that I do not like the race track system for the deployment of the MX. I think the administration made a mistake. I think the vertical system would be much more efficient, certainly more cost effective.

I hope as we go along that, in the basing mode, we can make some changes in the future, long before the deployment dates of the MX.

I thank the distinguished chairman of the Armed Services Committee.

Mr. STENNIS. I thank the Senator.

Mr. President, I yield 3 minutes to the Senator from Michigan.

Mr. LEVIN. Mr. President, I oppose this amendment, with a number of reservations which I shall describe in a moment.

As a member of the Committee on Armed Services, I have devoted much time during the past months to assessing the issue of the perceived vulnerability of our land-based missiles, the ICBM's, to a Soviet first strike in the early to mid-1980's.

I also have spent many hours evaluating the proposed solutions to this postulated problem, especially the mobile MX missile system with its significantly increased hard-target kill capabilities.

The shallow underwater missile (SUM) system, a variant of which is being proposed by my colleague from Oregon, also has been the subject of my studies, as have other proposals, such as mobile Minuteman III's and enhanced cruise missile options.

As a result of these analyses, I continue to have serious questions about the proposed MX missile system.

I raised those questions in my additional views in our Armed Services Committee's reports on the fiscal 1979 supplemental and fiscal 1980 defense authorization bills. Although these additional views, in part, address specific committee actions or details about the MX system which have now been "overtaken by events," the basic concerns I expressed about MX remain relevant.

To briefly summarize my concerns, I have serious reservations about MX on the basis of military utility, arms control implications, cost, and environmental effects.

I believe that the United States must maintain a strong nuclear deterrent, but I am not yet convinced that the MX system is the best way for us to maintain this deterrent in the future.

It is unclear that we need to field a system which, at certain deployment levels and with its increased silo-killing capabilities, could seriously upset strategic stability. Development of any missile/basing combination which is capable of a disarming first strike against Soviet missiles could undermine the strategic nuclear balance which supports deterrence.

I also question whether a large deployment of MX is compatible with general arms control considerations, and whether we ever could have sufficient confidence that any mobile missile system the Soviets might deploy in response to MX would be adequately verifiable under future arms limitation agreements.

The cost of the MX is skyrocketing faster than most of us can keep pace, and reports abound that the system will cost some $50 billion rather than the official $30 billion price tag. We will have to ask ourselves whether such a large amount of money or part of it, could buy us more defense if it were spent elsewhere.

Despite these reservations, Mr. President, I voted to authorize the fiscal 1980 budget request of $670 million for MX so that we can continue the research effort to develop possible solutions to the perceived vulnerability of our ICBM's in the next decade and to address some of the concerns about the present MX plan.

I think it is reasonable to continue this research, which is all that these funds support. And it is important to underscore that these funds do not commit us to production or deployment of MX, and that our approval of this appropriation does not commit is to future production or deployment of MX or its basing mode.

Congressional decisions about such production or deployment will be made in the future, after much more evaluation and debate. That fact was demonstrated during a colloquy between myself and the distinguished floor manager of the appropriations bill before us, my friend and colleague from Mississippi, during deliberation on the fiscal 1980 defense authorization.

To refresh my colleagues' memory on this important issue, I ask unanimous consent that the text of that colloquy be printed in the RECORD at this point:

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

Mr. LEVIN. Mr. President, will the Senator yield me 2 minutes?

Mr. STENNIS. Yes, I yield the Senator that time.

Mr. LEVIN. I thank the Senator very much.

Mr. President, there has been some discussion about the MX missile program this morning. I should like to make five points, then ask the chairman if he might be willing to comment on the accuracy of these points. I think it will clarify the debate somewhat; in any event, it will clarify my position.

The money in this bill for the MX missile and basing systems can only be spent on research and development of these systems, and not on their deployment.

The money in this bill for the MX program is for full scale engineering development of the missile and its basing systems, and not for any production and deployment of fully operational MX missiles.

The "full scale engineering development" phase in the life of any weapons systems is still a "research and development" stage and not a "production" or "deployment" stage.

By approving this authorization bill, which contains the money for full scale engineering development of the MX missile and basing systems, the Senate is not committing itself to production and deployment of this system.

Any decision to produce and deploy operational MX missiles is a decision the Senate will be asked to make in the future when it considers future Defense Department authorization bills.

I believe, after talking to the staff of the Armed Services Committee, that those points are all accurate and true. I would welcome a comment, if possible at this time by Senator STENNIS.

Mr. STENNIS. Mr. President, these questions are relevant. I have read them over before. The answer to all of them is, "Yes."

Mr. LEVIN. Mr. President, because I think it is reasonable that this research continue, I oppose the pending amendment to delete such funds.

At the same time, I can say that my studies of the strategic nuclear option supported by the sponsor of this amendment, the option known as "SUM," have indicated to me that we should study forms of this alternative while we continue research on the MX system.

The costs, military utility, and arms control implications of SUM ought to be examined, so that we can at some future date decide whether it represents a viable alternative to the proposed MX system.

The Senate should have the benefit of such a study before it decides the final disposition of the MX program.

I ask unanimous consent that my Additional Views on MX be printed in the RECORD.

There being no objection, the additional views were ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF U.S. SENATOR CARL LEVIN—FISCAL YEAR 1979 SUPPLEMENTAL

Our deliberations on the supplemental raised significant issues about the best approaches to modernizing and protecting our land-based, intercontinental ballistic missile (ICBM) force.

While I believe that the United States must maintain a strong nuclear deterrent and that we should protect our strategic forces, the Administration's proposal to accelerate full scale engineering development of the M–X missile and its main basing modes caused some concern.

I have serious reservations about the utility and wisdom of developing the larger M–X missile and about one of its basing modes—the multiple protective structure (MPS) or "shell game" option.

Development of such a missile, which clearly would be capable of destroying, in a first strike, Soviet missiles in their hardened concrete silos, could be dangerously destabilizing to the strategic nuclear balance which supports mutual deterrence. In a crisis, one nation, fearing that its missiles could be destroyed on the ground by the other nation's ICBM's, might be prompted to strike first itself. Thus the threshold to nuclear war might be lowered.

I also question whether the MX/MPS basing option is compatible with general arms control considerations and more specifically with the concern that a similar system deployed by the Soviets might not be verifiable under an arms control agreement.

If such a deceptive basing system were deployed by the Soviet Union, we might face extreme difficulties in determining whether the Soviets are complying with their arms control commitments. As a result, meaningful arms control agreements in the future might be much more difficult to achieve.

Lastly, I am skeptical whether a MX/MPS weapon system would be survivable in the face of an increasing Soviet threat, if that threat is not constrained by a fractionation limit on adding warheads, such as the limit being considered as part of an emerging SALT II treaty.

Deployment of the system could drive both sides to build thousands of warheads—enough to target one or two warheads on each opposing missile silo, with many more remaining for other offensive or deterrent purposes.

Thus, without a fractionation limit, deployment of an MX/MPS weapon system could therefore plunge both the United States and the Soviet Union into a new and increasingly dangerous, expensive—and ultimately futile—arms competition.

Despite these reservations, I voted for the Committee decision to approve funding for full scale development of the MX missile and for continued research into which of the two main basing options—MPS or the air mobile plan—is the more prudent course to follow.

I supported the funding request for MX and basing modes research and development to provide the Administration full flexibility to continue its necessary evaluations of all reasonable missile and basing configurations.

This research will allow us to determine the best means by which we can maintain a credible ICBM deterrent, so we do not make a premature decision to pursue a particular basing mode and missile size which might later prove to be the incorrect choice.

I also was able to support the Committee's actions on MX because a final missile and basing decision was not linked by the Committee to Senate consideration of any emerging SALT II treaty.

The following report language does not mean that a final decision relative to a particular basing mode is stated to be necessary for adequate evaluation of the Fiscal 1980 defense budget request and the contemplated SALT II agreements:

The Committee requires a definitive program from the Administration, including the design characteristics and basing mode for the M–X missile, in order to evaluate adequately both the fiscal year 1980 budget requests and the anticipated SALT II agreements.

The language quoted above is only an indication that as much precise information, definition and analysis on MX and its basing modes *as possible* should be made available to help us make an informed decision on such matters as SALT II.

Thus, our Committee has allowed the Administration to keep open all its options relative to the MX missile and basing mode and to make those decisions as responsibly as possible.

Also, I am not committed to future development, or deployment, of a MX missile and mobile basing system. Such decisions will be made in the future, and the Committee on Armed Services and the Congress will have every opportunity to analyze and debate the issues at the appropriate time.

Our Committee's actions, in my view, simply provide for the necessary scientific effort to assist our government to gather and assess sufficient information to enable it to make one of the most important weapons systems decisions facing this nation in recent history.

It was under these circumstances that I supported the Committee's decisions on this part of the supplemental.

ADDITIONAL VIEWS OF U.S. SENATOR CARL LEVIN—FISCAL YEAR 1980 AUTHORIZATION

MX MISSILE PROGRAM

Although the committee rejected even more specific language mandating the detailed characteristics of a future MX missile and basing mode, the extensive language it did adopt does not adequately address the arms control implications of the various options being considered to modernize our ICBM forces.

The arms control ramifications of these options should be considered to be as important as their military effectiveness and cost characteristics. I am concerned that the more this committee pushes for a system only on the basis of military effectiveness and cost, the more likely it is this country will develop and deploy an ICBM which is dangerously destabilizing to the strategic nuclear balance.

There are some ICBM modernization options which are militarily and cost effective and which also contribute to arms control. Others meet the first two criteria but so fail by the last measure that they could lead to a futile, and foolish escalation of the arms competition between ourselves and the Soviets.

By the language in this bill, some Members of the committee clearly wish to drive the administration to select the most deceptive land-basing mode for the MX, regardless of whether it is compatible with reasonable and prudent arms control policies. Since arms control and military capabilities are complementary, not mutually exclusive, variables in any national security equation, I must disagree with this approach.

As I expressed in my "Additional Views" to our committee's report accompanying the fiscal year 1979 Department of Defense Supplemental Authorization Act, I have serious reservations about the utility and wisdom of developing the larger MX and about some of the basing mode options being considered.

Development of any missile/basing combination which is capable of a disarming first strike against Soviet missiles could undermine the strategic nuclear balance which supports deterrence. In a crisis, one nation, fearing that its missiles could be destroyed on the ground by the other nation's ICBM's, might be prompted to strike first itself. Thus the threshold to nuclear war might be lowered, and we would all live in a much more dangerous world.

In an effort to encourage a timely decision about ICBM force modernization, the committee is applying pressure in the wrong direction. I agree that the administration should make its decision as soon as possible in this area. I do not agree that the Congress, at this time, should force selection of a particular missile and basing mode—especially one which might create as many problems as it attempts to solve.

The committee's restrictive language on MX runs this risk. For example, if the administration selects a system which is better for arms control, and thus our overall national security, but is not more, only equally, militarily effective and costs more than another, more dangerous system, could it pursue this more desirable system under the committee's bill language? The answer to that question is far from clear.

The consequences of a forced decision on ICBM modernization, should that choice lead to a less stable nuclear environment and upset the balance of mutual deterrence, are sufficiently grave that the committee should resist further attempts to apply this pressure through similar bill language in the future.

CARL LEVIN.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I thought the Senator from Oregon might want to use some time now. Senator SCHMITT would like a few minutes, but he is not in the Chamber at this time.

We can have a short quorum call, if the Senator from Oregon wishes.

Mr. HATFIELD. I do not care to use any time at this moment. I will use time in closing, but I want to hear the arguments.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. STENNIS. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I yield 3 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. SCHMITT. Mr. President, I think it has been made clear today, and it will be made clearer to the people of the

country, as to the importance and need for the development and production of the MX missile, regardless of the method of deployment we in Congress eventually approve for that missile.

Even if problems are in making that decision, there is no question that the production of the MX missile can proceed and should proceed because there are options for its use, even without a major new deployment system. It is compatible with the existing Minuteman deployment system and could be a great asset there.

There is a need, in the meantime, to decrease the vulnerability of that Minuteman system through the short-term fixes that are necessary, I believe, even without the present availability of the MX system.

I have talked about that before with the distinguished chairman of the Armed Services Committee, and it is hoped that those alternatives for short-term decreases in the vulnerability of our Minuteman system will be made.

They include, of course, the replacement of 100 Minuteman II's with Minuteman III's; the acceleration of the long-life battery program; further acceleration of the air-launch control system (ALCS), phase III and expansion of that program to provide airborne launch control for all Minuteman III's; the expansion of the Mark 12–A warhead production to include the additional Minuteman III missiles.

These, of course, do not substitute for the MX but are steps we must take in the short term to insure that the vulnerability of our intercontinental ballistic missile system is at a minimum as we enter the 1980's.

I hope our colleagues will strongly endorse the production of the MX system, while Congress reserves to a future time the consideration of the final mode of deployment of that system.

Mr. STENNIS. I thank the Senator from New Mexico.

Mr. President, I yield to the Senator from Nevada.

Mr. LAXALT. I thank the chairman.

Mr. President, on June 7, 1979, President Carter gave the go-ahead for further development of missile X, the proposed MX intercontinental range ballistic missile (ICBM). On September 7 he decided to deploy the system in the so-called race track basing mode. As currently envisioned, the MX would be far more capable and much less vulnerable to attack than any existing American missile. It is scheduled to become operational in 1986.

Since the early 1950's, the basic goal of American nuclear policy has been to deter a Soviet attack by threat of massive retaliation. In other words, if we are able to absorb a Soviet strike and then destroy a large enough percentage of Soviet military and economic capacity they would be deterred from attacking us. We have bet the Russians will not attack us because of the massive destruction that we could rain on them if they did.

In 1974, Defense Secretary James Schlesinger made explicit a second goal that had been implicit in U.S. planning: our forces should be capable of limited attacks on selected economic or military targets. If the President faced a Soviet provocation less cataclysmic than a nuclear strike on our cities, he should be in a position to launch a similar retaliatory attack.

This two-pronged philosophy, however, has been threatened by rapid growth in both numbers and accuracy of new Soviet monster missiles. Demands for the development of the MX are related to this growth and to the argument that by about 1982 Moscow will be able to destroy nearly all of our intercontinental missile force and still have enough weapons to hit remaining military and civilian targets.

The MX would remove that threat. Because of its hide-and-seek characteristic, the Soviets wiuld have to hit every one of the MX's possible launching sites to be sure of destroying the system. And enough sites could be built to assure that even if such an attack were launched, the Russians would have nothing left over afterward, leaving themselves vulnerable to deadly retaliation.

Missile X has an extensive history, with early proposals dating as far back as 1973. Logistically, the MX would be a king-sized weapon, measuring 92 inches in diameter and standing 70.5 feet tall, greater than a six-story building. It would weigh 190,000 pounds and be designed to carry up to 10 or more warheads, each capable of being aimed at a different target. That capability would narrow the gap which has opened through extensive Russian development of large missiles in recent years.

The MX is not only more powerful than the Minuteman, our current ICBM, but it is also more accurate. That improved accuracy would also help neutralize at least some of the growing Soviet numerical advantage.

Mr. President, as my colleagues are well aware, the United States today relies on a strategic nuclear force composed of three parts: Land-based missiles, bombers, and nuclear submarines, what the military refers to as the nuclear triad.

In this context, the MX would give us distinct national security advantages. For example, it would keep the Soviets from concentrating their forces in a single area and insure our safety should one or two elements of the triad be destroyed or fail. But more importantly, the MX would guarantee continued effectiveness of the land-based missile force in the face of growing Soviet missile capability.

The MX would be survivable and could deliver a devastating retaliatory punch against Soviet strategic forces. Its survivability is based on the fact that Soviets would not have enough warheads in their ICBM force to destroy all of the MX silos. Ideally, they would be deterred from attacking by the sheer difficulty of such a task. If the Soviets did attack, their ICBM forces would be so greatly depleted that they would be unable to launch attacks against other weapons systems and American cities.

The MX would also narrow the current U.S. deficit in throw-weight. As my colleagues are well aware, this is the weight of the weaponry placed on a trajectory toward an enemy target. Throw-weight is a basic indicator of military strength. Once this discrepancy is narrowed and the United States is more equal in throw-weight, there would be a perception by the Russians that they could gain no significant advantage by attacking our forces. Hopefully, this kind of balance would also give the Soviets an incentive to join us in considering effective arms control measures in the future.

Basically, then, the advantages of the MX are that it would serve to deter any potential Soviet attack on us, thus neutralizing any political advantages which might be gained by a perceived superiority of Soviet forces over the United States.

Personally, I am greatly disturbed by our deteriorating defense capability vis-a-vis the Soviet Union. As I see it, we must immediately take the necessary steps, in terms of increased defense spending, to insure, in the decades to come, that we never slip into an inferior position militarily relative to the Soviet Union.

As I see it, the MX system is a vital part of this country's answer to this serious problem. It provides the kind of firepower and accuracy which will be necessary to be an effective counterweight to Soviet power. And I think it essential that we begin without delay.

Mr. President, I oppose the amendment of the Senator from Oregon, not so much in terms of the concept. I have lived with this problem perhaps as much as any of my colleagues, because MX, in the contemplated present base mode, has more impact upon my State than any other State. It is my view, from talking with the people in the Air Force and with others, that the matter of the base mode is literally up for grabs.

As we know from observing the situation in the last year, there was talk initially of the so-called shell game, the holes; then we moved to talk of trenching; and finally we came with racetrack.

Racetrack has an impact upon my State of enormous proportions. It will literally gut the center of the State of Nevada, taking—under the present plan—some 21 interior valleys, with impact upon water, with impact upon the labor situation, with great impact upon the areas with small rural population.

It is my view we need MX. I share the sentiments of those who have previously spoken. We absolutely need this system in terms of effective counterforce to the Soviets. Where the basing mode should go I do not know. As I have expressed to the chairman I have great reservations about the racetrack as does he and as do others. Whether we should go to subs I do not know. I think that the question is. At this time should we proceed with MX? We should proceed with the system. The matter of the basing mode in connection with the racetrack and these others I think warrants complete investigation and it may well be that the submarine concept, as proposed by the good Senator from Oregon, has merit. I do not know. Perhaps that is part of the system.

In conclusion, let me simply say this: I feel as do my colleagues mostly that we should go with MX. There is the matter of basing mode and other problems in terms of whether we should follow the concept of the Senator from Oregon or whether we should go to racetrack, or whatever.

I thank the chairman.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, first of all, I wish to say that some of the technical questions or challenges that have been raised by various colleagues during the course of the discussion on this amendment have all been sufficiently answered in material that I used at the beginning of my comments. In consideration of the time factor we are involved in here, I will not seek to repeat them one by one at this time, but merely to indicate that those technical questions were addressed earlier on and were, I believe, adequately responded to.

I only wish to make one or two brief comments in closing. First of all, I think we have gotten a very clear signal today that one of my major arguments is truly verified by the debate in the Chamber.

I have indicated that the time in which our land-based missiles are vulnerable would be significantly reduced by going to a Minuteman III/SUM system.

I say this because I have heard Senator after Senator rise on the floor today to challenge the basing mode of the MX missile, the racetrack. Only a few weeks after the Commander in Chief of the armed services of the United States, the President of the United States, Mr. Carter, announced the basing mode we have a letter introduced today by the chairman of the Armed Services Committee in the RECORD from Secretary of Defense Brown, and I wish to quote from the second page of it in which Secretary Brown says:

> In summary, the $670 million allows us to continued FSED on both missile and basing with a full option to switch basing modes at a later date.

Here is the Secretary of Defense indicating within a few weeks after the announcement by the President that we are not sure what the basing mode will be.

Is this not a clear signal that this is a confused system already fraught with all kinds of delays so that the vulnerability of our ICBM's is going to be even greater than what I already estimated in my opening statement?

If land-based ICBM vulnerability is truly the most significant strategic problem we face today, as the President announced, then I think this Senate has a responsibility to do everything possible to reduce that vulnerability time factor. What I am asking for today does not commit the Nation to a weapons system. But it gives us some money to go ahead and make some final studies that would be necessary before we could actually launch the system.

Why we are unwilling to use a little money out of this vast barrel that we are appropriating for the Pentagon to look at an option that would reduce the time factor of our vulnerability, is beyond my imagination and my ability to understand.

For those who have said, "Perhaps the fact that we are still in the R. & D. stage means that we are not committed to the MX missile," let me say my intent is to stop MX missile in its track.

I make no effort to hide or to somehow camouflage that my real concern here is to stop this counterforce weapon before the momentum behind its development goes too far.

In 1974, we appropriated $4.2 million for research on the MX; in 1975, it jumped to $37.3 million; in 1976, it jumped to $36 million plus $13 million; in 1977, it jumped to $69 million; in 1978, it jumped to $134 million; in 1979, it jumped to $158 million; and now it has jumped to $670 million.

Let no one be misled: This is one of those almost irrevocable steps that we are taking today for a commitment to an MX missile counter-force system, and that to me represents a very dangerous step for this Nation to take.

Mr. President, as my colleagues know, I enjoy reading history, and I shared with my colleagues on the Appropriations Committee a reflection on an analogy to what we are doing here, and that analogy I think is a valid one. It goes back to the arguments which were running rampant in the military establishment of France after World War I. "How were we going to stop the German hordes from ever invading our great nation again." The argument came down during that period between World War I and World War II as to whether or not they should do one of two basic things: build a great Maginot Line, a military dinosaur, stationary, fixed, or should they do something relatively simple, put the French military on wheels? But no, with that complex, confused military mentality that so often predominates until one dinosaur follows another dinosaur, they opted to create that great magnificent sophisticated military line of defense. They rejected the simple proposition to put the military on wheels in order to make it mobile and thus more effective in responding quickly to any challenge.

All I am suggesting here is, instead of building another military Maginot Line, which in this case is even more dangerous because it puts us into a counterforce strategic strategy, but is also just as vulnerable to future complications. Why not shift to the quick mobility of putting our Minuteman III into a shallow underwater submarine basing mode to patrol the coastal waters of the United States.

That is merely an observation. I am not sure that I want to be proven right, down the road, because of our failure to take the action that I know we are not going to take today. But at least I want to say for the record that I think it is a serious, dangerous decision we are making to develop a counterforce weapon when we have not even gotten SALT II to the floor. Yet at the same time refuse to take the action of appropriating just $20 million for SUM/Minuteman III. That is pin money, petty cash for the military. That is what slips between the cracks every day or so in their cost overruns. That is all I am asking—to at least give us another option to protect our ICBM's.

I am ready to yield back my time.

Mr. STENNIS. Mr. President, I want to take 1 minutes here in reference to the presentation by the Senator from Oregon of his amendment. He has talked to several of us about the points he has made here today, and I am glad to see him bring them out in debate. I know he made a contribution here in this very difficult subject. It is a matter which those of us who are on the Committee on Armed Services have lived with, particularly for the last 2 years. But he, in his fine way, even though not a member of the committee, has worked on it in addition to the other burdens he already carries, and he has really made a contribution here today.

Mr. President, the Senator from North Dakota (Mr. YOUNG) and I think the case has been covered, and we propose that the unused time be yielded back now. Before I do that, I have a letter here, Mr. President, regarding the MX, dated today from the Secretary of Defense that I think ought to go in the RECORD. It came to me in my official capacity. So I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF DEFENSE,
Washington, D.C., Nov. 8, 1979.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Office of the Secretary of Defense and the Air Force have examined closely the problem of future ICBM survivability. After detailed study, we have come to the conclusion that the horizontal dash M-X basing mode best serves this end. We are now working at full speed on achieving an Initial Operational Capability (IOC) of ten missiles and an appropriate number of protective structures by July of 1986. The FY 1980 budget request now contains $670 million for M-X research and development and $5.4 million for modification of rocket motor test facilities. Of the $670 million, $440 million is allocated to Full Scale Engineering Development (FSED) of the missile itself (propulsion, reentry system, guidance and control, performance and software, etc.). We have also allocated $230 million for basing FSED (shelter design, vehicles, command and control, etc.). Of the $230 million, only $55 million is uniquely dedicated to the horizontal dash basing mode. In addition, the FY 1980 Military Construction Appropriations Act provides $57 million to construct flight test facilities at Vandenberg AFB, California. The facilities to be constructed with these funds can be used regardless of the basing mode chosen.

Any legislation that would delay basing mode development by restricting the funds will cause a slip in IOC equal to the length of the resulting delay in selection of basing mode. If our work on basing is delayed by a year, this irretrievably delays deployment in a survivable mode by a year. However, full funding of FSED of both missile and basing at this time does not commit us uniquely to the horizontal dash basing mode. A shift to another land based system because of technical or other factors discovered during Full Scale Engineering Development (FSED) during FY 1980 would cause only the loss of the $55 million uniquely tied to the horizontal dash. By proceeding with FSED now, a shift to a different basing mode could be made in

FY 1981 with minimum impact on both cost and schedule.

Many have assumed that the dash feature was motivated by SALT considerations. In fact it was added to provide increased survivability. This added survivability, obtained through the capacity rapidly to move the missiles, is felt to be essential should the Soviets obtain the capability to locate the missiles in their shelters. The added cost for SALT related features is about $1 billion, primarily for SALT verification ports and associated equipment.

In summary, the $670 million allows us to continue FSED on both missile and basing with a full option to switch basing modes at a later date. Furthermore, the basing activities include detailed analysis on environmental impact, water availability, and socio-economic factors which affect the preferred deployment area, though no FY 1980 funds will be spent for actual land acquisition or any basing construction. Completion of this activity will permit us to proceed with land withdrawal activities necessary to insure an initial construction start in 1982. Appropriation of the requested amount without restriction does not preclude the Congress from making a final judgment in the basing mode at a later date, while still protecting the planned IOC date.

Sincerely,

HAROLD BROWN.

A SURVIVABLE ICBM FORCE

● Mr. CULVER. Mr. President, I have given close and careful attention to the MX program in recent months. The Research and Development Subcommittee of the Senate Armed Services Committee has held numerous hearings.

Last summer I wrote an article for the Des Moines Register, elaborating my views on this controversial program. I ask that this article be printed in the RECORD.

The article follows:

WHY CARTER SUPPORTS MX MISSILE DEVELOPMENT

(By JOHN C. CULVER)

In evaluating President Carter's decision to go ahead with the MX missile, a number of important questions need answers: (1) Exactly what was the decision? (2) Does it enhance or upset the historic triad concept of strategic deterrence that has served well? (3) Is its cost out of line for its mission? (4) Does it impair or fit in with our prospects for nuclear arms control agreements with the Soviet Union?

Carter did not make a final decision on production and deployment, and such a decision is several years away. We are not cemented into an inflexible program for the future.

Let's consider whether proceeding with the MX is consistent with our strategic-arms planning over the years or is a radical and dangerous departure from it.

For two decades the United States has maintained a triple-threat strategic force consisting of land-based intercontinental ballistic missiles (ICBMs), submarine-launched ballistic missiles (SLBMs) and bombers. Unlike the Soviet Union, which concentrates about 70 percent of its strategic power in ICBMs, we have developed a versatile, flexible and highly survivable triad which safeguards effectively against both evolutionary threats and sudden technological breakthroughs.

The versatility of our strategic forces gives us a unique edge. Each of the three components helps to reinsure the effectiveness of the others, and thereby deters an attack. The launching of a disarming first strike against us is unlikely because the firing of enemy ICBMs would give our bombers 30 minutes' warning to take off, and a close-in attack by submarine-launched missiles would not have the accuracy of explosive yield to destroy our ICBMs, though some of our bombers could be hit.

The missiles aboard our nuclear submarines at sea would likely survive in either case with several thousand nuclear weapons ready to retaliate against the aggressor. Similarly, the combination of ballistic missiles and aircraft complicates enemy defense and helps to assure military effectiveness.

Over the years we have invested billions of dollars in improving the survivability of our strategic forces. Our ICBM silos have been super-hardened. Our submarines have been made quieter to escape detection and have been equipped with longer-range missiles to allow much greater ocean operating areas. And our bombers have been equipped with electronic penetration devices and supersonic attack missiles.

Our policy always has been to deter nuclear war by maintaining the strength and currency of each component of the triad. President Carter wisely decided against production of the B-1 bomber largely because its mission could be adequately performed by other, less costly means. Now military experts are agreed that we have a problem that may threaten the survivability of one component of our triad in the next few years.

In the past two decades, we have concentrated on the accuracy of our missiles and diversity of delivery systems while the Soviets have centered their attention on size (throw-weight). However, in the next several years the Russians are expected to improve the accuracy of their missiles until it approaches the accuracy of our own.

This would give them the theoretical capacity to destroy one-third of our strategic triad, our ICBMs, in a surprise attack—assuming that they could solve many other difficult technical problems and assuming that they would recklessly begin a war in which most of their country would surely be destroyed.

Such an attack is a remote, "worst-case" possibility. But we have always been extremely careful in our planning and have structured our forces against probable Soviet capabilities regardless of perceived current intentions. We also have stressed survivability as one effective way of maintaining crisis stability.

We might increase the deterrent threat of our existing forces by adopting a "launch on warning" policy, but there are dangerous risks from such a hair-trigger—that we might fire our missiles in response to ambiguous evidence of an attack and that the president would be confronted with a fatal "launch or lose" decision.

Unilateral refusal to do anything to maintain a survivable ICBM force, when we have a technically acceptable solution, might be seen as a sign of indifference or irresolution and would leave us without a ready response if the Soviet Union should ever in the future achieve a capability to threaten our submarines or bombers.

Although I am reluctant to support any new weapons system that could conceivably touch off a new phase of the arms race, I believe the president's decision to continue research and development on the new missiles and on a more survivable basing method was justified.

[Senator Culver has voted for two Pentagon authorization bills for research and development on the MX: a supplemental authorization of $190 million for fiscal year 1979 and a $670 million authorization for fiscal year 1980.—Editor.]

The decision is not likely to spur the Soviets into any new activity because they expected it. The first official Soviet response in Pravda to the president's announcement was relatively calm and did not question that the new weapon will be within the limits of the SALT II agreement. The treaty permits each side to develop one new land-based missile system over the life of the pact.

As I indicated earlier, a final decision on production and deployment is still several years ahead. It is now reported that Carter will choose a system of hardened shelters for missiles, to be connected by rail or road, either above or below ground. This system is considered preferable to the silo "shell game" option: for arms-control verification purposes and because the missiles could be moved to alternate bunkers more rapidly in case of need.

But the basing system also will be subjected to intensive testing and study during the research and development period in the next few years.

Congress will want to review this program in detail before committing additional large sums of money but there is a consensus in both houses that we must act to help ensure greater survivability to our ICBMs both as a possible counter to the anticipated Soviet threat and as a powerful incentive for the Russians to accept significant reductions in their own strategic forces.

Because fixed land-based missiles on both sides are becoming vulnerable to improved missile accuracy, both nations have reason to reduce such forces and to seek means to assure greater survivability and crisis stability, such as by putting more missiles at sea.

Like other major strategic weapons, the MX will not be cheap. To build and deploy the new mobile missile system will cost $25 billion to $30 billion over the next 10 years, an annual increase of $2.5 billion to $3 billion in the $135 billion defense budget. The ultimate criterion is whether or not the new system is needed.

I have always said that in defense we should spend what is needed—whatever that may be—but only what is needed and no more. So far, no credible, less costly alternative to the MX has been proposed to maintain the survivability of the land-based component of our strategic triad.

The logical question arises: Why not, in the interests of economy and arms restraint, use our existing Minutemen ICBMs in a mobile basing system? One answer is that the Minutemen do not have the range for launching with full payloads from the southwestern part of the country, which has been judged the best area for deployment.

Another answer is that the Minutemen are not "nuclear-hardened" which means that they could be blocked out or rendered inoperable by the electromagnetic effects of incoming, exploding warheads.

Yet another reason for going ahead with the MX is that the mobile MX would make us less dependent on sheer numbers of missiles, a point consistent with the objective of arms restraint. Our present ICBMs, aging and ultimately in need of replacement, could be phased out within future arms agreements without reducing our retaliatory capability, thus helping to keep down the numbers of weapons in the nuclear arsenals of both superpowers.

Another suggestion that has been made is for a somewhat smaller version of the MX that could be launched from coastal waters by submarines or some other submerged launching system. This is one of the numerous options that was considered and ruled out, reportedly because of command and control difficulties and the longer development time that might be required. But this and various other alternatives that were considered could be recalled during the research and development period of the MX if new circumstances warranted.

As chairman of the Research and Development Subcommittee of the Senate Armed Services Committee, I believe that a mobile ICBM system should be evaluated according to the following criteria:

Since the goal of the system is crisis stability (rather than a first-strike threat), we

should limit our missile numbers so that we do not drive the Russians to a vulnerable, hair-trigger situation in which they would feel that they had to strike first in a crisis in order to avoid losing their entire ICBM force.

Our mobile-missile system must be compatible with our arms-control agreements, especially in terms of verifiability of numbers. And our standards must be sufficiently high that we could be confident of Soviet compliance if the Russians built an identical system.

The design must be technically sound and environmentally acceptable.

The costs must be reasonable compared with any feasible alternatives to maintain our security.

Although some observers view the MX as a price or bribe for Senate acceptance of the SALT II treaty, the pressures to begin full-scale development would have been very strong with or without SALT. In justice to the president, what he has done by his decision is to choose a plan that takes full advantage of SALT's provisions and makes it difficult for anyone who favors the MX to oppose the treaty.

As military and civilian officials have repeatedly admitted, the multiple-shelter system can be effective only if there are known limits on the number of Soviet nuclear warheads as provided by SALT II which would require them to assign most or all of their ICBM force just in the effort to destroy our ICBMs.

Without SALT's warhead limits, the multiple-shelter plan would be of dubious effectiveness or we would be caught up in a costly and continuing race to build new bunkers to match each new Soviet warhead Carter's decision has the double advantage of responding to a widely agreed-upon defense problem with a plan that should strengthen support for SALT.

In the long run, the security of both the United States and the Soviet Union will be improved if each nation has survivable retaliatory forces and thus no incentive to strike first. The challenge for both sides will be to deal with the likely improvements in missile accuracy against fixed positions in ways that do not increase instability or undermine efforts at arms control.

Until we find a better way, we should continue research and development of the mobile MX system and simultaneously seek mutual arms-control measures in SALT III to ensure enhanced strategic stability.●

MX AND STRATEGIC DOCTRINE

● Mr. McGOVERN. Mr. President, much of the attention on MX has focused on costs, basing mode and its relation to SALT votes. But a subject which has not received enough attention is the relation between MX and strategic doctrine—that is, what is the military purpose of the MX.

First. Basic U.S. strategic nuclear policy has been to have enough second-strike forces to retaliate against the Soviet Union if it struck first. This is mutual assured destruction. The United States presently has over 9,000 nuclear warheads to deliver against cities and military targets. This is an absolutely assured deterrent capacity.

Second. Just because Minuteman may be vulnerable in the computer print-outs is not the same thing as having our whole deterrent vulnerable—that is, even if Minuteman were wiped out, the United States would still retain enough nuclear weapons—on our submarines and bombers—where over 75 percent of our weapons are—to retaliate and destroy Soviet society. So even if Minuteman is hypothetically vulnerable, the United States is not vulnerable.

Third. If military officials feel that Minuteman should be replaced, there are ways to do it which preserve the mutual assured destruction doctrine. Senator HATFIELD has suggested one and there are others. So this debate is really not about vulnerability at all.

Fourth. The real issue in MX is that it is the weapon system designed to change our strategic doctrine from MAD to a first-strike counterforce doctrine which can be employed either to engage in a game of nuclear "chicken" or to actually fight limited nuclear warfare. MX represents a shift from deterrence to war-fighting.

Fifth. There are several reasons why MX is a first-strike war-fighting weapon:

It has the explosive power and accuracy in each warhead to wipe out a Soviet missile silo.

The number of warheads planned for MX—2,000—will, when added to Minuteman III warheads, give the United States a first-strike capability against Soviet missiles.

The ICBM preserves the command and control features required for war-fighting capability.

Sixth. The shift from deterrence to war fighting represented by the MX has serious consequences:

It will put a hair trigger on Soviet weapons because their ICBM's will become vulnerable and they will have to "use or lose" them.

It weakens deterrence by making limited nuclear war a "thinkable" option. This makes nuclear war more likely.

It makes nuclear weapons more usable in foreign policy crises since their actual military use short of full-scale exchange will be contemplated. Nuclear blackmail and nuclear brinkmanship will result.

Seventh. Adopting the counterforce strategy, the flexible response doctrine and the MX weapon are dangerous and far-reaching developments. We should not give credibility to limited nuclear war scenarios and we should not shift away from deterrence. The MX gives the illusion of security while raising the likelihood of nuclear war.●

The PRESIDING OFFICER. All time having been yielded back, and the yeas and nays having been ordered, the question is on agreeing to the amendment of the Senator from Oregon. The clerk will call the roll.

The assistant legislative clerk called the roll.

(During the call of the roll Mr. STEWART and then Mr. SARBANES assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. TALMADGE), the Senator from Montana (Mr. BAUCUS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Arizona (Mr. DECONCINI) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

The PRESIDING OFFICER (Mr. SARBANES). Is there any Member of the Senate present who has not voted and wishes to vote?

The result was announced—yeas 11, nays 77, as follows:

[Rollcall Vote No. 397 Leg.]

YEAS—11

Eagleton	McGovern	Riegle
Gravel	Metzenbaum	Stevenson
Hatfield	Pell	Weicker
Leahy	Proxmire	

NAYS—77

Armstrong	Garn	Muskie
Bayh	Glenn	Nelson
Bellmon	Hart	Nunn
Bentsen	Hatch	Packwood
Biden	Heflin	Percy
Boren	Heinz	Pressler
Boschwitz	Helms	Pryor
Bradley	Hollings	Randolph
Burdick	Huddleston	Roth
Byrd, Harry F., Jr.	Humphrey	Sarbanes
	Inouye	Schmitt
Byrd, Robert C.	Jackson	Schweiker
Chafee	Javits	Simpson
Chiles	Jepsen	Stafford
Church	Kassebaum	Stennis
Cochran	Laxalt	Stevens
Cohen	Levin	Stewart
Cranston	Long	Stone
Culver	Lugar	Thurmond
Danforth	McClure	Tower
Dole	Magnuson	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Durkin	Meicher	Williams
Exon	Morgan	Young
Ford	Moynihan	Zorinsky

NOT VOTING—12

Baker	DeConcini	Kennedy
Baucus	Goldwater	Ribicoff
Bumpers	Hayakawa	Sasser
Cannon	Johnston	Talmadge

So Mr. HATFIELD's amendment (UP No. 787) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there any further amendment dealing with the subject of the MX?

UP AMENDMENT NO. 788

(Purpose: To insure that funds spent do not eliminate other basing modes for MX missiles)

Mr. STEVENS. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 788.

On page 29 after line 2 add new sentence: "None of the funds appropriated under this paragraph to continue development of the MX Missile may be used in a fashion which

would commit the U.S. to only one basing mode for the MX missile system.

Mr. STENNIS. Mr. President, will the Senator yield for a half-minute?

Mr. STEVENS. I am happy to yield.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator will suspend for a moment?

Will Members clear the aisles?

The Senator from Mississippi.

Mr. STENNIS. Mr. President, I hope Senators will be able to hear the Senator from Alaska. This amendment is very important. Quite a few have joined the preparation of the amendment. It covers a problem which has been hanging fire, and which has now been worked out. The Senator from North Dakota and I are supporting it.

Many of those who helped write the amendment will support it. We are going to ask for a rollcall vote.

Mr. STEVENS. Mr. President, I would like to add as cosponsors of this amendment the Senator from Oklahoma (Mr. BELLMON), the Senator from California (Mr. CRANSTON), the Senator from North Dakota (Mr. YOUNG), and the Senator from South Carolina (Mr. THURMOND). I would be happy to welcome any others.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I am today proposing an amendment which recognizes the need for the MX missile system while making clear that the currently suggested basing system should not be the only option we have.

There is widespread recognition of the need for a new intercontinental ballistic missile to bolster our strategic forces. The Minuteman force we developed in the early 1960's is becoming increasingly vulnerable to the threat from the Soviet Union because of increasing power and growing accuracy of the Soviet warheads. As their new MIRVed ICBM's, the SS 17's, SS 18's and SS 19's come into full deployment they will be capable of destroying up to 90 percent of our ICBM's in a first strike.

The essential element the MX can provide is a nuclear force which will survive a first attack and provide a credible retaliatory threat. This can be achieved by several basing modes.

But it is clear that the increasing vulnerability of our ICBM force demands a new missile system. I am a strong supporter of the MX missile and intend to do what I can to see that it is deployed promptly.

I do, however, have very serious doubts about the basing mode proposed by the President. The system is expensive, cumbersome, of questionable capability and presents serious environmental, social and legal implications which will undoubtedly lead to delay and additional expense. Frankly, it appears to be the worst of the available options and may very well be designed to fail.

This amendment makes it clear that the Congress does not consider this the best system. It is interesting to recall the President's decision to proceed with the MX missile was announced in late June, barely a week after the signing of the SALT Treaty in Vienna. But, no announcement was made on the basing mode.

The Air Force has long favored a vertical positioning mode which deployed the missiles in silos similar to the current Minuteman system. A major difference is the large number of firing points which do not contain missiles. The uncertainty as to which silos contained missiles would require the dedication of an unwisely large number of Soviet warheads to guarantee destruction of our ability to retaliate. Apparently, concern about possible verification problems and the Soviet reaction eliminated the verticle positioning system.

Other options which had been considered were a series of long trenches lined with railroad tracks. The missiles and launchers would shuttle along the tracks to hardened shelters where they can survive attack and be launched. An air mobile system calling for the deployment of the missiles in aircraft and requiring mid-air launches of the missiles was also rejected.

In place of these options the racetrack concept was decided upon and announced on September 7. This was after the Armed Services Committee was forced in its authorization bill to insist that the final basing system be detailed by October 1, because of administration delay.

I do not need to describe in detail the system here. It is a Rube Goldberg combination of the Transporter, Erector, Launcher vehicle (TEL), weighing over 600,000 pounds of mobile surveilance shield to hide the TEL, a system of mass simulators, shelter ports, and other undesigned and untested technology. Its workability is open to enormous question.

The system will establish 4,600 launch points in 200 separate racetracks for a total of 200 missiles. The entire system would cover 13,000–40,000 square miles, although when completed less than 100 square miles would be fenced off. Ten to twelve thousand construction workers will be needed. The total official estimated cost will be $33 billion and other estimates range up to $60–$120 billion, annual operating costs will be $440 million. This is an extraordinarily expensive proposition and, although we need an effective defense, we have learned the hard way that cost has scuttled much needed systems, such as the B–1 and ABM. This project, largely because of the basing mode selected, may simply be too expensive to complete.

When you are dealing with a project covering 13,000–40,000 square miles enormous environmental problems are presented. Thirty-three Federal laws govern land acquisition. The requirements of NEPA, the Clean Air Act, the Federal Water Pollution Control Act and all other environmental laws must be met. Enormous amounts of water in a very arid area are needed. The end result of the environmental and legal problems will undoubtedly be delay and higher costs. The experience of Alaskans on a project of great national security implications like the oil pipeline shows clearly what we can expect.

The social effects of the massive construction project on the people and communities of the affected areas are also enormous. Already opposition is beginning to surface. I am told the Governor of one of the affected Western States has requested enormous amounts of Federal impact money to help the local residents cope with the expected influx.

In short, the system is one that I, frankly, do not think we will ever see built. I say this, not because I do not think the missile should be deployed. It should, but this basing system is not the right system. That is why I supported the Hatfield amendment in the committee. But rather than terminate the entire MX program, I think we would do better to just keep our options open.

I wish I could provide a better alternative. The vertical positioning system long supported by the Air Force is significantly less expensive. The air mobile system would be more expensive but could avoid some of the environmental and social problems involved. Senator HATFIELD has suggested the Shallow Under Sea Missile system. This probably deserves further review.

A deep basing mode, employing significantly stronger and deeper silos, might also be practicable. There is no easy solution. We can avoid accepting by default this bad system if my amendment is adopted.

It merely requires that the other prospective options be kept available. Money cannot be spent which will commit us to only one basing mode. The design of the basing mode should allow the maximum flexibility so that the designs are adaptable to other possible modes. Any land acquired must be suitable for use by alternative basing modes. Research on the basing mode must be valuable for alternative basing modes. No other funds should be spent unless they will benefit alternative modes.

This does not have to lead to delay. The funds available can still be expended for research and development but the work should maximize the flexibility to insure the most reasonable system possible.

We must insure that the MX missile is built. A strong survivable ICBM force is needed and the MX can provide it. We need it soon. But, what we cannot do is accept any basing mode for the convenience or politics of the moment when that basing mode is going to be so expensive it will soon be abandoned, so complex and untested that it will never work, so prone to delay that it will come into service years after it is needed.

Our recent history is cluttered with examples of military systems which have been abandoned because of costs. The American people spent $5.7 billion over 10 years on the ABM system only to conclude it was too expensive. The total cost of the B–1 bomber was $6.3 billion—again the cost was cited as excessive and the system was abandoned. The implications of the B–1 decision on our strategic situation are becoming clearer every day. It was a mistake and we regret it.

We cannot afford to make a similar mistake with MX. The basing mode must provide us with adequate survivability but not a lot of gimmicks and untested ideas. The current proposed racetrack

system is not the best and we need to make it clear that we must keep our options open. I ask the Senate to accept this amendment, which will simply state that the moneys involved in this bill will be made available but they cannot be used to commit the United States to only one basing mode for the MX system.

Mr. STENNIS. Mr. President, I shall try not to repeat, but this is a matter that has been discussed pro and con in the authorization committees, in the Appropriations Committees, and on the floor, in the corridors, and in the press: the final basing mode that will be adopted for housing this new missile and launching pad, and so forth. Here is all this amendment does: It is in the nature of a limitation. It does not put any limitation on the amount of money, which is a total of $670 million, but it provides that none of this money may be used in a fashion which would commit the United States to only one basing mode for the MX missile system. That means just exactly what it says, a limitation. There will be no commitment, but it will still be an open question so far as the legislative branch of the Government is concerned.

There is a lot of interest in it; there is difference of opinion about it. The Senator from Alaska has worked on this language carefully and he usually has something that has a meaning.

Reference is made here to the different services. I am not interested in trying to protect or commit to one service or anything of that kind. What we want is results.

The Senator from North Dakota and I have been exposed to the problem all year and we are glad to join in this amendment. This is not being done behind the back of the Department of Defense. They have been apprised of the fact that we had to have something that addressed this problem. They have been consulted about it. So we agree. And so do several others.

Mr. President, I yield such time as he may use to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I shall make my remarks very short.

I cannot help but feel that the Defense Department was quite limited in the methods of basing the MX missiles. If they had a free choice, which I think they will have in the not-too-distant future, they, themselves, will probably select a different mode. This is the most expensive one and I doubt it is the kind we can sell to the American public.

There are other modes of deploying these missiles that should be studied and, under this amendment, they can be.

I am very happy to support it because it gives the Pentagon leeway and gives Congress the leeway that it should have. We can make the final decision a year or two from now as to just how these missiles should be deployed.

Mr. BELLMON. Mr. President, will the Senator yield me 10 minutes?

Mr. STEVENS. I yield such time as he may need to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, at the outset, I want to make it clear that I favor the development and deployment of a mobile ICBM. In committee, I supported the Hatfield amendment. That was the only opportunity we had in committee to cast a vote against the so-called racetrack system. That is the controversy that I believe the Senate needs to know about and address itself to.

It is not that we are for or against the MX, but we are trying to find a way to deploy the MX in a manner that makes some sense. I do not support the Hatfield option of putting the ICBM's in small coastal submarines or any other basing mode at this time.

I voted against MX appropriations because I believe that the basing mode that has been selected by this administration is yet another example of schizophrenia in the conduct of our foreign and defense policies.

Here is the problem, Mr. President: The foreign policy planners want SALT II; there can be no question about that. The military planners want a land-based ICBM force that is essentially invulnerable to a first strike.

So, the administration, in an attempt to reconcile the irreconcilable, has proposed to deploy the MX in a horizontal structure, racetrack, dash-capable, shell game, basing mode.

Mr. President, the only reason the administration has decided to deploy our next ICBM in this costly, wasteful, inefficient, Rube Goldberg manner is that SALT II—as it is now written—prohibits a more rational basing mode. I know that; the administration knows it. The Russians know it. The Russians have told us, flat out, that a vertical silo "shell game" basing mode, which would be vastly cheaper than the mode the administration has selected, would be a violation, in the Russian mind, of the SALT II document that President Carter has signed.

But witness after witness before the Foreign Relations Committee and before the Armed Services Committee, including the Secretary of Defense and others seeking Senate ratification of SALT II, have testified that we will have an increasingly vulnerable land-based ICBM system by the middle 1980's and that we have got to have a new mobile ICBM system to protect us. They have all said, "We have got to have MX."

Those witnesses and other conversations I have had have convinced me that we will have an ICBM vulnerability problem and that we will need to build the MX.

Now, if you asked our military planners to come up with the most efficient, cost-effective, invulnerable basing mode for our new ICBM, I wonder if anyone believes that, left to their own devices and left free to make their own decisions, these military planners would come up with this thing that looks like the boondoggle of the ages, that has been presented to Congress by the administration, which we are about to fund in this bill?

Mr. President, if we need a truly mobile ICBM for national defense, and SALT II, as now written, prohibits us from deploying such a system in a rational manner, then I say we must either rewrite SALT II, or reject it.

I wonder, Mr. President, in all seriousness, if the way this basing mode has been presented to us was not deliberately chosen so as to make the system so outrageous and expensive that we will finally wind up rejecting it and, therefore, not build it at all.

This has happened, as Senator STEVENS said, with some other defense activities in recent years.

I wonder if the dash capability was not chosen so as to make the system outrageously expensive, and hence subject to being rejected by Congress?

Mr. President; I wonder if this administration truly intends to deploy a mobile ICBM system to redress the vulnerability of our forces in the mid-1980's. President Carter insists that he does intend to, and will. But he also insists that he has got to have SALT II as written.

I do not believe this kind of marriage will work. It seems to me that this SALT–MX marriage was a shotgun wedding. I do not think it was made in heaven. I do not think it will last. I do not think we ought to sanctify it.

Mr. President, I support the Stevens amendment because I feel no money should be spent for any aspect of the horizontal structure, dash-capable, racetrack, shell-game MX basing mode. I hope that all the money we appropriate is spent for development of the new ICBM, itself. I would like to see language in the appropriation bill to make those wishes clear. It is for this reason that I support and cosponsor the Stevens amendment.

I intend by my vote that all the money we appropriated be spent in ways that will not lock us into any basing system at this time.

I hope the language in the Stevens amendment makes this abundantly clear and that there will be no question of what we are talking about here, that it is not locking us in, in any way, so that later the argument can be made that we have to go ahead with the racetrack or we will lose time or the investment or a substantial amount of taxpayers' money.

Mr. President, I support and am a cosponsor of Senator STEVENS' amendment. In the past few days I have learned a great deal more about the proposed MX basing system—the so-called racetrack—and the alternative multiple protective structure basing system.

Frankly, I am appalled by the cost and complexity of the racetrack system. It appears to me that we are being forced into an unwieldy and horribly expensive basing system totally because of Soviet objections related to the SALT II treaty, as I have already said.

In essence we are permitting the Soviets to use SALT to force us into a basing system which is at least second best and which I have very grave doubts will ever be built, or the military would recommend if they could come out and speak.

I support the MX missile concept, and I recognize the need to redress the vulnerability of our land-based ICBM's that will develop shortly.

But I do not favor any funding action which implicitly or explicitly locks us into the racetrack mode. There are alternatives which are safer, harder, and

more cost effective. Authorities whom I trust have assured me the racetrack is not the most preferable system and that SALT verification concerns have led to its late and hurried consideration. This is hardly a responsible way to run a force planning exercise. We are in danger of building an MX which serves Russians not Americans. Deployment of the best possible systems which can contribute most to our national security should be our goal on this issue, not SALT conditions and not Russian blessings.

For this reason I support this effort to insure the United States is not locked into the racetrack MX leasing system.

Mr. President, I am confident we will do the right thing on the Stevens amendment to avoid locking us into a basing mode that is not in the national interest.

Mr. President, this is an issue which I believe is one of the most important the Senate has faced in a long time. I believe that determining the best way to deploy the MX is a matter of national priority and can contribute an enormous amount to the national security.

It may offer us hopes of ending the arms race, but we must make the decision in the most rational way possible.

I believe sincerely that the Stevens amendment will give us the opportunity to do that.

Mr. President, there is a letter the chairman of the Armed Services Committee has had printed in the RECORD from the Secretary of Defense which mentions $55 million as the amount in this bill that is earmarked or intended to be spent for the racetrack basing concept.

But I have an Air Force factsheet. I ask the distinguished Senator from Alaska if he knows what these figures mean?

According to the factsheet, it lists $97.4 million that is in this bill to be used for mechanical systems to develop the following components:

Transporter-erector-launcher, mobile surveillance shield, shelter port removal vehicle, provisions for mass simulators, preservation of location uncertainty countermeasures, shelter closure system, transportation and handling equipment, and environmental control system.

It sounds like that is all related to the basing mode of the racetrack.

I do not think what we are talking about here is just $55 million in the Secretary's letter, but we are talking about any money in this bill that might commit us to the racetrack system.

Also a $48.4 million figure intended to be spent for various kinds of civil engineering undertakings; and another amount of $70.6 million for engineering and general support.

Mr. President, I ask the Senator from Alaska if he intends his amendment applies just to the $55 million or to all funds in this bill that might lock us into the racetrack mode?

Mr. STEVENS. I say to the Senator from Oklahoma that the amendment is very specific that none of the funds appropriated in this program may be used in a fashion to permit the use of only one basing mode.

I have not examined in detail the individual items he has mentioned. I did see the letter he has mentioned that the chairman has had printed in the RECORD.

But it is my understanding that if any of those individual items could be used only in one basing mode, they would be precluded from being funded by the moneys in this bill.

Mr. BELLMON. I thank my friend.

Mr. STENNIS. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. STENNIS. Mr. President, with reference to this $55 million, as I understood, there was a calculation there, should the Congress go to the other method, or the perpendicular method, there would be $55 million worth of work that had to be done, approximately that amount, that could not be directly used.

But we are not excluding that $55 million. It is left in the bill and, if it comes out that way, it will just be a price that we pay for utilizing the time.

Let me ask the Senator from Alaska, is that not approximately correct, with reference to our understanding?

Mr. STEVENS. That is correct.

However, I did not compute the $55 million. The Secretary did.

The Senator from Oklahoma's question is whether in any of these other items there could be moneys that might commit us to one basing mode.

That decision has to be made by the Secretary. We are telling him not to commit us to one basing mode. He has told us his understanding is that there is $55 million. My response to the Senator from Oklahoma is that there may be more or less.

But the direction is clear, do not commit us to only one basing mode.

Mr. STENNIS. Yes.

There is no committal involved, even though they may spend that $55 million.

Mr. STEVENS. That is right.

But not inhibited to spending. But we say spend it in a way to utilize it in more than one mode.

Mr. STENNIS. I do not know it can all be utilized in more than one mode.

Mr. STEVENS. No. Spend it in a way that will not commit us to one mode.

Mr. STENNIS. That is right. Agreed on no committal. If the money was spent, there would be no committal to that one mode.

I think that is a major point we got together on.

Mr. STEVENS. If I can yield to the Senator from Washington, I state to my friend that several Senators would appreciate it if we could vote at 2 o'clock, because they have schedules to leave this afternoon, it being a Friday on a long weekend. I would like to accommodate them, if possible.

Mr. STENNIS. We will do the best we can. I am ready to vote now. But I do not want to cut off anyone.

Mr. JACKSON. Mr. President, I have just one short question.

This is a followup, in fact, I think it is a parallel question, to one that has already been asked in connection with the Stevens amendment. I want to direct this to the author of the amendment.

In the interest of protecting our options, I hope that the Secretary of Defense will make resources and personnel available to continue exploring and studying other options. That is the key thing relating to the use of the funds with which the Senator's amendment is concerned.

I understand from the Air Force that within the budget provided for the advanced ballistic reentry systems (ABRES) program there are sufficient funds and people available for this purpose.

I wanted to ask the Senator if that is his general understanding?

Mr. STEVENS. It is my understanding. I think it is consistent with discussions we have had with the chairman that they are not to use these funds so as to commit us to one mode, and any other way possible they can find us a better mode for the use of these funds, they should do so without delay.

Mr. JACKSON. I think that answers it.

Mr. STENNIS. I did not get into the problem here of committing certain personnel or certain avenues.

Mr. STEVENS. That is correct.

Mr. STENNIS. I did not understand that.

Mr. JACKSON. But it is not foreclosed.

Mr. STENNIS. That is right, it is not foreclosed.

Mr. JACKSON. The point I think we all are talking about is that there are serious concerns about any one basing mode approach.

Mr. STENNIS. That is right.

Mr. JACKSON. Specifically, a number of us have expressed our concern about the so-called racetrack system. Others may express it in relation to something else.

I think that what all of us in the Senate are saying, loud and clear, is that we had better make sure that we have a basing mode that will provide the maximum degree of survivability at the lowest possible cost—cost effectiveness—and be able to do it as expeditiously and in as timely a fashion as is possible. That is all I am saying.

I do not have in mind an exact, specific basing system; but I am raising serious questions about what appears to be the administration's decision to go ahead on the so-called racetrack system.

As I see it, the racetrack system does portend serious trouble, both as to its survivability and in terms of cost. I think we have to nail down those things.

I believe that the Stevens amendment gives to the administration flexibility so that they are not bound and tied to any one specific basing mode. I commend the Senator from Alaska.

Mr. STENNIS. I was concerned about the loss of time, whichever way this thing went. I did not see that we had any time to lose on this basing mode, and I was willing to spend $55 million even though that might have to be abandoned, because time was worth so much to us—1 year or 2 years. I think we are all together.

Mr. JACKSON. I say to the Chairman that, in that connection, I hope the Department of Defense will place heavy emphasis on expediting the research and

development, and the moving into production on the MX missile itself.

Mr. STENNIS. Yes. I heartily agree.

Mr. JACKSON. I feel that that is a critical part of the total budget item we are considering.

I thank both Senators.

Mr. STEVENS. I say to the Senator from Washington that we are totally in agreement on that. We do not seek to delay. We seek to accelerate it.

Mr. BELLMON. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. I yield.

Mr. BELLMON. Is it the intent of this amendment that the Defense Department not come in here a year from now and say that they have proceeded with the research on the basing mode, on one mode over another, so that if we, Congress, decide that the administration made a mistake, they will be able to say that changing modes will result in a lengthy delay?

What we are trying to accomplish is that all modes be moved ahead equally, so that whenever a decision is made as to which mode is going to be used, we can proceed without loss of time or loss of money.

Mr. STEVENS. The priorities we are seeking are in terms of the missile itself. We are warning them, as they commit funds under this bill, not to commit them so as to bind it to one mode.

Mr. BELLMON. Or to give one mode an advantage over the other as to time or cost.

Mr. STEVENS. I believe that is the intent, also.

Mr. President, I have had no further request for time. Unless there is some indication that someone wishes time, I am prepared to yield back the remainder of my time and meet the request that we vote by 2 p.m.

I thank Senator STENNIS and Senator YOUNG for their consideration. I appreciate the advice of Senator JACKSON, Senator TOWER, Senator BELLMON, Senator SCHMITT, and Senator CRANSTON.

If the Senator is willing to yield back his time, I will yield back mine.

Mr. STENNIS. Mr. President, we yield back the time on our side.

Mr. HATCH. Mr. President, I support the Stevens amendment and I believe the Stevens amendment will not delay the MX.

This administration has told us again and again that the MX program is an essential precondition to the SALT treaty, and as many newspaper columnists have pointed out, this administration is not composed of hawks on the national defense issue by any means. During the debate on the SALT treaty, I will be proposing a reservation that specifically links progress in the MX program to our remaining bound by the treaty. I will read it today as a contribution to the debate on the need for flexibility without delay on the MX basing mode.

Let me add that many of us are concerned at the casual attitude the Carter administration seems to be taking to the MX program. This massive undertaking which will cost from $30 to $50 billion has not received major Presidential endorsement in press conferences. It has not received any special attention in the Defense Department. It has not been called a "Manhattan Project" like the development of the atom bomb during World War II. It has not been the subject of a Blue Ribbon Commission set up by the White House. It has not been considered by a panel of "wise men" from previous administrations. It has not even been specifically approved in the SALT agreements. How then do the President and the Secretary of Defense expect us to believe that they are really going to build it? This is a subject we will return to during the SALT debate.

The reservation I shall propose reads as follows:

SALT II TREATY—EX. Y, 96-1

(Purpose: To provide for withdrawal from the Treaty if the MX program does not remain on schedule)

96th Congress, 1st session, as in Executive Session, Senate of the United States.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF STRATEGIC OFFENSIVE ARMS

Ordered to be printed and to lie on the table.

Intended to be proposed by Mr. Hatch to the resolution of ratification of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Arms, done at Vienna on June 18, 1979, viz:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the reservations, which are to be made a part of the instrument of ratification, that:

"(1) The program schedule of the MX is a material fact in the consideration of this Treaty, and, because of assurances by the President that this MX program schedule will be strictly implemented, any significant change from that schedule shall be considered by the Senate in executive session.

"(2) If the Senate shall not accept proposed delays in the MX program during the life of this Treaty by a vote of two-thirds of the Senators present, the President shall give notice to the Union of Soviet Socialist Republics that extraordinary events have occurred as described in Article XIX, paragraph (3) of the Treaty, and the President will carry out the procedures of Article XIX of the Treaty necessary to withdraw the United States of America from the Treaty."

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD a table entitled "MX System Schedule."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MX SYSTEM SCHEDULE

[Estimated by Defense Department]

	Calendar year—					
	1979	1980	1981	1982	1983	1984
Missile development	FSED contract			1st flight		
Basing development		FSED contract				
Test facilities		FSED contract				
Flight test					20 missile flights	
Missile production				Materials auth	Production	Production.
Basing production				Materials auth	Production	Production.
Facilities/deployment			Main base, roads and utilities.	Site prep	Shelter construction	Shelter construction.

Mr. THURMOND. Mr. President, I am pleased to be a sponsor of the Stevens amendment, because I feel Congress should study the MX basing mode in view of the fact the administration went against the long-held Air Force recommendation in favor of the vertical shelter basing mode.

There is strong reason to believe the vertical shelter is more survivable, less costly, and could be deployed sooner with less environmental impact.

The key provision of this amendment is that the Defense Department could continue looking at other basing modes while moving forward with this highly important program.

I urge the Senate to accept this amendment.

Mr. STEVENS. Mr. President, the request has been made that we ask for the yeas and nays, and I do ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. TALMADGE), the Senator from Illinois (Mr. STEVENSON), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that if present and voting, the Senator from Illinois (Mr. STEVENSON), the Senator from Nevada (Mr. CANNON), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

The PRESIDING OFFICER (Mr. BRADLEY). Are there other Senators in

the Chamber wishing to vote who have not done so?

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 398 Leg.]

YEAS—89

Armstrong	Hart	Nelson
Bayh	Hatch	Nunn
Bellmon	Hatfield	Packwood
Bentsen	Heflin	Pell
Biden	Heinz	Percy
Boren	Helms	Pressler
Boschwitz	Hollings	Proxmire
Bradley	Huddleston	Pryor
Burdick	Humphrey	Randolph
Byrd, Harry F., Jr.	Inouye	Riegle
Byrd, Robert C.	Jackson	Roth
Chafee	Javits	Sarbanes
Chiles	Jepsen	Sasser
Church	Johnston	Schmitt
Cochran	Kassebaum	Schweiker
Cohen	Laxalt	Simpson
Cranston	Leahy	Stafford
Culver	Levin	Stennis
Danforth	Long	Stevens
Dole	Lugar	Stewart
Domenici	Magnuson	Stone
Durenberger	Mathias	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McClure	Tsongas
Exon	McGovern	Wallop
Ford	Melcher	Warner
Garn	Metzenbaum	Weicker
Glenn	Morgan	Williams
Gravel	Moynihan	Young
	Muskie	Zorinsky

NAYS—0

NOT VOTING—11

Baker	DeConcini	Ribicoff
Baucus	Goldwater	Stevenson
Bumpers	Hayakawa	Talmadge
Cannon	Kennedy	

So Mr. STEVENS' amendment (UP No. 788) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there other amendments on the MX missile?

Mr. STENNIS. Mr. President, the next item I hope will be taken up is regarding the pay raise for the military personnel.

We have a time limitation, Mr. President, if I may say that. May we have quiet, please. This may be of interest now. There is a time limitation on this amendment which is 3 hours equally divided, but we have discussed it and I think we can manage it well enough to yield back some of that time, perhaps. So I hope the Senator will bring up his amendment.

AMENDMENT NO. 571

(Purpose: To provide that the comparability pay of members of uniformed services shall be determined without regard to the President's alternative pay plan)

Mr. ARMSTRONG. Mr. President, I appreciate the observations of the distinguished chairman. It will be my purpose to move expeditiously. I now call up amendment No. 571.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG), for himself and others, proposes an amendment numbered 571.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent to dispense with further reading of the amendment, and I would undertake a brief explanation of the purpose of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VII, insert the following new section:

SEC. . (a) Except as provided in subsection (b), funds made available under this Act under the heading "MILITARY PERSONNEL" shall be used to pay the salary or pay of any office or position with respect to which an adjustment is made during fiscal year 1980 under section 1009 of title 37, United States Code, at the rate of salary or pay for such office or position which would have been payable by reason of such adjustment if the President had not submitted an alternative pay plan under section 5305(c) of title 5, United States Code, with respect to such adjustment.

(b) The provisions of subsection (a) shall not apply to the salary or pay of any office or position the rate for which is limited by the provisions of the second paragraph of section 101(c) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved October 12, 1979.

Mr. ARMSTRONG. Mr. President and Members of the Senate, this amendment addresses itself to an issue which, in my judgment, is vital to the preservation of the all volunteer force and which, if adopted, will represent, in my view, the single most important step we can take this year to strengthen our national defense.

I am delighted to be associated in this effort with the distinguished Senator from Hawaii (Mr. MATSUNAGA), who has long been identified with the volunteer army and, indeed, who, along with the late Bill Steiger, is one of the fathers of the all volunteer concept.

The purpose of the Armstrong-Matsunaga amendment is to lift the cap which the administration has imposed upon military pay. Our amendment would simply lift military pay from the 7 percent cap proposed by the President to the 10.41 percent which the President's pay agent has certified to be required to meet the comparability standards prescribed by law.

Mr. President, at this time I ask unanimous consent that the following Senators be added as cosponsors to the Armstrong-Matsunaga amendment: Senators BELLMON, BOSCHWITZ, CHAFEE, COHEN, DOLE, DOMENICI, DURENBERGER, DURKIN, HART, HATCH, HATFIELD, HAYAKAWA, HUMPHREY, KASSEBAUM, LEAHY, LUGAR, MCGOVERN, PRESSLER, SCHMITT, SIMPSON, STONE, WALLOP, and WARNER.

I again renew my request, Mr. President, my unanimous-consent request, to have these Senators added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. It is very encouraging that so many distinguished Senators are united in the belief that we must provide a genuine cost-of-living increase to the men and women who defend our country. I think it is indicative of the seriousness of the problem.

Let there be no mistake about the seriousness of the problem, and that this is an issue of the utmost significance to our country. The chairman of the Joint Chiefs of Staff and each of the service chiefs have identified manpower as either the most serious, or one of the most serious problems confronting our national security as we enter the perilous decade of the 1980's.

This year, for the first time ever, all of the services failed to meet their recruiting goals. In the first 10 months of the 1979 fiscal year, the Army experienced a shortfall of 17.4 percent in its recruiting goal. The Marine Corps, Navy, and Air Force recruited only 93, 94, and 96 percent of their respective goals in that same period. The recent highly publicized recruiting scandals indicate the Army's recruiting problems may be even more severe than these statistics alone indicate.

The Armed Forces are also discovering that a steadily increasing percentage of those they do recruit are unsuitable for military service, and must be discharged before their enlistments expire.

Compounding the problem is that the learning skills of those who are attracted to military service, and who do serve out their terms of enlistment, is declining. Nearly 50 percent of all male volunteers test mentally in the lower half of the U.S. population, compared to 32 percent in 1974. Army training manuals are being rewritten downward from an 11th to an 8th grade reading level. This is a very serious development in an Army where a corporal who commands a tank is responsible for a more complex piece of machinery than the fighter planes college graduates flew during World War II.

But the most serious personnel problem in the Armed Forces is the declining rate of reenlistments. The shortages are especially acute in the middle noncommissioned officer and officer grades, the highly trained men and women who have the skills and experience necessary to operate the complex weapons in our modern, technology-centered Armed Forces. The Navy lacks 17,000 skilled petty officers with 9 to 16 years of service, and is suffering shortages of officers trained as nuclear submariners, pilots, and doctors. The Army is short more than 46,000 NCO's, the Air Force more than 3,000.

These shortages are compounded by the fact that there is no lateral entry into the Armed Forces. If a fighter squadron commander or a submariner leaves the service, the Navy or Air Force cannot go into the civilian job market and hire someone to replace him. It takes years, and many thousands of dollars, to train another to take his place.

When one takes a look at what has happened to military pay and benefits since the All Volunteer Force was created it is not hard to understand why the manpower shortages have developed.

Base pay for a recruit has fallen to 83 percent of the minimum wage.

Base pay has declined, relative to inflation, every year since the All-Volunteer Force was created.

Regular military compensation—base pay plus allowances for housing and subsistence—has declined more than 20 percent for each pay grade since 1972.

The average salary for enlisted person-

nel, including all allowances, is $9,900. I might point out that the Bureau of Labor Statistics says that the minimum necessary to maintain a "lower standard of living" for a family of four is $11,546, while the enlisted personnel average nearly $2,000 a year less than that amount; 100,000 military families are eligible for food stamps; a janitor on the union scale earns almost as much as a chief petty officer with 17 years of service.

The truth is that many patriotic, qualified, motivated men and women are discovering that they, literally, cannot afford to serve their country. I do not think it is surprising that so many of them are leaving the service. The wonder is that, considering the way they have been treated and considering the signals transmitted by Congress that so many are staying.

It should be clear to all of us that if we do not stop this erosion of pay and benefits now, restoration of the military draft will be all but inevitable.

I hope this will not happen. To restore the draft for any reason would be unfortunate. But to restore the draft simply because we are unwilling to pay the men and women who defend our country a living wage would be unconscionable, in my opinion.

But even restoration of the draft would not solve the most serious element of the manpower problem—the problem of retention. A draft would prevent a shortage of privates, and the existence of a draft likely would prevent a shortage of second lieutenants. But we cannot draft corporals and sergeants, captains and majors. We can solve the retention problem only by paying our servicemen a living wage.

So these are some of the reasons why Senator MATSUNAGA and I, and a number of our colleagues, have joined in bringing this amendment to the floor.

I want to add just one footnote to this discussion, which is so timely today. At this very instant there are 13 marines among those who have been taken hostage in our Embassy in Iran. I am advised that, including base pay and foreign duty pay, they are receiving the following amounts: four of them are receiving $7,250 a year; eight of them are receiving $8,200 a year; one of them just over $12,000. Only one of the 13 who are defending our Embassy and who have been held hostage—and who are not isolated cases but, indeed, are symbolic of what is wrong in the pay scale in the military—only 1 out of the 13 is paid at what the Bureau of Labor Statistics says is necessary to maintain what they describe as a lower standard of living.

In the name of national defense, in the name of the all-volunteer service, and in the name of justice to these dedicated men and women, I urge the adoption of this amendment.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER (Mr. MUSKIE). Who yields time?

Mr. ARMSTRONG. I yield such time as he may desire to the Senator from Hawaii.

Mr. MATSUNAGA. I thank the Senator from Colorado for yielding.

Mr. President, as a cosponsor, I rise in strong support of the amendment offered by my distinguished colleague from Colorado, Senator ARMSTRONG, which will lift the current pay increase ceiling for military personnel and allow them to receive a cost-of-living increase which will provide them with a hedge against inflation and greater comparability with salary levels of private sector employees.

Mr. President, as the Senator from Colorado has already indicated, the Armstrong-Matsunaga amendment would give the military services the authority to provide servicemen and women with a cost-of-living increase for fiscal year 1980 of 10.41 percent, which is the level of increase that the President's Council on Federal Pay determined earlier this year as necessary to offset inflation and achieve greater comparability with the private sector. In effect, our amendment will authorize, for the personnel of the uniformed services, an additional pay adjustment for this fiscal year of 3.41 percent, over and above the 7 percent pay adjustment they received on October 1, 1979.

Mr. President, the purpose of our amendment is this: To reverse the continuing erosion of military compensation that the Department of Defense has determined to be the primary cause of the manpower shortage problem facing the All-Volunteer Force today. We strongly believe that our failure to do what is of paramount importance to maintaining the All-Volunteer Force, that is, to maintain pay comparability, will lead in the very near future to the collapse of the all-volunteer system and the restoration of the conscription force. We are convinced that this contingency can be avoided if the Congress acts now to bring military pay back to levels which will once again allow the military services to compete reasonably and effectively with private industry for an adequate share of the national labor pool. Our amendment, Mr. President, represents the first step toward the goal of reachieving military pay comparability.

Mr. President, as my colleagues know, the Congress began, in 1971 and 1972, to build the framework for the All-Volunteer Force by enacting legislation introduced by the late Congressman William Steiger and myself which brought military pay literally out of the "Dark Ages," to levels which provided servicemen and women with a decent standard of living and relative comparability with their private sector counterparts. At that time, the Congress was fully cognizant of the fact that pay comparability was the means by which the military services, under the volunteer system, would be able to meet their recruiting objectives consistently for both the Active and Reserve Forces. It was clearly understood, at that time, that pay comparability was, indeed, the key to the success of the All-Volunteer Force. By the time the AVF was fully implemented, which was in mid-1973, military pay was at a level which the military considered imperative in terms of their recruitment and retention efforts.

Unfortunately, Mr. President, after the Congress upgraded military compensation early in the life of the All-Volunteer Force, little attention was given to it during the intervening years. As a result, military compensation has eroded throughout the decade to levels that are almost as unacceptable as those which existed prior to the establishment of the AVF.

Recent manpower studies made by the Defense Department and the military services have concluded that since 1972, there has been a general decline in purchasing power for military personnel of 7.4 percent. Certain grades of personnel have lost anywhere from 8 to 15 percent in purchasing power during the past 6 years, and are now nearly 20 percent behind civilians employed by the Department of Defense.

Looking at the rise in the Consumer Price Index during the volunteer era, relative to increases in military pay over the same period, it is clear that our military servicemen and their families have suffered terribly from skyrocketing inflation. From 1972 to the present, the CPI rose approximately 74.2 percent—taking into account an estimated 13.9-percent increase in 1979—while military pay increased by only 56.2 percent. This, of course, represents a CPI-military pay differential of over 18 percent. I might point out, at this point, that even with the full comparability increase provided in the Armstrong-Matsunaga amendment for fiscal year 1980, members of the Armed Forces will still remain some 18 percent behind the inflationary curve.

Overall, there has been a real decline of about 12 percent or more in regular military compensation for each pay grade since 1972. At this point in time, the average salary for enlisted men, including base pay, all allowances, miscellaneous payments, and moving expenses, is $9,900. This can be compared to an income of $11,546, which the Bureau of Labor Statistics estimates to be the level of income required for a family of four to maintain a "lower standard of living" in this country today.

I am reminded, Mr. President, of testimony that was delivered by the Secretary of Defense in 1970 concerning the status of military manpower before the establishment of the All-Volunteer Force. I was appalled, as were many other Members of Congress, that the cumulative pay of lower ranking military personnel was, in 1970, nearly 50 percent lower than their civilian counterparts. As a result of this unbelievably low pay, approximately 50,000 military families had incomes at or below the poverty level and were eligible for public welfare assistance. Indeed, the upgrading of military compensation in accordance with the All-Volunteer concept was supposed to have ended that unacceptable state of affairs. However, 6 years after the establishment of the All-Volunteer Force, the Department of Defense is reporting that

basic pay for beginning recruits has fallen to 17 percent below the minimum wage paid in this country, and that more than 100,000 military families are eligible for public welfare assistance, and many of them are already actively using food stamps to make ends meet.

Mr. President, I ask unanimous consent that a chart comparing changes in purchasing power and pay between the military and the private sector, and a chart comparing E-1 basic pay with the Federal minimum wage, be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATSUNAGA. Needless to say, Mr. President, the practical effect of this considerable pay erosion on the All-Volunteer Force can be seen very clearly by examining recent reports of recruiting shortfalls being experienced by all of the military services in both the Active and Reserve Forces. It is my understanding that for fiscal year 1979, all of the military services, for the first time, missed their recruiting goals. The Department of Defense believes that it must recruit 18 percent more people in 1980 to make up for the shortfall in 1979, with the Army needing 33 percent more men and 36 percent more women. Accordingly, the Department has expressed very serious concern about these shortfalls, which represent the poorest recruitment performances since the All-Volunteer Force was established in 1973. In response to this situation, the DOD has undertaken a study of the adequacy of military compensation in terms of its effectiveness relative to recruiting and retention. I am informed that this study, which is being conducted under the auspices of Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, Mr. Robert Pirie, is very near completion.

In a recent interview in the New York Times, Assistant Secretary Pirie indicated that two of the main reasons for recent AVF recruiting problems were military compensation which has declined to levels lower than that in comparable civilian jobs, and the unfavorable public image of military life today. Mr. Pirie said that in addition to seeking additional funds for the military's recruiting and advertising budgets, the DOD is considering asking the Congress to authorize an increase in pay levels for certain military personnel, and increases in certain benefits accorded to servicemen, such as housing allowances and travel reimbursements. Assistant Secretary Pirie believes that military pay increases are necessary in order to attract more enlistments and retain more skilled personnel already on duty.

It should be pointed out, Mr. President, that the manpower report released by the Department of Defense last December found that analysis of enlistment data show that volunteer enlistments during the period of fiscal years 1970 through 1977 have been influenced significantly by military pay levels as compared to civilian pay. The report explained that a 10-percent increase in first-term military pay would bring a 5- to 10-percent increase in high quality enlistments. Similarly, the report said, allowing military pay to decline relative to civilian pay would bring proportionate declines in enlistments.

Mr. President, in view of these circumstances, I ask my colleagues this: How can the Congress possibly expect the All-Volunteer Force to recruit and retain quality personnel when eroding military pay is making it increasingly difficult for qualified, motivated, and patriotic young men and women to choose the military for a career? Certainly, Mr. President, the answer to this question is that it is unrealistic to expect the AVF to meet its manpower requirements in terms of numbers and in terms of quality of enlistments without pay comparability.

The fact that it has done reasonably well in recruiting over the last 6 years can be attributed to the fact that the military has tried diligently to make the volunteer system work. In my judgment, they have pulled out all the stops to save the AVF because they believe that it can provide the quantity, and, most importantly, the quality, of personnel needed to meet our present and future manpower demands. However, it must be emphasized that this can only be achieved if the Congress keeps faith with the basic principle behind the All-Volunteer Force—pay comparability.

As I have said, Mr. President, that is precisely our intention in offering this amendment to raise military pay by 3.41 percent. In the Armstrong-Matsunaga amendment, the Congress has the opportunity to make the All-Volunteer Force work by taking the first steps toward reachieving and maintaining pay comparability for our military personnel. It is clear to this Senator that such action would help to improve our recruitment efforts by allowing the military to compete with private industry, help to increase our retention of skilled enlisted personnel by making a career in the military a more attractive prospect, and, in general, help to solve the nagging manpower problems in both the Active and Reserve Forces which have led some Members of Congress to call for a return to the draft.

Now, there are those, Mr. President, who will oppose the Armstrong-Matsunaga amendment on the grounds that the manpower costs of the All-Volunteer Force already constitute too large a part of our Nation's overall defense expenditures. They will say that AVF manpower costs are not being borne by increased general taxes or reduced social spending, but instead are taken from other parts of the defense budget, such as weapons procurement. For all intents and purposes, it can be said that they will be advocating the dismantling of the All-Volunteer Force and the reinstatement of a less costly draft system.

Mr. President, I just cannot understand and accept this type of reasoning. First, with respect to the draft, it should be noted that the Department of Defense, in its recent manpower study, found that manpower cost-savings anticipated from a return to the draft have been overstated by critics of the all-volunteer force. The DOD report said that while manpower costs have risen from 46 percent of the defense budget in fiscal year 1968, to around 60 percent during the era of the All-Volunteer Force, only a fraction of the increase would be reversed by returning to conscription. Considering that the career force has always been manned by volunteers, and the unlikelihood of across-the-board pay reductions, the only savings that the military could anticipate would be those associated with recruiting, paying, and training the first-term members. And, according to the DOD report, even those savings would be offset by the cost of operating the conscription system.

As far as I am concerned, the cost-savings associated with a return to the draft would not be substantial and, by no means, provides a sufficient reason for abandoning the AVF.

And in the name of reason, Mr. President, I just cannot understand how the Senate can justify spending $2 billion on a new nuclear aircraft carrier and increase the overall defense budget by 5 percent, and then not approve the Armstrong-Matsunaga amendment which proposes to spend a mere $632 million to help the All-Volunteer Force meet its manpower needs.

The fact of the matter is, Mr. President, that the All-Volumteer Force no longer has to be the weakest link in our vital chain of national security. By approving the Armstrong-Matsunaga amendment, the Congress can begin to reverse the military pay erosion which has undermined the All-Volunteer Force and deprived it of a fair opportunity to be successful. We can take the first step toward reachieving and maintaining pay comparability for military personnel, which the Senator from Colorado and I believe will insure the future of the All-Volunteer Force.

Mr. President, I, therefore, urge my colleagues to give thoughtful and favorable consideration to the Armstrong-Matsunaga amendment.

EXHIBIT 1

WAGE

Fiscal year	Basic pay	Hourly wage [1]	Minimum wage [2]	Percentage
1970	115.20	0.65	1.60	41.5
1971	134.40	.78	1.60	48.5
1972	288.00	1.65	1.60	103.1
1973	307.20	1.77	1.60	110.6
1974	326.10	1.88	2.00	94.1
1975	344.10	1.99	2.10	94.5
1976	361.20	2.08	2.30	90.6
1977	374.40	2.16	2.30	93.9
1978	397.50	2.29	2.65	86.5
1979	419.40	2.42	2.90	83.4
1980	448.80	2.59	3.10	83.5
1981	[3] 480.30	2.77	3.35	82.7

[1] Hourly wage is calculated as 12 mo basic pay divided by 52 weeks at 40 hr per week.

[2] Source: Table 11a, History of Federal minimum wage under the Fair Labor Standards Act, Wage and Hour Division of the Department of Labor.

[3] Assumes a fiscal year 1981 pay raise by 7 percent.

Source: Department of Defense.

MILITARY-WAGE SYSTEM, PRIVATE NONAGRICULTURAL INDUSTRY PERCENT CHANGE IN PAY AND PURCHASING POWER, JANUARY 1972 BASE POINT

	Mil RMC [1]	Wage systems, United States [2]	Production and nonsupervisory workers [3]				CPI-W [4]
			Total [5]	Manufacturing	Construction	Trade	
1972	6.0	8.5	7.5	8.6	4.5	5.3	3.3
1973	7.3	3.7	6.2	7.6	6.6	5.0	6.2
1974	5.5	9.7	6.4	6.2	5.7	6.5	11.0
1975	5.0	10.6	5.7	7.9	6.8	6.2	9.1
1976	4.8	11.6	7.3	9.7	6.6	5.8	5.8
1977	7.1	8.8	7.7	9.4	4.2	6.6	6.5
1978	5.5	8.8	7.8	8.9	8.0	7.6	7.6
Cumulative pay change	49.2	80.5	59.9	75.0	50.0	51.8	61.1
Cumulative purchasing power change	−7.4	12.0	−.7	8.6	−6.3	−5.8	

[1] Annual October increases.

[2] Increase in annual average salaries for standard 40 hr workweek. March is average observation month. Source: USCSC "Federal Workforce Statistics, Mar. 31, 1978" and OPM, Workforce Analysis and Statistics Division.

[3] Increase in annual average earnings for workweeks of full and part-time workers of 40.5 hr in 1972 to 40.4 in 1978 in manufacturing (includes overtime pay), 36.5 in 1972 to 36.9 in 1978 in construction, and 34.9 in calendar year 1972 to 32.9 in 1978 in trade. Total industries' hours ranged from 37.0 in 1972 to 35.8 in 1978. Includes paid overtime, holidays, vacations, sick leave; excludes bonuses, tips, in-kind payments, and fringe benefits. Source: "Employment and Earnings, 1909–78," USDL, BLS.

[4] U.S. city average annual CPI increases. 1967=100.

[5] Data relate to production and related workers in mining and manufacturing; to construction workers in construction; and to nonsupervisory workers in transportation and public utilities; wholesale and retail trade; finance, insurance and real estate; and services. Source: USDL, BLS, "Employment and Earnings, July 1979."

Source: Department of Defense.

The PRESIDING OFFICER. The Senator from Mississippi.

Who yields time?

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I regret that I have to oppose the amendment by the distinguished Senator from Colorado to further increase pay for military personnel.

No one has a higher regard and respect for our military personnel in the Armed Services and would like to help them more than I do.

This amendment comes at a most inopportune time. Military personnel in the Armed Services received the same 7 percent pay raise as all Federal employees, commencing this past October 1. While service in the military requires many sacrifices, there are some advantages such as an opportunity for education, lifetime free medical service, and a noncontributory retirement program.

The retirement program for our military personnel is particularly attractive as an individual may retire on 50 percent of his pay after only 20 years of service. Further, as I just mentioned, the retirement program does not require contribution by the serviceman and there is no trust fund to which the serviceman or the Federal Government contributes. The retirement payments are made directly from the general funds of the Treasury.

The all-volunteer service concept, with its much higher pay and added incentives, which we embarked upon 8 years ago, has become very costly. This proposed pay increase would not only affect the present outlays for personnel but would greatly increase future retirement payments.

When the all-volunteer military service concept first went into effect 8 years ago, military retired pay was $3.7 billion and has been increasing at an alarming rate. For this fiscal year it is $11.5 billion.

May I repeat, the cost of retirement pay has increased from $3.7 billion to $11.5 billion.

It is apparent that these retirement increases are going to continue to grow by leaps and bounds.

Increasing military pay under the pending amendment would further increase retirement and other military-related pay.

Mr. President, I do not believe this is the time to embark on another pay raise which undoubtedly would encourage other Government employees to demand a comparable pay increase.

The estimate of the cost of this amendment is $850 million. Presently, more than 55 percent of our defense budget request is for military and civilian personnel costs. This amendment would increase that percentage even more.

Mr. President, I strongly believe that existing pay rates for military personnel should not be increased at this time. With our military strength compared to Russia declining year by year, the highest priority for the huge amount of money in this budget should be for modernizing every phase of our military capability.

I urge support of the committee position and defeat of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, if the proponents wish to use some time, this may be a good time to do so.

Mr. ARMSTRONG. Mr. President, I appreciate the suggestion of the distinguished chairman. I would like to recognize the Senator from Oklahoma. If he would tell me how much time he would like, I shall be happy to yield.

Mr. BELLMON. If the Senator will yield me 5 minutes, I would appreciate it.

Mr. ARMSTRONG. I am delighted to yield 5 minutes to the Senator.

Mr. BELLMON. Mr. President, I intend to support the amendment offered by Senator ARMSTRONG as it will be amended by Senator COHEN to remove the pay cap for military personnel effective January 1, 1980. The estimated additional cost of this amendment is approximately $670 million, assuming 25 percent absorption of the pay raise by the Pentagon. This is a significant amount of money and I am as aware as anyone that it makes the defense budget extremely tight. I have not reached my decision to support this amendment easily. I am very much concerned about our situation regarding recently reported drops in junior enlisted recruiting and the danger that there will be growing pressure for this country to return to the draft. I feel the Congress must take immediate action, and I hope this will be the first step to support the all-volunteer force concept.

Mr. President, I am one of those who went into World War II as a volunteer at what were ridiculously low wages, far below those being paid in the private sector. I have always resented that situation. I feel it is unfair to ask young Americans to subsidize the defense of this country by serving in uniform at salaries far below those being paid their counterparts in the private sector. I feel we simply cannot expect young Americans to volunteer on that basis.

I realize there are other, more selective, approaches to this problem that are being studied, and I wholeheartedly support the effort to find all ways possible to make the volunteer concept work so that we do not have to go back to a draft.

But the fact is that we need to take immediate action to help redress a serious nation defense problem, the dramatic decline in military enlistments. Mr. President, we are all generally aware of the manpower shortage problems which are increasingly plaguing our military forces. In 1979, for the first time in memory, all branches of the U.S. military missed their recruiting goals. This shortfall was especially serious for the Army, which missed its recruiting goal by 16,000 men and women.

These shortages can be attributed to a number of causes—a shrinking base of 18-year-old high school graduates and this problem will get worse, competition for young people as a result of increases in the minimum wage, the drop in dollar purchasing overseas, where one-quarter of our enlisted personnel are stationed, recruiting scandals, reductions in GI benefits, and perhaps others will be determined. All of these problems must be addressed and solved if the All-Volunteer Force concept is to survive and work.

Mr. President, there can be no doubt that the history of recent pay caps on enlisted military pay, which have resulted in real declines in the purchasing power of these individuals, has been a

significant factor in the decreasing attractiveness of the military for potential recruits. I realize that all Americans are affected by inflation. I realize that civilian Federal employees are affected by pay caps also. But the fact is that we face a real, not a hypothetical, problem and an immediate one regarding military personnel. We rely on these people to furnish the manpower for our national defense. They are in short supply.

Civilian Federal workers play an equally important role in our country, but there is no serious shortage of people for these positions. I am certain the director of the Office of Personnel Management could state that there is no shortage of applications for any Government jobs that come open for civilians, but there is obviously a very serious shortage of people willing to volunteer for the uniformed services.

Mr. President, I shall leave it to others to give more facts in support of this amendment. Senator ARMSTRONG has the facts regarding his amendment. He has already given them to the Senate. I am not going to repeat them. This action is, I believe, quite simply, a step that must be taken in the interest of our national defense.

During consideration of the budget resolution, I listened with great interest to the statements of individuals advocating higher defense spending, including Senator NUNN, who feels that we must spend more to preserve our defense. I agree with him. That higher spending was approved. But I do not believe that anyone can argue against insuring adequate manpower via the All Volunteer Force as the appropriate way to spend at least part of this increased money.

Mr. President, I feel that Congress needs to get our national priorities in order. We have expanded many programs to take inflation into account in the 1980 budget. I should like to read just a short summary of those programs that have been increased to take inflation fully into account, in some cases to go beyond.

First is elementary and secondary education grants for the disadvantaged; impact aid—not all parts of it, but parts of it have been increased significantly; vocational education; student assistance for postsecondary education; CETA jobs and training for the structurally unemployed; nutrition and other social services for the elderly; child welfare services; emergency fuel assistance; food stamps; countercyclical assistance for local governments; mass transportation. We have, Mr. President, provided additional funding for all those social programs. I feel that we cannot have the kind of situation where we do not take care of those in uniform, who are hit by inflation just as hard as those who receive the benefits of these various social schemes.

Our defense personnel are equally important, if not more important than those who are served by social programs and it is unfair for our country to force these young volunteers to subsidize defense by serving in uniform at salaries that do not keep up with the decline in the value of our currency.

Mr. President, as much as anyone in the Senate, I want a strong defense. I oppose the draft, I favor the all-volunteer concept, and I support the Armstrong amendment, which will help make the armed services more attractive to those who are considering serving as volunteers in the defense of our country.

Mr. President, I yield back the remainder of my time.

Mr. ARMSTRONG. Mr. President, I compliment the Senator from Oklahoma for his very significant and meaningful contribution to this debate.

I am prepared to yield to the Senator from New Mexico unless the other side wishes to take time at this point.

I do now yield 5 minutes to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, Senators ARMSTRONG and MATSUNAGA, in sponsoring this amendment along with their many cosponsors, have taken an important first step toward improving a very serious situation that our defense structure is facing, namely, the potential threats in conventional arms, which are far greater at this time than even those in strategic arms. Normally, I am one Senator who will bow to the judgment of the distinguished chairman of the Committee on Armed Services and the Defense Appropriations Subcommittee. However, in this case, the depth of our problems with respect to manpower requires me to do otherwise.

Those problems include the quality, quantity, retention, and mobilization of military manpower. The Armstrong-Matsunaga amendment is extremely important for obtaining and improving the quality, increasing the quantity, and insuring retention of necessary manpower. The mobilization issue is one which is still before us. However, if we can, in fact, create a strong volunteer force through actions such as this, then we, hopefully, will be able to avoid the draft, because it does not solve the mobilization problem. Only a strengthened Reserve and National Guard system will solve that problem.

The steps needed at this time, in addition to this amendment, are to take a good, objective look, both in Congress and in the administration, at the total manpower problem. This is why I introduced, along with the sponsorship of Senator ARMSTRONG and Senator MATSUNAGA and several others, S. 1989, which would provide an opportunity for that comprehensive look at military manpower needs and alternative means of meeting those needs.

Of course, it is my personal opinion that the Reserves and the National Guard will eventually be the core of our total national defense structure as it relates to conventional arms. We must do everything we can that will insure the equipment and incentives in that part of our military forces.

We must reverese this trend of continually eroding the compensation and benefits of our military enlisted and officer personnel. We must improve the pay scale, above all, but other benefits must also be looked to.

This amendment although an excellent one, obviously does not solve all the problems. It is, however, an excellent first step. The Senators are to be complimented for their efforts in this regard.

It demonstrates a commitment by Congress to providing for the needs of the military and a willingness of this Congress, and I believe of the American people, to pay the cost for retaining our freedom.

Mr. ARMSTRONG. Mr. President, I very much appreciate the encouragement and support of the Senator from New Mexico. I thank him for his insightful discussion of this amendment.

Mr. President, I ask unanimous consent that Jim Dykstra of Senator COHEN's staff be granted privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I yield 5 minutes to the Senator from Minnesota (Mr. DURENBERGER).

Mr. DURENBERGER. Mr. President, I am pleased to join my colleagues in cosponsoring amendment No. 571, a measure to set the military pay increase at the level recommended by the pay agent. My reasons for supporting this measure, and for urging its passage, can be summarized concisely in two words: equity and security.

Ever since passage of the Federal Pay Comparability Act of 1970, it has been the intention of the Congress to insure that Federal employees, whether civilian or military, receive salaries which are comparable to those of the civilian work force. Mr. President, we have broken faith with our uniformed military personnel by failing to keep this commitment.

While we are all aware of the effects of inflation, it is apparently necessary to reiterate that military salaries have been particularly savaged by this pernicious form of taxation. As my friends, Senator ARMSTRONG and Senator MATSUNAGA have pointed out, the cost of living has increased by nearly 60 percent in the past 6 years, but military compensation has increased by slightly less than 41 percent. In other words, our soldiers, sailors, airmen, and marines have suffered a net decline in purchasing power of 19.1 percent.

These figures are necessarily dry and therefore fail to evoke the full significance of the current military pay situation. To put it more bluntly, a recent editorial in the St. Paul Pioneer Press cites the fact that a bag boy in a San Francisco grocery store currently earns more money than an electronics technician in the Navy. Equally, a recent Air Force manpower study indicates that 20 percent of the enlisted personnel in the Air Force now hold a second job in order to make ends meet. How can our military personnel enjoy a strong family life when they are forced to choose between living below the poverty line or working 16 hours per day?

In other words, simple equity demands that we increase the salaries of the

military services at least to the modest levels recommended by the President's pay agent but overruled by the President himself. Mr. President, the men and women in our armed services too often constitute a forgotten and invisible group. Unlike other Americans, they cannot—and should not—seek pay increases through unionization or collective bargaining. They subsist on only what we in the Congress choose to give them. It is often easy to overlook their legitimate needs in the context of an appropriations process which focuses on huge budgets and which seeks out dramatic examples of waste. But we are speaking here neither of waste nor of huge budgets; instead, we are speaking of equity, and equity at a bargain-basement price.

My second reason for supporting this measure is, I believe, as simple and as logical as the first. Our military personnel can react to low pay through one very simple expedient: they can quit. Unfortunately, they are doing so today in ever larger numbers. The effects on our services will be alarming if we do not take steps to reverse this piecemeal attrition of our military strength.

When the United States made the decision to return to the All-Volunteer Force—a decision which I continue to believe was sound—it was recognized that pay would have to be increased in ordered to attract and retain qualified personnel. Consequently, pay was substantially boosted in 1972. But since that date, there has been a steady decline in the purchasing power of military pay, a decline which correlates markedly with the deterioration of recruiting and retention rates.

During fiscal year 1979, all four military services failed to meet their recruiting goals. The overall recruiting rate was only 93 percent of the goal, as compared to 96 percent in fiscal year 1978. While the Army, as usual was the service which most dramatically fell short of its goal. It is significant that 1979 represents the first year in which all four services failed to obtain their full quota of recruits.

These figures are grim enough, but perhaps even more disturbing are the rates of retention for the experienced people who are so crucial to the success of the military services. Third-term reenlistments are down to 69 percent, indicating that many service people who had previously been on a career track are getting out rather than suffer the continued hardships of military life. Second-term reenlistments in the Navy are below 50 percent. In other words, we are losing those mid-grade officers and NCO's whose experience and judgment have been developed to the point of expertise. While not everyone leaves the service for financial reasons, far too many cite this as the primary reason and it would be the height of folly to overlook an opportunity to reverse these trends.

On November 1, 1979, I had printed in the CONGRESSIONAL RECORD a letter from a young private in the Army, Philip Hewett. The thrust of his letter was to cite a decay in service morale arising from poor leadership. When our most experienced officers and NCO's leave the service, is it any wonder that leadership declines?

In summary, Mr. President, I urge the adoption of this amendment for two fundamental reasons. First, it is just. Second, it is smart. False economies in the area of military pay will leave us penny-wise but pound-foolish, and I hope that my colleagues will join me in voting for this investment in the security of America.

Mr. ARMSTRONG. Mr. President, in a moment I would like to yield to the Senator from New Hampshire.

I want to say before I do that I wish everyone in America could have heard the speech from my colleague from Minnesota. He really identified the problem and the solution. I thank him for his participation.

Mr. President, how much time do I have remaining under the time agreement?

The PRESIDING OFFICER. The Senator has 52 minutes and 49 seconds.

Mr. ARMSTRONG. I thank the Chair. I yield to the Senator.

Mr. STENNIS. May I say that I just indicated to the Senator from Maine that he would go next, but since he is not here——

Mr. ARMSTRONG. I am happy to yield some time.

Mr. STENNIS. I would like to yield 10 minutes to the Senator from Maine since I had asked him to come to the floor at this time.

Mr. MUSKIE. I thank the Senator.

Mr. President, I am not sure, so may I ask the distinguished Senator from Colorado, I have two speeches here, one addressed to his amendment as introduced, and another to his amendment as I am told it may be modified by an amendment to be offered by my colleague from Maine (Mr. COHEN).

I see no point in making both. Would the Senator be in a position to enlighten me as to which I should address myself to at this moment?

Mr. ARMSTRONG. I am very happy to do that.

Mr. President, the Senator from Maine (Mr. COHEN) intends to offer an amendment which will simply make the pending amendment effective January 1, rather than October 1.

While, of course, each of those who are sponsoring the amendment would be on their own as to how they feel about it, I think it is a reasonable idea and will support it because it will be nearly January 1 by the time this is enacted.

So I think the Budget Committee chairman would be correct in assuming that that is the way it is likely to be resolved, although perhaps the Senator from Hawaii also would like to comment on that.

Mr. MUSKIE. The Senator from Colorado intends to accept that amendment?

Mr. ARMSTRONG. I do, for my part, although I have not had an opportunity to discuss it with Senator MATSUNAGA.

Mr. MATSUNAGA. Mr. President, if the Senator will yield, I do intend to join the Senator from Colorado in accepting the amendment to be offered by the Senator from Maine.

Mr. COHEN. I want to indicate to my colleague from Maine that if this amendment is accepted, it will reduce the cost to the Treasury to $472 million, rather than the $700 million which is currently proposed.

Mr. MUSKIE. I understand the budget implications of the amendment of my colleague from Maine, as well as that of the Senator from Colorado. I will address myself to the Cohen substitute which apparently is acceptable to the Senator from Colorado.

Mr. President, as chairman of the Budget Committee, I constantly find myself in the position where the Congress has adopted budget ceilings, overall budget aggregates, functional aggregates, and then I have to hold the Senate's feet to the fire in protecting those aggregates.

What is involved in this amendment is not just function 050 national defense spending, but the overall aggregates of the budget which the Senate approved just this week and the details of which the House of Representatives approved yesterday.

This is not always a joyous or pleasant responsibility. Even if I liked this amendment and wanted to vote for it, I could not do so and at the same time discharge my responsibilities as chairman of the Budget Committee.

Yesterday, the distinguished Senator from Colorado and I had a brief colloquy. He opposed the conference report on the second budget resolution because he said it projected spending that was too high and a deficit that was too high. He said that if the budget process does not work. he was going to press for a constitutional amendment to limit spending.

The most recent amendment of that kind to which I have been exposed is one which would limit spending to 20 percent of GNP. Under that limit, if it were in place today, this amendment would be out of order—I repeat out of order.

I said to the Senator from Colorado yesterday that it is not budgets that spend money, it is people.

Here we have this very attractive proposal that is sure to attract votes in the Senate, applause out in the military, and applause throughout the country.

It is a nonloser in political terms. I have learned to detect these kinds of nonlosers. They are primarily responsible for the high level of Government spending in our budget today.

If this amendment is adopted, there will be another nonloser following on its heels—a proposal to spread this largesse, this 10.4 percent increase, across the board, throughout the Defense Department to all its civilians at the very least: Then a third nonloser would appear and it would spread the largesse across the entire Federal establishment.

If those two things happen, they are going to have just as much sex appeal, just as much attraction, and just as much clout as this one. Whether it is farmers on one occasion, or disaster victims on another occasion, or the recipients of school lunch programs on another occasion, I have learned that I can detect them all—the nonlosers for which a case is made that justifies breaking the budget, ignoring spending ceilings, and abandoning discipline.

I know that I probably am on the losing side of this amendment, but setting this example, which could spread throughout the Federal budget, is no service to the people who would benefit from the amendment.

I listened to the sponsors of this amendment, and what was the very heart of their case for it? Inflation. Inflation. I was temporarily Presiding Officer and listened to both sides. And it was a good vantage point to hear each side. Inflation.

There is a built-in inflation in this budget: First, with military pay; then, with civilian pay in the Defense Department, I have no doubt; and then with Federal pay across the board. That is what I see ahead of us, and I am helpless to stop it.

So, Mr. President, I oppose the Armstrong amendment, as it will be amended by the Cohen amendment, to increase the 1980 pay raise for military personnel from 7 percent to 10.4 percent on January 1, 1980.

This 50 percent increase in the pay raise just granted 40 days ago violates the congressional budget, discriminates unfairly between Defense Department civilian and military personnel performing the same job and will lead through legislative or legal action to an equal pay increase for every civilian employee in the Government.

The actual cost of this amendment will not be the $600 million its authors suggest, even though that would break the budget. The actual cost—counting its inevitable extension to the whole Government—will exceed $1.5 billion per year and could add to the deficit by as much as the $1.5 billion.

Before addressing the specific problems, I want to make my support clear for a realistic, accurately targeted solution to the problem of military compensation and retention.

No doubt, many of these problems in recruiting and retention are dollar problems. All Government employees pay has been at well below the rate of inflation in recent years—all of it. Minimum wage increases have reduced the attractiveness of military pay to junior enlisted personnel. There is no doubt about it. The depreciation of the dollar places a severe strain on our servicemen overseas. There is no doubt about that.

Congress and the President must seek to rectify these and other related real problems, like recruitment scandals and inadequate housing and medical care, if we are to recruit and retain the all-volunteer-force and avoid returning to conscription. There is no doubt about it.

These real problems will not be solved by a well-intentioned but simplistic proposal that raises all military pay from seamen and privates to generals and admirals. This problem cannot be solved simply by throwing money at it—a device that often is attributed, on the floor of the Senate, to supporters of social programs.

This amendment is a very expensive but not necessarily an effective way of dealing with the causes that undermine our ability to recruit and retain the people needed to provide a strong defense capability. Instead, we should focus on the specific problems causing our manpower troubles. We do not need to increase generals' and admirals' and other career officers' pay to encourage recruitment and retention of the personnel who are really suffering the hardship this blunderbuss approach addresses. Those at the bottom of the pay scale in the military establishment will get only $15 a month out of this amendment; $15 a month.

Surely, this pay increase, which would come on top of the 7 percent $4.2 billion increase of just 40 days ago, is premature. The Department of Defense has just completed a study of its current manpower problems. That study is now being evaluated by the Secretary of Defense and the military services for submission to Congress. It recommends selective pay raises for the really critical personnel areas within the Armed Forces. These selective pay raises focus on entry-level recruits and junior level officers and also on special areas such as pilots and physicians. The Department of Defense has endorsed that approach and has written to Senator STENNIS, chairman of the Defense Appropriations Subcommittee, opposing the 10.4 percent pay increase amendment.

Mr. President, the Armstrong amendment would cost $600 million in budget authority and outlays. If the amendment were extended to cover the civilian employees of the Department of Defense, the cost would increase to $1.0 billion in budget authority and outlays. And, if it were further extended to cover all Federal civilian employees, the cost would escalate to $1.5 billion in both budget authority and outlays.

And that is not within the budget resolution. That is a budget buster.

If it were possible for the agencies involved to apply the same absorption rates to this proposal as were assumed for the 7-percent pay raise in the second budget resolution (25 percent for DOD military and civilian employees: 40 percent for Federal agencies other than DOD), the costs would be somewhat less but still considerable.

Mr. President, that would require a historically high absorption rate in the Department of Defense. To absorb at that rate becomes more difficult when the size of the pay increase grows. So absorption of 25 percent which is assumed in the budget is a very difficult proposition.

The Armstrong amendment itself would cost $500 million in budget authority and outlays. The cost would rise to $800 million in budget authority and outlays if the amendment were extended to include civilian employees of the Department of Defense. And the cost would be $1.1 billion in budget authority and outlays if all Federal civilian employees were included.

Mr. President, I ask unanimous consent to print in the RECORD a table showing these amounts.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[Fiscal year 1980, in millions of dollars]

	Full cost		Cost with absorption [1]	
	BA	O	BA	O
Armstrong amendment: Provide full 10.4 percent raise for military personnel	631	623	473	467
Plus full 10.4 percent pay raise for DoD civilian personnel	1,047	1,032	785	774
Plus full 10.4 percent pay raise for all Federal civilian employees	1,549	1,526	1,086	1,070

[1] Assumes absorption rates contained in Second Budget Resolution: 25 percent for DOD military and civilian employees; 40 percent for Federal agencies other than DOD.

Note: BA—Budget authority; O—Outlays.

Mr. MUSKIE. Mr. President, this pay increase amendment should be rejected for a number of reasons.

The amendment violates the congressional budget figures which have been agreed to by both Houses. Even though final conference action on the budget resolution is not complete, both Houses have approved budget totals which would be violated by this amendment. This same amendment was expressly rejected by the Budget Committee in its markup of the budget and no mention was made of it on the Senate floor at the time of the debate on the budget resolution.

Its adoption now would mean that money initiated by the Hollings-Nunn 3 percent growth amendment would be diverted from readiness expenditures to pay. Moreover, in light of the amounts already provided in the pending defense appropriation bill and foreseeable total defense spending requirements, such as the military construction appropriation, this bill will violate both the defense ceiling in the budget resolution and the budget resolution's aggregate totals as well. It will deepen the deficit to that extent and drive the deficit over $30 billion.

The pay increase proposed in this amendment will add between $470 and $640 million in both budget authority and outlays to defense spending levels. And these costs do not include the additional $900 million necessary when similar civilian pay increases are granted. And we are almost certainly going to be forced to extend these raises to civilians once this pay difference is created between military and civilian employees, many of whom perform identical work, side by side, in the same office or facility.

The cost of this amendment, added to the current estimate of other known defense funding requirements, will breach the defense spending ceilings by $140 million in budget authority.

If we assume that the historically high 25 percent absorption rate for defense pay raises assumed in the second budget resolution would reduce the total of the amendment to $470 million, the amendment would then fit within the defense ceilings. However, this does not include the hidden cost of added civilian pay.

Thus, it is likely that the potential cost of the amendment will break the budget

ceiling for the defense function. Further, the defense ceilings assume that the Congress will achieve strategic stockpile and future personnel savings.

I must add that the chief sponsor of the amendment is seeking to reduce some of these personnel savings. If he is successful, the pressure on spending ceilings will be even greater.

These potential violations of the defense budget ceiling will add directly to the deficit. There are no compensating budget areas which might be raided to pay for this amendment. In fact, it presently appears that the Appropriations Committee will have to substantially shortchange other priority areas to stay within the budget totals unless already enacted appropriations are reduced. The possible appropriations excess presently stands at more than $1 billion in budget authority and about $2 billion in outlays. These amounts assume that potential savings in the defense function can be applied to other areas of the budget.

And the amendment contains a second, even larger hidden cost, because it would open the floodgates for added pay increases for Federal civil service and wage board employees. This would add another $900 million to the budget and to the deficit. This is the cost we face when sooner or later this increase must also be given to the Department of Defense civilian employees and the employees of the rest of the Government.

I have no doubt that Federal unions favor passage of this amendment and will immediately demand in Congress and the courts that we honor the existing laws which requires comparability between military and civilian pay.

Which of us will be able to explain to civilian Defense Department employees from our State why a major doing the same work in the next office gets more pay? How can we give a pay increase to 2 million military personnel while we deny a comparable increase for the first time in many years to civilian Government employees?

The amendment also erodes our efforts to control inflation through wage guidelines. It abandons the need for Government to set examples for restraint in wages and spending.

Establishing inequality in pay among Government employees is not the solution to recruitment and retention in the All-Volunteer Force. Let us face the problems of the All-Volunteer Force head-on. We are not solving them here with this kind of proposal. Why kid ourselves otherwise? Is it fair to give a full colonel in the Pentagon with 18 years of service a 10.4-percent raise when the GS-3 civilian family man who cleans the colonel's office at night gets only 7.0 percent?

The Armed Services Committee and the Department of Defense should be given the time they need to work together on solutions for curing the ills of the All-Volunteer Force. We cannot do that by creating new, budget busting pay inequalities.

The answer to specific manpower problems involves selective solutions. If there are enlisted personnel problems—address them. If there are junior-level officer problems—address them. If there are problems overseas because of the dollar problem—address them. For example, there are 400,000 Armed Forces personnel overseas and 1.6 million in the United States. Only 20 percent of military personnel may be affected by the dollar's problems.

Rather than remedying the real problems of the personnel overseas, this amendment would dilute its benefits among those who are stationed here at home.

A comparison of selected examples of regular military compensation and general schedule civilian pay indicates that military pay already exceeds that of civilian pay at comparable levels. This amendment would only serve to create more disparity between military and civilian pay levels.

In closing, Mr. President, Congress must admit that there are manpower problems and pay problems within our Armed Forces. We must address these problems and how they affect the All-Volunteer Force. We must address them soon.

Defense manpower problems must be confronted jointly with the administration. I believe that the fiscal year 1981 defense budget will offer solutions that are reasonable. It is too soon to panic. The Congress must assert itself toward the objective of fiscal responsibility. Rejection of this amendment moves in that direction.

Mr. STENNIS. Mr. President, the Armed Services Committee has jurisdiction over manpower and responsibility for authorizing military personnel as well as civilian personnel. We have a subcommittee on that. We worked for years on the matter and I believe we have a real scientific record and presentation of pertinent facts.

I yield 10 minutes now to the Senator from Georgia who is the chairman of that subcommittee but not the only worker on it.

Mr. NUNN. Mr. President, I rise to support the position of the Senator from Mississippi and the Senator from Maine in opposition to this amendment. The Senator from Maine has just outlined what the cost of this amendment is in terms of its direct, immediate impact.

Let me tell what the Senate is really voting on. We are voting on a theory. We are voting on a philosophy. We are about to vote as to whether we think we can bail out the problems of the Volunteer Force by increasing military pay across the board. That is what we are voting on, by separating military pay from civilian pay. That is the issue here today.

The Senator is correct about the direct cost of this amendment. Let me tell my colleagues what the implied cost of this amendment is: This amendment, if we carry through this philosophy that is being voiced with all sincerity by well-meaning colleagues, will cost more than the MX program between now and 1985.

This is what we are talking about. We are talking about $40 billion, and I am not drawing that figure out of the air. If Senators want to look at a report, in 1977, by CBO, they will find that CBO predicted this body would face this question, and one possible response would be the way the sponsors of the amendment are asking us to respond today. I quote page 16 of the report: "If the Armed Forces try to make up for these shortages" and everyone has been able to predict shortages that knows about the demographic changes over the next 5 years. They say, and I quote again: "If the Armed Forces try to make up for these shortages with across-the-board pay increases by 1985, they could add up to $8 billion per year over today's manpower costs without any additions in military forces. Even if pay inducements were limited to bonuses for recruits alone, the cost would go up by more than $2 billion per year by 1985."

I will get into the $40 billion figure in a minute, but basically what it is, is taking the CBO figure and instead of using 1977 dollars, which they did, we can project the actual dollars that will evolve based on a very conservative rate of inflation.

Mr. President, I urge my colleagues to defeat the amendment by the Senators from Colorado and Hawaii and others to remove the pay cap for military personnel.

PROBLEMS OF THE ALL-VOLUNTEER FORCE

The sponsors of this amendment are absolutely correct when they cite the serious problems that the All-Volunteer Force is now encountering. Our Reserve forces are over 20,000 men below authorized strengths, which themselves are far below realistic requirements. Recruiting for the active military is becoming increasingly more difficult. All four services failed to meet their recruiting objectives in the past year and total active military strength is about 30,000 below the congressionally authorized level.

But shortages in the number of personnel are not the only problems. The military services are also having increasing difficulty in maintaining quality standards among those who do enlist. During fiscal year 1979, only 64 percent of all those who enlisted were high school graduates—a decline of 10 percent in the proportion of high school graduates from a year ago. Indeed, even though the Army is now simplifying its technical and equipment publications to the 7th grade level, some 19 percent of its new recruits are reading at or below the 7th grade level.

The future looks even worse because we face a substantial and continuing decline in the number of 18-year-olds for at least the next decade.

For fiscal year 1980, the Army will try to recruit one-third more recruits than it did in fiscal year 1979 in order to maintain strength.

The Army is responding to these adverse recruiting trends by lowering its enlistment eligibility criteria and has decided to permit the enlistment of 17-year-old males who have not completed high school. The Army had stopped enlisting 17-year-old nongraduates because of the alarming rate at which this group failed to complete its first term of service; now it will turn its attention once again to this group if it is to achieve its authorized end strength.

The Navy is faring little better. On August 28, the Navy announced that it will lower its recruiting goal for high school graduates from 76 percent of new enlistees to 72 percent, and will spend additional resources for so-called academic remediation training, emphasizing reading and writing skills for marginally qualified individuals.

These problems are exacerbated by the large shortages in the Reserve components, the lack of sufficient personnel in critical skills like doctors, and the lack of a peacetime registration program under the Military Selective Service Act. If the All-Volunteer Force cannot sustain itself adequately in peacetime, how can we expect it to provide the foundation for mobilization in war?

THESE PROBLEMS WILL NOT BE SOLVED BY PROPOSED AMENDMENTS

While the sponsors of this amendment are correct in recognizing the serious problems in the All-Volunteer Force, this proposed amendment will not solve these problems. Increasing the basic pay of recruits $15 a month, which is what this amendment does, will not solve recruiting problems, especially when we recognize that bonuses of $2,500 are now available for enlistments in skills where there are shortages.

In fact, Charles Moskos, sociology professor at Northwestern University, who has studied the enlisted volunteer force and manpower implications more than anyone else in the academic world I know about, testified before the Manpower and Personnel Subcommittee that:

> Large raises in military pay were the principal rationale to induce persons to join the All-Volunteer Force. This has turned out to be a double-edged sword, however. Youth surveys show that high pay motivates less qualified youth—for example, high school dropouts, those with poor grades—to join, while having a negligible effect on more qualified youth—those taking academic high school courses or college bound.

In other words, what we are doing, in all sincerity, if we are going to spend more money on military pay, is putting it precisely in the wrong place. If we want to recruit high quality people, what we really need to do, if we are trying to aim at recruiting, is to have some form of educational benefit. We have had hour after hour of testimony on that point.

I happen to be skeptical about any large increase in the overall cost of manpower. But for goodness sake let us not put it in this category across the board which really, in effect, is not going to help recruiting.

The structure of military pay does need to be reviewed. In 1964, the average first term military member was paid about 47 percent of the average careerist. Now, the average first term military member is paid about 62 percent of what the average careerist is paid. We have front loaded pay for first term personnel to the extent that there is less to look forward to in a military career, except for a large retirement annuity at 20 years service. Our first priority in looking at pay changes should be to address the needs and expectations of the career force. Removing the pay cap will not address this need.

What we need to do is to give incentives for people to stay in for a career. The Navy's critical problems, the most critical problems, are at the 8-, 9-, and 10-year career service pay, not at the beginning.

Military pay is a very complicated system. It includes basic pay, and the basic allowances for quarters, and the basic allowance for subsistence. There is also a tax advantage since these allowances are not taxed. There are other allowances such as those for uniforms and family separations. There are incentive pays for flight duty, submarine duty, and other hazardous duty. There are enlistment and re-enlistment bonuses and special pay for doctors and others. Military pay reform must include a comprehensive review of all parts of this compensation system.

The Department of Defense, which opposes this amendment, is now conducting a review of military pay as part of the fiscal year 1981 budget submission and has stated that proposed changes would not be an across-the-board pay increase. The Department has submitted a retired pay reform package which is now pending before the Armed Services Committee. The administration has submitted a proposed change to the measures of comparability in determining pay raises for military and civilian personnel, which is now pending before the Governmental Affairs Committee. There is a recognition that a restructuring of military pay is needed but this amendment does not provide for any restructuring.

Mr. President, as I have stated before, there is a need for substantial annual real increases in defense spending on the order of 5 percent or more in budget authority over the coming years. In my judgment, such increases are essential if we are to begin to halt the adverse trends in the East-West military balance. We must also get more out of the defense dollars we do spend, and we must limit and reduce the proportion of the budget used for manpower—even if it requires our political leaders to make uncomfortable choices.

Since 1970, the Soviet Union has invested a total of $104 billion more than the United States for military equipment and facilities.

The Volunteer Force was based on the theory—and I suppose it still is theoretically—that all the taxpayers should bear the additional cost of manpower directly, rather than impose an implicit tax on those drafted. Unfortunately, like most Washington theories, this one has been only 50 percent implemented. The additional manpower cost has not been borne by increased general taxes or reduced social spending, instead it has come directly from the other parts of the defense budget, and that is exactly what this amendment is also doing.

Manpower costs now account for 59 percent of the defense budget. In 1964, manpower costs accounted for 48 percent of the defense budget. If the manpower proportion had remained constant at the 48-percent level between 1970 and 1978, we would have had an additional $100 billion in today's dollars to spend on military investment and readiness rather than manpower. Additional defense funds which are made available should not be gobbled up just to keep baling wire and Band-aids on a policy that has lost its logical credibility but not its political support.

Manpower costs now account for 59 percent of the defense budget. In 1964 manpower costs accounted for 48 percent of the defense budget. If the manpower proportion had remained constant at the 48-percent level between 1970 and 1979 we would have had an additional $100 billion in today's dollars to spend on military investment and readiness rather than in manpower.

So if your constituents ask you, "What is happening to all the money we are pouring in? Why can't we get a rapid deployment force to the Middle East quickly?" You can give them the answer "because we have spent another $100 billion on manpower."

I am not advocating we roll that back. I know much of those increases was needed. I realize the plight of many of our military personnel, but we have got to look at the bottom line, and the bottom line is why do we have military forces? The reason is so that we can protect this Nation.

I will say to the Senate today if we go down the line advocated by those who propose this amendment, we will not be able to protect this Nation because we are going to put a larger and larger percent of the overall military budget into manpower. That is a dead end street. We simply cannot afford to do it.

(Mr. PRYOR assumed the chair.)

Mr. WARNER. Mr. President, will the Senator yield?

Mr. NUNN. I have to get through with my remarks. My time has almost expired. After I complete my remarks I will be glad to yield to the Senator.

The high rate of inflation is affecting the real income of servicemen, Federal civilian workers, and most Americans. I am very sympathetic to the effect of inflation on military servicemen and realize and appreciate the many sacrifices that our military has made and is making. It should also be kept in mind that since 1964, before the Vietnam war, average military basic pay has increased by 224 percent. Prices during that same time frame have increased by 140 percent, 84 percent less than the rate of increase in the military pay.

Over the same period of time military procurement for ammunition, for planes, for ships, for the vital kinds of defense dollars that we have got to have to be able to protect this Nation, has increased by 46 percent, something like 100 percent less than the rate of inflation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NUNN. Mr. President, I ask the Senator from Mississippi to yield me 5 additional minutes, if he would.

Mr. STENNIS. Very well, 5 minutes.

Mr. NUNN. The 7-percent pay cap is part of President Carter's anti-inflation program where the Federal Government is being asked to show an example of pay raise restraint in an effort to halt inflation. There are many questions of

equity that must arise if the pay cap is removed only for the military. What about Federal white collar and blue collar civilian workers? What about private sector workers who have settled for a 7-percent pay raise in voluntary compliance with the administration's wage guidelines?

In addition, this amendment attempts to introduce an entirely new pay raise mechanism. Instead of considering the amount of the pay raise to maintain comparability and any alternative plan submitted by the President in September, we will now, in addition, consider pay raises for individual groups of employees in appropriations bills. We will have to face the pay raise questions over and over again.

Mr. President, this amendment is a classic case of recognizing a problem and then attempting to solve the problem by throwing money at it.

According to the Department of Defense, the amendment would add $880 million directly to defense manpower costs in fiscal year 1980. But we must recognize that this is only a first step. You are voting on a philosophy today. We must recognize where that philosophy will lead.

THROWING MONEY AT A PROBLEM WILL NOT SOLVE THE PROBLEM

In January 1977, the Congressional Budget Office issued a report on the Costs of Defense Manpower. That study projected significant shortages in the supply of recruits for the military services in the 1980's and discussed budget options. On page 16 of that report, it states:

> If the armed forces try to make up for these shortages with across-the-board pay increases, by 1985 they could add up to $8 billion per year (in 1977 constant dollars) over today's manpower costs without any additions to military forces.

Senators should realize that by endorsing this amendment, they would be endorsing an attempted cure for the All-Volunteer Force with money. We would be literally accepting an attempt to "try to make up for these shortages with across-the-board pay increases" as outlined in the Congressional Budget Office study. If that is the approach that this body wants to adopt, then so be it. But let us realize exactly where we are heading with this approach.

The Senate should realize that this amendment will not be the last attempt to throw money at the All-Volunteer Force problems. This is a first step. This $880 million proposal is only the tip of the iceberg that may well sink attempts to satisfy our pressing national security needs. The sponsors of this amendment should realize that throwing money at the All-Volunteer Force problems will lead us down the road to this $8 billion increase predicted by the Congressional Budget Office; it will lead us down the road to the policy of increased manpower costs for lower quality personnel referred to by Secretary Brown; it will continue leading us down the road of increasing manpower costs at the expense of military investment, which may increase our defense costs and lower our defense capabilities.

Congress has recently adopted a budget resolution with dollar figures which I advocated intended to provide increasing efforts in national defense and 3 percent real growth in fiscal year 1980 and 5 percent real growth in future years for the national defense budget function. If we adopt this approach of trying to make up for the shortcomings of the All-Volunteer Force by across-the-board pay increases, we cannot also also accommodate those real growth increases for defense investment that we recently intended to include in the budget resolution. We will not be able to achieve a real growth of 3 percent in fiscal year 1980 and would probably have growth of less than 2 percent. We will have only one-half the real growth in fiscal year 1981 and one-third the real growth in fiscal year 1982 than the 5 percent real growth that was supposed to be provided in that budget resolution. By fiscal year 1983, this approach will completely absorb the dollars that a 5 percent real growth increase was supposed to provide for defense investment.

If you believe that increased pay is the right way to go, and you also believe that defense investment must be increased, as we voted earlier this year, in other words, if you want the approach and philosophy of this amendment but you want to see real defense investment grow, let me tell you what you are going to have to do.

You are going to have to add $40 billion to the national defense budget between fiscal year 1980 and fiscal year 1985 only for pay increases. That $40 billion will not buy a single ship, aircraft, or missile but will be needed to provide the money for the across-the-board pay increases that the Congressional Budget Office projects will be necessary to make up recruiting shortages in those years.

We have problems with the All-Volunteer Force.

Mr. President, I need about 2 more minutes and I will be finished.

We do have problems, and I agree with my colleagues on that point. But I want to tell you what this amendment will not do for those problems. It will not resolve the serious problems of reserves, in the individual Ready Reserve and Reserve units. It does not solve those problems.

It would not resolve the problem that in an emergency the Army would be compelled to deploy quickly all combat personnel from Reserve units, leaving those units completely gutted and incapable of being deployed until trained draftees became available to fill the units. The shortfall in combat trained personnel is so serious that it would seriously debilitate units in combat. This amendment will not resolve the problem of the disastrous state of military medical care and the grave shortages of doctors and other medical personnel. In case of an emergency, thousands of young people in combat units will die or be permanently crippled unnecessarily because we will not have the medical personnel to treat them or the capability to return them quickly to the United States.

This amendment will not solve the problem of the increasing number of married personnel who are enlisting in the military and who have increased the number of dependents in Europe to the point of adversely affecting readiness and bringing into question the adequacy of evacuation plans.

In summary, Mr. President, I commend the sponsors of this amendment for highlighting the serious problems of the All-Volunteer Force. All our efforts are needed to resolve current serious military manpower problems. Amending the appropriations bill to remove the pay cap for military personnel will not solve these problems. It will cost a great deal of money. I urge my colleagues to reject this amendment.

Mr. STENNIS. Mr. President, I will be prepared to yield in 2 minutes, but I want a chance to be heard by the membership. So, if non-Senator personnel will please retire to one side——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a minute of two?

Mr. STENNIS. Yes; I yield to the Senator, if it is necessary.

Mr. ROBERT C. BYRD. I will be glad to wait.

Mr. STENNIS. Mr. President, I want to make just a very brief statement following what Senator NUNN has said.

Members of the Senate, the law of the land that gives comparability for the military services was worked out here; it took years and years and years to get that written into the law. That is the law of the land, and it is, I am sure, the best way we can administer it. But now, without one iota of testimony, no hearings on the matter, no legislative committee passing on the question, we come in here and, on the floor of the Senate, without it even being presented to a committee, we are going to blow the living daylights out of this law for comparability pay, that is, of the military pay compared to civilian pay. We are literally tearing its insides out. We are abandoning it and throwing it to the dogs.

We will catch the whirlwind; we might just as well fasten our seatbelts. We are not going to get by with an increase like this. The civilian employees will not leave us alone; they will be coming in here, and they will have a lobby. It is in their interests: I do not blame them.

You have heard these amazing figures here, compiled in a responsive way, of what the reults will be, year after year for 5 years. That is the course we are going. Fifty-nine percent of all the military appropriation goes for personnel already, with 41 percent left for all the other things, worldwide, that we have to face.

I am not trying to be stingy. I would be willing to lose the personnel, by even as much as 20 percent, and put the same amount of money on the 80 percent that are left. That would get the cost comparability that we need. Then, instead of putting it on these new men, I would put some money on the line sergeants and the first sergeants are are so essential and necessary, and without whom there can be no effective army.

I think we are just throwing caution

to the winds. We are repudiating all the legislative processes, and I do not know—we are going to make things worse again by just throwing in a big lump of money, hoping it will solve the problem. Mr. President, it will make it worse.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STENNIS. Yes.

Mr. ROBERT C. BYRD. Can we reduce the time, may I ask the proponents and the opponents? It seems to me this matter has been pretty evenly discussed and thoroughly discussed, and I dare say every Senator right now knows how he is going to vote.

Senators are going to have to catch planes and leave, and I have said if we finished this bill tonight we would not be in tomorrow. I would hope we could finish it today.

Can we vote after, say, 5 minutes on either side, and dispose of that?

Mr. STENNIS. I will be glad to yield back my time, Mr. President.

Mr. ARMSTRONG. Mr. President, I did not hear the suggestion of the majority leader.

Mr. ROBERT C. BYRD. I suggested that there be 5 minutes more to the side. Five minutes more.

Mr. ARMSTRONG. Mr. President, I am most eager to conclude the debate, and, like the majority leader, I am one of those on a time schedule for aircraft; but I have promised to yield time to the Senator from Virginia (Mr. WARNER), to the Senator from Kansas (Mr. DOLE), also to the Senator from Wisconsin (Mr. PROXMIRE), and also to the Senator from New Hampshire (Mr. HUMPHREY). I think to honor my commitment to them I should be prepared to yield at least 5 minutes to each of them. I would like to have, for my own part, just 2 minutes to wind up.

I should probably point out to the majority leader that the Senator from Maine (Mr. COHEN) has an amendment which I am sure he intends to offer, and which I am prepared to accept as an amendment to my amendment. So, on our side, I think we are ready to move expeditiously, but I am not prepared to agree precisely to the majority leader's request.

Mr. ROBERT C. BYRD. The Senator from Colorado needs 2 minutes. How much time does Senator WARNER need? Two minutes. How much does Senator COHEN need? Five minutes.

Mr. ARMSTRONG. Mr. President, I would be prepared to try to persuade Mr. DOLE, Mr. PROXMIRE, and Mr. HUMPHREY to each use no more than 2 minutes, but I could not promise that, because I have indicated my willingness to yield them some time.

Mr. ROBERT C. BYRD. Would the Senator be willing to agree to 15 minutes on his side, and the Senator from Mississippi——

Mr. STENNIS. Mr. President——

Mr. ROBERT C. BYRD. If Mr. ARMSTRONG would be willing to agree to 15 minutes on his side——

Mr. STENNIS. We will take 2 minutes on this side, Mr. President.

Mr. ROBERT C. BYRD. The Senator from Mississippi is willing to end his debate in 2 minutes.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I might point out that there are two more planes that leave this town going west, the last one at 5:40.

Mr. ARMSTRONG. I understand. I have an engagement of the utmost urgency in Colorado, but this is a terribly important amendment to our service personnel, so I am certainly willing to accept 15 more minutes on this side, and attempt to do it in less than that.

I am prepared to yield at this time the 2 minutes, as requested, to the Senator from Virginia (Mr. WARNER).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for 15 minutes under the control of Mr. ARMSTRONG, to be yielded as he wishes, and 2 minutes to Senator STENNIS.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. WARNER. Mr. President, I would like to speak a moment in support of this amendment. I am a cosponsor of it.

I find myself in a very awkward position, as a member of the Armed Services Committee, in opposing the position of my chairman as well as the chairman of the subcommittee (Mr. NUNN). But I feel that simple equity demands that we ask for this pay relief.

Mr. President, I do not like to advocate Federal spending programs. I believe our Government spends too much money and does not always spend it wisely. There are surely areas where Federal spending can be reduced.

However, I do believe in priorities and I do believe in basic equity.

I believe that the national defense function is the single most important function of our National Government. It is a responsibility derived from the Constitution. It is a responsibility I am sworn to meet.

Yet our Nation's defenses are suffering from certain weaknesses. The All-Volunteer Force is falling short in both the numbers and the quality of the people it needs, and the situation is getting worse. Not only are the services not recruiting sufficient people but the services are losing substantial numbers of midcareer servicemen who take with them much needed experience and expertise.

One of the root problems of this is inadequate pay. Despite limited pay increases each year, the military falls further and further behind in real terms. Military pay has not kept up with inflation and it has not kept up with the civilian economy. Pay comparability with the civilian economy, even though a goal espoused in public law, just does not exist.

With an All-Volunteer Force, the competition from the civilian economy is hard to beat. Fewer people are joining the services and more and more are leaving the military for economic reasons. Why stay in the military or go in the military when conditions are so bad as compared to the civilian economy.

Aside from the importance of providing for an adequate defense, I am concerned about military pay from an equity standpoint.

The Federal Government is paying its servicemen and women at a pay scale far below that of the civilian economy.

We ask our military personnel to endure hardships that would not be tolerated in the civilian world. We ask them to suffer prolonged periods of family separation, frequent household moves and many other less tangible hardships.

Even more important we ask them to risk their lives for us.

Yet, what do they get in return?

They get low pay. Many military families exist today at or below the poverty level. Thousands of military families qualify for food stamps and other public assistance. Even at the higher pay grades, many military personnel have skills that are much sought after in the civilian economy—skills that would bring much higher salaries and benefits if those individuals left military service.

They are experiencing a steady erosion in benefits. Many military benefits which existed when individuals enlisted have now been reduced or eliminated. The decline in the quality and availability of medical care is an obvious example. Even the 20-year retirement benefit is now perceived by many to be in jeopardy.

They do not receive the recognition they deserve. People tend to forget that military personnel serve us. They protect us and our interests, and they do so often at great hardships to themselves. They deserve our respect.

Mr. President, I do not view this amendment as an attempt to bail-out the All-Volunteer Force. Whether we continue to have an All-Volunteer Force or whether we return to a draft, we owe it to our servicemen and women to pay them a living wage.

I am not yet convinced that we need to return to the draft. Perhaps we may have to—perhaps not, but we do need to improve military pay scales regardless.

This is not to bail out the All-Volunteer Force. It is simple equity which I feel the people on active duty today are entitled to. Every person on active duty today that we can retain saves us from recruiting and training five or more people.

Mr. President, the Carter administration is reported to be considering the submission of a military pay raise next year which would have much the same effect as this amendment.

I see no reason to delay such a pay raise. Our military people need to pay their bills now. Every month we delay means more and more quality people will choose to leave the military. Many will be forced by economic necessity to do so.

Mr. President, this is a worthy amendment, a necesary amendment. I urge the Senate to support it.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a Wall Street Journal article and a Baltimore Sun article addressing the Carter administration's interest in a military pay raise.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 26, 1979]

U.S. IS CONSIDERING BOOST IN MILITARY PAY TO AID IN RECRUITING, KEEPING PERSONNEL

WASHINGTON.—The Carter administration is considering an increase in military pay for junior ranks to help the services recruit and retain personnel.

Assistant Secretary of Defense Robert Pirie said the Pentagon is in the final stages of drafting plans for a military pay increase for fiscal 1981, beginning next Oct. 1. He wouldn't discuss the size of the increase, saying figures are being studied in the Pentagon before being submitted to the White House for inclusion in the budget that will go to Congress early next year.

But Mr. Pirie said the Pentagon is considering increases for new recruits and military people who have served less than 10 years, rather than an across-the-board boost. "Recruiting for military service has become increasingly difficult," he said, in part because pay for the all-volunteer force "has failed to keep pace with wages for civilian employment alternatives." Base pay for a new recruit is $448.80 a month.

In fiscal 1979, ended Sept. 30, all four services fell below their recruiting goals for the first time since the draft was abolished in 1973. The military attracted 338,400 recruits, 93% of its goal of 362,400. However, retention of recruits beyond their first term was higher than expected, helping to produce a year-end active force of 2,027,000, 24,000 short of the goal.

There is increasingly vocal congressional support for a return to the draft, but Mr. Pirie reiterated the Carter administration's view that conscription isn't necessary. "A draft is a device for getting in very large numbers of people for very short terms," while today's increasingly technical military services need well-trained people who serve for more than one term, he said. He said he believes the volunteer force is meeting that goal.

Aside from a possible pay increase, the Pentagon is taking other actions to boost recruiting. The military's advertising budget for recruiting will rise to $97.7 million this year from $74.7 million last year. Efforts are being made to improve housing and adjust housing allowances to make military life more attractive.

"We also are providing better support for our recruiters, the vast majority of whom are doing a magnificent job," despite recent allegations of recruiting fraud in some areas of the country, Mr. Pirie said.

[From the Baltimore Sun, Oct. 26, 1979]

ARMED FORCES CONSIDER PAY, BENEFIT INCREASE TO BRIDGE RECRUITING GAP

(By Charles W Corddry)

WASHINGTON.—The Defense Department, facing its toughest recruiting problems since the draft ended, disclosed yesterday that it is considering pay raises and fringe benefits to make military service more attractive.

Robert B. Pirie, Jr., assistant defense secretary for manpower, told a press conference that enlisted men and women had suffered a 7 percent drop in purchasing power since 1973, the year the services shifted from the draft to reliance entirely on volunteers.

The failure of military pay to keep pace with the civilian competition was high on Mr. Pirie's list of reasons for declining interest in volunteering. But even higher, he said, was a less-than-adequate portrayal to American youth of the demands, challenges and rewards of service. To that end, he said, recruiting and advertising outlays will be stepped up.

Though all the services failed to meet their recruiting goals in fiscal 1979, the year that ended September 30, Mr. Pirie said he found nothing in current assessments "that says we need or should have conscription."

Military needs, he emphasized, are not for large numbers of men and women who serve short tours, but for willing service members who sign on for four, six or more years and deal with problems that, "in this technological age," are increasingly complex.

The services fell more than 24,000 short of their 1979 goal of 362,400 enlistees. They made 93 percent of the goal, compared with 96 percent in 1978. The decline evidently is continuing. In the final 1979 quarter, July-September, the figure dropped to 91 percent.

A possibly drearier prospect, emerging from Mr. Pirie's sheaf of statistics yesterday, is the steady decline in reenlistment rates for career personnel—those who have served more than two tours of duty. From a reenlistment rate of 81 percent in 1975, the figure has dropped each year and reached 69.2 percent in 1979.

The only offsetting increase was in the numbers willing to reenlist after their first term. This has gone up from 29.8 percent in 1976 to 40 percent in 1979 and helps to explain, Mr. Pirie said, why the services are within 1.5 percent of their strength goal despite the fall in new enlistments.

The manpower chief was diffident about spelling out pay raise and fringe benefit plans, noting the Army, Navy, Marine Corps and Air Force now are studying tentative plans and the hurdle of the White House Office of Management and Budget will yet have to be cleared. The administration, however, now recognizes the problem, he said, though he would not criticize its recent annual 5.5 percent limit on increases.

Mr. Pirie indicated that he was not thinking of an across-the-board raise, but of increased pay for those first entering service, perhaps for those in mid-career to help reenlistment rates, and possibly bonuses targeted in high-skill technical areas where it is hard to compete with civilian employers or in tough combat roles where it is hard to induce men to stay on.

He further said that consideration was being given to providing better housing and moving benefits. Servicemen argue for instance, for a variable housing allowance on grounds that it is hardly equitable to be given the same basic allowance in the Washington area as at, say, Fort Polk, La.

A young man or woman entering service today is paid $448.80 a month and, after basic training is boosted to $500.10 a month.

Mr. WARNER. Thank you, Mr. President. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I appreciate the comments of the Senator from Virginia and I thank him. I am now pleased to yield to the distinguished Senator from Kansas (Mr. DOLE). I had previously indicated I would yield 5 minutes. Under the agreement just reached, if it is agreeable, I yield 2 minutes at this time.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I thank my distinguished colleague from Colorado.

THE ELIMINATION OF THE MILITARY PAY CAP

Mr. President, I rise in support of the amendment offered by my distinguished colleagues, Senators ARMSTRONG and MATSUNAGA, which eliminates the military pay cap.

Mr. President, I am proud to be a cosponsor of this amendment, as it begins to address a very real and serious problem for our military serviceman and woman.

Mr. President, the economic plight of our military serviceman and woman can no longer be ignored. As we all know, members of the armed services are wholly dependent upon Congress to provide them with a just and fair wage. In the past I have spoken against the concept of unions in the military. I have done so because, among others, I have recognized that unions could compromise the readiness of our military.

These unique kinds of restraints imposed on our military personnel, which are essential if we are to maintain a reliable and effective national defense, places these dedicated Americans in a special category. This, in turn, places a special obligation on us to deal fairly with the men and women who are expected to defend our country, an obligation that will not be met if we continue to ignore the serious economic plight of our servicemen and women.

THE AMERICAN SOLDIER NOT EXCLUDED FROM INFLATION WOES

Mr. President, most of us have suffered from inflation, but none so severely as those men and women who are expected to defend this country at all times, and in any place throughout the world. Mr. President, from December of 1972 to 1978, the cost of living rose 59.9 percent. But the regular military compensation—base pay plus allowances for housing and subsistence—of the Armed Forces rose by only 40.8 percent. The Department of Labor reports that even with the 7 percent pay raise on October 1 of 1979, members of our armed services are still some 19 percent behind the inflationary curve.

Mr. President, it is only fair that the pay cap for military personnel be lifted. In addition to this obvious reason, there are even more pressing, practical reasons for not forcing yet another pay cut on the men and women who defend our country.

Mr. President, I am referring to the serious problem the various armed services are having meeting their peacetime manpower requirements. This year, for example, all of the services have failed to meet the recruiting goals. When you consider that the base pay for fresh recruits is at 83 percent of the minimum wage, we should not be surprised with the increasing difficulty in attracting new recruits.

Mr. President, I can fully appreciate the concern of every Member of this body to curb Government spending in the fight against inflation. However, if we are to remain a strong and free Nation, in the face of increasing adversity throughout the world, we must insure the ability of our Armed Forces to perform their peacetime military missions. Continued erosion of pay and benefits will only contribute to this alarming trend of manpower shortage and overall ineffectiveness of our Armed Forces.

Mr. President, a vote for this amendment is a vote for a decent way of life

for members of our armed services who are charged with the responsibility of maintaining a strong and free America.

Mr. President, I urge the adoption of this amendment.

Mr. President, I want to point out that the average DOD now earns about $21,720, which is 61 percent more than his military counterpart.

I ask unanimous consent to have printed in the RECORD at this point an article in the Armed Forces Journal of March 1979, by Benjamin F. Schemmer, because I have heard discussed on this floor that we are discriminating against other Federal employees by doing this in the military. At $13,463 a year the average American soldier, sailor, and airman will earn 36 to 38 percent less in the next fiscal year than the Defense Department civilian who supports him or to whom he reports. The average DOD civilian will earn $21,117 to $21,720.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AVERAGE DOD CIVILIAN NOW EARNS $21,720; 61 PERCENT MORE THAN HIS MILITARY COUNTERPART

(By Benjamin F. Schemmer)

At $13,463 a year, the average American soldier, sailor and airman will earn 36–38 percent less in the new Fiscal Year 1980 (FY80) than the Defense Department civilian who supports him, or to whom he reports. The average DoD civilian will earn $21,117–$21,720. The difference depends upon whether or not DoD "indirect hire" civilians (mostly foreign personnel working under contract on U.S. bases overseas) are included, but still means that the average DoD civilian earns about 60 percent more than his sidekick in uniform.

The military vs. DoD civilian disparity has been growing, and continues to: in FY64, average DoD civilian pay was 39 percent higher than that for military personnel; in the current year (FY79), it is 56 percent higher; in FY 80, it will be at least 57 percent higher. Thus, the pay difference has grown almost 50 percent in the past 15 years.

Whereas the average person in uniform will earn $683 more in FY80 than in FY 79, the average DoD civilian will earn $1,197 more, an increase 75 percent greater.

The disparity is almost identical to the one AFJ headlined a year ago (March 1978 AFJ, page 45)—but once again the Pentagon fails even to mention it in its FY 80 annual budget presentations to Congress. The issue is not addressed in Defense Secretary Harold Brown's "Annual Report." In fact, to find out what the pay disparity is, one has, once again, to manipulate to report's tables on overall military and civilian "manpower" costs and employment levels. (DoD still hasn't switched to "people" power, or "persons" power, or "men and women" power.)

DoD did produce an explanation last year when AFJ asked informally for some explanation of the disparity. This year, after recomputing the numbers, AFJ placed a formal query with the Pentagon's public affairs office: "Why does the average DoD civilian earn 57–61 percent more than his military counterpart?"

But after more than two weeks, a DoD response is still pending. AFJ will provide information in April, assuming DoD is responsive to the query.

OVERTIME, GRADE CREEP, OR ???

Several explanations come to mind:

The most obvious one, not even hinted at by the Pentagon is this: DoD's civilians get paid overtime; soldiers don't.

Another explanation, less obvious: compensation of a lot of highly-paid civilian "spooks" from Central Intelligence Agency and other elements of the Nation Intelligence Community are hidden in DoD's civilian pay roll accounts.

A third reason, hinted at by Defense Secretary Brown (but not addressed in the context of a civilian vs. uniformed pay gap), is civilian "grade creep." In FY 64, the average DoD civilian was a GS (General Schedule) 7.2; today, that person ranks as a GS 7.7 or 7.8. Congress directed in the FY 78 budget that DoD reduce the number of employees holding the rank of GS–13 or above, but Brown opposed that legislative restriction in his FY 80 budget report. He told Congress, "I believe this is counter to our other attempts to establish grade levels that are fair to both the employees and the taxpayer," and said the legislation "incorrectly tied the number of GS–13 and above employees to the number of flag officers" when the two have "quite different roles and missions and their numbers are driven by different requirements." Brown said, nevertheless, that "DoD did program reductions in the number" of GS–13 or higher grade civilians—without specifying how many, when, or whether the new budget numbers in fact reflect that "program." He has also asked Congress to approve an increase in (or maintain the level of) general and flag officer authorizations, from the 1,073 limit imposed in the FY 78 budget by the end of FY 80 to the 1,119 presently authorized. That would maintain a level of about 5½ admirals or generals for every 10,000 persons in uniform.

Mr. DOLE. Also, I think it is of some interest to note in the Federal Diary, by Mike Causey, the average Japanese employee of the U.S. Embassy in Tokyo now gets $17,000 a year in pay and benefits from the U.S. military. But in the military the average is about $13,000 to $14,000 for the airman, sailor and soldier.

It seems to me whether we are considering the military alone or in concert with all the other services and all the other employees of the U.S. Government there is this disparity. I commend the distinguished Senator from Colorado, the Senator from Maine, and the others who are leading this effort.

It has been stated that maybe about 100,000 of our Armed Forces are on food stamps. I would hope that is something that would terminate if we at least increase the pay to this extent.

I ask unanimous consent that the statement I referred to by Mike Causey be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 5, 1979]

STATE DEPT. OVERSEAS KING OF PAY, FRINGES

(By Mike Causey)

An overseas recruiting war between U.S. agencies that have 178,000 foreign nationals on the payroll is costing American taxpayers millions of dollars each year. Those employees do a variety of chores, ranging from driving cars and emptying wastebaskets to handling top technical, cultural and administrative jobs for Uncle Sam.

The financial firefight is being won by the State Department. State is considered the pay and fringe benefit king. In some countries, mid-level foreigners working for the U.S. Embassy make more money, and get better pensions than they would in top-level jobs in their own government, or local industry.

Defense Department agencies abroad often find that their main competition for top-notch workers comes from the State Department, rather than from local host government or giant manufacturing companies.

A new report by the General Accounting Office says State could save millions if it stopped being so generous with pay levels for foreign workers. And it says the federal civil services pension system is being loaded up with unnecessary-financial burdens because State insists on enrolling foreign workers in it, rather than in retirement programs used in their own countries.

The Defense Department several years ago began getting tough in negotiating pay and fringe benefits with foreign workers, but opposition from State Department post officials has blocked State from being a hard-bargainer in many areas.

State, for instance, often puts foreign employees on the civil service retirement program setup and used to pay annuities to long-service U.S. government workers. Defense, on the other hand, requires its foreign employees to live with the prevailing retirement plan of their own governments.

The pay and fringe benefit war has resulted in some interesting, and costly, pay quirks. For instance:

The average Japanese employe of the U.S. embassy in Tokyo now gets $17,000 a year in pay and benefits from the U.S. Government. That is almost equal to the white collar federal salary average in this area, and much, much more than the typical Japanese worker—or government official—gets. It is also more than Defense agencies are willing to pay, and they often lose employes or job candidates to State.

Because the State Department has local foreign nationals under the U.S. Civil Service retirement program, Philippine employes retiring from government services get pensions that are 300 percent more than the average family income in that nation.

The lowest paid white collar German worker in the U.S.-Embassy in Bonn has a starting salary of $9,300 a year.

A GAO sampling showed that State paid foreign workers 9 percent more than the Defense Department did for comparable jobs, and about 5 percent more than the Veterans Administration.

Federal agencies, often working in the same cities in foreign countries, often use different wage surveys resulting in different pay scales for the same jobs.

Defense in the Philippines gives year-end bonuses to foreign workers equal to 125 percent of a month's pay. State in the same area gives foreign workers 100 percent bonuses.

In 1977 in Korea the Defense Department gave local workers a 23.6 percent pay raise while State gave its Korean employees a 26.2 percent raise.

GAO's spot survey in Naples showed State paid its Italian workers 4 percent more than did Defense for the same jobs.

GAO has recommended that U.S. agencies overseas get together and pay the same basic salaries and has urged State to stop putting foreign nationals on the much-more generous U.S. civil service retirement plan.

U.S. Geological Survey celebrated its 100th birthday last weekend. It has grown from a small band of dedicated rock-hounds to one of the government's best-managed, most progressive scientific agencies. USGS was the first major agency to adopt flexible working hours for its entire workforce. Headquarters here is in Reston.

Hostage Paychecks: Federal payrolls no longer would be caught up in Senate-House language squabbles under legislation introduced by Sen. Charles McC. Mathias (R-Md.).

Senate-House differences over abortion-funding held up paychecks at HEW, Labor and other agencies in both 1977 and 1978.

Mathias' bill, like legislation introduced on the House side by Washington area representatives, would allow employes to be paid even if agency budgets remained unapproved because of Senate-House semantic warfare.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. May I say to the Senator from Kansas that his participation means so much not only because of his distinguished record as a legislator but also his distinguished record as a member of the Armed Forces of this country.

Mr. COHEN. Mr. President, the amendment I propose delays implementation of the Armstrong amendment until January 1, 1980. All members of the military would still receive the benefits of the lifting of the pay cap, but at the same time the cost to the Treasury would be only $472 million rather than the $700 million that would be involved in a retroactive implementation effective on October 1, 1979. I believe this approach would provide the assistance to those service personnel in need of relief and accomplish the goal at a cost which would be better absorbed within the Federal budget. It is my understanding that Mr. MATSUNAGA and Mr. ARMSTRONG both are in agreement as far as the acceptance of this particular amendment.

Mr. ARMSTRONG. Will the Senator yield?

Mr. COHEN. I yield.

Mr. ARMSTRONG. I am prepared to accept the amendment. I think it is a constructive one. However, I would like to make it plain that in any event the proposed Armstrong-Matsunaga is within the budget, within the $129.9 billion agreed to by the budget conference. I ask unanimous consent to have printed in the RECORD at this point a summary of the documentation developed by the staff of the budget conferees which puts these figures in perspective. Nonetheless, however, I do accept the amendment of the Senator from Maine.

There being no objections, the summary was ordered to be printed in the RECORD, as follows:

050: NATIONAL DEFENSE

[In millions of dollars]

	Budget authority	Outlays	Remarks
Appropriation bills in function:			
Treasury	21	19	Conference agreement.
HUD	137	140	Do.
Energy	2,959	2,753	Do.
Military construction	3,900	3,500	Military Construction Subcommittee allocation under FCR: Senate authorization provides for 3.7 in budget authority and 3.4 in outlays. House has passed 3,482 in budget authority and 3.433 in outlays.
Defense	131,743	121,037	Estimate of Defense Subcommittee markup; House has 129.5 in budget authority and 128.0 in outlays.
Other items:			
Stockpile acquisitions	237	24	Senate bill; House has no acquisitions.
Stockpile disposals	−301	−301	Senate bill; House has −200 in budget authority and outlays.
Offsetting receipts	−434	−434	
Pay supplemental	2,153	2,135	Assumes 25 percent absorption of 7 percent pay raise. Full pay raise 2.9 in budget authority and outlays.
Retired pay supplemental	200	200	
Potential military personnel supplementals.	80	94	DOPMA, survivor benefit reform and physicians pay.
Total	140,727	129,154	

Mr. COHEN. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. I thank the Senator from Maine for yielding. I am happy to accept the Senator's amendment. I believe this would remove some of the objections which have been raised against the Armstrong-Matsunaga amendment.

Mr. COHEN. I thank the Senator. I would point out, in view of the fact that we have limited the time, that the Senator from Georgia indicated earlier that there is a matter of philosophy involved here. There is no question about that. The philosophy is whether or not we are willing to pay a fair, living wage to our military personnel. If not, we ought to say so.

If we want to go back to a draft, I think we also want to ask the question as to whether we are prepared to go back to $78 a month as it was in 1964. I have heard some figures tossed around that there has been a 224 percent increase since 1964. But between 1946 and 1964, there was an increase in military pay from $75 to $78 a month.

Mr. NUNN. If the Senator will yield, I have just a brief observation. I want to make absolutely plain that we are not advocating that we roll back military pay. I am advocating that we not increase the percentage of military pay relative to the military budget. If we continue to do that, the security of this time will be eroded just as it has eroded in the last 10 years.

Mr. COHEN. Mr. President, I want to hold on to my time, as there is so little left.

The fact of the matter is, we have to make that kind of a decision, whether we want to pay our military personnel a wage on which they can live. We have heard a lot of statements today about a good percentage of American people living on food stamps and supplementing their incomes with moonlighting jobs and second and third jobs. We are talking about maintaining a strong military force, and I think we have to direct our attention to this particular problem.

I think the problem is most severe with the lowest enlisted grades where the subminimum wages force military families onto food stamps. But there are also acute difficulties with the higher grades. The discrepancy between military and civilian wages is greatest in the 25–34 age group, where most are in grades E–5 and E–6 with 6 to 15 years of service.

We are talking about increasing our defense budget by a 5 percent real growth increase. If it is only to buy more weapons systems, another MX system with a racetrack, or more ballistic missiles or more tanks or planes, all of which we may need, and if we do not have people to man them, we are in trouble as far as maintaining a strong national defense.

We have a choice here: We can provide a decent wage scale for the people who serve this country, or we can say that we are not going to and go back to a draft system.

Mr. President, I ask unanimous consent that some questions raised on this issue and some responses be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND RESPONSES

Argument: Why increase pay for military personnel and not for civil servants?

Response: Those in the service have not done as well as their civilian counterparts, and they have borne hardships not faced by civilian government workers. Federal blue collar wages outpaced military pay by 20 percentage points since 1972.

Circumstances special to military life have compounded the problem. Military personnel are reassigned to new posts, both stateside and overseas, throughout their career. A recent Pentagon study says that the average military family absorbs hundreds—and sometimes thousands—of dollars in expenses with every move—expenses the government should be obligated to pay. The report indicates that military people pay a $1.2 billion "subsidy" each year for official travel. A recent Army Times article on the report was headlined "PCS (permanent change of station) Huge Troop Ripoff."

In the last month and a half, these other stories have appeared in the Army Times:

"Stateside Housing Stipend Proposed: Travel Cash, Basic Pay Viewed as 'Weaknesses' "—An article on a DoD study group which "has identified so many weaknesses in compensation and entitlements, officials said, that it is not likely they could be remedied in a single fiscal year."

"Junior EM Parking Fee Exemption Asked"—A piece telling of DoD Secretary Brown's request for the junior EM exemption because "the parking fees would put an additional financial burden on personnel already strapped by the extra expenses of involuntary assignments in high-cost areas."

"Priority in Housing Backed for Lower-Rank Enlisted"—An article telling of a GAO report that "large numbers of E–1s through E–4s and their families are living off-post in housing they can't afford or in dilapidated, rodent-infested dwellings in poor neighborhoods. . . . Although DoD housing policy generally calls for suitable housing for military personnel with dependents, lower-ranking enlisted personnel are ineligible for post housing."

"Study Claims Military Hit Harder by Inflation"—Tells of a Pentagon pay study showing that "inflation has driven down the purchasing power of service people more sharply than civilians by amounts ranging from seven to 20 percent."

Argument: This is just one more cost of the all-volunteer force.

Response: Whether our force is volunteer or conscripted, our young men and women in uniform deserve a fair living wage. In fact, if we draft only a small segment of the population, we owe a special obligation to them. One of the big reasons Congress passed the big military pay boost in the early 70s, before the advent of the AVF, was the feeling on the part of many Members of Congress that those serving in the draft army were being unfairly treated. Even during Vietnam, only a small percentage of the eligible population was drafted. The same is likely to be true in any future draft. If we ask these people to make a special sacrifice in service to their country, the least we can do is make sure they are paid the minimum wage.

Argument: Why include officers and senior NCOs in the pay increase?

Response: Those in the lowest enlisted ranks clearly face the greatest difficulties. But the Pentagon reports a significant problem in retaining top quality NCOs and officers at the point of second reenlistment. A Pentagon study group has recommended special pay increases for those in grades O–3 through O–5 (Captain, Major and Lieutenant Colonel) and for enlisted grades E–1 through E–6 (private through staff sergeant). The discrepancy between military and civilian wages is greatest in the 25 to 34 year old age group, where most enlisted members are in grades E–5 and E–6, with six to 15 years of service.

Argument: The personnel share of the defense budget is already too high.

Response: Pay for civilian DoD employees takes up 70 percent of the Pentagon's personnel budget. Enlisted personnel and officers each get about half of the remaining 30 percent.

The average DoD civilian earns $21,117 annually, the average Federal worker $16,999. The average military person makes $13,463 each year, the average enlisted person only $9,900. This compares with an income of $11,546 which the Bureau of Labor Statistics estimates a family of four needs to maintain a "lower level" standard of living.

It is unfair to our men and women in uniform to suggest that we cannot pay them a fair living wage because we do not want to increase the personnel share of the DoD budget. This is especially true in light of the disparity between their pay and that of their civilian counterparts at DoD.

Mr. COHEN. Mr. President, I yield back the remainder of my time. I urge we adopt the Armstrong amendment as amended by the proposal to confine it to January 1, 1980, next year.

Mr. ARMSTRONG. I am very grateful to the Senator from Maine for his contribution. The amendment is a good one. I ask unanimous consent that this amendment be accepted as an amendment to the Armstrong-Matsunaga amendment.

The PRESIDING OFFICER. Is there objection to the Senator modifying his amendment? Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of title VII insert the following new section:

SEC. . (a) Except as provided in subsection (b), funds made available under this act under the heading "MILITARY PERSONNEL" shall be used to pay the salary or pay of any office or position with respect to which an adjustment is made during fiscal year 1980 under section 1009 of title 37, United States Code, at the rate of salary or pay for such office or position which would have been payable by reason of such adjustment if the President had not submitted an alternative pay plan under section 5305 (c) of title 5, United States Code, with respect to such adjustment.

(b) The provisions of subsection (a) shall not apply to the salary or pay of any office or position the rate for which is limited by the provisions of the second paragraph of section 101(c) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved January 1, 1980.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. I have only two other speakers I wish to yield time to. Senator PROXMIRE appears not to be on the floor at the moment. My distinguished colleague from Hawaii, Mr. MATSUNAGA, is here, and I would be pleased to yield 2 minutes, or such time as he might wish.

Mr. MATSUNAGA. I thank the Senator for yielding.

Mr. President, I would like to point out that in a recent interview with the New York Times, Assistant Secretary of Defense Robert Pirie indicated that two of the main reasons for the recent All-Volunteer Force recruiting problems were, one, military compensation, which has declined to levels lower than that in comparable civilian jobs; and, two, the unfavorable public image of military life.

Secretary Pirie said that, in addition to seeking additional funds for the military's recruiting and advertising budgets, the Department of Defense is considering asking Congress to authorize an increase in pay levels for certain military personnel and increases in certain benefits accorded to servicemen such as housing allowances and travel reimbursements. According to Secretary Pirie, he believes that military pay increases are necessary in order to attract more enlistments and to retain more skilled personnel already on duty.

It should be pointed out, Mr. President, that the manpower report released by the Department of Defense last December found that an analysis of enlistment figures showed that volunteer enlistments during the period of fiscal years 1973 through 1977 have been influenced significantly by military pay levels as compared to civilian pay. The report explained that a 10-percent increase in first-term military pay would bring a 5- to 10-percent increase in high-quality enlistments.

Mr. President, I urge that, in order to address the manpower problems of the All-Volunteer Force, which have been testified to by the Chairman of the Joint Chiefs of Staff and each of the service chiefs as the most critical national security problem of all for the 1980's, the Senate pass the Armstrong-Matsunaga amendment.

Mr. ARMSTRONG. Mr. President, I thank the Senator for his leadership on this issue and express my pleasure in being associated with him in this effort.

I yield for 1 more minute to the Senator from Maine.

Mr. COHEN. Mr. President, my distinguished colleague (Mr. MUSKIE) is indeed renowned as one of the true fiscal conservatives, certainly of this Congress. He has been holding the budget, doing his level best to hold expenditures within the ceilings we have voted upon.

I also take this opportunity to point out that my colleague from Colorado, with whom I served three terms in the House, is perhaps one of the most fiscally conservative Members of not only the House but the Senate, as well.

Mr. MUSKIE. Will the Senator yield?

Mr. COHEN. Yes, I yield.

Mr. MUSKIE. I find that there is no Senator in this body who is totally conservative when it all comes together. The increase that is proposed here adds to a shortfall in the budget of over a billion dollars.

Mr. COHEN. I simply say that I would match Senator ARMSTRONG's record on fiscal conservatism or spending with that of any Member of the Senate.

Mr. MUSKIE. That has nothing to do with this amendment or its effect on this budget. This is a blockbuster.

Mr. ARMSTRONG. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. ARMSTRONG. I appreciate the comments of both Senators from Maine. Now I yield 2 minutes to the distinguished Senator from Wisconsin (Mr. PROXMIRE).

The PRESIDING OFFICER. The Senator from Wisconsin has 45 seconds.

Mr. PROXMIRE. Mr. President, I am enthusiastically in support of the amendment by the Senator from Colorado and the Senator from Hawaii. I say that although I think I have voted against excessive military spending as much as anybody in the Senate and I recognize that we have wasted a lot of money in all our areas, particularly in the military area. But if we believe in an effective military, we have to pay for it. It is fine to say, yes, we would like to cut military spending so we will hold down salaries, but we just are not going to get a volunteer Army that way.

If we do not want a volunteer Army, let us pass a selective service program. There are Members of the Senate who favor that and I respect them for it. But if you believe in the volunteer Army, as I do, we are going to have to pay for it by paying people to get into it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. Mr. President, I was yielded 2 minutes.

The PRESIDING OFFICER. The Senator only had 45 seconds.

Mr. STENNIS. I yield 1 minute if I have it.

Mr. PROXMIRE. Mr. President, we all know that life in the military can be lonely and dangerous. We also know it requires skilled people. The best equipment, and we are spending billions on equipment—aircraft carriers, tanks, missiles—will not work if we do not have

competent people to operate it. If we want an effective Army, we are going to have to get capable people in who have the competence to handle this complicated equipment. It is not the way it was when most of us were in the military in World War II, when it did not require that kind of skill and capability.

Sure it costs more. If we are going to be honest about a volunteer Army and we believe in real freedom in this country and believe people should not be drafted into services when they do not want to be, it seems to me this is a vote that is essential.

I thank my friend from Colorado.

Mr. STENNIS. A point of order, Mr. President: What is the time situation?

The PRESIDING OFFICER. The Senator from Mississippi has 1 minute, 10 seconds remaining.

Mr. STENNIS. And how much has the other side?

The PRESIDING OFFICER. Senator ARMSTRONG and the proponents of the amendment have used all their time.

Mr. STENNIS. Well, Mr. President, I yield back the time that we have remaining.

Mr. HUMPHREY. Mr. President, I rise to express my strong support for the Armstrong-Matsunaga amendment, of which I am proud to be a cosponsor, because it is another opportunity for the Senate to show its determination to strengthen our national defense.

There are those who will oppose this amendment on the grounds that already too large a proportion of our defense budget is devoted to manpower. There are those who will say that any increase in defense spending, however small, should be devoted to the procurement of weapons.

I am one of those who believe that too great a proportion of our defense budget is devoted to manpower costs. But the reason for this is not because military pay and allowances are too high.

Military pay cannot be too high if beginning recruits earn only 83 percent of the minimum wage.

Military pay cannot be too high if 100,000 military men must obtain food stamps in order to feed their families.

Military pay cannot be too high if the average salary for all enlisted personnel, from the newest private to the most senior sergeant-major, is $1,500 less than the minimum the Government thinks is necessary to maintain a lower level standard of living for a family of four.

The problem is not that we are spending too much for manpower. The problem is that we are spending too little for everything else. In the face of an unprecedented Soviet threat, we should be procuring modern airplanes, modern ships, modern tanks, modern weapons of all kinds. We should be providing more funds for operation, maintenance, and training.

We should be doing all these things. Recent events in the Middle East, in Southeast Asia and elsewhere emphasize how important it is for the United States to rebuild her defenses.

But we cannot strengthen our defenses by eroding the very foundation on which those defenses are constructed—our servicemen and women. All the sophisticated hardware we can buy is just so much expensive junk without the right numbers of the right kind of people to operate them.

Bernard Brodie put the matter well in his Guide to Naval Strategy, published in 1942:

> We must always remember that the basic element of strength in any nation is not in its machines but in its manhood.

There are others who will say: "You're right. There is a serious manpower problem in the military. It is caused by eroding pay and benefits. But let us study the matter further and put off action for another year."

To these people, let me say: We know what the problem is. We know it is getting worse. We know what is causing the problem. We know how to cure it. Why put the solution off any longer?

If a doctor has a patient with a bad cold, does he wait until the cold develops into double pneumonia before prescribing medication?

If the barn is on fire, do we wait until it has spread to the house before calling the fire department?

Mr. President, there can be no question that the Armstrong-Matsunaga amendment is directed at a very serious problem, a problem which will grow very much worse if action is postponed another year or beyond that. There is no question that the solution the amendment proposes will work. Every survey taken recently by the services indicates the principal cause of the manpower shortages is the erosion of pay and benefits. The way to stop the shortages is to stop the erosion of pay and benefits. This may be the one problem that we will ever confront that actually can be solved by more money.

Mr. ARMSTRONG. Mr. President, it is hard to imagine in this day and age that an employer in the United States could get away with:

Paying new employees less than the minimum wage;

Paying skilled journeymen who have been with the firm 8 to 10 years so little that they have to get food stamps in order to feed their families;

Forcing employees to work 20–30 hours overtime each week without any additional compensation; and

Holding cost-of-living increases below the rate of inflation for 6 out of the last 7 years.

Surely, if the Government ever found out about such a latter day Simon Legree, it would fall upon him like a ton of bricks. There would be lawsuits and OSHA inspectors everywhere, and denunciations on the floor of the Congress.

But it is the Government itself that is running this sweatshop. The examples above are not hypothetical horrors. They are the actual state of affairs in the Armed Forces today.

The All-Volunteer Force is in trouble. The reason it is in trouble is because Congress has not kept the promises it made to our servicemen and women at the time the AVF was created. Congress pledged to keep pay and benefits for the military comparable to those in the private sector. But Congress has reneged on that pledge.

The Armed Forces are smaller in number today than at any time since 1950, yet they are having grave difficulty meeting their peacetime manpower requirements. This year, for the first time ever, all of the services have failed to meet their recruiting goals. Now that base pay for a recruit has fallen to 83 percent of the minimum wage, it is not difficult to understand why.

Most of us have suffered from inflation, but none so severely as servicemen and women. From December of 1972 to October of 1978, the cost of living rose 59.9 percent. But the regular military compensation—base pay plus allowances for housing and subsistence—rose by only 40.8 percent.

Hardest hit have been the career noncommissioned officers, the bone and sinew of our Armed Forces. The average salary for all enlisted personnel, including all allowances, is $9,900. The Bureau of Labor Statistics says the minimum income necessary for a lower standard of living for a family of four is $11,546.

Unless steps are taken now to halt this erosion of pay and benefits, Congress will have no choice but to reinstate the draft. To reinstate conscription for any reason would be unfortunate. But to go back to the draft simply because Congress is unwilling to pay a living wage would be unconscionable.

I urge adoption of the amendment.

● Mr. HART. Mr. President, I am pleased to join Senator ARMSTRONG as a cosponsor of his amendment to lift the pay cap on military salaries. Without this measure, our service personnel will suffer their third real pay cut in 6 years.

One of the biggest problems we currently face in recruiting and retaining competent and dedicated people for our Armed Forces is that pay outside the military system has gone up faster than it has inside. Inflation is hurting almost every segment of our society, but it has fallen particularly hard on the members of the armed services.

Many of our most capable military personnel are leaving the service for civilian jobs. Since there is no lateral entry into the Armed Forces, this loss is devastating. Experienced people cannot be brought in at their level to take their place, as is the case in the private sector and in Federal agencies. So, less qualified personnel must be retained at great cost in dollars and time. The quality of military leadership inevitably deteriorates.

We cannot justify spending billions of dollars for military hardware, while not paying for the quality people we need to operate our weapons and command our ships and troop units effectively. A capable military service is not just equipment, it is people, and good people must be paid comparable wages if we expect them to stay in the service. I commend Senator ARMSTRONG for introducing this proposal, and I am happy to join with him in working to get the Senate to accept it.●

POINT OF ORDER

Mr. STENNIS. Mr. President, the law is plain; the provisions of this amendment are clear. Undoubtedly, it is legislation on an appropriation bill. It is clearly so, and I make that point of order that, under rule XVI, paragraph 4, this amendment is legislation on an appropriation bill; therefore, it is out of order.

Mr. ARMSTRONG addressed the Chair.

Mr. President, I suggest the absence of a quorum.

Mr. STENNIS. Mr. President, I do not yield for any purpose. As I have understood it, these matters were not debatable.

The PRESIDING OFFICER. The Chair states that the Senator from Mississippi did lose the floor when he stated his point of order and the Senator from Colorado is recognized by the Chair. The Senator from Colorado has suggested the absence of a quorum. He has the right to do that. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, in light of the point of order that has been raised by the distinguished chairman, I raise the question of germaneness.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that this is a misuse of the precedents of the Senate, since there is no House language to which this amendment could be germane, and that, therefore, the Chair is required to rule on the point of order as to its being legislation on an appropriation bill and cannot submit the question of germaneness to the Senate.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that I be permitted to address the Senate for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Reserving the right to object, and I shall not object, I would like to have a minute, also.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, this point of order takes me by surprise, and I suppose it does other Senators, because the parliamentary procedure which we have followed up until now, that is, in which the distinguished chairman has raised the question of the legislation on an appropriation bill, and in response I raised germaneness, is, in fact, consistent with the precedents of this body. We have done it over and over again.

Now I gather we are about to get a different ruling from the Chair than we have had in the past. So if, in fact, the Chair sustains the point of order raised by the distinguished majority leader, then I will appeal the ruling of the Chair.

I think all Senators should realize that this is not a parliamentary issue. It will in effect constitute an up or down vote on the merits of the pending amendment.

Mr. ROBERT C. BYRD. Mr. President, there is no House language in this bill for the amendment to be germane to.

It is true, we have been following this merry-go-round, raising the point of order that an amendment is legislation on an appropriation bill, and a Senator then immediately raises the question of germaneness. The Chair submits the question of germaneness to the Senate.

I maintain it is the duty of the Chair to rule when there is no language for an amendment to be germane to, the Chair is required to rule on the point of order that it is legislation on an appropriation bill and should not submit the question of germaneness to the Senate.

Mr. STENNIS. Mr. President, may I address the Chamber for 1 minute in response to the Senator from Colorado?

The PRESIDING OFFICER. Is there objection?

The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, there is nothing unusual or extraordinary about this point of order coming, and coming when it did.

I saw a gross violation on an appropriation bill by legislation. I also informed myself on this matter, but we had already agreed to time, a certain time for the amendment.

So I was cut off from making it at any other time until after that time has been used, or given back.

So this is made absolutely on the merits.

Mr. ARMSTRONG. It is a vote on the merits.

Mr. ROBERT C. BYRD. The Senator is not questioning the Senator's point of order, he is questioning mine.

Mr. STENNIS. All right. Let us vote on it.

The PRESIDING OFFICER. The point of order having been raised, the Chair wants to state that the Senator from Colorado is absolutely correct—it is a question of first impression and it would have the effect of adding to the existing precedents a threshold question, that being whether or not there is House language for the amendment to be germane to, and if there is no House language, the Chair would not submit the question of germaneness to the Senate, but at that time rule on the point of order.

With that background, the Chair is now prepared to rule.

Since there is no House language in this bill for the amendment to be germane to, the Chair thinks the point of order is well taken and, therefore, sustains it.

Mr. ARMSTRONG. Mr. President, I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the appeal on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, will the Chair now state the question before the body?

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, a vote to support the tabling motion supports the ruling of the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from Delaware (Mr. BIDEN), the Senator from New Hampshire (Mr. DURKIN), the Senator from Ohio (Mr. GLENN), and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), and the Senator from New York (Mr. JAVITS) are necessarily absent.

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Arizona (Mr. GOLDWATER).

If present and voting, the Senator from New York would vote "yea" and the Senator from Arizona would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 44, nays 40, as follows:

[Rollcall Vote No. 390 Leg.]

YEAS—44

Bentsen	Hart	Nelson
Bradley	Heflin	Nunn
Burdick	Hollings	Pell
Byrd, Harry F., Jr.	Huddleston	Pryor
Byrd, Robert C.	Inouye	Randolph
Chiles	Jackson	Riegle
Church	Johnston	Sarbanes
Cochran	Leahy	Sasser
Cranston	Levin	Stafford
Culver	Long	Stennis
Eagleton	Magnuson	Stewart
Exon	Melcher	Stone
Ford	Morgan	Williams
Gravel	Moynihan	Young
	Muskie	Zorinsky

NAYS—40

Armstrong	Heinz	Proxmire
Bayh	Helms	Roth
Bellmon	Humphrey	Schmitt
Boren	Jepsen	Schweiker
Boschwitz	Kassebaum	Simpson
Chafee	Laxalt	Stevens
Cohen	Lugar	Thurmond
Danforth	McClure	Tower
Dole	McGovern	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Garn	Packwood	Weicker
Hatch	Percy	
Hatfield	Pressler	

NOT VOTING—16

Baker	Durkin	Metzenbaum
Bayh	Glenn	Ribicoff
Biden	Goldwater	Stevenson
Bumpers	Hayakawa	Talmadge
Cannon	Javits	
DeConcini	Kennedy	

So the motion to table the appeal from the ruling of the Chair was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The appeal having been tabled, the ruling of the Chair stands and the Chair is now prepared to rule on the point of order of the Senator from Mississippi that the amendment constitutes legislation on an appropriations bill. The Chair holds that it does and the point of order is sustained.

Mr. ROBERT C. BYRD. Mr. President, I wonder if we can wind down the remaining amendments as soon as possible. Senators have planes that they have to take.

I thank the distinguished Senator (Mr. ARMSTRONG) for being so considerate and cutting back the time on his amendment.

What amendments remain? Could we go to third reading?

Mr. ARMSTRONG. Mr. President, before we take that, if I may be recognized for a moment, I compliment the majority leader. I learned something here today, and one of the things I learned is how he got to be the majority leader—by knowing the rules so well. I congratulate him for that.

I only wish to say two things: I appreciate very much the support of those who backed my amendment. It is a good amendment. It should have been agreed to, and I am sorry that parliamentary tactics have prevented that.

But I say to the distinguished majority leader that I think that the precedent that has been established here is a useful one. I support it. I think it was not right, frankly, to bring it up on a controversial amendment because he has created a controversial precedent.

Finally, before I yield the floor, if there are other amendments pending, let me say I may have an additional amendment to suggest because there is another way that this same pay amendment could be raised and it will be my purpose to do so if I can frame such an amendment.

Mr. ROBERT C. BYRD. Mr. President, may I thank those who supported the motion to table the appeal of the ruling of the Chair. We were not voting on the substance of the amendment, but this is one way to stop this business of legislating on appropriations bills when there is no House language to which a Senate amendment can be germane.

That is what the question was.

I thank Senators who supported that motion to table.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, could we get on with the bill to dispose of it?

Mr. MAGNUSON. Will the Senator yield for one remark?

Mr. ROBERT C. BYRD. Are there other amendments?

Mr. HOLLINGS. Yes. I have one which will take about 5 minutes.

Mr. STENNIS. Mr. President, will the Senator yield to me,

Mr. ROBERT C. BYRD. I yield.

Mr. STENNIS. We have a few amendments here that I think we can get at pretty fast, but we have one amendment that has been waiting all day. That is the so-called helicopter amendment. We shall go to that now. There is time to have reasonable argument and have a vote here. I think a lot of that time could be yielded back.

Mr. ROBERT C. BYRD. Mr. President, could we have an understanding on amendments? How much time would the Senator from South Carolina (Mr. HOLLINGS) need on his amendment?

Mr. HOLLINGS. I talked to the managers of the bill and it will be accepted, I understand, on both the majority and minority side. I need about 5 minutes, 2½ minutes on each side.

Mr. THURMOND. Mr. President, I wish to have 2 minutes.

Mr. STENNIS. Mr. President, there is not going to be time now. It can take 4 hours to debate all these little amendments. Or maybe we could do it in 10 minutes and get rid of them. If we can get on with the debate, then we may have some conferences on these small amendments and there will be some kind of agreement on them.

Mr. ROBERT C. BYRD. Mr. President, what I am trying to do is help the Senator expedite it.

Mr. STENNIS. I understand.

Mr. ROBERT C. BYRD. If we could have 5 minutes' limitation on the amendment by Mr. HOLLINGS——

Mr. HOLLINGS. Five minutes to each side. I think the chairman agrees. I will agree to whatever the distinguished chairman agrees to.

Mr. ROBERT C. BYRD. Mr. President, could we give a limitation?

Mr. President, I yield the floor.

Mr. STENNIS. All right. The Senator from South Carolina has been ready to make an announcement on this bill.

May I ask the leader, does the Senator expect something on this helicopter amendment shortly, some word about it?

Mr. ROBERT C. BYRD. Yes. I just asked Senator HEFLIN. if it was his intention to call up the amendment, and he said he was not sure he would, but he had to make a phone call and he would be back.

Mr. STENNIS. I think if it is not called up soon, Mr. President, we will have to take it over until next week.

Mr. ROBERT C. BYRD. Mr. President, I hope we do not carry this bill over. I can understand the exigencies troubling the chairman of the committee. I said we would not be in tomorrow if we finished this bill today.

Mr. STENNIS. The Senator from South Carolina has an amendment if he wants to bring it up.

Let me also say that the Senator from Missouri (Mr. EAGLETON) has an amendment. Would someone let him know so he can get here. We do not have a time agreement.

UP AMENDMENT NO. 789

Mr. HOLLINGS. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. RIEGLE). The clerk will report the amendment. The Senate will be in order.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS), for himself, Mr. JACKSON, Mr. THURMOND, Mr. MAGNUSON, and Mr. BRADLEY, proposes an unprinted amendment numbered 789.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 12, strike "$7,902,275,000" and insert in lieu thereof: "$7,905,275,000."

On page 8, line 23, strike "$10,590,409,000" and insert in lieu thereof: "$10,599,409,000."

Mr. HOLLINGS. Mr. President, the Senators from Washington, Senator MAGNUSON and Senator JACKSON, Senator THURMOND, my senior colleague, and Senator BRADLEY from New Jersey are cosponsors.

Mr. President, this deals with $12 million for the Military Airlift Command. In marking up the bill in the Appropriations Committee we thought the problem could be handled by language. It so happened on the House side there was a Defense audit they responded to to see if they could redesign the handling of the military passengers through the various terminals in trying to congeal them for an economy move.

Now the Pentagon and the Military Airlift Command, in particular, point out that not only will that plan cost additional money but more than anything else would damage very, very seriously our readiness by about a 38-percent capacity.

I view with alarm the House and Senate action which cut $12 million dollars from the Air Force budget to encourage the closure of military passenger terminals. This cut is almost double what it takes to operate all of the Military Airlift Command's passenger terminals worldwide. It means the virtual elimination of MAC's ability to handle troops and noncombatant evacuation during the early hours of a war.

I am concerned because the cutting edge of our airpower, in support of NATO, rests on the Military Airlift Command's ability to get the troops and material in place fast. This requires an in-being force that is ready to deploy anywhere in the world prior to mobilization and within hours of an impending conflict. The House and Senate action would result in the closure of the military passenger terminals at McChord AFB, Wash.; Hickam AFB, Hawaii; Andersen AFB, Guam; Charleston AFB, S.C.; Dover AFB, Del.; Mildenhall AB, United Kingdom; and Rhein-Main AB, Germany. It would decrease the Military Airlift Command's ability to handle troops in war by 38 percent. It would sharply reduce the ability to train reserve forces and would move the Defense peacetime passenger traffic to commercial airports which are already saturated. In fact, the latter is contrary to GAO recommendations to the Congress which concluded that commercial facility congestion caused aircraft delays that cost the U.S. airlines $800 million in 1977, detained the traveling public of 600 million hours and caused the airlines to use an additional 700 million gallons of fuel—over 8 percent of their total consumption. The GAO recommended to the Congress and the Secretary of Transportation that traffic should, in fact, be shifted to "reliever" airports.

I fail to understand how we can close paid-for, existing facilities, which already provide us the recommended relief and move that traffic to commercial facilities such as Atlanta and Los Angeles which are overcrowded. I fail to understand the logic for cutting 263 military personnel who provide over a third of the Military Airlift Command's active duty wartime means to move combat troops, as well as the movement of up to 2 million noncombatants—especially when we face a growing threat in Europe. I fail to understand how our troops are going to move through commercial facilities, get on an aircraft and find their way to the battlefield. The nature of these two operations are completely different.

Apparently, the House and Senate Appropriations Committees based their decision on a Defense Audit Service report. Had they read between the lines they would have found the cost savings cited in that report were ghosts. Because of the Defense Audit report the Air Force just recently closed the Norton passenger terminal and started operations at Los Angeles. The Defense decision to move to Los Angeles was done without the knowledge of the Los Angeles airport authority, who raised considerable opposition because of already overtaxed facilities. Additionally, the cost of moving our young service people through these high-cost areas is certainly not in their best interests. Twelve million dollars is a small price to pay for the wartime capability we need to keep this country out in front and at the same time continue to provide a highly valued benefit to our people in uniform. Therefore, I propose the Senate restore $12 million in the fiscal year 1980 Defense appropriations bill.

Mr. STENNIS. Mr. President, this amendment pertains to our passenger terminals, which are involved in carrying our military personnel and their families and certain equipment back home, and so forth. The House took out this money. It certainly seems to us it ought to be reviewed. So I propose that we take this amendment respecting an established program to conference and see what we can work out and get the funds restored in part, at least, or in whole, and that is agreeable to the Senator from North Dakota.

May I request, please, if the Senators could just put their statements in the RECORD, it would greatly facilitate matters.

Mr. THURMOND. Mr. President, the committee cut $12 million from the bill which was needed for nine military gateway terminals at military airports based on a Defense Audit Agency report that it would be cheaper to move operations to the nearest commercial terminals.

A more recent General Accounting Office study shows these commercial terminals are already congested and that the United States should use "reliever" terminals like our present military facilities.

Furthermore, a recent Air Force study shows there would be no savings by shifting military passengers to commercial airports.

Mr. President, we need to keep these military gateway terminals as a mobilization base in emergencies. As a coauthor of this amendment, I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

Mr. STENNIS. Mr. President, let me ask are there any more requests for time?

The PRESIDING OFFICER. Is all time yielded back?

Mr. STENNIS. I yield back my time.

Mr. HOLLINGS. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 790

(Purpose: To restore the funds for the Air Force Class IV modifications)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN), for himself and Mr. HATCH, proposes an unprinted amendment numbered 790.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 11, insert the following: strike "$2,632,131,000" and insert in lieu thereof "$2,633,731,000".

The PRESIDING OFFICER. May I ask the staff members who are on the floor to find seats and stop conversations so that we can hear the Senator from Utah.

The Senator from Utah.

Mr. GARN. I thank the Chair. Mr. President, this is a simple amendment which has to do with Air Force TACAN programs, to restore a $1.6 million cut to complete the third phase of a three-phase modification program.

It is my understanding that the majority and minority floor managers have agreed to accept this amendment.

Mr. STENNIS. Mr. President, we support the amendment. We think it has merit and we hope we can yield back the time now.

Mr. YOUNG. I will be happy to yield back my time.

Mr. STENNIS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I see the Senator from Arkansas here. He has two amendments, if he would present the one about the early warning system first.

Mr. PRYOR. I thank the chairman for yielding to me. I think this amendment will take only a few moments.

The PRESIDING OFFICER. The Senator from Arkansas.

UP AMENDMENT NO. 791

Mr. PRYOR. I send an amendment to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) proposes an unprinted amendment numbered 791.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, between lines 10 and 11, insert the following:

SEC. 763. The Secretary of the Air Force shall acquire and install, with such funds as may be available to him, a civilian early warning system at each Titan II missile site to the extent found necessary or desirable by the study conducted pursuant to section 813 of the Department of Defense Authorization Act, 1980.

Mr. PRYOR. Mr. President, the amendment which I offer will provide for the establishment of a civilian early warning system at Titan II missile sites which have surrounding communities and farms. It is my belief that such an early warning system is necessary to protect the safety of these civilians who could be exposed to accidentally released toxic and even lethal gaseous fumes. My amendment would not, of course, cover those missile sites which are located in isolated areas with no surrounding populations.

At the present time, there are 54 Titan II missile sites located in Arkansas, Kansas, and Arizona; 18 of these missile sites are located in Arkansas. My concern for the safety of the people living in the surrounding areas is very real, Mr. President. In January of 1978, a fuel transporter at a missile site near Damascus, Ark., overheated and vented toxic nitrogen tetroxide vapor into the atmosphere which drifed over the civilian countryside exposing seven people to the toxic fumes. One of those exposed has stated that he is still experiencing ill effects from the exposure over a year and half ago.

While we cannot prevent all accidents, we can take steps to protect the people living in the areas surrounding the mis-

sile sites. In the case of the accidental leak in Damascus of nitrogen tetroxide, a component of Titan II missile propellant, the most severe exposures were due to the simple fact that the individuals were simply not aware that any danger existed. They were working out in the fields and continued to work for several hours until neighbors found them and warned them of the evacuation of the area. The Air Force stated that the leak was not immediately detected, thus causing the delay in the notification rather than the lack of procedures. I, however, believe that this emphasizes the need for an immediate response once the accident is detected.

At the present time, there is no automatic alerting system which could be triggered to warn the surrounding civilian population about a leak of toxic fumes or any type of accident. The Air Force, while maintaining sensitive monitoring equipment at the missile site to immediately alert those at the site to a hazard, does not have an early warning system installed to warn civilians in the surrounding towns and farms. Air Force officials rely on the notification of local civilian law enforcement personnel and ask for their assistance "in establishing a controlled situation if the situation dictates." This, Mr. President, is simply not adequate. In Damascus, four persons were hospitalized. There is no need for this type of unfortunate occurrence to happen if the proper precautions are taken. This is the problem we need to address.

The question of the safety of the Titan II missile system has been raised before. When questioned, the Air Force revealed that 20 persons were hospitalized due to exposure to toxic Titan II propellants from 1974 to 1978 alone. These figures would not include the Damascus accident or a later propellant leak of nitrogen tetroxide that was much more severe near Rock, Kans. There were two fatalities of airmen working at the site, 20 hospitalized, and nearly 200 people evacuated from the nearby town and surrounding farms.

Concern over this leak and other incidents led to the adoption of an amendment to the 1980 Department of Defense authorization bill which called for the Secretary of the Air Force to conduct a complete investigation of the Titan II missile systems and report back to the Congress within 180 days. The study will include an investigation of the physical condition of the Titan II missile systems and recommendations for improvements to protect the public safety, including that of the military personnel assigned to the missile sites.

Mr. President, it has been pointed out that over 1 million people live in the areas surrounding the Titan II missile sites in Arkansas, Kansas, and Arizona. We have a responsibility to protect the safety and well-being of these people. The present so-called "system" for alerting the nearby civilian populations constitutes no viable "system" at all. Leaving the notification up to the local law enforcement officials is haphazard and leaves to chance many possible omissions for untold reasons. There needs to be established an early warning system which will indicate to the populace that a danger exists and that proper precautions need to be taken.

I would hope that once the recommendations of the Secretary of the Air Force are received regarding the improvements to protect the public safety, all necessary actions will be taken to install the recommended civilian warning system. It is my firm belief that this warning system will help to insure that there will be no future injury or loss of life due to an accident at a Titan II missile site which could have been prevented.

Mr. STENNIS. Mr. President, on that we asked the Senator from Nevada (Mr. CANNON) to look into this matter. It is something in which he is versed and about which he is familiar, and something he said should be done, provided they found the base for it that the Senator from Arkansas is expecting. I hope the Senate will approve the Senator's amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PRYOR. I yield back my time.

Mr. STENNIS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. PRYOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. We thank the Senator. He does have another amendment.

Mr. PRYOR. Yes, Mr. Chairman, I do.

The PRESIDING OFFICER. The Senator from Arkansas.

UP AMENDMENT NO. 792

Mr. PRYOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) proposes an unprinted amendment numbered 792.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 10, strike out "$10,031,355,000" and insert in lieu thereof "$10,006,355,000".

On page 7, line 21, strike out "$13,352,224,000" and insert in lieu thereof "$13,317,224,000".

On page 8, line 23, strike out "$10,599,409,000" and insert in lieu thereof "$10,564,409,000".

On page 9, line 6, strike out "$3,555,197,000" and insert in lieu thereof "$3,550,197,000".

Mr. PRYOR. Mr. President, I would like to make an inquiry at this time; under what time agreement are we acting at this moment?

Mr. STENNIS. I hope the Senator will take a very few minutes.

The PRESIDING OFFICER. The Chair will advise the Senator that under the rule that exists at this moment there are 30 mnutes to the amendments to a side, but they have not been taken.

Mr. PRYOR. Mr. President, I ask unanimous consent that it be in order to amend the bill on page 8, line 23 for a second time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I will proceed as rapidly as I can. This subject has consumed a great deal of my attention and time in the past several weeks and I feel very deeply about it. For the past 35 years Congress, as an institution, has routinely delegated many of its responsibilities and obligations to the executive branch and to the departments and regulatory bodies of the Government.

Now, Mr. President, in 1979, as we are about to begin a new decade, we find that the same governmental entities to which we have delegated these responsibilities are now in turn delegating these responsibilities to consultants and contractors for a profit. I believe these consulting firms are pervading this country, and in this city they have literally taken over the decisionmaking process of our Federal system.

I am proud that the Senator from Washington (Mr. MAGNUSON), the distinguished chairman of the Appropriations Committee, has joined me as a cosponsor of this amendment.

Also joining me in this amendment are Senator ZORINSKY, Senator SIMPSON, and Senator METZENBAUM. Mr. President, I ask unanimous consent that their names be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator be kind enough to add the name of the occupant of the chair as a cosponsor, as well?

Mr. PRYOR. The Senator from Arkansas is extremely pleased to have Senator RIEGLE join him in this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, my amendment states that the Department of Defense shall reduce by $100 million the amount of funds appropriated under this act to pay for the compensation of experts and consultants or to procure by contract the services of experts and consultants or organizations thereof. This amendment is similar in substance and form to the language in the HEW appropriation bill by the distinguished chairman of the Senate Appropriations Committee, Senator MAGNUSON (a cosponsor). This amendment is also similar to the action taken by the House of Representatives Committee on Appropriations, when they considered the DOD appropriations bill.

The problem of increasing dependency on consultants and experts by the Department of Defense is one of growing concern to me as I am sure it is to my colleagues. This problem exists, however, not only at the Department of Defense, but at every Federal agency and department. The costs and numbers of consultants employed by the Government are astoundingly high, with estimates which run into millions of people and cost figures exceeding $2 billion. Moreover, from the study and investigations I have conducted thus far, I am convinced that much of this money is spent in an inefficient and wasteful manner and that fraud is rampant in these expenditures.

On October 12, 1979, the Subcommittee on Civil Service and General Services, which I chair, held the first of a series of hearings on the Federal Government's growing reliance on consultants and experts. Last Friday, November 2, I also chaired the Governmental Affairs Committee oversight hearings on the use of consultants at the Department of Energy. I plan to continue these hearings and my investigation into this subject by examining practices at various Federal agencies and departments.

My research to date indicates that not only do we not know how many consulants and experts are being used by the Federal Government, but we are not even sure what some of these people do for the Federal Government, how much their services cost the American taxpayer, or even why they were retained in the first place.

Although no exact figure has been compiled on how much the Federal Government spends for advice, all evidence points to a figure that is in the several billion-dollar range. Although I have not been able to discern any pattern to hiring practices, an overwhelming majority of consultants appear to gain access to Federal money as a result of friendships and previous contacts, rather than as a result of ability. While many of the contracts are for needed services, a large number are unnecessary and all but useless when completed. The lists of abuses which I have been able to develop in the short time of my investigation looks more like "Ripley's Believe It or Not," rather than legitimate Government procurements.

One witness, a retired officer, testified under oath about the abuses with which he became familiar while working as a DOD consultant. During his 4 years as a consultant he testified to witnessing or participating in the completion of approximately 70 contracts totaling nearly $5 million, of which 94 percent were with the Department of Defense; 93 percent of those were awarded on a sole source basis, that is, without competitive bids. The witness testified to abuses, such as lack of competition in contracts by awarding either sole source contracts or what are known as wired contracts (these were advertised to the public, but agreements had already been reached to award them to a particular consultant); use of security classifications arbitrarily applied to limit competition; subdivision of contracts to circumvent paperwork requirements and to avoid closer scrutiny; use of exclusive information by contractors who "became cozy" with Government officials; improper billing by contractors to secure top pay, bonuses, first class travel, and payment for such personal items as automobiles. These are only a few of the more blatant examples about which he testified. Such practices are permitted and perhaps even encouraged by the Department of Defense. Additional areas of concern I have uncovered include the following examples.

One agency of the Department of Defense, the Naval Air Facility, issued seven separate contracts to the same consultant. His task was to write up suggestions for more contracts which the Navy could contract out. This suggests to me that this agency has money to burn if they can go shopping in this manner.

We also find that the Defense Department authorized $169,000 for a study on "How to Organize and Administer Contracts." The approved cost overrun on the consultant's fee brought the total to $200,000. After spending this amount the Department refuted the results and delayed release of the study. Instead, they authorized an in-house study which contradicted much of what the consultant has said.

Similar abuses have been documented to me by other witnesses, as well as in the 1977 Defense Audit Service report on the audit of management studies and analyses in DOD. A similar audit report, now underway, is expected to outline similar patterns of abuse. In addition, like findings have also been confirmed and documented by the General Accounting Office and the House Appropriation's Subcommittee on Surveys and Investigations in February 1977. The House report reviewed the Department of Defense's contract studies and analyses and reported that "there was found an abysmal lack of uniformity making it impossible to gather accurate study data." Further, according to the House report:

> The many abuses make it doubtful the Department of Defense is adequately preserving the integrity, credibility, and even the honesty of the negotiating method of procurement.

We have literally granted a hunting license for these people who comprise this invisible bureaucracy, and the prey is the American taxpayer.

A meaningful first step is to establish a sound reporting system of the Government's consultants.

On this point, I would like to strongly identify myself with the concerns raised on page 85, in title III of the committee report. As explained in the report, the committee recommends that the Department of Defense establish a special exhibit in the budget justification material, beginning with fiscal year 1981, that shows the amount expended, or requested for:

First, consultants (salaried and contracted); second, contract studies and analyses; and third, other management support contracts. I hope that the chairman of the Defense Appropriations Committee will make DOD adhere to this valuable requirement and if possible expand its langauge in the conference report.

I believe that this action is long overdue and I wholeheartedly support the Senator from Mississippi in this effort to begin to uncover a large part of this so-called invisible bureaucracy. I am pleased that the Senate Committee on Appropriations believes that the Department of Defense should not "export" its management responsibilities and prerogatives to consultants, contract analysts and Defense "experts" who are not on the DOD payroll.

In greater recognition of this problem, our counterparts in the House of Representatives Committee on Appropriations have recomended a $300 million reduction in contracts, studies, and analyses, as well as management and engineering support and consultant services. To quote from the House DOD Appropriations Committee report:

> The Committee has very little confidence in the overall accuracy of the figures, the fact remains that the amounts being spent in such contracts have been rapidly increasing in recent years.

DOD spent $2,252,600,000 in fiscal year 1977 on service support contracts. Although the overall size of the United States Armed Forces has remained relatively stable since then, the expenditures for such "service support" have increased over $1 billion to $3,263,100,000.

The House Appropriations Committee has several times admonished the Department of Defense to make reductions in the service support contract portion of the budget, however, the committee has been ignored year after year. The House committee has very carefully documented examples of consultant abuse, as well as the committee's efforts to curb the growth and dependency on consultants and experts. Among the continuing abusive practices are: contracting-out for services when they can be done less costly in-house, awarding contracts to firms that are in violation of the administration's wage and price guidelines, revolving door arrangements, and use of consultant services to perform functions for which there are in-house capabilities. The House committee's 10 volume hearing record is replete with example of studies and audits which have been conducted by consultants for DOD and which have produced questionable results.

I must say that I am in agreement with my colleagues in the House. I believe we have an invisible bureaucracy which is growing by leaps and bounds, feeding off the Federal Government and spending literally billions of dollars in an unregulated and unchecked manner. When defense dollars are wasted on unnecessary consultant costs it means that our Nation's national security is being diminished. Steps must be taken immediately to insure that all the taxpayer's dollars allocated for defense are actually spent in a cost effective and productive manner. We must not further abrogate our national security through wasteful and needless consultant contracts.

My amendment is a simple first step which we in the Congress should take in order to put Federal agencies on notice that wasteful, inefficient, and often fraudulent consultant arrangements must be ended.

Consultant abuse and fraud is evident not only in the Department of Defense. As I have mentioned, the distinguished chairman of the Senate Appropriations Committee, Senator MAGNUSON, is aware of the problems associated with the in-

creasing reliance on consultants by the Federal Government, particularly at the Department of Health, and Welfare. In fact, the fiscal year 1980 appropriations bill for DHW made a reduction of $65,000,000 in consultant costs. It also ordered the Secretary to report to the committee within 60 days where the reductions would be made. According to the committee report:

(T)he Committee is taking this action as an expression of its displeasure over the expanded role that consultant organizations are playing in the day-to-day operation and decisionmaking process that are integral to HEW's mission.

I would hope that the conference report agreement on the DOD appropriation bill will also adopt language which requires the Secretary of Defense to report to Congress within 60 days on how the proposed reductions will be accomplished.

I would suggest to my colleagues that this problem is not isolated to DHW or to DOD but is found in virtually every Federal agency and department, which has been permitted to spend the taxpayers' dollars in an unchecked and frivolous manner for often worthless consultant studies and commonsense advice.

I would also like to put my colleagues on notice that I plan to carefully scrutinize each bill which comes before the Congress in order to insure that taxpayers' dollars are not spent unnecessarily for needless consultant studies and reports.

As I said in the first day of my hearings on this subject, the invisible bureaucracy is made up of literally thousands of individuals hired as consultants by government.

Until recently very little has been said or done about the growing influence of the consulting industry.

Over 2 years ago the President of the United States expressed his concern over the waste of taxpayer dollars for consultant services that were being spent "excessively, unnecessarily, and improperly." He then directed the Office of Management and Budget to find out how many consultant contracts the Federal Government awarded, the names of each firm, and the benefit that the Government derived from these contracts. Today, 2½ years later, we still do not know how many consultants the Government uses, how much they are paid, or what benefit the Government derives from their services. Worse yet, during the 2-year period when Federal agencies were being asked to cut down on excessive and abusive arrangements and to implement controls, every indication is that the Government instead relied even more heavily than ever on the consultant industry.

As a result of the President's interest in eliminating unnecessary and abusive consulting arrangements in the Federal Government, the Office of Management and Budget on May 5, 1978, issued Bulletin No. 78-11, "Guidelines for the Use of Consulting Services." I would, however, point out to my colleagues that this bulletin has not been adequately monitored by OMB and, in fact, has not even been implemented by a number of Federal agencies and departments. Perhaps the most notable Federal agency among those is the largest employer of consultants and one which we are discussing today—the Department of Defense.

On September 5, 1979, I wrote to over 30 Federal agencies and departments asking them a series of questions regarding their use of consultants and experts and the status of their efforts to implement the OMB bulletin. Although not all agencies I wrote have responded, I did receive a prompt response from the Department of Defense on September 27, 1979. They enclosed a copy of the DOD directive which implements OMB Bulletin 78-11 issued on May 5, 1978, but told me, and I quote:

This directive is pending signature of the Secretary of Defense.

Over a year after OMB issued their cure-all for consultant abuses, DOD, the largest Federal agency, has not even implemented the order. This information, in my opinion, is utterly shocking but perhaps shed light upon the problems which we face. I ask unanimous consent that the Department of Defense response to my letter, together with an article on HEW consultants, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., September 27, 1979.

Hon. DAVID PRYOR,
Chairman, Subcommittee on Civil Services and General Services, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR PRYOR: The enclosed information is provided in response to your request of September 5, 1979, regarding consultant/expert services in the Department of Defense.

If you need any further information or have any questions, please feel free to contact me.

Sincerely,

D. O. COOKE,
Deputy Assistant Secretary of Defense.

Enclosures.

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1. Has your agency implemented the management controls outlined in Bulletin 78-11 within your internal regulations? If not, why not? If yes, please enclose a copy of these regulations.

Yes. Enclosed is a copy of the DoD Directive which implements OMB Bulletin 78-11. This directive is pending signature of the Secretary of Defense (enclosure 1).

2. Bulletin 78-11 established a requirement for all agencies to report various statistical information on all consultant contract awards over $10,000 to the Federal Procurement Data Center. What types and levels of officials within your agency decide whether or not a particular contract is for consultant services as defined in Bulletin 78-11?

The need for the use of consultant services must be approved at a level above the organization sponsoring the consulting service. This would mean an individual in a command or staff position of rank of at least a colonel or equivalent in the Navy or Civil Service. The decision to designate a contract as being for consultant-type services is based on the information and approvals appearing on the requesting document or requisition and the guidelines and examples of Bulletin 78-11 which are incorporated into the Defense Acquisition Regulation (DAR).

a. Are these officials contracting officers or the program managers that requested the contract?

The individuals actually marking the DD Form 350, the Individual Procurement Action Report, which provides the basic data for our statistical reporting system, are usually purchasing personnel, rather than program managers, although program managers are involved in initiating the original request for a consultant service contract.

b. Are these officials in the best position (e.g., most familiar with the work to be performed) to make this decision?

Yes, purchasing personnel are in the best position to make a final, objective decision based on the information and approvals presented to them and using the Bulletin 78-11 guidelines and examples incorporated in the DAR.

c. What assurance do you have that all contracts for consultant services are properly identified and reported to the Federal Procurement Data Center?

We are incorporating the guidelines and examples of Bulletin 78-11 in the instructions for filling out the DD Form 350 in the DAR. With proper management attention, this should provide identification and reporting.

3. What statutory authorities does your agency currently have for obtaining the services of experts and consultants by contract or by appointment? Please provide a copy of these authorities. Statutory authorities (enclosure 2) used by the Department of Defense include:

a. 5 USC 3109 as implemented by the current Department of Defense Appropriations Act (e.g., PL 95-457, section 803);
b. 10 USC 173;
c. 10 USC 2113;
d. 10 USC 5153;
e. 22 USC 2386;
f. 33 USC 569a.

4. Is the definition of "consultant services" in Bulletin 78-11 adequate for your identification and reporting of all such services?

Enclosure 3 contains the original DoD comments provided OMB which still apply.

5. What changes, if any, would you suggest in Bulletin 78-11?

Enclosure 3 contains the original DoD comments provided OMB which still apply.

6. Do you submit a Standard Form 50 to the Office of Personnel Management for all appointed experts and consultants? If not, why not?

Yes.

7. Do you consider a contract for consultant services as defined in Bulletin 78-11, but paid for with research and development funds, as subject to the requirements of the bulletin?

Yes.

a. Do you report such contracts to the Federal Procurement Data Center?

Yes.

8. Is your agency subject to the requirements of Chapter 304 of the Federal Personnel Manual? If not, why not?

Yes.

10. Chapter 304 of the Federal Personnel Manual explains that experts may perform operating functions within an agency but consultants can only provide advice. How many experts and consultants does your agency currently employ?

2145.

a. How many of those experts are currently performing an operational function within your agency?

Unable to determine in the timeframe requested.

b. How many of those experts are only used to provide advice?

Unable to determine in the timeframe requested.

c. How many of your agency's consultants perform operating functions?

None.

11. Are your appointed experts and consultants counted against your personnel ceiling limitations? Why?

Yes. In accordance with FPM Letter 298-2 (enclosure 4). Specifically, see Appendix 2, page 12, Section IV, "Employment Ceiling Data."

12. Do you use the authority contained in USC 3109 to contract for consultant services? Please explain the circumstances.

Yes. This authority, as implemented by the annual DoD appropriation Acts, is used to contract for expert and consultant services when the guidelines of Bulletin 78-11 are met. We have been guided by essentially similar criteria set forth in the DAR since the enactment of PL 89-554 (5 USC 3109). These contracts and contracts for nonpersonal services are awarded under the provisions of the Armed Services Procurement Act of 1947 which governs all Department of Defense purchasing.

[From Policy Review—Winter, 1979]

IN AND OUT AT HEW: DOING WELL BY DOING GOOD THROUGH CONSULTING

(By Donald Lambro)

To the unknowing eye the gathering of 142 professionals strolling about the comfortable Orcas Island resort looked and acted much like any other business group out on an all-expense-paid weekend where work and pleasure are painlessly blended in just the right proportions. The spacious and well-appointed suites overlooking the breathtaking waters of Washington state's fabulously scenic San Juan Islands, the shrimp and prime rib dinners, the yacht trips around the islands—all reflected that special attention to details and lavish extras which IBM or General Motors might provide for their top brass on a similar "business" weekend in the grandeur of the northwest.

Surely no one would have guessed that this was a gathering of well-paid consultants and federal and state bureaucrats who had been summoned together to grapple with the problems of the poor—who seemed a million light years away from this pristine locale which had once been the magnificent estate of a wealthy shipping magnate. Nor would anyone have suspected that the entire weekend's tab was being picked up by the United States Department of Health, Education and Welfare, courtesy of the American taxpayer.

The occasion for the conference was to discuss the results of the government's experiments on the poor in Seattle and Denver where low-income families have been provided with a guaranteed minimum income for the past five years. The experiment, involving nearly 5,000 families, is in the words of one prominent consultant "the biggest social experiment in the history of the human race." And indeed it is. Conceivably the biggest welfare program in the history of the nation hangs in the balance, not to mention many millions of dollars in future revenue for the consulting firms that have been nurturing and feeding the guaranteed income concept for the past decade and more.

But, for the consultant companies that attended the Orcas Island conference last May on the Seattle and Denver Income Maintenance Experiments (SIME/DIME), along with the HEW and Labor Department representatives, more than just money was involved. For many of those who were there, SIME/DIME is more than just an experiment. It is a cause.

Most Americans have never heard of SIME/DIME and would be surprised to hear that the federal government was providing a basic guaranteed annual income to the poor. Wasn't this Richard Nixon's ill-fated Family Assistance Plan (FAP) which had died ignominiously in the Congress? Wasn't this, furthermore, the very proposal Gerald Ford had adamantly rejected in his campaign to retain the Presidency? And, finally, wasn't this the type of costly proposal which Jimmy Carter had told HEW Secretary Joseph Califano the nation could not afford?

And yet, here it was, being kept alive administration after administration, like some comatose patient who has been declared clinically dead, but whose life support functions are being artificially sustained by machine. A very different kind of machine is keeping this proposal alive, however, one that is peopled by a shadowy network of liberal planners, economists, sociologists, data analysts, and thinkers. Most of them at one time or another can be found working in the type of consulting firms represented at Orcas Island or somewhere within the federal bureaucracy. And most of them through the years have moved with ease through a "revolving door" system that takes them from consulting into government and back again.

But, to understand the enormous influence which major consulting firms have over government policy, it is absolutely necessary to understand how pervasive government's use of consulting has become.

THE SILENT "INDUSTRY"

Though not widely perceived beyond the banks of the Potomac, government consulting in Washington has multiplied into a $2 billion-a-year growth industry in which major corporations like Rand, Brookings, SRI International (formerly Stanford Research Institute), Mathematica, Inc., and the Urban Institute, among others, have grown rich and powerful. And, by becoming increasingly dependent upon them, government has been able to get around maximum personnel ceilings simply by farming out more and more of its work, research, evaluation, and, in many cases, even program administration. For all its importance as an experimental project, SIME/DIME is being fully administered, not by HEW, but by SRI and Mathematica. The National Institutes of Health farms out much of its administrative work to consulting firms. So do many other agencies.

There are no accurate figures on the number of consulting firms doing business with the federal government. One partial survey found that 64 departments and agencies were paying consultants nearly $2 billion a year under some 34,000 contracts. Last year, the government placed some 18,000 consultants on its payroll, but this represents only the tip of an unseen iceberg. It is estimated that if consulting firms and their employees were factored in, in addition to state and local employees whose salaries are paid by the national government, the federal government's true employee level would be approximately three to four million more than the nearly three million now officially given. Incredible as it may seem, the federal government has only the vaguest idea of how many workers in this country are paid by federal funds. According to Spencer Rich (writing in The Washington Post, July 18, 1978, p. A1), a good estimate would be that from three to four million persons are paid by the federal government through consulting contracts, research grants and payments made for the wages of state and local government employees. Secretary Joseph Califano of HEW recently testified to the Senate Appropriations Committee that his Department pays the salaries of 980,217 persons who work for private think tanks, universities and state and local governments. This is in addition to the 144,256 "regular" HEW employees. The Department of Defense estimates that it pays the salaries of an additional 2,050,000 people through consulting contracts and the like. This figure does not include 2,049,000 military personnel who are also federal employees.

Yet, the growth in government consulting remains in part a mystery because of the widespread unanimity both in and out of government that a great deal of their work is of negligible value. In its fiscal 1978 report on HEW's appropriations bill, the Senate Appropriations Committee confessed it was "unaware of any instance where a consultant's recommendation has produced a significant program improvement."

The Committee stated:

An analysis of the itemized contracts let during fiscal years 1976 and 1977 indicated that many of these contracts may have been inappropriate in the context of (a) agency missions and priorities; (b) previous contracts performed for the same purpose; and (c) duplicative contracts being let simultaneously within other parts of the Department and Federal Government.

Nonetheless, HEW's consulting costs, like those of virtually every other federal agency, continue to climb. In fiscal 1977 HEW's consulting bill was at least $94 million. By 1978 it had grown to $194 million. (It was probably higher since much work that was in reality "consulting" was not listed as such.) At the end of 1978 Congress limited HEW to a tightened budget of no more than $194 million for consulting services.

"They are like parasites who feed off the government," one committee investigator said. "They keep coming back year after year."

It is not surprising, therefore, that so many consultants have earned the notorious nickname "Beltway Bandits," a title which accurately characterizes both the annual haul of tax dollars that fill their corporate saddle bags as well as their office hideouts—the beltway encircling greater Washington from where many of them conduct their business.

"They have become," said one former HEW administrator, "like another branch of government, an unseen branch, advising bureaucrats, developing policies, propelling programs through the machinery of government. But what is most disturbing is the network they have formed among themselves, both inside as well as outside of government."

Another former HEW administrator, John Svahn, who headed the Social and Rehabilitation Service, found this network to be particularly pervasive within the field of social welfare policy. "You see the same individuals dealing with the same programs on literally a revolving door basis," he said. "And it's true that there has been a sort of interlocking directorate among them. The same people tend to stay within a penumbra of social policy, whether they are in government or the private sector—except the people who are awarding the contracts one day are picking them up the next."

TWO PRIME EXAMPLES

Perhaps two of the most influential consulting firms in Washington in the field of social welfare are the Urban Institute and Mathematica, Inc.

Sparked by his then-special assistant, Joseph Califano, President Lyndon Johnson pushed for the creation of the Urban Institute over ten years ago, believing that the need existed for a liberal think tank in Washington to research and analyze domestic programs and proposals. With the help of several million dollars in federal seed money, the Institute was founded and is today one of the major contractors with Departments such as Housing and Urban Development, HEW, and Labor. This year HEW has given the Institute nearly $3 million in contracts.

With a payroll of almost $7 million a year, the Institute provides work for 300 researchers, data analysts and others whose work brings in $11 million annually in revenue. If the Institute is not exactly an extension of the federal bureaucracy, it might as well be considered so because more than 86 percent of its income comes from 22 federal departments and agencies. The balance is derived from state and local governments, foundations and private corporations.

Besides its prolific studies, the Institute is equally admired in Washington's upper circles for its elegant, catered dinners where government policymakers, administrators, members of Congress, academics and fellow consultants gather to hear speakers and exchange views on everything from housing allowance experiments to microanalytic simulation.

A guest of the Institute described one of its recent "welfare symposia" affairs this way: "Cocktails began at 6:30 p.m. There were bars everywhere. This was followed by a buffet served by tuxedoed waiters, most or all of them Spanish-speaking. The menu included boeuf bourguignon, watercress salad, eclairs. The silver was Reed and Barton."

Mathematica, Inc., was established in 1958 by a group of Princeton professors who occasionally did some data analysis for the government and found that consulting for the government was much more lucrative than teaching at Princeton. Last year the firm and its several subsidiaries in Washington and Princeton, New Jersey, earned $23 million—80 percent of it from the federal government.

Armed with a staff of 600 employees, Mathematica's annual report told shareholders that the firm has "opened new business potential in information processing for government agencies."

Both the Institute and Mathematica have played a significant though little-known role in the shaping of welfare policy and welfare reform proposals over the past decade. Their influence is derived in large measure from their development of a highly sophisticated data model used a project costs of everything from food stamps to welfare reform to a guaranteed annual income.

Called the Transfer Income Model, or TRIM, the model was initially developed by a group of Urban Institute economists under a $1 million government contract. Many of these key economists, including Jodie Allen who is now a special assistant for welfare reform to Labor Secretary Ray Marshall, were hired away from the Institute by Mathematica and took the TRIM model with them. With the support of additional government financing, primarily from HEW and the Office of Economic Opportunity, both firms improved the TRIM model (Mathematica renamed thejrs MATH) and began selling its data to any federal agency needing reliable cost estimates on income transfer programs. Thus, TRIM and its successors have been used to estimate, and in many ways shape, virtually every major welfare proposal for the past ten years. HEW, Labor, the Internal Revenue Service, HUD, the Congressional Research Service are just some of the agencies which have used its data.

"There was enormous power being wielded here by these two consulting firms," one congressional investigator said. "The decisions that Nixon made on FAP and Ford on his income supplement proposal, plus other actions by the Congress on food stamp reform and social welfare were by and large based on the figures derived from TRIM."

Said another congressional staffer who has followed the battle over welfare reform closely, "In every battle over a controversial proposal the side that usually wins is the side with the best information, the most convincing statistics. Right now consulting groups like the Urban Institute and Mathematica have control of the best data available."

Svahn agrees that those who control to a substantial degree the input of information control the decision-making process of government. "You can't argue with a computer," he says. "But the models are not totally objective because they are based on certain biased assumptions." These assumptions have been made by people in and out of government who are champions of the guaranteed annual income concept.

REVOLVING DOOR POLITICS

Even the most cursory review of the last ten years of welfare reform proposals finds the same names cropping up again and again, crisscrossing both government and consulting fields as if they were one and the same—frequently occupying key positions of authority and influence. Virtually all of them represent one common point of view—a club within a club.

William Morrill, HEW's assistant secretary for Planning and Evaluation between 1973 and 1976, whose office contracted for much of the research that contributed to the development of FAP, is now a senior fellow at Mathematica.

Michael Barth, HEW's deputy assistant secretary for Income Security Policy, was one of the chief architects of the guaranteed annual income proposal. He worked under Morrill as an economist in HEW during which time he wrote *Toward An Effective Income Support System* which resurrected the FAP proposal Nixon had originally turned down. Barth's book was published by the University of Wisconsin's Institute for Research on Poverty which has done considerable consulting work for the government.

John Palmer, who supervised Barth in HEW's Office of Policy Evaluation and who with George C. Carcagno co-authored the book on FAP, is now at Brookings. Carcagno is a senior vice president with Mathematica.

Henry Aaron held Morrill's old job as HEW's assistant secretary for Planning and Evaluation and has worked for several major consulting firms, including the Urban Institute, Brookings and Rand. He recently announced his decision to return to the Brookings Institution.

Jodie T. Allen served as chief of research and policy coordination for the Family Assistance Plan in HEW from 1969 to 1970, later becoming senior vice president at Mathematica from 1974 to 1977. She is now Labor Secretary Ray Marshall's special assistant for welfare reform.

Richard Nathan served as a deputy undersecretary for welfare reform under HEW Secretary Elliot Richardson and was a major force behind FAP. He has returned to Brookings.

Susan Woolsey, Morrill's top assistant at HEW, is now associate director for Human Resources at the Office of Management and Budget, a position Morrill once held.

Elsewhere, one finds numerous examples of revolving door practices through which consultants become government policymakers and vice versa.

Raymond Struyk, for example, a former Urban Institute official, is now a deputy assistant secretary in HUD's Office of Research and Demonstration which last year did $3.1 million worth of business with his former organization.

Carolyn Merck, a Food and Nutrition Service specialist in the Department of Agriculture who worked on food stamp reform using data provided under a $660,709 contract to Mathematica, left her government post to take a job with Mathematica.

Ernest Stromsdorfer, a former deputy assistant secretary of Labor who was in charge of "research and evaluation," is now with Apt Associates, a consulting firm in Cambridge, Massachusetts, which is a major government contractor.

All of this raises substantial questions about inherent conflicts as well as about the ability of top government officials to make fair and dispassionate decisions and judgments on tough and highly controversial issues. Much of the available evidence points too often to an almost incestuous relationship between two spheres of influences: government and consulting firms. How can we expect officials within the Departments of Labor and HEW to examine the results of major social experiments and deliver to us an unprejudiced evaluation based solely on the facts? On the contrary, it appears that in the long, painful struggle over welfare reform an overwhelmingly biased point of view has survived within the bureaucracy to keep the concept of a guaranteed annual income alive.

Moreover, how can we trust the conclusions of experiments like SIME/DIME when the consulting firms performing the work are peopled and run by individuals who once had a profound interest in their success as public servants? If social "experiments" administered by consultants under government contracts are worthy of their name, then they should be truly experiments and nothing more, for strict scientific procedure requires that the outcome of any social experiment must not be tinkered with or prejudiced in any way. Yet, there is reason to doubt that this is the case with the negative income tax entitlement project as well as with the manpower provisions of the program.

In an interview with Jodie Allen, during which she went to great lengths to demonstrate her total uninvolvement with her former firm, she made a remark about her present task in the Department of Labor that I think revealed a great deal about the outcome of the jobs component of the welfare reform program.

Ms. Allen said, "I want to make it work. I want to see it succeed." One cannot blame her for such enthusiasm, but neither can one help wondering how such an "experiment" can be truly impartial and unprejudiced with one of its chief administrators actively working in its behalf.

Four months after he took office, Jimmy Carter issued a memorandum to the heads of his executive departments and agencies saying, "There has been and continues to be evidence that some consulting services, including experts and advisors, are being used excessively, unnecessarily, and improperly."

Among many areas of abuse, Mr. Carter cited "Revolving door abuses whereby former government employees may be improperly favored for individual or contracted consulting arrangements."

Earlier this year a Washington Post investigation found that top officials of the Appalachian Regional Commission had received fat consulting contracts when they left the antipoverty agency, considering them nothing more than a thinly disguised form of severance pay. Harry Teter Jr., who resigned in July of 1978 as executive director of the agency, was given $35,000 for a six-month review of his years at the commission. Other top officials who resigned or retired received similar consulting contracts, in one case as high as $75,000.

At the same time, an HEW investigation discovered that friends and relatives of officials at the National Institute on Drug Abuse had obtained millions of dollars in consulting contracts. HEW Inspector General Thomas D. Morris said there was "a substantial appearance of impropriety," and HEW Secretary Joseph Califano stated that he was "deeply disturbed with the loose management practices and evidences of cronyism" his investigators had uncovered.

All of this reddened the faces and raised the eyebrows of several congressional committees that have quietly begun investigations into Washington's largely hidden world of consulting contractors. Shocked by the $200 million HEW wanted to spend on consultants in fiscal 1979, the Senate Appropriations Committee's Labor-HEW subcommittee has begun probing the Department's consulting contract awards. Simultaneously, the Committee's special investigative unit has been conducting probes of its own. The still-secret investigation will culminate in Senate hearings early next year.

Yet despite this activity, little of substance has been done within the administration to end the apparent conflicts and revolving

abuses over which Mr. Carter has expressed clear and deep concern.

"It's a very cosy group over there," said one former HEW official of his old alma mater. "When you look at the assistant secretaries, the deputy assistant secretaries, the same crowd is still there, many of them since Johnson, doing the planning and policy analysis, pushing their causes in little increments. Most of them came out of the consulting industry in this town and know that they can return to it anytime they want. And they maintain their relationships with their former firms. It's a very cosy relationship."

The consulting industry is so large and "invisible" that a new industry if forming just to keep track of how many consultant contracts are awarded by our Government. One firm, in particular, Washington Representative Services, Inc., has been following the trends in consultant contracts for the last 4 years. They have concluded that the number of consultant contracts has actually increased in each of the last 3 years despite OMB's assurances to us that there was an 11-percent reduction in consultant contracts.

This firm has provided my subcommittee with more accurate information on the number and use of consultants than the agencies themselves have been able or willing to provide.

For example, this firm listed the following consultant contracts awarded by DOD:

Date/amount, title, and awardee:

September 26, 1978, $148,508, quantitative procedure for personnel position identity definition; General Research Corporation.

April 14, 1978, $31,670, creation of central concept/theme for general safety program; Thomas Buffington Associates.

September 28, 1978, $219,212, group-paced training for behavioral science specialist course; Applied Science Associates.

September 30, 1977, $61,596, Management Study of the Defense Property Marketing Program; Don Sowle Associates.

December 22, 1977, $141,166, Human Factors' Research; Dunlap & Associate.

September 11, 1978, $74,826, Technical Support to Research on Human Factors in System Design; University of Dayton.

August 15, 1978, $145,573, Study of Air Force Management of Interim Contract Support; Boeing Aerospace.

September 27, 1978, $446,180, Headquarters, Army Information Management Study; Arthur Young & Co.

March 14, 1978, $203,676, $581,377, Presentation of Navy Sponsored Defense Procurement Training Courses; Starling Institute.

September 30 1978, $1,332,527, Development of Job-Oriented Basic Skills Curricula; Northrup Services, Inc.

Mr. PRYOR. Perhaps one of the most blatant examples of excessive and costly use of consultants by DOD can be found in the area of implementation of the Civil Service Reform Act, which became Public Law 95-454, on October 13, 1978. Among other things the act provided for the creation of the Senior Executive Service, the merit pay system, and the new performance appraisal systems.

The Navy Department, apparently anxious to implement the Senior Executive Service (SES) section of the act before the July 14, 1979, starting date, issued, in November 1978, without any competition five individual contracts for $70,000 each for study proposals on training and implementation of the act. Each contractor prepared two separate studies, one on SES and one on merit pay and performance appraisal. One of the five contractors, Coopers & Lybrand, was selected and awarded in April 1979, a contract for approximately $1 million for training and implementation of the SES section. The contractor then subcontracted out to another firm the bulk of the training work for approximately 400 employees at Navy. Just last week, Navy was scheduled to award another contract for approximately $9 million to the same firm to complete the training and implementation of the merit pay and performance appraisal sections of the Civil Service Reform Act.

There was no competitive bidding on these contracts, Mr. President.

When questioned about the amount of funds being spent by the Navy, a Navy official commented that he did not consider $10,000,000 to be much money compared to their $45 billion research and development budget—"The money was available."

The administration, while testifying before the Governmental Affairs Committee last year, said they felt that most, if not all, agencies had developed in-house capabilities to complete training and implementation of the Civil Service Reform Act.

The Congressional Budget Office estimated, based on information supplied by the administration, that the first year implementation of the act would be less than $14 million.

Although I hope that all agencies are not finding it easier to contract out for training and implementation of the Civil Service Reform Act, rather then to develop the system in-house, I must report that the Navy Department is apparently not alone. The Small Business Administration has also contracted with Coopers & Lybrand, the same firm which Navy contracted with to do the same work. Why can't these jobs be performed by civil servants?

I have already written to Director Campbell, of the Office of Personnel Management, asking that he report back to me the activities of all agencies and departments with regard to implementation of the Civil Service Reform Act.

In 1978 the Department of Defense awarded a $169,000 contract to one of the largest consultant firms in this country—Booz, Allen, and Hamilton. The purpose of this study was to tell DOD how they should be organized to administer the millions of contracts they award each year. DOD was so disappointed in the results of the study that they refused to release the Booz, Allen report for several months until they did their own study in-house. Before this contract was completed, it was modified to exceed $200,000—this money came out of DOD's operations and maintenance funds. The results of the in-house study were considerably different from the Booz, Allen recommendations. By now the Booz, Allen report is probably sitting on some book shelf over at the Pentagon and the taxpayer is out $200,000.

My amendment will hopefully eliminate a large number of costly, excessive and possibly abusive consultant arrangements which I have found to exist within DOD. This amendment will also put DOD and other Federal agencies on notice that the Congress intends to further scrutinize such wasteful expenditures. I urge my colleagues to support my amendment.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PRYOR. I am proud to yield to the distinguished Senator from Washington.

Mr. MAGNUSON. Mr. President, I compliment the Senator from Arkansas on the fine work he has done on oversight of consultants. It has long been an evil in the Government. We took them on in the HEW appropriation and we found just hundreds of private contracts—some of them were "sweetheart contracts," under the table, and some of them without consulting other people, and a continuation of one consulting firm after another, whether they had done the job or not. We took, I think $60 million out of the HEW appropriation, and I am sure that the Defense Department is filled with the same evil.

I heartily support the Senator's amendment, and I hope the Senate will agree to it.

Mr. PRYOR. I appreciate the statement of the Senator from Washington. The Senator has certainly been a pioneer in this field of trying to establish where we are and where we are going in the area of private consultants. I appreciate the fact that the Senator is a cosponsor of this amendment.

Mr. STENNIS. Mr. President, if the Senator will yield to me, I would like to state that we have looked into this matter with considerable care and find that he has done good work on it. This will be a saving if we can sustain it in conference, and we will certainly try. I recommend, along with the Senator from North Dakota, that the Senate adopt this amendment.

Mr. YOUNG. I agree with the Senator from Mississippi.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. STENNIS. All remaining time is yielded back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (UP No. 792) was agreed to.

Mr. PRYOR. I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 793

(Purpose: To increase Army ammunition procurement $4.2 million to expand facilities at the Long Horn Army Ammunition Plant)

Mr. TOWER. Mr. President, I have an amendment at the desk and I ask that the clerk report it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an unprinted amendment numbered 793.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, line 11, strike "$1,229,900,000" and insert in lieu thereof "$1,234,100,000".

Mr. TOWER. Mr. President, this amendment is in response to an Army request of $4.2 million to provide a permanent facility at Longhorn Army ammunition plant in Texas, as a replacement for the small, temporary facility at Naval Ordnance Station, Indianhead, Md., for the purpose of producing the SLUFAE.

I have discussed this with the manager of the bill and find that they are prepared to accept it.

Mr. STENNIS. Yes, Mr. President.

Mr. YOUNG. I am fully in accord. It is a good amendment

Mr. STENNIS. Mr. President, there is a relatively small amount involved here for the importance of this matter. We have looked into it and are glad to recommend that the Senate accept the Senator's amendment.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time being yielded back, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (UP No. 793) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, if the Chair will indulge me just a minute, please.

Mr. PRYOR. Mr. President, I would say to the Senator that I think that both of my amendments have been adopted.

Mr. STENNIS. Yes, that is correct. The Chair has ruled that they were adopted.

Mr. PRYOR. I appreciate very much the cooperation of the distinguished chairman.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair will inquire, on whose time?

Mr. PRYOR. I withdraw my request, Mr. President.

Mr. STENNIS. Mr. President, may we have the attention of the Senate? The Senator from New Jersey has an important matter to dispose of.

Mr. BRADLEY. Mr. President, in the report on page 19, it refers to the base realinement plan of March 29. The last sentence of that paragraph says that the committee recommends reduction of $5 million from DOD base operating expenses and costs and encourages the Department to proceed in a deliberate manner with the announced base realinement decisions.

Mr. President, the Fort Dix matter was part of that realinement decision of March 29. It has subsequently been removed from realinement status. I would like the chairman to confirm that the reduction of $5 million in operation and maintenance cost does not apply to Fort Dix and Fort Dix will not suffer that loss.

Mr. STENNIS. Mr. President, this matter has been checked out by our staff. The language in the report to which the Senator from New Jersey refers reflects a $5 million reduction to encourage the Department of Defense to move expeditiously on its announced base realinement decisions in the interest of saving defense dollars. The reduction does not apply, however, to the phasedown of Fort Dix, in New Jersey, since that decision has recently been changed by the Secretary of Defense. It is a clear-cut situation and there is no doubt about the facts.

Mr. President, we have other matters here.

Mr. BRADLEY. I thank the chairman.

AMENDMENT NO. 574

(Purpose: To consolidate undergraduate helicopter pilot training)

Mr. HEFLIN. Mr. President, I call up my amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) for himself and Mr. STEWART, proposes an amendment numbered 574.

Mr. STENNIS. Mr. President, may we hear the Senator from Alabama?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HEFLIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 11, strike out "$9,719,853,000" and insert in lieu thereof "$9,721,453,000".

On page 2, line 20, strike out "$6,863,834,000" and insert in lieu thereof "$6,856,234,000".

On page 3, line 3, strike out "$2,074,757,000" and insert in lieu thereof "$2,074,157,000".

On page 7, line 10, strike out "$10,031,355,000" and insert in lieu thereof "$10,049,355,000".

On page 7, line 21, strike out "$13,352,224,000" and insert in lieu thereof "$13,340,924,000".

On page 15, line 18, strike out "$1,000,437,000" and insert in lieu thereof "$1,001,137,000".

On page 58, strike out lines 3 through 6. Renumber sections 759 through 762 as sections 758 through 761, respectively.

The PRESIDING OFFICER. The Chair must advise that the amendment amends two areas of the bill that have already been amended. Therefore, for the amendment to be in order it requires unanimous consent.

Mr. HEFLIN. Mr. President, I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, reserving the right to object, as I understand the situation, I do not object. Let us hear the Senator from Alabama.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, the Senator may proceed.

Mr. HEFLIN. Mr. President, I appreciate the granting of the unanimous consent request. Being a freshman and knowing that a matter has come before the Senate before, I felt it encumbent upon me to look into the history of the matter pertaining to the undergraduate helicopter training program, which has been debated in this legislative Chamber on previous occasions.

I found in regard to its legislative history, that the origin of the idea of consolidated undergraduate helicopter training lies with the legislative branch and not with the executive branch.

In 1965, the GAO, which is an arm of the legislature, proposed the elimination of costly fixed wing training for helicopter pilots.

Then in 1970, the House Appropriations Committee asked the Air Force and the Navy, in cooperation with the Secretary of Defense to consider having the Army train all Department of Defense helicopter pilots.

Then the DOD started studying this. The Defense Audit Service studied this. The Department of Defense on numerous occasions came forward and recommended this change to bring about consolidated helicopter training.

After the Department of Defense said, "We feel it will produce quality pilots for the Navy and the Marine Corps, and we feel it will save a tremendous amount of money." They then brought the GAO into it.

The estimated savings have varied over the years from at least $63 million to around $200 million. Of course, the figures have varied from time to time because of different programs being evaluated and different assumptions being made. At one time it was suggested that a base be closed. Therefore, figures were different then.

The Department of Defense in the last few years has come to the conclusion that it would not be wise to close any bases, but that to consolidate the helicopter training would be a sound move. The Air Force and the Army have been training toegther at Fort Rucker since aobut 1970. Since then, we find, that there has been an effort to bring about the consolidation of the Navy helicopter training program with the Army and Air Force at Fort Rucker.

The round figures, and the figures reverified as recently as just a couple of weeks ago, show that the Department of Defense claim that consolidation will save $100 million.

The GAO studied this proposed consolidation, I believe in 1977, and concluded that the Department of Defense figures were accurate at that time, when it was thought it would be about $100 million.

More recently, the matter of consolidation came before a Senate committee on June 28 of this year, at which time a great number of figures were brought in by people in the Navy, apparently supplied by the Navy Training and Educational Command at Pensacola. Witnesses came forth with figures saying there would not be that much savings. The GAO was represented at that hearing, and heard all of the arguments and obtained all the figures. After that, the GAO came forth with a report in the latter part of September of this year.

GAO at that time said in effect, "We have not made an independent audit. We took the figures that the Navy supplied as to what the cost avoidance would be, and we took the figures by which the Army costs would be increased. We say the Army figures, at least, are valid."

Those figures at that time showed $63.3 million.

The GAO—I think this is important—said in the September 1979 report, "You, Department of Defense, have not considered all the savings. You can save an additional $29 million because of this consolidation in regard to unfunded retirement benefits because 1,500 military spaces will be saved," and this did not even consider the 250 civilian spaces that would be saved.

After that, Congressman CHAPPELL, of Florida—who, of course, has a parochial interest as I have a parochial interest in regard to this—although I have asked all Members of the Senate to look at this on its merits, said he wanted to have some more figures. So the Navy went back to the Pensacola-based CNET, which is Naval Education and Training Command, and they said, "Give us some more figures."

They came up with some more figures all right, and you are going to hear some new figures today, some new analysis in regard to this that was not considered by GAO in their September 1979 study.

What did CNET do with those figures? Those figures were submitted to the Navy Comptroller and they were submitted to the DOD Comptroller. And the DOD, after studying the new data and after having informal discussions with the GAO, released a letter on November 7 in which Harold Brown, the Secretary of Defense, said that even after these new figures are considered and all of these other assertions that we have heard about, the new approaches, we are still convinced that it will save $100 million.

(Mr. JOHNSTON assumed the chair.)

Mr. HEFLIN. We are going to hear a lot about these new figures, but I want the Senate to realize that DOD's Comptroller and the Navy Comptroller have studied these figures and say that they are convinced still, as of 2 weeks ago, that consolidation will still save $100 million. In the form of a letter, I was notified by Graham Claytor, former Secretary of the Navy, who strongly supports this—he is now Deputy Secretary of the Department of Defense—that they are convinced that it will save $100 million.

So, when you hear the new figures, I think you have to realize that those have been studied and analyzed. When those new figures were authorized to be released, the DOD Comptroller said, "You should release them with a caveat, that they are understated and, in effect, erroneous."

So when you hear a lot about new figures, I hope you will bear this in mind.

The Department of Defense has been trying for a long while to save this money. Deputy Secretary of Defense Graham Claytor, in a letter to me dated September 26, 1979, said in part:

As Secretary of the Navy, I personally visited both Fort Rucker and Whiting Field to observe the training in the two programs. I came away convinced that the quality of training in the consolidated program will be better than the Navy and Marine students now get in the separate Navy program. Experienced Marine Corps helicopter pilots have also reviewed the two programs and have testified both two years ago and again this year the Army program is superior.

I was convinced as Secretary of the Navy and even more convinced as Deputy Secretary of Defense that the training needs of the Navy and Marine Corps student pilots will be fully met in the consolidated program. Moreover, the consolidated program will be less expensive than the two separate programs. It will take advantage of economies of scale and the lower cost of contract services. We estimate that consolidation will save about $100 million over the next five years, as well as over 1,500 military and 250 civilian manpower spaces.

I think we ought to have to consider not just the dollars, but the fact of what savings of military manpower spaces will mean. These spaces can be made available for other urgent needs in the military. That, in my judgment, is an argument that I think people should not forget.

Secretary Claytor concluded:

Putting it all together, we have here a proposal that will better provide training at substantially lower cost and the training needs of each service will be fully met.

Mr. President, I think most of us know that there is now a separate training program at Whiting Field near Pensacola, which trains Navy, Marine Corps, and Coast Guard students in fixed-wing aircraft and in helicopters, but its graduates are only helicopter qualified. Under the DOD proposal, the helicopter training would be consolidated into a single helicopter program conducted by the Army at Fort Rucker. This program would consist of a common core curriculum, which would also preserve service-unique segments so that the Navy, Marine Corps, and Coast Guard pilots would be fully trained in those types of missions that are unique to those services such as overwater and carrier operations.

Existing service-unique, follow-on training after the basic undergraduate pilot training program would be continued essentially as it is now so that when the pilots graduate the basic course, they would then go on to additional advance training by each service.

Mr. President, as I mentioned, the best estimates by the Department of Defense continue to indicate that the consolidation program will save the American taxpayers approximately $100 million over the next 5-year period. Over the years as this issue has been studied and restudied the savings estimate has fluctuated within a relatively narrow range. As data is refined and as new assumptions come into play the amount of savings of course varies. Every study, however, has always concluded that there would be a substantial savings to the American taxpayer.

The only question is just how much savings would be realized. Estimates have run from as low as $63 million to as high as $200 million. The Department of Defense sticks by its estimate, which has been verified by the Defense Audit Service, of $100 million. The General Accounting Office on two separate occasions has examined the DOD estimates and has essentially concurred in their findings. In a letter dated September 26, 1979 addressed to the senior Senator from Alabama, the Honorable DONALD STEWART, the GAO stated:

We believe that the Secretary of Defense's proposal to consolidate UHPT should result in significant savings. Based on the assumptions under the May 1979 Army/Navy joint memorandum of understanding to implement consolidation, the estimated savings should exceed $63.3 million over the next 5 years. The advantages and disadvantages of consolidation have been aired in studies, in audits, and in hearings before members of the Congress. We believe that the preponderance of the evidence favors consolidating UHPT.

Thus, Mr. President, the independent audit arm of this Congress has in effect, verified once again the DOD estimates of a considerable amount of savings to the American taxpayer if this consolidation move is allowed to proceed as planned.

The latest GAO study requires some explanation. The study was not actually a totally independent study of their own, but was an examination of the figures and procedures submitted by the Navy and the Army. The Navy submitted estimated cost avoidance to consolidate UHPT. The Army gave its figures and breakdown as to the estimated incremental cost to train Navy pilots under UHPT. A comparison of these figures show at least $63.3 million in savings.

GAO asserts that DOD is not considering all of the savings and suggested that there would be an additional savings of $29 million over a 5-year period for unfunded retirement costs and veterans benefits because of the saved military spaces—the 250 civilian spaces not included.

In addition to this, GAO obtained admissions from the Navy that its estimates of cost avoidance were too low and thus GAO makes the clear statement that amount of savings would exceed the $63.3 million shown in this report.

One thousand five hundred military spaces at $10,000 a year amounts to $15 million per year and over a 5-year period, amounts to $75 million.

This issue is now in the 5th year of study. Each time it comes before Congress, Congressmen with parochial interests try to point out differences in the analysis and approach. Each time the Department of Defense goes back and restudies it and has its Defense Audit Service study it. Then GAO studies it. Over the period of time, while figures may vary, the calculated savings may vary, but they come up to figures of between $90 and $140 million.

A failure to pay attention to the DOD is to say the following:

First. The DOD is not competent to calculate a savings move.

Second. The GAO is incompetent. If so, then an investigation of GAO ought to be made.

Before a Member votes against this amendment, I think he ought to have a reasonable answer to this question: Why does DOD, after two different Presiden-

tial administrations and after 5 years of study, still insist on this consolidation? Clearly it is because it is in the best interests of the Nation and the services concerned, not just a matter of favoring one State or the other.

Again, let me emphasize that nobody can now place an exact dollar amount because of the uncertainties of predicting what will happen in the future. Let me also emphasize that no responsible study has ever varied from the conclusion that the consolidation will achieve substantial savings and for want of a better estimate I think we can assume that the savings will be in the range of $100 million over the next 5 years. This is well documented and substantiated.

Mr. President, I am a strong supporter of our men and women who serve in our Armed Forces. I believe that we must support our military personnel in every way possible. The facts are that the quality of training will actually be improved by the consolidation program. Just as Secretary Claytor has stated, the services will be providing better training at a substantially lower cost.

Mr. President, as I stated, it is well documented that the quality of training will actually improve after the consolidation takes place. The consolidated program, as compared to the current Navy program will actually provide Navy and Marine Corps students with more flying hours, 195 for the new program against 191 for the existing program. Moreover, the consolidated program will provide these pilots almost twice as many helicopter flying hours, since under the existing Navy program about half the flying hours are provided in fixed wing aircraft. In addition, because of the unique way the Army trains at Fort Rucker, each student will have more total cockpit hours because the Army doubles up student time in its helicopters and its simulators so that the student will actually have 440 hours cockpit time as opposed to 191 hours under the current Navy program. The training facilities at Fort Rucker also provide 50 hours of training in a much higher quality helicopter simulator for instrument flight training and for simulating flying techniques which would be too dangerous to perform in the actual aircraft itself in flight.

The consolidated program protects each service's requirements for giving its students service unique training. Of the 195 hours provided for under the consolidated programs, 50 hours will be set aside for Navy and Marine Corps service unique training which will be conducted by Navy and Marine Corps instructors.

After graduation from the undergraduate program each service will provide the same follow-on mission specific and aircraft specific training as they now provide. One perceived disadvantage to the program which is always drawn out by the opponents of this consolidation effort is that Navy and Marine Corps student pilots will get insufficient SRA oriented training. What I mean by that is insufficient instrument flying, carrier takeoffs and landings, and flight over water.

Actually, Mr. President, the core curriculum of the consolidated program will provide training which is pertinent to helicopter pilots in any environment. But, as mentioned, parent service instructors will check the progress of their students. The 50 flying hours in service unique segments of the curriculum, which is approximately one-fourth of the course, will be used for the type of training the parent service believes its students need. Navy and Marine Corps students may, if their services elect, receive additional instrument training. They can receive carrier landing and other maritime training at Pensacola which is only 1 hour away by helicopter from Fort Rucker so that more than sufficient time is set aside for these service unique missions. The maritime segment can be scheduled to coincide with required cross-country training flights to conserve time and fuel.

I might add, Mr. President, that the current Navy program—and I think this is important—of training helicopter pilots includes less than 2 hours of carrier and over water flight time.

Under the proposed program, we would have 50 hours of service unique training, which would allow the Marine Corps and the Navy to have anything they want to do in regard to maritime flight training, sea training, carrier training, or any other type of training.

Fifty hours is set aside for the Navy to select, under this program, how they want Navy and Marine helicopter pilots to be trained. If they want 50 hours of over-the-sea flying, flying over destroyers, or landing on aircraft carriers, or the equivalent of aircraft carriers, they have got the right to do so.

Moreover, often when the U.S.S. *Lexington*, presently based at Pensacola, is unavailable for these maritime training missions, on a great number of instances, and that is the only carrier they have, unless they go to Jacksonville, which is several hundred miles away, in order to land on a carrier, that portion of the flight training is waived from the existing Navy program anyway. Thus, there will be absolutely no degradation in the special training needs of these Navy and Marine Corps pilots and, in fact, time is available for additional over water and carrier operations if the services deem it necessary.

I also point out that Fort Rucker is only about 75 miles away from the Gulf of Mexico.

Another argument which is sometimes postulated by the opponents of consolidation is that Navy and Marine Corps students trained at Fort Rucker will lack esprit de corps and identification with their parent services. Mr. President, in my judgment, this argument is spurious at best. It is not well taken. As a former marine I know that the espirt de corps of the Marine Corps is important and I certainly would not advocate any program which would damage or destroy the spirit of the Corps. Along these lines I would like to call my colleagues' attention to testimony of Col. Walter Ledbetter, a Marine aviator who has commanded five different Marine aviation squadrons, four of those helicopter squadrons. Colonel Ledbetter testified before the Senate Armed Services Committee this past June. Colonel Ledbetter in his testimony stated in part:

> People have talked about the esprit de corps and how it would hurt your feelings to be trained by the Army. All Marine Corps Artillery Officers are now trained by the Army. All Marine Corps Tanker Officers are now trained by the Army, and I would defy you to go to a Marine Corps Artillery Officer and tell him he is not a good Marine. He would punch you out. They are very proud of themselves, and they go to the classes with the direction, you are a Marine, you had better come out first, and they work at it. When we send people to Rucker, we are going to send them with the same charge; you go down there, learn, and come out first, and they are going to come out Marines and they are going to come out first.

I might add that Marine military police personnel are also trained by the Army at the Army MP School at Fort McClellan, Ala.

Colonel Ledbetter had some other interesting things to say in his testimony and I would just like to read brief excerpts from it at this point. Colonel Ledbetter stated:

> I have made three trips to Fort Rucker and to Pensacola to compare the training. I was in charge of aviation studies and analysis in headquarters, Marine Corps under General Miller. The training given at Fort Rucker is far superior to the training given at Pensacola. I will give you some examples. Over water flight is one of the things which has been the hangup here. The over water syllabus at Pensacola is less than 2 hours out of a 192 hour syllabus. The proposed 195–50 syllabus we would get at Fort Rucker with 50 hours of service training would give us more over water training if we wanted it. We can get anything in the 50 hours we desire. The 195–50 syllabus at Fort Rucker gives us far more tactical training, more instrument training, far more night training. It is superior in every way.
>
> Mr. Chairman, if there were no cost savings, I would want to go to Fort Rucker. My only interest is getting the best trained helicopter pilots, because I am closer to leading them into combat than anyone in this room, by virtue of my low rank, and I want to go with the best trained man, and I can get him out of Fort Rucker now.

Mr. President, in addition to that, I ask unanimous consent to have printed in the RECORD at this time a letter addressed to me from the U.S. Marine Corps, the Deputy Chief of Staff for Aviation, Gen. W. J. White.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
HEADQUARTERS U.S. MARINE CORPS,
Washington, D.C., November 8, 1979

Hon. HOWELL HEFLIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HEFLIN: In response to your request for my position on the proposed consolidation of undergraduate helicopter pilot training, the following position statement both summarizes the Marine Corps position and sets forth my own thoughts on the issue.

The Marine Corps fully supports consolidated undergraduate helicopter pilot training at Fort Rucker. As Deputy Chief of Staff for Aviation, I believe that the provisions of the May 1979 Army/Navy Joint Memorandum of Understanding will provide the Marine Corps with a competently trained helicopter pilot. The consolidated training syllabus, when coupled with the provision for follow-on fixed-wing training

for those officers in a career status, will satisfy future Marine Corps mission requirements.

I trust you will find the above statement responsive to your inquiry.

Sincerely,

W. J. WHITE,
Lieutenant General, U.S. Marine Corps,
Deputy Chief of Staff for Aviation.

Mr. HEFLIN. Mr. President, I will read a portion of what he says in this letter:

> The Marine Corps fully supports consolidated undergraduate helicopter pilot training at Fort Rucker. As Deputy Chief of Staff for Aviation, I believe that the provisions of the May 1979 Army/Navy Joint Memorandum of Understanding will provide the Marine Corps with a competently trained helicopter pilot.

Mr. President, I want Senators to look at that language. He does not just say that the Marine Corps supports this move.

He uses the language "the Marine Corps fully supports."

He also states here that this is his position. He starts off by saying this:

> In response to your requests for my position on the proposed consolidation of undergraduate helicopter pilot training, the following position statement both summarizes the Marine Corps position and sets forth my own thoughts on the issue.

This is the man in charge of the Marine Corps aviation training.

Mr. President, I also have a letter addressed to me from the Commandant of the Marine Corps in which he uses the language that they "fully support" the consolidation program.

The idea has been expressed that this is an idea of DOD and it is being forced on people. I merely want to show by these examples the choice of language used when these marines say that they fully support it.

The chief of Marine Corps aviation says he fully supports it. It is the position of the Marine Corps and his personal position.

Mr. President, the opponents of consolidation sometimes offer other arguments against consolidation. For example, they argue that the consolidated program will consume more fuel than the program as it is currently structured. There is no doubt but that if you give a man 195 hours of training in helicopter operations, whereas he is now getting only 100 hours of helicopter operations, it is going to require some extra fuel. However, the GAO has determined that consolidating the pilot training would cause an increase in fuel use but only by about 3 million gallons over the 5-year period from fiscal years 1980–84. The Department of Defense officials believe that the additional hours will greatly enhance the effectiveness of training in rotary wing flight skills and thus prove cost effective.

Moreover, opponents have questioned the validity of the fuel price figures used in preparing the service's cost estimates. The GAO has found the cost of fuel increase is only $124,000, that even if we double or triple the prices used in making the savings estimates, this would decrease the savings only by $248,000 to $372,000 during the 5-year period. Thus, the fuel cost factor is really negligible when compared with the total estimated savings of $100 million. As the GAO states in its letter to Senator STEWART dated September 26, 1979,

> Neither the increased fuel use nor the effects of future fuel price increases should materially affect the overall estimated savings from consolidated UHPT.

Mr. President, I also called the attention of the Senate to the fact that at this time, in the Navy, there is an inability to train its helicopter pilots. The GAO states that since fiscal year 1975, the Navy has trained 400 fewer helicopter pilots than programed because of shortage of instructor pilots and aircraft.

In his letter Gen. Robert H. Barrow, Commandant of the Marine corps, says:

> The Marine Corps fully supports the proposal to consolidate helicopter training at Fort Rucker. The fiscal savings accruing to the Department of Defense appear significant. The proposed syllabus under the consolidation program will satisfy Marine Corps helicopter pilot training requirements and is expected to provide a well trained basic helicopter pilot. This opinion is based primarily on the increased number of helicopter and simulator flight hours received under the consolidated training program. The provision for follow-on fixed-wing training at the career decision point satisfies the remaining Marine Corps objection to the consolidation proposal.

Mr. President, I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
HEADQUARTERS U.S. MARINE CORPS,
Washington, D.C., September 5, 1979.

Hon. DONALD W. STEWART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEWART: This is in reply to your letter of August 17 to Secretary Claytor regarding the proposed consolidation of undergraduate helicopter pilot training. I have been requested to provide, directly to you, the Marine Corps' position concerning this proposal.

The Marine Corps fully supports the proposal to consolidate helicopter training at Fort Rucker. The fiscal savings accruing to the Department of Defense appear significant. The proposed syllabus under the consolidation program will satisfy Marine Corps helicopter pilot training requirements and is expected to provide a well trained basic helicopter pilot. This opinion is based primarily on the increased number of helicopter and simulator flight hours received under the consolidated training program. The provision for follow-on fixed-wing training at the career decision point satisfies the remaining Marine Corps objection to the consolidation proposal.

The preceding supportive statements for consolidating undergraduate helicopter training do not mean the Marine Corps has been dissatisfied with the helicopter pilot trained by the Navy. Time and time again the Navy trained helicopter pilots have demonstrated their competence; however, the annual/continuing nature of the helicopter consolidation proposal, with its attendant adverse impact on financial support, appears to be having a debilitating effect upon the training capability of the Navy. Any further postponement of a decision regarding consolidation can only result in additional derogation of the training environment. In the event that consolidation is not approved, the Marine Corps would be pleased to remain with the Navy assuming budget restoration of training assets now held in abeyance awaiting a consolidation decision.

I trust you find the above responsive to your inquiry.

Sincerely,

ROBERT H. BARROW,
General, U.S. Marine Corps,
Commandant of the Marine Corps.

Mr. HEFLIN. Mr. President, I also ask unanimous consent to have the following items printed in the RECORD: A letter dated September 26, 1979, addressed to me from the Honorable W. Graham Claytor, Deputy Secretary of Defense; a letter dated September 26, 1979, addressed to Hon. DONALD STEWART, U.S. Senate, from the Comptroller General of the United States; a letter dated September 26, 1979, addressed to Hon. Harold Brown, Secretary of Defense, from H. L. Krieger, Director of Federal Personnel and Compensation Division, General Accounting Office, Washington, D.C., and a letter dated November 7, 1979, from Senator BARRY GOLDWATER.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., September 26, 1979.

Hon. HOWELL HEFLIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HEFLIN: I am writing to provide you with a summary of the advantages, both in terms of effectiveness and economy, of the consolidation of all Defense undergraduate helicopter pilot training (UHPT) into a single program under the Army at Fort Rucker, Alabama, as proposed by the Department of Defense. The consolidated program, in which all flight training will be in helicopters, will replace the separate programs now operated by the Navy at Whiting Field near Pensacola, in which part of the training is in fixed-wing aircraft.

As Secretary of the Navy, I personally visited both Fort Rucker and Whiting Field to observe the training in the two programs. I came away convinced that the quality of training in the consolidated program will be better than the training Navy and Marine students now get in the separate Navy program. Experienced Marine Corps helicopter pilots have also reviewed the two programs and have testified both two years ago and again this year that the Army program is superior. I particularly call your attention to the testimony of Col. Walter Ledbetter, USMC, before the Senate Armed Services Committee on June 28, 1979 (copy attached). Their views are backed up by some specific advantages of the consolidated program for Navy and Marine Corps students:

It will provide more total flying hours than the Navy program (195 instead of 191).

Navy and Marine Corps students will get almost twice as many helicopter flying hours (195 instead of 100).

The modern helicopter simulators at Fort Rucker provide much better instrument training than the less capable cockpit procedures trainers used by the Navy.

I am satisfied that it will take several years and substantial additional expenditures to modernize the facilities at Pensacola so as to enable the quality of the training there even to approach that now available at Ft. Rucker.

One of my major criteria for the consolidated program is that it must meet the particular training needs of each of the four Services. I am satisfied that it will. The consolidated course will be in two parts: a common core curriculum teaching skills needed

by all military helicopter pilots, and a final segment for training in skills which are peculiar to each Service. This latter course segment will be designed by the parent Service and taught by parent Service instructors. This Service-unique segment for Navy and Marine students was designed and approved by the Navy and Marine Corps and will be composed of 50 flying hours and 10 simulator hours, or about one-quarter of the total course. Advanced training will be given, as it is now, by each Service after graduation from UHPT.

Given these facts, I was convinced as Secretary of the Navy and even more convinced as Deputy Secretary of Defense that the training needs of Navy and Marine Corps student pilots will be fully met in the consolidated program. Moreover, the consolidated program will be less expensive than the two separate programs. It will take advantage of economies of scale and the lower costs of contract services. We estimate that consolidation will save about $100 million over the next five years, as well as over 1,500 military and 250 civilian manpower spaces. The General Accounting Office reviewed the calculation of savings two years ago and agreed that they were valid and even understated. The Defense Audit Service, in an independent audit, has also recently verified the savings estimate (copy attached). I understand that GAO has also very recently completed another review of the savings calculation. Although we do not yet have access to the findings of this latest review, we are confident that they will again confirm that the consolidation will achieve significant savings.

Putting it all together, we have here a proposal that will provide better training at substantially lower cost. The training needs of each Service will be fully met. It is not often that we are confronted with a proposal that combines improved military effectiveness with economy in the way that this one does. I know that we can count on your support on this issue in the Congress, and I urge you to help actively in the effort to get it approved. I want to add that this is not a first step toward an effort to consolidate fixed wing flight training. Secretary Brown and I are unalterably opposed to this for a variety of reasons, and we have made this clear on a number of occasions.

Sincerely,

W. GRAHAM CLAYTOR.

LETTER OF SEPTEMBER 26, 1979

Secretary CLAYTOR. Mr. Chairman, Colonel Ledbetter, whom I mentioned before, who has been commanding officer of five different squadrons, is a graduate from Pensacola and a helicopter pilot. He does have some views about this on the basis of his experience. I would like him to have that opportunity.

Senator NUNN. Colonel, do you want to address this?

Colonel LEDBETTER. As the Secretary said, I have been in command of five different squadrons, four of them helicopter squadrons. I have commanded a helicopter aircraft group. I am fixed and rotary wing qualified, and qualified in every rotary wing aircraft inventoried in the Marine Corps and in a number of the fixed wing aircraft I am qualified.

I am in total disagreement with Mr. Mealy. I have made three trips to Fort Rucker and to Pensacola to compare the training. I was in charge of aviation studies and analysis in Headquarters, Marine Corps, under General Miller. I was sent down to Rucker and to Pensacola to compare the training in 1977. I went with four other Marine Colonels. One was strictly a fixed wing pilot. The other four of us were both rotary and fixed wing qualified. Two were commanding officers of air groups. One worked at program analysis at the second level. We all five concurred that the training at Fort Rucker was far superior to the training we get in Pensacola. I just went down to Pensacola, Corpus Christi, and Fort Rucker in March to look again. I still agree with what I wrote in 1977. The training given at Fort Rucker is far superior to the training given at Pensacola.

I will give you some examples. Over-water flight is one of the things which has been a hang-up here. The over-water syllabus at Pensacola is less than two hours out of a 192-hour syllabus. The proposed 195-50 syllabus we would get at Fort Rucker with 50 hours of service-peculiar training would give us more over-water training if we wanted it. We can get anything in that 50 hours we desire. The 195-50 syllabus at Fort Rucker gives us far more tactical training, far more instrument training, far more night training. It is superior in every way. There is no need to start flying, to learn to fly a helicopter by learning to fly a fixed wing. It is like learning to drive a car and learning to ride a bicycle. They are different. They fly differently.

Some of the instrument time is transferrable, but not nearly all of it is. If I had my way, I would train all helicopter pilots to fly helicopters, and then at a career decision point I would take some who decided and transfer them to fixed wing aircrafts. I have flown instruments in both aircrafts. It is much more difficult to fly instruments in a helicopter in turbulence than it is to fly a fixed wing aircraft. I have a lot of experience in both of them. I am extremely impressed with what they train at Fort Rucker. They teach virtually no tactics now at Pensacola, and a great emphasis on tactics at Fort Rucker.

Fort Rucker only teaches rotary wing training. The Navy's primary emphasis is on fixed wing training. Therefore, they do not give us a very good helicopter program. Now, when I went through, the Marine Corps, before it looked, has always been satisfied with our product, but it is like eating peanut butter. When I was a little boy I ate peanut butter and the grease floated to the top and I was satisfied with it, but as soon as they gave me Peter Pan Peanut Butter, I wasn't satisfied with the old kind any more. I went down and looked at the new kind, and I would rather go to Fort Rucker, and any Marine helicopter pilot you talk to would rather go to Fort Rucker.

Senator NUNN. Senator Chiles, Mr. Mealy has testified here that fixed wing has some definite advantages, and if the costs were equal, in other words, if there were no cost savings, he thinks it would be better to keep it in Pensacola, because the Navy has unique or better training there. Colonel Ledbetter has testified—he didn't hear all of it, but basically he testified that he thinks the training at Fort Rucker is far superior. I assume, Colonel, that even if cost savings were zero, you would be in favor of the consolidation. Is that right?

Colonel LEDBETTER. Mr. Chairman, if there were no cost savings, I would want to go to Fort Rucker. My only interest is getting the best trained helicopter pilots, because I am closer to leading them into combat than anyone in this room, by virtue of my low rank, and I want to go with the best trained man, and I can get him out of Fort Rucker now.

Senator NUNN. Suppose at Pensacola they had the assets that had been requested by the Navy. Would that affect the analysis?

Colonel LEDBETTER. The assets which have been requested are the computer with the four simulator cockpits. It is in a warehouse there. The four cockpits would not be sufficient to give the same amount of simulator time to the Navy pilots who were in operation at Pensacola, as the six computers with 24 cockpits can give in Fort Rucker. We would have to have more computers and more simulators in order to get the 50 hours that are going to be given at Fort Rucker, and it is very desirous we have that much simulation.

You can simulate in that cockpit far more things than you can ever do in an airplane. I was flying in March at Fort Rucker and they gave me an engine flame-out and a tail rotary failure and nearly scared me to death. I couldn't have survived it in an airplane, but I got to practice it in Fort Rucker, and we can practice every emergency that can be given in an airplane plus all of the instrument flying that you need. It is a fantastic facility, and a very well thought out and designed training program.

I will make one other comment. The first time I went to Fort Rucker to look was in 1976, and I went with an extreme bias against the Army, thinking that the Marine Corps program was always going to be better and always had been better and always would be better, and it was hard on me to go down and look at a thing that well organized, and it hurt my feelings.

(General laughter.)

Colonel LEDBETTER. Since then, I have been fighting to get a better program for what we have, wherever it is, and I think the more helicopter flight planning you get, the better helicopter pilot you are, and one other thing. The 195-50 syllabus does not give just 195 hours. The Army has a unique thing we should have adopted a long time ago. Every time an instructor gets in that airplane, he takes two students with him, and one student flies and the other sits in the jumpseat observing, so when he finishes they don't do it in the T-55, but once they get to the Huey they do. They can get 340 hours in the air either observing or flying, and every time he gets in that simulator, two students get in there, and they either fly or observe, so that 50 hours of flight time in the simulator, they end up with 100 hours, so they end up flight school in 39 weeks with 440 hours of either direct flight time or simulated flight time.

There is no way we can do that in the Navy, because 92 hours are in a fixed wing aircraft, and you can't get any more people in it. Even if we doubled up with the Hughes time, the most we could get out of a flight school is something like 252 hours, and it takes longer in the Navy than it does in the Army. The Army does it in their schedule time. We are running now a little over a year. There is a lot of difference between 440 hours in 39 weeks and 192 hours in 52 weeks. We have a cram course that jams that into his head, and a lot of air sense. It is a beautiful setup and a darn good program, and I would like to see us get into it.

Senator NUNN. Are you saying if Senator Chiles and I ride in a helicopter, we ought to ask for an Army pilot?

Colonel LEDBETTER. No, sir. I think I am one of the best helicopter pilots in the world, and so are most of the Marines that we have, because we take them when they are finishing the program and run them through our advanced program. I had a training squadron in New River and we got students from both sides in 1968, and after a four-month program, and we had them, I couldn't tell the difference between those two. In those days the Army didn't have a very good instrument program. They didn't have the simulators. They do now, so when we got them from the Army in 1968, they knew more about tactics, they knew less about instrument flying. When we got them from Pensacola, they knew nothing about tactics and a lot more about instrument flying. We had to devise a different program in the advanced squadron to bring them both equal, but after a four-month period they were both equal.

One other thing to comment on. People have talked about the esprit de corps and how it would hurt your feelings to be trained by the Army. All Marine Corps artillery officers are now trained by the Army. All Marine

Corps tanker officers are now trained by the Army, and I would defy you to go to a Marine Corps artillery officer and tell him he is not a good Marine. He would punch you out.

(General laughter.)

Colonel LEDBETTER. The same thing. They are very proud of themselves, and they go to the classes with the direction, you are a Marine, you had better come out to first, and they work at it. When we send people to Rucker, we are going to send them with the same charge: you go down there, learn, and come out first, and they are going to come out Marines and they are going to come out first.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., September 26, 1979.

Hon. DONALD W. STEWART,
U.S. Senate.

DEAR SENATOR STEWART: In accordance with your written request, dated September 25, 1979, we are providing you the information developed during our recent review of the proposed consolidation of undergraduate helicopter pilot training at Fort Rucker, Alabama.

PROPOSED CONSOLIDATION

There are now two UHPT programs:

An Army program at Fort Rucker, Alabama, which trains Army and Air Force students and which uses an all rotary-wing syllabus.

A Navy program at Whiting Field near Pensacola, Florida, which trains Navy, Marine Corps, and Coast Guard students and which uses a combination fixed-wing/rotary-wing syllabus.

DOD proposes to consolidate these two programs into an all rotary-wing program at Fort Rucker, Alabama. This training would consist of a common core curriculum supplemented by service-unique segments. Existing service-unique follow-on training for UHPT graduates would remain essentially the same.

DOD forecasts approximately $100 million in savings over the next 5 years and believes a consolidated program will offer training as good as or better than that Navy's students now receive.

The proposal is necessarily predicated on future events and involves variables associated with the assumptions chosen. Therefore, we must emphasize that we are dealing with estimates and that true economies depend upon actual operation of a consolidated program. What we have done in our review is to test the validity of the cost estimates and related savings.

Our findings on issues related to this proposal are discussed below.

COST COMPARISONS/SAVINGS

Cost comparisons have consistently shown that consolidation of training facilities for helicopter pilots can reduce training costs and result in significant savings. DOD's official position is that the difference between Navy cost avoidance of $233.5 million and increased Army costs of $135.8 million—$97.7 million—constitutes forecasted savings over a 5-year period. These figures are based on the Secretary's April 1977 study adjusted to reflect Defense Audit Service findings on March 1978 and subsequent program implementation slippages. GAO, which had recommended consolidation as early as May 1974, reviewed the Secretary's 1977 study and reported in May 1977 that forecasted savings appeared conservative.

In this current effort to test the validity of forecasted savings, we reviewed the services' most recent cost estimates, which were prepared under assumptions in the May 1979 Army/Navy joint memorandum of understanding to implement consolidation.[1] These estimates show total costs and related savings for fiscal years 1980–84 as follows:

	Unaudited (millions)
Navy's estimated cost avoidance to give up UHPT	$266.6
Army's estimated incremental cost to train Navy requirements	203.3
Savings	63.3

We found that increases were necessary in both estimates. The required increase in the Army's incremental cost estimate is about $17 million, of which $12 million is due to changing its fiscal year 1979 dollar base to a fiscal year 1980 dollar base. The increase to the Navy's cost avoidance estimate cannot be accurately determined at this time on the basis of data provided by the Navy. Officials from the Department of the Navy agree that its estimate needs revision and are preparing a revised estimate. Nonetheless, the overall Navy adjustments needed should exceed the $17 million adjustment made to the Army's estimate. Thus, the amount of savings should exceed the $63.3 million shown above.[2]

OTHER CONSIDERATIONS THAT COULD AFFECT SAVINGS

During the debate over savings from consolidation, questions have arisen about the impact of certain other factors on forecasted savings. We assessed the impact of some of the more important of these on forecasted savings, and our conclusions are as follows.

FUEL CONSUMPTION AND PRICES

Consolidating UHPT would cause an increase in fuel use but only by about 3 million gallons over the 5-year period from fiscal years 1980 through 1984. Increased fuel consumption under a consolidated program is primarily due to additional flying time for Navy's students in advanced rotary-wing aircraft. They are expected to get about 145 syllabus hours instead of some 65 hours they now receive. DOD officials believe the additional hours will greatly enhance the effectiveness of training in rotary-wing flight skills and thus prove cost effective.

In June 1979 hearings before the Senate Subcommittee on Manpower and Personnel, Committee on Armed Services, the Chairman questioned the validity of fuel price figures used in the services' cost estimates. The DOD-approved prices for costing purposes, as used in the estimates, are about $0.45/gallon for jet propulsion fuel and about $0.63/gallon for aviation gas. The rate of fuel price increases over the next 5 years is of course open to speculation. However, a doubling or tripling of the above prices at the beginning of fiscal year 1980 would decrease savings by $0.2 million or $0.4 million, respectively, during the 5-year period. (See enc. I for further details on fuel use and costs.)

Neither the increased fuel use nor the effects of future fuel price increases should materially affect the overall estimated savings from consolidating UHPT. Moreover, the Secretary's proposal does not consider alternatives that could conserve DOD's use of fuel, alternatives which deserve attention regardless of UHPT consolidation. These include, for example, reducing actual flight time through more simulated training exercises; increased flight time in more fuel-cost-effective aircraft, with a proportionate reduction in the less fuel-cost-effective aircraft, and/or cutting back on mission-specific follow-on training.

RETIREMENT COSTS AND VETERANS' BENEFITS

UHPT consolidation will also allow DOD to reduce both military and civilian manpower. Forecasted savings, therefore, will increase due to reduced retirement costs and veterans' benefits. We did not estimate the amount of savings based on the projected manpower reductions under the May 1979 implementation plan. In May 1977, however, GAO reported that the Secretary's proposal did not recognize these savings and estimated that the present value of the unfunded retirement costs for military spaces alone was $29 million over the 5-year period under analysis. Savings due to reduced future retirement costs and veterans' benefits are both legitimate and significant and should be included in total savings.

ADDITIONAL FACTORS

Two other factors will affect projected savings:

DOD, in realigning its activities, must help alleviate the economic and social impact of realignment on the affected region. In May 1977, DOD's Office of Economic Adjustment assessed the economic impact of realignment on the Pensacola area and concluded that the region had strong economic growth and adjustment potential. It estimated costs associated with the economic impact of consolidation at approximately $2.6 million. These costs will reduce forecasted savings.

DOD now has 36 rotary-wing TH-57 aircraft committed to primary helicopter pilot training for Navy students. A consolidated program will free these assets for sale or use elsewhere in the Government. Since they are unique to Navy's UHPT, DOD plans to sell the aircraft. Sale to the public will increase forecasted savings.

TRAINING WITHIN THE SERVICES' UNIQUE ENVIRONMENTS

The syllabus approved by the Secretary in June 1977 will provide Navy students with training for the Navy-unique environment. It consists of a common core of 145 flight hours and 40 hours of simulator time for all DOD students, plus an additional 50 hours of flight time and 10 hours of simulator time for Navy's students. This "unique" portion of the syllabus, taught by Navy instructors, is designed to provide students with the knowledge, skills, and techniques necessary to operate a helicopter in the Navy's environment. Navy officials, including those responsible for flight training, believe that this syllabus will produce quality pilots. For example, the Secretary of the Navy, testifying in June 1979 before the Senate Subcommittee on Manpower and Personnel, Committee on Armed Services, stated that a consolidated program would provide significantly more effective helicopter pilot training to Navy's students.

SURGE POTENTIAL OF THE ONE-SITE TRAINING PROGRAM

Fort Rucker, DOD's proposed site for consolidated training, appears adequate to accommodate anticipated pilot training loads over the next 5 years. Estimated annual output capacity at the site is, peacetime, between 2400 and 2600 pilots and, mobilization, about 4500 pilots. Projected service requirement for helicopter pilots in fiscal year 1984, including foreign students, is 2482. DOD's need for pilots, which is subject to review and amendment during annual planning, programing, and budgeting cycles, would be affected by an emergency situation such as war. Should such a situation arise and require more pilots over a sustained period than any one site can handle, expansion of some training functions to other locations

[1] The Secretary has not yet approved the plan; but the services have projected a significant increase in pilot needs, thus driving up projected cost estimates.

[2] As of the date of this report, the adjustments to the Navy's cost data had not been completed. We continue to believe that the net effect of the adjustments should result in net 5-year savings from UHPT consolidation of more than $63.3 million.

would be necessary, as was the case during the Vietnam surge.

OTHER ISSUES

In reviewing Army's cost estimate we determined whether costs associated with other factors were included, as appropriate, to support consolidated training and found that:

Existing flying facilities will be used for consolidated training, so that no funds are required for opening additional facilities.

Additional helicopters required will not be procured but obtained through use of existing DOD assets. Army's cost estimate included $1.5 million for returning to flyable status 40 rotary-wing primary trainers in storage at the Military Aircraft Storage and Disposition Center, Davis-Monthan Air Force Base, Arizona. We visited Davis-Monthan; examined the aircraft and inventory records; and found, as the Army claimed, that the helicopters have not been cannibalized and can be brought back to a flyable status within the estimated cost range.

Existing facilities, both on and off base, appear capable of supporting projected increases in personnel; therefore, no new construction is planned. In April 1979, Navy officials examined facilities at Fort Rucker and surrounding communities and concluded that housing and support facilities were adequate to handle additional requirements and would not degrade quality of life for Navy personnel. Army officials consider it unlikely that consolidation will displace a significant number of military personnel living on base.

CONCLUSIONS AND RECOMMENDATIONS

We believe that the Secretary of Defense's proposal to consolidate UHPT should result in significant savings. Based on the assumptions under the May 1979 Army/Navy joint memorandum of understanding to implement consolidation, the estimated savings should exceed $63.3 million over the next 5 years. The advantages and disadvantages of consolidation have been aired in studies, in audits, and in hearings before members of the Congress. We believe that the preponderance of the evidence favors consolidating UHPT.

Estimated savings depend upon assumptions used and timing of implementation and could vary. True economies cannot be precisely determined without actually operating a consolidated program. To verify the forecasted savings and to facilitate proper management of implementation, we recommend that the Secretary of Defense: establish a mechanism that accounts for the costs, tracks the milestones for implementation, and records the savings associated with consolidation; and report back to the Congress at appropriate intervals concerning the progress of implementation, related costs, and savings.

SCOPE OF REVIEW

To obtain the information, we reviewed Army and Navy cost estimates, as well as estimates of related savings from consolidation; and we analyzed documentation relating training within the services' unique environments. We also observed and inspected facilities and equipment the Army has identified for use in support of consolidated training.

In addition, we discussed the issues with key officials from the Office of the Secretary of Defense, the Department of the Army, and the Department of the Navy.

Sincerely yours,

RUSSELL B. STAATS,
Comptroller General of the United States.

Enclosure.

POSSIBLE EFFECT OF INCREASED FUEL CONSUMPTION AND PRICES ON ESTIMATED SAVINGS FROM CONSOLIDATION

	Gallons required (fiscal years 1980–84)		
	Aviation gas	Jet propulsion fuel	Total
Gallons consumed under consolidation	9, 867, 252	127, 211, 098	137, 078, 35
Cost per gallon	$0. 63	$0. 45	
Total	$6, 216, 368	$57, 244, 994	$63, 461, 362
Gallons consumed if UHPT is not consolidated	16, 641, 797	117, 450, 738	134, 092, 535
Cost per gallon	$0. 63	$0. 45	
Total	$10, 484, 332	$52, 852, 832	$63, 337, 164
Difference in gallons consumed	(6, 774, 545)	9, 760, 360	2, 985, 815
Cost per gallon	$0. 63	$0. 45	
Total	($4, 267, 963)	$4, 392, 162	[1] $124, 199
Cost per gallon (doubled)			$248, 379
Cost per gallon (tripled)			$372, 598

[1] Comparison is based on fuel consumption for the total DOD UHPT program. A similar comparison, i.e., fuel consumption for Navy's separate program with the incremental fuel consumption for Army to train Navy's helicopter pilots, would yield the same differential in gallons consumed and costs. This difference in fuel use and cost has been considered in the current cost estimates.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., September 26, 1979.

Hon. HAROLD BROWN,
Secretary of Defense.

DEAR MR. SECRETARY: As you know, the General Accounting Office has been asked to review your proposal to consolidate undergraduate helicopter pilot training at Fort Rucker, Alabama, and consideration of your proposal is still before Congress. We are enclosing a copy of our report to Senator Stewart on your proposal. This report contains recommendations to you on page 6, if consolidation occurs.

In addition to the recommendations, we believe several other matters deserve your immediate attention:

On pages 2 and 3, we discuss savings possible if undergraduate helicopter pilot training (UHPT) is consolidated. However, Defense has not finalized its review of the services' cost estimates and related savings. Because this is important to congressional discussion on consolidation, we suggest that Defense, as expeditiously as possible, finalize its review of the services' cost estimates and related savings.

On page 3, we discuss the impact of increased fuel consumption under consolidation. Fuel conservation is an important matter; and fuel-saving measures should be of concern to all the services, regardless of UHPT consolidation. We, therefore, suggest that Defense, in its continuing review of the UHPT, identify measures that could save fuel.

A matter not addressed in this report, but related to consolidation, is the Department of the Navy's shortfall in numbers of helicopter pilots it trained in recent years and its ability to meet its pilot needs in future years. Since fiscal year 1975, the Navy has trained 400 fewer helicopter pilots than programed because of a shortage of instructor pilots and aircraft. Defense should immediately assess whether the Navy, using its resources, can meet its pilot training needs in the near future. If not, Defense should inform the Congress of this fact so that it can be a part of the current discussion over consolidation.

If consolidation of undergraduate helicopter pilot training does not materialize, the Navy's ability to meet its pilot training loads (for both the Marine Corps and the Navy) becomes more important, especially in view of the Navy's proposed increases in pilot training loads over the next few years and the lead time needed by the Navy to obtain the aircraft and other capability (e.g., aircraft maintenance) to support an increased training load. Under these circumstances, Defense must seriously examine alternatives to reduce the potential shortfalls. One alternative could be to assign certain Marine Corps or Navy training loads to the Army, which appears to have the capacity, including the necessary aircraft to assume this additional load. This action could also make available resources to help the Navy reduce some of its fixed wing training shortfalls which have existed during the same period.

Sincerely yours,

H. L. KRIEGER,
Director.

Mr. HEFLIN. Mr. President, I also have a letter dated October 5, 1979, addressed to Hon. DONALD STEWART, U.S. Senate, from Harold Brown, the Secretary of Defense. This is after all the new figures and everything else. He says:

The Department of Defense continues to estimate 5-year savings of some $100 million or more.

I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF DEFENSE,
Washington, D.C., October 5, 1979.

Hon. DONALD W. STEWART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEWART: You have asked for my views on the consolidation of Defense Undergraduate Helicopter Pilot Training (UHPT) in an all-helicopter program at Fort Rucker, Alabama, as proposed in the President's Budget for 1980. The House has now voted against this consolidation. Nevertheless, I continue to support this proposal strongly.

It is clear to me that this proposed consolidation would provide a markedly more effective UHPT program than Navy and Marine Corps students now enjoy. And the proposal would provide for more economical UHPT than the Navy now is able to conduct. The Department of Defense continues to estimate five-year savings of some $100 million or more.

I understand that some senators have voiced fears that this might be a first step toward eventual consolidation of Air Force and Navy fixed-wing fighter/attack pilot training. I can assure you that these fears are groundless. This fixed-wing training involves consideration such as air space utilization which make consolidation impractical.

I deem it very important that UHPT consolidation be implemented without further delay. I strongly urge that the Congress support this proposal which promises significant improvements in training effectiveness and economy. I appreciate your active backing of our proposal.

Sincerely,

HAROLD BROWN.

Mr. HEFLIN. Mr. President, in regard to these new figures and statistics that came out of the Pensacola based CNET, I have a memorandum addressed to the Assistant Secretary of the Navy from John R. Quetsch, the principal Deputy

Assistant Secretary of Defense, in regard to these figures being released.

It seems that Representative CHAPPELL, of Ocala, Fla., heard about these figures and wanted them. The DOD comptroller says in this memorandum authorizing release:

We have no objection to your releasing the Navy data to Mr. Stout.

Mr. Stout was the administrative aide to Representative CHAPPELL. I continue reading:

However, we feel the observations in Attachment B to your memorandum should be clarified for Mr. Stout, namely, that the data provided in CNET understates Navy costs to produce helicopter pilots without consolidation; that Navy, at considerable delay in planned Navy pilot output, both jet and helicopter, would have to seek authorization and appropriations to procure additional aircraft in order to do the job in-house; and that consolidation will overcome a continuing 15–20 percent shortfall in Navy pilot production.

The letter is dated October 17, 1979, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 17, 1979.

Memorandum for Assistant Secretary of the Navy (FM).

Subject: Undergraduate helicopter pilot training.

This is in response to your memorandum of September 18, 1979, enclosing costing data for Mr. Ed Stout relative to consolidation of undergraduate helicopter pilot training.

We have no objection to your releasing the Navy data to Mr. Stout. However, we feel the observations in Attachment B to your memorandum should be clarified for Mr. Stout, namely, that the data provided by CNET understates Navy costs to produce helicopter pilots without consolidation; that Navy, at considerable delay in planned Navy pilot output, both jet and helicopter, would have to seek authorization and appropriations to procure additional aircraft in order to do the job in-house; and that consolidation will overcome a continuing 15–20% shortfall in Navy pilot production.

Therefore, it is recommended that in releasing the data you provide a cover letter which clearly points out these deficiencies in the CNET costing package.

JOHN R. QUETSCH,
Principal Deputy Assistant Secretary of Defense (Comptroller).

Mr. HEFLIN. Mr. President, I would like to call the Senate's attention to a letter dated September 26, 1979, from the General Accounting Office to the Secretary of Defense. The letter to the Secretary states that a matter not addressed in the report of September 26, 1979, to Senator STEWART but one which is of importance deals with the Navy's shortfall in the numbers of helicopter pilots. I would like to just quote from the GAO letter.

A matter not addressed in the report [the report to Senator Stewart] but related to consolidation, is the Department of the Navy's shortfall in numbers of helicopter pilots it trained in recent years and its ability to meet its pilot needs in future years. Since fiscal year 1975, the Navy has trained 400 fewer helicopter pilots than programed because of shortage of instructor pilots and aircraft. Defense should immediately assess whether the Navy, using its resources, can meet its pilot training needs in the near future. If not, Defense should inform the Congress of this fact so that it can be made part of the current discussion over consolidation.

If consolidation of undergraduate helicopter pilot training does not materialize, the Navy's ability to meet its pilot training loads (for both the Marine Corps and the Navy) becomes more important, especially in view of the Navy's proposed increases in pilot training loads over the next few years and the lead time needed by the Navy to obtain the aircraft and other capability (e.g., aircraft maintenance) to support an increased training load. Under these circumstances, Defense must seriously examine alternatives to reduce the potential shortfalls. One alternative could be to assign certain Marine Corps or Navy training loads to the Army, which appears to have the capacity, including the necessary aircraft to assume this additional load. This action could also make available resources to help the Navy reduce some of its fixed wing training shortfalls which have existed during the same period.

Mr. President, what I think the GAO is saying to the Navy in this letter is that because of shortfalls in previous years in its pilot training and because of anticipated increases in future years, the Navy simply is not going to be able to train all of its pilots at Whiting Field anyway and, consolidation or no consolidation, will probably have to consider training some Marine Corps and Navy pilots at the helicopter school at Fort Rucker anyway. This is going to be necessary not just to train Navy and Marine Corps helicopter pilots, but also to make aircraft and other resources available to train the numbers of jet pilots Navy needs. To my knowledge, Secretary Brown has not replied to this letter to the GAO, but I would certainly be interested in hearing the Department's plan of meeting the Navy pilot shortfall if consolidation is not permitted.

Mr. President, there are other arguments that are offered from time to time as to why consolidation should not go forward. It is argued, for example, that the airplane which the Army would bring out of storage to use to train the Navy pilots have been cannibalized and would be readily available. This has been refuted by the Army and, in fact, the GAO sent its investigators to examine the Army helicopters in storage and found, as the Army claimed, that the helicopters have not been cannibalized and can be brought back to a flyable status within the estimated cost range. This is documented in the letter to Senator STEWART mentioned above which will be put in the RECORD at the appropriate time.

Mr. President, the opponents of consolidation today will probably make an impassioned plea that based on new data, new cost estimates or new funding information, the estimated savings will be much lower than heretofore mentioned or even may turn into increased costs if consolidation is approved. This argument is spurious at best for a number of reasons. First, it should be noted that a very thorough hearing of this issue was had before Senator NUNN's subcommittee of the Armed Services Committee on June 28, 1979. The position of a number of rank and file and retired Naval officers and Marine officers who oppose consolidation was made imminently clear at that hearing. All sorts of "new figures" were brought up at that meeting to show that consolidation would not save money or that it might in fact cost money.

The GAO had representatives at that hearing who heard the testimony and who obtained copies of all the figures put forth by these representatives. The GAO then took this testimony and these figures and studied these figures thoroughly. These so-called new figures then were considered by the GAO when it issued its statement of September 26, 1979, which concluded that the savings would exceed $63 million and indeed would be even greater if the $29 million for unfunded retirement benefits were taken into account.

Moreover, after that hearing, it was concluded that the Navy cost estimates were understated in certain respects and the GAO auditors sought revised and more valid estimates from the Navy. Interested Congressmen also requested that the Navy prepare revised data. In September, the Naval Education and Training Command often called CNET, which has its headquarters at Pensacola, Fla., sent its revised estimates to the Navy Comptroller. These estimates were reviewed by the Navy Comptroller and forwarded to the DOD Comptroller for further review with a request that the new figures be released to Congressman CHAPPELL of Florida.

The review by the DOD was not complete prior to the time the GAO issued its September 26, 1979, report. Nevertheless, by October 2, 1979, the Secretary of Defense, and his Comptroller, and the Navy Comptroller, had concluded that the revised data furnished by the Navy Training Command were in substantial error in that they continued to understate the Navy cost in retaining the pilot training program at Pensacola and thus, still substantially understated the savings from consolidating pilot training at Fort Rucker. Moreover, these raw estimates did not contain adequate caution about related Navy pilot training shortfalls and about the need to obtain for the Navy authorization in funding to procure additional training aircraft to support pilot training retained by the Navy.

On October 17, 1979, a memorandum was prepared by the Comptroller of the Department of Defense authorizing the release of the "new figures" provided the following warnings were made.

We have no objection to your releasing the Navy data to Mr. Stout (Administrative aid) to Florida Congressman Chappell. However, we feel the observations in attachment B to your memorandum should be clarified for Mr. Stout. Namely, that the data provided by CNET understates Navy cost to produce helicopter pilots without consolidation; that Navy, at considerable delay in planned Navy pilot output, both jet and helicopter, would have to seek authorization and appropriations to procure additional aircraft in order to do the job in-house; and that consolidation will overcome a continuing 15–30% shortfall in Navy pilot production.

Therefore, it is recommended that in releasing the data you provide a cover letter which clearly points out these deficiencies in the CNET costing package.

Mr. President, if those opposed to consolidation argue that new and revised data is available, I say to you that such data has already been examined by those competent in such matters and has been found to be the same old understated data that the Navy Training Command which is headquartered in Pensacola, Fla., has used for years in order to resist this consolidation effort even though the Navy and the DOD supports it. Thus, I caution my colleagues not to be misled by this erroneous information which most certainly will be discussed here today.

In closing, Mr. President, I would just like to summarize by saying that this Congress should take every opportunity to save taxpayers' dollars that is presented to it if the savings do not cause a sacrifice in the required mission capability of our armed services. I think the record is clear that, in fact, the savings will result in an enhanced military posture since it is uncontroverted that the pilot training program as it now exists in Fort Rucker turns out better trained and better qualified helicopter pilots than the current program at Whiting Field.

Thus, we can save money while at the same time upgrading the training program and I think it is imperative that we take this action. As Colonel Ledbetter stated in his testimony, even if there were no savings, the consolidation is a good idea because of the enhanced training capability. When the $100 million or whatever the final figure proves to be, is thrown into the equation it seems inconceivable to me that this Congress can refuse to act and act decisively to effect this consolidation.

Mr. President, I urge every Member of this body to support my amendment which will allow the Department of Defense to get on with this long anticipated and long needed consolidation program.

Mr. President, I ask unanimous consent to have printed in the RECORD other material in connection with this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 6, 1979.

DEAR COLLEAGUE: On Thursday, November 8, the Senate will consider an amendment to the Defense Appropriation bill which would allow the Department of Defense to consolidate all of its undergraduate helicopter pilot training at Fort Rucker, Alabama. As you know, I have been advocating this move for a number of years since, in my judgment, it makes absolutely no sense for the Defense Department to be training helicopter pilots at two separate locations when the training can be accomplished at less expense and more effectively at one location. Air Force helicopter pilots have been trained by the Army at Fort Rucker for a number of years, and the consolidated program has proven to be most satisfactory. I am sure that once consolidation occurs, the Navy, too, will be quite satisfied with the quality of the training at Fort Rucker.

The Department of Defense, the Defense Audit Service, and the General Accounting Office have all studied and re-studied this proposed consolidation over the years and the consensus is that the move will save the American taxpayers millions of dollars. If we can obtain better training at a lower cost, it would be unconscionable for this Congress not to approve this action. I call upon you to support the amendment to the Defense Appropriation bill which will be considered Thursday so that we can get on with the business of giving the American taxpayer his money's worth for his defense dollar.

The facts speak for themselves, and if parochial interests are put aside, I think you will see that this is the right move at the right time.

Sincerely yours,

BARRY GOLDWATER.

ASSISTANT SECRETARY OF THE NAVY,
Washington, D.C., October 17, 1979.

Memorandum for Congressman Chappell.

Subj: Undergraduate helicopter pilot training.

The attached data is provided in response to a request from Mr. Ed Stout of your staff for a recomputation of Navy cost data associated with the Undergraduate Helicopter Pilot Training Consolidation issue.

Identical information is being provided to Congressman Edwards in responze to a request from his staff for five year cost data associated with Navy retention of Undergraduate Helicopter Pilot Training.

Attachment A is the data provided by the Navy Training Command to the Navy Secretariat. Attachment B addresses specific areas requiring clarification and identifies costs which have been understated by the training command. These comments clearly reveal that a decision for Navy to retain the helicopter pilot training function would require immediate action to seek authorization and appropriations to procure additional aircraft and simulators in order to produce the pilot output desired in FY 81 and beyond. In addition, since such equipment is not currently available the FY 80 desired helicopter pilot output cannot be achieved.

G. A. PEAPPLES.

DEPARTMENT OF THE NAVY,
Washington, D.C., September 5, 1979.

Hon. DONALD W. STEWART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEWART: This is in reply to your letter of August 17 to Secretary Claytor regarding the proposed consolidation of undergraduate helicopter pilot training. I have been requested to provide, directly to you, the Marine Corps' position concerning this proposal.

The Marine Corps fully supports the proposal to consolidate helicopter training at Fort Rucker. The fiscal savings accruing to the Department of Defense appear significant. The proposed syllabus under the consolidation program will satisfy Marine Corps helicopter pilot training requirements and is expected to provide a well trained basic helicopter pilot. This opinion is based primarily on the increased number of helicopter and simulator flight hours received under the consolidated training program. The provision for follow-on fixed-wing training at the career decision point satisfies the remaining Marine Corps objection to the consolidation proposal.

The preceding supportive statements for consolidating undergraduate helicopter training do not mean the Marine Corps has been dissatisfied with the helicopter pilot trained by the Navy. Time and time again the Navy-trained helicopter pilots have demonstrated their competence; however, the annual/continuing nature of the helicopter consolidation proposal, with its attendant adverse impact on financial support, appears to be having a debilitating effect upon the training capability of the Navy. Any further postponement of a decision regarding consolidation can only result in additional derogation of the training environment. In the event that consolidation is not approved, the Marine Corps would be pleased to remain with the Navy assuming budget restoration of training assets now held in abeyance awaiting a consolidation decision.

I trust you find the above responsive to your inquiry.

Sincerely,

ROBERT H. BARROW,
General, U.S. Marine Corps,
Commandant of the Marine Corps.

Mr. HEFLIN. Mr. President, at this time I yield to my colleague, Senator STEWART.

Mr. STEWART. Mr. President, I support this amendment. There are few other issues that I have encountered in my brief tenure in this body that have been so well studied, that will provide substantial savings to the taxpayer, and most importantly, will contribute to the defense readiness of our Nation.

The consolidation of basic training for helicopter pilots from Whiting Field, Fla., to Fort Rucker, Ala., has been studied four times and has been shown to save at least $63.3 million and probably more than $100 million. Consolidation also provides better pilot training.

The proposal to consolidate basic training for helicopter pilots has been around for a long time. It was first studied in 1965, and it has been a part of the President's budget recommendations for 4 years. It has been studied by the Defense Department, it has been studied by the independent Defense Audit Service, and it has been studied, twice, by the GAO.

The General Accounting Office has recently released its most recent review of the consolidation proposal and the conclusion is clear. The GAO states:

> We believe that the Secretary of Defense's proposal to consolidate undergraduate helicopter pilot training should result in significant savings . . . the estimated savings should exceed $63.3 million over the next five years. The advantages and disadvantages of consolidation have been aired in studies, in audits, and in hearings before members of Congress. We believe that the preponderance of evidence favors consolidating UHPT.

The GAO went over every aspect of past studies. The GAO investigated the various charges against consolidation—that fuel costs wiped out the savings, that Fort Rucker could not handle the surge of new students, et cetera—and the GAO concludes that the basic finding remains unchanged: consolidation saves a substantial amount of money and the quality of training is maintained, even improved.

What do I mean when I talk about quality of training? First, the consolidated training program will offer more flying hours for pilots, and almost twice as many helicopter flying hours. The student pilots will also get more high quality helicopter simulator experience. Many have charged that Navy students will suffer because they will be training with Army and Air Force students, which already have consolidated training. The assumption is that the Navy pilots will be denied service-unique training. But nothing could be further from the truth.

Again I quote from the GAO:

> The syllabus approved by the Secretary in June 1977 will provide Navy students with training for the Navy-unique environment. It consists of a common core of 145 flight hours and 40 hours of simulator time for all DOD students, plus an additional 50 hours of flight time and 10 hours of simulator time for Navy's students. This "unique" portion of the syllabus, taught by Navy instructors, is designed to provide students with the knowledge, skills and techniques necessary to operate a helicopter in the Navy's environment. Navy officials, including those responsible for flight training, believe that this syllabus will produce quality pilots.

What about fuel costs? Would that wipe out the savings from consolidation? It is true that fuel costs will go up somewhat because Navy students will get more flying time in a helicopter. They will get 145 hours compared to some 65 hours they get now. And indeed that is what these young pilots are being trained for—to fly helicopters. However, even if we double or triple the costs of fuel above current costs, the savings of consolidation would only be decreased by $0.2 to $0.4 million, over the 5-year period. Again I quote from the GAO:

> Neither the increased fuel use or the effects of future fuel price increases should materially affect the overall estimated savings from consolidating UHPT.

All along, I have been referring to this recent GAO study and using it to prove the merits of consolidation. In light of my support for this amendment, some of my colleagues might imagine that I asked for this study or that my colleague from Alabama requested the GAO investigation. But we did not. This GAO study was prompted by a request from the House, specifically a Florida Congressman. The report from the GAO reveals its true objectivity and thoroughness as the audit arm of the Congress. I am happy to make this report available to my colleagues, and I ask unanimous consent to have it printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEWART. Mr. President, some people may say that a saving of $63 million or more is not that much. But in a time of fiscal constraint, when we need to make the best use of our defense dollar, I just do not see how the Senate can ignore this cost savings. More importantly, I know that my colleagues are concerned about our defense posture, the need to build up our strategic and conventional forces. But do Senators know what $63.3 million could do in that effort?

Want to beef up NATO? Here is what $63.3 million could do: 45 XM-1 tanks, our newest most sophisticated tank which is desperately needed in Europe; or 28 ground launched cruise missiles—still in development promising a precision attack missile of great tactical use in the European theater.

Want to beef up our Navy? Here is what helicopter consolidation will provide for: 86 Harpoon missiles—our most sophisticated and valuable ship to ship weapon. One of the bright spots in recent developments; or 118 Phoenix missiles. The Phoenix is the world's best air to air missile system. Together with its computer system, nothing can match its multiple target performance.

We need to improve our strategic forces. $63.3 million too small to help out? Not so. Here is how: 28 submarine launched cruise missiles or 50 air launched cruise missiles.

The ALCM is in active development and will be a significant addition to our strategic forces in the near future. The SLCM may be needed at a later point. The B-1 bomber was canceled by President Carter in large part because of the promise of the ALCM. $63.3 million would purchase about 50 of these weapons—each of which can strike a target deep in the heart of the U.S.S.R. with more accuracy than our current generation of ICBM's.

Mr. President, we need this kind of force modernization. It costs money. Helicopter training consolidation will probably save around $100 million. How can we pass up a chance to make a substantial savings and at the same time improve the quality of our pilot training? This is the question I leave with my colleagues.

I reserve the balance of my time.

Mr. President, I have some letters I have received that I believe would add to the support of what my colleague has stated. I ask unanimous consent to have them printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, D.C., November 6, 1979.

Hon. DONALD W. STEWART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEWART: This is in response to your letter of October 15, 1979 to Secretary Brown concerning the recent General Accounting Office letter report on the proposed consolidation of undergraduate helicopter pilot training (UHPT). You asked in your letter for comments on the GAO report and specifically for an evaluation of the Navy's pilot training shortfall and possible measures to cope with it.

The Department agrees with GAO that UHPT consolidation will result in significant savings.

With regard to the Navy shortfall, I am enclosing a table which compares programmed Navy and Marine Corps undergraduate helicopter pilot production with actual production for Fiscal Years 1975 through 1979. As the table shows, actual production has consistently fallen short of programmed production. In addition, the Navy now estimates that there will be a short-fall of at least 39 Navy and 43 Marine Corps UHPT graduates in Fiscal Year 1980.

If UHPT is not consolidated, the Navy will continue to use T-28 aircraft in the fixed wing portion of the UHPT syllabus until sufficient numbers of the more modern T-34C aircraft can be authorized, funded and procured. Given the maintenance problems associated with the aging fleet of T-28 aircraft, it is unlikely that programmed levels of Navy and Marine Corps UHPT graduates could be obtained in the near term. If UHPT is consolidated, this shortfall in UHPT graduates can be avoided in FY 1981 and subsequent years.

It is clear that the most efficient and effective way to eliminate short-falls in Navy and Marine Corps helicopter pilot graduates is to approve UHPT consolidation, as proposed by the Department of Defense. The consolidated program can train all of the programmed Navy and Marine Corps students, whereas the separate Navy program can do so only with the expenditure of approximately $58 million to buy new T-34C aircraft. The results of failing to approve UHPT consolidation would be threefold: greater cost, less effective helicopter pilot training for Navy and Marine Corps students, and continuing shortfalls in graduating Navy and Marine Corps helicopter pilots.

For the reasons discussed above, I consider it very important that the Congress approve UHPT consolidation. I appreciate the support that you have given to this proposal, and I hope that we can count on your continued support.

Sincerely,

W. GRAHAM CLAYTOR, Jr.,
Deputy,
DEPARTMENT OF THE NAVY

UNDERGRADUATE HELICOPTER PILOT TRAINING RATES (PTR), PRESIDENT'S BUDGET VERSUS PERFORMANCE, FISCAL YEARS 1975-79

	Fiscal years—					
	1975	1976	19TQ	1977	1978	1973
HELICOPTER PILOTS						
Navy:						
President's budget	230	225	50	188	195	215
Graduated	177	205	55	144	139	116
Difference	−53	−20	+5	−44	−56	−99
Percent difference	−23	−9	+10	−25	−29	−46
Marine Corps:						
President's budget	224	212	53	235	267	305
Graduated	199	206	45	231	260	177
Difference	−25	−6	−8	−4	−7	−128
Percent difference	−11	−3	−15	−2	−3	−42

Source: Department of the Navy training reports, "Graduated" are actual.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 26, 1979.

Hon. DONALD W. STEWART,
U.S. Senate.

DEAR SENATOR STEWART: In accordance with your written request, dated September 25, 1979, we are providing you the information developed during our recent review of the proposed consolidation of undergraduate helicopter pilot training at Fort Rucker, Alabama.

PROPOSED CONSOLIDATION

There are now two UHPT programs:

An Army program at Fort Rucker, Alabama, which trains Army and Air Force students and which uses an all rotary-wing syllabus.

A Navy program at Whiting Field near Pensacola, Florida, which trains Navy, Marine Corps, and Coast Guard students and which uses a combination fixed-wing/rotary-wing syllabus.

DOD proposes to consolidate these two programs into an all rotary-wing program at Fort Rucker, Alabama. This training would consist of a common core curriculum supplemented by service-unique segments. Existing service-unique follow-on training for UHPT graduates would remain essentially the same.

DOD forecasts approximately $100 million in savings over the next 5 years and believes a consolidated program will offer training as good as or better than Navy's students now receive.

The proposal is necessarily predicated on future events and involves variables associated with the assumptions chosen. Therefore, we must emphasize that we are dealing with estimates and that true economies depend upon actual operation or a consolidated program. What we have done in our review is to test the validity of the cost estimates and related savings.

Our findings on issues related to this proposal are discussed below.

POSSIBLE EFFECT OF INCREASED FUEL CONSUMPTION AND PRICES ON ESTIMATED SAVINGS FROM CONSOLIDATION

	Gallons required (fiscal years 1980–84)		
	Aviation gas	Jet propulsion fuel	Total
Gallons consumed under consolidation	9, 867, 252	127, 211, 098	137, 078, 350
Cost per gallon	$0. 63	$0. 45	
Total	$6, 216, 368	$57, 244, 994	$63, 461, 362
Gallons consumed if UHPT is not consolidated	16, 641, 797	117, 450, 738	134, 092, 535
Cost per gallon	$0. 63	$0. 45	
Total	$10, 484, 332	$52, 852, 832	$63, 337, 164
Difference in gallons consumed	(6, 774, 545)	9, 760, 360	2, 985, 815
Cost per gallon	$0. 63	$0. 45	
Total	($4, 267, 963)	$4, 392, 162	[1] $124, 199
Cost per gallon (doubled)			$248, 379
Cost per gallon (tripled)			$372, 598

[1] Comparison is based on fuel consumption for the total DOD UHPT program. A similar comparison, i.e., fuel consumption for Navy's separate program with the incremental fuel consumption for Army to train Navy's helicopter pilots, would yield the same differential in gallons consumed and costs. This difference in fuel use and cost has been considered in the current cost estimates.

COST COMPARISONS/SAVINGS

Cost comparisons have consistently shown that consolidation of training facilities for helicopter pilots can reduce training costs and result in significant savings. DOD's official position is that the difference between Navy cost avoidance of $233.5 million and increased Army costs of $135.8 million—$97.7 million—constitutes forecasted savings over a 5-year period. These figures are based on the Secretary's April 1977 study adjusted to reflect Defense Audit Service findings of March 1978 and subsequent program implementation slippages. GAO, which had recommended consolidation as early as May 1974, reviewed the Secretary's 1977 study and reported in May 1977 that forecasted savings appeared conservative.

In this current effort to test the validity of forecasted savings, we reviewed the services' most recent cost estimates, which were prepared under assumptions in the May 1979 Army/Navy joint memorandum of understanding to implement consolidation.[1] These estimates show total costs and related savings for fiscal years 1980–84 as follows:

[Unaudited—in millions]

Navy's estimated cost avoidance to give up UHPT	$266. 6
Army's estimated incremental cost to train Navy's requirements	203. 3
Savings	63. 3

We found that increases were necessary in both estimates. The required increase in the Army's incremental cost estimate is about $17 million, of which $12 million is due to changing its fiscal year 1979 dollar base to a fiscal year 1980 dollar base. The increase to the Navy's cost avoidance estimate cannot be accurately determined at this time on the basis of data provided by the Navy. Officials from the Department of the Navy agree that its estimate needs revision and are preparing a revised estimate. Nonetheless, the overall Navy adjustments needed should exceed the $17 million adjustment made to the Army's estimate. Thus, the amount of savings should exceed the $63.3 million shown above.[2]

Other considerations that could affect savings:

During the debate over savings from consolidation, questions have arisen about the impact of certain other factors on forecasted savings. We assessed the impact of some of the more important of these on forecasted savings, and our conclusions are as follows:

FUEL CONSUMPTION AND PRICES

Consolidating UHPT would cause an increase in fuel use but only by about 3 million gallons over the 5-year period from fiscal years 1980 through 1984. Increased fuel consumption under a consolidated program is primarily due to additional flying time for Navy's students in advanced rotary-wing aircraft. They are expected to get about 145 syllabus hours instead of some 65 hours they now receive. DOD officials believe the additional hours will greatly enhance the effectiveness of training in rotary-wing flight skills and thus prove cost effective.

In June 1979 hearings before the Senate Subcommittee on Manpower and Personnel, Committee on Armed Services, the Chairman questioned the validity of fuel price figures used in the services' cost estimates. The DOD-approved prices for costing purposes, as used in the estimates, are about $0.45/gallon for jet propulsion fuel and about $0.63/gallon for aviation gas. The rate of fuel price increases over the next 5 years is of course open to speculation. However, a doubling or tripling of the above prices at the beginning of fiscal year 1980 would decrease savings by $0.2 million or $0.4 million, respectively, during the 5-year period. (See enc. I for further details on fuel use and costs.)

Neither the increased fuel use nor the effects of future fuel price increases should materially affect the overall estimated savings from consolidating UHPT. Moreover, the Secretary's proposal does not consider alternatives that could conserve DOD's use of fuel, alternatives which deserve attention regardless of UHPT consolidation. These include, for example, reducing actual flight time through more simulated training exercises; increasing flight time in more fuel-cost-effective aircraft, with a proportionate reduction in the less fuel-cost-effective aircraft, and/or cutting back on mission-specific follow-on training.

RETIREMENT COSTS AND VETERANS' BENEFITS

UHPT consolidation will also allow DOD to reduce both military and civilian manpower. Forecasted savings, therefore, will increase due to reduced retirement costs and veterans' benefits. We did not estimate the amount of savings based on the projected manpower reductions under the May 1979 implementation plan. In May 1977, however, GAO reported that the Secretary's proposal did not recognize these savings and estimated that the present value of the unfunded retirement costs for military spaces alone was $29 million over the 5-year period under analysis. Savings due to reduced future retirement costs and veterans' benefits are both legitimate and significant and should be included in total savings.

ADDITIONAL FACTORS

Two other factors will affect projected savings:

DOD, in realigning its activities, must help alleviate the economic and social impact of realignment on the affected region. In May 1977, DOD's Office of Economic Adjustment assessed the economic impact of realignment on the Pensacola area and concluded that the region had strong economic growth and adjustment potential. It estimated costs associated with the economic impact of consolidation at approximately ¢2.6 million. These costs will reduce forecasted savings.

DOD now has 36 rotary-wing TH-57 aircraft committed to primary helicopter pilot training for Navy students. A consolidated program will free these assets for sale or use elsewhere in the Government. Since they are unique to Navy's UHPT, DOD plans to sell the aircraft. Sale to the public will increase forecasted savings.

TRAINING WITHIN THE SERVICES' UNIQUE ENVIRONMENTS

The syllabus approved by the Secretary in June 1977 will provide Navy students with training for the Navy-unique environment. It consists of a common core of 145 flight hours and 40 hours of simulator time for all DOD students, plus an additional 50 hours of flight time and 10 hours of simulator time for Navy's students. This "unique" portion of the syllabus, taught by Navy instructors, is designed to provide students with the knowledge, skills, and techniques necessary to operate a helicopter in the Navy's environment. Navy officials, including those responsible for flight training, believe that this syllabus will produce quality pilots. For example, the Secretary of the Navy, testifying in June 1979 before the Senate Subcommittee on Manpower and Personnel, Committee on Armed Services, stated that a consolidated program would provide significantly more effective helicopter pilot training to Navy's students.

SURGE POTENTIAL OF THE ONE-SITE TRAINING PROGRAM

Fort Rucker, DOD's proposed site for consolidated training, appears adequate to accommodate anticipated pilot training loads over the next 5 years. Estimated annual output capacity at the site is, peacetime, between 2400 and 2600 pilots and, mobilization, about 4500 pilots. Projected service requirement for helicopter pilots in fiscal year 1984, including foreign students, is 2482. DOD's need for pilots, which is subject to review and amendment during annual planning, programing, and budgeting cycles, would be affected by an emergency situation such as war. Should such a situation arise and require more pilots over a sustained period than any one site can handle, expansion of some training functions to other locations would be necessary, as was the case during the Vietnam surge.

OTHER ISSUES

In reviewing Army's cost estimate we determined whether costs associated with other factors were included, as appropriate, to support consolidated training and found that:

Existing flying facilities will be used for consolidated training, so that no funds are required for opening additional facilities.

Additional helicopters required will not be procured but obtained through use of existing DOD assets. Army's cost estimate included $1.5 million for returning to flyable status 40 rotary-wing primary trainers in storage at the Military Aircraft Storage and Disposition Center, Davis-Monthan Air Force Base, Arizona. We visited Davis-Monthan; examined the aircraft and inventory records; and found, as the Army claimed, that the helicopters have not been cannibalized and can be brought back to a flyable status within the estimated cost range.

Existing facilities, both on and off base, appear capable of supporting projected increases in personnel; therefore, no new construction is planned. In April 1979, Navy officials examined facilities at Fort Rucker and

[1] The Secretary has not yet approved the plan; but the services have projected a significant increase in pilot needs, thus driving up projected cost estimates.

[2] As of the date of this report, the adjustments to the Navy's cost data had not been completed. We continue to believe that the net effect of the adjustments should result in net 5-year savings from UHPT consolidation of more than $63.3 million.

surrounding communities and concluded that housing and support facilities were adequate to handle additional requirements and would not degrade quality of life for Navy personnel. Army officials consider it unlikely that consolidation will displace a significant number of military personnel living on base.

CONCLUSIONS AND RECOMMENDATIONS

We believe that the Secretary of Defense's proposal to consolidate UHPT should result in significant savings. Based on the assumptions under the May 1979 Army/Navy joint memorandum of understanding to implement consolidation, the estimated savings should exceed $63.3 million over the next 5 years. The advantages and disadvantages of consolidation have been aired in studies, in audits, and in hearings before members of the Congress. We believe that the preponderance of the evidence favors consolidating UHPT.

Estimated savings depend upon assumptions used and timing of implementation and could vary. True economies cannot be precisely determined without actually operating a consolidated program. To verify the forecasted savings and to facilitate proper management of implementation, we recommend that the Secretary of Defense—

Establish a mechanism that accounts for the costs, tracks the milestones for implementation, and records the savings associated with consolidation; and

Report back to the Congress at appropriate intervals concerning the progress of implementation, related costs, and savings.

SCOPE OF REVIEW

To obtain the information, we reviewed Army and Navy cost estimates, as well as estimates of related savings from consolidation; and we analyzed documentation relating training within the services' unique environments. We also observed and inspected facilities and equipment the Army has identified for use in support of consolidated training. In addition, we discussed the issues with key officials from the Office of the Secretary of Defense, the Department of the Army, and the Department of the Navy.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

EXHIBIT 1

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., September 26, 1979.

Hon. HAROLD BROWN,
The Secretary of Defense.

DEAR MR. SECRETARY: As you know, the General Accounting Office has been asked to review your proposal to consolidate undergraduate helicopter pilot training at Fort Rucker, Alabama, and consideration of your proposal is still before Congress. We are enclosing a copy of our report to Senator Stewart on your proposal. This report contains recommendations to you on page 6, if consolidation occurs.

In addition to the recommendations, we believe several other matters deserve your more immediate attention:

On pages 2 and 3, we discuss savings possible if undergraduate helicopter pilot training (UHPT) is consolidated. However, Defense has not finalized its review of the services' cost estimates and related savings. Because this is important to congressional discussion on consolidation, we suggest that Defense, as expeditiously as possible, finalize, its review of the services' cost estimates and related savings.

On page 3, we discuss the impact of increased fuel consumption under consolidation. Fuel conservation is an important matter; and fuel-saving measures should be of concern to all the services, regardless of UHPT consolidation. We, therefore, suggest that Defense, in its continuing review of the UHPT, identify measures that could save fuel.

A matter not addressed in this report, but related to consolidation, is the Department of the Navy's shortfall in numbers of helicopter pilots it trained in recent years and its ability to meet its pilot needs in future years. Since fiscal year 1975, the Navy has trained 400 fewer helicopter pilots than programed because of a shortage of instructor pilots and aircraft. Defense should immediately assess whether the Navy, using its resources, can meet its pilot training needs in the near future. If not, Defense should inform the Congress of this fact so that it can be a part of the current discussion over consolidation.

If consolidation of undergraduate helicopter pilot training does not materialize, the Navy's ability to meet its pilot training loads (for both the Marine Corps and the Navy) becomes more important, especially in view of the Navy's proposed increases in pilot training loads over the next few years and the lead time needed by the Navy to obtain the aircraft and other capability (e.g., aircraft maintenance) to support an increased training load. Under these circumstances, Defense must seriously examine alternatives to reduce the potential shortfalls. One alternative could be to assign certain Marine Corps or Navy training loads to the Army, which appears to have the capacity, including the necessary aircraft to assume this additional load. This action could also make available resources to help the Navy reduce some of its fixed-wing training shortfalls which have existed during the same period.

Sincerely yours,

H. L. KRIEGER,
Director.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. STEWART. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, it is not often that the Pentagon comes to Congress and pleads to be allowed to save tax dollars. That is what is happening in this amendment. They want to save money. How often does the Pentagon do that? I cannot remember the last time they did—certainly not this year. In fact it is rare that any Government agency makes such a request. Therefore, in a time of budget austerity, when Congress is struggling to find areas to reduce Federal expenditures, we have a special obligation to pinpoint and put into effect the savings recommended by the executive department agencies.

The Secretary of Defense has written to Congress about one such situation—where $100 million in tax dollars could be saved or transferred to higher priority defense needs. The subject is undergraduate helicopter consolidation. The Secretary of Defense has told Congress:

It is clear to me that this proposed consolidation would provide a markedly more effective program than Navy and Marine Corps students now enjoy. The Department of Defense continues to estimate five year savings of some $100 million or more.

The Deputy Secretary of Defense, Graham Claytor, has told us specifically what the advantages of consolidation would be to the taxpayers and to our military effectiveness. Consolidation will:

Provide more total flying hours than the current Navy program;

Navy and Marine Corps students will get almost twice as many helicopter flying hours under consolidation as compared to before, 195 compared to 100; and

More sophisticated helicopter simulators at Fort Rucker will give better instrument training than the less capable cockpit procedure trainers used by the Navy.

What we have here, Mr. President, is a clear-cut issue. Do we want to provide better training, more capable pilots? Do we want to increase the military capability of this Nation? Do we want to be more efficient, more effective in our military programs? Do we want to increase preparedness and readiness? Do we want to field forces more prepared to do the job? If the answer is "Yes" to the above questions, and I certainly think it must be yes to those questions, then it automatically follows that helicopter consolidation should be supported.

Make no mistake about this, Mr. President, the twin elements of this vote are economy and national defense. A vote for helicopter consolidation is an economy vote which will result in increased defense preparedness. A vote against consolidation is a vote for bigger budgets, inflation, big spending, big government, inefficient Government programs, and a less effective military force.

If our helicopter pilots have to go off to some far place in the world on an emergency mission of mercy or rescue, then, Mr. President, I want to know that they received the best possible training in preparation for that mission. I want to know that this country did not turn its back on improving that training or look the other way when requests were made to upgrade facilities. Yet just this could happen if we do not consolidate training at Fort Rucker.

Listen to the Marines on this subject. Colonel Ledbetter of the U.S. Marine Corps testified before the Armed Services Committee recently. The colonel, who has commanded five different squadrons of aircraft including four helicopter squadrons, went down to Fort Rucker to investigate firsthand what the Army program was all about. He took with him four other Marine colonels who have long histories of association with aviation. They all came back agreeing that the Army program is superior to the Marine and Navy program. Here is what he said:

The over-water syllabus at Pensacola is less than two hours out of a 192 hour syllabus. The proposed 195 hour syllabus we would get at Fort Rucker with 50 hours of service peculiar training would give us more over-water training if we wanted it. . . . The 195 hour syllabus at Fort Rucker gives us far more tactical training, far more instrument training, far more night training. It is superior in every way.

Think of that Mr. President; the Marines concluded that the training at Fort Rucker was "superior in every way." And at the same time it will save $100 million over 5 years. What more can we ask for? A better program and a better price. This is what productivity and Government efficiency are all about.

Here is the final test of the worth of this issue. Colonel Ledbetter pointedly told the Armed Services Committee:

My only interest is getting the best trained helicopter pilots, because I am closer to leading them into combat than anyone in this room . . . and I want to go with the best trained man, and I can get him out of Fort Rucker now.

Are we going to give Colonel Ledbetter the best trained men for his next mis-

sion? Or will we settle for second best, for a less capable trained force, for fewer hours of training on less sophisticated equipment?

No one in the Chamber will be flying our pilots off into combat in the years ahead. But Marine commanders will be. And they have asked for the best. Consolidation will give them that additional advantage.

Do not vote for a second-rate military. Do not retard our military effectiveness. Do not say no to the requests for more capability. Do not vote to restrict the combat skills of our helicopter pilots.

Mr. President, I urge the Senate to vote for a stronger national defense at a lower price. I support the amendment by my good friends from Alabama, Senator STEWART and Senator HEFLIN.

Mr. STEWART. Mr. President, I have only one remaining thing to say before my colleague speaks the final time. I am aware of what his activities might be.

I understand from studying this issue, not only from the standpoint of my State but also from the standpoint of what it can do for our defense posture and what it can do for savings in the inflationary times that we are faced with here in this country today and the months ahead, what it will give us the capability to do in the defense area. I will not leave this issue and do not intend to fail to address myself to this issue in the future. I intend to seek other means or other possible methods of achieving the end that we are attempting to achieve with this amendment.

I do not draw on the considerable time in this body that would enable me to make that statement in perhaps the immediate future, but I do intend to study ways and means.

I understand that there are other necessities that will have to take place in order to make the training at Pensacola continue.

I feel very strongly about this issue. I fully intend to seek to address what I feel is a problem that we should address on the merits, and that is why I am standing here today on the merits of this amendment. I fully intend to continue to work toward this problem if not in this session, I say to the chairman and to my worthy colleagues from Florida, perhaps on down the road if I have that opportunity, and I am sure I will.

Mr. CHILES. Mr. President, as you might expect, I was prepared to make numerous remarks, and I think other people who were on this side of the issue, the position I was holding forth, and who would have been against the amendment, would have made some remarks, and in deference to colleagues who are trying to catch planes, I will just put my remarks in the RECORD at a later time and urge my colleagues to do the same.

Mr. STONE. Mr. President, I associate myself with the remarks of my senior colleague from Florida. In deference to the time constraints of our colleagues, I will put my remarks in the RECORD.

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment offered by my distinguished colleague from Alabama.

The Senator's proposal to consolidate the undergraduate helicopter pilot training program at Fort Rucker, Ala., was originally forecast this year by the Department of Defense to save approximately $100 million over the next 5 years. As a man who spent 16 years in private industry, I am well aware that cutting waste and holding down costs is essential. I believe that American people expect and should receive the most cost-effective handling of their tax dollars, especially in the area of national defense.

However, I question the Defense Department's allegation that they can save $100 million over 5 years without the closure of a single base. I also have some reservations about the General Accounting Office study which indicates an apparent savings of $63.3 million. This analysis contains a variety of errors which significantly inflated the purported savings:

For example, the report lists a cost to the Navy of $10.9 million for foreign student training. Since this amount is reimbursable under law by foreign governments, it should not be charged against the Navy. The GAO report also charges five T-34C's to the Navy for the purpose of training these same foreign students. This is also reimbursable.

As I am sure many of you know, the Army uses civilian contract labor for the maintenance of its aircraft. The Navy has used its own military personnel. Civilian contract maintenance is cheaper in the short run because the Army does not have to bear the costs of the families of the military labor as does the Navy. The GAO reports charges the Navy with $11 million in maintenance costs for the H-1 and H-57 helicopters, and says that consolidation would bring $1 million in savings. However, since the Secretary of Defense has instructed the Navy to make the transition to contract maintenance if it retains the helicopter training program, the $1 million savings exists if training is consolidated or not. The GAO is, in effect, costing the past instead of the future.

The GAO reports that if the Navy continues to train its pilots at Whiting Field in Florida, it would have to replace some of its old fixed-wing aircraft at a cost of $63 million. The generally accepted procedure for costing capital investments such as this aircraft purchase is to amortize over a period of 15 years. The GAO charges the procurement of this aircraft over a 5-year period, which is an unfair and unusual apportionment for a capital asset of $63 million.

After we have subtracted out the false savings from consolidation that the GAO has reported, the actual savings amounts to $20.8 million over 5 years.

Mr. President, it is obvious that the analysis conducted by the General Accounting Office is inadequate. The GAO does realize the problems with its initial report, and is currently taking another look at the consolidation issue. The House soundly rejected consolidation by a margin of 2 to 1, reversing their 3-year position. Likewise, I feel that it is inappropriate for this body to make a decision to consolidate undergraduate helicopter training based on inaccurate information, and I urge my colleagues to defeat the amendment.

CONSOLIDATION OF NAVY UNDERGRADUATE HELICOPTER TRAINING

● Mr. DOLE. Mr. President, for several years the Department of Defense has proposed consolidating the Navy's undergraduate helicopter pilot training program with the Army program conducted for Army and Air Force undergraduate helicopter students at Fort Rucker, Ala. In each of these years, the uniformed officers of the Navy with responsibility for such training have opposed such a consolidation. The Congress, principally out of concern that the unique requirements of the Navy helicopter pilots will not be adequately met by the consolidated training program, has rejected this consolidation of undergraduate helicopter pilot training.

Annually the Department of Defense presses for consolidation with the promise of large savings. The Navy has, in past years, contended that the savings were illusory and were generated through comparison of cost computed under incompatible Army and Navy accounting systems. For years the Navy reclamas had fallen on "deaf ears" at the Department of Defense. The Navy costs to continue this training had been audited, including every possible factor (for example, cost of new helicopters); the Army audits had been superficial at best.

Annually the Congress has analyzed this transfer and has rejected it as detrimental to the armed services. In addition to restrictions on transfer of flight training functions contained in the Defense Reorganization Act, the joint House/Senate conference report on the fiscal year 1976 appropriations bill stated:

> The conferees are in agreement that the Department of Defense should not initiate any action to proceed with consolidation of the services' pilot training programs without approval of the appropriations committees of Congress.

In 1978 the House Appropriations Committee again rejected the DOD proposal and restored UHPT to the Navy. Only during an evasive floor move was the provision deleted from the House version of the appropriations bill. The Senate, however, felt strongly enough about the issue to insist in conference that this training remain with the Navy.

DOD IGNORES CONGRESSIONAL DIRECTION

Mr. President, once again, the Department of Defense has come back in fiscal year 1980, ignoring congressional direction, and recommended deletion of all funds, personnel, and aircraft from the Navy budget. Again, the Navy has been ordered to consolidate under the Army's program. These actions have so seriously disrupted Navy pilot training that the Navy will be unable to meet minimum Navy needs for trained pilots next year—just as they were unable to meet minimum needs this year.

HOUSE ACTION IN FISCAL YEAR 1980

This year, an amendment to consolidate undergraduate helicopter pilot training as proposed by DOD was defeated on the House floor by a vote of 244 to 131. The House bill contains funds reversing the consolidation proposal assumed in the budget request. The committee has concurred with all the House adjustments, rejecting the consolidation proposal, and has included the general provision in the House bill which prohibits consolidation or realinement of advanced or undergraduate helicopter pilot training squadrons of the Navy. Mr. President, clearly, the House has once again firmly stated its position against consolidation.

In light of the House action this year, and in view of the Senate position rejecting consolidation in the past, the Senate Armed Services Committee has stated that further consideration of this issue is unwarranted. The committee strongly believes that the Department of Defense and the Navy should now direct their efforts toward implementing the Navy's undergraduate helicopter pilot training program, including construction of the simulator building to house the aircraft simulator for which funds have already been appropriated.

THE NEED FOR STABILITY IN HELICOPTER TRAINING

Mr. President, it is abundantly clear that the Congress, over a period of several years, has made it very clear that consolidation of undergraduate helicopter pilot training is not in the best interest of our helicopter pilot training quality and effectiveness.

The Senator from Kansas believes this issue should be laid to rest once and for all. No system, no matter how well structured or managed, can withstand such fundamental disruptions without catastrophic results. Unless Congress reasserts its authority, Navy pilot training and the national defense will be impaired.

Mr. President, I urge the rejection of any amendment that would consolidate undergraduate helicopter pilot training.●

Mr. HEFLIN. Mr. President, in the last 4 or 5 days I have been doing a tremendous amount of talking with Senators. I doubt that my colleagues have had an individual from Alabama talk to them about an issue as much as has occurred during the last several days.

I might also say that my distinguished colleagues from Florida have been doing the same thing.

I have been in contact with Members of the House of Representatives, especially the Congressman where Fort Rucker is located.

I realize that for 3 years the House of Representatives by nearly a 2-to-1 vote carried the consolidated helicopter issue but unfortunately this year, because of certain factors unknown to me, the House of Representatives did not go along and voted otherwise.

I have also today been in contact with the Department of Defense and, have obtained the advice of senior Defense Department officials. There is one thing that I have learned to do since being in the Senate and that is to count noses.

Under the circumstances and under the advice of the DOD I think that I should state that we wish to delay this battle for another year and because of this I will reluctantly at this time withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment.

Mr. STENNIS. May I say this: I certainly appreciate the efforts and the work of the Senator from Alabama who has been diligent, unyielding, going the last mile, in performing that duty, and I thank the other Senators who have worked on this matter, too.

We have the Senator from Missouri who has an amendment here, and we think that is the only amendment pending.

The Senator from North Dakota and I will ask for a rollcall vote on passage of the bill, and I understand the Senator from Missouri wishes a rollcall vote on his amendment, is that correct, Senator?

Mr. EAGLETON. That is right, Senator STENNIS.

Mr. STENNIS. So there will be only two rollcall votes left, one on passage and one on Senator EAGLETON's amendment.

We expect to yield back some of our time anyway. We have no controlled time, yes.

UP AMENDMENT NO. 794

(Purpose: To delete funding earmarked for the Navy's ocean surveillance ship construction program)

Mr. EAGLETON. Mr. President, I send to the desk an unprinted amendment and request its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 794.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 21, line 16, and continuing to line 17, strike "for the T-AGOS SURTASS ship program, $104,000,000;".

Mr. EAGLETON. Mr. President, Senator JACKSON will be on the floor shortly to speak in opposition to this amendment, he has been notified that I am taking up the amendment and I will try to make my remarks reasonably brief.

Mr. President, I would like to ask my colleagues to imagine themselves in the hypothetical position of a man out to buy a new automobile. I would like them to further imagine an automobile dealer who comes up with the following proposition:

> "Now Senator," the salesman says, "I've got a plan that's going to save you some money. The Belchfire Motor Company, from whom I buy my cars, is developing a new car that will get 60 miles per gallon. We don't know if it's going to work yet, but if it does we may be able to deliver one to you by 1982. But in the meantime, Senator, I would like to sell you the four tires that will fit this new Belchfire, if we ever build it. You shouldn't pass them up, Senator, because they are good steel-belted radial tires, and if you buy them now you will save the cost of inflation in the price of these tires between now and 1982. Then, if we do sell you a car three years from now, you can slap these tires right on and drive away."

Mr. President, if that salesman offered his proposition to all 99 of my colleagues today, I am sure he would not sell a single tire. We would quickly see that there was no sense to the deal. And yet, incredibly, the Senate today is preparing to spend more than $100 million on a very similar deal in connection with a new Navy surveillance system.

The ocean surveillance ship program, as envisioned by the Navy, calls for construction of 12 ocean-going tugs. When the system becomes operational, each tug will pull a boom, trailing the Navy's new surveillance towed array system (SURTASS). The SURTASS, which now is under development, will detect submarines and other undersea activities in areas which present surveillance techniques cannot reach.

The Navy requested the first 3 ships of its planned 12-ship SURTASS program in fiscal year 1979 at a cost of $98 million. The Navy forecast that five more ships would be funded in fiscal year 1980, and the final four in fiscal year 1981. However, Congress reduced the fiscal year 1979 budget to $69 million, for two ships instead of three. While the House had voted to appropriate the $98 million authorized, the Senate Appropriations Committee argued that the buy should proceed at a slower pace until the Navy provided more justification for the total number of ships required.

In its report to Congress, the conferees also agreed that because of "continuing problems in the technical and operational evaluation of the mission electronics equipment for the SURTASS," the funds recommended for mission electronics for the two ships may not be obligated until the Navy has certified to Congress that a new technical and operational evaluation of the equipment has been successfully completed.

That certification has not been received. Nevertheless, the bill before us today contains funding for three additional ships. I am offering an amendment to delete the $104 million earmarked for these ships. I am doing so not because they are defective ships, nor because I am anti-SURTASS. Rather, I offer my amendment in recognition of the fact that as of now, SURTASS has some serious developmental problems. These problems may well be solved in the months and years ahead, but until they are it makes no sense to buy ships to tow SURTASS.

The Navy's current production plan for this program does not call for the construction of the ships included in this request until at least fiscal year 1981. With construction of the first two ships held up pending additional testing and construction of the second three not scheduled to commence prior to 1981, there is really no program to fund. Not surprisingly it is the Navy position that funding is necessary this year in order to keep program costs down. Their argument—like the argument of the auto salesman with the disembodied tires—is

that providing funding this fiscal year ultimately will save tax dollars by getting a jump on inflation. I challenge this position.

After studying the House report as well as the several GAO studies that are published relating to this matter, I conclude that significant questions still exist concerning the necessity of this program. Although I cannot get into specifics of program shortcomings because of their classified nature, the House action speaks for their magnitude.

Mr. President, I assert that there are no savings to accrue to anyone if this system ultimately fails to prove itself as expected. I support maintaining a strong military deterrent as a means of protecting our national interest, but in this era of fiscal austerity, I oppose, more than ever, gambling with tax dollars. The ocean surveillance ship program is a clear example of a developmental effort that has not proven itself worthy of production funding. I support continued funding for research and development of this system but I do not support immediate production funding as a hedge against inflation. Let me point out that we are not considering $30 billion for the MX program this year in hopes of saving the taxpayers a few dollars in the long-run.

If my amendment becomes law, it will not threaten the SURTASS program, nor will it slow the program down. At the very worst, we could find ourselves in possession of operational SURTASS electronics before we can build all 12 tugboats. However, since the Navy already has many other ships which could tow the SURTASS array, the electronics could be put into service before the tug fleet was finished. And at the very best, my amendment could save us from spending hundreds of millions of dollars on a fleet of tugboats we might not ever need.

Mr. President, one final remark: This item we are debating was stricken from the House appropriations bill. The House committee has never been considered to be anything less than hardnosed. There are, in fact, several hardnosed people who serve on the committee. This is one item they overwhelmingly agreed could well be deferred, and that the 100-odd million dollars in this year's bill could well be saved.

If the House Appropriations Committee, considering its hardnosed membership, came to the conclusion that these tugboats were not ready for production, I fail to see why the Senate should not be similarly hardnosed with respect to this matter.

I reserve the balance of my time.

Mr. STENNIS. Mr. President, I will direct the attention of the Senate to the facts on this matter. The Senator from Washington has followed this matter all the way through, and he is expected in the Chamber shortly and will want to address the Senate on it.

May I say to the Senator from Missouri that we contemplate that we can yield back some of our time.

Mr. EAGLETON. Yes.

Mr. STENNIS. Mr. President, perhaps we will not use any more time here than the Senator from Missouri has used already. I say that for the information of other Members.

The Senator from West Virginia may wish to use some time.

Mr. RANDOLPH. No.

Mr. STENNIS. Mr. President, this pertains to the detection of enemy submarines, which is a very important and urgent part of submarine warfare. It is a field where we have a superiority over the Russians in that our submarines are quieter; and, in addition, we are trying to develop these instruments so we will have another advantage in what I call detectability.

We know that in the last few years there has been a growth in importance of the knowledge we can have of deployments and general locations as to Soviet submarines. They are increasing in number. If we are going to effectively neutralize the threat this brings us, we have to move in this field.

There were five of these small ships in the budget for fiscal year 1980. The program was reduced some by the authorizing committees. We authorized three of those. I think it is true that when the House Appropriations Committee passed on this matter, the authorization bill had not been completed.

But, anyway, we approved the three and then brought them forward to the Appropriations Committee, which approved the three.

I have a letter here from the Chief of Naval Operations to the chairman of the Appropriations Committee, dated November 2, which emphasizes the importance of the ships and relates to the development here, time-wise, and urges the approval of these three ships that are in this bill.

The main thing is that it complements our existing facilities that the Navy has toward the detection of enemy submarines, and in that way completes a modern part of that detection system.

I see Senator from Washington (Mr. JACKSON) is here. The Senator from Missouri (Mr. EAGLETON) has made a presentation of his matter and I have stated several facts.

I would be glad to yield to the Senator from Washington, say, 10 minutes.

Mr. JACKSON. Five minutes.

Mr. STENNIS. Five minutes. All right.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from Mississippi.

These three ships that have been discussed here and the two ships authorized last year, Mr. President, are part of a long-term program to exploit advances in U.S. acoustic technology as part of this country's overall antisubmarine program.

These ships and the towed arrays they will carry—known as SURTASS, will make a dramatic contribution to our ability to keep track of enemy submarines in war and peace. Without getting into any classified information, let me make a few points about the T-AGOS/SURTASS system.

First, it has a range of detection and sensitivity unmatched by any other mobile ASW system in the free world.

Second, it will provide the United States with long-range surveillance capabilities in areas of the world far from our shores.

Third, SURTASS has been designed optimally for the submarine threat to the United States and its forces over the next decade or so.

And, fourth, T-AGOS/SURTASS will greatly enhance the ability of the United States to defend its naval forces, its vital sea lines of communication, and the critical resupply lines to our allies.

Earlier this year, Mr. President, both the Select Committee on Intelligence and the Armed Services Committee recommended that the procurement of the T-AGOS ships be delayed without prejudice because of then existing problems in the SURTASS electronics. Since that time the Navy has made tremendous strides in the development of this system. I am pleased to report that recently completed tests in three periods of rigorous sea trials have shown that the system now meets or exceeds all test criteria. These positive results demonstrate that the thorough program review conducted last year did, in fact, identify and correct those deficiencies discovered in earlier tests of the system.

There was never any problem with the T-AGOS ship design. The delay called for had to do only with the sophisticated electronics which are to be installed on these ships. The dramatic improvement in this program over the last year has caused the Select Committee on Intelligence and the Armed Services Committee to reexamine their earlier recommendations to delay procurement. Based on their reexaminations, both committees have reversed their earlier positions and now support procurement in fiscal year 1980 of three of these ships, together with a go-ahead for procurement of the two T-AGOS/SURTASS ships authorized in fiscal year 1979. Admiral Hayward, the Chief of Naval Operations, as the chairman of the committee, the distinguished Senator from Mississippi noted earlier, has reiterated that funds for these units will not be placed on contract until notice is given the Congress that the technical evaluation and operational evaluation of the full system have been successfully completed. These evaluations should be completed by next March to allow for contract award next summer. Contracting for a multiyear procurement, if these three ships are appropriated this year, will permit an efficient, cost-effective, procurement program which would most likely not be possible if the appropriation is delayed.

Mr. President, these ships and the surveillance system they will carry are necessary if the United States is to maintain its ASW advantage over the Soviet Union. They are necessary for the United States to be able to protect its interests in critical ocean areas such as the North Atlantic, the Caribbean, the Western Pacific, and the Indian Ocean/Persian Gulf. The sophisticated technology has demonstrated its effectiveness in rigorous tests monitored by both the Navy and the GAO.

Therefore, Mr. President, I strongly recommend that this amendment be rejected.

Finally, Mr. President, let me say that

the one area in which the United States has been able to maintain a very strong position vis-a-vis the Soviet Union has been in connection with our antisubmarine warfare capability. We need this capability in peacetime as well as in time of conflict. It is absolutely essential if the United States is to continue to have a credible strategic deterrent at sea and also to meet its tactical naval requirements, that we maintain our ability to keep track of enemy submarines.

Mr. President, there has been much in the paper lately about new developments on the part of the Soviets. They have a new submarine, from what we have read in the newspapers. It poses a real problem. Thus, antisubmarine warfare is an area, Mr. President, where we can ill afford to slip behind, and I strongly recommend that we proceed with the T-AGOS/SURTASS appropriation as approved by the committee. This step is in the highest interest of our national security.

Mr. MAGNUSON. Will the Senator yield?

Mr. JACKSON. I yield to my senior colleague.

Mr. MAGNUSON. Mr. President, I associate myself with the remarks of the distinguished junior Senator from Washington. It seems to me that in the antisubmarine warfare field this is an important group in our whole antisubmarine warfare projects. To delay this matter will just cost more. The delay is not on the ships, as the Senator pointed out, but on the equipment, which has now been cleared up by the military, and it has a high priority in the Department of the Navy.

Mr. STENNIS. Mr. President, the committee is behind these ships. They are small ships, costing only about $35 million apiece.

I will take a few more minutes, Mr. President.

One point that has not been brought out is that the ships will require 12 months longer to construct because of the electronics. Ship construction should start as soon as the testing provides assurance that the system will perform adequately. Of course, to do that, fiscal 1980 funds are needed. It will be determined later whether or not this program should go beyond these three ships.

The Senator from North Dakota has authorized me to speak for him to approve the ships. We are ready to yield back the time whenever the Senator is ready.

Mr. EAGLETON. Mr. President, I will take 1 minute and then we will be ready to vote. I always listen with deep interest when my colleagues speak, especially colleagues of such great knowledge as Senators MAGNUSON and JACKSON, as well as Chairman STENNIS.

Senator JACKSON interjected the Russian submarine threat. I can just picture the Russian defense planners sitting in the Kremlin tonight, Mr. President, quaking in their boots at the thought that we are about to build three tugboats that we may not need. That is what is at issue in this amendment, Mr. President, $104 million for three possibly needless tugboats that will probably be produced somewhere on the west coast of the United States. That is purely and simply what the amendment is about.

So the Kremlin boys are sitting over there tonight saying, "This is going to be a test of American strength. If the Senate of the United States decides to spend $104 million to produce three unneeded tugboats, we have lost the cold war. America has us."

Poppycock.

This is just another example of a military boondoggle. That is what it is. It is so odoriferous in its nonnecessity that the House Defense Appropriations Subcommittee wrote it right out of the bill. But now the Senate is going to enhance our tugboat fleet in the name of national defense to the tune of $104 million.

If it were not so much money, Mr. President, it would be amusing. This is a time of fiscal austerity. How many Members of this Senate run around, both on this floor and back in their home States, talking about fiscal austerity, tightening the belt, squeezing the excess out of the budget, doing away with things we do not need or can postpone? Here is $104 million of not only money we can postpone but money we should not have contemplated spending this year in the first place. I yield back the remainder of my time, Mr. President.

Mr. STENNIS. I yield back the remainder of my time, Mr. President.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Ohio (Mr. GLENN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from Florida (Mr. CHILES), the Senator from Georgia (Mr. NUNN), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. JEPSEN), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "nay."

The PRESIDING OFFICER (Mr. BOREN). Are there any Senators in the Chamber desiring to vote who have not yet voted?

The result was announced—yeas 11, nays 65, as follows:

[Rollcall Vote No. 400 Leg.]

YEAS—11

Bayh	Levin	Riegle
Eagleton	McGovern	Tsongas
Hatfield	Nelson	Weicker
Leahy	Proxmire	

NAYS—65

Bellmon	Gravel	Pell
Bentsen	Hart	Percy
Boren	Heflin	Pressler
Boschwitz	Heinz	Pryor
Bradley	Hollings	Randolph
Burdick	Huddleston	Roth
Byrd, Harry F., Jr.	Humphrey	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Chafee	Jackson	Schmitt
Church	Johnston	Schweiker
Cochran	Kassebaum	Simpson
Cohen	Lavalt	Stafford
Cranston	Long	Stennis
Culver	Lugar	Stevens
Danforth	Magnuson	Stewart
Dole	Mathias	Thurmond
Domenici	Matsunaga	Tower
Durenberger	McClure	Wallop
Eton	Melcher	Warner
Ford	Morgan	Williams
Garn	Moynihan	Young
	Muskie	Zorinsky

NOT VOTING—24

Armstrong	Durkin	Kennedy
Baker	Glenn	Metzenbaum
Baucus	Goldwater	Nunn
Biden	Hatch	Packwood
Bumpers	Hayakawa	Ribicoff
Cannon	Helms	Stevenson
Chiles	Javits	Stone
DeConcini	Jepsen	Talmadge

So Mr. EAGLETON'S amendment (UP No. 794) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I want to call to the attention of the Senate, an issue raised in the draft report of the Defense Subcommittee. Recently, the Army announced a change in its policy of relying on the private sector for the production of military items to the extent that such items were available at reasonable prices. Under their new policy, Government-owned contractor operated plants will compete for commercial work against private firms. GOCO plants which were constructed and equipped with Government funds and are able to exclude capital costs from the computation of competitive bids have an obviously unfair advantage over firms whose capital costs were financed through private sources rather than by the taxpayer.

I wish to state my concurrence with the Senators on the Appropriations Subcommittee on Defense who have asked the Army to defer this policy until Congress reviews this issue.

Mr. HOLLINGS. Mr. President, many of the ships in the Navy's oiler inventory have started to reach retirement age. The cost of rebuilding that inventory to (not to mention wartime) requirements continues to increase. As a result of these

realities, over the last several years the Navy has investigated several alternatives to the building of new oilers. (VLCC) (225,000 and 400,000 DWT) and tankers (40,000–50,000 DWT) have been investigated. These investigations have addressed both lease and purchase options for modifying and using these commercial platforms as station ships, shuttle ships and mobile POL depot ships.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from E. R. Zumwalt, Jr., with its attachment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL BUILDINGS,
Milwaukee, Wis., November 1, 1979.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: The October 29 issue of Time, page 30 (extract attached), describes accurately the situation which both you and I know exists with regard to the inadequate replacement of naval vessels.

I was particularly struck by the highlighting of the oiler shortage. In this regard, I am simply unable to understand why the Congress does not take the bit in its teeth and require by appropriate language, that one or more high speed super tankers be leased in order to demonstrate capability of the Merchant Marine to overcome the navy's oiler shortage.

All best wishes.

Sincerely,

E. R. ZUMWALT, Jr.

Attachment.

VERY LARGE CRUISE CARRIERS

NAVAL FORCES

In no area has the U.S.S.R. been catching up faster than at sea. Just two decades ago, the Red fleet was primarily a coastal defense force, rarely venturing far from its home shores. Today, its 1,769 vessels constitute a full-fledged blue-water navy. Meanwhile, the U.S. Navy has been steadily declining, from 955 ships two decades ago to 458 today. This is roughly half the number of ships the Navy had before the attack on Pearl Harbor in 1941. Complains a high Navy official: "We've been underinvesting for 15 years. Shipbuilding has been dismal." Because of its 13 mammoth aircraft carriers and the high technology crammed into its other surface ships and submarines, the U.S. Navy still commands the seas. For how long, is another matter. There are indications that the Soviets may be building their first large-deck aircraft carrier and are already well along with the construction of a 30,000-ton nuclear battle cruiser.

Just to keep the U.S. fleet at its present size would require construction of 17 new vessels annually. Yet the fiscal 1980 budget authorizes only 14 new ships. This includes a $2 billion aircraft carrier, six guided-missile frigates and two nuclear attack submarines. The admirals would like an extra $2 billion to $2.5 billion for shipbuilding in 1980. This would buy two more attack submarines, one more destroyer armed with the devastatingly accurate AEGIS guided-missile weapons system, a landing ship for the Marines and two oilers. The oiler shortage typifies the Navy's plight. While at least 21 oilers are needed to keep the fleet steaming, only 16 are available and ten of these were commissioned before the end of World War II. Mines are also scarce, and torpedo stockpiles are so low that there are not even enough to arm all U.S. attack subs for two patrols.

AMPHIBIOUS FORCES

Sending in the Marines has traditionally been one of the nation's most effective means of intervening in distant lands. There is concern now, however, over whether the Leathernecks could really reach the beaches. Declares Nunn: "If the U.S. Marines were called upon to undertake a major landing in the Persian Gulf or elsewhere in the Middle East, they would probably have to walk on water to get ashore." With only 63 amphibious ships, the Marines are suffering from a severe shortage of vessels for such operations and probably could not land more than one division at a time.

The fiscal 1980 budget earmarks $41 million for start-up costs for the first $300 million LSD-41, a 15,774-ton amphibious vessel that could carry about 340 Marines. But senior officers would like a commitment of $1.2 billion for four of the new LSDs. The Marines also want 336 British-designed, vertical-takeoff Harrier attack planes (cost: $5.7 billion), plus 33 heavylift and attack helicopters ($400 million for the first year's production). Bringing Marine Corps ammunition stockpiles up to a level that could sustain combat operations would cost an extra $1.5 billion; improving battlefield command systems would run $400 million.

So hard up for cash is the corps that it is reluctantly planning to shrink itself. Through attrition, it will drop to 179,000 by mid-1980, a reduction of 10,000. Says a senior Marine officer: "We are reducing manpower to pay our bills. There is no sense in having a force like the Marine Corps if it does not have the means to go to war."

RESUPPLY CAPABILITIES

According to General Jones, "In any large operation or full-blown conflict short of a nuclear exchange, lift becomes a very critical factor." He feels that the Pentagon's ability to resupply troops rapidly on the battlefield is "one of the areas in which we run into limitations early." Though the Air Force would have sufficient planes to rush troops overseas, including requisitioned commercial airliners, it would not have enough to take along their arms and equipment.

The Air Force wants more transport aircraft, but has not yet decided how many. Also needed are additional tankers for airborne refueling of transport and combat planes. In fiscal 1980 the Air Force will be buying four KC-10 tankers, a version of the McDonnell Douglas DC-10 jetliner, at a total cost of $200 million.

Mr. NELSON. Mr. President, H.R. 5359 appropriates $131.7 billion in total budget authority for the Department of Defense. In addition, the Congress will have to appropriate a supplementary $2.9 billion in the spring, to pay for the fiscal year 1980 pay raise for military and civilian personnel in the Defense Department. The total funds which we expect to appropriate for fiscal year 1980, then, total $134.6 billion in total budget authority.

These totals exceed those for fiscal year 1979 by $13.7 billion, an increase of 11.3 percent. Discounting inflation, total budget authority will increase by 3 percent, or $3.6 billion in real dollars.

Mr. President, in my judgment, a real increase of 1½ percent, or $1.8 billion, in the defense budget is appropriate as a necessary step forward in improving our conventional weapons strength. I therefore support a 1½ percent real growth in defense expenditures rather than a 3-percent increase. We should then decide next year on the percent increase that is indicated under the circumstances at that time.

In my judgment, the proposed $3.6 billion real dollar increase should be halved. There is wasteful and unnecessary spending in the defense budget that ought to be eliminated. For example, H.R. 5359 appropriates over $2 billion for yet another vulnerable large-deck aircraft carrier.

The Defense Department is the only Federal agency allowed any real growth in an otherwise austere fiscal year 1980 budget. At a time when inflation is our most critical national problem, and when every Federal dollar must be carefully accounted for, we in Congress must take a hard look at Pentagon spending and judge whether it is consistent with our national goals.

The Nation's long-term stability, productivity, and security would be better served by limiting the real dollar increase to $1.8 billion rather than $3.6 billion.

Because H.R. 5359 mandates a 3 percent real increase in the defense budget, I shall vote no.

KC-135 REENGINE PROGRAM

● Mr. DOLE. Mr. President, I was pleased to note that the Armed Services Committees of both the House and the Senate have recommended adding $15 million of the fiscal year 1980 budget in the procurement account for the KC-135 reengine program. I was particularly pleased to note that the Armed Services Committees and the Senate Appropriations Defense Subcommittee agreed that the technical risks were low and that reengining the KC-135 did not require more research and development, thus recommending full funding in the procurement account at the authorized level.

KC-135

Mr. President, the KC-135 first entered the Air Force inventory in 1957. By 1966, 820 units had been delivered. From 1957 to the late 1960's, it was assigned almost exclusively to strategic bomber support. However, as a result of changing defense requirements, its role has been broadened to include diverse support roles, such as reconnaissance, airlift, weather monitoring, tests, and command post operations. Today, approximately 700 aircraft are still in service throughout the world.

THE KC-135: CRITICAL TO OUR AIR DEFENSE

Mr. President, the KC-135 tanker aircraft originally was designed and built to enable the U.S. nuclear bomb force to strike important military targets located deep within the Soviet Union from stateside bases. The flexibility afforded other U.S. defense systems through air refueling resulted in an expansion of the tanker's role. For example, tactical fighter aircraft are tasked to support nonnuclear confrontations on a worldwide basis as dictated by U.S. foreign policy. In addition, extensive training is required to maintain our tactical forces in a high state of readiness.

The KC-135 tanker enables us to base and train the majority of those forces in the United States, thereby minimizing the impact upon our balance of payments while assuring rapid deployment in response to worldwide conventional war contingencies.

As another example, the KC-135 air refueling support enables cargo aircraft to provide logistics support for U.S. ground, naval, and air forces operating outside the continental United States. In addition, U.S. foreign policy and treaty agreements demand the support of our allies during their local, limited conventional confrontations. Because of air refueling, this support is not subject to arbitrary denial of enroute staging bases by foreign countries hostile to the United States and our allies. A side benefit of air refueling capability is the nonmilitary application of cargo aircraft in transporting relief units and materials in response to natural disasters.

Stateside basing of the strategic bomber force, a major portion of our tactical fighter force, and much of our airlift support aircraft lessens the cost of maintaining a posture of readiness. Having the capability to move tactical air forces in response to conventional war contingencies rather than attempting to cover all potentially volatile areas greatly reduces the number of weapons systems required. This reduction, in turn, cuts the amount of support equipment and personnel required to operate the systems. Fewer personnel drastically reduces the initial and recurring training costs. Fewer fuel-consuming aircraft and support vehicles also mean less fuel and lower operating costs.

REENGINING THE KC-135

Mr. President, during the two decades of operational service the KC-135 has remained basically in the same configuration as originally delivered. It has the originally installed J-57 engines which do not take advantage of modern engine technology. These older technology engines are costly to maintain. Their use provides marginal takeoff performance at heavy weight, restricts airfields available for use because of the long takeoff runway requirements, and results in inefficient fuel usage and noise which exceeds EPA noise standards. Let me stress, however, Mr. President, that the airframe has the capability, with normal structural maintenance, to remain viable for several more decades. Incorporation of modern engines will result in dollar savings in the form of less fuel consumed and decreased operation and maintenance costs. Furthermore, reengining can increase the KC-135 effectiveness, reduce noise levels and improve survivability and safety.

R. & D. VERSUS PROCUREMENT

Mr. President, as I noted previously, the House and Senate Armed Services Committees authorized funding for 1980 production based on the fact that reengining presents a low technical risk. Mr. President, I believe, as do the various congressional committees, that a continued lengthy R. & D. program for reengining of the KC-135 is unnecessary. I believe the time has come when we must move ahead on the production phase of the reengining program. In view of the overwhelming evidence that points to the need for a higher priority on the procurement phase, I urge the Secretary of Defense to act accordingly.●

The PRESIDING OFFICER. Are there further amendments to the bill?

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. STENNIS. Mr. President, I ask for the yeas and nays on final passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time? Is all time yielded back?

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Mississippi yield me 1 minute?

Mr. STENNIS. Of course.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair and I thank all Senators.

Mr. President, the conference report on the Interior appropriation bill has been adopted by the House, has been sent here, and we could take that up. I would like to dispose of it this evening. It has the money in it for the fuel assistance for the low income.

I would like to get it up and, if nobody will ask for a rollcall vote on it, we can take it up and voice vote it.

Nobody asks for a rollcall vote?

Mr. BENTSEN. Mr. President, I want to make some comments against it, but I will defer on the rollcall vote.

Mr. ROBERT C. BYRD. The Senator will not ask for a rollcall vote.

All right, this will then be the last rollcall vote.

I thank all Senators.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. STENNIS. We yield back our time.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Ohio (Mr. GLENN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG) the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. JEPSEN), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) and the Senator from Utah (Mr. HATCH) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 72, nays 3, as follows:

[Rollcall Vote No. 401 Leg.]

YEAS—72

Bayh	Hart	Pressler
Bellmon	Heflin	Pryor
Bentsen	Heinz	Randolph
Boren	Hollings	Riegle
Boschwitz	Huddleston	Roth
Bradley	Humphrey	Sarbanes
Burdick	Inouye	Sasser
Byrd, Harry F., Jr.	Jackson	Schmitt
Byrd, Robert C.	Johnston	Schweiker
Chafee	Kassebaum	Simpson
Church	Laxalt	Stafford
Cochran	Leahy	Stennis
Cohen	Levin	Stevens
Cranston	Long	Stewart
Culver	Lugar	Thurmond
Danforth	Magnuson	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	McClure	Warner
Eagleton	McGovern	Weicker
Exon	Meicher	Williams
Ford	Morgan	Young
Garn	Moynihan	Zorinsky
Gravel	Muskie	
	Percy	

NAYS—3

Hatfield	Nelson	Proxmire

NOT VOTING—25

Armstrong	Glenn	Nunn
Baker	Goldwater	Packwood
Baucus	Hatch	Pell
Biden	Hayakawa	Ribicoff
Bumpers	Helms	Stevenson
Cannon	Javits	Stone
Chiles	Jepsen	Talmadge
DeConcini	Kennedy	
Durkin	Metzenbaum	

So the bill (H.R. 5359) was passed.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I have a request regarding conferees.

Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. Boren) appointed Mr. STENNIS, Mr. MAGNUSON, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. BAYH, Mr. YOUNG, Mr. STEVENS, Mr. SCHWEIKER, Mr. BELLMON, Mr. WEICKER, and Mr. GARN conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I would like to extend the gratitude of the

Senate to the leadership and the members of the Appropriations Committee for the work they have done in presenting and managing this legislation.

This is probably one of the largest and most complex pieces of legislation we will consider this session. There are over 3,000 line items covered by this bill. Together, these items amount to what probably is the largest appropriation figure this Senate has ever approved.

But the subject of this bill is our security, and our security is not a matter on which we should rush consideration or cut corners.

The committee gave careful attention to selected key areas which most affect our defense preparedness. The development of the MX is funded. An increased personnel recruiting program is supported. New muscle is given to the Navy, and the conventional forces in all of the services are strengthened.

The committee also emphasizes that our defense system must be energy independent. The committee calls on the Department of Defense to convert the power producing facilities on our military bases to coal. And the committee urges the Department to pursue more aggressively a synfuels program for our military facilities.

As a nation, we must apply our defense funding selectively and carefully, focusing on those programs which meet real needs and which will counter the trend toward strategic imbalance. The committee has been faithful to this standard.

We also must have a modern defense structure that responds to the concerns of this Senate, as expressed in the authorizing legislation, and that fulfills our obligations to our allies. The committee has been faithful to these standards, for this bill increases our defense expenditures overall by the 3 percent real growth for fiscal year 1980.

And we must have a defense budget that is as lean as possible, that responds to the Nation's concern with inflation. The committee has been faithful to this standard as well.

On behalf of myself and the Senate, I wish to extend our gratitude to the chairman of the Defense Subcommittee, Senator STENNIS, and the ranking minority member of the committee, Senator YOUNG.

They have addressed the needs of the Nation in a full and decisive way.

Mr. STEVENS. Mr. President, as usual, Senators STENNIS and YOUNG have managed us through yet another Defense appropriations bill without major problems.

When one stops to consider the number of items in this bill, it becomes clear that the efficiency with which this legislation has passed the Senate is an honest reflection on the persuasive skills of the managers involved.

Let me also express sincere appreciation to the members on our side of the aisle for their assistance in assuring expeditious consideration of this Defense bill. Without a time agreement, we would have surely had to be in session tomorrow, Saturday.

I also want to personally thank the managers of the bill for their able support of my amendment relative to the MX missile basing mode.

It is my hope that this bill will move in us the positive direction necessary to insure the continued defense of our Nation and the free world.

Mr. ROBERT C. BYRD. Mr. President, I now yield to Mr. SARBANES.

JOE DANZANSKY

Mr. SARBANES. Mr. President, like many Marylanders and other citizens in the National Capital area whose lives were touched in innumerable ways by Joe Danzansky, I was shocked and deeply saddened to learn last night of his sudden death. Maryland could not count Joe Danzansky among its citizens, for he was born, raised, and lived his entire life in the city of Washington, but his devotion to his native city enriched not only the lives of his fellow Washingtonians but the life of the entire metropolitan area and the lives of all its citizens.

Joe Danzansky was a private citizen, a lawyer and a businessman, with an extraordinary commitment to the general welfare of the community in which he lived and which he loved. His genuine warmth in his relationship with each individual and his deep concern for the less fortunate were constantly reflected in his actions.

Joe Danzansky was a man whose public spirit, intelligence and integrity and, not incidentally, formidable energies led him to participate in nearly every aspect of the city's life. Neither his dedication nor his great good humor will soon be forgotten. His accomplishments in making Washington and the Nation a better place to live will remain his memorial.

Mr. President, I ask that the excellent Washington Post editorial commenting on Joe Danzansky's life and the article reviewing his extraordinary career be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOSEPH BAER DANZANSKY

The title was never official, but Joseph B. Danzansky was a Washington City Father if we've ever known one. Even in the last hours before his death yesterday at the age of 65, Mr. Danzansky was doing what he loved best—promoting his native city as if it were his firstborn. On this occasion it was as a leader in the development of Pennsylvania Avenue, at a meeting he began with his characteristic exuberance; but in the many days and years before this meeting, it was as a civic cheerleader and financial big-heart in every corner of the community.

New arrivals to this city may not realize the significance, years back, of Mr. Danzansky's all-embracing love for the city and its people. But it still holds special meaning for those whose lives were once made very uncomfortable—financially, racially, socially—in a segregated town. His tall frame and broad grin stood out at countless civic gatherings—from basements to board rooms, from sports events to—yes—civic disorders, leaning forward to understand and then to assist.

In business as in community service, Mr. Danzansky went to extra lengths to include all people. His extraordinary success as a businessman not only was good for the economic health of the city, but demonstrated the strength of a concerned partnership of local business interests and the people they serve. This philosophy, coupled with the worthy causes to which he gave time and money, was instrumental in breaking down racial barriers and introducing two "Washingtons" to each other. So it was that the Metropolitan Washington Board of Trade began to be transformed from a tight, white club of frightened businessmen headed for suburbia into a group starting to reach out and rebuild after the disorders of the 1960s.

Baseball. Banking. The United Way. Giant. WETA. The Jewish Community. Every District commissioner and the two elected mayors. The list of causes and activities and awards is vast. Working for Washington, committing himself to its prosperity, solidarity and general welfare—that was what Joe Danzansky was all about all the time. He can't be replaced.

JOSEPH B. DANZANSKY DIES AT AGE 65

(By J. Y. Smith)

Joseph B. Danzansky, a leading member of Washington's business establishment and a notably effective supporter of consumerism, civil rights and related causes in the city, died at his home here yesterday following an apparent heart attack. He was 65.

Although he had been hospitalized earlier this year for treatment of cancer, Mr. Danzansky remained active until the end of his life. He presided yesterday morning at a meeting of the Pennsylvania Avenue Development Corp., of which he was chairman, and later had lunch at a popular downtown restaurant.

Mr. Danzansky was a successful lawyer in Washington. One of his principal clients was Giant Food Inc., and he was elected to Giant's board in 1949. In 1964, he gave up his law practice to become president of Giant, which was all but immobilized at that time by disputes in the family that owned it. He remained president until 1977 and then served as chairman of the board. In 1978, he resigned to become chairman of the board of the National Bank of Washington, the third largest in the city.

While pursuing his career in business, Mr. Danzansky was coming to the fore as a civic leader and there were few aspects of life here that failed to gain his attention. He was chairman of the United Way Campaign. He was president of the Metropolitan Washington Board of Trade in 1971 and again in 1976—the only person ever to hold the post twice.

He tried to keep major league baseball in Washington and, after it was gone, he tried to bring it back. He served on various committees for the city government. He was a chairman of the Mayor's Economic Development Committee and thus played a role in efforts to revive the neighborhoods that were burned and pillaged in the rioting that followed the assassination of the Rev. Dr. Martin Luther King Jr. on April 4, 1968.

Mr. Danzansky's response to the riots was a message that he was to repeat on numerous occasions in the ensuing years. It was this: If the business community is to continue to prosper, it must meet the legitimate needs of all its customers, the poor as well as the rich.

He had an immediate occasion to put his formula to the test. For in the spring of 1968, the Poor People's Campaign descended on Washington and camped on the Mall. News of the event, which was organized by the Southern Christian Leadership Conference, Dr. King's group, caused considerable disquiet among Washington businessmen.

Mr. Danzansky addressed a meeting at the Board of Trade. With an unabashed patriotism that was characteristic of him, he told his listeners that the poor people had a right to petition their government and that the best thing that Washington could do was show that that right would be respected. He urged his listeners to contribute to the welfare of the protesters while they were encamped here.

As the president of Giant, he set an example by contributing large quantities of his company's food. Other businessmen did likewise.

D.C. Del. Walter E. Fauntroy one of the organizers of the Poor People's Campaign, recalls that Mr. Danzansky "not only stood by us in our effort to conduct a meaningful and nonviolent campaign, but also through his good offices assisted us tremendously in seeing to it that the persons who came were adequately fed . . . Joe never wavered in his commitment to the cause of the poor and his efforts to bring the whole episode to a peaceful conclusion."

Fauntroy said last night that Mr. Danzansky's performance in those days were testimony to his "faith, courage and compassion in the business community."

The Poor People's campaign was a turning point, Fauntroy said, toward improved relations between the Board of Trade and "the activist community." An official of the Board of Trade credited Mr. Danzansky with "shaping the social conscience of the private sector in Washington in the spring of 1968."

Among other causes, Mr. Danzansky espoused that of consumerism. In an address at the Smithsonian Institution in March 1975, he chided business for resisting consumer advocates.

He listed five responses businesses typically gave to consumerism, the first of which was to "deny everything." The fifth, he said, was a decision on the part of business managers to "do something about the problems.

"After repeated frustration, the awakening comes and business reappraises its entrenched viewpoint," he said. "It realizes that service to the consumer is its first obligation if it is to grow and prosper. It realizes that the best way to cope with the problems is to look at the allegations seriously, give responsible consumer spokesmen a fair hearing, and make a serious effort to do something constructive to correct any shortcomings."

In June 1977, he addressed a dinner which was sponsored by the Washington Urban League in honor of the memory of Whitney M. Young Jr. He called for "coalitions between the city and its suburbs, between blacks and whites, between business, consumers and labor, between labor and government and voluntary organizations."

The city, he said, had been shaken by the riots of 1968. "Our world is very different now," he said. "We are somewhat sadder, but hopefully somewhat wiser. An enormous unfinished agenda remains before us, even if we acknowledge the considerable distance we have already come."

On hearing of Mr. Danzansky's death, Mayor Marion Barry said the city had suffered a loss that "is well-nigh irreplaceable. Joe Danzansky has been involved in every facet of this city's life—economic, social, cultural, civic, and has been the driving force behind so many, many positive things that have happened in our city."

Esther Peterson, a former White House consumer aide who later worked for Giant, said, "I think of this man's incredible courage when consumerism was a dirty word. I think he changed a lot of American industry by his courage."

Robert R. Linowes, a former president of the Board of Trade, said Mr. Danzansky was "the kind of person who took great pride in the O Street Market situation. He had a great feeling for that kind of thing and was part of wanting to help and work in the city."

Last month, Giant opened a new market at 7th and P Streets NW., across from the old O Street Market in the heart of the Shaw neighborhood. It is one of the first major new businesses in the area, one of the hardest hit by the 1968 riots.

Joseph Baer Danzansky was born in Washington on May 16, 1914. He graduated from old Central High School and earned his undergraduate and law degrees at George Washington University. He was admitted to the bar in 1936. In 1941, he formed a partnership with Raymond R. Dickey. He remained a partner of Danzansky & Dickey until 1964, when he became president of Giant.

Mr. Danzansky was a member of the boards of the Hebrew Academy of Washington, the Hebrew Home of Greater Washington and the Adas Israel Congregation. He was a member of the executive committee of the United Jewish Appeal and an assistant treasurer of the Greater Washington Jewish Community Foundation. He also was a member of the National Press Club and Woodmont Country Club. He was a Mason and a member of the Almas Temple.

Survivors include his wife, the former Ethel E. Gelfand, of the home in Washington; two sons, Stephen I., of Washington, and Richard F., of Miami Beach, and four grandchildren.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield

Mr. EAGLETON. Mr. President, I wish to join in the sentiments of my colleague from Maryland with respect to the death of Mr. Danzansky. No finer gentleman ever lived on this earth than Joe Danzansky.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to Mr. MAGNUSON.

Mr. MAGNUSON. Mr. President, I join with the Senator from Maryland in his tribute to Joe Danzansky. He was my neighbor. We lived in the same apartment house for many, many years, and I am going to miss him terribly. He not only was a great civic servant but he was a great friend.

Mr. SARBANES. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. RANDOLPH.

VETERANS DAY 1979: AN HISTORICAL PERSPECTIVE—SENATOR CRANSTON AIDS VETERANS

Mr. RANDOLPH. Mr. President, on the occasion of this upcoming Veterans Day, it is most appropriate that we remember and honor those men and women who gave their lives and those who gave their time and energy in service to our Nation in the Armed Forces. Many have made enormous personal sacrifices and many have suffered injuries that will disable them for the rest of their lives. All these brave men and women deserve our utmost respect and admiration for their devotion to this country in its time of need.

This is also an excellent opportunity, Mr. President, to take note of the activities that have been carried out to defend and protect the rights and needs of those men and women we are honoring.

The many veterans' service organizations across the country, large and small, have been of tremendous assistance to veterans and their survivors. Through their national and local representatives, these fine organizations, representing millions of veterans, provide assistance each year in thousands of veterans' claims before the Veterans' Administration. These well-trained, diligent service officers provide information about benefits to which their veteran "clients" may be entitled, assist them in applying for those benefits, and provide expert representation before adjudication panels and boards. Thousands of other members of these organizations volunteer their time in VA hospitals, nursing homes, and clinics to provide a very personal kind of help to sick and injured veterans. The members, officers, and employees of these groups give generously of their time and energy to help all veterans in many other ways—far too numerous to mention but always as a reflection of deep, strong concern for those who served and sacrificed and their survivors. As we prepare to commemorate Veterans Day, let us remember the great debt of gratitude we in the Congress and in our Republic at large owe to our great veterans organizations.

The Senate Committees on Veterans' Affairs in the Senate and the House of Representatives have worked together closely over the years to assure that veterans and their dependents receive the benefits to which they are entitled, to make numerous improvements in existing programs, and to authorize new ones to meet the needs and concerns of those to whom our country owes such a special debt.

Mr. President, my good friend and able colleague, ALAN CRANSTON, has been a leader in these efforts since coming to the Senate in 1969. I recall that in January of that year he became the chairman of the then Labor and Public Welfare Committee's Subcommittee on Veterans' Affairs—a position which I had previously had the privilege of holding—as his first major responsibility in the Senate. And I remember most clearly when, at the beginning of the 92d Congress, in 1971, jurisdiction over veterans' affairs was assigned to a new full committee, and Senator CRANSTON and I were appointed as among its charter members. Alan immediately was designated as chairman of the Subcommittee on Health and Hospitals where I served with him for five years. He became chairman of the full Committee on Veterans' Affairs in 1977.

During this entire period, I have worked side-by-side with ALAN CRANSTON on every major initiative in the veterans' area. Chairman CRANSTON has either sponsored or performed a major role in developing and enacting every significant piece of veterans legislation since 1969. He has been the principal author of most of this legislation. He has been the initiator of every piece of legislation—and the programs and laws are numerous—enacted since 1969 to deal with the special problems faced by Vietnam-era veterans.

Mr. President, ALAN CRANSTON's record of serving our Nation's veterans of all wars and all periods of service speaks for itself.

However, Mr. President, some seem to feel that Congress has shirked its responsibility to provide adequate programs to meet the needs of our Vietnam-era veterans. I think it would be well, on this the eve of Veterans' Day, to examine Congress' record on this score. Thus, Mr. President, I bring to my colleagues' attention the following synopsis of veterans' initiatives which have been enacted under the leadership and

guidance of Senator ALAN CRANSTON since 1969 to help Vietnam-era veterans. Although much remains to be done—and we will and can do more—we should not lose sight of all that has been accomplished and how the programs that have been implemented are working.

Mr. President, I ask unanimous consent to print in the RECORD a synopsis of congressional initiatives taken under Senator CRANSTON's leadership during the last 10 years to provide needed services for Vietnam-era veterans.

There being no objection, the synopsis was ordered to be printed in the RECORD, as follows:

SYNOPSIS OF CONGRESSIONAL INITIATIVES UNDER SENATOR ALAN CRANSTON'S LEADERSHIP TO HELP VIETNAM-ERA VETERANS, 1969–79

THE 91ST CONGRESS (1969–1970)

Beginning in 1969, Senator Cranston chaired an extensive Congressional investigation into the adequacy of VA medical care for veterans wounded in Vietnam to explore the special problems confronting the VA in caring for veterans of the Vietnam conflict. These hearings led to dramatic improvements in VA hospital staffing, facilities, and services. Since 1970, six new VA hospitals have been built; the staff-patient ratio has been increased from 157 FTEEs to 100 patients in 1974 to more than 200 FTEEs to each 100 patients; the health-care staff has been increased by 50,000 since 1970; the number of outpatient clinics has been increased from 209 to 219 in the last 5 years; and special pay for physicians and dentists was authorized in 1975 to improve the retention and recruitment of these health-care professionals.

During the 91st Congress, Senator Cranston chaired a series of hearings on the unemployment and overall readjustment problems of returning Vietnam veterans leading to his introduction in 1971 of the first readjustment counseling legislation (S. 2091).

In 1970, Cranston authored the Veterans' Education and Training Amendments Act of 1970 (Public Law 91–219). This legislation included provisions to:

(1) Increase rates of GI Bill benefits by 34.6 percent. During the first year after this rate increase took effect, there was a 56-percent increase in GI Bill participation.

(2) Establish a program of "Special Assistance for the Educationally Disadvantaged" under which veterans without high school diplomas or in need of refresher or remedial courses could—without charge to entitlement—use GI Bill benefits for pursuit of appropriate programs of education. Since this program was established, more than 407,000 veterans have received benefits under it.

(3) Establish a program for tutorial assistance under the GI Bill. Almost 200,000 veterans have used tutorial assistance—receiving $17.7 million in benefits—through this program.

(4) Establish the "Predischarge Education Program" to provide an opportunity for service personnel to pursue high school, remedial, or refresher courses—without charge to entitlement—while on active duty. More than 304,000 Vietnam-era personnel participated in this program.

(5) Provide for a greatly expanded "Veterans Outreach Service Program" designed to search out recently discharged veterans, to advise them of benefits, and to assist them in obtaining them. Since enactment of this expanded authority, the VA has communicated with over 6.2 million Vietnam-era veterans shortly after release from service, established 72 "one-stop" USVAC centers to provide complete benefit information and assistance to veterans, conducted job interviewing classes for those needing guidance in order to obtain meaningful employment, and provided veterans in rural areas with service by use of mobile vans.

In 1970, Cranston supported an increase of rates of service-connected compensation (which raised the rate of compensation for "total disability" by 12.5 percent) (Public Law 91–376). Since that time, seven additional rate increases have been approved by Congress. As of September 1979, more than 537,000 Vietnam-era veterans were receiving VA compensation—6 percent of the total number of veterans of the era. Since 1969, the basic rate for a "total disability" has increased by 102 percent.

In 1970, Senator Cranston authored the Veterans' Housing Act of 1970 (Public Law 91–506) which provided for VA loan guaranties for veterans who wish to purchase mobile homes. From the inception of the mobile home loan program, the VA has guaranteed 33,684 loans. It is estimated that over 60 percent of these loans—totalling almost $396 million—were made to Vietnam-era veterans.

92ND CONGRESS (1971–1972)

On June 17, 1971, Senator Cranston introduced S. 2091, the proposed "Veterans' Employment and Readjustment Act of 1971". This measure included provisions for an employment preference for disabled and Vietnam-era veterans under Federal contracts, an affirmative action program within the Federal government for employment of disabled and Vietnam-era veterans, improved job counseling and placement initiatives under chapter 41 of title 38, a job training program allowance disregard provisions, and a program of readjustment medical counseling for veterans of the Vietnam era. Although no action was taken on S. 2091, provisions derived from the measure were incorporated into other legislation and were subsequently enacted into law in the Vietnam Era Veterans' Readjustment Assistance Act of 1972, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and the Veterans' Health Care Amendments of 1979 (Public Laws 92–540, 93–508, and 96–22, respectively).

In 1971, Cranston helped develop provisions in the Emergency Employment Act of 1971 (Public Law 92–54) to require that veterans who served in the Indochina area be given special consideration in filling Public Employment Program (PEP) jobs. Under this authority, these veterans constituted 13 percent of all participants.

In 1972, Cranston authored the Veterans' Cost-of-Instruction (VCI) Program Legislation as part of the Education Act Amendments of 1972 (Public Law 92–318). This authority was designed to provide incentives and supporting funds for colleges and universities to recruit veterans and to establish special programs and services necessary to assist GI Bill veteran-students in readjusting to an academic environment and to reach out to surrounding communities to get more veterans back to school under the GI Bill, with special emphasis on educationally disadvantaged veterans. To date, more than $170 million has been appropriated under this authority and 1,237 institutions have received VCI awards.

Cranston cosponsored legislation, the Veterans' Compensation and Relief Act of 1972 (Public Law 92–328), which included provisions to provide an annual clothing allowance for service-connected disabled veterans whose prosthetic devices or wheelchairs tend to tear or wear out their clothing. Since Vietnam-era veterans suffered the loss of lower extremities at a rate of 300 percent higher than World War II veterans, this is a valuable means of assistance to these veterans.

In the same year, Cranston introduced S. 2106, the proposed "Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1972." This measure was designed to provide for a fully-funded, comprehensive drug and alcohol treatment and rehabilitation program for addicted veterans, including a wide range of vocational and educational counseling and rehabilitation services and job placement assistance for addicted veterans. It also provided authority for the VA to furnish counseling to any Vietnam-era veteran who requested such counseling so as to assist such veteran to readjust to civilian life after discharge from the armed services and required the Administrator of Veterans' Affairs and the Secretary of Defense to take appropriate action to advise all eligible veterans of this program. This measure was passed by the Senate but was not acted upon by the House.

In 1972, Cranston joined with Senator Hartke to author the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (Public Law 92–540). This legislation included provisions to:

(1) Increase GI Bill benefits by 25.7 percent and increase assistance rates for VA apprenticeship and OJT programs by 48 percent. During the first year after this rate increase took effect, there was a 25-percent increase in the GI Bill participation rate.

(2) Provide for advance payment of GI Bill benefits at the start of a school term (Cranston authored).

(3) Establish the VA work-study program for veterans attending school under the GI Bill (Cranston authored). An average of 50,000 GI Bill students have benefited annually from participation in this program receiving about $20 million each year in assistance.

(4) Set up the VA Education Loan Program as a means of supplementary assistance. Since its inception, 65,761 loans have been made under this authority, totalling $63.9 million.

(5) Revise chapter 451 of title 38 setting forth the basic veterans employment responsibilities of the Department of Labor as administered by the Veterans Employment Service, stressing the needs of recently separated veterans.

(6) Add a new chapter 42 to title 38 to require Federal contractors to give emphasis to employment of Vietnam-era and disabled veterans and provide for mandatory listing of job openings with local employment service offices and priority in referrals to disabled and Vietnam-era veterans. This requirement has led to the employment of more than 540,000 disabled and Vietnam-era veterans.

93RD CONGRESS (1973–1974)

In 1973, Cranston introduced again his drug and alcohol bill, S. 284, the proposed "Veterans' Drug and Alcohol Treatment and Rehabilitation Act of 1973". This measure was very similar to S. 2106 in the 92nd Congress; it was also passed by the Senate but was not acted upon by the House.

In 1973, Senator Cranston cosponsored S. Con. Res. 51, to express the gratitude of the Congress to the Vietnam veteran for his efforts to make it possible for our Nation to observe Veterans' Day, 1973, in peace, and to commend the Vietnam veteran for his valor, courage, loyalty, and devotion to duty as an American serviceman.

In 1973, Senator Cranston wrote provisions in the Comprehensive Employment and Training Act of 1973 (CETA) (Public Law 93–203), based on provisions he authored in the Emergency Employment Act of 1971, to require CETA prime sponsors to give special consideration to certain unemployed veterans in filling public service employment jobs. Almost 2 million Vietnam-era veterans have been served by CETA programs since 1973.

In 1974, Cranston cosponsored legislation ultimately enacted as Public Law 93–337 to extend the delimiting period under the current GI Bill from eight years to ten years. It is estimated that this extension has benefited 2 million veterans at a cost of about $3 billion.

In 1974, Cranston authored provisions in the Emergency Jobs and Unemployment Assistance Act of 1974 (Public Law 93–567) to provide for the conduct, by the Secretary of Labor, of a special outreach and public information program to promote maximum effort to produce job and job training opportunities for Vietnam-era veterans. The Department of Labor has expended a total of $62 million under this authority and has conducted a wide variety of initiatives, including the Disabled Veterans Outreach Project (DVOP), which has been responsible for placing more than 30,000 veterans in jobs; and contracts with the Blinded Veterans Association to provide outreach counseling and job placement for the visually impaired veteran, the Flower of the Dragon to design a guide for community-based organizations on how to apply and qualify for CETA funds, and the National Council of Churches to provide training and employment counseling for incarcerated veterans.

In 1974, Cranston coauthored with Senator Hartke the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (enacted as Public Law 93–508 over the veto of the President). This measure includes provisions to:

(1) Increase rates of GI Bill benefits by 25.7 percent. During the first year after this rate increase took effect, there was a 25-percent increase in GI Bill participation.

(2) Add an additional 9 months of GI Bill entitlement (restricted to undergraduate study) for a total of 45 months of maximum entitlement to be earned by a veteran (Cranston authored).

(3) Authorize refresher training under the GI Bill.

(4) Establish the Veteran Representative on Campus (Vet-Rep) Program. Under this program more than 1,327 Vet-Reps were assigned to 3,320 colleges across the Nation to assist veterans in obtaining GI Bill benefits (Cranston authored).

(5) Require the Secretary of Labor to establish definitive standards for determining compliance with the employment assistance programs mandated by chapter 41.

(6) Strengthen chapter 42 to require federal contractors to take affirmative action to employ Vietnam-era and disabled veterans (Cranston authored).

(7) Establish the authority for Veterans' Readjustment Appointments (VRA) under which certain disabled and Vietnam-era veterans could receive non-competitive appointments (up to a GS–5) in the Federal civil service. Since its inception, more than 125,000 veterans have been employed under VRA appointments throughout the Federal government (Cranston authored).

(8) Extend the protections of veterans' reemployment rights to persons who prior to military service had been employed by State or local governments and otherwise improve the veterans reemployment rights program.

In 1974, Cranston authored the Disabled Veterans' and Servicemen's Automobile and Adaptive Equipment Amendments of 1974 (Public Law 93–538) to liberalize eligibility requirements for Vietnam-era service-connected disabled veterans to receive automobile assistance grants, to increase the grant by 17.8 percent, to add the provision of adaptive equipment to this benefit as well as driver training in the use of the adaptive equipment, to require the promulgation of quality and safety standards for adaptive equipment, and specifically to authorize research relating to improvements in such adaptive equipment.

94TH CONGRESS (1975–1976)

In 1975, Cranston introduced the "Veterans' Cost-of-Instruction (VCI) Extension Act of 1975" (S. 2651) to extend for three years the authority for the VCI program, require increased emphasis on educationally disadvantaged veterans, and provide for offsetting the impact of the May 31, 1976, GI Bill delimiting date in the formula for determining which colleges were eligible for and the size of their grants. The provisions of S. 2651 were incorporated into S. 2657 which was enacted as Public Law 94–482 with this provision.

In 1976, Cranston cosponsored the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94–502). This legislation provided an 8.0-percent increase in GI Bill benefits and contained provisions to (1) repeal the restriction on graduate study during the last nine months of a veteran's entitlement (Cranston authored); (2) increase the maximum amount of a VA education loan; and (3) establish a Deputy Assistant Secretary of Labor for Veterans' Employment to be the principal advisor to the Secretary on veterans' employment issues.

In 1976, Senator Cranston authored S. 2908, the proposed "Veterans' Omnibus Health Care Act of 1976", which included as title II provisions relating to the provision of comprehensive treatment and rehabilitation program for veterans suffering from alcohol or drug addiction which were similar to the provisions of S. 2108 and S. 284. The bill also included authority to establish a new program to provide initial readjustment professional counseling for veterans discharged since the beginning of the Vietnam era. Although these provisions were approved by the Senate, the legislation as signed into law (Public Law 94–581) did not include these latter provisions.

In 1976, Cranston authored provisions in the Emergency Jobs Programs Extension Act of 1976 (Public Law 94–444) to require CETA prime sponsors to make arrangements for maximum use of VA/OJT and apprenticeship programs.

95TH CONGRESS (1977–78)

In 1977, Cranston authored the GI Bill Improvement Act of 1977 (Public Law 95–202). This measure included provisions to:

(1) Increase by 6.6 percent the rates of GI Bill benefits.

(2) Extend the delimiting period during which a veteran or eligible spouse may use GI Bill benefits when the veteran has a mental or physical disability which prevents initiating or completing a course of study. More than 2,700 veterans have received extensions of their delimiting periods as a result of this provision.

(3) Extend for two additional years the period of time a veteran is able to receive direct education loans when enrolled full time at the time the delimiting period expires. More than 1,400 veterans have received $1.5 million in assistance under this authority.

(4) Require more extensive VA educational and vocational counseling and outreach services.

(5) Provide for a Federal-State matching program of accelerated tuition assistance for veterans enrolled in high-cost institutions of higher learning. To date, Louisiana has enacted legislation to establish a mechanism for participating in this program.

(6) Require the VA to conduct a study into the extent to which Vietnam-era veterans use GI Bill entitlements, complete programs of education under the GI Bill, and achieve job satisfaction and readjustment.

In 1977, Cranston authored provisions in the Youth Employment and Demonstration Projects Act of 1977 (Public Law 95–93) to:

(1) Provide for increased participation in public service employment programs by disabled and Vietnam-era veterans under 35 years of age through the development by prime sponsors of local goals for such veterans.

(2) Provide for representation on local, State, and national employment planning councils by representatives of veterans organizations.

In 1977, Cranston coauthored with Senator Gary Hart an amendment, approved by the Senate, to the Public Works Employment Act to require special consideration for disabled veterans and Vietnam-era veterans in hiring to carry out public works projects. As enacted, Public Law 95–28 directs the Secretary of Commerce, in consultation with the Secretary of Labor, and consistent with existing collective bargaining agreements and practices, to promulgate regulations to assure special consideration to the employment of disabled veterans.

In 1977, Cranston authored an amendment to the Tax Reduction and Simplification Act of 1977 to include, as target categories in the new jobs tax credit, Vietnam-era and disabled veterans participating in VA vocational rehabilitation programs. This provision was passed by the Senate; however, as enacted Public Law 95–30 restricted credit only to disabled veterans.

In 1978, Senator Cranston authored an amendment to legislation enacted as Public Law 95–336 to provide that institutions participating in the VCI program do not lose eligibility as a result of declining veteran enrollments.

In 1978, Senator Cranston authored the Veterans' Housing Benefits Act of 1978 (Public Law 95–476). This legislation included provisions to:

(1) Increase from $25,000 to $30,000 the maximum amount of grants for specially adapted housing to assist severely disabled veterans. Because of the proportionately greater number of Vietnam-era veterans who have suffered the severe disability requirement for eligibility for specially adapted housing, this increase is particularly beneficial to veterans of that era.

(2) Extend entitlements to VA home, condominium, and mobile home loan guaranties and loans to additional Vietnam-era veterans by reducing from 181 days to 90 days the length-of-service requirement.

In 1978, Cranston authored the VA Programs Extension Act of 1978 (Public Law 95–520). This measure included provisions to:

(1) Extend for 3 years (until September 30, 1981) the VRA appointments authority and expand the VRA program by removing all limitations based on the date of the veteran's discharge, raising the maximum civil service service grade appointment from GS–5 to GS–7, and making any service-connected disabled veterans rated at 10% or more eligible for an appointment regardless of years of education completed.

(2) Give service-connected disabled veterans the right to file with the Veterans Employment Service in the Department of Labor a complaint that he or she has been discriminated against because of handicap by a Federal contractor.

In 1978, Cranston authored provisions relating to veterans employment in the Comprehensive Employment and Training Act Amendments of 1978 (Public Law 95–524) to:

(1) Require that, with respect to public service jobs, prime sponsors give special consideration to disabled and Vietnam-era veterans (with special emphasis on Vietnam theatre veterans) and provide special focus on developing jobs using skills acquired in military service.

(2) Require the Secretary to take appropriate steps to provide for increased participation of disabled and Vietnam-era veterans (with special emphasis on theatre veterans) in all CETA job and job training opportunities.

(3) Promote maximum arrangements by CETA prime sponsors for utilization of apprenticeship and other OJT opportunities available under the GI Bill.

(4) Require the Secretary of Labor to coordinate with the Administrator of Veterans' Affairs in carrying out all of the Department's responsibilities with respect to veterans under CETA.

(5) Add veterans' organization representatives as permanent members of local, State, and national planning councils. As of October 1, 1979, 365 prime sponsors had veterans representatives serving on their planning councils.

(6) Include as a special Federal responsibility of the Secretary the conduct of the veterans' outreach and public information program enacted by Public Law 94-567.

In 1978, Senator Cranston coauthored with Senators Nelson and Moynihan provisions in the Revenue Act of 1978 (Public Law 95-600) to authorize the Targeted Jobs Tax Credit program designed to promote increased employment of seven "target groups" including low-income Vietnam-era veterans under 35 years of age and disabled veterans participating in vocational rehabilitation programs. The program was implemented in May 1979, and, as of July 31, 1979, 3152 Vietnam-era veterans have been certified as eligible for the credit and 880 have been employed.

Throughout 1977 and 1978, Cranston led the fight in the Senate to retain veterans preference in civil service jobs. As part of the Civil Service Reform Act of 1978 (Public Law 95-454), he authored provisions to strengthen civil service job protections for service-connected disabled veterans and establish a new authority for excepted appointments for seriously service-connected-disabled veterans.

96TH CONGRESS (1979-1980)

In 1979, Senator Cranston authored S. 870, the proposed "GI Bill Amendments Act of 1979" which was reported by the Committee on September 7 and is pending on the Senate calendar. Provisions in this measure would, if enacted:

(1) Extend, effective January 1, 1980, until December 31, 1982, the period of time in which those Vietnam-era veterans whose delimiting periods have expired or will expire before 1983 may use GI Bill benefits for the pursuit of on-job or apprenticeship training or, in the case of those veterans who do not have a high school diploma, for the pursuit of secondary education or vocational objective courses.

(2) Provide that, solely for the purposes of determining eligibility for an extension of the delimiting period as a result of a disability, an alcohol or drug dependence or abuse disability from which the veteran has recovered shall not be considered to be the result of the veteran's willful misconduct.

In 1979, Cranston chaired hearings on the issues related to incarcerated veterans to explore the difficulties faced by imprisoned veterans in obtaining benefits to which they are entitled.

Cranston coauthored with Senator Hart S. 330, the proposed "Veterans' Administration Adjudication Procedure and Judicial Review Act", a measure that would amend title 38 to permit a veteran whose claim for VA benefits is denied by the agency to appeal such a decision to a federal court, a right that is precluded by present law. The legislation would also amend title 38 to permit a claimant before the VA to pay an attorney a reasonable fee for legal representation and would codify the procedures applicable in VA administrative proceedings adjudicating claims for benefits. This legislation, which was passed by the Senate on September 17, is widely supported by groups of Vietnam-era veterans on the ground that the statutory bar to judicial review of VA claims decisions, which dates from 1933, should be removed because it is an anachronistic, outdated discrimination against veterans.

Senator Cranston authored and led the fight for passage of the Veterans' Health Care Amendments of 1979, signed into law as Public Law 96-22 on June 13, 1979. This measure contains a number of important new VA health-care programs—several of which Senator Cranston has been advocating since 1971. Most directly targeted to Vietnam-era veterans is the readjustment counseling program, under which the VA is finally authorized to provide readjustment counseling for those Vietnam-era veterans who have not made a successful transition from their military service to civilian life. The agency is establishing 85 store-front facilities across the country, staffed by outreach teams that will go into the community to locate and assist Vietnam-era veterans. The emphasis of the program will be on peer counseling in a nonformal setting so as to encourage the participation of those veterans distrustful of normal VA and other governmental efforts. It is estimated that 1,970,000 Vietnam-era veterans will participate in this program in the first two years.

Three other improvements in VA's health-care programs enacted in Public Law 96-22 will also benefit Vietnam-era veterans: new authority for the VA to enter into contracts with half-way houses and other community facilities for the treatment of veterans suffering from alcohol and drug abuse dependencies; authority for the VA to provide preventive health care services for veterans with service-connected disabilities rated at 50 percent or greater and veterans receiving care for service-connected disabilities; and extension of dental care benefits to all veterans with 100-percent service-connected disabilities and to those who were prisoners of war for at least 6 months.

In 1979, Cranston authored legislation (H.R. 2282 as passed by the Senate) to provide for an 11.1-percent increase in rates of VA service-connected compensation. The House of Representatives had originally approved an 8.3-percent increase and has now passed a 9.9-percent increase.

During the First Session of the 96th Congress, Senator Cranston has sponsored two amendments to Senate-passed bills (H.R. 2282 and H.R. 3892) to direct the Secretary of Health, Education, and Welfare to conduct an epidemiological study to determine if there may be long-term health effects in humans from exposure to dioxin, the toxic substance found in Agent Orange. The amendment was deleted from H.R. 2282 by the House of Representatives on October 30, 1979, but is pending before the House in H.R. 3892, the proposed "Veterans' Administration Health Resources and Programs Extension Act of 1979".

Mr. MATSUNAGA. Mr. President, I wish to join the senior Senator from West Virginia. Mr. RANDOLPH, in commending the chairman of the Veterans' Affairs Committee, the distinguished senior Senator from California, Mr. CRANSTON, for the tremendous amount of work that the Veterans' Affairs Committee has accomplished in the short time that the senior Senator from California has been its chairman. He has taken aggressive leadership to institute new programs and to improve existing programs in behalf of veterans of all wars. I congratulate him for the manner in which he has handled the calendar of the committee. I am proud to serve as a member of the Veterans' Affairs Committee under his chairmanship.

Mr. CRANSTON. Mr. President, I thank the Senator from Hawaii very much for his very generous remarks and for his very fine work on the Veterans' Committee. He, too, is a very, very effective worker for the needs of veterans of all wars, and I thank him for his work on the committee, for the opportunity to work with him, and for what he does in his own right.

Mr. MATSUNAGA. I thank the chairman.

Mr. CRANSTON. Mr. President, I also thank the Senator from West Virginia (Mr. RANDOLPH) for his very fine statement about the work of the Senate Veterans' Affairs Committee, and I thank him for his very generous remarks about my own work in behalf of the veterans of our country.

I want to say that no one has been more for the veterans of our country than Senator RANDOLPH of West Virginia. He is a valued and effective member of the Veterans' Affairs Committee, and he himself has rendered great service over many, many years.

NAVAL PETROLEUM AND OIL SHALE RESERVES AUTHORIZATION ACT, 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HART, I submit a report of the committee of conference on H.R. 3354 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3354) to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 8, 1979.)

● Mr. HART. Mr. President, when the Congress passed the Department of Energy Organization Act, jurisdiction over the naval petroleum and oil shale reserves was transferred to the new Department of Energy. The legislation that created the Department of Energy required that there be annual authorization of the appropriations necessary to explore, develop, operate, and maintain these reserves. The conference report now before the Senate is that annual authorization bill which provides the necessary authority to operate the naval petroleum reserves for fiscal year 1980.

I would call my colleagues' attention to two points in this bill. First, the total authorization to operate and maintain the reserves during fiscal year 1980 is less than $100 million. Receipts from the sale of crude oil which will be produced by these reserves is expected to total nearly $1 billion for fiscal year 1980. Second, the only significant issue to be resolved by the conferees involved the continued management of the reserves by naval officers. The House bill included a requirement for 16 naval officers to be assigned to the reserves in fiscal year 1980. The Senate amendment deleted this requirement. The compromise agreed to by the conferees retains the requirement for naval officers to continue to be assigned to key management positions within the reserves and directs that the Director of the Office of Naval Petroleum and Oil Shale Reserves shall continue to be a Navy captain.

The conferees were in agreement that: First, Navy management in the past has been outstanding; second, that the naval petroleum reserves, originally set aside for national defense purposes, should continue to be managed with primary consideration to national defense needs; and third, that, therefore, continued Navy management is appropriate.

Mr. President, these naval petroleum reserves are the only Federal oilfields in existence. My colleagues might be interested in some very interesting testimony concerning the cost to produce crude oil from these reserves. Based on Department of Energy figures, if the total investment to date is divided by the total crude oil production to date, the cost per barrel of crude oil at the Elks Hill Reserve at the wellhead is about $3. That same oil is being sold competitively for an average of $17 per barrel. A comparable calculation for the Teapot Dome Reserve indicates a cost of about $8 per barrel for crude oil that is now being sold competitively at $22 per barrel.

Mr. President, I would urge my colleagues to support this conference report and would be pleased to respond to any questions.●

Mr. THURMOND. Mr. President, I rise in support of the conference report on the fiscal year 1980 Naval Petroleum Reserves Authorization Act.

The report provides for funding authority to operate the Nation's naval petroleum and oil shale reserves at a cost of less than $100 million annually. These reserves are expected to produce approximately $1 billion in receipts during fiscal year 1980.

Mr. President, the conference did not accept the Senate position that this authority be a continuing one. Based upon information available at the conference, it is my opinion the House position on this point was sound, and I am pleased the Senate receded.

Mr. President, I urge prompt and favorable action on this conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILITARY CONSTRUCTION AUTHORIZATION, 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 1319 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1319) to authorize certain construction at military installations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 8, 1979.)

● Mr. HART. Mr. President, the matter before the Senate is the conference report on S. 1319, the fiscal year 1980 military construction authorization bill.

The Department of Defense requested new authorization for military construction for fiscal year 1980 and supplemental authority for fiscal year 1979 in the total amount of $3,925,836,000. This request provided for the construction of new facilities for the Active and Reserve Military Forces and for the operation and maintenance of the military's inventory of family housing.

As passed by the Senate, S. 1319 provided for $3,730,556,000 in new authorization. The bill as amended by the House provided $3,843,449,000 for new construction. The conference committee agreed to new authority in the amount of $3,838,846,000, which is approximately $87 million less than the administration's request.

The bill that was finally agreed to adequately accommodates the highest priority construction needs of the military services. I invite my colleagues' attention to the printed conference report for details which I do not intend to get into, unless there are questions.

As has been our effort in recent years, we have continued to attempt through this bill to encourage energy conservation practices in the Defense Department. Last year this bill contained a provision requiring that 25 percent of all new facilities that were put under design were to include solar system analyses. Based on testimony, it appears that the Department of Defense will play a major role in accelerating the widespread use of solar systems. The fruits of this solar provision are expected in the fiscal year 1981 construction program, since projects that are now under design will be requested for construction in the fiscal year 1981 program. This year we have expanded that solar provision to require the Defense Department to look at the solar option on every project where there is the potential to save fossil fuel derived energy.

There is a second provision in this bill to which I would invite my colleagues' attention. I have reference to section 807 which permits military installations to use mass transit vehicles within the installation on a reimbursable basis. We envision that at many installations which are near major metropolitan areas, this provision will not only save energy, but it will significantly reduce air pollution.

Mr. President, as I said at the outset, this bill provides for the most serious capital needs of the military services. I urge support of the conference report and would be pleased to answer questions, if there are any.●

Mr. THURMOND. Mr. President, I rise in support of the military authorization bill conference report on S. 1319.

The conference has agreed to an authority for $3.8 billion in new construction for the 1980 fiscal year. This is slightly below the administration request, this difference mainly attributable to the Senate's insistence that our NATO allies share in more of the costs of joint facilities in Europe.

Mr. President, it should also be noted that the Senate increased the Reserve military construction allotment by $20 million, and this position was agreed to by the House.

Unfortunately the Reserve and Guard have a backlog of military construction projects totaling over $700 million. The Senate's action in addressing this issue should encourage the administration to propose more Guard and Reserve projects next year.

Mr. President, overall this conference report addresses our highest priority projects. I urge the Senate to approve this report promptly.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of myself I submit a report of the committee of conference on H.R. 4930, the Interior appropriations bill, and I ask for its immediate consideration, after which I ask that Mr. HUDDLESTON then be recognized.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 8, 1979.)

Mr. ROBERT C. BYRD. Mr. President, I would like to take a few moments to highlight a few of the many very important provisions contained in the conference report on the Interior appropriations bill, H.R. 4930. Agreement of the conferees was reached late yesterday. The House adopted the conference report earlier today by a vote of 271 to 46, and I want the Senate to adopt the conference report this afternoon and send it to the President this evening. As winter nears it is essential that the low-income assistance program contained in

this bill be implemented as soon as possible.

The conferees labored long and hard to forge a low-income energy assistance program which offers substantial help to Americans who are being forced to the wall by skyrocketing heating fuel costs. This $1.35 billion program is designed to reach recipients in time to help them meet the crunch of fuel bills this winter.

The report contains $150 million for distribution by the Community Services Administration for crisis intervention. This money is in addition to the $250 million already appropriated for this purpose under the continuing resolution. Pipelines are primed for this money and it can be distributed immediately.

The conference report contains $400 million for a special one-time payments to recipients of supplemental security income. This element of the legislation contained a time constraint since the administration had told the conferees that in order to get these checks out by the first week of January, we needed to provide them with distribution formula by November 9. So, thanks to the efforts of the conferees and staff, we have met this deadline.

Finally, the bill appropriates $800 for distribution to the States for payments to recipients of aid to families with dependent children or for block grants for plans which must be approved by HEW. An option is given to States to submit plans which have already been approved by the CSA. Over 49 States already had to have their plans approved by CSA under the crisis intervention program.

The legislative journey of this substantial program began with a $1.2 billion Javits amendment to the Interior appropriations bill. The House then passed and sent to the Senate an urgent supplemental appropriating $1.35 billion. It was the conviction of the Senate leadership and of the Senate conferees that, since the Interior appropriations bill was already in conference, it offered the most expeditious vehicle for rapid enactment of the program.

The Senate is moving ahead on other fronts on low-income energy assistance. The Labor and Human Resources Committee has a bill on the calendar, S. 1724, which would authorize $3 billion in fiscal year 1981 and $4 billion in fiscal year 1982. The Finance Committee, in a demonstration of the depth of the Senate's commitment to easing the sting of high fuel costs, has allocated half the revenues which would be raised by its version of the windfall profit tax to low- and moderate-income assistance. As reported by committee, $69 billion is set aside over the next 10 years for this critical need. The Interior appropriations conference report provides that funding for the low-income fuel assistance program come from the windfall profit revenue, when this measure is enacted.

Last night the Senate overwhelmingly approved legislation to accelerate development of our domestic energy resources. As a part of this package, the Senate endorsed a $20 billion program to get this county moving into the commercial production of synthetic fuels from coal.

As part of the Interior appropriation bill, the Senate previously voted to commit $20 billion to the production of alternative fuels by appropriating that sum to a special energy security reserve to be established in the Treasury. This measure, which I authored as an amendment to the Interior appropriations bill, will allow funds to be readily transferred to the Synthetic Fuels Corporation once that entity is established. Of the total. $2.2 billion will be available immediately for site feasibility studies of potential synthetic fuel plants and for purchase agreements and price supports for alternate fuel production. Once Congress has finally approved the authorization legislation, these funds will be available for the program of financial incentives which was incorporated into the energy production bill. This action represents a real commitment to achieving energy independence through use of our abundant and secure energy resources.

The administration responded to numerous requests to submit a budget amendment providing for the construction of two solvent refined coal plants. I am pleased to say that the conferees adopted the levels agreed to by the Senate for these projects—a total of $54 million for SRC II, and a total of $47 million for SRC I for operating and construction costs in fiscal year 1980.

The need for both solid and liquid substitutes for crude oil and refined products is great. The SRC processes will produce both. The liquid fuel (SRC II) can be used as boiler fuel, heating oil, and in modified form, as a substitute for gasoline. SRC I produces a solid fuel suitable for boiler fuel and heavy oil uses.

I am pleased that the conference report embodies the Senate language on this important matter.

Mr. President, these are some of the many important elements in the conference report. This is legislation which merits strong support and speedy action.

Mr. HUDDLESTON. Mr. President, first I want to thank the distinguished majority leader, the chairman of the subcommittee, who handled this legislation, for the tremendous job he did and the assistance he gave in shepherding this legislation through the subcommittee, the full committee, and the floor of the Senate and the conference committee. His leadership was vital to the success of this bill. Certainly the distinguished ranking member, the Senator from Alaska (Mr. STEVENS), also deserves commendation. Probably more than anybody in this body he knows about every detail of this particular legislation. His assistance was certainly invaluable in producing the product we have presented to the Senate at this time.

Mr. President, the conference agreement we bring to the floor today on the Interior and related agencies appropriations bill represents the culmination of months of hearings and markup sessions. The agreement itself consumed 4 days of long conference negotiations with the House managers. This year, as never before, the committee was confronted with difficult and complex issues, and these issues required intense negotiations to resolve. I believe this agreement is the best that could be achieved under these difficult circumstances.

Total funding in this final bill is a record $30.3 billion—nearly $18 billion over the fiscal 1979 level. Despite determined efforts of the committee and the conferees, the final total is nearly $273 million over the budget, and it is $733.2 million over the amount approved by the Senate. Because we have included multibillion dollar allowances for alternative fuels production and emergency fuel assistance, it is also more than $20 billion over the appropriation approved by the House when it passed the bill last July. It should be noted, however, that the Senate considered more than $21.6 billion in budget requests not considered by the House.

Mr. President, I ask unanimous consent that a comparative tabulation of the fiscal 1979 appropriations and the budget, House, Senate, and conference committee allowances for fiscal year 1980 be printed in the RECORD at this point.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—FISCAL YEAR 1980

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1979	Estimate, 1980	House bill	Senate bill
TITLE I—DEPARTMENT OF THE INTERIOR									
LAND AND WATER RESOURCES									
Bureau of Land Management									
Management of lands and resources	$342,756,000	$296,231,000	$295,361,000	$295,836,000	$301,896,000	−$40,860,000	+$5,665,000	+$6,535,000	+$6,060,000
Acquisition, construction, and maintenance	19,011,000	16,343,000	16,343,000	16,343,000	16,343,000	−2,668,000			
Payments in lieu of taxes	105,000,000	108,000,000	108,000,000	108,000,000	108,000,000	+3,000,000			

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1979	Estimate, 1980	House bill	Senate bill
Oregon and California grant lands (indefinite, appropriation of receipts)	$55,000,000	$55,000,000	$55,000,000	$55,000,000	$55,000,000				
Range improvements (indefinite, appropriation of receipts)	8,665,000	10,900,000	10,900,000	10,900,000	10,900,000	+$2,235,000			
Recreation development and operation of recreation facilities (indefinite, special fund)	300,000	300,000	300,000	300,000	300,000				
Service charges, deposits, and forfeitures (indefinite, special fund)	13,750,000	13,750,000	13,750,000	13,750,000	13,750,000				
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000	100,000	100,000				
Total, Bureau of Land Management	544,582,000	500,624,000	499,754,000	500,229,000	506,289,000	−38,293,000	+$5,665,000	+$6,535,000	+$6,060,000
Office of Water Research and Technology									
Salaries and expenses	28,357,000	30,739,000	30,977,000	30,522,000	30,781,000	+2,424,000	+42,000	−196,000	+259,000
Total, Land and Water Resources	572,939,000	531,363,000	530,731,000	530,751,000	537,070,000	−35,869,000	+5,707,000	+6,339,000	+6,319,000
FISH AND WILDLIFE AND PARKS									
Heritage Conservation and Recreation Service									
Salaries and expenses	15,174,000	14,954,000	15,656,000	15,289,000	15,351,000	+177,000	+397,000	−305,000	+62,000
Urban park and recreation fund	20,000,000	150,000,000	125,000,000	125,000,000	125,000,000	+105,000,000	−25,000,000		
Land and Water Conservation Fund (indefinite)	737,025,000	598,000,000	447,059,000	554,547,000	509,194,000	−227,831,000	−88,806,000	+62,135,000	−45,353,000
Pinelands National Reserve		12,000,000	12,000,000				−12,000,000	−12,000,000	
Historic preservation fund	60,000,000	45,000,000	50,000,000	67,500,000	55,000,000	−5,000,000	+10,000,000	+5,000,000	−12,500,000
Total, Heritage Conservation and Recreation Service	832,199,000	819,954,000	649,715,000	762,336,000	704,545,000	−127,654,000	−115,409,000	+54,830,000	−57,791,000
U.S. Fish and Wildlife Service									
Resource management	200,439,000	208,055,000	207,055,000	205,421,000	206,641,000	+6,202,000	−1,414,000	−414,000	+1,220,000
Construction and anadromous fish	97,856,000	47,574,000	56,327,000	56,945,000	58,757,000	−39,099,000	+11,183,000	+2,430,000	+1,812,000
Migratory bird conservation account (definite, repayable advance)	10,000,000	10,000,000	15,000,000	8,400,000	15,000,000	+5,000,000	+5,000,000		+6,600,000
Development and operation of recreation facilities (indefinite, special fund)	150,000	200,000	200,000	200,000	200,000	+50,000			
Total, U.S. Fish and Wildlife Service	308,445,000	265,829,000	278,582,000	270,966,000	280,598,000	−27,847,000	+14,769,000	+2,016,000	+9,632,000
National Park Service									
Operation of the national park service	387,806,000	394,177,000	383,512,000	380,244,000	382,775,000	−5,031,000	−11,402,000	−737,000	+2,531,000
Construction	118,488,000	87,718,000	97,144,000	119,938,000	112,154,000	−6,334,000	+24,436,000	+15,010,000	−7,784,000
Appropriation to liquidate contract authority					(15,500,000)	(+15,550,000)	(+15,500,000)	(+15,500,000)	(+15,500,000)
Rescission of an appropriation to liquidate contract authority				(−5,552,000)	(−5,552,000)	(−5,552,000)	(−5,552,000)	(−5,552,000)	
Planning, development, and operation of recreation facilities (indefinite, special fund)	15,478,000	28,465,000	15,781,000	16,217,000	16,217,000	+739,000	−12,248,000	+436,000	
John F. Kennedy Center for the Performing Arts	4,055,000	4,287,000	3,875,000	4,030,000	4,030,000	−25,000	−257,000	+155,000	
Total, National Park Service	525,827,000	514,647,000	500,312,000	520,429,000	515,176,000	−10,651,000	+529,000	+14,864,000	−5,253,000
Total, Fish and Wildlife and Parks	1,666,471,000	1,600,430,000	1,428,609,000	1,553,731,000	1,500,319,000	−166,152,000	−100,111,000	+71,710,000	−53,412,000
ENERGY AND MINERALS									
Geological Survey									
Surveys, investigations, and research	418,606,000	459,321,000	448,290,000	450,805,000	452,055,000	+33,449,000	−7,266,000	+3,765,000	+1,250,000
Exploration of national petroleum reserve in Alaska	231,048,000	4,427,000	145,927,000	175,627,000	175,627,000	−55,421,000	+171,200,000	+29,700,000	
Total, Geological Survey	649,654,000	463,748,000	594,217,000	626,432,000	627,682,000	−21,972,000	+163,934,000	+33,465,000	+1,250,000
Bureau of Mines									
Mines and minerals	148,507,000	135,194,000	134,883,000	131,603,000	132,753,000	−15,754,000	−2,441,000	−2,130,000	+1,150,000
Helium fund (permanent contract authority)		(47,500,000)					(−47,500,000)		
Total, Bureau of Mines	148,507,000	135,194,000	134,883,000	131,603,000	132,753,000	−15,754,000	−2,441,000	−2,130,000	+1,150,000

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—FISCAL YEAR 1980—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1979	Estimate, 1980	House bill	Senate bill
ENERGY AND MINERALS									
Geological Survey—Cont'd.									
Office of Surface Mining Reclamation and Enforcement									
Regulation and technology	$53,944,000	$81,320,000	$85,520,000	$82,625,000	$84,687,000	+$30,743,000	+$3,367,000	−$833,000	+$2,062,000
Abandoned mine reclamation fund (definite, trust fund)	61,451,000	113,916,000	111,416,000	94,916,000	94,916,000	+33,465,000	−19,000,000	−16,500,000	
Total, Office of Surface Mining Reclamation and Enforcement	115,395,000	195,236,000	196,936,000	177,541,000	179,603,000	+64,208,000	−15,633,000	−17,333,000	+2,062,000
Total, Energy and Minerals	913,556,000	794,178,000	926,036,000	935,576,000	940,038,000	+26,482,000	+145,860,000	+14,002,000	+4,462,000
INDIAN AFFAIRS									
Bureau of Indian Affairs									
Operation of Indian programs	792,052,000	792,020,000	792,753,000	770,835,000	789,051,000	−3,001,000	−2,969,000	−3,702,000	+18,216,000
Construction	126,554,000	67,721,000	83,395,000	66,874,000	89,374,000	−37,180,000	+21,653,000	+5,979,000	+22,500,000
Road construction	79,253,000	58,379,000	60,379,000	46,479,000	66,479,000	−12,774,000	+8,100,000	+6,100,000	+20,000,000
Alaska native fund	30,000,000	30,000,000	30,000,000	30,000,000	30,000,000				
Trust funds (definite)	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
Trust funds (indefinite)	23,000,000	23,000,000	23,000,000	23,000,000	23,000,000				
Eastern Indian land claims fund	3,500,000					−3,500,000			
Salt River Pima-Maricopa settlement			3,917,000	3,917,000	3,917,000	+3,917,000	+3,917,000		
Total, Bureau of Indian Affairs	1,057,359,000	974,120,000	996,444,000	944,105,000	1,004,821,000	−52,538,000	+30,701,000	+8,377,000	+60,716,000
TERRITORIAL AFFAIRS									
Office of Territorial Affairs									
Administration of territories	55,410,000	46,804,000	84,161,000	63,061,000	86,661,000	+31,251,000	+39,857,000	+2,500,000	+23,600,000
Trust Territory of the Pacific Islands	114,706,000	99,010,000	112,760,000	105,799,000	113,785,000	−921,000	+14,775,000	+1,025,000	+7,986,000
Micronesian claims fund, Trust Territory of the Pacific Islands	12,600,000					−12,600,000			
Total, Office of Territorial Affairs	182,716,000	145,814,000	196,921,000	168,860,000	200,446,000	+17,730,000	+54,632,000	+3,525,000	+31,586,000
SECRETARIAL OFFICES									
Office of the Solicitor									
Salaries and expenses	15,085,000	15,860,000	15,500,000	15,741,000	15,741,000	+656,000	−119,000	+241,000	
Office of the Secretary									
Departmental Management	43,100,000	48,761,000	45,760,000	45,144,000	49,344,000	+6,244,000	+583,000	+3,584,000	+4,200,000
Construction management			9,400,000					−9,400,000	
Salaries and expenses (special foreign currency program)	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Total, Office of the Secretary	44,100,000	49,761,000	56,160,000	46,144,000	50,344,000	+6,244,000	+583,000	−5,816,000	+4,200,000
Total, Secretarial Offices	59,185,000	65,621,000	71,660,000	61,885,000	66,085,000	+6,900,000	+464,000	−5,575,000	+4,200,000
Total, title I, new budget (obligational) authority, Department of the Interior	4,452,226,000	4,111,526,000	4,150,401,000	4,194,908,000	4,248,779,000	−204,447,000	+137,253,000	+98,378,000	+53,871,000
Consisting of:									
Appropriations	4,456,226,000	4,111,526,000	4,150,401,000	4,194,908,000	4,248,779,000	−203,447,000	+137,253,000	+98,378,000	53,871,000
Definite appropriations	3,598,758,000	3,381,811,000	3,584,311,000	3,520,894,000	3,620,118,000	+21,360,000	+238,307,000	+35,807,000	+99,224,000
Indefinite appropriations	853,468,000	729,715,000	566,090,000	674,014,000	628,661,000	−224,807,000	−101,054,000	+62,571,000	−45,353,000
Permanent contract authority									
Appropriation to liquidate contract authority					(15,500,000)	(+15,500,000)	(+15,500,000)	(+15,500,000)	(+15,500,000)
TITLE II—RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
Forest Service									
Forest resources management:									
Forest research	110,947,000	105,064,000	109,490,000	105,414,000	108,795,000	−2,152,000	+3,731,000	−695,000	+3,381,000
State and private forestry	80,611,000	37,938,000	65,964,000	73,518,000	72,879,000	−7,732,000	+34,941,000	+6,915,000	−639,000
National forest system	815,308,000	752,137,000	847,151,000	796,824,000	825,532,000	+10,224,000	+73,395,000	−21,619,000	+28,708,000
Total, Forest management, protection and utilization	1,006,866,000	895,139,000	1,022,605,000	975,756,000	1,007,206,000	+340,000	+112,067,000	−15,399,000	+31,450,000

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1979	Estimate, 1980	House bill	Senate bill
Construction and land acquisition	$430,010,000	$337,438,000	$425,823,000	$409,458,000	$423,412,000	−$6,598,000	+$85,974,000	−$2,411,000	+$13,954,000
Youth conservation corps	60,000,000		27,400,000	54,000,000	54,000,000	−6,000,000	+54,000,000	+26,600,000	
Forest roads	243,466,000					−243,466,000			
Forest roads and trails	231,392,000					−231,392,000			
Timber Salvage Sales	3,000,000					−3,000,000			
Acquisition of lands for national forests:									
Special acts (special fund, indefinite)	385,000	325,000	325,000	325,000	325,000	−60,000			
Acquisition of lands to complete land exchanges (special fund, indefinite)	239,000	155,000	155,000	155,000	155,000	−84,000			
Rangelands improvements (special fund, indefinite)	5,400,000	5,900,000	5,900,000	5,900,000	5,900,000	+500,000			
Assistance to States for tree improvement	1,522,000					−1,522,000			
Construction and operation of recreation facilities (indefinite, special fund)	3,459,000	3,850,000	3,850,000	3,850,000	3,850,000	+391,000			
Rights of way (indefinite)	100,000					−100,000			
Total, Forest Service	1,985,839,000	1,242,807,000	1,486,058,000	1,449,444,000	1,494,848,000	−490,991,000	+252,041,000	+8,790,000	+45,404,000
DEPARTMENT OF ENERGY									
Alternative fuels production		20,000,000,000	1,500,000,000	19,500,000,000	20,000,000,000	+20,000,000,000		+18,500,000,000	+500,000,000
By transfer				(1,500,000,000)					(−1,500,000,000)
Fossil energy research and development	659,112,000	714,092,000	699,377,000	798,302,000	746,627,000	+87,515,000	+32,535,000	+47,250,000	−51,675,000
Fossil energy construction	99,709,000	140,050,000	71,250,000	105,250,000	103,250,000	+3,541,000	−36,800,000	+32,000,000	−2,000,000
Energy production, demonstration, and distribution	171,763,000	146,299,000	125,971,000	106,971,000	111,221,000	−60,542,000	−35,078,000	−14,750,000	+4,250,000
Energy conservation	632,138,000	641,195,000	566,052,000	692,502,000	628,702,000	−3,436,000	−12,493,000	+62,650,000	−63,800,000
Reappropriation		200,000,000	197,500,000	120,000,000	158,750,000	+158,750,000	−41,250,000	−38,750,000	+38,750,000
Economic Regulatory Administration	99,233,000	183,263,000	125,697,000	154,264,000	152,879,000	+53,646,000	−30,384,000	+27,182,000	−1,385,000
Strategic petroleum reserve	3,007,071,000	8,391,000	8,391,000			−3,007,071,000	−8,391,000	−8,391,000	
Energy Information Administration	65,644,000	88,657,000	87,273,000	87,273,000	87,273,000	+21,629,000	−1,384,000		
Total, Department of Energy	4,734,670,000	22,121,947,000	3,381,511,000	21,564,562,000	21,988,702,000	+17,254,032,000	−133,245,000	+18,607,191,000	+424,140,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Health Services Administration									
Indian health services	482,193,000	535,116,000	541,449,000	536,580,000	538,874,000	+46,681,000	+3,758,000	−2,575,000	+2,294,000
Indian health facilities	76,960,000	50,240,000	74,302,000	26,062,000	74,302,000	−2,658,000	+24,062,000		+48,240,000
Total, Indian health	559,153,000	585,356,000	615,751,000	562,642,000	613,176,000	+44,023,000	+27,280,000	−2,575,000	+50,534,000
Office of Education									
Indian education	71,735,000	76,875,000	75,875,000	75,900,000	75,900,000	+4,165,000	−975,000	+25,000	
Office of the Assistant Secretary for Education									
Institute of Museum Services	7,852,000	10,900,000	10,900,000	10,900,000	10,900,000	+3,048,000			
Total, Department of Health, Education, and Welfare	648,740,000	673,131,000	702,526,000	649,442,000	699,976,000	+51,236,000	+26,845,000	−2,550,000	+50,534,000
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION									
Salaries and expenses	8,752,000	950,000	950,000	950,000	950,000	−7,802,000			
SMITHSONIAN INSTITUTION									
Salaries and expenses	98,202,000	104,740,000	103,498,000	102,710,000	103,781,000	+5,579,000	−959,000	+283,000	+1,071,000
Museum programs and related research (special foreign currency program)	3,700,000	7,700,000	3,700,000	4,700,000	4,200,000	+500,000	−3,500,000	+500,000	−500,000
Science Information Exchange	2,063,000					−2,063,000			
Construction and improvements, National Zoological Park	3,900,000	6,550,000	6,500,000	6,000,000	6,250,000	+2,350,000	−300,000	−250,000	+250,000
Restoration and renovation of buildings	2,100,000	4,900,000	5,250,000	5,150,000	5,250,000	+3,150,000	+350,000		+100,000
Construction	575,000	21,100,000	20,600,000	10,850,000	20,600,000	+20,025,000	−500,000		+9,750,000
Subtotal	110,540,000	144,990,000	139,548,000	129,410,000	140,081,000	−29,541,000	−4,909,000	+533,000	+10,671,000
Salaries and expenses:									
National Gallery of Art	19,041,000	22,577,000	22,311,000	21,978,000	22,241,000	+3,200,000	−336,000	−70,000	+263,000
Woodrow Wilson International Center for Scholars	1,588,000	1,648,000	1,611,000	2,611,000	1,611,000	+23,000	−37,000		−1,000,000
Total, Smithsonian Institution	131,169,000	169,215,000	163,470,000	153,999,000	163,933,000	+32,764,000	−5,282,000	+463,000	+9,934,000

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—FISCAL YEAR 1980—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1979	Estimate, 1980	House bill	Senate bill
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES									
National Endowment for the Arts									
Salaries and expenses	$102,310,000	$97,000,000	$97,000,000	$97,000,000	$97,000,000	−$5,310,000			
Administrative expenses	9,775,000	10,500,000	12,000,000	12,000,000	12,000,000	+2,225,000	+$1,500,000		
Subtotal	112,085,000	107,500,000	109,000,000	109,000,000	109,000,000	−3,085,000	+1,500,000		
Matching grants (indefinite)	37,500,000	46,900,000	45,400,000	45,400,000	45,400,000	+7,900,000	−1,500,000		
Total, National Endowment for the Arts	149,855,000	154,400,000	154,400,000	154,400,000	154,400,000	+4,815,000			
National Endowment for the Humanities									
Salaries and expenses	98,485,000	100,300,000	100,300,000	98,900,000	100,300,000	+1,815,000			+$1,400,000
Administrative expenses	10,246,000	10,800,000	11,400,000	10,500,000	11,400,000	+1,154,000	+600,000		+900,000
Subtotal	108,731,000	111,100,000	111,700,000	109,400,000	111,700,000	+2,969,000	+600,000		+2,300,000
Matching grants (indefinite)	36,500,000	39,000,000	38,400,000	38,400,000	38,400,000	+1,900,000	−600,000		
Total, National Endowment for the Humanities	145,231,000	150,100,000	150,100,000	147,800,000	150,100,000	+4,869,000			+2,300,000
Total, National Foundation on the Arts and the Humanities	294,816,000	304,500,000	304,500,000	302,200,000	304,500,000	+9,684,000			+2,300,000
COMMISSION OF FINE ARTS									
Salaries and expenses	263,000	271,000	268,000	268,000	268,000	+5,000	−3,000		
ADVISORY COUNCIL ON PRESERVATION									
Salaries and expenses	1,204,000	1,672,000	1,350,000	1,460,000	1,350,000	+146,000	−322,000		−110,000
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and expenses	2,019,000	2,193,000	1,975,000	1,975,000	1,975,000	−44,000	−218,000		
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and expenses	20,000	10,000	40,000	40,000	40,000	+20,000	+30,000		
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA									
Salaries and expenses	594,000					−594,000			
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and expenses	1,659,000	1,856,000	1,811,000	1,856,000	1,856,000	+197,000		+$45,000	
Land acquisition and development fund (borrowing authority)	33,000,000	17,000,000	17,000,000	17,000,000	17,000,000	−16,000,000			
Public development	30,255,000	20,110,000	20,110,000	20,110,000	20,110,000	−10,145,000			
Total, Pennsylvania Avenue Development Corporation	64,914,000	38,966,000	38,921,000	38,966,000	38,966,000	−25,948,000		+45,000	
FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE									
Permitting and enforcement		14,850,000		13,433,000	10,600,000	+10,600,000	−4,250,000	+10,600,000	−2,833,000
COMMUNITY SERVICES ADMINISTRATION									
Community services program		1,350,000,000		1,200,000,000	1,350,000,000	+1,350,000,000		+1,350,000,000	+150,000,000
Total, title II, new budget (obligational) authority, related agencies	7,873,000,000	25,920,512,000	6,081,569,000	25,376,739,000	26,056,108,000	+18,183,108,000	+135,596,000	+19,974,539,000	+679,369,000
Consisting of:									
Appropriations	7,840,000,000	25,703,512,000	5,867,069,000	25,239,739,000	25,880,358,000	+18,040,358,000	+176,846,000	+20,013,289,000	+640,619,000
Definite appropriations	7,756,417,000	25,607,382,000	5,773,039,000	25,145,709,000	25,786,328,000	+18,029,911,000	+178,946,000	+20,013,289,000	+640,619,000
Indefinite appropriations	83,583,000	96,130,000	94,030,000	94,030,000	94,030,000	+10,447,000	−2,100,000		
Reappropriation		200,000,000	197,500,000	120,000,000	158,750,000	+158,750,000	−41,250,000	−38,750,000	+38,750,000
Borrowing authority	33,000,000	17,000,000	17,000,000	17,000,000	17,000,000	−16,000,000			
By transfer				(1,500,000,000)					(−1,500,000,000)

	New budget authority					Conference compared with—			
	Enacted, 1979	Estimates, 1980	House, 1980	Senate, 1980	Conference, 1980	Enacted, 1979	Estimate, 1980	House bill	Senate bill
RECAPITULATION									
Total, new budget (obligational) authority, all titles	$12,325,226,000	$30,032,038,000	$10,231,970,000	$29,571,647,000	$30,304,887,000	+$17,979,661,000	+$272,849,000	+$20,072,917,000	+$733,240,000
Consisting of:									
Appropriations	12,292,226,000	29,815,038,000	10,017,470,000	29,434,647,000	30,129,137,000	+17,836,911,000	+314,099,000	+20,111,667,000	+694,490,000
Definite appropriations	(11,355,175,000)	(28,989,193,000)	(9,357,350,000)	(28,666,603,000)	(29,406,446,000)	(+18,051,271,000)	(+417,253,000)	(+20,049,096,000)	(+739,843,000)
Indefinite appropriations	(937,051,000)	(825,845,000)	(660,120,000)	(768,044,000)	(722,691,000)	(−214,360,000)	(−103,154,000)	(+62,571,000)	(−45,353,000)
Reappropriation		200,000,000	197,500,000	120,000,000	158,750,000	+158,750,000	−41,250,000	−38,750,000	+38,750,000
Borrowing authority	33,000,000	17,000,000	17,000,000	17,000,000	17,000,000	−16,000,000			
Permanent contract authority									
By transfer				(1,500,000,000)					(−1,500,000,000)
Appropriation to liquidate contract authority					(15,500,000)	(+15,500,000)	(+15,500,000)	(+15,500,000)	(+15,500,000)
TITLE I—DEPARTMENT OF THE INTERIOR									
Bureau of Land Management	544,582,000	500,624,000	499,754,000	500,229,000	506,289,000	−38,293,000	+5,665,000	+6,535,000	+6,060,000
Office of Water Research and Technology	28,357,000	30,739,000	30,977,000	30,522,000	30,781,000	+2,424,000	+42,000	−196,000	+259,000
Heritage Conservation and Recreation Service	832,199,000	819,954,000	649,715,000	762,336,000	704,545,000	−127,654,000	−115,409,000	+54,830,000	−57,791,000
United States Fish and Wildlife Service	308,445,000	265,829,000	278,582,000	270,966,000	280,598,000	−27,847,000	+14,769,000	+2,016,000	+9,632,000
National Park Service	525,827,000	514,647,000	500,312,000	520,429,000	515,176,000	−10,651,000	+529,000	+14,864,000	−5,253,000
Geological Survey	649,654,000	463,748,000	594,217,000	626,432,000	627,682,000	−21,972,000	+163,934,000	+33,465,000	+1,250,000
Bureau of Mines	148,507,000	135,194,000	134,883,000	131,603,000	132,753,000	−15,754,000	−2,441,000	−2,130,000	+1,150,000
Office of Surface Mining Reclamation and Enforcement	115,395,000	195,236,000	196,936,000	177,541,000	179,603,000	+64,208,000	−15,633,000	−17,333,000	+2,062,000
Bureau of Indian Affairs	1,057,359,000	974,120,000	996,444,000	944,105,000	1,004,821,000	−52,538,000	+30,701,000	+8,377,000	+60,716,000
Territorial Affairs	182,716,000	145,814,000	196,921,000	168,860,000	200,446,000	+17,730,000	+54,632,000	+3,525,000	+31,586,000
Office of the Solicitor	15,085,000	15,860,000	15,500,000	15,741,000	15,741,000	+656,000	−119,000	+241,000	
Office of the Secretary	44,100,000	49,761,000	56,160,000	46,144,000	50,344,000	+6,244,000	+583,000	−5,816,000	+4,200,000
Total, Title I—Department of the Interior	4,452,226,000	4,111,526,000	4,150,410,000	4,194,908,000	4,248,779,000	−203,447,000	+137,253,000	+98,378,000	+53,871,000
TITLE II—RELATED AGENCIES									
Forest Service	1,985,839,000	1,242,807,000	1,486,058,000	1,449,444,000	1,494,848,000	−490,991,000	+252,041,000	+8,790,000	+45,404,000
Department of Energy	4,734,670,000	22,121,947,000	3,381,511,000	21,564,562,000	21,988,702,000	+17,254,032,000	−133,245,000	+18,607,191,000	+424,140,000
Indian Health	569,153,000	585,356,000	615,751,000	562,642,000	613,176,000	+44,023,000	+27,820,000	−2,575,000	+50,534,000
Indian Education	71,735,000	76,875,000	75,875,000	75,900,000	75,900,000	+4,165,000	−975,000	+25,000	
Institute of Museum Services	7,852,000	10,900,000	10,900,000	10,900,000	10,900,000	+3,048,000			
Navajo and Hopi Indian Relocation Commission	8,752,000	950,000	950,000	950,000	950,000	−7,802,000			
Smithsonian	110,540,000	144,990,000	139,548,000	129,410,000	140,081,000	+29,541,000	−4,909,000	+533,000	+10,671,000
National Gallery of Art	19,041,000	22,577,000	22,311,000	21,978,000	22,241,000	+3,200,000	−336,000	−70,000	+263,000
Woodrow Wilson International Center for Scholars	1,588,000	1,648,000	1,611,000	2,611,000	1,611,000	+23,000	−37,000		−1,000,000
National Endowment for the Arts	149,585,000	154,400,000	154,400,000	154,400,000	154,400,000	+4,815,000			
National Endowment for the Humanities	145,231,000	150,100,000	150,100,000	147,800,000	150,100,000	+4,869,000			+2,300,000
Commission of Fine Arts	263,000	271,000	268,000	268,000	268,000	+5,000	−3,000		
Advisory Council on Historic Preservation	1,204,000	1,672,000	1,350,000	1,460,000	1,350,000	+146,000	−322,000		−110,000
National Capital Planning Commission	2,019,000	2,193,000	1,975,000	1,975,000	1,975,000	−44,000	−218,000		
Franklin Delano Roosevelt Memorial Commission	20,000	10,000	40,000	40,000	40,000	+20,000	+30,000		
Joint Federal-State Land Use Planning Commission for Alaska	594,000					−594,000			
Pennsylvania Avenue Development Corporation	64,914,000	38,966,000	38,921,000	38,966,000	38,966,000	−25,948,000		+45,000	
Federal Inspector for the Alaska Gas Pipeline		14,850,000		13,433,000	10,600,000	+10,600,000	−4,250,000	+10,600,000	−2,833,000
Community Services Administration		1,350,000,000		1,200,000,000	1,350,000,000	+1,350,000,000		+1,350,000,000	+150,000,000
Total, Title II—Related Agencies	7,873,000,000	25,920,512,000	6,081,569,000	25,376,739,000	26,056,108,000	+18,183,108,000	+135,596,000	+19,974,539,000	+679,369,000
Grand total	12,325,226,000	30,032,038,000	10,231,970,000	29,571,647,000	30,304,887,000	+17,979,661,000	+272,849,000	+20,072,917,000	+733,240,000

ALTERNATIVE FUELS PRODUCTION

Mr. HUDDLESTON. Mr. President, a great deal has happened since we began working on this appropriation bill last January. Following the Iranian revolution, the Nation experienced severe shortages of petroleum fuels that served to underscore and dramatize our growing dependence on foreign oil. We began looking with more urgency toward the development of alternative fuels, and the Appropriations Committee was ready to move quickly when the President sent us a $20 billion appropriation request to implement a program to stimulate commercial production of synthetic fuels and other alterntives.

Because of the need to move quickly, the committee again found itself in the position of recommending significant funding well in advance of authorizing legislation. And yet the committee did not want to foreclose any legislative options with its own funding decisions. As a result, we included in the Senate-passed bill $20 billion for alternative fuels production and $1 billion for conservation and solar program incentives only with certain conditions. The bulk of the funds was placed in an energy security reserve requiring subsequent appropriation action by the Congress to make them available. However, $2.2 billion was made immediately available to launch interim programs pending final congressional action on an energy production program authorization.

As a result of conference negotiations the total allowance for energy production, conservation, and solar incentives was held to $20 billion, with $1 billion still intact for the solar and conservation phase. Some perfecting language was added to the Senate alternative fuels proposal, but no significant changes were made in the basic program which the Senate has approved. The alternative fuels agreement is detailed at some length in the conference report which is printed in the CONGRESSIONAL RECORD, November 8, 1979, p. 31553.

Unfortunately, the House conferees opposed the Senate proposal to transfer $1.5 billion from the strategic petroleum reserve to help finance alternative fuels incentives, and this provision was dropped from the bill.

EMERGENCY FUEL ASSISTANCE

Energy supply disruptions have also sent petroleum product prices soaring,

Mr. President, and this is another critical development that required quick action on this appropriation bill. Although normally funded under the Labor-Health, Education, and Welfare appropriation, the Senate added $1.2 billion for emergency fuel assistance to the Interior appropriations bill as a matter of expediency. Lengthy conference negotiations resulted in a drastically revised proposal, including the provision of $1.35 billion for this program. Essentially, the conferees adopted most of the provisions of the House-passed urgent supplemental for emergency fuel assistance. Some revisions in the House-passed distribution formula and its application to the total funding involved have developed what we think is a more equitable allocation of this low-income assistance for heating costs this winter. Although concentrating this assistance in the Northern States where it is most desperately needed, the final distribution formula also recognizes the needs of Southern States which also are confronted with unmanageable increases in energy costs.

The provisions for emergency fuel assistance also are detailed at length in the conference report, and I will be happy to answer any questions on additional details that might arise as we take up the conference report.

FISCAL RESTRAINTS

After discussing these multibillion-dollar energy related programs, Mr. President, it might seem incongruous to shift to a discussion of spending restraints. However, while dealing with pressing energy program needs the committee has not lost sight of the underlying need to control, wherever possible, the growth in Federal spending. Accordingly, as we discussed when we took up this bill for Senate passage earlier, every effort has been made to pare down ongoing Federal program spending. As a result, although the conference agreement is above the President's budget request, we have been able to hold regular program spending well below fiscal 1979 levels. I am happy to note that the conferees agreed to Senate initiatives to reduce Federal land acquisition and construction appropriations wherever it could be demonstrated that prior year funding was still available or where there was weak justification for budget requests. The comparative table that has been printed in the RECORD will show that significant reductions have been made in budget requests for heritage conservation and recreation service and in the regular programs of the Department of Energy not causing any unwanted program disruptions. Many other program reductions have been offset by increases that reflect congressional priorities.

CONFERENCE AGREEMENTS SUMMARY

At the same time, the conferees could not neglect the needs of American Indians and the territories. The conference agreement resulted in substantial increases for the Bureau of Indian Affairs and the Indian Health Service as well as territorial affairs. There was also agreement that public lands and resources managed under programs funded in this bill also could not be neglected. Grazing management increases under the Bureau of Land Management and forestry and range programs under the U.S. Forest Service accounted for large budget increases and for substantial increases over the original Senate allowance.

Mr. President, the Senate was successful in retaining most of the significant amendments during our lengthy conference negotiations. However, it is impossible to hold every single proposal in the give and take of conference negotiations. As a result, some items that were important to the Senate were dropped or reduced. State recreation assistance under the Land and Water Conservation Fund, for example, was reduced by $60 million even though the Senate conferees strongly supported the full budget estimate approved by the Senate. The final allowance of $300 million, however, is adequate in this period of fiscal restraint and represents a $100 million increase over the House allowance.

The Senate retained almost all of its major energy initiatives, although one item of particular importance—the $55 million increase for magnetohydrodynamics—failed to survive in final negotiations. Another important Senate increase—$120 million for energy impact assistance—was sharply reduced to a $50 million level despite strong support from the Senate conferees.

Mr. President, there were 112 amendments in conference, and most of these amendments contained dozens of individual items of disagreement within them. As I have noted, conference negotiations consumed 4 long days, and there were few of these myriad items of disagreement that were not covered in detail. Unfortunately, time does not permit me to discuss all these conference agreements but I shall be happy to answer any questions that may be raised.

One final note, Mr. President. The conferees agreed to a level of $5 million for university coal research laboratories and stated that this funding is not to be used to establish a system of university coal laboratories as authorized by the Surface Mining Control and Reclamation Act. The intent of the conferees was that these funds should be provided for coal research rather than for construction of laboratories at universities and for establishment of teaching bureaucracies as authorized by the act. The conferees have agreed that this funding will be provided to universities with existing laboratories capable of conducting coal research. The impact of the conferees decision, then, is simply to direct this funding entirely to coal research. Universities which are capable of conducting coal research will continue to be eligible for funding under this program.

In closing, Mr. President, I wish to commend the conferees of both the House and the Senate on an extremely difficult job well done. In many cases, acceptable agreements were extremely difficult to achieve. But at no time was any breakdown in the spirit of cooperation evidenced on either side. I would like to extend a special commendation to the chairman of the conference committee, the Honorable SIDNEY R. YATES. It was largely because of his untiring efforts and dedication that a constructive conference agreement could be reached even within 4 days.

Mr. President, I yield at this time to the Senator from Alaska for any comments or observations he may care to make on the bill.

Mr. STEVENS. Mr. President, I am happy to join with the manager of the Interior appropriations bill in recommending the conference report to the Members of the Senate. The conferees met in morning and afternoon sessions for 4 days to reach final agreement. Every amendment was thoroughly discussed and I believe the final product will well serve the Nation in the areas of land and resource management and energy programing not just for the current fiscal year, but for many years to come as a result of initiatives taken in this bill.

As we just completed the conference late yesterday, I realize that many Members have not had the opportunity to fully review the bill. We need to approve the conference report expeditiously in order to provide fuel assistance payments in a timely manner. The administration has informed us that even if we finish the bill today, the fuel assistance payments for SSI recipients will not be available until January. Delay on our part would mean that the checks would not go out until February, or halfway through the winter months.

While the $30 billion bill before us is by far the largest ever reported by the Interior Appropriations Subcommittee it should be noted that $20 billion of this amount is for the energy security reserve and will be obligated over the coming decade. Although we are over the budget estimates by $225 million, if the funds for alternative fuels production are subtracted from the total, we are $2 billion under the amount appropriated for fiscal 1979. This is a significant action on the part of the Congress and should serve as proof of the ability of the House and Senate to restrain Federal expenditures while continuing vital, proven programs and undertaking required new efforts.

The manager of the bill has included in his statement a comprehensive explanation of the conference agreement so I will not go into further detail at this time. I would hope that the Members of the Senate will approve this agreement without delay.

Mr. President, to clarify the conferees' intent, I do have a few questions to ask the Senator from Kentucky (Mr. HUDDLESTON), about fuel assistance provisions. First, the conference directs that there be no duplication of payment from any funds contained in this program. I understand some States will be unable to determine overlap and dual eligibility due to the short time available for determining eligibility. What is the intent here?

Mr. HUDDLESTON. The conferees recognize that some legitimate duplication may exist in relation to payments under individual elements of this program. The wording of the conference report should be understood solely as a strong directive to States to minimize the possibility of duplicate payments in the basic design of their program and to establish procedures to assure that a person does not receive duplicate payments under a single element of the approved program. While duplicate payments are to be avoided where possible this language should not be interpreted to prohibit separate payments to existing recipients of income assistance programs even though some households which legitimately participate in more than one such program may receive more than one energy assistance payment.

Mr. STEVENS. I thank the Senator.

Conference language also provides that the block grant can be used only to provide assistance to households with income below 125 percent of the poverty level and that it may be used to make payments to those already participating in other income assisted programs such as AFDC and FS. I am told some AFDC and FS recipients may have income over 125 percent of poverty. The identification of these few families would require a complex and costly eligibility determination process.

Mr. HUDDLESTON. The conference recognized that a small number of current recipients of income assistance programs may have gross income in excess of the 125 percent of the poverty level. It is intended that such individuals or families be eligible for services under this program.

Mr. STEVENS. As worded, the appropriation language requires that, in State programs, priority be given "to those households experiencing significant increases in heating fuel costs." Such wording would appear to prohibit both uniform payments within a State and automatic payments to individuals eligible for other needs tested programs. Would the Senator clarify that, please?

Mr. HUDDLESTON. The requirements concerning priority for state payments are not intended to prohibit a State from selecting a plan that would provide uniform payments to individuals or households based on their eligibility for current needs tested programs.

Mr. STEVENS. Finally, Mr. President, the conference report envisions that a State may elect to allot all or a portion of its block grant to the plan approved under the current CSA crisis intervention program. It is not clear whether HEW or CSA will have responsibility for the supervision and audit of this program. If HEW is required to assume this responsibility, would it result in unnecessary duplication of existing CSA responsibilities?

Mr. HUDDLESTON. I believe the conference recognized that some States may elect to increase their CSA program under the block grant authority. Where this happens, it is our intent that CSA supervise and audit all elements of the crisis intervention program as it relates to both regular and block grant funds with assistance from HEW as necessary.

Mr. BURDICK. Mr. President, I also would like to say a few words about the fuel assistance program. As one of the conferees who worked extensively on this portion of the bill, I am glad to say that I am pleased with the final product. It is a good, workable program that targets money where it is most needed and provides the flexibility I felt was necessary to insure that the money gets out to the States as quickly as possible.

There is one section in the statement of the managers I would like to clarify. The report includes language I requested to make sure that adequate provisions are made for Native Americans in the block grant section of the program.

As many Senators know, several States in which there are Indian reservations or lands either do not or cannot administer Federal money on the reservations. Serious jurisdictional problems have arisen both in the administration and in the auditing of such funds.

The language in the report was included to make sure that both HEW and CSA take these jurisdictional problems into account when administering the block grants for those States that do not administer Federal money for Indian groups. In these cases, the Indians' governing agencies should receive their share of block grant funds directly from the appropriate Federal agency, HEW with technical assistance from the BIA, or CSA. Furthermore, that agency, rather than the affected State, should be responsible for monitoring and auditing these funds.

I would like to ask the manager of the conference report whether that was the intent and his understanding of the way Indian funds are to be distributed.

Mr. HUDDLESTON. Yes, the Senator is entirely correct. The intent of the conferees was that the Indians would be served, and served by the mechanism available to them, and we expect that will be done.

Mr. BURDICK. I thank the Senator.

Mr. MUSKIE. Mr. President, the Senate now is considering the conference report on H.R. 4930, the Interior and related agencies appropriation bill which appropriates fiscal year 1980 funds for energy, natural resources, and environment, and several other program areas. I want to take the opportunity to comment on the budgetary implications of this bill.

The conference report on the bill provides $30.3 billion in new budget authority and $6.4 billion in fiscal 1980 outlays. The conference report, therefore, is about $700 million in budget authority and $200 million in outlays above the Senate-passed bill.

While I remain concerned about the Appropriations Committee's ability to live within its total allocation, this bill is well within the applicable functional totals of the conference agreement on the second budget resolution. In addition, the spending in H.R. 4930 clearly was contemplated in the second budget resolution. In particular, I am referring to the new synthetic fuels program and the low-income assistance program, which are of critical importance to our Nation.

Mr. BENTSEN. Mr. President, when the Senate first considered this legislation, I was proud to vote in support of my colleague from New York's amendment to provide an additional $1.35 billion in energy assistance for America's poor. I was proud to do it because I am painfully aware of what the rising cost of energy has done to the poor, forcing upon them choices between one necessity or the other.

However, the energy assistance program that is provided by the conference report is not a program for all of America's poor, it is a program for a select few, a program biased in a way that startles even the veterans of many regional confrontations.

We have before us a formula that distributes energy aid according to two proxies for need. The bill provides that one-third of the assistance will be distributed according to the increases over the last year in home heating energy expenditures. I want to point out that we discovered, during Finance Committee consideration of a similar program, that the numbers for making such a distribution are simply not available. Not from the Department of Energy, not from HEW, but the conference committee has decided that the data for such a distribution can be made available through several proxies: heating degree days, the relative efficiencies of various fuels, and the relative costs of those fuels. But the fact remains that we are pretending to allocate money on a need basis, when we simply do not have the data to back that claim up.

The other proxy on which the conference report bases the distribution of assistance is heating degree days. The fact is that degree days also do not correlate with need. While the State of Washington is well above average in heating degree days, and I suppose will rank even better in heating degree days squared, it ranks dead last among the States in residential energy expenditures. Additionally, although the State of North Dakota ranks second among the States in heating degree days, the people of North Dakota spend well below the national average for energy.

Perhaps the most damning aspect of the bias in this bill relates to the extreme variations between the States. While the residents of the State of Florida spend over $550 per year on their energy needs, the poor in Florida will receive $1 in assistance. The residents of the State of Alaska, although they do bear substantially higher energy costs, will receive $1,000 in aid. They will receive 1,000 percent more, even though their bills are only 60 percent more than those in Florida.

Thus, I think it should be obvious to the Senate that the use of proxies in distributing this aid is clearly ineffective. They present an obvious bias to the North and Northeast, presumably because of the recent increases in the price of home heating oil. But I want to assure my colleagues that energy prices have skyrocketed nationwide, that these increases are not limited to any one region or area of the country.

According to the Consumer Price Index, over the 10-year period ending in July 1979, fuel oil prices have risen 407 percent. In the same period, natural gas prices rose 387 percent. The Consumer Price Index also prepares an index of re-

tail prices for fuels and utilities. That index shows that fuels in the Twin Cities area, which cost $100 in April of 1978, now cost $242. The same combination of fuels cost $217 in the Pittsburgh area. But in Houston, the same fuel mix costs $271. The pattern of rising energy prices has been nationwide, and often the cruelest, most exorbitant increases have been in my own State, where much of that energy is produced.

The program that has been agreed to by the conferees is purposely biased to direct the aid to those areas where it may or may not be needed most. It directs aid, based on inefficient and ineffective proxies—creating a distribution that varies assistance from $1 in Florida to $1,000 in Alaska. The plan that has been reported is directing this aid to a limited few of the poor in the North and Northeast, at the direct expense of the poor in Texas. The poor in my State—like those elsewhere—also face the hard choice of paying their utility bills or grocery bills.

I do not seek, nor do I promote, conflict between the different regions of our country. But I must insist that the people of Texas are treated fairly and equitably in this program. As it now stands, they are not, I will vote therefore, to oppose this unfair program.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. MAGNUSON. Mr. President, as chairman of the Appropriations Committee, I compliment the Senator from West Virginia and all the other members of the conference committee on a very, very difficult job.

I further suggest that by the passage of this conference report we are moving one step forward to completing our appropriation bills. With the passage tonight of the defense bill, on which I hope the conference will complete its work very quickly, and the conference report on the Interior bill, we are going to get three more appropriations bills done hopefully by next week, and we probably will be able to come somewhere near meeting the deadline of the November 20 continuing resolution.

It was a most difficult job, was it not—a most difficult job?

Mr. ROBERT C. BYRD. Yes, and Mr. HUDDLESTON, who was acting chairman, and Mr. STEVENS, the ranking minority member, really carried the load.

Mr. MAGNUSON. And the House was a little bit more adamant than they normally are, and normally they are very adamant.

Mr. ROBERT C. BYRD. They carried the burden in the heat of the day.

Mr. HUDDLESTON. And the night.

Mr. MAGNUSON. I compliment them on getting it done.

Mr. ROBERT C. BYRD. Mr. President, I thank our distinguished chairman of the Appropriations Committee. He, as always, is very courteous and very thoughtful of the members of the committee and their efforts.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$301,896,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided further*, That the Secretary of the Interior and Secretary of Agriculture shall (a) review Federal agricultural financial assistance programs to determine to what extent such programs provide opportunities to assist livestock operators adversely affected by reductions in grazing allotments on public rangelands, as defined in the section 3 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1902); and (b) submit the results of this review to the Committees on Appropriations of the House of Representatives and the Senate within ninety days of the effective date of this Act, together with details on available programs, opportunities for more effective use of such programs, additional budget requirements needed to augment such programs, and any legislation needed to improve opportunities for assistance: *Provided further*, That the Secretary of the Interior shall develop criteria for extending, on a case-by-case basis, the period allowed for phased livestock reductions on public rangelands administered through the Bureau of Land Management up to five years. Such criteria shall take into account available agricultural assistance programs, the magnitude of projected livestock reductions, alternative pasturage available, and ability of such public rangelands to sustain such phasing in of livestock reductions without damage to rangeland productivity: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within 30 days after receipt of a final grazing allotment decision or 90 days after the effective date of this Act in the case of reductions ordered during 1979, whichever occurs later. Reductions of up to 10 percent in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 percent shall be suspended pending final action on the appeal, which shall be completed within 2 years after the appeal is filed.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: ": *Provided further*, That the $12,500,000 available to the Forest Service in fiscal year 1979 for acquisition of the Kahle and Jennings properties may be used to acquire the Jennings property and other properties in the Tahoe Basin of California and Nevada without regard to the matching requirements and zoning restrictions included in the 1979 appropriations Act.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$58,757,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: ": *Provided further*, That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$452,055,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$39,027,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "*Provided*, That the Secretary of the Interior shall review the rates being charged to the residents of Barrow for natural gas to determine if a proceeding should be instituted to revise such rates."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "including a $5,000,000 interest free loan to the Confederated Tribes of the Warm Springs Reservation of Oregon to be repaid to the Revolving Fund for Loans established in the Bureau of Indian Affairs at the end of a 20 year period after the effective date of this Act, $89,374,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$66,479,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 50 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided*, That no part of any appropriations to the Bureau of Indian Affairs shall be available to continue academic and residential programs of the Chilocco and Seneca boarding schools, Oklahoma, beyond June 15, 1980.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$86,661,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$82,589,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$113,785,000", and of

the amount appropriated under this head in P.L. 95–355, $1,400,000 shall be for an ex gratia payment to the people of Bikini Atoll".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "including not less than $9,000,000 for an Office of Construction Management, $49,344,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 58 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "Sec. 108. No appropriations made in this title shall be available for implementation of any decision with regard to any lease, administrative transfer, or withdrawal not now existing of lands and waters comprising Wild Horse Reservoir, Nevada, or any lands immediately adjacent thereto: *Provided*, That this limitation is not applicable to water necessary for current or future irrigation practices.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "Sec. 109. No appropriations made in this title shall be available for the identification of lands not now so identified or acquisition (by withdrawal transfer or purchase) of lands for or associated with the Unique Wildlife Ecosystem Program as now defined by the United States Fish and Wildlife Service not authorized by law under an existing program.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$401,242,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "Alternative Fuels Production.".

In order to expedite the domestic development and production of alternative fuels and to reduce dependence on foreign supplies of energy resources by establishing such domestic production at maximum levels at the earliest time practicable, there is hereby established in the Treasury of the United States a special fund to be designated the "Energy Security Reserve", to which is appropriated $19,000,000,000, to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate domestic commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts: Provided further, That of these funds $1,500,000,000 shall be available immediately to the Secretary of Energy to carry out the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq.), to remain available until expended, for the purchase or production by way of purchase commitments or price guarantees of alternative fuels: *Provided further*, That the Secretary shall immediately begin the contract process for purchases of, or commitments to purchase, or to resell alternative fuels to the extent of appropriations provided herein: Provided further, That of these funds an additional $708,000,000 shall be available immediately to the Secretary of Energy, to remain available until expended, to support preliminary alternative fuels commercialization activities under the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, of which (1) not to exceed $100,000,000 shall be available for project development feasibility studies, such individual awards not to exceed $4,000,000: *Provided*, That the Secretary may require repayment of such funds where studies determine that such project proposals have economic or technical feasibility; (2) not to exceed $100,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000 to support commercial scale development of alternative fuels facilities; (3) not to exceed $500,000,000 shall be available for a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities as authorized by the Federal Nonnuclear Energy Research and Development Act of 1974, as amended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed under this appropriation shall not exceed aggregate of $1,500,000,000; and (4) not to exceed $8,000,000 shall be available for program management.

This Act shall be deemed to satisfy the requirements for congressional action pursuant to sections 7(c) and 19 of said Act with respect to any purchase commitment, price guarantee, or loan guarantee for which funds appropriated hereby are utilized or obligated.

For the purposes of this appropriation the term "alternative fuels" means gaseous, liquid, or solid fuels and chemical feedstocks derived from coal, shale, tar sands, lignite, peat, biomass, solid waste, unconventional natural gas, and other minerals or organic materials other than crude oil or any derivative thereof.

Within ninety days following enactment of this Act, the Secretary of Energy in his sole discretion shall issue a solicitation for applications which shall include criteria for project development feasibility studies described in this account.

Loan guarantees for oil shale facilities issued under this appropriation may be used to finance construction of full-sized commercial facilities without regard to the proviso in section 19(b)(1) of said Act requiring the prior demonstration of a modular facility.

In any case in which the Government, under the provisions of this appropriation, accepts delivery of and does not resell any alternative fuels, such fuels shall be used by an appropriate Federal agency. Such Federal agency shall pay into the reserve the market price, as determined by the Secretary, for such fuels from sums appropriated to such Federal agency for the purchase of fuels. The Secretary shall pay the contractor, from sums appropriated herein, the contract price for such fuels.

All amounts received by the Secretary under this appropriation, including fees, any other monies, property, or assets derived by the Secretary from operations under this appropriation shall be deposited in the reserve.

All payments for obligations and appropriate expenses (including reimbursements to other Government accounts), pursuant to operations of the Secretary under this appropriation shall be paid from the reserve subject to appropriations.

For the establishment in the Treasury of the United States of a special fund to be designated the "Solar and Conservation Reserve", $1,000,000,000 to remain available until expended: Provided, That these funds shall be available for obligation only to stimulate solar energy and conservation: Provided further, That the withdrawal of said funds shall be subject to the passage of authorizing legislation and only to the extent provided in advance in appropriations Acts.

Beginning six months after the date of enactment of this Act, and every six months thereafter, the Secretary is required to submit to the Congress a written report detailing the activities carried out pursuant to this appropriation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the lease of permanent structures without advance provisions therefor in appropriations Act.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 94 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$103,781,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "Federal inspector for the Alaska gas pipeline.".

PERMITTING AND ENFORCEMENT

For necessary expenses of the Federal Inspector for the Alaska Gas Pipeline, $10,600,000, of which $3,600,000 shall remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 108 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "Community Services Administration.".

COMMUNITY SERVICES PROGRAM

For an additional amount for "Community services program", $1,350,000,000: Provided, That of this amount $1,200,000,000 shall be transferred by allocation to the Secretary of Health, Education, and Welfare for payment of energy grants and allowances and related administrative costs: *Provided further*, That energy allowances shall not be considered as income or resources under any other public or publicly assisted income tested program, but shall be taken into consideration in determining eligibility for energy crisis assistance: *Provided further*, That the States shall, in awarding funds, give priority to those households experiencing significant increases in heating fuel costs over the levels of the previous year: *Provided further*, That States shall, in establishing such priority, provide for determining the extent to which increases in rents are caused by increases in heating fuel costs and consider such portions of increases in rents to be increases in heating costs: *Provided further*, That proof of income eligibility shall be required of all applicants: Provided further, That an annual audit shall be made awards to applicants shall be made after June 30, 1980: *Provided further*, That $400,000,000 shall be paid as a special one-time energy allowance to recipients of Supplemental Security Income distributed among the States according to the following formula: (1) 33⅓ per centum based on the number of heating degree days squared times the number of households below 125 per centum of poverty; 33⅓ per centum based on the difference in home heating energy expenditures between 1978 and 1979; (3) 33⅓

per centum based on the number of Supplemental Security Income recipients (other than those receiving no more than $25 because of their presence in a Medicaid institution) in each State relative to the national total: *Provided further*, That no Supplemental Security Income recipient shall receive more than $250 from the funds provided for Supplemental Security Income recipients: *Provided further*, That the remainder of any funds that would have been allotted to any State for Supplemental Security Income recipients if no maximum payment limitation had been in existence shall be allocated based on the State determination previously made in regard to funds provided for special energy allowances to recipients of Aid to Families with Dependent Children (AFDC) or block grants to States: *Provided further*, That $242,600,000 shall be distributed among the States according to the following formula: (1) 50 per centum based on the number of heating degree days squared times the number of households below 125 per centum of poverty; (2) 50 per centum on the difference in home heating energy expenditures between 1978 and 1979: *Provided further*, That, in the State Funding Plan, the Governor shall provide assistance for those who pay fuel bills indirectly as well as directly: *Provided further*, That from revenues received from any windfall profit taxes imposed by Federal law on producers of domestic crude oil, there shall be reimbursed to the general fund of the Treasury an amount equivalent to the amount of funds appropriated to carry out the purposes of this paragraph: *Provided further*, That for the purposes of this paragraph, the term "States" shall include the "insular areas" of the United States.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 109 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "None of the funds appropriated under this Act shall be available to implement any amendment to, or provision of, the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 providing for an increase or decrease in any month beginning after the date of the enactment of this Act in the ratio of the number of entitlements issued any firm with respect to any imported refined petroleum product to the number of barrels of such product imported by such firm in such month above the ratio in effect on April 30, 1979 unless the President has transmitted such amendment or provision to the Congress as an "energy action" under Section 551 of the Energy Policy and Conservation Act (Public Law 94–163) and neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in such section 551 of such Act.".

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Senate concur en bloc in the amendments of the House to the amendments of the Senate numbered 1, 3, 17, 24, 30, 37, 38, 40, 48, 49, 50, 51, 52, 53, 56, 58, 59, 67, 74, 91, 94, 107, 108, and 109.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1979—CONFERENCE REPORT

Mr. CRANSTON. Mr. President, I submit a report of the committee of conference on S. 239 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 239) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. CRANSTON. Mr. President, the conference report on S. 239 which is at the desk represents, I believe, a reasonable and equitable resolution of the differences between the measures passed by each body. Numerous Senate provisions were retained in the conference report and in those instances where both bodies dealt with an issue, compromises were reached to accommodate the views of both the House and Senate conferees.

Mr. President, I urge my colleagues to approve unanimously the conference report on S. 239 to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes.

Mr. President, this legislation has been more than 2 years in the making. The programs it directly affects are Volunteers in Service to America (VISTA), the University Year for ACTION program (UYA), and the ACTION Agency's special and demonstration programs. It also affects the ACTION Agency's ability to administer the Older American Volunteer Programs—the Retired Senior Volunteer Program (RSVP), the Foster Grandparent Program, and the Senior Companion Program—appropriations for the programmatic aspects of which were reauthorized through fiscal year 1981 as part of the Comprehensive Older Americans Act Amendments of 1978, Public Law 95–478.

Mr. President, let me summarize for my colleagues the history of the ACTION Agency and the background of this legislation.

HISTORY OF THE ACTION AGENCY

The ACTION Agency came into being on July 1, 1971, the result of Reorganization Plan No. 1 of 1971 which was intended to consolidate into a single agency a number of voluntary action programs operating throughout the executive branch of the Federal Government. Those programs were:

VISTA—Volunteers in Service to America—previously administered by the then Office of Economic Opportunity, a full-time, full-year domestic volunteer program established in 1964 to strengthen and supplement efforts to eliminate poverty;

The Peace Corps, a full-time, 2-year international volunteer program established in 1961 to assist underdeveloped nations through the use of American volunteers;

The National Student Volunteer Program, previously administered by the Office of Economic Opportunity, a domestic program to encourage and assist student volunteer programs dealing with the problems of the poor;

The Foster Grandparents program, initiated in 1965 in the Office of Economic Opportunity and then transferred to the Administration on Aging in the Department of Health, Education, and Welfare, a domestic program to provide half-time opportunities for low-income older Americans to assist needy children;

The retired senior volunteer program—RSVP—also previously administered by the Administration on Aging, a domestic program to enable retired persons to perform part-time voluntary services in their communities;

The service corps of retired executives and active corps of executives—SCORE and ACE—previously administered by the Small Business Administration and under the terms of the 1971 Reorganization Plan, to be jointly administered by the Small Business Administration and the ACTION Agency, a domestic program providing assistance to small business people utilizing the part-time expertise of retired and active individuals with business experience. By Executive Order No. 11871, SCORE and ACE were transferred back to sole sponsorship of the Small Business Administration in July of 1975, and, pursuant to Public Law 95–510, appropriations for these programs were reauthorized under the Small Business Act effective October 1, 1979, through fiscal year 1979. Legislation (S. 918) to reauthorize those programs through fiscal year 1982 is currently pending in conference.

Shortly after the Agency's creation, the university year for ACTION program (UYA) program was developed as a demonstration service-learning effort. Modeled after the VISTA program, the UYA student volunteers serve a 1-year, full-time term of service on antipoverty projects, and generally receive academic credit from universities for their work. The ACTION Agency provides grants to the universities to carry out the program. UYA received its first statutory recognition, as did the ACTION Agency, in the Domestic Volunteer Service Act of 1973 (Public Law 93–113).

The enactment of Public Law 93–113 provided for another major new program in the ACTION Agency—the Senior Companion program. Modeled after the Foster Grandparent program, Senior Companions are low-income Older Volunteers who work 20 hours per week with needy persons other than children, but particularly with other older Americans.

The authorizations of appropriations in the Domestic Volunteer Service Act of 1973 were extended for the first time in 1975 with the enactment of Public Law 94–135, the Older Americans Act Amendments of 1975, which continued for 3 fiscal years the authorizations of appropriations for the title II Older American Volunteer programs, and in 1976 by the

enactment of Public Law 94–293, the Domestic Volunteer Service Act Amendments of 1976, which continued for 2 fiscal years—through fiscal year 1979—the authorizations of appropriations for the remaining titles of the original act. The authorizations for the title II Older American Volunteer programs were extended through fiscal year 1981 by the Comprehensive Older Americans Act Amendments of 1978, Public Law 95–478.

On May 16, 1979, by Executive Order No. 12137 the Peace Corps was designated as an autonomous agency within the ACTION agency.

BACKGROUND OF S. 239

As chairman of the Senate Subcommittee on Child and Human Development of the Committee on Labor and Human Resources—which has legislative and oversight responsibility for the ACTION agency's domestic volunteer programs, I introduced on January 25 of this year the legislation (S. 239) to extend the authorization of appropriations for certain of those programs through fiscal year 1981. Joining me as cosponsors were the chairman of the Labor and Human Resources Committee (Mr. WILLIAMS) who has long been a strong advocate of the Agency's programs, and the Senator from Michigan (Mr. RIEGLE) a most dedicated member of the subcommittee.

On February 8 and March 9, the subcommittee held hearings on S. 239 and on the administration's bill, S. 374. S. 239 as modified by the subcommittee was favorably reported to the full committee on March 28, and by the Labor and Human Resources Committee to the full Senate on April 11, 1979. The bill was approved by the Senate on June 20, 1979, by a rollcall vote of 75 to 16.

Mr. President, the Senate had passed legislation similar to S. 239—S. 2617—during the last Congress, but the House of Representatives did not act on that measure before adjournment, so the programs other than those for which the authorizations of appropriations were extended last year in Public Law 95–478 continued to be funded under a continuing resolution.

One factor delaying House consideration of S. 2617 last Congress was reticence on the part of many House Members about creating within the ACTION Agency a new categorical program involving volunteers who would work on problems in urban neighborhoods—a categorical program proposed as part of the Carter administration's urban policy submitted on April 13, 1978. This year both the House and Senate resolved the question of how best to provide authority to the urban proposals by adding specific references in the Agency's discretionary authority in part C of title I of the act in order to encourage the Agency to conduct special or demonstration programs along the lines of the urban volunteer activities initially proposed to be carried out, under a new categorical program—a proposed new part D of title I—by S. 239 as introduced and in the companion House bill, H.R. 2859 as reported from the House Education and Labor Committee.

With the thorny question of a new categorical urban volunteer program authority resolved by both Houses, the House and Senate conferees on November 1, 1979, were able to reach agreement on the differences between S. 239 as passed by the Senate on June 20, and the version of the bill as passed by the House on October 10.

SUMMARY OF MAJOR PROVISIONS OF S. 239 CONFERENCE REPORT

Mr. President, the conference report makes the following amendments to the Domestic Volunteer Service Act of 1973:

First, provides a 3-year extension of the authorization (section 15) of appropriations, through fiscal year 1981, for title I (including authority for the VISTA program, the UYA program, and the ACTION Agency's demonstration program (part C) authority.

Second, modifies the career development plan provision for low-income VISTA volunteers to permit the initial plan to be made available within 30 days after, rather than prior to, assignment and to make such a plan available to any other full-time, 1-year title I volunteer upon request (section 2).

Third, modifies the Governor's approval for VISTA projects by requiring the Governor to state in writing reasons for disapproving a project or a VISTA volunteer serving in the State or requesting that a project be removed from the State (section 2).

Fourth, modifies the terms of payment for VISTA volunteer stipends—end-of-service readjustment allowances—to make them consistent with provisions in the Peace Corps Act for making allocations during service from the stipends being accumulated for each Peace Corps volunteer (section 3).

Fifth, modifies the VISTA grant and contract authority in existing section 108 to place limitations and requirements on national and regional VISTA grants so as to hold the fiscal year 1980 program level supported through such grants at current volunteer service year levels (in no event using more than $5.8 million in fiscal year 1980 to support such volunteers), to require competitive awarding of such grants and contracts to require a specifically identified poverty focus, and lower from 20 percent to 16 percent the limitation in existing section 108 on obligation of title I, part A (VISTA), funds for grants and contracts authorized by existing section 402(12) (section 4).

Sixth, modifies the requirement in existing section 112 that UYA volunteers be enrolled for a 12-month period of service, to allow such volunteers to serve for a period of service of not less than the duration of an academic year, but providing that those who enroll for less than 1 year are ineligible to receive the end-of-service stipend that volunteers enrolled for a period of 1 year or more accrue at the current rate of $75 per month (section 5).

Seventh, amends part C of title I to add these additional examples of authorized demonstration programs: Financial and consumer counseling for low- and fixed-income persons; a program called "Helping Hand" to reduce the necessity of institutionalization and ameliorate residential isolation of older, handicapped, and other similarly isolated persons; and a program to provide technical and management assistance to distressed communities (section 7).

Eighth, provides authority to provide support for short-term, part-time volunteers who are enrolled for periods of service of not less than 20 hours per week for not less than 26 consecutive weeks (section 7); requires that full-time title I VISTA-like volunteers assigned under the Agency's discretionary authority (part C) be treated like VISTA volunteers for the purposes of Governor's approval, provision of support, and requirements to take an oath; and permits the Director to provide stipends—up to amounts paid part A VISTA volunteers—to full-time, full-year volunteers enrolled under programs such as the national youth service demonstration program.

Ninth, adds "State or local" elections to the prohibitions in existing section 403 against the use of funds appropriated under the act to influence Federal elections and provides a limitation on the use of funds appropriated to carry out the act for any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition except where a legislative body, committee thereof, or a member requests any employee of or volunteer assigned to a program to draft, review or testify with respect to any measure or in connection with an authorization or appropriations measure directly affecting the operation of the program (section 8).

Tenth, clarifies the status of low-income VISTA volunteers, including a provision to insure that those volunteers whose prior AFDC or medicaid eligibilities are protected by the income disregard provisions in existing section 404 (g) are not required to register with a work incentive program—WIN—sponsor and clarifies the income disregard provisions to limit their application to volunteer payments with a value of less than the Federal or State minimum wage, whichever is the higher (section 9).

Eleventh, requires the Director to take appropriate steps to encourage employers to take into account experience in volunteer work in the consideration of applicants for employment (section 10).

Twelfth, extends existing section 415, deeming volunteers to be Federal employees for certain purposes, to provide that part-time volunteers enrolled for periods of service of not less than 20 hours per week for at least 26 consecutive weeks may be deemed to be Federal employees for purposes of the Hatch Act, Internal Revenue Code, Social Security Act, Federal Tort Claims Act, and Federal Employees Compensation Act; make full-time and part-time volunteers Federal employees for the purposes of waiving collection of erroneous payments as is provided currently for Peace Corps volunteers; makes the Federal Tort Claims Act the sole available remedy of an individual claiming medical malpractice as a result of actions by a volunteer serving in a health care capacity (section 11).

Thirteenth, expands the nondiscrimination provisions in existing section 417 to include appropriate coverage for all ACTION Agency volunteer applicants and volunteers under nondiscrimination policies of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; and requires the Director to develop appropriate remedies to enforce the provisions (section 12).

Fourteenth, expands provisions on guidelines in existing section 420 to include a modification of the congressional review provisions of section 431 of the General Education Provisions Act so as to require, on specified timetables, the publication of regulations in the Federal Register and submission of proposed regulations to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor, but not providing for any congressional or committee veto provisions (section 13).

Fifteenth, includes provisions to encourage the reduction of paperwork (section 14).

Sixteenth, provides for process for review of project renewals by State or local government executive authorities and requires the Director to take into account any objection submitted by these executive authorities (section 15).

Seventeenth, requires submission of a report to Congress on rural needs and the Agency's plans for addressing those needs (section 16).

Eighteenth, deletes provisions in current law restricting the payment of VISTA volunteer stipend increases by conditioning the payment of stipend increases on specific appropriations provisions in order to protect the level of volunteers in the VISTA program (section 17).

DISCUSSION

Mr. President, for the benefit of my colleagues, I would like to highlight some of the most important provisions of the conference report and provide some background information in these areas.

RESTRICTIONS ON NATIONAL GRANT PROGRAM

As I indicated earlier, the conference report includes the Senate provisions limiting the amount of funds that can be used by the Agency for VISTA grants or contracts along with a restriction contained in the House amendment to reduce the percentage of funds available for this purpose from 20 percent in existing law to 16 percent of the title I, part A, obligations. The conference report also contains the provisions in the Senate bill requiring that such grants or contracts be awarded only on a competitive basis and specify the poverty problems upon which they are focused.

These modifications address concerns raised in a House Appropriations Committee staff report about the ACTION Agency's practice of administering the VISTA program through grants to organizations involved in multi-State or regional antipoverty efforts, rather than through the national or State ACTION Agency offices which is the more traditional method of administering VISTA projects. The conference agreement on this issue acknowledges the value of the grant programs, but limits the Agency's ability to administer programs through this mechanism in order to assure greater monitoring and accountability with respect to volunteer activities under the direction of such grantees.

Mr. President, it is important to point out that the requirement for competitive awarding of such grants is not intended to preclude the ACTION Agency from providing technical assistance to potential grantees that request such assistance in the preparation of applications. Often grass roots organizations with significant links to the poverty community hold the best potential for successfully operating these programs. If they request assistance from the Agency in preparing the necessary paperwork to become an eligible applicant, then by all means the Agency should lend that assistance to them or other potential applicants whenever it is requested.

The Director of the ACTION Agency, in a November 1, 1979, letter to the chairmen of the authorizing committees, analyzing the differences between S. 239 as passed by the Senate and the House companion bill, H.R. 2859, suggested that the requirement for competitive awarding of grants might impede the ability of the ACTION Agency to serve the poor "by putting the emphasis on excellence in application writing rather than the needs of the poor." This certainly should not be the effect of this requirement. What we are addressing here is the need to provide for as many qualified applicants as possible the opportunity to become involved in the VISTA grant program effort.

I ask unanimous consent that the full text of the referenced ACTION agency November 1, 1979, letter be printed at the conclusion of my remarks following the joint statement and the Cordon rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

ENROLLMENT IN UNIVERSITY YEAR FOR ACTION PROGRAMS

Mr. CRANSTON. Mr. President, as I noted earlier, the conference report amends existing law to permit UYA volunteers to be enrolled for an academic year, rather than a calendar year as required in existing law, but prohibits the payment of stipends if they enroll for less than 12 months of UYA services. In amplification of this provision in the conference report, the joint explanatory statement stresses that the conferees feel that the practice of enrolling students for a full-year commitment with the expectation that they will resign after 9 months should be discontinued and that any UYA contract or grant should provide that, except in extraordinary circumstances, academic credit should be reduced for those students who make a full-year commitment, receive stipends in connection therewith, and then resign early. Mr. President, the strong feeling of the conferees on this point stems from the view that the primary purpose of this program should be service to the client community, not the benefits to the student volunteer. Communities are led to expect the help of a UYA volunteer for a period of 1 year. It is unfair to those communities for the agency or the university grantee to create that expectation, knowing full well that the volunteer intends to resign months earlier.

The intent of this provision is to give the UYA grantees two options: First, the UYA grantee can operate a 9-month program, but it cannot offer volunteer participants in such a program the $75 monthly stipend available for volunteers who serve in programs of at least a full year's duration; or second, it can operate a full-year program and provide its student volunteers the stipend, but its grant or contract should include provisions requiring a proportionate reduction in the credit available to students who enroll for the full-year program but who leave before their commitment is realized. The intent of such a provision would be to discourage students from leaving the program early to take paying summer jobs, since to do so would mean that such student would at some point have to spend time taking additional courses to make up for the lost credits.

Mr. President, I intend to monitor carefully compliance with these new provisions, and, if the record shows that the ACTION Agency or its UYA grantees are failing to live up to the spirit of the new provisions, I will take steps to deal with the matter legislatively.

DEMONSTRATION PROGRAMS UNDER PART C OF TITLE I

Mr. President, as I have also indicated, one of the issues which delayed enactment of the predecessor of this legislation during the last Congress was the continuing controversy over the establishment of a new categorical "urban volunteer" program. The Senate bill we approved last June did not contain such a categorical program, but rather added to the existing part C demonstration program authority examples of specific programs that the agency could carry out along the lines of some of the activities that would have been authorized by the proposed part D in S. 239 as introduced. The House amendment took the same approach but added as another example of a demonstration program a program of technical and management assistance to distressed communities. This example, along with a program of assistance to victims of domestic violence, which had been included in the Senate bill but not the House amendment, was included in the conference report.

Another program initially proposed as part of the urban package and included in H.R. 2859 as reported was to be known as the "Good Neighbor Fund," but it was agreed that since the Agency is currently undertaking a similar effort to provide seed money for neighborhood betterment projects, known as the "minigrant" program, it was unnecessary to make specific reference to such activities. However, Mr. President, as I pointed out at the outset, it must be stressed that it is the intention of the conferees that any new urban-type programs developed pursuant to the provisions in the conference report and any expansion of the "minigrant" program must be along the lines of the urban volunteer activities initially proposed to be carried out under a new categorical program under the new part D that would have been added to title I by S. 239 as introduced and by H.R. 2859 as reported from the House Education and Labor Committee—a categorical program authority, as I have indicated, that was dropped from both bills.

The following are examples of requirements that would apply to the ACTION Agency's initiation of urban-type volunteer activities under the part C authority:

First, in the development and implementation of the program: Consultation between the Directors of the ACTION agency and the Community Services Administration; consultation with the mayor or other chief executive authority of an urban area that the program would serve.

Second, in the selection of the grantee: An application process must be established; public announcement and efforts must be made to notify potential eligibles, including all community action agencies; special consideration must be given to organizations in the area to be served which have demonstrated their effectiveness in serving the client community, and CAA's must be given a presumptive role unless there is strong justification for concluding that another agency in the area would be superior.

Third, program emphasis must be directed toward problems with poverty.

Fourth, administrative expenses may not exceed 15 percent of the amount available for carrying out the program.

Fifth, volunteers serving in the new programs would serve under the same terms, conditions, and restrictions, and would receive and accrue the same allowances and stipends and be subject to the same limitations as volunteers of similar character serving in other programs under the act.

Sixth, regarding any "seed money" activities: Consultation with the mayor or other chief executive authority; limits on the amounts of grants.

POLITICAL ACTIVITIES

Mr. President, both the Senate and House measures contained amendments to the provisions of section 403 of the act. Under section 403(a) of existing law, no part of any funds appropriated to carry out the act, nor any program administered by the ACTION agency, may be used to finance, directly, or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity. The Senate bill added "State or local" elections to this prohibition. The conference agreement contains this provision from the Senate bill.

Both the Senate and House measures added provisions aimed at prohibiting activities designed to influence legislation. The Senate bill added such a provision to section 403(a). The House amendment amended section 403(b) to prohibit such activities with respect to both legislative and regulatory bodies and initiative petition activities. The Senate amendment, however, included express exceptions to these prohibitions: First, where a full-time volunteer is requested to make representations by a legislative body, committee or a member thereof, or second, with respect to a part-time volunteer while not serving under the act.

Mr. President, the conference agreement includes a provision which amends section 403(b) to prohibit the use of funds appropriated under the act for activities designed to influence the passage or defeat of legislation or proposals by initiative petition except where a request is made to an employee or volunteer of a program by a legislative body, committee, or member thereof or in connection with an authorization or appropriation measure directly affecting the activities of the program.

Mr. President, the exceptions are intended to identify what both Houses meant by the antilobbying provisions. The latter exception would permit, for example, an older American volunteer program or volunteer to communicate with State or local legislative bodies concerning the appropriation of funds for the operation of such a program or of all similar programs within the State. This exemption is of particular importance for older American volunteer programs because of the requirement under the act that they obtain a "local share." It would also permit volunteers or programs to communicate with legislative bodies with respect to measures which affect the existence or basic structure or operation of a program, and not be limited solely to the ACTION agency-funded portion of the program. A program would also be able to communicate its views on the overall ACTION agency program of which it is a part and not be limited solely to its own participation in the program.

The Senate did not accept the extension of antilobbying provisions to rulemaking or regulatory bodies since public participation is often included as a requirement in the statutory authority for such agencies. Regulations are often published by regulatory bodies solely for the purpose of soliciting input from individuals and groups who might be affected by the proposed regulations. As a policy matter, we felt it would be unwise to close off these legitimate communications.

I believe the provisions of the conference agreement represent a reasonable compromise between the concerns of the proponents of these amendments and the legitimate needs of programs and volunteers to communicate with members of legislative bodies.

INCOME-DISREGARD PROVISIONS

Mr. President, as noted earlier, the conference report contains a provision limiting the application of the income-disregard provisions of existing law to situations where the value of the payments made to a volunteer are less than the Federal minimum wage or, if higher, the minimum wage of the State where a volunteer is serving.

This provision was added to the predecessor Senate bill developed during the 95th Congress—S. 2617—as a floor amendment by the Senator from Kansas Mr. DOLE). He was concerned about the extent of the coverage of the income-disregard provisions in existing law. The present section 404(g) provisions protect Government payments or benefits received by volunteers before their service in ACTION agency programs from being reduced or eliminated by virtue of that service. For instance, older American volunteers do not have their social security benefits reduced because of their participation in either the foster grandparent or senior companion programs.

Senator DOLE was concerned that volunteers who may be receiving payments under ACTION Agency programs that equalled or exceeded the minimum wage might also be receiving other kinds of benefits from other Government programs. He felt that the income disregard provisions needed to be cut off at some point, and that the level of the minimum wage was a reasonable cut-off point. In order to address his concern, we included a provision in the Senate bill to limit the application of the income disregard provision in existing law to payments to volunteers the value of which, when reflecting hours worked by a given volunteer, is less than the minimum wage.

The provision in the conference report is more flexible than the Senate bill provision in that it makes allowance for the higher living costs in States such as Hawaii and Alaska by including as a yardstick the State minimum wage, if higher than the Federal minimum wage, as the limit on application of the income-disregard provision.

NONDISCRIMINATION PROVISIONS AS THEY APPLY TO THE PEACE CORPS

The conference report contains the antidiscrimination provisions in the Senate bill with respect to all volunteer applicants and volunteers, both those serving in the United States and overseas.

Mr. President, I wish to point out that the inclusion in the Senate legislation of the Peace Corps in the provision's prohibitions came long before issuance of the President's Executive Order No. 12137 of May 16, 1979, which designated the Peace Corps as an autonomous agency within the ACTION Agency and delegated to the Peace Corps Director the authorities under the Peace Corps Act which had previously been delegated to the Director of the ACTION Agency. The inclusion of Peace Corps volunteer service in this provision of the Domestic Volunteer Service Act is in no way meant to be inconsistent with the Executive order. In view of the Executive order—which has been expressly sanctioned by the Congress on several occasions—it seems to me necessary and appropriate that the ACTION Agency Director delegate to the Peace Corps Director the authority to administer this provision as it applies to Peace Corps volunteer service, subject to the condition that the regulations pertaining to VISTA and Peace Corps volunteer service be coordinated in order to assure that the treatment for Peace Corps volunteer applicants and volunteers is not inconsistent with the treatment, for this purpose, of domestic volunteer applicants and volunteers.

Such a delegation would, of course, carry with it the responsibility for the Peace Corps Director, in preparing the Peace Corps' regulations, to carry out the specific consultations required by section 417(c)(2). In order to reflect more clearly its present status, the Peace Corps may deem it appropriate to seek the enactment of language in the Peace Corps Act identical to that of the present provision. If such language were later enacted, I would, of course, have no objection to striking the reference to Peace Corps volunteer service from section 417 of the Domestic Volunteer Service Act, as provided for in the conference report.

EARMARKING OF TITLE I FUNDS

Mr. President, section 15 of the conference report earmarks the appropriation of funds under title I. With respect to the service-learning programs authorized by part B of title I, the conference report includes earmarking to assure that after $28 million of a title I appropriation is made available for VISTA during both fiscal years 1980 and 1981, not less than $2.3 million and $1.6 million for each of these years, respectively, must be made available from title I appropriations to carry out the university year for ACTION program, and not less than $500,000 in each such year must be made available for operation of other service-learning programs. The intent here is to guarantee sufficient funding to enable VISTA to support and do so adequately at least the same number of volunteers supported during fiscal year 1979—approximately 4,000—to provide sufficient funding so that the ACTION agency can meet its commitments to current recipients of UYA grants and to provide the same amount of money as is now expended during both those fiscal years for the Agency's technical assistance service-learning efforts, formerly known as the National Student Volunteer program—NSVP—and recently renamed the National Center for Service Learning.

In addition, the conference report provides that not less than 50 percent of the funds appropriated for part C of title I—the Agency's special and demonstration program authority—in each of fiscal years 1980 and 1981 in excess of $2.5 million but not more than $10 million, shall be used to carry out the fixed-income counseling and "Helping Hand" programs.

OTHER SENATE PROVISIONS

Mr. President, I want to make reference to two provisions of the Senate-passed bill which are not included in the conference report. First, the Senate-passed bill contained a nongermane amendment which I had proposed in order to provide authority to the Commissioner of Rehabilitation Services in the Department of Health, Education, and Welfare (section 17) to continue funding, until December 13, 1980, from funds appropriated under section 100(b)(2) of the Rehabilitation Act of 1973 (Public Law 93–112), entities conducting projects under section 130 of that public law prior to the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978 (Public Law 95–602). However, because we were unable to complete action on this measure prior to the close of the 1979 fiscal year, this provision became moot.

The second provision in the Senate-passed bill was contained in a separate title II which was offered as a floor amendment by the Senator from Minnesota (Mr. DURENBERGER). This provision would have established a Commission on Volunteerism to study the appropriate roles for persons of all ages and all socioeconomic levels in volunteering in our Nation. I welcomed this initiative because I felt that such a Commission could serve a constructive purpose in helping us to consider, in a careful manner, what more could be done to promote volunteerism. I offered a floor amendment, which was accepted, to require a focus, in the course of the study, on a comprehensive approach to youth participation in volunteering. However, both the House and Senate conferees became aware of the concern from interested groups about the establishment of such a Commission and a strong desire on their part to have input into the direction and composition of such a Commission.

During the conference, Mr. President, the House conferees expressed their desire to hold hearings on this subject so that all of these views could be taken into account. The Senate-sponsor of this provision also has indicated his willingness to follow this approach.

CONCLUSION

Mr. President, this legislation contains important new provisions to enable the ACTION agency to carry out more effectively its responsibilities to the people and the communities its programs are designed to serve, to the hundreds of thousands of individuals who give so selflessly of their time and energies in making those programs work, and to the potential volunteers in America who have the resources to contribute so much to the betterment of our society. The authorizations of appropriations it contains will pave the way for an appropriations measure that, I hope, will enable these programs to reach the goals set out for them by the administration and the Congress. I urge my colleagues to give their full support to the conference report on S. 239.

Mr. President, I want to express my appreciation to the members of my staff, Fran Butler, Susanne Martinez, Mary Lopatto, Joanne Harrison, and Jon Steinberg, and Judy Waggner, Carole Ansheles, and Bill Gaul of the staff of the House Education and Labor Committee as well as the Senate and House legislative counsels, Blair Crownover and John Cimko, for their assistance on this conference report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 239) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The provisions of the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

CAREER DEVELOPMENT PLAN FOR VISTA VOLUNTEERS

Time when provided

Both the Senate bill and the House amendment provide that the post-service career development plan required by existing law for all low-income VISTA volunteers be provided within 30 days after the volunteer's assignment, rather than, as at present, prior to such assignment.

The conference agreement includes this provision.

Provision to other volunteers

The Senate bill requires the Director to offer and provide, upon request, such a career development plan to any other VISTA volunteer enrolled in a program under title I for a period of full-time service of one year or more.

The House amendment does not contain a comparable provision.

The House recedes.

ASSIGNMENT OF VISTA VOLUNTEERS AND TERMINATION AND RENEWAL OF PROJECTS

The Senate bill adds the following requirements to the provision in existing law regarding the disapproval by a Governor or other chief executive officer of a State of the assignment of VISTA volunteers: (1) that such a disapproval of a proposed project by the chief executive officer must be made in writing within 45 days after submission of notice to him, supported by a statement of reasons for the disapproval, and (2) that the Director shall terminate an ongoing project or program, or the assignment of a particular volunteer, not later than 30 days after a request to do so is made, in writing supported by a statement of reasons, by the chief executive officer, or at such later date as is agreed upon by the Director and the official.

The House amendment provides for disapproval of VISTA projects and termination of volunteers at the request of local officials, and adds a new section prohibiting the Director from renewing any contract or grant to carry out any project under the Act if the chief executive officer of the State involved does not concur in such renewal, and providing that if any mayor or other local authority objects to a renewal the Director take this objection into account in deciding whether to renew the project.

The conference agreement includes the Senate provision relating to assignment of VISTA volunteers and a new section 424 relating to all programs carried out under the Act which provides that if the executive authority of any local or State government submits to the Director, not later than 30 days before the expiration of any contract or grant, a statement objecting to the renewal of such contract or grant, the Director shall review such statement and take it into account in determining whether to renew such contract or grant and shall

submit to such executive authority a written statement of reasons regarding the Director's determination with specific reference to any objection so submitted.

VISTA VOLUNTEER STIPENDS

Both the Senate bill and the House amendment provide that accrued stipends may be payable during the period of a volunteer's service, in accordance with regulations prescribed by the Director.

The conference agreement includes this provision.

VISTA GRANTS AND CONTRACTS

The House amendment reduces from 20 percent to 15 percent the limitation in existing law on obligation of title I, part A (VISTA), funds for grants and contracts under section 402(12).

The Senate bill provides for a ceiling of $5,800,000 for fiscal year 1980 for such purpose and that in no case shall funds obligated in fiscal year 1980 support a greater number of volunteer service years than during fiscal year 1979. In addition, the Senate bill requires that the recipients of any new VISTA project administered through such a grant or contract be selected through a competitive process which shall include (1) public announcement and (2) a requirement that each applicant and any resultant grant or contract clearly identify the poverty problems on which the project will focus.

The conference agreement includes both provisions, but raises the percentage in the House amendment from 15 percent to 16 percent to be consistent with the effects of the restrictions in the Senate bill.

SERVICE IN UNIVERSITY YEAR FOR ACTION PROGRAMS

The House amendment provides that volunteers serving in University Year for ACTION (UYA) programs may be enrolled for periods of service of not less than the duration of an academic year, rather than the existing law requirement of a full year.

The Senate bill does not contain a comparable provision.

The Senate recedes with an amendment providing that volunteers so enrolled for less than 12 months may not receive stipends under section 105(a)(1). The conferees believe that the practice of enrolling students for a full-year commitment with the expectation that they will resign after nine months should be discontinued and that any

* * * * *

The House recedes with an amendment adding programs to provide technical and management assistance to distressed communities. It is the intention of the conferees that the conditions set forth in the new part D which would have been added to title I by S. 239 as introduced and by H.R. 2859 as reported be applied to the carrying out of any urban volunteer activities that would have been authorized by that new part.

Recruitment, selection, and training of special volunteers

The Senate bill restates and clarifies the authority in existing law for the Director to provide for the recruitment, selection, and training of volunteers for programs authorized by title I, part C.

The House amendment does not contain a comparable provision.

The Houses recedes.

Support for and conditions of service of part-time, short-term volunteers

Both the Senate bill and the House amendment authorize the Director to provide support for part-time, short-term volunteers and clarify the status of full-time title I, part C, volunteers. The Senate bill, but not the House amendment, provides that full-time volunteers enrolled for periods of 1 year or more shall be subject to the provisions of section 103(d) relating to veto by the Chief Executive officer of a State.

The House recedes.

Report on programs established

The Senate bill requires a report to the appropriate committees of Congress, not later than 18 months after funds are first made available after the date of enactment of this legislation, on the programs, activities, grants, and contracts made, and the specific arrangements for the evaluations of such programs, activities, grants, and contracts.

The House amendment does not contain a comparable provision.

The House recedes.

POLITICAL ACTIVITIES

State and local elections

The Senate bill adds a prohibition on the use of funds to finance, directly or indirectly, any activity designed to influence the outcome of any election to "State or local", as well as (at present) Federal, office.

The House amendment does not contain a comparable provision.

The House recedes with a technical amendment.

Lobbying

The Senate bill amends section 403(a) to add to the prohibitions there a prohibition on the use of ACTION Agency funds or programs for the purpose of financing any activity designed to influence a member of a State or local legislative body on any legislative or appropriation measure, with the proviso that this shall not prevent communication with or provision of information to any such member by a part-time volunteer when not serving as a volunteer or, at the request of such member, committee, or legislative body, by any full-time volunteer.

The House amendment amends section 403(b) to (1) provide that programs assisted under the Act may not be carried out "in any manner for the purpose of providing assistance for" any of the activities prohibited in section 403(b) rather than the provision in existing law which prohibits the carrying out of those activities "in a manner supporting or resulting in the identification of such programs" with the prohibited activities, and (2) add a prohibition on programs furnishing any assistance in connection with partisan or non-partisan attempts to influence the passage or defeat of any Federal, State, or local legislation, referenda or other ballot initiatives, or any rulemaking or regulatory action.

The conference agreement provides that no funds appropriated to carry out this Act shall be used by any program for activities for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, and clarifies that this anti-lobbying provision does not preclude (1) communications where a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of, such a program to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member, or (2) in connection with an authorization or appropriation measure directly affecting the activities of the program. It is the intention of the conferees that "measure directly affecting the activities of the program" not be interpreted to be limited solely to a measure affecting the ACTION–Agency-funded portion of a particular program's activities, but rather be interpreted to mean any measure affecting the existence or basic structure or operation of the program.

RECEIPT OF ASSISTANCE OR SERVICES UNDER OTHER FEDERAL PROGRAMS

Clarification of status of low-income VISTA volunteers

Both the Senate bill and the House amendment provide that full-time volunteers under title I otherwise entitled to receive assistance under Federal Government programs before their enrollment shall not be denied assistance because of a failure to seek or accept employment or training during periods of volunteer service.

The conference agreement contains this provision.

Effective date

The House amendment establishes an effective date of October 1, 1979 for the provision.

The Senate bill does not contain a comparable provision.

The House recedes.

Limitation on income-disregard provisions

The Senate bill adds an exception to the income-disregard provisions in existing law to limit the application of that provision to volunteer payments with a value of less than the Federal minimum wage.

The House amendment does not contain a comparable provision.

The House recedes with an amendment providing that the income-disregard provisions shall continue to apply as long as the Director determines that the value of such payments does not exceed the State's minimum wage if higher than the Federal.

VOLUNTEER EXPERIENCE

Both the Senate bill and the House amendment provide for the Director, in consultation with the heads of other departments and agencies, to take appropriate steps to encourage employers to take into account experience in volunteer work in the consideration of applicants for employment and in preparing employment application forms. The Senate bill, but not the House amendment, specifically includes consultation with the Director of the Office of Personnel Management and the Secretaries of Labor, Commerce, and the Treasury.

The House recedes.

REGIONAL DISTRIBUTION

The Senate bill provides that benefits and services under the Act be distributed equitably among the various regions of the country in addition to the requirement in existing law for equitable distribution between residents of rural and urban areas.

The House amendment does not contain a comparable provision.

The Senate recedes.

APPLICATION OF OTHER FEDERAL LAWS

Volunteers covered

The House amendment provides that, in addition to the full-time volunteers presently deemed to be Federal employees for the purposes of the Hatch Act, the Internal Revenue Code of 1954, title II of the Social Security Act, the Federal Tort Claims Act, and the Federal Employees' Compensation Act, all other full-time volunteers who serve 8 weeks and part-time volunteers enrolled for at least 20 hours per week for 26 or more consecutive weeks shall also be deemed Federal employees as the Director determines appropriate for the purposes of these Acts.

The Senate bill provides for the same coverage but does not limit coverage of full-time volunteers in terms of the length of their service.

The House recedes.

Levels of compensation

Both the Senate bill and the House amendment provide that, for the purpose of treating volunteers as Federal employees for the purposes of the Federal Employee's

Compensation Act, the annual rate of pay for a full-time volunteer shall be deemed to be the entry salary for a GS-7 employee.

The Senate bill provides that the annual rate of pay for a part-time volunteer shall be deemed to be the entry salary for a GS-7 or an appropriate portion thereof as determined by the Director. The House amendment provides that the annual rate of pay for a part-time volunteer shall be deemed to be the entry salary for a GS-2.

The House recedes.

Application of Federal Tort Claims Act

Both the Senate bill and the House amendment, with technical differences, add a new provision to the Act to make the Federal Tort Claims Act the sole available remedy of an individual claiming medical malpractice as a result of actions by a volunteer serving in a health-care capacity. The House amendment, but not the Senate bill, applies the new provision to only full-time volunteers.

The House recedes.

NONDISCRIMINATION PROVISIONS

Both the Senate bill and the House amendment expand the various nondiscrimination provisions in existing law to cover volunteer applicants and volunteers serving in ACTION Agency programs under title I of the Act, and provide for a remedy process. The Senate bill, but not the House amendment, extends coverage to all volunteer applicants and volunteers serving in ACTION Agency programs. The Senate bill requires the Director, in preparing the handicapped discrimination regulations, to consult with the Rehabilitation Act title V Interagency Coordinating Council, whereas the House amendment specifies such consultation with the Secretary of Health, Education, and Welfare.

The House recedes.

LEGISLATIVE VETO AND REPORTING REQUIREMENTS

The House amendment adds a provision including the requirements of section 431 of the General Education Provisions Act (20 U.S.C. 1232), relating to the Congressional review and veto of regulations, with two differences: (1) section 420(a)(1) adds that any regulation, as defined, prescribed by the Director shall not have the standing of a Federal statute and (2) section 431(f) of the General Education Provisions Act is not included.

The Senate bill does not have a comparable provision.

The Senate recedes with a substitute amendment requiring the publication in the Federal Register of regulations prescribed under the Domestic Volunteer Service Act of 1973, submission of such proposed regulations to the Education and Labor Committee of the House of Representatives and the Labor and Human Resources Committee of the Senate, delaying the effective date of regulations until 30 days after publication in the Federal Register (and final regulations until 45 days after submitted to such Committees) unless the Director waives such requirement on the basis of a determination (and so notifies the Committees) that such delay would cause substantial hardship for the intended beneficiaries of a program, requiring the Director to submit to those Committees, not later than 60 days after the date of the enactment of any part of any Act affecting the administration of any program under the Domestic Volunteer Service Act of 1973, a timetable for promulgation of all regulations implementing such former Act or part of such Act which timetable shall provide that all final regulations be prescribed within 180 days after submission of the schedule, unless the Director determines that, due to circumstances unforeseen at the time of submission of such a schedule, the schedule submitted cannot be met, and providing that, under such circumstances, the Director need not comply with the original schedule but rather shall submit a notice of such determination, including a statement of reasons, to the Committees along with a new schedule which shall be considered as the schedule originally submitted, thereby beginning anew the submission-of-schedule process.

REDUCTION OF PAPERWORK

Both the Senate bill and the House amendment provide for the Director to take such action as may be necessary to reduce paperwork under the Act. The House amendment, but not the Senate bill, makes references to chapter 35 of title 44, United States Code, relating to coordination of Federal reporting services.

The House recedes. It is the expectation of the conferees that the Director will adhere to the provisions of 44 U.S.C. 3501 *et seq.*, relating to the coordination of Federal reporting services, in carrying out this provision.

AUTHORIZATION OF APPROPRIATIONS

Title I

The Senate bill authorizes the appropriation of such sums as may be necessary under section 501 for title I programs for fiscal years 1979, 1980, and 1981.

The House amendment authorizes the appropriation for this purpose of $42,413,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981.

The House recedes.

Poverty earmark in title I

The Senate bill strikes out $29,600,000 and inserts in lieu thereof 80 percent as the minimum amount of appropriated funds to be expended on title I programs designed to eliminate poverty and poverty-related problems.

The House amendment does not contain a comparable provision.

The Senate recedes.

VISTA earmark

The Senate bill strikes out a provision referring to a minimum amount of funds ($22,300,000) to be expended on programs authorized under part A of title I and strikes out the requirement that funds appropriated in excess of $37,600,000 be allocated so as to provide for a commensurate increase in the funds available for part A.

The House amendment does not contain a comparable provision.

The Senate recedes.

Earmark of title I, part B, funds

The Senate bill (1) allows up to 13 percent of the first $4,000,000 in title I, part B, appropriations to be used for programs other than UYA, rather than not more than 10 percent of the first $6,700,000 as in present law, and (2) notwithstanding that limitation, allows for one-third of the first $1,000,000 appropriated for part B programs to be used for continuation of programs, other than UYA, of demonstrated effectiveness.

The House amendment eliminates the existing 10-percent limitation and provides (1) that not less than $873,000 (the amount of the Administration fiscal year 1980 budget request) shall be available for the operation of service-learning programs under section 114 for each of fiscal years 1980 and 1981 and (2) that not less than $3,200,000 shall be available for UYA programs for fiscal year 1980 and not less than $2,200,000 for fiscal year 1981.

The conference agreement provides that (1) up to 22 percent of part B appropriations may be used for programs other than UYA and (2) of the funds appropriated for each of fiscal years 1980 and 1981 for carrying out title I not less than $28,000,000 shall first be available for the purpose of carrying out part A of the title, and, of the funds appropriated in excess of $28,000,000, not less than $2,300,000 and $1,600,000 in the two fiscal years, respectively, shall be available for the operation of UYA in each such year, and not less than $500,000 in each such year shall be available for the operation of other service-learning programs.

Earmark of title I, part C, funds

The Senate bill requires that not less than 50 percent of title I, part C, funds exceeding the fiscal year 1979 level of appropriations shall be used to carry out the fixed-income counseling and "Helping Hand" programs.

The House amendment does not contain a comparable provision.

The House recedes with a substitute amendment providing that not less than 50 percent of the funds appropriated for title I, part C, in fiscal years 1980 and 1981 in excess of $2,500,000 but not more than $10,000,000 shall be used to carry out the fixed-income counseling and "Helping Hand" programs.

Title III

The Senate bill authorizes the appropriation of such sums as may be necessary for fiscal year 1979 for title III programs now reauthorized in the Small Business Act as a result of P.L. 95-510.

The House amendment does not contain a comparable provision.

The Senate recedes.

Title IV

The Senate bill authorizes the appropriation of such sums as may be necessary for title IV—Program Administration—for fiscal years 1979 and 1980. The House amendment authorizes such appropriations for fiscal years 1980 and 1981.

The conference agreement authorizes the appropriation of such sums as may be necessary for title IV for fiscal years 1979, 1980, and 1981.

REPORT ON RURAL PROGRAMMING

Both the Senate bill and the House amendment provide for the Director of the ACTION Agency to report to Congressional Committees on special needs and circumstances to be addressed in designing programs under the Act in rural areas. The House amendment, but not the Senate bill, specifies that the report be submitted only to the authorizing Committees and spells out the content of the report in more detail.

The conference agreement incorporates the Senate provision with the House description of the report contents.

STIPEND INCREASES FOR FULL-TIME VOLUNTEERS

Both the Senate bill and the House amendment amend section 5(b) of Public Law 94-130 (the 1975 Peace Corps Act Amendments) by striking out the last sentence thereof in order to permit appropriations for the increase in the stipend for full-time volunteers to $75 per month, as authorized in that law, without specifically providing for the increase in any appropriations Act.

The conference agreement contains this provision.

REHABILITATION AMENDMENTS

The Senate bill authorizes the Commissioner of Rehabilitation Services to continue funding until December 31, 1980, from funds appropriated under section 100(b)(2) of the Rehabilitation Act of 1973 (P.L. 93-112). This amendment addresses a situation which arose when the statutory authorities under which such entities were receiving grants were struck by certain provisions of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978 (P.L. 95-602).

The House amendment does not contain a comparable provision.

The Senate recedes.

LIMITATION ON CONTRACTS AND PAYMENTS

The House amendment provides that the Director may enter into contracts or make payments under the Act only to the extent or in such amounts as are provided in appropriations Acts.

The Senate bill does not contain a comparable provision.

The House recedes.

COMMISSION ON VOLUNTEERISM

The Senate bill authorizes the establishment of a Commission on Volunteerism.

The House amendment does not contain a comparable provision.

The Senate recedes.

TITLE OF THE BILL

The House recedes from its amendment to the title of the bill.

EXHIBIT 1

ACTION,
Washington, D.C., November 1, 1979.

Hon. HARRISON A. WILLIAMS,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Attached is a report analyzing the differences between S. 239 and H.R. 2859, of which are entitled the "Domestic Volunteer Service Act Amendments of 1979." The report is divided into two sections—one devoted to provisions which we consider to be of major importance, and the other containing less significant provisions. Within each section, the comments basically follow the order of H.R. 2859. The report also indicates which of the provisions we believe will best serve the needs of our programs.

I hope it will be useful to you and the other conferees as you consider these two bills.

The Office of Management and Budget has advised that there is no objection to submission of this report from the standpoint of the Administration's program.

Sincerely,

SAM BROWN,
Director.

NOVEMBER 1, 1979.

REPORT TO CONFEREES ON DIFFERENCES BETWEEN S. 239 AND H.R. 2859

MAJOR DIFFERENCES

1. Mayor's Veto. The House Bill authorizes mayors and other local officials to veto VISTA projects in their jurisdictions, and to require the withdrawal of volunteers upon request. The Senate bill contains no similar provision. This provision would make it possible for a county to deprive a smaller jurisdiction (such as a city or town in the county) of a program it wanted to have. It would also make virtually impossible programs dealing with migrant needs where volunteers move with the migrants. It would impose tremendous administrative burdens everywhere, particularly in sparsely populated areas where a few volunteers provide services over a wide area. We favor deletion of this requirement.

2. VISTA Grants. The House bill limits the amounts available for VISTA grants to 15 percent of the VISTA appropriation. The present limit is 20 percent. The Senate is $5,800,000 in fiscal year 1980. We favor the Senate provision.

The Senate bill also requires that all new grants be made pursuant to a competitive process, after public announcement of the criteria and process of selection. The competitive process is appropriate for national, or multi-regional grants, but should not be applicable to local or regional grants. These smaller grants are frequently made to grass roots organizations which are serving a significant poverty population, but are not expert grant application writers. They need the technical assistance of ACTION state and regional staff in the preparation of the application. Under a competitive system, the agency cannot give such assistance. The competitive process, in such cases, impedes the ability of ACTION to serve the poor by putting the emphasis on excellence in application writing rather than the needs of the poor.

3. Service-Learning Programs. The House bill eliminates the requirement that 90 percent of the funds appropriated for Service Learning Programs be allocated to UYA, and earmarks funds for UYA in the authorization of appropriations section. The Senate bill increases the percentage available to non-UYA programs to 13 percent and lowers the amount to which it applies to $4,000,000. One third of the first $1,000,000 may be used for non-UYA projects. The House bill also rewrites and clarifies Section 114(c), relating to non-UYA projects.

We prefer the approach contained in the House bill. The Senate provision links two essentially unrelated programs and, we believe, contains a serious ambiguity which makes it difficult to determine how much may be used for non-UYA projects. The changes made in this section are related to the earmarkings of authorizations, and should be read in conjunction with our comments on authorizations.

4. Urban Programs. Both the Senate and House bills clarify the agency's authority to conduct the programs proposed as a separately authorized Urban Volunteer Program under the general authority of Part C of Title I of the Act—Special Volunteer programs.

We believe the House version is preferable. The Senate bill earmarks 50% of all new funds appropriated for Part C of Title I for two new programs—Fixed Income Consumer Counselling and "Helping Hand," a program of deinstitutionalization for older persons, handicapped persons, and others. We oppose this provision which would seriously impair the agency's ability to conduct demonstration programs in program areas unrelated to the Urban program, since each dollar proposed for a demonstration project would have to be matched by a dollar for the two specified programs. As with Service Learning Programs, we believe that earmarking of funds should not be embedded in general programmatic description. If the Congress decides to earmark a part of the funds available for Part C for these programs, the earmarking should be in the authorization of appropriations, contained in Section 501.

Additionally, the House version specifically mentions all four of the proposed Urban programs—Technical and Management Assistance, and small seed-money grants to neighborhood organizations, as well as Fixed Income Consumer Counselling and "Helping Hand." While we believe sufficient authority exists for all these programs in existing legislation, we believe the language contained in the House bill would be helpful.

SENATE BILL

Section 107 of S. 239 amends Section 403(a) of the Domestic Volunteer Service Act of 1973 (the Act) in two ways:

1. It would add a prohibition on the use of federal funds to finance activities which are designed to influence the outcome of state and local elections to the present ban on the use of funds to influence federal elections. This provision repeats a prohibition which is already contained in Section 403(b), and is unnecessary.

2. It adds a provision, based on 18 U.S.C. § 1913, which would prohibit the use of federal funds for activities designed to influence, directly or indirectly, a member of a State or local legislative body on any legislative or appropriations measure either before or after the introduction of a bill or resolution. The provision contains two exceptions:

a. It does not apply to part-time volunteers when not actually serving. This exception is meaningless, since the prohibition on "use of federal funds" clearly would not apply to what part-time volunteers do when not serving.

b. It does not apply to communications of full-time volunteers at the request of a member, committee or legislative body. A serious problem with this exemption is that it does not deal with communications from staff members, who are often requested to appear and testify.

HOUSE BILL

The House amendment (Section 8 of H.R. 2859) is placed in Section 403(b). Since Section 403(b) deals with restrictions on the use of federal funds at all levels of governments, it seems a more logical placement than Section 403(a), which, as presently written, deals only with federal elections.

The language of the House amendment changes the language of the prohibition on use of federal funds from "in a manner supporting or resulting in the identification of such programs with" [the prohibited activities] to "in any manner for the purpose of providing assistance to" [the prohibited activities].

This change makes the prohibition more specific, and will make it easier to enforce. We recommend its adoption.

The House bill also expands the list of prohibited activities to include a "partisan or nonpartisan attempt to influence any legislative action of the Congress, any State legislative, any local council or similar body, or in connection with any referendum, initiative, constitutional amendment or similar procedure, or any other such activity which is prohibited by law, or by a published rule of any such legislative body."

While the House bill, unlike the Senate bill, does not contain specific exemptions, it is clear that Rep. Biaggi's substitute for the original amendment by Rep. Kramer was intended to recognize that some types of contact with legislators are not "lobbying" within the meaning of the prohibition.

Among the examples given by Biaggi of permissible activities were:

1. Testimony by witnesses before legislative bodies and

2. Requests by project officials or volunteers to legislatures for the appropriation of matching funds.

Congressman Simon added the example of a senior citizen group or church group which has an ACTION project or volunteers going to the State legislature or to Congress or the City Council for necessary legislation as a permissible activity.

Rep. Simon summarized the intent of the provision as prohibiting "what is now in the regulations of the ACTION organization . . ."

The provision ultimately adopted should deal only with state and local activities. Use of federal funds to influence Congress are already prohibited by 18 U.S.C. § 1913. An additional prohibition in different language would cast doubt on well-established procedures presently being followed by the agency in its relationships with Congress.

In addition, the exceptions contained in the Senate bill should be redrafted to make clear that the prohibition does not apply to:

1. Communication with legislators or provision of information by any person at the request of a member, committee or legislative body.

2. Requests to legislative bodies, in accordance with the rules of such bodies, for legislation or the appropriation of funds relating to the programs authorized by the Act.

Both these exceptions are consistent with the intent of the House bill. They authorize activities which are clearly proper, and which are, in some instances, vital to the success of the volunteer programs. For instance, projects in all 50 states receive state or local appropriations to help meet legally required

savings in the out-of-pocket expenses that traditional health plans require.

The survey urges individual government workers to study thoroughly the various plans and their own personal medical care needs before finally selecting one. This was particularly important, the magazine said, if an individual or family is expecting unusual expenses, such as bills for dental or psychiatric care, that one plan might cover and another with the same premium might not.

Such insurance choices are relevant at the moment for federal and D.C. government workers, the magazine said, because the workers have their annual opportunity to switch insurance plans between next Monday and Dec. 7.

The magazine said that the vast differences between plans could easly be illustrated by comparing their highly ranked GEHA plan for a family of four with the lowly ranked Blue Cross-Blue Shield high option plan.

The study showed that in an average year the GEHA plan would cost about $680, including $235 in premiums and about $445 in unreimbursed expenses. The Blue Cross plan for about the same coverage will cost $1,040 in an average year, about $360 more than the GEHA plan.

While the Blue Cross plan would reimburse a greater proportion of a patient's bills, the premiums will be more than $450 higher.

"Over a 20-year period you will probably save over $5,000 by selecting GEHA," the magazine said. "Of course everyone would not have this much, and some families would actually come out ahead under the Blue Cross high option plan. But other families, the luckiest ones, would come out even more than $5,000 ahead under GEHA."

Washington Consumers' checkbook is published by the nonprofit Washington Center for the Study of Services, a group that previously has produced surveys of a variety of often-used consumer services.

Mr. DURENBERGER. Mr. President, briefly, my proposal is an attempt to apply the principles of competitive markets to our system for providing health care coverage. The theory of competitive markets is, of course, the basis of the American economy. The market approach is an effective alternative to greater Federal regulation and control of our health care system.

While Government regulation is becoming the norm for health care, there are areas in the country which have turned to the competitive-incentive model as a more appropriate means for the delivery of health care services. The Twin Cities of Minnesota is one area where competition is working. I have included with the bill an article describing the Minnesota experience. I would also like to call my colleagues' attention to an article which appeared in the Washington Post describing how the smart consumer can make an intelligent choice in choosing health insurance.

CONCERN FOR THE HOSTAGES IN IRAN

Mr. JEPSEN. Mr. President, I wish to echo the sentiments and comments of my distinguished colleague from Alaska (Mr. STEVENS) in regard to his request that all America should pray for the safety of those Americans being held hostage by some in Iran.

I also add that I hope we all pray for the President, and all those that govern and rule, that they may be given not only the wisdom, but the patience and the good fortune to do the things that need to be done, the way they ought to be done, in order that we might again have all our Americans safe at home with us.

MEALS ON WHEELS

Mr. JEPSEN. Mr. President, I ask unanimous consent to have printed in the RECORD 'Self-Help Gets a Swift Kick," published in the Washington Star on October 28, 1979.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SELF-HELP GETS A SWIFT KICK

(By Michael Balzano)

"Resolved . . . that in recognition of the selfless service performed, the president is hereby authorized and requested to issue a proclamation designating the week of September 16 through 22, 1979, as 'National Meals-on-Wheels Week' . . ." With these words, the Congress prepared to celebrate the 25th anniversary of a typically American phenomenon.

But only a few weeks earlier HEW's Administration on Aging (AOA) unveiled draft regulations for a new federal home-delivered meals program; if left unchanged, these regulations threaten to drive Meals-on-Wheels right off the road.

Some birthday present! By any standard, these thousands of neighborhood programs constitute the very model of what has always been valued most in this country: tens of thousands of volunteers identifying a genuine community need, amassing private resources, and meeting that need—with a minimum of bureaucratic fuss and a maximum of effective service.

Every day for 25 years now, and often twice a day, these local, private, non-profit programs deliver hot meals (and often essential ties with the outside world) to the home bound. Most of them are old—but they need not be 60 years of age or older. Many pay some or all of the cost of the meals; others pay none. Local churches and charities make up the deficit. The programs are tailored to virtually individual situations—and apparently they work.

In 1972, responding to no less worthy a need but quite a different one, Congress amended Title VII of the Older Americans Act to authorize a so-called congregate nutrition program. These programs serve a hot meal to senior citizens (60 and over) five days a week in a group—congregate—setting. There is no means test or charge for the meals, voluntary contributions are accepted. Last year these congregate centers served some 500,000 meals a day at an annual cost to the taxpayers of more than $300 million.

So, for about six years now, there have been two nationwide networks providing meals to the elderly, each with a legitimate, different, and apparently complementary purpose; voluntary meals-on-wheels programs serving the homebound, and federal Title VII programs serving the physically mobile. The one was a citizens' effort, locally designed, flexible, and privately supported; the other, necessarily encumbered by federal regulation ranging from the nutritional content of the meals to equal opportunity requirements for the hired staff. The one represented no appreciable drain on the U.S. Treasury, the other a considerable one.

In 1978, Congress began debating the creation of a national, federally funded, home-delivered meals program. It was principally concerned with the nutrition needs of the homebound elderly and saw in meals-on-wheels a logical vehicle for getting the job done.

The legislation was supported by both the National Association of Title VII Project Directors, representing existing federal grantees, and by the National Associations of Meals Programs (NAMP), representing a number of meals-on-wheels programs. But the two groups disagreed on how the funds should be channeled. The Title VII directors argued that their network of congregate centers should operate the federal meals-on-wheels services—with the private programs participating only under the authority of Title VII grantees, not as direct recipients of federal grants.

NAMP's case, in contrast, was that the local voluntary programs were already in place, had a proven track record, needed money to meet a growing demand with which charitable contributions were not keeping pace, and ought to be eligible to receive federal grants. They should remain reasonably autonomous, free of burdensome federal regulations, and serve as conduits—draining off almost nothing in overhead—for federal aid to those who need it. What NAMP had in mind was a partnership, not absorption.

Another sort of concern was expressed by local programs that did not themselves want federal funds but feared the impact of a new federal meals-on-wheels program growing out of the Title VII centers. They assumed—quite rightly as it turned out—that the two different services would operate under the same guidelines—that meals would be free and that their own "pay if and what you can" principle would not be able to withstand that competition.

As passed by Congress on October 18, 1978, the meals-on-wheels bill was incorporated into amendments to the Older Americans Act that greatly expanded social services for the elderly. Still, NAMP had solid grounds for believing that it was the intent of Congress to expand meal service to the homebound by using local voluntary meals-on-wheels programs as the main vehicle. Many members of the Senate and House authorizing committees said it was, including the chairmen, Senator Thomas Eagleton and Representative John Brademas: "In awarding funds, first consideration must be given to organizations like Meals on Wheels . . ." (Letter to The Washington Star, July 21, 1978).

Moreover, Congress provided two separate authorizations, one for the existing congregate programs and another for home-delivered meals. This was taken as a signal of congressional intent that meals-on-wheels programs would be eligible for direct grants from the area agencies and not subsumed under the authority of Title VII projects. Finally NAMP was assured by the commissioner on aging that the regulations would specifically protect the local voluntary programs from being forced out of business by Title VII competition.

On July 31, 1979, the draft regulations finally appeared in The Federal Register. The key provision states: "The area agency may only award funds for home delivered meals to a service provider that also provides congregate meals." This flatly rules out all but a handful of the voluntary meals-on-wheels programs from eligibility for direct federal grants—since, by definition, it is not their purpose to serve congregate meals. It also eliminates the possibility of funding any home-delivered meals services in areas where no congregate meal center exists.

So much for congressional intent and signals, and so much for the commissioner's assurances!

A NARROW READING

Now, assuming some rationality in the universe and honorable intentions all around, the question has to be, Why? Why these provisions in the regulations? In a July 12, 1979 letter to NAMP, the commissioner on aging justified them as mandated in the statute itself. He cited a clause that says, with respect to nutrition services:

OTHER DIFFERENCES

1. Carter Planning Services. We recommend that the proposal that career planning services be made available to all volunteers on request, rather than to low income volunteers, as is presently required be dropped from Section 101 of S. 239. Providing such services would place an additional financial burden on the VISTA program, and would divert career planning services from low-income volunteers, who need them most.

2. Governor's veto provisions of S. 239. The requirement that governors provide reasons for their vetoes of VISTA projects, contained in Section 101 of S. 239 will provide a legislative basis for what has, in practice, usually occurred. We do not, however, support the extension of the Governor's veto power to VISTA-type projects funded under Part C of Title I of the Act, as would be required by Section 105. Full-time volunteers in programs under Part C have, in the past, been utilized in demonstration activities such as VETREACH and the Program of Local Service. The proposed legislation would present difficult problems of interpretation and unnecessarily restrict the agency's ability to experiment with new program applications.

3. Service Learning Programs. We support the proposal contained in Section 5 of H.R. 2859 to permit enrollment of UYA volunteers for an academic year rather than a full calendar year. We also support the revisions to Section 114 of the Act contained in Section 5. These revisions more accurately describe the intended scope of activities carried out under this section, formerly known as the National Student Volunteer Program and Youth Challenge, and now grouped together as the National Center for Service Learning.

4. Amendment to the Section 404(g) income disregard provision. This amendment would make ineligible for the income disregard provisions of Section 404(a) (relating to eligibility for public assistance benefits) any volunteer whose allowances exceed the minimum wage, after taking into account the number of hours the volunteer serves. Volunteers are paid allowances, based on their need to live at the level of the people they serve. Allowances average $317 per month, far below the minimum wage. In some high cost of living areas, notably Alaska and Hawaii, it is possible that allowances may exceed the minimum wage for a 40 hour week. The cost of living which is the basis for volunteer allowances, is unrelated to minimum wage legislation.

Since volunteers must be "available for service without regard to regular working hours" it is possible that they would not be affected by this provision. However, the provision would have to be administered on an individual basis, week by week, using a system of computation entirely different for that used for all other volunteers. This would place a severe administrative burden on volunteers and sponsors. Since the penalty is severe (loss of eligibility for public assistance), we could not in good conscience ask low-income individuals to serve in areas where their allowances might, on some occasions, exceed the minimum wage without warning them of the possibility that they might lose their public assistance benefits. The result of the provision would undoubtedly be that there would be few, if any, low income volunteers serving in Alaska and perhaps in Hawaii.

We believe that all volunteers should be treated equally. This provision would introduce a serious inequity for low income people living in high cost of living areas. We recommend that the conferees delete it.

5. Volunteer employment status (workers compensation, Tort Claims, Hatch Act, etc.) S. 239 extends eligibility for these employment coverages under section 415(b) of the Act to all full-time volunteers who are enrolled for a period of service of at least 8 weeks. Usually, the applicability of benefits and restrictions of the type authorized by section 415(b) is determined by whether an employer-employee relationship exists, and not on the length of time the relationship is expected to continue. Special government employees (consultants and experts) are covered by provisions of this type even if they work only a single day. We prefer the language of S. 239, which would treat all full-time volunteers equally for the purposes of these coverages.

H.R. 2859 provides Workers Compensation at the GS-2 level for part-time volunteers serving at least 20 hours per week for at least 26 weeks. S. 239 provides coverage for such volunteers at an "appropriate portion" of the GS-7 level, as determined by the Director. We prefer the H.R. 2859 provision, which provides a specific rate of compensation which can be determined without controversy.

6. Medical Malpractice Coverage. The purpose of this provision is to fill a gap left by the Federal Tort Claims Act. H.R. 2859 provides coverage for full-time volunteers only. S. 239 covers all volunteers under Title I. We believe that coverage is appropriate for full-time volunteers only.

7. Volunteer Civil Rights. H.R. 2859 extends protection under section 717 of the Civil Rights Act of 1974, the Rehabilitation Act, and the Age Discrimination Act of 1975 to volunteers under the Domestic Volunteer Service Act of 1973. S. 239 contains similar provisions, but also extends coverage to volunteers under the Peace Corps Act.

We have no objection in principle to extending these coverages to Peace Corps volunteers. We defer to the judgment of the conferees on the question of whether placement of such coverage in the Domestic Volunteer Service Act is appropriate.

8. Reduction of Paperwork. There is a minor difference in wording between the House and Senate bill. The substantive intent of both provisions appears to be the same.

9. Business Volunteer Program Authorization. This provision of S. 239 applies only to FY 1979, and is no longer necessary.

10. Technical and Conforming Amendments. We prefer the provisions of H.R. 2859, but note that the reference to "Part D of Title I" and Title III in section 17(3) should be deleted to conform it to the balance of the Act.

11. Report relating to Rural Programs. While the provisions in the two bills differ in wording, we believe they are substantially the same.

12. Limit on payment authority. The intent of Section 20 of H.R. 2859, entitled "Limitation on Payment Authority" is apparently to prohibit the obligation or payment of funds in advance of appropriations. It simply restates in different language existing provisions of law (31 U.S.C. § 627, 31 U.S.C. § 665 and 41 U.S.C. 11), which clearly prohibit such obligations and expenditures. Where there are government-wide statutes governing obligations of funds, we believe it is unwise to add additional language in statutes affecting individual agencies. We recommend that this provision not be included in the final version of the bill.

Mr. CRANSTON. Mr. President, so that it may be able to read and to be useful to the public, I ask unanimous consent that the Cordon rule to be printed in the RECORD appear in the same size type as the type face used for the body of the RECORD and that its printing be delayed to a later day if necessary for it to be set in type appropriately.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Missouri withhold?

Is there objection to the request of the Senator from California?

Mr. STEVENS. Mr. President, reserving the right to object, and I do not think I shall object, what was the effect of the request of the Senator from California?

The PRESIDING OFFICER. That a Cordon rule showing changes in existing law be printed in the RECORD in full-sized type.

Mr. STEVENS. I appreciate the explanation. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Cordon rule material follows:

APPENDIX

CHANGES IN EXISTING LAW (PUBLIC LAW 93-113, AS AMENDED) MADE BY S. 239 AS AGREED TO IN CONFERENCE

For the information of the Members of Congress, changes in existing law (Public Law 93-113, as amended) made by the conference report on S. 239 are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

DOMESTIC VOLUNTEER SERVICE ACT OF 1973, AS AMENDED

Public Law 93-113, 93rd Congress, S. 1148, October 1, 1973

An act to provide for the operation of programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Domestic Volunteer Service Act of 1973":

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TITLE I—NATIONAL VOLUNTEER ANTI-POVERTY PROGRAMS

PART A—VOLUNTEERS IN SERVICE TO AMERICA

STATEMENT OF PURPOSE

SEC. 101. This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

AUTHORITY TO OPERATE VISTA PROGRAM

SEC. 102. The Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purpose of this part.

ASSIGNMENT OF VOLUNTEERS

SEC. 103. (a) The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to work in the several States in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this Act or the Economic Opportunity Act of 1964, as amended (42 U.S.C. chapter 34) in furtherance of the purpose of this title.

(b) The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. [Prior to] *Not later than 30 days after* the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer. *The Director shall offer to provide each volunteer enrolled for a period of full-time service of not less than one year under this title, and, upon the request of such volunteer, provide such volunteer with an individual and updated plan as described in the preceding two sentences.*

(c) Except as provided in subsection (d), the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(d) Volunteers under this part shall not be assigned to duties or work *in a program or project* in any State unless such program *or project* has been submitted to the Governor or other chief executive officer of the State concerned, and [has not been disapproved by him within forty-five days of such submission. The assignment of a volunteer shall be terminated by the Director when so requested by the Governor or chief executive officer of the State concerned] *such Governor or other chief executive officer has not, within 45 days of the date of such submission, notified the Director in writing, supported by a statement of reasons, that such Governor or other chief executive officer disapproves such program or project. In the event of a timely request in writing, supported by a statement of reasons, by the Governor or other chief executive officer of the State concerned, the Director shall terminate a program or project or the assignment of a volunteer to a program or project not later than 30 days after the date such request is received by the Director, or at such later date as is agreed upon by the Director and such Governor or other chief executive officer.*

TERMS AND PERIODS OF SERVICE

SEC. 104. (a) Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and poverty-related human, social, and environmental problems. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

(b) Volunteers serving under this part may be enrolled for periods of service not exceeding two years, but for not less than one-year periods of service, except that volunteers serving under this part may be enrolled for periods of service of less than one year when the Director determines, on an individual basis, that a period of service of less than one year is necessary to meet a critical scarce-skill need. Volunteers serving under this part may be reenrolled for periods of service totaling not more than two years. No volunteer shall serve for more than a total of five years under this part.

(c) Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 5(j) of the Peace Corps Act as amended (22 U.S.C. 2504(j)), except that persons legally residing within a State but who are not citizens or nationals of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on the date of enactment of this Act, and to each such volunteer beginning service thereafter, information regarding such procedure and the terms and conditions of their service.

SUPPORT SERVICE

SEC. 105. (a)(1) The Director may provide a stipend to volunteers, while they are in training and during their assignments, enrolled for periods of service of not less than one year under this part, except that the Director may, on an individual basis, make an exception to provide a stipend to a volunteer enrolled under this part for an extended period of service not totaling one year. Such stipend shall not exceed $75 per month during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a period of service, except that [in extraordinary] *under such* circumstances *as* the Director [may from time to time advance all or a portion of] *shall determine, in accordance with regulations which the Director shall prescribe,* the accrued stipend [to], *or any part of the accrued stipend, may be paid to the volunteer, or,* [or] on behalf of [a volunteer] *the volunteer, to members of the volunteer's family or others during the period of the volunteer's service.* In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(b) The Director shall also provide volunteers such living travel (including travel to and from place of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

PARTICIPATION OF BENEFICIARIES

SEC. 106. To the maximum extent practicable, the people of the communities to be served by volunteers under this title shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies, shall take all necessary steps to establish in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries.

PARTICIPATION OF OLDER PERSONS

SEC. 107. In carrying out this part and part C of this title, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and because of the high proportion of older persons within the poverty group, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

LIMITATIONS

SEC. 108. *(a)* Of funds appropriated for the purpose of this part under section 501, not more than [20] *16* per centum for the fiscal year ending September 30, 1977, and for each fiscal year thereafter, may be obligated for the direct cost of supporting volunteers in programs or projects carried out pursuant to grants and contracts made under section 402(12). *During the fiscal year ending September 30, 1980—*

(1) in no event may in excess of $5,800,000 be used pursuant to grants and contracts under this part for the direct cost of supporting such volunteers; and

(2) funds obligated pursuant to such grants and contracts for such cost may be used to support no greater number of years of volunteer service than the number of such years supported during the fiscal year ending September 30, 1979, pursuant to grants and contracts for such cost.

(b) No funds shall be obligated under this part pursuant to grants or contracts made after the date of the enactment of the Domestic Volunteer Service Act Amendments of 1979 for new projects for the direct cost of supporting volunteers unless the recipient of each such grant or contract has been selected through a competitive process which includes—

(1) public announcements of the availability of funds for such grants or contracts, general criteria for the selection of new recipients, and a description of the application process and the application review process; and

(2) a requirement that each applicant for any such grant or contract identify, with sufficient particularity to assure that the assignments of volunteers under such grants and contracts will carry out the purpose of this part, the particular poverty or poverty-related human, social, or environmental problems on which the grant or contract will focus, and any such grant or contract shall specifically so identify such problems.

PART B—SERVICE-LEARNING PROGRAMS

STATEMENT OF PURPOSE

SEC. 111. This part provides for the University Year for ACTION (UYA) program of full-time volunteer service by students enrolled in institutions of higher education, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their periods of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time, self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short-term service-learning by secondary and post-secondary school students to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems.

AUTHORITY TO OPERATE UNIVERSITY YEAR FOR ACTION PROGRAM

SEC. 112. Except as otherwise provided in this part, the Director is authorized to conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this title, except for the provisions of sections 103(d) and 104(d), and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

SPECIAL CONDITIONS

SEC. 113. (a) Volunteers serving under this part shall be enrolled for periods of service as provided for in subsection (b) of section 104, [and] *except that volunteers serving in the University Year for ACTION program may be enrolled for periods of service of not less than the duration of an academic year, but volunteers enrolled for less than 12 months shall not receive stipends under section 105(a)(1). Volunteers serving under this part* may receive academic credit for such service in accordance with the regulations of the sponsoring institution of higher education.

(b) Grants to and contracts with institutions to administer programs under this part shall provide the prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institutions in order to assist in meeting the needs of such poor persons.

(c)(1) In making grants or contracts for the administration of UYA programs under this part, the Director shall insure that financial assistance under this Act to programs carried out pursuant to section 112 of this part shall not exceed 90 per centum of the total cost (including planning costs) of such program during the first year and such amounts less than 90 per centum as the Director, in consultation with the institution, may determine for not more than four additional years, including years in which support was received under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d). Each such grant or contract shall stipulate that the institution will make every effort to (A) assume an increasing proportion of the cost of continuing a program carrying out the purpose of this part while the institution receives support under this part; (B) waive or otherwise reduce tuition for participants in such program, where such waiver is not prohibited by law; (C) utilize students and faculty at such institution to carry out, on a self-supporting basis, appropriate planning for such programs; and (D) maintain similar service-learning programs after such institution no longer receives support under this part.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of Health, Education, and Welfare of the extent of each such institution's compliance.

SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 114. (a) Of the funds appropriated for the operation of programs under this part, up to [10] *22* per centum may be used, notwithstanding any other provision of this part, to encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in- or out-of-school basis in assignments of a character and on such terms and conditions as described in subsections (a) and (c) of section 103. In any fiscal year in which the funds appropriated for the purposes of the University Year for ACTION program under section 112 exceed [$6,700,000] *$4,000,000*, the limitation provided in the preceding sentence shall not apply with respect to that portion of such appropriation which exceeds [$6,700,000] *$4,000,000*.

(b) Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purposes.

(c) The Director may provide volunteers serving under this section a living allowance and only such other support or allowance as he determines, pursuant to regulations which he shall prescribe, are required because of unusual or special circumstances affecting the program.

PART C—SPECIAL VOLUNTEER PROGRAMS

STATEMENT OF PURPOSE

SEC. 121. This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age

groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

AUTHORITY TO ESTABLISH AND OPERATE PROGRAMS

SEC. 122. (a)(*1*) The Director is authorized to conduct or make grants or contracts, or both, for special volunteer programs *in urban and rural areas* or demonstration programs (such as but not limited to a program to provide alternatives to the incarceration of youthful offenders; a program to promote educational opportunities for veterans; [and] a program to provide community-based peer group outreach and counseling for drug abusers, *a program of assistance to victims of domestic violence, a program to provide technical and management assistance to distressed comunities, a program designed to provide personal and group financial counseling to low-income and fixed-income individuals (utilizing volunteers with specialized or technical expertise), and a Helping Hand program*) designed to stimulate and initiate improved methods of providing volunteer services, to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part, and to identify particular segments of the poverty community which could benefit from volunteer and other anti-poverty efforts. *In carrying out programs authorized by this part, the Director is authorized to provide for the recruitment, selection, and training of volunteers.*

(*2*) *For purposes of this subsection, the term "Helping Hand" program means a program utilizing person-to-person services to reduce the necessity for institutionalization (in hospitals, mental institutions, nursing homes, other extended-care settings, and other facilities) and to ameliorate residential isolation (through senior centers, halfway house facilities, and other residential settings) of older persons, handicapped persons, and other affected persons, stressing interactions between persons from various age groups, particularly young and old, and carried out in coordination with the appropriate State system for the protection and advocacy of the rights of persons with developmental disabilities established pursuant to section 113 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6012).*

(b) Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

(c)(*1*) The Director, in accordance with regulations [he] *which the Director* shall prescribe, may provide to [persons serving as full-time] volunteers [in a program of at least one year's duration] *enrolled for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks* under this part such allowances, *support*, and [stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this title, as he determines] *services as are described in section 105(b) and as the Director determines* are necessary to carry out the purpose of this [part. The Director is authorized to undertake and support volunteer service programs, and to recruit, select, and train volunteers to carry out the purpose of] *part, and shall apply the provisions of sections 104(c) and 105(b) to the service of volunteers enrolled for full-time service under* this part.

(*2*) *The Director, in accordance with regulations which the Director shall prescribe with respect to volunteers enrolled for periods of full-time service of not less than one year under this part—*

(A) may provide to such volunteers such stipends, in total amounts not in excess of stipends provided under section 105(a) to volunteers serving under part A of this title, as the Director determines are necessary to carry out the purposes of this part; and

(B) to the extent that the terms and conditions of the service of such volunteers are of similar character to the terms and conditions of the service of volunteers enrolled under part A of this title, shall apply to the service of such volunteers enrolled under this part the provisions of sections 103(b) relating to low-income community volunteers, 103(d), 104(d), and 105(a) to the extent such provisions are applied to the service of volunteers enrolled under such part A.

TECHNICAL AND FINANCIAL ASSISTANCE FOR IMPROVEMENT OF VOLUNTEER PROGRAMS

SEC. 123. The Director may provide technical and financial assistance to Federal agencies, State and local governments and agencies, and private nonprofit organizations, which utilize or desire to utilize volunteers in connection with carrying out the purpose of this part. Such assistance may be used to facilitate and improve (1) methods of recruiting, training, or utilizing volunteers, or (2) the administration of volunteer programs. In providing such technical and financial assistance, the Director shall utilize, to the maximum extent feasible, existing programs, and shall seek to avoid duplication of existing programs in the public or private sectors.

TITLE II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

PART A—RETIRED SENIOR VOLUNTEER PROGRAM

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 201. (a) In order to help retired persons to avail themselves of opportunities for volunteer service in their community, the Director is authorized to make grants to State agencies (established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1))) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines, in accordance with regulations he shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals aged sixty or over will be enrolled as volunteers to provide services under this part (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the program includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating volunteers and individuals, and provide for the payment of the reasonable expenses of such volunteers while undergoing such training; and

(4) the program is being established and will be carried out with the advice of persons competent in the field of service involved, and of persons with interest in and knowledge of the needs of older persons.

(b) In no event shall the required proportion of the local contribution (including in-kind contributions) for a grant or contract made under this section be more than 10 per centum in the first year of assistance under this section, 20 per centum in the second such year, 30 per centum in the third such year, 40 per centum in the fourth such year, and 50 per centum in any subsequent such years: *Provided, however*, That the Director may make exceptions in cases of demonstrated need, determined (in accordance with regulations which the Director shall prescribe) on the basis of the financial capability of a particular recipient of assistance under this section, to permit a lesser local contribution proportion established by the Director in generally applicable regulations.

(c) The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)), such agency itself is the recipient of the award or such agency has been afforded at least sixty days in which to review the project application and make recommendations thereon.

PART B.—FOSTER GRANDPARENT PROGRAM AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 211. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part) designed for the purpose of providing opportunities for low-income persons aged sixty or over to provide supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services by individuals serving as "foster grandparents" to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if he determines, in accordance with regulations he shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 611(a) of the Older Americans Act of 1965, as amended (42 U.S.C. 3044b) or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

(b) The Director is also authorized to make grants or contracts to carry out the purpose described in subsection (a) of this section in the case of persons (other than children) having exceptional needs, including services by individuals serving as "senior health aides" to work with persons receiving home health care, nursing care, or meals on wheels or other nutritional services, and as "senior companions" to persons having developmental disabilities or other special needs for companionship.

(c)(1) Any public or private nonprofit agency or organization responsible for providing person-to-person services to a child in a project carried out under subsection (a) of this section shall have the exclusive authority to determine, pursuant to the provisions of paragraph (2) of this subsection—

(A) which children may receive supportive person-to-person services under such project; and

(B) the period of time during which such

services shall be continued in the case of each individual child.

(2) In the event that such an agency or organization determines that it is in the best interests of a mentally retarded child receiving, and of a particular foster grandparent providing, services in such a project, such relationship may be continued after the child reaches the chronological age of 21: *Provided*, That such child was receiving such services prior to attaining the chronological age of 21.

(3) Any determination made by a public or nonprofit private agency or organization under paragraphs (1) and (2) of this subsection shall be made through mutual agreement by all parties involved with respect to the provision of services to the child involved.

(d) For the purposes of this section, the terms "child" and "children" mean any individual or individuals who are less than 21 years of age.

CONDITIONS OF GRANTS AND CONTRACTS

SEC. 212. (a)(1) In carrying out this part, the Director shall insure that individuals receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2) The Director shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency established or designated under section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)) is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted, in consultation with, or with the participation of, such agency.

(3) The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project;

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of such agency; and

(C) if such State has a State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)), such agency has been afforded at least forty-five days in which to review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section means a community action agency as defined in title II of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2781–2837).

PART C—GENERAL PROVISIONS

COORDINATION WITH OTHER FEDERAL PROGRAMS

SEC. 221. In carrying out this title, the Director shall consult with the [Office of Economic Opportunity] *Community Services Administration*, the Departments of Labor and Health, Education, and Welfare, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs, and shall promote the coordination of projects under this title with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this title and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this title.

PAYMENTS

SEC. 222. Payments under this title pursuant to a grant or contract may be made (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

MINORITY GROUP PARTICIPATION

SEC. 223. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this title.

TITLE IV—ADMINISTRATION AND COORDINATION

ESTABLISHMENT OF AGENCY

SEC. 401. There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. There shall also be in such agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such agency two Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. One such Associate Director shall be designated "Associate Director for Domestic and Anti-Poverty Operations" and shall carry out operational responsibility for all programs authorized under this Act, and the other such Associate Diretcor shall be designated "Associate Director for International Operations" and shall carry out operational responsibility for all programs authorized under the Peace Corps Act (22 U.S.C. 2501 et seq.). There shall also be in such agency no more than two Assistant Directors appointed by the President by and with the advice and consent of the Senate, who shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. Each such Assistant Director shall perform such staff and support functions for such Associate Directors as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under parts A and B of title I of this Act and one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under title II of this Act, each of whom shall be appointed by the Director.

AUTHORITY OF THE DIRECTOR

SEC. 402. In addition to the authority conferred upon him by other sections of this Act, the Director is authorized to—

(1) appoint in accordance with the Civil Service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and, except as otherwise provided herein, fix the compensation of such personnel in accordance with chapter 51 of title 5, United States Code;

(2)(A) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5332 of such title, including traveltime; (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently, while so employed; and (D) annually renew contracts for such employment under this clause;

(3) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act and, as necessary or appropriate, delegate any of his functions under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivisions without reimbursement;

(5) accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this Act, or of any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(6) accept voluntary and uncompensated services;

(7) allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this Act as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10, United States Code), expenditure for construction, repairs, and capital improvements;

(8) disseminate, without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as he shall deem appropriate to public agencies, private organizations, and the general public;

(9) adopt an official seal, which shall be judicially noticed;

(10) collect or compromise all obligations to or held by him and all legal or equitable

rights accruing to him in connection with the payment of obligations in accordance with Federal Claims Collection Act of 1966 (31 U.S.C. 951–53);

(11) expend funds made available for purposes of this Act as follows: (A) for printing and binding, in accordance with applicable law and regulations; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this Act, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority;

(12) notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this Act.

(except as provided in section 108) which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this Act to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (B) promote the development, and the placement therein of such volunteers, of appropriate opportunities for the use of such skills and experience;

(14) establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organization and persons, and make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments) as are necessary or appropriate to carry out the provisions of this Act; and

(15) generally perform such functions and take such steps, consistent with the purposes and provisions of this Act, as he deems necessary or appropriate to carry out the provisions of this Act.

POLITICAL ACTIVITIES

SEC. 403. (a) No part of any funds appropriated to carry out this Act, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, *or the outcome of any election to any State or local public office*, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" (*when referring to an election for Federal office*) has the same meaning given such term by section 301(a) of the Federal Election Campaign Act of 1971 (Public Law 92–225), and the term "Federal office" has the same meaning given such term by section 301(c) of such Act.

(b) (*1*) Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with [(1)] (*A*) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, [(2)] (*B*) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or [(3)] (*C*) any voter registration activity.

(*2*) *No funds appropriated to carry out this Act shall be used by any program assisted under this Act in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except—*

(*A*) *in any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of, such a program to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or*

(*B*) *in connection with an authorization or appropriations measure directly affecting the operation of the program.*

(C) The Director, after consultation with the [Civil Service Commission] *Office of Personnel Management*, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than thirty days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

SPECIAL LIMITATIONS

SEC. 404. (a) The Director shall prescribe regulations and shall carry out the provisions of this Act so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this Act, shall be furnished at the lowest possible costs consistent with the effective operation of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or anti-labor organizations or related activity.

(e) Persons serving as volunteers under this Act shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this Act. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this Act who wish to become volunteers as he determines will further the purposes of this Act.

(f) Notwithstanding any other provision of law and except as provided in the second sentence of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out programs under this Act only to persons appointed or employed pursuant to clauses (1) and (2) of section 402, and persons assigned or delegated such substantial responsibilities on the effective date of this Act and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5, United States Code, on such date shall, by operation of law on such date, be assigned a grade level pursuant to such latter provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date. The Director may personally make exceptions to the requirements set forth in the first sentence of this subsection for persons he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq.) within six months after the effective date of this Act.

(g)(1) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any governmental program, *except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater.*

(*2*) *Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.*

NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

SEC. 405. (a) There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of not more than twenty-five members appointed, not later than ninety days after the date of the enactment of this Act, by and serving at the pleasure of the President. Such members shall be representative of public and private organizations, groups, and individuals interested in serving and benefited by programs carried out under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.). The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after appointment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of such Council shall receive compensation and travel expenses as provided in section 402(2) of this Act with respect to experts and consultants. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

(b) The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.); and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this Act and the Peace Corps Act and make recommendations (including such proposals for changes in such Acts as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of such Acts.

(c) Not later than January 1 of each calendar year beginning with the calendar year 1975, the Council shall make an annual report of findings and recommendations to the resident for transmittal by the resident to the Congress together with his comments and recommendations.

(d) In the event that a National Advisory Council to the ACTION Agency is established by administrative action after January 1, 1976, the provisions of subsections (a), (b), and (c) of this section shall apply to any such Council.

LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and in section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, ch. 492, as amended; 40 U.S.C. 276c).

REPORTS

SEC. 407. Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the resident for transmittal by the President to the Congress a full and complete report on the activities of the ACTION Agency during such year.

JOINT FUNDING

SEC. 408. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements under or pursuant to this Act.

PROHIBITION OF FEDERAL CONTROL

SEC. 409. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any education institution or school system.

COORDINATION WITH OTHER PROGRAMS

SEC. 410. The Director shall take necessary steps to coordinate volunteer programs authorized under this Act with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this Act with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this Act. *The Director, in consultation with the Director of the Office of Personnel Management and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment; and (2) to make provisions for the listing and description of volunteer work on all employment application forms.*

PROHIBITION

SEC. 411. In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this Act, no funds appropriated to carry out this Act shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

NOTICE AND HEARING PROCEDURES FOR SUSPENSION AND TERMINATION OF FINANCIAL ASSISTANCE

SEC. 412. The Director is authorized, in accordance with the provisions of this section, to suspend further payments or to terminate payments under any contract or grant providing assistance under this Act, whenever he determines there is a material failure to comply with the applicable terms and conditions of any such grant or contract. The Director shall prescribe procedures to insure that—

(1) assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days, nor shall an application for refunding under this Act be denied, unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) assistance under this Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

DISTRIBUTION OF BENEFITS BETWEEN RURAL AND URBAN AREAS

SEC. 414. The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this Act will be distributed equitably between residents of rural and urban areas.

APPLICATION OF FEDERAL LAW

SEC. 415. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this Act shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

(b) Individuals enrolled [in programs, under title I of this Act for periods of service of at least one year] *as volunteers for periods of full-time service, or, as the Director deems appropriate in accordance with regulations, for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks, under title I of this Act* shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of title 5, United States Code, be deemed persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of title 28, United States Code, be deemed employees of the United States, [and] (4) for the purposes of subchapter I of chapter 81 of title 5, United States Code (relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, [the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS–7 employee,] *the annual rate of pay of a volunteer enrolled for a period of full-time service under such title I shall be deemed to be that received under the entrance salary for a grade GS–7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service under such title I shall be deemed to be such entry salary or an appropriate portion thereof as determined by the Director*, and subsection (a) and (b) of section 8113 of title 5, United States Code, shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured volunteer is [terminated.] *terminated, and (5) be deemed employees of the United States for the purposes of section 5584 of title 5, United States Code (and stipends and allowances paid under this Act shall be considered as pay for such purposes)*.

(c) Any period of service of a volunteer enrolled in a program for a period of service of at last one year under part A of title I of this Act, and any period of full-time service of a volunteer enrolled in a program for a period of service of at least one year under part B or C of title I of this Act, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)), and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the [Civil Service Commission] *Office of Personnel Management*, the Foreign Service Act of 1946, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any service requirement for career appointment.

(d) Volunteers serving in programs for periods of service of at least one year under part A of title I of this Act, and volunteers serving for such periods under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

(e) Notwithstanding any other provision

of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of title I of this Act.

(f)(1) The remedy—

(A) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or

(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such title 28, for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of such person's duties as a volunteer enrolled under title I of this Act shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or such person's estate) whose action or omission gave rise to such claim.

(2) The Attorney General of the United States shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate supervisor or to whomever is designated by the Director to receive such papers, and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought and to the Attorney General.

(3) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's volunteer assignment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a district court of the United States determine on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of such person's volunteer assignment, the case shall be remanded to the State court.

(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.

EVALUATION

SEC. 416. (a) The Director shall periodically measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) The Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this Act. Reports submitted pursuant to section 407 shall describe the actions taken as a result of evaluations carried out under this section.

(c) In carrying out evaluations under this title, the Director shall whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

(d) The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this Act, to conduct program and project evaluations (directly, or by grants or contracts) as required by this Act. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly.

NONDISCRIMINATION

SEC. 417. (a) The Director shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, belief, color, national origin, sex, age, *handicap*, or political affiliation. *For purposes of this subsection, and for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (Public Law 94–135, title III; 42 U.S.C. 6101 et seq.), any program, project, or activity to which volunteers are assigned under this Act shall be deemed to be receiving Federal financial assistance.*

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Director shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1). Section 603 of such Act shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

(c)(1) The Director shall apply the nondiscrimination policies and authorities set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and in the Age Discrimination Act of 1975 (Public Law 94–135, title III; 42 U.S.C. 6101 et seq.) to applicants for enrollment for service as volunteers, and to volunteers serving, under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.). Any remedies available to individuals under such laws, other than the right of appeal to the Civil Service Commission authorized by section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or volunteers.

(2) Not later than 90 days after the date of the enactment of the Domestic Volunteer Service Act Amendments of 1979, the Director, after consultation with the Equal Employment Opportunity Commission with regard to the application of the policies set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) and with the Interagency Coordinating Council, established by section 507 of the Rehabilitation Act of 1973 (29 U.S.C. 797), and the Interagency Committee on Handicapped Employees, established by section 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. 791(a)), with regard to the application of the policies set forth in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and, not later than 90 days after the Secretary of Health, Education, and Welfare or the Secretary of Health and Human Resources, as the case may be, publishes final general regulations to carry out the Age Discrimination Act of 1975 (Public Law 94–135, title III; 42 U.S.C. 6101 et seq.), and after consultation with the Secretary with regard to the application of the policies set forth in such Act, shall prescribe regulations establishing the procedures for the application of such policies and the provision of such remedies so as to promote the enrollment and service of persons as volunteers without regard to the discriminatory factors described in such laws.

ELIGIBILITY FOR OTHER BENEFITS

SEC. 418. Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to [titles] *title* II [and III] of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after the effective date of this Act.

LEGAL EXPENSES

SEC. 419. Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this Act or section 8(b)(1) of the Small Business Act, as amended (15 U.S.C. 637(b)(1))), serving under this Act have been made parties.

[GUIDELINES

[SEC. 420. All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register at least thirty days prior to their effective date.]

Requirements for prescribing regulations

SEC. 420. (a) For purposes of this section—

(1) the term "regulation" means any rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by the Director pursuant to this Act; and

(2) the term "Committees" means the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(b) Regulations prescribed by the Director or by any other officer of the ACTION Agency, in connection with, or affecting, the administration of any program carried out under this Act shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

(c)(1) Except as provided in paragraph (2)(B) of this subsection, no proposed regulation prescribed pursuant to this Act for the administration of any program carried out under this Act may take effect until 30 calendar days after it is published in the Federal Register.

(2)(A) During the 30-day period before the date upon which such regulation is to be effective, the Director shall, in accordance with the provisions of section 553 of title 5, United States Code, offer any interested party an opportunity to make comment upon, and take exception to, such regulation and shall reconsider any such regulation upon which comment is made or to which exception is taken.

(B) If the Director determines that the 30-day requirement in paragraph (1) of this subsection would cause undue delay in the implementation of a regulation, thereby causing substantial hardship for the intended beneficiaries of any program carried out under this Act, the Director may waive the application of such requirement and shall immediately submit a notice of such determination and waiver, including a statement of the reasons therefor, to the Committees.

(d) Concurrently with the publication in the Federal Register of any final regulation, a copy of such final regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Except as is provided in the following sentence, no such final regulation may take effect until 45 calendar days after such transmission. If the Director determines that such 45-day requirement would cause undue delay in the implementation of the regulation, thereby causing substantial hardship for the intended beneficiaries of any program carried out under this Act, the Director may waive the application of such requirement and shall promptly submit a notice of such determination and waiver, including a statement of the reasons therefor, to the Committees.

(e) Not later than 60 days after the date of the enactment of any Act affecting the administration of any program carried out under this Act, the Director shall submit to the Committees a schedule in accordance with which the Director has planned to prescribe final regulations implementing such Act or part of such Act. Such schedule shall provide that all such final regulations shall be prescribed not later than 180 days after the submission of such schedule. Except as is provided in the following sentence, all such final regulations shall be prescribed in accordance with such schedule. If the Director determines that, due to circumstances unforeseen at the time of the submission of any such schedule, the schedule submitted pursuant to this subsection cannot be met, the Director shall submit a notice of such determination, including a statement of the reasons therefor, to the Committees and shall submit a new schedule which shall then be considered, for the purposes of this subsection, as the schedule originally submitted in connection with the enactment of the Act involved.

DEFINITIONS

SEC. 421. For the purposes of this Act—

(1) the term "Director" means the Director of the ACTION agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, and American Samoa and, for the purposes of title II of this Act, the Trust Territory of the Pacific Islands;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully insure, to the benefit of any private shareholder or individual; and

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92–424 (42 U.S.C. 2971d): *Provided*, That in determining who is "poor" or "low-income", the Director shall take into consideration existing poverty guidelines as appropriate to local situations.

AUDIT

SEC. 422. (a) Each recipient of Federal grants, subgrants, contracts, subcontracts, or loans entered into under this Act other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or loans referred to in subsection (a).

REDUCTION OF PAPERWORK

SEC. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act.

REVIEW OF PROJECT RENEWALS

SEC. 424. If the executive authority of any State or local government submits to the Director, not later than 30 days before the expiration of any contract or grant to carry out any project under this Act, a statement which objects to the renewal of such contract or grant, then the Director shall (1) review such statement and take it into account in determining whether to renew such contract or grant; and (2) submit to such executive authority a written statement of reasons regarding the Director's determination with respect to such renewal and specifically with respect to any objection so submitted.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SEC. 501. (a) There are authorized to be appropriated $37,600,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary each for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, [and] September 30, 1978, *September 30, 1979, September 30, 1980, and September 30, 1981*, for the purpose of carrying out title I of this Act. In each such year of the sums appropriated pursuant to this [title] *section for the purpose of carrying out title I of this Act* not less than $29,600,000 shall be expended on programs designed to eliminate poverty and poverty-related human, social, and environmental problems.

Of this amount not less than $22,300,000 shall be expended on programs authorized under part A of title I in each such fiscal year.

(b) Any sums authorized to be appropriated for title I of this Act in excess of $37,600,000 shall be reflected in a commensurate increase in the sums to be made available for Part A of such title.

(c)(1) Of the funds appropriated for each of the fiscal years 1980 and 1981 for the purpose of carrying out title I of this Act, (A) not less than $28,000,000 shall first be available for carrying out the VISTA program under part A of such title, and (B) of the funds appropriated for each such fiscal year for the purpose of carrying out such title which are in excess of $28,000,000 (i) not less than $2,300,000 for fiscal year 1980 and not less than $1,600,000 for fiscal year 1981 shall be available for carrying out the University Year for ACTION program under part B of such title, and (ii) not less than $500,000 for each fiscal year shall be available for carrying out service-learning programs under section 114.

(2) Of the funds appropriated for each of the fiscal years 1980 and 1981 for the purpose of carrying out part C of title I of this Act which are in excess of $2,500,000 but not in excess of $10,000,000, not less than 50 per centum in each such fiscal year shall be available for carrying out the fixed-income counseling and Helping Hand programs under section 122.

NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS

SEC. 502. (a) There are authorized to be appropriated $17,500,000 for the fiscal year ending June 30, 1974, $20,000,000 each for the fiscal year ending June 30, 1975, and for the fiscal year ending June 30, 1976, respectively, $6,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $22,000,000 for each of the fiscal year ending September 30, 1977, and September 30, 1978, to be used for the purpose of carrying out programs under part A of title II of this Act.

(b)(1) There are authorized to be appropriated $32,500,000 for the fiscal year ending June 30, 1974, $40,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, $10,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $43,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, for the purpose of carrying out programs under part B of such title of which (A) $26,500,000 for the fiscal year ending June 30, 1974, and $32 000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, $8,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $35,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, shall be available for such years for grants or contracts under subsection (a) of section 211, and (B) $6,000,000 for the fiscal year ending June 30, 1974, and $8,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, shall be available for such years for grants or contracts under subsection (b) of such section.

(2) If the sums authorized to be appro-

priated under paragraph (1) of this subsection are not appropriated and made available in full for each such fiscal year, then such sums as are appropriated and made available for each such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equal $25,000,000 shall be used for grants or contracts under such subsection; and

(B) any amounts appropriated in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $31,000,000 for the fiscal year ending June 30, 1974, and $33,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively shall be used for grants or contracts for such fiscal years under such subsection.

ADMINISTRATION AND COORDINATION

SEC. 504. There are authorized to be appropriated each for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, [and] September 30, 1978, *September 30, 1979, September 30, 1980, and September 30, 1981*, respectively, such sums as may be necessary for the administration of this Act as authorized in title IV of such Act.

AVAILABILITY OF APPROPRIATIONS

SEC. 505. Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this Act or any predecessor authority shall remain available, in accordance with the provisions of this Act, for obligation and expenditure until expended.

TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

SUPERSEDENCE OF REORGANIZATION PLAN NUMBER 1 OF JULY 1, 1971

SEC. 601. (a) Sections 1, 2(a), 3, and 4 of Reorganization Plan Number 1 of 1971 (July 1, 1971) are hereby superseded.

(b) The personnel, property, records, and unexpected balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

(c) All official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act and for which there is continuing authority under the provisions of this Act, and the length of the period of service of volunteers serving or undergoing training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d) on the effective date of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(d) All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

(e) No suit, action or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act.

(f) Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

CREDITABLE SERVICE FOR CIVIL SERVICE RETIREMENT

SEC. 602. Section 8332(b)(7) of title 5, United States Code (relating to creditable service to civil service retirement), is amended by inserting a comma and "or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (— U.S.C.—)" after "Economic Opportunity Act of 1964".

REPEAL OF TITLE VIII OF THE ECONOMIC OPPORTUNITY ACT

SEC. 603. Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), is hereby repealed.

REPEAL OF TITLE VI OF THE OLDER AMERICANS ACT

SEC. 604. (a) Title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3044–3044e), is hereby repealed.

(b) Section 908 of the Older Americans Comprehensive Services Amendments Act of 1973 (Public Law 93–29) is amended by striking out "1973," and "1974," and inserting in lieu thereof "1974," and "1975,", respectively.

Approved October 1, 1973.

SECTION 5 OF PUBLIC LAW 94–130

An act to amend further the Peace Corps Act, and for other purposes

* * * * *

SEC. 5. (a) Section 105(a)(1) of the Domestic Volunteer Service Act of 1973 (42 U.S.C 4955(a)(1)) is amended by striking out "$50" and inserting in lieu thereof "$75".

(b) There are authorized to be appropriated, in addition to the sums authorized to be appropriated pursuant to section 501 of such Act, such additional sums as may be necessary to carry out the amendments made by subsection (a) of this section. [Such amendments are to be effective for each fiscal year only to such extent and for such amounts as are specifically provided for such purpose in such appropriation Acts.]

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. CRANSTON. I move to reconsider the vote by which the conference report was agree to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 20 minutes, with Senators permitted to speak up to 5 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

WELFARE REFORM IN REVERSE

Mr. THURMOND. Mr. President, much reform is needed in the Nation's welfare system. We need to tighten the eligibility requirements and eliminate fraud and abuse.

A recent editorial in the Greenville News in Greenville, S.C., brings up the issue of welfare reform and points out that the administration's proposals will do nothing to help solve the problem. The editorial states that the proposals will not encourage the incentive of the recipients to get off the welfare program and will probably increase the Federal Government's role in the system.

Mr. President, in order to share this fine article with my colleagues, I ask unanimous consent that the editorial appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WELFARE REFORM IN REVERSE

Few people would argue the need to reform the nation's welfare system. It is a mess, open to fraud, waste and abuse.

But the Carter administration is going about welfare reform in the wrong way. The president's proposal, which is now before Congress, likely will lead to higher welfare bills, will reduce the incentive recipients have to get off the welfare rolls and will do nothing to lessen the risk of fraud and abuse.

It also will increase the federal role in welfare; and that, given the magnitude of the welfare system, will further erode the federal system prescribed by the Constitution.

The primary feature of the administration plan is the establishment of a national minimum welfare benefit equal to 65 percent of the official poverty level. It is now set by the Census Bureau at $7,160 for a family of four. The minimum welfare benefit would be $4,654.

Critics of the proposal contend it will lead to the establishment of a guaranteed income. There is little difference between a minimum welfare benefit and a guaranteed income. It is, in fact, when taken with other welfare benefits, such as food stamps and the earned income tax credit, little more than a scheme for redistributing the nation's wealth.

One of the most troubling aspects of the proposal is that it will do nothing to encourage welfare recipients to seek work which will get them off the welfare rolls or, at least, reduce their dependence on welfare.

The proposal has a work requirement, but the requirement is so watered down a welfare recipient would be permitted to refuse a job for several reasons, one of which is that the job doesn't pay very much.

The heavy hand of organized labor can be seen clearly in the provision which will allow a welfare recipient to refuse a job which becomes available because of a strike, lockout or other labor dispute.

The plan also would allow a welfare recipient to earn up to $500 per month and still be considered unemployed.

Carter's proposal also does not take into consideration cost of living differences between states. A welfare family in South Carolina would get the same benefit as a recipient in New York City, where the cost of living is much higher.

By enacting a minimum national benefit, Congress necessarily would increase federal control of the welfare system, which now is primarily the responsibility of the states. Such federal control would put yet another nail into the coffin of the system of government the Founding Fathers sought to establish. They feared a strong central government and tried to limit its powers.

There is also in Congress an alternative welfare proposal which would not drastically increase federal power. That legislation would provide for a system of block grants to the states. The states would be able to tailor their welfare programs to the needs of

their own welfare recipients, experiment with new programs and establish work requirements which could cut welfare costs without hurting those who really need government aid.

This proposal—and not Carter's—should be adopted.

UNITED NEGRO COLLEGE FUND

Mr. THURMOND. Mr. President, since 1943, the United Negro College Fund has provided support for private colleges throughout the country. This fine organization has distributed about $2 million during its history and has enabled countless young men and women to receive an education they might not have otherwise been able to afford.

Twenty-seven colleges participated in the original appeal for the UNCF. Today the fund provides money and services to over 41 members. These institutions are private, fully accredited predominately black colleges and universities.

Recently, the Washington Inter-Alumni Council of the United Negro College Fund held ceremonies recognizing some of its members for their exemplary work for education. I was pleased to learn that a staff member of mine, Mrs. Thomasina Francis, was honored at this event for her dedicated efforts and distinguished service to her alma mater (Vorhees College), the alumni council, her church, and her community. Mrs. Francis is a fine, competent member of my staff, and I am proud of her achievements with the UNCF.

SOVIET CONSTRUCTION OF NEW PIER IN CUBA

Mr. THURMOND. Mr. President, the Soviet military buildup of an operating base in Cuba continues with hardly a whimper from the administration.

The latest discovery of a new pier under construction at Cienfuegos indicates that the Soviets are establishing in Cuba facilities which will enable them to build an influence in Central and Latin America.

Mr. President, I ask unanimous consent that an article entitled "Soviet Construction of Pier at Cuban Base is Reported" which appeared in the October 31, 1979 issue of the Washington Post newspaper be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET CONSTRUCTION OF PIER AT CUBAN BASE IS REPORTED

(By John M. Goshko)

U.S. intelligence has determined that the Soviet Union is building a new pier at the Cienfuegos naval base in Cuba, but Carter administration officials said last night they do not know whether the facility could be used for offensive purposes such as servicing Soviet nuclear submarines.

The officials stressed that, at this point, there are no grounds for regarding the pier construction with the same concern triggered by the discovery in August of a Soviet combat brigade in Cuba.

In fact, the officials added, there is no evidence to suggest that the construction violates the understandings reached by the two superpowers in settlement of the 1962 Cuban missile crisis. Those agreements are supposed to bar the Soviets from introducing offensive weapons onto the islands.

They said the construction, which was detected by increased U.S. surveillance of Cuba in the wake of the furor over the Soviet brigade, is being watched closely and has been reported to key members of Congress dealing with security affairs. They added that Secretary of State Cyrus R. Vance also discussed the matter in general terms at a meeting Monday with Hispanic-American community leaders.

However, despite the cautious tone taken by the officials, fallout from the controversy over the Soviet brigade—coupled with a companion dispute about Cuba as a potential base for servicing Soviet subs and warships—seems certain to unleash new questions about Soviet military activities in Cuba.

That was underscored last night by Sen. Richard B. Stone (D-Fla.), who revealed the presence of the Soviet brigade last summer at a time administration officials were insisting they had no evidence to support such charges.

In a telephone interview, Stone, who has been briefed on the matter, said the construction is of "major proportions" and has been under way for several months. The senator added that he had more information but could not reveal it because it was classified and went beyond the facts that emerged yesterday.

But Stone, who repeatedly has raised questions about Soviet submarine visits to Cuba, said the matter raises questions "of concern about whether the Soviets are attempting to build a major submarine base in Cuba."

He continued: "It is time to get this situation clarified, both in terms of clearing up ambiguities about the extent to which facilities in Cuba can be used by Soviet warships, including those with nuclear armaments, and in terms of making clear we will not tolerate a major base there operated by the Soviets or their Cuban allies."

The U.S.-Soviet understandings about Cuba, which have never been made fully public, have been a subject of controversy over the years in regard to naval matters.

In 1970, after concern developed that the Russians were building a submarine base at Cienfuegos Bay, President Nixon announced that port calls in Cuba by Soviet submarines and ships would not violate the agreements, but the servicing of such vessels "either in or from Cuba would be a violation."

The pier whose construction has now been detected is in addition to another recently built at Cienfuegos Bay under Soviet supervision Although it apparently was ready for use when Soviet ships were deployed in the Caribbean last spring, the Russian vessels did not visit Cuba.

That is believed to have been the result of U.S. press reports calling attention to the possibility that a violation of the 1962 agreements and the 1970 Nixon interpretation of the accords might occur. The Carter administration is understood to have warned the Soviets at the time that a visit by the Soviet ships to Cienfuegos could be considered a provocation in this country and lead to strained relations.

However, there has been continued speculation about whether Soviet ships and subs will continue to avoid going into Cienfuegos Bay. As a result, revelation that a second Soviet pier is under construction seems guaranteed to regenerate debate about what the Soviets are up to at the Cuban facility.

According to administration sources, the new construction also involves several large buildings or sheds, and some sources said that this seems like a lot of construction to handle the two Soviet subs known to be at the Cienfuegos base.

One of these vessels, they said, is an over-age submarine used by the Cubans for training purposes. They said the other, manned by a Soviet crew is a diesel-powered attack submarine armed with conventional torpedoes but no missiles.

THE LONG ROAD TO PEACE AND UNITY

Mr. MATSUNAGA. Mr. President, the senior Senator from West Virginia, my good friend JENNINGS RANDOLPH, is known, among his colleagues and the citizens of the great State that he has served so outstandingly in the House of Representatives and the Senate for 34 years, as a man of superior vision. He has had such an outstanding record that his length of service, surpassed by only a handful of Members serving in Congress, has been greatly overshadowed, and rightly so, by his deeds.

My distinguished colleague has long been a strong and effective advocate of programs to improve public facilities, transportation systems, and the environment. As a member of the Senate Committee on Environment and Public Works since 1958, and as its chairman since 1966 he has been intimately involved with the legislative leadership in the areas of air and water pollution control, solid waste disposal, highways, and water resources development.

Throughout his remarkable career, the distinguished senior Senator from West Virginia has shown concern for the people of his State and the Nation; whether through his work on improving the Nation's highway system—about which he is acknowledged as the Senate's foremost expert, advocacy of air and water pollution programs, or his concern for a peaceful society that can nurture the best in all of us.

Senator RANDOLPH and I have both harbored an American dream that goes back to the time of our first President; a dream that he has pursued since he first introduced a bill in 1945, while serving in the House, to create a Department of Peace, and which I, also, have pursued vigorously by introducing subsequent legislation.

The dream of a national entity to actively pursue the course of peace has now been brought closer than ever to reality with passage into law, in the 95th Congress, of a Commission to Study Proposals for a National Academy of Peace and Conflict Resolution, and the recent appropriation of $500,000 for the operation of the Commission; legislation which in great measure was due to his leadership, and of which I was pleased to have been a principal introducer.

Mr. President, in order to advance the distinguished Senator's idea of peace, with which I strongly concur, and in order to better understand the meaning of peace, which is so fragile a concept that it is often perverted as an excuse for conflict, I request unanimous consent to insert in the RECORD his remarks at the Second International Peace and Human Rights Conference at Campobello Island, Saturday, August 25, 1979, as follows:

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE LONG ROAD TO PEACE AND UNITY

Please accept our appreciation for the hospitality and understanding with which I have been received at Campobello. It is a privilege to participate in this Second Armand Hammer International Conference.

I agree with the theme selected by the Foundation for the International Institute of Human Rights. "Peace and Human Rights—Human Rights and Peace" is not the cryptic title favored by headline writers, but it accurately describes our conviction that the right to peace is one of the fundamental human rights. It affirms your Oslo declaration that fundamental human rights and peace are indivisible.

You have not given up on humanity. You expect the future to be good. Being practical you know that the future we envision will not just happen, but must be made to happen. By our presence here, each of us has declared a responsibility in the making of that future that goes beyond our profession or our political ideology.

It was in this restful setting that President Franklin D. Roosevelt found personal peace. Here also our national leader sought that strength to summon all people in a crusade for world peace. In the autumn of 1939, in a famous fireside chat, he warned, and I quote:

"When peace has been broken anywhere, the peace of all countries is in danger."

Never in all history has humanity had so compelling an opportunity to exercise a choice in what its future should be. And never before has it been confronted with a choice between such drastic extremes. Scientific knowledge and the ability to apply that knowledge in positive ways have been increased at an ever faster rate, particularly over the past half-century. It is difficult for the mind to grasp the enormous development that has taken place.

The critical question of our time is will humanity use this expanding knowledge, and the ability to apply it, as a tool or as a weapon. Will these things result in a better, more livable world, or in the suicide of civilization? I am convinced that the answer to this question is being formulated by those of us who live today—and that no individual can escape a personal responsibility for his contribution to that answer.

It is this generation of industry and government officials, of thinkers and philosophers, of opinion-makers and thought-leaders, who must make the crucial decisions which lead to what the late Walter Lippman called the "Unity of Mankind."

We know, of course, that the idea of a universal society at peace is an ancient one among civilized men and women. In fact, we may define a civilized man as one who is converted to the belief that there are universal standards of law, of right, and of justice—which all men, and women, when they are rational, are bound to acknowledge.

For some 25 centuries it has been regarded as heresy against civilization to believe that a political frontier is a moral boundary, and that right and wrong are different on one side of it than on the other. And that sovereignty of government is absolute and that governments are bound by no common obligations superior to their own will.

We know that throughout history nations and their rulers have acted as if their own will were the whole of the law. Humanity has always been separated into many states and tribes, frequency at war with one another. Yet civilized men have never ceased to feel that patriotism is not enough, unless it is founded on universal principles, and pursues ends that can be made universally acceptable to rational men.

Great alliances of the past have always been founded primarily on military conquest, on geographical and economic divisions enforced by mighty armies and ethnic populations.

Alfred Lord Tennyson in 1842 wrote these prophetic words in Locksley Hall:

"Till the war drum throbbed no longer,
And the battle flags were furled
In the Parliament of man,
The Federation of the world."

Yet, in the middle of this century—within the space of a few months coincident with the atomic destruction of Hiroshima—our generation created the United Nations and issued the Universal Declaration of Human Rights. For the first time, a world organization and a humane ideology were established on the basis of political unity and a comity of ideals.

Ten years ago, another major moment of world awareness occurred that has served to bring peoples of this planet together. It was on July 19, 1969, when television flashed around the world the first portrait of our Earth—described as a big, blue marble nestled in the black void of space. I believe that this spectacular view of our beautiful, yet fragile Earth is the genesis of many of our recent international compacts on environment, trade, agriculture and human exchange.

Over the years I have served in Congress, as a Representative and as a Senator, I have been sponsor and cosponsor of legislation to create a U.S. Department of Peace, and a Secretary of Peace at the cabinet level in the Executive branch.

During the 79th Congress in 1945, while a member of the House of Representatives, I introduced House Resolution 3626, to create a Department of Peace, and I testified before the U.S. House Committee on Foreign Affairs on behalf of the bill. I said then that if America does not take the leadership in keeping peoples of the earth together in peace, "utter chaos is certain to result."

In recent years, I have supported the establishment of a National Academy of Peace. During the almost 35 years I have served, I have been grateful that similar legislation has been introduced by other members of Congress. Prior to 1977, there was a total of 140 bills introduced to create a Peace Academy or an executive department of peace. Despite many days of hearings and thousands of words of testimony by world authorities on mediation and conflict resolution, debates and conferences with educators and humanitarians, the Congress took no final action on our legislation to create a National Academy of Peace.

The breakthrough came on June 17, 1977, when the Senate agreed on S. 469—which I introduced with Senator Mark Hatfield of Oregon—to a compromise establishing a nine-member commission to study proposals for establishing a national academy for peace and conflict resolution. The objective of such an entity of our government would be primarily educational, to provide training and research in non-violent techniques for achieving just and peaceful relations within domestic communities and among nations. Students throughout the world would be invited to participate.

The study commission was authorized under Public Law 95-561 and authorized to spend $500,000 in its year-long search for concrete proposals to bring back to the Congress. Late last month, the funds were appropriated in House-Senate conference to become available after October 1. The House has selected its three representatives: Rep. Dan Glickman, Rep. John Ashbrook and Dr. William Lincoln. Senator Warren Magnuson, president pro-tem of the Senate, has named Senator Spark Matsunaga, former Rep. John Dellenback and Mr. John P. Dunfey to the commission. President Carter has not yet named his three.

As a citizen of the United States, I am understandably proud of our leadership role in science and technology. I am aware, too, that we have been a leader in the world in the development of the most destructive weapons. It is my hope that as Americans we can lead the world in creating a school for peace, for finding a basis of understanding among all countries.

Basically, our mission for peace is to discourage belligerents and to prevent them, and when necessary to oppose them, if they try to impose their system of government and their way of life on the whole world.

Wendell Willkie on his return from an around-the-world trip in 1940, on a mission for President Roosevelt, was to write in his book, ONE WORLD, these words:

"Winning the war is not enough . . . To win the peace, three things seem to be necessary: first, we must plan for peace on a global basis; second, the world must be free, economically and politically, for nations and for men that peace may exist in it; third, America must play an active, constructive part in freeing it and in keeping its peace."

Someday, perhaps, the entire world and all its people will come together in one global civilization. But if that happens, it will not be because someone of the many social systems now prevailing has been accepted by, or has been imposed on, humankind everywhere.

A global civilization would recognize as universal certain of the elementary principles of human justice and human rights of man and human responsibilities. But it might not resemble in its structure, or in its methods, or even in its daily working procedures, social orders that are now in existence.

In this generation, and in the next, and for as long a time forward, the world will not be one world under any single ideology. It will not be one communist world. It will not be one capitalist world, or one socialist world. And, it will not be one totalitarian world or one democratic world. It WILL BE one world that contains parts of these systems.

If it is to be a world that is substantially at peace, it must be a world which is united but not uniform. It must be a world of diversity in which the differences are recognized and are accepted and understood. We are not gods. We are only men and women. And therefore, we cannot make one world in our own image.

Our struggle for peace and human dignity has traveled a long road. But we have seen, in recent months, that centuries-old conflicts can be substantially ameliorated by the rational and understanding people of good will, and the Holy Spirit.

Those who seek universal peace and human rights hold in their hands the hope of the world, the fate of civilization; and the shame and disgrace will be ours if in our eyes the light of high resolve is dimmed, if we trail in the dust the golden hopes of humanity.

In his speech at the Israeli Knesset, on November 20, 1977, President Sadat of Egypt held aloft those golden hopes with these words:

"Introduce to the entire world the image of the new man in this era so that he might set an example of the man of our age, the man of peace everywhere. Ring the bells for your sons. Tell them that we are upon a new beginning, a new life, a life of love, prosperity, freedom and peace.

"Amidst the ruins of what man has built, among the remains of the victims of mankind, there emerges neither victor or vanquished. The vanquished remains always a man—God's most sublime creation . . ."

And he added:

"When the bells of peace ring, there will be no hands to beat the drums of war."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Donald R. Toussaint, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Democratic Socialist Republic of Sri Lanka, and to serve concurrently without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Maldives; which was referred to the Committee on Foreign Relations.

REPORT ON ADMINISTRATION OF THE NATIONAL SICKLE CELL ANEMIA, COOLEY'S ANEMIA, TAY-SACHS, AND GENETIC DISEASES—MESSAGE FROM THE PRESIDENT—PM 132

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 1106 of the Public Health Service Act, I am transmitting to Congress the Third Annual Report for 1978 on the Administration of the National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Disease Act.

This report has been prepared by the Health Services Administration and submitted to me as required by law. The Report describes further progress made towards implementation of a Genetic Services Program.

JIMMY CARTER.

THE WHITE HOUSE, *November 9, 1979.*

SPECIAL CENTRAL AMERICAN AND CARIBBEAN SECURITY ASSISTANCE ACT OF 1979—MESSAGE FROM THE PRESIDENT— PM 133

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Many of our neighbors in Central America and the Caribbean are in crisis—crisis marked by economic problems, terrorism, and popular frustration. The resolution of these problems in ways that will preserve the independence and security of these countries, while expanding democracy and supporting human rights, is very much in the national interest of the United States.

Prompt and effective U.S. assistance is vital.

—Nicaragua's economy has been crushed by bitter and prolonged strife. We have been asked to help, and we are doing so. But more is needed to restore public confidence, private initiatives, and popular well-being.

—The Governments in El Salvador and Honduras have pledged democracy and moderation. These and other Central American countries are embarked on accelerated development efforts of direct benefit to the poor. Assistance in these efforts is essential in creating the conditions under which democratic institutions can grow and thrive.

—The countries of the Eastern Caribbean are young and struggling democracies. They need help now for nation-building and for economic development.

I am therefore today proposing action to expand our support for development and security in Central America and the Caribbean. This will augment our existing development and security assistance programs in these regions, which in turn complement the contributions of several other governments and international agencies.

I have directed that, subject to normal congressional notification procedures, funds be reprogrammed for use in Central America and the Caribbean. These include:

—$5 million from the fiscal year 1980 Economic Support Funds for development projects in Central American countries other than Nicaragua.

—$10 million from fiscal year 1979 and fiscal year 1980 development assistance funds for public works and high employment impact projects in the Caribbean. These projects are an important part of our fiscal year 1979–80 contributions of $66.9 million budgeted for the Caribbean Development Group, chaired by the World Bank.

We are also reprogramming Food for Peace funds to increase food assistance in the area, especially in Nicaragua. We will also likely be reprogramming $5 to $10 million in Foreign Military Sales credits and International Military Education and Training funds for the Caribbean, and similar amounts for such programs in Central America. We are still working out the final details of these proposed reprogrammings and will fully inform the appropriate congressional committees of our proposed actions.

Reprogramming, however, is not enough. The enclosed bill would provide $80 million in flexible Economic Support funding, $75 million to assist in the reconstruction of the Nicaraguan economy and $5 million for early-impact development projects in other Central American countries.

I strongly urge rapid congressional action on this bill.

Such action will demonstrate that the United States can be relied upon to support democratic aspirations, the rebuilding of broken economies, and the security of our friends in this nearby region. Our additional funds for Central American development should substantially augment existing programs. Furthermore, we hope that other nations and international institutions will increase their efforts to accelerate the social and economic development of Central America.

With your help we can make clear where we stand.

JIMMY CARTER.

THE WHITE HOUSE, *November 9, 1979.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on November 8, 1979, he had approved and signed the following joint resolution:

S.J. Res. 117. Joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

A message from the President of the United States reported that on today, November 9, 1979, he had approved and signed the following act:

S. 428. An act to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1980 for civil defense, and for other purposes.

MESSAGES FROM THE HOUSE

At 11:32 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 1160) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes.

The message also announced that the House recedes from its amendments to the bill (S. 1728) to designate the U.S. Federal Courthouse Building located at 655 East Durango, San Antonio, Tex., as the "John H. Wood, Jr., Federal Courthouse."

The message further announced that the House failed to agree to House Resolution 428, to disapprove reorganization plan No. 3 transmitted by the President on September 25, 1979.

The message also announced that, pursuant to the provisions of House Resolution 478, the bill (S. 1871) to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program, together with all accompanying papers, is hereby returned to the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4955) to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia, with an amendment in which its requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police officers, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3398. An act to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes;

H.R. 4167. An act to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price thereof;

H.R. 5651. An act to establish by law the position of Chief of the Capitol Police, and for other purposes;

H.J. Res. 68. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week".

ENROLLED BILL SIGNED

At 3:36 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bill:

S. 1160. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4904. An act to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes.

At 4:50 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 15, 25, 31, 34, 47, 54, 73, 82, 87, 89, 90, 110, and 111 to the bill, and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 1, 3, 17, 24, 30, 37, 38, 40, 48, 49, 50, 51, 52, 53, 56, 58, 59, 67, 74, 91, 94, 107, 108, and 109 to the bill, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remove service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes, with an amendment; that the House insists upon its amendment to the amendment of the Senate to the bill, requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. REUSS, Mr. ST GERMAIN, Mr. ANNUNZIO, Mr. BARNARD, Mr. STANTON, and Mr. WYLIE were appointed as managers of the conference on the part of the House.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 3398. An act to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 4904. An act to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes; to the Committee on Finance.

H.R. 5651. An act to establish by law the position of Chief of the Capitol Police, and for other purposes; to the Committee on Rules and Administration.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the Calendar:

H.R. 4167. An act to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price thereof.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 9, 1979, he presented to the President of the United States the following enrolled bill:

S. 1160. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2455. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Impediments to Reducing the Costs of Weapon Systems," November 8, 1979; to the Committee on Armed Services.

EC-2456. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "How to Burn Coal Efficiently and Economically, and Meet Air Pollution Requirements—The Fluidized-Bed Combustion Process," November 8, 1979; to the Committee on Energy and Natural Resources.

EC-2457. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Contracting for Computer Software Development—Serious Problems Require Management Attention to Avoid Wasting Additional Millions," November 9, 1979; to the Committee on Governmental Affairs.

EC-2458. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, the 1978 annual report on the activities and accomplishments of the Small Business Administration; to the Select Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-488. A resolution adopted by the National Association of Civilian Conservation Corps Alumni, relating to the historic Civilian Conservation Corps; referred to the Committee on Labor and Human Resources.

POM-489. A resolution adopted by the National Association of Civilian Conservation Corps Alumni, proposing that the last day in the calendar year be known as "National Civilian Conservation Day"; referred to the Committee on the Judiciary.

POM-490. A resolution adopted by the National Association of Civil Conservation Corps Alumni, commending Senator Henry M. Jackson, Chairman of the Committee on Energy and National Resources; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1979—CONFERENCE REPORT

Mr. CRANSTON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 239) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes (Rept. No. 96-412).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PELL:

S. 1994. A bill for the relief of William J. Games; to the Committee on Finance.

By Mr. ROTH:

S. 1995. A bill to provide for the establishment of a national cemetery on the Delmarva Peninsula; to the Committee on Veterans' Affairs.

By Mr. MELCHER:

S. 1996. A bill to authorize the recovery of wood residues in the national forests for use as fuel, for conversion to use as petrochemical substitutes or wood products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HART:

S. 1997. A bill to expand the White River National Forest in Colorado; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 1998. A bill to provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation; to the Select Committee on Indian Affairs.

By Mr. EAGLETON:

S. 1999. A bill to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 1995. A bill to provide for the establishment of a national cemetery on the Delmarva Peninsula; to the Committee on Veterans' Affairs.

● Mr. ROTH. Mr. President, on Monday our Nation will pay tribute to the deserving men and women who have served in our Armed Forces by celebrating Veterans Day. With this day of recognition approaching, I believe it is most fitting and I am pleased to be introducing legislation to provide for the establishment of a national cemetery on the Delmarva Peninsula. My distinguished colleague from Delaware, Senator BIDEN, and the distinguished Senator from Virginia, Senator WARNER, join me in this endeavor.

I am aware there are over 79,000 veterans in Delaware and thousands more on the Eastern Shore of Maryland and Virginia. Mr. President, these veterans have served the United States with honor when duty called. They deserve to be buried in a national cemetery, close to where their loved ones and friends live. The families and friends who survive these patriotic veterans should not have to travel long distances to the gravesites. Yet there is no national cemetery in the State of Delaware, and the ones in the adjoining States of Maryland, Pennsylvania, or New Jersey are closed. The closest one is Arlington National Cemetery in Virginia. However, Arlington is already overcrowded, and most veterans cannot be buried there. This is all the more reason a centrally located cemetery should be established on the Delmarva Peninsula.

A fitting answer to the lack of a national cemetery in Delaware and to the lack of burial space in the cemeteries in Virginia, Maryland, Pennsylvania, and New Jersey is to establish a national cemetery on the Delmarva Peninsula. This would make it possible for veterans from all five States to be buried close to their homes.

I feel it is most fitting to recognize the outstanding service of veterans of Delaware, Virginia, and Maryland by introducing this bill establishing a national cemetery on the Delmarva Peninsula.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs is authorized and directed to (1) establish a national cemetery on the Delmarva Peninsula, (2) acquire by donation, purchase, condemnation, or otherwise, such lands in the State of Delaware, Maryland, or Virginia, as may be required for the establishment of such cemetery. In determining the location of such cemetery, the Administrator of Veterans' Affairs shall take into consideration such factors as the Administrator determines will best serve the needs of veterans and their families in the State of Delaware, Maryland, and Virginia and adjacent States.

SEC. 2. The national cemetery established under authority of this Act shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of the title 38, United States Code.

SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. MELCHER:

S. 1996. A bill to authorize the recovery of wood residues in the national forests for use as fuel, for conversion to use as petrochemical substitutes or wood products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOREST SERVICE RECOVERY

Mr. MELCHER. Mr. President, I have introduced a bill, S. 1966, which is intended to see if, through certain incentives, purchasers of public timber can be convinced that it is economical at times to go back after a timber sale and collect the slash remaining on the ground and deliver it to collection points for energy purposes.

At present, slash is collected at the point of a timber harvest and it is burned. It could be argued that this is just as wasteful as the burning of stack gases in the oil refineries of certain nations.

While the Forest Service, the Tennessee Valley Authority, and millions of homeowners see significant opportunities for the use of wood for energy, until waste wood is concentrated at central collection points so that it can be marketed in an orderly way, potential customers will not be able to rely on a steady source of supply.

In the West there are millions of acres of dead and dying trees now standing on land that should be reforested. The Forest Service is trying very hard to market this dead timber but there are limits to how much of it the marketplace can take for lumber and chips.

However, if we were to begin to look at this dead timber as a potential energy source, harvesting and subsequent reforestation should and could proceed far more rapidly.

Under this amendment, timber purchasers would be provided with financial incentives to bring out the slash that is now wasted, and bring it to central collection points where it could be sorted and marketed. Receipts from these sales would revert to the Treasury.

In the National Forest Management Act of 1976, the Congress made provision for the Forest Service to sell slash under certain circumstances to paper companies and other kinds of firms that could use this material. That program has been successful.

Since the collection of waste wood for energy is somewhat farther afield from the normal operations of timber purchasers, it was felt that a small program of direct incentives funded directly for 5 years would allow us to determine whether wood collection and marketing centers would be effective. The measure I have introduced provides that the residue removal incentives shall be treated as "moneys received" so there will be no diminution of local government shares in forest revenues.

The value of this program would be greater than simply providing waste wood for energy. It would assist in fire prevention and wildlife habitat improvement; assist in timber stand improvement; and improve the esthetic qualities of harvested areas; and reforestation could become a reality more expeditiously.

The authorization for this program would be $50 million a year for 5 years, beginning in fiscal 1981, assuring that the benefits of the program will be assessed before its extension beyond that period.

Because of its energy potentialities, I expect to hold hearings and ask the Environment, Conservation and Forestry Subcommittee of the Agriculture Committee to act on this measure promptly.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) In order to promote full use of National Forest System wood and wood residues, the Secretary of Agriculture is authorized to establish a program using "residue removal incentives" to pay timber purchasers for their costs in the removal and processing of wood residues from timber sales areas, to points of prospective use as fuel, or conversion to use as industrial hydrocarbons, alcohol, petrochemical substitutes, or wood products. The term wood residues includes, but is not limited to, logging slash, down timber material, and standing live, or dead trees which do not meet utilization standards because of size, species, merchantable volume, or economic selection criteria. Residues should be collected from a site so as to avoid soil depletion or erosion; and further, full consideration should be given to the protection of wildlife habitat with respect to the removal of standing live or dead trees. Point of use is to be determined in accordance with appropriate timber appraisal and sale procedures and may include, but not be limited to, industrial or commercial enterprises, or commercial, or government-owned wood concentration and distribution centers. The form and method of removal and processing is to be prescribed by the Secretary in accordance with appropriate appraisal and sale procedures. The Secretary in making sales shall place a reasonable value on residue and is authorized to require the purchasers of National Forest timber sales to process and

remove wood residues to points of prospective use. However, except in cases of wood residue removal for fire prevention, site preparation for regeneration, wildlife habitat improvement, or other land management purposes, the Secretary may not make such requirements in instances where it would be more expensive to remove wood residue than the value such residue would provide as fuel or other merchantable wood products. The amount of the wood residue handled under the "residue removal incentive" authorized by this section shall be limited to that portion of the estimated cost of this work covered by the value of the timber in excess of other designated charges. The residue removal incentive is to be applied as a credit against the amount payable for timber. Except for that volume of wood designated for free use disposal, wood residues will be sold for not less than the appraised value when a market for such material exists. The residue removal incentives and revenues from the sale of such residues shall be considered as "moneys received", within the meaning of the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908, as amended, section 13 of the Act of March 1, 1911, as amended (35 Stat. 260, 36 Stat. 963, as amended; 16 U.S.C. 500).

(b) In addition to the moneys provided under subsection (a), there is hereby authorized to be appropriated annually such sums not in excess of $50,000,000, beginning October 1, 1981, and each fiscal year thereafter until the fiscal year ending September 30, 1986, as Congress determines necessary for the purposes of this section. Moneys appropriated under this subsection are to be available until expended to cover the cost to the United States for removal of wood residues from National Forest System lands to points of use for energy or wood products. Receipts from the sale of National Forest System wood residues shall be returned to the United States Treasury. Activities which may be carried out under this subsection include, but are not limited to, removal of wood residues from (1) active timber sales where the timber value is insufficient to provide residue removal incentives for the removal of all appropriate residues, (2) closed and active timber sales where no residue removal credit was established, (3) reforestation and timber stand improvement areas, (4) fire control clearings, (5) areas of fire prevention cleanup of accumulated wood residues, and (6) other accumulations of wood residues. In addition, funds appropriated under this subsection may be used for (1) operation of National Forest System wood residue demonstration areas, (2) establishment of fuel wood concentration and distribution centers, and (3) construction of access roads needed to facilitate wood residue removal. The Secretary is authorized to cooperate with the State, county and other governmental entities by making payments to such entities which cooperate in the operation of those activities listed in subsection (b).

(c) The Secretary is authorized to make available wood and its wastes and residues from the National Forest System for use in research, field tests, and demonstrations (authorized under sections 2041 and 2052 of this title).

(d) The Secretary is authorized to promulgate such regulations as he deems necessary to carry out the provisions of this section.

By Mr. HART:

S. 1997. A bill to expand the White River National Forest in Colorado; to the Committee on Energy and Natural Resources.

WHITE RIVER NATIONAL FOREST EXPANSION

● Mr. HART. Mr. President, I am introducing today a bill to expand the White River National Forest in Colorado to include two areas of about 69,000 acres.

The bill would add to the national forest 2,416 acres in Pitkin County and 66,665 acres in Eagle County. These lands are a mixture of public lands managed by the Bureau of Land Management, private lands, and Forest Service lands. The major effect of this addition would be to transfer 19,181 acres of BLM land to the Forest Service. This bill would not acquire any private lands. The bill will have no effect on private lands, except neighboring lands would be managed by the Forest Service and not by the BLM.

In the 95th Congress, former Senator Floyd Haskell introduced a bill, S. 2101, to expand the White River National Forest. This bill would have added to the national forest the same Pitkin County addition included in the bill I am introducing today. After the Senate unanimously passed the bill, the House amended it to include an area similar to the Eagle County addition in the bill I am introducing today. Due to the lack of time, the Senate was unable to consider the House's amended version of S. 2101.

Early this year, Representative JAMES P. JOHNSON of Colorado reintroduced the bill, in the form approved by the House last year. The House Interior Committee recently approved the bill, after making a minor change in the Eagle County addition. The bill I am introducing today is the same as that approved by the Interior Committee.

The Pitkin County addition in the bill would extend the southern boundary of the national forest to include approximately 2,416 acres north and east of Aspen, Colo. Of this amount, 367 acres are already managed by the Forest Service, 1,260 acres are BLM lands, and 789 acres are private lands owned by the Nature Conservatory who will hold it until the Forest Service can acquire it. The Senate has already once approved this expansion, which is identical to that included in last year's Senate bill.

My bill would also extend the northern boundary of the national forest to include 66,665 acres located north and west of Minturn, Colo. Of this land, approximately 17,921 acres are public lands administered by the Bureau of Land Management, 47,644 acres are private, and 2,100 are managed by the Forest Service. This addition includes the beautiful Meadow Mountain Ranch which the Forest Service acquired this year for $5.5 million under the Land and Water Conservation Fund.

The people of these areas originally proposed these expansions of the national forest. The Eagle County expansion, the larger of the two, was suggested by a broad-based public committee working with the county government. The county board of commissioners and the town councils of Vail, Minturn, and Avon endorsed the expansion.

My inquiries have convinced me of the soundness of these proposed expansions. They would transfer to the Forest Service public lands of national forest equality. The expansions also would provide for a uniform administration by one Federal agency of currently intermingled BLM and Forest Service land. It would eliminate duplication of travel and management services. It would facilitate public contact with the land managers, since users of the public lands would have to work with only one Federal agency; and it would reduce the costs for public land management.

With the current ownership pattern, it is not uncommon for a grazing permittee with a single problem to have to negotiate it with both a Forest Service official in Eagle and a BLM official in Glenwood Springs—communities separated some 40 miles. Conversely, officials of two agencies must travel to the same area to carry on the same business at the same time——wasting time, effort, and money.

This bill does not affect the validity or term of any existing withdrawal, right-of-way, mineral lease, or easement of license involving the lands within the proposed new forest boundary. The bill would continue existing BLM grazing permits for 1 year; the Forest Service would then issue new grazing permits upon request.

In conclusion, this bill would consolidate management functions, eliminating unnecessary duplication. It would allow the Forest Service to work more closely with State and local officials and the public to manage and protect these public lands.●

By Mr. CRANSTON:

S. 1998. A bill to provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation; to the Select Committee on Indian Affairs.

● Mr. CRANSTON. Mr. President, I am today introducing a bill to declare as a part of the Tule River Reservation in California lands which once were within the reservation boundaries. These lands were removed from the reservatiton under a complex series of Presidential and congressional actions, often in conflict with one another. My bill is identical with H.R. 4124, introduced by Representative WILLIAM M. THOMAS of California earlier this year. The history of this reservation is a 100-year long tale of administrative indecision, delay, and error in setting the reservation boundaries.

The Tule River Reservation was first created by Executive order of President Ulysses S. Grant in 1873. In October of the same year, President Grant doubled its size. Then, 4 years later, President Rutherford B. Hayes reduced the reservation to its original size.

Between 1888 and 1892, 1,440 acres of land belonging to the reservation were surveyed as outside its borders. Most of this land was then sold by the Federal Government to the surveyors themselves and to their business associates. This group then resold the land at great profit to private timber interests.

In 1910, the error was uncovered, but no corrective action was immediately undertaken.

In 1927, President Coolidge issued an Executive order to correct the erroneous boundary survey. He placed the land at issue within the reservation boundary. This action, however, did not remove from private ownership the land erroneously patented following the 1884 survey.

By this time, nearly all the acreage under discussion—with the exception of sparse stands of virgin redwood—had been clearcut. About 133 million board feet of timber had been removed.

Despite President Coolidge's order, the non-Indian timbering interests continued to strip most of the land of its remaining trees.

Faced with the inconsistency between the reservation boundary reestablished by President Coolidge's Executive order and the private ownership of land within that boundary by timbering interests as a consequence of the erroneous 1884 survey, the Government had two ways to rectify the situation, as an Interior Department investigator pointed out at the time.

The Government could either repurchase for the Indians the land it had erroneously patented, or it could recognize the erroneous boundary established by the 1884 survey, excluding the privately owned land.

Congress in 1928 passed legislation excluding the privately owned lands patented under the 1884 survey from the reservation. This action removed from the reservation as recognized by President Coolidge about 1,300 of the 1,440 acres within the disputed area.

In 1934, the Interior Department investigated the boundary dispute and concluded that the Indian land had been erroneously patented resulting in the loss of the trees to the Tule River Indians.

Mr. President, 1,200 acres of the original 1,440 acres excluded from the reservation by the 1884 survey is now in the public domain. It is held by the U.S. Forest Service as part of the Sequoia National Forest. My bill would transfer into trust status for the benefit of the Indians of the Tule River Reservation those 1,200 acres. Three additional parcels of land, totaling 240 acres, are also in the public domain, including 160 acres held by the Boy Scouts of America. My understanding is that the tribe does not seek any interest in these additional 240 acres—which were obtained in good faith by their present owners. The status of this acreage would not be affected by my bill.

Moreover, by resolution the tribe had indicated it has no desire to disturb any of the virgin redwood trees which remain from all the timberage which was once theirs, and is now gone.

The return of these 1,200 acres to the use and benefit of the people of the Tule River Reservation will restore to that reservation the only major resource it has ever had. Without its timberland, this reservation is extremely impoverished. Less than 200 acres are suitable for agriculture. The rest is rough and rocky, but could be partly usable for grazing were extensive irrigation facilities installed.

Time and the reforestation efforts of the Forest Service have restored harvestable timber to the 1,200 acres. Using sustained yield principles, the people of this reservation can establish for the first time a viable, self-sustaining economic base which will enable them not only to benefit from the timberland, but also to make more productive the reservation which they now have.

My legislation also makes provision for the maintenance of existing right-of-way, and for the Secretary of Agriculture to establish such right-of-way as he considers necessary to provide access to the Forest Service land east of the land which this bill will once again place within the reservation boundary.

Mr. President, this bill will redress a long-standing injustice. I urge its early adoption.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest in lands owned by the United States and administered by the United States Forest Service, as described in section 2, which were removed from the Tule River Indian Reservation pursuant to the Act of May 17, 1928 (45 Stat. 600–601) are declared to be held in trust by the United States for the Tule River Indian Tribe and to be part of the Tule River Indian Reservation.

SEC. 2. The lands referred to in section 1 are the following:

MOUNT DIABLO MERIDIAN, CALIFORNIA TOWNSHIP 21 SOUTH, RANGE 31 EAST

Section 16:

That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River and westerly of a northerly prolongation of the eastern boundary of the Tule River Indian Reservation.

Section 17:

That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.

Section 18:

That portion of the northeast quarter northeast quarter lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.

South half northeast quarter.
Southeast quarter northwest quarter.
East half southeast quarter.
Section 20:
North half north half.
South half northeast quarter.
Southeast quarter northwest quarter.
Section 21:
Northwest quarter northwest quarter.
Section 28:
Tract 48.

SEC. 3. (a) Nothing in this Act shall deprive any person of any valid existing right-of-way, lease, permit, or other right or interest which such person may have in any of the lands described in section 2.

(b) The transfer under the first section of this Act shall be subject to such right-of-way through lands in section 16 as the Secretary of Agriculture considers necessary to provide access to United States Forest Service lands located east of section 16. Such right-of-way shall be located and used in such manner as the Secretary of Agriculture determines to be appropriate.

SEC. 4. The Secretary of the Interior shall promptly cause to be published in the Federal Register a description of the lands transferred pursuant to this Act and a description of the boundaries of the Tule River Indian Reservation, as modified by the transfer made pursuant to this Act.●

By Mr. EAGLETON:

S. 1999. A bill to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately; to the Committee on Governmental Affairs.

● Mr. EAGLETON. Mr. President, this Tuesday, November 6, headlines across the front page of the Washington Post announced that the Federal National Mortgage Association (Fannie Mae) had cut off mortgage money in the District of Columbia. On Wednesday, November 7, headlines announced that the Federal Home Loan Mortgage Corporation (Freddy Mac) had followed suit. By yesterday, November 8, financing for home mortgage loans in the District of Columbia had virtually come to a stop.

Today, I am introducing legislation designed to remedy this serious situation. I would hope my colleagues would lend their support for speedy approval of this measure.

By way of necessary background: Under the District of Columbia Self-Government and Governmental Reorganization Act, better known as the Home Rule Act, the District of Columbia can enact permanent legislation, which becomes law only after a period of congressional review passes—30 legislative days—and both Houses have not passed a concurrent resolution of disapproval. However, the Home Rule Act also recognizes that in exceptional situations, the District government must be permitted to act rapidly and have legislation take effect immediately with no congressional layover. Therefore, the law provides that two-thirds of the District Council can pass "emergency legislation" which takes effect without congressional review and stays in effect for 90 days. The Home Rule Act is silent on whether the emergency legislation may be renewed. The District government, however, has repeatedly renewed emergency legislation, a practice which led indirectly to the current lending crisis. Fannie Mae and Freddy Mac indicate that before they reenter the Washington market, they need permanent legislation raising the usury ceiling in the District to 15 percent.

On Tuesday, the District City Council took action to do that, and my bill would make that law effective immediately by waiving the normal congressional review period required under the Home Rule Act. This waiver of the congressional review period is identical to the legislation already introduced by Representatives DELLUMS, FAUNTROY, BARNES, and MCKINNEY in the House and Senator MATHIAS in this body.

However, my bill also seeks to remedy the indirect cause of the current crisis—justifiable uncertainty and confusion about the scope of the District's authority

to pass "emergency" legislation. On October 19, 1979, a District of Columbia Superior Court judge struck down the repeated renewal—10 times—of emergency legislation on the subject of condominium conversions, as exceeding the District's proper authority under the emergency provision. In light of that decision, Fannie Mae and Freddy Mac feared that the legality of recent loan agreements in the city—loans made under a 15 percent usury ceiling passed twice as emergency legislation—would be challenged. Consequently they pulled out of the Washington market.

My legislation would provide a badly needed amendment to the Home Rule Act to clarify the provision under which the District can pass emergency legislation.

The seriousness of the Fannie Mae and Freddy Mac action can be seen by the impact the two major lenders exert on the Washington market. Together they provide the single largest source of home mortgage money in the city, about 11 percent. Both institutions operate in what is commonly called the "secondary market," meaning that Fannie Mae and Freddy Mac purchase from local savings and loan associations and mortgage banking firms loan agreements which the local firms make with individual borrowers. The money the local firms receive from these sales then provides the local firms with additional mortgage funds. During the first 9 months of this year, Fannie Mae purchased 370 conventional home mortgages in the District with a value of $18.4 million, while during the same period, Freddy Mac bought about $66 million worth of mortgages from the city's 16 savings and loan associations. The total was $84.4 million.

However, when Fannie Mae and Freddy Mac refuse to purchase loans, as they now have, savings and loan associations and mortgage banking firms, by losing the major purchasers of their loans, must also refuse to extend home financing. As of this morning, every major savings and loan association and mortgage banker in the District had severely curtailed its lending activity.

Obviously, the financial community and the real estate industry suffers immediately, but the most severe repercussion falls directly on the individual homeowner: The person who already purchased a home but now finds he cannot go to settlement; the person who just moved to Washington hoping to buy a home but who learns that financing has "dried up," and the person who took a job in Texas and must sell here to buy there. The seriousness of the situation cannot be overemphasized.

With interest rates at record highs, the Nation as a whole already faces major disruptions in the normal flow of home construction, home renovation, home purchasing, and home sales. The District, faced with high interest rates plus the virtual end of the secondary mortgage market, faces complete paralysis of its real estate market.

Surely, high interest rates are part of the painful medicine needed to counter inflation, and that burden must be shouldered by every citizen. But there is a major difference between a slowdown in the real estate market and a shutdown, and if it the distinct possibility of a shutdown that brings the District to the Congress for relief.

Parenthetically, I must point out, though, that with the interest rates climbing faster than ever, even the relief I propose today for the District may prove insufficient. The District of Columbia has asked us to quickly approve permanent legislation that sets the usury rate in the District at 15 percent. In my mind, there is a strong argument for following the lead of many States, including my home State of Missouri, and either abolishing interest ceilings altogether or floating the ceiling by tying it to the prime rate. However, I must emphasize, that the waiver of the home rule review procedure provided in this bill should not set a precedent. The Home Rule Act foresaw emergencies arising in the District and gave the District legislative authority to deal with them. The interest rate crisis should not have occurred, nor would it have been brought to the attention of the Congress, if the emergency section of the Home Rule Act had consistently been implemented solely for emergencies.

For that reason, I find it difficult to review the sequence of events without concluding that some basic change in the emergency provision of the Home Rule Act is needed.

I am advised that the District considered that and decided to pursue another course. Today we are here to support the course the District chose to follow and imolement the 15 percent usury ceiling as quickly as posibsle. If the normal congressional review period were required, the Interest Rate Modification Act of 1979 would be subject to a review period extending for 30 legislative days. Since weekends, holidays, and recesses by both Houses do not count as legislative days, the practical effect of the layover period is a congressional review period of approximately 90 calendar days. The situation in the mortgage markets is simply too serious to require that the District wait until mid-December or early January at the earliest before the 15 percent usury ceiling becomes permanent.

The Constitution mandates that Congress exercise ultimate authority over the District of Columbia. For nearly 200 years, that constitutional requirement translated into direct congressional rule over the District. In 1973, in a change of historic proportions, Congress passed the Home Rule Act establishing a city government headed by an elected mayor and city council. However, the Congress chose to carry out its constitutional mandate by retaining the power to review District legislation before it became law. To compensate for this, the legislation included the emergency provision, thereby recognizing that there could be situations where delay would seriously jeopardize achievement of the legislative objectives.

We all recognize the unique burden the provision for congressional review places on the District. However, the burden was not imposed unthinkingly. Congress wanted to take a major step toward self-government for the District, but, given its constitutional mandate, was not ready to reach full and complete home rule. The statutory requirement for a congressional layover period before District legislation could take effect represented the chosen middle course.

In 1978, 5 years after home rule began, Congress received recommendations for changes in the law from the Presidential Task Force on the District of Columbia. The task fore report included several significant suggestions concerning the operation of legislation for the District, including the conclusion that the period of congressional layover was injecting uncertainty and imprecision into the operations of the District government.

In Public Law 95-526, Congress considered the task force's recommended changes and reduced the layover period to 30 days when either House could be in session, thus reducing the effective layover period. Congress took this action prompted by the recognition that the "unpredictability (of the review process) has forced the District to enact an inordinate amount of temporary 'emergency' legislation" (S. Rept. No. 95-1291, p. 2).

Acknowledging that the task force recommended 60 calendar days, Congress approved the committee's conclusions that "30 calendar days, excluding weekends, holidays and recesses or adjournments over 3 days, will allow sufficient time for Congress to act on a disapproving resolution, if one were introduced." (S. Rept. 95-1291, p. 3). Obviously, Congress considered Public Law 95-526 a solution to the District's reliance on emergency legislation.

Regrettably, passage of this legislation did not change the situation. Despite informal expressions of concern by the House and Senate committees, the Council's resort to the device of emergency legislation has increased. In the past year, 69 percent of the legislation passed by the District was adopted by the emergency route. Emergency legislation has become the rule, rather than the exception. It is hard to avoid the conclusion that the District government has used the emergency route in order to circumvent the congressional review process. Perhaps the provision also gives the District government a way of resolving controversial issues otherwise resistent to legislative solutions, since opposition groups may accept "temporary legislation" where they would not agree on a permanent solution. Either way, it is clear that the current provision of the Home Rule Act dealing with emergencies has proven too attractive an alternative to the regular legislative process.

My legislation would change this. It would accommodate the legitimate needs of the District to move rapidly in an emergency without waiting for congressional review, while ensuring that emergency legislation will not stay in effect indefinitely, or become a regular alternative to the ordinary legislative process.

This can be done by limiting the use of emergency legislation to a specific time period. The present law establishes a time period—90 days—but it fails to

limit that period, thus allowing repetitive enactments of the 90-day period. My bill also sets a time period—180 days—but I limit the duration of the emergency legislation to that one, and only to that one period. I chose the 180-day period for two reasons: First, it gives the District more than sufficient time to consider permanent legislation based on the emergency situation and to send that permanent legislation to Congress for review, and second, it provides sufficient time for an emergency not requiring permanent legislation to be solved or resolved.

What the 180-day time period fails to do, however, is take into consideration congressional adjournment sine die. If permanent legislation based on an emergency measure is submitted to Congress and fails to become law because an adjournment sine die halts the running of the 30 legislative days, it is conceivable that the 180-day emergency period may also lapse, thus leaving the District with neither emergency nor permanent legislation to cover the time between the adjournment, the return of Congress, and the running of another 30 legislative days. Therefore, in fairness to the District, I do feel we should "stop the clock" if Congress adjourns sine die. My bill provides for this contingency by allowing emergency legislation in effect during sine die to remain in effect beyond the running of the 180-day period until Congress reconvenes and until the running of the new 30 legislative days review period.

There have been other suggestions as to how the emergency section should be tightened. Some have suggested one 90-day, nonrenewable period; others have recommended defining "emergency;" still others suggest placing Congress directly into the emergency process by requiring congressional approval within a layover period. Given the complexity of the Home Rule Act, however, a simple, straightforward solution to an obvious problem seems the best course to follow.

There have also been suggestions that the use of emergency powers by the District government will be resolved in the courts when the D.C. Court of Appeals issues its decision on the condominium conversion case. The problem of interest rate modification and the crisis caused, by the District's repeated use of emergency legislation, however, confronts us today, and the court's decision could be months in coming. Further, the court of appeals' decision, even if it upholds Judge Revercomb's Superior Court decision will be distinguished on narrow grounds, and what we need here is a general, all-encompassing legislative clarification of how the District government is to use its emergency legislative authority. Judge Revercomb, himself, on page 12 of his decision, speaks of the court's reluctance to interfere in the province of the legislature. It is the mandate of Congress to legislate, and in this case, it is our duty.

Finally, some will argue that it is imperative to raise the interest ceiling immediately, and that considering an amendment to the emergency provision of the Home Rule Act complicates the task and risks delay. I certainly agree. But delay is not inevitable if we confront the emergency issue squarely and try to solve the problem. The record of overreliance on the emergency provision is clear beyond question. It should also be clear that my proposal will substantially improve the situation, protecting the District's legitimate needs and the integrity of the legislative process.

Having worked with the District government since its creation, I know how committed the District's high-ranking officials are to making this experiment in self-government succeed. The fact that the emergency section of the Home Rule Act has been used in place of the procedure for permanent legislation may be as much the fault of the drafters of the Home Rule Act, the Congress, as it is those whose job it is to implement the act, the District government. We have here the opportunity to correct this problem, and I urge my colleagues to act quickly on this legislation. Mr. President, I ask unanimous consent that the legislation I am introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1999

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act shall not apply to the Interest Rate Modification Act of 1979 (District of Columbia Act 3-119) passed by the Council of the District of Columbia on November 6, 1979, and signed by the Mayor of the District of Columbia on November 6, 1979, and such District of Columbia act shall become law on the date of the enactment of this Act, notwithstanding section 404(e) of the District of Columbia Self-Government and Governmental Reorganization Act and any provision to the contrary in such District of Columbia Act.

SEC. 2(a) Subsection (b) of section 412 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by deleting "ninety days" and inserting in lieu thereof "one hundred and eighty days".

(b) Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end thereof the following new subsection:

"(d) Except as provided in this subsection, in any case in which an act is passed pursuant to subsection (a) of this section on the basis of an emergency, such act shall terminate on the date of termination provided in such act, or upon the expiration of the one hundred and eighty day period following the date of its passage, whichever first occurs. In any case in which the Council, during such one hundred and eighty day period, passes and transmits to the Speaker of the House of Representatives and the President of the Senate an act under the regular order for the same purpose and covering and limited to the same subject matter as that contained in such emergency act, and the last session of such Congress adjourns sine die before the expiration of such thirty day period, provided in section 602(c)(1) of this Act for the consideration by Congress of such act of Council, the act of Council shall be deemed to have been retransmitted to the Speaker of the House of Representatives and the President of the Senate on the first day of the succeeding Congress and such thirty day period provided for under section 602(c)(1) of this Act shall commence on the day after such first day. In no case shall any act be passed by the Council as an emergency act if such act is for the same purpose and covers the same subject matter as any prior act passed by the Council on the basis of an emergency."

ADDITIONAL COSPONSORS

S. 92

At the request of Mr. THURMOND, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 92, a bill to amend title 5 of the United States Code to permit present and former civilian employees of the Government to receive civil service annuity credit for retirement purposes for periods of military service to the United States as was covered by social security, regardless of eligibility for social security benefits.

S. 101

At the request of Mr. HATCH, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 101, the Religious Freedom in the Workplace Act of 1979.

S. 446

At the request of Mr. WILLIAMS, the Senator from Hawaii (Mr. INOUYE), the Senator from Maine (Mr. COHEN), and the Senator from Iowa (Mr. CULVER) was added as a cosponsor of S. 446, the Equal Employment Opportunity for Handicapped Individuals Act of 1979.

S. 1203

At the request of Mr. BAYH, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1287

At the request of Mr. GOLDWATER, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1287, a bill to repeal the earnings ceiling of the Social Security Act for all beneficiaries age 65 or older.

S. 1858

At the request of Mr. BAYH, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1858, the National Guard Tort Claims Act of 1979.

S. 1874

At the request of Mr. BAYH, the Senator from California (Mr. CRANSTON), the Senator from South Carolina (Mr. THURMOND), the Senator from Kentucky (Mr. FORD), the Senator from North Dakota (Mr. YOUNG), the Senator from Vermont (Mr. STAFFORD), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Tennessee (Mr. SASSER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Oklahoma (Mr. BOREN), the Senator from Indiana (Mr. LUGAR), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1874, a bill to amend the act incorporating the American Legion so as to redefine eligibility for membership.

SENATE CONCURRENT RESOLUTION 46

At the request of Mr. HELMS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of Senate Concurrent Resolution 46, expressing the sense

of the Congress that the $1 bill should remain in circulation and the $1 coin should be produced in such volume as demand warrants.

SENATE RESOLUTION 277

At the request of Mr. JAVITS, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of Senate Resolution 277, a resolution relating to the commitment to ease the human suffering in Cambodia.

SENATE CONCURRENT RESOLUTION 48—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO ACCEPTANCE OF A STATUE FROM THE STATE OF WASHINGTON

Mr. MAGNUSON (for himself and Mr. JACKSON) submitted the following concurrent resolution, which was referred to the Committee on Rules and Administration:

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That the statue of Mother Joseph of the Sisters of Providence, presented by the State of Washington for the National Statuary Hall collection in accordance with the provisions of section 1814 of the Revised Statutes (40 U.S.C. 187), is accepted in the name of the United States, and the thanks of the Congress are tendered to the State of Washington for the contribution of the statue of one of its most eminent personages, illustrious for her distinguished humanitarian services.

SEC. 2. The State of Washington is authorized to place temporarily in the rotunda of the Capitol the statue of Mother Joseph of the Sisters of Providence referred to in the first section of this concurrent resolution, and to hold ceremonies on May 1, 1980, in the rotunda on that occasion. The Architect of the Capitol is authorized to make the necessary arrangements therefor.

SEC. 3. (a) The proceedings in the rotunda of the Capitol at the presentation by the State of Washington of the statue of Mother Joseph of the Sisters of Providence for the National Statuary Hall collection, together with appropriate illustrations and other pertinent matter, shall be printed as a Senate document. The copy for such document shall be prepared under the direction of the Joint Committee on Printing.

(b) There shall be printed five thousand additional copies of such document which shall be bound in such style as the Joint Committee on Printing shall direct, of which one hundred and three copies shall be for the use of the Senate and eighteen hundred and ninety-seven copies shall be for the use of the Members of the Senate from the State of Washington, and four hundred and forty-three copies shall be for the use of the House of Representatives, and two thousand five hundred and fifty-seven copies shall be for the use of the Members of the House of Representatives from the State of Washington.

SEC. 4. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the Governor of Washington.

● Mr. MAGNUSON. Mr. President, on behalf of my colleague, Mr. JACKSON, and our State delegation, I am submitting a Senate concurrent resolution that provides for the formal acceptance of the second statue of the State of Washington in the National Statuary Hall collection on May 1, 1980.

Twenty-five years ago I had the honor of introducing similar legislation, on behalf of our State, for the acceptance of a statue of Marcus Whitman, a pioneer missionary in the Pacific Northwest.

Today, this resolution authorizes the Congress to accept a statue of Mother Joseph of the Sisters of Providence, a truly remarkable individual who spent 46 years building a better life for all the citizens of the Pacific Northwest. By the time of her death in 1902, Mother Joseph had established no less than 11 hospitals, 7 academies, 5 Indian schools, and 2 orphanages. She established those facilities in what are now the States of Washington, Oregon, Idaho, Montana, and the Province of British Columbia.

Mother Joseph and her Sisters of Providence are credited as among the first to care for orphans, the first to care for the aged, the first to care for the mentally ill, and the first to establish a hospital in the Pacific Northwest.

She was a remarkable and dedicated citizen. Her efforts to build a better life for all who lived in the Pacific Northwest then, is a legacy everyone out home continues to enjoy. The addition of Mother Joseph of the Sisters of Providence to that small group of illustrious Americans who are in the National Statuary Hall collection is indeed merited and I feel honored to be able to play a part in bringing that about.

Mr. President, I ask unanimous consent that a brief article, entitled "The Legacy of Mother Joseph," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LEGACY OF MOTHER JOSEPH

THE PIONEER BUILDER

In December 1856 Mother Joseph and four Sisters of Providence arrived at Fort Vancouver in the Washington Territory after an arduous trip from their home in Montreal, Canada. Within two years this group of women had established the first hospital in the Northwest and one of the first schools.

During the next 46 years, Mother Joseph was responsible for the establishment of numerous hospitals, schools, orphanages, homes for the aged, shelters for the mentally ill and Indian schools. And she established the Sisters of Providence Corporation—one of the oldest corporations registered in what is now the State of Washington.

Throughout her lifetime in the West, Mother Joseph served as architect, construction supervisor and fund raiser for projects she instigated. Though most of her original structures are gone, many of these institutions are still in existence, continuing to provide the service Mother Joseph envisioned more than a century ago. And the spirit of Mother Joseph lives on, too, in the Sisters of Providence institutions that today extend from Anchorage, Alaska south to Burbank, California and east to Great Falls, Montana.

How did one person accomplish so much?

BEGINNINGS

Mother Joseph was born Esther Pariseau on April 16, 1823 in St. Elzear, a town near Montreal. She entered the newly-formed Sisters of Providence in Montreal at 20 years of age. Her carriage-maker father made a prophetic remark upon her entry: "I bring to you my daughter, Esther, who wishes to dedicate herself to the religious life. She can read, write, figure accurately, sew, cook, spin and do all manner of housework. She can even do carpenting, handling a hammer and a saw as well as her father. She can also plan for others and she succeeds in anything she undertakes. I assure you, Madam, she will make a good superior some day."

That challenge came early as the Sisters of Providence responded to the pleas for help that were coming form the new frontier settlements in the western United States. Mother Joseph was chosen to lead the group to the Washington Territory in 1856.

After completing the treacherous journey from Montreal, the Sisters were greeted with an ambiguous welcome to their new land.

Bishop A. M. A. Blanchet of Nisqually, who had requested that the Sisters come, was away in Europe. Meanwhile, his orders for the construction of a convent and schoolhouse had been countermanded by the Vicar-General, Abbe J. B. Brouillet, who believed the Sisters would be better situated in Olympia. Since mail exchanges took place only twice a year, this difference in opinion could not have been resolved before the Sisters appeared.

Fortunately, Mother Joseph did not see herself as helpless. Within days she had turned an airless 10' by 18' room into a dormitory-refectory-community room, a corner of which also served as a temporary classroom.

By February 1857 the young Sisters inherited their first convent, an old fur storage building abandoned by the Hudson Bay Company, and later used as a barn. Mother Joseph designed a chapel, built the altar herself, and fashioned a tabernacle out of an old candle box. It was a beginning.

From this home base the Sisters began visiting the sick. They also cared for Indian children displaced by the Yakima Indian wars. By spring of the first year, preparations had been completed for a school. The first student arrived early: 3-year-old Emily Lake, an orphan. Soon a tiny boy was also placed at the doorstep, and by June Mother Joseph had built six small cabins surrounded by a white picket fence.

Within this complex, known as "the Providence enclosure," the Sisters housed their two orphans, two boarding students, ten day-students and three elderly townspeople.

But the need for a hospital in Vancouver was critical. So Mother Joseph began work on her first health care facility—a cabin large enough for four beds, four tables and four chairs. In 1858 it became Saint Joseph Hospital, the first hospital in the Northwest, and the first of some two dozen health care centers Mother Joseph would design in her 46 years of service in the Northwest.

BEGGING TOURS

From the 1850's through the 1890's Mother Joseph designed hospitals, orphanages, and schools throughout an area that today encompasses Washington, Northern Oregon, Idaho, Montana and British Columbia.

Known primarily as a builder and artist, some of her most demanding work was raising funds to complete her buildings. Finding the people of Vancouver generally had modest incomes or were poor, Mother Joseph began "begging tours" to the mining camps of Idaho, the Blue Mountains of Eastern Washington, Montana's Alder Gulch and the Cariboo Mines of Western Canada.

Each tour usually lasted several months and involved considerable hardship. The weather was cold, the accommodations nonexistent, highway robberies frequent, and certainly it was not easy to face the scrutiny of hard-living strangers.

But, according to the annals of Providence Academy, "nothing could daunt the spirit of Mother Joseph when there was a question of gaining even slender funds for the lifting of the burdensome debt beneath which her foundation in Vancouver seemed about to fail."

Usually Mother Joseph was able to collect from $2,000 to $5,000 on a typical mining tour. This compared with $18 or $20 which she could collect from a small town or hamlet.

So committed was she to the survival of her fledgling hospitals, schools and orphanages that the pioneer Sister paid scant attention to her own well-being.

"Finally, (after) the trying ordeal of 18 days in the saddle, extremely fatigued from the difficult days of travel, the long absence from home, camping under the heavens, on river banks, and in sagebrush, we weary travelers reached the province of the Holy Angels, October 15, 1866," she writes matter-of-factly about a journey that also included a hungry wolf pack, a major tent fire, an angry grizzly and a party of Indians in war paint.

THE WORKS OF MOTHER JOSEPH

From 1856 to 1873, while she worked on other facilities, Mother Joseph planned and built her "home" for the Sisters' various medical, spiritual and educational ministries in Vancouver. The finished product—the House of Providence, later Providence Academy—was three stories high, covered two acres of ground and at the time was considered to be the biggest brick building in the Washington Territory. Today, it has been declared a historic monument in the "National Register of Historic Places."

Mother Joseph was an exceptional woman and a gifted resource, whom the Mother House in Montreal was determined to use wisely and whom many Northwest manipulators would have liked to exploit. In her early years in Vancouver, Bishop Francis Blanchet of Oregon had approached Mother Joseph to build a hospital in Portland. Then, when a wealthy and powerful businessman offered the Sisters a fine site, plus a good house, the use of his physician, and funds to cover part of the construction, there was much local pressure to accept this "deal."

Mother Joseph did much praying and soul-searching as she postponed her commitment. The truth was that she could see through the motivation of Ben Holladay, a controversial tycoon, who had created a small civil war with his decision to develop the east side of Portland, where his own interests were consolidated. A hospital in Holladay's territory would embellish holdings, but undercut the health needs of a population heavily concentrated on the west side of the city. Furthermore, the canny Sister had reservations about a patron whose reputation was tarnished by questionable relationships and shady politics.

Trusting her own instincts, Mother Joseph bided her time and soon enough the Society of St. Vincent de Paul, a lay group, came forward with $1,000 and an alternative piece of land, close to Portland's center. Mother Joseph designed plans for this first St. Vincent Hospital, which opened on July 16, 1875. She also carved the wood statue of its patron saint which adorned the entrance.

By 1892, when St. Vincent Hospital needed a new building, Mother Joseph had designed hospitals, orphanages and schools in Seattle, Walla Walla, Spokane, New Westminister, Olympia, Port Townsend, Yakima and Colfax.

Even with far-flung projects, the "Old Mother," as she was now called, remained a stickler for detail. During the building of Sacred Heart Hospital in Spokane, Mother Joseph insisted on living with another Sister in a rough shack next to the site so that she could oversee the construction. At this point she was 63 years old, but still climbing to inspect rafters or bouncing on planks to test their supports. Once, when she found an improperly laid chimney, she pointed out the flaw to workers who made the mistake of ignoring her. The next day they found the chimney neatly re-bricked the right way.

After her death in January 1902, the Portland Oregonian expressed the public's gratitude to this woman by stressing what the Northwest had gained: "She was adept in nearly all the arts and trades. And was also skilled in wax works, the most delicate embroidery; but her genius found its strongest expression in architecture * * *. From the date of foundation of the Washington Province of Sisterhood [The Sisters of Providence], Mother Joseph established no less than eleven hospitals, seven academies, five Indian schools and two orphanages."

For 46 years—from 1856 when she landed in Vancouver, Washington, to 1902—Mother Joseph responded to the pleas of both Catholics and non-Catholics to establish schools and health care facilities throughout the Northwest.

During her lifetime Mother Joseph served as architect, construction supervisor and fund raiser for the projects she instigated. She was responsible for establishing the following:

1856: Providence Academy, Vancouver, WA.
1858: St. Joseph Hospital, Vancouver, WA.
1863: St. Joseph School, Steilacoom, WA.
1864: St. Vincent Academy, Walla Walla, WA.
1864: Holy Family Hospital, St. Ignatius, MT.
1868: Our Lady of Seven Dolors Indian School, Tulalip, WA.
1873: Sacred Heart Indian School, Colville, WA.
1873: St. Patrick Hospital, Missoula, MT.
1874: St. James Residence, Vancouver, WA.
1875: St. Joseph Academy, Yakima, WA.
1875: St. Vincent Hospital, Portland, OR.
1876: Our Lady of the Sacred Heart School, Cowlitz, WA.
1877: Providence Hospital, Seattle, WA.
1880: St. Mary Hospital, Walla Walla, WA.
1880: St. Mary Hospital, Astoria, OR.
1881: St. Michael School, Olympia, WA.
1881: St. Martin School, Frenchtown, MT.
1885: Sacred Heart Academy, Missoula, MT.
1886: Sacred Heart Hospital, Spokane, WA.
1886: St. Clare Hospital, Fort Benton, MT.
1886: St. Joseph Academy, Sprague, WA.
1887: St. Peter Hospital, Olympia, WA.
1890: St. John Hospital, Port Townsend, WA.
1890: St. Eugene Indian School, Kootenay, B.C., Canada.
1891: St. Elizabeth Hospital, Yakima, WA.
1891: Providence Hospital, Wallace, ID.
1892: Columbus Hospital, Great Falls, MT.
1893: St. Ignatius Hospital, Colfax, WA.
1900: St. Genevieve Orphanage, New Westminister, B.C., Canada.

Mother Joseph died in 1902. One of her final counsels to her Sisters was to go to California and establish a needed hospital in Oakland. Mother Joseph's vision helped the Sisters of Providence to found Oakland's Providence Hospital that same year.

Though most of the original structures are gone, many of these institutions are still in existence, continuing to provide the service Mother Joseph envisioned over a century ago.

Northwest history sources credit Mother Joseph and her Sisters as among the first to care for orphans, the first to care for the aged, the first to care for the mentally ill, the first to establish a hospital.

In 1953 the American Institute of Architects declared Mother Joseph "The First Architect of the Pacific Northwest." Because she was among the first to appreciate the use of Douglas Fir for both carving and building, she was recognized as "the first white artisan to work with wood in the Pacific Northwest" by the West Coast Lumbermen's Association.

After her death from a brain tumor in January 1902, her close friend, Mother Mary Antoinette, honored Mother Joseph in a letter to the community: "She had the characteristics of genius: incessant works, immense sacrifices, great undertakings; and she never counted the cost to self. She exercised an extraordinary influence on the Church in the West."●

AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96-1

AMENDMENT NO. 565

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the resolution of ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Arms, done at Vienna on June 18, 1979 (Ex. Y, 96-1).

HOME ENERGY ASSISTANCE ACT—S. 1724

AMENDMENT NO. 566

(Ordered to be printed and to lie on the table.)

Mr. BOSCHWITZ (for himself and Mr. MUSKIE) submitted an amendment intended to be proposed by them, jointly, to S. 1724, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

● Mr. BOSCHWITZ. Mr. President, on behalf of Senator MUSKIE and myself, I am submitting an amendment to S. 1724, the Home Energy Assistance Act, which will insure that the funds are targeted to the areas where they are needed most.

S. 1724 as reported by the Labor and Human Resources Committee, allocates half the money based on total energy expenditures by State and half the money based on heating needs times low-income households by State. This formula should be improved to better reflect the Senate's intent.

During floor debate in both the Senate and the House when the fiscal year 1980 program was approved, the primary emphasis was placed on the need for legislation to deal with the crisis caused by rising heating costs. The formula approved by the Interior appropriations conferees reflects this intent. The formula in S. 1724 does not. The next step is to make sure that the funding in future years is consistent with the approach adopted for the fiscal year 1980 program.

This amendment would do that. It places a much greater emphasis on the heating requirements of States, while still providing warmer States with an adequate share of the funds available.

The formula proposed is somewhat different than the one accepted by the Interior conferees. We decided to use the same data base as both the Senate Fi-

nance and Labor and Human Resources Committees have used in their respective fuel assistance programs. We understand there are problems with the data on heating expenditures mainly incorporated in the Interior bill formula, because they are derived from 1970 census data, which are hopelessly out of date, particularly when dealing with energy statistics. Because of this, the formula we propose uses data that is currently available and reliable.

Unless the formula in S. 1724 is changed, we will face a situation next year where many States will receive less money in fiscal year 1981 than they are in fiscal year 1980. The only way to remedy this would be to dramatically increase the total amount of funds available for the program. This amendment will enable us to achieve greater cost savings in the future, and avoid any severe dislocations in funding amongst States from year to year.

The need for this legislation is great. Heating costs are rising rapidly, and we cannot reasonably expect them to abate in the next year or so. At the same time, we must carefully consider the budgetary aspect of new legislation. S. 1724 is a reasonable approach, as it provides funds in the form of grants to States, rather than creating new entitlements. However, we need to target the funds to those areas where they are most needed to retain program accountability and spending restraint.

This amendment is essential to put the main thrust of the legislation back where Congress intends; that is, providing assistance for home heating requirements.

Mr. President, I ask unanimous consent that a table comparing the State allocations under S. 1724 as reported, and the State allocations under this proposed amendment, be printed in the RECORD along with a factsheet and the text of the amendment.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

On page 22, line 23, strike out "one-half" and insert in lieu thereof "one-quarter".

On page 23, line 4, strike out "one-half" and insert in lieu thereof "three-quarters".

On page 23, line 5, insert "squared" after the word "State".

State-by-State comparison of effect of allocation formulas under S. 1724 and amendment

[Percentage of total funds]

State	S. 1724	Amendment
Alabama	1.40	.88
Alaska	.27	.61
Arizona	.76	.42
Arkansas	1.00	.70
California	5.96	3.73
Colorado	1.25	1.81
Connecticut	1.80	1.81
Delaware	.26	.21
Dist. of Col.	.31	.28
Florida	2.04	.92
Georgia	1.73	1.06
Hawaii	.10	.05
Idaho	.51	.69
Illinois	5.90	6.39
Indiana	2.83	2.91
Iowa	1.84	2.10
Kansas	1.06	.96
Kentucky	1.66	1.55
Louisiana	1.12	.55
Maine	.91	1.34
Maryland	1.61	1.36
Massachusetts	3.65	3.94
Michigan	4.91	6.20
Minnesota	2.65	4.35
Mississippi	.93	.54
Missouri	2.59	2.60
Montana	.47	.81
Nebraska	.85	1.04
Nevada	.26	.22
New Hampshire	.59	.79
New Jersey	3.80	3.57
New Mexico	.56	.59
New York	11.13	12.16
North Carolina	2.38	1.67
North Dakota	.43	.54
Ohio	5.51	5.80
Oklahoma	1.20	.88
Oregon	1.00	1.09
Pennsylvania	6.65	7.31
Rhode Island	.61	.65
South Carolina	1.07	.63
South Dakota	.46	.72
Tennessee	1.81	1.47
Texas	4.00	2.08
Utah	.58	.81
Vermont	.38	.58
Virginia	2.06	1.66
Washington	1.47	1.75
West Virginia	.95	.99
Wisconsin	2.74	3.62
Wyoming	.20	.33
	100.00	100.00

NOTE: Data furnished by Congressional Research Service.

FACT SHEET ON AMENDMENT TO CHANGE STATE ALLOCATION FORMULA UNDER S. 1724, THE HOME ENERGY ASSISTANCE ACT

Purpose of amendment:

The amendment would change the formula allocating funds for low-income energy assistance among States in order to better target the funds to States with the greatest need for such assistance.

Description of the formula in the bill as reported:

Under S. 1724, as reported, the formula for allocating funds among States for low-income energy assistance would be: 50 percent based on the aggregate residential energy expenditures in a State, and 50 percent based on the number of heating degree days in a State multiplied by the number of households in a State with incomes equal to or less than the lower living standard developed by the Bureau of Labor Statistics (BLS).

Description of the amendment:

The amendment would change the allocation formula among the States to the following: 25 percent based on the aggregate residential energy expenditures in a State, and 75 percent based on the number of heating degree days in a State squared multiplied by number of households in a State with incomes equal to or less than the BLS lower living standard.

Cost effects:

None. The amendment would not change the cost of the bill; it would only change the allocation of the authorized funds among the States.

Effect of amendment:

The amendment would provide a higher allocation for 29 states—generally those with the greatest need for assistance because they have the coldest weather. The preceding table shows the percentage of funds for low-income energy assistance that would be allocated to each State under S. 1724 compared with the allocation under the amendment.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, on Wednesday, November 14, the Subcommittee on Governmental Efficiency and the District of Columbia will hold a hearing on legislation to waive the congressional review period on the Interest Modification Act of 1979, passed by the District of Columbia Council, and to clarify the District's use of "emergency" legislation under the Home Rule Act. The hearing will take place in 6226 Dirksen Senate Office Building at 1 p.m. Any questions about the hearing should be directed to Ira Shapiro or Peggy Crenshaw of the subcommittee staff at 224-4161.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

● Mr. SASSER. Mr. President, the Subcommittee on Intergovernmental Relations of the Governmental Affairs Committee will be holding hearings over the next several months on intergovernmental policies that can be taken to ease the economic and social dislocation of the pending energy crisis.

The first field hearing will assess the impact of past and future gasoline shortages on small business, especially the tourist industry. This hearing is scheduled to be held on November 17 at 9:15 a.m. in the Knoxville, Tenn., Civic Coliseum Ballroom. Anyone wishing additional information should call Lucinda Dennis, chief clerk of the subcommittee at 224-4718.●

SUBCOMMITTEE ON ANTITRUST, MONOPOLY AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Subcommittee on Antitrust, Monopoly and Business Rights has scheduled hearings on the Family Farm Antitrust Act of 1979, to be chaired by Senator BAYH on November 20, 1979, at 11 a.m. in room 6226, Dirksen Senate Office Building.

Any persons wishing to submit written statements for the hearing record should send them to Joe Allen, suite 102-B, Russell Senate Office Building, Washington, D.C. 20510.●

ADDITIONAL STATEMENTS

SALT II

● Mr. INOUYE. Mr. President, now is the time for looking to the future, a time for reflection and a time for making choices which may affect us all the days of our lives.

Robert Frost evokes the spirit of the moment in the last five lines of his poem, "The Road Not Taken."

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less travelled by.
And that has made all the difference.

In a few weeks we will be standing at that fork in the road, wondering which way we should go now, which road, we wonder, will bring security, peace, and stability?

Our Nation has witnessed a number of such critical junctures, some leading to war and others to peace, some to prosperity and some to ecomonic decline, some to progress and some to decay. There is bound to be disagreement about some of the choices that have been made, but on balance I think we can count ourselves blessed.

Our Nation this year is again faced with a significant choice as to the path it wishes to pursue in the future. I am referring, of course, to the question of whether or not to approve the Strategic Arms Limitation Agreement known as SALT II.

The weapons the SALT II agreement attempts to regulate are so fearsome as to be almost impossible to connect with the realities of everyday life.

Can we really appreciate that in the few minutes I shall spend with you on this floor, massive missiles could rise from the Soviet Union or its submarines and destroy our land with fire and upheaval rivaling that which created them millions of years ago.

The enormity of the destructive power we and the Soviets can deliver at the push of a few buttons staggers the imagination. The bombs which leveled Hiroshima and Nagasaki had a yield of about 13 kilotons which means the equivalent of 13,000 tons of TNT.

Today, our smallest strategic warhead, on the Poseidon missile, is three times more powerful, and the missile carries ten such warheads. Missiles on both sides have warheads with explosive power equal to several millions of tons of TNT. The largest, which is in the Soviet arsenal, can carry in its nose cone the equivalent of some 20 million tons of TNT. If you were to load that much TNT into railroad box cars, the train would stretch across the mainland United States from the Atlantic to the Pacific.

As another way of picturing the devastating force we are talking about, it has been estimated that all of the conventional bombs dropped in World War II had an explosive power of only 2 million tons of TNT. This is the yield of one or two ordinary nuclear bombs today, and the United States and the Soviet Union each have thousands of such bombs in their stockpiles.

Hardly able to comprehend these forces and feeling helpless to do anything about them, one natural reaction is to ignore them and to turn our attention to our everyday problems: How to conserve energy as gas prices go to a dollar or more a gallon if it is available at all; how to make do on incomes which a few short years ago would have assured a comfortable living; and how to cope with a world which seems to become ever more complex and frustrating.

Another natural reaction is to minimize the problems, which can and has led to monstrous and dangerous delusions.

One is that a nuclear war would be just like a conventional one, only a little bigger. Thus, we hear people talk about winning an all-out nuclear war. But once such a war got started, who would surrender? Who would be left to accept the white flag? How would the message be communicated? In the midst of the resulting devastation and contamination, how could you tell who was the victor and who the vanquished? As Nikita Khrushchev once said, "The survivors would envy the dead."

Equally dangerous is the idea that there can be such a thing as a "limited" nuclear war. This is like believing that you will not have an explosion if you throw a match into a pool of gasoline. President Brezhnev has said that even a single nuclear bomb dropped by either of the superpowers would result in general nuclear war. Can anyone seriously doubt if a nuclear bomb landed anywhere in our country that we could do anything but respond to the fullest extent?

A further dangerous delusion is that just as with conventional wars, recovery would be possible and that nations could dig themselves out of the rubble. But after a nuclear war, even the rubble is poisoned and deadly.

If the nuclear arms race continues unchecked, we face either economic strangulation as more and more of our national wealth is spent on instruments of destruction on a cataclysmic war which at worst will leave the world a charred cinder and at best undo the achievements of a millennium, returning us to the middle ages.

These are not pleasant images, but if we and the generations that follow us are to enjoy continued peace and prosperity, we must make a deep and abiding commitment to arms control.

National security policy, nuclear weapons, strategic theory and arms control too often seem to be the domain of the physicists, engineers, and uniformed experts. Too often, the debates revolve around elaborate calculations of throw-weight, circular error probable, hard target kill-ratio, and equivalent megatonnage. I think we have made the central issue too complicated. We have reduced the debate to dehumanized technicalities and statistics. What we should be doing is putting the issue in human terms and making ourselves aware of the horror and anguish associated with war. If we do this and apply basic commonsense, we will find the SALT agreement involves some very fundamental and familiar concepts which we can all understand.

Stepping back from the 90-page SALT II agreement with its detailed provisions, precise and technical definitions, and painstakingly drafted language, one can see several such fundamental concepts.

The first is equality. As the Secretary of Defense and the Chairman of the Joint Chiefs of Staff have testified before the Congress, the strategic nuclear forces of the United States and the Soviet Union are essentially equivalent.

They may lead in some categories of nuclear weapons, and we may lead in others. But, overall, rough equality prevails, SALT formalizes and enhances that equivalence by placing equal overall ceilings on the nuclear arsenals of both countries.

It is the policy of the United States that we will maintain essential equivalence with the Soviet Union either at lower levels through SALT, or at ever and ever higher levels through an arms race. Equality at current levels, and in the future at reduced levels through SALT is less expensive, less dangerous, and considerably saner than equality at continually escalating levels projected indefinitely into the future.

A second key concept is deterrence. Today, neither the United States nor the Soviet Union could launch a nuclear first strike against the other and escape devastating destruction in retaliation. The sure knowledge of such retaliation deters the first strike.

The new SALT agreement strengthens deterrence by capping the overall arsenals of both, while guaranteeing that both can preserve those nuclear weapons needed to deter the other from attacking first. From the United States point of view, SALT limits the size and capabilities of the Soviet strategic forces, and protects those defense programs we have chosen to maintain our deterrent.

A third fundamental is stability. The current nuclear balance is stable. Deterrence exists, and neither country can reasonably expect to alter the balance to its favor. SALT enhances stability by closing off major aspects of the technological arms race, which—left uncontrolled—could lead one side or the other to develop new threatening capabilities.

Specifically, the SALT agreement limits both countries to only one new type of land-based intercontinental ballistic missile. It caps the number of warheads that can be place on a given missile. It bans certain new weapons systems which could destabilize the balance, such as long-range ballistic missiles on surface ships, heavy mobile and land-based intercontinental ballistic missiles, and heavy air-to-surface ballistic missiles.

A fourth fundamental has to do with verification and as a member and the first chairman of the Senate Select Committee on Intelligence, this is an issue to which I have given special attention.

The select committee's mandate—to evaluate periodically the performance of our national reconnaissance systems—makes it uniquely qualified to review and evaluate U.S. monitoring capability. It is the only committee with both complete access to all highly sensitive intelligence information and daily contact with all the collection agencies.

Over 2 years ago, at the request of the Senate Foreign Relations Committee, the Select Committee on Intelligence undertook an independent study of this country's monitoring capability under the provisions of the SALT II treaty. Under my direction, as chairman, the committee staff immediately began a detailed and continuing study to determine whether and to what degree provisions of the treaty could be monitored by the United States.

As a matter of underlying philosophy, we considered it critical that our reconnaissance systems be able to supply detailed and timely information about Soviet activities subject to the terms of the treaty and that the methods of collecting such information be sufficiently sophisticated to give the United States early warning of potential danger.

Because of the very sensitive nature of the methods and procedures used in gathering intelligence information, I am not authorized to discuss with you in this discussion how we achieve verification of Soviet compliance with treaty provisions.

However, speaking only for myself, I can say with full confidence that we have the physical means to seriously and effectively consider strategic weapons control agreements with the Soviets. In other words, we have the capability to achieve acceptable verification. In addition, policymakers can receive the timely and detailed information necessary to plan for deterring or responding to possible hostile enemy action.

The arms race between the two great superpowers continues, each side determined to deny the other a decisive advantage and devoting vast resources, the best minds, and the latest technology to the effort. The tragic irony is that as each side increases its forces, the delicate nuclear balance becomes more unstable and the chance of war increases.

There is no miraculous diplomatic cure that can halt this process immediately and for all time. But there is a sane and practical alternative to the situation we see today. In Frost's terms, it is a road "less traveled by" and leads to strategic arms control through mutual agreement. That is the one I intend to travel. I hope you will join me and that "somewhere ages and ages hence" you will be able to say "that has made all the difference."●

JOSEPH B. DANZANSKY

● Mr. MATHIAS. Mr. President, it is a double burden to inform the Senate of the death of a man who was both a personal friend and an associate in many public causes. I feel a private loss, but I also can estimate the public loss of the presence and services of a remarkable man who was dedicated to the best interests of the entire national capital area. The death yesterday of Joseph Baer Danzansky deprives the Washington community of a leader of impressive dimensions.

My own contacts with Joe Danzansky have been many and varied. When he led the Metropolitan Board of Trade, we necessarily met often on projects that came before the District Committee. His commitment to the community was obvious, but the accuracy of his observation and the value of his recommendations was remarkable. We all owe him a great deal and I acknowledge my debt at this time of farewell.

I submit the following editorial from today's Washington Post for the RECORD:

JOSEPH BAER DANZANSKY

The title was never official, but Joseph B. Danzansky was a Washington City Father if we've ever known one. Even in the last hours before his death yesterday at the age of 65, Mr. Danzansky was doing what he loved best—promoting his native city as if it were his firstborn. On this occasion it was as a leader in the development of Pennsylvania Avenue, at a meeting he began with his characteristic exuberance; but in the many days and years before this meeting, it was as a civil cheerleader and financial big-heart in every corner of the community.

New arrivals to this city may not realize the significance, years back, of Mr. Danzansky's all-embracing love for the city and its people. But it still holds special meaning for those whose lives were once made very uncomfortable—financially, racially, socially—in a segregated town. His tall frame and broad grin stood out at countless civic gatherings—from basements to board rooms, from sports events to—yes—civic disorders, leaning forward to understand and then to assist.

In business as in community service, Mr. Danzansky went to extra lengths to include all people. His extraordinary success as a businessman not only was good for the economic health of the city, but demonstrated the strength of a concerned partnership of local business interests and the people they serve. This philosophy, coupled with the worthy causes to which he gave time and money, was instrumental in breaking down racial barriers and introducing two "Washingtons" to each other. So it was that the Metropolitan Washington Board of Trade began to be transformed from a tight, white club of frightened businessmen headed for suburbia into a group starting to reach out and rebuild after the disorders of the 1960s.

Baseball. Banking. The United Way. Giant. WETA. The Jewish Community. Every District commissioner and the two elected mayors. The list of causes and activities and awards is vast. Working for Washington, committing himself to its prosperity, solidarity and general welfare—that was what Joe Danzansky was all about all the time. He can't be replaced.●

JOE DANZANSKY

● Mr. METZENBAUM. Mr. President, yesterday the Washington area and in fact, the Nation, suffered a tremendous loss with the death of Joseph B. Danzansky. For many years it had been my extreme honor to know and to work with Joe on many projects.

In a society where too many times we hear the phrase "business is business," Joe Danzansky was a shining example of what a businessman should be. He put people first and foremost, whether it was in his business or in his civic endeavors. He was a pioneer in consumerism, showing the way for many other firms in an area that was strongly resisted by many companies dealing with the public.

In an address at the Smithsonian Institution, quoted in today's Washington Post, Joe chided businessmen for resisting consumer advocates and said:

After repeated frustration, the awakening comes and business reappraises its entrenched viewpoint. It realizes that service to the consumer is its first obligation if it is to grow and prosper. It realizes that the best way to cope with the problems is to look at the allegations seriously, give responsible consumer spokesmen a fair hearing, and make a serious effort to do something constructive to correct any shortcomings.

He followed a policy of brotherhood and humanitarianism in all facets of his life. His life was an example of courage for all of us to follow. He stood up against the tides of racism that plagued our cities in the volatile sixties and emerged as a champion and a friend of the disadvantaged.

His personal courage was exemplified in the fact that he remained active in his pursuit of progress for his beloved city even though his health was waning. It was a measure of his dedication that only hours before his untimely death he had presided at a meeting of the Pennsylvania Ave. Development Corp. which is spearheading the redevelopment of one of the city's potentially great areas.

He brought Washington area people together in countless ways, especially after the trauma suffered in the riots of 1968. He helped stem the flight of frightened businessmen from the community and urged all peoples to work together for the good of his beloved city.

No finer tribute to Joe and his family could be found than in the closing words of today's editorial in the Washington Post.

The list of causes and activities and awards is vast. Working for Washington, committing himself to its prosperity, solidarity and general welfare—that was what Joe Danzansky was all about all the time. He can't be replaced.

Mr. President, I offer my heartfelt condolences to Joe's lovely wife, Ethel, his two sons and his grandchildren. Their loss is also our loss. And I ask that the editorial "Joseph Baer Danzansky" in today's Washington Post be printed in the RECORD.

The editorial follows:

JOSEPH BAER DANZANSKY

The title was never official, but Joseph B. Danzansky was a Washington City Father if we've ever known one. Even in the last hours before his death yesterday at the age of 65, Mr. Danzansky was doing what he loved best—promoting his native city as if it were his firstborn. On this occasion it was as a leader in the development of Pennsylvania Avenue, at a meeting he began with his characteristic exuberance; but in the many days and years before this meeting, it was as a civic cheerleader and financial big-heart in every corner of the community.

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LIFE IN CONTEMPORARY CHINA

● Mr. LUGAR. Mr. President, American contact with China has not diminished the desire of the American people to find out more about this ancient country and its people. To the contrary, all aspects of Chinese life are the subject of fascination and speculation.

Mr. President, I have come across an interesting and informative article on life in contemporary China by David Finkelstein. I submit the following which appeared in the September 10 issue of the New Yorker, to be printed in full in the RECORD.

The article follows:

WHEN THE SNOW THAWS

Over the centuries, China has often been the subject of Western fantasy. In their own way, a number of scholars, journalists, and other travellers have perpetuated this tradition in recent years, rushing to rediscover the country after its long period of isolation. Some of these visitors, justifiably impressed by the Communists' achievements in eliminating the exploitative aspects of pre-1949 mandarin society, propagated the view that the revolution, after its initial successes, had continued to "serve the people," and that China was "the wave of the future"—a compelling alternative to the disorder and materialism of contemporary Western society.

Human rights were not at issue, they argued, because such Western concepts were inapplicable to China. In the past year, however, the Chinese have begun to speak for themselves, and they are conveying quite a different picture. In the view of many of its own people, China is a backward and repressive nation. "China is Asia's Gulag Archipelago," an elderly Chinese scholar said to me shortly after I had arrived in China last spring. "I was in Germany right after the Second World War, and I saw the horrors of Buchenwald and other concentration camps. In a way—in its destruction of the human spirit these past two decades—China has been even worse."

Paradoxically, the utopia is now America. The traditional Chinese sense of moral superiority has given way, it seems, to an equally unhealthy lack of self-esteem. "Compared to you, we Chinese are really stupid," a train conductor said to me, bemoaning the "fact" that Americans learned faster from books than Chinese did. Americans visiting China no longer need defensively recite the strengths of their society; rather, they find themselves in the curious position of having to point out that America, too, has faults.

Obviously, the time is right for visiting China. Yet, despite the country's sudden new wave of cordiality, the average traveller, who must join a package-tour group to get there, remains very much isolated from the people. Most visitors—who fly from place to place (air travel costs foreigners two to three times the amount that Chinese pay), eat in special dining rooms, and are escorted to scenic or historic sites in Japanese-made minibuses—find that their contact is limited primarily to China's tourist personnel. But even visitors fortunate enough, as I was, to avoid group tours generally travel by plane or by train in luxury compartments and are also isolated from any substantial contact with what the Chinese call "the masses."

As the Ford Foundation's China specialist—and a Chinese interpreter under contract to the State Department—I had first visited the country in 1975, but that trip had yielded little in the way of information about ordinary Chinese citizens. Visits to Potemkin-village communes, model factories, and new housing developments—hardly tourist attractions in other countries—were orchestrated and meaningless, and were accompanied by a barrage of official propaganda about the success of the socialist revolution, the sanctity of the principle of "self-reliance," and the evil influence of everything foreign. Today, travelling in China can be strikingly different. Provided that their Chinese is adequate, travellers who manage to sidestep the government travel agency can set out on their own—by "hard class" train, boat, and bus—to profit from China's new openness and the almost insatiable desire of the Chinese for conversation.

Except for some foreigners studying in China, few visitors have had the opportunity or the inclination to travel in this way, so when an Australian friend and I received a personal invitation from a diplomat in Peking—one of the few ways individual travellers can enter the country—we decided to undertake such a trip. The journey, lasting nearly two months, covering seven thousand miles, and passing through a number of areas only recently opened to foreign travellers, took us from Canton, in the south, to Peking and Tianjin (Tientsin), in the northeast, and then southwest through Sichuan (Szechwan) to the remote province of Yunnan, east down the Yangtse River to Shanghai, and, finally, to the scenic southern city of Guilin (Kweilin).

The trip began in Hong Kong, where the business community is full of optimistic talk about China's development plans and the major role that the Crown Colony is likely to play in the "four modernizations"—of industry, agriculture, science and technology, and the military. Estimates of the amount that China will have to borrow by 1985 to achieve "mechanization" have ranged from, in American terms, six hundred billion dollars to the more recent figure of twenty billion dollars. The country's foreign-debt obligations are currently a modest eleven per cent of its export earnings, but they could balloon considerably beyond twenty per cent—a figure that the financial community considers prudent—if foreign-exchange earnings do not keep pace with China's borrowing. The problems are obvious: if China is to realize its goals, it will have to develop capital, technical and managerial skills, and export markets. "In terms of financing as well as of human rights, 1979 and 1980 will be crucial years for China," one of Hong Kong's most prominent international bankers said to me.

Though the rail line from Hong Kong now goes straight through to Canton, most trains still stop at the border, and passengers, almost as if replaying Mao's Long March, have to trudge across the Lowu Bridge on foot, many of them carrying their own luggage. A number of those entering China are so-called Overseas Chinese and, in China's status-laden lexicon, the even lowlier Hong Kong and Macao brethren. Returning to see relatives, they sag under the weight of color TV sets and other modern appliances incongruously dangling from traditional bamboo shoulder poles. The Chinese, hungering for consumer goods after years of deprivation, try to make the most of visits from family outside. The visitors bring in food as well. A woman in Canton told me, "Most of the quality eggs and pork produced in Guangdong [Kwangtung] Province are exported to Hong Kong for foreign currency, so I can't easily get them here. Fortunately, my cousins who live there bring some back for me."

In Chinese railway stations, there is an upstairs-downstairs distinction. The area upstairs is generally reserved for "foreign guests" and Chinese dignitaries. The rooms—large and impersonal—are furnished with little more than oversize linen-covered armchairs and ubiquitous spittoons. Foreigners wait in comfortable seclusion in these reception halls until guides come to escort them to specially segregated compartments on their trains. On the Chinese side of the border, I asked a teen-age waitress in the station for directions to the ticket window. Surprised that my companion and I hadn't bought our tickets in Hong Kong, she offered to take us to a China Travel Service office just down the hall. When we refused, she did not insist—as she undoubtedly would have a year ago—but willingly directed us to the ticket office used by the masses, downstairs. There the ticket for the ninety-minute ride to Canton cost the equivalent of four dollars and fifty cents. If we had bought our tickets through the China Travel Service's Hong Kong office, the trip would have cost twenty-seven dollars—six times as much.

In contrast to the staid upstairs, the downstairs section was chaotic. Throngs of Chinese, some with what seemed to be all their earthly belongings—including terrified bound-up chickens and quacking ducks—filled the area. Scurrying around the station were mothers with infants strapped to their backs or clutched nursing at the breast; fathers with infants in their arms; grandmothers and grandfathers holding babbling youngsters by the hand. Even little children no more than five years old, their legs wobbling under the weight, uncomplainingly carried infant brothers or sisters on their backs, occasionally pausing to reach around and console with a gentle pat those who were crying. (China discourages early marriage—before twenty-eight for men and twenty-five for women—and propagandizes through wall graffiti and posters everywhere that "one child is best, two is the most." In addition, birth-control pills and condoms free for the taking are available in clearly marked boxes sitting on drugstore counters. Even though the condoms are generally considered to be of poor quality, birth-control pamphlets given to young couples recommend that, for reasons of economy, they be washed and reused. The effect of these efforts on population growth isn't obvious—China is children. At least seventeen million babies are born each year.) Above the general clatter rose the unappetizing sounds and sights of people coughing, constantly hawking, and spitting and blowing their noses on the floor. Heedless of pervasive propaganda designed to discourage unhygienic behavior, parents also held undiapered babies spread-eagle in their arms to allow them to urinate on the floor through split-seam pants. China remains a terribly poor peasant society, and little distinction is made between the floor of a station or a restaurant and the earth.

Fortunately, because foreigners in downstairs China are still rare and Chinese travellers stop their customary elbowing and shoving to stare—and even to offer assistance—we had no trouble making our way to the proper train. As we neared Canton, the countryside looked lovely and fertile, but by the time we reached the station rain had begun to fall, and the city itself seemed dismal and dreary. We spent the better part of the day sloshing around Sha Mian Island, in the Pearl River—a narrow, tree-lined strip of land about half a mile long, which is connected to the city's crowded southwestern section by two small bridges. The island—formerly the site of the French and British concessions—still has something of the air of a European village. Sha Mian's once magnificent mansions have been converted into schools and administrative offices, and have deteriorated over the years, but even in decay they retain a certain elegance. Guides never fail to mention to tourists that before "liberation," in 1949, Chinese were excluded from the island and from other concession and legation areas in China. The guides apparently see no irony in the fact that the masses are now excluded by their own government from a number of choice spots (in hotels, restaurants, trains) reserved for foreigners.

Before catching the evening train to

Peking, we had dinner at Bei Yuan, or the North Garden, one of Canton's fancier restaurants. I had eaten at Bei Yuan during my 1975 trip, but at that time I had been restricted to a separate guest room, where I had eaten a lonely meal while the inescapable Travel Service escort, refusing my invitation to share the dinner, looked on indifferently. This time, after only the slightest resistance on the part of the restaurant management, my Australian friend and I were ushered into the main room, where we ate in the company of the masses. The bill, for China, was on the high side—about eight dollars for soup and three dishes. Even though a number of American food critics have praised the fare at Bei Yuan, we were unimpressed; a dish of fresh shrimp, for instance, came overladen with monosodium glutamate. Unfortunately, most visitors never get beyond the few restaurants specially selected for tourists, some of which are now so booked up that foreign residents in the country have difficulty getting reservations. If language were not a barrier, foreigners willing to forgo such amenities as white tablecloths and ignore the bones, scraps of food, and other litter cluttering the floors of the more popular eating places could sample superb cuisine—and local color—in countless restaurants throughout the country. Prices in such places range from half a dollar to three dollars and fifty cents a person—about a sixth of what tourists usually pay in the dining rooms and restaurants set aside for them.

On the Canton-to-Peking line, the "hard bed" reservations—second class, in classless Chinese society—had been sold out three days in advance. At forty-five dollars for a one-way ticket, it was the best buy. One alternative to hard bed was to travel "hard seat," or third class, which would have meant sitting upright on straight-backed wooden benches for thirty-four hours packed together with about a hundred and twenty other people, but that seemed to be overdoing the quest for contact, even at the bargain price of twenty dollars. Later, we did travel hard seat for fourteen painful hours through Sichuan, from Chengdu (Chengtu) to Chongqing (Chungking), on a rail line completed by forced labor in the early nineteen-fifties. For the trip to Peking, however—fourteen hundred miles—we decided to travel "soft bed." (On short runs, "soft seat" is the first-class alternative.) The price was eighty dollars, and we were isolated from the masses—we were in a compartment with four fairly comfortable bunks—but we rationalized our choice with the reflection that it was only for one leg of the journey, and at least it was preferable to the plane.

The trip north by train is time-consuming, but there is no better way for visitors to grasp the fact that eighty per cent of China's population is rural (though eighty-eight per cent of the land is not cultivated). The train passes through Hunan, with its rugged, terraced hills and lush green paddy fields, through the provinces of Hubei (Hupeh) and Henan (Honan), and finally enters Hebei (Hopei)—a wheat-producing region that is drier and more severe-looking than the provinces to the south. The train crawled by countless clusters of primitive mud-brick huts, their roofs—some tiled, some thatched—steaming in the early-morning drizzle and their chimneys emitting wisps of smoke. Eighty per cent of the people in China—the total population is nearing a billion—spend all their working energy simply growing the food that the country needs in order to survive. Rarely has such virtue emerged from such necessity; the variety and the ingenuity of Chinese cooking are products not of abundance but of milennial scarcity. Though many basic foodstuffs are either rationed or simply not available, the dining car on the train offered a selection of about seventy Chinese dishes and an equal number of Western ones. (Such is the pro-American mania in China today that as we were pondering our choices for one meal the waiter asked, "'sn't American food tastier than Chinese food?") Even in rural China, however, there were signs of an increasing urbanity: at Hankou (Hankow), five huge bags of orange plastic hair curlers were sitting on a station platform. It seems that "cold perm" and wavy hair styles have been catching on throughout the country since 1977, soon after the Gang of Four—Jiang Qing, Wang Hongwen, Yao Wenyuan, and Zhang Qunqiao—were overthrown.

In Peking, Western culture is flourishing these days. Mao Zedong had hoped in his lifetime to transform China from a backward and bureaucratic society victimized by a century of imperialism into a new, egalitarian state, a unique Chinese Communist culture, and in 1949 he began to eradicate "decadent" Western influences. The movement to destroy every vestige of "bourgeois" culture, including movies and music, reached its xenophobic peak, however, only during the Cultural Revolution, which lasted from 1966 until the overthrow of the Gang of Four. Right up till then, Chinese university students, when their foreign roommates played Beethoven and other Western composers, would invariably parrot the Party line by criticizing the recordings as "awful bourgeois music." Now, if they're lucky enough to be in work units that have access to TV, young Chinese sit listening and watching as the Boston Symphony and other orchestras play to audiences of élite Shanghai and Peking bureaucrats. (Music lovers who attend such events pay—if they are not among the favored few—the black-market price of up to eight dollars, or a little less than the average weekly wage, for a ticket that originally cost twenty-five cents.) The Chinese also get a daily radio dose of selections from, say, "Swan Lake" and "The Sound of Music," along with narrations of the plots, as well as a perplexingly diverse assortment of old country-and-Western hits—including one, in this family-oriented country, that has the refrain "I don't need no man." Other forms of entertainment, too, are much in evidence. Movie houses running old foreign films—a recent one was Olivier's "Hamlet"—are packed night and day. University students who in their philosophy classes hotly debate the pros and cons of Chairman Mao surreptitiously devour Erica Jong's novels and any others they can lay their hands on—often to the embarrassment of their language teachers from abroad, who never thought they would be interpreting such works in this puritanical stronghold. And people everywhere are learning the waltz and the foxtrot.

Beyond their passion for Western entertainment, the Chinese are also rediscovering their own culture. As an admirer and sometime translator of one of China's greatest modern authors, Lao She, whose "Rickshaw Boy" was a best-seller in America in the nineteen-forties, I paid a visit to his widow, Mme. Hu Jie-Qing, now seventy-four. In October of 1966, when the Red Guards unleashed by Mao at the onset of the Cultural Revolution were conducting an orgy of beatings, torture, and murder, Lao She committed suicide. Mme. Hu, a teacher of Chinese literature and a painter of some renown, escaped unharmed—she told me she had been protected by Premier Zhou En-lai and his supporters, who were far more sympathetic than Mao to intellectuals and were aghast at Red Guard excesses. Mme. Hu lives in a small, pleasant house near the center of Peking. After tea at her home and a fine dinner at a nearby restaurant, I accompanied her to the opening-night performance of a revival of her late husband's play "The Teahouse." Written in the nineteen-fifties and last staged in 1962, when it was becoming increasingly unfashionable to be an intellectual—teahouses were often frequented by intellectuals—the slice-of-life drama spans the fifty-year transition from the last decade of Manchu rule to the eve of the Communist victory. Not all of Lao She's work survived the Cultural Revolution. The only extant Chinese copy of one manuscript was destroyed during that period, and a new Chinese version is now, paradoxically, being reconstructed from its English translation.

Despite all the excitement surrounding the current cultural upsurge, not everyone in Peking is happy with the course of events. As recent police crackdowns have so painfully shown—freedom-of-speech demonstrators dragged off to jail and Chinese taken away from international dances for questioning, presumably to discourage too intimate a relationship with foreigners—the Chinese political pendulum swings both ways. Even before the arrests began, signs of reaction were evident in newspaper editorials and radio commentaries "We want no part of capitalist democracy," a typical editorial insisted. "We want to combine democracy with the dictatorship of the proletariat." In recent months, a number of American lawyers have been invited to China to advise Chinese officials on matters relating to foreign investment in joint business ventures, and when they remark that this attitude bodes ill for the future the response from their hosts is merely a polite nod. Obviously, the struggle among the leadership over the latest "correct line" is far from resolved.

At the other end of the spectrum are those who think things haven't gone far enough. One young artist, whose works seemed suspiciously derivative of van Gogh in some cases and of American abstractionists in others but who insisted they were inspired only by his many years in labor camps, complained that he and fellow-artists elsewhere in China were still not allowed to exhibit their paintings openly (though one Sunday he did put some of his paintings up on "democracy wall," the scene of much of the past year's ferment) and were constantly harassed by the secret police. When asked what he intended to do about the situation, he replied glibly, aping the serious dissidents in the Soviet Union, "I'll send my paintings abroad, get arrested, and hope the international community will take up my case." Victims of the Anti-Rightists Campaign, in the late nineteen-fifties, and of the subsequent Cultural Revolution generally express themselves in a more Chinese way, however—most notably by pasting laboriously written posters on walls in Peking and in virtually every other city in the land. These posters include lurid accounts of torture and sexual abuse during the late sixties, demands for the punishment of individuals considered responsible—they are often named—and pleas for the redress of injustices involving, for example, workers who have lost jobs or possessions, and elderly people forced to become beggars. (Some of the commentary is in a lighter vein. A drawing of Chairman Mao's huge mausoleum was pasted on "democracy wall" one morning with the caption "The Rest of Us Have Housing Problems.") Still, the wall posters may not suggest the true extent of people's dismay; random conversations I had gave me the impression that almost everyone has a horrifying personal tale to tell.

My Australian friend and I visited a prominent eighty-year-old doctor whose home and belongings had been summarily confiscated in 1966 despite his years of service to the state. He and his son's family of six had then been forced to move into three unimaginably squalid, cramped, and ill-heated rooms with ceilings of paper, and with no running water and no toilet—a far cry from the model housing project for workers (which itself was pretty basic) that I had been shown on my previous visit. "No place for a house-party," he said, with a wry grin, as he took us down a muddy lane that led to his quarters. "They say the several medical books I

wrote will soon be rehabilitated and my belongings returned, yet that seldom happens.

In some instances, the government has offered reimbursements, but it has given only a tiny fraction of the value of the confiscated goods. In any case, my home, just across the street, is occupied and will never be returned. Population pressures are just too great." Expressing contempt for the government propaganda that blamed the Gang of Four for the sad state of present-day China, the doctor continued, "The current leaders are trying to change things now, but they're the ones who brought it all on. Changing the situation will be very hard and very slow. As the proverb goes, 'when the snow thaws, the road is muddy.'" The problem is compounded by the fact that although the leadership and the people want a change, middle-level bureaucrats aren't moving. "These cadres have been stung so many times they're afraid to take a position now. And in any event a change might jeopardize their own interests," the doctor continued. Quoting another proverb, he said, "The ends are hot, but the middle is cold."

The next evening, we had dinner at the home of a middle-aged couple, both of whom are fairly high-level members of the Communist Party. "Though we were innocent of any crime, we both spent four years in prison," the wife said, almost nonchalantly. I had heard elsewhere that their son, who had publicly denounced them, had recently committed suicide. Indeed, I heard rumors throughout my journey—rumors being a major source of information in China, with its controlled press—to the effect that there have been a number of suicides lately among young Chinese; many of them are reported to be bewildered by the dramatic political turnabout and overwhelmed by feelings of guilt and despair. In view of these circumstances, a number of student-age Chinese are known to be looking for an opportunity to leave the country, and that perhaps explains why, the evening after an official announcement last winter that Chinese could marry foreigners, a group of young Chinese women at Peking University took the highly unusual step of hanging out in front of a men's dormitory where several foreign students lived. Moreover, those Chinese who were recruited for the universities from the ranks of "workers, peasants, and soldiers" under a now discredited program fostered by Mao must also find the current situation unsettling. Brought up to believe that they would be the vanguard in the triumph of ideology over "decadent" culture, they are now being shunted aside, in the interests of modernization, to make room for those with expertise.

One day, on a short side trip to Tianjin, a port city about sixty miles southeast of Peking, I asked a young friend how so many children could have been induced to denounce their parents. "Easy," he replied. "They were made to believe that their lives would have been a lot more comfortable if their parents had been better people—of a different class—before liberation. So out of frustration they blamed their parents for all their troubles." Another friend in Tianjin complained, "I've been buffeted by this system for so long now—one movement after another since the early fifties—that my mind is no longer functioning properly. I doubt if I'll ever again be capable of thinking clearly." While there is little question that large numbers of Chinese have been numbed by years of propaganda, there is also evidence that some people have maintained a clearheaded view of events. "Thirty years ago, most students were enthusiastic about the Communists," one man said. "But now, after being told for so long that socialism is superior, these same people look around and see nothing at all to indicate its superiority. No wonder young people today are cynical. No wonder some are suggesting that even the Guomindang [Kuomintang] might have been better. One thing is certain—they want a change."

Walking one day in the drab rural outskirts of Peking, I knocked at the door of a small cottage to ask directions. An elderly, almost toothless man answered, and he invited me in for what turned out to be a two-hour conversation. A scientist who had returned from America after the Second World War with a Ph.D. in mathematics, he had hoped to serve the Communist cause by helping to rebuild China. Instead, after a decade of work, he was labelled a rightist and sentenced to twenty years at hard labor, from which he had only recently been released "Since I was considered a 'big rightist,' I haven't yet got my rehabilitation certificate, as some 'small rightists' have," he told me. "My 'crimes' were twofold: praising American science, and stressing how important academic freedom is to scientific inquiry. Now these 'crimes' seem to be the correct line." He chuckled, and added, "Though who knows for how long?"

If more people had stood firm, as he had, I asked, would the same thing have happened?

"It wouldn't have mattered," he replied. "Millions did stand firm, but we were still broken." He paused to reflect, and then, referring to the brief period in 1957 when Mao solicited criticism of the Party from the intellectual élite, went on, "But if we hadn't done what we did then, there would be no liberalization now. The Hundred Flowers Movement led inexorably to the Cultural Revolution and to the present reaction against that madness."

Didn't that provide some consolation?

"No," he said listlessly. "It's too late for us. Two generations have been lost—my children, too, have suffered. Because of my 'crimes,' they were denied an education. One is a bus driver, and the other works in a factory."

As I was leaving, I noticed that my host had a portrait of Mao hanging on the wall, and I asked him why.

"My wife still thinks it's the safest thing to do," he said. "If I had my way, I'd tear that picture to shreds."

We were able to get hard-bed reservations for the nineteen-hour trip from Peking to the historic city of Xian (Sian). Our introduction to hard-bed travel proved to be something of a shock. The car was crammed to capacity—a rolling dormitory with twenty rows of two-foot-wide wooden slabs, stacked in tiers of three along one wall, for beds. Parents travelling with their children often save money by squeezing two and three to a bunk. But the lack of creature comforts is partly compensated for by a spirit of camaraderie that develops after several hours of this close communal confinement. "We Chinese are very warm people and enjoy expressing our warmth," a middle-aged woman told me. "These past few years, we've been frustrated, because we haven't been permitted to express ourselves—even within our own families." The Chinese masses remain highly political, yet to some extent the ascendance of Deng Xiaoping, with his emphasis on "modernization," has liberated them from the ideological constraints that were so evident until recently. People now seem spontaneous and free of affectations in their social relationships—appealing qualities that one hopes won't be supplanted by Western concepts of "sophistication" as the country modernizes or, if the modernization program fails, by the sour misanthropy prevalent in the Soviet Union.

On the train to Xian, the day's radio fare—broadcast over loudspeakers in each car—was mercifully lacking in the monotonous ideological propaganda that in past years was unavoidable. After the playing of the popular anthem "The East Is Red" and fifteen minutes of "news"—reports on agricultural production, accounts of meetings between high-ranking figures—the bulk of the programming consisted of traditional Chinese comedy (often a bantering dialogue between a comic and a straight man); music from other parts of Asia and from the West, and talks that were virtually elementary-school lessons describing life in other countries. To the average Chinese, whose life for the most part is confined to the area around his village, the assumptions in some of these programs must seem incongruous.

A program on the Philippines, for instance, began, "When you go to Manila, you will want to visit . . ." Still, many Chinese do appear to be starved for knowledge about other parts of the world. It often happened that on trains or in public parks I was surrounded by large numbers of people and, in response to their questions, spent hours at a time describing conditions in Taiwan and elsewhere or discussing the political and economic situation in America. Once, in arguing that Nixon was the American equivalent of the Gang of Four, because he had tried to subvert the Constitution, I mentioned his earlier enmity to the Chinese Communists. "That's strange," one young man said. "Our government told us that Nixon was always a staunch supporter."

Most of our fellow-passengers on the Xian train were travelling on work-related errands that allowed them to enjoy the otherwise unaffordable perquisites of sightseeing en route and eating in good restaurants. (Pedicab drivers throughout China usually ask riders whether their organization is paying or whether they are paying their own way, and unabashedly charge higher fares to those on expense accounts.) And most of the passengers were men. "Travelling in China is arduous, and women are not up to it" was the standard explanation, even though it was contradicted by the reality of the rural landscape, where women regularly haul heavy carts along rutted lanes, like beasts of burden. One of the few female passengers travelling on business—she was returning from a construction site—was accompanied by her four-year-old son. She maintained that she would have preferred to stay home if a male colleague had been available for the job.

As an accompaniment to the new emphasis on modernization, women are now being permitted—indeed, encouraged by billboard and other advertising—to put aside the short haircuts and drab garments of Cultural Revolution days for more stylish hairdos and for feminine, colorful clothes of a style fashionable in the West around 1950. (Paradoxically, they are also being warned, through magazine cartoons and articles, against what is apparently an increasingly common practice of choosing husbands on the basis of their access to consumer goods.) Chinese of both sexes seem delighted with this campaign to prettify women, though whether it signals a retreat from the past few years' emphasis on male-female equality is anyone's guess.

The bunk across from me was occupied by a young man travelling with his five-year-old daughter. On these long trips, as in almost every social setting in China, children are the center of everyone's attention. Yet for the most part they seem much less obtrusive and unmanageable than their Western cousins—perhaps because of their early exposure to socialization in nurseries, kindergartens, and a generally communal environment. Foreign tourists have marvelled at the apparent mood of contentment they observe on visits to model Chinese kindergartens, but not all Chinese parents are so unstinting in their praise. "For children raised at home, usually by their grandparents, our nursery-school system is really quite cruel," the father told me. "Such children start attending nursery school at about the age of two—in contrast to infants who are consigned to nurseries

when they reach eight weeks—and they are admitted only one at a time, because they usually cry constantly for the first several weeks. Many kindergartens are staffed by untrained people who encourage the children to sleep most of the time, and that means that it's almost impossible to get them to sleep at night." Judging from the number of school-age youngsters who spend their days not in class but pulling loads through city streets or engaged in other types of menial labor, there also seems to be some degree of dissatisfaction with China's system of universal primary education. "Many parents refuse to send their children to school because they know that after graduation the kids are generally assigned to jobs far away from home," one mother explained. "These parents know it's wrong to put their children to work when they're so young, but they know that at least that way the family will never be separated. It's not easy to overcome this way of thinking, but eventually they'll be converted." It is also possible, of course, that this situation may prompt the government to revise its job-assignment policy so as to minimize the disruptive effects on families.

After nineteen hours seated in a hard-bed car, I was all too happy to spend several days sightseeing in Xian on foot, straphanging on packed city buses or walking—anything, as long as it wasn't sitting. The city, a section of whose ancient walls still stands, is situated in an area adjacent to the Yellow River, where Chinese civilization had its origins. Despite a population of about two million, Xian, like many cities in China's interior, creates the impression of being little more than a rural town. Its outskirts merge imperceptibly with the surrounding countryside, and its numerous open-air markets differ little from the descriptions of such places centuries ago: razor-wielding barbers indiscriminately shave the heads of all their customers; the occasional blind beggar beseeches alms; a village strong man demonstrates *qi gong* (martial-arts strength attributed to special breathing techniques) by pulverizing rocks in his palms; and street musicians play ancient instruments for the odd handout.

Increasing numbers of tourist groups are being attracted to Xian by an archeological excavation that is under way at the recently discovered two-thousand-year-old tomb of Qin Shi Huang, the first emperor of a unified China. Specialists at the site apologize to visitors for the makeshift nature of the temporary exhibit (one simply walks precariously around the edge of the dig area), but no future display of fully unearthed figures will be able to match the awesome visual impact of countless clay warriors in the process of emerging, as if alive, from centuries of entombment.

During an afternoon at the site, I struck up a conversation with a young Chinese woman, and, as so often happened, the talk turned to politics. But this woman, instead of blaming the Gang of Four for all the country's ills, as so many others had, was surprisingly thoughtful. "You're right in questioning how, when there were over twenty members of the Politburo and three hundred members of the Central Committee, just four people could create such havoc in the country," she said in response to a question. "I've been asking myself the same thing. You're also right in suggesting that our newspapers are pure propaganda. Though things are somewhat better these days, the papers are not telling us the facts now, any more than they did in the past." Then, with a note of anxiety, she added, "If I should be overheard saying these things I might well be arrested."

Clearly, though many Chinese are abandoning caution in what seems to be an urgent effort to make their grievances known, in the hope that the situation will continue to improve and that China will become a more open society, many are still fearfully conscious of their vulnerability in a totalitarian state. One middle-aged man said to me, at the conclusion of a long and candid discussion in a local bar, "The only reason I'm talking to you this way is that I'm from another district, and no one in this place knows me. In a minute, I'm going to get on my bicycle and get the hell out of here." The depressing fact is that the masses, while sometimes refreshingly defiant, are in general easily intimidated by the slightest show of authority—even that of officious, if well-meaning bus conductors who order Chinese passengers to relinquish their seats to embarrassed foreigners.

The hotel where foreigners stay in Xian is an enormous, drab structure that was constructed in the late nineteen-fifties by the Russians, and it has the unimaginativeness and built-in decay common to Soviet socialist architecture. By no means a major issue in the over-all scheme of things, China's hotel situation nonetheless reflects important aspects of the country's problems. Outside Peking, the best hotels—which are still far below international standards—are the ones that were built in the early nineteen-hundreds by French and other foreign interests. Next in order of discomfort are the Russian monstrosities, and last come those built by the Chinese themselves. Most of the Chinese-built hotels are only about three years old, but they were so shabbily constructed and have been so poorly maintained that the rooms look at least ten times their age. But even these are far superior to the hotels used by the Chinese masses, where a cot for the night, with few other amenities, can be had for as little as thirty-five cents. After inspecting a few of those facilities, I wasn't at all unhappy about being restricted to the more expensive quarters—sixteen dollars a night for double occupancy—that are provided for foreigners. If China hopes to attract increasing numbers of tourists in order to earn convertible currency, the first step, as everyone seems to recognize, is to invite foreign interests to build the hotels required. But the logistical difficulties of importing entire hotels, item by item, and the further problems of management and maintenance suggest that the return on such an investment would be limited, and, despite earlier optimism, international hotel corporations now seem to be waking up to that fact. To date, the only people who have actually committed themselves to building hotels in China are a few Overseas Chinese, among them one Hong Kong multimillionaire who owns a substantial share of lucrative gambling establishments in Macao.

Even after my exposure to the minimal standards of hard-bed travel on the trip to Xian, I was unprepared for the twenty-hour hard-bed ride on the train from Xian to Chengdu. Having left Shanghai over thirty hours earlier, the train looked as woebegone and weary as its many passengers. Bunks are rarely vacant on these overnight trips, and mine had obviously been occupied the night before. As a spoiled foreigner, I asked for clean sheets, but the ones I was given were almost as tattered and gray as those they replaced. This shouldn't have been a surprise, for in rural areas laundry is done in irrigation ditches and polluted rivers, and even in the cities most clothes are washed in cold water—and by Chinese standards soap is expensive everywhere. The air was stagnant, and the car was clouded with layers of cigarette smoke. There is a high incidence of cancer and heart disease in China, yet most Chinese men, and even many teen-age boys, smoke heavily. In fact, the closest thing to tipping in restaurants in China—which is the world's largest producer and consumer of tobacco—is the practice of offering cigarettes to waiters (but not waitresses, for few women smoke, at least in public). The government has imposed a heavy tax on tobacco, and until very recently it has done little to inform the public about the dangers of smoking. Less remiss where the links are less clear, the authorities have evidently thought it expedient, in view of the shortage of meat in China, to give wide publicity to an American doctor's theory that the high consumption of meat increases the risk of cancer. There has been some progress on the no-smoking front, however: not long ago, C.A.A.C., the national airline stopped handing out cigarettes to passengers on flights, and just last month the government, disturbed about the increase in smoking among teenagers and the rising rate of lung cancer, announced plans for an anti-smoking campaign.

On the train to Chengdu, a number of fellow-passengers kept me engaged in animated conversation. A young bureaucrat, boldly mouthing slogans of the day about socialist legality, became evasive and noncommittal when I argued that China could no longer afford to be contemptuous of Western concepts of legal process and that Party dominance over the legal apparatus was incompatible with the administration of justice. To my surprise, a young soldier who had been staring out the window and had seemed not to be listening suddenly turned toward me and interrupted the conversation. With undisguised disgust for his bureaucratic comrade, and alluding to the fact that since 1957 China has trained virtually no legal professionals, he blurted out, "China needs lawyers badly—to defend people when they are prosecuted, and generally to protect our freedom." A third man added, "America is a democracy. The problem with China is that it's a dictatorship—but a couple of years ago I couldn't openly have said that."

The train moved through Shaanxi (Shensi) and into Sichuan. The unfolding panorama of the Jialing River winding its way through the mountainous countryside presented a perfect example of what Chinese landscape painters have for centuries striven to capture—jagged peaks veiled in clouds, terraces of green unripened wheat, brilliant-yellow patches of flowering rapeseed, clusters of bamboo, and the pink blossoms of apricot trees.

In Chengdu, which is Sichuan's capital and one of its major cities, the back streets, even more than those of Xian, convey the flavor of old China. Endless rows of dilapidated and dingy wooden dwellings, untouched by thirty years of "socialist construction," teem with gleeful runny-nosed youngsters. A huge exhibition hall in the center of town, guarded by a mammoth statue of Chairman Mao, is one of the few buildings that look relatively well kept, but it was erected only recently, to replace the fourteenth-century Imperial City, which was destroyed in the turmoil of the Cultural Revolution. Some of the fiercest fighting during those turbulent years took place in Sichuan, which, as the richest and most intensively cultivated agricultural province in China, has been a prized object of contention ever since the period of the Three Kingdoms, in the third century A.D. "Sichuan has historically been known as "the heavenly country,' " said a man sitting next to me on a bus that was heading for the hermitage of the Tang Dynasty poet Du Fu. "But for ten years it was hell. Peasants were set against workers and workers against intellectuals. At one point, the factories were closed, and even agricultural production and distribution broke down."

For the moment, at least, things appear far more harmonious—so much so that in the crowded park by the Guanxian River, famous for its ninety-odd varieties of bamboo, hundreds of people on their day off were taking advantage of the less repressive climate by dancing. Enthusiastic couples—

men and women, men and men, women and women—were learning the foxtrot to a scratchy recording of "Old Black Joe," which reverberated at fluctuating speeds over loudspeakers that once ceaselessly spouted propaganda.

Though the "public security" authorities in Peking had denied us permission to travel to Kunming, their counterparts in Chengdu readily granted it. "They had to approve—we had already bought the tickets," a young Travel Service staff member explained, in a curious instance of the tail wagging the dog. Yunnan was one of the last provinces to come under Chinese influence (The Ming Dynasty took control from the region's Mongol rulers in the thirteen-eighties), and its capital, Kunming, lacks the atmosphere of vitality characteristics of most Chinese cities. What is more surprising is that the surrounding area, mountainous and sparsely populated, has little of the Southeast Asian flavor one might expect in a remote province bordering on Burma, Laos, and Vietnam—as Yunnan does—where "national minorities," though they are not much in evidence, make up almost a third of the population.

Much more visible was the aftermath of China's recent involvement in Vietnam. The Kunming hospital was filled with wounded Chinese soldiers, and those who could get about were being invited to patronize some of the local restaurants—Yunnan is not noted for the abundance or the quality of its food, and most of Kunming's restaurants are inferior—by signs saying "We welcome returning heroes." Camouflaged military trucks were on the roads, and artillery pieces and small tanks sat atop flatcars along railway sidings. Though many Chinese, obviously having been taken in by newspaper propaganda, assumed that China had victoriously achieved all its goals in Vietnam, some of the better-educated were dubious. According to rumor, the Vietnamese had not sent up as many of their best divisions as had been expected, and so the Chinese had not annihilated as many of these as they had hoped to. A relatively high-level Party member told me, in a moment of alcohol-induced candor, "China's foreign policy in Southeast Asia is not based on an abundance of expertise in that area, and that's one of the reasons we've found ourselves in some embarrassing situations in the past few years—our support of Cambodia, for instance. I personally was worried about the risk of Soviet intervention in the Vietnam action." Then, suggesting that his hawkish colleagues had a more cynical view, he added, "But what the hell. The People's Liberation Army was forgetting how to fight, and the men needed some practice."

Kunming's major attraction is its Buddhist-Taoist temples, which are filled with magnificent old carvings depicting the strange and colorful characters of Chinese popular religion, and which are currently being restored. Some might think that the restoration of these temples signifies a revival of traditional religion, but the more likely explanation is that it is related to the recent opening of the city to foreign tourist groups. Although a number of elderly people were praying to the gods, and although incense was on sale in Kunming and elsewhere, ostensibly for religious use (it can also be used as a much-needed fly and mosquito repellent), younger groups seemed to prefer sitting in the teahouses of the temple courtyards chatting and playing cards.

In a conversation with one such group, I was asked what restrictions the American government placed on citizens who wanted to travel abroad. Amazed by my reply that there were none at all, one person said, "That's democracy. Maybe we'll get to that point in twenty or thirty years."

"Nonsense," said another. "We'd see how they live and never come back."

"We'd have to come back," a third said. "Not speaking the language, we'd never be able to get jobs there."

A few days later, Yunnan was far behind, and my friend and I were on board the East Is Red No. 35, a ferryboat sailing through the dramatic Yangtse River Gorges on a twelve-hundred-mile journey from Chongqing to Shanghai. Boats in China avoid the elitist stigma of first class by offering only accommodations designated "second class" through "fifth class"—the former consisting of two-berth cabins, the latter being mere catch-as-catch-can arrangements on the decks and in the gangways, and the intermediate classes having anywhere from four to thirty bunks to a cabin. As was true on the trains, it was not just money that determined who could buy a superior berth; apart from foreigners, only Chinese above a certain level in Party or state organizations have that privilege.

Several years ago, when Sichuan was still closed to foreign tourists and when it was official policy to exaggerate the country's progress, a few privileged Westerners, such as the former American Foreign Service officer John Service and his wife, Caroline, were invited to make this trip—one that his parents, who were missionaries, had made decades before under much more Spartan circumstances. Some of these visitors, including Mrs. Service, subsequently wrote articles for China's foreign-language propaganda journals which suggested that under the Communist regime China had modernized its river transportation. The fact is that manpower is still the major means of propulsion on the Yangtse: most boats are rowed or sailed down the river and then have to be hauled upstream by ropes harnessed to teams of men who creep along the banks, as they have for centuries, struggling against the swift current. This shouldn't come as a surprise, for on land the major forms of conveyance, apart from the bicycle, are still the wheelbarrow and a variety of rickshawlike carts. The peasants use these to carry sick and elderly relatives from one place to another, and also to transport the produce of their private plots to sell, at bargainable prices, in the thriving "free markets" of the dusty towns along the shore They do the latter, of course, only by ignoring their responsibilities to the commune—an increasingly serious problem for the country, judging from a recent spate of newspaper criticism.

Overcoming my fear of having to interpret heavily accented rural Sichuanese, I struck up a conversation with an old peasant, whose wife walked painfully behind him on tiny, crippled feet, which had been bound when she was a child, as was the custom in pre-"liberation" days. "Things got better after Chairman Mao took over" was his laconic and somewhat dated response to my question about conditions in his village, but when I asked for information about recent events relating to the Gang of Four he grew wary and said only, "We peasants don't know much about that."

A serious question now facing China is the degree to which modernization and an increased emphasis on consumer goods in the cities is likely to exacerbate the already considerable economic disparity between people in urban areas and the peasantry. "The peasants don't generally have access to publications like *Culture & Life*, where they would see articles on the latest fashions, so that shouldn't be a problem"—this was the rather naïve view of a young man who had been reading that magazine. "But, in any case, the government will just have to raise food prices to increase peasant income," he went on, "and it will also have to improve the standard of rural education."

On the ferryboat, as happens all day long everywhere in China, loudspeakers were blaring to their captive audience. Each morning's radio program included a roll call of Party stalwarts who had fallen victim to the Cultural Revolution and were now being ceremoniously—though posthumously—rehabilitated. The broadcast of the eulogy of each victim was followed by a recitation of the names of well-known Party and government figures who had sent wreaths of commemoration. But, as was also the case elsewhere, no one seemed to pay much heed to the constant din. The passengers preferred to talk with the two foreigners in their midst. One Sichuanese woman in her early twenties, blaming the Cultural Revolution for depriving her of a college education, particularly wanted to unburden herself. "The newspapers lied to us," she told me. "We never read them. We were all 'sent down' to the countryside. Sure, we learned something about the peasants' tough life, but essentially it was a waste of time for all concerned, including the peasants, who didn't want us there. If you had connections, you bought your way out or got doctor friends to say you were sick. Now that's over, but the government still hasn't been able to find jobs for many of my friends, and it is once again talking about sending unemployed kids down to the countryside as a solution to the problem. My parents and their friends have been through so much these past thirty years—one denunciation after another—that they're too scared to be of any use. But the kids are different. Though the situation has improved a bit recently, many of them still feel that with things so bad they couldn't care less what happens to them. Even death is no threat. And, being cynical, they're thinking only of how they themselves can get ahead. Maybe that's not the best way for youth to be, but that's the way it is."

It was a surprise to find, after being exposed to many such outpourings in the course of the journey, that few people in Shanghai were prepared to speak openly. Shanghai, which is often thought to be at once the most bourgeois and the most radical city in China, actually seemed the most subdued, notwithstanding the widely reported demonstrations around the time of the Boston Symphony's visit. "The lid is still on tight here, as tight as it was under the Gang of Four," said a twenty-year-old man eating noodles, with two friends, in a shop on Nanjing (Nanking) Road, one of the busiest streets in this overcrowded city.

One of his companions added, "We Shanghainese are an outspoken lot, and the authorities are afraid that if they relax the restrictions here things will get out of hand. So in Shanghai, in contrast to Peking and other places, dancing is not permitted, and colorful clothes and long hair are frowned upon."

And the other friend said, with a note of bitterness in his voice, "They say preoccupation with these things would interfere with our commitment to the four modernizations, but nothing could be further from the truth."

In at least one respect, however, Shanghai is irrepressible: young couples are out in force every evening along the bund, draped over the wall beside the Huangpu River. Necking and petting through heavy, padded garments, they ignore passing groups of men who eye them voyeuristically. At five in the morning, the scene is quite different. The young lovers have been replaced by thousands upon thousands of older men and women practicing the serene form of Chinese boxing called Taiji Chuan, exercising in unison to an incongruous musical accompaniment over the ever-present loudspeakers. And on another part of the pavement a few muscular young men work, under the scrutiny of an old master, on the more spectacular, though not necessarily more effective, leaps and sweeps of Shaolin boxing.

As I sat watching all this activity one morning, a young man sat down next to me and began talking in halting English—so that passersby would not understand, he explained. Though he was born in 1950, the year after "liberation," he was a devout Christian. "I study the Bible at home every day, in English and Chinese," he told me. His parents had managed to escape to Europe many years before, and his wife, an Overseas Chinese, had been able to take their young son to America. "But I'm stuck here for good," he said, with the air of one resigned to his fate.

I mentioned the rumor that the Tianjin Cathedral had recently reopened, but he was not impressed.

"No churches have opened in Shanghai," he said. "And, if they did, it still wouldn't be safe to go. Despite the Constitution, religious freedom in China is a joke."

Toward the end of our journey, we returned to Canton, where hordes of foreign businessmen were flocking in for the semi-annual trade fair, which had just begun. Newspapers and broadcasts were proclaiming the fair's success and attributing it to the correctness of China's new line. Not everyone found things to his liking, though. More than four hundred of the several thousand visitors arrived to discover that, despite confirmed reservations, no hotel rooms were available.

"Who's responsible here? Who's in charge?" demanded one exhausted and irate American who had just flown in from New York with his wife, and who was planning to spend the night in the hotel lobby before flying home the next day. "No one," the desk clerk said, with the placidity of an unyielding bureaucrat. At that point, an Overseas Chinese businessman based in Hong Kong, who has had countless such experiences in his dealings with China over the past few years, commented, "The system just doesn't work here. The country's a mess."

The last leg of our trip took us to Guilin, a tourist-invaded town in the southern province of Guangxi Zhuang (Kwangsi Chuang). The area is noted for its extraordinary landscapes—towering, weirdly shaped rock formation jutting out of the wide plains through which flow the green, still fairly clear waters of the River Li. Except for a number of small fishing boats, the river traffic seems to consist primarily of tourist barges, which are dragged downstream fifty miles or so by tuglike tenders for the benefit of sightseers. In racially class-conscious China, non-Chinese foreign guests pay twenty-five dollars for the six-hour trip to Yangshuo. Overseas Chinese, and the even more shabbily received Hong Kong and Macao breathren, are in this instance lumped together in lesser luxury, and pay slightly less than half that amount. The Chinese masses, the worst-treated people in China, travel under much more crowded and austere circumstances, at a cost of about two dollars and fifty cents. It took four visits to the ramshackle offices of the city's Revolutionary Committee—and some mock histrionics on my part about the apparently still prevailing influence of the Gang of Four—before the authorities would permit me to go down the river with the Chinese.

On the boat, I talked with a newly married couple—the husband a computer specialist, the wife a doctor—enjoying a one-week honeymoon trip. The wife asked me, "Having travelled extensively around the country, what do you consider China's biggest problem to be?"

The easiest, and not necessarily the wrong, response would have been simply "Its population, its poverty, and its unfulfilled promises." But another response seemed more appropriate at the time. However appealing the government's new line compared to the old, I replied, China remains a dictatorship, where most people are trained not to question but to repeat the Party line. The government wants to modernize the country but is still unwilling to let people think creatively and express themselves freely. Despite much publicity to the contrary, little that is fundamental to the system has changed, I continued, and there is really nothing to prevent past abuses from recurring—perhaps with Stalinist vengeance, if those in power attempt to suppress the increasingly widespread discontent and resentment.

"Many of us would agree with your assessment wholeheartedly," the husband told me, with a note of optimism. "China's salvation lies with the younger generation. If their minds can be opened—and to that end interaction with the West is important—our society, too, might become a more open one."

—DAVID FINKELSTEIN.●

SALT II—AMERICAN PUBLIC OPINION TURNS AGAINST THE TREATY

● Mr. GARN. Mr. President, I would like to take this opportunity to examine briefly recent findings of national opinion polls with respect to the proposed SALT II treaty. The principal conclusions of these surveys are these: The American people are increasingly skeptical of the merits of SALT II, and this administration lacks the votes in the Senate to pass the treaty. In fact, a majority of the American people now oppose the treaty and regard it as detrimental to American national security interests.

The Carter administration has spent more than $1 million in its attempt to sell SALT II to the American public. In addition, there is an ongoing effort to create the impression of a new surge of support for the treaty in the Senate. A closer look at the situation, however, leads one to conclude that the administration's efforts have proven to be of doubtful effect, and that there is good reason to believe that there is insufficient sentiment in the Senate to support SALT II ratification.

The findings of an ABC-Harris poll, conducted between September 26 and October 1, 1979, are particularly telling. Fifty-eight percent of those partcipating in the survey believe that "although nuclear arms control is desirable, the SALT II treaty which President Carter negotiated does not adequately protect U.S. security." Only 26 percent of the respondents disagreed with this statement. Fifty-three percent of the population believe that "if SALT is approved, Russia will have nuclear superiority by the middle 1980's," while 32 percent disagreed. Nor have the SALT-sellers been able to convince the American people that the treaty can or should be viewed independently of world affairs. Despite President Carter's reassurances with respect to the Soviet combat troops in Cuba, 65 percent of those participating agreed with the statement "unless the Russians agree to withdraw their combat troops from Cuba, then the U.S. Senate should refuse to ratify the SALT II treaty."

An ABC-Harris poll reported on October 23, 1979, indicated that only 33 percent of the respondents rated President Carter's efforts at securing a SALT II arms agreement as positive; 60 percent—nearly twice as many, considered those efforts a negative factor in the President's job performance, 11 percent more than 1 month previously.

The conclusions of a recently conducted Gallup poll offers supporting evidence that the trend in public opinion is in opposition to this treaty. Public support for SALT II seems to be diminishing as people become more aware of the serious inequities and verification flaws contained in the accord. When asked the question, "everything considered, would you like to see the U.S. Senate ratify this proposed treaty, or not?" those supporting ratification declined from 27 percent in March of this year to 24 percent in October. On the other hand, the percentage of those opposed to ratification rose dramatically from 9 percent in March to 26 percent in October. These are significant findings, and they contradict assertions to the contrary that this treaty enjoys the overwhelming support of the American people.

The American people recognize that all is not well in the world, that American interests are being subject to increasing attack and that there is a direct relationship between the extent of that attack and the decline in American military power. Senate approval of this seriously flawed SALT II treaty would tell the world that we are unwilling to take the steps necessary to reverse these trends. The American people will not accept this, nor should they.

It is interesting, therefore, to take note of the findings of a Scripps League Newspaper survey conducted during the last 2 weeks of October. According to this survey, 30 Senators now oppose SALT II—only 4 short of the 34 necessary to defeat the treaty, and an increase of 12 since the last survey was conducted in May 1979. Of these 30 Senators, 13 are solidly opposed to the treaty while 17 are leaning against ratification. Presently, 27 Senators are in favor of the treaty—16 offering solid support and 11 leaning in the direction of ratification. Obviously, the debate is far from over, and these figures could be challenged in both directions. But it is clear that any declaration to the effect that Senate support for this treaty is nearly sufficient to insure ratification is both premature and unfounded.

Mr. President, I request that the following Scripps League Newspapers release for Friday, November 2, be printed in the RECORD, and I commend the attention of my colleagues to the results of those public opinion polls I have cited in my statement.

THIRTY SENATORS OPPOSE SALT II

(By Lee Roderick)

WASHINGTON.—Thirty senators currently are opposed to the strategic arms limitation treaty (SALT II) with the Soviet Union—just four less than the 34 needed to kill it, according to a new survey by Scripps League Newspapers.

The 30 include 12 senators who were undecided on the issue when a Scripps League survey on SALT II was taken in May. Four of the 12 said their position "was affected by the disclosure of Soviet combat troops in Cuba."

Among the 30 senators are 13 who reported they are solidly against the treaty and 17 others who are "leaning" against it.

Twenty-seven senators told Scripps League

they are on the other side of the issue, with 16 favoring the treaty outright and 11 "leaning" in favor. Another 43 senators are undecided (37) or uncommitted (6).

With two-thirds of the Senate needed for ratification—67 votes if all 100 members participate—the outcome of SALT II rests with these 43 senators.

The survey was conducted during the last two weeks of October while the Senate Foreign Relations Committee was "marking up" the treaty bill before sending it on to the full Senate. Major amendments that might have changed the minds of some opposition senators had all been defeated by the Committee as it neared the end of its work.

The full Senate is expected to begin debating SALT II around Thanksgiving, with the Senate leadership pushing for a final vote before the end of the year.

The earlier Scripps League survey in May came on the eve of the treaty signing in Vienna by President Carter and Soviet Communist Party Chief Leonid Brezhnev.

Since then, the Carter administration has intensified its so-called "SALT-Selling" campaign aimed at gaining Senate support for the treaty. But opposition forces likewise have stepped up their efforts, which survey results indicate have been more effective.

In May, 18 senators said they were against or leaning against the treaty, compared to 30 today. Twenty-four senators were on the other side of the issue in May, compared with 27 today—a pickup of only three publicly committed senators in five months.

However, the 24 Senators inclined toward the treaty in May included only two solidly favoring it, with the other 22 leaning in favor. Of the 27 now inclined toward it, 16 solidly favor it.

Twelve of the 16 Senators solidly favoring SALT II are Democrats; 10 of the 13 Senators solidly against it are Republicans. The 43 who are undecided or uncommitted include 30 Democrats and 13 Republicans.

Most of those opposed to the treaty believe it is too favorable to the Soviet Union. However, at least three senators say they oppose it because it will escalate rather than reduce the arms race.

One such senator, a Republican, told Scripps League he opposed using SALT II as a "pretext" for raising the defense budget by a talked-about 5 percent. Another said he was troubled both by a possible increase in the defense budget and by the Carter administration's decision to go forward with the MX mobile missile, planned for deployment in Utah and Nevada to shore up the nation's land-based strategic nuclear missile system.

Other senators opposed to the treaty repeatedly expressed concern over three treaty provisions—those allowing the Soviets to not count the Backfire bomber under SALT II's weapon ceiling; to give the Soviets 308 "heavy" SS-18 missiles to no missile of comparable power for the U.S.; and to allow the Soviets to possibly thwart verification by encoding missile test data.

On the other side of the issue, one senator who recently made up his mind to vote for SALT "barring any unexpected developments" said the verification issue was the key.

The senator, Vermont Republican Robert Stafford, who has also made his position public, explained that "My months of study of all available evidence . . . has convinced me that the SALT II treaty can be verified." He added that "we will be better off as a nation with a SALT treaty than without it."

Athough the Foreign Relations Committee defeated major amendments to SALT II, votes were as close as 8 to 7—surprising treaty supporters and foes alike. Key foes of the treaty believe the close votes by the Committee—which is perceived as more pro-SALT II than the Senate as a whole—indicate the amendments may yet be approved by a full Senate vote when they are reintroduced on the floor.

At any rate, the Scripps League survey indicates that, like the two Panama Canal treaties of last year, the outcome of SALT II is likely to be a cliffhanger to the end.●

EUROPEAN ATTITUDES TOWARD SALT

● Mr. HATCH. Mr. President, as we grow closer to the floor debate on the SALT II treaty we see an increasing amount of information concerning the attitudes of Europeans toward the treaty.

During the first week of August, I had the opportunity to visit with over 100 military, government, intellectual and defense planners of Europe. One of the men with whom I had planned to visit was Pierre M. Gallois. Unfortunately, our schedules could not be arranged to coincide with my short visit to France.

Mr. Gallois is a retired air force general and one of the leading defense thinkers in Europe today. He has written extensively on arms control and strategic programs. Because we were unable to get together he agreed to provide me with a short piece on how he, as a European, views the SALT II Treaty. I have found it both interesting and enlightening. I think that my colleagues will find it equally interesting.

Mr. President, I ask that the short paper mentioned previously be printed in the RECORD.

The paper follows:

SALT SEEN FROM EUROPE

Being a Frenchman, it is not an easy task to address myself to a bilateral negotiation such as SALT.

If American-Russian discussions and agreements are of concern for us, in Europe, it is because we belong to the same community, we adhere to the same ethic, we abide by the same principles of freedom, we intend to organize, direct and impose in the same way a society of free people, we are ready to fight to preserve the same ideals.

If SALT is of great importance for us, nonparticipating nations, it is because the dominant role of United States is of such a magnitude that any damage suffered by your country is felt as a danger for the whole community of free nations.

This is why, after ten years of bilateral talks and the two main agreements of 1972 and 1979, we ask ourselves the following five questions:

1. Has the first agreement reached its official aim and checked the strategic arms race?

2. Has such an agreement been profitable to the interests of the United States?

3. Is the second agreement, the agreement of June 1979, of such a nature that it will correct the obvious deficiencies of the first one?

4. More generally, is it possible to conduct such vital negotiations between two nations as different as United States and Soviet Union? Are impartial strategic agreements feasible between an open society on one side and a tightly closed one on the other side?

5. Are the agreements of 1972 and 1979 favoring the cause of the allies of the United States? Are they improving their security and, if necessary, are they, now, in a better posture for their defense?

To all these questions, for us in Europe, the answer is no.

1. The Moscow agreement of May 1972 has not checked the strategic arms race.

On the Russian side, seven new types of ICBM or SLBM were announced after May 1972 (the SS. 16, 17, 18, 19 for the Russian silos and the SSN. 17 and 18 for the Russian submarines). Every five days, a new ICBM, more powerful, more accurate, with mirved warheads, were installed in Russian silos. During the same period, new nuclear submarines were built and launched at sea, some carrying missiles with a greater range and having a MIRV capability. Not made public during the preliminary talks, a new bomber, the "Backfire", was disclosed. During these three years of negotiations and during the years following the May 1972 agreement, the Soviets managed to multiply at least by two the number of targets they would be capable to attack at intercontinental range.

Impressed by such a rapid deployment of new weapons, the Americans, on their side, augmented their armament effort. With three new, more accurate, warheads in silo every day, the development of a new type submarine, firing more missiles at greater distances, with the project to modernise some of their ICBM inventory by a new missile, capable to survive a surprise attack, with the development of the cruise missile panoply, the United States increased their first intercontinental salvo from some 4,500 warheads to close to 10,000 today.

This is why, for us, in Europe, SALT I by no means is an agreement limiting strategic weapons. On the contrary, SALT I has stimulated the arms race instead of slowing it.

But we were surprised and upset by the wide margin of numerical superiority in launchers and potential throw-weight capability which were granted to the Soviets. We knew that they were behind as far as the number of warheads they could launch simultaneously, but we know also that, based on such a temporary inferiority, SALT I has opened the road for a marked Russian numerical superiority. Ambassador Dobrynin was right when he said candidly: ". . . We were elated at the result of SALT I. It gave us strategic advantage in central systems necessary to offset your Forward Based Systems, and it reserved for us the right to match you with regard to warheads in the future."[1]

2. Has such an agreement been profitable to the interests of the United States?

To be sure, after SALT II the U.S. territory was not in danger. As before SALT I, America is still a country having the privilege of nuclear immunity. Some 80 per cent of American strategic warheads may be in permanent or semi-permanent mobility and in such a way that their simultaneous destruction is not feasible. Whatever the size of their ballistic inventory, the Russians could not now attack the land of America without taking the risk of incredible destructions.

Being a strong advocate of a policy of minimum deterrence, but for a medium size nation protecting only herself and without any foreign responsibilities, I can't deny the value of the formidable U.S. potential of destruction, before SALT I as well as after.

But the real value of such a potential destruction is specific to American territory and American vital interests at home. Outside the U.S. territory, the freedom of action of Washington depends—for world public opinion—upon a certain military superiority. This is a legacy of the past, when the nations having more troops and more armaments, were generally the winners. The nuclear age has distorted such a concept, but the change is not perceived by the public opinion and should America accept a position of numerical inferiority in modern armaments, her foreign policy would be penalized, her alliances shaken and her military guaranties questioned.

This is why SALT I appeared to many of us, in Europe, as the proof of a new U.S. policy of retreat to "fortress America". And

Footnotes at end of article.

if SALT I was not profitable to American allies, it certainly was not favoring the U.S. interests in the world.

3. What about the second agreement, the agreement of June 1979?

To some of us, in Europe, the bilateral talks which began after May 1972 were directed in the wrong direction and the resulting June 1979 agreement seems to us a bad agreement and for the following reasons:

The June 1979 treaty legitimizes a Russian potential superiority. They are granted a numerical superiority as far as static launchers, as well as mobile ones are concerned and they keep a throw-weight advantage over the U.S.

It gives the Russian the monopoly of heavy launchers such as 308 SS. 18 with the capability to launch 10 warheads each. All military static installations of the U.S. will be under the threat of these 3,080 accurate warheads. This is important because of the two different strategies of the two countries, as seen later.

It is based on a wrong approach, the approach of so-called "parity", or even "essential equivalence", an expression which has several meanings. To some of us, in Europe, "parity" or "essential equivalence", cannot be adapted to two so different strategies as those of the U.S. on one side and the USSR on the other side.

4. A main question is the following: are impartial and equitable strategic agreements feasible between an open society and a closed one such as USSR? To us the answer is no.

The answer is no, first because of the disparity which characterizes the two countries.

Obviously one cannot imagine a democracy preparing an atomic aggression against another country. One cannot think of America taking the initiative of planning and launching a surprise atomic attack against Russia. In every circumstances, irrespective of Russian behaviour, negotiation will always be preferred according to the will of American public opinion and American concepts of foreign policy. Russian politicians and generals are also talking of defense. Hence, at least a non-war status would be guaranteed. But as each side is counting with double dealing of the other side, the two arsenals are steadily growing.

But, up to now, in a different way. As said previously, almost 90 per cent of US strategic warheads may be in permanent or semi-permanent mobility, when, on the Russian side, less than 20 per cent have the same sort of mobility. The US fear a surprise attack and their main problem is to insure the survival of their strategic forces. As far as they are concerned, the Soviets know that such an attack against their territory is highly unlikely.

The two strategies are so different that it seems to us that a sort of parity cannot be achieved. For example, the 308 heavy SS. 18 are imposing upon the US a mobile MX force of some 200 missiles to preserve the third leg of the American strategic triad, mobility being opposed to a static inventory.

The political and social system of the two countries are also asymmetrical. In America millions of dollars have been spent by the Administration to persuade the American people that such an agreement is necessary. Enormous pressures have been exercised to influence the Senate and obtain ratification. After having "sold" the treaty to the American people, the U.S. Administration is obliged to repeat what Mr. Gromyko said: "It is impossible to resume the negotiation. It would be the end of negotiation, the end, no matter what amendments would be made."[2] Judged from Europe, the emotional arguments used by US officials to obtain the approval of the nation are of little validity.

For example:

"Rejection of this treaty . . . would harm our nation's security and it would be a massive blow to world peace"[3] said Mr. Carter.

World peace, or rather a non-war status between America and USSR is not dependent upon the treaty. Russian constraints and the assured survival of American strategic forces are the actual causes of a non-war status. World peace is an expression, not a reality. Since "detente" supposedly replaced "cold war", Czechoslovakia has been invaded, combats have taken place in the Middle East, in the Indian peninsula, in Angola, in Ethiopia, Somalia, Yemen and South East Asia. Russia has made it very clear that it will go on supporting "wars of liberation" and keeping its hegemony over Eastern Europe intact. SALT I as well as SALT II are completely aside from these wars. With or without SALT II, there will be no such as world peace.

During the same address, Mr. Carter said also that "if the Pact was not ratified, other nations, such as Pakistan, India, Taiwan, South Korea, South Africa, Argentina, Brazil would be more likely to develop nuclear weapons."

It is the contrary which corresponds to the reality. It is because the treaty degrades the US global influence that these nations are likely to go nuclear. It is the policy of Mr. Carter vis-a-vis Pakistan, Taiwan, South Korea and South America which is making nuclear weapons necessary for these countries, to consider only those which consider that they are in danger.

To say that "without SALT II we would end up with thousands more strategic nuclear warheads on both sides"[4] is a non provable argument. With some 3,000 warheads on their SS. 18, the Soviets will have enough weapons to paralyse the 1,000 silos of US Minuteman. Already more than 3,000 other warheads are fully sufficient to destroy all the other fixed targets critical for American defense. Thus the Russian arsenal may not grow beyond SALT II bounds. And concerning the US one, it is an American choice to carry on the so-called race or to adopt a strategy of sufficiency." The current Administration, which has cancelled the B-1 bomber, been so indecisive on the MX, and limited other "strategic options," has shown no signs that it would accelerate its strategic arms production in the absence of SALT II.

In a speech delivered at Brussels, on May 16 of this year, Mr. Harold Brown said in substance that 'the future cohesion of the NATO alliance would be endangered if the Senate failed to ratify the strategic arms limitation treaty."[5]

Once again, the contrary is true. It is a position of potential superiority of the Soviet Union which is endangering the cohesion of NATO. NATO nations know that SALT II is not concerned with the weapons which are capable to destroy West Europe such as the "Backfire" and the SS. 20. And what is more, they are informed by the U.S. press that one result of the bilateral talks is a new U.S. proposal submitted to the next NATO ministerial Council to withdraw more U.S. atomic warheads and to dismantle "forward based systems", as if Washington was obeying a Russian request made during the bargaining of SALT II.[6]

Finally, in the field of verification, is not an open society in a very bad situation compared to the advantages given to the Soviets by their closed society system?

In Europe, we are not so sure that, according to Mr. Carter, "the SALT II agreement be made verifiable."[7]

It was said also of SALT I and the fact is that, in many respects, American verification of compliance with the provisions of the Interim Agreement of May 1972 was not as efficient as it was supposed to be.

For instance, tested at shorter distance before the Moscow summit of May 1972, the SS. N 8 missile was discovered later as having a much greater range. There was a similar misjudgement concerning the SS. 19 which had the characteristics of a heavy ICBM while replacing SS. 11 missiles in a silo of limited dimensions. Lately it has been claimed that the yield of the SS. 18 is not 1.5 megatons, but 600 kilotons. If this is indeed true, a logical conclusion is that the accuracy of SS. 18 is greater than expected. This is not necessarily a comforting discovery.

And it is difficult to admit that existing "technical means of verification" could control the storage of many ICBM's, cold launched in the open without being put in silos, or distinguish a bomber having an inflight refuelling capability from a shorter radius of action aircraft, or control the number of nuclear warheads put in reserve, or be informed of the number of existing cruise missiles, should Russia decide to develop also such a weapon, etc. In an open society such as the American society, the press will inform the foreign world of all the accomplishments of the US military establishment. No parallel can be drawn between a country where "Pravda" is giving the governmental point of view and a country where the "Washington Post" is giving its own point of view.

5. Last question: are the agreements of 1972 and 1979 favoring the cause of the allies of the United States?

We remark that along the strategic talks between America and the Soviet Union, American nuclear commitments in Europe have been progressively reduced. Now, as it was said previously, we are informed that the forward based systems may be dismantled, atomic mines withdrawn, the number of tactical nuclear weapons reduced . . . During the same period the Russian nuclear arsenal threatening Europe has been steadily augmented: more than a thousand SS. 4, SS. 5 and SS. 20, 1,200 bombers TU 16 and TU 22, tomorrow several hundreds TU 26 and a growing stock of nuclear warheads.

US policy planners have failed to take into account that we are, in Europe, far more exposed to a surprise attack than the US territory. The military posture which has been imposed upon European NATO countries is such that it invites a preemptive attack on our conventional forces. The state of the ballistic art is such now that the accuracy of Russian missiles allows a dramatic reduction of yields of their weapons and, having the initiative of military operations and, consequently the benefit of surprise, Warsaw Pact forces may disarm European NATO countries through atomic strikes of a surgical precision, almost without significant collateral damage. To neutralize such a threat mobile atomic forces would be necessary. On the contrary, European NATO nations are told to increase their conventional contribution, that is the type of forces that are more vulnerable to the present and future Soviet ballistic nuclear invenory.

This is why we think that, far from endangering the future cohesion of NATO, the rejection of SALT II would comfort America Allies in Western Europe.

To summarise these views, let us say that the SALT negotiations seem to us a dangerous affair for the Western world. The position of America has been weakened, the relations between America and her allies have been made loose and, what is more, many in Europe are convinced that during these talks, Russian negotiators have succeeded in convincing their American counterparts that disconnection and even disengagement from Europe is the safest solution for the United States.

FOOTNOTES

[1] Admiral Elmo R. Zumwalt—"On Watch"—pages 486-487.

[2] Craig Whitney—International Herald Tribune—26 June 1979.

[3] Meeting with American Retail Federation—See New York Times of May 11, 1979.

[4] President Carter speech to American Newspaper Publishers Association of April 25, 1979.

[5] See "A SALT defeat cited as peril to NATO"—International Herald Tribune of May 17, 1979.

[6] Walter Pincus—"U.S. urges NATO to extend range of nuclear arms"—International Herald Tribune of June 13, 1979.

[7] President Carter's address to Newspaper Publishers Association.●

SERIOUS DECLINE IN U.S. COKE PRODUCTION CAPACITY

Mr. HEINZ. Mr. President, the growing erosion of American coke production capacity threatens to worsen our trade deficit, increase our reliance on foreign oil, and weaken our steel industry. A study just released by the Industrial Economic Research Institute at Fordham University documents the extent of the problem. At my request, the summary and conclusion of this study were printed in the RECORD on November 6, 1979. Several sections of the body of this study provide valuable additional information.

The chapter on current and projected cokemaking capacity describes the organization of our present facilities, the age and deterioration of the equipment, and the strenuous efforts that have been made to bring coke ovens into compliance with environmental requirements. It also furnishes long-term projections of the decline in our coke production capacity.

Present law fails to recognize the value of coke ovens as an alternative energy source, producing a by-product medium-BTU gas used as a substitute for petroleum and natural gas. I intend to offer an amendment to the windfall profits tax cut (H.R. 3919) that would make coke ovens eligible for the alternative energy property investment tax credit. This amendment will not only correct an anomaly in present law, but will also provide an incentive toward revitalizing decaying coke production facilities and halting the decline in production capacity.

Mr. President, I ask that the second chapter of the forementioned study be printed in the RECORD.

The study follows:

SECTION 2: CURRENT AND PROJECTED U.S. COKEMAKING CAPACITY

The annual capacity of the U.S. metallurgical coke industry has declined by approximately 10 million tons over the last six years, and scheduled abandonments of capacity during the next six years already exceed planned capacity increases by more than 5.0 million additional tons. This erosion of the industry's capacity to produce metallurgical coke was ascertained by a survey and analysis of every coke-oven battery in the United States and a review of individual-company plans to maintain, augment, and abandon the capacity in existence as of July 31, 1979. As of that date, 199 by-product batteries with 11,413 ovens were in existence at the 59 plants that comprise the industry's furnace and merchant segments. Approximately 10 percent of these oven-coke facilities were out of service for rebuilding and repair, leaving 179 batteries with 10,270 ovens in operation, their potential maximum annual coke capacity amounting to 57.1 million tons.

The division of this capacity between the industry's furnace and merchant segments is presented in Table 7, which also indicates the extent of ongoing activity to rebuild and repair existing facilities. The 52.7 million tons of furnace-plant capacity in operation at 46 plant locations represented 92.4 percent of the industry-wide total, with the balance (4.3 million tons or 7.6 percent) accounted for by the industry's 13 merchant plants.

TABLE 7.—POTENTIAL MAXIMUM ANNUAL CAPACITY OF OVEN-COKE PLANTS IN THE UNITED STATES ON JULY 31, 1979

	Batteries	Ovens	Capacity (net tons)
In existence:			
At furnace plants	169	10,076	58,526,655
At merchant plants	30	1,337	4,850,850
Total	199	11,413	63,377,505
Out of service:[1]			
At furnace plants	(18)	(1,026)	(5,792,550)
At merchant plants	(2)	(117)	(507,715)
Total	(20)	(1,143)	(6,300,265)
In operation:			
At furnace plants	151	9,050	52,734,105
At merchant plants	28	1,220	4,343,135
Total	179	10,270	57,077,240

[1] Batteries and ovens down for rebuilding and repair.

Productive Capability of U.S. Over-Coke Plants:

The distinction between capacity "in existence" vs. that "in operation" is extremely important to any consideration of the coke industry's ability to produce coke at a given point in time. Because it excludes facilities that are off line for rebuilding and repair, capacity in operation is employed in this analysis to gauge the industry's potential maximum productive capability. Capacity in existence, on the other hand, is employed to assess historical and future capacity trends, as well as the geographic and age distribution of in-place cokemaking facilities, including those temporarily out of service.

Effect of Rebuilding and Repair on Capacity:

As a general rule, between 5 percent and 10 percent of the oven-coke capacity in existence is continuously down for rebuilding and repair, given the continuous nature of the cokemaking process and the resultant steady wear and tear on the industry's plant and equipment. Rebuilding a coke-oven battery sometimes involves the replacement of flues and walls, and in other instances, complete rebuilds are performed by tearing the battery down to its foundations and reconstructing it from the pad up. Likewise, oven repairs can be limited or may involve extensive hardware replacement. In any event, the process of rebuilding and repair is a continuing one, increasing and decreasing capacity in operation over time as some oven batteries are renovated and brought back on stream and others are withdrawn from service. The reinstatement of facilities that were off-line in 1978, for example, contributed to increased production levels during the first half of this year. Also instrumental were improved rates of operation on new oven batteries, including those recently installed by Lone Star Steel, Inland Steel, and U.S. Steel at its works in Fairfield, Alabama.

Although ovens undergoing renovation cannot produce coke, they are considered to represent capacity in existence, which increases and decreases primarily in response to the installation of new oven batteries and the abandonment of others. Additional influences that may change both capacity in existence and that in operation on a year-to-year basis include the following:

"Ongoing changes in the condition and efficiency of ovens as a result of their advancing age and the effects of unavoidable wear and tear.

"Increases in coking times in order to reduce emissions and thereby conform with environmental regulations.

"Additional constraints on productivity imposed by other measures to reduce oven emissions, such as stage charging and door-seal cleaning, which extend the time between charges and reduce the time available for coking.

"Shifts in the grades of coke produced, with foundry coke requiring a longer coking cycle than its blast-furnace counterpart.

"Changes in the mix of coking coals charged, their quality affecting coal-to-coke yields and oven throughput.

"Increases in the output of existing oven batteries from such modifications as the installation of equipment for coal pre-heating and pipeline charging.

"Reductions in flue temperatures and oven throughput because of deteriorating refractory conditions."

Actual Productive Capability on July 31, 1979:

It must be stressed that capacity in operation represents the coke industry's potential maximum rather than actual productive capability. Seldom, if ever, will a coke plant sustain at 100 percent operating rate over an extended period of time, given the recurring need to shut down individual ovens to perform maintenance and minor repairs, which frequently requires that adjacent ovens be removed from service. In recent years, pollution-control requirements have increased the frequency and extent of oven maintenance and have also induced a number of output-reducing modifications in coking practice (See Section 4, pages 131-132). As a consequence, the optimum annual operating rate attainable by active coke plants throughout the industry currently approximates 92 percent of their aggregate capacity. On this basis, the 57.1 million tons of industry-wide capacity in operation on July 31, 1979 translates into an actual productive capability of 52.5 million annual tons.

TABLE 8.—ESTIMATED DECLINE IN ACTUAL PRODUCTIVE CAPABILITY OF OVEN-COKE PLANTS IN THE UNITED STATES: 1973 VERSUS 1979[1]

[In millions of net tons]

	1973	1979	Change: Tons	Change: Percent
Capacity in existence	75.0	63.4	11.6	15.5
Capacity in operation	67.5	57.1	10.4	15.4
Actual productive capability	63.5	52.5	11.0	17.3

[1] Comparison of estimated average levels for 1973 and levels on July 31, 1979, as determined by Fordham University survey

In 1973, the year of record steel production in the United States, the coke industry produced 63.5 million tons of oven coke, which was generally considered to represent the limits of its productive capability.[1] Capacity in operation in 1973 is estimated to have averaged approximately 67.5 million tons and capacity in existence, about 75.0 million tons, compared to the previously cited levels of 57.1 million and 63.4 million tons prevailing on July 31, 1979. This means that a minimum of 10 million tons of actual productive capability and, in turn, capacity have been lost over the last six years.

Analysis of U.S. Oven-Coke Capacity in Existence:

Tables 9 and 10 distribute the potential

[1] Eugene T. Sheridan, *Supply and Demand for United States Coking Coals and Metallurgical Coke*, Bureau of Mines, 1976, p. 18.

maximum annual capacity in existence at the nation's 59 oven-coke plants according to their geographic location and the relative age of their 199 oven batteries. Paralleling the geographic distribution of production set forth in Section 1, Table 9 indicates that Pennsylvania, Indiana, and Ohio account for the largest shares of total in-place capacity. In Table 10, this capacity is divided into its furnace and merchant-plant components for purposes of analyzing the age of existing ovens. This division is essential because of major differences in the cokemaking process and maintenance procedures employed by plants producing blast-furnace vs. foundry coke, differences with a direct bearing on the life spans of their respective coke-oven batteries.

TABLE 9.—GEOGRAPHIC DISTRIBUTION OF U.S. OVEN-COKE CAPACITY IN EXISTENCE

States	Plants	Batteries	Ovens	Capacity in existence [1]	Percent of total
Alabama	7	25	1,215	5,713,710	9.02
California, Colorado, Utah	3	14	710	3,609,120	5.70
Connecticut, Maryland, Massachusetts, New Jersey, New York	4	18	1,074	5,498,360	8.68
Illinois	4	7	326	1,992,900	3.14
Indiana	6	25	1,076	10,944,525	17.27
Kentucky, Missouri, Tennessee, Texas	5	10	415	2,309,720	3.64
Michigan	3	8	508	3,681,025	5.81
Minnesota, Wisconsin	1	2	108	179,945	.28
Ohio	12	35	1,878	9,502,775	14.99
Pennsylvania	12	46	2,962	16,184,465	25.54
West Virginia	2	9	519	3,760,960	5.93
Total	59	199	11,413	63,377,505	100.00

[1] Net tons of potential maximum annual capacity in existence on July 31, 1979, as determined by Fordham University survey.

TABLE 10.—AGE DISTRIBUTION OF U.S. OVEN-COKE CAPACITY IN EXISTENCE

Age in years [1]	Batteries	Ovens	Capacity in existence [2]	Percent of total
Furnace plants:				
0 to 5	24	1,437	13,261,545	22.66
5 to 10	7	526	5,167,670	8.83
10 to 15	6	330	1,746,160	2.98
15 to 20	20	1,225	6,325,450	10.81
20 to 25	40	2,383	11,848,265	20.24
25 to 30	37	2,216	10,798,160	18.45
30 to 35	17	1,071	5,592,530	9.56
35 to 40	12	650	3,008,695	5.14
Over 40	6	238	778,180	1.33
Total	169	10,076	58,526,655	100.00
Merchant plants:				
0 to 5	4	242	993,530	20.48
5 to 10	2	95	462,820	9.54
10 to 15	4	201	912,500	18.81
15 to 20	1	60	240,170	4.95
20 to 25	0	0	0	0
25 to 30	7	298	1,044,995	21.54
30 to 35	1	47	94,900	1.96
35 to 40	3	100	283,240	5.84
Over 40	8	294	818,695	16.88
Total	30	1,337	4,850,850	100.00

[1] Age dates from 1st entry into operation or from last date of rebuilding.

[2] Net tons of potential maximum annual capacity in existence on July 31, 1979, as determined by Fordham University survey.

The combination of coals used to produce foundry coke results in a much lower volatility in the charge, which generally ranges from 22 percent to 25 percent volatile matter, as opposed to 29 percent to 33 percent for blast-furnace coke. A typical foundry-coke charge consists of 15 percent anthracite, 35 percent low-volatile coal of 16 percent to 17 percent volatility, and 50 percent medium-volatile coal of 27 percent to 28 percent volatility. Such a charge makes it easier to control pushing emissions than the changes of higher volatility used in producing blast-furnace coke.

As previously discussed, blast-furnace coke varies in particle size, averaging about two inches, and is usually produced on a 16- to 18-hour cycle, which can be reduced to 13 hours in plants with pre-heating devices. Foundry coke, on the other hand, has one dimension of about nine inches and is produced on a much longer cycle, ranging from 27 to 30 hours; oven temperatures are much lower than those needed for blast-furnace coke, approximately 1800° F. vs. 200° F. With the longer time cycle and lower temperatures, foundry coke is manufactured with less oven wear and tear, and consequently, the ovens remain in acceptable working condition over a greater number of years. In many foundry-coke plants, ongoing maintenance prevents the need for major repairs and rebuilds, comparable to those needed on oven batteries producing blast-furnace coke.

The age distribution of existing oven batteries is a key consideration in evaluating the coke industry's current condition and its ability to sustain itself as a continuing and viable source of coke supply. The generally accepted standard is that 25 to 30 years represents the normal, effective life span of a coke-oven battery. As ovens advance beyond this age level, they tend to incur serious maintenance problems from leaking doors and seals, as well as from overall structural deterioration. The wear and tear incurred over years of operation often results in environmental-control problems, technically and economically incapable of satisfactory solution to meet established legal guidelines. Ultimately, operating efficiency and coke quality are adversely affected, and so too the efficiency of blast furnace required to operate on marginal coke. As Table 10 reveals, coke-oven obsolescence is an acute problem in both the furnace and merchant segments of the coke industry.

Age of Coke Ovens at Furnace Plants:

As of July 31, 1979, more than one-third of the capacity in place at the coke industry's furnace plants was 25 or more years old; and an additional one-fifth of capacity was between 20 and 25 years old, which has serious negative implications for the industry's ability to sustain its production of blast-furnace coke in the years ahead.

The impact of capital-spending programs undertaken to install new oven batteries and rehabilitate existing facilities is indicated by the fact that 31.5 percent of furnace-plant capacity is 10 years old or less. Reflecting recent modernization efforts, furnace plants have installed 22.7 percent of their existing capacity in the last five years, and on July 31, 1979, an additional 9.2 percent of their capacity (5.4 million tons) was out of service and undergoing rehabilitation. The greatest concentration of equipment being reworked was 25 to 30 years old, although many oven batteries in this critical age category cannot be upgraded to meet pending environmental regulations and have been earmarked for abandonment. Significantly, despite the extent of current modernization activity and scheduled new-facility installations, furnace plants will incur a net loss of 2.5 million tons of capacity between July 31, 1979 and the end of this year and will lose additional capacity in the years ahead.

Age of Coke Ovens at Merchant Plants:

The age distribution of capacity in existence at merchant plants is indicative of the operating and maintenance practices they employ in producing foundary coke. Compared to their furnace-plant counterparts, they use a greater proportion of aged equipment and generally have a much smaller percentage of their in-place capacity down for rebuilding and repairs. Given the preference of merchant producers to rehabilitate batteries on an oven-by-oven basis, as opposed to performing pad-up rebuilds, only 3.1 percent of their existing capacity was not of service on July 31, 1979. As of that date, however, 46.2 percent of their capacity was 25 or more years old, and 16.9 percent was over 40 years old. In part, this incidence of aged capacity stems from the practice of avoiding costly major rebuilds, which would have lowered the age composition of their oven population, but it derives from the fact that merchant-plant ovens are subjected to less wear and tear, which permits them to remain in operation longer than those at furnace plants.

Despite notable differences, furnace and merchant producers share the problem of being heavily dependent on old plant and equipment. On an industrywide basis, 35.3 percent of existing oven-coke capacity (22.4 million tons) is 25 or more years old. The industry's investment capability and spending for new coke ovens have been restricted by a long-term lack of profitability, and although capacity modernization and replacement have been actively pursued (approximately 20 million tons of existing capacity has been installed in the last 10 years), inflation and mounting pollution-control costs have contributed to a steady erosion of the industry's productive capability that is due to continue, given the excess of scheduled capacity abandonments over new-facility installations.

Future reductions in U.S. oven-coke capacity:

Information on the potential maximum annual capacity in existence at U.S. cokemaking plants was last reported to the Bureau of Mines in 1960, and official Government capacity statistics based on reported data have not been available since that time. In 1976, a Bureau publication analyzing coke supply and demand estimated that the potential maximum capacity in existence on December 31, 1975, totaled 74.3 million tons. By July 31, 1979, existing capacity had declined 10.9 million tons from this year-end

1975 level. As previously discussed, this was ascertained by surveying each of the Nation's coke plants, their aggregate in-place capacity amounting to 63.4 million tons. In addition to the capacity survey, an analysis was made of individual-company plans to install new oven-coke batteries and to repair, rebuild, modify, and abandon existing batteries. In this manner, it was determined that capacity in existence is now scheduled to decline by an additional 5.3 million tons through December 31, 1985, to an annual total of 58.1 million tons.

Table 11 sets forth long-term historical trends in the potential maximum annual capacity in existence during 1950–1979, and table 12 details future annual changes in this capacity through December 31, 1985, indicating the outlook for both furnace and merchant producers. Notably, while the oven-coke capacity in existence at merchant plants is scheduled to increase slightly by year-end 1985, furnace-plant capacity is due to decline by 5.6 million tons over the same period. On an industrywide basis, the trend of capacity reduction is scheduled to evolve as follows:

TABLE 11.—LONG-TERM TRENDS IN THE POTENTIAL MAXIMUM ANNUAL CAPACITY OF COKEMAKING PLANTS IN EXISTENCE IN THE UNITED STATES

[In thousands of net tons]

Dec. 31	Oven coke	Beehive coke	Dec. 31	Oven coke	Beehive coke
1950	72,488	11,572	1957	80,299	5,503
1951	74,228	13,859	1958	82,498	5,020
1952	76,428	12,005	1959	81,448	4,369
1953	78,258	10,073	1960	78,877	4,616
1954	74,596	8,078	1975	74,266	NA
1955	79,676	6,285	1979	63,378	NA
1956	79,965	5,766			

As of July 31, 1979.

Source: Data for 1950–60 from U.S. Department of the Interior, Bureau of Mines (series discontinued after 1960); oven-coke capacity on Dec. 31, 1975, from previously cited Bureau of Mines study by E. T. Sheridan; 1979 capacity determined by Fordham University survey.

TABLE 12.—U.S. OVEN-COKE CAPACITY IN EXISTENCE: CURRENT AND PROJECTED THROUGH 1985

[Annual capacities in net tons]

Dec. 31	At furnace plants			At merchant plants			Total		
	Batteries	Ovens	Capacity in existence [1]	Batteries	Ovens	Capacity in existence [2]	Batteries	Ovens	Capacity in existence [2]
Current [1]	169	10,076	58,526,655	30	1,337	4,850,850	199	11,413	63,377,505
1979	163	9,615	56,024,580	31	1,409	5,210,740	194	11,024	61,235,320
1980	162	9,581	55,886,245	31	1,409	5,210,740	193	10,990	61,096,985
1981	156	9,320	55,503,680	30	1,384	5,159,640	186	10,704	60,663,320
1982	144	8,661	43,413,735	30	1,384	1,559,640	174	10,045	58,973,375
1983	140	8,410	53,825,820	30	1,384	5,159,640	170	9,794	58,985,460
1984	136	8,206	53,052,020	30	1,384	5,159,640	166	9,590	58,211,660
1985	135	8,161	52,896,895	30	1,384	5,159,640	165	9,545	58,056,535

[1] July 31, 1979.

[2] Potential maximum annual capacity of oven-coke batteries in existence, whether active or out of operation for repair, rebuilding, or other purposes; capacity in operation is generally 5 to 10 percent lower than that in existence and represents a more meaningful measure of productive capability. Projected changes in capacity are based on current individual-company plans to install new oven-coke batteries and to repair, rebuild, modify, and abandon existing batteries; they do not account for the impact on capacity to be exerted by increasing facility age and continuing wear and tear over the period considered.

Date	Batteries	Ovens	Capacity in existence [1]
July 31, 1979	199	11,413	63.4
Dec. 31, 1979	194	11,024	61.2
Dec. 31, 1982	174	10,045	58.6
Dec. 31, 1985	165	9,545	58.1

[1] Millions of net tons of potential maximum annual capacity in existence.

Based on the current status and timing of individual-company plans to expand and/or abandon capacity over the period through 1985, 90 percent of the previously cited industry-wide capacity loss of 5.3 million tons will occur by year-end 1982, occasioned in significant measure by planned facility abandonments in response to environmental-control deadlines (See discussion below). Over the period July 31, 1979 through December 31, 1985, the industry will lose 34 coke-oven batteries and 1,868 ovens. The remaining oven population of 9,545 will include a greater proportion of taller ovens, and accordingly, the projected 16.4 percent decline in the number of ovens will reduce capacity by 8.4 percent to the aforementioned level of 58.1 million tons.

By December 31, 1985, compared to the status of its in-place capacity 10 years earlier, the industry will have lost 66 coke-oven batteries and 3,779 ovens, having a combined annual capacity of 16.2 million tons. The end result will be to seriously impair its ability to satisfy the nation's requirements for metallurgical coke.

Future Reductions in Productive Coke Capability:

It must be reemphasized that the future capacity reductions just set forth represent scheduled changes in the potential maximum annual capacity in existence at U.S. oven-coke plants. These changes are based on survey findings as to the status of existing capacity and individual-company plans to alter that capacity as of July 31, 1979. In a number of instances, plans to rehabilitate existing facilities remained indefinite as of that date, so that the rate of oven abandonments may ultimately be modified, and so too the rate of capacity decline. It must also be recognized that the scheduled changes in capacity presented above do not account for the continuing impact of increasing facility age and additional wear and tear over the period considered, and in this respect, they tend to overstate the likely future levels of existing capacity, which primarily will determine the coke industry's future productive capability.

With allowances for facilities scheduled to be rebuilt and repaired, as well as maintenance and environmental constraints on the remaining capacity in operation, it is estimated that the industry's actual productive capability will decline to a 1985 level of approximately 47.0 million tons. This is regarded as the highest level of coke production likely to be attained, given the qualifications on existing capacity stated above. In effect, the ability of the nations coke producers to supply their product will decline from a current annual level of 52.5 million tons to 47.0 million tons by year-end 1985, which points to a continuation and eventual worsening of the current coke-supply deficit.

TABLE 13.—COMPONENTS OF U.S. COKE DEMAND: ACTUAL 1978 AND ALTERNATIVE FORECASTS FOR 1985

[In millions of tons]

	1978	1985 [1] 2 percent	1985 [1] 1 percent	1985 [1] Zero
Raw-steel output:				
BOF	83.5	102.6	95.8	88.3
Electric	32.2	47.2	44.1	41.1
Open-hearth	21.3	7.6	7.0	6.6
Total	137.0	157.4	146.9	137.0
Pig-iron input:				
BOF	68.0	85.2	79.5	74.1
Electric	.9	1.4	1.3	1.2
Open-Hearth	13.4	4.8	4.4	4.2
Subtotal	83.3	91.4	85.2	79.5
Ingot molds	3.3	3.5	3.2	3.0
Foundries	1.1	.7	.7	.6
Total	87.7	95.6	89.1	83.1
Coke consumption:				
Blast furnace	51.3	53.5	49.9	46.5
Foundry and other	5.3	5.6	5.2	4.8
Total	56.6	59.1	55.1	51.3

[1] Alternative forecasts based on indicated annual growth rates for total raw-steel output over the 1978–85 period.

Future Supply Capability and Demand Requirements:

Table 13 sets forth the major components of U.S. coke demand in 1978, when consump-

tion totaled 56.6 million tons, and presents alternative demand forecasts for 1985, based on annual growth rates for raw-steel output of zero, 1 percent, and 2 percent. A recent U.S. Department of Commerce study of the emerging situation in the steel industry concluded that the nation's steel market will grow at about 2 percent annually in the 1980's and that the requirements for domestic raw-steel output in 1985 will total 155.6 million tons, which conforms closely to the 2 percent growth alternative in Table 13.[2] Embodied in this growth alternative, which is considered the most probable of those analyzed, are slower rates of population and economic growth, as well as a continuing downward trend of per capita steel consumption as a percent of GNP (steel intensity), due largely to automotive market developments.

In developing the alternative coke-demand forecasts for 1985 presented in Table 13, the following determining influences were taken into account: (1) steel-company plans to alter the mix of steelmaking processes, with greater emphasis to be placed on the BOF and electric-furnace methods and significant, additional reductions in prospect for the once-dominant open-hearth furnace; (2) the furnace-charge composition employed in each steelmaking process and the furnace yields attained, which govern the relationships between pig-iron input and raw-steel output; (3) the increasing application of continuous casting and the corresponding decline in ingot-mold consumption per ton of raw steel produced; (4) the secular decline in foundry pig-iron requirements; and (5) the secular decline in the blast-furnace coke rate and coke consumption trends outside the blast furnace in foundaries and other end-use markets.

Implicit in the demand forecast in Table 13 are a number of shifts in steel technology and improvements in the coke-using efficiency of blast-furnace plants, the most significant of which can be quantified as follows:

"Electric-furnace steelmaking, which employs only minor quantities of pig iron and generates little coke demand, will increase at an average annual rate nearly twice that for the iron-based BOF process.

"Despite the growing emphasis on the electric furnace, the BOF will remain the leading raw-steel producer by a wide margin; the share of total output accounted for by the BOF will increase from 60.9 percent in 1978 to 65.2 percent in 1985, and over the same period, the electric-furnace share will trend upward from 23.5 percent to 30.0 percent; open-hearth participation will decline from 15.6 percent to 4.8 percent.

"Reflecting increased continuous-casting activity, the use of pig iron to cast ingot molds will fail to keep pace with raw-steel production. The quantity of raw-steel continuously cast is forecast to increase from 20.8 million tons in 1978 to 30.0 million tons in 1985.

"Additional advances in blast-furnace technology and their impact on reducing coke consumption will occasion future reductions in the coke rate from a level of 0.585 in 1978 to 0.560 in 1985."

Notably, under each of the growth alternatives analyzed, the coke industry's 1985 supply capability of 47.0 million tons will be inadequate to meet demand requirements. Given a 2 percent annual growth in raw-steel output over the 1978–1985 period, U.S. coke demand in 1985 will total 59.1 million tons, resulting in a 12.1-million-ton shortfall in domestic supply. Under the less-likely 1 percent growth alternative, demand would exceed domestic supply by 8.1 million tons, and even if steel output pursues a course of zero growth, which is considered an extremely remote possibility, domestic supply will fall short of demand requirements by 4.3 million tons. The zero-growth example in Table 13 is provided solely for demonstration purposes to indicate the critical nature of recent and pending reductions in coke-oven capacity and their impact on the coke industry's ability to serve as a viable source of adequate supply.

The shortfalls in domestic coke supply projected for 1985 raise the prospect of significant future limitations in the nation's steel-producing capability. Although some foreign coke will be available to partially offset any domestic supply deficit, Section 3 indicates that most overseas coke producers will not be able to supply the United States at times of active steel-industry demand within their own borders. Accordingly, under the most probable 2 percent growth alternative, assuming an active world steel market, the total coke-supply deficit will exceed 10 million tons and will occasion a much larger curtailment of steel output.

By 1985, given a forecast coke rate of 0.560, an approximate 10-million-ton shortfall in coke for blast-furnace use will reduce total pig-iron production by 17.9 million tons, resulting in a 17-million-ton decline in the availability of iron for steelmaking. Based on the mix of steelmaking processes to be employed, it will take about 0.58 tons of pig iron to produce a ton of steel, so that raw-steel production will be reduced by 29.3 million tons, representing the equivalent of some 21.5 million tons of finished steel-mill products.

Impact of Environmental Regulations on Capacity:

In the foregoing analysis, environmental regulations have been cited as a major cause of the serious decline in the U.S. coke industry's productive capability. Their direct, negative impact on industry output has resulted from their role in: (1) accelerating the abandonment of existing coke-oven capacity, (2) reducing the throughput of ovens that remain in operation, and (3) retarding the installation of new oven batteries, either by edict or by substantially increasing their capital cost.

Environmental regulations affecting the coke industry have been promulgated by federal, state, and local governments, their number and severity increasing throughout the current decade. The formal beginnings of the nationwide drive to combat pollution date back to 1970, when the Clean Air Act was passed. Under its provisions state governments were required to develop plans with specific proposals to reduce air and water pollution. Known as State Implementation Plans (SIP), they were to be submitted by 1972, their main objective being to limit the amount of suspended particular matter in the air to 75 micrograms per cubic meter. Initially, it was hoped that this degree of air quality would be achieved by July 1, 1975, but unfortunately, the goal was never achieved.

Congress amended the Clean Air Act on August 7, 1977, extending the effective date for the aforementioned air-quality level to 1982. This date applies to the nation as a whole, whereas individual companies were given until August 7, 1979 to achieve compliance, with fines to be imposed on those not meeting the deadline. By July 1, 1979, new SIP's were to be filed by the individual states for approval by the Federal Environmental Protection Agency (EPA).

As of December 31, 1982, EPA will require that any company in violation of environmental regulations shut down its non-compliant facilities. This EPA ruling has prompted coke companies to enter into so-called consent decrees with the government, indicating their plans for the facilities in question. An example of this is the consent decree agreed to between U.S. Steel Corporation and the Department of Environmental Resources of the Commonwealth of Pennsylvania. Filed on May 22, 1979, the 82-page document and its 112 pages of appendices specify measures to be taken and compliance dates to be met for the control of air and water pollution resulting from operations at the Corporation's Clairton, National, Duquesne, Edgar Thomson, Irvin, Homestead, Vandergrift, and Johnstown plants. With respect to the Clairton Works, the nation's largest cokemaking plant, dates are specified for the installation of devices needed to control emissions on several coke-oven batteries, and abandonment dates are set for a number of other batteries.

In order to implement established air-quality objectives, Congress has divided the United States into two distinct geographic categories. Areas with less than 75 micrograms of suspended particulate matter per cubic meter are in the attainment group, and those exceeding 75 micrograms are in the non-attainment group.

Attainment areas may be further subdivided into three classes. The first class, as described in Section 160 of the Clean Air Act, includes national parks, national wilderness areas, national monuments, national seashores, and other national or regional recreation sites of scenic or historical value. Beyond this designation, the states have the power to determine whether the remainder of the attainment areas within their borders and outside of Class 1 shall be classified as Class 1, 2, or 3. If an area is designated as Class 1, it joins those areas so specified by Congress. In these regions, a minimum of additional air pollution is allowed over that existing at the time of their classification. The annual average can be increased by only five micrograms per cubic meter.

Classes 2 and 3 allow for larger increments of particulate matter. In Class 2, particulate matter can be increased by 19 micrograms per cubic meter over and above the prevailing level at the time of classification. Such an increase is permitted only if the new total is less than 75 micrograms. By contrast, Class 3 allows for a greater increase in particulate matter; namely, 37 micrograms per cubic meter over and above that originally measured, however, this is only permitted if the total does not exceed 75 micrograms per cubic meter. In both classes, additional industrial equipment must employ the best available control technology (BACT).

Coke companies installing new facilities in a non-attainment area must go beyond BACT in their planning. In this instance, they must look to other technologies to achieve the lowest achievable emissions rate (LAER) from their facilities. This objective often involves a transfer of technology between industries and may even initiate a worldwide search for control techniques.

In addition to the technology required, there are three further conditions that must be met before facilities can be installed in a non-attainment area.

"1. The company installing the facilities has to bring or agree to bring all of its facilities in that state into compliance, whether these are located in an attainment or non-attainment area.

"2. It must provide trade-offs against new sources of pollution; that is, pollution must be diminished in either its plants or other non-company plants in the non-attainment area by the amount that the new facility would create.

"3. It must demonstrate continuing progress in the reduction of particulate matter toward the attainment of 75 micrograms per cubic meter."

The aforementioned conditions are applicable to both additional and replacement capacity. For example, if a coke oven is torn down to its foundations and rebuilt, it is considered a new source of pollution, even if its capacity remains the same, and it must be made to conform to the LAER terms. Under these circumstances, the replacement of existing capacity or the addition of new capacity in a non-attainment area has become more and more difficult and expensive.

The problems for coke producers posed by environmental regulations become apparent by reviewing the current status of their cokemaking facilities and their plans for modernization, replacement, and the installation of new oven batteries. Such a review is provided in the remainder of this section. It is presented on an individual-company basis and evaluates the facilities at each of their plants. In turn, the presentation covers the coke industry's furnace-plant segment, followed by companies classified as merchant producers. Information on individual coke-producing plants was obtained from interviews with appropriate personnel from the companies involved.●

[2] Robert K. Sharkey, *et al.*, "Long Term Trends in U.S. Steel Consumption: Implications for Domestic Capacity," *Industrial Economics Review*, Office of Industrial Economics, Office of the Chief Economist, U.S. Department of Commerce, Vol. 1, May 1979.

SENATOR PELL COMMENDED

● Mr. CHURCH. Mr. President, recently Ruth Dean of the Washington Star published an excellent article about my good friend and colleague from Rhode Island, CLAIBORNE PELL.

For as long as I can remember, Senator PELL has been a leader in supporting the arts in the country, and I am especially pleased that this article gives him the recognition that he so richly deserves. Because the article conveys such an accurate portrayal of our distinguished colleague from Rhode Island, I request that it be printed in tonight's RECORD.

The article follows:

SENATOR PELL CARRIES ON HIS BATTLE FOR CULTURE

(By Ruth Dean)

In the world of politics, comments made and impressions given in the heat of battle are usually passed off afterwards with a "no hard feelings" smile and a handshake.

Sen. Claiborne Pell, D-R.I., has waited two years to say the same to Ronald S. Berman, the former Nixon-appointed chairman of the National Endowment for the Humanities with whom he was embroiled in an headline-making, 18-month confrontation.

The time lapse is not surprising, considering the acrimony that characterized the 1976 hearings Pell chaired as head of the authorizing subcommittee for the endowment in the Senate. The lengthy confrontation disintegrated into a tangle of conflicting personalities, politics and rhetoric over elitism and academic freedom, and assumptions in the conservative press that Pell was engaged in a personal vendetta. Berman lost out in the end, and the present chairman, Joseph D. Duffey, a former Democrat activist, was eventually appointed and confirmed as his successor.

What is surprising is that Pell—a proud and stubborn man, but sensitive to the human condition—would after all this time offer what amounts to public regrets to Berman. It is, to be sure, a carefully considered statement, which in effect says Pell "was right" in principle, but there should be no impression that he personally disliked Berman.

"I have no personal dislike—in fact I have high regard for Dr. Berman," he said several times in an interview. "There's not a single personal feeling of distaste or opposition that I have toward him. It's just that we had differing views. I have a very real personal regard for him."

Pell broached the subject early in the interview, on the eve of markup of 1980 reauthorization legislation for the arts and humanities endowments. The man who fathered the 1966 legislation bringing the national endowments into being was saying how annoyed he gets with critics who think the Democrats are politicizing the arts for their own partisan advantages. Espousal of arts funding was hardly the way to the voters' hearts in the early 1960's, he recalled. "Arts were not respectable . . . People didn't want their children to be artists.

"If I'd been interested in my political betterment, I would never have gone into the arts, because I got more political hassle and drawback when I started out, than benefit from it. As far as the humanities go, I would have been much better off if I'd never engaged in that argument with Dr. Berman. I lost a large number of supporters and friends who thought I was wrong. I think I was right, but I felt I was right as a minority, and I prevailed."

Pell added, "There was nothing personal against Dr. Berman. It's just that we had differing views. His view, I think, was that the humanities should be run more from Washington, with the humanities councils being co-opting bodies. My view was that the humanities should spring more from the grass roots and that they should be part of the warp and woof of the state government.

"It was a difference in philosophic viewpoint. But from the viewpoint of my political position, I lost rather than gained. I may have won my battle, but I incurred, as I said a loss of support. And, measured in financial terms too, I can think of people who supported me before who didn't afterwards."

Berman, who now teaches at the University of California at San Diego, was pleased to hear about Pell's public statement that he entertained no personal animosity toward him. The senator had expressed the same sentiments to him privately after the hearings, Berman revealed, "but rarely does one get the pleasure, even at several years' distance, of being vindicated." He said the need for an apology might have been avoided if his and the senator's differences of opinion on endowment policy had been kept separate from the issue of his re-appointment.

Pell, whom Rhode Island voters returned to the Senate last year for a third term, is one of the senior body's most influential members. As chairman of the Rules Committee, second highest ranking member of the Foreign Relations Committee, chairman of the subcommittee on education, arts and humanities—membership on 12 committees in all—Pell commands a position of power and influence enjoyed by few of his colleagues. He keeps this balancing act together, as a Pell staffer describes it, through "a tremendous ability to keep track of things, and sort of let themselves work out."

A CLEAREE OVERFLOW

Pell confesses he doesn't have as much time to give to the arts and humanities as he once did, but feels the distance that separates him from them by more pressing duties gives him a clearer overview of how they're faring and in what their future direction should be.

Last summer his subcommittee held a reauthorization hearing on the endowments and the Institute of Museum Services. He stubbornly persists in his original opinion that the institute belongs in the Smithsonian, and not in the new Department of Education where it now is, but has allowed a two-year extension to work that out. What, if any, changes will be reflected in the markup session this week, he would not reveal because the subcommittee is still working out some issues.

The June hearings reflected Pell's concern with secrecy of the grants panels in both endowments, and his oft-stated desire to broaden the base of the state humanities committees—an issue that was hotly contested by state chairmen. He still is concerned about "the possibility of venality occurring," of a panelist seeking a job with an institution that has received an endowment grant. "This is what we would want to be careful of," he said.

For the interview, Pell chose what his staff calls "the little office"—a misnomer, because the office located just off the Senate floor is rather large. However, the memorabilia of 18 years' public service gives it a crowded look. Covering one wall are photos taken of the senator with presidents, popes and other political supernumeraries. Or an opposite wall, over a sofa, hangs a Thomas Sully portrait of Pell's great-great-grand-uncle, George M. Dallas, vice president of the United States under James Polk.

Would Pell be supporting the expected candidacy of the late president's brother and his friend and colleague, Sen. Edward (Ted) Kennedy?

Pell is the "only sitting senator now, except for Teddy," he said, who supported Robert Kennedy's candidacy "even before he was assassinated." But as for Teddy, he said, "this time I'm staying neutral for the time being. Carter has been very good to our part of the country, and that's the viewpoint of our state."

In years past, the Pell family (their four children are now grown and embarked upon their own lives and careers) frequently were seen on the tennis courts with the Kennedys. They also shared their enthusiasm for sailing. But "with increasing seniority and responsibilities, I've simply less time now," said the senator. "That's why I gave up sailing 10 years ago, and tennis I really almost gave up four months ago. I've taken up running again because it takes less time, just a half hour a day. I've done it ever since I was 15; I guess I was one of the original joggers." His bad leg has kept him even from that. So he amended that boast with, "But I shouldn't say I do it, because I haven't done it in three months."

This last remark is typical of his passion for preciseness, which runs like a thread through his conversation and punctuates his hearing-room interrogations. Hapless is the person who marshals his facts poorly, or throws him a catch-phrase not to his liking. He positively loathes the term, "politization of the arts" because he thinks the definition usually assigned it is "incorrect."

Behind this precision lies a real concern for people and a driving desire to solve their problems in such diverse areas as high-speed rail travel, the protection of the seabeds of the world from weaponry emplacement, SALT II and making a college education possible for everybody, to name a few of his legislative claims to fame.

Has he kept count of how many laws he has helped enact to make life a little easier for people? "No," he said with a smile. "That's why I enjoy this job, because that's what makes it fun."●

CONSIDERING ACTION IN THE IRANIAN CRISIS

● Mr. DOLE. Mr. President, yesterday the Senator from Kansas expressed his continued concern, and the concern of the people of his State, and the entire Nation as to the very serious situation in Iran. Ever since terrorists loyal to the Ayatollah Khomeini invaded the U.S. Embassy and held 61 American diplomatic personnel as hostage to their political demands, our concern has been limited in its expression by the delicate and dangerous state of the negotiations in Teheran.

Our paramount and specific concern must be the lives of Americans. But this needless crisis crystalizes a deeper con-

cern many of us have felt for months about the direction of our Iranian policy. I am referring to the priorities we have set in the past that bring us to the present concern about our stands on individual liberties, respect for international law, our national energy security policy and to our overall geopolitical position throughout the world. These priorities have contributed to the situation in Iran, where the nexus of these concerns now tragically come together, and where 61 American citizens are being held hostage in precarious circumstances.

Our policy of accommodation with the Ayatollah is now seen to have been full of empty promises, now patently dashed. This morning's New York Times ran an excellent editorial which, while it still stresses the calm and restraint we must exercise during this fragile standoff, decries the clouded vision that prompted Khomeini and his followers to take this ill-considered action. Mr. President, I request that the editorial be printed in full in the RECORD at the conclusion of my remarks.

RESOLVING AMERICAN WILL

I have been in daily contact with the Executive Department, monitoring insofar as we are able the extremely delicate situation in Teheran. The position our people in Iran face is difficult in the extreme. The position in which our Government finds itself in its attempts to deal with this crisis appears to be deteriorating. The Senator from Kansas would like to emphasize his belief that the protection of lives and safety of the individual Americans held hostage must remain the foremost concern of the U.S. Government. It must be the first priority of the administration and of all of us to safeguard our people, and to do everything possible to secure their release. I support the steps already taken in this regard. Whatever measures we take must reflect caution and prudence.

The editorial follows:

THE STAKES IN IRAN

There have been good reasons for responsible Americans to hold their tongues about the outrage in Iran this week. No one, plainly, has a really good plan to assure the rescue of the 60 hostages and other vulnerable Americans in that disintegrating society. John Connally was quick to cast blame; he seems to believe it is sinful only to appease a *foreign* crown. But given the widespread frustration of Americans, the wonder is that so many political figures have understood the predicament of the President—and of the hostages—and taken care not to goad the nation into frenzied action.

The off-stage whispering, however, seems to dwell on two extreme responses: get rid of the Shah or call out the cavalry. They deserve some ventilation before glib conclusions gain public favor.

Whatever one's view of the Shah, he was admitted to the United States, rightly or wrongly, because he was sick and powerless. Iran's student warriors may not know that, but Ayatollah Khomeini does. He knows that Washington tried to appease him by discouraging the Shah from settling here in the first place. The Ayatollah also knows that the Carter Administration gave him military aid to crush various rebels and encourage American business to help rebuild his economy. If all that was not enough to preserve an elementary diplomatic civility, it can only be because the Ayatollah needed this contest of will. The suspicion grows that to salvage his power in the streets of Teheran, he found it necessary to reopen a unifying battle against the Shah and America. No shameful ransom will dissolve such calculated hostility.

Some may think the Shah is not worth the risk to 60 American lives. But if they do not see dishonor in trading him, they need at least to recognize that paying blackmail to a government that kidnaps diplomats can only invite further humiliations, and not only by Iran. Above all they need to understand that bargaining away the rights of immunity and sanctuary that have been violated at the Teheran embassy would destroy the rules that even warring nations normally observe to protect human life and communication the world over. That cause far transcends the Shah.

So why not send the troops and get it over with? It may come to that if the hostages are harmed. But Teheran is not Entebbe airport; a huge force would be needed to seize the hostages and protect their evacuation. The casualties would be great, especially among those being saved. And hundreds of other Americans in Iran would suffer the vengeance of the mob.

Moreover, a temporary invasion could well rescue the Ayatollah from the collapse his policies have brought near. As Steven Erlanger wrote in The New Republic *before* the embassy was seized, the embattled priest has managed to excommunicate nearly all of the forces of the middle class, the left and the military that united to topple the Shah—leaving only the priests and the formidable but incoherent mass of the poor. "And they are hardly enough to preserve anything but a prolonged anarchy." That is why Khomeini has been inventing plots and American devils.

Delay, then, is a prudent course if it can be used to obtain the release of the captives without revivifying the Ayatollah's gasping regime. But that delay and those efforts should not be allowed to confuse the other interests that the United States is determined to protect. The Iranian authorities should have been on clearer notice all week that they will be deemed responsible for the fate of all Americans in their country. And the world needs to understand that American and other emissaries will discuss, but not bargain for, the release of the hostages.

If the Palestine Liberation Organization, for example, wants to improve its reputation among Americans by arranging an evacuation, that is one thing. But if the P.L.O. were to replace the Ayatollah as ransom collector by demanding official recognition in exchange for its help, that is quite another matter.

Even this much speculation can cause damage in such a volatile situation. But this episode promises to trigger a heated debate about America's standing in the world. The nation's purpose ought to be clear even before it knows whether its tactics were right.●

CARRYOVER BASIS REPEAL

● Mr. CULVER. Mr. President, we have now had more than 2 years of experience in trying to fashion a fair and efficient implementation of the so-called carryover basis. I believe that the record demonstrates that this attempt has failed and that future experiments with carryover are similarly doomed. I am convinced that outright repeal of this provision is the only responsible course of action.

Senators will recall that the carryover basis was initiated by the Tax Reform Act of 1976 as part of a "package" including estate tax changes. Among the changes were reforms, much needed and long overdue, to change then-existing estate tax exemptions to account for more than 30 years of inflation on farmland values and to allow farms to be assessed on a "current use" standard. These changes were essential to the preservation of the family farm in this country and farmers from all across Iowa had contacted me to let me know how important it was to enact them.

But while the estate tax improvements have been a stride forward, the attempt to place carryover in effect has been an administrative nightmare. Whatever the theoretical arguments in favor of the carryover basis, in actual practice it has been intolerably complicated, often unfair and counterproductive to the 1976 changes in estate tax law. I have received hundreds of letters from Iowans detailing the enormous technical difficulties created by regulations written by the Department of the Treasury to implement carryover.

In attempting to determine the original cost of property, particularly farm property, estate planners and administrators have been forced to spend hours and even days searching county land records and sketchy family farm financial records in what is often a fruitless attempt to determine when property was acquired and at what price.

A Cedar Rapids lawyer tells me he is lucky to come up with even a "guestimate" of what land cost when it was originally acquired by a farm family.

Because these burdensome requirements and a new tax occur precisely at the most difficult and personally trying time for a farm family, they unnecessarily aggravate the problems of attempting to keep the land within the family.

We ought to be encouraging the continuation of the family farm, not discouraging it. And we ought to make our tax laws as simple, reasonable, and fair as possible in order to earn respect and voluntary compliance. American farmers have enough concerns in these difficult and inflationary times without having to worry about mind-boggling paperwork and the future of the land they and their parents have worked so hard to make profitable for their children and grandchildren.

The farmers of Iowa say carryover basis threatens their very existence. The accountants, lawyers, and executors of Iowa say carryover basis is unworkable. I must agree.

Last year I supported the moratorium on carryover basis which delayed its implementation until the end of this year. After careful study, I have concluded that I cannot support the continued application of carryover basis taxation. I have asked that I be added as a cosponsor of S. 1163, a bill to repeal carryover basis, and I am committed to working for passage of legislation repealing the section of the 1976 Tax Reform Act which created carryover basis.●

IN HONOR OF VETERANS DAY

● Mr. DOLE. Mr. President, on Sunday we will witness memorial services throughout the country to honor our veterans who so nobly served in the

Armed Forces of our country, so that our winters of wars could melt into a new and lasting spring of peace and hope for all people. On every Veterans Day we reflect on the past and celebrate the hopes and promises of the future. We are reminded that no one abhores war more than those who have had to fight, and that none have a greater right to insist that our country pursue policies which prevent war and preserve peace than those who have taken up their country's arms. This day, therefore, reinforces our belief in maintaining a strong military capability to retain our defense strength to preserve that precious state of conditions called peace.

NEED MORE THAN CEREMONIES

While Veterans Day is a just and appropriate tribute, we must not limit ourselves to this day, designated to honor our brave men and women who fought to preserve our Nation, our way of government and our freedoms. Today and every day we must pause to reflect upon our veterans; to meet our responsibilities and obligations justly deserved by these men.

While our first duty to this country's war veterans is to insure that there will be no more war veterans, we must do more. These men who have sustained our Nation through its perilous hours are the recipients of veterans' benefits which have evolved through history, and which increasingly can and should represent our concern for them. Therefore, it is essential that we maintain and improve the various programs and services afforded to our veterans. It is crucial to reverse the present trend we are witnessing, with continuous cuts in veterans' programs, to demonstrate our gratitude and care to these most deserving men for their brave and selfless service to our country.

MEDICAL AND HEALTH CARE SERVICES

Mr. President, of most crucial concern and importance is the drastic cuts that have occurred in the field of medical and health care. Last year, the administration's budget cutting resulted in drastic cuts in medical personnel, equipment and facilities, resulting in a drastic deterioration in the quality of medical care in our VA medical facilities. And the trend seems to be continuing. The Congress appropriated funds last year to provide for the greatly needed beds and personnel for the efficient operation of our VA hospitals.

However, the administration did not use these funds for this purpose, and, consequently 3,132 beds were cut and 1,500 personnel were cut. Outpatient clinics are understaffed and underfunded, and the overall staff/patient ratio is well below that of private hospitals. We must not let this trend continue. It is a justified obligation and responsibility. We must remember that a man who performed special service to his country deserves special treatment from that country.

EMPLOYMENT OPPORTUNITIES

Additionally, our veterans have been and are being denied adequate employment opportunities. This is especially crucial for the Vietnam veteran. For this group of people, unemployment and underemployment have reached high rates. The latest census bureau figures showed in a single year, 1 million Vietnam veterans were unable to find jobs that kept them employed all year round. Many failed to earn an adequate wage. Unemployment among minority veterans remains unacceptably high at 14.1 percent in order to allow them to participate fully in American society on their own terms, they need and deserve better access and availability to a wide range of job opportunities.

EDUCATIONAL BENEFITS

Mr. President, we must also continue our efforts to liberalize GI educational benefits, to make it easier for men and women who have served honorably in our armed services to reap the benefits of American life. Our veterans face increased costs of education and decreased available funds. For the third consecutive year, the President's budget did not include 1 cent for a cost-of-living increase for our Vietnam veterans availing themselves of the GI bill. Preference in public employment at all levels and special consideration of veterans applicants by private employers are essential to insure that veterans, recently released from military service, have an opportunity to earn a livelihood for themselves and their families. All of these programs must be systematically and frequently reviewed to insure that benefits and services to veterans, their dependents and survivors are adequate in view of ever-increasing social and economic circumstances.

So let us this Sunday remember the service our veterans gave to this Nation. It is their day. A day to pay tribute to those who have accepted the ultimate responsibility for the well-being of our Nation. Let us show our gratitude and respect this day with memorials and speeches. But even further, let us show our thanks in the days and years to come by demonstrating our individual consideration and respect to these men, and on a larger scale by insuring the efficient and adequate maintenance of programs, benefits and services our veterans justly deserve.●

THE KU KLUX KLAN

● Mr. BOREN. Mr. President. It is with increasing concern that I have read reports coming from around the country of accelerated activity by the Ku Klux Klan. Violence and tragedy have already been associated with activities of the Klan in North Carolina.

I am particularly disturbed by reports of attempts to recruit young people in our schools for membership in this organization. Even in my home State of Oklahoma which has always prided itself upon its frontier spirit of equal opportunity for every person, there have been reports of membership drives by this notorious organization.

The people of our Nation should not be fooled about the real nature of this organization. It tries to cloak its real purposes behind a few aims which are stated for public consumption. However, its fundamental purpose remains the spreading of racial and religious hatred and prejudice. Organizations like the Klan should be repudiated and rejected by every right thinking American citizen.

Our Declaration of Independence and our Constitution recognize the God-given right of religious freedom. To try to stir up hatred and mistrust of others based upon religious belief is against the fundamental principles of Americanism.

Likewise, we recognize that the same God created all peoples of all races. Every person has human dignity. Our Nation needs harmony and unity as never before. Instead of encouraging prejudice and ill feeling between Americans, our task and goal must be to build mutual understanding and respect between all of our people of all races.

The Ku Klux Klan has no legitimate place in Oklahoma or anywhere else in America.

Mr. President, I especially call upon our young people to reject those like the Ku Klux Klan who preach hatred and disunity. The spirit of community needs to be rebuilt in our Nation. Our Nation needs to be constantly moved forward to reach the goal of allowing all persons of every race and religion to reach their full potential.

I am confident that the young people in Oklahoma and all across this country will reject the wreckers and join the builders.●

THE UNITED STATES MARINE CORPS

● Mr. DOLE. Mr. President, tomorrow, November 10, marks the 204th anniversary of a proud, elite organization—the United States Marine Corps.

The numerous deeds of this elite American fighting force has been indelibly recorded in the annals of American history * * * "From the Halls of Montezuma to the Shores of Tripoli." And, as their hymn so proudly hails, "We have fought in many a strife for life and never lost our nerve."

A SALUTE TO THE MARINES

Mr. President, I would like to take this opportunity to salute our Marines wherever they may be; past, present, and future by inserting in the RECORD an article from "Fortitudine," the newsletter of the Marine Corps historical program. It tells about a proud American who many thought was a Marine, but never was.

This is not to suggest association with John Wayne caused the Marines any problem. To the contrary, the Marines used this American hero as an unofficial recruiter. Probably, in the corps' existence no one individual caused more people to enlist in the Marines than John.

The Marine Corps League, a national, congressionally chartered, organization of all Marines, recognized this in 1971 and named him the recipient of their coveted "Iron Mike Award."

To pay tribute to John Wayne is to pay tribute to the Marine Corps. To pay tribute to the Marine Corps is a tribute to our great Nation.

Mr. President, I ask that the following article be printed in the RECORD.

The article follows:

JOHN WAYNE: THE MARINE WHO NEVER WAS

(By Lawrence H. Suid)

The epitaph could well have read: "Marion Morrison: Graduate of Annapolis, 1929; Hero of Tarawa; Commandant of the Marine Corps."

His oldest son, Michael, once observed: "I think he would have been a success at anything he did. He would have been an outstanding lawyer if he had been a lawyer. He would have been an outstanding politician if he had chosen to have been. He would have been an outstanding anything because he has that drive. He has a particular personality. He has charisma. It is just something that differentiates people. He has it."

Instead of going to Annapolis, as he briefly considered doing, Marion Morrison went to the University of Southern California on a football scholarship. And instead of becoming a Marine hero in World War II he became John Wayne, a hero for all Americans.

While the Duke rose to stardom as the quintessential cowboy hero, his military roles probably have had a more significant impact on several generations of American males. Wayne, of course, performed his heroics in movies rather than on fields of combat. Nevertheless, for much of today's populace, the illusion of the visual media tightly intertwines with the reality of life. The Alamo and the Old West no longer remain to be fought over, but young men can still join the Marines.

When filming "The Outsider," the story of Ira Hayes, at Camp Pendleton, the director asked a group of 10 young Marines why they had enlisted. Five said because of watching John Wayne in his war movies. On an "Owen Marshall" television episode, a Vietnam deserter explained why he thought war had been right before he joined the military: "I was eighteen and war was something John Wayne fought or we watched on our new color TV."

Perhaps the best description of Wayne's influence through his military roles comes from two Vietnam veterans. Ron Kovic, in "I Was Born on the Fourth of July," recalled watching "Sands of Iwo Jima." "The Marine Corps hymn was playing in the background as we sat glued to our seats, humming the hymn together and watching Sergeant Stryker, played by John Wayne, charge up the hill and get killed just before he reached the top. And then they showed the men raising the flag on Iwo Jima with the Marines' hymn still playing. . . . I loved the song so much, and every time I heard it I would think of John Wayne and the brave men who raised the flag on Iwo Jima that day. I would think of them and cry. Like Mickey Mantle and the fabulous New York Yankees, John Wayne in 'Sands of Iwo Jima' became one of my heroes."

Later, Kovic couldn't wait to run down and meet the Marine recruiters at his high school assembly: "And as I shook their hands and stared up into their eyes, I couldn't help but feel I was shaking hands with John Wayne and Audie Murphy." Likewise, Philip Caputo, in his "Rumor of War," remembered that even before he talked to the Marine recruiters, "I saw myself charging up some distant beachhead, like John Wayne in 'Sands of Iwo Jima,' and then coming home a suntanned warrior with medals on my chest. The recruiters started giving me the usual sales pitch, but I hardly needed to be persuaded."

Ironically, of all the war movies in which the Duke represented the American fighting man, he portrayed a Marine only in "Sands of Iwo Jima" and "Flying Leathernecks." Moreover, Marines themselves seem divided in their loyalties between "Sands of Iwo Jima" and the film version of Leon Uris's classic Marine novel, Battle Cry. Many consider the latter movie to better portray their actual wartime experiences in the Corps from boot camp through combat.

Nevertheless, Wayne's Sergeant Stryker—not any of the stars of "Battle Cry," James Whitmore, Tab Hunter, or Aldo Ray—remains for most Americans the symbolic Marine, "the rugged top sergeant who bullies and beats his men into a fighting unit." (Newsweek). According to another reviewer Wayne was "especially honest and convincing for he manages to dominate a screen play which is crowded with exciting, sweeping battle scenes." (New York Times). Wayne himself felt his Acadeny Award nomination for his performance was "worthy of the honor. I know the Marines and all the American Armed Forces were quite proud of my portrayal of Stryker."

John Wayne always remained acutely aware of his image as a military man and its use to young men as a role model. He refused the offer to portray Patton on the screen because he did not want to be seen slapping an American soldier. Instead, he said he tried "to portray an officer . . . or a noncommissioned officer or a man in the service, in a manner that benefits the service and also gives a proper break for the man to react in a human manner."

The results of Wayne's portrayals did not always help those who sought to imitate his actions. One exasperated old sergeant was once reported to have told some careless troops: "There are two ways to do anything—the right way and the John Wayne way." And, his influence was not limited to impressionistic young recruits. Based on his military experiences in Vietnam, Josiah Bunting, author of the Vietnam novel The Lionheads, observed: "There is no question that the officers in Vietnam, combat infantry officers, especially in the grade of lieutenant colonel, which was the rank in Vietnam [were influenced by] this whole aura of machismo. . . . The influence of John Waynism, if you want to call it that, on these people was terribly profound."

What did John Wayne possess which created this "profound" influence? The Duke himself thought it had its basis in his characterizations which always appealed to the same emotions: "You can call it primitive instinct or you can call it folklore. It has no nuance. It's straight emotions, basic emotions. They laugh hardy and hate lustily. There is a similarity in that. I wouldn't call it primitive as much as I would call it man's basic fight for survival." In response to critics who suggest that these portrayals primarily appeal to adolescents, Wayne answered that he hoped his attraction is "to the more carefree times in a person's life rather than to his reasoning adulthood. I'd just like to be an image that reminds someone of joy rather than the problems of the world."

Even when his political views brought down criticism in the late 1960s, his popularity and influence continued and even grew until he had become a living legend. His bouts with cancer demonstrated that the Duke's courage and strength did not exist only in the illusionary world of the motion picture screen. In the end, however, Wayne probably insured his place in American culture and society because he came to personify patriotism and love for one's country. In "The Alamo," he sermonized: "Republic! I like the sound of the word. It means people can live free, talk free. . . . Republic is one of those words which make me tight in the throat." To him, and to millions his image influenced, Republic was a word which makes a heart feel warm, something worth fighting for, dying for. In the end, Wayne's courage during his final illness did show how much his movie-made heroism had become one with his own character and suggested that he might well have become a Marine hero in life instead of in fiction.●

THE NATIONAL FARM-CITY COUNCIL

● Mr. HEFLIN. Mr. President, the National Farm-City Council was formed 25 years ago, with the purpose of bringing about "better understanding between rural and urban segments of society." Over the years the council has expanded its program and widened its purpose to help solve new problems between the country and the city.

The members of the National Farm-City Council are organizations and individuals prominent in the agribusiness complex. Representing nearly 150 organizations, the council members are leaders of agriculture, business, industry, education, communications and youth groups. Although the council maintains no staff or home office, it has enjoyed the service of Kiwanis International as "coordinating agency". Kiwanis furnishes a headquarters address, support for volunteer operating committees, a periodic newsletter and as one of the participating organizations in the council, it encourages the full cooperation of local clubs. There are State committees in nearly all of the 50 States. The State of Alabama, for instance, has been a strong supporter of the council's program from the very start.

The National Farm-City Council had its inception under the leadership of members of the Foundation for American Agriculture plus other leaders in the agribusiness complex. The Farm-City Committee in Alabama was organized in 1955 by the commodities director of the Alabama Farm Bureau Federation. The State farm bureau has continued to house the committee and provide staff time since that time.

County and local committees in Alabama are typical of the manner in which the activities are supported not only in the United States but also in many other countries of the free world.

Alabama's committee encourages year-round activities in the 67 counties, all aimed at achieving the goal of better rural-urban understanding.

The annual focal point of farm-city activities is the National Farm-City Week, which is always the 7 days immediately prior to and including Thanksgiving Day.

For the past 5 years, the committee has kicked off the State's farm-city observance with an Agricultural Appreciation Day. This statewide event honors leading farmers in 11 commodities and supports the great interdependence between agriculture and other segments of our economic system. Since the farmer and the businessman must work together, the participants also honor an outstanding businessman in Alabama for his achievements in the free enterprise system.

As many as 3,000 farmers, agribusinessmen, legislators, and business leaders attend Agricultural Appreciation Day, which features a special aspect of the farm and city relationship each year. This year, the event features the Alabama State docks in Mobile from which State products are transported to all parts of the globe.

With active farm-city committees in every Alabama county, farm-city activities reach more than 5 million people. Many of these county committees have been recognized for their achievements by the National Farm-City Council.

Let me take this opportunity to commend the National Farm-City Council, and especially the Alabama Farm-City Committee, for their activities and wish them continued success in their endeavors to show that the farm and the city are truly partners in economic progress.●

EQUAL EMPLOYMENT FOR THE HANDICAPPED

● Mr. CULVER. Mr. President, I urge my colleagues to support the Equal Employment Opportunity for the Handicapped Act of 1979 now awaiting Senate action. This legislation closes a costly and intolerable gap in our existing law. By amending title VII of the Civil Rights Act to include persons with handicapped conditions, we will firmly establish the rights of disabled workers to be treated fairly in the labor setting. That extension, Mr. President, should be approved for several reasons.

Handicapped persons have long been excluded from employment on the myths that their attendance, job stability, and performance records are lower than those of other workers; that their hiring will lead to higher insurance rates; and that the expense of needed physical accommodations will be excessive. Such fears have contributed to the needles unemployment and underemployment of millions of skilled, competent individuals whose disabilities in no way impede their ability to work.

On the contrary, experience has shown that the handicapped perform as well as or better than their fellow workers. Their employment has a minimal impact, if any, on insurance rates. And studies document that reasonable alterations in work sites, equipment, and job assignments to accommodate disabled workers do not impose significant hardships on the employer's business. Nonetheless, unwarranted attitudinal barriers to employment of the handicapped remain. This legislation would make those barriers unlawful.

Second, the Equal Employment Opportunity for the Handicapped Act will substantially reduce the costs imposed by continued discrimination against disabled workers. According to the committee report on this bill, the Federal Government will spend an estimated $40 billion to support this Nation's handicapped population in 1980. State, local, and private support will add approximately $60 billion to that sum. By expending the job opportunities for handicapped employees, we not only reduce this country's welfare burdens—we add to its economic wealth and productivity by enabling disabled individuals to become fully contributing citizens.

Finally, Mr. President by insuring that workers can no longer be discriminated against because of handicapping conditions, this legislation enhances the quality of life for all Americans. Like many, I am concerned that handicapped men and women have the chance to become an integrated—not segregated—part of society. When we allow ability to replace disability as the key to social, educational, vocational, and recreational opportunities, we grow as a people and a Nation. As a cosponsor of this legislation, I urge my colleagues to support passage of the Equal Employment Opportunity for Handicapped Individuals Act.●

WHY TAXFLATION DISTORTS FISCAL POLICY

● Mr. DOLE. Mr. President, many analyses of the Federal budget, such as those made by the Congressional Budget Office, employ the concept of a full employment surplus to gage how restrictive fiscal policy is. The full employment surplus is supposed to show how large a budget surplus would be generated by existing policies if the economy were growing at 3 percent each year. That is how fast the forecasters believe the economy can grow in real terms. The CBO sees a growing full employment surplus as indicating a tight fiscal policy. The theory is that any deficit run when there is some slack in the economy is not inflationary. Unless there would be a deficit at full employment, according to the analysis, there is still room for a more expansionary fiscal policy.

Lately the full employment surplus has been rising, which CBO interprets as the result of tight fiscal policy. Given the fact that we have been running deficits in a period of recovery, and are suffering record-high inflation, there seems to be a contradiction here. We should at least have learned from the stagflation of the 1970's that deficits often cause merely inflationary growth, not growth in real terms. But the contradiction becomes clearer when we look at the reasons why the full employment surplus is growing.

The fundamental reason is taxflation, or the bracket creep, that taxpayers experience when their income keeps pace with inflation. Because of our progressive income tax structure, taxes always rise faster than income. When income gains are the result of inflation—and therefore illusory—the effective tax rate on real income rises even more sharply. This rise in tax rates means a revenue windfall to the Federal Government. It is this windfall in tax revenues that accounts for the growth of the full employment surplus. In other words, it is the effect of rampant inflation on tax revenues that allows some analysts to regard fiscal policy as tight. Taken to its logical—or illogical—extreme, this approach would mean that the higher inflation is, the tighter fiscal policy is—assuming the Government does not radically increase Federal spending.

Mr. President, this is an absurd result, and it is another example of how taxflation distorts our economic judgments. With the revenue windfall from taxflation, the Government would need to cut spending or pass a tax increase in order to demonstrate its commitment to fiscal restraint.

Congress deserves no credit for cutting the deficit by allowing the imposition of a hidden tax. We must set our priorities openly and honestly, both in tax policy and in spending philosophy. We must realize that where we cut taxes, and where we spend, can make all the difference between a stagnant economy and a growing one. We can no longer rely on the outmoded assumption that every form of spending merely takes up some of the slack in the economy. Our experience dramatically proves otherwise.

To begin to understand where we are and where we ought to go, we must end taxflation. The Tax Equalization Act, S. 12, would do that by adjusting the income tax according to the annual rise in the Consumer Price Index. Tax rates will correspond to real income, and taxpayers will know what to expect at tax time. There is no other equitable way of ending taxflation, and taxflation must be stopped if we are to move toward a responsible and clearly understandable fiscal policy. We need to look at the size of government as well as the size of the deficit. The Tax Equalization Act would help do that, and I urge my colleagues to consider that fact.●

CONGRESSIONAL LEADERS FROM THE GREAT PLAINS

● Mr. YOUNG. Mr. President, the Northern Great Plains, and I have particular reference to North and South Dakota, have produced some outstanding Members of Congress.

Mr. Philip A. Grant, Jr., associate professor of history at Pace University, prepared an excellent article on some outstanding Members of Congress from North and South Dakota. I ask to print in the RECORD as a part of my remarks, the following article by Mr. Grant which appeared in the recent issue of the North Dakota State Historical Society publication.

The article follows:

CONGRESSIONAL LEADERS FROM THE GREAT PLAINS—1921–1933

(By Philip A. Grant, Jr.)

On April 11, 1921 the 67th Congress was called to order. Between the opening ceremonies on this day and the formal adjournment for the First Session of the 72nd Congress on July 16, 1932, the nation was destined to experience one of the most exciting periods in its entire history. Roughly coinciding with the Administrations of Warren G. Harding, Calvin Coolidge, and Herbert C. Hoover, these 11 years were extremely eventful ones for the United States Senate and House of Representatives. Among the principal domestic issues considered by Congress were farm relief, flood control, veteran's pensions, prohibition enforcement, and unemployment. Also, Congress would be preoccupied with such vexing international questions as foreign trade, World War I debt payments, and participation in the Permanent Court of International Justice (World Court).

During the 1921–1932 period several gentlemen from the northern Great Plains were serving in the House and Senate. These individuals, like their colleagues from other regions throughout the nation, would have

the responsibility of approving or rejecting the bills and resolutions pending before their respective bodies. Most of these congressmen chaired standing committees and were identified with significant legislation.

Among the congressmen from the northern Great Plains were Representatives James A. Sinclair and Thomas Hall of North Dakota and William Williamson of South Dakota. Sinclair, Hall, and Williamson were destined to spend an aggregate total of 65 years in state and national government.

Having served his political apprenticeship in the North Dakota Legislature, Sinclair represented one of the nation's most spacious congressional districts. Assigned to the Committee on Flood Control, he became a specialist on the problems plaguing the waterways of the Mississippi and Missouri Valleys. In 1927 and 1928 Sinclair was one of the congressmen most instrumental in the passage of the Mississippi River Flood Control Act, a landmark statute designed to affirm the commitment of the federal government in preventing and controlling natural disasters in a strategically located region of the United States.

Prior to being elected to Congress, Hall had completed ten years as North Dakota's Secretary of State. Inasmuch as Hall was the spokesman for one of the country's most thoroughly agrarian constituencies, it was quite appropriate that he secured membership on the Committee on Agriculture. Although a Republican, he felt that the Coolidge Administration was generally insensitive to the needs of the American farmer. Accordingly, he staunchly supported the controversial Farm Relief (McNary-Haugen) Bills of 1927 and 1928, both of which were vetoed by the President. In 1929, shortly after the inauguration of President Hoover, Hall played a prominent role in the deliberations culminating in the Agricultural Marketing Act.

A former State's Attorney and Circuit Judge in South Dakota, Williamson was Chairman of the Committee on Expenditures in the Executive Departments, 1927–1931. Vitally concerned with the question of government reorganization, he believed that Congress should constantly be exploring possibilities for improving the operations of the various departments and bureaus. Williamson's foremost legislative contribution was the 1930 law consolidating the numerous agencies having jurisdiction over veteran's affairs, while his most severe disappointment occurred in 1932 when he failed to persuade his colleagues of the urgency of streamlining the structure of the government and drastically reducing its personnel.

Three other accomplished political figures from the northern Great Plains were also serving in Congress during the Harding-Coolidge-Hoover era. They were Representative Charles A. Christopherson of South Dakota and Senators Gerald P. Nye and Lynn J. Frazier of North Dakota.

Christopherson was a former Speaker of the South Dakota House of Representatives. An attorney by profession, he became the ranking Republican on the Committee on the Judiciary. Primarily interested in bankruptcy and law enforcement questions, he was to wield substantial influence over the enactment of two well-known statutes, the Federal Bankruptcy Act of 1926 and the Prohibition Enforcement Act of 1929. Moreover, Christopherson was deeply involved in the committee hearings and floor debates over the Federal Anti-Injunction (Norris-LaGuardia) Act, a measure which sharply limited the powers of the judiciary in labor-management disputes.

Nye had never held public office prior to being sworn in to his first of four terms in the Senate in 1925. He was Chairman of the Committee on Public Lands and Surveys, 1927–1933, and the Special Committee to Investigate Campaign Expenditures, 1930–1932. While presiding over the Public Lands and Surveys Committee, Nye was to conclude the longstanding and complex probe of the infamous Teapot Dome Scandal. As chairman of the special committee, he compiled voluminous evidence of campaign irregularities in highly publicized senatorial elections in Nebraska and Pennsylvania. Nye became so appalled by the documentation of widespread campaign abuses in the 1930 congressional contest that in late 1931 he introduced a bill to impose stringent restrictions on federal election expenditures. Fiercely independent in his political orientation, the North Dakota senator was to oppose nearly all the domestic and foreign policies of the Hoover Administration. Furthermore, he was distinctly critical of many of the President's appointments to high judicial posts and regulatory boards and commissions, voting against the confirmation of six of Hoover's principal nominees.

Having spent three terms as Governor of North Dakota, Frazier was to take his oath as a member of the Senate in 1923. Frazier was Chairman of the Committee on Indian Affairs between 1927 and 1933. Acknowledged as a leader of the bipartisan farm bloc that emerged in the early 1920's, he consistently supported legislation to improve the welfare of American agriculture. Also a strong advocate of public power, Frazier voted to override presidential vetoes of Muscle Shoals Bills in 1928 and 1931. After the outbreak of the Great Depression in the autumn of 1929, Frazier attracted nationwide attention by his outspoken efforts in behalf of bills to relieve agricultural indebtedness and assist unemployed or impoverished World War I veterans.

The two most illustrious public servants from the Northern Great Plains during the 1921–1932 period were Senators Porter J. McCumber of North Dakota and Peter Norbeck of South Dakota. McCumber and Norbeck enjoyed remarkable success in their respective political careers and certainly rank among the most influential national leaders ever produced by the States of North and South Dakota.

McCumber was first elected to the Senate in 1899. At the time of his retirement in March, 1923, he was outranked in seniority by only three of his 95 colleagues in the Senate and had established a record among North Dakotans for longevity in Congress. McCumber was Chairman of the Committee on Pensions, 1903–1913 and 1919–1922. In January, 1922, he relinquished the chairmanship of the Pensions panel to become Chairman of the prestigious Committee on Finance. In the latter capacity McCumber was largely responsible for three of the priority legislative measures of the decade subsequent to the World War I armistice, the Tariff (Fordney-McCumber) Act of 1922, the Foreign Debt Commission Act, and the Adjusted Serviceman's Compensation Bill. The Tariff Act, approved after prolonged and acrimonious debates in the House and Senate, revived the practice of imposing protective duties on foreign imports. The Foreign Debt Commission Act was designed to facilitate preliminary negotiations with European nations on formulas under which the substantial financial obligations contracted throughout World War I would be honored. Vetoed by President Harding, the Adjusted Serviceman's Compensation Bill provided for a 20 year endowment policy for Americans who had served in the armed forces during the wartime emergency.

A former Lieutenant-Governor and Governor of South Dakota, Norbeck was Chairman of the Committee on Pensions, 1925–1927, and the Committee on Banking and Currency, 1927–1933. Gravely concerned over the magnitude of the Great Depression, he played a pivotal role in the deliberations evolving around two measures to alleviate the suffering permeating the nation, the Home Loan Bank Act and the Unemployment Relief (Garner-Wagner) Bill.

Norbeck was firmly convinced that the failure of the federal government to insist upon strict regulation of stock exchanges had been a major factor precipitating the Depression, and in 1932 he presided over a lengthy inquiry on the alleged deficiencies of prevailing stock market practices. Also a senior member of the Committee on Agriculture and Forestry, the South Dakotan in 1932 authored a comprehensive bill to provide for a program to mitigate the excesses of the escalating farm crisis. Despite the fact that the Democratic presidential candidate, Franklin D. Roosevelt, scored an overwhelming victory in South Dakota in 1932, Norbeck in the same year was handily re-elected to his third term in the Senate.

In addition to the obvious talents and abilities of the aforementioned congressmen, three major factors accounted for their collective influence between April, 1921, and July, 1932. These factors were as follows: (1) Affiliation with the dominant political party; (2) Accumulation of seniority; and (3) Possession of desirable committee assignments.

From 1921 to 1931 the Republican Party controlled both the House of Representatives and the United States Senate. Each of the gentlemen cited above was a Republican. Indeed, the states of North and South Dakota had seldom elected Democrats to any major office. Since the Republicans determined the success or failure of all meaningful legislation from 1921 to 1931, it was certainly understandable why these congressmen from the northern Great Plains enjoyed somewhat of a political advantage.

Throughout the 12 years between 1920 and 1932 the citizens of North and South Dakota maintained a tradition of re-electing incumbents to the House and Senate. By the adjournment of the First Session of the 72nd Congress the eight gentlemen previously cited had compiled 97 years of uninterrupted congressional service. The accumulation of such considerable seniority in large measure explained why these congressmen were so influential. Thus, unlike those states having a high proportion of junior members within the ranks of their delegations, the stature of North and South Dakota was roughly commensurate with the aggregate seniority of their congressmen.

Most significantly congressmen from North and South Dakota were conspicuous by their presence on several key committees. Among these panels were the Senate Committees on Finance, Banking and Currency, and Agriculture and Forestry and the House Committees on the Judiciary, Agriculture, and Flood Control. Between 1921 and 1932 these six committees were responsible for initiating a sizeable portion of the principal bills and resolutions considered by the two Houses. Even under normal conditions each of these committees would have been quite important. Their importance, however, was accentuated by the pressing need for legislation to remedy such problems as the farm crisis of the 1920s and the suffering caused during the early stages of the Great Depression.

The eight aforementioned members of the House of Representatives and United States Senate were chosen by the citizens of the northern Great Plains to serve in Congress during one of the most legendary periods in the country's history. Between April 11, 1921, and July 16, 1932, each of these gentlemen compiled records of genuine accomplishment. Although the States of North and South Dakota accounted for only one percent of the nation's total population, their congressmen exerted profound and disproportionate influence on Capitol Hill.●

THE SALT TREATY

● Mr. MCGOVERN. Mr. President, I have decided after months of careful thought that on balance, the SALT treaty holds out more hope for the United States and the world than would rejection of the treaty.

The best description of the treaty has been provided by Gen. David Jones, testifying for the Joint Chiefs of Staff, when he described it as "a modest but useful step."

The treaty is disappointing in that it permits both Russia and the United States to further escalate the arms race after each is already capable of destroying the other several times over. In this sense the treaty ratifies a balance of nuclear terror with the potential of bankrupting national treasuries if not destroying civilization.

I vote for the treaty—not because of its intrinsic merit—but because it is part of a negotiating process between the two great military powers that holds out the hope of genuine arms reduction in the years immediately ahead. The Senate Foreign Relations Committee has now adopted unanimously a declaration of policy which I was privileged to sponsor which says in effect to the negotiators of the SALT III treaty: "Don't bring us another treaty unless it pledges significant and substantial reductions of arms on both sides." The purpose of that declaration is to begin with the high, but supposedly equivalent, limits set by SALT II and then as quickly as possible to scale down those limits mutually and annually. I would expect the reductions to be at least 30 percent below the SALT II levels in all strategic categories and subcategories. Those reductions should average at least 5 percent during each year that SALT II is operative.

With the unanimous approval of this declaration by my colleagues on the Foreign Relations Committee whom I hold in high esteem, and with the assumption that the full Senate will accept this declaration of policy for SALT III, it is now my intention to vote for the SALT II treaty and to begin today to work for its passage and the implementation of a genuine arms reduction policy in the future.

May I add one note: I would hope that our European friends would not, as some have suggested, rush ahead with new theater nuclear weapons. To do so could foreclose the possibility of mutual arms reductions in Europe. Soviet officials have recently taken initiatives to reduce troop and tank deployments in Eastern Europe. They have talked of possible reductions in intermediate-range missiles. Those initiatives should be carefully weighed and responded to at the diplomatic table—not ignored by a mindless plunge into new theater weapons that are potentially destabilizing and counterproductive.

For our European allies as for the United States and the Soviet Union, there is no reasonable alternative to détente. Either we must all work to reverse the arms race and learn to live together or we will die together.

These are the considerations that have led me to enlist in the effort to ratify the SALT II treaty. I congratulate President Carter, Secretary Vance, Secretary Brown, General Jones, Ambassadors Warnke and Earle, Mr. Cutler, and their predecessors in the Ford and Nixon administrations for their diligent work and incredible patience in keeping alive the hope that the world may yet be rescued from nuclear catastrophe.●

MARYLAND'S INTERNATIONAL HORSERACE

● Mr. MATHIAS. Mr. President, the 28th annual running of the Washington, D.C., International will take place tomorrow at the Laurel Race Course in Laurel, Md. The International brings together champion thoroughbreds from all over the globe, and bestows the coveted "horse of the world" honors. Just as the United States crowns its best 3-year-old thoroughbreds with the Triple Crown, so the world at large crowns its best horse through the International Crown. The international competition begins with the King George IV and Queen Elizabeth Stakes at Ascot, England; continues with the Prix de l'Arc de Triomphe at Longchamp, France; and concludes with the final jewel, the International at Laurel.

The race has carried the name of Maryland all over the world, and we Marylanders are proud to host this prestigious classic. Our State is rightly said to be the birthplace of all horseracing in the United States, since the first thoroughbred on this continent was owned by a colonial Governor of Maryland. Selima was brought to his Prince George's County plantation in the middle of the 18th century, and ever since then, horseracing has been a conspicuous part of the Maryland tradition. As in the past, I am pleased to recommend the race to Senators as first-rate recreation and entertainment on an autumn afternoon in the midst of our busy agenda on Capitol Hill. I trust that we will have resolved all pending urgent national problems by post time so that we can attend with a clear conscience.

With the prospect of a great afternoon ahead of us, I think it might be appropriate to call attention to a small dark cloud on the horizon—the possibility of Federal legislation on the problem of horse drugging. A shadow has recently fallen on the racetracks in connection with the use of medical drugs on racing thoroughbreds. This practice has become widespread before races, in order to numb or abate any injury, soreness, pain, depression, or other physical or psychological handicap that might hamper the animal's performance. Such drug treatment is deeply inhumane to the horses, and, in addition, is unfair to the bettors, since the track records are worthless without accompanying drug records. It has been tolerated and condoned by most States because of some shortsighted and overconfident recommendations by trainers and veterinarians. Their evaluations were soon undercut by a series of racetrack accidents involving horse collapses that were traced partly or wholly to the prerace use of painkillers, respiration aids, and other medication. There were cases where horses in no reasonable condition to run were brought to the starting line after artificial numbing and priming, only to break down in the middle of the race—to the hazard of other horses and the jockeys. One such incident resulted in the death of a jockey in Maryland last year.

As the accidents mount, the threat of Federal regulatory intervention looms large. The Humane Society of the United States has drafted a bill that would impose a total nationwide ban on medications for 72 hours preceding a race, and that bill now sits quietly on a back burner in the U.S. Congress. I have long thought that the Federal Government should be the regulator of last resort, and it should intervene only if the States and the horsemen fail to act on their own. That being the case, I am heartened by the fact that, in the face of the threat of Federal legislation, the racing officials in Pennsylvania, West Virginia, and Delaware have talked about establishing a uniform antidrug standard. New York and New Jersey have already enacted a prohibition. With this kind of positive reaction, the need for Federal intervention might be superseded by responsible reform measures initiated from within the State horse-racing organizations. I note with particular satisfaction that the Maryland Racing Commission will soon be joining this movement to prohibit all use of medications on horses scheduled to race, and to keep horses that need medication out of races.

As the birthplace of American horseracing, Maryland belongs in the ranks of States determined to end horse drugging a practice that threatens the integrity and reputation of this gentle, time-honored pastime. I hope that all Senators from horseracing States will urge their State racing commissions to do the same. Let us move now to preserve the clean, sportsmanlike qualities that make horseracing the sport of kings and the king of sports. The last thing the horsemen of this country need is the muzzle of the Federal Government in their stable.●

SENATE RESOLUTION 279—DIRECTING SENATE LEGAL COUNSEL TO REPRESENT CERTAIN SENATE EMPLOYEES

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 279) directing Senate legal counsel to represent certain Senate employees and authorizing them to testify and produce documents with respect to certain matters.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, what is the unanimous-consent request?

Mr. ROBERT C. BYRD. For the immediate consideration of the resolution, and I will be glad to explain what the

resolution is if the Senator will reserve the right to object.

Mr. HARRY F. BYRD, JR. Mr. President, I reserve the right to object.

Mr. ROBERT C. BYRD. Mr. President, two employees of the Senate, Mr. Richard Wegman and Mr. John Childers, respectively chief counsel and former minority staff director of the Committee on Governmental Affairs, have been subpenaed by counsel for the defendants in United States against Lance, et al., a criminal indictment in the District Court for the Northern District of Georgia. The subpena calls for their appearance to testify and produce documents of the committee. Defendant's counsel have indicated, however, that an affidavit by Mr. Wegman may be sufficient in lieu of appearances by these employees.

The Ethics in Government Act of 1978, Public Law 95-521, provides that the Senate may direct the Office of Senate Legal Counsel to represent Senate committees and employees. This resolution authorizes the Senate legal counsel to represent employees of the committee and Mr. Childers in connection with the subpenas. In addition, the resolution, as required by Senate rule XXX, authorizes these employees to testify and produce documents with respect to the matters described in the subpenas issued in the case of United States against Lance.

I move that the Senate approve this resolution.

Mr. HARRY F. BYRD, JR. Mr. President, just one question, and I will not object. This has nothing to do with the suit brought by Senator GOLDWATER?

Mr. ROBERT C. BYRD. Oh, no. My distinguished friend knows that before I would call up any resolution with reference to that matter, I would notify him, Mr. GOLDWATER, Mr. JAVITS, and Mr. CHURCH. I am not accustomed to moving in such ways.

Mr. HARRY F. BYRD, JR. I am certain of that. I thank the Senator from West Virginia.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 279

Whereas, in the case of United States of America v. T. Bertram Lance, et al., (Criminal Indictment No. CR-134-A), pending in the United States District Court for the Northern District of Georgia, subpoenas have been issued by the court and served upon Richard A. Wegman and John Childers, employees of the Senate, directing them to appear and give testimony and produce documents, papers, or records, in connection with defendants' motion to dismiss the indictment.

Whereas, Title VII of the Ethics in Government Act of 1978, Public Law 95-521 ("the Act"), establishes the Office of Senate Legal Counsel and provides that the Senate may direct its Counsel to represent Senate employees;

Whereas, by the privileges of the Senate of the United States no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by the privileges of the Senate of the United States, and by Rule XXX of the Standing Rules of the Senate, no officer or employee of the Senate is authorized to produce any information, documents, papers or records of the Senate but by order of the Senate and information secured by officers or employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate;

Whereas, when it appears that testimony of an officer or employee of the Senate is needful for use in any court for the promotion of justice and, further, that such testimony may involve documents, papers and records under the control of or in the possession of the Senate and communications, conversations, and matters related thereto, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate. Now, therefore be it

Resolved, that pursuant to Section 704 (a)(2) of the Act the Senate Legal Counsel is directed to represent Richard A. Wegman and other employees of the Committee on Governmental Affairs, and John Childers, in respect to subpoenas issued to them in connection with defendants' motion to dismiss the indictment in the case of United States v. Lance, et al., and be it further,

Resolved, that Richard A. Wegman, John Childers, and other employees of the Committee on Governmental Affairs are authorized, in response to subpoenas issued by the District Court for the Northern District of Georgia in connection with defendants' motion to dismiss the indictment in the case of United States v. Lance, et al., to testify concerning matters described in the subpoenas issued to Mr. Wegman and Mr. Childers, and that Richard A. Wegman is authorized to produce documents described in the subpoena issued to him.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Missouri (Mr. EAGLETON), I submit a report of the committee of conference on S. 1037 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police officers, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 2, 1979.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the report was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MIGRATION AND REFUGEE ASSISTANCE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CHURCH, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4955.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 4955) entitled "An Act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia", with the following amendment:

In lieu of the matter proposed by said amendment, insert:

SUPPLEMENTAL MIGRATION AND REFUGEE ASSISTANCE AUTHORIZATION

SECTION 1. Section 102(a)(4) of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I of Public Law 96-60), is amended by striking out "$248,-951,000 for the fiscal year 1980, and $254,-188,000 for the fiscal year 1981" and inserting in lieu thereof "$456,241,000 for the fiscal year 1980, and $457,798,000 for the fiscal year 1981".

CAMBODIAN DISASTER RELIEF ASSISTANCE

SEC. 2. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"SEC. 495H. CAMBODIAN DISASTER RELIEF ASSISTANCE.—(a) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering arising from famine and disease in Cambodia. Accordingly, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief to alleviate the suffering of the victims of famine and disease in Cambodia. Assistance provided under this section shall be for humanitarian purposes and limited to the civilian population, with emphasis on providing food, medicine and medical care, clothing, temporary shelter, transportation for emergency supplies and personnel, and similar assistance to save human lives.

"(b) Assistance provided under this section or any other provision of law to alleviate the human suffering caused by famine and disease in Cambodia shall be provided, to the maximum extent practicable, through international agencies and private voluntary organizations such as (among others) the World Relief Committee, World Medical Missions, Inc., Cama Services, World Vision, Food for the Hungry, Thailand Baptist Mission, Catholic Relief Services, Oxfam, and the International Rescue Committee.

"(c)(1) In providing assistance under this section, the President shall satisfy himself that adequate procedures have been established to ensure that such assistance reaches the innocent victims of famine and disease for whom it is intended. Such procedures shall include end use monitoring of deliveries on a periodic basis by individuals having freedom of movement where the assistance is being distributed within Cambodia.

"(2) Not later than 90 days after the enactment of this section, the President shall report to the Congress on compliance wih this subsection.

"(d)(1) In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section $30,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended.

"(2) Obligations incurred, prior to the enactment of appropriations to carry out this section, against other appropriations or accounts for the purpose of alleviating the human suffering caused by famine and disease in Cambodia may be charged to the appropriations authorized by paragraph (1) of this subsection.

"(3) The President may exercise the authority of section 610(a) of this Act (without regard to the 20 percent limitation contained in that section on increases in accounts) in order to transfer, for use in carrying out this section, up to $30,000,000 of the funds made available for the fiscal year 1980 to carry out other provisions of this Act.

"(4) Priority shall be given in allocating assistance under the Agricultural Trade Development and Assistance Act of 1954 to furnishing agricultural commodities for use in carrying out this section.

"(e) Assistance under this section shall be provided in accordance with the policies and utilizing the general authorities provided in section 491.".

INDOCHINA MIGRATION AND REFUGEE ASSISTANCE PROGRAM

SEC. 3. (a) Section 2(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended by striking out "1979" and inserting in lieu thereof "1981".

(b) The amendment made by subsection (a) shall be effective as of October 1, 1979.

REPORT ON COSTS OF REFUGEE ASSISTANCE PROGRAMS

SEC. 4. Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress—

(1) the estimated total costs to the United States Government, during fiscal year 1980 and fiscal year 1981, of domestic and foreign assistance to refugees under all programs of the United States Government, and

(2) the estimated total costs to State and local governments during such fiscal years for assistance to refugees which is attributable to such programs.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the House amendment to the Senate amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. STEVENS. Mr. President, may I inquire what that motion was? I am sorry.

Mr. ROBERT C. BYRD. I move that the Senate agree to the House amendment to the Senate amendment.

Mr. STEVENS. No objection. I apologize to the majority leader.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL FAMILY WEEK

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from North Dakota (Mr. BURDICK), I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 68.

The PRESIDING OFFICER. The joint resolution will be stated.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 68) to authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the joint resolution be considered as having been read the first and second times, and that the Senate proceed to its consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 68) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—H.R. 4391

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the military construction appropriations bill there be a time agreement as follows: one hour on the bill equally divided between Mr. HUDDLESTON and Mr. STEVENS, 30 minutes on any amendment, 20 minutes on any debatable motion, appeal, or point of order if the Chair submits the point of order to the Senate for debate, and that the agreement be in the usual form as to the division and control of time.

Mr. STEVENS. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 4391 (Order No. 437), an act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

Debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee:

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Kentucky (Mr. Huddleston) and the Senator from Alaska (Mr. Stevens): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER VITIATING THE ORDER TO CONVENE THE SENATE ON SATURDAY, NOVEMBER 10, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the convening of the Senate on tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10:30 A.M. TUESDAY, NOVEMBER 13, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the convening hour on Tuesday be changed from 10 a.m. to 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SCHMITT ON TUESDAY, NOVEMBER 13, 1979, AND RESUMING CONSIDERATION OF H.R. 4391

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, after the two leaders or their designees have been recognized under the standing order, Mr. SCHMITT be recognized for not to exceed 15 minutes, at the conclusion of which the Senate then resume the consideration of the military construction appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

MILITARY CONSTRUCTION APPROPRIATIONS, 1981

Mr. ROBERT C. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER. Regular order is the military construction appropriations.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4391) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged against the bill today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SCHMITT ON FRIDAY, NOVEMBER 16, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on next

Friday, after the two leaders or their designees have been recognized under the standing order, Mr. SCHMITT be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, is that for next Tuesday?

Mr. ROBERT C. BYRD. Mr. President, I had obtained an order for Mr. SCHMITT for next Tuesday and this is an order for Mr. SCHMITT for next Friday.

Mr. HARRY F. BYRD, JR. Mr. President, I should have spoken earlier.

ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., ON TUESDAY, NOVEMBER 13, 1979

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator be inclined to give me 15 minutes on Tuesday, following Mr. SCHMITT?

Mr. ROBERT C. BYRD. Yes. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED ORDER OF BUSINESS

Mr. MATSUNAGA. Mr. President, for the information of the Senators, after the disposition of the military construction appropriations measure, H.R. 4391, it is the intention of the leadership to take up Calendar Order No. 396, S. 1724, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

Mr. STEVENS. Mr. President, I appreciate the statement of the Senator from Hawaii. We understand that is the intention. Because of problems on this side, we have not been able to agree to that, but we do understand there will be the intention to call it up.

We also understand there will be the necessity to consider the budget waiver at that time.

It is my intention to cooperate in every way with the majority leader, consistent with the instructions I have received as the acting minority leader.

Mr. MATSUNAGA. I thank the acting minority leader for his consideration.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS DAY, 1979

Mr. ROBERT C. BYRD. Mr. President, Monday the Senate will not be in session in order to commemorate Veterans Day. Most of us will take this time to visit our home States. Many of us will take some part in Veterans Day ceremonies. This Nation has a historic commitment to honor and care for these who have borne arms during times of war and peace. Veterans Day is one way Americans demonstrate their respect for those men and women who have endured hardship and sacrifice in serving this country so ably.

In the United States today there are more than 29 million men and women who are veterans of duty in the armed services, and more than 26 million of these are veterans of wartime service. Five years ago the Nation ended America's direct involvement in the Vietnam war. Since that time, we have been at peace. More than 2½ million veterans served in Vietnam, and another 6 million served elsewhere during those years.

As this decade draws to a close, we are faced by challenges. These challenges are filled with very real dangers, in both the short and long term. We face powerful adversaries—whether they be military buildup by the Soviet Union or an increasing dependence on oil tankers from the other side of the world. Most basic, we face the ever-present challenge of honoring our commitments—to our own citizens and to citizens of other nations.

We owe a debt to recent veterans which we are just beginning to pay. At the same time our debt to veterans of other eras remains as compelling as ever. We owe a continuing debt to those men and women who have put aside their own lives to serve in the country's armed services.

Mr. President, it is my hope that citizens pause on Veterans Day to honor, to remember and "to care for him who shall have borne the battle."

THE SALT II TREATY

Mr. ROBERT C. BYRD. Mr. President, this morning, the Foreign Relations Committee completed its markup of the SALT II treaty and, by a vote of 9 to 6, voted to report the treaty to the Senate for its consideration.

The committee has completed what is without doubt the most exhaustive examination of a treaty in modern American history: 2 months of hearings and a month-long markup session. Scores of witnesses of all opinions have been heard, and over 30 proposed additions to the resolution of ratification have been considered. The result of the committee's effort is an impressive record that will guide us all in our debate on this most important matter.

It has not always been easy work for the committee. From time to time, events in the world have intruded. There have been a few attempts to slow the committee's work in one fashion or another. But because of the strong leadership and perseverance of the committee chairman, the distinguished Senator from Idaho (Mr. CHURCH) and the ranking minority member, the distinguished Senator from New York (Mr. JAVITS) the committee has succeeded in performing its duties in a manner consonant with the highest tradition of impartiality and scrupulous fairness.

The vote of the committee reflects the fairness with which the committee has proceeded. It is not a party line vote. Senators from both sides of the aisle have felt free throughout to speak their minds and vote their convictions. The result is a vote which is bipartisan and reflects, therefore, the highest traditions of the Senate on foreign policy issues: the principle that "politics stops at the water's edge."

I compliment Mr. CHURCH and I compliment Mr. JAVITS upon the very skillful fashion in which they steered this treaty through very dangerous waters to the stage of reporting it to the Senate.

Mr. President, I trust that the same spirit of bipartisanship will prevail when the Senate turns to debating the treaty.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. STEVENS. Mr. President, I am certain that the minority leader, when he returns on Tuesday, will have a comment concerning this report. I shall not comment on it.

I would like to ask the majority leader, however—I do not expect an answer at this time, but I hope that we shall learn soon how long it will be before we can get the hearings—not the report but the hearings—of the Senate Committee on Foreign Relations. I understand that there are some classified matters that have to be removed, but I do hope that, if possible, before we take it up, we shall have a chance to read the information that will be made public in the hearings.

Mr. ROBERT C. BYRD. The distinguished acting Republican leader makes a request that is reasonable and, in my judgement, very pertinent and appropriate. I share with him that hope and I am confident that the chairman and ranking member of the Foreign Relations Committee will feel likewise. Just as soon as any information in that regard can be made available, I assure the distinguished acting Republican leader that both he and the Republican leader will be so informed.

THE QUESTION OF GERMANENESS

Mr. ROBERT C. BYRD. Mr. President, earlier today, the Senate voted 44 to 40 to table an appeal from the ruling of the Chair. I made the tabling motion because the Chair had ruled correctly. I am glad that the Senate voted to sustain the Chair.

Let me emphasize at the outset that the 44-to-40 vote was not—n-o-t, "not"—a vote on the merits of the amendment of the Senator from Colorado (Mr. ARMSTRONG). His amendment, as I understand it, would have lifted the pay cap on certain military personnel.

Lest there be any misunderstanding about this vote, I believe that I can correctly say that many Senators voted to sustain the ruling of the Chair who also agreed with Senator ARMSTRONG's amendment and who even may have cosponsored it.

But that amendment did not belong on that bill—and that is what the 44-to-40 vote was about.

The amendment was offered to an appropriations bill—the Department of Defense appropriations bill. The amendment did not purport to appropriate funds, or to raise or to lower an appropriation already in the bill. Instead, it attempted to put legislative language in the bill; of course, that is conerary to the Senate rule.

I refer to rule XVI, which prohibits legislation on appropriations bills.

This is an important rule—yet it has been abused in recent years.

Authorization bills set the parameters of legislation; they create and define Government programs, and they provide authority for the use of funds which subsequently may be appropriated.

Appropriations bills are money bills; they are not meant to legislate programs. An appropriation bill is not the proper vehicle for legislative language.

Yet, more and more frequently, appropriations bills are used to define legislation. This is against the rule and, generally it is against sound policy.

Occasionally, there may be an emergency situation when legislation would be necessary on an appropriation bill but, for the most part, that is not the case.

During the 94th, 95th, and the 1st session of the 96th Congress, there were nearly 100 rollcall votes in the Senate on legislative riders on appropriations bills.

The main result of this has been chaos—c-h-a-o-s: appropriations bills have been delayed time and time again because they carry legislative riders. It is this practice which has led to payless paydays for many Government workers—including those in the military.

May I say again, payless paydays for many Government workers, including those—I say again, including those—in the military.

Again and again, the deadlines of the Congressional Budget Act have been missed—not because of deadlocks or delays over dollar figures—but because of deadlocks and delays over legislature language.

It costs the Government money. That means it costs you money, Mr. President; it costs me money, Mr. President, it costs the taxpayers money when appropriations deadlines are missed. Contracts are canceled, workers are sometimes laid off when a new fiscal year begins without enactment of appropriations bills. Then, when the deadlock has finally been resolved and the appropriation is enacted, the agency or program must gear up again. This is inefficient, this is wasteful.

What the Chair ruled, in the case of the Armstrong amendment, was entirely proper and—in my view—the only correct interpretation of rule XVI as applied to that amendment.

The House bill—and this is important—did not contain any language whatsoever on this matter. Thus the Senate precedent—that once the House opens up the door by legislating on an appropriation bill, the Senate may then properly amend the same language germanely—was not applicable here.

There was no House language in the bill to which the Armstrong amendment would be germane. Thus, to raise the question of germaneness was really a fiction. There was nothing for the Armstrong amendment to be germane to.

Mr. President, I do not recall—I may have done so in my 22 years here, but I do not recall ever having voted, certainly since I have been in the leadership, to call an amendment germane when it, indeed, was not germane. No matter how strongly I support the substantive issue, I always walk up to that desk and say to the Parliamentarian, "Is this amendment really germane?" If the Parliamentarian says "No, it is not germane, there is no House language for it to be germane to," I vote "no" on the question of germaneness.

That was the situation here today. There was no House language for the Armstrong amendment to be germane to.

The problem is that, so often, when the question of germaneness is raised, Members walk into the Chamber and they vote "yea" on the question of germaneness because they feel they are voting on the substantive issue. They vote "yea" on the question of germaneness. Thus, the Senate often votes an amendment to be germane when obviously, it is not germane because there is no House language in the bill for the amedment to be germane to. It is a pure fiction. It is a farce.

That was precisely the situation today, when the point of order was raised by Mr. STENNIS, the distinguished chairman of the Subcommittee on Defense Appropriations, that the amendment by Mr. ARMSTRONG was legislation on an appropriation bill. Mr. ARMSTRONG then raised the question of germaneness, which Senators have done from time to time, and he was certainly within his rights to do that. I thought it was about time for the Senate to face up to this issue in a straightforward and direct way.

So I made the point of order that, when there is no House language for a Senate amendment to be germane to, the Chair has the duty not to submit the question of germaneness to the Senate, but, rather, to rule in support of a point of order that such an amendment does, indeed, constitute legislation on an appropriation bill, and that there is no House language in the bill for such amendment to be germane to and, consequently, that such amendment is not germane.

The Chair so ruled and the Senate sustained the ruling of the Chair. So, as for the amendment, however meritorious it might have been, it simply did not belong on this bill.

The vote on my motion to table the appeal from the ruling of the Chair—that the Armstrong amendment was not germane—was consistent with rule XVI.

It was not a vote on the Armstrong amendment itself, but it was a vote in support of orderly procedure in the Senate. I hope that that vote will provide a way to avoid in the future the growing inclination to attach riders to appropriations bills that constitute legislation thereon and which are, obviously, not germane to any House language in the bill. Of course, when the House has opened the door with legislation on an appropriations bill, this precedent would not govern.

Mr. STEVENS. Mr. President, the evening is late. I certainly would not wish to debate the matter with my good friend.

I will say the converse of what the majority leader said is also true. There are Members who voted against the tabling of the motion to appeal the point of order who might not have supported the amendment, and also those who will welcome the establishment of the precedent who, because of the circumstances, did not believe that a motion to table under these circumstances was appropriate.

I know my friend realizes the feeling that some of us have about tabling appeals from rulings of the Chair, but I will say that, for myself, I do agree that the precedent established is a valuable one for the Appropriations Committee's work and the consideration of that work on the floor of the Senate.

It is, I believe, a narrow exception and one that will have to be reviewed with, I think, firmness but fairness as we proceed, because it is a new precedent for the Senate. It could be that there may well be a disagreement as to whether the precedent should be limited to the circumstances where there is no language of the House if in fact there is a funding by the House of an item which might be subject to appropriate legislation under the previous precedents dealing with the rule of germaneness.

But I do not think it is time now to debate that, the scope of this precedent.

It is a valuable precedent. I regret it was before the Senate in a manner that I felt compelled to vote against a motion to table because of my duties as the acting leader, because I do think, as I said, it is a valuable precedent and one we must all study carefully to determine in the days ahead what the scope of it will be as we try to make the management of the appropriations bills on the floor more meaningful and to expedite the work of the Appropriations Committee here on the floor of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader.

I can only say I understand his position and the reasons for his voting against tabling the appeal.

I agree that on the appeal itself, if I had not moved to table, the vote on the appeal itself would have sustained the Chair even more strongly than the vote on my motion to table indicated.

The reason I moved to table, however, was simply that that motion brought the matter to a head fast. There was no further debate, and time was of the essence this afternoon.

I find nothing in what the able acting Republican leader has said that I can quarrel with.

Mr. MATSUNAGA. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. MATSUNAGA. Mr. President, I wish to congratulate the Senator from West Virginia for having brought about a much-needed precedent by his aggressive action today. History will show that the Senate, by supporting the majority leader in this procedural matter, eliminated a most troublesome and time-wasting process too frequently employed in the past.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Hawaii, Mr. MATSUNAGA.

I appreciate his position.

There were others who, as he, were, likewise, cosponsors of the amendment, however, who voted to uphold the ruling of the Chair.

I think there must be an orderly procedure in the Senate. We do not have the rules of the House and we have to depend upon fewer rules than does the House, and we have to depend largely on precedents. Sometimes the Senate overturns precedents and makes new precedents.

But I hold the Chair's rulings pretty much in considerable reverence. Once in a while I think the Chair rules wrongly and I challenge it. Sometimes the Chair is overruled. Sometimes the Chair is not.

But it is the Senate, after all, that makes that decision.

When I first came to this body, Senator Richard B. Russell was regarded as the Senator who knew more about the rules and precedents than did any other Senator. I was very impressed by Senator Russell, by his calm judgment and his careful approach to matters, his evenhandedness, and his fairness.

I hesitate to say his was a "mastery" of the rules because I do not think anybody has ever mastered the rules and precedents. Even the Parliamentarians are not masters of the rules and precedents. They, too, have to research them from time to time to find the answer to a question.

But Senator Russell, so far as Senators go, was one, I think, to whom everyone looked as being a Senator who knew a great deal about the rules and precedents and who always tried to apply them fairly and evenhandedly.

He suggested to me once, that I as a new Member then, should always try as much as I could to sustain a ruling of the Chair. The Senate can throw out the book of precedents if we are not careful; and the precedents, really, in some ways, are more important than the rules.

Why do I say that? Because the rules do not flesh out themselves. It is the precedents that flesh out the rules.

One can study the rules and memorise the rules, but it is the book of precedents, which is a couple of inches thick, that I found Senator Russell studying from time to time.

I said, "How do you go about learning so much about these rules?"

He said, "Well, it's not only the rules; it's also the precedents."

I had never seen that book of precedents until he called my attention to it.

He said, "That's what you need to learn. That's what you need to study."

So I listened to Senator Russell; and I have tried, on the whole, to follow his advice and sustain the rulings of the Chair, regardless of the subject matter.

I am sure that Senator Russell once in a while sought to overturn the rulings of the Chair, and probably with success.

At times, the precedents do not fit present-day conditions. So precedents sometimes have to be changed to fit present-day conditions. New precedents must also be established from time to time.

So I say to my friend from Hawaii that I very seldom turn against the Chair, but I have done it a very few times. But it is the Senate that makes the decision; and the Senate, I think, made the right decision today.

A HOLIDAY WISH BY THE MAJORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their patience. I think this has been a good week. The energy bill was passed. It was not supposed to pass this week. It was supposed to take longer than a week. The Senate did itself proud.

Senators have worked hard, and I hope they have a good holiday weekend.

I suppose that some of the Senators in the Chamber now are wondering when that weekend is going to begin and when the Senator from West Virginia is going to sit down.

I wish my very close friend, the acting Republican leader, well for the weekend. I wish my friend from Hawaii, the chief deputy majority whip, well for the weekend.

I wish a good weekend to the Senator who now sits in the Chair and presides with a degree of dignity and efficiency and skill that is "so rare as a day in June." Senator BOREN is a former Governor of Oklahoma.

I wish a good Veterans Day holiday to all the wonderful people who help us: Bill Hildenbrand; Joe Stewart; Mary Jane Checchi, who is the chief counsel and staff director of the Democratic policy committee; all the pages; the representatives of the press, the fourth estate—we do not see many of them up there tonight; the Secretary of the Senate and the Sergeant at Arms and their assistants; the doorkeepers; the official reporters; the people who work so well in the cloakrooms; and the Senate Chaplain.

I hope that when we return on Tuesday, we will be ready for hard work, long days as we fulfill our duties to the Nation.

I yield the floor.

RECESS UNTIL 10:30 A.M. TUESDAY, NOVEMBER 13, 1979

Mr. MATSUNAGA. Mr. President, if there be no further business, I move, in accordance with the previous order, that the Senate stand in recess until 10:30 a.m. on Tuesday next.

The motion was agreed to; and at 7:44 p.m., the Senate recessed until Tuesday, November 13, 1979, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 9, 1979:

DEPARTMENT OF STATE

Donald R. Toussaint, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Socialist Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

EXTENSIONS OF REMARKS

MAMIE DOUD EISENHOWER

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. MURPHY of Illinois. Mr. Speaker, the passing of our former First Lady, Mrs. Mamie Doud Eisenhower, is a great loss to America. She will long be remembered as a gracious, soft-spoken woman who brought grace and warmth to the White House. She was, as columnist Nick Thimmesch has noted, President Eisenhower's "quiet strength." Considering the difficulties of the Presidency, Mamie's love and support of Ike was an invaluable contribution, not only to him but to the Nation as well. Mr. Speaker, I would like to insert at this point in the RECORD Mr. Thimmesch's warm tribute to Mamie Eisenhower.

I REMEMBER MAMIE

(By Nick Thimmesch)

Mamie Eisenhower was worth listening to. The trouble was that, when Ike was alive, she was careful not to talk publicly too often and, after he died, few of us tried to find out what she had to say. Her health was often frail, but she had strong will and had thought life through.

I spent a day with her in the Bicentennial summer when she made a rare public appearance by riding on the Freedom Train from Gettysburg to York, Pa. I had never met her, and my recollections were that she was Ike's smiling, attractive partner, bland of remark, the proper Republican woman. I was to learn something.

The Freedom Train crawled across the countryside, so Mamie had time to see the clusters of people in fields and in small towns. They waved and their mouths formed the word "Mamie," causing her to beam.

"It makes your heart warm," she said. I am fortunate, because most widows are forgotten."

Ike was her life, and everybody asked about their years together. "When people remark how close I was to him, well of course we were close," she said. "But you never really know a person; you only understand them. Nobody knows anybody else's inner thoughts."

She saw Ike as the head of the house, as the man who deserved to come home to her and dinner and a pleasant evening with no heavy discussion of the military or the presidency or politics. She had a keen sense of divided responsibilities; his was work and hers was home and hearth.

When he asked, "What should I do about this situation?" she usually turned the question away. And if he ventured toward her territory, he was in trouble. When Ike sent a memo to a White House staffer about menus, Mamie countermanded the order.

She believed in the old values. For instance, children should be given leeway to find themselves, but not before age 20. "There is too much leniency with children today," she said firmly, "and too much freedom in their dress, especially in church." She was glad that her son John phoned her every week, but she wasn't sure that most mothers got such calls. And she wondered about the feminists. "I don't know about this Ms. business," Mamie told me. "God made you to have children. I feel sorry for people who don't."

She didn't like the way the country was going, either. "We emphasize money too much," she said. "There is no aristocracy in America, only people who are money crazy. We've lost the art of doing a good job. There's no competition these days. Clerks don't want to wait on you.

"I was taught to pay for everything," she said. Nowadays people think about what they can get out of paying for. I was taught to save money and then spend it. I'm still wearing the same clothes I had when we were in the White House. I took care of them."

Though she defended the old-fashioned way, Mamie said she wouldn't give advice to the new generation. "What worked for Ike and me might not work today," she said.

Mamie never claimed she was Ike's quiet strength, but his friends knew she was. Her speech was Midwest-accented, and she seemed to epitomize sweet domesticity. But Mamie came from a sophisticated wealthy family and knew the way of the world. Farmer boy Eisenhower did not.

"It would have been Colonel Dwight David Eisenhower if it weren't for Mamie," Kevin McCann, Eisenhower's speechwriter, once told me. "In their early years, Mamie was a broadening influence."

In her declining years, she was increasingly alone. Sgt. John and Dolores Moaney, the black couple who worked for Ike and Mamie for many years, retired. She tried to cook her own meals and wound up mostly with TV dinners. She saw fewer visitors. Friends persuaded her to take an apartment in Washington, but she only spent a few weeks in it each winter. Out of respect for Ike, she felt a duty to stay at the farm.

"I miss him terribly," she said. "I come down to the porch and remember how he would paint and I would sit and play solitaire. We didn't say a word, but we were together. It was companionship. I had to steel myself to being lonely many times when he was gone—he was away three years once [World War II]. But it was so hard to steel myself when he was really gone."

Nowadays, wives of public men like Mamie seem out of fashion. But in their time there was no more popular couple than the Eisenhowers. Tom Stephens, Eisenhower's White House appointments secretary, once told me why. "Ike and Mamie," he said. "They're like people you know." ●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RULE TO BE REQUESTED ON H.R. 4000, THE "MEDICARE AND MEDICAID AMENDMENTS OF 1979"

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. ULLMAN. Mr. Speaker, on November 5, 1979, the Committee on Ways and Means favorably reported to the House H.R. 4000, to amend the Social Security Act with respect to health programs authorized under it, and for other purposes. This bill contains provisions relating to professional standards review organizations, long-term care, fraud and abuse, insurance supplemental to medicare and health maintenance organizations.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for the consideration of H.R. 4000 on the floor of the House. The Committee on Ways and Means has specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First. Committee amendments, which would not be subject to amendment;

Second, one hour of general debate, to be equally divided;

Third, waiving all necessary points of order; and

Fourth, one motion to recommit, with or without instructions.

We will request to be heard before the Committee on Rules as expeditiously as possible.●

TEMPLE BETH AMI CELEBRATES 25TH ANNIVERSARY

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. LLOYD. Mr. Speaker, this weekend Temple Beth Ami, "House of My People," celebrates its 25th anniversary in West Covina. The temple's dedicated leaders, Rabbi Henry Kraus and Mark F. Anapoell, president, work to fulfill the ideals of the Jewish faith and of our democracy.

The congregation, formed in 1953 by 10 families as the Citrus Valley Jewish Center, has gone through much hardship and many changes to reach its current high standing and tradition in my district. It was the first Jewish center in the area.

Their first High Holy Days were held at Moose Hall in Baldwin Park. In 1956, groundbreaking was completed for the first center on Sunset Avenue in West Covina and the first fulltime rabbi was elected. Eleven years later fire destroyed the first center.

The First Baptist Church of West Covina invited the congregation to hold their services in the church. Since then, Temple Beth Ami and the First Baptist Church have a joint celebration at Thanksgiving each year.

In December 1967 the congregation celebrated a new groundbreaking for the temple, which was completed in 1969. The name was changed to Temple Beth Ami and Rabbi Kraus was elected.

Rabbi Kraus gave the opening prayer in the House of Representatives on April 4, 1978. It was the 34th anniversary of the day the rabbi was forced by the Nazis to wear the Yellow Star of David as a sign of degradation. Along with his congregation, he was deported to Auschwitz and later, Buchenwald. The American 3d Army liberated him in 1945.

After the war, he became chief rabbi of western Hungary. In 1975 the State of Israel honored him with the Ben Gurion Award—he was the first recipient of this award in California.

In his opening prayer to the House, Rabbi Kraus said:

'May you establish justice to bring peace to mankind. I pray we will understand: "Eternity is not perpetual future, but perpetual presence." I quote the ancient prayer: "May God who established peace in the High, may He establish peace here in Earth.'

Temple Beth Ami, and its leaders, add much to both the Jewish and American traditions and ideals. I want to join in congratulating them on their 25th anniversary and wish them Mazel Tuv.●

THE UNITED STATES MUST APPLY ECONOMIC PRESSURE TO SECURE THE RELEASE OF AMERICAN CITIZENS HELD HOSTAGE IN IRAN

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. LENT. Mr. Speaker, it is obvious that the Ayatollah Khomeini has no intention of negotiating with the United States over the release of some 60 American citizens held hostage by Iranian students who have invaded and occupied the United States Embassy in Tehran. This is the Ayatollah's thanks to President Carter for his humanitarian gesture in making available to Iran more than 1.5 million barrels of sorely needed U.S. heating oil just 2 months ago.

It should be clear now to the President and his advisers that such policies of appeasement only produce more serious problems for the United States. It is futile to dispatch Presidential emissaries to Iranian officials who will not meet with them. It is dangerous to ask the terrorists of the Palestine Liberation Organization to try to persuade the terrorists to end their tactics of terror. That is like trying to put out a fire by pouring gasoline on it.

What the United States needs to do now is to take some positive action. By this, Mr. Speaker, I do not mean to imply in any way that military action of any sort should be taken by the United States in the present circumstances. Any such action would unnecessarily endanger the lives of the Americans being held as prisoners.

But many other moves are possible which would apply various kinds of pressure on the Ayatollah Khomeini and his ruling council.

The most important action the President should take is to invoke the International Emergency Economic Powers Act of 1977. The emergency powers available to the President under this act offer a wide choice of actions which would apply economic pressure of varying degrees on the Iranian regime.

The act empowers the President to control or freeze property transactions involving Iran; to control transfers of credit or payments between banking institutions which involve Iran; to control import or export of currencies or

securities involving Iran; to control foreign exchange transactions involving Iran.

The act offers wide latitude to the President as to the exact extent of control which might be applied in any of these areas. But any action at all would demonstrate to the Iranian revolutionaries that their terrorist tactics are counterproductive to them and to their country.

To encourage the President to act with resolution and determination, yesterday, I introduced a concurrent resolution calling upon the President to invoke the International Emergency Powers Act as speedily as possible and to put to use the powers under the act to secure the release of the American citizens being held in Tehran. To continue the administration's current attitude of irresolution and hesitation simply encourages further terrorist extortion attempts.

I urge my colleagues to join in supporting this resolution and in achieving its passage as soon as possible.●

AMERICAN OUTRAGE OVER EVENTS IN TEHRAN

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. WHITEHURST. Mr. Speaker, I share with millions of other Americans the outrage over events in Tehran the past few days. There is no reason under any circumstances for a host nation to permit, much less encourage, the seizure of a foreign embassy and the holding of its personnel as hostages. That kind of behavior is totally foreign to civilized rules of international conduct.

The seizure of our Embassy in Tehran not only violates international law and standards of decency, it is hypocrisy of the most blatant kind. The ostensible reason for this action is the failure of the U.S. Government to evict the Shah from his hospital bed in New York and send him back to Iran for a summary trial and execution. No one in the international community nor here at home should be fooled by this ploy. When the Shah was in Mexico, no action was taken against the Mexican Government or its Embassy. Neither has the French Embassy been attacked or its nationals held prisoner, even though the former Prime Minister of Iran is now a refugee in that country. Why? Because in the case of Mexico, no blackmail can be applied in the way of an oil cutoff; and in the case of France, the Ayatollah himself spent years in exile there, and from the way things are going in his country he may want to go back to France.

Furthermore, Iran is shattering itself on the shoals of its own revolution. The oldest trick in the world is to manufacture a foreign threat when things are going down the drain at home.

What can America do? Certainly stand behind the President in refusing to turn over the Shah. To do otherwise would be cowardly and despicable. Second, we can immediately expel those Iranian students who are guilty of breaching the law in this country through illegal occupation of public or private property, and we should put the Iranian Government on notice that they risk the deportation of all students of Iranian origin unless the release of the Americans is forthcoming.

And finally, we can consider the severing of relations and an embargo on the shipment of all American products, including food, to Iran. The loss of Iranian oil to our market can be compensated for from other sources, and in any event it is not worth the price of submitting to gangsters tactics by a regime that is anathema to all religious and ethical principles, Christian, Moslem, or otherwise.●

MISS DEBY LAPLANTE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. FORD of Michigan. Mr. Speaker, I take great pleasure in calling attention to the outstanding achievements of a young lady athlete from my hometown of Taylor, Mich.

Miss Deby LaPlante recently reached one of the highest levels of international competition by winning a Gold Medal in low-hurdle events at the pan-American games

Deby, now a student at San Diego State College, began running at the age of 13, and 4 years later won the National Junior Olympics. She is the National AAU indoor hurdle champion, and the world's 10th ranked women's hurdler. She holds several American records.

Mayor Donald L. Zub of Taylor has issued a proclamation honoring this remarkable young woman, and I ask that it be reprinted at this point in the RECORD:

PROCLAMATION

Whereas, Deby LaPlante started running when only 13 years old and at the age of 17 won the National Junior Olympics.

Whereas, Deby LaPlante is the National A.A.U. Indoor Hurdle Champion and the world's 10th ranked women's hurdler.

Whereas, Deby LaPlante has broken all American records in indoor track on the 50 yard hurdles, 60 meter hurdles and the 70 yard hurdles.

Whereas, Deby LaPlante competed in the Olympics in Montreal and was in the semi-finals.

Whereas, Deby LaPlante reached a high level of International competition by winning a Gold Medal in low hurdle events at the Pan-American Games.

Whereas, Deby LaPlante with her courage and determination is an inspiration for all youth. It takes years of dedication and hard work to make a champion. The citizens of Deby LaPlante's Hometown, Taylor, Michigan, are gratified and proud of her accomplishments. As the Mayor of the City of Taylor, I do hereby

Proclaim, that the Proclamation be presented to Deby LaPlante and the Formal Proclamation to be forwarded to the State of Michigan Legislature, and also to the Congress of the United States of America requesting that it be read into Congressional Minutes.

DONALD L. ZUB, *Mayor, City of Taylor.*

OCTOBER 1979.●

POLITICAL DEMONSTRATIONS BY NONIMMIGRANT ALIENS

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. CHAPPELL. Mr. Speaker, on March 14, 1979, I introduced legislation, H.R. 2967, which would provide for the deportation of certain nonimmigrant aliens who knowingly participate in a political demonstration which results or was intended to result in injury or damage to the person or property of another. The Attorney General could suspend deportation proceedings in exceptional cases for humanitarian purposes.

I was prompted to take this action last winter during the series of demonstrations by Iranian students immediately preceding the fall of the Shah. Now, with 60 U.S. citizens held as hostages in Tehran and Iranian students making a mockery of our Statue of Liberty and burning the American flag, the need for effective legislation is even more acute, and I urge my colleagues to support this measure.

Aliens do not have a vested right to enter the United States. Rather, they are allowed to enter as the guests of the American people. No one wants to deny the fruits of our rich heritage to others, but we simply cannot allow the recipients of our hospitality to place our people, institutions, and property in danger. When a person is granted a student visa, for example, it is for the privilege of study at a U.S. institution. It is not a license for violent advocacy and must not be allowed to become one.

H.R. 2967 would pertain to all classes of nonimmigrant aliens not connected with governmental or international organization functions. These are: Students, crewmen, temporary labor, and industrial trainees. Enactment of this bill would have no effect on the vast majority of nonimmigrant aliens who are peacefully pursuing their activities in this country. It would have an effect on curbing the noxious activities of the small number who insist on disregarding their obligation to act as a responsible member of society. The United States has been kicked around in the recent past by an assortment of disreputable national leaders all over the world. There is no reason why we must tolerate such treatment in our own country from those who are here as our guests. The text of H.R. 2967 follows:

H.R. 2967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended by—

(1) striking out "or" at the end of paragraph (18),

(2) striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(20) while admitted to the United States under a nonimmigrant visa under subparagraph (D), (F), (H)(ii), or (H)(iii) of section 101(a)(15) of this Act, knowingly participated in a political demonstration resulting or intending to result in injury or damage to any person or property other than his own or while so admitted participated in any unlawful act or activity or advocated the overthrow of any organized government by violence."

(b) Section 241 of such Act is further amended by adding at the end thereof the following new subsection:

"(g) The Attorney General may, in his discretion in such unusual circumstances as he may determine, suspend deportation of any alien under subsection (a)(20). In any annual report the Attorney General submits to the Congress respecting administration of this Act, he shall include a description of the circumstances under which he deported, and suspended deportation, of aliens under such subsection."

SEC. 2. The amendments made by the first section of this Act shall apply to acts participated in, and statements advocated, on or after the date of the enactment of this Act.●

AMERICANS ENDURE YET ANOTHER EXPLOSION OF IRANIAN TERRORISM

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. SCHULZE. Mr. Speaker, the eyes of the world are once again on our Nation. For the second time in less than a year, the lives of Americans are in jeopardy at the hands of the Iranians. More than 60 of our countrymen are enduring unknown horror and what must be mounting despair as the hours creep by with no resolution.

While I have pledged my support to our President for any prompt and definitive action the administration might now take to end the stalemate and secure a safe release of American hostages, I must say this is a tragedy which could have been avoided. This outrage is a glaring indication of the confused and ineffectual foreign policy this country has had to suffer under the present administration.

The Carter administration's policies toward Iran were not at all consistent with those of previous administrations. After more than 20 years of close alliance with Iran under the Shah's rule, the Carter administration openly attacked the Shah and his policies. This open lack of support played a significant role in the downfall of one of our strongest and strategically most important allies.

Any reasonable leader cognizant of the volatile situation in Iran should have recognized the potential for terrorism. When the Shah entered the United States for whatever reason, deliberate courses of action should have been followed. The American staff of our Embassy in Tehran should have been reduced to a skeleton crew and the Marine protection increased. Further, the Marines should have been ordered to perform in the manner necessary to protect our U.S. Embassy which is American soil.

When this tragic incident is resolved, the American people must not forget. Rather, they must remember that it came about through the indecision and negligence of the Carter administration in failing to anticipate such action. Until we learn from this catastrophic incident, the lives of Americans in potentially dangerous locations throughout the world cannot be secure.●

CHRYSLER AID THEATER OF ABSURD?

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. PAUL. Mr. Speaker, I would like to call the attention of my colleagues to an article that has appeared in both the National Journal and the Washington Post on the matter of Federal aid to the Chrysler Corp. Although I usually do not agree with Mr. Samuelson's notions, once in a while he does make sense, and his column "Chrysler Aid Quest: Theater of the Absurd?" makes a great deal of sense. Federal aid to Chrysler would be robbery of the American people, and this government has no right to commit robbery.

The article follows:

[From the Washington Post, Nov. 6, 1979]

CHRYSLER AID QUEST: THEATER OF ABSURD?

(By Robert J. Samuelson)

When your company is on the brink of bankruptcy, do you give your workers a one-third wage increase over three years? You do if you're the Chrysler Corp. and your workers belong to the United Auto Workers.

Scarcely before it has begun, Chrysler's quest for federal financial assistance has become theater of the absurd. What Congress is being asked to approve is a program that raises car prices, perpetuates inflation and makes it more expensive for Americans to buy full-efficient cars.

No one really disagrees that a Chrysler bankruptcy would be a social and economic calamity. Somewhere between 150,000 and 500,000 workers would probably lose their jobs immediately, and only the most reckless forecaster can say how easily they could be reemployed. Nor does anyone really disagree that a federal bailout of Chrysler would constitute a bad precedent, encouraging all sorts of other industries—each in its own way—to seek government relief.

But the Carter Administration, by evading the basic issues raised by Chrysler's request, has not forced the company and its union to do all in their power to minimize the need for federal assistance. At the same time, this ineptness or cowardice has made it more likely that any Chrysler package will be excessively costly and face uncertain prospects of success.

The basic issues are plain enough. To preserve our mobility and limit our dependence 117-million auto fleet to more fuel-efficient on foreign oil, we clearly need to convert our vehicles. In the fall of 1980, Chrysler plans to introduce a new line of compact cars with significant mileage gains (seven miles per gallon) over current models. Chrysler could then produce about 800,000 cars annually with 4-cylinder engines. We need those cars; a bankruptcy would jeopardize their production.

A second basic issue involves the relationship between wages, jobs and inflation. The reason why recessions no longer reduce inflation much is that they don't reduce wage pressures much. People expect the slowdown to be shortlived. Even if the permanent level of unemployment rises slightly, most workers aren't affected. We need to reestablish the connection in people's minds between wage demands and jobs.

Chrysler joins the two issues. The severity of its cash squeeze partially reflects the slump in car sales, but, if Chrysler needs to sell more cars, America needs to buy them. Even today's models almost invariably get significantly better fuel mileage than the vehicles they replace, and replacement represents two-thirds or more of car demand.

But you do not sell cars by raising their prices, which is precisely what Chrysler, Ford and General Motors are doing. Nor can you keep prices down by increasing labor costs 10 percent or more annually.

Chrysler is simply the prototype of a more general problem for the automobile industry. As the companies attempt to recoup massive retooling investments needed for fuel-efficient cars, their prices threaten to rise even further. At the same time, the conditions underlying the 1976–78 car buying boom probably won't recur: easy credit (automakers liberalized their credit terms after the 1974–75 recession) and sharply rising "real" personal income.

Together, these factors impel people to hold on to their cars. Stagnant sales then inhibit the companies from generating more investment funds for further retooling. Small wonder that General Motors chairman Thomas A. Murphy opposes federal help for Chrysler, or that Ford is making noises about quotas against Japanese imports. Both want more market share to neutralize these pressures.

Holding down labor expenses (about one-third of total production costs) is the only way to slow this vicious circle. In Chrysler's case, someone—either the president or the secretary of the Treasury, because we pay them to say the unpleasant things that need to be said—had to state: no wage restraint, no federal help. In clear, loud language. They didn't. With President Carter desperate to keep union support, does anyone wonder why?

When Douglas A. Fraser, president of the UAW, tells Congress that his union has made "significant concessions" to help Chrysler he is talking in absurdities. G. M. Chairman Murphy utters similar absurdities when he insists—as he recently did on "Meet the Press"—that the recent labor settlement isn't inflationary.

At the end of the last contract, the average auto worker earned about $9 an hour, or about $18,700 annually for a 40-hour week (no overtime). Under the new contract—assuming an average 8 percent inflation rate needed to calculate the cost-of-living adjustments—the wage rate will climb to $11.81 in 1982, or $24,600 annually. Non-taxable fringe benefits will also rise by about one-third, and so total labor costs per worker could rise from about $30,000 to $40,000.

The UAW's "significant concessions" to Chrysler are mostly trivial. At the end of the third year, Chrysler's labor costs will not differ from those of Ford or General Motors. Cost-of-living adjustments will be paid right on schedule; the additional annual 3 percent wage increases will be paid somewhat later than at the other firms, but the lag is no more than a half year.

It is not clear that Chrysler needs federal help or, if so, how much. Even the UAW's slight concessions, according to the union and company, will save Chrysler about $200 million over three years. A contract more befitting a firm teetering on bankruptcy—say, a wage freeze—probably would have saved $750 million to $1 billion. But the higher wage bill also means the Chrysler must borrow more (paying more interest) and charge higher prices (selling fewer cars), which further compound the cash squeeze.

None of this should be anyone's idea of an economically efficient socially just policy. Even if Congress rescues Chrysler, it may do so under conditions that keep automobile sales listless, and that listlessness will spread to related industries, such as steel. The UAW

may have bought some of its members wage increases, but it will have bought a lot of other workers unemployment.

Helping Chrysler and its union ought to be justified by broader public purposes than simply rescuing the big and powerful. And assistance ought to be extended on terms sufficiently harsh that others will not be tempted to seek similar relief. That does not seem to be in prospect. This is an episode of many small-minded men—union officials, corporate executives, the president and his Treasury secretary—each trying to protect himself. Who can cover himself, with the most mediocrity? So far, it's a close race.●

LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT AND DISPOSAL FACILITIES FOR NUCLEAR MEDICINE

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. McCORMACK. Mr. Speaker, many Americans, and many Members of the Congress, have been alarmed by recent news suggesting the possible discontinuance of nuclear-medicine services for the American people. This has resulted from a breakdown of the normal service arrangements necessary for the therapeutic and diagnostic uses of nuclear medicine. The breakdown is due to the closing, temporary or permanent, of all but one of the civilian low-level nuclear waste burial grounds in this country.

The radioactive materials used in nuclear medicine involve very small quantities for any one patient or specimen, but so many Americans require these services that the cumulative amount of these low-level radioactive materials is quite large. There are also low-level waste produced by the nuclear power production industry.

Care must be properly exercised in disposal of these controlled wastes, notwithstanding the fact that most of the radiopharmaceuticals administered to patients are discharged through bodily excrements in an uncontrolled fashion into the public sewer systems. Nevertheless, the contaminated equipment used in medical operations involving radioactive material, under the control of the doctors and the medical laboratories, should be handled and disposed of properly, according to our existing strict rules and regulations.

Radioactive materials are used medically in two principal ways. One is in radiotherapy, where radiation is used to preferentially destroy malignancies in the body. The other is in diagnosis where radioactive materials are employed to examine the functioning of various organs.

Radioactivity has been a boon to the medical profession by allowing doctors to "see" inside the human body without actually entering it. For example, a procedure called angiography, in which radioactive technicium is injected into the blood of cardiac patients, literally allows a motion picture to be taken of the heart movements of the affected patients. An equally important part of diagnosis is in the laboratory, where, often unbeknownst to the patient, radioactive materials are used in testing specimens such as blood for transfusion.

These are not small uses, confined to a few patients. About one-half of the patients in the United States today are benefited in one way or another by the use of radioactive materials in their health care. These services must not be interrupted or stopped. Above all, they must not be curtailed because of inadequate procedures for disposing of the radioactive waste products.

Radioactive materials are used in other sectors of our society as well. They are extensively employed in industrial control and measurement activities. Similarly, traces of some low-level radioactive wastes originate from nuclear power production. However, the most critical need for low-level waste management today is primarily for medical and industrial purposes.

It is important to distinguish between the low-level radioactive wastes produced from nuclear power production and for medical purposes on the one hand; and the future high-level wastes from nuclear power production on the other.

High-level wastes that will be produced from processing spent fuel from nuclear powerplants will be handled separately and differently—and in the future, when we have a reprocessing program for nuclear fuel.

The situation existing today is that a few irregularities in the packaging and shipment of some low-level radioactive wastes, combined with public confusion regarding radioactivity have forced the Governors of the several States which until recently were still operating disposal facilities to temporarily close them. While we can understand their concern for their citizens, we are concerned with the impact of these actions on the Nation as a whole.

Originally, this country had six disposal facilities for commercial radioactive wastes. Three of these have been closed for many months, but in recent weeks the facilities in Washington and Nevada have been closed hopefully, this is a temporary situation. The last remaining burial ground is in South Carolina. It is open only to prior users and for nonliquid wastes. However many of the wastes used in the healing arts are liquid. If the present situation continues for many more weeks, there is no recourse but for curtailment of an important component of modern medical practice. Obviously, action is needed immediately to provide adequate disposal facilities.

In anticipation of such difficulties, I introduced an amendment to the fiscal year 1980 Department of Energy authorization bill, directing the Department of Energy to establish about a dozen facilities, located to serve all regions of the Nation and thereby minimize transportation distances. These sites would be licensed by the Nuclear Regulatory Commission. My amendment was itself subsequently amended to call instead for a study only, this to be completed by May 1, 1980. In the intervening time, however, a national crisis will have arisen because all but one of the burial grounds have been closed, with the remaining one under reduced operation. Wastes are accumulating in our hospitals and laboratories.

Action is obviously needed before May of next year. I have, therefore, written the Secretary of the Department of Energy and the Chairman of the Nuclear Regulatory Commission asking their urgent attention to this matter. I am pleased that these agencies are fully cooperating in seeking solutions to the problems in this national emergency.

Yesterday the Subcommittee on Energy Research and Production of the Science and Technology Committee received testimony from the senior officials of the Government, and from leading U.S. medical organizations. We heard general agreement from Governors Dixy Lee Ray of Washington and Richard W. Riley of South Carolina and from Chairman Joseph M. Hendrie of the Nuclear Regulatory Commission that each of the individual 50 States should take responsibility for the radioactive wastes it generates, unless each State arranges for regional cooperation with a nearby State. The Deputy Under Secretary of the Department of Energy stated that his Department would cooperate in solving the problem, but cautioned that studies and time are needed. Representatives of the national nuclear-medicine organizations, in addition to Nobel Laureate Rosalyn Yalow, confirmed the urgent need for action.

To fulfill this need, I introduced yesterday a separate bill to establish about a dozen regional low-level nuclear waste burial grounds in this country. I urge the involvement and suggestions of all my colleagues. None of the Members of the Congress wishes to have the important nuclear medicine facilities in his or her district brought to a standstill. Similarly, none of us wishes to have the controlled residuals from the use of nuclear medicine pile up in an uncontrolled fashion at these facilities. There is a common need for a national solution to continue these critical services by arranging for regional disposal sites.

The Subcommittee on Energy Research and Production has learned from its hearings today that governmental action is urgently needed and that the Congress should use its wisdom in best forging an agreement between Federal and State governments.

I am confident that my colleagues will provide their cooperation in this urgent matter.●

SECOND ANNUAL READING CHRISTMAS PARADE AND FESTIVAL

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. YATRON. Mr. Speaker, on Saturday, November 17, the city of Reading is holding its second Annual Christmas Parade and Festival. The parade is sponsored by the Penn Square Commission and this year we are most honored to have Willie Stargell as the grand marshal.

The outstanding contributions of the leader and captain of the Pittsburgh Pirates are well known to all baseball fans. As the most valuable player of the world series this year, Willie Stargell led his team to victory with an exciting comeback from a 3-to-1 game deficit against the Baltimore Orioles. This was only the fourth time in world series history that a team has accomplished this, to win in the seventh game of the world series.

Willie Stargell's accomplishments in baseball are legendary. But perhaps more importantly, he is recognized as a great individual, a man of pride and humility, a man of compassion and strength, a man who is a true inspiration to all of us.

I know that all my colleagues will join with me in commending Mr. Lee C. Olsen, economic development director of the Penn Square Commission and coordinator of the Christmas Parade and Festival for his outstanding work on the behalf of the citizens of the city of Reading.

And I know, Mr. Speaker, that all my colleagues will join with me in paying tribute to Willie Stargell and the entire Pittsburgh Pirate baseball team. We are, indeed, fortunate to live in a nation which allows individual and collective expression of pride, self-accomplishment, and greatness. We are also fortunate to have a man like Willie Stargell in our midst.●

STATEMENT OF THE HONORABLE HENRY A. WAXMAN WITH RESPECT TO HIS REQUEST FOR A RULE ON H.R. 2626, THE HOSPITAL COST CONTAINMENT ACT OF 1979

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. WAXMAN. Mr. Speaker, I take this occasion to advise my colleagues as to the nature of my request to the Committee on Rules for the rule on H.R. 2626, the Hospital Cost Containment Act of 1979. I have recommended the following modified closed rule:

First. That H.R. 2626 as amended by the Committee on Ways and Means be in order as an original bill for purposes of amendment;

Second. That H.R. 2626 as amended by the Committee on Interstate and Foreign Commerce be in order as a substitute for the Ways and Means bill;

Third. That a specific amendment to the Commerce substitute by Congressman RANGEL, to be printed in the RECORD, be in order, and

Fourth. That no further amendments except for pro forma amendments be in order to either the Commerce substitute or the Ways and Means bill.

I must specifically note, so there can be no confusion on the part of my colleagues, that these are personal recommendations and are not made in a capacity as the official designee of the Committee on Interstate and Foreign Commerce.●

A CONGRESSIONAL TRIBUTE TO BOY SCOUT TROOP 42

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. McCLORY. Mr. Speaker, the 50th Anniversary Celebration of Boy Scout Troop 42 of Lake Bluff, Ill., recalls a long experience that I have had with this outstanding unit of the Boy Scouts of America.

My own association with the Boy Scouts antedates the establishment of Troop 42 of Lake Bluff in that I became a Boy Scout in 1920, just 12 years after the Boy Scouts were introduced to the Nation by the late Lord Baden-Powell, who began scouting in England in 1907.

It is interesting to recall that the Boy Scouts of America were incorporated in our Nation in 1910, and, thereafter, received a congressional charter in 1916. I was pleased to be a Representative in the Congress in 1966 when the golden anniversary of the congressional charter was celebrated in Washington with appropriate ceremonies honoring the Boy Scouts of America.

Mr. Speaker, now, just 13 years later, Lake Bluff Troop 42 is celebrating its golden anniversary with a gathering together of many of the members and former members of the Boy Scout troop as well as many of the troop's leaders.

Boy Scout Troop 42 was formed on June 30, 1926, by a committee composed of E. M. Mawman, Maurice Mandeville, James E. Northcott, and E. E. Dewey, M.D. This first troop consisted of 13 boys and met in Grace Methodist Church of Lake Bluff under the direction of Leo C. Montgomery, their first scoutmaster. What is most interesting is that Grace Methodist Church continues to sponsor the troop today, under the direction of their present scoutmaster, Elmo Earls.

Mr. Speaker, in this connection, I am pleased and proud to recall my service as scoutmaster of Troop 42 over a period of 2 or 3 years beginning in 1938 when I replaced for several years the erstwhile early scoutmaster of this troop, Bob Wright, who now lives in Antioch and who serves on the board of trustees of the College of Lake County.

Mr. Speaker, recalling my individual service to Troop 42, I discovered an opportunity for service which contributed much to my own experience and enabled the Scouts to learn firsthand about the great outdoors through hiking and camping, including overnight campouts and participation in camporees where other troops of the North Shore Area Council also were gathered—and where competition in the skills of camping dominated the weekend experience.

The members of this troop also took part in activities at Camp MA-KA-JA-WAN in northern Wisconsin, where I was also privileged to visit along with other Scout leaders.

Mr. Speaker, it was during this period that I introduced to members of the Lake Bluff Boy Scout troop the sport of skiing—both cross-country and Alpine skiing, including trips to Wilmont, Wis. even before the ski-lift facilities were installed there.

One other experience which I wish to recall on this 50th anniversary of Troop 42 is the construction of a Boy Scout building in what was formerly described as the Community Gardens in Lake Bluff. The Boy Scout building consisted of a prefabricated former school room which was hauled by truck from the city of Chicago and assembled by the Boy Scouts and some of the adult leaders and parents and which for several years was the meeting place of our Scout troop before residential development took over the Community Gardens site and Troop 42's home was displaced.

Mr. Speaker, when my business and public activities became more demanding, I withdrew as Scoutmaster to become chairman of the finance committee and later as a member of the board of the North Shore Area Council where I continued Scouting activities for many years.

Mr. Speaker, I am grateful for the opportunity which I had in Scouting, for the Scouts which I have been privileged to work with and for all of the scout leaders and supporters who have perpetuated this great institution in behalf of our communities and our Nation's youth.

Mr. Speaker, I expect to be present at the 50th anniversary ceremonies at Grace Methodist Church in Lake Bluff on Sunday, December 2, 1979, to join with Boy Scouts, parents and present and past leaders of this great Boy Scout Troop and to pay honor and tribute to those who carry on in behalf of Troop 42 of the North Shore Area Council of the Boy Scouts of America. I congratulate and salute all of them.●

DMSO

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. SYMMS. Mr. Speaker, due to the Food and Drug Administration's procrastination in approving dimethyl sulfoxide (DMSO) for the treatment of arthritis, bursitis, rheumatism and other disorders of the muscular-skeletal system, I am introducing legislation which would approve the topical use of this drug in the treatment of those illnesses.

DMSO is a clear, colorless liquid which is a biological solvent whose most notable property is its ability to cross cellular membranes rapidly. It reduces swelling and pain and although it is widely available to veterinarians for animal use, it has been restricted by the FDA since 1965 even though there has never been any documented harm to human beings other than minor irritations.

Dimethyl sulfoxide is not a cure for arthritis, bursitis, rheumatism, or other

muscular-skeletal disorders but it does provide relief to the many individuals who suffer daily from these afflictions. DMSO enables these individuals to function as normal, human beings in their daily lives.●

THE CRASH OF 1929

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. PAUL. Mr. Speaker, a lot of articles appeared recently about the Crash of 1929. The best, in my opinion, was written by Dr. Murray Rothbard for Inquiry Magazine.

Dr. Rothbard, the outstanding free market economist who has written the definitive work on the Great Depression, has a story to tell that is all too relevant to our economic ills today. I would like to call it to my colleagues' attention.

The article follows:

RELIVING THE CRASH OF '29

(By Murray N. Rothbard)

A half century ago America—and then the world—was rocked by a mighty stock market crash that soon turned into the steepest and the longest lasting depression of all time. Only the cataclysm of World War II was able to pull the Western world out of the Great Depression. It was not only the sharpness and depth of the depression that stunned the world and changed the face of modern history: It was the length, the chronic economic morass persisting throughout the 1930s, that caused intellectuals and the general public to despair of the market economy and the capitalist system. Previous depressions, no matter how sharp, generally lasted no more than a year or two. But now, for over a decade, poverty, unemployment, and hopelessness led millions to seek some new economic system that would cure the depression and avoid a repetition of it.

Political solutions and panaceas differed; for some it was Marxian socialism; for others, one or another form of fascism. In the United States the accepted solution was a Keynesian mixed economy or welfare-warfare state. Harvard was the focus of Keynesian economics in the United States, and Seymour Harris, a prominent Keynesian teaching there, titled one of his many books Saving American Capitalism; that title encapsulated the spirit of the New Deal reformers of the thirties and forties. By the massive use of state power and government spending, capitalism was going to be saved from the challenges of communism or fascism.

One common guiding assumption characterized the Keynesians, socialists, and fascists of the 1930s: that laissez-faire, free-market capitalism had been the touchstone of the U.S. economy during the 1920s, and that this old-fashioned form of capitalism had manifestly failed us by generating, or at least allowing, the most catastrophic depression in history to strike at the United States and the entire Western world. Well, weren't the 1920s, with their burgeoning optimism, their speculation, their enshrinement of Big Business in politics, their Republican dominance, their individualism, their hedonistic cultural decadence, weren't these years indeed the heyday of laissez-faire? Certainly that decade *looked* that way to most observers, and hence it was natural that the free market should take the blame for the consequences of unbridled capitalism in 1929 and after.

Unfortunately for the course of history, the common interpretation was dead wrong: There was very little laissez-faire capitalism in the 1920s. Indeed the opposite was true: Significant parts of the economy were infused with proto-New Deal statism, a statism that plunged us into the Great Depression and prolonged this miasma for more than a decade.

In the first place, everyone forgot that the Republicans had never been the laissez-faire party: On the contrary, it was the Democrats who had always championed free markets and minimal government, while the Republicans had crusaded for a protective tariff that would shield domestic industry from efficient competition, for huge land grants and other subsidies to railroads, and for inflation and cheap credit to stimulate purchasing power and apparent prosperity. It was the Republicans who championed paternalistic Big Government and the partnership of business and government while the Democrats sought free trade and free competition, denounced the tariff as the "mother of trusts," and argued for the gold standard and the separation of government and banking as the only way to guard against inflation and the destruction of people's savings. At least that was the policy of the Democrats before Bryan and Wilson at the start of the twentieth century, when the party shifted to a position not very far from its ancient Republican rivals.

The Republicans never shifted, and their reign in the 1920s brought the federal government to its greatest intensity of peacetime spending and hiked the tariff to new, stratospheric levels. A minority of old-fashioned "Cleveland" Democrats continued to hammer away at Republican extravagance and Big Government during the Coolidge and Hoover eras. Those included Governor Albert Ritchie of Maryland, Senator James Reed of Missouri, and former Solicitor General James M. Beck, who wrote two characteristic books in this era: *The Vanishing Rights of the States* and *Our Wonderland of Bureaucracy*.

But most important in terms of the Depression was the new statism that the Republicans, following on the Wilson administration, brought to the vital but arcane field of money and banking. How many Americans know or care anything about banking? Yet it was in this neglected but crucial area that the seeds of 1929 were sown and cultivated by the American government.

The United States was the last major country to enjoy, or be saddled with, a central bank. All the major European countries had adopted central banks during the eighteenth and nineteenth centuries, which enabled governments to control and dominate commercial banks, to bail out banking firms whenever they got into trouble, and to inflate money and credit in ways controlled and regulated by the government. Only the United States, as a result of Democratic agitation during the Jacksonian era, had had the courage to extend the doctrine of classical liberalism to the banking system, thereby separating government from money and banking. Having deposed the central bank in the 1830s, the United States enjoyed a freely competitive banking system—and hence a relatively "hard" noninflated money—until the Civil War. During that catastrophe, the Republicans used their one-party dominance to push through their interventionist economic program; it included a protective tariff and land grants to railroads, as well as inflationary paper money and a "national banking system" that in effect crippled state-chartered banks and paved the way for the later central bank.

The United States adopted its central bank, the Federal Reserve System, in 1913, backed by a consensus of Democrats and Republicans. This virtual nationalization of the banking system was unopposed by the big banks; in fact, Wall Street and the other large banks had actively sought such a central system for many years. The result was the cartelization of banking under federal control, with the government standing ready to bail out banks in trouble, and also ready to inflate money and credit to whatever extent the banks felt was necessary.

Without a functioning Federal Reserve System available to inflate the money supply, the United States could not have financed its participation in World War I; the war was fueled by heavy government deficits and by the creation of new money to pay for swollen federal expenditures.

One point is undisputed: The autocratic ruler of the Federal Reserve System, from its inception in 1914 to his death in 1928, was Benjamin Strong, a New York banker who had been named governor of the Federal Reserve Bank of New York. Strong consistently and repeatedly used his power to force an inflationary increase of money and bank credit in the American economy, thereby driving prices higher than they would have been and stimulating disastrous booms in the stock and real estate markets. In 1927, Strong gaily told a French central banker that he was going to give "a little coup de whiskey to the stock market." What was the point? Why did Strong pursue a policy that now can seem only heedless, dangerous, and recklessly extravagant?

Once the government has assumed absolute control of the money-creating machinery in society, it benefits—as would any other group—by using that power. Anyone would benefit, at least in the short run, by printing or creating new money for his own use or for the use of his economic or political allies. Strong had several motives for supporting an inflationary boom in the 1920s. One was to stimulate foreign loans and foreign exports. The Republican party was committed to a policy of partnership of government and industry, and to subsidizing domestic and export firms. A protective tariff aided inefficient domestic producers by keeping out foreign competition. But if foreigners were shut out of our markets, how in the world were they going to buy our exports? The Republican administration thought it had solved this dilemma by stimulating American loans to foreigners so that they could buy our products.

A fine solution in the short run, but how were these loans to be kept up, and more important, how were they to be repaid? The banking community was also confronted with the curious and ultimately self-defeating policy of preventing foreigners from selling us their products, and then lending them the money to keep buying ours. Benjamin Strong's inflationary policy meant repeated doses of cheap credit to stimulate this foreign lending. It should also be noted that this policy subsidized American investment banks in making foreign loans.

Among the exports stimulated by cheap credit and foreign loans were farm products. American agriculture, overstimulated by the swollen demands of warring European nations during World War I, was a chronically sick industry during the 1920s. It had awakened after the resumption of peace to find that farm prices had fallen and that European demand was down. Rather than adjusting to postwar realities, however, American farmers preferred to organize and agitate to force taxpayers and consumers to keep them in the style to which they had become accustomed during the palmy "parity" years of the war. One way for the federal government to bow to this political pressure was to stimulate foreign loans and hence to encourage foreign purchases of American farm products.

The "farm bloc," it should be noted, included not only farmers; more indirect and considerably less rustic interests were also busily at work. The postwar farm bloc gained strong support from George N. Peek and General Hugh S. Johnson; both, later prominent in the New Deal, were heads of the Moline Plow Company, a major manufacturer of farm machinery that stood to benefit handsomely from government subsidies to farmers. When Herbert Hoover, in one of his first acts as President—considerably before the crash—established the Federal Farm Board to raise farm prices, he installed as head of the FFB Alexander Legge, chairman of International Harvester, the nation's leading producer of farm machinery. Such was the Republican devotion to "laissez faire."

But a more indirect and ultimately more important motivation for Benjamin Strong's inflationary credit policies in the 1920s was his view that it was vitally important to "help England," even at American expense. Thus, in the spring of 1928, his assistant noted Strong's displeasure at the American public's outcry against the "speculative excesses" of the stock market. The public didn't realize, Strong thought, that "we were now paying the penalty for the decision which was reached early in 1924 to help the rest of the world back to a sound financial and monetary basis." An unexceptionable statement, provided that we clear up some euphemisms. For the "decision" was taken by Strong in camera, without the knowledge or participation of the American people; the decision was to inflate money and credit, and it was done not to help the "rest of the world" but to help sustain Britain's unsound and inflationary policies.

Before the World War, all the major nations were on the gold standard, which meant that the various currencies—the dollar, pound, mark, franc, etc.—were redeemable in fixed weights of gold. This gold requirement ensured that governments were strictly limited in the amount of scrip they could print and pour into circulation, whether by spending to finance government deficits or by lending to favored economic or political groups. Consequently, inflation had been kept in check throughout the nineteenth century when this system was in force.

But world war ruptured all that, just as it destroyed so many other aspects of the classical liberal policy. The major warring powers spent heavily on the war effort, creating new money in bushel baskets to pay the expense. Inflation was consequently rampant during and after World War I and, since there were far more pounds, marks, and francs in circulation than could possibly be redeemed in gold, the warring countries were forced to go off the gold standards and to fall back on paper currencies—all, that is, except for the United States, which was embroiled in the war for a relatively short time and could therefore afford to remain on the gold standard.

After the war the nations faced a world currency breakdown with rampant inflation and chaotically falling exchange rates. What was to be done? There was a general consensus on the need to go back to gold, and thereby to eliminate inflation and frantically fluctuating exchange rates. But how to go back? That is, what should be the relations between gold and the various currencies? Specifically, Britain had been the world's financial center for a century before the war, and the British pound and the dollar had been fixed all that time in terms of gold so that the pound would always be worth $4.86. But during and after the war the pound had been inflated relatively far more than the dollar, and thus had fallen to about $3.50 on the foreign exchange market. But Britain was adamant about returning the pound, not to the realistic level of $3.50, but rather to the old prewar par of $4.86.

Why the stubborn insistence on going back to gold at the obsolete prewar par? Part of the reason was a stubborn and mindless concentration on face-saving and British honor, on showing that the old lion was just as strong and tough as before the war. Partly, it was a shrewd realization by British bankers that if the pound were devalued from prewar levels England would lose its financial preeminence, perhaps to the United States, which had been able to retain its gold status.

So, under the spell of its bankers, England made the fateful decision to go back to gold at $4.86. But this meant that British exports were now made artificially expensive and its imports cheaper, and since England lived by selling coal, textiles, and other products, while importing food, the resulting chronic depression in its export industries had serious consequences for the British economy. Unemployment remained high in Britain, especially in its export industries, throughout the boom of the 1920s.

To make this leap backward to $4.86 viable, Britain would have had to deflate its economy so as to bring about lower prices and wages and make its exports once again inexpensive abroad. But it wasn't willing to deflate since that would have meant a bitter confrontation with Britain's now powerful unions. Ever since the imposition of an extensive unemployment insurance system, wages in Britain were no longer flexible downward as they had been before the war. In fact, rather than deflate, the British government wanted the freedom to keep inflating, in order to raise prices, do an end run around union wage rates, and ensure cheap credit for business.

The British authorities had boxed themselves in: They insisted on several axioms. One was to go back to gold at the old prewar par of $4.86. This would have made deflation necessary, except that a second axiom was that the British continue to pursue a cheap credit, inflationary policy rather than deflation. How to square the circle? What the British tried was political pressure and arm-twisting on other countries, to try to induce or force them to inflate too. If other countries would also inflate, the pound would remain stable in relation to other currencies; Britain would not keep losing gold to other nations, which endangered its own jerry-built monetary structure.

On the defeated and small new countries of Europe, Britain's pressure was notably successful. Using their dominance in the League of Nations and especially in its Financial Committee, the British forced country after country not only to return to gold, but to do so at overvalued rates, thereby endangering those nation's exports and stimulating imports from Britain. And the British also flummoxed these countries into adopting a new form of gold "exchange" standard, in which they kept their reserves not in gold, as before, but in sterling balances in London. In this way, the British could continue to inflate, and pounds, instead of being redeemed in gold, were used by other countries as reserves on which to pyramid their own paper inflation. The only stubborn resistance to the new order came from France, which had a hard-money policy into the late 1920s. It was French resistance to the new British monetary order that was ultimately fatal to the house of cards the British attempted to construct in the 1920s.

The United States was a different situation altogether. Britain could not coerce the United States into inflating in order to save the misbegotten pound, but it could cajole and persuade. In particular, it had a staunch ally in Benjamin Strong, who could always be relied on to be a willing servitor of British interests. By repeatedly agreeing to inflate the dollar at British urging, Benjamin Strong won the plaudits of the British financial press as the best friend of Great Britain since Ambassador Walter Hines Page, who had played a key role in inducing the U.S. to enter the war on the British side.

Why did Strong do it? We know that he formed a close friendship with British financial autocrat Montagu Norman, longtime head of the Bank of England. Norman would make secret visits to the United States, checking in at a Saratoga Springs resort under an assumed name, and Strong would join him there for the weekend, also incognito, there to agree on yet another inflationary *coup de whiskey* to the market. Surely this Strong-Norman tie was crucial, but what was its basic nature? Some writers have improbably speculated on a homosexual liaison to explain the otherwise mysterious subservience of Strong to Norman's wishes. But there was another, and more concrete and provable tie that bound these two financial autocrats together.

That tie involved the Morgan banking interests. Benjamin Strong had lived his life in the Morgan ambit. Before being named head of the Federal Reserve, Strong had risen to head of the Bankers Trust Company, a creature of the Morgan bank. When asked to be head of the Fed, he was persuaded to take the job by two of his best friends, Henry P. Davison and Dwight Morrow, both partners of J. P. Morgan & Co.

The Federal Reserve System arrived at a good time for the Morgans. It was needed to finance America's participation in World War I, a participation strongly supported by the Morgans, who played a major role in bringing the Wilson administration into the war. The Morgans, heavily invested in railroad securities, had been caught short by the boom in industrial stocks that emerged at the turn of the century. Consequently, much of their position in investment banking was being eroded by Kuhn, Loeb & Co., which had been faster off the mark on investment in industrial securities. World War I meant economic boom or collapse for the Morgans. The House of Morgan was the fiscal agent for the Bank of England; it had the underwriting concession for all sales of British and French bonds in the United States during the war, and it helped finance U.S. arms and munitions sales to Britain and France. The House of Morgan had a very heavy investment in an Anglo-French victory and in a German-Austrian defeat. Kuhn, Loeb, on the other hand, was pro-German, and therefore was tied more to the fate of the Central Powers.

The cement binding Strong and Norman was the Morgan connection. Not only was the House of Morgan intimately wrapped up in British finance, but Norman himself—as well as his grandfather—in earlier days had worked in New York for the powerful investment banking firm of Brown Brothers, and hence had developed close personal ties with the New York banking community. For Benjamin Strong, helping Britain meant helping the House of Morgan to shore up the internally contradictory monetary structure it had constructed for the postwar world.

The result was inflationary credit, a speculative boom that could not last and the Great Crash whose fiftieth anniversary we observe this year. After Strong's death in late 1928, the new Federal Reserve authorities, while confused on many issues, were no longer consistent servitors of Britain and the Morgans. The deliberate and consistent policy of inflation came to an end, and a corrective depression soon arrived.

There are two mysteries about the Depression, mysteries having two separate and distinct solutions. One is, why the crash? Why the sudden crash and depression in the midst of boom and seemingly permanent prosperity? We have seen the answer: inflationary credit expansion propelled by the Federal Reserve System, in the service of various motives, including helping Britain and the House of Morgan. But there is another vital and very different problem. Given the crash, why did the recovery take so long? Usually when a crash or financial panic strikes, the economic and financial depression, be it slight or severe, is over in a few months, or a year or two at the most. After

that, economic recovery will have arrived. The crucial difference between earlier depressions and that of 1929 was that the 1929 crash became chronic and seemed permanent.

What is seldom realized is that depressions, despite their evident hardship on so many, perform an important corrective function. They serve to eliminate the distortions introduced into the economy by an inflationary boom. When the boom is over, the many distortions that have entered the system become clear: Prices and wage rates have been driven too high, and much unsound investment has taken place, particularly in capital goods industries. The recession or depression serves to lower the swollen prices and to liquidate the unsound and uneconomic investments; it directs resources into those areas and industries that will most effectively serve consumer demands—and were not allowed to do so during the artificial boom. Workers previously misdirected into uneconomic production, unstable at best, will, as the economy corrects itself, end up in more secure and productive employment.

The recession must be allowed to perform its work of liquidation and restoration as quickly as possible, so that the economy can be allowed to recover from boom and depression and get back to a healthy footing. Before 1929, this hands-off policy was precisely what all U.S. governments had followed, and hence depression, however sharp, would disappear after a year or so.

But when the Great Crash hit, America had recently elected a new kind of President. Until the past decade, historians had regarded Herbert Clark Hoover as the last of the laissez-faire Presidents. Instead, he was the first New Dealer. Hoover had his bipartisan aura, and was devoted to cooperatism cartelization under the aegis of Big Government; indeed, he originated the New Deal farm price support program. His New Deal specifically centered on his program for fighting depressions. Before he assumed office, Hoover determined that should a depression strike during his term of office, he would use the massive powers of the federal government to combat it. No more would the government, as in the past, pursue a hands-off policy.

As Hoover himself recalled the crash and its aftermath:

The primary question at once arose as to whether the President and the federal government should undertake to investigate and remedy the evils. . . . No President before had ever believed that there was a governmental responsibility in such cases. . . . Presidents steadfastly had maintained that the federal government was apart from such eruptions . . . therefore, we had to pioneer a new field.

In his acceptance speech for the Presidential renomination in 1932, Herbert Hoover summed it up:

We might have done nothing. . . . Instead, we met the situation with proposals to private business and to Congress of the most gigantic program of economic defense and counterattack ever evolved in the history of the Republic. We put it into action. . . . No government in Washington has hitherto considered that it held so broad a responsibility for leadership in such times. . . .

The massive Hoover program was, indeed, a characteristically New Deal one: vigorous action to keep up wage rates and prices, to expand public works and government deficits, to lend money to failing businesses to try to keep them afloat, and to inflate the supply of money and credit to try to stimulate purchasing power and recovery. Herbert Hoover during the 1920s had pioneered in the proto-Keynesian idea that high wages are necessary to assure sufficient purchasing power and a healthy economy. The notion led him to artificial wage-raising—and consequently to aggravating the unemployment problem—during the depression.

As soon as the stock market crashed Hoover called in all the leading industrialists in the country for a series of White House conferences in which he successfully bludgeoned the industrialists, under the threat of coercive government action, into propping up wage rates—and hence causing massive unemployment—while prices were falling sharply. After Hoover's term, Franklin D. Roosevelt simply continued and expanded Hoover's policies across the board, adding considerably more coercion along the way. Between them, the two New Deal Presidents managed the unprecedented feat of making the depression last a decade, until we were lifted out of it by our entry into World War II.

If Benjamin Strong got us into a depression and Herbert Hoover and Franklin D. Roosevelt kept us in it, what was the role in all this of the nation's economists, watchdogs of our economic health? Unsurprisingly, most economists, during the Depression and ever since, have been much more part of the problem than of the solution. During the 1920s, establishment economists, led by Professor Irving Fisher of Yale, hailed the twenties as the start of a "New Era," one in which the new Federal Reserve System would ensure permanently stable prices, avoiding either booms or busts. Unfortunately, the Fisherines, in their quest for stability, failed to realize that the trend of the free and unhampered market is always toward lower prices, as productivity rises and mass markets develop for particular products. Keeping the price level stable in an era of rising productivity, as in the 1920s, requires a massive artificial expansion of money and credit. Focusing only on wholesale prices, Strong and the economists of the 1920s were willing to engender artificial booms in real estate and stocks, as well as malinvestments in capital goods, so long as the wholesale price level remained constant.

As a result, Irving Fisher and the leading economists of the 1920s failed to recognize that a dangerous inflationary boom was taking place. When the crash came, Fisher and his disciples of the Chicago school again pinned the blame on the wrong culprit. Instead of realizing that the depression process should be left alone to work itself out as rapidly as possible, Fisher and his colleagues laid the blame on the deflation after the crash and demanded a reinflation (or "reflation") back to 1929 levels. In this way, even before Keynes the leading economists of the day managed to miss the problem of inflation and cheap credit and to demand policies that only prolonged the depression and made it worse. After all, Keynesianism did not spring forth full-blown with the publication of Keynes's General Theory in 1936.

We are still pursuing the policies of the 1920s that led to eventual disaster. The Federal Reserve is still inflating the money supply and inflates it even further with the merest hint that a recession is in the offing. The Fed is still trying to fuel a perpetual boom while avoiding a correction, on the one hand, or a great deal of inflation, on the other. In a sense, things have gotten worse. For while the hard-money economists of the 1920s and 1930s wished to retain and tighten up the gold standard, the "hard money" monetarists of today scorn gold, are happy to rely on paper currency, and feel that they are boldly courageous for proposing not to stop the inflation of money altogether, but to limit the expansion to a supposedly fixed amount.

Those who ignore the lessons of history are doomed to repeat it—except that now, with gold abandoned and each nation able to print currency ad lib, we are likely to wind up, not with a repeat of 1929, but with something far worse: the holocaust of runaway inflation that ravaged Germany in 1923 and many other countries during World War II. To avoid such a catastrophe we must have the resolve and the will to cease the inflationary expansion of credit, and to force the Federal Reserve System to stop purchasing assets and thereby to stop its continued generation of chronic, accelerating inflation.●

MORE INFORMATION NEEDED ON CHRYSLER SITUATION

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. STOCKMAN. Mr. Speaker, last week the White House announced its support for a $1.5 billion loan guarantee program for Chrysler. The House Banking Committee seems to be inclined to move expeditiously in the consideration of Chrysler loans; in fact, its Economic Stabilization Subcommittee had scheduled a markup for today without knowing that the administration would even have finished its deliberations.

While the company's argument that it needs help immediately deserves some consideration, the needs of this House for an adequate body of information on which to base its decision must be met. At this point, what we do not know about the implications for the national economy of giving aid to Chrysler far exceeds what we do know. Senator WILLIAM PROXMIRE, chairman of the Senate Banking Committee, and Senator JAKE GARN, ranking minority member of that committee, recently sent a letter to Secretary of the Treasury G. William Miller requesting additional information relating to the Chrysler case. Their letter provides an excellent summary of the information required for giving thorough and well-considered analysis to the aid proposals that will soon be before us.

I hope the Members will read the Proxmire-Garn letter and begin to think carefully about the possible consequences of granting loan guarantees to Chrysler.

The letter follows:

WASHINGTON, D.C., *October 29, 1979.*

Hon. G. WILLIAM MILLER,
Secretary, Department of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: The Chrysler Corporation has submitted to you a modified request for Federal loan guarantees, in the amount of $750 million, based on a revised version of its September 15 financial plan. We understand that Treasury officials have agreed to work quickly to evaluate the plan so that you can make "expeditious recommendations" regarding any Administration proposal to the Congress.

The Committee on Banking, Housing and Urban Affairs held hearings on the Chrysler Corporation's financial problems and the implications for public policy on October 10, 11, and 12. The purpose of these hearings was to obtain background information for use by the Committee in future deliberations on the Chrysler situation.

Testimony presented by witnesses at the hearings raised a number of important questions about the Chrysler plan and the assumption underlying it, as well as about some of the broader issues involved. Some similar questions are raised by Chrysler's own consultant, Booz Allen & Hamilton, Inc.

In view of your desire to respond swiftly to the Chrysler request, we thought it best to advise you of the concerns that may arise with respect to the Chrysler plan, as revised, and of the additional information that will have to be provided in order for the Committee to be able to reach a responsible decision on any proposed legislation to provide loan guarantees to the Chrysler Corporation. Information will be needed on the feasibility of the Chrysler plan, on the reliability of the assumptions underlying it, on the impact on the viability of the company if these assumptions do not materialize, on the implications for competition in the automobile industry, and on the potential effects on employment and on the economy in general of alternative scenarios of Chrysler's future situation. The following pages discuss the needs and concerns of the Committee in more detail.

The "Modification of Loan Guarantee Request" submitted to you by the Chrysler Corporation on October 17 represents an improvement over the September 15 plan in terms of information provided, but it is still deficient in a number of respects. The plan projects a dramatic turnaround over the six-year period running through 1985 by a company which has shown a continuing deterioration in its financial and market position since the early 1950's—a turnaround based on the injection of $750 million in Federal loan guarantees. Highlights of the plan include the following:

(a) economic assumptions of GNP growth averaging 3.5 percent a year, inflation in the 8 percent range, and ample supplies of fuel with no protracted shortages until at least the latter part of the plan period;

(b) an increase of about 20 percent in Chrysler's U.S. market share by 1985, from 10.3 to 12.3 percent, based on a 42 percent rise in unit sales and significant increases in penetration of almost all segments of the U.S. car and truck markets;

(c) variable margin improvements and fixed cost reductions totalling over $1 billion a year from 1978 levels;

(d) resultant net earnings of $996 million in 1985, as compared with an estimated loss of $1,073 billion in 1979, and improvement of the company's return on sales to about 4 percent starting in 1984;

(e) capital-related spending amounting to $13.6 billion over the six-year period, accompanied by a cumulative cash shortfall peaking at $2.1 billion in 1981, to be covered by $750 million in loans guaranteed by the Federal government and an additional $1.35 billion in new funding to be obtained from (unspecified) asset dispositions, financial institutions, constituent groups, and state and local governments; and

(f) maintenance of Chrysler as a full line automobile company, with plans for expansion into new segments of the car and truck industries and establishment of more distinct identities for the two marketing divisions (Chrysler/Plymouth and Dodge/Dodge Truck).

These points and questions concerning them will be discussed in the following section:

(A) ECONOMIC ASSUMPTIONS

The revised Chrysler plan is an improvement over the previous plan in that it spells out some of the economic assumptions for the 1980–1985 period on which the sales and earnings projections are based, although the only back-up data provided are the charts shown in exhibits I–IV. There is no discussion, however, of the potential effects on the plan should any of these assumptions not be realized. For instance, it is assumed that there will be an ample supply of fuel available with no protracted shortages, at least until the latter years of the plan. Presumably this assumption forms part of the basis for the forecast in the plan of a partial swing in consumer demand back to middle and large-sized cars by 1981. If new shortages occur, or even if they are perceived as a continuing threat, then this trend may not develop. In that case, Chrysler's sales of these larger cars would probably fall short of projections, its cash shortfall would widen, its profits would fall, and thus its financing needs might well exceed the amounts provided in the plan. Similarly, if other assumptions, such as GNP growth averaging 3.5 percent a year or inflation in the range of 8 percent, do not materialize—if the economy turns out to be in better or worse shape than predicted—then the plan will be affected and Chrysler's financing needs may be greater or less than projected. Given the uncertainties involved in econometric forecasts, it is necessary to have available a range of alternative possibilities, from pessimistic to optimistic, so that the Committee will be able to gauge the effects on Chrysler's situation and its prospects for recovery if the assumptions outlined in the plan prove incorrect.

(B) MARKET SHARE

According to witnesses who testified at the Committee's hearings, the projected increase in Chrysler's market share (in both the car and truck industries) is the most crucial element of the company's financial plan, and the success of that plan hinges on the realization of that increase. Indeed, the company acknowledges the importance of this element by pointing out in the plan document that every one point increase in car market share for Chrysler produces an increase of $190 million in profits.

The market share projections contained in the October 17 plan remain unchanged from those in the September 15 plan discussed in the hearings. They show a growth in Chrysler's share of the automobile market as a whole from 10.3 percent of units sold in 1979 to 12.3 percent in 1985, which comes out to about a 20 percent increase in market share over that six-year period. In the car industry specifically, a somewhat larger growth in market share is forecast: from 10.2 percent in 1979 to 12.4 percent in 1985, for a gain of 22 percent.

Using Chrysler's figures, this translates into a $418 million increase in profits by 1985. By the same token, however, it can be assumed that if Chrysler's car market share does not rise by the projected amount, if indeed it were to remain at the same level, then Chrysler's profits would be $418 million lower than projected for 1985. And if there were, say, a 2 point drop in market share over that time period, which would not be inconsistent with recent trends, then this would reduce the 1985 figure by $808 million, which would come close to wiping out the $996 million in total profits projected for that year.

In light of all this, it is important that the Committee be provided with full and detailed justification for the market share projections contained in the Chrysler plan. A closer examination of these figures, as shown in Exhibit VIII, suggests that they may be rather optimistic.

The gains forecast are particularly marked for the car industry, where Chrysler is projecting a 38 percent rise in unit sales over the six-year plan period, as compared with a 14 percent rise for the U.S. car industry as a whole. These gains are based on the assumption that Chrysler will increase its penetration of every segment of the U.S. car market except for basic large cars, where the decline will be partially offset by the introduction of a new luxury car. The increase in penetration is shown to be especially great in the compact and middle-sized segments, which together will comprise close to 50 percent of the car industry by 1985.

The tables in Exhibit VIII show a 15 percent gain in Chrysler's truck market share, but the volume increases here are greater—a 54 percent rise in unit sales of Chrysler trucks, as compared with a 34 percent rise industrywide. In this category, the Chrysler figures show increased penetration in virtually every segment of the truck industry, except for standard-size pick-ups, where Chrysler's share is projected to drop just 25 percent while total industry volume is expected to drop by closer to 50 percent. The Chrysler figures include some significant penetration of the small bus and small van segments of the truck market, where Chrysler does not have any models now and does not expect to have any until the mid-1980's.

While the Committee was told that such market share gains would not be unprecedented, they are nonetheless ambitious, especially for a company which has seen a continuous decline in its market share over the past 10 years. The Chrsyler plan document states that the market share forecasts are based on a detailed examination of the industry but that "due to the confidential nature of this material, the detailed analysis is not presented".

Witnesses at the hearings testified that it was essential that the Committee have detailed information on the assumptions underlying Chrysler's market share forecast available for review. These witnesses also stated that Chrysler's assumptions would have to be evaluated in the context of similarly detailed information on General Motors' (GM) and Ford's future marketing and production plans, since any gain in Chrysler's market share will have to be won at the expense of its competitors, which in all segments of the car industry except for subcompacts are almost exclusively the two larger American companies. And, in light of the announcement subsequent to the hearing of the planned Renault investment in the American Motors Corporation (AMC), it would also be helpful to have further information regarding those companies' stated plans to develop and market by 1982 a front-wheel drive compact, since this car would compete directly with Chrysler's "K" car, from which it expects to win substantial gains in the compact segment of the car market. All of this information should be available before the Committee gives formal consideration to any proposed loan guarantee legislation, since the success of a plan involving $750 million in Federal guarantees would depend on the reliability of those Chrysler market share projections.

(C) COST SAVINGS

Section IV of the Chrysler plan outlines actions which the company intends to take to reduce fixed costs and improve variable margins by a total of $1 billion a year over 1978 levels, as a means of returning the company to profitability. These actions are important, because Chrysler's per unit costs are acknowledged to be the highest in the domestic automobile industry. According to information supplied to the Committee, regulatory requirements account for only part of this additional per unit cost, with factors like production inefficiencies and greater debt burden making up the rest. The actions planned include designing and aggressively marketing new products, offering more expensive optional equipment, reducing personnel, and closing some facilities.

The Committee should be provided with an analysis of the feasibility of the fixed cost reduction and variable margin improvement programs described in the Chrysler plan, and of the likelihood of achieving the projected $1 billion a year in "profit improvements" under varying economic assumptions. The company should be required to develop contingency plans for realizing additional per unit cost savings in the event that some of the expected improvements do not materialize. In addition, the Committee should have before it an analysis of the effects of these designated actions on U.S. employment, and particularly on certain areas such as Detroit, since many of these measures are likely to

involve reductions in direct or indirect (i.e. supplier) employment.

(D) PROFITS

Based on the elements of the plan described above, Chrysler is projecting that it will start making a profit again in 1981 and that its net earnings will be $696 million in 1985, as compared with the estimated loss of $1.073 billion in 1979. Moreover, the plan forecasts an improvement of the company's return on sales to about 4 percent starting in 1984—a condition which Chrysler has experienced in only four years out of the past 25, all of them during the growth periods of the 1960's.

Witnesses at the Committee's hearings noted that growth rates in the automobile market are slowing, not only in the U.S., but also in Europe and Japan, as those markets reach maturity. This means there is likely to be a substantial increase in competition in the coming years, not only from the other domestic automobile companies but also from foreign companies making greater efforts to penetrate the American market. This increased competition will not only make it potentially harder for Chrysler to raise its market share as projected but may also make it necessary for the company to shave profit margins more closely in order to meet unit sales projections.

These "bottom line" earnings figures are, of course, the key to the success or failure of the Chrysler plan, and thus it is important to know if they are realistic. In order to assess the validity of the profit projections contained in the Chrysler plan and underlying its request for Federal loan guarantees, the Committee will require detailed analyses of those profit projections, in light of anticipated growth rates and competitive trends in the domestic and international automobile markets. These analyses should factor in some of the potential range of differences in economic assumptions, market share projections, and fixed and variable cost reductions suggested above and trace the impact on the company's profit picture. In addition, witnesses at the hearings stated that the Committee should have information on how Chrysler's position would be affected by fluctuations in exchange rates, which directly affect sales of imports, and by the growth of operations in the U.S. by foreign companies, such as Volkswagen's assembly plant in Pennsylvania. Analyses such as these are needed to provide a basis for the Committee to decide whether it is reasonable, in this economic climate, to assume that Chrysler can attain a 4 percent return on sales in the next few years, and if not, then what effect this will have on Chrysler's financing needs and on the viability of its recovery plan.

(E) FINANCING NEEDS

The financial projections contained in the Chrysler plan are based on the market share, profit, and fixed and variable cost reduction figures discussed above. According to Section V of the plan document, funding needs will peak at $2.1 billion in 1982, reflecting expenditures required to replace medium and full size car lines with smaller frontwheel drive models, with costs partially offset by profits from the 1981 "K" car and from the anticipated economic recovery.

In the financial plan submitted on September 15, the company said that it could raise at least $900 million of the $2.1 billion needed from asset sales and other sources, and possibly $700 million more on top of that, but not the remaining $500 million. Accordingly, Chrysler requested $1.2 billion in loan guarantees from the Federal government—$500 million initially, plus $700 million more to be available on a contingency basis. This plan was rejected as being outside of the $500–750 million loan guarantee range indicated to be acceptable to the Administration.

The October 17 request comes in right at the stated maximum—$750 million in loan guarantees—but it is not clear whether this change involves additional financing sources or simply moving numbers around. The revised plan now contemplates raising $850 million rather than $450 million from "asset dispositions, financial institutions, state and local governments, and other" and $500 million rather than $450 million from "constituents, and employee participation," for a total of $1.35 billion rather than $900 million, but it does not give any details as to how the additional $450 million will be obtained. In fact, the plan document specifically states that "the potential for funding is presented here in summary form in order not to disclose the details" because this might impair negotiations presently underway.

It is unfortunate that Chrysler is not more specific about its other funding sources at this point, given that it is pressing for swift action by the Administration in endorsing the Federal loan guarantee side of the financial plan. Certainly the Committee will have to have detailed information on the different funding sources and the amounts involved in order to reach a decision on the soundness of any loan guarantee legislation based on the Chrysler plan. Even if specific commitments cannot yet be obtained, the company should at least indicate with some specificity where it expects to get the funding needed: how much from financial institutions, from asset sales, from state and local governments, from the labor union, from dealers and suppliers.

In this regard, the Committee is particularly interested in knowing what effect the tentative labor agreement reached by Chrysler and the United Automobile Workers will have on the company's funding needs and overall financial projections. From news accounts, it appears that the agreement, if ratified by the union membership, would save the company approximately $203 million in lower payroll costs over the next two years, compared with provisions of other contracts recently agreed to in the industry. While this is an encouraging sign of labor-management cooperation, the Committee needs detailed information about the actual costs of the contract and its effective contribution to the company's financial plan in order to thoroughly evaluate union efforts to assist the company.

A number of analysts of the Chrysler situation, including witnesses at the Committee's hearings, have expressed doubts that the $2.1 billion figure is an adequate reflection of Chrysler's financial needs, and some have indicated that the actual figure could be twice that amount. According to recent press reports, this is also the view of Chrysler's own consultant, Booz Allen & Hamilton, Inc., which appears to believe that the needs may reach $2.8 billion by 1982. The company's approach to this issue, as stated in the plan, is that "the management of Chrysler is dedicated to finding ways to contain its peak cash requirements to a maximum of $2.1 billion."

The question then raised is what amount of Federal aid is needed to ensure Chrysler's long-term viability in the automobile market. A better way to ask the question might be what amount of guarantees under what conditions in the context of an overall financing plan would constitute an acceptable risk to the Federal government, in that the plan as a whole with the inclusion of a loan guarantee offers a reasonable chance of success in restoring Chrysler to financial health. And what amount beyond that would be an unacceptable risk because the chances for success would be remote in any case? Chrysler itself indicates in the plan that further borrowings beyond the $2.1 billion projected "would impose harsh financial burdens upon the Corporation". This is obviously true, given the high cost of borrowing in today's credit markets and the fact that Chrysler's debt-equity ratio is already by far the highest in the automobile industry. The financial strain imposed by further credit assistance to meet larger needs would be considerable, even if the assistance were made available at preferential Treasury rates, and prospects for the company's long-term viability could be less favorable.

A reasonable standard for determining what level of financial aid constitutes an acceptable risk for the Federal government would be the amount of outside financing available under different assumptions of need. The extent to which private financial institutions and other outside parties are willing to bear the major share of the risk in any financing arrangement should be a measure of confidence in the recovery plan and thus of the acceptability of the risk to the Federal government. The Federal portion should be the catalyst, not the lion's share. If the outside parties involved are not willing to bear most of the risk, with a priority assigned to the Federal guarantees, then that should raise questions about the viability of the plan under certain circumstances.

A logical reference for setting a standard for outside financing would be the arrangements worked out under the most recent major Federal guarantee program, the New York City Loan Guarantee Act. Under the Act, the amount of Federal loan guarantees authorized is $1.65 billion, which is equal to 37 percent of the total $4.5 billion long-term financing needs projected in the plan supporting the loan guarantee authorization. The rest comes from commitments by financial institutions and pension funds, and from public sales of bonds. In the actual financing agreement, only $750 million of those Federal guarantees, or 17 percent of the total package, are committed to be provided, with the rest held available on a stand-by basis in case other parts of the package fall short.

It would be logical to argue that any financial arrangements made for Chrysler must at least reflect the level of non-Federal commitments found in the New York City package. First, we are dealing here with a business enterprise that has assets and inventory to back up some of its borrowings, which is not true in the case of a city. Second, the parties involved in the Chrysler financial arrangements have, if anything, an even more direct interest in maintaining the company's viability. These are banks with loans outstanding (not full faith and credit bonds), suppliers whose livelihood comes in whole or in part from Chrysler, State and local governments that derive substantial tax revenues directly and indirectly from Chrysler, and workers whose jobs depend on the company. If these parties are not willing to go any further, if the banks pull back—as indicated in some press accounts—then this raises large questions about the viability of any recovery plan, with or without large amounts of Federal guarantees.

In light of these considerations, it is necessary for the Committee to have specific information regarding the standards and methods that Treasury is using and plans to use to determine the degree of risk involved and the appropriate level of Federal and non-Federal participation in Chrysler's financial rescue plan. Do you perceive any outside limits, in terms of the total amount of funding required, beyond which no amount of Federal participation would be acceptable, because the prospects for success and for repayment of the Federal obligations would be remote?

Witnesses at the hearings urged the Committee to pay attention to the experience of the British government in its efforts to rescue the British Leyland automobile company. The plan developed five years ago envisioned that the rescue would cost about a billion pounds. At this point, practically all of the

billion has been used up, British Leyland's share of the domestic market has fallen from 40 percent to 20 percent, and the company is now holding its hand out to the government for another 200 pounds. This experience points up the need for a careful assessment of Chrysler's financial needs and its prospects for increasing market share and profitability, under the most pessimistic conditions as well as the most optimistic, so that both the Administration and the Congress can consider whether and to what extent loan guarantees constitute a wise step and a reasonable risk.

(F) FULL-LINE STRATEGY

All of the elements of the Chrysler plan are hinged on one basic assumption, which is that Chrysler must remain a full-time manufacturer of automotive products. In fact, it is evident from the plan document that Chrysler intends not only to remain a full-line company but indeed to expand its market coverage into other segments of the car and truck industries, by means of a $13.6 billion capital investment program supported by $750 million in Federal guarantees. The plan is designed not simply to strengthen Chrysler's penetration of segments of the market in which it is already active but also to establish Chrysler as a market presence in new segments, some of them currently controlled by the company's domestic competitors, such as large luxury cars.

The theory behind this strategy, as stated in the plan, is that Chrysler's market coverage will expand in each succeeding year, and therefore the company will appeal to a larger percentage of the marketplace each year. But it does not necessarily follow that Chrysler will sell more cars just because it offers more models in more segments of the industry, especially not in those new segments where competing products are already well-established. Nor is it clear that the profits earned through this expanded market coverage will be sufficient to offset the additional costs of development and marketing.

Witnesses at the Committee's hearings, notably the Federal Trade Commission, questioned this Chrysler strategy. While conceding that the company probably could not thrive as a single-line manufacturer of subcompacts, because of the low profit margins involved, the FTC witnesses nonetheless expressed skepticism about the expansion strategy and, in particular, about Chrysler's plans to re-enter the luxury car market. Specifically, Chrysler plans to spend close to $250 million—or a third of the amount of loan guarantees requested—to develop a new luxury Chrysler Imperial by 1981 and a successor front-wheel drive model by 1985. Although the profit margins on these cars would be high, the projected unit sales are rather small—25–30,000 per year. And given GM's traditional domination of this market, plus competition from imports, it is debatable whether even that level of sales will be attainable, and indeed whether Chrysler can reflect the necessary "image" to succeed in the luxury car market in the next few years.

While the Chrysler plan states that strategic alternatives to deal with the company's financial difficulties were considered by management, it does not appear that enough thought was given to a limited-line (as distinct from single-line) strategy. A limited-line strategy would concentrate Chrysler's offerings in market segments where it may have the strongest potential to compete successfully, while at the same time cutting down on capital investment and other costs. Indeed, it does not appear that Chrysler even considered the possibility of remaining a full-line company at current levels and focusing its efforts on increasing penetration in all of the market segments in which it presently competes, which presumably would also involve somewhat lower costs and funding needs. And whereas there would obviously be no objection per se to a private company's planning an ambitious program of product development and market expansion, one can question whether it is appropriate for a company facing a loss of $1 billion and threatening financial collapse to be presenting such a program and asking for Federal loan guarantees to help finance it.

The Chrysler plan states that management has considered four strategic alternatives to deal with Chrysler's current financial difficulties. A reading of these alternatives suggest that they are not exhaustive, nor are the reasons for accepting or rejecting them thoroughly examined in the plan document. The alternatives considered to date are given as follows:

(1) remain a full-line manufacturer of automotive products.

(2) become a manufacturer of restricted automotive offerings, which is defined as "small cars only, or family size cars only, with trucks in both cases."

(3) pursue business combinations (merger).

(4) undergo bankruptcy or reorganization under chapter 11 proceedings.

The Chrysler plan draws a stark contrast between the first and second alternatives, full-line vs. restricted line. The first will permit the company to retain its existing customers; induce small car buyers to "upline" to more profitable larger cars; and protect its asset base, work force, lenders, suppliers, dealers and various other "constituents". The second means cutting down to one car product-line only, with severe implications for sales, profits, and the dealer-body. As is indicated above, there would appear to be some limited-line alternatives lying between these two extremes which might offer certain advantages for the company. However, there is little evidence that any of these have been or are being explored, although the plan does allude to further studies of the question of strategic alternatives.

It is essential that the Committee be provided with a detailed independent analysis of the strategic alternatives available to Chrysler. Such an analysis should describe a range of full-line and limited-line strategies, and the potential impact of each on the company's sales, profits, and financing needs. In addition, the company should be required to provide a more thorough justification of the expanded-line strategy outlined in the plan. For every new model planned, and especially for every new segment of the market to be entered, Chrysler should supply detailed information about the reasons for developing that product, the market outlook and state of competition in that segment (including similar models produced or planned by other automobile manufacturers), and the capital costs involved relative to the anticipated earnings under different competitive assumptions.

The Committee will also need to have a much more detailed analysis of alternatives (3) and (4) and their relative merits. As regards the third alternative, mergers, it may well be the case, as stated in the plan, that a full merger is not possible at the present time with Chrysler's current financial problems. However, the Committee should have information about efforts Chrysler has made in the past to pursue merger possibilities, at times when its problems were evident but far less acute: what opportunities might have been available, and how diligently were they pursued? Could similar opportunities be available in the future, and under what circumstances? Also, the plan does not broach the possibility of mergers involving part rather than all of Chrysler's operations. What is the potential for mergers or other combinations of some of Chrysler's more lucrative operations, for the purpose of strengthening the company's capital base and providing new financial resources?

Then there is the fourth strategy, reorganization or bankruptcy under chapter 11 proceedings. This is simply rejected out of hand. Here again, the range of possibilities is not addressed, especially not the possibility of a substantial reorganization outside of formal chapter 11 proceedings, which would be far less likely to have the disruptive effects attributed to the bankruptcy alternatives.

Witnesses at the Committee's hearings stated that reorganization outside of chapter 11 proceedings is not only possible but preferable, and that lawyers generally make an effort to keep the problem company out of the courts. There is no evidence that Chrysler has attempted any such reorganization to bolster its financial condition, even though a reorganization of some magnitude is likely to be necessary whether or not it receives Federal loan guarantees. The Committee understands that Chrysler might restore viability by following the fairly standard "turnaround" strategy of selling off its more lucrative assets and using the proceeds to revitalize the rest of the company's operations. We assume this was what Board Chairman Iacocca meant when he told the Associated Press in August that Chrysler could make it on its own without Federal aid, that it could "muddle through". While the company has accomplished some restructuring through foreign and domestic asset dispositions, the Committee should receive more detailed information regarding the possibilities for a more fundamental reorganization of the company outside of bankruptcy proceedings, without Federal aid, and also a description of the contingency plans which the company has doubtless developed for use in the event that Federal loan guarantees are not forthcoming.

The Committee received varying views from witnesses concerning the potential outcome of a Chrysler bankruptcy under chapter 11 proceedings. Projected scenarios ranged from managed reorganization with new sources of financing to chaos and total shutdown. The only agreement was that no one can really know what would happen to Chrysler under chapter 11, especially with a new law having just come into effect, since there are no real precedents. It would be helpful for the Committee to have available a detailed review of the procedures involved in the new Bankruptcy Act and how they would probably be applied if invoked in the Chrysler case.

In addition to this more thorough examination of the Chrysler plan, the Committee will need to have further information and analysis with regard to some of the broader issues raised by the Chrysler situation, including the implications for competition in the automobile industry, the potential impact on employment and on the economy, the possible alternatives to direct Federal credit assistance, and the concerns arising from recent developments in monetary policy.

COMPETITION

Witnesses at the Committee's hearings, notably those from the FTC, expressed concern about the effects on competition of a potential Chrysler collapse, in view of the high degree of concentration already existing in the domestic automobile industry. They suggested that Chrysler's historical role as a leader in marketing and technological innovation, while unable alone to make the industry fully competitive, has at least posed a challenge to the leading two companies and thereby contributed to better industry performance. At the same time, however, they pointed to the steady decline in Chrysler's market share throughout the 1970's and questioned whether the company plays the same competitive role in today's automobile market and whether it can do so in the future.

Looking at the issue from a different angle, however, the FTC witnesses expressed concern about the implications for competition of providing Federal loan guarantees to Chrysler. The plan submitted by the Chrysler Corporation makes it evident that the company is not requesting Federal aid just to regain the status quo ante. Instead, as indicated above, the $750 million in Federal loan guarantees is the cornerstone of an ambitious plan to expand Chrysler's product lines and compete across a broader spectrum of the market. To the extent that this expansion plan succeeds, with government backing, it will cut into the market share of Chrysler's competitors, whose ability to compete may be considered to be somewhat reduced through the competitive advantage afforded to Chrysler by the Federal loan guarantees, in addition to any other preferences that might be forthcoming from Federal agencies.

It is well known that the Ford Motor Company is in some difficulty and has not been making a profit on its domestic operations. If Chrysler succeeds in realizing the market share gains projected in its plan, with the help of Federal guarantees, what effect is this likely to have on Ford's financial viability? What is the likelihood that Ford will request similar Federal aid if its market share erodes, and what would be Treasury's position on providing loan guarantees to Ford, under those circumstances? And what would be the effect on competition if two of the three large companies in the automobile industry were operating under government assistance?

EFFECTS ON EMPLOYMENT AND ON THE ECONOMY

The major argument made in favor of Federal assistance to the Chrysler Corporation concerns the potential impact on employment and on the economy in general of a Chrysler collapse.

Two studies of this question have been used as the basis for justifying Federal aid to Chrysler; indeed, they are the only ones which have been given any currency. One of the studies is an econometric forecast of the macroeconomic effects done by Data Resources, Inc. for the Congressional Budget Office; the other is a preliminary staff study of the regional effects done by the Transportation Systems Center of the Department of Transportation (DOT). Both studies employ a "worst case" scenario which assumes a total shutdown of Chrysler's operations, and both project significant employment and economic effects, although not necessarily of a permanent nature, especially for certain parts of the country such as the Detroit area.

It should be noted that witnesses representing both studies testified before the Committee and that in each case it was stated that the worst case scenario is not realistic, that the likelihood of a complete shutdown of Chrysler's operations is quite remote, and that the most probable outcome of the Chrysler situation lies somewhere in between the two extremes of complete shutdown or complete maintenance of existing jobs and facilities. The figures of 600,000 jobs lost and billions of dollars in cost to the economy are considered to be exaggerated, as are the implications that there will be no costs and all those jobs will be saved if the Federal government will only step in with loan guarantees.

We understand from the testimony at the hearings that the Treasury requested the Department of Transportation to consider other, more realistic scenarios, and not just the worst case shutdown scenario, which is of course the easiest to analyze. It is essential that the Committee have before it alternative scenarios of the effects of the Chrysler situation on employment and on the economy under different conditions and assumptions, to aid in its deliberations on proposed Chrysler legislation. These scenarios should examine the effects of a Chrysler reorganization, with or without Federal aid, now or at some future date, in or out of bankruptcy proceedings.

The Committee would also be interested in knowing Treasury's own assessment of the short-term and long-term effects of a total Chrysler shutdown and whether it differs in any way from the findings of the two studies mentioned above. What proportion of Chrysler workers laid-off are likely to be able to find jobs with other automobile companies or other manufacturing companies which can use their skills? What proportion are likely to be able to find other unrelated jobs, perhaps with some retraining or relocation assistance? What proportion, if any, are likely to be permanently unemployed? As regards suppliers and dealers, how many are likely to go under; how many should be able to convert to other sources of work and other franchises, and what degree of permanent unemployment, if any, is likely to result in these areas? What would happen to Chrysler's share of the market; how much would be picked up by Ford and GM, and how much would go to imports? And what would be the impact of all this on the economy as a whole?

Witnesses at the Committee's hearings agreed that there will be some economic effects whatever the outcome of the legislative process and the financial plan. One of the DOT witnesses stated that at least 50 percent of the jobs in Detroit are likely to be eliminated under any realistic scenario. More plants will be closed, and more workers laid off, as part of any realistic revitalization effort. Thus, the Committee will need to have, in conjunction with these alternative scenarios, certain specific information on Chrysler's condition, including the following:

An inventory of the Chrysler Corporation's plants, indicating for each the number of employees (broken down by occupational classification and into those presently on the job and those temporarily laid off), and the likelihood of that plant's being kept open and those jobs' being retained (in whole or in part) under alternative scenarios.

A description of Chrysler's plan for future operations including new plants to be built or substantially modernized, number of jobs involved, and where these plants will be located (in which area of the country, or else outside of the country in the case of the Mexican four-cylinder engine plant) and what other operations and jobs, if any, are likely to be displaced by these new plants.

ALTERNATIVES TO FEDERAL CREDIT ASSISTANCE

At some point, be it here or further down down the line, the Administration and the Congress may have to consider the possibility that the Chrysler Corporation may not be viable on a long-term basis and that some of the economic effects may have to occur anyway, barring a commitment of massive and continuing Federal assistance to keep the company alive at any cost. Therefore, it would be advisable for the Committee to have before it some alternatives to direct Federal financial aid to Chrysler that might address the difficult economic and employment problems posed by the Chrysler situation.

There are already a number of Federal programs in existence to provide assistance to communities burdened with high unemployment and economic decline. These include manpower training and relocation programs, trade adjustment assistance programs, and some economic development assistance programs which are presently undergoing a large expansion. Although there is no assurance that loan guarantees to Chrysler will solve these problems, it would nonetheless be useful for the Administration to provide the Committee with an analysis of the comprehensive measures that could be undertaken, using existing programs, to offset the economic effects of a Chrysler collapse in both the short- and long-term. The Administration should have some contingency plans, as well as the company.

RECENT DEVELOPMENT IN MONETARY POLICY

The argument will be made that Federal financial aid to the Chrysler Corporation is still more imperative in view of the stringent monetary policy initiatives recently instituted by the Federal Reserve Board and the impact these are likely to have on Chrysler's access to credit and the costs thereof. The company can plead that the Federal government is hurting it still more, while offering estimates of the additional costs involved, and it can argue that this strengthens its case for Federal loan guarantees.

There are strong arguments on the other side as well. Many sectors of the economy are being and will continue to be strained by this severe tightening of credit, however necessary it may be. Given these extraordinary circumstances, it is essential that the Treasury provide the Committee with an estimate of the credit market impact of extending a loan guarantee to Chrysler, which may well be more substantial than it would be under normal market conditions. If Chrysler gets $750 million or more in Federal loan guarantees, plus access to additional funds from banks and other parties that might not otherwise be available, then how much of this credit is likely to be diverted from other borrowers, and what sectors of the economy are likely to be most affected? Will there be any incremental impact on interest rates? What would be the estimated effect on employment in these sectors?

We appreciate your giving full consideration to the points raised in this letter and to the information needs that will be faced by the Committee on Banking, Housing and Urban Affairs in considering legislation to provide Federal loan guarantees to the Chrysler Corporation.

Best regards.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

JAKE GARN,
Ranking Minority Member.●

EDITORIAL SUPPORTS NUCLEAR POWER

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. WYDLER. Mr. Speaker, WRC–TV editorial director Gayle Perkins deserves credit for her insight into the importance of maintaining nuclear powerplants despite their risks. I would like to call the attention of my colleagues to her editorial of October 31, praising the Kemeny Commission on their decision not to impose a moratorium on plant construction.

Too often the media, especially television, cover the personalities at the extremes of the nuclear issues rather than analyzing the larger issue of how viable the various energy sources are in practical terms.

I encourage editorial writers in television to follow Ms. Perkins example of looking past the rhetoric of persons like Jane Fonda and Tom Hayden to the realities of the technologies available to reduce our dependence on foreign oil.

I submit the text of the television editorial for the edification of my colleagues and the editorial writers of this powerful electronic medium.

The editorial follows:

NUCLEAR POWER

Hello, I'm Gayle Perkins.

When President Carter announced formation of a Presidential Commission on Three Mile Island, he told them it was their task to make nuclear power even safer. Six months have passed, the commission has finished its work and the President has received a report. That report was a victory for the nuclear power industry which had feared a vote for a moratorium on nuclear power plant construction.

We are glad. Despite the caution and the risks involved in nuclear power, it is the only viable alternative that this country has right now to solve our immediate energy problems through this century. Solar heating which is being touted as the cure-all for the nations energy problems, is not the answer, especially since the technology on a grand scale is just not there yet.

We do believe, however, that substantial funding be made available for research into developing the technology for alternative sources to meet the requirements of the next century.●

TRIBUTE TO PHILIP J. RICHLEY

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. WILLIAMS of Ohio. Mr. Speaker, tomorrow night, November 9, 1979, the city of Youngstown, Ohio, will honor Philip J. Richley, a public servant whose enviable record testifies to his service in his community and his State, as he retires from the office of mayor of Youngstown.

Phil Richley was born in Roccanova, Italy, April 27, 1926, and came to the United States as a small child. He grew to manhood in Ohio, earning his degree in engineering at Youngstown State University, following which he entered graduate school at the University of Pittsburgh, Pa. In 1971 he was awarded his Ph. D. in engineering at Youngstown State, the only student in the history of the university to reach that goal.

During his 30 years of public service Mayor Richley achieved his status among his peers by numerous worthwhile accomplishments. He is a registered engineer and surveyor in Ohio. In 1964 he was appointed city engineer in Youngstown. He supervised urban renewal land acquisition, and the development, design and construction of the YSU campus. The Youngstown arterial highway system came into being under his direction. Of particular interest to local residents was his work in supervising the city's water and sewage treatment systems.

Governor Gilligan appointed Richley director of the department of highways in Ohio in 1971, where he served until 1974. In that year, he was elected the first president from Ohio of the American Association of State Highway and Transportation Officials. The year before, he was chosen Man of the Year by the Mahoning County Industrial Council, the first public official to be so honored. Elected mayor in 1977, Phil is also the vice chairman of the Ohio Democratic Party.

I am pleased to join with his many friends, his wife, Josephine, daughter Phyllis, and son, John, in this salute to him and his achievements.●

UNIVERSAL MILITARY TRAINING

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. PAUL. Mr. Speaker, Senator Robert A. Taft was one of the most outspoken defenders of personal liberty ever to serve in Congress. He was also, of course, an opponent of universal military training and the draft.

On May 30, 1945, he gave a speech at Gettysburg Cemetery. His remarks are as relevant to today as they were then, and I would like to call some of them to my colleagues' attention:

This afternoon I wish to speak particularly about one step now proposed and supported by Government propaganda, which seems to me to strike at the very basis of freedom, for which our boys are fighting. It is the proposal that we establish at once compulsory conscription for military training in time of peace. The proposal is that we establish in this country a twelve months' continuous military training for every boy, the same military set-up which we have gone to war to abolish in Germany and Japan. Whether we become a militaristic and totalitarian country depends more on this measure than any other. It does not relate to any limited class or group. It reaches every family and every boy. It subjects boys completely to the domination of the Government for a year during their most formative period. It keeps them under constant supervision as reserves for years thereafter. The power to take a boy from his home and subject him to complete Government discipline is the most serious limitation on freedom that can be imagined. Many who have accepted the idea favor a similar Government-controlled training for all girls.

There is no doubt that the Government, and particularly the War and Navy Departments, are straining every nerve to secure the enactment of this legislation before the war ends. Secret meetings are being held in the Pentagon Building and elsewhere.

Government propaganda is bad enough when it is open, but it is inexcusable when secret. We may expect a flood of open propaganda after the ground has been prepared, and everyone who is opposed to the plan will be pictured as for war and for unpreparedness.

We have fought this war to preserve our institutions, not to change them. We have fought it to permit us to work out our problems here at home on a peaceful foundation, not on a foundation dominated by military preparations for another war. The question of the best form of military organization should not be loaded with emotion. It should be dealt with by argument and not by propaganda. But the methods being used threaten the freedom of this country, for if they are successful they can be used to fasten upon us every kind of regulation, price control for business, wage control for labor, production control for farmers. . . .

With good pay, reasonable treatment for men and their families, and provision for retraining and retirement when a man is too old to stay in the Army, I don't see why Army life cannot be made just as attractive as working daily on a machine, mining coal, or engaging in hundred of other occupations. Many jobs in the Army should give highly technical training with interesting knowledge which makes the trainees capable of advancement in other activities in life.

To provide the necessary Reserves, it could be made worth the while of many boys to take the necessary training. . . .

Additional courses could be provided for those who wish to become Reserve Officers. What I have suggested is only one idea and there may be many others. The Army will immediately criticise any plan, because they are determined to have conscription. They want the boys for twelve months consecutively because they want to change their habits of thought, to make them soldiers, if you please, for the rest of their lives. Nothing less will do. We are indeed bankrupt of ideas if we cannot provide a method by which necessary military forces and Reserves are provided by an American voluntary system.

The other arguments for conscription seem to me almost too trivial to discuss. It is said it will teach the boys discipline and that they need it. My own opinion is that we need more initiative and original thinking and less discipline rather than more. Our present Army is not the most disciplined Army in the world, but there isn't any better Army for the simple reason that the boys do some thinking for themselves. . . .

The argument that it would improve the morals of our boys has almost been dropped because of its foolishness. If there is one place where morals will not be improved, it is in the vicinity of Army camps.

It is true that there are some boys who are benefitted by Army control, but to improve a few, let us not change the whole character of the American life which I believe has been the cause of success in this war.

It is said that we are going to teach the boys citizenship in the camps. This argument makes clear a real danger in the whole system. By handing boys over for twelve months to the arbitrary and complete domination of the Government, we put it in the power of the Government to indoctrinate them with the political doctrines then popular with the Government. . . .

Attempts along this line have been made with the present Army, and a large amount of propaganda sent out to be taught to the soldiers. In wartime it is bad enough; in peacetime, it would be intolerable.

Some have supported this project on the ground that the training is to be only part military and a considerable amount of it is to be character training along other lines. We have already a complete school system in this country. If it isn't adequate and does not give education in citizenship, we can well spend our time and money in trying to improve that system. As a matter of fact, it is already the finest system of education the world has ever seen.

Military conscription is essentially totalitarian. It has been established for the most part in totalitarian countries and their dictators led by Napoleon and Bismarck. It has heretofore been established by aggressor countries. It is said it would insure peace by emphasizing the tremendous military potential of this country. Surely we have emphasized that enough in this war. No one can doubt it. On the contrary, if we establish conscription every other nation in the world will feel obliged to do the same. It would set up militarism on a high pedestal throughout the world as the goal of all the world. Militarism has always led to war and not peace. Conscription was no insurance of victory in France, in Germany, or in Italy. The countries with military conscription found that it was only an incident and not the determining factor in defense or in victory.

Military training by conscription means the complete regimentation of the individual at his most formative period during a period of twelve months. If we admit that in peace-

time we can deprive a man of all liberty and voice and freedom of action, if we can take him from his family and his home, then we can do the same with labor; we can order the farmer to produce and we can take over any business. If we can draft men, it is difficult to find an argument against drafting capital. Those who enthusiastically orate of returning to free enterprise and at the same time advocate peacetime conscription are blind to the implications of this policy. They are utterly inconsistent in their position. Because of its psychological effect on every citizen, because it is the most extreme form of compulsion, military conscription will be more the test of our whole philosophy than any other policy. Some say it is unconstitutional. It makes very little difference whether it actually violates the terms of the Constitution. It is against the fundamental policy of America and the American Nation. If adopted, it will color our whole future. We shall have fought to abolish totalitarianism in the world, only to set it up in the United States.

Government by the people can exist only if the people are individuals who think. It can exist only if the individual is free to rule the state and if he is not ruled by the state. We must be constantly vigilant to keep alive the thinking of free men, and there is no such threat to that thinking as the course which would imoose on the Nation compulsory military training. We have no greater obligation to the men who fought at Gettysburg; we have no greater obligation to the men who fought in Europe and who are fighting in the Pacific, than to preserve here in America a state in which the individual shall be free to think and be master of his own soul, and where the people shall be free to govern their own Government.●

WOLFF LAUDS SEAMAN FOR 50 YEARS OF SERVICE TO THE MINEOLA FIRE CO. NO. 2

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. WOLFF. Mr. Speaker, I am proud to call to the attention of this Congress and our Nation the accomplishments of Warren Seaman of the Mineola Fire Department, Company No. 2. During his 50 years with the Mineola Fire Department, Warren Seaman has occupied virtually every position of leadership and responsibility including the position of fire inspector in Mineola and, presently, as the president of the Mineola Exempt Fireman's Benevolent Association.

Mr. Speaker and my distinguished colleagues, in these times when our Nation seeks leadership and direction, the contribution of this distinguished citizen is more than for the safety of the village of Mineola. Rather, Warren Seaman's lasting service will be the inspirational dedication he demonstrates in his work. The example he sets for his fellow citizens and the young people can be followed in every course of action. I am also proud to recognize the contributions and sacrifice of Warren Seaman's wife, Ann, and their two children, Warren, Jr., and Robert, for they also gave greatly to the community with their patience and enduring support of Warren Seaman's work.

Mr. Speaker, as you know, I have spoken on the floor of the House of Representatives on many occasions on behalf of the interests and concerns of the Mineola community and other communities of my congressional district. It is indeed a particular pleasure for me to speak of the great contributions of one of our leading citizens in calling the attention of the Congress to the work of Warren Seaman.●

IRAN: A CONFRONTATION WITH BARBARISM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. McDONALD. Mr. Speaker, the present dangerous situation in Iran in which over 60 American civilian and diplomatic personnel are being held, bound, and blindfolded, by a mob of followers of Ayatollah Ruhollah Khomeini is the dismal product of the Carter administration's foreign policies. These policies have included the destabilization of America's traditional allies on the pretext of charges of human rights abuses and the appeasement of regimes violently hostile to our country.

This crisis must be resolved honorably by this administration before dangerous precedents are set that might endanger the lives and safety of our diplomats and citizens in other countries. The administration must stop retreating and demonstrate some leadership and resourcefulness. An honorable solution to this crisis may be difficult and hard for the American people, but when we suffer the consequences of that solution, we also can remember just where the responsibility for that solution lies.

It is my view that an honorable solution now must involve a firm statement to Khomeini that he order the release of the American hostages or face military consequences, specifically an American military takeover of the oil fields in the southern part of Iran near the Persian Gulf. Such an action would cut off the Iranian regime from its wealth and would be an appropriate response to the barbaric behavior of the Khomeini forces.

I am aware that such an ultimatum to Khomeini might result in the loss of some lives of hostages at the U.S. Embassy in Tehran. But I am also aware that the Marine guards and Foreign Service personnel at that Embassy are volunteers who were aware before they accepted that assignment of the hazards attendant on representing the United States in a country that has fallen into the hands of anti-American barbarians.

The United States of America has to draw the line somewhere.

If this country has any shred of honor, or responsibility, of morality, there can be no question about rejecting the Khomeini regime's demands that the Shah be turned over to them. Khomeini's secret star chamber, the Revolutionary Council, has already sentenced the Shah to death. But his one "crime" was being the friend of the United States, trusting the United States, and accepting the pressure and advice of the Carter administration because it had been elected to lead the United States. Nor should this country accept any offer from the Shah to leave this country to abandon medical treatment, if the United States is ever to raise its head in the world again.

The Iranian dictator Khomeini is personally responsible for the seizure of our Embassy in Tehran. And I would point out in passing that although the Shah has been in four other countries since January of this year including Egypt, Morocco, the Bahamas, and Mexico, Khomeini did not attempt to force those governments into handing over the Shah for execution by having his mobs seize their diplomats and businessmen. There is no point in staging an international confrontation unless you believe you will win it. This shows the contempt with which Khomeini views U.S. power.

Some State Department officials have been claiming that the Ayatollah did not order the Islamic student movement radicals to seize the U.S. Embassy and that he has no control over their actions. That is not true. This is the communique from the Ayatollah, signed with his full name, Ruhollah Mosavi Khomeini, broadcast over the state-controlled radio in Tehran on the first of November:

ANNOUNCER: We have just received the following statement issued by the office of Imam Khomeini in Qom:

TEXT: In the name of God, the merciful, the compassionate. Four November is the anniversary of the day when the hated regime attacked the University of Tehran and massacred our dear students.

* * * * *

Our enemies use every opportunity, especially on this day, to hatch all sorts of plots. They are determined to use any pretext to disturb our people's peace. It is, therefore, up to the dear pupils, students and theological students to expand with all their might their attacks against the United States and Israel, so they may force the United States to return the deposed and criminal shah, and to condemn this great plot. It is also up to our dear university students and university staff and theological students to maintain their unity with everything in their power and support these two fronts with all their might. God bless you all.

[Signed] Ruhollah Mosavi Khomeyni.

Today a top-level State Department official told Members of Congress that the Soviet Union was deeply concerned, and that they reject this type of behavior. This is not true. This statement was broadcast on Monday night over the transmitters of the clandestine radio station, National Voice of Iran, located in the U.S.S.R. at Baku:

TEXT: Dear compatriots, protest demonstrations against U.S. imperialism aimed at the eradication of all vestiges of its domination and influence have enveloped our entire liberated homeland.

* * * * *

In Tehran, struggling and enthusiastic young people occupied the building of the U.S. Embassy, this center of corruption and anti-Iranian conspiracies, and in this way they reflected the anti-imperialist feelings of our homeland's people. The reason for the climax of these anti-American struggles in our country should be sought most of all in the conspiracies of U.S. imperialism against the Iranian nation and revolution.

The U.S. Government, which outwardly and hypocritically talks about its inclination to establish good relations with the Islamic Republic of Iran, does not cease in practice from hatching plots against Iran.

The U.S. Government, by granting a residence permit to the executioner shah in that country, has shown its hostility toward the Iranian people for the thousandth time. Informed observers have justly interpreted this act of the U.S. Government as an anti-Iranian maneuver, since U.S. officials know that the Government of the Islamic Republic of Iran has stripped the former shah and members of his hated family of their Iranian passports, and has requested all countries of the world, including the United States, not to admit the deposed shah, this executioner and killer and is determined to try and punish him in the Revolutionary Court. In addition, all evidence and documents prove that the hands of U.S. imperialism and its elements are evident in every conspiracy, plot and subversion by remnants of the former regime, SAVAKists and enemies of the revolution against the Iranian nation, and in many cases these conspirators are directly led by the United States.

The occupation of the U.S. Embassy in Tehran by struggling young people, regardless of its outward aspects, is in fact a decisive response to the overt and covert conspiracies of U.S. imperialism and to the U.S. Government's hostile act of settling the deposed shah in the United States.

It is perfectly plain, despite the assertions of the President's State Department advisers, that the Soviet Union is doing all it can to exacerbate the situation in Tehran. The Kremlin obviously expects that the United States will not use its military option in the Iranian oil fields and that this country will emerge from this crisis humiliated.

Why should the Kremlin expect such a thing? Simply because the administration has repeatedly demonstrated appeasement policies and a lack of leadership since it came to office in 1977.

On more than a dozen occasions since 1977, I drew the attention of my colleagues, the Department of Justice, and the Attorney General to the illegalities and excesses of militant Iranian revolutionaries here and abroad. Not only did our Government do nothing to curb the violence of these revolutionaries, by prohibiting proper police coverage of demonstrators in November 1977, the White House showed clearly that it would welcome the overthrow of the Shah and that it would not intervene against a revolution.

This year on January 18, I quoted the distinguished scholar Michael Ledeen of Georgetown University who wrote that there was "a convincing body of evidence that Khomeini * * * is in fact a clerical fascist, a violent anti-Semite and an intensely chauvinistic anti-American." Ledeen pointed out that the evidence of Khomeini's extremism was not contained in secret allegations in files of intelligence agencies, but in a collection of Khomeini's own lectures published in Arabic in 1970 entitled "Islamic Government;" and in a second book, "Khomeini and His Movement," published in Persian in 1975. As Mr. Ledeen wrote:

Khomeini criticizes the Shah for violating Islamic law and for betraying the principles of the Koran. "The rationale of (the Shah's) government and some of its members is the abolition of the laws of Islam," Khomeini is quoted as saying in the 1975 volume.

The violations he ascribes to the Shah's government are those that characterize what we would call a secular, pluralistic society. Thus, Khomeini rails against the employment of women in boys high schools, "the moral wrongness of which is clear to all." Furthermore, the Shah and his allies are condemned for urging that "women enter (certain) government offices, while their being there is both self-evidently useless and morally wrong." The Shah is also attacked for his leniency in the enforcement of the Koran's moral code. "We want," according to Khomeini's 1970 volume, "a ruler who would cut off the hand of his own son if he steals, and would flog and stone his near relative if he fornicates."

Mr. Ledeen pointed out that Khomeini's indictment of the Shah "are not complaints about the harshness of his regime or violation of human rights by Savak, the secret police. Rather, Khomeini condemns the Shah's regime for having sapped the fiber of the country by bringing unsuitable people (nonmullahs) to positions of power.

In February, I drew attention of the bizarre statement by America's then-United Nations Ambassador, Andrew Young, that Khomeini "would eventually be hailed as a saint." America's U.N. Ambassador acknowledged to the press that he was aware that Khomeini had been described as making "anti-Christian and anti-Semitic remarks;" but went on to predict, "Khomeini will be somewhat of a saint when we get over the panic."

The "panic," I am afraid, has only begun.

Mr. Speaker, to conclude, I would refer to American Opinion magazine on whose editorial advisory committee I serve, which in July of this year published an analysis of the Middle East in which it was stated:

American policy in the Middle East has over the last year suffered defeat upon defeat. Traditional friends, trading partners, and allies have been disoriented by the Carter Administration's efforts to appease radical anti-American regimes. The bizarre "human rights" priorities of the Administration have meanwhile produced destabilization of our allies by withholding military and economic support in the face of heavy Soviet military assistance to the radical states. Our policy of punishing friends and rewarding enemies has allowed the Kremlin markedly to increase its penetration of the area from Algeria to Afghanistan, but particularly concentrating on the strategic waterways—the Persian Gulf and the Red Sea—through which pass most of the Free World's oil imports and many strategic minerals.

Escalating Middle East turmoil is, in short, a direct result of U.S. policies. The Shah of Iran, for instance, was destabilized and betrayed by a Carter Administration which is now virtually groveling before the revolutionary Government of the bloody-handed Ayatollah Khomeini, who is seeking to export his Islamic revolution throughout the monarchies and emirates of the Middle East. The treaty forced on Egypt and Israel at Camp David has at the same time so gravely offended America's friends among the Arab states that they have joined with the radicals to isolate Egypt from its former Arab diplomatic and financial support. And the Administration's attitude toward Israel has meanwhile placed that old ally in a more vulnerable position.

A number of countries in this region are now implacably in the Soviet camp—Algeria, Syria, Libya, Iraq, Ethiopia, the People's Democratic Republic of Yemen, and Iran. Others are wavering. Still others, including Morocco, Oman, Turkey, and North Yemen, are prime targets for Soviet subversion, convinced that the United States is unwilling to support them.

And, throughout the Middle East, the Palestine Liberation Organization, an umbrella organization for terrorist gangs which act as surrogates for the Soviet Union, works to destroy not only Israel but all the pro-Western Arab Governments as well.

Mr. Speaker, tragically, the prognosis of American Opinion magazine 4 months ago has proved all too accurate. We must ask what other disasters will occur before America reverses her policies and headlong flight from greatness.●

JUDGE IRWIN SHAPIRO

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. ADDABBO. Mr. Speaker, recently our esteemed former colleague and outstanding legislator Lester Holtzman, himself a dedicated public servant, forwarded to me an article which appeared in the New York Law Journal of October 9, 1979, outlining the life and accomplishments of Judge Irwin Shapiro. It is my privilege to have known and been a personal friend of Judge Shapiro for these many years. He has ably served with distinction the public for almost half a century in various positions in the district attorney's office and many judicial appointments, the most recent as an esteemed judge in the appellate division, second department, in Brooklyn, N.Y. His judicial decisions shall long stand as benchmarks for many years as a scholarly and imaginative jurist. I would describe him as one of the great students and believers in the law, a jurist who never wavered when he stood alone against his court, yet always keeping in mind protecting the rights of all people, especially the poor. It is my sincerest hope that he will enjoy a long and healthy life after his retirement from the bench and I know still serving the people.

I ask that the following article from the New York Law Journal be inserted into the RECORD.

The article follows:

JUDGE "NEVER LOST TOUCH WITH PEOPLE"

(By Herald Price Fahringer)

On Oct. 1, when Judge J. Irwin Shapiro resigned from the Appellate Division, Second Department, in Brooklyn, he left behind him forty-seven years of public service. The entire legal profession will mourn this enormous loss to our government. Since the impact of such a remarkable man upon all of us goes far beyond what he actually writes and says, a few words of tribute must be said on his behalf.

Judge Shapiro's outstanding career began at New York University Law School, where he distinguished himself by graduating *cum laude* and becoming an editor of the Law Review. He was also elected president of his law class. Within a few short years, he earned an appointment as an assistant district attorney in Queens County and eventually became the Acting District Attorney of that borough. He entered the judiciary through the prosce-

nium of the old Magistrate's Court. He stopped briefly at the field stations of the Domestic Relations Court, County and Supreme Court, before reaching his utlimate destination in the Second Department. The New York Court of Appeals had the pleasure of his company for a short while when he filled in for Judge Breitel, while the latter was campaigning for Chief Judge. He occupied virtually every judicial post in our legal complex.

The many awards and honors that cluster about his name include, The Queens County Citizen of the Year Award in 1954; The Distinguished Service Award from The Federation of Jewish Philanthropies; The Chief Judge Harlan Fiske Stone Memorial Award, given to him by The Association of Trial Lawyers of the City of New York; and The President's Medal received from Brooklyn College. His many-splendored career embraced teaching English at Manhattan Preparatory School, acting as the Impartial Chairman of the Fur Industry, serving as Commissioner of Investigations for New York and holding the rank of lieutenant colonel in the Civilian Defense. No man gave of himself more freely to the Bar and the community.

He dominated the intellectual landscape of the Appellate Division, Second Department, throughout his nine years of service in that Court. During that time he left in the wake of his career over a thousand decisions that profited from a stern, uncompromising, moral ferocity. Operating behind the doors of the busiest court in the State, he never had time to write long grandiloquent opinions that were sophisticated and conceptual. In the cold, clear world of his intellect, issues were easily identified and quickly resolved. He simply answered the question directly and plainly. He had an amazing ability to explore a complex subject with style and economy. He often made his point with startling abruptness, preferring the concrete to the abstract. His opinions were invested with a large amount of common sense.

VOICE OF FUTURE

He refused to patronize the past. His voice was the wave of the future. He understood that in a rapidly changing culture, a long memory is a handicap and precedent becomes less relevant. He never allowed his fascination with the art of our enterprise to divert his attention from its human goals. He knew all too well that legal logic has no value for its own sake, but that the law is a human instrument designed to meet humanity's needs. Though many of his opinions concern individual rights, his most impressive addressed the human condition, the encroachments of the state into the lives of ordinary citizens who would not succumb to blind authority or cheap despair. Those of us who were forced to bear the brunt of the icy winds that swept across the plains of our profession during the law and order era of the Nixon administration, huddled about his dissents until the storm passed.

It would require several volumes to adequately discuss the mountain of decisions produced by Judge Shapiro. However, no tribute to him would be complete without mentioning a few of his outstanding accomplishments. When the awful spectre of prosecutorial misconduct stalked through the courts of New York, he sounded the alarm by declaring:

"If nothing else, our recent national tragedy should teach us that we dare not temperise with a 'plumbers squad Watergate' mentality which believes that a government agent may violate the institutional integrity of our judicial system and prostitute its legal process in order to achieve his ends."[1]

His scalding dissent on this crucial issue, which convulsed the Second Department, ranks as one of the most impressive arguments against the abuse of power and discouraged this form of malfeasance among public prosecutors.

When a young man was ruthlessly searched on the street by police officers who had become masters rather than servants of the law, Judge Shapiro protested:

"Our claim to uniqueness among the nations of the world is our deep commitment to constitutionalism which, in a case such as this, requires the recognition of and respect for individual rights and liberties."[2]

JUSTICE FOR DISTRESSED

He was not afraid of controversy. What was right was right even when unpopular. Therefore, he spoke out for a lawyer who had been denied admission to the New York Bar because he was a homosexual but was found to be a competent practitioner.[3] Judge Shapiro came to the rescue of oppressed tenants who were forced to live in unfit homes by holding that their liability for rent terminated when the apartment became uninhabitable.[4] He put a stop to the contrived use of local zoning laws to close down "group homes" that were set up for the care of neglected and abandoned children.[5] And finally, he would not allow a young fifteen-year-old boy, adjudged to be a person in need of supervision, to be cast into a state training school with its attendant agonies of physical abuse, sodomy and other criminal acts.[6]

On more than one occasion, Judge Shapiro stood alone against his court only to have his views ultimately adopted by the New York Court of Appeals.[7] When lawyers traded cases, a "Shapiro dissent" was often worth more than a majority opinion. His authorship of a decision, whether major or minor, endowed it with a special force seldom found in other judgments.

All Judge Shapiro's unique talents were best displayed during oral argument. Those of us who had the privilege of arguing before him remember how he would sit perched on the edge of his chair like a hawk, his black eyes flashing, and in a moment would let fly with a razor-sharp question that sliced into the heart of the case. His audacious tactics and incisive questions during oral argument electrified the courtroom. During these exercises, he operated at the top of his powers. He spoke in bursts but without hesitation. His crisp, direct style of interrogation was free of artifice and his observations penetrating and sometimes awesome.

A FACILE MIND

In a single session, I watched him steer a young, inexperienced lawyer through a complex legal argument without a fatigue or muddle; stop an arrogant special prosecutor dead in his tracks with a series of slashing questions; analyze an incredibly complicated commercial transaction with the ease of a college professor. I never ceased to marvel at the way he could swing so effortlessly from an intricate search-and-seizure question, to a difficult third-party liability claim, to a puzzling condemnation problem. His supple intellect could wrap itself around any problem.

He would not pamper lawyers. He expected from them the very high standards he set for himself. An attorney could never loiter through an argument before Judge Shapiro. He would relentlessly frisk the lawyers on both sides of any controversy for all the answers he needed to resolve the issue. He was exciting even when he asked routine questions. And yet, his toughness of intellect did not dent his charm. He was a compassionate man. And more importantly, he never for a moment lost his marvelous sense of humor.

I was in the courtroom when Judge Bernard Meyer began the argument of a case the day after his appointment to the Court of Appeals had been announced Judge Shapiro, with a straight face, quickly said, "If we hold in your favor, will you promise not to reverse us?" There was a burst of laughter and we all knew we were in for an enjoyable morning.

IN TOUCH WITH PEOPLE

Like all fine judges, Irwin Shapiro never faltered in his task or changed his moral conception of the basic principles of life. He never lost touch with the people. All of his life he strived to establish higher standards for their moral and social welfare. He waged a one-man war against the powerful, the special interests, and those who took advantage of the poor. He was not afraid of his office and was admired for the risks he took. Future generations of lawyers will recruit from his opinions principles and rules that will help them in their quest for the wounded, the impoverished, and the disadvantaged.

Judge Shapiro saw his work and he did it. Now his business is finished. He can retire, safe in the belief that his job was well done. Although I, for one, regret deeply his being taken from us while there is still such a large sum of life and judicial talent left. But, more importantly, as he crosses the border from public service into private practice, he can take comfort in the knowledge that those of us who remain behind—his army of followers, adherents, and disciples—will strive to carry on the heritage he has left us. No man could have achieved more.

FOOTNOTES

[1] Nigrone v. Murtagh and Najarie, 46 AD 2d 343, 362 NYS 2d 513, (2d Dept. 1974) dissenting opinion at 521–529.

[2] People v. Earl, 50 AD 2d 289, 377 NYS 2d 649 (2d Dept. 1975), dissenting opinion at 654, reversed, 40 NY 2d 941, 390 NYS 2d 412 (1976).

[3] In re Kimball, 40 AD 2d 252, 339 NYS 2d 302 (2d Dept. 1973), reversed, 33 NY 2d 586, 347 NYS 2d 453 (1973).

[4] Tonetti v. Penatti, 48 AD 2d 25, 367 NYS 2d 308 (2d Dept. 1975).

[5] City of White Plains v. Ferraioli, 40 AD 2d 1001, 339 NYS 27 27 (2d Dept. 1972), reversed, 34 NY 2d 300, 357 NYS 2d 449 (1974).

[6] In re Ellery, C., 40 AD 2d 862, 337 NYS 2d 936 (2d Dept. 1972) reversed, 32 NY 2d 558, 347 NYS 2d 51 (1973).

[7] People v. Earl, supra; In re Kimball, supra; City of White Plains v. Ferraioli, supra; and In re Ellery, C., supra.

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 3990, THE MEDICARE AMENDMENTS OF 1979

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. ULLMAN. Mr. Speaker, on November 5, 1979, the Committee on Ways and Means favorably reported to the House H.R. 3990, to amend certain provisions of title XVIII of the Social Security Act, with respect to the medicare program established by such title and for other purposes. The bill would provide for a number of benefit and administrative improvements in the medicare program.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for the consideration of H.R. 3990 on the floor of the House. The Committee on Ways and

Means has specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First. Committee amendments, which would not be subject to amendment;

Second. One hour of general debate, to be equally divided;

Third. Waiving all necessary points of order; and

Fourth. One motion to recommit, with or without instructions.

We will request to be heard before the Committee on Rules as expeditiously as possible.●

ATLANTIC COUNCIL ON THE MIDDLE EAST

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. FINDLEY. Mr. Speaker, a study released by the Atlantic Council states that—

The question of the Arab Palestinians * * * remains at the heart of the Arab-Israeli conflict.

And that the—

Mutual nonrecognition between the PLO and Israel * * * should not rule out informal contacts between the United States and the PLO with the purpose of ascertaining the latter's views and modifying them.

The Atlantic Council report thus draws a distinction between such informal US.-PLO contacts which are necessary to the peace process and formal negotiations with the PLO. The report states—

We do not think that this is the moment to bring the PLO into active negotiations.

These two important statements are a part of a thoughtful assessment of the issues and probelms facing the United States in the Middle East and recommendations for future U.S. policy there.

The report was prepared by a distinguished group of experts with wide experience in diplomacy, military strategy, and governmental affairs, including 10 former U.S. Ambassadors to countries of the Middle East. The group was cochaired by General Andrew Goodpaster and Brent Scowcroft and the report was drafted by Dr. John Campbell, an outstanding expert on Middle East affairs.

I hope that my colleagues in Congress will read and ponder this significant report carefully a portion of which I am inserting into the RECORD together with the list of those who prepared it:

The Arab-Israeli conflict remains central to the evolution of the entire Middle East and to American and Western interests there. The main task before the United States is to move the parties forward from the Israeli-Egyptian settlement to subsequent stages of the peace process. American diplomacy should devote its best efforts to guiding the current negotiations with Egypt and Israel toward a real autonomy and self-determination for the Palestinians in the West Bank and Gaza.

These negotiations, however, promise to be extremely difficult, and there is danger of a deteriorating situation in the area generally, especially if they make no progress. The United States should be trying, during this period, to find ways of widening the process of settlement by drawing other parties on the Arab side, particularly Saudi Arabia and Jordan, into new discussions leading to further negotiations. Saudi Arabia is discussed in a later paragraph. Jordan, because of its geographic position, its integral connection with the Palestinian question, and its long-standing friendly relations with the US, should be recognized as having an indispensable role in the settlement process. Moreover, the United States and Israel should not ignore the desirability of negotiations and settlement and between Israel and Syria roughly on the model of the Israeli-Egyptian settlement. It may be useful by active diplomacy and new proposals to test the solidarity of the rejectionist front, from time to time, instead of assuming its permanence.

The question of the Arab Palestinians—full autonomy, a homeland, participation in the determination of their future, national self-determination, whatever one calls it—remains at the heart of the Arab-Israeli conflict. The United States, having involved itself to the hilt in the Camp David formula, should be prepared to face the Palestine question frankly and courageously, especially if the negotiations between Egypt and Israel fail, and indeed even if they succeed. On the level of procedure, the eventual participation of Jordan and of some representative Palestinians, as proposed in the Camp David formula, will be needed, and the renegotiation of that formula with their agreement may be necessary. On the level of substance, we do not see any solution possible unless the negotiators take up the hard questions of Palestinian self-determination together with those relating to borders and security arrangements, aiming at an eventual total package that can reconcile Palestinian rights to self-government with Israel's right to security. Only in this context will it be possible to find, in the end, a compromise settlement for East Jerusalem. And only in this context can there be real and stable peace in the Middle East.

We do not think that this is the moment to bring the PLO into active negotiations. The mutual nonrecognition between the PLO and Israel, however, should not rule out informal contacts between the United States and the PLO with the purpose of ascertaining the latter's views and modifying them.

Future discussion and negotiation on the Palestine question, and other aspects of the Arab-Israel problem, will probably subject Israeli-American relations to considerable strain. There should be no automatic American support for Israeli positions, for intransigent policies on the part of Israel—as on the part of the Arabs—can run counter to American interests in the region. We believe that the United States should leave no doubt of its commitment to Israel security and independence and of its intention to make that commitment, plus the necessary security arrangements that would be part of the settlement itself, axioms of the American position. We think that the United States should make equally clear its adherence to U.N. Resolution 242 and its conviction that Israel's security will be better served by peace with the Arabs, including a Palestinian entity in the West Bank and Gaza, than by continued war and terrorism. America's commitment to Israel, however, has to be balanced by its vital interest in good relations with the score of countries in the Arab world. Neither should be sacrificed to the other.

MEMBERS OF THE ATLANTIC COUNCIL'S SPECIAL WORKING GROUP ON THE MIDDLE EAST

Chairman: Lt. Gen. Andrew J. Goodpaster, Commandant, United States Military Academy.

Vice Chairman: Lt. Gen. Brent Scowcroft, Former Assistant to the President for National Security Affairs.

Rapporteur: John C. Campbell, Former Director of Studies, Council on Foreign Relations.

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Willis Armstrong, Consultant and former Assistant Secretary of State.

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L. Dean Brown, President, Middle East Institute, Former Ambassador to Jordan.

Howard B. Cottam, Former Ambassador to Kuwait.

Russell E. Dougherty, General, USAF (ret.) Former Commanding General, SAC, and Chief of Staff, SHAPE.

Parker T. Hart, Consultant, Former Ambassador to Kuwait, Saudi Arabia and Turkey.

Richard M. Helms, Consultant, Former Ambassador to Iran and former Director, Central Intelligence Agency.

Martin F. Herz, Adjunct Professor, Georgetown University, Former Ambassador to Bulgaria.

Amos A. Jordan, Jr., Executive Director, Center for Strategic and International Studies (Georgetown).

Isaac C. Kidd, Admiral, USN (ret.) Former Supreme Allied Commander Atlantic, Commander in chief Atlantic, Commander in chief U.S. Atlantic Fleet.

Peter F. Krogh, Dean, School of Foreign Service, Georgetown University.

Jack B. Kubisch, Former Ambassador to Greece.

Lyman L. Lemnitzer, Forcer Supreme Allied Commander, Europe.

Walter J. Levy, Consultant.

Winston Lord, President, Council on Foreign Relations.

George C. McGhee, Former Under Secretary of State and Ambassador to Germany and Turkey.

Armin H. Meyer, Professorial Lecturer in diplomacy, Georgetown University, Former Ambassador to Lebanon, Iran and Japan.

Robert E. Osgood, Former Dean, School of Advanced International Studies, The Johns Hopkins University.

William J. Porter, Former Ambassador to Korea, Canada and Saudi Arabia.

Kermit Roosevelt, International Consultant.

Eugene V. Rostow, Professor of Law, Yale University, and former Under Secretary of State.

Joseph J. Sisco, President, American University, and former Under Secretary of State.

Frank A. Southard, Jr., Consultant, and former U.S. Executive Director, International Monetary Fund.

Timothy W. Stanley, President, International Economic Policy Association.

Ralph I. Straus, Government Consultant.

Darnell M. Whitt, II, Former Member, U.S. Mission to NATO and former Executive Director, Committee of Nine.

Charles W. Yost, Consultant, former Ambassador to the UN, Syria and Morocco.

Ex-Officio Members:

Theodore C. Achilles, Vice Chairman, Atlantic Council; former Counselor of the Department of State and Ambassador to Peru.

Martha C. Finley, Assistant director general, Atlantic Council.

Joseph W. Harned, Deputy director general, Atlantic Council.

Francis O. Wilcox, Director general, Atlantic Council, former Assistant Secretary of State, chief of staff of the Senate Foreign Relations Committee and dean of Johns Hopkins School of Advanced International Studies.●

HAROLD WANZER

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. LONG of Maryland. Mr. Speaker, I rise to share with my colleagues an extraordinary story and to pay tribute, before the U.S. Congress, to Mr. Harold Wanzer of Randallstown, Md.

Mr. Wanzer served as an Army surgical technician and truckdriver during World War II. He distinguished himself in combat while stationed in England and was recommended for the Bronze Star. I would like to read from Army dispatches which highlight Mr. Wanzer's exploits during the night of September 1, 1944:

At about 2330, Staff Sergeant Wanzer was on duty at Battalion Aid Station when he received a call from "B" Battery for emergency medical aid. "B" Battery was located about 400 yards in rear of a British 15 inch Coastal Battery and had in turn received a call, by loud speaker from that Battery for the assistance of the "American Medical Officer." At about 2230 the British Coastal Battery in question with other Coastal Batteries in the area had engaged an enemy convoy in the English Channel with heavy fire. At about 2300 the long range German Coastal Batteries located on the Channel Coast of France and centered at Calais opened counter battery fire on the British Coastal Batteries. This return fire subjected the Battalion Headquarters Site and "B" Battery site to heavy shelling as a result of the proximity of the above Coastal Battery, and the dispersion of the long range artillery. All personnel were ordered to take cover in the slit trenches or dugouts except those manning 90 mm materiel. The latter personnel were protected by field fortifications. Staff Sergeant Wanzer accompanied the Battalion surgeon as driver of truck and aid man on receiving the call relayed from the British Coastal Batteries, for medical aid without regard for his personal welfare and safety. Believing that access to the Coastal Battery's position would be had from "B" Battery position they traversed the "B" position during the shellfire. However the Coastal Battery was surrounded by several rows of barbed wire entanglements for local security and it was necessary to return to the main route. At one position on the main route a shell had exploded leaving a large crater. In blackout driving on a moonless night with an overcast sky a serious accident was narrowly averted by the quick thinking and reflexes of Sergeant Wanzer the driver.

The main route necessarily taken was narrow with many curves and covered a distance of approximately 2 miles under the enemy shellfire. Arriving at the 15 inch Coastal Battery Staff Sergeant Wanzer assisted Captain ——— and Captain ——— to render first aid to four British casualties one of whom was in serious condition with his foot and ankle mangled. All of the casualties had been inflicted by shell fragments. On the arrival of the American Medical Officer, Captain ———, Captain ——— and Staff Sergeant Wanzer returned over the same route still under enemy fire to the Battalion Air Station. On the return trip a shell exploded behind the truck on the road rocking the truck heavily, but all occupants escaped injury. This courageous response to a call of help from an outside ally greatly increased the mutual respect and good will between the American and British troops, and inspired confidence in the fortitude and ability of the medical personnel on the part of all the Battalion personnel.

Shortly after the Army recommendation was filed, Mr. Wanzer was commissioned an officer in the U.S. Army and transferred to another unit. Mr. Wanzer's commanding officer approved the recommendation—but Mr. Wanzer was never notified and the Bronze Star did not follow him to his new assignment.

Mr. Wanzer did not receive that medal for over 35 years.

A few months ago, Mr. Wanzer asked me to find out whether the recommendation had been approved and, if so, whether he could still receive the Bronze Star. I was pleased to learn that the answer to both question was "yes."

The passage of 35 years has not diminished Mr. Wanzer's heroism as a soldier at war. Mr. Wanzer has finally received his decoration, and I am certain that all present will join me in offering congratulations to my constituent.●

"LITTLE OIL" COALITION AND HOWARD JARVIS OPPOSE NEW TAX ON AMERICAN OIL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. KEMP. Mr. Speaker, America's energy problem is that we do not produce enough domestic energy, and therefore pay rapidly rising prices for an increasingly uncertain supply of foreign oil.

Considering the fact that, at current world prices and available technology, the United States has at least 200 years of liquid oil and 1,000 years of natural gas left in the ground, the solution is obvious. We must produce more of our cheapest domestic energy in competition with OPEC to restrain world energy prices.

Yet, incredibly, the administration and many Members of Congress have proposed an entirely new tax on American oil which would drive an ever widening wedge between the price consumers pay for oil and the price producers receive for discovering and developing it. The difference—about $150 billion—would go to the Government. The result would be to reduce the discovery and production of oil and drive up its price still further.

This afternoon I had the opportunity to cosponsor a press conference with Senator MIKE GRAVEL, Howard Jarvis, the No. 1 friend of the property-taxpayer, and the Independent Petroleum Association of America. At that meeting, House and Senate colleagues from both parties announced the formation of a "Little Oil" coalition to oppose the misnamed and misguided "windfall profits tax." I would like to share with my colleagues our reasons for doing so.

REMARKS OF CONGRESSMAN JACK KEMP

Past economic blunders have caused today's economic chaos—dropping productivity and living standards, rising unemployment, soaring double-digit inflation, and the beginning of the third, full-scale recession in 10 years.

Yet right now, our national economic policymakers are planning an economic program which will dwarf their past mistakes and could permanently damage our nation. The Joint Committee on Taxation estimates that planned tax increases will cost Americans $1 trillion more in the next 10 years. That's an increase twice the size of next year's whole federal budget.

On top of all this, the Administration and many members of Congress are proposing a new $141 billion tax which will be paid by American consumers and which will depress the production of American oil, just when we need it the most.

We Senators and Congressmen of both parties represent what might be called the "little oil coalition." "Little Oil" means the 99.8 percent of U.S. oil producers—the 12,000 independent "wildcatters"—who do 90 percent of the exploring for oil in America. These small businessmen are represented today by John Miller and Lloyd Unsell of the Independent Petroleum Association of America.

We have one message for Americans. The so-called "windfall profits tax" has nothing to do with profits. It says so right in the bill—everywhere except the title. The new tax is a sales tax, which will be paid by American consumers in the form of higher prices for gasoline and heating oil.

This bill will create a $141 billion difference between the price consumers pay and the price producers receive for finding oil. Consumers will pay more and get less, because the difference will go to the government.

I won't speculate on why national leaders would call a sales tax a tax on income. Every working American can tell the difference. I will only say that if our policymakers really can't distinguish a sales tax from an income tax, such economic illiteracy goes a long way toward explaining the economic mess we are in.

Here is why the next tax on American oil is bad for American producers and consumers:

Price controls were imposed on oil back in 1971, as part of President Nixon's mandatory wage and price control program. In 1973, when controls on all other prices were lifted, controls were continued on oil. U.S. oil production has declined steadily since 1971. President Carter has proposed to begin lifting most oil price controls next January 1.

Increased income due to decontrol will be taxed—by the personal income tax and the corporate profits tax. Most independent oilmen pay personal income taxes, which go up to 70 percent. Oil corporations pay a flat federal corporate tax of 46 percent. The Joint Committee on Taxation estimates that these two taxes will raise $148 billion to $275 billion over the next 10 years as a result of decontrol.

The next tax is an additional $141 million tax levied on the sale of oil. Because of decontrol, consumers will pay higher prices for gasoline and heating oil. Without the new tax, the higher prices will go for the increasingly expensive job of finding new oil for production in America. Independent oilmen spend an average of 105 percent of their gross income on oil exploration. With the tax, the $141 billion will go to the government.

There are two segments to the oil industry. Independent wildcatters drill 90 percent of the exploratory wells in this country. They take the risks and find 70 percent of all new oil and natural gas fields. The independents sell the oil they have discovered to the 30 or so large oil companies for refining and retail to consumers. By taxing oil which has not even been discovered yet, the new tax falls most heavily on small oil producers and new oil discoveries.

The new tax will be levied only on American oil, not on imported oil. Therefore it will reward foreign oil producers and penalize American producers. Independent wildcatters operate entirely in the United States. The largest oil corporations make most of their profits overseas. Because of the lessened competition, OPEC will have still greater

control over oil pricing. This is not the way to decrease our dependence on scarce and expensive foreign oil.

The new tax is a regulatory nightmare. As the bill stands, the owner of a single oil well will have to determine which of four tax rates—zero, 50, 60, or 75 percent—and which of at least six categories of oil apply to that well. As many as three different tax rates may apply to the same well at the same time. And for the first two years, the tax will change every month. Those wildcatters who are not driven out of business will have to spend more and more money on lawyers and accountants and less and less on drilling for new oil.

Howard Jarvis, IPAA members and we Members of Congress are here today to prevent this economic madness. We think Americans are smarter than the backers of a new oil tax believe.●

FOOD STAMPS MAKE BUSINESS SENSE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. RICHMOND. Mr. Speaker, yesterday it was my pleasure to speak to the prestigous Food Group about the proper management and adequate funding of the food stamp program. The Food Group is an informal conference group of Washington based representatives of the food and agriculture industries. Through its meetings, it provides a forum for the interchange of information and views among members and those invited to participate in its discussion.

As chairman of the House Agriculture Subcommittee which has jurisdiction over the food stamp program, I provided a public accounting which shows that it makes good business sense to support the food stamp program. I would like to share my observations with all of my colleagues in the House:

REMARKS OF CONGRESSMAN FREDERICK W. RICHMOND

Ladies and gentlemen: I come before you today to discuss a subject of great concern to Congress, the business community and the American public—namely the adequate funding and proper management of our most important nutrition supplement for America's neediest citizens—the Food Stamp Program. This year because of the continuing problems with an arbitrarily imposed budget ceiling resulting in an estimated $2 billion shortfall, we are again in the midst of another legislative crisis.

The business, trade organizations and farming interests represented in this room account for over $250 billion of the American economy. Your employers provide not only the basis for America's growth and development but also the insurance that as a nation we not only dominate world trade but also can respond to the domestic needs of millions of Americans who depend upon Government assistance to obtain an affordable and nutritious diet.

As a successful businessman, I can appreciate your concern that the Federal Government should fulfill its social obligations as justly, economically and efficiently as possible. In the time allotted to me today, I intend to prove to you that the Food Stamp Program over which I have jurisdiction is the most comprehensive, humane and practical program for those in need that has ever been attempted on a national scale. For those among you who doubt its value, who are misinformed of its operation, or who question its efficiency, I intend to present a public accounting of the Food Stamp Program that will, I believe, convince the most hardened skeptic.

As a political figure, I am aware of the role of self-interest in human motives and so I shall begin by showing you that the Food Stamp Program does indeed make good business sense.

In the past year Americans bought $6.5 billion worth of groceries with food stamps. This is $3 billion more for food than the poor would have purchased without federal assistance. This increased expenditure resulted in $1.5 billion of additional income to food processors and distributors and nearly $1 billion extra to farmers.

For those of you who depend upon the marketing of commodities this means that an additional $481 milion was spent for meats, $167 million for dairy products, $82 million for fresh fruits and vegetables, $46 million for eggs, $43 million for cereal and bakery products and $89 million for other farm-produced foods.

Last year food stamps represented almost 4 percent of the total retail sale of food. For many retailers food stamps make the difference between staying in business or closing the doors. I understand that for many supermarkets and small food stores located in poor urban and rural areas, food stamps account for up to 50 percent of gross sales. Rather than being a subsidy for the unemployed, the Food Stamp Program is in fact a significant source of employment. According to recent findings of the Department of Agriculture, 150 thousand jobs in the private sector are attributable to food stamp expenditures.

If we fail to remove the current cap, the Secretary of Agriculture will have to reduce benefits by this March with the result that:

Farmers would lose $240 million in income;

Food processors, distributors, packers, wholesalers and retailers would lose $420 million;

And overall food expenditures would decrease by $1.5 billion.

If the program is fully funded, I can assure you that $7.5 billion worth of groceries will be bought with food stamps.

Throughout its existence, the Food Stamp Program has been plagued with a number of myths which by repetition, have falsely taken on the weight of truth. Many of you in this room, I am sure, believe that food stamp households have high incomes and therefore are not deserving of public assistance.

The facts belie this assertion:

Over half of all households in the program have gross incomes of less than $300 a month or $3,600 a year.

Less than 3 percent of all households have monthly incomes which exceed $750 or $9,000 a year and none of these are households of less than four people.

Only six-tenths of 1 percent of food stamp households have incomes in excess of $12,000 a year and all are households or seven or more.

While few critics would admit it, many harbor the belief that the program exists primarily for minorities. Actually 49 percent of all participants are white, 29 percent are black and 9 percent Hispanic.

A corollary of this misconception is the assumption that the program primarily benefits urban areas. You might be interested to learn that between November and May, participation in the largest, most urban areas grew less than 8 percent. By contrast, participation in the smallest, most rural areas increased almost 42 percent. The Southeast, Southwest and Mountain Plains all experienced a growth rate of over 30 percent, while New England only grew by 7 percent. While participation in Massachusetts grew by 2 percent, California by 9 percent and New York by 15 percent, these figures must be compared with primarily rural States such as Mississippi whose roles increased by 44 percent, Indiana by 48 percent, Virginia by 50 percent, North Dakota by 55 percent, and Alabama by 58 percent.

Were we to listen only to the critics, we might believe that in addition to supporting only minorities living in the inner cities the program rolls are disproportionately weighted with strikers and students intent upon avoiding work.

A recent USDA study, however, found only 3/10 of 1 percent of food stamp households contained a striker for any portion of time and because of the 1977 reforms less than one-half of 1 percent of participants were students, many of which, by the way, were heads of households containing children. You should also know that every striker and student who participates in the program is subject to stringent requirements to search for and accept employment.

Another popular misconception is that food stamp recipients have enough money in the bank or other liquid assets to adequately support themselves and their families. In fact, 60 percent of all food stamp households have absolutely no liquid assets whatsoever and 95 percent have liquid assets of less than $1,500.

Perhaps the most prevalent and persistent myth is that food stamp recipients live on steak, lobster and potato chips.

A major USDA study shows that on the contrary, recipients buy less processed and less costly foods, cheaper cuts of meat, more poultry, pork and dairy products and fewer bakery products. They also spend less than half as much of their food budget on snack items as the rest of us.

Coupled with the myths I have just mentioned are the misconceptions that the Food Stamp Program is poorly managed and beyond the pale of government control. I would challenge anyone in this room to name another federal program be it related to defense, energy, agriculture or industry that is as tightly supervised and managed as the Food Stamp Program. As a matter of fact, I would go further and say that I doubt that many of the corporations that you represent are so stringently controlled.

During my tenure as Chairman of the Domestic Marketing Subcommittee, a number of managerial reforms have been instituted in the Food Stamp Program.

As a result of limiting net income to the poverty level in determining eligibility, over one million non-needy recipients were eliminated from the program this year and many more millions in the upper income categories had their benefits reduced.

Federal funding for the investigation and prosecution of fraud has been substantially increased.

Persons found to have committed fraud not only face civil prosecution but are also prohibited from reentering the program for two years. Those found guilty are also subject to repayment.

Those who voluntarily quit their jobs are barred from the program for sixty days.

Recipients can own a car—even the mythical white Cadillac—but it must be worth less than $4,500, which given the current market is hardly a luxury item.

Social Security numbers are now required for all applicants and the cross checking of welfare and unemployment compensation roles is under way. This requirement also effectively bars illegal aliens from entering the program.

The elimination of the purchase requirement has substantially reduced the cash flow thus prohibiting vendors from skimming receipts. By reducing the relative number of

stamps in circulation, we have also reduced the profitability of a black market.

The current legislation which my Subcommittee is marking up today and tomorrow goes even further in tightening the administration of the program.

In addition to imposing fiscal sanctions on states with high error rates in issuance, we are:

Calling for the use of photo identification cards in order to obtain food stamp vouchers;

Extending the power of the states to verify an applicant's eligibility;

And making it easier for states to take legal action against those who would defraud the program.

The most critical and most controversial action taken by our Subcommittee will be to remove the so-called cap on spending placed on the program in 1977. As you know, last year program needs exceeded the cap by $1 billion and this year are expected to run $2 billion over the $6.2 limit projected two years ago.

This cap was based on the false assumption that from 1978 to 1981 food prices would increase at an annual rate of 3 to 4 percent. Instead food prices, as you well know, rose over 22 percent in the past two years alone. Unemployment was assumed to remain steady at 5.5 percent. The President's Office of Management and Budget now projects an unemployment rate of 6.8 percent in 1980—an estimate which most observers consider ridiculously optimistic. Keep in mind that each additional percent of unemployment could bring 750,000 more people on the food stamp rolls.

According to Secretary Bergland:

Over 90 percent of the increase in this year's food stamp costs over the cap were due to food price increases. Of the $1.1 billion supplemental funds added to the cap in Fiscal '79 over $800 million was directly attributable to food price inflation.

This year's Cap not only grossly underestimates food costs and unemployment, but it also does not take into account the higher heating costs which will raise the shelter deductions. Last year the average fuel bill for the poor living in cold climates was $770; this year it is expected to be $1,500. Many lower income households will be paying 40 to 50 percent or more of their budget to heat their homes. And for those who rent, costs will rise at least 20 to 30 percent.

In the face of such economic hardships, the imposition of an arbitrary Cap makes absolutely no sense whatsoever. I cannot believe that it was ever Congress' intent to make the poor the pawns of an inflated economy.

Ladies and Gentlemen, I could go on making a case for the Food Stamp Program, but I think my point is clear.

Support for the Food Stamp Program is in your best interest. Rather than believing old myths and taking a narrow view of social responsibility, you have the opportunity to perform a valuable service for your employers and the American public.

Too often we hear only what you don't want, rarely do we hear your voices raised in defense of the poor. Today I am asking you to lend your powerful voices of support to those of us who are working to create a just, efficient and humane Food Stamp Program. There is too much at stake for us to go our separate ways.

You are no strangers to the process of successful lobbying.

You have invaluable connections with members of the Agriculture Committee.

You command respect and attention.

In the coming weeks as our committee considers H.R. 4318, the "Food Stamp Act Amendments of 1980," I would like to see the food group lobbying on its behalf.

Two generations ago an American writer reminded us that:

"No man is an island, entire of itself; every man is a piece of the Continent, a part of the main. . . . Any man's death diminishes me, because I am involved in mankind; and therefore never ask for whom the bell tolls; it tolls for thee."

The same holds true today.●

CONSCRIPTION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. PAUL. Mr. Speaker, the other morning Governor Ronald Reagan broadcast a most eloquent radio program on conscription. Because this is an issue that refuses to die, I would like to call it to my colleagues' attention. The fight is not won. Those pushing a reinstitution of the military draft are not giving up. Those of us who believe, like Governor Reagan, in individual liberty, must not give up either.

THE DRAFT

(By Ronald Reagan)

There's a lot of talk about the draft these days. The question really entails three different proposals: universal national service, military draft, and registration for use in the event of a future draft.

Frankly, I'm opposed to universal national service. The idea rests on the assumption that your kids belong to the state. Though voluntary service should be encouraged, the job for determining who shall have what values and who shall do what work, when, where, and how, in our society, is the job of the people involved—children, parents, religious institutions, and teachers—and not the government. The individual shouldn't be reduced to the level of a statistic to be manipulated by social engineers.

I am also opposed to a military draft in peacetime. The issue here is a basic philosophical one. Only in a national emergency does the Nation have a legitimate claim to the mandatory services of its young people for the military.

Another issue is a more practical one—is the volunteer army working? I believe it is. Test scores and statistics show no significant decline in the quality of today's soldiers, and when I visited some of the troops in Germany last winter, I found them to be well-informed on current events—in fact, probably better than many civilians back home. Their morale was also surprisingly good.

In addition, the volunteer army ended 1978 some 2,000 members over strength, due to the fact that more soldiers stayed in than had been predicted. When a volunteer organization's dropout rate declines, it must be doing something right.

A more serious worry is the state of the reserves and the National Guard, most of whose units are below strength. Yet the problem here is that the reserves and National Guard have not been made sufficiently attractive to young people. Therefore, the solution is to make such service more attractive.

This brings me down to the final point—registration. I oppose the institution of a stand-by registration system.

First, the word "registration" to young people is code for "draft", an idea that evokes painful memories of Vietnam for many and an idea that has always seemed alien in a democratic society during peacetime.

Second, and more important, stand-by registration would not greatly speed mobilization in time of an emergency. One defense manpower specialist I talked with said that registration would perhaps reduce mobilization time slightly, from 110 to 90 days—but at a great cost. It seems to me that it makes more sense to put those millions of dollars into program improvements and promotion to make the reserves more attractive to volunteers.

Voluntary support and participation have had a lot to do with the greatness of our nation. We should continue to rely upon it in the future.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. DERWINSKI. Mr. Speaker, as in previous periods for the past 20 years the observance of the 1979 Captive Nations Week successfully registered across the Nation the cold, objective, and massive fact that over 1 billion people are still held captive under Communist domination. This has accomplished one of the many functions of the now traditional Captive Nations Week. People tend to forget and the upcoming young have to learn.

Data and reports keep flowing in on the observance of the 1979 Captive Nations Week. I wish to insert the following: First, a proclamation by Mayor Frank F. Fasi of Honolulu; second, a column by Robert Morris, appearing in the Ocean County, N.J., Citizen; third, an editorial in the Shreveport, La., Times; fourth, letters appearing in the Rutland, Vt., Herald and the Phoenix Ariz., Republic; fifth, comments and letters from the Wilkes-Barre, Pa., Times Leader News Record; the Chicago Sunday Star, and Chicago Catholic Weekly; and sixth, a commentary in the Asian Outlook, June 1979.

[City and County of Honolulu]

PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Crotia, Slovenia, Tibet, Coccackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples,

Now, therefore, I, Frank F. Fasi, Mayor of the City and County of Honolulu, do hereby proclaim that the week commencing July 15, 1979 be observed as

CAPTIVE NATIONS WEEK

in the City and County of Honolulu, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

In witness whereof, I have hereunto set my hand and caused the Seal of the City and County of Honolulu to be affixed.

Done this 11th day of July, 1979, in Honolulu, Hawaii.

FRANK F. FASI,
Mayor, City and County of Honolulu.

[From the Ocean County (N.J.) Citizen, July 19, 1979]

CAPTIVE NATIONS WEEK

(By Robert Morris)

This is Captive Nations Week and I am hoping, vainly I am sure, that the President will utilize the occasion to speak up for the national rights of the people in bondage, an integral part of any human rights for which he has been selectively campaigning. His selectivity in invoking human rights, directed for the most part against autocratic leaning anti-Communist regimes, such as Paraguay and Nicaragua, is causing those nations, whose foreign policies are disposed towards those of the U.S., to drift towards Communist control under which there is an almost total eclipse of human rights.

I expect that Dr. Lev Dobriansky, the conspicuous champion of the Captive Nations, will again issue what he calls the indicator that simply lists the Captive Nations with the dates they went into bondage.

The mere chronicling is an eye opener to most people. It should have been to former President Gerald Ford who contended in a television debate with candidate Jimmy Carter that eastern Europe was not Communist dominated.

How many people realize that Armenia, Georgia and the Ukraine are Captive Nations? They were absorbed in 1920. Yet the present occupant of the White House speaks of the USSR as "a nation". The people in those lands have an ethnic identity, were once independent and still strive for nationhood.

The indicator also lists as eclipsed, Estonia, Latvia, and Lithuania in 1940. These are almost forgotten relics in the human rights crusade.

But when one reads the dismal list of these same Captive Nations, he understandably receives the impression that the Communist tide is spreading and now in an arc that is drawing tighter around the United States itself. There are now arcs within the larger arc as we watch Nicaragua, Panama, and Jamaica move closer to the epicenter of the concentric circle, Havana.

Captive Nations Week embodies a concept that is rooted in the divine commandment—Love Thy Brother. It is important that we look at this issue in terms of helping the people who are groaning under the Communist Yoke, deprived of human rights almost in their entirety. They are our brothers and sisters and it is incumbent on us to make an effort to extend to them the most precious of all possessions, spiritual liberty. The first step in this goal is for us to cease subsidizing the jailers of these people as our government continues to do with the World Bank, the International Development Agency and the Asian and InterAmerican Diplomatic Banks as well as the United Nations. The United States is pouring money into these sources to consolidate the bondage.

[From the Shreveport (La.) Times, July 19, 1979]

CAPTIVE NATIONS: FORGOTTEN WEEK?

This is the 20th anniversary of "Captive Nations Week," July 15-21, but if the word hasn't reached you, don't feel bad. In the two decades since President Eisenhower signed a congressional resolution into law, Captive Nations Week has been gradually transformed into what amounts to a state secret.

The idea of the week, as it was conceived in 1959 at least, was basically to point a finger of shame at the Soviet enslavement of Eastern Europe. That was the main thing, though Communist domains in Asia were added to the list of "Captive Nations."

But with the coming of detente between the Soviet Union and the United States, the assumption that the captive nations were gradually asserting their independence from Russian rule, and the reality that we were not about to do anything about Kremlin control anyway, this particular "anti-Communist" week lost whatever steam it ever had.

The week may be a dead, decaying relic of Cold War rhetoric. But the realities that created the captive nations observance are, unfortunately, very much alive. Despite the signing of the SALT II treaty, detente has been badly damaged by Soviet behavior in Africa and elsewhere—along with the much more ominous Soviet military buildup that backs up that dangerous behavior.

And what about that well-advertised assumption that the captive nations of Eastern Europe were gradually regaining control of their national destinies from Moscow? There have been glimmerings of limited liberation from Russia (primarily Romania), but the Soviets have crushed, by raw force, three waves of national revolution in Eastern Europe since World War II. Soviet troops remain stationed in division strength in captive nations. These are occupied lands.

Have the captive nations, then, learned to live with Moscow's socialism, or perhaps even come to like it? That little theory was shattered recently by the Pope's visit to his native Poland, where he was met with a wave of adulation that was as much nationalistic as religious.

THE LAST REALITY

Of course, we will buy that last reality: the West is not prepared to rally behind any East European revolution against Soviet rule. That was proved in East Germany, Poland, Hungary and most recently in Czechoslovakia.

Given this reality, we agree that people should not be called to revolution by a West unwilling—or in a nuclear-triggered age unable—to support it. We would never support encouraging such a bloodbath.

But Pope John Paul II proved that the spirit of the West remains a mighty broadsword—a broadsword that in Poland, only a few weeks ago, cut through more than four decades of Communist rule. The observance of Captive Nations Week could offer the same sort of spiritual sustenance to people who obviously still crave it. The week itself may be as dead as the so-called detente that killed it, but the captive nations are alive. Ask Pope John Paul.

[From the Rutland (Vt.) Herald, July 27, 1979]

CAPTIVE NATIONS

Once again in the second part of July we will observe "Captive Nations Week." Captive Nations Week became a part of American history, and there is no hope in sight, that the captive countries will be free again. There is a saying, what the communists have they never give up. This should be a reminder to the people of the United States. From coast to coast in the United States, refugees from the enslaved countries, their American friends, and also many American leaders bring freedom to the foreground by observing Captive Nations Week. Their pleas will reach the hearts of many freedom-loving Americans and tell them about the misery people have to endure under communism. We are here to remind every American and people of the free world about the enslaved brothers by the communist regime and communist tyranny.

Once again we are appealing to all Americans, to young and old, men and women, girls and boys, red, yellow, white and black, to high school or college students, to all Americans of different origin, clergy, to everyone who desires to live in freedom with liberty, justice and peace, to join me to save the United States from the Red tyranny from communism.

In this Captive Nations Week observance, we are asking you to pray for those who have lost their lives in communist labor camps and prisons. To pray for many families who live behind the Iron Curtain, and who are persecuted by the communist regimes. To pray for those who are longing to be free. Pray to keep our country free and that freedom may come soon to all captive nations. Remember freedom is the greatest gift and blessing for all kind and today we are demanding freedom for the captive nations. Look at the map of the world. In the last 10 years you will notice that the communists have gained countries, territory and people! I think it is a right time for you my friends to examine this before it will be too late! God Bless America, God be with our brothers behind the Iron Curtain. Help us destroy the communist influence and protect our beloved country that it may never fall prey to communist tyranny.

BOB OPAL.

BRATTLEBORO.

[From the Phoenix (Ariz.) Republic, July 28, 1979]

CAPTIVE NATIONS NEED REMEMBERING

Editor:

Twenty years ago, the United States Congress passed Resolution 111, which became Public Law 86-90 with President Eisenhower's signature.

Public Law 86-90, or, as it is better known, the Captive Nations Week Resolution, enumerates those nations having fallen under Communist tyranny and requests the President of the United States to proclaim the third week of July Captive Nations Week ". . . each year until such time as freedom and independence shall have been achieved for all the captive nations of the world." Nations originally so enumerated are Armenia, Azerbaijan, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkestan, Mongolia, Estonia, Latvia, Lithuania, Albania, Bulgaria, Yugoslavia (Serbs, Croats, Slovenians, etc.), Poland, Romania, Czecho-Slovakia, North Korea, East Germany, Hungary, Mainland China, Tibet, and North Vietnam.

The scorecard of the past 20 years reveals the continuing advance of Communist aggression. The ink was barely dry on the Captive Nations Week Resolution when Cuba fell in 1960. The Southeast Asian nations of South Vietnam, Cambodia, and Laos fell in 1975. Will Angola, Ethiopia, Afghanistan, Iran, Republic of China on Taiwan, or South Korea be next?

Recently, President Carter proclaimed Captive Nations Week for 1979. In his proclamation, no mention is made of the nations fallen to Communism, indeed, the word communism does not appear. One unfamiliar with the Captive Nations Week Resolution would not know what the president is referring to. Because President Carter has in the past chastised non-communist countries for human rights violations, his proclamation could very easily be misinterpreted as applying to these countries.

This is not the case with the excellent proclamation issued for Arizona by Gov. Babbitt. Gov. Babbitt's proclamation reflects the true spirit of the Captive Nations Week Resolution and is a shining example for the rest of the country. Gov. Babbitt leaves no doubt in

recognizing the aspirations of the captive nations.

In closing, let us remember that the captive nations issue is a global issue. The United States can not afford to endure the persistent erosion of the Free World. Concessions granted in the name of detente, appeasements extracted in treaties negotiated, friends abandoned when threatened, all will result in a solitary United States in the final confrontation with a Communist dominated world.

We need only consider the words of Brezhnev, "Peaceful co-existence does not mean the end of the struggle of the two world powers. The struggle between the proletariat and bourgeoisie, between world socialism and imperialism will be waged right up to the final victory of communism on a world scale."

WALTER CHOPIWSKYJ.

PHOENIX.

[From the Wilkes Barre (Pa.) Times Leader News Record, July 19, 1979]

CAPTIVE NATIONS WEEK

Editor:

Captive Nations Week is July 15 to 21.

Captive nations are those countries, Croatia, Hungary, Serbia, Vietnam, Poland, Estonia, Angola, Afghanistan, and the list goes on, which have fallen into the clutches of the tyrants. Now more than thirty countries are known as captive nations.

Soviet imperialism began back in 1920, fifty-nine years ago. The first victims of Soviet aggression were Armenia, Ukraine, Byelorussia and Georgia.

Through the years that followed Soviet domination multiplied. The single largest acquisition took place in the late 1940s, when President Roosevelt and Truman signed Eastern Europe over to the Red Army.

Captive Nations Week was established by Congress in 1959. At that time President Eisenhower affirmed U.S. support for "the many nations throughout the world that have been made captive by the imperialist and aggressive policies of Soviet communism."

What nation will become the next Soviet puppet?

And what happens when we confront the tyrants on our own doorsteps?

MARION DUNSTAN KARSTEN.

KINGSTON.

[From the Chicago Catholic, July 22, 1979]

IN CHAINS, AS ARE NATIONS

Chicagoan Tedis Zierins wears chains during Captive Nations rally at the Daley Center July 21 to symbolize lack of freedom in Communist-controlled countries. Hundreds participated in the rally, part of the nationwide Captive Nation Week. (Picture not printed in RECORD.)

[From the Chicago Sunday Star, July 22, 1979]

CAPTIVE NATIONS

According to U.S. Public Law 86-90, July 15-21 is Captive Nations Week, a time to remember all nations that lost their freedom under godless communism. I would like to appeal to our churches for prayers.

I admire the Jewish people who in their synagogues pray and plan to help the persecuted Jews in the communist empire.

At the same time I wonder about the deafening silence in almost all our Christian churches concerning the suffering of other Christians under the same red tyranny.

I think it would be very nice if prayers were offered in every church for all who are enslaved under godless communism.

Christians in the Roman empire prayed for their persecuted fellow christians and we should do likewise.

TEDIS ZIERINS.

[From the Asian Outlook, June 1979]

A BRIEF INTRODUCTION TO THE ACTIVITIES OF THE 1979 "CAPTIVE NATIONS WEEK"

Ever since 1961, all sectors in the Republic of China on free world's first anti-Communist battle line have positively responded to the "Captive Nations Week" campaign initiated by the 86th Congress of the United States in 1959.

For so many years, under the leadership of the China chapters of the World Anti-Communist League (WACL) and the Asian People's Anti-Communist League (APACL), colorful and vivid anti-Communist activities of various kinds were held in the "Captive Nations Week" which falls on the third week of July, and the World Freedom Day on January 23, with full coordination from the people of all walks of life. Such meaningful activities drew the attention of the U.S. Congress that U.S. congressional leaders came to Taipei to participate in all activities. U.S. Congressmen brought back home and introduced into congressional records many important documents of the activities.

The Captive Nations Week campaign will celebrate its 20th anniversary this year. The U.S. "Captive Nations Week" Committee will hold rallies, banquets and panel discussions in major cities such as Washington, D.C., New York, San Diego, and Phoenix. Dr. Ku Cheng-kang, WACL honorary chairman, will be invited to give speeches during rallies in the U.S. This will, undoubtedly, encourage greatly the people confined in the "Iron Curtain" in the West and "Bamboo Curtain" in the East to rise up for freedom and human rights.

IMPACT ON YOUTHS ON MAINLAND

This is especially true to the masses of youths on the Chinese mainland awakening from a Communist nightmare. In the wake of Li Yi-che's big-character wall posters, these youths launched the grandiose anti-Communist campaign of "The Spring in Peking," disregarding Communist suppression. Anti-Communist organizations appeared on the mainland one after another. Anti-Communist remarks carried by underground publications launched vis-a-vis struggles against Communist rulers. With these wall posters and publications, and based on the political advocacy of extorting from the Communists legal systems in society, freedom, democracy and human rights, these youths will, beyond doubt, cry out the idea of learning from Taiwan. Under the press of the Red bayonet, however, fervent youths like Wei Chin-sheng, Jen Wan-ting, Fu Yueh-hua, and Hsia Hsun-chien, etc. were arrested. Nevertheless, the torch of freedom is burning. It forced Communists to adopt the old methods of purge and suppression. In other words, as the old saying goes: "Not to be extirpated by wildfire, but to refiourish in the spring breeze," the anti-tyrannical actions, wave by wave, have become the time bomb for the anticipated failure and collapse of the Communists.

Under such situations, the "Captive Nations Week" campaign in the Republic of China this year carries even greater significance. Despite the greatest diplomatic impact caused by the severance of Sino-American relations, despite the Communist play of united front tactics of "peaceful reunification," and despite a greater crisis in Indochina bred by Communist gunfire amidst the confusion of friends and foes caused by the pluralistic check-and-balance policy, the government and people of the Republic of China fear no adversities. Thrusting out their chests and straightening up their backs, they will start more fervent anti-Communist activities and launch powerful psychological offensives against the Chinese mainland through every available psychopolitical means. They do this because they realize it clearly that only an unchangeable anti-Communist stance is the way to survive for the nation and the people, and that only by firming their stance and displaying their solid strength in construction can they perfect themselves and defeat the enemies on the battlefield of political warfare.

INFLUENTIAL ANTI-COMMUNIST LEADERS TO COME

Therefore, the Republic of China keeps inviting influential anti-Communist leaders and youths from the five major continents in the world to take part in this year's activities in Taipei. The U.S. Congress has also selected Congressmen Marvin H. M. Edwards, Dan Marriott, Gerard Solomon to come to Taiwan with their wives. The sponsors will arrange speeches by these VIPs who will also participate in panel discussions, give TV interviews, and, especially, they will exchange anti-Communist opinions with Legislative and Control Yuan members, professors, scholars, journalists and political leaders so as to suggest ways to support effectively the captive people in their struggle for freedom, democracy and human rights.

In addition, there will be two large-scale rallies.

On July 21, a rally will be held at Dr. Sun Yat-sen Memorial Hall in Taipei. Some 3,000 VIPs, government officials, members of Diplomatic Corps in the Republic of China, leaders of all walks of life, and freedom seekers from the Chinese mainland, will attend this rally. Premier Sun Yun-suan will be invited to address the rally and anti-Communist leaders from different areas of the world will also speak.

On July 23, an "Anti-Communist Unity Rally" in Taiwan, southern Taiwan, will feature the participation of 110,000 people. This will be a solemn and splendid rally, with interesting programs and shows. For instance, the ugly Communist yoke on the mainland, the cries of the people there seeking freedom, democracy and human rights, a contrast between the poor mainland and the prosperous Free China, and the great victory of freedom, will be featured at the rally, which will be televised and broadcast on TV or radio to the Chinese mainland, overseas areas and the offshore islands of Taiwan.

All the people in the Republic of China attach much importance to this campaign because it fits the utmost goal of their struggles. They specifically worked out four directions of efforts and themes of political summons:

FOUR DIRECTIONS OF EFFORTS

Toward the Chinese mainland: to call on people there to rise up in their struggle of anti-starvation, anti-illiteracy, anti-torture, seeking freedom, democracy and human rights.

Toward home here: to appeal people to be firm and united and to further struggle to overthrow the tyrannical Communist regime.

Toward overseas areas: to urge overseas Chinese all over the world to crush the schemes of Communist united front tactics and support their free homeland in its anti-Communist efforts to recover the mainland.

Toward the international community: to beckon all peace-loving people in the world regardless of their race, nationalities, residing areas, religious beliefs and occupations, to support the captive people behind the Iron Curtain to fight for their freedom, democracy and human rights.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following votes on Friday, October 19. Had I been present I would have voted as follows:

Rollcall No. 585, "yes."
Rollcall No. 586, "yes."
Rollcall No. 587, "yes."●

VIRGINIA TAXPAYERS ASSOCIATION OPPOSES MARTIN LUTHER KING HOLIDAY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. McDONALD. Mr. Speaker, in view of the fact that I am told we will again be considering next week, legislation to make Martin Luther King's birthday a paid Federal holiday, I believe it to be appropriate to include in the CONGRESSIONAL RECORD the testimony by the Virginia Taxpayers Association before the Senate Judiciary Committee in opposition to that measure on June 21, 1979. This is especially true, since, to the best of my knowledge, the Senate Judiciary Committee has never published their hearings. Therefore, I commend this statement to the attention of my colleagues:

TESTIMONY OF KENNETH WHITE, PRESIDENT, VIRGINIA TAXPAYERS ASSOCIATION

Mr. Chairman, my name is Kenneth White and I am President of the Virginia Taxpayers Association, a federation of local taxpayer organizations and individuals from all 10 congressional districts in Virginia. The Virginia Taxpayers Association was organized six years ago as a broad-based taxpayer organization working to reduce government taxes and spending at all levels of government—local, state and federal—and to preserve the freedom of the individual American citizen. The VTA has become widely known not only across Virginia but among followers of the taxpayer movement all over the United States, and reports of our activities have been carried in publications printed in many other states.

Immediately following the success of Proposition 13 in California a year ago, we called a state capitol press conference attended by the principal Virginia media in Richmond where we announced plans to obtain property tax reductions similar to those in California and where we made the statement: "Taxpayers are the boss", a slogan that was immediately carried as the lead item in a national Associate Press news story and was featured on network television. A Lynchburg, Va. News lead editorial specifically favoring our VTA position on the Panama Canal treaty was carried in the Congressional Record July 18, 1978. For the last six years we have represented taxpayers of our state at the annual legislative sessions of the Virginia General Assembly in Richmond; on a wide variety of taxpayer matters, we have twice appeared in televised debates with the Virginia attorney general on the subject of state general obligation bonds, we have assisted in the continuing defeat of the so-called Equal Rights Amendment in the Virginia legislature, and we are currently promoting vigorously a constitutional amendment that would give Virginia taxpayers the right of initiative and referendum as now enjoyed in some 22 other states and the District of Columbia.

Regarding the proposal now before the Senate Judiciary Committee to establish a federal holiday on January 15, Martin Luther King's birthday, we do not believe the present economic situation will permit the United States to afford any more federal holidays for any reason whatsoever. As a result of destructive policies tolerated and deliberately encouraged by Congress over many years, capital has been exported from the United States to foreign countries to a point where today many industries are more efficient and productive in advanced nations overseas than here at home, and the United States is no longer competitive in producing many kinds of goods. Intolerable ever-increasing minimum wage laws passed by Congress are only one of the reasons for this. Also Congress has by its beneficence with taxpayers' resources made federal employees a specially privileged class—as well as increasing beyond reason the number of such employees—and U.S. News & World Report revealed in its June 18, 1979 issue that each workday federal offices are closed costs taxpayers $194.5 million. (Of course this figure is in Federal Reserve Notes, or what the January, 1979 Reader's Digest admits is "phony money", but this really counterfeit currency, for which we have Congress to thank also, is the only thing made available for use in most statistics today.) So what is really the proposal now before this committee is the insane idea of declaring another federal paid holiday in a less and less productive nation which is already bankrupt, and where the country's national debt can never possibly be paid by the taxpayers. Frankly, for any congressional committee to seriously consider such a proposal is a further reason why members of Congress as a class today rate so low in all the public opinion polls. Do members of this committee really wonder why there is a national tax revolt today?

Of course, the cost of the holiday cannot be limited to federal pay alone, since state and local government employees also would be affected and a great many private employers would feel compelled to pay their employees for not working also. So the total economic consequences would be disastrous. Moreover, coming at a time so soon after Christmas and New Year's Day the January 15 date would be particularly unnecessary for an additional holiday.

There is now no federal legal holiday honoring any American except our first and greatest President, George Washington. In the light of all the other great American patriots who are not so honored, including Thomas Jefferson and Patrick Henry, it would be singularly inappropriate to devote a holiday to one who did as much to increase federal bureaucracy, federal regulation and federal encroachment on American life as Martin Luther King. Representative John Ashbrook of Ohio has placed massive documentation in the Congressional Record of King's unwavering service to Communist causes, and it would be impossible in this brief time to restate all of Ashbrook's unchallengeable facts, but we would like to incorporate herewith by reference Congressman Ashbrook's lengthy and authoritative material. We should keep in mind that it was a very liberal Democrat attorney general, Robert Kennedy, who ordered government personnel to investigate thoroughly King's subversive connections and activities. All of this might perhaps be considered by some King adulators to be merely academic history of no account in today's world, except for its extreme importance in the area of ideals and symbolism. The honorable ranking minority member of this Judiciary Committee, Senator Thurmond, is certainly as well informed as any member of Congress on the overwhelming importance given by Communist forces to symbolism, for it was the honorable Senator from South Carolina who single-handedly gave to the American public some years ago his historic report on Muzzling American Military Forces in which many significant but sometimes hidden Communist devices and influential symbols were revealed. It was just a few days ago from this hearing date, June 11, 1979, that Communist interest in Martin Luther King was confirmed by a most unimpeachable source, Tass, the Soviet news agency. It was on that date that the Soviet propaganda machine declared, according to an Associated Press dispatch from Moscow that President Carter's decision to submit a bill to Congress making Martin Luther King's birthday a national holiday was "a serious success for the progressive forces in the U.S.A." (the Tass agency).

It needs to be asked publicly, and also answered publicly, why are the ruthless Communist butchers so interested in making Martin Luther King's birthday a holiday in a foreign country (that is, foreign to the Soviet Union), and why should the United States do anything of this kind and of such symbolic importance to bring special pleasure to such enemies of mankind?

We can only conclude by warning this committee that if the committee wishes by its actions to add further fuel to the fast-growing national tax revolt, an affirmative vote on the question now before us will certainly do it.

Thank you very much.●

WELCOME STEMMERS RUN JUNIOR HIGH SCHOOL

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. LONG of Maryland. Mr. Speaker, I warmly welcome the 90 students and teachers from the Stemmers Run Junior High School in Essex, Md. My constituents are visiting the Capitol today in connection with a course entitled, "Contemporary America; American Political Behavior." They will see the House in action and tour the Smithsonian Institute. Their day in Washington will be memorable and interesting.

I am delighted to meet with my friends from Essex. I congratulate the teachers, Ms. Dorothy Dowling and Mr. James Wiedermann, for arranging this trip to Washington. We need more of this kind of imaginative teaching in our schools.

The students are:

STEMMERS RUN JUNIOR HIGH SCHOOL

Teacher: Ms. Dorothy Dowling.

Students

Tony Appel, Ken Bocam, Woon Cho, Chan Everett, Gerv Griffin, Russ Hershberger, Yong Kim, Fred Marsh, Joe Samek, Bill Seidler, Kevin Via.

Daniel Yue, Leah Barr, Tina Bates, Michele Buttrey, Barbara Craig, Diane Dadds, Lesa Davis, Theresa Davis, Joan Hamilton, Mary Hunt, Kathleen Ibbott, Donna Lanocha, Maria Manalis, Pamela Marcomin, Christina Markowski.

Kim Mullins, Jackie Myers, Kim Myzak, Melody Peters, Denise Sanders, Mary Stump, Christal Swiger, Laura Szymanski, Jean Vicchio, Kim Zwinklis, Lisa Dowling.

935

Teacher: Mr. James Wiedermann.

Students

Robert Bowings, Thomas Foor, Jerome Grinage, Don Hanlin, Socrates Martinez, Franklin Mattheu, Leroy McClelland, James Orndorff, John Sanders, Steven Weinkam, Chesna Adams, Mary Baratko.

Deborah Boyd, Pamela Bruffey, Lori Burchett, Sherri Carter, Linda Chance, Carol Dalton, Susan Edge, Edith Gajdosik, Vic-

toria Gouker, Vickie Hannah, Marlene Jarrell, Michelle Klapka, Mary Lingner.

Jane Lovalo, Peggy Lucas, Jacqueline Lumpkins, Michele Marks, Michele Maurits, Christie Noel, Patricia Novesl, Lisa Powell, Sharon Shoemaker, Terri Zilian, Michael Abee, Michael Ripple, Lisa Spears, Donna Martin.

7B6

Teacher: Mr. James Wiedermann.

Students

Tom Holcomb, Yong Kim, Sandy Brooks, Dawn Burkowski, Leah Cherry, Lisa Harrington, Rochelle Heaton, Lisa Janowitz, Michele Ratkowski, Tammy Hanke, Joan Collins.●

GAO BLAMES CONDO CONVERSION FOR RENTAL HOUSING SHORTAGE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. ROSENTHAL. Mr. Speaker, a report released today by the General Accounting Office places major blame for the nationwide shortage of rental housing on the virtually uncontrolled conversion of rental units to condominiums and cooperatives. These findings confirm the need for a national moratorium on conversions and for a Federal factfinding commission as called for legislation I introduced in September.

The GAO report stresses the need to "propose a national rental policy and plan of action to foster the availability and affordability of rental housing." In my judgment, the most effective way to accomplish this goal is through the Federal commission proposed in my bill, H.R. 5175, the Condominium-Cooperative Conversion Moratorium Act of 1979.

I am inserting in the RECORD today the digest and summary of the Comptroller General's findings. In addition, I am writing to Congressman HENRY REUSS and Senator HARRISON WILLIAMS, chairmen of the committees with jurisdiction over housing legislation, calling for immediate implementation of the GAO's recommendations.

It is essential that the Federal Government uphold its responsibility to insure a decent home and suitable living alternatives for every American family.

The GAO report, entitled "Rental Housing: A National Problem That Needs Immediate Attention," declares:

The rental housing problem is so severe that it requires the immediate attention of and action by the Congress and the Administration.

By way of follow-up, I am today asking the GAO to expand its investigation to look into the worsening plight of fixed-income Americans, particularly senior citizens, who are displaced by condominium conversions.

The material follows:

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS: RENTAL HOUSING: A NATIONAL PROBLEM THAT NEEDS IMMEDIATE ATTENTION

DIGEST

Although about 35 percent of American families live in rental housing, they are faced today with the Nation's lowest recorded rental housing vacancy rate and are finding it increasingly difficult to locate affordable rental units. Hardest hit are the millions of renters with annual incomes of less than $10,000.

The rental housing problem is so severe that it requires the immediate attention of and action by the Congress and the Administration.

Primary factors responsible for this crisis are

Low levels of moderately priced new private construction and

Losses of existing units through abandonments and conversions to condominiums.

Other factors such as rapidly escalating operating costs and the increasing age of the existing rental stock also are having a detrimental effect. This report discusses the impact of each of the above factors on the rental housing market.

The Department of Housing and Urban Development (HUD) is the principal Federal agency responsible for administering programs designed to encourage the production or maintenance of multifamily rental housing. It administers 14 programs which affect the rental housing market. The Federal role has primarily been twofold:

To provide funds for, or to facilitate through mortgage insurance, the financing of construction, purchase, or rehabilitation of multifamily housing.

To assist lower income families, through rent subsidies, to obtain decent, safe, and sanitary housing.

The proportion of multifamily rental construction starts which have been federally subsidized has increased steadily from 22 percent in 1972 to about 44 percent in 1978. HUD estimates that federally subsidized and/or insured units will account for about 75 percent of multifamily construction starts in 1979. If the current rental market conditions continue, there will be even greater reliance on Federal programs to deal with the rental housing market crisis, particularly as it relates to lower income households.

Despite the increased dependence on the Federal Government to provide multifamily rental housing, the number of households in need of and qualified to obtain assistance far exceeds the number of subsidized units the Government is able to provide. For example, HUD estimated that 10.1 million lower income renter households were in need of housing assistance this year either because they were living in substandard or overcrowded housing or because they were paying more than 25 percent of their income for rent. HUD estimates that only about 250,000 assisted units will be made available for occupancy in fiscal year 1979.

HUD has acknowledged that today's rental vacancy rate of 5 percent is dangerously low because it interferes with the Nation's mobility possibilities. Families needing larger rental units are finding it especially difficult to find affordable units with the national vacancy rate for housing units with 5 rooms being 3.8 percent and those with 6 or more rooms being 2.8 percent.

Renters have lower average incomes than homeowners. For example, in 1977 the median family income for renters was $8,800 compared to $16,000 for homeowners. Many renters are now paying more than 25 percent of their incomes for rent. For example, Bureau of the Census data shows that over 48 percent (11.9 million) of all renters are paying more than 25 percent of their income for rent with 7.4 million renters paying 35 percent or more. There is limited potential for most of these renters to become homeowners considering the rapidly rising cost of buying and maintaining a house.

Various reasons were cited by officials for the declining private rental housing market, including high costs of construction, land, financing and insufficient rents. Most officials agreed that at current market rent levels, newly constructed privately financed rental units were not profitable. It was suggested that a 20- to 25-percent increase in market rents would be necessary to stimulate new investment in the private multifamily rental market.

Rapid increases in the cost to operate and maintain existing rental housing, particularly utility costs, has also become a major concern. According to the Institute of Real Estate Management, during the period 1973–76, heating fuel costs rose 69 percent and maintenance and repair costs increased 29 percent. A HUD Task Force reported that increases in such costs are primarily responsible for rising trends in apartment abandonments, foreclosures, and conversions.

The age of the Nation's rental housing stock is also a significant factor since a significant portion of lower income renters live in rental units located in structures that are at least 40 years old. During 1977, about 11 million rental units, or 41 percent of all occupied rental units, were located in structures built in 1939 or earlier.

The conversion of rental units to condominiums is increasing—130,000 conversions are predicted during 1979 compared to 50,000 during 1977. Low rates of return from rental ownership is considered a primary cause of the growing trend of conversions

RECOMMENDATION TO THE CONGRESS

The Congress should establish a commission consisting of officials from Federal (both executive and legislative), State, and private organizations to—

Develop alternative strategies to minimize the impact of the crisis which recognize, among other things, the preservation of existing stock as well as new construction of rental housing and identify incentives necessary for private industry to enlarge its role in the rental market, and

Propose a national rental housing policy and plan of action to foster the availability and affordability of rental housing

RECOMMENDATION TO THE OFFICE OF MANAGEMENT AND BUDGET

The Director, Office of Management and Budget, should take the lead in developing executive branch alternatives and strategies which focus attention on the rental housing crisis. These alternatives and strategies should be presented to the commission for use in formulating a national rental housing policy.

AGENCY COMMENTS

GAO requested comments from the Department of Housing and Urban Development and the Office of Management and Budget but the comments were not received in time to be included in this report.●

DMSO

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. SYMMS. Mr. Speaker, today I am introducing legislation which will approve the use of dimethyl sulfoxide (DMSO) for the treatment of acute brain and spinal cord injuries.

Neurologists at the University of Oregon Health Sciences Center have found that lives can be saved by reducing intracranial pressure with DMSO when brains swell from injury or hemorrhage. Prior to this discovery, most patients died or became vegetables when pressures were too great.

The other forms of treatment usually used are intravenous barbiturates. Studies have shown, however, that 25 percent of the patients do not respond with such treatment, and 83 percent of those cases died. Even though barbiturates can reduce the pressure in a number of cases, the patient is put in a coma and there is also a higher incidence of pneumonia.

In addition, in many animal studies, DMSO has been found to promote healing in damaged spinal cords of animals.

Since it will most likely take the Food and Drug Administration decades to approve DMSO's use for the treatment of acute brain and spinal cord injuries, it is imperative that the Congress act in the best interest of those who are facing the immediate possibility of death or, at best, complete paralyzation.●

ARLENE SLAUGHTER AND CAROL SIBLEY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. DELLUMS. Mr. Speaker, on this day, November 8, 1979, the Berkeley YWCA will hold a testimonial dinner honoring two women, Arlene Slaughter and Carol Sibley, who have made outstanding contributions to our communities in the 8th California Congressional District. I ask my colleagues to join me in commending and congratulating these women, and I wish to share with you a brief chronicle of their activities in the service to the citizens of this district and the Nation.

Arlene Slaughter, the owner of Central Realty, has been one of the leading realtors in the State in the struggle against discriminatory practices. For almost 30 years now, she has been a recognized leader in the field of housing rights and integration of housing. She has served as State cochairperson of the equal rights committee of the California Association of Realtors, and has served on their board of directors. She is currently vice president and member of the board of directors of the Oakland Board of Realtors, and is a member of Mayor Lionel Wilson's Blue Ribbon Committee on Housing. Among her many community service awards, Arlene Slaughter lists Realtor of the Year (1974); the award for Outstanding Contributions to Equal Opportunities in Housing; Black America Day Award; and Certificate of Appreciation, Berkeley Consumers Cooperative.

Ms. Slaughter's concern for equal rights and social justice has led to her involvement in a variety of community and political areas. She is currently on the board of directors of the Berkeley Women's Health Collective and has served on the Alameda County Human Relations Committee, the Urban Renewal Advisory Commission on Housing for the city of Berkeley, and she was the chairperson of the Alameda County Joint Equal Rights Committee. Arlene Slaughter richly deserves our commendation for the stellar contributions she has made to the quality of life in her community, often in the face of concerted opposition, as she dedicated herself to causes that were before their time and demanded considerable courage and persistence over years of effort.

Carol Sibley, too, has a remarkable record of service in the cause of equality and human justice. She is perhaps best known for her crucial role as school board director in Berkeley from 1961 to 1971 in the landmark racial integration of the Berkeley public schools. But her many contributions span a period beginning in 1944, when she first came to this area and became active in the Berkeley YWCA. She served as president of the community YWCA from 1948 to 1951 and was on the board of the university YWCA from 1945 to 1962.

Ms. Sibley's main involvements in community life range from membership for 6 years in the board of governors of the United Bay Area Crusade to her role as chairperson of the Berkeley Volunteer Bureau. She served for 10 years as board member of the California Association of Health and Welfare. She was the founder of the prestigious Appreciation of Excellence in Youth Award in 1958, and has continued since then in the work of the organization. She is a member of the board of the New Bridge Foundation, a drug rehabilitation self-help program, and is a founder of "A Dream to Berkeley," a group dedicated to building a community of trust and concern with current social issues. In addition, Ms. Sibley serves on the social concerns committee of the First Congregational Church, the affirmative action committee of the East Bay Regional Parks District, and is a member of the executive committee of the Berkeley Summer Fund. Carol Sibley's work in the community has been so extensive that she was named recipient of the Wheeler Award for distinguished community service in 1973. Without Ms. Sibley's tireless efforts on the school board, Berkeley might not have become one of the first cities in this Nation to fully integrate its schools. Her dedication to realizing many dreams for Berkeley have indeed made her one of that community's leading citizens. She leaves no area untouched in her efforts to build a better community, and must be commended for her many years of stellar service.

Without the enduring dedication, enthusiasm, and assistance of these two women, the hopes for a new facility for the Berkeley YWCA would not have become a reality. Since the YWCA began its successful women's refuge several years ago, the need for additional space became more and more urgent. With its expanding programs for teenagers, the need has become crucial to the continuing success of the YWCA. The record of the Berkeley YWCA in serving all segments of the community is perhaps unparalleled in this country. They have led the way in providing help and a new start for homeless women, and are leaders in the provision of multiple programs for our teenagers. It is no surprise, therefore, that the YWCA has enjoyed the help and leadership which Carol Sibley and Arlene Slaughter have given in shaping these policies and in making their dreams a reality. These two women are indeed models to be followed by the young women they have so ably served. Whether in professional life, or in voluntary service, Arlene Slaughter and Carol Sibley exemplify the energy and humanity that the country needs.●

MORAL COLOSSUS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. DERWINSKI. Mr. Speaker, I find myself questioning the creation of high-level jobs in the executive branch for office holders rejected at the polls. I was highly skeptical, therefore, of the appointment of Dick Clark to fill a new post made for him, that of refugee coordinator. I kept my peace, however, since coordinator of our refugee program is an important job and a man of Dick Clark's integrity would not take it if it were not.

I was taken aback then to learn that at such a delicate moment in the refugee situation Dick Clark had left the new post in which he had been invested. His new job must be truly important since, if it were not, he would not take it.

Mr. R. Emmett Tyrrell, Jr., editor in chief of the American Spectator, had some interesting comments on Mr. Clark's resignation. I am reprinting below Mr. Tyrrell's article, "Moral Colossus", which appeared in the Washington Post on November 5, 1979. Mr. Tyrrell's article follows:

MORAL COLOSSUS

(By R. Emmett Tyrrell Jr.)

We live in an age of political giants, which is fortunate. Rarely in world history has there been more exigent need for their services. Momentous issues are being decided in this world of ours, and it is in America that these issues are being articulated most eloquently and audaciously. Here the future of mankind is being formulated and fought for. The world looks on in awe.

Will men and women finally shake their shackles and realize their full personhood? Will American youth overcome the capitalist miasma and successfully seek out its sexuality? Can the junk-foods Camorra be thwarted? Will the subversive cigarette be banished? And what of the returnable bottle crusade? How about nude bathing, civil rights for animals and the solar campaign? Has it a chance? The struggle gains momentum and, as it is waged throughout the Great Republic, millions of the earth's inhabitants light little candles of idealism in their hearts and look on. America remains the moral showcase of mankind, and an incomparable generation of political messiahs performs within.

The Hon. Dick Clark is such a moral colossus. He became a senator in 1972, after walking the length and breadth of Iowa (700 miles all told), listening to the wails of the downtrodden and going through dozens of pairs of socks. There in the great chamber he distinguished himself, according to the Washington commentator, Tom Bethell, as a senator who took "the view that if there was anywhere in the world a Marxist dictator who felt like hollering abuse at the United States, then it was no doubt our fault and we should just curl up and apologize." Unfortunately, Clark lost his bid for reelection in 1978, possibly because of a papal

plot perpetuated on account of his abortion stand.

President Carter had heard of the Hon. Clark's violent humanitarianism, and he made him the administration's coordinator for refugee affairs with the rank of ambassador. On slow days, Ambassador Clark might be expected to issue a poem praising the president's marvels to the folks back in Iowa, but otherwise he was to coordinate Congress, the Justice Department and the State Department in the treatment of fleeing refugees.

What those refugees were fleeing from is a question that Ambassador Clark must have found perplexing. They were not fleeing from Chile or Argentina, and so for a time he could clear his mind of those dark visions of juntas and multinational corporations that have inspired so many of his sonorous orations, nor were they streaming out of South Africa or Zimbabwe Rhodesia. These were Cambodians, Vietnamese and overseas Chinese. Why would they leave?

Could they be dragging their pitiful belongings across unfriendly roads and perilous seas to escape the fear of unexploded American bombs and the unhealthy conditions caused by American defolients? God knows that in our imperialist madness we recently did much to destroy the quality of life in their homelands. Could they be coming out of Vietnam and Cambodia to protest our spoilages? If so, they carried no anti-American placards, and these denunciations were very pianissimo. Perhaps they were leaving in fear of impending right-wing coups or harassment from marauding bands of counterrevolutionaries armed with the residue of American military might. Yet these refugees were suffering from beating, hunger, terror and ghastly diseases—curious conditions for the citizenry of a progressive regime. Possibly the CIA was again attempting to discredit Hanoi's forces of peace and freedom.

Nonetheless, Ambassador Clark put himself to the task of finding homes, food and medical care for these refugees. Still, their numbers continued to grow, and their conditions worsened. The thing was unusual. No pronunciamento intoned by an American pol seemed to do any good. Erratic waves of pathetic Southeast Asians kept popping up. They appeared in leaky ships in the South China Sea, and those who did not drown—about half—muttered feebly about having been beaten, robbed and raped. Furthermore, these atrocities were not committed by our Americal division, but by Third World cousins. Then along the Thai border the most pathetic refugees of all began appearing—mere skeletons, bearing tales of heretofore unimaginable cruelty. Some held dying babes in their arms. Some had shed loved ones in pitiful expiring heats along their terrible route. Broken and dying, they collapsed in hastily laid out camps just like that. They died by the thousands. None of the Third World rhetoricians at the United Nations did anything. Even Ambassador Andrew Young was relatively noiseless, and Jesse Jackson went off to condole Dr. Yasser Arafat.

Our American political giants relish moments of crisis, but this was too much. The numbers of refugees kept mounting. Their conditions kept growing more critical. Doctors in the refugee camps began talking in tones of panic, and no one could do anything. Finally some of the pols began talking about dropping thousands of tons of food into Cambodia as though there were hundreds of shopping centers and tidy towns over there where people would gather to collect their airborne victuals. But even this scheme was denied the pols. The sovereign governments of Vietnam and Cambodia would not allow such tampering with their internal affairs. And why should they? Has not the United States brought enough misery to these lands? Those who govern in Phnom Penh and Hanoi are reasonable men. They are progressives. They *eliminate* human misery; they do not *cause* it.

Thus it must have come as a relief to Ambassador Clark when at the end of October—just as some spoke of another huge Vietnamese invasion of Cambodia—a Mr. Pen Sovan issued his statement. Sovan is the distinguished defense minister of Cambodia's Vietnamese-sponsored government, and from Moscow he declared that "I can say with a full sense of responsibility that no one is starving in our country." Well thank God for that!

And so on Oct. 30 Ambassador Clark quit his post. He would take the struggle for a better world to other parts, to Iowa. There Camelot II was in trouble. People needed him. He had heard the call from Hyannisport. And so off to the Midwest ex-ambassador Clark did go, and in Washington the office of our coordinator for refugee affairs was left empty.●

A NEW AIR FORCE FOR THE SPACE AGE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. PAUL. Mr. Speaker, a recent article in U.S. News & World Report demonstrates just how important NASA's Space Shuttle is to our defense effort. The article also shows the need to boost pay to attract and hold the kind of high-level volunteers the Air Force needs in the 1980's. As this article points out, adequate U.S. defense lies with a highly technological Armed Forces, manned by technicians, engineers, and scientists, not by masses of green recruits with rifles and bayonets. We need, not an unconstitutional and un-American draft, but sufficient incentives to recruit high-quality military people:

A NEW AIR FORCE FOR THE SPACE AGE

The most dramatic changes in its 32-year history are transforming the U.S. Air Force.

Taking shape is a high-technology military arm that will send men and women to live and work routinely in space in the early 1980s. Its plane will carry supersmart weapons and laser "death rays" that can score a certain kill against any target a pilot can see. Its ability to "look" deep into hostile territory will be greatly enhanced. . . .

The revolution in technology is matched by a revolution in personnel policy. Gone are the days when the 560,000-strong Air Force was headed by a cigar-chomping bomber pilot and only 10 percent of its officers had finished college.

Now, 40 percent of the colonels have master's degrees or better, and the chief of staff is a nuclear physicist who wrote his doctoral thesis on "Photo Disintegration of Deuterium by 95 Mev X-rays."

Such talents will be in even greater demand as development of a shuttle enables the Air Force to leap into space. Air Force Secretary Hans Mark, a nuclear physicist, stresses that the importance of sending ordinary service personnel—and not just astronauts—for duty in space can't be exaggerated.

HUMAN JUDGMENT

Of the 487 shuttle missions the U.S. now plans to fly in the next dozen years, 113 will involve a military purpose.

"Every single flight of the space shuttle," says Mark, "will be accompanied by man, with human judgment. That will make a major change in how we do business." He predicts that the first service personnel to remain in space for long spells will not be supermacho test pilots but telephone technicians who will repair and monitor the unmanned satellites that are increasingly important for communications, navigation and surveillance.

From the shuttle, Air Force technicians will be able to place satellites in orbit and retrieve and repair older satellites. They may even check out foreign satellites to see how they work.

Maj. Gen. Jasper A. Welch, Jr., assistant chief of staff for systems and analyses, says the ability to carry out repairs in orbit will make it possible to produce satellites much more cheaply and to send them quickly into space to perform specialized jobs. Currently, every satellite must be manufactured to operate flawlessly for its full lifetime and then tested over and over to make sure it will not break down. With a repairman in space, there will be no need for that level of perfection.

Most spy-in-the-sky operations will be handled by unmanned satellites. But Lt. Gen. Thomas P. Stafford, a former astronaut who now heads Air Force research and development, says there also will be men with binoculars—or more-sophisticated devices—watching to see what's going on down below. Stafford says he is still amazed at how much detail can be seen from space, even with the naked eye.

Repair and maintenance teams will be followed into space by the crew of an orbiting control center. This will replace the flying command post that is on constant airborne alert to enable top officers to control the U.S. nuclear arsenal in a crisis.

SOMETHING OF VALUE

Will the Air Force eventually fight outside the atmosphere? Secretary Mark has no doubt that armed conflict will follow man into space. "Where there are things of value, people will fight about them," he says. With the shuttle, carrying 10 times the payload of existing rockets, there will be a rapid increase in the number of things of value in space.

Stafford and Allen, the chief of staff, foresee a fleet of two-man spaceships capable of taking off from ordinary airports, zooming out of the atmosphere and then returning to land at their home bases after completion of their missions. They will probably be equipped with laser weapons to burn out the electronics of a hostile satellite or another spaceship. Stafford says that such a fleet could be operational before the end of the century.

As a first step toward achieving this, the F-15 fighter is being fitted with a missile that can be fired into space from high in the atmosphere to knock down an enemy's satellite.

While the move into space will revolutionize the role of the Air Force, other developments, almost as dramatic, are in the works. Experimentation with lasers has reached the point where it is considered a near certainty that they will be used as "death ray" weapons in the near future.

"The 1980s will be the decade of the laser," Stafford says. Already, a laser-equipped plane is flying at Kirtland Air Force Base, N.M. In experiments, small unmanned planes and missiles have been destroyed in flight.

The first use of lasers as weapons will be to defend large planes. A cruise-missile carrier, for example, might be so armed to protect itself as it circled over the ocean preparing to launch its missiles. Later, laser weapons will be made small enough to be carried by light-weight fighter planes to attack ground targets and enemy planes.

A big new warplane is planned—although no decision has been reached on whether to build it or even what its ultimate mission ought to be.

During the coming year, the Pentagon will decide whether to design this aircraft to stand off and launch cruise missiles, penetrate to the heart of enemy defense or combine those two functions. The technological challenge of developing such a warplane—given improved Soviet air defenses—is considered immense.

While this "large warplane"—as Secretary Mark calls it—is on the agenda for the future, the Air Force is in the process of buying a whole new fleet of combat planes: F-15 and F-16 fighters, A-10 tank killers, E3A combat command posts.

In the next decade, as much as 12 billion dollars may be spent on electronic equipment—new radar, communications, guidance, fire-control and jamming devices—to improve the performance of these new planes. A major effort will be made to overcome a critical problem: The limited ability of American warplanes to attack ground targets at night and in bad weather.

Another critical problem is that the very-high-performance engines used in the F-15 and F-16 are wearing out much faster than expected.

In developing new aircraft, the emphasis is less on increasing altitude and speed and more on electronics that can tell a pilot where he is, help him find his target and enable him to communicate easily. New developments in electronics make it possible to put more and more computing capacity into small planes, enabling pilots to make split-second decisions.

How far the Air Force has progressed on this front was demonstrated recently when F-15 fighters supplied to Israel engaged a flight of Russian-made planes of the Syrian Air Force in a dogfight. Four Syrian planes were shot down in a battle that lasted only 1½ minutes.

FLYING COMMAND

To back up the increasingly sophisticated electronic equipment, four-engined flying command posts are coming into service to monitor everything that is happening in the battle area. Technicians in these planes not only guide the smaller planes but also use their computers to work out complex tactics in a matter of seconds.

Soon to come are superpowerful computers, packaged in tiny panels, that will increase the chances of a pilot to fight and live to fight another day. At present, a pilot must fly directly at his target at least for a few moments—an exceedingly dangerous maneuver.

The new electronic fire-control devices will eliminate that danger, permitting a flier to release his weapons while he is maneuvering violently—even if he is rolling upside down.

Technology is being developed to help pilots in other ways. New radar and lasers, now under test, will make American warplanes virtually immune to enemy jamming, a major problem. These devices are in what is known as a "constant jump mode"—that is, they move continuously and automatically from one frequency to another, defying enemy efforts to pinpoint them. Because of the Russian emphasis on disrupting enemy communications, this effort to jam-proof U.S. planes is a top Air Force priority.

ON THE GROUND

Other advances in technology promise dramatic improvements in the ground-support area. One example: New aircraft engines will have far fewer parts than those flying today. This not only will reduce the chances for failure but drastically cut the number of spare parts that must be bought and stored.

Another example: Streamlining of the Air Force Logistics Command. Gen. Bryce Poe II, who heads the command, claims that when Israel defeated Egypt and Syria in the brief but intense Yom Kippur War of 1973, it was logistics that made the decisive difference. He says: "It was a logistical conflict between us and the Soviets. We beat them hands down over a longer distance." His command is responsible for 800,000 items, from patrol dogs to nuclear weapons, with a budget of 16.4 billion a year. If it were a private business, it would rank 10th on a list of the top 500 corporations in the country.

Largely through the use of computers and automated equipment, the Logistics Command has reduced its depots from 21 in the mid-1950s to five today. At the same time, it has cut the number of people employed from 225,000 a quarter of a century ago to 91,000 today, and that number is scheduled to drop another 10 percent by the early 1980s. Despite these decreases, Poe says, the Logistics Command is doing essentially the same amount of work.

As the Air Force prepares for its new challenges, there are many in the service who worry that this elite corps is in serious danger of losing the very asset that has made possible its technological leadership: The high quality of its people.

THE EXODUS

One warning sign is that, for the first time since the introduction of the all-volunteer force seven years ago, the Air Force is not filling recruitment goals.

Even more worrisome is the fact that experienced men and women—both middle-level enlisted personnel and commissioned officers—are leaving the service in increasing numbers. The loss of pilots and engineers, critical to the future of the Air Force, is particularly acute.

A shortage of 2,000 pilots and 900 engineers is currently reported.

While there is concern in the Pentagon, in commands outside Washington the reaction is close to alarm. "We are in deep, serious trouble," declares Gen. Alton D. Slay, head of the Systems Command.

At Langley Air Force Base, Va., home of the Tactical Command, the situation appears particularly bleak. Gen. W. L. Creech, the tactical commander, described the steps he had taken to improve life in the service for his pilots. The result? "We've made so much progress they're leaving us now with smiles on their faces," he says. "Our pilot-retention rate is the best in the Air Force—and its terrible." Not only is the loss of pilots reaching serious proportions, but there is also a less noticed loss of sergeants which, Creech says, "could reach a flood unless we address the issue."

For the long-range health of the service, the shortage of engineers may be even more serious than the loss of fliers. The Air Force counts on recruiting 800 to 1,000 engineers a year. It is now reaching only 40 percent of that goal, says Lt. Gen. Andrew P. Iosue, the service's manpower chief, and experienced engineers are leaving in record numbers.

"We are back-filling jobs that were held by captains and majors and lieutenant colonels with second lieutenants. A man with one year of experience replaces a man with 12. The experience exchange is disastrous," says Lt. Gen. Lawrence A. Skantze, commander of the Aeronautical Systems Division in Dayton.

Largely responsible for the manpower problem, say top Air Force officers, is the series of ceilings that have prevented military pay from keeping up with the cost of living and with raises received by union workers. Coupled with this is the price industry will pay men and women with certain critical skills. A pilot who takes an airline job can make two or three times the income he could achieve in the service. An engineer right out of college can go to work in industry for $18,000 or more. The Air Force can offer $12,000.

But beyond this difference in compensation is a growing bitterness, a feeling that service life is going to get steadily worse.

"Almost in every area, from the perspective of people in the service, there have not only been pay cuts but reneging on the deal they made with the country," Creech says.

Thus, twin challenges face the Air Force as it prepares to move into space in the 1980s:

It must maintain the momentum of its revolution in technology and at the same time attract and hold the men and women whose special talents are needed to manage that revolution.●

ANOTHER CAMBODIA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. SOLARZ. Mr. Speaker, a critical situation similar to that in Cambodia has resulted from civil strife on the island of East Timor. Over 60,000 people, approximately one-third of this small Asian country's population, already suffer from disease and severe malnutrition. Current assistance is insufficient in reaching those afflicted, and it is clear that thousands of East Timorians will face starvation unless immediate action is taken by the international community to provide relief for those it is intended to reach.

The following article which appeared in New Republic magazine on November 3 depicts the deplorable conditions in East Timor and what must be done in order to alleviate the plight of this beleaguered population. Mr. Speaker, I would like to insert this article into the RECORD:

ANOTHER CAMBODIA

Next time you see a photo of a gaunt-eyed, swollen-bellied Cambodian child, or read a report about mass death from war, disease, and starvation in Indochina, think about the small Asian island of East Timor. Much the same thing that has happened in Cambodia has happened in East Timor, some 2,500 miles to the southeast. Between a tenth and a third of the island's population—60,000 to 200,000 persons—has been killed or has died from lack of food and medicine since fighting started in 1975. Half a generation of Timorese children may have been rendered mentally retarded by malnutrition. Right now 250,000 Timorese are languishing in resettlement camps which one recent visitor, a refugee-relief expert, described as "horrible—as horrible as any I've seen anywhere, including the Thai-Cambodian border." Of these 250,000, about 60,000 face starvation unless relief supplies reach them within the next two months, and 25,000 are in critical condition at this very moment.

For Americans, there is a big difference between Timor and Cambodia. We do not have the luxury, in the case of Timor, of blaming what's happened on Khmer Rouge fanatics or the communist government of North Vietnam. The agony of East Timor is the result of a bloody and brutal territorial seizure by America's friend, Indonesia, and we are deeply implicated in what has happened. Indonesia's original invasion, in December 1975, occurred just 12 hours after President Ford and Secretary of State Henry Kissinger had visited Jakarta, Indonesia's capital, raising no public objection to the impending attack. American weapons were used in the initial assault and throughout Indonesia's four-year campaign to suppress nationalist guerrillas. The Ford administration accepted Indonesia's claim to East Timor, and so did the Carter administration, which (despite its stated policy of limiting world arms transfers) increased military sales to Indonesia from the Ford

level of three million dollars to $112 million in 1978.

Despite consistent reports by Australian and other sources about Indonesian atrocities in East Timor, and despite occasional congressional hearings on events there, the Carter administration has raised scarcely a public peep over human rights violations on the island. The U.S. doesn't want unfortunate goings-on in an obscure place to frustrate better relations with the world's fifth most populous country, a resources-rich anti-communist ally strategically placed in the gap between the Asian mainland and Australia and between the Pacific and Indian Oceans. Indonesia, in effect, has extorted the United States into silence by making it clear it would allow no Western humanitarian relief agencies to visit and help Timor if too much were said about what's going on there. Even now, Carter administration officials are afraid to say too much, lest Indonesia refuse to cooperate in saving those who face starvation between now and the monsoon season.

The conscience of America will be eased to know that the U.S. government, having supplied the weapons of Timor's destruction, is now providing 8119 tons of a high-protein rice and corn soy blend to feed its refugees, and has furnished $2.9 million in aid to the International Red Cross and Catholic Relief Services, the agencies responsible for helping Timor's population. However, the conscience of America should not rest too easy. American officials raise some doubt whether enough transportation facilities exist on the island to get food and medicine to all who need it before the rain starts. An American researcher who has done extensive work on Timor, Arnold Kohen, also cites church and government sources in Australia, Indonesia, and the U.S. as charging that Indonesian military authorities have systematically plundered previous relief shipments and parceled out the remainder on a politically discriminatory basis.

The conscience of America really should not rest at least until the U.S. government has done all it can to assure that the people it has made miserable really are helped.

It is not terribly surprising that America has paid little attention to Timor up to now. It is located nowhere—at the far southern end of the Malay archipelago, 350 miles north of Australia. The whole island is about double the size of New Jersey, and for 400 years it has been divided culturally and politically into eastern and western parts.

West Timor was a Dutch colony, with a large Moslem population, and naturally joined Indonesia (which is predominantly Moslem) when the rest of the country won its independence. East Timor, however, was Portuguese and heavily Catholic. It was not at all necessary or natural that it would join Indonesia when the Portuguese withdrew in 1975. A brief, bloody civil war was fought in September of that year between left- and right-wing factions committed to independence. The left-wing faction, FRETILIN, won out, using arms provided or taken from the former Portuguese garrison.

Indonesia was willing to tolerate a Portuguese East Timor, but not an independent mini-state. The right-wing government of President Suharto has asserted that FRETILIN was a communist movement, but U.S. officials say there is no evidence whatever to support the claim. Probably Indonesia figured it had nothing to gain by tolerating an independent neighbor. The Indonesians first sent in commando units from West Timor, which seized border areas in September 1975 and (according to Australian intelligence sources) killed five Australian television reporters who filmed the invasion.

In late November, FRETILIN declared independence and on December 3 it appealed to President Ford to prevent Indonesia from invading. During Ford's visit to Jakarta, Kissinger issued a public statement saying that the United States "understands Indonesia's position on the question" of Timor. Whatever American officials may have said in private about what Indonesia was about to do, it certainly had no deterrent effect. On December 7 Indonesia launched a full-scale invasion against the East Timor capital of Dili. A high-ranking Indonesian general confirmed to a U.S. congressional delegation that "of course there were U.S. weapons used. These are the only weapons that we have."

There is virtually no dispute that the initial invasion was accompanied by widespread, indiscriminate killings of civilians by Indonesian troops. As in Vietnam, and as in Indonesia's own civil war, ethnic Chinese seem to have been a special target of systematic brutality and murder. U.S. State Department officials admit excesses during the early days of fighting, but claim offending soldiers and commanders were removed and disciplined. Critics of U.S. policy assert, however, that the top commander of the forces attacking Dili was not disciplined at all, but was decorated and promoted to brigadier general.

It is an interesting parallel between Cambodia and East Timor—and one which may not be coincidental—that the Indonesian government, like Pol Pot's regime in Cambodia, made it almost impossible for the outside world to know what it was doing as it attempted to assert control over the land. Prior to its invasion, Indonesia warned Australia to get all of its nationals out of the country, and also demanded the departure of International Red Cross workers. As in Cambodia, foreign visits were permitted only rarely, and then were tightly controlled.

Because of the secrecy, it's impossible to know exactly what transpired in Timor from 1975 until this year, when a few Westerners again began to travel around the country as part of relief efforts. Indonesia justified its secrecy, and its activities, as an "internal matter" after May 1976, when an Indonesian-appointed "Regional Popular Assembly" unanimously voted to ask for incorporation of Timor into Indonesia. This action has been declared invalid three times by the United Nations General Assembly.

The Carter administration's official human rights report declared diplomatically that the U.S. "has accepted the incorporation of East Timor into Indonesia, but it does not recognize that a valid act of self-determination occurred." Recognition of the incorporation, however, saves the U.S. from having to object to its ally's use of U.S.-supplied equipment to commit aggression.

On the ground in East Timor, its clear that after Indonesia's invasion, FRETILIN's forces fled the island's small urban centers for the rugged highlands. The insurgents may have numbered as many as 25,000 persons. In 1976, the Indonesian military began to make use of Rockwell OV-10 "Bronco" counter-insurgency aircraft—slow-moving planes equipped with infrared detectors, bombs, rockets, napalm, and machine guns, specifically designed for close combat support against an enemy without an effective antiaircraft capability. U.S. congressional committees have been told by critics of American policy that Indonesia used the planes not only to destroy guerrilla strongpoints, but also to wreck the villages and crops of highland dwellers in order to separate them from FRETILIN.

Estimates of casualties in Timor vary greatly. In 1976, a leader of a provisional government created by Indonesia said he believed 60,000 persons had been killed. In March 1977, James Dunn, an Australian parliament researcher and former consul in Timor who is the most energetic gatherer of information about the island's travail, told a U.S. congressional committee that 100,000 persons had been killed. He based his estimate on reports from Indonesian church officials and refugees. At the same congressional hearing, U.S. State Department officials said such high reports were "greatly exaggerated." One official said that the death toll was probably 10,000. This year, James Dunn compared pre-war Portuguese census figures with current Indonesian military estimates of the population and found that 300,000 persons are "missing." Kohen, citing church sources, says more than 200,000 have died. One U.S. State Department official said last week that 100,000 is the "generally accepted figure" on Timorese deaths. Another said he knew of no accepted figure. What American intelligence agencies know from Australian monitoring of Indonesian military communications, U.S. officials will not say.

The most intense fighting in Timor has occurred during the Carter administration's tenure in office—and so have most of the casualties. In mid-1977, Indonesia offered an amnesty to FRETILIN, but also moved 10,000 fresh troops into the country and stepped up counter-insurgency operations. In the fall, a French photo-journalist slipped into the country and later claimed that the Indonesian army was "systematically wiping out" villages suspected of supporting the guerrillas. In 1978, employing search-and-destroy techniques, heavy air bombardments, and helicopter-borne attacks, the Indonesians began to make decisive headway against FRETILIN. On the last day of the year, an Indonesian force killed the opposition's president, Nicolau Lobato.

The level of continuing resistance in Timor is in dispute. Indonesian authorities seem confident enough now to allow some Westerners to make helicopter visits around the countryside more or less freely as they inspect refugee camps. However other sources, including Arnold Kohen, contend that the resistance is still alive. Kohen asserts, citing reports from U.S. government officials and church sources, that the Indonesian military's policy is to execute summarily all FRETILIN members, supporters, and their families, leaving resistance fighters little choice but to hide when they are unable to fight. Although the U.S. government recognizes Indonesia's take-over of Timor, it's still not clear that Timor has acquiesced.

During 1978 and 1979, a massive stream of Timorese refugees—some 300,000—has descended from the interior highlands to coastal areas and towns, driven by a combination of war devastation and drought to seek food, medicine, and shelter. The condition of the refugees has been described by witnesses as being worse than in Biafra, the Sahel, or Bangladesh during their respective disasters. In September 1978, church relief workers told visiting correspondents that 500 people per month were dying in one East Timor district alone. Other recent visitors say a third of the refugees are marasmic—emaciated, bellies swollen from malnutrition—or post-marasmic, in a state where their bodies are consuming their own protein. Of 250,000 now in refugee camps, one experienced relief official said he guessed 25,000 "are not going to make it" in spite of international relief efforts. The scale may be smaller, but Timor is another Cambodia—and it is partly our responsibility.—MORTON KONDRACKE.●

JOSEPH P. KUZMINSKI

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. YATRON. Mr. Speaker, in recognition of over 20 years of service to the community of Reading, Pa., a testimonial

dinner is being held for Mayor Joseph P. Kuzminski on November 16, 1979.

I have had the privilege and honor of knowing Mayor Kuzminski politically and personally for many years. We began in public service together and through the years he has commanded my greatest admiration and respect.

Joe Kuzminski is a dedicated public servant who is recognized by the people of Reading as a man of unparalleled integrity, respect and leadership. For him, his efforts on behalf of the people he serves, are a labor of love. He cares deeply about the city, and he gives freely of his time, talent and energy to make life richer and more rewarding for the citizens of Reading.

Mr. Speaker, while I am unable to be personally present to honor Mayor Joseph P. Kuzminski on the occasion of his testimonial dinner, I want to call to the attention of my colleagues this distinguished American citizen, and to take this opportunity to express my thanks and good wishes to Joe Kuzminski. Certainly, he is an exemplary public servant who has earned the respect and praise of his peers, his constituents and his friends. It is entirely fitting that he should be honored for his over 20 years of service to the community of Reading and I know that my colleagues will join me in wishing him the very best in the years to come. It has been my privilege to have worked with him and to know him.●

THERE IS NO ESCAPE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 8, 1979

● Mr. PAUL. Mr. Speaker, there is no more eloquent champion of the free market and individual liberty than Dr. Hans Sennholz, chairman of the economics department of Grove City College. His latest book, "The Age of Inflation", is a masterpiece which I unhesitatingly recommend to everyone interested in our No. 1 economic problem.

Dr. Sennholz understands and can effectively articulate the moral order that must underlie freedom, as few do. I would like to call to my colleagues' attention his excellent essay that highlights the November issue of The Freeman.

The essay follows:

THERE IS NO ESCAPE

(By Hans F. Sennholz)

The Carter energy plan contains a familiar ingredient: it takes money from the working taxpayers to give to the nonworking population. It proposes a windfall profits tax on oil producers and a fuel subsidy to poor consumers. When enacted, it may introduce "fuel stamps" just like "food stamps," to enhance the lives of some 25 million people who are believed to be poor.

Transfer programs now comprise the lion's share of the federal budget. During the past decade transfer payments grew by almost 300 percent, while wages and salaries rose by 134 percent. In 1970 these transfer payments amounted to $57 billion; in the federal budget for 1980 they are estimated to exceed $226 billion. How much longer can the transfer grow at twice the rate of the earnings that are supporting them?

Surely, the political transfer process cannot continue to grow indefinitely. There are limits of economic output as well as political power to seize an ever-larger share of income from the producers. But above all, the very nature of the transfer society, which is social and economic conflict, sets limits to the transfer process.

It is a strange twist of contemporary morality that political conduct is judged by far lower standards than are the acts of individuals. Men who would not think of stealing or pillaging the property of others—who would rather suffer deprivation than to enrich themselves by such methods—believe that politics justifies all means. They engage in confiscatory taxation, devious inflation, and restrictive regulations in order to facilitate the transfer of income and wealth. Their political leaders, anxious to be the favorites of the transfer multitudes, yield to their prejudices, desire what they desire, and furnish the sophistry that will propagate and defend those desires.

SOCIAL CONFLICT

The transfer society is a conflict society in which the beneficiaries of transfer are ever eager for rapid progress while the victims bitterly oppose every step of the way. The transfer battle is fought in all media of communication and education and on the floors of the legislature, where, in a democratic manner, the majority of representatives decide the issues. But all decisions are just temporary as the political battle continues. In every session of the legislatures, whether they are national, state, or local, the transfer process needs to be fed by new appropriations and allocations, and new victims need to be found in order to bestow new benefits.

A great deal has been said and written about the psychological, social and economic consequences of the transfer. Most political discussions today hinge on this issue. The beneficiaries and their friends applaud the effects and laud the policies that facilitate the distribution. The victims, on the other hand, point at many deleterious effects not only upon themselves but also upon the beneficiaries. Both sides advance arguments of ethics, politics, economics, psychology, history, and many others, in order to sustain their position. Both talk about liberty and justice for all.

THE RUSH TO THE EXITS

Whatever we may say about the consequences, there cannot be any doubt that the victims of the transfer system react by seeking to escape. They become refugees in their own country, dismayed and frightened, always on the run from agents of the transfer society. They spend countless hours searching for avenues of escape that promise relief and salvation. Many spend their time and effort pursuing the legal loopholes, no matter how narrow and awkward they may be. Others seek their escape on illegal bypaths that are mined by fines and imprisonment. A few get caught in an intricate net of rules and prohibitions which government is spinning continually around its intended victims.

The direction of escape is determined by the policy of expropriation conducted by the transfer government. It may seize income and wealth through confiscatory taxation, devious inflation, and restrictive rules and regulations. The victims seeking refuge from them all, rearrange their efforts to reduce their burdens. They seek to realize income that is tax exempt, or utilize additional tax exemptions, deductions and tax credits, shift incomes to various types taxed at lower rates, or simply postpone the tax for various periods of time. They shun savings and investments that are depreciated by inflation and seek refuge in investments that are said to be inflation proof. They buy real estate, precious metals or other tangible assets that hopefully appreciate in value. And finally, the businessman who faces regulatory inequity searches for loopholes or, if none can be found, may discontinue his production or otherwise readjust it in order to minimize the regulatory results.

Many refugees from the transfer system pride themselves on their prowess in all matters of escape. They attend "survival seminars," subscribe to advisory services specializing in survival behavior and investments, and otherwise prepare for the breakdown of the transfer order. Some escape artists may even amass sizeable fortunes on their way to the social exits. But they are neither prudent nor bold, and surely no heroes in any sense of the word. They are running from the battlefield of ideas on which our future is decided. They are deserting, although the battle is still raging and there is no safe hiding place anywhere.

GETTING YOUR SHARE

Many victims also try to get even by joining the class of beneficiaries. While chafing under the heavy load of progressive taxation and rampant inflation, they are getting in line for any and all favors the transfer government may extend. The businessman who is suffering from confiscatory taxation and restrictive regulation lobbies for government orders and contracts, for urban renewal or other HUD-subsidized housing projects. The doctor who pays maximum income-tax rates and loses his Keogh-plan savings to inflation clamors for a federal grant to his favorite hospital or for higher federal outlays for health professions training. The attorney or accountant, the professor, minister or rabbi, in fact, all primary victims of taxation and inflation send their children to public schools or state universities where government pays the lion's share of the educational expenses. And upon retirement, they all are looking forward to the generous benefits of Social Security. After all, they contributed so long to the transfer system, why should they not avail themselves of everything to which they are legally entitled?

In the end, no one knows with certainty whether he has lost or gained from the transfer system. Everyone is waiting for his turn at the public trough, which continues to enjoy popularity and respectability. In the line are to be found some of the primary victims, moaning and complaining about the burden they are expected to carry. But their very presence in the line casts doubt on the sincerity of their complaints, while it gives moral sanction to the waiting line and the benefit trough.

DEFENDING THE MAINSPRING OF ECONOMIC WELL-BEING

The true defenders of individual freedom and a peaceful social order neither scramble for the exits nor stand in line for their share of the loot. They do not spend their waking hours scheming and plotting their escape. They are in the midst of the ideological battle. With all their strength and courage they are resisting the transfer order, rejecting its temptations and refuting its spurious arguments.

They readily admit that private income and capital must be preserved for current production and future employment. They even emphasize the moral obligation of the present generation to preserve and promote the economic well-being of future generations. But what would it profit our heirs to inherit our material riches if they lacked the freedom and morality that are the very mainspring of those riches? In the long run, economic prosperity without this mainspring will wither and die like seed sown upon stony ground.

The United States is the ideological, economic, and military bastion of Western freedom and civilization. If it fails, for any reason, civilization must perish. There is no escape.●

GEORGES BANK: FACT AGAINST FALLACY

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. FORSYTHE. Mr. Speaker, the media have given a good deal of coverage to the possible adverse environmental effects of oil and gas drilling on the Outer Continental Shelf during the past several months, particularly in relation to lease sale No. 42 on the Georges Bank.

I have watched and read with dismay the misinformation that has been presented as "fact." Generally, the media have overstated the importance of the Georges Bank as a fishing area and the possible detrimental effects on the environment if a blowout were to occur. Distinctions have not been made throughout this debate between the environmental effects of spilled crude oil and refined oil. It is the new molecular structure of refined oil which has such a potentially damaging effect on the environment, not crude oil. Nor has the absolute necessity of increasing our domestic crude oil production, clearly highlighted by the present Iranian crisis, been given much time.

In an effort to provide some balance to the debate, I have written a letter to the editor of the Washington Post which I would like to share with you. I hope you will take the time to read it:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C. November 7, 1979.

Mr. BENJAMIN C. BRADLEE,
Executive Editor,
The Washington Post,
Washington, D.C.

Dear Mr. BRADLEE: Debates over the merits of producing oil from the outer continental shelf in the United States have been going on for many years. These debates have been particularly prolific over the past few months as pertains to the DOI lease sale No. 42 on the Georges Bank. This lease sale, which was scheduled for November 6, has been delayed until the United States Supreme Court makes a decision whether or not to enjoin the sale.

I am the Ranking Minority Member of the Subcommittee on Fisheries, Wildlife Conservation, and the Environment, the Ranking Minority Member of the House Select Committee on the Outer Continental Shelf, and a U.S. Representative from the coastal state of New Jersey. In these capacities, I have been concerned over the environment generally for many years and have been particularly concerned over the potential environmental impacts of offshore oil and gas activities.

During the four years of consideration of the 1978 Amendments to the Outer Continental Shelf Lands Act (OCSLA), I was involved in many hours of testimony and investigation on environmental impacts of offshore drilling. In my capacity as Ranking Minority Member of the Fish and Wildlife subcommittee, I have also been involved in research and investigations of environmental impacts on fisheries and all animal life. As a result, I have come to the conclusion that we cannot ignore the potential impacts to the coastal, marine, and human environment inherent in offshore oil and gas operations. However, neither can we, particularly in our efforts to educate the public, overstate or provide misinformation concerning the degree of potential danger to the environment or the chances of a detrimental impact from offshore oil and gas operations.

During the recent public debate carried on not only in the Washington Post but in other newspapers as well as television, I have been disappointed at the amount of misinformation that has been presented as fact.

We cannot deny the importance of the Georges Bank, as a commercial fishing ground, to New England, to this nation, and to the world. However, there have been numerous overstatements concerning the value of the Georges Bank as a commercial fishing area and of the impacts of OCS oil and gas operations such as; "It's by far the richest fishing ground in the world . . .": ". . . renewable food resource—worth at least a billion dollars a year every year"; ". . . the source of 14 percent of the world's annual fishing harvest. . . ." In addition, statements have been made implying that a massive oil spill is inevitable in the Georges Bank area which would most likely decimate fishing grounds and fisheries, and that the toxicity of refined products is similar to that of crude oil. As I stated, if we are going to attempt to educate the public on what the OCS has to offer our energy future and the environmental consequences of OCS activities, we must deal in facts.

The Georges Bank, as a commercial fishing grounds, is by no means the richest in the world. Neither does it produce 14 percent of the world's fishing harvest, nor does it produce one billion dollars a year in fisheries.

In the 1930s, the Georges Bank was indeed the premier fishing ground, but this is no longer the case.

In 1978, the highest annual fisheries yield for the nation since 1962, Louisiana was ranked first, Alaska second, and California third, all with catches over 700 million pounds. The catch on Georges Bank was 252.8 million pounds, worth $167 million.

Another interesting fact is that in 1970, the year following the Santa Barbara blowout (by far the largest for the U.S., but a drop in the bucket compared to the two Mexican blowouts which were the largest in history), the commercial fishing catch in the southern California coastal waters was 275.2 million pounds compared to 103.4 million pounds in 1965 (neither of these figures involve the tuna catch which occurs far offshore).

To put the picture in better perspective, the U.S. has been ranked fourth or fifth in commercial fishing catches in the world for the past several years. In 1977, the total world commercial fishing catch was 161 billion pounds, the U.S. catch was about 5.2 billion pounds. This means that the total U.S. catch was only slightly over 3 percent of the world harvest. The Georges Bank catch would have been only one-tenth of one percent. It is also interesting to note that only one nation in the world that is involved in the producion of OCS oil and gas activities to any appreciable degree has not had an increase in commercial fisheries and that is because of past fishing activities.

Statements have also been made that a blowout could devastate floating eggs in the Georges Bank area, thereby decimating a particular species of fish. Most of the species on the Georges Bank such as cod and haddock breed on the ocean bottom. However, their eggs do indeed float to the surface. In calculating the impact of a blowout you first have to assume it will occur, and then, all of the variables involved, such as whether it is gas or oil, how big it is, what are the tides, what are the currents, what are the winds, what is the location of the blowout and what time of year it occurs, would all have to match perfectly with the period of time the eggs were floating on the surface.

Research has indicated that the vast majority of these eggs are doomed before they are laid, because the currents in the Georges Bank take the eggs southeastward into deeper water outside of the Georges Bank area. The interesting fact here is that in order to be in a position to be affected by an oil spill from the area now proposed for sale (except for a very small lease area northwest of the major areas), the eggs would already be caught in the current and on their way to deeper water. It is also interesting to note that these same currents, except for a specific period of time during the summer, would also carry any oil southeastward away from shore and away from the Georges Bank area. This was the case with the *Argo Merchant* break-up off Nantucket, which was carrying No. 6 heating oil.

In drawing any conclusions from these statistics obtained from the National Marine Fisheries Service and Food and Agricultural Organization of the United Nations, it must be remembered that they are only statistics and while they obviously do not indicate that oil and gas operations are good for marine life (although it is obvious that some species do benefit from the artificial reef provided by the production platform), they do indicate that OCS oil and gas operations do coexist with fishing activities quite nicely. It is also reassuring to know that the U.S. has by far the toughest safety laws to protect the human, marine and coastal environment in the entire world.

However, as I have said, the importance of the fishing industry of New England cannot be understated. Everything possible should be done to prevent any detrimental impact on commercial fishing, and the 1953 and 1978 OCS legislation appears to provide those safeguards. Through the efforts of the Department of the Interior and the Department of Commerce, adequate protection has been provided for the biological resources through lease sale stipulations.

Earlier this year, NOAA began an investigation of the Georges Bank as a potential marine sanctuary, because of the number of nominations it received from concerned citizens in New England. That study resulted in the agreements reached by the Department of the Interior and NOAA to go ahead with the sale, provided certain stipulations are included in the lease. Contrary to one quote that appeared in the November 5 Washington Post article, the lessee will lose his lease if the stipulations are not carried out, because of the new regulations required by the 1978 Amendments to the OCSLA.

One of the stipulations that the Department of the Interior agreed to in its consultation with NOAA, was to delete certain tracts from the lease sale. The deleted tracts were the most sensitive in the proposed sale area because of their close proximity to certain marine habitats and breeding grounds. Because of the deletion of these tracts, the probability that any oil spill may harm the shoreline or floating eggs has been drastically decreased from original projections.

It should be pointed out that the chance of a Campeche-type blowout occurring in the U.S. waters appears to be all but impossible. The U.S. record of safety on the OCS is enviable, and the probability of a blowout will decrease as technology improves, and also as additional wells are drilled in a specific lease area.

However, there is always a chance of a blowout occurring: it cannot be eliminated. In debate over economic and biological effects of a blowout, it should be understood that there is a significant and important difference between a breakup of a tanker carrying a refined product, and a blowout involving crude oil. It is tankers and refined products that are the real villain, not blowouts and crude oil. The toxicity and potential biological destruction from a refined product cannot be equated with crude oil. Arguments that have appeared in the media have related a refined product with crude oil.

While refined products and crude oil are anatomically similar (they both contain carbon and hydrogen), crude oil does not contain the same molecules or molecular construction as a refined product because of the refining process. It is the new molecules in refined products that make them so potentially lethal, the type found in the *Falmouth* spill and in the spill of the *Argo Merchant*. For this reason, arguments that are put forth involving the potential danger of a spill involving No. 2 heating oil(the *Falmouth* spill) and No. 6 heating oil (the *Argo Merchant* spill) are not applicable to a discussion on effects of crude oil.

No one is more concerned for the viability and health of our environment than I. However, I am also concerned over the energy future of this nation which is indeed bleak. If we are to survive the remainder of the twentieth century and maintain our way of life, economic health, world standing, and national security, we must do everything in our power to increase domestic supplies of oil.

The OCS not only contains (depending on who you believe) from 32 percent to 60 plus percent of our nation's remaining oil resources, but the OCS activities do not carry the potential danger to the environment, or expense to the taxpayer of the synthetic fuels program. It is interesting to note that OCS activities not only offer a partial solution to the energy predicament we find ourselves in, but return three billion dollars annually to the Treasury in leasing and royalty payments. Instead of costing us taxpayers money, the OCS program actually provides money to the Treasury for other needed programs.

It would be preferable, of course, if we could guarantee 100 percent that any energy activity, let alone OCS activity, would not be detrimental to the environment, but this is not possible. What we must do is consider our options, and balance our needs against the risks involved.

The accident rates for automobiles involving injuries or death on our nation's highways is devastating, and certainly a human life is our most precious commodity. If we applied the same standards to purchasing an automobile (that is, a 100 percent guarantee that the purchaser would not be involved in an accident that would maim or kill a human being), there would be no automobiles sold.

Estimates of our future energy demands and supply indicate that by the year 1990, we could be importing over 60 percent of our oil needs if our domestic supply of oil remains unchanged. Estimates on our energy future have been undertaken by Shell, the CIA, the Department of Energy, the Ford Foundation, and other reliable and credible sources. All of them predict the same trends and the picture is not good.

The OCS potential for oil and gas can make a major contribution to our domestic energy picture as can the development of alternative energy technologies and certain synthetic fuels. Because of our dependence on foreign nations for over 47 percent of our domestic supply of oil we are increasingly more vulnerable to cut-offs from those nations. We should have learned our lesson from the gasoline lines of 1973 and from the Iranian problem—we cannot continue to rely on the future goodwill and stability of foreign nations for such a large percentage of our oil needs.

We must begin to help ourselves and this will involve tough decisions—decisions that must be based on fact.

In this realm, I am confident that the U.S. Supreme Court will deny the request for enjoining the Georges Bank lease sale, and our nation can get underway in its efforts to provide at least a partial solution to its energy problems by increasing its domestic production of oil.

Sincerely,

EDWIN B. FORSYTHE,
Select Committee on the OCS.●

THE FIERY ADVOCATE FOR THE ELDERLY

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. GRASSLEY. Mr. Speaker, I have the honor of serving with CLAUDE PEPPER on the Select Committee on Aging. As chairman of the committee, he has proven to be a tireless leader for social programs which lighten the financial burdens of the elderly. Today's issue of the Washington Post gives a very accurate insight into the character of the courageous humanitarian and tenacious advocate for the elderly that I know CLAUDE to be. I recommend the article to my colleagues:

REPRESENTATIVE PEPPER: FIERY ADVOCATE FOR ELDERLY

(By Ward Sinclair)

If you persist in believing that Congress is a mix of blandly telegenic hotshots with natty suits and blow-dried hair, it is time to pause and pull up a chair next to Rep. Claude Pepper (D-Fla.).

To talk with Claude Pepper, at 79 the oldest member of the House of Representatives, is to have the stereotype knocked to flinders.

He's not all that telegenic, he's not the picture of three-piece nattiness and he wears a reddish toupee. But at an age when others might just pack it in—or ought to—Pepper is running hell-bent-for-leather to get the country straightened out.

His cause is the plight of the elderly in America and his forum is the chairmanship of the House Select Committee on Aging, a generally powerless tool that Pepper has converted into a buzz saw.

The picture painted of the elderly by Pepper, flecked with statistics of pain and loneliness, is not quite the image left by those warm television and magazine ads depicting the pleasure of the Golden Years.

Roughly 11 percent of the U.S. population is 65 years old or more, for example; and at least one-sixth of these people live below the official poverty level.

And "it's very lonely for many of these people. There is so much we could do for them, but there still are a lot of people [in Congress] who are mixed up in their evaluation of what's important," Pepper said the other day.

He had another thought. "It's a strange thing," Pepper continued. "We are warm and humanitarian in so many respects. But in others, we don't get around to being humanitarian."

As chairman of a "Select" committee—an advisory, investigative body that cannot produce legislation—Pepper is somewhat limited in the ways he can force humanitarianism upon his legislative brethren.

One way, however, is by making himself a general nuisance, appealing to each of the 10 committees and 30 subcommittees of the House and staying after the administrators of 132 different federal programs that affect the elderly.

"Pepper and his committee have been able to draw a lot of attention to senior-citizen problems" said an official of the National Council of Senior Citizens, a lobbying outfit with 2.5 million members.

"We're all for Claude Pepper. He's very visible. A lot of his hearings tend to be flamboyant—tend to be publicity-oriented. We'd like to see more bills passed, however."

Pepper is not fazed by the indirect criticism, for he knows that understanding of a problem must occur before the Congress will come to grips with it legislatively.

So he and his committee have been hammering away with hearings and reports about the inadequacy of Medicare and Medicaid; about the mistreatment of elderly mental patients; about abuses in private medical insurance programs; about inadequate housing and boarding facilities for the aging.

Pepper's haranguing, for one thing, led to abolition last year of mandatory retirement rules before age 70 in private business. For another, he got a 30 million program approved to combat crime in public housing projects dominated by the elderly. This year, he and Rep. Thomas A. Luken (D-Ohio) were behind an amendment that cut Amtrak fares for the elderly.

If there is a rhythm and cadance to public lives, this period has become a musical interlude in the career of a man who is, unlike most of his younger colleagues in the House, a certified historical figure.

Pepper was elected to an unexpired Senate term in 1936, then was reelected in 1938 as a solid Roosevelt New Dealer. He was a strong critic of Hitler's growing power and, for his support of military conscription in 1940, was hanged in effigy on the Capitol lawn.

By 1943 he was badgering Congress to adopt a program of "universal health insurance"—an idea he still is pushing—and speaking in favor of civil rights. Just after World War II, he was roundly denouncing the House Unamerican Activities Committee investigations for "undermining" Americanism.

That all caught up with him in 1950 when he was defeated in the Florida Democratic primary by George Smathers Sr., in one of the bitterest, nastiest campaigns of modern times.

Suffice to say that he was referred to as "Red" Pepper. "You can see why I lost, I was for civil rights and national health insurance. They had $2 million and I had $200,000. But 'communism and nigger' that's all there was. It was the smear-red tactic" he said.

So Pepper went back to practicing law in Miami, then won election to the House in 1962 when a new district was created in Dade County. The district is heavily Cuban and heavily black with more elderly voters than average and Pepper has had no trouble retaining the seat.

There is a tinge of regret in Pepper's reminiscences about no longer being in the Senate. Had he stayed, he now would be president pro-tem and very likely chairman of the Foreign Relations Committee, which appealed to him greatly.

But it's another career now, and Pepper, stunned by the death of his wife from cancer last March, says he intends to spend the rest of his time here—at least until the year 2000—working on health problems and being an advocate for the elderly.

"I think we've given the elderly a little more hope, a little more motivation through the work on our committee," he said. "But we still have so far to go."

Next week, he'll be treating Congress to another angle on the story of aging—flavored with Pepper. He has scheduled a hearing at which none of the main witnesses will be younger than 100, because, he thinks they have wisdom to offer.●

THE GRAVEST ISSUE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. McCLOSKEY. Mr. Speaker, the following editorial from the San Francisco Chronicle properly suggests that population growth may well be the single greatest factor affecting the decisions Congress will face in years ahead.

The editorial follows:

THE GRAVEST ISSUE

Inflation, say the opinion polls, is presently the most disturbing concern of the American people. But when Americans think about inflation they think about short-term, monetary inflation that sends prices up by 1 percent or more per month and makes a mockery of their savings and retirement plans. Many leaders of political and social thought around the world say, however, we should be worrying a great deal more about population inflation than about our current 13 percent money inflation. When we look at the numbers we can see why they say that.

Americans are, of course, but 220 million among about 4.3 billion people inhabiting our planet today, and they are among the fortunate peoples who have been seeing their birth rates declining and their baby booms deflate. But there is no room for American complacency. The next 20 years, taking us to the end of the 20th century, are likely to see the world's population increase by half, from 4.3 to 6.2 billion, say the population forecasters, and to 10 billion by the year 2020, unless current trends in fertility and unchecked growth are much curtailed.

A few weeks ago, speaking in Belgrade, the World Bank's president, Robert S. McNamara, asked the bankers of around 100 nations to try to comprehend what such a world, with 10 billion population, would really be.

Looking 40 years ahead, beyond his own time, perhaps, but well within the expectancy of millions now in their prime of life, McNamara pronounced his judgment: "It is not a world that any of us would want to live in."

There are only two ways to avert this: either birth rates come down or death rates go up. If our choice is for lower birth rates—"any other choice is inconceivable," McNamara said—"we simply cannot continue the leisurely approach to the population problem that has characterized the last quarter century."

Now McNamara has been often enough a Cassandra on this theme. Yet he is not alone. At Colombo, Sri Lanka, last summer, parliamentarians from 64 nations met to consider world population and development. They urged the promotion and strengthening of population programs like that of the International Planned Parenthood Federation. They called on governments to "ensure that all couples and individuals can exercise their basic right to decide freely and responsibly the number and spacing of their children." They demanded the establishment of equality between men and women so as to enable women to exercise their basic human rights. They wanted support for research on "more widely acceptable techniques of fertility regulation."

All these appeals seemed somehow to pussyfoot around the matter. What the parliamentarians and the world bankers are talking about is the widespread availability of contraception, in homes, in working places, in public places everywhere. Of all the world's peoples the Chinese are possibly the most serious about this.

In one of his reports from China David Periman wrote in The Chronicle about China's forthright population controls. Free contraceptives of all kinds, Periman wrote, are available everywhere—pills, condoms, intrauterine devices, gels and diaphragms; abortions are encouraged; rewards given and penalties enforced. With a billion of the world's 4, with 15 million more people a year to feed and employ, China means business.

The pope, on his visit to the United States, passed up the challenge that the Colombo conference and the World Bank governors' meeting had laid down. Reaffirming the church's immemorial objections to and strictures against family planning, he disappointed the hopes of large bodies of Catholics, as well as others, for the modernization of Roman Catholic doctrine on population control that must someday be faced by the papacy.

For it is no less than the survivability of all of God's children in the next century that we are talking about. ●

VIOLENT DEMONSTRATION DEPORTATION ACT OF 1979

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. EVANS of Delaware. Mr. Speaker, I am today introducing the "Violent Demonstration Deportation Act of 1979." This legislation would direct the Attorney General to deport from the United States any alien who participates in any demonstration in which a person or persons are killed or injured or where significant property damage occurs.

Mr. Speaker, in recent months, we have repeatedly seen incidents where foreign students, admitted to this country ostensibly for the purpose of attending American institutions of higher learning, have gone to the streets to participate in often violent demonstrations. In many instances, U.S. citizens and law enforcement officers have been injured, and U.S. property destroyed. I welcome any foreign student who wants to come to this country to study at our institutions. Such programs are not only good for the foreign student, but they also allow Americans to meet and know persons from different countries and cultures, thus helping to cement better relations among all peoples of the world.

However, this country should deny entry or deport any individual who uses the privilege of admittance to the United States as a platform from which to participate in violent demonstrations. Such persons are not interested in receiving the best education possible. Rather, they use their student status as a front to make political pronouncements, which are often at variance with stated U.S. policy. In many cases, these demonstrations turn violent and American citizens are placed in danger. In my opinion, any so-called student who participates in such outbursts should be put on the first boat back home.

Aliens are admitted as guests of this country. They are expected to abide by the laws and standards of this Nation, just as American students are expected to follow the standards of the country in which they are studying. What would happen, for instance, if an American student participated in a violent demonstration in say Iran or an Iron Curtain country? Obviously, they would either be immediately deported or thrown into jail to face foreign justice without any protection from this country.

My bill will hopefully curb the growth of violent demonstrations by those who are guests in this country, and go a long way in protecting our own citizens and their property.●

VOLUNTARY HOSPITAL COST CONTAINMENT WORKS

HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. BARNARD. Mr. Speaker, hospitals are being unfairly charged with increasing health care costs, when the truth of the matter is that because of a voluntary effort, they are making great strides in slowing the increase. Recently released figures show that the August rate of increase for total hospital costs was 12.8 percent, as compared to a general inflation rate of 13.1 percent for the first 8 months of this year.

This rate is below the inflation rate for the rest of the economy, and is even below the rate of increase in total hospital costs for the comparable period last year. In addition, during this period, not only continued increases in costs put pressure on hospitals, but also more people used them than last year.

Since last year, our national population has grown by 1.8 million. The number of people 65 and over, who use hospitals far more than the rest of the population increased by 500,000, and births, which account for 10 percent of all admissions rose by 4.2 percent.

This increase in hospital utilization, along with the other cost increases associated with the general inflation rate should have increased hospital costs by far more than the relatively small increase that actually occurred. However, a broad-based coalition, representing doctors, hospitals, health care suppliers and manufacturers, insurance carriers, local government, business, labor and consumers has been working since 1977 to reduce the rise in health costs.

Last year alone, the increase in health care costs was pared from 15.6 percent to 12.8 percent, which saved American consumers of health care a total of $1.48 billion. In spite of the huge price increases that have hit our economy this year, the rate of increase for health care has remained the same.

This effort has managed to do more already than the passage of any legislation that this body could create. These people, all directly involved in the health care process, deserve our support and endorsement, and do not need to be superseded by a massive Government effort.●

INFANT FORMULA CAN CAUSE DEATH

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. SIMON. Mr. Speaker, our distinguished colleague from Illinois, MORGAN MURPHY, has called attention to a problem that threatens infants in Third World countries.

In an article published in the Chicago Sun-Times, Congressman MURPHY analyzes the aggressive marketing campaign waged by infant-formula manufacturers aimed at promoting use of their product in less-developed nations.

As a result, he points out, many mothers have given up breast feeding and are using formula that may be diluted or contaminated, causing malnutrition, intestinal infection, pneumonia, dehydration, and even death.

I commend the article to my colleagues and urge serious consideration of the bill Representative MURPHY is cosponsoring with Representative RON DELLUMS to stop the abuse in this area.

The article follows:

[From the Chicago Sun-Times, Sept. 26, 1979]

LET'S HALT INFANT-FORMULA ABUSES IN THIRD WORLD

(By MORGAN F. MURPHY)

Millions of babies in the world's developing nations are suffering from what pediatricians call "bottle baby disease." It's largely the result of an aggressive marketing campaign waged by infant-formula manufacturers who want to increase sales in Third World countries.

As a result, many mothers have needlessly given up breast-feeding to feed their babies an infant formula that is often diluted or contaminated, causing malnutrition, intestinal infection, pneumonia, dehydration—and sometimes death.

The decision of manufacturers to sell infant formula in the nations of Latin America, Asia and Africa was prompted by declining birth rates in the United States and Western Europe, coupled with a desire to expand into new markets. The acquisition of infant-formula companies by international drug companies, eager to increase profits through diversification, also contributed to this expansion. In developing nations, the companies found they could take advantage of increases in population, income and hospital births.

These countries now spend more than $600 million a year on infant formula, which is about twice what the United States spends. American companies account for about 20 per cent of infant-formula sales in developing nations.

The manufacturers of infant formula promote their product through radio commercials, newspaper and magazine advertisements and outdoor billboards. They also use methods that are much more direct, such as:

Distributing free samples, along with nipples, bottles and measuring spoons, to doctors, hospitals and clinics.

Placing "milk nurses" (saleswomen wearing white nurselike uniforms) in hospital waiting rooms. They advise pregnant women to use infant formula and give them free samples and pamphlets.

Offering gifts or money to doctors and health professionals to induce them to promote infant formula. Companies also sponsor and pay for travel to pediatric conferences, which one Malaysian doctor said helps to "tone down" doctors' criticism.

The selling of infant formula in developing nations has produced a number of serious problems. The formula is very costly for those with low incomes, causing mothers to dilute the milk powder to make it last longer. This results in malnutrition. In addition, preparation of the formula requires clean water, refrigeration and a knowledge of sterilization. Because many lack these conveniences and knowledge, the formula often becomes contaminated and the child gets sick or dies.

Manufacturers claim Third World women have been turning from breast-feeding to bottle-feeding because more are working outside the home. But recent studies have shown that even in Northern Europe less than 10 percent of the mothers who stopped breast-feeding gave it up because of jobs.

The real explanation lies in aggressive and misleading promotion of the product, causing many women to believe that breast-feeding is less than adequate. Cruelly, in the time it takes to use up the free samples, a woman's secretion of milk may have become difficult or stopped altogether. In other cases, the promotion of infant formula raises doubts in nursing mothers, whose anxiety then inhibits the flow of their milk.

In point of fact, as noted by the organization Clergy and Laity Concerned, a mother's milk is free, always available, sterile, the right temperature and contains all the nutrition a child needs in the first four to six months of life. Moreover, it has disease-resisting antibodies that are passed on to the child. It is estimated that only about 5 percent of Third World women cannot breast-feed because of disability or illness.

To deal with this problem, I have cosponsored a bill introduced by Rep. RON DELLUMS (D-Calif.) aimed at stopping the unsafe use of infant formula in less-developed nations. It would require U.S. manufacturers to obtain a federal license before exporting, selling or distributing infant formula to any developing country. Before receiving a license, a company would have to show it had a marketing plan directing the product only to those with adequate incomes, refrigeration, clean water and sufficient literacy to use the product safely.

The bill also would prohibit the distribution of free samples, the use of "milk nurses" and the offering of gifts or money to doctors and health professionals to promote the use of infant formula. And all formula sold to a developing country would have to include instructions describing its proper use and the nutritional benefits of breast-feeding.

Although more than half of the Third World market is currently held by foreign corporations, any regulatory action by this country could set an example for others to follow. With the health and lives of millions of babies at stake, no time should be lost in setting such an example.●

MAMIE EISENHOWER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. MICHEL. Mr. Speaker, expressions of regret and sympathy from all over the Nation and the world have marked the death of our beloved former First Lady Mamie Eisenhower. Tributes to her dignity, graciousness and sense of warmth have appeared in every major publication. It is as if the Nation and the world realize that the passing of Mamie Eisenhower marks not only the end of a great lady's life but the end of an era as well.

Naturally enough we also think of her beloved Ike at this time as well. They were quite a team. Looking back, it is clear that what the Eisenhowers brought to this Nation was something very special, something that has been missing in recent years. A combination of unabashed patriotism, natural simplicity, personal warmth, and unpretentious dignity, the Eisenhower magic was created by both Ike and Mamie. Now that it is gone we realize what we have lost.

There is not very much I can add to the tributes that have been paid to Mamie Eisenhower. Perhaps the biggest tribute we all can pay to her memory is to try to bring to our national life the gracious qualities that marked her life.●

REGIONAL SOLAR ENERGY CENTERS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. OTTINGER. Mr. Speaker, last week the Subcommittee on Energy Development and Applications had the opportunity to hear some excellent testimony on the subject of the regional solar energy centers. A particularly constructive statement was presented by Joan Shorey of the solar lobby. This testimony provides a very useful analysis of the problems and promises of these regional centers. I hope my colleagues will find this statement to be useful:

TESTIMONY OF JOAN SHOREY

Thank you for the opportunity to testify before your committee. I sincerely hope that these hearings are just the beginning of a substantive and much needed Congressional commitment—a commitment to rectify the three most fundamental criticisms we have heard over and over again about the Regional Solar Energy Centers. These criticisms are:

1. The Centers are badly managed by DOE.
2. A Regional bureaucracy is being formed without citizen participation.
3. The RSECS will sap funds from existing programs and hamper action at the local level.

I am appearing here as a representative of Solar Lobby and its 30,000 members. My testimony reflects the work and experiences of our staff as well that of other organizations, such as the Center for Renewable Resources.

During this past year and a half, the Solar Lobby has been in touch with many Solar Energy proponents throughout the country. This summer we participated in a meeting of about 1,000 people who work in their own communities on solar projects. This meeting was sponsored by the Center for Renewable Resources, which has established a network of field representatives in each of the states and is compiling a catalog of model programs.

From June through August we were fortunate to have the help of Dana Peck, who organized and analyzed information from all these sources as it relates to the Regional Solar Energy Centers (RSECS). Dana's wide-

reaching research confirms my own observation and experience: The mechanisms established by the Federal Government to bring solar energy to the country are not working.

These hearings today raise the curtain on a stage—stage "Center" you might say—crowded with would-be lead performers, mismanaged and undirected crews, and a badly structured script.

As a critic of this performance, I hope to show you how the Regional Solar Energy Center structure and management developed, how that development affects your committee, what some of the management problems have been and what the relationship of the Centers has been with the public who will eventually use and develop solar energy. Attempting to be a constructive critic, I will end by itemizing some of our hopes and suggestions for Congressional and Agency action.

Key to all these questions is an awareness of how the Centers came into being. The official view is presented in the Department of Energy's March 1979 Summary Status Report on the RSECs. The Summary states that at the same time DOE's predecessor ERDA announced the Colorado site for the Solar Energy Research Institute and the selection of the Mid-West Institute for the operation and management role, it also recognized "the regionally diverse nature of solar energy" by announcing its intent to establish four regional centers. Planning grants were to be awarded to organizations representing the Northeastern, North Central, Western, and Southern regions of the country.

Those consortiums and regional interests from the parts of the country that did not win the SERI competition spared no chance to express their outrage at being passed over. And it was this pressure exerted on Congress and the Administration from this diverse constituency that really gave birth to the four regional centers that we have today.

Effective lobbying? Yes! but the real point is that today the four organizations proposed to bring the Federal Government's solar program to your constituents have no Congressional mandates or Congressional budgetary direction.

In addition, the Centers began with no sense of their place in the total U.S. solar program. No concrete program responsibilities. No clear lines of relationship with DOE. SERI or the Energy Extension Service. It is small wonder that the Centers have grown into topheavy bureaucracies . . . some say like little DOEs. This chart, which Dana put together, shows the branching family tree.

As for DOE's management of the Centers, the March Status Summary states that the RSEC's scope of activities were to be "consistent with DOE's solar commercialization mission." But the definition of solar commercialization continues to require fine tuning and the management structure of DOE's commercialization program is byzantine, even maze-like.

For instance, at least four sections of DOE have commercialization missions: The Deputy Undersecretary of Commercialization, The Commercialization Division at SERI, the Office of Energy Technology (evaluation responsibilities) and the Office of Conservation and Solar Applications (managerial responsibilities). It is in the Applications Office that the RSECS were supposed to find their home. But not only does the Applications Office have its own separate Commercialization Division but several other Divisions are in the marketing and commercialization game. And the RSECs have been assigned to the Program Development Branch. Yet, there is no clear line of communication, no single manager to coordinate the commercialization activities. In addition, the several Branch chiefs who exercise their prerogative to request work often cause confusion. For example, one Division request to produce a field management plan might be countermanded by another Division's assertion that the multi-year plan must come first.

Overall, DOE's criteria for the Centers' annual operating plans have lacked substantive or consistent guidance from any direction. Funding, to take yet another example, is spread across several divisions within the Solar Applications Office. The RSECs are funded through a "tax" levied on individual programs rather than through a single fund and as a result accountability and program stability suffer. In fact, funding considerations have so far scarcely earned their name. Until the last several months, the RSEC directors had functioned on funding based solely on extensions of their 1977 planning grant. This mode of operating further destabilized RSEC program planning and made it well-nigh impossible for individual RSECs to enter into funding agreements with states or other local interest groups.

Understandably frustrated, RSEC directors have moved to re-define their initial mission independently. In doing so, however, they often commit the same errors that have kept DOE management in a muddle. Some have ignored state and local organizations that have made progress in developing the solar markets or furthering other RSEC objectives. By rights, RSECs should be as sensitive to regional concerns as they expect DOE to be sensitive to RSEC interests and advice. An RSEC that attempts to plan for its own region from a central vantage faces all the same problems DOE does when it attempts to plan for the nation as a whole without involving constituents in the process.

How have the RSECs encompassed citizen participation? And how have they tried to acquire expertise and information from existing solar programs and from state and local constituents?

Each of the Centers has different ways of dealing with outside participation, some of them better than others. Western Sun, and to an increasing degree the Mid-American Solar Energy Center (MASEC), has at least shown a willingness to recognize existing solar energy organizations and expertise. North East Solar Energy Center (NESEC), while emphasizing industrial sector concerns, has largely failed to make external input a part of its effort. The Southern Solar Center is subject to the same criticism.

To comment on state participation in general, we will steal a little fire from letters sent to Omi Walden from James Larocca, a Commissioner of the New York State Energy Office. These letters, written in September and December of 1978, present the views of the members of the Coalition of the Northeastern Governors Energy Policy subcommittee. Larocca claims that NESEC fails to use state expertise, experience, or resources; that NESEC's staff-development efforts will duplicate existing capabilities in the private and public sectors; and that the states are shut out of the development of regional programs. We agree.

In terms of direct citizen participation little has occurred. True, the Southern Solar Energy Centers Planning Committee voted to establish a citizen's Advisory Board. A proposal designed by Dr. Merle Lefkoff, a public participation consultant and a Director of the Solar Lobby, was presented to the Southern Center in October of 1978 and was endorsed by the vast majority of existing solar citizen groups. But the Southern Center has failed to act or comment on the proposal.

In addition, the DOE Regional IV office, viewed by many public interest organizations as active proponents of solar energy in the South and supporters of citizen field activity, has been also closed out of the Southern Center planning and programming process.

And the representative of the Evanston Environmental Association sums up another often-heard cry: "The argument is that facilities and expertise for commercializing or normalizing solar exists out in our own backyards, among business and local groups in touch with the people they serve best."

Nowhere does it appear that the RSECs have thoroughly evaluated the resources and programs in their own backyards.

The Center for Renewable Resources with just a few months work has found many, many model programs throughout the country. Descriptions of these programs on a statewide basis will be available shortly. This task should have had first priority on all RSEC agenda. But this was not the case. We urge you to find out for yourselves if the RSECs are plugged into the solar energy work in your own districts.

You have heard our criticisms: Our dismay at the lack of management within DOE, our concern that the Centers are neither aware of the solar energy expertise within their own terrain or willing to reach outside of their own bureaucracies for citizen participation; and, our fear that federal funds will not reach the community level. Although general, these criticisms open the way for quite specific and, we hope, constructive suggestions.

First, RSEC's current quasi-official status should be changed legislatively by your committee to that of an acknowledged organizational structure. In no other way can the centers become fully accountable to Congress. Line item budgeting should be considered.

Second, RSEC coordination, including that related to funding, should be the primary task of a high-ranking member of the Conservation and Solar division. High enough within the organization to determine what requests to the RSECs from DOE Headquarters will be pursued, this person should also work to assure that RSEC participation becomes an integral part of the DOE's commercialization planning process.

Third, DOE Headquarters should clearly define the RSEC role as providing direct program-planning to DOE for use in developing commercialization plans specific to each region. At the same time, DOE should fully acknowledge the need for a decentralized approach to solar commercialization.

Fourth, RSEC contracts and subsequent operating plans should extensively involve experienced outsiders in preparations of all planning analyses submitted to DOE. Advisory mechanisms and state solar offices should provide some of this advice, with funding for these efforts coming directly from the Centers.

Fifth, DOE should make five-year funding commitments to the RSECs to rid them of some of the uncertainty they now face. This funding should be tied to careful assessment of RSEC performance against their operating plans to assure the money is being wisely spent.

Sixth, because of criticism of top heavy and insular management, RSEC staff size should be limited, possibly by explicitly limiting the funds allowed for overhead.

Seventh, RSECs should be allowed to make grants and enter into cooperative agreements with state, local private organizations and with public interest groups to assure the widest interchanges across each district. Such grants and cooperative agreements should specifically include the right to use such funds for travel purposes to allow for meetings and public participation.

Eighth, an annual report, the first of which should be submitted within 180 days of the conclusion of these hearings, should be prepared to outline how RSEC suggestions will be fully incorporated into the solar commercialization effort, how RSEC-DOE coordination will be handled, and how the RSECs

will enter into the overall effort of SERI, EES, and DOE's Regional Representatives. Such a description should include organizational charts, breakdowns of DOE program structure and the contracts the various managers are assigned, an account of where such contracts are placed within the organization, and an outline of how program information is coordinated. Goals, multi-year plans, measures for goal achievement, and reporting requirements should also be a part of the annual report.

These hearings will surface a myriad of other complaints and criticisms, and, we hope, other suggestions of what to do about the Regional Solar Centers. The problems won't go away by themselves unless the Centers are dissolved. For our part, we don't think the baby must be thrown out with the bathwater. But we are convinced that Congress and particularly your Committee will have to instigate and oversee positive action. The first step is to continue the dialogue begun today. We offer our help to you and your staff. Thank you very much.●

NAVY CNO OFFERS SOUND ADVICE ON DRAFT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. OBERSTAR. Mr. Speaker, when we debated selective service registration this summer, the specter of the draft hung over our deliberations. I and many of my colleagues made this appeal to the House, "Let's try to make the present system work, before we take drastic measures that will affect millions of young people and lead toward the resumption of peacetime conscription."

The House heard that appeal, and in one of our best votes of this session, voted to reject an ill-considered registration requirement. It was a vote which cut across party, ideological and regional lines. I was proud of the House that day.

Mr. Speaker, I was delighted Thursday to read in the Washington Post that our Nation's chief naval officer, Adm. Thomas B. Hayward, was sounding the theme we raised in our debate: Make the voluntary system work. We should reform our military system, pay our recruits decent wages, and encourage honest recruitment efforts.

I would encourage every young person to consider volunteering for military service. I know that the young people of the Nation are like those of my congressional district; they are patriotic, they want to serve. I do not think we have to dragoon them into service like some totalitarian, czarist regime.

I would like to include for the RECORD the Washington Post account of Admiral Hayward's comments on the draft.

The article follows:

TOP NAVAL OFFICER SPEAKS OUT AGAINST RESUMING THE DRAFT

(By George C. Wilson)

The nation's top Navy officer yesterday warned that resuming the draft would bring back the trauma of the Vietnam era.

In sounding that warning, Adm. Thomas B. Hayward, chief of naval operations, took a harder line against the draft than have his colleagues on the Joint Chiefs of Staff.

"Once you go to the draft," Hayward said, "I can see all the dissidents coming out of the woodwork and going through all that trauma our country" suffered during Vietnam.

"I don't want that," he said.

Resuming conscription "would set up all those negative attitudes about military life" growing out of Vietnam "that we have managed to overcome," Hayward added.

"I think there is a neutral attitude out there today" toward the military. "It might even be positive. We're not having that much trouble recruiting people."

Although none of the military services met goals for volunteers in fiscal 1979, Hayward said he is much more worried about retaining skilled petty officers in the Navy than in new recruits.

Several members of Congress have warned that a resumption of the draft may be necessary to fill the military ranks. The JCS has called for draft registration, but stopped short of recommending conscription.

Hayward is the first member of the JCS to come out strongly against conscription on the grounds that it would lead to domestic turmoil.

"I wish the draft had never gone away," he said of its suspension in 1973. "But it did. It's now almost seven years later, and don't think this country wants the draft."

The best way to solve the Navy's manpower problems, he continued, is to pay those now in uniform more so they will remain.

Many ships are critically short of the skilled people needed to run them, Navy officials complain. This shortage is reducing the ability of the fleet to fulfill peacetime missions or go to war, they say.

"If I retained 4,000 more mid-grade petty officers" each year, "that's 20,000 recruits" who would not have to be trained to take their places, Hayward said.●

MAMIE DOUD EISENHOWER

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1979

● Mr. RITTER. Mr. Speaker, all Americans have been deeply saddened by the death of Mamie Eisenhower, and none more so than Pennsylvanians, who have considered Mrs. Eisenhower to be a fellow Pennsylvanian ever since she and President Eisenhower adopted Pennsylvania as their home by acquiring the Eisenhower farm at Gettysburg, Pa.

Gettysburg is only a brief 2-hour drive from my district in the Lehigh Valley, and the beautiful rolling farmland that Mamie came to love is very much like that in Lehigh and Northampton Counties. So, we can well understand her feelings in choosing to live in Pennsylvania during and after her husband's Presidency.

Mamie Eisenhower was a woman of strength, warmth, and life. Her life as the wife of a career military man and later as the wife of a political figure was by no means always an easy one, yet she surely gained great respect and admiration by her endurance and great cheerfulness through the glory, as well as the heartache of her role as Mrs. Dwight D. Eisenhower. Any American who saw her smile was warmed by it, and all of us who look back upon her public life remember fondly her grace, as well as the humanness that lay beneath her charm.

The people of the Lehigh Valley join with me, Mr. Speaker, in mourning the death of Mamie Doud Eisenhower, a beloved citizen of Pennsylvania and a lovely lady.●

VETERANS DAY

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Ms. FERRARO. Mr. Speaker, now that the House has finished its pressing legislative business of the day, I would like to turn our thoughts to the celebration of Veterans Day on Sunday.

This Nation was built by the continuing sacrifice of brave men and women who answered the call of their country. From the Revolution through the Vietnam era, it has been necessary for us to ask our youth and our able bodied to respond to the needs of democracy, and this Nation, across the globe. It has been necessary for us to call upon our Armed Forces and to send them to foreign soil to defend our ideals and our rights.

On Sunday, for the first time in years, we will celebrate Veterans Day on its original date, Armistice Day. It was on that day in 1918 when World War I vets returned home from the "war to end all wars." But, all too soon, Nazism brought us to war again. Following the successes of the Allied forces, our boys returned home after protecting American interests abroad. We were at peace once more. A few short years later, we had to again call upon our armed services to team up with the United Nations forces in Korea to stem the threat of communism. Then, in the 1960's we witnessed American men answering the call of their country to serve in a controversial war which sharply divided our Nation.

On Sunday, we join together to celebrate and remember those who returned home from these, and other wars, to enjoy the peace they had fought so hard to achieve.

Mr. Speaker, I call upon everyone to remember, not only the victories of the American veterans, but to recall, as well, that we have an ongoing obligation to those who served on our behalf. To date, this Congress has recognized that commitment by expanding existing programs for veterans. Our record is one of which we can all be proud. But, our obligation to repay the debt earned by our veterans is not over—and it will never be. Thanks to these brave men and women we are able to enjoy a freedom unequalled in any other nation in the world.

We are at peace today. Our gratitude for that blessing is owed, in part, to the veterans who have made peace accessible. I am proud of our Nation's veterans, and proud to join all Americans in celebrating, remembering and thanking the veterans who have made the strong and vital Nation we are today.●

STEWARDS FOR FREEDOM

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. SYMMS. Mr. Speaker, I would like to take this opportunity to call my colleague's attention to a speech, which addresses a subject paramount to all Americans—freedom. In his speech, "Stewards for Freedom," our colleague Congressman PHILIP CRANE provides us with a lesson, based upon historical evidence and present realities, on thwarting one's efforts for individual fulfillment. We are, and want to continue to be, a free people. However, as PHIL CRANE eloquently points out, to lose control of the majority of one's earnings is to lose an elementary freedom. What percent of our earnings can we afford to give Government, yet remain free? Before Government expands any further, serious consideration must be given to this question. I ask all those who are interested in preserving our most precious commodity, liberty, to read this uniquely inspiring and provocative piece.

The speech follows:

STEWARDS FOR FREEDOM

(By PHILIP M. CRANE)

It is a delight to be here. It was even more delightful to listen to Bill's kind remarks and I'm sorry, Bill, that you stopped so soon. You could have gone on at least another five minutes, I would have gladly relinquished the time. In fact, I am reminded from listening to Bill's gracious introduction, of a story that is probably apocryphal. A fellow was getting up to introduce a colleague at a political rally and asked if there were any special remarks that he wanted made and he replied, "Be generous, you're not under oath." So, I thank Bill for his generosity.

Bill referred, in his eloquent introduction, to a subject embraced in a quotation from Frederick Douglass that is included in a publication that you all have in your packets from the Republican National Committee. Frederick Douglass says, "I am a Republican—a black Republican dyed in the wool, and I never intend to belong to any other Party than the Party of freedom and progress." In that quote we find the bottom line of the Republican party—freedom and progress. Freedom and progress are terms that are general, sometimes considered abstract and our liberal friends have from time to time chided us for being absorbed with abstraction, rather than manifesting what they claim to be their monopoly concern, the welfare of those less well off than themselves; to listen to some of them, one would assume they have a monopoly on compassion and concern. Well, I would say to such individuals, that had they had the opportunity to talk to that eloquent orator Frederick Douglass, they could have found how much more compassion he found in a state of freedom, than in a state of slavery.

They should talk to those people who have been floating on the high seas, the Boat People, and ask them whether freedom is, in fact, not the most compassionate and humane condition known to man. This is an often overlooked point! Our Party has a historic commitment to what is and has been the most compassionate and humane condition that can exist. Frederick Douglass understood that very well. But it is a point not just understood by Frederick Douglass, who had been born in slavery, it is a point by Senator Brooke that is also contained in your pamphlet, "Turning Point." He says, "I think my Party, with its historic emphasis upon the rights of individuals, particularly the right to enjoy the fruits of free enterprise, can appeal to millions of Black Americans who are tired of living on an economic reservation." It is an important point to keep in mind. You know our party is consistent on one principle above all others, and that principle is that no man has the right to spend another man's life. We called that slavery back in Douglass' days; we addressed the issue more head on then, than we do today. But, I would argue that the issue of slavery is alive and well. Back on June 6th, when I introduced a bill, not altogether facetiously, to proclaim June 6th as National Tax Liberation Day, I observed that that was the day when Americans started working for themselves. Government today at all levels, is consuming roughly 45% of national income. And when it goes beyond the 50% mark, then I would argue that we are no longer a free people. At that point, the majority of our time, energy and substance are being spent according to the dictates of another's conscience.

If you want to find the answers to so many problems afflicting Americans today, don't look at symptoms, look at causes. The ultimate root cause is that government is consuming, devouring, squandering, mis-spending, wasting, and stealing too much of the productive labors of our people. On the Fourth of July, 1776, one of the battle cries was, "taxation without representation is tyranny." Today you might say that taxation with representation ain't so hot either! But if we are to address these problems and issues, and restore once more that hope that was felt so powerfully by the individuals who had experienced bondage and then freedom in their own lifetime; if we are to restore the hope and the sense of excitement that they felt, then we must recognize that we must get our books in balance so as to stop this horrifying and devastating impact of inflation on our economy, an inflation rate that is higher than any level since 1946, and one that is most assuredly leading us into a severe recession, if not something worse. We must recognize further that inflation has created a debt-oriented society, which today has resulted in the highest level of personal indebtedness in our national experience, a doubling of personal debt just since 1950; the highest level of business indebtedness in our national experience; and the highest level of government indebtedness in our national experience. You cannot perpetually live on debt. Sooner or later it will catch up with you and we can see some of the consequences of that already surfacing with the shortage of capital that is essential if we are going to provide growth, an expansion of job opportunities and maintain that condition of progress that Frederick Douglass referred to. What we're talking about is a better economic life for one and all.

I was born in 1930, grew up on the south side of Chicago near the steel mills. We were not an affluent family and worked for everything. Dad never believed in allowances, but probably couldn't have afforded them anyway; we were part of a so-called "deprived" generation. We had a lot of love and affection in our house and armed with a garbage can lid in one hand and a stick sword in the other, we kept ourselves entertained for hours. But for all of that, growing up in that period, one thing that we never doubted was that we would live a more abundant era than my parent had known. It's part of the American way of life. We've had our ups and downs, but on balance, there has been steady progress. We knew that each generation lived better than the one before it.

But there is cause today for concern about the next generation. I have eight children and a more than casual interest in the next generation. In 1930, the year I was born, the national debt was two and a half billion dollars. Today, two and a half billion dollars is what we spend in a typical legislative day on the floor of the House of Representatives. At the end of fiscal year 1981 our national indebtedness will be approaching the one trillion dollar figure. A trillion dollars is a figure beyond human comprehension, as is a billion and a million. But as Ev Dirksen used to say, "a billion here, a billion there, it begins to add up to real money." To give you an idea of what a trillion is, if you started a business at the time of Christ, and you lost 1 million dollars every day, seven days a week in that business, it would take you another 700 years to lose your first 1 trillion dollars. Think of that!

One of the things my Dad impressed upon us growing up, and I'm sure every one in this room was taught the same thing, was the responsibility of stewardship. What stewardship was all about Dad told us as kids, is putting more into this life than you take out of it. Each one of us has that obligation. And if that is the definition of stewardship, all I can say is we must render a sorry judgment on the stewardship manifested by those who held positions of responsibility during my two score and eight years. During that time we have pyramided this astronomical, almost unmanageable level of indebtedness. And the thing that's most worrisome about it is that governments have historically dealt with unmanageable debts by destroying the value of money. We are in the process of doing that right now. The Jimmy Carter dollar today is worth about 25 cents of the last FDR dollar in 1945. Some wags in Washington describe the Jimmy Carter dollar as the JC Penny. And it is not very far from that.

This is not a new experience. This practice has been engaged in by nations in the past, and it has potentially devastating consequences. I have some currency here in my wallet from my teaching days; I have used it to illustrate this point to students. This first note is a fifty mark bill printed in Germany in 1914. The ratio was about four marks to the dollar, so this was worth about $12.50 of American money. The entire German national debt that year was four hundred million marks. Nine years after they printed that note, they printed this next note. This is a five hundred million mark note. Five hundred million marks, one hundred million marks more than the entire German national debt, just nine years before! By the time they printed this note, they didn't even bother to print them on both sides. Any German citizen who saw this lying in the gutter in 1923 wouldn't have bothered to bend over and pick it up. They had totally destroyed the value of their money. And of course, in the process, they destroyed a lot of other things. They wiped out pensions, they wiped out insurance; they wiped out savings; in short, they destroyed the lives of all of the productive people in their society. Now, society didn't end. People still had to eat. So farmers came into the cities and swapped their produce for the women's wedding rings, gold earrings, necklaces, commodities of value until finally there were no more commodities of value to swap their food for. The farmers then stopped coming to town because there was nothing of value left to trade their food for. Pretty soon the city population got hungry and it started to fan out over the countryside plundering the farmers in search of food. At this point, the state moved in and all economic exchanges were conducted at bayonet point.

Now, the reason I mention this is because any American who believes that we are so uniquely different from all other people on the face of this earth, that it can not happen

here, is an American who has his head buried in the sand; an American who has not studied the lessons of history; and an American who does not understand the nature of man.

These are careless conditions. Because when you destroy the productive labor of the people, you begin to see manifestations of antisocial behavior. One of these has already begun to surface. Recently there has been a fall-off in personal philanthropy in this, the most philanthropic nation, the most philanthropic society the world has ever seen. A hallmark of American society that European travelers invariably commented on was the average American's generosity. We gave to those less fortunate, as no people in the history of civilization gave. I think this trait was, in part, a reflection of our religious training, but also an expression of gratitude felt by those who—in this, the freest, most productive system the world has ever seen—thought that they owed something in return for their opportunity to succeed.

Andrew Carnegie, who came over here as an impoverished orphan with just a few coppers in his pocket, recognized that the system that enabled him to prosper was something magnificent enough that the opportunities it provided should be made available to others. As a result, he divested himself of his fortune by building libraries, among other things, to give young people, without the benefits of formal education, the chance to educate themselves. And it is a great system, a marvelous system, but a floundering system because we have been suffering from the misguided policy of our liberal Democratic friends that the way to deal with the problems of the poor and disadvantaged is through redistribution of income.

"Take from the haves," as President Johnson said, "and give to the have-nots, who need it so much." Tragically, Great Britain provides an example of where those policies ultimately lead. You can indeed equalize economic conditions, but you will equalize them only in poverty. Once you destroy the incentives for people to be productive you threaten the survival of of the entire system. Our traditional Republican answer has not been arbitrarily to take from the haves and give to the have nots. Rather, it has been to maintain a climate for producing a growing economic pie; one that preserves the incentives for people to get a piece of that pie, and reassures them that their piece of the pie will continue to grow too. That approach to the economy was our traditional and historic one, the one that attracted millions of immigrants to our shores and gave them hope unlike anything they had ever experienced in the Old World. It simultaneously laid the foundation for the most productive, and humane system the world has ever known. Our Republican approach is the only one consistent with Frederick Douglass' commitment to freedom and progress. It is totally consistent with our Republican ideals and it is essential if we are going to restore economic growth and material abundance to our people. But it is also essential if we are going to regain the leadership that this nation once had in international affairs, so that we can continue to promote peace and freedom worldwide.

Under the leadership we have today, or more accurately, in the absence of leadership which is the condition we have today, our nation is in retreat throughout the world! We are in a process of retreat from our ideals; and we are in a process of retreat from the traditional American virtues and principles which must be maintained if our civilization is to survive. We must maintain progress and growth for those who have not yet joined the economic mainstream. We must re-establish the conditions that will give the young people of today the confidence that they will live in a better world. I want to be in a position to assure my children that as they move into the 21st century, it's going to be a good life, a better one than anyone of us has ever known. And in this process I think we can effectively realize that dream expressed so eloquently by Abraham Lincoln: "That this nation under God shall have a new birth of freedom—and that government of the people, by the people, for the people shall not perish from the earth."

(NOTE.—Congressman Philip M. Crane is the recognized leader of conservatives in the House of Representatives. For six terms, he has waged a constant battle to defend traditional American values and institutions. One of the few Members of Congress holding a doctorate, Crane was a university professor before his initial election in 1969.

(Phil Crane serves on the prestigious House Ways and Means Committee and is the Ranking Republican Member of the Subcommittee on Health. He is the founder and current Vice-Chairman of the Republican Study Committee and serves on the Republican Policy Committee Health Task Force and the Republican Study Committee Task Force on Regulatory Reform.

(Philip Crane is the author of three books, the Democrat's Dilemma, the Sum of Good Government and Surrender in Panama: the Case Against the Treaty, in addition to numerous essays and articles.)●

ENERGY ZONING IN LAND USE PATTERNS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. OTTINGER. Mr. Speaker, in the keynote address to the fourth annual awards dinner of the New York State Association of Architects, Ezra Ehrenkrantz, a constitutent of mine from Mount Kisco, N.Y., raised some fascinating questions about the energy implications of local land use planning. Mr. Ehrenkrantz is the president of the Ehrenkrantz Group, a national architectural firm, and is a fellow of the American Institute of Architects. Some excerpts from his speech follow, and I commend them for my colleagues' consideration:

ARCHITECT PREDICTS NEED FOR "ENERGY ZONING" IN LAND USE PATTERNS

"We have destroyed much of our urban fabric, wasted our farm lands and created an inefficient industrial machine. Our mortgage policies, our tax laws and our Federal funding programs have all emphasized the single family suburban house. The ever-expanding suburban ring has been largely dependent on the free-flow of the Federal dollar."

"Today, we seek to make our automobiles a little more efficient in gas mileage. Today, we seek to make our new houses more energy efficient by emphasizing solar application and insulation techniques. Shouldn't we want to question whether we are building these houses in the wrong place at the wrong time?" * * * "Shouldn't we question land development patterns which require us to drive children to school, to commute long distances, to use cars for everyday shopping? Inevitably we will be faced with the need for 'energy zoning.'"

"At the same time that we were encouraging the suburbanization of our housing, we were moving toward the centralization of agricultural production. Unfortunately, in many urban areas, the result has been to cover the surrounding farmlands with single family houses. Often this was done at great potential national cost, as for example the incredibly fertile lands of the Santa Clara Valley, south of San Francisco, today covered with rambling single family houses and single story high-technology industrial plants."

"For years, our energy costs for industry have been well below those of our foreign competitors. Our industrial plants have been designed to take advantage of that fact. As a result, our plants use about one-third more energy than similar production facilities in Britain, France and Germany, a Massachusetts Institute of Technology study showed. But now we must take a hard look at industrial wattage of energy if we are to compete in the international market place." * * * "Chinese philosophy has a principle of 'Ying and Yang,' that for everything, there is an opposite. And so too the energy crisis. It will force us to revitalize our cities, to revitalize our agricultural base and to revitalize or industrial machine. We have no other alternative, if we are to survive in the years which lie ahead."●

SAVE OUR SCHOOL ATHLETIC PROGRAMS

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. MICA. Mr. Speaker, today I have introduced a resolution designating the week beginning June 22, 1980 as "National Athletic Boosters Week".

School athletics have been a tradition of this country since its foundation. They greatly contribute to the physical fitness of our youth, as well as teach cooperation, good sportsmanship, discipline, and responsibility. The training which our youth learn from sports programs is an important function of the educational process and provides our youth with the necessary tools to lead an active, satisfying life.

Across the Nation, however, interscholastic sports programs are being threatened because of financial problems. Budget pressures in every corner of the United States coupled with tax initiatives like California's proposition 13 have forced schools to seek new ways to pay for their sports programs.

To combat the shrinkage of funds for athletic programs, local volunteer athletic boosters clubs have sprung up at the grassroots levels around the Nation. Currently, there are thousands of boosters clubs in every State that have formed together for the sole purpose of saving our hard-pressed American school sports programs. These clubs have become an effective way of raising money for athletic programs and deserve all the support they can get. Additionally, they have given greater pride for the school as a community asset and have encouraged parental participation.

Mr. Speaker, the resolution which I have introduced today does not ask for any new appropriation or increased

funding levels for a particular program. This resolution simply declares the week beginning June 22, 1980, as "National Athletic Boosters Week." In light of the growing financial crisis for our school athletics programs, I feel that all volunteer organizations which have formed to boost athletic programs deserve all the support that the Congress can offer.

I submit to my colleagues this resolution for their consideration and request their combined support to help save our Nation's school athletic programs.

Thank you, Mr. Speaker.●

PRAGUE CONVICTIONS: A REPUDIATION OF HELSINKI

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. DERWINSKI. Mr. Speaker, in August 1975, Czechoslovakia joined 34 other nations in signing the Helsinki agreement. Last week, in a blatant repudiation of that accord, six Czechoslovakians were convicted in Prague for asking their government to honor the human rights commitments it made at Helsinki.

The trumped up charges of "subversion of the republic" brought against the six are preposterous. Judging by accounts of the "trial," Czech human rights activists can now be prosecuted for "subversive associations" in Czechoslovokia whenever their activities are publicized in the Western world, even though they personally may have had no contact with so-called hostile forces outside the country. That hardly seems in keeping with the Helsinki Act provisions calling for "improvement of the circulation of, access to, and exchange of information" between the agreement's signatories.

We must bear in mind that these individuals were not conspiring against their government. They have never thrown any bombs, stored arms, or advocated violence of any kind. They were simply bringing—in a responsible manner—public attention to some problems with the objective of motivating their government to improve its overall human rights performance. Is that subversive activity?

Mr. Speaker, such dictatorial behavior cannot go unanswered. Not only does it flout the letter and spirit of the Helsinki accords, but also the U.N. covenant on civil and political rights. We must, therefore, strongly protest this latest example of Communist repression. In so doing, we shall also—as the Council of Free Czechoslovakia declared the other day—remind "the world that the Czechoslovak Communist Government, by deciding to bring the dissidents to trial, has in fact condemned the Helsinki agreement."

Mr. Speaker, I emphasize these points since the situation in Czechoslovakia is basically repetitious of past persecutions of peoples by Communist governments. Therefore, it is not "sensational" news. With the Iranian crisis, the Cambodian starvations, the Carter-Kennedy feud, and other developments dominating the headlines, we cannot forget the tragedies that are inherent in Communist dictatorships that for 30 years have been imposed upon the people of Czechoslovakia.

Therefore, I wish to insert a statement which was issued from the Council of Free Czechoslovakia concerning the trial in Prague of the Czechoslovak dissidents:

PRAGUE REGIME CONDEMNS THE HELSINKI DECLARATION

On October 22, 1979, after five months of imprisonment, the Czechoslovak communist regime brought before a Prague court six of the ten imprisoned members of the Committee for the Defense of the Unjustly Persecuted and signatories of Charter 77.

The regime of Gustav Husak decided on this step in spite of numerous protests by foreign governments, organizations, political parties and personalities of the Western world who singularly declared the actions taken by the Prague regime against Czechoslovak dissidents as contrary to international conventions pertaining to human rights and especially as contrary to the Helsinki Agreement.

In the polemics concerning the meaning of the Helsinki Agreement which has taken place between the West and the East, the Prague regime has repeatedly stated that it is respecting human rights because the latter guarantee to its citizens the so-called social rights and has belittled the position taken by the Western countries stressing respect for traditional political, cultural, and religious rights.

For obvious reasons the indictment the Husak government has prepared against the six dissidents could not very well accuse them of calling for the observance of human rights. It had to consist of something sinister, namely, of a fabricated story according to which the six are guilty of antistate activity because of their contacts with periodicals in the West and for becoming an instrument in the creation of a "counter-revolutionary fifth column under the protection of foreign patrons," including those in NATO. These are the words with which the editorial of *Rude Pravo*, the official organ of the Czechoslovak Communist Party, defines the guilt of the six on October 20.

The Prague regime turned its back on the whole of international public opinion which since May of this year has been protesting against the unlawful attitude of the Czechoslovak government. The Prague regime is mistaken in its belief that its arrogant and irresponsible policy will stifle the opinion of the non-communist world.

We are certain that international public opinion will, after the passing of a guilty verdict in Prague, protest more than ever before against the arbitrariness of the Husak regime.

The Czechoslovak people back home and the Czechs and Slovaks who live in exile vehemently protest against this newest step of the Czechoslovak communist government and express their solidarity with the victims of Prague's socialist pseudojustice. We are reminding the world that the Czechoslovak communist government, by deciding to bring the dissidents to trial, has in fact condemned the Helsinki Agreement.●

TRIBUTE TO MARIAN C. B. CRYMES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. BROWN of California. Mr. Speaker, I was saddened to learn of the recent death of Marian C. B. Crymes, Washington representative of the Women's Christian Temperance Union. Mrs. Crymes was a woman of tireless energy who covered the Washington scene for years, reporting to the WCTU membership on issues of concern to them.

I first came to know Mrs. Crymes when she began working for the passage of legislation that I had introduced to deal with the problems that alcohol is causing for this country. Mrs. Crymes was especially concerned with the impact of alcohol consumption on the youth of America, for whom alcohol is the most used and abused drug. She devoted a lifetime to trying to change public and government perception of alcohol and gain recognition of the fact that alcohol abuse is a major public health problem that costs this country billions of dollars a year.

Congress has only recently begun to recognize this fact and is just now starting to give serious consideration to dealing effectively with the problem. Marian Crymes devoted her life to this effort in an attempt to convince us in Congress of the need for action on this long overlooked and ignored issue. We should acknowledge the debt that we owe to Mrs. Crymes and her companions and act with dispatch to give this issue the attention that it merits.●

AIRCRAFT NOISE MUST BE SILENCED

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. WOLFF. Mr. Speaker, in the 16 years I have been in Congress, I have consistently fought for an end to the unhealthy, annoying, and distracting jet noise that plagues this Nation. My activities have been directed in all feasible directions with the immediate goal of relief from intolerable noise levels and the long-range goal of eliminating this problem by developing a quiet jet engine.

Major advancement in noise abatement and aviation safety has taken place in those 16 years. In 1969, with my active support, Congress approved the Aircraft Noise Abatement Act thereby giving the FAA authority to control jet noise. I pressed for immediate implementation of this new law. Loan and matching grant programs were approved to finance the immediate installation of noise suppression devices on jet aircraft. Control was established over nonessential jet aircraft during night hours. All of these measures have been successful in alleviating the almost intolerable situation endured by citizens living in the noise "footprints" of airport terminals.

Now, following such constructive legislation, my colleagues and I are confronted by H.R. 3942, the Aviation Safety and Noise Reduction Act. A waiver of the 1985 noise reduction provision was attached to H.R. 3942 after being passed in the Senate. This waiver contradicts

Congress' original intention and the careful plan of noise improvement developed by the Department of Transportation/Federal Aviation Administration after painstaking analysis and extensive public debate.

As the law now stands, metropolitan airports will possess a quieter fleet of retrofitted, reengined or replacement aircraft in accordance with the 1981, 1983, and 1985 schedules established by Federal regulation 3 years ago. H.R. 3942 will void compliance with these requirement standards for 727's, 737's, DC-9's and BAC 1-11's.

At the present time, airline corporations are undergoing major retrofitting and reengine operations. Without the guiding force of the present regulation, any sense of urgency will be removed. As a result, effective noise abatement will inevitably dwindle.

Congressman GLEN ANDERSON, Chairman of the Subcommittee on Aviation, formally voiced the subcommittee's objection today of H.R. 3942. I wish to make all Members aware of this objection. Congress has moved effectively in its commitment to quieter skies. I ask my colleagues not to undo what has already been successfully accomplished, and respectfully urge that you oppose H.R. 3942.●

FOREIGN STUDENTS IN AMERICA

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to introduce legislation regarding the status of foreign students who are guests in our country. I would like to preface my remarks on this bill with some observations on the current situation in Iran.

There is no need for me to underscore the outrage and anger of the American people with regard to the criminal actions taken by the Khomeini regime in Iran. My office in Nashville has been deluged with calls from angry Tennesseans calling for swift action, and I know that other Members of the House have been hearing from their constituents on this issue as well. I suggest, Mr. Speaker, that most of us today share many of the sentiments expressed by Americans across this Nation. We offer our prayers for the safe return of the innocent American hostages held in our Embassy in Tehran.

I know I am joined by many others in the conviction that only their unharmed return will absolve the Ayatollah from being personally responsible for their safety. Mr. Speaker, there have also been calls here in Congress, and from around the Nation for action regarding those foreign students in our country who abuse their status as guests by engaging in violence, in violation of our laws. Our Nation welcomes students from other lands who come to our shores for an education.

At present, there are nearly one quarter of a million foreign students in the United States. The overwhelming majority of whom are law-abiding guests who repay our hospitality with respect for our laws, and are eager to use their time here to absorb the richness and value of our system of higher education, and to carry that knowledge back to their own lands. There are those foreign students who do not understand that as our guests they have obligations as well as privileges. Unfortunately our Immigration and Naturalization Service (INS) has placed a low priority on insuring that student status is not abused by our guests. My legislation speaks to this issue.

At the present, foreign students are issued 5-year visas for residency in this country. From a practical standpoint they have a free 5-year ride, and it is INS policy to only review for possible revocation of status those foreign students who are convicted of serious crimes resulting in a year or more of incarceration. Mr. Speaker, this is too little in the way of standards for review of status. I understand that officials at the Justice Department are concerned that their own system of keeping track of violations in student status run more than 6 months behind.

I am proposing that we end the 5-year visa in favor of a 1-year residency permit, which will be automatically reviewed each year to insure that the individual is still a full-time bona fide student. This bill will also direct the Justice Department, through the Attorney General's office, to review on a case-by-case basis the status of any foreign student convicted of a breach of any American law. When the Attorney General determines a foreign student has violated the law, and abused his status, such as participation in violent street activities or causing injury or property damage, those cases will be directed to the attention of the INS. Persons convicted of laws which abuse their status may then be deported within the existing framework of due process.

Mr. Speaker, this is not an attack on the right of free speech guaranteed by our Constitution, this is merely an opportunity to make sure that those guest's among us who do not take their obligations as our guests and as students seriously may be dealt with legally and expeditiously.●

INFLATION AND HOSPITAL COSTS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. MARKEY. Mr. Speaker, for the past several months our economy has been ravaged by runaway inflation. Reports for the month of October show a continued pattern of double-digit inflation. Some analysts have suggested that chronically high inflation has become a way of life for many Americans. I reject that point of view, and I suspect that many of my colleagues do also.

The upcoming floor vote on H.R. 2626, the Hospital Cost Containment Act of 1979, will afford us an opportunity to take a firm stand against the inflationary spiral. At the same time, this legislation will serve to check the explosive growth in this Nation's hospital industry, for whom double-digit inflation has truly become a way of life. We can no longer tolerate the 15 and 20 percent annual increases in the cost of care, which have characterized this industry over the past decade. I urge my colleagues to support this vital legislation, and I insert a recent editorial from the Boston Herald at this point:

[From the Boston Herald, Oct. 28, 1979]

INFLATION AND HOSPITAL COSTS

In few areas has the inflationary cost spiral caused more hardship, or risen more steeply, than in that of hospital care. Contributing immeasurably to this increase has been the growing percentage of hospital bills paid by someone other than the patient. As a result, the patient has little incentive to consider the type of service he really needs—or the price.

Coming up for action in the House of Representatives next week is President Carter's Hospital Cost Containment proposal which, by imposing a ceiling on hospital expense increases, will tend not only to slow down inflation but influence hospitals to be more cautious in rendering costly, unnecessary services.

At a breakfast meeting with Kingsbury Smith, National Editor of the Hearst Newspapers and a small group of Washington journalists, HEW Secretary Patricia Harris urged public support of this bill which would set a voluntary limit of between 10 and 11 percent on hospital cost increases this year.

If she had the opportunity to speak to every American citizen, Mrs. Harris said, she would urge them to write quickly to their congressman to vote for approval of this bill. Passage of the bill, she said, could be "a major contribution to reducing inflation. It would also have a very substantial impact on the quality of life of the American people."

President Carter estimates the legislation would save the American people $56 billion over the next few years.

We join with Mrs. Harris in urging every reader to lose no time in writing to his congressman and demanding a "yes" vote on this important bill.●

SALT II: EXTENDED DEBATE INTEGRAL PART OF RATIFICATION

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. OBERSTAR. Mr. Speaker, our colleagues on the Foreign Relations Committee in the other body are scheduled to vote out the SALT II treaty this morning.

The debate in the full Senate will conclude the extensive discussions and deliberations of which the treaties have been the subject in both Houses of Congress and throughout the Nation.

The extended debate to conclude on the Senate floor is an integral part of the ratification process. The SALT agreements are complex; ratification involves bringing the facts to the American people so that they can evaluate the importance of ratification to world peace.

The people of this Nation are peace-loving and deeply committed to arms limitation.

They want to see a verifiable, meaningful treaty ratified on its merits, and not rejected on the basis of extraneous issues.

As a member of MCPL, I have been pleased to be associated with the efforts of our colleague DON PEASE and his SALT task force which has worked diligently to insure debate on the merits of the treaty. Those efforts have enhanced the debate in Congress and have added to public awareness of the vital issues involved in the treaty.●

WEATHERIZATION SNAFU!

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. OBEY. Mr. Speaker, 2 weeks ago when this House had under consideration the emergency supplemental appropriation for emergency fuel assistance for this winter, I advised my colleagues that we would appear foolish if we did not also address the terrible problem holding up the successful implementation of the weatherization program for the elderly and poor in our midst. In my State of Wisconsin, the press is already asking why something is not being done and done quickly to remedy this problem. The following article authored by Lee Aschoff appeared in the Milwaukee Journal on November 8, 1979. This article describes the real world situation which we have so far failed to remedy. I recommend it to my colleagues. Mr. Speaker, the text of the article follows:

DILEMMA CHILLS INSULATION AID

(By Lee Aschoff)

House-high stacks of insulating materials are crammed into warehouses, and millions of tax dollars are available to buy more.

Yet, with winter growling on the horizon, a federal plan to insulate the homes of thousands of needy people in Wisconsin remains snowed under with problems.

As a result, only a fraction of the huge stockpile of insulating materials has been installed in homes.

Currently, more than $9.5 million in federal funding for winterization work is unspent in Wisconsin, according to a state energy conservation official.

About $2.7 million of the money is from fiscal year 1978. It has either been contracted for or is available to winterization agencies.

Another $6.8 million from fiscal year 1979 has not been touched, because the funds from the previous year have not been spent.

Directors of the winterization project face a dilemma:

They must hire the hard-core unemployed and teach them job skills. Under regulations, such persons must be helped in finding better jobs that are not subsidized with federal funds.

Consequently, the winterization project loses employes nearly as fast as they are trained.

The low wages set for employes in the project have posed another problem, failing to attract enough workers for the dirty and often hard work of insulating a home.

"The conflict is that we want to (help people find jobs), but at the same time we want to winterize homes," said John Moes, who manages the winterization program for NEWCAP, Inc., in a nine-county area in northeastern Wisconsin.

"We have more supplies than we can use," Moes said. "It's not that we overpurchased; we anticipated a greater work force. The supplies cost money to store.

"We have an extremely large warehouse that costs us $400 a month. Turnover (of materials) is so slow because only half our crews are filled and working."

Moes continued:

"If we had all our crews working, we could reduce . . . inventory. We used to be able to pay higher, $3.50 per hour for workers and $4.50 for supervisors, but now it's $3 and $3.40.

"Now if people enroll, it's out of sheer desperation. If they get a better job, they take it. That's great, but people are going to freeze."

PROBLEM OF GETTING WORKERS

Barry Wanner, chief of the energy conservation section in the State Department of Local Affairs and Development, agreed that obtaining workers is a major problem.

"The situation is that the federal program is designed to rely on the Comprehensive Employment and Training Act (CETA) to provide the bulk of the work force. To fully utilize the money by 1980, we need 1,100 positions. That's three times the number we presently have," he said.

In addition to the high vacancy rate, the turnover rate is high due to the low wages, according to Wanner.

"They get a few skills and seek other employment," he said. "The program terminates in December and we have $17,000 unspent in materials funds. We started with $27,000. All the administration and program support moneys are gone. It sticks out like a big, sore red thumb.

"I don't know if we can continue with CETA with the turnover. We are absolutely powerless to do anything."

SEARCH FOR CLIENTS SUSPENDED

In Dane County, project director Jay Vercauteren said that efforts to solicit more weatherization clients had been suspended.

"We haven't been actively seeking applicants for quite some time, over three months," Vercauteren said. "Right now we're sitting on over 200 requests. About 90% are elderly or handicapped.

"We still have substantial funding—about $50,000 to $60,000 and a $15,000 working inventory. We're eligible to apply for a new federal Department of Energy allocation, but we haven't spent 70 percent of the old one. If we had adequate manpower, we could have doubled production."

Michael Colestead, one of the managers for WESTCAP, serving seven western Wisconsin counties, said:

"I have 162 names of people who I have not contacted at all. About 135 are actually eligible for the program," he said. "We have 35 who we have contacted and have written work orders for who are just waiting for us to come. We've done 136 weatherizations this year.

"People I have working for me are doing a great job. Good, straight, clean, honest work. A good honest day. They use the material properly. They're scared to death that they're not going to have a job."

SPECIAL PROBLEMS

Matias Montemayor, winterization coordinator for Sheboygan County, said there are special problems in employing the CETA workers.

"The types of working habits they have are hard to deal with. In order for a person to be on the CETA program, he or she has been unable to locate a job for the past 15 weeks. Probably the last job was lost due to tardiness, personal habits, etc.

"The habits tend to carry over. We provide counseling, but the goals and objectives we have for weatherization are very high," he said.

Montemayor said his backlog of homes to be winterized is smaller than in many areas—ony 10 or 15.

"We don't have materials stacked up, but we have money," he said.

FEAR ON WAITING LIST

Colestead said the people on the waiting list are frightened, too.

"I think there are going to be some deaths blamed on the cold. Some families are without fuel oil—without any fuel at all. There are no wood stoves in the area to be had.

"We know how to weatherize houses. All we need is . . . the people to do it. Somebody is dragging their feet. I really believe somebody has got to get going."

Other coordinators also have backlogs of job requests.

Don Lates, whose crews serve four southwestern Wisconsin counties, said he has 84 homes waiting for winterization.

In northeastern Wisconsin, 275 homes were winterized in nine counties, according to Moes. But there are 100 more on the list."

Changes in the regulations for the program pose another problem, according to Colestead.

"About twice a week we could count on a regulation change," he said.

"When the Department of Energy gave us a contract, somewhere during the middle of it they'd give us another regulation to live with that was retroactive, a change that might affect" the income limit to be eligible for the program, he said.

"If we didn't comply, the work was illegal. It's a nightmare, terrible.●

ENERGY MOBILIZATION BOARD

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. FISHER. Mr. Speaker, there is no question that resolving our energy crisis is this Nation's highest priority. In light of the current situation in Iran, we face the renewed threat of a cutoff of our oil supply from that country and perhaps from other OPEC countries as well. Undoubtedly, this country's dependency on foreign oil must be reduced and the Congress continues to grapple with the problem. Already in progress is the phased decontrol of the price of domestic crude oil which will help to spur the production of domestic oil. Moreover, alternative sources of energy must be developed. Congress is considering proposals to promote the use of biomass-based fuels as a supplement to our gasoline supply and the House has already passed a bill to encourage the production of synthetic fuels.

Impeding our progress on the energy front is a myriad of bureaucratic redtape. At every stage, companies wishing to construct oil refineries, pipelines, generating plants, et cetera, have had to cope with administrative delays. A number of important energy projects proposed years ago have not even gotten underway yet. The energy crisis might not have become so severe had the projects received priority consideration by regulatory agencies. The time has come to cut the redtape and to proceed aggressively toward energy independence.

In recognition of this fact, the House last week passed legislation creating an Energy Mobilization Board (EMB) charged with streamlining the regulatory process for certain priority energy projects. The central issue during the debate was whether to recommend, for certain energy projects, suspensions or waivers of substantive environmental, health, and safety laws or regulations. It has taken many years for these measures to be put in place to safeguard people from increased air pollution, toxic substances, and the like. Equally important are the health and safety laws that protect American workers. We should not undermine the health, safety, and environmental protections that have been worked out so painstakingly during the past 10 or more years in the name of energy mobilization.

Two proposals were debated by the House. The first to be considered was the so-called Udall-Clausen-Wirth bill which empowered the EMB to authorize the modification of procedural rules, but which preserved substantive environmental laws. I supported this approach because, in my view, it gave the EMB all the power that it really needed. Most bureaucratic tie ups involving energy projects have been procedural in nature. Unfortunately, this bill was defeated by a narrow vote.

My choice then became whether to support the pending legislation which would permit the waiver of certain substantive laws, or to vote against it, leaving us back at square one. As the debate progressed, I weighed the need for fast-tracking energy decisions against my concern for environmental protections. In my mind I worked a hypothetical energy project through the waiver process and realized how difficult it would be for a waiver to be approved. First, the EMB must determine that a law presents a substantial impediment to successful completion of the project according to the timetables set by the EMB; if the Board is convinced that such an obstacle exists, it makes a waiver recommendation to the President; if the President agrees, the recommendation is then sent to Congress; both Houses of Congress must approve the recommendation before the waiver is granted. While this is surely not the most efficient type of arrangement, it will insure a vote by the Congress on matters involving the continued enforcement of environmental laws.

In the end, I voted for the bill. This was a most difficult decision for me as I have fought for our environmental laws over the years and have opposed attempts to delay compliance dates. However, I believe the bill provides adequate protections of our environmental interests and will help to stimulate the development of this Nation's energy resources. The country must get on with the task of developing domestic energy sources and reducing dependence on OPEC.●

THE EFFECTS OF APEASEMENT

HON. LARRY M-DONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. McDONALD. Mr. Speaker, Webster's dictionary defines a coward as one who shows disgraceful fear or timidity. It further states cowardice is a lack of resolution. This, Mr. Speaker, is clearly what we face today in our leadership with the present situation in Iran. One might immediately question, is such a conclusion too harsh? A clear and resounding "no" must be our response.

Most immediately one must realize the whole confrontation could have been avoided. Evans and Novak point this out vividly in their editorial which appeared in the November 9, 1979, Washington Post.

However, even if that were not the case, are we still willing to concede that when a situation of international terrorism does occur the United States must be willing to negotiate away sovereign power over its property and the very lives of its citizens? One would hope not, but apparently our leadership is not so convinced.

All we have seen to date is a hat-in-hand approach to this barbarian. In fact, as Evans and Novak point out this has been the inexcusable "profile and courage" of our entire foreign policy; and it has precipitated this bizarre event.

To believe that the lives of our citizens and the territory of our Nation are items which can be openly and brazenly violated is truly cowardice or betrayal. When a country ceases to defend its territory and the lives of its citizens without equivocation, it has ceased to exist as a sovereign power with identity or substance.

It is in fact an open invitation to our enemies to bargain for what they will, for we no longer have principles or bounds beyond which we shall not be pushed. I for one am absolutely unwilling to accept this position now or ever; and so is the rest of this country.

Exercising sovereign power which gives the necessary perception to the world that we intend not to deliver ourselves up on a silver platter to our enemies, or even allow ourselves to be taken, is not a foolish exercise in machismo. It is in fact historic wisdom. If we do not start to raise this profile and perception again in the eyes of the world we are going to face a series of events far worse than Iran. It will be, in fact, a situation requiring all-out war. This would be the grossest stupidity.

Over 200 years ago our Founding Fathers told the world there are values in life for which one must be willing to sacrifice his life, his fortune, and his sacred honor if necessary. Without question this remains the case as well today.

I commend the following editorial to the attention of my colleagues:

A POLICY OF APPEASEMENT

(By Rowland Evans and Robert Novak)

State Department hand-wringing in advance of the predictable attack on the U.S. embassy in Tehran reached a peak Nov. 1, three days before the embassy takeover, when the department rejected a propcsal from White House and Pentagon aides that the coming crisis required immediate emergency planning.

A high official replied in effect: "No thanks, we're handling this our own way." But in fact, despite the torrent of anti-American abuse then pouring forth over Iran's national television network—inspired by Ayatollah Khomeini—American policy was mired in dangerous inaction resulting from strict Carter administration policy guidelines. These guidelines discourage U.S. moves that might be construed as opposing the global leftward drift and the growing power of the Third World.

This central idea of President Carter's foreign policy, producing systematic American retreat, is a root cause of the Iranian crisis, but it is not confined to Iran; it has helped revolutionize the entire Caribbean area, cost the U.S. important South American allies, and given free rein to Moscow's use of surrogate Cuban troops. Some officials believe it may even have played a part in the assassination of South Korean President Park Chung Hee, because of the non-stop criticism here of Park's dictatorial methods.

As played out in Iran, the drama of Carter's accommodation policy has had particularly demeaning features. The State Department was so worried about Iran's anger over the deposed shah's getting into this country for treatment at a New York hospital that it asked to inspect his medical reports to see how ill he is. The point: to disprove possible charges by the ayatollah that he was admitted to the United States on false pretenses.

Indeed, before the takeover of the U.S. embassy, high State Department officials privately expressed hope to Americans involved in the shah's treatment that a second operation would be performed on the shah. That would be new evidence revealing genuine, not cosmetic, illness.

When Khomeini demanded the right to name his own panel of American doctors to examine the shah's medical records at New York-Cornell Hospital, the State Department did not immediately say no. The refusal of that extraordinary request came only after the hospital gently suggested that "normal medical ethics" should be followed.

This consistent appeasement of the ayatollah by the State Department, described as "craven" by one highly respected American diplomat, is the natural result of a foreign policy based on conviction that anti-American tendencies in the Third World are immutable and must be accommodated. It has made a travesty of the traditional U.S. policy of offering political or humanitarian asylum.

Before the shah went to Mexico last June 10, Tehran's revolutionary government warned that his admission would affect official relations. The Mexican government correctly rebuked Iran. It said no country can "dictate our policy."

Moreover, Mexican diplomats say privately that the Mexican embassy in Tehran was given security reinforcement to minimize the risk of an occupying mob. When the shah's cancer and gallstones finally compelled the Carter administration to admit him to the New York hospital for medical help, the State Department rejected all suggestions to increase security measures at the Tehran embassy.

Also rejected were last-minute proposals for airlifting embassy employees out of the country. The official reason given was that that would be a show of weakness. The real reason, some officials believe, was that it would have been provocative to the ayatollah.

The dispatch of former attorney general Ramsey Clark as the president's personal emissary fits the pattern of attempting to deal with the ayatollah on his own terms. But Clark's designation brought no overt criticism; the danger to the American diplomatic hostages was too grave. Conservatives were silent about Clark, who praised the ayatollah after meeting him in Paris last January as a "brave man" for starting the anti-shah revolution.

But even if Clark succeeds (and the prospect looks bleak at this writing), many politicians worried about American setbacks are not happy about the political symbolism:

Clark visited Hanoi at the height of the Vietnam War with an international group investigating war "crimes": not Hanoi's, but America's.

These politicans, whose numbers are growing, say Clark is not entirely representative of this country's true feelings about the world, just as they say Carter's accommodation policies are undermining his country everywhere.●

AFRICA: AS TYRANTS FALL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. SIMON. Mr. Speaker, one of our most respected colleagues, Representative STEPHEN SOLARZ of New York, who chairs the House Foreign Affairs Subcommittee on Africa, had an article in the Washington Post recently pointing out some of the more constructive things that are happening in Africa.

It was the type of balance that we need to be reading about and hearing about, and I was pleased to see it.

I am inserting it in the RECORD at this point so that my colleagues will have a chance to see it in the RECORD if they missed it in the Washington Post:

[From the Washington Post, Oct. 16, 1979]

AFRICA: AS TYRANTS FALL

(By Stephen J. Solarz)

For at least a decade now, Africa has endured the frequent slings and arrows of an outraged international community for its persistent and pervasive abuse of human rights. But for all of the eminently justifiable criticism that has been leveled against Africa in the past, the truth is that 1979 has been a banner year for human rights in Africa.

Three terrible tyrants have been toppled. Ugandans are finally free of the deadly grip of Idi Amin Dada. The people of Equatorial Giunea, having watched more than a third of their fellow citizens flee into exile or be killed, no longer suffer under the terroristic reign of Francisco Macias Nguema. And last month the Central African Empire once again became the Central African Republic, following a bloodless coup that resulted in the removal of the murderous, self-proclaimed emperor, Jean-Bedel Bokassa.

At the same time, less spectacular but also significant human rights advances have occurred elsewhere on the African continent. The question of individual rights is, of course, inextricably tied to the type of political system under which a nation is governed and, during the course of the past year, a number of important African countries have abandoned dictatorship and embraced democracy.

The most populous nation on the continent, Nigeria, has just returned to civilian and democratic rule after 13 years under a military regime. As the home of 80 million people and a prominent exporter of oil, Nigeria occupies a place of paramount importance in African and world politics. Having adopted a constitution modeled on our own Nigeria's leaders seem determined to build and maintain a set of democratic political institutions that will allow human rights and free expression to flourish.

Another West African country, Upper Volta, returned to democracy in 1978 following 12 years of military rule. A survey by Freedom House hailed Upper Volta as one of two nations in the world that enjoyed the greatest gains in individual freedom last year. Meanwhile, Upper Volta's neighbor, Ghana, has thrown off the shackles of a notoriously corrupt military regime and installed new leaders chosen in elections.

Human rights gains in Africa have been shaped at the conference table as well as the ballot box. In July, the Organization of African Unity agreed to prepare a set of guidelines for the promotion and protection of human rights in Africa. Referring to the African nations' vociferous denunciation of white minority rule, OAU spokesman Peter Onu of Nigeria said at the time. "We cannot be talking about human rights in certain parts of Africa if we don't accept the same standards [for black-ruled African countries as well]."

These noteworthy advances for human rights and individual freedom in Africa must not blind us to the continued deprivations that beset millions of people on that continent. Certainly the day-to-day horror of apartheid is in no way diminished by the recent political developments in Lagos or Bangui. The South African government, despite its frequent protestations to the contrary, has never indicated a willingness to adopt creative power-sharing arrangements that would satisfy the legitimate aspirations of the indigenous majority in their country. In addition, repressive regimes continue in other African nations.

Yet the successful conclusion of free elections in Nigeria and the long-overdue political demise of Amin, Macias and Bokassa clearly carry beneficial consequences for U.S.-African relations. No longer diverted by the excesses and eccentricities of madmen, we can concentrate on the furtherance of constructive relations with statesmen like Tanzania's President Julius Nyerere and the Sudan's President Jafari Numeri.

While continuing to champion political liberty, we need not neglect the question of economic survival. After all, 20 of the world's 31 least-developed nations are located in Africa. Per-capita income on the continent is under $300 a year, and food production is declining. Intensified wars and political conflicts have pushed Africa's refugee population near the four million mark—the highest figure of any region in the world.

These are human rights concerns, too, and it would be a shame if American's interest in human rights in Africa extended no further than the accusatory finger we pointed at Bokassa, Macias and Amin.●

A TRIBUTE TO MS. EMMA KELLY BRAITHWAITE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. RANGEL. Mr. Speaker, on behalf of the people of New York's 19th Congressional District, I am pleased to announce the recent 100th birthday of a constituent, Ms. Emma Kelly Braithwaite. Born on October 7, 1879 in Montrose County, Va., Ms. Braithwaite has enjoyed a long and meaningful life. From these humble beginnings, she became a respected Harlemite and wife of one of our century's leading black poets.

On June 30, 1903, Emma Kelly married William Stanley Braithwaite. Referred to by Langston Hughes as the "black poet laureate," Mr. Braithwaite was an anthologist, founder of the New England Poetry Society, founder along with W. E. B. deBois of Crisis magazine and winner of the NAACP's Springarn Award.

The Braithwaites spent many of their most illustrious years at homes first in Cambridge, then in Arlington, Mass. They were host to many important Americans, both black and white, including Ralph Bunche, Robert Weaver, and Robert Frost. Many students, away from their families, spent the holidays with the Braithwaites at their home in Arlington. Ms. Braithwaite is remembered by all as a warm and gracious hostess.

Soon after their move to New York in 1939, the Braithwaites took an apartment at 409 Edgecombe Avenue in Harlem, where Emma Kelly still resides. Although her husband died in 1962, Ms. Braithwaite continued to lead an active life. She has been an important member of St. Luke's Church and a longtime fundraiser. She has served on the board of directors at the Harlem Home for Unwed Mothers.

As the wife of a prominent individual and mother of seven children, Emma Kelly Braithwaite is a model in terms of how to live a long life. To attest to her strength of body and mind, she recently survived the trauma of a leg amputation. Her integrity and humble spirit are clear to all who know her. I take great pleasure in commending her on this occasion to my colleagues and the American people.●

THE POLITICAL REALITY OF IRAN

HON. RICHARD KELLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. KELLY. Mr. Speaker, the crisis in Iran is continuing and Americans are still being held as hostages by forces loyal to the Ayatollah Khomeini. When the Carter administration withdrew its support for the government of the Shah of Iran, a Free World ally, it did not take into consideration the political reality of Iran and the advantages that would fall to the Soviet Union.

In light of the continuing crisis, I would like to draw the attention of my colleagues to the following carefully researched article by Hilaire DuBerrier that was published in The Review of the News, a national conservative weekly.

[From the Review of the News, Feb. 21, 1979]

POLITICAL REALITY IN IRAN

When asked, "What is the best form of government?" Solon replied, "For whom and at what time?" In the case of Iran with its diverse tribes and religious fanatics who even today literally cut themselves and each other to pieces in frenzied mourning for the martyrdom of the Iman Hussein who died 1,300 years ago, the answer is a strong government. Certainly the people making up this state so vital to the West are as volatile and as brutal when aroused as any on earth. Iran's Shi'ite Moslem fanatics have not changed since the day, before World War I. When an American consul wandered in the street to photograph a religious procession and was hacked to bits on the spot.

REPORT ON IRAN

The old Shah Reza Pahlavi was a rude soldier who understood his people's respect for force and contempt for weakness. Upon

deposing the ruling Kajars in 1921 it was his intention to establish a republic; but to the Shi'ite leaders as well as the masses an Iran without a Shah was unthinkable. Thus the Pahlavi Dynasty was founded.

The 16th day of September 1941 when the old Shah's son, young Mohammed Reza Pahlavi, mounted the Peacock Throne of Persia marked the beginning of a battle that is still far from over and which will ultimately lead Iran into a bloodbath which will make millions of Iranians pray for his return. The first threat to destroy the throne was led in 1953 by Prime Minister Mohammed Mossadegh, whose wife was related to the Kajar Dynasty deposed by the Shah's father. When Mossadegh failed, American newspapers shouted that C.I.A.s Kermit Roosevelt had saved the Shah, a boast which made Mohammed Reza appear to be America's protégé and gave the Communists an opportunity to accuse "American imperialists" of meddling. The truth is that a traditionally antimonarchist America would not have lifted a hand had Mossadegh not nationalized Iran's oil and the British instituted a blockade.

Britain, traditionally the protector of the Persian Gulf and the Emirates which were later discovered to be rich in oil, had long imposed a Pax Britannica from her military base in Aden, at the entrance to the Red Sea. But by 1962 revolt was afoot as Jay Lovestone, former secretary-general of the Communist Party, U.S.A., called on Africans, Arabs, and Communists alike to support independence movements against Britain. Labor unions led by American-trained leaders ground wheels to a stop in Aden with strikes for which the monster International Confederation of Free Trade Unions, in Brussels, mobilized international support. The I.C.F.T.U.'s objective was a labor empire formed by "liberated" colonies, led by union bosses trained by American unions, and loyal to those who had formed them. Aden, now the capital of a Communist Yemen and Russia's greatest supply base in the Near East, was the key.

In 1967 Britain threw up her hands in disgust and Iran's Shah assumed the burden of protecting the strategic Gulf and the Emirates. Iranian forces occupied the islands off the coast of Oman and in a crash program the Shah acquired hovercraft capable of transporting troops across the Persian Gulf in an hour. Overnight Iran's militarization began and, as the Shah's threats to the Russian plans became more serious, the alliance of Communists and the narrow clergy, united only in their hatred of the monarch, was consummated.

Some 80 percent of Iran's 35 million people belong to the Shia sect. To the peasants of Ispahan and tribesmen in the Elbours mountains, the craftsmen in Tabriz and the bazaar traders from the Caspian Sea to Baluchistan, the rebel alliance leader Ayatollah Khomeini is seen as a magician whose powers are unlimited.

By thundering against the regime of the Shah the Ayatollah Khomeini has given the appearance of having brought it down by words. It is no matter that for years sober European officials have watched Libya's Muammar el-Qaddafi pour money into secret camps that have been training Iranian guerrillas, or that they have long monitored a steady stream of broadcasts to Iran from Moscow. The Ayatollah Khomeini has held the spotlight, and in the crisis which Iran has just passed through it meant nothing to his blind followers that their exiled leader in Neauphle-le-Chateau, in France, was surrounded by members of the Soviet-controlled Tudeh party who were flying his incendiary sermons into Iran only so that the churchman might prepare the way for the atheists.

It was the Russians and men like Libya's Qaddafi, aggressively supported by the Leftist professors of Europe and America, who radicalized the many thousands of Iranian students sent abroad. In the ultimate reckoning they made what is referred to as the "dreaded SAVAK," or Secret Police, a necessity.

In late January the sister of the SAVAK general who exiled Khomeini in 1963 told your correspondent that a Communist leader arrested at the same time looked the general in the face and said: "When my turn comes, I will not be as kind to you as you have been to me." Even as she was speaking, women in Teheran were already having dirt and even acid thrown in their faces if they went into certain streets without a veil; yet not until it is too late will the Communist organization that will replace SAVAK be referred to in our press as "dreaded."

But it was the Shah's "New Freedom Policy" which, according to the London Daily Telegraph of May 13, 1978, brought on the chain of events which led to the disintegration of Iran. And that, says the Daily Telegraph, stemmed from "talks with President Carter, who spent last New Year's Eve in Persia." The President pressured the Shah to liberalize in return for arms sales, and then sent out the C.I.A. to destabilize the regime in favor of a "Liberal" successor. The Reds were quick to take the cue.

President Carter's observation that the Shah seemed likely to fall encouraged the spoilers to step up their attacks. Their assumption that they had Washington with them was strengthened on January 14, 1979, when the London Observer (owned by Richfield Oil and the radical Aspen Institute) reported Cyrus Vance's desire that the Shah leave Iran. The Sunday Telegraph of the same date wrote that President Carter had made it clear through his Ambassador, William Sullivan, that the Shah should leave the country. And by the time both Air Force General Robert Huyser and C.F.R.-Bilderberger member George Ball had gone to Teheran to request that the Shah pack up and get out, the outcome was no longer in doubt. Huyser directly threatened the military with a break in diplomatic relations and a cutoff of arms if they moved to support their monarch.

The London Daily Telegraph observed: "America has been closely involved in bringing it [the present situation] about," and added: "The Shah is reported by court sources to be annoyed, to say the least, by the pressure being put on him by the Americans." As far back as November 20, 1978, Marvin Stone had written in U.S. News & World Report: "It's a sobering lesson for the U.S. and ironic, too, given the probability that President Carter's human-rights policy may have helped create the crisis in the first place. It is not irresponsible to assume that the administration's pressure on the Shah to liberalize his rule tended to undermine his authority enflame the Shiites and inflate the expectations of youthful dissidents. In light of this experience, Carter decisionmakers must recognize that their human-rights policy is not without risks and that support of the Shah must be unequivocal as he seeks to reverse the slide to disaster."

By January it was too late, and by the time these lines are in print the moment for fiery speeches will have passed. The vendetta which an old man who has been exiled for 14 years has pushed to its climax, regardless of its cost in human and social terms, will have been won—a total triumph. Then the Ayatollah Khomeini will find himself face to face with the Communists for whom he has torn Iran apart.

What happens in the next six months may well change the face of the world. A year from now the whole Western world and most of all the Iranians will wish the Shah were back. He did everything he could to save Iran, and when the good-guy, bad-guy column is drawn up the Shah Mohammed Reza Pahlavi will emerge as one of the best rulers that this country has seen and a man destroyed by an American President he believed to be his friend.●

SENATE AMENDMENTS WOULD GUT STRIP MINE LAW

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. SEIBERLING. Mr. Speaker, in light of recent assaults on the integrity of the Surface Mining Control and Reclamation Act of 1976, I believe it is of the utmost importance that all Members of the House understand the full implications of Senate-proposed amendments to the strip mine law. The Senate bill (S. 1403) contains one provision known as the Rockefeller amendment that is nothing less than a loaded gun pointed at the head of a law we all labored long and hard to see enacted. I urge all my colleagues to read the following excellent article by Representative Mo UDALL, the distinguished chairman of the House Interior Committee. The article was recently published by the Charleston, W. Va., Gazette:

ROCKEFELLER AMENDMENT WOULD GUT GOOD LAW—UDALL

(By Representative MORRIS K. UDALL)

A good doctor only treats illnesses that need treatment, and when he does, he makes a careful diagnosis and prescribes the proper medicine. A bad doctor compounds poor judgment with strong medicine when moderation will do, prefers surgery over rehabilitation and thinks operations that kill his patients can be successes.

Public officials have a habit of peddling a lot of bad political medicine in the form of legislation that will not do what it is advertised to do, and instead only makes matters worse.

As current evidence, I offer the example of a bill (S. 1403) recently passed by the Senate and referred to my committee, the House Interior Committee.

The bill has one extremely important—and, to me, extremely objectionable—provision. It would permit states to submit for approval by the federal Office of Surface Mining strip mine reclamation plans that somehow conform to the general language of the 1977 strip mine law, but not to the specific regulations that interpret and enforce that law.

The laws passed by Congress for the most part are rather general statements of policy. It is up to the agency charged with enforcing that law to write the rules of do and don't, can and can't, without which a law makes little sense. The strip mine law is more specific than most other laws, but by no means can it substitute for the clarity of regulations.

The new bill of goods—known as the Rockefeller Amendment—is worse than unnecessary treatment. It is bad medicine for an incorrect diagnosis, and its side effects would be far worse than the illness. It is like prescribing penicillin for a nose bleed when the patient has just shot himself in the foot.

The legislation has been sold as a tonic for states rights, an antidote to federal regulators and an elixir for our beleaguered coal industry.

It is none of these things. States' rights will become courts' rights as surface mining czars in black robes rule the coalfields. Regulations—whether state or federal—will become more prolific, and even worse, they will be inconsistent from state to state. Conscientious states, like West Virginia, will suffer.

And our coal industry, which already has health problems not to be trifled with, will have a new and stubborn case of confusion and instability.

The final side effect of this small but potent concoction would be the gutting of a law that I and so many others worked for six years to see enacted and signed. That law is absolutely critical to the future environmental health of our coal states. I do not intend to see that law—and the environment that sustains your life—slide down the tubes by swallowing this ill-considered and wrong-headed legislation.

Advocates of the bill contend it is necessary because a cabal of overzealous federal bureaucrats have written regulations far more strict than what we in the Congress ever intended. They say these rules break a promise to the states that they would be able to write and enforce their own reclamation programs, as long as they conformed to the national standards established by the law. And, they complain, once again "over-regulation" is strangling the industry and threatening your jobs.

This is just not the case. The Rockefeller amendment will not cure what ails either the state or the coal industry.

It is likely that most of West Virginia's squabbles with OSM could be addressed by what is known as the "state window." Over the objections of environmentalists, the very regulations so repulsive to proponents of the Rockefeller Amendments permit OSM, in effect, to grant variances from national performance standards when a state can demonstrate that their standards are at least as good, albeit different, as OSM's. But to date, not a single state has at any time even tried to take advantage of this "state window." Instead, they have turned to the meat ax of S. 1403.

Nor will the bill perk up the coal industry. The problems it faces right now are not an inability to mine or the added expense of reclamation practices. The problem is a supply glut that is the product of lower utility purchases of coal brought on by conservation and uncertain, expensive coal transportation.

Interestingly, a great deal of the pressure behind the Rockefeller Amendment comes from West Virginia's deep mine operators, who account for 80 percent of the state's production. These operators have never been subjected to the same commendable reclamation standards under which West Virginia's strippers have operated. They have now seized upon this opportunity to pressure the state to weaken present laws that are "more stringent" than federal standards.

The most haunting result of this proposal is that under the guise of states' rights the only entity with greater control over strip mine regulations will be the courts, not the states. That is because the Rockefeller Amendment guarantees that whether a state program is approved by OSM or not, it will be legally challenged by the losing side—environmentalists, the state or industry.

Without the new law, these challenges would be—in fact, are now—before a single judge. With the new law, these challenges would go to district courts in each state. For years to come, we will then have innumerable judges making decisions on highly technical coal mining issues on which they have little or no expertise, and without the aid of regulations that interpret the law.

Sometime in the late 1980s all this confusion and conflict will have settled out and the coal industry will have a clear idea of just what are the rules of the game. But because judges from Virginia to Montana will have written differing reclamation plans, states that have upgraded their standards, like West Virginia, will be at a competitive disadvantage to other states that are less interested in good reclamation.

We have enough problems in this nation insuring that coal is burned more often, more cheaply and more cleanly, and is mined so that our beautiful heritage is not carved into a moonscape. We do not need the unnecessary and bad political medicine of the Rockefeller Amendment, and the chaos in the coalfields that will come with it. Let's keep our eye on the ball, and get on with the job of mining coal under sensible regulations.●

GORDON GAMMACK'S WAR COLUMNS PUBLISHED

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. HARKIN. Mr. Speaker, we will observe the 60th anniversary of the end of World War I on Sunday.

November 11—or more recently, the Monday closest to November 11—has since been set aside by a grateful Nation to honor the brave men and women who have helped preserve this Nation through service on its Armed Forces.

It is fitting, then, that on the eve of that anniversary I call to the attention of my colleagues a book recently published by the Iowa State University Press, and pay tribute to its author, Gordon Gammack, war correspondent and columnist for the Des Moines Register and Tribune.

Gammack was one of the best war correspondents. This book, entitled "Gordon Gammack: Columns From Three Wars," is a collection of his finest stories from World War II, and the Korea and Vietnam conflicts.

Gammack told the stories of those wars in personal terms—often hunting up Iowans on the frontlines and following them through the action. The fear, the horror, the courage, and the love he wrote about are just as gripping today, as when he first described them up to 34 years ago.

It is a remarkable collection of news columns, written by a remarkable reporter who always managed—one way or another—to get his story.

At this point in the RECORD I would like to insert a brief description of the book, taken from its end cover, and an article which recently appeared in the Des Moines Register about its author, Gordon Gammack:

GORDON GAMMACK: COLUMNS FROM THREE WARS

Here is a selection of widely read columns that won a large and devoted following for Gordon Gammack. His coverage of three military conflicts—World War II, Korea, and Vietnam—provides a fascinating study of the attitudes and behavior of American fighting men over a twenty-five-year period. As you read the columns, you'll see that Gammack was a determined and meticulous investigative reporter. He dealt in particulars, not theory or philosophy. His columns, written for the Des Moines *Register* and *Tribune*, are firsthand stories of life on the front, behind the ranks, and even in prisoner-of-war camps. When information was not officially available, he devised strategies for obtaining it and often clashed with military brass.

These are stories that illustrate change: in the enthusiasm and commitment our country has felt toward its wars, in the relationship between the military and the press, and in the evolution of one man from youthful excitement to stoic maturity.

Early World War II reports reflect the patriotic attitude of the American soldier combined with the ever-present danger of day-to-day living under fire.

As you read the columns from the Korean conflict you'll find a more politically neutral attitude. However, Gammack, as always, had praise for the troops on the front.

During the Vietnam conflict, Gammack wrestled with doubts about this country's role. You'll feel his thoughtfulness and concern in these stories as he detailed drug use, dissension in the ranks, and the political overtones that filtered down to the front.

As a collection, these columns provide a unique opportunity for you to understand recent American history from the soldier's perspective. Former Gammack readers; veterans; and students of journalism, political science, and history will especially appreciate these penetrating and thought-provoking pieces.

GORDON GAMMACK'S HUMAN STORY

(By Chuck Offenburger)

There's talk that the recently released book, "Gordon Gammack: Columns From Three Wars," may wind up being used as a text in history and journalism classes.

With good reason, too.

The collected reportage of Gammack, the Register and Tribune columnist who died in 1974 at the age of 65, gives keen insights into wars and the men who fight them. The insights are especially revealing for readers who were not yet born, or are too young to remember, when Gammack was writing about World War II, Korea, Vietnam.

But, alas, the book has a shortcoming.

It lacks the very human story that unfolded in Gammack's own household in Des Moines while he was chasing GIs all over the world.

It's the kind of story Gammack would have molded into several columns—had it happened in some home other than his own: the woman coping with keeping a young family together while her man went off to war. And not just one war, *three* of them.

So imagine how it was one day in the spring of 1943.

THE CALL OF DUTY

As you imagine, keep in mind that Gordon, the young reporter, was exempt from military duty because he'd been blinded in one eye in a car accident.

And remember that Kaye, who'd worked at the phone company, was not accustomed to being away from here husband. In fact, she'd never in here life spent a night alone until, after their marriage in 1940, Gordon began traveling on business in Iowa. The first night he was away, she had a friend stay over.

Two other bits of background are important to this scene: Little Katy, their daughter, was barely 2. Kaye was pregnant.

Here comes an excited Gordon home from work at mid-afternoon to tell his wife he'll be going off to the war after all!

The reaction?

"I was thrilled for him. No kidding, I really was," Kaye Gammack, 64, recalled during a recent visit at her home here.

"I knew it would be tough, but I also knew from the beginning that Gordy was a newspaperman, first and foremost. I always said I hoped things for him never came down to a choice between me and the paper. The big story of the day was the war."

Ah, she really took the news that well?

"I did *not* weep and moan and feel sorry for myself," she said. "But, remember, everyone was in the same boat then. There were a lot of women with children being left at home while the men went to war.

"It was a patriotic war, if you know what I

mean, and everyone knew they had to put their shoulders to the wheel and do the best they could.

"I guess the one thing I had a horror of was the possibility of having the baby without Gordy being here," she said. "But the newspaper bosses agreed to let him stay until the baby was born. At the same time, they were anxious for him to get going. Finally, the doctor said if necessary, he could force labor.

SCRUBBED THE FLOOR

"I'll never forget going in for a checkup at about the time I thought I was due. The doctor told me I was nowhere near ready to deliver, and I thought, 'Oh, no! Gordy might have to leave!'

"I went right home from the doctor's office, did the knee-to-chest exercises and scrubbed the floor. The next morning, Tommy was born."

Two days later, the correspondent was en route to his first war. He was gone, the first time, for a full year.

"I had it a little easier than most wives," Kaye said. "Some women wouldn't hear from their husbands for six weeks at a time.

"But the newspaper kept me informed about what Gordy was doing, and I heard from him regularly by letter and telegram.

"I didn't really worry about him, because he'd promised me he wouldn't take unnecessary chances. Besides, his bosses had told him a dead war correspondent was no good to anybody. I frequently reminded him to follow that theory."

She did volunteer work at the local hospitals when she could line up a baby sitter. She went crazy trying to shop for groceries while simultaneously battling a "terrible two" and shouldering an infant. She went the better part of the year wearing leg makeup because nylons were in such short supply.

KEPT SCRAPBOOKS

When she got up around 4 a.m. for the night feeding, she'd grab the just-delivered Register and read her husband's stories—written from all over North Africa, Italy, France. She clipped the stories and placed them carefully in scrapbooks.

For a time, she moved with the kids to a cottage at Lake Okoboji. The correspondent, meanwhile, was basing himself at a press camp in Italy.

"He wrote how he loved that, because he got to know the other correspondents," she said. "At one point in a telegram to the paper, he mentioned how he was going off to some certain place, then he'd be 'coming back home.' At first they thought he meant Iowa, but then they found out he was referring to the press camp.

"That made me see red. I wrote him that if he'd been there so long he was calling that damned press camp 'home' then it was time for him to get back to Des Moines."

He returned.

"I thought he was home to stay until one night, someone at the paper slipped and said something to him about, 'When you go back . . . .' I blew up. But I got used to the idea, and it wasn't so bad."

"TOUGHEST TIME"

He was home six weeks before the second trip to the European theater. The second stay wasn't as long as the first.

Five years later, he was preparing to leave again—for the first of three short trips to Korea.

And just as in 1943, Gordon was wondering whether he'd get to see a new baby before he left. He delayed leaving and the newspaper editors fretted until Julie was born in August 1950. A day or two after the birth, the beaming father was gone.

"I guess when he was gone to Korea, that was the toughest time for me," Kaye said. "Katy was 9, Tommy was 7 and Julie was just a baby.

"It was really like I was a single parent. The two older ones made a lot bigger demands on me than they had as babies. I'd be looking around for reinforcement on my decisions about them, and there'd be no one to give it—except for the Dr. Spock books and the comforting advice of our family physician.

"God, how the kids fought. I'd try to keep the blunt instruments hidden away from them so they couldn't beat each other bloody. I swore there was no way they'd ever be friends, but darned if they don't like each other now.

"When Gordy would come home, that's when we really had to be intelligent parents. It would've been easy for him to avoid jumping right in as a dispenser of discipline, to let the kids play one of us off against the other. But we'd visit in letters about how to make the transition to a two-parent home when he got home, and he'd always step right in."

Then came Vietnam.

UNPOPULAR WAR

"He was in his sixties when I asked him to go [there]," Drake Mabry, a managing editor at the newspapers, wrote in a foreword to the book. "It was a request, not an order. The hardships can be overwhelming at that age. The decision was his."

Kaye recalled the assignment as one of "the biggest thrills" in both their lives.

"It was a matter of being proud he'd still be considered for such a thing," she said. "It was like he'd been told he wasn't over the hill. It made us both happy."

The kids were beyond the battling stage during his three trips to Vietnam, but there was a different kind of difficulty for Kaye to face.

"People our age were all couples again during Vietnam," she said. "I was more lonely. Friends were kind enough to keep extending invitations, but I felt a little awkward going to things alone, at least after a while.

"And in the later years of the war, it was so unpopular. It was more difficult making the sacrifices of being alone than it had been during World War II, when everyone was behind the cause."

LAST BATTLE

Their time together after his final return from Vietnam was short. Lung cancer took Gordon in November 1974.

But they continued to share it with the many friends he'd made while overseas during three wars.

"I really think just about everyone Gordy met during the wars has been through this place at one time or another," Kaye said from the porch of the Gammack home located near Terrace Hill. "The conversations about the old times were always a lot of fun."

And those conversations are being renewed in the aftermath of the publication of the book, which is peppered with the names of those old buddies.

The idea for the book was daughter Julie's. She left a position in the Iowa Democratic Party to coordinate production and promotion of the work. She's 29, recently married and living in Des Moines.

Tom, 33, manages a record shop in Fort Collins, Colo. Katy, 38, is a public affairs coordinator for Planned Parenthood in Des Moines.

The book was edited by Andrea Clardy, a free-lance writer formerly from Ames, now living in Ithaca, N.Y. It features introductions by several of Gammack's colleagues in journalism, in addition to the war columns.

"It was an exciting, but teary, experience for me when I read the first copy," Kaye said. "I couldn't take it all at once.

"But as I read through it, I remember the stories as they first ran in the paper. I recall what I was doing at that particular time, how old the kids were, what we were all going through.

"It's been thrilling, you know?" ●

IRAN SETS PRECEDENTS BY ENDANGERING AMERICANS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. GINGRICH. Mr. Speaker, the Iranian student seizure of our Embassy is the equivalent of an invasion of our national territory. Historically, diplomats have enjoyed immunity from arrest within the foreign countries where they serve. Likewise, embassy grounds have been held inviolable. Even after Pearl Harbor, Japanese diplomats were returned unharmed to their own country. The Iranian act of aggression will be repeated elsewhere unless decisive action is taken at once.

The Khomeini dictatorship has become an outlaw regime by allowing this unthinkable violation of international law to continue. We must not subject ourselves to the demands of a blackmailer. The Khomeini dictatorship must be held accountable for the lives it has placed in jeopardy.

I believe the following steps should be taken.

First, additional guards should be stationed immediately at our Embassies in all unfriendly nations. They should be given orders to shoot invaders. Never again should American diplomats and their families be in such danger.

Second, we should act with the assumption that governments are responsible for all actions of their nationals. Each government must protect foreigners within their borders and punish their own nationals who abuse our citizens. The U.S. Government owes nothing to these international criminals. It is their responsibility to meet our demand that our citizens be released.

Third, the United States should deport any demonstrating Iranian students. They are guests in our national home while they study here. Those who are serious about their education should be allowed to remain. But offensive guests should be kicked out of our house.

Fourth, we should formally close our Embassy and end diplomatic ties with Iran. We should expel the Iranian diplomats here and close their embassy, too. Their Government is worthy only of our contempt.

Finally, all foreign aid to Iran must be discontinued. Likewise, all American trade with Iran must stop. It is also time to freeze Iranian assets in the United States and hold them until a post-Khomeini government comes to power.

Killing the Americans held hostage in Iran should be considered an act of war. Either a weak America will continue to be a victim of blackmail or else a strong America will resume its respected leadership role. The choice should not be hard to make.●

THE UNITED NATIONS ENVIRONMENT PROGRAM ACHIEVING PROGRESS IN COPING WITH GLOBAL ENVIRONMENTAL THREATS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. BONKER. Mr. Speaker, since its establishment in 1972, the United Nations environment program (UNEP) has been the focal point for environmental action within the U.N. system. UNEP has been actively investigating key global problems such as the spread of toxic chemicals, environmental causes of cancer and malaria, and tropical deforestation. UNEP performs a key service in drawing attention to possible threats to the world environment.

A recent article focuses on the efforts of UNEP and other U.N. organizations to cope with two major threats to the global environment: the build-up of carbon dioxide in the atmosphere and the depletion of the ozone layer. Growing amounts of CO_2 in the atmosphere and the depletion of the ozone layer could cause extreme damage to the Earth. The possible effects of such changes in the atmosphere include the inundation of several of the world's largest cities due to rising sea-levels, serious decreases in world food production, drastic shifts in precipitation levels and patterns, and widespread climactic alterations.

UNEP's outer limits program is presently studying the causes and consequences of changes in the ozone layer and the long-range effects of weather modification. In conjunction with the World Meteorological Organization, UNEP is monitoring and assessing alterations in the level of carbon dioxide in the atmosphere.

The article which I wish to submit for the RECORD is taken from the July 1979 UNITERRA, a monthly publication of UNEP. I hope it will serve to acquaint my colleagues with the crucial role UNEP plays in drawing attention to possible threats to the world environment, and its work to reduce the possibility of these threats becoming a reality:

WHITHER THE WEATHER . . .?

Some scientists say that there are indications that our planet may be in for a full-scale climate catastrophe and that this potential disaster may be directly attributed to manmade forces.

Two trends are particularly disturbing to climatologists: the steady build-up of carbon dioxide in the atmosphere—which may result in a global heating (the "greenhouse effect"); and the potential depletion of the ozone layer which, if it occurs at significant levels, may expose us to harmful amounts of short-wave ultra-violet radiation and create structural changes in the upper atmosphere, which might, in turn, trigger widespread alterations in climate.

THE HOT HOUSE

Because CO_2 absorbs long-wave radiation, which, under normal conditions is emitted by the earth's surface, (think of it as breathing), abnormal amounts of CO_2 in the atmosphere may inhibit the planet's natural cooling system . . . thus, potentially producing a global warming which could play havoc with the world's food supply. If the warming does occur, it runs the risk of setting-off a polar meltdown which would raise sea-levels worldwide, swamping New York, Boston, Tokyo, Rio de Janeiro, and Hong Kong, to name a few.

Since worldwide consumption of energy is expected to triple by early in the next century—jumping from 8 to 25 million megawatts—and most of this energy will be supplied by fossil fuels, scientists warn that the CO_2 problem may produce the major environmental catastrophe of the future.

The problem is made even more ominous by the fact that the temperate zones of the developed countries—which now supply 75 percent of the world's coarse grain—would be the hardest hit by a global warming. Add to this the fact that the Food and Agricultural Organization expects the demand for food to increase a whopping 112 per cent by the year 2000 and you begin to see why climatologists are worried. In fact, some futuristically-minded planners are advising governments to build up their grain reserves now, with national storage levels of between 30 to 60 million tons.

OTHER SOURCES

Alternate sources of energy may also trigger disruptions in the climate system. Nuclear energy, for example, produces waste heat. Some scientists are advising that in the future, such plants be built on "islands" over the oceans, to utilize the ocean's natural evaporation-condensation cooling system. Yet building such islands may cause other problems—the waste heat from the plants may alter the surface temperature of the oceans or even disrupt natural current patterns.

With solar energy the problem is not waste heat, but rather the heliostats themselves. The solar energy collectors would increase the earth's "albedo" (surface reflectivity). According to some current theories, as albedo is increased precipitation levels are decreased. Thus, widespread use of solar energy, coupled with more and more land being stripped for development or being lost to deserts, could create aberrations in precipitation patterns and levels.

Even mundane activities such as stripping land, ploughing fields, and putting in dams and irrigation systems may turn out to be culprits in terms of climate. When land is stripped, albedo increases and (remember the theory?) precipitation levels go down. This is why stopping the spread of deserts is so tricky: loss of grasslands may lower the potential for rainfall.

Irrigation systems and dams don't affect albedo, but they do affect precipitation patterns. As we depend more and more on irrigation to stabilize crop and food production—in order to meet the needs of a burgeoning population—we may risk upsetting the fruit basket altogether. Our attempts to create a more dependable growing season may result in just the opposite: we may disrupt precipitation patterns and levels on a worldwide scale.

OZONE DEPLETION

Almost everyone knows about the "ozone problem"—the potential depletion of the ozone layer (which protects the earth from short-wave ultraviolet radiation) as a result of chlorofluoromethanes (used in sprays), methanes, and nitrous oxides (used in fertilizers).

The amount of chlorofluoromethanes in the upper atmosphere is estimated to have depleted the ozone layer by 15 percent, even though worldwide production of these chemicals has decreased since 1974. The reason for this perplexing phenomenon is that chlorofluoromethanes are inert (ironically, this is one of the reasons they seemed so safe when they were first being tested); they can't be "dissolved" by the normal process of interaction with other chemicals. They just hang in the upper atmosphere—interacting with ultraviolet light to wear away the ozone layer—like a gaseous version of the Sword of Damocles. Their levels will continue to increase until production of them is stopped completely.

Models indicate that the long-term steady-state effect of a continued release of chlorofluoromethanes at the 1977 rate of release would result in a 15 percent average reduction of the ozone layer. The effects of increased amounts of short-wave ultraviolet light on humans—or plants and animals—are not known, but models indicate that a one percent reduction in the ozone layer produces a two percent increase in the amount of short-wave ultraviolet light which reaches the earth which, in turn, is projected to produce a four percent increase in skin cancer.

Though the ozone and carbon dioxide problems are in the spotlight now, climatologists warn that we must not let any single trend obscure the fact that climate, like other environmental problems has a synergistic trigger. We just don't know how much the biosphere can tolerate, "before it pops, like a balloon," as Ken MacCleod of UNEP's Outer Limits Programme puts it.

This is why monitoring has suddenly assumed such importance. Without monitoring networks—from which computer wizards can construct models—we can't tell if, when, and how the climate is being affected.

The World Meteorological Organization recently launched a worldwide climate programme that will draw upon and co-ordinate the efforts of several United Nations agencies. As part of this effort, UNEP will monitor and assess changes in albedo, ocean surface temperature, solar radiation flux, and changes in the atmosphere's composition and turbidity ("density and opacity"). A global climate network of scientists will also study the impact of climate change on human societies and attempt to determine the ways in which we might protect ourselfes against adverse conditions while reaping the best advantage from favourable periods. At the same time, efforts will be made to determine the mechanisms of climate change, their sensitivity to man-made forces, and what characteristics of human societies make them especially vulnerable or resilient to variations in climate.

MONITORING

Meanwhile, UNEP and the WMO have been monitoring changes in the ozone layer—and publishing their findings in a bi-yearly bulletin—since 1977, when UNEP convened a conference to discuss the ozone layer and alert the world community to its potential dangers.

Still, more needs to be done. Monitoring and model-extrapolations can only point out the dangers. Unless there is an intensive global effort to act upon the information we receive, all our monitoring efforts will be futile.●

HEARING ON H.R. 4973, CORPORATE CRIMINAL LIABILITY FOR COVER-UP OF LETHAL DEFECTS IN PRODUCTS AND BUSINESS PRACTICES BILL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. CONYERS. Mr. Speaker, on Thursday, November 15, 1979, at 1:30 p.m. in Room 2237 Rayburn House Office Building, the Subcommittee on Crime of the House Committee on the Judiciary will hold a hearing on H.R. 4973. This bill, sponsored by Hon. GEORGE MILLER and cosponsored by myself and 40 colleagues of both parties in the

House, would create criminal liability for business entities that knowingly conceal lethal defects in products or business practices.

The witnesses at the hearing will be Congressman MILLER and Mr. Barry Castleman, an environmental consultant.

Those persons wishing to submit testimony or desiring further information should contact the Subcommittee on Crime, 207-E Cannon House Office Building, Washington, D.C. 20515. Telephone: (202) 225-1695.●

IRAN'S REAL GOVERNMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. GILMAN. Mr. Speaker, the tragic events now taking place in Iran have placed American lives in grave danger for the second time this year. Twice we have seen fanatical mobs move without resistance to seize the United States Embassy in Iran and hold our representatives hostage in an international game of terrorist blackmail.

As pointed out in an editorial in the November 7, 1979, Baltimore Sun, the first victim of this outrage was the government of Prime Minister Bazargan, which may have been its intended victim from the start. The abrupt collapse of the government, after months of frustration and impotence, further dampens the already dim hopes for a negotiated settlement of the current crisis. Whatever the motive, the facade is gone and the true authority in Iran, the Ayatollah Khomeini now stands alone as the center of authority and responsibility for the protection of the American hostages.

Khomeini's complicity in the attack is clearly demonstrated through his direct encouragement of the mob action and his failure to take any action to end the seige. His utter disregard for the centuries-old sanctions against harming diplomatic personnel violates one of the basic principles of relations between states. Even during the darkest days of past world wars and conflicts this principle was respected by both Communist and Nazi regimes.

It has become painfully clear that United States-Iranian relations have deteriorated to an all time low. As stated in the Sun's editorial:

Ayatollah Khomeini has cast Uncle Sam as scapegoat for all Iran's problems. It is difficult to see how diplomatic or trade relations can be maintained. Planning must begin to swap oil sources pending a likely embargo. And the Iranian authorities had better be reconciled to doing without heating oil and guns. The Carter administration had resumed sales, supporting the Khomeini regime for fear its replacement would be pro-Soviet. If visitor populations are to be exchanged, the position of Iranian students in this country is in question."

Because of this mounting unrest in Iran over the last few months, the Carter administration extended its policy of not requiring Iranians in the United States to return to their homeland. This protection was granted to all of the more than 50,000 Iranians in this country (including those who may be here illegally) in the belief that they should not be forced to return to the chaos that now exists. Unfortunately, many of these "so-called" students have chosen to hide behind our constitutional protection to attack this Nation in support of the outrages being committed by their government.

These individuals who chain themselves to the Statue of Liberty, call for the death of our President and Embassy hostages, and seek to disrupt the peace of our cities have violated our hospitality and the terms of our welcome. Their actions in support of the present government in Iran indicate there is little to fear if they were to return to that country. Therefore, I join with others in this body who call upon the President to withdraw his voluntary departure policy and proceed with deportation proceedings on a case-by-case basis as to real need.

Whatever our response in our effort to extricate our Embassy personnel, we should not hesitate for fear of the oil weapon. While Iranian oil is an important factor in our relationship, it is not so vital to us that we can give in to terrorist blackmail. The eyes and ears of our friends and adversaries alike are fixed on this challenge to the United States as a world leader and military power. Our response to this crisis will have a profound effect on our future ability to maintain our position and prestige around the globe.

The United States should take the offensive in this crisis to indicate the level of concern that exists throughout the civilized world. To remove the threat of an oil cutoff, we should move to sever our imports of all Iranian oil on our own. In addition we should call for a boycott of all Iranian oil sales by the consuming nations. At this time there is considerable support from our allies who see the danger in Iran's actions as a threat to the world community. The United States should immediately seek their cooperation in this area.

Although our options are limited we cannot take the easy but irresponsible action to send the Shah back to a country that has shown so little respect for the law, peace and world order. As pointed out in today's New York Times editorial:

Some may think the Shah is not worth the risk to 60 American lives. But if they do not see dishonor in trading him, they need at least to recognize that paying blackmail to a government that kidnaps diplomats can only invite further humiliations, and not only by Iran. Above all they need to understand that bargaining away the rights of immunity and sanctuary that have been violated at the Teheran embassy would destroy the rules that even warring nations normally observe to protect human life and communication the world over.

Our one and only concern during this immediate period of uncertainty should be the safety of Embassy personnel whose lives are carelessly being used as pawns in a dangerous game of diplomatic blackmail. Beyond this paramount concern, our response to insure that such acts will not be tolerated in the future must be firm. However, as the Sun's editorial concludes:

Planning and clear thinking is what's needed in these areas, not precipitate action. The state of Iranian-American relations is for the ayatollah to dictate while he lasts. The first concern for Washington is to bring hostage Americans to safety. Afterwards will be time enough to adjust to the new state of affairs.

In an effort to communicate the serious concern that exists in the Congress and the American people for the peaceful resolution of this crisis, I have joined with many of my colleagues in the House in an appeal to the Ayatollah Khomeini. In a letter to him from the Congress, we urged his direct intervention on humanitarian grounds. We also drew attention to the shared concepts of Islam, Christianity and Judaism in our love of God and the need to do his will through righteousness and piety. Furthermore, we stressed that our concern was for the release of the American citizens and not to interfere in the internal affairs in Iran or undermine its Islamic traditions.

Any response by Iran that is less than the release of all hostages cannot be tolerated. We must respond firmly to this barbaric challenge. Therefore, I call upon the President to:

Immediately cut off all U.S. oil imports from Iran and organize a worldwide boycott of that nation by all consumer countries;

Halt all U.S. economic and military aid to Iran and institute whatever legal sanctions available;

Close the Iranian Embassy in Washington and that nation's consular offices in this country; and

Begin a review process of the status of all Iranians in the United States with the immediate deportation of all persons who have violated their visa or the terms of their welcome.

For the information of my colleagues, at this point in the RECORD, I would like to insert the entire text of the November 7, 1979 editorial from the Baltimore Sun and the November 9, 1979 New York Times editorial.

[From the Baltimore Sun, Nov. 7, 1979]

IRAN'S REAL GOVERNMENT

The departure of the government of Prime Minister Mehdi Bazargan brings the Ayatollah Khomeini forward as the true authority in Iran. A facade is gone. The responsibility of the ayatollah for the safety of American hostages in Tehran, never in doubt, is certainly clearer now.

Mr. Bazargan rode the tiger for nine months as prime minister, always undercut by the man who appointed him, never certain that a decision could be carried out or an agreement kept. He was valiant and dedicated. He had done his share of maneuvering during the faltering rule of the Shah to bring the Khomeini revolution to power. When given an impossible assignment, to head its government while power resided elsewhere, he tried to make the thing work.

The outrage at the embassy—which violates the fundamentals of relations between states as handed down from history and observed even by Communist and Nazi regimes—claimed Mr. Bazargan's facade as its first and perhaps intended victim. Now the Islamic Revolutionary Council is the government.

That shadowy body, whose complete membership is not known, is close to the aged ayatollah and practically synonymous for

him. Whether it persuades members of Mr. Bazargan's cabinet to continue to serve does not matter much. The council must be considered a responsible body. In July, some of its members joined the Bazargan cabinet, so the change now is not all that abrupt. Presumably functionaries still function, and a message given an Iranian diplomat travels through the foreign ministry to the Revolutionary Council.

A couple of further assumptions must be made in Washington. One is that Iran will endure more turmoil rather than less. Mr. Bazargan was the regime's link to the educated classes, liberals, the Marxist left, and the large ethnic and regional minorities. Without him, greater disaffection with theocracy will come to the surface.

The other necessary assumption is that Iranian-American relations must worsen further. Ayatollah Khomeini has cast Uncle Sam as scapegoat for all Iran's problems. It is difficult to see how diplomatic or trade relations can be maintained. Planning must begin to swap oil sources pending a likely embargo. And the Iranian authorities had better be reconciled to doing without heating oil and guns. The Carter administration had resumed sales, supporting the Khomeini regime for fear its replacement would be pro-Soviet. If visitor populations are to be exchanged, the position of Iranian students in this country is in question.

Planning and clear thinking is what's needed in these areas, not precipitate action. The state of Iranian-American relations is for the ayatollah to dictate while he lasts. The first concern for Washington is to bring hostage Americans to safety. Afterwards will be time enough to adjust to the new state of affairs.

[From the New York Times, Nov. 9, 1979]

THE STAKES IN IRAN

There have been good reasons for responsible Americans to hold their tongues about the outrage in Iran this week. No one, plainly, has a really good plan to assure the rescue of the 60 hostages and other vulnerable Americans in that disintegrating society. John Connally was quick to cast blame; he seems to believe it is sinful only to appease a foreign crowd. But given the widespread frustration of Americans, the wonder is that so many political figures have understood the predicament of the President—and of the hostages—and taken care not to goad the nation into frenzied action.

The off-stage whispering, however, seems to dwell on two extreme responses: get rid of the Shah or call out the cavalry. They deserve some ventilation before glib conclusions gain public favor.

Whatever one's view of the Shah, he was admitted to the United States, rightly or wrongly, because he was sick and powerless. Iran's student warriors may not know that, but Ayatollah Khomeini does. He knows that Washington tried to appease him by discouraging the Shah from settling here in the first place. The Ayatollah also knows that the Carter Administration gave him military aid to crush various rebels and encouraged American business to help rebuild his economy. If all that was not enough to preserve an elementary diplomatic civility, it can only be because the Ayatollah needed this contest of will. The suspicion grows that to salvage his power in the streets of Teheran, he found it necessary to reopen a unifying battle against the Shah and America. No shameful ransom will dissolve such calculated hostility.

Some may think the Shah is not worth the risk to 60 American lives. But if they do not see dishonor in trading him, they need at least to recognize that paying blackmail to a government that kidnaps diplomats can only invite further humiliations, and not only by Iran. Above all they need to understand that bargaining away the rights of immunity and sanctuary that have been violated at the Teheran embassy would destroy the rules that even warring nations normally observe to protect human life and communication the world over. That cause far transcends the Shah.

So why not send the troops and get it over with? It may come to that if the hostages are harmed. But Teheran is not Entebbe airport; a huge force would be needed to seize the hostages and protect their evacuation. The casualties would be great, especially among those being saved. And hundreds of other Americans in Iran would suffer the vengeance of the mob.

Moreover, a temporary invasion could well rescue the Ayatollah from the collapse his policies have brought near. As Steven Erlanger wrote in The New Republic before the embassy was seized, the embattled priest has managed to excommunicate nearly all of the forces of the middle class, the left and the military that united to topple the Shah—leaving only the priests and the formidable but incoherent mass of the poor. "And they are hardly enough to preserve anything but a prolonged anarchy." That is why Khomeini has been inventing plots and American devils.

Delay, then, is a prudent course if it can be used to obtain the release of the captives without revivifying the Ayatollah's gasping regime. But that delay and those efforts should not be allowed to confuse the other interests that the United States is determined to protect. The Iranian authorities should have been on clearer notice all week that they will be deemed responsible for the fate of all Americans in their country. And the world needs to understand that American and other emissaries will discuss, but not bargain for, the release of the hostages.

If the Palestine Liberation Organization, for example, wants to improve its reputation among Americans by arranging an evacuation, that is one thing. But if the P.L.O. were to replace the Ayatollah as ransom collector by demanding official recognition in exchange for its help, that is quite another matter.

Even this much speculation can cause damage in such a volatile situation. But this episode promises to trigger a heated debate about America's standing in the world. The nation's purpose ought to be clear even before it knows whether its tactics were right.

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. DERWINSKI. Mr. Speaker, since July, a great deal of material has been furnished on the 1979 Observance of Captive Nations Week. Much of this has been selected and processed for economy reasons by the National Captive Nations Committee here in Washington, and in strict conformity with Public Law 86-90, the only law on our national book recognizing the concrete reality of all the captive nations under present Communist domination. Whether many recognize it or not, the unfolding events in Asia, Africa, Latin America, and elsewhere fit cohesively within the ultimate structure of thought founded on the broad captive nations idea. In short, transient events of Communist challenge and penetration are just an extension of the framework and basic concept. Many understand this; too many still do not.

The thrust of the recent observance is well depicted by the following selected examples: First, a proclamation by Gov. Edward J. King of Massachusetts; second, a report on the observance in Boston, by Orest Szcsudluk; third, a commentary by Philip C. Clarke over the Mutual Broadcasting System; fourth, a letter by former Speaker of the House, Hon. John W. McCormack, who was honored on the 20th anniversary of the week; and, fifth, a letter appearing in the Shreveport, La., Times.

The articles follow:

A PROCLAMATION BY HIS EXCELLENCY EDWARD J. KING, GOVERNOR

Whereas: The week of July 15-21, 1979, is observed nationally as "Captive Nations Week", in accordance with Public Law 86-90; and

Whereas: This year marks the 20th anniversary of the Captive Nations Week, which was enacted by U.S. Congress on July 17, 1959; and

Whereas: The captive nations of Central and Eastern Europe-Armenia, Byelrussia, Estonia, Latvia, Lithuania, Ukraine, Georgia, and others—have not accepted the status of Soviet Rusian enslavement and continue to struggle for their national and independent States; and

Whereas: The establishment of national and independent States by all captive nations and the decolonization of the Soviet Union Empire would contribute significantly to a just and lasting peace in the world and to the freedom of all nations; and

Whereas: The 1979 "Captive Nations Week" serves as an appropriate forum to manifest public support for all captive nations;

Now, therefore, I, Edward J. King, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of July 15-21, 1979, as Captive Nations Week and urge all citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

OBSERVANCE OF CAPTIVE NATIONS WEEK IN BOSTON

(By Orest Szcsudluk)

BOSTON, MASS.—The 20th anniversary of the Captive Nations Week was observed here on July 18, 1979, with a special ceremony at the Massachusetts State House. Over 300 people attended the ceremony, among them Governor Edward J. King and Honorable John W. McCormack, retired Congressman and Speaker of the U.S. House of Representatives.

In his remarks, Governor King said: "So our hearts, our sympathies and our prayers go out to those peoples who today still refuse to accept their enslavement by Soviet Russia or other foreign powers; who continue to struggle for their right to exist as free and independent states and independent peoples. The establishment of national and independent states by all captive nations and the decolonization of the Soviet Union would contribute significantly to a just and lasting peace in the world."

RETIRED U.S. SPEAKER M'CORMACK HONORED

During the program, a special plaque was presented to retired Congressman and U.S. House of Representatives Speaker John W. McCormack. The plaque read: "Ukrainian Congress Committee of America—Boston Chapter, Lithuanian American Council of Boston & American National Latvian League in Boston on the occasion of the 20th anniversary of the Captive Nations Week present certificate of appreciation to the Honorable John W. McCormack, Congressman and Speaker of the House of Representatives, for his leadership in the enactment of the Captive Nations Week Resolution by U.S. Congress in July 1959 and for his dedication to the cause of freedom and independence of

all captive nations under Russian communist domination. Signed: Konrad Husak, President and Orest Szcsudluk, Vice President, for Ukrainian Congress Committee of America—Boston Chapter; Alexander J. Chaplik, Chairman, for Lithuanian American Council of Boston; and Dr. Ilga K. Dinbergs, President, for American National Latvian League in Boston. Boston, Massachusetts, July 18, 1979." The presentation was made by Messrs. Husak, Szcsudluk, Chaplik and Dr. Dinbergs on behalf of their respective Organizations.

In accepting the plaque, Speaker McCormack said: "Your presence and the presence of other gatherings throughout the United States and elsewhere is a message of hope to the people of the captive nations who know what liberty was and they know what liberty is denied to them; but some day, with the help of God, liberty will be restored to them." He also urged the present to keep "alive the hope of the peoples of the captive nations for the restoration of their independence and their liberties."

Mykolas Drunga, a Lithuanian community leader, spoke briefly about our tasks in helping captive nations to achieve human and national rights.

Professor Lev E. Dobriansky, chairman of the National Captive Nations Committee in Washington, D. C., sent a congratulatory telegram which was read during the program and warmly welcomed.

The program was opened by A. J. Chaplik, chairman of the Lithuanian American Council of Boston; Rev. A. Baltrashunas, a Lithuanian Catholic priest, delivered the invocation; Rev. I. Kainins, a Latvian Lutheran minister, said the benediction. Present were also Rev. Peter Ohirko and Yuriy Spolitakevich, Ukrainian Catholic and Rev. Myron Pacholok, Ukrainian Orthodox priests.

Mrs. Maria Walzer, Ukrainian, read President Carter's proclamation, while Miss Kristine Kirah, Latvian, delivered Governor King's proclamation. Performances of Lithuanian and Latvian folk dances by Lithuanian and Latvian Folk Dance Groups concluded the program.

Orest Szcsudluk, vice president of the Ukrainian Congress Committee in Boston, was master of ceremonies.

PROCLAMATION

Governor Edward J. King designated the week of July 15-21, 1979, as "Captive Nations Week" in Massachusetts.

Introduced by Councilwoman Louise Day Hicks, the Boston City Council passed a resolution which stated: "The Boston City Council officially recognizes the third week of July as 'Captive Nations Week' through the re-affirmation of the policy of freedom, independence and national self-determination for all peoples."

NEWS MEDIA INFORMED

All news media in Boston received a special press release about CNW objectives, together with a pamphlet which was issued by the National Committee of the Ukrainian Congress Committee of America—"The Captive Nations—Continuing Exploitable Weakness of the Soviet Russian Empire." Many Boston newspapers carried information about the observance. Of special interest was the editorial in "The Pilot" of July 13, the official organ of the Boston Catholic Archdiocese, which stated clearly that captive nations "desire a restoration of their human rights, be they personal, civil or even national. It remains our duty to insist on their rights wherever and whenever they are denied."

Jamaica Plain Citizen, Hyde Park Tribune, Mattapan Tribune and Dorchester Argus of July 19, 1979, carried Orest Szcsudluk's letter, "'One Free' Nations call for U. S. Support."

PRAYERS IN CHURCHES

On Sunday, July 15, priests of the Catholic Archdiocese of Boston offered prayers for all captive nations and for those suffering persecution in Russian communist jails. Prayers were requested by Humberto Cardinal Medeiros, Archbishop of Boston.

CAPTIVE NATIONS WEEK COMMITTEE

This year's observance of the CNW in Boston was sponsored by the 1979 Captive Nations Week Committee, which consisted of representatives of the Ukrainian Congress Committee of America—Boston Chapter, Konrad Husak, president; Lithuanian American Council of Boston, Alexander J. Chaplik, chairman; and American National Latvian League in Boston, Dr. Ilga K. Dinberga, president. The CNWC's work was coordinated by Orest Szcsudluk, vice president of the Boston Ukrainian Congress Committee of America.

PUBLIC LAW 86-90

(By Philip C. Clarke)

An Act of Congress passed 20 years ago found expression again this July, much to the anger of the Kremlin, the annoyance of the White House, and the gratitude of the more than one billion people of the world's captive nations.

It's called Public Law 86-90 and it has required every President since Dwight Eisenhower to proclaim the third week of each July "Captive Nations Week" and to issue a resolution renewing America's support for the principle of universal human freedom.

The first Captive Nations Week proclamation, issued by President Eisenhower in 1959, forthrightly called for the freedom and independence of the 26 countries that had been taken over by the Communists since the beginning of the Soviet empire in 1920. But in subsequent years, as the illusions of East-West détente took hold, the annual Captive Nations resolutions have been watered down to brief, meaningless doubletalk. During the Kissinger years, only the insistence of ethnic leaders from Eastern Europe and other defenders of freedom kept the Administration from ignoring the Captive Nations altogether. And on more than one occasion, the annual Presidential proclamation was literally tossed over the White House transom at the last moment in hopes it would not "upset" the Kremlin.

Fortunately, there remain those Americans who are determined that the Captive Nations and their oppressed peoples will not be forgotten. Foremost among these stalwarts is Dr. Lev Dobriansky, a professor of international relations at Georgetown University and for years the Chairman of Captive Nations Week.

Dr. Dobriansky, who is of Ukrainian extraction, also is the chief keeper of the "Captive Nations List," which enumerates the ever-growing roster of countries that have disappeared behind the Iron Curtain of Communism. In an article in the *Ukrainian Quarterly*, which was entered in the Congressional Record by Representative Daniel Flood of Pennsylvania, Dr. Dobriansky updated the list of nations taken captive since 1959—Cuba, Cambodia, South Vietnam and Laos.

"Disturbing trends of events on most continents," he adds, justify the now perennial question, "Who's next? Angola? Ethiopia? Afghanistan? Iran? Mozambique? Nicaragua, Republic of China? South Korea? Rhodesia? South Yemen?"

The Captive Nations List is, as Dr. Dobriansky points out, "realistically open-ended . . . It shows in scoreboard fashion the incredible strides made by Moscow in the span of only three generations . . . Significantly, much of this was accomplished long before it became the center of a so-called super-power contesting that of the U.S."

The Captive Nations List is more than a mere scoreboard, however. "It serves," says Dr. Dobriansky, "as a constant reminder of the overall trends of Soviet Russian imperialism and Red totalitarianism since their inception in the 1918-20 period. Always banking on memory lapses—or no memory at all—Moscow and its offsprings find this utility most disconcerting. Also, one would have to be quite obtuse to miss the corollary message of the Captive Nations List, namely, the fundamental illegitimacy of all the Red regimes, conceived and built on conquest, Moscow-supported subversion, terrorism and a methodical exploitation of nations and peoples for what is spuriously called 'the final victory of communism.'"

In reality, says Dr. Dobriansky there is no such thing as "a communist nation," only the fruits of conquest by force of arms. At the 1980 Moscow Olympics, he sees a further attempt by Moscow to "legitimize" and enshrine what Brezhnev would call "Homo Sovietcus," the Soviet man, just as Hitler attempted at the Berlin Olympics in the 1930's to demonstrate the superiority of the Aryan race.

But also in 1980 in Madrid there will be another attempt to oblige Moscow to live up to terms of the Helsinki agreement on Human Rights. It should include, says Dr. Dobriansky, efforts by the West to force a full scale discussion of national rights and "decolonization within the USSR."

BOSTON, MASS., *July 19, 1979.*

Mr. ORREST SZCSUDLUK,
Ukrainian Congress Committee of America, Inc., Glen Road, Jamaica Plain, Mass.

DEAR MR. VICE PRESIDENT: I enjoyed meeting with you and the other members of the combative nations groups on the occasion of your annual meeting in Doric Hall State House, Boston, Mass., when you commemorated the enactment of Public-Law Legislation 86-90 on July 19th, 1959. I was privileged to present this legislation and I trust it will not be too long when Communist Russia will realize—and grant—full freedom to all combative nations.

It was an honor for me to be included as a special guest on this occasion and have the honor of addressing the very spirited group present. An extra special thanks to all for personal. Citation of this occasion now placed in my Boston office.

With my kindest personal regards to you and all your members.

Very sincerely,

JOHN W. MCCORMACK,
Former Speaker, U.S. Congress, House of Representatives.

[From the Shreveport, La., Times, July 19, 1979]

CAPTIVE NATIONS WEEK SHOULD NOT BE FORGOTTEN

EDITOR, The Times: For years I have been trying to win the sympathy of the free American press for the oppressed people of Eastern and Central Europe. For years I have pointed out that I am trying to speak for those enslaved people because they cannot speak for themselves.

In 1959, the Congress of the United States proclaimed the third week of July as "Captive Nations Week." A few years later, the Louisiana State Senate passed a similar resolution. By these acts, the free people of the United States gave oral support to the aspirations to independence of those unfortunate people who are suffering terribly under the Russian Communist regime.

At the present time, Communist rulers from the Kremlin are blackmailing us with the possibility of a nuclear holocaust. However, anyone who watched the recent visit of His Holiness, Pope John Paul II, must have seen millions and millions of Poles demonstrating their love for God and freedom and this is undoubtedly proof that the Red regime in Poland failed completely after four

decades of persecution. The same situation exists in other countries behind the "Iron Curtain," where the strong and consistent will is to live the life of freedom. I hope that this will of those people is more powerful than the most powerful hydrogen bomb.

I, one of the first dissidents from Eastern Europe, appeal to you compassionately to find the space in your paper to expose this deplorable situation existing behind the "Iron Curtain." I am taking this strong stand for their and our freedom.

ALEXANDER SASJAWORSKY,
Abbeville, La.●

WHEELING-PITTSBURGH STEEL CORPORATION PRESIDENT HONORED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. BAILEY. Mr. Speaker, on behalf of my distinguished colleague from the 20th District in Pennsylvania, Mr. GAYDOS, and myself, I wish to bring to the attention of our colleagues the outstanding achievements of a very influential and most admired man in the steel industry, Mr. Dennis J. Carney, chairman and president of the Wheeling-Pittsburgh Steel Corp.

As president of the Nation's eighth largest steel producer, he was the driving force in negotiations between the Economic Development Administration and the Farmers Home Administration for $150 million in loan guarantees to construct a rail mill in Monessen, Pa., and bring plants into compliance with air and water pollution standards.

Mr. Carney's remarkable leadership in securing this crucial agreement was lauded by many. Ground has been broken in Monessen for the rail mill, an establishment which holds great promise for an economic upswing for the city of Monessen and the Mon-Valley. The rail facility is expected to generate at least 300 new jobs with a spinoff of nearly 1,500.

Mr. Carney became president and chief operating officer of Wheeling-Pittsburgh Steel in 1976 and was elected by the board of directors in 1977 to assume the responsibilities of chief executive officer. He was elected chairman of the board on January 25, 1978.

His tenure at Wheeling-Pittsburgh is represented by a lengthy list of successful achievements. In addition to securing the complicated and tedious financial package for the new rail mill, under his leadership the company is enjoying other financial gains evidenced by recent profit figures. During the last few years, the company went from a $25.6 million loss in 1977 to a $19 million profit in 1978. For the first 6 months of this year, Wheeling-Pittsburgh earned $28.2 million, in contrast to a $9.6 million loss in the comparable period in 1978.

Mr. Carney's successful leadership in this industry is the product of a 37-year career in the steel-producing business. A metallurgist with a doctorate from the Massachusetts Institute of Technology, he experienced a 32-year career at the United States Steel Corp., where he rose from a metallurgical observer to vice president of research.

The 58-year-old steel executive is a native of the fine city of Charleroi, Pa., and has exceptional ability in visualizing long-range corporate planning. Wheeling-Pittsburgh Steel and the Mon Valley are extremely fortunate to be benefiting by this man and his wisdom.

To all of our colleagues in this body, Mr. GAYDOS and I commend the exceptional energy, integrity, and vision of this fine man.●

FIERY ADVOCATE FOR ELDERLY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. SOLARZ. Mr. Speaker, an article appeared today in the Washington Post bringing to light the efforts of the Honorary CLAUDE PEPPER, Representative of the 14th District in Florida. I would like to take this opportunity to share this article with my colleagues. As the Representative of the congressional district with more senior citizens than any other outside of Representative PEPPER's home State of Florida, I have been privileged to join in many of his battles for greater benefits for the elderly. I would like to strongly commend him for these efforts on behalf of the many older Americans whose lives he has helped to make a little more pleasant. The article follows.

A BUZZ SAW PLUGGED INTO THE HILL

(By Ward Sinclair)

If you persist in believing that Congress is a mix of blandly telegenic hotshots with natty suits and blow-dried hair, it is time to pause and pull up a chair next to Rep. Claude Pepper (D-Fla.).

To talk with Claude Pepper, at 79 the oldest member of the House of Representatives, is to have the stereotype knocked to flinders.

He's not all that telegenic, he's not the picture of three-piece nattiness and he wears a reddish toupee. But at an age when others might just pack it in—or ought to—Pepper is running hell-bent-for-leather to get the country straightened out.

His cause is the plight of the elderly in America and his forum is the chairmanship of the House Select Committee on Aging, a generally powerless tool that Pepper has converted into a buzz saw.

The picture painted of the elderly by Pepper, flecked with statistics of pain and loneliness, is not quite the image left by those warm television and magazine ads depicting the pleasure of the Golden Years.

Roughly 11 percent of the U.S. population is 65 years old or more, for example; and at least one-sixth of these people live below the offical poverty level.

And "it's very lonely for many of these people. There is so much we could do for them, but there still are a lot of people [in Congress] who are mixed up in their evaluation of what's important," Pepper said the other day.

He had another thought. "It's a strange thing," Pepper continued. "We are warm and humanitarian in so many respects. But in others, we don't get around to being humanitarian."

As chairman of a "Select" committee—an advisory, investigative body that cannot produce legislation—Pepper is somewhat limited in the ways he can force humanitarianism upon his legislative brethren.

One way, however, is by making himself a general nuisance, appealing to each of the 10 committees and 30 subcommittees of the House and staying after the administrators of 132 different federal programs that affect the elderly.

"Pepper and his committee have been able to draw a lot of attention to senior-citizen problems," said an official of the National Council of Senior Citizens, a lobbying outfit with 3.5 million members.

"We're all for Claude Pepper. He's very visible. A lot of his hearings tend to be flambouyant—tend to be publicity-oriented. We'd like to see more bills passed, however."

Pepper is not fazed by the indirect criticism, for he knows that understanding of a problem must occur before the Congress will come to grips with it legislatively.

So he and his committee have been hammering away with hearings and reports about the inadequacy of Medicare and Medicaid; about the mistreatment of elderly mental patients; about abuses in private medical insurance programs; about inadequate housing and boarding facilities for the aging.

Pepper's haranguing, for one thing, led to abolition last year of mandatory retirement rules before age 70 in private business. For another, he got a 30 million program approved to combat crime in public housing projects dominated by the elderly. This year, he and Rep. Thomas A. Luken (D-Ohio) were behind an amendment that cut Amtrak fares for the elderly.

If there is a rhythm and cadence to public lives, this period has become a musical interlude in the career of a man who is, unlike most of his younger colleagues in the House, a certified historical figure.

Pepper was elected to an unexpired Senate term in 1936, then was reelected in 1938 as a solid Roosevelt New Dealer. He was a strong critic of Hitler's growing power and, for his support of military conscription in 1940, was hanged in effigy on the Capitol lawn.

By 1943 he was badgering Congress to adopt a program of "universal health insurance"—an idea he still is pushing—and speaking in favor of civil rights. Just after World War II, he was roundly denouncing the House Unamerican Activities Committee investigations for "undermining" Americanism.

That all caught up with him in 1950 when he was defeated in the Florida Democratic primary by George Smathers Sr., in one of the bitterest, nastiest campaigns of modern times.

Suffice to say that he was referred to as "Red" pepper. "You can see why I lost. I was for civil rights and national health insurance. They had $2 million and I had $200,000. But 'communism and nigger' that's all there was. It was the smear-red tactic" he said.

So Pepper went back to practicing law in Miami, then won election to the House in 1962 when a new district was created in Dade County. The district is heavily Cuban and heavily black with more elderly voters than average and Pepper has had no trouble retaining the seat.

There is a tinge of regret in Pepper's reminiscences about no longer being in the Senate. Had he stayed, he now would be president pro-tem and very likely chairman of the Foreign Relations Committee, which appealed to him greatly.

But it's another career now, and Pepper, stunned by the death of his wife from cancer last March, says he intends to spend the rest of his time here—at least until the year 2000—working on health problems and being an advocate for the elderly.

"I think we've given the elderly a little more hope, a little more motivation through the work on our committee," he said "But we still have so far to go."

Next week, he'll be treating Congress to another angle on the story of aging—flavored with Pepper. He has scheduled a hearing at which none of the main witnesses will be younger than 100, because, he thinks they have wisdom to offer.●

HOME HEATING FUEL CRISIS PART VIII*

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 9, 1979

● Mr. GILMAN. Mr. Speaker, I rise to continue drawing to the attention of my colleagues the developments of the home heating fuel crisis.

At the moment, the whole world is watching while a group of radical Iranian students, with the endorsement by their religious leader, Ayatollah Khomeini, are holding 60 Americans hostage inside the former American Embassy. Although all journalists and newsmen are turned away when trying to enter the country in order to follow what is happening, sufficient pictures and stories are coming out to describe the situation and plight of the hostages as deplorable and inexcusable. It has been established that the American hostages are being subjected to physical and psychological abuse on a regular basis. All this, of course, with the approval, encouragement and religious blessings of the ayatollah himself. Attempts to negotiate with the Iranians has so far proven unfruitful as the behavior of the Iranians violates every diplomatic code of conduct and moral behavior. Yet, at the same time, we have Iranian citizens on American soil who feel compelled to take to the streets and add further fuel to the fire by demonstrating against our country's humane decision to treat the seriously ailing Shah. It has become apparent to me that the Iranians are not only making a complete mockery of our human rights policies, they are also challenging our patience with their hostile political, religious, and economic activities both here and abroad. I am distressed and angered by such arrogant and thought-provoking behavior. I am also concerned with some of our own self-defeating and short-sighted policies toward Iran. In particular, I am still angered by this past summer's sale of oil to the Iranians by the Commerce Department, under the auspices of the White House. With virtually every American citizen frustrated and burdened by the shortage of home heating fuel and skyrocketing prices, compounded by the Iranian's past and present behavior, it was obviously an act of blind faith and irresponsibility to have sold this oil. At this point in the RECORD I am inserting, in full, a copy of my letter to the Commerce Department condemning the sale and the response by the Commerce Department:

WASHINGTON, D.C., *August 30, 1979.*

Secretary of Commerce JUANITA KREPS,
Department of Commerce,
Washington, D.C.

DEAR MADAME SECRETARY: I urge you to stop the shipment of middle distillate heating oil by Amerada Hess to Iran, as approved by the Commerce Department on August 3, 1979.

In view of the serious home heating fuel crisis looming on the horizon for the entire eastern seaboard this winter. I find it an absolute travesty that the Department of Commerce has disregarded the basic needs of our citizens and opted instead to support the shipping of fuel to a country that has gouged us at every turn in the road.

Furthermore, I understand that the head of the National Iranian Oil Company, Hazan Nazih, stated during a radio interview that "we will not need the oil that we get, and there is a possibility that we will save it and sell it at a higher price", with further suggestions coming later that they would resume their exports to the Soviet Union.

Therefore, I urge that you take the necessary steps to insure that the remaining 50 percent of the oil sold, will not be shipped, and that the two licenses issued to Amerada Hess for the purpose of exporting the oil, will be summarily revoked. I am hopeful that a prompt answer to this letter will be forthcoming.

With best wishes,

Sincerely,

BENJAMIN A. GILMAN,
Member of Congress.

THE SECRETARY OF COMMERCE,
Washington, D.C., November 5, 1979.

Hon. BENJAMIN A. GILMAN,
House of Representatives,
Washington, D.C.

DEAR MR. GILMAN: Thank you for your letter of August 30 concerning the recent issuance of two licenses for the export of No. 2 fuel oil and kerosene to Iran. I apologize for the delay in responding to you.

The United States now imports about three-quarters of a million barrels of Iranian crude oil every day. Our severe energy problems earlier this year were due in part to the interruption in our crude oil supply from Iran. While Iranian production and export of crude oil has resumed in recent months, Iran's refinery capacity has not yet returned to the level needed to produce an adequate supply of home heating oil for that country's use.

Because of our clear interest in continuing the flow of Iranian crude oil into this country and because of our humanitarian concern for the people of Iran, the decision was made to grant conditional and limited export licenses to Amerada Hess. The licenses were conditioned on Amerada Hess' commitment to replace in the U.S. market, as needed, every barrel of heating oil exported. With regard to the statements reported to have been made by the Director of the National Iran Oil Company, the U.S. Department of State has asked for and received assurances that the petroleum products exported to Iran will be consumed in that country.

Enclosed is a copy of a briefing memorandum that sets forth in detail the circumstances that led to the approval of this transaction. I hope this information will be helpful in understanding the basis for this difficult decision.

Sincerely,

——— ———,
Acting Secretary of Commerce.

It is obvious that the rationale behind this sale, namely, a simple act of humanitarian gesture, with the polite assumption that it would be reciprocated, has backfired. The Iranians admitted that they did not need the oil, and were considering selling it to someone else at a higher price—and are now topping that atrocity by holding American citizens hostage and actively moving toward a complete shutdown of all oil exports to our country.

I urge my colleagues to put this matter in its proper perspective and act accordingly. We import 30 percent of our oil needs from countries that are openly hostile to us. Our acts of goodwill and cooperation have been repeatedly interpreted as signs of political weakness and moral stupidity. Besides trying to heat our homes this winter, we should consider amending some of our policies toward these hostile countries—beginning perhaps with the refusal to sell them the resources that they so badly need from our Nation.

BACKGROUND INFORMATION: THE RECENT ISSUANCE OF TWO LICENSES FOR THE EXPORT OF NO. 2 FUEL OIL AND KEROSENE TO IRAN

Petroleum export controls were imposed by the Department of Commerce in December 1973 in the midst of the Arab oil embargo. These controls, which have remained essentially unchanged since early 1974, cover crude oil, petroleum energy products (essentially the fuels), and a few other petroleum products closely allied to the fuels. Their statutory basis is the Export Administration Act of 1969, as amended; the Trans-Alaskan Pipeline Authorization Act of 1973; the Energy Policy and Conservation Act; and the Naval Petroleum Reserves Production Act of 1976. Since early 1974 domestically produced crude petroleum has been licensed for export only under three circumstances:

(1) When exchanged with Canada in equal quantity for convenience or increased efficiency of transportation;

(2) When exported temporarily, with the entire quantity returned to this country; and

(3) In very small quantities (1–6 barrels) for laboratory and analytical testing purposes abroad.

Petroleum energy products (which include motor and aviation gasoline, kerosene, jet fuel, residual and distillate fuel oils, butane, propane, LPG and general purpose naphthas) are subject to strict export quotas. These quotas are based on the historical trading patterns prevailing during the two-and-one-half-year base period prior to the imposition of controls. For most products that period is January 1, 1971 through June 30, 1973. Quotas are allocated quarterly by exporter, product, and country of destination.

No attempt is made to limit exports of petrochemicals, plastics, or most petrochemical feedstocks. However, certain other petroleum products are subject to validated licensing for export but not quantitative restrictions in order to permit a prior review of each shipment to assure that energy commodities are not being improperly exported, inadvertently or otherwise, under some other commodity description.

With respect to petroleum products which are subject to quantitative restriction, the regulations contain an exception under which exports may be authorized for overriding foreign policy or national security reasons. The Iranian licenses were approved under this exception.

The reasons why limited exports of petroleum products are permitted are the following:

(1) They maintain our historical trading relationships with other countries, including those on which we rely heavily for imports of crude oil or other basic materials essential to our economy.

(2) They avoid creating hardships in border areas of Canada and Mexico and in certain Caribbean and Pacific Islands which have traditionally relied upon the United States for their fuel supplies.

(3) They avoid putting out of business those firms which have invested heavily in

*Part VIII is a part of a series of reports on the home heating fuel crisis with No.'s 1, 2, 3, 4, 5, 6, 7, appearing in the Congressional Record on 9/17, 9/22, 9/29, 10/11, 10/19, 10/26, and 11/2, respectively.

plant and equipment geared to the export market or in developing an export business.

(4) They help us earn the foreign exchange we need to finance purchases of foreign crude oil needed to produce fuels for domestic consumption and to keep American refineries in operation. It is clearly preferable to export products containing the value added component of domestic refining rather than to reduce imports of the foreign crude oil from which the exported products are refined.

(5) They encourage close energy interrelationships with Canada and Mexico the countries which receive the bulk of our exports of petroleum products and from both of which we import substantially greater quantities of hydrocarbon fuels than we export to them.

The licenses authorizing shipment of one million barrels of No. 2 fuel oil and one million barrels of kerosene to Iran were issued under the previously described section of the Export Administration regulations providing for the licensing of exports of petroleum products outside the quota system for overriding foreign policy and/or national security reasons. The requisite determination that there were overriding foreign policy reasons for approving the licenses was made by the Secretary of State in consultation with the Secretary of Defense, and the Secretary of Commerce was apprised thereof by letter. State's recommendation was based in part on the very substantial imports of Iranian crude oil by the refiner and the United States as a whole. The Department of Defense urged prompt approval of the request because the vessels carrying the products to Iran were scheduled to return loaded with naphtha which the exporter would use to make jet fuel for DOD use. The Secretary of Energy also recommended approval of the licenses and, in addition, confirmed to Commerce that the President had approved the proposed transaction.

Under the regulations, an applicant for a license to export petroleum products is required to file a formal application showing the identity of the exporter, the identity of the consignee, the country of ultimate destination, the quantity to be shipped, a description of the commodity, the unit price, the total price, and the end use of the commodity covered by the application. Additionally, the applicant is required to furnish:

(1) A copy of the contract of sale to a foreign buyer or an affidavit explaining the lack of such written contract and the circumstances of the sale;

(2) an affidavit as to the amount, if any, previously exported against the contract;

(3) an affidavit assuring that the products to be exported were not derived from a Naval Petroleum Reserve resource; and

(4) an affidavit stating either that the exporter is the refiner of the petroleum products, or that the export will be reported to the refiner—who must be identified—for purposes of adjustment of the refiner's volume of crude oil runs to stills as reported to the Department of Energy. (The purpose of this last affidavit is to assure that the cost of producing the exported products will not be reduced through the receipt of entitlements benefits on the crude oil from which they are refined.)

All these documentary requirements were met by the applicant who, additionally, was required to and did provide written assurances:

(1) that the company's supply of middle distillates to its domestic customers will not be adversely affected by the export, and

(2) that if a shortage develops, the exporter will purchase on the international spot market and import an equivalent quantity of No. 2 fuel oil and/or kerosene without claiming the $5 per barrel distillate entitlement.

These assurances, together with the applicant's agreement to accept an entitlements penalty on the exported products, were made specific conditions to the issuance of the license.

Normally, the identity of the exporter, the identity of the consignee, and various other details of the transaction would be subject to the confidentiality provisions of Section 7(c) of the Export Administration Act, as amended. In this instance, however, the exporter, Amerada Hess Corporation, has authorized us to release the details of the transaction.

The price at which the products were sold was not a criterion in the licensing decision. That price was a commercial decision arrived at by the exporter in negotiation with the purchaser without any participation by the U.S. Government. Mr. Leon Hess, Chairman, Amerada Hess Corporation, has informed us since issuance of the licenses that the price charged the National Iranian Oil Company for the No. 2 fuel oil was the identical f.o.b. Virgin Islands price charged his domestic customers for the same product plus marine transportation. Mr. Hess has further explained that Amerada Hess does not normally sell kerosene to any customers. The question of price arose because a Commerce staff member noted a difference between the f.o.b. Virgin Islands price charged by Amerada Hess in this transaction and the recent Rotterdam and New York spot prices for No. 2 fuel oil. Because of the existence of Department of Energy price regulations applicable to these products, and without attempting to calculate marine transport costs between these various ports, Commerce raised the issue during consideration of the applications to assist the Department of Energy in determining whether the transaction was in accord with that Department's price regulations.

The question of availability abroad was also not a criterion in the licensing decision under the applicable regulations. It was raised by Commerce in order to enable the concerned departments to take all possible relevant factors into account in formulating their recommendations.

The possibility of military use of the products was also raised by Commerce and was dealt with in the Under Secretary of State's letter recommending approval of the license. The Department of State advised Commerce that military use was unlikely based on the finding that adequate supplies of jet fuel and diesel oil for military transportation were already available in Iran.

In order to avoid any impact of the export on domestic supplies, before issuance of the license the applicant's assurance was obtained in writing that its supply of the products involved to its domestic customers would not be adversely affected by the export. As previously noted, this assurance was made a specific condition to issuance of the licenses.

As required by Commerce regulations, the applicant also certified that the export would be reported to the Department of Energy for adjustment of the applicant's crude oil runs to stills. This procedure assured that the cost of producing the exported products would not be reduced through the receipt of entitlement benefits on the crude oil from which they were refined. This undertaking was also made a specific condition to issuance of the licenses.

The issuance of the licenses on August 3 was reported in the Commerce Department's daily licensing list published for that date.●

SENATE—*Tuesday, November 13, 1979*

(Legislative day of Monday, November 5, 1979)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by Hon. DAVID PRYOR, a Senator from the State of Arkansas.

PRAYER

Rabbi Max A. Shapiro, Temple Israel, Minneapolis, Minn., offered the following prayer:

Let us pray.

It is written—

And the Lord said, I will bless thee and make thy name great and be thou a blessing.—Genesis 12: 2.

Heavenly Father, though often we do not express it, we thank You that we have been so richly blessed—

Blessed with a land of plenty;

Blessed with a heritage of freedom and justice;

Blessed with a people creative and purposeful.

We thank You that our name has been made great;

That ours is a haven that many seek;

That ours is a hope to which many aspire;

That ours is a strength for which others wish.

And we pray that this land of ours may ever prosper, and that it will always be a blessing—

A home for the homeless;

A champion for righteousness;

A defender of humaneness and liberty;

And that somehow through us there will emerge a world—

Untroubled by war;

Unvexed by fear;

Untrammeled by hunger;

Unfettered by cruelty;

A world where justice and freedom, compassion and opportunity will always prevail.

May it be so, O Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 13, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is now recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

IRAN

Mr. ROBERT C. BYRD. Mr. President, I strongly support the action taken by President Carter to cut off the purchase of any oil from Iran for delivery to this country.

This policy deserves the support of all Americans, and I am confident that the American people will be united in their support for the President's decision and will be willing to make the necessary sacrifices to uphold this action.

For the moment our primary concern continues to be the safety and well-being of our countrymen who are being held hostage in Tehran.

But in taking this action, we are making clear that this country will not submit to international blackmail, that we will not allow the oil weapon to be used against us.

Those who are supposed to be providing leadership in Iran have abdicated their responsibilities under international law. The United States must in no way be dependent upon a nation which condones the use of terrorism and extortion.

The loss of the oil from Iran will undoubtedly have some impact on the supplies in this country, but I am certain that we have the resolve to overcome whatever difficulties may result.

The administration also acted correctly in ordering immigration authorities to locate and institute deportation proceedings against Iranian students who are in this country illegally. There is strong evidence that many of those who have been active in agitation and demonstrations in this country have no legal status here.

These actions taken by the President are appropriate. They are firm but restrained measures. The administration is trying every feasible means of obtaining the release of the hostages in the U.S. Embassy in Tehran. The American people should stand behind our Government as it continues its efforts to obtain freedom for those being held hostage.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair. I am going to take just about 2 minutes, and then I am going to yield the remainder of my time under the standing order to the distinguished junior Senator from Connecticut. But before I do that I wish to make a brief statement.

THE IRANIAN SITUATION

Mr. BAKER. Mr. President, I join with the majority leader in expressing my congratulations to the President and to his administration for the action they took this past weekend in respect to Iran.

I have traveled extensively in this country in the last few days, and I can report that I have seldom found as much anguish, anxiety, and anger among American citizens as I find over the situation in Iran.

I have steadfastly taken the position that I will not try to second-guess the President, and indeed I will support the President in his efforts to negotiate the safe recovery of the American hostages in the Embassy compound in Tehran.

I believe the President's action on yesterday will be widely supported by the people of the United States. I believe that any reasonable action he chooses to take in the future to gain the release of these hostages and to assert the vital interests of the United States will be strongly supported by the American people. In the present crisis, the President has a rare opportunity to exercise the leadership of which the country believes him capable.

So, Mr. President, I wish him well. I support him unreservedly in what he has done, and will support in advance all such reasonable steps to try to gain the release of these Americans and further our Nation's security interests.

(The following proceedings occurred later and are printed at this point by unanimous consent:)

PRESIDENT'S ACTIONS ON IRAN

Mr. STEVENS. Mr. President, the President has announced that he is taking two actions relating to the crisis in Iran. First, he has ordered the Department of Justice to deport any Iranians found to be in violation of our immigration laws. Second, and most important, is his action halting the importation of Iranian oil.

The crisis in Iran has enlightened us in many ways. Editorialists around the country have commented on the significance of the recent events. As I have stated in previous remarks, our utmost concern is for the Americans who are currently being held hostage. Yet there is one obvious lesson to be learned from this unfortunate crisis and that is how important it must be for us to become energy self-sufficient.

We cannot continue to suffer at the hands of countries who attempt to influence our foreign policy by holding a barrel of oil under our noses. I have said this countless times—we must break from this stranglehold once and for all by investing the time and money needed to step-up the domestic production of oil and gas.

To me, the key lies within my State of Alaska. There, if developed in a manner which might satisfy environmental concerns, we could produce the energy this country so desperately requires. It can be done. It is within the power of the administration to do it. The administration only need say the word to lease Alaska lands for oil and gas production.

No new Federal oil and gas lease has been issued in Alaska since 1965, despite the fact that of all the lands owned by the United States one-half of the U.S. public domain is in my State of Alaska.

So I say it should be given serious thought. Recent legislation will set us in the right direction, but we still have a long, long way to go to achieve energy independence, and the key to the independence is the State of Alaska.

Mr. HUDDLESTON. Mr. President, I commend the statement and wish to be associated with the remarks made by the distinguished Senator from Alaska.

I do not dispute his assertion that Alaska is a key to correcting our energy shortfall at the present time, but I wish to assert also that my State of Kentucky and other States that have large deposits of coal have a very crucial role to play in solving our energy problem.

We are moving forward in this Congress to bring about a greater utilization of coal which is probably the best way in the short term to compensate for the reduction in our supply of oil.

We have developed a synthetics fuel approach, in the Senate at least, and hopefully that will continue through Congress and will become part of a national policy.

But more important for the short term is the question of converting to coal facilities that are now using oil and natural gas. There is a significant effort going on.

I see, I believe, signs that the administration and the Department of Energy are now more concerned about this and more interested in bringing about actual conversions. We have provided incentives in legislation that was finally acted upon here in the Chamber last Friday, the Interior and related agencies appropriation bill, to encourage the conversion processes.

This military construction appropriations bill which is on the floor today calls upon the Department of Defense, the one agency that has the security of this country as its major mission, to analyze its facilities and determine where coal might be substituted for the oil and gas they are using.

We expect them to do that and come back next year with a more comprehensive plan to bring about these conversions and help reduce our dependence on oil.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. HUDDLESTON. Yes.

Mr. STEVENS. I might say I am delighted to hear the Senator point out the provisions of the bill concerning coal conversion on our military installations.

When I first went to Alaska the five major bases in Alaska all used coal. They were converted to gas and to oil over the last few years, and I think that was unfortunate because we have, whether the Senator realizes it or not, enough coal in Alaska to sustain the United States if we used only coal pro-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

duced in Alaska alone to meet projected needs for 100 years.

We are also a coal State and will some day, I hope, restore the coal production in my State.

But when I was a young attorney in Alaska, I represented a portion of the coal industry there. Today, there is only one major operating coal mine. In those days there were literally dozens. But the rush to convert to gas and to oil was such that we have lost our productive capacity for coal, and I hope that the Department of Defense will move rapidly to convert to coal not only in Alaska but throughout the United States as well. They could set the pace and as the demand picks up from the military installations I am certain that that will assist in reducing the price, as a matter of fact, or at least stabilizing the price for coal produced domestically, particularly in the area of the military installation.

Mr. HUDDLESTON. I think that is entirely likely.

I should point out that these conversions not only cut down on our need for oil but they also effect a substantial savings in energy cost to the military installation so that the cost of converting is recouped in a relatively short period of time.

I think it is important that we encourage not only all Government installations, but also the private sector to reduce the amount of oil that is burned in major utilities and in major industrial boilers around the country.

I join with the Senator from Alaska in commending the President on the decision that he has made regarding our importation of oil from Iran.

I think it is important to remove this one item from the bargaining table to demonstrate very conclusively that we will not be blackmailed either politically or economically in our efforts to uphold international principles and to secure the release of the hostages in the American Embassy in Iran.

(Conclusion of proceedings which occurred later.)

Mr. BAKER. Mr. President, I yield the remainder of my time to the Senator from Connecticut.

Mr. WEICKER. I thank the distinguished minority leader and I join with him in the remarks that he made.

Mr. President, I commend the President for the action that he took yesterday. It is the first time that any leader of any branch of Government in these United States has said no during the course of this continuing energy crisis, which has now developed into the crisis which envelops the American Embassy personnel in Tehran.

The point I wish to make here this morning is that the steps called for by the President, followed to their logical conclusion, will require real sacrifice by every American, a sacrifice that heretofore the leadership of this country in the House of Representatives, the Senate, the executive branch of Government, and the Republican and Democratic parties have been unwilling to ask of the American people.

The sacrifice is obviously going to take place in the amount of gasoline available to the American public for its pleasure driving. It inevitably is going to have to lead to some form of rationing, and not one person that I have talked to has been unwilling to engage in that kind of mandatory conservation if indeed it means the safety of those Americans in Tehran and if indeed it means that the United States once and for all will unhook itself from this addiction to Mideastern oil which has led us to the present impasse.

I have heard all sorts of speculations in the media and by persons around this country that we can make up the shortfall in oil on the spot market; that we can get extra production from Saudi Arabia; that we can actually get Iranian oil, but it would come through our friends in Western Europe.

I want to make it clear here on the floor that I hope we make up this shortfall in no other way except conservation, rationing, mandatory rationing of pleasure driving in this country.

Nobody on the streets is complaining, but there is and long has been a political sensitivity and willingness to take the hard but necessary steps to get us out of these problems.

We, both those in the U.S. Senate and Americans on the streets of this Nation, are every bit as much hostage to Iran, to the ayatollah, as those in the compound. Those who said, in commenting on the President's action, that really it does not amount to anything, do not know what they are talking about. It amounts to everything. It will prove to the world that we have a resolve.

For 6 years now we have thrown out our chests and said that we are the greatest Nation in the world, making macho comments one after another about the power of the United States and not taking one single action to back up those words until yesterday afternoon when the President spoke.

I have had my disagreements with the administration; I still have my disagreements with the administration. But now is the time for the U.S. Senate to take the lead, along with the President, in asking for the politically unpopular.

An article appeared in the Washington Post last week describing the popgun response of Congress toward our energy difficulties. Everything in the world had been done and asked for except that which touches upon the American people. Now the problem comes home to roost finally, and it is with us, and it is with the American people.

I hope, Mr. President, that we will not leave it to the man in the White House to draw the political flak so far as the conservation program and mandatory rationing scheme are concerned, but that we take that on our shoulders and we put it into place so that when the difficulties manifest themselves—and they will, with the shortfall that is going to be created here—the Nation will be prepared and the sacrifice will be borne not by the poor, not by the elderly, not by those on fixed incomes, but placed fairly on the shoulders of all Americans. In that way we end our captivity both to Iran and to the nations that comprise the OPEC cartel.

In no other way, not by rhetoric, not by energy mobilization boards, not by synfuels corporations, but by each American participating through his lifestyle in the words that went forth yesterday, "No, no." That is what is required of each one of us; that is what will free a nation and, more particularly, its representatives in Tehran.

I yield the floor.

RECOGNITION OF SENATOR SCHMITT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico (Mr. SCHMITT) is recognized for not to exceed 15 minutes.

ENERGY INDEPENDENCE

Mr. SCHMITT. Mr. President, on this question of energy independence, it is to be hoped that the President's decision to stop importing Iranian oil will be the catalyst for a return to true independence in energy supply by this country. We, in the Senate and in the other body, can do our part now by setting aside those legislative proposals whose net effect will be to further discourage domestic oil and gas exploration and production.

We can also go to work to provide the incentives for conservation, the leadership for conservation, which must go hand in hand with increased domestic production.

In addition, we can go to work to repeal a stream of laws and regulations, laws and regulations that are not only unnecessary in this crisis but which have gotten us into this mess to begin with.

The most significant inhibitor to new domestic oil production will be the tax on production that now masquerades under the name of a "windfall profits tax."

This tax will not only take away needed domestic exploration and production capital and add greatly to the cost of energy to the consumer but it stands a good chance of decimating this country's independent oil and gas finders and producers. These independents find 80 percent of our domestic crude oil and can find much, much more if they are not taxed out of business.

I urge my colleagues, I urge the Congress, to take a second look at this massive new tax on the American consumer. Remember the big oil companies do not pay taxes; they only collect taxes on production through higher prices at the pumps. The independents must take this new tax out of revenues at the wellhead, and thus lose both capital and investors.

(The following proceedings occurred during Mr. SCHMITT's remarks:)

Mr. SCHMITT. Mr. President, I yield to the distinguished leadership for a unanimous-consent request and ask that it not interrupt the sequence of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from New Mexico for his courtesy and kindness on yielding. I ask unanimous consent that his statement not show an interruption in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF S. 1724 AND H.R. 3919

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the military construction appropriations bill the Senate proceed to the consideration of Calendar Order No. 396, S. 1724, and proceed to third reading with that bill, set it aside, and then proceed to the consideration of Calendar Order No. 421, H.R. 3919.

Mr. BAKER. Mr. President, reserving the right to object—and I will not—the purpose of the reservation is to announce that the majority leader and I have conferred at some length on a procedure to address this problem. This appears to be a satisfactory way to handle the matter since there are two bills dealing with the same subject. It has been cleared on our side, and we have no objection to that procedure.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, if the Senator will yield, it is sometimes better not only to have the numbers read but the subjects read, since many Senators and staffs are listening through squawk boxes and are not familiar with the numbers.

Mr. BAKER. Mr. President, the matter we are dealing with here is the two bills on windfall profits. One bill was reported from the Labor and Human Resources Committee and one from the Finance Committee, and there has been a failure of understanding for some time on which one of those bills would come up first.

The procedure that we have just arranged provides for the Labor and Human Resources bill to be considered first and taken to third reading, then set aside while we procced to the consideration of Calendar Order No. 421, which is the Finance Committee bill. I expect that some of the provisions of S. 1724, the Labor and Human Resources bill, will probably be offered as amendments to the Finance Committee bill, and thus present to the Senate one opportunity to deal with both measures.

I agree with the Senator from New Mexico it is better to explain that in some detail it is to deal just with the numbers as they appear on the Calendar. It is a good suggestion, and one I will follow in the future.

Mr. SCHMITT. I do thank the distinguished Senator from Tennessee for that explanation. I wish they would just set aside all of these tax bills, particularly in the light of what has been occurring in Iran. But, apparently, that is not the sentiment nor the will of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I again thank the distinguished Senator for his courtesy in yielding.

Will the Senator allow us just to proceed 1 minute longer?

Mr. SCHMITT. I will be happy to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. I appreciate The Senator's thoughtfulness and consideration.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 436, Senate Resolution 265, the resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to S. 1724.

Mr. BAKER. Mr. President, reserving the right to object, this budget waiver was accompanied by a report which requires the action now being sought by the majority leader, that is, a waiver of the 3-day rule. Ordinarily a budget waiver, under these circumstances, is not accompanied by a report and would not require this action. With that in view, I consulted with the representatives of the Budget Committee to determine whether or not they wish to avail themselves of the opportunities afforded by the 3-day rule. They do not. We have no other objections noted. It is on that basis, then, and to provide for the consideration of this measure with the budget waiver disposed of, that I will agree to this request.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration. The resolution will be stated.

The second assistant legislative clerk read as follows:

Calendar No. 436. Senate Resolution 265 waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1724.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 265) was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1724. Such waiver is necessary because the reported bill authorizes $1,600,000,000 for the fiscal year 1980 for home energy assistance to or on behalf of eligible households to meet the rising costs of home energy.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1979, because the severity in the rise of costs of home energy was not known at that time.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that has been consumed by the distinguished minority leader and myself with respect to these requests, and by the Senate in action on these measures, not be charged against the time of the distinguished Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I thank the distinguished Senator from New Mexico for permitting us to take care of these housekeeping details at this time.

ENERGY INDEPENDENCE

Mr. SCHMITT. Mr. President, the Energy Mobilization Board, Energy Security Corporations, and the so-called windfall profits tax will not give us the short-term independence we need from foreign supplies. Whatever they may do in theory to solve the long-term problems, they will not prevent near-term crises such as we now face with respect to the Iranian situation. In fact, they will, in my opinion, make such crisis more likely and more difficult.

Once again, I do wish that our colleagues would reconsider the actions that they are taking, which in so many ways will go counter to the achievement of short-term energy independence. I find it somewhat disheartening and discouraging to see us make the kind of statements that have been made here this morning with respect to the Iranian situation, and still proceed to disregard those aspects of our energy economy which could produce us and conserve us out of these particular problems.

THE LABORATORY OF EXPERIENCE—LEGISLATIVE VETO IN STATE LEGISLATURES

Mr. SCHMITT. Mr. President, the Senate will soon be considering the Federal Trade Commission authorization bill. At that time I intend to offer, along with 34 cosponsors, an amendment to allow for legislative review and possible veto of proposed FTC rules if such a veto is warranted. This amendment will restore to the Congress its constitutional responsibility to pass judgment on the law of the land.

The Senate has been slow to recognize the need for a legislative review procedure for proposed FTC rules, but the recent hearings before the Senate Commerce Committee have further indicated to many that this approach is indeed appropriate. There appears to be no other reasonable way to continue the extensive delegation of legislative authority to the FTC under the Magnuson-Moss Act unless the people, through the Congress, are given an opportunity to review the final rulemaking product of the Commission. The alternative is to allow without significant checks and balances a five person nonelected Commission to oversee a rulemaking process which in many respects is equal to the law-making authority to the Congress. Inevitably the Commission has strayed from the path of consensus and begun to dictate to the public the Commission's vision of the public interest. Only the Congress should have the final authority to determine that vision.

This is just what we have witnessed with the FTC, and it is what we might have anticipated from the law-making structure we have created. The problems associated with the Federal Trade Commission in recent months are a direct result of the extension of too much authority into the hands of too few people with no need to answer to the electorate. A structural problem such as this needs a structural solution; short term, "quick-fix", restrictions on specific rule-making, however desirable, will only insure that the Congress will face the same problems again at a later date.

Many of our State legislatures have confronted similar difficulties. Bureaucratic excess is certainly not confined to Washington, and State legislators often face regulations promulgated by well-intentioned public servants which are

entirely inconsistent with legislative intent, constitutional considerations or reasonable policy initiatives. The remedy to this phenomenon on the State level has been the application of legislative review procedures which permit members to examine proposed regulations before they go into effect. In many cases the State review procedures permit corrective action through a legislative veto.

Thirty-five States have evolved a variety of procedures for reviewing proposed rules. The diversity of approaches is impressive, but they all have one thing in common—each of these 35 States has a stronger, more systematic procedure for exercising responsibility over rulemaking than does the U.S. Congress. The nonpartisan National Conference of State Legislatures has documented the experience of the States with legislative review and veto procedures in a booklet entitled "Restoring the Balance." I ask unanimous consent that this booklet be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. SCHMITT. Mr. President, hearings before the Administrative Practices and Procedures Subcommittee of the Committee on the Judiciary last year examined in great detail the experience of the States with the review and veto of regulations. The testimony of these hearings was overwhelmingly favorable as to the effectiveness of these oversight procedures. The charge that the existence of a legislative veto will overburden the Congress with the review of rules was shown to be an imaginary fear, if the experience of the States is any guide. For example, in the 1977 session of the Montana Legislature, approximately 600 administrative rules and regulations were promulgated and reviewed. Only five veto resolutions were introduced and only two of these were enacted. The experience of Montana, with only two vetoes enacted after the review of approximately 600 regulations was not unique; all of the States reported that the veto was used sparingly but was an effective means of insuring responsible rulemaking activity.

The Counsel for the Committee on Administrative Rules in the Michigan State Legislature, which reviews proposed regulations, maintained that just the existence of the review committee increased legislative authority over the agencies. I feel certain that this would be the case on the Federal level as well.

Mr. President, there are many other States with particularly effective procedures for reviewing proposed rules.

Oklahoma has a procedure which allows either house of the legislature to overturn a proposed rule with the passage of a simple resolution.

The Louisiana Legislature requires that proposed rules be submitted to the appropriate standing committee which may recommend that the rule be modified.

West Virginia has developed a procedure which allows a joint committee of six members from each house to overturn a regulation. The legislature may, by resolution, reverse the committee's disapproval, but the rule remains suspended unless the legislature acts.

The Idaho Legislature requires that all rules must be submitted to the legislature for referral to the appropriate standing committee. Any member may propose a resolution rejecting a rule thought to be in violation of the legislative intent of the statute under which the rule was proposed.

Mr. President, a dozen of our States have found the legislative veto to be exceptionally effective in restraining agency rulemaking, and although their procedures differ, it is clear that they have not had any great difficulties utilizing whatever procedure they have.

Twenty-three other States are using review procedures of varying strength that have also produced desirable results, although they do not include the specific provisions.

On the Federal level we have ample evidence that where the Congress has a legislative veto available it has been used effectively. For example, on September 18 of this year the Senate acted to veto a proposed rule of the Federal Elections Commission. This resolution was passed with a minimum of debate; the veto was exercized with efficiency and effectiveness to look after our interests in the electoral process. In all there are currently over 295 statutes passed since 1933 which contain legislative review or veto provisions. Were this procedure ineffective or unconstitutional, as some critics have charged, we would surely know it by now, through tests in courts. In fact, all such tests have not found, in various ways, that there was a constitutional consideration that should be invoked.

The Congressional Budget Office has supported the contention that a legislative veto procedure applied to the Federal Trade Commission would result in a minimal increase in workload and expense. This analysis indicates that the anticipated cost of reviewing proposed rules would be approximately $500 per rule. Based on the FTC's record of issuing three to five rules a year, we can estimate that the procedure would theoretically cost approximately $2,500. However, since the committee staff is already charged with the duty of reviewing FTC rules for a variety of purposes, there will in all likelihood be no additional cost, and almost certainly no increase in staff.

Mr. President, as I noted previously, the State legislatures have, in effect, done our homework for us. In the crucible of experience they have experimented and found that the legislative review and possible veto of agency regulations has made an important contribution toward restoring a sense of balance to these often competing branches of Government. I am hopeful that here in the island of Washington, where the problems of agency accountability are so much more severe, we will act favorable on the legislative veto amendment to the Federal Trade Commission authorization bill S. 1020. The amendment number is 212. Such action will restore a sense of balance to the operation of that agency and a sense of confidence to the people's perception of the Congress.

EXHIBIT 1

RESTORING THE BALANCE: LEGISLATIVE REVIEW OF ADMINISTRATIVE REGULATIONS

THE NEED FOR LEGISLATIVE REVIEW OF REGULATIONS

The past 50 years have seen the growth of government at all levels. The prevailing philosophy behind this growth was that those problems which could not be solved by individual initiative and private action should be solved by the federal, state and local governments.

This philosophy has resulted in a dramatic growth in the executive branch of government as the branch which must implement the programs designed to solve the problems of society. There are numerous reasons for this growth. However, the main reason is that as legislatures passed laws to solve specific problems, a means of enforcing and implementing these laws was necessary.

Legislatures increasingly granted the power to promulgate regulations to the agencies that were created to enforce and implement new programs. Consequently, the expanding number and size of these agencies began to have an effect on the balance of power between the executive and legislative branches of government. The initial question, whether the agencies had the power to promulgate regulations which had the force of law, has been answered in the affirmative by the courts. Judicial decisions have affirmed the legislature's right to delegate a portion of its legislative power to the agencies for the implementation of complex problems.

As more agencies were created or expanded, the number of regulations promulgated to implement laws increased dramatically. In most states today, the body of law created by the rule-making process matches or exceeds the statutory laws of those states. While it was recognized that agency rulemaking was necessary for the implementation of laws passed by the legislature, one major concern was the increasing number of regulations that either exceeded the statutory authority of the promulgating agencies or violated the legislative intent of the laws.

Legislatures began to respond to these concerns by establishing formal legislative regulation review procedures. These procedures usually provided, at the very least, that proposed regulations be submitted to a designated legislative committee for review to insure that they were technically correct and within the scope of the statuory authority and legislative intent as stated in the legistion. Most of the laws were part of the states' administrative procedures act, which set up procedures for the promulgation of regulations.

Thirty-four states currently have formal legislative regulation review authority. The powers of the legislatures under these laws range from review of certain agencies' rules to repeal of rules by the legislature or a legislative committee.

The 1977 legislative sessions were active in providing legislatures with a role in the review of agency rules and regulations. Nine additional states (Georgia, Illinois, Maine, Nevada, New York, North Carolina, Ohio, Texas and Wyoming) established procedures for legislative regulation review. In three other states (New Mexico, North Dakota and Rhode Island), similar bills were vetoed by the governor. Seven states (Alaska, Connecticut, Kansas, Michigan, Missouri, Montana and South Carolina) amended their laws either to clarify existing review procedures or to provide a greater role for the legislature in the review process. Three state legislatures (Colorado, Louisiana and New York) were unable to override the governor's veto of bills amending the regulation review law, while in Michigan and Alaska, the legislature enacted amendments over the governor's veto.

Since in most instances, agency authority stems directly from the legislature, legislative review of regulations can be used to help insure agency compliance with both statutory authority and legislative intent. There have been cases of agencies deliberately attempting to circumvent statutory authority or legislative intent, and in a number of states basic, provisions of bills defeated by the legislature have subsequently appeared almost verbatim in agency regulations.

The legislative regulation review process allows the legislature to monitor agency action throughout the year. While the legislature already overseas each agency through the appropriations process, the regulation review process gives it another and more continuous monitoring mechanism. As agency regulations are promulgated, they must pass through a formal review procedure, which includes a legislative review. The legislative review may be advisory in nature or it may allow for disapproval or delay of approval of a regulation.

SUMMARY OF RECOMMENDATIONS

In recognition of the need for a legislative regulation review process in each state, the committee makes the following recommendations:

Recommendation No. 1:

Because of the proliferation of agency regulations and the possibility of promulgation of regulations which violate legislative intent or exceed statutory authority, the committee strongly recommends that legislatures establish procedures for reviewing all agency rules and regulations promulgated with the force of law under authority granted by the legislature, whether or not they are covered by the administrative procedures act. These review procedures should be as strong as the constitution of each state allows. In establishing these procedures, legislatures will be reasserting their legislative prerogatives and regaining the basic lawmaking authority granted to them under state constitutions.

Legislatures should also enact comprehensive administrative procedures acts for their states, or review existing laws, to insure a thorough review of all regulations. These procedures, of which the legislative review process should be a key part, should include 1) a clear definition of an agency regulation; 2) a requirement that agencies' regulations clearly show additions to and deletions from existing regulations; 3) a requirement that all proposed regulations be published in advance of their effectiveness; and 4) a requirement that all regulations be filed with the legislature as provided by the legislative regulation review procedures. The procedures should allow maximum opportunity for public comment both in the promulgation and adoption of regulations as well as in the legislative review process.

To assist legislatures in establishing effective procedures for the legislative review of regulations, the committee makes the following additional recommendations:

Recommendation No. 2:

After considering the alternative regulation review structures, the committee recommends that a single joint committee, empowered to meet year-round, be designated or established to perform the regulation review function. The committee should include members representing both houses. Legislatures may also wish to reconsider including representation from the major substantive standing committees on the review committee.

Recommendation No. 3:

Recognizing the difference in state constitutions and judicial interpretations, the committee recommends that the strongest possible review structure be created in each state, consistent with the state's constitution.

Recommendation No. 4:

The committee recommends that the committee or committees designated to perform regulation review be adequately staffed by permanent legislative staff, so that review of regulations is effectively accomplished.

Recommendation No. 5:

The committee recommends that the review committee in each state have the authority to review all proposed and preexisting regulations.

Recommendation No. 6:

The committee recommends that reasonable time constraints be imposed on all levels of the regulation review process to provide for adequate review and for expeditious final disposition of regulations by both the committee and the legislature.

Recommendation No. 7:

The committee recommends that procedures be established for the promulgation of emergency regulations, with reasonable time limitations on committee review and on the effectiveness of those regulations to prevent agency circumvention of the legislative review process.

Recommendation No. 8:

The committee recommends that the review committee meet often enough to provide adequate review of proposed regulations which agencies file.

Recommendation No. 9:

The committee recommends that legislative bill drafting and counseling agencies adopt specific guidelines to assure that all bills granting rule-making authority to administrative agencies be reviewed before introduction to assure that (1) legislative intent is clearly spelled out in the bill, and (2) adequate standards are included to guide agencies in rule promulgation pursuant to the bill.

REGULATION REVIEW STRUCTURES

Because of the size of state legislatures, the most effective method of regulation review is through the committee process. The review can generally be divided into three categories: (1) review by substantive standing committees; (2) review by a single joint committee, whether created for that purpose or designated as part of other functions (such as a legislative council); or (3) review by both, with standing committees reviewing during the session and a single joint committee reviewing during the interim.

Standing committee review

Regulation review by standing committees is usually iniated in one of two ways. In some states, the agency submits the proposed regulations to the presiding officers of each house for reference to the appropriate standing committee. In other states, the agency submits the regulations directly to a predesignated committee for each agency. Idaho, South Carolina and Louisiana conduct regulation review through the standing committee structure.

In some states, the standing committees perform a second review of regulations after initial review by a joint review committee. Iowa and Minnesota, for example, use this procedure. In Kentucky, a three-tiered system is used. If the review body, a special joint subcommittee of the Legislative Research Commission, objects to a regulation, the agency then submits it to the appropriate standing committee. If that committee objects, the agency submits it to the full legislature.

The standing committee review procedure allows the committee which reported the bill authorizing the promulgation of regulations to review those regulations for compliance with statutory authority and legislative intent. Since committee members and staff usually have the expertise to deal with complex regulations in their substantive areas, their involvement in the review procedure may be advantageous. This system also allows the workload of review to be spread among all the committees.

One disadvantage of this procedure, however, is the possibility of disagreement between house and senate committees reviewing the same rules. Also, while standing committee members are most familiar with the law authorizing regulations, they may be too subjective in what they feel is the legislative intent, especially if that intent is not clear in the law. A more serious drawback is the fact that most standing committees have a heavy workload during the session and may not be able to handle a high volume of regulations requiring review. Also, standing committees usually meet much less frequently during the igterim, when many new regulations are being promulgated.

Joint committee review

The majority of the states with formal regulation review procedures use the single joint committee mechanism. Most of these committees are bipartisan, with either proportional or equal minority representation. Some committees have an equal number of house and senate members while others have more house than senate members.

In some states, the review function is performed by the Legislative Council, the agency which provides all services to the legislature. In Kentucky, the Legislative Research Commission (a joint management body) appoints a three-member regulation review subcommittee composed of at least one member from each house and at least one member of the minority.

One advantage of the joint committee structure is that in nearly all states the committee's primary function is regulation review. It meets fairly regularly, both during the session and during the interim. Another advantage is that the committee acts for the full legislature, not just one house, and makes its recommendations to the full legislature. Unlike the standing committees of each house, the joint committee may be more objective in determining legislative intent from the language of a law.

One disadvantage of this structure is that committee members may have limited knowledge of the substantive areas for which the regulations are promulgated and they may not be familiar with the development of the language of the enabling law which determines legislative intent. Also, there may be the additional cost of staffing the committee, whether with its own full-time staff or with staff from a central staff agency.

STANDING COMMITTEE/JOINT COMMITTEE REVIEW

In a number of states the standing committees review regulations while the legislature is in session and a designated joint interim committee performs the review during the interim. Kansas and Nevada both use this system to some extent. In Kansas, all proposed regulations must be submitted by December 31 of each year to the revisor of statutes. During the session, he refers them to both the Joint Committee on Administrative Rules and Regulations and to the appropriate standing committee. The Colorado legislature recently passed legislation to change from a standing committee/joint committee system to a joint committee review structure, but the bill was vetoed by the governor.

This system combines the advantages of standing committee review with the advantages of interim review by a joint committee.

The major disadvantage is that the review function is split. This may cause a lack of cohesive legislative action and lead to a situation where agencies may wait to promulgate regulations so they can be submitted to the review body which will give the most favorable consideration.

Recommendation No. 2.

After considering the alternative regulation review structures, the committee recommends that a single joint committee, empowered to meet year-round, be designated

or established to perform the regulation review function. The committee should include representation from both houses. Legislatures may also wish to consider including representation from the major substantive standing committees on the review committee.

REGULATION REVIEW POWERS

The powers of the legislative committees charged with the responsibility of reviewing regulations generally fall into four categories: (1) advisory; (2) repeal of a regulation by the legislature; (3) committee suspension for a specified period of time; and (4) committee suspension without required legislative affirmation.

Advisory

In general, legislatures which cannot nullify, suspend, amend or modify a regulation are considered to have only advisory review powers. In most advisory states, the review committee may return regulations to the promulgating agency with recommended changes which the agency is not bound to accept. These advisory committees may recommend to the full legislature that the law authorizing the promulgation of rules be amended, requiring passage of a bill. Arkansas, Missouri and Nebraska are states with advisory review powers only.

Iowa has a regulation review process which is advisory, but which places the burden of proof on the agency once objections to a regulation are raised by the committee. The burden of proof shifts to the agency in any future court action and it must prove it did not violate legislative intent or statutory authority in adopting the regulation over the committee's objection.

Regulation review committees with advisory powers only are less likely to be challenged on constitutional separation of power grounds. This procedure does involve review for compliance with statutory authority and legislative intent and offers a basis for passage of a bill that changes the enabling statute. Also, agencies are usually responsive to committee recommendations and grateful when the committee points out errors in the regulations. The Iowa system, while only advisory, does give the legislature an advantage in a subsequent court action, whether that action is brought by the legislature or by a citizen adversely affected by the regulation. The constitutional separation of powers question is not likely to be raised because the legislature has no power to suspend or nullify.

One disadvantage of the advisory review system is that in most cases the committee has no recourse (except recommending a change in the enabling statute) if an unresponsive agency refuses to accept the committee recommendations. The only other recourse for the legislature is through the judicial system, and in that case, the legislature would have to assume the costs of litigation in challenging agency regulations in court.

Repeal of a regulation by the legislature

In some states, the legislature has the authority to repeal or nullify regulations through the passage of either a bill or resolution. This is usually done upon the recommendation of the reviewing committee. In Georgia, if a repealing resolution is passed by a two-thirds majority of each house, the regulation is nullified. If it is passed by less than a two-thirds majority, the resolution must be submitted to the governor for his signature. In Maine, all new regulations automatically expire in five years unless they are repromulgated.

Regulation repeal procedures give the legislature the power to take affirmative action in the face of agency unwillingness to modify objectionable rules. The primary disadvantage may be the constitutional question of whether the legislature has the authority to nullify a regulation promulgated by an executive branch agency.

Committee suspension for a specified period of time

A third means of reviewing agency regulations is for the committee to have the power to suspend regulations for a specified time, thus delaying or temporarily repealing their effectiveness. Before the specified time has expired, however, the full legislature must affirm the committee's suspension by prescribed means or the regulation goes into effect. Legislative affirmation would permanently nullify the regulations. Minnesota, South Dakota and Wisconsin are states where the committee has the power to suspend regulations subject to the approval of that action by the full legislature within a certain time.

The principal advantage of giving the committee suspension power is that the legislature is able to take immediate action when faced with an agency which refuses to modify objectionable regulations. Also, agencies are more likely to write regulations which are technically correct and in compliance with both statutory authority and legislative intent. And since legislative affirmation is required, arbitrary action by the committee is not possible.

There may be constitutional questions with this structure in two respects. First, there is the issue of whether the legislature even has the the authority to suspend or nullify a regulation promulgated by an executive branch agency. Secondly, there may be a question of the legislature's authority to delegate suspension power to a legislative committee, even though the committee cannot permanently suspend a regulation without a vote of the full legislature.

Another possible disadvantage is the cost to the agency and the public caused by the delay of effectiveness of a regulation. However, most states have procedures for the implementation of emergency regulations on a temporary basis, with legislative review taking place after regulation is in effect.

Committee suspension with required legislative affirmation

The fourth method of review is similar to the third. The committee has the power to suspend or delay the effective date of a regulation for a specified time, but unless the legislature overturns the committee's suspension through positive action, the suspension becomes permanent. Connecticut, Michigan, Tennessee and West Virginia are the only states where this structure exists. Connecticut's law says that the legislature "may" vote to sustain or reverse the committee's suspension, but the lack of positive action sustains the suspension. In Tennessee, the suspension is in effect until rescinded by a joint resolution of the legislature. The Tennessee attorney general, however, has advised the governor that this procedure is unconstitutional.

Again this structure allows the legislature to take action when faced with an unresponsive agency and may encourage agencies to write better regulations which are more likely to conform with statutory authority and legislative intent.

The main disadvantage to this structure is the serious constitutional question of whether the committee can, in effect, nullify a regulation without a vote of the full legislature to sustain that action.

Recommendation No. 3:

Recognizing the difference in state constitutions and judicial interpretations, the committee recommends that the srtongest possible review structure be created in each state, consistent with the state's constitution.

Among the particular considerations which should be reviewed are questions such as the following:

1. How strictly has your state's supreme court interpreted the "separation of powers" clause of your state constitution?

2. How strictly has the court enforced the prohibition against delegating legislative power to the executive? What guidelines have been set forth? How "complete" must a bill be when it leaves the legislature? Excluding local acts and constitutional amendments, can the effectiveness or implementation of a bill be conditioned upon future events after enactment by both houses and approval by the Governor? Do laws delegating rule-making power have to have adequate standards spelled out in the act?

3. Does your constitution specifically detail the "bicameral" principles?

Does bicameralism mean that both houses have to agree on all actions (other than internal rules) taken by that body, or that either house can negate the actions of the other?

4. Is there a constitutional provision in your constitution requiring the approval or veto (or at least presentation to the Governor) of every resolution or order to which the concurrence of both houses may be necessary? If so, how has the court interpreted it? Does your state make a distinction between a concurrent and joint resolution, and for what may each be used?

5. How have your courts ruled on "legislative intent"? Is determination of legislative intent solely a judicial function? Can legislators testify as to legislative intent? In court decisions on statutory construction, are courts bound by statements of legislative purpose, intent, and preambles sometimes found within legislative enactments?

6. Have the courts ruled on the power of a current legislature to determine the legislative intent of a previous body?

7. Do legislative committees have a statutorily-recognized standing? How have courts looked at standing committees—as official entities empowered to take authoritative actions, or as simply internal Subunits of a legislative house, with advisory functions only to the full house? Can they be delegated powers of a full house?

8. Do agencies have to have a specific grant of rule-making power before adopting rules, or is it only necessary that such rules pertain to the implementation of a statutory or constitutional grant of power or responsibility? Additionally, can agencies have inherent rule-making power? (For example, many state supreme courts have established that they—the court—have certain inherent powers—as the power to prescribe rules and regulations for the state bar and rules of procedure within courts. Additionally, governors and the President cite as an inherent power their authority to issue executive orders and take a number of other actions.)

METHOD OF LEGISLATIVE ACTION

The states which require legislative affirmation of a review committee action or recommendation use one of three methods of legislative action: (1) by simple resolution of either house; (2) by joint or concurrent resolution; and (3) by bill or statute.

Simple resolution

The simple resolution method allows either house to sustain the committee action or recommendation by a simple resolution. Oklahoma, which uses this system, required a concurrent resolution of both houses to sustain the committee recommendation prior to 1975.

The advantage of this method is speedy affirmation of the committee's action or recommendation.

The disadvantages center around the constitutional weakness of the method, since the full legislature is not required to act. Also, this method could cause division between the two houses of the legislature.

Joint or concurrent resolution

Another method of affirming a committee action or recommendation is through a joint or concurrent resolution. Under this system, in most states no action by the governor is

required. Idaho, Montana and Vermont are among those states which utilize this method.

There are two primary advantages to this method. First, it provides that the full legislature take action, assuring a unified decision. Secondly, in most cases, it does not require gubernatorial action, so the legislature is making the final determination as to legislative intent and compliance with statutory authority.

There may be, however, constitutional problems in some states because in order to change a regulation which has the force of law, a statute has to be passed and signed by the governor.

Statute

The third method of legislative action on a review committee's action or recommendation is by bill. This may be done in the form of a bill either to repeal the regulation or to amend the statute under which the regulation was promulgated. In Arkansas, Florida and Nebraska, all of which have advisory powers, the legislature can enact a law amending the statute granting the promulgation authority. In Colorado, Minnesota and Wisconsin, the legislatures can nullify a regulation by statute. Kansas provides that a statute be enacted to repeal an existing regulation, but that a concurrent resolution is sufficient to prevent the implementation of a proposed regulation.

The statute method is the most constitutionally sound, since it adheres to the regular lawmaking process. The main disadvantage is that it involves the executive branch in determining whether a regulation was promulgated within the authority granted by the legislature.

STAFFING

There are two means of providing staff for the legislative review of regulations: (1) through a full-time staff devoted to the review of regulations; or (2) through a part-time staff provided by a central staff agency or individual committees.

Full-time staff

The number of full-time staff devoted to regulation review varies greatly among the states that use this structure. Florida's Joint Administrative Procedures Committee has a staff of six full-time attorneys and four administrative personnel. Most states with full-time staff usually have one or two full-time professional staff.

Full-time staff is utilized only by states which have a single joint committee structure. States with standing committees use either committee staff to perform review on a part-time basis or staff from a central agency.

Full-time professional staff are able to handle the volume of proposed regulations and perform a thorough review of all regulations. However, the primary disadvantage of this staffing structure is, of course, the cost of maintaining a full-time staff. Florida has a budget of $310,000 for its regulation review committee. Michigan, with two full-time attorney's, has a budget of $74,000.

Staff by central service agency or committee

The staff structure used most frequently for reviewing regulations is the assignment of staff on a part-time basis from a central staff agency. Usually, one or more attorneys or research analysts are assigned from the legal services or bill drafting agency, the code revisor's office, or the research agency. Alaska, Connecticut and Maryland and all use this type of staff structure. Idaho and Nevada, which use the standing committee review process, provide staff through the central research agency.

The use of staff from the central staff agency allows for staffing of the regulation review function without the higher costs of full-time staff. Also, many research agencies divide their staff by areas of expertise so the staff is familiar with the subjects of the regulations under review. In addition, since the staff may have helped to draft the enabling legislation, they are familiar with the legislative intent.

However, the disadvantage of this structure is that the staff has other functions to perform and may not be able to devote enough time to the regulation review function.

Recommendation No. 4:

The committee recommends that the committee or committees designated to perform regulation review be adequately staffed by permanent legislative staff, so that review of regulations is effectively accomplished.

PROCEDURES

Review of proposed regulations

Effective legislative regulation review can be accomplished either through a review of all proposed regulations or through selective review. In addition, some states have given the reviewing body the power to review all or selected pre-existing regulations.

The process of total review usually requires that all proposed regulations be submitted to the legislative body handling review. The committee, either by law or by tradition, may have the option of reviewing only selectively. In at least one state, Colorado, the staff reviews all proposed regulations and recommends consideration by the committee of selected regulations which may have technical errors to be in violation of either statutory authority of legislative intent. Some states review proposed regulations only upon the complaint of a legislator or citizen, even though the committee has the authority to review all regulations.

Review of all proposed regulations by the committee is designed to assure that no regulations are promulgated which may be in violation of legislative intent or statutory authority. Total review, however, requires much more staff and legislator time, and may not be necessary for a majority of proposed regulations. With selective review, complex and controversial regulations can be given careful scrutiny.

Review of pre-existing regulations

The majority of states with regulation review structures has the power to review regulations which are already in effect. In Florida, the review committee is currently examining all pre-existing and proposed regulations. The process of reviewing all pre-existing regulations is expected to take from three to five years. In some other states, review of pre-existing regulations is done on a selective or complaint basis.

This type of review assures that older regulations are brought up to date or repealed if no longer needed. But, it can tie up valuable staff time if not performed on a selective basis. Also, this procedure may raise constitutional questions regarding a legislature's right to determine the legislative intent of a previous legislature.

Recommendation No. 5:

The committee recommends that the review committee in each state have the authority to review all proposed and preexisting regulations.

Time constraints

To insure an orderly and expeditious review process, most states have time constraints on the various phases of the process. The agency usually has a certain number of days to file a regulation with the legislature before it can take effect. In some states there is no time limit, but the proposed regulation cannot go into effect without being filed with the legislative review body.

After the proposed regulation is filed by the agency, the committee usually has a certain time period within which to conduct its review. If the committee does not object to the regulation within the time period, it is deemed approved.

Some of the committees which have the power to suspend or recommend nullification of regulations must have the affirmation of the legislature within a certain time period or the regulation goes into effect. In Minnesota and Wisconsin, the legislature must sustain the committee action before the end of the next regular session. In South Dakota, suspension of a regulation during the interim is only valid until 30 days after the beginning of the session without legislative affirmation.

Time constraints on the regulation review process are necessary for three reasons: (1) to prevent agency circumvention of legislative review of regulations; (2) to insure adequate review time for the committee; and (3) to provide expeditious final disposition of regulations by the legislature.

Recommendation No. 6:

The committee recommends that reasonable time constraints be imposed on all levels of the regulation review process to provide for adequate review and expeditious final disposition of regulations by both, the committee and the legislature.

Emergency procedures

Most states with regulation review procedures have means by which emergency regulations can be promulgated. These procedures may include a limitation on the life of the emergency regulation and a provision for review by the legislature. Michigan's law allows emergency regulations to remain in effect only up to one year without formal legislative approval. This restriction prevents circumvention of the review process by the agency. In Connecticut, under a law passed in 1977, the agency must submit all emergency regulations to the review committee five days prior to their effectiveness. The committee has the authority to suspend those regulations within the five-day period. In Minnesota, emergency regulations are effective for only 90 days, unless they are repromulgated through the normal process which includes legislative review. Kansas law provides that "temporary" regulations may be implemented by agencies during the interim after they have been approved by the Temporary Rules and Regulations Board, which is composed of the chairman of the Joint Committee on Administrative Rules and Regulations, the Secretary of State and the Attorney General. All temporary regulations expire on the following April 30.

Recommendation No. 7:

The committee recommends that procedures be established for the promulgation of emergency regulations, with reasonable time limitations on committee review and on the effectiveness of those regulations to prevent agency circumvention of the legislative review process.

Frequency of review committee meetings

The review committees in many states which have legislative regulation review procedures usually meet once a month. Others meet only on call when there are regulations pending review. Some states' committees meet more often during the session than during the interim.

The actual volume of regulations reviewed is difficult to determine because a regulation can be defined as anything from a one-word amendment to an entire volume of new procedures. Many states review about 20 to 25 regulations per meeting.

Recommendation No. 8:

The committee recommends that the review committee meet often enough to provide adequate review of proposed regulations which agencies file.

Bills authorizing promulgation of rules

One reason why agencies might promulgate rules which do not conform with legislative intent is that the law authorizing such promulgation may not specifically state the legislature intent. Also, the law may be too broad or general and may not provide agencies with specific guidelines for the promulgation of rules. For example, a law may simply state that "reasonable rules be pro-

mulgated to prevent unfair bank competition."

Recommendation No. 9:

The committee recommends that legislative bill drafting and counseling agencies adopt specific guidelines to assure that all bills granting rule-making authority to administrative agencies be reviewed before introduction to assure that (1) legislative intent is clearly spelled out in the bill, and (2) adequate standards are included to guide agencies in rule promulgation pursuant to the bill.

Fiscal notes on regulations

South Dakota requires that each proposed regulation have a fiscal note stating the effect the regulation will have on state revenue and/or expenditures. This fiscal note, which is prepared by the agency and reviewed by the state Bureau of Finance and Management, must include information on the fiscal impact for the first year and the continuing fiscal impact, the assumptions made in preparing the statement and the source of statistics used. The fiscal note is furnished to both the Interim Rules Review Committee and the Joint Appropriations Committee, either of which may refer it to the relevant standing committee for review. While objections can be made to a regulation because of the fiscal note, it is unclear if a regulation can be suspended on that basis.

The LIM Committee discussed the issue of fiscal notes on regulations and decided that since it is a relatively new procedure, there was insufficient information on state experiences to warrant a committee recommendation at this time.

CONSTITUTIONAL QUESTIONS

The legislative review of administrative regulations process has raised a number of constitutional questions which can only be answered by an examination of each state's constitution and relevant court decisions. The eight questions following Recommendation No. 3 (under "Regulation Review Powers") provide guidelines for this examination. The four major questions being raised relate to (1) the legislative review process itself; (2) the delegation of legislative review authority to a legislative committee; (3) the committee's and the legislature's power to suspend a regulation; and (4) the use of a bill or resolution to sustain committee action.

Legislative regulation review process

Legislative regulation review has frequently been questioned as a violation of the constitutional separation of powers concept. Opponents of legislative review claim that rule-making is an administrative function and that legislative review (and in some states, repeal) of rules is a usurpation of executive authority. The U.S. Supreme Court has ruled in the case of *Buckley* vs. *Valeo* (No. 74-736, 424 U.S. 2, January 30, 1976) that Congress, in creating the Federal Election Commission with a number of congressionally-appointed members, violated the U.S. Constitution's provision that only the President can appoint administrative officers. This case is significant because it is the first time since 1928 that the Supreme Court has addressed the question of separation of powers. The Buckley case may be cited in challenges to legislative review powers because legislatures, after passing enabling legislation, are retaining some control over what is seen as a wholly administrative function.

Supporters of legislative review contend that since the courts have upheld the legislature's right to delegate rule-making authority to executive branch agencies, it is consistent for legislatures to condition that authority with a legislative review process. Also, agency rule-making is more quasi-legislative than executive, so legislatures should be able to retain control over what is essentially a policy-making function.

Another separation of powers question arises with respect to the legislature usurping the role of the judiciary to interpret the laws. However, it has been argued that regulation review is actually the final step in the legislative process, and that if regulations are reviewed prior to effectiveness, that review is distinguishable from an after-the-fact judicial determination.

In Wisconsin, all legislation authorizing promulgation of regulations also includes a section requiring that those regulations be reviewed by the legislature. This standardized language, as part of the bill signed by the governor, puts the legislature in a stronger constitutional position since the governor has approved the condition placed upon agency rule-making.

Delegation of legislative review authority

The delegation of review authority to a legislative committee may raise constitutional questions, depending on the committee's powers, especially if those powers include suspension of regulations. But, as mentioned above, court decisions have upheld the legislature's right to delegate its power. Since the review power is delegated to an entirely legislative unit, that delegation is proper as long as the full legislature retains control over the committee's actions. The most serious constitutional question arises when a committee is empowered to suspend regulations without affirmation by the legislature.

Suspension powers

Opponents of legislative review also argue that neither the committee nor the full legislature has the authority to suspend a regulation. The arguments for this position relate to the authority to conduct review in the first place. At the very most, it is argued, the legislature can only have advisory review powers, since once a law is passed, it is solely the executive branch's function to implement that law.

Defenders of legislative regulation review claim that only the legislature can determine legislative intent, and suspension power insures that that intent will not be violated. A state Supreme Court case in Wisconsin challenged the committee's right to suspend a regulation. But the bill upholding the committee's suspension was not passed before the end of the session and the court dismissed the challenge without a definitive decision.

Suspension of a regulation by a committee may pose serious constitutional questions if, as in Connecticut, the legislature is not required to uphold the committee's suspension. In Connecticut, a case is now pending which directly challenges that state's regulation review powers. Connecticut is among the strongest of all states with such powers. The case will be argued on separation of powers grounds and if finally decided by the court either for or against the state's legislative review law, it will provide a basis for court action in other states.

Method of legislative action

Another constitutional question revolves around the method by which the legislature repeals or upholds a committee suspension of a regulation. It has been argued that since a regulation has the force of law, only the passage of a statute can repeal it. Attorney General opinions in Michigan and Tennessee ruled that repeal of a regulation should be in the form of a bill.

On the opposite side, it has been argued that since a bill requires a gubernatorial signature to become law, the use of a bill brings the governor into the process of determining legislative intent, a violation of separation of powers.

The use of a joint or concurrent resolution to repeal a regulation has been argued as proper because approval of regulations is one of the contingencies specified in the enabling legislation giving the agencies rulemaking authority.

The use of a simple resolution of either house to disapprove a regulation may be constitutionally the weakest method, since only one house is exercising the power of the legislative branch.

Constitutional regulation review powers

While most states with regulation review authority have acquired that power by statute, Michigan has a constitutional provision giving a joint legislative committee the power to suspend regulations during the interim. The Florida legislature, which has only advisory review powers, attempted to acquire repeal powers through a constitutional amendment, but the proposal was defeated in a statewide referendum in 1976, as was a similar proposal in Missouri.

Other states may try to put the regulation review powers in their constitutions to prevent future challenges to legislative authority in this area.

SUMMARY OF STATE LAWS

Legislative review of administrative regulations

Alaska—(AS § 24.20.400 and § 44.62.320). The Alaska legislature in 1975 created the Administrative Regulation Review Committee as a permanent interim committee of the legislature composed of three members each from the house and senate. The committee is empowered to examine all administrative regulations to determine if they properly implement legislative intent. Prior to 1978, the committee could recommend annulment of a regulation to the legislature, which in turn, had to adopt a concurrent resolution to do so. A 1978 law passed over the governor's veto empowered the committee to suspend objectionable regulations until 30 days after the next session begins. During the 30-day period, the legislature must annul the regulation through the passage of a concurrent resolution or it goes into effect.

Arizona—(Ariz. Rev. St. 41-511.05). Rules and regulations promulgated by the State Parks Board are the only ones which require legislative review and approval. All other agencies file regulations with the Attorney General and Secretary of State to put them into effect. State Parks Board regulations may be disapproved by concurrent resolution of the legislature for up to one year after they take effect.

Arkansas—(Ark. St. 6-608 et seq.). All proposed, revised, or amended rules and regulations must be filed with the Legislative Council. Rules are reviewed to determine whether they are consistent with legislative intent or if they exceed statutory authority. The function of the Legislative Council review is advisory. If a proposed rule is determined to be improper, the Legislative Council files a statement with the agency concerned and submits recommendations to the legislature. This review procedure was adopted in 1973.

Colorado—(Colo. Rev. St. 24-4-103, Subsec. 8, para. d). Under a law passed in 1976, the Committee on Legal Services, a bipartisan joint committee of four members from each house, reviews all new rules during the interim for "legality and constitutionality." During the session, the standing committees of each house review all new rules. After hearing staff recommendations and agency testimony, the committee can vote to amend or repeal the rule and then submit a bill to the full legislature. There are no time constraints for any stage of the procedures. The governor vetoed a bill passed in the 1977 session which would have made the Committee on Legal Services the review committee for all proposed regulations, during both the session and the interim. It also provided for time constraints for agency filing of regulations with the committee, fiscal notes for regulations with a fiscal impact, and review of pre-existing regulations over five years. On April 10, 1978 the veto was overturned by the Colorado Supreme Court on a technicality, and the bill became law.

Connecticut—(Conn. Gen. St. 4-170 et seq.). The Legislative Regulations Review

Committee is bipartisan and composed of eight representatives and six senators. It reviews all proposed regulations of state departments and agencies and may hold public hearings thereon. The committee may give notice of approval or disapproval within 60 days (failure to act within 60 days constitutes approval). If the committee gives notice of disapproval, no agency may take action to implement the disapproved regulation. The committee reports annually to the general assembly on all disapproved regulations which, after study by an appropriate committee, may vote to sustain or reverse the disapproval. Any committee disapproval of a regulation implementing a federally subsidized or assisted program must be sustained by the general assembly or it is deemed reversed. The committee attempts to resolve questioned regulations with the agency responsible, but has disapproved several regulations each year. A 1977 law provides for a five-day period for prior review of proposed emergency regulations by the Committee.

Florida—(Fla. Stat. Sec. 11.60). Florida's Administrative Procedures Act was rewritten in 1975 and a Joint Administrative Procedures Committee created. This committee has three specific functions: to review proposed rules as they are adopted; to maintain a continuous review of statutory authority underlying each rule and note when that authority is changed by either the legislature or the courts; to review administrative matters in general as they relate to the APA. The committee makes a legislative observation on each rule but does not have the power to suspend a rule. If an objection is made by the committee to a rule, the agency is requested to withdraw or modify it. In most cases, agencies have been found willing to respond affirmatively to legislative objections. Of the first 840 rules reviewed in 1976, 79 percent were found to contain some error and 6.3 percent of these were found to exceed statutory authority. A 1975 amendment to the APA requires an "economic impact statement" to accompany each proposed rule estimating the costs of the rule to those affected by it. The committee has a staff of 13. A constitutional amendment giving the legislature power to suspend rules was rejected in a 1976 referendum.

Georgia—(Ga. Stat. 3A-104(e), (f)). A 1977 law provides for legislative review of regulations by standing committees predesignated by the speaker and senate president for each agency. Regulations must be submitted by the agencies 20 days prior to their effectiveness. If the committee objects to a regulation, it may introduce a resolution repealing or modifying the regulation at the next session. The resolution must be acted upon within 30 days after the beginning of the session in the house of origin and within five days in the other house. Constitutional two-thirds majority approval in both houses is necessary for the rule to be repealed or modified. If the resolution passes by less than a ⅔ constitutional majority, it must go to the governor, who may sign or veto the resolution. The legislature cannot override a veto of such a resolution.

Idaho—(Idaho Code Sec. 67-5217, 67-5218). All rules authorized or promulgated by any state agency are to be submitted to the legislature in regular session for reference to the appropriate standing committees. Any committee or member of the legislature may propose a concurrent resolution rejecting, amending, or modifying any rule thought to be in violation of the statutory authority or legislative intent of the statute under which the rule was made.

Illinois—(Ill. Rev. Stat., Chap. 127, § 1001 et seq). The bipartisan Joint Committee on Administrative Rules reviews all proposed regulations and makes recommendations to the agency to modify or withdraw the rule. While the agency is not bound to accept the committee's recommendations, it must respond to them. Failure to respond constitutes withdrawal. The committee can introduce a bill to modify or nullify a rule to which it has objected.

Iowa—(Iowa Code Ann. Sec. 17A.8). A new Administrative Rules Review Committee was created in 1975, although authority for regulation review had previously existed. The new committee is composed of three members from each house and meets monthly. It is authorized to selectively review promulgated rules, but is currently reviewing all promulgated rules. The review committee may file objections to rules based on the fact they are unreasonable, arbitrary, capricious or beyond the scope of agency authority. Such objections transfer the burden of proof to the issuing agency in any legal challenge to the rule. An agency unable to sustain this burden of proof in a legal challenge may be liable for all court costs to the challenge. The Rules Review Committee may also refer a rule for consideration to the appropriate legislative standing committee at the next regular session.

Kansas—(K.S.A. 1978 Supplement 77-415 et seq). The revisor of statutes submits a copy of all rules and regulations filed during the previous year to the Joint Committee on Administrative Rules and Regulations (JCARR) at the beginning of each legislative session. The legislature may pass a bill modifying or rejecting an existing regulation or it may pass a resolution rejecting a proposed regulation or a proposed amendment to a regulation. During the interim, agencies may adopt temporary regulations after obtaining the approval of the Temporary Rules and Regulations Board, which is composed of the Chairman of the JCARR, the Secretary of State and the Attorney General, or their designees.

Kentucky—(K.R.S. 13.087). The Administrative Regulations Review Subcommittee (three members) reviews all proposed regulations as to whether they conform to statutory authority and to the legislative intent of the statutes. If nonconforming, a regulation is returned to the agency with the legislative objections. If an agency does not revise the regulation, it is then presented to the appropriate legislative standing committee or joint interim committee for a second review as to statutory authority and legislative intent. If this committee raises objections, it is again returned to the agency for reconsideration, but the legislature does not have power to suspend a rule and the agency is only required to give "affirmative consideration" to legislative objections and is not bound to modify the rule. A 1974 act provided that all existing regulations be rescinded unless repromulgated by the agencies within one year.

Louisiana—(LRS 49-968 et seq). The legislature in 1976 passed a law providing that all rules proposed by agencies be submitted to a specified house and senate committee simultaneously upon their filing with the Department of the State Register. The committee may then hold a public hearing and issue a report to the agency expressing approval or disapproval of the rule. Although the committee report is printed in the State Register, the agency is not bound to accept it. A 1977 bill vetoed by the governor would have given the committees the power to stop a rule from going into effect by raising objections within 15 days after it is filed with the committee. The legislature would not have been required to act, but could have overridden the committee's objection by passage of a concurrent resolution. A 1978 law provides that if a committee finds a rule unacceptable, the committee will submit a report to the Governor. The Governor has five days to disapprove the committee report; if he does not, the agency must change or modify the rule.

Maine—(5MRSA c. 308 § 2501 et seq). A law enacted by the 1977 session provides that agencies submit all curent rules to the legislature by January 15, 1978 for review by the appropriate standing committees. These committees must hold public hearings and recommend to the legislature an expiration schedule for all rules. A committee may recommend immediate expiration of a current rule. The legislature must then pass bills to implement these expiration schedules. All new rules which go into effect after January 1, 1978 automatically expire five years after their effectiveness unless the legislature passes a bill terminating their effectiveness in less than five years.

Maryland—(Md. Ann. Code 1977, Art 40, § 40A). The Standing Committee on Administrative, Executive, and Legislative Review (five senators, five delegates) reviews regulations as they are published in the Maryland Register. The committee has no power to suspend or veto proposed regulations, but its views are often persuasive with agencies when it raises questions about proposed regulations.

Michigan—(Mich. St. Ann. 24.201-24.315, Act No. 108, Public Acts of 1977). The Joint Committee on Administrative Rules (three senators, five representatives) has a 60-day period in which to approve or disapprove all proposed rules. Under a 1977 law passed over the governor's veto and effective on January 1, 1978, if the committee disapproves a rule or fails to approve it within 60 days, the rule cannot be adopted by the agency unless the legislature overrules the committee action within 60 days. The state supreme court has refused to consider a request by the governor for an advisory opinion on the constitutionality of this law. In addition, opinions of the attorney general have questioned the constitutionality of legislative disapproval of rules by concurrent resolution, rather than by bill. Legislative power to review and suspend regulation during the interim is authorized in Article IV, section 37 of the state constitution. Michigan has more than 30 years experience with some type of legislative oversight of administrative regulations.

Minnesota—(Minn. St. 3.965). The Legislative Commission to Review Administrative Rules, composed of five members of each house, may hold public hearings to investigate complaints concerning rules and, on the basis of testimony received, suspend any rules. In practice, however, the committee reviews all proposed rules. If a rule is suspended by the committee, such action must be sustained by the legislature at its next session. Before the committee suspends any rule, it shall submit it to the appropriate standing committees for their review and recommendation. Emergency rules are effective for only 90 days, during which time they must be repromulgated under the regular procedure in order to remain in effect beyond that time.

Missouri—(Sec. 536.037, RSMo). Under a 1976 law, the legislature created the Joint Committee on Administrative Rules. The committee reviews all proposed rules published in the Missouri Register, but its review is advisory only. A proposed constitutional amendment authorizing legislative rejection of agency rules was submitted to the electrorate by the legislature and was defeated in August, 1976. During the 1977 session, the legislature attached to many bills a provision that all agency rules promulgated under the respective bills expired in two unless approved by a concurrent resolution of the legislature. An additional provision attached to many bills mandated either the expiration of the rules promulgated under the authority of the respective bills, the repeal of the promulgating power, or both, on November 30, 1981.

Montana—(Sec. 2-4-401 et seq., MCA 1978). An Administrative Code Committee was established in 1975 to review all proposed rules. This committee makes recommendations for action by the agencies to the legislature which, by joint resolution, can repeal or compel the amendment or

adoption of a rule. Legislation enacted in 1977 mandates that all bills authorizing agencies to promulgate rules include a statement of legislative intent. The new law (SB 37) also shifts the burden of proof to the agency in any subsequent legal action challenging the rule as having been adopted in an "arbitrary and capricious disregard" of the purpose of the authorizing statute. Another 1977 law (SB 120) allows the committee to poll the members of the legislature by mail during the interim to determine whether a proposed rule is consistent with legislative intent.

Nebraska—(Neb. Rev. St. Section 84901 et seq). The Administrative Rules and Regulations Review Committee reviews proposed rules and recommends to the legislatures appropriate action. The legislature may repeal, change, alter, amend, or modify the original law granting the authority to promulgate rules or general program authority. Under a new law, effective January 3, 1979, the committee has the authority to suspend rules if they do not reflect legislative intent or are contrary to the state's Administrative Procedure Act.

Nevada—(Chap. 233B. 101 et seq NRS). Under a 1977 law, all proposed regulations are submitted to the Nevada Legislative Commission, which must review them at its next monthly meeting. If the commission objects to a regulation, it is returned to the agency, which must resubmit either the same regulation or an amended version to the commission. The regulation is forwarded to the speaker and the senate president for referral to the appropriate standing committee. The legislature can enact legislation amending the statute under which the objectionable regulation was promulgated.

New Hampshire—(NHRSA Sec. 531 A). In 1977, the legislature enacted a law creating a Joint Committee on Review of Agencies and Programs. The committee will have the power to sunset agencies and review their existing rules. In addition, the law provides the standing committees the power to review rules prior to their effective date and may send the rules back to the agency if the rules are not in the proper format.

New York—(NYSA, Legislative Law, Art. 5-B. Secs. 86-88). A 1978 law formally created the Administrative Regulations Review created by joint resolution in 1977, is composed of three senate and three assembly members. Agencies must file their proposed rules with the commission at least 21 days prior to effectiveness. The commission has the power to examine agency rules as to their statutory authority, their compliance with legislative intent, their impact on the economy and government operations, their impact, on affected parties. In addition, the commission may hold hearings and has been granted subpoena power.

North Carolina—(G.S. 120-30.19 et seq). A 1977 law created the Administrative Rules Review Committee as a permanent committee of the Legislative Research Commission (LRC). All rules adopted by agencies are filed with the director of the LRC, who refers them to the review committee. The committee has up to 60 days to review these rules and may file objections. The agency must respond within 60 days of receipt of the committee's report. Agencies are not bound to comply with the committee's objection, and if they don't, the rule goes to the full LRC for review. The LRC can make recommendations for legislative action to the General Assembly—if the agency fails to comply with any commission objections. The law also provides for selective review of all preexisting regulations. It is effective on October 1, 1977 and expires June 30, 1979.

Ohio—(Sec. 101.35, 111.15, 119.01, & 119.03 of Rev. Code). A 1977 law created the Joint Committee on Agency Rules Review with seven members from each house. All proposed rules must be submitted to the committee 60 days prior to adoption. If during that time, the committee disapproves a rule, a concurrent resolution to that effect is introduced. The legislature must adopt the resolution within 60 days to nullify the rule. Any rule promulgated during the interim may go into effect, but the committee and the legislature may disapprove the rule by concurrent resolution within the first 60 days of the next regular session. The committee may meet during the interim and may suspend objectionable rules by a two-thirds vote of its members. The suspension must be sustained by the legislature by concurrent resolution within 60 days of the convening of the next regular session.

Oklahoma—(75 O.S. Supp. 1977 Sec. 308). Prior to 1976 the law provided that any administrative rule or regulation could be disapproved by the legislature by joint resolution. In 1976, this was amended providing for disapproval by either house by simple resolution, rather than requiring the consent of both. Review of proposed rules and regulations is conducted by the Division of Legal Services under the direction of the Legislative Council.

Oregon—(ORS 171.705 to 171.713). The Legislative Counsel Committee reviews all proposed rules and reports to the legislature. There is no formal procedure for further legislative action beyond this informational review. Rules are reviewed to determine whether they conform with the intent and scope of enabling legislation, have been adopted in accordance with all legal procedures, are consistent with constitutional provisions. The committee may recommend changes in the statute authorizing the rulemaking powers.

South Carolina—(Act No. 176 of 1977). The legislature in 1977 passed legislation amending and clarifying a 1976 law creating the state register and providing for legislative review and approval of agency rules. Under the new law, the Legislative Council supervises the printing of the state register, in which are printed all proposed and promulgated rules. Proposed agency rules are reviewed by the appropriate standing committee in each house. These rules cannot go into effect until 90 days after receipt by the legislature. The legislature may adopt a joint resolution during that time either approving or disapproving the rule. The 90-day review period continues to run as long as the legislature is in session. After sine die adjournment, the 90-day period ceases to run until the convening of the next regular session. Emergency rules can be promulgated for 90-day periods only when the legislature is not in session.

South Dakota—(SDCL 1-26-1.1, 1.2). The Interim Rules Review Committee reviews all proposed rules and makes recommendations to agencies and to the legislature on any suggested amendments to the Administrative Procedures Act. By a 5/6 vote of the six-member committee, a proposed rule can be suspended until 30 days after the next legislative session convenes. Unless the committee suspension is sustained by the legislature through passage of a bill within this 30-day period, the rule may take effect. All proposed rules submitted to the committee must have attached to it a fiscal note, prepared by the agency and reviewed by the Bureau of Finance and Management. The fiscal note must include the fiscal impact on state government, the assumptions made in preparing the statement and the source of statistics used.

Tennessee—(Tenn. Code Ann. 4-535). Agency rules are referred in the House to the Government Operations Committee and in the Senate to the appropriate standing committee for review. The reviewing committee of either house may suspend the effectiveness of any agency rule or the amendment or repeal of an agency rule. Such suspension is effective until rescinded by the committee or by joint resolution of the General Assembly. Any suspension must be preceded by 15 days notice to the agency of any contemplated action. Suspension is effective upon written notice from the committee chairman to the Secretary of State. (The Attorney General of Tennessee has advised the Governor that this procedure is unconstitutional and that any suspension of a rule can only be accomplished by passage of a bill by a majority of both houses and approval by the Governor.)

Texas—(Chap. 321, Acts of 65th Legislature, 1977). Under a 1977 law enacted by the legislature, agencies must forward to the presiding officers of each house copies of all proposed rules at the same time they are filed with the secretary of state. The proposed rules are then referred to the appropriate standing committees for review. The legislature has a minimum of 30 days to review prior to the rules taking effect. The committees can send statements supporting or objecting to proposed rules to the agency during that time, but its powers are advisory. Standing committees don't meet very often, if at all, during the 19-month interim between biennial sessions.

Vermont—(3 V.S.A. 817-820). The General Assembly of Vermont in 1976 created an eight-member joint committee on administrative rules. This committee reviews any proposed rule and may recommend its amendment or withdrawal upon a finding that the proposed rule is arbitrary, beyond the authority delegated to the agency, or contrary to legislative intent. Committee recommendations are submitted to the next session of the General Assembly. Objectionable rules may be repealed by joint resolution of the General Assembly.

West Virginia—(Code of W. Va. Art. 3, Chap. 29a). The 1976 session created Legislative Rule-making Review committee composed of six members from each house. All proposed rules must be submitted to the committee, which has six months to review them. If the committee disapproves a rule, the agency cannot take any "action to implement such disapproved rule or regulation." The legislature may, by resolution, reverse the committee's disapproval, but the rule remains suspended unless the legislature acts. Regulations implementing federally-subsidized programs may be disapproved by the committee, but unless the legislature sustains the disapproval by the end of the regular session, the rule goes into effect.

Wisconsin—(W.S.A. 13.56). The Joint Committee for Review of Administrative Rules (five senators, five representatives) reviews rules and may suspend them until the next session. Any suspension must be ratified by the legislature by passing a bill at the next session. The committee also reports biennially to the legislature and has the authority to direct an agency to promulgate a statement of policy or an interpretation of a rule under the Administrative Procedures Act.

Wyoming—(Wyo. Stat. Sec. 28-82 to 28-89). Under this 1977 law, all existing rules and all future proposed rules must be filed with the Legislative Service Office (LSO). The LSO reviews the rules and reports to the Legislative Management Council. If the LSO has found a rule objectionable and the council agrees, the disapproved rule goes to the governor, who may agree to repeal the rule. If the governor disagrees with the council's recommendation, the council can only recommend that the full legislature act through what is called a "legislative order" (presumably a statute). Legislative action must take place before the end of the legislative session in order to nullify a rule.

Mr. SCHMITT. Mr. President, I will yield the floor or suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EXON). Will the Senator withhold that?

RECOGNITION OF SENATOR HARRY F. BYRD, JR.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

SALT II: AMENDMENTS REQUIRED

Mr. HARRY F. BYRD, JR. Mr. President, the proposed SALT II treaty, in the form presented to the Senate by the President, would not enhance American security but would confirm in a legal document the right of Russia to superior strategic forces. SALT II, therefore, in order to be made acceptable to Americans, must be modified in the Senate before its approval can be actively considered.

Frankly, my own study of SALT II causes me to feel that even extensive direct amendment of the treaty may not be sufficient to correct its many faults. Nevertheless, I am persuaded that, if SALT II is brought before the Senate, then the Senate should make a serious attempt to refashion and correct the proposed agreement so that some degree of true arms control can be incorporated into it and so that the provisions which favor Russia and disadvantage the United States can be brought into equilibrium.

Some Senators have suggested that the flaws in SALT II can be corrected by reservations and understandings to a final resolution of ratification. I cannot share that view.

Article VI of the U.S. Constitution provides that the Constitution and "all treaties made, or which shall be made, under the authority of the United States shall be the supreme Law of the Land." The SALT II treaty, if ratified, will be, insofar as the United States is concerned, supreme law. This fact is critically important.

Therefore, if the SALT II treaty is brought before the Senate, I feel that Senators should keep continuously in mind that the Senate would be dealing with a document proposed to become supreme law, thus binding not only our Government but all citizens and committing under law the entire Nation to the faithful observation of every dotted "i" and crossed "t" of its provisions. Similar considerations do not obtain in Russia.

Reservations and understandings do not directly change the terms of a treaty. They make, instead, statements about those terms in an inherently feeble attempt to vary the meaning given the treaty agreement by the parties to it. Reservations and understandings under these circumstances cannot do the job. In the case of SALT II, reservations and understandings would never be considered by Russia to be part of the contractual agreement reached. Reservations and understandings are indeed unilateral statements of one party to a contract.

Regardless of the method by which reservations and understandings are required to be incorporated into the instrument of ratification and signed by both parties, Russia will not be bound by extrinsic statements. Only the terms of the contract itself, only the terms of SALT II itself, would have any impact on Russian behavior.

In order to bind Russia, actual amendments to the treaty must be made and must be subsequently accepted by Russia as part of the actual agreement between the governments of the two countries.

The United States has been down the same road before in attempting to bind Russia with statements made external to the precise terms of actual agreements reached. To me, the lesson should have been learned sufficiently that the Senate would not waste any significant time discussing reservations and understandings to SALT II.

Who could forget so soon the attempt of the United States in SALT I to bind Russia by a unilateral statement that SALT I bound both parties not to build light missiles of throwweight exceeding 2,000 pounds? Secretary of State Kissinger was in the forefront in assuring and reassuring the Congress that the silence of Russia in response to that unilateral statement of the United States indicated the agreement of Russia to be bound by our definition and interpretation.

He was wrong. The United States was, of course, bound by its own statement. Russia was not. The proof is the SS-19 built by Russia as a light missile with a throwweight of 8,000 pounds—some four times the limit we thought we had established.

No, reservations and understandings are not going to bind Russia. That is a fact of life learned by experience.

I do not question that the United States can, by means of reservations and understandings, to some extent affect and outline what its own conduct will be under SALT II. Clearly, we can state how we intend to behave under SALT II by means of reservations and understandings, and indeed, Soviet acquiescence in such statements does have some effect in that we can assume that our intentions are known and accepted. Obviously, we can thereafter directly govern our own conduct.

But, on the other hand, it is absolute folly to believe that the conduct of Russia can be governed by anything less than direct amendment of the treaty. Our statements of intention, our interpretations, insofar as they seek to bind Russia, will be roundly and quite rightly ignored.

Again, I question, in the final analysis, whether this treaty is a document which can be made worthy of Senate consent to ratification.

But I do believe that in attempting to mold and fashion this agreement into a form which is acceptable, the effort of the Senate should concentrate on amendments and should not waste time on mere reservations or understandings.

Senate procedure on treaties embodies rules which also recognize the importance of amendments and the relative insignificance of reservations and understandings.

Senate procedure requires the Senate to consider treaties article by article, first in the Senate sitting as the Committee of the Whole, and next, in the Senate sitting as the Senate in executive session.

Amendments are in order at all times and are in order to be considered in both forms, both during the article-by-article consideration of the treaty and at the conclusion of such consideration, at which stage a treaty is open to amendment at all points in its text.

Only after this extensive and important procedure has been completed, both in the Committee of the Whole and in the Senate, is it then in order to consider the less significant, the less effective reservations and understandings to the resolution of ratification.

Senate procedure, therefore, requires that, in considering a treaty, the emphasis is to be placed on the amending process. These rules are good. They insure sound deliberation.

The Senate should take full advantage of its rules in correcting, by amendment and by amendment alone, defects in the contractual obligations which Russia would undertake and in molding the obligations at supreme law which would be undertaken by the United States.

Reservations and understandings which purport or attempt to bind Russia cannot accomplish that goal.

Reservations and understandings may give Senators an excuse to vote to ratify SALT II—but reservations and understandings will not bind Russia. Only amendments, subsequently accepted by Russia, can do that.

RUSSIAN MILITARY SPENDING: HEARING IN THE SUBCOMMITTEE ON GENERAL PROCUREMENT

Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on General Procurement of the Senate Committee on Armed Services is studying Soviet military procurement. On November 1 and November 8, 1979, the subcommittee received testimony from administration witnesses and from certain knowledgeable individuals outside of Government.

Among those who appeared before the subcommittee were Donald Burton, Chief of the Military Economics Division of the Central Intelligence Agency; Mr. William T. Lee, a recognized authority on Soviet military spending; Mr. Gordon Negus, defense intelligence officer for strategic forces at the Defense Intelligence Agency; Dr. Jack Vorona, Assistant Vice Director of the Defense Intelligence Agency for Scientific and Technical Intelligence; and Dr. Steven Rosefielde, professor of economics at the University of North Carolina.

As chairman of the Subcommittee on General Procurement, I feel that it is important for the subcommittee to understand the level of military procurement under way in the Soviet Union and that it is important for the American public to appreciate the scope of the massive arms buildup which has occurred in Russia since SALT I was approved in 1972.

These hearings have been held in open session. Much information has been gained.

First, evidence was received in the subcommittee that present CIA estimates of Soviet military spending are understated. The Central Intelligence Agency estimates the current rate of growth of military procurement to be 3 to 4 percent in real terms annually. However, other wit-

nesses who appeared before the subcommittee gave strong testimony that the rate of growth in Soviet procurement in real terms could be as high as 11 to 13 percent annually. These witnesses also expressed the view that the Soviet military consumed 18 percent of the Russian GNP rather than the 11 to 13 percent of GNP estimated by our CIA.

Dr. Jack Vorona of the Defense Intelligence Agency also provided valuable testimony to the subcommittee. Dr. Vorona explained in some detail the importance of the massive transfer of technology which occurs from the West to the East. In specific response to a question by me, he testified that the Russian war machine had been greatly aided by exporting to Russia American technology.

He illustrated his point with several specific examples. Perhaps the most startling of these was the disclosure that 164 Centalign-B precision ball-bearing machines shipped to Russia in 1972 were apparently used in perfecting the accuracy of the SS-18 ICBM warhead.

Dr. Vorona, because of classification requirements, could not answer several important questions for which the public is entitled to a response.

He could not answer in the public record the following questions: First, is Russia building a prototype space laser for ABM uses; second, is Russia preparing an ABM system for nationwide deployment; and, third, is Russia constructing nuclear aircraft carriers, and if so, how many?

My colleague from Virginia, Senator WARNER, stated the opinion that the public should be provided at least a basic response to these important inquiries. I agree.

The testimony of Dr. Vorona is perhaps the most important to get rapidly before the Congress and the public. Accordingly, I ask unanimous consent that the testimony of Dr. Vorona before the Subcommittee on General Procurement be printed in full in the RECORD.

I also ask unanimous consent that two articles on Dr. Vorona's testimony which were carried in Defense/Space Business Daily on November 9, 1979, be printed in the RECORD.

The articles deal with U.S. assistance to Russian weapons development and with the development of a new Russian ABM system for possible nationwide deployment. Both subjects merit close study.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DIA SAYS U.S. CONTRIBUTED TO SOVIET SS-18 MIRV CAPABILITY

Technology transfer contributions to Soviet military cited

The Defense Intelligence Agency told Congress yesterday there is a definite possibility that United States precision miniature ball bearing grinding machines delivered to the Soviet Union in 1973 and 1974 are being used to provide the latest versions of the SS-18 ICBM with its highly accurate MIRV guidance systems.

While it had been assumed previously that these machines enabled the Soviet Union to develop their MIRV capability, Dr. Jack Vorona, assistant vice director for Scientific and Technical Intelligence of the DIA, said the first machines were not delivered until after the Soviets had begun testing their "relatively unsophisticated first generation MIRVs."

However, Vorona told Sen. Harry F. Byrd, Jr. (I-Va.), chairman of the Senate Armed Services Subcommittee on General Procurement, it is "reasonable" to assume that these machines have been used for producing the bearings for the follow-on high quality MIRV guidance systems in the SS-18, equipped to carry a payload of ten warheads. "We have no doubt that these machines are making a distinctive contribution to the Soviet military effort," he said.

West's major role in Soviet military advancement

The ball bearing grinding machine was one of several technology transfer items outlined by Vorona, where the industrialized West has played a major role in the modernization and expansion of Soviet industry and subsequently the Soviet military advancement.

He noted, for instance, that the Soviets purchased at least one copy of each of the 80,000 U.S. government documents and government contractor reports deposited with the National Technical Information Service of the Department of Commerce each year.

In addition to the ball bearing grinding machine acquisition by the Soviets, Vorona said an entire series of Soviet computers is based on IBM 360 and 370 computers that were "illegally diverted" into the USSR in 1971 and 1972. These diversions may have been the cornerstone for the Soviet/Warsaw Pact development of the RYAD I and II computers, he said.

He also cited the example of the Kama River truck plant built in the Soviet Union almost exclusively with Western technology, supposedly for the building of trucks for the Soviet civil economy. Many of the trucks, Vorona said are actually being used by the military and some of the excess engines being built at the Kama plant may be destined for other military vehicles.

The Soviet acquisitions are not limited to purchases and diversions of equipment and goods, Vorona said. He cited the example of a Soviet exchange student who came to the U.S. in 1976-77 to study in a university the passage of shock waves through inert and combustible heterogeneous mixtures, a science involved in fuel-air explosives. "It appears this 'student' is himself involved in research directly related to fuel-air explosives," the DIA official said.

In another instance, under the auspices of an agreement between the U.S. and Hungarian Academies of Science, Gyorgy Zimmer, head of the Hungarian effort in magnetic bubble research (used for computers) has been coming to the U.S. periodically and conducting research at one of the U.S. leading universities, attending conferences and visiting other facilities to observe and discuss American research in this field. "As in all other fields, we believe the Soviets have access to most if not all Hungarian and other Warsaw Pact research and information including that which Mr. Zimmer gains in the U.S.," Vorona told the subcommittee.

There are 10 bilateral agreements in existence between the Soviet Union and the U.S., comprising about 240 working groups on such subtopics as use of computers, metallurgy, microbiology, chemical catalysis, physics, science policy, meteorology, fast breeder reactors, controlled thermonuclear research and MHD power generation. A provision of these agreements has resulted in the establishment of a large number of separate agreements between U.S. companies and the Soviet government, "significantly, we believe, with companies who are 'front-runners' in areas in which the Soviets are deficient," Vorona explained. "There is no formal U.S. government oversight of these agreements "unless a validated export license is required. . . . We view these agreements as still another mechanism for the potential transfer of advanced technology," he said.

"The Soviets are seeking Western technology and equipment by any and all means," and, while in the past Soviet weapons designers had a limited technological base for specialized components, Vorona said, "technology transfers affords them the opportunity to rectify such deficiencies. . . . We are positive it is . . . making a very significant contribution" to the Soviet military.

DIA SAYS SOVIETS DEVELOPING NEW ABM SYSTEM

Dr. Jack Vorona, the Defense Intelligence Agency's vice director for scientific and technical intelligence, told a Senate Armed Services subcommittee yesterday (see preceding report) that the Soviet Union is developing new ABM system, but it is not yet known whether this system is designed for national deployment. Right now, Vorona said, the Soviets are expending "considerable resources, commitments and priority" to ABM systems.

SENATE FOREIGN RELATIONS VOTES ON SALT II TODAY

The Senate Foreign Relations Committee plans to vote approval today of the SALT II Treaty it has been considering for the past several weeks. It is a foregone conclusion that the committee will approve the treaty, along with a volume of unilateral understandings that do not change the text of the treaty or require Soviet approval or renegotiations. The full Senate will then get its chance at the treaty sometime later this month, perhaps around Thanksgiving.

STATEMENT OF DR. JACK VORONA

INTRODUCTION

This illustration appeared in a Soviet journal published in the 1960s. It shows the Soviet perspective of world science leadership—past, present and future, and reflects their often stated goal of superiority in science and technology. My presentation today provides a brief status report on the Soviet progress toward this goal; its translation into military hardware during the past decade and our prognosis for the next. I will also address the subject of technology transfer and its relationship to Soviet weapons system acquisition.

THE SOVIET TECHNOLOGICAL BASE

The present and near term Soviet military capability reflects the achievements of a technological base that has grown steadily during the last decade. The high priority military R&D sector received regular and large infusions of capital investment leading to significant growth in those research, design and test facilities so critical to weapons development. For example, there has been roughly a 30 percent growth in aerospace facilities. A concurrent increase in the size of the Soviet R&D manpower force has also been noted. In 1979, this force was estimated at 800,000 scientists and engineers—the world's largest. In sheer numbers, the Soviets passed the U.S. in the mid-1960s. In addition, at least 270,000 new engineers are being graduated each year—a rather phenomenal number by U.S. standards. This is not to imply that the large Soviet R&D manpower force is totally committed to military R&D, nor does it address factors such as productivity, quality and utilization—but it does imply a large resource available to a sector that commands a high priority in resource allocation. Indeed, we believe the best qualified of this important R&D manpower resource are earmarked for the defense sector. We believe this trend in facilities and manpower will continue through the next decade.

The Soviets have very obviously committed themselves to the creation of a technology base second to none. The remainder of this briefing will describe some of the resultant military capabilities.

STRATEGIC WEAPON SYSTEMS

The Soviets have significantly improved their strategic missile capabilities over the past decade. They increased the number of intercontinental ballistic missile launchers from 1050 in 1969 to about 1400 in 1979, as is shown in this comparison chart. During this period, they developed and deployed four new ICBM systems with numerous payload variants.

They added flexibility to their force with the mobile SS-20 intermediate-range ballistic missile. During this past decade, they also developed multiple independently targetable reentry vehicles, or MIRVs for the ICBMs as well as the SS-20.

As a result of this force modernization and expansion, the Soviets improved the reliability, range, payload, and accuracy of their ballistic missiles. The improvements in payload and accuracy resulted in an improved hard target kill capability.

Further, the Soviets increased the survivability of their force by deploying missiles in silos with substantially greater structural hardness.

Quite independent of SALT II, we believe during the next decade the Russians will continue to improve the quality of their strategic land based missile force—striving for higher reliability, faster response time and even greater accuracy.

In the last 10 years, the Soviets introduced four classes of new ballistic missile submarines (SSBNs). They also reached the limit of 62 accountable SSBNs and 950 modern SLBM launchers allowed by the interim agreement of 1972 as shown here.

Although only a small portion of the Soviet SSBN force is maintained on operational patrol, the long-range missiles of the DELTA class SSBNs can reach the United States while still in Soviet ports. The Soviets now have over 30 operational DELTAs. The DELTA I's and II's are armed with the SS-N-8, a single warhead missile with a range of about 8000 kilometers. The Soviets have begun to deploy the SS-N-18, a missile installed in the DELTA III. This missile has a range of about 7500 kilometers and a post-boost vehicle capable of dispensing MIRVs. As a result of these developments, the percentage of submarines whose missiles can hit the U.S. will rise significantly in the near future. Moreover, they are expected to introduce at least one new class during the coming decade whose ballistic missiles will probably feature improvements in yield, accuracy and range. We also see under development the SS-NX-17, a solid propellant missile with a presumed MIRV payload.

Throughout the past decade the Soviets maintained their older heavy bomber strike force of some 140 TU-95 BEAR and M-type BISON aircraft. In addition, some 40 BISON are now configured as tankers but could be reconfigured as bombers with little effort.

During this time, the Soviet Union developed and deployed a new bomber (BACKFIRE) capable of both theater and intercontinental delivery. Staging from Arctic bases and refueled, the BACKFIRE can cover virtually all targets in the U.S. and return to the Soviet Union. On a one-way mission, it can deliver ordnance anywhere in CONUS and recover in third countries without refueling. Approximately 150 of these versatile, multipurpose aircraft have been produced and are assigned to both Soviet Long-Range and Naval Forces.

The BISON tankers are able to refuel BEAR, BISON, and BACKFIRE bombers. The Soviets may develop a new tanker using the IL-76 CANDID jet transport as an airframe, and/or convert the remaining BISON bombers to tankers.

The Soviets are almost certainly in the process of developing a new long-range bomber to replace their aging BEAR and BISONs. This new bomber could appear in the early- to mid-1980s and can be expected to feature characteristics similar to the U.S. B-1. Introduction by the Soviets of a new cruise missile carrier in the decade of the 1980s must also be considered a very real possibility.

The Soviets are vigorously continuing to pursue developments of strategic air defense and ABM systems. They have, over the past 10 years, maintained their Moscow-based anti-ballistic missile system. This system, based largely on older technology, will require significant modifications and/or replacement to counter sophisticated threats. Needed developments would include discrimination radars capable of handling large numbers of targets and high performance interceptor missiles. There is every indication the Soviets are pursuing R&D supportive of these requirements.

For example, they are apparently developing a new ABM system—whether this system is designed for national deployment is not yet resolved. We would expect to see the Soviets continue ABM system development exploring the application of both conventional and unconventional technologies.

In air defense, the Soviets, with their present interceptor and ground based SAM systems, have a significant capability to defend against medium and high altitude penetrators.

During the past 10 years, the Soviets concentrated most of their efforts on force modernization—developing and deploying more capable radars and better data transmission systems so as to give Soviet commanders a near-real-time air situation display, a necessity for the control of his very numerous interceptor and SAM forces. A critical vulnerability, however, exists at low altitudes. In the 1980s, therefore, we anticipate deployment of large numbers of look-down/shoot-down interceptors, the SA-X-10 low altitude SAM system, and extensive ground radar network and, quite possibly, AWAC type aircraft. An effective defense against cruise missiles would of course, represent a much more difficult problem requiring severe technological and deployment commitments. In view of past Soviet emphasis on the air defense of their homeland, we expect them to bend every effort in the year ahead to counter the air breathing threat.

Starting from the launch of SPUTNIK 1 in 1957, the Soviet space program developed into an expansive program encompassing all generic mission areas one would expect a super power to exploit. With well over 75 space launches in each of the last 10 years, their space program is one of extreme diversity ranging from the orbital interceptor to the purely scientific and exploratory—the lunar and planetary program. However, it is dominantly military in character. They are gradually expanding civilian applications, but these are overshadowed numerically by the military space program which includes the aforementioned orbital interceptor, communications, meteorological, naval support, and reconnaissance and surveillance satellite systems.

The high Soviet launch rate is expected to continue for the next several years and their space program will continue to produce steady gains in reliability, sophistication, and operational capability.

TACTICAL WEAPON SYSTEMS

A development pattern, similar to that for strategic systems—with equally impressive results—has been noted in the tactical weapons arena.

Although the achievements in the tactical ballistic missile area have not been as numerous as those in the strategic area, they have been significant. During this period, the 150 mile SCUD and 500 mile SCALEBOARD short-range ballistic missile systems were replaced by or augmented with the newly developed SS-21 and SS-22 SRBM systems.

Tactical missile systems of the next decade will probably incorporate new technology to make them lighter and more mobile, more accurate, more responsive, and more lethal. We might expect to see new developments in land navigation systems and communications to speed targeting. The lower velocities for short-range missiles would make terminal homing systems more feasible than for ICBMs. Finally, the greater variety of targets for tactical missiles may well lead to the development of specialized conventional or nuclear warheads.

As you know, the number of tactical missiles is not constrained by SALT Treaties. Therefore, we may see increasing numbers of tactical missiles deployed as SALT-accountable ICBMs are diverted from peripheral targets.

NAVAL FORCES

Impressive submarine production dominates Soviet naval accomplishments. In addition to the YANKEE and DELTA strategic submarine construction programs, the Soviets produced two versions of improved VICTOR Class nuclear attack submarines (or SSNs) and converted some cruise missile and ballistic missile units to SSNs. Improved CHARLIE Class nuclear cruise missile submarines (SSGNs) were introduced as well as the prototype for new class. Diesel-electric submarine production continued with the TANGO Class general purpose attack unit. In the next decade, overall submarine numbers may decline slightly as older units are phased out but the force will become proportionately more nuclear and militarily capable.

New classes of surface combatants during the past 10 years have included two aircapable ships, MOSKVA and KIEV, and guided-missile cruisers of the *Kresta* II and *Kara* classes. What could be the first of a class of nuclear-powered cruisers displacing over 20,000 tons is being fitted out in the Baltic. Conventionally and nuclear powered major combatants will continue to be developed during the coming decade, possibly including an aircraft carrier. The Soviet Fleet is unlikely to grow in numbers beyond the present level of approximately 200 general purpose submarines, some 300 surface combatants, about 300 auxiliaries and replenishment ships, and around 100 amphibious warfare units. However, qualitative improvements in the Force are anticipated with the introduction of modern and sophisticated weapons systems and sensors. Platform construction will keep pace with technology and the Soviet Union will maintain its status as the world's largest producer of submarines and surface combatants for peacetime presence and wartime combat.

The Soviets are continuing evolutionary improvements in their ASW (anti-submarine warfare) capabilities against both strategic and general purpose forces. Most combatants have some ASW capability and the trend is expected to continue. Although major ships, submarines and combat aircraft of the Soviet Navy include in their missions defense against Western aircraft carriers and interdiction of major shipping lanes, we estimate that the Soviets give the highest naval priority to ASW against ballistic missile submarines.

In summary, the Soviets will continue to improve their capabilities to conduct distant operations with the introduction of new and sophisticated platforms and weapons systems. However, revolutionary improvements in capabilities or force levels are not anticipated, despite their thorough understanding of the applicable technologies.

TACTICAL AIR

During the past 10 years the Soviets deployed three aircraft designed for ground-

attack missions. These three aircraft, the Fencer A, Fitter D, and Flogger D, have increased radius capabilities, increased payloads, and the ability to deliver air-to-ground ordnance more accurately when compared to older Soviet fighters. In addition these aircraft may have ECM and ECCM equipment onboard, to aid in penetrating defenses. The newer Soviet ground-attack aircraft employ a wide variety of air-to-ground weapons including free-fall and precision guided bombs, rockets, guns and tactical air-to-surface missiles. The Fencer A, Flogger D, and Fitter D are able to operate at night and in adverse weather; however, visual acquisition of the target is still required for most effective operations.

During the next 10 years the Soviets are expected to improve the capability of their ground-attack aircraft to penetrate enemy defenses at low altitude and to improve the accuracy of their air-to-surface weapons. Improved navigation systems as well as more accurate bombing/navigation radars are expected to improve the all-weather capability of Soviet ground-attack aircraft. In addition the Soviets are expected to deploy precision guided munitions using laser or anti-radiation homing guidance.

During the past 10 years the Soviets deployed a wide variety of fighters that have all-weather intercept capability. These aircraft have a wide variety armament including guns, infrared and semiactive radar guided missiles.

During the 1980s the Soviets are expected to continue developing and deploying new fighter aircraft.

Soviet fighters currently are not so totally defense oriented as they were in the 1950s and 1960s. Ground attack capabilities are being emphasized and it appears reasonable to expect significant improvements in this area during the 1980s to include new aircraft, new air-to-surface missiles, new armament and more effective means of weapon delivery.

Air superiority however, can be expected to continue to receive priority attention during the 1980s. The Soviets may decide that current fighters, such as the MIG–21 (Fishbed) and MIG–23 (Flogger), are unable to effectively counter current and projected Western fighters. New Soviet air superiority fighters are anticipated for the 1980s.

Since 1976 the Soviets deployed aircraft carriers with the YAK–36 (Forger) vertical takeoff and landing aircraft aboard. The YAK–36 is a short-range, subsonic aircraft with limited payload capabilities. The Soviets undoubtedly have R&D underway to explore a next generation carrier aircraft with enhanced performance to include supersonic speeds, longer ranges, larger payloads and other launch and recovery techniques.

Helicopter development has also been very active during the past 10 years. The HIND, the first Soviet rotary wing aircraft designed as an attack helicopter, is deployed in large numbers. The HIP was modified to become the world's most heavily armed helicopter. Variants or new designs are expected in the future to upgrade the aging fleet of observation and utility helicopters. A new ship based ASW rotary wing aircraft is expected as well.

SOVIET TANK DEVELOPMENT

From World War II until the 1960s, the Soviets methodically developed and deployed a number of medium tanks including the T–34/85, T–44, T–54, T–55, and T–62. While the change from model to model was rather gradual, the combat capability of the T–62 was far superior to the older models. These significant strides were made with a minimum of technological risk. During the 1970s, the Soviets fielded two new tanks, the T–64 and T–72. While adherence to traditional design practices in these tanks are apparent, their significant improvements in firepower and protection place them in a family apart from previous Soviet tanks. In keeping with tradition, we expect that the T–64 and T–72 will serve as the basis for follow-on development which we should see in the form of a new follow-on medium tank.

Soviet artillery modernization programs have resulted in the fielding of an impressive array of new equipment. This includes self-propelled 122 mm and 152 mm systems which are gradually augmenting and replacing towed weapons of similar caliber. These self-propelled systems provide improved mobility, increased crew protection and shorter response time. In addition, multiple rocket launcher systems of improved design, larger caliber, and greater range have been fielded. To match their improved artillery firepower, the Soviets also developed new target acquisition, observation, surveillance, and fire control equipment. Continued application of the self-propelled design principle to different cannon and rocket artillery can be expected in the 1980s. Additionally, ammunition improvements will be made to achieve greater range and lethality.

Soviet infantry weapons have continued to undergo improvement during the 1970s. The RPG–7 antitank grenade launcher is still held in large quantities but a new version, the RPG–16, provides greater range and lethality. A new family of small arms firing 5.45 mm ammunition is now making its appearance. The Soviet development of this cartridge follows the Western trend to smaller caliber military rounds that started in the 1950s and resulted in the widely-used U.S. 5.56 mm cartridge. The AK–47 assault rifle which fires this new Soviet ammunition is similar in basic design to the older AKM, a weapon that has been widely distributed not only to Soviet forces but to many countries throughout the world. Improvements in infantry weapons during the 1980s will be directed at incorporating evolutionary design changes in weapons and ammunition and the gradual replacement of older weapons with the more modern systems.

A new generation of Soviet antitank guided missiles was fielded during the past decade. The missiles feature semiautomatic guidance, provide increased armor penetration, improved hit probabilities and generally greater range capabilities than earlier systems. Mounting antitank missiles on helicopters also reached a more advanced state of development, particularly during the past 5 years. Future Soviet antitank missiles will emphasize armor penetration and will incorporate improved guidance with a fully automatic system being a major goal.

During the last 10 years the Soviets continued to improve the mobility, firepower and target handling capability of their ground forces' air defense umbrella. They have added two new tactical surface-to-air missile systems to the three which were already deployed in 1969. These five systems complement each other in range and altitude capabilities thereby providing a formidable air defense shield for their ground forces. The trend of improving air defense coverage is expected to continue through the modification of existing systems and the introduction of new systems to supplement or replace them.

The Soviet armed forces are considered to be the best equipped and trained forces for launching and sustaining chemical attacks. Their force posture and capabilities for survival and operations in a toxic environment are currently unequalled by any other forces.

A large quantity of specialized decontamination and reconnaissance vehicles are integrated throughout all service components of the Soviet forces. Soviet combat and combat support vehicles are designed and equipped to operate in a contaminated environment. For example, the armored personnel vehicle, the latest T-series tanks, mobile repair shops and command and control vehicles are equipped with filtration systems capable of preventing toxic agents from entering the vehicles.

Soviet forces have available to them a large quantity and variety of chemical weapons and delivery systems. The chemical agents available for employment include highly lethal nerve agents and the older type agents such as mustard and hydrogen cyanide. These agents can be delivered to forward targets by artillery, multiple rocket launchers, tactical rockets, and to deep targets by missiles and aerial bombs.

As an indication of the importance that the Soviets place on chemical warfare, the chemical troop organization has been expanded in recent years and chemical specialists have been integrated into all force levels. In some units, platoons have been upgraded to companies, companies have become battalions, and battalions, regiments.

SOVIET TECHNOLOGY DEVELOPMENTS

Pacing each of the many new and improved Soviet weapon system developments is a very large research effort in the sciences and technologies. Technical advances in such fields as materials, propulsion and electronics permitted the weapon system developments that we observed in the Soviet Union during the past 10 years. The introduction of yet improved military hardware will continue to depend on their success in advancing technological frontiers. Some high technology areas such as directed energy appear to have a significant potential for weapons application. For example, the USSR appears to be roughly comparable to the U.S. in the capability to develop high energy laser systems. They have been working on the basic laser technologies as long as the U.S., and apparently have the expertise, manpower, and resources to develop any type of weapon laser that the U.S. could.

Soviet awareness of the potential of electromagnetic pulse (EMP) weapons is indicated by articles in their open literature and they are actively pursuing development of the very high peak power microwave generators that would be relevant to such application.

Finally, the Soviets have been aware of and interested in particle beam weapon (PBW) concepts since the early 1950s. Within the USSR, there is considerable work in areas of technology relevant to PBWs. However, much of this technology has probably been developed for other applications. At this time, U.S. and Soviet accomplishments in the relevant technologies are roughly equivalent.

TECHNOLOGY TRANSFER

The foregoing discussion would be incomplete however, without examining the relationship of technology transfer upon their military posture.

In addition to being the source of much of the Soviet Union's electronic and computer technology and manufacturing "know-how," the industrialized Free World has, during this decade, supplied their industrial sector with billions of dollars worth of efficient machine tools, transfer lines, chemical plants, precision instrumentation, and associated technologies. These goods and technologies have unquestionably played a major role in the modernization and expansion of Soviet industry. Although much of the technology embodied in the Western equipment is known and understood by Soviet technicians, their purchase via long term low interest loans has enabled the Soviet Union (and other Warsaw Pact countries) to achieve an industrial expansion at a substantially faster rate than would have been possible with indigenous resources. Unfortunately, "tracking" those acquisitions and proving that they have resulted in specific improvements in Soviet military capabilities is quite difficult inasmuch as equipment or technology must be acquired, assimilated and placed into production. This can take years. In the process, it may be modified to fit the particular Soviet circumstance until it loses its original identity and becomes "Sovietized." The result is that the final product might be without any visible evidence of a Western contribution. It is well known that the Soviets follow Western developments avidly through acquisition of scientific and technical journals, attendance at conferences and symposia, scientific exchange visits and the purchase of at least one copy of each of the 80,000 U.S. government documents and government contractor reports deposited with the National Technical Information Service of the Department of Commerce each year.

The actual improvements in Soviet military capabilities wrought by the acquisition of Western technology are often difficult to quantify. For example: truck tires possessing one-third greater wear because of superior carbon black from a Western-built plant or long range transport aircraft that suffer less down time due to the use of engine components produced on Western manufacturing equipment.

Nevertheless, we can cite some examples of Soviet acquisitions that we believe have made or are making a distinct contribution to the Soviet military procurement effort. In 1973 and 1974, 164 precision miniature ball bearing grinding machines were delivered to the Soviet Union. There was concern that these machines enabled the Soviets to develop their MIRV capability. Actually, the first machines were not delivered until after the Soviets had begun testing their relatively unsophisticated first generation MIRVs. However, we have no doubt that these machines are making a distinctive contribution to the Soviet military effort and could very well be producing the precision miniature ball bearings used in current and follow-on high quality MIRV guidance systems.

Another such example is in the production of Soviet KAMAZ trucks. The Kama River truck plant located near the city of Neberezhnyye Cheiny in the USSR was built almost exclusively with Western technology. Among other things, the U.S. supplied the automated foundry for making the engines, the production line and the computer that controls the plant. The plant, when it reaches full production, will produce 150,000 trucks and an additional 100,000 engines per year. These trucks are more efficient and reliable than those they are replacing and have a 60 percent greater haul capability on a one-for-one basis. Many of these trucks indeed are going into the civil economy, (where they are always subject to call by the military); but others are actually being used by the military. We continue to receive unconfirmed reports that some of the excess engines may be destined for other military vehicles.

An entire series of Soviet computers is based on IBM 360 and 370 computers that were illegally diverted into the USSR in 1971 and 1972. These diversions via a Free World firm may have been the cornerstone for the Soviet/Warsaw Pact development of the RYAD I and II computers. The number of known cases of COCOM embargoed computers that have been diverted into the Soviet Union may be just the tip of the iceberg.

While the U.S. is at the forefront of electronics manufacturing, we are but one of about 11 Free World suppliers of metal working and fabrication equipment. For example, an Austrian firm is the world's principal builder of precision rotary forging equipment—an exceptionally efficient machine for producing high quality gun tubes. No other type of machine in the world is competitive with these machines. The Soviets have been one of the principal customers for these precision machines for almost two decades, purchasing probably hundreds of millions of dollars worth of equipment. These machines can radically increase production rates while simultaneously producing a much higher quality barrel required for the greater rates of fire and higher muzzle velocity of today's weapons. In addition, with today's higher quality steel, the overall life of artillery weapon systems is increased. As a result, the Soviets probably have the greatest gun-barrel manufacturing capability in the world.

Soviet acquisitions are not limited to purchases and diversions of equipment and goods. Soviet scientists and engineers study Western scientific developments and acquire technology know-how. I'll have more to say on this later but one specific example with direct military application that highlights the problem is that of a Soviet exchange student who came to the U.S. in the academic year 1976–77. He studied at one of our leading universities in the science involved in fuel-air explosives. It appears this Soviet "student" is himself involved in research directly related to fuel-air explosives.

In addition to the examples cited above we see the Soviets making a concerted effort to gain as much information, technology and equipment as possible on new and emerging technologies which may not have reached the military application phase in the U.S. but which certainly have the potential for such use.

Some examples are magnetic bubble memory technology for computers, genetic engineering, but more specifically the recombinant DNA (deoxyribonucleic acid), fracture mechanics and superplasticity. To be more explicit, under the auspices of an agreement between the U.S. and Hungarian Academies of Science, one Gyorgy Zimmer, who heads the Hungarian effort in magnetic bubble research, has been coming to the U.S. periodically and conducting research at one of our leading universities, attending conferences and visiting other facilities to observe and discuss American research. As in all other fields, we believe the Soviets have access to most if not all Hungarian and other Warsaw Pact research and information including that which Mr. Zimmer gains in the U.S. I would be surprised if this were not the case—indeed, foreign visitors tend to confirm this fact.

BILATERAL AGREEMENTS

In addition to the acquisition of Western industrial plants and equipment, the decade of the 70s has also witnessed greatly expanded contact between the Free World and Soviet scientists and engineers. The scope and depth of Soviet interest in the advanced and emerging technologies is exemplified by the exchange agreements the Soviets have negotiated with the U.S. since 1972. There are 10 bilateral agreements in existence with the U.S. comprising about 240 or so working groups in which Soviet and U.S. personnel are jointly working, including such subtopics as use of computers, metallurgy, microbiology, chemical catalysis, physics, science policy, metrology, earthquake prediction, fast breeder reactors, controlled thermonuclear research and MHD power generation.

One of the provisions common to many of these bilateral agreements encourages the establishment of separate agreements between individual U.S. companies and entities of the Soviet government such as the State Committee for Science and Technology. The Soviet Union has negotiated such agreements with a large number of U.S. companies; significantly, we agree, with companies who are "front-runners" in areas in which the Soviets are deficient. There is no formal U.S. government oversight of these agreements unless the accord results in the sale or transfer of an item or technical data that requires a validated export license. We view these agreements as still another mechanism for the potential transfer of advanced technology.

STUDENT EXCHANGE PROGRAM

Additional bilateral agreements that we believe serve as a very effective transfer mechanism are those that provide for the student exchange program that exists between the U.S. and the USSR/Warsaw Pact/China. The Soviet exchange students that come to the U.S. for an academic year usually already possess the equivalent of a U.S. PhD degree, average about 35 years of age, and probably have about 8 years of practical experience. Example of topics the Soviet students study are:

Research in Digital Automatic Control and Diagnosis.

Ferroelectric Ceramics.

Technological possibilities and efficiency of Computer application for control of machine-tool systems with digital set control.

Passage of shock waves through inert and combustible heterogeneous mixtures.

Conversion of hydraulic signals into electrical signals.

Photoelectric phenomena in semiconductors.

Solid state electrochemical thermodynamics.

This is contrasted with typical examples that American students study:

Language and style in the Chet'i Minei of Dmitri Rostovsky.

Socio-Economic developments of formal organization in Vilnius.

The professionalization of Russian psychiatry 1860–1911.

Marriage patterns in Russia and the USSR 1897–1975.

The state and the economy in Catherinian Russia.

Soviet criminal law and codification.

The development of medical sciences in 19th century Russia.

This disparity is further highlighted in this slide. It can be seen that U.S. students study language, history, social science, and art, while the Soviets study the hard sciences and engineering.

In summary, the Soviets are seeking Western technology and equipment by any and all means. In the past, Soviet weapon designers appeared to be somewhat constrained in the effectiveness of the products they could develop by a limited technological base for specialized components. Technology transfer affords them the opportunity to rectify such deficiencies. Much of what they acquire is slated for the industrial sector, but that this equipment and technology has been and is important to the Soviet military is axiomatic. As I have indicated the audit trail for Western equipment and science and technology is sometimes difficult to follow and its effects even harder to quantify, but we are positive it is there and making a very significant contribution.

It was my intention that this presentation convey to you the intensity, the momentum, the continuity, the seriousness and the profusion of Soviet military systems acquisition. The huge research base which I earlier described is right now planting the seeds for even more sophisticated weapons of the 90s. Recall the first VG which showed the Soviet prediction of their technical leadership commencing in the late 20th century. By whatever yardstick one applies, they are clearly intent upon fulfilling that prophecy.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from West Virginia.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond 15 minutes, and that Senators may be permitted to speak therein up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

TAKING AWAY A BLACKMAIL CARD

Mr. HARRY F. BYRD, JR. Mr. President, I have in my hand an excellent article from the Omaha World-Herald of Tuesday, November 13, 1979. This article in today's World-Herald contains an interview with the distinguished and able Senator from Nebraska. I feel that his comments on the Iranian matter are so wise and sound that I ask unanimous consent that this statement be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXON: OIL CUTOFF STOPS IRAN "BLACKMAIL"

(By Darwin Olofson)

WASHINGTON.—Sen. J. J. Exon said Monday that President Carter's action in cutting off oil imports from Iran takes a "blackmail card away" from the Iranians.

"I certainly feel this is a step in the right direction, and I think the President will have the total backing of the people on this," Exon said.

Approval of Carter's action also came quickly from Reps. John Cavanaugh of Omaha and Doug Bereuter of Utica.

But Rep. Virginia Smith of Chappell said the President could have taken "much more punitive" measures by freezing all of Iran's assets in the United States and calling for a worldwide embargo on Iranian oil.

NOT A HEAVY PENALTY

"It seems to me that this (Carter's action) is not a heavy penalty on Iran for holding 60 of our people," she said, adding that halting Iranian oil imports would penalize Americans.

"I think it's going to create hardships for us in consumption and availability of oil supplies," Cavanaugh said, adding:

"But I think we clearly have to demonstrate to Iran and the rest of the world that our energy dependence cannot be used to humiliate us as a nation and that we will make whatever sacrifices are necessary to assure our political integrity and independence."

Bereuter said he felt "the American people were ready for some kind of action, including this one."

He also said he thought the situation in Iran was one that would make people willing to cut down on their fuel consumption.

ECONOMIC EMBARGO

Both he and Cavanaugh suggested that Carter should go further and ask other nations to join the United States in halting imports of Iranian oil.

Cavanaugh said he felt western nations also should be urged to join in "a total economic embargo of Iran until it establishes itself as a responsible member of the world community."

Exon, a member of the Senate Armed Services Committee, was notified by the Pentagon of the president's decision two hours before the oil cutoff announcement was made at the White House.

He said he had talked to Vice President Walter Mondale Monday morning about the situation in Iran and the status of the Americans held captives there.

"Unfortunately, there's nothing new to report," he said. "If anything, there seems to be a stiffening of (Ayatollah Ruhollah) Khomeini's position."

VERY DISTURBED

No one would have been surprised, Exon said, if Iran had stopped oil shipments to the U.S.

"It's much better if we tell them we're going to take that blackmail card away from them," he added.

Exon also said he was "very much disturbed" by what appeared to be the Soviet Union's lack of responsiveness to requests that it exert pressure on Iran to help secure the release of the American hostages.

"The Soviets once again seem to be taking advantage of every situation around the world to heighten tensions rather than lessen them," he said.

He said Russia's attitude has a bearing on his feelings about the SALT II treaty with the Soviet Union.

Supporters of the treaty say it should not be linked with other considerations, he said, "but I do not believe that we can or should say that nothing under the sun should be linked to SALT."

Exon said the intentions of parties to the treaty are important and should be considered.

Russia seems to be ignoring all pleas, including those of the United Nations and the pope, to help ease the situation in Iran, he said.

He also said he felt whatever shortfall in oil supplies that Carter's action might involve could be overcome if Americans would drive two miles less a day, "which we can all arrange to do."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

MILITARY CONSTRUCTION APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 4391, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 4391) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments, as follows:

On page 2, line 7, strike "$668,808,000" and insert "$779,203,000, of which $1,340,000 may be paid for use after 1960 by the Government of the United States of land on Roi-Namur Island, Marshall Islands District of the Trust Territories of the Pacific Islands, as authorized by the Military Construction Authorization Act, 1980,";

On page 2, line 13, strike "$47,700,000" and insert "$53,700,000";

On page 3, line 3, strike "$527,305,000" and insert "$566,160,000";

On page 3, line 5, strike "$51,549,000" and insert "$60,549,000";

On page 3, line 18, strike "$439,786,000" and insert "$593,650,000";

On page 3, line 20, strike "$41,000,000" and insert "$47,000,000";

On page 4, line 11, strike "$175,695,000" and insert "$258,630,000";

On page 4, line 11, strike "and in addition $39,200,000 which shall be derived by transfer from Military Construction, Air Force 1979/1983, to remain available until September 30, 1984;";

On page 4, line 21, after the colon, insert "Provided further, That $39,200,000 shall be transferred to "Military Construction, Defense Agencies, 1979/1983" from "Military Construction, Air Force, 1979/1983";";

On page 5, line 1, strike "$10,000,000" and insert "$14,000,000";

On page 5, line 12, strike "$20,000,000" and insert "$23,700,000";

On page 5, line 20, strike "$30,000,000" and insert "$36,000,000";

On page 6, line 2, strike "$25,000,000" and insert "$30,000,000";

On page 6, line 10, strike "$15,000,000" and insert "$18,300,000";

On page 6, line 17, strike "$10,000,000" and insert "$12,000,000";

On page 7, line 1, strike "$1,593,822,000" and insert "$1,689,925,000";

On page 7, beginning with line 5, insert the following:

For the Army:
Construction, $11,500,000;
For the Air Force:
Construction, $12,000,000;

On page 7, line 10, strike "$150,735,000" and insert "$154,025,000";

On page 7, line 11, strike "$1,443,087,000" and insert "$1,508,500,000";

On page 7, line 17, strike "$645,000,000" and insert "$716,216,000";

On page 7, beginning with line 19, strike through and including page 8, line 22;

On page 8, beginning with line 23, insert the following:

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $5,000,000.

On page 12, line 15, after "procurement" insert a comma and the following: "except that this provision shall not apply to the procurement of steel for any project of the NATO infrastructure program if the Secretary of Defense certifies to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate that an effort was made to have the steel procurement for such project considered as a separate item of the project involved, the result of that effort, and that it is in the United States interest to accept the action taken with respect to the procurement of steel for such project".

On page 13, beginning with line 1, insert the following:

"SEC. 115. (a) Funds appropriated under this Act for the Air Force shall be available in an amount not to exceed $1,000,000 to assist States and local governments in potential MX basing areas in meeting the costs of establishing planning organizations to conduct studies on and develop plans with respect to possible community impacts of the MX program, including studies and plans with respect to environmental and socioeconomic impacts, State and community land use planning, and public facility requirements.

"(b) The Secretary of Defense shall carry out the provisions of this section through existing Federal programs. The Secretary is authorized to supplement funds made available under such Federal programs to the extent necessary to carry out the provisions of this section. The heads of all departments and agencies shall cooperate fully with the Secretary of Defense in carrying out the provisions of this section on a priority basis."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be permitted to suggest the absence

of a quorum without the time being charged against either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR NO ROLLCALLS BEFORE 2 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, this has been cleared with Mr. HUDDLESTON and Mr. STEVENS, the managers of the bill. I ask unanimous consent that there be no rollcall votes in relation to the bill before 2 o'clock today, and that any that are ordered prior to that time, if such be ordered, occur beginning at 2 p.m.

Mr. STEVENS. There is no objection to that procedure.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Debate on this bill is limited to 1 hour, to be divided and controlled by the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Alaska (Mr. STEVENS) with 30 minutes on any amendment and with 20 minutes on any debatable motion, appeal, or point of order.

The Chair recognizes the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as amended be considered as original text for the purpose of further amendment with the understanding that no points of order be considered as having been waived by reason thereof.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, the military construction appropriation bill for fiscal 1980, as reported from committee, includes funding of $3,888,743,000 for the planning, design, construction, alteration, and improvement of military facilities both in the United States and overseas. This is $7,880,000 more than the appropriation for fiscal 1979, $16,682,000 more than the budget request, and $406,752,000 more than the House bill.

The major unbudgeted item in the bill is $57 million for construction of test facilities for the new MX missile at Vandenberg Air Force Base, Calif. The need to have these funds included in the fiscal 1980 appropriation bill only recently came to the attention of the committee. The Appropriations Subcommittee on Military Construction and the Armed Services Subcommittee on Military Construction and Stockpiles held a joint hearing on October 29 on the proposal, and the item, which had been added to the authorization bill during House floor consideration, was included in the conference version of the Military Construction Authorization Act.

According to testimony, funds for the test facilities are needed in December of this year in order to preclude either slippage in the MX-IOC date or a full-scale production decision prior to flight testing. With the funds for the test facilities in this bill, the Air Force would expect to award contracts on the project beginning in February 1980—only 3 months away.

The committee has also included authority for the Air Force to use up to $1 million of its budget to assist States and local governments in potential MX basing areas in planning to handle the impact of the MX program. This would be accomplished through the establishment of planning organizations which would conduct studies and develop plans to deal with the environmental and socioeconomic impact.

The committee has also approved the full $78.2 million requested for space shuttle construction at Vandenberg Air Force Base and Johnson Space Center (JSC), Tex. While the committee is aware of the many problems which have plagued the space shuttle program, it believes that the United States is fully committed to the space transportation system and that, consequently, every effort should be made to bring the system to operational status as soon as possible.

The $78.2 million involves $65.8 million for construction of launch-related facilities at the west coast launch site which will be under Department of Defense control. The east coast launch site at Cape Kennedy, Fla., will be operated by NASA and is not funded in this bill. DOD missions will, however, be launched from both sites. Shortly after launch, control of a Shuttle flight will shift from the launch facility to mission control facilities at NASA's Johnson Space Center. The other $12.4 million in the bill is to provide protection at Johnson Space Center for the classified aspects of DOD missions.

The bill includes the full authorized amount of $120 million for the Guard and the Reserves—$23.7 million for the Army National Guard, $30 million for the Army Reserve, $18.3 million for the Naval Reserve, $36 million for the Air National Guard, and $12 million for the Air Force Reserve. The amount is $20 million more than the budget request of $100 million, but $48 million less than the fiscal 1979 appropriation. The additional funds were included because the Guard and Reserve now constitute about 30 percent of our fighting force and have assumed a number of new missions which have been traditionally associated with the active forces.

The bill also contains the full budget request for planning and design funds. The House had cut $22.9 million of these funds, based principally on concern over design change orders, lost design and breakage. While the committee agrees with the House that there are a number of problems, it appeared that with the reduction it would be difficult, if not impossible, for the services to bring the construction program to the 35 percent design status for submission to Congress.

Furthermore, the bill includes $3 million above the budget request for planning and design for the conversion to coal or alternate fuels of alternate fuel capable plants which currently are burning oil or gas. The U.S. overdependence on foreign sources of energy continues to pose a serious threat to the security of our Nation. Since national security is the primary mission of the Department of Defense, it is only fitting that DOD lead the way in switching from oil and gas to domestically available fuels.

The bill reflects a number of changes from the budget request for construction in Europe. While direct U.S. financing of facilities, principally for the Army and Air Force, has been reduced, the full authorized amount of $185 million has been included for the NATO infrastructure program. This is consistent with the policy that European defense expenditures should be jointly financed, not unduly borne by the United States.

At the same time, the bill does contain the requested funding for a number of facilities associated with dependents. The U.S. Army, which has the largest manpower force of the services, keeps a large portion—about one-fourth—of its total force overseas at any one time. Absent a major redirection in U.S. policy the size of that overseas force is unlikely to diminish in the near future. All the services are now experiencing some difficulties in meeting their manpower requirements under the All-Volunteer Army. With the All-Volunteer Force and today's norms, severe restrictions on dependents are only likely to provide a further disincentive for enlistment or reenlistment. In addition, numerous commanders have reported to the committee that morale, discipline and performance are generally better in those situations where dependents are present.

Most important for present purposes, however, is the fact that the projects requested in the fiscal 1980 budget are necessary to help eliminate the backlog of facilities required to serve dependents already abroad.

In summary, most of the funding in the fiscal 1980 bill falls into one of four categories. The first is support of strategic systems and includes, in addition to the MX facilities discussed earlier, funding for the Trident facilities on the west coast at Bangor, Wash., facilities for the *Poseidon* force on the east coast at Kings Bay, Ga., and support facilities for the Trident I missile, which is now being retrofitted in the *Poseidon*, at Charleston, S.C.

A second is support of new systems and includes funds for the air-launched cruise missile at Griffiss Air Force Base, N.Y., and other unspecified locations as well as facilities for the XM-I tank both in the United States and Europe.

A third category relates to improvements in European preparedness and a fourth to energy conservation and pollution abatement projects.

A State-by-State summary of items

funded in the bill is appended to the report, beginning on page 44.

Mr. President, in view of the budgetary constraints which have been imposed on the military construction program for several years now and in view of the need to support a number of new and expanding systems, I believe the bill before the Senate reflects the proper priorities.

Mr. President, I yield at this time to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the distinguished chairman of the subcommittee (Mr. HUDDLESTON).

It is a pleasure to be working with him again on this bill. He has provided us with details of the major points in the fiscal 1980 military construction appropriation bill. I would like to add briefly to Senator HUDDLESTON's remarks.

This bill contains $3.89 billion in new budget authority for fiscal 1980. This is $7.9 million over last year's appropriation which was considered constrained by the so-called moratorium which had been placed on military construction in recent years. As reported to the Senate, our bill is $16.7 million over the budget request. However, considering the $57 million added to the bill by the administration request for an MX test facility; $20 million added by the authorizing committees for the Guard and Reserve forces; the $185 million—$35 million over the budget request—approved for NATO infrastructure costs; and numerous other changes, I believe our subcommittee has done remarkably well to report this bill so close to the budget request and within the allocation contained in the first concurrent resolution.

I would like to stress one point. The MX test facility recommended for Vandenberg Air Force Base is not in any way connected to a particular basing mode for the MX. In a recent hearing, our subcommittee was assured by the Air Force that these proposed facilities were designed to accommodate testing for the MX missile in any basing mode. To be sure that the Department of Defense makes no decision on the basing mode, I will offer the identical language adopted overwhelmingly on the defense appropriations bill. The $57 million for the MX test facility will be a conference item since it was not considered by the House Appropriations Committee. I know that the conferees will carefully consider these proposed facilities.

The committee has carefully reviewed the projects requested in this bill. Considering the ever growing backlog of military construction, the committee has weighed the priorities and we recommended this bill to the Senate. All projects have been authorized by the Armed Services Committees which have recently completed their conference.

I take this opportunity to commend the chairman and ranking member, Senator LAXALT for their fine work throughout the year, and I urge the Senate to pass this bill as amended.

Mr. President, I am managing the bill on our side in the absence of Senator LAXALT. I ask unanimous consent to have his statement printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR LAXALT

The distinguished Chairman of our Subcommittee, Mr. Huddleston, has given the Senate a detailed breakdown on this bill appropriating funds for military construction in fiscal 1980. I would like to comment just briefly on our Committee recommendations.

As the Senate is aware, our bill is reported at $3.89 billion which is $16.7 million over the budget request. Our Subcommittee has carefully reviewed the projects requested and recommended what we feel are the highest priorities for military construction in fiscal 1980. Let me just mention a few highlights:

A sum of $57 million is recommended for MX test facilities at Vandenberg Air Force Base. These facilities are not directed at any particular basing mode for the MX. This item will be carefully considered again during the conference with the House.

Authority for the Air Force to use up to $1 million to assist states and localities which are potential basing locations to plan for the impact such basing will cause.

$78.2 million for space shuttle construction at Vandenberg Air Force Base and Johnson Space Center.

$185 million for the United States' share of the NATO Infrastructure program. Our Subcommittee will continue to carefully monitor the Infrastructure program and urge the Department of Defense to request construction projects in NATO only after the Infrastructure funding has been ruled out.

$20 million over the $100 million requested for the Guard and Reserve forces. Considering the ever growing importance our Guard and Reserve forces play in the total force concept, we must be sure to provide this part of our force structure with adequate and current facilities.

This bill, as reported, does very little to cut into the enormous backlog of military construction requirements. I believe that we must consider this backlog very carefully. With inflation out of control, this construction backlog continues to grow in dollar value if not in the number of projects. I hope that our Subcommittee will see a budget request for fiscal 1981 which takes this backlog into consideration. In recent years, the military construction budget has been the victim of cuts to make the overall defense budget meet Administration goals. I am hopeful we see an end to this type of budgeting in the near future.

I thank our Chairman, the Senator from Kentucky (Mr. Huddleston), for this diligent work on this bill. It has been a pleasure for me to work with him this year on this bill.

I urge the Senate to pass this bill as reported by our Committee.

Mr. STEVENS. Mr. President, is the bill open for amendment?

The PRESIDING OFFICER. The bill is open for amendment.

UP AMENDMENT NO. 795

Mr. STEVENS. Mr. President, I call up the amendment I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) poses an unprinted amendment numbered 795:

Insert in the appropriate place:

None of the funds appropriated under this act to continue development of the MX Missile may be used in a fashion which would commit the United States to only one basing mode for the MX missile system.

Mr. STEVENS. Mr. President, this is the amendment that was adopted by the Senate by a vote of 89 to 0 last week, after we considered the problem of what to do about the MX basing mode.

It does not commit us to any particular basing mode, but it enjoins the Department of Defense, as it uses moneys that are made available for the MX missile, not to use those moneys in a fashion which would commit the United States to only one basing mode for the MX missile.

I hope we can work out a variable basing mode concept which would not commit us to any one basing mode—as a matter of fact, one in which, to the maximum extent, the moneys would be invested in a way that would enable us to have some joint use of the facilities that might be used for the launching of the MX missile.

I hope the chairman will accept this amendment, so that the moneys in this bill would be subject to the same limitation as the moneys in the major defense appropriations bill.

Mr. HUDDLESTON. Mr. President, I thank the distinguished Senator from Alaska. I appreciate his kind comments.

I would like to note that, until very recently, the Senator from Alaska was the ranking member of this Subcommittee on Military Construction; he has made invaluable contributions over the years to these programs.

I sympathize fully with the intent of the amendment by the Senator from Alaska. The proposed basing of the new MX missile has raised a number of questions.

The question of whether it will go into the so-called racetrack mode or some other way in which it can be adequately protected and serve the security interests of the United States will have to be decided by Congress. But I think there is general agreement that we should move forward with the development and production of the new MX missile. The facilities that are provided for in this bill are for the testing of that missile. Whatever basing mode is finally decided upon, the missile will have to be fully tested before it can go into production.

Consequently, as a matter of clarification, I would ask the Senator if it not his intent that his amendment in no way preclude the expenditure of these funds in order to provide for the testing facilities, as long as those expenditures do not in any way prejudice a future basing mode decision?

Mr. STEVENS. That is my intent, Mr. President. I support fully the development of the MX missile. I think the Senate expressed its will last week, in the defense appropriations bill we passed, that we do want to see the MX missile proceed.

The statement of the Senator from Kentucky is consistent with my intention in offering this amendment. This amendment is not designed in any way to limit the testing of the MX missile or to prohibit its being tested in any one particular basing mode.

The intention of the amendment is to assure that as these funds are utilized, they will not be utilized in a manner

which would commit us to one particular basing mode, as was the expressed intention of the administration in the past. I think the administration now understands the feelings of the Senate.

Again, there is no intention, in offering this amendment, in any way to restrict the testing of the MX missile in any mode.

Mr. HUDDLESTON. With that understanding, I commend the Senator for his amendment, and I accept it on this side.

Mr. STEVENS. I yield back the remainder of my time.

Mr. HUDDLESTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. STEVENS. Does the Senator from Maine wish time?

Mr. COHEN. Yes. I would like to have a few minutes for a colloquy.

Mr. STEVENS. Mr. President, how much time do we have on the bill?

The PRESIDING OFFICER. The Senator has 27 minutes remaining on the bill.

Mr. STEVENS. I yield the Senator from Maine such time as he desires.

Mr. COHEN. Mr. President, on October 31, the Department of Defense announced that the decision to reduce Loring Air Force Base in Maine to a forward operating base, made earlier this year, would not be implemented. The Department's determination was made on the basis of its continuing assessment of the evolving strategic requirements and the need to assure maximum flexibility in the posture of our strategic and general purpose forces for the 1980's. It followed a lengthy examination of the proposed reduction which was conducted by the Military Construction Subcommittee of the Armed Services Committee.

When the Department of Defense made its October 31 decision, it notified me and my senior colleague from Maine, Senator MUSKIE, that required construction and normal maintenance and repair of facilities would be planned and programed for this base for fiscal year 1980 and future years. The condition of base housing, which has been a severe problem at Loring for a number of years, was recognized by the Department of Defense as a high priority for improvement.

My question to the respected chairman of the Military Construction Appropriations Subcommittee is this: Are there any provisions in this bill, or any language in the accompanying committee report, which would prevent the Department of Defense or the Air Force from carrying out the commitment made on October 31?

Mr. HUDDLESTON. Mr. President, I am delighted to respond to the distinguished Senator from Maine on this subject.

I point out that the senior Senator from Maine (Mr. MUSKIE) also raised this question last week, and we have gone into it in some detail.

The bill, as the Senator knows, funds the entire amount authorized for family housing, which is $1.69 billion. Included in that $1.69 billion is $716 million for maintenance and repair and $3 million for minor construction.

So I hope that within these funds, some assistance might be found for Loring. While there is a backlog of maintenance and repair projects, I think there is some flexibility in this account.

The Department could use that flexibility to accommodate the pressing needs at Loring. Certainly there is nothing in the bill that would restrict them from doing that.

Mr. COHEN. There is nothing in the bill that would restrict those improvements from being made during fiscal 1980.

The second question is: Will the Senator's subcommittee during the consideration of the administration's fiscal 1981 budget request actively consider means by which this urgent base need, especially related to housing, can be realized at Loring?

Mr. HUDDLESTON. Yes. I assure the Senator we will go into this subject very thoroughly during the hearings next year.

Mr. COHEN. I thank the Senator very much.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, if there is no one present to propose an amendment, I suggest the absence of a quorum to be charged equally between both sides.

Mr. STEVENS. Mr. President, will the Senator withhold that request?

Mr. HUDDLESTON. I withhold.

(At this point there was a colloquy between Mr. STEVENS and Mr. HUDDLESTON which is printed earlier in today's RECORD, by unanimous consent.)

Mr. STEVENS. May I inquire of the Senator, to my knowledge there will be no amendments offered from our side of the aisle on this bill. I wonder if there are amendments to come, and if there are not, whether we could not take this bill to third reading and have passage voted at 2 o'clock, as is already indicated by the unanimous-consent agreement?

Mr. HUDDLESTON. I say to the Senator from Alaska that I know of no amendments to be proposed on this side of the aisle. The senior Senator from Maine (Mr. MUSKIE) is on his way to discuss the housing situation at Loring AFB which was just raised by the junior Senator from Maine. Other than that there is a colloquy that the distinguished Senator from Colorado (Mr. HART) and I intend to have.

Mr. STEVENS. Mr. President, I think the cloakroom should notify Senators that following the colloquy which has just been mentioned by the Senator from Kentucky, it will be our intention to ask that this bill go to third reading, which would foreclose any further amendments.

As I said, I think we could have the vote at 2 o'clock. It is already in order that any votes that will take place on this bill take place at 2 o'clock. We do have a request for a rollcall vote on the bill.

So, as I said, I have no knowledge of any further amendments, and we will wait for Senator MUSKIE.

Mr. HUDDLESTON. I suggest that we wait for a few minutes on the Senator from Maine. In the meantime, I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I yeld to the distinguished senior Senator from Maine such time as he may require.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I thank the distinguished floor manager of the bill for yielding to me on a subject we have discussed informally, and which I would now like to discuss on the record.

Mr. President, on October 31, the Secretary of Defense announced that the decision to reduce Loring Air Force Base would not be implemented. The decision reflected a recognition of the strategic value of Loring as a strategic air command installation, the mission of which is to accommodate both bombers and tankers as part of our strategic deterrent forces and rapid deployment forces.

The Senate had earlier recognized the strategic value of Loring and included a provision in the fiscal year 1980 military construction authorization bill prohibiting reduction of the base. After Secretary Brown announced the decision to retain Loring, the conferees dropped the legislative provision from the military construction authorization bill, but included report language recognizing the unique strategic value of Loring.

I ask unanimous consent that the text of that language be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, I am of course pleased that the proposal to reduce Loring Air Force Base has been abandoned. With my colleagues in the Maine delegation, I have argued for 3 years that Loring's unique location in the northeast corner of the United States offered valuable strategic and logistic advantages that should be preserved and enhanced. It is most encouraging to have had that position affirmed first by the Senate, and now by the Secretary of Defense.

But while I am pleased and encouraged, Mr. President, I am also concerned with the construction needs of this valuable installation in northern Maine.

The proposal to reduce Loring Air Force Base was publicly announced in March of 1976, and apparently was under consideration within the Air Force for some years before that. For the 3 years that the reduction proposal was publicly debated, and for a period of time before, many needed repairs and renovation projects were deferred so that the Air Force could utilize available funds at other installations not scheduled for reduction. As a result, many projects, such as repair of utility lines, electrical distribution lines, replacement of roofs, painting, and general facilities repair work, were not carried out. Now that Loring's status as an active SAC base is permanent, this work should be expedited to prevent further deterioration and added expense.

In his announcement, Secretary Brown recognized that there are priority needs in fiscal year 1980, particularly with respect to housing rehabilitation.

I recognize that we are late in the congressional cycle for military construction funds. The military construction authorization bill is through conference, and we are in the final stages of shaping the appropriations for military construction.

I am deeply concerned, however, with the need at Loring for housing and facilities rehabilitation and would like to ask the floor manager of this bill, the distinguished Senator from Kentucky (Mr. HUDDLESTON) to consider the circumstances at Loring and attempt to identify funds in this legislation which might be made available for Loring. I understand that there is at least $9 million worth of housing rehabilitation work which has been deferred at Loring over the last 5 to 6 years. This work could be accomplished this fiscal year if funds were identified and made available. I am also advised that $4 million for general repair of utility systems could be immediately utilized if funds for those purposes can be identified.

I understand that, under this bill, $3 million is provided for minor construction and $716 million is provided for maintenance and repair of family housing. These programs are flexible and I would hope will provide the funding we need at Loring. The level of funding for these programs is higher in the Senate bill than in the House version. I encourage the distinguished chairman of the Military Construction Appropriations Subcommittee to retain sufficient funds in conference to accommodate these priority needs at Loring, and to seek support in the conference for identifying these priority needs at Loring as appropriate projects for funding under these provisions.

I am most appreciative of the sympathetic attitude that Senator HUDDLESTON has shown toward this problem and I am pleased to bring it to his attention on the RECORD at this time.

Mr. HUDDLESTON. I thank the distinguished Senator from Maine. I would point out that Senator MUSKIE contacted us last Friday about this problem and gave us an opportunity to talk directly with the Department of Defense. They have assured us that they intend to assist with this particular problem at Loring. As I noted previously, the committee itself has included in this bill all of the money that was authorized for family housing, the full $1.69 billion. Included in that amount is $716 million for maintenance and repair and $3 million for minor construction.

It is our position that within these funds there is ample flexibility to assist Loring. And with the expression of intent made to us from the Department of Defense in response to the request of the Senator from Maine, it is our hope that these projects will go forward.

Mr. MUSKIE. I thank my good friend from Kentucky. I am most grateful for his positive attitude and cooperation.

May I also add that I am most appreciative to the Air Force for its positive attitude toward funding of these needs, now that the decision with respect to reduction of the base has been reversed.

I thank the distinguished floor manager, my good friend from Kentucky. I yield the floor.

EXHIBIT 1

Section 809 of the Senate's bill prohibited the base realignment of Loring Air Force Base, which had been announced by the Secretary of the Air Force in March 1979, due to the significant strategic value of the Base and the complex set of evolving decisions regarding U.S. strategic programs.

The House amendment did not include this provision.

On the basis of the Secretary of Defense's decision of October 31, 1979, wherein he announced that Loring Air Force Base would remain a fully operational Strategic Air Command (SAC) base, the conferees withdrew this provision. The conferees agree with the decision of the Secretary of Defense that the reduction of Loring to a forward operating base should not occur because of the need for maintaining maximum flexibility in strategic and tactical forces in the 1980's and due to the evolving strategic basing requirements such as decisions on the beddown of the air launched cruise missile, a follow-on penetrating bomber, and a new air defense interceptor. While a full discussion of the strategic considerations of Loring Air Force Base would get into classified information, the need for Loring can be justified by its significant contribution as a strategic asset. The conferees further agree that construction and O&M funds to upgrade and maintain this base should be planned and programmed for FY 1980 and future years in order that the base retain a high level of strategic and tactical capability.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. I yield to the Senator from Maine such time as he may require.

Mr. MUSKIE. Mr. President, given our concern with the budgetary implications of all appropriations bills at this point in the session, I would like to make this brief statement with respect to the pending bill.

The bill provides $3.9 billion in budget authority and $1.1 billion in fiscal year 1980 outlays. These amounts are consistent with the President's budget request and the functional totals of the second budget resolution.

While I remain concerned about the Appropriations Committee's ability to live within its total allocation, this bill fits within the committee's military construction subcommittee's estimated allocation and the spending in the bill clearly was contemplated in the second budget resolution.

Mr. President, since this bill is consistent with the budget resolution, I support the bill as reported.

I ask unanimous consent that a table showing the budgetary status of this function be printed in the RECORD following my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Function 050

[Dollars in billions]

	BA	O
Action completed [1]	2.7	41.4
Defense appropriation bill as passed	131.6	84.5
Military construction appropriation bill as reported	3.9	1.1
Possible later requirements [2]	2.4	2.1
Total	140.6	129.1
Second budget resolution	141.2	129.9

[1] Includes appropriation action to date and outlays from prior-year authority.

[2] Includes strategic stockpile legislation, pay supplemental and other miscellaneous items.

Mr. HUDDLESTON. Mr. President, the Senator from Colorado (Mr. HART), the chairman of the Armed Services Subcommittee on Military Construction and Stockpiles, and I have discussed the possible methods of dealing with the troublesome problem of currency fluctuations.

The House recommended a special fund. Senator HART and I agree that the normal authorization/appropriations process, which allows for close congressional review of currency revaluations and funding needed to compensate for them, is the preferable way to handle the matter. Consequently, we wish to explain the issue in some detail.

Mr. HART. Mr. President, I wanted to take just a moment to compliment my colleague from Kentucky, the distinguished chairman of the Military Construction Subcommittee, for his expeditious handling of this legislation. Just last Friday the Senate approved the conference report on the military construction authorization bill for fiscal year 1980. It is important to move this legislation as rapidly as possible, not only to get started on badly needed facilities, but also to maximize the buying power of the military construction dollar which, like the entire construction industry, suffers under inflation of about 1 percent per month. The fact that military construction authorization and appropriation bills will not be enacted until 2 months into the fiscal year means that the taxpayers have lost $70–$80 million in buying power due to inflation. Again, I would thank Senator

HUDDLESTON for moving this bill so expeditiously.

There is one point that I want to raise with the manager of the bill and that has to do with the issue of how to deal with the problem of dollar devaluation on overseas projects. The House included in their bill an appropriation of $100 million as a "slush fund" to be used for overseas projects that are being squeezed by the declining value of the dollar. This same House appropriation provided that

> . . . authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended are hereby increased to the extent necessary to reflect fluctuations in foreign currency exchange rates from those used in preparing the applicable budget submission. . . .

The Senate Appropriations Committee in its amendments has deleted this House provision. I heartily endorse the Senate committee's action.

The House language is objectionable on two points. First, it is legislation on an appropriations bill in its most blatant form—it removes any cost limitations imposed by authorizing bills as well as appropriations bills "now or hereafter" enacted. Second, and I believe more importantly, it removes what I considered to be the most important management device included in the authorizing legislation—that is the requirement for each military service to execute its construction program within the total authorization for their title. If they have a cost overrun on one project, it must be offset by savings on other projects.

The Armed Services Subcommittee on Military Construction and Stockpiles considered the request of the services—especially the Army—to increase the authorization simply based on the increase to the budget request that would have occurred as a result of the increasing dollar exchange rates. We asked the Army to tell us what projects would drop out if this request were not approved. The Army could not respond. In fact, it now appears that the Army will have more authorization than it needs as a result of unfunded authorization and projects which will not be built for a variety of reasons.

There is one thing I am sure of—if the services are given a $100 million "slush fund" and all of the constraints in law are waived, they will spend the $100 million—whether they need it or not.

Would the manager of the bill comment on the point that I have just raised?

Mr. HUDDLESTON. First, Mr. President, let me thank the Senator from Colorado for his efforts to get this fiscal year 1980 military construction effort moving. His actions have been most timely; the Senate passed the authorizing legislation in June of this year, but it was not until October that the House considered the measure. He moved rapidly to wrap up the conference and assisted my subcommittee by providing the earliest possible information so that this bill could be considered.

I want to endorse what he has said with regard to the dollar devaluation situation. The situation is analogous to the man who gets a pay raise that is less than inflation—he has to decide on priorities and if he cannot get more efficient, he must defer his lower priority desires.

Mr. HART. Do you agree that the House language is legislation on an appropriation bill?

Mr. HUDDLESTON. Without question. We should not use the appropriations bills to rewrite the authorizing legislation. Our system would break down.

Mr. HART. I thank the Senator for his indulgence. I strongly support this bill and again compliment the floor manager for his expeditious handling of this important appropriation.

Mr. HUDDLESTON. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Kentucky.

Mr. STEVENS. I believe we are ready for third reading, Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 4391) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered on this question; but since, under the previous order, there can be no rollcall vote until 2 o'clock, the vote will be delayed. The Chair recognizes the Senator from West Virginia.

HOME ENERGY ASSISTANCE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 1724, which, as stated on Friday, was intended to be the bill taken up upon the disposition of the military construction appropriations bill; that the Senate proceed on that measure until the hour of 2 o'clock; that at the hour of 2 o'clock there be 10 minutes remaining for debate on the military construction appropriations bill, the time to be equally divided between Mr. HUDDLESTON and Mr. STEVENS; and that upon the disposition of that bill the Senate resume the consideration of S. 1724.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. STEVENS. Mr. President, reserving the right to object, we want to make certain that that time is not more than 10 minutes. It is our intent that the vote take place shortly following 2 o'clock. I assume this means that we have yielded back our time on each side, so that the time for debate will be a maximum of 5 minutes on each side. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1724) to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Home Energy Assistance Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) recent dramatic increases in the cost of primary energy sources have caused corresponding sharp increases in the cost of home energy;

(2) reliable data projections show that the cost of home energy will continue to climb at excessive rates;

(3) the cost of essential home energy imposes a disproportionately larger burden on fixed-income, lower income, and lower middle income households and the rising cost of such energy is beyond the control of such households;

(4) fixed-income, lower-income and lower-middle-income households should be protected from disproportionately adverse effects on their incomes resulting from national energy policy;

(5) adequate home heating is a necessary aspect of shelter and the lack of home heating poses a threat to life, health, or safety;

(6) adequate home cooling is necessary for certain individuals to avoid a threat to life, health or safety;

(7) low-income households often lack access to energy supplies because of the structure of home energy distribution systems and prevailing credit practices; and

(8) assistance to households in meeting the burden of rising energy costs is insufficient from existing State and Federal sources.

(b) It is the purpose of this Act to make grants to States to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent;

(2) "home energy" means electricity, oil, gas, coal or any other fuel for use as the principal source of heating or cooling in residential dwellings;

(3) "lower living standard income level" means the income level (adjusted for regional, metropolitan, nonmetropolitan differences and family size) determined annually by the Secretary of Labor based upon the most recent "lower living standard family budget" issued by the Secretary of Labor.

(4) "Secretary" means the Secretary of Health, Education, and Welfare; and

(5) "State" means each of the several States and the District of Columbia.

HOME ENERGY GRANTS AUTHORIZED

SEC. 4. (a) The Secretary is authorized to make grants, in accordance with the provisions of this Act, to States on behalf of eligible households to assist such households to meet the rising costs of home energy.

(b) There are authorized to be appropriated $1,600,000,000 for the fiscal year 1980, $3,000,000,000 for the fiscal year 1981, and $4,000,000,000 for the fiscal year 1982, to carry out the provisions of this Act.

(c)(1) Unless the Congress in the regular session which ends prior to the beginning

of the terminal fiscal year of the authorization of appropriations for the program authorized by this Act either—

(A) has passed or has formally rejected legislation which would have the effect of extending the authorization of that program; or

(B) by action of either the House of Representatives or the Senate, approves a resolution stating that the provisions of this subsection shall no longer apply to such program;

such authorization is hereby automatically extended for one additional fiscal year. The amount appropriated for such additional year shall not exceed the amount which the Congress could, under the terms of the law for which the appropriation is made, have appropriated for such program during such terminal year.

(2)(A) For the purposes of clause (A) of paragraph (1) of this subsection, the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

(B) In any case in which the Secretary is required under this Act to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this Act, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which that part of paragraph (1) of this subsection which follows clause (B) thereof is in operation.

(d) For the purpose of affording adequate notice of assistance available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. Funds appropriated under subsection (b) of this section shall remain available until expended.

ELIGIBLE HOUSEHOLDS

SEC. 5. (a) Eligible household means any household which the State determines is—

(1) eligible for (A) aid to families with dependent children under part A of title IV of the Social Security Act, (B) supplemental security income payments under title XVI of the Social Security Act, (C) food stamps under the Food Stamp Act of 1977, or (D) payments under section 415, 521, 541, or 542 of title 38, United States Code (relating to certain veterans' benefits); and

(2) any other household with an income equal to or less than the lower living standard income level as determined pursuant to subsection (c) of this section.

(b) Notwithstanding clause (1) of subsection (a), a household which is eligible for supplemental security income payments under title XVI of the Social Security Act shall not be considered eligible for home energy assistance under this Act if the eligibility of a household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments (under title XIX of that Act) with respect to that individual,

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of that Act applies, or

(3) a child described in section 1614(f)(2) of that Act (who is living together with a parent or the spouse of a parent).

(c) In determining income eligibility for the purpose of clause (2) of subsection (a), the State shall apply procedures and policies consistent with procedures and polices used by the State agency administering programs under part A of title IV, of the Social Security Act.

ALLOTMENTS

SEC. 6. (a) From 95 per centum of the sums appropriated pursuant to section 4(b) for the fiscal year 1981 and for each fiscal year thereafter the Secretary shall—

(1) allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the aggregate residential energy expenditure in such State bears to the aggregate residential energy expenditure for all States; and

(2) allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the total number of heating degree days in such State, multiplied by the number of households in such State having incomes equal to or less than the lower living standard income level bears to the sum of such products for all States.

(b)(1) From the remainder of the sums appropriated pursuant to section 4(b) for each fiscal year, the Secretary shall—

(A) transfer to the Director of the Community Services Administration $100,000,000 for carrying out energy crisis related activities under section 222(a)(5) of the Economic Opportunity Act of 1964, and

(B) reserve $2,500,000 to be apportioned on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which subparagraph (1)(B) applies may receive grants under this Act upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this Act, and which are consistent with the requirements of section 8(b) of this Act.

(3)(A)(i) The remainder of the sums appropriated pursuant to section 4(b) shall be distributed for home energy assistance programs in accordance with the provisions of this subparagraph. The Secretary shall make incentive grants to States to pay a Federal share of incentive fuel assistance programs for residential energy costs established by any State to serve the same population as the population eligible under this Act.

(ii) No grant may be made under this subparagraph of this paragraph unless the State makes an application to the Secretary containing such provisions which the Secretary deems necessary and which describes the State program for which assistance is sought under this subparagraph.

(iii) The Federal share for any fiscal year for Federal assistance under this subparagraph shall not exceed 25 per centum.

(B) The remainder of the sums appropriated pursuant to section 4(b) not required to carry out the provisions of subparagraph (A) of this paragraph shall be distributed by the Secretary in accordance with the allocation formula contained in subsection (a) of this section.

(c) The portion of any State's allotment under subsection (a) for a fiscal year, which the Secretary determines will not be required for the period such allotment is available for carrying out the purposes of this Act, shall be available for reallotment from time to time, on such dates during such period as the Secretary may fix, to other States based on need and ability to expend the funds consistent with the provisions of this Act and taking into account the proportion of the original allotments made available to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this Act, and the total reduction shall be similarly realloted among the States whose proportionate amounts are not so reduced. In carrying out the requirements of this subsection the Secretary shall take into account the climatic conditions and such other relevant factors as may be necessary to assure that no State loses funds necessary to carry out the purposes of this Act. Any amount realloted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(d)(1) Any allocations to a State may be reallocated only if the Secretary has provided thirty days advance notice to the chief executive and to the general public. During such period comments may be submitted to the Secretary.

(2) After considering any comments submitted during such period, the Secretary shall notify the chief executive of any decision to reallocate funds, and shall publish such decision in the Federal Register.

(e) The aggregate residential energy expenditure for each State and for all States shall be determined by the Secretary after consulting with the Secretary of Energy.

(f) The allotments made under this section shall be made on the basis of the latest reliable data available to the Secretary.

(g)(1) In any State in which the Secretary determines (after having taken into account the amount of funds available to the State) that the members of an Indian tribe are not receiving benefits under this Act that are equivalent to benefits provided to other households in the State, and if the Secretary further determines that the members of such tribe would be better served by means of grants made directly to provide such benefits, the Secretary shall reserve from sums that would otherwise be allotted to such State not less than 100 per centum of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

(2) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or where there is no tribal organization, to such other entity as the Secretary determines has the capacity to provide assistance pursuant to this Act.

(3) In order for a tribal organization or other entity to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

USES OF HOME ENERGY GRANTS

SEC. 7. Grants for fiscal year 1981 and thereafter under this Act may be used for home energy assistance in accordance with plans approved under section 8.

STATE PLANS

SEC. 8. (a) Each State desiring to receive a home energy grant under this Act shall submit a State plan to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary.

(b) Each such State plan shall—

(1) be submitted in accordance with the procedures, timetables and standards established by the Secretary pursuant to subsection (d)(3) of this section;

(2) designate an agency of the State to be determined by the chief executive to administer the program authorized by this Act and describe local administrative arrangements;

(3) provide for a State program for furnishing home energy assistance to eligible households through payments made in accordance with the provisions of the plan, to—

(A)(i) home energy suppliers,

(ii) eligible households whenever the chief executive determines such payments to be feasible, or when the eligible household is making undesignated payments for rising energy costs in the form of rent increases, or

(iii) any combination of home energy supplier and eligible household whenever the chief executive determines such payments to be feasible, and

(B) building operators, in housing projects established under sections 221(d)(3) and 236 of the National Housing Act of 1968, section 202 of the Housing Act of 1959, section 515 of the Housing Act of 1949, low rent housing established by the United States Housing Act of 1937, and section 8 of the Housing Act of 1974, and State and local government-operated projects in an aggregate monthly amount computed on the basis of the number of eligible tenants making undesignated energy payments in the form of rent divided by the exact costs of primary residential fuel costs paid as an undesignated part of rent up to a ceiling amount per eligible tenant as determined under regulations by the Secretary annually to be comparable to the amount established for other eligible households;

(4) describe with particularity the procedures by which eligible households in the State are identified and certified as participants;

(5) describe energy usage and the average cost of home energy in the State identified by the type of fuel and by region of the State;

(6) describe the amount of assistance to be provided to or on behalf of participating households assuring that priority is given to households with lowest incomes and that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income, taking into account—

(A) the average home energy expenditure by type of energy,

(B) the proportional burden of energy costs in relation to income,

(C) the variation in degree days in regions of the State in any State where appropriate, and

(D) any other relevant consideration selected by the chief executive including provisions for payment levels for households making undesignated payments in the form of rent;

(7) provide, in accordance with clause (3)(A), for agreements with home energy suppliers under which—

(A) the State will pay on a timely basis by way of regular installments, as reimbursements or a line of credit, to the supplier designated by each participating household the amount of assistance determined in accordance with clause (6);

(B) the home energy supplier will charge the household specified in subclause (A), in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this Act;

(C) the home energy supplier will provide assurances that the home energy supplier will not discriminate against any eligible household in regard to terms and conditions of sale, credit, delivery and price; and

(D) the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this clause will contain provisions to assure that no household receiving assistance under this Act will have home energy terminated unless—

(i) the household has failed to pay the amount charged to such household in accordance with subclause (B) for at least two months,

(ii) the household receives a written termination notice not less than thirty days prior to the termination, and

(iii) the household is afforded, in a timely fashion before termination, an opportunity for a hearing by an agency designated by the State;

unless the supplier is located in a State in which the termination policy contains provisions for a longer grace period, or notification period, than that described in this clause;

(8) provide for the direct payment to households to which subclauses (A)(ii) and (iii) of clause (3) applies;

(9) provide for public participation in the development of the plan;

(10) provide assurances that the State will treat owners and renters equitably under the program assisted under this Act;

(11) provides that (A) of the funds the State receives for each fiscal year, the State may use for administration of the plan an amount not to exceed 15 per centum of the cost of carrying out the plan, and for the purpose of this clause the Federal share of the cost of administration for any fiscal year shall be 50 per centum and (B) the State will pay from non-Federal sources the remaining costs of administration with respect to carrying out the plan required by the preceding clause and will not use Federal funds to carry out the provisions of this subclause;

(12) describe the administrative procedures to be used in carrying out the plan;

(13) provide an opportunity for a fair hearing before the State agency designated under clause (2) to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;

(14) provide that, of the funds the State receives for each fiscal year, the State may reserve 3 per centum of the funds to be available for weather related and supply shortage emergencies, and if the State reserves such funds, the plan shall identify—

(A) the procedurers for planning for such emergencies,

(B) the administrative procedures designating the emergency and implementing an emergency plan,

(C) the procedures for determining the assistance to be provided in such emergencies, and

(D) the procedures for the use of the funds under this clause for the purposes of this Act in the event that there are no emergencies;

(15) provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with, existing Federal, State, and local weatherization and energy conservation efforts;

(16) provide for outreach activities designed to assure that all eligible households, particularly households with elderly or handicapped individuals, households with individuals who are unable to leave their residences, households with migrants, households with individuals with limited English proficiency, households with working poor individuals, households with children, and households in remote areas, are aware of the assistance available under this Act by using community action agencies, area agencies on aging, State welfare agencies, volunteer programs carried out under the Domestic Volunteer Service Act of 1973, and other appropriate agencies and organizations within the State including home energy suppliers together with provisions for the reimbursement of such agencies, from administrative funds, for outreach and certification activities;

(17) establish procedures for monitoring the assistance provided under the plan including monitoring and auditing any agreements entered into under clause (7) of this subsection and describe the documentation to be required of energy suppliers concerning energy supplied to eligible households;

(18) provide assurances that the State will maintain regular benefit levels in existing federally assisted cash assistance programs, except that in a State which increases such programs solely for the purpose of energy assistance, such increase shall not be considered a part of the regular program;

(19) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper dispersal of and accounting for Federal funds paid to the State under this Act;

(20) provide that reports will be furnished in such form and contain such information as the Secretary may reasonably require, particularly for the carrying out of provisions of section 9; and

(21) provide assurances that the State will not establish any more restrictive standards of eligibility or any more restrictive application and certification procedures than those established by the Secretary.

(c) The State is authorized to make grants to eligible households to meet the rising costs of cooling whenever the household establishes that such cooling is the result of medical need pursuant to standards established by the Secretary.

(d)(1) The Secretary shall approve any State plan, or modification thereof, that meets the requirements of subsections (b) and (c) and shall not finally disapprove, in whole or in part, any plan, or any notification thereof, for assistance under this Act without first affording the State reasonable notice and opportunity for a hearing within the State. Whenever the Secretary disapproves a plan the Secretary shall, on a timely basis, assist the State to overcome the deficiencies in the plan.

(2) The Secretary shall carry out the functions of the Secretary under this section promptly.

(3) The Secretary, as soon as possible after the date of enactment of this Act, shall establish criteria and standards for the State plan requirements under subsections (b) and (c) of this section, together with timetables for carrying out the plan.

(e) Any State which makes advances available for activities under this Act in substantial compliance with an approved State plan may be reimbursed for such advances from the allocation made to that State under section 6(a) when funds are appropriated to carry out the provisions of this Act.

UNIFORM DATA COLLECTION

SEC. 9. (a) The Secretary, after consultation with the Secretary of Energy, shall establish uniform standards for data collection which shall be used by States in all reports required under this Act.

(b)(1) The standards established by the Secretary under this section shall apply to (A) information concerning home energy consumption, (B) the cost and type of fuels used, (C) the type of fuel used by various income groups, (D) the number and income levels of households assisted by this Act, and (E) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this Act.

(2) In carrying out this section, the Secretary shall gather and analyse information on the price structure of various types of fuel, particularly the increases in such price structure, if any, attributable to the financial assistance provided under this Act.

(c) The Secretary shall report annually to Congress concerning data collected under subsection (b).

PAYMENTS

SEC. 10. (a) From the amount allotted to each State pursuant to section 6, the Secretary shall pay to the State which has an application approved under section 8 an amount equal to the amount needed for the purposes set forth in the State plan.

(b) Payments under this Act may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

WITHHOLDING

SEC. 11. Whenever the Secretary, after reasonable notice and opportunity for hearing within the State to any State, finds that there has been a failure to comply with any provision set forth in the State plan of that State approved under section 8, the Secretary shall notify the State that further payments will not be made under this Act until the

Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this Act.

CRIMINAL PENALTIES

SEC. 12. Whoever violates provisions of this Act or who knowingly provides false information in any report required under this Act shall be fined not more than $10,000 or imprisoned not more than five years or both.

ADMINISTRATION

SEC. 13. (a)(1) The Secretary may delegate any functions under this Act, except the making of regulations, to any officer or employee of the Department of Health, Education, and Welfare.

(2) The Secretary shall issue regulations under this Act, within sixty days after the date of enactment of this Act.

(b) In administering the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution, to the extent such services and facilities are otherwise authorized to be made available for such purpose, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(c) Notwithstanding any other provision of law, the amount of any fuel assistance payments provided to an eligible household under this Act shall not be considered income or resources for any purpose under any Federal or State law, including any law relating to taxation, public assistance or welfare program.

(d) The Secretary shall establish procedures for Federal monitoring of State administration of programs assisted under this Act.

(e) The Secretary shall coordinate the administration of the program established under this Act with appropriate programs authorized by the Economic Opportunity Act of 1964 and any other existing Federal energy programs which provide related assistance programs.

(f) The Secretary, after consultation with the Secretary of the Department of Energy, the Director of the Community Services Administration, the Secretary of Housing and Urban Development and the Secretary of Agriculture, shall establish procedures for referrals for participation in Federal weatherization programs under section 8(b)(15).

HOME ENERGY ASSISTANCE PROGRAM FOR FISCAL YEAR 1980

SEC. 14. (a) From the sums appropriated pursuant to section 4(b) for the fiscal year 1980, or from sums available for section 222(a)(5) of the Economic Opportunity Act of 1964, for fiscal year 1980, the Director of the Community Services Administration shall reserve allotments for each State in accordance with the provisions of subsection (b) of this section. The Director shall notify each State of the amount of the allotment so reserved and of the option set forth in subsection (c) of this section.

(b)(1) From the funds appropriated pursuant to section 4(b) and reserved in accordance with subsection (a) of this section, the Director shall—

(A) allot to each State an amount which bears the same ratio to one-half of such sums as the aggregate residential energy expenditure in such State bears to the aggregate of such expenditures for all States; and

(B) allot to each State an amount which bears the same ratio to one-half of such sums as the total number of heating degree days in such State, multiplied by the number of households in such State having incomes equal to or less than 125 per centum of the poverty level bears to the sum of such products for all States.

(2) For the purpose of this subsection the poverty level shall be determined in accordance with criteria established by the Director of the Office of Management and Budget.

(c)(1) Within fifteen days after the date of enactment of this Act, each State shall select the option (A) of administering the home energy program for fiscal year 1980 directly, or (B) of having a dual administration of the program described in paragraph (2) of this subsection.

(2)(A) For each State selecting to administer the home energy program under the option described in subparagraph (B) of paragraph (1) of this subsection, the Director shall reserve and transfer to the Secretary of Health, Education, and Welfare from each such State's allotment an amount necessary to make direct payments to recipients of supplemental security income under title XVI of the Social Security Act for home energy assistance in accordance with the provisions of subparagraph (B). The remainder of each such State's allotment shall be available to carry out the energy crisis assistance program in that State in accordance with regulations prescribed pursuant to section 222(a)(5) of the Economic Opportunity Act of 1964, dated October 11, 1979, except that—

(i) the provisions of such regulations with respect to the distribution of funds,

(ii) the provision with respect to maximum payments for each household, and

(iii) any other provision, inconsistent with the provisions of this section,

shall not apply.

(B) The amount reserved and transferred under subparagraph (A) of this paragraph shall be an amount not less than—

(i) an amount which bears the same ratio to the State's allotment as the number of households receiving supplemental security income under title XVI of the Social Security Act bears to all households having an income equal to or less than 125 per centum of the poverty level,

nor more than

(ii) an amount equal to 125 per centum of the amount determined under clause (i).

All households receiving payments under the provisions of this subparagraph shall receive uniform payments except that payment to a household having one individual shall be 66⅔ per centum of the payment to all other households in the State eligible to receive such payments.

(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph, a household which is eligible for supplemental security income payments under title XVI of the Social Security Act shall not be considered eligible for the purpose of this paragraph if the eligibility of such household is dependent upon—

(i) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Special Security Act by reason of being in an institution receiving payments (under title XIX of that Act) with respect to that individual,

(ii) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of that Act applies, or

(iii) a child described in section 1614(f)(2) of that Act (who is living together with a parent or the spouse of a parent).

(D) For the purpose of this paragraph the poverty level shall be determined in accordance with criteria established by the Director of the Office of Management and Budget.

(d) For States selecting the option described in clause (A) of paragraph (1) of subsection (c), the Director of the Community Services Administration shall carry out energy crisis assistance programs in each such State in accordance with regulations prescribed pursuant to section 222(a)(5) of the Economic Opportunity Act of 1964 dated October 11, 1979, except that—

(1) the provisions of such regulations with respect to the distribution of funds,

(2) the provision with respect to maximum payments for each household, and

(3) any other provision inconsistent with the provisions of this section,

shall not apply.

(e)(1) In carrying out the program described in subsection (c) or subsection (d) of this section the Director of the Community Services Administration shall assure that each State may select any agency of the State to be the agency to administer the energy crisis assistance program.

(2) In any energy crisis assistance program carried out pursuant to subsection (c) or subsection (d) of this section each State may employ any public or private agency or organization for outreach activities and shall encourage the use of voluntary private agencies for such outreach activities.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BIDEN). Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, today, the Senate is considering S. 1724, the Home Energy Assistance Act. This bill will provide assistance to low-income households to offset the rising costs of home energy.

Energy in the United States traditionally has been in abundant supply and the cost of energy for residential use was within the means of most households. However, the era of cheap energy is clearly over. As we enter the 1980's, the Nation's energy situation is vastly changed from what it was 10 years ago. On January 1, 1970, the benchmark price for light crude was $1.70 per barrel. Today, that price ranges from $18 to $24 per barrel and as high as $40 on the spot market.

This dramatic price increase has been translated into steady, upward surges in the price of home heating oil, natural gas, and electricity, the main sources of energy for heating American homes during the winter.

Last year, low-income American households paid between 20 and 25 percent of their incomes on utility costs alone. In fiscal year 1980, the average low-income household may pay as much as 50 percent of its income for energy, leaving these families with little money to pay for food, shelter, clothing, and medicine.

The terms "heat or eat" and "food or fuel" have been used so often to describe this crisis that they have lost their impact. But the reality is that millions of Americans may face the grim choice of freezing or starving to death this winter.

To prevent this national tragedy, the Labor and Human Resources Committee has devised a program of home fuel assistance to help low- and fixed-income households pay their energy bills.

In drafting the Home Energy Assistance Act, our committee sought the

guidance of citizens from all around the country—Senators with years of experience in energy legislation, the Fuel Oil Marketing Advisory Committee to the Department of Energy, and the committee's own experience with the emergency energy crisis intervention program funded by the CSA.

Six bills to provide energy assistance to low-income households have been introduced in the 96th Congress: S. 1270, introduced by Senators JAVITS and JACKSON; S. 1725, introduced by Senator NELSON; S. 771, introduced by Senator WEICKER; S. 1331, introduced by Senator BIDEN; S. 1603, introduced by Senators MATHIAS and BAKER; and S. 1724, which I introduced along with a number of cosponsors.

In the past few months, the Labor and Human Resources Committee held 12 days of hearings, 4 in Washington, D.C., and 8 across the country. Witnesses, whose names will appear in the record, included representatives of local, State and Federal Government, the elderly, the poor, consumers, and energy suppliers.

All witnesses made a compelling case of the need for our legislation.

As passed by the Labor and Human Resources Committee, S. 1724, the Home Energy Assistance Act, authorizes the Secretary of Health, Education, and Welfare to make grants to the States to distribute funds to eligible low- and lower middle-income households to help pay for home energy costs. The bill authorizes $3.0 billion for fiscal year 1981, and $4.0 billion for fiscal year 1982.

Households eligible for home fuel assistance are those whose incomes fall below the Labor Department Bureau of Labor Statistics (BLS) lower living standard level and families eligible for AFDC, food stamps, SSI, and veterans' pensions.

Approximately 18 million households will be eligible for assistance under S. 1724, which is focused on the low- and lower middle-income households which are least able to absorb the skyrocketing costs of home energy.

The Secretary of HEW will distribute 95 percent of the funds to the States based upon a formula which takes into account, first, residential energy expenses for the States, second, the number of heating degree days, and third, the size of the eligible population.

The remaining 5 percent authorized under S. 1724 will be set aside for energy crisis activities of the CSA and for incentive grants to States which provide State funds for energy assistance.

To receive Federal funds, States must submit a plan describing the arrangements for administering the energy assistance program, provisions for certifying eligible households, information on home energy usage, outreach activities, and weatherization programs. Each State must certify that no more than 7½ percent of the funds will be used for administration of the program and that the States will provide matching funds.

Payments may be made either directly to the energy suppliers or to the eligible households, with States contracting agreements with home energy suppliers on methods of payment, lines of credit, and reimbursements.

Each State will also make plans for outreach activities to contact those Americans who are often underserved by Federal programs and who are in the greatest need of home fuel assistance—the elderly, handicapped, immigrants, the working poor, and those living in rural areas.

Mr. President, the Home Energy Assistance Act has been developed with the aid of many. It would be impossible to thank all who have given of their time and efforts. I would like particularly to thank the members of the Labor and Human Resources Committee.

This whole measure was considered as a full committee matter and all Senators on that committee participated in the hearing process here, in the markup here, of course, and also as Members availed themselves of their opportunities of learning the need first hand for assistance of this nature with the cruel demands that are placed on lower-income people because, as I mentioned, of the skyrocketing costs of energy.

Mr. President, the contributions of all the Members are deeply appreciated. I particularly want to mention the efforts on behalf of this legislation of Senator KENNEDY, Senator PELL, and Senator METZENBAUM, who, as usual, have made superior contributions. Senator JAVITS introduced his own legislation providing fuel assistance and his contributions to the development of the program, as well as his leadership in securing funding for fiscal year 1980, are most appreciated. Senator HATCH ably represented the committee during Budget Committee consideration of the waiver resolution, for which I express my gratitude. I commend my friend and colleague, the ranking minority member of the committee, (Mr. SCHWEIKER), for his time and efforts to bring about a program of fuel assistance.

To give members of the Committee on Labor and Human Resources the opportunity to learn firsthand from people that they most particularly and directly represent in their own States, we have had members go to eight locations throughout the country for hearings at home, to learn at first hand the heavy impact that skyrocketing prices is having on lower income households.

A hearing was held October 13 in Concord, N.H.; October 15 in Jersey City, N.J.; then also in October in Providence, R.I.; Salt Lake City, Utah; Philadelphia, Pa.; Madison, Wis.; Kansas City, Mo.; and Lansing, Mich.

There was one aspect of all this that required a detailed explanation of what the need was and why we had recommended authorization of billions of dollars for the winter years.

First, we had to deal with 1980, then 1981 and 1982. Of course, this had an impact on Budget Committee deliberations.

The Senator from Utah (Mr. HATCH), a member of the Labor and Human Resources Committee, a member of the Budget Committee, did represent our committee before the Budget Committee on the waiver resolution for the fiscal year 1980 program. From our committee, we express great gratitude for the excellence of his work there.

I particularly commend the ranking minority member of the committee, the Senator from Pennsylvania (Mr. SCHWEIKER), for his time and effort to bring about a program of fuel assistance.

Mr. President, the Labor and Human Resources Committee reported out S. 1724 as an amendment in the nature of a substitute. I ask unanimous consent that the committee substitute be agreed to as original text for the purpose of amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I know the ranking member of our committee (Mr. SCHWEIKER) will not only want to handle part of the management of this bill, I am certain he also has an amendment that will be offered by him. It was offered in the committee and it will be offered here.

Mr. President, I ask unanimous consent that during the considerations of this bill, the following minority staff representatives be granted privilege of the floor: Polly Gault of Senator SCHWEIKER's staff, Mike Francis of Senator STAFFORD's staff, Bob Hunter of Senator HATCH's staff, Ron Preston of Senator HUMPHREY's staff, Dave Swoap of Senator ARMSTRONG's staff, Meg Powers of Senator JAVITS' staff, and Tony Arrojos of Senator DOMENICI's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I am pleased that the Senate is considering today S. 1724, the Home Energy Assistance Act. As the ranking Republican on the Labor and Human Resources Committee, I commend our committee members and particularly our chairman, for working expeditiously to develop legislation which will take the edge off of the great fear low-income elderly and families are facing this winter—that they might not be able to afford fuel for heating throughout the winter. The term "heating or eating" has been used to describe this dilemma, and I want to assure my colleagues that this crisis is a real one in my State of Pennsylvania. Fuel oil prices have risen 100 percent in 1 year, with gas prices following at least a 30-percent rate of increase.

I strongly believe that the States, not HEW, should be in charge of distributing assistance under this program. In S. 1724 we have given the Governors the flexibility they have never had under the old emergency fuel assistance program. We have also eliminated, once and for all,

the eligibility criteria which discriminated against the elderly in the past.

I have had a long-term interest in the CSA run emergency fuel assistance program, in my work on the Labor and Human Resources Committee and the Labor-HEW Appropriations Subcommittee. I tried for years to get CSA to improve the ridiculous regulations which they used for eligibility, the worst of which was the criteria that you had to have an unpaid fuel bill to qualify.

In spite of the fact that the Senate passed and the House accepted an amendment of mine to stop use of this unpaid fuel bill standard, CSA continued to use this standard. Many poor senior citizens never received any benefit under this program simply because they paid their fuel bills on time. I am pleased to be able to report that the program for this winter will not have delinquency of payment of fuel bills as a standard of eligibility. The many people who refused to compromise their ethical views that bills should be paid on time, will not be excluded this year.

Along with other members of the Labor and Human Resources Committee, I participated in 3 days of hearings in Washington on fuel assistance for the poor, and I also held a hearing in Philadelphia. Three elderly witnesses testified before my hearing in Philadelphia and told a story of rigorous budgeting and self denial, and of physical discomfort and illness because of the low temperature at which they keep their homes. I am sorry that all my colleagues could not hear their eloquent testimony—these are people who have never taken anything from the Government, and now they need help with heating bills they can no longer pay on fixed incomes of $2,000 to $3,000 a year. I believe the Congress should move quickly to assure them we will help them this winter and next winter with the heating bills that now eat up 40 percent of their income.

I do have one major reservation about the present form of S. 1724. There is included in the bill, assistance for cooling whenever medically necessary.

Mr. President, I strongly feel that S. 1724 should be a home heating assistance bill, not an air-conditioning assistance bill. Our first priority with a limited pot of money should be those citizens who need heat to live. At the appropriate time I will be offering an amendment to S. 1724 to eliminate cooling assistance. I am hopeful that my colleagues in the Senate will agree with me that S. 1724 should be a heating assistance bill for the elderly poor and low-income families.

Mr. President, again I commend the chairman of our committee for his work and leadership in this area.

I also commend Senator JAVITS, who used to be the ranking minority member of this committee and who has done very much work in the appropriations process of getting a program in place for this year. He has done commendable work in getting appropriations cleared so that we can deliver money to the people for heating assistance this winter.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, the Senate now moves to consideration of a permanent program of fuel assistance for low-income families and individuals, and this is really a highly gratifying moment for me and for the members of the committee.

First, I join Senator SCHWEIKER in thanking Senator WILLIAMS for causing immediate hearings to be held; for getting our committee to work on this question of permanent legislation; and for moving immediately behind our effort, which was completed successfully here only last Friday, to get an emergency appropriation which will get money into the hands of those who need it for excess fuel costs this winter. Now we move into the urgently necessary phase of permanent legislation so that we will not be cut short again in the winter of 1980.

The assistance of Senator SCHWEIKER in this matter has been very great, and we should not fail to note that very closely and carefully. Though he disagrees with the majority of the committee on the matter of cooling, compared to his tremendous assistance in bringing this bill to the floor and in developing the legislation, that is a relatively minor consideration. So I express my gratitude to him.

The real problem is strictly one of how to do it technically. There is no question about the fact that the poor use far less energy than the average American. The poor use 50-percent less electricity and 24-percent less gas than those of higher income; and since the price has gone up, their usage has dropped even further. But they are caught in the squeeze of practically a doubling of home heating oil prices, with now the added uncertainty of and the further diminishing of supplies in respect of what came out of Iran and its effect upon the total supply picture, with perhaps even further increases in price.

So we really have a great deal to worry about, especially as the poor have paid roughly two and three times the percentage of their income, as compared with the more well-to-do families. It is estimated that last year, the poor paid an average of 8 percent of their incomes, while the better off families paid 3 percent.

So if OPEC oil prices rise only a very small percentage in real dollars, even without inflation this year, the lower income families are likely to be at a point where, without some Federal aid, they may have to pay as much as a quarter of their income for heat and light, as contrasted with those in higher brackets who may pay up to 10 percent.

So the differential, Mr. President, is enormous; hence, the urgent need for looking after the problem.

In addition, we have an even graver problem in the colder regions of the Northeast and the Midwestern part of our country, with enormously increased costs on those who can afford it the least.

We in the Committee on Labor and Human Resources believe that the scheme of this bill is an effective one; that we have produced a sound and equitable program; that we have offered a simple but a stable system of income support based upon the impact of fuel costs on a family budget; that we have given the States the latitude to design programs to suit their economic and administrative changes, to exercise prudent management, and to give due process in the course of administering the law.

We have provided that the delivery of income assistance is directly related to the weatherization of the recipients' homes, so that the Federal dollar which recurs—that is, for fuel assistance—is expended in the most fuel efficient ways.

In addition, we have given flexibility to the States, so that they may undertake a system of vendor payments or direct payments and have considerable latitude in the choice of channels through which this assistance shall move to the individual and the family.

Naturally, the committee bill represents a compromise among the concerns of many Senators. For example, I believe that a bill which had more national criteria for the payment and benefit system, which leaned more heavily to mandating a vendor payment system—that is, where the Government money went directly to the vendor—which concentrated perhaps on a lesser number of families, would be a better system. But I, as has everyone else, have had to compromise in order to get a consensus of the many Members from different parts of our country, so that we have enough support in order to pass this measure now and so that we shall not be caught short in the winter of 1980 as we were, and still are, in the winter of 1979–80.

We will be lucky if we get these checks into the hands of people by January—and that only because of the herculean efforts by Senator BYRD, who was the chairman of the subcommittee of the Senate Appropriations Committee. With my own amendment, I literally intruded, simply because there was no other way. Then, of course, there was the great cooperation in the House by the Speaker and Representative YATES of Illinois, who were tremendously effective in helping us with this particular problem, as well as Representative NATCHER, who was the chairman of this subcommittee, together with the cooperation of the Senator from Kentucky (Mr. HUDDLESTON), who managed the bill on the floor.

So I express my great gratitude to all these people who made possible our interim action, which, even now, is late, but not too late; and it is hoped that now, under the leadership of Senator WILLIAMS, we may move on and consummate what is necessary in this situation.

Finally, Mr. President, we are firmly establishing the Nation's commitment to addressing the impact that the actions of the OPEC cartel have on the poor and the elderly as that is contributed to—and we are being realistic about it—by the decontrol of domestic crude oil. No longer will these families, winter after winter, be at the mercy of some interim approach such as we have taken in past years.

The quantum leap we have made from using this as an antipoverty program, enlisting about $200 million in the preceding winter to this one, and now what

we have available, which we estimate will be roughly $1.6 billion in this one, is not only a quantum leap but also a tribute to the morality and sense of responsibility of the Congress of the United States.

Again, I pay my tribute and express my thanks, because there are thousands upon thousands of such individuals and families in the State of New York—relatively speaking, many more than anywhere else, because California's climate is very different from that of New York—to Senator WILLIAMS, Senator SCHWEIKER, and my associates on the Committee on Labor and Human Resources, who have brought us to this opportunity today.

Mr. DOLE. Mr. President, low-income energy assistance is one of the most important issues the Senate will address this year. Undoubtedly, crude oil decontrol will increase somewhat the energy costs of all Americans. Fuel oil prices have increased over 40 percent and they are continuing to escalate. Other forms of energy are also more expensive.

The burden of higher prices, however, will fall most heavily on lower income individuals. The average energy costs of low-income households are now approaching 25 percent of annual income and total energy costs may claim half of a poor person's income. Furthermore, low-income families pay proportionately more for energy because their housing is generally older, in poorer repair and less well-insulated than that of higher income households. Thus, the provisions in this bill aimed at alleviating the higher energy costs of lower income individuals are absolutely essential.

While there are a number of existing programs to provide income maintenance assistance to low-income households, they have not kept up with rising prices due to energy costs. To adequately meet extraordinary increases in energy costs, we need to supplement the ordinary mechanisms for adjusting income-assistance programs to the rising cost of living.

The Senate Finance Committee spent a number of hours discussing this issue during markup sessions on the windfall profits tax legislation. I was pleased to offer a Republican proposal to start the ball rolling. I would like to thank Senators ROTH, DANFORTH, CHAFEE, and HEINZ particularly for their interest and contribution in this effort. Actually, there are a number of elements in my original proposal and in the Finance Committee's ultimate plan which are very similar to the provisions in this bill.

The Finance Committee provided for direct cash payments for AFDC, SSI and food stamp recipients with an option for the States to take all or part of the funds allotted for such payments as a block grant. Our main concern in making direct cash payments available was that some States would not be in a position to move forward with their own plan this year. That should no longer be a consideration in light of efforts to expedite energy assistance for this winter under the existing authority in the Economic Opportunity Act.

The allocation of the funds to the States under this bill in the form of a block grant is in keeping with the Finance Committee's approach. However, it would be preferable to eliminate the restrictive language concerning State plans in this measure. I anticipate the States will demonstrate they are far more capable of effectively delivering such assistance than is the Federal Government, and we should give them the opportunity to do the best possible job.

While the State-by-State allocation of money under this program is slightly different from that under the Finance Committee alternative, the underlying philosophy is the same. Both approaches weigh the allocation on the basis of climate and actual average energy expenditures in the States. Under such a formula, additional money is targeted to areas where energy bills are higher and more particularly assures greater aid to those with the highest heating bills.

By directly addressing the needs of the poor in this manner, we have more flexibility to pursue the necessary programs, such as decontrol, that are aimed at increasing America's total energy supply. That is why the Finance Committee established the Low-Income Energy Assistance Trust Fund to receive one-half the net receipts of the windfall profit tax established by the Crude Oil Windfall Profit Tax Act.

The proposal before us, like the program approved by the Senate Finance Committee, may not be the perfect plan, but it has been developed through long deliberation and compromise, and will no doubt be amended to accommodate further compromise today. It will provide a good short range solution to the energy problems facing low-income individuals while Congress develops a better plan.

AMENDMENT NO. 566

(Purpose: To remove cooling assistance from S. 1724)

Mr. SCHWEIKER. Mr. President, I call up my amendment No. 566 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes amendment No. 566.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, lines 4 and 5, strike section 2(a)(6), and redesignate subsection (7) as (6) and subsection (8) as (7).

On page 19, line 3, amend section 3(2) by striking "or cooling" after the word "heating".

On page 35, lines 13 through 16, strike section 8(c) and redesignate subsection (d) as (c) and (e) as (d).

Mr. SCHWEIKER. Mr. President, my amendment is very simple and straightforward. It would eliminate cooling assistance from S. 1724. I firmly believe that S. 1724 should be a home heating assistance bill for the poor and not an air-conditioning or general utilities assistance bill.

I believe that we are facing a real cold weather crisis this winter. I am worried that poor people in my State of Pennsylvania will freeze to death unless we give them some help this winter and next winter.

Many Senators have claimed that although S. 1724 is generous, it does not go far enough in providing assistance for many of the poor. I believe that this air-conditioning assistance will only further reduce the money needed to help those facing a heating crisis in winter.

The American people do not want and cannot afford an air-conditioning assistance program at this time. It is unclear how such a provision would be administered. Any doctor could, and you know they would, provide a medically necessary excuse for his or her patients who feel uncomfortable in the hot weather, and I think we all do and particularly the elderly do. I do not deny that some people, particularly the elderly, are very uncomfortable in hot weather. However, we are trying to meet a life-or-death situation because of the cold weather, and that should be our first priority. We should not embark upon a new program for air-conditioning without detailed evaluation of the need and the cost of the program. There is no urgency connected with the need for air-conditioning unless it is argued Congress should assist in all utility bills. I do not think we are prepared to do so, or ought to do so, at this time when the American taxpayer is being squeezed by runaway inflation and taxes which are too high.

I think the home heating fuel emphasis makes sense and logic and is the priority of this bill.

Mr. President, my amendment would assure that those individuals who need the heating help the most are the ones who get it. It would specify that home energy as defined in S. 1724 means "electricity, oil, gas, coal, or any other fuel for use as the principal source of heating in residential dwellings." The assistance given by S. 1724 would be specifically designated for heating, not the air-conditioning, and not to help run television sets. I point out that I represent a State with lots of air-conditioners and TV sets.

So my State would be penalized by not including air-conditioning, also. However, I also represent a State full of people who are tired of wasteful government programs. To use their hard earned tax dollars to pay for someone else's air-conditioning is indefensible and makes a mockery of the serious effort they have made to cut down on unneeded energy expenses.

Mr. President, I urge by colleagues to support my amendment. I believe that the American people will be watching this vote today to see if Congress is serious about taking the time to construct Government programs which reflect the intentions of the American taxpayer. Our people are generous and do not begrudge helping the poor by giving them assistance with their heating bills. We strongly support it. That is what this bill is all about. However, they will be rightfully outraged by an assistance program which provides air-conditioning aid. There is no need for this program at this time and we should remove it from S. 1724.

Mr. WILLIAMS. Mr. President, I am

never comfortable when speaking in opposition to any idea that is advanced by my good friend, the ranking member of our committee and colleague, whom we all respect completely, but in this situation I did have to oppose the amendment as it was offered by the Senator from Pennsylvania in committee and must oppose it here also.

This amendment would strike out cooling provisions from the bill and thereby prohibit any assistance under this act for cooling purposes.

While the basic thrust of the Home Energy Assistance Act is to offset the rising cost of home heating, this bill also provides assistance to eligible households for cooling, when it is determined to be medically necessary.

We are all aware that adequate home heating is a necessary aspect of shelter and the lack of home heating poses a threat to life and safety. While young and old alike are susceptible to hypothermia, when temperatures go below a reasonable degree, it must be understood, also, that there is a limited category of people, which includes the aged and others with particular medical conditions, who are also susceptible to excessive heat.

Both the Labor and Human Resources Committee and the Special Committee on Aging have heard dramatic testimony attesting to the critical effect that extremes of climates have on senior citizens.

In addition to the elderly, those who have certain medical conditions, such as chronic cardiac disease or severe respiratory ailments, may also be prone to heat stroke or hypertension following exposure to high temperatures. As many of my colleagues will recall, last year over 20 persons died in Texas of heat prostration. All were elderly and poor and lacked air-conditioning or sufficient cooling.

Even the Fuel Oil Marketing Advisory Committee (FOMAC) report cited the particular stresses that heat and humidity impose upon some elderly and those with severe medical problems. In addition, the Director of the National Institute on Aging, Dr. Robert N. Butler, cited the need to maintain the older person's environment at a safe level for his or her minimum physical needs.

S. 1724 as reported by the committee represents a modest and limited approach to this cooling problem. The cooling provisions in the present form would be restricted to medical necessity. In my view, it is a necessary provision, if we are to be responsive to the problems cited and appropriately serve the needs of this particular category of citizens who would be placed in threatening situations.

In response to hearing testimony we have included the provision in the bill, and it seems to me that the language of the bill protects against any abuses. It does provide that the State is authorized to make grants to eligible households to meet the rising costs of cooling whenever the household establishes that such cooling is the result of medical need. Such a determination shall be made by the State pursuant to standards established by the Secretary.

I sympathize with the suggestion made by the Senator from Pennsylvania that a medical person might, within an abundance of generosity, be rather easy with a certification of medical necessity, but I suggest that if that becomes a problem the Secretary, with a simple standard, through regulation can protect against an overreach by an overgenerous medical community.

The Governor from the State of Rhode Island appeared before the committee with a statement that said this:

> There must be a cash or quasi-cash assistance component by which to partially compensate those below a certain income level for dramatic cost increases in energy which this group simply cannot absorb within their limited incomes and which will enable those otherwise unable to do so to afford the energy necessary for heating and, where excessive summer heat is a factor in threatening life and health, air conditioning, . . .

This was, as I say, a statement of Gov. J. Joseph Garrahy of Rhode Island speaking for the Committee on Human Resources of the National Governors Association.

Other Members of the Senate appeared and likewise addresed the need for this limited application of the energy assistance program for cooling purposes.

Senators CHILES and DOMENICI, of course, whose close association with the needs of older people in this country we recognize through their work as chairman and ranking member on the Committee on Aging, said:

> Elderly persons are far more susceptible to weather and related health problems such as hypothermia and heat prostration, and must have sufficient heating and cooling in order to combat such problems.

I did mention the fact that the Fuel Oil Marketing Advisory Committee supports this, too, and in testimony before us, Anthony J. Maggiore, chairman of the Subcommittee on Energy Assistance program of that advisory committee, told the committee:

> In the South, the substandard quality of the poor's housing stock also manifests itself in higher energy costs. In cheaply designed dwelling units—particularly in mobile homes which are prevalent in Southern states—air conditioning is a necessity. Temperatures in non-air conditioned low-income southern homes present severe health hazards to the occupants—many of whom are elderly, suffering from respiratory or heart ailments made worse by increase in home temperature. In Dallas, Texas, July 1978, over twenty people died from heat prostration. They were all elderly, poor and lacked air conditioning.

So again, the major motivation for this assistance is the cold weather and the severe problem that presents to lower-income people, but there is also a problem for a selected few households which need cooling.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. WILLIAMS. I am happy to yield.

Mr. CRANSTON. I rise to express my strong opposition to Senator SCHWEIKER's amendment to eliminate the cooling provisions from this bill.

I believe that the concerns he raises about these provisions are not supported by fact.

Senators SCHWEIKER, HATCH, and HUMPHREY have stated in additional views to the report on this legislation, that the bill's major purpose is "to provide lifesaving heating assistance" and the fact that some cooling would be additional where medically indicated, in their view, contradicts that statement. The stated purpose of the bill is delineated in section 2(b), which states:

> It is the purpose of this act to make grants to States to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

The committee bill nowhere limits the purpose to providing lifesaving heating assistance.

Moreover, the committee defined home energy to include any fuel used as "the principal source of heating or cooling in residential dwellings."

I appreciate fully—and in fact share—my colleague's concern that moneys provided under the Home Energy Assistance Act be used solely to provide assistance to those most in need. But I cannot agree that we are unable to selectively assist individuals who experience severe problems resulting from inability to afford needed cooling.

Cooling assistance under this legislation is available only where cooling is medically necessary—not, I stress, in cases where discomfort is a factor, but where medically necessary, as determined in accordance with standards prescribed by the Secretary of HEW.

I do not believe that this relatively narrow avenue of assistance will sacrifice or impair our winter effort. I for one am not willing to say to a poor elderly individual who has, say, a chronic heart disease that it is my intent to try to help him or her afford to stay alive in winter but to do nothing about a threat to his or her life in summer.

Individuals whose lives or well-being are at risk in hot or smoggy weather conditions are typically under a doctor's care by necessity and would be clearly identifiable. They are suffering from the types of diseases that would be severely aggravated by poor air quality or heat—such as chronic obstructive and chronic restrictive pulmonary diseases—such as asthma, emphysema, and cystic fibrosis—and congestive heart failure. Exascerbation or aggravation of these diseases can result in either frequent emergency room or doctor visits, hospitalization, or even death.

For these reasons, Mr. President, the cooling provisions should not be deleted, and for these reasons the amendment should be opposed.

Mr. WILLIAMS. Mr. President, I certainly recognize that the Senator from California brings a great amount of information to us that improves our understanding of the need for this provision. Again it would have limited application but necessary application.

Mr. CRANSTON. Exactly. I thank the Senator very much and I thank him very much for his work on it.

Mr. WILLIAMS. Mr. President, I mentioned earlier the testimony that came to our committee personally from the Senator from Florida, the chairman of

the Committee on Aging, when he was accompanied by his ranking member, and I see the Senator is on the floor and I believe he does want to address the Senate.

Mr. CHILES. Mr. President, if the Senator will yield, I appreciate the opportunity to join in the views expressed by the Senator from California and by the chairman of the committee.

I think the language that is included in the bill that provides that States can provide assistance, where they feel it is medically necessary, certainly does not put any emphasis on cooling. But in our State of Florida we have a number of our senior citizens where air-conditioning is as necessary for them as heat is for people in the North.

Because of bronchial conditions, because of asthma, because of other problems they have, including just the very severe heat itself, it is necessary for them to have air-conditioning, and we began to hear from them very, very early on as the oil prices started to increase. The State of Florida obtains all of its oil as foreign oil, so we have always had some of the highest prices.

We also use that foreign oil to create most of our electricity, and that electricity has, those electric bills have, gone up and up and up. So even prior to decontrol we have had people who pay much more for their electric bills than they pay for their rent and their mortgage payments on their houses, and it has been a very, very severe strain on those people.

What is going to happen is we are going into decontrol and trying to recognize that and trying to provide some energy assistance which certainly is as necessary for some of the people in Florida, and most of those are senior citizens and are the aged, to be able to have some relief, and I think that is what the committee in its wisdom did, and it included this provision, and I think it was wise to include it. I think it would be a real mistake on the floor if we stripped that provision from the bill.

Certainly in many parts of the country, in most parts of the country, what we are talking about is the severe condition that energy prices bring about, and in most of the country that is because of heat. But when we really talk about a severe condition, when we talk about an energy crisis in Florida and in some of the other States of the Southwest, that happens to be due to an energy price increase that comes because just as they have to use energy to heat their homes in the North, and some of our senior citizens have to use energy in order to have cooling in the South.

So what the committee in its wisdom did was to put in there where it was medically necessary that a State should have the ability to seek and use some of these funds for relief which, I think, makes great sense, and I hope very much the body will not adopt this amendment.

Mr. WILLIAMS. Mr. President, I certainly join in all of the statements made by the Senator from Florida. I advanced the same thoughts in the committee, perhaps less ably, and the committee did report this bill with the provision in it.

I know it is the desire of the Senator from Pennsylvania that we reach a vote at 2 o'clock on this amendment, and I know that runs into conflict with another agreement on another bill. It is being negotiated now to have those votes come at 2 and 2:15.

I see the Senator from Texas is here.

(Mr. BRADLEY assumed the chair.)

Mr. BENTSEN. Mr. President, if the Senator will yield, I would like to say that the problem of heat can be acute, particularly for older people. We had one heat wave in Texas, in Dallas, where more than 20 people died during that heat wave, and the medical authorities attributed it to excess heat.

In that kind of a situation, obviously, the amount of energy utilized for air-conditioning would have been very significant in trying to save lives.

My concern is that, when you take a look at these numbers, we do not skew them totally to disregard energy costs, that we just talk about cold, or that we just talk about degree days.

I know that the Energy Committee has worked very hard at this, and I am appreciative of that. But I also know that a number of amendments will be offered—one, in effect, to talk about cutting out the use of coolants even in a situation where health is involved. But the report that was developed here in Washington, talking about cold and dark, developed numbers to show that approximately 50 percent of the energy bill for a family is all that is attributed to heat; only about 50 percent. So the formula takes that into consideration as proposed by the committee. The other 50 percent is for things like heating water, trying to keep food from spoiling, and cooking food.

Then we take a look at what has happened to the cost of utilities in the South and in the North. We take a look at what has happened to heating oils and what has happened to the cost of gas over the last 10 years, and we find that the escalation in price is almost identical. The cost of heating oils in that period of time has gone up a little over 400 percent and the cost of gas has gone up just under 400 percent. So all of us have suffered.

Today you are finding that your utility bills, in the South and the North, are often larger than the mortgage payments on the home. Often an elderly couple who thought they had finally paid off the mortgage and, therefore, finally this home was theirs, are yet having a very difficult time holding onto their residence because of what has happened to the cost of energy across this Nation.

So what we must do is not single out or discriminate in favor of or against the poor of any section of our country. I am not arguing that there should not be more in adjustment because of cold, because I think there should be. But I think we ought to keep it within reasonable limits, as has been shown thus far, as to the amount of the utility bill that is attributed to heat across this Nation.

If we take that into consideration, then I believe something very close to what we see this committee has worked out in their wisdom is what should prevail. I would strongly oppose trying to skew the formula to discriminate against any one particular section of the country.

I congratulate the committee on a good job.

I had one question about the utilization of the BLS figures instead of the census figures when it comes to consideration of the poor. I probably will be offering an amendment on that later, but it will be nothing of the significance of some of these things that have been proposed that would substantially skew a formula.

I thank the distinguished manager of the bill for the time allotted to me.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHWEIKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, most Americans are now experiencing the first freezing blasts of winter. Months of cold weather and the necessity adequately to heat homes will surely follow. Low income and elderly consumers of energy throughout the country and in Utah are encountering great difficulties in paying their fuel bills. For example, from September 1978 throughout September 1979, a period of only 1 year, retail fuel oil prices have increased about 70 to 75 percent. Of more significance to Utah, perhaps, is the fact that natural gas prices have increased by 15 to 20 percent.

Such price hikes, coupled with future anticipated cost increases and an inflationary and a recessionary economy, impose an enormous burden on this Nation's 18 million low income and elderly households. While those who use fuel oil will be hardest hit, no poor family trying to keep warm this winter, regardless of the region, can escape the impact of these price increases which, for many, will pose an intolerable situation.

Because the poor already spend more of their disposable income for energy, their problems are far more severe, even life-threatening in some cases. According to the recent testimony of the Fuel Oil Marketing Advisory Committee (FOMAC) before the Senate Labor and Human Resources Committee, in 1978, low-income households, on the average,

were spending almost 19 percent of their income on home energy. Since 1978, dramatic increases in home energy costs have occurred and it is now estimated that the poor are spending close to 25 percent of their income on home energy as a national average and that over 30 percent is being spent in the Northeast and in certain places in the Midwest, because of the heavy reliance on costly fuel oil.

Mr. President, the Senate has responded quickly to the perilous situation that may exist this winter for many Americans by adoping a program within the confines of the Interior appropriations bill. This $1.35 billion program, which I was pleased to support, will facilitate assistance in time this year to help eligible recipients to meet the crunch on fuel bills which is about to come.

While this is a necessary stop-gap program, it is clear that a longer range, carefully structured program is desirable to enable people to plan for meeting the additional years of hardship which will follow in the short-run. S. 1724 represents the best plan available, in my judgment, to deal with this urgent situation although I will support some amendments today to refine certain portions of that bill which can be strengthened.

S. 1724 authorizes an energy assistance program for low- and medium-income households for 3 years at levels of $1.6 billion for fiscal year 1980, $3 billion for fiscal year 1981, and $4 billion for fiscal year 1982. It is my understanding that in light of the Interior appropriation's action in this area that the fiscal year 1980 authority contained in S. 1724 becomes unnecessary and will be dropped from the bill, leaving an authorization for 2 years, 1981 and 1982. The program is a grant program subject to appropriations, not an entitlement program. This is as it should be because the current prices are symptomatic of our failure to have a comprehensive energy policy of self-sufficiency which we will ultimately develop and which should provide relief for those hard pressed.

The bill establishes a new energy assistance program beginning in fiscal year 1981 which provides energy assistance through formula block grants to the States. I am supporting the Humphrey amendment to give the States greater flexibility to administer this program at the State level and to keep bureaucratic requirements at a minimum. Administrative costs must be minimized to the greatest feasible extent so we can get as much money into the hands of the neediest of our people to defray these energy burdens. It is my firm belief that the more flexibility given to the States in the administration of this program, the better it will operate.

The current formula allots 50 percent of the funds based on the total residential energy expenditure in each State and by the number of households with incomes below the Bureau of Labor Statistics lower living standard for each State. In this respect I believe that the Labor Committee's formula can be improved by adopting the Boschwitz amendment which would place greater weight on the heating needs of the colder weather States such as Utah in the formula allocation thereby placing a more appropriate emphasis back where I believe the Congress intends to have it—to alleviate the food versus heating fuel dilemma.

As to the funding formula, I believe it should relate to problems dealing with just heating and not cooling. I do not think it appropriate that it be used for cooling days, because the lack of air-conditioning will almost never be a life threatening situation, as the lack of heat often is. I would not be opposed to some flexibility allowed in this area at the State level, to allow Governors to make adjustments for cooling if a life threatening situation does exist. But the formula for funding should include only the number of heating days in an area and the adoption of the Schweiker amendment will insure the proper construction of the formula.

Assistance will be provided through payments to energy suppliers on behalf of eligible households or as cash assistance directly to the eligible household in certain limited circumstances. Households with incomes below the BLS lower living standard would be eligible for assistance. To ease administration, AFDC, SSI, food stamp, and certain income-tested veterans pension recipients would be categorically eligible. About 18 million households would be eligible for assistance—with some 21,000 Utah households having eligibility.

The program will be administered by HEW. Each State will be required to submit a State plan setting out the details of its proposed program.

The bill does not specify the revenue source for funding the program because the Labor and Human Resources Committee does not have jurisdiction over taxation or revenues. However, it is the committee's intent, as I understand it, that the program be funded from the windfall profits tax if the Congress enacts such a tax.

At this time, Mr. President, I would ask that information bearing upon the Utah energy situation, developed by the Utah issues information program and brought forth at an October hearing I chaired in Salt Lake City on this subject, now be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GAS AND UTILITY COSTS AND THE PURCHASING POWER OF THE LOWER INCOME

INCREASED GAS AND UTILITY COSTS IN UTAH

While attention has focussed on the sharp increase in oil costs in the East, increases in fuel and electrical costs in Utah have been equally dramatic.

From the period January 1975 to January 1979, the cost of natural gas (Mountain Fuel Supply) for the average residential customer has doubled. This increase is triple the rate of inflation and twice the average inflation rate for gas and electricity nationwide. This year the cost of gas is projected to go up by at least 35% more. In 1975 the average annual gas bill for a residential household was $151. In 1980 the average annual gas bill will be over $365. Increases in electrical rates have been almost equally dramatic.

PURCHASING POWER OF UTAH'S LOWER-INCOME

Traditionally, the incomes of households comprising Utah's poverty population (including "workingpoor" households and public assistance recipients) have increased at similar rates as the overall U.S. Consumer Price Index. However, during the past few years these poorest households have lost ground due to sharp increases in utility costs in Utah which are not reflected in nationally based inflation figures. Lower income workers and those living on fixed incomes have been similarly affected.

The following charts and tables detail the above:

[Two charts were included at this point which are not reproducible in the RECORD.]

UTILITY RATE INCREASES IN UTAH—RESIDENTIAL CUSTOMER, JAN. 1, 1975 TO JAN. 1, 1980

Date	Average monthly bill	Percent increase since 1975
I. Mountain Fuel Supply (based on 15,000 ft³/mo):		
Jan. 1, 1975	$12.80	
Jan. 1, 1976	16.22	26.8
Jan. 1, 1977	19.83	54.9
Jan. 1, 1978	22.81	78.2
Jan. 1, 1979	25.88	102.2
Jan. 1, 1980	30.35	137.1
II. Utah Power & Light (based on 400 kWh/mo):		
Jan. 1, 1975	12.34	
Jan. 1, 1976	14.22	15.2
Jan. 1, 1977	16.86	36.8
Jan. 1, 1978	19.53	58.3
Jan. 1, 1979	23.45	90.0
Jan. 1, 1980	25.00	102.6
III. Combined natural gas and electricity (I plus II):		
Jan. 1, 1975	25.14	
Jan. 1, 1976	30.44	21.1
Jan. 1, 1977	36.71	46.0
Jan. 1, 1978	42.34	68.4
Jan. 1, 1979	49.33	96.2
Jan. 1, 1980	55.35	120.2

PERCENT OF GA AND AFDC GRANT SPENT ON ESSENTIAL UTILITIES (GAS AND ELECTRIC)

	January—					
	1975	1976	1977	1978	1979	1980[1]
Household size:						
1	18.5	21.1	23.4	25.5	28.0	30.2
2	13.4	15.3	17.0	18.5	20.0	21.9
3	10.6	12.1	13.3	14.5	16.0	17.2
4	8.2	9.9	11.0	12.0	13.2	14.2

[1] Based upon average consumption of 15,000 ft³/mo—natural gas; and 400 kWh/mo electricity.

Note: The proportionate amount of an average grant (3-person family) spent for essential utilities has risen 62.3 percent since 1975.

Mr. HATCH. Mr. President, I am not known as one of the Senate's biggest spenders. However, this is a humanitarian need which must be addressed at the Federal level so that no American citizen will be forced to have to make the untenable choice of "heating or eating" for this, or any other heating season. I recommend the adoption of S. 1724.

Mr. WILLIAMS. Will the Senator yield?

Mr. HATCH. Mr. President, I am delighted to yield to my friend and colleague, the chairman of the Labor and Human Resources Committee.

Mr. WILLIAMS. Mr. President, the contribution of the Senator from Utah to the development of this I have mentioned earlier. I would like to state again the gratitude we all feel for all that he contributed. His understanding of the need translated into an action effort to meet the needs of low and lower income people in connection with the shocking

increases in the prices of fuel and energy, in the wintertime particularly.

Mr. President, we know the Senator from Utah did carry his whole appreciation for the need for this legislation to the Budget Committee and there brought to bear his understandings to make sure the budget situation in regard to this legislation was in order.

I thank the Senator from Utah for all that.

Mr. HATCH. Mr. President, I thank my dear friend and colleague, the chairman of the Labor and Human Resources Committee, who worked long and hard with his staff on these issues.

I commend the staff for working so well with our staff people through the years. I appreciate this very much.

I certainly appreciate the kind comments the Senator has given me today. I commend him for his efforts.

Mr. President, I yield the floor.

UP AMENDMENT NO. 796

(Purpose: To provide that a State may have the Secretary make payments to SSI recipients)

Mr. DANFORTH. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. An amendment is pending.

Mr. DANFORTH. Mr. President, I ask unanimous consent that consideration of this amendment may be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) for himself, Mr. BRADLEY, and Mr. HEINZ, proposes an unprinted amendment numbered 796.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new section:

(f) At the option of the State, any portion of such State's allotment may be reserved by the Secretary for the purpose of making direct payments to eligible households containing a recipient of supplemental security income benefits under title XVI of the Social Security Act for home energy assistance in accordance with guidelines issued by the Secretary.

Mr. DANFORTH. Mr. President, this amendment is offered on behalf of myself, Senator BRADLEY, and Senator HEINZ.

The amendment is very simple. It provides the States an additional option for use of their block grant moneys. The amendment would permit the States, at their option, to have the Social Security Administration send cash payments directly to SSI recipients in their States. Most States do not have comprehensive lists of low-income elderly or existing mechanisms to deliver assistance to that population. Nevertheless, a State may reasonably decide that the best way to reach the elderly poor and the disabled poor is through an automatic payment which does not require any kind of a new signup or new forms, and does not require the person to leave his or her home. Our amendment frees the State from undertaking an expensive and duplicative mailing of checks to accomplish this purpose. Rather, the States can use the existing SSI mechanism.

What our amendment does is give the States flexibility in designing a program of energy assistance for their low-income population. It does not dictate any particular approach. We have checked with the National Governors' Association about our amendment. Not surprisingly, the National Governers' Association, as a generic policy, supports State options, and we were informed our amendment is within the rubric of this policy.

Mr. BRADLEY subsequently said:

Mr. President, I urge the Senate to adopt the Danforth-Bradley amendment.

Under the direct-payments approach versus the vendor-payments approach, which is also provided for in the bill, States must reach all eligible households, including SSI, AFDC, and food stamp recipients, as well as those under the BLS income standard. Supplementation of the SSI and AFDC monthly checks may be an attractive option to some States in serving these eligible households. This amendment assures that a State will continue to have that option.

It continues arrangements States will have made under the fiscal year 1980 program to have the Social Security Administration of HEW send out energy assistance payments directly to SSI recipients as supplements to their monthly checks.

Most States do not currently have lists of SSI recipients because they either first do not provide SSI state supplementary payments (23 States), or second, have turned over the State SSI supplement program to SSA administration, precisely for convenience and efficiency reasons (17 States). Only 11 States administer their own State SSI supplements and therefore have the lists and, more importantly, the administrative mechanisms in place to reach the SSI eligible population with these payments.

For the remaining 40 States, the process of obtaining the SSI rolls and then of developing the administrative machinery to serve this population would be time-consuming, costly, and duplicative of an existing, if Federal, mechanism.

Finally, our intent is to provide States with the option of having the SSA send direct cash payments to SSI recipients. They are not required to do so. Enhanced flexibility is desirable for the States as they develop plans to meet part of the energy costs of their low-income population.

Mr. President, I urge the Senate and the distinguished chairman, Senator WILLIAMS, to accept this amendment.

Mr. WILLIAMS. Mr. President, this approach, using the Secretary of HEW for the direct application of the SSI benefits, was included in our original bill when we dealt with the 1980 program. It seemed to make a great deal of sense to let the States relieve themselves of part of the administrative program and designate the Secretary to pay directly through the SSI mechanism.

I believe it is administratively sound. We had it in the original bill, while we were dealing with 1980. It makes as much sense to carry it into 1981. I believe it is a contribution to the bill that I can accept.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. DANFORTH. I yield.

Mr. DURKIN. Is the thrust of the amendment to give the Governor the option, so that if he wants to go SSI or entirely bloc grant, it is up to the Governor?

Mr. DANFORTH. That is correct.

Mr. DURKIN. Will the Senator add my name as a cosponsor?

Mr. DANFORTH. Mr. President, I ask unanimous consent that the name of the Senator from New Hampshire be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, my distinguished colleagues, Senators DANFORTH and BRADLEY and I have offered an amendment unprinted No. 796 to the Low Income Fuel Assistance Act, S. 1724, that would permit States to have an option of letting HEW send out fuel assistance checks to SSI recipients.

I strongly favor this proposed amendment because I believe that HEW has the capacity now to identify and reach recipients simply by looking at the names on their current roles. SSI is a Federal program, and HEW is capable of expediting the delivery of checks to SSI recipients. If a State wishes the option of having HEW send out payments, surely it would be reasonable for us to provide the State with that flexibility.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILITARY CONSTRUCTION APPROPRIATIONS, 1980

The PRESIDING OFFICER. The hour of 2 p.m. having arrived the question recurs on H.R. 4391 which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 4391) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, as far as I know there is no one on this side of the aisle who desires to be heard at this time. I am prepared to yield back the 5 minutes allotted to us but will first yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, so far

as I know, there has been no request for time on the military construction bill either. If there is no request for time, I join the Senator from Kentucky in offering to yield back our time and have the vote now.

Mr. HUDDLESTON. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "yea."

The PRESIDING OFFICER (Mr. BUMPERS). Have all Senators in the Chamber voted? Does anyone else wish to vote?

The result was announced—yeas 91, nays 2, as follows:

[Rollcall Vote No. 402 Leg.]

YEAS—91

Armstrong	Glenn	Nelson
Baker	Goldwater	Nunn
Baucus	Gravel	Packwood
Bellmon	Hart	Pell
Bentsen	Hatch	Percy
Biden	Hayakawa	Pressler
Boren	Heflin	Pryor
Boschwitz	Heinz	Randolph
Bradley	Helms	Riegle
Bumpers	Hollings	Roth
Burdick	Huddleston	Sasser
Byrd, Harry F., Jr.	Humphrey	Schmitt
	Inouye	Schweiker
Byrd, Robert C.	Jackson	S'mpson
Cannon	Javits	Stafford
Chafee	Jepsen	Stennis
Chiles	Johnston	Stevens
Church	Kassebaum	Stevenson
Cochran	Laxalt	Stewart
Cohen	Leahy	Stone
Cranston	Levin	Talmadge
Culver	Long	Thurmond
Danforth	Lugar	Tower
Dole	Magnuson	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Durkin	McClure	Weicker
Eagleton	McGovern	Williams
Exon	Metzenbaum	Young
Ford	Morgan	Zorinsky
Garn	Muskie	

NAYS—2

Hatfield	Proxmire

NOT VOTING—7

Bayh	Melcher	Sarbanes
DeConcini	Moynihan	
Kennedy	Ribicoff	

So the bill (H.R. 4391), as amended, was passed.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HUDDLESTON, Mr. INOUYE, Mr. JOHNSTON, Mr. SASSER, Mr. MAGNUSON, Mr. HOLLINGS, Mr. LAXALT, Mr. STEVENS, Mr. YOUNG, and Mr. SCHMITT conferees on the part of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

PRIORITY ENERGY PROJECT ACT OF 1979

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1308.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1308) entitled "An Act to provide for an expedited and coordinated process for decisions on proposed non-nuclear energy facilities, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That (a) title I of the Energy Policy and Conservation Act (42 U.S.C 6201 and following) is amended by adding the following new part at the end thereof:

"PART C—PRIORITY ENERGY PROJECTS

"SHORT TITLE

"SEC. 171. This part may be cited as the 'Priority Energy Project Act of 1979'.

"PURPOSES

"SEC. 172. The purposes of this part are to exercise the congressional authority under the Constitution to regulate interstate commerce by—

"(1) providing a means to designate certain non-nuclear energy conservation and production projects, including energy research and development projects, the prompt implementation of which is in the national interest; and

"(2) establishing coordinated schedules for the expeditious making of Federal, State, local, and other governmental decisions, including judicial review thereof, respecting such designated projects, consistent with other applicable provisions of law, and establishing certain other procedures regarding such designated projects.

"DEFINITIONS

"SEC. 173. As used in this part, the term—

"(1) 'Agency' means a Federal agency or an agency or instrumentality of a State or local government or of a special governmental authority.

"(2) 'Agency decision' means any decision required to be made, or any other action required to be taken, by any agency with respect to any Priority Energy Project.

"(3) 'Board' means the Energy Mobilization Board established pursuant to section 174.

"(4) 'Energy project' means any project or device to be used, or activity to be carried out, by any person in connection with the exploration for, the development, transportation, production, commercialization of, or the conservation or efficiency in the use of, any form of energy. Such term includes any equipment, building, mine, well, rig, pipeline, transmission line, processing project, transportation-related device, manufacturing project, or installation or any combination thereof to be used for such purposes.

"(5) 'Federal agency' means an executive agency as defined in section 105 of title 5 of the United States Code, the departments described in section 102 of such title 5, and the Executive Office of the President.

"(6) 'Person' means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any Federal agency, any agency or instrumentality of a State or local government, or a special governmental authority.

"(7) 'Priority Energy Project' means a proposed energy project which is designated pursuant to section 178 of this part.

"(8) 'Special governmental authority' means an interstate or regional authority or an Indian tribe.

"(9) 'State' means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"ENERGY MOBILIZATION BOARD; ESTABLISHMENT AND AUTHORITY

"SEC. 174. (a) The President is authorized to establish for purposes of this part an Energy Mobilization Board to consist of five members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated Chairman by the President.

"(b) Members of the Board, other than the Chairman, shall be entitled to receive compensation at the rate prescribed for level IV of the Executive Schedule. The Chairman shall be entitled to receive compensation at the rate prescribed for level III of the Executive Schedule. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. The Board shall have a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule.

"(c)(1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he deems necessary to carry out the functions of the Board.

"(2) Upon request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

"(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

"(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

"(d)(1) The Board may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders, as may be necessary to carry out its functions under this part. The Board may institute, or participate in, such court

or agency proceedings as may be necessary to carry out its functions under this part. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

"(2)(A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within any State at any designated place of hearing within any State.

"(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

"(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(e) Whenever the Board submits to the President or the Office of Management and Budget, any legislative recommendation or testimony, or comments on any legislation, prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives.

"(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce and the Committee on Science and Technology of the United States House of Representatives fully and currently informed concerning its activities. The Board shall submit an annual report to such committees concerning the actions taken, or to be taken, under this Act. The report shall contain such other information relating to energy projects as the Board deems appropriate.

"CERTAIN PROJECTS NOT COVERED

"SEC. 175. Nothing in this part shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974, or to any project which is, or may be, approved under the provisions of title V of the Public Utility Regulatory Policies Act of 1978; except that in the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

"THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

"SEC. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system.

"AUTHORITY TO APPLY FOR PRIORITY STATUS

"SEC. 177. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this part. Such procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

"(1) enable it to make such a designation under this part,

"(2) identify each agency required to make an agency decision with respect to such project,

"(3) enable such agencies to identify the agency decisions which they are required to make with respect to such project, and

"(4) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

"(b) The Board shall require any person making an aplication under this section to file with the Board such additional information as it deems necessary, including—

"(1) an adequate design proposal for the project;

"(2) economic data on the costs and benefits of the project; and

"(3) an analysis of the environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

"(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

"(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs and Science and Technology. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration.

"DESIGNATION OF PRIORITY ENERGY PROJECTS

"SEC. 178. (a) Not later than forty-five days after expiration of the comment period under section 177(d) with respect to any application under section 177, the Board shall—

"(1) issue an order in accordance with this part designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

"(2) refuse to issue such an order.

"(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs and Science and Technology.

"(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

"(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

"(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

"(3) the extent to which the energy project would make use of renewable energy resources;

"(4) the extent to which the energy project would conserve energy;

"(5) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

"(6) the time that would normally be required to obtain all necessary agency decisions;

"(7) the adverse impacts that would result from—

"(i) the designation of the energy project as a Priority Energy Project, or

"(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

"(8) the extent to which the energy project would impinge upon the quantity and quality of presently available and future water resources;

"(9) the comments received concerning the energy project;

"(10) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

"(11) the availability of significant economic, environmental, or technical data; and

"(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

In the case of any order designating a project under this section, the order shall contain a statement of the basis on which such designation was made and such other information as may be appropriate.

"(d) Upon receipt of an application pursuant to section 177 of this part for the designation of an electric powerplant, as defined in section 103(a)(7) of the Powerplant and Industrial Fuel Use Act of 1978, as a Priority Energy Project and after an opportunity for public comment on such application pursuant to such section, the Board shall designate such powerplant as a Priority Energy Project, in accordance with section 178, if such powerplant is seeking, as determined by the Secretary of Energy, to use coal or a coal derived fuel as the primary energy source either (1) through conversion to such fuel from the use of oil or natural gas as the primary energy source for such powerplant, or (2) through construction of a new powerplant to replace an existing powerplant that uses oil or natural gas as the primary energy source.

"(e) The Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agen-

cy decisions with the appropriate agencies as soon as possible in order that agency decisions may be expedited.

"STATE PARTICIPATION

"SEC. 179. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is proposed to be located, and each such Governor may appoint a nonvoting Member to serve on the Board to participate only in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 174(b) shall not apply to the Member of the Board appointed under this section.

"COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 180. (a) Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 183, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 1022(C) of the National Environmentay Policy Act of 1969. If the Council determines that any such action relating to a Priority Energy Project will be a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council on Environmental Quality fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

"(b) Notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969.

"EXTENSION OF DEADLINES

"SEC. 181. The Board may extend the time for receiving comments under section 177 (d), the time for making its determination and publication under section 178 in the case of any application for designation of any energy project as a Priority Energy Project, the time for agencies to transmit information under section 182, and the time for publication by the Board under section 183(a) of a Project Decision Schedule. Any such extension shall be consistent with the purposes of this part and shall be for only such period as may be necessary, as determined by the Board.

"AGENCIES TO TRANSMIT INFORMATION

"SEC. 182. Not later than thirty days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any agency decision with respect to such Project or any part thereof, shall transmit to the Board—

"(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements applicable to such actions and to the making of such decisions;

"(2) a tentative schedule for completing such actions and making such decisions;

"(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

"(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any Priority Energy Project at any time and in any manner.

"PROJECT DECISION SCHEDULE

"SEC. 183. (a) Not later than thirty days after agencies are required to transmit information under section 182 with respect to any Priority Energy Project, the Board, in consultation with the appropriate agencies, shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by such agencies.

"(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 182 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination. The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.

"(2) Whenever the Project Decision Schedule is not consistent with any schedule which would otherwise apply, such Project Decision Schedule shall apply in lieu of such otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

"(3) In the case of agency decision or action subject to the Project Decision Schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule. No such agency may modify the Project Decision Schedule pursuant to the authority contained in this paragraph.

"(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure adequate consideration of all matters concerning such Project under applicable law and to insure adequate participation by parties in applicable proceedings.

"(5) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such Schedule.

"(c) In consultation with any person responsible for—

"(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

"(d) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time. No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

"(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

"(2) it would be impractical for the agency to reach a decision or to complete the required action within the specified time,

taking into account the personnel and funds available to the agency for complying with such Schedule.

"MONITORING OF COMPLIANCE BY BOARD

"SEC. 184. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register, and may take such actions as it deems appropriate to bring such agency and other persons into compliance with the Project Decision Schedule. If the Board determines that any person responsible for—

"(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such Project which is necessary before such agency decision may be made,

has failed or refused to promptly file such application or petition or take such other action, the Board shall either revise such Project Decision Schedule or revoke the designation of such Priority Energy Project under section 178.

"AGENCY OBLIGATIONS NOT AFFECTED

"SEC. 185. (a)(1) Except as may otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Board under section 183 or 186(a)(2)(A) or pursuant to the modification of a schedule by an agency under 183(b)(3), the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

"(2) Paragraph (1) shall be subject to section 186.

"(b) Except as permitted under the authorities referred to in subsection (a), nothing in this part shall—

"(1) affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law,

"(2) affect the basis on which any agency decision is made with respect to such a project, or

"(3) affect or influence the outcome of any such agency decision.

"(c) Nothing in this part shall be construed to affect the authority or independence of any independent Federal regulatory agency.

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 186. (a)(1) If the Board determines, pursuant to its monitoring under section 184, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within thirty days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committes on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor or each State affected by the project.

(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement establish by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provide in section 189(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a susbtantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsecsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspect adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection, any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which

is part of the Project, would present a substantial impediment to implementation of the project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of five years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirements to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(c)(1) Not later than forty-five days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the project. The Board may extend the forty-five-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

"PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

"SEC. 187. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 183 or 186(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

"(b) No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 185, if such waiver would—

"(1) waive any Federal, State, or local requirement which relates to—

"(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives.

"(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

"(C) criminal laws, or

"(D) civil rights laws;

"(2) waive any Federal, State or local requirement which involves any primary air quality standard established under the Clean Air Act;

"(3) have the effect of impairing or abridging any right or rights of any person arising under the Constitution of the United States;

"(4) contravene any interstate compact, provision of State or local law or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights;

"(5) have the effect of abridging or impairing the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project; or

"(6) have the effect of contravening the will of the electorate as ascertained in any local or State initiative or referendum which was specifically related to the establishment of an energy project.

"(c) Notwithstanding any provision of this part, no requirement may be waived under this part with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

"WATER LAW

"SEC. 188. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

"(b) The United States, its agents, permittees, or licensees shall appropriate water within any State for an energy project pursuant to the procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

"(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

"(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

"JUDICIAL REVIEW

"SEC. 189. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 178, the granting or denying of an extension under section 181, the establishment of a Project Decision Schedule under section 183, and any action of the Board under section 184, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2) The making of any waiver recommendation by the Board or waiver determination by the President under section 186 shall not be subject to judicial review, except as required by the Constitution or as permitted under paragraph (3).

"(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after the approval of a determination transmitted by the President to the Congress under section 186 requesting the court to enjoin or grant other appropriate relief with respect to any waiver approved pursuant to such determination if such waiver is inconsistent with any prohibition contained in section 187, and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

"(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

"(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

"(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

"(4) In issuing a final order in any action for review of any final agency action which

is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay.

"REPORT

"SEC. 190. Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that significantly hinder the completion of energy projects, and which includes an analysis of why each law or regulations listed in the report is a significant hindrance to the completion of such projects.

"EFFECTIVE DATE

"SEC. 191. The Board shall promulgate regulations for carrying out its functions under this part (including regulations establishing procedures and criteria under section 177) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this part for designation of any project as a Priority Energy Project before promulgation of such regulations.

"EXPIRATION OF AUTHORITY

"SEC. 192. The Board shall cease to exist, and the authority provided to the Board under this part, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this part for any Priority Energy Project prior to the expiration of such authority, and, to the extent practicable, the other provisions of this part applicable to such project, shall continue to be applicable to such project after September 30, 1985.

"AUTHORIZATION

"SEC. 193. There is authorized to be appropriated to the Board to carry out the provisions of this part not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorization.".

(b) The table of contents for such Act is amended by inserting after the item relating to section 166 the following:

"PART C—PRIORITY ENERGY PROJECTS

"Sec. 171. Short title.
"Sec. 172. Purposes.
"Sec. 173. Definitions.
"Sec. 174. Energy Mobilization Board; establishment and authority.
"Sec. 175. Certain projects not covered.
"Sec. 176. The Alaska natural gas transportation system.
"Sec. 177. Authority to apply for priority status.
"Sec. 178. Designation of priority energy projects.
"Sec. 179. State participation.
"Sec. 180. Compliance with NEPA.
"Sec. 181. Extension of deadlines.
"Sec. 182. Agencies to transmit information.
"Sec. 183. Project Decision Schedule.
"Sec. 184. Monitoring of compliance by Board.
"Sec. 185. Agency obligations not affected.
"Sec. 186. Enforcement of Project Decision Schedule.
"Sec. 187. Prohibition against waiver of certain rights and laws.
"Sec. 188. Water law.
"Sec. 189. Judicial review.
"Sec. 190. Report.
"Sec. 191. Effective date.
"Sec. 192. Expiration of authority.
"Sec. 193. Authorization.".

Amend the title so as to read: "An Act to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes.".

Mr. JACKSON. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. DURKIN, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. MELCHER, Mr. TSONGAS, Mr. BRADLEY, Mr. HATFIELD, Mr. MCCLURE, Mr. WEICKER, Mr. DOMENICI, Mr. STEVENS, Mr. BELLMON, and Mr. WALLOP conferees on the part of the Senate.

CAMBODIA'S ANGUISH

Mr. JACKSON. Mr. President, these days all of us are haunted by the great human tragedy in Cambodia. A whole nation is on the verge of dying. This is the International Year of the Child, but in Cambodia and in the refugee camps in Thailand, the children are wasting away in the arms of their helpless mothers. What an arbitrary, heartbreaking fate for those we are supposed to honor this year. What a mockery for those who planned the year of the child, and what a terrible way to observe it.

The situation has been amply documented. Senators SASSER, BAUCUS, and DANFORTH, who were in Cambodia late last month, have reported the facts. It is estimated that the current population of Cambodia is 4 to 5 million people, and that 2 to 3 million are facing starvation. One-half of this number are expected to die in the next few months unless massive emergency aid is provided. Thousands die every day; most die slowly, racked by disease and starvation, and tortured by the suffering of their loved ones. The situation will be getting worse; too few crops have been sown, and there will be too little to harvest. Without major assistance, the people of Cambodia will lack the necessary nutrition to sustain even a moderate birth rate: Those few weak children who are born will face a severe problem surviving their infancy.

We should recognize that the current Cambodian Government and its Vietnamese masters have selectively withheld food as a conscious policy in pursuit of their goals. In some parts of the country, food has been used to undermine the forces of the old regime. In certain areas, food utensils have been confiscated and foraging declared a crime as a means to keep the local people weak and docile.

Mr. President, this is a totally cynical disregard for basic human decency. This constitutes genocide—literally.

External assistance is absolutely essential. Funds for food and medical aid must be raised. At the UN-sponsored "pledging conference" a week ago, concerned governments pledged $210 million in cash and supplies for the relief effort. This is about two-thirds of the $310 million goal set by Secretary General Waldheim for humanitarian assistance to Cambodia in the next 12 months. Of the money raised at the conference, the U.S. commitment was $69 million, and the Congress has acted to authorize the necessary funds for this purpose. These developments are encouraging, along with the many contributions from private groups and individuals in this country and around the world.

The critical problem lies in getting food and medical supplies into Cambodia, and distributing it. For food alone, the International Committee of the Red Cross has estimated that 1,000 tons are required each day, just to provide an emergency diet for the 2 to 3 million Cambodians in desperate need. This figure comes to 30,000 tons monthly, simply to feed Cambodians at the bare subsistence level.

Transport of emergency supplies by land and by sea is the most effective way to deliver the large amounts required. But Phnom Penh officials have so far resisted the proposal of Senators SASSER, BAUCUS, and DANFORTH for a "land-bridge"—a truck convoy running with food and supplies from Thailand—operated by the ICRC and UNICEF. We should give strong support to the current negotiations with Phnom Penh authorities aimed at persuading them to cooperate with the worldwide humanitarian relief effort. If these negotiations fail, we must develop alternative avenues, including a major airlift, for delivering the needed supplies.

Our Government should continue to urge the Soviet Union, in the gravest possible terms, to acknowledge the pending holocaust in Cambodia, and to use its influence with its ally to persuade Phnom Penh to assist and share in the emergency feeding of the Cambodians.

The children of Cambodia do not support political regimes—they simply insure the future of their people.

HOME ENERGY ASSISTANCE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of S. 1724, to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

The pending question is on agreeing to the amendment (No. 566) of the Senator from Pennsylvania (Mr. SCHWEIKER). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 27, nays 68, as follows:

[Rollcall Vote No. 403 Leg.]

YEAS—27

Armstrong	Helms	Pell
Baker	Humphrey	Pressler
Bellmon	Jepsen	Proxmire
Biden	Kassebaum	Roth
Chafee	Laxalt	Schweiker
Cohen	Leahy	Stafford
Eagleton	Lugar	Stevens
Garn	McClure	Young
Hatch	Nelson	Zorinsky

NAYS—66

Baucus	Ford	Muskie
Bentsen	Glenn	Nunn
Boren	Goldwater	Packwood
Boschwitz	Gravel	Percy
Bradley	Hart	Pryor
Bumpers	Hatfield	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heflin	Riegle
Byrd, Robert C.	Heinz	Sasser
Cannon	Hollings	Schmitt
Chiles	Huddleston	Simpson
Church	Inouye	Stennis
Cochran	Jackson	Stevenson
Cranston	Javits	Stewart
Culver	Johnston	Stone
Danforth	Levin	Talmadge
DeConcini	Long	Thurmond
Dole	Magnuson	Tower
Domenici	Mathias	Tsongas
Durenberger	Matsunaga	Wallop
Durkin	McGovern	Warner
Exon	Metzenbaum	Weicker
	Morgan	Williams

NOT VOTING—5

Bayh	Melcher	Sarbanes
Kennedy	Moynihan	

So Mr. SCHWEIKER's amendment (UP No. 556) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 797

(Purpose: To provide a set aside of funds for outreach for eligible households having elderly members)

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 797.

Mr. EAGLETON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, after line 24, insert the following:

(4)(A) From the sums appropriated pursuant to section 4(b) and made available under subsection (b)(1)(A) of this section, the Director shall reserve a sum not to exceed $3,000,000 in each fiscal year for outreach activities designed to assure that eligible households with elderly members are made aware of the assistance available under this Act. The Director shall enter into agreements with national aging organizations to carry out the provisions of this subparagraph.

(B) No payment may be made by the Director under this paragraph to any national aging organization unless the Director determines that such outreach activities will be coordinated with State outreach activities required under section 8(b)(16).

Mr. EAGLETON. Mr. President, as the distinguished Senator from New Jersey is well aware, his bill contains a requirement that each State plan make provision for outreach activities to insure that the eligible households with the greatest need for energy assistance are aware of the assistance made available under this program.

My amendment seeks to expand this State Outreach activity by authorizing the Director of the Community Services Administration to reserve up to $3 million of its $100 million set-aside to contract with national aging organizations to conduct outreach activities through their local clubs and memberships.

Mr. President, the national aging organizations have demonstrated an unusual capability to conduct a systematic, coordinated approach toward Outreach to those who may not know assistance is available. In 1965, the then Office of Economic Opportunity initiated operation medicare alert to inform the elderly of their rights and opportunities under the recently enacted medicare legislation. A massive campaign was launched to develop projects employing teams of older people on door-to-door canvasses to find those elderly not yet signed up for medicare. Using this new approach, an astounding 3.8 million older persons were contacted on an individual basis.

The success of operation medicare alert was due in large measure to the national aging organizations with affiliated clubs and members across the country. Many offered their cooperation in organizing personnel for operation medicare alert teams, and large numbers of these senior citizens were deployed into their communities to carry out the assignment.

Mr. President, I believe this additional authority to allow contracting with national aging organizations will enhance the ability to penetrate the isolation of the elderly poor who have disengaged themselves from their communities.

Mr. WILLIAMS. Mr. President, I believe that the Senator from Missouri raises an excellent point, and that his amendment makes a useful contribution to the legislation before us. As the Senator knows, I was one of the early advocates of operation medicare alert, and, in fact, sponsored legislation in 1966, the National Senior Community Service Corps Act, patterned after the successful operation medicare alert model.

I call to my colleagues' attention that in the committee deliberations on the Home Energy Assistance Act and related proposals, strong support was voiced on the need for effective Outreach programs to better insure that those who are in greatest need of assistance, regardless of whether they are presently served by Federal programs, are reached.

In my estimation, the national aging organizations, with their comprehensive and effective membership networks, have a long record of excellence in outreaching Federal, State, and local programs, and I believe their active participation in this endeavor could prove most beneficial to many of our senior citizens.

I am very pleased to support this amendment, feeling as I do that it is a very worthy approach and a worthy amendment.

Mr. EAGLETON. Mr. President, I yield 2 minutes to the Senator from Kansas (Mr. DOLE).

Mr. DOLE. Mr. President, I shall take just a moment, as the ranking Republican on the Finance Committee, to say that we have dealt with this general problem. I think the Senator from Missouri makes a valuable contribution. It is a good amendment. Often the most difficult group to reach in providing assistance of this kind is the elderly. If the elderly are contacted by groups with which they are familiar, they are more likely to respond favorably. So it is a good amendment. I hope it can be accepted.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

UP AMENDMENT NO. 798

(Purpose: To substitute the Office of Management and Budget poverty statistics in lieu of statistics prepared by the Bureau of Labor Statistics)

Mr. BENTSEN. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 798.

Mr. BENTSEN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 1.

On page 23, lines 7–8, strike the words "the lower living standard income level" and insert in lieu thereof the words "125 percentum of the federal poverty level."

SEC. 2.

On page 19, strike line 4 through 9 and insert the following: "(3) '125 per centum of the federal poverty level' means 125 per centum of the official poverty line most recently established by the Office of Management and Budget."

Mr. BENTSEN. Mr. President, I think the committee has done an excellent job in drafting some legislation that tries to reach what is an appropriate formula, except for one provision. That provision is in part what we did in the Finance Committee. The Finance Committee worked long and hard, too, trying to devise a formula for assistance for people who are suffering from the increased cost of energy, but it put one different provision in its bill. I am proposing an amendment that will do that here.

What I am proposing is that we substitute for the poverty level in the index that is used in this particular piece of legislation the one that was established by the Office of Management and Budget. That would be in lieu of the Department of Labor Statistics—family budget lower-living standard. I propose that because the Bureau of Labor Statistics themselves say that their provi-

sion should not be used this way. I have a letter here from the Department backing up that position.

At present, two major series that purport to set income levels for poverty in our Nation are available. One, developed by the Bureau of the Census, has been used as the poverty measure for every Federal program save one. The Bureau of Labor Statistics sets a lower living standard, as defined as the cost of a basket of goods established in the mid-1960's.

The Bureau of Labor Statistics survey has been chosen for use in the distribution of funds because it allows for differences in the cost of living in different regions, and I think it is well and good that we allow for such differences.

I think that is well and good. I think we should allow for such differences. But I think we ought to do it in the most responsible way, using data that is both adequate and that pertains to the problems we are addressing.

The problem that this country faces is that America's poor have, as a result of skyrocketing energy prices, found themselves facing agonizing choices between necessities. This legislation has a single and narrow purpose: Helping the poor meet those energy bills so that they will not be confronted with so grievous a choice.

And the legislation we have before us, does allow substantially for the differences in the cost of energy from region to region, fully one-half of the funding is distributed according to what the average household in the State is billed for its energy use. That is one-half of it, but to allow the funds to be distributed according to the cost of other consumer commodities would be similar to creating an "age of housing" factor in the distribution of highway construction funds.

It just does not relate to what this particular legislation is aimed at trying to correct.

Not only is the distribution of funds according to the Bureau of Labor Statistics not appropriate, in addition, the survey performed in establishing this data is inadequate for establishing patterns nationwide. The data for the BLS series is gathered in a survey of only 43 urban areas—in fact, entire States are not surveyed at all. And the Bureau of Labor Statistics notes, in each report they publish, the following warning: "The budgets do not represent how families of this type actually do or should spend their money, nor are they intended to represent a minimum level of adequate income or a subsistence level of living." The simple fact is that the BLS has fought all attempts to use their data as a poverty indicator. I hold here a letter from the director of Labor Statistics stating that "the lower budget was never intended to represent a poverty level—nor (was it) intended to represent a minimum level of adequate income or subsistence level of living."

That is the letter from the Commissioner that I have here and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. LLOYD BENTSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BENTSEN: I am writing in response to the telephone request from your staff concerning the Bureau of Labor Statistics (BLS) Family Budgets. The program began many years ago with one hypothetical budget level, the cost of a "modest but adequate" standard of living for a four-person family headed by a fully employed head of household. This level was later adjusted upward and downward to represent a somewhat lower and somewhat higher standard. The lower budget was never intended to represent a poverty level.

Note in the attached press release the paragraph on page 7 which states, ". . . nor are they intended to represent a minimum level of adequate income or a subsistence level of living." I am also enclosing material from a recent study by the Department of Health, Education, and Welfare, "The Measure of Poverty," which discusses the BLS Family Budgets.

Sincerely yours,

JANET L. NORWOOD,
Commissioner.

OTHER NEEDS

Very little work has been directed toward developing minimum standards for basic needs besides food and housing, such as clothing, transportation, and education. As noted before, the current Orshansky poverty measure multiplies food costs by a factor of three to develop a total income level.

The only systematic work by a Federal agency on standards for other needs has been in connection with the Bureau of Labor Statistics (BLS) family budgets, first issued in 1948. In 1967, the BLS developed three budget levels—"lower," "intermediate," and "higher"—for a four-person urban family with an employed husband aged 38, his nonworking wife, and two children aged 8 and 13, and for a retired couple with both husband and wife aged 65 or older. The intermediate budget was designed to represent a "modest but adequate" standard of living, and costs for this budget were then scaled to produce the other two budgets. The budgets are periodically updated for price changes in the broad components of the Consumer Price Index (CPI). The BLS also developed equivalence scales based on patterns of food expenditures, to use in determining budget costs for different kinds of families as percentages of the base four-person family. These equivalence scales were for different family types by age of need, number of persons in the family, and number and age of children.

None of the BLS budgets, including the lower one, was intended to be an absolute standard of need, much less a poverty standard. They are not based on minimum quantities or prices of necessary goods and services, but rather are descriptive of relative levels of living. They apply to the family of a year-round full-time worker with 15 years of work experience. In Autumn 1974, the lower BLS budget for a four-person family was $9,196 or more than 80 percent higher than the 1974 weighted average nonfarm poverty threshold of $5,038. The Orshansky poverty matrix was based on the Department of Agriculture's economy food plan. The BLS budgets use the low, intermediate, or liberal cost food plans.

SOURCE.—*The Measure of Poverty*, U.S. Department of Health, Education, and Welfare, April 1976.

Mr. BENTSEN. Mr. President, clearly, since the very people who develop this data think it is inadequate, it is beyond the wisdom of the Senate to deem it right and proper. There is a more adequate indicator of poverty available, and that indicator has been used by this Government as the poverty indicator in all but one of its programs that address the needs of poor.

That indicator, developed by the Bureau of the Census for the Office of Management and Budget, is a trusted benchmark of poverty in our Nation. At the core of this survey is the assumption that there is a subsistence level for expenditures for food, as defined by the Department of Agriculture.

Additionally, that amount represents about one-third of the annual family budget. Therefore, the poverty level was set at three times the cost of the Department of Agriculture's economy food plan.

The census then surveys the entire Nation, in fact, they surveyed over 150,000 households in 1976 to assist in their development of more precise poverty statistics. Annual revisions are made based on price changes that occurred over the previous year. The data is adequate, the numbers reflect a true measure of poverty. It is clear that this is the standard on which the Congress should depend when assessing the levels of poverty among the States.

I, therefore, urge my colleagues to support this amendment, substituting a trusted, complete, survey of poverty for one that is, even according to those who prepare it, inadequate for making nationwide assumptions of poverty among the States.

Mr. President, do we have a time allocation for amendments?

The PRESIDING OFFICER. There is no time agreement.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, the amendment offered by the most distinguished Senator from Texas brings to us an approach that is one we recognized in the committee for early application of a rough formula for equity in distribution of funds to people in lower incomes faced with the crisis they now face in their lives with the skyrocketing energy costs.

In this bill, we are not dealing with this year's reaction to this year's crisis, but we are legislating for the later years of 1981 and 1982.

With this time factor favoring a very close examination of the problems that poor people have, and they will vary in degree from region to region and from city to country, it was developed that the BLS—Bureau of Labor Statistics—data have lower living standards, and more finely tunes and adjusts to the needs of the people in various parts of the country.

So the major difference between the two bases, the poverty base as determined by OMB, and the BLS, the lower living standard, is that the BLS data has geographic variation related to the cost of living, while the poverty base is a national standard and is fixed.

For example, it is fixed at this point at $5,700 for a farm family of four, $6,700 for a nonrural family of four.

I might also add that the geographical adjustment in the Bureau of Labor Statistics data has furnished the basis

for a large-scale operational program (CETA).

Overall it has worked well in this large-scale operation.

In comparison, the poverty data is adjusted only for farm and nonfarm families. Most, if not all, of the distributional formulas that use poverty adjust the impact by giving weight to some other income-related factor.

The poverty index is updated annually by applying the change in the overall Consumer Price Index. The BLS budget is adjusted annually by applying the change in the various components of the CPI to individual portions of the budget; that is, if medical care costs increased by 10 percent and food costs by 5 percent each, the food and medical care components of the budget will be adjusted in the appropriate amount. Also, the budgets are adjusted by the local change in the CPI and not by the national average. Thus disproportionate fuel cost increases in a particular area will show up in the BLS data but not in the poverty data but this information will, however, be as much as a year out of date.

The poverty index was developed from data that showed that low-income persons spent one-third of their income on food. The price of a minimally adequate food budget was taken from the Agriculture Department data and that amount multiplied by three. That relationship between food expenditures and total income was of course, established before the advent of the food stamp program which has significantly affected the cash expenditure patterns of the poor. While some criticism may be leveled at the use of BLS, because it is based on value judgment to some degree, the same argument can be used against the use of the poverty index.

It just seems to me, if we have—and we do have now—the time to do what I would suggest is a far more equitable approach to finding those who will be in need of this particular program, we ought to do it.

The Bureau of Labor Statistics approach does recognize the variations among the regions in a much more refined way than the poverty index, and, as a result, it will clearly reach many more people such as the elderly, and the working poor who have a need for this program and would not be reached if the poverty level were used.

There are those who fall above the poverty line that are going to be desperate for assistance and the BLS would reach them. The poverty level does not.

Mr. JAVITS. Will the Senator yield?

Mr. WILLIAMS. I am happy to yield.

Mr. JAVITS. Mr. President, to me, the two principal factors are, one, the differentiation based upon the cost of living in various parts of the country with our standard varying according to the cost of living and the poverty standard being uniform.

But the other thing which deeply interests me, and I hope the Senate, I am very solicitous about the working poor. I like to keep them working.

The virtue of our standard is that it does include a much greater part of the working poor who fall within that bracket—that is, between these two stools.

The answer is that if we adopt the plan of the Senator from Texas, we will be reaching about 13 million units of objective beneficiaries. If we adopt our plan, we will be reaching more than 17 million, and that is the working poor bracket.

I have no idea what it does to us or to him or to any of us. I am trying to find out, as a matter of fact. But I like very much to fashion these programs to include the working poor, also. I do not want to see them get hit because they are working. That is what I feel this does, and therefore I personally prefer, for the reasons I have given, the standard which the Committee on Labor and Human Resources has adopted.

Mr. BENTSEN. Mr. President, what we are all trying to do is to achieve equity here, and I recognize that on the part of the distinguished Senators who are managing the bill for both the majority and the minority.

The problem is that you have just so much money to utilize here. When you talk about extending it to additional groups of people, that means you dilute it to that extent for the individual recipients.

Also, the point I make is that the survey as utilized by the Office of Management and Budget and the one that is prepared by the Bureau of the Census is the one that is used on every one of these Federal programs except one, only one, where it is not utilized.

In addition, the commissioner, Commissioner Jane Norwood, states that it does not reflect properly what we are trying to achieve here. They only surveyed some 43 urban areas. Entire States were not surveyed at all. So it is not a true and accurate barometer.

We should follow the guidelines of what is being utilized in virtually every program except one and what we utilized in the Finance Committee in trying to arrive at the formula.

Frankly, a member of our committee is also a member of the Finance Committee, and we were swapping information back and forth and trying to achieve what the Senators are talking about—equity. But we felt that we should utilize the firmest numbers, those that had the support of the Office of Management and Budget and were utilized in the other Federal programs.

I think we have numbers that can be counted on, when you take a look at the Bureau of Labor Statistics and find entire States were not surveyed, and you have to have some concern about the validity of those numbers.

I urge very strongly that we substitute the utilization of the Office of Management and Budget numbers which were developed by the Bureau of the Census, as proposed in my amendment, and I urge the adoption of the amendment.

Mr. BRADLEY. Mr. President, I am pleased to add my support to the bill fashioned under the leadership of my senior colleague, Senator WILLIAMS, the distinguished chairman of the Committee on Labor and Human Resources, and to argue strongly for the committee's viewpoint on this issue.

It seems to me that if one is going to say that only 43 urban areas in the Nation are represented under the BLS statistics, one should list those urban areas that are excluded in such list. To argue further that because it never has been done this way, we should not do it in the future, seems to me to be an argument which bears some scrutiny.

This bill will provide critical assistance to low-income households in meeting their increased energy costs. Senator WILLIAMS' efforts have been widely hailed throughout our own State as a critical contribution to meeting the severe energy costs many citizens will face this winter and beyond. I know other States confronting the same problems of colder climates and skyrocketing energy prices will welcome this legislative effort to meet the energy needs of America's low-income households.

The Finance Committee devoted a substantial amount of time to its own consideration of low income energy assistance in connection with the windfall profits bill. While there are differences between the version we reported and S. 1724, I believe that the two bills share many features in common and would have similar benefits for the population we are seeking to aid.

This bill establishes a new energy assistance program beginning in fiscal year 1981 which provides energy assistance through formula block grants to the States. The $3 billion authorized for 1981 and $4 billion for 1982 will be allocated to the States on an equitable basis according to how much a State's households spend on energy, how many days a year the temperature falls below a certain point, and the number of low income households. The States would then distribute these moneys to low income households according to plans they develop themselves. Their options include direct payments to eligible households and/or vendor payments to suppliers of energy to help pay the energy bills for these same households.

Finally, I would like to draw special attention to the amendment Senator CHILES has proposed be added to this bill which provides that specific efforts shall be made to include all eligible older Americans as recipients of energy assistance. The elderly, who tend to spend substantial amounts of time in their own homes and whose requirements for adequate heating are greater than for younger individuals, have been hit very hard by increasing energy costs. Fixed incomes do not go far in buying oil in today's marketplace. Every attempt should be made to reach the elderly, and I have joined Senator CHILES as a cosponsor to help insure that such efforts are made.

Mr. President, I urge the Senate to support the committee's action in including the BLS statistics as the measure of the energy grants.

I suggest, also, that it is an equitable measure for a great number of Federal programs that presently have only the poverty level, which, in States in many parts of the country that have high inflation rates, is an inadequate measure of true need.

Mr. BENTSEN. Did not the Senator support the Finance Committee choice on the Office of Management and Budget and the Bureau of the Census, and did we not discuss this at some length in trying to choose numbers that were valid?

Mr. BRADLEY. As the Senator knows, in the Finance Committee there were long discussions that pitted the Senator from Texas and the junior Senator from New Jersey on opposite sides of this issue; and in an effort to achieve some comity, we made those compromises on both sides of the issue.

In the process of legislating, the matter has moved from the committee to the floor. It is now on the floor, and we have an opportunity to adjust some of the errors we made in the committee, however committed and whoever was involved in the commission of those errors.

Mr. BENTSEN. I do not recall that the Senator had argued for the BLS approach at that time, although, as he quite correctly states, we had disagreed on some other things. But I think the Senator had accepted this one and had supported it and was not a part of the compromise.

Mr. President, I urge the adoption of the amendment.

Mr. WILLIAMS. Mr. President, I express my appreciation to my colleague from New Jersey for his statement in support of our measure and the approaches used.

I must recognize that the Senator from Texas is eminently right: There are many programs that use the poverty levels as the basis. These are the classical, the traditional welfare programs, and it is known.

It impresses me that we have something very new here in terms of social economic need. We have unprecedented new costs imposed upon households, and that is, the incredible increases in energy costs.

In going into our deliberations on energy assistance, we felt that we would be forced to consider a group that never had been considered part of welfare, and this is not a welfare bill. We have a national emergency, a national crisis. People are feeling an economic squeeze that, in the regular order of their lives, they never thought they would run up against. Obviously, they have not been able to prepare for these incredible increases in one of the essentials of daily living, and that is the energy we need to keep warm in the winter. Let us assist many needy households to avoid being faced with the awful choice of heat in the home or food on the table. And unfortunately, projections for the future indicate that these prices are just going to continue to go up.

This is not a welfare program at all. It is a national response to a national emergency that is reaching people who never have been part of AFDC or SSI or food stamps or the other programs that we consider welfare.

That is why this BLS base does reach a group of people not included within our traditional welfare programs.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. I have a good deal of experience with the BLS figures. Our colleague, for whom I have the deepest regard, is chairman of the Joint Economic Committee. We sit with them every month. We take their figures for the cost of living, for inflation, for unemployment. We consider them extremely reliable; we count on them. We act on them. I do not see why, suddenly, they are considered to be unreliable here, when we take them all the time. We consider them our absolute bible.

So I deeply believe that our committee was right in its approach, and again I emphasize the adjustment to the different costs of living in the country which our formula contains and the outreach to the working poor; because, in fact, 4 million or more household units are covered. My opinion as to how we wanted to go at it is that they should be covered rather than not covered, and the amendment would exclude it.

I hope the amendment is rejected.

Mr. DOLE. Mr. President, I have listened to the arguments. I do not remember any big discussion on this issue in the Finance Committee, but I am constrained to support the view of the distinguished Senator from Texas.

I am particularly impressed with the letter from Commissioner Norwood. I am not certain how vital the difference may be, but the Senator from Texas has obviously spent a lot of time researching the issue, and I support the Senator's position.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Kansas for his comments.

I must also say that in the Joint Economic Committee, as the distinguished Senator from New York has stated, we do have the Commissioner, Janet Norwood, before us time and time again, and she is a woman of great ability. I think that the Bureau does an excellent job. But we should not try to outreach their information, their statistics, and the information they have available. The Commissioner herself has stated that, in effect, time and time again when we have her before us. She is a very candid woman, and she does not indulge in rhetoric. But she will say, "Well, you know, we just do not have that information," or, "We have not done that." And we understand that.

In this situation, she makes the statement as I quoted, "Nor are they intended to represent a minimum level of adequate income or a subsistence level of living."

So again what we have seen is trying to stretch these numbers over States that have not even been surveyed. Entire States have not been surveyed.

My friend from New Jersey was talking about trying to develop equity in this, and I totally agree with him on that. But when he talks about this as an emergency situation that we are just going to have for the 2 years in 1981 and 1982, does anyone really believe we are just going to have that program for 1981 and 1982? We are going to have this program for years. It is going to continue on, and I think we should have it on the most solid numbers, the most valid numbers that we can possibly develop. The Office of Management and Budget and the Bureau of Census have worked long and hard to do that. That is why I ask we substitute that for it.

As far as it being great sums of money and they are going to be affecting my State in a very major way, no. There are other amendments that will be proposed that are much larger from a monetary standpoint, but it is just that I am trying to get us to stay to something that has been approved in every Federal program except one and to see that that kind of validity that is carried through is carried through in this program.

Mr. President, I am prepared to vote on it if the members of the committee are.

Mr. JAVITS. Mr. President, if I may be recognized, I believe that this question is such a real one that we should have in the RECORD the letter addressed to Senator BENTSEN by Janet Norwood dated November 7, 1979, from which he has quoted and the paragraph which he attached to her letter which describes the BLS budgets.

Mr. President, if I may just make one comment, I think this does raise a question. I think the issue between us is shall this be a "poverty program," a welfare program pure and simple, or shall it reach those people who will have what we consider to be an unacceptable financial strain by virtue of this situation?

I think we have chosen to make eligible those people who will have unacceptable financial strain, including several million of the working poor; whereas, the other definition ties it down to strictly the poverty proposition.

I believe that the runaway cost of home heating is so great that the standard which we have adopted is the just one as far as this situation is concerned and does include people to whom in a matter like this we should give some break, to wit, the working poor.

Mr. BENTSEN. Mr. President, I say to my colleague from New York that I asked that that letter be printed in the RECORD at a previous point. So perhaps we can avoid a duplicate.

Mr. JAVITS. May we put in, however, this paragraph?

Mr. BENTSEN. I had the whole thing printed in the RECORD.

Mr. JAVITS. It is already in?

Mr. BENTSEN. Yes.

Mr. JAVITS. I thank the Senator.

Mr. BENTSEN. I have no further comments to make. If Senators are prepared to vote, I am.

Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER (Mr. BAUCUS). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the

Senator from Indiana (Mr. BAYH), the Senator from Kentucky (Mr. FORD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 33, nays 56, as follows:

[Rollcall Vote No. 404 Leg.]

YEAS—33

Armstrong	Heflin	Randolph
Bentsen	Helms	Sasser
Boren	Hollings	Simpson
Bumpers	Huddleston	Stennis
Byrd, Harry F., Jr.	Johnston	Stewart
Byrd, Robert C.	Kassebaum	Talmadge
Cannon	Long	Thurmond
Chiles	Lugar	Tower
Cochran	McClure	Weicker
Dole	Morgan	Zorinsky
Exon	Nunn	
	Pryor	

NAYS—56

Baker	Glenn	Packwood
Baucus	Gravel	Pell
Bellmon	Hart	Percy
Biden	Hatfield	Pressler
Boschwitz	Hayakawa	Proxmire
Bradley	Heinz	Ribicoff
Burdick	Humphrey	Riegle
Chafee	Inouye	Roth
Church	Jackson	Schmitt
Cohen	Javits	Stafford
Cranston	Jepsen	Stevens
Culver	Leahy	Stevenson
Danforth	Levin	Stone
DeConcini	McGovern	Tsongas
Domenici	Magnuson	Wallop
Durenberger	Matsunaga	Warner
Durkin	Metzenbaum	Williams
Eagleton	Muskie	Young
Garn	Nelson	

NOT VOTING—11

Bayh	Kennedy	Moynihan
Ford	Laxalt	Sarbanes
Goldwater	Mathias	Schweiker
Hatch	Melcher	

So Mr. BENTSEN's amendment (UP No. 798), was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Scott Ginsburg, of the Subcommittee on Employment, Poverty, and Migratory Labor, be granted the privilege of the floor during the course of the debate and during rollcall votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 562

(Purpose: To simplify the State plan in order to provide for a block grant)

Mr. HUMPHREY. Mr. President, I call up amendment No. 562.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an amendment numbered 562.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, line 21, beginning with "Secretary" strike out through line 12, on page 35, and insert in lieu thereof the following: "Secretary.

"(b) Each such State plan shall—

"(1) designate any agency of the State to administer the program assisted by this Act;

"(2) describe a State program for furnishing home energy assistance to——

"(A) (i) home energy suppliers,

"(ii) eligible households, or

"(iii) any combination of home energy suppliers and eligible households, and

"(B) building operators,

for eligible households;

"(3) describe how the State will select eligible households;

"(4) describe the amount of assistance to be provided to or on behalf of participating eligible households;

"(5) describe the arrangements with home energy suppliers, eligible households, and building operators for payments under this Act;

"(6) provide assurances that (A) the State will use for administration of the State plan not to exceed 15 per centum of the costs of the carrying out the plan, and for the purpose of this clause, the Federal share of the costs of administration for any fiscal year shall be 50 per centum, and (B) the State will pay from non-Federal sources the remaining costs of administration;

"(7) provide for outreach activities through the use of public agencies and private organizations with particular emphasis on voluntary private organizations; and

"(8) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting of Federal funds paid to the State under this Act.".

On page 35, beginning with line 17, strike out through line 12 on page 36, and insert in lieu thereof the following:

"(d) The Secretary shall approve any State plan that addresses the matters set forth in subsection (b) and may not, by regulation or otherwise, require any more detailed assurances or representations by the State for the program to be assisted under this Act.".

On page 37, beginning with line 18, strike out through line 2 on page 38.

On page 38, line 4, strike out "SEC. 12." and insert in lieu thereof "SEC. 11.".

On page 38, line 9, strike out "SEC. 13." and insert in lieu thereof "SEC. 12.".

On page 38, line 13, insert after "regulations" a comma and the following: "in accordance with the provisions of section 8 (d),".

On page 39, line 20, strike out "SEC. 14." and insert in lieu thereof "SEC. 13.".

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have added as cosponsors the names of Senators DOLE, SCHWEIKER, HATCH, ROTH, and JEPSEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, this amendment would make the fuel assistance program for 1981 and 1982 more truly a block grant program. Flexibility at the State level would be enhanced, and bureaucratic requirements would be reduced.

At a time when the need for fuel assistance is so critical and Federal resources are so strained, we cannot afford to waste money on spurious reporting requirements and manipulation from Washington. Administrative costs must be minimized. The block grant approach is the most effective means to that end. Also, if the program is to remain crisis intervention, it is best not to establish a weighty Federal apparatus. To create such a fixture would be to promote a permanent entitlement, and I do not believe that this is the Senate's intention.

My amendment would require each State to submit a simplified plan to HEW. Mandated redtape would be minimized. The Secretary would evaluate whether a State is addressing the goals of the legislation, but she would not concern herself with dotting i's and crossing t's. The States should not have to follow a specific Federal design.

The States are best able to administer a fuel-assistance program. The argument is no longer valid that they do not have the organization to complete a large agenda. The States have been implementing large Federal programs for years now. They have the means, and they know local situations and local needs.

Under my amendment, the States would still have to provide fiscal controls and fund accounting procedures to insure that Federal funds are spent properly, and they would still have to limit the money they spend on administration—but the design and the implementation of the program would largely be left to them. We should remember that Governors, State legislators, and the heads of counties and municipalities are elected officials like ourselves. If they do a good job with this program, they stand to be reelected, and if they do poorly, they stand to lose. This is more than can be said for a program designed and implemented by Federal bureaucrats.

We in this Congress must come to realize, as the American people already have, that the growth of Federal power has had injurious ramifications. It has led to a stifling officiousness. It has led, increasingly, to a transfer of authority from elected representatives to unelected, tenured functionaries. It has led to the arrogant presumption that only Washington knows what is best for the American people. These trends must be reversed.

Federally funded programs should not be used to manipulate the States. The manipulators claim that local democratically elected governments cannot be trusted. They might employ a design not in keeping with the latest fad. They might cheat somebody, or operate inefficiently. Perhaps so—but what makes anyone think that the Federal Government has a monopoly of wisdom, efficiency, and justice? For my money, I will take my chances with State and local officials any day.

The question is whether we in this country still believe in democracy. Do we believe that people can and ought to run their own affairs, or do we now put our trust in professional strategists and

overseers who have no stake in the communities over which they pass judgment? There is absolutely no compelling reason why fuel assistance programs should not be designed and implemented by States and their communities.

We hear a great deal these days about political apathy, and how it may be endangering our political institutions. I suspect that this apathy largely stems from a sense people have that what they say does not matter anymore. Washington is too remote, and the country is too large. If civic affairs were more surely run from statehouses and townhalls, the voice of the individual would have more meaning.

Very simply stated, Mr. President, this amendment would strike from the legislation, as it now stands, the rather burdensome reporting requirements and, as I stated in my remarks, insert a section that simplifies the matter and that would have the Secretary simply evaluate whether the State is addressing the goals of the legislation and not concern himself in great detail with it.

I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, the Senator from New Hampshire, who is a member of the committee and who is a very active and helpful participant in the work of that committee, knows it is a difficult situation when we find ourselves on the floor in opposition to each other. But on this, I find that I am, and I am consistent. I will ask the Senator from New Hampshire if this same approach was offered as an amendment during our markup of the bill in the committee. Is that correct?

Mr. HUMPHREY. Yes. We are both consistent.

Mr. WILLIAMS. Mr. President, I appreciate Senator HUMPHREY's desire that States have the flexibility to determine their own programs of assistance, and in fact that is what I believe the Home Energy Assistance Act does. I also believe, however, that it is imperative that within that flexibility we build in basic accountability requirements. The amendment before us deletes those accountability requirements. The provisions of the State plan which are struck are not onerous and, in my judgment, make a great deal of sense. In S. 1724 the State is asked to describe in its State plan the State and local administrative arrangements. The State is free to use whatever State and local administering agencies it chooses. It is certainly reasonable that the State include in its plan a description of how it intends to administer the sizable program of assistance.

This is basically a substantial new grant of resources which will run to the States from the Federal Treasury.

It seems to me that we are not being unreasonable in having this provision that the State describe how this new effort, a substantial amount, will be administered.

The Humphrey amendment also removes what I consider to be one of the most important provisions of the Home Energy Assistance Act. S. 1724 requires that priority be given to households with lowest incomes, and that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income. This means that the State must devise a scale of benefits so that those with highest fuel costs and lowest incomes receive the most money.

Quite frankly, I thought there was a total consensus within our body that this is the way we hoped this measure would go forward to be helpful to those who are economically hurting most.

It is certainly the intent of this legislation that the amount of assistance be based on need. The provisions of section 8(b)(6) which this amendment strikes provides for the need element in the setting of benefit levels. In S. 1724 the State sets the benefit levels based on its allocation, its fuel types, and its eligible population. S. 1724 certainly provides flexibility to the State in setting those levels. I believe it is imperative, however, to stipulate that the benefit levels be based on need determined by the cost of energy in relation to the income of the household.

States may make payments either to the energy suppliers designated by the household or directly to the household. S. 1724 provides that when payments are made to the vendor that the State have an agreement or contract with the vendor stipulating the amount of the Federal assistance and setting a policy that energy suppliers who contract for the Federal payment will not terminate a participating household unless the household is 2 months in arrears on its share of the payment and has been given notice. The organizations representing energy suppliers, the Oil Jobbers Council, the Edison Electric Institute, and the Gas Association all testified on S. 1724 and the vendor agreements contained in the bill. In fact, the termination policy in the original S. 1724 was more stringent than the committee bill, and it was at the suggestion of the industry that the present policy was adopted.

The amendment strikes the requirement that public participation be allowed in development of the plan, and also eliminates the requirement that owners and renters be treated equitably under the plan. This provision is of great importance since approximately one half of all poor families are renters.

In the State plan the State is allowed to reserve up to 3 percent of its funds annually to deal with weather related and supply shortage emergencies. The amendment before us strikes this needed State flexibility to deal with emergencies.

The amendment also strikes the assurance that recipients of funds will be referred to weatherization programs where feasible in order to promote conservation, and eliminates a maintenance of effort provision for welfare programs, which means that a State could redirect existing welfare payments and substitute this money intended for energy assistance. Finally, the amendment strikes the portion of outreach provisions which involve existing agencies such as area agencies on aging and community action programs in identifying needy recipients.

The Humphrey amendment eliminates several very important provisions of S. 1724. The program of assistance is provided through a block grant to States and allows the State to tailor the program to its needs. I ask unanimous consent to have printed in the RECORD a letter from the National Governors Conference which supports the approach taken in S. 1724 including the State plan provisions which are necessary for accountability.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION,
November 8, 1979.

To the Members of the U.S. Senate:

I am writing to you concerning legislation to establish a low income energy assistance program which will come to the Senate floor in the near future. Although the National Governors' Association has not formulated a policy specifically on S. 1724, "Home Energy Assistance Act", the Association believes that the approach taken in S. 1724 as reported by the Committee on Labor and Human Resources (which is similar to the approach proposed by the Committee on Finance) to establish a program of low income energy assistance is a satisfactory and responsible approach.

On behalf of the Governors' Association, I testified before the Committee on Labor and Human Resources concerning the establishment of such a program. We are pleased to note that the Committee, in considering this subject, took into account the major concerns which I voiced. We believe the manner in which the Committee on Labor and Human Resources (and the Committee on Finance) would allow the federal funding for this program to be channeled through state governments is feasible and will allow each state to more sensitively take into account its own unique circumstances and needs. The Governors' Association realizes that the states must be accountable for the expenditure of federal funds within such a program, and believes that S. 1724 calls for reasonable and sufficient mechanisms to assure accountability to the citizens of each state who are both state and federal taxpayers.

We commend both committees on their work on this vital legislation, and we urge the Senate to move rapidly to approve this approach to providing desperately needed energy-related assistance to the low income population of the nation.

Sincerely yours,

JOSEPH GARRAHY,
Chairman, Committee on Human Resources.

Mr. WILLIAMS. Mr. President, I urge my colleagues to vote against this amendment.

I must say there is certainly no cynicism or partisanship on the part of the Senator from New Hampshire giving this blanket authority to a nation that has a lot more Democratic Governors than Republican Governors. Certainly, I admire his statesmanship in that regard, but notwithstanding that largess of spirit I have to oppose the amendment.

Mr. HUMPHREY. Mr. President, I will point out that while the Governor of my State belongs to the Democratic Party, I do my best to work with him. In large measure it was his communication with me which led to my working for this amendment.

I thank the Senator from New Jersey for ticking off the provisions which my amendment would strike. I think if we add up the totality of the provisions that my amendment would strike it amounts to a description of another Federal program in which the Federal Government collects money from people all across the country, and then hands it out as though it is our money. Federal money is taxpayers money, and all taxpayer funds come from the people.

I think it is unfortunate in the extreme that today whenever money is disbursed from Washington it is handed out as though it is some kind of carrot to be dangled in front of the noses of Governors, in front of the people, that it is some kind of a gift. Inevitably, it comes with all kinds of strings attached, such that we are constantly wearing away the sovereignty and the responsibility of the States; such that Federal Government is growing greater in power every year and the system of States is being worn away. This is a process which we must reverse.

I point out again that the people back in the localities, the towns, and the cities, and the counties and the States, know far, far better what kind of programs they need. We do not have to tell them how to administer these funds. They are not dishonest or stupid. They are at least as honest and intelligent as we are and, based on the record of Congress, I would have to say they are a great deal more intelligent, if not more honest. I urge my colleagues to support a block grant approach.

We talk about protecting the sovereignty of the States and cutting down on the size of the Federal Government, but when it comes to doing something we often fail.

I only point out in closing, Mr. President, with respect to the criticism that this amendment removes the requirement that the legislation be addressed chiefly to the elderly and the low income, that our distinguished colleague from Florida (Mr. CHILES) intends to address this matter in a separate amendment. In fact, he has two versions of that amendment. Anticipating mine, he has drawn up two versions, one which he will submit in the event that my amendment fails and one that he will submit in the event this amendment passes. I am a cosponsor of both of those amendments. In any case, this matter of directing the priority of the program to the elderly and low-income persons is going to be addressed before passage of the bill.

● Mr. DOLE. Mr. President, I strongly support the amendment of the Senator from New Hampshire to make the block grants under the bill more flexible.

The States are in the best position to know what kind of assistance will benefit their citizens. Certainly, with the experience we have gained through the crisis intervention program we are aware that some delivery mechanisms work very well in one State but very poorly in another. We should also recognize that Federal agencies often have their own prejudices about how to run a program, and those prejudices will be visited on the States.

If we require States to meet all kinds of conditions in accordance with HEW standards, we will not get the kind of response to individual needs we are looking for. The States should be given the flexibility to be innovative in finding solutions to the energy problems facing them, and they do not have sufficient flexibility under this bill.

In our deliberations on low income energy assistance, the Senate Finance Committee agreed that the States should be given a completely free hand to design their programs. The only real restriction on the States under our program was that the money must be spent to provide energy assistance to the poor. We even left it to the States to define the low income population which would be eligible.

The distinguished chairman of the Finance Committee, Senator LONG, and the Senator from Kansas, along with other Members of the Senate, have sponsored a major welfare reform bill which provides block grants to the States for their family welfare programs. One of the principles which we hope to establish with that legislation is the need to give the States more flexibility to design their own public assistance programs. By supporting the language in section 8 of S. 1724, we will negate that principle.

In some cases, program plans under the amendment of the Senator from New Hampshire may look no different from the program plans under the bill, but there will be States which differ markedly from HEW in their approach to low-income energy assistance. Without the amendment, HEW will have the power to withhold both approval and payments on the basis of its own bias even though the States address the issues appropriately. We should not be giving that kind of power to a Federal agency, especially when we know the various States will need to approach this problem in different ways.

I am happy to support the amendment.●

Mr. HUMPHREY. Mr. President, if parties on either side of the question have no further remarks, I am prepared for a vote. I ask for the yeas and nays if there are no further comments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Kentucky (Mr. FORD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New York (Mr. MOYNIHAN), the Senator from Maryland (Mr. SARBANES), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. HATCH), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

The PRESIDING OFFICER (Mr. LEVIN). Are there any other Senators wishing to vote?

The result was announced—yeas 34, nays 55, as follows:

[Rollcall Vote No. 406 Leg.]

YEAS—34

Armstrong	Durkin	Pressler
Baker	Garn	Roth
Bellmon	Goldwater	Schmitt
Boren	Hayakawa	Simpson
Boschwitz	Helms	Stevens
Byrd, Harry F., Jr.	Humphrey	Thurmond
Chafee	Jepsen	Tower
Cochran	Kassebaum	Wallop
Danforth	Lugar	Warner
Domenici	McClure	Young
Durenberger	Nunn	Zorinsky
	Packwood	

NAYS—55

Baucus	Hatfield	Pell
Bentsen	Heflin	Percy
Biden	Heinz	Proxmire
Bradley	Hollings	Pryor
Bumpers	Huddleston	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Cannon	Javits	Sasser
Chiles	Johnston	Stafford
Church	Leahy	Stennis
Cohen	Levin	Stevenson
Cranston	Long	Stewart
Culver	McGovern	Stone
DeConcini	Magnuson	Talmadge
Eagleton	Matsunaga	Tsongas
Exon	Metzenbaum	Weicker
Glenn	Morgan	Williams
Gravel	Muskie	
Hart	Nelson	

NOT VOTING—11

Bayh	Kennedy	Moynihan
Dole	Laxalt	Sarbanes
Ford	Mathias	Schweiker
Hatch	Melcher	

So Mr. HUMPHREY's amendment (No. 562) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 799

(Purpose: To exclude from the requirements of clauses (7) (C) and (D) individual fuel oil dealers and other small home energy suppliers which the State agency determines will be jeopardized by such compliance)

Mr. HUMPHREY. Mr. President, I submit an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an unprinted amendment numbered 799.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 1, after "(C)" insert "subject to such subsection (f) of this section".

On page 31, line 6, after "(D)" insert "subject to such subsection (f) of this section".

On page 36, between lines 12 and 13, insert the following:

"(f) A State agency may exempt any fuel oil dealer or other small home energy supplier from the requirements of clause (7) (C) or clause (7) (D), or both, of subsection (b) of this section if the State agency determines that compliance with clause (7) (C) or clause (7) (D), or both, will jeopardize in any way the ability of the fuel oil dealer or other small home energy supplier to conduct business.

Mr. HUMPHREY. Mr. President, this amendment would allow the State administering agency to exempt any fuel oil dealer or other small home energy supplier from certain requirements of participation in a vendor line of credit approach.

As S. 1724 now reads, if a fuel oil dealer enters into a vendor credit arrangement such that he is paid directly for providing fuel to a participant in the fuel assistance program, then, this fuel oil dealer must first give his fuel assistance customers the same credit terms he gives his regular customers, and second, he cannot terminate fuel deliveries to any fuel assistance customer without an elaborate and lengthy procedure—even when this customer's benefits are exhausted.

Mr. President, I agree that since a vendor credit arrangement would give a fuel oil dealer business he might not otherwise have, he should be required to make some accommodation. However, I do not see that a small business should have to suffer under this program. The independent fuel oil dealers in New England have been struggling just to survive. In the past several years, they have been going out of business at a rate of two per week.

My amendment would allow the State agency to exempt a fuel oil dealer from standard credit arrangements and strict termination procedures, whenever that agency determines that these requirements would jeopardize the ability of the fuel oil dealer or other small home energy supplier to conduct business. This exemption is only fair. If a fuel assistance recipient is in dire need of further assistance, it should be the State's responsibility to address this need, and not a struggling dealer's responsibility.

Mr. President, I understand that an agreement has been worked out with the floor managers of this bill. I am not entirely certain of that statement, because we were anticipating that Senator SCHWEIKER would manage the bill on this side of the aisle, and he is necessarily absent. But I understand that an agreement has been worked out.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 799, AS MODIFIED

(Purpose: To exclude from the requirements of clauses (7) (C) and (D) individual fuel oil dealers and other small home energy suppliers which the State agency determines will be jeopardized by such compliance)

Mr. HUMPHREY. Mr. President, I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposed an unprinted amendment No. 799, as modified.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 6, after "(D)" insert "subject to such subsection (f) of this section".

On page 36, between lines 12 and 13, insert the following:

"(f) A State agency may exempt small home energy suppliers from the requirements of (7) (D), of subsection (b) of this section if the State agency determines that compliance with clause (7) (D) will seriously jeopardize the ability of the fuel oil dealers and other small home energy suppliers to conduct such business.

Mr. HUMPHREY. Mr. President, the thrust of the amendment is to prevent fuel oil dealers who are in a marginal position today with respect to the soundness of their business from being pushed over the edge when they are not permitted to terminate customers who do not pay their bills.

I have consulted with the distinguished Senator from New York, and I believe the amendment is now acceptable to both floor managers of this legislation.

Mr. WILLIAMS. Mr. President, I certainly appreciate the problem concerning small energy vendors. It is certainly not the position of the committee to jeopardize the ability of small fuel oil dealers to do business.

I believe State exemption from the provisions in section (D) as in the amendment as modified is appropriate when it is applied to the small dealers who are marginal and are in a financial bind.

Therefore, I am happy to support the amendment, as modified, of the Senator from New Hampshire.

Mr. JAVITS. Mr. President, I have examined the amendment as originally submitted, and I am sympathetic entirely to keeping small dealers in business. But I was not sympathetic to allowing them to discriminate among customers as to price, credit terms, et cetera.

Of course, subject to the usual business definition if the service is different or the quality is different, et cetera, if there is a legitimate difference, then it is uniform for everyone; it is the same difference.

So, Senator HUMPHREY very kindly agreed to take that out of it. Now what is left, it seems to me, is perfectly proper, to wit, that insofar as a small dealer who has problems having to give notice where his bills have not been paid, et cetera, or have a hearing, a State agency may relieve him of that.

I think that is an entirely appropriate provision and the amendment, as now modified, is acceptable to me.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New Hampshire.

The amendment (UP No. 799), as modified was agreed to.

Mr. HUMPHREY. Mr. President, I thank Senator JAVITS and Senator WILLIAMS for constructive assistance on that amendment.

UP AMENDMENT NO. 800

(Purpose: To modify State assurances with respect to eligibility in the State plan)

Mr. HUMPHREY. Mr. President, I send to the desk an unprinted amendment, which is my final one on this bill, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an unprinted amendment numbered 800.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, strike out lines 9 through 12 and insert in lieu thereof the following:

(21) provide assurances that the state will not establish any standards of eligibility under this Act based on assets.

Mr. HUMPHREY. Mr. President, this amendment would strike the provision in S. 1724 which prohibits the States from instituting eligibility requirements that are stricter than the Federal Government's requirements. In place of this provision would be added the following sentence:

Provide assurances that the State will not establish any standards of eligibility under this Act based on assets.

Mr. President, prohibiting the assets test is necessary primarily to protect the homes of senior citizens. No one should have to sell his house to be eligible for the assistance necessary to heat it. A house is about all many senior citizens have in this country.

On the other hand, the States should be given some flexibility to target eligibility. The fact is that the money available for this program is not likely to be sufficient for substantial grants to be given to every household in America with an income of less than 100 percent of BLS. The States should be able to restrict a limited amount of money to those people who really need it. Current language would compel the States to supply at least some assistance to anyone who meets requirements that are considerably more generous than those in this year's program.

We should keep in mind that a family's cash income does not necessarily determine its standard of living. Some

families still grow their own food and cut their own wood. At the present time, there are many woodpiles in the State of New Hampshire. But there are also many people facing dire need, and the benefits of these people should not be reduced to provide eligibility to others who have sufficient wood for the winter.

Once again, Mr. President, the thrust of this amendment is to give the States increased latitude, increased flexibility, and to channel these limited funds to those persons who truly need them, not strictly on the basis of cash income, but on the basis of real need.

Once again, Mr. President, we have an agreement, I believe, worked out with Senator SCHWEIKER, but he is not able to be here. I wonder if I might have some indication from the Senator?

Mr. JAVITS. Mr. President, I would like to take a look at it. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF ENROLLMENT OF H.R. 4930

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate, House Concurrent Resolution 209.

The PRESIDING OFFICER. The Chair lays before the Senate, House Concurrent Resolution 209, which the clerk wil state by title.

The legislative clerk read as follows:

House Concurrent Resolution No. 209, a resolution authorizing the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 4930.

Mr. ROBERT C. BYRD. Mr. President, House Concurrent Resolution 209 corrects a clerical error in the House-Senate conference agreement on Senate amendment 67 to H.R. 4930, making appropriations for the Department of the Interior and related agencies for the 1980 fiscal year. The amount in question designates that portion of the appropriation to the Forest Service for construction and land acquisition that is earmarked for construction of roads and trails. As agreed to by the House and Senate, the figure in amendment No. 67 is $401,242,000. The correct amount agreed to by the conferees on the Interior appropriations bill is $392,565,000.

The number correction involved here does not affect the amount of the overall appropriation for Forest Service construction and land acquisition, only an amount designated within that appropriation.

Mr. President, I hope the Senate will agree to the resolution and concur in the correction to amendment No. 67 I have just discussed.

Mr. HUMPHREY. Mr. President, this has been cleared with the minority side.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOME ENERGY ASSISTANCE ACT

The Senate continued with the consideration of S. 1724.

AMENDMENT NO. 581

(Purpose: To assure that State public assistance payments increases to be applied to increased energy costs will be disregarded in the computation of food stamp eligibility)

Mr. PELL. Mr. President, I call up my amendment No. 581 to S. 1724.

The PRESIDING OFFICER. There is an amendment pending at this time.

Mr. PELL. Oh, I am sorry; my fault.

Mr. WILLIAMS. Mr. President, I ask unanimous consent to lay that amendment aside temporarily and take up the amendment of the Senator from Rhode Island and that of the Senator from Florida, while the Humphrey amendment is being discussed.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, on the basis that when my amendment is modified we not lose our place, but that it will be the next amendment to come up, I would have no objection.

The PRESIDING OFFICER. The question on agreeing to the Senator's amendment will recur as soon as this amendment is disposed of.

Mr. HUMPHREY. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I thank my colleague. I call up my amendment No. 581, and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL), for himself, Mr. CHAFEE, Mr. HEINZ, Mr. LEAHY, Mr. RANDOLPH, Mr. RIEGLE, Mr. STAFFORD, and Mr. WEICKER, proposes an amendment numbered 581:

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 23, insert "(1)" after "(c)".

On page 39, between lines 3 and 4, insert the following new paragraph:

(2) Section 5(d) of the Food Stamp Act of 1977 is amended by striking out "and (10)" and inserting in lieu thereof the following: "(10) any income attributable to an increase in State public assistance grants which is intended primarily to meet the increased cost of home energy, and (11)".

Mr. PELL. Mr. President, this amendment, which I offer on behalf of myself and half a dozen other Senators, would insure that increases in State public assistance payments specifically earmarked for energy-related expenses will not be offset by automatic cuts in food stamp benefits.

Because it is the middle of November, and the Federal Government is only now acting on a proposal to provide energy assistance to low- and moderate-income individuals, some States have increased their public assistance payments to help low-income beneficiaries meet the dramatic increase in home heating costs that has occurred over the past year. In my own State of Rhode Island, for example, energy costs have increased over 70 percent during this period, and the State is increasing welfare payments to help meet those costs.

Unfortunately, these increases in State public assistance payments are making many low-income families and individuals ineligible for the food stamp benefits they have been receiving. For others, this monthly energy supplement decreases their food stamp allotment and, paradoxically, larger families who necessarily spend more to heat their homes lose a greater proportion of assistance. For these families the choice between food and fuel will become a horrible reality.

To prevent this unintended hardship, I am offering this amendment which would hold current food stamp beneficiaries harmless, so that what has been designed as a mechanism to lessen the economic burden for one of the necessities of life will not threaten their eligibility for other essential programs.

This amendment would not require any additional Federal spending, since we are not increasing program eligibility. The amendment, however, would enable the elderly and low-income individuals who receive energy assistance from the State to maintain their current food stamp allotment.

Without this amendment, we will be robbing Peter to pay Paul. What the State government giveth, the Federal Government will taketh away.

I believe this amendment is essential to permit Federal and State Governments to work in tandem instead of at opposite ends. I do not believe it is controversial because it is a hold-harmless provision, and I hope the chairman will accept it.

Mr. WILLIAMS. Mr. President, I believe that the need for the amendment of the Senator from Rhode Island is manifest, and I certainly support it.

The amendment that the distinguished Senator from Rhode Island offers would amend the Food Stamp Act of 1977 to provide that increases in State public assistance payments specifically earmarked for energy-related expenses would not be considered income for the purpose of determining eligibility for food stamps.

I share my colleague from Rhode Island's deep and abiding concern for the health and welfare of the many families and individuals that will be facing severe hardship this winter and beyond due to the increased cost of home energy. My colleagues are all familiar with the degree to which the price of home-heating oil has risen within the past year. Predictions on the future costs of oil and other types of fuel look grim.

Data submitted to the committee indicates that many low-income households

will be paying in excess of 80 percent of their income on home energy and shelter costs alone. This leaves but a paltry sum of money available for other basic necessities such as food, medical care, et cetera for these households. It seems to me that we should be looking to ways in which we might ease the hardship that these households face, not exacerbate the problem.

The Pell amendment is specifically tailored to ease the economic burden on elderly and on other food stamp recipients, who may be in receipt of an incremental increase in the State's public assistance payment, and hold them harmless at the current food stamp allotment. This amendment seems reasonable and consistent with the basic thrust of this bill, and I hope my colleagues will accept it.

I might also call to my colleagues' attention that similar language was incorporated in the Senate Appropriations Committee Report on fiscal year 1980 appropriations for the Departments of Labor and Health, Education, and Welfare relating to the Community Services Administration's energy crisis intervention program. The report reads:

Payments made under this program (E.C.I.P.) are not to be considered as income for purposes of determining eligibility or benefits under any income maintenance program including, but not limited to, public assistance, veterans benefits, food stamps, or supplemental security income.

The report continues—

It is also the intent of the committee that any assistance to the poor provided under State and local authority will not be reduced.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 581) was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I ask unanimous consent, with the same arrangement for laying aside the Humphrey amendment, that the Senator from Florida (Mr. CHILES) be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Jersey? Without objection, it is so ordered. The Senator from Florida is recognized.

UP AMENDMENT NO. 801

(Purpose: To provide priority for home energy assistance to households with elderly individuals)

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself, Mr. DOMENICI, Mr. CHURCH, Mr. PERCY, Mr. GLENN, Mr. HEINZ, Mr. MELCHER, Mrs. KASSEBAUM, Mr. PRYOR, Mr. COHEN, Mr. BRADLEY, Mr. BURDICK, Mr. EAGLETON, Mr. HUMPHREY, Mr. STONE, and Mr. PACKWOOD, proposes an unprinted amendment numbered 801:

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 22, insert "(A)" before "that"

On page 29, line 23, insert after "and" the following: "to eligible households having at least one elderly individual and (B)".

Mr. CHILES. Mr. President, the amendment I have called up would provide that States shall take steps to assure that households with an elderly member be given priority for receiving energy assistance.

Mr. President, my amendment, which is sponsored by the entire Senate Committee on Aging, Mr. DOMENICI, Mr. CHURCH, Mr. PERCY, Mr. GLENN, Mr. HEINZ, Mr. MELCHER, Mrs. KASSEBAUM, Mr. PRYOR, Mr. COHEN, Mr. BRADLEY, Mr. BURDICK, and Mr. EAGLETON, chairman of the Subcommittee on Aging; and Mr. HUMPHREY, Mr. STONE, and Mr. PACKWOOD will guarantee that the current crisis intervention program's priority focus on the elderly will be continued in the overall new energy assistance program. The new Community Services Administration's (CSA) regulations for the Energy Crisis Assistance Program require that "highest priority should be placed on serving the elderly." The regulations specify that this can be implemented by certifying the elderly by mail, providing transportation, utilizing senior centers for the provision of services and even making visits to homes for certification purposes if the elderly person is homebound.

Mr. President, this emphasis was placed in the current program by the Congress in both the authorizing legislation and appropriations statute for 1980. The efforts taken by State and local program administrators to serve the elderly should not be reverted.

The Committee on Aging has held a series of hearings over the last few years on "The Impact of Rising Energy Costs on Older Americans." Officials from the Department of Energy, CSA, and HEW all testified to the fact that elderly persons pay a higher percentage of their income on energy costs than other age groups. Last winter, it was estimated that elderly paid an average of 30 percent of their income on utility bills. This winter, the projections are as high as 50 percent. This is often 50 percent of a social security, SSI, or pension check which does not leave much for food, shelter, and medical expenses.

In addition, elderly people are far more susceptible to weather-related health problems. Experts from the National Institutes of Health have told our committee that "the normal physiologic mechanisms that compensate for variations of temperature in our environment are generally least efficient in the elderly and are sometimes so weak that they allow body temperatures in older persons to fall or rise to dangerous levels with even modest changes in air temperature. These changes in body temperature can produce disease, permanent damage to the body, or death."

According to recent news stories, hospitals across the country are gearing up to face a larger number of persons—especially older persons—who will suffer from hypothermia this winter. Hypothermia, a severe and progressive fall of body temperature, is now ranked sixth among the leading causes of death in the United States among older persons, according to medical experts at Harvard Medical School.

Mr. President, the Fuel and Oil Marketing Advisory Committee to the Department of Energy has estimated that approximately 44 percent of the households eligible for energy assistance will be headed by a person 60 years of age or older. Many of these persons have already written to the Committee on Aging to express their concern about energy prices and tell us how they are attempting to conserve and still remain healthy. Many report that they live in one room of their homes, closing off the remainder to avoid heating that area. Others tell about shoving rolls of newspapers into cracks to cut down on drafts. Several mention that they are cutting down on washing clothes and taking baths. One innovative elderly woman, told how she is using her husband's nightshirts to cover the windows because they cannot afford storm windows. Several stated that they have been forced to burn fences and even pieces of furniture to keep warm.

Mr. President, many of our elderly people are not able to exercise to keep warm, chop wood, or insulate their homes like the rest of us. They need assistance and they deserve it. One woman wrote asking for help and made an emotional plea that described the dire situation that faces many of our elderly at this very moment. She said, "Senator, we've lived through the Depression, World War I, and World War II and were grateful to survive. And, now this! We need help!"

This amendment does not change the focus of the energy assistance program from serving those households with the lowest incomes and highest energy bills. It simply states that among these households, States shall give priority to serving those households with elderly members. States are taking such actions under the current program and should continue to do so.

Finally, I want to commend Senator WILLIAMS and the Labor and Human Resources Committee for their tireless efforts which went into drafting this bill. The cooperation that Senator WILLIAMS and the committee staff extended to the Committee on Aging is genuinely appreciated.

Mr. President, I understand that perhaps the Senator from California (Mr. CRANSTON) has a proposal to amend the amendment. I yield to the Senator from California.

UP AMENDMENT NO. 802

Mr. CRANSTON. Mr. President, I am mindful of the special need my colleague from Florida seeks to address by his amendment. Although the recent increases in the costs of energy harm many individuals, there is no doubt that certain groups of individuals are injured tremendously—too often irreparably. I congratulate the Senator from Florida for his sensitivity toward these special groups, as demonstrated by this amendment, which will require States to assure

that in the provision of services under this act special priority will be given not only to the poorest eligible population, but also to those eligible households where an elderly person resides.

There is, I believe, another group of individuals which merits priority assistance to meet the rising costs of energy. The group about which I speak consists of severely handicapped individuals. Severely handicapped individuals are subject to the same hardships that many elderly individuals suffer by virtue of the fact that most of them are living on small, fixed incomes. Add to that problem the disadvantages of inaccessibility to programs and services and you have a group of persons with few options for self-help.

Mr. President, I submit that elderly and severely disabled individuals are those most in need of the assistance we are authorizing today. I suggest an amendment to the Chiles amendment which would prioritize assistance not only to eligible households having at least one elderly individual, but also to eligible households with at least one individual with a severe handicap.

Thus, States would be required to assure that priority is given to "households with lowest incomes and to eligible households having at least one elderly individual or one individual with a severe handicap as defined in section 7(13) of the Rehabilitation Act of 1973, as amended.

The definition in question is:

The term "severe handicap" means the disability which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, renal failure, respiratory or pulmonary dysfunction, and any other disability specified by the secretary in regulations he shall prescribe. (29 U.S.C. 706(13)).

I, therefore, send to the desk, and I understand this is acceptable to the Senator from Florida, an amendment that would serve that purpose.

Mr. CHILES. Mr. President, I am willing to accept the amendment as a modification of my amendment, and I compliment the Senator from California. I think it is a group most deserving of priority.

Mr. CRANSTON. I thank the Senator very much. I ask unanimous consent that the reading of the amendment be dispensed with.

The amendment is as follows:

Amend Chiles amendment as follows:

On line 3, insert "or one individual with a severe handicap as defined in section 7(13) of the Rehabilitation Act of 1973, as amended" after "individual".

The PRESIDING OFFICER. The Senator from Florida has a right to modify his amendment, and it is so modified.

Mr. CRANSTON. I thank the Senator very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida, as modified.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, S. 1724, as reported by the committee, requires the State, in the State plan, to assure that priority in the provision of home energy assistance will be given to households with the lowest incomes. The Chiles amendment as I understand it, would broaden that priority category to include "eligible households having at least one elderly individual."

The amendment, as further broadened by the amendment offered to the amendment by the Senator from California, would include households with any severely disabled individual.

I think that I can agree with this amendment. As I understand, the amendment would not remove or supplant the priority placement of assistance to households with the lowest incomes and the highest energy costs in relation to income, regardless of the age of the occupants of the household.

If this amendment does not change the act's priorities as stated, it would impress me that the categories here included would be recognized as worthy, and I could accept the amendment.

I know the Senator from New York, who is managing the bill with this Senator, might not have that view. But that is our view.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum. I would like to read the amendment.

Mr. WILLIAMS. Before the quorum call, could I ask whether the amendments do supplant or replace the priorities in the bill?

Mr. JAVITS. I withhold the request for the quorum call.

Mr. CHILES. Mr. President, what the amendment does is say that among those who are the most economically deprived, the elderly among them will receive a priority.

Mr. WILLIAMS. And with the addition of the amendment of the Senator from California, the same would be true?

Mr. CHILES. And with the addition of the handicapped.

Mr. JAVITS. Mr. President, I withhold the request for the quorum call.

I ask the Senator from Florida to answer this question for me: What would this amendment do for a family or a household unit that has one elderly person or one person with a severe handicap? What will the priority mean to them? Because, if we keep the remainder of the provision, to wit, that the highest level of assistance is provided to households with the lowest income and the highest energy costs in relations to income——

Mr. CHILES. It just says that within that pool, that pool of those you have already set a priority for, those with the lowest income and the highest energy cost, in that pool, the elderly or those households that have one elderly person, and/or severely handicapped now, will be given first attention.

Mr. JAVITS. In respect of highest level being provided to such households, what I am trying to get at—I am not arguing the amendment but I am trying to understand it—is, we leave in the provision that the highest level of assistance goes to households of the lowest incomes and the highest energy costs in relation to income. Do I understand the explanation to be, and I may be wrong but I am trying to determine if I am correct, that if there is a household which is of the lowest income and also has either an elderly person or a person with a severe handicap, that household, being within the lowest income category, will get a priority to one that does not have an elderly person or does not have a severely handicapped. That is what it means?

Mr. CHILES. That is correct.

Mr. JAVITS. But it, too, would have to qualify as the lowest income?

Mr. CHILES. Yes. It would have to first be in the pool which has been created, and then in that pool it would have priority.

Mr. JAVITS. I would rather take the amendment on the Senator's explanation than the language, which I do not think is clear. The explanation is very clear to me. I am perfectly happy to take the amendment. If we have to change the language, we will tell the Senator why.

Mr. CHILES. Very well.

Mr. JAVITS. It is acceptable to me.

ELDERLY PRIORITY IN ENERGY ASSISTANCE

● Mr. CHURCH. Mr. President, I urge adoption of Senior CHILES' amendment which would require the States to give priority attention to serving the needs of the elderly under the energy assistance program.

As the former chairman of the Senate Committee on Aging and now its ranking majority member, I am very familiar with the particular energy needs of older persons. Over the past few years, many elderly have watched their utility bills increase by 200 percent. Such increases combined with rising costs in food, shelter, and medical expenses have forced numerous seniors to make choices between such necessities.

Mr. President, millions of our elderly live on incomes from social security, SSI, and other pensions. Even though some of these programs are indexed with the Consumer Price Index, the increases have not come close to the unprecedented increases in energy costs. For example, in the last 5 years, social security benefits have increased approximately 43 percent and SSI have risen 24 percent. During the same time period, all energy sources have risen over 150 percent with fuel prices jumping nearly 200 percent. Therefore, many elderly's cost-of-living increases in their limited incomes have not even begun to combat energy price increases, let alone rising costs in medical, food, and other necessities.

I am pleased to join the entire Senate Committee on Aging and Senator EAGLETON, chairman of the Subcommittee on Aging, to insure that elderly receive adequate assistance to help in combating these rising prices. The committee has thoroughly documented the special

energy needs of the elderly through hearings and studies. This amendment is the committee's effort to provide for an effective method to assist older Americans in living better lives. I urge my colleagues to support this important amendment.●

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Florida.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 800, AS MODIFIED

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment, as modified, is as follows:

On page 35, strike out lines 9 through 12 and insert in lieu thereof the following:

(21) provide assurances that the State will not establish any standards of eligibility under this Act based on an assets test which counts cars, household and personal belongings or primary residences.

Mr. HUMPHREY. Mr. President, I have modified the amendment so that it is acceptable, I believe, to the floor managers of the bill.

Mr. WILLIAMS. This amendment basically goes to a matter that we had defined in the original provision in the bill. It goes to an apprehension that there might be an assets test imposed at the State level. We wanted to prohibit that. This amendment defines the prohibition on that basis and I certainly support it.

The amendment proposed by my colleague from New Hampshire strikes a provision which prohibits States from making any more restrictive eligibility tests than contained in the bill.

Senator HUMPHREY's amendment replaces this with language prohibiting States from instituting an assets test for determining eligibility.

As the committee included the original language in order to prevent States from imposing an assets test, the Humphrey amendment clarifies my intent in the original S. 1724 and I support this change.

Mr. JAVITS. Mr. President, the Senator from New Hampshire has very kindly cooperated with us in that the question of assets is indeterminate. You might have a scandal with somebody having a lot of assets but not much income. We thought we had better define the assets we were talking about. As defined it is the same test used for food stamps and the amendment is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New Hampshire.

The amendment, (UP No. 800) as modified, was agreed to.

UP AMENDMENT NO. 803

(Purpose: To provide that a State plan may provide for tax credits)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 803.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, between lines 12 and 13, insert the following:

(f) A State may use funds available under this Act for the purpose of providing credits against State tax to energy suppliers who supply such energy at reduced rates to lower income households, but such credit may not exceed the amount of the loss of revenue to such supplier on account of such reduced rate. Any certifications for such tax credits shall be made by the State, but such State may utilize Federal data available to such State with respect to recipients of supplemental security income benefits.

Mr. HEINZ. Mr. President, I support the direction the bill takes in permitting States to choose the type of fuel assistance program they wish to institute. My amendment merely suggests yet another option for States to consider as they develop plans to meet the requirements of this bill. That option is a program of State tax credits to utilities and sellers of oil, coal, and wood for home heating who reduce the cost of fuel to low-income households.

Most of my colleagues in the Senate recognize the need for providing disadvantaged Americans with immediate relief from skyrocketing fuel bills, but many of us are in disagreement over the best approach. As a member of the Senate Committee on Finance, I took part in protracted debates over the merits and shortcomings of various low-income fuel assistance proposals. I am convinced from these deliberations that states should play a significant role in the creation of comprehensive fuel assistance programs for those with low incomes. I believe that the best way to do this is to allow states to choose and tailor the program which meets their needs.

The option offered the States by my amendment has several decided advantages which should be considered as plans are developed. Tax credits to suppliers will target funds for fuel assistance by reducing the cost of fuel on the front end to eligible households. This has the advantage of reducing the effect of increased fuel costs and of permitting low-income households to meet their fuel payments within their limited resources.

The tax credit option would be administratively simple. Because eligibility is determined by the State certification, the program would rely on existing records and information and would not necessitate a separate verification procedure. Because reimbursement is through a tax credit, payment to suppliers is guaranteed.

While many have expressed some concern about the cash flow problems experienced by some small jobbers around the Nation, we are being assured that a tax credit filed for quarterly is a far better deal than waiting from 6 to 12 months for low-income families to pay their high fuel bills. Nevertheless, I would expect reimbursement under this option to be carried out in a timely manner, acceptable to the Secretary.

Mr. President, I believe we must provide the States with maximum flexibility if we are to achieve our goal of meeting the needs of low-income households during the winter months. Certainly the addition of a State tax credit as one more option for the States to use would be a step in furtherance of this goal.

Mr. President, we are all anxious to assist low-income Americans offset the costs of home heating through prompt legislative action. I urge my colleagues to give prompt and favorable consideration to the amendment I am now offering so that the States may devise their State plans in a way they determine to be most appropriate for those low-income persons they must serve.

The purpose of this amendment, Mr. President, is really very simple. The bill before us, S. 1724, permits certain options to the States in terms of bloc grants, in terms of the way they administer those bloc grants. They may, under the terms of this bill, for example, elect to have a vendor payment mechanism to achieve the goal of providing timely and effective assistance to low-income people with the problems we expect them to have on their heating bills. This amendment simply adds one more State option which is to allow virtually the same kind of help to be realized through the use of a State tax credit if the State so elects.

I hope the managers of the bill will take a look at this amendment.

It permits us to achieve in S. 1724 virtually what we had agreed to in the Finance Committee on this. We have discussed it at the staff level. My understanding is there is no material objection, but if there are any objections on behalf of the committee, by Senator JAVITS or Senator WILLIAMS, I would certainly like to hear them.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I have considered this amendment. What it is is an alternative plan for a State in which the State can use credits against taxes levied upon the energy supplier in order to bring about a reduction in cost to the eligible household as if it were another form of vendor payment.

Mr. HEINZ. The Senator from New York is entirely correct.

Mr. JAVITS. I certainly think we ought to allow the State that latitude, but I do think we ought to take one precaution. That is that the mechanics do not hold up deliveries. If the Senator would, I would like to add the following, which I will also send to the desk: "Provided, that timely delivery of benefits to eligible households and suppliers shall not be impeded by the implementation of such plan."

Mr. HEINZ. Mr. President, I have examined the language of the Senator from New York. I find it totally consistent with my amendment. I ask unanimous consent that that language be added.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. HEINZ. I so modify my amendment.

The amendment, as modified, is as follows:

On page 36, between lines 12 and 13, insert the following:

(f) A State may use funds available under this Act for the purpose of providing credits against State tax to energy suppliers who supply such energy at reduced rates to lower income households, but such credit may not exceed the amount of the loss of revenue to such supplier on account of such reduced rate. Any certifications for such tax credits shall be made by the State, but such State may utilize Federal data available to such State with respect to recipients of supplemental security income benefits: *Provided*, That timely delivery of benefits to eligible households and suppliers shall not be impeded by the implementation of such plan.

Mr. WILLIAMS. I appreciate the Senator from Pennsylvania modifying his amendment at the suggestion of the Senator from New York.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Pennsylvania.

The amendment, as modified, was agreed to.

Mr. HEINZ. Mr. President, let me thank my distinguished colleague from New Jersey (Mr. WILLIAMS) and my equally distinguished colleague from New York (Mr. JAVITS) for their concern about the people this bill will help, and for their help in perfecting this legislation. I also thank the Senator from Louisiana, the chairman of the Finance Committee, for his assistance in perfecting this language.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

UP AMENDMENT NO. 804

(Purpose: To specify that energy stamps may be included in State plans for home energy assistance)

Mr. WEICKER. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 804:

On page 28, line 10, after the word "payments" and before the phrase "made in accordance with", insert the following: "(which, without limitation, may be made in the form of a duly issued coupon, stamp or certificate)".

Mr. WEICKER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I wish to state the purpose of the amendment. Specifically, it is that if a State so chooses, it may implement a fuel stamp program as the mechanism for distributing benefits to eligible households.

It is my understanding that the pending legislation would allow each State the flexibility to administer an energy assistance plan as they see fit pursuant to the guidelines set forth in this act. Benefits to eligible households would be made either to the home energy suppliers or to the households themselves.

It is the purpose of my amendment merely to clarify that payment to eligible households may be made in the form of a fuel stamp or coupon if the State decides this vehicle is best suited to its administrative needs.

Mr. President, I have long advocated a fuel assistance program for our Nation's poor and elderly. As the record indicates, I introduced my own version of an energy stamp program back in 1977.

Since then energy prices have continued to soar and the poor and elderly have continued to pay a disproportionate amount of their income for their basic energy needs.

Government response to the energy needs of its poor and elderly citizens has long been overdue. I commend the distinguished Senator from New Jersey and his colleagues on the Labor and Human Resources Committee on their efforts to move forward today with this comprehensive residential energy assistance program.

Mr. President, it was a year ago or more, that I stood on the floor of the Senate and offered as an amendment to the energy bill of 1978 an energy stamp program. We were then, as we are now, in the midst of a rationing by price scheme which was, and still is, devastating to the poor of this country—those on fixed incomes, the elderly, and the lower middle income groups.

I very thoroughly disagree that conservation should be achieved by rationing by price. But that disagreement has gone the way of any other disagreement that I have with the energy policies of this country. It is lost.

The fact is that we do have rationing by price. That is the scheme, and I see nothing that will change that in the future. The advocacy of a tax on gasoline is further rationing by price. The price of oil continues to go up, and that is rationing by price. If there is to be conservation short of other types of conservation which I have advocated (whether it is 6 days a week for the automobile, not using the credit card for the purchase of gasoline, or coupon rationing) it is to be rationing by price. Because of this, it is best to take care of the needs of the most disadvantaged elements in our society.

Back in 1978, I proposed a fuel stamp program. The chairman of the Finance Committee cut that down to being a pilot program, and that was the amendment that was taken to conference and lost in conference.

Now, in this year, 1979, along with Senator EAGLETON and Senator DURKIN, we scrambled around to try to find how we could best help these disadvantaged elements of our society before the winter season was upon us.

We had no program in place such as the one advocated a year earlier to help these people. Indeed, the price of energy was far greater than it was at the time that amendment was adopted in the Senate and dropped in the conference.

The best we could come up with was the crisis intervention program. Initially, a $22 million effort in the Appropriations Committee, but thanks to Senators EAGLETON and DURKIN, we raised the figure to $250 million as a compromise and then further raised it to $1.6 billion at the urging of the Administration. Now that is embodied in the legislation before us. But, again, no type of permanent mechanism.

I again point out to my colleagues here this afternoon that, sooner or later, we must take care of the basic necessities of life. We have done so of food with food stamps, and we must do it now with energy stamps. We can not continue to scramble around in a makeshift mechanism to take care of the people that have been hurt the most by this crisis.

All I have done in this amendment is permit the States to have an energy stamp program. It is strictly permissive and intended to be utilized administratively in its present form in the same way as the food stamp program. It does not mandate anything, only suggests that this may be a good way for them to handle it.

Indeed, if that is what they want, fine. They are the ones to go ahead and make the decision.

But I predict today, that whatever program we enact, and I believe this legislation, if I am not mistaken, goes for 3 years—appropriation for 3 years and authorization for 3 years—this problem will still be with us well past the year 2000.

I am not using this as the vehicle to bring about Federal legislation of energy stamp program. I am using it as the occasion to remind Senators that we have not settled this problem.

As the price of energy soars, and it will, and if conservation is achieved by rationing by price, we have got to have a permanent mechanism in place to take care of those citizens upon whom conservation is forced by virtue of their economic status.

I hope the managers of the bill, the majority and minority, will accept this very minimal suggestion. It merely keeps alive an idea. That is all. It does not interfere with our legislation. It keeps alive an idea at the State level and at the option of the States. An idea, believe me, that should be implemented at the Federal level.

The fact is that the way the legislation is written now, what I am proposing here would not interfere one iota. It merely would include this as another option for the States to use.

I will be glad to yield the floor and answer any questions that anyone might have.

Mr. WILLIAMS. Mr. President, I say to my good friend the distinguished Senator from Connecticut that the approach of using fuel stamps as the means of meeting our objective here—and stamps is the way of helping families get their fuel in the winter time—was discussed in terms of fuel stamps as the method of payment. We received a great deal of testimony from all quarters that, as the method of payment, it received no support.

The National Governors' Association, the Fuel Oil Marketing Advisory Committee, the Department of Energy, the National Consumer Law Center and many others cited problems with a fuel stamp program. They cited problems of administrative inefficiencies accountability problems, excessive administrative costs.

From consumers, we also got a reluctance to have the assistance program proceed on a stamp basis. A woman from Maine came here to testify and indicated what I am sure is on the minds of many: that somehow there is a stigma attached to stamps. She was eligible for food stamps and was resisting going through the processes of getting food stamps. She associated fuel energy stamps with the same approach.

So what we have remaining in the bill is really a State option. We liked, of course—and we talk quite a bit about it in the report—the vendor line of credit. But the bill gives options: Vendor line of credit, prepayment of bills that way; or, where appropriate, the payments can be made right to the households.

However, nothing in this bill would shut out a State from developing a voucher program.

The amendment offered by the distinguished Senator from Connecticut impresses me as more specific but within the spirit and opportunities that already are in the bill. So I find nothing objectionable about it.

Later on, if States take this option, we might find that they can make it effective and efficient, and it may be the best way.

So far as this Senator is concerned, I am agreeable to have this in the bill. I have not discussed it with my colleague, the distinguished minority floor manager of the debate on this bill.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. The Senator has explained it quite properly. As we did not bar it, it is an option.

The only thing that would worry me is where it appears—that is, in the preamble—to provide for a State program for furnishing home energy assistance to the eligible households through payments made in accordance with the provisions of the plan. What I would like the record to show is that this is another kind of plan and could have appeared in the list of qualifications of plans as well as here. In other words, the fact that it appears there does not give it any higher or better standing than if it appeared in the details of this subsection 3.

Mr. WEICKER. For the record, I certainly concur with the distinguished Senator from New York and the distinguished Senator from New Jersey.

That being the case, Mr. President, I ask unanimous consent that the order for the yeas and nays on my amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUEL OIL DEALERS' CASH FLOW PROBLEM

Mr. DOLE. Mr. President, 2 months ago I introduced legislation designed to alleviate the serious cash flow problem faced by fuel oil dealers in this country which is a result of the significantly increased cost of heating oil. The dealers are having to pay more for their product in a shorter period of time on the one hand, while on the other hand their customers are having a harder time paying their bills in a timely manner. The fuel oil dealers are getting squeezed in the middle.

This problem is tied directly to the issues we are discussing here today. If we do not take steps to assure the financial stability of the fuel oil dealers, the impact on consumers—and especially low-income households—will be much harsher than we realize.

It would be ironic and cruel to vote cash assistance to help low-income individuals to pay their heating bills and then to be the cause of their not having access to heating oil because we ignored the problems of fuel oil suppliers. For that reason, I had intended to offer, as an amendment to the Home Energy Assistance Act, my bill to provide SBA guaranteed loans to fuel oil dealers.

Unfortunately, a task force of fuel oil dealers, accountants, bankers, Small Business Administration officials and other interested parties, which has been working on this issue for several months, will not complete action on their recommendations until tomorrow. Therefore, I will wait and offer my amendment during debate on the windfall profits tax bill. I did feel it was important to raise the issue now, however, to impress on my colleagues the urgency of the matter and to ask for their support in my efforts at that time.

● Mr. METZENBAUM. Mr. President, I commend the distinguished chairman of the Labor and Human Resources Committee for his outstanding leadership in bringing this urgently needed legislation to the floor.

For the millions of poor and elderly people in this country, few other pieces of legislation are as important as we approach the winter heating months because without this legislation, the most vulnerable members of our society will be faced with the awful choice between heating their homes and feeding themselves and their families.

All Americans have felt the severe pinch as energy prices have escalated but the costs of fuel prices and their impact on the elderly and poor are especially devastating

I have repeatedly argued that the increase in energy prices that is at the heart of this administration's policy is unnecessary. It brings us little or no new production. And it imposes the greatest burdens on those in our country who can least afford to bear them.

Between 1972 and 1978 fuel oil and coal prices increased by over 150 percent.

Within the past year, fuel oil—which heats a majority of homes in New England and is a major fuel component throughout the northeast and midwest—has risen in price by a full 75 percent. In some parts of New England, consumers have seen their home heat bills literally double in just the past year.

In my own State of Ohio, natural gas consumers face a 39 percent increase over last year's heating costs. And by 1985, as deregulation takes full effect, natural gas prices will at least double. Yet the natural gas association has released a report calling for even higher prices to avoid another round of natural gas shortages in the mid-1980's.

For many Americans, one answer to rising prices is to add storm windows and insulation or to take other steps to conserve on their use of fuel.

But what are the poor and elderly able to do?

According to a Department of Energy study, the poor have already cut their use of fuel to the bare minimum, even to the point of jeopardizing the health of their families. The poor have no discretionary money to install insulation and other conservation devices. And certainly, they do not have the income levels needed to take advantage of tax credits.

A recent report issued by the National Center for Economic Alternatives showed the tremendously disproportionate impact on the poor of higher prices for all necessities, but especially energy.

In the past quarter, for example, the CPI rose by 6.6 percent on an annual basis. But necessity prices—that is, the cost of food, housing, medical care and especially energy—increased at an astronomical rate of 17.6 percent. Even that camouflages the impact of energy on the poor, because energy alone increased at a rate of more than 50 percent.

Mr. President, I had an opportunity to hear testimony firsthand this summer when I conducted a Senate Budget Committee hearing in Toledo. I must say it was a very moving experience for me. It showed me how frustrated men and women of all ages are becoming as they work hard, saving to buy a home or to send their children to college, only to find that their savings have been eaten up in 1 year by higher fuel bills and other costs. Many elderly people are sim-

ply not eating as they should, and many others are feeling neglected and left out of the society they worked so hard to create.

This legislation will not answer all of the problems caused by the great increase in energy prices, but it is certainly a step in the right direction—a step that is long overdue. This bill provides assistance to low-income families who cannot meet the higher fuel bills that have increased, despite their best efforts to conserve. In addition, it encourages States to provide additional assistance to the elderly, handicapped and poor. My own State of Ohio has taken a lead in this area by providing $83 million for this purpose, and I hope other States will soon establish their own State funds for such assistance.

Again, I commend the chairman for his excellent work in bringing this legislation to the floor in time to meet the urgent needs of the poor and elderly during the winter months. I believe that this legislation must be in place as soon as possible, and I urge my colleagues from both sides of the aisle to support it.●

● Mr. RIEGLE. Mr. President, Americans should not have to choose between eating and staying warm. For the past several months, I and the other members of the Labor and Human Resources Committee have been urgently pushing this bill and other methods of providing emergency assistance to low-income households and individuals, especially among elderly Americans, to assure that they do not have to make this tragic choice between food and fuel.

In my State of Michigan, all consumers who rely on heating oil for their homes will spend an average of 26.5 percent of their gross income on fuel during the 1979–80 heating season, compared with 17 percent last year, according to data compiled by the New England Research Group. This increase amounts to an average of $494 for each of the 514,000 households in my State which use heating oil.

This enormous escalation in heating costs puts severe strains on all Americans, but it is particularly important that we help our low-income households meet this burden. At least 81,500 households in Michigan which use heating oil have incomes below 125 percent of the poverty level, and a total of 651,052 households in the State have incomes below the Bureau of Labor Statistics' lower living standard. Clearly, these families have no "luxuries" to cut out of their household budgets. They do in fact face the choice of "heat or eat"—unless both Federal and State Governments act to help at once.

Mr. President, the Congress action last Friday in providing a $1.35 billion emergency appropriation for low-income energy assistance this winter was a major step to assure that Americans do not freeze to death for lack of money to pay their fuel bills. We could not have delayed much later. A month ago, I held a Labor and Human Resources Committee hearing in Michigan, and I spoke with many elderly and other low-income citizens who did not know if they would be able to pay for fuel this winter. With the help of both Federal and State programs now going into effect, they will now receive some of the help they desparately need.

As oil decontrol goes fully into effect, we cannot expect this problem to disappear over the next 2 years. Therefore I believe that the Home Energy Assistance Act we are voting on today is a vital piece of legislation. Our older citizens in particular should not be forced to wonder each fall whether they can afford to live until spring. We must have an emergency assistance program in place to help them meet their heating costs over the coming winters, as fuel costs can be expected to continue to climb.

Skyrocketing fuel costs have hit aging Americans with particularly cruel force. Fourteen percent of America's senior citizens live below the poverty line. These older Americans have no room in their already inadequate budgets to pay for higher fuel costs. Their choices are, day to day, between food and fuel, between health care and heat. I realize that these words paint a stark picture, but they do not exaggerate the circumstances in which many older Americans find themselves.

The plight of low-income senior citizens is made even more difficult by the fact that older persons are more likely than the rest of the population to live in older homes, in single-family dwellings, and in homes which are not energy-efficient. In addition, aging persons—and especially the very old—are at far greater risk than younger people for hypothermia, a condition in which excessive cold leads to a progressive fall in body temperature and the collapse of the cardiovascular system.

In testimony before the Special Committee on Aging on April 5, 1977, Dr. Robert Butler, Director of the National Institute on Aging, noted that—

> The special susceptibility of older people to the cold may cause them to die of hypothermia in mild weather. Some older people cannot maintain their body heat at temperatures commonplace in many homes.

For such individuals, even a home heated to the temperature of 70 degrees may pose a threat to health and even life.

This bill is far from a complete response to the needs of our elderly and low-income citizens who face skyrocketing fuel costs. We must also increase our efforts to promote weatherization and conservation, along the lines of bills currently pending in the Labor and Human Resources and other committees. As the country adjusts to the shortages and higher costs of energy, we must continue to do everything we can to make sure that our older and poorer citizens do not bear an unfair portion of the burdens.●

Mr. WILLIAMS. Mr. President, I submit for the RECORD a copy of the amendment which Senator LONG and I will offer tomorrow along with a table showing the formula in S. 1724 as modified by the minimum or floor contained in this amendment.

The material follows:

On page 19, line 20, strike out "$1,600,000,000 for the fiscal year 1980" and insert in lieu thereof "from the Low Income Energy Assistance Trust Fund established under section 103 of the Crude Oil Windfall Profit Tax Act of 1979".

On page 23, strike out lines 13 through 22, and insert in lieu thereof the following:

(A) first reserve $2,500,000 to be apportioned on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and Northern Mariana Islands and the Trust Territory of the Pacific Islands, and

(B) then transfer to the Director of the Community Services Administration $100,000,000, subject to the provisions of the second sentence of this paragraph for carrying out energy crisis related activities under section 225(a)(5) of the Economic Opportunity Act of 1964.

The percentage of the amount transferred under subparagraph (B) of this paragraph and available for use in each State shall be the same percentage as the percentage allotted to such State under this section for the total amounts available for allotment to States under subsections (a) and (b) of this section.

On page 23, line 23, strike out "(B)" and insert in lieu thereof "(A)".

On page 27, between lines 13 and 14, insert the following new subsection:

(h)(1) If the allotment for any State determined under paragraphs (1) and (2) of subsection (a) of this section is less than $100,000,000, the allotment of such State shall, subject to paragraphs (4) and (5) of this subsection, be the greater of its allotment as so determined under such paragraphs or the product of the total amount available for allotment under subsection (a) of this section and such State's alternative allotment percentage.

(2) The alternative allotment percentage for any State shall equal the percentage of 90 per centum of the total amount authorized to be appropriated for fiscal year 1981 under section 4(b) which would be allotted to such State if—

(A) of such 90 per centum (i) one-half was allotted to each State according to the ratios determined under paragraph (1) of subsection (a) of this section and (ii) one-half was allotted to each State according to the ratios which would be determined under paragraph (2) of such subsection (a) if, for purposes of such paragraph, the term "lower living standard" were defined as 125 per centum of the poverty level as determined in accordance with the criteria established by the Office of Management and Budget; and

(B) the allotment of each State as determined under subparagraph (A) were increased to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120.

(3) For purposes of this subsection, the term "recipient household" means—

(A) a household that is an eligible household under section 3 (i) of the Food Stamp Act of 1977 and participates in the food stamp program, but which is not a recipient household under subparagraph (B) or (C) of this paragraph;

(B) a household that contains any individual who receives aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, but which is not a recipient household under subparagraph (C); and

(C) a household that contains an individual who is an eligible individual or eligible spouse receiving supplemental security income benefits under title XVI of the Social Security Act, or an individual receiving payments from the Secretary under an agreement entered into by the Secretary under section 1616 of such Act or section 212 of Public Law 93–66.

For purposes of subparagraphs (B) and (C) the term "household" shall be defined by the Secretary, and shall not include an institution.

(4) The allotment of any State shall be increased under paragraphs (1) and (2) of this subsection only if the increase is attributable in whole or part to the provisions of subparagraphs (B) of paragraph (2).

(5) The allotments for any fiscal year determined under paragraphs (1) and (2) of subsection (a) of this section which are not increased pursuant to paragraphs (1) and (2) of this subsection shall be adjusted to the extent necessary and on a pro rata basis to assure that the total of such allotments when added to the allotments which are increased pursuant to paragraphs (1) and (2) of this subsection do not exceed 95 per centum of the sums appropriated for such fiscal year pursuant to section 4 (b).

On page 30, between lines 17 and 18, insert the following new subsection:

(g) The Secretary, in cooperation with such other agencies as may be appropriate, shall develop and implement the capacity for estimating total annual energy expenditures of low-income households in each State. The Secretary shall submit to the Congress his estimates pursuant to this subsection together with a description of the manner in which they were determined prior to the beginning of each calendar year starting with 1981.

On page 39, beginning with line 18, strike out through line 7 on page 44.

Distribution of $3 billion in low-income energy assistance under modified version of S. 1724

[Distribution of funds]

State	Millions of dollars	Percentage
Alabama	$41.19	1.40
Alaska	8.00	.27
Arizona	22.39	.76
Arkansas	29.32	.99
California	175.24	5.94
Colorado	36.61	1.24
Connecticut	52.93	1.79
Delaware	7.59	.26
District of Columbia	9.31	.31
Florida	60.05	2.04
Georgia	50.76	1.72
Hawaii	4.44	.15
Idaho	14.91	.50
Illinois	173.40	5.88
Indiana	83.04	2.82
Iowa	48.31	1.64
Kansas	31.12	1.06
Kentucky	45.84	1.66
Louisiana	38.96	1.30
Maine	26.74	.91
Maryland	47.23	1.60
Massachusetts	107.27	3.64
Michigan	144.30	4.89
Minnesota	77.89	2.64
Mississippi	30.99	1.05
Missouri	76.13	2.58
Montana	13.80	.47
Nebraska	24.93	.85
Nevada	7.67	.26
New Hampshire	17.39	.59
New Jersey	111.66	3.79
New Mexico	16.55	.56
New York	327.06	11.09
North Carolina	69.88	2.37
North Dakota	12.60	.43
Ohio	$161.97	5.49
Oklahoma	35.15	1.19
Oregon	29.48	1.00
Pennsylvania	195.59	6.63
Rhode Island	18.06	.61
South Carolina	31.40	1.06
South Dakota	13.51	.46
Tennessee	53.30	1.81
Texas	117.46	3.98
Utah	17.00	.58
Vermont	11.16	.38
Virginia	60.55	2.05
Washington	43.15	1.46
West Virginia	27.96	.95
Wisconsin	80.65	2.73
Wyoming	6.00	.20
Total	2,950.00	100.00

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

Mr. President, the Senate will return to the consideration of this measure tomorrow morning at 10 o'clock.

DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Mississippi (Mr. STENNIS), I ask that the Chair lay before the Senate a message from the House of Representatives on S. 673.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 673) entitled "An Act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980".

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATION EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy (hereinafter in this title referred to as the "Department") for fiscal year 1980 for operating expenses incurred in carrying out national security programs, including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy, as follows:

(1) For the defense inertial confinement fusion program—

(A) for glass laser experiments, $44,200,000;

(B) for gas laser experiments, $29,300,000;

(C) for electron and particle beam experiments, $12,200,000;

(D) for supporting research and experiments, $38,300,000, of which no more than $2,800,000 may be used to finance contract modification numbered ED–78–C–08–1598 or any revision or modification thereof; and

(E) for personnel, $1,090,000.

(2) For the naval reactor development program—

(A) for the naval reactor development program, $232,600,000; and

(B) for personnel, $8,767,000.

(3) For weapons activities—

(A) for research and development, $421,142,000;

(B) for weapons testing, $225,000,000;

(C) for production and surveillance, $772,000,000; and

(D) for personnel, $37,098,000.

(4) For verification and control technology (including personnel), $36,800,000.

(5) For materials production, to be administered by the Assistant Secretary for Defense Programs—

(A) for production reactor expenses, $180,300,000;

(B) for the processing of nuclear materials, $82,400,000;

(C) for supporting services, $87,714,000, of which $15,000,000 shall be used for the fiscal year 1980 increment of startup costs for the Purex chemical processing plant at Richland, Washington;

(D) for fluorinel processing of nonproduction fuels and related activities, $21,390,000;

(E) for advanced isotope separation research, $5,000,000; and

(F) for personnel, $944,000.

(6) For defense waste management (including $1,891,000 for personnel) $211,250,000, of which no funds may be used for the Waste Isolation Pilot Plant, Delaware Basin, southeast New Mexico.

(7) For the nuclear materials security and safeguards technology development program (defense program), including $3,560,000 for personnel, $43,227,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department for fiscal year 1980, for plant and capital equipment, including planning, construction, acquisition, or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, necessary for national security programs, as follows:

(1) For inertial confinement fusion:

Project 80–PE&D–1, plant engineering and design, $1,500,000.

Project 80–AE–12, target fabrication facility, Los Alamos Scientific Laboratory, New Mexico, $1,000,000.

Project 80AE–12, target fabrication facility, Lawrence Livermore Laboratory, California, $1,000,000.

Project 75–3–b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, and additional sum of $8,000,000, for a total project authorization of $62,500,000.

(2) For naval reactors development:

Project 80–AE–1, fluids and corrosion test facilities upgrading, various locations, $17,900,000.

Project 80–GPP–1, general plant projects, $3,300,000.

(3) For weapons activities:

Project 80–AE–4, addition to computer facility, Sandia Laboratories, Livermore, California, $2,800,000.

Project 80–AE–5, ground launched cruise missile (GLCM) warhead production facilities, various locations, $4,000,000.

Project 80–AE–6, utilities and equipment restoration, replacement and upgrade, various locations, $29,400,000.

Project 80–AE–8, advanced size reduction facility, Rocky Flats Plant, Golden, Colorado, $5,000,000.

Project 80–AE–9, new polymer production facility, Bendix Plant, Kansas City, Missouri, $1,400,000.

Project 80–AE–10, additional loading facilities, Savannah River Plant, Aiken, South Carolina, $3,500,000.

Project 80–AE–11, Pershing II warhead production facilities, various locations, $5,000,000.

Project 80–GPP–1, general plant projects, $25,400,000.

Project 80–PE&D–1, plant engineering and design, $3,600,000.

Project 71-9, fire, safety, and adequacy of operating conditions projects, various locations, an additional sum of $7,000,000, for a total project authorization of $287,000,000.

Project 77-11-c, 8" Artillery Fired Atomic Projectile (AFAP) production facilities, various locations, an additional sum of $4,600,000, for a total project authorization of $27,200,000.

Project. 78-16-d, weapons safeguards, various locations, an additional sum of $2,000,000, for a total project authorization of $28,000,000.

Project 78-16-g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $6,200,000, for a total project authorization of $12,500,000.

Project 79-7-b, fire protection improvements, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $2,500,000, for a total project authorization of $4,500,000.

Project 79-7-c, proton storage ring, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $11,700,000, for a total project authorization of $16,700,000.

Project 79-7-l, system research and development laboratory, Sandia Laboratories, Albuquerque, New Mexico, an additional sum of $12,000,000, for a total project authorization of $13,000,000.

Project 79-7-n, utility system restoration, Y-12 plant, Oak Ridge, Tennessee, an additional sum of $15,800,000, for a total project authorization of $18,000,000.

Project 79-7-o, universal pilot plant, Pantex Plant, Amarillo, Texas, an additional sum of $3,900,000, for a total project authorization of $7,400,000.

(4) For materials production:

Project 80-AE-2, replace obsolete processing facilities, HB Line, Savannah River, South Carolina, $19,000,000.

Project 80-AE-3, steam generation facilities, Idaho Chemical Processing Plant, Idaho, $10,000,000.

Project 80-GPP-1, general plant projects, $15,000,000.

Project 80-PE&D-1, plant engineering and design, $3,400,000.

Project 77-13-a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, an additional sum of $54,400,000, for a total project authorization of $119,400,000.

Project 78-18-a, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, an additional sum of $11,500,000, for a total project authorization of $40,000,000.

Project 79-7-i, transmission and distribution systems upgrading, Richland, Washington, an additional sum of $7,000,000, for a total project authorization of $14,000,000.

(5) For defense waste management:

Project 80-GPP-1, general plant projects, $2,800,000.

Project 80-PE&D-1, plant engineering and design, $8,000,000, of which $3,000,000 shall be available only for plant engineering and design at the Savannah River Plant, Aiken, South Carolina.

Project 77-13-f, Waste Isolation Pilot Plant, Delaware Basin, southeast New Mexico (A-E, land lease acquisition and long-lead procurement), a reduction in the amount previously authorized of $30,000,000, for a total project authorization of $39,000,000.

Project 78-1-c, new Waste Calcining Facility, Idaho Falls, Idaho, an additional sum of $25,000,000, for a total project authorization of $90,000,000.

(6) For capital equipment not related to construction, as follows:

(A) For inertial confinement fusion, $10,100,000.

(B) For naval reactors development, $15,800,000.

(C) For weapons activities, $104,164,000.

(D) For verification and control technology, $1,060,000.

(E) For materials production, $35,000,000.

(F) For defense waste management, $12,000,000.

(G) For nuclear materials security and safeguards, $3,400,000.

TITLE II—GENERAL PROVISIONS

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of either (A) 105 percent of the amount authorized for that program by this Act, or (B) $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the appropriate committees of Congress receive notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

SEC. 202. The Secretary of Energy is authorized to start any project provided for under the general plant projects provisions set forth in this Act only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Secretary determines that it is necessary to do so in the interest of efficiency and economy, and

(2) the total cost of all projects undertaken under all general plant projects provisions in this Act does not exceed the estimated cost of all such projects by more than 25 percent.

SEC. 203. (a) Whenever the currently estimated cost of a line item construction project for which appropriations are authorized in section 102 of this Act exceeds by more than 25 percent the estimated cost for such project on the date of the enactment of this Act, such project may not be started or additional obligations incurred in excess of the amounts currently appropriated, as the case may be, unless (1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after the appropriate committees of Congress receive a notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (2) each such committee before the expiration of such period has transmitted to the Secretary of Energy written notice to the effect that such committee has no objection to the proposed action.

(b) The provisions of this section shall not apply to any project which has a currently estimated cost of less than $5,000,000.

SEC. 204. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 205. When so specified in an appropriation Act, funds authorized to be appropriated by the Act may be transferred to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

SEC. 206. The Secretary of Energy is authorized to perform construction design services for any construction project of the Department of Energy in support of national security programs which have been presented to the Congress, in amounts not in excess of the amounts specified in section 102 for plant engineering and design. In any case in which the estimated design cost for any project is in excess of $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the estimated design cost for such project at least thirty days before any funds are obligated for design services for such project.

SEC. 207. In addition to construction design services performed with plant engineering and design funds, the Secretary of Energy is authorized to perform construction design services for any Department of Energy defense activity construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Secretary, and (2) the Secretary determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

SEC. 210. None of the funds authorized to be appropriated by this or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

SEC. 211. None of the funds authorized to be appropriated by this or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if (1) the Secretary of Energy finds that compliance is physically impossible within the time prescribed for compliance, or (2) the President has specifically requested appropriations for compliance as a part of the budgetary process and the Congress has failed to make available such appropriations.

SEC. 212. Beginning in fiscal year 1980, the Secretary of Energy shall ensure that the contract for the delivery of byproduct steam to the Washington Public Power Supply System is renegotiated in such a manner that the United States will recover the fair market value of the steam so delivered.

SEC. 213. (a) The Secretary of Energy shall proceed with the Waste Isolation Pilot Plant construction project authorized to be carried out in the Delaware Basin of southeast New Mexico (project 77-13-f) in accordance with the authorization for such project as modified by this section. Notwithstanding any other law, the Waste Isolation Pilot Plant is authorized as a defense activity of the Department of Energy, administered by the Assistant Secretary of Energy for Defense Programs for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States exempted from regulation by the Nuclear Regulatory Commission.

(b)(1) In carrying out such project, the Secretary shall consult and cooperate with the appropriate officials of the State of New Mexico, with respect to the public health and safety concerns of such State in regard to such project and shall, consistent with the purposes of subsection (a), give consideration to such concerns and cooperate with such officials in resolving such concerns.

(2) The Secretary of Energy may not enter into any agreement or make any commitment under which the State of New Mexico, or any official of such State, could in effect veto such project.

(c) No law enacted after the date of the enactment of this Act shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.

SEC. 214. (a) As soon as practicable and not later than February 1, 1980, the Secretary of Energy shall submit to the Congress a plan for the termination of the performance of work of the Department of Energy at the Ernest Orlando Lawrence Livermore Laboratory and at the Los Alamos Scientific Laboratory under contracts numbered W-7405-ENG-36 and W-7405-ENG-48 between the United States and the Regents of the University of California (a corporation of the State of California). Such plan shall include provisions to assure that such a termination of work would be conducted in accordance with the terms of such contracts.

(b) The Secretary of Energy shall study the types of contracts that would best provide for the continued performance of the work performed under the contracts referred to in subsection (a). The Secretary shall include in any contract proposed to replace such contracts terms to assure that—

(1) the paramount objectives and missions of such laboratories continue to be in the field of national security;

(2) the transition from management of such laboratories by the University of California to management by any new contractor will be orderly, involve a minimum of uncertainty, and provide employee rights and benefits (including rights and benefits with respect to pensions and retirement) reasonably comparable to those currently provided employees of the laboratories by the Regents of the University of California; and

(3) any new contractor may retain as many of the current management officials and employees of the laboratories as may be consistent with maintaining and fostering excellence in carrying out the functions assigned to the laboratories.

(c)(1) The Los Alamos Scientific Laboratory at Los Alamos, New Mexico, shall after the date of the enactment of this Act be known and designated as the "Los Alamos National Scientific Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Los Alamos Scientific Laboratory shall after such date be considered to be a reference to the Los Alamos National Scientific Laboratory.

(2) The Ernest Orlando Lawrence Livermore Laboratory at Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Ernest Orlando Lawrence Livermore National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Ernest Orlando Lawrence Livermore Laboratory shall after such date be considered to be a reference to the Ernest Orlando Lawrence Livermore National Laboratory.

(3) The Sandia Laboratories at Albuquerque, New Mexico, and Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Sandia National Laboratories". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Sandia Laboratories shall after such date be considered to be a reference to the Sandia National Laboratories.

Amend the title so as to read: "An Act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. STENNIS, that the Senate disagree to the amendments of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. JACKSON, Mr. STENNIS, Mr. HART, Mr. EXON, Mr. LEVIN, Mr. COHEN, Mr. TOWER, and Mr. THURMOND conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from New Jersey.

ADDITIONAL VIEWS OF SENATORS NELSON, RIBICOFF, MOYNIHAN, AND BRADLEY ON WINDFALL PROFITS TAX

Mr. BRADLEY. Mr. President, tomorrow the Senate will take up the windfall profits tax, H.R. 3919. For the convenience of Senators and others who may not have easy access to the committee report, I ask unanimous consent that a copy of my views, as well as the additional views of Senators NELSON, RIBICOFF, and MOYNIHAN be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF SENATORS RIBICOFF, NELSON, MOYNIHAN, AND BRADLEY

The impetus for this legislative endeavor was the President's decision to decontrol crude oil, an action which will ultimately result in tremendous financial gain for some, and hardship for others. Therefore, the committee set out to devise a plan to be implemented through our system of taxation which would rectify some of the injustices which would otherwise result.

However, as with any labor which involves compromise, there are segments of this work which departed from our original intent. These diversions are not irrevocable, we have the opportunity to strengthen those segments in question, and offer a sound legislative response to the now inequitable energy market place.

The issues that we discuss in this statement are illustrative, but by no means exhaustive of the areas where we believe the bill must be improved.

INDEPENDENT-STRIPPER EXEMPTION

The committee bill exempts from taxation stripper wells producing up to 1,000 barrels a day which are at least 50 percent owned by independent producers. Stripper wells are those which produce 10 barrels per day or less in any 12-month period. Once wells qualify, there is no limit on the amount of oil they can then produce while still getting the advantages already in the law for stripper treatment. In most cases, these are lower tier wells, that is, wells with production costs incurred when oil was selling at $4-$5 per barrel, not $23 as now.

The effect of this "modified independent-stripper" exemption is to reduce revenues from the tax by over $16 billion. The exemption will not lead to increased production. In fact this added tax benefit may actually operate as another incentive to reduce production in some wells so as to qualify for stripper status.

The committee's consideration and rejection of other, more generous proposals for stripper wells and independent producers highlights the unjustifiable decision the committee ultimately made. There may have been a sentiment among some members that "something" should be done for the independents, something with comparatively less revenue impact than oil exemption. This decision may be based on the belief that independents are small, high-risk operations. But many of the independents which qualify under the committee's provisions are very large companies. Indeed, the 1,000 barrel per day limitation translates into oil revenues of as high as $11,000,000 a year per company. This is unjustified and no basis for a major revenue exemption.

TIER II TAX RATE AND PHASEOUT

A good example of the committee's rejection of preferential treatment that is not justified by a production response was its decision to impose a 75 percent tax rate on tier one oil—oil in production prior to 1973. By contrast, its decision to apply a lower rate on tier two is inconsistent. Tier two, or upper tier oil, is also oil now in production. These wells were drilled more recently and their production costs are somewhat higher, but decontrol offers revenues vastly greater than that contemplated when the wells were first drilled. As with other old oil, tier two oil will be produced in no more significant quantities if the tax rate remains at 60 percent. A 75 percent rate for this oil is fully warranted.

The committee bill has adopted a phaseout based upon an arbitrary level of receipts. Under this formulation, the tax would begin to phase-out when receipts reach $127.5 billion. When that will occur is anyone's guess, since it relies on OPEC decision to raise its prices to higher levels. If oil prices continue to rise at the extraordinary levels of the past few months, the tax will end in a few years. If moderation governs OPEC decisions, the tax will stay in effect longer. Thus the committee bill presents the peculiar results of ending the tax earlier if prices rise faster. And the greater the future windfalls from these increases, the better off the companies will be.

This tax should be permanent. We should have in place a permanent mechanism to recapture for future public needs, part of any new windfalls that come from decontrol. There is no more reason to permit oil companies to retain the full benefits of future unwarranted increases in the value of their domestic revenues than there is in giving them the full amount of the present windfall.

Future increases in the price of oil will encourage the development of alternative energy sources, increased conservation, and renewed efforts to develop more energy-efficient transportation. As oil prices continue to go up, they will present new crises and new policies to meet them. While we cannot anticipate what these crises may be, it is certain that they will make new demands on the federal treasury.

While the revenue impact of making the Tier II tax permanent will at first be modest ($2.9 billion in the next decade), in the years thereafter the revenue will be directly related to the pace of OPEC prices.

We intend to urge the full Senate to complete the good beginning made by the com-

mittee, and to enact a windfall profits tax which will be fair and beneficial to the Nation.

ADDITIONAL COPIES OF A REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON and Mr. STEVENS, I send to the desk a resolution providing for the additional printing of copies of the report of the Committee on Energy and Natural Resources. I ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

The Senator from West Virginia, on behalf of Mr. JACKSON and Mr. STEVENS submits a resolution (S. Res. 280) as follows:

Resolved, That at such time as the Committee on Energy and Natural Resources files its report to accompany H.R. 39, "The Alaska National Interest Lands Act" there shall be printed for said Committee such additional copies as may be procured at a cost of not to exceed $1,200.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution. The resolution has been cleared by the chairman and ranking minority member of the Committee on Rules and Administration.

The resolution (S. Res. 280) was considered by unanimous consent and agreed to.

ORDER FOR BILL TO BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as H.R. 5811, a bill to waive congressional oversight for District of Columbia interest rate modification, is received from the House, it be held at the desk pending further disposition.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not, the reservation is for the purpose of advising the majority leader that this handling of this matter is cleared on our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business of not to exceed 15 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COAL CONVERSION

Mr. HEINZ. Mr. President, I wish to share with my colleagues the essence of some remarks I will make later this evening at the annual dinner of the Pennsylvania Farmers Association in Hershey, Pa.

Mr. President, recent events in Iran, which have led President Carter to order the termination of oil purchases from that country, reemphasize the importance of reducing our consumption of imported oil. As my colleagues from coal-producing States, coal miners, coal producers, the President's Commission on Coal, and I have stressed repeatedly, coal—our most abundant fossil energy resource—can make an immediate contribution to reducing our dependence on foreign oil by displacing oil and natural gas that is currently being burned under boilers which are capable of utilizing coal.

In his statement to the Nation on energy, President Carter outlined an oil back-out program which would cut utility consumption of oil in half during the next 10 years. However, to date, the legislation needed to implement this program has not been drafted by the administration. The urgency of the situation could not be more clear. Therefore, I urge the administration to immediately send to Congress legislation establishing this program.

After discussion with my colleagues, I have concluded that it is imperative that the utility oil reduction program contain the following provisions:

First. The 50 percent reduction by 1990 announced by the President must not be a final goal. Rather, it should be known that it is an interim goal on the road to eliminating all unnecessary consumption of oil and natural gas in utility or large industrial boilers. To insure that meeting the 50-percent goal does not become an end in itself, progressively larger percentages should be established for 1995 and beyond.

Second. Natural gas must be included in the program. The Powerplant and Industrial Fuels Use Act of 1978 includes a provision which prohibits consumption of natural gas in existing electric powerplants after January 1, 1990. However, the exemption provisions of the act are too broad, and will allow the prohibition to be circumvented. At the time the Senate was considering PIFUA, I offered a series of amendments which would have advanced the date of the prohibition to January 1, 1985 and eliminated the permanent exemption provisions included in the bill. However, as these amendments were not then acceptable to the administration and thus not adopted, it is necessary at this time to expand the program outlined by the President to include natural gas.

Natural gas is a premium fuel which is most suitable for use in residential and small commercial applications. Converting substantial natural-gas-burning installations to coal will release fuel which is domestically produced for use in displacing even more imported oil in residential and small commercial applications. Simply put, burning natural gas in utility and large industrial boilers is an inefficient use of a versatile fuel source that is finite in supply.

Third. The financial assistance mentioned by President Carter must be increased from $5 billion to $15 billion. In spite of the fact that, in just about every case, conversion from natural gas or oil to coal would be economically advantageous, many utilities do not have access to the capital needed to implement the conversion. The benefits of reducing consumption of oil and natural gas in the utility sector will accrue to the entire Nation. However, the costs will fall directly on the utilities that are currently burning oil or natural gas. Thus, to minimize the adverse impact of the initial capital expenditures on specific utilities and their customers, the Federal Government should provide funds for loans, loan guarantees and grants to utilities that have approved conversion programs. Recent estimates by the President's Commission on Coal put the capital cost of conversion of the 341 boilers which they have identified as coal-capable between $35 and $50 billion over the next 10 years. Clearly, if we are to meet our goal, more funds than the $5 billion proposed by President Carter must be made available.

Mr. President, coal conversion is the means by which an immediate major reduction in oil consumption and dependence can be implemented. The technology exists and the coal industry has demonstrated its commitment to meeting the country's needs. In 1973, when the first oil embargo focused attention on our vast domestic coal reserves, the coal industry accepted the challenge of doubling national coal production by 1985. An inability to find consumers, not an inability to produce, has frustrated that goal. Currently the industry has excess capacity of 150 million tons per year and thousands of American miners are out of work because there is a surplus of coal. While this vast resource remains untapped, other Americans pay ever-increasing prices for imported oil. My colleagues from coal-producing States and I are convinced that our dependence on foreign oil can be reduced without eliminating economic growth. We are convinced of this because we know that coal can provide the energy needed to fuel our utility and large industrial boilers, because we know that coal can be converted into clean, efficient fuels, and because we know that America's coal industry can meet the challenge of producing the coal that the country needs to eliminate its dependence on foreign sources of energy.

A meaningful coal conversion program must be an integral part of our efforts to encourage the utilization of coal and our national energy program. Therefore, I urge the President to take immediate action on the oil and natural gas back-out program which he originally proposed.

DELETION OF ADDITIONAL POSITIONS FOR INTERIOR'S OFFICE OF INSPECTOR GENERAL

Mr. PERCY. Mr. President, I wish to express my deep disappointment that the authorization of 44 additional positions approved by the Senate for the Department of the Interior's Office of Inspector General was not adopted by the conference committee on the Interior appropriations bill last Friday. After reviewing a recent GAO report depicting the lack of support given to the Inspector General by Interior's top management and Inspector General Brown's justifications for her fiscal year 1980 budget request, I am convinced that the additional staff positions are urgently needed if the IG is to adequately review Interior's annual collections of nearly $4 billion in revenues and administration of some $2 billion in contracts and grants.

Last year, the Congress acted to create Offices of Inspector General through the 1978 Inspectors General Act as the best way to ferret out abuse, excessive and wasteful spending, and mismanagement within Federal agencies and departments. However, this very important goal of saving taxpayers' dollars through efficient and honest government cannot be attained without Congress enthusiastic support. Funds which are invested now in the Offices of Inspector General will reap large returns in the future. Strong Inspectors General, supported by sufficient audit and investigative staff, are essential in helping to regain the American people's confidence in their Government.

Again, I deeply regret that the Senate Conferees' receded to the House in not approving the additional staff so urgently needed by Interior's Inspector General.

REBUILDING THE ECONOMY—PART II

Mr. PERCY. Mr. President, we talked at great lengths last spring about a possible 1980 tax cut. Opponents of a tax cut have alleged that any tax cut at this time would be inflationary and could not possibly do the economy any good.

This is clearly not the case if a tax cut is structured in the right way.

All 41 Senate Republicans have joined behind a tax cut that would not inflate the economy. Our proposal would get at the very source of inflation in this country: lagging productivity. The bill is divided into three parts. Title I incorporates my own Small Savers Incentive Act and would allow exemptions for interest earned on savings accounts and would increase the exclusion for reinvested dividends. Title II incorporates the Capital Cost Recovery Act which would bring the depreciation system more in line with true replacement costs. Title III is Senator DANFORTH's research and development tax credit.

This approach to tax reduction is the appropriate one for the economy at this time. It will not be inflationary because these specifically targeted cuts will lead to more efficient production and an expansion of the capital available for investment. Combined, these tools will raise our productivity and lead to a decline in the inflation rate.

Let us take just one aspect of this bill today and ask whether a tax incentive for savings will work. My bill, the Small Savers Incentive Act (S. 1542), creates a $100 exclusion for interest earned from savings accounts like the existing exclusion for dividends. In addition, my proposal would provide an exclusion for both dividend and interest—up to $400 for each—to the extent that it was reinvested during the tax year. Because of the reinvestment requirement, the exclusion will lead to a net increase in savings. In turn, I anticipate that this larger pool of capital will be tapped by businesses looking for funds to expand and modernize their plants and equipment.

But will it work?

Mr. President, we have an indication that targeted tax cuts for investment do, in fact, work. Just take one look at the capital gains tax cut, passed just last fall in the Revenue Act of 1978.

Representative Bill Steiger and Senator Cliff Hansen, with my and other cosponsorships, introduced the tax cut legislation last year because we realized that the market for new stock issues had virtually disappeared, that stock prices had declined relative to corporate earnings and that corporate reliance on debt—as opposed to equity—financing had increased. These developments could be traced back to 1969 when the Tax Reform Act increased capital gains taxation.

We have had enough experience with the 1978 capital gains tax cut to begin to see that the tax cut was an important one for the economy and that cuts of this type do, indeed, stimulate economic activity. In the October 31 Wall Street Journal, Edward O'Brien, president of the Securities Industries Association, presented the compelling details of the success of the capital gains tax cut.

We can bring about similar developments in savings patterns, research and development efforts, and—most importantly investment—through passage of the Republican tax bill.

Mr. President, I ask unanimous consent that Mr. O'Brien's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REDUCTION OF TAX ON CAPITAL GAINS SPURS INVESTMENT

(By Edward I. O'Brien)

With increasing interest in various tax measures designed to stimulate savings and investment, an evaluation of the capital gains tax roll-back enacted a year ago seems to be in order.

The Revenue Act of 1978, passed last October, produced the first capital gains tax cut in over 40 years. Proponents had argued that this would encourage investment. But, within a few months of its passage, attempts were made to discredit the measure based on a lackluster stock market. Ignoring the impact of suddenly increased interest rates, accelerating inflation and impending recession, critics were quick to brand the capital gains tax cut a failure.

More recently, though negative factors continue to plague our markets, evidence of a favorable impact is emerging. There are three principal early indicators: sharp price appreciation for the stocks of smaller-capitalized companies; increased initial public offerings of small companies; and a marked pickup in venture capital investments.

Stock markets span a range of investment opportunities, each associated with a different level of risk and rate of return, ranging from heavily capitalized issues represented by the Dow Jones Average and the Standard & Poor's 500 to smaller-capitalized issues represented by the American Stock Exchange and the NASDAQ indices. The smaller-capitalized issues are relatively more risky and presumably offer potentially higher returns.

Institutions, many exempt from all taxes on income and capital, are predominantly in the larger-capitalized issues, while individuals tend to invest in smaller-capitalized stocks. Thus, any reduction in capital gains taxes, which applies primarily to individuals, should have a different impact on these two kinds of issues.

This is exactly what has happened. From Nov. 1 1978 (when parts of the revised tax code become effective), to Sept. 30, 1979, the Dow Jones Average rose only 6.1 percent and the S&P 500 12.9 percent. In contrast, the Amex Index increased 57.0 percent and the NASDAQ rose 30.8 percent. It is apparent that individual investors valued the stocks of smaller-capitalized issues at substantially higher prices since the capital gains tax cut.

A host of economic and political variables influence the overall climate for investment which, in turn, exerts the most important influence on the level of initial public offerings. Even so, the impact of tax policy is clearly visible over the past decade.

Common stock initial public offerings

Year	Share value (millions)	Number of issues
First half 1979	$256	59
Second half 1978	160	40
First half 1978	54	18
1977	276	49
1976	271	45
1975	236	25
1974	117	55
1973	1,872	177
1972	3,301	646
1971	1,917	446
1970	1,451	506
1969	3,545	1,298
1968	1,742	649

Source: Investment Dealers' Digest.

It is noteworthy that 75% of the value of 1978 initial public offerings was issued in the second half of that year, when congressional approval of a capital gains reduction was widely anticipated. Figures for the first half of 1979 show the value of initial public offerings to be about double the level of recent years.

In contrast, the increase in the maximum capital gains tax rate from 25% to nearly 50%, effective from 1970 through most of 1978, provided a disincentive to investors. Along with the disastrous impact of the 1973–74 bear market on the stock prices of smaller-capitalized companies in particular, this produced a double-barrelled negative effect on individuals' appetite for new issues.

But that appetite changed considerably when it became apparent that Congress would lower the capital gains levy. Thus, during the second half of 1978 the value of new offerings tripled and the number of issues doubled over the first half.

A similarly sharp increase has taken place in venture capital investment. Stanley Pratt, editor of Venture Capital, estimates that private partnership venture capital investments amounted to approximately $22.5 million in 1974. No private funds were committed to venture capital enterprises during 1975. In 1976, such investments amounted to $25.7 million and in 1977, just $20.2 million.

But in 1978, private partnership venture capital investments rose dramatically, to $215 million. The bulk of this increase took place in the fourth quarter, when congressional passage of the capital gains tax cut was imminent. As reported in The Wall Street Journal (William M. Bulkeley and Lindley B. Richert, "Venture Capital is Plentiful Once More, Due in Part to Change in Capital Gains Tax," June 15, 1979), it is believed that venture capital investments will reach close to $500 million in 1979.

Thus, the market indices, new stock issues and venture capital commitments add up to

solid evidence that the 1978 capital gains tax reduction has had a positive impact on investment, despite other very negative developments in the U.S. economy. More important, from a public policy viewpoint, the main beneficiaries of the lower capital gains taxes appear to be smaller companies. It is just such young, innovative companies that are responsible for the greatest percentage gains in employment.

As joblessness rises along with election year pressures for general tax reduction, it is to be hoped that the efficacy of last year's capital gains tax cut will not be sold short.

OIL, OPEC, AND ENERGY POLICY

Mr. DURENBERGER. Mr. President, some recent news commentators have accused the Senate Finance Committee of not knowing what it was doing in approving the Crude Oil Windfall Profit Tax Act. These analysts have based their accusation on the fact that some have labeled the tax a "windfall profits" tax when it is actually an excise tax. I can assure the news media that we were quite aware that this tax is an excise tax. I should also point out that the commentators have conveniently ignored the fact that the price of oil on which this excise tax is based is not a market price. Rather, it is the price dictated by the OPEC cartel.

If the change in the world price of oil over the last 7 years reflected the normal working of the marketplace, there would be no justification for this legislation. However, the price of oil has not been dictated by supply and demand. Producing nations have arbitrarily set the price for oil. Industrialized nations which require oil as a basic resource have panicked. At the moment, we can observe the folly of our oil madness in the workings of the spot market. The price of oil per barrel is hovering around $40 in the spot market. The official OPEC price is almost half that amount. The Western nations insist on pushing up the price despite the fact that storage capacity is nearly full and that production is currently greater than consumption. Just at the point where we might be able to exert downward pressure on oil prices, our opportunity is effectively sabotaged by the irrational energy policy of our allies. It is no wonder that OPEC appears to be invincible.

The recent decision by the President to cut off oil purchases from Iran is another opportunity to face up to the energy blackmail of OPEC. However, the news reports are already filtering in that other nations are moving to buy the oil that would normally be channeled to the United States. Must the United States stand alone? Where is the will and resolve of our allies?

My No. 1 priority when I was elected to the Senate was our energy problem. At the beginning of this year, I did not anticipate that the Senate would spend much time on energy in this session. World events changed our timetable, and the Congress has finally had to legislate an energy policy for this country. The last step in the process is the Windfall Profit Tax Act. When the bill was reported by the Finance Committee, I included in the report my views on the purpose of this important legislation. I ask unanimous consent that my views be printed in the RECORD after my remarks, today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURENBERGER. I also recommend an article which appeared in the November 19, 1979 edition of Business Week. While the American public has experienced gasoline and distillate shortages and the ravages of rapid energy inflation over the past few months, this article suggests that the long term impact of the recent OPEC price increases may be even more severe. The threat to the international monetary system arising from OPEC control over the flow of the wealth, as well as the flow of oil, is only dimly understood by the American public, but may in the long run be seen as the most serious aspect of the energy crisis.

Mr. President, I ask unanimous consent that the Business Week article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, Nov. 19, 1979]

THE PETRO CRASH OF THE 80's

The world economy and the international financial system are in deep trouble as the price of oil races up faster than the rate of inflation and as the surplus cash hoard of the members of the Organization of Petroleum Exporting Countries piles up faster than it can be spent. This year, more than ever before, OPEC has captured the power to drain money—petrodollars—from the consuming countries at will, and no longer is there even a vestige of unity among the consuming countries in combating OPEC. Instead, individual governments everywhere scurry to make their own deals with OPEC, and instead of a coordinated response to the oil mess, there is something very close to open economic warfare among nations. And should Iran's political turmoil shut down its oil exports altogether, oil prices could easily double for all consuming nations.

The world was in trouble with OPEC before—in 1974 after the first big price increase. Then, too, petrodollars flowed from the consuming nations to OPEC in the greatest transfer of wealth ever seen. But then OPEC spent much of its hoard on imports from, and investments in, the industrial countries. The rest went to less developed countries through petrodollar loans recycled through U.S. banks. If the total amount of petrodollars was vast, it was also manageable through existing institutions. Finally, higher oil production by OPEC and weak demand from a world economy that only slowly emerged from the 1974–75 recession dropped the price of oil below the burgeoning global inflation rate, so that the real price of oil fell. From $70 billion in 1974, the surplus of OPEC's members fell to $7 billion in 1978.

This has totally changed, and now OPEC controls—and sharply limits—the supply of oil, sending prices skyrocketing, and a vast and growing share of the world's wealth is flowing according to the dictates of the oil-producing nations. Just as the U.S. and the West lost control of energy in the 1970s, so too are they in danger of losing control over the world's flow of capital and wealth in the 1980s.

The most immediate peril of the soaring price of oil is that the industrial world and the majority of developing countries are confronted with the specter of chronic, global stagnation. Money sent overseas to pay for oil cannot be spent or invested at home, and this forces national monetary authorities to create more money to make up for what is being lost. In 1979, the U.S. will pay $65 billion for its oil imports, and by 1981 that could easily top $80 billion. The result for the U.S. and for much of the rest of the world is serious inflation and—with OPEC pricing its oil ahead of the global inflation rate—an inflation with no end.

In fact, oil price rises now account for 25% to 50% of total inflation around the world, and OPEC is set to meet again in December, when it will almost certainly vote further price increases simply because world inflation is so high. National economic policies having proved ineffective over the longer run, the OPEC effort to push oil prices ahead of world inflation threatens to become a deadly spiral that an occasional recession will slow but never really kill. Governments that try to fight the inevitable inflation that higher oil prices bring will find themselves curbing economic growth and raising unemployment, moves that could force them out of office. And nations that have to import their oil are faced with enormous balance-of-payments deficits that only heavy borrowing and fierce attempts to export can alleviate.

A NEW WORLD EQUILIBRIUM

But the seemingly permanent oil crisis goes far beyond the traditional concerns about balancing national trade deficits or fighting inflation.

There is, for example, the problem of trying to manage world economies and an international financial system in the face of those ever-growing hoards of petrodollars. The Iranian experience taught the OPEC countries what can happen when a nation tries to import too much too fast. Soaring popular expectations exceeded the Shah's willingness to fulfill them, and the Peacock throne toppled. For all the threats of OPEC's buying great hunks of the industrial West, OPEC nations have been slow to invest directly in the industrial economies. Some of the petrodollars will again be recycled to the developing countries. But although the need for this money is as great is ever, fewer LDCs are seen as deserving borrowers today, because they already owe so much to Western banks. Thus a monetary system that is trembling already must learn to live with torrents of new cash pouring in—with fewer and fewer places to go and with investment decisions made by nations that have little love for the West or its institutions.

Finally there is the most basic threat—to the very industrial society that has grown in the West over two centuries. Says Minos A. Zombanakis, chairman of INA Holdings Ltd.: "My basic belief is that the energy crisis of 1974 created a fundamentally new situation in the world that we mistakenly talk of as though it were a static problem that can be cured by financial transfers. It is not a short-term problem but one that will last through our lifetimes. And I don't see it as a financial problem. It is so colossal we ought to see it in terms of what we have to do in terms of industrial relocations to restore a new world equilibrium. It is a problem of world trade restructuring."

Some think such a restructuring can be accomplished peaceably—that logic and common sense will force energy-using industries to relocate in energy-producing areas, for instance. Zombanakis thinks that the best way to beat the oil-producing countries is to bring them even further into the Western economy. "We tell the Arabs we want to buy gasoline instead of crude," he says. "We save 10% on transportation, and once they have built the refineries and created the jobs that go with it, we have committed them to our kind of world."

But so far that approach has only weakened the Western alliance, with Europe and Japan each scrambling to move away from the U.S. to make their own deals with OPEC. The capturing of both the world's supply of capital and its energy may prove to make OPEC so powerful in the decade ahead that the Western alliance will crack apart as nation after nation moves to align itself economically, politically, and perhaps militarily with OPEC. It may be that an Arab banking system funneling petrodollars through the European Monetary System will replace the current domination of the world's financial system by U.S. banks and the IMF.

This depends, of course, on OPEC's willingness to play the power broker part. If it refuses, there is another scenario that many still think unthinkable: open warfare, in which either the industrial West as a group, or the U.S. going it alone, gives up trying to work with OPEC and instead invades the oil fields.

The fact is that the dislocations caused by OPEC are the greatest ever seen by the industrial world. The capture of the supply of oil by OPEC—that is, its new-found ability to dictate not only price but also availability—means that the U.S. may have to pay $100 billion for its oil by 1985 and $200 billion by 1995—a sum so incredibly high that it may be nearly impossible for the country to ante it up unless a tremendous decline in the standard of living takes place. OPEC's new ability to control oil supplies and prices will prove deflationary for the entire world because OPEC surpluses will continue to pile up indefinitely, draining the world of its wealth, while the number of outlets for investing the cash through recycling shrinks. And without that recycling, the cash cannot be turned into real economic activity, and growth, employment, and living standards must decline around the world.

In some ways, the most stunning aspect of the oil mess is how dimly its potential ramifications are seen in Washington and in other capitals of the industrial West. The 1974 oil price rise stunned the West and cast the industrial economies into the worst recession in postwar years. Yet the world economy recovered, and Western leaders began to think once again of OPEC as a tamed tiger, one with the potential for inflicting mass devastation on the world economy, but one unlikely to do so.

It is generally believed in Washington and in the capitals of Europe that economic and financial conditions are much sounder now than they were in 1974–75. The OPEC oil price rise of 60 percent thus far in 1979 is much smaller than the original fourfold jump, and the relative size of the oil-importing countries' economies is larger. Washington monetary officials argue that the impact of the OPEC surplus, estimated at only $33 billion for 1979 and $36 billion for 1980, is far smaller than the $70 billion of 1974 and the $50 billion of 1975.

Moreover, optimists believe that the balance-of-payments position of much of the world is better now than in 1974–75. The U.S. deficit is shrinking, they point out, and the huge surpluses of Germany and Japan are fast disappearing. Even more important, they argue, the payments positions of Italy and Britain are much stronger. "The balance-of-payments position of the major countries are in much better shape," says Otmar Emminger, president of the German Bundesbank. "The U.S., Japan, and Germany are moving into equilibrium. And where France, Britain, and Italy had a combined deficit of $22 billion in 1974–75, France and Britain are only slightly in deficit today, and Italy is running a large surplus." Ironically, even the chaos in the gold markets is helping many European countries. The rise in its price from $150 in 1974 to about $400 recently has doubled or tripled that component of reserves held by governments and could be used to pay for higher trade deficits.

The optimists also believe that the recession this time around will be much milder than 1974–75. They argue that there will be no synchronous worldwide fall into recession, and while the U.S. may slide down into the trough first in 1980, Europe will slow down and follow the U.S. out later in the year. In fact, some economists don't expect any recession in Germany, Italy, and some smaller countries at all. They cite the coming elections in the U.S. and Germany as major factors that will prevent any plummeting of those economies into dramatic recessions. It is widely believed that both governments will quickly move to stimulate if the slowdown gets too bad. "I doubt Volcker can hold to his tight monetary policy if the recession gets serious," says Norbert Walter, economist at the Kiel Institute in Germany, summing up an almost universally held view in Europe about Federal Reserve Chairman Paul A. Volcker's raising of U.S. interest rates in early October.

If complacency about the world economy is the norm among bankers and government officials, it is rife when they turn to the problem of the LDCs. The developing countries are considered to be in a much better position to weather the oil shocks this time around, compared with 1974–75. Their reserves have mushroomed from $30 billion in 1974 to $70 billion last year, and that should prove to be a good cushion to ride out a recession. In fact, Brazil's reserves alone total $10 billion compared with only $4 billion in the first petrodollar crisis, and Korea, at $6 billion, is not that far behind.

The LDCs have also managed to refinance their high-cost debt, taken out years ago at much lower rates. Billions of dollars' worth of loans taken out at 2% or more over the London interbank offered rate (LIBOR) have been refinanced down to one-half of 1% more than the LIBOR, while debt maturities have been extended. All this, of course, has been made possible by the enormous worldwide expansion of liquidity, which is showing no signs of drying up.

The final bit of evidence the optimistic LDC-watchers point to is the impending return of the IMF to center stage in recycling OPEC surpluses to developing countries. In the first oil crisis, the private banking system, led by U.S. banks, played the most important role in petrodollar recycling and pushed the IMF to the sidelines. Now the IMF, strengthened by the new $10 billion Witteveen facility, which provides loans to nations with heavy trade deficits, plans to replace the banks. LDC-watchers hope the IMF will be able to impose "conditionality" on the LDCs—stringent economic and financial constraints that the banks were unwilling or unable to impose during the previous recycling.

But the complacency and optimism about the impact of the new oil crisis on the world of government officials and bankers begins to wear thin at this point. The reason that the IMF is now moving to the fore in an attempt to recycle the new OPEC petrodollar surplus to LDCs is that private banks are so stuffed with old debt that they cannot play a central role even if their profit motives pushed them to do so. U.S., Japanese, and many European banks are being told by their regulatory agencies that it would be dangerous to the health of their national financial systems if the banks took on much more debt from the LDCs. Recycling is now perceived as dangerous.

In the U.S., banks regulatory agencies are already putting the squeeze on U.S. multinational banks to slow down on their lending to oil-importing developing countries. Comptroller of the Currency John G. Heimann has put into place a highly sophisticated surveillance program that it runs jointly with the Federal Reserve and the Federal Deposit Insurance Corp. "We try to categorize countries in terms of socioeconomic problems," says Heimann. "Countries do change, and we regard countries in some categories as having transfer risks." Nations are listed as classified (those already in nonpayment), weak, moderately strong, and strong. The lists are used to measure bank diversification. Any bank exceeding its 10% limit of capital on loans to a single government gets a reprimand, and it also receives a warning, even if it is below the limit, if it piles up credits to a country that is considered a risk. Heimann admits that in 1974 banks plunged into foreign lending so fast the 10% ceiling "got away from us."

The U.S. regulators are convinced that this time U.S. bank lending will be lower. "It will be less on a relative basis than it was the last time around. Recycling has now become much more of an international problem. A lot of recycling has already shifted. It is not so much only a responsibility of U.S. banks," says Heimann.

U.S. banks will not be alone in moving away from recycling. The Japanese Ministry of Finance told its leading banks on Oct. 22 to "exercise caution" in their foreign lending. In the past two years, Japanese bank loans to foreign customers have tripled to nearly $30 billion, with more than half placed with LDCs. Brazil, in particular, is singled out as having received perhaps too much Japanese bank credit. In recent years, Japanese banks have lent Brazil $4 billion, and "that's too much," says Tsuneo Fugita, a ranking foreign-exchange official at the finance ministry.

The entire shift of recycling away from the private banks toward more multilateral action is seen as extremely positive by government officials. In addition to government regulatory policy, they see the Volcker anti-inflation package of Oct. 6 sending interest rates skyrocketing in the Euromarkets, pushing more and more LDCs away from the private markets toward the IMF. "A very tight monetary policy in the U.S. and elsewhere must have an impact on the international markets," says a Bundesbank official. "Some short-term rates have been between 16% and 18% for dollar credits already. That means some countries will be unable to pay those rates and will have reached the limits of their creditworthiness. Those countries must then go to the IMF, but since the IMF can impose conditions on these countries, it will in the end be a good thing."

That end may be something very different from that imagined by the German official. Conditionality is the very thing that developing countries—and industrial nations as well—avoided during the first petrodollar crisis. IMF conditionality means extending loans only when stringent fiscal and monetary policies are put into place by governments, and while that is great for creditors, it does have one other important consequence: It cuts economic growth drastically and kills trade markets for both developing and industrial countries alike.

Conditionality may prove to be only the beginning of the LDCs' problems. The permanent petrodollar crisis is certain to deepen their already huge balance-of-payments deficits well into the 1980s. Even before OPEC begins to raise oil prices again in December, the current accounts deficits of oil-importing LDCs will shoot up to $55 billion in 1980 from only $45 billion in 1979 and a much smaller $36 billion in 1978.

Beyond that, many LDCs, especially the higher-growth countries such as Brazil, are swamped in a quagmire of debt. The bank lending five years ago that saved the LDCs from collapse is now a crushing burden. Developing countries are entering the next period of heavy trade deficits with $200 billion in debt and enormous debt-servicing requirements. With interest rates skyrocketing up in the Eurodollar market as a consequence of the U.S. attempt to fight its own oil-induced inflation, developing countries are being forced to spend huge sums on debt

debts, just at the time when they must take on all the new debt. Brazil, for example, has to pay on its mammoth $52 billion debt, an amount that is equivalent to a 15% rise in oil prices every time the LIBOR for Eurodollars goes up just 1%. The LIBOR has jumped 4% in recent months to match OPEC's entire price rise for the year.

A SYNCHRONIZED SLUMP

And Brazil is not alone. Debt service payments have raced ahead of exports in 75% of all oil-importing countries from 1973 to 1978, including the Philippines and Pakistan. In fact, debt grew 2½ times faster than exports in more than half of these countries. Only South Korea remains an exception to the rule, with the country's external debt position improving for most of the past five years. But political uncertainty resulting from the murder of President Park Chung Hee casts doubt over the future stability of that nation.

Just as the optimistic scenario for the LDCs begins to fade once the harsher realities are faced, so, too does the bright picture for the industrial countries begin to dim as the world enters the new petrodollar crisis. The key is the deadly combination of ever-higher oil prices and the tightening of U.S. monetary policy under Fed Chairman Volcker. Both events are extremely deflationary, perhaps more so than most government officials and economists now admit. "The situation is set for a synchronized slump like 1974–75, only this time it could be much more long-lasting," says Kevin J. T. Pakenham, executive director at Amex Bank in London. "Volcker's actions will lead to a credit crunch in the U.S. that will spread to all industrialized countries. One consequence will be to dampen capital investment severely. The prospect of continued high real oil prices and a tight monetary squeeze could shatter business confidence."

If the rising price of oil turns out to be a great deal more deflationary than anticipated, nearly all of Europe could tip into recession in 1980. "Not Germany, but France, Belgium, the U.K., and possibly Italy risk having negative growth rates at some point next year," says J. Paul Horne, European economic analyst at Smith Barney in Paris. "I am more pessimistic than most, certainly more than the OECD."

But the oil crisis this time around goes far beyond recession. OPEC's ability to control oil supplies and price oil ahead of inflation virtually guarantees that it will continue to drain the world to a degree unseen in modern history. The structure of world trade and finance is being wrenched and twisted around the ever-growing pile of surplus OPEC petrodollars that have nowhere to go and are under the control of a very few sheiks.

Already there are signs that the global economy is beginning to crack up. Governments are putting national interests above international concerns. The leapfrogging of oil price rises ahead of inflation ensures continuous expansion of trade deficits that must be paid for by ever-higher levels of debt or massive expansion of exports. For the decade ahead, protectionism and trade wars on a scale not seen since the interwar years may be in the offing. In fact, it just may be that sometime in the mid-1970s a trade war actually began, and no one has yet realized it. From 1973 to 1978, every industrial nation, including the U.S., began to fight for a larger piece of the world trade pie to pay for energy and cover growing balance-of-payments deficits. In France, exports as a percentage of the gross national product rose from 17 percent to 20 percent, in Germany from 23.4 percent to 27.1 percent, in Britain from 23 percent to 26 percent, in Japan from 10 percent to 14 percent, and even in the U.S. from 6.7 percent to 8.5 percent.

TRADE WARS

"All the major industrialized countries greatly increased their exports after 1973 to help pay for the costs associated with the rise in oil prices," says Roland Leuschel, an economist with Belgium's Bank Bruxelles Lambert. "The question is, where are they going to find the markets this time? The Arab governments remember too vividly what happened in Iran as a result of modernizing too fast. The industrialized countries, especially in Europe, are unlikely to accept a flood of imports from developing countries when unemployment is high. And Europe cannot count on selling a lot to the Eastern bloc because it is also reaching its borrowing limits. For both political and economic reasons, OPEC cannot absorb as much this time."

If a trade war has already begun, all the assumptions built into the mammoth $130 billion bank lending to the LDCs in recent years—based on their projected expansion of exports to pay for the debt—may be wrong. The exports may never appear because of lower trade growth and protectionism. And that would leave the banks, especially the U.S. banks, which have been the largest lenders to LDCs, with nonpaying assets on their books that would have to be written off.

In the world of international finance, the cracks will begin to show very shortly. Recycling such a huge amount of cash this time around is going to have to be done within a dollar-based global financial system that is perhaps terminally sick and certainly much weaker than it ever was back in 1974–75. The erosion of confidence in the dollar has reached the flash point. Only the dollar-rescue plan that Volcker unveiled on Oct. 6 kept the currency from sinking out of sight—the second close save in less than a year. A flight away from the dollar on a relatively modest scale is already occurring as Mideast central banks join with other central banks and rich individuals around the world in moving into other currencies. But oil is paid for in dollars, and the entire recycling process must therefore be conducted in dollars. If oil producers begin to accelerate their diversification out of dollars, the system will collapse. "We are very close to the verge of an international financial crash," says Yves Laulan, head economist of the Société Générale's research department. "Money is nothing but trust and confidence. If nobody trusts the Eurodollar markets any more, they [the depositors] will move out and the whole thing collapses."

Diversification is not the only threat to successful petrodollar recycling. Another major shock to the dollar can easily bring on capital controls in the U.S., and that could trigger the feared trade wars of yesterday. "I am very much concerned that some countries, including the U.S., will turn to capital controls," says a Bundesbank official. "It would be disastrous. It is easy to see how they can start but not where it would end. Capital controls are often the first step toward trade controls."

Unfortunately, with OPEC continually raising the price of oil ahead of inflation, it is hard to see how the U.S. can successfully defend the dollar forever. If a crisis is reached in the near future, it will probably be after the U.S. and Europe fall into the trough of recession and begin to reflate themselves out. If inflation is not dampened down substantially by then—and it hardly looks as though that is going to occur—a blast of inflationary pressures could send the dollar sinking like a stone, triggering off controls and whatever follows. "The real dilemma for the U.S. will occur when we try to revive the economy," says Henry Kaufman, a partner at Salomon Bros. "If inflation is still very high at that time and the dollar comes under pressure, any government in power will have to choose between continuing to maintain the dollar as the major reserve currency or maintaining growth at home. I do not think any government will sacrifice domestic interests for international interests."

There are very few options left for the U.S. and the rest of the world in dealing with the new oil crisis. By controlling not only energy supplies but the direction of capital and wealth in the world, OPEC is quickly shifting the entire balance of power in the global arena. The ever-upward ratcheting of real oil prices in the face of a recession in the West belies the notion that OPEC would always act rationally and never harm the international economic system of which it is a part. Internal politics within the Middle East and a long history of antagonism with the West provide the rationale behind actions on the oil price front that could perpetuate decades of stagflation for the U.S., Europe, Japan, and most of the oil-importing LDCs.

Political and military alliances between the U.S. and the Saudis and other Middle East oil producers have not resulted in more oil being produced. At best, they have put a floor on the decline in production. Conservation at home will help only to a limited degree. Much lower growth seems the only answer to lower oil consumption—and that would be political, if not economic, suicide.

By capturing control over the supply of oil, OPEC has gone even further along the road to world domination than it did in 1974, when it sharply raised global energy prices. Increasingly, it controls the direction of wealth in both industrial and developing countries and holds both the political and economic future in its hands.

Europe and Japan have been moving away from the U.S. in recent years to make their own arrangements with OPEC, just in search of securing their energy lines. If OPEC controls not only energy but also capital and real wealth, the breakdown of the Western alliance and a restructuring of the Western economy is clearly only years away. Only energy-efficient, export-oriented countries with access to OPEC's oil and capital will be able to survive and prosper, and then only if OPEC proves willing to provide enough energy and capital to keep the world growing.

CONTROLLING CAPITAL

Again and again, as OPEC pushes the West toward the edge of economic survival, the option of a military response becomes more and more reasonable. As one monetary official put it recently: "OPEC price actions are really getting out of hand. If they don't call for a military response, I wonder what would. I don't know what would happen if we intervened militarily. I hope some intelligent people are discussing this seriously, so that if we have to act we won't go off half-cocked. I don't see much danger of crippling damage to the oil fields. Even if there were sabotage, it would have very temporary effects in the Arabian peninsula, where you can strike oil with a hatpin. I don't think many other OPEC countries would dare to shut down for very long, if at all, in the face of a determined, united NATO military action"

EXHIBIT 1

ADDITIONAL VIEWS OF SENATOR DURENBERGER

During the markup of H.R. 3919, the Finance Committee decided several major issues by narrow margins on roll call votes that were generally interpreted as divisions between senators who represented oil producing states and those who represented consuming states. No on can deny that crude oil price decontrol and the windfall profits tax result in significant interstate and interregional transfers of wealth. However, as one senator who voted both for amendments to increase the tax rate and amendments to exempt several categories of oil from the tax.

I would say to my colleagues that the legislation here reported reflects a division more fundamental than a producer/consumer dispute over the distribution of oil and tax revenues.

Throughout the debate, representatives of the oil industry have maintained that world prices and the revenues from decontrol are necessary elements of a strategy to produce our way out of the energy crisis. Proponents of the tax including the administration advocate high prices to encourage conservation and conversion to alternative energy resources, but do not believe that additional domestic oil production will be a significant factor in achieving energy independence. It is a difficult question to judge and neither side deserves plaudits for the case they have presented. Advocates of the tax concentrate on the "undeserved" character of the profits that result from the OPEC price, while ignoring the supply response from additional investment. Opponents seem to believe that an unlimited amount of money can be invested in exploration and drilling with each new dollar having the same productive result as the last.

Without ever explicitly stating its judgment, the committee has authored a bill which reflects a decided opinion on the future of domestic oil production in our energy supply. By voting to exempt new oil and incremental production through tertiary recovery, we have concluded that additional domestic production will come only at a very high price. By maintaining high tax rates on lower and upper tier oil, the committee majority has acknowledged that the supply response to decontrol will be minimal and does not require the financial support of extraordinary cash flow from existing wells. By diverting oil revenues to conservation and alternative energy tax credits, we have recognized that conservation and renewable energy resources will be cheaper than domestic oil at the world price. The judgment that new domestic oil production will not play a significant part in achieving energy independence is more fundamental to the structure of the committee bill than any producer/consumer dispute over income distribution.

Although I concur in the judgment of the majority on this question, I am not unmindful of the caution raised by thoughtful individuals in the oil industry who rightfully point out that this legislation has the potential for self-fulfilling prophecy. We did not design this legislation to punish the industry nor to raise revenues for government programs, but rather to capture the OPEC tax without discouraging production. The committee has a responsibility to monitor drilling and recovery rates and to make certain that this legislation does not lead to undercapitalization that wastes precious resources.

Today, the world crude oil price is basically a tax collected by the OPEC cartel from consuming nations. As President Carter's decontrol program is phased in, this tax will be collected by American oil producers from American oil consumers. Even though the world price does not reflect the cost of production at existing domestic fields, we will have to pay much higher prices for new oil in the future as our easily produced reserves are depleted. Over the next decade decontrol and the windfall profits tax can provide the foundation for a gradual adjustment to the new, high cost of energy.

All parties essentially agree that the adjustment should include programs to assist those who cannot afford the OPEC tax and to encourage energy conservation and conversion to new and renewable energy resources. President Carter, the House Ways and Means Committee and the Senate Finance Committee have all proposed one or more trust funds to be created with the revenues from the windfall profits tax for these purposes. I opposed the trust fund concept in committee.

I believe that the committee deliberations on this legislation are sufficient evidence to demonstrate the flaws in a trust fund for energy security. At one point the committee had adopted $99 billion of energy tax credits—all of which would have reduced oil imports—but believed that it had only $65 billion in revenues from the tax. The credits were cut to $25 billion. Later the price assumptions on which the revenue estimates are based were changed and the committee found that its tax would raise $138.2 billion. It quickly added new tax credits—none of which would reduce oil imports or go to oil users—and a trust fund to rollback social security taxes. Frankly, it is very difficult to project the revenues that will result from the tax or the spending that is necessary to achieve energy security. In any event, there is no cause and effect relationship between the two. The tax should fairly reflect the economics of the industry and the revenues from the tax should not limit our efforts to achieve energy security at an early date.

TAX CREDITS

The committee bill includes a number of new tax credits and other incentives with tax effects to encourage the production of alternative fuels and the conservation of our remaining oil reserves. It is my hope that the Senate will not be put in the position of choosing between these tax credits and bills reported by other committees that authorize direct appropriations, loans and loan guarantees for the same purposes. However, should the debate develop along these lines, I will be counted among the dedicated advocates of the tax credit approach.

This issue is more than an intramural contest between committees for jurisdiction over energy legislation. H.R. 3919, as reported by the Finance Committee puts the American public rather than the federal government in charge of our energy policy. Coupled with decontrol of oil and natural gas prices this broad program of tax credits will allow the marketplace decisions of energy producers and energy consumers to choose the most efficient mix of conservation and fuel resource in response to our rapidly changing energy condition. Although the marketplace would eventually achieve the most efficient allocation of resources without the credits, the incentives are needed now to assure that the adjustment will be gradual and come at an early date.

Tax credits are not without problems, however. The public is neither well-informed as to the availability of the credits, nor well-equipped to use them for maximum advantage. The Energy Tax Act of 1978 is presented as a three page IRS form that must be specifically requested before it comes to the attention of the taxpayer. Credits provide no incentive for those who do not pay taxes and qualifying investments may not be within the reach of those with low and moderate incomes. Furthermore, to the extent that these incentives are successful, consumers will be faced with a wide variety of new products, but little guidance as to the efficacy of particular items. If our energy future is to be determined by the choices of individual producers and consumers, and I am fairly convinced that it should be, the committee and the Congress have a responsibility to address and resolve the special problems of the incentive approach.

TRANSPORTATION CONSERVATION

The incentives for conservation and conversion to alternative energy resources contained in the committee bill focus on the residential, commercial and industrial sectors. We did little that would influence the future demand for transportation energy. Although I supported our decision to dedicate a portion of the tax revenues for transportation, I do not believe that these monies would be wisely used if put in a new trust fund for urban mass transit. Transportation conservation offers many other possibilities, including long-distance passenger rail service, carpooling, vanpooling and new vehicle technologies. I hope the committee's action in this regard will be interpreted as a broad mandate for energy conservation and not as a narrow commitment to a particular mode of transport.

INCOME ASSISTANCE

The most difficult decisions taken by the committee were related to the issue of income assistance and even now, with the bill reported, a solid consensus remains elusive. There is no division on the need for the program. Daily reports of advancing energy inflation put that question beyond doubt. However, this committee with long experience in assistance programs found that it could not acquire the information necessary to bring this problem into sharp focus and, thus, make it accessible to solution. The two-part package of cash payments and tax credits assures that both social equity and individual need are reflected in national energy policy, but the specific mechanisms for allocating those benefits among citizens will require further deliberation.

The cash payments program for low income households is intended to guarantee that every household has sufficient resources to meet its basic needs. Without such a program, the "heat or eat" decision will become a daily part of life for millions of Americans. But identifying which Americans and the extent of the need in individual cases was beyond the competence of the committee because we are not informed as to the energy consumption characteristics of low income households and cannot reach a large portion of the population in need—particularly the elderly—with existing Federal assistance programs. We can correct the information problem with additional study and legislation in the next session. We have provided a state block grant option with broad definitions of eligibility to achieve maximum participation.

To some extent the income assistance portion of this legislation works at cross-purposes with the tax incentives for conservation and fuel conversion. This is particularly true of the credits for low and middle income families designed to offset the high cost of energy. Because these credits are based on volumetric consumption, they provide a subsidy for higher levels of energy use as Senator Danforth has ably and consistently stated. However, without these credits, American families of low and moderate income are left defenseless against an energy inflation that is affecting all fuels and too rapid to allow gradual adjustment. I support the tax credits as a short-term measure to provide equity for those not able to afford rapid adjustment and not eligible for programs of cash assistance.

These views are as much an agenda for additional action as they are a personal explanation and appeal on specific issues. H.R. 3919 deserves the support of every Senator but that support should serve as the foundation and not the capstone of our national energy policy. It is a good start, but nevertheless only a start, on a decade that will fix the pattern of our energy future.

A LARGE ERROR

Mr. PROXMIRE. Mr. President, on October 25, the Federal Reserve Board announced that there had been a $3.7 billion error in the money supply sta-

tistics that were published for the first 2 weeks of October. This error is cause for concern since the Federal Reserve is responsible for controlling the growth of the money supply. Certainly if the Federal Reserve cannot measure the money supply accurately they will not be able to have firm control of its growth. Moreover, if the public is watching the money supply statistics as a guide or indicator of the Federal Reserve's policy they may be pointed in the wrong direction if the money supply statistics are subject to periodic large errors. Such mistakes could be quite costly if financial decisions are based on incorrect data.

On October 26, I sent a letter to Chairman Volcker at the Federal Reserve Board indicating my concern about the large money supply error and asked that he provide the Banking Committee with a thorough explanation for the $3.7 billion error, an indication of the steps that will be taken by the Board to avoid such errors in the future, and the Board's assessment of the costs of this error on the financial markets.

Mr. President, I have received a reply from Chairman Volcker and would like to have it, along with my letter of October 26 to the Chairman, printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. Mr. President, Mr. Volcker's letter indicates the following:

First. The changes in monetary policy made on October 6 were taken before the errors in the money supply data occurred and, therefore, the errors had nothing at all to do with those policy measures.

Second. The money supply errors arose because a single bank, Manufacturers Hanover, had incorrectly reported its deposit data to the Federal Reserve Bank of New York. The reporting errors at Manufacturers Hanover and their later corrections resulted in a downward revision of $700 million of the money supply for October 3, a revision downward of $3.0 billion for October 10, and a further downward revision of $800 million for the week ended October 17.

Third. The revisions in the money supply figures had virtually no impact on the level of nonborrowed reserves the Federal Reserve was providing to the market through open market operations in this period. Money market conditions tightened during this period as banks did actively for limited supply of funds.

Fourth. Although it is difficult in evaluating financial conditions to separate the impact of the money supply announcement from pressures being generated by strong credit demands, market reactions to the revision of the money supply data indicate that the financial markets were reacting to basic economic forces throughout the period to a far greater degree than to the weekly supply statistics.

Fifth. The Board is reviewing its procedures for editing incoming deposit data and has already made interim changes in those procedures. In the future Chairman Volcker anticipates a considerably greater amount of reverification of data that will, in the end, prove to be accurate.

Mr. President, the weekly money supply numbers are not a good indicator of monetary policy. Each Federal Reserve Chairman in the past 10 years has cautioned the public against paying too much attention to those data. The new policy procedures focus attention on growth in nonborrowed and total reserves. Data on these measures should be taken into consideration in watching monetary and financial developments.

Mr. President, I want to note in closing that the Federal Reserve Board announced last night that it has begun an inquiry with the help of outside counsel, to provide assurance that the recent errors in the money supply data were inadvertent and that no individual or institution obtained improper advantage from the preparation, revision, and release of the incorrect money supply data. I expect to receive a report on this investigation as soon as it has been completed.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., October 26, 1979.

Hon. PAUL A. VOLCKER,
Chairman, Board of Governors of the Federal Reserve System, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you to express my shock and concern with the announcement last night that a $3.7 billion error had been made in estimating the basic money supply for the first two weeks in October. I would like you to provide the Committee with a thorough explanation for this error, an indication of the steps that will be taken to avoid such errors in the future, and the Board's assessment of the costs of this error on the financial markets.

The magnitude of this error is a serious problem. However, the more serious factor is that the error occurred during a period when the financial markets were adjusting to strong monetary measures imposed by the Board to restrict the growth of money and credit. There is little doubt that the previously announced large increase in the money stock was interpreted to signify the need for further restraint which translated into unsettled market conditions, and possibly into very large losses for some in the money and stock markets.

When you appeared before the Banking Committee on October 15, 1979 to discuss the Fed's changes in policy, we had a discussion of the appropriate indicator to monetary policy now that the Federal funds rate was to fluctuate more widely. Your response was that observers of policy should watch the money supply numbers recognizing that there could be some fluctuations. When pressed about other indicators, such as bank reservers and credit, you said "Well, you can look, at that, too, but I would suggest that the principal means by which you can follow the effects of our policy are through analysis of the various monetary measures."

If it is still your view that the money supply data are the principal indicators of monetary policy, the Federal Reserve must take steps to make sure that the money supply data released each week are accurate. Large errors such as those that lead to the revisions announced yesterday, cannot be tolerated. I would appreciate your prompt attention to this matter.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

FEDERAL RESERVE SYSTEM,
Washington, D.C., November 7, 1979.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN PROXMIRE: Your letter of October 26 raised several questions about the recent reporting errors in money supply statistics. I am glad to take this opportunity to provide an explanation of the error, an indication of corrective steps we have taken, and to appraise the costs on financial markets.

The recent large error in the reported money statistics has been an unfortunate and regrettable source of confusion, particularly coming as it did so shortly after the Federal Reserve had introduced new techniques in open market operations. Because of the confusion, I would like to stress first that the errors had nothing at all to do with the measures announced on October 6. Moreover, subsequent operations under the program would not have been significantly different if the correct figures had been known at all times.

When the program was adopted on October 6, the last published data at hand were for the week of September 26. In addition, partial data were available for the week of October 3. These partial, unpublished figures suggested that money supply might decline a little from the preceding week, but these preliminary data are given very little weight for they often display a different movement from more complete data. In the event, the more complete data for the banking system for the week of October 3, which became available to us on October 10 and 11 (and were first published on October 11), indicated that the money supply expanded by $2 billion. A large expansion was sustained for that week, despite the subequent downward revision of $700 million in Manufacturers Hanover deposit figures, partly because of other revisions made on October 18.

The figures for the week of October 10, first published on October 18, showed a large further increase of $2.8 billion; it was these data that on October 25 were revised sharply, primarily reflecting a $3.0 billion error in the figures reported by Manufacturers Hanover. On that latter date, the money supply for the week ended October 3 was also revised down by $700 million as a result of reporting errors for that bank. On October 29, Vice Chairman Schultz announced, in his statement before the House Banking Committee, that Manufacturers Hanover had indicated that its data included in the money supply for the week ended October 17 might be revised down by $800 million.

On November 1, mainly reflecting revisions from Manufacturers Hanover, the money supply for the week ended October 17 was, in fact, revised downward by $700 million. However, despite the downward revisions in the figures reported for the weeks of October 3, 10, and 17, the average level of the money supply remained high—running substantially above the September level in the first half of October.

Consequently, it seems evident that during that period the demand for money had remained relatively strong in face of our efforts to limit the supply of reserves. As a result, money market conditions tightened, as banks bid actively for the limited supply of nonborrowed reserves provided through open market operations and also increased their borrowing from the discount window.

The revisions in the money supply figures had virtually no impact on the level of nonborrowed reserves the Federal Reserve was providing to the market through open market operations in this period. That level had been determined essentially by calculations of the reserve path needed to attain desired growth in the monetary aggregates over the

final quarter of the year as a whole, not by movements in the money supply data for an isolated week or two.

The Board has always stressed that market participants and others should not give undue attention to weekly money supply data. That obviously needs to be underscored again—especially under current circumstances when, within broad federal funds rate limits, the provision of reserves consistent with longer-run monetary aggregate objectives is the focus of day-to-day policy. Our new approach would, if anything, make operations even less sensitive to weekly money stock variations than our former approach.

With regard to the possible effects on financial markets of the money supply revisions, it should be clear from the preceding chronology that the Manufacturers Hanover error could not have had an influence on the sharp interest rate rise and drop in stock prices that immediately followed announcement of the program when the markets opened on October 9.

The particularly large error was for the week ending October 10, but those figures were not first published until Thursday, October 18. Even the figures for October 3 were not published until October 11. The subsequent $700 million error in that figure, related to Manufacturers Hanover, was largely offset by other revisions in the data for that week and was not so large in itself as to be outside the range of prior revisions of the weekly data.

Any influence the reporting error might have had on financial markets would be subsequent to October 18. It is true that the Dow Jones Industrial Average declined about 15 points on the following day and interest rates rose sharply. However, at that time the federal funds rate also rose to the 15 percent area in reflection of the gathering constraint on nonborrowed reserves, a constraint that was needed because nonborrowed reserves and other reserve measures—total reserves and the monetary base—had been running high in the first half of the month relative to the path needed to slow growth in money supply over the fourth quarter.

It is most difficult, if not impossible, in evaluating financial market conditions to separate the impact of the money supply announcement from pressures being generated by strong demands for credit, money, and bank reserves relative to supply. It might be noted, in that respect, that the stock market did not show any significant recovery immediately after the money supply figures were corrected on October 25, as might have been expected if the erroneous figures had been a significant but identifiable negative influence.

Some sensitive interest rates did decline after the revision, though not by as much as they had risen a week earlier, and part of that decline was subsequently reversed despite the downward revisions in the data for the week ended October 17 in our regular publication on November 1. Thus, over the period it seems clear that markets, fundamentally, have been reacting to basic economic forces. During this period, incoming data on prices as yet showed no abatement in the rate of inflation, surprisingly strong data on economic activity was published in the course of October, and the Federal Reserve policy of restraint on bank reserves relative to demand placed pressure on money market interest rates.

The source of the errors was a change in internal procedures associated with the introduction of a new computer system at Manufacturers Hanover Bank on October 1. As a result of this change, their report of daily deposits—data that eventually enters the money supply statistics—was later determined to be inaccurate, principally because of misclassifications among deposit categories.

These errors were not picked up by the routine daily screening procedures at the Federal Reserve Bank of New York primarily because the daily deposits data of Manufacturers Hanover, as a large and active "clearing" bank, are ordinarily highly volatile. However, Federal Reserve staff began checking with the bank on aspects of their data flow as early as October 12, in particular the weekly report from the bank showing demand deposits due to foreign banks for the week ending October 10. At that time, the bank affirmed the accuracy of the unpublished figure that they had reported on demand deposits due to foreign banks.

Early on October 18, nationwide data for all weekly reporting banks became available, and these data contained an unusually large increase in demand deposits due to foreign banks in New York City for the week of October 10. That morning staff again checked with Manufacturers Hanover, since that bank reported the bulk of the increase. The bank at this point indicated that deposits due to foreign banks should be revised downward by about $1 billion, a change that had the effect of reducing our calculation of the money supply for the October 10 week to be published that afternoon. The bank was then asked if their other data entering the money supply—that is, the daily deposits reports that are the basic building blocks of the money supply series—were correct.

As indicated, these data had passed our edit checks, but the error in the report on foreign deposits led the staff to make a further inquiry. The bank said the daily deposits were correct. In the light of that assurance, the national figures for the week ending October 10 were published on the afternoon of October 18, after adjusting for the $1 billion error found in foreign deposits. The indicated increase in the money supply—$2.8 billion—was sizable even after the $1 billion adjustment, but clearly not "impossibly" large in light of the sometimes erratic nature of the series.

Staff nevertheless continued their investigation of the Manufacturers Hanover statistics and subsequently discovered inconsistencies in the data reported on two different forms that could not be reconciled. After this discrepancy was brought to the bank's attention, the bank on Monday, October 22, indicated a large revision might be necessary for the week of October 10.

On Wednesday, October 24, the staff received reasonably certain data indicating large downward revisions. After further verification, the revised figures were promptly published in the money supply release issued Thursday, October 25. During the following weekend a further $800 million revision in the data for the week ending October 17 was reported to us, and as I have noted, this possible change was announced early Monday morning, October 29.

To ensure that there is no repeat of such large and unfortunate reporting errors, we are reviewing—and indeed have already made interim changes in—our procedures for editing incoming data. These changes will undoubtedly involve higher costs at the Reserve Banks and member banks. The amount of contact between staffs of Reserve Banks and member banks will increase, and I would anticipate a considerably greater amount of reverification of data that will in the end prove to be accurate.

I must point out that, despite these efforts, no data flow system can be entirely safe from human error, and that in the short-run the Federal Reserve can do no more than ask banks to carefully recheck data that appear unusual. In this regard, I should note that Manufacturers Hanover—which has employed outside auditors to recheck their data—has advised the Federal Reserve that some further revisions in their October data, thought at this time to be minor, may soon be forthcoming. Such revisions, if they materialize, will be promptly reflected in the published data.

I fully appreciate your concern over this matter, which I share. I trust this letter clarifies the question involved.

Sincerely,

PAUL.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, of course, every Member of this body is aware of the Holocaust, that terrible act in which 6 million Jews perished at the hands of Nazis. There is no need to go into the gruesome details of that most heinous crime. Let it suffice to say that no one here would ever want to see such a horrible event occur again.

But in Cambodia today, a similar act is taking place. The Cambodian people are being allowed to die. They are sick and starving. Food and medical supplies have been cut off. It is estimated that over 3 million men, women, and children have already perished, and no end is in sight.

One important question is, how did the killing begin?

Mr. President, I do not think there are any fully satisfactory answers to that question. Perhaps future scholars will put these awful events in some historical perspective. The more important question for us is what we can do to prevent future Cambodias from occurring.

One thing we as Members of the Senate can do is ratify the Genocide Convention now. In ratifying the Genocide Convention, our Nation will not only officially take a stand, but we will help focus attention on the world's outcry against the violations of the most basic of human rights taking place in Cambodia and elsewhere. It is impossible to give too much publicity or attention to the Cambodian situation. The international outrage resulting from the mass murders in Cambodia can never be too great.

Mr. President, the strongest possible international commitment is necessary to combat genocide. The United States must remain a world leader in this fight. We must assert our leadership by ratifying the Genocide Convention and bring events such as Cambodia even more forcefully into the international conscience.

Mr. President, I thank the majority leader and yield the floor.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:40 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1037. An act to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits;

S. 1728. An act to designate the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, as the "John H. Wood, Jr., Federal Courthouse";

H.R. 4955. An act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia; and

H.J. Res. 68. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 184. Concurrent resolution providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws."

At 3:24 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. CHARLES H. WILSON of California, Mr. DAN DANIEL, Mr. CARR, Mr. STUMP, Mr. BOB WILSON, Mrs. HOLT, and Mr. ROBERT W. DANIEL, JR., were appointed as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; agreeing to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ADDABBO, Mr. FLOOD, Mr. GIAIMO, Mr. CHAPPELL, Mr. BURLISON, Mr. MURTHA, Mr. DICKS, Mr. WHITTEN, Mr. EDWARDS of Alabama, Mr. ROBINSON, Mr. KEMP, and Mr. CONTE were appointed as managers of the conference on the part of the House.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 209. Concurrent resolution authorizing the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 4930.

At 5:47 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House insists upon its amendments to the bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. UDALL, Mr. RUNNELS, Mr. MILLER of California, Mr. GUDGER, Mr. LUJAN, and Mr. MARRIOTT were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 440. Joint resolution further continuing appropriations for the fiscal year 1980, and for other purposes.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by its title and referred as indicated:

H.J. Res. 440. Joint resolution making further continuing appropriations for the fiscal year 1980, and for other purposes; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 184. Concurrent resolution providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws"; to the Committee on Rules and Administration.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 13, 1979, he presented to the President of the United States, the folowing enrolled bills:

S. 1037. An act to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits; and

S. 1728. An act to designate the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, as the "John H. Wood, Jr., Federal Courthouse."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2459. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, a report on final allocations of commodities under Title I of Public Law 480 for fiscal year 1979; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2460. A communication from the First Vice President and Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving United States exports to Lebanon; to the Committee on Banking, Housing, and Urban Affairs.

EC-2461. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving United States imports to Canada; to the Committee on Banking, Housing, and Urban Affairs.

EC-2462. A communication from the Vice President for Governmental Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of persons on board and the on-time performance of each train operated by the Corporation for the months of June and July 1979; to the Committee on Commerce, Science, and Transportation.

EC-2463. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the six month review of Program Implementation of the Highway Bridge Replacement and Rehabilitation Program; to the Committee on Environment and Public Works.

EC-2464. A communication from the Assistant Secretary of the Treasury for Legislative Affairs and the Assistant Secretary of State for Congressional Relations, transmitting, pursuant to law, a report regarding human rights under Title I of Public Law 95-118; to the Committee on Foreign Relations.

EC-2465. A communication from the Assistant Legal Advisor for Treaty Affairs of the Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to November 8, 1979; to the Committee on Foreign Relations.

EC-2466. A communication from the Assistant Attorney General for Administration, transmitting, pursuant to law, a proposed new system of records for the Department of Justice under the Privacy Act; to the Committee on Government Affairs.

EC-2467. A communication from the Assistant Attorney General for Administration, transmitting, pursuant to law, a report on a proposed new system of records for the Department of Justice under the Privacy Act; to the Committee on Governmental Affairs.

EC-2468. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the second report to the Congress on the National Center for the Prevention and Control of Rape; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SASSER:

S. 2000. A bill to repeal the carryover basis provisions of the Tax Reform Act of 1976; to the Committee on Finance.

By Mr. DOLE:

S. 2001. A bill to extend the tax treatment of certain government health provision scholarship programs; to the Committee on Finance.

By Mr. TSONGAS:

S. 2002. A bill to amend the Consumer Credit Protection Act to prohibit the use of the "Rule of 78's" in the computation of the rebate of unearned interest in precomputed consumer credit transactions with terms greater than 36 months; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BIDEN:

S. 2003. A bill relating to the White Clay Creek Watershed in the States of Delaware and Pennsylvania; to the Committee on Environment and Public Works.

By Mr. WILLIAMS:

S. 2004. A bill entitled the "Public Transportation Energy Conservation Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EAGLETON:

S. 2005. A bill to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S.J. Res. 120. Joint resolution to designate the week of December 2, 1979, as "Respiratory Therapy Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SASSER:

S. 2000. A bill to repeal the carryover basis provisions of the Tax Reform Act of 1976; to the Committee on Finance.

REPEAL CARRYOVER BASIS

● Mr. SASSER. Mr. President, before the year is out Congress must decide the fate of the carryover basis provisions adopted as part of the Tax Reform Act of 1976. I feel that the inclusion of such legislation in the act was a mistake and today I am introducing legislation to nullify that action.

Mr. President, under the old law, capital gains liability on inherited property was the difference between the price for which the heir sold the property and its value on the day it was inherited. Under the carryover basis provisions, the gain is the difference between this sale price and the value of the property when the deceased person bought it.

Obviously, this longer time period would result in a greater gain and a greater gain would mean a higher tax. In the case of a farm or a small business that may have grown over a period of decades this difference is considerable. Add to this even a small amount of inflation and the difference can be staggering. Taxpayers are put in the position of being able to leave much less to their children.

When someone dies, generally his or her estate faces substantial obligations. The person's debts, estate and inheritance taxes, and administrative expenses must be paid soon after death. Often part of the estate must be liquidated just to provide cash to meet these obligations. Carryover basis exacerbates the cash shortage by adding the additional obligation of capital gains tax liability.

Carryover basis is also extremely complex. It can defy even the most sophisticated tax expert. Collecting information on the values of assets—many of which have been held for decades or a lifetime—is difficult if not impossible. The most conscientious taxpayers have difficulty maintaining good records. The problem a generation later is still more difficult.

This complexity is not limited to estates that incur large capital gains. Each person owning property, no matter how little, must keep detailed records available to survivors at death.

The problems of carryover basis are not limited to individuals. Small businesses and family farms are also vulnerable. Carryover aggravates the problem of the increasing concentration of wealth and power in fewer and fewer big corporations.

The incentives to start or maintain a family business are greatly diminished. The sale of the business, even to a family member, has been made more costly and therefore less desirable. The alternative to merge the business with a larger publicly held corporation will be made more attractive. Those who inherit farmland originally purchased for a fraction of its present value suffer because the price of the land is often based on its speculative value and not its producing potential.

The legislative history of carryover basis provides a clue as to how this unwise and unworkable measure was enacted into law. There was no House action on the issue at all. There was no consideration of the matter by the Senate Finance Committee or indeed by the full Senate. Instead, carryover basis was brought up in conference between the House and Senate after the tax bill had passed both bodies.

This abbreviated process and lack of deliberation is readily apparent to those in positions to deal with carryover on a day to day basis. In addition to the many individual constituents who have written to me, I have also consulted practitioners in the field. Attorneys, bankers and accountants have all strenuously objected to carryover as impossible to administer. Their complaints range from personal frustration over attempts to apply the carryover rules to concern for the expense carryover basis caused their clients.

These same groups already feel they are suspended in a sea of government rules and regulations they do not understand. They already are crying out for relief from the arbitrary actions of Federal agencies and too often from the Congress. We have a chance to rectify an intolerable situation that we have created.

Mr. President, I supported and voted for action in the last Congress to delay the implementation date of carryover basis to January 1, 1980. I took that position because I felt that the provisions were unworkable. They are still unacceptable and I strongly support a change and urge my colleagues in the Senate to do the same.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsections (a), (d), and (e) of section 2005 of the Tax Reform Act of 1976 (relating to carryover basis), and subsection (a), paragraphs (2) through (9) of subsection (c), and paragraphs (1) and (3) of subsection (r) of section 702 of the Revenue Act of 1978, and the amendments made by those subsections or paragraphs are hereby repealed.

(b) Except to the extent necessary to carry out subsection (d), the Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by those provisions, had not been enacted.

(c)(1) Subsection (c) of section 1016 of the Internal Revenue Code of 1954 (relating to increase in basis in case of certain involuntary conversions) is amended to read as follows:

"(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—

"(1) IN GENERAL.—If—

"(A) there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property, and

"(B) an additional estate tax is imposed on such conversion under section 2032A(C),

then the adjusted basis of such property shall be increased by the amount of such tax.

"(2) TIME ADJUSTMENT MADE.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.".

(2)(A) Section 1040 of such Code (relating to satisfaction of a pecuniary bequest) is amended to read as follows:

"SEC. 1040. USE OF FARM, ETC., REAL PROPERTY TO SATISFY PECUNIARY BEQUEST.

"(a) GENERAL RULE.—If the executor of the estate of any decedent satisfies the right of a qualified heir (within the meaning of section 2032A(e)(1)) to receive a pecuniary bequest with property with respect to which an election was made under section 2032A, then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).

"(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a qualified heir has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with property with respect to which an election was made under section 2032A.

"(c) Basis of Property Acquired in Exchange Described in Subsection (a) or (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange increased by the amount of the gain recognized to the estate or trust on the exchange.".

(B) The item relating to section 1040 in the table of sections for part III of subchapter O of chapter 1 of such Code is amended to read as follows:

"SEC. 1040. USE OF FARM, ETC., REAL PROPERTY TO SATISFY PECUNIARY BEQUEST.".

(3) The second sentence of section 2614 (a) of such Code (relating to special rules for generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided under section 1014(a).".

(d) Notwithstanding any other provision

of law, in the case of a decedent dying after December 31, 1976, and before November 7, 1978, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1954) of such decedent's estate may irrevocably elect, within 120 days following the date of enactment of this Act and in such manner as the Secretary of the Treasury shall prescribe, to have the basis of all property acquired from or passing from the decedent (within the meaning of section 1014 (b) of the Internal Revenue Code of 1954) determined for all purposes under such Code as though the provisions of section 2005 of the Tax Reform Act of 1976 (as amended by the provisions of section 702(c) of the Revenue Act of 1978) applied to such property acquired or passing from such decedent.

Sec. 2. The amendments made by this Act shall apply to estates of decedents dying after December 31, 1976.●

By Mr. DOLE:

S. 2001. A bill to extend the tax treatment of certain government health provision scholarship programs; to the Committee on Finance.

TAX EXEMPTION FOR STUDENT SCHOLARSHIP RECIPIENTS

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to again introduce legislation to prevent the taxation for amounts received by individuals participating in the Public Health Service/National Health Service Corps scholarship program and in the Armed Forces health professions scholarships program.

PROGRAM HISTORY

In 1972, Congress passed legislation that recognized two major areas of concern. First, the health manpower shortage in certain medically needy communities and second, the need to insure that there were sufficient health professionals to care for our military personnel and their families. In that year, the Emergency Health Personnel Act amendments, Public Law 92-585, and the Uniformed Service Health Professions Revitalization Act of 1972, Public Law 92-426, became law. These new laws created two scholarship programs designed to support the training of health professions students in return for certain service commitments. The programs that were authorized were: The Armed Forces health professions scholarship program—AFHPSP—and the Public Health Service/National Health Service Corps scholarship program. The programs have done an admirable job of accomplishing the goal of providing health professionals to underserved communities and to the military.

SCHOLARSHIPS AIMED AT PUBLIC GOOD

It has been said that, "both the scholarship programs are publicly funded programs which have vital social goals. The principal beneficiaries of these programs are intended to be the American people—the taxpayers themselves who will receive the benefit of needed health services. It is essential that these programs remain viable and attractive to students entering health careers so that the public service goals can be achieved."

The Armed Forces health professions scholarship program will have its work cut out—even more so because we have removed one of the more attractive incentives, tax exclusion for the scholarship moneys.

PROBLEMS WITH TAXATION

The Public Health Service/National Health Service Corps is in the same predicament. Having lost tax exclusion status for its scholarship program, it too has experienced difficulties in recruiting students. This situation has occurred only recently and was certainly not the original intent of the Congress.

Subject to certain limitations, the tax code provides that gross income of an individual does not include any amount received as a scholarship at an educational institution or as a fellowship grant.

Whether an amount received by an individual is excludable from gross income depends upon the facts and circumstances under which the payment is made.

The regulations provide that any amount or amounts paid or allowed to, or on behalf of, an individual to enable the individual to pursue studies or research shall not be considered to be an amount received as a scholarship or fellowship grant if such amounts represent compensation for past, present, or future services. The Internal Revenue Service has ruled that the Armed Forces health professions scholarship program—AFHPSP—and the National Health Service Corps meet this definition and thus amounts received from the programs should be included as gross income. Recognizing the special nature of these programs, Congress passed legislation that exempted amounts received under the Armed Forces health professions scholarship program or any similar program.

This legislation expired in 1975 but the Tax Reform Act of 1976 contained a limited extension of the tax exclusion for those students who were participating in the program in calendar year 1976. We again extended the exclusion for 2 years.

During discussions on the 1976 Tax Reform Act, it was decided to continue the exclusion of these scholarships from gross income pending a thorough staff review of the appropriate tax treatment of the grants in view of the overall national policy toward the military—and other uniformed services—health professions programs. This study has not yet been done.

Without further action on our part, students entering these programs in 1980 will be taxed on all amounts received from these programs. My proposal would provide for an additional 1-year exemption. In addition, Mr. President, my amendment would also protect those who participate in the National Research Services award.

CONCLUSION

During this time, the Senator from Kansas hopes that the Joint Committee on Taxation will have an opportunity to complete their study of this area, and come forward with a cohesive policy for the future.

Mr. President, I believe it is in the best interests of the public to continue to support these programs by providing for this tax exclusion designed to provide health professionals to the medically underserved and the military.

I urge my colleagues to give this matter their attention.●

By Mr. TSONGAS:

S. 2002. A bill to amend the Consumer Credit Protection Act to prohibit the use of the "Rule of 78's" in the computation of the rebate of unearned interest in precomputed consumer credit transactions with terms greater than 36 months; to the Committee on Banking, Housing and Urban Affairs.

Mr. TSONGAS. Mr. President, I rise today to offer legislation to restrict an archaic lending practice which is costing unsuspecting U.S. borrowers tens of millions of dollars annually.

The practice I refer to is known, within banking circles, as the "rule of 78." It was initially used in this country in the 1930's as a shorthand arithmetic method for computing the unearned interest portion of precomputed consumer loans which had been prepaid or refinanced.

Its early acceptance was based upon the assumption that it represented a close approximation of the interest rebate provided by the universally recognized "actuarial" method in short-term consumer loans. Over the years, however, as consumer lending expanded into longer repayment periods and larger sums for personal loans, the use of the "rule of 78" has also expanded.

Today it is the predominant method used to determine rebates upon prepayment of consumer debts.

Unfortunately for tens of thousands of borrowers, the use of the "rule of 78" becomes grossly distorted when applied to longer term consumer loans. The result is that borrowers who prepay or refinance a longer term consumer loan, such as home improvement, second mortgage or mobile home purchases, may be subject to a substantial undisclosed interest penalty.

Permit me to offer two recent examples of the severe economic injury that can be visited upon an unsuspecting borrower by lenders who employ this practice.

In 1974, a Goshen, Ind. family borrowed $18,000 under a 15 year loan agreement with an interest rate of 18 percent (APR). After 4 years of monthly payments, the family decided to prepay the loan. They were shocked when the finance company informed them that they owed $19,993.

This payout figure represented nearly $2,000 more than they had borrowed 4 years earlier.

The undisclosed interest penalty resulting from the lender's use of the "rule of 78" cost this Indiana family more than $3,000.

Another case, illustrating the extent of economic injury that can and does occur on a frequent basis to consumer borrowers, involved a family from my own State. In 1974, a young couple from East Long Meadows, Mass. borrowed $9,700 from a local saving bank. The loan was for 12 years with an interest rate of 12 percent (APR). After making 4 years of monthly payments of $128 per month, the couple paid off the loan in 1978. They were dismayed to learn that 4 years of payments had reduced the principal by a much smaller amount than they had anticipated. Only later did they discover that the lender's use of the "rule of 78" had resulted in an undisclosed prepayment penalty of $582.

Mr. President, I wish to emphasize that these families received absolutely no forewarning, of the penalty that would be imposed under the "rule of 78." Absurd as it may seem, truth-in-lending has never required lenders to disclose the potential for prepayment penalties under the "rule of 78." Lenders need merely disclose the fact that the "rule of 78" may be employed upon prepayment to calculate the unearned interest.

In recent years, as repayment schedules for home improvement, second mortgage, and mobile home loans have extended up to 10, 15, and even 20 years, the distortions and unconscionable interest penalties which accompany the use of the "rule of 78" have become more evident. Federal and State regulatory agencies are receiving an increasing number of complaints from borrowers who have made a number of monthly payments only to discover, upon prepayment or refinancing of a loan, that their payments had little, if any, appreciable impact upon the principal. Federal and State agencies have also been hard pressed to explain the legality of those cases where the loan principal actually increased after several years of payments.

For every case where the borrower detects the interest penalty imposed by the rule, there are thousands of other borrowers injured by this archaic practice who may be unaware of the excess interest they have been required to pay.

I submit to you that it is time that we eliminate the hidden interest penalties connected with this archaic lending practice. Mr. President, the bill which I submit today will prohibit the use of the "rule of 78" in consumer transactions which extend beyond 36 months. In contracts over 36 months, lenders will be required to provide a rebate based upon the far more equitable actuarial method when computing unearned interest and insurance premiums upon prepayment of a precomputed consumer transaction.

The elimination of the "rule of 78" in contracts over 36 months recognizes the injury caused by the use of this practice in longer term transactions.

Mr. President, this bill will effectively correct a longstanding lending abuse.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 1 of title I of the Consumer Credit Protection Act is amended by adding at the end thereof the following:

"§ 116. Rebate of unearned interest.

"(a) If a consumer prepays in full a consumer credit transaction, the creditor or any assignee shall promptly refund any unearned portion of the finance charge together with any unearned portion of the insurance premium, except that a refund of a finance charge or an insurance premium of less than $1 need not be made.

"(b) For the purpose of calculating the refund of the unearned portion of the finance charge or unearned insurance premiums required by this section for any precomputed consumer credit transaction which is repayable according to its terms over a period of more than 36 months or for any other transaction if the parties so agree, the creditor of any assignee shall compute the refund based on a method which is at least as favorable to the consumer as the actuarial method in accordance with regulations of the Board. The creditor may collect or retain a minimum charge not exceeding $7.50 if provided for by State law and by the contract relating to the transaction.

"(c) Within 5 days of receipt of an oral or written request from a consumer for the disclosure of the amount due on any precomputed consumer credit account, the creditor or assignee shall provide the consumer with a statement of the amount due after deduction of the finance charge and insurance premiums required by this section. If the customer's request is oral, the statement may be oral. If the customer's request is written, the statement shall be written. A consumer is entitled to be provided one statement each year without charge. The creditor may impose a reasonable fee to cover the cost of providing any additional statement requested, and the charge for any additional statement shall be disclosed to the consumer prior to furnishing such statement.

"(d) For the purpose of this section—

"(1) a prepayment includes a voluntary prepayment by the consumer, any refinancing, consolidation, or rewriting of the transaction, or acceleration of the obligation to repay indebtedness; and

"(2) the term 'actuarial method' means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed. The Board may adopt rules further defining the term and prescribing its application.".

(b) The table of sections of title I of the Consumer Credit Protection Act is amended by adding at the end thereof the following new item:

"116. Rebate of unearned interest.".

By Mr. BIDEN:

S. 2003. A bill relating to the White Clay Creek Watershed in the States of Delaware and Pennsylvania; to the Committee on Environment and Public Works:

WHITE CLAY CREEK WATERSHED STUDY ACT

● Mr. BIDEN. Mr. President, today I am introducing the White Clay Creek Watershed Study Act.

For more than a decade, there has been a determined effort by many citizens of Delaware to rescue an area of substantial beauty and ecological value—the White Clay Creek Watershed. The White Clay Creek, through the years, has been threatened by proposals to dam the creek in order to provide a water supply source for New Castle County and by a plan to build a highway beltway to relieve Newark's (Delaware) traffic problem. Determined groups of people fought these various proposals, largely discrediting them. As a result, the watershed has remained a largely undeveloped area, containing natural values that are most certainly worth our preserving, particularly because of the watershed's proximity to a highly urbanized area populated by several hundred thousand people.

This act authorizes the Secretary of the Interior to initiate a study of the White Clay Creek Watershed, assessing its natural attributes, and designing a conservation plan that would preserve those natural attributes. I feel quite strongly that such natural areas ought to be protected, especially those natural areas in the midst of highly urbanized areas, like the White Clay Creek. That is why I take this first step toward protection today.

I make this request for two reasons:

First. The White Clay Creek Watershed possesses scenic, wildlife, and recreational values worthy of assessment, and eventually, of preservation and protection; and second, the watershed is located in two States—Delaware and Pennsylvania. Delaware is located in the industrial northeast. It possesses precious few natural areas like the White Clay Creek Watershed. It seems good policy, to me, to retain just a small portion of that land and maintain those natural attributes. We ought to set aside portions of these natural lands where children can come to learn to swim, where fishermen can fish for trout, and where just plain folk can come and see a white-tailed deer.

In addition, because the States of Delaware and Pennsylvania share the White Clay Creek Watershed, the Federal Government should become involved. That watershed should be considered as one entity, but there is no appropriate regional governmental structure capable of looking at the entire picture. In addition, the Department of the Interior has professional resources for such a study not available to my State of Delaware.

In my efforts to assure conservation of this area, I first approached the Department of the Interior. I asked the Secretary to help me explore the possibilities of including the White Clay Creek—including Middle Run Valley—and its tributaries in the National Wild and Scenic Rivers System. The northeastern region of the Heritage Conservation and Recreation Service did include the White Clay system in its rivers inventory process. Although this preliminary study did not recommend inclusion in the Wild and Scenic Rivers System, the response I received from the Heritage Conservation and Recreation Service did contain the following paragraph which forms the basis of this legislation:

Although it doesn't appear to be a candidate for the National Wild and Scenic Rivers System, we feel that there is still a great potential to develop a worthwhile conservation strategy for the White Clay Creek. The dedication of the people concerned with its future is remarkable and provides a solid foundation for stream protection. We do not wish to place a damper on their activities and we would like to help these individuals and organizations in any way we can. We do feel responsible, however, to provide you with our honest appraisal of what is the most feasible option available in the long term.

Assistant Secretary (for Fish and Wildlife) of the Interior Robert Herbet said it best, and said it briefly, in remarks before the Alabama Conservancy on February 24, 1973:

There also emerged a need/discovered during the investigation of the River Protection Task Force, which drew members from the American Rivers Council, the Natural Resources Defense Council, an outside consultant, and Bureau of Outdoor Recreation staff (now the Heritage Conservation and Recreation Service of the Department of the Interior) to provide recreational rivers near urban centers wherever those possibilities exist.

Those possibilities exist in the White Clay Creek Watershed.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "White Clay Creek Watershed Study Act".

SEC. 2. As used in this Act, the term "White Clay Creek Watershed" means the area within the States of Delaware and Pennsylvania comprising approximately forty miles of the White Clay Creek and its tributaries as well as the Middle Run Valley and including the following:

(1) MAIN STEM.—Approximately five and one-half miles from Pennsylvania border to Kirkwood Highway, plus eight unnamed tributaries varying from one half to one and one-half miles each, totaling approximately seven and one-half miles, all in the State of Delaware;

(2) MIDDLE RUN.—Approximately four and one-half miles north of confluence with Main Stem at Kirkwood Highway, in the State of Delaware;

(3) MAIN STEM.—One mile from the Delaware border within the State of Pennsylvania;

(4) WEST BRANCH.—Approximately six miles to New London Township in the vicinity of New London, in the State of Pennsylvania;

(5) MIDDLE BRANCH.—Approximately six miles to southern border of West Grove, plus the Indian Run tributary for one mile and an unnamed tributary flowing from near Jennersville for one and one-half mile, all in the State of Pennsylvania;

(6) EAST BRANCH.—Approximately five miles to southern boundary of Avondale, plus the Egypt Run tributary for one and one-half miles, and an unnamed tributary joining from the west for one half mile, all in the State of Pennsylvania; and

(7) BROAD RUN.—Approximately three and one-half miles to Kaolin, plus the Walnut Run tributary for one mile and an unnamed tributary joining from the southeast for one mile, all in the State of Pennsylvania.

SEC. 3. (a) The Secretary of the Interior shall prepare and, after appropirate public hearings (one of which shall be held within the area comprising the White Clay Creek Watershed), submit to the Congress, within the twelve-month period following the date of enactment of this Act, a plan to conserve the natural resource values of the White Clay Creek Watershed. If the Governor of the State of Delaware or the State of Pennsylvania wishes to participate in the preparation of such plan, the Secretary of the Interior, and the officers and citizens of any such State designated by the Governor thereof, shall jointly prepare such plan. If either such Governor elects not to participate, the Secretary shall consult with such Governor during the preparation of such plan.

(b) The plan submitted to the Congress pursuant to this Act shall—

(1) provide for a resource assessment of the White Clay Creek Watershed. Such resource assessment shall include, but not be limited to—

(A) water supply and water quality;

(B) natural hazards, including fire;

(C) endangered, unique, and unusual animals, fish, and biotic communities;

(D) air quality;

(E) scenic, aesthetic, and open space resources of the White Clay Creek Watershed, together with a determination of the overall policies required to maintain and enhance these resources;

(F) the outdoor recreation resources and potentials, together with a determination of policies required to utilize, protect, and enhance these resources and potential; and

(G) existing land use patterns throughout the White Clay Creek Watershed, as well as alternative beneficial uses thereof.

(2) propose boundaries (which shall be based upon the assessments referred to in paragraph (1) of this subsection of—

(A) the overall area of the White Clay Creek Watershed which should be comprehensively managed so as to conserve, protect, or enhance the ecological, wildlife, historical, agricultural, and educational resources of the White Clay Creek Watershed, and

(B) those subareas within such Watershed which are of critical ecological importance and with respect to which immediate actions should be taken by the State or Federal Government, or both, in order to protect such subareas from uses which are incompatible with the conservation, protection, and enhancement of the nautral resource values of the White Clay Creek Watershed.

(3) recommend State and Federal actions which should be implemented to conserve, protect, and enhance the natural resource value of the White Clay Creek Watershed.

(C) The plan submitted to the Congress pursuant to this Act shall not taxe effect until after the expiration of the one-hunderd-and-eighty-day period following the date of such submission.

SEC. 4. There is authorized to be appropriated to the Secretary of the Interior such sum, not to exceed $500,000, as may be necessary to carry out the planning activities required under section 3(b), and eo enable the Secretary to reimburse the States of Delaware and Pennsylvania for reasonable costs incurred by such States in participating in the joint preparation of the plan established pursuant to this Act.●

By Mr. WILLIAMS:

S. 2004. A bill entitled the "Public Transportation Energy Conservation Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

EMERGENCY PUBLIC TRANSPORTATION ENERGY CONSERVATION ACT OF 1979

● Mr. WILLIAMS. Mr. President, the purpose of this bill can be easily stated. It would amend the Urban Mass Transportation Act of 1964 to authorize appropriations from the revenues of the windfall profits tax to be used to fund transportation projects which increase energy efficiency or decrease our dependence on foreign oil. This amendment would authorize an additional $1,150,000,000 in fiscal year 1980. This increase will permit supplemental appropriations to be made this year for energy efficient public transportation once a transportation trust fund is created later this year. The money would be used to make grants and loans to local public bodies to purchase transit equipment such as buses and railcars and construct new facilities. The program requirements of the existing UMTA discretionary grant program (section 3) would be used to govern the program.

Mr. President, the Surface Transportation Assistance Act of 1978 (Public Law 95-599) extended the basic features of the Urban Mass Transportation Act of 1964 and provided authorizations for public transportation through fiscal year 1983. The discretionary capital grant program contained in section 3 of the basic act, which is the subject of this emergency legislation, funds the construction of new fixed guideways and extensions of existing systems and the modernization of existing mass transit facilities and equipment. But any bus-related purchases are eligible under the capital grant program.

Mr. President, it appears that the President and the Congress recognize like never before the need for improvements in the Nation's mass transportation systems as a centerpiece in our battle to conserve scarce energy. Transportation in all its forms uses 52 percent of the total petroleum used in the United States each day, with the largest share—80 percent—being consumed by highway vehicles. The private automobiles alone account for more than one-third of our total consumption. Too often Americans resort to the convenience of the private automobiles for the most routine purposes and too frequently they are traveling alone.

Mr. President, the only way we can make a significant dent in unnecessary private automobile use is by encouraging increased use of energy-efficient public transportation. The New York Times reported recently that public transportation ridership has increased steadily over the past 25 months. More importantly, it was reported that this increase is permanent.

Mr. President, to continue this trend, our antiquated systems must be rehabilitated and new equipment must be put in service to accommodate the additional demand which we can expect as a result of future energy shortfalls. With the prospect of continuing tight energy supplies, and with the emphasis on energy conservation, it is fundamental that we improve the capacity of our public transportation systems to carry the increasing number of Americans who are expected riders.

Mr. President, the focus of the program over the years was to prevent the failure of privately-owned and operated transit companies. But last year we began to shift the emphasis in the program to provide financial assistance to allow existing transportation systems to be modernized, new systems to be constructed, and for communities who had not previously considered public transportation programs to be eligible to participate. The current level of Federal funding is inadequate to permit the large-scale improvements necessary to create a public transportation capacity in the United States that is extensive, modern, and reliable.

President Carter's transportation energy initiative recognizes the inadequacy

of our current support for an effective public transportation program. Thus, the administration has proposed to increase funding for public transportation capital projects from the proposed windfalls profits tax. However, the President's specific recommendation did not arrive in time to permit its consideration in the context of S. 932.

Mr. President, I support the President's long overdue realization that public transportation in the United States can contribute to the national goal of energy conservation. I applaud his recognition that we as a nation will have to rely even more in the future on public transportation to gain ground in the struggle against energy independence. And the Subcommittee on Housing and Urban Affairs will begin work early next year on a top-to-bottom review of the existing program at which time the President's detailed legislative recommendations can be given full consideration by the Congress.

In the meantime, until major changes in the programs can be undertaken, I believe it is necessary to inject additional funds into the program immediately to finance ongoing capital improvements in our bus and rail systems. For too long, necessary projects have been proceeding slowly or not at all because of a lack of assured and adequate funding as a result of restrained budget requests from the administration.

The purpose of this bill is to raise the authorization for the section 3 program for the current fiscal year. Once this is accomplished, it will be possible to consider supplemental appropriations later in the year that will allow governments at all levels to begin implementing comprehensive energy conservation strategies.

Mr. President, if Congress is to attack our energy problems, we should attack it on every front. This bill will facilitate our efforts later this year to immediately deploy more public transportation equipment and provide better service, thus reducing our dependence on foreign produced petroleum.

This amendment is an emergency measure for this fiscal year to insure that the portion of the windfall profits tax which the Finance Committee reserved for transit purposes can be used to make transit grants quickly. Enactment of this 1-year measure will allow the expanded transit program to be undertaken immediately, while still giving the Congress the time that we need to make a comprehensive assessment of the kind of UMTA program that will be required in future years. I want to emphasize to my colleagues that this authorization contemplates and requires the enactment of a windfall profits tax. If the tax is not passed, this amendment will not become effective.

I ask unanimous consent that the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Emergency Public Transportation Energy Conservation Act of 1979."

Section 101(a). Section 4(c) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new paragraph:

"4(c)(4) To finance grants and loans under section 3 of this Act, there are authorized to be appropriated from tax receipts earmarked for energy efficient transportation which have been placed in a trust fund additional sums not to exceed $1,150,000,000 for the fiscal year ending September 30, 1980. Appropriations pursuant to the authority of this paragraph shall remain available for three years following the close of the fiscal year for which such appropriation is made. Grants and loans financed under this paragraph shall be subject to the aggregate restriction of section 4(c)(3)(B).●

By Mr. EAGLETON:

S. 2005. A bill to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately; to the Committee on Governmental Affairs.

● Mr. EAGLETON. Mr. President, on November 9 I introduced legislation, S. 1999, dealing with the serious situation in the District of Columbia precipitated by the decision of the Federal National Mortgage Association (Fannie Mae) to cut off mortgage money in the District.

S. 1999 remedies the current situation by waiving the usual period provided for congressional review of District legislation to enable legislation passed by the District raising the maximum interest rate from 11 percent to 15 percent to take immediate effect. S. 1999 also amends the Home Rule Act to dispel uncertainty and confusion surrounding the District government's use of emergency legislation—the indirect cause of the current crisis. A detailed discussion of the legislation and the factual situation can be found in the RECORD for November 9, beginning at page S14657.

Because of the urgency of this matter, the Subcommittee on Governmental Efficiency and the District of Columbia will hold a hearing on my legislation and S. 1992, a bill introduced by Senator MATHIAS, on Wednesday, November 14, at 2 p.m., in room 3302, Dirksen Senate Office Building. I hope my colleagues will lend their support for rapid legislative action to deal with this problem.

Since the introduction of S. 1999, I have become aware of the need for several technical amendments to the bill, owing in part to a drafting error. For the sake of clarity, I am introducing today a clean bill making the necessary corrections, and I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act shall not apply to the Interest Rate Modification Act of 1979 (District of Columbia Act 3-119) passed by the Council of the District of Columbia on November 6, 1979, and signed by the Mayor of the District of Columbia on November 6, 1979, and such District of Columbia act shall become law on the date of the enactment of this Act, notwithstanding section 404(e) of the District of Columbia Self-Government and Governmental Reorganization Act and any provision to the contrary in such District of Columbia act.

SEC. 2. (a) Section 412(a) of the District of Columbia Self-Government and Governmental Reorganization Act is amended (1) by designating the existing text as paragraph (1); (2) by deleting "ninety days" and inserting in lieu thereof "one hundred and eighty days"; and (3) by adding at the end thereof the following new paragraph:

"(2) In no case shall any emergency act be passed by the Council arising out of or in connection with any emergency situation if such act is for the same purpose and covers, in whole or in part, the same subject matter as any prior emergency act and is based on the same emergency as that on which such prior act was based.".

(b) Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end thereof the following new subsection:

"(d) Except as provided in this subsection, in any case in which an act is passed pursuant to subsection (a)(1) of this section on the basis of an emergency, such emergency act, including all amendments thereto, shall terminate on the date of termination provided in such act, or upon the expiration of the one hundred and eighty day period following the date of passage of such emergency act, whichever first occurs. In any case in which the Council, during such one hundred and eighty day period, passes and transmits to the Speaker of the House of Representatives and the President of the Senate an act under the regular order for the same purpose, and covering and limited to the same subject matter, as that contained in such emergency act, and the Congress adjourns sine die prior to the termination of the thirty day period provided in section 602(c)(1) of this Act for the consideration by Congress of such act of Council, the emergency act of Council shall remain effective until after the expiration of such thirty day period, unless the Congress, during such thirty day period, adopts a concurrent resolution disapproving such act.".●

By Mr. DOMENICI:

S.J. Res. 120. Joint resolution to designate the week of December 2, 1979, as "Respiratory Therapy Week"; to the Committee on the Judiciary.

RESPIRATORY THERAPY WEEK

● Mr. DOMENICI. Mr. President, I am sending to the desk a resolution which would, if enacted, proclaim the week of December 2, 1979, as Respiratory Therapy Week.

By designating the first week in December as Respiratory Therapy Week, we call attention to one of the major health problems facing Americans. This is an appropriate time for such a designation in light of the fact that it will coincide with the 25th Annual Convention of the American Association for Respiratory Therapy which will convene here in Washington during that week.

I believe, Mr. President, that we have been slow in this country to recognize the full significance of occupational hazards which affect a persons ability to breathe. A few years ago, Congress wrestled with the issue of black lung and enacted a major program to meet the needs of its victims. We are now hearing increasing talk about other industrial problems such as brown lung. I recently held a hearing in Grants, N. Mex., where we focused on the respiratory diseases

which frequently afflict uranium miners. In addition, there are many congenital respiratory diseases which afflict children and seem unrelated to environmental factors.

I believe that this particular health problem has reached the proportions in this country that warrant focusing more attention on it at the national level. I believe that designating the week of December 2 as Respiratory Therapy Week will help to publicize this problem and, in doing so, contribute to the ongoing effort to combat these various disorders.

Mr. President, I would urge our distinguished colleagues on the Senate Judiciary Committee to give prompt and favorable consideration to this resolution.●

ADDITIONAL COSPONSORS

S. 1724

At the request of Mr. WILLIAMS, the Senator from Delaware (Mr. BIDEN), the Senator from Michigan (Mr. RIEGLE), and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 1724, the Home Energy Assistance Act.

S. 1953

At the request of Mr. YOUNG, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 1953, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour.

S. 1965

At the request of Mr. RIEGLE, the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 1965, the Chrysler Corporation Loan Guarantee Act of 1979.

S. 1977

At the request of Mr. PACKWOOD, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 1977, a bill to amend the Social Security Act regarding title XVIII, medicare home health programs.

SENATE CONCURRENT RESOLUTION 49—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE IRANIAN CRISIS AND THE WORLD RESPONSE

Mr. DOLE submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 49

Whereas the Executive Branch is undertaking efforts to communicate with such authority as exists in Iran to ease the current actions taken by the Revolutionary government of the Islamic Republic of Iran;

Whereas these actions by the Revolutionary government of Iran are in direct violation of established international norms of conduct and are a serious threat to the safety and well-being of Americans in Iran;

Whereas this is a matter which affects the interest of the entire world not only the interests of the United States; and

Whereas the United Nations Security Council has condemned these actions of the Revolutionary Government of the Islamic Republic of Iran: Now, therefore be it resolved by the Senate (the House of Representatives concurring) that—

SEC. 1. (1) The Congress hereby supports the actions of the President in attempting to secure the release of all American citizens and hereby condemns the actions taken by the Revolutionary Government of Iran with respect to American citizens in Iran;

(2) It is the Sense of the Congress that—

(a) the President should take whatever appropriate action deemed necessary to enlist the support of the international community in securing the release of all Americans held hostage in Iran and exhibit world solidarity on this issue by:

(1) closing their embassies and withdrawing their diplomatic personnel from Iran, suspending diplomatic relations until the hostages are released; and by

(2) imposing a unified, voluntary world embargo on the purchase of Iranian crude oil; until the government of Iran guarantees that all diplomats will be given immunity in accordance with the Vienna Convention on Diplomatic Relations of 1961.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this concurrent resolution to the President.

THE IRANIAN CRISIS AND THE WORLD RESPONSE

● Mr. DOLE. Mr. President, since the Iranian crisis began over a week ago, I have followed very closely this tense and critical situation. It has seemed to me that once again the United States finds itself and the lives of some of its citizens held hostage to the fanatical and unreasonable demands made by political extremists of the Third World. I have purposely limited the scope of my remarks, not wishing to exacerbate the delicate balance between life and death faced by our diplomatic personnel in Tehran. When dealing with unstable elements, we must tread warily, or risk everything.

This is not a time for partisan politics or for taking political potshots at the administration. Today, I sent a telegram to all Presidential candidates urging them to join me in supporting the President during this time of crisis and to stand behind him in any firm action he may deem necessary. We must present a firm, united, and bipartisan front in this dangerous situation. I ask unanimous consent that the text of this telegram be printed at this point in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TELEGRAM TO ALL PRESIDENTIAL CANDIDATES

I believe it would be helpful if the major Presidential candidates indicated their support for President Carter during this difficult period. This would demonstrate to the world that America is united behind the President and would strengthen his hand in dealing with the Iranian situation. It is time to indicate that we would support the President in taking whatever firm action he deems appropriate. Let's join together in supporting the President during this critical period. Thank you.

Mr. DOLE. The President has taken an important step in resolving this crisis by halting the purchase of Iranian oil. There comes a time in a crisis when doing nothing that might be abrasive becomes not doing anything at all and results in accomplishing nothing. A crisis does not just call for calm, but for cool-headed and decisive action. Delay could lead to failure and the death of our people in Iran. With what does the United States have to bargin with these mob-led students? What pressure can we bring to bear to alter the balance in our favor? With whom do we deal in Iran that words of reason and logic can reach?

The United States and its Senate can deliver a message to those attempting to control events in that country. If the Ayatollah Khomeini is able to direct the actions of his followers, then we can send him a message that will make clear, for the first time, what this Senator believes the United States can do, and ought to do, in response to this flagrant and inhumane breach of international law and custom.

Mr. President, today I offer a resolution, a resolution that it is the hope and belief of the Senator from Kansas will add to the message we sent with the cutoff of oil purchases, and send that message with real force and impact.

We do not need to stand idly by, letting Khomeini hold all the trump cards. There are some avenues of pressure still open to us.

Mr. President, the Senator from Kansas commends and supports President Carter's embargo, but it is true that Iran can always sell its oil to someone else. The seizure of American diplomatic personnel on U.S. sovereign soil is a danger to all nations in the world community, however. If such actions are allowed to go unchallenged, the entire network of international procedure and ability to communicate among countries will break down. International standards of conduct have been universally agreed to in the Vienna Convention on Diplomatic Relations and all nations have a stake in enforcing them.

The resolution the Senator from Kansas proposes today would do several things. First, it supports the President's actions in attempting to secure the release of the American hostages. Second, it urges the President to enlist the support of all other nations to end this crisis and uphold international law by closing their embassies and suspending diplomatic relations with Iran until the hostages are freed. It further urges a voluntary halt to oil purchases by all nations until the world community receives a guarantee that diplomats in Iran will be given immunity in accordance with the Vienna convention and that all embassies will be allowed to operate freely.

PRESSURE THEY CAN FEEL

It is my belief that the Ayatollah Khomeini and his revolutionary council will begin to realize their villainous error only when the pressure from the international community threatens to isolate them and begins to have an effect that can be readily felt on their economy. This action involves only a small percentage of world oil supplies and within the capability of all nations to conserve and sacrifice to the extent necessary.

The United States will be ready to stand firm in opposing these terrorists' acts and will certainly do all within its power to insure that those nations, who join in this effort aimed at the release of our citizens now held captive, are not

adversely impacted by a unified Iranian oil embargo.

Hopefully, with the encouragement of our Government, other producing and oil exporting countries can join to provide measures to redirect exports and increase production to make up for any specific instances of heavy dependence on Iranian oil. This crisis affects all nations, but it can be licked if we share the burden equally and stand united to confront the challenge to international law.

The world community cannot permit terrorist activities to dictate events. We all have a great deal at stake and therefore, we all must act together. If we do not work together to stop these actions there will be no end to terrorists demands.

If all nations invest in this united action, realizing it is in their own long-term interests to do so, it is my belief this crisis can be resolved and the safe release of the hostages accomplished. Nevertheless, there are further unilateral actions the United States can take. The President should consider, in addition to the oil embargo, a complete suspension of all trade with Iran, including military, industrial, and agricultural goods. The products of this country, in the long run, do more to support the lives and economy of the Iranians than their exports of oil do for Americans. Because of the disruption in the balance of payments between the two nations this embargo will cause, perhaps all Iranian assets in this country should be frozen at this time until the situation is resolved.

Again, I would like to emphasize the bipartisan nature of this resolution. The United States sells some half billion dollars of wheat to Iran each year, but as a Senator from a farming region, I believe I can say without hesitation that all the American people are willing to stand behind the President on any actions he thinks it necessary to take, whether it is an oil embargo, a complete trade embargo, or any other firm action. I hope my colleagues will join with me on this resolution now. The American people are calmly awaiting decisive action. How much can we expect them to tolerate? ●

SENATE CONCURRENT RESOLUTION 50—SUBMISSION OF A CONCURRENT RESOLUTION URGING THE SOVIET UNION TO ALLOW THE EMIGRATION OF IDA NUDEL TO ISRAEL

Mr. WILLIAMS (for himself, Mr. PERCY, Mr. BAYH, Mr. BENTSEN, Mr. BOREN, Mr. BRADLEY, Mr. CHILES, Mr. CHURCH, Mr. COCHRAN, Mr. COHEN, Mr. DECONCINI, Mr. DOLE, Mr. FORD, Mr. HAYAKAWA, Mr. JACKSON, Mr. JAVITS, Mr. JEPSEN, Mr. LUGAR, Mr. MCCLURE, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. PELL, Mr. RIBICOFF, Mr. SARBANES, Mr. STONE, Mr. TOWER, Mr. TSONGAS, Mrs. KASSEBAUM, and Mr. ZORINSKI), submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 50

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee to all people the right to emigrate; and

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits signatory countries to "deal in a positive and humanitarian spirit" with the applications of persons wishing to emigrate to rejoin relatives; and

Whereas the Soviet Union signed the Final Act of the Conference on Security and Cooperation in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights; and

Whereas Ida Nudel first applied to emigrate from the Soviet Union to Israel in 1971 to rejoin her only living relatives; and

Whereas Ida Nudel has devoted her life to the plight of Jewish political prisoners throughout the Soviet Union; and

Whereas Ida Nudel has been convicted by the Soviet Government of "malicious hooliganism" for hanging a banner on her balcony which said, "KGB, give me my visa"; and

Whereas Ida Nudel was sentenced to four years of exile in Siberia after a trial in which no witnesses were allowed to testify in her defense; and

Whereas Ida Nudel's health has deteriorated to the point where it is unlikely that she can withstand another Siberian winter; and

Whereas the continuing harassment of political and religious activities and intellectuals in the Soviet Union and in some other countries in Eastern Europe is a source of great concern to the American people and the United States Congress: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, the Union of Soviet Socialist Republics should release Ida Nudel from exile and allow her to emigrate to Israel so that she can be reunited with her sister and husband.

SEC. 2. The Congress urges the President, acting directly or through the Secretary of State or other appropriate executive branch officials—

(1) to continue to express at every suitable opportunity and in the strongest terms the opposition of the United States to the exile of Ida Nudel to Siberia; and

(2) to inform the Soviet Union that the United States, in evaluating its relations with other countries, will take into account the extent to which those countries honor their commitments under international law, particularly with respect to the protection of human rights.

SEC. 3. The Secretary of the Senate shall transmit copies of this resolution to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.

Mr. WILLIAMS. Mr. President, today, along with Senator PERCY and 27 other cosponsors, I am submitting a concurrent resolution urging the Soviet Union to allow Ms. Ida Nudel to emigrate to Israel.

Ida Nudel, a 48-year-old Moscow economist, is known throughout the dissident movement as the "guardian angel" of Jewish political prisoners in Russia. For years Ms. Nudel, working out of her Moscow apartment, collected information about other dissidents sentenced to years in internal exile, sending them letters of encouragement, information about their families, food parcels, and other expressions of shared concern. She even knew the birthday of every Zionist prisoner in the various camps, and would send birthday greetings, realizing the value such a warm message might have.

Since 1971 Ida Nudel has been applying for permission to emigrate to Israel. On each occasion that permission has been denied. These refusals only served to increase her determination and commitment to the cause of free emigration. In June of 1978, Ms. Nudel was arrested and charged with "malicious hooliganism" because of her efforts on behalf of herself and hundreds of other dissidents. She was tried in a closed trial and sentenced to 4 years of internal exile in Siberia. Her health is failing, and her friends are now fearful for her life, as she is the only woman in a barracks full of hardened criminals—all of them men.

There is widespread support in both Houses of Congress and among the American public for this brave woman. A similar resolution in the House of Representatives, introduced by Congressman STACK, has 125 cosponsors with action expected shortly.

I am particularly pleased that the Congressional Wives for Soviet Jewry, cochaired by Mrs. Helen Jackson and my wife Jeanette, has been especially active on her behalf. This group of 100 congressional spouses has been collecting petitions, writing letters, and bringing Ms. Nudel's case to the attention of a number of authorities, including Rosalynn Carter.

During a recent White House meeting, the group presented Mrs. Carter with a small statue of a fisherman, symbolizing freedom. The statue was from Ms. Nudel, given just before she was sent into exile.

Mr. President, Ida Nudel is being denied a basic human right—the right to emigrate. We in the Senate should now voice our firm commitment to this basic dignity. I therefore urge my colleagues to join with me in supporting this resolution.

Mr. PERCY. Mr. President, Ida Nudel distinguished herself for 7 years as the "guardian angel" of Soviet prisoners of conscience. For 7 years she supplied food and medicine to prisoners of conscience, kept in touch with their families, gave them hope and comfort, and did everything humanly possible to relieve their suffering. Now, Ida Nudel is the only woman dissident in exile in the Soviet Union. She has been sentenced to 4 years in a Siberian labor camp where she is the sole woman prisoner in a barracks of hardened criminals. She has a weak heart and her health is deteriorating.

Ida Nudel is a selfless person. She brought harm to no one; she brought help to many. One day she hung a banner outside her flat which said "KGB Give Me My Visa." She wanted to emigrate to Israel, her spiritual homeland and the home of her husband and sister. The Soviets are punishing her for this.

Mr. President, I am proud to join Senator WILLIAMS in sponsoring this resolution for Ida Nudel, and I am gratified that already 27 of our colleagues have added their names as cosponsors.

From exile, Ida wrote "If our suffering will not force every one of you to rush to help us, then it is in vain." We must do everything we can to help. This resolution can be one expression of our determination to work for prisoners of conscience and other Soviet citizens being denied the right to emigrate.

Ida Nudel would not let the plight of the dissidents be forgotten by the outside world. Now we must not forget Ida Nudel in her time of need.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will continue oversight hearings on the Department of Energy on November 14, 1979, at 10 a.m. in room 3302 of the Dirksen Senate Office Building.

The subject of the November 14 hearing will be conservation. Witnesses will include David Freeman, chairman, Tennessee Valley Authority, and Daniel Yergin, Harvard Business School.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I would like to announce that the Senate Small Business Committee will resume its hearings on capital formation problems of small business on November 20, November 27 and November 28. The sessions will take place in 424 Russell Senate Office Building from 9 to 11 a.m. on November 20, and the remaining information on timing and witness lists will be released shortly by the committee.

Further information about the hearings may be obtained at the committee office at the above address or by telephone at 202-224-5175.●

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

● Mr. HUDDLESTON. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices has scheduled an oversight hearing on the effect of casein imports on the U.S. dairy industry. The hearing will be held Tuesday, November 20, beginning at 9:30 a.m., in room 324 Russell.

Anyone wishing to testify should contact Denise Alexander of the Agriculture Committee staff at 224-2035.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, November 15, to hold hearings on judicial and Executive nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Research and General Legislation Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, November 15, 1979, to hold a hearing on S. 770, legislation prohibiting future trading in potatoes on commodity exchanges.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the East Asian and Pacific Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 15, 1979, beginning at 2 p.m. to consider United States-Taiwan treaties and agreements.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBMITTED ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Governmental Efficiency and the District of Columbia of the Committee on Governmental Affairs be authorized to meet during the session of the Senate tomorrow (November 14) beginning at 2 p.m. to hold a hearing concerning the mortgage crisis and the use of emergency legislation in the district.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE COURAGE OF THE DISSIDENTS IN THE SOVIET UNION

● Mr. JACKSON. Mr. President, I wish to bring to the attention of my colleagues an article by Jeanette Williams on the plight and courage of the Soviet dissidents of various political and religious backgrounds. In her article in the Washington Star of October 27, 1979, she writes:

The dissidents' brave assertion of their rights as human beings has kindled a flame of admiration all over this earth . . . Let us stand with them, and put the Soviet authorities on notice that we are there, watching and waiting.

We know Jeanette as the wife of the distinguished Senator from New Jersey. We know her also as the dedicated and energetic cochairman of the Congressional Wives for Soviet Jewry.

I ask that her article be printed in the RECORD.

The article follows:

THE COURAGE OF THE DISSIDENTS

(By Jeanette Williams)

Andrei Sakharov said, "Today, during the day of the Belgrade Conference, political prisoners in the USSR are carrying out a hunger strike, fighting not for themselves but for the principles which should be dear to all freedom loving peoples. Let us be worthy of them."

The raw courage of Soviet dissidents to join together and protest their oppression has startled the world into a renewed awareness of how barbaric Soviet society can be. Although Americans have become more aware of the dissidents' plight through press reports, increased contact with these stoic individuals would add a new dimension to their struggle.

Only by communicating directly with the dissidents can we learn how political opponents of the Kremlin are systematically stripped of the benefits of citizenship. Of course, we in the West owe a great deal to our newspapers for exposing the plight of Soviet Jews and other minorities. But monitoring the Helsinki Accords on Human Rights should not be left just to the press with its uncertain priorities, nor our government with its cautious policies.

Independent citizens, mindful of human rights but obligated neither to prevailing government dictator, the whims of space-conscious newspaper editors, can provide a valuable link to these people. By identifying ourselves with their struggle, we guarantee that their cries for freedom will be heard. The dissidents' brave assertation of their rights as human beings has kindled a flame of admiration all over this earth.

When he accepted the Nobel Prize for Literature, William Faulkner said, "I decline to accept the end of man . . . I believe that man will not merely endure: he will prevail. He is immortal not because he alone among creatures has an unexhaustible voice, but because he has a soul, a spirit capable of compassion and sacrifice and endurance." Faulkner's statement could have no better example than that of the Soviet dissidents.

One direct result of their inspiration was the founding of the Congressional Wives for Soviet Jewry, which Helen Jackson and I co-chair.

Founded two years ago, the Congressional Wives provide moral support for the targets of Soviet reprisals. Among our first experiences was meeting with Mrs. Natalia Scharansky. I saw her as a heroic figure. More than that, I sensed the combination of frustration, despair, and hope which she conveyed to all about her.

I have often thought that there must be a certain identity of experience among women in this situation which permits them to feel emotional stress so keenly. In fact, I wonder whether the presence of the wives of Soviet leaders at this meeting might have helped bring about a more humane policy in the Soviet Union.

There have been many other lessons for us from our experiences. The bond of humanity that joins the religious and political dissidents dramatically demonstrates the desire for freedom as an endowment of every human soul. Soviet Jewish dissidents have been joined by political and religious dissidents of every conceivable description.

We would be destitute of feeling if we were not deeply affected by the mental and physical cruelty inflicted on these people. Let each of us resolve to identify these individuals, establish friendships with them, and fight as they fight. Let us stand with them, and put the Soviet authorities on notice that we are there, watching and waiting.●

RURAL AMERICA

● Mr. COHEN. Mr. President, rural America begins, not where the suburbs end amidst open fields fated for development, but far away along the road where the land has eroded the macadam's width. America's roads have become the shortest distance between two points on the map, but between, and often forgotten, lies rural America. There, people lead lives of both nobility and desperation, industry and imposed inactivity.

Today, rural America is undergoing far-reaching change. Newcomers are following the migration of major businesses which have left the city in search of a better environment for their employees. Development is welcome, but with it come unexpected and undesirable effects.

New studies have revealed that inflation in the remoter parts of the country is rising faster than in our cities. The romantic myth of self-sufficiency, seemingly founded on misconceptions as outdated as Currier and Ives prints, no longer exists in America's country communities.

Until recently, examinations of inflation have been based almost entirely on the buying habits of urban residents, who form the basis of the Consumer Price Index. With the likelihood of chronic inflation over the next few years, economists have begun to look at its effects on life in the countryside, where they previously believed people enjoyed low, stable prices.

The fact is, and now economists are saying so plainly, that prices are rising faster in rural areas than anywhere else in the Nation. Housing and services do cost less in the country, but all categories of merchandise have soared well beyond the buying power of many rural residents.

Some of the reasons for this include high transportation costs from major distribution centers, fewer chances for competition and price reductions because of the limited number of stores, and ultimately, a higher growth rate.

The newcomers to the countryside are creating the very problem they wished to avoid. The law of supply and demand has placed a great deal of pressure on rural consumers and employers. As new businesses arrive with generally higher wage scales, longtime employers must raise their own wages to compete for labor. This alone fuels a higher demand for goods and services, but it also forces local sellers to raise the price of goods to offset increasing labor costs.

After hardly changing at all for years, prices in rural America for everything from haircuts to home appliances have risen dramatically. This is the experience in one small town in Vermont: Haircuts, up 16.7 percent; a quart of milk from the local dairy, up 15.9 percent; a refrigerator, up 15 percent. In each case, the price rose anywhere from 3 to 10 percent in excess of the Consumer Price Index rate.

The root cause for most inflation in rural America is the nearly unbelievable increase in energy costs—both gasoline and home heating fuel have gone up at a rate anywhere from 50 to 100 percent.

It is appropriate that rural America is now receiving attention from private institutions around the country, and I would suggest that Congress begin to take a hard look at the pressures building up in the countryside.

I ask that the following article from the Wall Street Journal, dealing with the problem I have described, be printed in the RECORD.

MOVING TO THE COUNTRY TO ESCAPE INFLATION? YOU'RE IN FOR A SURPRISE

(By Liz Roman Gallese)

NEWPORT, VT.—When newlyweds Philip and Kathleen Becker recently moved from suburban Long Island to this rural community, they were surprised to find themselves paying such high prices.

Food costs are higher than on Long Island and are rising steadily, "although we expected them to be lower because of the number of farmers here," says Mrs. Becker, who works as a bank teller.

Fuel is so high that Mr. Becker, who is a grade-school teacher, plans to sell his pickup truck and make do with the couple's more gasoline-efficient Toyota automobile. And he has agreed to do chores for his landlord in exchange for a break on the rent, which rose sharply in September because of the high cost of fuel.

Prices in rural America are surprising many people besides the Beckers these days. Until recently, students of inflation focused almost exclusively on urban consumers, whose buying habits form the basis of the widely used consumer price index. But as inflation becomes more chronic, economists are beginning to study its rural aspects, too. Like the Beckers, they are discovering that life in the countryside isn't one of low, stable prices, as has usually been supposed.

HOUSING IS CHEAPER

True, most things—housing and most services, for example—cost less in rural areas than in cities. But many, particularly store merchandise, cost more, and the rate of inflation may be worse outside the cities than in them. Juan de Torres, an economist at the Conference Board, the New York business-research group, says flatly:

"Prices are rising faster in rural areas than in urban areas."

Just how and where money is spent by rural consumers who aren't farmers—which means the bulk of them—is under study, for perhaps the first time, by the Urban Institute, a research group in Washington.

Probably the most important early finding, says Laurie Tobias, a research associate at the institute, is that rural consumers don't spend their money much differently from urban ones. That dispels romantic notions that they save by growing most of their own food and by chopping wood for fuel. At the same time, Mrs. Tobias says, rural consumers have far fewer supermarkets, shops and service centers available, and thus fewer chances for competitive price reductions. As a result, she says, "inflation has a disproportionate effect on rural consumers."

Another factor: Rural areas are far from major distribution centers, so it costs more to ship them food and other items. With soaring fuel prices raising transportation costs so much, this factor becomes increasingly important.

MANUFACTURERS MOVE IN

But the main long-run reason for rural inflation is growth. More manufacturers have moved to rural areas in the last decade, bringing job opportunities with them and job seekers in their wake; a larger population means increased demand. Also, the incoming manufacturers often pay higher wages than their new communities have been used to, forcing other local employers to raise their own wage scales to compete for workers. That spurs inflation in two ways: First, employers have to charge higher prices to make up for their higher wage costs; second, workers' higher income fuels the demand for goods and services.

The National Planning Association, a Washington group that studies regional trends, says that between 1967 and 1975, personal income rose at an average annual rate of 4 percent in rural areas, 3.1 percent in urban areas. Mr. de Torres of the Conference Board says that the gap in per capita income between rural and urban areas narrowed considerably in the last decade and may close completely by 1985.

Rural America isn't monolithic, of course. More-remote areas certainly aren't attracting their share of the growth, and the rural areas especially hard hit by inflation are those in fast-growing regions, says John Zamzow, vice president of regional economics for Chase Econometrics Associates.

Newport, the seat of Orleans County in north-central Vermont, is about 80 miles northeast of Burlington, which is one of the fastest-growing communities in the U.S. Orleans County's population, 20,158 in 1970, will reach an estimated 23,118 next year, an increase of 14.7 percent. About 65 percent of the work force is employed in manufacturing.

A THOUSAND MORE JOBS

During the decade, about 10 new companies have moved into Orleans County and nearby Essex County, and about five other companies have expanded. All this industrial activity has meant 1,150 more jobs in the two counties, most of them in Orleans County. And just last year, a major interstate highway, I-91, was completed, linking the community with Boston and Montreal.

Slowly but surely, per capita income in the county has risen, to $4,851 in 1977 from $2,644 eight years earlier. Slalom Skiwear Inc., a local company bought out by three partners with big-city ideas, now pays workers with at least one year's experience an average of $4.75 an hour, far more than most other local companies.

But prices have risen, too. Nationally in the last year, according to the consumer price index, the price of men's haircuts has risen 8.9%, milk 12.2%, refrigerators 4.2% and gasoline 49.4%. Here in Newport, men's haircuts at Roger's Barber Shop went to $3.50 from $3, an increase of 16.7%; the supermarket price of a quart of milk from a local dairy rose 15.9%; the price of refrigerators at Quality Appliances climbed 15%; and regular gasoline at the Mobil station went to 99.9 cents from 65.9 cents, a 51.6% increase.

Probably the biggest reason for the sharp price increases is the soaring cost of fuel, local merchants say. E. M. Humphrey, owner of Quality Appliances, says that the price of a Whirlpool refrigerator has gone up 15% this year—after "hardly changing at all for several years"—primarily because the cost of shipping the item from suppliers in Boston and Springfield, Mass., has doubled. "We're a long way from our suppliers" compared with city stores, he says.

Marvin Needleman, president of Needleman's department store, says that although he doesn't factor in the increased cost of freight over and above a regular markup, he "may have to" if shipping costs continue to rise. Fuel oil for heating has climbed so sharply, he says, that despite a 6% increase in sales this year, the store won't show an improvement in profit.

Like Mr. Needleman, some other businessmen in Newport have been sacrificing profit margin rather than raise prices high enough to cover all cost increases. Frank La Chance, proprietor of Frank's Steak House, raised his prices about 12%, close to the 11.3% national average increase for restaurant meals. Price increases to cover not only rising food costs but also fuel expenses "should have been 15%, but we're sacrificing profit margin" to keep customers, Mr. La Chance says.

CUSTOMERS SUFFER

While the merchants and shopkeepers of Orleans County are feeling the pinch of this year's crippling round of inflation, their customers ultimately suffer most. Terry and Ruth Moore, for example, a 36-year-old couple with four children, get most of their food in supermarkets; "specials in supermarkets are nothing compared with those in city stores," Mrs. Moore says, because of the distance the processed food has to be shipped.

Mrs. Moore, who works as a nurse, says that the family does have a garden but that it supplies no more than 15% of their food. Any cost savings from the garden, she says,

must be offset by the cost of supplies for putting up food and the cost of electricity for storing it in a freezer.

The Mobres, who have a joint income of $30,000 a year, say that the cost of fuel oil to heat their eight-room home will jump 30 percent this year, to $1,000. While the couple have cut expenses by installing a furnace that burns both oil and wood and using wood to meet half their needs, they say that it takes too much time and energy to heat entirely with wood.

"I could get up at 3 a.m. to put wood in the furnace," Mr. Moore says, "but I've got to get up at 5 a.m. to go to work." Mr. Moore is a production manager at Skiwear.

The Moores, like the Beckers, are considering selling their pickup truck and making do with one car. Both husband and wife have to commute 28 miles round-trip to their jobs, but they travel in the same general direction, and just running and maintaining two vehicles in the severe northern climate now costs a hefty $235 a month, or over 12 percent of the Moores' after-tax budget. So "the truck is a luxury," Mr. Moore says.

THINKING FROM CAMBRIDGE

Because rural stores are generally too small to reap the efficiencies of bulk buying, Jerry Gibbs, a writer on fishing, and his wife, Judy, didn't even check the local photography shop when they needed a new part for their 35-millimeter camera. They ordered the item from a store in Cambridge, Mass., at a 20 percent discount. Stores in Newport, Mr. Gibbs says, "pretty much sell at list price."

House prices in Orleans County don't appear to be rising so steeply and are still below those in major cities. They nonetheless climbed 40% in 1977–78 in the better part of town after holding their own in the prior three years, says Doug Stewart of John Campbell Realty. This past spring, price increases came to a halt because mortgage money dried up, Mr. Stewart says. Yet the average home in the better part of town costs between $30,000 and $50,000, he says, and those outside the city limits cost more.

Home prices, moreover, don't tell the whole housing story, for rents climbed by between 22 percent and 28 percent this year after annual increases of only 10 percent in the prior two years, according to R. F. Hamlett Inc., a rental agency.

Such increases figure to continue as local employers keep raising wages to stay competitive with the newer employers. Deane Wheeler, manager of the local office of Vermont Job Service, a liaison agency between employers and employes, says the community is becoming more citified than ever before.

"What it boils down to," he says, "is that the newcomers are creating what they came to escape." ●

WITH TAXFLATION, SO-CALLED TAX CUTS ARE NO ANSWER

● Mr. DOLE. Mr. President, many of the opponents of indexing the Federal income tax for inflation base their arguments, not on economics, but on political considerations. They claim, in effect, that inflation-induced increases in the rate of the income tax are periodically offset by tax cuts. According to this argument, Congress recognizes the impact of inflation on taxes every time it passes a tax cut. Over time, these cuts supposedly keep the overall effective income tax rate fairly stable.

This argument is wrong as a matter of fact and as a matter of policy. In point of fact, periodic tax cuts compensate for inflation only if you look at certain time spans and carefully selected income levels. For the average taxpayer, the effective rate of tax has increased over time, despite periodic tax cuts.

This fact is demonstrated dramatically by an analysis prepared by the Joint Committee on Taxation. This analysis examines the effect of inflation on the income tax liability of a typical family of four. For purposes of this analysis, an income level of $17,105 in 1978 is chosen, and the base tax year is 1964. Income is assumed to change with the Consumer Price Index so that purchasing power—the measure of real income—is constant.

Given these assumptions, the tax rate rises from 8.1 percent in 1964 to 9.7 percent in 1979. This is despite tax cuts over that period, which occasionally reduce the rate. Barring tax cuts in the next 2 years, the effective rate of tax will continue to rise to 10.8 percent in 1981. That would be a tax bite a third again as large as the rate in 1964. So much for the theory that periodic tax cuts compensate for the effects of inflation.

Tax cuts no doubt do compensate for inflation for some people, over some periods of time. But it is apparent that they do not do so consistently or equitably, and that taxes continue to rise over time because of inflation. It is false and unfair to claim that periodic tax cuts are an adequate answer to the effects of inflation on taxes.

The argument for periodic tax cuts is also wrong as a matter of equity. How can politicians claim that they are cutting taxes when at best they are restoring part of an automatic tax increase caused by inflation? It is unacceptable to allow inflation to remove the obligation on representatives of the people to raise taxes when necessary and to act to balance revenues and expenditures. Inflation provides too easy an out for politicians, and that may be one reason why our economy is in its present state. It is time to remove that device for our politicians to evade their responsibilities.

Mr. President, the way to do that is to pass the Tax Equalization Act, S. 12, which I have introduced. The Tax Equalization Act would automatically compensate each year for the effects of inflation on taxes. It would adjust the income tax brackets, personal exemption, and zero bracket amount to take account of inflation. Phony tax cuts would no longer be available as a political gimmick.

Now that we know that occasional tax cuts do not do the job, we have the duty to address the problem of inflation and taxes head on. We can do it by passing S. 12, and there is no excuse for further delay on this issue. ●

FUTURE OF FEDERAL R. & D. POLICIES

● Mr. SCHMITT. Mr. President, on October 24, my distinguished colleague from Maryland (Mr. MATHIAS), addressed the Institute of Electrical and Electronic Engineers on the future of Federal R. & D. policies. I wish to commend Senator MATHIAS on his perceptive insights into the difficulties facing Government R. & D. in this era of balance budget efforts. I ask that my colleague's speech be printed in the RECORD.

The speech follows:

R. & D. FOCUS ON THE FUTURE

Franklin Roosevelt once began a speech to the Daughters of the American Revolution by saying "My fellow immigrants . . ."

Maybe I should begin today by saying "My fellow government employees . . .", because I feel a great common bond with you. Each of us—in a different way and from a different office—is in business to serve the public. You, through your membership in the Institute of Electrical and Electronic Engineers, have committed yourselves to promoting the public good in a variety of important ways. You have banded together especially: to enhance the quality of life for all people throughout the world through the constructive application of technology in its field of competence, and to promote understanding of the influence of such technology on the public welfare.

I applaud your mission and hope to take advantage of your offer of assistance. Your participation in the legislative process can have a great impact on what we do. Engineers are trained to solve problems and we need problem-solvers now more than ever before, because we face more, and more complex problems today than at any other period in our history.

We also need leadership which I hope you can help provide.

The prophet Micah warned of a time when "(t)he face of the dog is the face of the generation." Scholars have puzzled over that phrase for centuries, and no one can say for sure what it means. But, a good friend of mine from Silver Spring has convinced me that the interpretation offered by a 19th Century Rabbi makes a great deal of sense.

The Rabbi pointed out that in biblical times people traveled by horse and wagon, often with their dogs running alongside. When the road was straight, the dogs would run ahead of the wagon, leading the way. But when the wagon came to a fork in the road, the dog would hang back, uncertain, watching the wheels for the first hint of which fork to take. As soon as the wheels turned ever so slightly, the dog was off again, barking bravely, leading the way.

I hope that the face of our generation won't be like the "face of a dog", with our leaders watching anxiously to see which way the wheels will turn.

The 193,000 members of the I-triple-E can help prevent. You are future-oriented. You control the facts that bring the future into focus and you can point us confidently down the right path. Because you are all with the government, you have a special insight into what needs to be done here and how best to get it done. You can set an example for your colleagues around the country by getting constructively involved in the process of governing. Your non-Washington colleagues will look to you for advice, and they will look to you for results.

One question that we need your advice and your help to answer is how best to use the limited funds we have available for Research and Development?

The country is in the throes of Proposition 13 fever with attacks on government spending being mounted on almost every front. And while I don't want to sound alarmist, I think we should all face the fact that many politicians, economists, and voters think the government has no business spending taxpayer money to develop products or processes that could be developed by private enterprise.

Senator Proxmire claims that certain federal R & D—specifically Independent R & D and Bid and Proposal (IR&D/B&D)—helps entrench established firms and freezes out newcomers. He calls this R&D a "taxpayer handout to the large defense firms with inadequate expenditure accountability."

Many fiscal conservatives agree with Senator Proxmire. While preparing this talk, I

came across an article by Economist David Soergel, entitled "The Absorption of Private Enterprise by a Protected Monopoly of State Enterprise," which supports this view very forcefully. Among his points, all of which relate to you and the work you are doing, were that:

"(G)overnment employs 70,000 scientists and engineers whose main job is to decide and explore what industry is to later produce . . .;

"The U.S. tax and procurement codes (are manipulated) to such an extent that the nation's new product development money is mainly concentrated in the U.S. Treasury . . .; (and)

"(F)or 1980, . . . Congress will appropriate $30 billion research and development money . . . more . . . than privately-supplied to the nation's R&D effort by all industry."

I'm sure many of you are troubled by the thrust of these observations. Of course, we should bear in mind that he does not say that what you are doing isn't important. Rather, he says that many of you should be doing your important work in private industry.

Because of the overwhelming presence of government-sponsored R&D, both in government agencies and in private industry, he concludes that new firms can't compete with the established firms, that innovation is languishing, and that the whole economy is developing a bad case of hardening of the arteries.

While it would be hard to deny that the country is in shaky shape economically, I would certainly not single out our approach to R&D as the major cause of our troubles. I simply raise these issues to put all of you on your guard. We can't point to past achievements to justify continued funding. To meet the widespread demand for a balanced budget and to combat inflation, Congress has got to make sure that every dollar it appropriates counts. We've coasted along for too long living off the fat; now we're down to the lean.

Let's look at the numbers. Of the total $30.6 billion R&D budget recommendation for fiscal year 1980, the federal government itself will spend about $11 billion; $3.9 billion will go to colleges and universities and $15.7 billion will go to private industry.

We have gone over these figures with a fine-tooth comb in the Appropriations Committee, and, believe me, there's no fat there. The money is all well-invested. But, in the face of mounting criticism of government spending on R&D and in the present atmosphere of economy-at-any-price, $11 billion is a prominent target on the fiscal landscape. It's up to you to show the critics that the people of this country are well served by the current government R&D programs.

That leads me to a larger question and one that requires an immediate answer. The President's Energy Plan will be on the Senate floor in the near future, and we will be asked to decide how best to pursue energy independence while easing the energy shortages we now face. President Carter seeks increased government involvement in the development of energy alternatives. But I am not convinced that is the best course to follow.

The windfall profits tax is at the heart of the plan, and the President wants to use that great increase in revenues to subsidize development of energy-efficient cars and synthetic fuels. With no reflection on the abilities of those in government, I raise the question of who is best equipped to make the technological breakthroughs that we need in terms of new energy production and new fuels. Frankly, I favor the nongovernment solution whenever possible.

It seems to me that a compromise might be worked out to allow an exemption from the windfall rates for that portion of the oil company's new income that is reinvested in energy-related projects. The remainder would be taxed at the windfall rate. This approach would keep the government out of the energy business, discourages without prohibiting the oil companies from buying department stores, and still leave some new tax revenues available for mass transit and fuel stamps.

It would also address the concern that Senator Kennedy has raised in his oil company anti-merger bill, which is now the major preoccupation of the Judiciary Committee, without abridging the basic freedom of the economy and the rights of property.

All of you, but especially those of you from the Department of Energy, have a special perspective on this problem, and I hope that you will let me know what you think of the proposal at the end of my talk.

Another problem that arose last year touches directly on the federal R&D effort—and that is federal patent policy. Our patent system has served this country well since the beginning of the Republic. It protects and nurtures the creative genius of our inventors, and accounts in great measure for the industrial might of the country. Not only does it give the inventor a chance to make a profit from his discoveries, but it also gives his competitors a chance to "invent around" his discovery—refining it, improving it, even making it obsolete.

Abraham Lincoln observed that the patent system "added the fuel of interest to the fire of genius."

But, despite its success, several experts in the field, including Senator Long, Chairman of the Senate Finance Committee, and Admiral Rickover think that changes are needed. In their opinion, the federal government should be entitled to patent rights on discoveries made by university and business researchers who use government funds. They think the government's interest should be in direct proportion to the size of its contribution.

Others maintain that such a policy works against our long-term national interest. For several reasons, they contend that government involvement would make private researchers reluctant to use any government funds, and so slow down the inventive process. First, they say that the government, with no real economic incentive, may be a reluctant partner in the eventual marketing of the discovery. Second, they say that the inventor will lose incentive if he or she has to share the economic rewards that flow from the effort. They conclude that such a policy, in practice, would hamper valuable research.

With this debate in progress, the Department of Health, Education and Welfare put a freeze on the marketing of all inventions made under Department-funded grants to universities that did not hold Institutional Patent Agreements.

I became particularly concerned about this problem when representatives of The Johns Hopkins University came to see me and pointed out that failure to obtain greater rights in an important drug invention would jeopardize efforts to commercialize the drug, resulting in loss of its benefits to the public.

Shortly afterwards, I joined with Senator Dole and Senator Bayh to introduce the "University and Small Business Patent Procedures Act." This bill will solve the problem by allowing universities, non-profit organizations, and small businesses to obtain limited patent protection on discoveries they have made under government supported research, if they spend the additional private money necessary to bring the discoveries to the public. It will restore the "fuel of interest" that Abraham Lincoln thought so important.

The bill addresses a serious and growing problem: hundreds of valuable medical, energy and other technological discoveries are languishing unused under government control, because the government, which cosponsored the research that led to the discoveries, lacks the resources necessary for development and marketing and is unwilling to relinquish patent rights, the step needed to stimulate private industry to develop these discoveries into products available to the public.

The cost of product development exceeds the funds contributed by the government toward the initial research by a factor of at least 10 to 1. This, together with the known failure rate for new products, makes the private development process an extremely risky venture, which industry is unwilling to undertake unless sufficient incentives are provided.

This problem is substantial in HEW, the Department of Defense, the Department of Energy, the Department of Agriculture and the National Science Foundation. But nowhere is the patent situation more disturbing than in biomedical research programs. Many people have been condemned to needless suffering because of the refusal of agencies to allow universities and small businesses sufficient rights to bring new drugs and medical instrumentation to the marketplace.

Science magazine described the dilemma as follows:

"We see the prodigious R&D enterprise, fueled by tax dollars, constrained from diffusing its results because of a public policy barrier. Throughout the enterprise, discoveries sit stranded and aging. Meanwhile, we search for clues to what is wrong with U.S. technological innovation, and how it is that foreign industry can undercut American competition and employment."

The primary policy barrier identified in the article is the federal government's reluctance to grant patent rights.

Our bill would correct this and it has broad support among the scientific, academic and small business communities. Best of all it would cost the government nothing. As a matter of fact, the government stands to have its research funds replenished under a provision of this bill that requires the patentholder to reimburse the federal research money out of royalties and income.

It's time we overcome the barrier to commercialization that now prevails, and begin to realize the benefits anticipated from our federal R & D effort. The Congress must face this issue squarely and establish a federal patent policy that will help government-supported inventions reach the people.

This bill is a good one; it has attracted a great deal of attention in the Senate. Two days of hearings have been held, and we may report it out of the Judiciary Committee in the near future.

I want to leave time for questions but I also want to mention one other area that bears directly on the federal R&D program—technology transfer to state and local governments. Hearings were held in the House this summer and I plan to hold hearings in the Senate as soon as possible. I expect that we will discover new ways to get the fruits of your efforts back out to the people, so local governments can use science and technology to improve the delivery of public services. I hope that some of you will be able to help us find the solutions we seek. I invite you to work with us on this. Take my advice—give advice. We need it.

Senator Long tells a story about his famous father, Huey Long, the Kingfish. Apparently, the Kingfish had downed a cup of cheer too many one night. After fumbling with the keys to his front door for a while, he finally got the door opened, only to trip over the threshold. He landed on his face, just inside the front door and looked up sheepishly to find Mrs. Long looking down at him. Never one to lose the initiative, the Kingfish said, "I'll dispense with my prepared text and take questions from the floor."

And I will do the same right now. ●

PRIVATE SECTOR INITIATIVE (PIC) PROGRAM IN NEW YORK CITY

● Mr. JAVITS. Mr. President, last year Congress enacted a new title VII of the Comprehensive Employment and Training Act (CETA) intended to foster improved participation of the private business sector in the hiring and training of the structurally unemployed.

The new private sector initiative program, which is funded at $400 million for fiscal year 1979–80, involves the establishment of local private industry councils (PIC's), composed of representatives of business, labor, education and community-based voluntary organizations. The PIC's are to be fully operational entities at the local level, promoting on-the-job training contracts with private employers, conducting classroom training programs and providing job development, referral and counseling for the economically disadvantaged unemployed. The idea behind the private sector initiatives program is that a partnership needs to be forged between the business community, local government and voluntary organizations in marshalling our resources to relieve severe unemployment distress, especially among youth, minorities, and women.

I wish to report to my colleagues that the private industry council (PIC) of New York City is already fully operational, even though title VII Federal funds are not yet in hand. Under the inspiring leadership of, among others, the New York City business community, PIC chairman Aaron Sadove, PIC president Ted Small, the Central Labor Council, and the Board of Education, the CETA private industry council has made remarkable headway in gaining the commitments of small, medium and large businesses to put the unemployed to work in the private sector and to give them the skills so desperately needed for career opportunities.

The experience of the New York City PIC has been chronicled in the September issue of "You and Youth," a monthly newsletter published by the Vocational Foundation, Inc. of New York, Walter Thayer, chairman, and George J. W. Carson, executive director. Mr. President, I ask that these very instructive articles be printed in the RECORD at this point.

The articles follow:

NYC PRIVATE INDUSTRY COUNCIL FINDS WINNING FORMULA

In 1978, thirty-four demonstration sites in the U.S. were each awarded $25,000 planning grants to prepare for the Title VII Private Sector Initiative Programs. New York City was not included. And yet, one year later, New York City has become the model for what a Private Industry Council (PIC) can achieve.

For example, Skills Improvement classroom training programs with guaranteed job commitments have been arranged for 104 people, all of whom will receive a stipend of $2.90 per hour while in training. Pilot classroom programs include:

A consortium of airlines (and industry which has not been involved with CETA anywhere in the country) has agreed to hire 20 people as airline reservationists at an average of $14,000 annually. The six-month classroom training program is being conducted by Pan Am. The Council for Airport Opportunity, whose members are chief executive officers of all major carriers, agreed to place all graduates.

A seven-month computer course for eight severely handicapped trainees, contracted with Control Data Corp., has hiring commitments from Equitable Life Assurance Society, Morgan Guaranty Trust, Con Edison, Citibank, Chase Manhattan Bank and Control Data. Starting salaries after training will average $16,000.

A major airline is currently designing an experimental program to place women in nontraditional jobs. Twenty-five women will be trained as airplane mechanics.

Fifteen companies have pledged to hire graduates of a seven-month training program for women auto repair mechanics conducted by the Delehanty Institute.

Downstate Medical Center is training 16 home dialysis technicians to be hired by Quality Care Inc. Fifty or more technicans will be trained to serve the $75 million local market in home dialysis for kidney patients.

The National Association of Drug Abuse, an organization serving ex-addicts, referred 20 trainees to a clerical skills training program conducted by the International Career Institute. Companies committed to hiring program graduates include Metropolitan Life, Loews Corporation, Dry Dock Savings and others.

DOING THINGS RIGHT: A PRIVATE/PUBLIC JOINT VENTURE

How has NYC, despite its massive size and complexity, succeeded so quickly? How were the bureaucratic wrangling and political manuevering circumvented in establishing a functioning Private Industry Council? The answer lies in the smooth working relationship established between a hard-working consortium of business interests and a cooperative city government committed to the Private Sector Initiative Program.

THE FIRST STEP: AN INVOLVED BUSINESS COMMUNITY

The Chamber of Commerce, National Alliance of Business and the Economic Development Council were instrumental in developing the plan to establish a PIC in New York City. They proposed a Private Sector Mobilization Program (PSMP) that would:

Recruit and hire top level support staff for the PIC;

Make recommendations to the mayor for PIC membership;

Draft an operational plan for PIC approval; and

Design and operate pilot private sector CETA programs under contract with the City Department of Employment to be expanded when Title VII funds became available.

As models, the business consortium recommended two successful programs—the Chicago Alliance of Business Manpower Services and the Cleveland Jobs Council both of which contract directly with companies to conduct CETA-financed job training programs. Both are permanently-staffed coalitions of small and large businesses that interface with city agencies; identify employer training needs; market programs with local companies; handle paperwork and process requests (in days rather than months). Both have been highly successful in placing CETA workers in private employment.

AN ESSENTIAL INGREDIENT: CITY SUPPORT

During the planning process, New York City's Employment Commissioner and Deputy Mayor for Economic Development assisted the business groups. Ted Small, President of the Cleveland Jobs Council and adviser to the Department of Labor on Title VII, helped design the NYC program. The Koch administration, already committed to private sector involvement in its $500 million CETA program, strongly endorsed the Private Sector Mobilization plan. Koch recognized that involving private employers in training and employing the city's structurally unemployed was imperative, whether or not federal Title VII funds became available.

START-UP FUNDS: THE FINAL INGREDIENT

New York's business consortium identified private funding which would enable them to hire a program director. Grants totalling $100,000 were received from the Rockefeller Brothers Fund, Morgan Guaranty Trust, Chase Manhattan Bank, and the NAB to cover the director's salary, expenses and related costs. The Chamber of Commerce Educational Foundation received the grants on behlaf of the Private Sector Mobilization Program and became responsible for hiring staff and administering city contracts. Ted Small was hired as director of the PSMP and also named Executive Vice President of the Chamber's Educational Foundation. Aaron Sadove, Chairman of the NAB Steering Committee (and Senior Vice President for Employee Relations at Con Edison) became chairman pro-tem of NYC's Private Industry Council. And, the program was off and running.

FROM CONCEPT TO CLIENT TRAINING IN THREE MONTHS

The high level of cooperation between the Private Sector Mobilization Program and the City Department of Employment enabled the program to progress from drawing board to clients in training in less than three months. In September 1978, the Mobilization Program formally became the Private Industry Council. The Board of Estimate awarded PIC a $25,000 planning grant and contracted for CETA, OJT and Skills Training program funds totalling $1.2 million. The city CETA funds enabled Small to hire core staff and test and market programs. In less than six months, PIC funding grew to almost $3.7 million. These grants were made prior to Department of Labor funding for Title VII.

The Central Labor Council, the Board of Education, and the NY Department of Employment joined with NAB and the Chamber in submitting recommendations for PIC membership. The 58-member Private Industry Council was appointed by the mayor and held its first meeting in March 1979. As well as enlisting chief executive officers, Aaron Sadove suggested concentrating on business representatives who have operating responsibilities for hiring in their own companies.

The Private Industry Council was mandated to review all CETA Title VII funded projects. Its specific functions are to:

Identify specific manpower needs of the private business sector.

Design cost-effective programs in skill-shortage areas.

Recruit and place eligible, qualified candidates in training programs.

Provide follow-up services to employers and newly placed employees to minimize employer problems and maximize employee retention and success.

Cooperate with local, state and federal economic development agencies.

THE KEY TO PIC STAFFING: PRIVATE AND PUBLIC EXPERIENCE

Small was successful in assembling qualified staff by offering salaries competitive with private industry. Experience in both the private and public sectors allowed them to assess employer needs and tailor individual programs accordingly; to negotiate and draft contracts with city agencies that would ensure approval; and to screen and counsel CETA referrals.

As a result, the Vice President responsible for supervising all employer contracts was formerly Associate Director of Young & Rubicam and the person who had coordinated their highly regarded on-the-job training program. The Director of Recruitment and Placement, whose responsibility is to match people to training positions, was formerly Manager of Equal Employment Opportunity programs for Con Edison and also worked in the Pan Am Training Department. The Comptroller comes from the City Department of Employment. There, she helped develop fiscal systems and provided technical assistance to OJT and training contractors. The Director of Youth Programs worked for Mutual of New York prior to helping develop a highly successful Board of Education counselling and vocational service for Bronx youth. The entire 28-member staff reflects a similarly high level of competence. (A staff of seventy is projected for 1980, when federal funds are allocated.)

PILOT PROGRAMS: RESEARCH AND DEVELOPMENT A MAJOR PRIORITY

Ted Small and his staff work directly with employers to assess their employment and training needs. During the pilot phase, they developed a variety of small programs with available funds to serve as prototypes for expanded Title VII activities.

In the first nine months agreements for training and hiring have been received from 67 companies, both large and small. Four hundred CETA clients have been placed to date; this will expand to 700 by the end of 1979. (In 1980 when federal Title VII funds are committed; PIC will serve more than 5000 CETA clients.)

Programs focus on four priority categories:

(1) Creating new opportunities for CETA clients in occupations from which they have largely been excluded;

(2) Serving small and medium-sized businesses which need government resources to train and employ workers in skill shortage areas;

(3) Targeting special programs to meet needs of CETA clients who have not been seved effectively in the past (e.g. the handicapped and rehabilitated drug addicts;)

(4) Leveraging economic development with CETA-funded training incentives.

Training efforts are not limited to the Skills Improvement Classroom Training. They include placing individuals in on-the-job training, mainly with small and medium-sized employers. The PIC develops training capability within companies or within industries. Outside training organizations are used only when endorsed by the involved employers. Some other elements to the program are:

YOUTH EMPLOYMENT

The twelve member banks of the New York Clearinghouse are working with PIC on an ongoing program in banking skills which will prepare 200–300 young people for jobs. Training will be directed to skill shortage areas identified by Clearinghouse members, such as tellers, clerk-typists, and computer programmers.

A summer Vocational Exploration Program, a pilot alternative to the troubled public summer jobs program, has placed 450 young people in seven-week work experiences with 80 private employers. This major school-to-work transition program, one of the largest in the U.S., will also provide career information and training in job application and interviewing techniques. Several unions, including the United Auto Workers and Textile Workers, assisted in locating jobs. Con Ed, Young & Rubicam, Equitable Life Assurance Society, New York Life, ADT, Western Electric and the Port Authority are among the companies in which youth are receiving exposure to work and training.

ON-THE-JOB TRAINING

The Council is directing its on-the-job training marketing efforts to small and medium-sized companies which represent 175,000 of the city's 190,000 employers. Many report backlogs of orders because of shortages of skilled, productive workers. A letter-writing campaign to 6,000 companies on the Dun & Bradstreet list, staff contacts and referrals from the Chamber network, NAB, and more than 20 community groups, generated inquiries from hundreds of small and medium-sized employers. A series of meetings for small businesses in each of the boroughs is another marketing approach.

Early results indicate a larger need for OJT than anticipated. They also uncovered a great deal of fear and suspicion of CETA and government programs in general. However, after six months, the PIC contracted 65 percent of its OJT funds for the year. 325 placements have been made in 52 companies in the first eight months by an eight-person marketing/counselling staff.

Three out of four OJT placements are with companies having less than 150 employees. Usually, one or two employees are placed with a company, but one company took twenty. The Council has received repeat orders from 25 percent of its first 42 employers. One of these repeats is Equitable Bag Company in Queens. The company had never been approached to participate in CETA programs. When contacted by a PIC staff person, the company agreed to hire and train two people and later contracted for four more. PIC helped Equitable design a curriculum, find an EEO-validated aptitude test, screened applicants and completed 95 percent of the paperwork.

The same level of service is being offered to a wide range of companies in every borough. The Castro Convertible Company is training upholsterers. A major architectural firm is training eight people in drafting, for jobs which will pay $10,000. Harper & Row is planning a major program involving a variety of publishing occupations. Other placements are in: auto and body repair, ship chartering, building maintenance, machine operation, warehousing, general production, machine repair, and a broad range of service industries.

In each case, the PIC provided funding and technical support, reduced paperwork and prescreened trainees. Companies are reimbursed for half of the CETA employee's salary for training periods ranging from 12 weeks to six months. Retention rates to date are over 75 percent.

THE BOTTOM LINE: ECONOMIC DEVELOPMENT

Many cities which successfully compete for new production facilities stress not only straight economic incentives (such as tax abatements), but also programs to ensure the availability of a productive work force. New York City, with its large pool of relatively low-wage, potentially productive people, has never used this approach. Now, a major goal of the Private Industry Council is to help the City Office of Economic Development, the Business Marketing Corporation, the New York Chamber of Commerce and Industry and other groups in their economic development efforts by taking this approach.

One new venture is the soon-to-be-built Hunts Point Truck Plaza in the South Bronx which will serve the thousands of trucks and truckers going through New York City each day. When completed, the facility will provide the city's first comprehensive service stop, including fuel, food and mechanical service, lodging, retail shops, etc. Here, PIC allocated CETA funds to supplement other economic development incentives. The first fifty permanent hourly employees of the Hunts Point Truck Plaza will be PIC trainees.

Another dramatic example of how this approach can work is provided by Allomatic Corporation, a chemical manufacturer with several facilities in Nassau County. Allomatic decided to consolidate its plants in Queens and will have its additional manpower needs met in part through a PIC OJT contract for 30 trainees.

THE BIG PAYOFF: $15.3 MILLION IN FEDERAL FUNDS

The decision to use existing CETA money, supplemented by private contributions, to get staff and program underway before federal funds were allocated, has paid off for New York City. When federal Title VII grants were announced for the last quarter of FY 1979 and FY 1980, New York City's exemplary program was targeted for $15.3 million. This will make the NYC Private Industry Council the largest private sector-oriented employment and training program in the nation. Small and his staff now have nine months experience in marketing and implementing pilot programs and have begun to convince employers that subsidized training can answer their need for skilled workers.

When the federal funds are received, the Council will be operating a program roughly four times the size of the original pilot. "The difference," says Small, "is very significant, but I am confident that we can be successful. We have the staff capability, strong support of the City Department of Employment, the Chamber and other business groups . . . and there's a new optimism in the city . . . a willingness of people to get involved."

EMPLOYERS RATE NYC PIC EXPERIENCE/CETA EMPLOYEES

The Rockefeller Brothers Fund financed an independent evaluation by the Polytechnic Institute of New York of the first fifty NYC Private Industry Council on-the-job training contracts. Preliminary reports based on interviews with ten companies were extremely positive. Researchers spoke to the contact person at the company, usually the personnel director or owner, and the first line supervisor responsible for training the individual hired. Following are some of their initial findings:

In general, PIC referrals were found to be of higher quality than those from traditional sources.

Employers found that problems encountered with PIC referrals were no different than with usual hirees.

Several indicated that when a problem arose, the PIC counsellor responded promptly and visited the company. All were satisfied with the resolution whether it involved counselling or termination.

Hiring criteria most important to employers were "positive attitude"—first; "aptitude"—second; and "financial incentive"—third. First line supervisors agreed on the first two but substituted "long term employment" as third in importance. Rating PIC referrals on these criteria, all ten reported the "attitude" better or at least slightly better than people from traditional referral sources. 60 percent of the respondents said the quality of the trainees was beyond their expectations and the other 40 percent said they were about what they expected.

All indicated extreme satisfaction with the PIC staff, with their "quality of professionalism" and the prompt service provided.

All companies intend to continue working with PIC for future manpower needs.

8 out of 10 indicated they would recommend PIC to other employers in their industry. Two said they would not refer since it would "interfere with their competitive advantage."

Following are excerpts from several of the company interviews:

A MACHINE TOOL COMPANY

Desperate for personnel when contacted by PIC, the company was visited by a staff person who "did her best under the pressure." According to the owner, "one trainee was slow, unmotivated and started coming late." Prior to termination, he called PIC and reports, "The PIC counsellor showed up promptly for an appointment, talked with the problem individual, and that employee is

still with me and has a changed attitude . . . I'll contact PIC for all my new people."

A LARGE QUASI-PUBLIC AGENCY

Despite three years of prior unsatisfactory CETA experience, the personnel director decided to take another chance and hired eleven building and grounds attendants through PIC. He indicated concern with "cost, employee attitude, and retention," and reported that "all these are being met . . . I'm very satisfied with the PIC staff response—they're client-centered and empathetic and are helping me."

A SMALL BODY REPAIR SHOP

The owner had a negative experience with prior CETA referrals. When called by PIC staff, he found them "smart and concerned." He took a chance and his line supervisor is satisfied. The supervisor reports, "the PIC trainees were good from the beginning . . . they were willing to work, ambitious and punctual. The PIC counsellor stresses punctuality . . . Most kids we hire off the street have a problem but these trainees were clean."

A MAJOR BROKERAGE FIRM

The Personnel Director was referred to PIC by a company officer and hired three clerks. He comments . . . "these trainees would not break into this industry unless a vehicle such as PIC were developed . . . The personal contact was critical . . . We have been taking trainees for four years through private agency sources. . . . We normally have a high turnover on slow-track positions. These people accept slow-track and may cut down our turnover . . . they are well-disciplined, it's a key element." An added advantage in his view is compliance. "The biggest payoff is help with minority recruiting with E.E.O.C. . . . we need to hire from a broad spectrum . . . it's an industry norm, a way of doing business. PIC seems to have worked out well . . . We plan to hire all three trainees for permanent jobs . . . We will continue to work with PIC."

Mr. JAVITS. Our experience in New York City demonstrates that we can engage the private sector in hiring and training the unemployed if we establish the proper mechanisms at the local level and if we provide the appropriate financial inducements. As I pointed out in the Senate during our consideration of the Labor/HEW appropriations bill for fiscal year 1980, when we urged the Senate conferees to take a very hard look at the $325 million included for fiscal year 1980 in the House bill—and which, by the way, the Senate accepted in the end—this new approach can pay enormous dividends in tailoring CETA programs to the needs of local employers.

Title VII gives us a new string for our bow, in moving CETA closer to local labor market conditions and in giving local business a big stake in this federally funded employability development program. Most importantly, however, title VII and the $400 million we have provided for 1979 and 1980 gives the endemic unemployed a new opportunity for career jobs and training.

I hope my colleagues and their staffs will look over our New York experience and see if there are lessons in it for communities in their own States.●

FOREIGN COKE SUPPLY INADEQUATE FOR U.S. NEEDS

● Mr. HEINZ. Mr. President, because of the growing decline in domestic coke production capacity, our Nation's steel industry has been forced to import coke to satisfy the needs of its blast furnaces. In 1978 alone, the 5.7 million tons of coke we imported added a half-billion dollars to our trade deficit. Unless decisive steps are taken now, we can expect these figures to double by the mid-1980's. An amendment that I am offering to the Windfall Profits Tax Act (H.R. 3919) would provide an incentive toward the more timely rehabilitation of decaying coke production facilities by making coke ovens eligible for the alternative energy property investment credit.

What makes the decline in domestic coke production capacity an especially acute problem is that there is some question about whether, in the future, we will be able to import enough coke to meet our needs, even if we are willing to pay the price and further worsen our trade deficit. Imported coke is readily available at the moment, but only because it is not needed abroad. In West Germany, our principal foreign coke supplier, the steel industry is currently operating far below capacity. But should the worldwide demand for steel increase, West German coke producers would be obliged, under Common Market Charter, to accord priority to their domestic customers. The price of coke exported to the United States would rise steeply—that is, if there was any coke left over to be exported. Other nations could not be counted on to make up our coke deficit, since they would be even harder pressed to satisfy their own requirements. We could be faced with the sorry spectacle of an American steel industry forced to remain idle in periods of peak demand, while American steel needs were met by increased quantities of higher priced imported steel products.

Last week, at my request, two sections of a study of the U.S. coke industry prepared by Fordham University's Industrial Economics Research Institute were inserted in the RECORD. Today I am asking that a third section be printed, in which the inadequacy of our overseas sources of coke is described in detail.

The material follows:

SECTION 3: EVALUATION OF OVERSEAS SOURCES OF COKE SUPPLY

The United States has enough coal to last for several centuries, and as Section 1 indicates, a very substantial portion of this is good metallurgical coal for the production of coke. Indeed, the United States has exported and currently is exporting millions of tons of metallurgical coal to other countries for use in their steel industries. As a result, there is no dependence on imports for coal needed to produce coke for the U.S. steel industry. By contrast, the nation's coke industry, beset with a steady erosion of its capacity, has been incapable of supplying domestic requirements. It is indeed an anomalous situation when the United States, which has the worlds largest and richest supply of metallurgical coal, must import substantial quantities of coke to meet the needs of its steel industry. This is particularly unusual when one considers that the United States exported some 30.0 million tons of coking coal last year.

TRENDS IN STEEL OUTPUT AND COKE IMPORTS

At times prior to 1973, small tonnages of coke were imported. In 1972, for example, the United States imported 185 thousand tons of coke, virtually all of which (171 thousand tons) came from Canada. With the steel boom in 1973–1974, there was a dramatic change in this situation. Because the demand for steel rose abruptly, supplies of coke were not adequate to care for blast-furnace requirements. The year 1973 witnessed an all-time record output at the nation's steel and blast furnaces, with the production of 150.8 million tons of steel and 101.0 million tons of pig iron. In that year, the United States imported 1.1 million tons of coke, virtually all of which came from West Germany and Canada, the former country providing 732,000 and the latter 290,000 tons.

The demand level for steel was maintained through 1974; however, production fell by 5.0 million tons, since maintenance and raw-materials problems made it impossible for the industry to operate at full capacity. The principal problem with respect to raw materials was the lack of sufficient coke, and as a result, the industry imported 3.5 million tons in 1974. The leading supplier by far was West Germany with 2.8 million tons.

A number of reasons can be given why the U.S. coke industry was not adequate to its task. Ovens had been driven hard in 1973 to maintain production, and there was need for extensive maintenance and repairs. Further, the environmental protection agencies on the local, state, and federal levels had begun to press hard for emission controls to reduce air pollution. The beginning of rigorous enforcement of these regulations was in 1973, and by 1974 they had a definite impact on coke production.

In 1975, the steel industry experienced a dramatic drop in production, as raw steel output fell by 29.0 million tons and blast furnace output dropped by 16.0 million tons. Coke-oven capacity in the United States was more than adequate to serve the needs of blast furnaces at that production rate. Nevertheless, 1.8 million tons of coke were imported, due principally to contractual commitments and the desire on the part of some plants to stockpile coke in anticipation of a quick revival of iron and steel output. This revival did not materialize to the hoped-for extent, as steel production rose by some 11.0 million tons and pig-iron output by only 7.0 million tons in 1976. Coking capacity was still more than adequate to supply requirements at this rate of production. Imports of coke in 1976 dropped to 1.3 million tons.

The year 1977 was somewhat disappointing, as steel production dropped 3.0 million tons below the 1976 level and blast-furnace output fell by more than 5.0 million tons. In spite of this decline, there was an actual increase in coke imports of about 500,000 tons as they rose to 1.8 million tons. This increase reflected a sharp decline in domestic coke production of almost 5.0 million tons.

In 1978, there was a significant increase in raw steel production, as output rose from the 1977 level of 125.3 million tons to 137.0 million tons. The basic-oxygen process registered an increase of 6.0 million tons, and thus more pig iron was required. This also amounted to an additional 6.0 million tons over the previous year and brought with it a need for added coke supply.

Unfortunately, coke production in the United States, including that for blast-furnace use, has been declining, and the drop between 1977 and 1978, at the time when coke was needed, was quite sharp, falling from 53.5 million to 48.6 million tons. As steelmakers sought to sustain their iron production, coke imports rose in 1978 to an all-time record of 5.7 million tons.

Coke imports were absolutely necessary in 1978, if the industry was to produce enough steel to meet demand. However, it must be recognized that they had their impact on the economy. The 5.7 million tons imported required payments to foreign countries of $408 million; this represented the cost of coke at the point of origin and thus did not

include freight and insurance. With these items added, the figure would be closer to $500 million, which constitutes a considerable contribution toward the deficit in the balance of payments.

Imports also carried a high price in the loss of job opportunities. Based on the average manning requirements for a number of coke-oven facilities and their average output of 1.2 tons per man-hour, approximately 3,400 steelworker jobs would have been generated by producing an additional 5.7 million tons of coke in the United States. Further, since virtually all the coke imported was made from overseas coal, it also entailed lost job opportunities for U.S. mine workers. Given prevailing coke-from-coal yields, 5.7 million tons of coke represents approximately 8.0 million tons of metallurgical coal, which would have generated 6,000 additional jobs, based on per ton employment requirements for production workers at the mines and coal washeries, as well as supervisory and maintenance personnel.

The major share of 1978 coke imports (3.973 million tons or 69.4 percent) came from West Germany, with Japan, Argentina, the United Kingdom, Italy, the Netherlands, Canada, and France accounting for significant tonnages, ranging from 93,000 from France to 335,000 from the Netherlands. During the first eight months of 1979, coke imports totaled 2.891 million tons, with some shifts occurring among the countries of import origin. Although West Germany remained the dominant supplier, its share of total imports fell to 59.6 percent or 1.722 million tons. Meanwhile, imports from Japan rose considerably to an 8-month level of 647 thousand tons, more than twice the volume of all of 1978. Indicative of their low operating rates, direct coke sales have been made by Japanese steel companies, including Kawasaki, which contracted for 50 thousand tons with one U.S. steelmaker. Other countries increasing their exports to the United States included France and Belgium, whose 8-month totals reached 225 thousand and 111 thousand tons respectively. Countries reducing their U.S.-bound exports included Italy, the United Kingdom, the Netherlands, and Argentina.

Given the current level of imports, which totaled 504 thousand tons in August, it is certain that 1979 will be the second highest import year in history, with an annual volume exceeding 4.0 million tons. The active steel market in the United States, which allowed our steel industry to operate at about 86 percent of its potential in 1978 and during much of the current year, has not been shared by Japan or Western Europe, where steel output generally has remained at 70 percent to 75 percent of capacity. As a result, coke has been available for export, since it has not been needed at home.

SUPPLY CAPABILITY OF OVERSEAS COKE PRODUCERS

One must raise the question as to whether this coke would be forthcoming if the steel industries of Western Europe and Japan experienced a return to operating rates of 85 percent to 90 percent. This question has particular application to Western Europe, since the European Economic Community (EEC) charter provides that member countries accord priority to their domestic needs in the event of basic material shortages. Accordingly, the sources of U.S. imports must be evaluated in terms of their reliability should there be a significant increase in steel activity in the coke-exporting countries.

The most important source is West Germany, which has been supplying large quantities of coke to the United States since 1973. The other countries have supplied relatively small amounts during the same period, and some have supplied no coke at all for a number of years. Table 14 indicates the imports of coke to the United States by country of origin over the period 1972 to 1978. An examination of the availability of coke in the major exporting countries will serve to indicate their reliability as a supplier to the U.S. steel industry.

COKE SUPPLIES FROM WEST GERMANY

West Germany has been supplying the United States with coke produced from coal in the Ruhr. The existence of coal in this region is in great part responsible for the growth of the German steel industry in its present location. Coal mines and coke plants are located very close to each other; so close, in fact, that in some instances coal is brought from the mine by conveyer belt. In no instance is there need to transport coal more than forty kilometers from the mine to the coke plant.

Most of the coke in the Ruhr area is produced by Ruhrkohle, a company organized in 1968 through the merger of a number of coal and coke properties, many of which belonged to the steel industry. Today this company is one of the largest coal and coke producers in the world. In addition to its numerous coal mines, which produced 69.9 million tons in 1975, Ruhrkohle has a number of coke-producing plants. In 1975, there were 21 such plants with a capacity to produce approximately 24.0 million tons, the largest operation in the Free World.

TABLE 14.—U.S. IMPORTS OF COKE BY COUNTRY OF ORIGIN, 1972–78

[Thousands of net tons]

Country of origin	1978	1977	1976	1975	1974	1973	1972
West Germany	3,973	1,222	891	1,388	2,762	732	
Netherlands	335	74	17	100	63		
Japan	286	9	11	9			
United Kingdom	235	19		48	383	9	
Argentina	233	30	21				
Italy	211	174		43	8	32	
Canada	131	120	134	148	195	290	171
France	93	152	113		2		
Australia	59						
Norway	50				56		
Belgium-Luxembourg	40	18	112	4			
South Africa	36		12	59	34		
Sweden	27	11		4			
Austria	13						
U.S.S.R.					29		
Czechoslovakia						12	
New Zealand					8		
Hungary						3	
Others				16			14
Total	5,722	1,829	1,311	1,819	3,540	1,078	185

Source: U.S. Departments of Commerce and Interior.

Ruhrkohle serves not only the West German steel industry but exports a considerable amount of coke to other countries in Western Europe and recently to the United States. Of the almost 4.0 million tons the United States received from West Germany in 1978, Ruhrkohle accounted for 2.2 million tons.

Since 1976, there has been a reduction in the number of Ruhrkohle's coke plants from 21 to 14, with a corresponding reduction in capacity of about 5.0 million tons. Thus, current capacity is in the area of 18.0 million to 19.0 million tons, spread over its 14 plants. Capacities range from 2.9 million tons at its largest plant, Zollverein Bergwerks, where there are 10 batteries and 304 ovens, to 630,000 tons at its Heinrich Robert plant, which has five batteries and 118 ovens. The plants have been well maintained and produce efficiently. Their average age is 12 to 15 years, although some are as old as 28 to 30 years. One of the most modern plants is Osterfeld which has two new batteries built in 1973 with 96 ovens an a total capacity of 1.57 million tons per year.

Ruhrkohle's coke sales during the past five years have declined somewhat as its capacity has been reduced and the West German steel industry's production dropped. Table 15 lists its sales from 1973 to 1978.

Because of a policy of maintaining employment, coal is mined and coke is produced and stockpiled when there is insufficient demand to take the full output. Stockpiles have varied in size over the years; the stockpiled tonnage at the end of each year since 1976 is shown in the compilation below.

TABLE 15.—SALES OF COKE BY RUHRKOHLE: 1973–78

[Millions of tons]

	1973	1974	1975	1976	1977	1978
Iron and steel industry:						
Federal Republic of Germany	12.4	14.8	8.5	8.5	7.7	8.3
Rest of EEC	3.9	4.6	3.2	2.5	1.5	.6
Other countries	1.9	3.1	.7	.9	1.4	3.1
Total	18.2	22.5	12.4	11.9	10.6	12.0
Other consumers:						
Federal Republic of Germany	3.7	4.1	3.0	2.7	2.3	2.0
Rest of EEC	.3	.3	.2	.2	.2	.2
Other countries	.5	.8	.5	.5	.6	.5
Total	4.5	5.2	3.7	3.4	3.1	2.7
Grand total	22.7	27.7	16.1	15.3	13.7	14.7

Year-end	Tons stockpiled (millions)
1976	2.7
1977	10.8
1978	9.8

By July of 1979, the stockpile had dwindled to 6.2 million tons, of which approximately 4.0 million tons were blast-furnace coke. In June of 1979, the stockpile had been reduced by 770,000 tons.

Ruhrkohle's daily production is 40,000 to 41,000 tons of coke. This constitutes 54 percent of total West German output. In addition to Ruhrkohle, there are two other companies producing coke for sale; one, Eschweiler Bergewerks-Verein, controlled by Arbed, produces 11.7 percent of total West German output, while the other, Saarbergwerke produces some 5.8 percent. The three coke producers provide for 70.8 percent of West German production. Most of the remainder comes from the steel companies, with a small amount, some 3 percent from gas cokeries.

The West German steel industry will produce about 43.5 million tons of raw steel in 1979. This is considerably below its record output of 53.4 million tons in 1974. Further, the other Western European countries to which Ruhrkohle shipped coke in 1978 have been operating considerably below their capacities.

The question must be posed as to whether or not Ruhrkohle could satisfy a large export demand, if West Germany's steel production rose to over 55 million tons per year in the future, particularly since the company has 5.0 million tons less capacity than it had in 1974.

No doubt, long-term contractual agreements would be honored; however, on a short-term or spot basis, it is extremely doubtful that large quantities of coke could be produced from West Germany in the event that steel production in Western Europe undergoes continuing improvement. The other coke producers in West Germany are much smaller than Ruhrkohle and, consequently, because of their size and commitments, would probably not be significant suppliers to the United States in the event of a steel recovery. EBV is controlled by Arbed and supplies a large part of its needs. Thus, it seems the only possibility to obtain large quantities of coke from West Germany would be on the basis of long-term contracts with the largest producers.

OTHER OVERSEAS COKE SUPPLIERS

In addition to West Germany, as Table 14 indicates, there were five other countries that exported more than 200,000 tons to the United States in 1978. There were significant amounts; however, by comparison with the West German tonnage, they were small. The two largest exporters were the Netherlands with 335,000 tons and Japan with 286,000. The Netherlands tonnage was in part a trans-shipment from other countries in Western Europe, since the two production sources; viz., Hoogovens Ijmuiden BV and NSM, a producer in Southern Holland, would not have been able to ship 335,000 tons to the United States. Hoogovens was short of coke in 1978, and NSM does not have enough capacity to ship 335,000 tons to the United States. Consequently, the coke had to come through the Netherlands from another country. The amount which could originate in the Netherlands is considerably short of 335,000 tons, perhaps less than 100,000 tons.

The Japanese, on the other hand, have a tremendous coke production capability, both in their steel industry and outside of the industry. The two companies producing coke outside the steel industry are: Mitsubishi and Mitsui Koza. Mitsui Koza has one plant located near the Yawata Works and directs its 2.8 million tons of capacity principally to the Yawata Works of Nippon Steel. With the recent recession, shipments to Nippon have been cut back, and coke has been available for sale.

Mitsubishi Chemical has a capacity to produce 5.8 million tons of coke located in three plants. The largest is the Sakaide Works located on the seacoast near Osaka. This has a capacity to produce 3.9 million tons per year and because of its location can readily ship coke by water to any of the Japanese blast furnace operations. Its second plant, Kurosahi Works, has a capacity for 1.7 million tons and is located near the Yawata Steel Works of Nippon. However, this serves the Kokura Works of Sumitomo. This plant has blast furnaces but no coke ovens. The third plant, Onahama, is a small operation with 600,000 tons of capacity. In December of 1978, Kawasaki Steel made a contract to ship 50,000 tons of its coke to the United States, and Nippon Kokan contracted to ship over 100,000 tons. Both of these contracts were to be fulfilled in 1979.

The Mitsubishi Chemical Company, although it has a large capacity, has approximately 80 percent committed to integrated steel plants in Japan, and much of the remainder is shipped to foundries and other industries.

If the Japanese steel industry increases its rate of operations from the current 70 percent to 85 percent or 90 percent, it is extremely doubtful that any coke would be available to American steel producers on a spot or short-term basis. Japan was not a significant supplier to the U.S. market until 1978. As indicated by the import statistics already presented, its shipments in the three prior years averaged about 10,000 tons per year; before that there was no coke from Japan.

Among the other significant suppliers, Italy has three coke producers that are independent of the steel industry. These three operations, Fornecoke, Betrocoke, and Cokitalia, have relatively small capacities ranging from 500,000 to 1.1 million tons. Their usual market is the Mediterranean area, including North Africa and Southern Europe.

In the United Kingdom, in addition to British Steel Corporation, the National Coal Board has a considerable capacity to produce coke. It operates 12 coke-oven plants; four of these are exclusively on blast-furnace coke, three on foundry coke, and one on domestic and industrial coke. The other four produce combinations of furnace, foundry, and domestic and industrial coke. Because of the combinations, it is difficult to assess capacity in furnace coke versus foundry coke. A good estimate would put the furnace coke capability at 2.3 million tons, with foundry coke at 600,000 tons, and domestic and industrial coke at 700,000 tons.

Capacity for furnace coke will remain stable through 1981, while foundry coke declines and domestic and industrial coke is phased out. From 1982 to 1985, there will be a gradual drop in furnace coke capacity to 1.8 million tons. In 1986, it will drop drastically to 1.1 million tons. Foundry coke capacity is projected at 525,000 tons from 1981 to 1989.

Currently, the British Steel Corporation purchases almost 1.0 million tons of blast-furnace coke from the National Coal Board. Another one of its principal markets is Scandinavia, and in the past, tonnages have been shipped to the United States, but on a fluctuating basis. For example, in 1978, as the import table indicates, 235,000 tons were shipped. However, in the first six months of 1979, there are no recorded shipments from the United Kingdom.

The projected decline of capacity in the United Kingdom by 1986 goes a long way to ruling it out as a long-run source of coke supply of any significant tonnage for the American market.

France has been a limited source of supply in the last three years; however, in the first six months of 1979, it has increased its exports to the United States to a figure above that for the entire year of 1978.

It is doubtful whether any of the foregoing countries could supply coke to the United States in the case of a recovery in steel-industry demand within their borders. Thus, one is forced to conclude that in a period of high activity for the world steel industry, the United States cannot depend on sizable imports of coke from any country, with the possible exception of West Germany.●

SOVIET FORGERIES AND SALT

● Mr. HUMPHREY. Mr. President, as the Nation considers SALT II, it is only natural that as part of the process we try to fathom Soviet sincerity. There certainly can be no argument over the charge that in the past, the Russians have often resorted to deception and deceit in their dealings with the Western nations. Therefore, it is fitting we not rely exclusively on Soviet words, but examine their actions, as well.

In this context, Mr. President, Members may be disturbed by two unclassified U.S. Government publications which focus on a long history of forgeries of U.S. documents by the Soviet Union.

Since World War II, the Soviets have forged between 100 and 200 U.S. documents, including diplomatic cables, military manuals, and letters and speeches by American officials. If the Soviets have been involved in forgeries for many years, why should these activities merit our attention today? For two reasons, Mr. President.

First, the incidence of Soviet forgeries is on the increase. Between 1957 and 1965, there were 50 cases of significant Soviet forgeries of American documents. Between 1965 and 1972, Soviet activity declined slightly. At the height of the spirit of détente, between the years 1972 and 1976, there were no significant Soviet forgeries detected. However, since then there have been as many as half a dozen significant forgeries per year. Clearly, the Soviets are up to their old tricks again.

Second, Mr. President, the Soviets have for the first time begun to forge documents related to the offices of President and Vice President of the United States. Evidently, no longer worried about disrupting détente and perhaps convinced the United States is a helpless giant, the Soviet forgers have begun operating in an entirely new league.

I shall submit for the RECORD, Mr. President, excerpts from two U.S. official publications which dwell on the matter I have raised today. In addition, I wish to include two examples of Soviet forgeries. The first forgery is a speech purportedly delivered by President Carter on the subject of NATO's southern flank. The second is purported to be an interview with Vice President WALTER MONDALE. These Soviet forgeries were designed to spread misinformation about the United States. The forged Carter speech was intended to create discord between the

United States and our Greek allies in NATO. The forged MONDALE interview was intended to insult both Israel and Egypt and to disrupt the rapprochement between those nations.

These forged documents, Mr. President, are significant because they represent the very first attempts by the Russians to involve the offices of the American Vice President and President in Soviet campaigns of misinformation.

Mr. President, our Government has strong evidence that these forgeries are products of the Soviet KGB, and that they were deliberately authorized by the Soviet Politburo. President Brezhnev almost certainly was aware of and approved of the forgeries. In any case, they were authorized by Soviet officials at the highest levels.

I am informed, Mr. President, that the United States has never formally protested the Soviet campaign of forgery. No doubt our timidity and forbearance stem from our wish not to disturb the mood of détente.

Mr. President, despite our decade-long self-delusion about the motives of the Russians, the ugly facts of Soviet deception and deceit are coming clearly into focus in such a way that not even the most optimistic and gullible Pollyanna among us can ignore them. The brutal and unprincipled Communist regime which rules the Soviet Union is out to undermine the Western Alliance and to extend Communist hegemony and indeed, conquest just as far as the inattention and self-delusion of the West will permit.

Clearly, Mr. President, deceitful Soviet deeds do not match the soothing words of peace and thrust which flow from Moscow. As we prepare to pass judgment on SALT II, Mr. President, let us go beyond the words of the treaty. Let us make a careful evaluation of Soviet intentions. Let us give sober thought to past Communist perfidy. Examination of Soviet deeds leads to the conclusion that Soviet words can be as misleading and phony as the forged U.S. documents turned out by the KGB.

The material follows:

[American Perspective, United States Information Service, Athens, September 29, 1977]

PRESIDENT CARTER ON NATO'S SOUTHERN FLANK

(Official text)

(NOTE: This is a Soviet forgery.)

After the signing of the base agreement between the United States and Greece, President Carter commented on several additional problems concerning this area:

The U.S. administration has undertaken a number of steps in order to justly and successfully resolve issues between allies on the southern flank of NATO, and to strengthen the alliance against the danger threatening the Free World in the face of the steadily increasing attempts of Warsaw Pact countries to attain military superiority over the West.

Both parties concerned—Greece and Turkey—must realize that it is their duty to whole-heartedly support these efforts of the United States since resolving this issue is their own concern as well.

The agreement on U.S. bases in Greece signed early in August must be viewed as the first step Greece had to take in an effort to improve its relations to the West. A further step, and the earlier taken the better, must be Greece's full return to NATO and making ensuing provisions. I disagree with statements of some prominent Greek politicians indicating that the accord with the U.S. does not mean Greece's rapprochement with NATO. Quite the contrary. For Greece, in much the same way as for the U.S., the interests of the NATO alliance must be the first and foremost consideration.

I would like to point out that NATO members have the obligation to fulfill their political and military commitments connected with NATO operations, not only in case of a direct communist aggression but also at the time of peace. This also pertains to Greece, which plays a specific role in the defense plans of the alliance, and such commitments are mandatory even for the Greek government.

During the recent NATO Council meeting in May, the necessity for increased efficiency and modernization of the NATO alliance were considered. The overwhelming majority of NATO members comprehended this necessity and agreed to increase their financial appropriations for this program. In this connection it is essential to emphasize that, in certain instances and if the situation demands the potential weakening of the alliance, the U.S. and other NATO countries are entitled to require from all members to fulfill their commitments even if they may not seem to be consonant with the program of the government concerned, and this applies to all countries without exception, including Greece.

We are aware that in recent years the policy of the United States and NATO has become the target of unwarranted criticism by several Greek political leaders, and certain walks of the population including the younger generation. I want to re-emphasize that this criticism is unwarranted and stems from purely individual and nationalist viewpoints. The Greek government as well as the Greek people should realize that the policy of the United States, based upon the moral principles of the Free World, will never harm the intrests of its faithful allies. This policy must, however, be uncompromisingly-principal and ensure the protection of the interests of the Free World even at the cost of sacrifices and risks involved. If Greece desires to continue to enjoy the advantages and protection of the United States, it must be prepared to make these sacrifices.

I would like to point out that last July, 3 years had elasped since the beginning of a period of Greece's abnormal relations to its western allies and to our country. We and our allies have exhibited much patience in an effort to allow these problems to resolve themselves. For reasons of ensuring mutual security, to continue to wait however, is no longer feasible. It is necessary to be decisive, and I personally believe that at the very earliest the Greek government will take such measures which are our mutual interest.

During my meeting with the Greek Premier in London, I received with deep satisfaction Mr. Caramanlis' assurances that he would do his utmost to resolve the disputes between Greece and Turkey in accordance with the interests of the alliance and the U.S. This would enhance prospects for increased efficiency in the defense of NATO's southern flank, and a firm wall of defense of the Free World would be erected in this area.

[Office of the Press attaché, American Embassy, 2, Avenue Gabriel, Paris, ANJ. 74-00 July 11, 1978]

VICE PRESIDENT MONDALE TALKS TO KARL DOUGLAS: EXCERPTS

(NOTE: This is a Soviet forgery.)

DOUGLAS. Mr. Vice President, first of all I want to thank you on behalf of my newspapers' readers for agreeing to see me . . .

MONDALE. Not at all, everyone here knows my door is open to all comers. I have time until 4 o'clock.

Q. Then I'll come right to the point. Mr. Vice President, what is your opinion about the trend in American-Soviet relations and the present status of the SALT talks? When may we expect a SALT agreement?

A. I guess you couldn't have found a more difficult question to lead off with, but I will sum up my opinion briefly on this composite question which has such vital importance for the whole world. American-Soviet relationships have deteriorated, in fact declined, during recent months. Soviet and Cuban activities in Africa, the strengthening of the aggressive potential of the Warsaw Pact forces and the stalling of the SALT discussions have created serious tensions in relations between the two countries.

Q. A few months ago it seemed—and President Carter affirmed this several times in public—only certain unimportant points needed to be cleared up before signing the SALT II agreement.

A. Yes, more than once it looked as if all serious *hurdles* had been cleared and it was a matter of days or weeks and SALT II would be signed, yet nothing happened. At the last minute the Soviet Union either made another political move or came up with a new proposal which prevented the signing of the SALT II agreement we all are so anxious to see concluded.

Q. What political moves do you have in mind?

A. Measures of both domestic and foreign policy. Take the activities of the Soviet Union and Cuba in Shaba, or the political trials going on in the Soviet Union, not to speak of the Soviets presenting proposal after proposal while they steadily expand their arsenal of nuclear and conventional weaponry. For example there is the SS-20 ballistics missile which substantially increased the Soviet threat to military and civilian targets. I mention this merely to illustrate one of the many things which conflict with our goals. We are committed to the further reduction of nuclear weapons, to the stricter limitation of updating and new delivery systems, but we cannot do it alone. If the SALT II talks are to be successful the Soviet Union must display the same commitment.

Q. From what you say, you believe the events in Africa are also having a broad negative impact on the SALT II talks . . . ?

A. Yes that is very true. In our opinion the reduction of tensions must not be confined to one or two continents. Not only Europe, but Africa also wants to benefit from reduced tensions, and this is understandable. Present Soviet policy in Africa has nothing in common with this noble goal. When can we expect a SALT II agreement? It is very difficult to give an unequivocal answer at this moment because so much could happen in the interim. In all events one thing is sure, we will not conclude an agreement at any price, we will wait patiently until the Soviet Union comes up with a proposal acceptable to us. Fully aware of the present status of the discussions, I would close the question by saying I have no hopes for a quick solution. I am confident though we will be able to wrap up a SALT II agreement if not in the near future then in the distant future.

Q. I believe that and so do our readers. For long years now the Middle East has contained the danger of confrontation between the United States and the Soviet Union. What do you think on this score now, especially after visiting Israel and Egypt?

A. I think it is going too far to take such a gloomy and pessimistic view of the question since basically the Middle East problem must be solved by the countries directly involved, first of all by Israel and Egypt, and not by us and the Soviet Union. A big step forward was made toward settling the Mid-

dle East problem when Sadat recognized he holds one of the keys to it and began discussions with Israel.

Unfortunately, Sadat stopped short on the way to achieving this goal. We are continuing our efforts to get the talks moving again between Israel and Egypt, but to tell the truth—as was emphasized by the talks with Begin and Sadat—I do not consider either Begin or Sadat suitable for the task, especially because as everyone knows Begin has a terminal illness, and all Sadat's energy is pinned down by his domestic worries, and he probably won't be able to stand up long in the face of his internal opposition. So there is good reason to expect shifts in personalities in the two countries involved. Should changes of this nature occur, we would welcome at the head of both countries experienced and unbiased politicians able to pursue a realistic policy and willing to mutually and peacefully settle their differences. This would clear the way for the peaceful settlement of the Middle East problem as a whole.

Q. By realistic politicians whom do you have in mind?

A. You've got me there because at the moment it would be hard to mention a concrete name. Now how should I put it . . . in Egypt maybe it could mean a man like Fahmi.

Q. You mentioned that basically it was not up to the United States to solve the Middle East problem. By that do you imply that the United States should play the role of a passive onlooker?

A. Not at all, I didn't say that. As is clearly apparent, we also have military, political and economic interests in the area so any ideas we have for a settlement will take the interests of the oil producing countries and Israel into consideration.

Q. Therefore, two opposite poles, or to be more precise oil and Israel or the Israeli lobby, play a large part in the United States plan for settlement?

A. That's exactly it.

Q. And to what extent is the process of settlement helped or hindered by America shipping arms to both sides?

A. As to hindering, it does not hinder by any means; in fact I may say it helps, because our reason for sending weapons to both sides is to create a balance in the region which will assure a firm peace.

Q. Asia has traditionally had an important role in U.S. foreign policy in the past. Is that still true today?

A. Yes, of course. Asia continues to play an important part in our foreign policy. I am thinking first of all of Japan and China, but I would not want to give the impression I am belittling the importance of the other countries of Asia to our policy in Asia. We are committed to guaranteeing that this much suffered region will become a symbol of the policy of peaceful coexistence. That is why we are making serious efforts to settle our relationships with Vietnam either this year or early next year. We must, of course, rely basically on Japan and China in achieving our policy in Asia. One major task in this region is to prevent the Soviet Union from starting local wars to build up their influence, like they are doing in Africa. As a matter of fact, that is the guarantee of peace in Asia. China's leaders are of the same opinion and it is no accident we were able to find a common tone. We have common interests in several areas and will have to coordinate many aspects of our policy in the future.

Q. Western Europe is contending with a rise in terrorism. What are your thoughts on terrorism?

A. Yes, the spread of terrorism throughout Western Europe is a serious challenge to its governments. But I have confidence in international cooperation, I feel it is a barrier to this new wave of terrorism.

Q. Many people believe these acts of terrorism are backed by certain intelligence agencies, including the CIA.

A. Rubbish, sheer nonsense. After all, what interest could any country have in its intelligence agency undertaking a risk of that kind. Intelligence agencies do not exist to get some degenerates to kidnap and murder prominent officials.

THE FORGERY OFFENSIVE

DISCUSSION

Background

(NOTE: The following are excerpts from two U.S. official publications analyzing Soviet forgeries.)

An appreciable upsurge of anti-American forgeries has become apparent during the last 24 months. The political purpose of these forgeries, their technical sophistication and intelligence reporting on certain personalities associated with their circulation, all point to the USSR, its various East European allies, and Cuba as being the responsible parties. These forgeries have been surfacing in widely scattered areas of the world—the Western Hemisphere, the Middle East, East Asia and Africa. The Middle East has thus far been the principal target area for recent suspected Soviet forgeries of U.S. documents, with six separate operations having been mounted against, Egypt and specifically President Sadat, between December 1976 and July 1978. Recently, however, Western Europe appears to be emerging as the prime disinformation target area as the Soviets mount various efforts to keep Spain out of NATO, to limit Greece's role in the alliance, to pressure the U.S. into abandoning the Neutron Bomb and to generally frustrate American foreign policy objectives.

Nor do the Soviets and their allies appear to have any significant competitors at present in the art of peddling distorted reality and plausible mistruths using forged documents as the basic vehicle. The Peoples Republic of China is not known to engage in the use of documentary forgeries and the various militant Arab countries—alone or in combination with Fatah or any of the hardline Palestinian splinter groups—simply do not possess the technical sophistication to produce the quality of forgery being encountered. Indeed, the forged travel documentation being used by Palestinian extremists is generally of such low quality that only lack of information about what actual documents look like or sheer inattention on the part of passport examiners accounts for their frequently successful use.

For the Soviets, employment of forged documents is a basic tool in the implementation of foreign policy. Such deception serves the purpose of raising doubts in the minds of those at whom the forgery is aimed, making them more receptive to Soviet policies and points of view. Over the years, a steady stream of such forgeries has been produced by Soviet-controlled sources in East Germany and Czechoslovakia but until recently most were unprofessional and quickly identified. However, a dozen or so such forgeries produced in the last two years, despite certain shortcomings, have been expert enough to be accepted at face value in target countries, resulting in confusion and some damage to U.S. interests.

The Soviet methodology in the production of forged documents tends to follow certain patterns and relies on techniques which have succeeded in the past. As a result, Soviet forgeries tend to be somewhat stereotyped. The typical Soviet document usually involves a cover alleged to have been written by an anonymous citizen acting out of righteous indignation or concern for the truth. Such typed or handwritten letters are usually unsigned or merely initialed and include editorial remarks which moralize over the principal allegations that the accompanying forgery is designed to impart. The covering letter accompanying the forgery is most often delivered by mail or placed in some conspicuous location where the recipient is certain to find it. The forged document itself is almost invariably a xerox or photocopy produced so as to give a legible but somewhat blurred or indistinct appearance in order to make technical analysis as difficult as possible. Soviet forgeries usually contain frequent errors in the use of English language idiom, spelling and document format. The adverse affect of such shortcomings, however, is minimized when the documents is surfaced by a left-wing or Communist-oriented publication that lacks the will or the means to properly authenticate it.

Most forgeries contain enough errors so that their bogus nature can ultimately be demonstrated after detailed analysis. However, documenting the identity of the nation perpetrating the forgery invariably is much more difficult. It is often possible to show that a given forgery is designed to manipulate public opinion in a fashion which could only benefit the Soviets or their allies. The intended impact of a forgery may even be so consistent with ongoing overt Soviet propaganda efforts as to be almost transparently obvious but, nonetheless, such comparisons do not yield incontrovertible proof. For this reason, like old soldiers, good forgeries also never die; they simply surface again and again in different parts of the world, frequently doing as much or more damage during their various reincarnations as was done originally. This holds true even of those forgeries whose fraudulent nature has been clearly demonstrated and publicized in the country where first surfaced.

The Denholm Example

The so-called Denholm forgeries are a case in point and demonstrate the way in which an old forgery lives on and on. In September 1966, a half-tone photograph of a forged Department of the Army Short Range Intelligence Needs (DASRIAN) Form bearing the forged signature of COL Charles J. Denholm appeared in two Beirut newspapers. The forgery alleged CIA attempts to recruit GEN Mohammed Oufkir, then Director General of the Moroccan National Security Organization. In November 1970, another variant of the Denholm forgery surfaced when a half-tone photograph of a forged U.S. Army Assistant Chief of Staff for Intelligence letter dated 1959 appeared in Haolam Hasch, a leftwing weekly in Tel Aviv, Israel. The forgery bore the bogus signature of COL Denholm and alleged CIA and British MI-6 attempts to recruit Moshe Dayan. Then, early in 1978 the Denholm forgeries were resurrected and surfaced in the English press. This most recent use of the forged documents was still effective and damaging despite the fact that the forgeries contained a number of inaccuracies, involved poor simulation of the handwriting of COL Denholm, and had been publicly identified by COL Ladislav Bittmann, former Deputy Chief of Czech Disinformation, as the work of Czech intelligence.

Airgram A-8950 Forgery

Soviet intentions to damage U.S. relations with NATO and SEATO powers would appear to have been manifest in three forgeries which surfaced in Europe during 1976–1978. The first of these involved an altered version of a genuine State Department document, Airgram A-8950, dated 3 December 1974. Whereas the original A-8950 was simply a statement of economic, financial and commercial information requirements worldwide for fiscal year 1975, in the altered version, recipients were instructed to collect information on ways to bribe European officials and to develop other covert means by which to damage or eliminate foreign trade competition. The forgery evidently sought to exploit

the damage already done to the U.S. image following revelations concerning bribery practices by U.S. businesses abroad. The covering letter to which the altered airgram was attached reinforced the disinformation message by specifically directing the reader's attention to the ostensible CIA-State Department instructions to engage in espionage primarily against U.S. allies in NATO. On 7 Nov 76, the London Sunday Times picked up the allegations but identified them as being based on a forgery. Subsequently, the Soviet news agency TASS reported the Times article but omitted any mention of the bogus nature of the airgram, thus extracting additional mileage from the deception.

DISCUSSION

BACKGROUND

In December 1978, DIA published Counterintelligence Memorandum (CIM) 2–78, Perspectives in Counterintelligence: The Forgery Offensive (U) to heighten DOD community awareness of the increased incidence of forgeries thought to be emanating from Soviet-controlled sources. The purpose of the CIM was to alert DOD recipients of the need for caution and circumspection when responding to public queries concerning newly surfaced documents containing information apparently inimicable to U.S. interests. Additionally, the CIM advised its readers to inform the DIA Counterintelligence Division (RSS-1) immediately when suspect materials surface in foreign press accounts or in document form.

SOVIET METHODOLOGY

The Soviet Union has continually employed forged documents to implement foreign policy, support political objectives, and to lend substance, credibility, and authenticity to their propaganda claims. Although such forged documents frequently contain errors in fact and format which make them easy to identify for what they are, some have been accepted at face value by unsuspecting government officials and the foreign press readership. This results in increased tensions, instability, and confusion, particularly in the Third World.

Soviet forgery technique seems to follow fairly well established patterns. The appearance of a forgery in one area—whether successful or not—usually presages its use elsewhere in the near term. Whenever such appearances capture a receptive public, the Soviet intelligence services follow up by initiating a wide propaganda effort to enhance their impact and gain maximum possible replay in the public press of nearby countries. This orchestrated effort frequently employs the communication apparatus of various communist states together with Soviet media assets and agents of influence as part of a well developed broadly based-effort.

Consequently, it is essential that the U.S. Intelligence Community identify suspected Soviet forgeries as soon as possible. Then they may be subjected to technical analysis and their fraudulent nature exposed. In addition, DOD representatives must avoid damaging comments when questioned about suspect documents—such as the bogus FM 30–31B described in CIM 2–78—to avoid giving the appearance of authenticity in what later proves to be an absolute forgery. In order to keep the DOD community fully apprised concerning the most recent suspected Soviet forgeries involving purported DOD documents, CIM 2–78 and this study have been prepared.

THE DIA COLLECTION REQUIREMENT FORGERY

This forgery surfaced in early 1978 when intelligence reporting indicated that the leftist Greek language newspaper To Vima in Athens was in possession of a copy of what purported to be an American intelligence collection requirement. Titled "Anti-U.S. Activities and their Sponsors in Western Europe (U)," it appeared on DD Form 1365 with attachments. Since To Vima was the same newspaper that originally printed portions of a compromised DIA document which was not a forgery but had fallen into the hands of the newspaper through an alleged leak in Washington, the placement of the forgery with To Vima was particularly opportune and subtle.

Elits forgery number two

Three months later, the signature of Ambassador Elits was again forged, this time to a bogus "TOP SECRET" U.S. State Department "operations memorandum" attacking President Sadat for his lack of leadership, foresight and political acuity. The final paragraph of the forgery included a statement that the CIA Station Chief in Cairo shared the Ambassador's assessment of Sadat. Ten Egyptian newspapers and magazines received photocopies of the forgery by mail. There was no covering letter but the language and style of the document suggested that its writer was not a native American. The thrust and political impact of both this and the preceding Elits forgery certainly suggested Soviet implication.

The Tehran dispatch

In August 1977, a forged dispatch from the American Embassy in Tehran arrived by mail at the Egyptian Embassy in Belgrade together with a covering letter. The photocopied forgery suggested that Iran and Saudi Arabia were plotting the overthrow of Sadat with the U.S. Government looking on from a noncommittal stance. The forwarding letter went ever further, warning of a rather implausible Israeli/Saudi/Iranian master plan to overthrow Sadat and of American schemes to install conservative governments throughout the Middle East. In addition to its rather wild allegations, the forgery suffered from numerous mistakes in format, spelling, titles and language usage.

Mondale forgery

In July 1978, xerox copies of a forged American Embassy press release describing a bogus interview between Vice President Mondale and a fictitious personality called "Karl Douglas" were mailed to Paris-based correspondents of various newspapers and news services. The phony interview quoted Mondale as saying that he did not consider either Begin or Sadat suitable for the task of conducting negotiations at Camp David, that "everyone knows" that Begin was suffering from a "terminal illness" and that Sadat was not master of his own political house. However, from a technical standpoint the forgery left much to be desired, containing as it did misspellings, typographical errors and grammatical constructions unlikely to be used by the Vice President or any other educated American.●

● Mr. GARN. Mr. President, information has recently come to my attention that has a bearing on the conduct of the policy of the United States. It involves the increasing level of political warfare and "dirty tricks" that is being waged against the United States by the Soviet Union.

The Soviet program of political warfare and covert action is waged very effectively by the Soviet KGB, which has over 10 times the manpower of the U.S. CIA. The Soviets organized major international campaigns against the United States and our interests, directed at the highest level of the Soviet Government—the Politburo.

The forgery of Western documents is an old technique of the Soviet secret police. However, for the first time the Soviet Union is engaged in a systematic campaign of forging statements by U.S. officials up to and including statements made by the Vice President and President of the United States. Even at the height of the cold war period the Soviets had never done this.

The Soviet campaign of political forgery has accelerated significantly since 1977. In addition to the forgery of Presidential documents they have forged a document purporting to be a letter from the Secretary General of NATO as part of their campaign to stop the neutron bomb. Their forgery of a speech by President Carter was intended to disrupt U.S. relations with Greece, and their forgery of a press release by the U.S. Embassy in Paris, containing what was supposedly an interview with Vice President MONDALE, was aimed at disrupting the Middle East peace talks.

The problem of Soviet forgery of American documents is getting increasingly severe. The technical quality of the forgeries is dramatically improving. The number of forgeries per year is increasing. They are causing severe diplomatic problems for the United States, and the U.S. Government is doing absolutely nothing about this. Apparently, high officials of the National Security Council staff are concerned that U.S. governmental exposure of this insidious Soviet practice would reduce the chances for the ratification of SALT II by the U.S. Senate. That certainly should be no basis for failing to expose these propaganda tactics of the Soviet Union.

The Senator from New Hampshire (Mr. HUMPHREY) has placed in the RECORD copies of some of the forged documents I have referred to. I encourage my colleagues to review this material and become aware of these efforts of the Soviets to misrepresent the official position of the United States.●

REORGANIZATION OF THE ROCK ISLAND AND MILWAUKEE RAILROADS

● Mr. CULVER. Mr. President, this has been a year of crisis and confusion for Midwestern railroads. The Rock Island Railroad—Iowa's second-largest carrier—is currently under a directed service order, and the Milwaukee Railroad—our third-largest carrier—has resumed operation only after the enactment of emergency legislation earlier this month.

Our No. 1 transportation priority must be to assure the reestablishment of permanent, efficient service along the essential lines of these two carriers as quickly as possible. Last month, the Interstate Commerce Commission held a series of hearings in Iowa and throughout the Midwest on the future of directed service for the Rock Island Railroad. In testimony submitted at these hearings, I urged the ICC to extend directed service for the maximum 240-day period and expedite its procedures so that, in the event of the liquidation, resale or reorganization of the line, permanent service can be reinstituted as quickly as possible.

I am pleased that the emergency railroad legislation enacted by Congress does contain provisions to assure the rapid reorganization of the Rock Island and Milwaukee Railroads. Iowa's agricultural and manufacturing economy is vitally dependent on a safe, sound railroad system, and we must devote our immediate attention to assuring that the essential

lines of the Rock Island and the Milwaukee are maintained and that innovative, long-term solutions to the larger railroad crisis be developed now.

Mr. President, I ask that my testimony before the Interstate Commerce Commission be printed in the RECORD.

The testimony follows:

STATEMENT OF SENATOR JOHN CULVER

I want to commend the Commission for the series of hearings it is holding in the Quad Cities, and elsewhere in Iowa and the Midwest, on the future of directed service for the Rock Island Railroad. This service is critically important to the manufacturing and the agricultural economies of our state and nation. The individuals who will testify this morning will give the Commission valuable information concerning the adequacy of the directed service to date, suggestions on how service can be improved, and the identity of important segments of the Rock Island which warrant the continuation of directed service for the maximum 240-day period. I urge the Commission to weigh their views carefully and give them the fullest possible consideration.

It is unnecessary to recount the recent history of the Rock Island in great detail. Its economic condition has created a "vicious circle" of deferred maintenance, poor rail service, greater operating losses, lower revenues and unmet payrolls, which, in turn, result in even more inadequate rail service. The losers in this downward spiral are the farmers, shippers, employees and consumers who rely on the Rock Island. The Rock's economic condition has also exacerbated the already serious disruptions in the Midwest transportation system. This system has already been shaken by a long-standing boxcar shortage, inadequate grain storage facilities, and the prospective collapse of the Milwaukee Railroad. Given these conditions, the Commission's decision to order directed service for the Rock Island was necessary and inevitable.

The initial directed service order mandated operation of all of Iowa's major grain routes, including the north-south route through Mason City and Des Moines to Kansas City, and the east-west route through the Quad Cities, Iowa City, Newton, Des Moines and Council Bluffs. These routes—and all other major routes currently being operated along the Rock Island's 1700 miles of Iowa track—should be continued for the full 240-day directed service period.

In addition to maintaining service for the maximum eight months, however, the Commission must give serious thought to the Midwestern railroad picture after the 240 days expire. Directed service is, of course, only an interim measure or bridge to span the period until efficient, responsible, permanent service can be provided to those who currently depend on the Rock Island.

Whether the Rock Island is reduced to a smaller, Iowa-centered "core" system, or purchased by other carriers, it is essential that the Commission expedite its procedures and timetables so that permanent service can be re-established as quickly as possible. The people of Iowa and the Midwest cannot afford the luxury of a protracted, interminable sale or reorganization of the Rock Island. The 240-day directed service period must be used to plan and, in so far as it is possible, implement permanent service along the essential lines of the current Rock Island system. Such service must be efficient, competitive, and able to meet the needs of farmers, manufacturers and shippers who have for too long coped with uncertain and unreliable service.

At the same time, it is important that adequate protection is created for Rock Island employees whose jobs and seniority are threatened.

It is certainly good news that Rock Island management and unions recently reached voluntary settlement on contract terms in the event the Rock Island resumes independent operation. But more may be needed.

Legislation currently pending before Congress specifies certain benefits—including supplemental unemployment, retraining, and relocation expenses—that would help get personnel back to work in the event of the liquidation of the Milwaukee Railroad. Similar benefits should be available to employees of the Rock Island Railroad, both as a matter of equity and fairness, and in order to minimize complications which might delay the resale or reorganization of the system.

Finally, we must, in the long run, make a commitment to revitalize the railroads; to repair track; to build improved and efficient switching yards; and to purchase more and better equipment. Rebuilding our railroad system will be a difficult and expensive task, but it is essential. Government and the private sector must work together to assure a sound and vital midwestern transportation system.●

THE PROPOSED SENATE RULES CHANGES—TRIBUTE TO DR. FLOYD M. RIDDICK

● Mr. McCLURE. Mr. President, in 1976, the Senate charged the Rules Committee to revise and modernize the Rules of the Senate without making substantive changes and to incorporate in them related provisions scattered throughout the United States Code. The intricate task was completed this year, and the resolution was voted out of the Rules Committee earlier this month.

The Senate will shortly consider Senate Resolution 274. But I do not want to wait until it comes to the floor to extend my congratulations to Dr. Floyd M. Riddick, the parliamentary genius behind the drafting of the measure.

Senators have benefited from Dr. Riddick's procedural knowledge since he first joined the Senate staff over 30 years ago, and it is a source of great pleasure to me that, although he has retired from the position of Parliamentarian he executed with such skill for decades, his expertise is still available to Members of the Senate. I cannot think of anyone who could have carried out so well the task of integrating the many provisions relating to the Senate which are now scattered through unrelated documents. It was a project requiring both consummate expertise and unfailing attention to detail, and Dr. Riddick has accomplished it superbly.

I support the final product enthusiastically, and I hope all other Senators will similarly endorse it. Reform was badly needed to bring coherence to the mishmash of regulations affecting Senate procedure. The new draft of the rules makes no substantive changes; it represents instead a compilation of the rules which is far clearer than anything the Senate has had since the 19th century. This will facilitate the assimilation of the rules by incoming Senators, and quite possibly lead to renewed use of provisions and rediscovery of individual rights which may have been overlooked because of the lack of a single reference source.

I hope that the Senate, after adopting this very necessary resolution, will carry the matter one step further. There are two elements which determine floor procedure; one is certainly the rules themselves, and the other, equally important component, is the precedents. Just as the rules were badly in need of recodification at the time such a project was begun in 1976, the lack of any official codification whatsoever of precedents creates a vacuum frequently leading to uncertainty. I hope that the Rules Committee, which so insightfully identified the need for rules reform, will also recognize the need for codification of precedents and take appropriate steps.

I urge all Senators to support Senate Resolution 274 when it is considered on the floor. It represents constructive, useful reform, and will enhance the operations of this body.●

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection. If not, without objection it is so ordered.

ORDER FOR REDUCTION OF TIME ALLOCATED TO LEADERS UNDER THE STANDING ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the distinguished minority leader agrees with it, that the time of the two leaders or their designees be limited to 5 minutes each on tomorrow.

Mr. BAKER. Mr. President, I am agreeable to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

ORDER FOR RECOGNITION OF SENATOR PRYOR ON TOMORROW AND TO RESUME CONSIDERATION OF S. 1724

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of the leaders on tomorrow, Mr. PRYOR be recognized for not to exceed 15 minutes, after which the Senate then resume consideration of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MATSUNAGA. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to and, at 6:16 p.m., the Senate recessed until tomorrow, November 14, 1979, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 13, 1979:

DEPARTMENT OF TRANSPORTATION

Theodore Compton Lutz, of Virginia, to be Urban Mass Transportation Administrator, vice Richard Stephen Page, resigned.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Iraline Green Barnes, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years, vice W. Byron Sorrell, retired.

HOUSE OF REPRESENTATIVES—*Tuesday, November 13, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let not your hearts be troubled, neither let them be afraid.—John 15: 27b.

Gracious Lord, out of the depths of our hearts we call upon You to hear our prayers and support us with Your spirit. By ourselves we are fearful and realize our limitations. Yet, O Lord, You can calm our anxiety and apprehension and give us assurance for the future. Where we are fainthearted, give us Your strength, and where we are troubled, remind us of Your eternal promise that You are with us and will sustain us, now and evermore, even to the ends of the world. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 68. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 4955. An act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3354) entitled "An act to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 239) entitled "An act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1037) entitled "An act to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1319) entitled "An act to authorize certain construction at military installations, and for other purposes."

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5359. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5359) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. MAGNUSON, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. BAYH, Mr. YOUNG, Mr. STEVENS, Mr. SCHWEIKER, Mr. BELLMON, Mr. WEICKER, and Mr. GARN to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4930) entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes," and that the Senate agree to the House amendments to the Senate amendments numbered 1, 3, 17, 24, 30, 37, 38, 40, 48, 49, 50, 51, 52, 53, 56, 58, 59, 67, 74, 91, 94, 107, 108, and 109 to the foregoing bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 916. An act to amend the Act of September 30, 1950 (Public Law 874, 81st Congress) to provide education programs for Native Hawaiians, and for other purposes.

AMERICA CANNOT BE BLACKMAILED WITH OIL

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, the President has done the right thing in discontinuing the purchase of any Iranian oil. This action should make it clear to Iran and every other country that the United States will not be blackmailed because of our dependence upon their oil. This should help erase from their minds any image of the United States as a helpless oil junkie who can be humiliated because of that addiction.

Perhaps now they will begin to understand that we value American blood far more than we value their oil—and that even more than that we value our self-respect. They will fully understand this of course when we have finished doing the things we have begun to make this Nation energy independent once more.

The Congress has an excellent record so far this year on energy initiatives. I include at this point in the RECORD a current status report on major energy legislation.

ENERGY LEGISLATION—STATUS OF MAJOR PENDING PROPOSALS

Windfall Profits Tax.—The House passed a nearly 60 percent windfall profits tax on newly decontrolled oil in June and is awaiting full Senate action on the legislation.

Home Energy Assistance.—The House adopted an urgent, separate supplemental appropriation of $1.35 billion for fiscal 1980 for low-income energy assistance to be channeled to the needy by both the federal and state governments. This money would be added to $250 million previously appropriated for this purpose. The Senate has approved $1.2 billion for such assistance in its version of the Interior Appropriations bill. The matter is now in conference.

Synthetic Fuels.—The House has approved both authorizing legislation and a $1.5 billion appropriation for synthetic fuels development in the Interior Appropriations bill. The

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Senate has approved a differing version and the bill is in conference.

Standby Gasoline Rationing.—Both the House and Senate have approved and the President has signed into law new standby authority for gasoline rationing in an emergency. The measure also authorizes motor fuel conservation programs. The bill, which includes diesel fuel, can be an effective defensive weapon should a crisis develop.

Department of Energy.—The House has passed and sent to the Senate a $6.9 billion Department of Energy Authorization bill for fiscal 1980 which seeks to put the nation on the offensive on energy. Included are authorizations for research and demonstration projects covering everything from solar to nuclear, coal to tar sands.

Department of Transportation.—DOT appropriations bill for fiscal 1980 is another measure containing positive steps to improve the national energy picture. The House-approved bill includes funds for additional urban and suburban mass transportation, engine and fuel research projects, urban formula grants, and important additional assistance for railroad improvements and rehabilitation. The Senate passed its version last week, and a conference was convened November 2.

Energy Mobilization Board.—After a spirited battle over two competing versions sponsored by leaders of the Commerce and Interior Committees, the House last week passed legislation to create a federal board to cut through red tape which causes delays in energy projects, such as pipelines and refineries. The Senate has passed its version of this legislation, and a conference between the two bodies is expected soon.

Solar Energy.—The House Banking Committee has favorably reported H.R. 605, legislation to create a Solar Energy Development Bank to provide long-term, commercial and residential, low-interest loans for purchase and installation of solar energy equipment. The House Science Subcommittee on Energy Development and Application is working on legislation to further promote solar research.

The President has already signed into law the Energy and Water Appropriations bill, which includes $620.8 million for solar energy development and applications for fiscal 1980.

Conservation.—The House Commerce Subcommittee on Energy and Power is working on legislation to promote industrial, commercial and residential energy conservation and to provide for reimbursements for part of the cost of installing energy conservation items in business and homes. The House Banking Committee has reported legislation to provide subsidized energy conservation loans.

Senate Approach.—The Senate Energy Committee has reported favorably an omnibus energy bill which includes conservation, synthetics, gasohol, solar bank, and geothermal research, all matters which involve the jurisdictions of several different House subcommittees which deal with energy legislation. Senate and House leaders are working on a procedure to handle the versions of the two bodies.

APPOINTMENT OF CONFEREES ON H.R. 5359, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. ADDABBO, FLOOD, GIAIMO, CHAPPELL, BURLISON, MURTHA, DICKS, WHITTEN, EDWARDS of Alabama, ROBINSON, KEMP, and CONTE.

QUESTIONNAIRE ON TELEVISION COVERAGE OF HOUSE PROCEEDINGS

(Mr. ROSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSE. Mr. Speaker, in March of this year the House began televising its floor proceedings. The proceedings of this body now go across this entire country to some 500 cable television stations reaching into many millions of homes so that the American public can view the proceedings as we conduct them here on the floor of the House.

I have sent to my colleagues' offices today a questionnaire asking certain questions to you as Members of the House as to how you personally perceive the effect this television system has had on your ability to do your job. I would be gratefully appreciative if you would return that questionnaire to me as soon as you can, and call me if you would like to personally discuss the future of the House television system from a suggestion point of view.

PRESIDENT CARTER'S FORCEFUL ACTION ON AMERICAN HOSTAGES HELD BY IRAN

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I want to express my hearty endorsement of the forceful action taken yesterday by President Carter in ordering an immediate cutoff of Iranian oil imports to the United States, so that in our efforts to resolve the problem of American hostages held by Iran there would be no possible misinterpretation that our actions were motivated by economic considerations or possible loss of gasoline for our automobiles.

This is the second forceful action which President Carter has taken to deal with this situation. Earlier he followed suggestions made by many Americans that we should begin the deportation of Iranian students in this country, at least those who are here illegally and are in violation of American laws and hospitality.

I would expect that before the matter is resolved the President may take still further steps to put the squeeze on Iran and indicate the grave concern which the American people have for these outrageous, irrational, and totally illegal actions taken by the Iranian authorities.

Not since the Japanese attack on Pearl Harbor unified a deeply divided America, Mr. Speaker, have I seen the American people so aroused and so unified in their determination that we respond forcefully and effectively to these Iranian actions against innocent American hostages. When I had the opportunity to announce the President's decision at a Veterans' Day luncheon in Albany, N.Y., I am happy to report that the President's decision was greeted with tremendous applause and tremendous support.

Until now the American people have fought violently against any action that might interfere with their constitutional right to drive their automobiles as long and as far as they wish. But the Ayatollah Khomeini has done what no other American leader has been able to do; namely, to convince Americans to give up some of their gasoline in order to speed the release of these hostages.

Already it appears that the President's forceful action is getting results.

Mr. Speaker, I commend the President for what is clearly firm leadership in this crisis, and in speeding the day when these hostages will be released he has perhaps also speeded the day when we can find a satisfactory solution to our nagging energy crisis.

SUPPORT FOR PRESIDENT CARTER'S DECISION TO STOP IMPORTATION OF IRANIAN OIL

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I want to express my support for President Carter's decision to stop importation of Iranian oil. It is imperative that the United States show Iran that we will not be blackmailed. American lives are much more important than the oil Iran has to offer. I plan to conserve on my personal fuel use immediately, and I call on all Americans to do the same. With just minor conservation efforts by all Americans we can get by without the Iranian oil.

I want to also take just a moment to thank Americans and especially students all over the United States for their strong support of the hostages in Iran and I would hope this nonviolent approach will be viewed by the world as a sign that the United States is committed to their people. I believe the American people are ready to live without Iranian oil forever. We will not be harassed or blackmailed by any country when American lives are at stake.

NUCLEAR POWER TO REPLACE IRANIAN OIL

(Mr. McCORMACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCORMACK. Mr. Speaker, I, too, commend the President for his strong action in cutting off the importation of oil from Iran. America is united behind the President on this matter.

In that respect, Mr. Speaker, the Subcommittee on Energy Research and Production of the Science and Technology Committee will conduct a hearing tomorrow at 9 a.m. on the progress of improvements made in our nuclear powerplants as a result of the lessons learned from the Three Mile Island accident.

Dr. John G. Kemery, Chairman of the President's Commission on the Three Mile Island Accident, along with Dr. Joseph Hendrie, Chairman of the Nuclear Regulatory Commission, Dr. Floyd Culler, president of the Electric Power Research Institute, and Dr. Floyd Lewis, chairman of Mid-South Utilities, will all testify before the subcommittee.

Members of the House, and the public in general, will be interested to know that the 15 nuclear plants that are not yet on line, but which can be on line by the end of 1980, will produce the electric energy equivalent of about 500,000 barrels of oil a day, about two-thirds of the amount of oil we have been importing from Iran.

A rational, positive U.S. energy plan, which will earn the respect of the world, will, of course, emphasize bringing these plants on the line in an expeditious and orderly manner.

PEACEFUL DEMONSTRATIONS AGAINST IRAN BY AMERICAN STUDENTS SHOULD MAKE US PROUD

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, watching our college students demonstrating for their country and for the release of the Americans being held hostage in Tehran should make every American proud. No one had to tell them that another unjustifiable attempt at blackmail was being made against their country and that we had had enough. No one had to remind them that the United States of America is made up of a civilized and humanitarian people who have a long and a cherished history of coming to the aid of friend and foe alike in times of absolute need and that we, and no one else, will determine our role in the world.

Their demonstrations have been sincere, spontaneous, effective, and restrained. Their activities have certainly had an influence on the President and have encouraged him to take action in this matter.

Our students have not had to resort to a taking of hostages to get their point across, and I urge the college students in Tehran to ponder this fact.

PRESIDENT CARTER'S ACTION NOT TOUGH ENOUGH

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, I would honestly like to get up this afternoon and join our majority leader in the chorus of praise for President Carter but unfortunately, I cannot. The President and his advisers have come up a day late and a dollar short in their handling of the Iranian crisis. Last week, when many of us publicly called for an embargo of Iranian oil, we did so in an effort to take a strong diplomatic stand against the terrorist-infested regime of the Ayatollah Khomeini. We wanted to show those radicals that we were indeed capable of standing up to our enemies in the face of an irrational and immoral terrorist attack. Unfortunately, Mr. Carter waited too long before deciding to exercise some leadership. The ayatollah had already decided to play his oil card and this so-called tough stand has been rendered meaningless. We are no better off today than we were last week—and more importantly—some 60 Americans are still being held hostage by the terrorists in Tehran.

The problem now is the same problem we had in January 1977 and the same as it has been for the last 3 years—the advisers who surround the President. With the likes of Andy Young, who for years has been spewing anti-American statements, it is little wonder we would face blackmail. When the demagogs seized control in Iran, the liberal community hailed this as a new era of liability. Andy Young even went so far as to say that Khomeini might even be a saint someday.

The same gaggle of McGovern. Those 1972 advisers are the architects of the disastrous politics of the last 3 years, the Iranian fiasco being only one more episode in their sorry chapter; yet the Iranian dissidents urged the State Department clichés, which have brought us to this sorry state, to go along with them.

Any good poker player knows that you can bluff for so long before everybody in the game begins to catch on. That is exactly what has happened in this crisis. The Iranian Government realizes that the White House is incapable of handling a crisis and they intend to continue slapping the sleeping giant in the face. We will continue to get nowhere until Mr. Carter and his State Department advisers decide to get tough with the terrorists.

The Iranian Government, by issuing its support and cooperation to the radical students, has effectively lost its right to diplomatic immunity. Adolf Hitler, on his worst day, never violated the sanctity of an embassy. Our President should immediately sever diplomatic relations with the Government of Iran. Those Khomeini sympathizers in the United States should be told today that they have 30 days to leave the country voluntarily before they are forcefully expelled. Maybe then, the Ayatollah will understand that we are ready to get down to business.

Too many American lives are at stake to consider strong-arm tactics at this time but I am confident that if this Government takes a strong diplomatic stance against that tin-horn dictator in Iran, we may be able to peacefully bring about an end to this crisis.

Mr. Speaker, Americans of all political ideologies are up in arms over this tragedy. For the first time in a long time, pro-American demonstrations are being organized on the campuses of colleges and universities. Constituents in my district are initiating petition drives, urging Mr. Carter to get tough. It is clear that Americans want some action. Let us give it to them.

□ 1210

UNITED STATES MUST NOT BOW TO AYATOLLAH KHOMEINI'S PERSONAL VENDETTA

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, last week I wrote the President, urging him to take firm action with regard to Iran. I suggested deportation of Iranian students, expulsion of the Iranian Embassy, and termination of all trade relationships with Iran, pending the release of the Americans held in our Embassy in Tehran.

Today I want to reiterate my strong feeling that we must not bow to the personal vendetta of a fanatic who has directed a calculated affront against the people of the United States. The safety of our people being held hostage must be our first concern, but we must also give clear notice to the Ayatollah Khomeini that we intend to deal with him firmly.

I understand that the United States is now lending Iran $1.2 billion a year to buy food from this country. The President has taken the right step in cutting out oil imports from Iran. As further evidence of our national resolve, I believe that we should stop all programs enabling Iran to purchase foodstuffs from this country until they demonstrate that they are prepared to live in peace with our people. We must protect the security of our Embassies and our citizens abroad, and we must demonstrate that we will not permit others to take advantage of our generosity.

NEW SYMBOL OF ENERGY CONSERVATION—A BURNING AMERICAN FLAG

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, thanks to the Ayatollah Khomeini, the United States now has a new symbol of energy conservation—a burning American flag.

The mobs in Tehran have shown us the vulnerability of the United States to unstable sources of foreign oil, and they have galvanized the American people into action as no act of Congress ever could.

But the mobs in Tehran have made a serious mistake. They have assumed that Americans were willing to sell themselves out for a bucketful of oil. They are wrong. National pride, honor and self-respect are far more valuable to this country than Iranian oil, and President Carter was absolutely correct in stopping imports of Iranian oil into the United States. Now the administration must go one step further. It must call upon other

countries of the world, particularly our Allies in Europe, to stop imports of Iranian oil into their countries until the hostages are released and our Embassy returned to the control of American officials.

The world must band together against this outlaw action, or it shall endure repeats of this terrible situation again and again.

IRANIAN OIL

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, yesterday President Carter halted U.S. purchases of Iranian oil, a move which we all applaud.

While some say this is a symbolic gesture, and may not bring about the immediate release of the American hostages, it does demonstrate that the American people are unified and resolute in opposing terrorism, blackmail and oil-barrel diplomacy.

As I did last week, I am again urging the President to take this boycott one step further. In negotiating with America's allies, urging them to join in and expand our boycott of Iranian oil. The President should also take whatever steps are necessary to end all U.S. military and economic assistance to that nation.

For this boycott to be effective, it is necessary that the President have the full dedication and support of the American public. I urge each and every citizen and our State and local governments to take the necessary steps to conserve fuel. In this time of crisis we must all pull together to demonstrate our Nation's resolve and fortitude.

PERMISSION FOR SUBCOMMITTEE ON ENERGY RESEARCH AND PRODUCTION OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET WEDNESDAY, NOVEMBER 14, 1979, AT 9:30 A.M.

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy Research and Production be permitted to meet tomorrow morning, Wednesday, November 14, 1979, at 9:30 a.m., in spite of the fact that the House may be in session part of that time.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
November 9, 1979.

HON. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received at 4:15 p.m., on November 9, 1979, and said to contain a message from the President wherein he transmits a special message on security assistance to Caribbean and Central American countries, together with proposed legislation, entitled, "Special Central American and Caribbean Security Assistance Act of 1977".

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

SECURITY ASSISTANCE TO CARIBBEAN AND CENTRAL AMERICAN COUNTRIES, TOGETHER WITH PROPOSED LEGISLATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-224)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Many of our neighbors in Central America and the Caribbean are in crisis—crisis marked by economic problems, terrorism, and popular frustration. The resolution of these problems in ways that will preserve the independence and security of these countries, while expanding democracy and supporting human rights, is very much in the national interest of the United States.

Prompt and effective U.S. assistance is vital.

—Nicaragua's economy has been crushed by bitter and prolonged strife. We have been asked to help, and we are doing so. But more is needed to restore public confidence, private initiatives, and popular well-being.

—The Governments in El Salvador and Honduras have pledged democracy and moderation. These and other Central American countries are embarked on accelerated development efforts of direct benefit to the poor. Assistance in these efforts is essential in creating the conditions under which democratic institutions can grow and thrive.

—The countries of the Eastern Caribbean are young and struggling democracies. They need help now for nation-building and for economic development.

I am therefore today proposing action to expand our support for development and security in Central America and the Caribbean. This will augment our existing development and security assistance programs in these regions, which in turn complement the contributions of several other governments and international agencies.

I have directed that, subject to normal congressional notification procedures, funds be reprogrammed for use in Central America and the Caribbean. These include:

—$5 million from the fiscal year 1980 Economic Support Funds for development projects in Central American countries other than Nicaragua.

—$10 million from fiscal year 1979 and fiscal year 1980 development assistance funds for public works and high employment impact projects in the Caribbean. These projects are an important part of our fiscal year 1979–80 contributions of $66.9 million budgeted for the Caribbean Development Group, chaired by the World Bank.

We are also reprogramming Food for Peace funds to increase food assistance in the area, especially in Nicaragua. We will also likely be reprogramming $5 to $10 million in Foreign Military Sales credits and International Military Education and Training funds for the Caribbean, and similar amounts for such programs in Central America. We are still working out the final details of these proposed reprogrammings and will fully inform the appropriate congressional committees of our proposed actions.

Reprogramming, however, is not enough. The enclosed bill would provide $80 million in flexible Economic Support funding, $75 million to assist in the reconstruction of the Nicaraguan economy and $5 million for early-impact development projects in other Central American countries.

I strongly urge rapid congressional action on this bill.

Such action will demonstrate that the United States can be relied upon to support democratic aspirations, the rebuilding of broken economies, and the security of our friends in this nearby region. Our additional funds for Central American development should substantially augment existing programs. Furthermore, we hope that other nations and international institutions will increase their efforts to accelerate the social and economic development of Central America.

With your help we can make clear where we stand.

JIMMY CARTER.

THE WHITE HOUSE, *November 9, 1979.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or, on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

LEGIONVILLE, PA., NATIONAL HISTORIC SITE

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4308) to provide for the establishment of the Legionville National Historic Site in the State of Pennsylvania, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. That, in order to preserve and protect the site of the first military training camp established in the United States, known as the Legionville Site, in the northernmost part of Harmony Township, adjacent to Baden Borough, Beaver County, Pennsylvania, for the benefit of present and future generations, the Secretary may acquire by donation, purchase, or exchange with donated or appropriated funds the area containing approximately twenty-two acres bounded on the south by the ravine of Legionville Run, on the east by Duss Avenue, on the north by Logan Lane and on the west by Route 65, a railroad and the Ohio River in that order.

SEC. 102. Any property acquired under section 101 of this Act shall be administered by the Secretary, acting through the National Park Service, in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act approved August 25, 1916 (16 U.S.C. 1 et seq.) and the Act approved August 21, 1935. The Secretary shall enter into cooperative agreements with other qualified public or private entities for the management, development and interpretation, in whole or in part, of the property so acquired.

SEC. 103. The Legionville Site shall be established as the Legionville National Historic Site only after (1) sufficient land and improvements for administrative purposes have been acquired, and (2) the cooperative agreements have been executed with qualified entities.

SEC. 104. Effective October 1, 1980, there are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

TITLE II

SEC. 201. The Act entitled "An Act to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes", approved July 4, 1976 (90 Stat. 796), is amended (1) in subsection 2(a) by changing "dated February 1976, and numbered VF-91,000," to "dated June 1979, and numbered VF-91,001," (2) in section 3 by adding the following sentence at the end thereof:

"In furtherance of the purposes of this Act, the Secretary is authorized to provide technical assistance to public and private nonprofit entities in qualifying for appropriate historical designation and for such grants, other financial assistance, and other forms of aid as are available under Federal, State or local law for the protection, rehabilitation, or preservation of properties in the vicinity of the park which are historically related to the purposes of the park.", and (3) in subsection 4(a) by changing "$8,622,000" to "$13,898,000".

TITLE III

SEC. 301. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

The SPEAKER. Under the rule, a second is not required on this motion.

The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 20 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4308, as reported by the Committee on Interior and Insular Affairs, would authorize the establishment of the Legionville National Historic Site in Pennsylvania, and would also authorize certain boundary adjustments at the existing Valley Forge National Historical Park.

I wish to commend our colleague from Pennsylvania, Representative GENE ATKINSON, who has brought this matter to the attention of our committee. Also, Representative LARRY COUGHLIN should be recognized for his interest and concern in seeing that the Valley Forge National Historical Park receives the increased protection which this bill provides.

The proposed Legionville National Historic Site is a 22-acre site situated on the Ohio River, northwesterly from Pittsburgh, Pa. In 1792, Gen. "Mad Anthony" Wayne undertook a program of military training by establishing a camp at the Legionville site in November and instructing his troops in military discipline and techniques of warfare until April 1793. These troops eventually fought the Miami Indians at the Battle of Fallen Timbers in August 1794, in the present State of Ohio.

H.R. 4308 also provides for the addition of some 682 acres of land to the existing Valley Forge National Historical Park, which was first authorized by Public Law 94-337. Subsequent to the establishment of the historical park, the National Park Service conducted a study of the boundary and the surrounding lands, and identified a number of properties which are desirable for addition to the area. Addition of these areas would permit the acquisition of scenic easements over some 149 acres to retain the character of the area surrounding the park, provide for fee simple acquisition of some 482 acres which will improve the management of visitor use activities and protection of historic properties, and incorporate some 51.4 acres of State- and county-owned lands which would be acquired only by donation.

There has been concern expressed over the desirability of Congress taking action to recognize the Legionville site, since little remains of the structures which existed at the time of General Wayne's encampment. But the site can be the setting for interpreting an interesting aspect of our history to all Americans, as is the case with a number of other units of our national park system. I also wish to note for our colleagues that this bill will require local or State commitment to participate in the administration of this area before the area can be established as a national historic site. For a very modest investment, then, we can provide an opportunity to commemorate this era of our heritage.

Mr. Speaker, I urge my colleagues to join in support of this bill.

□ 1220

Mr. LAGOMARSINO. Mr. Speaker, the gentleman from California (Mr. PHILLIP BURTON), the chairman of the subcommittee has explained the bill very well. I just want to say that I rise in particularly strong support of title II of the bill, Valley Forge.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. I thank the gentleman. I want to compliment the distinguished chairman of the subcommittee, the gentleman from California (Mr. PHILLIP BURTON), for this bill, as well as the distinguished ranking minority member, the gentleman from Kansas (Mr. SEBELIUS) and particularly to give thanks to the gentleman from California for his support of this legislation.

Mr. Speaker, I rise to speak on H.R. 4308, a bill to add 682.4 acres to the Valley Forge National Historical Park, Pa. Title II of this legislation, the Valley Forge section, was originally H.R. 4762, an individual bill I introduced on July 12, 1979. Let me take a moment to compliment the distinguished chairman, Mr. PHILLIP BURTON of California, and ranking minority member, Mr. KEITH SEBELIUS of Kansas, of the Interior Subcommittee on National Parks and Insular Affairs for their swift consideration and support of the Valley Forge land acquisition.

As students of American history know, Valley Forge was the site of the encampment of Gen. George Washington's Continental Army during the bitter winter of 1777–78. While the temporarily victorious British Army was comfortably billeted in Philadelphia, General Washington and his 11,000 battle-weary men set up camp 20 miles to the west. Against overwhelming odds, the Continentals not only survived, but emerged as a disciplined and proficient military force. The Valley Forge story is truly one of the most inspired and patriotic chapters in the history of the United States.

In recognition of this, and with the assistance and support of the House Interior and Insular Affairs Committee, a bill establishing the Valley Forge National Historical Park was passed in 1976 (Public Law 94-337). At that time, the committee recognized:

First. The rapidly increasing development around Valley Forge as pressure for usable land in the Greater Philadelphia urban area has grown;

Second, the national character and historic significance of the park; and

Third, the need for continuing protection and management by the National Park Service.

These considerations are applicable, today, to the 682.4 acres which the pending bill would add to the existing 2,450-acre park. Most of the land is in Lower Providence Township, Montgomery County, with about 60 acres in Tredyffrin and Schuylkill Townships, Chester County. Acquisition of this new acreage would be a major development in preserving a beautiful section of the Schuylkill River Valley.

It is important that the Federal Gov-

ernment move immediately to obtain these valuable lands. All of the property to be acquired in fee, except for on parcel, is slated for purchase or development by private individuals. There is the real danger that these tracts will be lost, unless the Park Service is able to act in the next few months. It is my understanding that informal agreements exist between the National Park Service and landowners, that the Government would have the opportunity to purchase the land by the end of the year. Unless the property, most of which is raw land, is acquired now, it will not be feasible to purchase it in the future. Higher costs are certain when compensation for development and displacement is included.

Within the proposed acquisition is Patlands, the historic building and property in Lower Providence north of the Schuylkill River.

The 155-acre property is slated for development unless arrangements for Federal acquisition are completed. A historic structure, vintage 1740, is situated on another tract, also to be acquired. Park officials say the building, in good condition, served as commissary headquarters for General Washington and his army during the encampment.

The 1976 House Interior Committee report (H. Rept. 94–1142) expressed the expectation that the park would be managed "with increased emphasis on the restoration and maintenance of the historic scene. Nonconforming recreational uses are to be phased down or relocated." Recreational activities currently provided in the park are restricted. Intense uses, such as marathons, are forbidden. Although there is historical justification for buying property north of the river—Washington and his troops also camped on that side and used the fiord—the land would be valuable primarily for recreational purposes. Biking, hiking, jogging, and horse trails, and picnic groves could be shifted and expanded from the current park area to accommodate the 4 million annual visitors. New acreage would be a link with the Audubon Wildlife Sanctuary, the Evansburg State Park, and planned recreational trails. Such uses conform with township, county, and regional planning, and enjoy strong local support.

Plans also call for obtaining scenic easements on about 130 acres of developed land in Montgomery and Chester Counties. Agreements would insure that land only be used for private homes, preventing high rise and/or commercial development. Not only would there be no displacement for the 30 owners involved, but vista access across the Schuylkill River would be preserved without buying land out to the horizon.

For historical purposes, recreational use, and vista protection, I urge the House to accept the recommendations of the Parks Subcommittee and the full Interior Committee and pass this bill. Unless action is expeditiously taken, much of this land will be lost to other uses. I am confident that the House will continue to protect America's valuable resources.

Mr. PHILLIP BURTON. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from Pennsylvania (Mr. ATKINSON).

Mr. ATKINSON. Mr. Speaker, I am pleased to be able to rise in support of H.R. 4308, a bill I introduced on June 5 to establish a national historic site at Legionville, Pa. As Members know, the need for this legislation has been increased by adding to the Legionville proposal a provision to extend park lands at the Valley Forge National Park. The Valley Forge Park extension was initially offered by my distinguished colleague, the gentleman from Pennsylvania's 13th District, and I fully agree with the gentleman's proposal.

Mr. Speaker, the Interior Committee report does an excellent job of describing the historical importance of the Legionville site, and I will not take Members' time to more than capsulize the important and unique series of events that occurred at this 22-acre site on the banks of the Ohio River in western Pennsylvania. An important Indian settlement, site of early trading and religious observances in the trans-Allegheny region, in 1792 Legionville became one of those few unique crossroads that mark the path of westward expansion of our Nation.

On these bluffs overlooking the Ohio, downstream from the rough frontier settlement of Pittsburgh, Revolutionary War hero Gen. "Mad Anthony" Wayne brought together and trained the first regular Army units of the United States. Wayne's "Legion," organized by command of President George Washington, brought together men like William Henry Harrison, later President of the United States, William Clark, of the Lewis and Clark Expedition, and Zebulon Pike, who explored much of the Western United States. These troops, prepared on the rudimentary but innovative and effective training fields of Legionville, soon marched on one of the truly significant military campaigns of American history. Defeating Indian forces at Fallen Timbers, the Legion opened the Northwest Territories—now the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin—for American settlement, and insured that British presence in North America would be confined to the borders of Canada.

I believe another aspect of the Legionville National Historic Site proposal will be important to Members: Its accessibility. Located within a short drive of Cleveland and Pittsburgh, it is within a day's drive from over half the Nation's people, a significant consideration in these days of high fuel prices. By designating Legionville a National Historic Site, I believe this body is contributing to an important process of bringing parks to people.

As Members know, some controversy arose in committee over the Legionville site as the Park Service raised questions about the integrity of the original training site and about the intrusion of transportation facilities and nearby steel mills on the site. Quite frankly, Mr. Speaker, we are proud of those mills and railways in western Pennsylvania and count transportation facilities to bring people to parks as pluses, not minuses. I choose, and I think the people of this Nation choose, to preserve our historical heritage—in this instance at a total cost of less than $1 million—rather than worry unduly about the proximity of historical sites to productive facilities. I know the average steelworker who takes his or her son or daughter to view a piece of American history in the old breastworks at Legionville will not worry that he has to pass a factory to get to the site, and I suspect that even visitors to Legionville from other parts of the country will tolerate the mills that mean livelihoods to the residents of western Pennsylvania.

I would be remiss, Mr. Speaker, if I did not mention the strong appreciation I feel for the chairman, the gentleman from Arizona (Mr. UDALL), and especially for the subcommittee chairman from California (Mr. PHILLIP BURTON) for their foresight in handling this legislation. I know they realize the importance both of preserving our historical heritage and of bringing parks to where the American people can appreciate and use them. And while we did not see eye to eye on every issue, I appreciate the integrity of ranking minority member, the gentleman from Kansas (Mr. SEBELIUS) of the Parks Subcommittee. Finally, I would like to commend the untiring efforts of the Anthony Wayne Historical Society in western Pennsylvania and other citizens whose hard work helped mobilize the overwhelming support in our area for this park.

Mr. Speaker, I urge the passage of H.R. 4308 to establish a national historic site at Legionville and to expand the Valley Forge National Park.

THE AMERICAN LEGION,
Washington, D.C., November 8, 1979.

Hon. EUGENE ATKINSON,
House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN ATKINSON: The American Legion appreciates your introduction of H.R. 4308 to establish the Legionville National Historic Site and your active support for this proposal. Our organization certainly shares your interest as demonstrated by our pursuit of site establishment for several years.

We are aware of past difficulties regarding assessment of site integrity and other related matters but, despite all this, we remain convinced that Legionville deserves the federal recognition and support called for in this legislation. Our organization was deeply disappointed by the failure of similar legislation in the House during the waning hours of the 95th Congress.

We truly hope that House consideration and passage can be achieved in the near future so that the measure will have ample time to be enacted before the end of this Congress.

Sincerely,

MYLIO S. KRAJA,
Director,
National Legislative Commission.

● Mr. SEBELIUS. Mr. Speaker, this bill brings to my colleagues on the floor a mixture of good news and bad news: The good news is title II, which provides for the addition of lands to the boundaries of the existing Valley Forge National Historical Park in Pennsylvania; the bad news is title I which provides for the

creation of a new 22-acre unit of our national park system as the Legionville National Historic Site, also in Pennsylvania. Let me continue with the good news first.

Valley Forge was made a new unit of our national park system on July 1, 1976, appropriately on the occasion of our Nation's 200th birthday. Prior to that time, the area was owned and managed by the State of Pennsylvania. After the National Park Service took over the area, they were able to evaluate the current boundaries of the park in view of their adequacy for their management needs, and with a particular awareness that adjacent suburban development was fast encroaching upon the park.

This evaluation led to the conclusion brought forth in the bill before us, advancing the urgent necessity of some further boundary additions. Most of the lands to be added will help protect the integrity of the current historical lands by buffering them from adverse adjacent development. The additions will also offer expanded management flexibility to channel much of the current nonconforming recreational use within the park to more compatible locations and away from the areas of major historical interest. It is most important that the National Park Service keeps this issue in the forefront of all its planning and management efforts.

The committee, when it authorized this new area in 1976, saw this issue as one of very high concern—the segregation of recreational use from the prime parts of the historical resource, and the altogether eventual complete elimination of some aspects of recreational use.

Mr. Speaker, this ends my comments on the good news part of this bill—and now for the bad news.

Title I of this bill authorizes the establishment of a Legionville National Historic Site, also in Pennsylvania. This title would establish a new unit of our national park system, a 22-acre site to commemorate the site of the first—which it reputedly is not—military training camp established in the United States, associated with the endeavors of Gen. Anthony Wayne.

According to the professional study and recommendation of the National Park Service and the official administration position, the site has neither the integrity nor national significance to warrant a national park system designation. Indeed, a bill accomplishing essentially the same objective which was passed in the late hours of the last Congress, without going through the committee, was vetoed by the President. Hardly ever is a park bill vetoed.

Current cost estimates to purchase this small 22-acre site are about $350,000, and development costs could add another $1,500,000 at a minimum.

This site is amidst a quite developed industrial area and is bounded on its edges by factories, an interstate highway and other roads, a railroad, mining and fill activity, and residential development. Little discernable evidences of the historic activity to be commemorated are remaining on the site.

In full committee I offered an amendment which would have the effect of only authorizing Federal acquisition of the area, provided that it would be operated and maintained by someone else acceptable to the Secretary of the Interior under terms of a cooperative agreement. The area would not be designated as nationally significant and it would not become a unit of the national park system. This amendment, which on a recorded vote was not adopted, was a compromise. In reality, the area deserves no Federal support at all of any time.

Mr. Speaker, it is my personal belief that adopting the Legionville text as it appears in this bill would constitute a grossly irresponsible action and would contribute to the demeaning of the integrity of our national park system.

There you have it, my friends. The good news and the bad news. Is this a case of taking the bad news with the good? Or is it a case of taking neither? Only the vote of this body will decide that.

Mr. Speaker, I would like to make a matter of record of two items attached to my statement, and I ask unanimous consent to have these items made a part of my remarks here.

BEAVER AREA HERITAGE FOUNDATION,
Beaver, Pa., June 18, 1979.

Hon. PHILLIP BURTON,
Chairman, House National Parks Subcommittee, House of Representatives, Washington, D.C.

DEAR MR. BURTON: This letter is in reference to a bill sponsored by Rep. Eugene Atkinson, (Penna. 25th District), regarding acquisition and development of a site in Beaver County, Pa., known as Legionville. According to current newspaper accounts, this matter is presently before your committee, pending action.

As citizens and taxpayers of the general area involved, and as members of a companion historical group with knowledge of the history of the site, we feel compelled to call certain facts to the attention of your committee.

It is our position that National Historical Park status belongs only to a site on which American soldiers have died in battle, or to a site which marked a turning point in our nation's history. Unfortunately, Legionville does not even come close to qualifying on either count. As a matter of historical record, the site known as Legionville was a temporary training camp, used for five months, between December, 1792 and April, 1793 by General Anthony Wayne. Legionville was but the second of four such encampments used by General Wayne in a 26-month period. Most of the achievements being claimed for Legionville were actually accomplished at Fort Fayette in the six months prior to the stay in Beaver County. Further documentation of the history of this period can be found in the attached manuscript from Chapter 11 of the book, "'It Happened Right Here", published by the Beaver Area Heritage Foundation. (Attached).

As an organization devoted to the advancement of historical values, we applaud the dedication of the Anthony Wayne Historical Society. As historians, we raise serious questions about the significance of the Legionville site as anything more than a place of interest in local history. As taxpayers, we are appalled at the prospect of anyone even considering spending hundreds of thousands, yea millions, of dollars of public funds in this manner.

Again, we wish to go on record that in our opinion as historians, this project does not merit the interest shown by our political leaders. We are certain that a thorough review of the facts will show that our concern is justified. We will appreciate a firm indication of the position of your committee on this matter.

Sincerely,

ROBERT A. SMITH,
President.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., June 8, 1979.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are our voluntary comments on H.R. 4308, a bill "to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania."

We recommend against the enactment of H.R. 4308.

H.R. 4308 would direct the Secretary of the Interior to acquire about 22 acres in Beaver County, Pennsylvania, for establishment as the Legionville National Historic Site, to be administered as a unit of the National Park System. H.R. 4308 would further direct the Secretary to enter into a cooperative agreement with a nonfederal entity for the management, development and interpretation, in whole or in part, of the property so acquired.

Legionville is a 22-acre site situated on the Ohio River, northwesterly from Pittsburgh, Pennsylvania. In 1792, General "Mad" Anthony Wayne undertook a program of military training by establishing a camp at the Legionville site in November and instructing his troops in military discipline and techniques of warfare until April 1793. These troops eventually fought the Miami Indians at the Battle of Fallen Timbers in August 1794, in the present State of Ohio.

We do not believe the need for H.R. 4308 has been sufficiently documented. The bill refers to this site as "the first military training camp in the United States." While there is no question about the importance of General Anthony Wayne's role in the nation's history, we believe the Battle of Fallen Timbers National Historic Landmark, Ohio, already well illustrates the major military contributions made by General Wayne in securing the Old Northwest frontier and giving much needed stability to the new government. We do not believe that the setting aside of the training area for that battle, which was fought in 1794, would add anything significant to what has already been recognized at Fallen Timbers.

Furthermore, almost all of the important episodes in General Wayne's career are either represented in the National Park System or as national historic landmarks. These include: Fort Ticonderoga, Brandywine, Monmouth and Fallen Timbers Battlefields which are all national historical landmarks, and Yorktown Battlefield within the National Park System. General Wayne's home, "Waynesborough," in Chester County, Pennsylvania, is also a national historic landmark. The site may or may not have been the first camp established primarily for military training, but formal training certainly occurred long before at other encampments—Valley Forge being a notable example.

The Legionville site has been altered by intrusions of modern development such as a railroad and an interstate highway. Upon nominating it to the National Register of Historic Places, the Pennsylvania State Historic Preservation Office judged the site only of local significance. A field survey by the National Park Service early in June 1977 confirmed this finding.

Accordingly, we recommend against the

enactment of H.R. 4308. This Department and the National Park Service would be pleased, however, to consider applications from the State of Pennsylvania for matching funds of historic preservation grants. Additionally, the expertise of the National Park Service is available to the State to assist in planning the development of the site as a local or regional park.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAVID HALES,
Acting Assistant Secretary.

VETO OF BILL TO ESTABLISH THE LEGIONVILLE NATIONAL HISTORIC SITE IN PENNSYLVANIA

(Memorandum of Disapproval of S. 1104, November 2, 1978)

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 1104, a bill that would authorize the establishment of the Legionville National Historic Site in the State of Pennsylvania. I am withholding my signature because I do not believe the Legionville site is of sufficient national significance to merit the cost of establishing and maintaining it as a national historic site.

The site does not meet the national significance criteria for historical areas established by the Department of the Interior. The Pennsylvania State Historic Preservation Office judged the site of only local significance. A National Park Service report, made in June 1977, agreed. Further, the site has been altered by such modern intrusions as a railroad and an interstate highway.

The career of General "Mad" Anthony Wayne has been amply commemorated at other designated sites and I do not believe the added expense of acquiring and developing this site is a worthwhile expenditure of Federal funds.

JIMMY CARTER.

THE WHITE HOUSE, *November 2, 1978.*●

Mr. PHILLIP BURTON. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the remainder of my time.

Mr. PHILLIP BURTON. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill H.R. 4308, as amended.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MARTIN LUTHER KING BIRTHDAY

Mr. GARCIA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5461) to designate the birthday of Martin Luther King, Jr., a legal public holiday, as amended.

The Clerk read as follows:

H.R. 5461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 6103 of title 5, United States Code, is amended by inserting immediately below

"New Year's Day, January 1." the following: "The birthday of Martin Luther King, Junior, January 15.".

SEC. 2. The amendment made by this Act shall take effect on January 1 of the first calendar year beginning more than twenty-four months after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. GARCIA) will be recognized for 20 minutes, and the gentleman from Missouri (Mr. TAYLOR) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5461 establishes January 15, the anniversary of Dr. Martin Luther King, Jr.'s, birthday as a national Federal holiday. This bill commemorates the life and legacy of this unique man whose contributions to our Nation are virtually unparalleled. Each year since his tragic death more than 10 years ago, legislation has been introduced to establish a national holiday in honor of Dr. King. Earlier this year, my good friend and colleague, the gentleman from Michigan, Representative CONYERS, introduced a similar bill, H.R. 15. This bill was cosponsored by 125 House Members and referred to the Post Office and Civil Service Committee.

On March 27, 1979, joint hearings on the bill were held by the Senate Judiciary Committee and the Subcommittee on Census and Population. We heard testimony in support of the legislation from many distinguished citizens.

On October 10, the Committee on Post Office and Civil Service by voice vote, favorably reported the bill.

Mr. Speaker, the enactment of H.R. 5461 would serve as an appropriate testimonial to an extraordinary individual who dedicated his life to the cause of human rights, moreover, the bill would underscore the Nation's continuing commitment to alleviate the persistent and continuing effects of discrimination and poverty which Dr. King struggled to eliminate.

Dr. King marched, preached, prayed, and sang for joy. He also wept in anguish and despair. He dreamed a broad and sweeping dream of peace and justice for all. Dr. King led a movement that changed the course of our Nation and caused the enactment of landmark civil rights legislation.

Dr. King deserves the honor and recognition a national holiday bestows. The civil rights movement was a pursuit of fundamental rights and, as its leader, Dr. King personified the values and traditions of our Nation's heritage.

His moral vision, his uncommon courage, his quest for social justice, his stalwart commitment to nonviolence, and his deep and abiding love and concern for the poor and the oppressed, exemplified all that is best about this country.

He stirred the conscience of the Nation and spoke out in ringing tones for the disenfranchised and thus rekindled the flame of hope and progress in some of our bleakest years. He made an immense contribution to the continuing moral growth of this country.

Perhaps, more importantly however, this holiday will contribute immeasurably to answering the questions which will arise in the hearts and minds of all of our children and their grandchildren.

I cannot begin to tell you how important this holiday would be to the future hopes of our young people. We are and should be about the business of building strong self-concepts and strong self-images in our children.

It is important for all young people everywhere to know that there was indeed a man named Martin Luther King. To know of his inspirational legacy, his dream and his hopes connected with the values and tradition of this Nation.

In short, Mr. Speaker, the only issue today is whether America is prepared to honor its heroes no matter where they come from.

Mr. Speaker, I urge the House to approve this measure and I reserve the balance of my time.

□ 1230

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I reluctantly rise in opposition to the designation of the Reverend Martin Luther King, Jr.'s birthday as a legal public holiday because I do not believe our present economic situation will allow us the luxury of another $212 million Federal holiday.

Public concern grows daily over the rising costs of Government, the continuing inflation rate brought on by ever-expanding Federal deficit spending, and the grim projections for the future economic health of our Nation. This legislation will further feed the fires of inflation by costing the weary American taxpayer at least $212 million to bestow another paid holiday to Federal employees.

A legal public holiday will close all Federal Government offices including post offices, social security offices, and veterans hospital offices, and will further damage our Government's lack of productivity. But the costs will not stop at the Federal level, because thousands of State, county, and city governments, will be asked to follow suit and declare a holiday for the millions of workers they employ. Although passage of this bill will not automatically require the closing of public schools, libraries, and other government institutions, the committee report makes it clear that the Congress is suggesting a 2-year delay in the effective date so State legislatures can follow suit.

Mr. Speaker, the Members should oppose the use of our rule supension procedure for this bill, since it precludes

amendments and severely limits debate on this automatically expensive measure. For example, our colleague from Tennessee (Mr. BEARD) would like to propose an amendment that would require all future legal public holidays to fall on either a Saturday or a Sunday, and I would be interested in having a full debate on the merits of his amendment.

There is also some sentiment, Mr. Speaker, for an amendment that would honor the contributions made by Reverend King through a commemorative day. This could be accomplished by simple majority approval of a joint resolution calling upon the President to issue a proclamation and inviting public ceremonies and activities in recognition of the work and memory of the civil rights leader.

I will gladly support such a resolution. Millions of Americans have a great deal of respect for Reverend King, and I know his memory evokes a great emotional response from segments of our society, but I believe there is a more appropriate way to honor him than through the costly method of creating another legal public holiday.

The House should weigh carefully the expense involved in creating any new Federal holiday, not only in terms of the Federal budget, but also the expense that will surely follow at the State and local government level and in the private sector.

Recognizing the agony of inflation and the well established fact that inflation is caused in no small part by deficit Federal spending and declining productivity it just makes sense that establishing another national holiday—that will shut down the Federal Government and half of the business and commerce of the Nation for 1 full day is a double barrel shot that will contribute both to deficit spending and further lowering productivity and will have the effect of pouring gasoline on the inflationary fires that are already consuming the life blood of the American people.

For these reasons, Mr. Speaker, I oppose passage of H.R. 5461 under suspension of our rules.

Mr. GARCIA. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, the decision of Congress on the Martin Luther King, Jr., national holiday bill will indicate the kind of moral direction of our Nation in the coming years. In approving this legislation, Congress will have made the most positive statement it can that the sectional and racial chapter of America's history has been closed forever. The Martin Luther King, Jr., National Holiday Act would commemorate a turning in our history of significance equal to other great events and passages that have shaped our destiny.

History thrust the young Baptist minister from Atlanta into the leadership of the civil rights movement. He became in the process the architect of the greatest movement of citizen action in modern times, one that empowered millions of citizens, black and white, whose lives had been devoid of dignity and hope.

In each Congress from 1968 onward, I have introduced legislation to designate Dr. King's birthdate—January 15—a national public holiday. Thirteen States, as well as most major cities, already honor Dr. King, as do people throughout the world.

By commemorating Dr. King's birthdate, we do more than honor one man, however extraordinary; we honor the profound spirit of love and humanity that guided his life and inspired his fellow citizens.

The meaning of his life—and what each of us needs to relearn and reflect upon—is captured in what he said in 1964 when he was awarded the Nobel Peace Prize:

> Nonviolence is the answer to the crucial political and moral questions of our times—the need for man to overcome oppression and violence without resorting to violence and oppression. I accept this award today with an abiding faith in America and an audacious faith in the future of mankind.

Those who regard Dr. King as the leader of a narrow cause or the spokesman for a single group fail to share his vision of the interdependency of every human life. Injustice in any form, affecting anyone, was viewed by Dr. King, as a threat to us all. His politics was harnessed to an overriding moral imperative to improve the lives of all human beings, whether he fought to end segregation in Birmingham, win full political rights in Selma, overcome housing and job discrimination in Memphis, or to put an end to poverty and build a full employment economy in the Nation.

Martin Luther King, Jr., led the Nation to recognize its common destiny and the fundamental interdependency of our lives.

Dr. King was a deeply religious man, the son and grandson of two prominent ministers in whose church—the Ebenezer Baptist Church in Atlanta—he too became a minister. His training in theology led from Atlanta's Morehouse College and Pennsylvania's Crozer Theological Seminary through the University of Pennsylvania, Harvard and Boston University, where he earned a doctorate. The social gospel that he studied he later practiced, according to Luke:

> To heal the broken-hearted, to free the captives, to set at liberty them that are bruised.

Public holidays in the United States are rightly reserved for honoring great traditions, the Nation's highest ideals, and the leaders who have shaped our destiny. Dr. King brought America back to its roots as a people. He challenged us to honor the law, even when the law was flawed. He made us proud to exercise our rights as a free people. He embodied and renewed the oldest political tradition of the Nation. He changed the moral and political direction of the country. His historical greatness no longer can be challenged.

Designating Dr. Martin Luther King, Jr.'s, birthdate a national holiday would represent another giant step forward in reconciling the lives and hopes of all Americans.

Mr. FORD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to my colleague from Tennessee.

Mr. FORD of Tennessee. Mr. Speaker, I would like to associate myself with the gentleman's remarks from Michigan.

I would like to also state that when the gentleman mentioned earlier about the States and cities, I would like to point out that there are 14 States that have already recognized the birthday of Martin Luther King, along with at least 25 major cities.

The SPEAKER pro tempore (Mr. MINISH). The time of the gentleman from Michigan (Mr. CONYERS) has expired.

Mr. GARCIA. Mr. Speaker, I yield 1 additional minute to the gentleman from Michigan.

Mr. FORD of Tennessee. Mr. Speaker, if the gentleman will yield further, also I would like to say to my colleagues that as we act on this legislation today, this vital and important piece of legislation, those opposed to the bill argue that those cities and States which recognize Dr. King's birthday as a holiday are in perfect order to do so. They feel that the Federal Government has no precedent by which such a holiday has been declared.

Dr. King's life and work was unprecedented also. Furthermore, if this is to be a nation which never loses sight of its obligation to continue its efforts to "form a more perfect union, establish justice and secure the blessing of Liberty to our posterity," then it must enact the King holiday bill. This great man met his untimely death in my hometown—Memphis, Tenn. I think it is time that this Nation not lose sight of its obligation to continue in its efforts to form a more perfect union, establish justice and accord the blessings of liberty to our posterity.

Mr. Speaker, we must today as Members of this House enact the King holiday bill.

□ 1240

Mr. TAYLOR. Mr. Speaker, I yield such time as he may desire to the gentleman from Illinois (Mr. DERWINSKI), a member of the Committee on Post Office and Civil Service.

Mr. DERWINSKI. Mr. Speaker, only two men—Christopher Columbus, who discovered America, and George Washington, First President—have been honored with a Federal legal holiday.

In my opinion, although a truly dynamic and charismatic figure of our time, Dr. King's place in history has not yet been established. One of the greatest tributes that can be paid an individual after his death is recognition earned through widespread and spontaneous acclamation by the people of a nation or the world. Dr. King is not yet the subject of such acclamation. Since his death in 1968, legislation has been introduced in each Congress to commemorate the an-

niversary of his birthday. Congress has not acted on any of the bills for the past 10 years for good reasons.

Therefore, we should defer this bill, due to the fact that this legislation did not go through the process of acquiring a rule and we are not being given an opportunity of looking for alternatives. One reasonable alternative would be a national day of observance. This would set aside a day to memorialize Dr. King and his achievements and would avoid the many problems such as cost that are created when establishing a new Federal legal holiday.

There are many great Americans whose birthdays we do not commemorate as a legal Federal holiday. For instance, there is no legal holiday designated for Thomas Jefferson, James Madison, Abraham Lincoln, Susan B. Anthony, Ulysses S. Grant, Thomas Edison, Booker T. Washington, Woodrow Wilson, Harry Truman, Douglas MacArthur, Dwight Eisenhower, Sam Rayburn, John Kennedy, and countless others.

Technically, there are no national holidays in the United States. Each of our 50 States reserves the right to designate the holidays it will observe by each individual State's legislative enactment or executive proclamation. Fourteen States have already exercised this right by establishing a legal State holiday honoring Dr. Martin Luther King, Jr.

Aside from questioning this bill for the reasons I have mentioned, the cost of enacting this legislation is astronomical. The regular daily payroll for Federal workers in 1980 is approximately $185 million, with an additional $27 million for premium pay, coming to a total of $212 million. This is just for the Federal work force—with no consideration for the millions of dollars in hidden costs. In a time when Americans are becoming increasingly concerned about how their tax dollars are being spent—when given all the facts—this body should defer this bill and instead designate a day of observance for Dr. King.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DANIEL B. CRANE), a member of the committee.

Mr. DANIEL B. CRANE. Mr. Speaker, I rise in opposition to H.R. 5461, which would designate the birthday of Dr. Martin Luther King, Jr., a legal public holiday.

The question that comes to my mind is the cost of a Federal holiday. Already, there are nine existing legal holidays. This Federal holiday would cost the American taxpaypers $185 million to pay our Federal employees for not working, not including the cost of overtime.

The enactment of this legislation would only add to our existing fiscal problems. There is also the question of the premium pay of $27 million which is essential to keep the Government moving during a Federal holiday.

At a time of runaway inflation and an overburdened cost of Government to the American taxpayers, we need fiscal responsibility.

I come from the great State of Illinois where Abraham Lincoln made his fame. We do not have a Federal holiday for this fine gentleman.

I recognize the need and the desire of those who wish to have a State holiday for Dr. Martin Luther King. So be it. We do not need any more Federal holidays.

Mr. Speaker, the whole question surrounding this legislation is an emotional one, and I ask my colleagues to join me in defeating this bill on suspension of the rules.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN), a member of the committee.

Mr. GILMAN. Mr. Speaker, I rise in support of this bill, H.R. 5461, legislation designating the birthday of Martin Luther King, Jr., as a legal holiday and wish to commend the gentleman from New York (Mr. GARCIA) for his leadership in bringing this measure to the House floor.

As a cosponsor of this measure during this and past Congresses, I was pleased to join with my colleagues on the Committee on Post Office and Civil Service in favorably reporting this legislation to the House.

Designation of this holiday in memory of Dr. King is a genuinely appropriate means of recognizing the monumental contributions of an individual who, during a critical point in our Nation's history, sparked a successful movement for a national commitment to provide all of our Nation's citizens with basic civil rights and equality of opportunity.

Recently, at a conference, here on the Hill, we had the opportunity to hear Mrs. Coretta Scott King, Dr. King's widow, remind us of Dr. King's hopes and dreams to strengthen our great great Nation.

Indeed, the legacy of Martin Luther King, Jr., lives today in the contributions to our Nation of those who through Dr. King's efforts were afforded equal opportunities in education and in employment. Their significant achievements have benefited our Nation's commerce, medicine, law, education, and the arts.

Dr. King's legacy lives in the pride of all Americans witnessing a confirmation of the earlier dream upon which our Nation was founded: Justice, equality, and the recognition of fundamental human rights and dignities.

Accordingly, Mr. Speaker, I urge my colleagues to suspend the rules and pass this legislation duly honoring the memory of Dr. Martin Luther King, Jr.

Mr. GARCIA. Mr. Speaker, I yield 2 minutes to the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I hope the House will pass this bill. It would set aside January 15, the birthday of Dr. Martin Luther King, Jr., as a public holiday. Certainly there can be no harm in that; I think there may be some lasting good in it.

The purpose of a national holiday, of course, is to provide the American people an annual reminder of some greatly inspiring historic deed or of an inspirational life. It seems appropriate to me that on January 15, toward the beginning of every new year, we might well have a reminder for the Nation that we have a dream—a dream yet not wholly fulfilled but one which we pursue.

It is a dream of equality—equality of rights and opportunity for all the children of this land, and indeed for all of God's children everywhere. That was the dream espoused by Martin Luther King. It was for that he lived. It was for that he died.

Martin Luther King was martyred 11 years ago in Memphis. Since that time 14 of our States on their own have acted to commemorate his birthday as a holiday. They include such Southern States as Florida and Kentucky, and such border States as Maryland and West Virginia. There, too, the common citizenry embrace the dream and honor the memory of him who dreamed it, who worked and sacrificed and struggled for it, and in the end gave up his life that the dream might live. During these years the stature of Martin Luther King has grown in historic perspective, as has the memory of his deeds.

So I can see no harm at all in our settings aside this day—just as we have set aside Washington's Birthday, Columbus Day, Labor Day, Veterans Day, and other special occasions to commemorate something that is precious and endemic to the American spirit.

And surely quite endemic to the American spirit was the struggle of Dr. Martin Luther King, Jr., often against great odds, to achieve a status of equality, of dignity and self-respect, for the disadvantaged and dispossessed of our land. He was a hair shirt for the Nation's conscience. He believed that religion has a mission to comfort the afflicted, and that sometimes it is necessary to afflict the comfortable.

He believed passionately in nonviolence, in the power of an idea to triumph irresistibly over physical force. He believed, and his life demonstrated, that love is a stronger force than hate.

How better shall we teach these truths than for the Nation to set aside a day to commemorate the life and teachings of this remarkable American who preached that our people are bound together by a single garment of destiny?

It will be well, Mr. Speaker, for future generations to remember his admonition, written from his imprisonment, much as the author of the Book of Revelation wrote from an unjust imprisonment, that each generation shall have to repent not only for the hateful things said and done by the bad people but also for the unthinking silence of the good people. These are teachings that speak to our Nation's soul, and they deserve to be remembered.

Mr. GARCIA. Mr. Speaker, I yield 1 minute to the majority whip, the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I rise today in support of the bill to designate the birthday of Martin Luther King, Jr., January 15, a national holiday.

Dr. King left all Americans a vital

legacy. It is appropriate that we should commemorate his extraordinary personal accomplishments. Yet even more important, we must seek to keep alive for succeeding generations the wisdom of his message. For the life of Dr. King personifies the struggle of thousands of black Americans who suffered and died to bring liberty and justice to our Nation.

Martin Luther King, Jr., was a scholar, a preacher, a leader. In his pursuit of a philosophy that would best confront the twin oppressions of racial and economic injustice, he committed himself to a policy of nonviolent resistance as the most effective method of social change. Dr. King based this conviction on his deep faith that all men and women are part of the same human family and that injustice to one person is a threat to justice for every person.

As the preeminent leader and spokesman of the civil rights movement in the United States, Dr. King was unique in the tenacity with which he held to a dream he believed could be realized by moral suasion and the power of love.

Dr. King never faltered in his commitment to the cause of human rights. His challenging message and stirring words rang out from pulpits and platforms across our land reminding all Americans that the most cherished principles of our democracy had for nearly two centuries been imperfectly realized.

Mr. Speaker, Martin Luther King, Jr., challenged America to confront the paradox of discrimination in a Nation founded on the principle that all men are created equal. His tireless exertions and passionate concern for human freedom and dignity exemplify the basic strength and purpose of our Nation.

To honor Martin Luther King, Jr., in this way is to recall to ourselves as Americans the fundamental principles for which our country was established.

□ 1250

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. BEARD).

Mr. BEARD of Tennessee. Mr. Speaker, I think the thrust of the legislation is legitimate. So my only disappointment is that this piece of legislation was not brought to the floor of the House with an open rule.

I will not repeat all of the financial aspects, the price tag which has been approximated at $3 billion or more that this holiday would cost.

I introduced a bill approximately a year ago calling for all future national holidays to be held on a nonworking day, future holidays, whether it be Susan B. Anthony Day, or Flag Day. I just feel that we have a responsibility to be sensitive toward cost and the productivity factors.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. HINSON).

Mr. HINSON. Mr. Speaker, earlier this year the House of Representatives considered legislation which would authorize the placing of a statue of Dr. King in the Capitol to commemorate his life and accomplishments. I was one of those who supported this legislation. I supported it because I believed at the time and I still believe that it was appropriate to recognize the work and contributions of Dr. King in such a fashion.

However, I am opposed to the legislation before us today. I am opposed because we cannot afford to lose another Federal workday at a conservatively estimated cost of $212 million in Federal payroll alone—not to speak of the absolutely incalculable losses in manhours and in the processing of thousands of Government tasks and duties, from defense contracts to social security checks. Further, there is the lost productivity from private industries which undoubtedly would follow suit, at a time when our national productivity is falling.

Mr. Speaker, I represent the Fourth Congressional District of Mississippi and approximately 40 percent of the population of my congressional district is black. Dr. King is a potent symbol of their legitimate hopes and aspirations—aspirations which I share and applaud, but I sincerely believe that this legislation serves neither their best interests nor is it in the best interests of the American taxpayer. Better in my view that we use the $212 million-plus on better housing or medical care for poor people both of which I have supported this year. I believe Dr. King would have preferred that as well. We have honored Dr. King with a statue in the Capitol. Let us be satisfied with that accolade. Let us stop short of passing this unnecessary, expensive, and most ill-advised piece of legislation.

Mr. GARCIA. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, January 15th of this year was the 50th anniversary of the birth of Martin Luther King, Jr.

Twenty-four years ago, he became a leader of the Montgomery, Ala., bus boycott, which soon spread to a nationwide civil rights movement.

Sixteen years ago, as the most eloquent leader of that movement, he wrote from a Birmingham jail that "injustice anywhere is a threat to justice everywhere," and a few months later he said from the Lincoln Memorial, "I have a dream."

Eleven years ago he was assassinated in a motel in Memphis.

For more than a decade, I, and other Members of Congress, have endeavored to designate the birthday of Martin Luther King, Jr., as a legal public holiday.

Such a national holiday would not only honor an extraordinary man whose life and achievements were heroic. By honoring him, the Nation would be expressing annually its respect for justice, equality, freedom, and peace.

And by honoring the courageous life of Martin Luther King, Jr., the American people would each year renew their commitment to the realization of those goals, which were the elements of his dream for all citizens.

A decade is too long to wait for this simple act of commitment. Today—when we have a critical need for national inspiration—is the time to designate January 15 as Martin Luther King, Jr., Day, a legal public holiday.

Mr. GARCIA. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. MCDONALD).

Mr. MCDONALD. Mr. Speaker, it has been suggested that the birthday of Martin Luther King, Jr., be declared a national holiday. I strongly oppose this plan. King practiced and preached confrontation politics. Nonviolence was the facade behind which hatred and violence were nurtured. The American Nazi Party in its obscene plan to march in the predominately Jewish town of Skokie, Ill., was merely emulating King's provocative confrontation tactics in white communities in the past.

Recently, the Washington Post contained a column by William Raspberry, a strong supporter of King, protesting the action of Hosea Williams, head of the Atlanta chapter of the Southern Christian Leadership Conference, in presenting the "Martin Luther King, Jr., Peace Medal" to the Libyan dictator, Qaddafi. According to Raspberry, while Williams heads a dissident faction in SCLC, other black leaders refuse to condemn his presentation of the medal. Coretta Scott King, widow of Martin Luther King, Jr., would only say that the medal was not an official medal of the SCLC.

In many ways, Qaddafi is an appropriate recipient. He, like King, collaborates with the Communists. You will remember that Attorney General Robert Kennedy authorized wiretaps of King's home and office to obtain evidence of his relationship with Communists. Qaddafi, also, mouths phrases about peace while providing training to terrorists and support for other dictators such as Idi Amin in Uganda.

As I have pointed out in the past, terrorism is a violent attack on noncombatants for the purpose of intimidation to gain a military or political objective. Terrorists are not freedom fighters—neither were the young hoodlums set loose in our streets by the inflammatory rhetoric of Martin Luther King, Jr.

The recent embrace of Yasser Arafat by those who inherited MLK's mantle makes it clear who will benefit from the suggested national holiday. Arafat, the Soviet cutting edge in the Middle East, heads the most vicious international terrorist organization currently functioning. A national holiday on MLK's birthday will bring aid and comfort to those who want Arafat to "overcome."

Mr. TAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I rise with absolutely no reluctance to strongly oppose this legislation. I realize that it is not popular and certainly not politically advantageous to speak in opposition of a man who has been canonized by the liberally based news media and many of those who profess to advocate

civil rights. The common misconception is that if one speaks ill of M. L. King, he or she opposes the concept of civil rights. That is a lot of malarkey and I think my colleagues understand that. He left us a legacy but it has not been mentioned today. Under these gag rules his record will not be really discussed in this debate but, then, are we not just doing this for the record anyway.

When I learned last week that we would be considering this legislation today under Suspension of the Rules, I will have to admit that I was not too surprised. This Congress routinely adopts multimillion-dollar proposals as a matter of fact and today is probably no exception. This bill cannot stand the light of day through regular open debate so there is this effort to sneak it through without amendment or full debate. Suspension of the rules—yes, suspension of the rules clearly fits Martin Luther King.

Mr. Speaker, I can say without qualification that no Member of this body has studied the record of Martin Luther King as extensively and as vigilantly as I have over the past 20 years. That study has continued right up to the present. I can also say without qualification that Reverend King does not deserve this honor based on his record unless we have crassly gotten to the place where politics and racism are what count, not the record or principles.

At any rate, the issue before us today is twofold. One, does the Congress of the United States intend to support the fictional assessment of M. L. King by honoring him with a national holiday, a holiday which will take the taxpayers for a ride to the tune of millions and millions of dollars—as much as $200 million in Federal cost alone. Two, should our children and our grandchildren be led to believe that M. L. King was one of the great men of all time? Should they speak of him with the same reverence generally associated with George Washington or Abraham Lincoln? I think not.

As I said, I was one of those Members of Congress who spoke out in the sixties when the media was honoring Dr. King for his so-called civil rights advocacy. At that time, many of my colleagues publicly shared my opinion. It was not difficult to think that way because we could see him in action. We could easily take notice of his anti-American rhetoric and his penchant for violence. It is not so easy now. Strange how liberal historical revisionists would rewrite the lives of John F. Kennedy, Roosevelt, Eisenhower, J. Edgar Hoover, and others but leave hands off Martin King.

My statements regarding M. L. King are a matter of public record. I see no need to repeat them now.

On October 4, 1967, I addressed the House on the subject of the King record. That speech appears on pages 27814 through 27827. I stand by everything said that day.

I want my colleagues to think about the fact that they are presently considering legislation which will deprive their constituents of their tax dollars, legislation which will honor a man who shared few of the basic principles we as Americans hold dear. I want my colleagues to think about that.

Let those who think Reverend King should be honored, commemorate him in their own way and on their own terms. Let them point out those ideas he had which they applaud and promote them, no matter what others think. That would be proper. For those who rejoice in his apostasy as a minister—he rejected almost every important Christian tenet that founds the basis for Christianity—let them emulate that if they wish. For those who believe that radicals can bring peace, let them so proclaim. For those who believe that America is the enemy, that we are the threat to world peace, as he preached, let them honor him in whatever means they choose. But do not engage in the hypocrisy of forcing the observance of a national holiday on the great majority of Americans who have nothing in common with his ideas or his true record.

Mr. Speaker, I urge that this legislation be defeated.

Mr. TAYLOR. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, Martin Luther King, Jr., was a distinguished and prominent American citizen who helped teach many of us the true meaning of brotherhood and equality. He was a good man, an effective leader, and one who deserves to be honored and remembered by a fitting memorial.

Unfortunately, H.R. 5461 does not provide a suitable memorial. This bill simply provides another day off with pay for bureaucrats.

It also provides about $200 million worth of inflation through a nonnegotiated raise to an elite group of people who have just received a 7-percent pay raise, and who already receive more paid holidays than most American employees.

It has been alleged that there is little or no extra cost to the taxpayers in this bill. If Government employees have been working at full capacity, and I believe we should give them the benefit of the doubt, somebody is going to have to do the work that would have been done on the holiday. That seems to work out to a $200 million kick in the head to the taxpayers.

If we were to canvass our constituencies we would surely find little enthusiasm to pay for another paid holiday for bureaucrats. Many taxpayers did not get the 7-percent pay raise, nor do they get the splendid pension benefits that Government employees get.

In addition to the costs to the taxpayer, inflationary costs would soon reverberate through the private sector, too. Whenever Government employees are handed a benefit, private employees will claim it, too. Another paid holiday will soon be stimulating inflation in private industry, too, perhaps by as much as $3 billion.

Dr. Martin Luther King, Jr., was too good a person for us now to attempt to exacerbate inflation in his name. There are many suitable noninflationary memorials which could be voted by this House. I believe this bill does not provide a fitting tribute, and it should be voted down.

□ 1300

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

I well remember when I decided to seek public office, I went to a friend of mine, and he said, "I am going to support you, but when you get up there, I want you to ask yourself three questions on every piece of legislation that comes before the Congress.

"No. 1, can we afford it?

"Do we need it?

"If you have answered both of those in the affirmative, then ask yourself a third question.

"If we needed all that much, how have we done without it all these years?"

Mr. Speaker, I sincerely believe that if Martin Luther King were here today, a man who stood for the poor and downtrodden and disadvantaged, and viewing the inflationary impact this legislation would have on those people, that he himself would vote against this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. GARCIA. Mr. Speaker, I yield 2 minutes to the gentleman from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 5461. When the history of the 20th century is written, one name will be deeply etched in its fabric as having moved like a giant across the backdrop of our time. It will be, in my judgment, the name of the singularly most important man, with the most important message for this the most violent century in the history of mankind.

That man is Dr. Martin Luther King, Jr., and his message was this:

> Mankind simply, must find non-violent means to resolve human conflict . . .

America must never forget that man or his message. The legislation before you today affords us the opportunity to etch that message for our time and for all time in the minds and hearts of all Americans.

Martin Luther King, Jr., was the moral leader of the civil rights movement in America during the period of its most visible achievement: 1955 through 1968. A disciple of nonviolence and love, Dr. King became the victim of savage violence, killed by a sniper's bullet as he stood on the balcony of a Memphis, Tenn., motel on April 4, 1968.

> They killed the dreamer; they have not silenced his dream.

Dr. King's legacy is one of profound change in the social fabric, not only for black Americans, but for all Americans.

The New York Times captured his significance from his time when it wrote:

> It can be said of him, as of few men in like position, that he did not fear the weather and did not trim his sails, but instead challenged the wind itself to improve its direction and to cause it to blow more softly and more kindly over the world and its people.

But Dr. King's life had significance not

only for his time, but for our time, indeed for all time. He wrote:

> We have experimented with the meaning of nonviolence in our struggle for racial justice in the United States, but now the time has come for man to experiment with nonviolence in all areas of human conflicts, and that means nonviolence on an international scale . . . If we are to have peace on earth, our loyalties must become ecumenical rather than sectional. This means we must develop a world perspective.
>
> Now the judgment of God is upon us, and we must either learn to live together as brothers or we are all going to perish together as fools.

There are those who say that nonviolence can never again be an effective tool for resolving human conflict, nevertheless the vision of Martin Luther King, Jr., nags uncomfortably at the minds of statesmen and generals alike—a strange, brooding figure—standing somewhere in the distance with a beckoning truth, waiting for the world to catch up.

Favorable action of this measure today will assure that that truth will be forever etched in the mental skies of our ever-broadening horizon as a nation.

It was Goethe who said:

> What we have inherited from our fathers, we must earn again for ourselves, else we will lose it.

Let us pass this bill that generations unborn might be inspired as Martin Luther King, Jr., inspired us to become answers to Josiah Holland's prayer:

> GOD, GIVE US MEN!
>
> God, give us men! A time like this demands
> Strong minds, great hearts, true faith and ready hands;
> Men whom the lust of office does not kill;
> Men whom the spoils of office cannot buy;
> Men who possess opinions and a will;
> Men who have honor; men who will not lie;
> Men who can stand before a demagogue
> And damn his treacherous flatteries without winking!
> Tall men, sun-crowned, who live above the fog
> In public duty and in private thinking;
> For while the rabble, with their thumb-worn creeds,
> Their large professions and their little deeds,
> Mingle in selfish strife, lo! Freedom weeps,
> Wrong rules the land and waiting justice sleeps.
>
> —JOSIAH GILBERT HOLLAND.

Mr. GARCIA. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I rise to add my voice to the others who are supporting the passage of this bill making the birthday of Dr. Martin Luther King a national holiday. First, let me commend my colleague, JOHN CONYERS of Michigan for his untiring efforts and unyielding persistence in forcing the issue. Second, let me extend congratulations and thanks to my colleague, BOB GARCIA of New York who skillfully guided this legislation through his Committee on Post Office and Civil Service. This bill has been introduced and reintroduced into this body for the last four Congresses only to linger, languish, and die in committee. Today, we will finally have the opportunity to vote on it.

Mr. Speaker, I am sure that the thoughts of those of us in this Chamber immediately go back to that tragic day in Memphis 11 years ago when the apostle of nonviolence was violently shot down; that day when the moral leader of the world became the victim of an immoral world conspiracy. The tragic act perpetrated by one James Earl Ray was the culmination of years of hatred, bigotry, racism, and all other evils that created an atmosphere in which insane men such as James Ray would view such a dastardly act as heroic. The crime of Ray must be shared by each who at sometime and in some way advanced the idiotic notion that others by virtue of skin pigmentation, sex, or national origin were somehow less in his or her humanity.

Mr. Speaker, that day was a sad loss for black Americans. But it was an even sadder loss for America and the world at large. That one fatal shot, Mr. Speaker, I contend without fear of contradiction, cut down the greatest crusader for freedom, justice, and equality in the history of our Nation. Martin Luther King with a relevancy that was refreshing, though personally dangerous, assaulted the bastions of structured evil pervasive in our society. With pathos and passion, he verbalized the exploitations of the poor, of the denied, of the denigrated, and with his voice raised in indignation, articulated the hypocrisy of American society and led a massive movement to give meaning to concepts embodied in the Declaration of Independence and the Bill of Rights.

The victims of abject poverty in Appalachia, the impoverished residents of the boroughs and slums, the youth dying in the trenches of a far off land became the major concern of Dr. King and subsequently the basis of his dream. With sweat, tears, and eventually his blood, Dr. King showed them the dawning of a new day. He looked out over the horizon and saw the bright, glistening sun of salvation symbolizing a system that could afford racial harmony and economic parity for all God's children. Without question, Martin Luther King was the greatest social prophet in the short history of this Nation. From the mining towns of Appalachia to the backwoods of Mississippi, to the dilapidated tenements of Chicago, he stayed on the firing line with the genius and the tenacity of a master painter; painting the darkness of western culture and majestically pointing out the clouds of ill-fated omens which hung so ominously over our society.

Mr. Speaker, who else is so deserving of a national holiday in his name? Who else, I ask, Mr. Speaker, wore his mantle of leadership with such courage, conviction, dignity, and integrity?

Mr. GARCIA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois (Mrs. COLLINS).

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in support of this very worthy legislation for all the people of America.

Mr. Speaker, the civil rights struggle in this country has progressed in the past two decades from an effort to obtain minimum access to public places, to passage and enforcement of equal opportunity laws, to efforts to gain economic parity for black Americans.

Today, this body has the historic opportunity to make a major symbolic commitment to equal justice by honoring the late Dr. Martin Luther King, Jr., with a national holiday in his name.

To so honor the leader who brought about the most profound social revolution in this Nation's history would symbolize the Nation's commitment to Dr. King's values and principles—the principles upon which this Nation was founded.

More than honoring one individual, making Dr. King's birthday a full national holiday will be a signal to the Nation and the world that we have broken with the past by honoring a man from a group oppressed in law as well as in fact.

Dr. King's contributions are too numerous to list. The Montgomery bus boycott, the sit-ins and freedom rides, an early protest against the war in Southeast Asia. Courageous action was accompanied by a brilliant and compelling philosophy of nonviolence. Dr. King retaught the Nation its own values, and in so doing broke down the laws and customs of centuries which had violated those stated values.

I have heard some speak of the cost of creating a new national holiday. How can we ever measure the value of Dr. King's life?

He restored the true wealth of the Nation—its principles and ideals. He brought millions of black Americans into the mainstream of our economic and social life. He opened the way for many other groups in the struggle for equality. To speak of cost of honoring Dr. King is to profane the memory of a true national hero.

I hope, and my colleagues and the Congressional Black Caucus hope, that you will act on conscience today and act in a spirit of furthering the work of Dr. King by voting to create a national holiday in his honor.

Mr. GARCIA. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, I rise in favor of this legislation.

Mr. Speaker, I would like to take this opportunity to lend my support to the passage of H.R. 5461 which would designate the birthday of Dr. Martin Luther King, Jr., as a public holiday.

There have been few men in the history of this country and the world who have left such a profound legacy of peace, justice, equality, and love to all people. Even fewer men have possessed the extraordinary foresight and left such a positive impact on the lives of so many different people—black, white, yellow, brown, red, rich, and poor.

Dr. King was not a military giant. But he was a courageous leader of equality and justice. He did not discover a cure for any devastating physical disease. But, he did try to heal the wounds of discrimination and racism which had consumed this country. He was not a man of tradition. Rather, he was one of the visionaries of our time. And finally, he did not sacrifice his principles. He sacrificed himself for his brothers and sisters.

During the turbulent 1950's and 1960's, Dr. King was not ready to destroy what we often categorise as the "American Dream" as many other disenchanted minorities in this country wanted to do. Instead, he had a dream of his own which incorporated and revolutionized all the ideals and principles of the "American Dream" and put them to work for everyone. Equality, justice, and the peaceful pursuit of these freedoms were the fundamental points of his dream.

Because of his dream and the steps he took to insure it, he became the hero and hope of many people throughout the world. America has a tradition of honoring great individuals who have contributed immeasurably to this country's development. George Washington, Christopher Columbus, and the U.S. veterans all have special days set aside to commemorate their achievements and sacrifices. Therefore, I find it only fitting to set aside a day for Dr. King, a man who sacrificed his life for all Americans, as a gesture of our appreciation for him.

Accordingly, I urge all of my colleagues to support H.R. 5461. The passage of this legislation will symbolize that Dr. King's dream is still with us today and is one step closer to reality.

The SPEAKER pro tempore. The gentleman from New York (Mr. GARCIA) has 2½ minutes remaining.

Mr. GARCIA. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. LELAND).

Mr. LELAND. Mr. Speaker, I stand before you today, a manifestation of the deeds and work of Dr. Martin Luther King. What he fought for in the years when I was just a young student at Texas Southern University was something very significant in my life. At that time I was young. I was feisty, and some would even say that I was foolish, but I would say to my colleagues, because of the message of Dr. Martin Luther King at the time when I hated white people, every white person in America, I decided at that time that I should reassess my position in this country and reassess my value as a human being to determine exactly what course I should chart for myself as I ventured to try to do what was necessary on behalf of black people at the time.

But subsequent to Dr. King's movement, subsequent to his nonviolent movement, subsequent to his teachings to me, I determined and deemed at that time that it was time for me to look at the plight of other people, poor white people, poor Mexican-Americans and Hispanic people in this country, poor people in general. I did that.

From that time on, I became more or less a universalist, with the mark of what the American promise represented by way of the Constitution of the United States of America. I stand here before my colleagues today to tell them that MICKEY LELAND is in the U.S. Congress because he was inspired by Dr. Martin Luther King, one who believes that the American dream is a real dream and one that should be fulfilled.

I am somewhat appalled at my colleagues on the other side of the aisle, those who oppose Dr. King's bill, that they would use the crass reference to money as a judgment to oppose a measure with the status that this measure represents. It does not make much sense to me, one who calculates historical meaning in this whole matter.

The historical meaning to me is that we have suffered, we as black people, have suffered for hundreds of years never having had a national hero.

Mr. Speaker, I thank you very much for the time that I have been given. I would hope my colleagues would not use money as a reference to killing this bill. I would hope that all of my colleagues would join with us in supporting this important measure.

Thank you.

Mr. GARCIA. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. STEWART).

Mr. STEWART. Mr. Speaker, I rise in support of this bill.

Mr. Speaker, I rise in wholehearted support of the establishment of Dr. Martin Luther King, Jr.'s, birthday as a legal holiday.

Dr. King, along with other deprived Americans, worked diligently to make the dream of America's constitutional privileges a reality for all.

Too few young Americans know much about Dr. King and his life's work as a leader, a Nobel Peace Prize winner, a prophet, and a friend of all humanity.

Observing his birthday as a Federal holiday would stimulate schools, community and civic organizations, and individuals to discover his unique and invaluable contribution to American life. It would encourage everyone to examine and respect Dr. King's quest for justice and his vision of equality.

Honoring Dr. King by establishing his birthday as an official national holiday would give renewed official emphasis and commitment to fulfilling his dream.

When the dream becomes reality and the pledge of America's promised equality is finally made good, then and only then will all Americans be free.

On that day, Dr. King declared, both blacks and whites, people of all religions and all races, will have been emancipated. And on that day, then, we all will sing:

Free at last! free at last! thank God Almight, we are free at last!

● Mr. RICHMOND. Mr. Speaker, I rise in strong support of this legislation to designate the birthday of Dr. Martin Luther King, Jr., as a legal public holiday.

Few Americans in this century have made so great an impact on the lives, the values, and the aspirations of all Americans as Dr. King. Through his vision and his dynamic, effective leadership of the civil rights movement, Dr. King compelled our Nation to examine its prejudices and the inequalities that generations had taken for granted.

At the forefront of the struggle for nonviolent social change, Dr. Martin Luther King led the way to breakthroughs for the poor and the downtrodden members of our society in housing, jobs, education, community development, and—in assuring equal opportunity for all Americans in every aspect of daily life.

By designating Dr. King's birthday, January 15, as a legal holiday, we will be giving recognition to the outstanding contributions of a unique individual to our society. In addition, an annual observance of this day will provide all Americans the opportunity to reflect upon the achievements of Dr. King and to rededicate themselves to the goals to which he dedicated his life.

I urge my colleagues to approve this important legislation.●

● Mr. HAGEDORN. Mr. Speaker, legislation which is considered under the procedure known as suspension of the rules is supposed to be of a noncontroversial nature. This special procedure was established to help prevent using a great deal of congressional time for the discussion of legislation which would most likely not need to be amended or which dealt with a subject that did not have significant national impact.

The consideration of a bill to designate January 15, the birthday of the Reverend Martin Luther King, as a legal public holiday is not appropriate under the suspension procedure. Not only is the creation of a new Federal public holiday a matter of significant national impact, but there is perhaps sufficient reason to warrant a more detailed debate and inspection of the record of the individual to be honored. This procedure does not allow the time for such a discussion.

Since debate on this important matter is limited by the suspension procedure, this alone would be enough reason to postpone consideration. The inability to offer amendments is another, more important reason. One such amendment that would be offered is a bill I have cosponsored that would require that any future Federal holidays to be observed on either a Saturday or Sunday. My colleague from Tennessee (Mr. BEARD) introduced this bill earlier in the year and I feel that this bill today would be a very appropriate measure to add it to.

This is an important approach that must be allowed to be considered. Federal employees now have eight official public holidays. The personnel cost of a holiday is estimated as over $200 million paid for work that is not done by Federal workers. The American taxpayer should not be called upon to foot the bill for any more holidays. We simply cannot afford having the Federal Government shut down for another day.

The work shutdown effect would most likely extend to all the States, as they usually follow the lead of the Federal Government with regard to designating

holidays. Although some 14 States now observe this holiday, if all other States were to follow the example set by the Federal Government, the cost to taxpayers would run into billions of dollars.

Those who support the passage of this bill under suspension of the rules have stated that the principal reason to honor Reverend King is to remind Americans of the principles for which he lived, worked, and which caused his death. The type of remembrance that would be promoted by the official observance of his birthday could be accomplished on an appropriate weekend day.

Many citizens complain that certain Federal holidays without historical or religious meaning are mere excuses to give Federal workers just another day off the job. We owe it to those who must pay the bills not to have to pay for another day of no production when there is a reasonable alternative that should be considered. However, under suspension of the rules, this alternative cannot be considered. Therefore I urge the defeat of this proposal today.●

● Mr. RANGEL. Mr. Speaker, we have before us today a bill designating the late Dr. Martin Luther King, Jr.'s, birth date as a national holiday. In doing so, we join cities and States throughout our Nation in honoring Dr. King and instituting January 15 as an annual reminder of those lofty ideals of freedom and human dignity to which he strived.

Dr. King first came to the public eye in 1955 with his leadership of the Montgomery bus boycott. Rosa Parks, a black woman, refused to turn her seat over to a white person as the law required. Her simple refusal to stand up when her legs were weary from a hard day's work sparked a massive appeal for human dignity. The black people of our country realized the power of organized action when the boycott ground the Montgomery bus system to a halt and their demands were accepted.

With the boycott in Montgomery was born Dr. King's nonviolent organizing tactics. He used them as founder of the Southern Christian Leadership Conference and leader of the national civil rights movement. Nonviolence was the basis of his creed which took him from his pulpit at the Ebenezer Baptist Church in Atlanta to mass rallies, marches, and then jail cells throughout the South. Dr. King's eloquence is best remembered from the day he delivered his dream to the largest group of people ever assembled on the steps and Mall of the Lincoln Monument. His historical place was assured when he received the Nobel Peace Prize in Sweden. Reverend King's commitment to nonviolence and the dignity of all men was resolute to the end—even to the balcony of that hotel in Memphis, Tenn.

Dr. King's greatness arose from his refusal to confuse the ends and means of his struggle. His goal was a moral imperative to improve the lives of all human beings. His love was not confined to any one group of people or specific interest. The nobleness of his spirit was evidenced by his refusal to give in to the temptations of violence and politics in achieving his goals. Reverend King would not trade the life of one man for another. As he said at the acceptance of his Nobel Peace Prize, "Nonviolence is the answer to the crucial political and moral questions of our times—the need for man to overcome oppression and violence without resorting to violence and oppression."

Those who may see Martin Luther King's birthday as a celebration primarily for black Americans have narrow sights indeed. Though it is true that this would be the first such honor given a black man in this country, Dr. King represented more than one people, he embodied the goodness of the American spirit. His life is exemplary of the highest ideals of freedom, justice, and dignity. Dr. King's struggles must be seen as a perennial call for love and understanding. Commemorating his birth date would renew our commitments to the ideals by which he lived and help to foster that spirit throughout our country.

I appeal to all of my colleagues to commemorate a black man, an American, but most of all a devoted human being. Please vote to designate Dr. Martin Luther King, Jr.'s, birth date as a national holiday.●

● Mr. DELLUMS. Mr. Speaker, I speak today in support of H.R. 5461. In doing so, I pay homage, in behalf of millions in America and around the world, to a great American—but, more important—a great human being.

Martin Luther King, Jr., traveled this Earth for only 39 years—a speck of time in the annals of history. But in those few short years he irrevocably altered the perceptions of humankind in the search for peace and social justice.

In America he was the living embodiment of the highest principles professed in the Declaration of Independence—that all are created equal—that they are endowed by their Creator with certain inalienable rights—among which are "life, liberty and the pursuit of happiness * * *.

Martin Luther King, Jr., challenged the conscience of America by confronting both church and state on the spiritual and political immorality of racism and segregation in our society. As he said in his eloquent letter from the Birmingham jail in April of 1963:

We know through painful experience that Freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed. . . . We have waited for more than 340 years for our Constitutional and God-given rights. The nations of Asia and Africa are moving with jet-like speed toward gaining political independence, but we still creep at horse-and-buggy pace toward gaining a cup of coffee at a lunch counter. . . .

To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. . . Thus it is that I can urge men to obey the 1954 decision of the Supreme Court, for it is morally right; and I can urge them to disobey segregation ordinances, for they are morally wrong.

It was Martin Luther King, Jr., standing in the very shadow of the Lincoln Memorial on August 28, 1963, who challenged the foundations on which this Nation was built, while the President sat watching television in the Oval Office, fearful that a public appearance on behalf of justice and equality might harm his standing in the public opinion polls. It was Martin Luther King, Jr., who had the courage to stand up to white America on behalf of nonwhite America and say:

When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir. . . .

It is obvious today that America has defaulted on this promissory note insofar as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check; a check which has come back marked "insufficient funds." We refuse to believe that there are insufficient funds in the great vaults of opportunity of this nation. And so we've come to cash this check, a check that will give us upon demand the riches of freedom and the security of justice.

As a citizen of the world, it was Martin Luther King, Jr. who carried the true message of justice, brotherhood and reconciliation into the global arena. Like Mother Theresa, he truly honored the ideals espoused in the Nobel Peace Prize in his concern for, and determination to do something about, the needs of suffering humanity everywhere.

Unlike other hypocritical recipients of this award, who profess peace while promoting war, he was in the vanguard of the crusade for world peace and nuclear disarmament. In Oslo, Norway, in 1964, he argued eloquently that "nonviolence is the answer to the crucial political and moral question of our time—the need for man to overcome oppression and violence without resorting to violence and oppression." What could be more profoundly unequivocal than his challenge to the global conscience on that occasion, in saying:

I refuse to accept the cynical notion that nation after nation must spiral down a militaristic stairway into the hell of thermonuclear destruction. I believe that unarmed truth and unconditional love will have the final word in reality. This is why right temporarily defeated is stronger than evil triumphant.

It was Martin Luther King, Jr., using his eminence as a Nobel Peace Laureate, who chose to speak out on the insanity and immorality of the war in Indochina in 1965—despite the warnings and threats of other "Establishment" leaders in the civil rights movement.

It was Martin Luther King, Jr. who directly challenged the Johnsonian philosophy of guns and butter, saying in a Los Angeles speech:

The promises of the Great Society have been shot down on the battlefields of Vietnam. The pursuit of this widened war has narrowed domestic welfare programs, making the poor, White and Negro, bear the heaviest burdens. . . . It is estimated that we spend $322,000 for each enemy we kill, while we spend in the so-called war on poverty in America only about $53 for each person classified as poor. . . .

During a lifetime all too brief, Martin Luther King, Jr. was cursed, reviled and spat upon, beaten, jailed, and stabbed, denounced as an extremist by the lords of the press, and as a "nigger" and a

"traitor" in the highest councils of government. Finally, in an attempt to slay the dream, they slew the dreamer.

It is for us, the living, to make certain that dream never dies. It is for us, the living, to pick up the fallen torch of equality and justice, and to rekindle it anew with dedication and commitment to go forward, as he said, to "make of this old world a new world." It is for us, the living, to insure that his life, his deeds, his commitment, his love for all humankind will always be remembered by generations yet unborn—men and women of all races and creeds who will be able to look to him as a sign of hope for what America can truly be . . . and ought to be. . . .●

● Mr. MOORE. Mr. Speaker, I voted against H.R. 5461 today as I would prefer means to honor the contributions to this Nation by Dr. Martin Luther King, Jr., other than by giving Federal workers another paid holiday on his birthday. I would have supported an amendment to provide for a national day of recognition for Dr. King, but could not support a bill that provides another holiday for Federal employees and does not under suspension procedures allow amendments to be considered.

The bill would cost the American taxpayers $196 million or more annually. For a man whose life was dedicated to helping the poor, I do not see a waste of funds through giving Federal employees the day off as a proper way to honor his efforts to help the poor. The $196 million could be better used to feed hungry mouths and those to whom he would have given aid.

We now have a national holiday for only two persons. One is our Holy Father and the other is the Father of our Country. Others including Thomas Jefferson, Abraham Lincoln, Theodore Roosevelt, Franklin D. Roosevelt, and John F. Kennedy do not have have national holidays declared in their remembrance.

I have supported the construction of a bust of Dr. King for our Capitol building and would support a national day of recognition of his birthday, but another Federal holiday is not the best way to honor him.●

● Mr. CAMPBELL. Mr. Speaker, it is with a sense of regret that I vote today against suspending the rules and passing H.R. 5461, to designate January 15, Dr. Martin Luther King's birthday, a national holiday.

While I hold the memory of Dr. King and his accomplishments in the highest respect and would gladly support a commemorative day in his honor, which I did as a member of the South Carolina Senate, I cannot justify the expenditure of the $212 million in direct costs to American taxpayers for providing another paid holiday for Federal employees. Total costs, assuming that the States would follow Washington's lead, could well mount to 10 or 20 times that figure.

Indeed, I believe Dr. King himself would far rather see these funds go for energy assistance to help the poor and the elderly; for tax credits to encourage the hiring of teenagers, particularly minority teenagers for whom the unemployment rate is a staggering 31.5 percent; for programs with real and tangible benefits to the Nation's needy, rather than for a symbolic gesture, appropriate as it may be.

Mr. Speaker, this bill should have been brought before the House under an open rule, and if the suspension procedure is defeated, I will support reconsideration and I will support establishing a commemorative day. In all good conscience, however, I cannot support the spending priority that the bill in its present form represents which would have us allocate more than $200 million for a gesture which will not provide food or warmth or jobs for those in need.●

Mr. GARCIA. Mr. Speaker, in closing, I would hope and urge that all my colleagues vote and support this legislation. I am delighted that today in the city of Washington, the widow of the late Dr. Martin Luther King is present, and I would hope and urge that this date is the day that children all over America understand and appreciate that all Americans are the same.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GARCIA) that the House suspend the rules and pass the bill, H.R. 5461, as amended.

The question was taken.

Mr. TAYLOR. Mr. Speaker, in that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1319

INTERNATIONAL AVIATION

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5481) to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Air Transportation Competition Act of 1979".

SEC. 2. Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"DECLARATION OF POLICY: THE BOARD

"FACTORS FOR INTERSTATE, OVERSEAS, AND FOREIGN AIR TRANSPORTATION

"SEC. 102. (a) In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation, and air commerce and has come to be expected by the traveling and shipping public.

"(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers and foreign air carriers without unjust discriminations, undue preference or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions for air carriers.

"(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital, taking account, nevertheless, of material differences, if any, which may exist between interstate and overseas air transportation, on the one hand, and foreign air transportation, on the other.

"(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaption of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(6) The encouragement of air service at major urban areas in the United States through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

"(7) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of—

"(A) unreasonable industry concentration, excessive market domination, and monopoly power and;

"(B) other conditions;

that would tend to allow one or more air carriers or foreign air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(8) The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service for small communities and for isolated areas in the United States, with direct Federal assistance where appropriate.

"(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.

"(10) the encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

"(11) The promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

"(12) The strengthening of the competitive position of United States air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their market share, in foreign air transportation.".

SEC. 3. (a) Section 102(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(c)) is repealed.

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 102. Declaration of policy: The Board."

is amended by striking out

"(a) Factors for interstate, overseas, and foreign air transportation.

"(b) Factors for all-cargo service."

"(c) Factors for foreign air transportation."

and inserting in lieu thereof

"(a) Factors for interstate, overseas, and foreign air transportation.

"(b) Factors for all-cargo service."

SEC. 4. Sections 401(d)(1) through 401(d)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1371 (d)(1) through (d)(3))) are amended to read as follows:

"ISSUANCE OF CERTIFICATE

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is consistent with the public convenience and necessity; otherwise such application shall be denied.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificate to engage in charter air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air transportation of persons, which authorizes the whole or any part thereof for such periods as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.".

SEC. 5. The first sentence of section 401(e)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)(2)) is amended by striking out the words ", insofar as the operation is to take place without the United States,".

SEC. 6. Section 401(g) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(g)) is amended to read as follows:

"AUTHORITY TO MODIFY, SUSPEND, OR REVOKE

"(g)(1) The Board upon petition or complaint or upon its own initiative, after notice and hearings, or pursuant to the simplified procedures under subsection (p) of this section, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate. No such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated. No certificate to engage in foreign air transportation may be altered, amended, modified, suspended, or revoked pursuant to the simplified procedures of subsection (p) of this section if the holder of such certificate requests an oral evidentiary hearing or the Board finds that, under all the facts and circumstances, an oral evidentiary hearing is required in the public interest.

"(2) Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a certificate pursuant to paragraph (1) of this subsection.

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, the Board may suspend or revoke authority of an air carrier to serve any point in foreign air transportation authorized in a certificate issued under this section, upon notice and with a reasonable opportunity for the affected carrier to present its views, but without hearing, if the carrier has notified the Board in accordance with subsection (j) of this section or any regulation of the Board that it proposes to suspend all service provided by that carrier to such point, or, except at a point which is provided seasonal service comparable to that provided during the previous year, if the carrier has failed to provide any service to the point for 90 days preceding the date of hte Board's notice to the carrier of its proposed action.".

SEC. 7. Section 402(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(b)) is amended to read as follows:

"ISSUANCE OF PERMIT

"(b) The Board is empowered to issue such a permit if it finds (1) that the applicant is fit, willing, and able properly to perform such foreign air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder and (2) either that the applicant is qualified, and has been designated by its government, to perform such foreign air transportation under the terms of an agreement with the United States, or that such transportation will be in the public interest.".

SEC. 8. The third sentence of section 402(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(d)) is amended by striking out "Such application shall be set for public hearing and the" and inserting in lieu thereof "The".

SEC. 9. Section 402(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(f)) is amended by inserting "(1)" immediately after "(f)" and by adding at the end thereof the following new paragraph:

"(2) Whenever the Board finds that the government, aeronautical authorities, or foreign air carriers of any foreign country have, over the objections of the Government of the United States, impaired, limited, or denied the operating rights of United States air carriers, or engaged in unfair, discriminatory, or restrictive practices with a substantial adverse competitive impact upon United States carriers, with respect to air transportation services to, from, through, or over the territory of such country, the Board may, without hearing but subject to the approval of the President of the United States, summarily suspend the permits of the foreign air carriers of such country, or alter, modify, amend, condition, or limit operations under such permits, if it finds such action to be in the public interest. The Board may also, without hearing but subject to Presidential approval, to the extent necessary to make the operation of this paragraph effective, restrict operations between such foreign country and the United States by any foreign air carrier of a third country.".

SEC. 10. Section 407(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1377(a)) is amended by inserting the phrase "or foreign air carrier" immediately after the words "air carrier" each time those words appear therein.

SEC. 11. Section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by—

(1) striking subsections (a) and (b) thereof;

(2) redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively;

(3) striking the words ", affecting interstate or overseas air transportation and" in subsection (a)(1), as so redesignated by this section;

(4) inserting the words ", including international comity or foreign policy considerations," immediately after "public benefits" in paragraph (a)(2)(A)(i) as so redesignated by this section;

(5) inserting the words "affecting interstate or overseas air transportation," immediately after the word "agreement," in paragraph (a)(2)(A)(iii), as so redesignated by this section;

(6) inserting the words "or foreign air carrier" immediately after the words "air carrier" the first two times those words appear in subsection (a)(1), as so redesignated by this section; and

(7) striking out "or (c)", inserting ", the Secretary of State," after "shall provide to the Attorney General", and striking out "such Secretary" and inserting in lieu thereof "either Secretary", in subsection (b), as redesignated by this section.

SEC. 12. (a) The center heading for section 412(a) of the Federal Aviation Act of 1958, as redesignated by section 11 of this Act, is amended by striking out

"AFFECTING INTERSTATE OR OVERSEAS AIR TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended to read as follows:

"(a) Filing and approval of agreements.

"(b) Proceedings upon filing.

"(c) Mutual aid agreement.".

SEC. 13. Section 1002(j)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(1)) is amended to read as follows:

"SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR TRANSPORTATION

"(j)(1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or

practice, for a period or periods not exceeding 365 days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect subject, however, to being canceled when the proceeding is concluded. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder which was in effect immediately prior to the filing of the new tariff or such other rate, fare or charge as may be provided for under an applicable intergovernmental agreement or understanding. If the suspension, rejection, or cancellation is of an initial tariff, the affected air carrier or foreign air carrier may file for purposes of operations pending effectiveness of a new tariff, a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

SEC. 14. Section 1002(j)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(2)) is amended to read as follows:

"(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding 365 days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without a hearing that such action is in the public interest, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension of suspensions, the tariff shall again go into effect, subject, however, to being canceled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice, affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

SEC. 15. Section 1002(j)(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(5)) is amended by (1) striking the word "and" at the end of subparagraph (E) thereof, (2) striking the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and (3) by adding at the end thereof the following new subparagraph:

"(G) reasonably estimated or foreseeable future costs and revenues for such air carrier or foreign air carrier for a reasonably limited future period during which the rate at issue would be in effect.".

SEC. 16. Section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502) is amended by inserting "(a)" immediately after "SEC. 1102." and by adding at the end thereof the following new subsections:

"GOALS FOR INTERNATIONAL AVIATION POLICY

"(b) In formulating United States international air transportation policy, the Congress intends that the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board shall develop a negotiating policy which emphasizes the greatest degree of competition that is compatible with a well-functioning international air transportation system. This includes, among other things:

"(1) the strengthening of the competitive position of United States air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their market share, in foreign air transportation;

"(2) freedom of air carriers and foreign air carriers to offer fares and rates which correspond with consumer demand;

"(3) the fewest possible restrictions on charter air transportation;

"(4) the maximum degree of multiple and permissive international authority for United States air carriers so that they will be able to respond quickly to shifts in market demand;

"(5) the elimination of operational and marketing restrictions to the greatest extent possible;

"(6) the integration of domestic and international air transportation;

"(7) an increase in the number of nonstop, United States gateway cities;

"(8) opportunities for carriers of foreign countries to increase their access to United States points if exchanged for benefits of similar magnitude for United States carriers or the traveling public with permanent linkage between rights granted and rights given away;

"(9) the elimination of discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including excessive landing and user fees, unreasonable ground handling requirements, undue restrictions on operations, prohibitions against change of gage, and similar restrictive practices; and

"(10) the promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

"CONSULTATION WITH AFFECTED GROUPS

"(c) To assist in developing and implementing such an international aviation negotiating policy, the Secretaries of State and Transportation and the Civil Aeronautics Board shall consult, to the maximum extent practicable, with the Secretary of Commerce, the Secretary of Defense, airport operators, scheduled air carriers, charter air carriers, airline labor, consumer interest groups, travel agents and tour organizers, and other groups, institutions, and government agencies affected by international aviation policy concerning both broad policy goals and individual negotiations.

"OBSERVER STATUS FOR CONGRESSIONAL REPRESENTATIVES

"(d) The President shall grant to at least one representative of each House of Congress the privilege to attend international aviation negotiations as an observer if such privilege is requested in advance in writing.".

SEC. 17. (a) The center heading for section 1102 of the Federal Aviation Act of 1958 is amended to read as follows:

"INTERNATIONAL AGREEMENTS

"ACTIONS OF THE BOARD AND SECRETARY OF TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1102. International agreements."

and inserting in lieu thereof

"Sec. 1102. International agreements.

"(a) Actions of the Board and Secretary of Transportation.

"(b) Goals for international aviation policy.

"(c) Consultation with affected groups.

"(d) Observer status for Congressional representatives.".

SEC. 18. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended by striking the words "international negotiations and" and inserting in lieu thereof "international negotiations or".

SEC. 19. The third sentence of section 1108(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1508(b)) is amended by inserting immediately before the period at the end thereof the following: ", unless specifically authorized under regulations prescribed by the Secretary authorizing United States air carriers to engage in otherwise authorized common carriage and carriage of mail with foreign registered aircraft under lease or charter to them without crew".

SEC. 20. Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517) is amended to read as follows:

"TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

"TRANSPORTATION BETWEEN THE UNITED STATES AND A PLACE OUTSIDE THEREOF

"SEC. 1117. (a) Whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemptions of the Civil Aeronautics Board and to the extent service by such carriers is available.

"TRANSPORTATION BETWEEN TWO PLACES OUTSIDE THE UNITED STATES

"(b) Whenever persons (and their personal effects) or property described in subsection (a) of this section are transported by air between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is reasonably available.

"DISALLOWANCE OF IMPROPER EXPENDITURE BY COMPTROLLER GENERAL

"(c) The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for personnel or cargo transportation in violation of this section in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act.".

SEC. 21. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1117. Transportation of Government-financed passengers and property."

and inserting in lieu thereof

"Sec. 1117. Transportation of Government-financed passengers and property.

"(a) Transportation between the United States and a place outside thereof.

"(b) Transportation between two places outside the United States.

"(c) Disallowance of improper expenditure by Comptroller General.".

SEC. 22. Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and adding a new subsection (b) as follows:

"(b) Whenever the Civil Aeronautics Board, upon complaint or upon its own initiative, determines that a foreign government or instrumentality, including a foreign air carrier (1) engages in unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practices against a United States air carrier or (2) imposes unjustifiable or unreasonable restrictions on access of a United States air carrier to foreign markets, the Board may take such action as it deems to be in the public interest to eliminate such practices or restrictions. Such actions may include, but are limited to, the denial, transfer, alteration, modification, amendment, cancellation, suspension, limitation, or revocation of any foreign air carrier permit or tariff pursuant to the powers of the Board under the Federal Aviation Act of 1958.

"(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the Civil Aeronautics Board. The Board shall approve, deny, dismiss, set such complaint for hearing or investigation, or institute other proceedings proposing remedial action within 60 days after receipt of the complaint. The Board may extend the period for taking such action for an additional period or periods of up to 30 days each if the Board concludes that it is likely that the complaint can be satisfactorily resolved through negotiations with the foreign government or instrumentality during such additional period, but in no event may the aggregate period for taking action under this subsection exceed 180 days from receipt of the complaint. In considering any complaint, or in any proceedings under its own initiative, under this subsection the Board shall (A) solicit the views of the Department of State and the Department of Transportation and (B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.

"(3) Any action proposed by the Board pursuant to this section shall be transmitted to the President pursuant to section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).".

SEC. 23. (a) Section 1002(j) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)) is amended by adding at the end thereof the following new paragraphs:

"(6) The Board shall not have authority to find any fare for foreign air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after the date of enactment of this paragraph, such proposed fare would not be more than 5 percent higher than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

"(B) with respect to any proposed decrease filed after the establishment of standard foreign fare levels, the fare would not be more than 50 percent lower than the standard foreign fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare may be predatory or discriminatory or that suspension of any such fare is required because of unreasonable regulatory options by a foreign government with respect to fare proposals by an air carrier.

"(7) For purposes of paragraph (6) of this subsection, 'standard foreign fare level' means that fare level (as adjusted only in accordance with paragraph (8) of this section) in effect on October 1, 1979 (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), for each pair of points, for each class of fare existing on that date, and in effect on the effective date of the establishment of each additional class of fare established after October 1, 1979.

"(8) The Board shall, not less often than semiannually, adjust each standard fare level established pursuant to paragraph (7) of this subsection for the particular foreign air transportation to which such standard foreign fare level applies by increasing or decreasing such standard foreign fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile. In determining the standard foreign fare level, the Board shall make no adjustment to costs actually incurred. In establishing standard foreign fare levels pursuant to paragraph (7) of this subsection and making the adjustments called for in this paragraph, the Board may use all relevant or appropriate information reasonably available to it.

"(9) The Board may by rule increase the percentage specified in subparagraph 6(B) of this subsection.".

(b) Section 403(c)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(1)) is amended by (1) inserting the words "or foreign air carrier" after the words "air carrier" each time those words appear therein and (2) inserting the words "or foreign air carrier's" after the words "air carrier's".

(c) Section 403(c)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(2)) is amended to read as follows:

"(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(4) or subparagraphs (A) and (B) of section 1002(j)(6) of this Act, or specified by the Board under section 1002(d)(7) or section 1002(j)(9) of this Act, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after 60 days' notice filed in accordance with regulations prescribed by the Board.".

SEC. 24. Section 1002(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(c)) is amended by inserting the words ", subject to section 1102(a) of this Act," immediately before the words "issue an appropriate order".

SEC. 25. (a) Paragraph (1) of section 401(n) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(n)(1)) is amended to read as follows:

"(1) Notwithstanding any other provision of this title, no air carrier providing air transportation under a certificate issued under this section shall commingle, on the same flight, passengers being transported in interstate, overseas, or foreign charter air transportation with passengers being transported in scheduled interstate, overseas, or foreign air transportation, except that this subsection shall not apply to the carriage of passengers in air transportation under group fare tariffs.".

(b) Paragraph (1) of section 401(n) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(n)(1)) and the authority of the Civil Aeronautics Board with respect to such paragraph shall cease to be in effect on December 31, 1981.

SEC. 26. Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, on the basis of the findings required by subsection (a)(2)(A)(i) of section 412, the Board shall, as part of any order under such section which approves any contract, agreement, or request or any modification or cancellation thereof, exempt any person affected by such order from the operations of the 'anti-trust laws' set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and with those transactions necessarily contemplated by such order.".

SEC. 27. Section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461) is amended by adding at the end thereof the following new subsection:

"(c) Any order of the Board pursuant to section 412 of this Act relating to foreign air transportation shall be submitted to the Secretary of State before publication thereof. If the Secretary of State certifies to the Board, within two days after receiving such order, that such order has important foreign policy consequences, the Board shall

submit the order to the President for review before publication thereof. The President may disapprove any such order when he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States not later than ten days following submission by the Board of any such order to the President. Any such Board action so disapproved shall be null and void. Any such Board action not disapproved within the foregoing time limits shall take effect as action of the Board, not the President, and as such shall be subject to judicial review as provided in section 1006 of this Act.".

SEC. 28. Section 45 of the Airline Deregulation Act of 1978 (49 U.S.C. 1341 note) is amended by inserting "(a)" after "SEC. 45." and by adding at the end thereof the following new subsections:

"(b) Nothing in this section shall prohibit the Secretary of Transportation or the Administrator of the Federal Aviation Administration from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating administered or issued outside the United States relating to any airman or repair station.

"(c) For purposes of this section, the term 'United States' shall have the meaning given such term in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).".

SEC. 29. Notwithstanding any automatic market entry provision of the Airline Deregulation Act of 1978, or any other provision of law, no common carrier operating in interstate commerce may perform regularly scheduled commercial passenger flights in interstate commerce into or from a satellite airport lying within 20 miles of a major regional airport where the major airport is operated under the direction of a regional airport board and where the satellite airport is operated under the direction of a municipality and where the proprietors of such satellite airport and such regional airport board have determined that the public interest and aviation safety of the region are best served by closing said satellite airport to all commercial passenger interstate traffic. Nothing in this section shall apply to the operations of any commuter airline.

The SPEAKER pro tempore. Is a second demanded?

Mr. SNYDER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. ANDERSON) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5481, the International Air Transportation Competition Act of 1979, modernizes the laws governing international aviation, most of which have been in effect since 1938. During this 40-year period, international aviation has evolved from an infant industry to the basic system of international passenger transportation. A thorough modernization and revision of the governing law is needed.

The main features of H.R. 5481 are as follows:

First, the bill establishes new policy statements to guide the Civil Aeronautics Board and other agencies in regulating international aviation, and in conducting international aviation negotiations. These policy statements contemplate that to the maximum extent possible, reliance will be placed on competition, rather than on detailed and burdensome government regulation, to determine the services which will be offered to the traveling public. At the same time, the policy statements recognize that there are differences between international and domestic aviation; the critical difference being that in domestic markets a competitive environment can be established by actions of the U.S. Government, while in international markets, competition can be established only by agreement between the United States and one or more foreign governments.

Since most foreign governments do not share our country's beliefs in the benefits of unregulated competition in aviation, the policy statements contemplate that there will be a continuing need to seek equal opportunity for our international airlines through negotiations and regulatory actions.

In recognition of these needs, the policy statements of H.R. 5481 require our Government to enter into agreements in which there is linkage between aviation opportunities granted and aviation opportunities given away. The Government is also directed to work to eliminate operational and marketing restrictions placed on U.S. carriers by foreign governments, and to eliminate discriminatory treatment and unfair competitive practices against U.S. airlines by foreign governments. The policy statements further provide that U.S. regulatory and negotiating policies should seek to strengthen the competitive position of U.S. air carriers in foreign air transportation, including opportunities for U.S. carriers to increase and maintain their market share, and promote the development of a viable, privately owned U.S. air transport industry.

Other important provisions of H.R. 5481 give our Government new powers to use in its efforts to end discrimination and operational and marketing restrictions on our carriers. The bill gives the Government the powers to suspend or revoke permits and rates of foreign air carriers whose governments place unreasonable restrictions on the operation of U.S. air carriers. The new powers given to our Government by H.R. 5481 are comparable to the powers which many foreign governments have and use against our carriers. The new powers given to the Civil Aeronautics Board by H.R. 5481 generally are subject to Presidential review and it is contemplated that restrictive actions will be taken only as a response in kind, after all reasonable efforts have been made to resolve disputes by negotiation.

H.R. 5481 also gives air carriers operating in foreign air transportation fare flexibility comparable to that which was authorized for domestic air carriers in the Airline Deregulation Act of 1978. In recent months, it has become clear that airlines operating internationally need flexibility to respond promptly to increases in their costs. In addition to general inflation, airline fuel costs have been escalating dramatically.

The existing regulatory system is not well equipped to deal with these sudden cost increases. Under the existing system, any request for a fare increase must be supported by a detailed justification, and analysis of the request by the Civil Aeronautics Board can take 60 days or more. By the time analysis is completed, an airline may have been incurring higher costs for months. There is a need to replace this regulatory mechanism with one which permits airlines to respond to cost changes promptly and automatically, without the delays required for case-by-case filings and analysis.

To accomplish these objectives, H.R. 5481 includes a fare flexibility provision permitting airlines to adopt fares 5 percent above or 50 percent below a standard industry fare level. The standard industry fare level starts with the fares in effect on October 1, 1979, and will be adjusted periodically to reflect changes in airline costs. This provision is similar to the fare flexibility provision in the Domestic Deregulation Act, which also uses a standard industry fare level based on the fares in effect on a specified date, and which also allows a pass-through of cost changes.

Mr. Speaker, H.R. 5481 represents modernization of the law governing international aviation. The statutory modernization and the elimination of unnecessary regulation should benefit both consumer and the U.S. airlines which provide international service. I urge my colleagues to join me in passing this important legislation.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like first to commend Chairman JOHNSON, Chairman ANDERSON, and Mr. HARSHA, our ranking minority member, for their work on this legislation. This bill represents a logical outgrowth of Congress efforts to deregulate the domestic air transporation system. To the extent possible, the same procompetitive theories will now be applied by U.S. negotiators to the international market place.

The bill sets forth a procompetitive policy statement to direct the Civil Aeronautics Board in carrying out its duties with regard to routes, rates, and entry. It also establishes a number of goals for the CAB and Departments of State and Transporation to follow in establishing a negotiating policy for bilateral agreements. Again, competition is the theme, with equal emphasis on strengthening U.S. air carriers, increasing U.S. carrier market shares, and eliminating unfair competitive practices engaged in by foreign nations.

The policy of strengthening the competitive position of U.S. air carriers is consistent with other U.S. foreign trade policy. Any diminution in the strength of our carriers will ultimately adversely affect the economy, the taxpayer, and the consumer, as well as frustrate the objective of full employment and economic growth.

As set forth in the statement of goals,

our negotiators should make every effort to eliminate operating and marketing restrictions imposed by foreign carriers. In addition to market access, ground handling of aircraft, passengers, and cargo, there are several marketing obstacles that U.S. carriers face. These include, among others, restriction or monopoly of reservations computers, currency restrictions, and ticketing restrictions. Foreign carriers operating in the United States do not face these types of obstacles, and thus compete with U.S. carriers on a much more equal footing than is possible for U.S.-flag carriers on foreign turf.

This legislation gives the CAB tools with which to pursue so-called liberal bilaterals. I wish to emphasize that the CAB is also expected to see to it that these agreements are lived up to by foreign entities and, if not, the CAB is expected to take appropriate countermeasures.

There are numerous cases where foreign governments have placed unfair anticompetitive restrictions on U.S. carriers. In order to promote the elimination of these restrictions, the bill gives the CAB authority to summarily modify, suspend, or revoke a foreign air carrier permit if the foreign government or foreign air carrier impairs the operating rights of U.S. carriers or engages in unfair or restrictive practices with an adverse impact on the U.S. carriers. Further, the bill would amend the Unfair Competitive Practices Act to provide Government agencies and U.S. carriers with the option of initiating proceedings with the CAB to try and resolve unfair competitive practice disputes through negotiation, and failing that, through sanctions against the foreign government or carrier.

This legislation also amends existing law to conform international route awards, foreign agreements, and tariffs to the Deregulation Act of 1978. Applications for international route authority are to be granted if "consistent with" the public convenience and necessity rather than "required by" the public convenience and necessity. Agreements affecting foreign air transportation will be subject to the same antitrust principles as domestic agreements. In fact, the modified local cartage standard has already been applied to international carrier agreements under CAB precedents.

Fuel costs over the last year have risen at an astronomical rate. Aviation fuel has almost doubled within that time and now approaches an average of 75 cents per gallon. In many cases, much higher rates are paid for fuel in the "spot market."

Given rapidly escalating fuel costs and regulatory lag in approving price increases to cover these costs, we have included in the bill a fare flexibility mechanism similar to that enacted in the Airline Deregulation Act for domestic fare increases. Basically, this would allow carriers to raise their international fares 5 percent above or lower than 50 percent below a standard foreign fare level without CAB approval. Of course, any such fare increases could be suspended if the CAB finds them to be unduly preferential, unduly prejudicial, or unjustly discriminatory. Fare decreases could be suspended if found predatory or discriminatory.

Mr. Speaker, this legislation is consistent with our efforts in applying a procompetitive policy to domestic air transportation, and it is only fair that our international carriers be put on the same footing to the extent possible as our domestic carriers.

Mr. ANDERSON of California. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. FARY).

Mr. FARY. Mr. Speaker, if I could have the attention of the gentleman from Texas (Mr. WRIGHT) please. Section 29, Mr. WRIGHT, of this bill is written to finally correct the situation the CAB has allowed to exist in the gentleman's district. I would like to ask the gentleman if he would elaborate for the record on this situation at Love Field?

Mr. WRIGHT. Mr. Speaker, I would be delighted to explain once again the purpose of the committee and the purpose of Congress in this particular legislation. The language to which he refers applies with specificity only to the situation at Love Field, Tex., and at the Dallas-Fort Worth International Airport.

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It simply reaffirms what this Congress declared at the time we enacted the airline deregulation bill. We tried to make it clear on the floor of this House that a local airport board and the cities who own the airports should be able to decide which of those airports shall be used in interstate traffic. The city of Dallas had closed Love Field, and the cities of Fort Worth and Dallas jointly had committed $600 million of their taxpayers' money to the building of a new, modern, and safe facility midway between those two cities.

The regional airport board declared that all interstate flights should come into and leave from the new facility. Notwithstanding that, one airline on its own petitioned the Civil Aeronautics Board under the Airline Deregulation Act to permit it to inaugurate a new series of interstate flights at the abandoned Love Field. Federal Aviation Administration experts have said that it was potentially unsafe. Former Regional Director Henry Newman declared that it was not a safe situation to mix big airliners from interstate travel with small private aircraft in the air, flying at greatly different rates of speed into that field. Love Field had been set aside for private aircraft.

Notwithstanding that, the Civil Aeronautics Board, by a tortured reasoning, misinterpreted the action of the Congress, in spite of our clear colloquy to the contrary on this very floor on the day of its passage. The CAB misconstrued the automatic market entry provision of that law as intending that any airline on its own option could inaugurate interstate flights at any landing strip anywhere it wanted to, regardless of what the city said which owned the airport. So, we are simply setting that matter straight once more.

Mr. FARY. I thank the gentleman. Then, this amendment then is not in any way meant to affect interstate air traffic into and out of Midway Field in Chicago?

Mr. WRIGHT. Absolutely not. The gentleman is absolutely correct. The city of Chicago and the regional airport authorities wanted both airports, O'Hare and Midway, to be used in the Chicago area; and that is their choice. So, nothing contained in this language would adversely affect that.

Mr. FARY. I thank the gentleman.

Mr. Speaker, I thank the gentleman from Texas (Mr. WRIGHT), for yielding to me. As a member of the Aviation Subcommittee of the Committee on Public Works and Transportation I feel it is very important for me to state for the record that the committee amendment before the House, section 29 of H.R. 5481, is meant to apply solely to Love Field and Dallas-Fort Worth airports. The committee accepted this amendment solely to correct a longstanding misinterpretation of the congressional intent by the Civil Aeronautics Board.

In pointing out for the record that this is not in any way meant to apply to Chicago's airports, I am merely trying to make certain that the CAB does not misinterpret any of the terms used in the amendment to the detriment of the Chicago area where, in fact, the Congress has been trying to encourage reliever or satellite airport service from Midway field.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 5481. The bill will update the laws governing international aviation, and establish new policies to guide U.S. negotiators and regulators.

The reported bill follows the lead of the domestic aviation bill which we passed last year, by establishing competition as the mainstay of our international aviation policy. However, H.R. 5481 also recognizes that in many cases we will be unable to negotiate agreements with foreign governments to establish a competitive environment. In these cases, hard bargaining will still be required to insure fair treatment for U.S. consumers and U.S. air carriers.

H.R. 5481 also gives our Government new powers to use against foreign air carriers when foreign governments discriminate against our air carriers and we are unable to resolve the problem by negotiation. The new powers granted to our Government are comparable to those which foreign governments use against our air carriers. It is essential that the U.S. Government be placed on an equal footing.

Other important provisions of H.R. 5481 gives U.S. carriers fare flexibility, to permit them to respond to increasing costs and changing market conditions. The fare flexibility provisions will facil-

itate reductions in fares to attract new passengers, as well as fare increases which are required by rising costs. The international provision is comparable to the fare flexibility provision in the Domestic Deregulation Act. It will increase the competitive effectiveness of our air carriers.

Mr. Speaker, I urge passage of this important legislation.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I rise in support of this legislation and commend the committee for its progressive attitude toward protecting U.S. interests in international air travel. I also take this time to call to the attention of this House that the gentleman from Illinois (Mr. FARY), was more than any other individual responsible for the effective reopening of Chicago's Midway Airport. He fought the bureaucracy; he fought the airlines; he fought the lackadaisical city administration, and because of his efforts Midway will now be restored as an effective entity serving consumers.

Whenever Members have an opportunity to fly into Chicago, if they go through Midway or if they find O'Hare a little easier because of the adjusted service, Mr. FARY is the man responsible. I wish to take this time to commend him for his leadership in this field.

Mr. ANDERSON of California. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I appreciate the gentleman yielding to me. I would like to mention that in the amendment discussed by the gentleman from Chicago (Mr. FARY) and the gentleman from Texas (Mr. WRIGHT) I have a problem that I would like to place before the House.

The city of Harlingen is one of the major cities in my congressional district. The only airline that flies into Harlingen utilizes Love Field and Hobby in Houston. Therefore, if they are not allowed to operate into interstate commerce from those airfields, the city of Harlingen is placed in a position where we have a major city in Texas of some 60,000 people without any interstate flights to it, because only this one airline flies into that city.

I have no interest in involving myself in the needs of the constituency of my dear friend from Fort Worth, but I would like for the House to know the predicament my area is placed in, in that this airline is the only one that serves Harlingen. If it is not granted permission to fly from that specific airport, maybe something else can be worked out, but at this time we have a problem that I feel must be placed before the House.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to my colleague from Texas.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman for raising this question. Nothing in this language will adversely affect the city of Harlingen. I agree with the gentleman that the people of Harlingen and the Rio Grande Valley deserve interstate flights. There is nothing in this language that will harm the flights now serving Harlingen, and connecting with the Dallas-Fort Worth area. Those are intrastate flights.

Additionally, there is nothing in this language which would prevent Southwest Airlines from flying interstate flights from the Harlingen airport which the gentleman's regional airport board has designated as the principal airport in the area for interstate flights.

In addition to that, Harlingen easily could be served in interstate traffic by Southwest Airlines with intermediate stops in the Dallas-Fort Worth area if the management of Southwest simply will do what every other airline has agreed to do, and that is to bring their interstate flights into the Dallas-Fort Worth International Airport.

Mr. DE LA GARZA. I appreciate the gentleman's concern and his explanation. Nonetheless, the amendment as read, whatever the problem is over there, if this airline is not allowed to fly out of that airport at this time, as the gentleman knows——

Mr. WRIGHT. If the gentleman will yield further, the airline is fully authorized and invited to fly out of the Dallas-Fort Worth International Airport just as every other airline does. That particular airline wants a monopoly by which it might thumb its nose at the city officials of Dallas and Fort Worth. If we allow them to get by with that, I suggest to the gentleman from the Rio Grande Valley, then the next thing it might do would be to thumb its nose at the city officials and public authorities of the regional airport in the southern part of Texas.

There is nothing in this language that adversely affects Harlingen one way or another. Harlingen will still be served if Southwest is willing to serve Harlingen; and for Southwest Airlines to stir up the people of the Rio Grande Valley against the wishes and best interests of Dallas-Fort Worth area and its citizens, in a matter which concerns only the question of which airport it shall use in the Dallas-Forth Worth area is, in my opinion, abominable and well-nigh unpardonable. I think the gentleman from south Texas under tands fully that this is the case.

Mr. DE LA GARZA. I again repeat that I do not want to involve myself in the problems that the gentleman has over there.

Mr. WRIGHT. The gentleman from north Texas appreciates the remarks of the gentleman from south Texas.

Mr. DE LA GARZA. I would hope that my dear colleague and friend would see my predicament, and if there is any way that we could arrive at something that would protect the interests of the city of Harlingen and conceivably the interests of the gentleman's constituency, maybe we might arrive at some solution equitable to both sides.

Mr. WRIGHT. The gentleman is assured that I certainly will. I will guarantee the gentleman that those flights from Harlingen can land at Dallas-Fort Worth International Airport and go out of there into interstate traffic. If there are any other ways in which we can further assist in providing necessary additional service to Harlingen and the Rio Grande Valley, I think the gentleman from Texas knows that I will be glad to work with him toward that end.

● Mr. HARSHA. Mr. Speaker, the distinguished gentlemen from Kentucky and California have ably described this legislation which I urge my colleagues to support. One of the primary purposes of this bill is to establish a statutory negotiating policy with respect to foreign air transportation agreements with other nations. Prior to this time, the pursuit of U.S. air transportation policy has taken varying courses.

This bill will establish an unequivocal procompetitive course for international air transportation agreements. The Airline Deregulation Act of 1978 has shown promise for both the consumer and the airline industry as well, and I believe the same procompetitive concepts can be applied to the international marketplace to a certain extent.

This legislation establishes a policy of placing maximum reliance on competitive market forces, achieving efficient and low-price services, eliminating unfair and discriminatory practices, and strengthening the competitive position of U.S. carriers.

The latter factor was included in recognition of economic and political considerations in foreign transportation which preclude theories of domestic regulatory reform from being equally applied to the international marketplace. Thus, the goal of strengthening the competitive position of U.S. air carriers is to be equally balanced with the goal of competition. Given the nature of international trade, this makes abundant sense. Obviously, our trade deficit has reached new depths due to our oil imports, and any increase in this dismal deficit will only further fuel inflation, increase the jobless rate, and further weaken the dollar.

With respect to international regulatory procedures, the bill simplifies obtaining route authority, makes the filing of international agreements permissive and applies the same antitrust principles to those agreements as the domestic regulatory reform bill. Also, the bill would allow U.S. carriers to lease foreign-registered aircraft without crew for operation between points solely within the United States.

In order to facilitate fostering competition in international air transportation this legislation provides the CAB additional authority to impose countermeasures against foreign carriers if the foreign government has imposed unreasonable, discriminatory and unfair restrictions on U.S. carriers. Thus, the bill makes it easier for the Board to amend or suspend foreign air carrier permits, gives greater power to the Board to suspend or cancel foreign air carrier tariffs. Also, the CAB is given authority to take any other retaliatory action deemed to be in the public interest.

Oil prices have risen tremendously over the past 12 months. The price of jet fuel has almost doubled over that period, and in the "spot market" even higher prices are paid. In short, air carriers are not able to adjust their tariffs fast enough because of both the volatile nature of the fuel market and the regulatory lag in obtaining permission to make these adjustments. Under current law it takes 60 days or more to obtain consent from the CAB to make a change in fares. In order to alleviate this situation, the bill would permit carriers to raise international fares 5 percent above the decrease fares 50 percent below a "standard foreign fare level" without CAB approval. This flexibility was given to carriers operating in domestic markets when the Airline Deregulation Act of 1978 was passed. The baseline from which fares can be increased or decreased would be those fares in effect on October 1, 1979, adjusted semiannually for changes in operating costs per available seat mile.

Clearly, legislation such as this which will reduce cumbersome regulation and spur on competition is the correct course to pursue.

Mr. Speaker, I urge my colleagues to support this legislation.●

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Mr. SNYDER. Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. ANDERSON of California. We have no further requests for time, Mr. Speaker, and I reserve the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. JOHNSON) that the House suspend the rules and pass the bill, H.R. 5481, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 1300) to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Air Transportation Competition Act of 1979".

Sec. 2. Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"DECLARATION OF POLICY: THE BOARD

"FACTORS FOR INTERSTATE, OVERSEAS, AND FOREIGN AIR TRANSPORTATION

Sec. 102. (a) In the exercise and performance of its powers and duties under this Act, the Board shall consider the following among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers and foreign air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions for air carriers.

"(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital, taking account, nevertheless, of material differences, if any, which may exist between interstate and overseas air transportation, on the one hand, and foreign air transportation, on the other.

"(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaption of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(6) The encouragement of air service at major urban areas in the United States through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

"(7) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of—

"(A) unreasonable industry concentration, excessive market domination, and monopoly power; and

"(B) other conditions;

that would tend to allow one or more air carriers or foreign air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(8) The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service for small communities and for isolated areas in the United States, with direct Federal assistance where appropriate.

"(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.

"(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive air line industry.

"(11) The promotions, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.".

Sec. 3. (a) Section 102(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(c)) is repealed.

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 102. Declaration of policy: The Board."

is amended by striking out

"(a) Factors for interstate and overseas air transportation.

"(b) Factors for all-cargo service.

"(c) Factors for foreign air transportation."

and inserting in lieu thereof

"(a) Factors for interstate, overseas, and foreign air transportation.

"(b) Factors for all-cargo service.".

Sec. 4. Section 401(d)(1) through 401(d)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1) through (d)(3)) are amended to read as follows:

"ISSUANCE OF CERTIFICATE

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is consistent with the public convenience and necessity; otherwise such application shall be denied.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificate to engage in charter air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air tranportation of persons, which authorizes the whole or any part thereof for such periods, as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.".

Sec. 5. The first sentence of section 401(e)(2) of the Federal Aviation Act of 1958 (49

U.S.C. 1371(e)(2)) is amended by striking out the words ", insofar as the operation is to take place without the United States,".

Sec. 6. Section 401(g) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(g)) is amended by inserting "(1)" immediately after "(g)" and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of subsection (g)(1) of this section, the Board may suspend or revoke authority to serve any point authorized in a certificate issued under this section, upon notice and with a reasonable opportunity for the affected carrier to present its views, but without hearing, if the carrier has notified the Board in accordance with paragraph (j) of this section or any regulation of the Board that it proposes to suspend all service provided by that carrier to such point, or if the carrier has failed to provide any significant service to the point for 90 days preceding the date of the Board's notice to the carrier of its proposed action.".

Sec. 7. Section 402(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(b)) is amended to read as follows:

"ISSUANCE OF PERMIT

"(b) The Board is empowered to issue such a permit if it finds (1) that the applicant is fit, willing, and able properly to perform such foreign air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder and (2) either that the applicant is qualified, and has been designated by its government, to perform such foreign air transportation under the terms of an agreement with the United States, or that such transportation will be in the public interest.".

Sec. 8. The third sentence of section 402(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(d)) is amended by striking out "Such application shall be set for public hearing and the" and inserting in lieu thereof "The".

Sec. 9. Section 402(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(f)) is amended by inserting "(1)" immediately after "(f)" and by adding at the end thereof the following new paragraph:

"(2) Whenever the Board finds that the government, aeronautical authorities, or foreign air carriers of any foreign country have, over the objections of the Government of the United States, impaired, limited, or denied the operating rights of United States air carriers, or engaged in unfair, discriminatory, or restrictive practices with a substantial adverse competitive impact upon United States carriers, with respect to air transportation services to, from, through, or over the territory of such country, the Board may, without hearing but subject to the approval of the President of the United States, summarily suspend the permits of the foreign air carriers of such country, or alter, modify, amend, condition, or limit operations under such permits, if it finds such action to be in the public interest. The Board may also, without hearing but subject to Presidential approval, to the extent necessary to make the operation of this paragraph effective, restrict operations between such foreign country and the United States by any foreign air carrier of a third country.".

Sec. 10. Section 407(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1377(a)) is amended by inserting the phrase "or foreign air carrier" immediately after the words "air carrier" each time those words appear therein.

Sec. 11. Section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by—

(1) striking subsections (a) and (b) thereof;

(2) redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively;

(3) striking the words ", affecting interstate or overseas air transportation and" in subsection (a)(1), as so redesignated by this section;

(4) inserting the words "affecting interstate or overseas air transportation," immediately after the word "agreement," in paragraph (a)(2)(A)(iii), as so redesignated by this section; and

(5) inserting the words "or foreign air carrier" immediately after the words "air carrier" the first two times those words appear in subsection (a)(1), as so redesignated by this section.

Sec. 12. (a) The center heading for section 412(a) of the Federal Aviation Act of 1958, as redesignated by section 11 of this Act, is amended by striking out

"AFFECTING INTERSTATE OR OVERSEAS AIR TRANSPORTATION"

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended to read as follows:

"(a) Filing and approval of agreements.

"(b) Proceedings upon filing.

"(c) Mutual aid agreement."

Sec. 13. (a) Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386) is amended by adding at the end thereof the following new paragraphs:

"(7) The Board may by order, to the extent it finds that such action is required in the public interest, exempt any foreign air carrier from the requirements or limitations of this Act, to the extent necessary to authorize the foreign air carrier to lease or charter aircraft, with or without crew to a United States direct air carrier for the performance of service in interstate, overseas, or foreign air transportation by or on behalf of such air carrier under an agreement approved by the Board, subject to such safety regulations as may be prescribed by the Secretary for such operations.

"(8) The Board may by order, to the extent it finds that such action is required in the public interest, exempt any foreign air carrier from the requirements or limitations of this Act, to the extent necessary to authorize the foreign air carrier to carry passengers, cargo, or mail in interstate or overseas air transportation in certain markets if the Board, after consultation with the Secretary of Transportation, finds that—

"(A) because of unusual circumstances, traffic in such markets cannot be accommodated by air carriers holding certificates under section 401 of this Act;

"(B) all reasonable efforts have been made to accommodate such traffic by utilizing the resources of such air carriers (including, for example, the use of foreign aircraft, or sections of foreign aircraft, that are under lease or charter to such air carriers, and the use of such air carriers' reservation systems to the extent practicable); and

"(C) such authorization is necessary to avoid undue hardship for the traffic in such market that cannot be accommodated by air carriers holding certificates under section 401 of this Act.

Whenever the Board grants such authority to a foreign air carrier under this paragraph, the Board shall—

"(i) assure that any air transportation provided by the foreign carrier under such authority is made available on fair and reasonable terms;

"(ii) continuously monitor the passenger load factor of air carriers in such market that hold certificates under section 401 of this Act; and

"(iii) review such authority no less frequently than once every 30 days to assure that the unusual circumstances that created the need for such authority still exist.

In no event shall any authorization to a foreign air carrier under this paragraph remain in effect for more than 5 days after the unusual circumstances that created the need for such authorization have ceased.".

(b) Section 1601(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(E) The authority of the Board under section 416(b)(8) of this Act with respect to exempting foreign air carriers from the requirements or limitations of this Act under certain circumstances is transferred to the Department of Transportation.".

Sec. 14. Section 1002(j)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(1)) is amended to read as follows:

"SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR TRANSPORTATION

"(j)(1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding 365 days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect subject, however, to being canceled when the proceeding is concluded. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, which was in effect immediately prior to the filing of the new tariff or such other rate, fare or charge as may be provided for under an applicable intergovernmental

agreement or understanding. If the suspension, rejection, or cancellation is of an initial tariff, the affected air carrier or foreign air carrier may file for purposes of operations pending effectiveness of a new tariff, a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

Sec. 15. Section 1002(j)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(2)) is amended to read as follows:

"(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

Sec. 16. Section 1002(j)(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(5)) is amended by (1) striking the word "and" at the end of subparagraph (E) thereof, (2) striking the period at the end of subparagraph (F) and inserting in lieu thereof ", and", and (3) by adding at the end thereof the following new subparagraph:

"(G) reasonably estimated or foreseeable future costs and revenues for such air carrier or foreign air carrier for a reasonably limited future period during which the rate at issue would be in effect.".

Sec. 17. Section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502) is amended by inserting "(a)" immediately after "Sec. 1102." and by adding at the end thereof the following new subsections:

"GOALS FOR INTERNATIONAL AVIATION POLICY

"(b) In formulating United States international air transportation policy, the Congress intends that the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board shall develop a negotiating policy which emphasizes the greatest degree of competition that is compatible with a well-functioning international air transportation system. This includes, among other things:

"(1) freedom of air carriers and foreign air carriers to offer fares and rates which correspond with consumer demand;

"(2) the fewest possible restrictions on charter air transportation;

"(3) the maximum degree of multiple and permissive international authority for United States air carriers so that they will be able to respond quickly to shifts in market demand;

"(4) the elimination of operational restrictions to the greatest extent possible;

"(5) the integration of domestic and international air transportation;

"(6) an increase in the number of nonstop United States gateway cities;

"(7) opportunities for carriers of foreign countries to increase their access to United States points if exchanged for benefits of similar magnitude for United States carriers or the traveling public with permanent linkage between rights granted and rights given away;

"(8) the elimination of discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including excessive landing and user fees, unreasonable ground handling requirements, undue restrictions on operations, prohibitions against change of gage, and similar restrictive practices; and

"(9) the promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

"CONSULTATION WITH AFFECTED GROUPS

"(c) To assist in developing and implementing such an international aviation negotiating policy, the Secretaries of State and Transportation and the Civil Aeronautics Board shall consult, to the maximum extent practicable, with the Secretary of Commerce, the Secretary of Defense, airport operators, scheduled air carriers, charter air carriers, airline labor, consumer interest groups, travel agents and tour organizers, and other groups, institutions, and government agencies affected by international aviation policy concerning both broad policy goals and individual negotiations.

"OBSERVER STATUS FOR CONGRESSIONAL REPRESENTATIVES

"(d) The President shall grant to at least one representative of each House of Congress the privilege to attend international aviation negotiations as an observer if such privilege is requested in advance writing.".

Sec. 18. (a) The center heading for section 1102 of the Federal Aviation Act of 1958 is amended to read as follows:

"INTERNATIONAL AGREEMENTS

"ACTIONS OF THE BOARD AND SECRETARY OF TRANSPORTATION"

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1102. International agreements."

and inserting in lieu thereof

"Sec. 1102. International agreements.

"(a) Actions of the Board and Secretary of Transportation.

"(b) Goals for international aviation policy.

"(c) Consultation with affected groups.

"(d) Observer status for Congressional representatives.".

Sec. 19. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended by striking the words "international negotiations and" and inserting in lieu thereof "international negotiations or".

Sec. 20. The third sentence of section 1108(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1508(b)) is amended by inserting immediately before the period at the end thereof the following: ", unless specifically authorized under section 416(b)(7) or 416(b)(8) of this Act, or under regulations prescribed by the Secretary authorizing United States air carriers to engage in otherwise authorized common carriage and carriage of mail with foreign registered aircraft under lease or charter to them without crew".

Sec. 21. Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517) is amended to read as follows:

"TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

"TRANSPORTATION BETWEEN THE UNITED STATES AND A PLACE OUTSIDE THEREOF

"Sec. 1117. (a) Except as provided in subsection (c) of this section, whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available.

"TRANSPORTATION BETWEEN TWO PLACES OUTSIDE THE UNITED STATES

"(b) Except as provided in subsection (c) of this section, whenever persons (and their personal effects) or property described in subsection (a) of this section are transported by air between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is reasonably available.

"TRANSPORTATION PURSUANT TO BILATERAL AGREEMENT

"(c) Nothing in this section shall preclude the transportation of persons (and their personal effects) or property by foreign air carriers if such transportation is provided for under the terms of a bilateral or multilateral air transport agreement between the United States and a foreign government or governments and if such agreement (1) is consistent with the goals for international aviation policy set forth in section 1102(b) of this Act and (2) provides for the exchange of rights or benefits of similar magnitude.

"DISALLOWANCE OF IMPROPER EXPENDITURE BY COMPTROLLER GENERAL

"(d) The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for personnel or cargo transportation in violation of this section in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act.".

SEC. 22. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading.

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1117. Transportation of Government-financed passengers and property."

and inserting in lieu thereof

"Sec. 1117. Transportation of Government-financed passengers and property.

"(a) Transportation between the United States and a place outside thereof.

"(b) Transportation between two places outside the United States.

"(c) Transportation pursuant to bilateral agreement.

"(d) Disallowance of improper expenditure by Comptroller General.".

SEC. 23. Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and adding a new subsection (b) as follows:

"(b)(1) Whenever the Civil Aeronautics Board, upon complaint or upon its own initiative, determines that a foreign government or instrumentality, including a foreign air carrier (1) engages in unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practices against a United States air carrier or (2) imposes unjustifiable or unreasonable restrictions on access of a United States air carrier to foreign markets, the Board may take such action as it deems to be in the public interest to eliminate such practices or restrictions. Such actions may include, but are not limited to, the denial, transfer, alteration, modification, amendment, cancellation, suspension, limitation, or revocation of any foreign air carrier permit or tariff pursuant to the powers of the Board under the Federal Aviation Act of 1958.

"(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the Civil Aeronautics Board. The Board shall approve, deny, dismiss, set such complaint for hearing or investigation, or institute other proceedings proposing remedial action within 60 days after receipt of the complaint. The Board may extend the period for taking such action for an additional period or periods of up to 30 days each if the Board concludes that it is likely that the complaint can be satisfactorily resolved through negotiations with the foreign government or instrumentality during such additional period, but in no event may the aggregate period for taking action under this subsection exceed 180 days from receipt of the complaint. In considering any complaint, or in any proceedings under its own initiative, under this subsection the Board shall (A) solicit the views of the Department of State and the Department of Transportation and (B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.

"(3) Any action proposed by the Board pursuant to this section shall be transmitted to the President pursuant to section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).".

SEC. 24. (a) Section 1002(j) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)) is amended by adding at the end thereof the following new paragraphs:

"(6) The Board shall not have authority to find any fare for foreign air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after July 1, 1980 to become effective on or after September 1, 1980, such proposed fare would not be more than 5 percent higher than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

"(B) with respect to any proposed decrease filed after the establishment of standard foreign fare levels, the fare would not be more than 50 percent lower than the standard foreign fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare may be predatory or discriminatory or that suspension of any such fare is required because of unreasonable regulatory actions by a foreign government with respect to fare proposals by an air carrier.

"(7) For purposes of paragraph (6) of this subsection, 'standard foreign fare level' means that fare level, as adjusted only in accordance with paragraph (8) of this section) in effect on October 1, 1979 (with seasonal fare adjusted by the percentage difference that prevailed between seasons in 1978), for each pair of points, for each class of fare existing on that date, and in effect on the effective date of the establishment of each additional class of fare established after October 1, 1979, except to the extent that the Board concludes by rule that fares which were in effect on such date were unjust or unreasonable. On or before June 15, 1980, the Board shall by rule establish the standard foreign fare level between any two points for which the fare in effect on October 1, 1979 is concluded to be unjust or unreasonable.

"(8) The Board shall, not less often than semiannually, adjust each standard fare level established pursuant to paragraph (7) of this subsection for the particular foreign air transportation to which such standard foreign fare level applies by increasing or decreasing such standard foreign fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile. In determining the standard foreign fare level, the Board shall make no adjustment to costs actually incurred. In establishing standard foreign fare levels pursuant to paragraph (7) of this subsection and making the adjustments called for in this paragraph, the Board may use all relevant or appropriate information reasonably available to it.

"(9) The Board may by rule increase the percentage specified in subparagraph 6(B) of this subsection.".

(b) Section 403(c)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(1)) is amended by (1) inserting the words "or foreign air carrier" after the words "air carrier" each time those words appear therein and (2) inserting the words "or foreign air carrier's" after the words "air carrier's".

(c) Section 403(c)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(2)) is amended to read as follows:

"(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(4) or subparagraphs (A) and (B) of section 1002(j)(6) of this Act, or specified by the Board under section 1002(d)(7) or section 1002(j)(9) of this Act, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after 60 days' notice filed in accordance with regulations prescribed by the Board.".

SEC. 25. Section 1002(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(c)) is amended by inserting the words ", subject to section 1102(a) of this Act," immediately before the words "issue an appropriate order".

MOTION OFFERED BY MR. JOHNSON OF CALIFORNIA

Mr. JOHNSON of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. JOHNSON of California moves to strike out all after the enacting clause of the Senate bill, S. 1300, and to insert in lieu thereof the provisions of H.R. 5481, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 5481, was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1300

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill, S. 1300, just passed, and request a conference with the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. JOHNSON of California, ROBERTS, ANDERSON of California, LEVITAS, YOUNG, HARSHA, and SNYDER.

AUTHORIZING AND DIRECTING CLERK TO MAKE A CORRECTION IN ENROLLMENT OF H.R. 4930, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. YATES. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 209) authorizing and directing the Clerk to make a correction in the enrollment of the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. THOMAS. Mr. Speaker, reserving the right to object, has this changed anything of substance?

Mr. YATES. Mr. Speaker, if the gentleman will yield, I was about to say that this resolution has been cleared with the

gentleman from Massachusetts (Mr. CONTE) who is the ranking member of the Committee on Appropriations, and has been cleared with other leaders in the House.

The purpose of the resolution is to correct an error in numbers which appeared in the conference report of the Department of Interior and related agencies bill which the House considered on Friday. There is no change in substance. It is only with respect to a change in the figures themselves.

Mr. THOMAS. What about the ranking minority member of the subcommittee, the gentleman from Pennsylvania (Mr. MCDADE)?

Mr. YATES. If the gentleman will yield further, the gentleman from Pennsylvania (Mr. MCDADE) has no objection to it because it only amounted to a correction of a typographical error.

Mr. THOMAS. He has indicated he has no objection?

Mr. YATES. That is right.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 209

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes, the Clerk of the House of Representatives is authorized and directed to make the following correction:

In lieu of the figure "$401,242,000" inserted in lieu of Senate amendment numbered 67 on page 31, line 11, insert "$392,565,000".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS EXPRESSION RESPECTING BALTIC STATES AND SOVIET CITIZENSHIP CLAIMS OVER CERTAIN U.S. CITIZENS

Mr. FITHIAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 200) expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain United States citizens, as amended.

The Clerk read as follows:

H. CON. RES. 200

Expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain United States citizens.

Whereas the United States since its inception has been committed to the principle of self-determination; and

Whereas the United States as a member of the United Nations has pledged to uphold the provisions of the United Nations Charter and to take joint and separate action to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion; and

Whereas the United Nations and the United States delegation to the United Nations have consistently upheld the right of self-determination of people of those countries in Asia and Africa that are, or have been, under foreign political rule;

Whereas the United States, as a signatory of the Final Act of the Conference on Security and Cooperation in Europe, endorsed Principle VIII concerning equal rights and self-determination of peoples; and

Whereas in 1940 the Soviet Union unilaterally and forcibly annexed the Baltic States (Lithuania, Latvia, and Estonia), which were sovereign members of the League of Nations; and

Whereas in 1954 the House of Representatives Select Committee to Investigate Communist Aggression concluded that the Baltic States "were forcibly occupied and illegally annexed by the Union of Soviet Socialist Republics" and that "the continued military and political occupations of Lithuania, Latvia, and Estonia by the Union of Soviet Socialist Republics is a cause of the dangerous world tensions which now beset mankind and therefore constitute a serious threat to the peace"; and

Whereas the desire of the citizens of the Baltic States for national independence remains strong despite efforts by the Soviet Union to destroy the Baltic peoples as distinct cultural, geographical, ethnic, and political entities through dispersions and deportations to Siberia, replacing them with ethnic Russians; and

Whereas the peoples of the Baltic States are entitled to equal rights and self determination as set forth in Principle VIII of the Helsinki Final Act and should be allowed to hold free elections conducted under the auspices of the United Nations after the withdrawal of all Soviet military forces and political, administrative, and police personnel from the Baltic States; and

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States, and continues to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia; and

Whereas in past years this policy has received strong support in the Congress; and

Whereas, in addition, the United States since its inception has been committed to the protection of its citizens, whether naturalized or native born; and

Whereas the Soviet Union recently promulgated a law designating as a Soviet citizen any person who was born in the Soviet Union, was naturalized as a Soviet citizen, or is the child of parents who were Soviet citizens at the time of the child's birth, irrespective of whether the child was born on Soviet territory; and

Whereas this law which went into effect on July 1, 1979, states that a person who is a Soviet citizen is not recognized as having the citizenship of a foreign state, and thus specifically does not recognize United States citizenship in such cases; and

Whereas this law applies to millions of Americans, including those who, under United States law, are native-born citizens of the United States; and

Whereas this Soviet law intimidates many United States citizens who might otherwise travel to the Soviet Union or come under Soviet authority or control: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) it is the sense of the Congress that the President, in order to assure true and genuine peace in the Baltic region and in Europe in general, should instruct the United States delegation to the 1980 Madrid meeting of the Conference on Security and Cooperation in Europe to seek full implementation of Principle VIII of the Helsinki Final Act concerning equal rights and self-determination of peoples.

(b) It is further the sense of the Congress that the President should, through such channels as the International Communication Agency and other information agencies of the United States Government, do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications.

(c) It is further the sense of the Congress that the President should use his good offices to make every effort to gain the support and cooperation of other nations for the realization of the independence of the Baltic States.

SEC. 2. (a) The Congress views with deep concern the action on the part of the Soviet Union making citizenship claims on millions of Americans who were born in the United States or naturalized.

(b) It is the sense of the Congress that the President should warn the Soviet Union against taking any action under this new Soviet citizenship law which would be detrimental to the interests of the United States and its individual citizens, and that the Secretary of State should inform United States citizens planning to visit the Soviet Union of the implications of this law.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana (Mr. FITHIAN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. I yield myself such time as I may consume.

Mr. Speaker, the resolution before us rightly calls attention to one of the most outrageous land grabs in modern history—the illegal annexation of the Baltic States by the Soviet Union in 1940.

House Concurrent Resolution 200 reaffirms our country's commitment to the principle of self-determination and seeks to have the Soviet Union live up to its international obligations under various international accords, particularly the Helsinki Final Act. The resolution calls for the restoration of equal rights and self-determination to the Baltic peoples through free elections.

House Concurrent Resolution 200 calls upon the President to bring the matter of the Baltic States to the attention of all nations at meetings such as the 1980 Madrid Conference on Security and Cooperation in Europe, and to enlist their cooperation in the realization of independence of the Baltic States.

Mr. Speaker, I believe that the continuation of the American policy of nonrecognition remains an appropriate way of expressing our disapproval of the forcible Soviet incorporation of the three Baltic States. It is also a means to protest the harsh and brutal treatment of the Baltic peoples who have suffered greatly under Soviet rule. Soviet attempts to destroy their language, their religion, their customs, their culture, and their destinction as a people are outrageous and reprehensible. I strongly believe that once the United States be-

comes complacent or forgets about what occurred in the Baltic States we face the danger of seeing history repeat itself in other areas of the world.

House Concurrent Resolution 200 also expresses concern about the Soviet citizenship law which came into force on July 1 of this year. This law could apply to millions of people including many Americans by designating as a Soviet citizen any person who was born in the Soviet Union, was naturalized as a Soviet citizen, or is the child of parents who were Soviet citizens at the time of the child's birth, regardless of whether the child was born on Soviet territory. Americans traveling to Russia or areas under Russian control could suddenly discover that they are Soviet citizens under Soviet law. House Concurrent Resolution 200 therefore calls upon the President to warn the Soviet Union against taking any action under this new citizenship law which would be detrimental to the interests of the United States and its citizens. Finally House Concurrent Resolution 200 calls upon the Secretary of State to inform American travelers of the implications of this law, so that unsuspecting U.S. citizens are not victimized should they seek to visit the Soviet Union.

In closing Mr. Speaker, I would like to commend my esteemed colleagues on the Foreign Affairs Committee, and the ranking minority member of the Subcommittee on International Organizations, Mr. DERWINSKI, for his diligent work on this matter. Our subcommittee has held hearings on human rights and the Baltic States, and I value very much his work on behalf of the subcommittee.

□ 1340

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would first like to indicate to the House that since the bill was reported and printed, the following Members have contacted me and indicated their support for the measure: Mr. ANDERSON of California, Mr. BURGENER, Mr. ERDAHL, Mr. RITTER, Mr. GILMAN, Mr. MOORHEAD, Mr. TRAXLER, and Mr. PERKINS.

I have offered over the years a number of resolutions on the subject of illegal Soviet occupation of the Baltic States, this the most recent, now bearing the designation, House Concurrent Resolution 200.

The ethnic makeup of the Baltic peoples is very distinct from that of the Russians. Their culture, traditions, and religions are different from those of the Russians. By means of deportation and dispersions of the native populations of the Baltic States to Siberia and a massive colonization effort in which Russians replace the displaced native peoples, the Soviet Union threatens the Baltic peoples as culturally, geographically, and politically distinct and ethnically homogenous populations.

Both the United States and the Soviet Union signed the Final Act of the Conference on Security and Cooperation in Europe and endorsed principle VIII, concerning equal rights and self-determination of peoples, which states "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development * * *" and "that participating States * * * also recall the importance of the elimination of any form of violation of this principle."

The United States has refused to recognize the unlawful Soviet occupation of the Baltic States and has continued to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia. But beyond this, the resolution I am proposing today, asks the President to instruct the United States delegation to the 1980 Madrid meeting of the Conference on Security and Cooperation in Europe to seek full implementation of principle VIII of the Helsinki Final Act. Our goal is that the right of self-determination be returned to the peoples of Lithuania, Latvia, and Estonia through free elections conducted under the auspices of the United Nations.

Another point raised in the resolution is a new Soviet law designating as a Soviet citizen any person who was born in the Soviet Union, who was naturalized as a Soviet citizen, or who is the child of parents who were Soviet citizens at the time of the child's birth, irrespective of whether or not the child was born on Soviet territory. This new law, which went into effect on July 1, 1979, states that a person who is a Soviet citizen is not recognized as having the citizenship of a foreign state and thus specifically does not recognize U.S. citizenship in those cases. It applies to millions of Americans, including those who, under U.S. law, are native-born citizens of the United States. Many Americans, including those of Baltic heritage, are fearful of this new Soviet claim on their citizenship.

My resolution expresses deep concern over this Soviet action making citizenship claims on millions of Americans who were born in the United States or duly naturalized. I believe that the President should warn the Soviet Union against taking any action under this new Soviet citizenship law which would be detrimental to the interests of the United States and its individual citizens, and that the Secretary of State should inform U.S. citizens planning to visit the Soviet Union of the implications of this law.

As the gentleman from Indiana (Mr. FITHIAN) so appropriately described, there are two major points in this bill, Mr. Speaker. One deals with the continued policy of the United States that we not recognize the Soviet occupation of the Baltic States, Lithuania, Latvia, and Estonia.

With the cooperation of the gentleman from Florida (Mr. FASCELL) the resolution also calls for the U.S. delegation to the 1980 Madrid meeting on the Conference on Security and Cooperation in Europe, the Helsinki accord subsequent action to make this point to those delegates assembled.

The basic policy of the United States is to ask that the right of self-determination be returned to the peoples of the Baltic States.

The second point in the resolution deals with the new Soviet law which designates as Soviet citizens any person born in the Soviet Union naturalized as a Soviet citizen or who is a child of parents who are Soviet citizens at the time of the child's birth. Under this law, a natural born U.S. citizen could be claimed by the Soviets as one of their citizens.

I might point out that the first interesting test of this law may well come during the 1980 Olympics.

This resolution, as indicated, was supported unanimously in the subcommittee and in the full committee. I am pleased to have the support of the chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I rise in enthusiastic support of this timely resolution. The United States should go on record against the tyrannical rule of the Kremlin over the free people of Estonia, Latvia, and Lithuania. Every day it seems we receive word of one more outrage against humanity that the thugs in the Kremlin try to get away with. The subjugation of the Baltic States and the current efforts to expand the definition of Soviet citizenship to destroy these autonomous countries' identity are just a few more reasons for Americans to realize the perverse and destructive nature of Soviet rule.

The invasion of the Baltic States was born from the bloodthirsty partnership of the two most evil forces ever unleashed on the world: communism and nazism. We fought a major world war to rid the world of Hitler and his degenerates, but we never finished the job. Today the far more destructive force of communism with its hateful doctrines is stronger than ever. The despicable pack of outlaws that made the pact with Hitler for world domination in 1939 are personified in the wolves who now inhabit the Kremlin. The same need to destroy people and nations holds sway over Soviet policy. The same disregard for freedom and human dignity is the policy of the day in the U.S.S.R. Many people in the United States do not realize this fact of life. President Carter and the State Department continue to close their eyes to the fact that the nation with which we trade with and have signed a SALT agreement with is the same nation that helped start World War II with Adolph Hilter and is the same nation that is today carrying on Hitler's goal of world domination with an efficiency and horror that was beyond that Nazi's wildest and sickest dreams.

The Congress can pass all the resolutions it wants to call needed attention to the plight of free people under the Soviet

oppressors, but we need to do far more. We need to stop creating a fantasy world where the Soviets who we chastise today are not Soviets we try to give most favored nation status to tomorrow. We cannot persist in separating the two situations. It is the same government, the same leaders.

Every time this Nation assists the Soviets, through SALT or through trade, we are in effect, condoning the actions we are critizing here today. We cannot go on doing this. If we are truly serious about helping those who live under the tyranny of the Soviet bosses we must back up resolutions like this one with some resolve to act. We did not sit back and watch Hitler swallow up Europe, we should not sit back and watch the Kremlin swallow up the world. Had we finished the job we set out to do in 1941 we would not have had to watch the agony of Hungary in 1957 or the Berlin wall, or Vietnam, or Cuba, or Czechoslovakia in 1968, or any of the other dozens of instance where Hitler's former allies have been on the march against freedom and humanity.

Today we have our backs against the wall. The Soviets have been able to capitalize on our lack of strength, on our President's appeasement, and on this Congress's acquiescence to bully their way into one free nation after another, and to push the United States around at will. They have done this either directly or through henchmen like Castro and Ho Chi Minh. It is time America woke up to these realities. We will have more Estonias, more Latvias, and more Lithuanias as long as we let the Soviets hold on to what they already dominate and let them expand further. The line must be drawn, held, and then pushed. Through trade sanctions, through diplomatic pressures, and just through moral courage we can set an example that could turn the tide on this putrid fungus called communism. This resolution is a start and I urge my colleagues to vote for it.

Mr. DERWINSKI. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 200, expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain U.S. citizens and commend the gentleman from Illinois, Mr. DERWINSKI, the ranking minority member of the Subcommittee on International Organizations, for his sponsorship and leadership in bringing this measure to the floor.

The United States has consistently maintained that the Soviet occupation of Estonia, Latvia, and Lithuania is illegal. This act of Russian imperialism stems from a Stalin-Hitler pact in 1939 which helped Hitler pave the way for his attacks on France and Great Britain and allowed Stalin to solidify his grip on Eastern Europe and condemn the Baltic States to Soviet domination.

House Concurrent Resolution 200 calls our attention to this continuing illegal Soviet occupation and the U.S. refusal to recognize its legitimacy. Furthermore, the resolution points out that the United States continues to recognize and maintains relationships with the diplomatic representatives of the independent republics of Lithuania, Latvia, and Estonia.

One of the major international agreements since the end of World War II has been the signing of the Helsinki accords. Known as the Final Act of the Conference on Security and Cooperation in Europe, this agreement which was signed by both the United States and the U.S.S.R., recognizes the right of self-determination of all peoples. House Concurrent Resolution 200 reaffirms principle VIII of that agreement which states in part that—

All peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social, and cultural development.

The next meeting of the Conference on Security and Cooperation in Europe will be held next year in Madrid, Spain. The resolution before us calls upon the President to instruct our delegates to that conference to raise the plight of the Baltic States and seek full implementation of principle VIII of the Helsinki Final Act. To this end, it is the desire of the Congress and the people of the United States that self-determination be returned to the peoples of Lithuania, Latvia, and Estonia.

A second major concern addressed in this resolution focuses attention on a new and far-reaching change in Soviet law regarding that nation's claims of citizenship. Under the new Soviet law which became effective on July 1, 1979, the Soviet Government will not recognize the foreign citizenship of any of its current or former subjects. The Soviet Government has declared that a Soviet citizen is anyone who was born in the Soviet Union, naturalized as a Soviet citizen, or who is the child of parents who were Soviet citizens at the time of the child's birth irregardless if that birth took place outside Soviet territory. The effects of this law apply to millions of Americans who have fled Russia to seek freedom in the West as well as those who are native-born citizens of the United States from Russian parents.

Such broad reaching claims of citizens that would include millions of Americans who have been naturalized or born in this country is a cause for alarm. With a history of harassment and disregard for the rights of the individual to freely immigrate, this new law can only be seen as a further attempt to control the free movement of peoples.

With the upcoming 1980 Olympics in Moscow, the potential for Soviet abuse and harassment is ever present. House Concurrent Resolution 200 expresses deep concern over Soviet citizenship claims on millions of Americans. Furthermore, it calls upon the President to warn the Soviet Union aginst any action under this new law which would be detrimental to the interests of the United States or its citizens.

As a long-time supporter of the principles of human rights and self-determination for the peoples of Lithuania, Latvia, and Estonia and as a cosponsor of House Concurrent Resolution 200, I urge my colleagues to join with me in strong support of this resolution.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I also want to rise in support of this resolution.

Mr. FITHIAN. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Concurrent Resolution 200 as amended, expressing the sense of Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain U.S. citizens.

I want to commend the distinguished chairman of the Subcommittee on International Organizations, Mr. BONKER, the gentleman from Indiana, Mr. FITHIAN, and the sponsor of the resolution and ranking minority member of the subcommittee, Mr. DERWINSKI, for their efforts on behalf of this resolution.

The gentleman from Indiana and the gentleman from Illinois have ably described the purpose and contents of this resolution so I will not go into the details again. I do however, want to take this opportunity to note that, although both Adolph Hitler and Joseph Stalin are dead and have been repudiated by the entire world, including their own peoples, the impact of their famous so-called Ribbentrop-Molotov pact still lingers; Soviet armies continue to occupy the Baltic States without legal or moral justification. Not only does the Soviet Union continue to occupy the Baltic States but their recently promulgated law affecting the citizenship status of millions of Americans with prior links to the Soviet Union runs counter to the letter and spirit of the Final Act of the Commission on Security and Cooperation in Europe and to the principles of comity between nations.

Mr. Speaker, I urge the adoption of this resolution.

Mr. FITHIAN. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 200 which expresses the sense of Congress that the President instruct the U.S. delegation to the 1980 Madrid meeting of the Conference on Security and Cooperation in Europe to seek full implementation of principle VIII of the Helsinki Final Act concerning equal rights and self-determination of peoples.

The resolution further states that until the Baltic States become inde-

pendent, the President should, through such channels as the International Communication Agency and other U.S. Government information agencies, bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications.

I additionally support language in the resolution that rejects the Soviets Union claim of citizenship on millions of Americans born or naturalized in the United States.

As the Congress knows, the Baltic States are possessed of a long and noble history, as demonstrated in their long and proud struggle to overcome oppression.

They remain steadfast in their courage and refuse to submit their will to a Soviet dictatorship that verbalizes freedom, but practices callous control.

Let us not delude ourselves. There can be no peace in the Baltic States as long as the human spirit is violated. There can be no détente when a population so loyal to their heritage is persecuted and subjected to discriminatory governing.

To this end, I call upon the President to utilize all relevant national and international communication agencies to bring the sword of independence and freedom to nations of the world.

The House and each Member must oppose Soviet violation of human rights in the Baltic States by supporting House Concurrent Resolution 200, so our influence may be felt at the 1980 Conference on Security and Cooperation in Europe.

May all the Baltic people be honored today, and may they be granted encouragement from our actions here today, so that they may continue to pursue cherished freedom with a nourished optimism generated from our efforts in a free nation.

I congratulate my distinguished colleagues, Messrs. DERWINSKI of Illinois and FITHIAN of Indiana, for bringing this legislation to the floor. I am honored to join them in sponsorship and hope that our united efforts will provide another measurable step toward the freedom, independence, and self-determination of Lithuania, Latvia, and Estonia.

Mr. FITHIAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman for yielding.

As a coauthor of this measure, I rise in full support of it.

I want to express again my tremendous support for House Concurrent Resolution 200. My concern about the situation in Estonia, Latvia, and Lithuania is something that goes back a long way. I have, in the past, worked to help ease emigration policy in these states. My concern about the illegal occupation of the Baltic States by the Soviet Union continues. I want also to express my disgust for the recent Soviet claim of citizenship over any persons born in the Soviet Union or born of Soviet parents, regardless whether the child was born on Soviet territory or not. This claim could create problems for certain American citizens who may travel to the Moscow Olympics. I urge my colleagues to support House Concurrent Resolution 200, which would denounce the Soviet occupation of the Baltic States as well as the Soviet decision regarding citizenship.

● Mr. BIAGGI. Mr. Speaker, as one who has long been dedicated to upholding basic human rights and the fundamental principle of self-determination, I am proud to be a cosponsor and strong supporter of House Concurrent Resolution 200.

This measure expresses the sense of Congress that the President should: first, seek free elections in the Baltic States supervised by the United Nations; second, inform and gain the support of other nations in achieving independence for the Baltic States; and third, warn the Soviet Union against making citizenship claims on U.S. citizens.

Earlier this year, I joined a significant number of my colleagues in recognizing the 20th anniversary of Captive Nations Week—a time when we commemorate the millions of freedom-loving people in captive nations throughout the world. I stated:

It is time for the United States to stop its rhetoric for the cause of freedom and instead we must take effective action against the trend of Soviet Russian imperialism.

Certainly, the passage of House Concurrent Resolution 200 is a major step in that direction.

The resolution calls on the President to instruct the U.S. delegation to the 1980 Madrid meeting of the Conference on Security and Cooperation in Europe to seek the right of self-determination for the people of Estonia, Latvia, and Lithuania through free elections and through the withdrawal of all Soviet personnel from those nations. To help realize these objectives, House Concurrent Resolution 200 also calls on the President to gain the support and cooperation of other nations.

Further, the resolution expresses the support of Congress for President Carter's statements warning the Soviet Union against making citizenship claims on U.S. citizens. The necessity for such a warning resulted from a Soviet law that went into effect on July 1, 1979. The law declares that U.S. citizens, whose parents were both born in a Soviet territory—or what may have since become a Soviet territory—are Soviet citizens.

This law could have a far reaching and serious effect. It would mean that a substantial number of Americans will be subject to Soviet discretion if they set foot on Soviet territory. Since the Soviet Union will be hosting the 1980 summer Olympics, this law takes on added significance. It poses a serious threat to Olympic participants and spectators, who are covered under the law. Persons who might otherwise attend the Olympics may decide that the new law poses too great a risk. To prevent such a situation from occurring, it is essential that we join President Carter in strongly opposing this prime example of Soviet imperialism.

Mr. Speaker, House Concurrent Resolution 200 is an effective and necessary step toward obtaining self-determination for the captive nations, and preventing the spread of Soviet influence. I urge my colleagues to join me in supporting its passage.●

● Mr. OBERSTAR. Mr. Speaker, Soviet occupation of the Baltic States and the recent Soviet citizenship law run counter to our most basic and cherished notions of equal rights and self-determination of peoples.

Congress must continue to maintain unwavering support for the independence of the Baltic States.

The Soviet citizenship law is a travesty. It would abrogate the rights of millions of Americans, including native born Americans. The United States can tolerate no harassment of our citizens under this new law. It is fundamental to our concept of citizenship that the citizen naturalized today be treated no differently than the descendant of the Pilgrims.

I urge an overwhelming vote of support for House Concurrent Resolution 200.●

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time, but I was remiss in my earlier explanation of this measure to give proper credit to the distinguished staff director of the committee, Dr. Jack Brady, whose brilliance expedited the processing of the measure and whose skill was seen in the draftmanship of the measure.

Mr. Speaker, I reserve the balance of my time.

Mr. FITHIAN. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. FITHIAN) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 200) as amended.

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1350

GENERAL LEAVE

Mr. FITHIAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

IDA NUDEL EMIGRATION TO ISRAEL

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 202) urging the Soviet Union to allow Ida

Nudel to emigrate to Israel, and for other purposes.

The Clerk read as follows:

H. CON. RES. 202

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee to all people the right to emigrate; and

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits signatory countries to "deal in a positive and humanitarian spirit" with the applications of persons wishing to emigrate to rejoin relatives; and

Whereas the Soviet Union signed the Final Act of the Conference on Security and Cooperation in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights; and

Wheras Ida Nudel first applied to emigrate from the Soviet Union to Israel in 1971 to rejoin her only living relatives; and

Whereas Ida Nudel has devoted her life to the plight of Jewish political prisoners throughout the Soviet Union; and

Whereas Ida Nudel has been convicted by the Soviet Government of "malicious hooliganism" for hanging a banner on her balcony which said, "KGB, give me my visa"; and

Whereas Ida Nudel was sentenced to four years of exile in Siberia after a trial in which no witnesses were allowed to testify in her defense; and

Whereas Ida Nudel's health has deteriorated to the point where it is unlikely that she can withstand another Siberian winter; and

Whereas the continuing harassment of political and religious activists and intellectuals in the Soviet Union and in some other countries in Eastern Europe is a source of great concern to the American people and the United States Congress: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, the Union of Soviet Socialist Republics should release Ida Nudel from exile and allow her to emigrate to Israel so that she can be reunited with her sister and husband.

SEC. 2. The Congress urges the President, acting directly or through the Secretary of State or other appropriate executive branch officials—

(1) to continue to express at every suitable opportunity and in the strongest terms the opposition of the United States to the exile of Ida Nudel to Siberia; and

(2) to inform the Soviet Union that the United States, in evaluating its relations with other countries, will take into account the extent to which those countries honor their commitments under international law, particularly with respect to the protection of human rights.

SEC. 3. The Clerk of the House of Representatives shall transmit copies of this resolution to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. FASCELL) will be recognized for 20 minutes, and the gentleman from New York (Mr. GILMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 202, which urges the Soviet Union to allow Ida Nudel to emigrate to Israel, and for other purposes.

Ida Nudel is a special case and is totally symbolic of the kinds of difficulties that are going on in the Soviet Union. She is the only Jewish female to be exiled because she tried to emigrate to Israel, and has become, in many ways today, the symbol of countless individuals in the Soviet Union who are struggling to exercise their basic human rights.

Ida Nudel first applied to emigrate to Israel in 1971, at which time she was refused permission to do so, lost her job, was kept under surveillance, beaten, and kept in jail for 15-day periods at least five times.

She has actually become the guardian angel of prisoners of conscience, and as such has been given special attention by the Union of Councils of Soviet Jews, the National Conference on Soviet Jewry, and many other organizations. Undaunted by the harassments and persecutions, Ida Nudel provided badly needed support to other prisoners of conscience who were imprisoned for their attempts to emigrate. She wrote to them, visited them, provided them with food and medicine, and interceded on their behalf with prison and camp authorities.

She was arrested in 1978 and charged with "malicious hooliganism," convicted, and sentenced to 4 years in Siberian exile. Her crime was hanging a banner from her apartment window which said "KGB Give Me My Visa," and that was in desperation after 7 years of waiting to join her only living relatives.

She is living now in absolutely deplorable conditions in the Soviet Union and the word is, from those who have an opportunity to get the word out of the Soviet Union, that she is desperately ill and may not live through another hard Siberian winter.

That is the reason for this resolution which calls special attention to her case as symbolic of the plight of hundreds of thousands of people in the Soviet Union.

Mr. Speaker, I urge the adoption of this resolution.

Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from Florida (Mr. STACK), who is the original sponsor of this concurrent resolution.

Mr. STACK. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the subject of this resolution, Ida Nudel, first applied for a visa to emigrate from the Soviet Union to Israel in 1971. Since then she has repeatedly been denied a visa.

Over the years she has devoted her life to the well-being of others who wanted to emigrate and who were repressed by Soviet authorities. In fact, she became known as the guardian angel of those who dissented and suffered within the Soviet Union.

Finally, in 1978, Ida Nudel was arrested and charged with "malicious hooliganism." Her alleged crime was hanging a banner from her balcony which read "KGB, Give Me My Visa."

Her trial was a sham. She was allowed no witnesses to testify on her behalf. Without any semblance of due process, she was convicted and sentenced to exile in Siberia for a period of 4 years.

Now this woman who has done so much to help others is in need of help herself. Her health is fragile and will rapidly deteriorate in the harsh Siberian winter.

The resolution we are considering requests that the Soviet Union allow Ida Nudel to be reunited with her husband and sister in Israel—to allow her the right to live, because to continue to confine her to Siberia is indeed to sentence her to death.

Mr. Speaker, I ask my colleagues to join with me and the 127 cosponsors of this resolution in support of the resolution. By doing so, we will inform the Soviet Government that we in the Congress are concerned about a woman who is a symbol of human rights.

Mr. Speaker, I wish to commend the distinguished chairman of the Committee on Foreign Affairs and my colleague, the gentleman from Florida (Mr. FASCELL), for their great help with this resolution.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 202, urging the Soviet Union to allow Ida Nudel to emigrate to Israel.

Ida Nudel, the celebrated "Angel of Prisoners of Conscience" languishes today in a Siberian prison camp for the crime of seeking to emigrate to Israel. The only woman dissident in exile in the Soviet Union, she has become a symbol of that nation's callous disregard for basic human rights.

In 1971 Ida Nudel first applied to emigrate to Israel and rejoin her only living relatives. From that time forward she devoted her life to the plight of other Jewish political prisoners throughout the Soviet Union who, like herself, have suffered so much for their beliefs. For 7 years Ida Nudel brought hope and renewed spirit to the many people who had simply vanished from friends and relatives. By collecting information about such cases, contacting families of prisoners and "adopting" the victims, she has earned the reputation of "Guardian Angel" of dissident prisoners.

On June 2, 1978, while protesting the incarceration of a fellow activist, she defiantly unfurled a banner from her window overlooking a Moscow street with the words "KGB Give Me My Visa." She was immediately arrested and accused of "malicious hooliganism." Three weeks later, after a mock trial, she was sentenced to 4 years of exile in Siberia. Today she remains in a Siberian labor camp, in low spirits and deteriorating health.

House Concurrent Resolution 202 calls attention to the plight of this brave woman and the continuing harassment of other political and religious activists and intellectuals in the Soviet Union. Furthermore, it recalls that the Soviets are signatories to the Helsinki accords, a party to the Universal Declaration of Human Rights, and have ratified the International Covenant on Civil and Political Rights, all of which "guarantee to all people the right to emigrate."

The resolution concluded that it is the sense of the Congress that in view of these facts "the U.S.S.R. should release Ida Nudel from exile and allow her to emigrate to Israel so that she can be reunited with her sister and husband." In addition, it urges the President to inform the Soviets that in evaluating our relations with other nations, we will take into account the extent that those countries "honor their commitments under international law, particularly with respect to the protection of human rights."

This resolution is a reminder to the Soviet Government of our Nation's high regard for human rights and that we do not conceive such fundamental rights to be, as the Soviet's leading jurist, Judge Smirnov, wrote, in his white paper, "a propaganda vehicle of the West."

As a cosponsor of House Concurrent Resolution 202, I urge all of my colleagues to join with me in support of this legislation. We must keep Ida Nudel's dream alive and denounce this callous Soviet disregard for basic human rights.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of House Concurrent Resolution 202, urging the Soviet Union to allow Ida Nudel to emigrate to Israel and for other purposes.

At the outset, I wish to commend our colleague from Florida (Mr. STACK) for his sponsorship of this resolution and the gentleman from Florida (Mr. FASCELL) and the gentleman from New York (Mr. GILMAN) for their efforts in bringing the resolution before us today.

Unfortunately, the plight of Ida Nudel is all too typical of the treatment of people in the Soviet Union today. Indeed, it is appalling that a person can be sentenced to 4 years in exile in Siberia for committing the so-called crime of desiring to emigrate to Israel. Ida Nudel's situation is all the more incredible in light of the Soviet Union being a signatory to the Commission on Security and Cooperation in Europe and a party to the Universal Declaration of Human Rights.

As the gentleman from Florida has stated, it is unlikely that Ida Nudel can stand another winter in Siberia. I, therefore, join in the strong hope that this resolution will help persuade the Kremlin to free Ida Nudel and allow her to go to Israel.

Mr. Speaker, I urge the adoption of the resolution.

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the ranking minority member of the committee, the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, I support House Concurrent Resolution 202, urging the Soviet Union to allow Ida Nudel to emigrate to Israel.

One of the major achievements of the Helsinki Final Act was a pledge by all signatories to do everything possible to reunite families separated by political boundaries. Ida Nudel, the only woman dissident in exile in the Soviet Union is living proof of the callous disregard that that nation has for basic human rights and the terms of the Helsinki agreement.

Since 1971 Ida Nudel has sought to emigrate to Israel to rejoin her family. In her personal struggle for freedom, she has unselfishly devoted her life to the plight of other victims of Soviet repression. Her courageous struggle to bring hope and renewed spirit to other dissidents and their families has earned her the title of "the Angel of Prisoners of Conscience."

In June of last year, while protesting the imprisonment of a fellow activist and the Soviet's refusal to grant her visa, she was arrested and accused of "malicious hooliganism." For the crime of unfurling a banner demanding that the "KGB Give Me a Visa," she was sentenced to 4 years of internal exile at a Siberian labor camp.

Today she remains languishing in Siberia in poor spirits and deteriorating health. It is an unfitting end for a woman who has saved so many prisoners before her that she now finds herself alone and mistreated.

House Concurrent Resolution 202 calls attention to the Soviet Union's failure to abide by the Helsinki accords, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights which "guarantee to all people the right to emigrate." In addition, it draws attention to the brave contributions and personal plight of Ida Nudel.

Because of the "continuing harassment of political and religious activists and intellectuals in the Soviet Union and in some other countries in Eastern Europe," this legislation states that it is the sense of Congress that Ida Nudel should be released from exile and allowed to emigrate to Israel. Furthermore, it urges the President to inform the Soviets that our relations with other countries will be based in part on the extent to which those nations honor their commitments under international law with respect to the protection of human rights.

Ida Nudel has become a symbol of repression that exists in Russia today. We must not forget this brave woman and the many thousands of others she represents. I urge all of my colleagues to join with me in support of Ida Nudel and demonstrate that support with the passage of House Concurrent Resolution 202.

● Mr. CAVANAUGH. Mr. Speaker, I rise in support of House Concurrent Resolution 202 which expresses the sense of the Congress, that based on the Helsinki agreement and other international declarations on human and political rights, the Soviet Union should release Ida Nudel from exile and allow her to emigrate to Israel.

Ida Nudel is a "refusenik" who was sentenced on June 21, 1978 by the Soviet authorities to 4 years of internal exile for "malicious hooliganism." Her real crime, however, is both her activism on behalf of Soviet Jewry and her desire to emigrate to Israel. She first applied for an exit visa in 1971, which has been continuously denied by the Soviet Government. Mr. Speaker, I first learned of the tragic case of Ida Nudel from Mrs. Shirley Goldstein of the Omaha Committee for Soviet Jewry. This committee is a member of the Union of Councils for Soviet Jewry and has been very active on behalf of Miss Nudel and other Soviet "refuseniks."

Mrs. Goldstein has met in Moscow on two different occasions with Miss Nudel and, in fact, it was from Berlitz tapes brought into Russia by Mrs. Goldstein that Ida Nudel learned to speak English. Mrs. Goldstein has told me on many occasions of both the suffering of Ida Nudel and of her compassion and hard work on behalf of fellow "refuseniks."

Before her exile, Ida had been known as the "Guardian Angel" of the Jewish prisoners of conscience in the Soviet Union. It was always Ida Nudel who somehow got parcels, messages and medicines to the POC's keeping alive in them hope and the knowledge that someone remembered them and cared. She traveled to visit them in every prison and labor camp.

Since February 1977 I have written many letters to Miss Nudel informing her of the concern which many of us in the United States have for her well being. In these letters, I have praised her courageous work and the inspiration which she has provided for her fellow citizens.

Now she has become one of the many "prisoners of conscience" who are in desperate need of the medicines and hope for the future which she once provided. It is reported that Ida Nudel has a heart condition and her health is deteriorating. It is, therefore, very unlikely that she can survive another Siberian winter.

Mr. Speaker, I urge my colleagues to vote on behalf of this resolution which urges the President to express at every opportunity and in the strongest terms, U.S. opposition to Ida Nudel's exile and to inform the Soviets that the United States will consider the extent to which it and all other countries honor their commitments under international law to protect human rights.

This is one opportunity to let Ida Nudel and "refuseniks" know that we have not forgotten them and that we care, just as this brave lady did on so many occasions for her fellow citizens.●

● Mr. NOWAK. Mr. Speaker, I rise in

support of House Concurrent Resolution 202, a resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel.

Ms. Nudel is an activist on behalf of Soviet Jewish prisoners of conscience, who is presently imprisoned in the Soviet Union.

I am submitting the following brief biographical sketch, furnished by Ms. Nancy Schiller, chairman of the Soviet Task Force on Soviet Jewry in Buffalo, N.Y., and ask my colleagues to vote in favor of this resolution to permit Ida Nudel to emigrate to Israel so that she can be reunited with her sister and husband.

BIOGRAPHICAL SKETCH: IDA NUDEL, PRISONER OF CONSCIENCE

Born: April 27, 1931.
From: Moscow.
Occupation: Economist.
Arrested: June, 1978.
Tried: June, 1978.
Charges: "Malicious Hooliganism."
Sentence: 4 years internal exile (to June 1982).
Camp: In exile.
Address: Tomskaya Oblast, 636300 Selo Krivosheino, UL Sadovaya 26, RS SSR USSR.
Sister's Address: Elana Fridman, Nakhlat Yehuda, Rishon Lezion, Israel.

Known as the "Guardian Angel" for her activities on behalf of Soviet Jewish Prisoners of Conscience, Ida Nudel was charged and convicted in June, 1978 of "malicious hooliganism", and sentenced to four years internal exile, a fate she was knowledgeable of, all too well. Arrested on numerous occasions, Ida wrote shortly before her latest ordeal, "what haven't they done to me since I first applied to leave. I was placed in a prison punishment cell . . . there I was tortured with hunger and with difficult conditions. I was beaten and hounded like a wild beast during a hunt. Many times I have been seized on the street and thrown into dirty smelly cellars. They call detention cells . . ."

Ida learned her Zionism from her grandfather. A member of Hashomer Hatzair, he worked on a Jewish agricultural settlement in the Crimea in the hope of being permitted to leave for Palestine. Those farms disappeared with the rest of the pre-revolutionary Zionist movement as Stalin tightened his grip on the country. Eventually they were destroyed by the Nazi invasion. After Stalin's death in 1953, she began to gather information about Israel and sometimes tuned in to the "Voice of Israel." With the Six-Day War, the dramatic momentum of the Jewish emigration movement forced Ida to translate her thoughts into deeds. She applied to leave with her sister.

For Ida, the commitment became deeper and deeper and her work on behalf of other "Prisoners of Zion" has made her greatly loved and respected. David Chernoglaz, who served five years in a strict regime labor camp, said of her when he arrived in Israel: "The one person above all others who helped to keep up morale and who constantly helped with letters and parcels, the person rated by all to be a super-human angel, is Ida Nudel."

Such work in the face of considerable KGB harassment and intimidation takes its toll. Elana recently pointed out that when she last saw her sister in 1972, she was a strong young woman. Now she has heart trouble.

In October 1973 Ida discovered that she was being "treated" for alcoholism and not for her heart condition, as she was led to believe, when she accidentally saw her medical chart at the 89th Volgord District Clinic. Ida protested to the chief doctor; he confirmed that she was coming to the clinic because she was an alcoholic." He added that people had seen her drunk and, therefore, the treatment was warranted. Ida does not drink.

Thirty-five Moscow Jews protested to the Head of the KGB, Yuri Andropov, on Ida's behalf: ". . . the officials of the KGB are fabricating, with the assistance of the physicians of polyclinic no. 89, a false charge against Ida Nudel, calling her an alcoholic in order to carry out a lawless reprisal against her. Such an absurd accusation shows very clearly the aspiration of the KGB to present the Jews, who have been demanding permission to go to Israel for a long time, in an amoral and anti-social light." Attempts to discredit Ida continue with the latest threats by Soviet authorities.●

● Mr. HARRIS. Mr. Speaker, I am proud to be a cosponsor of House Concurrent Resolution 202, expressing the sense of the Congress that the Soviet Union should release Ida Nudel from exile and allow her to emigrate to Israel.

As I stated in a recent letter to Mrs. Carter and to Patricia M. Derian, the Assistant Secretary for Human Rights and Humanitarian Affairs, I am deeply concerned that adequate medical treatment is not being provided to this sick woman. There is just no question that Ida Nudel, the only Jewish woman Prisoner of Conscience, should be allowed to leave the Soviet Union immediately. I have been assured that Ida Nudel's case is raised with Soviet officials at every opportunity, but I want to stress at this time her urgent need for immediate and thorough medical attention along with my desire to see her released and permitted to emigrate. We need to make it perfectly clear to the Soviets that Ida Nudel's continued exile has aroused widespread sympathy and concern among the sponsors of this resolution and people around the world.

We will not forget Ida Nudel, whose only "crime" was to ask that a basic human right be respected, and we pray that she will be reunited with her relatives in Israel before she must endure a harsh winter.●

● Mr. BARNES. Mr. Speaker, Ida Nudel—the "Angel of Mercy" for other Prisoners of Conscience before her—displayed a banner, "KGB, Give Me My Visa," that earned this frail woman both banishment and world martyrdom.

Two months ago, I met with her sister, Elana Fridman, who showed me photographs taken before Ms. Nudel's Siberian exile and also 6 months afterward. These pictures revealed a tale of deprivation, deteriorating health, and human misery beyond words.

I commend my distinguished colleague, Mr. STACK, and the other 120 cosponsors of House Concurrent Resolution 202, which urges the Soviet Union to allow Ida Nudel to emigrate to Israel and for other purposes. May our statements today be as stirring and powerful that we may say to the Soviet Union, "Let Ida Nudel go." And may it be so.●

● Mr. RATCHFORD. Mr. Speaker, I rise in support of House Concurrent Resolution 202, which calls upon this body to urge the Soviet Union to allow Soviet refusenik Ida Nudel to emigrate to Israel.

The plight of Ida Nudel is but one more demonstration of the Soviet regime's utter contempt for human rights. Ida Nudel has been an active and vibrant force in the Aliyah movement in helping Jewish prisoners of conscience to emmigrate to their homeland of Israel. When she demonstrated her own desire to obtain an emigration visa, she was arrested by the Soviet KGB and was sentenced to 4 years in exile in Siberia. Subjected now to the cruelty of Siberian winters and severe living conditions, Ida Nudel—once a pillar to strength and an inspiration to others in the Aliyah movement—is in extremely poor health.

Despite international protests, the continued Soviet rejection of pleas to allow Ida Nudel to emigrate to Israel to spend her remaining years with her only living relatives smacks of the total disdain with which it regards its own signature on international covenants guaranteeing human rights. As a signatory to the Universal Declaration of Human Rights, and more recently the Final Act of the Conference on Security and Cooperation in Europe, signed at Helsinki in August of 1975, the Soviet Union joined 35 other nations in declaring that every citizen has certain basic rights including: The right to leave any country, including one's own, and return to that country; the right to be reunited with their families living in other countries; and the right to pursue their own cultural identity and practice their own religion. Though the overall rate of annual emigration from the Soviet Union remains at a record 50,000, the Soviets have done little to resolve hundreds of longstanding emigration cases and to release prominent dissidents jailed for publicly monitoring Soviet compliance under the Helsinki accords. Oftentimes, these Jewish prisoners of conscience are even denied their basic rights under the Soviet penal code, such as visitors rights.

Mr. Speaker, these cases demonstrate to the world the inability of the Soviet regime to tolerate any internal debate or dissent—a sure sign of its lack of confidence and weakness. This resolution offers the Congress of the United States an opportunity to state even further our total opposition to Soviet emigration policies, and to demonstrate our clear resolve in this important case of Ida Nudel. Let this be an example of our full support for Ida Nudel, and the many others like her, and an expression of the American people's belief that she and others are guilty of no other offense than seeking to exercise those very rights accorded them by the Soviet Government and the international covenants subscribed to by that government. Thank you, Mr. Speaker.●

● Mr. WAXMAN. Mr. Speaker, this House is about to express its overwhelming concern over the fate of Ida Nudel, the "Guardian Angel" of the refuseniks in the Soviet Union, by urging the Soviet Government to terminate her exile in Siberia and permit her to leave the country to join her husband and sister in Israel. Passage of this resolution is so

urgently needed if there is to be any hope to obtain Ida's freedom—indeed, to save her life.

Although the Soviets have persecuted so many who have simply expressed a desire to emigrate, Ida Nudel has been subjected to the most monstrous indignities. She first applied to emigrate in 1971. Although her exit visa for Israel was denied, her sister, Elana Friedman, was permitted to leave. From that moment began an ordeal which resulted in her arrest, conviction, and internal exile for the "crimes" of "vandalism and malicious hooliganism" in 1978.

Over the years of struggle, Ida Nudel become a symbol of courage to the Soviet refusenik movement. She gave aid and comfort to so many who confronted the Government's unyielding policies. To those who were imprisoned, she wrote letters of encouragement and hope—even to those whom she had not met. For those who needed medical attention, she arranged for doctors to treat them. At all times, she brought the plight of Soviet Jewry to the attention of journalists in Moscow, whose dispatches informed the world of the awful desperation of so many. And until her arrest, she met with visitors from other countries to plead personally on behalf of the cause which had become her life.

I visited Ida Nudel in Moscow in March 1978. It was a difficult moment for her and her friends and colleagues. Anatoly Shcharansky and Alexsandr Ginzburg had recently been arrested, and everyone knew that their trials, which would bring to a head the Soviet campaign to crush the dissident movement, would soon begin. Ida herself, for all her courage, seemed to know as well that she would not be permitted to stay "free" for long—that soon the authorities would move against her. Ida was convinced the Government would never grant her application for a visa—even though she had been waiting 7 long years.

On June 1, 1978, Ida and other women planned to demonstrate once again for their freedom. The KGB learned of their protest, and placed them under curfew. Ida was confined to her apartment; secret police gathered outside. Late in the day, to show everyone that her spirit had not been broken, she hung a banner out the window which read: "KGB: give me my visa to Israel."

Within a few days, she was arrested, and late in June was sentenced to 4 years in exile in Siberia.

Her existence in the village of Krovosheino is unspeakable: 5,000 miles from Moscow, 100 miles from the nearest railroad, it is a collection of hovels containing the most dangerous and violent criminals. Ida has been attacked and beaten several times. There is scarcely sufficient food, no running water, and only meager supplies. She sleeps with a crude weapon under her pillow.

In recent weeks, however, concern over her safety has been superseded by the prospect that she may not be able to physically withstand the coming Siberian winter. In an open letter to the Jerusalem Post, she pleads:

Stop testing my endurance. Don't experiment with how much I can take. I feel that I am on the verge of a heart attack and I must be allowed to have a proper checkup in Moscow.

For Ida Nudel, the situation is desperate. Her very life is at stake.

It is difficult to understand what could possibly compel the Soviet Government to act in such a barbaric manner, to treat so cruelly such an innocent person, to perceive the "threat" Ida poses to Soviet society—especially since she only wishes to leave. But the irrationality of these acts hardly diminishes their inhumanity.

I am sincerely grateful to all my colleagues who worked so hard to bring this resolution to the floor.

Let the Soviet Union be on notice: We shall not, we can not, we refuse to be indifferent to the fate of this great woman, Ida Nudel. We demand with her that she be freed and permitted to fulfill her only desire in life—to join her family in Israel!

I urge the adoption of this resolution.

I am pleased to enclose, for the benefit of my colleagues, the following materials from the Jerusalem Post:

[From the Jerusalem Post, Oct. 9, 1979]

LETTER FROM SIBERIA TO THE JERUSALEM POST—IDA NUDEL'S ENDURANCE AT BREAKING POINT

(By Sarah Honig)

TEL AVIV.—"Stop testing my powers of endurance. Don't experiment with how much I can take. I feel that I am on the verge of a heart attack and I must be allowed to have a proper checkup in Moscow," Ida Nudel says to the Soviet authorities in an open letter addressed to the Jerusalem Post.

The letter reached aliya activists in Moscow. They read it over the telephone late Sunday night to Nudel's sister, Ilana Friedman of Holon. Friedman taped the telephone conversation, but as the quality of the line was extremely poor, most of the tape was transcribed and translated only yesterday.

The Moscow activities reportedly took Nudel's request for medical attention to the authorities, but their reply was that she is not ill.

Her sister recently received photos of her which sent her "into a panic. I have never seen my sister so thin and with such a haunted expression," Friedman told The Post yesterday.

Nudel is one of the Soviet Union's most prominent aliya activists and earned the reputation of the "Angel of Mercy" to the Prisoners of Zion for her relentless efforts on their behalf. She was sentenced to exile in Siberia last year for displaying a poster in her window demanding to be allowed to go to Israel. She still has four years of exile remaining.

Until recently she was housed in a barracks which she shared with 60 male ex-convicts considered too dangerous to be allowed to return to society.

Apparently due to the pressure of reports in the West about her ordeal, she has been moved to a remote hamlet nearby.

Nudel opens her letter with a few sentences in English addressed to The Jerusalem Post. She asks her "Dear Friends" on the paper to "serve as her pen" and to publish her open letter. She hoped that in this way she would be able to answer all those who had written to her and to whom she is unable to reply. She asks that her message be relayed to "Jews and non-Jew alike—to all those who took interest in my fight for freedom."

Friedman told *The Post* that her sister is aware of the articles printed about her through the years in *The Post* and that she may even have received some clippings.

This is the first letter of its kind to reach an Israeli newspaper.

Friedman said that last June a day was designated as "Ida Nudel Day" throughout the world, "So many letters were written to her then that some of the more innocuous ones got through," she said.

Ida Nudel's address is: 636300, Tomskayo Oblast, Poselok Krivosheino, USSR.

"I promise you all that I will stand fast in my position and not allow any one to change my mind. My fervent dreams are to live in my own nation and to contribute to it the little that I still give to my people," she wrote.

Nudel says she speaks not only on her own behalf but in the name of all Prisoners of Zion, "who for many long years have been fighting for our rights. Through our suffering we have been able to push the gates of the USSR just slightly ajar. Through the tiny opening we have made in the Iron Curtain, Jews manage to get out of the USSR.

"This in fact is our one solace through our ordeal. But the opening is small and vulnerable, and we implore all of you in the free world to keep a close watch on the opening and not to allow the gates to be slammed shut again."

Turning to her own medical condition, Nudel notes that she was hospitalized in the city of Tomsk in Siberia from August 1 to 16 and was then returned to the remote Siberian hamlet. She is still suffering from very severe pains.

"I don't know the exact cause of them. The doctors in Tomsk said that only a checkup in Moscow, where the proper facilities exist, could pinpoint the trouble. But I have not been allowed to have an examination there. I feel a heart attack coming on," says the 48-year-old economist, who has always been of frail health.

"I feel that I am now treading on the very border of my endurance. I appeal to the Soviet authorities to stop testing me to see at which point I will be able to take no more," she writes in desperation.

The activists, some of whom have made the long journey to Siberia to see Nudel, told her sister over the phone on Sunday that there is no way she could survive another harsh winter in her lonely place of exile. They point out that she now must carry water a long distance from her room, also her frail health does not permit her to lift more than three kilos.

She thus cannot possibly fetch all the water she needs. Moreover, she must carry heavy bundles of kindling wood and other provisions necessary for the long winter.

[From The Jerusalem Post, Oct. 9, 1979]

THE KREMLIN'S SHAME

The case of Ida Nudel, now serving a four-year sentence of exile in Siberia, affects not only her own interests and those of her family and countrymen. It affects the credentials of the world's leading communist power, the Soviet Union.

There can be different opinions about the merits of the socialist system as against capitalist or mixed economies. There cannot be two opinions about the right of a private citizen to be treated as a free and independent human being.

Had Ida Nudel committed theft, or injured another person, or committed black market operations, or spied for a foreign power, she would deserve punishment. But all she did was demand—out loud—to do what in other countries everybody can do freely and without permission: buy a train ticket in order to go and live abroad.

Is it conceivable in any civilised country that a middle-aged woman should be imprisoned repeatedly and then condemned to a terrible exile (and of course denied the right to buy that ticket)—because of the perfectly harmless things she did during what she describes as "the seven most beautiful years of my life?"

The prestige of the Soviet Union is at stake. It is ugly, first of all, that a person can be punished as a common criminal simply for wanting to go and live in the country he considers to be his own. That arbitrary ban does not and could not exist in Western Europe or the United States. The question should be addressed to Soviet policy-makers: how is it that citizens are free to move out of these reactionary, slave-economy countries, and not allowed to move out of the Marxist-Leninist paradise?

There has been a respectable, if measured, outflow of Jews from the USSR in recent years, marking a drastic change from the Stalin regime. This concession could have earned Brezhnev's government universal respect. But the scenario is spoilt by these small acts of gratuitous oppression, which cause suffering to no purpose and gain no benefit whatever to the Soviet Union.●

● Mr. DRINAN. Mr. Speaker, I ask my colleagues to support House Concurrent Resolution 202, urging the Soviet Union to allow Ida Nudel to emigrate to Israel. As one of the brave and outspoken advocates of free Jewish emigration and the rights of prisoners of conscience, Ida Nudel is deeply respected by her peers for her devotion and conviction to the principles she sought to uphold. Nudel is an economist who applied to emigrate to Israel 8 years ago, citing the extreme anti-Semitism which she felt at her job and among the Soviet citizenry and press. Over the years, Ida Nudel risked her safety and health to secure better conditions or liberation for these prisoners.

I conversed at some length with this gentle person when I was in Moscow in August 1975. She left in me that impression of heroism and saintliness which has earned her the title of the "guardian angel" of the refusniks.

On June 1, 1978, having discovered that she was being kept under house arrest, Ida Nudel placed on her balcony a sign reading, "KGB, Give Me My Visa." Soon thereafter she was pelted with stones and harassed by a crowd shouting anti-Semitic slogans. The next day, Nudel was charged with malicious hooliganism and within 3 weeks she was convicted on that charge. She is now serving a sentence of 4 years in exile.

Even judged within the strict confines of the Soviet Criminal Code, Ida Nudel is not guilty of malicious hooliganism. She is being punished for her desire to emigrate to her spiritual homeland of Israel and for her valiant efforts on behalf of other Soviet Jews who have been oppressed. The punitive and illegal actions taken by Soviet authorities against Ida Nudel represent an obvious and serious violation by the Soviet Union of the human rights pledges it swore to uphold in signing the Helsinki accords.

Today, Ida Nudel's health is reported to have deteriorated seriously, and it is uncertain whether she will be able to survive another harsh winter in exile. The urgency for this body to take action is quite evident. Ida Nudel's life is now in grave danger.

House Concurrent Resolution 202 is a timely, well-worded message that must be delivered to the Soviet authorities without delay. The commitment of this body and of the American people to the most fundamental tenants of human justice demands that our opposition to the exile of Ida Nudel to Siberia be recorded, and that appropriate steps be taken to insure her proper medical treatment. Ultimately, we ask for an end to this malady of justice so that Ida Nudel may travel to Israel where her family awaits her arrival.

Mr. Speaker, I hope my colleagues will join together in an overwhelming vote of support for House Concurrent Resolution 202.●

● Mr. LENT. Mr. Speaker, I rise in support of House Concurrent Resolution 202, the Ida Nudel emigration to Israel bill. In the strongest possible terms, I urge every one of my colleagues present today to join in this new demand to the Soviet rulers who are keeping this courageous woman in exile in the bleak Siberian wastelands.

This united appeal from the Congress of the United States is urgently needed, according to information I received in a recent meeting with Ida Nudel's sister, Elana Fridman, after I adopted Ida Nudel as my Fourth Congressional District's Prisoner of Conscience.

With typical Soviet cruelty, Elana had been granted permission to emigrate to Israel nearly 8 years ago, but the Soviets refused to allow Ida Nudel that freedom—in total violation of the human rights provision of the 1975 Helsinki accords.

Last year, the Soviets sentenced Ida Nudel to 4 years in exile in Siberia for displaying a banner from her Moscow apartment which demanded: "KBG, give me my visa."

Elana told me that Ida's health had deteriorated alarmingly in the months of exile. "Every day may be Ida's last," Elana warned me. "We are desperate, because she cannot survive another Siberian winter." The temperature plunges to 60 below zero during the winter months, and living conditions are primitive in the settlement where Ida is held in exile.

Despite her ill health and terrible living conditions, Ida Nudel's indomitable courage is unbroken. In her latest message to the outside world, smuggled from her bleak exile, she made an eloquent plea for help from us.

Ida Nudel said:

No matter how I am tormented, no matter how weak I am, how lonely or senseless my present life, I do not regret or renounce any of my actions. But if our suffering will not force every one of you to rush to help us, then it is in vain. We believe our suffering is not for nothing, and this belief saves us from despair. I believe that some day I will walk up the steps of an El Al aircraft, and my suffering and my tears will remain in my memory only, and my heart will be full of triumph. God grant that it will happen soon.

Mr. Speaker, we in the House of Representatives can come to the assistance of Ida Nudel by supporting House Concurrent Resolution 202.

Join us in helping win freedom for Ida Nudel.●

● Ms. FERRARO. Mr. Speaker, I rise in strong support of House Concurrent Resolution 202, and urge my colleagues to join me in that support. To underscore the desperation of this situation, I would like to quote a passage which was reprinted from Ida Nudel's diary.

I do not know when it was that I awoke. There was a light from an electric bulb and a large window covered by a grating. There is no daylight. It seems to be a deep cellar. My back hurts from lying on the bare boards. My arms hurt from the blows they received. I have no blanket and my coat is too short to cover me entirely. I try to move it by stages to warm my legs and then my back. It seems as if it must be day, but I have been given neither a drop of water nor a crumb of bread.

Mr. Speaker, as a woman only several years younger than Ida Nudel, I can empathize with the discomfort and humility she has been forced to experience. Exiled in Siberia, she has been forced to live with criminals convicted of crimes far more heinous than any alleged to have been committed by Ms. Nudel. No care is provided for her failing health, and she is barred from communicating with her family.

I am fortunate enough to live in a country which would not refuse my visa, or stop me from traveling to another nation. I have not experienced such discomfort and been forced to live in such inhumane conditions. I have the luxury of living in a country which respects my human rights. But, human rights should not be limited to certain nations. They should not be delineated by national boundaries. Human rights are universal, and should be universally recognized.

Ida Nudel is a symbol. She has, in her constant fight for her visa, become the personification of the hope and determination of the Soviet Jews. She has been a persistent voice of the dissidents, refusing to be intimidated by harrassment or torture. One and a half years in Siberia has still not broken Ms. Nudel's spirit. Bits and pieces of correspondence and news tell us that she is still fighting, and encouraging others to fight—for themselves, for her, and for the freedom which they are sacrificing now, so that they may experience it later.

This country has attempted, on many occasions to convince the Soviets to recognize the basic human rights of the dissidents. Often, our pleas have been ignored. This refusal flies in the face of the Helsinki agreements and the United States work toward the international recognition of human rights.

Mr. Speaker, I encourage my colleagues to support this resolution. I also call upon them to continue doing all they can to help Ida Nudel and others like her. Our country was built on the

principles of freedom and justice, and our duty as the representatives of this Nation is to provide and protect these liberties.

Just as Ida Nudel is a symbol, let us make the adoption of this resolution a symbol, as well. Adopting this sense of Congress resolution expressing our commitment to Ida Nudel would be an important symbolic gesture. It would serve as a signal that this body, and the American people are willing to support the cause of Ida Nudel until she is, once again, a free woman.●

● Mr. OBERSTAR. Mr. Speaker, Ida Nudel is a symbol, worldwide, of the fight against Soviet denial of human rights to its citizens. Ida Nudel's crime is that she wanted to leave the Soviet Union to live with relatives in Israel.

Exile in Siberia has become an eventual death sentence for this courageous fighter for human rights. Soviet treatment of Ida Nudel mocks the Soviet's nominal compliance with the Helsinki agreement.

I was proud to cosponsor this resolution. I urge a resounding vote from this House.●

● Mr. KELLY. Mr. Speaker, today we are considering House Concurrent Resolution 202 on Ida Nudel's emigration to Israel. The resolution, based on the provisions of the Helsinki Final Act, calls upon the President, "acting directly or through the Secretary of State or other appropriate executive branch officials to continue to express at every suitable opportunity and in the strongest terms, the opposition of the United States to the exile of Ida Nudel to Siberia."

I am in strong support of this resolution and further commend the Congressional Wives for Soviet Jewry, of which my wife, Judy, is a member, on their efforts to secure the release of Ida Nudel.

Ida Nudel is presently the only female prisoner of Zion. Her ostensible crime was to hang a banner outside her Moscow flat which read: "KGB Give Me My Visa To Israel." On June 21, 1978 she was arrested for vandalism and malicious hooliganism. But during Ida's trial she cried out that she was being tried not for hanging a banner, but for helping prisoners.

Recently a group of former Soviet refuseniks and prisoners of Zion gathered from all over Israel to tell the story of Ida Nudel, because, as one of them explained, "there is no woman on earth we value more. We owe her our lives."

Yakov Suslensky, after 7 years in a strict regime labor camp, said of Ida:

She gave moral and material help to me and my family, as well as to many of my friends—She gave us confidence in the victory of our cause and this helped to bear it all, to pull through.

Ida did not spare her own health and time while trying to help us. Having found out that some of us were sick (and I was sick a lot) she insisted on our receiving immediate treatment and wrote to various officials."

Arier Hanoch had never met Ida but in 1973 he began receiving her letters, giving him news of home, of his friends, of Israel.

She found all sorts of devices to help us, sending fancy postcards we could sell, pictures of Soviet movie stars we could exchange for rations.

When, after five years, I was moved to a forced-labour camp, I had a serious disorder. For more than a year, I had no medical help. Ida began to pester the Ministry of Health. The top officials don't like complaints, and pressure works on them. Finally, I was taken to a doctor and given a more suitable diet.

In 1971 Ida and her sister, Elena, applied for visas to emigrate to Israel. Elena received her visa in 1972. Ida's was refused. Elena didn't want to leave her sister but Ida convinced her that if she did not leave she would lose her chance.

Mr. Speaker, there are many stories of people Ida has helped and today we have an occasion to join others around the world in support of the release of a woman who has given so much. My wife once wrote:

Because of my concerns and freedoms I am given the opportunity to devote my time and energy toward helping Ida, and others, enjoy, and in some cases experience for the first time, the same kind of freedom we as Americans have too often taken for granted.

We all can help Ida by supporting this resolution and by sending letters and telegrams of protest to Ambassador Anatoly Dobrynin at the Soviet Embassy here in Washington, with copies to Secretary General Brezhnev, The Kremlin, Moscow, RSFSR, USSR. Also, we can let Ida know that she has friends in America by writing to help raise her morale.

Ida Nudel, Do Vostrebovaniya, Selo Krivosheino, Krivosheinsky Rayon, Tomskaya Oblast, RSFSR USSR 636300.

How much is your freedom worth to you?

STATEMENT OF IDA NUDEL IN EXILE

I'm only a woman, it is so agonizingly difficult to live in a Godforsaken village, without relatives, without friends, without almost all conveniences, while here are almost no food in the store, while militia do their best to cut off my good relations with neighbors.

On the other side, as a person I'm fortunate that I myself add not only one page to the history of the Jewish resistance in Russia. I'm fortunate that my efforts permitted thousands of Jews to leave this barbarous country. I'm fortunate that by my advice and by my act I was lucky to diminish the suffering of many Jews and helped them to avoid a conflict with the punitive system of KGB. I'm fortunate that during all these years I was helping prisoners of Zion, those who were chosen to cut the way to Israel, by the price of their own freedom. I was helping them to keep spirit and survive in the hell which you cannot imagine. I do know that I must pay for this fortune (of being able to help) in full. No matter how I am tormented by the chastisers or after I cried out of weakness, loneliness and seemingly senselessness of my present life, I do not regret and I do not renounce any of my actions.

But if our suffering will not force every one of you to rush to help us, then it is in vain.

We are idealists. We do believe that our suffering is not for nothing. And this belief saves us from despair at the most difficult moments of our imprisonment. I so want to believe in my lucky stars. I so want to believe that some time I will rise up the board of an El Al aircraft and my suffering and tears will remain in my memory only and my heart will be full of triumph and victory. And God grant—it will happen soon.●

● Mr. GREEN. Mr. Speaker, I rise in support of this urgent legislation that directly communicates to the Soviet Union the concern of the U.S. Congress over the health of Ida Nudel. This legislation also directs the President to take similar action. I have been quite concerned over the fate of this courageous woman, and today I received a letter from Ida Nudel's sister concerning Ida's deteriorating physical condition. Her bad health is, unfortunately, not a new development, and there is much evidence to believe that she cannot survive another harsh Siberian winter where she is being forced to stay through internal exile.

We are all aware of the Soviet attitude with respect to human rights, but we cannot remain silent. We are all aware of the treatment of Ida Nudel and all Soviet Jews, but we must continue to pressure the Soviet Government to abide by the Helsinki declaration.

I wrote Boris Petrovsky, Soviet Minister of Health, in May and Ambassador Anatoly Dobrynin in September about Ida Nudel's health, but my pleas have gone unanswered. Passing this legislation will send a message to Moscow that will be harder to ignore and may bring an end to the abhorrent treatment of this most admirable woman.●

● Mr. LAFALCE. Mr. Speaker, thousands, if not tens of thousands, of Russian citizens have been illegally prevented from leaving their country in search of a new and freer home. They wait year after year, repeatedly submitting their petitions to the authorities in Moscow. After submission of their petitions, they usually suffer from social ostracism and employment discrimination, without being allowed to emigrate from the Soviet Union.

Among this unfortunate group of Soviet citizens, Ida Nudel stands out as a special case. Known as the "Guardian Angel" among Soviet dissidents, Ida Nudel has indefatigably worked to help her fellow Soviet Jewish dissidents. Despite substantial harassment and intimidation by the KGB, she refused to lessen or cease her efforts for Jewish prisoners of the state, whose only real crime was the very understandable desire to leave the Soviet Union.

In June 1978, the Soviet Government charged and convicted Ida Nudel of "malicious hooliganism." After being unfairly convicted of this conveniently defined crime, Ida Nudel was sentenced to 4 years of internal exile, which means transportation to Siberia. Her real crime was, of course, her 10-year-long attempt to emigrate to Israel and her constant and never-dying support for Jewish dissidents and Jews who wanted to emigrate to Israel.

The House will soon have the welcome chance to strongly register its concern for the fate of this "Guardian Angel," when it considers House Concurrent Resolution 202, which urges the Soviet Union to allow Ida Nudel to emigrate to Israel. I urge all of my colleagues to support this concurrent resolution, in order to help persuade the Soviet Union to grant Ida Nudel her most fervent wish.●

Mr. FASCELL. Mr. Speaker, I have no further requests for time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 202).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1400

FEDERAL RESERVE ACT AMENDMENTS

Mr. MITCHELL of Maryland. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5037) to amend the Federal Reserve Act respecting the positions of Chairman and Vice Chairman of the Federal Reserve Board, as amended.

The Clerk read as follows:

H.R. 5037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second paragraph of section 12 of the Federal Reserve Act (12 U.S.C. 242) is amended by striking out the third sentence and inserting in lieu thereof the following: "The President shall appoint, by and with the advice and consent of the Senate, one member of the Board to serve as Chairman. The term of such member as Chairman shall expire on January 31 of the first calendar year beginning after the calendar year during which the term of the President who appointed such member as chairman is scheduled to expire. In the event a Chairman does not complete his entire term as Chairman, his successor shall be appointed to complete the unexpired portion of such term as Chairman and shall serve as Chairman until January 31 of the first calendar year beginning after the calendar year during which the term of the President who appointed him as Chairman is scheduled to expire. The President also shall appoint, by and with the advice and consent of the Senate, one member of the Board to serve as Vice Chairman for a term of four years.".

(b) The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by inserting the following before the sentence which prior to the amendment made by subsection (a) of this section was the fourth sentence of such paragraph: "In the event of the unavailability of the Chairman or a vacancy in the office of the Chairman, the Vice Chairman shall have the power to act as Chairman during such unavailability or, in the event of a vacancy, pending the appointment and qualification of such Chairman's successor. Upon the expiration of the term of the office of the Chairman or Vice Chairman, the Chairman or Vice Chairman, as the case may be, shall continue to serve in such capacity until his successor is appointed and has qualified.".

SEC. 2. The amendments made by the first section of this Act shall take effect on the date of the enactment of this Act, except that the amendment made by subsection (a) of the first section of this Act shall be applicable to any person who was Chairman of the Board of Governors of the Federal Reserve System immediately prior to such effective date only upon the expiration of the full four-year term as Chairman which such person was serving immediately prior to such effective date.

SEC. 3. The second sentence of the first paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended to read as follows: "In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district (except that two members may represent the same district if one member is serving as Chairman or has served as Chairman), the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country.".

SEC. 4. The last sentence of the fourth paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 244) is amended by striking out "six" and inserting in lieu thereof "seven".

SEC. 5. The seventh paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 247) is amended by striking out ", who shall cause the same to be printed for the information of the Congress".

SEC. 6. Subsection (n) of section 11 of the Federal Reserve Act (12 U.S.C. 248(n)) is hereby repealed.

The SPEAKER pro tempore. Is a second demanded?

Mr. HANSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. MITCHELL) will be recognized for 20 minutes, and the gentleman from Idaho (Mr. HANSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, everyday it is becoming more apparent that no one has more power to affect our economy's performance than the Chairman of the Federal Reserve Board. It is vital, therefore, that the law providing for appointment of the Chairman leave little or nothing to chance. This is the purpose of H.R. 5037. Under present law, the President appoints one of the Board's seven Governors to serve as its chairman for a 4-year term. Whoever is appointed can be reappointed for another 4-year term when his term as Chairman expires, provided his term as Governor has not expired. A Governor's term is 14 years. However, unlike the term of the President, the term of the Federal Reserve Board Chairman has no set beginning or end. It begins when a vacancy in the office of the Chairman is filled, and is scheduled to end 4 years later. There is potential for great mischief in this.

The chairmanship can become vacant by accident; for example, as a result of death or resignation. If it became open and was filled on March 3, 1984, it would reopen on March 3, 1988, March 3, 1992, and on and on until another accident reset the term to expire on another date in the 4-year Presidential cycle.

Sometimes accidents provide happy options. But we should not count on them to do so. It would be a mistake to schedule the 4-year term of the Chairman of the Federal Reserve Board to expire either early or late in the 4-year Presidential term. However, under present law, either could happen. Were the latter to happen, the appointment of the Chairman easily could become a Presidential election issue. Were the former to happen, it would invite risky abrupt changes in monetary policy.

In contrast, under H.R. 5037, the term of the Chairman always will end on January 31 of the year after the year during which the term of the President who makes the appointment is scheduled to expire. This is 1 year and 10 days after the next scheduled Presidential inauguration. There always will be a vacancy on the Board of Governors on that date because of the way current law schedules the expirations of the terms of the Board's seven Governors. As a result, 1 year after he is inaugurated, an elected President will be able to appoint the most qualified individual in the country to serve as Chairman of the Federal Reserve Board for the remaining 3 years of his term and the first year of the next Presidential term. Under current law, the President's choice could be unduly limited. If, by accident the Chairman's term expired in an odd-numbered year when there is no scheduled vacancy on the Board, and the President wanted to replace the Chairman, he could do so only by appointing one of the other Governors.

In the event that a Chairman resigns or dies before his term expires, the bill provides that a successor shall be appointed only for the unexpired portion of the term except that, if the unexpired portion is less than a year, the appointment would be for a full 4-year term plus the unexpired portion of the term.

The scheduling of the Chairman's term provided for by H.R. 5037 precludes the potentially mischievious possibility that now exists for a President to appoint a Federal Reserve Board Chairman to a term that does not expire until late in the next Presidential term. In this way, H.R. 5037 insulates the appointment of the Chairman from Presidential election year politics. Recall also that H.R. 5037 assures that, if a Chairman is appointed early in a President's term, he can serve as Chairman for a year after the next Presidential term begins. In this way the bill provides a newly appointed or reappointed Chairman with job security lasting past the term of the President who appoints him, thereby giving him a protected power base to resist any politically inspired pleas.

I also want to emphasize to my colleagues that the phasing of the terms of the Federal Reserve's Chairman and the President, which H.R. 5037 establishes, will provide the foundation for the

smooth functioning of monetary policy when the Presidency changes hands since the incumbent Chairman will continue to serve as Chairman until January 31 of the following year. At the same time, the legislation will promote essential coordination of monetary and fiscal policies because it guarantees each newly elected or reelected President the opportunity to appoint his own Federal Reserve Board Chairman, albeit with a year's lag following his inauguration.

Finally, H.R. 5037 permits the Vice Chairman of the Board to act as Chairman if the Chairman is unavailable or the chairmanship is vacant, and also permits the Chairman and Vice Chairman to continue to serve after their terms expire until their successors take office. Omission of these points from present law has on occasion left the Board without a chief executive officer and without any legal basis for an interim solution.

The bill was marked up and favorably reported by the subcommittee by a vote of six "ayes" to zero "nays" on July 24. The full committee markup took place on October 25. The committee voted to favorably report H.R. 5037 by a vote of 23 "ayes" to 2 "nays."

The committee has an amendment which includes amendments adopted in committee plus an amendment to repeal the authority of the Secretary of the Treasury under section 11(n) of the Federal Reserve Act to confiscate privately held gold. I know of no objection to this amendment among members of the committee, or in the Treasury and Federal Reserve.

Amendments adopted in committee are as follows:

First. An amendment that "grandfathers" the current Federal Reserve Board Chairman, Paul A. Volcker, for his current term, which expires on August 6, 1983. He will be permitted to serve the full term. However, if reappointed, his next term would expire on January 31, 1986. In this regard, when we first considered the legislation in subcommittee, we did not consider a grandfathering provision necessary because G. William Miller was still Chairman of the Federal Reserve Board. We did not find it necessary to protect him from having his term as Chairman shortened by the bill because it would have been shortened only 5 weeks. On my initiative, we amended the bill in committee so that Paul Volcker's term as Chairman would not be unfairly shortened.

Second. An amendment that modifies the requirement that each Federal Reserve Board Governor represent a different district by permitting two members to represent the same district if one of the two is serving or has served as Chairman.

Third. An amendment that eliminated the requirement that the Federal Reserve's annual report be printed as a congressional document.

Fourth. An amendment that changes an incorrect reference in the Federal Reserve Act from "six" to "seven" members of the Board.

Mr. Speaker, our legislation scheduling the term of the Federal Reserve Board Chairman to expire 1 year and 10 days after the appointing President's term is scheduled to expire was supported by the Federal Reserve Board under Chairman Miller, and now has the support of the Board's new Chairman, Paul Volcker. The administration also supports the legislation.

Nearly 70 percent of the experts whose opinions we solicited also were supportive. Academic economists in support include George L. Bach, Milton Friedman, John Kenneth Galbraith, Franco Modigliani, and James Tobin, plus Robert Solow and Robert Strotz who also serve as Chairmen of the Boards of Directors of the Federal Reserve Banks of Boston and Chicago, respectively. Business and bank economists in support include Walter Hoadley, Jerry Jordan, Henry Kaufman, Leif Olsen, Beryl Sprinkel, and Albert Wojnilower. Also in support were former Federal Reserve Board Governors and Reserve bank presidents Alfred Hayes, Robert C. Holland, J. L. Robertson, Allan Sproul, Frederick Deming, George Ellis, and Charles Scanlon.

H.R. 5037 is a reasonable and pragmatic solution to a longstanding and ticklish problem. I urge my colleagues to vote for it.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5037, and yield myself such time as I may consume.

There are several parts to the bill now before the House. The principal one is the first section which alters the timing of the term of the Federal Reserve Chairman. Presently, the term is always 4 years from the date of the oath of office, whenever that may be and without regard to whether the predecessor served out his full term or not. The bill would make the timing of the term more regular, providing for a fixed termination date and permitting interim appointments only to serve out the balance of that regular term.

After long and careful consideration, I have come to the conclusion that this is, on balance, a desirable change. I believe that if we were constructing the Federal Reserve Act from scratch, a regular, fixed term is what we would agree on, without argument. It is true that in the past several observers have claimed that this change would heighten the political connotations of the appointment. To my mind, the political connotations are already so large that the matter of timing can make little difference. Moreover, while there have been no serious troubles in the past, I can easily think of scenarios in which the present random timing could give difficulties. Such difficulties will always be present when there is a chance that a President can appoint someone to serve through most of the following administration. This bill would prevent that, and thus avoid the most excessively political situations that could occur with respect to this appointment. I think that is well worth taking care of.

In addition, I think the other provisions of the bill are desirable and, indeed, without controversy.

This bill incorporates a very important provision which I introduced at the beginning of this Congress as H.R. 423. It would permit the Chairman and Vice Chairman to continue serving in those capacities until their successors are sworn in. Presently, this provision is in the law with respect to service as a Member of the Board of Governors, but there is no comparable provision for service as Chairman or Vice Chairman. It was because of the silence of the law on this point that President Jimmy Carter was able to appoint Arthur Burns as Acting Chairman of the Federal Reserve after his own term had expired as Chairman, while he was still a Governor, and before William Miller's appointment had been confirmed.

The danger in that situation lay in the fact that an Acting Chairman would not be subject to confirmation. Thus, he serves at the pleasure of the President. One can easily imagine a situation in which a President would take advantage of this to have a Chairman serving at his pleasure, in effect, by appointing him as an Acting Chairman and delaying nomination of a permanent Chairman.

This is not a purely speculative danger. Jimmy Carter did make the appointment and thereby set a dangerous precedent. Passage of this bill would resolve that problem.

It was also at my original suggestion that the bill incorporated the provision that two members of the Board of Governors be permitted to represent the same district if one was serving or had served as Chairman. Some would say that this is desirable in that it gives more flexibility to the President in naming a Chairman. That may be so, but I am less concerned about giving the President flexibility than I am about avoiding nuisance suits which might paralyze the Fed's monetary policymaking. I am very mindful of the fact that the composition of the Federal Open Market Committee has been challenged in court on the grounds that some of its members were not appointed by the President. One such suit having been dismissed on lack of standing, another is now in process that is less likely to be thrown out on that ground. If the suit succeeds, it could have severe consequences for the ability of the Fed to conduct its necessary policies.

In just the same way, I think it possible in the future that a Chairman who takes unpopular but necessary actions might face a challenge on the wholly irrelevant grounds of what Federal Reserve district he is said to represent. Since the law is silent about what constitutes representation, such a challenge is possible no matter how silly the grounds.

By adopting the present bill, we will prevent such a nuisance suit with respect to a position that everyone agrees is national in significance. At the same time, this bill does not by any means do away with regional representation on the Board, since the modification can only occur with respect to the position of Chairman.

The bill today also has been read with an amendment which is the text of another of my bills, H.R. 1853. It would repeal section 11(n) of the Federal Reserve Act, which is the authority for the Secretary of the Treasury to seize privately owned gold. Many persons, including the administration, have taken the position that 11(n) was repealed by Public Law 93–110, which restored the right of gold ownership in the United States. Very briefly, I would just point out that most codifiers of Federal statutes apparently think differently, since the section still appears, and there is no notation referring to its repeal, implicit or otherwise. Secondly, we took testimony in subcommittee which pointed out that the real problem is not whether gold can be seized, but what compensation must be paid for it. Under section 11(n) it appears that seizure could result in confiscation, since there is no guide as to what must be paid for the seized gold, and the withdrawal statute, as it is called, prevents anyone from suing if they think compensation was inadequate. The last official price for gold was approximately $42 per ounce and the current market price is some 10 times that amount. Since there is now no official price, there is great room for controversy. Therefore, so long as no one wants this statute, I think we would be better off cleaning it out of the code and not leaving the possibility of mischief lying in harm's way.

Mr. Speaker, this bill has a number of good provisions, and none which would give anyone any concern. I therefore urge my colleagues to vote for the motion to suspend the rules and pass H.R. 5037.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PAUL).

● Mr. PAUL. Mr. Speaker, I rise in opposition to the bill and the extraordinary procedure used to get it to the House floor.

Combined within one bill we now have two totally different and totally unrelated matters. Each of these matters were reported separately by the Domestic Monetary Policy Subcommittee, and they were separate bills until just a few minutes ago.

One bill, H.R. 1853, I enthusiastically support. The subcommittee and Members of Congress have received hundreds of letters in support of my bill, H.R. 2658, which is virtually identical to the bill that the subcommittee reported, H.R. 1853. I would also point out that that bill has the unanimous support of the Domestic Monetary Policy Subcommittee.

The other bill, however, that making changes in the term of the Chairman of the Federal Reserve Board, does not enjoy such unanimous support, and there are very good reasons for opposing it, as my colleague from Florida and I have attempted to point out in our dissenting views. When bills similar to H.R. 5037 were discussed and considered in previous Congresses, many people opposed changing the term of the Chairman of the Federal Reserve Board so as to make it conform more closely and regularly with that of the President. Opponents of this change have included the ranking minority member of the Banking Committee, who took the floor on May 10, 1976, to discuss H.R. 2934, and again on September 12, 1977, to discuss H.R. 8094, and Senators JOHN TOWER and WILLIAM PROXMIRE, chairman of the Senate Banking Committee. Other opponents of this change have included Armin Alchian, professor of economics at UCLA, the Chairmen of the Federal Reserve Banks at Richmond, San Francisco, Kansas City, and Dallas, and the former Chairman of the Federal Reserve Board, Arthur Burns. All these people agreed that the change would further politicize the Fed, and make monetary policy more subservient to the party that controls the White House rather than to the best interests—the longrun interest—of the Nation.

I am not suggesting that the Fed has been free of political influence up until now. It obviously has not, and it cannot be free as long as it exists. But this bill would make a bad situation worse by thoroughly politicizing a President's choice for Chairman of the Fed. Rather than putting politics more deeply in our national monetary system, we should be acting to separate money and politics altogether.

So I, for one, am faced with a moral dilemma—a dilemma that could easily be eliminated were these bills considered on the House floor as they have been in subcommittee: entirely separate. The dilemma is this, Shall I vote for suspension of the rules and passage of this combination bill which ties a thoroughly meritorious measure together with one of dubious value, or shall I oppose suspension of the rules and thereby risk defeating the worthwhile bill which enjoys the unanimous support of the subcommittee members? I do not believe I am the only Member who faces this dilemma, and I strongly object to the procedure that forces this dilemma upon us. Unfortunately, this method of legislation is more the rule than the exception.

I would like to include my dissenting view at this point in the RECORD:

DISSENTING VIEWS H.R. 5037

This bill as amended and reported by the Banning Committee would achieve a number of purposes:

1. Synchronization of the term of the Chairman of the Federal Reserve Board with the term of the President.
2. Permitting two members of the Federal Reserve Board to be residents of the same Reserve district.
3. Correction of a technical error in the Federal Reserve Act.
4. Repealing the present requirement that the annual report of the Federal Reserve be printed as a Congressional document.
5. Expansion of the duties of the Vice Chairman of the Board of Governors.

It is our opinion that the synchronization of the Chairman's term with that of the President in such a way that the term of the Chairman would expire one year after a newly elected President assumes office is a major step down the road toward the complete politicization of the Federal Reserve System. One proponent of the bill apparently agrees, for at the Committee markup he stated that "the legislation will promote essential coordination of monetary and fiscal policies because it guarantees each newly elected or reelected President opportunity to appoint his own Federal Reserve Board Chairman. . . ."

That being the case, it is difficult to see why the matter of Presidential candidates' preferences for Chairman would not become a permanent feature of future Presidential campaigns. This bill, if enacted, would significantly decrease the Federal Reserve's independence from the various and everchanging political pressures that sweep national politics. The insulation afforded by present law would be removed. Charged with maintaining a prudent, long-range management of the nation's monetary system, the Federal Reserve will become even more subservient to short-run political goals than it is already.

A complicating factor is the creation of new duties for the Vice Chairman of the Board. The bill would synchronize only the term of the Chairman with that of the President; the term of the Vice Chairman would remain as it is under present law, unrelated to the term of the President. Thus the terms of the Chairman and the Vice Chairman are not likely to run concurrently. The result will be that the President will be able to appoint an "heir apparent", as it were, while a Chairman appointed either by a previous President or by the same President during a different phase of the business cycle would be sitting as Chairman. Such an arrangement is likely to result in internecine policy struggles within the Board, with one faction led by the Chairman, and another by the Vice Chairman. The likelihood of such a struggle occurring is enhanced by the new duties of the Vice Chairman, who, "in the event of the unavailability of the chairman or a vacancy in the office of the chairman . . . shall have the power to act as chairman during such unavailability or, in the event of a vacancy, pending the appointment and qualification of such chairman's successor." The bill does not define "unavailability." Presumably it does not simply mean "absence," for that word is not used. It is difficult to understand exactly what the committee has in mind by that term, and its vagueness could lead to problems in the future.

We urge our colleagues to oppose this bill when it comes before the House. While the changes it would make in the law may appear minor to some, its ultimate impact may be extremely significant. By further politicising the Fed, we could be hastening the day when political passion will seize the controls of the printing presses and this Nation will drown in a flood of paper currency and triple-digit inflation.

RICHARD KELLY.
RON PAUL.●

Mr. HANSEN. Mr. Speaker, I have no further requests for time.

Mr. MITCHELL of Maryland. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. MITCHELL) that the House suspend the rules and pass the bill, H.R. 5037, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Federal Reserve Act respecting the positions of chairman and vice chairman of the Federal Reserve Board, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their re-

marks, and to include extraneous matter, on the bill, H.R. 5037, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

□ 1410

PAY RESTRUCTURE OF UNIFORMED SERVICES HEALTH PROFESSIONALS

Mr. NICHOLS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5235) to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services.

The Clerk read as follows:

H.R. 5235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Health Professionals Special Pay Act of 1979".

SEC. 2. (a) Chapter 5 of title 37, United States Code, relating to special and incentive pays for members of the uniformed services, is amended by striking out sections 302, 302a, and 302b and inserting in lieu thereof the following:

"§ 302. Special pay: medical officers

"(a)(1) An officer who is an officer of the Medical Corps of the Army or the Navy, an officer of the Air Force designated as a medical officer, or a medical officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay in accordance with this subsection.

"(2) An officer described in paragraph (1) who is serving in a pay grade below pay grade O-7 is entitled to variable special pay at the following rates:

"(A) $1,200 per year, if the officer is undergoing medical internship training, as determined under regulations prescribed under section 302c(a) of this title.

"(B) $5,000 per year, if the officer has less than six years of creditable service under subsection (c) and is not undergoing medical internship training, as determined under regulations prescribed under section 302c(a) of this title.

"(C) $10,000 per year, if the officer has at least six but less than eight years of creditable service under subsection (c).

"(D) $9,500 per year, if the officer has at least eight but less than ten years of creditable service under subsection (c).

"(E) $9,000 per year, if the officer has at least ten but less than twelve years of creditable service under subsection (c).

"(F) $8,000 per year, if the officer has at least twelve but less than fourteen years of creditable service under subsection (c).

"(G) $7,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service under subsection (c).

"(H) $6,000 per year, if the officer has at least eighteen but less than twenty-two years of creditable service under subsection (c).

"(I) $5,000 per year, if the officer has twenty-two or more years of creditable service under subsection (c).

"(3) An officer described in paragraph (1) who is serving in a pay grade above pay grade O-6 is entitled to variable special pay at the rate of $1,000 per year.

"(4) An officer entitled to variable special pay under paragraph (2) or (3) is entitled to an additional payment of $10,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training, as determined under regulations prescribed under section 302c(a) of this title.

"(5) An officer who is entitled to variable special pay under paragraph (2) or (3) who is board certified, as determined under regulations prescribed under section 302c(a) of this title, is entitled to additional special pay at the following rates:

"(A) $2,000 per year, if the officer has less than ten years of creditable service under subsection (c).

"(B) $2,500 per year, if the officer has at least ten but less than twelve years of creditable service under subsection (c).

"(C) $3,000 per year, if the officer has at least twelve but less than fourteen years of creditable service under subsection (c).

"(D) $4,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service under subsection (c).

"(E) $5,000 per year, if the officer has eighteen or more years of creditable service under subsection (c).

"(b) An officer may not be paid special pay under paragraph (4) of subsection (a) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(c) For purposes of this section, creditable service of an officer of the Medical Corps of the Army or the Navy, an officer of the Air Force designated as a medical officer, or a medical officer of the Public Health Service is computed by adding—

"(1) all periods which the officer spent in medical internship or residency training during which the officer was not on active duty; and

"(2) all periods of active service in the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"§ 302a. Special pay: dental officers

"(a)(1) An officer who is an officer of the Dental Corps of the Army or the Navy, an officer of the Air Force designated as a dental officer, or a dental officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay in accordance with this subsection.

"(2) An officer described in paragraph (1) who is serving in a pay grade below pay grade O-7 is entitled to variable special pay at the following rates:

"(A) $1,200 per year, if the officer is undergoing dental internship training, as determined under regulations prescribed under section 302c(a) of this title.

"(B) $2,000 per year, if the officer has less than six years of creditable service under subsection (c) and is not undergoing dental internship training, as determined under regulations prescribed under section 302c(a) of this title.

"(C) $5,000 per year, if the officer has at least six but less than eight years of creditable service under subsection (c).

"(D) $7,000 per year, if the officer has at least eight but less than ten years of creditable service under subsection (c).

"(E) $9,000 per year, if the officer has at least ten but less than twelve years of creditable service under subsection (c).

"(F) $8,000 per year, if the officer has at least twelve but less than fourteen years of creditable service under subsection (c).

"(G) $7,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service under subsection (c).

"(H) $5,000 per year, if the officer has eighteen or more years of creditable service under subsection (c).

"(3) An officer described in paragraph (1) who is serving in a pay grade above pay grade O-6 is entitled to variable special pay at the rate of $1,000 per year.

"(4) An officer entitled to variable incentive pay under paragraph (2) or (3) is entitled to an additional payment for any twelve-month period during which the officer is not undergoing dental internship or residency training, as determined under regulations prescribed under section 302c(a) of this title, to be paid at the following rates:

"(A) $6,000 per year, if the officer has at least three but less than twelve years of creditable service under subsection (c).

"(B) $8,000 per year, if the officer has at least twelve but less than eighteen years of creditable service under subsection (c).

"(C) $10,000 per year, if the officer has eighteen or more years of creditable service under subsection (c).

"(5) A commissioned officer who is entitled to variable special pay under paragraph (2) or (3) who is board qualified, as determined under regulations prescribed under section 302c(a) of this title, is entitled to additional special pay at the following rates:

"(A) $2,000 per year, if the officer has less than twelve years of creditable service under subsection (c).

"(B) $3,000 per year, if the officer has at least twelve but less than fourteen years of creditable service under subsection (c).

"(C) $4,000 per year, if the officer has fourteen or more years of creditable service under subsection (c).

"(b) An officer may not be paid special pay under paragraph (4) of subsection (a) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(c) For purposes of this section, creditable service of an officer of the Dental Corps of the Army or the Navy, an officer of the Air Force designated as a dental officer, or a dental officer of the Public Health Service is computed by adding—

"(1) all periods which the officer spent in dental internship or residency training during which the officer was not on active duty; and

"(2) all periods of active service in the Dental Corps of the Army or Navy, as an officer of the Air Force designated as a dental officer, or as a dental officer of the Public Health Service.

"§ 302b. Special pay: optometry officers

"(a)(1) An officer who is an officer of the Army, Navy, or Air Force designated as an optometry officer or who is an optometry officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to variable special pay at the following rates:

"(A) $3,000 per year, if the officer has less than six years of creditable service under subsection (c).

"(B) $2,500 per year, if the officer has at least six but less than twelve years of creditable service under subsection (c).

"(C) $2,000 per year, if the officer has at least twelve but less than sixteen years of creditable service under subsection (c).

"(D) $1,000 per year, if the officer has sixteen or more years of creditable service under subsection (c).

"(2) An officer with at least three years of creditable service under subsection (c) who is entitled to variable special pay under paragraph (1) is entitled to an additional payment of $1,000 for any twelve-month period during which the officer is not undergoing optometry residency training, as determined under regulations prescribed under section 302c(a) of this title.

"(b) An officer may not be paid special pay under paragraph (2) of subsection (a) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(c) For purposes of this section, creditable service of an officer of the Army, Navy, or Air Force designated as an optometry officer or of an optometry officer of the Public Health Service is computed by adding—

"(1) all periods which the officer spent in optometry residency training during which the officer was not on active duty; and

"(2) all periods of active service as an optometry officer.

"§ 302c. Special pay: health professionals; general provisions

"(a) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health, Education, and Welfare, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 302, 302a, and 302b of this title. Such regulations shall include standards for determining—

"(1) whether an officer is undergoing medical internship or residency training for purposes of sections 302(a)(2)(A), 302(a)(2)(B), and 302(a)(4) of this title;

"(2) whether an officer is board certified for purposes of section 302(a)(5) of this title;

"(3) whether an officer is undergoing dental internship or residency training for purposes of section 302a(a)(2)(A), 302a(a)(2)(B), and 302a(a)(4) of this title;

"(4) whether an officer is board qualified in a dental specialty for purposes of section 302a(a)(5) of this title; and

"(5) whether an officer is undergoing optometry residency training for purposes of section 302b(a)(2) of this title.

"(b) Special pay authorized under sections 302, 302a, and 302b of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other provision of this title or in computing retired pay, severance pay, or readjustment pay.

"(c) Special pay payable to an officer under paragraphs (2), (3), and (5) of section 302(a), paragraphs (2), (3), and (5) of section 302a(a), and paragraph (1) of section 302b(a) of this title shall be paid monthly. Special pay payable to an officer under section 302(a)(4), section 302a(a)(4), and section 302b(a)(2) of this title shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(d) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under section 302(a)(4), 302a(a)(4), or 302b(a)(2) of this title shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.

"(e) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 302, 302a, 302b, 303, and 303a of this title. A report of the results of the first review shall be submitted to the Congress not later than September 30, 1982, and the results of each subsequent review shall be submitted to the Congress not later than September 30 each second year thereafter.".

(b) Section 303 of such title is amended by striking out subsection (c).

(c) Chapter 5 of such title is further amended by inserting after section 303 the following new section:

"§ 303a. Special pay: podiatry officers

"(a) An officer who is an officer of the Army, Navy, or Air Force designated as a podiatry officer or who is a podiatry officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay at the rate of $100 per month, if the officer has three or more years of creditable service under subsection (b).

"(b) For purposes of this section, creditable service of an officer of the Army, Navy, or Air Force designated as a podiatry officer or of a podiatry officer of the Public Health Service is computed by adding—

"(1) all periods which the officer spent in podiatry residency training during which the officer was not on active duty; and

"(2) all periods of active service as a podiatry officer.".

(d) Sections 311 and 313 of such title are repealed.

(e) Section 306(e) of such title, relating to exclusions from special pay for officers holding positions of unusual responsibility, is amended by striking out "302 or 303" and inserting in lieu thereof "302, 302a, 302b, 303, or 303a".

(f) The table of sections at the beginning of chapter 5 of such title is amended—

(1) by striking out the items relating to sections 302, 302a, and 302b and inserting in lieu thereof the following:

"302. Special pay: medical officers.
"302a. Special pay: dental officers.
"302b. Special pay: optometry officers.
"302c. Special pay: health professionals; general provisions.";

(2) by inserting after the item relating to section 303 the following:

"303a. Special pay: podiatry officers.";

and

(3) by striking out the items relating to sections 311 and 313.

SEC. 3. (a) The Secretary of Defense shall conduct a comprehensive evaluation of various alternatives for addressing the existing maldistribution of medical and dental specialties within the Armed Forces. Such evaluation may include a test of the effectiveness of paying an increment of special pay in addition to the special pay authorized by title 37, United States Code (as amended by this Act), to officers in special categories determined by the Secretary of Defense for the purposes of such test. Such evaluation shall focus on—

(1) the future requirements of each Armed Force for physicians and dentists, by specialty and by years of service; and

(2) the efficiency, effectiveness, and fairness of the various alternatives considered.

(b) The Secretary shall submit to the Congress—

(1) not later than six months after the date of the enactment of this Act, a formal plan for conducting the evaluation required by subsection (a);

(2) not later than eighteen months after the date of the enactment of this Act, an interim report on the progress of such evaluation; and

(3) not later than two years after the date of the enactment of this Act, a final report of such evaluation.

(c) To carry out the purposes of this section, there is authorized to be appropriated the sum of $3,000,000 for fiscal year 1981.

SEC. 4. Notwithstanding any provision of the amendments made by this Act, and in accordance with regulations to be prescribed by the Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health, Education, and Welfare, with respect to the Public Health Service, any officer who are any time before the effective date of the amendments made by this Act was entitled to special pay under any of sections 302, 302a, 302b, 303, 311, or 313 of title 37, United States Code, and any officer who after such effective date would have become entitled to special pay under any of such sections (as in effect on the day before such effective date) had such sections continued in effect, shall be paid basic pay and special pay under sections 302, 302a, 302b, and 303 of such title (as in effect on and after the effective date of the amendments made by this Act) in a total amount not less than the total amount of the basic pay (as in effect on the day before such date) and special pay applicable (or which would have been applicable) to such officer under such sections 302, 302a, 302b, 303, 311, and 313 (as in effect on the day before such date and computed on the rates of basic pay as in effect on the day before such date).

SEC. 5. The amendments made by section 2 apply to special pay payable for periods beginning after September 30, 1979, or after the date of the enactment of this Act, whichever is later.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Alabama (Mr. NICHOLS) will be recognized for 20 minutes, and the gentleman from New York (Mr. MITCHELL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Armed Services has been engaged in a series of hearings since the beginning of this year, focusing on the subject of military health care delivery and, more particularly, on special pay for military health professionals. We have received a great deal of testimony, both from military and civilian leaders within the Department of Defense, and from physicians in the field.

Based on these detailed and lengthy deliberations, the committee has developed a bill (H.R. 5235) that would restructure the special pays afforded uniformed services physicians, dentists, optometrists and podiatrists.

It is very much a committee bill—it does not look particularly like the administration proposal, or any of the other bills the committee considered. It compares favorably with those bills, I believe, while at the same time specifically addressing the particular problem areas that exist today.

I would hasten to point out that it is not all things to all people, but it represents a significant step in the right direction. It is a tightly drawn recommendation and, to some extent, complex. The description I will provide offers only a very broad overview of, what I consider to be, the very strong rationale and a summary of the system recommended by the committee.

MILITARY PHYSICIANS

The basis for the recommendations of the committee for military physicians, in large part, relates to an assessment

of the required physician force by years of service versus the actual physician force by years of service projected to exist in the future.

By comparing the required force profile to the actual force profile, the committee was able to determine those points in a physician's military career where changes in the compensation system would have the greatest impact on attracting and retaining the quantity and quality needed to meet the required force profile.

The committee found three areas where changes would have the maximum impact with regard to influencing the number of physicians on active duty.

Increasing the end of obligation retention of health professions scholarship program (HPSP) physicians would significantly increase the number of physicians on active duty. We were astounded to find that, today, only 10 percent of physicians who reach this point remain on active duty. On the other hand, retention after that point is already very high. Attempting to influence retention in this latter area would be both very costly and ineffective in terms of increasing the number of physicians on active duty. That is not to say that action should not be taken to affect the well-being of physicians who have elected to remain in the military after completing their initial obligation. The availability of highly trained and respected senior physicians has a great deal of influence on the retention of junior physicians. The committee recognized this and built its recommendations on this observation.

A similar phenomenon exists at the end of obligation for volunteers. Although retention is higher at this point for volunteers, slight improvements could result in significant increases in physicians on active duty after this point.

The final point of major influence is in terms of the number of entries onto active duty. The committee found it critically important to the long range viability of the military health care delivery system that the scholarship program be operated at full capacity. This implies that physicians satisfying their initial active duty obligation must be positively oriented toward military service. These physicians communicate frequently with the medical schools from which they graduated and influence the attitudes of entering medical school students toward the military. Shortfalls in the number of students enrolled in the scholarship program will show up 4 to 8 years later in the number of physicians on active duty.

In summary, the committee found that actions in the present environment would have their greatest impact if focused on the points at which individuals reach their end of obligation and on insuring that the scholarship program is maintained at full capacity.

The committee recommendations are based, in part, on the considerations I just described. In addition, the committee considered compensation received by physicians in the private sector—not so much from the perspective of the absolute amounts but rather from the pattern of that compensation. In the private sector, physician incomes show a dramatic rise following completion of residency training. Thereafter income rises more gradually. We have attempted to match this general "shape" with our recommendations.

The special pay system for military physicians recommended by the committee would be composed of three components.

The first component would provide a payment of $10,000 per year while the physician is not engaged in internship or initial residency training. This payment would be made as a lump sum at the beginning of the year in exchange for a commitment on the part of the physician to serve that year on active duty. All physicians meeting this criterion would be eligible for this payment whether in an obligated status or not.

The second component, variable special pay, would be payable to all military physicians on active duty regardless of obligational status and would range from $1,200 to $10,000 per year depending on length of service. This component was set to achieve the shape and level of the total compensation desired by the committee. It would be paid in monthly amounts.

The third component would be a payment for board certification and would increase with longevity from $2,000 per year to $5,000 per year. This amount would also be payable on a monthly basis.

I would like to summarize the impact of this bill in terms of the total compensation to which a military physician would be entitled. This total compensation is composed of regular military compensation (that is basic pay, basic allowance for quarters, basic allowance for subsistence, and the tax advantage that accrues because the allowances are not subject to Federal income tax) plus the special pays proposed by the committee.

The proposed special pay system would provide military physicians generally higher compensation than their counterparts in the private sector while in internship and residency training—that is, approximately $23,000 while in training (the same as today) and approximately $27,000 while in residency training (slightly more than today). Following training, a physician's income would increase dramatically and would total over $38,000 per year. During this period of time the individual will be making the decision to remain in or to leave military service at the end of obligation.

By 6 years of service physicians would receive increases, raising total compensation to over $45,000. The total amount of compensation increases gradually, thereafter, eventually reaching a level of $58,000 for a senior physician who is not board certified.

The payment for board certification begins at a relatively low level and increases to a maximum of $5,000 payable after 18 years of service. Thus, the reward for becoming board certified, in effect, gets larger as the physician stays in the military longer. The majority of physicians with higher years of service are board certified (over 80 percent); and the committee was informed that, generally, physician incomes in the civilian sector are higher for those who hold board certification. The committee established the level of payment for board certification at a lesser amount in the early years of service because military exigencies may hamper the progress of an individual who wishes to achieve board certification; but after 12 years of service the amount rises relatively rapidly. By this time the committee believes that the services should be able to accommodate, through appropriate assignments, those who wish to pursue board certification. A board certified physician would eventually reach a level of total compensation of over $63,000 per year.

Compared to the compensation available under the present system, the proposed system is slightly more beneficial while a military physician is in residency training; significantly more beneficial while the individual is in an obligated status and making the decision to stay or to leave; slightly better for a nonboard certified physician through 18 years of service; and approximately equal for a senior military physician who does not seek board certification. The proposal includes "save pay" provisions so that physicians presently on active duty could not receive less in total compensation after the date of enactment than they did the day before the date of enactment.

The proposed special pay system is significantly better—approximately $5,000 better—than the current system throughout for a physician who is board certified.

The proposed system places the greatest increase in compensation at the end of the initial active duty obligation and shortly thereafter and into the payment for board certification.

DENTISTS

The committee recommended a proposed special pay system for dentists structured in a manner similar to that recommended for physicians.

The payment received while not in internship or residency training increases with years of service starting at $6,000 for those with 3 but less than 12 years, increasing to $8,000 for those with 12 to 18 years, and reaching $10,000 for those with over 18 years of service. This payment would be made as a lump sum at the beginning of each year if the dental officer agrees to remain on active duty for that year.

The variable special pay varies by years of services ranging from $1,200 to $9,000. This component was set to approximate the shape and level of total compensation desired by the committee. Variable special pay would go to all dental officers, would be paid on a monthly basis, and would be independent of whether the dentist is in residency training.

In addition, dentists who are board qualified would be eligible for an additional monthly payment increasing as

their years of service increases ranging from $2,000 to $4,000 per year.

The proposed system would pay significantly more than the current system to military dentists with between 3 and 6 years, providing total compensation of slightly over $30,000. For the general practitioner, the proposed system would provide considerably more than the current system from 6 to 18 years but slightly less than the current system after 18 years. Of course, the proposed system includes "save pay" provisions such that no dentist could receive less total compensation than he would have received under the current system on the day before the date of enactment.

A board qualified dental officer would receive very significant increases under the proposed system throughout. The board qualified dental officer would reach $62,000 after 22 years of service.

OTHER FACTORS

The military health care delivery system provides benefits to active duty members, their dependents, retired members, and their dependents. The committee supports strongly the goal of providing adequate health care to those 9 million potential beneficiaries. The military health care delivery system is one of the most significant fringe benefits of military compensation. In addition, its quality impacts on the well-being and morale of each and every military member, and it is an essential element of our national defense posture. The committee was cognizant of the importance of attracting and retaining adequate numbers of military health professionals in support of this mission.

The committee looked at alternatives that would match more closely the incomes of physicians in the private sector. However, the committee concluded that the military should not pay more than is necessary to attract and retain the required number and quality of military health professionals. This implies some reliance on the favorable aspects of military medicine and dentistry, not just trying to overcome the negative aspects with more compensation.

We believe the pay bill we have developed within the committee is the first step toward a solution—not the final solution—to the problems that manifest themselves in the military health care delivery system today. To this end, we have included a provision that would authorize $3 million for a test of alternative compensation incentives for special problem areas remaining. For example, incentives directed toward the critical shortages by specialty, or toward retention of the nucleus of medical managers whose position as "role models" for the younger physician is so critically important. The bill has removed all relationship between obligated status and amount of pay. The bill has no expiration date; it provides permanent authority. The levels of pay would be explicitly delineated in the statutes—not subject to administrative modification.

The first year cost of this proposal will be approximately $39 million, growing to about $126 million by fiscal year 1984.

I have received calls from Dr. John Moxley, the new Assistant Secretary of Defense for Health Affairs and Mr. Vernon McKenzie, his principal deputy; Lt. Gen. Paul W. Myers, Surgeon General of the Air Force; Lt. Gen. Charles C. Pixley, Surgeon General of the Army; and Dr. Jay Sanford, dean of the School of Medicine of the Uniformed Services University of the Health Sciences. Each has offered strong support for the committee recommendations. In addition, we have received indications of strong support for this bill from the field, both from senior and junior military health professionals.

Finally, Mr. Speaker, I would like to take this opportunity to express deep appreciation and gratitude to the witnesses from the Department of Defense, the Surgeons General—and particularly to Mr. Vernon McKenzie—for their great assistance and responsiveness during our hearings. They provided a great wealth of information, insight, and support to the committee's efforts. Whatever progress has been made by the recommendations of the committee was brought about, to a large extent, through the untiring efforts of these managers and their very capable staffs.

Mr. Speaker, I urge the Members of the House to support H.R. 5235.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding.

I want to commend the gentleman from Alabama (Mr. NICHOLS), the ranking member of the subcommittee for reporting this legislation out. It was certainly needed. There was no opposition in the committee or any opposition that I have heard of. We are going to have a medical and dental staff that can take care of our uniformed service people. We have got to have this legislation.

Mr. Speaker, I am pleased to have this opportunity to speak out in support of H.R. 5235, the Uniformed Services Health Professionals Special Pay Act of 1979. There is growing evidence of rapidly deteriorating medical care in the military, and it is essential that we upgrade these services as quickly as possible.

In the recently published Nifty Nugget reports in the Washington Post, it was revealed that in a military emergency in Europe we would not have sufficient medical personnel to care for the wounded, and the more seriously wounded would have to be flown back to the United States for treatment. A number of those would die in transport, not from injuries that were untreatable but from the lack of adequate medical manpower.

This is an alarming revelation, and one that is not to be taken lightly. With world conditions as shaky as they are today, our basic military needs cannot be ignored. I would hate to think that we could send our young men into combat with no assurances of adequate physicians to take care of the casualties.

One of our recruitment incentives is the promise of medical care for the military personnel and their dependents. I am certain you have all heard disturbing personal stories of the inadequacy of the dependent care that is available and the long waiting periods these people have to go through in order to get this care. This is not due to poor quality in the medical personnel, rather it is due to a shortage in numbers of physicians and medical support teams, and it certainly points out the strong need to provide recruitment and other incentives to make a military medical practice more competitive with the civilian sector.

Through the provisions for special pay in H.R. 5235, I believe Mr. NICHOLS and his Military Compensation Subcommittee have designed an excellent solution to these problems, and I would urge my colleagues to join me in my support of this measure.

Thank you.

Mr. MITCHELL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support H.R. 5235.

The purpose of H.R. 5235 is to provide an improved system of special pay for the health professionals of the uniformed services.

Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point, a detailed description of the major provisions of the bill.

I would like to discuss first of all the need for the program. To put it as succinctly as possible, the present system just is not working. We have a very severe doctor shortage. It is becoming more critical as the months go by, and it affects all services and all specialists within those services. There is no help in sight.

As an example of the problem, the severity of the problem, the services have found it necessary to terminate more than 400 different services and facilities throughout the world and the armed services this past year. Probably the shortage is even more severe than is projected because the services have the practice, when the shortages become too extreme, to merely change the authorization level, to cut back on the authorization and thus make it look as though things are better than they actually are, but it is a very poor situation.

From another perspective, Mr. Speaker, the deteriorating health services are often cited by service personnel when they come before our Committee on Military Compensation as a major complaint.

In hearings by our committee, we frequently hear the complaint made of a breach of contract or a breach of promise by the Government. The services find this as one of the major reasons young people are leaving. We are having a tough time filling our volunteer slots in the service.

Now, the statute provides that only those on active duty must be provided health care. But the recruiters very often

promise far more than this to the people they are attracting to the services. They promise that not only will the active duty person receive health care, but so will his dependents, and should he stay in for the full term of years and retire, that he will receive health care then, as will his dependents.

So the perception today is that there is a cutback in health care, that there is an erosion of benefits. This is another buzz word we hear in this committee, erosion of benefits. They say that the cruel, shortsighted, ungrateful Congress is taking something else away from the serviceman, something more away from the serviceman who has pledged his life for his country.

Voting for this package, Mr. Speaker, will not only help dispel this perception, but of course help provide improved health care, by helping to attract and retain more physicians and more health practitioners throughout the services.

I would like now to touch on three broad guidelines that were used when this legislation was developed.

One is that no one in the services now will make any less than he is at the present time.

The second is that we are putting the dollars, for the first time, as an incentive, during the pressure points in a career pattern. This is a time when a person is trying to make a decision whether he is going to stay and practice his health profession or whether he is going to leave the services and return to the civilian sector. At the present time we increase payments on the basis of longevity; the longer a person is there, the more money he earns.

We have used one other technique and that was to pattern our pay patterns pretty much parallel with the way they are in the civilian sector. They are not equal but they are parallel, and that is a good technique also.

Let me touch briefly on several other aspects of the legislation.

OPTOMETRISTS

The proposed special pay system for optometrists is composed of two components. An annual bonus of $1,000 per year would be payable after 3 years of service as a lump sum in exchange for an agreement to serve an additional year on active duty. All optometric officers would be eligible for this payment as long as they are not undergoing residency training.

A variable special pay ranging from $3,000 to $1,000 per year would also be payable to all optometric officers. This payment would be made on a monthly basis.

The proposed system attempts to address those areas that appear to be most susceptible to increasing the number of optometry officers on active duty, just as was the case in the other health professions. The greatest increases in pay for optometrists would be in the junior years where retention can be affected most significantly, with lesser increases in the senior years when pay for military optometrists appears to be more competitive with the pay of their civilian counterparts. Total compensation, of course, would increase throughout an optometric officer's career.

PODIATRISTS

Podiatrists in the military with more than 3 years of service would be eligible for a payment of $100 per month under the committee recommendation. Presently, these health professionals are not eligible for any special pay. The committee, however, was provided evidence that military service is attractive for participants today because of the opportunity to pursue residency training in the military. Although such opportunity is scarce in the private sector presently, it appears to becoming more available in the future. The committee believed that action was necessary, now, to preclude a shortage from developing in the future.

The bill also requires a biennial review by the Secretary of Defense of the adequacy of the new system of special pays for health professionals and a report to Congress on that review.

An evaluation of alternatives for correcting existing and prospective shortages of medical and dental specialties in the Armed Forces including a test of the effectiveness of paying additional special pay to officers in special categories is required under H.R. 5235. An authorization for a $3 million appropriation in fiscal year 1981 is included for this evaluation.

Mr. Speaker, this legislation has the potential for significantly improving military health care delivery, and I urge all Members to support the bill.

FACT SHEET—SPECIAL PAY FOR MILITARY HEALTH PROFESSIONALS

This fact sheet outlines the major provisions of H.R. 5235—a bill to revise the special pay provisions for certain health profesionals of the uniformed services.

GENERAL

The new special pay provisions would replace the current special pay system. None of the payments provided by the bill would be dependent on the obligated status of the physician; there would be no expiration date for the authority for these payments; and the level of the payments would be specifically delineated in statute and not subject to administrative change.

PHYSICIANS

Three types of special pays are provided for physicians under the bill: a payment while not in internship or initial residency training; a variable special pay; and a payment for Board Certification.

PAYMENT WHILE NOT IN TRAINING

An annual payment of $10,000 per year would be provided to all physicians not engaged in internship or initial residency training. This payment would be offered as a lump sum at the beginning of a year for which a physician agrees to remain on active duty.

VARIABLE SPECIAL PAY

The second component, variable special pay, would be payable to *all* military physicians on active duty regardless of status and would range from $5,000 to $10,000 per year depending on years of creditable service ($1200 per year would be payable when a physician is engaged in internship). Variable special pay was set to achieve the desired shape and level of the total compensation curve. It would be paid on a monthly basis. The annual rates of variable special pay are shown below:

Years of creditable service:	*Annual variable special pay*
In internship	$1,200
Less than 6	5,000
6 to 8	10,000
8 to 10	9,500
10 to 12	9,000
12 to 14	8,000
14 to 18	7,000
18 to 22	6,000
Over 22	5,000

Flag officers would receive $1,000 as variable special pay regardless of years of service. They are also eligible for the other components of special pay if they meet the appropriate criteria.

PAYMENT FOR BOARD CERTIFICATION

The third component of special pay would be payable to physicians who have achieved Board Certification and would depend on years of creditable service. The amount would range from $2,000 to $5,000 per year and would be paid on a monthly basis. The annual rates are shown below:

Years of creditable service:	*Annual payment for board certification*
Less than 10	$2,000
10 to 12	2,500
12 to 14	4,000
14 to 18	4,000
Over 18	5,000

CREDITABLE SERVICE

For the purpose of establishing the amount of special pay, creditable service for a military physician is computed by adding all periods spent in medical internship and residency status while not on active duty plus all periods of active service as a military physician.

DENTISTS

The same three types of special pays are provided military dentists under the bill: a payment while not in internship or residency training; a variable special pay; and a payment for Board Qualification.

PAYMENT WHILE NOT IN TRAINING

The payment received while not in internship or residency training increases with years of creditable service and would be paid as a lump sum at the beginning of a year for which the dental officer agrees to remain on active duty. The annual rates are shown below:

Years of creditable service:	*Annual payment*
3 to 12	$5,000
12 to 18	8,000
Over 18	10,000

VARIABLE SPECIAL PAY

The second component, variable special pay, would depend on years of creditable service and would be paid on a monthly basis. The amounts of variable special pay were set to achieve the desired shape and level of total compensation for military dentists. This component of special pay would be paid to all military dentists. The annual rates of variable special pay are shown below:

Years of creditable service:	*Annual rate of variable special pay*
During internship	$1,200
Less than 6	2,000
6 to 8	5,000
8 to 10	7,000
10 to 12	9,000
12 to 14	8,000
14 to 18	7,000
Over 18	5,000

Flag officers would receive $1,000 as variable special pay regardless of years service. They are also eligible for the other components of special pay if they meet the appropriate criteria.

PAYMENT FOR BOARD QUALIFICATION

The third component of special pay for dental officers would be payable to dentists who had achieved Board Qualification and would depend on years of creditable service. The amount would range from $2,000 to $4,000 per year and would be paid on a monthly basis. The criterion for this payment would be Board Certification if that criterion were attainable in the private sector. The annual rates are shown below:

Years of creditable service:	*Annual payment for board qualification*
Less than 12	$2,000
12 to 14	3,000
Over 14	4,000

CREDITABLE SERVICE

For the purpose of establishing the amount of special pay, creditable service for a military dentist is computed by adding all periods spent in dental internship and residency status while not on active duty plus all periods of active service as a military dentist.

OPTOMETRISTS

Two types of special pay are provided military optometrists under the bill: a payment while not in residency training and variable special pay.

PAYMENT WHILE NOT IN TRAINING

The military optometrist with over 3 years of creditable service would be eligible for an annual lump sum payment of $1,000 in exchange for an agreement to remain on active duty for an additional year. All optometric officers would be eligible for this payment as long as they are not undergoing residency training.

VARIABLE SPECIAL PAY

A variable special pay would be payable to all optometric officers depending on years of service. It would be paid on a monthly basis. The annual rates of variable special pay are shown below:

Years of creditable service:	*Annual rate of variable special pay*
Less than 6	$3,000
6 to 12	2,500
12 to 16	2,000
Over 16	1,000

CREDITABLE SERVICE

For the purpose of establishing the amount of special pay, creditable service for a military optometrist is computed by adding all periods spent in optometric residency training while not on active duty plus all periods of active service as a military optometrist.

PODIATRISTS

Military podiatrists with over 3 years of creditable service would be eligible for a payment of $100 per month. Creditable service would be computed by adding all periods spent in podiatric residency training while not on active duty plus all periods of active service as a military podiatrist.

VETERINARIANS

Although no change was made to the amount of special pay received by a military veterinarian ($100 per month), the expiration date of the authority for this pay was repealed, and the authority was made permanent.

□ 1420

I would urge my colleagues to support this legislation. It is worthy; it is needed.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NICHOLS. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. NICHOLS) that the House suspend the rules and pass the bill (H.R. 5235).

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

INTEREST RATE MODIFICATIONS

Mr. DELLUMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5811) to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately.

The Clerk read as follows:

H.R. 5811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act shall not apply to the Interest Rate Modification Act of 1979 (District of Columbia act 3-119) passed by the Council of the District of Columbia on November 6, 1979, and signed by the Mayor of the District of Columbia on November 6, 1979, and such District of Columbia act shall become law on the date of the enactment of this Act, notwithstanding 404(e) of the District of Columbia Self-Government and Government Reorganization Act and any provision to the contrary in such District of Columbia act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. DELLUMS) will be recognized for 20 minutes, and the gentleman from Connecticut (Mr. MCKINNEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5811 is to make effective immediately an act of the Council of the District of Columbia, thereby waiving the 30-day congressional layover period specified in section 602(c)(1) of the Home Rule Act (District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Public Law 93-198).

The Council Act which would become law, immediately upon enactment of H.R. 5811, is the Interest Rate Modification Act of 1979 (D.C Act 3-119), which was passed by the Council on November 6, 1979, and signed by the Mayor on the same day. The District Act raises the usury limitation on residential and certain other consumer loans to 15 percent.

Without H.R. 5811, Council Act 3-119 would not take effect for 30 legislative days from the time it was transmitted to the Speaker of the House and the President of the Senate. Based on expected legislative days ahead, the congressional layover period of 30 days would expire about February 1, 1980.

Recently, the Federal National Mortgage Association announced that it would no longer purchase home mortgages on property in the District of Columbia. The Federal Home Loan Mortgage Corporation, private participants in the secondary mortgage market, and other residential mortgage lenders, have taken similar action.

The typical market rate for residential mortgages is about 14 percent in the District of Columbia. However, lenders fear that earlier action taken by the District Council, namely, on October 5, 1979, to raise the usury limitation on residential mortgages from 11 percent to 15 percent may be invalid. This action by the Council was taken by adopting a temporary Second Emergency Act (D.C. Act 3-105), which is due to expire on January 3, 1980. By that time, the 30 legislative days required for congressional layover of Council Act 3-119 will not have expired, thus, the necessity for the emergency legislation before us at this time, that is, H.R. 5811.

Also, a recent trial court decision in a case involving condominium conversion regulations has raised doubts about the legality of the "emergency acts" of the Council.

Mr. Speaker and Members of this distinguished body, without H.R. 5811, persons seeking to buy or sell residential property in the District of Columbia will be unable to get a mortgage loan for about 3 months. Many pending settlements have already been suspended.

In addition, the bill before us, H.R. 5811, clarifies any questions as to the status of loans with effective interest rates in excess of 11 percent made since October 5, 1979, which was the effective date of District of Columbia Act 3-105, the "emergency" act setting the interest ceiling at 15 percent. The committee does not doubt the validity of act 3-105, and in section 2(b)(2) of D.C. Act 3-119, the Council has affirmed the 15 percent ceiling set in D.C. Act 3-105 effective October 5, 1979.

Thus, H.R. 5811 is needed to prevent the potential for grave and irreparable harm to the citizens of the District of Columbia if the nonusurious character of loans made between October 5, 1979, and the effective date of this act, is called into question. It is the specific intent of the committee that this bill remove any and all questions as to the nonusurious character of those loans.

Mr. McKINNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5811. The decision by several lending institutions to stop making mortgage loans has created a genuine emergency in the city's housing market.

The consequences of this mortgage loan crisis for the area's real estate market, as well as many prospective home buyers, is very serious. Several of the area's largest savings and loan associations and other lending institutions have already postponed loan settlements and ceased accepting new applications. This can only make a bad housing situation worse.

The legality of the District's emergency legislation procedures, which it has used twice to raise the usury limitation on residential mortgages, has been questioned in a recent court decision. The city's permanent legislation to lift the interest ceiling will not become effective until after the 30-day congressional review period. Without this legislation, persons wishing to buy and sell residential property in the District of Columbia will have to wait for months.

I do have reservations about the District's decision to maintain a usury ceiling and the City Council's current use of its emergency legislative powers. It is my feeling that in fact, if an issue is important enough to be legislated by the City Council, it should be passed through the permanent legislative process. But these are matters to be brought up for discussion at another time. It is unfair to ask prospective buyers and sellers in the District of Columbia to bear the brunt of a problem that is the result of legislative procedural quirks.

Therefore, I urge my colleagues to join me in support of H.R. 5811.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to the gentleman from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 5811, a bill to allow the Interest Rate Modification Act of 1979 passed by the Council of the District of Columbia to take effect immediately. This extraordinary legislation is necessary because of the decision by the Federal National Mortgage Association to cease purchases of mortgages secured by residential real estate located in the District of Columbia.

The magnitude of that decision, which was followed by other secondary market investors, is best understood when measured against the holdings by this single institution, FNMA, of District of Columbia mortgages with a July 1979 value of more than $187 million. Additional unknown amounts are held by the Federal Home Loan Mortgage Corporation, and other private and governmental investors.

The decision by other lenders to follow the lead of FNMA was based upon the fact that the security laws put a heavy burden upon an investor to demonstrate that the decision reached by FNMA held almost no chance of success should a legal challenge be made against any obligation held in the portfolio which originated from the District of Columbia. Quite understandably, all mortgage lending ceased in the city.

The legislation which is pending before you would end that impasse by waiving the 30-day layover which is required in the Home Rule Act. The City Council did pass emergency legislation to increase the interest rate ceilings. The committee believes, I understand, that legislation to be legally proper. However, the decision by mortgage lenders, which is based upon another court case with a holding which broadly questions the right of the city to utilize emergency legislation more than once on the same subject, has effectively clouded any further lending until the city's permanent legislation is effective. This bill would make that permanent law effective immediately. Additionally, I would note that the law relates back to any transactions which occurred since October 5, 1979, the intended effective date of the emergency legislation and thereby removes any cloud over loans made subsequent to that date.

This legislation does not deal with any of the other questions concerning emergency legislation. There is some belief that we ought to await the decision of the court of appeals so that we can have the benefit of their thinking in this matter. When the decision is rendered, the subcommittee of which I am chairman, Governmental Affairs and Budget, will carefully weigh other amendments as we find are necessary. No one wants a repeat of this event and no one can assure you that anything we draft will be effective until we hear from the court of appeals, if indeed they say that some remedy is necessary or desirable.

I cannot overemphasize that the resultant lack of mortgages has nothing to do with the city council or the mayor. Both have acted responsibly and timely to the best of their legal capacity. They could not have acted any other way than they did. In these times of absolutely unpredictable interest rates and inflation, any attempt to protect the citizens against nonmarket interest rates—or usurious rates of interest—is going to be hard, difficult, and fraught with some potential complications. This is a problem other States are having. The Congress is being asked to meet their needs in special legislation and this is no different. I urge your support for the bill and its speedy passage.

I yield back the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. Mr. Speaker, I am sure my colleagues have seen in the front pages of all of the Washington papers in the last few days that there is a crisis right now in the mortgage market in the District of Columbia which has been delineated by the distinguished chairman of our committee and the distinguished ranking minority member.

The D.C. City Council has, as has been explained, passed permanent legislation that resolves this crisis. The bill is signed into law 1 week ago today by the Mayor of the District of Columbia.

□ 1430

The problem is that under the provisions of the D.C. Home Rule Act, permanent legislation such as has been passed by the D.C. City Council has to come up here to Congress for a review period of 30 legislative days before it becomes law. In this case, as Mr. McKINNEY indicated, the 30-legislative-day period is likely to extend into January, February, and even March of next year.

In the meantime, we have a genuine crisis on our hands here in the Washington area. It is a crisis which affects not only the District of Columbia but also the suburbs. The impact on the real estate market of the entire Washington, D.C. area is very closely intertwined, and the impact is severe upon realtors, renters, and particularly those buyers and sellers who have been hoping that they will be able to act in the next couple of weeks.

In that respect, I might indicate that all the representatives of the suburban congressional districts have joined in support of this legislation, including the gentleman from Virginia (Mr. HARRIS), the gentleman from Virginia (Mr. FISHER), and the gentlewoman from Maryland (Mrs. SPELLMAN). That is why I, together with Delegate FAUNTROY and leaders of the D.C. Committee, have introduced this legislation.

This is a very simple bill that simply removes, in this one instance, the requirement for a 30-day review period. The cost to the Federal Government of this legislation is zero. It merely allows the District of Columbia to do immediately what other jurisdictions all around the country have already done; that is, raise the ceiling on interest rates. Without this bill, the paralysis in the mortgage field in the District of Columbia is going to continue.

I think it is imperative that we vote immediately to suspend the rules and pass this legislation. I thank the distinguished chairman for his leadership in calling the D.C. Committee together on an emergency basis to bring this legislation to the floor. The committee acted unanimously, and I hope that the full House will concur in that judgment this afternoon.

Mr. DELLUMS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DELLUMS) that the House suspend the rules and pass the bill, H.R. 5811.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CALL OF THE HOUSE

Mr. GARCIA. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 650]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clay
Clinger
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Pascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mavroules
Mica
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schulze
Sensenbrenner
Shannon
Shelby
Shumway
Shuster
Sikes
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1450

The SPEAKER pro tempore. On this rollcall 366 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 5461, House Concurrent Resolution 200, and H.R. 5235, on which the yeas and nays were ordered.

The Chair will reduce to 5 minutes the time for any electronic votes after the first vote in this series.

MARTIN LUTHER KING BIRTHDAY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5461, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GARCIA) that the House suspend the rules and pass the bill, H.R. 5461, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 252, nays 133, not voting 48, as follows:

[Roll No. 651]

YEAS—252

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Benjamin
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burlison
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Davis, S.C.
Deckard
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Duncan, Tenn.
Early
Eckhardt
Edwards, Calif.
Edwards, Okla.
Emery
Ertel
Evans, Del.
Evans, Ga.
Fary
Pascell
Fazio
Perraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Leach, La.
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McDade
McHugh
McKinney
Maguire
Markey
Marks
Mathis
Matsui
Mavroules
Mica
Miller, Calif.
Minsta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nelson
Nolan
Carney
Cheney
Clinger
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Derwinski
Devine
Dickinson
Dornan
Duncan, Oreg.
Edwards, Ala.
English
Erdahl
Erlenborn
Evans, Ind.
Findley
Flippo
Forsythe
Frenzel
Goodling
Gradison
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hansen
Harsha
Hinson
Holt

NAYS—133

Ichord	Mollohan	Shuster
Jeffords	Montgomery	Slack
Jeffries	Moore	Smith, Nebr.
Jenkins	Moorhead, Calif.	Snyder
Kelly	Myers, Ind.	Solomon
Kindness	Nedzi	Spence
Kramer	Nichols	Stangeland
Lagomarsino	O'Brien	Stenholm
Latta	Paul	Stump
Leath, Tex.	Petri	Symms
Lewis	Quillen	Tauke
Livingston	Regula	Taylor
Loeffler	Ritter	Thomas
Lott	Roberts	Walker
Lujan	Robinson	Wampler
Lungren	Rousselot	Watkins
McCormack	Royer	White
McDonald	Rudd	Whitehurst
McEwen	Runnels	Whittaker
McKay	Satterfield	Winn
Madigan	Sawyer	Wydler
Marlenee	Schulze	Wylie
Marriott	Sensenbrenner	Young, Alaska
Martin	Shumway	Young, Fla.
Miller, Ohio		Zablocki

NOT VOTING—48

Albosta	Flood	Mazzoli
Anderson, Ill.	Fuqua	Michel
Ashley	Gephardt	Mikulski
Barnard	Goldwater	Moorhead, Pa.
Boggs	Heckler	Pashayan
Bonker	Holland	Rahall
Bowen	Holtzman	Rosenthal
Breaux	Hutto	Roth
Buchanan	Johnson, Colo.	Schroeder
Burton, John	Jones, N.C.	Sebelius
Cleveland	Kemp	Snowe
Coelho	Kostmayer	Stark
Coleman	LaFalce	Stockman
Crane, Philip	Lee	Treen
Edgar	McCloskey	Whitten
Fenwick	Mattox	Wilson, Tex.

□ 1500

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs and Mr. Rahall for, with Mr. Sebelius against.

Mrs. Heckler and Mr. Jones of North Carolina for, with Mr. Breaux against.

Ms. Holtzman and Mr. Rosenthal for, with Mr. Lee against.

Mr. Flood and Mr. Stark for, with Mr. Roth against.

Until further notice:

Mr. Albosta with Mr. Anderson of Illinois.
Mr. Udall with Mrs. Snowe.
Mr. LaFalce with Mr. Michel.
Mr. Mazzoli with Mr. Pashayan.
Mr. Ashley with Mr. Kemp.
Mr. Bowen with Mr. Goldwater.
Mr. John L. Burton with Mr. McCloskey.
Mr. Coelho with Mrs. Fenwick.
Mr. Fuqua with Mr. Buchanan.
Mr. Whitten with Mr. Philip M. Crane.
Mrs. Schroeder with Mr. Mattox.
Mr. Moorhead of Pennsylvania with Mr. Cleveland.
Ms. Mikulski with Mr. Bonker.
Mr. Barnard with Mr. Edgar.
Mr. Kostmayer with Mr. Charles Wilson of Texas.
Mr. Gephardt with Mr. Holland.

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

SENSE OF CONGRESS EXPRESSION RESPECTING BALTIC STATES AND SOVIET CITIZENSHIP CLAIMS OVER CERTAIN U.S. CITIZENS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 200) as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. FITHIAN) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 200) as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 390, nays 0, not voting 43, as follows:

[Roll No. 652]

YEAS—390

Abdnor	Corcoran	Gonzalez
Addabbo	Corman	Goodling
Akaka	Cotter	Gore
Albosta	Coughlin	Gradison
Alexander	Courter	Gramm
Ambro	Crane, Daniel	Grassley
Anderson, Calif.	D'Amours	Green
Andrews, N.C.	Daniel, Dan	Grisham
Andrews, N. Dak.	Daniel, R. W.	Guarini
Annunzio	Danielson	Gudger
Anthony	Dannemeyer	Guyer
Applegate	Daschle	Hagedorn
Archer	Davis, Mich.	Hall, Ohio
Ashbrook	Davis, S.C.	Hall, Tex.
Aspin	de la Garza	Hamilton
Atkinson	Deckard	Hammer-schmidt
AuCoin	Dellums	Hance
Badham	Derrick	Hanley
Bafalis	Derwinski	Hansen
Bailey	Devine	Harkin
Baldus	Dickinson	Harris
Barnes	Dicks	Harsha
Bauman	Diggs	Hawkins
Beard, R.I.	Dingell	Hefner
Beard, Tenn.	Dixon	Heftel
Bedell	Dodd	Hightower
Bellenson	Donnelly	Hillis
Benjamin	Dornan	Hinson
Bennett	Dougherty	Hollenbeck
Bereuter	Downey	Holt
Bethune	Drinan	Hopkins
Bevill	Duncan, Oreg.	Horton
Biaggi	Duncan, Tenn.	Howard
Bingham	Early	Hubbard
Blanchard	Eckhardt	Huckaby
Boland	Edwards, Ala.	Hughes
Bolling	Edwards, Calif.	Hutto
Bonior	Edwards, Okla.	Hyde
Bouquard	Emery	Ichord
Brademas	English	Ireland
Brinkley	Erdahl	Jacobs
Brodhead	Erlenborn	Jeffords
Brooks	Ertel	Jeffries
Broomfield	Evans, Del.	Jenkins
Brown, Calif.	Evans, Ga.	Jenrette
Brown, Ohio	Evans, Ind.	Johnson, Calif.
Broyhill	Fary	Jones, Okla.
Burgener	Fascell	Jones, Tenn.
Burlison	Fazio	Kastenmeier
Burton, Phillip	Ferraro	Kazen
Butler	Findley	Kelly
Byron	Fish	Kildee
Campbell	Fisher	Kindness
Carney	Fithian	Kogovsek
Carr	Florio	Kramer
Carter	Foley	LaFalce
Cavanaugh	Ford, Mich.	Lagomarsino
Chappell	Ford, Tenn.	Latta
Cheney	Forsythe	Leach, Iowa
Chisholm	Fountain	Leach, La.
Clausen	Fowler	Leath, Tex.
Clay	Frenzel	Lederer
Clinger	Frost	Lehman
Coleman	Garcia	Leland
Collins, Ill.	Gaydos	Lent
Collins, Tex.	Giaimo	Levitas
Conable	Gibbons	Lewis
Conte	Gilman	Livingston
Conyers	Ginrich	Lloyd
	Ginn	Loeffler
	Glickman	Long, La.
	Long, Md.	Patten
	Lott	Patterson
	Lowry	Paul
	Lujan	Pease
	Luken	Pepper
	Lundine	Perkins
	Lungren	Petri
	McClory	Peyser
	McCormack	Pickle
	McDade	Preyer
	McDonald	Price
	McEwen	Pritchard
	McHugh	Pursell
	McKay	Quayle
	McKinney	Quillen
	Madigan	Railsback
	Maguire	Rangel
	Markey	Ratchford
	Marks	Regula
	Marlenee	Reuss
	Marriott	Rhodes
	Martin	Richmond
	Mathis	Rinaldo
	Matsui	Ritter
	Mavroules	Roberts
	Mica	Robinson
	Miller, Calif.	Rodino
	Miller, Ohio	Roe
	Mineta	Rose
	Minish	Rostenkowski
	Mitchell, Md.	Rousselot
	Mitchell, N.Y.	Roybal
	Moakley	Royer
	Moffett	Rudd
	Mollohan	Runnels
	Montgomery	Russo
	Moore	Sabo
	Moorhead, Calif.	Santini
	Mottl	Satterfield
	Murphy, Ill.	Sawyer
	Murphy, N.Y.	Scheuer
	Murphy, Pa.	Schulze
	Murtha	Seiberling
	Myers, Ind.	Sensenbrenner
	Myers, Pa.	Shannon
	Natcher	Sharp
	Neal	Shelby
	Nedzi	Shumway
	Nelson	Shuster
	Nichols	Simon
	Nolan	Skelton
	Nowak	Slack
	O'Brien	Smith, Iowa
	Oakar	Smith, Nebr.
	Oberstar	Snyder
	Obey	Solarz
	Ottinger	Solomon
	Panetta	Spellman
	Pashayan	Spence
		St Germain

NAYS—0

NOT VOTING—43

Anderson, Ill.	Fuqua	Michel
Ashley	Gephardt	Mikulski
Barnard	Goldwater	Moorhead, Pa.
Boggs	Gray	Rahall
Bonker	Heckler	Rosenthal
Bowen	Holland	Roth
Breaux	Holtzman	Schroeder
Buchanan	Johnson, Colo.	Sebelius
Burton, John	Jones, N.C.	Snowe
Cleveland	Kemp	Stark
Coelho	Kostmayer	Stockman
Crane, Philip	Lee	Treen
Edgar	McCloskey	Wilson, Tex.
Fenwick	Mattox	
Flood	Mazzoli	

□ 1510

The Clerk announced the following pairs:

Mr. Jones of North Carolina with Mr. Anderson of Illinois.
Mr. Gray with Mr. Lee.
Mr. Fuqua with Mr. Kemp.
Mr. Gephardt with Mrs. Heckler.
Mr. Ashley with Mr. Goldwater.
Mrs. Boggs with Mr. Philip M. Crane.
Mr. Breaux with Mrs. Fenwick.
Mr. Charles Wilson of Texas with Mrs. Snowe.
Mr. Rahall with Mr. Roth.
Mr. Moorhead of Pennsylvania with Mr. McCloskey.
Mr. Holland with Mr. Buchanan.
Mr. Edgar with Mr. Sebelius.
Ms. Mikulski with Ms. Holtzman.
Mr. Coelho with Mr. Cleveland.

Mr. John L. Burton with Mr. Kostmayer.
Mr. Rosenthal with Mr. Mattox.
Mr. Mazzoli with Mr. Stark.
Mr. Bowen with Mrs. Schroeder.
Mr. Barnard with Mr. Bonker.

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

POINT OF ORDER

Mr. WOLFF. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WOLFF. Mr. Speaker, during the past votes, the light on the board indicated that Representative SCHROEDER voted "aye." The gentlewoman from Colorado (Mrs. SCHROEDER) is in Cambodia at the moment, and I do not believe that she is voting. There must be something wrong with the voting machine. Can the Chair inform us?

The SPEAKER pro tempore (Mr. MINISH). The Chair will advise the gentleman that there is some problem with the light, but the gentlewoman from Colorado (Mrs. SCHROEDER) is not recorded as having voted on any vote today.

Mr. WOLFF. I thank the Chair.

PAY RESTRUCTURE OF UNIFORMED SERVICES HEALTH PROFESSIONALS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5235.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. NICHOLS) that the House suspend the rules and pass the bill, H.R. 5235, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 10, answered "present" 1, not voting 45, as follows:

[Roll No. 653]

YEAS—377

Abdnor	Bingham	Collins, Tex.
Addabbo	Blanchard	Conable
Akaka	Boland	Conte
Albosta	Bolling	Corcoran
Alexander	Bonior	Corman
Ambro	Bouquard	Cotter
Anderson, Calif.	Brademas	Coughlin
Andrews, N.C.	Brinkley	Courter
Andrews, N. Dak.	Brodhead	Crane, Daniel
Annunzio	Brooks	D'Amours
Anthony	Broomfield	Daniel, Dan
Applegate	Brown, Calif.	Daniel, R. W.
Archer	Brown, Ohio	Danielson
Ashbrook	Broyhill	Dannemeyer
Aspin	Burgener	Daschle
Atkinson	Burlison	Davis, Mich.
AuCoin	Burton, Phillip	Davis, S.C.
Badham	Butler	de la Garza
Bafalis	Byron	Deckard
Bailey	Campbell	Dellums
Baldus	Carney	Derrick
Barnes	Carr	Derwinski
Bauman	Carter	Devine
Beard, R.I.	Cavanaugh	Dickinson
Beard, Tenn.	Chappell	Dicks
Bedell	Cheney	Diggs
Bennett	Chisholm	Dingell
Bereuter	Clausen	Dixon
Bethune	Clay	Dodd
Bevill	Clinger	Donnelly
Biaggi	Coleman	Dornan
	Collins, Ill.	Dougherty
		Downey
	Drinan	Kramer
	Duncan, Oreg.	LaFalce
	Duncan, Tenn.	Lagomarsino
	Early	Latta
	Eckhardt	Leach, Iowa
	Edwards, Ala.	Leach, La.
	Edwards, Calif.	Leath, Tex.
	Edwards, Okla.	Lederer
	Emery	Lehman
	English	Leland
	Erdahl	Lent
	Erlenborn	Levitas
	Ertel	Lewis
	Evans, Del.	Livingston
	Evans, Ga.	Lloyd
	Evans, Ind.	Loeffler
	Fary	Long, La.
	Fascell	Long, Md.
	Fazio	Lott
	Ferraro	Lowry
	Findley	Lujan
	Fish	Luken
	Fisher	Lundine
	Fithian	Lungren
	Flippo	McClory
	Florio	McCormack
	Foley	McDade
	Ford, Mich.	McDonald
	Ford, Tenn.	McEwen
	Forsythe	McHugh
	Fowler	McKay
	Frenzel	McKinney
	Frost	Madigan
	Garcia	Maguire
	Gaydos	Markey
	Giaimo	Marks
	Gibbons	Marlenee
	Gilman	Marriott
	Ginrich	Mathis
	Ginn	Matsui
	Glickman	Mavroules
	Gonzalez	Mica
	Goodling	Miller, Calif.
	Gore	Miller, Ohio
	Gradison	Mineta
	Gramm	Minish
	Grassley	Mitchell, Md.
	Gray	Mitchell, N.Y.
	Green	Moakley
	Grisham	Moffett
	Guarini	Mollohan
	Gudger	Montgomery
	Guyer	Moore
	Hagedorn	Moorhead, Calif.
	Hall, Ohio	Murphy, Ill.
	Hall, Tex.	Murphy, N.Y.
	Hamilton	Murphy, Pa.
	Hammer-schmidt	Murtha
	Hance	Myers, Ind.
	Hanley	Myers, Pa.
	Harris	Natcher
	Harsha	Neal
	Hawkins	Nedzi
	Hefner	Nelson
	Heftel	Nichols
	Hightower	Nowak
	Hillis	O'Brien
	Hinson	Oakar
	Hollenbeck	Oberstar
	Holt	Obey
	Hopkins	Ottinger
	Horton	Panetta
	Howard	Pashayan
	Hubbard	Patten
	Huckaby	Patterson
	Hughes	Pease
	Hutto	Pepper
	Hyde	Perkins
	Ichord	Petri
	Ireland	Peyser
	Jacobs	Pickle
	Jeffords	Preyer
	Jeffries	Price
	Jenkins	Pritchard
	Johnson, Calif.	Purseil
	Jones, Okla.	Quayle
	Jones, Tenn.	Quillen
	Kastenmeier	Railsback
	Kazen	Rangel
	Kelly	Ratchford
	Kildee	Regula
	Kindness	Reuss
	Kogovsek	Rhodes
		Richmond
		Rinaldo
		Ritter
		Roberts
		Robinson
		Rodino
		Roe
		Rose
		Rostenkowski
		Rousselot
		Roybal
		Royer
		Rudd
		Runnels
		Russo
		Sabo
		Santini
		Satterfield
		Sawyer
		Scheuer
		Schulze
		Seiberling
		Sensenbrenner
		Shannon
		Sharp
		Shelby
		Shumway
		Shuster
		Simon
		Skelton
		Slack
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Solarz
		Solomon
		Spellman
		Spence
		St Germain
		Staggers
		Stangeland
		Stanton
		Steed
		Stenholm
		Stewart
		Stokes
		Stratton
		Studds
		Stump
		Swift
		Symms
		Synar
		Tauke
		Taylor
		Thomas
		Thompson
		Traxler
		Trible
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Vento
		Volkmer
		Walgren
		Walker
		Wampler
		Watkins
		Waxman
		Weaver
		Weiss
		White
		Whitehurst
		Whitley
		Whittaker
		Whitten
		Williams, Ohio
		Wilson, Bob
		Wilson, C. H.
		Winn
		Wolff
		Wolpe
		Wright
		Wyatt
		Wydler
		Wylie
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Mo.
		Zablocki
		Zeferetti

NAYS—10

Bellenson	Jenrette	Wirth
Benjamin	Martin	Yates
Hansen	Motti	
Harkin	Nolan	

ANSWERED "PRESENT"—1

Paul

NOT VOTING—45

Anderson, Ill.	Flood	Mazzoli
Ashley	Fountain	Michel
Barnard	Fuqua	Mikulski
Boggs	Gephardt	Moorhead, Pa.
Bonker	Goldwater	Rahall
Bowen	Heckler	Rosenthal
Breaux	Holland	Roth
Buchanan	Holtzman	Schroeder
Burton, John	Johnson, Colo.	Sebelius
Cleveland	Jones, N.C.	Snowe
Coelho	Kemp	Stark
Conyers	Kostmayer	Stockman
Crane, Philip	Lee	Treen
Edgar	McCloskey	Williams, Mont.
Fenwick	Mattox	Wilson, Tex.

□ 1520

The Clerk announced the following pairs:

Mr. Rahall with Mr. Anderson of Illinois.
Ms. Mikulski with Mr. Lee.
Mrs. Schroeder with Mr. Goldwater.
Mr. Ashley with Mr. Kemp.
Mrs. Boggs with Mrs. Snowe.
Mr. Coelho with Mr. Sebelius.
Mr. Mazzoli with Mr. Roth.
Mr. Breaux with Mr. McCloskey.
Mr. Conyers with Mrs. Heckler.
Mr. Kostmayer with Mrs. Fenwick.
Ms. Holtzman with Mr. Philip M. Crane.
Mr. Jones of North Carolina with Mr. Cleveland.
Mr. Gephardt with Mr. Buchanan.
Mr. Stark with Mr. Fountain.
Mr. Charles Wilson of Texas with Mr. Rosenthal.
Mr. Mattox with Mr. Moorhead of Pennsylvania.
Mr. Williams of Montana with Mr. Holland.
Mr. Fuqua with Mr. Bowen.
Mr. John L. Burton with Mr. Edgar.
Mr. Barnard with Mr. Bonker.

Mr. ROUSSELOT changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MALFUNCTION IN ELECTRONIC VOTING SYSTEM LIGHT

Mr. THOMPSON. Mr. Speaker, due to a malfunction in a light on the display of Members names and not in the computer of the electronic voting system, I would like to explain to my colleagues why the light opposite the name of the gentlewoman from Colorado (Mrs. SCHROEDER), has been showing this afternoon.

I would like to assure the Members that the gentlewoman's name is not being recorded as having voted "aye," "nay," or "present." It is simply a light malfunction caused by a faulty relay. I would like to assure my colleagues that this is the situation.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from New York.

Mr. BIAGGI. I appreciate what the gentleman stated. I have witnessed it in four consecutive votes.

The machine has indicated that the gentlewoman from Colorado (Mrs. SCHROEDER) has voted in the affirmative. We know she is in Cambodia. No one is even implying she is voting with her card or any wrongdoing, but the inescapable conclusion is that the mechanism is faulty. It is not infallible.

Mr. THOMPSON. I agree with the gentleman from New York (Mr. BIAGGI), there is no infallibility. However, assurances by me, the gentleman from North Carolina (Mr. ROSE), the gentleman from Michigan (Mr. STOCKMAN), and those responsible for the operation of the electronic voting system are that we will look into the matter and will report back to the House. It is clear that no votes have been recorded by the gentlewoman from Colorado. It is a simple electrical malfunction.

Mr. BIAGGI. If the gentleman will continue to yield, I could not agree with the gentleman more as far as the gentlewoman from Colorado is concerned, but in this instance, the machine proves to be fallible in that there was a lighting malfunction; but the fact that it is fallible in this instance means it could be fallible in another fashion or any other fashion.

Mr. THOMPSON. If the gentleman from New York (Mr. BIAGGI) has any other rollcalls about which he has questions, if the gentleman will be kind enough to transmit them to me or to the gentleman from North Carolina (Mr. ROSE), we will be glad to respond.

I simply am reassuring Members that no actual recording of the votes by the gentlewoman from Colorado have taken place. An electrical malfunction is responsible and will be corrected as soon as possible.

Mr. Speaker, I yield back the balance of my time.

□ 1530

APPOINTMENT OF CONFEREES ON S. 751, NAVAJO-HOPI INDIANS RELOCATION AMENDMENTS ACT

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes, with a House amendment thereto, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona? The Chair hears none and, without objection, appoints the following conferees: Messrs. UDALL, RUNNELS, MILLER of California, GUDGER, LUJAN, and MARRIOTT.

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1980—MOTION TO CLOSE CONFERENCE

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ADDABBO moves, pursuant to rule XXVIII 6(a) of the House rules that the conference committee meetings between the House and the Senate on H.R. 5359, the fiscal year 1980 Department of Defense Appropriation bill, be closed to the public at such times as classified national security information is under consideration: *Provided however*, That any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. Does the gentleman from New York desire to speak on his motion?

Mr. ADDABBO. I do, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, this motion is required by the rules of the House and is the same motion which has been approved by the House previously. While we are conferring with the Senate on the Defense appropriation bill, a number of highly classified matters that cannot be discussed in open session will be considered. Of course, under the motion, all Members of Congress may attend any of the closed conference meetings.

I do not believe there is any controversy with regard to my motion and ask for a favorable vote.

The SPEAKER pro tempore. The Chair will inform the Members that under the rules the vote must be taken by the yeas and nays.

Voting will be by electronic device.

The vote was taken by electronic device, and there were—yeas 381, nays 0, answered "present" 3, not voting 49, as follows:

[Roll No. 654]

YEAS—381

Abdnor	Clausen	Florio
Addabbo	Clinger	Foley
Akaka	Coleman	Ford, Mich.
Albosta	Collins, Ill.	Ford, Tenn.
Alexander	Collins, Tex.	Forsythe
Ambro	Conable	Fountain
Anderson, Calif.	Conte	Fowler
	Conyers	Frenzel
Andrews, N.C.	Corcoran	Frost
Andrews, N. Dak.	Corman	Garcia
	Cotter	Gaydos
Annunzio	Coughlin	Giaimo
Anthony	Courter	Gibbons
Applegate	Crane, Daniel	Gilman
Archer	D'Amours	Gingrich
Ashbrook	Daniel, Dan	Ginn
Aspin	Daniel, R. W.	Glickman
Atkinson	Danielson	Gonzalez
AuCoin	Dannemeyer	Goodling
Bafalis	Daschle	Gore
Bailey	Davis, Mich.	Gradison
Baldus	Davis, S.C.	Gramm
Barnes	de la Garza	Grassley
Bauman	Deckard	Gray
Beard, R.I.	Dellums	Green
Beard, Tenn.	Derrick	Grisham
Bedell	Derwinski	Guarini
Bellenson	Devine	Gudger
Benjamin	Dickinson	Guyer
Bennett	Dicks	Hagedorn
Bereuter	Dingell	Hall, Ohio
Bethune	Dixon	Hall, Tex.
Bevill	Dodd	Hamilton
Biaggi	Donnelly	Hammer-schmidt
Bingham	Dornan	
Blanchard	Dougherty	Hance
Boland	Downey	Hanley
Bolling	Drinan	Hansen
Bonar	Duncan, Oreg.	Harkin
Bonior	Duncan, Tenn.	Harris
Bouquard	Early	Harsha
Bowen	Eckhardt	Hawkins
Brademas	Edwards, Ala.	Hefner
Brinkley	Edwards, Calif.	Heftel
Brodhead	Edwards, Okla.	Hightower
Brooks	Emery	Hillis
Broomfield	English	Hinson
Brown, Calif.	Erdahl	Hollenbeck
Brown, Ohio	Erlenborn	Holt
Broyhill	Ertel	Hopkins
Burgener	Evans, Del.	Horton
Burlison	Evans, Ga.	Howard
Burton, Phillip	Evans, Ind.	Hubbard
Butler	Fary	Huckaby
Byron	Fascell	Hughes
Carney	Fazio	Hutto
Carr	Ferraro	Hyde
Carter	Findley	Ichord
Cavanaugh	Fish	Ireland
Chappell	Flaher	Jacobs
Cheney	Fithian	Jeffords
Chisholm	Flippo	Jeffries
Jenkins	Murphy, Ill.	Simon
Jenrette	Murphy, N.Y.	Skelton
Johnson, Calif.	Murphy, Pa.	Slack
Jones, Okla.	Murtha	Smith, Iowa
Jones, Tenn.	Myers, Ind.	Smith, Nebr.
Kastenmeier	Myers, Pa.	Snyder
Kazen	Natcher	Solarz
Kelly	Neal	Solomon
Kildee	Nedzi	Spellman
Kindness	Nelson	Spence
Kogovsek	Nichols	St Germain
Kramer	Nowak	Stack
LaFalce	O'Brien	Staggers
Lagomarsino	Oakar	Stangeland
Latta	Oberstar	Stanton
Leach, Iowa	Obey	Stenholm
Leach, La.	Ottinger	Stewart
Leath, Tex.	Fanetta	Stokes
Lederer	Pashayan	Stratton
Lehman	Patten	Studds
Leland	Patterson	Stump
Lent	Paul	Swift
Levitas	Pease	Symms
Lewis	Pepper	Synar
Livingston	Perkins	Tauke
Lloyd	Petri	Taylor
Loeffler	Peyser	Thomas
Long, La.	Pickle	Traxler
Long, Md.	Prever	Trible
Lott	Price	Udall
Lowry	Pritchard	Ullman
Lujan	Pursell	Vander Jagt
Luken	Quayle	Vanik
Lundine	Quillen	Vento
Lungren	Railsback	Volkmer
McClory	Rangel	Walgren
McCormack	Ratchford	Walker
McDade	Regula	Wampler
McDonald	Reuss	Watkins
McEwen	Rhodes	Waxman
McHugh	Richmond	Weaver
McKay	Rinaldo	Weiss
McKinney	Ritter	White
Madigan	Roberts	Whitehurst
Maguire	Robinson	Whitley
Markey	Rodino	Whittaker
Marks	Roe	Whitten
Marlenee	Rose	Williams, Mont.
Marriott	Rostenkowski	Williams, Ohio
Martin	Rousselot	Wilson, Bob
Mathis	Roybal	Winn
Matsui	Royer	Wirth
Mavroules	Rudd	Wolff
Mica	Runnels	Wolpe
Miller, Calif.	Russo	Wright
Miller, Ohio	Sabo	Wyatt
Mineta	Satterfield	Wydler
Minish	Sawyer	Wylie
Mitchell, N.Y.	Scheuer	Yates
Moakley	Schulze	Yatron
Moffett	Seiberling	Young, Alaska
Mollohan	Sensenbrenner	Young, Fla.
Montgomery	Shannon	Young, Mo.
Moore	Sharp	Zablocki
Moorhead, Calif.	Shelby	Zeferetti
	Shumway	
Motti	Shuster	

NAYS—0

ANSWERED "PRESENT"—3

Diggs	Mitchell, Md.	Van Deerlin

NOT VOTING—49

Anderson, Ill.	Fuqua	Nolan
Ashley	Gephardt	Rahall
Badham	Goldwater	Rosenthal
Barnard	Heckler	Roth
Boggs	Holland	Santini
Bonker	Holtzman	Schroeder
Breaux	Johnson, Colo.	Sebelius
Buchanan	Jones, N.C.	Snowe
Burton, John	Kemp	Stark
Campbell	Kostmayer	Steed
Clay	Lee	Stockman
Cleveland	McCloskey	Thompson
Coelho	Mattox	Treen
Crane, Philip	Mazzoli	Wilson, C. H.
Edgar	Michel	Wilson, Tex.
Fenwick	Mikulski	
Flood	Moorhead, Pa.	

□ 1540

So the motion was agreed to.

The result of the vote was announced as above recorded.

CONTINUING APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House on Friday last,

I call up the joint resolution (H.J. Res. 440) making further continuing appropriations for the fiscal year 1980, and for other purposes, for consideration in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 440

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1980, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1979 and for which appropriations, funds or other authority would be available in the following appropriation Acts:

Foreign Assistance and Related Programs Appropriations Act, 1980, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended;

Department of the Interior and Related Agencies Appropriation Act, 1980; and

Military Construction Appropriation Act, 1980.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1979, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1979, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority.

(4) Whenever an Act listed in this subsection has been passed by only one House as of October 1, 1979, or where an item is included in only one version of an Act as passed by both Houses as of October 1, 1979, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1979: *Provided*, That no provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1979, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Such amounts as may be necessary for continuing projects or activities which were conducted in fiscal year 1979 for which provision was made in the Department of Defense Appropriation Act, 1979, at a rate of operations not in excess of the current rate or the rate provided in the budget estimate, whichever is lower, and under the more restrictive authority.

(c) Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in fiscal year 1979, but at a rate for operations not in excess of the current rate:

activities under the Domestic Volunteer Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of nursing fellowships and for support of training programs and program support related to alcoholism under sections 301, 303, and 472 of the Public Health Service Act;

activities under section 789 and titles VIII, XII, XV, and XVII of the Public Health Service Act, except that activities under title XV of the Public Health Service Act shall be conducted at not to exceed an annual rate for obligations of $169,717,000;

activities under sections 204 and 213 of the Community Mental Health Centers Act;

activities under title IV of the Drug Abuse Office and Treatment Act;

activities under titles III and V of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act;

activities under section 2 of the Indochina Migration and Refugee Assistance Act;

activities of the National Board for the Promotion of Rifle Practice;

activities of the Federal Trade Commission: *Provided*, That none of the funds made available by this joint resolution for the Federal Trade Commission may be used for the final promulgation of trade regulation rules authorized by section 18 of the Federal Trade Commission Act, as amended, nor to initiate any new activities: *Provided further*, That no new trade regulation rules promulgated under the authority of section 18 of the Federal Trade Commission Act, as amended, are to become effective during the period covered by this joint resolution for the Federal Trade Commission: *Provided further*, That notwithstanding the provisions of section 102(c) of this joint resolution, the authority and funds made available herein shall remain available only until March 31, 1980;

activities under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, except that such activities shall be continued at a rate of operations not in excess of appropriations contained in the Department of Justice Appropriation Act, 1980, for the Office of Justice Assistance, Research, and Statistics;

activities of the Economic Development Administration; and

activities of the Regional Action Planning Commissions.

(d) Notwithstanding the funding rates provided for in section 101(a), activities of the Department of State for Migration and Refugee Assistance shall be funded at not to exceed an annual rate for obligations of $456,241,000, notwithstanding section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, and section 10 of Public Law 91-672.

(e) Such amounts as may be necessary for projects or activities which were conducted in fiscal year 1979 and for which provision was made in the Department of Transportation and Related Agencies Appropriation Act, 1979, or chapter X of the Supplemental Appropriations Act, 1979, at a rate of operations not in excess of the current rate or the rate provided in the budget estimate, whichever is lower, and under the more restrictive authority: *Provided*, That the Panama Canal Commission is authorized to incur obligations at the rate of operations, and to the extent and in the manner provided for in H.R. 4440 as passed the House of Representatives on September 18, 1979, to meet operational and capital requirements of the Panama Canal in conformance with applicable legislation and the Panama Canal Treaty of 1977, notwithstanding the provisions of section 106 of this joint resolution: *Provided further*, That the Interstate Commerce Commission is authorized to incur obligations for payments for directed rail service at the rate of operations and to the extent and manner provided for in H.R. 4440 as passed by the House of Representatives on September 18, 1979.

(f) Such amounts as may be necessary for the programs or activities of the Federal Inspector for the Alaska Gas Pipeline, at a rate of operations not in excess of 35 per centum of the fiscal year 1980 budget estimate.

(g) Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389), at a rate of operations, and to the extent and in the manner, provided for in such Act as adopted by the House of Representatives on August 2, 1979, notwithstanding the provisions of section 106 of this joint resolution.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from November 20, 1979, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) September 30, 1980, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1979.

SEC. 107. None of the funds contained in this Act shall be used for the reorganization of the Alaska Railroad Office of the Chief Counsel, Office of Real Estate or Office of Financial Planning, or for the consolidation of those Offices into the Office of the Alaska Railroad General Manager.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds provided by this joint resolution shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 5, line 21, in the paragraph applicable to the Federal Trade Commission, at the end of the second proviso and before the colon which follows, insert ", unless authorizing legislation for the Federal Trade Commission is enacted into law during such period".

The committee amendment was agreed to.

Mr. WHITTEN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I am pleased to report to my colleagues that considerable progress has been made in clearing appropriations bills since the previous continuing resolution was passed.

The appropriation bills for Agriculture, District of Columbia, Energy and Water, HUD-Independent Agencies, State-Justice, and Treasury-Postal Service have all been enacted. The Interior bill is awaiting the President's signature. The conference report on Transportation has been filed and will be taken up some time this week. The Legislative bill has, in effect, been enacted through the previous continuing resolution. Foreign Aid is in conference. Conferees were appointed today on the Defense bill and we expect the military construction bill to be on the Senate floor today.

This continuing resolution follows the basic form and concept of similar resolutions in prior years. The philosophy of the continuing resolution is to provide minimum funding for the orderly continuation of existing programs for the interim period until regular appropriation bills are enacted.

Mr. Speaker, this resolution differs in only a few regards from the one which is soon to expire. First, it excludes those programs included in appropriation bills enacted since the last resolution. Second, this resolution remains in effect for the entire fiscal year 1980 or until applicable appropriations bills are enacted. Lastly, a provision has been added to prohibit any FTC trade regulation promulgated under the authority of the Magnuson-Moss Act prior to October 1, 1979, but with an effective date after November 20, 1979, from going into effect during the period of the resolution unless FTC authorization is enacted during that time. This preserves for Congress the opportunity to exercise its will with regard to trade regulation restrictions. The resolution provides that the authority and funds made available for the FCC shall remain available only until March 31, 1980. This will allow time for the legislative committee to get together without preempting their decisions here.

May I say that with regard to the Federal Trade Commission, for several years now there has been no authorization for that Commission. It has no authority in law at this time. The only authority has been by act of the Congress and approving the appropriation bills which carried it forward. Apparently there are differences between the members on the legislative committee as to what the authority and what the directives from the Congress to that Commission should be. For the Committee on Appropriations to carry in detail these proposals for increasing its authority or decreasing its authority or passing on matters involving the proper function of that Commission in the Government would not be appropriate: I, for one, believe it is highly essential that we have the Federal Trade Commission and the Committee on Appropriations has kept it alive.

In this resolution we have exercised our judgment as to how best to keep it alive under the present circumstances. We do not fall into the mistake of trying to write a basic law as important as one authorizing the Federal Trade Commission. For these reasons we have provided a limitation but we provide that they would be kept going until March 31. That will give ample time to resolve the other problems in the authorizing legislation.

I would also state, Mr. Speaker, that in the 13 regular appropriations for 1980, we are presently some $10 billion under the President's budget. That is on the basis of budget authority and counts the enacted version of 7 bills and the House-passed version of the remaining six bills which are either in conference, pending in the Senate, or awaiting the President's signature. We have shown further restraint in dealing with other appropriations business by reducing the 1979 supplemental by some $3.2 billion and by rescinding some $700 plus million of budget authority in a separate measure. Your Committee on Appropriations is very proud of the job that we have done in the way of holding down appropriations. But most of the laws that we have on the statute books have built-in escalating clauses to offset inflation and thus feed further inflation. Where the appropriation process is bypassed by these entitlement provisions, it does not leave us much to work with.

May I say to my colleagues, however, that in the continuing resolution that we have before us, the rates of operation provided for are far less than the amounts contained in the regular bills. For instance, on the Defense bill the rate under the continuing resolution is about $11 billion under the House-passed bill and about $13 billion under the Senate passed bill. For foreign assistance, the continuing resolution is about $700 million under the House passed bill and about $1 billion under the Senate passed bill. The regular bills will subsequently be enacted but the continuing resolution provides a restrictive rate in the interim.

I want the Members to know that this resolution will keep the wheels turning; this will keep the government in business; this will keep the programs going. It is very, very essential. We have hospitals and schools and other very necessary functions that have to be covered.

In working on this resolution I have had the splendid help of my colleague, the gentleman from Massachusetts (Mr. CONTE) and all of the other members of the Committee on Appropriations. The Committee on Rules and our other colleagues have been very cooperative with us. We appreciate it very much.

Mr. Speaker, we are keenly aware of our dangerous economic situation. We continue to strenuously work with our friends in the other body to hold down Federal expenditures in appropriations bills while responsibly meeting the needs of our people. Passage of this resolution is essential in order that we may resolve those matters still pending and continue the operation of our Government in an orderly and fiscally responsible manner.

Mr. SLACK. Mr. Speaker, section 101 (c) of the resolution includes continuing authority for the Federal Trade Commission until March 31, 1980. This provision prohibits final promulgation of any trade regulation rules authorized by section 18 of the Federal Trade Commission Act or initiation of any new activities. In addition to these two restrictions which were contained in the previous continuing resolution for fiscal year 1980, House Joint Resolution 440 includes a provision which would prohibit any new trade regulation rule promulgated under section 18 of the Federal Trade Commission Act from becoming effective during the period covered by the resolution for the FTC unless authorizing legislation is enacted for the FTC during such period.

The purpose of the new restriction is to prohibit any trade regulation rule promulgated under the authority of the Magnuson-Moss Act prior to October 1, 1979, but with an effective date after November 20, 1979, from going into effect during the period covered by the new resolution for the FTC unless authorizing legislation is enacted during that time. This provision would give the Congress the opportunity to consider any legislative restrictions with respect to such trade regulation rules during consideration of the FTC authorization before such rules go into effect.

By proposing an additional restriction on the trade regulation rulemaking activities of the FTC and an extension of the termination date for the Commission only until March 31, 1980, the committee also wishes to reemphasize its concern expressed previously about the lack of legislative authorization for the Federal Trade Commission. The authorization for appropriations for the FTC expired at the end of fiscal year 1977 and no authorization has been enacted since that time. Despite this lack of authorization, the committee recommended and the Congress provided appropriations for the FTC in the regular, annual appropriation bills for fiscal years 1978 and 1979, not in continuing resolutions. So for 2 years the Appropriations Committee has made it possible for the FTC to remain in existence, otherwise there would be no FTC. This committee has kept the FTC alive through appropriations bills notwithstanding the lack of authorization.

For the reasons I have just discussed, the committee believes it is essential that the long-delayed authorization be passed by the House and Senate and enacted into law before a regular appropriation for the FTC is provided by the Congress for fiscal year 1980. Although some progress has been made on the FTC authorization, a bill still has not been enacted into law. The committee expects that the legislative committees of the House and Senate with jurisdiction over the FTC will continue to seek enactment of such legislation and that the administration will cooperate fully in expediting its passage.

Mr. CONTE. Mr. Speaker, I rise in support of the continuing resolution.

Mr. Speaker, at the outset I want to take this opportunity to thank my chairman, the gentleman from Mississippi (Mr. WHITTEN). We have worked very closely, not only on this piece of legislation but on all legislation appearing before the Committee on Appropriations.

Mr. Speaker, I speak to my colleagues today in support of House Joint Resolution 440, the second continuing resolution for 1980.

With the exception of the Federal Trade Commission, the joint resolution continues appropriations through the end of the fiscal year for programs and activities where the appropriation bill has not been enacted, or where an appropriation was not included due to lack of authorization.

The activities covered, and the rate of continuing appropriations in each case, are as follows:

Activities covered by the Defense bill are continued at the budget rate or the current rate.

The National Board for the Promotion of Rifle Practice is continued at the current rate.

Activities covered by the foreign assistance bill are continued at the current rate, or the rate provided in the House bill.

Appropriations for refugee and migration assistance are continued at $456 million, the level provided in the House bill.

Activities covered by the Interior bill are continued at the House or the current rate:

An appropriation for the Federal Inspector for the Alaska Gas Pipeline is provided at a rate of $5.1 million.

Activities covered by the Labor-HEW bill are continued at the rate provided in the conference report as passed the House. In addition:

Unauthorized activities are continued at the current rate, except for Health Planning and Resource Development activities, which are continued at a level of $169.7 million.

Appropriations for Indochina migration and refugee assistance are continued at the current rate.

Activities covered by the military construction bill are continued at the House rate or the current rate.

The following activities under the State-Justice-Commerce-Judiciary bill are continued:

Activities of the Federal Trade Commission are continued at the current rate through March 31, 1980.

This provides the FTC with an appropriation of $64.7 million, compared with a budget request of $69 million.

During the period covered by the continuing resolution, the FTC shall not finally promulgate any trade regulation rules or initiate any new activities, and no new trade regulation rules are to become effective unless authorization for the FTC has been enacted.

This action is not intended to provide any final judgment or restraint on the activities of the FTC, but rather to insure that we maintain the status quo until authorizing legislation has been enacted.

Activities of the Economic Development Administration and the Regional Action Planning Commissions are continued at the current rate.

Activities of LEAA under the Omnibus Crime Control and Safe Streets Act are continued at the rate provided for OJARS in the 1980 Appropriations Act.

Activities covered by the Transportation bill are continued at the current rate or the budget rate. In addition,

The Panama Canal Commission is continued at the rate provided in the House bill.

The ICC is authorized to pay for directed rail service at the rate provided in the House bill.

Certain restrictions are placed on the reorganization of the Alaska Railroad Office.

I would like to call to the attention of my colleagues some other special provisions of the continuing resolution.

We are all gravely concerned about the tragic situation in Cambodia.

Under existing law, and with the continuing appropriation available under this joint resolution, $39 million is available for assistance to the people of that country.

This amount is sufficient for the immediate future. An additional $30 million has been agreed to by the conferees on the foreign assistance bill, and the total of $69 million which would be available when that bill becomes law will be sufficient for the requirements as we now see them.

You may be assured that our committee will act promptly to provide any additional funds that may be required.

The joint resolution as reported contains the abortion language which passed the House in the Labor-HEW bill. This language applies to all funds made available by the joint resolution.

Each Member will vote his conscience on this difficult issue, and I am sure that we will be considering different abortion language within the next few days.

However, I do urge my colleagues: However you vote on this issue, vote to pass the joint resolution.

The business of the Federal Government must go on, and billions of dollars for important Federal programs should not be held hostage for any single issue.

□ 1600

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 2, line 22, strike the period, insert a colon, and add the following: "*Provided*, That none of the funds made available by this joint resolution for Foreign Assistance and Related Programs shall be used for military or economic aid for Iran."

And on page 9, after line 22, insert the following new section:

"Sec. 110. Notwithstanding any other provision of this joint resolution, except section 102, none of the funds provided by this joint resolution shall be used for military or economic aid for Iran."

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes; I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I have just read the amendment and I see no reason not to agree with it at this time. Should there be something with which I am not familiar, doubtless it could be straightened out in the other body. Speaking for myself, there is no objection to accepting the amendment on this side.

Mr. BAUMAN. Mr. Speaker, I appreciate the support of the gentleman from Mississippi, the distinguished chairman of the Appropriations Committee.

This amendment, simply and very flatly, cuts off any possibility of military or economic aid for the nation of Iran. I think that in carrying out the policy of the President, who I understand has already ordered the stopping of any existing aid in the pipeline, that the Congress of the United States has a concomitant duty to make it very plain that we also will not approve of any such assistance of any nature, until such time as perhaps we might reconsider upon the release of the hostages being held in Iran.

The Congress to date has not had a chance to express itself on this issue and I think a vote on this will make it plain to those who are in charge, if indeed there is a government in Iran, that the Congress joins the American people in saying, "We have had it up to here in being pushed around by Iran and its fanatic leaders." In speaking for the American people we represent, we will not permit any aid to these terrorists.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I want to point out to my colleague that as the ranking member on the Appropriations Committee, we certainly support this amendment. At the present time, to the best of my knowledge, there is no economic or military aid going to Iran, except for the UNDP program.

We support the amendment.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to my colleague, the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, I just wanted to say to the gentleman, I am sure the gentleman realizes this is an empty amendment, that there is no economic or military aid going to Iran at the present time except for a relatively small amount for the U.N. development program for a multiyear operation. There are other problems, I might point

out, that we ought to be dealing with and I hope we can deal with them at a later time when we are not within the constraints of a continuing resolution, such as large sums of money that Iran still owes to the United States and the possibility of large assets that Iran has in the United States.

As chairman of the Committee on Foreign Operations, I would like to look into that, but we cannot do it here.

Mr. BAUMAN. Mr. Speaker, I would say that this amendment not only goes to foreign assistance and related programs, but any program that this continuing resolution may cover and any form of assistance that may be provided to Iran. It is not by any means an empty amendment. It is my information that this bill contains at least $20 million in aid for Iran which will go through the United Nations. My amendment will cut that off. I am surprised my colleague from Maryland does not know this is in the bill since he is chairman of the Foreign Aid Subcommittee.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, as I understand, the foreign assistance bill has not been passed, and that is part of the continuing resolution.

Mr. BAUMAN. That is correct.

Mr. VOLKMER. It is also my understanding under the funds that go to the various banks under the bill, there have been loans made to Iran so that they can purchase items in this country.

Mr. BAUMAN. I understand that is correct.

Mr. VOLKMER. The gentleman's amendment would prevent that, so that we could not during this time of crisis provide any form of assistance to Iran.

Mr. BAUMAN. I do not want to give them one red cent, including loans and my amendment prevents that.

Mr. VOLKMER. Mr. Speaker, I agree wholeheartedly, and support the amendment.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Speaker, we have heard that we are not giving direct assistance to Iran under this particular piece of legislation.

I wonder if the gentleman knows, and others in the House know, that there are 274 Iranian pilots and naval personnel in training in the United States at the present time. I think they should be shipped home. This training should be terminated immediately.

Mr. BAUMAN. Mr. Speaker, I concur in the gentleman's suggestion and I think until we make it plain that the American people and their representatives will not put up any further with this type of treatment, it is likely to continue. I do not happen to believe that dealing from a quiet position of weakness is going to convince anyone, and this is a statement by the Congress of the United States of our position on this major issue.

Mr. Speaker, I urge support for the amendment.

Mr. CONTE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I certainly do not want the record to be muddled up on this issue about all these personnel being trained here. They are paying for this training, so this amendment does not touch them at all. We should address that issue in authorizing legislation.

There is no aid, economic or military or in the World Bank, going there, except for the UNDP. The World Bank has been out of Iran for about 5 years now.

Mr. Speaker, again, we strongly support the amendment.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. CONTE. Yes, gladly.

Mr. WOLFF. Mr. Speaker, the gentleman mentioned that we are not paying for the training. Although we are not paying directly for the training, it seems inconceivable to me that our Nation would train foreign military personnel, when that foreign nation is acting in an adversary position to the United States.

Mr. CONTE. I agree completely with the gentleman, but this amendment does not touch that. We will have to deal with that separately.

Mr. WOLFF. Today, I will introduce a resolution urging the termination of all military training of Iranians. I hope the gentleman will support the resolution.

Mr. CONTE. I just do not want the gentleman to get the wrong conception. There is no military, economic or World Bank aid going to Iran, except for the UNDP. We are dead set against giving any such aid. We join with the gentleman from Maryland.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield on that point?

Mr. CONTE. Yes.

Mr. VOLKMER. Mr. Speaker, it is my understanding earlier from information I had received in my office when I investigated this, that there was money going to Iran by way of loans in order to specifically purchase products from this country. If that is erroneous, I will check it out; but I think it is wise to have this amendment.

Mr. Speaker, I strongly support the amendment to insure that no aid will go to Iran.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, this guarantees there will be none in the future and no discretion remains.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will be glad to yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I think the gentleman is absolutely correct. This is a good opportunity for the House of Representatives to indicate to the Iranians and to the world community how we feel about this issue.

I am certain there is some money somewhere being spent on Iran and this would stop it.

Mr. CONTE. Mr. Speaker, this amendment puts the House on record that we are very upset about what is happening in Iran. For that I commend the gentleman from Maryland (Mr. BAUMAN) for initiating the amendment. I want the record to be very clear on that.

While this continuing resolution may not be the best vehicle due to its temporary nature, it is important that we take this opportunity to stand with our President now to demonstrate our firm resolve as a united nation. Americans are just plain mad—as mad as I have witnessed during my service in the House. I hope we will have a recorded vote on this amendment, and that it will be adopted unanimously. In casting this vote, we will demonstrate to Iran that our constituents are outraged at the barbarian actions in Teheran.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Florida, the ranking member of the Foreign Operations Subcommittee.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

I would like to respond to the gentleman from Washington, that there is money in this bill that will go to Iran through the United Nations development program.

As the gentleman from Massachusetts (Mr. CONTE) said earlier, there is a $20 million 5-year program for technological development in Iran through the United Nations development program.

Hopefully, the amendment of the gentleman from Maryland (Mr. BAUMAN) will get to that.

Mr. DICKS. Mr. Speaker, I think that is a very good reason and I think we ought to go ahead and get a record vote on this.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 379, nays 0, not voting 54, as follows:

[Roll No. 655]

YEAS—379

Abdnor	Bennett	Cavanaugh
Addabbo	Bereuter	Chappell
Akaka	Bethune	Cheney
Albosta	Bevill	Chisholm
Alexander	Biaggi	Clausen
Ambro	Bingham	Clay
Anderson, Calif.	Blanchard	Clinger
Andrews, N.C.	Boland	Coleman
Andrews, N. Dak.	Bolling	Collins, Ill.
Annunzio	Boner	Collins, Tex.
Anthony	Bonior	Conable
Applegate	Bouquard	Conte
Archer	Bowen	Conyers
Ashbrook	Brademas	Corcoran
Aspin	Brinkley	Corman
Atkinson	Brodhead	Cotter
AuCoin	Brooks	Coughlin
Bafalis	Broomfield	Courter
Bailey	Brown, Calif.	Crane, Daniel
Baldus	Brown, Ohio	D'Amours
Barnes	Broyhill	Daniel, Dan
Bauman	Burgener	Daniel, R. W.
Beard, R.I.	Burlison	Danielson
Beard, Tenn.	Burton, Phillip	Daschle
Bedell	Butler	Davis, Mich.
Beilenson	Byron	Davis, S.C.
Benjamin	Carney	de la Garza
	Carr	Deckard
	Carter	Derrick

Derwinski	Jones, Tenn.	Rangel
Devine	Kastenmeier	Ratchford
Dickinson	Kazen	Regula
Dicks	Kelly	Reuss
Dingell	Kildee	Rhodes
Dixon	Kindness	Richmond
Dodd	Kogovsek	Rinaldo
Donnelly	Kramer	Ritter
Dornan	LaFalce	Roberts
Dougherty	Lagomarsino	Robinson
Downey	Latta	Rodino
Drinan	Leach, Iowa	Roe
Duncan, Oreg.	Leach, La.	Rose
Duncan, Tenn.	Leath, Tex.	Rostenkowski
Early	Lederer	Roybal
Edwards, Ala.	Lehman	Royer
Edwards, Calif.	Leland	Rudd
Edwards, Okla.	Lent	Runnels
Emery	Levitas	Russo
English	Lewis	Sabo
Erdahl	Livingston	Satterfield
Erlenborn	Lloyd	Sawyer
Ertel	Loeffler	Scheuer
Evans, Ga.	Long, La.	Seiberling
Evans, Ind.	Long, Md.	Sensenbrenner
Fary	Lott	Shannon
Fascell	Lowry	Sharp
Fazio	Lujan	Shelby
Ferraro	Luken	Shumway
Findley	Lundine	Shuster
Fish	Lungren	Simon
Fisher	McClory	Skelton
Fithian	McCormack	Slack
Flippo	McDade	Smith, Iowa
Florio	McDonald	Smith, Nebr.
Foley	McEwen	Snyder
Ford, Mich.	McHugh	Solarz
Ford, Tenn.	McKay	Spellman
Forsythe	Madigan	Spence
Fountain	Maguire	St Germain
Fowler	Markey	Stack
Frenzel	Marks	Staggers
Frost	Marlenee	Stangeland
Garcia	Marriott	Stanton
Gaydos	Martin	Steed
Gialmo	Mathis	Steinholm
Gibbons	Matsui	Stewart
Gilman	Mavroules	Stockman
Gingrich	Mica	Stokes
Ginn	Miller, Calif.	Stratton
Glickman	Miller, Ohio	Studds
Gonzalez	Mineta	Stump
Goodling	Minish	Swift
Gore	Mitchell, Md.	Synnms
Gradison	Mitchell, N.Y.	Synar
Gramm	Moakley	Tauke
Grassley	Moffett	Taylor
Gray	Mollohan	Thomas
Green	Montgomery	Thompson
Grisham	Moore	Traxler
Guarini	Moorhead, Calif.	Trible
Gudger	Moorhead, Pa.	Udall
Guyer	Motti	Ullman
Hall, Ohio	Murphy, Ill.	Van Deerlin
Hall, Tex.	Murphy, N.Y.	Vander Jagt
Hamilton	Murphy, Pa.	Vanik
Hammer-schmidt	Murtha	Vento
Hance	Myers, Ind.	Volkmer
Hanley	Myers, Pa.	Walgren
Hansen	Natcher	Walker
Harkin	Nedzi	Wampler
Harris	Nelson	Watkins
Harsha	Nichols	Waxman
Hawkins	Nolan	Weaver
Hefner	Nowak	Weiss
Heftel	O'Brien	White
Hightower	Oakar	Whitehurst
Hillis	Oberstar	Whitley
Hinson	Obey	Whittaker
Hollenbeck	Ottinger	Whitten
Holt	Panetta	Williams, Mont.
Hopkins	Pashayan	Williams, Ohio
Horton	Patten	Wilson, Bob
Howard	Patterson	Wilson, C. H.
Hubbard	Paul	Winn
Huckaby	Pease	Wirth
Hughes	Pepper	Wolff
Hutto	Perkins	Wolpe
Hyde	Petri	Wright
Ichord	Pevser	Wyatt
Ireland	Pickle	Wydler
Jacobs	Preyer	Wylie
Jeffords	Price	Yates
Jeffries	Pritchard	Yatron
Jenkins	Purnell	Young, Fla.
Jenrette	Quayle	Young, Mo.
Johnson, Calif.	Quillen	Zablocki
Jones, Okla.	Rallsback	Zeferetti

NAYS—0

NOT VOTING—54

Anderson, Ill.	Barnard	Breaux
Ashley	Bowes	Buchanan
Badham	Bonker	Burton, John
Campbell	Hagedorn	Neal
Cleveland	Heckler	Rahall
Coelho	Holland	Rosenthal
Crane, Philip	Holtzman	Roth
Dannemeyer	Johnson, Colo.	Rousselot
Dellums	Jones, N.C.	Santini
Diggs	Kemp	Schroeder
Eckhardt	Kostmayer	Schulze
Edgar	Lee	Sebelius
Evans, Del.	McCloskey	Snowe
Fenwick	McKinney	Solomon
Flood	Mattox	Stark
Fuqua	Mazzoli	Treen
Gephardt	Michel	Wilson, Tex.
Goldwater	Mikulski	Young, Alaska

□ 1620

The Clerk announced the following pairs:

Mr. Eckhardt with Mr. Anderson of Illinois.

Mr. Diggs with Mr. Badham.

Ms. Holtzman with Mr. Buchanan.

Mr. Coelho with Mrs. Heckler.

Mr. Fuqua with Mr. Kemp.

Mr. Gephardt with Mr. McCloskey.

Mr. Dellums with Mr. Young of Alaska.

Mr. Rahall with Mr. Solomon.

Mr. Rosenthal with Mrs. Snowe.

Ms. Mikulski with Mr. Rousselot.

Mr. Neal with Mr. Sebelius.

Mr. Santini with Mr. Roth.

Mr. Mattox with Mr. McKinney.

Mrs. Schroeder with Mr. Evans of Delaware.

Mr. Kostmayer with Mrs. Fenwick.

Mr. Holland with Mr. Goldwater.

Mrs. Boggs with Mr. Hagedorn.

Mr. Breaux with Mr. Schulze.

Mr. John L. Burton with Mr. Cleveland.

Mr. Edgar with Mr. Campbell.

Mr. Bonker with Mr. Philip M. Crane.

Mr. Barnard with Mr. Dannemeyer.

Mr. Ashley with Mr. Lee.

Mr. Jones of North Carolina with Mr. Mazzoli.

Mr. Stark with Mr. Charles Wilson of Texas.

Mr. WINN changed his vote from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 6, line 2, strike out "March 31, 1980" and insert in lieu thereof "February 15, 1980."

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent to modify the amendment by changing the word "February" to the word "March."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

(Mr. LEVITAS asked and was given permission to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, the purpose of this amendment is to shorten the period for which the Federal Trade Commission will be appropriated funds.

Mr. WHITTE. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, may I say that I have discussed this with the gentleman and the chairman of the subcommittee. I personally have no objection to the amendment as offered. I cannot speak for all my colleagues on the committee because I have not talked to them about it.

Mr. LEVITAS. I thank the gentleman.

Mr. CONTE. Mr. Speaker, will the gentleman yield.

Mr. LEVITAS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I have discussed the amendment with the gentleman in the well before he offered it, and I have no objection to the amendment.

Mr. LEVITAS. I thank the gentleman.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Speaker, it certainly seems to me to be a reasonable compromise. I share the concern of both the gentleman in the well and the concern of the subcommittee chairman, the gentleman from West Virginia (Mr. SLACK), regarding the fact that this bill just does not seem to get on the calendar and finally acted on.

I am told that the bill is going to be up tomorrow and we can get it passed in the House, and I hope that the leadership will follow through on that promise.

Mr. LEVITAS. I thank the gentleman for his contribution.

Mr. Speaker, I have received assurances from the leadership that this bill, the FTC authorization bill, will be voted on in the House tomorrow. I hope that we can rely upon those assurances.

This particular situation is really a disgrace. There has been no authorization for the FTC for over 2 years now. We defeated the FTC authorization last year. This year the FTC authorization bill, containing a legislative veto provision, was reported out on May 14 but for some strange reason has not been voted on. The only reason FTC is still alive is that the Appropriations Committee has passed continuing resolutions to keep it going. I know the great difficulty under which the Appropriations Committee has been working. I know the chairman of the Appropriations Subcommittee shares my concern and the chairman of the full committee. I commend them for what they have done under very adverse circumstances.

I hope that by the acceptance of this amendment we will communicate a message to the leadership and to the other body that the time has come to fish or cut bait and get this authorization bill before the Congress and act on it one way or another.

Furthermore, after the time period for continuing the FTC in this amendment, I certainly hope and expect that there will be no further funding of the FTC—not a single penny—until there is an authorization bill signed into law.

Mr. DICKS. If the gentleman will yield, I totally agree with the gentleman. I think it is time to get this bill up and to vote on it.

Mr. SLACK. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from West Virginia.

Mr. SLACK. I thank the gentleman for yielding.

Mr. Speaker, I have no objection at all to the March 15 date. But let me

say to the gentleman that they have not been funded through a continuing resolution for 2 years. They have been funded through an appropriation for 2 years. What I am saying is simply this: The Appropriations Committee has carried the Federal Trade Commission for 2 years.

Mr. LEVITAS. Mr. Speaker, the gentleman is absolutely correct. I do not think it is fair to the Appropriations Committee. I do not think it is fair to the Congress. I think the time has come for this Congress to work its will and define the role of the FTC through the proper process of an authorization bill, and I certainly hope and trust that this amendment will aid the Appropriations Committee in its efforts in dealing with the other body.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS), as modified.

The amendment, as modified, was agreed to.

□ 1630

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 9, after line 22 insert the following new section:

"SEC. 110. Notwithstanding any other provision of this joint resolution, none of the funds provided by this joint resolution shall be used to provide any direct or indirect economic support for any individual present in the United States in violation of any immigration and nationality law."

Mr. ASHBROOK. Mr. Speaker, this is a very short four-line amendment, one sentence. I think most of us, as we go home, have our constituents asking us why do we not try to do something about the illegal alien situation in our country. We all talk about it. We rarely do anything.

This amendment is drafted with one idea in mind and it is the product of many of us. I know the gentleman from New York (Mr. SOLOMON) had to leave. He was one of the codrafters of this amendment. Many of us believe the time has come for the Congress to act like it wants to do something about the problem of illegal aliens.

Simply stated, I believe we should start addressing this acute problem in every bill before us to make sure that taxpayers' money does not go for any indirect economic support or direct economic support for people who are in the United States in violation of immigration and nationality laws. To the extent that we help them by these programs, we encourage the influx of other aliens.

I would hope this amendment would pass.

Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, this is the first we have seen of this amendment and we do not know what the real impact of it might be. I appreciate what my friend from Ohio wishes to do, and I may share the gentleman's concern.

As a lawyer I see that one thing it lacks is that it does not have the words, "* * * shall be used knowingly." It is uncertain how this would relate to some criminal statutes. Without the word "knowingly," we might be carrying this further than we intended.

Certainly, I have no objection to the apparent purpose of the amendment, but not having had a chance to study it we cannot say where it might lead us.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

That is a very good point, but I think the gentleman recognizes that if the Congress is indeed going to start in this direction, we have got to be awful careful how we do it. How can we possibly pin it down to every opinion, every bureaucrat, to everybody administering it and say "knowingly" if we start out by saying, "It shall not be used." Maybe, just maybe, in some of these agencies, they will start using bureaucratic regulations that they seem to use against productive Americans in this direction.

Mr. WHITTEN. When we get an amendment of this sort, I do not know how many employees they might ask us to fund to carry out the purposes of this. There are many uncertainties involved.

I hesitate to accept the amendment, because I do not know how far reaching it is.

I do agree with what I take to be the purpose of the amendment.

Mr. ASHBROOK. If my colleague will yield further, I would say to my friend and to my esteemed colleague whose leadership I have followed for years; and I know he is raising a valid point, but I would also ask him, Does not it seem rather strange we in Congress find ourselves concerned whether or not they have the employees, the capacity to administer an amendment of this type, when they seem to have every type of proficiency to get involved in local schools, to get involved in every small business, to get involved in homes, everything at the local level. They can find the proficiency, the manpower, and the regulations to do it, but when it comes to making some small effort to stem the flow of millions of illegal aliens in this country and direct American taxpayers' funds that go to them, we sit back and say, "By golly, I do not think they have the time, manpower or ability to do it."

I think if we at least accepted this telegram—it is not as specific as I would like to make it—my colleague correctly pointed out it does not say "knowingly." I would just like to see us be on record once saying to the agencies involved in this continuing resolution, let us make some start at stemming the flow of illegal immigration.

Mr. WHITTEN. My colleague has made a very good presentation. As he understands, I agree with the gentleman's apparent purpose. However, agreeing with the purpose makes me wonder whether we need to start this on the continuing resolution. The gentleman understands that when the regular appropriations bills are finally agreed on this provision would become superseded and be inoperative.

I would suggest that my friend might wish to withdraw it and let us study the subject a little more and deal with it in the regular bills when they come before us, rather than the continuing resolution.

Mr. BROWN of California. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I would like to add my own voice to that of the chairman in requesting the distinguished gentleman from Ohio (Mr. ASHBROOK) to withdraw his amendment.

I understand his laudable feelings that the laws of the United States should be enforced. I do not think, and perhaps I misjudged the gentleman, that he understands the complexity of this situation. We have a Presidential commission studying this at the present time. We have numerous bodies within the Congress studying this problem at the present time. Yet, the gentleman offers an amendment which purports to go to the heart of this problem and solve it in a few well-chosen words on a continuing resolution.

I beg the gentleman to consider whether or not he is pursuing this in the most effective way.

If he does really want to insist that none of the funds in this appropriation shall be used as indicated in his amendment, I wonder if he would likewise consider an amendment to his amendment which would say that no funds in the form of income taxes, social security taxes, unemployment taxes, or other forms of taxes be collected from these individuals who are over here without benefit of law. I assure him that every study that has been made of this situation indicates that these undocumented workers are paying far more into the U.S. Treasury than they are taking out of the U.S. Treasury.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Ohio.

Mr. ASHBROOK. The point to the question propounded to the proposer of the amendment, my answer is, I would, but under the rules of the House, I clearly could not put that in an amendment.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I think the gentleman from Ohio (Mr. ASHBROOK) mentioned he was not sure whether there was any money in this bill for the problem that he brought up. I would say that unless he knows that there is money, we are just cluttering up a bill that should not have to have this kind of an amendment in it, unless he can tell us that there is something actually that his amendment applies to.

I would hope that we could reject the amendment unless there is a good reason for it.

Mr. BROWN of California. I thank the gentleman for his comments.

Mr. ROYBAL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. ROYBAL. The gentleman from California is definitely correct, particularly in his analysis of the effect of the amendment.

This amendment would definitely prohibit any of these funds to be used for those who may be here illegally. The word "intentional" is nowhere in the amendment, but anyone who may be here illegally will be affected by this particular amendment, which means also that that same person may have American-born children, all citizens of the United States, who would be affected by virtue of the fact that the parent under this language is the one who is affected.

Therefore, this amendment has wide consequences.

It is, in my opinion, not the proper place for such an amendment to be offered, particularly in view of the fact that the administration, as the gentleman from California has already stated, has under study the situation, and under those conditions, I believe that this amendment should be withdrawn at this particular time.

If it is not withdrawn, I agree with the gentleman from California that this amendment should not be adopted.

Mr. BROWN of California. I thank the gentleman very much for his contribution.

I would just like to conclude by saying that there are several aspects of this that bother me. There is a human rights aspect, of course, in that the President of the United States has pledged to the President of Mexico that those citizens of Mexico who are in this country illegally will receive the same protection of the law that a legal resident of this country would receive.

□ 1640

It would have a tremendously detrimental effect upon our relationships with not just Mexico but all of the countries of the Western Hemisphere if, by adopting this language, we began to take steps which will be construed as discriminating against the very large number of undocumented workers, largely Hispanic, in this country.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

(By unanimous consent Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Speaker, I would also tell the gentleman very frankly this would have a tremendously adverse and detrimental economic effect in my own district and in all of southern California. I think the gentleman knows that a good part of the labor force in that area and, in fact, throughout much of the Southwestern United States, as well as the eastern seaboard and Washington, D.C. itself is provided by workers who are here without benefit of documentation. So I can speak selfishly to the gentleman, I would get a tremendous repercussion, were this to be adopted, from the business people, the agriculturalists, the hotel and restaurant owners, and the whole category of people who for one reason or another have become highly dependent upon this work force from our neighbors to the south.

Mr. ASHBROOK. Mr. Speaker, will my colleague yield?

Mr. BROWN of California. I yield to the gentleman.

Mr. ASHBROOK. I understand the problems of my colleague, but I would have to admit I think he has entered some interesting observations in this debate. All of a sudden we have elevated an illegal alien to a second-class citizen. I mean, how in the world can a person who is not a citizen in the first place be a second-class citizen?

Second, how can the President of the United States make promises to the heads of foreign countries, notwithstanding laws we have? The laws are very clear. I am just hoping the laws will be enforced.

But I do agree with what the gentleman has said, the thrust of it and the fact that this is a many-faceted problem. It probably cannot be resolved by an amendment of this type, and I will not press for a vote.

Mr. BROWN of California. I would thank the gentleman for that. I think he is demonstrating his usual reasonableness.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was rejected.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the joint resolution, and all amendments thereto, to final passage.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MEAT IMPORT ACT OF 1979

Mr. QUILLEN. Mr. Speaker, I call up House Resolution 454 and ask for its immediate consideration.

POINT OF ORDER

Mr. CHARLES H. WILSON of California. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. CHARLES H. WILSON of California. Are the rules called up by the majority or the minority?

Mr. QUILLEN. Mr. Speaker, I would like to advise the gentleman from California that any member of the Rules Committee can call up a resolution which has been reported for 7 days.

Mr. CHARLES H. WILSON of California. I was going to move we adjourn, Mr. Speaker.

Mr. QUILLEN. Mr. Speaker——

Mr. CHARLES H. WILSON of California. Mr. Speaker, I have a preferential motion.

The SPEAKER pro tempore. Does the gentleman from California move a call of the House?

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move we adjourn.

Mr. QUILLEN. Mr. Speaker, I withdraw my request.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move we adjourn.

Mr. Speaker, I withdraw my motion.

CALL OF THE HOUSE

Mr. CONTE. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. Without objection, a call of the House is ordered.

Mr. BAUMAN. I object.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I make the motion for a call of the House.

The SPEAKER pro tempore. The question is shall there be a call of the House.

The question was taken and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, division.

The SPEAKER pro tempore. The gentleman asks for a division. Those in favor of a call of the House will rise and remain standing until counted.

Mr. CHARLES H. WILSON of California. I withdraw the motion.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, point of order. The gentleman is in the middle of a division. He cannot withdraw.

The SPEAKER pro tempore. The gentleman is correct. The Chair will continue to count.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes zero, noes 22.

So the motion was not agreed to.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, would it be in order for the gentleman from Maryland to object on the grounds that a quorum is not present? Would that be in order?

The SPEAKER pro tempore. That is not in order under clause 6(a)(4), rule XV.

Mr. BAUMAN. I may do it if you keep pushing me. Is it in order or is it not?

The SPEAKER pro tempore. A motion for a call of the House does not require a quorum.

Mr. BAUMAN. Well, then—no, I will not even bother.

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 454 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 454

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2727) to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for

amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1650

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes for the purpose of debate only to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 454 provides for consideration of H.R. 2727, the Meat Import Act of 1979, a bill to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes. The resolution provides a 1-hour open rule with one motion to recommit. It also dispenses with the first reading of the bill. No waivers are granted by the adoption of this rule.

H.R. 2727, as amended by the Committee on Ways and Means, provides a countercyclical meat import formula which will help both consumers and producers. The bill will permit more imports of meat over the cattle cycle than would be permitted under the current law. It will permit greater imports of meat when domestic supplies are low and consumer prices are high, thus moderating the rise in beef prices. And it will permit smaller imports of meat when domestic supplies are abundant and consumer prices are low, thus moderating the decline in prices for producers.

The purpose of meat import quotas is to smooth out the undesirable effects of abnormal cyclical meat supplies by allowing greater imports of foreign meats when domestic supplies are low.

No one benefits ultimately from boom-and-bust commodity cycles. Enactment of the countercyclical formula in H.R. 2727 should provide additional protection to beef producers during periods of cattle herd liquidation when prices are relatively quite low, but it should also be beneficial to consumers during periods of cattle herd rebuilding, when prices are higher.

The legislation also guarantees the supplying nations that, regardless of the operation of the countercyclical formula, they will be provided a minimum access level to this country of 1.2 billion pounds per year.

The only apparent controversy in the bill is in the amount of this access level. It is my understanding that an amendment agreeable to the administration and other Members may be offered to adjust further this access level.

Mr. Speaker, this legislation is very important to consumers and producers alike. I urge my colleagues to adopt House Resolution 454 so that we may proceed to the consideration of H.R. 2727.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentleman from Louisiana (Mr. LONG) has described the provisions of the resolution and the bill it makes in order. This is a measure that is long overdue. It protects the producers and consumers in America.

Mr. Speaker, I have no requests for time. I urge the adoption of the resolution and the measure when it reaches the floor of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I support the resolution from the Rules Committee providing for debate and amendments to H.R. 2727, the Meat Import Act of 1979.

Under current law, import quotas for meat are highest when domestic production is high and supplies are plentiful. The quotas are lowest when domestic production is low and supplies are tighter. Within the time frame of a cattle cycle this law has operated in a manner destructive to supply and demand conditions in the U.S. market.

The countercyclical method of determining imports and the other major provisions of H.R. 2727 amend the Meat Import Act of 1964 for the purpose of stabilizing U.S. beef and veal production and prices at levels adequate to provide a fair return to domestic producers of beef and veal, and to insure U.S. consumers of beef and veal adequate supplies at reasonable, stable prices.

To debate on this bill will show that this is a consumer bill, designed to convert the present inadequate law into a measure that will help both consumers and producers.

We considered and passed similar legislation last year, but it was vetoed after the Congress adjourned, because the President felt it unduly restricted his discretion to adjust quotas in the event of emergencies and supply shortages. The committee has addressed the problems mentioned in the President's veto message, and we believe that the bill H.R. 2727, if enacted, will be signed into law.

I urge approval of the resolution.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TAUKE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quroum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 372, nays 5, not voting 56, as follows:

[Roll No. 656]

YEAS—372

Abdnor	Anderson, Ill.	Ashbrook
Addabbo	Andrews, N.C.	Aspin
Akaka	Andrews, N. Dak.	Atkinson
Albosta	Annunzio	AuCoin
Alexander	Anthony	Bafalis
Ambro	Applegate	Bailey
Anderson, Calif.	Archer	Baldus
Bauman	Fountain	Mathis
Beard, R.I.	Fowler	Matsui
Beard, Tenn.	Frenzel	Mavroules
Bedell	Frost	Mica
Beilenson	Garcia	Miller, Calif.
Benjamin	Gaydos	Miller, Ohio
Bennett	Gialmo	Mineta
Bereuter	Gibbons	Minish
Bethune	Gingrich	Mitchell, Md.
Bevill	Ginn	Mitchell, N.Y.
Biaggi	Glickman	Moakley
Bingham	Gonzalez	Moffett
Blanchard	Goodling	Mollohan
Boland	Gore	Montgomery
Bolling	Gradison	Moore
Boner	Gramm	Moorhead, Calif.
Bonior	Grassley	Moorhead, Pa.
Bouquard	Green	Murphy, Ill.
Bowen	Grisham	Murphy, Pa.
Brademas	Guarini	Murphy, N.Y.
Brinkley	Gudger	Murtha
Brodhead	Guyer	Myers, Ind.
Brooks	Hall, Ohio	Natcher
Broomfield	Hall, Tex.	Nedzi
Brown, Calif.	Hamilton	Nelson
Brown, Ohio	Hammer-schmidt	Nichols
Broyhill	Hance	Nolan
Buchanan	Hanley	Nowak
Burgener	Hansen	O'Brien
Burlison	Harkin	Oakar
Burton, Phillip	Harris	Oberstar
Butler	Harsha	Obey
Byron	Hawkins	Ottinger
Carney	Hefner	Panetta
Carr	Heftel	Pashayan
Carter	Hightower	Patten
Cavanaugh	Hillis	Patterson
Chappell	Hinson	Paul
Cheney	Hollenbeck	Pease
Chisholm	Holt	Perkins
Clausen	Hopkins	Petri
Clay	Horton	Peyser
Clinger	Howard	Pickle
Coleman	Hubbard	Preyer
Collins, Ill.	Huckaby	Price
Collins, Tex.	Hughes	Purnell
Conable	Hutto	Quayle
Conte	Hyde	Quillen
Conyers	Ichord	Railsback
Corcoran	Ireland	Rangel
Corman	Jacobs	Ratchford
Cotter	Jeffords	Regula
Coughlin	Jeffries	Reuss
Courter	Jenkins	Rhodes
Crane, Daniel	Jenrette	Richmond
D'Amours	Johnson, Calif.	Rinaldo
Daniel, Dan	Johnson, Colo.	Ritter
Daniel, R. W.	Jones, Okla.	Roberts
Danielson	Jones, Tenn.	Robinson
Daschle	Kastenmeier	Rodino
Davis, Mich.	Kazen	Roe
Davis, S.C.	Kelly	Rose
de la Garza	Kildee	Rostenkowski
Deckard	Kindness	Roybal
Dellums	Kogovsek	Royer
Derrick	Kramer	Rudd
Derwinski	LaFalce	Runnels
Devine	Lagomarsino	Russo
Dickinson	Latta	Sabo
Dicks	Leach, Iowa	Satterfield
Dixon	Leach, La.	Sawyer
Dodd	Leath, Tex.	Scheuer
Donnelly	Lehman	Seiberling
Dornan	Leland	Sensenbrenner
Downey	Lent	Shannon
Drinan	Levitas	Sharp
Duncan, Oreg.	Lewis	Shelby
Early	Livingston	Shumway
Eckhardt	Lloyd	Shuster
Edwards, Ala.	Loeffler	Simon
Edwards, Calif.	Long, La.	Skelton
Edwards, Okla.	Long, Md.	Slack
Emery	Lott	Smith, Iowa
English	Lowry	Smith, Nebr.
Erdahl	Lujan	Snyder
Erlenborn	Luken	Solarz
Ertel	Lundine	Spellman
Evans, Ga.	Lungren	Spence
Evans, Ind.	McClory	St Germain
Fary	McCormack	Staggers
Pascell	McDade	Stangeland
Fazio	McDonald	Stanton
Ferraro	McEwen	Stenholm
Findley	McHugh	Stewart
Fish	McKay	Stockman
Fisher	Madigan	Stokes
Fithian	Maguire	Stratton
Flippo	Markey	Studds
Florio	Marks	Stump
Foley	Marlenee	Swift
Ford, Mich.	Marriott	Symms
Ford, Tenn.	Martin	Synar

Tauke	Wampler	Wirth
Taylor	Watkins	Wolff
Thomas	Waxman	Wolpe
Thompson	Weaver	Wright
Traxler	Weiss	Wyatt
Trible	White	Wylie
Udall	Whitehurst	Yates
Ullman	Whitley	Yatron
Van Deerlin	Whittaker	Young, Alaska
Vander Jagt	Whitten	Young, Fla.
Vanik	Williams, Mont.	Young, Mo.
Vento	Williams, Ohio	Zablocki
Volkmer	Wilson, Bob	Zeferetti
Walgren	Wilson, C. H.	
Walker	Winn	

NAYS—5

Dougherty	Lederer	Wydler
Gray	Myers, Pa.	

NOT VOTING—56

Ashley	Fuqua	Neal
Badham	Gephardt	Pepper
Barnard	Gilman	Pritchard
Boggs	Goldwater	Rahall
Bonker	Hagedorn	Rosenthal
Breaux	Heckler	Roth
Burton, John	Holland	Rousselot
Campbell	Holtzman	Santini
Cleveland	Jones, N.C.	Schroeder
Coelho	Kemp	Schulze
Crane, Philip	Kostmayer	Sebelius
Dannemeyer	Lee	Snowe
Diggs	McCloskey	Solomon
Dingell	McKinney	Stack
Duncan, Tenn.	Mattox	Stark
Edgar	Mazzoli	Steed
Evans, Del.	Michel	Treen
Fenwick	Mikulski	Wilson, Tex.
Flood	Mottl	

□ 1710

The Clerk announced the following pairs:

Mr. Pepper with Mr. Cleveland.
Mr. Rosenthal with Mr. Dannemeyer.
Mrs. Schroeder with Mr. Philip M. Crane.
Mr. Steed with Mr. McCloskey.
Ms. Mikulski with Mr. Solomon.
Mr. Mottl with Mr. McKinney.
Mr. Jones of North Carolina with Mr. Evans of Delaware.
Mr. Gephardt with Mrs. Snowe.
Mr. Fuqua with Mr. Roth.
Mr. Ashley with Mr. Sebelius.
Mr. Edgar with Mr. Pritchard.
Mr. Mattox with Mr. Rousselot.
Mr. Dingell with Mr. Schulze.
Mr. Coelho with Mr. Lee.
Mr. John L. Burton with Mr. Kemp.
Mrs. Boggs with Mrs. Heckler.
Ms. Holtzman with Mr. Goldwater.
Mr. Breaux with Mr. Gilman.
Mr. Kostmayer with Mr. Campbell.
Mr. Mazzoli with Mr. Duncan of Tennessee.
Mr. Santini with Mrs. Fenwick.
Mr. Rahall with Mr. Badham.
Mr. Neal with Mr. Hagedorn.
Mr. Stack with Mr. Barnard.
Mr. Charles Wilson of Texas with Mr. Stark.
Mr. Bonker with Mr. Diggs.
Mr. Holland with Mr. Michel.

Mr. DOUGHERTY changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ALEXANDER. Mr. Speaker, on Friday, November 9, 1979, I was unavoidably detained in conference and was, therefore, not recorded on rollcalls Nos. 645 and 646. Had I been present on rollcall No. 645, a motion to resolve into the Committee of the Whole on H.R. 2335, the Solar Power Satellite Research and Development Program Act, I would have voted "yea," and I would have recorded my presence on the quorum call that shortly followed.

PERMISSION FOR COMMITTEE ON THE JUDICIARY AND SUBCOMMITTEE ON MONOPOLIES AND COMMERCIAL LAW OF THE COMMITTEE ON THE JUDICIARY TO SIT TOMORROW MORNING, NOVEMBER 14, 1979, DURING 5-MINUTE RULE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary and the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary be permitted to sit tomorrow morning, November 14, while the House is reading for amendments under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MEAT IMPORT ACT OF 1979

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2727) to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2727, with Mr. GORE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, H.R. 2727, as reported by the Committee on Ways and Means, is a well-balanced bill which meets the needs of both producers and consumers for greater stability in the price of beef.

Under existing law, the levels of beef and veal imports rise and fall in relation with the increases and decreases in the domestic commercial production of beef and veal. The current law actually exacerbates the destructive boom and bust nature of the cattle cycle. Because of this weakness, the statutorily mandated limits on imports of fresh, chilled, and frozen meat have frequently been set aside by the President in times when domestic supplies are tight. Although these Presidential actions to suspend or increase the quotas are immensely unpopular among cattlemen, the current law provides no other means for increasing imports when domestic production is low. Additionally, current law does not provide any means for restraining the increase in meat imports resulting under the law when domestic supplies are high and prices are depressed due to the liquidation phase of the cattle cycle.

The countercyclical formula contained in H.R. 2727 is intended to correct these deficiencies. It should be stressed that this formula is no more restrictive over the current 10-year cattle cycle than current law. In fact, it is estimated that in years of high prices it will help consumers by letting in more beef than would be allowed under current law. It simply controls the yearly flow of imports into this country in a manner that is more complimentary to U.S. production, thus achieving a stabilizing effect for domestic consumers and cattlemen.

The committee believes that H.R. 2727 is unique in combining benefits for both consumers and producers. No one benefits from boom and bust commodity cycles; H.R. 2727 will help bring some greater stability to the supply and price of beef, thus providing a major improvement for the American livestock industry.

As USDA reported to the committee:

Enactment of the countercyclical formula would provide additional protection to beef producers during periods of cattle herd liquidation when prices are relatively quite low, but it would also be beneficial to consumers during periods of cattle herd rebuilding, when prices are higher. For example, had the countercyclical formula been in place for 1979, allowable imports under the law would have been even higher than the level announced by the President after he suspended the quota. This would have benefitted consumers and would have helped to retard the rate of food price inflation.

Mr. Chairman, during this session of Congress, 20 bills cosponsored by 150 Members of Congress were introduced to amend the Meat Import Act of 1964. The Subcommittee on Trade held 2 complete days of hearings on these proposals last year and an additional day of hearings on April 30 of this year, during which testimony was received from Members of Congress, domestic producers, consumers, and importers.

In favorably reporting H.R. 2727, the Committee on Ways and Means very carefully considered: First, the need to provide American consumers adequate supplies of beef at reasonable, stable prices; second, the need to maintain a strong, viable domestic cattle industry and eliminate the boom and bust cycles of recent years; and third, the need to provide our major trading partners adequate access to our market so that they can properly plan their production to coincide with our import needs. I believe we have a bill which meets these needs and which will be signed into law.

The Congress approved similar legislation last year which the President vetoed primarily because he was displeased with the new statutory criteria for Presidential action regarding quotas in response

to changed market conditions. I am informed that the statutory criteria for Presidential action to suspend quotas contained in H.R. 2727 is acceptable to the administration.

The committee-reported bill provided for a minimum access level of 1.2 billion pounds of meat, although the administration continued to request a higher import guarantee of 1.3 billion pounds. Since the bill has been reported, there have been discussions between various interested groups and major foreign suppliers, and a broad consensus has developed to amend the bill before us to provide for a compromise minimum import level of 1.25 billion pounds. It is my understanding that an amendment providing for a minimum import level of 1.25 billion pounds will be offered. I support that compromise as a way to end the last major controversy involved in this legislation.

I believe that H.R. 2727 will be extremely beneficial to this Nation and I strongly urge its passage.

Mr. LEDERER. Mr. Chairman, we have before us today, H.R. 2727, the meat import bill of 1979. As you know, this is the second year that we have discussed this legislation in this Chamber. In 2 years, I have yet to be convinced of the necessity of this legislation. It is not needed. It is inflationary. It is counterproductive. And it will inject uncertainty into our trade relations.

We have been told that H.R. 2727 will inject stability into the current meat import and domestic meat market. It is claimed that our domestic meat markets are now marked by great fluctuations because of these beef imports. Mr. Chairman, I have yet to understand how beef imports, which have consistently held at between 7 and 8 percent of domestic consumption for the past 15 years, have caused these fluctuations. I am afraid that the problems of the cattlemen are created in our own domestic beef markets. I think that their management of herds are, at least, open to question. However, you do not solve a domestic marketing problem by attacking needed imports. H.R. 2727 would create great uncertainty among our beef trading partners. This would make us vulnerable to similar actions by foreign countries on our exports. I do not think this is wise.

Now, H.R. 2727 would supposedly modify the current methods of importing beef by imposing a countercyclical program on our beef imports. Thus, when domestic beef production increases, our foreign imports of beef would decrease. This proposal is all very neat and orderly. It is also very erroneous and misunderstands the purpose of imported beef.

Most beef that is imported does not compete with domestic production. Almost 85 percent of the cattlemen's income in the United States come from grain-fed table beef, such as steaks and roasts. Our beef imports consist mostly of lean beef which is used in the production of hamburger and other manufactured beef products. It is not economical for our cattlemen to produce lean beef. Since our domestic cattle industry does not produce enough lean beef to meet demand, we must depend on imports. Thus, the need for imported lean beef is greatest when U.S. production of fatty, grain-fed cattle is high. This market relationship between lean and fat beef will go into a tail spin if this countercyclical proposal is adopted. This bill will not eradicate fluctuations, it will create them.

Mr. Chairman, I am by no means an authority on the problems of our domestic meat markets. However, as the father of six children, I am very familiar with the family grocery budget and the effect that meat prices have on it. It is clear to me that H.R. 2727 will result in shortages of the ingredients of hamburger, hot dogs, and so forth. Such shortages will result in higher and higher prices for these products.

Earlier this year, the chairman of the Trade Subcommittee said that meat prices are getting so high, we will soon only be able to use meat for flavoring. This would be funny if it were not so true.

It is the consumer who will suffer from this legislation. And in these days of unprecedented inflation, I cannot understand why this body would want to increase the burden on the American consumer. It is unfair, and I urge my colleagues to defeat this misguided legislation.

Mr. BEDELL. Mr. Chairman, I rise in strong support of H.R. 2727, the Meat Import Act. The bill provides for a meat import policy that will help to assure consumers of a stable supply of meat at reasonable prices, while providing producers with an adequate return for their efforts. This legislation is the product of many hours of work by livestock producers and the consumers of meat, Members of Congress, and administration officials, and I urge my colleagues to give H.R. 2727 their full endorsement.

Mr. Chairman, as several of my colleagues and myself have been pointing out for the last few years, the most significant feature of the Meat Import Act—the so-called countercyclical formula—would, if the bill is adopted, do most to inject a measure of reason into our meat import policy. The countercyclical formula would provide for increased meat imports during times when domestic meat production is low, and fewer imports at a time when domestic production is high. The end result of the implementation of such a policy would be to eliminate the traditional highs and lows of livestock and retail meat prices. The need for such a formula becomes apparent when one examines both the historical cattle production cycle and our present meat import policy.

An examination of the ups and downs of the cattle cycle that have been observed over the years provides a clear lesson in the simple operation of the law of supply and demand. In years when cattle livestock feeding and marketing is relatively low, cattle prices tend to be higher and thus signal the cow/calf producer to expand his herd and the cattle feeder to feed more cattle to heavier weights. However, because it takes nearly 3 years from the time a young heifer conceives until her calf is fed and marketed, a signal to the cowman to expand his herd does not impact upon retail beef prices for some time. Also, because this delay serves to disguise the buildup taking place in herd numbers, producers often expand beyond the point necessary to achieve a desirable balance in livestock demand and supply.

Just when herd numbers reach a high in the cattle cycle, fed cattle marketings exceed consumer demand for beef at profitable prices to producers and retail beef prices fall sharply. Cattle feeders responding to this price reduction pay less for the feeder cattle they purchase from the cow/calf producer. The cowman reacts to this situation by reducing his herd numbers at a time when fed cattle marketings are already too high, and in the process worsens the situation by further driving down prices. Herd liquidation over a couple of years leads to an eventual recovery in cattle prices, and as the market signals a supply shortfall the cattle cycle begins anew. Such cyclical swings in price and supply prove in the long run to be in the best interests of neither the producer nor consumer.

Contributing to these sharp swings in beef production and prices, unfortunately, is our present meat import policy. This policy, as authorized in the Meat Import Act of 1964, exacerbates the price and supply fluctuations by providing for less imported meat at a time when domestic beef supplies are tight, and more imported meat when U.S. beef is abundant. This policy exists without reason, and its replacement by adoption of the bill before us today is essential.

Also, much has been made of the provisions in the Meat Import Act which revise Presidential authority to alter meat import levels. Changes in this authority was offered as the primary reason for the veto of a similar bill—over the objections of myself and my colleagues—by the President during the previous Congress. The language in the present bill gives the President the authority necessary to adjust import quotas when warranted, yet gives the producer some assurance that Presidential action will be neither capricious nor unwarranted. The legislation modifies the President's authority to suspend or increase quotas by authorizing him to act only if there is a national emergency as defined by the National Emergency Act of 1976, if supplies are inadequate because of natural disaster, disease or market disruptions, or if revised midyear data indicate declining market production. This language should satisfy the objections of the administration and signal ranchers and farmers that beef production can continue in a relatively untampered market.

Mr. Chairman, we have worked hard and we have worked long to draw up reasonable legislation that will improve our meat import policy. Despite many setbacks, and after much discussion, we have presented a measure that will assure consumers an adequate supply of meat at a fair and stable price, yet provide producers with the incentive needed to maintain their herds at a level that will help to assure an adequate return for their efforts. I urge my colleagues to lend their full and immediate support to this needed legislation.

□ 1720

Mr. FRENZEL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I join my colleague in supporting H.R. 2727. This bill before us today represents the compromises that have been reached among consumers, the cattle industry, the administration and the Congress since the bill was vetoed by the President last year. All parties now appear satisfied that H.R. 2727, with its countercyclical formula for determining the level of meat imports and its safeguards with respect to market access and Presidential discretion, is a balanced and fair approach that promotes the interests of both consumers and producers.

Two basic problems had to be resolved in order to remove the objections of the President and thus the threat of another veto. The first and most serious problem was the fact that last year's bill severely limited the President's authority to increase the quota level when economic or national security considerations warrant. The language was such that the President, for all practical purposes, was stripped of his discretionary authority with respect to meat imports except in cases of national emergency.

The second basis for veto was the fact that last year's bill contained a minimum access level of only 1.2 billion pounds. The President felt that such a low level would adversely impact on Australia, a country with whom we have a 2 to 1 favorable balance of trade and an exporter that does not subsidize its meat products or its cattle industry in general.

With respect to the issue of Presidential discretion, the language of H.R. 2727 now provides an acceptable alternative that gives the President adequate authority to suspend or increase the quota under emergency situations or when certain data indicate a "turn" in the cattle cycle predicting a rise in meat prices. Yet the bill also gives to the cattle industry the security that the use of Presidential discretion will not interfere with the function of the countercyclical formula unless severe economic situations, including rapidly increasing prices, warrant such action. Both the President and the cattle industry appear satisfied with the discretionary authority contained in H.R. 2727.

The minimum access level provided by H.R. 2727 remains the same as in the legislation overwhelming approved by the Congress last year. The so-called floor would permit imports of at least 1.2 billion pounds regardless of the level indicated by the countercyclical formula.

In other words, quota restrictions would not apply to the first 1.2 billion pounds of meat imported into this country. The administration still is not completely satisfied with this level and has recommended a floor of 1.25 billion pounds. I plan to offer an amendment establishing such a floor in this legislation. If my amendment is accepted today, the administration has indicated it will readily support the legislation.

H.R. 2727 is, in every respect, an improvement over current law. It offers stability to the cattle industry, yet provides for increased imports that will serve to moderate prices over the long term. An analysis of the estimated effects of the bill over the next 10 years shows that over 1.2 billion pounds of additional meat can be imported over that permitted under current law. The consumer, therefore, would realize the benefits of an increased supply of low cost meat.

The cattle industry, on the other hand, is benefitted by the new countercyclical formula that has the effect of expanding the flow of imports when domestic production is low and restricting imports when domestic supply is adequate. Imports, therefore, are used to complement the U.S. cattle cycle rather than to aggravate the highs and lows of domestic production.

H.R. 2727 is a balanced bill whose mechanisms will stabilize the boom and bust nature of the cattle industry for the benefits of both producers and consumers. I urge my colleagues to support this legislation.

Mr. Chairman, I yield the balance of my 5 minutes to the distinguished gentleman from Louisiana (Mr. MOORE), a member of the Subcommittee on Trade.

Mr. MOORE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, as a coauthor of this bill, I rise in support of the bill, as I did in the last Congress when the bill was vetoed by the President after being passed by Congress.

This bill is needed to remove the uncertainty of interruptions in the quota law we now have in effect and the law of 1964 concerning imported beef. Basically, cattlemen today cannot depend upon the current quota structure as any sort of security or any sort of balancing between the problems with meat to be imported into this country and the problems with boom and bust beef cycles.

Presidents in the past have interrupted this quota and allowed more beef to come in than the quota called for, and these interruptions have sent out negative signals to beef producers and caused them in turn to cut back on beef herd sizes. The result has been increases in beef costs to consumers.

This needs to be stopped, and that is the purpose of this bill. This bill is designed truly to help beef producers and beef consumers.

Mr. Chairman, I will say to my colleagues that this is a novel concept. It is a concept that is not in our law or in any other situation except perhaps with cotton. In most situations where a quota exists, it is a fixed quota. In this case it is something very novel and something for the protection of consumers.

When beef prices are very high in this country, the beef quota window opens because it allows more beef to come in. Consequently, when beef prices are very low in this country, the beef window closes and keeps out foreign beef, except for a smaller measure of imports, until those beef prices in this country become stabilized once again.

This practice is something that truly benefits both the producer and the consumer. It is a novel concept, and it is not something we find having been used to any extent before in our law. It allows more beef to come in under this bill than is presently coming in. So to those people who may say that this bill will keep out foreign beef, I say that is not true. We predict and project that more beef will come in from foreign sources under this bill than is coming in under the law right now.

So this bill is not a restrictive bill or one designed to hurt foreign competition. This bill is definitely a compromise over the bill the last Congress passed; the one the President vetoed. Most if not all of the present objections have been met, and most of the compromises have been at the expense of beef producers. Consequently, beef producers in this country have given up a great deal in order to have this bill passed by this House today.

Therefore, Mr. Chairman, I urge my colleagues to pass this bill as something that is most needed to stabilize beef production and beef prices for both the consumers and the producers of beef in this Nation.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, H.R. 2727, as reported, amends the Meat Import Act of 1964. The purpose of the bill is to stabilize U.S. beef and veal production and prices at levels adequate to provide a fair return to domestic producers of beef and veal and to insure U.S. consumers of beef and veal adequate supplies at reasonable, stable prices. This bill was introduced by our distinguished chairman, Mr. ULLMAN of Oregon.

H.R. 2727, as amended, modifies the method of determining quota levels by the adoption of a countercyclical formula. Under current law, import quotas are highest when domestic production is high and supplies are plentiful. The quotas are lowest when domestic production is low and supplies are tighter. The current law has provided for a steady growth in imports over long periods of time as domestic production increases. However, within the shorter time frame of a cattle cycle it operates in a manner destructive to supply and demand conditions in the U.S. market. Under the countercyclical formula proposed in H.R. 2727, the limitations on imports would vary inversely with U.S. production of beef and veal so as U.S. production decreases, import limitations will be liberalized, and vice versa. This formula utilizes a current base period (1968–77) representing a complete cattle cycle and also contains a countercyclical adjustor which causes the formula to react more consistently and rapidly to changes in the domestic cattle market.

By providing a countercyclical formula for meat imports, H.R. 2727 will help both consumers and producers. The bill will—

Let in more meat over the cattle cycle than would be permitted under current law;

Let in more meat when supplies are low and consumer prices are high, thus moderating the rise in beef prices;

Let in less meat when supplies are abundant and consumer prices low, thus moderating the decline in prices for producers.

Mr. Chairman, I have long been in favor of complete repeal of the Meat Import Act of 1964. In 1973, when the Ways and Means Committee was considering the Trade Act of 1974, it was defeated in a 12 to 12 vote to repeal the 1964 act. I will continue to support efforts to repeal. But I frankly doubt that the votes exist to wipe this statute out. Since I believe that the amendments we are considering today are a major improvement for the consumer, I will support final passage of this legislation.

During the debate in committee on this legislation, the greatest controversy centered on whether to establish a 1.2 or a 1.3 billion pound minimum access or import floor. The committee bill unfortunately contains the lower figure of 1.2 billion pounds which provides less protection for consumers. It is expected that an amendment will be offered to raise that floor to a compromise figure of 1.25 billion pounds. While I support that figure as an improvement, I believe the figure should be even higher, at the 1.3 billion pound level. Therefore, I urge support of the gentleman from Ohio (Mr. GRADISON) in his amendment to increase the minimum access level to 1.3 billion pounds.

Mr. FRENZEL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Ohio (Mr. GRADISON), a member of the Subcommittee on Trade.

Mr. GRADISON. Mr. Chairman, consumers—our constituents—are crying out against the high cost of food. Last year, the Consumer Price Index for food rose by 11 percent. The outlook for this year is not much brighter. In 1979, the CPI for food is projected to surpass easily the 10 percent mark. Consumers are being forced to decide between spending more and more money to buy the same market basket of goods or spending the same amount of money and purchasing less food. This situation is especially onerous, for low- and middle-income families.

The time has come for Congress to fight this problem. The time has come to halt all Federal programs which needlessly raise the cost of food. The recent defeat of the sugar bill indicates that House Members are beginning to hear this message. Yet, the fight against higher food costs is far from over.

Today, the House is considering a bill which would modify the quota system used for meat imports. Yet—particularly in these times of double-digit inflation—Congress should be pointing its efforts in exactly the opposite direction as that detailed in this legislation.

Quotas restrict supplies and only serve to exacerbate the problem of shortages and higher prices. Therefore, when we take up amendments under the 5 minute rule I will offer an amendment to eliminate meat import quotas altogether—an approach just supported by the chairman of the Trade Subcommittee, the distinguished gentleman from Ohio, Mr. VANIK.

The case against H.R. 2727 and meat import quotas is a strong one. H.R. 2727 is being touted as beneficial to the consumer. The simple fact is, however, that this legislation is fatally flawed and in no way justifies the continuation of a quota system.

H.R. 2727 would establish a countercyclical formula to determine the "permissable" level of meat imports. The formula is designed to allow more imports during periods of low domestic production and less imports when production at home is high. The goal here is to eliminate the detrimental impact of the peak/valley aspect of cattle production. Close examination, however, reveals major faults in the proposed formula.

The countercyclical formula is based on the assumption that the cattle cycle in foreign countries will be desynchronized from our domestic cycle—that is, foreign production will peak when domestic production is low and will slip when domestic production is high. This assumption, however, places the proposed formula in a very tenuous position—if the assumption is false then the countercyclical formula will not work; if it is true, then the formula will only be a second best alternative when compared to the market system under free trade. In other words, if the assumption of desynchronization is false, then foreign production will dip at the same time as domestic production and the countercyclical formula would be useless. Even though this formula would permit higher imports during times of low domestic production, higher imports would not necessarily be forthcoming since foreign production would be low as well.

Furthermore, if the assumption is true that the cattle cycles can be desynchronized, then the free market system would most effectively organize trade since, for example, low production at home would create higher prices which, in turn, would encourage greater exports to the United States. In either case, the countercyclical formula is a loser.

Even if one believes that the countercyclical formula would work, it would restrict the importation of one type of meat just because domestic production of a differing type is high. Beef imported into the United States is generally grass-fed and is largely used in hamburger and processed foods. In contrast, most of the beef produced in the United States is grain-fed and used for table steaks. Thus, the countercyclical formula would limit beef available for hamburger just because domestic production of table steaks is high.

Meat import quotas, in any form, represent poor public policy. Meat prices have been the driving force behind the sharp rise in food costs. Figures from the U.S. Department of Agriculture reveal that even after a high growth rate in 1978, retail beef prices increased by 23.9 percent in the first half of 1979, which accounted for nearly one-half of the 6.0-percent increase in the CPI for food. Beef prices are skyrocketing and pulling food prices and the cost of living along.

Import quotas restrict supplies and thereby force the price of meat upward. In addition, as the cost of meat increases, consumers shift their demand to substitutes such as chicken or pork and as a result, the price of these products increases as well. The President's Council on Wage and Price Stability has estimated that the current quota system costs consumers between $350 million and $1 billion annually. In the coming decade, the cost is projected to reach at least $1.2 billion annually.

Meat import quotas have a disproportionately harmful effect on the poor. As indicated earlier, quotas limit the supply of less-expensive meat products such as hamburger, upon which lower income families largely depend. Department of Agriculture estimates show that the price of hamburger in the first half of 1979 is nearly 50 percent higher than in the same period 1 year ago. This means that a family spending the same now as before can only purchase one-half as much beef. Eliminating import restrictions would reduce the relative price of hamburger and other processed beef products.

In addition, meat import quotas are detrimental to our overall trade policy. The United States exports over $5.2 billion in goods and services to Australia and New Zealand—the two leading suppliers of meat to the United States. Quotas reduce the income of our trading partners and weaken their ability to purchase U.S. goods. Furthermore, how can we expect our trading partners to allow imports of goods we have to offer, including our own high quality beef products, when we close our markets to their goods? U.S. trade restrictions induce foreign governments to erect their own barriers, and as a result, everyone loses.

I might add that it was not too long ago, during consideration of an amendment to impose export quotas on the leather industry, that many Members from cattle-producing areas professed the benefits of free trade. It is important to stress that free trade is not a one-way street.

Mr. Chairman, meat import quotas are bad for the entire Nation and H.R. 2727 does not alter this fact. Consumers are being crushed by the ever growing burden of higher prices. Clearly, the time has come to give the consumer and the average citizen a break. Any action which maintains meat import quotas would work against the consumer because it would leave intact a system which limits supply and drives up the price. Again, I emphasize that H.R. 2727 would provide no solution. The only responsible action Congress can take—especially in these times of double-digit inflation—is to repeal meat import quotas altogether.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I rise today in support of H.R. 2727, the Meat Import Act of 1979. This legislation is carefully crafted and is a fair compromise.

Many of you remember that last year, the President vetoed a meat import bill. He said it took away too much of his authority to suspend quotas and increase imports. The key to an agreement this year, in large measure, was to find language which the administration could

support. H.R. 2727 achieves this goal. The administration supports the bill.

The Meat Import Act of 1979 corrects a basic flaw in the 1964 law, which almost defies the law of supply and demand. The current system increases imported meat when domestic supplies are most plentiful and reduces those imports when domestic supplies taper off.

By contrast, H.R. 2727 establishes a counter-cyclical approach that has overwhelming support. This bill limits imports when domestic supplies are plentiful and prompts more imports when domestic supplies are low. This concept is simple and essential to the stability of the cattle industry and to the stability of meat supplies in this country. The bill stabilizes the supply and price of beef and eases the boom and bust cycle that has disrupted the market in recent years, preventing the industry from making the kind of projections and plans that any well-managed business must make.

H.R. 2727 reflects a compromise reached in the Ways and Means Committee on the section pertaining to Presidential discretion. Last year's veto was based on the fear that the President would lose too much of his power to suspend quotas and increase meat imports. This year, we established a system to allow more Presidential discretion than either last year's bill or H.R. 2727 in original form, introduced by my friend and colleague, Chairman AL ULLMAN. The final product, therefore, represents a system which has attracted the support of all major farm groups, as well as the National Independent Meat Packers Association.

Since the committee approved H.R. 2727, we have agreed on an amendment, to be offered by Mr. ROSE or Mr. FRENZEL to increase the minimum floor on meat imports from 1.2 billion to 1.25 billion pounds of meat. This issue threatened to divide opinions on the bill. But we have now agreed upon this compromise, which has strong backing by the administration.

Some of our trading partners have opposed this bill, but it is not our purpose to hurt relations with any country. This bill improves our meat import laws, but not to the detriment of any foreign markets. There is a need for certain grades of imported meat, but not at the expense of domestic producers, who are unable to plan for the future under the present system. H.R. 2727 will not reduce the amount of meat imports—it will simply change their timing in a more logical fashion.

We have the administration's support for this important piece of legislation. H.R. 2727 gives us the chance to keep the cattle industry on the road to stability. The beneficiaries will be the small producer, the cattle industry and the consumer. I urge your support of this worthwhile goal.

□ 1730

Mr. ULLMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to have an agreement with my distinguished friend, the gentleman from Minnesota (Mr. FRENZEL), the ranking minority member, that we might finish general debate, provided we have no votes tonight on the matter but just continue through general debate.

Mr. FRENZEL. Mr. Chairman, if the gentleman will yield, that is my understanding of the agreement. On my side, we have, I think, five requests for time, with 9 minutes, and I think we can finish the debate very promptly tonight if we would go ahead on that basis.

Mr. BAUMAN. Mr. Chairman, I make the point of order that a quorum is not present.

Mr. ULLMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GORE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2727) to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes, had come to no resolution thereon.

TRAINING OF IRANIAN MILITARY PERSONNEL

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLFF. Mr. Speaker, today I have introduced legislation urging the President to terminate immediately all training of Iranians in our military installations.

Presently various branches of the military are training 274 Iranian officers and enlisted men. The Air Force is training the bulk of the Iranians as pilots in bases throughout the country.

I would like to insert into the RECORD at this point the list where Iranian personnel are being trained:

IRANIAN TRAINEES

WASHINGTON.—A total of 273 Iranian military personnel, mostly student pilots, are in training at Air Force and Navy bases in the United States, the Pentagon said today.

The Iranian military students are at 13 bases in nine States.

The 245 Iranian air force personnel are at the following bases:

Columbus, Miss., 83; Laughlin Air Force Base, Texas, 72; Shepherd Air Force Base, Texas, 48; Mather Air Force Base, Calif., 24; Lowry Air Force Base, Colo., 7; Keesler Air Force Base, Miss., 6; Reese Air Force Base, Texas, 3; and one each at Blytheville Air Force Base, Ark., and Kelly Air Force Base, Texas.

In addition, 28 Iranian navy personnel are training at these bases:

Pensacola, Fla., Naval Air Station, 19; four each at the Corpus Christi, Texas, Naval Air Station and the Navy Postgraduate School at Monterey, Calif., and one at the Jacksonville, Fla., Naval Air Station.

Defense Department officials said they expect most of these training courses to be completed this year.

It is absurd for the United States to be training Iranian military while the leaders of that country are condoning the seizure of our Embassy and allowing our citizens be held under threat of death. The Iranian military, whose officers we are training, marched in the streets yesterday demonstrating in support of the seizure.

While Iran is blackmailing this Nation, they are treating the United States as an adversary. I see no reason to train the military forces of an adversary nation.

The Iranian Government, and its leaders, have violated international law and infringed upon U.S. sovereignty. Iran is a party to the Vienna Convention on Diplomatic Relations which clearly states that a diplomatic mission and diplomatic agents are "inviolable;" and that the receiving nation has a responsibility to protect that mission.

I support President Carter's action yesterday in cutting off our imports of Iranian oil. I think that terminating all military training is the obvious next step that the President should undertake.

I am seeking cosponsors on my resolution. While we must clearly take well thought out actions in this delicate situation, we must also send a message to the Iranians that we will not accept terrorist acts perpetrated against our citizens and diplomatic personnel.

THE CHRYSLER BAILOUT

The SPEAKER pro tempore (Mr. WEISS). Under a previous order of the House, the gentleman from Arkansas (Mr. BETHUNE) is recognized for 60 minutes.

GENERAL LEAVE

Mr. BETHUNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. BETHUNE. Mr. Speaker, as a new Member of the House, I have made a couple of observations since I have been here that I think are valid, and one of them is that this Congress tends to respond to pressure rather than to address the problems of the day, and that pressure tends to cause us to view matters in the short-term rather than in the long-term interest of the country.

The Chrysler issue gives this Congress, I think, a unique opportunity to send a signal to America that this is the time when we are going to quit giving in to the pressure of the day and start thinking about the long-term interest of this country. Too often Congress is busy putting out the brushfire of the day and listening to the special interests that run up and down the hall, rather than thinking about the long-term consequence of that action, as we should. I know that Members are getting pressure from the Chrysler dealers all around the country, and I know that Members are getting pressure from the suppliers and the big banks that have extended credit to Chrysler and to the various Chrysler dealers around the country. I am, too. But I think that this is a good place for us to reverse this trend that obsesses the House to respond to special-interest pressure instead of dealing with

long-term problems. This is as good a place as any to fight the battle that one day we are certain to have to fight in America. It seems to me that this is the time and this is the place where we need to deal with the British disease with which we are now afflicted.

I saw some testimony today in the Banking Committee that succinctly brings the point to bear, and it goes something like this:

> The argument over what kind of investment or interest in the company, in a business, that the Government ought to get in exchange for help is precisely the kind of situation that most businesses, including Chrysler, have always hoped to avoid. The debilitating impact of the Federal Government on American enterprise has been described and proven many, many times. If there is a single issue on which most business men and women agree, it is the fact that the Government's impact is always counterproductive from an economic standpoint, and the costs of regulation are always devastating. Yet we have here the spectacle of a major U.S. corporation willing to accept the most ridiculous schemes and intrusions on its right to manage its own resources simply because, with its hat in its hand, it has given up its will and its moral right to say no.

That testimony in the Banking Committee, I think, focuses on the gut issue of the Chrysler bailout proposal.

A troublesome aspect, to me, of the present administration's proposal is this tacit acceptance of a shortrun solution to the problem that faces the country. They are trying to ram through the committee, without full study and examination, a proposal that transfers to the Secretary of the Treasury carte blanche power to run the Chrysler Corp. in the next 2 years. Again we are being asked to ascribe to the myopic view of what might seem costly in the shortrun and ignoring in the name of political expediency the exceptionally high cost of such action in the long run.

The need for careful and responsible judgment on matters of profound importance of long-term benefits and economic survival of this Nation are being abrogated by the knee-jerk reaction of Government to the various special interests involved.

At the very root of this proposed bailout lies one characteristic that continues to surface time and time again. This is merely an attempt to transfer the risk of business to the tax-paying public sector while holding the promise of reward for the various interests in the private sector.

What are we going to do with the precious trait of the American character known as self-help and individualism? Are we eroding this ethic by easy access to the Government Treasury?

□ 1740

Is this quick fix by central government to quickly relieve the pressure from Chrysler likely to remove the incentive that they might have to try to help themselves? Could it be that the pressure for Government loan guarantees now before us grew out of Chrysler's anticipation that a Government bailout would be there when they needed it? In this environment of crisis decision-making, the social blackmail says guarantee now or spend several million dollars of taxpayers' money over the near term for an economic and social displacement resulting from the Chrysler collapse.

In terms of cost, I think we should ask this question: Is the relatively short-term impact of Chrysler's collapse miniscule compared to the long-term implication of continued shortsighted Government decisionmaking which destroys initiative and reduces productivity? This destroys credibility of government and instills resentment by those who, with their individualism and work ethnic, are the underpinning of our economic and social political system and which assure the continued upward spiral of inflation and export of American jobs by ignoring the signals of the free marketplace, by propping up the most inefficient productive capacity in our system.

The very purpose of the Government loan guarantee is to furnish the applicant with resources that it would not otherwise receive. By transferring the normal lender's risk to the taxpayer, the Government is altering the market signals, perpetrating continued consumer dissatisfaction and allocating a scarce resource, in this instance credit to the least efficient producers in this country.

The prospect of a temporary rise in unemployment with its attendant economic cost is much less chilling than the prospect of the taxpayer via Government in partnership with the moribund corporation.

A "worst case" simulation of a Chrysler shutdown, by Data Resources, Inc. (DRI) suggests that auto sales will have been recovered by 1981; Chrysler employees will have been largely absorbed by other sectors of the economy; and employment would be lower by some factor due to a share of auto market going to imports. Short-term economic impacts suggested are:

First. Lower economic growth;

Second. Lower employment for 2 years;

Third. Lower after-tax corporate profits;

Fourth. Near term tighter financial markets; and

Fifth. No domino effect on other big companies.

The important point of the assessment, however, is the short-term duration of the impact.

Conclusions reached on a long-term impact by DRI and Heritage (Eugene McCalister, economist) suggest that:

First. Projected unemployment figures are exaggerated.

Second. Profitable Chrysler facilities would continue operation and short-term output losses would be minimized.

Third. Some of the displaced demand would be met by other domestic producers through expanded employment, thus strengthening American Motors, GM and Ford.

Fourth. Some demand would be met by imports from foreign facilities with associated output and employment loss to U.S. economy.

Fifth. It is further suggested that the jobs lost would be the "inefficient ones" which in the long run should be lost, to avoid the allocation of resources to less cost-competitive productive facilities.

We should make the decision about aiding Chrysler in a larger context after due deliberation.

The sporadic, piecemeal, and uncoordinated approach to a rational industrial policy can lead only to continued crises. Chrysler is symbolic and symptomatic of much bigger national problems. For example:

First. An ever-increasing decline in U.S. productivity—in part due to governmental policies which circumvents the cost economics of the free marketplace; stifles incentives; and discourages private capital formation.

Second. Governmental regulation of industry administered politically rather than scientifically.

Third. Enormous future demands for capital from both private and public enterprise.

Fourth. Increasingly obsolete facilities of basic U.S. industries.

Fifth. Development of full-blown, worldwide markets and competition.

Sixth. Unfair international trade practices with business/Government partnerships.

Many basic industries are in serious trouble (auto, steel, chemical, energy). All are destined for "future shock" from compression of change over a short-time span. The final decision reached on the Chrysler bailout is of much less consequence than the concurrent structuring of sound policies and strategies that will enable us to anticipate and respond with due deliberation to the future "Chryslers" in American industry that are just over the horizon.

The present administration's proposal poses serious concern due to the tacit acceptance of a one-option solution to the problem.

PROPOSED LOAN GUARANTEE

First. Are loan guarantees the correct solution to assure survival and expansion of the most cost-efficient/market-sensitive productive capacity in America? Testimony from various expert and reputable sources indicates otherwise.

Second. With the future "Chryslers" on the horizon,, and with the future "loan guarantees" that will surely be demanded, and with the inevitable failure of some such "bailout"—are we not headed on this one-way track to the British disease?

BANKRUPTCY IS A VIABLE ALTERNATIVE

First. Will a governmental treasury-administered plan for Chrysler's possible survival indeed be superior to a plan administered through the readily available, duly legislated, Bankruptcy Act? The act has been rewritten to help in the rehabilitation of corporations. Again, reliable testimony indicates otherwise.

Second. The administration's proposal is based on Chrysler's contention that bankruptcy as an alternative would lead to loss of management, market, and abandonment by Chrysler dealers. This assumption is questionable at best—no expert inputs have been forthcoming to support that contention. Does not Chrysler have as much to lose from the inevitable resentment from taxpayers and the multitude of small business owners who are denied the same safety net by Government?

Third. There is still time for Government assistance after bankruptcy proceedings with its special provisions for restructuring of debt, reorganization of management, and requirements for self-help from vested interest. Why throw out a century's experience in these matters for a politically appealing, untested alternative?

MORE EFFORT FROM CHRYSLER AND VESTED INTEREST SHOULD BE AN ABSOLUTE REQUIREMENT

First. Employees of Chrysler (UAW) have made few concessions. Why are the taxpayers being asked to guarantee Chrysler's loans to give UAW workers more than 10 percent per year wage increases when Federal workers are asked to stay within a 7 percent maximum wage increase for the sake of fighting inflation?

Second. Chrysler management's plan is singularly lacking an initiative for programs which would kindle incentive, increase productivity, or would require the Chrysler/vested interest to assume the additional debt/equity risk so necessary to the promise of success.

Some myths about the Chrysler problem include:

First. If Chrysler does not get Government aid, it will stop making cars.

Second. If Chrysler does not get help, all of its employees will be fired.

Third. If the Federal Government does not help Chrysler, there can be no solution to its problem.

Fourth. Chrysler dealerships will close if the Government does not help with its cash flow problem.

Fifth. That claims against Chrysler, by consumers, bankers, suppliers, dealers, and so forth, would be protected if the Government makes the loan guarantees now requested.

Sixth. That bankruptcy means an end to Chrysler.

Seventh. That the Nation's economy is too fragile to handle the task of undergoing a reorganization of Chrysler.

Eighth. That there is no existing way of handling a Chrysler-type problem.

Ninth. If we say Yes to Chrysler, we can say No to the next corporate giant that wants the Government to lend it funds.

Tenth. That helping Chrysler will not have any effect on the economy, even though the Government would be borrowing (indirectly) in the money markets and thereby competing with private capital needs.

Eleventh. That Chrysler employees are making a significant sacrifice when the average hourly pay is $14.50 an hour and the average annual wage is $20,000.

Twelfth. That a shortrun solution must be made without consideration to the longrun problem of a Government policy that weakens the established ability of business to contribute to the national economic health.

Thirteenth. That there is no relationship to what we are being asked to do for Chrysler and the history of what happened in England that led to the nationalization of major British industrial giants.

Fourteenth. That Government, if it helps Chrysler, will not be going into the auto business in a de facto manner.

In terms of the proposal before us, we should ask: Are we directing all of our concern toward the success, rather than the need, of this operation? Where are we if the operation succeeds, but the patient dies? Is this proposed questionable precedent one more step in the process of surveying the boundaries of a cemetery for corporate bodies where the economies of competitive free enterprise will be laid to rest with the name Chrysler on the first headstone? Perhaps sympathy for the Chrysler economic family should be—not for the possibility that the loan guarantee might be denied—but that it might be granted.

As I said a moment ago, I think that the strategy of the administration and the people who control this Congress is to ram this legislation through without complete study and without full examination.

I think that we should make the decision about aiding Chrysler in a much larger context and after due deliberation.

Is not the burden on Chrysler to prove their need, and have they discharged that burden?

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the distinguished ranking minority member on the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio.

Mr. STANTON. I certainly appreciate my friend and colleague on our Committee on Banking, Finance and Urban Affairs, the gentleman from the great State of Arkansas (Mr. BETHUNE) for yielding.

The first thought that comes to my mind is to congratulate him for bringing to the attention of the House the first colloquy that I know of in regards to this subject of the bailout of the Chrysler Corp.

I think that the gentleman has just made a significant statement. When the gentleman spoke about the fact of the time element involved and the need for the necessity of hurrying the legislation through the legislative process, in all fairness, this has put a tremendous burden upon us who serve on the committee and who recognize that the No. 1 legislative responsibility of the subcommittee or the committee is to present to their fellow colleagues on the House floor the best legislation that they can conceive of, regardless of whether they are for or against the legislation.

In this regard, the hurry-up process has been accomplished by the administration in presenting a plan to the Congress a week ago Tuesday, having 1 day of hearings on Wednesday and passing out of our subcommittee the following day.

We met today in full session before the full committee with a slate of witnesses only because the minority side insisted and was acquiesced to by the chairman of our committee, the gentleman from Wisconsin (Mr. REUSS), to have hearings to gather information to be able to present to our colleagues to the best of our ability our vote of yes or no and why we feel that way.

What the gentleman has said in regards to the support of the legislation from a political point of view as far as the White House and United Auto Workers are concerned, let us, I think, make clear at the very start as we consider this legislation in a couple of weeks on the House floor, let us seriously consider, and let us not blame Jimmy Carter for this alone, right or wrong, depending on how we feel about it.

I think we should make clear for the record members of our party strongly support this legislation for one reason or the other.

I would say that our friend and former colleague, President Ford, has called me personally to see if there is some way we can get this legislation through.

A good friend, and friend of many of us, Bill Milliken of the State of Michigan, a great Governor, certainly wants us to do our best for the legislation.

Our own chairman of our Republican Party, Bill Brock, has called to see and remind us that this legislation may have some type of effect down the line as our great party goes to Detroit in July, and keep that in mind.

Let us clear the air once and for all that pressures from political parties in this particular instance is, I think, nonpartisan.

It is going to be a question of each individual Member making up his mind. This is where I share with the gentleman in the well our great basic responsibility to come to the floor when the time comes and can honestly tell our colleagues we have considered this legislation, "This is the best. This is how Joe feels about it. He is opposed for this reason, and Andy's for it because of this reason."

Then we fulfill our basic constitutional responsibility.

I once again congratulate the gentleman in the well, and in the weeks ahead, I am sure we are all going to have a great deal to say about this legislation. I compliment the gentleman for the position he has taken today.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. May I compliment the gentleman from Ohio for his remarks.

I was over sorting mail from my district. I had my television on.

I heard the statement. I could not believe it. I thought the gentleman was a great supporter of private enterprise, and I think the guaranteed loan is intended to support. The gentleman, I am sure, is aware of the Lockheed loan, where the Federal Government made money on the loan. All of the money was paid back, and the interest that was gained by the Federal Government actually made a profit for the Federal Government.

Very frankly, I think that had our Government made guaranteed loans available to our steel industry, had we made

guaranteed loans available to our textile industry, they would not be now in the position they are in in competition with West Germany and with Japan. I think they would have had the opportunity to modernize their equipment and make themselves competitive with the foreign interests which have taken away the great play from our country in these areas.

I just honestly feel that the jobs that are involved, the number of workers who will be affected by this is so important to the economy of our great country that we have to do whatever we possibly can.

It hurts me when I see a gentleman who I feel is as responsible as the gentleman from Arkansas (Mr. BETHUNE) make a statement in opposition to what I think is a very fine program.

Mr. BETHUNE. I thank the gentleman for his observations.

I would say that there are a number of myths about the Chrysler bailout. One of them is that a guaranteed loan costs nothing.

In the situation of a guaranteed loan, the Government is diverting credit from sources that would otherwise get it in the free marketplace.

Aside from that, I think this case can easily be distinguished from Lockheed.

I think it can easily be distinguished from New York City and Penn Central. I will do so as the debate ensues.

I would say this, that whatever facts and issues arise throughout the Chrysler debate, I think that, as the gentleman from Ohio has mentioned, the burden of proof in this instance is on Chrysler. They are here hat in hand.

The burden of proof is on them and remains on them, and to date they have not discharged that burden of proof to my satisfaction, and I think to the satisfaction of a number of people in this Congress.

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding.

I think that our colleague who is concerned about the gentleman's love for the free enterprise system really need not concern himself, because the legislation that the gentleman in the well refers to is going to have enough things hung on it so that everyone will be satisfied.

The chairman of the full committee, for instance, has an amendment that will have the Government deciding the kind of cars; and not only will they get a loan guarantee, but we are going to tell them how to run their business and what kind of cars to manufacture and whether they should stop manufacturing cars and go into mass transit systems. Then they are going to help them a little bit further, I presume, by in some way telling the American public that they have got to buy those cars whether they like them or not.

□ 1750

I think it is consistent with the gentleman's suggestion. The Members of Congress know better than the members of the general public about what kind of cars they want and how to spend their money. For instance, in this very case, this is not just a loan guarantee program, it is a subsidy. There are going to be millions of dollars of subsidy that will go to Chrysler, the 10th largest corporation in the United States. I will ask the gentleman in the well if that is not the case.

The testimony we had in committee today was that the current market for Chrysler would be somewhere between 15 and 20 percent. The expectation of the Secretary is that Chrysler will only be charged about 10 percent at the hands of the Government, so while the taxpayers are paying 18 percent on their consumer financing, Chrysler will be able to get theirs for 11 percent.

I think probably the gentleman in the well and I just did not really understand what love of free enterprise meant.

Mr. BETHUNE. I thank the gentleman. If the gentleman will accommodate me, I will be happy to yield, but I have committed to other Members earlier in the day to share with them the time in the special order.

Mr. CHARLES H. WILSON of California. If we have more time left, I would like to ask a question through my friend from Florida.

Mr. BETHUNE. Mr. Speaker, I yield to the distinguished gentleman from Mississippi (Mr. HINSON).

Mr. HINSON. I thank the gentleman from Arkansas. I am a member of the committee and the subcommittee and I have observed throughout the hearings these hearings have only superficially addressed the problems of Chrysler, and particularly where it relates to a more or less continuing recession in automobile sales as a result of petroleum shortages. This alone is a very significant oversight when it comes to considering the problems that have arisen at Chrysler.

There are numerous management decisions that were made that were absolutely free of any Government intervention and not related in any way to Government rules and regulations that clearly indicate that Chrysler management made major errors that have brought it to this present state.

What is its answer? They go to their unions and their unions turn them down and will not defer scheduled wage and price increases. They will not accept pay cuts. They go to the city and the State and local governments, all of whom have offered help in one way or another, but the accumulation of evidence seems to indicate that that is not sufficient.

What is their response? They come and say "Big brother can you spare a dime?"

I think it has been very clear from the evidence presented before the committee that Chrysler's problems could be substantially resolved if all of these non-Federal parties were willing to accept the sacrifice and the risks that are inherent in the relationships that they entered into voluntarily. I suggest that the committee ought to be requiring further sacrifices, further involvement by the non-Federal parties before we start considering the area of Federal loan guarantees.

Let me also point out that the bill calls for direct loans. It provides the Secretary of the Treasury authority to provide direct loans in very substantial amounts if commercial credit is unavailable. I assume this would be discounted through the Federal financing bank which would, I understand, in effect, throw it off budget. We are talking about financing a billion and one-half dollars of Federal deficit and not having it show up anywhere in the Federal budget. I consider that to be an irresponsible act in itself, and I intend to offer an amendment during the committee consideration that will address that problem.

But nevertheless, I think it is a major factor in my decision, at least, to oppose the bill at present. I thank the gentleman for yielding.

Mr. BETHUNE. I thank the gentleman. He made a point that I would like to add to, and that is the possibility of a direct loan, which causes me to remember some of the testimony in the Committee on Banking, Finance and Urban Affairs which tells me that there are a number of hidden features in this legislation. The Secretary, as I indicated earlier, has carte blanche authority to involve himself in the affairs of the Chrysler Corp.

Furthermore, I am concerned that in this process, we leave so very vague in the descriptive language in the bill that we are avoiding a number of the safeguards which are set up in the brandnew bankruptcy code which would apply to other businesses in this same or similar circumstance. There are a number of features in the new bankruptcy code which I think are excellent, calling for the appointment of an independent examiner to determine whether there has been any dishonesty, fraud, gross mismanagement and so forth. All of that is skirted by this bill which creates a special process for Chrysler Corp.

I yield at this time to the gentleman from California, a member of the committee (Mr. SHUMWAY).

Mr. SHUMWAY. I appreciate the gentleman yielding and appreciate his obtaining this special order in order that some of us who have been very involved in the Chrysler hearings for some weeks now may have a chance to comment and give our impressions.

With regard to my distinguished colleague from California, the question he raised regarding our support or lack of it for the free enterprise system, I would simply like to make the point that in this case we certainly have a free enterprise. Many of us are very committed to preserving it as a free enterprise. But I would suggest to the gentleman that the loan package, as it has recently been proposed by the administration, envisions a matching program of a billion and one-half dollars for a similar sum raised by the Chrysler people. It envisions a continuing program to be enfolded during the next 3 years where the Federal Government will play a very key role in financial planning and the financial affairs of the Chrysler Corp. It gives the Federal Government, through the Treasury Department, the say-so to intervene

insofar as management decisions, and even personnel decisions made by Chrysler.

I suggest to the gentleman that those steps, if nothing more, would signal to me that we have effectively placed such a stake in the ongoing operations of the Chrysler Corp. that it no longer exists as a free enterprise, but we have, in effect, nationalized it because thereafter, should Chrysler not meet the optimistic projections which they have made to us, and have continued financial difficulties, and find it necessary to come back for further assistance, I suggest that we would then have no choice because of the size of the stake and because of the role we have played in the management of Chrysler. We would then be committed, and, indeed, feel committed to continue to pump taxpayer dollars into that corporation.

That being the case, I would suggest we have stripped from it any aspect of it being a free enterprise existing on its own merits in a competitive marketplace, but we have nationalized the company and effectively taken it over as an arm of the Federal Government. That does not serve the principle of protecting and preserving the free enterprise, as many of us believe it should be protected in this country.

Those are some of the considerations that loom large in my mind as I feel constrained to support the gentleman from Arkansas in addressing these issues. I only wish that the gentleman from California as well as many others of our colleagues had the opportunity to sit with us through the several weeks now of subcommittee hearings when we have repeatedly propounded some of these questions to witnesses who have come before us, only to receive back their evasive answers or, in many cases, very self-serving answers. We, of course, have heard from the bankers who have a direct involvement. We have heard from the parts suppliers who necessarily are dependent upon Chrysler. We have heard from Chrysler management. We have heard from the congressional representatives and the others.

I would suggest to the gentleman as well as my colleagues that much of this testimony has been self-serving and really has not been of the objective quality that one would expect to be supplied to a subcommittee such as ours in making a decision with very far-reaching implications as this one has. Not only are we talking about a large amount of money here, but we are talking about extremely important precedents. I think the question is a significant enough one that we should be giving great time and attention to it at the subcommittee level, and now at the full committee level before it is reported to the House for action here on the floor.

I thank the gentleman for yielding.

Mr. BETHUNE. I thank the gentleman for his contribution.

At this time I would yield to a member of the committee, the gentleman from Texas (Mr. PAUL).

Mr. PAUL. I thank the gentleman very much. I appreciate the effort made by the gentleman from Arkansas in bringing this before the House.

I would like to take a few minutes to give a few points about this problem that we face with the Chrysler bailout. There are various problems. I would like to address the problem of the high wage rate more than the others, but just briefly, the overall problem involves the excessive regulation that Chrysler and the other automobile dealers have been forced to face.

We live in an age when taxation is outrageous. We live as well in an age where all business people have to deal with inflation, which makes it very difficult for businesses to survive.

□ 1800

The age of inflation lends itself to bad management, and we certainly have had some bad management in the past with Chrysler, but the margin of error is greatly reduced when we have inflation. We also have the problem of foreign competition, but that is also characteristic of a country that is inundated with regulations, taxation, and inflation. So, all these problems exist, and I do not ignore these, but I want to address more fully the problem with the wage rate, because this is a serious problem and has a lot of bearing on this bailout we are considering.

Wages can be high, that is artificially high, for one of two reasons. They can be pushed high artificially by very strong labor union pressure. They can also be artificially high due to a recession. When there is a recession, corrections have to be made. Dividends go down, profits go down, wages should go down as well. In the 1930's, artificially high wages was a very specific problem, and it was addressed poorly. Wages were held high for a long time. As a matter of fact, in 1936 when Keynes wrote his general theory, he addressed this problem specifically and said, it would be best we never allow wages to drop in the normal sense, but we will deceive the workingman by lowering his real wage by inflating and diluting the value of the money, and let the real wage drop and the workingman will not know any different. Thus accomplishing the correction in a deceptive manner.

So, there has been a deliberate economic policy and a policy of Government over the past 40 years to deliberately inflate. The important thing here to realize is that this wage problem, where a UAW worker may be making $15 per hour and the average industrial worker is making $7 an hour, the UAW worker makes twice as much. He is very happy and delighted, but it is at the expense of somebody else. It has to be at the expense of a lower wage someplace else or unemployment someplace else. It goes to prove that we do live in an age of "Government with clout."

If you are a big company or belong to a big union, your chances of benefiting in this economy are much greater; much greater than if you happen to be an individual or small businessman and you face the same problems. Under these circumstances you are more likely to be allowed to go bankrupt. It happens that nearly 200,000 people went bankrupt last year who did not get any assistance from the Federal Government.

So, a moral question is involved here as well. The moral question is, does bigness qualify you for bailouts, where smallness allows you to be neglected?

There is an important issue here regarding wages and capital. There is a serious misunderstanding about what capital is. Real wages only can go up when there is proper capital investment. Real capital investment can come from only one source, and that is from savings. This savings must be taken and put into technology. When it is put into the equipment and tools of business and you increase productivity, then the real wage can go up. The real wage cannot go up if productivity does not go up. If you do not have capital, you cannot increase the productivity.

We have been living in a bit of misbelief here for the last several decades because productivity has not gone up, but we have continued to deceive ourselves with the inflationary game.

Mr. CHARLES H. WILSON of California. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I am not going to make the point of order, but the gentleman from Arkansas should stay at the microphone. He has the floor.

The SPEAKER pro tempore. The point is well taken. The Chair understands that the rule is that the gentleman remains standing, and he is standing.

Mr. PAUL. If we do not have increased productivity, we end up with economic problems of some sort. We then need to get capital from another source, and this is what we have been doing. We have been getting pseudocapital from inflation. We create the credit out of thin air and we call this capital. But, this lends itself to misdirection and malinvestment.

Alan Greenspan, when he was before our committee, testified that he thinks the increase in the credit from our guaranteed loans is the most important contributing cause to inflation. The reason credit is expanded is because of the guaranteed loans given for political reasons.

The argument Chrysler presents to us is very legitimate. They say this is nothing new, and I agree. This is part of the system we have had. It is part of the reason we are in trouble today. According to the testimony of Lee Iacocca, our Government now guarantees loans on $400 billion. So, what is another billion? We say the immediate disaster is that somebody is going to lose their jobs. One more billion, what difference does it make?

Dr. Greenspan made a very good medical analogy to this. He compared this to that of smoking and with cancer. Smoking cigarettes over a long period of time we know causes cancer, but does one cigarette during the day of a lifetime make a difference? When you think of it that way, probably one cigarette, whether you smoke it or not, does not make the difference, but if you continue with the bad habits eventually you kill the patient.

Let us hope we can save our economy and our political freedoms.

So, the $1 billion probably is not going to make an immediate difference to the inflationary process, but it will contribute—it will contribute much more so than anybody thinks. We think of $1.5 billion. The marketplace will not provide it, so we must create the credit. When we do, as that money circulates through the banking system, the $1.5 billion has a multiple effect and will eventually result in $9 billion circulating in the economy. It may not make an immediate difference if we do give the $1.5 billion right now, but if we do not, if we finally stand up and say, "There is something wrong with our economic system and our political structure," and put our foot down, that will make a difference. We can change the disastrous course of events we are now facing.

That is what we need to do. We have been continuing on the same road for year after year, and unless we finally get to the point where we say, "Let us quit this. Let us get off this binge. Let us tighten up our belts and stop it," I believe that will make a difference.

Von Mises, who happens to be the greatest free market economist of this country, has something to say about capital formation. He says:

> The source of capital that leads to genuine economic growth must itself be legitimate. Specifically, "expansion of credit cannot form a substitute for capital." The facile expansion of credit through governmental manipulation is spurious and deceptive; there is an illusion of increased wealth rather than the reality. Genuine capital, and thereby genuine economic growth, must come from bona fide savings.

He continues:

> Capital is not a free gift or God or nature. It is the outcome of a provident restriction of consumption on the part of man.

He concludes by saying:

> The Santa Claus fables of the welfare school are characterized by their complete failure to grasp the problems of capital.

Unless we grasp this problem of capital and unemployment and the need to have wage adjustments, we are going to continue on the road to disaster. We are going to have a calamity, and we will postpone it for another day or two but when it finally comes, the unemployment and the problems in this country are going to be overwhelming. I just hope that we can prevent this from happenin-

The wage settlement recently made by the UAW has a $500 million increase built into it over the next 3 years, figuring an 8-percent inflation rate. Everybody knows that the inflation rate is going to be higher than that. That is 3 years. The time of the loan is 10 years, so in essence the $1.5 billion can be said to be going directly to subsidize wages of a special group who belong to a big union, and there is only going to be one group who is going to pay for it, and that is the little guy who does not belong to the big union. It is not going to be paid for by the corporation. The corporation is going to continue his success in obtaining corporate welfare. It is going to be the little guy who does not have clout, who makes $3 or $4 or $5 an hour, who is going to pay for all this in the grocery store.

This is the tragedy we face. Would it not be better for us to allow some wage adjustments to occur? What would be so tragic to see a 10-percent reduction in the wage of somebody who is making twice the average industrial wage?

It would preserve their jobs, and it would preserve Chrysler. That is what needs to be done. They argue also that if we do not do this, everybody is going to suffer. There is going to be huge unemployment. Everybody in Chrysler is going to be unemployed, assuming there are only two choices—bailout or bankruptcy with failure of the company. Pan American was in trouble once. They threatened us, and they said they may go bankrupt and wanted some help. They survived without a bailout.

□ 1810

Even if Chrysler declares bankruptcy there is a very good chance they would survive, but to prop them up and subsidize inefficiency at the expense of the little man is just not right. Chrysler also faces paying $13.6 billion next year in capital expenditure. They need real capital to pay for it. They are going to come to us and get artificial capital, that is, we are going to print it up or create credit, and they will get the money. But of the $13.6 billion they need, one-half is necessary to fulfill Federal regulations. That is outrageous. If we just got rid of the Federal regulations or part of them, we could provide the $1.5 billion or more, but it seems like we perpetually do the same thing. We create all the problems here in Washington. The people become dependent and do not know what else to do out in the countryside but come back to Washington and beg and plead for more help. And, of course, we oblige and give it to them and make the problem that much worse.

I think we have only a short time to realize what we are involved with here and realize that we must decide in economic terms and on moral grounds that this is really an illegitimate request. We will only participate in the fraud that has gone on and the bankruptcy that we face as a nation will become inevitable. To me it is a choice not between the bankruptcy of Chrysler or not to have the bankruptcy of Chrysler; it is the bankruptcy of Chrysler versus the bankruptcy of this country. I am not even sure if we quit all of this nonsense if this country can survive because of the huge debt hanging over us. But I think the effort has to be made, and to continue with one more cigarette down the line of another cancer I think is something that is intolerable, and I do not think the American people want it.

Mr. BETHUNE. I thank the gentleman for his important contribution.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from California for a brief comment.

Mr. CHARLES H. WILSON of California. I appreciate the gentleman's yielding. I am a little surprised at the type of statements that are being made here this evening. I hope this has not been put together as an antiadministration thing. I think we are going to find that this is a bipartisan solution that we are trying to arrive at. I have no Chrysler agency in my district. I am from California. They have closed everything out there. I am a little at a loss for words and a loss of information, because I am not from Michigan. I tried to catch a couple of my Michigan colleagues as I came in. But I was so surprised, as I indicated to the gentleman earlier, that as I was finishing up the work in my office and I was watching the special order on the television in my office that this type of special order was taking place.

I wonder how the gentleman and his colleagues who have been participating in this debate or this discussion would feel if we had some real tough tariff rates that would keep the foreign cars out of our country. Perhaps we could have a reasonable balance of payments then. Suppose we told the Japanese and West Germans that we are going to make them pay the same thing to bring their cars into our country that they charge us to take our cars into their country. I do not think this is a case of Chrysler being any less responsible to the people of this country than either Ford or General Motors.

I do not have too much to say, and I will be happy to stop and allow the gentleman to ask a question, but I just feel that this is an extremely unfair position to take with an American company when we are allowing all of these foreign imports to come in without any problem at all.

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding.

I think my colleague, the gentleman from California (Mr. CHARLES H. WILSON), misunderstands the tenor of the exercise. What we are doing in the Banking Committee is we are being ripped off, and we should not confuse that with foreign competition. Chrysler and the UAW are perfectly able to handle this whole problem themselves, but they are consistently refusing to do that because they think that they are going to be able to come to this Congress and get a decided advantage and subsidized interest rates and a billion and a half dollars in capital that will give them an advantage over their competitors, both foreign and domestic. The way that this comes down is something like this: The UAW workers before they got a 33-percent pay raise were getting more than 100 percent more than the average production worker in the United States. But now what they want to do is they want to get an increase in wages by 33 percent that will cause them to be approaching 150 percent more than the average production worker. And then they want to do this in violation of the wage and price guidelines, and they want the American taxpayers to take the risk. This is further exaggerated by the fact that Chrysler through mismanagement, bad government, and caving in to the unions have put themselves in a position where quite clearly they do have some difficulty. They can extricate themselves, but they are not willing to pay that price. What they want to do is they want the taxpayers to do it for them.

Mr. PAUL. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Texas.

Mr. PAUL. I thank the gentleman for yielding. I would like to make a comment on the question of the tariffs. The tariffs would not be a good idea because it compounds the problem. It is another Government action to interfere in the marketplace. The important thing to remember when you are deciding whether or not to interfere in the marketplace is that in a free market, if that is what one advocates, and that is what almost everybody gives lip service to, if one advocates the free market, he must always think the consumer is the king—not the businessman or the labor union, but the consumer is the king in the free market. Therefore, if the cost of an automobile or a TV or whatever is lower coming from the foreign nation, the consumer has a right to purchase it and we should not interfere with his right.

One may say, "Well, what about the jobs that might be lost because we cannot compete? And what about the businessman who might go out of business?" That is a real concern, but one reason why we should not try to solve that problem with tariffs is we should look at the cause. The reasons we do not compete are very, very specific. One is inflation. The second is regulation and taxation. When you have high rates of inflation—and ours is higher than any other Western nation—it makes it very difficult to compete. Therefore, we compound it if we go ahead and interfere another time.

Traditionally, over the past 100 years it actually has been the Democratic Party who has advocated free trade and has fought against tariffs. I think tariffs would be a very bad idea and would not help the consumer. We must protect the consumer in the free market.

Mr. CHARLES H. WILSON of California. If the gentleman will yield, is the gentleman coming over to the Democratic Party?

Mr. PAUL. I really have not considered it. If they would truly promote the free market, it would be a consideration.

Mr. BETHUNE. I thank the gentleman. I can understand the gentleman from California's frustration about the lack of information on this issue.

□ 1820

I can understand that upon seeing us on television in the office that the gentleman might have felt that we were getting an advantage here in the Congress by taking up this special order wherein most of us have struck themes that indicate we are tending to oppose the Chrysler bailout; but I would say to the gentleman that this has been moving through the Congress now for several weeks. Only today have any witnesses been heard that seriously oppose the legislation, because those who control Congress on the majority side have suppressed every effort, save one, of the minority, to bring out the other side of the issue.

Mr. KELLY. Is this true in the committee, too?

Mr. BETHUNE. Yes; this is true in the committee and I would yield to the gentleman from Florida, who has personal experience with this to point out why we are here tonight to try to bring the other side of the issue to the attention of the Members.

Mr. KELLY. Mr. Speaker, I thank the gentleman for yielding.

Let me try and help the gentleman demonstrate his point. Is this not what we are learning in the committee, that Chrysler through mismanagement and otherwise has got itself in such a position that the best financial, industrial, and technical minds in this country have refused to invest in Chrysler in its present condition?

Chrysler then has come to the Government and has asked the Government to invest $1½ billion in Chrysler.

Now, quite clearly, if we are going to invest a billion and a half dollars, we should invest a billion and a half dollars in the best investment we can find. It is the people's money. We hold it in trust.

Mr. BETHUNE. I would like to know what is the best investment.

Mr. KELLY. The best investment is that which will produce more goods of better quality at the cheapest price for the American people.

Now, the bill that we have before us provides that Chrysler can only get this money if they cannot borrow anywhere else, which means if their management is so lousy that they do not have credit, then we will give them the money; but certainly Chrysler is not the best investment, and the way we know that on the committee is because if it was the best investment, then the people on Wall Street would be investing their money on a voluntary basis; but for purely political reasons, for purely blatent political reasons, Chrysler has come to Congress and has said that, now, the unions are going to lose their jobs. Their wives and children will have difficulty. Now, to save them, we need to invest a billion and a half dollars in Chrysler; but this Congress represents all the people and we need to take care of everybody's wives and children, not just those at UAW that have a lot of political clout.

What we should be doing is investing money if we are going to invest anything in the best investment we can get, which means that we do not have the ability here in this Congress. We are not financiers. We are not industrialists. We are not technologists and we should not be trying to run business.

What we should be doing is quit overregulating business so that they can operate in an efficient way and then we do not need tariffs, because it is my belief that the American people, freed of over-Government regulation and freed of overtaxation and being discouraged in savings will be able to outwork and outcompete and outproduce any industrial nations on the face of this Earth, because right now we produce more than all the Communist nations in the world combined, just this one Nation alone; but much of our production is misdirected because of Government distortion of the economy, Government destruction of the ethic of saving.

This is what we are finding in the committee, that Chrysler is trying simply in a blatant political fashion to get an advantage, a financial advantage, a political advantage over its competitors and at the expense of other workers in the economy.

Mr. BETHUNE. Mr. Speaker, I would add to the gentleman's statement and explain to the gentleman from California that to date, until today when the gentleman from Ohio (Mr. STANTON) was able to get some witnesses there who had not been chosen by the administration and by the committee, that all the witnesses we had heard, save and except Mr. Greenspan who came at the insistence of Judge Kelly, had been carefully chosen by the administration and by the majority, and that the points that the gentleman from Florida (Mr. KELLY) is making were brought out of the witnesses chosen by the proponents of the bailout only by continued perseverance on the part of the members of the minority. It was like pulling teeth to get them to say anything negative about this bailout plan, but they did and it is in the record.

So the point I want to make is that we are learning that the strategy here is to push it through as fast as you can, hold as few hearings as you can, bring it to the floor as quickly as you can, because what they are learning from us in the minority and in the committee is that the more you chew on this Chrysler proposition, the bigger it gets and the less likelihood there is of passing.

Mr. Speaker, I yield to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Speaker, I thank the gentleman for yielding.

I would like to say with reference to the comment that my colleague, the gentleman from California, regarding the imposition of restrictive tariffs, it seems to me that is a good question and that is exactly the kind of thing that should have been reviewed by our subcommittee and should have been looked into as possibly an alternative or possibly a better way of proceeding; but because of the kind of haste this bill has had attached to it, we have not had time, we have not had the opportunity to really give our attention to questions like that.

I suggest to the gentleman that that is one of the reasons that some of us here tonight are very upset about the fact that this bill is now coming to the full committee for markup. That is going to ensue tomorrow and the proponents of the bill would like to bring it to the floor by the end of this week.

Mr. CHARLES H. WILSON of California. I wish the gentleman would wait until after the first of the year. I was hoping we could have a little pro forma recess or something.

Mr. BETHUNE. We were hoping the same thing.

The SPEAKER pro tempore (Mr.

WHITE). The gentleman will desist at this point.

The Chair would respectfully urge that Members seek time in the accepted fashion by asking the gentleman in the well to yield.

Mr. BETHUNE. I thank the Speaker.

I yield to the gentleman from Florida.

Mr. KELLY. Mr. Speaker, consistent with what is suggested here, I would like to ask the gentleman in the well, has the committee that has jurisdiction over the Chrysler question received any kind of request, either from the administration or from Chrysler or anyone representing either one of them for any kind of relief from the overregulation or the imposition of Government that has contributed to Chrysler's condition, any kind of a solution to any of that, or has it just simply been a straight proposition, "Give us money," and without any interest at all in trying to solve the problems that have caused Chrysler's condition.

Mr. BETHUNE. Mr. Speaker, I think the gentleman makes a good point. The proponents of the legislation, having laid down the predicate that they are here hat in hand because of over-regulation, have abandoned that tack and are simply now asking for bailout and direct loans which could go on ad infinitum.

Mr. KELLY. Mr. Speaker, would the gentleman yield for another question?

Mr. BETHUNE. Yes.

Mr. KELLY. Does the gentleman recall that when the President of the UAW, Mr. Fraser, appeared before the committee, that he testified that the reason he had not agreed to any kind of a cut in wages on behalf of his membership is that no one had ever asked him; so the American taxpayers are being expected to bail out Chrysler and being expected to bail out the overpaid membership of the UAW, when the UAW by the management of Chrysler have never been asked to take a pay cut. As a matter of fact, instead, they have negotiated a pay increase.

Mr. BETHUNE. Well, if I am not mistaken, it was the gentleman from Florida who engaged Mr. Fraser of the UAW in that colloquy which brought out that piece of information. That was the point I was making a moment ago, that it has been like pulling teeth to find out what potential there is for some other option, other than the administration plan.

The gentleman got the gentleman from the United Auto Workers to make that point. That I think ties nicely into the way that I started this special order and that is so long as this Government is ready, willing and able to bail out people who are in trouble in the private enterprise system at the first call, they are not going to pursue all the things that might be available to them otherwise. They are going to lay down that heritage and tradition that we have in this country of self-help, because the pressure is off. As soon as they come here and there is an indication that they are going to be helped by Government, they immediately abandon all other efforts.

In fact, just today we had testimony from a man who fashioned this rehabilitation plan for Chrysler and he indicated quite openly in the testimony that he had no other backup plan. This was it. It is the whole ball game. Yet all the testimony that we have seen in the Committee on Banking indicates that there are numerous options available, not the least of which is a proceeding under chapter XI of the brand new bankruptcy code, which is not something that means absolute liquidation or going out of business.

Mr. KELLY. Mr. Speaker, would the gentleman yield for another question?

Mr. BETHUNE. Yes, I yield.

Mr. KELLY. I would like to ask the gentleman this. In the press, in the media, in every phase of the media, it has been reported that the membership of the UAW has made sacrifices in order to help the condition of their company, Chrysler.

I ask the gentleman if the testimony in the committee has not clearly indicated that that is an absolute, unmitigated and total distortion, because the truth is that the unions have gotten a pay raise and have sacrificed nothing.

Mr. BETHUNE. I think the gentleman brought it out in today's testimony in the committee, that in fact the union workers are going to have a $1 billion increase in this next year and would have had a $1.2 billion increase. That point was made, but there is no concession being made.

□ 1830

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I understand that the gentleman from Texas (Mr. PAUL) has an additional special order for 1 hour, and I will ask for another hour if we need it. I hope we do not have to do that because I think it is an imposition on the Speaker and all the other Members.

I hope that I have not fouled the gentleman's program by coming over here, after watching the television, and indulging in this debate with him. Perhaps it has contributed a little bit to it.

The gentleman from Florida (Mr. KELLY) has spoken about the UAW and his opposition to some special deal they are getting. The gentleman is not telling me, is he, that the UAW is getting something special out of Chrysler that is over and above what they are getting out of Ford or General Motors or anybody else?

Mr. KELLY. Mr. Speaker, if the gentleman will yield to me, I will answer that.

Mr. BETHUNE. I yield to the gentleman from Florida to answer the question that has been asked.

Mr. KELLY. Mr. Speaker, I thank the gentleman for yielding.

Yes, I mean exactly that. Chrysler, the parent company, says it is bankrupt. It says it now needs to come with a tin cup begging the American people to help it so it will not lapse into a state of welfare and bankruptcy.

In this context, the union has now bled them for another $1 billion, and the proposition is simply this: That "If you will bail us out, then we will bleed you for another billion dollars, and then we will just hand the American people an increased bill for their cars. Their cars will cost more as a result of this benevolence. You will have the pure privilege of paying more for your automobiles, and you will have further destroyed the free enterprise system. You will have done all of these things in order that we may have a pay raise while the corporation that we serve crumbles about us."

Mr. Speaker, that is exactly the context in which this is being done.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I will yield in just a moment, but, Mr. Speaker, I would like to say before yielding that I am delighted that the gentleman from California (Mr. CHARLES H. WILSON) did come over. I think the gentleman has made some excellent contributions. The gentleman has gotten us into some colloquies which I think have importance and have contributed to the discussion.

We had no intention of coming here and trying to present a closed special order—all one side. We believe in free speech, and we believe that both sides should be heard. It is only when we hear the argument that does not ring true that we can recognize the argument that is true when we hear it. So I appreciate the gentleman's coming over.

Mr. Speaker, I yield to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I appreciate the generosity of the gentleman in allowing me to participate in the debate. Again I must say that I am sorry that some of my good knowledgeable friends are not here.

I am not a member of the gentleman's Committee on Banking, Finance and Urban Affairs, so I cannot qualify as being an expert. During the first term after I came here to Congress I was a member of the Banking Committee, but I got off that committee because I could not get along with the chairman of the committee at that time.

Then I got on the Committee on Armed Services, and since I have been on the Committee on Armed Services I have found there are many experts who are not on that committee on how our national defense should be run.

So I am coming here as sort of a nonexpert in the banking business but as one who feels strongly about 540,000 people who could possibly be put out of a job if we do not give Chrysler this assistance they are asking for.

Mr. Speaker, is it the contention of the gentleman from Florida (Mr. KELLY) that we should not give this guaranteed loan, which is not any outright money, unless I misunderstood this thing completely? I am comparing it to the Lockheed guaranteed loan, and if there is something more involved in this, I would like to know what it is.

Mr. BETHUNE. Mr. Speaker, I would like to respond to the gentleman from California (Mr. CHARLES H. WILSON), if I can.

I think there are some distinctions that can be made. In the case of Lockheed, it was a manufacturer of goods,

many of which would be bought by the U.S. Government—in fact, many of which were bought by the U.S. Government.

There were many fewer people involved in the process; there were not so many distributors and ultimate consumers.

In the case of Penn Central, that can be likened to almost the closing of a major highway in this country.

In the case of New York City, it is a municipal government, a governmental entity, that was under consideration.

This is a privately owned manufacturer of consumer goods. There are many, many consumers, thousands of consumers involved, there are thousands of dealerships, and it is an entirely different ball game.

Mr. CHARLES H. WILSON of California. Mr. Speaker, there are a lot of subcontractors, I would like to add, that we are involved with.

Mr. BETHUNE. Mr. Speaker, I would like to say that I assume the gentleman knows we do study the issues. Having come here tonight, not being a member of the committee, and learning now through us that in the committee only one side has been heard until today, and that the other side is now beginning to surface, the gentleman will, I know, listen to all these arguments carefully. I rather suspect, when all the testimony is in and all the arguments heve been made, that the gentleman will find himself with us on this issue.

The SPEAKER pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

GENERAL LEAVE

Mr. BETHUNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous matter, on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

INFLATION AND THE CHRYSLER BAILOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes.

GENERAL LEAVE

Mr. PAUL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include therein extraneous matter, on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PAUL. Mr. Speaker, I would like to just make a few comments on this subject and then, if other Members want to participate and close up the discussion, we will be able to do that. I would like again to address the general subject of inflation.

The one characteristic of inflation is that it is never fair. There are some people who do benefit at the expense of others. There are immediate benefits for somebody, but there are some long-term periods of paying by others. I think this is one of the reasons why we are so untroubled about inflation, because we see and concentrate on the immediate benefit and we forget to look at what happens down the road.

Chrysler will receive quite a few dollars—in this case, $1.5 billion—and this is very easily seen because we can see the tens of thousands of jobs that are immediately on the line. When we take this funding and spread it out throughout the whole society and the whole country, each individual who has to pay this bill only has to pay a penny or two, and, therefore, he does not know that he is being ripped off. He does not see it, he cannot feel it, he cannot identify it, and above all he has nobody to defend him. So, therefore, the pain comes in small doses, it is very deceptive, and the process continues.

Inflation in the short run is much more "sellable." People will convince us that something that is done with Government action is beneficial. They say, "We are going to say that we will give you something, and you should look at the benefits. Don't worry about it. You don't have to pay for it." The cost and the pain comes later.

But what we are witnessing today is the paying off, period. We are starting to really pay for the extravagance. We are starting to pay for what Government has "given" all its people for so many years.

It is not the Government's fault. The Government is merely a reflection of the people, and people have come to the Government for handouts, just as Chrysler is coming and the UAW will come and continue to come.

As I said before, Mr. Speaker, this is not new. We are already guaranteeing $400 billion in loans. In the economic sense, this is very much like the Lockheed loan, although there are some slight differences. Economically, it is the same thing. It is a subsidized artificial loan promoted by the Government. It encourages malinvestment. The money in the loan goes to the wrong places for the wrong reasons—for political reasons, not economic reasons—and it always leads to trouble eventually.

Mr. Speaker, the other point is that most people, even those on the other side of the aisle, indicate that, "Yes, we do recognize there is some inflation involved." Nobody has denied that. Even those who are the strongest proponents of the bail-out recognize there is some inflation involved, but they say, "A little bit of inflation is not too bad. We can tolerate a little bit of inflation if we can save the jobs." And that is as far as they look.

The trade-off theory was popularized in the 1930's, and we have lived with it for 40 or 50 years. This trade-off theory is, that if we inflate, we can keep unemployment low. But in the last decade this theory has been blown sky high. It has been blown out of the saddle.

We now know that inflating does not really get rid of unemployment. As a matter of fact, the opposite is true, and we realize now that the deliberate inflation caused by the Government is the cause of the business cycle and the unemployment.

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Speaker, I thank the gentleman for yielding.

But, Mr. Speaker, I would say to the gentleman that we learned in the committee just today—and we have gotten bits and parts of the story during the rest of the time—that the UAW workers had to have this pay raise in order to be insulated and protected against inflation.

Now, I know this will come as a shocker to all of them, but there are other Americans who are suffering from inflation also, including everybody in this country who has saved a nickel or a dime or anything more, because inflation is just eroding the value of that money. Insurance policies, pension plans that they have worked for—all of that is being eroded away.

□ 1840

The UAW is going to be protected and insulated against inflation, but only if we will finance Chrysler, because the deal is that Chrysler will give them $1 billion in pay increases in order to protect them from inflation that the rest of us do not have. Then we will loan Chrysler $1½ billion to cover it. That struck me as being unfair. Did it have the same impression on the gentleman?

Mr. PAUL. Absolutely. I think it is very obvious.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I was under the impression that there was a 3-year moratorium, that the UAW has agreed to a lesser contract than what they may have bargained for with the other companies and that they have put off this.

At the end of the 3 years, if the Chrysler Corp. has recovered, then they will be eligible to take this big pay raise the gentleman talks about, but that even then, if there is still a problem in connection with Chrysler, they still say that it is very likely that in order to guarantee the jobs of these people—there are 545,000. I do not know whether that includes the suppliers and everybody. It probably does. But that still is a very significant number of people. The important thing is, the anti-UAW remarks the gentleman is making, the antiadministration remarks as previously made, the remarks of the gentleman from Arkansas, it just seems that there is something behind this other than the fact that we are looking out for the best interests of our country.

Mr. KELLY. If the gentleman will yield further, Mr. Speaker, I will say that there is something behind it. I do not want to be ripped off. And the people who sent me up here do not want to be

ripped off either. It is not really very obscure. We really do not like to be robbed.

The situation on the union contract was this: For the first 2 years of the contract, the union would get wages that violate the wage and price guidelines and exceed their productivity increases. Then on the third year they really reach to the ceiling with a straight 11 percent increase, the total package costing more than $1 billion.

If they would forego a pay raise, since they were already getting 100 percent more than the average production worker in the United States, Chrysler would not need any money, they could go back there and run their own business the way they want to. But instead they have got this trumped-up deal where they think that they can buy off the unions and then get an additional one-half billion dollars in capital, and when they get through messing around with that they will come back and get some more. It is true. It is not a question of being anti anything, except just being ripped off, because there are 6,000 to 8,000 businesses that go bankrupt and broke and fall down and lose their money and their workers are scattered all over the country every year. What about them? We do not want to do anything about those 6,000 or 8,000 businesses that go bankrupt but we do want to do something about Chrysler. Why? Because Chrysler, in combination with the UAW, has got enough substance, as it was testified in the committee, to disrupt the environment.

Mr. PAUL. Let me make one point, and then I will yield to the gentleman from California.

Mr. Speaker, I think one point is that you do show how much this is going to cost, close to $1 billion, possibly, but we really do not know. It could be a lot more because this contract has been calculated and estimated on an 8 percent inflation rate. Let us say we do move into the period of inflation that I anticipate, which is going to be 15 or 20 or 25 percent, then we are talking about a lot more money involved. Every bit of this money we are going to provide for Chrysler is essentially going to go into supporting the wage contract.

Mr. CHARLES H. WILSON of California. If the gentleman will yield further, is the gentleman from Florida (Mr. KELLY) saying that Chrysler has a 100-percent better contract than Ford and General Motors? Are they getting some special deal that is not being given to the other manufacturers?

Mr. PAUL. Mr. Speaker, I would like to make a comment on that.

No, they are not getting anything better. As a matter of fact, they have held back on some of their benefits, the details of which I cannot quote, but even in spite of not taking the full package, or at least holding back for a year or two, it still represents an outrageous pay increase.

Mr. CHARLES H. WILSON of California. Why do we not put all of our companies out of business and let these foreign imports come in?

Mr. PAUL. You would not need to.

Mr. CHARLES H. WILSON of California. I just do not understand the reasoning of the gentleman.

Mr. KELLY. If the gentleman will yield, I do not know but what we are not going to do just exactly as the gentleman suggests. As a matter of fact, I think that that is what this Congress is doing, because they are certainly sapping the vitality and the incentive out of our work force and out of our economy by overtaxation and welfare programs. I agree with you about that. I think we are headed in that direction, because we have squandered every industrial advantage we had. The gentleman, I am sure, can remember when the idea of a foreign manufacturer being in competition with American automobile manufacturers would just have simply blown anyone's mind. No one could imagine anything like that. And we do it by the very programs and policies that have been enacted right here in this room where we stand, by trying to give everything to everybody in order to get ourselves elected. That is exactly what the problem is.

There is nothing the matter with the American worker or nothing the matter with our system of economics. It is this Government that is trying to control everything.

I think we observed in the committee where we have had these programs come forward that we will buy stock, you and I will buy stock, and give it to the UAW workers. The Government will buy stock and then we will start telling the company what products they will produce. We will buy stock and we will just own the stock, or we will loan them money directly, or we will loan them money by guarantees, or we will just give them money.

Mr. PAUL. It is not a very good example of the free enterprise system.

Mr. KELLY. It did not sound like it.

Mr. CHARLES H. WILSON of California. If the gentleman will yield further, I have another question I would like to ask of the gentleman from Florida.

I recognize that the Democrats have been running the Congress from the time I have been in, and certainly since the time the gentleman has been in. But we have had two different parties that have run the administration. Has there been any change insofar as the attitude of the two administrations are concerned?

I might say that today I think the Republicans are running the Congress.

Mr. PAUL. Mr. Speaker, I would like to suggest that I do not see any significant changes. The gentleman is correct. This Congress has been run by the Democrats for 5 decades now, and we have had one economic policy. When the administration has changed, even though the rhetoric at times has sounded different, I would say there has been no significant change. But I see these things in economic terms rather than in political terms because generally, throughout our history now, these 40 or 50 years, our universities and politicians have reflected one view of economics, and that is the interventionist type of economics claiming that we the politicians and the bureaucrats that we assign jobs to are somehow wise enough to know the marketplace. That is the idea that we have been living with and suffering from. Having on occasion a change in administration, we have not seen significant change. But what we need are some new economic ideas that would reject economic interventionism and the extreme of which is a socialist, nonmarket economy. We need to discuss whether or not we want to reject those policies we have had for 40 years, which is economic interventionism and accept a market economy. That is the crucial question.

Back to the $400 billion of loans that we have subsidized over the years, this is economic interventionism at its worst, it is inflation literally, and it is chaos eventually. This is what we are seeing. We are seeing the climax of politicians interfering in the marketplace, and now we are faced with these problems and unfortunately it is only the beginning.

I think Lockheed was significant, there was a large bank failure, and there was Penn Central. But there is going to be more and more.

Mr. KELLY. If the gentleman will yield further, I am sure that there are a lot of other differences that have escaped me, but I can think of a few. We have abandoned 17 million free Chinese in Taiwan, a strategic base to protect our Western Pacific defenses; we have abandoned the Panama Canal; we have caved in to the Russians in Cuba; and we are now getting our britches kicked in Iran. In addition to that, we have accumulated the largest deficit in the history of the United States except during the time of Franklin Delano Roosevelt.

I will admit that the leadership in the previous administrations has left a great deal to be desired. But I think that this administration has distinguished itself by being immeasurably worse.

□ 1850

Mr. CHARLES H. WILSON of California. If the gentleman would yield, would the gentleman agree with me though that this administration, should it stay in power, would be much superior to the two opponents that the President has, Mr. KENNEDY and Mr. Brown?

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Florida for that difficult question.

Mr. KELLY. Well, I would judge——

Mr. CHARLES H. WILSON of California. I know it is the lesser of three evils to the gentleman.

Mr. KELLY. The gentleman has asked me a personal question. My judgment is that—and I will probably lose every friend in the world I have—but I think the gentleman from Massachusetts would be a very definite improvement, because I think that—he has some murky problems, but I think that the main thing is, I think that he is a person who believes in spending the country into oblivion.

I think that the gentleman who is managing the White House at the present time has really done a great deal more damage to the country than just overspend. I am concerned about the security of the United States, and I think that our position and the experience that we are

having in the world today manifests the concern.

Mr. CHARLES H. WILSON of California. If the gentleman will continue to yield, I brought the subject up, and I am sorry. I would have to disagree with the gentleman. I worry about the gentleman from Massachusetts. I am worried about his position insofar as our international relations are concerned.

I think that President Carter would be much stronger should he be reelected.

Mr. KELLY. I tell the gentleman really, it is not practical to consider the situation in the terms of the options that we are presented, because I have a better idea. I think we ought to reject all three of them.

● Mr. HILLIS. Mr. Speaker, the question of whether or not to grant Federal assistance to the Chrysler Corp. is very serious. We must carefully consider all aspects of this question. We must be sure that such a step will not adversely affect our economic system. We must also be sure that Federal assistance is used only as a last resort.

Direct Federal assistance to a troubled company is a serious issue, the consequences of which must be reviewed carefully. We must be aware of the dangers and benefits of the Federal Government granting assistance to a company to prevent bankruptcy. After all, the preservation of our economic system must receive high priority.

Like most Americans, I am a strong believer in, and supporter of, the free enterprise system. However, we do not have the true or pure free enterprise system in the United States—particularly in cases where Federal regulations intervene in the policy decisions of private companies. There are numerous industries where Federal intervention has weakened the essence of the free enterprise system, that is, competition to such a point that the normal checks and balances which allow a system to operate no longer do so adequately.

The automotive industry, while not as regulated as some other industries, has had its product line completely revamped by Federal energy, emission, and safety standards within the last 5 years. While these regulations are unique to the automotive industry, other Federal regulations are not.

Like all U.S. industries, the automotive industry has had to comply with Federal regulations such as OSHA and environmental emission standards on manufacturing plants as opposed to the car itself. There are also thousands of other Federal programs many of which require forms to be filled out which cost American industries millions of man-hours and billions of dollars each year.

Chrysler estimates that research, development, and retooling costs needed to meet Federal safety, pollution, and fuel-efficiency standards will cost the U.S. auto industry $80 billion over the next 7 years. The total effect of all these regulations has reduced the amount of competitiveness in the auto industry. The fiscal impact of Federal regulations on larger companies is less per unit of manufactured item than on smaller companies. The cost of Federal regulations per car for General Motors is $340. The cost of Federal regulations per car for Chrysler is $620—almost twice as much. That $280 makes a significant difference to the consumer.

I do not feel that certain economic assistance from the U.S. Federal Government to troubled domestic corporations will necessarily undermine, weaken, or threaten our economic system. A pure free enterprise system simply does not exist in the United States today. We cannot therefore, expect that system to provide all the answers to a particular industry's or company's financial problems. At times, the answer must come from outside the free enterprise system.

I believe the question of precedent, particularly with loan guarantees, is a moot point. The Federal Government already has established precedents for assisting private industries, including the automotive industry, by providing assistance to American Motors in the form of a tax break in 1967. The assistance given to Lockheed in 1971, while often cited as a precedent, in reality was not. Long before 1971, there were Federal programs designed to assist private businesses, particularly the smaller ones. There are literally hundreds of Federal programs which through one mechanism or another intervene into the free enterprise system and provide aid to private companies. Loan guarantees have become commonplace and have proven to be effective.

Chrysler has made many significant efforts to improve its financial situation. The corporation has sold many of its overseas assets; corporate executives have reduced their salaries; new management policies have been enacted; and new top level personnel have been hired. Chrysler has made a good faith effort to solve its own problems. The policies which contributed to Chrysler's troubles, such as the "sale bank" concept which is the practice of manufacturing cars prior to their being ordered, have been eliminated.

While Chrysler has programs to improve its market penetration in the 1980's, it must continue to invest in modernization efforts and improve the emissions and fuel economy of its products to meet Federal regulations. These steps will cost the corporation millions of dollars which it simply does not have, and which it will not be able to obtain without Federal assistance.

The Chrysler Corp. employs 131,000 people and thousands more are dependent on it indirectly for their livelihood. While the loss of Chrysler jobs alone would be significant, consider the additional thousands of employees of smaller companies which are totally dependent upon Chrysler as a purchaser of their products. The Indiana Department of Commerce has identified 105 independent companies which sell their products to automotive manufacturers. These companies employ in the neighborhood of 55,000 people. Since Chrysler is not a highly integrated corporation, it must rely heavily on small independent companies for many of its component parts. These companies cannot sell their products to GM or Ford since both of those corporations are highly integrated. The human and financial impact of Chrysler's failure would be tremendous.

It is impossible for anyone to be able to accurately calculate the impact of a Chrysler shutdown. However, all indications are that such a situation would have severe and long-lasting adverse effects on our economy.

The effects of a Chrysler failure on the automotive industry would be dramatic. Without Chrysler, Ford and GM would unquestionably be faced with antitrust actions by the Federal Government. Since 1976, the Federal Trade Commission has been studying the competitive situation in the auto industry. Some antitrust action against GM is already possible, even without Chrysler failing.

There are organizations which oppose Federal assistance to Chrysler on the grounds that without the corporation, there is no way GM can survive an antitrust action. The Washington Post reported on August 2 that the potential for antitrust action against GM was one reason Ralph Nader cited for his opposition to any Government assistance to Chrysler.

We cannot be blind to the fact that there are people in this country who simply oppose large corporations on principle. However, there are industries, and the automotive industry is one of them, where the capital of large corporations is needed to meet the problems of the future. The problems of meeting environmental, safety, and efficiency standards are monumental.

It would be impossible to disassemble GM or Ford without hampering their capabilities to improve emissions, safety, and efficiency. The pure turmoil of the situation would make long-term planning impossible. The result of such actions would be to force our domestic auto industry into a sharp decline while foreign competitors, with the assistance of their governments, take an increasing portion of the U.S. auto market.

In 1978, U.S. imports of passenger cars exceeded exports by $10.5 billion. Not only would imports pickup a portion of Chrysler's U.S. market, but Chrysler exports would also be lost. Thus our balance of trade would be hurt by the increased imports and decreased exports.

After reviewing the Chrysler situation, I do not see any available alternatives to Federal assistance to insure the economic stability of the corporation. Chrysler is in the middle of a massive reorganization and rebuilding program. That program will increase Chrysler's penetration into the marketplace starting in 1981. It must be completed and successful for Chrysler to survive.

The administration has proposed that Chrysler receive $1.5 billion in loan guarantees, coupled with a commitment that Chrysler first raise the same amount through its normal line of credit. This proposal seems to be reasonable and has received support from both Lee Iacocca, the chairman of the board of Chrysler, and Douglas Fraser of the UAW. Although the House and Senate must

review the administration proposal carefully, I am hopeful that it will be enacted.

Federal aid to Chrysler is the philosophically correct step. It is in the best interest of the Nation. It is vital that Chrysler not go bankrupt if we are to avoid severe economic disruptions and a possible deterioration of the entire auto industry.●

Mr. PAUL. Mr. Speaker, I yield back the balance of my time.

MARTIN LUTHER KING DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 5 minutes.

● Mr. BROYHILL. Mr. Speaker, I believe that we all recognize Dr. Martin Luther King, Jr.'s legendary achievements in the field of human rights. His advocacy of nonviolent social change should particularly serve as a reminder in this day and age that the inequities in our society, and indeed throughout the world, can be addressed and remedied in a peaceful, sensible manner.

In this light, it was with great regret that I cast my vote against H.R. 5461, the bill to designate January 15, Dr. King's birthday, as a national holiday.

I voted against H.R. 5461 for a number of reasons, none of which was the feeling that Dr. King does not merit the honor.

One strong consideration, and I might add that this is a concern I heard echoed numerous times on the House floor, is the cost of the bill. Using figures for fiscal 1979, the Congressional Budget Office and the Office of Personnel Management estimated that the cost to the U.S. Treasury of H.R. 5461 would have been $196 million, which is $173 million for the basic pay for the Federal workforce, and an estimated $23 million for holiday premium pay for employees who would have been required to work on the holiday. The Congressional Budget Office figure for fiscal 1980 is predictably higher—$212 million.

I might mention in passing that these figures only reflect the direct cost to the Federal Government; there are other costs associated with the State and local government employees who will have the day off and with closing public institutions. In private industry, businesses which do not close would have to pay their employees holiday pay.

At this time of rampant inflation, of the ever-devaluing of the dollar, when individuals' purchasing power seems to decline minute by minute, I believe we must seriously question any new proposals to spend Federal dollars.

Another point worthy of thought is the fact that there are a multitude of other Americans who have made invaluable contributions to American life and who are worthy of such an honor. But we have chosen to honor these citizens in other ways. Some of these Americans have appeared on coins and currency. Others have been honored by stamps and commemorative issuances. My point is that alternatives to designating a national holiday do exist.

Finally, I would like to note that it is the usual custom that States be allowed to determine which holidays are established to recognize individuals. The minority views to H.R. 5461 cited several States which have exercised the option to declare Dr. King's birthday as a legal holiday.

And so, to reiterate, I do believe that Dr. King has made some significant achievements to fostering the ideals on which our country was founded. Accordingly, Congressman JIM MARTIN and I are today introducing a joint resolution calling upon the President to issue a proclamation designating January 15, 1980 as "Dr. Martin Luther King, Junior Day."

I would submit to my colleagues that passage of such a resolution would allow us to work toward reducing the Federal deficit and, at the same time, to share in the dream that Dr. King revealed to the American people on the steps of the Lincoln Memorial in 1963.●

ADDITIONAL HIGHLIGHTS OF THE 1979 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

● Mr. FLOOD. Mr. Speaker, the successful 1978 Captive Nations Week included many interesting and inspiring events and activities. The impressive record of the week has been shown by way of selected compilation since last July. Both here and abroad the observance of the week was widespread, demonstrating that countless free world citizens are vividly conscious of the reality of the over 2 dozen captive nations and their exploitation by totalitarian Communist regimes in the advancement of particularly Soviet Russian imperialism.

I wish to submit additional highlights of the recent observance: First, the proclamation by Gov. Fob James of Alabama, second, reports in the Mobile Register and the Troy Times Record and third, excerpts from the new brochure of the Washington-based National Captive Nations Committee, which has coordinated Captive Nations Week events for a whole generation and, on this 20th anniversary, released this new statement of purposes, achievements, and objectives:

PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Fob James, Governor of the State of Alabama, do hereby proclaim that the week commending July 15, 1979, be observed as "Captive Nations Week" in Alabama, and call upon the citizens of Alabama to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

[From the Mobile (Ala.) Register, July 17, 1979]

"WEEK" PROCLAIMED

Mayor Lambert Mims has proclaimed this weeks as "Captive Nation's Week" in Mobile. Designated by Congress, the purpose of the occasion is to join together in prayer and a dedication of efforts for the peaceful liberation of oppressed and subjugated peoples throughout the world. Enslaved countries include those under Russian Communism, Mims noted in his proclamation.

[From the Troy (N.Y.) Times Record, July 16, 1979]

CAPTIVE NATIONS

ALBANY.—The Capital District will celebrate its first Captive Nations Week, along with the rest of the nation, during the week of July 15–22.

Twenty years ago the nation celebrated its first Captive Nations Week in the Spring of 1959 when Congress passed the Captive Nations Law establishing the third week of July as Captive Nations Week each year, "until such time as freedom and independence shall have been achieved for all the captive nations of the world."

NATIONAL CAPTIVE NATION'S COMMITTEE, INC. (NCNC)

The National Captive Nations Committee, Inc. (NCNC) is an educational organization founded on the basis of the Captive Nations Week Resolution (Public Law 86-90) in 1959.

Captive nations are nations under Red Communist domination, including those in the U.S.S.R.

NCNC is a clearinghouse which coordinates Captive Nations Week activities of state, city and local communities throughout the United States.

Its members are Americans with conviction, faith, insight and perseverance, who voice their concern for the lost basic freedoms and human, personal, civil and national rights of the more than one billion captive peoples behind the Iron, Bamboo and Sugar Curtains.

Annually, the President, Governors and Mayors issue proclamations patterned after the Resolution.

The focal point of NCNC is the observance of Captive Nations Week the third week in July, but its work is year-round. Testimonies before Congressional committees by its chairman; speakers expert on the U.S.S.R. and its non-Russian nations, Eastern and Central Europe, Asia and Cuba are provided upon request; public statements on foreign policy issues pertinent to the captive nations analysis are issued frequently; and expert participation in official and educational forums, here and abroad, is undertaken periodically.

Internationally, NCNC maintains close ties with organizations that share America's

commitment to freedom and democracy, as well as NCNC goals.

First and foremost, firm adherence to our Declaration of Independence, Constitution and Bill of Rights—that we Americans, in the interest of our own national security, will never forget the captive nations or accommodate ourselves to their present captivity.

Full support of the United Nations Universal Declaration of Human Rights and implementation of this declaration to include the captive non-Russian nations in the Soviet Union.

Regardless of political persuasion, instill in all men their sacred duty and responsibility for the preservation of freedom in the full tradition of our American Revolution.

Restore the great image of America to the principles of our Founding Fathers and the tradition of our unique nation.

Dispel the concepts that the Soviet Union is a "nation," that "Russia" is the Soviet Union and her captives "Soviet people"; prove, historically and geographically, that Russia is only one of the republics in the Union of Soviet Socialist Republics.

Continuous rejection of existent colonialism effected by Soviet Russian aggression and "wars of national liberation," by focusing world attention on the last remaining imperium in imperio, the Soviet Union itself.

A rational stand against misleading theories of "peaceful coexistence," simplistic "detente," "trade with Red countries at any price," "normalization" without hard concessions, etc.

Throughout the year, but especially during the Week, expose the Soviet Russian fraud of "national self-determination" and put into proper perspective the present-day captivity of the Central and East Europeans, the non-Russian nations in the USSR, the Asians and the Cubans.

Promulgate the progressive effectuation of political, social, economic, religious, lingual and cultural rights of these captive peoples.

ACHIEVEMENTS

Original Captive Nations Week Resolution (Public Law 86-90) authored by NCNC chairman.

Annual Congressional observance of the Week in the U.S. Senate and House of Representatives, led by Congressional chaplains.

CONGRESSIONAL RECORD publication of all Captive Nations Week activities both national and international from 1959 to date.

Nation-wide educational link with press, radio and TV media.

During 1976 Bicentennial, NCNC alone stressed uniqueness of the American Revolution and its severance from an empire, in sharp contrast to the British, French and Russian revolutions.

Continuous responses by captive nations committee members and Americans of like persuasion, to attacks against the Resolution and observances on the part of Moscow, Peiping and other Red regimes.

Testimonies before Congressional committees on subjects relevant to our own national security in conjunction with the captive nations, e.g. East-West Trade (1965); U.S.-USSR Consular Convention (1967); The Empire-State of USSR-Chief Objective of Poltrade (1972); The Detente of Peaceful Coexistence in the Cold War—Fact or Fiction? (1973); U.S.-USSR Trade, At What Politico-Economic Price? (1973); Detente, Human Rights and the USSR (1974); Persecution of Religion in the USSR (1976); Genocide Convention (1977); Helsinki, Human Rights and U.S. Foreign Policy (1977).

OBJECTIVES

A first, complete review of U.S. policy toward the USSR, which has never taken place.

Positive and constructive contribution to a well-defined human rights foreign policy and its progressive application in all three categories of human rights—personal, civil and national.

Monitor Communist regimes in Eastern Europe (from the Danube to the Urals) in their professed observance, yet known crass violations of the Helsinki Accords.

Actualize the committee's poltrade concept, i.e. a policy of no liberalized without politico-cultural concessions to the captive nations.

Further education dealing with the crucial importance of captive nations, especially the near dozen non-Russian nations in the USSR.

Expose Soviet Russian genocide in all its forms—national, religious, cultural, social and linguistic.

Maintain a firm stand on full diplomatic normalization of relations with the Republic of China on Taiwan.

Unmask Soviet Russian agitation in Asia, the Middle East, Africa (especially the strategic sea lanes of the Indian Ocean and the Horn) and Latin America.

Advance ideas to sustain and expand the American image of national independence toward a policy of peace through strength and freedom.

Oppose SALT II treaty in its present form on the basis of U.S. strategic inferiority—unbalanced, unverifiable and unenforceable.

Generate a public consciousness of how various forms of so-called revolutionary and Marxist agitation aimed at undermining the structure of American civil authority—disinformation tactics breeding university campus eruptions, civil disobedience, certain types of civil rights disturbances and terrorism—are supported by communist sources and conducted along the same lines previously used in the captive nations.

Promote public awareness of the unprecedented Adlai Stevenson memorandum on Soviet Russian imperio-colonialism with a view toward a full-scale debate on the subject in the United Nations.

Reinforce the Voice of America, Radio Liberty and Radio Free Europe as genuine projectors of the American image in the captive nations.

PUBLICATIONS

(Pertinent to the Captive Nations)

The Bicentennial Salute to the Captive Nations 1976. Washington, D.C.: USGPO, 1977.

Boomerang: The Works of Valentyn Moroz. Edited by Yaroslav Bihun. Baltimore: Smoloskyp Publishers, 1974.

The Captive Nations: Nationalism of the Non-Russian Nations in the Soviet Union by Roman Smal-Stocki. New York: Bookman Associates, 1960.

Captive Nations Week: Red Nightmare, Freedom's Hope by Lev E. Dobriansky. Washington, D.C.: USGPO, 1966.

The Chornovil Papers by Vyacheslav Chornovil. New York: McGraw-Hill, 1968.

Human Rights and Genocide in the Baltic States by Aleksander Kaelas. Stockholm: Estonian Information Center, 1960.

The Nationality Problem of the Soviet Union and Russian Communist Imperialism by Roman Smal-Stocki. Milwaukee: Bruce, 1952.

The Ordeal of the Captive Nations by Hawthorne Daniel. New York: Doubleday, 1958.

Russian Frontiers: From Muscovy to Khrushchev by William G. Bray. New York: The Bobbs-Merrill Co., 1963.

The Struggle for Transcaucasia, 1917–1921 by Firuz Kazemzadeh. New York: Philosophical Library, 1951.

Tenth Anniversary of the Captive Nations Week Resolution. Washington, D.C.: USGPO, 1969.

Ukraine Under the Soviets by Clarence A. Manning. New York: Bookman Associates, 1953.

U.S.A. and the Soviet Myth by Lev E. Dobriansky. Old Greenwich: The Devin-Adair Company, 1971.

The Vulnerable Russians by Lev E. Dobriansky. New York: Pageant Press, Inc., 1967.●

WORLD ADMINISTRATIVE RADIO CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, in view of the ongoing World Administrative Radio Conference being held in Geneva to regulate international use of the radio spectrum, I would like to submit for the RECORD the latest summary report on the progress of the proceedings:

DEPARTMENT OF STATE,
Washington, D.C.

WORLD ADMINISTRATION RADIO CONFERENCE—SUMMARY REPORT NO. 5

Re: Summary Report No. 4. In the fourth and twelfth lines of the first paragraph on page 2, references to "4400–4490 MHz" should be corrected to read 4400–4990 MHz.

The following are highlights of the sixth week of the WARC (October 29–November 2).

Enough work has been completed to justify a plenary session which is scheduled for November 8. Many major issues, however, remain to be discussed at committee or working group levels.

Committee 4 (Technical):

In working group 4A, considerable progress was made on technical definitions and many were approved for consideration by the full committee.

In 4B, Appendices 28 and 29 remained under discussion, but U.S. objectives were still maintained. A U.S.-proposed section on mobile earth stations was accepted for inclusion in Appendix 28. A coordination area for mobile earth stations was approved. A draft resolution on the transfer of CCIR propagation data into the Radio Regulations by future WARC's was approved.

Working group 4C continued to debate the matter of permitted levels of spurious emissions. Agreement was reached on values up to 960 MHz, but no agreements were possible above that point. A new subgroup was formed to focus on spurious levels above 1 GHz.

Committee 5 (Allocations):

In 5B, the ad hoc group on HF broadcasting has agreed to the scheduling of a HF broadcasting conference as soon as possible after the next CCIR Plenary Assembly (1982). The conference would consist of two sessions. The first session would establish technical parameters for planning and principles concerning use of the HF bands (e.g., power, number of frequencies per program, specifications for a single side band system, etc.). The second session would do the planning. The U.S. again stressed that the success of such a conference would be dependent on an adequate increase in allocations for HF broadcasting.

5B. HF broadcasting had no support at 6 MHz, but there was support for 100 kHz at 7 Mhz, 100 kHz at 9 MHz, 125 kHz at 11 MHz, and 200 kHz at 13 MHz. There was stronger support for expansion by 150 kHz at 15 MHz, 100 kHz at 17 MHz, and 100 kHz at 21 MHz.

5B. An allocation for the amateur service at 10 MHz was not supported, while 100 kHz for amateurs at 18 MHz was tentatively agreed.

5C. Most of the U.S. objectives have been met in bands 174–235, 235–335 and 335–401 MHz.

5C agreed to a Region 2 allocation in the

band 220–225 MHz for the amateurs, fixed and mobile service on a primary co-equal basis with radiolocation secondary. The U.S. introduced a footnote to reduce the amateur service to a secondary basis in the U.S.

5C. U.S. arguments against terrestrial fixed and mobile services sharing with meteorological aids in band 401–406 MHz were not accepted by a majority of the group.

5C opposed consideration of sound broadcasting via satellite below 1 GHz.

5D. A new ad hoc group was formed to deal with the problem at 2400–3600 MHz. The group appears favorable to a compromise proposal by the U.S. that radars be restored to primary status by a footnote which would also urge (but not mandate) that administrations cease using radars in this band after 1985; and that after 1985, administrations shall take all practicable steps to protect the fixed-satellite service.

5D. Allocations consistent with the U.S. proposals were agreed in the 2400–2655 MHz band. Footnotes related to power flux densities are awaiting consideration by Committee 4.

5D agreed to develop a resolution tasking the CCIR with studying the feasibility of sound broadcasting via satellite between 500 MHz and 2.5 GHz. The U.S. delegation welcomed this action because a number of administrations had proposed an allocation for sound broadcasting satellites in the 1429–1525 MHz band which would have seriously impacted upon U.S. operational interests in other services.

On the 12 GHz FSS/BSS issue, the U.S. and Canada reached an apparent compromise which is supported by a few other administrations in Region 2. It will be difficult to gain full support from Region 2, as the majority of countries seem to prefer deferring a decision until the 1983 regional conference on the broadcasting-satellite service.

5E examined proposals for above 275 GHz. The conclusion was to leave frequencies above 275 GHz unallocated but with footnote recognition of both active and passive services.

Committee 6 (Regulatory):

The matter of FSS planning and access to the geostationary orbit has been assigned to an ad hoc group. There is strong support for a future conference to consider FSS planning.

A major debate is expected.

Progress continued toward a compromise of the Algerian "70–30" proposal.

Requests for further information should be addressed to: Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.●

A PRIVATE BILL FOR THE RELIEF OF MR. CARL AIELLO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am introducing legislation today for the relief of Mr. Carl Aiello. For well over a quarter of a century, this man has sought relief from the devastating loss he suffered when he netted and assisted in salvaging a lost Navy plane.

In October of 1951, Mr. Aiello's life was full of promise. He was captain of his own fishing vessel, the *Lorraine A.* and proud owner of a new purse seine fishing net, 270 fathoms long and 32 fathoms wide. While fishing off the California coast near Santa Barbara on the 10th of October in 1951, the *Lorraine A* netted a catch that was to lead not only to the complete destruction of its purse seine net, but to economic losses that precipitated the repossession of the *Lorraine A.* Mr. Aiello's dreams for the future were dashed in a matter of days.

The net became entangled with the wreck of a U.S. Navy Corsair aircraft which had sunk at the point where the *Lorraine A* was fishing. A Navy barge was dispatched from San Diego several days later, and it was agreed that the *Lorraine A* would hold its position and assist in the salvage of the aircraft. The Navy was to return the purse seine net to its owner. The Navy's recovery vessel salvaged the aircraft with the net and departed for port. It was impossible to disengage the net from the aircraft aboard the barge because of the net's size and weight.

Mr. Aiello and his crew requested permission of the commanding officer of the U.S. Navy base at Port Hueneme, Calif., to assist in disengaging the net. They pointed out that the net's delicate construction, weight, and dimensions were such that its removal should be done by persons experienced in the handling of purse seine nets. Mr. Aiello's request was denied.

The Navy officer commanded his personnel to remove the net from the aircraft. A crane was used to rip and tear the net into shreds, completely destroying it. The remnants were delivered to Mr. Aiello.

As a result of losing the purse seine net, Mr. Aiello was unable to fish the balance of the season and because of the loss of income that could have been derived by fishing the entire season, he was unable to pay the mortgage payments on the *Lorraine A* and the bank foreclosed and repossessed the vessel. In addition, Mr. Aiello has lost his home, his business, and was never again able to captain his own ship. Today he is in poor health and penniless.

I am seeking the consent of my colleagues today to grant Mr. Aiello's just claim for relief. He has suffered greatly as a result of this most unfortunate chain of events. Now that he is aged and ill, I ask you in the interest of justice to provide relief in the following amounts:

Cost of net	$25,500
Damage to boat and gear	700
Fee for diver	500
Loss of income during 1951/52 season	20,000
Loss of boat by foreclosure (equity)	80,000
Total	126,700

The text of the bill follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any funds in the Treasury not otherwise appropriated, to Carl Aiello, of Monterey, California, the sum of $126,700 with interest thereon in full settlement of all his claims against the United States resulting from damage to his fishing net and boat suffered when he netted, and assisted in salvaging, a lost Navy plane.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, I was absent from the city and this Chamber on Thursday, November 8 and Friday, November 9, 1979, as I was addressing the National Convention of the National Association of Realtors. Much was learned by me in the give and take with the members of this profession so vitally affected by the work of the Banking Committee, on which I serve, and this Congress. Unfortunately, I missed some rollcall votes during these 2 days and had I been here I would have voted: Rollcall No. 637, "nay"; rollcall No. 640, "yea"; rollcall No. 642, "yea"; rollcall No. 643, "yea"; rollcall No. 644, "yea"; rollcall No. 645, "yea"; rollcall No. 647, "yea"; rollcall No. 648, "yea"; and rollcall No. 649, "yea."●

A RECOGNITION OF AMERICA'S FARM EXPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, I would like to commend my colleague, BILL ALEXANDER, for his splendid contributions as chairman of the House Export Task Force. BILL and I both serve on the President's Export Council, so I am well aware of BILL's firm commitment to agricultural exports. The farm export special project held in the Capitol today is an example of the fine work of this task force.

The aim of this recent project was to communicate to the American people the value of U.S. farm exports. I am sure that the day's activities went a long way toward doing this.

Agricultural exports are particularly important to those of us from the Midwest, an area long recognized as one of the world's major breadbaskets. My own State of Illinois ranked first in the export of all commodities, first in the export of soybeans, and first in the export of feed grains and products for 1978. Illinois is also among the top 10 States in the Nation in the export of all other agricultural commodities and products. The city of Chicago, with its excellent transportation system, has been a chief factor in Illinois' export success.

At today's exhibit the task force and the Agricultural Council of America presented dramatic evidence of the positive impact that increased farm exports can have on the American economy. Farming is and has been a major part of the American tradition and a sustaining force in our economy. In the future, farming exports will help insure a sound economy—a strong America.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. SYNAR) is recognized for 5 minutes.

● Mr. SYNAR. Mr. Speaker, on November 8 and 9, 1979, I was absent from the House on official business for the Committee on Government Operations. Had

I been present, I would have voted as follows on the votes which I missed:

Thursday, November 2, 1979:

Rollcall No. 640: Final passage of H.R. 4167. "Yea."

Friday, November 9, 1979:

Rollcall No. 642: House Resolution 458 (rule on H.R. 2335). "Yea."

Rollcall No. 643: Final passage on H.R. 2603, national security authorizations for Department of Energy 1980. "Yea."

Rollcall No. 644: Motion by Mr. PRICE on closing certain conferences for national security purposes. "Yea."

Rollcall No. 645: Resolve into Committee of the Whole House to consider H.R. 2335. "Yea."

Rollcall No. 647: Conference report on H.R. 4930 Interior and related agencies appropriations for 1980. "Yea."

Rollcall No. 648: Motion by Mr. YATES to agree to conference report on fuel assistance plan funding formula. "Yea."

Rollcall No. 649: Motion by Mr. BRADEMAS to meet at 12 noon, Tuesday, November 13, 1979. "Yea."

PERSONAL EXPLANATION

(Mr. WEISS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. WEISS. Mr. Speaker, I was not present for a vote in the House on November 9, because of pressing business in my district. The following is an explanation of how I would have voted on this vote had I been present:

Rollcall No. 649: A motion that the House adjourn and reconvene on November 13. This motion carried by a vote of 161 to 89. I would have voted in favor of this motion had I been present.

PERSONAL EXPLANATION

(Mr. WEISS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. WEISS. Mr. Speaker, I was not present for two votes in the House on November 7, because I was attending a meeting at the State Department. The following is an explanation of how I would have voted on these votes had I been present:

Rollcall No. 630: This was a vote on the rule (H. Res. 363) which made the consideration of a bill informally titled "the Repayment of Loans Made to State Unemployment Funds" (H.R. 4007) in order under a modified open amendment procedure. This rule only allowed those amendments offered by the House Ways and Means Committee. Traditionally such rules are offered on tax legislation due to the complex nature of amending tax statutes on the House floor. The rule was adopted by a vote of 362 to 24. Had I been present I would have voted in favor of this rule.

Rollcall No. 631: This was a vote on the final passage of H.R. 4007. H.R. 4007 facilitates the repayment of Federal loans by the States which receive such loans for State unemployment insurance funds. Currently States are penalized for late payments which must be made under specific conditions. The Federal loan program is a vital way in which the Federal Government assists individuals who suffer unemployment. H.R. 4007 provides for improvement in the conditions by which the States repay these loans. Final passage of this bill was agreed to by a vote of 4 to 1. Had I been present I would have voted in favor of final passage.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. ROTH (at the request of Mr. RHODES) for today and tomorrow on account of a death in the family.

To Mr. YOUNG of Alaska (at the request of Mr. RHODES) for Friday, November 9, 1979, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TAUKE) to revise and extend their remarks and include extraneous material:)

Mr. BROYHILL, for 5 minutes, today.

(The following Members (at the request of Mr. DASCHLE) to revise and extend their remarks and include extraneous material:)

Mr. FLOOD, for 60 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Ms. FERRARO, for 5 minutes, today.
Mr. FASCELL, for 5 minutes, today.
Mr. PANETTA, for 5 minutes, today.
Mr. CAVANAUGH, for 5 minutes, today.
Mr. ROSTENKOWSKI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SLACK, to revise and extend following opening remarks of Mr. WHITTEN on House Joint Resolution 440.

Mr. LEDERER and Mr. BEDELL to follow the remarks of Mr. ULLMAN during general debate on H.R. 2727.

(The following Members (at the request of Mr. TAUKE), and to include extraneous matter:)

Mr. WHITEHURST.
Mr. CONTE in two instances.
Mr. MICHEL in five instances.
Mr. DERWINSKI in four instances.
Mr. LUNGREN.
Mr. CAMPBELL.
Mr. GRASSLEY.
Mr. YOUNG of Alaska.
Mr. GREEN.
Mr. ROUSSELOT in three instances.
Mr. CLINGER.
Mr. KELLY.
Mr. SYMMS in three instances.
Mr. BOB WILSON in two instances.
Mr. RHODES.
Mr. WYDLER.
Mr. COLLINS of Texas in three instances.
Mr. MOORE.

(The following Members (at the request of Mr. DASCHLE) and to include extraneous material:)

Mr. ANDERSON of California in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Ms. HOLTZMAN in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. WOLFF in five instances.
Mr. WALGREN.
Mr. VENTO.
Mr. GRAMM.
Mr. ALBOSTA in two instances.
Mr. PANETTA.
Mr. RATCHFORD.
Mr. APPLEGATE in two instances.
Mr. SIMON.
Mr. BARNES.
Mr. BLANCHARD.
Mr. MAZZOLI.
Mr. STOKES in two instances.
Mr. MOFFETT.
Mr. NOWAK in five instances.
Mr. CAVANAUGH.
Mr. SKELTON in two instances.
Mr. GINN.
Mr. THOMPSON.
Mr. BRINKLEY.
Mr. NOLAN.
Mr. CONYERS.
Mr. SCHEUER.
Ms. FERRARO.

SENATE BILL REFERRED

Bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 916. An act to amend the act of September 30, 1950 (Public Law 874, 81st Congress) to provide education programs for Native Hawaiians, and for other purposes; to the Committee on Education and Labor.

JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on November 9, 1979, present to the President, for his approval joint resolutions of the House of the following title:

H.J. Res. 199. To amend the act of October 21, 1978 (92 Stat. 1675; Public Law 95–498); and

H.J. Res. 428. Designating December 1979 as "National Child Abuse Prevention Month."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following title:

S. 1037. An act to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits; and

S. 1728. An act to designate the U.S. Federal Courthouse Building located at 655 East

Durango, San Antonio, Tex., as the "John H. Wood, Jr., Federal Courthouse."

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee, on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4955. An act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia; and

H.J. Res. 68. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week."

ADJOURNMENT

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 14, 1979, at 10 a.m.

EXECUTIVE COMMUNICATION, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2806. A letter from the Director, Office of Management and Budget, Executive Office of the President transmitting a cumulative report on rescissions and deferrals of budget authority as of November 1, 1979, pursuant to section 1014(e) of Public Law 93-344 (Doc. No. 96-225); to the Committee on Appropriations and ordered to be printed.

2807. A letter from the Assistant Secretary of the Treasury for Legislative Affairs and the Assistant Secretary of State for Congressional Relations, transmitting a report on progress in enhancing human rights through U.S. participation in international financial institutions, pursuant to section 701(c) of Public Law 95-118; to the Committee on Banking, Finance and Urban Affairs.

2808. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with CP Air, Canada, exceeding $60 million, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

2809. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with Middle East Airlines exceeding $60 million, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

2810. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 3-117, "To amend the Schedule of Heights of Buildings Adjacent to Public Buildings," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2811. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 3-116, "To amend the Retail Service Station Act of 1976 to extend the moratorium on the conversion of full service retail service stations to limited service retail service stations, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on District of Columbia.

2812. A letter from the Chairman and Cochairman, Commission on Security and Cooperation in Europe, transmitting a report on U.S. compliance with the Helsinki Final Act, pursuant to section 6 of Public Law 94-304; to the Committee on Foreign Affairs.

2813. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a) to the Committee on Foreign Affairs.

2814. A letter from the Secretary of Health, Education, and Welfare, transmitting a report covering fiscal year 1979 on surplus real property disposed of to public health and educational institutions under section 203(k) of the Federal Property and Administrative Services Act of 1949, as amended, pursuant to section 203(o) of the act; to the Committee on Government Operations.

2815. A letter from the Secretary of Health, Education, and Welfare, transmitting the second annual report of the National Center for the Prevention and Control of Rape, pursuant to section 231(b)(1)(B) of the Community Mental Health Centers Act, as amended (89 Stat. 328); to the Committee on Interstate and Foreign Commerce.

2816. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the months of June and July 1979, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1973, as amended; to the Committee on Interstate and Foreign Commerce.

2817. A letter from the Secretary of Transportation, transmitting a report on the six-month review of program implementation of the Highway bridge replacement and rehabilitation program, pursuant to 23 USC 144(k); to the Committee on Public Works and Transportation.

2818. A letter from the Comptroller General of the United States, transmitting a report on the major weapons acquisition process and related weapons systems costs (PSAD-80-6, November 8, 1979); jointly, to the Committees on Government Operations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DAN DANIEL: Committee on Armed Services. H.R. 5580. A bill to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization, with amendments (Rept. No. 96-612, pt. I). Ordered to be printed.

Mr. PERKINS: Education and Labor. H.R. 2977. A bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes with amendments (Rept. No. 96-613). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 or rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ANDERSON of California:

H.R. 5865. A bill to amend the Immigration and Nationality Act to provide for the immediate deportation of any alien in the United States on a student or other nonimmigrant visa who, while participating in a political demonstration, engages in violent or illegal activity; to the Committee on the Judiciary.

By Mr. DAVIS of South Carolina:

H.R. 5866. A bill to designate certain areas located in the Francis Marion National Forest, South Carolina, as wilderness areas; to the Committee on Interior and Insular Affairs.

H.R. 5867. A bill to authorize the Secretary of Commerce to charter the nuclear ship *Savannah* to Patriots Point Development Authority, an agency of the State of South Carolina; to the Committee on Merchant Marine and Fisheries.

By Mr. GAYDOS:

H.R. 5868. A bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions; to the Committee on Ways and Means.

By Mr. GRASSLEY:

H.R. 5869. A bill to amend the Department of Education Organization Act to transfer authority with respect to rural education to the Assistant Secretary for Elementary and Secondary Education, and for other purposes; to the Committee on Education and Labor.

By Mr. HANLEY (for himself, Mr. UDALL, Mr. CLAY, Mrs. SCHROEDER, Mr. HARRIS, and Mr. YATRON):

H.R. 5870. A bill to amend title 5 of the United States Code to improve the second career training program for air traffic controllers; to the Committee on Post Office and Civil Service.

By Mr. HOWARD (for himself, Mr. JOHNSON of California, Mr. HARSHA, and Mr. SHUSTER):

H.R. 5871. A bill to authorize the apportionment of funds for the Interstate System, to amend section 103(e)(4) of title 23, United States Code, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JOHNSON of California:

H.R. 5872. A bill to modify the New Melones Dam and Reservior project, Calif.; to the Committee on Public Works and Transportation.

By Mr. LOTT:

H.R. 5873. A bill to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes; to the Committee on the Judiciary.

By Mr. MATHIS:

H.R. 5874. A bill to amend the Internal Revenue Code of 1954 to exempt agricultural aircraft from the aircraft use tax, to provide for the refund of the gasoline tax to the agricultural aircraft operator, and for other purposes; to the Committee on Ways and Means.

By Mr. MINETA (for himself and Mr. GIBBONS):

H.R. 5875. A bill to amend the Tariff Schedules of the United States to repeal the duty on certain field glasses and binoculars; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 5876. A bill to provide a special program of financial assistance to Opportunities Industrialization Centers and other national community-based organizations in order to provide new motivational and skills training opportunities for unemployed and unemployable youth; to the Committee on Education and Labor.

By Mr. YOUNG of Alaska:

H.R. 5877. A bill to amend the Internal Revenue Code of 1954 to provide that property may be levied upon for the collection of tax (other than where such collection is in jeopardy) only pursuant to a court order; to the Committee on Ways and Means.

By Mr. CONYERS:

H.R. 5878. A bill to authorize emergency loan guarantees to the Chrysler Corporation; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROYHILL (for himself and Mr. MARTIN):

H.J. Res. 444. Joint resolution to authorize and request the President to issue a proclamation designating January 15, 1980, as "Martin Luther King, Junior, Day"; to the Committee on Post Office and Civil Service.

By Mr. CONTE:

H.J. Res. 445. Joint resolution to designate the third week of September as "National Cystic Fibrosis Week"; to the Committee on Post Office and Civil Service.

By Mr. EVANS of Delaware (for himself, Mr. MICHEL, Mr. RAILSBACK, Mr. BADHAM, Mr. DEVINE, Mr. LATTA, Mr. MYERS of Indiana, Mr. SCHULZE, Mr. HAGEDORN, and Mr. HYDE):

H. Con. Res. 210. Concurrent resolution expressing the sense of the Congress that the President call upon all nations of the world to stop imports of oil from Iran until all hostages in the American Embassy in Teheran are released and control of the embassy is returned to officials of the United States; to the Committee on Foreign Affairs.

By Mr. STRATTON:

H. Con. Res. 211. Concurrent resolution calling upon the British Government to embark upon a new initiative for Ireland; to the Committee on Foreign Affairs.

By Mr. WOLFF:

H. Con. Res. 212. Concurrent resolution expressing the sense of the Congress that the President should terminate immediately all participation by Iranian personnel in United States programs of military training; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause I of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. PANETTA:

H.R. 5879. A bill for the relief of Carl Aiello; to the Committee on the Judiciary.

By Mr. PETRI:

H.R. 5880. A bill for the relief of Ana Marlene Orantes; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 271: Mr. MATSUI, Mr. EVANS of the Virgin Islands, and Mr. FOWLER.

H.R. 1297: Mr. PANETTA.

H.R. 1576: Mr. CLINGER, Mr. GINGRICH, and Mr. PURSELL.

H.R. 1577: Mr. BEARD of Rhode Island, Mr. CLINGER, Mr. GINGRICH, and Mr. PURSELL.

H.R. 1578: Mr. BEARD of Rhode Island, Mr. CLINGER, Mr. GINGRICH, and Mr. PURSELL.

H.R. 2552: Mr. LEE.

H.R. 2812: Mr. BEARD of Rhode Island, Mr. BINGHAM, Mr. BROWN of California, Mr. MAGUIRE, Mr. MOFFETT, Mr. OTTINGER, Mr. PANETTA, and Mr. ROSENTHAL.

H.R. 2990: Mr. CARNEY, Mr. HAMILTON, and Mr. WHITTEN.

H.R. 3250: Mr. COLLINS of Texas.

H.R. 3937: Mr. MINETA.

H.R. 4178: Mr. FLORIO.

H.R. 4264: Mr. PATTEN.

H.R. 4265: Mr. CORCORAN.

H.R. 4367: Mr. CAMPBELL.

H.R. 4861: Mr. ALBOSTA and Mr. MARLENEE.

H.R. 5008: Mr. YATRON, Mr. DOWNEY, Ms. FERRARO, Mr. BROWN of California, Mr. CARNEY, Mr. GRAY, Mr. PATTERSON, Mr. MINETA, Mr. ALBOSTA, and Mr. WOLFF.

H.R. 5071: Mr. OBERSTAR.

H.R. 5225: Mr. HUCKABY.

H.R. 5752: Mr. FRENZEL, Mr. DOWNEY, and Mr. FORD of Michigan.

H.R. 5813: Mr. LLOYD, Mr. HALL of Texas, Mr. STENHOLM, Mr. STUMP, Mr. APPLEGATE, Mr. HANCE, Mr. WHITEHURST, Mr. NICHOLS, Mr. MONTGOMERY, Mr. GRAMM, Mr. KAZEN, Mr. LEACH of Louisiana, Mr. MYERS of Indiana, Mr. REGULA, Mr. ROBERTS, Mr. BOWEN, Mr. DOUGHERTY, Mr. CARTER, Mr. MURPHY of Pennsylvania, Mr. BONER of Tennessee, Mr. WYATT, Mr. CHARLES WILSON of Texas, Mr. ROUSSELOT, Mr. ARCHER, Mr. GOLDWATER, Mr. PICKLE, Mr. BAUMAN, Mr. ROYER, Mr. STANGELAND, Mr. HILLIS, Mr. MOTTL, Mr. ROBINSON, Mr. HARSHA, Mr. BEVILL, Mr. ROTH, Mr. GUYER, Mr. WHITE, Mr. HAGEDORN, Mr. NATCHER, Mr. ICHORD, Mr. KINDNESS, Mr. MARTIN, Mr. YOUNG of Alaska, and Mr. BRINKLEY.

H.J. Res. 321: Mr. DANIELSON, Mr. CARTER, and Mr. ROUSSELOT.

H.J. Res. 372: Mr. HOLLENBECK, Mr. ZEFERETTI, Mr. ROYER, and Mr. DICKS.

H. Con. Res. 122: Mr. LUKEN.

H. Con. Res. 202: Mr. HARKIN, Mr. PANETTA, Mr. RUDD, Mr. McDONALD, Mr. VANIK, Mr. COTTER, Mr. HUTTO, Mr. FAZIO, Mr. MICHEL, Mr. HOLLENBECK, Mr. SEIBERLING, Mr. BEDELL, Mr. ZEFERETTI, Mr. LEDERER, Mr. VENTO, Mr. ERTEL, and Mr. LEACH of Iowa.

H. Res. 446: Mr. OTTINGER, Mr. MOFFETT, Mr. LUNDINE, and Mr. BENNETT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2063

By Mr. BEREUTER:

—Page 49, line 23, delete "and".

Page 50, line 2, after the semicolon, insert the following: "and (D) with State legislatures through the formation and regular meeting of a State legislative liaison committee with the membership of such committee from each State to be determined by the legislature of the respective States which are located within the area served by the regional development commission;".

By Mr. MITCHELL of Maryland:

—Page 12, line 9, insert "(a)" after "205.".

On pages 12, 13, and 14, redesignate subsections (a) through (h) as paragraphs (1) through (7), respectively.

Page 14, after line 5, insert the following:

"(b)(1) The Secretary shall establish, by regulation, criteria for selecting projects for assistance under this title. In deciding among applications for assistance under this title, the Secretary shall give primary consideration to the following factors:

"(A) the extent to which the proposed project will provide long-term private sector employment opportunities to residents of the area, particularly unemployed, long-term unemployed, low-income, and socially and economically disadvantaged individuals;

"(B) the degree of economic distress in the area in which the project is to be implemented, as demonstrated by the criteria listed in section 401 and section 403 of this Act;

"(C) the level of private sector equity investment committed to financing the proposed project; and

"(D) the degree to which the proposed project will benefit socially and economically disadvantaged individuals and firms owned and controlled by such individuals.

"(2) The Secretary shall also consider other factors, including but not limited to—

"(A) the extent to which the proposed project is consistent with local and statewide development plans or priorities;

"(B) the extent to which the appropriate State and local governments have undertaken or agree to undertake other related actions to encourage economic development and the provision of employment opportunities in the distressed area;

"(C) the extent of the contribution to the economic and fiscal base of the distressed area to be made by the project; and

"(D) the appropriateness of the proposed project in view of the area's labor force.

—Page 16, line 20, strike out "solely for the making of other loans" and insert in lieu thereof "for the making of other loans and equity financing".

—Page 28, lines 23 and 24, strike out "is authorized to conduct any demonstration program which the Secretary determines is" and insert in lieu thereof "shall conduct demonstration programs which are".

Page 29, line 3, strike out ", including" and insert in lieu thereof a period and the following: "Such demonstration programs shall include".

—Page 43, line 6, strike out "section" and insert in lieu thereof "sections".

Page 43, line 25, strike out the quotation marks.

Page 43, after line 25, insert the following:

SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESSES

"SEC. 718. (a) The Secretary shall administer the programs under this Act in a manner affirmatively to further participation in those programs, and in the projects they support, by socially and economically disadvantaged individuals and by businesses owned and controlled by such individuals. Within 60 days of the date of enactment of this section, the Secretary shall publish a plan to implement the preceding sentence.

"(b)(1) For purposes of this Act, the term 'business owned and controlled by socially and economically disadvantaged individuals' means a business—

"(A) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; and

"(B) whose management and daily business operations are substantially controlled by one or more socially and economically disadvantaged individuals.

"(2) For purposes of this Act, the term 'socially disadvantaged individual' means an individual who has been subjected to racial or ethnic prejudice or cultural bias because of his or her identity as a member of a group without regard to his or her individual qualities.

"(3) For purposes of this Act, the term 'economically disadvantaged individual' means an individual whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities the Administration shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individual.

"(4) Socially and economically disadvantaged individuals shall include black Americans, Hispanic Americans, Native Americans, and other minorities, and any other individuals found to be disadvantaged by the Small Business Administration pursuant to section 8 of the Small Business Act.

"(c) The Secretary may require each State or political subdivision of a State,

applying for assistance under this Act, to demonstrate reasonable progress in providing socially and economically disadvantaged individuals with opportunity for participation in programs under this Act.".

H.R. 2626

By Mr. BUCHANAN:

(To the amendment in the nature of a substitute reported by the Committee on Interstate and Foreign Commerce.)

—Page 187, line 14, strike out "or".

Page 187, line 16, strike out the period and insert in lieu thereof ", or".

Page 187, insert after line 16 the following new subparagraph:

(G) (i) is primarily engaged in providing, by or under the supervision of physicians, to inpatients rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and (ii) is not a part of any other hospital.

By Mr. JACOBS:

(To the substitute offered by Mr. GEPHARDT to the amendment in the nature of a substitute reported by the Committee on Interstate and Foreign Commerce.)

On page 2, line 2, of the subtitle (as shown in H.R. 5635) strike out "and Reporting Act" and all that follows through page 28, line 21, and insert in lieu thereof the following:

Act of 1979".

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TITLE I—VOLUNTARY HOSPITAL COST CONTAINMENT PROGRAM

PART A—ESTABLISHMENT OF VOLUNTARY PERCENTAGE LIMITS

NATIONAL VOLUNTARY PERCENTAGE LIMIT

SEC. 101. (a) The Secretary, before April of each year (beginning with 1980 and ending with last year of the national voluntary period, as determined under section 115(a)), shall promulgate a national voluntary percentage limit for the preceding year, which shall be equal to the sum of the following four amounts (as computed by the Secretary):

(1) WAGE-RELATED EXPENSES FOR NONSUPERVISORY EMPLOYEES.—The percent increase in the national hospital wage-related marketbasket (as defined in section 323(2)) for that preceding year.

(2) NONWAGE HOSPITAL MARKETBASKET.—The greater of—

(A) the percent increase in the national hospital nonwage marketbasket (as defined in section 323(1)) for that preceding year, or

(B) (i) for 1979, 5.12 percent, or

(ii) for any other year, the percent increase in the national hospital nonwage marketbasket for that preceding year as estimated and announced under subsection (b)(1).

(3) POPULATION INCREASE FACTOR.—The percent increase in the national population (as defined in section 324(2)) for that preceding year.

(4) NET SERVICE INTENSITY ALLOWANCE.—One percent.

Notwithstanding the preceding provisions of this subsection, the national voluntary percentage limit for 1979 shall not be less than 11.6 percent.

(b) The Secretary, before the first calendar quarter beginning after the date of the enactment of this Act and before each succeeding calendar quarter of a year before 1984, shall estimate and announce—

(1) the percent increase in the national nonwage marketbasket for the twelve-month period beginning with that calendar quarter, and

(2) the sum of the average fractions of expenses of hospitals in the United States (described in section 323(1)(B)) attributable to classes of goods and services used in the computation of the percent increase (described in paragraph (1)) for that twelve-month period.

STATE AND INDIVIDUAL HOSPITAL VOLUNTARY PERCENTAGE LIMITS

SEC. 102. (a)(1) Except as provided in paragraph (3), the Secretary shall compute a State voluntary percentage limit and an individual hospital voluntary percentage limit under this section for each accounting year of a hospital ending during the period beginning January 1, 1979, and ending December 30, 1983.

(2) The Secretary shall compute these limits for a hospital's accounting period that ended—

(A) in 1979, before July 1, 1980, or

(B) after 1979, not later than six months after the end of the accounting period.

(3) The Secretary need not compute an individual hospital voluntary percentage limit for an accounting period of a hospital, if the period is after the voluntary period of the hospital (as determined under section 115(c)).

(b)(1) For a hospital's accounting period that ended on December 31, 1979, these limits shall be equal to the sum of the following four amounts:

(A) WAGE-RELATED EXPENSES FOR NONSUPERVISORY EMPLOYEES.—The percent increase in the wage-related marketbasket (as defined in section 323(4)) of the hospital for the accounting period.

(B) NONWAGE HOSPITAL MARKETBASKET.—The greater of (i) the percent increase in the non-wage marketbasket (as defined in section 323(3)) of the hospital for the accounting period, or (ii) 5.12 percent.

(C) POPULATION CHANGE FACTOR.—For the—

(i) State voluntary percentage limit, the percent change in State population (as defined in section 324(3)) for the accounting period of the hospital, or

(ii) the individual hospital voluntary percentage limit, the percent change in area population (as defined in section 324(1)) for the accounting period of the hospital.

(D) NET SERVICE INTENSITY ALLOWANCE.—One percent.

(2) For a hospital's accounting period that ended in 1979 before December 31, these limits shall be equal to the sum of the following two amounts:

(A) 1978 FACTOR.—The percentage increase in the hospital's expenses in its accounting period that ended in 1978 over its expenses in its preceding accounting period, multiplied by the fraction of the accounting period ending in 1979 that occurred in 1978.

(B) 1979 FACTOR.—The sum of the four amounts described in paragraph (1) for the accounting period, multiplied by the fraction of the accounting period that occurred in 1979.

(c) For a hospital's accounting period that ended after 1979, these limits shall be equal to the sum of the following four amounts:

(1) WAGE-RELATED EXPENSES FOR NONSUPERVISORY EMPLOYEES.—The percent increase in the wage-related marketbasket (as defined in section 323(4)) of the hospital for the accounting period.

(2) NONWAGE HOSPITAL MARKETBASKET.—The greater of—

(A) the percent increase in the nonwage marketbasket (as defined in section 323(3)) of the hospital for the accounting period, or

(B)(i) for an accounting period that began before the beginning of the first calendar quarter beginning after date of the enactment of this Act, 5.12 percent, or

(ii) for any other accounting period, the percent increase in the national hospital nonwage marketbasket as estimated and announced under section 101(b)(1) for the twelve-month period beginning with the calendar quarter in which the accounting period began, multiplied by the hospital's adjustment factor (as defined in section 323(5)) for the accounting period.

(3) POPULATION CHANGE FACTOR.—For the—

(A) State voluntary percentage limit, the percent change in State population (as defined in section 324(3)) for the accounting period of the hospital, or

(B) the individual hospital voluntary percentage limit, the percent change in area population (as defined in section 324(1)) for the accounting period of the hospital.

(4) NET SERVICE INTENSITY ALLOWANCE.—One percent.

(d)(1) A hospital may elect, in such manner and in accordance with such procedures as the Secretary shall provide, to exclude from the computation of its individual hospital expenses for purposes of the determination of its individual hospital voluntary percentage limit under this section and its individual hospital performance under sections 114 and 115(c)(2)(B) for all accounting periods of the hospital (beginning with the first accounting period for which the election is made)—

(A) expenses attributable to charity care (as defined in paragraph (2)(A)), or

(B) expenses attributable to bad debts (as defined in paragraph (2)(B)),

or both for the accounting period.

(2) For purposes of paragraph (1)—

(A) the term "expenses attributable to charity care" means, with respect to a hospital's accounting period, expenses relating to care, provided to patients by the hospital, for which reductions in (or elimination of) charges are made, as established by the hospital to the satisfaction of the Secretary, because of the indigence or medical indigence of the patients, and

(B) the term "expenses attributable to bad debts" means, with respect to a hospital's accounting period, expenses relating to care, provided to patients by the hospital, for which there are charges, to the extent to which the hospital establishes to the satisfaction of the Secretary, that (i) it has made reasonable efforts to collect such charges, (ii) any uncollected amounts are in fact uncollectible, and (iii) there is not substantial likelihood of their future collection.

PART B—REVIEW OF PERFORMANCE DURING VOLUNTARY PERIOD

NATIONAL HOSPITAL PERFORMANCE

SEC. 111. (a) The Secretary, before July 1, 1980, and before July 1 of any succeeding year that follows a year during the national voluntary period (as determined under section 115(a)), shall determine whether the increase in hospital expenses in the United States in the preceding year over those expenses in the second preceding year exceeded the national voluntary limit for the preceding year. He shall make that determination as follows:

(1)(A) He shall assign to each hospital's accounting period that ended on December 31 of that preceding year the national voluntary percentage limit (computed under section 101) for that preceding year.

(B) If the preceding year was 1979, he shall assign to each hospital's accounting period ending in 1979 before December 31 the sum of—

(i) 12.8 percent multiplied by the fraction of the accounting period that occurred in 1978, and

(ii) the national voluntary percentage limit for 1979 multiplied by the fraction of the accounting period that occurred in 1979.

(C) If the preceding year was 1980 or later, he shall assign to each hospital's accounting period ending before December 31 in that preceding year the sum of—

(i) the national voluntary percentage limit for that preceding year multiplied by the fraction of the accounting period that occurred in that second preceding year, and

(ii) the national voluntary percentage limit for that preceding year multiplied by the fraction of the accounting period that occurred in that preceding year.

(2) He shall compute the dollar amount by which each hospital's expenses in its accounting period ending in that preceding year exceeded (or was less than) its expenses in its preceding accounting period increased by the percentage limit assigned under paragraph (1) to the hospital's accounting period ending in that preceding year.

(3)(A) He shall compute the sum of the dollar amounts computed under paragraph (2).

(B)(i) For 1979, if the sum is greater than zero, he shall announce that the increase in hospital expenses in the United States for the preceding year exceeded the national voluntary limit for that year.

(ii) For 1979, if the sum is equal to or less than zero, he shall announce that the increase did not exceed the national voluntary limit for the preceding year and he shall credit, to a national carryforward account, an amount equal to one-half of the dollar amount of such savings.

(iii) Immediately before making a determination under this subsection for a year after 1979, the amount of any balance in the national carryforward account shall be increased by a percentage equal to the national voluntary percentage limit for the year.

(C)(i) For a year after 1979, if the sum is greater than zero, he shall apply, against such sum and to the extent of such sum, any balance in the national carryforward account (described in subparagraph (B)(ii)). If, after applying some or all of such balance, the sum is equal to zero, the Secretary shall announce that the increase in hospital expenses in the United States did not exceed the national voluntary limit for the preceding year and shall debit, against the national carryforward account, the amount of the account applied. If, after applying all of such balance, the sum is still greater than zero, he shall announce that the increase in hospital expenses in the United States for the preceding year exceeded the national voluntary limit for that year and shall reduce to zero the balance in the national carryforward account.

(ii) For a year after 1979, if the sum is equal to or less than zero, he shall announce that the increase did not exceed the national voluntary limit for the preceding year and he shall credit, to the national carryforward account, an amount equal to one-half of the dollar amount of such savings for such year.

(b) The Secretary shall report to each House of Congress on his announcement under subsection (a) and include in the report details as to the basis for the announcement.

CONGRESSIONAL REVIEW OF NATIONAL HOSPITAL PERFORMANCE

SEC. 112. (a)(1) If, within thirty days of continuous session after receipt of a report of the Secretary of Health, Education, and Welfare under section 111(b), relating to an announcement that the increase in hospital expenses in the United States for the preceding year exceeded the national voluntary limit for that year, either House of Congress adopts a resolution (described in subsection (b)(2)), the report shall be considered disapproved for purposes of section 115(a).

(2) For the purpose of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die, and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

(b)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in paragraph (2) of this subsection, and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rules of the House.

(2) For purposes of this section, the term "resolution" means only a resolution of either House of Congress the matter after the resolving clause of which is as follows: "That the disapproves the report of the Secretary of Health, Education, and Welfare, made under section 111(b) of the Hospital Cost Containment Act of 1979, relating to the Secretary's announcement that the increase in hospital expenses in the United States for has exceeded the national voluntary limit for that year.", the first blank space therein being filled with the name of the resolving House and the other blank being filled in with the number of the year for which the announcement was made.

(3) A resolution once introduced with respect to a report shall immediately be referred to a committee (or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee (or committees) to which a resolution has been referred has not reported it at the end of 15 calendar days after its referral, it shall be in order to move to discharge the committee (or committees) from further consideration of such resolution.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee (or committees) has reported a resolution with respect to the same report), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee (or committees) be made with respect to any other resolution with respect to the same report.

(5)(A) When the committee (or committees) has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) shall be limited to not more than five hours, which shall be divided equally between those favoring and those oppcsing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee (or committees), or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

STATE HOSPITAL PERFORMANCE

SEC. 113. The Secretary, before July 1, 1980, and before July 1 of any succeeding year before 1984, shall determine whether the increase in hospital expenses in the State in the preceding year over those expenses in the second preceding year exceeded the State voluntary limit for the preceding year. He shall make that determination as follows:

(1) He shall compute the dollar amount by which the expenses of each hospital in the State in its accounting period ending

in that preceding year exceeded (or was less than) its expenses in its preceding accounting period increased by the State voluntary percentage limit (computed under section 102) for the hospital for the accounting period. The Secretary shall exclude from such determination the expenses of any hospital the voluntary period of which ended, under section 115(c)(2), in a year before such preceding year.

(2)(A) He shall compute the sum of the dollar amounts computed under paragraph (1).

(B)(i) For 1979, if the sum is greater than zero, he shall announce that the increase in hospital expenses in the State for the preceding year exceeded the State voluntary limit for that year.

(ii) For 1979, if the sum is equal to or less than zero, he shall announce that such increase did not exceed the State voluntary limit for the preceding year and he shall credit, to a State carryforward account for that State, an amount equal to one-half of the dollar amount of such savings.

(iii) Immediately before making a determination under this subsection for a year after 1979, the amount of any balance in the State carryforward account shall be increased by a percentage equal to the sum of the products, for each hospital in the State, of—

(I) the State voluntary percentage limit for the accounting period ending in the year, and

(II) the fraction of the expenses of hospitals in the State for accounting periods ending in the year which are the expenses of the hospital for its accounting period ending in the year.

The Secretary shall exclude from such determination any hospital the voluntary period of which ended, under section in 115(c)(2), in a year before such year.

(C)(i) For a year after 1979, if the sum is greater than zero, he shall apply, against such sum and to the extent of such sum, any balance in the State carryforward account (described in subparagraph (B)(ii)). If, after applying some or all of such balance, the sum is equal to zero, the Secretary shall announce that the increase in hospital expenses in the State did not exceed the State voluntary limit for the preceding year and shall debit, against the State carryforward account of that State, the amount of the account applied. If, after applying all of such balance, the sum is still greater than zero, he shall announce that the increase in hospital expenses in the State for the preceding year exceeded the State voluntary limit for that year and shall reduce to zero the balance of the State carryforward account of the State.

(ii) For a year after 1979, if the sum is equal to or less than zero, he shall announce that the increase did not exceed the State voluntary limit for the preceding year and he shall credit, to the State carryforward account for that State, an amount equal to one-half of the dollar amount of such savings for such year.

INDIVIDUAL HOSPITAL PERFORMANCE

SEC. 114. (a) The Secretary, when he computes an individual hospital voluntary percentage limit under section 102, shall determine whether the percent increase in a hospital's expenses in the hospital's accounting period over those expenses in the previous accounting period exceeding the hospital's individual hospital percentage limit for the period.

(b)(1)(A) For the accounting period ending in 1979, if there was an excess under subsection (a), the Secretary shall inform the hospital that the increase in the hospital's expenses in the accounting period exceeded the hospital's individual voluntary percentage limit for that period.

(B) For the accounting period ending in 1979, if there was no such excess under subsection (a), the Secretary shall inform the hospital that the increase in the hospital's expenses did not exceed the hospital's individual voluntary percentage limit for the period and he shall credit, to a carryforward account for that hospital, an amount equal to one-half of the dollar amount of such savings.

(C) Immediately before making a determination under this subsection for a year after 1979, the amount of any balance in the carryforward account of a hospital shall be increased by a percentage equal to the individual hospital voluntary percentage limit for the period.

(2)(A) For an accounting period ending in a year after 1979, if there was an excess under subsection (a), the Secretary shall apply, against such excess and to the extent of such excess, any balance in the hospital's carryforward account (described in paragraph (1)(B)). If, after applying some or all of such balance, there is no excess remaining, the Secretary shall inform the hospital that the increase in the hospital's expenses did not exceed the hospital's individual voluntary percentage limit for the accounting period and shall debit, to the carryforward account for that hospital, the amount of the account applied. If, after applying all of such balance, there is still an excess, he shall inform the hospital that the increase in the hospital's expenses in the accounting period exceeded the hospital's individual voluntary percentage limit for that period and shall reduce to zero the balance in the carryforward account of the hospital.

(B) For an accounting period ending in a year after 1979, if there is no excess, he shall inform the hospital that such increase did not exceed the hospital's voluntary percentage limit for the period and he shall credit, to the carryforward account for that hospital, an amount equal to one-half of the dollar amount of such savings for such period.

DURATION OF NATIONAL, STATE, AND INDIVIDUAL HOSPITAL VOLUNTARY PERIODS

SEC. 115. (a) The national voluntary period shall be considered to begin with 1979 and to end with the earlier of 1983 or the first year for which—

(1) the Secretary has announced and reported to Congress under section 111 that total expenses of hospitals in the United States for the year have exceeded the national voluntary limit for that year, and

(2) neither House of Congress has, under section 112, disapproved the report for that year.

(b) The voluntary period of a State shall be considered to begin with 1979 and to end with the earlier of 1983 or the first year—

(1) which is the last year of, or is any year after, the national voluntary period (as determined under subsection (a)), and

(2) for which the Secretary has announced under section 113 that total expenses of hospitals in the State for the year have exceeded the State voluntary limit for that State for that year.

(c) The voluntary period of an individual hospital shall be considered to begin with the hospital's accounting period ending in 1979 and to end with the hospital's accounting period ending in 1983, or, if earlier, the first accounting period—

(1)(A) which ends in the last year of, or in any year after, the voluntary period of the State in which the hospital is located (as determined under subsection (b)), and (B) for which the Secretary has informed the hospital under section 114 that the hospital's expenses in the accounting period have exceeded the hospitals' individual hospital voluntary percentage limit for that period; or

(2)(A) which ends in a year after the end of the national voluntary period (as determined under subsection (a)), and

(B) for which the Secretary determines that—

(i) the amount of the excess (if any) computed under section 114(b) for the period is greater than 1 percent of the hospital's expenses for the previous accounting period, and

(ii) the net amount of the excess (if any) computed under such section for the previous accounting period is greater than 1 percent of the hospital's expenses for the second previous accounting period.

(d)(1) Subject to paragraph (2), the Secretary may not enter into an agreement under section 1866 of the Social Security Act with any hospital for any period beginning after the end of the voluntary period of the hospital (as determined under subsection (c)).

(2) Paragraph (1) shall not apply to a hospital for an accounting period for which there is an exemption under part B of title II.

TITLE II—STATE MANDATORY HOSPITAL COST CONTAINMENT PROGRAMS AND ENFORCEMENT

PART A—APPROVAL OF STATE MANDATORY PROGRAMS AND EXEMPTIONS FROM RESTRICTIONS

APPROVAL OF STATE MANDATORY PROGRAMS

SEC. 201. (a) The chief executive of any State may apply to the Secretary for the approval for a year of a State mandatory hospital cost containment program (hereinafter in this section referred to as "the program") established in the State. The Secretary shall approve the program for the year if—

(1) the Secretary determines that the program will be applicable to—

(A) all hospitals in the State and to all revenues or expenses for inpatient hospital services (other than revenues under title XVIII of the Social Security Act, unless approved by the Secretary), or

(B) at least 75 percent of all revenues or expenses for inpatient hospital services (including revenues under title XVIII of the Social Security Act);

(2) the Secretary receives satisfactory assurances as to the equitable treatment under the program of all entities (including Federal and State programs) that pay hospitals for inpatient hospital services, of hospital employees, and of hospital patients;

(3) the program does not treat, directly or indirectly, as revenues of any hospital any of the hospital's amounts related to philanthropy (as defined in section 322(3)); and

(4) the Secretary—

(A) determines that for the previous year, if (for accounting periods of hospitals in the State ending in such previous year) the State voluntary percentage limits (computed under section 102) were increased by 1 percentage point, the Secretary would determine that the sum of the dollar amounts computed under the first sentence of section 113(a)(1) for such previous year would be equal to or less than zero, or

(B) receives satisfactory assurances that such sum of dollar amounts, computed under the first sentence of section 113(a)(1) for the year, will be equal to or less than zero.

The requirements of paragraphs (1), (2), and (3) shall not apply to any State mandatory hospital cost containment program which was established by statute before, and in effect on, January 1, 1979.

(b) The Secretary, in establishing standards and reviewing applications for approval of State mandatory hospital cost containment programs under this section, shall consult with the National Commission on Hospital Cost Containment (established under section 301).

(c)(1) There shall be exempted from any restriction under section 115(d)(1) any agreement under section 1866 of the Social Security Act of a hospital in a State which begins in a year in which a State mandatory hospital cost containment program for the State has been approved under this section.

(2) The Secretary may waive requirements for reimbursement under title XVIII of the Social Security Act for hospitals located in States with mandatory hospital cost containment programs approved under this section.

FUNDING OF STATE MANDATORY PROGRAMS

SEC. 202. (a) The Secretary may make grants to States to assist them in planning, establishing, or operating State mandatory hospital cost containment programs.

(b) An application by a State for assistance under this section shall be in such form, submitted in such manner, and contain such information and assurances, as the Secretary may require.

(c) The Secretary shall determine the amount of any assistance provided under this section, and may make payment in advance or by way of reimbursement, and at such intervals and on such conditions as he finds necessary. Subject to appropriations, the Secretary may provide assistance in amounts up to 50 percent of the necessary expenses involved with the planning, establishment, or operation of such a program.

(d) There are authorized to be appropriated for assistance under this section $10,000,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for each of the three succeeding fiscal years.

EXEMPTION OF HOSPITALS ENGAGED IN CERTAIN EXPERIMENTS OR DEMONSTRATIONS

SEC. 203. The Secretary may exempt hospitals from the application of the restriction of section 115(d)(1) if he determines that—

(1) the exemption is necessary to facilitate an experiment or demonstration entered into under section 402 of the Social Security Amendments of 1967, section 222 of the Social Security Amendments of 1972, or section 1526 of the Public Health Service Act, and

(2) the experiment or demonstration is consistent with the purposes of this Act.

PART B—ENFORCEMENT

CONFORMANCE BY CERTAIN FEDERAL AND STATE PROGRAMS

SEC. 211. (a) Notwithstanding any provision of title XVIII of the Social Security Act, reimbursement for inpatient hospital services under the program established by such title shall not be payable, on an interim basis or in final settlement, to a hospital for an accounting period which is exempted from a restriction under section 115(d)(1) because the hospital is located in a State with a mandatory hospital cost containment program approved under part A, to the extent that the reimbursement exceeds the limit prescribed under such program.

(b) Notwithstanding any provision of title V of XIX of the Social Security Act, payment shall not be required to be made by any State under either such title, nor shall payment be made to any State under either such title, with respect to any amount paid for inpatient hospital services to a hospital for an accounting period which is exempted from restriction under section 115(d)(1) because the hospital is located in a State with a mandatory hospital cost containment program approved under part A, to the extent that the reimbursement exceeds the limit prescribed under such program.

TITLE III—STUDIES, ADMINISTRATIVE PROVISIONS, AND DEFINITIONS

PART A—STUDIES AND REPORTS

NATIONAL COMMISSION ON HOSPITAL COST CONTAINMENT

SEC. 301. (a) The Secretary shall establish a National Commission on Hospital Cost Containment (hereinafter in this section referred to as the "Commission").

(b) The Commission shall consist of fifteen members appointed by the Secretary. Of those members—

(1) five shall be individuals representative of hospitals,

(2) five shall be individuals representative of entities that reimburse hospitals, of whom one shall be the Administrator of the Health Care Financing Administration, and

(3) five shall be individuals who are not representative of either hospitals or of entities that reimburse hospitals.

(c)(1) Except as provided in paragraphs (2) and (3), members shall be appointed for three years.

(2) Of the members first appointed—

(A) five shall be appointed for a term of two years, and

(B) five shall be appointed for a term of one year.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of the member's term until the member's successor has taken office.

(d) The Secretary shall appoint one of the members as Chairman, to serve until the expiration of the member's term.

(e) Eight members of the Commission shall constitute a quorum to do business. The Commission shall meet at the call of the Chairman or at the call of a majority of its members.

(f) The Commission shall advise, consult with, and make recommendations to, the Secretary with respect to—

(1) the implementation of this Act,

(2) proposed modifications to the provisions of this Act, and

(3) any other matters that may affect hospital expenses or revenues.

(g)(1) Except as provided in paragraph (2), members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of Commission duties.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(h) The Commission may, subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, appoint, fix the pay of, and prescribe the functions of such personnel as are necessary to carry out its functions. In addition, the Commission may procure the services of experts and consultants as authorized by section 3109 of such title.

(i) The provisions of section 14(a) of the Federal Advisory Committee Act shall not apply with respect to the Commission.

TASKFORCE ON CONSUMER AND PHYSICIAN INCENTIVES TOWARD HOSPITAL COST CONTAINMENT

SEC. 302. (a)(1) There is hereby established a Taskforce on Consumer and Physician Incentives Toward Hospital Cost Containment (hereinafter in this section referred to as the "Taskforce"), to be composed of seven members—

(A) three appointed by the President,

(B) two appointed by the Speaker of the House of Representatives, and

(C) two appointed by the President of the Senate.

Members of the Taskforce shall serve without additional compensation.

(2) The Taskforce shall carry out its activities in consultation with appropriate Federal agencies, private organizations, consumers, physicians, and other interested parties.

(b) The Taskforce shall study—

(1) the effect of different policies and procedures (including use of deductibles, coinsurance, and cost- or risk-sharing; tax deduction and exclusion from income provisions of the Internal Revenue Code of 1954; and prepaid health plans) relating to payment for hospital services on (A) consumer and physician awareness of the relative cost and quality of different hospital (and outpatient) services, (B) utilization of hospital services, and (C) the quality of hospital services provided, and

(2) the desirability of increasing the use of these and similar methods in federally funded and other health insurance programs,

and shall make recommendations to the Congress for appropriate changes in legislation. The Taskforce shall complete its study, and submit a report thereon to the appropriate committees of the Congress, not later than two years after the date members are first appointed to the Taskforce.

EVALUATION OF COST CONTAINMENT PROGRAM

SEC. 303. (a) The Secretary shall conduct a comprehensive evaluation (hereinafter in this section referred to as the "evaluation") of the cost controls established under this Act, focusing on—

(1) their efficiency, effectiveness, and fairness compared to alternative strategies for containing hospital costs, and

(2) modifications of the present system of reimbursing hospitals under the medicare program on the basis of their retrospectively determined costs.

(b) The Secretary shall submit to the Congress not later than—

(1) six months after the date of the enactment of this Act, a formal plan for the evaluation,

(2) two years after the date of the enactment of this Act, an interim report on the evaluation, and

(3) December 31, 1983, a final report on the evaluation.

REPORT ON COST CONTAINMENT ALTERNATIVES

SEC. 304. (a) The Secretary shall prepare and submit to Congress, not later than one year after the date of the enactment of this Act, a report on additional or alternative measures (such as changes in (1) methods of third-party reimbursement for health costs, (2) physician reimbursement, (3) payment for drugs and medical supplies, (4) utilization of health facilities and services, and (5) capital expenditures) that can be taken to control costs in the health care industry, as well as the hospital part of the industry.

(b) The report shall include the results of a study, conducted by the Secretary in consultation with appropriate national organizations, on the activities, programs, operating costs, and reimbursement of children's hospitals (described in section 321(3)(E)). With such results, the Secretary shall include findings and recommendations, including a recommendation with respect to the use of a system for the prospective measurement of costs of such hospitals.

PART B—ADMINISTRATIVE PROVISIONS

REGULATIONS AND SHORT ACCOUNTING PERIODS

SEC. 311. (a) The Secretary may prescribe regulations to implement the provisions of this Act and shall determine or estimate any amounts or limits specified in this Act.

(b) The Secretary may make appropriate adjustments in the application of the provisions of this Act with respect to short accounting periods (described in section 32(1)(B)).

HEARINGS AND APPEALS

SEC. 312. (a) Any hospital or payer dissatisfied with a determination made on behalf of the Secretary under section 115(d)(1) may obtain a hearing before the Provider Reimbursement Review Board (established under section 1878(h) of Social Security Act

and hereinafter in this section referred to as the "Board") if the amount in controversy is $10,000 or more and the request for such hearing is filed within one hundred and eighty days after notice of the determination.

(b)(1) The provisions of subsections (c), (d), (e), (f), and (l) of section 1878 of the Social Security Act shall apply to hearings provided under subsection (a). In addition, the Board shall have the power to affirm or reverse any final determination (described in subsection (a)) of a fiscal intermediary or another entity acting on behalf of the Secretary.

(2) After completing a hearing provided under subsection (a) with respect to a determination, the Board shall render its decision on the determination not later than sixty days after the last day of the hearing.

(c) In addition to the members appointed under section 1878(h) of the Social Security Act, the Secretary may appoint up to four additional members to the Board. For every two additional members appointed under this subsection, one shall be representative of providers of services. Those provisions of section 1878(h) of the Social Security Act which relate to compensation and terms of office of members of the Board shall also apply to members appointed under this subsection.

IMPROPER CHANGES IN ADMISSIONS PRACTICES

SEC. 313. (a) No hospital may change its admission practices in a manner which results in—

(1) a significant reduction in the proportion of its patients who have no third-party coverage and who are unable to pay for inpatient hospital services provided by the hospital,

(2) a significant reduction in the proportion of persons admitted to the hospital for inpatient hospital services for which payment is (or is likely to be) less than the anticipated charges for or costs of such services,

(3) the refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital, or

(4) the refusal to provide emergency services to any person who is in need of emergency services if the hospital provides such services.

(b) The Secretary shall monitor, on a periodic basis, the extent of each hospital's compliance with subsection (a).

(c)(1) Upon written complaint by any institution that satisfies paragraphs (1) and (7) of section 1861(e) of the Social Security Act or upon receiving such volume of written complaints or such reasonable documentation from any persons (as the Secretary finds sufficient) that a hospital has changed its admission practices in a manner in violation of subsection (a), the Secretary shall investigate the complaint and, upon a finding by him that the complaint is justified, he may—

(A) exclude the hospital from participation in any or all of the programs established by title V, XVIII, or XIX of the Social Security Act, or

(B) reduce the total amounts otherwise reimbursable to the hospital under title XVIII of the Social Security Act in an amount equal to $2,000 for each of the number of persons who were not admitted as patients because of the change,

or both.

(2) In addition the Secretary may take any other action authorized by law (including an action to enjoin such a violation brought by the Attorney General upon request of the Secretary) which will restrain or compensate for a violation of subsection (a).

(d) Any hospital aggrieved by a determination of the Secretary under subsection (c) shall, upon timely request, be entitled to a hearing on the record on such determination (in accordance with section 554 of title 5, United States Code), and no reduction in reimbursement may be made under subsection (c)(1)(B) with respect to a hospital until the hospital has had the opportunity for such a hearing and judicial review (under chapter 7 of such title) on the determination after the hearing.

(e)(1) An appropriate civil action to restrain an alleged violation of subsection (a) may be brought by a person other than the Secretary, but only if—

(A) One hundred and eighty days have passed from the date a complaint with respect to that alleged violation has been filed by the person with the Secretary, and

(B) neither the Secretary nor the Attorney General has commenced and is diligently pursuing judicial proceedings or administrative action with respect to the alleged violation.

(2) Any civil action under this subsection shall be brought in the United States district court for the judicial district in which the hospital in question is located, and the district courts of the United States shall have jurisdiction over actions brought under this subsection without regard to the amount in controversy or the citizenship of the parties.

(3) In any action brought under this subsection, the Secretary or the Attorney General, if not a party, may intervene as a matter of right.

(4) The court, in issuing any final order in any action brought under this subsection, may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(f) Nothing in this section shall restrict any right which any person (or class of persons) may have under any other statute or at common law to seek enforcement of this Act or to seek any other relief.

CONFIDENTIALITY OF CERTAIN MEDICAL RECORDS

SEC. 314. (a) No officer, employee, or agent of the Federal Government or of an organization conducting medical reviews under part B of title XI of the Social Security Act may, for purposes of carrying out this Act, inspect (or have access to), any part of an individually identifiable medical record (as defined in subsection (c)) of a patient which relates to medical care not provided directly by the Federal Government or paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance, unless the patient has authorized such disclosure and inspection in accordance with subsection (b).

(b) A patient authorizes disclosure and inspection of a medical record for purposes of subsection (a) only if, in a signed and dated statement, the patient—

(1) authorizes the disclosure and inspection for a specific period of time;

(2) identifies the medical record authorized to be disclosed and inspected; and

(3) specifies the agencies which may inspect the record and to which the record may be disclosed.

(c) For purposes of this section:

(1) The term "individually identifiable medical record" means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

(2) The term "medical care" includes medical, psychiatric, and dental care and treatment.

DETERMINATION OF RELATIVE EFFICIENCY OF HOSPITAL AND MEDICARE AND MEDICAID BONUSES FOR EFFICIENCY

SEC. 315. (a) The Secretary shall develop (and may from time to time revise), by regulation, a system of grouping hospitals by appropriate characteristics, such as patient case mix and metropolitan or nonmetropolitan setting. He shall establish (and may from time to time revise), by regulation, a method of measuring efficiency within each group that provides for setting a group norm, defined in terms of all or certain hospital expenses (adjusted for area wage differentials). In determining individual hospital efficiency under the method, the Secretary may take into account systemwide savings attributable to lower hospital inpatient utilization per capita in the area in which the hospital is located. The Secretary, in carrying out the requirements of this subsection with respect to hospitals located in Hawaii or Alaska, shall make such adjustments as may be necessary to reflect the higher prices for classes of goods and services prevailing in each of those States. If the hospital provides care to a greater percentage of patients sixty-five years of age or older than the average percentage for its group, the Secretary shall adjust (to the extent the method for determining the relative efficiency of the hospital does not otherwise take this into consideration) the amount of the hospital's expenses to take into consideration the higher average costs associated with care for patients sixty-five or older to the extent of such excess percentage.

(b)(1) The Secretary may, in his discretion, provide for a bonus in the amount otherwise reimbursable to a hospital under title XVIII or under a State plan approved under title XIX of the Social Security Act to reflect that the hospital, as determined under subsection (a), is more efficient for an accounting period than the group norm for hospitals in its group. Such a bonus may not exceed the lesser of—

(A) one-half of the total amount of the savings under such title or plan of the hospital below the group norm, or

(B) the product of (i) 5 percent of the amount of the expenses for the group norm per unit of measurement, and (ii) the number of units of measurement associated with the hospital's performance.

(2) Any bonus provided under this subsection shall be additional to any other reimbursement provided under such titles.

(3) Bonuses payable pursuant to this section shall be paid, in appropriate proportions, from the Federal Hospital Insurance Trust Fund (established under section 1817 of the Social Security Act) and under a State plan approved under title XIX of such Act.

(4) In exercising his discretion under this section, the Secretary shall take into account (A) the degree to which a hospital has been more efficient than other hospitals in its group, and (B) the existence of a similar bonus under any State mandatory hospital cost containment program to which the hospital is subject.

(5) The Secretary may not provide, in any fiscal year, for more than $50,000,000 in bonuses to hospitals under this section.

SUNSET PROVISION

SEC. 317. (a) Except as otherwise provided in this Act, the provisions of this Act relating to—

(1) the national voluntary percentage limit shall not apply to years after 1982;

(2) State and individual hospital voluntary percentage limits shall not apply to accounting periods of hospitals beginning in any year after 1983;

(3) restrictions under section 115(d)(1) on entering into agreements under section 1866 of the Social Security Act shall not apply to agreements entered into for periods beginning after 1983; and

(4) medicare and medicaid bonuses under section 315(b) shall apply only with respect to accounting periods of hospitals ending after December 31, 1979, and before January 1, 1984.

(b)(1) Section 313 shall not apply to changes in admissions practices occurring after December 31, 1983.

(2) Paragraph (1) does not preclude the exclusion or reduction provided in section 313 (c)(1) with respect to improper changes in admission practices occurring before January 1, 1984.

(c) The National Commission on Hospital Cost Containment shall be established under section 301 not earlier than October 1 of the year in which this Act is enacted and shall be terminated on March 1, 1984.

(d) The Taskforce on Consumer and Physician Incentives Towards Hospital Cost Containment shall be established under section 302 not earlier than October 1 of the year in which this Act is enacted and shall be terminated not later than March 1, 1984.

PART C—DEFINITIONS

GENERAL DEFINITIONS

SEC. 321. For purposes of this Act:

(1) The term "accounting period" means—

(A) except as provided in subparagraph (B)—

(i) in the case of a hospital participating in the program established by title XVIII of the Social Security Act, the period of twelve consecutive calendar months utilized as the reporting period of reimbursement purposes under that program,

(ii) in the case of a hospital not participating in the program established by title XVIII of the Social Security Act, a calendar year, or, if requested by the hospital, such other period of twelve consecutive calendar months as the Secretary may approve, and

(B) in the case of a hospital whose period under subparagraph (A) is changed from one twelve-month period to another, such shorter period as the Secretary may establish.

(2)(A) The term "admission" means the formal acceptance by a hospital of an inpatient, excluding newborn children (unless retained after discharge of the mother) or a transfer within or among inpatient units of the hospital.

(B) In the case of the admission of an individual whose inpatient hospital services are to be reimbursed in part by more than one cost payer, the admission shall be attributed to the cost payer which is to reimburse for such services furnished before such services are furnished for which other cost payers are to reimburse.

(3) The term "hospital", with respect to any period, means an institution (or distinct part of an institution if the distinct part participates in the program established by title XVIII of the Social Security Act) that satisfies paragraphs (1) and (7) of section 1861(e) of the Social Security Act during all of the period and has satisfied those conditions during the preceding thirty-six months, but does not include any such institution if it—

(A) had an average duration of stay of thirty days or more during the preceding thirty-six months,

(B) derived 75 percent or more of its inpatient care revenues from one or more health maintenance organizations (as defined in section 1301(a) of the Public Health Service Act) during the preceding twelve months,

(C)(i) is located in a rural area and (ii) had average annual admissions of four thousand or less during the preceding thirty-six months,

(D) does not impose charges or accept payments for services provided to patients,

(E) is an institution (i) organized and operated for the care of children and youth, and (ii) a majority of whose inpatients are eighteen years of age or younger, or

(F) is a psychiatric hospital (as described in section 1861(f)(1) of the Social Security Act),

and for purposes of section 201, does not include an institution if it is a Federal institution during any part of the period. For purposes of subparagraph (C), the term "rural area" includes an area which is either outside an urban area (as defined by the Bureau of the Census) or outside a Standard Metropolitan Statistical Area (as determined by the Office of Management and Budget).

(4) The term "inpatient hospital services" has the meaning assigned by section 1861(b) of the Social Security Act, but includes in addition the services specified in section 1861(b)(5) of that Act.

(5) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(6) The term "State" means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(7) The term "supervisor" has the meaning assigned by section 2(12) of the National Labor Relations Act.

(8) The term "United States" means the geographic area consisting of all the States.

DEFINITIONS RELATING TO CHARGES, EXPENSES, AND REIMBURSEMENT

SEC. 322. For purposes of this Act:

(1) The term "hospital expenses", for purposes of title I, does not include any SHUR expenses (as defined in paragraph (5)).

(2) The term "inpatient charges" means charges (as defined by section 405.452(d)(4) of title 42, Code of Federal Regulations, as in effect on the date of the enactment of this Act) for inpatient hospital services.

(3) The term "amounts related to philanthropy" means, with respect to a hospital, any amounts which are attributable to—

(A) a donor designated or restricted grant, gift, or income from an endowment, as defined in section 405.423(b)(2) of title 42 of the Code of Federal Regulations;

(B) a grant or gift, or income from such a grant or gift, which is not available for use as operating funds because of its designation by the hospital's governing board;

(C) a grant or similar payment which is made by a governmental entity and which is not available, under the terms of the grant or payment, for use as operating funds;

(D) the sale or mortgage of any real estate or other capital assets of the hospital which the hospital acquired through a gift or grant and which is not available for use as operating funds under the terms of the gift or grant or because of its designation by the hospital's governing board; and

(E) a depreciation fund which is (i) created by the hospital in order to meet a condition imposed by a third party for the third party's financing of a capital improvement of the hospital, and (ii) is used exclusively to make payments to such third party for the financing of the capital improvement.

(4) The term "SHUR expenses" means expenses incurred by a hospital only in order to comply with the requirement of sections 1861(v)(1)(F) and 1902(a)(40) of the Social Security Act (relating to reporting under a system for hospital uniform reporting).

(5) The term "wage-related expenses" means wages (as such term is used under the Fair Labor Standards Act of 1938) and includes overtime wages and shift differential, taxes imposed under section 1401, 3101, or 3111 of the Internal Revenue Code of 1954 (relating to the Federal Insurance Contributions Act taxes), and expenses relating to unemployment compensation, workmen's compensation, and fringe benefits (including pensions and health benefits) as established by the Secretary by regulation.

DEFINITIONS RELATING TO MARKETBASKET INCREASES

SEC. 323. For purposes of this Act:

(1) The term "percent increase in the national hospital nonwage marketbasket" means, for a twelve-month period, sum of the products of—

(A) the average percentage increase in the United States in the price of each appropriate class (as determined by the Secretary) of goods and services (other than wage-related expenses and SHUR expenses) in the period over the price of the class in the preceding twelve-month period, and

(B) the average fraction (as computed by the Secretary from time to time) of the expenses of hospitals in the United States attributable to that class.

(2) The term "percent increase in the national hospital wage-related marketbasket" means, for a year, the product of—

(A) the average percentage increase in the wage-related expenses paid in the year over the wage-related expenses paid in the preceding year per employee per hour to employees (other than to doctors of medicine or osteopathy and to supervisors) of hospitals in the United States, and

(B) the average fraction (as computed by the Secretary from time to time) of the expenses of hospitals in the United States attributable to such wage-related expenses.

(3) The term "percent increase in the nonwage marketbasket" means, for an accounting period of a hospital, the sum of the products of—

(A) the average percentage increase in the United States (or in the area or State in which the hospital is located, if data for the hospital's area or State are available) in the price of each appropriate class (as determined by the Secretary) of goods and services (other than wage-related expenses and SHUR expenses) in the period over the price of the class in the preceding accounting period, except that the Secretary, in applying such percentage increase with respect to hospitals located in Hawaii or in Alaska, shall make such adjustment in such percentage increase as may be necessary to reflect any higher rate of increase in the prices of classes of goods and services in those States as compared with such rate of increase in the United States, and

(B) the fraction (as computed by the Secretary from time to time) of the hospital's expenses attributable to the class.

(4) The term "percent increase in the wage-related marketbasket" means, for a hospital for an accounting period, the product of—

(A) the average percentage increase in the wage-related expenses paid in the period over the wage-related expenses paid in the preceding period per employee per hour to employees (other than to doctors of medicine or osteopathy and to supervisors) of the hospital (or zero, if there are not sufficent data to make a reasonable estimate), and

(B) the average fraction (as computed by the Secretary from time to time) of the hospital's expenses attributable to such wage-related expenses.

(5) The term "adjustment factor" means, for a hospital for an accounting period, a fraction with—

(A) the numerator equal to the sum of the fractions of the hospital's expenses (described in paragraph (3)(B)) attributable to classes of goods and services described in such paragraph, and

(B) the denominator equal to the sum of the average fractions of expenses of hospitals in the United States, as estimated and announced under section 101(b)(2) before the calendar quarter in which the accounting period begins.

DEFINITIONS RELATING TO POPULATION CHANGES

SEC. 324. For purposes of this Act:

(1) The term "percent change in area

population" means, for an accounting period of a hospital, the highest of—

(A) the percent change in State population (as defined in paragraph (3)) for the period, or

(B) the percentage change in the size of the population of the Standard Metropolitan Statistical Area (as determined by the Office of Management and Budget), if any, in which the hospital is located in the year preceding the year in which the accounting period ends over the size of the population of such Area in the second preceding year, or

(C) the percentage change in the size of the population of the county or county equivalent area (as recognized by the Bureau of the Census) in which the hospital is located in the year preceding the year in which the accounting period ends over the size of the population of such county or area in the second preceding year.

(2) The term "percent increase in the national population" means, for a year, the percentage by which the size of the population in the United States in the year exceeds the size of the population of the United States in the preceding year.

(3)(A) Subject to subparagraph (B), the term "percent change in State population" means, for an accounting period of a hospital, the percentage change in the size of the population of the State in which the hospital is located in the year preceding the year in which the accounting period ends over the size of the population of the State in the second preceding year.

(B) In the case of a State in which the rate of increase in its population of persons sixty-five years of age or older for a year exceeds the rate of increase in the population of such persons in the United States for the year, the Secretary shall provide for such adjustment in the percent change in State population for accounting periods (of hospitals in the State) ending in the year in a manner which takes into consideration the additional costs (based on national data for cost of hospital services per capita for such persons as opposed to persons of other ages) involved in caring for such persons to the extent of such excess increase rate.

(To the amendment in the nature of a substitute reported by the Committee on Interstate and Foreign Commerce.)

—Pages 112 and 113, amend the items in the table of contents related to title II to read as follows:

TITLE II—STATE MANDATORY HOSPITAL COST CONTAINMENT PROGRAMS AND ENFORCEMENT

PART A—APPROVAL OF STATE MANDATORY PROGRAMS AND EXEMPTIONS FROM RESTRICTIONS

Sec. 201. Approval of State mandatory programs.

Sec. 202. Funding of State mandatory programs.

Sec. 203. Exemption of hospitals engaged in certain experiments or demonstrations.

PART B—ENFORCEMENT

Sec. 211. Conformance by certain Federal and State programs.

Page 113, strike out the item in the table of contents relating to section 313 and redesignate succeeding provisions in part B of title III accordingly.

Page 139, amend lines 6 through 11 to read as follows:

(d)(1) Subject to paragraph (2), the Secretary may not enter into an agreement under section 1866 of the Social Security Act with any hospital for any period beginning after the end of the voluntary period of the hospital (as determined under subsection (c)).

Page 139, strike out line 15 and all that follows through page 154, line 3 and insert in lieu thereof the following:

TITLE II—STATE MANDATORY HOSPITAL COST CONTAINMENT PROGRAMS AND ENFORCEMENT

PART A—APPROVAL OF STATE MANDATORY PROGRAMS AND EXEMPTIONS FROM RESTRICTIONS

Page 154, line 5, strike out "211" and insert in lieu thereof "201".

Page 155, line 12, strike out "322(3)" and insert in lieu thereof "322(2)".

Page 156, amend lines 11 through 16 to read as follows:

(c)(1) There shall be exempted from any restriction under section 115(d)(1) any agreement under section 1866 of the Social Security Act of a hospital in a State which begins in a year in which a State mandatory hospital cost containment program for the State has been approved under this section.

Page 157, line 15, strike out "212" and insert in lieu thereof "202".

Page 158, amend lines 14 through 17 to read as follows:

SEC. 203. The Secretary may exempt hospitals from the application of the restriction of section 115(d)(1) if he determines that—

Page 159, strike out line 3 and all that follows through page 166, line 11 and insert in lieu thereof the following:

PART B—ENFORCEMENT

Page 166, line 14, strike out "222" and insert in lieu thereof "211".

Page 166, strike out the dash at the end of line 19 and all that follows through page 167, line 5 and insert in lieu thereof the following: "which is exempted from a restriction under section 115(d)(1) because the hospital is located in a State with a mandatory hospital cost containment program approved under part A, to the extent that the reimbursement exceeds the limit prescribed under such program.".

Page 167, strike out the dash on line 12 and all that follows through line 23 and insert in lieu thereof the following: "which is exempted from a restriction under section 115(d)(1) because the hospital is located in a State with a mandatory hospital cost containment program approved under part A, to the extent that the reimbursement exceeds the limit prescribed under such program.".

Page 171, line 21, strike out "part A of title II" and insert in lieu thereof "section 115(d)(1)".

Page 172, line 8, strike out ", modify,".

Page 173, strike out line 3 and all that follows through page 174, line 20.

Page 174, line 22, strike out "314" and insert in lieu thereof "313".

Page 178, line 15, strike out "315" and insert in lieu thereof "314".

Page 181, line 15, strike out "and shall not" and all that follows through "title II" on line 18.

Page 182, amend lines 20 through 23 to read as follows:

(3) restrictions under section 115(d)(1) on entering into agreements under section 1866 of the Social Security Act shall not apply to agreements entered into for periods beginning after 1984; and

Page 182, line 25, strike out "315(b)" and insert in lieu thereof "314(b)".

Page 183, lines 4 and 8, strike out "314" and "314(c)(1)", respectively, and insert in lieu thereof "313" and "313(c)(1)", respectively.

Page 185, strike out line 7 and all that follows through page 186, line 2, and redesignate succeeding paragraphs accordingly.

Page 103, line 5, strike out "211" and insert in lieu thereof "201".

Page 188, strike out line 23 and all that follows through page 189, line 22, and redesignate succeeding paragraphs accordingly.

By Mr. RANGEL:

(To the amendment in the nature of a substitute reported by the Committee on Interstate and Foreign Commerce.)

—Page 113, amend the items in the table of contents relating to title III, part A of such title, and section 301 to read as follows:

TITLE III—NATIONAL COMMISSION, STUDIES, ADMINISTRATIVE PROVISIONS, AND DEFINITIONS

PART A—NATIONAL COMMISSION AND STUDIES

Sec. 301. National Commission on Hospital Cost Containment.

Sec. 302. Taskforce on Consumer and Physician Incentives Towards Hospital Cost Containment.

Sec. 303. Evaluation of cost containment program.

Sec. 304. Study of cost containment alternatives.

Page 131, strike out line 11 and all that follows through page 132, line 7.

Page 143, insert after line 2 the following new subsection:

(d) For purposes of applying the mandatory percentage limits under subsection (a) as they relate—

(1) to average inpatient charges per admission of a hospital, there shall be excluded from the computation of the amount of inpatient charges in an accounting period (and in the base accounting period) an amount equal to the amount of SHUR expenses of the hospital attributable to inpatient hospital services for the respective accounting period, and

(2) to average reimbursement payable to a hospital by a cost payer per admission, there shall be excluded from the computation of the total amount of reimbursement with respect to the cost payer in an accounting period (and in the base accounting period) an amount equal to the product of (A) the amount of SHUR expenses of the hospital attributable to inpatient hospital services for the respective accounting period, and (B) the proportion of such expenses determined, in accordance with regulations of the Secretary, to be properly allocated to that cost payer.

Page 153, insert after line 16 the following new subsection:

(d) On the request of a hospital, filed in accordance with the second sentence of subsection (a), the Secretary shall make an addition to the mandatory percentage limit for an accounting period otherwise computed under this part to the extent to which the hospital can demonstrate that higher reimbursement or inpatient charges per admission than would otherwise be permitted are attributable to capital-related expenses (including depreciation and interest) related to capital expenditures which have been approved by the State health planning and development agency for the hospital on or before the date of the enactment of this Act.

Page 153, line 17, strike out "(d)" and insert in lieu thereof "(e)".

Page 168, strike out lines 1 through 4 and insert in lieu thereof the following:

TITLE III—NATIONAL COMMISSION, STUDIES, ADMINISTRATIVE PROVISIONS, AND DEFINITIONS

PART A—NATIONAL COMMISSION AND STUDIES

Page 171, insert after line 7 the following new sections:

TASKFORCE ON CONSUMER AND PHYSICIAN INCENTIVES TOWARDS HOSPITAL COST CONTAINMENT

SEC. 302. (a)(1) There is hereby established a Taskforce on Consumer and Physician Incentives Towards Hospital Cost Containment (hereinafter in this section referred to as the "Taskforce"), to be composed of seven members—

(A) three appointed by the President,

(B) two appointed by the Speaker of the House of Representatives, and

(C) two appointed by the President of the Senate.

Members of the Taskforce shall serve without additional compensation.

(2) The Taskforce shall carry out its activities in consultation with appropriate Federal agencies, private organizations, consumers, physicians, and other interested parties.

(b) The Taskforce shall study—

(1) the effect of different policies and procedures (including use of deductibles, coinsurance, and cost- or risk-sharing; tax deduction and exclusion from income provisions of the Internal Revenue Code of 1954; and prepaid health plans) relating to payment for hospital services on (A) consumer and physician awareness of the relative cost and quality of different hospital (and outpatient) services, (B) utilization of hospital services, and (C) the quality of hospital services provided, and

(2) the desirability of increasing the use of these and similar methods in federally funded and other health insurance programs,

and shall make recommendations to the Congress for appropriate changes in legislation. The Taskforce shall complete its study, and submit a report thereon to the appropriate committees of the Congress, not later than two years after the date members are first appointed to the Taskforce.

EVALUATION OF COST CONTAINMENT PROGRAM

SEC. 303. (a) The Secretary shall conduct a comprehensive evaluation (hereinafter in this section referred to as the "evaluation") of the cost controls established under this Act, focusing on—

(1) their efficiency, effectiveness, and fairness compared to alternative strategies for containing hospital costs, and

(2) modification of the present system of reimbursing hospitals under the medicare program on the basis of their retrospectively determined costs.

(b) The Secretary shall submit to the Congress not later than—

(1) six months after the date of the enactment of this Act, a formal plan for the evaluation,

(2) two years after the date of the enactment of this Act, an interim report on the evaluation, and

(3) December 31, 1983, a final report on the evaluation.

REPORT ON COST CONTAINMENT ALTERNATIVES

SEC. 304. (a) The Secretary shall prepare and submit to Congress, not later than one year after the date of the enactment of this Act, a report on additional or alternative measures (such as changes in (1) methods of third-party reimbursement for health costs, (2) physician reimbursement, (3) payment for drugs and medical supplies, (4) utilization of health facilities and services, and (5) capital expenditures) that can be taken to control costs in the health care industry, as well as the hospital part of the industry.

(b) The report shall include the results of a study, conducted by the Secretary in consultation with appropriate national organizations, on the activities, programs, operating costs, and reimbursement of children's hospitals (described in section 321(6)(E)). With such results, the Secretary shall include findings and recommendations, including a recommendation with respect to the use of a system for the prospective measurement of costs of such hospitals.

Page 179, line 4, insert after the period the following new sentence: "The Secretary, in carrying out the requirements of this subsection with respect to hospitals located in Hawaii or Alaska, shall make such adjustments as may be necessary to reflect the higher prices for classes of goods and services prevailing in each of those States.".

Page 183, insert after line 15 the following new subsection:

(d) The Taskforce on Consumer and Physician Incentives Towards Hospital Cost Containment shall be established under section 302 not earlier than October 1 of the year in which this Act is enacted and shall be terminated not later than March 1, 1985.

Page 187, insert after line 11 the following new subparagraph:

(E) is an institution (i) organized and operated for the care of children and youth, and (ii) a majority of the inpatients of which are eighteen years of age or younger,

Page 187, lines 12 and 15, strike out "(E)" and "(F)", respectively, and insert in lieu thereof "(F)" and "(G)", respectively.

Page 188, insert after line 17 the following new paragraph:

(1)(A) The term "hospital expenses", for purposes of title I, does not include any SHUR expenses (as defined in paragraph (4)).

Page 188, line 18, strike out "(1)" and insert in lieu thereof "(B)".

Page 191, insert after line 6 the following new paragraph:

(4) The term "SHUR expenses" means expenses incurred by a hospital only in order to comply with the requirements of sections 1861(v)(1)(F) and 1902(a)(40) of the Social Security Act (relating to reporting under a system for hospital uniform reporting).

Page 191, line 7, strike out "(4)" and insert in lieu thereof "(5)".

Page 191, line 22, insert "or SHUR expenses" after "(2)(A)".

Page 193, line 5, insert "or SHUR expenses" after "(4)(A)".

Page 193, line 7, insert after the comma the following:

"except that the Secretary, in applying such percentage increase with respect to hospitals located in Hawaii or in Alaska, shall make such adjustment in such percentage increase as may be necessary to reflect any higher rate of increase in the prices of classes of goods and services in those States as compared with such rate of increase in the United States".

Page 194, strike out line 17 and all that follows through page 195, line 13 and insert in lieu thereof the following:

(1)(A) Subject to subparagraph (B), the term "percent change in area population" means, for an accounting period of a hospital, the higher of—

(i) the percentage change in the size of the population of the Standard Metropolitan Statistical Area (as determined by the Office of Management and Budget, if any, in which the hospital is located in the year preceding the year in which the accounting period ends over the size of the population of such Area in the second preceding year, or

(ii) the percentage change in the size of the population of the county or county equivalent area (as recognized by the Bureau of the Census) in which the hospital is located in the year preceding the year in which the accounting period ends over the size of the population of such county or area in the second preceding year,

except that in no case shall such percent change be less than zero.

(B) In the case of hospital located in a Standard Metropolitan Statistical Area, county, or county equivalent area which has a rate of increase in its population of persons sixty-five years of age or older for a year exceeding the rate of increase in the population of such persons in the United States for the year, the Secretary shall determine the amount of such difference and shall provide for an adjustment in the percent change in population of the Area or of the county or county equivalent area (for purposes of clauses (i) and (ii), respectively, of subparagraph (A)) for the accounting period of the hospital ending in the year in such a manner as takes into consideration the additional costs (based on national data for cost of hospital services per capita for such persons as opposed to persons of other ages) involved in caring for such persons to the extent of such excess increase rate.

H.R. 5297

By Mr. VENTO:

—Page 5, section 101, add the following new subsection:

"(e) No amount authorized to be appropriated by this Act may be used by the Commission to license or approve of the disposal of nuclear wastes in the ocean."

EXTENSIONS OF REMARKS

A COCA-COLA WINDFALL?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. MICHEL. Mr. Speaker, it is reported that the largest single donation ever made in the history of American philanthrophy has been made by retired Coca-Cola Chairman Robert W. Woodruff. Mr. Woodruff has donated 3 million shares of Coca-Cola stock to Atlanta's Emory University. The gift is valued at $100 million. Every time Coca-Cola stock goes up $1, the endowment increases by $3 million.

I would assume that during the years Coca-Cola has been manufactured there have been many summers of more than average heat. During these summers more Coca-Cola was probably sold.

Is this not a form of windfall profits? After all, it was nothing that the Coca-Cola stockholders did that made people buy more Coca-Cola during heat spells. It was no improvement in the product or reduction in the price. It could very well be argued that the company made its excess profits in those long hot summers through exploiting the thirst of millions.

I am surprised Jimmy Carter has never said that Coca-Cola has made windfall profits throughout the years, and that much of that profit should have been taxed so that a Government agency could be set up to devise new ways of dealing with the thirst problem.

Emory University can be thankful that Mr. Carter was not in power when Coke made its biggest profits.

At this time I would like to insert in the RECORD "Emory U. Gets Gift of

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

$100 Million" by Howell Raines, from the New York Times, November 9, 1979:

EMORY U. GETS GIFT OF $100 MILLION

By Howell Raines

ATLANTA, Nov. 8.—Robert W. Woodruff, the retired Coca-Cola chairman known to Atlantans as this city's "anonymous donor," today gave Emory University $100 million, a gift that is believed to be the largest single donation in the history of American philanthropy.

The gift, in the form of three million shares of Coca-Cola stock, is of such magnitude "that every time Coca-Cola goes up one dollar, the endowment increases by $3 million or thereabouts," Henry L. Bowden, the chairman of Emory's board of trustees, said at a news conference.

As is his habit, the taciturn Mr. Woodruff, who is 90 years old and perhaps the least known of the nation's philanthropists, did not attend the news conference. But it took place in a room named for him within a building named for him on a campus that is sometimes known as "Coca-Cola U."

The benefaction announced today brings to $210 million the money that Mr. Woodruff has given to Emory and to $350 million his total contributions to civic and educational causes here. It also continues a tradition linking Emory's fortunes to those of Coca-Cola and its executives. Starting in 1914, the family of Asa Candler, the original popularizer of the soft drink, gave the school a total of $21 million.

As of today, Emory is the South's richest private university, and its endowment of $270 million ranks 11th nationally, narrowly trailing such institutions as Yale and Princeton.

"We're within shooting distance," James T. Laney, the president of Emory, proclaimed today. "We're hot on their tail." The Yale-trained theologian said that Mr. Woodruff's gift would give Emory, already regarded as one of the best schools in the South, "the capacity to emerge as one of the principal institutions of higher learning in the United States in the next decade."

In the reckoning of most Southern educators, Emory University competes with Vanderbilt, Duke, Rice, and Tulane for the distinction of being the South's best private university. The Atlanta school has 8,000 students, many of them from Eastern and Mid-Atlantic states. Places in its law school and in the nursing, dental and medical schools at the Woodruff Medical Center are highly sought. And the Candler School of Theology is the largest Methodist seminary in the United States.

The opinion that Mr. Woodruff had set a national and perhaps a world record for the size of a single gift came from the "Philanthropic Digest." James A. Chapman, a publicity-shy oil man who died in 1966, gave away $100 million, but he scattered the money over three states. Buck Duke, the tobacco heir, gave $100 million to the North Carolina University named for his brother, but he spread the gift over many years. And Trinity College in Nashville changed its name to Vanderbilt University while receiving only $10 million from Cornelius Vanderbilt and his heirs.

The first contributor of record to a surviving institution of higher learning was John Harvard, who gave books and some money to a newborn college in Cambridge, Mass., in 1638.

HOW IT ALL STARTED

Mr. Woodruff, who retired as board chairman of the Coca-Cola Company in 1955, did not set out to break any records. He drifted into philanthropy, according to Pat Watters, the author of "Coca-Cola: An Illustrated History."

"It started out with him getting upset with all these people on his plantation having malaria," said Mr. Watters. "Then his mother got cancer. He started solving his personal problems with money, and that got him into it."

The gift announced today amounted to a total transfer to Emory of assets of the Emily and Ernest Woodruff Fund Inc., which is named for the philanthropist's parents.

But Boisfeuillet Jones, a precise, gray-haired man who has made a career of handing out Woodruff money as president of the fund, said that the philanthropies would go on. For one thing, $20 million is tucked away in Mr. Woodruff's Trebor Foundation. "That's Robert spelled backward," said Mr. Jones. And then there is Mr. Woodruff's personal fortune.

Mr. Laney, Emory's president, made it clear that for now the university was content with its three million shares. "We already own two million," he said. "That gives us five million." Then, grinning in embarrassment, he apologized for stating the obvious. "I just enjoy saying it," he said.●

NATIONAL CYSTIC FIBROSIS WEEK

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. CONTE. Mr. Speaker, today, I am introducing a resolution which would designate the third week of September, beginning in 1980, as National Cystic Fibrosis Week. Enactment of this resolution will direct public attention to those who suffer from this debilitating disease which is destroying the lungs, digestion, and lives of between 13,000 and 30,000 children and young adults in America. Hopefully, with increased public awareness of the nature and symptoms of cystic fibrosis and its tragic impact on the lives of victims and their families, the resources needed to foster research into the cause, treatment and cure of the disease will be significantly enhanced.

Passage of this resolution will present a fitting commemoration of the Cystic Fibrosis Foundation's 25th anniversary which will be observed next year. Through the leadership of my close friend Doris Tulcin, the foundation's president, and many other concerned volunteers, the foundation has grown and developed from a small organization comprised of a handful of concerned parents, physicians and friends, to one of the Nation's leading voluntary health associations. For the 1980–81 fiscal year, the Cystic Fibrosis Foundation's budget for research, professional training, and health care delivery will total approximately $6.6 million. Without this support, much of the progress achieved through CF research would not have been possible.

My involvement with the foundation's concerns and the plight of CF victims began in 1976, when I urged the House Appropriations Committee to designate funds for a study to be conducted by the National Institutes of Health into the state of the art and future directions for cystic fibrosis resarch. As a result of that study, the committee recognized that a federally supported CF research program was desperately needed. Since that time, the committee has reaffirmed its support for this vital research effort with increased funding levels to expand the scope of the NIH involvement, and the Cystic Fibrosis Foundation has designated significant new funds for its research and care programs as well. With the creation of Cystic Fibrosis Week, I hope that the national commitment to CF research will continue to grow.

Although much of the foundation's efforts are directed to generating support for cystic fibrosis research, public education is also a high priority. Unfortunately, an overwhelmingly majority of the public is unaware of even the most fundamental facts about the disease. CF is often confused with other diseases and such misunderstandings are rarely clarified. Society needs to be informed about the symptoms of CF, particularly as they occur in infancy, to facilitate early recognition and diagnosis. Americans of all ages should know that people with the "hidden handicap" of CF can, and want to be, successful participants in school or work for as long as their health allows. It is very encouraging to know that, with the extensive treatments and new medications now available, the period of relative health is becoming longer each year for people with CF.

Despite the progress that has occurred, much more needs to be done, and ignorance concerning cystic fibrosis continues to prevail. Consequently, I am requesting that my colleagues lend their support to this resolution which will aid in the battle against this dreaded and debilitating disease. Enactment of the resolution I am introducing today will be another step toward the conquest of cystic fibrosis.

Mr. Speaker, I insert into the RECORD a factsheet prepared by the Cystic Fibrosis Foundation which provides some pertinent information concerning the disease and the foundation's activities:

CYSTIC FIBROSIS: THE DISEASE AND THE FOUNDATION

For nearly a quarter of a century, the Cystic Fibrosis Foundation has been the leading force in the battle against Cystic Fibrosis (CF). Although significant progress has been made toward improved clinical and psychosocial management of CF patients, this disease, the most common genetic killer of children in America, remains a mystery of science. At present, there are no known means to cure, control or prevent Cystic Fibrosis. Furthermore, there is no workable method of identifying carriers of the CF genetic trait.

Despite these facts, the outlook for those affected by CF has steadily improved. Through the diligent efforts of the handful of parents, friends, and physicians who founded the Cystic Fibrosis Foundation in 1955, as well as the thousands of people who have become involved since that time, CF is beginning to gain attention and support from both government and private sectors. The best measure of their success has been the doubling of the life expectancy of children born wih CF during the last decade. Even with this progress, a child born today with CF cannot expect to live much past the age of 20.

WHAT IS CYSTIC FIBROSIS AND WHAT IS ITS IMPACT?

Cystic Fibrosis is a chronic, degenerative genetic disease involving the lungs and the digestive organs, as well as other major organs of the body. It causes intermittent but progressive debilitation and eventual premature death. It is characterized by a severe

cough, extreme shortness of breath, malnutrition, growth retardation, and respiratory and heart failure. CF requires daily, time-consuming, expensive treatment involving both physical therapy and a multiplicity of medications. The continued care and the knowledge of early death cause emotional stress and severe financial strain on patient and family members, and drains services and resources of the public and private sectors.

CF is the most common, presently incurable, inherited disorder in the Caucasian population. The disease is genetically transmitted; when both parents carry the gene, each child has a one in four chance of having CF, a two in four chance that he or she will be a symptomless carrier, and a one in four chance to be unaffected. When only one parent carries the gene, none of the children will have CF but each child has a 50–50 chance of being a carrier. According to current population data, approximately 10 million Americans are asymptomatic carriers of the CF trait, and between 175,000 and 200,000 carriers are believed to be born every year.

It is estimated that Cystic Fibrosis occurs once every 1,600-2,500 live Caucasian births. It is also found in non-Caucasian populations, but with less frequency. There are between 1,700 and 2,600 new cases per year in the United States. Patient information is available from the Cystic Fibrosis Foundation-supported CF Patient Registry which follows patients treated in over 120 CFF-designated medical facilities—about 13,000 patients. The CFF estimates that there are at least that many individuals outside this system who are undiagnosed, misdiagnosed or being treated by a physician who is not presently involved with the CFF Centers network.

WHAT ARE THE COSTS OF CYSTIC FIBROSIS?

The annual cost of care for the person with CF is extremely high. Estimates of cost of care for young adult patients exceed $21,000 per year with some individual expenditures at $50,000 to $100,000 annually in the terminal years. In 1977, the National Heart, Lung and Blood Institute estimated the average annual cost to be $10,500 per patient. It is not surprising that estimates cover a wide range because the severity of the disorder varies from patient to patient, along with the stage of the disease from diagnosis to death. Even in those instances where costs of health care are lower, they still constitute a severe financial burden for the patient and his or her family. Considering that there are from 13,000 to 30,000 patients with CF, it is estimated that, nationally, the medical costs for caring for CF patients ranged between $150 million and $450 million in 1977.

It should be noted that these costs are only direct patient care charges and do not include socioeconomic costs due to early death, unemployment, or underemployment. Even if they survive the disease through childhood, few young adults with CF are able to fulfill their full potential because they are disabled, cannot find employment, or their jobs do not make full use of their abilities. In general, CF patients' salaries are low because they are young or unable to compete, due to health limitations, for the higher paying positions.

WHAT IS THE CYSTIC FIBROSIS FOUNDATION?

The origin of the Cystic Fibrosis Foundation (CFF) can be traced to 1955 with the creation and organization of the National Cystic Fibrosis Research Foundation (NCFRF). Parents and families of CF patients, located in six areas of the country, had already organized locally to publicize the plight of those with the disease, to raise funds usually for the support of local clinics, and to share personal experiences about their afflicted children.

A group comprised of representatives from the six geographic areas met in New York City in 1955 to consider the possibility of forming a national foundation committed to finding a cure or preventive measures for CF. What emerged from that meeting was an organization dedicated primarily to research and education as the charter members realized that embracing care at that time would have limited funds available for the research which all hoped would result in the control of the disease.

Since that time, the Foundation has grown and developed into one of the nation's leading voluntary health organizations. Although its program structure and administration have changed significantly over time, its goals have remained essentially the same. The mission of the CFF is directed toward ultimately achieving a cure or control for CF by means of basic biological research and clinical studies, and for improving care for those with the disease through support of a network of over 120 Centers across the country. The Foundation promotes and supports education programs designed to alleviate the suffering of CF patients, while implementing courses of action concerned with the personal and societal impact of the disease. Although the primary target is Cystic Fibrosis, the Foundation activities embrace a concern for other diseases as they relate to Cystic Fibrosis.

WHAT IS THE STATE OF SCIENCE IN CF? WHAT ARE THE HEALTH CARE ACHIEVEMENTS, OPPORTUNITIES AND CONSTRAINTS?

Cystic Fibrosis is presently incurable. It is believed to be caused by an inborn error of metabolism, the basic chemical nature of which is not yet understood. No reliable objective technique has been developed to identify the genetic defect in either parents or siblings. In addition, there is no medical procedure available to detect CF in an unborn child and newborn screening for diagnosis is plagued by many problems.

Due to improvements in treatment methods and care in recent years, however, the prognosis of patients with CF has changed. An increasing number of children with CF are surviving into their teens and twenties. Data from the Cystic Fibrosis Patent Registry indicate that the median survival time for a child born in 1966 was 11.2 years—a figure which, based in life-table study projections, increased to 19.4 years for an infant born in 1975. (In some Centers, the median survival time has increased to 25 years.) About half of the individuals with CF die between 10 to 20 years of age.

Despite improvements in the management of CF patients during the last two decades, some aspects of the disease have only been defined recently, and in other areas, virtually no new knowledge has surfaced. Not only is there a lack of basic scientific information, but also the environment for CF research is currently limited by a number of resource deficiencies including:

A shortage of trained scientists and investigators committed to the study of Cystic Fibrosis;

The absence of adequate, long-term stable funding, particularly from the government sector;

A lack of materials (i.e. tissue samples, animal models, etc.) essential to the conduct of research; and

The Cystic Fibrosis data base (including patient characteristics and clinical data) is inadequate.

Therefore, significant progress in improving the clinical management of patients with CF is not likely to occur in the future without a major commitment to research. With such a commitment, current research opportunities offer promise for advances in prevention of Cystic Fibrosis, early accurate diagnosis, and prevention and treatment of pulmonary, cardiac, and gastrointestinal complications of Cystic Fibrosis.●

HOSPITAL COSTS REACHING EPIDEMIC PROPORTIONS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. WALGREN. Mr. Speaker, with the House soon to consider H.R. 2626, the Hospital Cost Containment Act of 1979, I would like to include for the RECORD an advertisement that appeared in the Washington Post on November 8, 1979. The advertisement, sponsored by 47 national and international organizations, makes a strong appeal to Congress for its help in containing inflationary hospital costs.

I urge my colleagues to support the cost containment legislation and request that the advertisement be inserted at this point:

HOSPITAL COST INFLATION IS REACHING EPIDEMIC PROPORTIONS

For many years, total hospital expenditures have increased significantly faster than the rise in the Consumer Price Index. And while most hospital bills are paid by public or private insurance programs and the impact of hospital inflation often can be disguised . . . the truth is that the impact of hospital cost inflation is painfully real for every American.

Hospital costs rise, and so do health insurance premiums. Workers take home smaller paychecks, and businesses are forced to charge higher prices. Inflation continues.

The elderly, who need more hospital services than other segments of the population, are particularly hard hit by hospital cost inflation. The Medicare hospital deductible paid by the elderly has almost quadrupled—from $44 in 1969 to $160 in 1979. If hospital cost inflation is not restrained, the deductible will reach $260 in 1984.

We regard the problem of hospital cost inflation to be so serious that action must be taken by the Congress to slow it down. The Congress must consider a sound approach to decelerate hospital cost inflation that offers a reasonable promise of success. We believe that the Hospital Cost Containment Act of 1979 (H.R. 2626—S. 570) offers that promise.

We feel legislation is necessary because the health care delivery system operates in a non-competitive environment. Mandatory controls would go into effect only for those hospitals that do not meet attainable inflation goals. Hospitals in states which have, or adopt, mandatory cost containment programs would be exempt.

Congress has debated hospital cost containment for over two years. And hospital cost inflation has continued to rise.

There is no reason for further delay. We simply must slow down the rate of increase or suffer serious and perhaps even irreparable damage to our ability to afford health care when needed. We urge Congress to enact the Hospital Cost Containment Act of 1979 (H.R. 2626—S. 570).

This Advertisement Sponsored by:
National Council of Senior Citizens.
American Association of Retired Persons.
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Prudential Insurance Company of America.
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The Equitable Life Assurance Society of the United States.
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Group Health Association of America.
Healthy America.
The National Coalition of Health Promotion.
National Association of Life Underwriters.
National Governors Association.
National Council on Aging.
Conference of Mayors.
We think Congress can help.●

STILL CAPTIVES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. DERWINSKI. Mr. Speaker, in July of 1959, Congress passed the Captive Nations Week Resolution, which President Eisenhower signed into Public Law 86-90. The foresight of that 86th Congress and the President were uncanny. With accurate and concise language, the resolution clearly puts the finger on Soviet Russian imperialism as the chief source of threat and peril in our times to world peace, the freedom of nations, and our own security. Also, for the first time in our national legislation, the dozen or so nations—Byelorussia, Ukraine, Armenia, Georgia, et cetera—which were conquered early by Soviet Russia, were recognized and listed by us as captive nations. In addition, the resolution anticipated more captive nations in our times. Can anyone rationally deny the truth of these elements today?

It is in the light of these truths, Mr. Speaker, that Americans and many foreign friends are inspired to observe this important week year after year. What they have to say is in past disclosed by evidences such as these: First, a proclamation by Mayor Arthur J. Holland of Trenton, N.J.; second, an editorial in the Augusta, Ga. Chronicle; third, a letter in the Des Moines, Iowa Tribune; fourth, an editorial in the Buffalo, N.Y. Criterion; fifth, a report "Ukrainians Mark Special Week" in the Reading, Pa. Eagle; sixth, an article appearing in several Chicago weekly newspapers; seventh, a letter in the Kansan, Kansas City, Kans.; and another in the Columbus, Ohio, Dispatch.

The articles follow:

PROCLAMATION BY THE MAYOR OF THE CITY OF TRENTON, N.J.

CAPTIVE NATIONS WEEK

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the people of Poland, Hungary, Lithuania, Ukraine, Czecho-Solovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Crotia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Arthur J. Holland, Mayor of the City of Trenton, New Jersey, do hereby proclaim the week commencing July 16, 1979 be observed as

Captive Nations Week in Trenton, and call upon the citizens of Trenton to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

In witness whereof, I have hereunto set my hand and caused to be affixed the great seal of the City of Trenton on this 24th day of July, 1979.

[From the Augusta (Ga.) Chronicle-Herald, July 16, 1979]

STILL CAPTIVES

Captive Nations Week, being celebrated this week, is considered by some to be an anachronism in an age of so-called detente.

It isn't.

Granted, much has changed since the first Captive Nations Week was officially proclaimed by Congress in 1959. (See John Chamberlain's syndicated column on this subject elsewhere on this page.) But one thing hasn't changed—no free elections have been held in the Communist-dominated part of Europe since the end of the Second World War.

Over 130 million people live in these Soviet-dominated countries. Additional millions languish in slave labor camps within the Soviet Union itself.

Can the United States ignore these millions of Poles, Hungarians, Germans, Czechs, Slovaks, Latvians, Lithuanians, Estonians, Romanians, Bulgarians, Albanians and many others?

There have been some encouraging signs from the Soviet Union in that international pressure has forced relaxed emigration restrictions on Jews who wish to leave. Perhaps additional pressure can be brought to bear for the relaxation of restrictions on other minority groups, especially persecuted Christians.

The Chronicle has long felt that America is in a good bargaining position because Soviet dictator Leonid Brezhnev needs U.S. promises for our fertilizer, technical know-how, equipment and food. Why not use that bargaining position to win concessions for the peoples of the Captive Nations? Why not use that position to pressure the Soviets to abide by the principles of the Helsinki agreement, which they signed. That 1975 pact, among other things, "guarantees" the freedom to emigrate and freedom to practice religion.

That an international Communist expansion has enslaved millions—not only in Europe but in Asia, Africa and Latin America—is a fundamental fact. An American foreign policy which does not come to grips with this fact is about as meaningful as a production of Hamlet without the Danish prince.

Let's never, as a nation, turn our backs on the millions who have been brutalized and enslaved by the diabolical movement called communism. Nor, in the name of human decency, must we let our president and Congress turn their backs on these captive peoples.

[From the Des Moines (Iowa) Tribune, July 20, 1979]

CAPTIVE NATIONS

We would like to take this opportunity to express our sincere appreciation to Gov. Robert D. Ray for proclaiming this week "Captive Nations Week" in Iowa, commemorating those nations and peoples that have lost their independence and fundamental human rights to communist aggression throughout the world.

The proclamation is especially fitting this year since it marks 20 years since the U.S. Congress passed a law setting aside the third week of July each year to be proclaimed and commemorated by appropriate ceremonies as "Captive Nations Week."

As evidenced by the oppression and the lack of human rights of peoples of the Soviet Union and peoples of many other nations, the proclamation is as meaningful today as it was 20 years ago.

[From the Buffalo, (N.Y.) Criterion, July 18, 1979]

CAPTIVE NATIONS WEEK OBSERVES ANNIVERSARY

Erie County Executive Edward J. Rutkowski has proclaimed the week of July 15 through July 21 as "Captive Nations Week" and urged the citizens of Erie County to fittingly observe the 20th anniversary of Public Law No. 86-90 "with a rededication to fight for the rights freedom and liberties of those still held captive in those all but forgotten nations."

The County Executive was joined by James D. Griffin, Mayor of Buffalo, and representatives of nine captive nations who were attired in their national costumes as a tribute to their ancestors and rich cultural heritage Mr. Rutkowski is serving as honorary chairman of "Captive Nations Week, 1979."

In July 1959, the Congress of the United States passed Public Law No. 86-90 which authorized and requested the President to designate the third week of July as "Captive Nations Week" "until such time as freedom and independence shall have been achieved for the captive nations of the world."

"The peoples who live in these captive nations are those who are imprisoned within the communist-dominated states under the dictatorship of the communist parties, and their consumate experiences attest to the overall truth that in both theory and action, communism remains as the worst form of totalitarianism and imperio-colonialism in the history of mankind," County Executive Rutkowski said.

"These submerged nations look to the United States as the citadel of human freedom and leadership in bringing about their liberation. All too many times we treat the freedoms our forefathers fought and struggled for too casually. We forget that there are human beings today whose only dream in life is to one day have the same rights and freedoms as we have in the United States, while they must live in the darkness of tyranny," Mr. Rutkowski added.

County Executive Rutkowski paid tribute to Alexandr Solzhenitsyn who was brave enough to stand up and speak out against the oppression of communist totalitarianism and brought an appreciation to the western world of the burden people living in the captive nations must bear. "The words of Alexandr Solzhenitsyn and the feelings of human compassion engrained in the minds and hearts of all Americans serve as a foundation for us to transmit to our enemies that we will never acquiesce to any permanent captivity of these nations. As we observe this anniversary of "Captive Nations Week", we must reaffirm to our captive allies that we remain determined to work for their freedom, which in essence means our freedom as well."

[From the Reading (Pa.) Eagle, July 17, 1979]

UKRAINIANS MARK SPECIAL WEEK

Captive Nations Week is being observed this week by the Ukrainian Congress Committee of America and will culminate with a special church service Sunday at 9:30 a.m. in the Nativity of Virgin Blessed Mary Ukrainian Catholic Church, 632 Laurel St.

Samuel Kilyk, president of the UCCA's Reading branch, announced that the services will be conducted by the Rev. Basil Stebelsky, church pastor.

He also said the branch plans to donate books about the Ukraine and Ukrainians to the Reading Public Library.

Quoting from a proclamation issued by President Carter, Kilyk said: "Let us take this occasion to reaffirm our admiration for all the men and women around the world who are committed to the cause of freedom."

Kilyk pointed out that every year since 1959, the president of the United States has proclaimed the third week in July as Captive Nations Week.

The purpose of the resolution, signed into law first by President Dwight Eisenhower 20 years ago, was to lend moral support and encouragement to nations engulfed or controlled by world communism in their struggle for freedom and national statehood, Kilyk said.

The original resolution listed 22 such nations. The Ukraine, a nation of nearly 50 million persons, has been in the Soviet Union's captivity since 1920, Kilyk pointed out. He said in recent years the Ukrainians have been subjected to a new wave of political and cultural persecution reminiscent of the Stalin era.

"This situation is a matter of great concern to Reading's Ukrainian community," Kilyk declared.

"Thus," he said, "the UCCA's Reading branch has taken it upon itself to make the plight of their oppressed countrymen known to the general public."

[From the Chicago Harlem Irving Times Weekly, July 25, 1979]

REMEMBER BRETHREN IN CAPTIVE NATIONS

(By Alice Siemasko)

The cries and whispers of captives from World War II and Vietnam still echo today. Their cries were for freedom and human rights.

Today, the outcries are coming from people subjugated by Communist governments. They are heard and remembered each year through the Captive Nations Week observances which ended Saturday.

In 1959 Congress declared that each year, the third week of July would be designated as "Captive Nations Week."

The Captive Nations Committee in Chicago, participated in the week-long observance, memorializing those nations kept captive behind the iron curtain, with a service in downtown Chicago.

At a national human and religious rights rally, Soviet dissident, Valentyn Moroz, who was a recently exchanged prisoner, spoke on life in Russia. Viktors Viksnins, Chicago Captive Nation's Committee chairman, said the purpose of the rally was to let the Communist government know that its crimes do not go unnoticed.

"On this occasion we wish to remind the American people of the plight and aspirations of the captive people of Eastern Europe, Asia and Cuba and to remind the American people that they too can lose their rights and freedom, Viksnins said.

As a matter of fact, some Americans may have already lost their rights, Viksnins contends.

On July 1, 1979 a new law took effect in the Soviet Union which will affect the citizenship of all persons born in, or descended from those born in Russia.

This new law declares all such persons to be citizens exclusively of the Soviet Union, regardless of their present residence or true citizenship status, said Viksnins.

It contends that any American who has Russian ancestry belongs to Russia. Russia simply will not acknowledge your citizenship, said Viksnins.

Two reasons are behind this new law, he said.

Primarily, it is an instrument that could be used by the Soviet government to get hold of inheritance property in the United States left by single citizens, who are considered Russian, and who died without leaving a will.

And secondly because Russians are scared of what might happen in the forthcoming Olympics.

"To eliminate the possibility of Americans creating demonstrations in the Soviet Union, the Russians created this law," said Viskins.

"If you don't behave and you create some problem, you will now stand trial as a Soviet citizen and not be simply expelled from Russia as an American citizen," said Viskins.

The Captive Nations Committee of Chicago presented a resolution at the rally, which denounces the new Soviet citizenship law. It asks the Soviet Union to repeal it and asks the United States department of state to protest the refusal of the Soviet Union to recognize the proper and legal citizenship of American citizens.

The rally was not only recognized by the Captive Nations Committee, which is made up of 30 national groups in Chicago, but also by Gov. James Thompson, Mayor Jane Byrne and Pope John Paul II.

The committee received a letter from the Pope in which he expressed his greetings and support to those gathered in observance of Captive Nations Week.

Moroz, the rally's main speaker, was one of five dissidents exiled to the U.S. from the Soviet Union in a prisoner exchange last April 27.

He along with Alexander Ginzburg have openly questioned the exchanges as a politically expedient method of removing dissidents from their homeland.

Moroz, an "adopted" Amnesty International prisoner for more than seven years, was arrested following publication of Report from the Beria Reserve, an account of conditions and treatment in Soviet prisons. Following a trial, he was sentenced to a total of 14 years in detention, among the harshest sentences meted out to a Soviet dissident in recent years.

The detention of Moroz was also marked with exceptional brutality and harshness. He was repeatedly placed in solitary confinement, stricken with illness and carried out hunger strikes lasting up to 145 days.

During his imprisonment, Moroz was the focus of personal appeals from Andrei Sakharov, Sergei Kovalyav, Sen. Henry Jackson and artists, intellectuals and political figures in many parts of the world.

[From the Columbus (Ohio) Dispatch Aug. 2, 1979]

BACK TO BASICS

I was very pleased and also surprised by The Dispatch's editorial, "Rewriting History Newest Soviet Ploy" of July 14. Pleased that at least finally one Columbus newspaper printed some lines about Captive Nations Week.

According to a resolution of Congress, the president must proclaim each year the third week of July as Captive Nations Week. President Dwight Eisenhower did so first in 1959. He declared solidarity with oppressed people and called by name oppressors the Soviet Union and Communistic China.

Since that time every proclamation was watered down. Declarations of Presidents Johnson, Nixon and Ford were only mere formality and actually, in a sense, meaningless because our government was thinking of building bridges between West and East. Finally, on stage came detente.

President Carter, with great pomp, pronounced his views about human rights, that Americans in all time have strongly believed freedom and national independence are basic rights of humanity. Further, he asked us to remember and admire men who support ideas of freedom, and continue to fight for it in their own lands.

Again not a word about oppressors, and it is understandable. How can the president accuse another of holding in captivity many nations, when just a month ago in Vienna he raised a glass to his health, embraced him and kissed? It would be a highly inexcusable manner.

We can preach humanity and peoples' rights to freedom to little Rhodesia, but for God's sake do not further irritate the bloody Russian bear. No wonder that we neither in the past, nor today understand the basics, about Russians and communism.

Soviets from the first day have called their action in the Baltic states a peaceful workers revolution and by every means have condemned those who call it forceful takeover.

It is nothing new in Soviet society to overwrite history. In their view, history must reflect thinking of the Communist Party's leaders. History in the Baltic states was always falsified to fit their aims.

I was there when Soviets forcefully occupied Latvia. I saw with my eyes how "strictly" Soviet troops observed the neutrality and mutual aid pact. They came in a combat formation and occupied all tactical points in the capital city of Riga and in the state.

Of course, the United States doesn't recognise incorporation of Baltic states into the USSR, but also never has it in direct talks with Soviets raised the Baltic question.

In the meantime Russification continues with full force in Baltic states and soon the native people will be in the minority in their own homelands.

[From the Kansas City Kansan, July 26, 1979]

MEANINGLESS

In 1959 the Congress passed the Public Law 86-90 or Captive Nations' Proclamation declaring the third week of July the Captive

Nations' Week. In fact, the Captive Nations' Week has become almost meaningless. In 1977 President Jimmy Carter issued the Captive Nations' Proclamation only after ethnic groups began calling the White House and demanding it. It is almost needless to say that the Captive Nations' Proclamations of President Carter in 1977, 1978, and 1979 failed to list any Captive Nations or name the Soviet Union as the only privileged colonial empire, in spite of the fact that almost all former colonial peoples of Africa and Asia have obtained their independence.

Aleksandr I. Solzhenitsyn and Andrei D. Sakharov have repeatedly asked the Russian Communist leaders to dissolve the Soviet Union of the non-Russian republics and to do away with the Russian control of Eastern Europe in general.

Therefore, persons who realize the danger of Communism should urge the Congress to encourage the explosive forces of nationalism of the Ukrainians, Georgians, Armenians, Lithuanians, Latvians, Estonians, Poles, East Germany, Czechs, Hungarians and other Eastern European peoples. The Congress should be likewise urged to oppose the selling of our machinery and wheat to the Soviet Union and to refrain from making any concessions of credit to Russia. The militarism and imperialism of the only colonial empire should be weakened by imposing strong economic sanctions against the Soviet Union.●

ADVISE AND DISSENT

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. WOLFF. Mr. Speaker, I would like to offer for the RECORD the text of the "Advise and Dissent" column which appears in the December issue of Penthouse magazine. The article was written by Friends of Animals vice president Bill Clark, who presents his views on the state of the North Pacific fur seals on the Pribilof Islands off the coast of Alaska.

I concur with Mr. Clark's opinion that U.S. Government-sponsored killing of these seals must be stopped. Last July, I introduced H.R. 5033, legislation designed to eventually end the killing. The bill now has 52 cosponsors. Hearings have been held by the Foreign Affairs Committee, and I am hopeful that the Interior Committee and the Merchant Marine and Fisheries Committee will hold hearings in the near future.

The following is the text of the Penthouse article:

STOP KILLING SEALS

Bureaucracies, reportedly being composed of living creatures, tend to obey the basic tenets of biology. The first tenet that bureaucracies obey is the much-abused law of self-preservation.

No bureaucracy ever volunteers itself into extinction. Bureaucracies never quit the public payroll no matter how useless they have become, indeed, no matter how detrimental they may be to the society they allegedly serve. When times get tough, when public scrutiny gets intense, bureaucracies scramble to clutch any thread to justify their own existence.

More often, however, they simply try to escape the curious inquiries of the public and melt into the shadows of the system. The less publicity a bureaucracy gets, the better its chances of survival. An outstanding example of this syndrome is the Pribilof Island Program, which is a child of the National Marine Fisheries Service and a grandchild of the National Oceanic and Atmospheric Administration and a great-grandchild of the U.S. Department of Commerce.

The "mission" of the Pribilof Island Program is to kill seals on Alaska's Pribilof Islands. Its job is to plan, execute, and justify the slaughter of tens of thousands of seals every year. Of these three functions, this bureaucracy is most adept in performing the executions. Planning is merely cursory and justification is shrouded in deception. And in an abuse of language worthy of Orwell's 1984, the bureaucrats call this mass murder a "seal harvest."

Besides executing seals, the Pribilof Island Program has done a pretty good job of executing the public treasury, too. In 1978, for example, the Pribilof Island Program consumed 4,613,300 appropriated tax dollars to kill seals. The sale of sealskins brought in $684,036. And the taxpayer got to make up this bureaucracy's deficit.

An amusing irony is the fact that the sealskin market in the United States is just about dried up. It is no longer considered fashionable to trot down Park Avenue with the skin of a marine mammal on one's back. So the skins are now sold chiefly to European fur dealers, and the U.S. taxpayer is put in the lamentable position of subsidizing fashionable fur coats for wealthy European matrons.

The progeny of the U.S. Department of Commerce apparently are no longer concerned with the balance sheets of commerce. Thus, they strain to catch any other argument to defend the slaughter upon which their bureaucracy rests. For decades the main line of defense has been "international relations."

The U.S. seal slaughters in the Pribilofs come under the Convention on the North Pacific Fur Seals, a document that dates back to 1911, when pelagic (open sea) seal killing threatened the species with extinction. These were the days that Jack London wrote about in *The Sea Wolf*, days when sealing schooners sailed about 50 miles from the continental shore and freely slaughtered the seals along their migration routes.

To control the slaughter better, the United States joined with the governments of Imperial Japan, Imperial Russia, and Great Britain (on behalf of Canada) and ratified this treaty that banned pelagic sealing in the North Pacific. Because the seals come ashore only on U.S. and Soviet islands today, the seal treaty provides that Canada and Japan get 15 percent each of the skins taken on the Pribilofs and 15 percent each of the skins taken on the Soviet islands for their agreement to stay out of the pelagic sealing business. Canada and Japan split a blood ransom of about 10,000 sealskins a year for agreeing to do nothing.

But back in 1911 the seal's migration routes were outside the old 3-mile limit. Today, with the 200-mile limit, the seals migrate within territorial limits and can be protected by domestic law. The seal treaty is superfluous.

With this argument deflated, the bureaucrats scamper to find a new one. Recently they came up with the startling biological discovery that seals eat fish. Commerce's press releases hit the mails, proclaiming that northern fur seals are eating more than 500,000 metric tons of fish annually, thereby suggesting that they pose a threat to human nutrition and thus giving a new reason for restricting the seal population.

But if one digs a bit into the biology of the seals, one finds that they eat less than 2 percent of the standing fish stocks of the Bering Sea. Also, the seals are eating more than 50 species of fish and 9 species of squid, most of which are not taken by commercial fishermen. And on top of this is the simple arrangement of a seal's teeth. They interlock, all the way back to the last molar. This is great for biting, but not very good for chewing. And this means seals can't eat big fish; they simply can't prey upon the big Alaska salmon that the commercial fishermen are after.

Furiously pursuing a new excuse for the seal slaughters, the bureaucrats are now saying that the livelihood and traditions of the Pribilofs' Aleut community will be threatened if the seal slaughters are stopped.

First—the livelihood. More than $9 million a year is pumped into the Pribilof Islands, and most of this goes to public relief for the Aleut community. There are food stamps, low-income public housing, welfare, education subsidies, and the full gamut of public assistance. Seal killing, on the other hand, amounts to less than 4 percent of the island's budget. It employs about 70 adults for five weeks at laborer's wages and amounts to only a very small fraction of the island's livelihood. Besides, the Aleut community of the Pribilofs received an $8.5 million award from the U.S. Court of Claims on June 29, 1979, plus another $4 million in the past couple of years through the Alaska Native Claims Settlement.

The Pribilof Aleut community has a bankroll of at least $12.5 million, clear title to all their homes and public buildings and facilities, and more than 90 percent of the land area of the islands, with no mortgage or debt service to burden them. And all this is distributed through an adult population of 250 people. Indeed, the Aleuts should be making more money from interest on their bank account than they do from killing seals for the government. Furthermore, it costs the government more to administer the Pribilof Island Program and its related services than the Aleuts receive for the seal slaughter.

Second, the issue of preserving a "tradition" is also fraught with inconsistencies. Aleuts were brought to the Pribilofs as slaves by Russian sealers during the last century. Before this time there was no Aleut tradition of raiding rookery islands and slaughtering seals on a commercial scale. On the Aleutian Islands, a few hundred miles south of the Pribilofs, where the Aleuts came from, seals simply do not leave the water. Only a few could have been killed by hunters in kayaks on a subsistence basis, and never the 25,000 seals that are currently being slaughtered each year.

One must also ask what other Aleut traditions have been preserved. The Aleuts' language is English; their religion is Russian Orthodox; they carry Russian surnames; they live in standard American housing with central heating, hot and cold running water, and even electric garbage compactors. Seal killing seems to be the only "traditional" Aleut activity on the Pribilofs.

Saying that seal killing is an important aspect of Aleut culture is tantamount to saying that picking cotton is an important aspect of African culture. These are the labors imposed by slavery. The only logical explanation for the bureaucracy's insistence on continuing the slaughters is the survival of the bureaucracy itself. More than $700,000 a year is tossed off to "fur seal research"—bureaucrats who fiddle with electronic calculators to make the seal herds appear larger than they really are so that they can come up with new reasons for killing more seals.

Then there are the costs of personnel and offices for the seal-killing bureaucrats in Washington, D.C.; Seattle, Wash.; and the Pribilofs. There are project directors, administrators, supervisors—bureaucrats galore. And the end of seal killing poses a very real and present threat to their jobs.

Domestic spying is not monopolized by the CIA, the FBI, or other supersleuth organizations. Indeed, nearly every bureaucracy has its own snoops on the payroll. Including the National Marine Fisheries Service. The NMFS assigned two of its operatives to spy on those who went to the Pribilofs to witness the seal slaughter. Reporting to their superior, Assistant Special Agent-in-Charge Milstead Zahn, the field sleuths said their presence "helped inhibit interference with the seal harvest by any groups or individuals." In truth, however, their presence was not even known by anyone until after the epsiode was over and suspicions led to inquiries under the Freedom of Information Act.

I have stood on the Pribilof tundra and watched as the bludgeons descended upon hundreds of seals. I have seen the Arctic grasses soaked red with blood. I have heard the seals bark and cry and whimper as they fell, one before the other in the brutal and methodical carnage.

It's a bureaucratic system from which nobody benefits except the bureacrats. The American taxpayer loses with a perpetual drain on the public treasury. The Aleuts lose by being locked into the slaughter syndrome—indeed, the U.S. Department of Commerce, which oversees and regulates the largest, most complex commercial system in the history of humanity, has been either unwilling or incapable of finding steady respectable employment for an adult community of 250 people. Fortunately with their recently won revenues, the Aleuts don't need Uncle Sam's misguidance any longer and can start determining their own future.

And the seals lose. They lost tragically.

There is one bright star on the Pribilof horizon. In early August, Rep. Lester Wolff (Dem.-N.Y.) submitted legislation (H.R. 5033) that would ban the seal killing and create seal sanctuaries on the rookery islands and in the surrounding territorial waters. It's a long way between authorizing a bill and getting the president to sign it into law. It's a way that will be resisted by bureaucrats from Constitution Avenue to Foggy Bottom. But it's the only way to end America's tragic seal killing.●

THE CLEAN AIR ACT

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. APPLEGATE. Mr. Speaker, I once again come before this Congress to discuss this Nation's most severe and immediate problem, that being the need to become less reliant on imported foreign oil. The events in Iran in the past few days have only served to reinforce my belief that immediate and affirmative action must be taken.

When one considers the vast reserves of coal that the United States possesses as compared to the problem associated with the importation of oil, the production of nuclear energy and the lack of technology in other energy fields, it is difficult to rationalize this Congress attitude toward coal. Granted, some programs have been initiated that would promote coal, but we still are not using as much coal as we should. That, Mr. Speaker, cannot be disputed.

Why is this so? Perhaps the biggest obstacle to the burning of coal is the attitude that coal is dirty and harmful to one's health, although a recent report aired by the NBC news network indicated that one's health is not affected by residing in an industrialized, polluted area as opposed to rural areas. This impression was cemented in the minds of many by the acceptance of the Clean Air Act of 1970. I will be the first to admit that since that act's passage, the environment, as a whole, is much cleaner. We have achieved the goals of that act by cleaning about 90 percent of the pollutants out of the air and water and also by maintaining that degree of cleanliness. But, according to the act and the U.S. Environmental Protection Agency, we must continue in our efforts and clean the other 10 percent. Let me point out however, that this last 10 percent will cost business, industry, and the consumer at least as much as the first 90 percent did. Is this really what Congress wanted to do? I do not believe so. I believe we have lost sight of our intentions in the 9 years since the act's passage and that the act, if carried out as the EPA would intend would no longer be cost effective.

Therefore, I am today introducing a bill that will provide for a Presidential appointed commission to study the effects of full compliance with the act. My bill specifies that the commission's study will center on the effects of compliance on employment, the economic impact on our cities, or the health and safety of the citizenry and on American energy supplies and demands. The commission will report its findings, with recommendation to the Congress and to the President within 6 months.

My resolution would also prohibit any State implementation plan, as mandated under the Clean Air Act, to carry with it a time schedule for monitoring stationary source stack emissions less than an average of the previous 30 days. This will clearly allow for the burning of coal without further determination of any air quality standards which must be maintained.

The objective of my resolution, of course, is to determine the real cost of compliance to our society and with the results of my proposed study this can be determined. At that point, I believe Congress will want to take corrective action in amending the Clean Air Act to the degree that it will be both efficient yet practical.

Mr. Speaker, I would, of course, welcome any and all of my colleagues to join me as a cosponsor of this resolution.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent for a vote on Wednesday, November 7, rollcall No. 630. I would have voted "aye" on rollcall No. 630, a motion on final passage of H.R. 4007, to provide for repayment of loans to State unemployment funds.●

AFGHANISTAN, THE SOVIET UNION AND WORLD PEACE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. MICHEL. Mr. Speaker, the realities of international affairs are complex and intricate. What may seem to be an event of only regional or local interest may bear the seeds of worldwide importance.

Consider, if you will, the current state of affairs in Afghanistan. There are few countries which appear to be more remote, more exotic, more removed from our everyday cares than that one. But, just as Americans awoke one morning and discovered that an unfamiliar place called Pearl Harbor was important to them and just as we all began to learn strange names like "Saigon" and "Hanoi" as if they were part of our neighborhood, so, I think, will we soon be learning about Afghanistan.

How many Americans, for example, now know that the Soviet Union is placing a military base in Afghanistan, only 65 miles from the Iranian border? How many know that in 1921 a treaty was signed between the Soviet Union and Iran—a treaty still in effect—which gives the Soviet Union the right to intervene in Iran should "internal developments appear to them to threaten Soviet interests"? How many Americans know that the Soviet Union is running the internal security forces of Afghanistan in all but name?

There is a rebellion among Afghan Moslem tribesmen against the Soviet influence in their nation. But the rebels are divided among themselves. They have managed to cut roads connecting major cities but their disunity make them relatively ineffective.

The facts are plain: The Soviet Union seeks to make Afghanistan a puppet state. Afghanistan's neighbor, Iran, oil-rich and ridden with internal dissent, is obviously a target of Soviet aggression. Whether that aggression takes the form of invasion, clandestine support of Soviet-leaning Iranian terrorists or simply the psychological pressure caused by Soviet troops so close to the Iranian border, the result will be the same. The Soviet Union is exerting its presence in Afghanistan to show the world that they can move with impunity because the United States is impotent. The Soviet leaders may choose to send an army of Afghan Government soldiers armed with modern weapons to destroy the Afghan rebels. You can be sure that there will be no media reports of Soviet atrocities. The Afghan people will be shut behind a Mideast version of the Iron Curtain when the Soviets do their bloody work.

After Afghanistan is secured, Iran will be next. Mr. Speaker, what are we doing about this? Are we secretly aiding the rebels? Are we warning the Soviets? Are we linking trade or arms negotiations with pledges of good behavior on the part of the Soviet Union?

No, we are doing none of these things. We are watching and waiting.

Afghanistan could possibly become a Soviet version of Vietnam if we gave support to the rebels. The Soviet Union could be bogged down in Afghanistan, not perhaps to the extent we were bogged down in Vietnam—the Soviets, unsentimental people that they are, would not hesitate to do anything to secure a quick victory—but for a while at least they could be sucked into a brutal, widespread guerilla war in which, eventually, Soviet troops would have to come out in the open and fight.

There are many interesting possibilities in the Soviet situation in Afghanistan. But it seems that it is the Soviet Union alone which has the will to benefit from that situation.

At this time I wish to insert in the RECORD, "In Afghanistan, Two Soviet Trends Now Emerging," from the New York Times, November 1, 1979 and "Afghan Rebels Bottle Up Army Troops, Battle Each Other," from the Washington Post, November 2, 1979.

AFGHAN REBELS BOTTLE UP ARMY TROOPS, BATTLE EACH OTHER

(By Stuart Auerbach)

PESHAWAR, PAKISTAN.—The battle started with curses in Pushtoo imputing unnatural sex lives to the women in the family of Afghan President Hafizullah Amin, followed by the crackle of rifle fire from rebel tribesmen against the government garrison of Gardes, a town in Afghanistan six days from here by camel.

The Afghan troops in the garrison replied with similar obscenities against women in the rebels' families followed by volleys of fire from their Soviet-made automatic weapons. Forty minutes later on the moonlit night early this month, the Army's Soviet-supplied artillery began firing from the garrison at the rebel positions.

According to a tape recording of the battle brought here by a Pakistani journalist who had slipped over the border to cover the rebels, once the artillery started, the cursing was replaced by the ancient Moslem prayer: Allah e akbar, God is great.

To observers here of the year-old rebellion by Moslem tribesmen against the Soviet-backed Afghan government, the most significant message of the tape was the long time—2½ hours—it took for the gunners in the garrison to zero in on the rebel positions.

"If the Soviets were firing the guns," commented on observer here, "NATO has nothing to worry about."

It is more likely, however, that all the fighting was done by Afghan soldiers. The targeting delay may mean the rebellion and political purges have resulted in poor training of the Army.

In the Gardes battle, which ended at about 3 a.m., seven rebels were killed and 17 were wounded—all by artillery shells.

One of the wounded men showed up at a makeshift rebel hospital here with a shattered arm after being transported by camel for six days over mountain trails.

According to observers here, this battle is typical of the fighting throughout Afghanistan. Uncoordinated by any central rebel authorities, at least five distinct groups attack government garrisons scattered in remote areas of the Texas-sized country.

These battles keep the government troops bottled up in their outposts, supplied only by Soviet-made helicopters. The roads are unsafe.

Even major roads connecting the largest cities are considered unsafe for travel. Rebels continually ambush armed convoys between the capital of Kabul and the cities of Kandahar and Herat.

Kabul's main link to the outside world, the road through the Khyber Pass to Peshawar, is open most of the time. But rebels cut it for a few days last week as they dynamited three bridges.

But when the rebel groups are not fighting government troops they are battling each other—sometimes over ideological differences but most often over what one observer here called the "lust for power and guns."

One striking example is being cited here as having shaken up the fighters all over eastern Afghanistan and perhaps for making it more difficult for Afghan Army officers to turn over their men and arms to the anti-government forces.

In this incident, Abdul Rauf, commander of the Army garrison at Asmar, decided to switch sides, bringing with him 1,200 troops, their arms, two helicopters and the heads of the provincial governor and his top Soviet advisers who had been lured into the garrison and killed just before the defection.

Rauf was persuaded to join a rebel group headed by Burhanuddin Rabbani. But, sources here said, the fanatical Moslem group Hezbi-Islami attacked Rabbani's forces for the weapons.

A Hezbi-Islami official denied that a battle had taken place but acknowledged that Rauf had been relieved of any command responsibility. However, a third rebel group, the Islamic Nationalist Revolution Council, headed by Pir Sayed Ahmed Gailani corroborated the earlier account.

Whatever the true details said a source who has kept close track of the rebel rivalries, the main theme is true and illustrates how the differences prevent a unified push against the Kabul government.

In August, according to a wide variety of sources here, a group of Saudi Arabian businessmen were reported to have offered millions of dollars in financing for the rebels if they could only unite. They formed a group, called the Treaty of Unity of Islam, but it broke up within weeks and the Saudi money never came.

The Hezbi-Islami group is the most radically Moslem and the hardest for the other groups to deal with, according to sources here.

Mangal Hussain, a spokesman for Hezbi-Islami who was educated as an agriculturist in Britain, said his group wants to turn Afghanistan into an Islamic state. If the Moslems seize power and the present government falls, "Quite honestly we will kill them," he said.

Gailani's Islamic Council, on the other hand, is more Western-oriented. Its spokesman, Gailani's nephew, Hossain Gailani, and Mohammed Akim, a U.S.-educated former Afghan diplomat who served at the United Nations, say they want to see "a modern Afghanistan."

"We are nationalistic," said Akim. "We believe in a modern Afghanistan. We believe in democracy. Other groups want to see a different Afghanistan, a backward Afghanistan."

Despite their rivalries, the rebel forces have been successful against the Afghan government, which controls less and less of the country.

"As individual groups, the rebels are making marginal progress," said one observer here. "But all over Afghanistan, more and more tribesmen have taken up arms against the government. Some do it because they oppose government attemps to control them, but others are doing it for pure banditry, which is a way of life in Afghanistan. They sense the government is weakening and are going for its weapons which they can sell."

With winter coming, the rebels will have a harder time. By all accounts here, they are short of food and many of the villages on the plains where the tribesmen spend the winters have been destroyed by government attacks.

With the onset of winter, refugees are streaming here from Afghanistan.

At last count, there were more than 200,000. Citing the different motivations of anti-government forces, observers here, in Kabul and in Pakistan's capital of Islamabad question how much control the various rebel headquarters in Peshawar have over the fighting.

The rebels here insist they control the fighters. Hossain Gailani, for instance, said he is here just to get orders before finishing an attack on a garrison. But an observer here who has talked with fighters believe the relation is symbolic at best.

"Fighters do not take orders from any Peshawar groups," he said, "although they show respect to them."

IN AFGHANISTAN, 2 SOVIET TRENDS NOW EMERGING

(By Drew Middleton)

Two trends are now discernible in the Soviet Union's efforts to use Afghanistan as the primary base for Soviet military and political operations in Southwest Asia. One is the establishment of army and air bases near the Iranian frontier.

The second is the reconstruction of Afghanistan's internal security forces.

The economic basis for the efforts is an infusion of financial and commercial support. The Central Intelligence Agency estimates that contracts valued at more than $200 million have been signed by the two Governments and that more than 2,000 Soviet personnel are advising and in some cases managing Afghanistan's economic ministries.

The Moslem rebellion against Prime Minister Hafizullah Amin's regime apparently has slowed Soviet's military penetration but not stopped it. According to European intelligence sources, the Russians have established a military base near Farah, a town 65 miles from the Iranian frontier, and expanded the Afghan air base at Shindand, 75 miles from that frontier.

The closeness of these bases to Iran has encouraged speculation among Western analysts that the Russians want to build positions from which they can apply military pressure on Iran. A source pointed out that the Treaty of 1921 between Iran and the Soviet Union was still in force and that it gave the Russians the right to intervene in Iran should internal developments appear to them to threaten Soviet interests.

One such development could be a counter-revolution against Ayatollah Ruhollah Khomeini that would have the political support of the Soviet Union. Analysts suggest that such a counterrevolution would draw its main strength from the middle class but say that it would be sustained, if it was initially successful, by Soviet propaganda and arms.

The Russians' intention to tighten their grip on Afghanistan's internal security apparatus was foreshadowed by Prime Minister Amin's announcement on Sept. 18 that he had found it necessary to reorganize the security services. This was followed at the end of the month by a statement that the Soviet Union would supply vehicles and equipment worth $6.7 million to the People's Police Organization.

These Soviet actions have been accompanied by the transfer of modern equipment, including fighter planes, helicopter gunships and tanks. The aircraft, according to European intelligence sources, carry Afghan Air Force insignia, but the majority of the air crews are Russian.

Soviet military shipments to Afghanistan in 1978 were a small percentage of the record

$3.8 billion in arms deliveries by the Soviet Union to non-Communist, less-developed countries that year, according to a C.I.A. report recently made available.

2 POSSIBLE ROUTES

Speculation on how the Russians intend to consolidate their hold on Afghanistan, which must include elimination of the present rebellion, follows two lines.

One is that they will concentrate on building from the center out. This would mean stronger political and economic support for Mr. Amin, including expansion of the present measures to strengthen the security forces.

The second is that Moscow will decide that only the exercise of overwhelming military power can defeat the tribal military uprisings that have endangered the new Government's hold in Afghanistan and the lives of some of its Soviet supporters.

The first course will take time. The Soviet Union already is committed to $500 million in economic aid to Afghanistan, according to the C.I.A., and contracts worth $200 million have been signed for programs that have been formulated.

One of these projects has military as well as economic importance. It is the construction of a railroad and vehicle bridge across the Amu Darya River at Hairatan, near Sher Khan, to provide the first direct connection between the Soviet Union and Afghanistan.

FACTORS AFFECTING DECISION

The Russians also have contracted to supply $30 million worth of petroleum equipment this year and next, to begin studies for construction of a copper smelter and a fertilizer plant and to renovate Sher Khan's river port to increase its cargo-handling capacity.

Several unknowns make it difficult to foresee the course the Russians will follow in Afghanistan.

One is the durability of the tribal uprisings. Mr. Amin may decide to open his Government to some members of the Moslem opposition. Or the Afghan army, bolstered by Soviet helicopters and advisers, may gain the upper hand in the fighting.

Another factor is the uncertainty about the Soviet leadership in a period in which Leonid I. Brezhnev is reported to be seriously ill. The consensus among experts is that in the event of Mr. Brezhnev's death, foreign programs will be halted until a new regime can examine them.●

LEGISLATIVE BUREAUCRACY

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. GRASSLEY. Mr. Speaker, at a time when this Congress is throwing around a great deal of rhetoric on the need to cut down on the bureaucracy in the executive branch, I would like to point out that it is about time we started practicing what we preach.

The growth of the legislative bureaucracy over the last 30 years has been astounding. According to a report by the House Republican Research Committee, there were 69 standing subcommittees in 1949, compared to 146 standing subcommittees today. When select, ad hoc, and joint committees, subcommittees, and subunits are added, the House has 210 jurisdictional units.

With this growth in the number of subcommittees, there has been a corresponding growth in the size of committee staff. The percentage of increase in staff from 1967–68 to 1977–78 is an incredible 218 percent. Likewise, the growth in subcommittee and committee staff has affected the budget; the percentage increase for the same time period is 683 percent.

The American people are just as sick and tired of this growth in the legislative bureaucracy as they are fed up with the unelected bureaucrats downtown. This disillusionment is reflected in the public outrage over the proposed Hart Senate Office Building. It is time for us to literally "put this House in order" by instituting the reforms which are necessary to end the growth of the legislative bureaucracy. If, as Woodrow Wilson said, "Congress in session is Congress on public exhibition, while Congress in its committee rooms is Congress at work," then I believe it is time to put this Congress to work by making the changes necessary to have a more efficient and less bureaucratic process.●

WHY NOT AN "OPERATION MENU" TO SAVE, NOT TO KILL?

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. SIMON. Mr. Speaker, one of the champions of a humanitarian policy on Cambodia has been columnist Mary McGrory. I am sure most of my colleagues read her column which appears in the Washington Star, but in the event any of them have not seen this recent one I am taking the liberty of inserting it in the RECORD at this point:

[From the Washington Star, Nov. 4, 1979]

WHY NOT AN "OPERATION MENU" TO SAVE, NOT KILL?

(By Mary McGrory)

If you're looking for ironies, you only have to recall that when we bombed the Cambodians in 1969, in the opening, illegal, secret gambit of the Nixon-Kissinger quest for "a generation of peace," the exercise was called "Operation Menu."

Over a period of 14 months, 3,638 raids were flown. They were dubbed, with gruesome whimsy, "Breakfast," "Lunch," "Dinner," "Dessert" and "Snack."

Now when the Cambodians are literally dying for a genuine "Operation Menu," it can't be done.

Why? Well, you see, they explain patiently at the White House and the State Department, there are MIGs, and besides, soldiers would grab the food. The peasants, who hold skeletal babies with black circles under their eyes and flies on their faces, would be held off at gunpoint.

Is that so? That isn't what they used to say about our air operations when we were engaged in bringing the Great Society to Vietnam. Lyndon Johnson used to brag about "pin-point bombing" and "surgical strikes" which took out power plants and supply dumps and miraculously spared the human beings in their path.

If we could promise then not to hit peasants, could we not promise now to hit them—with blankets, medicine, rice and pots to cook it in?

We might save some lives. It's worth a chance.

But there is no disposition in the "human rights" administration to press the B52s into humanitarian service. We didn't mind letting the Seventh Fleet pick up boat people. But we can't do anything comparable for the land people.

The difference is, it seems, that in order to be humane on the seas, we did not have to deal with Hanoi. We are willing to do anything to avoid speaking to them, including voting for Pol Pot, the butcher of Cambodia, in the United Nations.

We go in more for recriminations than relief. John Connally, who could rescue several provinces if he donated a fraction of his campaign contributions—$4 million to date—has declared it is important to assign the blame: "It is because of the brutality of the Soviet Union as exercised through the North Vietnamese."

Senate Democratic leader Robert C. Byrd is also making the Big Power play. He made a personal appeal to Soviet Ambassador Dobrynin to intervene with the Vietnamese. It will probably do as much good as those wartime pleas to Moscow to tell their little Red brothers to take it easy.

Instead of talking to the Russians, we should talk to the Vietnamese. We should send a negotiating team of Andrew Young, a god in the Third World, and Rep. G. V. "Sonny" Montgomery of Mississippi, a hawk who had much experience negotiating over the MIAs, to Hanoi with instructions to strike a deal with the Vietnamese. In exchange for recognition, which they crave, they give us access to the famine victims and permission to take food in by plane, truck, ship, rail or muleback—and maybe even some Peace Corps volunteers to give it out.

Jimmy Carter is timid about establishing diplomatic relations with our former enemy in a campaign year. It is why few people in the administration will acknowledge the lunacy of trying to stop a famine in a country without dealing with the people in charge.

Instead, we are told that the callous North Vietnamese are trying to blackmail us into recognition. We will not yield, we say self-righteously, even if it might mean averting another Holocaust.

It would be one of history's few cases of "blackmail with honor."

It is the only chip we have.

We prefer to blame the Russians. Nobody would dream, in this Peking-struck administration, of asking the Chinese to tell their loathsome friend, Pol Pot, to pack it in, stop the fighting which produces more refugees and more starvation.

It is hopeless to try to shame the North Vietnamese into letting us save two million lives. While angels of deliverance compared to the murderous Pol Pot, they do not pretend to care if all die. Ox-Fam, one of the international relief groups allowed to operate, had to sign an agreement pledging to withhold food not only from Pol Pot's forces, but from civilians living in areas under his control.

We have to swamp them, use every form of diplomatic, financial, logistical pressure we can think of. Otherwise, as the leader of the Western world said when he at last announced $69 million in aid for relief, we will again be guilty of "a moral lapse whose enormity still numbs the human mind."

But he seems half-hearted about what he has finally done. He is sponsoring only the authorization of the $39 million that is in addition to the $30 million proposed by Congress, not the appropriation. He seems less mindful of OMB when he strews grants around the primary states.

Cambodian relief may become a political issue. Edward Kennedy fierily faults Carter for giving "too little, too late." But Cambodians are dying by the thousands, and can't wait for the results of the caucuses in Iowa, where the wheat is brimming over the granaries.

We need to update "Operation Menu," that shameful and ruinous bombing that contributed to today's horrors.

If we need a new name, let's remember "Rolling Thunder" and call it "Rolling Manna." ●

A PLEA FOR JUSTICE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. CONTE. Mr. Speaker, several weeks ago Mark Moseley, the placekicker for the Washington Redskins was confronted by a tragedy. His sister had been assaulted and murdered in Texas. The murderer had recently been paroled after serving only 2 years of a 5-year sentence for rape.

Mr. Speaker, I feel it is important to bring this issue to the attention of the House because it is not an isolated example of a criminal being released only to commit the identical crime. This is a recurring phenomenon which underscores that something is wrong with our current penal system.

I would like to enter into the RECORD an article that was published in the Washington Post last week, written about Mark Moseley. I hope that it will provide an incentive for every Congressman to work to improve our current penal system.

A complete copy of the article follows:

[From the Washington Post, Nov. 9, 1979]

A PLEA FOR JUSTICE: MOSELEY SPEAKS ON SISTER'S MURDER

(By Leonard Shapiro)

The tears are gone now, replaced by what Mark Mosley describes as "the emptiest feeling in the world."

His sister, Pamela Moseley Carpenter, 22 and "just beginning to get on with the good things in her life," is dead.

On Oct. 25, a man broke into her home in Livingston, Tex. He stabbed her in the chest with the scissors she was using that morning to make a Halloween costume for her niece.

The man beat and kicked Pamela Carpenter. And then he raped her and left her for dead.

But Pamela Carpenter regained consciousness and called a friend. As she rode to the hospital in an ambulance, she provided a description of her assailant before she died a few hours later from massive internal bleeding.

That same day, Livingston police arrested John Paul Penry, 22, a part-time deliveryman for a local appliance store who had been released last August from the Texas State Penitentiary in Huntsville. He was on parole after serving two years of a five-year sentence for rape.

Wednesday, Penry was taken before a Polk County, Tex., grand jury and indicted on a charge of capital murder, which carries the death penalty in Texas.

"It didn't take very long for the grand jury to make its decision," said Livingston Chief of Police Bill Smith. "Did he confess? We have statements from him, that's all I can say.

"Oh Lord, yes, the town is plenty upset. No, it ain't unusual for him to be out on parole. Damned right, it's disturbing. We arrest 'em, we convict 'em, we lock 'em up, and they're out of prison so fast they beat us home."

And precisely for that reason, Mark Moseley, the Redskin kicker, has decided he no longer can remain silent on the death of his sister.

The other day, he telephoned a reporter and asked him to come to his home in Haymarket, Va.

"You feel so helpless," he said. "I'm a football player. Some people know who I am. Maybe if they hear our story, somebody can do something about things like this.

"If there's something I can do to prevent it from happening to someone else, to spare people the grief our family has gone through, I'll do it.

"I have four daughters and another child on the way. It scares me to think about a system that allows people back on the street like this. I'd like to see something done about it.

"We work, we pay our taxes, we try and raise our families to respect the law, to abide by it, to trust it, and then this happens. It makes it hard for me to accept."

What makes it even harder on Moseley is the knowledge that the man in custody for the murder of his sister had been indicted for two separate offenses—attempted rape and rape—in 1977. His conviction on the rape charge was the one that sent him to prison.

"There's a total of three previous cases, in all, connected to him," said Polk County District Attorney Joe Price, who will prosecute Penry and said, "Yes, he did give us a voluntary statement.

"Why was he on the streets? Well, we go to the extreme to protect a defendant's rights. Sometimes you protect them so much, something like this case happens."

Price also confirmed that a psychiatric evaluation was ordered in connection with Penry's previous conviction. That evaluation, which determined Penry was competent to stand trial, also indicated he had never finished the first grade, that he could not read or write, that he was slightly retarded and that he was considered potentially dangerous.

And yet, last August, Penry was granted a parole.

"Nobody can understand how this guy was out on the streets," Mark Moseley said. "Nobody could explain it to me. The sheriff told me it happens all the time.

"The laws have to be changed. The probation system has to be changed. Maybe somebody in Congress will read this. Maybe something can be done."

Moseley say he will attend Penry's trial, and he admits he does not know how he will react when he sees the man accused of killing his sister.

The murder has outraged the citizens of Livingston, 80 miles north of Houston. There have been letters to the editor of the Polk County Enterprise recommending lynching and, according to Chief Smith, "there's a lot of coffee-shop talk" to the same effect.

But Mark Moseley dismisses such talk.

"At first, I was furious," he said. "You're raised in a Christian home and you know you're supposed to let justice take care of itself. Yes, I wanted to beat the guy to a pulp, but the Lord could never forgive me.

"I'm afraid I wouldn't be able to control myself if I ever faced him. But when you look at it, if you do something like that to him, you go as low as he's gone.

"The thing that's scary is that he could possibly be given a life sentence and be back on the streets again in seven years.

"Do I believe in the death penalty? In this case, a guy like this, yes. Because he'd do it again."

But that will not bring Pamela Moseley Carpenter back to her husband of three years, to her family, to her friends, to her oldest brother, Mark Moseley.

"It's a cruel world out there," Moseley said. "There's a lot of evil out there, and Pam was so good. She loved kids. She and her husband were just starting to think about a family. She and my brother's wife were going to open a day-care center.

"Maybe you could say evil won out in this case, but I don't think so. All the love she had for people—those are the things we'll never forget. And maybe some good will come out of this. We have to keep telling ourselves that God's will always has a purpose." ●

FIVE PINTS OF OIL

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. WHITEHURST. Mr. Speaker, I was impressed on Saturday morning by the lead editorial in the Washington Post entitled "Five Pints of Oil." Now that the President has wisely curtailed the importation of Iranian oil, every American should know what a small sacrifice is being asked for us.

The editors point out that if each household reduces its oil consumption by just 5 pints a day, we would save twice what we have been importing from Iran. Perhaps, Mr. Speaker, if everyone in the Nation pursued a voluntary odd-even system of gasoline purchase we would be more conscious of the need to conserve.

In any event, this editorial, which I heartily endorse, deserves a wide forum.

The editorial follows:

FIVE PINTS OF OIL

Tempers seem to be rising in this country as the ordeal of the American hostages in Iran continues. Scuffles have broken out at several places around the country between Iranian students, demonstrating against the government that is their host, and Americans who have taken offense. There was an interesting scene yesterday in McPherson Square, as a knot of Iranian demonstrators were surrounded by a ring of Metropolitan police protecting them from American counter-demonstrators. It's hardly necessary to expand on the contrast between the protection offered the Iranians here and the imprisonment of the American diplomats in Tehran.

The administration is entirely right about the need to keep voices down, and to avoid useless rhetoric, during the delicate attempts to secure the release of the hostages. But this discipline contributes to a sharp sense of exasperation and impotence among Americans. What can you do?

In fact, there is one thing that you can do—one thing that makes sense and will have an impact. The Iranian government is threatening to cut off oil shipments to the United States. The right response for Americans is to cut back the amount of oil they buy and burn, and leave the various ayatollahs and mullahs to take their oil elsewhere.

It would be a great deal more than an angry gesture. Any significant reduction in oil imports by the United States now would begin to bring a salutary degree of balance back into the world oil trade. It would become a little less of a seller's market. The pressure of high worldwide demand for oil constitutes a standing invitation to the exporting countries to keep raising prices, to play favorites among customers and to demand intolerable political concessions. If demand dropped a bit, the sellers would suddenly find that their leverage was not nearly so overpowering. They would have to begin allocating production cuts among themselves, an awkward and divisive process.

How much should you cut back? If every household in the country rreduced its oil consumption by five pints a day, that would add up to a million barrels—double the present flow of imports from Iran. The country now uses about 10 gallons of oil a day per household, when you count not only personal cars and home heating but industrial and commercial use. Cutting five pints out of that 10 gallons ought not to be impossible. It won't return us to the Stone Age. Since most of that oil is used on the highway, the highway is the place to start saving it.

Together, as a country, we drove ourselves into this mess. Any time we want to do it, we can walk out of it. ●

THE LAW OF THE SEA CONFERENCE: BE WARY OF A RUSH TO JUDGMENT

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. MURPHY of New York. Mr. Speaker, the 3d United Nations Conference on the Law of the Sea (LOS) has, since 1973, brought representatives from more than 150 nations together in seven sessions to draft a treaty which will establish new international legal standards and procedures for the use of the world's oceans.

During a recent hearing before the Committee on Foreign Affairs, Ambassador Elliot Richardson expressed optimism that an agreement would be reached but he warned that the context of the treaty had not been perfected with respect to fundamental issues. It was the Ambassador's opinion that a treaty will be presented to the nations before the end of 1980, following deliberations from two more sessions in February and July.

With this apparent conclusion of the Law of the Sea negotiations approaching, we recognize and commend the conference for reaching a basic consensus on some very difficult issues. However, agreement on the deep seabed mining regime remains the major constraint to a "successful" treaty text and fundamental differences of extraordinary importance remain with respect to that issue.

One of the leaders of the Congress on this issue is our distinguished colleague, Congressman JOHN BREAUX. On October 27, 1979, Mr. BREAUX delivered a speech before the Center for Ocean Law and Policy at the University of Virginia. Our colleague's speech emphasized the particular caution needed to be exercised by the negotiators and, in particular, Ambassador Richardson not to hastily conclude a treaty. While some parts of the treaty may be in our national interest, others may be inimical to that interest, specifically those provisions which address the exploration and development of the oceans' resources.

I would like to have the speech inserted into the RECORD to make all Members aware of the substantial work which remains at the LOS Conference before its conclusion.

The speech follows:

"THE THIRD U.N. LAW OF THE SEA CONFERENCE: FITTING NEPTUNE FOR HIS NEW CLOTHES"

Under the threat of a self-imposed deadline, mass myopia appears to have descended upon the negotiators of more than 150 nations at the Third U.N. Conference on the Law of the Sea (UNCLOS III), which has completed its sixth year of work. There is, based on little objective evidence, a perception among the participants at the Conference that time is running out for the effort to achieve a widely acceptable, comprehensive oceans law treaty. This pervasive attitude is leading to accommodations which are superficially attractive, but substantially deficient.

If widely accepted, the future treaty would create a new legal, political and economic framework for two-thirds of the earth's surface. Virtually every ocean use would be regulated by the treaty. Moreover, important conceptual elements of the agreement would be extended to international arrangements on other matters.

There has been substantial progress toward general consensus on the broad outlines of the treaty, including among other things, uniform 12-mile territorial seas, the establishment of 200-mile economic zones and a special straits passage regime, conservation and management of fisheries, control of vessel-source pollution, and the creation of a new international institution to control and participate in the development of the minerals of the deep seabed. However, very important matters remain unresolved.

In their anxiety to conclude the negotiations, the delegations to the Conference are seeking rapid solutions to the most complex and consequential outstanding issues. The negotiators are persuading themselves that they are making real, not merely apparent, progress. Some critically important disagreements are being papered over with skillful ambiguities and others are simply being conceded with little consideration.

Both the substantive value and political viability of the treaty are being badly compromised. Neptune is being fitted by the UNCLOS III negotiators for his new clothes, but those who are asked to ratify the agreement in the future might well find that he has been left with some vital areas exposed.

For its own part, the United States Delegation has accepted dangerous ambiguities concerning international navigation and communication rights in relation to coastal State resource rights in the economic zones. Other States which have been endeavoring to remedy the situation have found that we effectively stand in the way. The treaty, therefore, offers little of security value in a most strategically important one-third of the oceans.

Innocent passage in the territorial sea is threatened by a provision that would allow closure to foreign vessels for purposes not currently recognized under international law and there is little prospect for a solution to that problem. As a concession to the Soviets and Arab countries, we have accepted, as part of a package accommodation, a significant cut-off of our continental margin with little thought to the loss of possibly important hydrocarbons and have agreed to share our revenues from oil and gas development on what is left of our shelf beyond 200-miles with the international community.

We appear to have abandoned the effort to achieve acceptance of a regime which would not substantially hamper marine scientific research within 200-miles of the coast where most investigation is and ought to be taking place. The mechanism for peaceful settlement of disputes is fraught with exceptions and exemptions and assures Third World dominance of the new international judicial organs.

In the negotiations for the deep seabed minerals regime, the Third World initiative for a "New International Economic Order" has made a significant imprint on the draft treaty by achieving control which is disproportionate to the real and reasonable economic interests of the less developed countries and by imposing severe disincentives on private enterprise. The developing countries propose to utilize the deep seabed regime as a politico-economic model for future international arrangements calculated to shift global wealth from the North to the South.

At the Law of the Sea Conference, the negotiators of all countries have agreed upon the establishment of a new kind of international institution, the International Seabed Authority, which would administrate ocean mining and carry out seabed development (including mining, transportation, processing and marketing) through an operating arm called the Enterprise. The Enterprise and developing countries would have exclusive access to one-half of all mine sites and the right to compete with private and State developed country enterprises for access to the other half. This should be regarded as a concession by the North, which could otherwise monopolize seabed development, if it so chose.

The Third World has insisted upon a fundamentally one-nation one-vote system of government (thus assuring the developing countries of an automatic majority in the decision-making process), wide discretion in the Authority, onerous financial and technological conditions on private miners, severe seabed production limits and mine-site quotas, and the option of voting to end all private access after 25 years, just when seabed minerals become essential to the economies of industrialized countries.

According to developing countries, the Enterprise would be initially funded by States parties (U.S. share: $250 million in a long-term loan and loan guarantee), and would be entitled to receive, on a mandatory basis, proprietary mining technology from private operators, processing technology from States parties, fully prospected mine sites and personnel training, and an absolute priority to mine sites when the seabed production ceiling limited entry.

The South has also demanded that seabed revenues be distributed not only to developing countries, but also to national liberation groups. The Third World has particularly scorned insistence by the North that western minority interests in the international community be protected in the composition and voting arrangements of the Authority, that the discretion of the organization in selecting applicants for mine sites be greatly limited and that presently existing ocean mining operators be protected from expropriation when the new treaty comes into force. The developing countries have been more sympathetic to Soviet Bloc demands.

In the many years of negotiations, the industrialized countries have not achieved acceptance by the Third World of assured, nondiscriminatory access by private enterprises to deep seabed resources. Indeed, at the last session of the Conference, the leadership of the U.S. Delegation abandoned the essential component of assured access without so much as consulting with the other members of the Delegation, public advisers and our allies. This concession renders wholly useless progress that was achieved in other respects.

The United States and other industrialized countries have accepted the Authority and the Enterprise with liberal start-up funding from States parties to the treaty, the imposition of significant financial obligations on ocean miners, substantial limits

on seabed production, an "anti-monopoly" system, and mandatory transfer of private technology to the Enterprise.

Protections achieved thus far for private operators fail to redess the fundamental competitive advantage of the Enterprise. These facts, coupled with the acceptance of Authority participation on behalf of all seabed production in future commodity arrange guarantee an anti-development regime which will maintain indefinitely a dangerous minerals dependence of the North on the South.

From the standpoint of the industrialized countries, the deep seabed regime sets a very adverse precedent for future international agreements for the development of common resources and the utilization of common space. The draft Moon Treaty recently referred by the U.N. Outer Space Committee to the General Assembly for opening for signature reflects the key principle of the deep seabed regime, that the resources are "the common heritage of mankind".

Mandatory transfer of ocean mining technology serves as a model which could threaten the North in the most fundamental global bargain—technology for natural resources. The South insists that technology is the "universal human heritage", although it is universally agreed that natural resources within national boundaries are subject to the "permanent sovereignty" of individual States. What is theirs is theirs and what is ours is everybody's. Mandatory technology transfer implements the concept favored by the South.

It is bad enough that the United States has accepted the compromise of vitally important national interests through numerous concessions. But there is also a real threat of acceptance by the UNCLOS III negotiators of a seabed mining regime that will leave fundamentally unresolved a number of issues critical to the interest of the United States and other western industrialized countries. Moreover, dangerous ambiguities are likely to be allowed to remain in other areas, such as the economic zone regime. Dispute settlement provisions in the treaty are inadequate to solve these problems.

Moreover, a recent proposal for detailed rulemaking on ocean mining after treaty signature, but prior to ratification, to resolve outstanding issues is a superfically attractive idea, but one which is as substantially defective as the treaty provisions which it would be designed to clarify.

Once signed, the political and even legal costs of rejection of a bad treaty would be raised dramatically. The negotiators know that and hope thereby to assure wide ratification, that is, a willing suspension of disbelief that will allow nations to persuade themselves that, indeed, the emperor does have new clothes.

I think that the United States must renegotiate major provisions and must insist that all major remaining issues should be clearly resolved in a calm and deliberate manner. The present negotiations most certainly should not be concluded in favor of reliance on dispute settlement or a post-signature rule-making process.

I would particularly caution the negotiators not to conclude a treaty that would leave in doubt the security of investments of U.S. ocean mining companies that have pioneered in the field. As the U.S. Delegation has stated—somewhat ironically—there is really no rush. I would hope that our delegation and all others would act accordingly.

While we are waiting for the negotiations to conclude and the treaty to enter into force, customary law with respect to navigation, communication and fishing will likely continue to consolidate in a reasonably acceptable manner. As for ocean mining, I expect interim unilateral legislation to be enacted shortly.

Last Wednesday I met with key leaders of the Group of 77 to discuss the attitude of the LDC's toward mining under a new domestic regime. The developing countries continue to oppose our legislation, but I remain convinced that enactment will not prejudice our ability to achieve a Law of the Sea treaty.

I look forward to ocean mining under interim legislation. I hope that an acceptable treaty will be achieved.●

THE LINCOLN REVIEW

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. MICHEL. Mr. Speaker, I recently was introduced to a new and exciting quarterly publication, the Lincoln Review. What makes this journal so important is its refusal to go along with stereotypes about black Americans. The Lincoln Review shows intellectual courage in speaking out for the values and the needs of black Americans who may not fit into the image created by those who see blacks only as political symbols to be manipulated and exploited. The Lincoln Review sees black Americans as citizens whose interest in ending inflation, increasing production, and having a strong national defense is the same as that of anyone else. As editor J. A. Parker puts it:

Blacks are now expected to take stands on issues which, traditionally, were not considered to be "black issues," i.e., the environment, energy, and balance of payments, all of which affect economic growth and black employment. With black teenage unemployment near 40 percent, there is a critical need for the growth of U.S. economy. In the game of economic musical chairs as it is presently played, blacks always lose. Blacks have everything to gain in advocating a growth economy which will bring about new jobs for all Americans. Many blacks continue to be the last hired and the first fired.

In the search for new "friends" to help further their interests, blacks are now having to break with the coalitions of the past which were depended upon to further their goals.

Perhaps the best way to show how the Lincoln Review refuses to accept the economic cliches and the welfare-state slogans of the big Government establishment is to offer a brief review of its contents:

Issue No. 1, spring 1979, contains a "Profile of a Patriot," an inspiring story about the late Gen. Daniel "Chappie" James, the first black American to become a four-star general. It also includes an incisive look at "Racism and Organized Labor" by Prof. Walter E. Williams, the distinguished economist. Then there is an article on the civil rights struggle which demonstrates that what the black community needs more than Government paternalism is a growing, booming economy, the kind that can be created by a cut in taxes such as that proposed in the Kemp-Roth bill.

I think you will agree with me that this is not the kind of material one usually finds in articles about black Americans. This material—and other articles in the Lincoln Review—sees black Americans as a creative, energetic group who want the chance to work and save and build in a dynamic economy. In short, the Lincoln Review departs from the customary big-brother paternalism and speaks to black Americans as citizens who understand that the free enterprise system is the greatest enemy of poverty ever created.

My congratulations go to all those responsible for this fine review.

At this point I insert in the RECORD, "Labor-Minority Alliance More Illusory Than Grand" by William Raspberry, the Washington Post, May 21, 1979; "Here Come the Free-Enterprise Blacks" by Louis Rukeyser, the New York Daily News, June 29, 1979.

[From New York Daily News, June 29, 1979]

HERE COME THE FREE-ENTERPRISE BLACKS

(By Louis Rukeyser)

Look out, Vernon Jordon. Prepare to duck, Andrew Young. Head for the hills, Benjamin Hooks.

After a generation in which these and similar thinkers have been given a virtual media monopoly as the unelected "spokesmen" for American blacks, a remarkable new group of black intellectuals is posing the first serious threat to the notion that blacks should be a permanent, monolithic left-wing force in the American economy.

The notion was, when you come to think about it, always deeply insulting to blacks—and not so subtly racist. It suggested that since blacks today include many ill-educated and low-paid individuals, blacks must automatically support those who would "protect" them through endless quotas, minimums, regulations and assorted other statist devices—devices that never in the course of human history have helped any other group much for long. This paternalistic, neoplantation thinking seemed to imply that black economics (and black arithmetic) ought somehow to be entirely different from that which works for whites.

Now comes a new quarterly of black opinion, the Lincoln Review, that recognizes that what blacks truly need is what all Americans need: greater economic opportunity, vigorous economic growth, a curb on inflation and excess government generally, and improvements in private U.S. productivity. The magazine, whose second edition will appear July 20, is published in Washington by the Lincoln Institute for Research and Education (1735 DeSales Street, NW.), and it is based on a powerful new idea: since unchecked governmental expansion and "income redistribution" have failed as blatantly in the U.S. as in every other country that ever relied on them, it is time for American blacks to try something with a better track record—such as self-help and private enterprise.

As editor (and institute president) J. A. Parker puts it, "America's black middle class is required to confront many of the same issues which concern white middle America. Those include inflation, quality education, high taxes, crime, national defense, employment. In the search for new "friends" to help further their interests, blacks are now having to break with the coalitions of the past which were depended on to further their goals."

Parker, a self-made businessman who began life in one of South Philadelphia's most wretched slums, told me that he considered outmoded such black alliances as those with the unions ("We don't need to allow organized labor to keep its foot on our necks") and with so-called environmentalists and "no-growth" apostles generally.

A decade ago the Lincoln Review would have been a voice crying in the wilderness. Now it is part of a still-small, but increasingly audible, chorus. Such black professors as Thomas Sowell and Walter Williams (one of Parker's first contributors) have written trenchantly on the false promises of racial-quota legislation and minimum-wage rates. The NAACP itself is divided between the staff, led by Hooks, and the policymakers, led by Margaret Bush Wilson, who favor deregulation of natural gas and other growth-minded energy programs.

While it would be easy—and inaccurate—to write off these voices as an unrepresentative handful of affluent blacks, Parker insists that a majority of American blacks agree, at bottom, with the basic new direction he is advocating. "They're beginning to realize that nobody is going to give them anything," the articulate, bespectacled editor told me. "The billions of dollars are no longer there. The well is almost dry at the federal level. The answer lies in more productivity, more growth and more jobs."

Parker doesn't expect unanimous endorsement of his unorthodox views from all his fellow blacks. The Urban League's Vernon Jordan, he says, "can't allow the problem to go away—he'd be out of a job," while the equally big-government-oriented Congressional black caucus is the product of traditional urban city machines and "they're slaves to organized labor." But Parker knows, too, that 42 percent of California's black voters supported Proposition 13, despite all urgings that their "bloc" vote be cast against it. The only real "blocs" in the 1980s may be in the heads of those who have not seen this encouraging change—in black and white.

[From the Washington Post, May 21, 1979]

MINORITY-LABOR ALLIANCE MORE ILLUSORY THAN GRAND

(By William Raspberry)

It's hard to think of American liberalism without thinking of the grand alliance between minorities and organized labor.

On issues ranging from desegregation to minimum wage, from fair housing to common site picketing, the alliance is a force to be reckoned with.

Two recent items raise the question whether the alliance is real and equal, or only a sham, with minorities holding the short end of the stick.

One is the March report of the U.S. Comptroller General to the Congress, which points out how little progress has been made toward integrating minorities into the skilled construction craft unions.

The other is an article by Walter E. Williams, a black economics professor at Temple University: "Racism and Organized Labor." The second piece is an explanation of the dismaying statistics turned up in the first.

The comptroller general's report is basically an account of the failure of federal efforts to increase minority opportunities in the skilled construction crafts—among the highest paid jobs in the country.

Between 1972 and 1976, the General Accounting Office reports, minority representation in the skilled craft construction unions increased only from 7.2 percent to 8.4 percent. In addition, minorities are still concentrated in the lower-paying crafts.

The common explanation for the slow progress is economic hard times. It is true that minorities tend to make more progress during boom periods than during economic slow-downs, but, as the GAO reports, this explanation falls short.

According to Comptroller Elmer A. Staats, the GAO study found "the total increase in minority journeymen much less than the available opportunities." An estimated 14,320 journeyman positions became available during the four-year period covered in the GAO investigation. But only 1,131 minority journeymen were added to union rolls, a net gain of 766.

White workers typically obtain journeyman status directly, for example, through member referrals and entrance tests. But for minorities, the prevailing route remains the tedious, years-long, low-paid apprenticeship programs.

The GAO cites as a major reason for the small minority gains the "administration weaknesses in federal programs that could help them enter these unions." It charges that the Equal Employment Opportunities Commission, the federal agency with the most direct authority over unions, has used its authority ineffectively.

The Office of Federal Contract Compliance Programs has its authority over contractors and, thus, has been ineffective in influencing the nepotistic and exclusionary practices of trade unions.

And the Bureau of Apprenticeship and Training has focused on increasing minority participation in apprenticeship programs rather than on increasing the number of minority journeymen.

Walter Williams would dispute none of GAO's findings. But his major point is that minorities have been duped into believing their interests are the same as the interests of organized labor.

The major interest of organized labor, Williams writes in the Spring issue of the Lincoln Review, is to maximize the income of its members. It accomplishes this goal by controlling the skilled labor pool and by deliberately reducing the number of skilled workers available.

"Non-economic or personal characteristics which can be employed to ration membership include: race, sex, political affiliation, age, education, experience, personality and relationship to other union members," Williams notes. "Considerable evidence shows that unions have employed all of these methods to ration membership."

But not in the heavy-handed, blatant "whites only" strategies of the past.

If the job-limiting policies of organized labor resulted in no income for those excluded, Williams contends, the result would be considerable social upheaval.

Therefore, he says, "as a part of union restrictive strategy, there must be a strategy of income subsidies. That is, unions will not only be the strongest supporters of welfare, food stamps and leaf-raking jobs; income maintenance programs disguise the true effects of the restrictions created by labor unions and other economic agents by casting a few crumbs to those denied job opportunity in order to keep them quiet . . .

"The most unfortunate aspects of this is that the union support for these programs creates the illusion that unions are prominority."

What passes for a liberal alliance between organized labor and minorities is, in Williams view, nothing more than the calculated exploitation of the latter by the former.

Some coalition!

[From the Wall Street Journal, June 12, 1979]

THE LINCOLN REVIEW

There's a new magazine around with something important to say about the future of the black community in the United States. The publication is a quarterly called Lincoln Review, and its editor says it is meant as a platform for topics and points of view that may fall outside conventionally defined "black issues" and black perspectives but that are nevertheless of significant concern to black Americans. The first issue of the magazine covers a range of subjects from biography to a historical sketch of black Americans in grand opera, but the review's central aim is to emphasize the black community's stake in this country's economic growth.

An article by Wendell Wilkie Gunn, "The Civil Rights Struggle: Phase II," puts the case quite clearly. Black Americans and their leaders, Mr. Gunn begins, are growing disenchanted with President Carter's Democratic administration. Politicians on the Republican right have welcomed this disenchantment by announcing that black organizations are beginning to "see the light" and turn from the false god of income redistribution to the true solution of economic growth as a way of meeting their problems.

But this kind of analysis, Mr. Gunn says, doesn't do credit to the changing nature of the black struggle in America. Through the mid-1960s, massive racial discrimination prevented blacks from participating fully in the American economy. The Democrats offered them both the political activism necessary to remove the legal barriers and the redistributionist social welfare policies necessary to mitigate the economic plight of poor blacks in the short run. Siding with the Democrats was a fully proper response to the black community's real needs and interests.

Now the discriminatory barriers are coming down, and future economic progress for blacks will depend on overall economic growth. The Democrats' policies are likely to slow that growth and thus damage the interests of black Americans. But the Republicans look like they may pass up their opportunity to make themselves the party of black progress. Many of them insist on fighting inflation with tax rate increases. The resulting contraction causes unemployment among poor blacks—and doesn't even really curb inflation, since the unemployed stop producing but receive enough in transfer payments to keep right on consuming.

So both parties offer platforms of economic contraction; the difference is that the Democrats' social welfare programs transfer some of the costs away from the poor. Under the circumstances, it's reasonable for blacks to keep choosing the Democrats; if Republicans want to change the calculus, they should push harder for the kinds of tax reductions that would stimulate real economic growth.

Mr. Gunn's argument on tax policies is of the kind that always stirs up a fuss in Republican circles. But perhaps the most refreshing thing about it is that it views black Americans as producers, actual and potential, whose interest lies in expanding opportunities rather than restricted ones. We hope the Lincoln Review will provide more of this perspective.●

MR. HOWARD "BUD" MERCER

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. APPLEGATE. Mr. Speaker, as always it is indeed an honor to have the opportunity to address this House, but I come before you today to relate to you an event which makes my address even more honorable.

This coming Friday, November 16, 1979, the Tuscarawas County Democratic Supper Club is hosting a testimonial dinner in honor of one of this county's most outstanding citizens, Mr. Howard "Bud" Mercer. As a member of Tuscarawas County for many years, Bud currently serves as chairman of Tuscarawas County's Democratic Party and has done so for nearly 20 years. He has provided the type of honest leadership over the years that is admired by both Democrats and Republicans alike. This lifelong service

to the Democratic Party has been exemplary.

Always one to pitch in and help, Bud has demonstrated a sincere willingness to help a cause in whatever way he is able to do so. He has been at the forefront of many battles, and while not winning every one, can point to many more successes than failures.

I am proud to be included among the many friends of Howard "Bud" Mercer and, on behalf of Ohio's 18th Congressional District, I congratulate him and thank him for his many contributions to the Tuscarawas County area.●

PERSECUTION OF BAHA'IS IN IRAN: A SERIOUS HUMAN RIGHTS CONCERN

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. MOFFETT. Mr. Speaker, I wish to bring to the attention of my colleagues a situation that should be of grave concern to us all. I refer to the persecution of the Baha'is in Iran. Currently, many Baha'is in that country face financial ruin, confiscation of their property and religious persecution at the hands of the minority Shiite Moslems.

The Baha'i faith is known for its fundamental belief in one God, in the essential unity of all religions and on the oneness of humankind. Its worldwide membership comprises people of every religious and ethnic background. Recently, the Baha'i House of Worship in Wilmette, Ill., was registered as a national historic site.

The persecution of the Baha'is in Iran has been almost continuous since the founding of the religion in that country in 1844. Their religious views are considered heretical by the Shiite Moslem majority, and over the past century they have been the targets of sporadic harassment and attacks.

The Baha'is are not named in the present draft of the constitution as one of the country's minorities with special representation in the Parliament. Since the revolution there have been reports and allegations of confiscation of Baha'i property and assets, the destruction of their holy places and the desecration of their graveyards throughout Iran. There have also been reports that under the new government Baha'is have lost civil service jobs because of their religious affiliation.

In December of 1978, 140 Baha'i homes were looted and destroyed in the city of Shiraz. In nearby Nayriz 25 homes were burned down and in Sarvistan Baha'is were forced to recant their religious beliefs. Similar incidents have occurred in other parts of Iran in the wake of their revolution and the establishment of the Khomeini regime.

On September 8 of this year one of the holiest shrines of the Baha'i Faith, the House of the Bab, was attacked and almost completely demolished. This latest atrocity against the pacifist Baha'is had led many of them to believe that their property, freedom, and their lives are now in danger in Iran.

I have sent a letter to Prime Minister Bazargan informing him of my concern for the rights of the Baha'is in Iran. I also have contacted the Secretary of State asking him to lodge a formal complaint with the Iranian Government over its apparent inability to stop the persecution of this religious minority which needs and deserves protection.

The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 31, 1979.

DEAR MR. SECRETARY: Several constituents have recently written to me about the persecution suffered by people of the Baha'i Faith in Iran. I wish to call to your attention this serious matter and express my hope that the United States will use its influence to support the human rights of these people.

Since the establishment of the Islamic Republic, the Baha'is, who have endured much hardship in Iran over the past century, have had their property confiscated and vandalized, have seen several of their holy places desecrated, and have suffered employment discrimination. The authorities have done nothing to alleivate this persecution; in fact, they may quite possibly be encouraging it.

On September 8, one of the holiest shrines of the Bahai's Faith, the House of the Bab, was attacked and almost totally destroyed. This malicious action, which could have been prevented by the Iranian authorities, demonstrates a callous disregard for the Baha'is basic rights.

I hope that the State Department will investigate these matters and express the strong disapproval of the United States.

Thank you very much.

Sincerely,

TOBY MOFFETT,
Member of Congress.●

J. SHELBURN ROBISON: A FOOTNOTE IN HISTORY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. PANETTA. Mr. Speaker, on Sunday, November 11, the residents of my congressional district will celebrate the 58th anniversary of an historically important and touching moment, a moment symbolic of the continuity and concern for one's fallen comrades so characteristic of the men who have fought to protect our cherished freedoms.

Fifty-eight years ago today, a young Army captain, J. Shelburn Robison, of Carmel, Calif., lowered his saber to signal a 21-gun salute as the Unknown Soldier from World War I was buried in Arlington National Cemetery.

The ceremony was an impressive one, worthy of those who gave their lives for their country. General Pershing led the parade of dignitaries, including President Warren G. Harding, across the Potomac from Washington to Arlington. After the President delivered an address and wreaths had been laid on the casket, Captain Robison gave the command, "Battery salvo right, commence fire," and lowered his saber.

Forty-seven years later, Colonel Robison journeyed to Arlington to present that same sword to the Old Guard, the Army's crack ceremonial unit that provides an around-the-clock guard at the Tomb of the Unknown Soldier.

Mr. Speaker, the anniversary of the presentation of that historic saber gives us the opportunity to reflect upon the contributions made by our fighting men, and on the generosity of spirit and concern for military tradition displayed by them.●

RAY ROBERTS

HON. PHIL GRAMM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. GRAMM. Mr. Speaker, on October 29, RAY ROBERTS informed his constituents that he would not be a candidate for reelection next year. There has been a Texan as Chairman of the House Committee on Veterans' Affairs for 22 out of the past 24 years. I believe this speaks well of the type of leadership the State of Texas has traditionally provided and the type of men the people of Texas have chosen to represent them in Washington. What better way to serve in Congress than to serve the veterans of the United States who have served their country themselves.

RAY ROBERTS was elected to Congress on January 30, 1962, to fill the vacancy created by the death of Speaker Sam Rayburn. He was appointed to the Committee on Veterans' Affairs on February 6, 1962, and became chairman in 1975. Some refer to Veterans' Affairs as a minor committee of the House of Representatives. However, as Chairman, RAY ROBERTS has jurisdiction over the third largest agency in the Federal Government; the Nation's largest hospital and medical care system; a potential clientele of veterans and their survivors equal to almost half the population of the United States; and a $21 billion budget in this fiscal year alone. That is no minor responsibility.

RAY ROBERTS has strongly supported legislation to increase and renew a wide variety of assistance programs for all veterans. However, in doing so, he has vigorously protected service-connected disabled veterans as the rightful beneficiaries of priority medical care and just compensation for their special service and sacrifice. Since 1962, with RAY ROBERT's support, compensation payments for service-connected disabled veterans and the widows and children of those who have died as a result of service-connected causes have more than doubled. He has sponsored legislation to provide education and readjustment benefits for Vietnam era veterans and has seen the VA hospital system and medical services program rise to lead the Nation in medical care, medical research, and education.

RAY ROBERTS has fought diligently to insure that VA hospitals provide "care second to none." Over the past 2 years, he has sought to maintain the integrity of that medical system in the face of

decreasing budgets, hospital bed losses, and personnel reductions. In going before the House to request the additional funds for the budget to insure that these severe cuts would not have to take place, RAY ROBERTS has said:

We would not have a Federal budget to argue over if the veterans of America had not fought for their country in the first place.

The Congress, recognizing this serious need, has overwhelmingly accepted his amendments.

Chairman ROBERTS has not only maintained a viable benefit program for the veterans of this country, but also has upheld the quality of that assistance by insuring that all those who receive such benefits are deserving veterans. He was author of legislation which bared automatic entitlement to veterans benefits for those persons with dishonorable discharges; due to his leadership, that legislation is now law.

He has consistently upheld the veteran's right for hiring preference in Government employment, and has successfully opposed efforts by other branches of Government to incorporate or erode responsibilities presently under the control of the Veterans' Administration. In doing so, he maintains that because of a veteran's service to his country, he or she is entitled to a series of benefits and assistance programs which are and should be distinct and significant symbols of the gratitude of the American people. He has continued his vigil to protect those rights.

I would like to take this opportunity to express my appreciation and admiration and, in part, the gratitude of the American veterans for this distinguished service. RAY ROBERTS will be greatly missed when he retires at the end of the 96th Congress.●

FEDERAL AID FOR THE CHRYSLER CORP.

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. CONYERS. Mr. Speaker, today I am introducing legislation H.R. 5770, to provide $1.2 billion in Federal loan guarantees to the Chrysler Corp. This legislation builds upon the Blanchard bill being worked on in the Banking Committee and is a bridge to the Riegle bill in the Senate. It provides for phasing-in loan guarantees in two increments, conditioned on evaluation at each stage of Chrysler's performance and its readiness to meet a set of conditions that safeguard the public interest in maintaining jobs, keeping factories open, and converting to more fuel-efficient autos and mass-transit vehicles.

In return for Federal assistance, Chrysler would be required to broaden further its board of directors to include representatives of labor, the consumer public, and Government, and create an employee stock ownership plan so as to expand participation in its decisionmaking processes for those sectors that have the greatest stake in its recovery. Chrysler also would have to present a development plan that specifies the future direction of investment decisions; any plans to close down facilities and the justification for such action; and the steps necessary to convert some of its facilities to the production of mass-transit vehicles, including plans for retooling plants and retraining workers.

This legislation seeks to provide a framework of cooperation—and accountability—among business, labor, and Government, that is indispensable both in aiding Chrysler's recovery—and also moving us in the direction of implementing a national economic plan for full employment and industrial revitalization, as mandated by the Full Employment and Balanced Growth Act of 1978.

A Chrysler collapse unavoidably raises very real and deeply disturbing questions about the future prospects of the entire American economy, which is now moving into a recession without the policies and mechanisms requisite to full employment and balanced growth. We have to ask ourselves, is the Chrysler case unique, the result simply of bad management, consumer disapproval, Federal regulations, or a combination of all three? Or is it a bellwether, only the most recent dramatic case in what will be a long line of corporate failures in the years ahead?

The Chrysler crisis raises most of the important questions before the Congress this year. If it collapses, would its employees find new jobs within a reasonable period, or be laid off indefinitely, with all the human and social costs this entails? What will happen in industrial centers like Detroit or Pittsburgh, and in hundreds of smaller cities and towns where Chrysler operates, if it shuts down plants or else substantially scales down its operation? What will happen to the billions in pension funds, without which retired Chrysler workers could not survive?

With Chrysler we are not just facing the financial plight of a single, albeit enormous, industrial company. Chrysler's fate is inextricably tied to a much larger, longer term transformation of the international and domestic industrial economy, that has jeopardized the jobs of millions of workers, and has altered the economic fabric of hundreds of communities in every region of the Nation.

I am persuaded that until we begin in a serious way to plan ahead for changes in employment and production in the Nation, and to avert the economic dislocations that inevitably arise, we have no choice but to support Federal aid for Chrysler.

The bill follows:

H.R. 5678

A bill to authorize emergency loan guarantees to the Chrysler Corporation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Chrysler Industrial Loan Guarantee Act".

AUTHORITY

SEC. 2. The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary"), on such terms and conditions as he deems appropriate, is hereby authorized to guarantee, or make commitments to guarantee, lenders against loss of principal or interest on loans that meet the requirements of this Act.

LIMITATIONS AND CONDITIONS

SEC. 3. (a) A guarantee of a loan may be made under this Act only if—

(1) the Secretary finds that—

(A) the loan is needed to enable the Chrysler Corporation (hereinafter in this Act referred to as the "enterprise") to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy of or employment in the Nation or any region thereof;

(B) credit is not otherwise available to the enterprise under reasonable terms or conditions; and

(C) the prospective earning power of the enterprise, together with the character and value of the security pledged, furnish reasonable assurance that the enterprise will be able to repay the loan within the time fixed, and afford reasonable protection to the United States;

(2) the lender certifies that the lender would not make the loan without such guarantee; and

(3) before any such guarantee is made—

(A) the board of directors of the enterprise seeking such guarantee is expanded to include six new members who shall represent labor, minority, consumer, and environmental groups;

(B) the enterprise transmits to the Congress and the Secretary a development plan which—

(i) provides for the training of employees in the skills which the enterprise determines will be required by changes in technology, markets, and production;

(ii) provides for the retooling of the Chrysler Corporation's Dodge-Main facility in Hamtramck, Michigan as a supplier, or to make the changes necessary to convert the facility to mass-transit vehicle or any other useful production;

(iii) specifies the location of new factories and other facilities taking into account investment, production, and employment, and any plans to close any factory or other facility and the reasons for such action;

(iv) indicates the steps to be taken to insure that minority business enterprises receive a fair share of Chrysler's business and the purchases it makes from its suppliers.

(C) the enterprise shall establish an employee stock ownership plan pursuant to section 4.

(b) Loans guaranteed under this Act shall be payable in not more than 10 years.

(c)(1) Loans guaranteed under this Act shall bear interest payable to the lender at rates determined by the Secretary taking into account the reduction in risk afforded by the loan guarantee and rates charged by lenders on otherwise comparable loans.

(2) The Secretary shall prescribe and collect a guarantee fee in connection with each loan guaranteed under this Act. Such fee shall reflect the Government's administrative expense in making the guarantee and the risk assumed by the Government and shall not be less than an amount which, when added to the amount of interest payable to the lender of such loan, produces a total charge appropriate for loan agreements of comparable risk and maturity if supplied by the normal capital markets.

EMPLOYEE STOCK OWNERSHIP PLAN

SEC. 4. (a) In order to be eligible for loan guarantees under this Act, the enterprise (hereinafter in this section referred to as the "employer") shall establish in writing an employee stock ownership plan—

(1) which satisfies the requirements of section 4975(e)(7) of the Internal Revenue

Code of 1954, and which acquires qualifying employer securities (as described in paragraph (3)) using all or a portion of the proceeds of a guaranteed loan provided for in this Act;

(2) which is administered by a committee consisting of—

(A) 2 representatives of the employer;

(B) 2 representatives of employees who are participants in this plan;

(C) 1 representative of the trustee of the plan; and

(D) 2 representatives designated by the Secretary of the Treasury;

(3) which, except as provided in subsection (b), will acquire only qualifying employer securities which—

(A) meet the requirements of section 409 A(1)(3) of such Code; and

(B) are convertible to common stock (which meets the requirements of section 409A(L)(1) of such Code at its fair market value as of October 17, 1979 at the direction of the committee;

(4) under which qualifying employer securities having an aggregate value of not less than an amount equal to 25 per centum of the amount of the loan guarantee provided for in this Act, will be purchased with the proceeds of a loan described in this Act and in section 4975(d)(3) of such Code;

(5) under which the employer agrees to make annual contributions sufficient to permit the plan to amortize such loan;

(6) which provides that each participant will have a 100 per centum nonforfeitable interest in all amounts allocated to such account under the plan; and

(7) which provides for the allocation for each plan year of all qualifying employer securities transferred to it or purchased by it, or with regard to qualifying employer securities acquired pursuant to paragraph (4), to be released from the appropriate suspense account and allocated, to the accounts of all participants who are entitled to share in such allocation in substantially equal amounts.

(b) Notwithstanding the provisions of paragraph (3), the plan may also purchase or otherwise acquire qualifying employer securities which are described in section 4975 (e)(8) of such Code.

SECURITY FOR LOAN GUARANTEES

SEC. 5. In negotiating a loan guarantee under this Act, the Secretary shall make every effort to arrange that the payment of the principal of and interest on any plan guaranteed shall be secured by sufficient property of the enterprise to fully collateralize the amount of the loan guarantee.

REQUIREMENTS APPLICABLE TO LOAN GUARANTEES

SEC. 6. (a)(1) A guarantee agreement made under this Act with respect to the enterprise shall require that while there is any principal or interest remaining unpaid on a guaranteed loan to the enterprise, the enterprise may not—

(A) declare a dividend on its common stock; or

(B) make any payment on its other indebtedness to a lender whose loan has been guaranteed under this Act.

(2) The Secretary may waive either or both of the requirements set forth in paragraph (1), as specified in the guarantee agreement covering a loan to the enterprise, if it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee.

(b) The Secretary shall require before guaranteeing any loan to the enterprise that the enterprise make such management changes as the Secretary deems necessary to give the enterprise a sound managerial base.

(c) A guarantee of a loan to the enterprise shall not be made under this Act unless—

(1) the Secretary has received an audited financial statement of the enterprise; and

(2) the enterprise permits the Secretary to have the same access to its books and other documents as the Secretary would have under section 7 in the event the loan is guaranteed.

(d) No payment shall be made or become due under a guarantee entered into under this Act unless the lender has exhausted any remedies which it may have under the guarantee agreement.

(e)(1) Prior to making any guarantee under this Act, the Secretary shall satisfy himself that the underlying loan agreement on which the guarantee is sought contains all the affirmative and negative covenants and other protective provisions which are usual and cutomary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that it cannot be amended, or any provisions waived, without the Secretary's prior consent.

(2) On each occasion when the enterprise seeks an advance under the loan agreement, the guarantee authorized by this Act shall be in force as to the funds advanced only if—

(A) the lender gives the Secretary at least ten days' notice in writing of its intent to provide the enterprise with funds pursuant to the loan agreement;

(B) the lender certifies to the Secretary before an advance is made that, as of the date of the notice provided for in subparagraph (A), the enterprise is not in default under the loan agreement, except that if a default has occurred the lender shall report the facts and circumstances relating thereto to the Secretary and the Secretary may expressly and in writing waive such default in any case where it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee; and

(C) the enterprise provides the Secretary with a plan setting forth the expenditures for which the advance will be used and the period during which the expenditures will be made, and, upon the expiration of such periods, reports to the Secretary any instances in which amounts advanced have not been expended in accordance with the plan.

(f)(1) A guarantee agreement made under this Act shall contain a requirement that as between the Secretary and the lender, the Secretary shall have a priority with respect to, and to the extent of, the lender's interest in any collateral securing the loan and any earlier outstanding loans. The Secretary shall take all steps necessary to assure such priority against all other persons.

(2) For purposes of paragraph (1), the term "collateral" means all assets pledged under loan agreements and, if appropriate in the opinion of the Secretary, all sums of the borrower on deposit with the lender and subject to offset under title 11 of the United States Code.

INSPECTION OF DOCUMENTS; AUTHORITY TO DISAPPROVE CERTAIN TRANSACTIONS

SEC. 7. (a)(1) The Secretary is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents of the enterprise which has received financial assistance under this Act concerning any matter which may bear upon—

(A) the ability of the enterprise to repay the loan within the time fixed therefor;

(B) the interests of the United States in the property of the enterprise; and

(C) the assurance that there is reasonable protection to the United States.

(2) The Secretary is authorized to disapprove any transaction of the enterprise involving the disposition of its assets which may affect the repayment of a loan that has been guaranteed pursuant to the provisions of this Act.

(b) The General Accounting Office shall make a detailed audit of all accounts, books, records, and transactions of the enterprise with respect to which an application for a loan guarantee is made under this Act. The General Accounting Office shall report the results of such audit to the Secretary and to the Congress.

MAXIMUM OBLIGATION

SEC. 8. The maximum obligation of the Secretary under all outstanding loans guaranteed by him under this Act shall not exceed $1,500,000,000.

EMERGENCY LOAN GUARANTEE FUND

SEC. 9. (a) There is hereby established in the Treasury an emergency loan guarantee fund to be administered by the Secretary. The fund shall be used for the payment of the expenses of the Secretary and for the purpose of fulfilling the Secretary's obligations under this Act. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

(b) The Secretary shall prescribe and collect a guarantee fee in connection with each loan guaranteed by it under this Act. Sums realized from such fees shall be deposited in the emergency loan guarantee fund.

FEDERAL RESERVE BANKS AS FISCAL AGENTS

SEC. 10. Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Secretary. Each such fiscal agent shall be reimbursed by the Secretary for all expenses and losses incurred by it in acting as agent on behalf of the Secretary.

PROTECTION OF GOVERNMENT'S INTEREST

SEC. 11. (a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this Act. Any sums recovered pursuant to this section shall be paid into the emergency loan guarantee fund established under section 9.

(b) The Secretary shall be entitled to recover from the enterprise, or any other person liable therefor, the amount of any payments made pursuant to any guarantee agreement entered into under this Act, and upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient thereof.

REPORTS

SEC. 12. The Secretary shall annually submit to the Congress a full report of his operations under this Act. Each such report shall include a full report of the Secretary's operations together with his recommendations with respect to the need to continue the guarantee program beyond the termination date specified in section 13. If the Secretary recommends that the program should be continued beyond such termination date, he shall state his recommendations with respect to the appropriate board, agency, or corporation which should administer the program.

TERMINATION

SEC. 13. The authority of the Secretary to enter into any guarantee or to make any commitment to guarantee under this Act terminates three years after the date of the enactment of this Act. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this Act prior to that date, or the taking of any action necessary to preserve or protect the interest of the United States in any amount advanced or paid out in carrying on operations under this Act.●

SLAMMER VI

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. BOB WILSON. Mr. Speaker, Capt. Samuel S. Wood, Jr., a brilliant U.S. Army officer, recently wrote a thoughtful article in Armor magazine about a weapons system the United States possesses but does not make good use of.

I believe Captain Wood's arguments are persuasive, and I hope the Army will consider his recommendations.

The article follows:

SLAMMER VI

(By Capt. Samuel S. Wood, Jr.)

In a time when targets outnumber artillery tubes there is a need for a multiple rocket launcher. Combat-proven on the battlefields of the Pacific and in Europe during World War II and later in Korea, the multiple rocket launcher provides the user with the ability to blanket the target area with a tremendous amount of firepower. As an area weapon that complements artillery, the rocket can provide the combined effects of many battalions of massed artillery. Rockets can provide the commander with an advantage he should not be denied, and the 2.75-in rocket fired by the Slammer VI is a system that can provide a variety of support to the frontline combat commander.

Fundamentally, the rocket is a self-contained warhead and propellant that needs only a simple launcher. You cannot expect the accuracy of a rocket to be the same as conventional tube artillery. However, what it loses in accuracy is outweighed by the volume of fire it can produce within seconds.

Rocket artillery has had a rather short but impressive history. The United States' use of rockets to augment artillery had its birth in 1846. William Hale developed a rocket which was used by the army of General Winfield Scott in the siege of Vera Cruz.[1] Except for signal rockets, rockets did not reemerge as a weapon system until World War II. Rockets were developed to defeat armor, aircraft, troops, and radar-directed fire control and communciation equipment. During the Battle of the Bulge, rockets were used to break the German counteroffensives. Rockets were also used to pulverize beach areas during amphibious assaults in the Pacific, and rockets are credited as being instrumental in securing Okinawa. On the beaches of Normandy, rockets were also equipped with chaff warheads that created a window of jammers that moved the radar controlled fire from German guns away from Navy ships.

In the Korean War, the rockets of U.S. Marines found a 1,000-man Communist Chinese battalion located in a 1,000-by 500-yard area, and over 400 were killed and 600 wounded. This was accomplished in a matter of 14 minutes with 57 rockets.[2] This was an area target that would have required a TOT mission of many battalions of supporting artillery.

In Vietnam, rocket artillery was off the ground and in the air, but little work was done to improve the Korean War vintage ground rocket launchers in the inventory. Conventional artillery support was more than adequate to support maneuver forces and with the addition of the helicopter rockets and aircraft rockets, the commander could bring a large amount of firepower to bear on a relatively small area. With a very limited counterbattery threat, or air threat, the delivery of 2.75-in artillery and aircraft rockets was almost unrestricted.

At the end of the Vietnam War, the United States did not have a ground platform rocket launcher for the 2.75-in rocket, but warheads for the rocket had been adopted for helicopter and aircraft delivery. The warheads included high explosive, shaped charge, flechette, and white phosphorus. The rocket's range was about 6,000 meters, and because it had only 1,700 more meters range than the 107-mm mortar, multiple rocket launcher remained on aircraft.

Events in the Middle East brought renewed interest in a multiple rocket launcher, and need for it resurfaced. Commanders wanted fire support to defeat a multiplicity of targets and when the cry went up in 1974 to field a multiple rocket launcher, concepts were developed and tested. As a result, the general support rocket system was approved for fielding in the early eighties. Another system, the Slammer, was locally fabricated at Fort Campbell, Ky. and the Slammer VI at the Redstone and Allegheny Arsenals.

Since the Department of the Army's tests of the Slammer VI were concluded in April of 1977, additional emphasis has been placed on the need to field a multiple rocket launcher. The Slammer VI system can be fielded now! To better understand its availability, a description of Slammer VI is necessary.

The Slammer VI concept was developed at the Redstone and Allegheny Arsenals after the 101st Air Assault Division tested a two-pod version mounted on a ¼-ton vehicle.[3] Slammer VI was made with an M-91 chemical rocket launcher, M-200 rocket pods, and 4.2-in mortar sight. The M-91 rocket launcher, which was in the inventory in the early 1960's as a chemical rocket launcher, was modified for Slammer VI by changing the rocket racks to accommodate M-200 rocket pods. The M-200 rocket pods are the standard 2.75-in rocket pod in the Army and Air Force inventories. A 4.2-in mortar sight was added for fire control. Fired by a 24 volt system, the rockets can be rippled one at a time or fired in a 114 rocket salvo. Tests revealed that a system could be assembled for only $7,500.[4]

The testing and evaluation of the system was conducted at Yuma Proving Grounds, Redstone Arsenal, and Forts Sill, Campbell, and Bragg. There were no firing tables available, and the testing units swagged the proper settings on the launhcer for the desired ranges.

Test firings showed inaccuracies in the rockets that could easily be overcome by changing the firing sequence of the pods. Range limitations were overcome by improvements in the 2.75-in rocket motor which increased the range from 6,000 to nearly 11,000 meters.

Developed in response to a demand from the field, the Slammer VI answered the call for an area saturation weapon and product improvements and an increase in research funds could have provided the maneuver forces an effective weapon with many capabilities that are not available in other fire support systems.

The system's light weight and easy towing capability could have given either armor or mechanized infantry an inexpensive weapon system that could be fired, and then discarded if necessary.

However, Slammer VI was shelved after only 6 months of testing before its impact on the Army could be evaluated. The tests included immediate smoke, area saturation with high explosive warheads, and infrared illumination missions. In an illumination capability test, Slammer VI provided over 3 hours of continuous infrared illumination for TOW gunners.[5] As an area fire weapon, two Slammer VI systems produced more target destruction on a 400- x 600-meter area than a battalion of 155-mm artillery pieces firing dual purpose improved conventional munitions.

In tests at Forts Bragg and Campbell it was found that Slammer VI could fill the gap between the 4.2-in mortars and division artillery assets. After TRADOC withdrew funds for testing, these posts drew from their own resources and conducted further tests. Through their efforts, the system's advantages were weighed against its disadvantages, with the major problem being the ammunition available. Test reports stated that if the range dispersion, limited range of 6,000 meters, and lack of varieties of warheads were overcome, Slammer VI would be reconsidered for fielding.[5]

RESUPPLY FOR 1-HR SUSTAINED FIRE

	Rounds	5-ton loads
Slammer VI platoon	1,368	2.1
81-mm mortar platoon	1,440	1.4
155-mm howitzer battery	414	2.6

AREA SUPPRESSED (SQUARE METERS)
PERSONNEL STANDING IN OPEN

	Slammer VI platoon	81-mm mortar platoon	155-mm howitzer battery
7 sec	190,836	2,628	51,216
75 sec	190,836	14,454	307,296
15 min	381,672	157,680	1,229,184

Presently, problems with the ammunition are being or have been corrected and the 2.75-in. rocket has been revolutionized. An improved rocket motor has increased ranges from 10,000 to 11,000 meters, new ammunition packaging has reduced the logistical burden, and improved fire control has provided the desired accuracy.

Further, the new warheads can provide the commander with some remarkable fire support. One-sixth of a Slammer VI load of 19 rockets can provide a 400-meter smoke screen for 4½ to 5 minutes after only a 30-second buildup. A complete Slammer VI load of smoke could screen or obscure 2,400 meters.

The chaff warhead can screen attack helicopters from Threat radar-directed fire control systems and provide a window for close air support or attack helicopters.

The submunition warhead equipped with a new fuse, scatters nine submunition projectiles over the target area. Each shaped charge submunition can penetrate 3½ inches of armor and detonation of the warhead creates a casualty producing blast with a radius of 15 meters. Armored vehicles and infantry coming under fire from a Slammer VI submunition salvo would be exposed to 2,072 subprojectiles in a 500-meter square area in a matter of 8 seconds. These three warheads could make a difference in any attack.

The Slammer VI was ahead of its time, but the concept is sound and its mission is ever apparent. With the application of sound tactics, proper employment, and the addition of improved warheads, the Slammer VI in the hands of the artillery, infantry, or armor could provide the commander with smoke, a jamming window to defeat electronics, dual-purpose munitions, and other types of warheads. Above all, it could provide the commander with an almost instant response to his call for fire, and near-instant firepower for that decisive time and place where the need for an area saturation weapon is available. There are 2,500 chemical rocket launchers that are potential Slammer VI systems sitting in depots. They are already paid for, and properly reconfigured as Slam-

Footnotes at end of article.

mer VI systems, they could provide the commander with massive fire support for area saturation missions.

FOOTNOTES

[1] John E. Burchard, *Rockets, Guns, and Targets*, (Boston: Little, Brown and Company, 1948), pp. 8, 133, 179, 202.

[2] *Reexamination of Requirement For An Area Saturation Weapon Such As The 4.5-in. Rocket*, (Fort Still, 1952), p. 6 C.

[3] Neely S. Harrison, *The Need for a Rocket Launcher*, Fort Still, 1976.

[4] Captain C. Connoly, 2.75-in. Rocket Department at Redstone Arsenal, interviewed by Sam Wood (telephone conversation) 1505 hours, 2 June 1978.

[5] Information Paper, "Slammer," XVIII Airborne Corps Evaluation (Fort Bragg, 1977), p. 2.●

IT IS TIME TO CIRCLE THE WAGONS

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. BRINKLEY. Mr. Speaker, down the hall from me in the Rayburn Building is the office of the gentleman from Oklahoma, TOM STEED. Only two men currently serving in the House of Representatives came earlier than he did. And because of his seniority his office occupies the finest view of the U.S. Capitol Building itself. He is a thoughtful man.

TOM represents a district in Oklahoma which encompasses the military installation of Fort Sill. Buffalo herds still roam on this reservation and TOM tells an interesting story about them. To protect their young calves the buffalo form a protective circle around them, standing side by side, each buffalo facing outward—like a cross section of an ear of corn, with each grain of corn representing a buffalo.

Perhaps the early Western settlers adopted this protective device when they circled their wagons against Indian attacks. It is certain that they observed the buffalo strategy and admired the collective will of the buffalo in protecting its young and helpless.

Today in our country, the alarm has again been sounded. Remember the *Pueblo*. Remember Panmunjom. Remember Iran.

It is time to circle the wagons again. It is time to abandon a policy of nonresistance. It is time to take a stand, and draw the line, to say we will treat others in a civilized way but that we expect the same treatment in return, not some of the time, or most of the time, but all of the time.

We need not fear the Walls of Jericho. We need not fear giants in the land.

Those walls will fall before righteous men and those giants will prove to be mere bullyboys if our course is just.

There is a time for everything under the sun and it is time to circle the wagons. Our military strength is formidable. Yet there is something more important even that that. It is our will. It is our resolve, and commitment.

General Eisenhower said that freedom from fear and injustice and oppression will be ours only in the measure that men who value such freedom are ready to sustain its possession—to defend it against every thrust from within and without.

Strength and will are strong companions to peace. Vacillation and appeasement are the roads to war or surrender.●

CHRISTIAN SCIENCE MONITOR SPEAKS OUT ON NUCLEAR LEADERSHIP

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. WYDLER. Mr. Speaker, the Christian Science Monitor published an editorial on November 1 entitled "For Nuclear Leadership" which is a most sensible position that should be brought to the attention of all Members of the House.

The editorial grasps the key message of the Kemeny Commission report, that is,

The United States, if it continues to pursue the development of nuclear power, cannot do so entirely without risk and, if this risk is to be kept to tolerable levels; there have to be major institutional changes in the nuclear energy industry.

It also takes the position that the review of existing power plants with respect to safety risk should certainly be made on a "case-by-case basis."

I was pleased to note that, as our own Committee on Science and Technology hearings concluded,

The recent significant findings of the Commission's probe is that the major cause of the Three Mile Island accident was not the deficiency in the equipment design but the failure of the people involved.

It is important that the Members of the House understand that the Nuclear Regulatory Commission needs some months to get itself together but at the same time the nuclear industry is aggressively moving out to improve the institutional mechanisms by which safety problems are considered through the new Institute on Nuclear Power Operations. As a result of this two-pronged effort, to restructure the responsible Government body while the industry takes on a strong policing action with respect to nuclear utilities, there is no need for a congressional moratorium.

Such action is being proposed in the form of the Markey and Weaver amendments to the Nuclear Regulatory Commission Authorization, H.R. 2608, scheduled for floor action this week. I trust that my colleagues will not give the international community, this country, or the nuclear industry the wrong signal by calling for a moratorium.

We have learned the lessons from Three Mile Island, let us move out smartly on implementing what we have learned.

The editorial follows:

FOR NUCLEAR LEADERSHIP

One overriding message emerges from the Kemeny commission report on the nuclear accident at Three Mile Island. The United States, if it continues to pursue the development of nuclear power, cannot do so entirely without risk and, if this risk is to be kept to "tolerable levels," there have to be major institutional changes in the nuclear energy industry. President Carter and Congress will need to follow through swiftly on this broad recommendation if they are to assure the American people that present nuclear power generation, let alone expansion of it, is desirable. Failure to do so can only fuel the efforts of those scientists, environmentalists, and others who would call a halt to all nuclear development. The economic cost of this could prove high.

It is not only the construction of new power plants which must be addressed—and here Americans will be sobered by how close the commission came to recommending an outright moratorium. The public is also bound to ask questions about the 70 some nuclear plants now in operation. Are the safety risks at these within tolerable limits? It would be overreacting to suggest that all these facilities be shut down until this can be thoroughly ascertained, a drastic move which could entail unacceptable economic dislocations and hardship. But it seems to us the U.S. Government could institute a case-by-case review of existing plants—their design, siting, training programs, emergency procedures, management methods—and relicense them if satisfactory. In fact there perhaps ought to be periodic recertification of nuclear plants to assure fullest compliance with upgraded safety standards.

As for the Kemeny commission's broad recommendations, these ought to be carefully studied and pursued. It makes sense, for instance, to grant operating licenses for nuclear reactors only after the federal government has approved state and local emergency plans, and after the plants have been reviewed for safety improvements, competence of their training program, siting away from population centers, and so on.

There also can be no quarrel with the recommendation that reactor operators be given much more rigorous training than they have to date. Perhaps the most significant finding of the commission's probe is that the major cause of the Three Mile Island accident was not the deficiencies in equipment design but the failures of the people involved—the way plant operators and later the Nuclear Regulatory Commission reacted. It is clear that, to bring about the radical change in attitudes toward nuclear safety which the commission says is needed, there will have to be a substantially higher level of education.

Major changes will also have to take place at the NRC but whether that agency should actually be abolished and replaced by an independent agency as the presidential commission recommends is open to debate. Following the NRC's poor handling of the Three Mile Island crisis, a good case can be made that new leadership is needed at the NRC. A bolstering of its inspection and enforcement branches and some structural changes also may be warranted. But the NRC itself is the product of a reorganization and, as we have seen from the establishment of the new Department of Energy, mere organizational changes do not automatically promise efficiency and effectiveness. This will have to be looked at carefully.

But looked at it must be. It will not please the President or the Congress that, amid all the other burning issues which must be dealt with, and dealt with in an increasingly politicized atmosphere, the question of nuclear safety is now added to the agenda. This is a volatile issue. But inasmuch as the

United States now depends to a degree on nuclear power to meet its energy needs, it would be disserving the national interests not to give the Kemeny commission report the highest priority.●

EVELYN BAUGH NAMED TEACHER OF THE YEAR

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. HOPKINS. Mr. Speaker, all too often these days, we hear sad tales about the decline of our educational system in this country. We hear about plunging test scores on the one hand, and about U.S. Army training manuals being rewritten to a fourth grade reading level, on the other.

Fortunately, however, in the midst of all this doom and gloom, shining stars sometimes show through. One such shining star is Mrs. Evelyn Baugh of Lexington, Ky., who has just been chosen Fayette County's teacher of the year.

Mr. Speaker, I would like to add my congratulations to those of her family, friends, students and former students; and at this point, I would like to share with my colleagues two local newspaper articles which tell the story of this remarkable woman who has served the students of Fayette County so well for 20 fulfilling years.

The articles follow:

PERSONAL TOUCH PAYS OFF FOR TEACHER OF THE YEAR

(By Judi Joseph)

A part of children's summer vacation from school is wondering what kind of teacher they will have in the coming year.

Children entering Evelyn Baugh's third grade class at Lansdowne Elementary School this year didn't have to wonder long. Mrs. Baugh made a special trip to the home of each of her students this summer to visit with them and their parents.

It's that kind of special attention that earned Mrs. Baugh the title of "Fayette County Teacher of the Year" for the 1979–80 school year.

Mrs. Baugh was selected by a committee of teachers and administrators after being nominated by Lansdowne principal James Wyrick.

Mrs. Baugh, 43, has been teaching 21 years, 19 of those years in Fayette County. A native of Radford, Va., she earned her teaching degree from Radford College and taught two years in Virginia before coming to Fayette County. From 1960 to 1966 she taught at Athens Elementary, and moved to Lansdowne when it opened 13 years ago.

Despite her new title, Mrs. Baugh says she doesn't think of herself in terms of the word "teacher."

"Teachers should be guides and resource people," she explained while sitting at her desk after her students had left for the day. "The children should be responsible for their own education.

"I ask them, 'Who is in charge here?' They guess the superintendent, the principal, the teacher. But I tell them they are in charge. It's up to them to determine what they want to get out of their education here," she said.

While Mrs. Baugh supports teaching basic educational skills, such as reading and math, she also emphasizes development of the whole person.

"I hope I can teach children to grow in their own respect for themselves and develop a good self-image," she said. "I feel each child is unique in his or her own rate and pattern of mental, physical, social and emotional growth. Learning is enhanced when each child is placed in a situation where they can experience success."

To encourage self-respect and respect for others, Mrs. Baugh lets the children handle much of the classroom chores. The children appoint responsible students to such tasks as handing out papers and workbooks and being classroom leader, the one who lines everyone up to go to lunch.

When a student fails in his duty or violates another student's rights, it is the children who determine how the student should be disciplined, Mrs. Baugh said. For example, if a student is noisy and disturbs other children—but does not become quiet after two reprimands from the teacher—the children may decide that the noisy one should lose his playtime privileges for a day.

"I try to develop a feeling of being important and functioning maturely in each child," she said. "With that control I can begin to work more with the needs of individual students."

To encourage progress, Mrs. Baugh writes out notes to each student every night praising them for good work and suggesting ways they can improve certain skills. She estimated she works about three hours a night grading papers and making lesson plans.

Mrs. Baugh said she realized she was taking time away from her husband Robert, a local insurance representative, by bringing work home. "I could give the kids 'busy work' and get my work done at school, but when you see an opportunity for learning, you have to grab it when it occurs."

Mrs. Baugh said a problem nowadays is "the number of single-parent homes where parents are under so much pressure and don't have enough time to spend with their children." But she doesn't hesitate to get parents involved.

Parental support is "the key to a successful year," she said. "With the cooperation of parents and open communication between parents and the teacher—as a team—they can more nearly meet the needs of the child."

Parent participation can be seen in Mrs. Baugh's colorful classroom and throughout the school building at 336 Redding Road. Posters and charts made by parent volunteers line the walls. A mural of an old oak tree covers a section of a wall in Mrs. Baugh's classroom, painted by the parent of a former student. Hanging plants decorate corners of the room.

The school day isn't all hard work for the 28 students in Mrs. Baugh's classroom. If the students complete their duties, they can go back to one corner of the classroom and play games. Or they can nestle down into comfortable couches and read a book.

TEACHING IS LEARNING ABOUT RESPONSIBILITIES, WITH LOVE, EDUCATOR SAYS

There's something special about a teacher who spends her summer days visiting the homes of the students she'll have that fall and her winter nights writing notes to those same students, explaining areas of weakness and giving suggestions for improvement.

And the local public schools chose to reward Evelyn Baugh's special qualities by naming the 22-year veteran educator Fayette County Teacher of the Year.

Mrs. Baugh, 43, is a third grade teacher at Lansdowne Elementary School, 336 Redding Road. She has taught for 20 years in Fayette County public shools. Fourteen of those were spent as Lansdowne.

Mrs. Baugh is proud of her ability to maintain classroom control. She says her teaching philosophy doesn't fit into either extreme—traditional or modern—but falls somewhere "in the median, though I try to update my techniques, styles and methods."

Relying heavily on the 3 R's, "not reading, 'riting and 'rithmetic but rights, relationships and responsibilities," Mrs. Baugh said she loves the challenge of "setting up a classroom environment in which children can attain without having too many failures."

"Even young children can recognize the rights they have in a school and the rights of their peers.

"As a pupil, each person has specific rights: the right to learn, the right to privacy in the classroom, the right to playtime, and I could go on and on."

The second R—relationships—is attained by teaching students that "peace within our nation is built on relationships between people in our society. If he or she wants to be a responsible person, they must learn to respect other people regardless of race, color or creed," Mrs. Baugh stressed.

"(Also), pupils can take responsibility for their actions when guided to do so," Mrs. Baugh said.

She believes in helping students get the tools they will need to face life as adults. She strives to see them "equip themselves with discipline, to think critically and to evaluate themselves and their place in the world."

The award winning teacher hopes the children in her classroom understand that there is value in every person. "It's not what you can do to please someone. It's just in being. Just because you are a person, you are important."

One of her teaching techniques enables her to do something many teachers probably would never dare—accentuating and emphasizing the differences in students.

Very often she asks her students, "How do people differ?" Mrs. Baugh encourages them to look at each other for differences.

After discovering the variations, sometimes for the first time, she said students consistently say, "we're all different. And, no, that's not bad, that's fine."

Mrs. Baugh rarely raises her voice in the classroom. "The clicking of my fingers is the only means of discipline I use." She feels that the "yelling and continual boisterous attitude of some teachers is lording over people."

"I want students to obey because they want to obey and because they can control themselves. I could leave my room (students unattended) for two hours and no one would know. There would be no misbehavior because they love me and they know that I love them and they would do anything to keep from disappointing me."

Mrs. Baugh noted that education is returning to the basics after, "I've seen it run the gamut from the open classroom, multi-age groups, team teaching, non-graded schools and free choices in curriculum."

The back-to-the-basics thrust, she said, was initiated when those connected with school systems began noticing a decline in basic reading and math skills.

Mrs. Baugh said the parents of her students support her. She visits the home of each child before school starts in order to get "insight into the family and knowledge about the child."

After the summertime home visits, "I say to the parents in writing within the second week of the school year what their child's weaknesses and strengths are and my plan for them. I also tell them what they can do to help."

In addition to the correspondence with parents, Mrs. Baugh often spends her nights writing each student a note of classwork evaluation, telling them "how well I think they handled their time, whether they met the purpose of the assignment, what they did wrong and how they can improve."

She sees her award as "an honor to my profession."●

FREEDOM FOR SOVIET NATIONAL GROUPS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. MICHEL. Mr. Speaker, in one of those happy coincidences that happen from time to time, I recently have come across three articles, appearing in three different publications, each dealing with the question of national groups in the Soviet Union.

The most recent of these articles appeared in Business Week. Briefly, the author, once director of the State Bank in Czechoslovakia and now a professor emeritus of economics in the United States, says the United States must create a strategy of freedom. By this he means we must support the self-determination of national groups now controlled either directly or indirectly by the Soviet Union.

Usually when such a strategy is mentioned there is a feeling that such a move can be dangerous and perhaps lead to war. But the Soviet Union openly and proudly boasts of its "right" to support what it calls "liberation groups." Why do we not have the same right?

Why do we not at least investigate the possibilities of developing information and communication policies that will let the various national groups know we support self-determination?

I see nothing warlike in this. Indeed, it is precisely our refusal to counter the Soviet strategy of revolution with our own strategy of freedom that has led to our current low state of military and—what is equally important—psychological readiness. In short, we are more in danger of drifting into war through indifference or fear than we would be if the Soviet Union knew we believed enough in our principles to put them into practice.

Here are three suggestions for such a strategy:

First. The United States should increase the quantity and quality of our international broadcasts over the Voice of America, Radio Liberty, and Radio Free Europe. This does not mean we have to use "hawkish" or provocative language—but it does mean that both directly and indirectly millions of listeners in Eastern Europe and the Soviet Union should know that we support the right to self-determination as one of the primary human rights. Just by expanding our broadcast time we could have a beneficial result, as the various national groups learn that we care.

Second. The President should appoint a study commission composed of experts in foreign policy and international communications and members of various ethnic groups to come up with some specific suggestions as to how we might implement this strategy. I share with many a distaste for Presidential commissions because their conclusions are usually the product of group consensus and mean nothing. But surely we can find a group of knowledgeable and imaginative Americans capable of offering specific suggestions for a strategy of freedom based on American principles, cognizant of the realities of international relations in a nuclear age and competent enough to differentiate between irresponsible schemes and courageous and dynamic policies.

Third. The Soviet Union's rulers should be told by the President that since they openly proclaim their right—as they see it—to aid so-called national liberation groups wherever and whenever they want to, we are going to do the same. When they stop, perhaps we will stop—but not before then.

There are other ways of approaching this issue and I hope to hear from many of our colleagues with suggestions. I hope they join with me in supporting a new policy of positive, confident, bold, courageous international relations based on the American principles of dedication to human rights and self-determination.

As this point I insert in the RECORD, "A U.S. Strategy to Stop the Soviets" by Eugene Loeby, "Business Week," October 29, 1979:

A U.S. STRATEGY TO STOP THE SOVIETS

The foreign policy of a world power such as the U.S. can be successful only if it has a clear strategic goal and subordinates lesser interests and tactics to long-range strategy. While shifting its tactics and masking its true aims, the Soviet Union has a long-term strategic goal that it pursues ruthlessly and relentlessly. The Soviet Union has reverted from a Communist revolutionary state to a classically imperialistic state. Marxist ideology has become a convenient tool to disguise the traditional expansionistic aims of the Soviet elite.

Although the U.S. and the Soviet Union are frequently compared in cocktail party conversation, the fact is that the two superpowers are dramatically different. The Soviet Union is clearly inferior in terms of power (especially the power to attract masses of people by persuasion rather than by force), yet because it is constantly on the offensive and the U.S. policymakers are often befuddled, the Soviet Union has more than made up for its deficiencies. It has repeatedly created crises that are generally consistent with long-term Soviet strategic goals, forcing the U.S. to react on an ad hoc basis to each Soviet tactical move. It is no surprise that, lacking a thought-out strategy of its own, the U.S. comes out the loser in so many of these conflicts.

The U.S. has a great potential over the Soviets, in that, unlike the Soviet Union, it can "go public" with its strategic goal. That goal—promoting human freedom—is consistent with American public opinion and with the deep-seated sentiments of masses of people throughout the world, and it most definitely includes support for the fundamental concept of self-determination of peoples. If the U.S. championed self-determination, it would present a serious challenge to Soviet imperialism and dramatically change the way the world situation is perceived by millions of people.

A TWO-PART 'MONOLITH'

The West is guilty of a fundamental error in viewing communism as monolithic. History has shown that it is not, and through support for self-determination, the West can exploit the fissures within the so-called "monolith." The underlying conflicts within the Communist world (particularly nationalistic conflicts) can be used to blunt the power of Soviet imperialism and thus reduce the chances of a Third World War.

Even within the Soviet Union, the seeds of conflict (and not just nationalistic conflict) exist. As far back as the 1920s, when the first Five-Year Plan was instituted, there was a conflict within the Soviet elite concerning two divergent economic paths. One, the victorious Stalinist path, favored support for heavy industry to increase the nation's war-making potential. The other, more consumer-oriented (or "Western") approach, emphasized developing a consumer-oriented society to satisfy the needs of the broad mass of people.

While holding down the satisfaction of consumer demands (the Soviet standard of living is below that of most of Eastern Europe), the Soviet elite spends spectacular amounts to maintain its military establishment. It is estimated that the U.S. spends about 6 percent of its gross national product (GNP) for military purposes. Its allies spend less. By contrast, the Soviet Union spends an estimated 15 percent of its GNP on the military, and there are additional costs that are hidden from Western intelligence. For instance, when I headed the State Bank of Czechoslovakia, using Eastern bloc accounting procedures and methods, we estimated that as much as 30 percent of the Soviet Union's GNP was actually devoted to military activities.

MILITARY SPENDING

Since Stalin's time it has been official Soviet policy to subordinate national aspirations to the "needs of the revolution." Of course, the "revolution" was identical with the Soviet elite's quest for power, so it was not difficult for the Soviet elite to equate nationalism with subversion and treason and to subject it to the harshest oppression.

But the suppression of nationalism, within the Soviet Union itself and among the subject nations of the Eastern bloc, has created a great deal of stress within the system.

If the current Western policy of détente-appeasement were replaced by a policy based on the inevitability and validity of the self-determination of peoples, there would be a tidal shift in political sentiment throughout the Eastern bloc. Nationalistic forces throughout the Soviet Union and the Eastern bloc would be immeasurably strengthened by this shift in Western policy.

Clearly, the West must build its military strength to discourage Soviet adventurism and make any open Soviet move against Western Europe militarily unpalatable. Concurrently, through championing the cause of self-determination, the West can unleash a torrent of human sentiment that will erode the foundation of the Soviet empire.

It is essential that Western leaders realize that nationalistic aspirations do not assure democracy, capitalism, or other features of Western political systems. The West can count on only two results from a policy of self-determination: one, people in given nations will be free from foreign domination so that they can work out their own political and economic arrangements and, two, such independence forms a bulwark against Soviet imperialism, which is the major threat to freedom throughout the world. Before the people of any nation can build a free society for themselves, they first need to throw off the bonds of foreign oppression. It is this first, fundamental goal of self-determination that the West should work for, in its own ultimate self-interest.●

THE INTERNAL REVENUE SERVICE'S POWER TO LEVY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing a bill which will require the Internal Revenue Service to obtain a court order before it may seize a citizen's property for the payment of taxes.

Under the present law, the Internal Revenue Service may now seize a person's property without such an order. Title 26, subsection 6331(b) of the United States Code, defines the power of the Internal Revenue Service to levy as the "power of distraint and seizure by any means." I believe that the scope of this law is too broad and too vague and therefore in some instances, allows the Internal Revenue Service to seize property through the use of methods that could be described as unlawful.

I wish to bring to the attention of my distinguished colleagues an incident which occurred in Fairbanks, Alaska, recently. Two of my constituents had their property seized in a manner which graphically illustrates the potential for the abuse of these powers. If this would have been done by any other law enforcement agency, the outcry would have been heard all the way to Washington.

Mr. Speaker, I do not believe the citizens to which I refer were blatantly trying to defy the law. I believe they acted in the only manner they saw fit; believing at that time that the Internal Revenue Service was acting outside of their statutory authority. It was to their utter amazement that the Internal Revenue Service was not required to obtain a court order prior to seizing their property.

I further wish to state for the record that it is totally beyond my comprehension how this body could have granted such broad statutory authority to this Government agency, especially when it is in direct violation of the Fourth Amendment of the United States Constitution, which provides that:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Law enforcement agencies are presently required to adhere to this most specific clause. There is absolutely no reason to exempt the Internal Revenue Service from the same requirement.

Mr. Speaker, my bill would rectify this serious mistake and protect our citizens from this type of search and seizure without warrant and due process of law.●

A FEDERAL OFFICE OF FAMILIES? WHAT NEXT, MR. CARTER?

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. ROUSSELOT. Mr. Speaker, only a few weeks ago in the name of "consolidation," this Congress authorized the creation of a new, costly Federal agency, the Department of Education, which will operate on a yearly budget of at least $14.5 billion and employ a minimum of 18,000 employees. This new DOE follows in the footsteps of the first DOE—the Department of Energy—which was created under the Carter administration 2 years ago. We all know what the Department of Energy has accomplished. Remember those gasoline lines? With no reasonable explanation for the state of its own inadequacy to find workable programs to restore confidence that this Nation will have adequate fuel and energy supplies even for this coming winter, this agency had, in its short lifetime, doubled its annual expenditures from $5.2 billion in fiscal year 1978 to an estimated $10.0 billion in fiscal year 1979.

Now, I ask my colleagues, does this seem representative of Carter the candidate who promised to cut back Government regulation and redtape? Does bureaucracy superadded to bureaucracy cut back on the wasteful Federal spending that is fueling inflation, lessen controls over the lives of individuals and private enterprise, restore authority to the State and local governments which are restrained, repressed and hampered by complicated and excessive Federal rules and regulations?

The fact is, President Carter has established a policy of more and more Government management over the personal lives of each and every American family. Mr. Carter has now endorsed a new plan to create an Office of Families within the area of Health, Education, and Welfare, the new name of which we now understand will be the Department of Health and Human Services. Does anyone even ask what the cost is to the taxpayers just to go through the procedures of a name change, this is stationery purchase and miscellaneous expenses to reclassify all the various sections and personnel?

Apparently, it is the President's opinion that big Government, not parents or church, can best cope with the problems of family life. Will his proposed Office of Families regulate the number of children and of which sex will be allotted to each family, govern their social lives and set formulas for the sharing and distribution of family love as the Department of Energy did with gasoline supplies?

The Cincinnati Enquirer, in an October 18 editorial, published an excellent editorial in opposition to Mr. Carter's insidious plan. I submit this article as a word of caution for the consideration of my colleagues in the House of Representatives who may be asked to vote on such a proposal.

The article follows:

THE FAMILY—PRESIDENT CARTER COULD DO IT SERIOUS INJURY

President Carter has become an unfortunate parody of himself.

His newest proposal to make good his promise of a government "as full of love as the American people themselves"—an Office of Families in the Department of Health, Education and Welfare—is morally repugnant to those who genuinely care about the sanctity of the American family.

The President's notion is absurd on its face. "Many families have been strained to the breaking point by social and economic forces beyond their control," the President said in Kansas City the other day. "Some indeed have broken." What he failed to say is that it is government taxation and government inflation that have created the "economic forces beyond" the control of most American families.

The American family is too important to to the very fabric of this society to let it become the plaything of a liberal, activist bureaucracy, a pork-barreling Congress, a judiciary out of touch with mainstream America, and an executive in desperate search of re-election.

Who can resist the temptation to suggest that the Office of Families (OOF) could become the moral equivalent of OSHA, the Occupational Safety and Health Administration, or EEOC, the Equal Employment Opportunity Commission. Would we have unannounced, unwarranted investigators peering into the kitchens, the parlors, the family rooms and the bedrooms of American homes? Do we have an equal number of male and female children here? Is love adequately distributed amongst all the members of the family? Did you wash behind your ears? Have you spent 20 hours and this week filling out the proper government forms, in triplicate? Is this family represented by counsel?

If we have learned our lessons from Washington, it is that whenever government finds the excuse, it grows bigger on its own momentum. This is one more example in that vein. And we would have Mr. Carter to thank.●

HAPPY BIRTHDAY GOLDEN RAIN NEWS

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. LUNGREN. Mr. Speaker, the Golden Rain News of Leisure World Seal Beach was 16 years old on Thursday, November 8, 1979.

Owned by residents of Leisure World Seal Beach, the newspaper is an unsubsidized, community paper which has more financial advertising than any other newspaper of its size in the Nation. Highly regarded by its competitors, the newspaper enjoys a 95 percent subscription rate in the Leisure World community.

I wish to congratulate Marj Shippey, manager of publications; Margaret Newhose, editor; and Bill Williamson, advertising manager, for the high quality publication they produce.

I also extend my congratulations to President George H. Supple, of the Golden Rain Foundation, and Administrator Jack O. Davis, for making possi-

ble such an excellent example of media.●

ACID RAIN BILL—H.R. 5764

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. VENTO. Mr. Speaker, earlier I explained the general environmental problems caused by acid rain not only in this country but throughout the industrialized world. Acid precipitation, as many of you are already aware, results when sulfur dioxide and nitrogen oxides combine with water in the air and are chemically changed into acids which drop to the earth mixed with snow or rain. Today, I wish to cite the devastating effects acid rain can cause in a specific area—the Boundary Waters Canoe Area.

As my colleagues will remember, 1 year ago we determined the management policies to best protect the resources of the Boundary Waters Canoe Area Wilderness in northern Minnesota. During that time, a more insidious threat was being studied by scientists. Studies by both the United States and Canada have confirmed that the acid rains that fall in northern Minnesota are killing many of the lakes in the only large lakeland unit of the U.S. wilderness system—the BWCA. The first lake is expected to "die," that is, lose its aquatic life, in 7 years.

The acid rains also threaten:

The area's thin, sensitive soil;

The region's two dominant trees, the white pine and the trembling aspen;

Lichen species, which are the principal plant cover on 5 percent of the region's land;

Various insect groups, including some bees, wasps and beetles.

Another factor that worries scientists is that acid rain also increases the accelerate accumulation of mercury in fish. Many lakes in northeastern Minnesota would then contain fish that exceed FDA limits on mercury for human consumption.

The Canadian study went on to say that the average BWCA lake will probably die in about 85 years. How soon a lake dies will depend on its size and depth, the distance from sources of pollution, and variations in the surrounding and underlying soil and rock.

Acid rain has about the same pH, or acidity, as lemon juice. It becomes a serious threat only in areas that are short on buffering agents in the rocks and soil. Unfortunately, the BWCA and the adjacent Voyageurs National Park are such areas. They have thin soil and granite bedrock, a combination that provides little buffering ability. In time a lake's ability to neutralize acids can be used up and the water will increase in acidity. This interrupts fish production and at higher concentrates can kill fish. Agricultural lime has been applied to some lakes to provide a buffer, but in areas like BWCA, which has such a large number of lakes, it is not considered practical in the long term.

The existing nitrate and sulfate pollution in BWCA is caused by local cities as close as Duluth. It is also carried in by weather systems from as far away as Detroit, St. Louis, Chicago, Cincinnati and Pittsburgh. But as my colleagues know, pollution such as acid rain has no boundaries.

Recently, Ontario Hydro, a Canadian Government utility, decided due to increased U.S. pressure to cut the size of the proposed Atikokan powerplant in half to 400 megawatts and to delay completion until 1988. This powerplant will be about 35 miles north from BWCA. Their decision to reduce the scale of the plant will certainly not totally solve the problem.

According to the EPA study about half the sulfates and most of the mercury from the Atikokan plant would be loaded onto the area in the wintertime. This would increase the danger that concentrated doses of acid could be delivered to fisheries during spring snowmelts. Some lakes are already so sensitive that the acid could completely use up their buffering capacity.

So colleagues, as the present BWCA battle against acid rain so clearly shows, this problem is not only a national but international issue. To answer the many questions that still exist as to the source, impacts and solutions of the acid rain problem, I have introduced with Mr. LAFALCE and Mr. OBERSTAR H.R. 5674. Hopefully, this bill will give us a better understanding of the problem and more knowledge to implement needed remedies.

There is an increasing amount of awareness concerning acid rain shown by the recent ASAP (Action Seminar on Acid Precipitation) Conference in Toronto on November 1–3. Approximately 800 citizen activists unanimously approved a resolution that states their concern over the acid rain problem. I wish to bring to the attention of my colleagues a copy of the following resolution.

The resolution follows:

REVISED RESOLUTIONS

Whereas acid precipitation has caused marked and dramatic damage to ecosystems and regional economies, rendered hundreds of lakes lifeless, decimated sport fisheries, impaired visibility, and threatened agriculture, tourism and forest industries and the public health and welfare of citizens throughout North America; and

Whereas existing atmospheric loads of sulphur and nitrogen oxides are directly contributing to dry deposition and rain and snow fall at least 50 times more acidic than normal, with isolated episodes reaching thousand fold increases in acidity; and

Whereas acid precipitation and its damages will continue to escalate as Canadian and U.S. industries shift toward a greater reliance on coal; and

Whereas existing air quality standards and legal requirements are clearly inadequate to control acid precipitation, having allowed the sharp increase in long-range pollution over the last two decades; moreover, federal, state, and provincial governments, especially in the Ohio River valley and Ontario have failed to take adequate control actions; and

Whereas both the U.S. and Canadian governments have recognized the need for a cooperative approach to this international problem; but have not yet agreed on specific terms to further regulate sulphur and nitrogen oxide emissions.

Therefore, the citizens participating in this ASAP conference resolve:

That each country must immediately adopt and implement a control policy for both new and existing sources to reduce the overall atmospheric loads of sulphur and nitrogen oxides to less than 50 percent of present levels within ten years, with regular incremental reductions during that decade.

That national energy policies are critical to curtailing acid precipitation, with special emphasis placed on:

(a) Energy conservation and renewable energy resource development as the highest priority;

(b) The use of natural and unconventional gas as a preferred substitute for oil in the transition period;

(c) The direct use of coal encouraged only in utility and industrial boilers with best available control technology.

(d) The conversion of existing facilities from oil to coal only where the resultant emission rates will not increase.

That the international treaty now under negotiation by Canada and the U.S. must establish the goal of reducing transboundary and regional air pollution levels through the adoption and enforcement of stringent emission control strategies.

That the participants are committed to seeing that this treaty is enforced, and that a commission of citizens from both countries should be established to monitor and report publicly on each country's record of compliance.

That research not be a substitute for immediate control action but that investments by both countries be increased particularly with regard to the economic and other effects of acid precipitation and associated pollutants on materials, drinking water quality, crops forests, rangelands, and aquatic ecosystems.

That both governments educate the general public, and especially the threatened agricultural, tourist, and forestry industries, about the dangers of acid precipitation and encourage public participation in government decision making.

That new emission standards must emphasize presently available control techniques, such as coal pre-washing, use of low sulphur fuels, flue gas desulphurization and denitrification; and furthermore, that techniques to disperse emission in space or time, such as increased stack height and intermittent control systems should be prohibited.

That each country adopt special siting and control policies and standards to preserve and protect existing pristine air quality parks and wildernesses.

That workers can and must be protected from choosing between their jobs and a healthy environment.

That federal, provincial, and state governments participate in all available legal actions which will reduce sulphur and nitrogen oxide emissions and acid rain.●

PERSONAL EXPLANATION

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. BALDUS. Mr. Speaker, on Friday, November 9, I missed several votes. Had I been present, I would have voted as follows:

Rollcall No. 642. On agreeing to resolution to consider solar power satellite R. & D., H.R. 2335. "Yes."

Rollcall No. 647. On agreeing to conference report on H.R. 4930, fiscal year 1980 Department of the Interior and related agencies appropriations. "Yes."

Rollcall No. 648. On receding from its disagreement and concurring with specified Senate amendments on H.R. 4930. "Yes."

Rollcall No. 649. On agreeing to a motion that the House adjourn from Friday until noon on Tuesday, November 13. "Yes."●

THE FTC SIDE OF THEIR INVESTIGATION OF JS&A GROUP, INC.

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. SCHEUER. Mr. Speaker, last week, on the eve of the scheduled House vote on FTC, an ad appeared in the Washington Post and the Wall Street Journal which made serious allegations regarding the FTC's investigation of JS&A Group, Inc. As you know, it has become very popular to make charges of abusive actions on the part of the Commission and its staff.

In an effort to obtain the complete story regarding this allegation, I requested the FTC to provide me with the facts of its investigation. After reading the following reply, I am convinced that the Commission is acting properly in this matter.

Of particular note is FTC's statement that this firm has had a pattern of violating the Mail Order Rule for 2½ years before the fateful snowstorm. Numerous complaints were received from its customers regarding delays in mailing the articles ordered and failure to refund money to customers who were dissatisfied with the merchandise.

Please read the following FTC letter. I am sure your reaction will be the same as mine—this is not a case where a small businessman is caught up in the bureaucratic nightmare.

The letter follows:

FEDERAL TRADE COMMISSION,
Washington, D.C., November 6, 1979.

HON. JAMES S. SCHEUER,
Chairman, House of Representatives, Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR CONGRESSMAN SCHEUER: The Commission has asked me to respond to your request for information concerning the Commission's investigation of JS&A Group, Inc. As you know, the Company's president, Mr. Joseph Sugarman, placed advertisements in today's Washington Post and Wall Street Journal which discussed the existence and nature of the investigation. Essentially, Mr. Sugarman alleges that all of JS&A's consumer problems resulted solely from a breakdown in its computer capabilities and a series of blizzards in early 1979.

Although staff intends to continue this non-public investigation in accordance with the Commission's Rules of Practice and Procedures, I believe that certain information concerning the investigation should be available to you in light of Mr. Sugarman's statements. I want to stress, however, that this case is still in the investigative stage, and that the Commission has taken no position on its ultimate merits. If staff ultimately recommends a formal civil penalties complaint for action by the Commission, a matter on which there has been no final staff determination, the Company will have ample opportunity to make its views formally known to the Commission.

The investigation of JS&A Group, Inc., a mail order marketer which sells relatively high-priced consumer products and advertises heavily, centers on the Company's compliance with the "Mail Order Rule" (16 C.F.R. Section 435), promulgated by the Commission in 1976. Generally speaking, the Rule simply provides that when a delay of over 30 days in shipping a consumer's order will occur, the consumer must be notified and provided with an option to cancel the order and receive a refund. It does not require that the seller ship goods to consumers within 30 days of receipt of their order. The rule was prompted in part by considerable evidence, developed on a rulemaking record, that some mail order companies would receive orders from customers, cash the enclosed checks and then simply delay shipping the ordered product—without notifying consumers, or giving them a chance to receive their money back. The White House Office of Consumer Affairs reports that in 1975 mail order complaints were second only to auto repair in terms of consumer complaints. It has remained the number two complaint, with its percentage increasing.

Concerning staff's investigation of JS&A Group, staff has compiled considerable information to give it reason to believe that the company was in widespread violation of the Mail Order Rule's requirements for approximately two and one-half years before its computer problems in late 1978 and early 1979. In response to approximately 75 consumer complaints about JS&A Group's failure to comply with the Commission's Rule, staff asked to inspect those company records which would indicate whether it was responding to consumers within the required 30-day period. Although JS&A was served with a copy of the Mail Order Rule in July, 1976, JS&A Group's own records indicated violations of the Commission's Rules for a period dating back to 1976.

Staff also has reason to believe that during the following two and one-half years, JS&A Group apparently failed to implement a procedure which would ensure that its customers would be protected under the Commission's Rule. In addition, the staff investigation indicates that during the period when the company's computer problems occurred—a period when the company apparently knew that it could not process orders in a timely fashion—it nevertheless failed to notify consumers of their rights under the Mail Order Rule and the company apparently continued to accept orders and to cash checks from consumers.

The company's computer breakdown, therefore, relates to only a portion of the information that staff has and, in any event, is substantially irrelevant to the requirements of the Rule. The Rule provides that when a company cannot fill orders in 30 days, because of a computer breakdown or any reason, it simply must notify consumers of the delay and allow them to ask for their money back. Staff is not attempting to apply the Rule in a case where a business, through computer failures, was unable to ship within 30 days. Rather, the Rule assumes that understandable delays will occur, and simply requires consumers to be notified of that fact and their right to a cancellation or refund. We believe that, during this period, the company could have complied with the Rule simply by advising consumers, at the time their orders were received, of their rights under the Mail Order Rule. As you know, Mr. Sugarman asserts in his ad that the company did attempt to notify consumers. We have been unable to obtain any information to confirm this claim, and therefore cannot resolve this dispute on the basis of the information we now have. We are hopeful that documents in the company's files (and which are the subject of the subpoena) will aid us in assessing the validity of Mr. Sugarman's claims.

I think you should also know that the staff has uncovered additional information which tends to indicate that the company has violated another important provision of the law. JS&A Group has frequently offered its products on a "free 30-day trial period" with a right to "full refund." There have been complaints that on a number of occasions, about 75, the company has failed to refund consumers' payments until after outside agencies intervened on their behalf.

On the basis of this evidence of violations, the staff entered into negotiations with counsel for JS&A Group in an attempt to resolve this matter without litigation, as is our customary practice. When the negotiations were unsuccessful, the staff had no choice but to proceed with a further investigation and to subpoena documents which would be necessary in a civil penalty trial. In response to JS&A's Motion to Quash, the Commission limited the subpoena substantially, granting most of the objections. The staff intends to carefully analyze the subpoena return to make a final determination as to whether to recommend a civil penalty action to the Commission. As mentioned previously, the Commission will have any submission made by Mr. Sugarman and JS&A, as well as any staff recommendation, before it when it decides whether to proceed further.

We believe substantial consumer loss results from mail order practices that violate the Commission's Rule. We also believe that our investigations of such alleged violations are an important protection for those millions of consumers who purchase by mail.

We hope that this information is responsive to your request.

Sincerely,

ALBERT H. KRAMER,
Director.

MAIL ORDER FIRM EXPLAINS DISPUTE WITH FTC IN AD

(By Larry Kramer)

At first glance, the arguments are familiar: The company says the federal government is persecuting it, and the government agency says the company is cheating consumers.

But the case of the FTC vs. JS&A Group Inc. is far from normal.

The Chicago-based electronics products mail order house opened the first battle in what promises to be an interesting war with a quarter-page advertisement in The Washington Post and The Wall Street Journal yesterday.

"You've heard of the tax revolt. It's about time for an FTC revolt. Here's my story and why we've got to stop federal bureaucratic regulation," reads the ad.

"My story is only one example of how the FTC is harassing small businesses but I'm not going to sit back and take it," continues the text next to a photo of JS&A President Joseph Sugarman.

What follows is a detailed story in which Sugarman blames "three major blizzards" in the Chicago area in January 1979 and a computer failure for the inability of JS&A to fill its mail orders within the 30-day period mandated by the FTC.

Still, he said, the FTC investigated complaints from consumers claiming that they had not received their orders from JS&A.

"Despite our efforts to manually notify our customers of our delays, our computer was not functioning, making the task extremely difficult," the ad claims.

Then the FTC asked the company to pay a $100,000 penalty for not shipping its products on time.

"If this all sounds like blackmail—that's just what it appeared to be to us," the ad states and urges congressmen, senators and businessmen to "take the powers of the FTC from the hands of a few unelected officials and bring them back to Congress and the people."

The FTC, predictably, sees things differently.

In a letter sent yesterday to Rep. James Scheuer (D-N.Y.), chairman of the House Commerce subcommittee, FTC Bureau of Consumer Protection Director Albert Kramer responded to the advertisement.

"Although staff intends to continue this nonpublic investigation in accordance with the commission's rules of practice and procedures, I believe that certain information concerning the investigation should be available to you in light of Mr. Sugarman's statements," Kramer wrote.

Kramer first pointed out that the FTC doesn't require that a shipper sends goods within 30 days, only that it inform consumers when a delay of more than 30 days occurs, giving consumers the option to cancel.

"Concerning staff's investigation of JS&A group," he continued, "staff has compiled considerable information to give it reason to believe that the company was in widespread violation of (that) rule for approximately two and one-half years before its computer problems in late 1978 and early 1979."

Kramer went on to add that his staff has uncovered additional information that the company is violating another rule in some cases by failing to refund customer's payments even after offering its products on a "free 30-day trial period."

FTC REVOLT

(By Joseph Sugarman)

I'm pretty lucky. When I started my business in my basement eight years ago, I had little more than an idea and a product.

The product was the pocket calculator. The idea was to sell it through advertisements in national magazines and newspapers.

Those first years in the basement weren't easy, But, we worked hard and through imaginative advertising and a dedicated staff, JS&A grew rapidly to become well recognized as an innovator in electronics and marketing.

THREE BLIZZARDS

In January of 1979, three major blizzards struck the Chicago area. The heaviest snowfall hit Northbrook, our village—just 20 miles north of Chicago.

Many of our employees were stranded—unable to get to our office where huge drifts made travel impossible. Not only were we unable to reach our office, but our computer totally broke down leaving us in even deeper trouble.

But we fought back. Our staff worked around the clock and on weekends. First, we processed orders manually. We also hired a group of computer specialists, rented outside computer time, employed a computer service bureau, and hired temporary help to feed this new computer network. We never gave up. Our totally dedicated staff and the patience of many of our customers helped us through the worst few months in our history. Although there were many customers who had to wait over 30 days for their parcels, every package was eventually shipped.

WE OPENED OUR DOORS

During this period, some of our customers called the FTC (Federal Trade Commission) to complain. We couldn't blame them. Despite our efforts to manually notify our customers of our delays, our computer was not functioning making the task extremely difficult.

The FTC advised the JS&A of these complaints. To assure the FTC that we were a responsible company, we invited them to visit us. During their visit we showed them our computerized microfilm system which we use to back up every transaction. We showed them our new dual computer system (our main system and a backup system in case our main system ever failed again). And, we demonstrated how we were able to locate and trace every order. We were very cooperative, allowing them to look at every document they requested.

The FTC left. About one week later, they called and told us that they wanted us to pay a $100,000 penalty for not shipping our products within their 30-day rule. (The FTC rule states that anyone paying by check is entitled to receive their purchases within 30 days or they must be notified and given the option to cancel.)

NOT BY CONGRESS

The FTC rule is not a law nor a statute passed by Congress, but rather a rule created by the FTC to strengthen their enforcement powers. I always felt that the rule was intended to be used against companies that purposely took advantage of the consumer. Instead, it appears that the real violators, who often are too difficult to prosecute, get away while JS&A, a visible and highly respected company that pays taxes and has contributed to our free enterprise system, is singled out. I don't think that was the intent of the rule.

And when the FTC goes to court, they have the full resources of the US Government. Small, legitimate businesses haven't got a chance.

We're not perfect. We do make mistakes. But if we do make a mistake, we admit it, accept the responsibility, and then take whatever measures necessary to correct it. That's how we've built our reputation.

BLOW YOUR KNEE CAPS OFF

Our attorneys advised us to settle. As one attorney said, "It's like a bully pulling out a gun and saying, 'If you don't give me a nickle, I'll blow your knee caps off.'" They advised us that the government will subpoena thousands of documents to harass us and cause us great inconvenience. They warned us that even if we went to court and won, we would end up spending more in legal fees than if we settled.

To settle would mean to negotiate a fine and sign a consent decree. The FTC would then issue a press release publicizing their victory.

At first we tried to settle. We met with two young FTC attorneys and agreed in principle to pay consumers for any damages caused them. But there were practically no damages, just a temporary computer problem, some late shipments, and some bad weather. The FTC then issued a massive subpoena requesting documents that will take us months to gather and which we feel was designed to harass or force us to accept their original $100,000 settlement request.

Remember, the FTC publicizes their actions. And the higher the fine the more the publicity and the more stature these two attorneys will have at the FTC.

If this all sounds like blackmail—that's just what it appeared to be to us.

We did ship our products late—something we've admitted to them and which we publicly admit here, but we refuse to be blackmailed into paying a huge fine at the expense of our company's reputation—something we've worked hard eight years to build.

We're not a big company and we realize it would be easier to settle now at any cost. But we're not. If this advertisement can attract the attention of Congressmen and Senators who have the power to stop the harassment of Americans by the FTC, then our efforts will be well spent.

ALL AMERICANS AFFECTED

Federal regulation and the whims of a few career-building bureaucrats is costing taxpayers millions, destroying our free enterprise system, affecting our productivity as a nation and as a result is lowering everybody's standard of living.

I urge Congressmen, Senators, businessmen and above all, the consumer to support legislation to take the powers of the FTC from the hands of a few unelected officials and bring them back to Congress and the people.

I will be running this advertisement in hundreds of magazines and newspapers during the coming months. I'm not asking for contributions to support my effort as this is my battle, but I do urge you to send this advertisement to your Congressmen and Senators. That's how you can help.

America was built on the free enterprise system. Today, the FTC is undermining this system. Freedom is not something that can be taken for granted and you often must fight for what you believe. I'm prepared to lead that fight. Please help me.

Note: To find out the complete story and for a guide on what action you can take, write me personally for my free booklet. "Blow your knee caps off." ●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. CLINGER. Mr. Speaker, on November 9, 1979, I was absent from the floor of the House of Representatives as I was back in my district in Ridgway, Pa., conducting a Federal water and sewer conference. Had I been present, I would have voted in the following fashion:

Rollcall No. 642: H.R. 2335, solar power satellite. The House agreed to the rule (H. Res. 458) under which the bill was considered, "yea";

Rollcall No. 643: H.R. 2603, DOE national security programs. The House passed the measure to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, "yea";

Rollcall No. 644: H.R. 2603, DOE national security programs. The House agreed to a motion that the conference committee meetings on S. 673 be closed to the public at such times as classified national security information is under consideration, except that any sitting Member of Congress shall have the right to attend any closed or open meetings, "yea";

Rollcall No. 645: H.R. 2335, solar power satellite. The House agreed to resolve itself into the Committee of the Whole, "yea";

Rollcall No. 647: H.R. 4930, Interior appropriations. The House agreed to the conference report on the measure making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, "yea";

Rollcall No. 648: H.R. 4930, Interior appropriations. The House agreed to the motion that the House recede from its disagreement and concur with amendment, in Senate amendments, Nos. 1, 3, 17, 24, 30, 37, 38, 40, 48, 49, 50, 51, 52, 53, 56, 58, 59, 67, 74, 91, 94, 107, and 108, "yea"; and

Rollcall No. 649: Legislative program. The House agreed to a motion that the House adjourn from Friday until noon on Tuesday, November 13, "No." ●

THE "SECOND SOCIETY" IN COMMUNIST-DOMINATED EUROPE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. MICHEL. Mr. Speaker, there is one irrefutable and well-documented lesson that can be learned from this century: A Socialist economy simply does not work. There is no nation with a Socialist economy that has a higher standard of living, better productivity, and better quality and quantity of consumer products than nations with free enterprise economies.

These are facts that are so well known that we tend to forget them. But the people forced to live under socialism cannot forget the shocking failure of that kind of economic system. They have to live every day with the disasters of centralized planning and Socialist production methods.

How do they cope? They form what is called a second society just below the surface of the official society in which private initiative and freedom of expression substitute for Socialist planning and state control of media.

How successful are these second societies? To judge from a recent New York Times article they are quite successful and offer the citizens of Socialist countries the chance to use their talents and their energy to beat the system.

At this time I wish to insert in the RECORD "Second Society Grows in Europe," from the New York Times, November 2, 1979:

SECOND SOCIETY GROWS IN EAST EUROPE

(By David A. Andelman)

BUDAPEST.—On Garay Terrace in the heart of this Hungarian capital, small knots of people gather in the morning around poorly dressed and unshaven men who furtively display shopping bags containing cheap rings, trinkets, cigarettes and embroidered blouses.

The vendors are Poles, eager to earn forints that can be used to buy Hungarian rock records, shoes or dresses for resale for dollars on Poland's black market.

The Garay Terrace gathering is called "the Polish market," one of the unauthorized "gray" enterprises winked at by the Hungarian Government. In Poland, there is a black market in everything from Western currency to automobiles, refrigerators and even apartments.

Whatever it is called, it is part of a network, a second society that has arisen in the Soviet-bloc countries to fill the economic, social and cultural gaps that the hard-pressed official economic systems have been unable to close.

SOCIAL MOBILITY HAS DIMINISHED

The second society has developed as social mobility, the opportunity to move from countryside to city or from one occupation to another, has diminished. Prague, which is officially closed to migrants unless they have assured jobs and housing, is the most spectacular example of a freeze affecting all six East European countries—Hungary, Poland, East Germany, Rumania and Bulgaria as well as Czechoslovakia.

To a degree, the second society, which includes underground publishers, unauthorized theaters in living rooms and unofficial university and high school classes in blacked-out apartments, provides a means of spreading Western ideas and life styles. Increasingly, it is also used to develop indigenous economies and cultures differing from the Soviet model.

In the improved climate of East-West exchanges, some Western music, magazines, art and fashions have been accepted across Eastern Europe. But local, less orthodox forms of expression are still not accepted and are closely monitored by the authorities.

SOME SUBJECTS ARE STILL TABOO

"I can subscribe through official channels to Time magazine," said a Rumanian historian. "It is much more difficult to learn about a strike in the Jiu Valley coal mines within Rumania itself."

A 20-year-old economics student at the University of Warsaw observed that his teachers were happy to talk about the Israeli-Egyptian peace treaty but that he must visit a clandestine university to learn about such historical events as the Katyn Forest massacre of Polish officers by Soviet troops during World War II.

There have been crackdowns against dissidents, but the fact that such repressive measures are not more widespread underlines what even officials appear to recognize as the important role the second society has achieved in satisfying the needs of the people.

"Certainly they know what we are publishing, where we are printing and how we are distributing each of our publications," said an editor of an underground Czechoslovak publishing house that has issued more than 100 typewritten or mimeographed books over the last two years. "But they know that the consequences of a serious crackdown are far graver than whatever damage may result from ignoring us."

VARIETY OF INFORMATION SYSTEMS

Underground publishing is only a small part of the unofficial information network. This system, which involves cassette tapes, short-wave radios, and Western newspapers and magazine passed from hand to hand, is providing an increasingly open window on the West.

When Pope John Paul II visited Poland in June, his pronouncements were preserved on hundreds of cassette tape recorders, and pilgrims from across Eastern Europe carried the tapes back home, duplicating them and passing them from parish to parish.

Precisely how large a role the second society plays in the lives of people is difficult to gauge. In the case of Poland it is "staggering," according to Prof. Andrzej Korbonski, the Polish-born chairman of the Political Science Department of the University of California at Los Angeles.

Contributing last year to an anthology titled "Social Deviance in Eastern Europe," he wrote: "One can make the generalization that everybody in Poland who has the chance engages in a good deal of stealing, cheating and supplementing his or her income by illegal means."

The system involves second and third jobs, many performed for Western currency, which in turn may be used to buy luxuries. In Hungary, Poland and Czechoslovakia, the second economy has grown so dominant that many workers have come to devote more of their time and energy to that sector than to their regular jobs.

Construction workers in Czechoslovakia and Hungary are rarely found on their regular jobs past the noontime lunch break. They are off on their second or third jobs.

Complaining about the second society, Sandor Gaspar, the Hungarian union leader, who is a member of the ruling Politburo, said in an interview: "It is draining our economy, we must put a stop to this."

A Hungarian economist who is a member of the Central Committee disagreed. "We will never be able to replace this private sector entirely," he said. "It has become an integral part of our economy."

ABSENTEEISM CONCEDED IN PRAGUE

Last month, in a rare acknowledgment, the Prague radio said that the loss of time in Czechoslovak industry was 15 to 20 percent and on construction sites up to 40 percent. Most economists consider Czechoslovakia one of the more efficient East European industrial nations.

Professor Korbonski, estimating private hard-currency deposits in Polish banks at $150 million said: "It may be assumed that a sizable portion of that was acquired illegally. It may also be presumed that individual cash hoardings are considerably larger."

The second economy in most of these countries is perhaps the oldest and most developed of the unofficial networks. The efficiency of the supply system on the black market is astonishing when compared with the outdated, creaky methods of the official economy.

For example, a housekeeper in a Budapest hotel told how, despite recent police crackdowns, she was still able to order a new-model Soviet-built Lada automobile from a local underground supplier, delivery in one month, for a price 50 percent higher than the official price, cash in full on delivery.

A DEAL FOR WAITING LIST

Her supplier, to whom she cautiously introduced a Western correspondent, said that the system operated with the connivance of official dealers. They find customers who have been on a waiting list for two or three years, but who are willing, for a price, to give up their new car and begin the wait again.

To be able to pay as much as $15,000, say, for a Lada, a medium-sized Fiat, many take on several jobs or, perhaps, charge large sums under the table for their marketable skills. An American medical student in Bucharest, who worked closely with a leading Rumanian surgeon, told last year of having watched patient after patient slip thick envelopes to the surgeon for critical operations.

When consumer prices rose 50 percent or more in Hungary this summer, a carpenter in a tractor factory said he could easily cope. His salary went up less than 10 percent, but his fees for the fine cabinet work he produces nights and weekends doubled.

"No one concentrates on his job at hand," said a Warsaw streetcar driver. "We're always thinking, planning, how we will get ahead."

COMPLEX EXCHANGES ARRANGED

In the field of housing, complex apartment exchanges are arranged overnight in cities where the official wait is 10 to 12 years, often longer, for a government supplied apartment.

In Budapest, a retired streetcar worker made an arrangement with an elderly, infirm acquaintance to move into her apartment. The retired worker cared for her for two years until she died and then inherited the apartment in a private arrangement that was ratified by the housing office, bypassing the waiting list.

Then there are the "sparrows," a term used in Hungary for the highly skilled workers who flit from job to job, increasing their wages by steady increments as demand shifts from one enterprise to another. Rarely are the best of such jobs formally advertised. Word spreads through the informal communications network.

Underground publishing flourishes in Poland, East Germany, Czechoslovakia and Hungary, countries with long literary traditions; elsewhere in Eastern Europe, the authorities have been more successful in suppressing it.

UNDERGROUND PUBLISHING PROSPERS

In recent years, such ventures have moved away from a simple transmission of Western news and literature into more substantial production of works that cannot be published through official channels. Ludvik Vaculik, the Czech writer who is the chief

editor of what is known as the Padlock Press, has a spring and fall list and, sitting in his study, surrounded by manuscripts, he says he has to reject some fine efforts. Some are rewritten, but others are scrapped.

"The quality of our literature is constantly rising," he said. Western editors looking for Czech manuscripts are said to stop by his home before talking with official publishing houses.

Besides books, self-publishing involves typed or mimeographed monthly and weekly periodicals, with popular issues running into thousands of copies passed from hand to hand.

Travelers to the West, whose numbers are increasing each year, frequently return with magazines, newspapers and books still considered contraband and subject to seizure by customs. They often consist of underground books or magazines written in the East European countries, smuggled abroad for printing, then smuggled back.

SOME MAGAZINES PRINTED IN LONDON

A London publisher has printed 10 issues of Zapis, a Polish underground literary magazine, and is now printing Spektrum, edited in Prague.

Some border crossings are known for the leniency of customs inspectors. Two Polish students returned by Baltic ferry from Scandinavia recently with a copy of Aleksandr I. Solzhenitsyn's "The Gulag Archipelago," an account of the Stalinist labor-camp system in the Soviet Union. One slipped the customs officer a few packages of cigarettes while the other chattered away, and they were able to take the book in without incident.

Advances in television technology are also spreading Western ideas to broader areas of Eastern Europe. Border areas of Hungary and Czechoslovakia are already within reach of Austrian television, and some 80 percent of East Germany is covered by West German transmitters.

A newspaper reporter in Szombathely, Hungary, when asked why townsfolk buy the local paper rather then the national dailies, said, "We're the only ones who print the Austrian television listings."

East European television executives fear the day when satellites of Eurovision, the West European network, will carry programming that housetop antennas throughout Eastern Europe will be able to pick up.

Two years ago, the first underground universities began in Poland, offering courses for several hundred young people in areas of history, political science, economics and sociology that the official institutions carefully avoid.

This trend is catching on. In Poland it has taken on a new dimension, with what are known as "flying high schools" spreading forbidden subjects. These range from the rule of terror by Poland's Stalinist-era leader, Boleslaw Bierut, to the economics of Milton Friedman and Paul A. Samuelson.

While such lectures may reach only a few thousand of Poland's 100,000 or more university students, the influence of these ideas is much wider.

Several young men and women were taping a lecture by an underground historian, Adam Michnik, held at a blacked-out suburban Warsaw apartment.

"My roommates are too scared to come," one of them said. "But they want to hear it, so I tape it and they listen later."●

A TRIBUTE TO HENRY L. HOFF

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. SKELTON. Mr. Speaker, it is with great sadness that I inform my colleagues of the recent death of a special friend of mine, Henry L. Hoff, the sheriff of Saline County, Mo. Sheriff Hoff would have been 53 years old today, and is survived by his father, his wife, and seven children. His mother and one son preceded him in death.

Henry Hoff served his county as sheriff for 11 years, and was a member of the Missouri Sheriffs Association. He was a veteran of the U.S. Navy, WWII, and was also a member of the American Legion No. 197, VFW 2646, the chamber of commerce, Livestock Feeders Association, Saline County Pork Producers, the Farm Bureau, the Optimist Club, and the fourth degree of Knights of Columbus. His devotion to his country was reflected in his continued membership in the Missouri National Guard through the years.

Henry Hoff devoted his life to public service, and he will be greatly missed by his family, his friends and his community. His death marks a great loss for the State of Missouri.●

A GUIDE TO SUCCESS—THOMAS B. SHROPSHIRE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. STOKES. Mr. Speaker, we always hear a lot of "success stories." These tales are usually about some energetic person who has worked hard and despite seemingly insurmountable obstacles, has accumulated a fair amount of wealth and a good job. Not minimizing this, we hear so many carbon copy success stories until they often become dull.

What makes this often repetitive success formula unique is an individual who succeeds by this country's standards but maintains a keen sensitivity and commitment to the less fortunate people in our society. I am not speaking of a sense of commitment in terms of a financial contribution to a charity but rather personal time and hard work in helping others "make it."

My long time friend, Mr. Thomas B. Shropshire, senior vice president and treasurer of the Miller Brewing Co. and corporate vice president of Phillip Morris, Inc., is a member of this rare breed.

Born in Little Rock, Ark., Mr. Shropshire combined the American philosophy of hard work and perseverance to forge a noteworthy business career for himself. Now that he has achieved a brilliant career and all the prestige that goes with it, he has not turned his back on other members of his race.

When he was young, being black and ambitious was not always compatible. Yet, as he completed school and started his business career, he established a formula for success. He shares this formula readily with people, especially our younger black citizens. His message to them is to complete school and become affiliated with a profitable business. He is always delivering this message and passing on words of encouragement.

In summary, his success is not only based on his own achievement but on his ongoing ability to act as a positive catalyst to the less fortunate who are trying to climb the ladder of success.

Therefore, at this time, Mr. Speaker, I would like my colleagues to join me in saluting Mr. Thomas B. Shropshire in his unfaltering commitment to excellence within the business community. He has neither lost sight of his goals nor his roots.

I would like to submit an article written on Mr. Shropshire in the September 1979 issue of the National Black Monitor:

THE THOMAS B. SHROPSHIRE SUCCESS STORY

"No people has ever gained a strong foothold in any society without a strong economic power base. This power is measured in more than the size of the salary and the length of a person's title. Real power means ownership—and accumulation of wealth and investment of resources in income-producing ventures that add to that wealth. In other words, you need to have dollars working for you while you are asleep at night."

If there ever could be a short summary of the economic and racial philosophy and of the prescription for human success of Thomas B. Shropshire, these few powerful and well-chosen words tell, in large part, his eloquent and compelling story.

ORIENTATION TO SUCCESS

Thomas B. Shropshire, Senior Vice President and Treasurer of the Miller Brewing Company and Corporate Vice President of Philip Morris, Inc., is in every respect a giant of a man who has pulled himself up highly, even with "limited bootstraps." He is a successful businessman—a black man as highly-placed functionally as any in the business world, who has not forgotten his black roots. His abiding concerns for and commitment to the black community are inescapable in practically all that he says and does.

But there is more. There is vision, insight and determination. Shropshire sees as clearly as any American the route which Black America must go to achieve what he calls "parity," a condition marked by equity in every area of our nation's life. Then, there is the driving will on Tom Shropshire's part to see his vision of what is required come true. He believes that blacks must own and control resources, and have them work in concert with our own energies night and day. He demonstrates this "around the clock" principle in his own life.

The inclination toward success always has been a mark of Thomas Shropshire's life. Whenever he is asked about the time of his decision in life to make a success of himself, Shropshire generally laughs, with the observation: "I am not sure that I made that decision as much as my mother made it for me." He adds: "I had a fantastic mother, I really did. I guess she spent the largest part of her time fighting the system in Little Rock."

Shropshire was born in Little Rock, Arkansas in the mid-1920's. His mother was a school teacher. His father was first a train porter and later a salesman for the railroad company . . . both big jobs at that time. The parents' determination that their three sons become successful paid off, with Shropshire's older brother becoming a lawyer after being—as his mother would have it—the first black to finish the University of Arkansas Law School.

MOVING AHEAD

"Mother always told us she would rather see us dead than see us as bums," Shropshire notes, further explaining, "and it was never questioned that we would all go on to college."

The interpid spirit of his father and mother are clearly evident in their second businessman son. Shropshire tells of his having graduated from the segregated black

high school in Little Rock before he ever used a school gymnasium. When he arrived at Lincoln University in Jefferson City, Missouri, and he was told that he would be taking "physical education," he said, "What's that?" Despite his lack of acquaintance with a high school gymnasium, the strongly-built Shropshire became a college football tackle. His playing football enabled him to meet a portion of his college expenses. Moreover, he has found that working overtime has paid off ever since.

In speaking to a group of business-oriented black college students, Shropshire stressed the theme of putting in extra time and of making the constant extra efforts. He said: "Obviously, we can't all end up as president of General Motors, or of the Miller Brewing Company. But we can start moving into decision-making positions by preparing for the job—by getting involved in the total marketing effort of one's company, and having an overall knowledge of the industry's product and the other companies with which it is involved.

"This requires initiative on the part of the individual—to learn not just the tricks of the trade, but the trade itself. It requires a willingness to put in extra time working at the office, reading trade journals, news magazines, books and newspapers at home, and attending seminars on your own time that relate to your company and your field.

"But most importantly—for blacks it means working together to support each other by giving help and encouragement to other blacks who are trying to make it, and pooling resources and talent to start a business."

In his quest for employment, an Urban League official suggested to Shropshire that he get experience as a salesman. He was referred to a company long known for its liberalism—Philip Morris, and became their Brooklyn sales representative in 1952. With the help and encouragement he received at Philip Morris, Shropshire has been putting in overtime and forging steadily ahead ever since. In regard to facing problems, Shropshire is as surefooted and as forthright as he was on the Lincoln University football team. Let's listen to his words of wisdom culled from a rich and varied experience: "I don't go into a situation expecting to have problems. But if it happens, then I believe you react to the situation very strongly and very firmly. I don't believe in taking a back seat. I believe in meeting prejudice head on."

HELPING OTHERS

Shropshire continues philosophically: "If there's any satisfaction at all, it's the satisfaction of knowing you're in a position to help eliminate prejudices and discrimination for people that are coming up behind you . . . It's not possible to be the top black individual within a company and divorce yourself from (minority) problems . . . there's a satisfaction in knowing that you have enough muscle to keep (others like yourself) from being discriminated against, and to see that they're treated fairly."

Thomas Shropshire was soon confronted with his major opportunity to put together an operation which would help others to help themselves and to change the way of life for infinitely greater enrichment among literally tens of thousands of black people.

Shropshire makes clear that he is proud of all his efforts to help *all* others who are downtrodden, disadvantaged or oppressed. But he does not hide from his special obligation—and opportunity—as he sees it, to help *black* people in this country and abroad. The signal opportunity which Shropshire faced and fielded with consummate skill to a brilliant and far-reaching success came in 1967, in West Africa. He tells his own story in the following way.

BUILDING BLOCK ABROAD

"In 1967, a large manufacturing company purchased a small, antiquated factory in a village in West Africa. The factory had about 200 employees—28 of whom were European managers and the rest, African laborers. The majority of the laborers had to walk five or six miles to work each day, and earned less than $1.00 a day.

"The American company immediately began a recruiting and training program for supervisory and management positions. In addition, the company began teaching the native farm population how to improve their agricultural products, so that the company could buy its raw materials from the local markets. The result of this agricultural assistance was an elevation in the living standards of 19,000 farm families.

"The manufacturing facility now employs 1,200 Africans, 83 of whom are in managerial positions. Those who once walked to work bought bicycles with the additional money they earned by working for the company; and later, the company had to build racks for the motor bikes. Recently, the company had to build a parking lot for the cars that employees are now using to get to work!

"The country was Nigeria; the company is Philip Morris; and at the time the story was unfolding, I was chief executive officer of the operation."

BUILDING STEADILY AT HOME

In a speech before the Urban League of Albany, Georgia, Shropshire spoke of the good, neighborly attitude to which the Miller Brewing Company—now owned by Philip Morris—is committed. Shropshire explained: "We at Miller share Philip Morris' commitment to being a good corporate neighbor, and we encourage our employees to be involved in the activities that benefit the community."

Referring to the Miller Brewing Company's new facility in Albany, Georgia, Shropshire continued: "Miller is . . . committed to affirmative action, and I take personal interest in seeing that this policy is carried out.

"In the eight years since Miller was fully acquired by Philip Morris, the number of blacks has increased more than 4,300 percent, while the total number of employees has grown about 400 percent. Blacks at Miller are not only brewery and clerical workers, but also the director of research, purchasing officer, industrial relations representatives, field sales supervisors, brewery manager, regional sales manager. In other words, blacks are now at every level of the company's employment.

"In Albany, we will follow a procedure that has proven successful in the past—that is, to work with the Urban League and her minority organizations to help fill the job vacancies we will have. We will keep the League and others informed of the job openings and the qualifications for those positions, so that they can refer qualified applicants to us . . .

"Miller has banking relations with minority banks, uses the services of minority employment firms, minority-owned ad agencies, minority-owned public relations companies, and insures that minorities get a share of the construction dollars when we build a new facility . . .

"In addition, minorities are well represented in the labor force on the site, and non-minority owned firms are buying supplies from minority companies."

"THE SAME BOAT"

A great story teller and enthusiastic public speaker, Shropshire's remarkable powers of conceptualization, and of making crucial ideas crystal clear, are especially evident in his almost-impassioned discussions of the need for black Americans to cooperate, to work together. "As a minority people in this country, we will probably have to work harder than most to get what we want. We, as blacks, are in the most crucial phase of our three-hundred year struggle for equality.

"It has been said that we are in the period of the second Reconstruction. If we are to avoid losing nearly everything we have gained, as blacks did at the end of the first Reconstruction, we must band together to become a truly strong economic force for the good of our entire nation. We cannot afford to let petty differences turn our attention away from the goal which we as a people have yet to achieve, with deserved compensatory assistance—that of parity with others in the life of our nation. As Whitney Young once said, 'Our ancestors may have come over on different ships, but we're all in the same boat now.'"

"Those who would deny us our rights are all around us. The Klan is regrouping; they have just stopped wearing sheets because they cost too much. The Nazis are trying to storm troop around the country . . .

"But the real danger is not so much the enemy without, but the enemy within. In the final analysis, if we fail to achieve our goal, it will be because we are not strong enough and united enough to withstand the assault from outside and to push forward.

"Like a solid oak tree, we need to be firm in our commitment to each other and to our common goal. You can squeeze a piece of solid oak and not make an indentation in it. But if that piece of oak becomes riddled with holes and canals, you can crumble the wood in your hands. If we, as a people, do not stand together, then, like that piece of rotten oak, we will crumble in the hands of our enemies."

NEW OPTIONS FOR BLACK YOUTH

Ever alert to fresh opportunities for black Americans and deeply sensitive to the needs of our long-beleaguered black youth, Shropshire has some advice in this acute area of our racial life.

He speaks to black youth in this way: "In a degree-oriented society where employers want their custodians to have at least a high school diploma, the future is not bright for anyone who is not properly trained . . . Education was, is, and will continue to be the key that unlocks the door to opportunity. Therefore, you should stay in school and learn as much as you can; and you should not let anyone shortchange you through such techniques as 'social promotions.'

"You should insist on getting those skills that you will need to survive. Half-stepping on education now can sentence you to a lifetime of playing catch-up—and playing catch-up is what has kept us far behind for so many years."

Noting that blacks should become self-employed and should seek many of the lucrative blue collar jobs. Shropshire notes: "Many skilled jobs pay more than white collar jobs. I once heard a story that illustrates my point. A white doctor had a leak in one of the faucets in his laboratory and called in a plumber. A black plumber came in, fixed the leak in a few minutes and handed the doctor a bill for $50.00. The doctor said: '$50.00 for three minutes work! I'm a doctor, and I don't make that much." And the plumber said: 'Neither did I when I was a doctor!'"

"IT'S PEOPLE TOO . . . ALONG WITH PROFITS"

A truism in nearly every segment of American life is that we may see some problems—and learn how to deal with them most strategically—as these problems emerge in a clear-cut fashion in the black community. Hence, market developers who have had a firsthand experience of minority markets may be among the most insightful business developers for corporate America. This is the path which Thomas B. Shropshire followed. Many others will follow him, if the leadership of corporate America is wise.

Shropshire, in speaking before an annual meeting of the black-oriented National Association of Marketing Developers, noted: "Being aware of the need to advertise our product and company in black-owned or

black-oriented media is nothing new to this association. Being aware of using black models—being aware of the need to advise the public and have community relations directed toward the black sector of our society are not new . . . We cut our teeth on these things and have been preaching them for years. We know what would happen on the bottom line if responsible management would hear our cries.

"Well, thank God, some of them did hear us—and not only listened but provided the resources to place some of our ideas into effect—not only in black areas but other markets as well . . . Such pioneering and also well-rewarded and highly successful companies have recognized that the business of the most richly successful business is not only profit . . . it is people, too."

QUESTIONS FOR REFLECTION

(1) What, in Thomas B. Shropshire's view, is the real source of power in America? In what ways does he suggest that black Americans may move toward that power? What 3 or 4 suggestions would you add?

(2) What seem to be the principal influences in terms of "success orientation" in Thomas Shropshire's life? Would those same influences be operative and effective today? What fresh ingredients do we need in order to inspire "success orientation" among the masses of our youth?

(3) Shropshire believes firmly that blacks must enter the business world, and preferably start their own. What means do you feel can or should be employed to build a bent toward business in our black youth? Do you feel Shropshire's assessment is a wise or practical one? In either case, why?

(4) We have seen the word picture of a truly great and heroic figure in the American business world. What specific elements in Thomas Shropshire's life and character have marked him as a man of greatness?

(5) What lessons can be learned from Shropshire by black youth? By blacks as a whole? By corporate America?●

INFLATION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. COLLINS of Texas. Mr. Speaker, inflation continues to be No. 1 in the minds of Americans from coast to coast. The Carter administration sinks deeper and deeper into the causes and lacks the courage for the solutions. Last month inflation was at a 17 percent annualized rate.

America can anticipate that President Carter and his liberal majority in the Democrat Party will recommend price controls next spring. By tying price controls on in April, they can hold the line until the November 1980 election. This temporary lull will have a backwash of tidal wave proportions as price control never works in peacetime.

You will be interested in an editorial in the Dallas Morning News on inflation. With its keen insight, the Dallas Morning News sums up well the subject of inflation:

What would the last week of the month be without a jump in the Consumer Price Index? The latest is 1.1 percent, which translates into a 13.2 percent annual rate. 'I see no short-term relief in sight,' says Alfred Kahn, sure to go into the Guinness Book of Records as the world's most punchless inflation fighter.

. . . Inflation is caused exclusively by the federal government's perennial deficits, which are generally financed by printing money. (Inflation is *not* caused, as the administration asserts, by OPEC; Germany and Switzerland, which buy much more of their oil from OPEC than we do, have far lower inflation.)

. . . Whenever pollsters compile the nation's burdens and concerns, inflation is rated Public Enemy No. 1. And small wonder: Inflation has eroded everyone's savings, forced women into the job market, dimmed the glow of retirement.

The issue poses an excellent opportunity for Republicans, who can point to the modest 4.5 percent inflation rate in Gerald Ford's last year as president. But much more than electoral politics is at stake here: The economic solvency of the Republic is involved.

Let us hope that the campaign will bring forth relatively *few* calls for the wrong kind of medicine, wage and price controls, which everywhere and always fail to do the job. Cut federal spending, free up the private enterprise system: Such, in broad outline, is the proper prescription, the sooner administered, the better for all concerned, politicians as well as their constituents.●

ENCROACHMENT UPON AMERICAN SHIPPING LIFELINES

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. RHODES. Mr. Speaker, a few days ago I received a copy of one of the most remarkable discourses I have ever seen on the dangerous extent of the encroachment upon American shipping lifelines by the Soviet Union and other nations in the Western Hemisphere alined with it.

It is the text of a speech given recently to the Arizona Breakfast Club by Prof. Lewis A. Tambs of the department of history at Arizona State University, a distinguished scholar on Latin America, who has testified before Congress.

In his essay, "Crisis in the Closed Sea of the Caribbean: A Geopolitical Overview" Professor Tambs delineates the importance of the Caribbean as a "chokepoint" for critical American shipping, particularly petroleum, and the manner in which control of avenues into the Caribbean, and thus the Panama Canal, are being taken over by nations that are socialist or socialist oriented.

I urge my colleagues to read this important speech, and to ponder its implications:

CRISIS IN THE CLOSED SEA OF THE CARIBBEAN: A GEOPOLITICAL OVERVIEW

(By Lewis A. Tambs)

World War III is coming to a climax in the Caribbean. The first two phases of World War III—Cold War and Détente—have been succeeded by the Soviet scenario of double envelopment. Soviet Russia is seeking to isolate the People's Republic of China by geographical encirclement and to strangle the industrialized nations of the Western Alliance—particularly the United States—by choking off their access to strategic minerals and petroleum supplies.

The current crisis in the Caribbean is merely one manifestation of the grand geopolitical game plan of the Union of Soviet Socialist Republics (USSR). The objective is to seize the storehouse of strategic minerals in Southern Africa and throttle the Sea Peoples of the Western Pacific, Western Europe and the Western Hemisphere by acquiring control of the Sea Lines of Communication (SLOC) which carry the hydrocarbons vital to their advanced economies. For the United States, which is dependent on other lands for 93 out of 95 strategic minerals and which imports over 40% of its energy the Caribbean is critical.

The Caribbean is a closed sea. The number of entrances and exists is limited. The Bahamas, Puerto Rico, the Leeward and Windward Islands encircle the eastern edge. North, Central and South America ring the rest. The only Pacific passage is the Panama Canal. The center of the circle is dominated by the Greater Antilles—Puerto Rico, Hispaniola, Jamaica and Cuba which also form a barrier between North and South America. Only three channels, Mona, Windward and Yucatan cut through the Antillian island chain which lies athwart the sea lanes connecting the two continents. The warm tropical waters also wash Venezuela and Mexico, two of the worlds major oil exporting nations. Thus, the Caribbean rim and basin is a petroleum focal point.

Through Caribbean channels, Antillian passages and the Panama Canal pulses the petroleum of the Middle East, Ecuador and Alaska. The Middle East may be the petroleum pump, but the New World Mediterranean is the nozzle. Super tankers sailing from the Persian Gulf around Africa do not dock directly in U.S. Atlantic or Gulf ports. These vast vessels transfer their cargoes at the Virgin Islands, Trinidad, or Curacao into standard size tankers which then sail on to the eastern or southern seaboards of the United States. Venezuelan oil also moves northward through the Yucatan, Windward and Mona Channels.

Not all of this oil is crude. Since the U.S. has not completed a refinery in seven years much of this imported petroleum is finished product having been processed at off shore locations. The Panama Canal also plays an important role in U.S. energy supply. Oil from Alaska and Ecuador passes through the Pacific-Atlantic pipeline at David in the Republic of Panama or by tanker through the Canal Zone. Thus, whoever controls the Caribbean can strangle the United States by choking off the petroleum life line.

"History passes, but geography remains" is a basic theme of geopolitics. The closed sea of the Caribbean has been the scene of strife since the emergence of modern Europe. All of the great maritime nations—Spain, the Netherlands, Great Britain, the United States and the Soviet Union—have striven for supremacy in the New World Mediterranean. Nevertheless, only men make history.

The U.S.S.R., operating under the nuclear balance of terror, is applying the classical principals of geopolitics—encircle, isolate and over run. During the first two phases of World War III, Cold War and Détente, the Soviet Russians prepared their grand design; first to gain nuclear superiority and then, shielded by an atomic umbrella, launching a high seas fleet and winning the world's waterways by supporting subversion and wars of national liberation in critical areas.

Since 1959 the Soviets have intruded into the world's fourteen major maritime choke points: Five inland seas—South China Sea, Mediterranean, North Sea, Norwegian Sea, and Caribbean; two interoceanic canals—Suez and Panama; and seven crucial passage points—Malacca Straits, Sri Lanka (Ceylon), Horn of Africa, Mozambique Channel, Cape of Good Hope, Gilbraltar and Cape Horn.

Cuba has always been the key to the Caribbean. Fidel Castro struck around the rim of the inland sea between 1959 and 1965. The Dominican Republic, Haiti, Venezuela, Colombia, Panama, Nicaragua, Guatmala and Mexico were targeted. Nevertheless, local nationalism supported by United States counter insurgency surpressed these subversive

strikes. Direct action having failed the Communists shifted temporarily to their other traditional tactic—the popular front. However, in 1968 a new technique was also initiated—infiltration of the armed forces. The results, aided by a general loss of will and purpose by the United States and abetted by an alarming decline in Yankee shrewdness and sense of strategy, were revolutionary.

The Caribbean has been an American Lake. Now it is becoming a Socialist Sea. Guyana moved toward Marxism. Castroite General Omar Torrijos reigns in the Republic of Panama. President Jimmy Carter, apparently following the ideas advanced by the Institute of Policy Studies in "The Southern Connection," deeded away the Panama Canal, destabilized Nicaragua and is contemplating giving away Guantanamo and granting independence to Puerto Rico.

Withdrawal of the U.S. from the Caribbean and the Canal Zone—a Trans-Isthmian passage upon which not only the U.S. but also the Spanish speaking republics of Central and South America depend for their sea borne commerce—further upset the situation.

Pushed by popular front governments and shaken by subversion several of the former British Colonies in the West Indies—Dominica, St. Lucia, Grenada and Jamaica collapsed into Castroism. Then, with the Atlantic approaches of the Leeward Islands and the Pacific passage of the Panama Canal within their grasp the Cuban Communists and the Panamanian Partido del Pueblo using neutralist Costa Rica as a sanctuary concentrated on Nicaragua—the only other feasible route for a Trans-Isthmian Canal.

The agony of Nicaragua, which was exacerbated by the dispatch of U.S. arms to Panama for trans-shipment to the Sandinistas, the U.S. interdiction of Israeli weapons destined for Anastasio Somoza and by the U.S. embargo of munitions for the Nicaraguan National Guard, is, however, only the beginnnig of the evisceration of Central America.

Nicaragua is a Central American beachhead for the eventual Castroite conquest of the petroleum fields in Southern Mexico. El Salvador is under siege; Guatemala targeted. Using a combination of ardent nationalism and socialist slogans, a future People's Republic of Guatemala may call for the recovery of the lost provinces of Chiapas and Soconusco which were ceded to Mexico in 1882.

The question is one of timing. The Sandinista Simón Bolivar Brigade is ready for action. The Soviets have sufficient airlift capacity to move the 3,000 Russian combat troops in Cuba to any area in the Caribbean. Debate over the date rages in Moscow, Habana and Managua. The controversy centers over the next president of the United States. If a hawk seems likely to win the White House the move into El Salvadore will be soon. If a dove appears likely to prevail, El Salvador and Guatemala have about fourteen months of grace to get ready. Of more immediate import was the transfer of the Panama Canal Zone to the Republic of Panama on Monday, October 1, 1979.

Carter-Torrijos Treaties and DeConcini Reservations not-with-standing, loss of the Trans-Isthmian Canal by the United States long before the year 2000 is accepted in many Latin American circles. President Aristides Royo in his letter of July 11, 1979 to Jimmy Carter made it abundantly clear that there are numerous areas of disagreement over interpretation of the treaties.

In Panama as in El Salvador the question of a Castroite take over is not if, but when. Dispute over some minor point in the Carter-Torrijos Treaties can be escalated into a contrived confrontation between the Panamanian National Guard and the U.S. Army. Deaths will follow. Panama will nationalize the Canal under eminent domain and call upon their Socialist brethren in Nicaragua and Cuba for support. Humberto Ortega Saavedra, Commander-in-Chief of the Sandanista Armed forces told Panamanian officials on September 22, 1979 that his troops would fight along with the Panamanian National Guard against the U.S. "if there is imperialist aggression.

Faced with a fight the U.S. will probably back down and withdraw. U.S. evacuation of the isthmus will be followed by an astronomical hike in Canal transit tolls and eventually the closure of the Canal to U.S. shipping and vessels carrying cargoes to or from U.S. ports as well as interdiction of the Pacific-Atlantic pipeline. Simultaneously with terrorist attacks on U.S. tankers, labor strife may erupt at the oil loading facilities and refineries in Curacao, Trinidad and the Virgin Islands. Aroused, as its industries grind to a halt, the U.S. will prepare armed intervention.

At this juncture the Soviet Union, confident in its newly won, but long planned nuclear superiority, will come to the defense of the various People's Republics in the Caribbean. In this eyeball to eyeball confrontation, reminiscent of the Cuban Crisis of 1962 when the US had an eight to one nuclear advantage over the USSR, it will be the US which blinks and stands aside. Shorn of imported strategic minerals, deprived of petroleum and unable to sail from coast to coast without permission of a Soviet surrogate, the US will withdraw into a vulnerable Fortress America—a third class power with a Third World standard of living. The Soviets, with a good grasp of geopolitics, proper application of sea power, and by fomenting subversion in strategic areas, will have triumphed.

History passes, but geography remains. The current crisis in the Caribbean is phase three of World War III. Soviet strangulation of the Free World's economies and energy supplies is well underway. The closed sea of the Caribbean is already spotted with Soviet surrogates and ringed with Socialist states. Interdiction of US energy imports—75 percent of which either trans-ship or transit the Caribbean—from the Middle East, Venzuela, Ecuador and Alaska is well begun. Even the oil fields of Mexico are under long range attack.

Nevertheless, though inland seas, interoceanic water ways and passage points along with islands, channels and canals influence history, they do not determine the future. Only men make history. There is still time for the United States and the Western World to recover its instinct for survival and its sense of strategy and turn the Red tide which is engulfing the Caribbean.●

LAST F-100 RETIRED; AIRCRAFT'S CAREER SALUTED

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. MYERS of Indiana. Mr. Speaker, it was my honor this last weekend to participate in ceremonies marking the end of the long and distinguished career of the F-100 tactical jet aircraft. Officials from all levels of government gathered at the Indiana Air National Guard base at Hulman Field, Terre Haute, Ind., to pay tribute to the last operational F-100 fighter plane.

The Super Sabre played a major role in the U.S. Air Force defense system for 25 years. The plane retired in the ceremonies Saturday was the last of more than 1,200 such aircraft which served so well the needs of the Air Force and Air National Guard.

The honor of piloting the historic last operational sortie went to Lt. Bill Layne of the 113th Tactical Fighter Squadron, the son of a pilot, Maj. William J. Layne, who was fatally injured in the crash of his fighter plane during a practice run at Hulman Field in August 1959.

The retiring aircraft was officially named "The City of Terre Haute" thus assuring that the last stop in its distinguished career will have a place in the records of military history.

The list of achievements of this aircraft includes 1,100 Thunderbird shows between 1956 and 1968 and over one-half million combat sorties in Southeast Asia from 1963 to 1971. It also has several "firsts" to its credit as the first supersonic century series aircraft, the first antisurface-to-air missile aircraft (December 1965) and the first jet forward air controller (November 1967).

Saturday's flight marked the end of an era in the HUN's history, but not the end of the HUN. It will continue to serve the United States as a full-scale drone aircraft and will remain in service with Turkey, Denmark, and Taiwan.●

JANE FONDA NEEDS AN ECONOMIC LESSON

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. DERWINSKI. Mr. Speaker, it is unfortunate that the media tends to draw attention to the misdirected, ill-advised, antifree enterprise thinking of certain notorious individuals, instead of more legitimate reporting to the public of the respectibility and mutual benefits that flow from our free enterprise profits system.

In the perspective section of the Chicago Tribune of November 8, Michael Novak comments on the flaws in the theories espoused by Tom Hayden and Jane Fonda on our economic structure. His commentary follows:

JANE FONDA AN ECONOMICS LESSON

(By Michael Novak)

WASHINGTON.—Tom Hayden and Jane Fonda took their show on the road last month. They were trying to sell socialism under the name "economic democracy."

The world has had 40 years to observe the empirical results of socialism in a majority of nations. It is getting harder to sell socialism straight. Thus the need to package it as "economic democracy."

Their aim, Hayden and Fonda say, is to destroy "giant corporations." Hayden and Fonda want to bring the economic system under the political system. This will enlarge the power of the state—of politicians, bureaucrats, and social science managers.

Take the word "economic" first. Should economic acts between consenting adults be repressed by the state? One of the purposes of good and limited government is to create a climate favorable to industry and general prosperity. Many of us believe in a limited but necessary amount of regulation. We also believe in spreading the benefits of prosperity through social welfare to the unfortunate and the disabled. But Hayden and Fonda are repressive.

Then take the word "democracy." Democracy is a way of legitimizing and checking government. It is an inefficient method for making most sorts of practical decisions. Hayden and Fonda want corporations to become as efficient as Congress.

Corporations are cooperative enterprises be-

tween mutually consenting individuals, under charters legally arrived at, independent of state control. Corporations are mediating institutions necessary to the functioning of a free society. They are essential counterbalances to the voracious power of the state apparatus.

At a minimum, printing presses must be free of state control. Total state management of an economy subjects every citizen to daily economic reprisal. That is why no socialist nation ever has gone democratic. The only social democracies that remain democratic are those that retain a large component of private ownership and private self-determination, such as Sweden and Israel.

Hayden and Fonda say they approve of "small businesses" and "family farms." But a family farm nowadays must earn more than enough for lodging and food. Farmers need an income for education and many other purposes. The annual budgets of family farmers in a state like Iowa—including investments in land, buildings, help, and equipment—run into hundreds of thousands of dollars.

Tom and Jane oppose "giant corporations." Do they also oppose giant unions, giant government, giant newsgathering agencies, and giant international organizations like the United Nations? Their proposals to place private corporations under governmental control won't reduce the size of the apparatus of control. They will enlarge the state.

Corporations have grown since World War II because markets have grown, technology has grown, and needs for creative investment have grown. Tom and Jane can appear in 26 cities in 30 days because of airplane travel. A typical Boeing aircraft costs $30 million. In which mom and pop store can Tom and Jane buy a Boeing? Pilots and stewardesses, mechanics and ticket agents, and service and administrative personnel can be organized only through large enterprises. This is as true in socialist as in democratic capitalist nations.

Tom and Jane are naively nostalgic. And they are ideological. They only mind giants—relatively small ones, compared to government agencies—if they are private corporations, cooperatively arrived at. And their program lacks compassion. The real effect of Tom and Jane's statism would be to impoverish the planet, to condemn the poor to lower living standards, to turn out the lights on all our better hopes.

Consider their efforts to shut off the 11 per cent of all energy sources now supplied—originally at the government's behest—by nuclear energy. Private corporations did not seek to go into nuclear power. The federal government invited the utilities to find peaceful uses for atomic power. The Labor government in Great Britain built the British nuclear grid. Statist influences in the U.S. persuaded utilities to abandon coal and even oil to switch to cleaner, safer, cheaper nuclear energy.

Meanwhile, as 11 per cent of the nation's lights wink off one by one, we can thank the Prince and Princess of Darkness for leading this nation backward. The little world of Tom and Jane perished with the stagecoach.●

HELP IS AVAILABLE FOR BATTERED WOMEN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. MILLER of California. Mr. Speaker, today the Education and Labor Committee filed its report on H.R. 2977, the Domestic Violence Prevention and Services Act. This bill, cosponsored by 105 of my colleagues on both sides of the aisle, will soon come before the full House for final passage. H.R. 2977 is a very modest proposal to provide assistance to the millions of families in this country which are torn apart by violence. The legislation reflects a growing recognition, nationwide, that victims of domestic violence need immediate protection and refuge as well as long-term services for all members of the family. The Subcommittee on Select Education heard testimony this summer from police, physicians, shelter operators, representatives of the military, and victims themselves about the human and financial costs that are a direct outcome of family violence. A recent article from the Washington Star, by the well-known financial expert, Sylvia Porter, describes in detail the staggering loss to the economy incurred by abuse within the family. The article follows:

[From the Washington Star, Nov. 1, 1979]

HELP IS AVAILABLE FOR BATTERED WOMEN

(By Sylvia Porter)

Beatings. Kickings. Extreme abuse.

At least 1.8 million women are known to suffer from wife-beating in the United States each year—a statistic stunning in itself but representing only the reported physical attacks and thus merely the tip of the iceberg.

And this total, appalling though it is, hides the fact that in one-third of these reported incidents, the battered women are attacked an amazing five or more times a year, according to research funded by the National Institute of Health.

Even more mind-boggling, law officials estimate that the reported cases account for only 10 percent of the total number of beating incidents. That suggests that the wife-beatings in this nation are running into the many millions annually!

It is not in my sphere as a reporter to analyze to what extent such abuse destroys the human spirit. But it is within my sphere to emphasize that the loss to our economy from this horror reaches staggering proportions.

Abuse-related absenteeism results in an estimated economic loss to the nation of a minimum of $3 billion to $5 billion annually!

Medical bills can easily total $100 million or more annually.

And a corollary to these shocking figures on battered women is that the acts of violence frequently are coupled with beatings of children by husbands and boyfriends.

Domestic violence has soared to epidemic proportions, including abuse between spouses, child abuse and abuse by children of their parents. With the exception of an occasional dramatic headline, we, the American public, have been mostly unaware of abuses of the American woman in all economic groups. But now, the Manhattan-based AWAIC—Abused Women's Aid in Crisis, Inc., a non-profit organization founded in 1975 by Maria Roy, then consulting social worker for the Cardinal Spellman Headstart Center in New York—is spearheading efforts to help the battered woman.

The AWAIC handles 4,000 hot line calls of distress each year in New York alone, reports its executive director, Dr. Doris Moss, and is involved in several projects which well may serve as model guideline programs involving millions of Americans the nation over. For instance, its work in New York includes:

Working with men who are coming to AWAIC for counseling on how to stop victimizing their mates and children.

Helping children who witness battering in their homes through an art therapy program.

Providing counseling in prisons to inmates who are batterers and who want help in curbing their aggression before returning to society.

Working with the families of alcoholics. (Many alcoholics are batterers.)

Wife abuse is not a category in which reporting is widely required and in which statistics are gathered by the police. Even in New York City, with a higher social service consciousness than most other U.S. cities, statistics are slippery. In 1978, three shelters for battered women and their children served 1,300 families. The Borough Crisis Centers, operated in four hospitals, helped roughly 2,800 battered women between mid-1977 and fall 1978. AWAIC provided hotline and counseling to more than 4,000 women.

More revealing is the 81 percent upsurge in the number of family offense petitions filed by wives and the 143 percent jump in the number of assault petitions in the past couple of years alone.

Meanwhile, Boston City Hospital reports that a growing percentage of its emergency room assault victims have been battered women. Oakland, Calif., has counted 6,000 cases of battered wives in one year. Kansas City, Mo., notes that a startlingly high percentage of all police calls involved wife abuse. And again, this is just the tip of the iceberg.

It was only two years ago that New York state passed a law allowing married women to decide whether to bring charges against an abusive husband in either Family or Criminal Court. New York City now also demands that police answer a domestic dispute call promptly and forbids refusal to make an arrest because the persons are married. It is only now that the police must inform the abused woman of her court options and make an arrest if a felony is committed.

And federal legislation is only now being proposed to require states to establish citizens panels to concentrate on domestic violence.

This report just touches the surface. Now it's up to you.●

REPORT ON HUMAN RIGHTS IN ARGENTINA BY THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. GREEN. Mr. Speaker, human rights violations are occurring throughout the world, and it seems that our Nation's commitment to fundamental human rights meets new challenges daily. However, it is heartening to note that the Congress and the executive branch are working with concerned private citizens in this regard. The Association of the Bar of the City of New York has issued a report on the independence of lawyers and the administration of justice in Argentina.

As one who has long been concerned about the horrible abuses of human rights in Argentina, I would like to insert into the RECORD, for my colleagues' interest, a letter I received from the president of the association as well as excerpts from this informative and important report.

The letter follows:

THE ASSOCIATION OF THE
BAR OF THE CITY OF NEW YORK,
New York, N.Y., September 14, 1979.

Hon. S. W. GREEN,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE GREEN: In April of this year, The Association of the Bar of the City of New York sent a mission of five distinguished lawyers to Argentina to inquire into the treatment of lawyers and the administration of justice in that country. The Association's decision to sponsor the mission was in response to reports of widespread imprisonment, disappearance and torture of lawyers and others in Argentina. The mission was headed by Orville H. Schell, a former President of this Association. It was co-sponsored by the Union Internationale des Avocats and was endorsed by the American Bar Association.

After its return, the mission submitted a report of its findings to the Executive Committee of the Association. In view of the importance of the subject matter, I have enclosed a copy of the mission's report for the information of you and your staff.

Sincerely yours,

MERRELL E. CLARK, Jr.

On March 24, 1976, a military Junta, consisting of the Commanders of the Army, Navy and Air Force, assumed control of the government. Upon taking power, the Junta announced that the state of siege would remain in effect and that a major objective of the new government would be a frontal attack on "subversion"[21] and the causes for its existence.[22] The Junta initiated a "Process of National Reorganization" and, in a series of decrees issued between March 24 and 26, 1976,[23] assumed the principal powers of the Executive and Legislative branches of the Argentine government. Congress was dissolved and the Junta declared itself the supreme organ of the nation, with the power to appoint the President, who was in turn granted the principal legislative powers formerly exercised by Congress. Acting pursuant to this power, the Junta on March 26, 1976 appointed General Jorge Rafael Videla as President of the Republic.

The Junta was also empowered to remove and appoint new members of the Supreme Court of Justice, while the President was empowered to appoint judges of the lower federal courts. By decree issued on March 24, 1976, the Junta relieved all judges of the Supreme Court and of the superior provincial courts of their duties and suspended the tenure in office of all other judges. All judicial activities were suspended for 13 days; when the courts reopened, 24 judges had already been replaced by the Junta.[24] Equally important, the Junta suspended the "right of option" granted by Article 23 of the Constitution, so that persons arrested by the President could no longer elect to leave the country.[25]

At the same time as it was restructuring the national government, the Junta commenced what its own members describe as a "dirty war" against all types of "subversion." In this war the country's security forces adopted many of the clandestine tactics previously used by the terrorists.[26] Thousands of Argentine citizens suspected of having "terrorist" or "subversive" connections were arrested; many thousands more simply "disappeared" after having been abducted by persons claiming to be members of the government security forces. Those formally arrested, and some of those who initially "disappeared," were detained pursuant to Article 23 at the disposition of the National Executive Power (Poder Ejecutivo Nacional or PEN), and are known as PEN detainees or "detenidos." Those who have simply "disappeared" are called "desaparecidos."

II. THE DETENIDOS

For the first year and nine months of the "dirty war," the Junta refused to provide reliable public information as to the identity of persons formally held as PEN detainees. However, in January, 1978, following public calls for such information, the Argentine government announced that it was holding 3,472 persons under PEN detention,[27] and thereafter began publishing periodic lists of PEN detainees. According to information provided to date by the government, approximately 2,500 people are currently being held under PEN detention.[28]

With respect to detained lawyers, our concern was—and continues to be—the process by which these and some 2,400 other persons have been detained without charges or trials, many for three years or more. While our human concerns extended to all detained persons, our mission focused particularly on the detention of lawyers because of the effect of such detention on the independence of the bar, which we believe to be critical to the rule of law.

* * * * *

Three questions emerged in the course of our visit: (i) what were the grounds for the widespread and prolonged detention of lawyers and others, and have they been adequately tested in the courts; (ii) have the limits on the Executive's Article 23 power been effectively observed; and (iii) can there be any justification at this time for continuing PEN detentions?

* * * * *

THE BASES FOR DETENTION

In our interviews with General Viola, Minister of Justice Rodriguez Varela and legal advisors to President Videla, we were offered no information about the process through which particular individuals are singled out for detention, other than the fact that such decisions are made by the security forces on the basis of information available to them that a given individual is "subversive" or is linked in some unspecified way to "subversion." We were given no reason to believe that "subversion" in the lexicon of the Argentine security forces is limited to the use, or even the advocacy, of violence against the established order. Indeed, President Videla stated in January, 1978, "A terrorist is not just someone with a gun or a bomb but also someone who spreads ideas that are contrary to Western and Christian civilization."[29]

Not surprisingly, most of the lawyers in PEN detention have been defense lawyers, advocates for political dissidents or labor unions, or have represented detenidos or desaparecidos; a few are former judges who are thought to have dealt too leniently with accused terrorists. We are disquieted by the ease with which government representatives seem to blur the distinction between those who use force in opposing the existing government, and those whose "crime" is merely to be associated with currently disfavored, *i.e.* "subversive," ideas: the journalist who criticizes the government in print, the former labor union activist, or the lawyer who has represented unpopular clients or causes. Although the absence of either formal charges or trials prevents us from evaluating the validity of the government's "subversion" claim for each detained lawyer, one is led inevitably to the conclusion that at least some lawyers have been detained as a result of their activities in defending clients and causes unpopular with the present government.

The inevitable result of such policies in any country is to intimidate other lawyers from risking their own practices, if not their own liberty, by representing officially disfavored clients. Indeed, in examining whether the detention of 99 lawyers without charges affects the independence of the legal profession, the perception of why lawyers have been arrested is perhaps as important as the reality. And the perception is widespread in Argentina that lawyers under PEN detention are being punished for having represented political prisoners or other clients unpopular with the Junta.

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III. THE DESAPARECIDOS

If gradations of this kind are utterable, the cases of the "disappeared" persons, including a large number of lawyers, constitute the most starkly brutal human rights violations in Argentina or, indeed, almost anywhere in the world that seeks to be civilized.

There is no question that since March 24, 1976, groups of armed people serving in military, police or other state security forces have abducted thousands of people, subjecting most of the victims to torture, killing many, holding others in concentration camps or other secret places, and withholding from their families and all the world word either of their whereabouts or of whether they remain alive. While thousands of these cases are precisely documented, the total of the disappeared, or desaparecidos, is not publicly known or knowable.

In early 1979, the Permanent Assembly for Human Rights submitted to President Videla a list of 4,861 persons who disappeared between 1975 and October, 1978. The Permanent Assembly claims to have sworn statements supporting each disappearance on this list. While this list is probably quite accurate, many informed Argentine citizens believe it is incomplete. One respected conservative columnist, writing in the Buenos Aires Herald on April 5, 1979, stated that "the real total of 'disappeared' must be much greater, at the least 10,000."[30] Given the undoubted reluctance of many to report the disappearance of family members to human rights groups such as the Permanent Assembly, this higher estimate is probably much closer to the truth and, in the opinion of some Argentines, may still be too conservative.[31]

The grim and familiar pattern of these disappearances, with variations in detail, was recounted to us by relatives of desaparecidos, as well as by some who disappeared and were lucky enough to "reappear." A group of armed people in civilian clothes arrives in unmarked automobiles at the home or office of the person or persons to be abducted. Others may be taken from the streets or from other public places. The armed assailants often identify themselves as security officers. No uniformed police or military personnel makes any pretense of interfering with the abductions.

* * * * *

In some cases husbands and wives have been taken together, sometimes with their young children, sometimes leaving young children alone to be taken in by neighbors, concierges or relatives. It appears that there is a substantial number of unaccounted for children who have been abducted or born in captivity to pregnant kidnap victims. It is widely thought, and there appears to be substantial evidence, that such children have been turned over to adoptive parents with no color of consent from any relative and without informing their families where they are or whether they are alive.[32]

As a frequent incident or sequel to the abductions, the homes or offices of the victims are pillaged or destroyed. Armed groups turn up with moving vans and proceed swiftly to strip the home or office. A few places have been destroyed by fires deliberately set. The looting and destruction seem never to be impeded by uniformed law enforcement authorities, who, in one account we heard, chatted briefly with the looters before departing the premises. It appears that the booty serves as a form of added compensation for the abductors.

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As is the case with detained lawyers, a very high proportion of the disappeared lawyers on our list have been involved with the defense of political dissidents, of people critical of the government, of labor organizations, of individual workers and of others who previously disappeared. While it must be said that the basic evil of disappearances is not uniquely awful for lawyers, lawyers are, in practical effect, a category of special concern for human rights purposes. With-

Footnotes not printed.

out any doubt, the risk of disappearing, along with the risk of a PEN detention, has chilled the willingness of lawyers to represent the unpopular and made the process of repression of rights far simpler for the government.

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From things that were said both outside and within the government (including General Viola's assurance that there are no—or substantially no—*desaparecidos* now in custody), we were led powerfully to the appalling inference that most of those who have disappeared are dead. . . .

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The courts have proven essentially powerless to deal with the desaparecidos. After a person disappears, his family typically files a habeas corpus petition demanding that the government supply information as to his whereabouts and condition. The court, in turn, asks the Executive and the armed forces for such information. In virtually all cases, the Executive and each of the services replies that it has no record of the person's being detained, after which the court disclaims jurisdiction and dismisses the petition. We were advised that in excess of 10,000 petitions have been dismissed for this reason alone.

IV. PERSON CONDITIONS AND TREATMENT

Argentina is a signatory of the United Nations' Universal Declaration of Human Rights and the American Declaration of the Rights and Duties of Man, both of which prohibit torture and inhumane confinement of individuals. Furthermore, the Argentine Constitution specifically states that "the prisons of the nation shall be hygienic and clean, for the safe custody and not for the punishment of the prisoners confined therein."

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Notwithstanding these safeguards, the available evidence leads inescapably to the conclusion that persons operating under the authority of the Argentine government or armed forces have systematically abused, tortured and, in many cases, killed thousands of "disappeared" persons.

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Although our stay was limited, we did meet with Argentine residents, including at least one lawyer, who had been, for periods of time, among the desaparecidos. These persons stated they had been abducted by military groups, taken blindfolded to military or police facilities and tortured by their military interrogators.

After interrogation, a number of these persons were placed, along with others who had been similarly tortured, in narrow and unventilated pens in which the prisoners were individually chained, in rows facing each other, to cement walls and kept blindfolded or hooded with little or no water, food or medical attention. Others, more fortunate, were detained in pairs in minute (4 x 6 ft.) cells with sealed metal doors, no windows and minimal ventilation.

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Other persons familiar with the condition of the desaparecidos advised us that the conditions and treatment described above have been confirmed to them by many others and that the most common forms of torture—severe beatings, intentional near-drowning of hooded prisoners and repeated electric shocks with cattle prods over all parts of the body—were routinely inflicted on disappeared men and women shortly after their abduction.

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The information we received concerning the treatment and condition of PEN detainees—as opposed to disappeared persons—did not indicate the presence of widespread torture or conditions such as those endured by the desaparecidos. Nevertheless, we were advised by family members of PEN prisoners that in some prisons such prisoners are routinely paired in tiny, cramped cells (to which they are typically confined for 22–23 hours each day), permitted only the most minimal exercise, prohibited from conversing in groups larger than three, punished severely for violation of arbitrary rules and, in general, treated far worse than ordinary criminal defendants or convicts.

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V. THE ROLE OF THE BAR AND THE JUDICIARY

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We nevertheless believe that, whatever the past provocation or the present fears, the legal profession can—and must—stand unequivocally for the rule of law and against the practices described in this Report.

Some in Argentina have done so. A small number of individual lawyers, almost exclusively in Buenos Aires, have represented aggrieved families in filing habeas corpus proceedings or have spoken, publicly or privately, against governmental lawlessness. Within the organized bar, the Asociación de Abogados de Buenos Aires, has tried, with little success, to secure the release of lawyers (including its own members) arrested or abducted for representing disfavored clients. And a number of lawyers within FACA, a federation of 51 local bar associations throughout Argentina, have either striven for the release of individual lawyers or condemned specific acts of violence against the bar.

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The ingredients for progress are present in Argentina. The Supreme Court, the Minister of Justice, the President's aides, the President (in his response to the Court in *Perez de Smith*) and the Commander of the Army have all pledged themselves to fair treatment for and lawful (or at least better) conduct toward the detenidos. Whether they will honor these pledges—and also confront the issue of the desaparecidos—will turn in part on the future role of the bar.

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When governments brutalize their citizens, depriving them of life, liberty and even the pretext of due process of law, lawyers must stand with those deprived of their rights, regardless of our agreement or disagreement with their political or social views. Where the bar most directly involved is itself too threatened to act, lawyers elsewhere must speak for their colleagues and remind those responsible that humanity is extinguished, not advanced, by murder, torture and imprisonment without trial. If, in a different time and place, our circumstances were reversed with those of our Argentine colleagues, we would expect no less of them.

Respectfully submitted,

ORVILLE H. SCHELL, Jr.
MARVIN E. FRANKEL.
HAROLD H. HEALEY, Jr.
R. SCOTT GREATHEAD.
STEPHEN L. KASS.●

REPUBLIC OF CHINA: THE "MIRACLE" CONTINUES

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. SYMMS. Mr. Speaker, despite President Carter's cancellation of the Mutual Defense Treaty with Taiwan, that country (formerly, the Republic of China) has continued to outpace all of its Marxist competitors in economic growth. Indeed, Taiwan has been referred to as the Asian economic "miracle" of our time, surpassing in some respects the achievements of Japan. With a free enterprise system based upon the American model, and with one of the world's most industrious populations, Taiwan symbolizes the spirit of economic liberty and self-help.

I want to insert into the RECORD an account of Taiwan's economy by Herman Kahn of the Hudson Institute, one of the most important economic and strategic thinkers of our generation. As Mr. Kahn points out, the achievements of Taiwan are not accidental or isolated. They are directly related to the American protective shield which helped the country get back on its feet after the Second World War. I think it is important, Mr. Speaker, to remind ourselves that our associations with allied countries have been decisive in spreading economic and political freedom around the globe. Andrew Young and the Carter administration notwithstanding, the United States can be justly proud of its allies and the achievements which they have made with our help. Taiwan is a lasting example of this, and, I fervently hope, will continue to remain so, despite the worst efforts of Jimmy Carter.

This article appeared in Time magazine on October 8, 1979:

REPUBLIC OF CHINA: THE "MIRACLE" CONTINUES

(By Herman Kahn)

In recent years, much attention has been given to the Republic of China, otherwise known as Taiwan, first as one of the "economic miracles" of Asia, in the normalization of relations between United States and the People's Republic of China (PRC).

Taiwan's spectacular economic success since 1949—averaging 8.4 percent real annual GNP growth—has made it an especially attractive country for foreign investment. However, U.S. normalization of relations with the PRC, coupled with derecognition of the Republic of China on Taiwan, has created a certain degree of uncertainty and anxiety about the security of current and future investments in Taiwan. A careful analysis of the issues involved, and of Taiwan's economic performance since normalization, indicates that for all practical purposes Taiwan is as safe an investment environment as ever; in fact, the change in U.S. diplomatic policy may in some ways have made Taiwan even more attractive to foreign investment.

The rate of foreign direct investment in Taiwan for the first half of 1979 has more than doubled since the same period in 1978. In the first six months after U.S. recognition of the PRC, total foreign direct investment in Taiwan totaled US$185.2 million, compared with only US$72.5 million for the first half of 1978. Such a large increase hardly suggests that businessmen are having serious second thoughts about the security of their investments in Taiwan; on the contrary, it suggests that faith in Taiwan's ability to continue its outstanding economic performance may, if anything, have increased.

Industrialization started in the West, and remained in almost exclusively Western phenomenon until the end of World War II. The rapid Japanese industrialization proved, however, that countries with a non-Western cultural tradition can be equally—if not more—successful at achieving rapid economic growth. Nevertheless, the "economic miracles" in Taiwan and South Korea still came as a great surprise. In fact, the recent success of those Asia-Pacific countries that have either a large Chinese influence or large Chinese populations can be attributed at least in part to their neo-Confucian cultural heritage.

Neo-Confucian culture breeds a set of personal and social values that appear remarkably well-suited to economic growth. Thus, one can speak of a "Confucian ethic," much as one used to speak about the "Protestant work ethic," as a set of cultural traits that greatly facilitate industrialization and modernization. First, and perhaps foremost, neo-Confucian societies uniformly promote, in the individual and the family, a sense of sobriety, a high value on education, a desire for accomplishment in various skills (particularly academic and cultural), and seriousness about tasks, jobs, family and obligations. Smoothly fitting relationships within an organization are greatly encouraged in most neo-Confucian societies and represent the second major strand of the Confucian ethic.

It seems likely, under current conditions, that both aspects of the Confucian ethic—the creation of dedicated, motivated, responsible, and educated individuals and an enhanced sense of commitment, organizational identity, and loyalty to various institutions—will give neo-Confucian societies great potential for rapid growth. This can already be seen in the three most prominent neo-Confucian societies—Japan, South Korea, and Taiwan—all of which have generally done very well indeed, even if for somewhat different reasons.

MAJOR ISSUES FACING TAIWAN

Taiwan's excellent economic performance since World War II, along with a cultural and political heritage that lends itself to rapid economic growth, encourages optimism about Taiwan's future prospects. But, as in any country, there are certain issues facing Taiwan that, with bad management or bad luck, could work to limit the success of further efforts at industrialization. While none of these issues necessarily poses insurmountable problems, each of them is potentially disruptive and thus should be taken into account in looking at the future of Taiwan.

Political Derecognition. Normalization of relations between the U.S. and the People's Republic of China will have both positive and negative effects on future economic growth in Taiwan. At first, many Americans and many Chinese on Taiwan seemed to fear that derecognition of the government of the Republic of China might spell the end of Taiwan's economic success. Further analysis yields a different story. Certainly the severing of formal diplomatic ties could have made Taiwan's international relations more difficult. However, as demonstrated by the Canadians and the Japanese, when they recognized the PRC, there are ways of maintaining trade and cultural relations with Taiwan that can work almost as effectively as full diplomatic ties. Japan's success in maintaining friendly relations with the governments in both Beijing and Taipei—one formal, the other informal—was one reason why the U.S. felt it could normalize relations with the PRC without hindering the economic development of Taiwan.

And within Taiwan itself, business was back to normal within months. Diplomatic issues were soon eclipsed by concerns over inflation control and the possibility of protectionism. Derecognition has, of course, brought with it many obstacles less easily crossed than when Taiwan had full diplomatic ties with the U.S. and most other countries in the world. For example, Taiwan can no longer enter into trade negotiations as an equal partner. The inability to negotiate directly and officially could pose problems, especially with protectionist sentiments rising in both Western Europe and the U.S.

Interestingly, there is now a surprising degree of opposition in the U.S. to measures that would discriminate against Taiwan. This has arisen in part because some members of Congress were affronted by the way the executive branch seemed to them to have slighted Congressional prerogatives during the normalization negotiations. Others both in and out of government were antagonized by the resulting agreement. Even people normally indifferent to, or even hostile to, Taiwan have spoken up for Taiwan's interests, at least to the extent that Tawain should not be further hurt by U.S. diplomatic or trade initiatives, and certainly not singled out. At the same time Taiwan now has a strong incentive to make concerted efforts to avoid policies or actions that might give the advanced countries grounds for protectionist measures. Such conciliatory efforts can often do more to assure harmonious trade relations than whatever limited influential activities are pursued in international conferences.

Derecognition can even have positive effects, of which perhaps the most obvious is an added incentive to achieve economic success. The people and government on Taiwan will be working harder than usual simply to assert their independence and prove to the world that they are a success. With foreign businessmen expressing concern about the safety of investments and the long term viability of doing business in Taiwan, the Taipei government is now going out of its way to provide an exceptionally favorable investment climate. Fears concerning security of investments are likely to be more than compensated for by such efforts.

So long as Taiwan has limited external guarantees of its security, its primary strength lies in economic growth. Growth demonstrates strength in the international arena while maintaining independence from the mainland. Historically, exactly these pressures, derived from urgent national security considerations, have often facilitated rapid economic development. Thus, derecognition could provide a stimulus to investment, both in terms of domestic projects and in terms of policies to attract foreign investments to build up infrastructure and to produce vital goods and services that will assure domestic security.

A POSSIBLE PRC CONFRONTATION?

Perhaps the most discussed fear, stemming from a worst possible case analysis, is the possibility of military attack by the PRC. Both the PRC and ROC governments claim to be the true representative of the Chinese people. The overwhelming size of the PRC, and its insistence on international recognition that Taiwan is a part of China, has caused many foreign observers to believe that the PRC intends to assert its authority over Taiwan, perhaps by means of military force.

The status of the PRC's military forces, however, is such that, at least for the next decade, they could not achieve such a goal with an ease or certainty. For one thing, the common image of an "aging army on Taiwan" is totally divorced from reality. The military on Taiwan has been supported and supplied by the U.S. for over 25 years, and it now represents a force superior to the PRC by almost every criterion except total size. Even if the PRC were to succeed in its modernization plans, and were to increase substantially the strength of its military forces, it would take at least a decade before most of those forces were comparable—on a unit basis—to those of Taiwan. But during this same decade, Taiwan's economy will continue to grow at rates roughly comparable to those of the past ten years—permitting its own military forces to improve, in terms of size and technology.

In economic terms, foreign and domestic observers have expressed concern that as the PRC develops it will start producing a bill of goods competitive with goods currently produced in Taiwan. This analysis presumes, however, that Taiwan continues to produce the same bill of goods it is currently producing—clearly an unlikely case. Taiwan has already moved toward producing increasingly higher value-added goods. If Taiwan continues to pursue industrial structure shifts as it has in the past, it is most unlikely that the PRC will displace Taiwan in the marketplace to any significant degree.

TAIWAN'S GROWING DEPENDENCE ON WORLD TRADE

The conventional view of the rapid growth of the neo-Confucian countries—particularly Japan, South Korea, and Taiwan—has been that it was based primarily on a continued and relentless export drive, and that these countries are therefore more dependent on the world trading system than most nations. In the case of Japan, this view is inaccurate; Japan exports some 10–12 percent of GNP, as compared to about 7 percent for the U.S. and 22 percent for West Germany. In the cases of Taiwan and Korea, however, this view is much more accurate. Korea has been exporting an average of about 35 percent of its GNP since 1976, and Taiwan even more, reaching nearly 80 percent of its GNP in 1978.

Clearly, an increasing dependence on the world economy makes Taiwan more vulnerable to some external economic shocks. Furthermore, Taiwan's trade dependence is heavily concentrated in its two major trading partners: Japan and the U.S. These two countries absorb more than 50 percent of Taiwan's total exports. In view of the recent U.S. derecognition, such a high degree of dependence encourages Taiwan to diversify its export markets further in order to reduce its vulnerability to political and economic changes in these two countries. Still, while Taiwan would certainly feel more comfortable if it were less dependent on Japan and the U.S., for a number of reasons this dependence does not appear particularly disturbing or frightening; after all, both the U.S. and Japan have important commitments to Taiwan, in part as result of this same trade.

There is, however, a growing protectionist mood in the West. As the United States goes into recession during the second half of 1979, combined with continued slow growth in Western Europe, the danger of widespread protectionism increases. If a large-scale increase in protectionism were to materialize, Taiwan would have more difficulty achieving the high rates of economic growth on which it has been relying for its security. Yet Taiwan's only sensible policy, in the event protectionism increases, is to continue efforts to limit the damage such measures would cause.

BARRIERS TO ECONOMIC GROWTH

Several problems have emerged that could limit Taiwan's economic growth potential. Possible increases in protectionism and slow growth in major markets have already been noted. Other economic problems, perhaps offering greater chances for resolution through domestic policy changes, are inflation, shortages of skilled labor, and infrastructure bottlenecks. The government is acutely sensitive to inflation, and it may respond with a significant tightening of economic policies that will limit growth, despite the fact that much of the current pressures toward inflation can be traced to various external forces such as oil and raw material increases common to almost all nations.

Taiwan's labor force is relatively inexpensive, but well-trained and with good experience, up to and including highly-skilled managerial personnel. Nevertheless, rapid economic growth in recent years has created shortages of skilled labor. As a result, wages have increased rapidly and will continue to do so. This will intensify pressure to invest and to shift production to higher value-added products.

Taiwan retains a relatively large source of untapped labor in the agricultural sector. Although the share of labor in agriculture has dropped remarkably (from 60 to 37 percent between 1950 and 1978), the absolute numbers working in agriculture have not de-

clined. Mechanization, the introduction of new farming techniques, and changes in agricultural policies could free up a significant portion of this agricultural labor force, thereby helping to maintain higher than average growth rates. However, to make such changes will require considerable political skill and courage. The land reforms of 1953 were extremely popular and successful, both in terms of starting the economy off on a good footing and in terms of achieving a more equal income distribution. But now that the economy on Taiwan has moved into a more advanced industrial stage, it may be appropriate to restructure its agriculture once again. It is unlikely that significant increases in output per person can be achieved unless average farm size is greatly increased. In other words, Taiwan has outgrown its earlier land reform program and must now initiate a movement toward larger holdings—and eventually to large-scale highly-technical "business" farms.

OUTLOOK

Despite great concern about the effects of U.S. derecognition, the outlook for future economic growth on Taiwan is very bright, and it would be difficult to write a plausible scenario for a collapse of the economic or political system. Rather, a greater threat to the economy comes from the possibility of increased protectionism in the West—and even this could be countered to some degree by an ever greater focus on sales to the Third World, and perhaps to mainland China. All things considered, real growth should continue slightly in excess of the current government estimate of 8.5 percent annual GDP growth between 1979 and 1981.

A major factor that could influence the direction and pace of future growth in Taiwan is the changing relationship between government and private economic activity. Taiwan began its industrialization with a large degree of centralized government planning, much in the manner of Japan and South Korea. For a small, relatively unsophisticated economy, central government planning can often be extremely successful; however, as the economy becomes increasingly sophisticated, it becomes more and more difficult to plan from the center. Increasingly private initiative must be used if productivity is to increase. This is now widely recognized in Taiwan, although heavy reliance on centralized planning and centralized management of big projects continues. Indeed, the government sometimes appears to fear that the formation of large private companies might challenge, rather than augment, the effective power of government.

It would probably be in Taiwan's best interest to permit—indeed, to encourage—development of large companies that can make use of Taiwan's plentiful entrepreneurial skills more effectively than has been the case in the past. For example Taiwan does not yet have any really large transnational trading companies as are found in Japan and South Korea. The authorities have encouraged the formation of a government-run trading company, but a public corporation is unlikely to be as successful as a private company in something that requires the kinds of quick decisions and flexible thinking that go hand-in-hand with the trading function.

Especially in the current environment of uncertainty, greater reliance on private initiative might improve the international effectiveness and stability of Taiwan's economy, and at the same time provide extensive opportunities for foreign firms. Large domestic trading houses, or producers in general, have the resources and the incentives to go into joint ventures with foreign multinationals both at home and abroad.

Joint ventures with such companies could expand Taiwan's unofficial liaisons with foreign governments, and allow companies from Taiwan to enlist the support of their partners in pursuing common interests. At the same time, joint ventures would facilitate technology transfer, which would in turn support Taiwan's effort to upgrade production into high value-added domestic industries.

CONCLUSIONS

Although the U.S. has now officially withdrawn recognition of the government on Taiwan, its long alliance with the government of the Republic of China and the people it represents contributed significantly to the economic development that has occurred in Taiwan and to the strong commitment to the capitalist system that exists on Taiwan today. The U.S. can take pride, along with Chinese on Taiwan, in Taiwan's economic success. Although political and strategic considerations have now led the U.S. to establish official diplomatic relations with the PRC, the U.S. remains no less committed to the free-market system and to the security of countries that support that system. Just as the U.S. played a significant role in bringing Taiwan to its current level of economic development, it will continue to support Taiwan as Chinese on Taiwan continue to pursue economic progress on their own. Indeed, Taiwan is now on a sufficiently secure footing that, with or without U.S. support and assistance, it should continue to be one of the most dynamic economies in the world. As such, it will be an increasingly attractive environment for foreign investment, despite whatever temporary difficulties derecognition may bring. Indeed, the recent political shocks should hasten its *de facto* integration into the international business community, and its emergence as a major actor among the newly industrializing countries.●

THE QUESTION OF A FEDERAL LOAN GUARANTEE TO CHRYSLER CORP.

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. BLANCHARD. Mr. Speaker, over the past several weeks my colleagues on the Banking Committee and I have wrestled with the question: "Is Federal financial assistant to the Chrysler Corp. in the national, public interest?" Having had the opportunity to study this question indepth and to hear testimony from a variety of informed witnesses, I have strengthened my conclusion that it is in the national and public interest to provide assistance. I would like to share with you some of the facts that support this conclusion.

Let us first look at the problem in human terms. If Chrysler were to fail, as many as 545,000 persons nationwide who are dependent either directly or indirectly on Chrysler for their livelihood would be thrown out of work. Of this number, at least 38,000 would be minority workers. Of course, some of these workers would be able to find other jobs. But the vast majority would have difficulty finding new employment since, in many cases, they would be forced to learn new skills or to move their family across the country. It is simply unrealistic, for example, to expect a Chrysler worker in Kokomo, Ind., to become an insurance salesman in Houston.

Further, it has been estimated that the national unemployment rate 1 year after a Chrysler shutdown would be 0.5 percent higher than it would be otherwise. The loss in revenue to State and local governments could be as high as $266.6 million annually. Such a scenario would severely impact cities large and small from Detroit to Huntsville, Ala., from Newark, Del., to St. Louis.

There are those who would suggest that the unemployment impact of a Chrysler shutdown would be less dramatic since Ford and General Motors would simply rehire laid-off Chrysler workers. A Department of Transportation study indicates otherwise. The simple fact is that, even if Ford and GM were to pick up all of Chrysler's sales (an unlikely eventuality since foreign imports would pick up a substantial share of this market) they would be drawing from their own rolls of laid-off workers. Also, those Ford and GM plants which might experience a production increase as the result of a Chrysler failure are not located in the same sections of the country as the Chrysler plants that would be closed. Consequently, Ford and GM would have either no need or no access to Chrysler labor.

The national economic effects of a Chrysler shutdown demand serious consideration. Such a shutdown would place the entire burden of assistance to affected employees on Government organizations. Again according to DOT, the cost of unemployment benefits could exceed $30 million per week or $1.5 billion over 1 year. Other welfare payments to as many as 1 million affected family members would add to this figure.

Additionally, the Pension Benefit Guaranty Corporation, in testimony before the Economic Stabilization Subcommittee on the Chrysler matter, indicated that the cost to the Federal Government of making good on pension guarantees to affected Chrysler workers could exceed $1.1 billion. This would come as an additional tax on present pension programs throughout industry.

There are other national economic consequences of a Chrysler failure that have not received serious consideration in the public debate over this issue. For instance, in response to governmental regulation and the demands of the marketplace, Chrysler currently in 1979 holds the highest corporate average fuel economy rating of all domestic automobile companies. The Department of Transportation estimates that a Chrysler shutdown would remove approximately 500,000 units of small cars from the American production base by 1981. That is because Chrysler is the only domestic car manufacturer that would be equipped over the next 2 years to produce as many as 500,000 front-wheel-drive, four-cylinder, fuel-efficient cars. The consequence to the United States of losing this production capacity would be twofold.

First, we will be diminishing our capacity as a nation to respond to the energy challenge of producing and driving fuel-efficient cars. Second, since neither of the other two domestic carmakers will be able to fill this production gap immediately, a large percentage of these sales will go to foreign competitors. The result will be an estimated $3 billion balance-of-trade loss, that figure also provided by DOT testimony.

Some have suggested that the answer

to Chrysler's dilemma is to restructure and operate as a limited-line producer, building only smaller cars. The Department of Transportation indicates that this is not a viable alternative for two reasons. First, Chrysler's production facilities are totally integrated; that is, designed for multiple-model production. This is illustrated by the fact that 10 Chrysler plants and over 1,000 different suppliers contribute to the production of every Omni or Horizon. For Chrysler to disintegrate these facilities and switch to limited production would require an investment of external capital estimated to be as large as $4 billion.

Second, the thin profit margin on smaller cars would not be adequate to finance Chrysler's planned shift to this type of production. The profit earned on large- and mid-size sales is as much as 10 times per unit more than the profit earned on small cars. This is simply a fact of life in the automobile business, and it applies to each domestic company. The profits from the larger cars are needed to enable Chrysler to meet its retooling and downsizing costs, or in other words to build its new smaller cars. Therefore, the above reasons demonstrate that a partial shutdown of Chrysler's facilities is impractical and might actually require more money than is currently needed.

In this connection it should also be noted that Chrysler's long-term corporate product strategy already calls for a reduction in the number of car platforms or "families" from the present number of five to three by 1985. This voluntary reduction comes as a result of Chrysler's need to provide smaller, more fuel-efficient automobiles while working with more limited financial resources than its competitors. Chrysler will spend $13.6 billion from 1979 to 1985 to complete its shift to gas-saving front-wheel-drive cars. By 1985, 71 percent of Chrysler's engine production will be of the four-cylinder variety. All this is to say that Chrysler has already taken steps to insure that their future automobile production will be of the fuel-saving nature that both the marketplace and our national interest require.

Others have suggested that lifting the Federal regulatory burden relating to fuel efficiency, safety and auto emissions standards from Chrysler will return the corporation to profitability. Clearly the task of raising or generating the capital necessary to meet these standards placed a heavy strain on all of the domestic automobile companies. A 1976 report by the Banking Committee's automobile industry task force points out that Chrysler was faced with an even "greater proportionate cost burden" in conforming to these standards because of its smaller size.

However, in testimony before the Economic Stabilization Subcommittee, DOT representatives revealed another phenomenon relating to these same Federal standards. Since they were introduced, public acceptance as demonstrated in the marketplace has been high. DOT's conclusion is that lifting these standards now would result in a very minimal per car cost savings and that a modification of Federal regulations would not be the answer to Chrysler's problems. Chrysler executives also agree that regulatory relief is not a solution to the immediate financial crisis.

Another solution that has been advanced suggests that Chrysler should file for a chapter XI bankruptcy proceeding. In theory, this measure might ease the pressure on Chrysler's cash flow by allowing a rescheduling of debt payments along with a partial liquidation of unprofitable assets. I must point out, however, that the testimony that we have heard before the Economic Stabilization Subcommittee suggests that this theoretical solution may, in fact, be the most direct route to disaster.

The purchase of an automobile is generally the second largest investment a consumer makes next to buying a home. How many consumers would be willing to make a major investment in a new car whose manufacturer has filed for bankruptcy? Unresolved questions relating to warranty protection, future availability of parts and service as well as resale value would ruin Chrysler's viability in the marketplace. In fact, the mere possibility of bankruptcy is hurting Chrysler's sales right now. If this arrangement were formalized, Chrysler would experience an immediate halt in cash flow as customers cancel orders, suppliers demand payment for goods on a cash on delivery basis, and dealers lose the ability to finance purchases from the factory. Consultants from Booz, Allen & Hamilton have predicted an almost immediate drop in Chrysler's market share if they went into bankruptcy.

Nor is Chrysler in its present condition a likely candidate for a merger or a buy out. This is evidenced by the fact that no other corporate entity has shown interest in such an arrangement. Any possibilities along this line center around Chrysler's few profitable operations; mainly, the Huntsville Electronics Plant, Chrysler Finance and New Process Gear. However, I do not believe that we enhance Chrysler's prospects for returning to profitability by suggesting that they divest themselves of profitable enterprises that could help to insure their future.

Mr. Speaker, when the Chrysler issue first arose, many of my colleagues reacted initially by opposing any type of Federal rescue effort. Over the past 3 weeks, however, in hearings before the Economic Stabilization Subcommittee, we have had an opportunity to do something that had not been done—to take a look at the impact that a Chrysler failure would have on our national economy. When it was discovered that we are facing the risk of losing half a million jobs and boosting the national unemployment rate by 0.5 percent; of paying out close to $3 billion in pension guarantees and unemployment benefits; of providing public assistance payments to a million affected family members; of upsetting the balance of trade deficit by an additional $3 billion; of removing $266.6 million in annual revenues from State and local coffers—once these and other documented risks were assessed, many Members of Congress decided to take a second look at the issue. Several have expressed to me that, if a $1.5 billion Federal loan guarantee has a reasonable chance of staving off the kind of dire economic consequences described above, then such a loan guarantee should be enacted by Congress. This is especially true when we consider Chrysler's contribution to making an increasing number of fuel efficient cars to meet the energy challenge.

I would like to conclude by explaining why it is imperative that the Congress deal with the Chrysler issue in a substantive way before the adjournment of the first session of the 96th Congress. First, it is the determination of consultants from Booz, Allen & Hamilton and other respected, independent automobile industry analysts that unless Chrysler receives a strong indication of support from Congress very soon—certainly prior to adjournment in December—later attempts to rescue the corporation could be futile. Commitments that have been secured from banks, labor unions, States, municipalities, dealers and suppliers were, in many cases, made contingent upon the receipt of a similar commitment from the Federal sector. Unless Congress provides a clear and immediate signal of support, many of these commitments could be lost. Now is the time to act if we are to prevent the serious national economic consequences of a Chrysler Corp. failure.

In summary, Mr. Speaker, we must all remember that we are not simply reviewing a balance sheet, but rather we are considering whether we can afford to expose our Nation's economy to the devastating consequences of a Chrysler failure. I believe that an objective analysis of this issue by my colleagues will lead to the conclusion that it is most certainly in the national and public interest to lend Chrysler a helping hand.●

EAGLE SCOUT JOHN A. WELLINGTON TO BE COMMENDED

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. THOMPSON. Mr. Speaker, scouting is one of the most important aspects of American life as it prepares and encourages our young people to become leaders in their communities. It demonstrates that outstanding accomplishments can be won by hard work and concern for our society.

Citizenship, valor, compassion and integrity are but a few of the characteristics possessed by those who achieve scoutings highest distinction. John A. Wellington III, of Ewing Township, N.J. has proven himself worthy through years of hard work and dedication of deserving that distinction. On November 18, 1979, Boy Scout Troop 26 will recognize his advancement to the level of Eagle Scout.

John A. Wellington III has reached the pinnacle of scouting and for that he deserves our admiration and most certainly our congratulations. It is with great pleasure for me to ask my colleagues to join with me in wishing John well on November 18, and in all his future endeavors.●

WHAT THE VIETNAM VETERAN NEEDS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. BOB WILSON. Mr. Speaker, I wish to call to my colleagues' attention the following excellent commentary from the Marine Corps Gazette.

Its author, James Webb, a former counsel on the House Veterans' Affairs Committee, is a highly decorated veteran of Vietnam, and the author of a best selling novel on the war.

His assessment is insightful and the comparisons he draws are accurate, shattering the various myths that have grown entrenched about the men and women who chose the path of duty and responsibility in those troubled times.

I would hope that all of us will read and consider Mr. Webb's thoughts. The job of changing the abundance of misconceptions concerning the Vietnam veteran should most properly start here, with us.

The article follows:

WHAT THE VIETNAM VETERAN NEEDS

(By James Webb)

I am often asked by interested citizens what the Vietnam veteran needs in order to fully assimilate back into the mainstream of our society. I am usually expected to name some new veterans' benefit, or an improvement to an existing one; a psychological readjustment program, perhaps, or maybe a new employment package.

But, while such quantitative offerings might be helpful to some veterans, these are not the most urgent need for any of them: Our Vietnam veterans have simply never been accorded the dignity of their experience, and in my opinion, most of their substantive difficulties stem from this one spiritual failing of society in general.

Even the most materially successful Vietnam veterans still carry around a piece of hurt from not having had their combat sacrifices recognized by the nation that sent them off to fight.

As for the others, I wonder how many psychological problems would exist if our government and populace had allowed those troubled veterans to look positively on their contributions. I wonder what sort of employment programs would be needed if prospective employers recognized the essential honor of combat service, as opposed to combat avoidance, during the most politically troubled war in our history.

It is amazing to see the many misperceptions that continue to abound with respect to Vietnam and the people who fought there. Vietnam is remembered as a dirty little war, hardly a war in the traditional sense at all. And yet, even though there were no Iwo Jimas or Guadalcanals, Vietnam produced more combat casualties for the Marine Corps than World War II.

Vietnam is remembered as a war of the unwilling, conjuring visions of draftees being dragged kicking and screaming into uniform; and yet, two-thirds of those who served during the Vietnam era were volunteers, while two-thirds of those who served during World War II, the great "patriotic war," were drafted.

Vietnam is remembered as a political issue that pitted youth against age, widening the so-called "generation gap," while in reality it was an issue that pitted culture against culture within various age groups. Neither Abbie Hoffman nor Dr. Spock spoke for me, or for the people I served with.

It was a war where people my age could gain political credentials for the rest of their lives by taking a few weekends out of their college careers and marching against it, while those who gave years, and often portions of their bodies, gained no more than stigma.

In this context, it is interesting to note that, during all of Vietnam, only some 13,800 men actually refused the draft; for every man who actually refused to serve, four others died in Vietnam and more than 6,000 chose to serve.

It is also interesting to remember that, during the 1976 presidential campaign, when amnesty became such a hot issue, only some 2,000 draft evaders still remained in Canada—fewer men than those still missing in Southeast Asia.

Why did the media give so much play to the few who committed antisocial acts, and ignore the many who put their lives on the line?

We have never really put the Vietnam veteran himself into proper focus. He is viewed largely as a draftee who put his 18 months in and got his early out and was not in need of significant readjustment help. In fact, he spent more time in uniform than even his World War II counterpart, during a period when our society was undergoing so many changes that the whole era was characterized as the "Future Shock" syndrome. As such, the Vietnam veteran probably needed more readjustment help than the World War II veteran, and many Vietnam veterans no doubt continue to have problems that could have been eliminated or reduced by such help.

The Vietnam veteran is often still viewed as a habitual user of dangerous drugs. When I was on my nationwide tour promoting Fields of Fire, one of the most frequently asked questions from interviewers was whether I had ever used heroin, as if we all had walked around with a needle hanging out of our arms.

In fact, hard drugs never emerged on any scale at all until the very end of the war. As for other drugs, I find it incredibly ironic that marijuana use became a dangerous act when soldiers indulged during leisure time, yet the males and females of their peer group who stayed behind in college could and often did blow their minds every weekend on dope, mescaline, LSD and other drugs, with absolutely no stigma once they graduated.

I can honestly say that drug usage was much more prevalent at Georgetown Law School when I studied there than it ever had been while I was in the Marine Corps. Where did the law school graduates go? To prosecute drug cases. Where did the veterans go? To the unemployment lines, stigmatized by someone else's habit.

People too often remember the Vietnam veteran for the aberration of My Lai, rather than for the incredible courage and sacrifice that went into Khe Sanh, Hue City, Dak To and a thousand other places that never made the papers but caused all the frustration and fear and misery of every other war our countrymen have fought.

The Vietnam veteran is often characterized by bureaucrats as an "employment problem," on the same scale as ex-offenders. As a matter of fact, that has been one of the employment slogans for some time: Hire the veteran and the ex-offender, as if both need to be forgiven.

There has been an employment problem, but it has been caused in too many cases by events beyond the control of the veteran.

First, he was taken into the service right out of high school, for the most part, and had never begun a profession. Consequently, he had no reemployment rights when he returned, as did so many veterans of other wars. Second, there was a recession, and he had no seniority, so he was the first man out the door when a cutback occurred—last in, first out. Third, affirmative action programs gave court sanctions to employment of women and minorities, so that employers were often reaching over the heads of the veterans to fill quotas. Fourth, because of the misperceptions about the nature of the war and of his service, too many people were afraid of him. As a result the Vietnam veteran too often found himself, and continues to find himself unemployed or underemployed.

What can you do to help the Vietnam veteran fit himself back into society on the terms of his experience?

First, understand the nature of the war, and of his part in it. Then, buy him the beer you owed him 10 years ago, and let him talk about it. You'll find out that he is by and large a class act, much tougher than his nonveteran peers, much more used to hassle and disappointment.

You'll also find out that he's probably the best patriot this country has ever produced, because he's had to think about his decision to serve for years, and despite what Jane Fonda and her friends might want you to believe, he doesn't feel like apologizing for having served. I have a feeling you'll be pleasantly surprised.

And you may end up offering him a job, or at least another beer.●

ECONOMIC PROBLEMS

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. GINN. Mr. Speaker, too often when the Congress wrestles with the problems of national economic health, tax policy, and inflation, we lose sight of the human dimension of the problems reflected in the national statistics.

This was brought home to me recently when I heard from my constituent, Mrs. Angelia H. Walker, of the small town of Twin City, Ga. Mrs. Walker is a single-parent homemaker, and also a teacher in the public school system of Georgia since 1967.

Mrs. Walker has devoted her professional life to the youth of her community, and I am sure she began her career as a teacher with no illusion that it would lead to a life of luxury. However, I believe she had a right to expect that her vocation would provide her a living sufficient enough to provide for her needs.

But in the turbulence of our national economy, in the wake of devastating inflation, and in the grip of an outmoded Federal tax program, she has lost that faith. I submit for inclusion in the RECORD at this point a letter which Mrs. Walker sent to me and to other elected officials.

SEPTEMBER 9, 1979.

GEORGE BUSBEE,
Governor,
Atlanta, Ga.

Mr. GOVERNOR: This is in regard to my income tax which seems to be extremely inequitable. Let me first explain that I am a single parent school teacher and that I earn $676.91 take home pay. Last year we received a 6 percent increase in pay to my astonishment, when my first check arrived, it was $3.81 less than my take home pay for the last year. I fully realize that my raise placed me in a higher income bracket, but how can I maintain any decent standard of living when inflation is running at 13 percent and my real income is actually dropping.

This situation must be shared by millions of other taxpayers. It should point out to you the inequitable of the present tax structure and hopefully you will make some kind of effort to correct this intolerable situation. This is a plea for some kind of rational consideration by our lawmakers and leaders.

I am enclosing a copy of my August and September check stub for comparison.

Respectfully,

ANGELIA H. WALKER.

P.S. I have been teaching for 12 years.

Mr. Speaker, at about the same time I received Mrs. Walker's letter, I noticed a column by Ellen Goodman which appeared in the October 17 edition of the Washington Post. I believe it is relevant to this issue I raise, and I ask that it be included in the RECORD at this point.

JUST WOMAN'S WORK?

(By Ellen Goodman)

BALTIMORE.—The young woman stood up before the college audience and talked earnestly about her new job and her new confusion.

A June graduate, she was now a teacher. She was lucky and she knew it. Yet each day she carried a sheaf of self-doubt to school along with the ditto papers and work-sheets.

The women her age, you see, have been encouraged to become astronauts and senators, corporate vice presidents and assorted firsts. Though she had elected to go through the more traditional door, somehow she couldn't shake the feeling that she was "just" a teacher.

As a parent seated with her on the the podium, I felt a wave of concern. There are no outsiders more important to our children's lives than their teachers, no job that we weigh more heavily in cost-accounting their futures. We want our children to be taught by the best, the brightest, the most lively and sensitive. To us, there is no such thing as "just" a teacher.

Yet in her era of change, when the status and stroking of society has gone to the innovators, how many others have felt left behind? "Just" a teacher, nurse, secretary, homemaker. And what effect does that have on the choices that young people are making?

I know it isn't popular to talk about this, even in an era when everyone is worrying about teacher "competency," but we are witnessing a young brain-drain from the old "women's jobs."

The young people planning to be teachers don't rank as high scholastically as they did. Dr. Timothy Weaver of Boston University studied this decline and it's a substantial one. In 1970, the high school students planning to be education majors tested in the top one-third of all students on their English boards. Six years later they were found in the botton one-third.

On the graduate record exams taken by college seniors in the same time period, the scores of education majors dropped 18 points in verbal aptitude.

There are other reasons for this decline. The teaching job market isn't what it used to be. Neither are the salaries. In 1973, teaching salaries were about 25 percent above the national average. Now, says Weaver, they are just about on a par.

But 70 percent of the teachers in this country are women. Their test scores were typically higher than those of men, their salaries relatively higher than those of other women. Now the opportunities for young women are greater and the decline in the test scores of women planning to teach is sharper.

Teaching isn't the only job or the best job for the ambitious and academically talented young women today. As Weaver put it: "Women do have more opportunities. They are encouraged to feel they have more opportunities in higher-paying professions and that is reflected in the data."

It isn't just teaching that's been affected. In nursing, where there are many jobs, the scores have also declined. And in clerical work, employers continually moan to each other, "We just can't find the same kind of young secretaries anymore."

But this isn't just a case of Liberation Chic. It isn't just the lure of the new and the prestige of the different. The fact is that a rise in status for women is associated, for better and for worse, with entry into the male world. That's where the prestige has always been.

We have simply done a better job at letting some women into "men's" jobs than at raising the status of "women's" jobs.

The care-takers—those who are helpers, nurturers, teachers, mothers—are still systematically devalued. As Rep. Barbara Mikulski (D-Md.), who shared the same podium, likes to say: "In this society we implicitly deny what we explicitly claim to value—especially children." We don't put our money where our mouths are.

Now the job market competes for the brightest women as well as the brightest men. If the projections are right and we have a teacher shortage, not a surplus, by the mid-1980s, we'll have to do some fancy status shuffling.

Competency tests are nothing more than the last resort of despairing parents. There's no real secret to attracting and keeping the highest-caliber applicants for any job. They need the rewards of independence, growth, initiative, respect, personal satisfaction and money. With these, no one is a "just."

Mr. Speaker, I have no magic answers to the questions raised by Mrs. Walker or Ellen Goodman. I do know, however, that the issues they present should be moved to the top of the national agenda and the agenda of the Congress.

Teachers, retired persons, blue collar workers and professionals are all victims of inflation. In each case, the impact is different. But each time the quality of life diminishes for an American, our entire system suffers.

With our teachers, the impact means that our finest teaching prospects and experienced teachers will abandon their profession.

Mr. Speaker, I submit that we face a crisis on a scale greater than the headlines of economic problems would show. The Congress must respond, and respond without delay.●

WILLIAM K. WYANT, JR., CONSERVATION PIONEER OF SIERRA MADRE, CALIF.

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. ROUSSELOT. Mr. Speaker, today Secretary of the Interior Cecil D. Andrus will award one of the Department's highest honors, the Conservation Service Award for outstanding and direct service to the Department in the field of conservation, to one of my constituents, journalist William K. Wyant, Jr. of Sierra Madre, Calif. Mr. Wyant is being honored in recognition of his early support of the environmental movement and for the inspiration he has provided over the years to other journalists advocating the conservation of our Nation's valuable natural resources.

Through a distinguished career of 27 years with the St. Louis Post-Dispatch, Mr. Wyant achieved widespread recognition as one of our Nation's foremost writers on the safeguarding of the American environment. Now in retirement, Mr. Wyant is currently completing a book on America's westward expansion and the conservation movement. Mr. Wyant is a pioneer supporter of this movement, through which millions of Americans have developed a concern for the careful protection and wise use of our Nation's natural resources. Mr. Wyant recognized early on that the awakening of a strong environmental ethic needed sustained advocacy, and in 1960 was successful in convincing the editorial board of his paper, the Post-Dispatch, to support such a policy.

In 1971 Mr. Wyant toured the Western States and produced a series of syndicated articles on the conflict between mining and conservation interests. The series was subsequently honored in the Thomas L. Stokes competition for environmental journalism. In 1973 he was again sent through the Western States for a series of stories on coal and the energy crisis and the importance of the consideration of environmental safeguards in the future development of that resource.

Mr. Wyant later cast new light on the need for enlarging and safeguarding the Redwood National Park in California, and in July of 1978 was one of a small group of influential correspondents who accompanied the Secretary of the Interior on a tour to the proposed new national parks, wildlife refuges, forests, wild and scenic rivers, and wilderness areas of Alaska. His subsequent articles did much to awaken public opinion to the values of conserving natural resources in Alaska.

Mr. Speaker, I would like to join with Secretary Andrus and the Department in congratulating Mr. William K. Wyant, Jr. for his dedication and contribution to the American conservation movement. I am certain that my constituents in the 26th District will agree that it is an honor to count an individual of such accomplishment among the citizens of our community.●

A TRIBUTE TO FRANK FARMER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. SKELTON. Mr. Speaker, a good friend of mine, Frank W. Farmer, was killed on November 2 in a freak accident on the Missouri Pacific Railroad crossing in his hometown of Sweet Springs, Mo. Frank Farmer was a 50-year veteran of the newspaper business, who devoted himself to safeguarding this country's first amendment and the freedom of the Press.

Farmer was a graduate of Richmond High School, but he took his first printing job at the age of 13 at the Richmond-Missourian. He later worked for the Warrensburg Star Journal, the Lexington Advertiser-News, the Sedalia Demo-

crat-Capitol, the Kansas City Star-Times, and the St. Louis Globe-Democrat, as well as several other newspapers in the Midwest. He worked in practically all capacities on the various publications.

In 1941, he married Hazel I. Ott of Sedalia, Mo., and she became his partner when they purchased the Sweet Springs Herald in 1948. He and Mrs. Farmer have published the paper ever since.

Among the organizations to which he belonged were: Sweet Springs Chamber of Commerce, American Legion Post 279, Veterans of Foreign Wars, and Saline County Central Democratic Committee. He was committeeman from Salt Pond township, and he was a charter member of the Optimist and Lions Clubs in Sweet Springs. He was a member of the International Typographical Union for 40 years, maintaining his membership during the years of self-employment. In addition, he served as Methodist Sunday School superintendent and belonged to the Men's Fellowship.

He was involved in various community projects such as helping to organize the auto racing association, which built and operated a quarter-mile dirt oval Memorial Race Track in Sweet Springs. He was active in the Industrial Development Committee, and served as chairman of the fund raising drive to provide a site on which to build a new factory building for International Shoe Co. He spearheaded the city recreation program and supported the schools in a variety of ways. He was a member of the Marshall Eagles Chapter, and, under Governor Blair, he was made an honorary colonel. He lent active support for the building of Sweet Springs Community Hospital, and he was also active in SLRAC, a committee to prevent the abandonment of the Missouri Pacific branch from Myrick that serves Sweet Springs, Emma, and Concordia, Mo.

Mr. Speaker, as you can tell, Frank W. Farmer was a man of action and a man of many accomplishments. I would like to share with my colleagues in Congress a tribute to Frank Farmer that was written by another newspaperman, Bill Roscher of the Kansas City Star, and which was published in the Sweet Springs Herald on Thursday, November 8, 1979. It reads as follows:

IN TRIBUTE

(By Bill Roscher)

A Tribute to Frank Farmer, a Newspaperman. Yes, that is what he was all of his life.

He lived and taught that the word of the press is the only thing that keeps this country free.

He carried on a tradition and was one of the best in his field. He knew that the pen was mightier than the sword. He had strong feelings of right and wrong. He was never lukewarm about anything; for this he was both cursed and praised, but never ignored.

As an ending you will find a -30-, which to us means story complete.

He has covered the When, Where, Why and How. He was a Newspaperman.

Aside from being a newspaperman, however, Frank W. Farmer was a fine family man, a true friend, a tremendous asset to his community, and a great patriot. His death will be felt as a tragic loss by all who knew him.●

A NATIONAL DAY OF FASTING

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1979

● Mr. ROUSSELOT. Mr. Speaker, recently I received a letter from Mr. Richard Viguerie, president of the noted direct mail firm, The Viguerie Co. In his letter, Mr. Viguerie proposed that we set aside the Sunday before Thanksgiving as a national day of fasting, prayer, and atonement for our sins.

As I reflected on his letter, I found myself deeply moved by his proposal that Americans not only celebrate our blessings on Thanksgiving Day, but that we should also take time to meditate, atone for our sins, and ask God's direct guidance and protection as we lead our national and individual lives.

The idea of a national day of fasting is a worthy one, and I would like to share with my colleagues an article by Mr. Viguerie on this subject which appeared in the October issue of the Conservative Digest:

A DAY OF FASTING

(By Richard A. Viguerie)

I recently took a vacation out West with my teenage daughters, Renée and Michelle. And when we weren't shooting rapids, sleeping under the stars, or climbing mountains on horses or foot, I read a book that a friend gave me last year.

I have seldom been so moved by one book.

The theme of The Light and the Glory by Peter Marshall and David Manuel is that God actively intervened in the discovery and formation of America.

The authors point out that when Americans remembered to ask for God's help, and also remembered to give thanks and credit to God for what was accomplished, then America prospered and was protected.

Christopher Columbus was a devoutly religious man. His belief and faith in God were strong. But he apparently also had a lot of pride and a strong ego.

He demanded 10 percent of all the gold found in the new world. He also demanded the highest ranking title of the navy—Admiral of the seas. Plus he insisted that he be made Governor of all of the lands he discovered.

He prayed mightily for the success of his efforts.

But when he had success, probably beyond his own wildest dreams, it appears that Columbus very quickly forgot to give the credit to God.

Columbus's public actions and statements indicate that he took personal credit for his accomplishments.

And Columbus experienced in the last 13 years of his life an enormous amount of suffering, disappointment and failure.

Marshall and Mauel believe Columbus suffered so because he failed to give credit to God for his accomplishments.

How many times in our own lives have we failed to give public credit and thanks to God for our successes?

Like Columbus, most of us are quick to go to God when we're faced with problems, but very seldom do we publicly give credit to God for success.

That brings me to some thoughts about 1979.

Many of us are worried about the Senate passing the SALT II treaty. We worry when we see the Communists gaining military strength daily, and when our President seems uninterested in opposing the Communist conquest of country after country.

But instead of worrying, why don't we as individuals and as a nation go to God and ask Him for forgiveness for our sins?

Instead of worrying, why don't we pray that He protect America from its enemies and give us the strength and will to protect ourselves? Why don't we thank God for the benefits He has bestowed on us as individuals and as a nation?

Perhaps many of our personal and national problems have developed because we have forgotten to thank Go1 for our blessings, our opportunities, our freedoms and our great country.

Some of our Presidents did this. George Washington set aside a day for fasting and prayer when he was President.

Also Abraham Lincoln, twice during the storm of our tragic Civil War, designated "a Sunday for prayer and fasting."

Twice during some of the darkest days of the American Revolutionary War, the Continental Congress declared a day of Fast and Repentance.

Indeed even Christ, when He knew He was soon to be tempted by the devil, fasted for 40 days.

We Americans today need to pray together in the same spirit.

I recommend that we set aside November 18, the Sunday before Thanksgiving, to pray, fast, meditate and atone for our sins.

I suggest this particular day because this is traditionally a time when Americans give thanks to God for all the blessings that we enjoy.

It will be a true and appropriate commemoration of the Thanksgiving season. And I feel it will make the spirit of Thanksgiving more meaningful to us. Hopefully, we can encourage enough others to join us and it will meet with such success that it will become an annual event.

I personally plan to send letters to thousands of other conservative leaders, journalists, priests, rabbis, ministers and others, asking them to urge their readers, members, or congregations to set aside Sunday, November 18, as a day to abstain from all food . . . a day to devote completely to prayer, meditation, thanks, and repentance for our sins.

Two hundred years ago Dartmouth's minister, Samuel West, preached in Boston:

". . . Our cause is so just and good that nothing can prevent our success but only our sins. Could I see a spirit of repentance and reformation prevail throughout the land, I should not have the least apprehension or fear of being brought under the iron rod of slavery, even though all the powers of the globe were combined against us."

We, as a nation, need collectively to get down on our knees and acknowledge our God and ask for His guidance and blessings, for forgiveness for our sins, and for deliverance from our enemies. We need to give credit to God for all the good in our lives.

There are so many things that could be done to bring this to the attention of all Americans.

Why don't we all, each one of us, call and write our congressman and senators and urge them to help promote a national day of fasting and prayer?

Why not call in to talk shows, write letters to the editor, bring up the subject at our religious, business, fraternal and social meetings?

You could work to have your own city or town council pass such a resolution for your own community.

This is an idea that I feel strongly about, and I wanted to share it with you. I would be pleased to hear from you, if you have any thoughts on this subject.●